CASTLE GRANDE ~~WHITE HOUSE LITIGATION FILES~~

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FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429

Office of Investigations
Office of Inspector General

MEMORANDUM OF INTERVIEW

INTERVIEW OF	DATE OF INTERVIEW	INTERVIEWED BY
JAMES T. CLARK	June 10, 1996	SA E.P. HUSOK/Sr.Attorney FRED GIBSON
INTERVIEW HELD AT	**PEOPLE PRESENT**	
Washington, D.C.	N/A	

JAMES T. CLARK, National Bank Examiner, United States Office of the Comptroller of the Currency (OCC), Kalamazoo, Michigan Duty Station, was interviewed on June 10, 1996 by Special Agent E.P. HUSOK and Senior attorney FRED GIBSON. CLARK had been identified as the Examiner in Charge of the 1996 examination of MADISON GUARANTY SAVINGS AND LOAN (MGSL) that was conducted by the Federal Home Loan Bank Board (FHLBB). CLARK was advised that he was to be questioned concerning activities of MGSL he may have become aware of during the examination.

CLARK said that he was employed by the FHLBB from 1973 to approximately 1986 as a Senior Field Examiner at the FHLBB 6th District at Indianapolis, Indiana. From approximately 1986 to approximately 1989, he was administratively transferred to the Federal Home Loan Bank of Indianapolis and performed the same duties. After the enactment of FIRREA, his position was transferred to the Office of Thrift Supervision (OTS) in Indianapolis. In December, 1990, he left for private industry. In January, 1992, he began work with the OCC as a National Bank Examiner.

CLARK recalled the examination of MGSL commenced on the first business day after March 4, 1986. He stated that he was the Examiner in Charge of the examination and, as such, spent time on site at the institution. He said that a request letter would have been sent to the institution prior to the arrival of the examiners advising them of the pending examination. CLARK said that it was standard policy to set the "as of" date, that date on which any transactions or documents in institution files would be subject to review, would be the last day of the previous month. CLARK said that in this case that date would be February 28, 1986, and he believed that the request letter would have advised MGSL of that "as of" date.

CLARK said that he wrote three approximately monthly interim reports and a final report detailing the findings of the examination.

CLARK was asked whether he was familiar with a purchase of property or assets referred to as IDC by MGSL or its affiliate MADISON FINANCIAL CORPORATION (MFC) from the examination. He stated that he was. He recalled that the IDC was an independent developer that owned property, some industrial buildings, and a water and sewer system south of Little Rock. He also recalled that there were some non-contiguous parcels held by IDC. CLARK said that he understood that by the mid 1980's, the industrial development was not doing well, and that MADISON purchased it as a part of a workout agreement. CLARK said that, as an entity of MADISON, he knew the entire IDC property that had been purchased as CASTLE GRANDE.

CLARK said that soon after the examination began, he observed from institution records that a lot of loans were being made in the area directly surrounding MGSL, the QUAPAW Quarter. CLARK said that when loan

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files began to be reviewed, it was noticed that many of the requisite documents, such as down payment and disbursement documents were not in the files. He said that it was decided that a project known as 1308 Main Street was chosen for a review. He said that a number of relevant loan documents were not in the file, so they began to track down the information at title companies, and by reviewing the check processing system. He said that the review of the financial situation disclosed a "series of flips" of the property.

CLARK said that from what he had seen in the first three weeks of the examination, he developed a theory concerning the operation of MGSL. He said that he considered it a "ratchet and house rake off" scheme, by which deposits were put into development projects, the profits from sales were booked, allowing the institution to increase its net worth, obtain more deposits and continue the cycle; while at the same time, institution insiders had money flowing to them through other institution entities.

CLARK said that to test the theory, CASTLE GRANDE and the developments known as MAPLE CREEK, and 12th and MAIN were chosen for review.

CLARK said that he was familiar with subsidiaries of MGSL, such as MFC and MADISON REAL ESTATE. He said he was initially advised by people at MGSL that the subsidiaries were actually separate companies owned by people he had come to believe were insiders.

CLARK said that when he tried to locate corporate records of the subsidiaries at MGSL, as he would have suspected them to be maintained, he found that he could not. He stated that the search was expanded to sources outside of the institution, trying to trace a money flow to insiders. He said that he found indicators that the subsidiaries were "shams...shells... no real existence." He said that at a May 29, 1986 management conference attended by MCDOUGAL, see below, he advised MCDOUGAL that the subsidiaries could represent a conflict of interest, and was then told by MCDOUGAL that the subsidiaries were really MGSL entities, so that in dealing with the subsidiaries, MGSL was in effect doing business with itself.

CLARK said the first interim report done by the examiners in approximately early March, 1986 was substantive and reported these and the other findings made to that date.

CLARK was asked why he dealt with MCDOUGAL on questions concerning MGSL when MCDOUGAL had ceased to be an officer of MGSL subsequent to a 1984 examination of MGSL by the FHLBB. CLARK said that MCDOUGAL had not been removed by the FHLBB, was still the primary stockholder in MGSL, and had stayed as President of MFC. CLARK said that although he was not able to ultimately pierce the corporate shell among MGSL and the subsidiaries, his contention was that MCDOUGAL and the HENLEY's were the controlling group at MGSL.

CLARK said that, at least for the May management meeting, he requested that MCDOUGAL attend. He said that at an April 11, 1986 management meeting, see below, someone from the institution may have requested that MCDOUGAL attend.

CLARK said that he was familiar with JOHN LATHAM as the President of MGSL, and had met with him on a regular basis during the examination. He said that he felt that LATHAM spoke on behalf of MGSL, but he believed that decisions were made by MCDOUGAL.

CLARK was asked if he was familiar with SETH WARD. He said that he was. He said that he believed that WARD may have acted as the go between with MFC and MCDOUGAL for the purchase of CASTLE GRANDE.

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He said that he was also aware that WARD had acted as a "straw" buyer of CASTLE GRANDE property on behalf of MFC.

CLARK was asked what he meant by a "straw" buyer. He said that a straw buyer is a "buyer who has no real monetary or other interest in the property but who is acting as a front for the real purchaser who does have an interest."

He was asked what banking regulation would be violated by a "straw" purchase, and said that it would be a violation if it caused false loan documents to be produced. He said that it would depend on the specific loan, and said that he did not believe that MGSL was cited in the 1986 examination for "straw" purchases singularly.

CLARK was asked what banking regulation would be violated by the institution in utilizing a "straw" buyer. He said that general regulations addressed a transaction with an affiliated person, and that a specific regulation called for all transactions to be executed with the safety and soundness and best interests of the institution in mind.

CLARK was asked if he had encountered "straw" purchases at any of the examinations at other institutions that he had examined and said that he did not believe that he had.

CLARK was asked whether he was aware during the MGSL examination of any restrictions on direct investments in subsidiaries by the institution. He said that there was a direct investment restriction on federally chartered thrifts, which MGSL was not. He recalled that at some time during the examination he learned that there was an Arkansas state restriction on direct investments.

CLARK was asked if he recalled the issue of potential direct investment violations coming up in the MGSL examination. He recalled that had MGSL purchased CASTLE GRANDE directly, they would have exceeded their direct investment limit.

CLARK was asked what effect violating a state regulation would have on a federal examination. He said that internal FHLBB procedures called on an institution to be in compliance with state regulations. He said that violating the state regulation would mean that the instutition was not operating safely and soundly.

CLARK was shown a copy of April 30, 1986 handwritten notes titled "Reconciliation of Service Corporation Investment". He recognized the handwriting as his. He was questioned concerning a note at the bottom of the page that indicated that MGSL was not subject to the state direct investment limitation, but that there apparently was a state restriction limiting the allowable investment to 6% of gross assets. The note also indicated that LATHAM reported that the state limitation had been waived at MGSL by state authorities.

CLARK said that he did not specifically recall the reported conversation with LATHAM, but did recall attempting to track down the ARKANSAS regulation. He said that if he had been told that the state regulation had been waived he might ask for documentation, but could not recall if he had done so in this matter.

CLARK was asked why an institution might use a "straw" purchaser when it is lending all of the money and said that avoidance of direct investment regulations could be one reason. CLARK was asked if he was ever told that the CASTLE GRANDE purchase was structured to avoid a direct investment limitation and said he had not been. He said that if he had mentioned direct investment in one of the interim or final examination report,

it would have been because someone told him or that he had seen it in institution records.

CLARK was shown a passage from page 11 of the May 8, 1996 interim report that read that "Ward apparently warehoused this land to reduce Madison Financial's investment and the attendant borrowing from Madison Guaranty. In this way, limitations on Madison Guaranty's investment in its service corporation are avoided." CLARK said that was consistent with recollection of WARD's role in the purchase.

CLARK said that by the time of the May 8, 1986 interim report, the examination had determined that the three projects that had been under review would seriously impair the net worth of the institution.

CLARK said that in the initial stages of the investigation, he had decided that the examiners would not seek direct responses to questions or advise of concerns that they had for fear that records would be hidden or destroyed if the areas they considered problems were evident to institution personnel. He was asked if he had any specific knowledge of documents being hidden or destroyed at that point and said he did not. He said that they had some trouble in obtaining requested loan files, and suspected that documents may have been added or removed. He repeated that he had no specific recollection of documents being hidden or destroyed, but recalled that some files were so devoid of documents that he questioned why all of the information was missing. He also recalled feeling that if the documents existed, they were never put in the file and he questioned whether an institution that would not comply with basic regulations might remove or destroy files that were present.

CLARK was asked if there came a time when he thought the examination was being obstructed. He said he had no specific recollection, but that it was just an accumulation of incidents involving dealing with MGSL management when he felt he was being lied to.

CLARK said that after the May 8, 1986 interim report, he decided to shift the manner of conducting the examination to more direct contacts with MCDOUGAL and LATHAM about what their concerns were and what areas they were interested in so that their reactions could be noted. He said approval to do so required quite a bit of negotiation with the FHLBB in Dallas, Texas, who oversaw MGSL, because there was a restriction in place at that office at that time on discussing loan classifications with institution personnel prior to FHLBB supervisory personnel signing off on the examination reports. He said he was eventually authorized to discuss the classifications at the institution as long as it was made clear that the classifications were tentative.

CLARK was shown a copy of a May 29, 1986 file memorandum from him concerning a management meeting he reportedly held on that date with MCDOUGAL and LATHAM. At page one of the memorandum, CLARK wrote that they discussed his primary concerns in the examination; losses on real estate development projects, and substantial payments to apparent affiliated persons or affiliates. The memorandum further indicated that MCDOUGAL and LATHAM were advised that "We were recommending losses under the asset classification regulations that exceeded Madison's net worth on just the three projects reviewed to date."

CLARK was asked if he thought that there came a time during the examination when officers or employees of MGSL may have reasonably believed that there was a possibility that the institution would be closed or that certain officers or employees would be removed.

CLARK said that by early May, 1986, he believed that some people were getting "antsy". He said they had not drawn any conclusions, but that they were asking questions of people in the institution. CLARK referred to a copy of handwritten notes he had made while the examination was underway. In an entry dated May 12,

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1986, he wrote that LATHAM had questioned him as to how long the examination would continue, and when the examination could be discussed with management. LATHAM reportedly told him that employees felt frustrated that there had been no general grading of the association by the examiners, and that two had threatened to quit.

CLARK also noted the May 29, 1986 management meeting reported in the memorandum of that date. He said that he might not have said that the institution was in bad shape or that supervisory agents might take action, but felt that having pointed out that the three projects reviewed were classified as losses greater than net worth rendering the institution insolvent, and that they "certainly by May 29 knew" the institution was "in serious trouble."

CLARK said that at that time, closings or removals were occurring at institutions. He said that the regulation enabling examiners to classify loans had come into being in late 1985, and that examiners were using the regulation to render institutions insolvent. He said that the use of that regulation was the genesis of the FHLBB Dallas directive against discussing classifications with examiners.

CLARK was asked who at MGSL at that time might have reasonably expected a possibility of removal and he replied LATHAM and MCDOUGAL. He was asked whether he thought Chief Loan Officer DON DENTON might have the same concerns and he said that it was possible. He also said that at some point, probably in June, 1986, the institution received a letter from the FHLBB Supervisory Agent advising them that a meeting would be held in DALLAS on July 11, 1986.

CLARK was questioned about a reference at page three of the May 29, 1986 memorandum stating that "Latham stated that a subordinated debt issue had been held back because of the difficulty in finding an underwriter for such a small issue ($3 to 4 million)".

CLARK did not recall the statement in any more detail than reported in the memorandum. He said that he recalled that MGSL planned to increase its net worth by growing the institution, but that regulations required greater capital first. He said that he believed that the debenture issue may have been discussed with FHLBB Dallas previously, and that the institution may have submitted a growth plan or business plan in furtherance of the plan.

CLARK was asked if he was aware of any previous plans by MGSL to raise capital. He recalled that MGSL considered a number of ideas, "none practical". He said that it was his belief at the time of the examination that the plans were an attempt to forestall supervisory action of one type or another so that more funds could be diverted from the institution. CLARK stated that the longer the "meter runs" in a "ratchet and rake-off" scheme, it would be in the "McDougal/Henley group's interest to keep it running because the longer it ran, the more money out" and that "delay for them" was "a tactic that could be used".

CLARK was asked if he recalled any law firm working on any such capital raising issue for MGSL and said he could not. He said that if he had been told about attorneys working on such an issue he may not have considered important to note the attorney's names.

CLARK was asked if he recalled any discussions with state regulators in any of the capital raising plans. He said he could recall no such discussions.

CLARK said that at some time after the May 29, 1986 conference with LATHAM and MCDOUGAL, he

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forwarded the "as of" date to April 30, 1986, bringing into the scope of review transactions and documents first at the institution after February 28, 1986.

CLARK was shown a copy of a letter dated June 3, 1986 letter that he wrote to LATHAM requesting documents that had previously been requested by the examiners in the May 29, 1986 management meeting. CLARK said it was consistent with his recollection that by that time he had decided to make requests for information in writing.

CLARK was shown a copy of a June 5, 1986 letter from LATHAM to him. CLARK recalled the letter. In the letter, LATHAM referred to the June 3, 1986 CLARK letter, above, and said that some of the information CLARK had provided had already been provided to, and was in the possession of, the examiners. In the letter, LATHAM also referred to a May 21, 1986 discussion with CLARK wherein CLARK had reportedly said that he had not received all of the information requested, and asked that CLARK provide him a list.

CLARK was also shown a copy of a June 6, 1986 letter from LATHAM to him wherein LATHAM requested, among other things, that CLARK provide him a list of all sales at CASTLE GRANDE that were "straws".

CLARK recalled the letters. He said that he responded to those letters in a June 10, 1986 letter to LATHAM In that letter, which CLARK was shown, he advised LATHAM, among other things, that he intended to send him two letters requesting additional information, the first of which would involve the three projects that had previously been reviewed. CLARK said that he did not want to provide LATHAM with the information concerning which transactions he thought were "straws" to LATHAM for fear the loan files could be doctored.

CLARK said that by that time, he had decided to go to written request of LATHAM rather than verbal because the responses from MGSL kept changing. CLARK also said that at that time he was still waiting to get authority to discuss the classification issues with MGSL management. He said LATHAM was becoming more aggressive questioning what documents the examiners wanted, why they wanted them, and what conclusions they were coming to. He said that he believed that LATHAM wanted to know what conclusions the examiners were coming to so that they could contact FHLBB Dallas directly on issues in contention.

CLARK was shown a copy of a June 17, 1986 letter from him to LATHAM wherein he requested specific information, including information concerning a number of CASTLE GRANDE related loans. CLARK recalled the letter. He said that it was the first letter he had referred to in his June 10, 1986 letter to LATHAM.

CLARK was asked why he requested information on what purchases were financed, the down payment, and the source of funds for several loans, including the WARD loan, #2962, that financed the initial purchase of CASTLE GRANDE. He said that it was because these were the loans that they believed after tracing the cash were "straw" loans.

He was asked why he requested the purpose for the use of the proceeds of the loan and said that it was to determine whether MGSL received any value for its money.

He was asked why he requested plats, mortgage surveys and other drawings that showed the boundaries of the property purchased by WARD and MFC from IDC. He said that it was because the examiners had attempted to trace the series of transactions to determine who actually bought what property, but that there had been overlap on the property descriptions that were available.

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CLARK was questioned concerning notes he made June 20, 1986 concerning CASTLE GRANDE. In the notes is a comment that the CASTLE GRANDE files had been rearranged since their earlier review by the examiners. The comment indicated that the rearrangment may have occurred while institution employees were preparing a response to examiners.

CLARK recalled that the files had been rearranged, and that memoranda dated June 2 and June 13, 1986 that were attached to his notes, had not been in the file when it was originally reviewed. The memoranda, which concern CASTLE GRANDE appraisals, were attached to CLARK's notes.

CLARK was shown a copy of a June 24, 1986 letter from LATHAM to him that was a response to CLARK's letter of June 17, 1986. Included in the response was a statement that WARD loan #4027 would be repaid "From the sale of real estate that is under option to Madison Financial Corporation; if option is not recognized, from sale of real estate to other investors". CLARK recalled the letter. CLARK said he had asked for an explanation of the source of the funds for repayment because he was trying to trace the source of funds going into and out of the project. The letter also contained a response concerning the disbursements of the proceeds of WARD loan were used in part to make a loan to the WILSON company. CLARK said he conducted an analysis of the responses by LATHAM in a file memorandum dated June 26, 1986.

CLARK was shown a copy of the June 26, 1986 analysis and recalled that it was the analysis he performed. CLARK said that he thought that he thought that a series of transactions between MGSL, MFC, WARD and WILSON was designed to channell funds into MFC in a manner to disguise that it was an actually a direct investment of MGSL in MFC. He wrote in his analysis that the response to his inquiry in the above decribed June 24, 1986 letter from LATHAM confimed in part his belief that the transactions were an attempt to disguise a direct investment.

CLARK also wrote in the analysis that the property descriptions of CASTLE GRANDE property were not concise, and that information provided by LATHAM in the June 24, 1986 letter were not sufficient to clarify the boundaries. CLARK explained that in April, 1986, the examiners had been attempting to construct concise property descriptions and found that they could not. He said they were using the information provided by the institution when the "as of" date for materials was February 28, 1986, and did not believe they had tried to trace meets and bounds descriptions. CLARK was shown a copy of the property description of 27 and 28 Holman Acres that had been attached to the mortgage securing Ward loan 4027. He said that he had no particular recollection of the description.

CLARK said that it was only after the "as to" was changed from from February 28, 1986 to April 30, 1986 that he first became aware that loans had been made to WARD during the examination. He said that it was decided then to go back and review CASTLE GRANDE transactions for evidence of land flips.

CLARK was asked if he thought the fact that the WARD loan 2962 was paid off with funds from the sales of property to FULBRIGHT and CASTLE SEWER AND WATER all occurred on February 28, 1986, the day before the initial "as of" date may have been done to place the WARD loan into a paid off status to lessen the chance of examiner's scrutiny. CLARK said that he thought it reasonable.

CLARK was asked if he became aware duiring the examination that WARD believed that he had commissions due to him from the sale of CASTLE GRANDE property.

CLARK said that the first time he became aware of commissions due to WARD was in approximately mid-May,

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1986. CLARK said at that time, he and other examiners were at MGSL after the institution employees had left for the day. He said that they were checking the drawers of desks in their area to store their working papers when an examiner discovered certain documnents. CLARK said that he reviewed the documents and discovered one was a September 24, 1985 letter from WARD to MCDOUGAL that set out an agreement by which the IDC property would be purchased. CLARK was shown a copy of a September 24, 1985 letter from WARD to MCDOUGAL, that did not caveat that WARD would retain 22.5 acres. CLARK said that letter was among the documents discovered. He said that it was the first indication he had concerning the commissions.

CLARK identified a July 1, 1986 file memorandum as one he wrote. The memorandum, at page two, discussed the discovery of the documents found in the desk drawer and identified the September 24, 1985 letter as being among them. The memorandum also referred to a June 24 letter from WARD to MCDOUGAL reaffirming their CASTLE GRANDE agreement. CLARK wrote in the letter that the agreement was dated after the May 29, 1986 management conference when he had discussed concerns about "straw" purchases, and the June 17, 1986 letter he sent to management requesting information about WARD and CASTLE GRANDE. CLARK wrote that the examiners, through June, 1986 had found no evidence of commissions paid WARD, and that he thought that the reaffirmation letter may have been an attempt by management to evidence a continuing involvement in CASTLE GRANDE. CLARK confirmed that he wrote the memorandum and recalled that the events occurred as written.

CLARK said that he believed that the first time institution people were made aware of the discovery of the documents was at the July 11, 1986 supervisory meeting at Dallas. He said that he was not certain if the specific subject of the September 24, 1985 WARD letter or of commissions was raised, but believed that they were.

CLARK was shown a copy of the September 24, 1985 letter from WARD to MCDOUGAL that contained the caveat concerning the 22.5 acres and was asked if he recalled seeing it or the attached property description in the Ward loan 4027 documents. He stated with reference to the letter "I don't recall ever seeing it", but was knowledgeable at the time about the 22.5 acre parcel.

CLARK was shown a single page of notes that contained at paragraph 2 information concerning an option agreement on the 22.5 acre parcel. The notes indicate that the writer discussed with someone that MFC wanted to purchase the WARD property, but that WARD had another buyer and would not consumate the sale for tax purposes. The note refers to a WARD attorney preparing an option to purchase the property. The note also referred to a loan to WARD that was unconnected and was to pay off loans on personal property.

The note also refers to a loan to MFC for $370,000 executed to guarantee the purchase of real estate pending the completion of the option. CLARK was shown a copy of the MFC notes to Ward and asked if he recalled them. He stated that he did. He was asked what he recalled about these notes. He stated that his concern as an examiner was whether the notes represented independent financing of MFC by Madison Guaranty. He would be concerned about where Ward came up with the cash and that the examiners would be concerned that the proceeds came from Madison Guaranty. The examiners would be concerned whether the loans between Ward and Madison Guaranty, and from Ward to Madison Financial, were connected in some fashion.

The note from the examination workpapers is not dated. At the bottom of the page is a note in different handwriting. That note is dated April 29, 1986. It indicates that "Darlene" spoke to DON DENTON about the option and had been told that the option had not yet been prepared, but that he would get it to the examiners. The note also referred to two notes that would not be funded.

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CLARK confirmed that he wrote the first note. CLARK said that the name of the attorney that appears in parenthisis in his notes is "HUBBELL". He said that he did not recall the specific discussion, but recalled the situation. He said that he became aware that MFC had borrowed $300,000 and $73,000 from WARD in April, 1986 and was attempting to determine whether the borrowing was connected to the $400,000 loan MGSL made to WARD on March 31, 1986. He recalled that he was told during his inquries that the notes were not connected and that loan #4027 was not related to the Ward loan to Madison Financial. CLARK was not sure, but believes he was talking to DENTON when he wrote the notes.

CLARK did not specifically recall the notes by "Darlene." He said that was DARLENE FORD, an examiner who assisted him on the examination. He believed that he may have asked FORD to follow up on what he had been told about the option.

CLARK was asked to outline his understanding at the time of the examination of the relationship between loan #4027 and the Ward to Madison Financial loan. CLARK stated again that he was told that the loans were "completely separate deals". Madison's "excuse" for loan #4027 was that it was "not connected to the Ward-MFC" loan, but was to enable WARD to payoff other loans or debts. CLARK stated that Madison's "excuse" for the Ward-MFC loan was "MFC wants to buy land from Ward, they're going to write option agreement, Ward wants a guaranty of performance on the option, and that is the reason for this note -- in the fullness of time, note will not be funded because the option will be exercised and WARD paid then, and the note will be cancelled." CLARK was asked whether this was an unusual arrangement, and he responded that it "Makes no sense at the time, less now", expecially when the property securing loan #4027 was the same land subject to the option.

CLARK was read portions of testimony by LATHAM concerning the connection between WARD loan 4027 and the two notes made by WARD to MFC, and that the loan 4027 was a way to pay WARD commissions. He said that he had not been aware of that reported connection between the loans. He said that if he had known, he would have called the transaction a direct investment in MFC by MGSL. He said that MGSL should have shown the notes from WARD listed on their books as accounts receivable. CLARK stated that the testimony "cannot jibe with what was said" to the examiners.

He said that if he had known about the commissions, at the very least he would have called it a direct investment by Madison Guaranty into MFC because MGSL would be funding MFC's obligations, and he would have been asking what WARD did to earn the commissions, and that the commissions would been a further indication that WARD was a "straw" buyer in the IDC purchase. He also said that if the loan had been made to pay commissions, he would have considered the loan "deceptive on its face." CLARK stated it would violate regulations that required transactions to be fully and completely documented so that their true nature is apparent to the examiners and anyone else. CLARK said that there was no way that the trial testimony was consistent with what he had been told during the examination. CLARK stated that "connection was the very point he was seeking and they're saying in the examination -- no." CLARK also indicated that based upon what he had now learned the option was created "in order to conceal the connection -- whatever it was -- between #4027 and Ward-MFC".

CLARK was asked about the possible use of the May 1, 1986 option to establish a value for the property for the benefit of the examiners. CLARK stated that he "would not have credited the value based on the option price".

CLARK was shown a copy of the front page of a version of the May 1, 1986 option that had a note by FORD

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indicating thet she had talked to DENTON about the description being wrong. He had no particular recollection of the note or the circumstances.

CLARK was asked whether he was aware of WARD being released from personal liability on three of his loans in June, 1986. He said he had not been, and likely would not have seen the releases because the "as of" date at that time was April 30, 1986.

CLARK was asked whether he dealt with any state regulators during the examination.

He recalled the involvement of BEVERLY BASSETT, the Arkansas Savings and Loan Supervisor. He said that shortly before the July 11, 1986 meeting at FHLBB Dallas between MGSL officials and FHLBB supervisory agents, he was told by supervisory agent CHIP KEISWETTER, that BASSETT had requested that she attend the meeting. CLARK said that KIESWETTER indicated that he was concerned because in other cases, Texas regulators had attended the meetings and had taken the side of the institutions. CLARK was asked if it was common for state regulators to attend the supervisory meetings. He said that this instance was the only one he was involved in Texas, but that the practice was relatively common in other FHLBB districts.

CLARK said that on another occasion shortly before the meeting, one of the examiners involved in the examination had indicated a concern to him that BASSETT had previously done work for MGSL on the CAMPOBELLO project, specifically concerning an interstate issue, and that the examiner had thought it represented a conflict for BASSETT. He recalled that BASSETT had been working at MITCHELL, WILLIAMS when that occurred. CLARK said that he believed that he relayed that concern to KEISWETTER, and that KEISWETTER brought it to BASSETT's attention. CLARK did not know what the result was, but recalled that she did attend the meeting.

CONGRESSIONAL RELATIONS - TESTIFY?

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ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

August 16, 1994

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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ROB PORTMAN, OHIO

BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY—(202) 225-5051
MINORITY—(202) 225-5074

The Honorable Kenneth Starr
Independent Counsel
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Starr:

In February, 1994, I instructed the minority staff of the Committee on Government Operations to initiate a probe into the death of White House aide Vincent W. Foster, Jr. This probe included both a review of the U.S. Park Police investigation into the cause of death and the activities of White House staff in the days following the discovery of Mr. Foster's body.

During the past several months Special Counsel Robert B. Fiske, Jr. has cooperated to help ensure that my probe did not interfere with his own investigation. On several occasions my staff even provided his office with names of individuals who may have relevant information on this matter.

I am enclosing for your information a summary report released on August 12 regarding the first phase of my review. This report endorses the conclusions of both the Park Police and Mr. Fiske that Vincent Foster committed suicide in Fort Marcy Park, Virginia on July 20, 1993. My probe on the actions by White House staff to prevent the U.S. Park Police from conducting a thorough investigation into this matter will continue.

It is my hope that we can work together to ensure that my efforts do not interfere with your ongoing investigation. I would be pleased to meet with you, as I did with Bob Fiske, to discuss this matter fully.

Sincerely,

Bill Clinger

William F. Clinger, Jr.
Ranking Republican

Enclosure

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SUMMARY REPORT BY

WILLIAM F. CLINGER, JR
Ranking Republican
Committee on Government Operations
U.S. House of Representatives

on the

DEATH OF WHITE HOUSE DEPUTY COUNSEL VINCENT W. FOSTER, JR.

August 12, 1994

William F. Clinger, Jr., Ranking Republican
Matthew Fletcher, Republican Staff Director
Kevin M. Sabo, Republican General Counsel
Lisa Odle Kaufman, Republican Special Counsel

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BACKGROUND

On February 24, 1994, I began a probe into the death investigation of White House Deputy Counsel Vincent W. Foster, Jr. In part, this investigation was prompted by the numerous conflicting accounts reported by various news agencies.[1]

What I have found during our extensive review is that a significant number of those news accounts were simply untrue or otherwise easily explained. In the final analysis, I reached the same conclusion as that of the U.S. Park Police and Special Counsel Robert B. Fiske, Jr.; namely, that on July 20, 1993, Vincent W. Foster, Jr. died from a self-inflicted gunshot wound to the mouth while at Fort Marcy Park (Fairfax County), Virginia.

As part of our probe, my staff or I interviewed emergency medical personnel from Fairfax County, Virginia, law enforcement officials, and other persons involved in the U.S. Park Police investigation of Mr. Foster's death. In addition, the Government Operations Committee was provided access to the theretofore undisclosed U.S. Park Police Report on the Foster death along with photographs taken at both the scene and the autopsy.

I initiated this investigation in my role as Ranking Republican to the Committee on Government Operations. It was conducted under the authority of Rule X of the Rules of the House of Representatives, which charges the Committee on Government Operations with responsibility for conducting reviews of the management and effectiveness of government operations and activities. Also, pursuant to 5 U.S.C. Sec. 2954, executive branch agencies are required to provide "any information. . . relating to any matter within the jurisdiction of the committee" when requested by any seven members of the Committee.

The purpose of this report is to provide a summary of this probe into the investigation of the death of Vincent Foster to my colleagues on the Government Operations Committee and in the House of Representatives. I also hope that this summary report, along with the detailed findings of Special Counsel Robert Fiske, will put to rest any lingering questions regarding the events of July 20, 1993.

FORENSIC EVIDENCE SUPPORTS SUICIDE

Respected Pathology Panel Reviews Physical Evidence

A review of the facts surrounding the death of Mr. Foster must start with (1) the overwhelming amount of forensic evidence supporting the conclusion that he died of a suicide, and (2) the stature of those brought in to review the autopsy results. Contrary to the belief of some commentators, the forensic pathology team ("Pathology Panel") working with Special Counsel Robert B. Fiske, Jr. did not rely solely on the autopsy conclusions of the Northern Virginia Medical Examiner, Dr. James C. Beyer.[2] Rather, the Pathology

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Panel independently concluded that Mr. Foster committed suicide on July 20, 1993 at Fort Marcy Park, Virginia after their own review of the available evidence.[3]

The determination of the Pathology Panel organized by Special Counsel Fiske was based on independent observations and testing of Mr. Foster's soft palate, a review of the photographs taken at Fort Marcy Park and during the autopsy, a review of FBI lab reports, and an examination of Mr. Foster's clothing. The same or comparable evidence was available to the Pathology Panel as would have been available had they been present at the original autopsy. The Pathology Panel determined that the decedent's body did not need to be exhumed because numerous tissue samples were saved and available for examination.

Summary of Forensic Evidence

-- It is indisputable that the gun was fired while in Mr. Foster's mouth. This conclusion is supported by the nature of the wound in the mouth and head as well as the smoke and gun powder residue found in the soft palate of the mouth. The report issued by Special Counsel Fiske discusses this forensic evidence in considerable detail. That being the case, one of two conclusions remain: (1) Mr. Foster committed suicide, or (2) Mr. Foster was forced to put the gun in his mouth and pull the trigger.[4] or someone else put gun in mouth & pulled trigger

-- The uncontested evidence supports the conclusion that Mr. Foster placed the gun in his mouth himself. There were no signs of a struggle at Fort Marcy Park, no bruises on Mr. Foster's body or tears in his clothing, and no broken teeth. Moreover, Mr. Foster was not under the influence of any controlled substances or alcohol that may have been used to render him helpless. Lab reports reveal that no alcohol or controlled substances were found in Mr. Foster's bloodstream.[5]

-- The conclusion that Mr. Foster committed suicide is also supported by the marks left on Mr. Foster's thumb and forefinger. Consistent with the testimony of the Fairfax County paramedics, Mr. Foster's thumb was trapped by the trigger guard. The remaining mark is consistent with the rebound of the trigger. Because the indentation on Mr. Foster's thumb matches exactly with the rebound of the trigger, it would have been virtually impossible to artificially make such a mark. Similarly, the imprint on Mr. Foster's forefinger is identical to the imprint on the back of the gun. The powder burns also support a finding of suicide.

-- Along with select members of my staff, I had complete access to photographs taken at Fort Marcy Park and during the Northern Virginia Medical Examiners autopsy. These photographs support statements by the U.S. Park Police and the Pathologist Panel regarding the location of the body, trigger guard marks, and gunpowder residue.

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NO EVIDENCE SUPPORTS MOVEMENT OF BODY

Although the forensic evidence indicates that Mr. Foster committed suicide, several issues not addressed in satisfactory detail by Special Counsel Fiske have been of concern to some commentators. They are addressed below:

Movement of the Foster Body

First, a major concern is the possible movement of Mr. Foster's body after he died. As reported, the amount of blood on and surrounding Mr. Foster's body at Fort Marcy Park was not substantial.

-- It is apparent that the lack of a substantial amount of blood was the direct result of the position of Mr. Foster's body at the time of death. Because Mr. Foster was lying on an angle, the blood drained downward instead of encompassing his entire body. However, the paramedics who lifted Mr. Foster's body and placed it in the body bag for transport to the hospital recorded that the body was "drenched with blood" once it became level. By the time the body bag was opened at the hospital, Mr. Foster's shirt and undershirt were covered in blood.

-- The bloodstain on the right shoulder of Mr. Foster's shirt is admittedly difficult to explain but not determinative that the deceased was moved after he committed suicide. Any number of facts would explain the bloodstain; perhaps the head was moved by the Park Police or emergency personnel on the scene. Regardless of what caused the bloodstain, however, it cannot be disputed that if the body was moved into the park additional signs would support that conclusion. Mr. Foster's clothing was drenched with blood once he was moved to the hospital. His clothing would have been equally drenched if he had been moved into the park.

-- Commentators have also made issue with the lack of skull fragments found at the scene suggesting it also supports the conclusion that Mr. Foster was moved to the park. The scene was not searched for bone fragments, however, until approximately nine months after Mr. Foster's death. Although it is not surprising that numerous objects were found at the scene, such as Civil War artifacts, skull fragments are animal matter. As such, they could have been moved by scavenging animals or even washed away. There was not a large amount of fragments that were missing as the exit wound was only 1 1/4 by 1 inch in diameter. Likewise, the bullet was never found, but one need only visit Fort Marcy Park to understand that the bullet could have fallen anywhere in the park. The fact that it was not located is not determinative in light of the previously discussed forensic evidence.

-- The lack of fingerprints on the gun found in Mr. Foster's hand has also been used to suggest that he did not fire the weapon or that his body had been moved and the

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gun was later placed in his hand. Pathologists have suggested, however, that fingerprints are not always identifiable. Other factors, such as the amount of oils on the decedents fingers, the humidity, and the temperature may result in fingerprints not remaining on an object.

Statements by "CW" Contradicted or Easily Explained

Recent statements of the so-called Confidential Witness ("CW") appears to be in question. CW is the reference to the man driving a white van who initially found Mr. Foster's body in Fort Marcy Park around 6:00 p.m. He has asked that his identify be kept confidential.

A comparison of CW's statements to FBI agents working for Special Counsel Fiske, as reflected in the Fiske report, and those statements given under oath to Representatives Dan Burton, John Mica and Dana Rohrabacher reveal that the substance of each statement is very similar, if not identical.

-- In both instances, CW insists that the palms of Mr. Foster were facing upward and there was no gun in Mr. Foster's hand when CW found the body.[6] However, in both instances, CW acknowledged that from the position he was standing, it was possible that if Mr. Foster had a gun in his hand, CW could have missed it. Special Counsel Fiske's report states, "CW acknowledges that, because of his position at the top of the berm and the heavy foliage, there could have been a gun in the man's hand that he did not see."[7]

CW reiterated this point in his sworn statement when he acknowledged that "a trained policeman standing at the top of the hill that [sic] even when he [the policeman] was told he [Mr. Foster] had a gun in his hand still did not see it [the gun]. I cannot . . . say, I would have seen it [the gun]."[8] Because my staff and I had access to photographs taken at Fort Marcy Park, we carefully reviewed a photo taken from roughly the same location that CW claims to have stood. Because of the dense foliage that was clearly seen in the picture, Mr. Foster's hands could not possibly have been seen without moving to his side. CW admits that he did not move to Mr. Foster's side to examine Mr. Foster's hands.

-- Questions have also been raised about the alleged existence of a wine cooler bottle near Mr. Foster's body and a stain on Mr. Foster's shirt which appeared to be a combination of wine and vomit. These assertions were made by the CW. The lab reports conducted on Mr. Foster's shirt reveal that the stain was purely blood and no traces of wine or vomit were found. The U.S. Park Police asserts that no wine coolers were found near Mr. Foster's body, but wine coolers were in an automobile located in the parking lot but not belonging to Mr. Foster. Additionally, no alcohol was found in Mr. Foster's bloodstream.

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-- Questions have been raised regarding a discrepancy between CW's recollection of the various contents of the two cars located in the parking lot at Fort Marcy Park the afternoon of Mr. Foster's death. All parties involved agree that there were two cars in the parking lot -- one belonged to Vincent Foster and was grey in color and the other was a white Honda. According to CW, inside the white Honda were two wine coolers and a jacket that matched the pants CW saw on Vincent Foster.

In contrast, the U.S. Park Police investigation (at the time of the death) and Special Counsel Fiske's investigation (nine months later) both determined, based on information from the owner and passenger of the white Honda, that the wine coolers were in fact in their car. As well, no jacket was in their car despite the testimony of the CW. The U.S. Park Police found the jacket matching Mr. Foster's pants in the car belonging to Mr. Foster.

-- Also of concern is the statement by CW that the ground at the bottom of the berm where the body was found was trampled and worn. It would be impossible to determine, however, whether the ground was trampled by the footsteps of Mr. Foster pacing back and forth or by the footsteps of others.

Other Evidence of Marginal Value

-- Several commentators have questioned the origin of carpet fibers found on Mr. Foster's body or clothes. Although the origin of those fibers and hair have not been substantiated, a determinative finding of the origin is not practical nor necessary in light of other overwhelming forensic evidence. Specifically, carpet fibers may be transmitted from almost any source. It would be impossible to determine when or where the carpet fibers found on Mr. Foster's clothing would have originated.

-- Rumors have also arisen concerning a blond hair found somewhere on Mr. Foster's body, possibly on his undershorts. Prior to beginning the autopsy, Mr. Foster's clothing was removed and commingled together. Therefore, it is impossible to determine which piece of clothing the hair was originally attached.

The blond hair found on Mr. Foster could have come from anyone. Possibly, the hair belonged to his daughter who has long blond hair. The day of his death, Mr. Foster was driving the car typically driven by his daughter. Moreover, the morning of his death, Mr. Foster drove his daughter to work, leaned over and kissed her good-bye -- an act whereby a hair could have easily been transmitted. The hair could have also belonged to anyone of the guests at the swearing-in ceremony of FBI Director Louis Freeh which took place in the Rose Garden the day of Mr. Foster's death. Because the forensic evidence so conclusively points to a suicide, the origin of the blond hair is hardly relevant.

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-- Another area of concern seems to be the existence of semen found on Mr. Foster's undershorts. Those who suggest that the presence of semen demonstrates that a sexual liaison occurred on the afternoon of Mr. Foster's death ignore the testimony of medical experts who suggest that it is not uncommon for an individual, at the time of death, to defecate, urinate, or even ejaculate.

-- Finally, some have questioned why Mr. Foster's body was not exhumed. Based upon the uncontroverted forensic evidence coupled with the pain such a procedure would understandably cause the Foster family, it was determined that Mr. Foster's body need not be exhumed. As suggested above, the Pathology Panel reasonably determined that sufficient evidence was preserved to allow them to conduct their own independent review.

CONCLUSION

I must agree that not every question regarding the death of White House aide Vincent Foster has been definitively answered. Nonetheless, I have reached the conclusion that all available facts lead to the undeniable conclusion that Vincent W. Foster, Jr. took his own life in Fort Marcy Park, Virginia on July 20, 1992.

Perhaps the unexpected death of any high government official will needlessly bring cries of conspiracy from many in our society. That is unfortunate. The death of Mr. Foster has been reviewed in detail by the experienced professionals at the U.S. Park Police, who were performing their tasks under extremely difficult circumstances. Special Counsel Robert Fiske took that investigation one step further by establishing a panel of noted forensic pathologists who reviewed all of the available evidence and reached the same conclusion as that of the Park Police. I reviewed the work of these two organizations and, with this report, support their findings.

Accordingly, this report closes the Government Operations Committee minority investigation on this stage of the death of Vincent Foster. The focus of this probe will now turn to the second portion of the investigation dealing with the handling of Mr. Foster's documents and the potential obstruction of justice by White House staff in the days following Mr. Foster's death.

My special thanks to officials of Fairfax County, Virginia, the U.S. Park Police, and the Office of Special Counsel Robert B. Fiske, Jr. for their assistance in conducting this review.

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ENDNOTES

1. Despite an early determination by the U.S. Park Police that Vincent Foster had committed suicide, numerous news stories began to appear in early 1994 suggesting that the Park Police did not thoroughly perform their job or that the White House staff had improperly impeded the police investigation. These articles include:

   - On January 13, 1994, Washington Post reporter Michael Isikoff reports that DoJ and FBI agents have begun retracing the original handling of the Foster probe in a search for evidence that would shed light on his state of mind at the time of his death. Isikoff further reports that this effort began because the investigators were concerned that top White House aides may have hindered the U.S. Park Police from obtaining key evidence.

   - On January 27, 1994, the New York Post's Chris Ruddy reports that some of the first people to discover the body of Foster have raised new questions about the conclusion that it was a suicide. According to Ruddy, "The questions involve the position of Foster's body; the fact that the gun was still in Foster's hand and had no blood on it; the small amount of blood on and near the body; and the swiftness with which the death was declared a suicide."

   - In late January, 1994, the Wall Street Journal filed suit in U.S. District Court to "force the release of reports on White House lawyer Vincent Foster's death. The DoJ had earlier planned to release these reports.

   - On February 3, 1994, the New York Post reports that former FBI Director William Sessions said that the FBI "was kept out of the investigation into Vincent Foster's alleged suicide because of a 'power struggle within the FBI and the Department of Justice'". Sessions "said the FBI did not get involved in the probe for political reasons."

   - On February 4, 1994, ABC New's Jim Wooten reports that Secret Service records "show that the day after Foster died Nussbaum did take a photograph from the office and one of his assistants returned a trash bag previously removed from the office."

2. The autopsy was performed by Dr. Beyer. The autopsy was authorized by Dr. Donald Haut of the Office of the Chief Medical Examiner, Northern Virginia District, Commonwealth of Virginia. The Medical Examiner's Certificate, better known as a death certificate, is signed by Dr. Haut and lists the cause of death as "self-inflicted gunshot wound mouth to head."

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3. The Forensic Pathologist Panel included four experienced and respected forensic pathologists. They include:

   (a) Dr. Charles S. Hirsch - Chief Medical Examiner for the City of New York.

   (b) Dr. James L. Luke - Forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy.

   (c) Dr. Donald T. Reay - Chief Medical Examiner for King County, Seattle, Washington.

   (d) Dr. Charles J. Stahl - Distinguished Scientist and Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C.

   No evidence has been presented which would challenge the integrity of these experts.

4. Several commentators have argued that Mr. Foster's body, after he died, was moved to Fort Marcy Park. This issue will be addressed below.

5. Small traces of an anti-depressant, which Mr. Foster was known to have taken, was found in Mr. Foster's bloodstream.

6. Fiske report at 30; Deposition at 43.

7. Fiske report at 30.

8. Deposition at 19.

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SUMMARY REPORT BY

WILLIAM F. CLINGER, JR
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  The blond hair found on Mr. Foster could have come from anyone. Possibly, the hair belonged to his daughter who has long blond hair. The day of his death, Mr. Foster was driving the car typically driven by his daughter. Moreover, the morning of his death, Mr. Foster drove his daughter to work, leaned over and kissed her good-bye -- an act whereby a hair could have easily been transmitted. The hair could have also belonged to anyone of the guests at the swearing-in ceremony of FBI Director Louis Freeh which took place in the Rose Garden the day of Mr. Foster's death. Because the forensic evidence so conclusively points to a suicide, the origin of the blond hair is hardly relevant.

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Another area of concern seems to be the existence of semen found on Mr. Foster's undershorts. Those who suggest that the presence of semen demonstrates that a sexual liaison occurred on the afternoon of Mr. Foster's death ignore the testimony of medical experts who suggest that it is not uncommon for an individual, at the time of death, to defecate, urinate, or even ejaculate.

Finally, some have questioned why Mr. Foster's body was not exhumed. Based upon the uncontroverted forensic evidence coupled with the pain such a procedure would understandably cause the Foster family, it was determined that Mr. Foster's body need not be exhumed. As suggested above, the Pathology Panel reasonably determined that sufficient evidence was preserved to allow them to conduct their own independent review.

CONCLUSION

I must agree that not every question regarding the death of White House aide Vincent Foster has been definitively answered. Nonetheless, I have reached the conclusion that all available facts lead to the undeniable conclusion that Vincent W. Foster, Jr. took his own life in Fort Marcy Park, Virginia on July 20, 1992.

Perhaps the unexpected death of any high government official will needlessly bring ries of conspiracy from many in our society. That is unfortunate. The death of Mr. Foster has been reviewed in detail by the experienced professionals at the U.S. Park Police, who were performing their tasks under extremely difficult circumstances. Special Counsel Robert Fiske took that investigation one step further by establishing a panel of noted forensic pathologists who reviewed all of the available evidence and reached the same conclusion as that of the Park Police. I reviewed the work of these two organizations and, with this report, support their findings.

Accordingly, this report closes the Government Operations Committee minority investigation on this stage of the death of Vincent Foster. The focus of this probe will now turn to the second portion of the investigation dealing with the handling of Mr. Foster's documents and the potential obstruction of justice by White House staff in the days following Mr. Foster's death.

My special thanks to officials of Fairfax County, Virginia, the U.S. Park Police, and the Office of Special Counsel Robert B. Fiske, Jr. for their assistance in conducting this review.

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ENDNOTES

1. Despite an early determination by the U.S. Park Police that Vincent Foster had committed suicide, numerous news stories began to appear in early 1994 suggesting that the Park Police did not thoroughly perform their job or that the White House staff had improperly impeded the police investigation. These articles include:

   - On January 13, 1994, Washington Post reporter Michael Isikoff reports that DoJ and FBI agents have begun retracing the original handling of the Foster probe in a search for evidence that would shed light on his state of mind at the time of his death. Isikoff further reports that this effort began because the investigators were concerned that top White House aides may have hindered the U.S. Park Police from obtaining key evidence.

   - On January 27, 1994, the New York Post's Chris Ruddy reports that some of the first people to discover the body of Foster have raised new questions about the conclusion that it was a suicide. According to Ruddy, "The questions involve the position of Foster's body; the fact that the gun was still in Foster's hand and had no blood on it; the small amount of blood on and near the body; and the swiftness with which the death was declared a suicide."

   - In late January, 1994, the Wall Street Journal filed suit in U.S. District Court to "force the release of reports on White House lawyer Vincent Foster's death. The DoJ had earlier planned to release these reports.

   - On February 3, 1994, the New York Post reports that former FBI Director William Sessions said that the FBI "was kept out of the investigation into Vincent Foster's alleged suicide because of a 'power struggle within the FBI and the Department of Justice'". Sessions "said the FBI did not get involved in the probe for political reasons."

   - On February 4, 1994, ABC New's Jim Wooten reports that Secret Service records "show that the day after Foster died Nussbaum did take a photograph from the office and one of his assistants returned a trash bag previously removed from the office."

2. The autopsy was performed by Dr. Beyer. The autopsy was authorized by Dr. Donald Haut of the Office of the Chief Medical Examiner, Northern Virginia District, Commonwealth of Virginia. The Medical Examiner's Certificate, better known as a death certificate, is signed by Dr. Haut and lists the cause of death as "self-inflicted gunshot wound mouth to head."

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3. The Forensic Pathologist Panel included four experienced and respected forensic pathologists. They include:

(a) Dr. Charles S. Hirsch - Chief Medical Examiner for the City of New York.

(b) Dr. James L. Luke - Forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy.

(c) Dr. Donald T. Reay - Chief Medical Examiner for King County, Seattle, Washington.

(d) Dr. Charles J. Stahl - Distinguished Scientist and Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C.

No evidence has been presented which would challenge the integrity of these experts.

4. Several commentators have argued that Mr. Foster's body, after he died, was moved to Fort Marcy Park. This issue will be addressed below.

5. Small traces of an anti-depressant, which Mr. Foster was known to have taken, was found in Mr. Foster's bloodstream.

6. Fiske report at 30; Deposition at 43.

7. Fiske report at 30.

8. Deposition at 19.

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DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
[illegible], TENNESSEE
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RICHARD H. BRYAN, NEVADA
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United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

September 26, 1994

Mr. Kenneth Starr, Esq.
Independent Counsel
2 Financial Center
10825 Financial Center Parkway
Suite 134
Little Rock, Arkansas 72211

Dear Mr. Starr:

Pursuant to Senate Resolution 229, the Senate Banking Committee is conducting an investigation and hearings into, among other subjects, the nature and extent of communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation ("RTC") relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association. The Committee's investigation included reviewing thousands of documents, deposing many knowledgeable witnesses, and conducting public hearings.

In the course of the proceedings, the Committee has developed evidence which strongly suggests that certain individuals may have purposely misled Congress. Accordingly, we request that you and your staff review the accuracy of the testimony given to this Committee on February 24, 1994, and more recently during depositions and hearings in July and August. At the conclusion of your review, you may wish to consider whether criminal charges should be brought. While we are still reviewing the testimony of White House officials, we are now writing to express concern over the testimony of Treasury Department witnesses Mr. Roger Altman, Ms. Jean Hanson, and Mr. Joshua Steiner.

ALTMAN TESTIMONY

On February 24, 1994 Deputy Secretary of the Treasury Roger Altman testified before this Committee, as part of our semi-annual oversight hearings on the RTC. During this hearing, Mr. Altman was questioned extensively on the nature and extent of contacts with the White House, and on the handling of criminal referrals that the RTC had made that mentioned the Clintons. The evidence is overwhelming that Mr. Altman's answers were inaccurate and incomplete. In addition to concealing the number of contacts between the White House and Treasury or RTC, Mr. Altman

concealed the nature of the contacts. Mr. Altman's attempt to mislead the Committee continued through a series of letters he sent to the Committee which purported to correct his earlier testimony.

Pursuant to Senate Resolution 229, in July and August 1994, Altman was deposed by Counsel for the Committee and also testified at public hearings. On both occasions, Mr. Altman was under oath. Altman's testimony on critical points is contradicted by the testimony of other witnesses and the documentary evidence. It appears that Altman did not testify truthfully at his deposition or at these more recent hearings.

Here are several examples: On February 24, Altman testified that the "sole" purpose of a February 2, 1994 meeting at the White House was to discuss the statute of limitations as it applied to the Madison case. [Feb. 24 Hearing, page 63] Altman described the "whole conversation" as pertaining only to a generic discussion of the statute of limitations. In response to a direct question, he stated that the "one question" he was asked by White House officials at the February 2nd meeting was whether private counsel for the parties would be receiving a similar briefing. [Feb. 24, page 55-56] Based on evidence developed in our investigation, we now know that this testimony was unequivocally false. As even Mr. Altman has recently admitted, the truth is that at the February 2nd meeting there was an extensive discussion of whether Altman should recuse himself. White House officials asked Altman many questions about recusal and about who would be the decision-maker in the Madison Whitewater case if Altman withdrew from the case. They also rendered advice regarding his decision. Indeed, Joshua Steiner reported in his diaries that the White House told Altman that his decision to recuse himself was "unacceptable", and that Altman was under "intense pressure" from the White House not to recuse himself.

At the February 24th hearing several Senators also put probing questions to Altman aimed at determining whether there were any other White House contacts apart from that contact on February 2nd. Senator Gramm specifically asked Altman whether he or his staff had "any communication" with the White House. [Feb. 24, page 55] Altman disclosed only the February 2nd meeting. Senator D'Amato asked: "Was there any other meeting that may have been requested". Altman said: "No." [Feb. 24, page 61]. Yet, it is now undisputed that there were numerous contacts which Altman failed to disclose. One of the more significant meetings which Altman concealed occurred on February 3rd when Altman himself requested a meeting at the White House to announce that he would not recuse himself. Altman has offered no credible explanation for why he denied this contact when responding to Senator D'Amato's direct question.

In addition, during the February 24 hearing, Mr. Altman was specifically asked about the handling of criminal referrals that mentioned the Clintons. Mr. Altman responded that normal procedures were being followed, and nobody at his agency advised the White House staff of the existence of the referrals. [Feb. 24, pagers 40-41, 69] To quote the hearing record:

Senator Bond: How was the White House notified of the referral?

Mr. Altman: They were not notified by the RTC, to the best of my knowledge.

Senator Bond: Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?

Mr. Altman: Not to my knowledge.

It has since come to light that there were at least two meetings in September and October 1993 when Treasury Department officials disclosed the existence, and discussed relevant details, of the criminal referrals with White House officials. And there is highly credible evidence that these contacts were undertaken with the knowledge and at the direction of Mr. Altman. [Feb. 24, page 69]

At some points in his February 24th testimony Mr. Altman characterized his February 2nd meeting as a "substantive contact". Senator Domenici insisted on probing whether the use of the modifying term "substantive" implied the existence of other contacts, and asked "you are not suggesting you had more than one are you?" Altman answered "No. I am just saying that if you run into someone in the hall, if you see that thing in the paper this morning, I am not including that." [Feb. 24, page 70] The undisputed fact that Altman purposely met with White House officials on February 3rd solely to discuss his recusal absolutely belies his answers to Senator Domenici.

Altman's deception is exacerbated by the fact that he had several opportunities to correct his testimony through the submission of letters to the Committee. Rather than truthfully correct his testimony, Altman persisted in his deception. After receiving notice from the White House that his testimony could be misleading, and similar advice from Treasury General Counsel Jean Hanson, Altman submitted carefully worded letters to the Committee purporting to correct the record. Conspicuously absent from Altman's first two letters is any mention of "recusal" or "criminal referrals." In his third letter to the Committee dated March 11, 1994 Altman affirmatively misrepresented that in his contacts with the White House he did not "seek advice, nor was it given". Sworn testimony from at least six witnesses establishes that White House Officials did advise Altman on his recusal.

HANSON TESTIMONY

A second Treasury Department witness whose testimony merits scrutiny is Ms. Jean Hanson, General Counsel to the Treasury Department. As General Counsel to the Treasury Department, Hanson had responsibility to assure that to her knowledge Roger Altman did not provide false information to Congress. The evidence, however,

indicates that Hanson failed to act when confronted with Altman's blatant attempt to mislead the Committee. The evidence shows that Hanson had knowledge at the time of Altman's testimony that he was testifying falsely. She also had knowledge that at least two letters sent by Altman to the Senate Committee which she reviewed were not complete.

Hanson testified at the recent hearings that she did not correct Altman at the February 24th hearing because she had not thought about the earlier Treasury White House contacts since the time of the September/October meetings. However, documentary evidence, and sworn testimony of Joshua Steiner, establish that Hanson was specifically requested in December to prepare a chronology of prior White House contacts. One of the documents produced by the Treasury Department is the actual chronology Hanson prepared in December. Also, a torn-up copy of the document was found in Treasury files. It is apparent from the documents that, contrary to Hanson's testimony, the subject of the September/October White House contacts was something which was actively recalled by her and others at the Treasury Department as recently as December -- less than two months before the February 24th hearings.

It also appears that Hanson reversed herself on the issue of why she did not correct Altman's false testimony on February 24. At her initial deposition Hanson testified that she did not correct Altman's testimony because at the time she did not have an opportunity to do so. Altman later testified before the Senate that he turned to her during his February 24th testimony to ask if his response was correct. Altman even identified the point on the videotape at which he turned to Hanson. Hanson was then re-deposed and confronted with the videotape. Only then did she acknowledge that she did have an opportunity to correct Altman, and did not do so.

STEINER TESTIMONY

Finally, the testimony of Joshua Steiner, Chief of Staff to Secretary of the Treasury, also merits examination. Steiner's diaries provided clear evidence regarding certain pertinent aspects of the Treasury contacts with the White House. Obviously, Steiner did not anticipate that his candid diary entries would be revealed to others. As contemporaneous written records, corroborated by substantial independent evidence, the diary entries contain the most accurate description of the pertinent events. Nevertheless, Steiner made every attempt in the course of his testimony at deposition and at the hearing to protect Altman and White House officials by departing from the plain meaning of his diary entries. It appears that in testifying Steiner departed from the truth.

CONCLUSION

We understand that these matters are within the scope of your ongoing investigation. Therefore, we request that you examine the evidence before this

Committee to determine if criminal charges against the above-mentioned witnesses are warranted. Our Committee is familiar with the salient issues raised with respect to the White House and Treasury or RTC contacts, and we have identified numerous passages of questionable testimony regarding those issues. We have identified testimonial and documentary evidence which contradicts the testimony of the Treasury witnesses. The above examples of misleading testimony are merely illustrative. Please let us know if we can be of assistance in briefing you or your staff with respect to these matters.

We look forward to your comprehensive examination of these issues.

Sincerely,

Alfonse D'Amato

Connie Mack

Lauch Faircloth

Bill Roth

Alfonse M. D'Amato

Pete Domenici

Kit Bond

Phil Gramm

Don Nickles

KWS

⊛ Congressman Klinges
- report
- establish relationship w/ Klinger's staff person
- read report + grateful for report

⊛ Dan Burton
- talk to CW
- don't serve up FBI agents for interviews
- what is DOJ + FBI policy?
- DOJ line attys did not interview or testify policy input people

Lanny Monrol ⇓ get him up here

Fort Marcy Park → Jack Barnett

⊛ 2 FBI agents testified before Senate Banking
⇓
know circumstances that led to it
↘ letter of response w/ traditional DOJ+ FBI policy ⇒ not
⇓
recent departures Jack Keeney
⇓
past pratice w/ IC's

Chris Ruddy report

central data base

Sam Dash

[get BURTON letter]

To: The Team

From: Denis J. McInerney

Date: September 23, 1994

Re: Possible Congressional Hearings

At Ken's suggestion, I am circulating the attached memo for your general information. I had prepared it for Bob in March in anticipation of meetings Bob was going to have with certain members of Congress. It discusses various thoughts Julie and I had regarding the problems inherent in Congressional hearings on matters we are still investigating.

To: Bob

From: Denis

Date: March 8, 1994

Re: Proposed Congressional Hearings

Here are some thoughts Julie and I had regarding the problems inherent in calling virtually any of the people on the list to testify before Congress:

I. General Points

(1) As a preliminary matter, it must be remembered that grand jury proceedings are **secret** for two very good reasons: they are the most effective, and fairest, way to find out the truth.

(Most of the points set forth below relate to how public congressional hearings would not only be **less** effective than grand jury proceedings in ferreting out the truth, they would affirmatively impede that process. But the **fairness** point should not be glossed over. The Grand Jury's traditional function of "protecting the innocent from unwarranted public accusation," US v. Mechanik, 475 U.S. 66, 73 (1986) (J. O'Connor, concurring), is perhaps as vital in the investigation the Independent Counsel is presently conducting as it has ever been in any investigation. If the proposed congressional hearings are held, many people may have their names **unfairly** dragged through the mud, to the detriment not only of those people, but of the nation as well.)

(2) One of the principal reasons for the proposed congressional hearings is the fact that the Treasury Department had contact with the White House regarding various RTC criminal referrals. A fundamental problem with the proposed hearings, however, is that they would result in the very thing that caused the uproar in the first place -- disclosure of the contents of **strictly confidential** criminal referrals.

II. **Specific Problems Caused By Having Any Particular Witness Testify**

(3) Causing Mr. Witness to testify at a public (and possibly televised) hearing will almost certainly inhibit Mr. Witness and cause Mr. Witness to be less frank and willing to volunteer information than he would be in the private and strictly confidential setting of a grand jury. (Such inhibited, and thus incomplete and possibly untruthful, testimony will surely be used against Mr. Witness if he eventually ends up testifying in a complete and truthful manner at a trial down the road. We can alleviate the pressure on Mr. Witness to a great degree by keeping everything in the grand jury, where things are secret.)

Also, causing Mr. Witness to testify now, before we have had an opportunity to try to obtain his cooperation, may result in Mr. Witness deciding to perjure himself before Congress. Such action by Mr. Witness would render him virtually useless as a witness at a later trial.

(4) Causing Mr. Witness to testify at a public (and possibly televised) hearing will inform all other potential witnesses/subjects/targets of Mr. Witness's story (thus letting the others know whether Mr. Witness is, for example (a) cooperating fully and telling the whole truth; (b) cooperating only partially and lying in certain areas; (c) lying in virtually every material respect; or (d) not cooperating at all and taking the Fifth)

-- This will quite possibly result in some of the other potential witnesses/subjects/targets tailoring their story's to conform to Mr. Witness's story. (Clearly, many of the witnesses on the proposed list are central and critical to the Independent Counsel's investigation. It would be a dream come true for many potential witnesses/subjects/targets to hear the testimony of these critical witnesses before committing themselves under oath to a particular story or producing documents.)

-- This could also lead to others (depending on their particular position):

(a) destroying evidence that supports or

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contradicts Mr. Witness's testimony;

(b) fabricating evidence that supports or contradicts Mr. Witness's testimony;

(c) attempting to intimidate Mr. Witness; and

(d) attempting to intimidate other potential witnesses;

(5) It is absolutely critical that the Government be able to keep strictly confidential who is cooperating and who isn't; causing crucial witnesses to testify at congressional hearings will make that information public and will result in the Government losing an essential tactical advantage in a criminal investigation

(6) Some of the witnesses at the proposed hearings might have political axes to grind. (Such witnesses might be more likely to grind those axes if they had a public televised forum than if they were confined to a sealed confidential setting in a grand jury room.)

(7) Needless to say, immunity to any witness would be disastrous.

III. Miscellaneous Other Points

(8) The **timing and order** in which the Government interviews witnesses and obtains documentary and other evidence is also critical in any criminal investigation. These factors weigh heavily in the Government's ability to effectively obtain cooperation from witnesses and collect evidence (before any intimidating, tampering or destruction can occur). Congressional hearings **at this time** would deprive the Government of the control over the timing and order of witness interviews and document collection and analysis, and thus substantially impair our ability to conduct an effective and thorough criminal investigation.

(9) Obviously, questioning at this time by Congress will be based on incomplete information because you do not

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have the documents we have. You will largely be fishing blindly and you will be creating a very sketchy, incomplete, and likely inaccurate record on the basis of unrefreshed recollections.

(10) Many of the witnesses you propose to call are absolutely central to everything we are investigating. If you are serious about wanting a thorough, expeditious, and fair criminal investigation, let us do our jobs.

We do not think it is really possible, or a good idea, to get into specifics on the various proposed witnesses. I am sure they would love for you to give an explanation for why each witness is critical to your investigation and how their premature testimony before Congress would impact on the investigation. It would be a very slippery slope, however, which might result in our tipping our hand too much with respect to where we are in our investigation and where we are headed. Moreover, there are really very few particularized comments that would be appropriate to make with respect to these witnesses. That being said, here is the list of witnesses they want to call, and any thoughts we have specifically on them:

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WITNESSES PROPOSED FOR HEARINGS

WITNESS	CONCERNS
McDougal, James	absolutely central to everything we are investigating
McDougal, Susan	absolutely central to everything we are investigating
Hale, David	absolutely central to everything we are investigating indicted trial set for 3/28 unfair to Hale to force him to take Fifth
Nelson, Sheffield	what he says will certainly influence others might have political ax to grind; ran for Governor against Clinton in 1990
Breslaw, April (FDIC)	(She went to bat for Hubbel on retaining Rose in the litigation against Frost)
Dudine, James (RTC)	
Ausen, Lee (RTC)	whole reason for the uproar in the first place is the possible disclosure of the contents of the referrals! every single referral is being examined by this Office would be like having the FBI Case agent testify at these hearings akin to taking the FBI reports and publishing them
Iorio, L. Richard (RTC)	[Same]
Lewis, Jean (RTC)	[Same]

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WITNESS	CONCERNS
Caron, Mike (RTC)	[Same]
Mackay, Donald	He was principally concerned with preparing the prosecution of Hale; calling him wrt anything regarding his investigation would be improper on the eve of Hale's trial (if just going to ask him if Nussbaum called him to try to influence things, or find out information, that would probably be OK)
Casey, Paula	Same as with Mackay If going to ask about Plea Negotiations, totally inadmissible (F.R.CR.P. 11(e)(6)) and unfair and prejudicial to Hale, especially on the eve of trial!
Patten, Leslie	(One of the CPA's on the Lyons Report?)
Lyons, James	What Lyons looked at and how they got it is central to our inquiry
Tate, Stanley	
Roelle, William (FDIC)	
McLarty, Mack	If relevant to anything, relevant to obstruction of justice, which is a criminal grand jury inquiry, not a congressional inquiry (General problems that his testimony may result in disclosing contents of RTC referrals -- obviously, however, this is much less of a concern with the White House witnesses than with the Treasury witnesses)
Nussbaum, Bernard	[Same]
Ickes, Harold	[Same]
Williams, Margaret	[Same]

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WITNESS	CONCERNS
Gearan, Mark	[Same]
Lindsey, Bruce	[Same]
Caputo, Lisa	[Same]
Hanson, Jean	[Same]
Steiner, Josh	[Same]
DeVore, Jack	[Same]
Bassett-Schaffer, Beverly	Crucial witness A number of other people at the Securities Department who will be key witnesses
Lasater, Dan	(Rose represented the FDIC in suing Lasater's firm -- Hillary conflict) Yes, Congress, as with everything else that you are considering holding hearings in, we are looking into this also.
Young, Greg	(CFO of Madison Guaranty) Critical witness
Denton, Don	(Chief Loan Officer of Madison Guaranty) Critical Witness
Aunspaugh , Lisa	(Affiliated with a number of Susan McDougal Companies, including Masters Marketing) Critical Witness
Bowles, Erskine (SBA)	
James, Charles	(Accountant for Whitewater) Witness

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WITNESS	CONCERNS
Strayhorn, Sue	(McDougal's secretary) Key witness
Kulka, Ellen (RTC)	
Hedges, Jeremy	He is in the middle of an investigation that we are actively pursuing
Lindsey, Clayton	He is in the middle of an investigation that we are actively pursuing
Stacy, Ricki	(Remote Storage Clerk at the Rose Firm)
Altman, Roger	**They are asking for all documents of RTC relating to Madison! This would obviously include the referrals!**
Fiechter, Jonathan	(Acting Director of the Office of Thrift Supervision) **They are asking for all documents of OTS relating to Madison!**

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DASH 9/23/94

- must follow DOJ Guidelines except when contrary to purposes of Act
- more fiscal constraints
- 2-year sunset provision in new Act
- must be concerned about results - see Walsh
- must demonstrate sensitivity to power we have
- defense counsel will pick up on anything

Congress

- congressional investigations
- no rules of evidence
- they have all powers of prosecutor except indictment + prosecution

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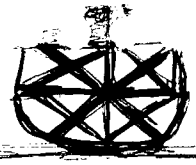
- power of contempt
- Congress has power of immunity ⇒ 90 days notice for immunity
- 2/3 vote of committee for immunity
- Congress can call all witnesses
- ~~targets~~ can be called before **Congress**
- **witnesses can** always plead **5th**
- **Liman**
- North case scared Congress re: granting immunity



- only if individual Congressman
- individual Congressmen don't have powers
- copy of resolution, rules
- no power of subpoena from individual Congressman or groups of Congress
- obligation of Congress to provide evidence

Memorandum **Office of the Independent Counsel**

TO: Judge Starr

FROM: Brett M. Kavanaugh
Alex M. Azar II

DATE: September 28, 1994

SUBJECT: Talking points regarding past congressional accommodation of ongoing criminal investigations and prosecutions

---

At this point, we have been able to study the following sources of historical information: Hirschberg, et al., Congressional Oversight Investigations (1984); Jaworski, The Right and the Power (1976); Hamilton, The Power to Probe (1976). By far, the Hamilton book has proved the most useful source of information, primarily about the practices during Watergate. We are attempting to acquire other sources, and will update this memorandum as they become available.

From the sources we have been able to review, we have learned the following information:

- Senator Ervin's Watergate committee made significant attempts to accommodate the interests of Congress and the courts:
  - When Mitchell and Stans testified in televised session soon after their indictments were returned in the Vesco case, they were asked no questions concerning that case.
  - The committee postponed its early 1974 public hearings so as not to interfere with the Mitchell and Stans trial.
  - The committee cancelled these 1974 public hearings altogether to avoid impairing the upcoming Watergate trials and the impeachment inquiry.
  - The committee delayed release of its final report for several weeks to wait until the Ellsberg jury was chosen and sequestered.
- Judge Gesell refused to enforce the subpoena of Senator Ervin's committee for Nixon's tapes on the grounds that the resultant publicity would prevent a fair trial with unbiased jurors and run contrary to the "priority to the integrity of criminal justice." (Jaworski had, however, denied this claim

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in argument before the court.)

- When Senator Ervin's committee applied to the court for immunity powers respecting Dean and Magruder, Cox implored Ervin to postpone the public hearings temporarily on the grounds that the testimony would result in pretrial publicity preventing fair trials. When the committee denied the request, Cox asked Judge Sirica to prohibit radio and television coverage of the testimony. (The court denied the request.)

- James Hamilton (assistant chief counsel to Senator Ervin's committee) has emphasized: "[I]t is important to recognize that beyond doubt congressional hearings are capable of producing damaging publicity that can prejudice criminal trials." "Congress . . . must recognize the problems its activities pose for the criminal process and its concomitant obligation for self-regulation."

- Senator Ervin has stressed that "where criminal conduct is involved and criminal trials which could be prejudiced are imminent, the informing function [of Congress] must be exercised with prudence."

- Criminal prosecutions have been impaired by congressional hearings.

    - Oliver North's conviction was overturned because of problems relating to Congress's grant to him of limited use immunity for his testimony.

    - Denis Delaney's (internal revenue collector) conviction (1952) for bribery was overturned because of prejudicial publicity surrounding the King Committee's hearings regarding his conduct just 3 months before his trial.

    - On the other hand, the Teapot Dome prosecutions came long after Congress conducted its probe into the scandal.

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UNITED STATES CODE ANNOTATED
TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
PART III--EMPLOYEES
SUBPART A--GENERAL PROVISIONS
CHAPTER 29--COMMISSIONS, OATHS, RECORDS, AND REPORTS
SUBCHAPTER II--REPORTS

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Current through P.L. 103-321, approved 8-26-94

§ 2954. Information to committees of Congress on request

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

1977 Main Volume Credit(s)

(Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 413.)

HISTORICAL AND STATUTORY NOTES

Derivation:	United States Code 5 U.S.C. 105a	Revised Statutes and Statutes at Large May 29, 1928, ch. 901, s 2, 45 Stat. 996.

Explanatory Notes

The words "Executive agency" are substituted for "executive department and independent establishment" in view of the definition of "Executive agency" in § 105.

The words "Committee on Government Operations of the House of Representatives" are substituted for "Committee on Expenditures in the Executive Departments of the House of Representatives" on authority of H.Res. 647 of the 82d Congress, adopted July 3, 1952.

The words "Committee on Government Operations of the Senate" are substituted for "Committee on Expenditures in the Executive Departments of the Senate" on authority of S.Res. 280 of the 82d Congress, adopted Mar. 3, 1952.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

5 U.S.C.A. § 2954

5 USCA § 2954

END OF DOCUMENT

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103D CONGRESS
2D SESSION

S. RES. 229

Authorizing oversight hearings by the Committee on Banking, Housing, and Urban Affairs.

IN THE SENATE OF THE UNITED STATES

JUNE 16 (legislative day, JUNE 7), 1994
Mr. MITCHELL submitted the following resolution; which was ordered to be placed on the calendar

JUNE 21 (legislative day, JUNE 7), 1994
Considered and agreed to

RESOLUTION

Authorizing oversight hearings by the Committee on Banking, Housing, and Urban Affairs.

Resolved,

SECTION 1. SCOPE OF THE HEARINGS.

The Committee on Banking, Housing, and Urban Affairs (referred to as the "committee") shall—

(1) conduct hearings into whether improper conduct occurred regarding—

(A) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation

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relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(B) the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster; and

(C) the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death; and

(2)(A) make such findings of fact as are warranted and appropriate;

(B) make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the committee may determine to be necessary or desirable; and

(C) fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

The hearings authorized by this resolution shall begin on a date determined by the Majority Leader, in consultation with the Minority Leader, but no later than the earlier of July 29, 1994, or within 30 days after the conclusion

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of the first phase of the independent counsel's investigation.

SEC. 2. MEMBERSHIP, ORGANIZATION, AND JURISDICTION OF THE COMMITTEE FOR PURPOSES OF THE HEARINGS.

(a)(1) For the sole purpose of conducting the hearings authorized by this resolution, the committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs, who shall, in serving as members of the committee, reflect the legislative and oversight interests of other committees of the Senate with a jurisdictional interest (if any) in the hearings authorized in paragraph (1) of section 1 as provided in subparagraph (B);

(B)(i) Senator Kerry and Senator Bond from the Committee on Small Business;

(ii) Senator Riegle and Senator Roth from the Committee on Finance;

(iii) Senator Shelby and Senator Domenici from the Subcommittee on Public Lands, Parks, and Forests of the Committee on Energy and Natural Resources;

(iv) Senator Moseley-Braun from the Committee on the Judiciary; and

(v) Senator Sasser and Senator Roth from the Permanent Subcommittee on Investigations; and

(C) the ranking member of the Committee on the Judiciary who shall serve for purposes of considering matters within the jurisdiction of the Committee on the Judiciary, but shall not serve as a voting member of the committee.

(2) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of the ranking member of the Committee on the Judiciary as a member of the committee shall not be taken into account.

(b) The jurisdiction of the committee shall encompass the jurisdiction of the committees and subcommittees listed in subsection (a)(1)(B), to the extent, if any, pertinent to the hearings authorized by this resolution.

(c) A majority of the members of the committee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony before the committee or for conducting the other business of the committee as provided in paragraph 7 of rule XXVI of the Standing Rules of the Senate.

SEC. 3. ADDITIONAL STAFF FOR THE COMMITTEE.

(a) The committee, through the chairman, may request and use, with the prior consent of the chairman of

any committee or subcommittee listed in section 2(a)(1)(B), the services of members of the staff of such committee or subcommittee.

(b) In addition to staff provided pursuant to subsection (a) and to assist the committee in its hearings, the chairman may appoint and fix the compensation of additional staff.

SEC. 4. PUBLIC ACTIVITIES OF THE COMMITTEE.

(a) Consistent with the rights of persons subject to investigation and inquiry, the committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government with respect to the matters covered by the hearings as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, open hearings subject to consultation and coordination with the independent counsel appointed pursuant to title 28, parts 600 and 603, of the Code of Federal Regulations (referred to as the "independent counsel");

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(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall, in order to accomplish the purposes set forth in subsection (a), make a final comprehensive public report to the Senate of the findings of fact and any recommendations specified in paragraph (2) of section 1.

SEC. 5. POWERS OF THE COMMITTEE.

(a) The committee shall do everything necessary and appropriate under the laws and Constitution of the United States to conduct the hearings specified in section 1.

(b) The committee is authorized to exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978 (2 U.S.C. 288d), including the following:

(1) To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the committee. A subpoena may be authorized by the committee or by the chairman with the agreement of the ranking member and may be issued by the chairman or any other member designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or with-

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out the borders of the United States to the full extent permitted by law. The chairman of the committee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the committee.

(2) Except that the committee shall have no authority to exercise the powers of a committee under section 6005 of title 18, United States Code for immunizing witnesses.

(3) To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(4) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned, the services of personnel of such department or agency.

(5) To report violations of any law to the appropriate Federal, State, or local authorities.

(6) To expend, to the extent the committee determines necessary and appropriate, any money made available to such committee by the Senate to conduct the hearings and to make the reports authorized by this resolution.

(7) To require by subpoena or order the attendance, as witnesses, before the committee or at depo-

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sitions, any person who may have knowledge or information concerning matters specified in section 1(1).

(8) To take depositions under oath anywhere within the United States, to issue orders by the chairman or his designee which require witnesses to answer written interrogatories under oath, and to make application for issuance of letters rogatory.

(9) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by law to administer oaths. The committee, acting through the chairman, may delegate to designated staff members the power to authorize and issue commissions and deposition notices.

(c)(1) Subject to the provisions of paragraph (2), the committee shall be governed by the rules of the Committee on Banking, Housing, and Urban Affairs, except that the committee may modify its rules for purposes of the hearings conducted under this resolution. The committee shall cause any such amendments to be published in the Congressional Record.

(2) The committee's rules shall be consistent with the Standing Rules of the Senate and this resolution.

SEC. 6. RELATION TO OTHER INVESTIGATIONS.

In order to—

(1) expedite the thorough conduct of the hearings authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such hearing,

the committee is encouraged—

(A) to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the committee; and

(B) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel.

SEC. 7. SALARIES AND EXPENSES.

Senate Resolution 71 (103d Congress) is amended—

(1) in section 2(a) by striking "$56,428,119" and inserting "$56,828,119"; and

(2) in section 6(c) by striking "$3,220,767" and inserting "$3,620,767".

SEC. 8. REPORTS; TERMINATION.

(a) The committee shall make the final public report to the Senate required by section 4(b) not later than the end of the 103d Congress.

(b) The final report of the committee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(c) The authorities granted by this resolution shall terminate 30 days after submission of the committee's final report. All records, files, documents, and other materials in the possession, custody, or control of the committee shall remain under the control of the regularly constituted Committee on Banking, Housing, and Urban Affairs.

SEC. 9. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the committee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

SEC. 10. COMMITTEE FUNDING AND RULE XXVI.

The supplemental authorization for the committee is granted pursuant to this resolution notwithstanding the provisions of paragraph 9 of rule XXVI of the Standing Rules of the Senate.

SEC. 11. ADDITIONAL HEARINGS.

(a) In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98–0 on March 17, 1994, should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(b) Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

○

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Monday next week

8 AM DASH Mtg 10/12

MCELHANEY

Dash → 2 passport photos

→ Hubbell

① hearing on Foster documents
- we're going to come to a point

Patsy Thomasson

② Abbott 7:00 2d floor

Craig Livingstone → don't know 8:04

didn't

obstruction case

very inappropriate

Glendening

Larry Jones – 1:00 here

*conflict

no right to be here

interfere w/Congress

IG's office

Washington

DASH: "NO, we're not done"

DASH: why do we have to do it?

learn something in hearing

congressional hearing will help

- big dramatic day → SMELL SOMETHING

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① not provide information

⇓

deposition testimony

- got to feed them information
  ⇓
  not staffed that well

- at worst

- justification

- CANNOT create 6(e) protection by running it through grand jury

DASH could have subpoenaed President ⇒ extension of G.J. in unique situation involving President

---

RTC + OTS

civil investigation – Jay Stephens

DASH: under law, we can instruct them not / to turn it over
- if agency conducted investigation + made referral, AG refuse to turn over what they had

⇓

political powers ⇒ discretion of prosecutor

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- DoJ has power to withhold from Cong
  ↓
  must incorporate power to instruct
  ↓
  inherent power
  ⇓
  stand on res
  ⇓
  like investigative exemption under FOIA

- under tent of referral, under appt of IC and integral
  we "urge + recommend" that you do not turn over
  . . .
  ⇒ federal criminal law is of utmost urgency
- any other aid
- offer to speak for them

[IC has "advised"]

Dash: - ~~IoC~~ have any standing?
→ yes, lose on it so look good anyway

- circumvent

- great move to show that KWS is not in minority

↓

CAN MINORITY TRUMP MAJORITY ?

- ~~agency~~ court has no jurisdiction to tell Congress it can't do this

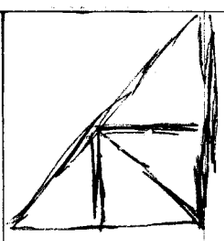
- only way really to challenge this → agency not do it

↓ amicus participation in contempt proceeding

- agency itself does not have an concern

- CAN'T PREVENT
- ask for right of committee

BE IN A BIND



* Congress' power is separate ⟹ Left has fair power

Cox

* not US Atty, but AG
  → Atty General

⇓

more negotiation + politics

more KWS stands up as IC against Cong, better he is

---

* building of bridges
  how do we do it
  members of Cong
  staff members
  Is it prohibited?
  What are perils?

Memorandum **Office of the Independent Counsel**

TO: Judge Starr

FROM: Brett M. Kavanaugh
Alex M. Azar II

DATE: September 28, 1994

SUBJECT: Talking points regarding past congressional accommodation of ongoing criminal investigations and prosecutions

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At this point, we have been able to study the following sources of historical information: Hirschberg, et al., Congressional Oversight Investigations (1984); Jaworski, The Right and the Power (1976); Hamilton, The Power to Probe (1976). By far, the Hamilton book has proved the most useful source of information, primarily about the practices during Watergate. We are attempting to acquire other sources, and will update this memorandum as they become available.

From the sources we have been able to review, we have learned the following information:

- Senator Ervin's Watergate committee made significant attempts to accommodate the interests of Congress and the courts:
    - When Mitchell and Stans testified in televised session soon after their indictments were returned in the Vesco case, they were asked no questions concerning that case.
    - The committee postponed its early 1974 public hearings so as not to interfere with the Mitchell and Stans trial.
    - The committee cancelled these 1974 public hearings altogether to avoid impairing the upcoming Watergate trials and the impeachment inquiry.
    - The committee delayed release of its final report for several weeks to wait until the Ellsberg jury was chosen and sequestered.
- Judge Gesell refused to enforce the subpoena of Senator Ervin's committee for Nixon's tapes on the grounds that the resultant publicity would prevent a fair trial with unbiased jurors and run contrary to the "priority to the integrity of criminal justice." (Jaworski had, however, denied this claim

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in argument before the court.)

- When Senator Ervin's committee applied to the court for immunity powers respecting Dean and Magruder, Cox implored Ervin to postpone the public hearings temporarily on the grounds that the testimony would result in pretrial publicity preventing fair trials. When the committee denied the request, Cox asked Judge Sirica to prohibit radio and television coverage of the testimony. (The court denied the request.)

- James Hamilton (assistant chief counsel to Senator Ervin's committee) has emphasized: "[I]t is important to recognize that beyond doubt congressional hearings are capable of producing damaging publicity that can prejudice criminal trials." "Congress . . . must recognize the problems its activities pose for the criminal process and its concomitant obligation for self-regulation."

- Senator Ervin has stressed that "where criminal conduct is involved and criminal trials which could be prejudiced are imminent, the informing function [of Congress] must be exercised with prudence."

- Criminal prosecutions have been impaired by congressional hearings.

    - Oliver North's conviction was overturned because of problems relating to Congress's grant to him of limited use immunity for his testimony.

    - Denis Delaney's (internal revenue collector) conviction (1952) for bribery was overturned because of prejudicial publicity surrounding the King Committee's hearings regarding his conduct just 3 months before his trial.

    - On the other hand, the Teapot Dome prosecutions came long after Congress conducted its probe into the scandal.

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Office of the Independent Counsel

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July 19, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Chairman D'Amato and Senator Sarbanes:

We have received your letter of July 18, which incorporates by reference the letter of July 11 sent to this Office by Mr. Chertoff and Mr. Ben-Veniste on behalf of the Committee. We have given your request considerable thought in view of the importance of our respective obligations.

In connection with the Committee's investigation into the handling of documents of former Deputy Counsel to the President Vincent W. Foster, Jr., the Committee has requested that this Office provide the Committee with reports of interviews of Henry O'Neill and Margaret Williams that were conducted by this Office and by Mr. Fiske's Office. In addition, the Committee has requested a copy of a particular polygraph report, or at least of questions asked during a particular polygraph examination. Finally, the Committee has requested permission to ask an individual employed by the FBI Laboratory questions about the work he has performed for the Independent Counsel.

We respectfully decline these requests. As we have informed the Committee on this and previous occasions, we will not disclose to the Congress any investigative work product from this active and ongoing investigation. As you know, we must abide by the strictures of grand jury secrecy contained in Federal Rule of Criminal Procedure 6(e). In addition, our position that we will not disclose to the Congress any investigative work product from an open investigation represents sound policy that is deeply rooted in the history and tradition of this Nation. See generally Memorandum for Oliver B. Revell Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. Off. Legal Counsel, at 5 (March 24, 1989) ("the policy and practice of the executive branch throughout our Nation's history has been to decline, except in extraordinary circumstances, to provide committees of Congress with access to, or copies of, open law enforcement files. No President, to our knowledge, has departed from this position affirming the confidentiality and privileged nature of open law enforcement files"). We will adhere to this deeply rooted tradition, and therefore we are constrained, with respect, to decline each of the above requests.

We note, moreover, that our policy on these issues is not based on whether the requested information is exculpatory or incriminating, but rather is made in accordance with long-standing Department of Justice policy to protect the internal work of this Office with respect to an active and ongoing investigation and to protect the privacy of individuals.

Separately, through Mr. Chertoff and Mr. Ben-Veniste, the Committee had also requested the use of Mr. Foster's briefcase. As an accommodation to the Committee's investigative needs, we provided the briefcase to the Committee. Such pre-existing material, which was neither created nor modified by this Office or Mr. Fiske's office, is in our view readily distinguished from investigative work product. Moreover, in circumstances where such material cannot be obtained from any other source and where disclosure of it would not hinder or impede our ongoing investigation, we believe it appropriate to disclose such material to the Committee upon its joint request.

In sum, the question whether and under what conditions a law enforcement agency such as this Office can and should provide information to Congress relating to an open criminal investigation entails a delicate balancing of numerous competing concerns. With respect to the Foster documents investigation, we have balanced the competing concerns and formulated the above policy. In so doing, we have been advised by Ethics Counsel Samuel Dash. We have adhered to this policy thus far, and we intend to continue to do so. We do not believe, moreover, that there has been any inconsistency in our responses to the Committee's joint requests.

Thank you for your cooperation. Please do not hesitate to contact me if you have any questions.

Respectfully yours,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

Office of the Independent Counsel

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July 18, 1995

FOR IMMEDIATE RELEASE

The following statement was issued by Independent Counsel Kenneth W. Starr today from his office in Little Rock, Arkansas:

The statement of Mark D. Fabiani on behalf of the White House is wrong. The Office of the Independent Counsel has not and will not disclose matters occurring before the grand jury to anyone. In response to a joint request made by counsel for both the Chairman and Ranking Member of the Senate Banking Committee well in advance of the hearing, the Office of the Independent Counsel agreed to provide Mr. Foster's briefcase for inspection and use in the course of the Committee's investigation. The briefcase was provided last night to a representative acting on behalf of the entire Committee. The briefcase is neither a matter occurring before the grand jury nor investigative work product created by this or Mr. Fiske's office. In circumstances where such pre-existing material cannot be obtained from any other source and where disclosure of it would not hinder or impede our investigation, it is not inappropriate to disclose such material to the Committee upon its joint, bipartisan request.

Office of the Independent Counsel

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February 8, 1996

The Honorable Alfonse M. D'Amato, Chairman
The Honorable Paul S. Sarbanes, Ranking Member
United States Senate
Special Committee on Whitewater and Related Matters
Washington, DC 20510

Dear Chairman D'Amato and Senator Sarbanes:

We write to respond to questions raised at this morning's hearing during discussion of the handling of Rose Law Firm billing records on January 4 and 5, 1996, before production of those records. That discussion raised questions about the policy of this Office with respect to documents that have been produced to this Office or the grand jury.

As we stated in our letter to you of July 19, 1995, there is a considerable difference between (a) investigative work product of this Office (for example, notes of attorneys of this Office, interview reports prepared by investigators assigned to this Office, or forensic reports prepared by persons retained by this Office) and (b) documents produced to this Office or the grand jury voluntarily or pursuant to grand jury subpoena by an outside individual or entity. As you know, consistent with long-standing history and tradition, we have declined to disclose to the Committee investigative work product of this Office related to an ongoing investigation.

As explained in our July 19 letter, however, the issue is quite different with respect to documents produced to this Office or the grand jury by an outside individual or entity. Consistent with Justice Department practice, this Office allows an individual or entity to obtain copies of any documents they have produced to this Office or the grand jury. See, e.g., U.S. Department of Justice, Federal Grand Jury Practice 124 (January 1993). (In cases of voluminous documents, there of course may be issues of cost and burden associated with the actual copying.) The individual or entity is then free to use the copies of the documents for any purpose, including production to the Congress or to other investigative bodies. Disclosure of copies of such documents by the individual or entity is not prohibited either by policy of this Office or by Rule 6(e) of the Federal Rules of Criminal Procedure. See Senate of Puerto Rico v. U.S. Department of Justice, 823 F.2d 574, 582 (D.C. Cir. 1987) (internal quotation and citation omitted) ("Rule 6(e)'s purpose is not to foreclose from all future revelation to proper authorities the same

information or documents which were presented to the grand jury"); S.E.C. v. Dresser Industries, Inc., 628 F.2d 1368, 1383 (D.C. Cir. 1981) ("The fact that a grand jury has subpoenaed documents concerning a particular matter does not insulate that matter from investigation in another forum.").

Please do not hesitate to contact us if you have any questions.

Respectfully yours,

Kenneth W. Starr
Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
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Date: 2/8/96

TO: Michael Chertoff, Special Counsel
Richard Ben-Veniste, Democratic Special Counsel

Company Name: Senate Special Committee on Whitewater and Related Matters

Fax Number: 202-224-5137 (Chertoff)
202-228-0017 (Ben-Veniste)

Telephone Number: 202-224-7391 (Chertoff)
202-224-8077 (Ben-Veniste)

FROM: Brett Kavanaugh

Number of Pages: 3 (including this cover sheet)

Message:

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Date: 2/8/96

TO: Michael Chertoff, Special Counsel
Richard Ben-Veniste, Democratic Special Counsel

Company Name: Senate Special Committee on Whitewater and Related Matters

Fax Number: 202-224-5137 (Chertoff) 202-228-0017 (Ben-Veniste) Telephone Number: 202-224-7391 (Chertoff) 202-224-8077 (Ben-Veniste)

FROM: Brett Kavanaugh

Number of Pages: 3 (including this cover sheet)

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FOIA RD 56806 (URTS 16302) DocId: 70104902 Page 66

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****

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CONNECTION TEL	92280017
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USAGE T	01'09
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RESULT	OK

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Date: 2/8/96

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Richard Ben-Veniste, Democratic Special Counsel

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Telephone Number: 202-224-7391 (Chertoff) 202-224-8077 (Ben-Veniste)

FROM: Brett Kavanaugh

Number of Pages: 3 (including this cover sheet)

Message:

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4/14

Brett.

Burton has more than the billing records before today

I will prepare a 302 re Indiana.

Lacy

To: John Bates
Brett Kavanaugh

From: Craig Lerner

Re: 2 U.S.C. § 192

Date: July 31, 1997

Should be referred to DOJ - DOJ's decision to seek a new IC, expand our jurisdiction, or decline to prosecute

Congress has an inherent power to punish individuals for contempt committed against it. See McGrain v. Daugherty, 273 U.S. 135 (1927) ("penetrating and far-reaching" investigatory powers implied from its legislative function under Article I). The direct adjudication of contempt by Congress proved to be a cumbersome process, and in 1857 Congress enacted legislation that instructed the executive branch to prosecute contumacious congressional witnesses in the courts. The Act of 1857 has since been codified as 2 U.S.C. § 192;[1] and the prosecution of individuals for this offense, like all federal crimes, falls within the responsibility of the Department of Justice.

Section 192 provides:

> Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers . . . or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor . . . .

2 U.S.C. § 192. The procedural mechanism for enforcement of this provision is codified at 2 U.S.C. § 194, which provides that:

> [w]henever a witness summoned as mentioned in section 192 of this title fails to appear to testify or fails to produce any [documents] . . . and the fact of such failure or failures is reported to either House . . . , a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action.

[1] That statute "does not speak of contempt but its tenor and proscription render it closely analogous to a contempt statute." United States v. Johnson, 736 F.2d 358, 364 n.8 (6th Cir. 1984).

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The Burford Crisis

In 1982 the Administrator of the EPA, Anne Burford, refused to produce certain documents covered by a House subpoena. The House passed a resolution citing the Administrator for contempt, and the Speaker of the House, pursuant to Section 194, certified the contempt, whereupon a copy of the certification was delivered to the U.S. Attorney in the District of Columbia. Immediately after the House vote, but prior to the delivery of the contempt citation, the Justice Department filed a complaint in the name of the United States seeking declaratory and injunctive relief against several House defendants. The House defendants moved to dismiss the complaint, citing jurisdictional and constitutional defects in the Justice Department complaint. The District Court granted the motion to dismiss, stating that "constitutional claims and other objections to congressional investigatory procedures may be raised as defenses in a criminal prosecution." United States v. House of Representatives, 556 F.Supp. 150, 152 (D.D.C. 1983). It added that resolution of an executive privilege claim would only become necessary if the Administrator of the EPA became a defendant in a criminal contempt or other proceeding. The Justice Department did not appeal, and the disputed documents were eventually turned over pursuant to an agreement between the two branches.

During the pendency of the lawsuit and the subsequent settlement negotiations, the U.S. Attorney for the District of Columbia refrained from referring the contempt citation to the grand jury. He took the position that Section 194 left him with the discretion to withhold a referral.

Legislative Reaction to the Burford Crisis

Representative Frank and others introduced a bill in the 98th Congress that would have amended the Ethics in Government Act to require that the Attorney General

> apply to the division of the court for appointment of an independent counsel within five days after the Speaker of the House of Representatives, acting pursuant to section 194 of title 2 of the United States Code, has certified to the appropriate United States attorney that any [high-ranking executive branch official] has been found in contempt of Congress.

H.R. 2684, § 2, 98th Cong., 1st Sess. (1983). A similar bill was introduced in the 99th Congress. H.R. 3836, 99th Cong., 1st Sess. (1985). A separate bill was introduced in the 98th Congress that would have amended the congressional contempt statute to clarify that "[t]he duty of the United States attorney

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[under s U.S.C. § 192] is nondiscretionary. . . " H.R. 3456, 98th Cong., 1st Sess. (1983).

Executive Branch Reaction to the Burford Crisis

In an OLC opinion Ted Olson argued that (1) Section 194 left a U.S. Attorney with the discretion not to prosecute referrals of contempt from Congress, and (2) the contempt of Congress statute does not apply to executive branch officials who assert Executive privilege. Prosecution for Contempt of Congress of An Executive Branch Official Who Has Asserted a Claim of Executive Privilege, 8 Op. Off. Legal Counsel 101 (1984). This view was repeated in 1986 by Charles Cooper. Response to Congressional Requests for Information Made Under the Independent Counsel Act, 10 Op. Off. Legal Counsel 68, 68 (1986) ("Congress may not, as a matter of statutory or constitutional law, invoke the criminal contempt of Congress procedure against the head of an Executive agency."). William Barr may have retreated from this position in 1989. Congressional Requests for Confidential Executive Branch Information, 13 Op. Off. Legal Counsel, 153, 162 (1989).

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Screened By: NARA (RD-F) Date: 07-12-2018 DOCID: 70104904

WH 6/5/95
Production

Pager
Records

White House 6/6/95
Production

Pager Records

BK

TAB #s	PAGER RECORDS OF
1	Vincent Foster
2 & 21	Charles Burton
3 & 22	Lisa Caputo
4	Mark Gearan
5	David Gergan
6	Carolyn Huber
7 & 23	William Kennedy
8	Ronald Klain
9	Bruce Lindsey
10 & 24	David Livingstone
11	Thomas McLarty
12 & 25	Cheryl Mills
13 & 27	Steven Neuwirth
14 & 26	Beth Nolan
15 & 28	Bernard Nussbaum
29	John Quinn
16 & 30	Marsha Scott
31	Clifford Sloan
17 & 32	Patsy Thomasson
18	Linda Tripp
19 & 34	David Watkins
20 & 33	Margaret Williams

NON-RELEVANT PORTIONS

OF DOCUMENT NUMBERS F119922 - F119951

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20-JUL-1993 23:59:22.59
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21-JUL-1993 09:26:27.51
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22-JUL-1993 10:41:18.37
PAGER_MEMO.LST;9369
23-JUL-1993 14:02:20.31
PAGER_MEMO.LST;9368
24-JUL-1993 13:26:13.90

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23-JUL-1993 07:43:22.51

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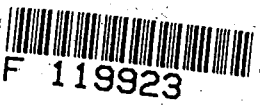

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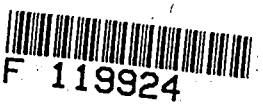

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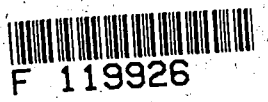

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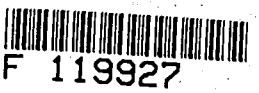

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F 119929

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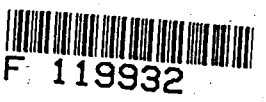

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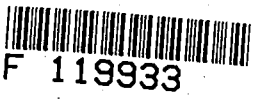

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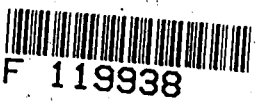

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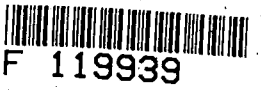

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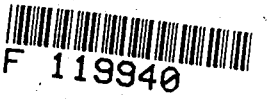

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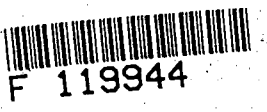

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REDACTED

F 119946

REDACTED

F 119947

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F 119948

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F 119949

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F 119950

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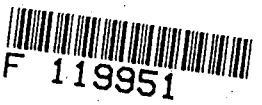

1

F 119851

Vincent Foster

88341pls call hrc's office---sig42 04:43p0525nn16430525
88341 Deleted by PAGER nn16430525
88341call deb sig op 8 04:50p06027716510602
88341 Deleted by PAGER 7716510602
8341BILL BURTON X 12:48p0603ss12480603
88341 ss12480603
88341 Deleted by PAGER ss12480603
88341PLEASE CALL THE WHITE HOUSE OPR., MRS. CLINTON 12:28p0619ml12280619
88341 ml12280619
88341 Deleted by PAGER ml12280619
88341CALL MAGGIE 7194 OP 16 06:32p0713BB18320713
88341 Deleted by PAGER BB18320713
88341 NEW ITINERARY: 06:00p0716BB18000716
88341 DATE DEPARTURE: 16 JUL 93, 1700 BB18000716
88341 DATE RETURN: 18 JUL 93, 1400 BB18000716
88341 LOCATION: EASTON, MD BB18000716
88341 TELEPHONE NUMBER: 301-822-1300 BB18000716
88341ADDITIONAL INFORMATION: SIG OP 58 BB18000716
88341 BB18000716
88341BOO 05:09p0723SG17100723
88341<URGENT> SG17100723
88341Deleted by SG SG17100723

F 119853

Charles Burton

6797PLEASE CALL MR WATKINS AT 333-0299 SIG44	09:34p0720BB21340720
6797 Deleted by PAGER	BB21340720
6797NEW STATUS - 23 JUL TRAVELING WITH PRESIDENT	01:59a0723SG01590723
6797NEW STATUS -	10:03a0724SG10030724

F 119855

Lisa Caputo

88381KELLY IS WAITING FOR YOU IN HER OFFICE SIG44 07:18p0727ss19180727
88381 Deleted by PAGER ss19180727

F 119857

Mark Geara

88261SIR, PLEASE CALL MARSHA HALE AT 456-2826 WHITE 09:56a0720NN09560720
88261HOUSE OPER 19 NN09560720
88261 Deleted by PAGER NN09560720
88261please call david watkins 333 0299 opr21 09:43p0720SG21430720
88261 Deleted by PAGER SG21430720
88261SUSAN BROPHY IS WAITING AT WEST BASEMENT TO GO TO 08:56a0723SG08560723
261THE HILL WITH YOU--SIGOP20 SG08560723
88261 Deleted by PAGER SG08560723
88261PLS CALL SCOOP IN YOUR OFFICE ASAP...OP 12 06:18p0723SG18180723
88261 Deleted by PAGER SG18180723
88261PLS CALL ELI SEGAL AT 456-6444 ASAP SIG/OP 64 04:37p07276016370727

5

F 119859

David Gergen

```
72277NEW STATUS - SEE ITINERARY                                  08:26p0721sg20260721
72277  NEW ITINERARY:                                            08:27p0721sg20270721
72277       TELEPHONE NUMBER: 202 638 6600                                sg20270721
72277          UNTIL 2200 HRS ON 21 JULY 93  OP 16                        sg20270721
 2277NEW STATUS - 21 JULY SEE ITINERARY                          08:27p0721sg20270721
72277NEW STATUS -                                                09:02a0723sg09020723
72277NEW STATUS - ON PAGE                                        02:43p0725mm14430725
72277NEW STATUS - 25 JULY ON PAGE UNTIL 1700                     02:45p0725mm14450725
72277NEW STATUS -                                                12:04a0726ss00040726
72277NEW STATUS - 26 JULY- TRAVELING WITH PRESIDENT              12:17a0726ss00170726
72277  NEW ITINERARY:                                            12:18a0726ss00180726
72277         DATE DEPARTURE:261035L JULY 93                             ss00180726
72277            DATE RETURN:262325L JULY 93                             ss00180726
72277  NEW ITINERARY:                                            12:26a0726ss00260726
72277         DATE DEPARTURE:261035L JULY 93                             ss00260726
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72277ADDITIONAL INFORMATION:OP 38                                        ss00260726
72277NEW STATUS -                                                04:30a0727ss04300727
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6

F119860a

Carolyn Huber

89901PLS CALL SIGNAL SWITCH BOARD 202-757-5000// SO 45 06:13p0721FF18130721
89901 Deleted by PAGER FF18130721
89901CALL MR. NUSSBAUM AT 757-2258 SIG OP25 06:48p0721sg18480721
89901 Deleted by PAGER sg18480721
89901NEW STATUS - 23 JUL TRAVELING WITH PRESIDENT 01:53a0723SG01530723
901NEW STATUS - 10:05a0724SG10050724

F1198606

7

F 119861

William Kennedy

94311PLS CALL CRAIG 395-4259. ASAP
94311 Deleted by PAGER
94311CALL MR LIVINGSTONE AT 395-4252
94311
94311 Deleted by PAGER

01:13p0727XX13130727
XX13130727
01:21p0727ss13210727
ss13210727
ss13210727

8

F 119863

Ronald Klain

88351PLS CALL JENNIFER, URGEANT // SO 45 06:22p0721yy18220721
88351 Deleted by PAGER yy18220721

88351 [redacted] SG16490722
88351 Deleted by PAGER SG16490722
51CALL YOUR WIFE // SO 45 03:54p0723SG15540723
351 Deleted by PAGER SG15540723

FOIA # none (URTS 16303) DocId: 70104904 Page 59

F 119865

Bruce Lindsey

```
88291CALL GWEN IFILL AT 726-4680 SIG OP 8                    11:52p0720xx23520720
88291 Deleted by PAGER                                              xx23520720
88291CALL GWEN IFILL AT 202-726-4680 SIG OP 8                11:43p0720xx00100721
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  291<URGENT>                                                       xx00100721
-8291Deleted by BB                                                  xx00100721
88291PLEASE CALL HOME  OP76                                  03:15a0721BB03150721
88291 Deleted by PAGER                                              BB03150721
88291PLS CALL COYLE AT OFFICE AT 2668...OP 12                07:52p0721PL19520721
88291 Deleted by PAGER                                              PL19520721
88291PLS CALL COYLE AT 2668....OP 12                         08:07p0721PL20070721
88291 Deleted by PAGER                                              PL20070721
88291CALL OFFICE                                             02:08p0722PL14080722
88291 Deleted by PAGER                                              PL14080722
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88291NEW STATUS -                                            10:06a0724SG10060724
88291NEW STATUS - 26 JULY 93- SEE ITINERARY                  12:45a0726ss00450726
88291  NEW ITINERARY:                                        12:49a0726ss00490726
88291         DATE DEPARTURE:261040CST JULY 93                      ss00490726
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88291                       OP 38                                   ss00490726
88291NEW STATUS -                                            04:03a0727NN04030727
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FOIA # none (URTS 16303) DocId: 70104904 Page 62

62345PLS ACLL MR DAVID WATSON AT 333 0299 OP 16 09:57p0720xx2157072
62345 Deleted by PAGER xx2157072
62345PLS CALL 456-2345 REGARDING TIO FM: MARY SIG/13 10:43a0722FF1043072
62345 Deleted by PAGER FF1043072
62345CALL CHRIS AT 456-6444, OPR 53 12:39p0724SG1239072
62345 Deleted by PAGER SG1239072
62345PLS CALL CHRIS AGAIN OPR 48 12:49p0724sg1249072
62345 Deleted by PAGER sg1249072
62345CALL ISABELL AT 7948 12:27p0727ss1227072
62345 Deleted by PAGER ss1227072

FOIA # none (URTS 16303) DocId: 70104904 Page 64

F 119869

Thomas McCarthy

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88231NEW STATUS -
88231NEW STATUS - TRAVELING WITH PRESIDENT
88231 NEW ITINERARY:
88231 DATE DEPARTURE:261035L JULY 93
`231 DATE RETURN:262325L JULY 93
J231NEW STATUS - 26 JULY- TRAVELING WITH PRESIDENT
88231 NEW ITINERARY:
88231 DATE DEPARTURE:261035L JULY 93
88231 DATE RETURN:262325L JULY 93
88231ADDITIONAL INFORMATION:OP 38
88231NEW STATUS -

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10:06a0724SG10060724
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FOIA # none (URTS 16303) DocId: 70104904 Page 67

F 119871

Cheryl Mills

88362 PLEASE CALL SIGNAL AT 202-757-5000 ASAP OP76	06:42a0721BB06420721
88362 Deleted by PAGER	BB06420721
88362 PLEASE CALL SIGNAL SWBD FOR CALL HOLDING WITH J.	06:54a0721NN06540721
88362WATSON...SIG OP 63.	NN06540721
88362 Deleted by PAGER	NN06540721
88362PLEASE CALL JEFF	06:44a0721BB07090721
8362<URGENT>	BB07090721
88362Deleted by NN	BB07090721
88362PLEASE C	06:45a0721BB07090721
88362<URGENT>	BB07090721
88362Deleted by NN	BB07090721
88362 PLEASE CALL SIGNAL SWBD FOR CALL HOLDING //DAVID	10:47a0722yy10470721
88362WATKINS// ASAP WH OPER 19	yy10470721
88362 Deleted by PAGER	yy10470721
88362PLEASE CALL THE COUNSEL'S OFFICE, 456-6611 SIG	06:19p0722SG18190721
88362OPER 58	SG18190721
88362 Deleted by PAGER	SG18190721
88362BURNY SAID CASTLETON SHOULD BE ON TH E FLIGHT	07:24p0722SG19240721
88362CALL 2632 OP 16	SG19240721
88362 Deleted by PAGER	SG19240721
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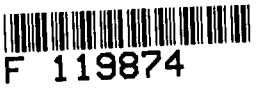
F 119873

Steven Neuwirth



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FOIA # none (URTS 16303) DocId: 70104904 Page 73

F 119875

Box Notes

92711NEW STATUS 23 JUL TRAVELING WITH PRESIDENT 02:00a0723SG02000723
92711NEW STATUS 10:11a0724SG10110724

F 119877

Bernard Nussbaum

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88331PLS CALL SUSAN THOMASES AT 202 659-8787   OPR 71     08:01a0722BB08010722
88331 Deleted by PAGER                                          BB08010722
88331NEW STATUS - 24 JULY TRAVELING WITH PRESIDENT         06:20p0722SG18200722
88331NEW STATUS - 24 JULY TRVL W/PRESUS ON SKYPAGE/2074    06:22p0722SG18220722
  331657                                                        SG18220722
88331NEW STATUS - 25 JULSEE ITINERARY                      10:30a0724SG10300724
88331NEW STATUS - 25 JUL SEE ITINERARY                     10:31a0724SG10310724
88331  NEW ITINERARY:                                      10:32a0724SG10320724
88331         DATE DEPARTURE:24 JUL 1200 PM                      SG10320724
88331DATE RETURN:25 JUL                                          SG10320724
88331  NEW ITINERARY:                                      10:36a0724SG10360724
88331         DATE DEPARTURE:24 JUL 1200 PM                      SG10360724
88331DATE RETURN:25 JUL 1100PM                                   SG10360724
88331LOCATION:BANGOR MAINE      TELEPHONE                        SG10360724
88331NUMBER:207-244-3285                                         SG10360724
88331NEW STATUS -                                          11:59p0725ss23590725
88331MR. STEPHANOPULOS CALL YOU PLS RETURN HIS CALL        03:45p0726PL15450726
88331SIG OPR 23                                                  PL15450726
88331 Deleted by PAGER                                           PL15450726
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F 119879

John Quinn

88731SIR, CALL MARLA AT EXT 7111 WHITE HOUSE OPER 19 08:03a0721FF0803072
88731 Deleted by PAGER FF0803072
88731CALL 7111 MARLA ASAP 08:35a0721yy0835072
88731 yy0835072
88731 Deleted by PAGER yy0835072
88731PLEASE CALL VP ASAP AT 2142 SIG44 05:04p0721FF1704072
88731 Deleted by PAGER FF1704072
88731CALL MARLA AT 456-7111 ASAP SIG OP25 06:12p0721PL1812072
88731 PL1812072
88731 Deleted by PAGER PL1812072
88731CALL SWBD VP WISHES TO SPEAK W/ YOU OP 16 08:03p0721sg2003072
88731 Deleted by PAGER sg2003072
88731sir, please call kumiki at ext 7022 wh oper 19 08:34a0722yy0834072
88731 Deleted by PAGER yy0834072
88731PLS CALL MARLA ASAP OPR 71 08:39a0722BB0839072
88731 Deleted by PAGER BB0839072
88731NEW STATUS 23 JUL TRAVELING WITH PRESIDENT 01:48a0723SG0148072
88731NEW STATUS - 10:12a0724SG1012072
88731CALL JENNIFER O'CONNOR 6-2421--SIGOP20 12:01p0724SG1201072
88731 Deleted by PAGER SG1201072
88731SIR, PLEASE CALL MARLA ASAP AT EXT. 7111 WH OPER 08:44a0726ss0844072
8873119 ss0844072
88731 Deleted by PAGER ss0844072
88731 PLEASE CALL SIGNAL AT 202-757-5000 01:20p0726ss1320072
88731 Deleted by PAGER ss1320072
88731CALL ERIN ASAP...VP WANTS YOU (OPR 32) 04:48p0727NN1648072
88731 Deleted by PAGER NN1648072
88731ERIN SENDS- CAR WAITING AT RAYBURN SIG44 05:24p0727NN1724072
88731 Deleted by PAGER NN1724072

F 119881

Marsh Scott

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89911PLS CALL MS COYLE AT 456-2328 ASAP URGENT SIG/13     02:27p0721yy14270721
89911 Deleted by PAGER                                              yy14270721
89911CALL CHERYL, MILLS AT 456-2632 SIG OP25              03:15p0721xx15150721
89911 Deleted by PAGER                                              xx15150721
89911CALL DEB COYLE AT 2328 // SO 45                      03:45p0721BB15450721
  911 Deleted by PAGER                                              BB15450721
89911CALL CAROLYN HUBER THRU USHER 2650 RM 303 URGENT     05:36p0721BB17360721
89911SUGI 50                                                        BB17360721
89911                                                               BB17360721
89911 Deleted by PAGER                                              BB17360721
89911CALL NANCY HERRNREICH AT HER OFFICE                  09:16a0722PL09170722
89911 Deleted by PAGER                                              PL09170722
89911STAFF VAN'S LEAVING WEST EXECUTIVE 7:30 AM           03:57p0722SG16070722
89911TOMORROW IF ??'S CALL LUFRANO 7560                             SG16070722
89911                                                               SG16070722
89911<URGENT>                                                       SG16070722
89911Deleted by sg                                                  SG16070722
89911STAFF VAN'S LEAVING WEST EXECUTIVE 7:30 AM           04:07p0722sg16080722
89911TOMORROW IF ??'S CALL LUFRANO 7560                             sg16080722
89911                                                               sg16080722
89911<URGENT>                                                       sg16080722
89911Deleted by sg                                                  sg16080722
89911STAFF VAN'S LEAVING WEST EXECUTIVE 7:30 AM           04:07p0722sg160807..
89911TOMORROW IF ??'S CALL LUFRANO 7560                             sg160807..
89911                                                               sg160807..
89911<URGENT>                                                       sg160807..
89911Deleted by sg                                                  sg160807..
89911  PLEASE CALL SIGNAL FOR MESSAGE SIG OP25            04:11p0722SG161307..
89911                                                               SG161307..
89911<URGENT>                                                       SG161307..
  911Deleted by SG                                                  SG161307..
89911STAFF VANS LEAVING WEST EXEC AT 7:30 AM TOMORROW     04:15p0722SG161507..
89911IF ??'S CALL LUFRANO SIG 25                                    SG161507..
89911 Deleted by PAGER                                              SG161507..
89911NEW STATUS   23 JUL TRAVELING WITH PRESIDENT         01:51a0723SG015107..
89911NEW STATUS                                           10:12a0724SG101207..
89911NEW STATUS   24 JUL ON PAGE                         01:04p0724SG130407..
89911NEW STATUS                                           03:28p0725SG152807..
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F 119883

Patsy Thomasson

95301PLEASE PAGE DAVID WATSKINS WITH YOUR LOCATION 10:34p0720SG22350720
95301NUMBER SG22350720
95301 Deleted by PAGER SG22350720
301please call paula at 703-847-8740 08:34p0725nn20340725
5301 Deleted by PAGER nn20340725

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F 119885

Linda Tripp

65342NEW STATUS - 23 JUL TRAVELING WITH PRESIDENT 01:56a0723SG01560723
65342NEW STATUS - 10:13a0724SG10130724

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F 119887

David Watkins

88271PLEASE CALL PATSY REGUARDING HELICOPTER LANDING	07:25p0720BB19250720
88271SIG44	BB19250720
88271 Deleted by PAGER	BB19250720
88271PLEASE CALL PATSY REGUARDING HELICOPTER LANDING	07:29p0720yy19290720
88271AT 456-7052 SIG44	yy19290720
271 Deleted by PAGER	yy19290720
88271PLEASE CALL SIGNAL FOR A CALL FROM THE CHIEF OF	09:14p0720FF21140720
88271STAFF...OP15	FF21140720
88271 Deleted by PAGER	FF21140720
88271 PLEASE CALL SIGNAL SWBD FOR CALL HOLDING WITH	11:17p0720FF23170720
88271DEE DEE MYERS	FF23170720
88271 Deleted by PAGER	FF23170720
88271PLS CALL INV. BRAUN AT 202-690-5050---SIG42	12:57a0721SG00570721
88271 Deleted by PAGER	SG00570721
88271PLS CALL 202-456-7502...OP 12	04:18p0722SG16180722
88271 Deleted by PAGER	SG16180722
88271NEW STATUS - 23 JUL TRAVELING WITH PRESIDENT	02:17a0723SG02170723
88271NEW STATUS -	10:13a0724SG10130724
88271 PLEASE CALL SIGNAL AT 202-757-5000 FOR STREET	09:08p0730XX21080730

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F 119889

Margaret Williams

88372PLEASE CALL JEFF WATSON AT 202-456-2375...SIG OP15 07:37p0720xx19370720
88372 Deleted by PAGER xx19370720
88372pleases call white houses signal for mrs. clinton 09:46p0720SG21460720
88372 opr21 SG21460720
88372 Deleted by PAGER SG21460720
372PLS CALL JEFFERY WATSONAT 456-2896 11:25p0720FF23260720
88372 Deleted by PAGER FF23260720
88372PLS CALL HELEN AT 337-8103 11:46p0720FF23460720
88372 Deleted by PAGER FF23460720
88372PLS CALL SUSAN THOMASAS AT 212-772-6019 12:15a0721BB00150721
88372 Deleted by PAGER BB00150721
88372PLS CALL CAPRICIA AT RODHAM RESIDENCE OPR/34 12:47p0722sg1247072
88372 Deleted by PAGER sg1247072
88372CALL PATTI AT 785-1521 SIGOP 50 09:02p0722SG2102072
88372 SG2102072
88372 Deleted by PAGER SG2102072
88372NEW STATUS 23 JUL TRAVELING WITH VICE PRESIDENT 01:49a0723SG0149072
88372NEW STATUS 23 JUL TRAVELING WITH PRESIDENT 01:50a0723SG0150072
88372NEW STATUS 10:13a0724SG1013072
88372PLS CALL CHRISTINE AT 232-1055. OPR 48 12:47p0724sg1247072
88372 Deleted by PAGER sg1247072

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F 119891

Charles W. Burton

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4144

4402JUST CONFIRMING - RICKI SAID TO CANCEL BUDGET MEETING - YES
OR NO. KAREN BURTON, CHARLES W. (BILL) KSUDBAY

****
(RMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4142

4402GARRY MAURO ON THE PHONE ABOUT TO GET ON PLANE LET ME KNOW I
F YOU WANT HIM. KAS BURTON, CHARLES W. (BILL) KSUDBAY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4141

4402GEORGE FRASER CALLED FROM HOME 501-777-2370. PLEASE CALL HIM
. KAREN BURTON, CHARLES W. (BILL) KSUDBAY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4140

4402GEORGE FRASER IS ON THE PHONE - 6797. KAREN
BURTON, CHARLES W. (BILL) KSUDBAY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4139

4402THIS IS A TEST
BURTON, CHARLES W. (BILL) KSUDBAY

****
GD IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4138

4402ANN DOWD CALLED TO SEE IF THERE WAS ANYNEWS ON THE INTERVIE
W. CALL ME. KAREN BURTON, CHARLES W. (BILL) KSUDBAY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4136

4402WHERE ARE YOU NOW - CALL THE OFFICE. KAREN
BURTON, CHARLES W. (BILL) KSUDBAY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3848

4229PLEASE CALL ME ASAP. REGARDING ROOSEV.ROOM AND MOVING OF S
R STAFF MEET. 6797 STANZIONE, JANINE CBURTON

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3847

4019DAVID, WE GOT CUT OFF. I AM AT 4566797.BILL BURTON
WATKINS, WILLIAM D. (DAVID) CBURTON

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3846

4085HAVE MACK CALL ROGER ALTMAN TONIGHT. 202-337-6098. LATE IS
O' BILL X6797 TOBACK, PAUL CBURTON

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F 119893

Lisa M. Caputo

F 119894

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4217

4 8YOU ARE NEEDED IN THE OFFICE - NEEL
CAPUTO, LISA M. GLATTIMO

F 119895

Mark D. Gearan

F 119896

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;8231

21'M TRYING TO RETURN YOUR CALL. I AM ATMY DESK.....2580----
ARTHUR JONES GEARAN, MARK D. WHO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7886

4002PLEASE CALL JOHN PODESTA AT 2702
GEARAN, MARK D. JPODESTA

REDACTED

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5060

4002NANCY HERNREICH IS LOOKING FOR YOU
GEARAN, MARK D. SACOHEN

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5059

4002DOES POTUS NEED TO BE IN THE ROOM FOR ALL OF THE INTERVIEW..
MARCIA,,2823 GEARAN, MARK D. SACOHEN

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5058

4002STAFF MEETING IN 450 OEOB W/POTUS AT 12:00PM
GEARAN, MARK D. SACOHEN

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5048

4002PLEASE CALL SCOOP AT 2640
GEARAN, MARK D. SACOHEN

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4074

4002CALL YOU CALL DWIGHT AND ANDRE WHEN YOUHAVE A CHANCE AT (65
95) OR (7924) GEARAN, MARK D. AOLIVER

REDACTED

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F 119897

William H. Kennedy

F 119898

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9371

84567052 CALL PATSY ASAP RE BRIEFINGFROM NATIONAL PARK S
E..VICE KENNEDY, WILLIAM H. PTHOMASS

REDACTED

GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3814

4068VINCE CALLED AGAIN AT 12:52PM. MARTHA
KENNEDY, WILLIAM H. MSTANLEY
****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3624

4068CALL GAIL AT 7039090923
KENNEDY, WILLIAM H. EBUENO

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F 119899

David C. Livingstone

F 119900

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7942

4)DO NOT LET R.TRAYNHAM LEAVE BLDG. BEFORE YOU CALL ME--ISABEL
LE EXT. 7948 LIVINGSTONE, DAVID C.(CRAIG)ITAPIA

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;6352

4449WUD U CALL ME? I'VE HEARD SOMETHING MIGHT BE VERY RELEVANT.
ANNE E X2921 LIVINGSTONE, DAVID C.(CRAIG)AEDWARDS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3811

4449PLEASE CALL ME BEFORE ISABELLEIMPORTANT. MARI
LIVINGSTONE, DAVID C.(CRAIG)MSTANLEY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3613

44494562345 JUST CHECKING SYSTEM
LIVINGSTONE, DAVID C.(CRAIG)MANDERSO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3612

4449KENNEDY TRIED TO REACH CAPT., NOW WAITING FOR A CALL BACK.
LIVINGSTONE, DAVID C.(CRAIG)MANDERSO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3611

4449BILL WAS LOOKING FOR YOU WANTS YOU TO CALL HIM WHEN YOU GET
BACK. LIVINGSTONE, DAVID C.(CRAIG)MANDERSO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1562

4449NO RED HEAD INSIDE THE DOOR
LIVINGSTONE, DAVID C.(CRAIG)MLUFRANO

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F 119901

Cheryl D. Mills

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9370

4 34567052 CALL PATSY ASAP
MILLS, CHERYL D. PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7882

4028PLEASE CALL PODESTA AT 2702
MILLS, CHERYL D. JPODESTA

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7878

4028PLEASE CALL JOHN PODESTA 2702
MILLS, CHERYL D. JPODESTA

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3713

4064CALL ME; I HELD THE LINE ON NO OTHER PASSENGERS BUT YOU MAY
GET CALLED. CDMILLS LUFRANO, MICHAEL R. CMILLS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3712

4402PLS. CALL. I HAVE A SIMPLE BUT PRESSINGQUESTION. CDMILLS 66
NOLAN, BETH CMILLS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3675

40287900 RE PRIVATE PLANE FOR VINCE'SSISTER
MILLS, CHERYL D. FCHAMPAG

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3673

40284567900
MILLS, CHERYL D. FCHAMPAG

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3672

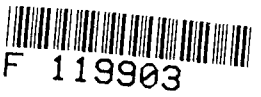
4028NEAL SAID PACKAGE WAS SENT TO BILLKENNEDY
MILLS, CHERYL D. FCHAMPAG

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1565

4028PLS CALL MIKE LUFRANO ASAP 456-7569
MILLS, CHERYL D. MLUFRANO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1546

4028CAN I SEND OUT MY NEWSLETTER TO HIM? DLCHAT
MILLS, CHERYL D. MLUFRANO



****
C IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1543

4028CAN I PLEASE SEND OUT MY NEWSLETTER? MICHAEL
MILLS, CHERYL D. MLUFRANO

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;969

40284562174 CAN YOU PLEASE CALL LINDA RE ADIFFICULT TRAVEL QUE
STION, ONCE AGAIN. MILLS, CHERYL D. LMCLAUGH

REDACTED

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F 119904

Beth Nolan

F 119905

****
C 'RMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3813

4422PLEASE CALL DEAN ROGER TRANSRUD994-6277. MARTHA
NOLAN, BETH MSTANLEY

REDACTED

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3712

4422PLS. CALL. I HAVE A SIMPLE BUT PRESSINGQUESTION. CDMILLS 66
90 NOLAN, BETH CMILLS

F 119906

Stephen R. Neuwirth

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7160

4 ,PLEASE CALL DEE DEE ASAP 6688
NEUWIRTH, STEPHEN R. DLEAVY

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5580

4248PLEASE CALL COLLIER- 7111
NEUWIRTH, STEPHEN R. SANDRESS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;5571

4248THERE IS PAPER ON YOUR CHAIR FOR YOU TOREVIEW. THANKS FOR
YOUR HELP. COLLIER NEUWIRTH, STEPHEN R. SANDRESS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3674

4248CALL MAGGIE WILLIAMS-7194 (FLO)
NEUWIRTH, STEPHEN R. FCHAMPAG

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F 119908

Bernard W. Nussbaum

F119909

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7880

DID YOU FIND HEYMANN? REDACTED
BEEP ME. PODESTA NUSSBAUM, BERNARD W. JPODESTA

FOIA # none (URTS 16303) DocId: 70104904 Page 123

F 119910

John M. Quinn

F 119911

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7877

ORETURNING YOURS IF YOU NEED ME PODESTA AAT 2702
QUINN, JOHN M. (JACK) JPODESTA

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F 119912

Marsha Scott

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3709

4436FL. TOMORROW AT 4:00PM; ARR BY 2:30; NEED MANIFEST BY COB TO
D'' CALL WHEN U CANSCOTT, MARSHA DGORHAM

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3708

4436NEED YOU TO CALL. MIL OFFICE WILL SENDPLANE AT TIME WE SPE
CIFY. CDM X2632 SCOTT, MARSHA DGORHAM

FOIA # none (URTS 16303) DocId: 70104904 Page 129

F 119914

Clifford Sloan

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;7897

6I'M TRYING TO CALL YOU BACK -- NO LUCK.I'M IN MY OFFICE. T
ODD SLOAN, CLIFFORD TSTERN
****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3671

4036JOHN CATCHING 3:00 FLIGHT--THAT'S WHYTHE 2:30 DEADLINE
SLOAN, CLIFFORD FCHAMPAG

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Patsy L. Thomasson

F 119917

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9375

4 4567052 CALL PATSY RE HELICOPTER ONSOUTH LAWN IN AM
GAUGHAN, JOHN A. PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9374

40194567052 PLEASE CALL RE HELICOPTER LANDING ON SOUTH LAWN TO MORROW A.M.
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9373

40194567052 CALL PATSY
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9372

40194567052 PLEASE CALL RE VINCE'S OFFICEPATSY LEE
WATKINS, WILLIAM D. (DAVID) PTHOMASS

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GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9371

40[illegible]4567052 CALL PATSY ASAP RE BRIEFINGFROM NATIONAL PARK S E[illegible]CE
KENNEDY, WILLIAM H. PTHOMASS

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GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9370

40284567052 CALL PATSY ASAP
MILLS, CHERYL D. PTHOMASS

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GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9369

40194567052
WATKINS, WILLIAM D. (DAVID) PTHOMASS

REDACTED

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GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1577

4349PLS CALL MIKE LUFRANO ASAP 456-2982
THOMASSON, PATSY L. MLUFRANO

** **********
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;1576

4349MIKE LUFRANO 456-2982
THOMASSON, PATSY L. MLUFRANO

FOIA# none (URTS 16303) DocId: 70104904 Page 134

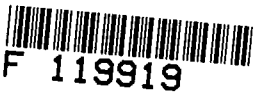
FOIA # none (URTS 16303) DocId: 70104904 Page 135

F 119918

Margaret A. Williams

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;6488

4035ELLER IS AT X2140. AWAITS YOUR CALL WITH EAGERNESS.
WILLIAMS, MARGARET A. MAGGIEJELLER



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GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;4218

4035HOME SHOW - HRC 11:30 NEEL
WILLIAMS, MARGARET A. MAGGIEGLATTIMO
****

FOIA # none (URTS 16303) DocId: 70104904 Page 138

F 119920

William D. Watkins

F 119921

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9374 — 7:47pm

4 4567052 PLEASE CALL RE HELICOPTER LANDING ON SOUTH LAWN TO MORROW A.M.
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9373

40194567052 CALL PATSY
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9372

40194567052 PLEASE CALL RE VINCE'S OFFICEPATSY LEE
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9369

40194567052
WATKINS, WILLIAM D. (DAVID) PTHOMASS

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;9338

40194562861 CALL 7052
WATKINS, WILLIAM D. (DAVID) AHONEA

****
GD_IRMD_USERS:[BARRY_D.FPAGE.JUL_20_JUL_27]PAGER_MEMO.LST;3847

4019DAVID, WE GOT CUT OFF. I AM AT 4566797.BILL BURTON
WATKINS, WILLIAM D. (DAVID) CBURTON

DOJ MANUAL // DOJ AMM Manual

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9-11.000 GRAND JURY

9-11.001 Additional Materials

Additional materials that may be helpful include treatises, especially Beale and Bryson, *Grand Jury Law and Practice*. In addition, the Narcotic and Dangerous Drug Section has prepared a monograph entitled ''Federal Grand Jury Practice (Volumes I and II). Copies may be obtained from that Section.

9-11.010 Grand Jury Indictment Required by the Fifth Amendment

The Fifth Amendment to the Constitution of the United States provides, in part, that ''no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger.''

While it is a very effective instrument of law enforcement, the grand jury is regarded primarily as a protection for the individual. It has been said that the grand jury stands between the accuser and the accused as ''a primary security to the innocent against hasty, malicious, and oppressive persecution.'' *See Wood v. Georgia*, 370 U.S. 375, 390 (1962). The grand jury functions to determine whether there is probable cause to believe that a certain person committed a certain offense and, thus, to protect individuals against the lodging of unfounded criminal charges. *See United States v. Calandra*, 414 U.S. 338 (1974); *Branzburg v. Hayes*, 408 U.S. 665 (1972); *United States v. Cox*, 342 F.2d 167 (5th Cir.), *cert. denied*, 391 U.S. 935 (1965).

9-11.020 The Role of the Prosecutor

In his/her dealings with the grand jury, the prosecutor must always conduct himself/herself as an officer of the court whose function is to insure that justice is done and that guilt shall not escape nor innocence suffer. He/she must recognize that the grand jury is an independent body, whose functions include not only the investigation of crime and the initiation of criminal prosecution but also the protection of the citizenry from unfounded criminal charges. The prosecutor's responsibility is to advise the grand jury on the law and to present evidence for its consideration. In discharging these responsibilities, he/she must be scrupulously fair to all witnesses and must do nothing to inflame or otherwise improperly influence the grand jurors.

9-11.100 POWERS AND LIMITATIONS OF GRAND JURIES

9-11.101 The Functions of a Grand Jury

While grand juries are sometimes described as performing accusatory and investigatory functions, it is particularly useful to say that a grand

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jury's function is to determine whether or not there is probable cause to believe that a certain person committed a certain federal offense within the venue of the district court. Thus, it has been said that a grand jury has but two functions—to indict or, in the alternative, to return a "no-bill," *see* Wright, *Federal Practice and Procedure*, Criminal § 110. It is useful to look upon the functions of a grand jury in this way because, in general, a grand jury may not perform any different function. The investigative grand jury works toward such an end, although some investigations are never brought to fruition.

At common law, a grand jury enjoyed a certain power to issue reports alleging non-criminal misconduct. A special grand jury impaneled under 18 U.S.C. § 3331 is authorized, on the basis of a criminal investigation (but not otherwise), to fashion a report, potentially for public release, concerning either organized crime conditions in the district or the non-criminal misconduct in office of appointed public officers or employees. This is discussed fully at USAM 9-11.330, *infra*. It would seem that a grand jury impaneled under Rule 6 of the Federal Rules of Criminal Procedure also has a power to issue reports on non-criminal matters. *See Jenkins v. McKeithen*, 395 U.S. 411 (1969); *Hannah v. Larche*, 363 U.S. 420 (1960). Whether and in what form a grand jury report should be issued is in all events a difficult and complex question. Consultation should be had with the Criminal Division before any grand jury report is initiated, whether by a regular or special grand jury. *See* USAM 9-11.331, *infra*.

9-11.110 The Investigative Powers of a Grand Jury

The grand jury has always been accorded the broadest latitude in conducting its investigations. The proceedings are conducted *ex parte*, in secret, and without any judicial officer in attendance to monitor them, and there is no exclusionary rule or standard of relevancy or materiality to inhibit grand jury inquiry. A grand juror's own information, newspaper reports, rumors, or whatever, may properly be used to trigger an investigation. The grand jury may act upon mere suspicion that the law has been violated, or with the objective of seeking assurance that it has not. The grand jury may investigate a field of fact with no defendant or criminal charge specifically in mind and with no duty to measure its steps according to predictions about the outcome. Thus the grand jury may conduct the broadest kind of investigation before stopping to determine whether an indictment should be found. *See Calandra, supra; Branzburg, supra; United States v. Morton Salt Co.*, 338 U.S. 632 (1950); *Blair v. United States*, 250 U.S. 273 (1919); *Hale v. Henkel*, 201 U.S. 43 (1906); *United States v. Smyth*, 104 F.Supp. 283 (N.D.Cal.1952).

9-11.120 Power of a Grand Jury Limited by Its Function

The grand jury's power, although expansive, is limited by its function toward possible return of an indictment. *Costello v. United States*, 350

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U.S. 359, 362 (1956). Accordingly, the grand jury cannot be used solely to obtain additional evidence against a defendant who has already been indicted. *United States v. Woods*, 544 F.2d 242, 250 (6th Cir.1976), *cert. denied sub nom., Hurt v. United States*, 429 U.S. 1062 (1977); nor can it be used solely for pre-trial discovery or trial preparation. *United States v. Star*, 470 F.2d 1214 (9th Cir.1972). After indictment, the grand jury may be used *if* its investigation is related to a superseding indictment of additional defendants or additional crimes by an indicted defendant. *In re Grand Jury Proceedings*, 586 F.2d 724 (9th Cir.1978).

A. Approval Required Prior to Resubmission of Same Matter to Grand Jury

Once a grand jury returns a no-bill or otherwise acts on the merits in declining to return an indictment, the same matter (*i.e.*, the same transaction or event and the same putative defendant) should not be presented to another grand jury or presented again to the same grand jury without first securing the approval of the responsible Assistant Attorney General.

B. Use of Grand Jury to Locate Fugitives

It is improper to utilize the grand jury *solely* as an investigative aid in the search for a fugitive in whose testimony the grand jury has no interest. *In re Pedro Archuleta*, 432 F.Supp. 583 (S.D.N.Y.1977); *In re Wood*, 430 F.Supp. 41 (S.D.N.Y.1977), *aff'd, In re Cueto*, 554 F.2d 14 (2d Cir.1977).

If, however, the grand jury has a legitimate interest in the testimony of a fugitive, it may subpoena other witnesses and records in an effort to locate the fugitive. *Wood, supra*, citing *Hoffman v. United States*, 341 U.S. 479 (1951). Similarly, it is the Criminal Division's view that if the present whereabouts of a fugitive is related to a legitimate grand jury investigation of offenses such as harboring, 18 U.S.C. §§ 1071, 1072, 1381, misprision of felony, 18 U.S.C. § 4, accessory after the fact, 18 U.S.C. § 3, escape from custody, 18 U.S.C. §§ 751, 752, or failure to appear, 18 U.S.C. § 3146, the grand jury properly may inquire as to the fugitive's whereabouts. *See In re Grusse*, 402 F.Supp. 1232 (D.Conn.1975). Unless such collateral interests are present, the grand jury should generally not be employed in locating fugitives in bail-jumping and escape cases since, as a rule, the gist of those offenses is the circumstances of defendant's disappearance rather than his or her current whereabouts.

Generally, grand jury subpoenas should not be used to locate fugitives in investigations of unlawful flight to avoid prosecution, 18 U.S.C. § 1073. Normally an unlawful flight complaint will be dismissed when a fugitive is apprehended and turned over to state authorities to await extradition. Prosecutions for unlawful flight are rare and the statute requires prior written approval of the Attorney General or Assistant Attorney General. Since indictments for unlawful flight are rarely sought,

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it would be improper to routinely use the grand jury in an effort to locate unlawful flight fugitives.

C. Obtaining Records to Aid in Location of Federal Fugitives—Alternatives to Use of Grand Jury Subpoenas

The Criminal Division recognizes the importance of providing to federal investigative agencies a means of obtaining records which would aid in the search of federal fugitives. Usually the records sought are telephone toll records of relatives and close associates of the fugitive, although other kinds of records might also be valuable in ascertaining the fugitive's whereabouts.

With the enactment of the Electronic Communications Privacy Act of 1986, Public Law No. 99-508, law enforcement access to telephone toll records will now be covered by federal statute.

Pursuant to 18 U.S.C. §§ 2703(c)(1)(B) and 2703(c)(2) the government may obtain a ''record or other information pertaining to a subscriber'' (telephone toll records) without notice to the subscriber by obtaining: (1) an administrative or grand jury subpoena; (2) a search warrant pursuant to state or federal law; or (3) a court order pursuant to 18 U.S.C. § 2703(d) based on a finding that the information is relevant to a legitimate law enforcement inquiry.

For an analysis of the Electronic Communications Privacy Act of 1986 *see* USAM 9-7.2000.

Occasionally, there may be records, other than telephone toll records, which might be useful in a fugitive investigation but which cannot be obtained by grand jury subpoena, administrative subpoena, or search warrant. In such situations, it may be appropriate to seek a court order for production of the records pursuant to the All Writs Act, 28 U.S.C. § 1651. The All Writs Act provides:

> The Supreme Court and all courts established by the Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

The Supreme Court has recognized the power of a federal court to issue orders under the All Writs Act ''as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in the exercise of its jurisdiction.'' *See United States v. New York Telephone Co.*, 434 U.S. 159, 172 (1977).

Because the purpose of the All Writs Act is to aid the court in the exercise of its jurisdiction, an application for an order under the act must be sought only from the United States District Court in which the complaint or indictment is pending.

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The use of the All Writs Act to obtain records in a fugitive investigation is not a procedure to be used in every fugitive case. The willingness of courts to issue such orders will depend in the selectivity with which such applications are made, and the courts will not condone a wholesale use of the act for this purpose. Thus, the procedure should be used only in important cases where a strong showing can be made that the records are likely to lead to the whereabouts of the fugitive.

9-11.121 Venue Limitations

A case should not be presented to a grand jury in a district unless venue for the offense lies in that district. Nevertheless, it is common for a grand jury to investigate matters occurring at least partly outside its own district, because federal offenses are often prosecutable in more than one district, and a grand jury is under no obligation to determine venue early in its investigation. A witness should not be heard to challenge the right of a grand jury to inquire into events that happened in other districts. As a general matter, a witness has a duty to testify if the grand jury has a *de facto* existence and cannot resist questions on the grounds of relevancy or materiality.

9-11.122 Limitations Set by the District Court

It is often said that the grand jury is an arm or appendage of the court. This has a certain significance but is also misleading. The grand jury is dependent on the court in certain respects and independent in other respects.

Lacking powers of its own, the grand jury must rely upon the district court's subpoena and contempt powers if witnesses are to be compelled to attend and to testify in grand jury sessions. *See Brown v. United States*, 359 U.S. 41 (1959). This presents no problems in the ordinary course. But a court may properly deny a grand jury the use of subpoenas to engage in ''the indiscriminate summoning of witnesses with no definite object in mind and in a spirit of meddlesome inquiry.'' The court may curb a grand jury when it clearly exceeds ''its historic authority.'' *See Hale v. Henkel, supra*. In any event, the district court has broad authority to discharge a grand jury impaneled under Rule 6 of the Federal Rules of Criminal Procedure, and rather than monitor the issuance of grand jury subpoenas in situations involving a flagrant abuse, the court might more likely put an end to the grand jury by discharging it. *See* Fed.R.Crim.P. 6(g).

There is a counterbalancing principle. Since the grand jury enjoys Constitutional status, the district court must neither control nor interfere with the grand jury in ''the exercise of its essential functions.'' *See United States v. United States District Court for the Southern District of West Virginia*, 238 F.2d 713 (4th Cir.1956), *cert. denied, sub nom.*,

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Valley Bell Dairy Co. v. United States, 352 U.S. 981 (1957). In that case, the district court was held to have interfered improperly with the grand jury by denying government counsel the use of the grand jury transcript and by instructing the jurors to vote without the benefit of government counsel's summarization of the evidence.

The government attorney also enjoys a constitutionally-based independence. Court, prosecutor, and grand jury—each has its own authority; and a court may not exercise its supervisory power over the grand jury in such a way as to encroach upon the jurors' or the prosecutor's prerogatives, unless there is a clear basis in law and fact for doing so. *See United States v. Chanen*, 549 F.2d 1306 (9th Cir.1977).

9-11.123 Limitations Arising From the Role of the Government Attorney

No federal grand jury can indict without the concurrence of the attorney for the government. He/she must sign the indictment under Rule 7(c) of the Fed.R.Cr.P. for the indictment to be valid, and the judiciary cannot compel the attorney for the government to sign any indictment. In signing an indictment, the attorney for the government is not just complying with Rule 7; the attorney is exercising a power belonging to the executive branch of the government. *See Cox, supra*; *Smith v. United States*, 375 F.2d 243 (5th Cir.), *cert. denied*, 391 U.S. 841 (1967).

9-11.124 Testimonial Privilege as Limiting Power of Grand Jury

A witness before a grand jury enjoys the same testimonial privilege he/she would have at any stage of a criminal proceeding. The single rule in the Fed.R.Evid. that is made applicable to grand jury proceedings is Rule 501 on testimonial privileges; *see* Fed.R.Evid. 101 and 1101(c) and (d). Fed.R.Evid. 501 provides that, except as otherwise required by the Constitution, statute, or rules, the testimonial privileges of witnesses ''shall be governed by principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience.'' The subject is thus left for case law development. But Rule 501 is clear: federal law (not state law) is controlling on the matter of testimonial privilege before grand juries. *See United States v. Woodall*, 438 F.2d 1317 (5th Cir.1970), *cert. denied*, 403 U.S. 933 (1971). It is emphasized, however, that Rule 501 is only a rule for the witness and does not set a standard for what may be heard and used as a basis for indictment. *See* the Advisory Committee's Note to Rule 1101 of the Fed.R.Evid. In short, a grand jury may consider and indict on the basis of testimony that will not necessarily be admissible at trial; and the indictment will not be vitiated because evidence was obtained in violation of a testimonial privilege. *See, e.g., United States v. Fultz*, 602 F.2d 830 (8th Cir.1979); *United States v. Colasurdo*, 453 F.2d 585 (2d Cir.1971), *cert. denied*, 406 U.S. 917

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(1972); *cf. United States v. Franklin*, 598 F.2d 954 (5th Cir.), *cert. denied* 444 U.S. 870 (1970.)

When a grand jury witness invokes a testimonial privilege, the attorney for the government will want to examine the claim very carefully to ascertain whether the privilege, although perhaps available in that state, is properly invoked in a federal proceeding. Each witness is under a broad duty to answer questions; the witness has no privilege to protect others. *See United States v. Mandujano*, 425 U.S. 564 (1976). To compel a witness to give testimony, resort may be had to the civil contempt remedy under 18 U.S.C. § 401, and Rule 42 of the Federal Rules of Criminal Procedure is utilized for punitive purposes. If the privilege against self-incrimination is invoked in appropriate circumstances, it may be necessary to consider whether to seek authority for obtaining an order to compel testimony under 18 U.S.C. § 6003, which may be enforced by use of the civil testimony under 18 U.S.C. § 6003, which may be enforced by use of the civil contempt remedy.

One exceptional situation is to be noted. A grand jury witness is entitled, by reason of 18 U.S.C. § 2515, to refuse to respond to questions based on illegal interception of oral or wire communications. *Gelbard v. United States*, 408 U.S. 41 (1972). The decision is based on the statute and not any broader principle.

9-11.130 Limitation on Naming Persons Unindicted Co-Conspirators

The practice of naming individuals as unindicted co-conspirators in an indictment charging a criminal conspiracy has been severely criticized in *United States v. Briggs*, 514 F.2d 794 (5th Cir.1974), and other cases.

As the court in *Briggs* pointed out, there is no need ordinarily to name a person as an unindicted co-conspirator in an indictment in order to fulfill any legitimate prosecutorial interest or duty. For purposes of indictment itself, it is sufficient, for example, to allege that the defendant conspired with ''another person or persons known.'' The identity of the person can be supplied, upon request, in a bill of particulars. With respect to the trial, the person's identity and status as a co-conspirator can be established, for evidentiary purposes, through the introduction of proof sufficient to invoke the co-conspirator hearsay exception without subjecting the person to the burden of a formal accusation by a grand jury.

Accordingly, in the absence of some sound reason (*e.g.*, where the fact of the person's conspiratorial involvement is a matter of public record or knowledge), it is not desirable for U.S. Attorneys to identify unindicted co-conspirators in conspiracy indictments.

9-11.140 Limitation on Grand Jury Subpoenas

Subpoenas in federal proceedings, including grand jury proceedings, are governed by Rule 17 of the Fed.R.Cr.P.

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Grand jury subpoenas may be served at any place within the United States. Under Rule 17(g) of the Federal Rules of Criminal Procedure, a failure by a person without adequate excuse to obey a subpoena served upon him/her may be deemed a contempt of the court.

Grand jury subpoenas may be issued, to be served abroad, to compel the appearance before the grand jury of a national or resident of the United States and the production of "a specified document or other thing by him." The decision to the contrary in *United States v. Thompson*, 313 F.2d 665 (2d Cir.1963), was overcome by an amendment of 28 U.S.C. § 1783. *See* Wright, *Federal Practice and Procedure*, Criminal § 277. However, before issuing a subpoena to a witness abroad, the district court is required under 28 U.S.C. § 1783(a) to make certain findings regarding the necessity for subpoenaing the witness. The issuance of a grand jury subpoena to an American citizen in a foreign country may at times be obviated by presenting the person's statement to the grand jury in the form of hearsay.

There can be enormous difficulties involved in investigating any matter abroad and in seeking to obtain the testimony of persons located in other countries, even if they are citizens of the United States. *See Jones, International Judicial Assistance: Procedural Chaos And A Program For Reform.* 62 Yale L.J. 515. Subpoenas cannot be issued and served abroad upon foreign nationals; even to request a foreign national to appear in this country may involve sensitive problems. Accordingly, before making any effort or initiating any process to obtain testimony or evidence from abroad, prior consultation with the Criminal Division is required. Inquiries should be directed to the Office of International Affairs.

All grand jury witnesses should be accorded reasonable advance notice of their appearance before the grand jury. "Forthwith" or "*eo instanter*" subpoenas should be used only when swift action is important and then only with the prior approval of the U.S. Attorney. Considerations, among others, which bear upon the desirability of using such subpoenas include the following: (1) the risk of flight; (2) the risk of destruction or fabrication of evidence; (3) the need for the orderly presentation of evidence; and (4) the degree of inconvenience of the witness.

Policies regarding the issuance of subpoenas to members of the news media and subpoenas for telephone toll records of members of the news media are discussed elsewhere in the USAM.

9-11.141 Fair Credit Reporting Act and Grand Jury Subpoenas—Special Handling Necessary

The Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.*) prohibits credit reporting agencies from furnishing consumer reports except, *inter alia*, "in response to the order of a court" of competent jurisdiction. Authorities are divided on the question whether grand jury subpoenas are court

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orders within the meaning of the quoted language (at 15 U.S.C. § 1681(b)(1). The cases are collected in *Matter of Application to Quash Grand Jury Subpoena*, 526 F.Supp. 1253 (D.Md.1981). The only circuit court to rule on the issue held that a subpoena is not a court order within the meaning of the act. *See In re Gren*, 633 F.2d 825 (9th Cir.1980); *accord, Doe v. DiGenova*, 779 F.2d 74 (D.C.Cir.1985).

Because of the division of opinion on the legal issue and the resulting differences in practices in the various districts, credit reporting agencies are often constrained to resist grand jury subpoenas which they would promptly obey if the subpoenas were specially issued by the district courts. The trouble, expense and delay involved for the agencies and the government seem particularly unwarranted when no definitive resolution of the legal issue is foreseeable at an early date. Heretofore, in order to try to minimize these problems, and the need for litigation, U.S. Attorneys were given discretion to seek court approval of a grand jury subpoena. This policy, however, has not been completely successful in resolving the issue. Accordingly, to provide consistency and uniformity in the various districts, the Department of Justice has determined that henceforth attorneys for the government in seeking to obtain credit reporting agency records, should seek court orders or the endorsement or other special handling of subpoenas by the district court so as to obviate the legal difficulties. *See, e.g., In re Gren, supra*, at n. 3.

It should be sufficient simply to make an *in camera, ex parte* showing that the information sought from the credit reporting agency is or may be relevant to an ongoing investigation, that it is properly within the grand jury's jurisdiction and that it is not sought primarily for any other purpose. *Cf. In re Grand Jury Proceedings* (Larry Smith), 579 F.2d 836 (3d Cir.1978).

9-11.150 Advice of ''Rights'' of Grand Jury Witnesses

It is the Department's policy to advise a grand jury witness of the rights described below only if such witness is a ''target'' or ''subject'' (as hereinafter defined) of a grand jury investigation.

The Supreme Court declined to decide whether a grand jury witness must be warned of his/her Fifth Amendment privilege against compulsory self-incrimination before his/her grand jury testimony can be used against the witness. *See United States v. Washington*, 431 U.S. 181, 186 and 190-191 (1977); *United States v. Wong*, 431 U.S. 174 (1977); *Mandujano, supra*, at 582 n. 7. It is important to note, however, that in *Mandujano* the Court took cognizance of the fact that federal prosecutors customarily warn ''targets'' of their Fifth Amendment rights before grand jury questioning begins. Similarly, in *Washington* the Court pointed to the fact that Fifth Amendment warnings were administered as negating ''any possible compul-

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sion to self-incrimination which might otherwise exist'' in the grand jury setting. *See Washington, supra*, at 188.

Notwithstanding the lack of a clear constitutional imperative, it is the internal policy of the Department that an ''Advice of Rights'' form, as set forth below, be appended to all grand jury subpoenas to be served on any ''target'' or ''subject'' (as hereinafter defined) of an investigation:

Advice of Rights

A. The grand jury is conducting an investigation of possible violations of federal criminal laws involving: (State here the general subject matter of inquiry, *e.g.*, the conducting of an illegal gambling business in violation of 18 U.S.C. § 1955).

B. You may refuse to answer any question if a truthful answer to the question would tend to incriminate you.

C. Anything that you do say may be used against you by the grand jury or in a subsequent legal proceeding.

D. If you have retained counsel, the grand jury will permit you a reasonable opportunity to step outside the grand jury room to consult with counsel if you do so desire.

In addition, these ''warnings'' should be given by the prosecutor on the record before the grand jury and the witness should be asked to affirm that the witness understands them.

A ''target'' is a person as to whom the prosecutor or the grand jury has substantial evidence linking him/her to the commission of a crime and who, in the judgment of the prosecutor, is a putative defendant. An officer or employee of an organization which is a target is not automatically to be considered as a target even if such officer's or employee's conduct contributed to the commission of the crime by the target organization, and the same lack of automatic target status holds true for organizations which employ, or employed, an officer or employee who is a target. Although the Court in *Washington, supra*, held that ''targets'' of the grand jury's investigation are entitled to no special warnings relative to their status as ''potential defendant[s]'', the Department continues its longstanding internal practice to advise witnesses who are known ''targets'' of the investigation that their conduct is being investigated for possible violation of federal criminal law. This supplemental ''warning'' will be administered on the record when the target witness is advised of the matters discussed in the preceding paragraphs.

A ''subject'' of an investigation is a person whose conduct is within the scope of the grand jury's investigation.

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Where a local district court insists that the notice of rights may not be appended to a grand jury subpoena, the advice of rights may be set forth in a separate letter and mailed to or handed to the witness when the subpoena is served.

9-11.151 Subpoenaing Targets of the Investigation

A grand jury may properly subpoena a subject or a target of the investigation and question him/her about his/her involvement in the crime under investigation. *See Wong, supra*, at 179 n. 8; *Washington, supra*, at 190 n. 6; *Mandujano, supra*, at 573-75 and 584 n. 9; *United States v. Dionisio*, 410 U.S. 1, 10 n. 8 (1973). However, in the context of particular cases such a subpoena may carry the appearance of unfairness. Because the potential for misunderstanding is great, before a known ''target'' (as defined in USAM 9-11.150, *supra*) is subpoenaed to testify before the grand jury about his/her involvement in the crime under investigation, an effort should be made to secure his/her voluntary appearance. If a voluntary appearance cannot be obtained, he/she should be subpoenaed only after the grand jury and U.S. Attorney or the responsible Assistant Attorney General have approved the subpoena. In determining whether to approve a subpoena for a ''target,'' careful attention will be paid to the following considerations:

A. The importance to the successful conduct of the grand jury's investigation of the testimony or other information sought;

B. Whether the substance of the testimony or other information sought could be provided by other witnesses; and

C. Whether the questions the prosecutor and the grand jurors intend to ask or the other information sought would be protected by a valid claim of privilege.

9-11.152 Requests by Subjects and Targets to Testify Before the Grand Jury

It is not altogether uncommon for subjects or targets of the grand jury's investigation, particularly in white-collar cases, to request or demand the opportunity to tell the grand jury their side of the story. While the prosecutor has no legal obligation to permit such witnesses to testify *United States v. Leverage Funding System, Inc.*, 637 F.2d 645 (9th Cir.1980), *cert. denied*, 452 U.S. 961 (1981); *United States v. Gardner*, 516 F.2d 334 (7th Cir.1975), *cert. denied*, 423 U.S. 861 (1976)) a refusal to do so can create the appearance of unfairness. Accordingly, under normal circumstances, where no burden upon the grand jury or delay of its proceedings is involved, reasonable requests by a ''subject'' or ''target'' of an investigation (as defined in USAM 9-11.150, *supra*) personally to testify before the grand jury ordinarily should be given favorable consideration, provided that such witness explicitly waives his/her privilege against

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self-incrimination and if represented by counsel or will attend, and knowingly appears without counsel and consents to full examination unless both...

Some such witnesses unfortunately will wish to supplement their testimony with the testimony of others. The decision whether to accommodate such requests, subject thereafter to hearing the testimony of the target or the subject, or to seek testimony from the suggested witnesses is a matter which is left to the sound discretion of the grand jury. When passing on such requests, it must be kept in mind that the grand jury was never intended to be and is not properly either an adversary proceeding or the arbiter of guilt or innocence. *See, e.g., Calandra, supra*, at 343.

9-11.153 Notification of Targets

Where a target is not called to testify pursuant to USAM 9-11.151, *supra*, and does not request to testify on his/her own motion (*see* USAM 9-11.152, *supra*), the prosecutor, in appropriate cases, is encouraged to notify such person a reasonable time before seeking an indictment in order to afford him/her an opportunity to testify (subject to the conditions set forth in USAM 9-11.152, *supra*) before the grand jury. Of course, notification would not be appropriate in routine clear cases nor where such action might jeopardize the investigation or prosecution because of the likelihood of flight, destruction or fabrication of evidence, endangerment of other witnesses, undue delay or otherwise would be inconsistent with the ends of justice.

9-11.154 Advance Assertions of an Intention to Claim the Fifth Amendment Privilege Against Compulsory Self-Incrimination

A question frequently faced by federal prosecutors is how to respond to an assertion by a prospective grand jury witness that if called to testify he/she will refuse to testify on Fifth Amendment grounds. Some argue that unless the prosecutor is prepared to seek an order pursuant to 18 U.S.C. § 6003, the witness should be excused from testifying. However, such a broad rule would be improper and make it too convenient for witnesses to avoid testifying truthfully to their knowledge of relevant facts. Moreover, once compelled to appear, the witness may be willing and able to answer some or all of the grand jury's questions without incriminating himself/herself. However, if a ''target'' of the investigation (as defined in USAM 9-11.150, *supra*) and his/her attorney state in a writing, signed by both, that the ''target'' will refuse to testify on Fifth Amendment grounds, the witness ordinarily should be excused from testifying unless the grand jury and the U.S. Attorney agree to insist on the appearance. In determining the desirability of insisting on the appearance of such a person, consideration should be given to the factors which justified the subpoena in the first place, i.e., the importance of the testimony or other information sought, its unavailability from other sources, and the

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applicability of the Fifth Amendment privilege to the likely areas of inquiry.

9-11.155 Notification to Targets when Target Status Ends

The United States Attorney shall have discretion to notify an individual, who has been the target of a grand jury investigation, that the individual is no longer considered to be a target by the United States Attorney's Office. Such a notification should be provided only by the United States Attorney having cognizance over the grand jury investigation.

It is suggested that the discontinuation of target status notification will most generally be obtainable when:

a. The target previously has been notified by the government that he or she was a target of the investigation; and,

b. The criminal investigation involving the target has been discontinued without an indictment being returned charging the target, or the government receives evidence in a continuing investigation that conclusively establishes that target status has ended as to this individual.

There may be other circumstances in which the United States Attorney may exercise discretion to provide the detargeting notification such as when government action has resulted in public knowledge of the investigation.

The United States Attorney may decline to issue such notification if the notification would adversely affect the integrity of the investigation or the grand jury process, or for other appropriate reasons. No explanation need be provided for declining such a request.

If the United States Attorney concludes that the detargeting notification is appropriate, the language of the notification may be tailored to the particular case. In any particular case, for example, the language of the notification may be drafted to preclude the target from using the notification as a ''clean bill of health'' or testimonial.

The delivering of such a notification to a target or the attorney for the target shall not preclude the United States Attorney's Office or the grand jury having cognizance over the investigation (or any other grand jury) from reinstituting such an investigation without notification to the target, or the attorney for the target, if, in the opinion of that or any other grand jury, or any United States Attorney's Office, circumstances warrant such a reinstitution.

The foregoing provisions are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. Nor are any limitations hereby placed on otherwise lawful litigative prerogatives of the Department of Justice.

9-11.160 Limitation on Resubpoenaing Contumacious Witnesses Before Successive Grand Juries

While the Supreme Court in *Shillitani v. United States*, 384 U.S. 364, 371 n. 8 (1965), appears to approve the reimposition of civil contempt sanctions in successive grand juries, it is the general policy of the Department not to subpoena and seek contempt citations in a successor grand jury against a witness who refused to testify before the prior grand jury and was consequently incarcerated for such refusal. The resubpoenaing of a contumacious witness may, however, be justified in certain limited situations such as when the questions to be asked the witness relate to matters not covered in the previous proceedings or when there is an indication from the witness or his/her legal counsel that the witness will in fact testify if called before the new grand jury. If the witness is believed to possess information essential to the investigation, resubpoenaing may also be justified when the witness himself/herself is involved to a significant degree in the criminality about which he/she can testify. In such cases, prior authorization must be obtained from the Assistant Attorney General, Criminal Division, to subpoena the witness before the successive grand jury as well as to seek civil contempt sanctions if the witness continues to persist in his/her refusal to testify.

Since the coercive effect of a civil contempt adjudication is substantially diluted when the grand jury's term is about to expire, it is recommended that a subpoena ordinarily not be issued to a witness who it is anticipated will refuse to testify before such grand jury. This, of course, is a matter of judgment for the U.S. Attorney and there may well be situations when it is necessary to subpoena a witness and institute contempt proceedings for recalcitrance in such circumstances. In most situations, however, it would seem preferable to subpoena the witness before a new grand jury.

9-11.200 THE PROVISIONS OF FEDERAL RULES OF CRIMINAL PROCEDURE 6

9-11.210 Summoning Grand Juries (Fed.R.Crim.P. 6(a))

Rule 6(a) of the Federal Rules of Criminal Procedure authorizes courts to impanel as many grand juries ''as the public interest requires.'' Each grand jury must consist of not less than 16 nor more than 23 members. The jury selection process is discussed at USAM 9-11.223, *infra*. Either the clerk of the court or a jury commission (depending upon the type of plan adopted for the random selection of jurors) manages the jury selection process under the Jury Selection and Service Act.

Rule 6 of the Federal Rules of Criminal Procedure does not state explicitly what constitutes a quorum to enable a grand jury to operate. However, since a grand jury cannot be impaneled with less than sixteen members, it is

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considered that 16 jurors constitute a quorum. A grand jury should not function with less than 16 members in attendance.

9-11.220 Objection to Grand Jury and to Grand Jurors (Fed.R.Crim.P. 6(b))

The U.S. Attorney's primary concern with the grand jury selection process arises under Rule 6(b) of the Fed.R.Cr.P. That rule allows for the making of two basic types of objections. The first are objections to the array (that the jurors were not selected, drawn, or summoned in accordance with law). The second are objections to individual jurors (that they are not legally qualified to serve). The rule provides two methods for making these objections.

9-11.221 Challenges

Rule 6(b)(1) of the Fed.R.Cr.P. permits the attorney for the government or a defendant held to answer in the district court to make challenges before the administration of the oath to the grand jurors. The rule was recognized, when framed, as being of limited practical value and was not meant to prevent objections being made instead by means of motions to dismiss. *See* the original note to subdivision (b) of Fed.R.Cr.P. 6.

9-11.222 Motions to Dismiss, in General

If not previously determined upon challenge, objections to the array or to individual jurors may be made under Rule 6(b)(2) of the Fed.R.Cr.P. by means of motions to dismiss the indictment. Objections will usually be raised by this method. It is expressly provided in the rule that such motions to dismiss should be made and granted as provided in 28 U.S.C. § 1867(e).

9-11.223 Motions to Dismiss Based on Objections to the Array

It is declared federal policy under the Jury Selection and Service Act (specifically 28 U.S.C. §§ 1861 and 1862) that grand and petit jurors shall be ''selected at random from a fair cross section of the community in the district or division wherein the court convenes,'' and no citizen shall be excluded from serving on account of race, color, religion, sex, national origin, or economic status. Pursuant to 28 U.S.C. § 1863, each U.S. District Court has placed into operation a written plan for random selection of jurors. This jury selection plan generates, in accordance with 28 U.S.C. §§ 1864 to 1866, first a ''master jury wheel'' of names selected at random from particular sources (generally voter registration lists and certain supplemental sources); and then (on the basis of juror qualification forms executed by the persons on the master jury wheel, and ''other competent evidence'') a ''qualified jury wheel'' of names of legally qualified and nonexempt persons. From time to time, random (and usually public) drawings are conducted and subpoenas issued to a certain number of

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jurors on the qualified jury wheel. These prospective jurors are examined further in court and, as needed, grand and petit juries are impaneled. (18 U.S.C. § 3321 of Title 18 allows for the summoning of additional jurors to complete a grand jury when less than sixteen of the persons summoned attend or remain after the court rules on challenges.) It is a practice in certain districts to designate alternate grand jurors, but they do not sit like their counterparts on petit juries: they sit only to replace a grand juror who is permanently excused.

While U.S. Attorneys have no responsibility for administering the Jury Selection and Service Act, they have an obvious stake in the act's being properly administered. The requirement in 28 U.S.C. § 1863(b)(4) that the master jury wheel be emptied and refilled periodically (at least every four years) affords an opportunity for reflecting upon the jury selection system and the possible effect of changed circumstances in the community. *See, e.g., United States v. Gooding*, 473 F.2d 425 (5th Cir.), *cert. denied*, 412 U.S. 928 (1973); *United States v. Guzman*, 468 F.2d 1245 (2d Cir.1972), *cert. denied*, 410 U.S. 937 (1973). While it is contemplated that voter lists will be the primary sources of jurors, it is also contemplated that supplemental sources will be used at times as a corrective in the system. *See United States v. Ross*, 468 F.2d 1213 (9th Cir.1972), *cert. denied*, 410 U.S. 989 (1973); *United States v. Lewis*, 472 F.2d 252 (3d Cir.1973); 1968 U.S.Code Congressional and Administrative News, 1974.

9-11.224 Giving the Court Information Pertinent to Jury Selection

It is important for a U.S. Attorney to inform the district court of all facts that may be pertinent to the matter of excluding jurors under 28 U.S.C. § 1866(c), especially when a grand jury is to be selected to conduct a highly sensitive investigation. Particular care should be taken to prevent the impaneling of a juror who might ''be unable to render impartial jury service.'' If provided for in the jury selection plan, in accordance with 28 U.S.C. § 1863(b)(8), the court may vary from its customary practice and keep the names drawn from the qualified jury wheel confidential ''in any case where the interests of justice so require.''

9-11.230 Objections to Grand Jury Proceedings

There are few principles of more importance in the administration of criminal justice than the principle announced in *Costello v. United States*, 350 U.S. 359, 363 (1956); an indictment returned by a legally constituted and unbiased grand jury, if valid on its face, is sufficient to call for trial of the charges on the merits.

9-11.231 Motions to Dismiss Due to Illegally Obtained Evidence Before a Grand Jury

The fact that illegally obtained, privileged, or otherwise incompetent evidence was presented to the grand jury is no cause for abating the

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prosecution under the indictment, or for inquiring into the sufficiency of the competent evidence before the grand jury, even if the defendant may be expected to have the illegally obtained evidence suppressed or incompetent evidence excluded at trial. *See Dionisio, supra.* Despite some argument that the *Costello* rule has been eroded by cases calling for a more limited use of hearsay in grand jury proceedings, it appears that the rule is entitled to its full force today in light of the broad bases for decision in *Calandra, supra.*

In *Calandra*, the Supreme Court held that a grand jury witness cannot properly refuse to answer questions based upon evidence obtained from an unlawful search and seizure. The court reasoned that a contrary rule would deter police misconduct in only a speculative and minimal way while it would exact a prohibitive price by impeding the grand jury's investigation.

The Court cited *Dionisio, supra*, as reaffirming ''our disinclination to allow litigious interference with grand jury proceedings.'' The Court also recognized the existence of an internal control in that prosecutors will hardly seek indictments where convictions cannot be obtained. *Calandra, supra*, at 349-351.

It is in recognition of this principle that the Department has formulated the following internal policy of self-restraint regarding presentation to the grand jury of unconstitutionally obtained evidence: A prosecutor should not present to the grand jury for use against a person whose constitutional rights clearly have been violated evidence which the prosecutor personally knows was obtained as a direct result of the constitutional violation.

9-11.232 Use of Hearsay in a Grand Jury Proceeding

There has been considerable criticism voiced that hearsay evidence is relied upon too much in grand jury proceedings. From the perspective, however, that a grand jury is a layman's inquiry, conducted *ex parte* to determine probable cause rather than guilt or innocence, and that in certain forms hearsay is highly creditable evidence, there is a justification for using hearsay in grand jury proceedings. Each U.S. Attorney should be accountable to himself/herself in this regard and to the grand jurors. Worthy of consideration are guidelines on the use of hearsay in grand jury proceedings set out in *A.B.A. Standards For Criminal Justice, Standards Relating To The Prosecution Function* 3.6(a) (Approved Draft, 1971). Hearsay evidence should be presented on its merits so that the jurors are not misled into believing that the witness is giving his/her own personal account. *See United States v. Leibowitz,* 420 F.2d 39 (2d Cir. 1969); *but see United States v. Trass,* 644 F.2d 791 (9th Cir.1981). The question should not be so much whether to use hearsay evidence, but whether, at the end, the presentation was in keeping with the professional

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obligations of attorneys for the government, and afforded the grand jurors a substantial basis for voting upon an indictment. Government attorneys are charged with a high duty in presenting matters to grand juries but are also entitled to a constitutionally based independence. *See United States v. Chanen*, 549 F.2d 1306 (9th Cir.1977).

9-11.233 Presentation of Exculpatory Evidence

Although neither statutory nor case law imposes upon the prosecutor a legal obligation to present exculpatory evidence to the grand jury (*Leverage Funding System, Inc., supra; United States v. Y. Hata Co.*, 535 F.2d 508, 512 (9th Cir.), *cert. denied*, 429 U.S. 828 (1976); *Loraine v. United States*, 396 F.2d 335, 339 (9th Cir.), *cert. denied*, 393 U.S. 933 (1968), it is the Department's internal policy to do so under many circumstances. For example, when a prosecutor conducting a grand jury inquiry is personally aware of substantial evidence which directly negates the guilt of a subject of the investigation, the prosecutor must present or otherwise disclose such evidence to the grand jury before seeking an indictment against such a person.

9-11.240 Who May be Present at Grand Jury Sessions (Fed.R.Crim.P. 6(d))

Under Rule 6(d) of the Federal Rules of Criminal Procedure, no person may be present while a grand jury is in session other than attorneys for the government, the witness under examination, interpreters when needed, and stenographers or operators of recording devices who are making a record of the evidence. No one at all other than the jurors may be present while the grand jury is deliberating or voting. *See United States v. Mechanik*, 475 U.S. 66 (1986). Eavesdropping upon the deliberations or voting of a grand jury is punishable as an obstruction of justice under 18 U.S.C. § 1508.

9-11.241 DOJ Attorneys Authorized to Conduct Grand Jury Proceedings

Federal Rule of Criminal Procedure 6(d) authorizes attorneys for the government to appear before the grand jury. For purposes of that rule, ''attorney for the government'' is defined in Fed.R.Cr.P. 54(c) as the Attorney General, an authorized assistant of the Attorney General, a U.S. Attorney, an authorized assistant of a U.S. Attorney, and certain other persons in cases arising under the laws of Guam.

The authority for a U.S. Attorney to conduct grand jury proceedings is set forth in the statute establishing U.S. Attorney duties, 28 U.S.C. § 547. U.S. Attorneys are directed in that statute to ''prosecute for all offenses against the United States.'' Assistant U.S. Attorneys similarly derive their authority to conduct grand jury proceedings in the district of their appointment from their appointment statute, 28 U.S.C. § 542.

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When a U.S. Attorney or Assistant U.S. Attorney needs to appear before a grand jury in a district other than the district in which he/she is appointed, the U.S. Attorney for either the district of appointment or the district of the grand jury should submit a request to the Executive Office for U.S. Attorneys for an appointment as a Special Assistant U.S. Attorney. The request should identify the attorney, and the reasons therefor. The Executive Office will send the notice of appointment to the U.S. Attorney in the district in which the grand jury is sitting.

Departmental attorneys, other than U.S. Attorneys and Assistant U.S. Attorneys, may conduct grand jury proceedings when authorized to do so by the Attorney General or a delegee pursuant to 28 U.S.C. § 515(a). The Attorney General has delegated this authority to direct Department of Justice Attorneys to conduct grand jury proceedings to all Assistant Attorneys General and Deputy Assistant Attorneys General in matters supervised by them. (Order No. 725-77.)

9-11.242 Non-Department of Justice Government Attorneys

Federal Rule of Criminal Procedure 6(d) provides that the only prosecutional personnel who may be present while the grand jury is in session are ''attorneys for the government.'' Rule 54(c) defines attorney for the government for Federal Rules of Criminal Procedure purposes as ''the Attorney General, an authorized assistant of the Attorney General, a United States Attorney, (and) an authorized assistant of a United States Attorney.''

An agency attorney or other non-Department of Justice attorney must be appointed as a Special Assistant or a Special Assistant to the Attorney General, pursuant to 28 U.S.C. § 515, or a Special Assistant to a U.S. Attorney, pursuant to 28 U.S.C. § 543, in order to appear before a grand jury in the district of appointment. Normally the Special Assistant to a U.S. Attorney appointment is employed. Where the less common Special Assistant or Special Assistant to the Attorney General appointment is to be used in cases or matters within the jurisdiction of the Criminal Division, the Office of Enforcement Operations should be contacted for information.

Appointments as Special Assistants to U.S. Attorneys are made by the Associate Attorney General. A letter of appointment is executed and the oath of office as a Special Assistant to a U.S. Attorney must be taken (*see* 28 U.S.C. §§ 543, 544). Requests for such appointments must be made in writing through the Director of the Executive Office for U.S. Attorneys and must include the following information:

A. The facts and circumstances of the case;

B. The reasons supporting the appointment;

C. The duration and any special conditions of the appointment;

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D. Whether the appointee may be called as a witness before the grand jury. If such a possibility exists, it ordinarily would be unwise to make the appointment;

E. How the attorney has been informed of the grand jury secrecy requirements in Federal Rule of Criminal Procedure 6(e).

F. If the appointee is an agency attorney, whether the agency from which the attorney comes is conducting or may conduct contemporaneous administrative or other civil proceedings. If so, a full description of the substance and status of such proceedings should be included; and

G. If the appointee is an agency attorney, a full description of the arrangements that have been made to prevent the attorney's agency from obtaining access through the attorney to grand jury materials in the case.

The request must also state that the agency attorney will be accompanied at all times while before the grand jury by an experienced Department of Justice attorney, the U.S. Attorney, or an Assistant U.S. Attorney. Finally, the request must contain the following statement, signed by the agency attorney:

> I understand the restrictions on the grand jury secrecy obligations of this appointment as a Special Assistant to the United States Attorney and do hereby certify that I will adhere to the requirements contained in this letter.

The use of agency attorneys as Special Assistants before the grand jury has been upheld by the courts. *See United States v. Wencke*, 604 F.2d 607 (9th Cir.1979); *United States v. Birdman*, 602 F.2d 547 (3rd Cir.1979); *In re Perlin*, 589 F.2d 260 (7th Cir.1978). The U.S. Attorney or Departmental attorney with responsibility for the case retains such full responsibility. *Cf.* D.C.Cir.1979 Judicial Conference Proceedings, 85 F.R.D. 180-181.

9-11.243 Presence of Stenographer—Recording Required

Federal Rule of Criminal Procedure 6(e)(1) requires that all grand jury proceedings be recorded except when the grand jury is deliberating or voting. Government attorneys should not have any conversations, even of a casual nature, with grand jurors unless they are being recorded. The recording, however, is not required to be transcribed and transcripts should not be prepared unless there is a specific need for them. Reporters and stenographers are bound by the secrecy requirements of Rule 6(e)(2). It is important that they be made aware of that rule.

9-11.244 Presence of an Interpreter

Federal Rule of Criminal Procedure 6(d) permits the presence of an interpreter when needed in grand jury proceedings. Interpreters should be

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obtained in accordance with 28 U.S.C. § 1827 and Rule 28. An interpreter is bound not to disclose matters occurring before the grand jury without judicial authority. Attorneys for the government should make sure that any interpreter used in a grand jury proceeding is aware of his/her secrecy obligation.

9-11.245 No Exceptions

Federal Rule of Criminal Procedure 6(d) does not admit any exception under which persons not usually authorized to be present are allowed to attend a grand jury session under extraordinary circumstances. Indeed, the presence of any unauthorized person during a grand jury session may be grounds for dismissal of the indictment. Thus, a parent may not accompany a child who is to testify, nor may a marshal be present to control a potentially unruly witness. *United States v. Borys*, 169 F.Supp. 366 (D.Alaska 1959); *see United States v. Carper*, 116 F.Supp. 817 (D.D.C.1953).

9-11.250 Disclosure Under Fed.R.Crim.P. 6(e): To Attorneys for the Government, Including for Civil Use

Disclosure of materials covered by Federal Rule of Criminal Procedure 6(e) may be made ''to an attorney for the government for use in the performance of such attorney's duty.'' *See* Fed.R.Cr.P. 6(e)(3)(A)(i). ''Attorney for the government'' is defined in Fed.R.Cr.P. 54(c). Disclosure to government attorneys and their assistants for use in a civil suit is permissible only with a court order under Rule 6(e)(3)(C)(i). *United States v. Sells Engineering, Inc.*, 463 U.S. 418 (1983). *See Guide on Rule 6(e) after Sells and Baggot* 6-8, 18-32 (January 1984).

From the Federal Rule of Criminal Procedure 54(c) definition it is clear that Rule 6(e) does not authorize disclosure to attorneys for other federal government agencies. *See United States v. Bates*, 627 F.2d 349, 351 (D.C. Cir.1980). Nor is disclosure permitted under this section to attorneys for state or local governments. *In re Holovachka*, 317 F.2d 834 (7th Cir.1963); *Corona Construction Co. v. Ampress Brick Co., Inc.*, 376 F.Supp. 598 (N.D. Ill.1974).

When disclosure is authorized by court order under Rule 6(e)(3)(C)(i), of the Federal Rules of Criminal Procedure, for use in civil proceedings, there is a danger of misuse, or the appearance thereof, when such disclosure is made during the pendency of the grand jury investigation. There is no rule of law that would require a civil disclosure within the Department to be deferred until the relevant criminal investigation has been completed; but unless there is a genuine need for disclosure during the pendency of the grand jury investigation, it is the better practice to forestall the disclosure until the criminal investigation is completed.

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9-11.251 Disclosure Under Fed.R.Crim.P. 6(e): To Other Government Personnel

Disclosure of materials covered by Federal Rule of Criminal Procedure 6(e) may be made to ''government personnel ... to assist an attorney for the government ... to enforce federal criminal law.'' ''Government personnel'' includes not only federal criminal investigators such as the FBI, but also employees of any federal agency who are assisting the prosecutor. *See* S.Rep. No. 354, 95th Cong., 1st Sess., *reprinted in* 1977 U.S.Code Cong. & Ad.News 530. The decision to use government personnel to assist the grand jury investigation is within the discretion of the prosecutor and need not be justified. *Perlin, supra* at 268. Such personnel may use the material disclosed in conducting interviews. *Cf United States v. Stanford*, 589 F.2d 285 (7th Cir.1978), *cert. denied*, 440 U.S. 983 (1979).

Strict precautions should be taken when employing personnel from agencies which have a civil function, such as the Securities and Exchange Commission, the Environmental Protection Agency, or the Internal Revenue Service, to ensure that knowledge of the grand jury investigation or documents subpoenaed by the grand jury are not used improperly for civil purposes by the agency. Grand jury documents should be segregated and personnel assisting the grand jury investigation should not work on a civil matter involving the same subjects unless a court order has been obtained authorizing such use. It may be valuable to issue written precautionary instructions which can be used in any hearing challenging the grand jury procedures. *See Robert Hawthorne, Inc. v. Director of Internal Revenue*, 406 F.Supp. 1098, 1126 (E.D.Pa.1975).

9-11.252 Disclosure Under Fed.R.Crim.P. 6(e): Preliminarily to or in Connection With a Judicial Proceeding

Under subsection (3)(C)(i) of Fed.R.Cr.P. 6(e), grand jury materials may be disclosed by order of a court preliminarily to or in connection with a judicial proceeding. A court must make two determinations before entering such an order.

The first is whether the requested disclosure is indeed preliminary to or in connection with a judicial proceeding. The leading definition of judicial proceeding is that provided by Judge Learned Hand:

> The term 'judicial proceeding' includes any proceeding determinable by a court, having for its object the compliance of any person, subject to judicial control with standards imposed upon his conduct in the public interest, even though such compliance is enforced without the procedure applicable to the punishment of crime. An interpretation that should not go at least so far, would not only be in the teeth of the language employed, but would defeat any rational purpose that can be

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imputed to the Rule. *Poe v. Rosenberg*, 255 F.2d 118, 120 (2d Cir.1958).

Because IRS has unique powers to assess and collect taxes without resort to litigation, its tax audits and other proceedings may not qualify for disclosure under Rule 6(e)(3)(C)(i) of the Fed.R.Cr.P. *United States v. Baggot*, 463 U.S. 476 (1983).

The second determination the courts make before authorizing disclosure of grand jury materials to private parties is to weigh the particularized need of the party seeking disclosure against the public interest in grand jury secrecy. *See Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 216-219 (1979); *Guide on Rule 6(e) after Sells and Baggot* at 22-27 (January 1984). A failure to demonstrate sufficient need can result in the denial of a request for otherwise permissible disclosure. *See In re Grand Jury Proceedings*, 483 F.Supp. 422 (E.D.Pa 1979) (state prosecutor). The Department takes the position that the particularized need requirement is inapplicable when grand jury materials are sought for federal law enforcement purposes. *See In re Grand Jury Subpoenas, April 1978*, 581 F.2d 1103, 1110 (4th Cir.1978), *cert. denied*, 440 U.S. 971 (1979); *In re Grand Jury (LTV)*, 583 F.2d 128, 130-131 (5th Cir.1978).

As with disclosure to Department of Justice attorneys for use in civil proceedings, discussed *supra*, it is preferable to await the completion of a grand jury investigation before seeking disclosure to another government agency for civil purposes. *Capitol Indemnity Corp. v. First Minnesota Construction Co.*, 405 F.Supp. 929 (D.Mass.1975).

9-11.253 Who is Not Covered by Fed.R.Crim.P. 6(e): Only Witnesses

One of the purposes of grand jury secrecy is to foster the cooperation of witnesses. Only by making witnesses aware of the protection afforded them can the full value of grand jury secrecy be realized. It is suggested that in an appropriate situation the witness be told that the proceeding will remain secret until such time as disclosure is required in court, and, therefore, that the witness' cooperation with or appearance before the grand jury will not be known publicly unless the witness chooses to make it known.

In communicating with a witness regarding grand jury secrecy, it is important to make clear that Federal Rule of Criminal Procedure 6(e) specifically prohibits any obligation of secrecy from being imposed ''upon any person except in accordance with this rule.'' Witnesses, therefore, cannot be put under any obligation of secrecy. *See Application of Eisenberg*, 654 F.2d 1107, 1113 n. 9 (5th Cir.1981).

However, a suggestion or request that a witness not disclose matters occurring before the grand jury may be made where necessary to protect the integrity of the grand jury's investigation or the safety of witnesses and

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other individuals mentioned in testimony. Letters or statements to witnesses cautioning them regarding disclosure should make it clear that no obligation of secrecy can be imposed. In addition, it should be made clear that the witness has an absolute right to consult with his or her attorney.

9-11.260 Amendment to Rule 6(e) Federal Rules of Criminal Procedure Permitting Certain Disclosure to State and Local Law Enforcement Officials

The Supreme Court added a new subdivision, 6(e)(3)(C)(iv), in an amendment effective August 1, 1985. Its purpose, as stated in the Advisory Committee (on Criminal Rules of the Judicial Conference) notes, was to eliminate ''an unreasonable barrier to the effective enforcement of our two-tiered system of criminal laws ... [by allowing] a court to permit disclosure to a state or local official for the purpose of enforcing state law when an attorney for the government so requests and makes the requisite showing.''

The new subdivision reads as follows: ''(C) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made ...

> (iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law.

If the court orders disclosure of matters occurring before the grand jury, the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct.''

It is both the intent of the amended rule, and the policy of the Department of Justice, to share such grand jury information wherever it is appropriate to do so. Thus, the phrase ''appropriate official of a state or subdivision of a state'' shall be interpreted to mean any official whose official duties include enforcement of the state criminal law whose violation is indicated in the matters for which permission to disclose is to be sought. This policy is, however, subject to the caution in the Advisory Committee notes that ''[t]here is no intention ... to have Federal grand juries act as an arm of the state.''

It is thus clear that the decision to release or withhold such information may have significant effects upon relations between federal prosecutors and their state and local counterparts, and that disclosure may raise issues which go to the heart of the federal grand jury process. In this respect, the Assistant Attorney General in charge of the Criminal Division (who is a member of the Advisory Committee) promised the Advisory Committee that prior to any request to a court for permission to disclose such grand jury information, authorization would be required from the Assistant At-

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torney General in charge of the Division having jurisdiction over the matters that were presented to the grand jury. In the case of a multiple-jurisdiction investigation (*e.g.*, tax, non-tax) requests should be made to the Assistant Attorney General of the Division having supervisory responsibility for the principal offense(s) being investigated. It is the policy of the Department that such prior authorization be requested in writing in all cases. A copy of such requests shall be sent to all investigating agencies involved in the grand jury investigation.

To insure that grand jury secrecy requirements are not violated in the submitting of such requests, place the following legend at the top and bottom of each page of the request:

GRAND JURY INFORMATION:

Disclosure restricted by

Rule 6(e), Federal Rules

of Criminal Procedure

In addition, the entire packet shall be covered with a plain white sheet having the word ''SENSITIVE'' stamped or typed at the top left and bottom right corners.

United States Attorneys seeking permission to apply for a disclosure order shall request that permission from the Assistant Attorney General of the Division having jurisdiction over the matter that was before the grand jury by submitting a written request in which they shall address expressly all elements necessary for these officials to comply with the standards set forth below in making their decision. Requests submitted to the Criminal Division shall be sent to the Head, Legal Support Unit, Office of Enforcement Operations. Ones submitted to other Divisions shall be sent to the appropriate contact person listed at the conclusion of this memorandum. There is no requirement that a ''particularized need'' be established for the disclosure, but there should be a substantial one. The need to prosecute or to investigate ongoing or completed state or local felony offenses will generally be deemed substantial.

Persons making requests for authorization should provide the following information:

1. Title of grand jury investigation and involved target(s);

2. Origin of grand jury investigation;

3. General nature of investigation;

4. Status of grand jury investigation;

5. State(s) for which authorization to disclose grand jury matters is sought;

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6. Nature and summary of information sought to be disclosed;

7. General nature of potential state offenses;

8. Impact of disclosure to state(s) on ongoing federal grand jury investigative efforts or prosecutions;

9. Extent of prior state involvement, if any, in federal grand jury proceedings under Rule 6(e)(3)(A)(ii);

10. Extent, if any, of state knowledge or awareness of federal grand jury investigation;

11. Existence, if any, of ongoing state investigations or efforts regarding grand jury matters sought to be disclosed; and

12. Any additional material necessary to enable the Assistant Attorney General to evaluate fully the factors which the following paragraph requires them to consider in making a decision.

In making a determination on whether to authorize the seeking of permission to disclose each Assistant Attorney General shall consider all relevant factors including whether:

1. The state has a substantial need for the information;

2. The grand jury was convened for a legitimate federal investigative purpose;

3. Disclosure would impair an ongoing federal trial or investigation;

4. Disclosure would violate a federal statute (*e.g.*, 26 U.S.C. 6103) or regulation;

5. Disclosure would violate a specific Departmental policy;

6. Disclosure would reveal classified information to persons without an appropriate security clearance;

7. Disclosure would compromise the government's ability to protect an informant;

8. Disclosure would improperly reveal trade secrets; and

9. Reasonable alternative means exist for obtaining the information contained in the grand jury materials to be disclosed.

If the request is authorized, the government attorney who seeks permission to disclose shall include in the proposed order a provision that further disclosures by the state officials involved shall be limited to those required in the enforcement of state criminal laws.

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It is requested that a copy of any order *denying* a request for permission to disclose be sent to the Assistant Attorney General who authorized the filing of the request.

The following divisions of the Department have designated the listed individuals to answer questions regarding Rule 6(e)(3)(C)(iv).

Antitrust Division	Director of Operations	Joe Widmar	514-3543
Civil Rights Division	Deputy Chief Criminal Section	Dan Bell	514-4071
	Deputy Chief Criminal Section	Barry Kowalski	514-4067
Criminal Division	Head, Legal Support Unit Office of Enforcement Operations	David Simonson	724-6672
Lands Division	Director, Environmental Crimes Unit Environmental Enforcement Section	Judson Starr	514-2490
Tax Division	Senior Assistant Chief Office of Policy and Tax Enforcement Analysis Criminal Section	Ed Vellines	514-3011

9-11.300 THE SPECIAL GRAND JURY—18 U.S.C. § 3331

It was once common for investigative grand juries and for grand juries other than the first of two or more impaneled in a district to be called ''special'' grand juries. The term is now ambiguous. Legislation enacted in 1970 created ''special'' grand juries primarily to meet the special needs of organized crime investigations. These statutory grand juries differ in several significant respects from grand juries impaneled under Federal Rule of Criminal Procedure 6. Care should be taken in using the term special grand jury to avoid any misunderstanding. The term may be used, for example, with a parenthetical reference to the statute or the rule, if the meaning is not otherwise clear from the context.

The distinctive features of special grand juries are discussed below. To the extent these distinctive features permit, the special grand juries are governed by the same statutes, rules, and case law applicable to regular grand juries. *See* 18 U.S.C. § 3334. In a very large measure, special grand juries and regular grand juries are alike.

9-11.310 Impaneling Special Grand Juries

As provided in 18 U.S.C. § 3334(a), the district court in every judicial district having more than four million inhabitants must impanel a special grand jury at least once every eighteen months (unless a special grand jury is then sitting); and the district court must also impanel a special grand jury when the Attorney General, Deputy Attorney General, or a designated Assistant Attorney General certifies in writing to the chief judge of the district that in his/her judgment, a special grand jury is necessary ''because of criminal activity in the district.'' (*See* 28 C.F.R. § 0.59

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under which the Assistant Attorney General in charge of the Criminal Division is designated to make certifications under 18 U.S.C. § 3331.)

9-11.311 Request for Certification

U.S. Attorneys who want certification made to cause the impaneling of special grand juries should direct their requests for certification to the Chief of the Organized Crime and Racketeering Section of the Criminal Division, explaining briefly the reasons for the request and the nature and scope of the criminal activities to be investigated.

9-11.312 Additional Special Grand Juries

District courts are authorized under 18 U.S.C. § 3332(b) to impanel additional special grand juries when the special grand juries already impaneled have more business than they can properly handle. When impaneling additional special grand juries, a court should make a finding as to the need; and a court should always make it clear that the special grand jury is being impaneled under 18 U.S.C. § 3331 (and is therefore not subject to the limitations of a regular grand jury). *See Wax v. Motley*, 510 F.2d 318 (2d Cir.1975).

9-11.320 Special Duties Imposed Upon Attorneys for the Government

The special grand jury has a duty under 18 U.S.C. § 3332(a) ''to inquire into offenses against the criminal laws of the United States alleged to have been committed within the district.'' Such alleged offenses may be brought to the jury's attention by the court or by any attorney appearing for the United States to present evidence to the jury. It is incumbent upon any such government attorney to whom it is reported that a federal offense was committed within the district, if the source of information so requests, to refer the information to the special grand jury, naming the source and apprising the jury of the attorney's action or recommendation regarding the information.

9-11.330 Reports of Special Grand Juries

At the conclusion of its service, a special grand jury is authorized under 18 U.S.C. § 3333, by a majority vote of its members, to submit to the district court, potentially for public release, a grand jury report, which must concern either: (1) noncriminal misconduct, malfeasance, or misfeasance in office involving organized crime activity by an appointed public officer or employee, as the basis for a recommendation for removal or disciplinary action; or (2) organized crime conditions in the district, without however being critical of any identified person. (''Public officer or employee'' is defined broadly in 18 U.S.C. § 3333(f) to include federal, state and local officials.)

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Upon receiving a report from a special grand jury, the district court must examine it, together with the minutes of the special grand jury, and accept it, for eventual filing as a public record, if the report is: (1) one of the two types authorized by 18 U.S.C. § 3333(a); (2) based upon facts discovered in the course of an authorized criminal investigation; (3) supported by a preponderance of the evidence; and (4) if each public officer or employee named in the report was afforded a reasonable opportunity to testify and present witnesses on his/her own behalf before the special grand jury, prior to its filing the report. (It would seem that 18 U.S.C. § 3333(a) necessitates a recording of the proceedings if a special grand jury may issue a grand jury report.)

The wording and the legislative history of 18 U.S.C. §§ 3332(a) and 3333(b)(1) indicate that a special grand jury should not investigate for the sole purpose of writing a report; the report must emanate from the criminal investigation. At bottom, then, a special grand jury functions essentially like a regular grand jury. It is only after the ''completion'' of the criminal investigation, when the time is near for discharging the jury, that a report may be submitted to the court under 18 U.S.C. § 3333(a). The grand jury will by that time have exhausted all investigative leads and have found all appropriate indictments.

The ''misconduct,'' ''malfeasance,'' or ''misfeasance'' that may be the subject of a report (provided it is related to organized criminal activity) must, to some degree, involve willful wrongdoing as distinguished from mere inaction or lack of diligence on the part of the public official. Nonfeasance in office, however, if it is of such serious dimensions as to be equitable with misconduct, may be a basis for a special grand jury report. *See* S.Rep. No. 617, 91st Cong., 1st Sess. (1969); 1970 U.S.Code Cong. & Ad.News 4007.

Reports involving public officials must connect ''misconduct,'' ''malfeasance,'' or ''misfeasance'' with ''organized criminal activity.'' ''Organized criminal activity'' should be interpreted as being much broader than ''organized crime;'' it includes ''any criminal activity collectively undertaken.'' This statement is based upon the legislative history of 18 U.S.C. § 3503(a), not of 18 U.S.C. § 3333, but both sections were part of the Organized Crime Control Act of 1970, making it logical to construe the term the same way for both sections. *See* 116 Cong.Rec. 35293 (October 7, 1970).

Before the district court may enter as a public record a special grand jury report concerning appointed public officers or employees, a complex procedure must be followed as set down in 18 U.S.C. § 3333(c).

If a court decides that a report submitted to it by a special grand jury regarding a public officer or employee does not comply with the law, the court may seal the report and keep it secret or, for remedial purposes,

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order the same grand jury to take additional testimony. For purposes of taking additional testimony, a special grand jury may be extended to serve for longer than thirty-six months (but this is the only exception to the thirty-six months limitation .

If the district court feels that the filing of a special grand jury report as public record would prejudice the fair consideration of a pending criminal matter, the court is authorized under 18 U.S.C. § 3333(d) to keep the report sealed during the pendency of that matter. Sealed for such a reason, the report would not be subject to subpoena.

When appropriate, U.S. Attorneys will deliver copies of grand jury reports, together with the appendices, to the governmental bodies having jurisdiction to discipline the appointed officers and employees whose involvement in ''organized criminal activity'' is the subject of the report. *See* 18 U.S.C. § 3333(c)(3). (The prospect of such disciplinary action does not prevent the officer's or employee's being compelled to testify under a grant of immunity; *see In re Reno*, 331 F.Supp. 507 (E.D. Mich.1971)).

9-11.331 Consultation With the Criminal Division About Reports

If a special grand jury will be considering the issuance of a report at the culmination of its service, U.S. Attorneys are requested to notify the Chief of the Organized Crime and Racketeering Section promptly of the fact and explain why an indictment cannot be found to obviate the issuance of a grand jury report. It should also be explained how the facts developed during a criminal investigation support one of the authorized types of reports. Before any draft report is furnished to the grand jury, it must be submitted to the Chief of the Organized Crime and Racketeering Section for approval.

It is not clear what remedy the government would have if a court was wrong in sealing a special grand jury report and refusing to make it public. The Chief of the Organized Crime and Racketeering Section should be notified promptly if a court finally determines for any reason that a grand jury report is deficient or not properly to be released, so that consideration may be given to the possibility of taking the matter to the court of appeals.

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§25 CASE - MOTIONS

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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	No. LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL, Defendants.	)	

BRIEF IN SUPPORT OF MOTION TO DISMISS

MAY IT PLEASE THE COURT,

SUMMARY OF ARGUMENT AS TO PART I OF MOTION

Defendant, Jim Guy Tucker, moves to dismiss this indictment for lack of jurisdiction, and for violations of his rights under the Grand Jury and due processes of Amendment V to the Constitution of the United States, and under Rule 6, FRCrP.

We acknowledge that the language of the order which defines the jurisdiction of Mr. Starr as Independent Counsel contains the words "James McDougal's" on a parity with the names of the President and his First Lady. It will be argued that the Special Division of the District of Columbia Court of Appeals, the administrative body which the Act (28 USC §591, et seq.) authorizes to appoint independent counsel and define his jurisdiction, has designated that James McDougal a "certain covered person" under the Statute, 28 USC §591(a), and that the order cannot be questioned. We submit to the contrary: that the Special Division and the Attorney General have no power to make a non-person into a "certain covered

person" because the statute that creates the entire process does not allow its application beyond "certain covered persons".

The statute was passed to provide for the investigation and prosecution of high officials of the Executive Branch. Morrison v. Olson, 487 US 654, 659 (1988). McDougal is not such a high official. If McDougal acts in a manner which is not in concert with any actions of the President, then Independent Counsel should be found to have no jurisdiction.

Independent Counsel should not, by his ability to persuade a Grand Jury to return an indictment, be accorded powers which he simply does not have - whether or not the Special Division has said that he has those powers. His powers come from the statute, and this statute does not provide any powers to independent counsel to handle criminal cases which are not related to an investigation or prosecution of a statutory "certain covered person", which, in this case, can mean only the President.

This case involves an Independent Counsel appointed, lawfully, to look into the relationship between the President (a "certain covered person"), two financial institutions and the Whitewater Developement Co. This is as far as the Act can carry. This indictment is beyond the borders of that inquiry.

SUMMARY OF ARGUMENT AS TO PART II OF THE MOTION

Our second claim for dismissal arises from the fact that

it has been adjudicated by another Judge of this Court that Independent Counsel went before the same Grand Jury that returned this indictment on another matter which became indictment number LR-CR-95-117 - U.S. v. Tucker, Marks, and Haley. That first indictment was returned June 7, 1995, and this indictment was returned August 17, 1995. If Independent Counsel had no jurisdictional right to be before that Grand Jury on the matter of the first indictment, then an unauthorized person, and his deputies, and his witnesses, have spent months before the Grand Jury attacking Tucker, as to matters not involved in this indictment, but nevertheless defamatory of Tucker. We submit the first indictment as our proof that these appearances were prejudicial - because they caused an indictment. The subject matter which was unlawfully before the Grand Jury is reflected in the first indictment. Many witnesses, including [redacted] were called before that Grand Jury.

This is a plain violation of Rule 6(d), FRCrP, and operated to deprive Tucker of his right to a fair presentment under the grand jury clause of Amendment V, as well as under the due process clause of that Amendment.

For these reasons, we submit that this indictment should be dismissed.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I.

THE "INDEPENDENT COUNSEL" ACT DOES NOT PROVIDE THE SPECIAL DIVISION WITH UNLIMITED AUTHORITY.

The Special Division, an administrative body consisting

of judges, has the duty of selecting Independent Counsel on petition of the Attorney General, and of setting forth the "scope of prosecutorial jurisdiction". (28 USC, §593(b)(2)(3)). It has no powers other than those granted to it by the Act.

In this case, the jurisdictional statement, quoted in our motion, says:

> "Whether any individuals or entities have committed a violation of any federal criminal law...relating in any way to James B. McDougal's, President...Clinton's or Mrs....Clinton's relationship with Madison Guaranty..., Whitewater Development Corp., or Capital Management Services, Inc."

This grant of jurisdiction exceeds the authority of the Special Division.

The Special Division has only the authority to grant jurisdiction which is given to it by both the Act and the application of the Attorney General.

The Act begins with the words "Preliminary investigation with regard to <u>certain covered persons</u>". 28 USC, §591(a). (emphasis supplied).

The entire authority of the Attorney General and of the Special Division is derived from the Act, which, after providing for preliminary investigation in §591(a) has a section "b" which says "<u>Persons to whom subsection (a) applies</u>". 28 USC §591(b).

That subsection (b) has as item 1 "The president and vice-president". Neither is involved in this case.

The purpose of the Act is to provide an independent counsel to prosecute people in the Executive Department who, by their position, would have an apparent conflict of interest with the Attorney General.

The Act mentions other people of a high executive level at the executive office of the President, it covers cabinet members, assistant attorneys general, the Director of CIA and his deputy, the Commissioner of Internal Revenue and the chairman and treasurer of the National Campaign Committee for the President. All of these officials are within the definition of "certain covered persons".

The Act also provides for the circumstance in which the attorney general decides not to make an investigation because of a personal conflict of interest. (28 USC, §591(c)). This case involves no recusal of the Attorney General.

In this case, the Independent Counsel announced, with the return of this indictment, that the President of the United States was not involved. (See Press Release, Ex. "2" to Motion). The affidavit of Tucker, attached to the motion, establishes that neither Tucker, nor either of the other two defendants, has even been or is a member of the Executive Branch of the United States government. No defendant is a "certain covered person".

It is therefore plain that neither the Attorney General nor the Special Division can make James McDougal into a "certain covered person" as defined in Section 591(b). Mr.

McDougal is simply not eligible to be included within the definition of "certain covered persons" found in Section 591(b) of the statute. His status cannot be changed from ordinary to extraordinary simply by a signature.

The purpose of this statute was made plain in the only Supreme Court case on this subject, Morrison v. Olson, 487 U.S. 654 (1988). In upholding the statute, in a limited way, the Morrison court described the statute in these words at page 659:

> "(The Act) allows for the appointment of an "independent counsel" to investigate and, if appropriate, prosecute certain high ranking government officials for violations of federal criminal laws."

The Morrison court made it plain that it did not "think that Congress may give the Division unlimited discretion to determine the independent counsel's jurisdiction." (p. 679).

The Court also noted that "...the Special Division has no authority to take any action or undertake any duties that are not authorized by the Act." (p,. 682).

The Act is narrowly construed, because, as the Supreme Court stated in Morrison (682):

> "...it is the duty of federal courts to construe a statute in order to save it from constitutional infirmities...and to that end we think a narrow construction is appropriate here."

The Act was held constitutional in Morrison, but only with a narrow construction that confined it precisely to its terms.

The Act, in §591(b), answers the question "who may be

the subject of the actions of independent counsel. The persons to whom independent counsel may pay his attentions are those listed in Section 591(b). Neither McDougal, nor Tucker, nor Ms. McDougal are among that class of persons subject to the Act.

It could be argued that non-persons may be indicted if they act in concert with a "certain covered person". But, there must be a concerted action, and no such action is alleged here. Upon filing this indictment Independent Counsel issued a press release which stated that the "certain covered person" he was appointed to investigate was not involved. (Ex."2").

In In re Olson, 818 F.2d 34 (Spec. Div. 1987) Olson, a high official and a statutory "certain covered person" had some connection to lesser officials, Schmults and Dinkins. The Court commented, at page 48, that:

> "...the independent counsel has continuing jurisdiction to investigate the actions of Schmults and Dinkins only insofar as they were part of a concert of action with Olson, in violation of federal criminal law."

Independent counsel may not indict purported criminal conduct simply because he chances across some person he would like to indict while acting as the Independent Counsel. U.S. v. Tucker, et al., Eastern Dist. of Arkansas, 9/5/95 (Opinion attached to motion). There must be some connection between the acts alleged in the indictment and a "certain covered person". There must be some concert of action between the

defendant and the "certain covered person". Olson, supra, 818 F.2d at 48.

Here, Independent Counsel announced with the filing of this indictment that there is no connection between this case and Mr. Clinton. (Ex. "2") No other "certain covered person" is or ever has been mentioned in the Whitewater publicity.

Whatever Whitewater may be, there is no allegation in the indictment that this case is part of "Whitewater", and it appears affirmatively that it is not. The Whitewater prosecutor is not a general agent of the Attorney General for the purpose of the enforcement of all the criminal laws. His authority is restricted and narrow, and there must be some demonstrable relationship between this indictment and Whitewater for this action of Independent Counsel to be within his jurisdiction. There is no demonstrable relationship, and our motion should be granted. See, U.S. v. Secord, 725 F.Supp. 563, 567 (DDC 1989) (defines the required demonstrable relationship between a wrongful act and the jurisdiction of an independent counsel).

II.

JURISDICTION MAY BE PROPERLY DECIDED BY THIS COURT AT THIS TIME.

Independent Counsel will contend that this Court has no authority to make the jurisdictional decision as to the jurisdiction of this Court. The jurisdiction depends on the status of Mr. McDougal as a "certain covered person".

This exact point was raised in U.S. v. Tucker, cited above, and was rejected by the Court.

This argument was correctly rejected; the Court before whom a case is to be tried has the right and power to decide whether or not a person before the Court is such a person as is described in the statute.

The Supreme Court so held in Gutierrez v. Lamagno, 515 US ___, 132 L.Ed.2d 375 (1995).

In Gutierrez there was an automobile accident in Columbia in which a DEA employee injured certain Columbian citizens. The injured Columbians brought suit in the United States. The United States Attorney, under the Federal Tort Claim Act, certified that the government employee was acting within the scope of his employment at the time of the accident. This had the effect of terminating the case, because the Federal Tort Claim Act does not waive sovereign immunity as to accidents which occur overseas.

Gutierrez contested the certification, because Lamagno, the agent was out for the evening with a lady when the accident occurred. Gutierrez argued that the determination as to scope of employment was "groundless and untrustworthy". 132 L.Ed.2d at 383.

The trial court held that the certification was unreviewable, substituted the United States for Lamagno and dismissed the case on the ground of sovereign immunity.

The Supreme Court saw the question as who decides on

which side of the line the case falls: the local U.S. Attorney, unreviewably or, when that official's decision is contested, the Court.

The Supreme Court held that the court must decide the question, declining to find that Congress intended the federal court to be "a rubber stamp" (p. 387, note 6). The court had the jurisdiction to decide the statutory status of the litigant before it.

The Eighth Circuit Court of Appeals held the same way in U. S. v. Juvenile Male, 923 F.2d 614 (8th Cir. 1991). In that case the Attorney General certified a juvenile for prosecution as an adult on the basis that he had committed "a crime of violence". The Attorney General argued that his decision on the "crime of violence" question was conclusive and that his decision could not be questioned in court. The Eighth Circuit held to the contrary, although it did hold that the juvenile involved had committed a "crime of violence".

In this case, the question is whether or not James McDougal is a "certain covered person". A reading of Section 591(b) of the Act, defining "person" shows that he is not. Judge Woods, in U.S. v. Tucker, supra, the Supreme Court in Gutierrez, and the Eighth Circuit in Juvenile Male all hold that the question of an individual's status before the law is not to be decided ex parte by the Attorney General, and is to be decided by the court before whom the case comes.

In this case, at this time, this Court must decide whether not Mr. McDougal is a "certain covered person" even though he is mentioned in the order of the Special Division. The fact itself, that he is not a "certain covered person", could not be questioned. He simply is not.

The indictment should be dismissed for want of jurisdiction.

IN SUPPORT OF PART TWO OF THE MOTION TO DISMISS

I.

RULE 6(e) FORBIDS PERSONS WITH NO AUTHORITY FROM THE PRESENCE OF THE GRAND JURY.

Rule 6(d) of the Federal Rules of Criminal Procedure answers the question "Who may be present" before the grand jury; the Rule says:

> "d. Who May Be Present. Attorneys for the government, the witness under examination, interpreters when needed and, for the purpose of taking the evidence, a stenographer...may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting."

In this case, it has been adjudicated, by the decision in U.S. v. Tucker, LR-CR-95-117, decided September 5, 1995, that Mr. Starr and his deputies had no authority whatever to be in the grand jury or to present that case. They were acting outside their jurisdiction, which means, in substance, that they had no authority whatever to be in the Grand Jury room presenting evidence.

What the grand jury heard in that prior case is set forth in the prior indictment (Ex. 3). The prior indictment

details a series of transactions and an allegedly fraudulent bankruptcy in Texas, and charges that those transactions amounted to criminal acts. We know, therefore, that the Independent Counsel deputies who appeared before the grand jury presented evidence and made the contention that Tucker was a criminal. We also know that twelve grand jurors accepted those contentions and voted to indict.

And, Independent Counsel was beyond his jurisdiction when he sent his deputies into that Grand Jury.

And then, as we know from the present indictment, Independent Counsel persuaded the same grand jury to return an indictment against Tucker, which, while unrelated to the matters stated in the first indictment, involves allegations of illegal transactions with Capital Management Services, and other alleged crimes of a financial nature.

The prejudice to Tucker is plain. The grand jury that should have considered his case fairly had to consider it after months of derogatory hearings on an unrelated subject, all relating to and directed at Tucker.

This is unfair, and it is not the purpose of guaranteeing the right to presentment by a grand jury to limit that right to an unfair grand jury. See Amendment V, Grand Jury Clause. It amounts to the use of an authorized special prosecutor, and therefore violates due process of law. East v. Scott, 55 F.3d 996 (1995).

Unauthorized persons in the grand jury, whether to the

prejudice of the target or not, resulted in the dismissal of indictments on a per se basis for a long time. See, Latham v. United States, 226 Fed. 420, 424 (5th Cir. 1915); U.S. v. Braniff Airways, Inc., 428 F.Supp. 579, 589 (WD Tex. 1977) and U.S. v.. Lill, 511 F.Supp. 50 (SD WVa. 1980).

In 1988, the Supreme Court changed the law, to say that there must be a showing of prejudice before a Rule 6(d) violation would invalidate a conviction after trial. Bank of Nova Scotia v. U.S., 487 US 250 (1988). But, the concurring Justices noted that the application of the harmless error standard, following the case of U.S. v. Mechanik, 475 US 66 (1986) would lead to reversal

> "...if it is established that the violation substantially influenced the grand jury's decision to indict, or if there is "grave doubt" that the decision to indict was free from the substantial influence of such violations."

It is necessary only to conclude that the violation "may have had substantial influence on the outcome of the proceeding.". Bank of Nova Scotia v. U.S., supra, 487 US at 256. And, Nova Scotia, if reversed, would have required a re-trial of a long case that had been tried once. We are not in that situation.

We contend that there is surely "grave doubt" that a grand jury could hear evidence on the complex case revealed in the first indictment and then bring to the task of considering the charges in the second indictment a clear and unbiased mind so as to accord Tucker a fair presentment and

due process of law.

Even under the "harmless error" type of analysis, this unauthorized presence in the grand jury is wrong and needful of inquiry. See, U.S. v. Busch, 795 F.Supp. 866 (ND Ill. 1992).

Grand jury abuse does occur, and it has occurred in this circuit. Brown v. U.S., 245 F.2d 549 (8th Cir. 1957).

Brown followed U.S. v. Icardi, 140 F.Supp. 383 (DC DC 1956) in holding that an untrue statement before a grand jury in the presence of what amounted to an unauthorized prosecutor could not be prosecuted as perjury. The conviction was reversed because anything done in a grand jury beyond the authority of the prosecutor is nullified.

We contend that prejudice is obvious from the face of the record; the first indictment reveals what the grand jury heard. The grand jury was persuaded by the prosecutor, acting beyond his jurisdiction, to indict as to those allegations. The same grand jury brought this indictment.

Should it be argued, and should the Court be convinced, that grave doubt as to prejudice is not obvious from the record, then the way could be pointed by U.S. Busch, supra, 795 F.Supp. 866, which faced a minor breach of Rule 6(d), and handled the matter by making an inquiry of the grand jury foreperson and the sworn alternate juror who had not been impaneled but who had been in the grand jury room.

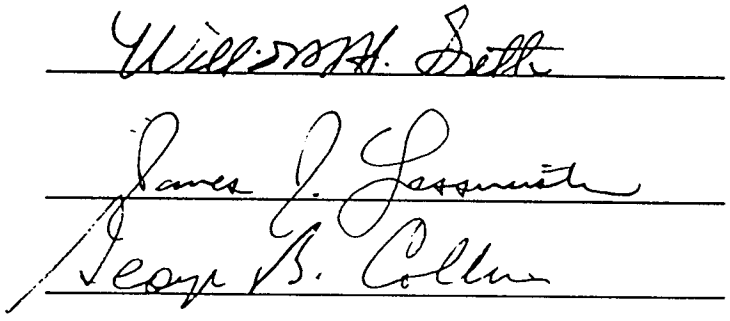
We recognize that the decision of Judge Woods of

September 5th, holding that the prosecutor acted beyond his jurisdiction, has been appealed by Independent Counsel to the Court of Appeals for the Eighth Circuit. We cannot, of course, represent that it will be affirmed, but neither can Independent Counsel represent that it will be reversed. As it stands today, that opinion is precedent and is an adjudication and it does establish that the Whitewater prosecutor was wrongly in the presence of the grand jury on the subject of Tucker for months before this indictment was returned.

This contention is made as Part II because we contend, in Part I, that this indictment, too, was an unlawful exercise of the jurisdiction of Independent Counsel, beyond the authority of the statute.

We pray, for the reasons set forth above and in our motion, that the indictment be dismissed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

Mr. Kenneth W. Starr
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Attorney for James McDougal

James J. Lessmeister

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

AFFIDAVIT OF JIM GUY TUCKER

Jim Guy Tucker, on oath, states as follows:

1. I am one of the defendants in U.S. vs. McDougal, et al, LR-CR-95-173.

2. I am not, and have never been, an officer or member of the Executive Department of the United States Government.

3. I know the co-defendants in this case. To my certain knowledge, neither is or has ever been an officer or member of the Executive Department of the United States Government.

Further affiant sayeth not

Jim G. Tucker

Subscribed and sworn to
before me this 25th day
of September, 1995.

Paulette B Craig

EXHIBIT

1

Office of the Independent Counsel

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August 17, 1995

FOR IMMEDIATE RELEASE

The following statement was issued by Independent Counsel Kenneth W. Starr from his office in Little Rock, Arkansas:

James B. McDougal, Jim Guy Tucker, and Susan H. McDougal were charged today by a federal grand jury in Little Rock, Arkansas in a 21-count indictment. The Indictment charges the defendants with respect to transactions involving Madison Guaranty Savings and Loan Association ("MGSL") and Capital Management Services, Inc. ("CMS"), a small business investment company licensed by the Small Business Administration and owned by David L. Hale.

At the time material to the charges in the Indictment, James B. McDougal was an owner of MGSL and president and chairman of the board of directors of Madison Financial Corporation, a wholly-owned subsidiary of MGSL. Jim Guy Tucker was an attorney in Little Rock who represented MGSL and CMS. Susan H. McDougal was the wife of James B. McDougal and an owner of MGSL.

Mr. McDougal was indicted on 19 felony counts: Conspiracy in violation of 18 U.S.C. § 371 (Count One); Wire Fraud in violation of 18 U.S.C. § 1343 (Counts Two and Three); Bank Fraud in violation of 18 U.S.C. § 1344 (Count Four); Mail Fraud in

EXHIBIT

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violation of 18 U.S.C. § 1341 (Counts Five, Eight, Twelve and Thirteen); Fraudulent Participation in violation of 18 U.S.C. § 1006 (Count Six); Making or Causing the Making of a False Statement to a Financial Institution in violation of 18 U.S.C. § 1014 and § 2 (Counts Seven, Eleven and Sixteen); Misapplying Financial Institution Funds in violation of 18 U.S.C. § 657 and § 2 (Counts Nine, Fourteen, Seventeen and Eighteen); Making or Causing the Making of a False Entry in the Reports and Statements of a Small Business Investment Company in violation of 18 U.S.C. § 1006 and § 2 (Counts Ten, Fifteen, and Nineteen).

Mr. Tucker was indicted on 11 felony counts: Counts One through Four, and Counts Eight through Twelve, described above, as well as Misapplying Financial Institution Funds in violation of 18 U.S.C. § 657 and § 2 (Count Twenty); and Making or Causing the Making of a False Entry in the Reports and Statements of a Small Business Investment Company in violation of 18 U.S.C. § 1006 and § 2 (Count Twenty-One).

Ms. McDougal was indicted on 8 felony counts: Counts One through Three, and Counts Twelve through Sixteen, described above.

Conviction on each count of the Indictment is punishable by imprisonment of up to five years, a fine of up to $250,000, and a special assessment of $50, excepting conviction for Making or Causing the Making of a False Statement to a Financial Institution (18 U.S.C. § 1014), which is punishable by imprisonment of up to two years, a fine of up to $250,000, and a

special assessment of $50.

An indictment is merely an accusation and a defendant is presumed innocent unless and until proven guilty.

The Indictment does not charge criminal wrongdoing by President William Jefferson Clinton or First Lady Hillary Rodham Clinton.

The Independent Counsel's investigation is continuing.

NOTE: Copies of the Indictment are available in the Independent Counsel's offices in Little Rock, Arkansas and Washington, D.C.

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FILED
JUN 7
CLERK
By: R Carpenter
DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	No. LR-CR-95-117
	)	
v.	)	
	)	18 U.S.C. § 371
JIM GUY TUCKER,	)	18 U.S.C. § 1014
WILLIAM J. MARKS, SR.,	)	18 U.S.C. § 2
and JOHN H. HALEY	)	

INDICTMENT

The Grand Jury charges:

COUNT ONE

Introduction

At various times material to this Indictment:

1. In 1987, Defendant JIM GUY TUCKER was a practicing attorney in Little Rock, Arkansas. During 1987, Defendant JIM GUY TUCKER represented Capital Management Services, Inc. He was also involved in the cable television business.

2. In 1987, Defendant WILLIAM J. MARKS, SR. was a businessman involved in the cable television industry.

EXHIBIT

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3. Betty Tucker was the wife of Defendant JIM GUY TUCKER.

4. The Small Business Administration ("SBA") was an agency of the United States Government with responsibility for licensing and providing capital to small business investment companies ("SBICs") in order to aid SBICs in lending money to small business concerns.

5. Capital Management Services, Inc. ("CMS"), was a privately-owned SBIC, licensed by the SBA under the Small Business Investment Act of 1958, and located in Little Rock, Arkansas. CMS specialized in making loans to socially or economically disadvantaged small business concerns.

6. D&L Telecommunications, Inc., ("D&L") was a Florida corporation in which Defendant WILLIAM J. MARKS, SR. was a 50 percent shareholder. Defendant WILLIAM J. MARKS, SR. had less than 50 percent voting rights, and he was not an officer or director of D&L.

7. Fleet National Bank ("Fleet") was a commercial bank headquartered in Providence, Rhode Island.

8. State Street Bank and Trust Company was a commercial bank headquartered in Boston, Massachusetts.

9. In June 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. arranged to borrow personally $8.5 million from Fleet and State Street (collectively "Fleet") for use in a joint cable television venture.

10. Fleet required that Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. pledge $500,000 cash as part of the collateral for the loan. Fleet required that the cash be placed into an escrow account at Fleet.

The Conspiracy

11. From on or about June 5, 1987, continuing through about September 1988, in the Eastern District of Arkansas and elsewhere, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., did unlawfully, willfully, and knowingly combine, conspire, confederate and agree with each other and with others known and unknown to the Grand Jury to commit an offense against the United States, namely, to knowingly make false material statements for the purpose of influencing the actions of Capital Management Services, Inc. ("CMS"), a federally licensed small business investment company, in connection with a $300,000 loan from CMS, in violation of Title 18, United States Code, Section 1014.

The Purpose of the Conspiracy

12. The purpose of the conspiracy was to make false statements and submit fraudulent documents to CMS for the purpose of influencing CMS to lend $300,000 for the personal use of the Defendants in connection with a joint cable television venture.

Manner and Means of the Conspiracy

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

13. It was a part of this conspiracy that the Defendants would and did apply to CMS for a loan of $300,000.

14. It was a further part of this conspiracy that the Defendants would and did represent to CMS that the borrower and beneficiary of the $300,000 loan would be D&L Telecommunications, Inc.

15. It was a further part of this conspiracy that Defendant JIM GUY TUCKER would and did represent to CMS that D&L was beginning business in Arkansas, when in fact D&L never did business, intended to do business, or applied to do business in Arkansas.

16. It was a further part of this conspiracy that Defendant WILLIAM J. MARKS, SR. would and did sign CMS loan documents as president of D&L, when in fact he was neither an officer of D&L nor authorized to act as an officer of D&L.

17. It was a further part of this conspiracy that the Defendants would and did arrange for Betty Tucker to sign a promissory note to CMS as secretary of D&L, when in fact she was neither an officer of D&L nor authorized to act as an officer of D&L.

18. It was a further part of this conspiracy that, instead of using the proceeds of the CMS loan to benefit D&L, the Defendants would and did arrange for the proceeds of the CMS loan to be placed into an escrow account at Fleet as collateral for the Fleet personal loan to the Defendants.

19. It was a further part of this conspiracy that the Defendants later would and did create false documentation to make it appear that D&L had ratified retroactively the actions of Defendant WILLIAM J. MARKS, SR. and Betty Tucker.

20. It was further part of this conspiracy that the Defendants would and did repay the CMS loan with proceeds of the sale of cable television systems acquired with the proceeds of the Fleet loan.

21. It was a further part of this conspiracy that the Defendants would and did cause CMS to submit a document to the SBA representing falsely that the $300,000 lent by CMS was for working capital of D&L Telecommunications, Inc.

22. It was a further part of this conspiracy that the Defendants would and did cause CMS to represent falsely to the SBA that the stock of D&L was owned 50 percent by Defendant WILLIAM J. MARKS, SR. and 50 percent by Betty Tucker, that Defendant WILLIAM J. MARKS, SR. was president of D&L, and that Betty Tucker was secretary of D&L.

Overt Acts

In furtherance of the conspiracy, and to effect the objects and purposes of the conspiracy, the following overt acts were committed in the Eastern District of Arkansas, and elsewhere:

23. In or about early June 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER asked the president of CMS for a loan of $300,000 to D&L.

24. On or about June 5, 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER caused the president of CMS to transfer proceeds of the CMS loan to an escrow account at Fleet.

25. In or about June 1987, the exact date unknown, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER caused to be sent to the president of CMS a promissory note for $300,000, which promissory note was signed by Defendant WILLIAM J. MARKS, SR. as president of D&L, by Betty Tucker as secretary of D&L, and by Defendant JIM GUY TUCKER, Defendant WILLIAM J. MARKS, SR., and Betty Tucker as individual guarantors.

26. In or about June 1987, the exact date unknown, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER caused to be sent to the president of CMS a letter dated June 4, 1987, stating that "D&L is beginning business in Arkansas" and that D&L would be doing extensive work in underground cable construction in West Pulaski County.

27. On or about August 5, 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER caused to be sent to CMS a loan document labeled "Size Status Declaration," which was signed by Defendant WILLIAM J. MARKS, SR., and a loan document labeled "Assurance of Compliance," which was signed by Defendant WILLIAM J. MARKS, SR. and attested by Defendant JIM GUY TUCKER, both of which identified D&L as the borrower of the $300,000 loan.

28. On or about August 7, 1987, in the Eastern District of Arkansas, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. caused to be created a letter to the actual president of D&L

purporting to confirm an agreement that Defendant WILLIAM J. MARKS, SR. and Betty Tucker were authorized to have acted as officers of the corporation to secure the loan from CMS, and that D&L would apply for authority to do business in Arkansas.

29. On or about January 5, 1988, Defendant JIM GUY TUCKER caused to be sent to CMS a check for $300,000, signed by Defendant JIM GUY TUCKER and Betty Tucker, to repay the loan to D&L.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

1. Paragraphs 1 through 10 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about June 5, 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., aided and abetted by each other, knowingly made a false material statement and caused the making of a false material statement for the purpose of influencing the actions of Capital Management Services, Inc. ("CMS"), a federally licensed small business investment company, in connection with a $300,000 loan from CMS, in that the Defendants represented to CMS that the borrower and beneficiary of the $300,000 loan was a company called D&L Telecommunications, Inc., when in truth and in fact, as the Defendants well knew, the proceeds of the loan would not be used for D&L Telecommunications, Inc., but rather as collateral for a personal loan from Fleet National Bank to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

All in violation of Title 18, United States Code, Section 1014, and Title 18, United States Code, Section 2.

COUNT THREE

Introduction

At various times material to this indictment:

1. Defendant JIM GUY TUCKER was a practicing attorney in Little Rock, Arkansas. He was also a businessman involved in the cable television industry. In early 1987, he owned 100 percent of the stock of an Arkansas corporation called Cablevision Management, Inc., and was the individual general partner of County Cable Limited Partnership.

2. Defendant WILLIAM J. MARKS, SR. was a businessman involved in the cable television industry. In early 1987, he owned 18 percent of the stock of Planned Cable Systems Corporation, and he was president of that corporation.

3. Defendant JOHN H. HALEY was a practicing attorney in Little Rock, Arkansas.

4. Donna Marks was the wife of Defendant WILLIAM J. MARKS, SR.

5. The Internal Revenue Code is legislation passed by Congress that governs the ascertainment, computation, assessment

and collection of revenue, including income taxes, by the United States Government, and the Internal Revenue Service is the agency of the United States Government that administers the Internal Revenue Code.

6. The "basis" of an asset for income tax purposes generally is the amount that the owner paid for the asset. Basis may be adjusted upward to reflect subsequent capital expenditures on the asset, or downward to reflect deductions for depreciation of the asset.

7. The "gain" on the sale of an asset is the sale price paid for the asset reduced by the adjusted basis. Generally, the seller of an asset must pay tax on the gain.

8. Subchapter C of the Internal Revenue Code treats corporations as independent tax-paying entities. A corporation operating under subchapter C rules is referred to as a "C corporation." Income earned by a C corporation is taxed to the corporation. If the income is distributed later to shareholders of the corporation, the same income generally is subject to taxation again as income to the shareholder.

9. Subchapter S of the Internal Revenue Code applies to "small business corporations," which are defined as certain domestic corporations with no more than 35 shareholders or more

than one class of stock. An eligible corporation may elect to be treated as an "S corporation" under the Internal Revenue Code. If such an election is made, the corporation generally is not subject to the corporate income tax. Corporate income, whether or not distributed to the shareholders, is taxed only once as income to the shareholders.

10. At the beginning of 1987, Cablevision Management, Inc., ("CMI"), was an Arkansas S corporation owned 100 percent by Defendant JIM GUY TUCKER. CMI managed cable television systems in Arkansas owned by County Cable Limited Partnership.

11. At the beginning of 1987, Planned Cable Systems Corporation ("PCS") was an Iowa C corporation owned 82 percent by Meredith Corporation and 18 percent by Defendant WILLIAM J. MARKS, SR.

12. In 1987, Meredith Corporation ("Meredith") was an Iowa corporation. In addition to owning 82 percent of the stock of PCS, Meredith held an income note ("the Income Note") that obligated PCS to pay Meredith $7.9 million, plus interest, for money lent by Meredith to PCS. In early 1987, Meredith wanted to sell its 82 percent of PCS stock and the Income Note for approximately $6 million.

13. Fleet National Bank ("Fleet") was a commercial bank

headquartered in Providence, Rhode Island.

14. State Street Bank & Trust Company was a commercial bank headquartered in Boston, Massachusetts.

15. Landowners Management Systems, Inc., ("LMS") was a Texas C corporation. Prior to November 1987, LMS had issued no shares, had done no business, and had owned no tangible assets.

16. Mikado Leasing Company ("Mikado") was an Arkansas corporation incorporated in 1971. Defendant JOHN H. HALEY was president of the company from 1972 to 1987. Mikado's primary business was leasing automobiles.

17. American Cablesystems of Florida ("ACF") was a cable television company with headquarters in Massachusetts.

18. The Plantation cable system was a cable television system located in Plantation, Florida. At the beginning of 1987, it was owned by PCS.

19. The Trophy Club, Roanoke, Las Brisas, and Carrollton cable systems were located in Texas. At the beginning of 1987, these systems were owned by PCS.

20. In 1987, Sattech, Inc. was an Ohio corporation owned 50

percent by Defendant WILLIAM J. MARKS, SR.

21. In early 1987, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR. met and agreed to undertake a joint venture in the cable television business in which they would divide equally their profits.

22. On or about March 1, 1987, Meredith and Defendant JIM GUY TUCKER signed a "Stock Purchase Agreement" in which Defendant JIM GUY TUCKER agreed to purchase from Meredith for $6 million its 82 percent of the stock in PCS and the Income Note.

23. On or about May 15, 1987, Defendant JIM GUY TUCKER caused to be sent to Fleet a Debt Placement Memorandum stating that the Plantation cable system had a value of over $10 million, and that the market value of that system could be increased to $12 million or more in the next year.

24. On or about June 10, 1987, Fleet and State Street (collectively "Fleet") lent to Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR. the sum of $8.5 million. Approximately $6 million of the proceeds of this loan were used to purchase Meredith's stock in PCS and the Income Note. As part of the collateral for the loan, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. pledged to Fleet all of the cable television assets of PCS and CMI. As additional collateral,

Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. pledged $500,000 cash (placed in an escrow account at Fleet), a portion of which was funded by a $300,000 loan purportedly made to D&L Telecommunications, Inc. by Capital Management Services, Inc. ("CMS").

25. On or about June 10, 1987, in accordance with the Stock Purchase Agreement of March 1, 1987, Meredith sold, assigned, and transferred to Defendant JIM GUY TUCKER its 82 percent of the stock of PCS.

26. On or about June 10, 1987, in accordance with the Stock Purchase Agreement of March 1, 1987, and an Assignment by Defendant JIM GUY TUCKER to Defendant WILLIAM J. MARKS, SR., of part of his rights under that Stock Purchase Agreement, Meredith endorsed the Income Note to Defendant JIM GUY TUCKER in the amount of about $3.3 million, and to Defendant WILLIAM J. MARKS, SR. in the amount of approximately $4.6 million.

27. On or about June 10, 1987, in accordance with the provisions of the loan agreement with Fleet, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. caused the merger of PCS into CMI. After the merger, Defendant WILLIAM J. MARKS, SR. was president of CMI, and Defendant JIM GUY TUCKER was secretary of CMI.

28. On or about June 10, 1987, in accordance with the provisions of the loan agreement with Fleet and as part of the merger of PCS into CMI, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. contributed to CMI all of the stock of PCS and the Income Note.

29. On or about June 10, 1987, after the merger of PCS into CMI, the surviving entity, CMI, was owned 50 percent by Defendant JIM GUY TUCKER and 50 percent by Defendant WILLIAM J. MARKS, SR. As a result of the merger, CMI owned the Plantation cable system in Florida and several systems in Texas.

30. On or about August 24, 1987, following discussions over several months, American Cablesystems of Florida wrote to Defendant WILLIAM J. MARKS, SR. and formally offered to buy the Plantation cable system from CMI for $15 million.

31. On or about August 31, 1987, Defendant JIM GUY TUCKER wrote to accountants in Dallas, Texas, saying "[w]e are contemplating a sale of the Plantation, Florida assets to occur on or about October 1, 1987. We urgently need a calculation of the tax consequences. The sale price will be $15 million."

32. On or about September 3, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. discussed a prospective sale of the Plantation cable system. They said that they would make a

profit of $13 million from the sale, and that they did not want to pay a tax of $4 million on the sale.

33. On or about September 25, 1987, ACF and Defendant WILLIAM J. MARKS, SR., on behalf of CMI, signed an "Agreement of Purchase and Sale of Assets" in which ACF agreed to purchase the Plantation cable system from CMI and Sattech, Inc., for a total of $14.75 million: $12.75 million, plus $1 million each in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

34. On or about October 9, 1987, accountants in Dallas, Texas, notified accountants in Little Rock, Arkansas, working with Defendant JIM GUY TUCKER that the tax basis of the Plantation cable system was approximately $1.75 million, and that the gain on a sale of the system for $15 million would be over $13 million.

35. On or about November 18, 1987, Defendant JIM GUY TUCKER received from accountants in Dallas, Texas, a facsimile reflecting that a corrected calculation showed a basis in the Plantation cable system of approximately $1.26 million, and gain on a sale of the system for $15 million of over $13 million.

The Conspiracy

36. Beginning no later than October 1987, the exact date being unknown to the Grand Jury, and continuing thereafter up to and including about October 1990, in the Eastern District of Arkansas and elsewhere, Defendants JIM GUY TUCKER, WILLIAM J. MARKS, SR., and JOHN H. HALEY, did unlawfully, willfully, and knowingly combine, conspire, confederate and agree with each other and with other individuals both known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing and defeating the lawful government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment and collection of the revenue: to wit, income taxes.

The Purpose of the Conspiracy

37. The purpose of the conspiracy was to transfer the Plantation cable system owned by PCS to Defendant JIM GUY TUCKER through a fraudulent bankruptcy proceeding in Texas that was designed to (1) increase the basis in the system, (2) avoid corporate tax on the sale of the system, and (3) impede the ability of the Internal Revenue Service to collect taxes that would be due on any subsequent sale of the system. It was a further purpose of this conspiracy to transfer to individuals or S corporations other cable systems owned by PCS as of June 1,

1987, in order to impede the ability of the Internal Revenue Service to collect taxes that would be due on any subsequent sales of those systems.

Manner and Means of the Conspiracy

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

38. It was a part of this conspiracy that the Defendants would and did engage in fraudulent and sham transactions, including a sham bankruptcy, for the purpose of wrongfully avoiding taxes on the sale of the Plantation cable system and other cable systems.

39. It was a further part of this conspiracy that Defendants JOHN H. HALEY and JIM GUY TUCKER would and did devise a "ten step chart" to demonstrate a "rescission" of the merger between PCS and CMI, a merger of PCS into another corporation, a bankruptcy of the merged entity, and the distribution of the cable television assets of PCS to Defendant JIM GUY TUCKER and CMI.

40. It was a further part of this conspiracy that in an agreement rescinding the merger of PCS and CMI, the Defendants would and did declare that the 82 percent of the stock of PCS

that was purchased from Meredith by Defendant JIM GUY TUCKER was transferred without consideration to, and thereafter owned by, Donna Marks.

41. It was a further part of this conspiracy that in the rescission of the merger between PCS and CMI, the Defendants would and did cause the Income Note to be recreated and assigned completely to Defendant JIM GUY TUCKER.

42. It was a further part of this conspiracy that as a result of the rescission of the merger between PCS and CMI, the Defendants would and did make it appear that Defendant JIM GUY TUCKER was only a creditor of PCS and not a shareholder of PCS.

43. It was a further part of this conspiracy that the Defendants would and did attempt to locate and acquire a "shelf corporation," namely, a corporation that has been incorporated but has no assets or operations.

44. It was a further part of this conspiracy that Defendant JOHN H. HALEY would and did acquire control of a "shelf corporation" in Texas called Landowners Management Systems, Inc. ("LMS").

45. It was a further part of this conspiracy that the Defendants would and did cause 82 percent of the stock of LMS to

be issued to Mikado Leasing Company, and 18 percent of the stock of LMS to be issued to Defendant WILLIAM J. MARKS, SR.

46. It was a further part of this conspiracy that the Defendants would and did designate Donna Marks as president of Mikado Leasing Company.

47. It was a further part of this conspiracy that the Defendants would and did cause the merger of PCS into LMS.

48. It was a further part of this conspiracy that the Defendants would and did cause LMS to file a fraudulent petition for bankruptcy in the United States Bankruptcy Court for the Northern District of Texas, Wichita Falls Division ("bankruptcy court").

49. It was a further part of this conspiracy that the Defendants would and did create a fraudulent "pre-packaged" Plan of Reorganization that was approved prior to filing of the petition in bankruptcy court by all purported creditors who were listed in the bankruptcy schedules.

50. It was a further part of this conspiracy that Defendant WILLIAM J. MARKS, SR. would and did sign bankruptcy pleadings as president of LMS, and testify in bankruptcy court as the president of LMS.

51. It was a further part of this conspiracy that the Defendants would and did cause Defendant JIM GUY TUCKER to appear in bankruptcy court as the only secured creditor of LMS with a claim of approximately $8.85 million based on the recreated Income Note.

52. It was a further part of this conspiracy that the Defendants would and did propose a Plan of Reorganization to the bankruptcy court that would transfer ownership of the Plantation cable system from LMS to Defendant JIM GUY TUCKER in exchange for cancellation of the Income Note.

53. It was a further part of this conspiracy that the Defendants would and did cause CMI to appear in bankruptcy court as an unsecured creditor of LMS with a claim of $1.15 million based in part on funds advanced pursuant to a Management Agreement dated "effective June 10, 1987," but which was created in November 1987.

54. It was a further part of this conspiracy that the Defendants would and did propose a Plan of Reorganization to the bankruptcy court that would transfer ownership of certain Texas cable systems from LMS to CMI in exchange for cancellation of the debt of $1.15 million purportedly owed by LMS to CMI.

55. It was a further part of this conspiracy that the

Defendants would and did represent falsely to the bankruptcy court that Meredith sold 82 percent of the stock of PCS to Mikado Leasing Company for $1, when the Defendants knew that Meredith sold 82 percent of the stock of PCS and the Income Note to Defendant JIM GUY TUCKER for $6 million.

56. It was a further part of this conspiracy that the Defendants would and did represent falsely to the bankruptcy court that the fair market value of the Plantation cable system was $8.85 million, when the Defendants knew that the fair market value was $14.75 million, because American Cablesystems of Florida had signed an agreement to purchase the Plantation cable system for $12.75 million, plus an additional $1 million each in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

57. It was a further part of this conspiracy that the Defendants would and did represent falsely to the bankruptcy court that there had been arms-length negotiations between Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. that led to the Plan of Reorganization proposed in the bankruptcy, when the Defendants knew that Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. were partners in the cable television business.

58. It was a further part of this conspiracy that the Defendants would represent falsely to the bankruptcy court that

Defendant JIM GUY TUCKER held the only security interest in the assets held by LMS, when the Defendants knew that Fleet National Bank had a first lien on all the assets held by LMS, that is, all those cable systems owned by PCS as of June 1987 that were later transferred to LMS in the merger of PCS into LMS.

59. It was a further part of this conspiracy that the Defendants would not and did not disclose to Fleet National Bank that the merger of PCS and CMI was rescinded, that PCS was merged into LMS, or that LMS filed for bankruptcy.

60. It was a further part of this conspiracy that the Defendants would not and did not disclose to the buyer of the Plantation cable system, American Cablesystems of Florida, that ownership of the system had been transferred in a bankruptcy.

61. It was a further part of this conspiracy that the Defendants would and did cause to be signed a new Agreement for the Purchase and Sale of the Plantation cable system in which Defendant JIM GUY TUCKER was named as one of the sellers of the Plantation cable system, and American Cablesystems of Florida agreed to pay $11.75 million to Defendant JIM GUY TUCKER and CMI, plus $3 million in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

62. It was a further part of this conspiracy that of the

$14.75 million paid by ACF for the Plantation cable system, Defendant JIM GUY TUCKER would and did receive $11.75 million, and Defendant WILLIAM J. MARKS, SR., would receive the $3 million in non-competition payments.

63. It was a further part of this conspiracy that Defendants JIM GUY TUCKER would and did pay Defendant JOHN H. HALEY at least $100,000.00 in legal fees.

64. It was a further part of this conspiracy that the Defendants would and did cause 1987 tax returns to be filed for PCS and LMS that would not report as income the gain from the sale or transfer of the Plantation cable system or any other cable system, and that no corporate tax would be paid on the sale or transfer of any of the cable systems owned in 1987 by PCS or LMS.

65. It was a further part of this conspiracy that Defendant JIM GUY TUCKER would and did report the sale or transfer of the Plantation cable system on his 1988 individual tax return.

66. It was a further part of this conspiracy that as a result of the distribution of the Plantation cable system to Defendant JIM GUY TUCKER in the bankruptcy, Defendant JIM GUY TUCKER would and did claim a basis in the Plantation system of approximately $7.28 million and a gain of approximately $4.47

million from the sale of the system to ACF, when Defendant JIM GUY TUCKER knew that the actual basis of the Plantation cable system computed for PCS prior to the bankruptcy was approximately $1.26 million and that the pre-bankruptcy basis would have resulted in substantially more taxable gain.

67. It was a further part of this conspiracy that Defendant WILLIAM J. MARKS, SR. would and did report on his individual tax return for 1988 the sale of the Carrollton cable system.

68. It was a further part of the conspiracy that Defendant WILLIAM J. MARKS, SR. would and did report on his individual tax returns for 1988 and 1989 non-competition payments made by ACF in connection with the purchase of the Plantation cable system.

69. It was a further part of this conspiracy that in 1990 Defendant JIM GUY TUCKER would and did cause to be represented to agents of the Internal Revenue Service examining the tax return of CMI for 1988 that there was no relationship between Defendant JIM GUY TUCKER and PCS, when Defendant JIM GUY TUCKER knew that he had owned 82 percent of the stock of PCS.

70. It was a further part of this conspiracy that in 1990 Defendant JIM GUY TUCKER would and did cause agents of the Internal Revenue Service examining the tax return of CMI for 1988 to be provided with documents from the LMS bankruptcy proceeding

to support entries on the CMI tax return.

71. It was a further part of the conspiracy that Defendant JIM GUY TUCKER would and did attempt to cause the destruction of documents referring to the tax computations on the sale of the Plantation cable system.

Overt Acts

In furtherance of the conspiracy, and to effect the objects and purposes of the conspiracy, the following overt acts were committed in the Eastern District of Arkansas, and elsewhere:

72. On or about October 12, 1987, in the Eastern District of Arkansas, Defendants JOHN H. HALEY and JIM GUY TUCKER devised a "ten step chart" to demonstrate the rescission of the merger between PCS and CMI, a merger of PCS into another corporation, a bankruptcy of the merged entity, and the distribution of the assets of PCS to Defendant JIM GUY TUCKER and CMI.

73. On or about October 12, 1987, in the Eastern District of Arkansas, Defendants JOHN H. HALEY and JIM GUY TUCKER presented the "ten step chart" to accountants in Little Rock, Arkansas.

74. On or about November 5, 1987, in the Eastern District

of Arkansas and elsewhere, Defendant JOHN H. HALEY conferred by telephone with a bankruptcy attorney in Texas, concerning a possible Chapter 11 bankruptcy filing in Texas.

75. On or about November 7, 1987, in the Eastern District of Arkansas, Defendant JOHN H. HALEY caused to be transmitted to the Texas bankruptcy attorney a draft "Rescission Agreement," which showed that 82 percent of the stock of PCS would be transferred to an entity called "PCS II."

76. On or about November 8, 1987, in the Eastern District of Arkansas, Defendants JIM GUY TUCKER and JOHN H. HALEY met with the Texas bankruptcy attorney and with two attorneys from Defendant JOHN H. HALEY's law firm concerning a Chapter 11 bankruptcy proceeding.

77. On or about November 9, 1987, in the Eastern District of Arkansas, Defendant JOHN H. HALEY caused to be sent to the Texas bankruptcy attorney a diagram that depicted a bankruptcy and the distribution of the Plantation cable system to Defendant JIM GUY TUCKER.

78. On or before November 9, 1987, Defendant JOHN H. HALEY advised the Texas bankruptcy attorney that the debtor in the bankruptcy proceeding would be named Neighborhood Communication Systems, Inc., or NCS, Inc.

79. On or about November 9, 1987, Defendant JOHN H. HALEY indicated to the Texas bankruptcy attorney that the owner of 82 percent of the debtor corporation would be the stepson of Defendant JIM GUY TUCKER.

80. On or about November 9, 1987, Defendant JOHN H. HALEY spoke to an individual in Texas and arranged to acquire an inactive "shelf corporation" called Landowners Management Systems, Inc.

81. On or about November 9, 1987, in the Eastern District of Arkansas, Defendant JOHN H. HALEY caused another member of his law firm to notify the Texas bankruptcy attorney that the name of the debtor would be Landowners Management Systems, Inc., rather than "Neighborhood Cable Systems."

82. On or about November 12, 1987, Defendant JOHN H. HALEY caused the drafting of a Disclosure Statement concerning a bankruptcy of Landowners Management Systems, Inc., which draft Disclosure Statement said that 82 percent of LMS was owned by a stepson of Defendant JIM GUY TUCKER, and 18 percent of LMS was owned by Defendant WILLIAM J. MARKS, SR.

83. On or about November 13, 1987, in the Eastern District of Arkansas, Defendant JOHN H. HALEY caused another member of his law firm to send to the Texas bankruptcy attorney a draft

"Management Agreement" between PCS and CMI, which said that the agreement was "entered into as of June 10, 1987."

84. On or about November 13, 1987, Defendant WILLIAM J. MARKS, SR. signed as president of PCS a "Bill of Sale and Assignment" that conveyed the ownership of the Carrollton cable system to Defendant WILLIAM J. MARKS, SR. individually.

85. On or about November 16, 1987, Defendants JIM GUY TUCKER and JOHN H. HALEY conferred by telephone with the Texas bankruptcy attorney.

86. On or about November 18, 1987, in the Eastern District of Arkansas, Defendants JIM GUY TUCKER and JOHN H. HALEY met with the Texas bankruptcy attorney regarding the bankruptcy action of Landowners Management Systems, Inc.

87. On or about November 19, 1987, Defendant JIM GUY TUCKER conferred by telephone with the Texas bankruptcy attorney regarding financial information related to the LMS bankruptcy.

88. On or about November 20, 1987, Defendant JIM GUY TUCKER conferred by telephone with the Texas bankruptcy attorney regarding revisions to the Plan of Reorganization and the Disclosure Statement to be filed in the LMS bankruptcy action.

89. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR. signed "Minutes of Special Joint Meeting of Shareholders and Board of Director of Planned Cable Systems Corporation," which identified the shareholders of PCS as Defendant WILLIAM J. MARKS, SR. and "Donna Marks, individually and as representative of the shareholder Mikado Leasing Company, Inc.," and which stated that the shareholders of PCS approved a merger of PCS into Landowners Management Systems, Inc.

90. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR. signed a "Corporate Resolution" that identified Mikado Leasing, Inc. as a shareholder of Landowners Management Systems, Inc. and Donna Marks as President of Mikado Leasing, Inc., and that authorized Defendant WILLIAM J. MARKS, SR. to take actions necessary to prepare and execute a petition for Chapter 11 bankruptcy and other necessary documents on behalf of Landowners Management Systems, Inc.

91. In or around late November 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. signed a document entitled "Rescission Agreement" that, among other things, purported to (1) rescind the merger of Planned Cable Systems and Cablevision Management, Inc., (2) transfer to Donna Marks ownership of the 82 percent of the stock in PCS that was purchased from Meredith by Defendant JIM GUY TUCKER, and (3) grant to Defendant JIM GUY TUCKER exclusive rights to the recreated Income Note owed by PCS.

92. In or around late November 1987, Defendant WILLIAM J. MARKS, SR. signed, as president of PCS, a Management Agreement between PCS and CMI that was "effective as of June 10, 1987."

93. On or about November 22, 1987, Defendants JIM GUY TUCKER and JOHN H. HALEY conferred by telephone with the Texas bankruptcy attorney.

94. On or about November 24, 1987, Defendant WILLIAM J. MARKS, SR. signed an "Agreement of Merger of Planned Cable Systems Corporation and Landowners Management System, Inc."

95. On or about November 24, 1987, Defendant JIM GUY TUCKER met with the Texas bankruptcy attorney regarding pleadings to be filed with the bankruptcy court.

96. On or about November 24, 1987, Defendant JOHN H. HALEY conferred by telephone with the Texas bankruptcy attorney.

97. On or about November 24 or 25, 1987, Defendant JOHN H. HALEY caused to be deleted from a draft Statement of Financial Affairs a statement that accounts and other receivables of LMS had been assigned as security "[t]o Fleet National Bank for the benefit of Jim Guy Tucker."

98. On or about November 25, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. met with the Texas bankruptcy attorney regarding revisions to the Disclosure Statement and Plan of Reorganization to be filed with the bankruptcy court.

99. On or about November 25, 1987, Defendant WILLIAM J. MARKS, SR. executed a final Disclosure Statement to be filed with the bankruptcy court, which stated, among other things, that (1) the shares of LMS were owned 82 percent by Mikado Leasing, Inc., and 18 percent by Defendant WILLIAM J. MARKS, SR., (2) "management believes" the fair market value of the Plantation cable system is $8,850,000, and (3) LMS had "negotiated" to sell the Plantation cable system to "J. G. Tucker" in lieu of foreclosure on the recreated Income Note held by Defendant JIM GUY TUCKER.

100. On or about November 27, 1987, Defendant JIM GUY TUCKER conferred by telephone with the Texas bankruptcy attorney regarding the Statement of Financial Affairs and other documents to be filed with the bankruptcy court.

101. On or about November 27, 1987, Defendant WILLIAM J. MARKS, SR. executed, under penalty of perjury, a final Statement of Financial Affairs and accompanying Schedules to be filed with the bankruptcy court, which stated, among other things, that (1) "Meredith Corporation sold its 82% stock in the corporation to

Mikado Leasing Company, Inc., for $1," and (2) Defendant JIM GUY TUCKER was the sole secured creditor of LMS with a claim of approximately $9,000,000.

102. On or about November 30, 1987, the Defendants caused to be filed in United States Bankruptcy Court for the Northern District of Texas, Wichita Falls Division, various pleadings captioned In re: Landowners Management Systems, Inc., Tax Identification No. 75-2001914, including an Original Petition Under Chapter 11, a Statement of Financial Affairs, a Disclosure Statement and Solicitation of Ballots to Plan of Reorganization to be Filed Under Chapter 11 of the United States Bankruptcy Code, and a Debtor's Plan of Reorganization.

103. On or about December 9, 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER caused to be sent to a representative of American Cablesystems of Florida a letter proposing that the contract for sale of the Plantation cable system be modified to list Defendant JIM GUY TUCKER as one of the sellers.

104. On or about December 18, 1987, Defendant WILLIAM J. MARKS, SR. testified on behalf of the debtor, LMS, at a hearing in the bankruptcy court that the debtor's Plan of Reorganization was proposed in good faith, and that his purpose in proposing the Plan was "[t]o keep Mr. Tucker from foreclosing on the assets."

105. On or about December 18, 1987, Defendant JIM GUY TUCKER appeared as the only secured creditor at a hearing in the bankruptcy court to confirm the Plan of Reorganization proposed by LMS.

106. On or about December 18, 1987, Defendant JOHN H. HALEY appeared in the bankruptcy court as the attorney for Defendant JIM GUY TUCKER.

107. On or about December 28, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. signed an Agreement with ACF that a new Agreement of Purchase and Sale of Assets for the Plantation cable system would supersede the earlier agreement of September 25, 1987.

108. On or about December 28, 1987, Defendant JIM GUY TUCKER signed a new Agreement of Purchase and Sale of Assets in which ACF agreed to purchase the Plantation cable system from Defendant TUCKER and CMI for a total of $14.75 million: $11.75 million, plus $3 million in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

109. On or about February 8, 1988, Defendant JIM GUY TUCKER wrote a check for $100,000 to Defendant JOHN H. HALEY's law firm for "Plantation & LMS -- partial payment of legal fees & expenses."

110. On or about March 30, 1988, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER wrote a memorandum to Defendant JOHN H. HALEY and three accountants, with a copy to Defendant WILLIAM J. MARKS, SR., stating that responsibility for preparation and filing of tax returns for PCS, LMS, and Mikado Leasing should be determined as soon as possible.

111. On or about August 2, 1988, Defendant JIM GUY TUCKER wrote to his tax return preparer in Little Rock stating that he purchased the Income Note from Meredith in June 1987, and that "I owned no stock" in PCS.

112. On or about August 25, 1988, Defendant WILLIAM J. MARKS, SR. caused to be filed with the Internal Revenue Service tax returns for Landowners Management Systems, Inc., for the years 1987 and 1988, neither of which reported taxable gain on the sale or transfer of the Plantation cable system or other cable systems.

113. On or about August 26, 1988, Defendant WILLIAM J. MARKS, SR. caused to be filed with the Internal Revenue Service two 1987 tax returns for PCS, neither of which reported sales or transfers of cable systems.

114. On or about August 25, 1988, Defendant JIM GUY TUCKER caused to be filed with the bankruptcy court a Chapter 11 Post-

Confirmation and Accounting regarding the LMS bankruptcy.

115. On or about January 12, 1989, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR. signed a Memorandum of Understanding stating that they "both wish to share equally in the profits and losses from the previous sales as well as profits and losses from future operations," and that the agreement "may be termed a 'phantom' stock or partnership interest of Marks."

116. On or about June 12, 1989, in the Eastern District of Arkansas and elsewhere, Defendant JIM GUY TUCKER caused to be filed a United States Individual Income Tax Return for 1988.

117. On or about October 19, 1989, Defendant WILLIAM J. MARKS, SR. caused to be filed a United States Individual Income Tax Return for 1988.

118. In or around July 1990, when agents of the Internal Revenue Service asked what was the ownership/relationship of PCS to CMI or Defendant JIM GUY TUCKER, Defendant JIM GUY TUCKER caused his accountant to represent to agents of the Internal Revenue Service, "None. CMI managed certain cable properties for this entity."

119. On or about October 22, 1990, Defendant WILLIAM J. MARKS, SR. caused to be filed a United States Individual Income

Tax Return for 1989.

120. In about the fall of 1990, Defendant JIM GUY TUCKER attempted to cause the destruction of documents in Texas relating to the sale of the Plantation cable system, including one page that calculated the gain and tax on the post-bankruptcy sale of the Plantation cable system, and one page that stated:

Risk

Basis claimed = 7

Actual basis = 1

Risk = 6

.32

1.926 + penalties + interest

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL.

FOREMAN

KENNETH W. STARR
INDEPENDENT COUNSEL

Dated: June 7, 1995.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

U.S. DISTRICT COURT
EASTERN DISTRICT ARK
SEP - 1995
JAMES W. McCORMACK, CLERK
By:

UNITED STATES OF AMERICA

V.

NO. LR-CR-95-117

JIM GUY TUCKER, WILLIAM J. MARKS, SR., and JOHN H. HALEY

MEMORANDUM OPINION

Separate defendant Jim Guy Tucker has moved to dismiss the indictment in this case on the ground that the Independent Counsel exceeded his jurisdiction. The Independent Counsel, by way of response, asserts: (1) that the indictment of the defendants in this case falls within the scope of his prosecutorial jurisdiction; and (2) that even if does not, the referral of the matter to him, as independent counsel, is not subject to judicial review.

I. The Original Authorization for the Investigation of the Defendants.

The Ethics in Government Act of 1978, as amended by the Independent Counsel Reauthorization Act of 1994, 28 U.S.C. §§ 591-599 (hereinafter the "Independent Counsel Act"), permits the Attorney General to request that independent counsel be appointed when preliminary investigation discloses that certain high officials in the Executive Department may have violated the law. 28 U.S.C. § 591(b). Other persons can come within the ambit of the Act if they cannot be investigated and prosecuted by an officer of the Department of Justice without the appearance of a personal, financial, or political conflict of interest. 28 U.S.C. § 591(c)(2).

EXHIBIT
4

An independent counsel is appointed by a special three-judge court of the United States Courts of Appeals for the District of Columbia, called the "Special Division." It is significant that the Special Division defines the independent counsel's prosecutorial jurisdiction. This is clear from the first sentence of 28 U.S.C. § 593(b)(3): "In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter." (Emphasis added.)

Congress reauthorized the original Ethics in Government Act on June 30, 1994, with a few changes. However, prior to the reenactment of the Independent Counsel Act, the Attorney General had conducted an investigation into a land development venture called "Whitewater" in which President Bill Clinton and Mrs. Hillary Rodham Clinton were investors, along with another partner, James McDougal. Because there was no independent counsel act in effect at the time, the Attorney General herself named Robert B. Fiske, Esquire, as independent counsel to further investigate the Whitewater venture.

After the reenactment of the Independent Counsel Act, the Special Division replaced Mr. Fiske with Kenneth Starr, Esquire, and authorized a continuation of the Whitewater investigation in the following terms:

> Upon consideration of the application of the Attorney General pursuant to 28 U.S.C. § 592(c)(1)(A) for the appointment of an independent counsel with authority to exercise all the power, authority and

> obligations set forth in 28 U.S.C. § 594, to investigate whether any individuals or entities have committed a violation of federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.; it is
>
> ORDERED by the Court in accordance with the authority vested in it by 28 U.S.C. § 593(b) that Kenneth W. Starr, Esquire, of the District of Columbia bar, with offices at Kirkland and Ellis, 655-15th Street, NW, Washington, DC 20005, be and he is hereby appointed Independent Counsel with full power, independent authority, and jurisdiction to investigate to the maximum extent authorized by the Independent Counsel Reauthorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.
>
> The Independent Counsel shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation. (See Exhibit A.) (Emphasis added.)

Such was the jurisdictional authority defined by the Special Division, which had the sole statutory duty to define such jurisdiction.

In affixing this limitation on the jurisdictional grant, the Special Division was undoubtedly mindful of the *caveat* of the Supreme Court of the United States in Morrison v. Olson:

> [W]e do not think that Congress may give the Division *unlimited* discretion to determine the independent counsel's jurisdiction. In order for the Division's definition of the counsel's jurisdiction to be truly "incidental" to its power to appoint, the jurisdiction that the court decides upon must be demonstrably related to the factual circumstances that gave rise to the Attorney General's investigation and request for the appointment of the independent counsel in the particular case.

487 U.S. 654, 679 (1988) (Emphasis original).

What "gave rise to the Attorney General's investigation and request for the appointment of the independent counsel in the particular case" was that the President was a "person" requiring appointment of an Independent Counsel. [28 U.S.C. § 591(b)(1).]

The subject matter of the indictment at issue here bears no relation whatsoever to the Clintons or James McDougal or their relationship with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc. The following affidavit of Governor Tucker, dated July 7, 1995, and attached to his motion to dismiss the indictment on jurisdictional grounds has not been controverted:

> Jim Guy Tucker, on oath, states as follows:
> 1. I am not and have never been a part of the Executive Branch of the United States Government.
> 2. I have examined the indictment in this case. To my certain knowledge no member of the Executive Branch of the United States Government participated in any transaction to which the indictment refers.
> 3. To my certain knowledge neither the President of the United States nor his First Lady have had any connection whatever with the business matter called, in the indictment, "LMS," Cablevision Management, Inc. ("CMI") or any other entity to which the indictment refers.
>
> Further Affiant sayeth not. /s/ Jim Guy Tucker. (See Exhibit B.)

The Independent Counsel has come forward with no evidence to refute facts recited in the affidavit. Nor has he alleged a connection of any kind between Governor Tucker and President Clinton. This is not surprising. The Court takes judicial notice of the fact that President Clinton and Governor Tucker were political opponents during the years covered by this indictment. In 1982, Tucker opposed Clinton in the Democratic primary for Governor of the State of Arkansas. In 1990, when President Clinton made his last race for Governor of Arkansas, Tucker threatened to oppose him until virtually the last moment and then decided to run for Lieutenant Governor. The fact that these two men have been leaders of opposing factions in the Democratic party in Arkansas is well-known. That they would have been connected in any type of business venture in the period covered by the indictment would be highly unlikely, and Tucker's uncontroverted affidavit establishes this.

In fact, in his response to defendant's motions attacking jurisdiction, independent counsel conceded that there is no connection between the facts alleged in the indictment and the Clintons, McDougal and Capital Management Services, Inc. "Although the facts do not link Defendants to a specific relationship among CMS, the Clintons, or James B. McDougal, the Attorney General reasonably concluded that the LMS [Landowners Management System, subject of Count III of the indictment] matter was 'related to the independent counsel's prosecutorial jurisdiction' under Section 594(e) sufficiently to fall within that jurisdiction." (Response of the United States to Defendants' Motion to Dismiss Indictment for Lack of Jurisdiction, p.38.) How can it be said that the Attorney General reasonably concluded that

there was a connection between the matter in the indictment and the Clintons and McDougal, if there was no actual connection? The position of the Independent Counsel is that whether the Attorney General's conclusion was reasonable or not, such conclusion is not subject to review by a district court, or by any court for that matter. This issue will be dealt with *infra*.

II. The Grant of Supplemental Authorization.

The Independent Counsel went back to the Attorney General with the request that the Attorney General seek authorization under 28 U.S.C. § 594(e) from the Special Division to investigate matters alleged in Count III of the indictment.[1] For some unknown reason, no request was ever made regarding the allegations contained in Counts I and II of the indictment. The Attorney General responded to the Independent Counsel by letter dated September 2, 1994:

> The Attorney General has received your letter of August 31, 1994 requesting that the Department of Justice refer to the Office of Independent Counsel/Madison Guaranty Bank related matters pursuant to 28 U.S.C. § 594(e). After reviewing your description of the information developed in the course of the investigation conducted by the Office of Independent Counsel, she has concluded that these matters are related to your investigation and that referral to your Office would be appropriate. We therefore refer investigative and prosecutorial jurisdiction over the following matters to your Office:
>
> (1) Whether any person committed any federal crime relating to the bankruptcy action entitled In Re: Landowners

[1]Section 594(e) deals with referral of "other matters" to an independent counsel.

> Management System, Inc., Tax Identification No 75-2001914, Debtor, United States Bankruptcy Court, Northern District of Texas, Case No. 787-70392 (Chapter 11). . . (See Exhibit C.)

The Special Division issued an order of December 19, 1994, and this order provided in pertinent part as follows:

> Upon consideration of the Application for Order of Referral and Order of Jurisdiction of Independent Counsel filed under seal, it is
>
> HEREBY ORDERED that investigative and prosecutorial jurisdiction over the following matters be referred to the Independent Counsel Kenneth W. Starr and to the Office of the Independent Counsel (hereinafter collectively "the Office") as related matters pursuant to 28 U.S.C. § 594(e):
>
> Whether any person committed any federal crime relating to the bankruptcy action entitled In Re: Landowners Management System, Inc., Tax Identification No 75-2001914, Debtor, United States Bankruptcy Court, Northern District of Texas, Case No. 787-70392 (Chapter 11)... (See Exhibit D.)

However, this order contained the following limitations after the grant of authority mentioned above:

> IT IS FURTHER ORDERED that, as a result of the referral of the above-described matters and the jurisdictional grant made by this Court on August 5, 1994, Kenneth W. Starr has full power, independent authority, and jurisdiction to investigate to the maximum extent authorized by the Independent Counsel Authorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

> The Independent Counsel further has jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation. . . (See Exhibit D.)

Obviously, from the Special Division's own order, the supplemental investigation was required to be "connected with or arising out of that investigation." "That investigation" is the investigation of the Clintons and McDougal mentioned in the preceding paragraphs.

In placing such a limitation on the jurisdiction of the independent counsel, the Special Division may well have had in mind the Supreme Court's interpretation of 28 U.S.C. § 594(e) in Morrison v. Olson,:

> In our view, this provision does not empower the court to expand the original scope of the counsel's jurisdiction; that may be done only upon request of the Attorney General pursuant to § 593(c)(2). At most, § 594(e) authorizes the court simply to refer matters that are "relate[d] to the independent counsel's prosecutorial jurisdiction," as already defined.

487 U.S. 654, 680, n.18 (1988)(Emphasis added).

III. The Power to Review the Attorney General's Referral of the Matters Contained in Count III to the Independent Counsel.

It is obvious that the matters contained in Count III of the indictment, which the Attorney General has referred to the Independent Counsel, are completely unrelated to the Clintons and McDougal. Even though 28 U.S.C. § 594(e) under which the referral was made requires that the Attorney General "refer to the independent counsel matters related to the

independent counsel's prosecutorial jurisdiction," the Attorney General and Independent Counsel argue that the referral is not reviewable. It is not reviewable even if completely wrong and without support in the statute or in the order of the Special Division.

I cannot accept the proposition that a citizen can be put on trial in my court for a loss of his liberty and that no court has the power to determine whether there is jurisdiction to proceed in the matter.

The Attorney General argues on page 18 of her brief: "Under the terms of Section 594(e), the process does not even require the involvement of the Special Division." While the wording of 28 U.S.C. § 594(e) may be susceptible to such an interpretation, the Supreme Court has indicated that referrals under this section are a part of the powers and duties of the Special Division:

> The Act also vests in the Special Division various powers and duties in relation to the independent counsel that, because they do not involve appointing the counsel or defining his or her jurisdiction, cannot be said to derive from the Division's Appointments Clause authority. These duties include . . . referring matters to the counsel upon request, § 594(e). . . .

Morrison v. Olson, 487 U.S. 654, 680.

But even assuming that the Independent Counsel is correct and that it is not necessary for the Attorney General to seek approval of the Special Division before referring matters to the Independent Counsel, the Attorney General faces the same jurisdictional obstacles as the Special Division. 28 U.S.C. § 594(e) requires referral only as to "matters related to the

independent counsel's prosecutorial jurisdiction."

Significantly, the Attorney General, through Mr. Keeney, the Acting Assistant Attorney General, made the following statement in the letter of September 2, 1994, to Mr. Starr, in regard to the bankruptcy matter:

> To the extent you determine that aspects of these matters which might fall technically within the broad scope of your jurisdiction are not sufficiently related to your mandate to warrant handling by your office, you may refer those aspects back to the Department of Justice for handling pursuant to 28 U.S.C. § 597(a).

Thus, we have clear recognition by the Attorney General that the matters in the indictment must be "sufficiently related to your mandate." Not only were the matters contained in the indictment insufficiently related to the mandate, they were not related at all.

In the matter at bar, the Attorney General did not attempt to proceed without the involvement of the Special Division. Even so, there are limits on the scope of prosecutorial jurisdiction which the Special Division can confer:

> We emphasize, nevertheless, that the Special Division has *no* authority to take any action or undertake any duties that are not specifically authorized by the Act. The gradual expansion of the authority of the Special Division might in another context be a bureaucratic success story, but it would be one that would have serious constitutional ramifications. . . . [T]he Division's exercise of unauthorized powers risks the transgression of the constitutional limitations of Article III that we have just discussed.

Morrison v. Olson, 487 U.S. 654, 684-685 (Emphasis original). In a footnote to the last sentence, the Court stated: "After all, in order to decide whether to refer a matter to the

counsel, the court must be able to determine whether the matter falls within the scope of the original grant. See n.18, *supra*." 487 U.S. at 685 n.18. (Footnote 18 is quoted in its entirety, *supra*.) Surely the Independent Counsel and Attorney General do not suggest that there can be no judicial review of prosecutorial jurisdiction of an independent counsel. If this were so, the Special Division would be virtually the only court in American jurisprudence, save the Supreme Court of the United States, whose decisions are subject to no judicial review whatsoever, regardless of whether those decisions are patently contrary to law. Such a precedent would be both novel and dangerous.

The Independent Counsel finds a nexus to the Clintons and McDougal to satisfy the above requirements in the fact that, while investigating their relationship to Capital Management Services, Inc., counsel fortuitously stumbled across the defendants' alleged violation of the law. (See Response of United States to Defendants' Motions to Dismiss Indictment for Lack of Jurisdiction. p.36.) In support, the Independent Counsel quotes from United States v. Secord,: "To determine that one occurrence is 'related' to another, one need only show that there is a reasonable causal or logical connection between the two, some tenable correlation between events." 725 F.Supp. 563, 566 (D.D.C. 1989). The relation between the indictment herein and McDougal or the Clintons falls far short of this test.

The facts demonstrating the alleged relationship are stated by the Independent Counsel as follows: "Information that Defendant Tucker may have asserted a claim as a creditor in a fraudulent bankruptcy filed by Landowners Management Systems, Inc., was first

provided to Independent Counsel Fiske by a witness in the investigation of Capital Management Services, Inc. Additional investigation determined that an allegedly fraudulent loan from Capital Management Services was used as collateral to finance the purchase of cable television interests. . . ." (See Response of United States, *supra*, p. 37.)

This argument is without merit because the "original jurisdiction order" only deals with Capital Management Services, Inc. in the following context: ". . .whether any individuals or entities have committed a violation of federal criminal law. . . relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc." (See Exhibit A, order of Special Division, dated August 5, 1994.)

The original grant thus was only in reference to the Clintons' and McDougal's relationship to Capital Management Services, Inc., not to anyone else's relation to this entity. For another individual or entity to be related, such individual or entity would necessarily have to be involved in the Clintons' or McDougal's relationship to Capital Management Services, Inc.

The Independent Counsel goes on to say: "These facts show that the matters under indictment are related to the subject matter of the Independent Counsel's investigation." These facts show nothing of the kind, which Independent Counsel concedes in the next sentence: "Although the facts do not link Defendants to a specific relationship among CMS,

the Clintons or James B. McDougal. . . ."

In a footnote on page 38 of his brief on jurisdiction, the Independent Counsel argues that there is a relation in the fact that Capital Management Services, Inc. is one of the entities listed in the grant of original jurisdiction and the Count III allegations were discovered during the investigation of this entity. As stated above, the record is devoid of evidence of any relationship or connection between the Clintons and McDougal and any of the matters alleged in the indictment.

Admittedly, certain actions of the Attorney General are not subject to review. The decision to refer or not to refer a matter to the Independent Counsel is not subject to review. Whether to investigate a person and whether to require appointment of an independent counsel is not subject to review. The cases cited on this issue are not on point and are thus not persuasive. Dellums v Smith, 797 F. 2d 817 (9th Cir. 1986) involved a suit by a member of Congress and two private citizens over the Attorney General's failure to conduct a preliminary investigation of a particular allegation. The Ninth Circuit held that, "failure to discharge these duties is not subject to federal court challenge by private citizens." In Banzhaf v. Smith, 737 F. 2d 1167, 1170 (D.C. Cir. 1984), the question was whether refusal to conduct a preliminary investigation is reviewable.

All of these situations are a far cry from the question of whether the trial court has jurisdiction -- whether the Attorney General and the Special Division completely exceeded their authority in referring a non-related matter to the Independent Counsel. In at least one

instance, the action of the Attorney General in referring a matter to the independent counsel was reviewed by the Special Division. The Special Division found that the matter had been improperly referred by the Attorney General because of lack of prosecutorial jurisdiction. See, In Re: Meese, 907 F. 2d 1192, 1199-1201 (D.C. Cir. 1990). The Meese Opinion includes a quote from the Application to Define Jurisdiction of Independent Counsel made by James C. McKay, independent counsel in that case:

> It does not appear [under the Act], however, that the Acting Attorney General has the power to define the *prosecutorial jurisdiction* of an independent counsel, See 28 U.S.C. § 593(c). That power is vested only in this court, which has not formalized a definition of Independent Counsel McKay's prosecutorial jurisdiction in the Meese matter.
>
> Application to Define Jurisdiction of Independent Counsel, *In re Nofziger/Meese*, Div. No. 87-1 (Aug. 6, 1987). . . .

Meese, 907 F.2d at 1200-01 (Emphasis original). This comports with the plain meaning of the statute, as examined and noted earlier in this opinion.

IV. Conclusion.

The Independent Counsel, in his brief at page 29, asks: What is the harm if the Independent Counsel handles this investigation rather than the Attorney General? What difference does it make? It makes a great deal of difference if the statute and the Supreme Court plainly state that only matters related to the Independent Counsel's original

prosecutorial jurisdiction are to be handled by him. In the first place, criminal statutes and criminal procedures must be faithfully followed. To gloss over and shortcut the requirements of criminal statutes is the first step toward tyranny. If the statute says that the Independent Counsel should not make the decision to prosecute in an unrelated matter, but that this decision shall be made by the Attorney General, it makes a great deal of difference.

Few would disagree with Justice Scalia's statement in his dissent in Morrison v. Olson, *supra*, at 708 that: ". . .the balancing of various legal, practical and political considerations, none of which is absolute, is the very essence of prosecutorial discretion." The vast power and immense discretion the Independent Counsel seeks to wield in this case must find its genesis in the statute or in the courts' interpretation of the statute. I do not find it here.

The words of Justice Robert Jackson, in an address, *The Federal Prosecutor*, delivered at the Second Annual Conference of United States Attorneys April 1, 1940, were quoted by Justice Scalia in his dissent in Morrison v. Olson, *supra*, at 728. These words bear repeating here:

> What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

> If the prosecutor is obliged to choose his case, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor; that he will pick people that he thinks he should get, rather than cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm -- in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself. . .

It is certainly true that the United States Attorney or the Attorney General may find in their discretion that these defendants have violated the law and that they should be indicted and prosecuted. However, such discretion is theirs to exercise. It is not granted to an independent counsel under the statutes or decisions of our courts in this particular matter.

While the Supreme Court has upheld the constitutionality of the Ethics in Government Act, Morrison v. Olson, *supra*, cannot be read without drawing the conclusion that the Supreme Court meant that the authority and jurisdiction of an independent counsel should be confined to a narrow channel and not be expanded beyond the explicit wording of the statute. A thoughtful commentator has pointed out that:

> . . . congressional committee requests for independent counsel investigations of *particular named* executive officials bear a frightening

> resemblance to Bills of Attainder. Bills of Attainder, however, traditionally required at least the approval of the entire legislature (like all other "legislation"). In contrast, independent counsel requests may be triggered by just a few members of Congress serving on a particular committee with an axe to grind. See 28 U.S.C. § 592(g)(1) (1988). Once a partisan request for the appointment of an independent counsel has been made, the Attorney General and the Special Division which oversees such investigations may find it very difficult to avoid appointing a counsel just to clear up the "impressions" that were created by the request having been made. And once a counsel is appointed, the pressures to prosecute or to force a plea bargain (as happened with Michael Deaver and Webster Hubbell) are not insignificant. Accordingly, the EIGA independent counsel system is not as far removed from the traditionally hated and unconstitutional Bill of Attainder as many may think.

S.G.Calabresi, "Some Normative Arguments for the Unitary Executive," 48 Ark.L.Rev., p.93, n.164. (This statement is attributed to Walter Dellinger, III.)

Since its original enactment, the Independent Counsel Act has been used extensively, some would say, including Justice Scalia, that it has been abused. The *Arkansas Law Review* article, cited *supra*, at n.163, points out its wide use:

> During the two years of the Carter Administration that the Ethics in Government Act was in effect, two Independent Counsels were appointed: Arthur Christy investigated White House Chief of Staff Hamilton Jordan and Gerald Gallinghouse investigated White House staffer Timothy Kraft. During the eight years of the Reagan Administration, seven Independent Counsels were appointed: Leon Silverman investigated Secretary of Labor Raymond Donovan; Jacob Stein investigated White House Counselor Edwin Meese III; Alexia Morrison investigated Assistant Attorney General Theodore Olson; Whitney North Seymour investigated White House aide Michael Deaver; Laurence Walsh investigated a number of officials for their involvement in Iran-Contra; James McKay investigated Lynn Nofziger, Attorney General Edwin Meese III, and others; and former Judge Arlin

> Adams investigated HUD Secretary Samuel Pierce, Jr. During the three years and 11 months of the Bush Administration that the statute was in effect, one additional Independent Counsel was appointed: Joseph DeGenova investigated Secretary of State James Baker and other State Department aides involved in the illegal search of Bill Clinton's passport file. Independent Counsels Laurence Walsh and Arlin Adams continued their investigations throughout this period. During the first two months of the Clinton Administration that the statute has been back in effect, Attorney General Janet Reno has sought the appointment of two Independent Counsel: the first request concerned the Whitewater Investigation and led to the appointment of Kenneth Starr to replace Robert Fiske; the second request concerned Agriculture Secretary Mike Espy and led to the appointment of Donald Smaltz.

During the Clinton Administration, citizens of the State of Arkansas have undergone wide-ranging investigations by two independent counsel. Some of these, on the surface at least, would seem to have dubious connection with the original or supplemental grant of prosecutorial jurisdiction.

The history of independent counsel investigations is not reassuring to this Court. Perhaps the most questionable example was the indictment of Defense Secretary Weinberger in the Iran-Contra investigation by an independent counsel. Weinberger was one of two cabinet officials who opposed the Reagan Administration's involvement in the Iran-Contra affair. Yet, he was the only cabinet official who suffered an indictment.

While Justice Scalia's dissent did not carry the day in Morrison v. Olson, *supra*, he made some highly pertinent observations about the officials having supervision over the independent counsel. He or she is responsible to no elected officials, but only to a panel of

three appointed members of the Federal Judiciary.

As Justice Scalia points out the highly successful Teapot Dome and Watergate investigations were carried out by independent counsel named by the Attorney General. Elected members of the Executive Department were ultimately responsible to the electorate for the manner in which these investigations were carried out. Not so with the independent counsel under the current statute. "It seems to me not conducive to fairness. But even if it were entirely evident that unfairness was in fact the result - the judges hostile to the administration, the independent counsel an old foe of the President, the staff refugees from the recently defeated administration - *there would be no one accountable to the public to whom the blame could be assigned.*" (Morrison v. Olson, *supra*, at 731, Scalia, J., dissenting) (Emphasis original.)

I am not suggesting that there has been unfairness in the case at bar on the part of the Independent Counsel or the Special Division. I do believe, as does Justice Scalia, that the potential is present in the Independent Counsel Act. I have no idea what the proof will be on this indictment. I am firmly convinced, along with the majority in Morrison v. Olson, *supra*, that the prosecutorial jurisdiction of the Independent Counsel must be strictly contained within its statutory bounds.

There are, undoubtedly, situations that may justifiably call for the appointment of independent counsel. At any rate, Congress has made such a determination. The wisdom of this statute is not for me to decide. This does not mean that the judiciary is not the proper

department of our government to delineate the bounds of the statute's prosecu jurisdiction. [redacted] at least empowered initially to make this determination. If we are to remain a government of laws and not of men, it must ever be so.[2]

It is evident from this opinion that I am convinced that the Independent Counsel had no jurisdiction to present the matters contained in this indictment to the grand jury. In my view, this jurisdiction was vested in the Attorney General or the United States Attorney for the Eastern District of Arkansas. It was within their sole jurisdiction to exercise their discretion as to whether the indictment should be obtained in this matter.

It, therefore, follows that this indictment must be quashed as to all defendants. Parenthetically, I add that I deal with an important issue in this case. Fortunately, all my decisions are subject to higher review.

I will do everything in my power to have an expeditious appeal of this decision to the Court of Appeals and to the Supreme Court. In this endeavor, I can pledge the support of my clerk and court reporter. The defendants have stated that they seek a quick disposition of this matter. I am sure the government joins in these sentiments. I can assure all concerned that I am also anxious for a quick resolution.

It would be foolish to put these parties to an extensive and expensive trial when there exists a serious, and in my view, fatal defect of jurisdiction. Lack of jurisdiction can be

---

[2] I had never realized until reading Justice Scalia's opinion in Morrison v. Olson, *supra*, that the origin of this principle is to be found in the Massachusetts Constitution of 1780. [487 U.S. at 697.]

successfully raised at any point in litigation. How patently unfair would it be after the stress and expense of a long trial to have a determination made at a later stage of the proceedings that there was no jurisdiction in the first place?

An order will be entered in conformity with this opinion quashing this indictment in its entirety as to the three defendants. All other motions except those relating to jurisdiction are rendered moot.

DATED this 5th day of September, 1995.

UNITED STATES DISTRICT JUDGE

EXHIBIT
1

United States Court of Appeal
For the District of Columbia Circuit

FILED AUG 05 1994

RON GARVIN
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty
Savings & Loan Association

Division No. 94-1

Order Appointing
Independent Counsel

Before: SENTELLE, *Presiding*, and BUTZNER and SNEED, *Senior Circuit Judges*.

Upon consideration of the application of the Attorney General pursuant to 28 U.S.C. § 592(c)(1)(A) for the appointment of an independent counsel with authority to exercise all the power, authority and obligations set forth in 28 U.S.C. § 594, to investigate whether any individuals or entities have committed a violation of federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.; it is

ORDERED by the Court in accordance with the authority vested in it by 28 U.S.C. § 593(b) that Kenneth W. Starr, Esquire, of the District of Columbia bar, with offices at Kirkland and Ellis, 655-15th Street, NW, Washington, DC, 20005, be and he is hereby appointed Independent Counsel with full power, independent authority, and jurisdiction to investigate to the

maximum extent authorized by the Independent Counsel Reauthorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

The Independent Counsel shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation.

The Independent Counsel shall have jurisdiction and authority to investigate any violation of 28 U.S.C. § 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal criminal law, in connection with any investigation of the matters described above.

The Independent Counsel shall have jurisdiction and authority to seek indictments and to prosecute any persons or entities involved in any of the matters described above, who are reasonably believed to have committed a violation of any federal criminal law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any

federal offense.

The Independent Counsel shall have all the powers and authority provided by the Independent Counsel Reauthorization Act of 1994. It is

FURTHER ORDERED by the Court that the Independent Counsel, as authorized by 28 U.S.C. § 594, shall have prosecutorial jurisdiction to fully investigate and prosecute the subject matter with respect to which the Attorney General requested the appointment of independent counsel, as hereinbefore set forth, and all matters and individuals whose acts may be related to that subject matter, inclusive of authority to investigate and prosecute federal crimes (other than those classified as Class B or C misdemeanors or infractions) that may arise out of the above described matter, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses. The Court, having reviewed the motion of the Attorney General that Robert B. Fiske, Jr., be appointed as Independent Counsel, has determined that this would not be consistent with the purposes of the Act. This reflects no conclusion on the part of the Court that Fiske lacks either the actual independence or any other attribute necessary to the conclusion of the investigation. Rather, the Court reaches this conclusion because the Act contemplates an apparent as well as an actual independence on the part of the Counsel. As the Senate Report accompanying the 1982 enactments reflected, "[t]he intent of the special prosecutor provisions is not to impugn the integrity of the Attorney General or the

Department of Justice. Throughout our system of justice, safeguards exist against actual or *perceived* conflicts of interest without reflecting adversely on the parties who are subject to conflicts." S. Rep. No. 496, 97th Cong., 2d Sess. at 6 (1982) (emphasis added). Just so here. It is not our intent to impugn the integrity of the Attorney General's appointee, but rather to reflect the intent of the Act that the actor be protected against perceptions of conflict. As Fiske was appointed by the incumbent administration, the Court therefore deems it in the best interest of the appearance of independence contemplated by the Act that a person not affiliated with the incumbent administration be appointed.

It further appearing to the Court in light of the Attorney General's motion heretofore made for the authorization of the disclosure of her application for this appointment pursuant to 28 U.S.C. § 592(e) and of the ongoing public proceedings and interest in this matter, that it is in the best interests of justice for the identity and prosecutorial jurisdiction of the Independent Counsel to be disclosed,

IT IS SO ORDERED.

Per Curiam
For the Court:

Ron Garvin

Ron Garvin, Clerk

STATE OF ARKANSAS)
) §§
COUNTY OF PULASKI)

Exhibit B

AFFIDAVIT OF JIM GUY TUCKER

Jim Guy Tucker, on oath, states as follows:

1. I am not and have never been a part of the Executive Branch of the United States Government.

2. I have examined the indictment in this case. To my certain knowledge no member of the Executive Branch of the United States Government participated in any transaction to which the indictment refers.

3. To my certain knowledge neither the President of the United States nor his First Lady have had any connection whatever with the business matter called, in the indictment, "LMS", Cablevision Management, Inc. ("CMI") or any other entity to which the indictment refers.

Further Affiant sayeth not.

Jim Guy Tucker

SUBSCRIBED AND SWORN to me before this the 7th day of July, 1995.

Linda J. West
Notary Public

My Commission Expires:

OFFICIAL SEAL
LINDA J. WEST
NOTARY PUBLIC - ARKANSAS
PULASKI COUNTY
My Commission Expires JUNE 30, 2003

Exhibit C

GOVERNMENT EXHIBIT 2

Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 2, 1994

Mr. Kenneth W. Starr
Two Financial Centre
10825 Financial Centre Parkway
Suite 134
Little Rock, Arkansas 72211

Dear Mr. Starr:

The Attorney General has received your letter of August 31, 1994 requesting that the Department of Justice refer to the Office of Independent Counsel/Madison Guaranty Bank related matters pursuant to 28 U.S.C. § 594(e). After reviewing your description of the information developed in the the course of the investigation conducted by the Office of Independent Counsel, she has concluded that these matters are related to your investigation and that referral to your Office would be appropriate. We therefore refer investigative and prosecutorial jurisdiction over the following matters to your Office:

(1) Whether any person committed any federal crime relating to the bankruptcy action entitled In Re: Landowners Management System, Inc., Tax Identification No 75-2001914, Debtor, United States Bankruptcy Court, Northern District of Texas, Case No. 787-70392 (Chapter 11); and

REDACT

REDACT REDACT

Your jurisdiction affords you necessary flexibility in structuring your investigation. To the extent you determine that aspects of these matters which might fall technically within the broad scope of your jurisdiction are not sufficiently related to your mandate to warrant handling by your office, you may refer those aspects back to the Department of Justice for handling pursuant to 28 U.S.C. §597(a).

Should you wish at any time to consult with the Department of Justice concerning Departmental policies with respect to these criminal tax or other matters, 28 U.S.C. § 594(f)(1), I invite you to contact Lee J. Radek, Chief, or Jo Ann Farrington, Deputy Chief, Public Integrity Section, Criminal Division, who will put you in touch with the appropriate Departmental officials. They can be reached at (202) 514-1412.

To complete our files, I would appreciate your providing Mr. Radek with a copy of your notification to the Special Division of the Court of this referral. 28 U.S.C. § 594(e). Please let me know if I can be of any further assistance to you in the course of your investigation.

Sincerely,

John C. Keeney

John C. Keeney
Acting Assistant Attorney General
Criminal Division

GOVERNMENT EXHIBIT 3

United States Court of Appeals
For the District of Columbia Circuit

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

FILED DEC 19 1994
RON GARVIN
CLERK

Division of the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty
Savings & Loan Association

Division No. 94-1

UNDER SEAL

ORDER

Upon consideration of the Application for Order of Referral and Order of Jurisdiction of Independent Counsel filed under seal, it is

HEREBY ORDERED that investigative and prosecutorial jurisdiction over the following matters be referred to the Independent Counsel Kenneth W. Starr and to the Office of the Independent Counsel (hereinafter collectively "the Office") as related matters pursuant to 28 U.S.C. § 594(e):

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

[redacted] whether any person committed any federal crime relating to the bankruptcy action entitled In re: Landowners Management Systems, Inc., Tax Identification No. 75-2001914, Debtor, United States Bankruptcy Court, Northern District of Texas, Case No. 787-70392 (Chapter 11);

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

IT IS FURTHER ORDERED, that, as a result of the referral of the above-described matters and the jurisdictional grant made by this Court on August 5, 1994, Kenneth W. Starr has full power, independent authority, and jurisdiction to investigate to the maximum extent authorized by the Independent Counsel

Reauthorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or [redacted] misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

The Independent Counsel further has jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation, including, but not limited to:

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

Whether any person committed any federal crime relating to the bankruptcy action entitled In re: Landowners Management Systems, Inc., Tax Identification No. 75-2001914,

Debtor, United States Bankruptcy Court, Northern District of Texas, Case No. 787-70392 (Chapter 11);

[redacted]

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

REDACT REDACT REDACT

The Independent Counsel has jurisdiction and authority to investigate any violation of 28 U.S.C. § 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal criminal law, in connection with any investigation of the matters described above.

The Independent Counsel has jurisdiction and authority to seek indictment and to prosecute any persons or entities involved in any of the matters described above, who are reasonably believed to have committed a violation of any federal criminal law arising out of such matters, including persons or entities who have engaged in an

unlawful conspiracy or who have aided or abetted any federal offense.

The Independent Counsel has all the powers and authority provided by the Independent Counsel Reauthorization Act of 1994.

The Independent Counsel, as authorized by 28 U.S.C. § 594, has prosecutorial jurisdiction to fully investigate and prosecute the subject matter with respect to which the Attorney General requested the appointment of independent counsel, and all matters and individuals whose acts may be related to that subject matter, inclusive of authority to investigate and prosecute federal crimes (other than those classified as Class B or C misdemeanors or infractions) that may arise out of the above described matter, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

IT IS FURTHER ORDERED, that the Independent Counsel may disclose, to those persons who are the subject of the matters referred to the Independent Counsel and their counsel, those portions of this Order relating to such subjects provided that:

(1) A person to whom disclosure is permitted to be made shall receive a copy of this Order from which all matters will be redacted from pages 1 through 4 except those pertaining to the person to whom disclosure is made; and

(2) Each recipient of the redacted Order shall sign a Statement of Acknowledgement and Consent in the form attached hereto.

Per Curiam
For the Court:

IT IS SO ORDERED.

Dated: December 19, 1994

Ron Garvin
Ron Garvin, Clerk

EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

ORAL ARGUMENT REQUESTED

MOTION OF DEFENDANT TUCKER TO DISMISS INDICTMENT

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ATTORNEYS FOR JIM GUY TUCKER

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. LR-CR-95-173
	)	
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL,	)	
	)	
Defendants.	)	

MOTION OF DEFENDANT TUCKER TO DISMISS INDICTMENT

Comes Jim Guy Tucker, by counsel, and for his motion to Dismiss the Indictment for lack of jurisdiction in Independent Counsel and, in the alternative, for violations of Rule 6 of the Federal Rules of Criminal Procedure and the Grand Jury clause of Amendment V to the Constitution of the United States states:

PART I: LACK OF JURISDICTION

1. The Independent Counsel Act (28 USC Sec. 591, et seq, the "Act") begins with a definition of those persons to whom the Act applies: it applies to those "certain covered persons" listed in 28 USC 591(b). Those persons, defined by the offices they hold, are the President, the Vice President, certain high officials of cabinet level, the Director of Central Intelligence, the Commissioner of Internal Revenue, and the chairman and treasurer of the President's most recent campaign.

2. The Act also provides that, upon investigating a "certain covered person", the Attorney General may petition the Special Division to appoint an independent counsel. The Special Division is a panel of three judges appointed for the sole purpose of acting

under the Act. The "Special Division" must then select independent counsel, and must define his or her jurisdiction. (28 USC §593)

3. The Attorney General, the Special Division, and the resulting independent counsel have only those powers granted by the Act in performing their duties under the Act. The Act has been narrowly construed so as to preserve its constitutionality (in a prior form). Morrison v. Olson, 487 US 654 (1988).

4. None of the Defendants in this case have ever been part of the Executive branch of the United States Government. (Affidavit, Tucker, Ex. 1).

5. Independent Counsel was appointed under the Act to investigate;

> "Whether any individuals or entities have committed a violation of any federal criminal law...relating in any way to James B. McDougal's, President...Clinton's or Mrs....Clinton's relationship with Madison Guaranty..., Whitewater Development Corp., or Capital Management Services, Inc."

6. This case does not involve the President. The President is the only "certain covered person" mentioned in the order quoted in paragraph 5. Independent Counsel made an announcement as to the fact that President Clinton was not involved in this case in the press release that announced this indictment. (Ex. 2). That announcement is factually binding on Independent Counsel.

7. The factual allegations of the Indictment do not demonstrate or even indicate any relation between the matters alleged in the indictment and any official of the Executive Department of the United States. No reference is made in the Indictment to the President. No allegation is made as to any

connection or concert of action between any defendant or any event and the President.

8. Independent Counsel is required, upon the return of any indictment, to publish his authority. Mr. Starr has filed a jurisdictional statement in this case. That jurisdictional statement does not demonstrate any connection between this case and any "certain covered person" as defined in Act, Sec. 591(a) and (b), and especially Mr. Clinton.

9. The prosecution of cases beyond the scope of the Act and the Whitewater Order violates the constitutional rights of this Defendant under the Appointments Clause of the Constitution, Article II, Section 2, clause 2, and the limitations of Article III, and such prosecution interferes with the President's authority under Article II and is in violation of the constitutional principle of separation of powers, as set forth in the memorandum filed with this motion.

WHEREFORE, for the reasons stated in this part of this motion, and in the Memorandum which we file in support of this motion, we do respectfully pray that the Indictment be dismissed for want of jurisdiction.

PART II: FOR PREJUDICIAL INTERFERENCE WITH THE GRAND JURY

(In the alternative to part I)

9. Independent Counsel did, upon his appointment, convene a Grand Jury here. Mr. Starr, and his deputies, brought evidence before this Grand Jury so as to cause the return of the indictment in this case.

10. Independent Counsel also presented evidence to the same Grand Jury relating to other, unrelated, matters, leading to the return of the indictment filed in this court under number LR-CR-95 -117. A copy of that first indictment is attached to this motion as Exhibit 3. The first indictment (Ex. 3) was returned June 7, 1995, and this indictment was returned August 17, 1995. Evidence was presented by deputies of Independent Counsel on both cases at times prior to June 7, 1995.

11. In the first indictment Mr. Tucker was accused of a conspiracy to obtain and repay a loan unlawfully, submitting a false document to Capital Management Services, Inc., and conspiracy to engage in a fraudulent bankruptcy, all as set forth in the first indictment. In connection with obtaining that first indictment, and to the knowledge of Tucker and his counsel, Independent Counsel did:

a. Call witnesses before the Grand Jury.

b. Present evidence relating to every substantive allegation of the indictment, all of which evidence was intended to be unfavorable to Tucker, as shown by the first indictment itself.

c. Present the arguments of the prosecutors to the effect that an indictment should be returned, all of which arguments necessarily accused Tucker of wrongdoing, as alleged in the first indictment, and all of which necessarily depreciated Tucker.

12. On September 5, 1995, another Judge of this Court ruled that Independent Counsel had no jurisdiction to proceed in the first case. A copy of the Court's ruling is attached as Exhibit 4. The Court's ruling establishes, as a matter of law, that each appearance before the Grand Jury by Independent Counsel or his

deputies in obtaining the first indictment was without authority, beyond the jurisdiction of Independent Counsel, unauthorized by law, and therefore in direct violation of Rule 6(d), FRCrP.

13. The effect of those ex parte appearances by Independent Counsel and his deputies before the Grand Jury, in excess of their jurisdiction, and the presentation of witnesses by lawyers acting without jurisdiction was sufficiently prejudicial to Tucker that Tucker was indicted, as set forth in Exhibit 3. Those same grand jurors were then obliged to consider whether or not probable cause existed to indict Tucker in this, second, indictment. Those grand jurors had received testimony and exhibits and argument to the effect that Tucker was a lawbreaker on unrelated matters.

14. The appearances of Mr. Starr and his deputies before the Grand Jury was beyond their jurisdictional authority (Ex. 4), and in violation of Rule 6(d) of the Federal Rules of Criminal Procedure, in that the persons before the Grand Jury were not "Attorneys for the Government" but attorneys acting without jurisdiction. They had no right to be in the Grand Jury.

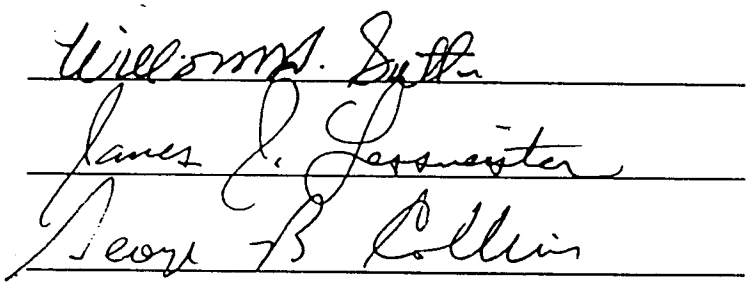
15. Defendant Tucker was deprived his right to a fair presentment by the Grand Jury by the actions of Independent Counsel acting beyond his authority appearing before the Grand Jury and presenting evidence as to crimes which he had no authority to prosecute. Defendant was prejudiced, in that the charging decision in this case was made by a grand jury that was necessarily influenced by the evidence presented in the matter of the first indictment.

16. The presence of these unauthorized persons before the Grand Jury was conduct which, in this case, may have influenced substantially the Grand Jury's decision to indict.

17. The actions of Independent Counsel described in this part of this Motion violated Rule 6(d) of the Federal Rules of Criminal Procedure, in that unauthorized persons were before the Grand Jury. His actions violated the Grand Jury clause of Amendment V to the United States Constitution, in that the prejudice from the presentation of the first case (Ex.3) operated to prejudice Tucker in the consideration of this case. Mr. Starr's actions also violated the due process clause of Amendment V to the United States Constitution in that Mr. Starr was making charging decisions in a case while not an attorney with jurisdiction to act for the prosecuting entity.

WHEREFORE, and in the alternative to Part I of this motion, Defendant prays that the Indictment be dismissed for violation of the rights of Tucker under Rule 6, FRCrP, and Amendment V to the United States Constitution.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

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Mr. Hickman Ewing
Mr. Steve Colloton
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Attorney for James McDougal

James J. Lessmeister

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

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WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
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JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MOTION TO DISMISS BASED ON THE UNCONSTITUTIONALITY OF THE UNDERLYING ACT

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MOTION TO DISMISS BASED ON THE UNCONSTITUTIONALITY OF THE UNDERLYING ACT

Comes Jim Guy Tucker, by counsel, and states:

1. Pursuant to 28 U.S.C. § 596(b)(2) the Special Division has the power to terminate independent counsel.

2. In Morrison v. Olson, 487 U.S. 654 (1988), the Supreme Court held § 596(b)(2) under the Act of 1987 was constitutional provided the provision was given a narrow construction.

3. Under the Act of 1987, § 596(b)(2) was interpreted to only allow the Special Division the power to remove an independent counsel who was unwilling to acknowledge his or her duties are complete.

4. Under the Act of 1994, § 596(b)(2) was revised so the Special Division now has the power to periodically review and reappoint an already existing independent counsel.

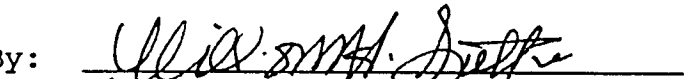
5. Thus, this new power given to the Special Division violates the limitations of Article III by compromising the independence of the judiciary under the Doctrine of Separation of Powers.

6. Section 594(l)(2) provides that the Administrative Office of the United States Courts shall provide administrative support and guidance to the Independent Counsel.

7. Section 594(l)(2) violates the Separation of Powers under Article III by compromising the independence of the judiciary.

WHEREFORE, Jim Guy Tucker prays that the indictment be dismissed because the underlying act is unconstitutional.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: 

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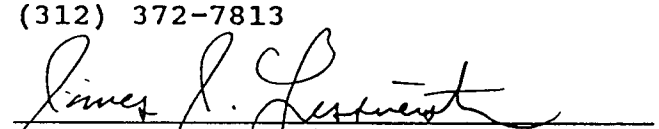

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UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MEMORANDUM BRIEF IN SUPPORT OF MOTION TO DISMISS BASED ON THE UNCONSTITUTIONALITY OF THE UNDERLYING ACT

I. THE 1994 REVISION OF 28 U.S.C. § 596(b)(2) IS UNCONSTITUTIONAL

Comes Jim Guy Tucker, by counsel, asserts that the Independent Counsel Reauthorization Act of 1994 (hereinafter "Act of 1994") is unconstitutional as a matter of law. In the Act of 1994 Congress specifically revised 28 U.S.C. § 596(b)(2). The new § 596(b)(2) under the Act of 1994 grants the Special Division more power than is constitutionally permissible under the holding of Morrison v. Olson, 487 U.S. 654 (1988).

The Independent Counsel Reauthorization Act of 1987 (hereinafter "Act of 1987") § 596(b)(2) provided:

> Termination by division of the court. The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under § 594(e) [28 U.S.C. § 594(e)], and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of

> such termination, the independent counsel shall file the final report required by § 594(h)(1)(B) [28 U.S.C. § 594(h)(1)(B)].

In order for this provision to be constitutional, Justice Rehnquist in Morrison v. Olson held the provision was subject to a narrow interpretation.

In determining the validity of § 596(b)(2) under the Act of 1987, Chief Justice Rehnquist was concerned that the provision granted the Special Division the power to "terminate" the office of the independent counsel. Such a power is not typically "judicial" and is not analogous to a court's more traditional powers. The Special Division's power to terminate the independent counsel under § 596(b)(2) is administrative in nature. Morrison, 487 U.S. at 682. In order for § 596(b)(2) to be constitutional the Chief Justice held "to save it [§596(b)(2)] from constitutional infirmities...we think a narrow construction is appropriate here." Morrison, 487 U.S. at 682 (citation omitted). Justice Rehnquist interpreted the provision only as a safety mechanism to remove from the public payroll an independent counsel who has served his or her purpose but is unwilling to resign. Id., 487 U.S. at 683.

In scrutinizing the constitutionality of § 596(b)(2) under the Act of 1987, Justice Rehnquist made the following observations:

> First, the Act as it currently stands gives the Special Division itself no power to review any of the actions of the independent counsel or any of the actions of the Attorney General with regard to counsel. Accordingly, there is no risk of partisan or biased adjudication of claims regarding the independent counsel by that court. Second, the Act prevents members of the Special Division from participating in 'any judicial proceeding concerning

> a matter which involves such independent counsel while such independent counsel is serving in that office or which involves the exercise of such independent counsel's official duties, regardless of whether such independent counsel is still serving in that office.'

Id., 487 U.S. at 683-84 citing 28 U.S.C. § 49(f) (other citation omitted) (emphasis in original).

Furthermore, Chief Justice Rehnquist accentuated:

> We emphasize, nevertheless, that the Special Division has no authority to take any action or undertake any duties that are not specifically authorized by the Act. The gradual expansion of the authority of the Special Division might in another context be a bureaucratic success story, but it would be one that would have serious constitutional ramifications.

Id., 487 U.S. at 684 (emphasis in original).

Thus the majority in Morrison v. Olson held that provided § 596(b)(2) under the Act of 1987 be given a narrow construction the provision would not compromise the independence of the Judiciary and exceed the limits of Article III of our Constitution.

Under the Act of 1994 § 596(b)(2) has been revised to state:

> Termination by division of the court. The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.

In a conference report, the House of Representatives stated they were aware of the Supreme Court's narrow construction of § 596(b)(2) in Morrison v. Olson and declared that the revision of this provision did not violate the Supreme Court's narrow interpretation. H.R. Conf. Rep. No. 103-511, 103 Cong., 1st Sess. at 23 reprinted in 1994 U.S.C.C.A.N. 748, 806. It is a fallacy for Congress to state the revised § 596(b)(2) under the Act of 1994 is consistent with the restrictions in Morrison v. Olson. For as Abraham Lincoln once said, just calling a tail a leg does not make it a leg. If so, "how many legs does a dog have, five?"

Moreover, Attorney General Reno did not join in Congress' confidence that the revised § 596(b)(2) did not violate the Supreme Court's narrow interpretation in Morrison v. Olson. In her prepared statement Attorney General Reno stated:

> The Senate bill next proposes that there be a periodic reappointment of Independent Counsel by the Special Division of the Court, based on an assessment of the status of the investigation. We believe that this procedure would constitute too great an intrusion by the Court into the investigative responsibilities of the Independent Counsel. While the current limited role of the Court in appointing the Independent Counsel is appropriate, any continuing oversight function, particularly oversight of the progress or scope of the investigation, is constitutionally suspect and unwise as a matter of policy. The Department therefore recommends against this provision.

S. 24, The Independent Counsel Reauthorization Act of 1993, Hearing before the Committee on Governmental Affairs, United States Senate, to reauthorize the independent counsel law for an additional 5 years, and for other purposes, S. Hrg. 103-437, 103 Cong., 1st Sess. at p. 29 (prepared statement of Honorable Janet Reno, United States Attorney General).

The new § 596(b)(2) under the Act of 1994 is unconstitutional

because it compromises the independence of the judiciary and exceeds the limits of Article III. The Special Division now has the statutory power to review any of the actions of the independent counsel which gives the Special Division the power to participate in the investigation. This is an unwarranted intrusion on the separate power of the Executive, and is an unconstitutional expansion of the powers of the Special Division to matters not within its constitutional scope. In effect the revised § 596(b)(2) gives the special division the "broad sword and rapier" which will enable the division to control the pace and depth of the independent counsel's activities. See Morrison, 487 U.S. at 682 citing In re Sealed Case, 838 F.2d 476, 515 (DC Cir. 1988). Under the 1987 Act, § 596(b)(2) was triggered by a lingering independent counsel. Now, § 596(b)(2) is triggered by time and the discretion of the Special Division, regardless of the actions of the independent counsel. This is a change which takes the Act beyond the confines of Morrison.

II. THE 1994 ADDITION OF § 594(l)(2) IS UNCONSTITUTIONAL

In 1994 Congress added for the first time the following provision:

> **(l) Cost controls and administrative support**
> (2) Administrative support. The Director of the Administrative Office of the United States Courts and shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall

disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the Independent Counsel.

Both the Senate and House acknowledge in a conference agreement report that "The 1987 law did not address the issue of administrative support for independent counsels." H.R. Rep. No. 103-511, 103 Cong., 2d Sess., p.1 at 21 (May 19, 1994). Thus, the Supreme Court has not ruled upon this issue. See Morrison v. Olson, 487 U.S. 654 (1988).

Congress gives three reasons for having the Administrative Office of the United States Courts provide administrative support and guidance to independent counsel. First, Congress notes that the administrative office has been doing this for many years but there has not been any explicit statutory basis for the administrative offices' duties. Congress feels § 594(l)(2) clarifies the administrative offices' responsibility. Second, Congress believes the provision makes it clear that the administrative office should not only provide administrative services but give guidance on complying with federal personnel, administrative and procurement requirements. Congress believes this guidance is "sorely needed." Yet, Congress states that although 594(l)(2) uses the words "support and guidance" the administrative office cannot exercise decision making authority for specific actions. Congress states "actions taken by an Independent Counsel's office remain the responsibility of the Independent

Counsel in charge." Id., H.R. Rep. No. 103-511 at 21-22.

Third, Congress asserts § 594(l)(2) shields the Administrative Office from conflicts that may arise when Congress, the press or others seek information about Independent Counsel's activities. Id., H.R. Rep. No. 103-511 at 22.

Essentially, by rationalizing, Congress is simply saying since the Administrative Office has done this it should continue to do this. Such reasoning is absurd. By having the Administrative Office of the United States Courts provide administrative support and guidance to Independent Counsels § 594(l)(2) violates the doctrine of Separation of Powers under Article III of our Constitution by compromising the independence of the judiciary.

In his prepared statement, L.Ralph Mecham, the Director of the Administrative Office of the United States Courts stated

> In essence, this bill would task an entity within the Judicial Branch of government to support an entity - the Independent Counsel - that has a prosecutorial function. The Judicial Conference has concluded, and I concur, that this is an inappropriate function for the Administrative Office to perform and we respectfully request that you delete us from the bill...the Administrative Office, on a volunteer basis, has provided administrative support to Independent Counsels for several years. This was carried out under an agreement between subordinates and my predecessor and the Justice Department. I am sure this agreement was entered into in an effort to accommodate the Justice Department and provide a temporary service. **However, in practice, it has not worked well at all, especially in recent years.**
>
> The administrative office is caught in a 'Catch 22' position. First, we have no authority whatsoever to enforce compliance with Federal laws and Executive Branch regulations as they apply to Independent Counsels on such matters as payment for hotel accommodations, per diem, first-class travel, contract laws, personal regulations, accounting procedures, and an array of other regulatory

> requirements. Yet, the first audit report of the General Accounting Office on the Independent Counsel program criticized the Administrative Office for not enforcing the laws and regulations, even though we have no lawful power to enforce them.
>
> We have taken a series of steps to correct the administrative deficiency cited by GAO. But the fundamental problem is that the Independent Counsels are not answerable to the Administrative Office and cannot be compelled to follow any guidance we might give them. Yet, we are expected to issue checks and to keep the balances and the Independent Counsels are completely free to ignore any questions that we might raise.
>
> We are concerned that the proposal to involve a Judicial Branch entity, the Administrative Office, in a typically Executive Branch function, prosecutions, at the very least rubs up against traditional notions of separation of powers between the branches.

S.24, The Independent Counsel Reauthorization Act of 1993, Hearing before the Committee on Governmental Affairs, U.S. Senate, S.Hrg. 103-437, 103rd Cong., 1st Sess., p.1 at 99-100. (May 14, 1993)(Statement of L. Ralph Mecham)(Emphasis Supplied).

Mr. Mecham states three reasons why the Administrative Office is ill-suited to provide administrative support and guidance to the Independent Counsels:

> First, statutes, regulations, policies and procedures of the Executive Branch differ in significant ways from those of the Judicial Branch. Our staff are not experts on the Executive Branch regulations and it is costly to require them to be trained to apply two sets of laws and regulations. Second, the Administrative Office has no means of enforcing compliance with the applicable regulations. It cannot supervise, regulate, or compel compliance with law and regulations by the Independent Counsels. Finally, even if the legislation is revised to place more responsibility and accountability with the Office of the Independent Counsel itself, there is no way, short of establishing an ongoing, independent support unit, to build in the needed internal controls within each Office of Independent Counsel.

Id., S.Hrg. 103-437, 103rd Cong., 1st Sess., p.1 at 100.

Congress is wrong for rationalizing that since the Administrative Office has done this in the past, as a matter of convenience, it should do it in the future. For (1), the Administrative Office candidly states it has not worked well. Second, the Administrative Office has suggested other entities such as the Justice Department, GSA, GAO, the Clerk of the U.S. Court of Appeals for the District of Columbia, or a newly created agency are better suited to handle the Office of Independent Counsel administrative needs. See S.Rep. 103-101, 103rd Cong., 2d Sess., p.1 at 22 (May 19, 1994) reprinted in 1994 U.S.C.C.A.N. 748, 767.

It is self evident that the codification of the improper practice of the Administrative Office violates the Separation of Powers by compromising the independence of the Judiciary and the Act should be declared unconstitutional. Congress' rationalization that the Administrative Office should continue to provide administrative services and guidance to Independent Counsels because it is a matter of convenience was admonished by Justice Brandeis:

> The doctrine of the separation of powers was adopted by the convention of 1787 not to promote efficiency but to preclude exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.

Myers v. U.S., 272 U.S. 52, 293 (1926)(Brandeis, J. dissenting)

WHEREFORE, Jim Guy Tucker prays that the indictment be dismissed on the grounds that the Act of 1994 violates the limitations of Article III by compromising the independence of the

judiciary.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: William H. Sutton

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WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	No. LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL, Defendants.	)	

MOTION TO ADOPT MOTION OF J. MCDOUGAL
TO DISMISS INDICTMENT

Comes Jim Guy Tucker, by counsel, and moves to adopt the motion filed in this cause by James McDougal to dismiss the indictment on the ground that the Independent Counsel Act, 28 USC Sec. 591 et seq., was not validly re-enacted, but was an amendment to an expired law, and therefore is not a valid and existing Act of Congress. In support hereof, this defendant states:

1. The motion, and its brief, are before the Court. Further briefing by this defendant would be redundant.

Respectfully submitted,

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(501) 376-2011

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James J. Lessmeister - AR #94038
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(501) 376-1171

CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

Mr. Kenneth W. Starr
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Mr. Steve Colloton
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Mr. Sam T. Heuer
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Attorney for James McDougal

James J. Lessmeister

EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. LR-CR-95-173
	)	
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL,	)	
	)	
Defendants.	)	

MOTION AND MEMORANDUM OF DEFENDANT JIM GUY TUCKER FOR PRODUCTION OF ALLEGED CO-CONSPIRATOR STATEMENTS AND FOR SUPPRESSION OF ANY SUCH STATEMENTS WHICH FAIL TO MEET THE CRITERIA OF F.R.EVID., RULE 801(d)(2)(E)

Comes the Defendant, Jim Guy Tucker, by counsel, and moves the Court for an order requiring the Independent Counsel to produce all alleged co-conspirator statements and to suppress any such statements that fail to meet the criteria of Rule 801(d)(2)(E) of the Federal Rules of Evidence and, in support hereof states:

1. This Defendant anticipates that the Independent Counsel will utilize numerous alleged co-conspirator statements during the course of its case.

2. Such statements are not admissible unless made during the course and in furtherance of the conspiracy.

3. This motion requests that the Court allow discovery of these statements in advance of trial to avoid needless interruption at trial and to suppress any such statements as to this Defendant not meeting the requirements above.

MEMORANDUM

Rule 801(d)2)(E) of the Federal Rules of Evidence provides:

> "A statement is not hearsay if...a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

This Defendant anticipates that the prosecutor's case will contain statements of alleged co-conspirators in Count One of its indictment. In order for these statements to be admissible against this Defendant, the Independent Counsel must satisfy the court that these statements were made in the course of, and in furtherance of, the conspiracy as required by Rule 801(d)2)(E).

The "during the course of" requirement is generally held to mean that the statements made as the conspiracy continues are admissible, whereas statements made after the conspiracy has failed or its goals have been achieved, are not admissible. Krulevitch v. United States, 336 U.S. 440, 69 S.Ct. 716, 93 L.Ed. 790 (1949). Similarly, statements made in furtherance of attempts to prevent detection are not admissible. United States v. Smith, 520 F.2d 1245 (8th Cir. 1975).

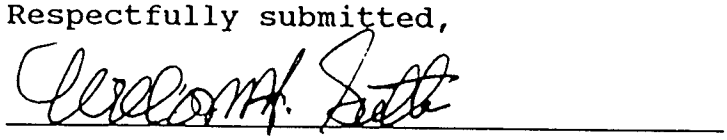
The more difficult question to be addressed, however, is the meaning of "in furtherance of the conspiracy." The Eighth Circuit has held that the "in furtherance" requirement is satisfied only when the statement somehow advances the objective of the conspiracy (i.e., something more than merely informing the listener of the declarant's activities). United States v. Snider, 720 F.2d 985 (8th Cir. 1983). The courts have also held that to be admissible, the statements must be more than merely "casual comments" not

intended to further the conspiracy. United States v. Green, 600 F.2d 154 (8th Cir. 1979); United States v. Eubanks, 591 F.2d 513 (9th Cir. 1979).

It should be noted, however, that this motion to have produced any alleged co-conspirator statements for a review by the court to determine their admissibility is not to be construed as an admission that the other elements of admissibility are present. Moreover, in order for alleged co-conspirator statements to be admissible, there must be established preliminarily that (a) there is a connection of the defendant to it; (b) that the statement was made during the course of the conspiracy; and (c) that it was made in furtherance of the conspiracy. Eubanks, supra, at 519. Furthermore, it is the responsibility of the court, rather than the jury, to determine if this foundation has been laid sufficient to admit the testimony. Id. Thus, even if the statements are produced pre-trial in furtherance of the alleged conspiracy, this Defendant does not waive and hereby asserts any and all other defenses to the admissibility of such evidence.

WHEREFORE, the Defendant, Jim Guy Tucker, requests that the Court order pre-trial disclosure of co-conspirator statements which the government intends to introduce, and to suppress all such statements that do not satisfy the requirements of Rule 801(d)(2)(E).

Respectfully submitted,



= Copy B Collins

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(501) 376-1171

CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

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James J. Lessmeister

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

DEFENDANT TUCKER'S MOTION TO RESERVE THE RIGHT TO FILE ADDITIONAL PRETRIAL MOTIONS OR REQUESTS

Comes now Defendant Jim Guy Tucker ("Tucker"), by and through his attorneys, and hereby files his motion to reserve the right to file additional pretrial motions and requests and as grounds, therefore, states:

1. The allegations in this case concern alleged criminal acts occurring over a significant period of time. The indictment was returned by the grand jury for the Western District of Arkansas on August 17, 1995.

2. Thereafter, the United States Magistrate set September 12, 1995 as the date when Tucker's pretrial motions were to be filed. On September 6, 1995 Tucker filed a Motion to Extend Time of Filing to September 25, 1995. Tucker has now filed several pretrial motions and has begun the task of reviewing voluminous information, documents and other material, developed in the Independent Counsel's case in preparation for trial. After reviewing the materials and investigating the case, it may become necessary for Tucker to assert additional motions

including, but not limited to, further requests for disclosure, motions to dismiss, and other motions that may arise from the Independent Counsel's responses.

3. This Defendant is now filing the instant motion in an effort to preserve his right to seek leave of Court to file additional pretrial motions after the motion date, if necessary.

WHEREFORE, for the foregoing reasons, Tucker respectfully requests that the Court permit him additional time, after the Independent Counsel has provided responses to Tucker's pretrial motions and after Tucker has investigate the case, to file additional motions as may be deemed appropriate, and for any and all other proper relief.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: _____

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James J. Lessmeister

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 22 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff	)	
	)	
v.	)	LR-CR-95-173
	)	
JAMES B. MCDOUGAL,	)	
JIM GUY TUCKER, and	)	
SUSAN H. MCDOUGAL	)	
	)	
Defendants	)	

MOTION TO SET RETURN DATE FOR TRIAL SUBPOENAS PRIOR TO DATE OF TRIAL

Comes the Defendant, Jim Guy Tucker, by counsel and for his motion pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure states as follows:

1. This Defendant may seek to subpoena certain documents for use at trial, which documents, it is anticipated, will require inspection and examination so as to be able to complete trial preparation.

WHEREFORE, this Defendant asks the Court, in accordance with Rule 17(c), to set a date prior to trial, upon which documents may be submitted by the subpoenaed parties, to be inspected by counsel before trial. Defendant prays that the return date be at least thirty days before trial.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

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zjjl102

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CERTIFICATE OF SERVICE

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Attorney for James McDougal

James J. Lessmeister

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP. CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff	)	
	)	
v.	)	LR-CR-95-173
	)	
JAMES B. MCDOUGAL,	)	
JIM GUY TUCKER, and	)	
SUSAN H. MCDOUGAL	)	
	)	
Defendants	)	

MEMORANDUM IN SUPPORT OF MOTION FOR DISCLOSURE OF EVIDENCE FAVORABLE TO DEFENDANT

MAY IT PLEASE THE COURT:

Since Brady v. Maryland, 3737 U.S. 83 (1963), and Napue v. Illinois, 360 U.S. 264 (1959) the prosecution has been required to disclose evidence favorable to the defendant. The failure to disclose favorable evidence is error, and the circumstances under which that error is prejudicial are outlined in U.S. v. Bagley, 473 U.S. 667 (1985).

The Brady rule has continuing life. Miller v. Angliker, 848 F.2d 1312, 1319 (2d Cir. 1988) sums it up when it says:

> "It is by now well established that a person accused of a crime has a due process right to require the prosecution to turn over to him any material or exculpatory evidence in its possession."

This applies to all issues in which a defendant has an interest, including the credibility of the witnesses and even including, as in Miller evidence of a special defense available to the defendant.

We do not write at inordinate length on our Brady motion; we

are certain that the Court has had long experience with Brady, and believe that the prosecutors will understand their duty under the due process clause of Amendment V to our Constitution, pursuant to which we bring this motion.

We respectfully pray that our Brady motion be granted.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

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Attorney for James McDougal

James J. Lessmeister

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MOTION FOR DISCLOSURE OF EVIDENCE FAVORABLE TO DEFENDANT

Comes Jim Guy Tucker ("Tucker"), Defendant, by counsel, and for his Motion for Disclosure by Independent Counsel of Evidence Favorable to these defendants, as required by Brady v. Maryland, 373 U.S. 83 (1963) and Amendment V to the United States Constitution, states:

1. Independent Counsel has conducted a lengthy investigation in this cause before, it is believed, two different grand juries and involving many witnesses and well over 100,000 pages of documents, obtained from defendants and from other sources, by subpoena and informally.

2. In addition, Independent Counsel has interviewed many witnesses who are not called before the Grand Jury, whose evidence was either not considered of benefit to Independent Counsel or whose evidence was adverse to Independent Counsel's contentions and favorable to or exculpatory of a defendant. Under the law of conspiracy evidence exculpatory of any "defendant" is also exculpatory of this defendant.

3. Defendants believe, and allege, that much of this evidence is exculpatory to defendants under the test of Brady v. Maryland, supra, and therefore specifically request;

(a) All evidence, including statements of individuals, Forms 302, handwritten notes, or documents of any kind which contradict any of the specific allegations of the indictment.

(b) All documents obtained from any source by Independent Counsel which tend to contradict any of the specific allegations of the indictment.

(c) All witness statements taken from witnesses as to matters related in Counts I, II, III, IV, VIII, IX, X, XI, XII, XX, XXI which contradict the eventual testimony of those witnesses before the grand jury or in any final statement taken from the witnesses, including the initial field notes prior to preparation of Form 302 statements taken by agents of Independent Counsel.

(d) All evidence indicating that any prospective Independent Counsel witness has a criminal record.

(e) All evidence indicating that any prospective Independent Counsel witness has committed a crime under the laws of any jurisdiction or government for which the proposed witness has not been convicted.

(f) All evidence indicating that any document purporting to bear the signature of any defendant or the wife of any defendant does not actually bear the genuine signature of that defendant, or the wife of that defendant.

(g) All evidence indicating that any prospective Independent Counsel witness may have lied under oath on any occasion.

(h) All evidence indicating that any prospective Independent Counsel witness told inconsistent stories to Independent Counsel.

(i) Redacted and filed separately.

(j) All evidence relating to any voir dire questions to the grand jury.

(k) All other evidence of any kind or description favorable to or exculpatory of the defendant.

(l) All documents including any oral or written testimony and interviews conducted by agents of Independent Counsel and Resolution Trust Corporation ("RTC") of persons charged in Counts I, II, IV, X, XI, XII of the Indictment which;

(i) Indicate or demonstrate Tucker did not have a fiduciary duty to David L. Hale, Capital Management Services, Inc. ("CMS") or Madison Guaranty Savings & Loan ("MGSL");

(ii) Indicate or demonstrate that David L. Hale made a case by case determination of eligibility of each borrower;

(iii) Indicate or demonstrate that David L. Hale personally and solely determined and reported the "use of proceeds" information as reported on SBA Form 1031.

(iv) Indicates that Tucker had no knowledge or involvement in information allegedly submitted to SBA on a Form 1031.

(v) Indicate or demonstrate that David L. Hale solicited qualified borrowers from his Small Business Investment Corporation ("SBIC").

(vi) Indicate or demonstrate that the loans from MGSL to Tucker were bona fide.

(vii) Indicate or demonstrate that Tucker had no fiduciary duty to Deal Paul, Ltd. regarding the $825,000 loan to Dean Paul, Ltd. from MGSL.

(viii) Indicate or demonstrate that Tucker did not make or cause to be made any alleged false entries with the intent to defraud in the books, reports and statements of MGSL. Specifically, any oral or written statements by, but not limited to, John Latham, Steve Cuffman, Greg Young, Don Denton, and Sarah Hawkins.

(ix) Indicate or demonstrate that Tucker did not make or cause to be made any alleged false entries with the intent to defraud in the books, reports and statements of CMS. Specifically, any oral or written statements by, but not limited to, David L. Hale, Caron Ross, William Watt, Steve Smith and any accountants or auditors.

(x) Indicate or demonstrate that Tucker did not make or cause to be made alleged false statements for the purpose of making fraudulent loans at CMS, specifically any oral or written statements by, but not limited to, David L. Hale, Caron Ross, William Watt, Steve Smith and any accountants or auditors.

(xi) Indicate or demonstrate that Tucker was not a nominee for the property at 1308 Main Street, Little Rock, Arkansas or indicating that he legally owned the property.

(xii) Indicate or demonstrate that after March, 1985 Tucker had no involvement or knowledge of transfers of ownership of 1308 Main Street, Little Rock, Arkansas property.

(xiii) Indicate or demonstrate that Tucker had no knowledge or involvement of the $825,000 Dean Paul Ltd. loan including but not limited to alleged overvalued appraisals, fraudulent real estate transactions or loan funds being used to increase the capitalization of CMS.

(xiv) Indicate or demonstrate that Tucker had no knowledge of an involvement in the $143,000 loan from CMS to Larry E. Kuca d/b/a Campobello Realty Co.

(xv) Indicate or demonstrate that Tucker had no knowledge or involvement in the $65,000 loan from CMS to Steve Smith, d/b/a The Communication Company.

(xvi) Indicate or demonstrate that Tucker had no knowledge or involvement in the alleged generated inflated profits for Madison Finance Corporation ("MFC") from the $1.05 million loan from MGSL to CSW.

(xvii) Indicate or demonstrate that Tucker had no knowledge that Susan H. McDougal received a commission on the sale including any document purporting to bear the signature of Tucker which does not actually bear the genuine signature of Tucker.

(xviii) Indicate or demonstrate that Tucker had no knowledge or involvement in a loan of $300,000 from CMS to Susan H. McDougal d/b/a Master Marketing.

(xix) Indicate or demonstrate that MGSL knew and approved of how the loan proceeds would be used or disbursed in the $260,000 loan from MGSL to Tucker for 145th Street property including payment to Savers Bank.

(xx) Indicate or demonstrate that Tucker was not a participant in the alleged October, 1985 meeting with Jim McDougal and David L. Hale wherein the alleged infusion of approximately $500,000 of capital into CMS was allegedly discussed.

(xxi) Indicate or demonstrate that Tucker had no knowledge or involvement regarding David L. Hale's receipt of $502,000 in net proceeds from the alleged fraudulent Dean Paul Ltd. real estate transaction.

(xxii) Indicate or demonstrate that Tucker had no knowledge or involvement regarding alleged fraud in the $100,000 loan from CMS to Southloop.

m. All documents including any oral or written testimony and interviews conducted by agents of Independent Counsel and RTC of persons relating to charges Count II of the indictment which:

(i) Indicate or demonstrate that Tucker did not cause or cause to be made an alleged wire transfer of funds from the United States Department of Treasury to CMS' account at Pulaski Bank & Trust in Little Rock, Arkansas on or about May 20, 1986.

n. All documents including any oral or written testimony and interviews conducted by agents of Independent Counsel and RTC of persons relating to charges in Count III of the indictment which:

(i) Indicate or demonstrate that Tucker did not cause or cause to be made an alleged wire transfer of funds from the United States Department of Treasury to CMS' account at Pulaski Bank & Trust in Little Rock, Arkansas on or about September 11, 1986.

o. All documents including any oral or written testimony and interviews conducted by agents of Independent Counsel and RTC of person relating to the charges in Count VIII of the indictment which:

(i) Indicate or demonstrate that Tucker had no knowledge or involvement in obtaining an alleged

fraudulent loan from CMS to pay off the Kings River note at Worthen.

(ii) Indicate or demonstrate that Tucker had no knowledge or involvement in the submission of the alleged false and fictitious loan proposal to CMS.

p. All documents including any oral testimony and interviews conducted by agents of Independent Counsel and RTC of persons relating to the charges in Count IX of the indictment which:

(i) Indicate or demonstrate that Tucker had no knowledge or involvement in the alleged misapplication of monies and funds belonging to CMS.

q. All documents including any oral or written testimony or interviews conducted by agents of Independent Counsel and RTC of persons relating to the charges in Count X of the indictment which:

(i) Indicate or demonstrate that Tucker had no knowledge or involvement in the alleged false entry (hiring a new employee) as to the purpose of the loan to Steve A. Smith d/b/a The Communication Company.

r. All documents including any oral or written testimony or interviews conducted by agents of Independent Counsel and RTC of persons relating to the charges in Counts XX and XXI of the indictment which:

(i) Indicate or demonstrate that Tucker did not knowingly or willfully "allow" David Hale to retain any proceeds from the sale of the 32 Pine Manor property.

(ii) Indicate or demonstrate that the Southloop Construction Company, Inc. loan is a legitimate loan with legitimate terms and interest rates and was not a personal payback from Hale to Tucker.

(iii) Indicate or demonstrate that the loan proceeds purportedly to be a personal payback from Hale to Tucker were used for legitimate business expenses and that Tucker did not retain the proceeds personally.

(iv) Indicate or demonstrate that Tucker did not deceive CMS or the SBA auditors.

4. This motion is supplementary to the motion to require Independent Counsel to disclose arrangements and deals with witnesses, filed this date. "Independent Counsel" is intended to refer to any agent or associate of Independent Counsel, or of Mr Fiske, a non-statutory predecessor of Independent Counsel.

WHEREFORE, Defendants respectfully pray that Independent Counsel disclose all "Brady material" in its possession, in accord with the requirements of Brady v. Maryland, supra, and Amendment V to the United States constitution, both as specifically requested and as it may exist.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: _____

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FILED
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SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	No. LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL, Defendants.	)	

DEFENDANT JIM GUY TUCKER'S RULE 16 DISCOVERY REQUEST

Comes now Defendant, Jim Guy Tucker, (hereinafter "Tucker"), by and through his undersigned attorneys of record, requests the Independent Counsel to do the following, in accordance with Rule 16 of the Federal Rules of Criminal Procedure:

A. STATEMENT OF DEFENDANT:

1. Disclose to Tucker and make available for inspection, copying, or photographing: any relevant written or recorded statements made by Tucker or any persons claimed to have been a co-conspirator or agent of Tucker, or copies thereof, within the possession, custody, or control of the Independent Counsel, the existence of which is known, or by the exercise of due diligence may become known, to the Independent Counsel; that portion of any written record containing the substance of any relevant oral statement made by Tucker or any alleged co-conspirator or agent in response to interrogation by any person acting for the Plaintiff, and the transcript or recording of the Grand Jury testimony of any alleged co-conspirator or agent of Tucker.

2. Disclose to Tucker the substance of any other relevant oral statement made by Tucker or any alleged co-conspirator of

Tucker in response to interrogation by any person employed by or acting for the benefit of Plaintiff if the Independent Counsel intends to use that statement at trial.

B. DEFENDANT'S PRIOR RECORD: Furnish to Tucker such copy of the any criminal record of any person claimed to be a co-conspirator or agent of Tucker, if any, as is within the possession, custody or control of the Independent Counsel, the existence of which is known, or by the exercise of due diligence may become known, to the Independent Counsel. Tucker particularly requests the criminal record of David L. Hale.

C. DOCUMENTS AND TANGIBLE OBJECTS: Permit Tucker to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the Independent Counsel, and which are material to the preparation of Tucker's defense or are intended for use by the Independent Counsel as evidence in chief at the trial, or were obtained from or belong to Tucker or to any person alleged to have been a co-conspirator or agent of Tucker.

D. REPORTS OF EXAMINATIONS AND TESTS: Permit Tucker to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, including handwriting analyses, or copies thereof, which are within the possession, custody, or control of the Independent Counsel, the existence of which is known, or by the exercise of due diligence may become known, to the Independent Counsel, and which are

material to the preparation of the defense or are intended for use by the Independent Counsel as evidence in chief at the trial.

E. EXPERTS: Disclose to Tucker a written summary of expert testimony the Independent Counsel intends to use during its case in chief at trial. This summary must describe the witnesses' opinions, the bases and the reasons therefor, and the witnesses' qualifications. Tucker also requests copies of any explanatory exhibits prepared by any expert witness for trial use or demonstration.

F. CONTINUING DUTY TO DISCLOSE: In accordance with Rule 16 of the Federal Rules of Criminal Procedure, if, prior to or during trial, the Independent Counsel discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under Rule 16, the Independent Counsel shall promptly notify Tucker's Attorneys or the court of the existence of the additional evidence or material. Tucker further prays that compliance by the Independent Counsel be completed at least forty-five days prior to trial.

Respectfully submitted,

JIM GUY TUCKER, Defendant

William H. Sutton - AR #59018
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(501) 376-2011

George B. Collins - AR #53032
COLLINS & BARGIONE
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James J. Lessmeister - AR #94038
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124 W. Capitol, Suite 875
Little Rock, AR 72201
(501) 376-1171

CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

Mr. Kenneth W. Starr
Mr. Hickman Ewing
Mr. Steve Colloton
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Attorney for Susan McDougal

Mr. Sam T. Heuer
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Little Rock, AR 72201
Attorney for James McDougal

James J. Lessmeister

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

UNITED STATES OF AMERICA)
Plaintiff)
)
v.) LR-CR-95-173
)
JAMES B. MCDOUGAL,)
JIM GUY TUCKER, and)
SUSAN H. MCDOUGAL)
Defendants)

DEFENDANT JIM GUY TUCKER'S MOTION TO REQUIRE INDEPENDENT COUNSEL TO GIVE NOTICE OF ITS INTENTIONS TO INTRODUCE RULE 404(b) AND RULE 608(b) EVIDENCE

Comes now Defendant Jim Guy Tucker ("Tucker") by and through his undersigned attorneys of record, request the Independent Counsel to provide Tucker with notice of intention to introduce Rule 404(b) and Rule 608(b) evidence in its case-in-chief:

1. That the Independent Counsel provide to Tucker reasonable notice in advance of trial of its intention to offer into evidence any 404(b) character evidence that goes to proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident and the general nature of any such evidence it intends to introduce at trial.

2. That the Independent Counsel provide to Tucker its notice of intent to introduce into evidence any 608(b) material regarding the witness concerning the witness' character for truthfulness or untruthfulness, or concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross examined has testified.

3. That the Independent Counsel provide to Tucker notice of intention to introduce Rule 404(b) and Rule 608(b) evidence in its case-in-chief, and to provide to Tucker, if intended to be used, with the following:

(a) The specific details of any such alleged conduct;

(b) Statements of any participants;

(c) Any document contending or evidencing such conduct;

(d) With respect to 404(b) evidence, the issues on which the Independent Counsel believes the evidence is relevant.

4. Defendant Tucker requests said information so as to prevent prejudicial surprise at trial.

WHEREFORE, Defendant Tucker prays for an order granting his motion and for all other relief to which he is entitled to.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By:

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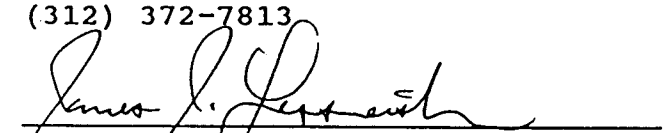

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James J. Lessmeister

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MOTION FOR BILL OF PARTICULARS

Comes Defendant, Jim Guy Tucker ("Tucker"), by counsel, and for his Motion for Bill of Particulars pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure prays that Independent Counsel be required to furnish to this Defendant the following particulars:

AS TO COUNT ONE

As to paragraph 1(i): Set forth the manner as to which the Defendants are alleged to have conspired to cause an increase in the lending limit of Capital Management Services, Inc. ("CMS").

As to paragraph 1(k): Set forth whether or not it is the contention of Independent Counsel that Tucker provided legal representation to David L. Hale, CMS or Madison Guaranty Savings & Loan ("MGSL") and any of the alleged counts in the indictment.

As to paragraph 1(k): Set forth the specific matters in which it is alleged Tucker had a fiduciary duty to David Hale, CMS or MGSL.

As to paragraph 2: Set forth the persons, other than David L. Hale, with whom Defendants are alleged to have conspired who were known to the Grand Jury at the time of the indictment.

As to paragraph 2: Set forth the date, time and place of the contention of Independent Counsel as to the formation of the alleged conspiracy.

As to paragraph 2(a): Set forth the date, time and place of the contention of Independent Counsel as to the Defendant's alleged intended fraud or misapplication of monies, funds and credits of Madison Guaranty Savings & Loan Association ("MGSL").

As to paragraph 2(b): Set forth the date, time, place and manner as to which the Defendants are alleged to have knowingly and willfully made or caused to be made false entries in the books and records of MGSL with the intent to defraud the institution and deceive the Federal Home Loan Bank Board ("FHLBB").

As to paragraph 2(c): Set forth the time, place, date and manner in which the Defendants allegedly knowingly and willfully received directly and indirectly, the money, profit, property and benefits of the alleged transaction of MGSL with the intent to defraud the institution, and the United States and an agency thereof.

As to paragraph 2(d): Set forth the date, time, place and manner in which the Defendants allegedly knowingly and willfully misapplied or cause to misapply, the monies, funds and credits of CMS.

As to paragraph 2(e): Set forth the time, date, place and manner in which the Defendants allegedly knowingly and willfully made or caused to be made false entries in the books, reports and statements of CMS with the intent to defraud the United States, common agency thereof, and officers, examiners and auditors thereof.

As to paragraph 2(f): Set forth the specific loan applications in which the Defendants allegedly knowingly and willfully made and caused to be made false statements for the purpose of influencing the actions of CMS and the making of fraudulent loans.

As to paragraph 3: Set forth the date, time, place and manner in which the Defendants allegedly decided to fraudulently conduct the affairs of MGSL and CMS to generate readily available funds to be used by them, the joint ventures or those who assisted them.

As to paragraph 3: Set forth those persons who would and did allegedly assist the Defendants in their business ventures.

As to paragraph 4: Set forth the specific financial dealings which were allegedly fraudulently structured by the Defendants.

As to paragraph 4: Set forth the names of the examiners, auditors and others.

As to paragraph 4: Set forth the manner as to which the Defendants allegedly conspired to structure fraudulent financial dealings with MGSL and CMS.

As to paragraph 5: Set forth the specific nominee transactions which were allegedly fraudulent for the purpose of generating fraudulent profits or disguising from examiners and auditors the true ownership of the assets.

As to paragraph 5: Set forth the names of examiners and auditors.

As to paragraph 5: Set forth the time, date, place and manner in which the Defendants allegedly conspired to engage in fraudulent nominee transactions.

As to paragraph 6: Set forth the time, date, place and manner in which the Defendants allegedly conspired to engage in "land flip" and other fraudulent transactions.

As to paragraph 7: Set forth the date, time, place and manner in which the Defendants allegedly conspired to have James B. McDougal and Susan H. McDougal control the majority of the stock of MGSL and direct, influence and control the business affairs of MGSL and Madison Financial Corporation ("MFC").

As to paragraph 8: Set forth the date, time, place and manner in which the Defendants allegedly conspired to have David L. Hale control the majority of the stock of CMS and direct its business affairs.

As to paragraph 9: Set forth the specific "various business dealings and investments that were of mutual interest or involved opportunities for share profits."

As to paragraph 10: Set forth the specific transactions in which the Defendants allegedly conspired to generate fraudulent

paperwork so as to make the transactions appear to be consistent with the sound business practices and existing regulations.

As to paragraph 11: Set forth any and all alleged steps in which the Defendants allegedly conspired to have CMS make fraudulent loans.

As to paragraph 11: Set forth the specific alleged fraudulent loans which benefited the Defendants, their friends or business associates of the Defendants.

As to paragraph 11: Set forth specifically the alleged "false and fraudulent loan applications and proposals, submitted on behalf of nominee, borrowers, and secured by insufficient collateral."

As to paragraph 12: Set forth the specific alleged fraudulent loan the Defendants allegedly conspired to arrange.

As to paragraph 12: State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the alleged fraudulent loan.

As to paragraph 13: Set forth the specific "various business ventures."

As to paragraph 13: State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of CMS's application to the SBA for matching funds.

As to paragraph 15: Set forth any and all alleged "fraudulent financial transactions with MGSL, MFC, and CMS."

As to paragraph 15(a): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge

of the alleged transfers of 1308 Main Street, Little Rock, Arkansas property from one nominee to another.

As to paragraph 15(a): Set forth the persons with whom Defendants are alleged to have conspired who are known to the grand jury at the time of the indictment.

As to paragraph 15(b): Set forth the persons with whom Defendants are alleged to have conspired who are known to the grand jury at the time of the indictment.

As to paragraph 15(c): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge or involvement with a loan of $143,000 from CMS to Larry E. Kuca, d/b/a Campobello Realty Company.

As to paragraph 15(d): Set forth specifically the benefit to Tucker from a loan of $65,000 from CMS to Steven Smith, d/b/a The Communication Company.

As to paragraph 15(d): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the alleged fraudulently misrepresented loan application.

As to paragraph 15(e): Set forth the date, time, place and manner in which the Defendants allegedly conspired to have a loan of $1.05 million from MGSL to Castle Sewer & Water ("CSW") generate inflated profits for MFC and commissions to Defendant Susan H. McDougal.

As to paragraph 15(h): Set forth the date, time, place and manner in which the Defendants allegedly conspired to create a loan of $100,000 from CMS to Southloop to conceal and hide Defendant Jim Guy Tucker's interest in the loan.

As to paragraph 16(b): Set forth the specific alleged deed conveyed by Tucker for the property at 1308 Main Street.

As to paragraph 16(b): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the nominee selected by James B. McDougal.

As to paragraph 16(d): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the alleged preparation of fraudulent appraisals of real estate by James B. McDougal and David L. Hale.

As to paragraph 16(f): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of a loan of $143,000 from CMS to Larry E. Kuca d/b/a Campobello Realty Company.

As to paragraph 16(g): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of a loan in the amount of $65,000 from CMS to Steven A. Smith, d/b/a The Communication Company.

As to paragraph 16(h): State whether or not it is the contention of Independent Counsel that Tucker had knowledge of an $825,000 loan from MGSL to Dean Paul Ltd. and the alleged subsequent purchase of falsely appraised real estate from David L. Hale.

As to paragraph 16(k): State whether or not it is the contention of Independent Counsel that Jim Guy Tucker had any knowledge that David L. Hale received $502,000 in net proceeds from the alleged fraudulent Dean Paul Ltd. real estate transaction.

As to paragraph 16(l): State whether or not it was the contention of Independent Counsel that Tucker had any knowledge that David L. Hale caused CMS to apply to SBA for leverage funding.

As to paragraph 16(m): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the alleged false and fraudulent loan application by James B. McDougal for $300,000 loan from CMS to Susan McDougal d/b/a Master Marketing.

As to paragraph 16(n): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of the alleged proceeds of the fraudulent $300,000 loan from CMS to Susan McDougal d/b/a Master Marketing.

As to paragraph 16(o): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge of James B. or Susan H. McDougal's alleged deposit of proceeds of the fraudulent Master Marketing loan into their joint account at MGSL.

As to paragraph 16(p): State whether or not it is the contention of Independent Counsel that Tucker had any knowledge that Susan H. McDougal received $85,000 in commissions for her role in the sale of MFC Sewer & Water System through CSW.

As to paragraph 16(q): Set forth the persons, other than David L. Hale, with whom the Defendants are alleged to have conspired who were known to the Grand Jury at the time of the indictment.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: William H. Sutton

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James J. Lessmeister

James J. Lessmeister - AR #94038
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(501) 376-1171

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Attorney for James McDougal

James J. Lessmeister

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP. CLERK

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

AFFIDAVIT IN SUPPORT OF MOTION FOR BILL OF PARTICULARS

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, George B. Collins, being duly sworn, state:

1. I am the attorney for Jim Guy Tucker ("Tucker"), one of the defendants in the above entitled action, and make this affidavit in support of the motion of Defendant Tucker for an order directing the Independent Counsel to file a bill of particulars.

2. The indictment filed in this case on August 17, 1995, alleges that Defendant Tucker, together with co-defendant James B. McDougal and Susan H. McDougal and an unstated number of unindicted co-conspirators, conspired to violate 18 U.S.C. § 371 and other specific statutes.

3. The indictment further alleges that such conspiracy existed during the period from 1985 through 1987.

4. The indictment fails to state with particularity the locations at which, and the dates and times when, the various

defendants and co-conspirators joined the conspiracy and committed the alleged overt acts in furtherance thereof.

5. The indictment further fails to state with particularity which defendants or co-conspirators committed which alleged overt acts, which objects of the alleged conspiracy th overt acts were committed in furtherance of the conspiracy, and whether the Independent Counsel intends to introduce evidence of other overt acts not alleged in the indictment.

6. The indictment further fails to provide with particularity the other information requested in the motion for the bill of particulars.

7. There has been no preliminary examination in this case, and Defendant Tucker is presumed innocent.

8. In a case of this nature, the Independent Counsel might proceed to trial under any one of several theories which he could select at the time of presentation of evidence. The indictment fails to inform Defendant Tucker as to the specific theory or theories on which the Independent Counsel intends to rely in this specific case, and therefore fails to adequately inform him of the nature and scope of the charge against him.

9. The indictment also fails to inform Defendant Tucker of whether or not Independent Counsel intends to present evidence of other so-called similar offenses.

10. The information requested is essential to enable defendant Tucker adequately to prepare for and proceed to trial in this case.

11. Without the requested information, Defendant Tucker and defense counsel will be compelled to expend great amounts of time and money in attempting to investigate every possible Independent Counsel evidentiary issues, regardless of which theory and which evidence the Independent Counsel actually intends to rely on and present. The requested information will enable Defendant Tucker and defense counsel to avoid such unnecessary expenditures of time and money, and will therefore facilitate Defendant Tucker's preparation for trial and the introduction of defense evidence at trial. The granting of the motion will focus the parties on the actual issues to be tried, and will save significant trial time.

12. The requested information will enable Defendant Tucker to avoid surprise at trial. Without such information, it is extremely likely that there will be long periods of delay during the trial, due to surprise, and there is a substantial possibility that the defense would have to request a continuance during trial.

FURTHER AFFIANT SAYETH NOT.

Dated: 9/23/95

George B. Collins

SUBSCRIBED AND SWORN to before me, a Notary Public, this 23rd day of September, 1995.

Darlene Collamore
Notary Public

My Commission Expires:

Nov. 23 1997

"OFFICIAL SEAL"
Darlene Collamore
Notary Public, State of Illinois
My Commission Expires Nov. 23, 1997

zjjl-113

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MEMORANDUM IN SUPPORT OF DEFENDANT TUCKER'S MOTION FOR BILL OF PARTICULARS

MAY IT PLEASE THE COURT:

Rule 7(f) of the Federal Rules of Criminal Procedure provides that the Court may "direct the filing of a bill of particulars".

There is no requirement of a showing of cause, that provision having been eliminated by amendment following the decision in U.S. vs. Smith, 16 F.R.D. 372 (WD Mo. 1954) (Judge, later Justice, Whittaker).

Justice Whittaker wrote that the presumption of innocence requires an assumption that the defendant "is ignorant of the facts upon which the pleader founds his charges". Smith, 16 F.R.D. at 372. See, also, Fontana vs. U.S., 262 Fed. 283, 286 (8th Cir. 1919).

The most obvious use of the Bill of Particulars is to identify unindicted co-conspirators. See, e.g., U.S. vs. Longo, 793 F.Supp. 57, 60 (N.D.N.Y. 1992); U.S. vs. White, 753 F.Supp. 432, 434 (D.Conn. 1990); U.S. vs. Williams, 113 F.R.D. 177, 179 (MD Fla. 1986). These precedents would apply particularly to

paragraphs of Count One which charges Defendants Jim Guy Tucker, James B. McDougal and Susan H. McDougal with conspiring with persons both known and unknown to the Grand Jury.

The identity of "co-conspirators" defines the alleged conspiracy, and non disclosure until trial would be both prejudicial and of no use to Independent Counsel except surprise at trial.

The complexity of this case also demonstrates the need for a Bill of Particulars. An equally complex case was U.S. vs. Recognition Equipment, Inc., 711 F. Supp. 1 (D.D.C. 1989). The prosecution there was required to give particulars as to each payment claimed, including names and accounts. In this case we should be informed as to the exact charges, the persons involved, and the dates involved. The vagueness of claims that defendants did some act at some undefined time cannot be adequately defended without information.

This point is supported by the opinion of Judge Miller in U.S. vs. Anderson, 254 F.Supp. 177 (W.D. Ark. 1966). Judge Miller, following the opinion of Justice Whittaker in Smith, supra, required the prosecution to identify the payor and amount of each item claimed to have been omitted from the tax return of an attorney charged with a tax crime.

We submit that the Bill of Particulars requested is necessary to prepare for and defend against this indictment, and ask that the Court require Independent Counsel to furnish the particulars requested.

Respectfully submitted,
JIM GUY TUCKER, Defendant

By: _____

William H. Sutton - AR #59018
FRIDAY, ELDREDGE & CLARK
400 W. Capitol, Suite 2000
Little Rock, AR 72201
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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
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JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	No. LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN MCDOUGAL, Defendants.	)	

MOTION FOR DISCLOSURE OF ARRANGEMENTS WITH WITNESSES

Comes the Defendant Jim Guy Tucker ("Tucker") and for his Motion to require the Independent Counsel to disclose its arrangements, deals, transactions, and immunities with witnesses, states as follows:

1. The indictment is regarding transactions with: Capital Management Services, Inc. ("CMS") and/or Madison Guaranty Savings & Loan Association ("MGSL") and/or Madison Financial Corporation ("MFC"). CMS was a small business investment corporation controlled by David L. Hale. MGSL was a state chartered, federally insured savings & loan association owned by Defendant James B. McDougal. MFC was a wholly owned subsidiary of MGSL. Defendant James B. McDougal was President and Chairman of the Board of Directors of MFC and Defendant Susan H. McDougal was a licensed real estate broker who worked for Madison Real Estate Company, a division of MFC.

2. David L. Hale was known to have entered a plea of guilty to crimes relating to CMS, upon which he has not yet been sentenced, although a significant period of time has passed. Further, Hale has resided away from his usual place of abode for

more than a year, and is believed to be living at Independent Counsel's expense with promises of immunity and other benefits from Independent Counsel.

3. Hale has committed serious offenses in the operation of CMS, unrelated to Defendant Tucker, for which he will face significant criminal penalties, unless relieved of those penalties as compensation for testimony to be given against Defendant Tucker.

4. The Independent Counsel should be required to disclose all of its financial and immunity or other arrangements with Hale. The disclosure should be complete, and should include all benefits conferred upon Hale by Independent Counsel, including specifically, but not limited to;

a. Immunity from prosecution for any crime or from the use of any evidence, whether formal or informal.

b. Financial benefits or payments, including tax benefits or tax deferrals.

c. Any benefits by way of services, such as transportation to visit a friend, legal services or other services of any kind.

d. Any benefits by way of intervention by any person acting for the prosecution with other prosecutorial authorities, including specifically the Prosecuting Attorney of Pulaski County, and including any other Federal or State authority (of any State) with which Hale would or might have legal difficulty. This paragraph is intended to include, but not limited to the Internal Revenue Service

("IRS"), Small Business Administration ("SBA"), Resolution Trust Corporation ("RTC"), Federal Deposit Insurance Corporation ("FDIC"), and to any Federal or State prosecutor anywhere.

e. Any evidence relating to any attempts by Independent Counsel to protect David Hale from prosecution by other prosecuting authorities for crimes committed by Hale against the citizens of Arkansas.

f. Any negotiations undertaken by Independent Counsel with any prosecuting authorities in which the purpose was to obtain deferral of prosecution of Hale pending his continued cooperation with Independent Counsel.

g. Any communications to David Hale or his counsel of the efforts made on Hale's behalf by Independent Counsel to protect Hale from prosecution by any other prosecuting authority, whether said communications are in writing or oral.

h. Any communications by, to or with Hale or his counsel relating to the subject of efforts or intervention by Independent Counsel on behalf of Hale with other prosecuting authorities.

i. [In responding, please consider "other prosecuting authorities to include any official having the right or duty to investigate or prosecute any criminal act in any jurisdiction before any court in the United States.]

j. Any benefits by way of shielding Hale from civil

liabilities, whether by assisting in concealment of assets, concealment of Hale, or assisting Hale in the avoidance of service of civil process, or assistance to Hale with the IRS.

k. Any payment of expenses or reimbursement for expenses claimed to have been incurred or actually incurred by Hale, or any payment as compensation or for living expenses.

l. Any act done by Independent Counsel, or any agent or employee of Independent Counsel, which is, or was, or may be of benefit to Hale.

m. Any medical benefits or coverage of any kind to Hale.

5. Hale is believed to have committed numerous violations of the SBA Act, all of which are known to the SBA and, therefore, to Independent Counsel. Defendant Tucker requests information as to settlements, assurances or negotiations relating to such matters between Hale and SBA, or RTC as successor or receiver of CMS.

6. Defendant Tucker also requests all information as to Independent Counsel's deals or arrangements with other witnesses as to all counts of the indictment, including but not limited to the following:

Bessie Aunspaugh
Lisa Aunspaugh
Robert Betts
Steve Cuffman
Don Denton
Jim Gardner
Richard Grasby
Pat Harris
Bill Henley and any other relative of Susan McDougal
Pat Heritage

Larry Kuca
John Latham
Guy Maris
Sheffield Nelson
Robert Palmer
Dean Paul
Caren Ross
Steve Smith
Sue Strayhorn
Thomas Trantham
Seth Ward
William Watt
Greg Young
Any other person upon whom the Independent Counsel plans to rely for evidence herein.

7. These requests are made pursuant to due process clause of Amendment V to the United States Constitution, and pursuant to the decisions in U.S. v. Giglio, 405 U.S. 150 (1972) and Brady v. Maryland, 373 U.S. 83 (1963). The information is required so as to allow Defendant Tucker to cross-examine Hale and other witnesses, and demonstrate bias, interest and lack of credibility.

WHEREFORE, Defendant Tucker respectfully prays that this Court order Independent Counsel to produce, set forth and identify all of its deals and arrangements with witnesses, whether written or oral, and whether formal or informal, and whether by binding contract or simple assurance.

Respectfully submitted,
JIM GUY TUCKER, Defendant

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CERTIFICATE OF SERVICE

I, James J. Lessmeister, do hereby certify that I have served a copy of the foregoing pleading by U.S. Mail, postage prepaid to the below named parties on this 25th day of September, 1995.

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Attorney for James McDougal

James J. Lessmeister

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

MEMORANDUM BRIEF IN SUPPORT OF
JIM GUY TUCKER'S MOTION FOR DISCLOSURE
OF GRAND JURY VOIR DIRE QUESTIONS

I. APPLICATION OF LAW TO THE CASE AT BAR

The issue at bar is unique because Jim Guy Tucker ("Tucker") is not requesting traditional Grand Jury material and evidence which are governed by F.R.Cr.P. 6. Rather Tucker is requesting only Independent Counsel's voir dire.

Every citizen is entitled to an unbiased and legally constituted grand jury. Costello v. United States, 350 U.S. 359, 363 n.7 (1956) citing Pierre v. State of Louisiana, 306 U.S. 354 (1939). The Supreme Court has warned:

> If the Grand Jury is to accomplish either of its functions, independent determination of probable cause that a crime has been committed and protection of citizens against unfounded prosecutions, limits must be set on the manipulation of grand juries by overzealous prosecutors.

United States v. Samango, 607 F.2d 877, 882 (9th Cir. 1979).

As Justice Brandeis stated over fifty years ago, "[t]he greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding." Olmstead v. United States, 277 U.S. 438, 479 (1928)(Brandeis, J. dissenting).

Tucker is entitled to an unbiased grand jury. The voir dire will reveal the fairness of the selection process. The ex parte voir dire of the grand jurors only increases the Independent Counsel's opportunity to obtain what they wish to obtain from the grand jury. Disclosure of the Independent Counsel's voir dire is necessary to allow Tucker to assess the validity of the voir dire by determining whether or not impermissible racial, social or political factors were used in the selection of the grand jury. By preventing the release of the voir dire the Independent Counsel will prevent an inquiry which is constitutionally required.

As stated by the Supreme Court "...intentional discrimination in the selection of grand jurors is a grave constitutional trespass." See Vasquez v. Hillery, 474 U.S. 254, 262 (1986). The voir dire is possibly an "arbitrary and oppressive governmental action" especially if controlled by Independent Counsel. United States v. Gold, 470 F.Supp. 1336, 1345 (N.D. Ill. 1979) citing United States v. Calandra, 414 U.S. 338, 343 (1974).

We anticipate that Independent Counsel may be tempted to argue that Tucker must satisfy the three step test established by the Supreme Court in Douglas Oil Co. v. Petrol Stops Northwest, 441 U.S. 211, 222 (1979). The Douglas test is

irrelevant in the present case since Tucker is not requesting traditional grand jury material and evidence. Tucker is only asking for a transcript of Independent Counsel's voir dire. There is a difference.

II. TUCKER HAS AN UNQUALIFIED RIGHT TO INSPECT THE INDEPENDENT COUNSEL'S VOIR DIRE QUESTIONS PURSUANT TO 28 U.S.C. § 1867(f)

The Supreme Court has stated:

> This provision [1867(f)] makes clear that a litigant has essentially an unqualified right to inspect jury lists. It grants access in order to aid parties in the 'preparation' of motions challenging jury selection procedures. Indeed, without inspection, a party almost invariably would be unable to determine whether he has a potentially meritorious jury challenge. Thus, an unqualified right to inspection is required not only by the plain text of the statute, but also by the statute's overall purpose of insuring 'grand and petit juries selected at random from a fair cross section of the community.'

Test v. United States, 420 U.S. 28, 30 (1975) citing 28 U.S.C. § 1861.

In United States v. Alden, 776 F.2d 771 (8th Cir. 1985) the district court denied the defendant's amended motion for information regarding the grand jurors actually chosen, disqualified or excluded. Id., 776 F.2d at 773. Relying on Test, the Eighth Circuit reversed and stated the defendant is entitled to inspect and copy jury records in order to make his motion to stay or dismiss under § 1867(a) and to comply with § 1867(d)'s requirement of a sworn statement of facts. Moreover, the Eighth Circuit stated the defendant's motion cannot be denied on the basis the alleged facts fail to show a probability of merit in the proposed jury challenge. Id., 776

F.2d at 773-74 (citation omitted). By analogy, the voir dire questions, and answers, should be supplied.

III. ALTERNATIVELY, THE COURT IS ENTITLED TO FIRST INSPECT THE TRANSCRIPT OF VOIR DIRE

In United States v. Jim Guy Tucker, William J. Marks, Sr. and John H. Haley, Case No. LR-CR-95-117, United States District Judge Henry Woods ordered on August 9, 1995 "While the Court will not require, at this time, that the transcript of the voir dire be furnished to Tucker, the government is herewith directed to furnish to the Court a transcript of the grand jury voir dire for in camera inspection by the Court." See Exhibit "1".

In the alternative, if the Court decides that Tucker is not initially entitled to a transcript of the voir dire then Tucker respectfully requests the Court do an in camera inspection of Independent Counsel's grand jury voir dire.

WHEREFORE, Tucker prays that this Court release the voir dire of the Grand Jury and for any other relief to which he is entitled to.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By:

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CERTIFICATE OF SERVICE

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James J. Lessmeister

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

AUG 09 1995

JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA

V. NO. LR-CR-95-117

JIM GUY TUCKER, WILLIAM J. MARKS, SR., and JOHN H. HALEY

ORDER

Defendant Jim Guy Tucker has moved for a disclosure of the grand jury *voir dire*. The government has now responded to this motion. While the Court will not require, at this time, that the transcript of the *voir dire* be furnished to Tucker, the government is herewith directed to furnish to the Court a transcript of the grand jury *voir dire* for *in camera* inspection by the Court.

DATED this 9 day of August, 1995.

UNITED STATES DISTRICT JUDGE

ENTERED ON THE DOCKET IN ACCORDANCE
WITH RULE 55, FRCrP, ON 8/9/95
BY _____

DEFENDANT'S EXHIBIT "1"

89

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 25 1995
JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

ORAL ARGUMENT REQUESTED

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ATTORNEYS FOR JIM GUY TUCKER

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

JIM GUY TUCKER'S MOTION FOR DISCLOSURE
OF GRAND JURY VOIR DIRE QUESTIONS

Comes the Defendant, Jim Guy Tucker ("Tucker"), and for his motion for disclosure of grand jury voir dire questions states as follows:

1. Tucker has reason to believe that voir dire questions were asked of the grand jurors in March, 1994.

2. Questions can have a prejudicial effect, and can be used to eliminate grand jurors who might have been fair to Tucker.

3. Unfair grand jury questions and an unfair selection of grand jurors by the Independent Counsel, ex parte, can only be intended to improve the Independent Counsel's opportunities to obtain what they wished to obtain from the grand jury.

4. The material sought by Tucker is not evidence that was presented to the Grand Jury. Rather, Tucker is requesting the transcript of voir dire questions and responses of potential and actual grand jurors.

5. Only by disclosure of the grand jury questions will Defendant Tucker be able to determine whether or not to make a motion to dismiss the indictment by way of challenging its makeup and its selection. To deny Tucker access to the questions would be to deny him the substance of the right to be charged by a fair grand jury, as guaranteed by Amendment V to the United States Constitution.

WHEREFORE, Jim Guy Tucker prays that this Court disclose the questions asked by Independent Counsel.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: _____

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
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JAMES W. McCORMACK, CLERK
By: _____ DEP CLERK

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ATTORNEYS FOR JIM GUY TUCKER

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	LR-CR-95-173
JAMES B. MCDOUGAL, JIM GUY TUCKER, and SUSAN H. MCDOUGAL Defendants	)	

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OF GRAND JURY VOIR DIRE QUESTIONS

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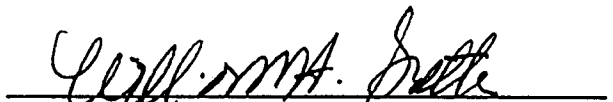
WHEREFORE, Jim Guy Tucker prays that this Court disclose the questions asked by Independent Counsel.

Respectfully submitted,
JIM GUY TUCKER,
Defendant

By: 

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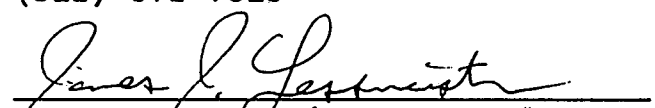

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My Notes / Memos on False Statements/obstruction

Screened by NARA (RD-F) 07-25-2018
FOIA RD 56806 (URTS 16302) DOCID:
70104910

To: OIC attorneys 6/20/96

From: Stephen Bates

re: materiality standards
for false statements and perjury

1. General principles

Materiality is an element under the false statement statute (Section 1001) and the perjury statutes (Sections 1621 and 1623). See Freidus v. United States, 223 F.2d 598, 601 (D.C. Cir. 1955) (Section 1001); United States v. Voorhees, 593 F.2d 346, 349 (8th Cir.) (Section 1001), cert. denied, 441 U.S. 936 (1979); United States v. Koonce, 485 F.2d 374, 381 (8th Cir. 1973) (Sections 1621 and 1623).

In 1995, the Supreme Court held that materiality is a question of fact that must go to the jury. United States v. Gaudin, 115 S. Ct. 2310 (1995) (construing Section 1001); see United States v. Levine, 1995 WL 761834 at *2 (D.C. Cir.) (extending Gaudin to Section 1621); United States v. Keys, 67 F.3d 801, 808 (9th Cir. 1995) (extending Gaudin to Section 1623), rehearing en banc granted, 78 F.3d 465 (9th Cir. 1996). Prior to Gaudin, most courts had treated materiality as a question of law.

2. Materiality formulations

A misrepresentation or concealment is material if it "was predictably capable of affecting, i.e., had a natural tendency to affect, the official decision," Kungys v. United States, 485 U.S. 759, 771 (1988)[1]; or if it is "'a fact that would be of importance to a reasonable person in making a decision about a particular matter or transaction,'" United States v. Winstead, 74 F.3d 1313, 1320 (D.C. Cir. 1996) (quoting and approving language in jury instructions); or if "a truthful answer would have aided the inquiry," United States v. Cunningham, 723 F.2d 217, 226 (2d Cir. 1983), cert. denied, 466 U.S. 951 (1984). "[T]he effect necessary to meet the materiality test is relatively slight, and certainly not substantial . . . ." United States v. Moore, 613 F.2d 1029, 1038 (D.C. Cir. 1979) (distinguishing materiality from

[1] Although Kungys construes a denaturalization statute rather than Section 1001 or a perjury statute, the Court indicates that "material" bears the same meaning in all three spheres. See id. at 769-72. Kungys also might be distinguished on the ground that it treats materiality as a question of law, see id. at 772, a doctrine that Gaudin overturned. But Gaudin does not modify the materiality standard; in fact it cites Kungys for the applicable standard. 115 S. Ct. at 2313.

"substantial effect" standard of perjury recantation provision), cert. denied, 446 U.S. 954 (1980).

Materiality is a higher threshold than relevance. "To be 'relevant' means to relate to the issue. To be 'material' means to have probative weight, i.e., reasonably likely to influence the tribunal in making a determination required to be made. A statement may be relevant but not material." Weinstock v. United States, 231 F.2d 699, 701 (D.C. Cir. 1956).

A statement can be material even though it bears only indirectly on an issue, and even though that issue is a collateral one, so long as the statement has "some weight in the process of reaching a decision." Id. at 703.

The impact of a false statement need not be immediate. The Eighth Circuit found a military concessionaire's false declaration of net profit to be material even though his payments to the government were based on his gross receipts, because accurate reports would have provided a basis for deciding whether the contract should be renegotiated. Brethauer v. United States, 333 F.2d 302, 306 (8th Cir. 1964).

The materiality inquiry looks to the topic of the remark more than to the magnitude of the falsehood. On this ground, the Sixth Circuit held that a falsehood on a union financial statement, though it involved only a small portion of the total budget, was material. Hughes v. United States, 899 F.2d 1495, 1499 (6th Cir.), cert. denied, 498 U.S. 980 (1990). Similarly, the Fifth Circuit deemed material the false statement that the affiant had given cash gifts to a taxpayer under investigation even though the document did not specify the amounts of the gifts; "it gave [the taxpayer] the greatest leeway to explain the source of his income." United States v. Johnson, 530 F.2d 52, 55 (5th Cir.), cert. denied, 429 U.S. 833 (1976).

A falsehood to cover up a past fraud is as material as a false statement to commit a fraud. See United States v. Voorhees, 593 F.2d 346, 350 (8th Cir.), cert. denied, 441 U.S. 936 (1979).

Materiality depends on context. In the 1956 Weinstock case, 231 F.2d 699, the D.C. Circuit held that a particular falsehood in isolation might have been material, but that in the midst of an affidavit it was not. The case involved the Attorney General's demand that the United May Day Committee register as a Communist front. Weinstock, on whom the petition was served, said in an affidavit that ad hoc May Day committees had been formed every year for a few weeks and then had disbanded; that they had operated under various names; and that no such committee remained in existence, so registration was impossible. Id. at 700-701. In the course of an eleven-paragraph affidavit,

Weinstock made the false statement for which he was indicted: "There has been no committee or organization known as or having the name United May Day Committee since May, 1948." Id. at 700. The court held that the name of the committee, in the context of Weinstock's other assertions, was not material. Id. at 702-703. The official concern was whether the committee still existed, not what names it had borne; Weinstock's answer thus was "wholly without weight or influence in any decision." Id. at 702.

Weinstock might be read to stand for the proposition that where a witness lies about the ultimate focus of the inquiry (the May Day Committee's existence) as well as lesser facts (the committee's name), the indictment should focus on the ultimate fact. The court did not mention the possibility that a lesser fact might have helped investigators unearth additional witnesses or evidence, which has been an element of materiality in several cases (see point 4, below).

The D.C. Circuit also found materiality fatally lacking in several other cases. In Pyle v. United States, 156 F.2d 852 (D.C. Cir. 1946), a witness at a trial repeated the relevant substance of an earlier written statement, but she testified falsely that FBI agents had forced her to sign the statement. The D.C. Circuit held that the voluntariness of the statement, in and of itself, had no bearing on the guilt of the man on trial. See id. at 856. Because the false statement occurred at trial, the argument that it might have impeded an investigation was less tenable. In Freidus v. United States, 223 F.2d 598, 602 (D.C. Cir. 1955), the court held that falsehoods on a balance sheet submitted to the Reconstruction Finance Corporation were not material because they did not "misrepresent[] [the corporation's] ability to repay a loan by misstating profitability, assets, or liabilities."

3. Reliance

The government need not prove that it relied on the false statement, only that the statement was capable of influencing the outcome. United States v. Dale, 991 F.2d 819, 834 n.27 (D.C. Cir.), cert. denied, 114 S. Ct. 286 (1993); United States v. Jones, 464 F.2d 1118, 1122 (8th Cir. 1972), cert. denied, 409 U.S. 1111 (1973).

4. Materiality and investigations

The materiality inquiry often entails a degree of speculation as to whether a truthful answer would have affected the course of official actions, such as by provoking or rechanneling an investigation that in turn might have altered the final agency action. Both the Supreme Court and the D.C. Circuit

have said that the government need not show such a consequence to have been likelier than not. The Supreme Court suggested that a fact can be material if its revelation would have had only a 30 percent likelihood of sparking an investigation, which in turn would have had only a 30 percent likelihood of changing the official decision. Kungys, 485 U.S. at 771. Writing for the Court, Justice Scalia said: "It has never been the test of materiality that the misrepresentation or concealment would more likely than not have produced an erroneous decision, or even that it would more likely than not have triggered an investigation." Id. Then-Judge Scalia similarly cautioned that "[a]pplication of § 1001 does not require judges to function as amateur sleuths, inquiring whether information specifically requested and unquestionably relevant to the department's or agency's charge would really be enough to alert a reasonably clever investigator that wrongdoing was afoot." United States v. Hansen, 772 F.2d 940, 950 (D.C. Cir. 1985), cert. denied, 475 U.S. 1045 (1986); see United States v. Parten, 462 F.2d 430, 432 (5th Cir.) (finding false names given to customs inspectors to be material and dismissing "conjectural possibility" that inspectors would have had no reason to check true names against database of fugitives and suspects), cert. denied, 409 U.S. 983 (1972).

A D.C. trial court has said that a statement is material if it would have caused investigators to make additional inquiries, even if it would not have affected the agency's ultimate decision. The court found defendants' false answers in a security clearance application material because truthful responses would have prompted investigators to make further inquiries. Whether the clearance would still have been granted was irrelevant, the court said: "Materiality . . . is not concerned with whether the alleged omission would have affected the ultimate agency determination." United States v. Dale, 782 F. Supp. 615, 625-26 (D.D.C. 1991). The court may have reasoned that an on-going investigation can constitute the agency action by which materiality is gauged, with no need to consider the decision for which the investigation is gathering information--i.e., in the Kungys Court's formulation, materiality exists if a statement would have had a 100 percent likelihood of affecting an investigation, which in turn would have had a 0 percent likelihood of changing the agency outcome.

While not going that far, two cases are similar. The Seventh Circuit held that a statement is material if it influences the agency's decision to investigate or the agency's conclusion as to whether it has jurisdiction; "the false statements . . . were capable of influencing these essential agency decisions," and so they were material. United States v. Di Fonzo, 603 F.2d 1260, 1266 (7th Cir. 1979), cert. denied, 444 U.S. 1018 (1980). The Ninth Circuit held that a false statement to a customs inspector was material because a truthful answer--that defendant's travels had originated abroad, not in Canada--

would have led to a more rigorous inspection. The court said nothing about the likelihood that the inspection would have discovered defendant's contraband. United States v. Rose, 570 F.2d 1358, 1364 (9th Cir. 1978).

Information is material if it would help investigators locate other witnesses whose testimony would be directly pertinent. In a Prohibition case, a grand jury witness falsely denied that a particular woman had been present at a party where liquor allegedly had been served. Convicted of perjury, he contended on appeal that the falsehood was not material. The Second Circuit affirmed the conviction: "A false statement as to the woman tended to mislead the grand jury, and to deprive them of knowledge as to who she was, so that she might not be obtained as a witness." Carroll v. United States, 16 F.2d 951, 954 (2d Cir.), cert. denied, 273 U.S. 763 (1927); see United States v. Gribben, 984 F.2d 47, 52 (2d Cir. 1993) (false statements impeded investigation because "they covered up the fact that additional witnesses . . . should also have been interviewed").

Several courts have said that where an agency is statutorily charged with obtaining a category of information for generating statistics or for other reporting purposes, false statements within that category are material. See United States v. Malsom, 779 F.2d 1228, 1235 (7th Cir. 1985); United States v. Lichenstein, 610 F.2d 1272, 1279 (5th Cir.), cert. denied, 447 U.S. 907 (1980). The same issue sometimes arises in a different form: whether an agency that merely gathers data possesses the "jurisdiction" required by Section 1001. See point 7, below.

5. Inconsistency with prior statement

One can conceive a shortcut to materiality when an individual is questioned about a matter for the second time. A truthful response would produce an inconsistency with the prior falsehood, which frequently would alert investigators to take additional steps--even if the topic is relatively trivial. Three Justices have specifically disapproved of this mode of analysis, two have approved of it, and the Second Circuit has applied it.

In Kungys, three Justices said that the materiality inquiry focuses on the falsehood itself, not on its inconsistency with the declarant's prior statements. The Justices said that false responses as to birthdate and birthplace do not become material merely because a truthful answer would have conflicted with the applicant's previous assertions. "What must have a natural tendency to influence the official decision is the misrepresentation itself, not the failure to create an inconsistency with an earlier misrepresentation; the failure to state the truth, not the failure to state what had been stated

earlier." Kungys, 485 U.S. at 776 (Scalia, J., joined by Rehnquist, C.J., and Brennan, J.).

Justices White and O'Connor disagreed. They contended that the materiality inquiry should consider not just the possible effect of truthful replies, but also the possible effect of the discrepancy between earlier falsehoods and subsequent truthful replies. See id. at 809-10 (White, J., dissenting); id. at 801 (O'Connor, J., concurring in part and dissenting in part) (agreeing with this portion of Justice White's opinion).

Although no other Justice addressed the issue, three others agreed with the Scalia plurality that the applicant's false statements were not material. Id. at 784-801 (Stevens, J., joined by Blackmun and Marshall, JJ., concurring in the judgment). That conclusion implies that, in the view of those three Justices, an immaterial assertion does not become material simply because it is repeated a second time. Most likely, then, a majority of the Court frowns on this shortcut to materiality.

In a case subsequent to Kungys, though, the Second Circuit found a police officer's falsehoods about an arrest material because (among other reasons) they conflicted with the officer's prior written statements. The court said: "Second, Gribben's alleged false statements to the grand jury and federal officials influenced their decision-making because the truth would have alerted them to the inconsistency between Gribben's testimony and the written reports he filed on the day of Calhoun's arrest. This inconsistency would have affected the decisionmakers because they relied on Gribben's credibility as to his significant allegations in reaching various determinations." United States v. Gribben, 984 F.2d 47, 52 (2d Cir. 1993).

Although the D.C. Circuit has not addressed the issue, one early case notes that a falsehood qualifies as material if it "gives weight to or detracts from testimony as to the material facts in issue," which could be read to embrace prior inconsistent statements. Pyle v. United States, 156 F.2d 852, 856 (D.C. Cir. 1946).

6. Inconsistency with another witness's statement

Similarly, an inconsistency between two witness's accounts, even on a relatively minor issue, might instigate or affect an investigation. The Second Circuit in Gribben also approved of this analysis: "Perhaps most importantly, [codefendant] Maldonado's comments corroborated Gribben's story, while the truth would have called Gribben's credibility into question and perhaps changed the government's decision to prosecute Calhoun." 984 F.2d at 52. But cf. Kungys, 485 U.S. at 776 (Scalia

plurality) (materiality considers "the failure to state the truth, not the failure to state what had been stated earlier").

7. Agency jurisdiction (false statement statute)

In focusing on the possible relationship between the falsehood and the official action of the agency, materiality overlaps with a separate issue under Section 1001, whether a matter lies "within the jurisdiction of" a department or agency. The counterpart in the perjury statute, whether the statement was made before "a competent tribunal," will be discussed below.

The statutory term jurisdiction "should not be given a narrow or technical meaning." United States v. Rodgers, 466 U.S. 475, 480 (1984) (internal quotation marks and citation omitted). The requirement is satisfied whenever there is statutory basis for an agency's request for information. United States v. Milton, 8 F.3d 39, 46 (D.C. Cir. 1993), cert. denied, 115 S. Ct. 299 (1994); cf. United States v. Di Fonzo, 603 F.2d 1260, 1265-66 (7th Cir. 1979) (false statements can violate Section 1001 even if agency ultimately turns out to lack jurisdiction), cert. denied, 444 U.S. 1018 (1980). An agency has jurisdiction for Section 1001 purposes "when it has the power to exercise authority in a particular situation" such that it is engaging in "official, authorized functions," but not when undertaking "matters peripheral to the business of that body." Rodgers, 466 U.S. at 479. "[T]here is jurisdiction, within the meaning of § 1001, if the false statement is made in some intended relationship to a matter that is within the jurisdiction of a federal agency." United States v. Popow, 821 F.2d 483, 486 (8th Cir. 1987).

Jurisdiction includes the authority to conduct an inquiry even if the agency can take no final, binding action. See Rodgers, 466 U.S. at 479-484 (reversing Eighth Circuit ruling that Section 1001 does not apply to FBI); United States v. Hansen, 772 F.2d 940, 943-44 (D.C. Cir. 1985) (affirming former Congressman's conviction for falsehoods on financial disclosure forms, even though committee that received forms had no power beyond investigating and making recommendations to full House), cert. denied, 475 U.S. 1045 (1986); Romney v. United States, 167 F.2d 521, 524-25 (D.C. Cir.) (affirming House Sergeant at Arms' conviction for submitting false accounting information to GAO, which was statutorily obligated to certify accounts of House bank), cert. denied, 334 U.S. 847 (1948); see also United States v. Barber, 881 F.2d 345, 350-351 (7th Cir. 1989) (affirming conviction for sending forged letters regarding pending sentencing to U.S. Attorney's office; though court would impose sentence, it might be influenced by U.S. Attorney's recommendation), cert. denied, 495 U.S. 922 (1990).

The Ninth Circuit requires "a direct relationship . . . between the false statement and an authorized function of a federal agency." United States v. Facchini, 874 F.2d 638, 641 (9th Cir. 1989) (en banc) (emphasis added) (holding that U.S. Department of Labor lacked jurisdiction for Section 1001 purposes over state's unemployment insurance program, where Department had access to information about claimants but no authority to act on it). The D.C. Circuit has noted, without adopting or rejecting, the Ninth Circuit's formulation. United States v. Milton, 8 F.3d 39, 46 n.8 (D.C. Cir. 1993), cert. denied, 115 S. Ct. 299 (1994).

8. Tribunal competence (perjury statutes)

In several perjury cases, to be discussed further below, convictions have been voided on the ground that the investigative body was operating beyond its lawful authority. See Brown v. United States, 245 F.2d 549 (8th Cir. 1957) (grand jury); United States v. Cross, 170 F. Supp. 303 (D.D.C. 1959) (congressional committee); United States v. Icardi, 140 F. Supp. 383 (D.D.C. 1956) (same). The Supreme Court has noted the line of cases without addressing its validity. United States v. Mandujano, 425 U.S. 564, 583 n.8 (1976).

9. Tribunal competence: congressional committees

Congressional committees have broad but not limitless authority, which includes the power to undertake "surveys of defects in our social, economic or political system for the purpose of enabling Congress to remedy them" as well as "probes into departments of the Federal Government to expose corruption, inefficiency or waste," but not "[i]nvestigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated." Watkins v. United States, 354 U.S. 178, 187 (1957); see United States v. Levine, 860 F. Supp. 880, 885 (D.D.C. 1994) ("Quite clearly the U.S. Congress has the power to probe corruption and illegal activities in the industries it regulates, and the issue of whether other officials of [pharmaceutical companies] were 'knowingly involved' in unlawful conduct goes to the extent and pervasiveness of that corruption."), rev'd on other grounds, 72 F.3d 920 (D.C. Cir. 1995).

Although Congress can investigate widely, whether a particular committee constitutes a competent tribunal depends on the charter under which it is operating. In a perjury prosecution, for example, the defendant contended that his nationality lay outside the scope of a Senate committee's investigation of organized crime. (He argued materiality rather than tribunal competence, but the analysis is the same.) The D.C. Circuit disagreed: "The identity, as citizens or aliens, of

persons engaged in organized crime is on its face material to a legislative inquiry into the subject, the essential objective of which is to determine whether legislation is needed and, if so, what sort of legislation." Doto v. United States, 223 F.2d 309, 310 (D.C. Cir.), cert. denied, 350 U.S. 847 (1955).

In two 1950s perjury cases concerning testimony before Congress, the same D.C. trial judge directed verdicts of acquittal on the ground that the committees had exceeded their authority. In United States v. Icardi, 140 F. Supp. 383, 388-389 (D.D.C. 1956), the court held that the subcommittee, having already completed its report, was not pursuing a "bona fide legislative purpose" and thus was not a "competent tribunal" when it questioned the defendant; and, in the alternative, that the questions were not material to the subcommittee's inquiry. In United States v. Cross, 170 F. Supp. 303, 308-310 (D.D.C. 1959), the court held that a Senate committee had no valid legislative purpose for recalling a witness for a second round of questioning about the same incident.

10. Tribunal competence: grand jury

Finally, information can be material to a grand jury that would not be material to a more tightly focused inquiry. See United States v. Paxson, 861 F.2d 730, 733 (D.C. Cir. 1988) (in finding false statements before grand jury material, saying: "Many cases have recognized that hindsight is not the proper perspective for discerning the limits of a grand jury's investigative power. It must pursue its leads before it can know its final decisions."); LaRocca v. United States, 337 F.2d 39, 43 (8th Cir. 1964). This disparity may argue in favor of treating the OIC interviews as adjuncts to the grand jury under Section 1623 rather than as executive-branch sessions under Section 1001.

The Eighth Circuit voided a perjury conviction on the ground that the grand jury had wandered astray in Brown v. United States, 245 F.2d 549 (8th Cir. 1957). "If the grand jury of Nebraska was without authority to inquire into offenses committed in Missouri, then the answers of defendant, even if false, would not amount to perjury." Id. at 552. Despite several defendants' efforts, the Eighth Circuit has not voided any convictions under Brown in the years since.

The Fifth Circuit voided convictions of perjury defendants in United States v. Brumley, 560 F.2d 1268 (5th Cir. 1977). As one ground for its holding, the court said that a grand jury investigating fraud in a 1970 election had wandered afield; because a 1972 discussion of murder was not relevant to that election fraud, the convictions based on perjury about that discussion could not stand. Id. at 1277-79.

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6TH STORY of Level 1 printed in FULL format.

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Legal Times

December 2, 1991

SECTION: POINTS OF VIEW; Opinion And Commentary; Pg. 25

LENGTH: 1029 words

HEADLINE: Poindexter and the Truth About Lying

BYLINE: BY RALPH DRURY MARTIN; Ralph Drury Martin, a partner in D.C.'s Storch & Brenner, was a senior trial attorney with the Justice Department's Public Integrity Section from 1982 to 1990.

BODY:

In reversing the criminal convictions of retired Rear Adm. John Poindexter on Nov. 15, the U.S. Court of Appeals for the D.C. Circuit not only expanded the prohibition on the use of immunized testimony established in the Oliver North case, but also took the unprecedented, activist, and completely unnecessary step of overturning years of jurisprudence on obstruction of justice. By its ruling, the majority on the three-judge panel has made it easier to lie to Congress and to the courts.

What Judge Douglas Ginsburg did, joined by Judge David Sentelle (Chief Judge Abner Mikva vigorously dissented), was to gut an important part of the obstruction-of-justice statutes, *18 U.S.C.* § *1503* (judicial proceedings) and § 1805 (administrative and congressional proceedings). Offhandedly brushing aside well-established case law, these two Reagan appointees held that the statutes' language punishing anyone who "corruptly endeavors" to influence a judicial or congressional proceeding is unconstitutionally vague. This language failed, they said, to give notice to Poindexter that it was criminal deliberately to lie or present false and misleading evidence in order to obstruct or influence such proceedings.

As Judge Mikva pointed out, his fellow judges used strange semantic gyrations to reach the astonishing conclusion that "Congress intended to punish those who induce others to lie under oath, but did not intend to punish those who lie of their own initiative."

Curious About 'Corrupt'

Judge Ginsburg's observation that the few prior judicial decisions he mentioned did not provide any real guidance concerning the meaning of "corruptly" is also curious. The meaning of "corruptly" has been so settled that it is routinely defined in the court manuals setting out the boilerplate law read to juries in federal criminal trials.

While precise formulations vary, these guides -- and the many judicial decisions from which they were drawn -- have long defined "corruptly" to mean this: acting with the specific intent to interfere improperly with the operation of a judicial or legislative body conducting a lawful proceeding. Since the

early 1970s the federal courts, through decisions written by judges of all philosophical stripes, have consistently made clear that lying -- whenever it is specifically intended to interfere with the proper and legitimate operation of such proceedings -- is a "corrupt" activity. This has been so whether or not the false statements are made under oath.

Liars' Gallery

A look at the cases in which this principle has been applied illustrates the radical nature of Judge Ginsburg's approach. Among the malefactors who have been punished by a number of federal appeals and trial courts for lying on their own initiative are:

* a union official who lied about corruption among government and labor officials,

* an expert witness who presented a false report to a U.S. attorney investigating election fraud,

* a smuggler of illegal aliens who lied to her probation officer,

* an organized-crime figure who lied about money laundering and loan sharking,

* a con man who bilked institutional investors of millions of dollars and then told a grand jury that corrupt payments were "loans,"

* a state legislator who falsified records to conceal payoffs,

* an attorney for a savings-and-loan association who lied about the control of accounts maintained in fictitious names, and

* a federal judge who lied to agents of the Federal Bureau of Investigation who were probing his alleged leaking of secret wiretap information to an organized-crime figure.

Washington scandal buffs will recall that former Deputy Secretary of Defense W. Paul Thayer was sentenced to four years in prison for obstruction of justice committed by lying to investigators for the Securities and Exchange Commission during an insider-trading probe.

In addition, although Judge Ginsburg failed to discuss it, his own court upheld the obstruction-of-justice conviction and jailing of Rita Lavelle, a high-ranking official at the Environmental Protection Agency, for sending a false statement to members of a House oversight subcommittee. Indeed, another panel of the D.C. Circuit (including Judge Sentelle), while disagreeing on exactly how the jury instruction defining "corruptly" should read in cases involving lying to legislative bodies, had no problem with the constitutionality of the same statute when it analyzed North's convictions last year.

Every one of the convictions mentioned above would have been impossible if the courts had followed Judge Ginsburg in voiding the well-understood notion that it is a corrupt act deliberately to submit false and misleading information to a judicial or legislative body with the intent to pervert the lawful

functioning of that body. Because the Poindexter decision is constitutionally based, acceptance of its reasoning could well lead to the retroactive dismissal of some of those convictions.

Ginsburg's Motives

Ignoring the principles of judicial restraint, the D.C. Circuit panel reached out to decide this constitutional issue after it had already reversed Poindexter's convictions on other grounds. This stretch, and the lack of analysis of much of the prior law, makes one wonder whether Judge Ginsburg may have been more concerned with safeguarding Poindexter's reputation -- or, as some have suggested, in giving Independent Counsel Lawrence Walsh his comeuppance -- than in mounting a crusade against the obstruction-of-justice statute. Or perhaps he saw a change to sound off and dampen the increased criminal prosecution of political and personal peccadillos that many rightly believe has become overzealous.

Nevertheless, it would have been more responsible to remember that such judicial kindness or hectoring can have far-reaching consequences. As a white-collar criminal-defense lawyer, I know this decision may benefit a few of my future clients. But I fear the instinctual and casual approach to seemingly settled issues. This court -- usually pro-government -- may just as casually restrict defendants' rights in the future.

GRAPHIC: Picture, no caption, TIM FOLEY

LANGUAGE: ENGLISH

To: Brett Kavanaugh 2/21/96

From: Stephen Bates

re: 18 U.S.C. § 1512(b)(2)(A)

You asked me whether misleading one's lawyer, as he prepares answers for an official inquiry, violates 18 U.S.C. § 1512(b)(2)(A), which proscribes "misleading conduct" intended to cause a person to withhold testimony or objects from an official proceeding.

I found no cases directly on point, but some that offer indirect support. Three cases indicate that misleading a witness, and intending that the witness will convey the misinformation to an official proceeding, violates Section 1512. The Ninth Circuit upheld a 1512 conviction where the defendant had misled the future witness about the destination of particular funds. The witness then repeated the falsehood to the FBI, which, the court said, could reasonably have been the defendant's intention from the outset. See United States v. Bordallo, 857 F.2d 519, 525 (9th Cir. 1988) (alternate holding), amended on rehearing, 872 F.2d 334 (9th Cir.), cert. denied, 493 U.S. 818 (1989). The Second Circuit has said: "The most obvious example of a section 1512 violation may be the situation where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the story and testify to it before the grand jury." United States v. Rodolitz, 786 F.2d 77, 81 (2d Cir.) (dictum), cert. denied, 479 U.S. 826 (1986). Finally, the Eighth Circuit held that a defendant committed "misleading conduct" in violation of section 1512 by assuring a subpoenaed witness that their earlier conversation about a contract killing had been a joke. See United States v. Risken, 788 F.2d 1361, 1365, 1369 (8th Cir. 1986), cert. denied, 479 U.S. 923 (1986).

Still, one might distinguish these precedents. In contrast to the misinformed witnesses in the precedents, an attorney may be operating as the individual's agent in preparing responses. Whether a response violates Section 1512 presumably doesn't hinge on whether the individual typed it himself v. dictated it to a stenographer, or whether he testified directly v. through an interpreter. Though an attorney may shape responses more than a stenographer or an interpreter does, doesn't he still function principally as the courier of the client's information? I found no 1512 case law along these lines; let me know if you'd like me to look elsewhere.

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To: Brett Kavanaugh 2/25/96

From: Stephen Bates

re: Poindexter's scope

You asked me several questions about the scope and impact of United States v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991), cert. denied, 506 U.S. 1021 (1992).

(1) Does the Poindexter interpretation of 18 U.S.C. § 1505 apply to § 1503 as well?

Not necessarily, at least in the D.C. Circuit. The court in Poindexter took pains to distinguish § 1503, noting that "the language of § 1505 is materially different from that of § 1503, and has been different from the beginning." 951 F.2d at 405. With this distinction in mind, a D.C. trial court has declined to apply Poindexter to § 1503, concluding that the omnibus clause of § 1503 is subject to a "non-transitive reading" in contrast to the Poindexter court's "transitive reading" of § 1505. United States v. Watt, __ F. Supp. ___, 1995 WL 739875 at *5-6 (D.D.C. Dec. 4, 1995) (holding that false statements before grand jury can violate § 1503).

Other courts, however, have construed §§ 1503 and 1505 in tandem. In a pre-Poindexter case, the Fourth Circuit applied § 1503 precedents to § 1505, observing: "We agree with our sister circuits that the identity of purpose among these provisions makes case law interpreting any one of these provisions strongly persuasive authority in interpreting the others." United States v. Mitchell, 877 F.2d 294, 299 n.4 (4th Cir. 1989). The Ninth Circuit found Poindexter's construal of § 1505 "most helpful" in construing § 1503. United States v. Aguilar, 21 F.3d 1475, 1486 n.8 (9th Cir. 1994), aff'd in part, 115 S. Ct. 2357 (1995).

(2) How have other courts construed Poindexter?

In addition to the above: The Fourth Circuit has declined to apply Poindexter to 26 U.S.C. § 7212(a) (obstruction of administration of the tax code), applying instead "the well-established rule that the omnibus clause of the federal obstruction statutes should be broadly construed." United States v. Mitchell, 985 F.2d 1275, 1277-78 (4th Cir. 1993) (internal quotation marks and citation omitted). A trial court reached the same conclusion in United States v. Brennick, 908 F. Supp. 1004, 1011-13 (D. Mass. 1995).

(3) Any good law review articles?

Not that I've found so far; I'll keep looking. Here's a short critique of the decision from Legal Times (12/2/91).

(4) Any further interpretation of Poindexter by the D.C. Circuit or D.C. district courts?

Not much beyond the above. The D.C. Circuit stood by the Poindexter reading of "corruptly" and affirmed a § 1505 conviction in United States v. Kelley, 36 F.3d 1118, 1127-28 (D.C. Cir. 1994). In unpublished decisions, two trial courts applied Poindexter to dismiss § 1505 counts. See United States v. George, 1992 WL 121381 at *1-2 (D.D.C. May 18, 1992) (charge of lying to members of Congress); United States v. Weinberger, 1992 WL 294877 at *1-3 (D.D.C. Sept. 29, 1992) (charge of withholding documents from Congress).

Let me know if you need anything more.

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FDIC Reports on RCSL

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FOIA RD 56806} (URTS 16302) DOCID:
70104912

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429
Office of Inspector General

July 28, 1995

Honorable Kenneth W. Starr
Office of the Independent Counsel
Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Mr. Starr:

The Office of Inspector General of the Federal Deposit Insurance Corporation has completed its investigation into alleged conflicts of interest of the Rose Law Firm and the review conducted by the FDIC Legal Division. Enclosed is a copy of the Report of Investigation and accompanying Exhibits; together the Report and Exhibits comprise a four-volume set. We will be making copies of the Report's Executive Summary section available for public release at noon on Monday, July 31, 1995, and are providing you with a separate advance copy. Also enclosed are copies of relevant transmittal letters from me to other recipients of the Report.

If you or your staff have any questions about this Report, please feel free to contact me at (202) 942-3615, or Thomas D. Coogan, Assistant Counsel, at (202) 942-3622.

Sincerely,

James A. Renick
Inspector General (Acting)

Enclosures: 1 Report set
Executive Summary

REPORT OF INVESTIGATION

Sensitive Investigative Information
-- For Official Use Only --
ALLEGED CONFLICTS OF INTEREST
BY THE ROSE LAW FIRM
Case Number IO-94-096
VOLUME 1 of 4
Report

Federal Deposit Insurance Corporation
Office of Inspector General

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VOLUME 2

Exhibit Number	Description
1	December 21, 1987, letter from the FDIC to Mr. Hubbell, Rose Law Firm, concerning the firm's representation of the FDIC for Director and Officer liability at Corning Bank, enclosing the Legal Services Agreement for the bank and a copy of the FDIC Guide for Legal Representation
2	June 1989 FDIC Guide for Legal Representation
3	Model Rules of Professional Conduct developed by the American Bar Association
4	Court case of First American Carriers, Inc., v. The Kroger Company
5	Court case of Norman L. Burnette d/b/a Burnette Flying Service v. Billy Morgan
6	Rose Law Firm background
7	Sworn statements (3), dated March 29, 1994, of Jeffrey C. Gerrish, Director/Shareholder, Gerrish & McCreary, P.C.
8	Sworn statements, dated June 8, 1994, February 23, 1995, and July 18, 1995, of April A. Breslaw, Counsel, RTC, Division of Legal Services
9	FDIC Legal Division Guidelines for Selection and Termination of Outside Counsel, dated August 27, 1987
10	Sworn testimony of Webster L. Hubbell, former Rose Law Firm attorney, on March 16, 1995, and RTC interview of Mr. Hubbell on April 20, 1995
11	Memorandum from Mr. Hubbell to all Rose Law Firm attorneys concerning a conflicts check relative to the firm's representation of the FDIC as conservator for Madison Guaranty Savings and Loan
12	Interview of Richard T. Donovan, Attorney, Rose Law Firm, on October 4, 1994
13	Interview of Hillary Rodham Clinton, former Rose Law Firm attorney, on November 10, 1994
14	December 1987 Legal Services Agreement relative to the liquidation of Corning Bank, signed by Mr. Hubbell

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VOLUME 2 (continued)

Exhibit Number	Description
15	Sworn statement, dated March 15, 1994, of Paul A. Jeddeloh, Senior Program Attorney, FDIC Office of the Executive Secretary
16	June 8, 1989, letter from Mr. Jeddeloh to Ms. Breslaw, concerning a possible conflict of interest due to the relationship between Mr. Hubbell and Seth Ward, his father-in-law
17	Sworn statement, dated April 7, 1994, of Sue Strayhorn, former secretary to James McDougal, President of Madison Financial
18	Sworn statement, dated May 6, 1994, of David Paulson, former FDIC Managing Agent of Madison Guaranty Savings and Loan
19	June 28, 1989, letter from Mr. Hubbell to Mr. Paulson informing him that Mr. Hubbell has not represented Mr. Ward in the latter's disputes with Madison Guaranty Savings and Loan
20	June 23, 1989, letter from Ms. Breslaw to Mr. Paulson informing him of her hesitancy to replace the Rose Law Firm in its representation of the Madison Conservatorship for the FDIC
21	Sworn statement, dated March 21, 1994, of Pamela A. Shea, Regional Counsel, FDIC Legal Division, Chicago
22	August 10, 1989, letter from Kenneth K. Schneck, Supervisory Liquidation Specialist, FDIC Division of Depositor and Asset Services, Chicago, to John A. O'Donnell, concerning a possible conflict of interest for the Rose Law Firm because of the Hubbell/Ward relationship
23	Sworn statement, dated March 21, 1994, of Kenneth K. Schneck
24	Sworn statement, dated April 5, 1994, of John A. O'Donnell
25	November 3, 1988, memorandum from Vincent Foster, Jr., of the Rose Law Firm to all firm attorneys concerning the Firm's representation of an S&L in receivership by the FSLIC
26	November 21, 1988, letter from Thomas L. Hindes, Senior Trial Attorney, FHLBB, to Mr. Foster
27	Sworn statement, October 5, 1994, of Seth Ward, Mr. Hubbell's father-in-law
28	January 18, 1990, letter from David M. Powell, an attorney with the law firm of Wright, Lindsey & Jennings, to Mr. Hubbell, enclosing a draft of a suggested letter concerning a proposed indemnification agreement in favor of the RTC

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VOLUME 2 (continued)

Exhibit Number	Description
29	Sworn statement, dated March 29, 1995, of David M. Powell, Partner, Wright, Lindsey & Jennings
30	January 18, 1990, letter from Mr. Ward to Alston Jennings, Sr., of Wright, Lindsey & Jennings concerning a proposed indemnification agreement in favor of the RTC
31	Sworn statement, dated March 29, 1995, of Alston Jennings, Sr.
32	Sworn statement, dated April 29, 1994, of Thomas Ray, Partner, Shutts, Ray & Kurrus, and interview of Mr. Ray on March 29, 1995
33	Interview of Seth Ward II, Mr. Hubbell's brother-in-law, on December 7, 1994
34	September 24, 1985, letter from Mr. Ward to James B. McDougal, President, Madison Financial Corporation, setting forth the agreement between the two concerning Mr. Ward's purchase of the Industrial Development Company of Little Rock property

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LIST OF EXHIBITS
VOLUME 3

Exhibit Number	Description
35	December 11, 1986, draft letter from Mr. Hubbell to H. Don Denton, Senior Vice President of Madison Guaranty S&L, enclosing a deed in lieu of foreclosure to property securing two nonrecourse Madison notes in the names of Seth and Yvonne D. Ward
36	Interviews of Martha Patton, Mr. Hubbell's former secretary, on December 8, 1994, and March 21, 1995
37	April 30, 1985, letter from the Rose Law Firm to Charles Hanley of the Arkansas Securities Department
38	May 14, 1985, letter from Beverly Bassett, a savings and loan supervisor at the Arkansas Securities Department, to Hillary Rodham Clinton of the Rose Law Firm
39	May 23, 1985, letter from Hillary Rodham Clinton, Rose Law Firm, to Jim McDougal, Madison Guaranty S&L
40	Follow-up submission, dated July 25, 1985, from Richard N. Massey, Rose Law Firm, to the Arkansas Securities Department concerning an application by Madison Guaranty S&L to engage in brokerage activities
41	October 17, 1985, letter from Ms. Bassett, Arkansas Securities Department, to Mr. Massey, Rose Law Firm
42	Handwritten note of Ms. Bassett, Arkansas Securities Department, indicating that Madison's application (to engage in brokerage activities) was never approved because Madison never completed its capitalization
43	Affidavit, dated September 16, 1994, of Hillary Rodham Clinton, a former Rose Law Firm partner
44	Interview of Richard N. Massey, Partner, Rose Law Firm, on October 4, 1994
45	Interview of Michael D. Robinson, Director, Tax Division, Frost & Company, on July 11, 1995
46	Interview of Gary N. Speed, Partner, Rose Law Firm, on October 5, 1994
47	July 14, 1986, letter from Hillary Rodham Clinton of the Rose Law Firm to Messrs. Jim McDougal and John Lathan of Madison Guaranty S&L
48	Sworn statements, dated September 7, 1994, and June 27, 1995, of Jimmy D. Alford, a former partner of Frost & Company

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VOLUME 3 (continued)

Exhibit Number	Description
49	Sworn statements, dated April 29, 1994, and May 18, 1995, of Peter G. Kumpe, Partner, Williams & Anderson
50	Borod & Huggins Report, dated December 9, 1986, and February 6, 1987, interviews of Patricia Heritage, a former executive assistant at Madison,
51	Affidavit, dated September 16, 1994, of David E. Kendall, Attorney for Hillary Rodham Clinton
52	Sworn statement, dated April 26, 1994, of Antony S. Burt, Partner, Hopkins & Sutter
53	Summary of hours billed by Rose Law Firm personnel to represent the FSLIC in the court case of First American v. Lasater and Company
54	Rose Law Firm fee bill invoice, number 17530, dated June 2, 1987, to Hopkins & Sutter for services rendered on behalf of First American Savings and Loan Association relative to litigation with Lasater and Company
55	Motion to Amend Complaint, filed May 8, 1987, by the Rose Law Firm in the case of First American v. Lasater and Company
56	Motion for Continuance and Extension, filed May 8, 1987, by the Rose Law Firm in the case of First American v. Lasater and Company
57	Plaintiff's Motion to Compel Discovery, filed May 8, 1987, by the Rose Law Firm in the case of First American v. Lasater and Company
58	Brief in Support of Motion to Compel, filed May 8, 1987, by the Rose Law Firm in the case of First American v. Lasater and Company
59	May 20, 1987, First American v. Lasater and Company - Amended Complaint filed May 20, 1987, by the Rose Law Firm and Verified (original) Complaint filed October 2, 1985, by Hardin and Grace on October 2, 1985.
60	Sworn statement, dated March 31, 1994, of B. Michael Bennett, a former associate of the Rose Law Firm
61	Affidavit, dated July 15, 1994, of Patrick J. Goss, Partner, Wright, Lindsey & Jennings
62	Unsigned and undated statement of Dan R. Lasater, former President and Owner of Lasater and Company
63	Interview of Dan Moudy, former In-house Counsel for Lasater and Company/United Capital Corporation, on June 22, 1994.

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VOLUME 3 (continued)

Exhibit Number	Description
64	June 29, 1984, and April 26, 1984, flight logs for Dan Lasater's airplane
65	February 17, 1994, FDIC Legal Division report on the retention of the Rose Law Firm for the Madison Guaranty Savings and Loan Conservatorship
66	March 2, 1994, letter from Congressman James A. Leach, to FDIC Inspector General James A. Renick, concerning a review by the FDIC Office of Inspector General of possible conflicts of interest surrounding the Rose Law Firm's representation of the U.S. government
67	Sworn statement, dated May 25, 1994, of Jack D. Smith, Jr., Deputy General Counsel, FDIC Legal Division
68	Copies of the various interviews conducted by the FDIC Legal Division during its review of the retention of the Rose Law Firm
69	Sworn statements, dated May 6, 1994, and March 1, 1995, of John T. Downing, Senior Attorney
70	Memorandum from Thomas A. Schultz, Assistant General Counsel, FDIC Legal Division to FDIC/RTC Conflicts Committee transmitting a draft report of the Legal Division's inquiry of the circumstances under which the Rose Law Firm was retained to represent the FDIC in the Madison Guaranty S&L litigation, including the existence of any conflicts
71	Sworn statements, dated April 18, 1994, and May 4, 1994, of James T. Lantelme, Assistant General Counsel, FDIC Legal Division
72	Sworn statements, dated June 7, 1994, and March 20, 1995, of Douglas H. Jones, Senior Deputy General Counsel, FDIC Legal Division
73	Memorandum, dated February 2, 1987, from Thomas A. Rose, Deputy General Counsel, to Deputy General and Assistant General Counsels concerning FDIC Legal Division Procedures for Employing Outside Counsel
74	Memorandum, dated May 3, 1990, from Douglas H. Jones, Acting General Counsel, FDIC Legal Division, to all FDIC and RTC in-house and outside counsel, attaching Guidelines of the FDIC/RTC with Respect to Conflicts of Interest and Confidentiality and General Policies of Waiver Favored by the Outside Counsel Conflicts Committee
75	Sworn statements, dated May 31, 1994, and May 4, 1995, of Thomas A. Schultz, Assistant General Counsel, FDIC Legal Division

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LIST OF EXHIBITS
VOLUME 4

Exhibit Number	Description
76	Interview of Kenneth R. Shemin, Partner, Rose Law Firm, on December 8, 1994
77	Sworn testimony, dated December 12, 1994, of Patsy L. Thomasson, a former officer of Lasater, Inc.
78	Memorandum, dated March 18, 1987, from John B. Beaty, Trial Attorney, to Dorothy L. Nichols, Associate General Counsel, concerning retention of the Rose Law Firm as counsel for the FSLIC
79	FDIC Guide for Outside Counsel, dated December 1991
80	Declaration, dated July 12, 1995, of Gary N. Speed, Partner, Rose Law Firm
81	Rose Law Firm fee bill, invoice number 35331, dated March 7, 1990, to the FDIC for legal services rendered in connection with the Madison Guaranty S&L litigation against Frost & Company
82	Various statements and interviews related to Madison Guaranty Savings and Loan Association
83	Various statements and interviews related to First American Savings and Loan Association
84	Various statements and interviews related to the FDIC Legal Division review of the Rose retention for Madison
85	Interview of King Betz, the former president and chief executive officer of Home Federal Savings and Loan Association of Centralia, on October 5, 1994, and of Tom Mars, a former Rose Law Firm attorney, on October 3, 1994, both related to Home Federal Savings and Loan Association

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Office of Investigations
Office of Inspector General
Federal Deposit Insurance Corporation

REPORT OF INVESTIGATION

Title
ALLEGED CONFLICTS OF INTEREST BY THE ROSE LAW FIRM

Case Number	**Date**
IO94-096	July 28, 1995

The Federal Deposit Insurance Corporation (FDIC) Office of Inspector General (OIG) has completed an investigation into alleged conflicts of interest related to the retention of the Rose Law Firm, Little Rock, Arkansas (Rose or Firm), to represent failed insured depository institutions. These allegations related to the Firm's FDIC and Federal Savings and Loan Insurance Corporation (FSLIC) contract work on behalf of the Madison Guaranty Savings and Loan Association Conservatorship, McCrory, Arkansas (Madison); and the First American Savings and Loan Association Conservatorship, Oak Brook, Illinois (First American).

Specifically, allegations of conflicts of interest were based on media reports in late 1993 and early 1994 that Rose did not inform FDIC when the Firm was hired by FDIC in 1989 to represent Madison that:

- In 1985 the Firm had represented Madison before the Arkansas Securities Department;

- A former Rose partner, Webster L. Hubbell, who was the Associate Attorney General, U.S. Department of Justice, when the allegations were made, was the son-in-law of a Madison borrower and consultant who was in litigation adverse to the Madison Conservatorship; and

- Another former Rose partner, Hillary Rodham Clinton, had assisted in Rose's representation of First American against a corporation owned by a personal friend of Mrs. Clinton's family who was a contributor to her husband's political campaign for Governor of Arkansas.

We also investigated a review conducted by the FDIC Legal Division into the circumstances surrounding the retention of Rose to perform legal work for the Madison Conservatorship. In addition, we completed a review of all legal fee payments made to Rose by FDIC since July 1, 1987. The highlights of our investigation are included in the following Executive Summary.

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EXECUTIVE SUMMARY

In February 1989, Madison Guaranty Savings and Loan Association was designated as a conservatorship and pursuant to an agreement with FSLIC, the FDIC Legal Division was responsible for managing Madison litigation, including a lawsuit pending against Madison's former auditors, Frost and Company, P.A. (Frost). According to the Resolution Trust Corporation's (RTC) 1989 annual report, 175 institutions were designated as conservatorships in February and March 1989, one of which was Madison. In March 1989, April A. Breslaw, who was then an attorney with FDIC Legal Division's Professional Liability Section (PLS), was designated as the responsible attorney for PLS matters related to Madison. On or about March 24, 1989, Ms. Breslaw hired Rose to take over the pending Frost lawsuit from another firm that was conflicted. Rose continued to represent the Madison Conservatorship until this lawsuit was settled in April 1991.

CONFLICTING RELATIONSHIPS AND REPRESENTATIONS[1]

The results of our investigation evidenced conflicting relationships among the Rose Law Firm, Rose partner Webster L. Hubbell, and Mr. Hubbell's father-in-law since 1971, Seth Ward. During the time that Mr. Hubbell represented the Madison Conservatorship on behalf of FDIC, Mr. Hubbell's father-in-law was engaged in litigation adverse to the Madison Conservatorship. We found that neither the Firm nor Mr. Hubbell had informed FDIC of these relationships when the Firm was hired in March 1989 to handle the lawsuit against Frost or while the Firm was acting as litigator for the Madison Conservatorship.

[1]For purposes of this investigation, evidence of relationships or representations by the Rose Law Firm, or its attorneys, in matters affecting the interests of FSLIC and FDIC that could be viewed as relevant to the agency in making an informed determination with respect to the retention of the Firm as agency counsel, has been included as conflicting relationships and representations.

Executive Summary (contd.)

Further, we found during the time from 1989 to 1991 while the Rose Law Firm was litigating the Frost lawsuit for FDIC and RTC, Mr. Hubbell was:

- Involved in his father-in-law's $300,000 lawsuit against the Madison Conservatorship;

- Providing legal advice for one of Mr. Ward's companies, POM, Inc. (POM); and

- A part-owner of POM.

With respect to POM, we found that Mr. Hubbell served as corporate counsel for POM from 1981 through 1992, in addition to providing legal services for several of Mr. Ward's other companies during the 1980s.

The Rose Law Firm's responsibility to identify and disclose conflicts to its clients was set forth not only in federal banking agency agreements, guides and letters, but also in rules adopted by the Arkansas Supreme Court governing conflicts. However, our investigation evidenced that neither Mr. Hubbell nor the Rose Law Firm disclosed to FDIC information pertaining to these conflicting relationships. Ms. Breslaw stated to OIG special agents that she did not learn that Mr. Hubbell was Mr. Ward's son-in-law until months after hiring Rose when, in June 1989, FDIC employees working at the Madison Conservatorship raised concerns about the relationship. Ms. Breslaw further stated that when she asked Mr. Hubbell about his relationship with Mr. Ward, Mr. Hubbell did not inform her about Mr. Hubbell's business relationship with the Wards, or his legal role and ownership interest in his father-in-law's company, POM.

At the time the Rose Law Firm accepted the engagement to represent FDIC for the Madison Conservatorship in the Frost lawsuit, Mr. Hubbell was:

- The Rose partner responsible for billing FDIC, in addition to being the lead Rose attorney for litigating the Frost lawsuit;

Executive Summary (contd.)

- One of three attorneys comprising the Rose Law Firm's Conflicts Committee; and

- The Rose partner who, on behalf of the Firm, had negotiated and signed a 1988 settlement agreement with FSLIC related to a conflict of interest between the former Rose managing partner and FSLIC.

The results of our investigation also evidenced conflicting representations on the part of the Rose Law Firm with respect to its representation of FDIC regarding the Madison Conservatorship. Specifically, we found that the Firm had represented Madison and its wholly owned subsidiary, Madison Financial Corporation, in 1985 and 1986 on various legal matters, including representation of Madison in 1985 before the Arkansas Securities Department (ASD). During its 1985 representation of Madison the Firm submitted materials to the ASD which were prepared by Frost, the firm that was later sued by Rose on behalf of FDIC for the Madison Conservatorship. We further found that for many years the Rose Law Firm represented Mr. Hubbell's father-in-law, Seth Ward, or Mr. Ward's companies regarding various legal matters. However, there was no evidence to show that Mr. Hubbell or the Rose Law Firm disclosed these representations to FDIC when the Firm was hired or during its representation of the Madison Conservatorship in the Frost lawsuit.

When interviewed, Mr. Hubbell admitted to FDIC special agents that he had not disclosed to FDIC at the time he was retained to represent the Madison Conservatorship that the Rose Law Firm was still representing a client who was adverse to the FSLIC Receivership for Universal Savings Association, F.A., Chickasha, Oklahoma. Moreover, Mr. Hubbell admitted that at the time FDIC retained Rose to represent the Madison Conservatorship against Frost and during the time he was litigating the Frost lawsuit, the Firm failed to inform FDIC of another conflicting representation. The Firm was representing a company partially owned by its president who was the former Frost partner in charge of the Madison audits which formed the basis for Madison's lawsuit against Frost. The former Frost partner also was a named defendant in the Madison litigation.

Regarding the conflicts allegations relating to the First American Conservatorship, the results of our investigation evidenced that a relationship did exist, as alleged, between Hillary Rodham Clinton's in-laws and Danny Ray Lasater, owner of Lasater and Company, the

Executive Summary (contd.)

defendant corporation in a lawsuit being handled in 1986 and 1987 by the Rose Law Firm for FSLIC and the First American Conservatorship. When interviewed, Mrs. Clinton stated to OIG special agents that she had met Mr. Lasater twice, did not consider him a personal or social friend, and did not do any legal work for him or Lasater and Company. Mrs. Clinton's attorney, David Kendall, from the law firm of Williams & Connolly, in an affidavit to the OIG indicated that between 1982 and 1985, Mr. Lasater, his companies or his family, contributed a total of $16,000 to President Clinton's political campaigns for Governor of Arkansas, or referendum initiatives. When interviewed, Mr. Lasater informed OIG special agents that he was friends with the Clintons, but has not spoken with them since 1986. He further explained that he was close friends with President Clinton's brother, Roger Clinton, and his mother, the late Virginia Kelley.

Our investigation also evidenced that in 1987 Mrs. Clinton, while a Rose partner, performed work on the First American litigation against Lasater and Company. The late Vincent Foster, Jr., not Mrs. Clinton, was the Rose partner who was in charge of the First American litigation. We determined from billing records that Mrs. Clinton, on one occasion in May 1987, billed two hours to review, sign and file three motions and one brief in Mr. Foster's absence. One of the motions Mrs. Clinton filed was a motion to amend the complaint. The amended complaint was subsequently signed and filed with the court by Mr. Foster. We interviewed witnesses involved in the First American litigation, all of whom stated they could recall no involvement by Mrs. Clinton related to this lawsuit. The Rose Law Firm billed a total of 467 hours related to the Lasater and Company lawsuit, and total fees and expenses paid to the Firm amounted to $59,471. The actual loss to First American had been estimated at $361,000. The lawsuit was settled in November 1987, and the First American Conservatorship recovered $200,000 from the defendant. Mrs. Clinton stated to OIG special agents that she did not participate in the settlement negotiations.

FDIC LEGAL DIVISION REVIEW OF ROSE LAW FIRM

The FDIC Legal Division conducted a review of FDIC's retention of the Rose Law Firm for the Madison litigation. The Legal Division's review concluded that neither Rose's representation of Madison before the ASD nor the Hubbell-Ward family relationship constituted a conflict of interest. The Legal Division's opinion that Rose did not have a

Executive Summary (contd.)

conflict of interest was based on the relevant information available to the Legal Division at that time, and from the Legal Division's decision to rely on Model Rule 1.7 to determine whether the Firm had a conflict of interest. The Legal Division, however, did not include in its evaluation of Rose other conflict criteria, including the "appearance of impropriety" standard or FDIC guidelines and policies. The Legal Division's review also did not address whether FDIC procedures were followed when Rose was retained in 1989. In addition, the Legal Division did not criticize itself for Ms. Breslaw's lack of documentation regarding her discussions with Mr. Hubbell, or how she arrived at the conclusion there was no conflict of interest in view of concerns raised by other FDIC employees at the Madison Conservatorship.

The OIG investigation went beyond the Legal Division's review; therefore, additional evidence and information was obtained that was not considered by the Legal Division during its review. Our investigation disclosed evidence of conflicting relationships and representations. Even though the Legal Division pointed out in its report that law firms are expected to disclose prior representation and family relationships similar to Mr. Hubbell's, the Legal Division did not criticize Rose for its failure to inform FDIC of matters that had a direct relationship to the work Rose was hired to do for FDIC. During our investigation, we found no evidence that FDIC Legal Division attorneys were compromised or inappropriately influenced during their review of the retention of the Rose Law Firm.

LEGAL FEE PAYMENTS TO ROSE LAW FIRM

In conjunction with our investigation, we conducted a fee bill review of all FDIC payments to the Rose Law Firm for legal services subsequent to July 1, 1987, and FSLIC payments subsequent to January 1, 1989. The review covered $1,049,930 in payments to Rose and included those payments related to the failure of the Madison Guaranty Savings and Loan Association and three other failed financial institutions. Webster L. Hubbell, Rose partner, was the Rose billing attorney on the Madison lawsuit against Frost, for which Rose received

Executive Summary (contd.)

$375,380. The RTC approved settlement of the Madison lawsuit against Frost for $1.025 million on or about February 26, 1991. Our review identified questioned costs[2] totaling $156,286 related to payments for work on the four institutions, of which $78,391 related to Madison. Of the $156,286 in questioned costs, Mr. Hubbell pleaded guilty to defrauding FDIC and RTC by falsifying expenses and inflating fees totaling $41,995. Mr. Hubbell's fraudulent claims to FDIC primarily involved misrepresenting and billing his personal expenses as legitimate business expenses on behalf of FDIC. Mr. Hubbell pleaded guilty to one count of mail fraud and one count of tax evasion related to fraudulent billings sent to FDIC and RTC. On June 28, 1995, Mr. Hubbell was sentenced to 21 months in prison and ordered to make restitution in the amount of $135,000 to the Rose Law Firm.

Our review of the Rose Law Firm's billing system disclosed that the Firm did not have the internal controls necessary to safeguard the integrity of the billing process. Therefore, Mr. Hubbell was able to misrepresent the expenses billed to FDIC. Mr. Hubbell was allowed to sign Firm checks for expenses that would later be billed to clients without submitting receipts or invoices verifying that the checks were actually written for the expenses and clients identified by him. As a result, Mr. Hubbell was able to write Firm checks to pay for his personal expenses and have the expenses billed to Rose clients without verification that these expenses were legitimate business expenses. The Firm is ultimately responsible for the actions of its billing partners.

Other questioned costs from our review related primarily to instances in which the Rose Law Firm did not comply with the terms of applicable guidelines and agreements. Rose billed fees such as those which were 1) unsupported or did not agree with original timesheets; 2) in excess of authorized hourly rates; 3) duplicated or miscalculated; and 4) excessive related to depositions. Also, expenses billed were questioned because they were 1) unsupported by vendor invoices; 2) in excess of the Firm's cost; and 3) non-billable per the FDIC contract.

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[2]For purposes of this investigation, questioned costs are those that have been questioned by the OIG with respect to a finding that:

1) the cost was not authorized by the contract;
2) at the time of the review, the cost was not supported by adequate documentation; or
3) the expenditure of funds for the intended purpose was unnecessary or unreasonable.

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Executive Summary (contd.)

REFERRAL TO THE FDIC VICE CHAIRMAN AND GENERAL COUNSEL

This investigative report is being forwarded to the Office of the Vice Chairman for consideration and appropriate administrative action. The report is also being forwarded to the newly appointed FDIC General Counsel for final determination with respect to the Rose Law Firm's failure to comply with FDIC policies regarding the reporting of conflicts of interest, including appropriate sanctions; the referral of professional misconduct to appropriate authorities; overbillings by the Rose Law Firm; and FDIC Legal Division assessment of current policies and procedures.

DETAILS OF INVESTIGATION

BASIS FOR INVESTIGATION

On February 24, 1994, the United States Senate Committee on Banking, Housing, and Urban Affairs conducted a hearing on the semiannual report of the RTC Thrift Depositor Protection Oversight Board. Former FDIC Acting Chairman Andrew C. Hove, Jr., who is currently FDIC Vice Chairman, was present at the hearing since at that time he was a member of the RTC Oversight Board. During the proceedings, Senator Alfonse D'Amato, Ranking Minority Member (now Chairman), questioned FDIC Legal Division's February 17, 1994, report regarding FDIC retention of the Rose Law Firm as legal counsel for the Madison Conservatorship. Senator D'Amato expressed his view that FDIC's Inspector General should review this matter. Mr. Hove agreed to ask the Inspector General to conduct an investigation.

On February 25, 1994, Mr. Hove requested that the FDIC Office of Inspector General (OIG) initiate an investigation into 1) the 1989 retention by FDIC of the Rose Law Firm for the representation of the Madison Conservatorship and 2) the handling by Rose of a lawsuit captioned First American Savings and Loan Association v. Lasater and Company on behalf of the First American Conservatorship.

Additionally, on March 2, 1994, the OIG received a letter from James A. Leach, Ranking Minority Member, Committee on Banking, Finance and Urban Affairs, United States House of Representatives (now Chairman, Committee on Banking and Financial Services). Congressman Leach stated that he was pleased that Mr. Hove had agreed to request an OIG investigation into Rose's role in representing FDIC. Congressman Leach requested that the OIG also examine FDIC Legal Division's recent determination that no conflict of interest existed related to Rose's representation of the Madison Conservatorship. Subsequently, we met with staff from the Senate and House Banking Committees to obtain any relevant documentation they had and to inform them that our investigation had begun.

As part of our investigation, the OIG's Office of Legal Audits performed a fee bill review of all FDIC legal payments since July 1, 1987, and FSLIC since January 1, 1989, to the Rose Law Firm. The results of this review are presented in a separate section of this report. During our investigation, we worked with the RTC OIG in areas of joint authority.

GOVERNING FEDERAL STATUTES

The federal criminal and civil statutes that may relate to this investigation are contained in Appendix A.

CONFLICT OF INTEREST CRITERIA

FDIC CONFLICT OF INTEREST POLICIES

Because of the numerous allegations that the Rose Law Firm failed to disclose conflicts of interest to FDIC, we expanded our traditional law enforcement criteria to include various contractual provisions requiring law firms to disclose conflicts, and criteria used to evaluate conflicts. When Rose was retained by FDIC and FSLIC as agency outside legal counsel, the Firm was contractually responsible for identifying and disclosing conflicts of interest in its representation on behalf of the agencies. The Firm's responsibility to identify and disclose conflicts was set forth in federal banking agency agreements, guides, and letters and also in rules adopted by the Arkansas Supreme Court governing conflicts.

In addition to having knowledge of previous FSLIC policies regarding conflicts, the Rose Law Firm had knowledge of FDIC conflicts policies no later than 1987. A letter to Webster L. Hubbell, former Rose partner, in late 1987, from Ronald R. Glancz, FDIC Acting Deputy General Counsel, enclosed a Legal Services Agreement and Guide for Legal Representation (Guide). (See Exhibit 1.) The Guide was prepared by the FDIC Legal Division for use by outside attorneys engaged in representing FDIC in connection with its liquidation and receivership activities. Mr. Hubbell, as the billing attorney, signed the FDIC Legal Services Agreement (LSA) related to work performed for the Corning Bank Receivership, Corning, Arkansas, in December 1987. The following are relevant sections of the Guide and the LSA. Section B1. of the Guide, Conflicts of Interest, provides in part:

> We expect the highest ethical standards in your representation of the FDIC. Your firm must be free of conflicting interests. At the time you are retained, you will be asked to provide the FDIC with a list of potentially conflicting representations. Thereafter, any potential conflict must be discussed with us as soon as you recognize its existence.

> We reserve the right to decide whether an actual or potential conflict exists. If, in our opinion, an actual or potential conflict does exist, you will not be permitted to go forward with your representation until the situation has been resolved.
>
> In addition to actual or potential conflicts covered by the Code of Professional Responsibility or applicable federal or state provisions, there are other actual or potential conflict situations peculiar to your representation of the FDIC of which we should be promptly informed. These include such matters as: participation of any member of the firm as a director or officer of any insured bank that has failed or that is the subject of any ongoing supervisory action, representation of an officer, director, debtor, creditor or stockholder of any failed or assisted bank in a matter relating to the FDIC; representation of a creditor whose claim competes with that of the FDIC; and representation of a client in a matter adverse to the FDIC. Upon notification, we will inform you promptly whether we believe a conflict exists.

The Legal Services Agreement signed by Mr. Hubbell in December 1987 provides in part:

> The Undersigned state and represent that they do not and did not formerly represent the Bank as general attorney(s), do not have a managerial or ownership interest therein, are not directors or shareholders thereof, have no professional or personal interests adverse to or in potential conflict with the FDIC, (whether in its Corporate or Receivership capacity), and are not otherwise ethically disqualified to represent the FDIC.

The Guide was updated by FDIC in June 1989. The conflicts of interest section remained virtually unchanged. The Rose Law Firm was sent a copy of the June 1989 Guide (Exhibit 2), and in October 1990 Mr. Hubbell, as the billing attorney, signed the Madison LSA which incorporated the Guide for the Firm.

CONFLICT RULES FOR ARKANSAS LAWYERS

The Rose Law Firm's representation of FDIC and FSLIC was also subject to the rules of professional conduct adopted and interpreted by the Arkansas Supreme Court. The rules of professional conduct for Arkansas lawyers were adopted from model rules developed by the American Bar Association (ABA). From July 1976 to the end of 1985, the Rose Law Firm's conduct was governed by the Model Code of Professional Responsibility. Beginning on January 1, 1986, and during the period of this inquiry, the Firm's conduct was governed by the Model Rules of Professional Conduct. (See Exhibit 3.) The Preamble to the Model Rules provides in part:

> Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.
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>
> In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an upright person while earning a satisfactory living. The Rules of Professional Conduct prescribe terms for resolving such conflicts. Within the framework of these Rules many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules.

Model Rule of Professional Conduct 1.7, which is the general rule for conflicts of interest, provides in part:

> (a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:
>
> (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and
>
> (2) each client consents after consultation.
>
> (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:
>
> (1) the lawyer reasonably believes the representation will not be adversely affected; and
>
> (2) the client consents after consultation.

The official Comment following Model Rule 1.7 relating to loyalty to a client provides in part:

> Loyalty is an essential element in the lawyer's relationship to a client. An impermissible conflict of interest may exist before representation is undertaken, in which event the representation should be declined. The lawyer should adopt reasonable procedures appropriate for the size and type of firm and practice, to determine in both litigation and nonlitigation matters the parties and issues involved and to determine whether there are actual or potential conflicts of interest.

Model Rule 1.10, which is the general rule for imputed disqualification, provides in part:

> (a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9, 2.2 or 3.7.

Canon 9 of the former Model Code of Professional Responsibility provided that "a lawyer should avoid even the appearance of professional impropriety." The Model Rules do not include an "appearance of professional impropriety" standard. However, the Arkansas Supreme Court has ruled in at least two cases that the appearance of impropriety standard remains in effect in Arkansas.

> First American Carriers, Inc. v. The Kroger Company,
> 302 Ark. 86, 787 S.W.2d 669 (1990)
>
> Canon 9 was a part of the ABA Code of Professional Responsibility and the exact language is not in the Model Rules of Professional Conduct adopted by this court. Canon 9 provided that "a lawyer should avoid even the appearance of impropriety." The fact that Canon 9 is not in the Model Rules does not mean that lawyers no longer have to avoid the appearance of impropriety. (See Exhibit 4.)
>
> Norman L. Burnette, d/b/a Burnette Flying Service v. Billy Morgan,
> 303 Ark. 150, 794 S.W.2d 145 (1990)
>
> The "appearance of impropriety" prohibition of Canon 9 of the American Bar Association Code of Professional Responsibility [is] not a part of the Model Rules of Professional Responsibility which we have adopted. Nevertheless, the principle is yet alive and, though not controlling, is a rock in the foundation upon which is built the rules guiding lawyers in their moral and ethical conduct. (See Exhibit 5.)

ROSE LAW FIRM PROCEDURES TO IDENTIFY AND DISCLOSE CONFLICTS

According to the Rose Law Firm in a letter dated September 27, 1994, each Rose attorney is charged with the responsibility of determining whether a proposed client engagement in a particular matter might create a conflict of interest. Associate attorneys with less than three years of service are not permitted to accept an engagement without the prior consent of a Firm partner. The Rose Law Firm asks clients with a new engagement to provide a list of parties that will be involved in the proposed engagements under consideration. The

responsible Rose attorneys compare parties so identified with a list of clients and other parties in prior engagements to determine if the two lists overlap. If there are such overlaps, responsible attorneys must compare the proposed engagement with the existing or prior engagement so as to evaluate whether the proposed engagements could raise a conflict issue.

During the 1970s and early 1980s, the process stated above was achieved by oral and written communications among attorneys. Thus, attorneys considering new engagements circulated memorandums identifying the interested parties and describing the nature of proposed engagements. They asked the other Firm attorneys to notify them of any potential conflicts. Often, but not always, copies of the memorandums were kept with client files. In 1987 the Firm obtained a software system to supplement the conflicts checking procedures.

If there is an overlap between new client information involved in a proposed engagement and existing client information identified through the conflicts checking procedures, the attorneys involved are obligated to determine if a conflict exists under the Model Rules or other applicable rules. In addition, overlaps may reveal situations that do not involve legal conflict issues under the Model Rules, but may present business issues that may have an impact on an existing client relationship.

The Rose Law Firm established a Conflicts Committee in August 1988 consisting of three elected members. The original members were Webster L. Hubbell and two other Rose partners, each to serve until a successor was nominated and elected. In 1994 another Rose partner was elected to fill the position vacated by Mr. Hubbell. The Conflicts Committee generally meets informally as issues arise and typically does not keep any minutes. A decision of the Conflicts Committee may be appealed to the partners of the Firm.

MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION

BACKGROUND

In February 1989 the Federal Home Loan Bank Board (FHLBB) placed Madison into conservatorship and, pursuant to an agreement with FSLIC, the FDIC Legal Division was responsible for managing Madison litigation, including a lawsuit pending against Madison's former auditors, Frost & Company, P.A. In January 1982 James B. McDougal and his wife, Susan, had purchased a majority interest in Madison. Madison Financial Corporation (MFC) was established on February 3, 1982, as a wholly owned subsidiary service corporation for Madison to engage in real estate investment, development and management. The following are some of the more significant events related to Madison:

- On January 20, 1984, a report of a limited examination of Madison by the Office of Examinations and Supervision, FHLBB, identified questionable investment and lending practices in real estate development projects. Other deficiencies included poor underwriting practices, inadequate recordkeeping, and little or no savings and loan experience by either the Chief Executive Officer or the Board of Directors. Based on declining capital and regulatory violations, the FHLBB executed a Supervisory Agreement on July 19, 1984, stipulating a number of requirements for Madison and its Board of Directors.

- In March 1985 Frost & Company, P.A., Madison's outside auditors, issued an unqualified opinion on Madison's 1984 Financial Statements. In February 1986 Frost issued an unqualified opinion on Madison's 1985 Financial Statements, concluding that Madison was solvent.

- In March 1986 the FHLBB again identified unsafe and unsound practices at Madison and identified insider abuse by Mr. McDougal, Madison's major shareholder. A Cease and Desist Order signed in August 1986 imposed severe operating restrictions on Madison's operations and required Madison to obtain a new audit for 1985. At the FHLBB Supervisory Agent's request, Madison retained the law firm of Borod & Huggins in September 1986 to investigate internal abuses.

- In August 1987 a FHLBB examination concluded that Madison had been insolvent since December 1985. A second audit of Madison for 1985, completed by Peat Marwick Main & Company after Frost had already performed the 1985 audit, determined severe capital deficiencies, including inadequate reserves for loan losses.

- Jeffrey C. Gerrish, then of the law firm of Borod & Huggins, completed the investigation, issued a report and prepared the Frost lawsuit. Mr. Gerrish had been the Regional Counsel for FDIC's Memphis Regional Office in the early 1980s before he left FDIC to begin a private law practice. In February 1988 Madison filed suit against Frost seeking $10 million for defective audits and negligent preparation of financial statements. Guthrie Castle and the law firm of Borod & Huggins were retained by Madison for the Frost lawsuit.

- On March 1, 1988, Borod & Huggins separated into three new law firms, one of which was Gerrish & McCreary. The Frost lawsuit was transferred to the Gerrish & McCreary law firm.

On February 7, 1989, FDIC entered into an agreement with FSLIC and the FHLBB to act as agent for FSLIC in any conservatorship or receivership appointed for an insured savings and loan association after January 1, 1989. Consequently, on March 2, 1989, FDIC was appointed managing agent for the Madison Conservatorship. As managing agent, FDIC was required to pursue all claims by, and defend those against, Madison. The FDIC Legal Division separates issues concerning general litigation involving liquidation matters from those issues involving possible impropriety by former officers and directors or outside professionals who were hired to perform work for an institution. Any professional liability lawsuits are handled by FDIC Legal Division's Professional Liability Section (PLS). The formal role of FDIC related to thrifts ended on August 9, 1989, when the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) was enacted and the Resolution Trust Corporation (RTC) was created. However, FDIC Legal Division continued to provide legal support to the RTC until September 1991, when FDIC attorneys working on RTC matters transferred to the RTC to form its Legal Division.

When Madison was placed into conservatorship in February 1989, Madison's lawsuit against its former outside audit firm, Frost, had been in process for about one year in Arkansas state court. Madison had filed suit against Frost alleging that Frost had breached its contract by failing to fairly present Madison's financial condition in the 1984 and 1985 audits. After Madison was placed into conservatorship, the PLS of FDIC Legal Division was responsible for managing the Frost lawsuit. In 1989 all PLS matters were directly managed from FDIC Washington, D.C., headquarters, unlike other legal matters, such as general collection or foreclosure work, which were managed by the regional offices.

In February 1989 Paul A. Jeddeloh of the FDIC Burnsville Consolidated Field Office in Burnsville, Minnesota, was named Managing Attorney for the Madison Conservatorship. One of Mr. Jeddeloh's duties was to hire local counsel to represent the conservatorship regarding general litigation matters. Soon after Madison was placed into conservatorship, Mr. Jeddeloh hired the law firm of Friday, Eldredge & Clark, Little Rock, Arkansas (Friday), to represent the Madison Conservatorship on all general litigation matters. Mr. Jeddeloh stated that he based his selection on the fact that Friday was on the FDIC List of Counsel Available (LCA), formerly known as the List of Counsel Utilized. The LCA is a formal list of law firms from which FDIC attorneys may select firms to handle general litigation matters on behalf of FDIC. Mr. Jeddeloh also stated that the firm had been recommended by other FDIC attorneys who had been assigned to other failed institutions in Little Rock, Arkansas.

Friday, however, was not given the responsibility for the Frost lawsuit because this was a PLS matter. In March 1989 April A. Breslaw, an attorney for PLS, FDIC Legal Division, was named as the responsible attorney for PLS matters related to Madison. Ms. Breslaw transferred into the RTC Legal Division when it was created in September 1991, and she remained Madison's PLS attorney until all of the professional liability matters were resolved. Former RTC Special Counsel Gerald Jacobs and former RTC Deputy Executive Director William Roelle approved settlement of the Frost lawsuit for $1.025 million on or about February 26, 1991. The RTC concluded the damages were actually $6 million, although the only meaningful recovery source was Frost's $3 million insurance policy. The $3 million, however, was self-liquidating; therefore, the policy was being reduced to pay Frost's attorney and expert fees. The settlement agreement was executed on April 8, 1991. See Appendix B for a chronology of events related to Madison and the Frost lawsuit.

HIRING OF THE ROSE LAW FIRM FOR FROST LAWSUIT

The Rose Law Firm is a Professional Association located at 120 East Fourth Street in Little Rock, Arkansas. The number of Firm attorneys grew from 24 in 1980, to more than 50 in 1991. The Firm handled many areas of legal practice including litigation and banking. From 1987 the Firm listed FSLIC as a representative client and listed FDIC from 1990. Prior to 1989 the Rose Law Firm represented FSLIC regarding failed savings and loan institutions, including Guaranty Savings and Loan Association, Harrison, Arkansas. Also prior to 1989 the Rose Law Firm represented FDIC regarding failed banks, including Corning Bank, Corning, Arkansas. (See Exhibit 6 for additional background on the Rose Law Firm.)

In March 1989 Ms. Breslaw determined that Madison's law firm for PLS matters, Gerrish & McCreary, had a conflict of interest. In a March 1989 letter to Mr. Jeddeloh, Mr. Gerrish listed two lawsuits and an enforcement proceeding that his firm was currently involved in that were adverse to FDIC. They were defending one of the directors in the Corning Bank PLS lawsuit brought by FDIC. Mr. Gerrish provided a sworn statement to OIG special agents (Exhibit 7) in which he said he did not believe then and he does not believe now that his firm had a conflict of interest which would have prevented the firm from continuing with the Frost lawsuit. Mr. Gerrish did state that his firm was representing a director who was a defendant in the Corning Bank lawsuit and that the lawsuit was set for trial about the same time Madison was placed into conservatorship. He further stated that, apparently, FDIC used the Corning Bank litigation as its reason for removing the Frost lawsuit from Gerrish & McCreary.

Ms. Breslaw subsequently was sent a copy of Mr. Gerrish's March 1989 letter. In a sworn statement provided to the OIG (Exhibit 8), she said the letter also stated that Mr. Gerrish did not consider these representations to be conflicts because they were opposed to FDIC in bank matters, and the Madison litigation involved a savings and loan. Ms. Breslaw said she did not find this argument persuasive because she believed FDIC was a single entity that performed different functions. She said that regardless of the context, she believed that opposing FDIC in litigation created a conflict of interest for a firm that sought to represent FDIC at the same time. Ms. Breslaw stated she was concerned that, if Gerrish & McCreary was allowed to continue the Frost lawsuit, the firm could become aware of confidential information about FDIC practices, procedures, and policies and be tempted to use it against FDIC in one of the matters adverse to FDIC.

Ms. Breslaw stated that she knew of Gerrish & McCreary's involvement in the Corning lawsuit because she was also the FDIC attorney responsible for the Corning PLS lawsuit. She stated that this litigation involved claims against approximately 17 former Corning directors and officers and that this case had been transferred to her from another FDIC attorney after the lawsuit had already been filed. The former FDIC attorney had retained Rose for the Corning lawsuit, and Webster L. Hubbell was the responsible Rose attorney with whom Ms. Breslaw worked. Ms. Breslaw further stated that the only requirement that she was aware of for hiring a law firm was that the law firm had to be included in the List of Counsel Available or had to go through the application process to be added to the List. Each time a law firm was selected for a new representation, the law firm would have to check for conflicts of interest.

Ms. Breslaw said she only considered two firms to replace Gerrish & McCreary. She first considered Wright, Lindsey & Jennings because of her previous experience working with that firm on FDIC matters. However, she learned that Wright, Lindsey & Jennings had a conflict of interest because they were representing someone who was adverse to Madison. She next considered the Rose Law Firm because of the good work they were doing on the Corning lawsuit. She considered only these two firms because they were the only Little Rock law firms she believed capable of handling a complex accounting malpractice case. She considered only local firms because of the associated travel costs and expense of using a more distant firm.

Ms. Breslaw could not specifically recall, but it was her belief that in March 1989 she first contacted Mr. Hubbell regarding Madison to have him conduct a Rose internal conflicts check and evaluate whether the Firm could assume the litigation. She further stated that she believes she would have explained the Gerrish & McCreary conflicts to Mr. Hubbell and that it was likely he would have known about Gerrish & McCreary's work on the Corning matter due to his own involvement on the FDIC side. She did not know what action was taken by Rose to conduct an internal conflicts check after her request. Ms. Breslaw informed us that it was her practice to ask for a written response to the conflicts check, but she did not recall receiving one from Rose. She added that she believes Mr. Hubbell told her that there was no conflict and that she was too busy to note that she had not received a written confirmation. Ms. Breslaw further said that there was no FDIC requirement at that time that she receive a written confirmation.

Agent's Note: Our investigation evidenced that in 1987 FDIC issued internal policies and procedures for its managing attorneys relating to the retention of outside counsel. One of these procedures was set forth in a memorandum from FDIC Deputy General Counsel to the Regional Counsels, Liquidation Branch, FDIC Legal Division, dated August 27, 1987. (See Exhibit 9.) This memorandum transmitted internal procedures for the selection and termination of outside counsel. Section g. of the memorandum states that FDIC attorneys should ask outside counsel to perform a thorough conflicts check and to submit a written response. This memorandum was not addressed to other branches of the Legal Division, including the branch responsible for professional liability matters. In January 1988 Ms. Breslaw transferred to Washington, D.C., to work in the Professional Liability Section (PLS) of FDIC Legal Division. Before transferring to PLS, Ms. Breslaw was an attorney in the Liquidation Branch in the Dallas Region of FDIC Legal Division when these internal procedures were issued.

Ms. Breslaw informed the OIG that she was not familiar with the internal procedures and did not recall having received them in 1987. Ms. Breslaw also stated that in 1989, when FDIC was given responsibility to manage savings and loan matters for FSLIC, all FDIC attorneys already had full caseloads comprised of banking matters. She said the sheer volume of work created a chaotic situation. According to RTC's 1989 annual report, 175 institutions were placed into conservatorship in February and March 1989, one of which was Madison.

Mr. Hubbell stated under oath to the OIG that he could not specifically recall conducting a conflicts check related to Madison, but believes that he did. (See Exhibit 10.) During our review of the Rose Law Firm's litigation files, we found a Rose memorandum dated March 21, 1989, from Mr. Hubbell to all Rose attorneys in which he asked the Firm members to conduct a conflicts check related to the Frost lawsuit. (See Exhibit 11.) Mr. Hubbell also said that a Firm meeting was held to discuss whether or not to accept this case. Some of the tax partners did not want to sue Frost because they did not want to be adverse to Frost. They decided to accept the case because they wanted to form a relationship with FDIC. Mr. Hubbell also informed the OIG that, due to the compensation arrangement at the Firm, it was necessary that he actually perform the work in order to be compensated.

Richard T. Donovan, Rose Law Firm partner, was interviewed by OIG special agents during our investigation. (See Exhibit 12.) Mr. Donovan declined to be placed under oath during the interview. Mr. Donovan stated that he recalls a Firm meeting that was held in March 1989 to discuss whether to accept the Frost lawsuit. Mr. Donovan said that the Firm members agreed to accept the case. Hillary Rodham Clinton, a former Rose partner, was also interviewed by OIG special agents during our investigation. (See Exhibit 13.) Mrs. Clinton declined to be placed under oath during the interview. Mrs. Clinton said she does not recall Mr. Hubbell conducting a conflicts check regarding the Madison litigation although that was the normal practice.

Mr. Hubbell recalls that, after the conflicts check was completed, he telephoned Ms. Breslaw to tell her that Rose had no conflicts and could accept the case. According to Mr. Hubbell, this was a 15-second conversation wherein he told Ms. Breslaw that there were three issues that were discussed, but that none of them amounted to a conflict of interest. The issues discussed with Ms. Breslaw were that 1) some of the partners did not want to sue Frost because some Rose clients were also Frost clients; 2) some Rose attorneys had done some minor work for Madison; and 3) Mr. Hubbell's father-in-law was a Madison borrower and had a lawsuit against Madison. He also believed that he did not tell Ms. Breslaw his father-in-law's name during the conversation. Mr. Hubbell said that he did not discuss any of these issues in detail during the telephone call.

Mr. Hubbell stated under oath to OIG special agents that he did not inform Ms. Breslaw that the prior work Rose had done for Madison was before the Arkansas Securities Department because, at the time of the telephone call, he was not aware of the ASD representation. (See page 37 of this report for details on Rose's representation of Madison before the ASD.) Mr. Hubbell said he knew that Richard Massey, a Rose attorney, had done work for Madison, but he thought this had been lending and collection work. Mr. Hubbell stated that he did not have a lengthy discussion regarding these issues because he did not think any of them were significant. He further said that he did not document anything in writing concerning his conflicts check because Ms. Breslaw did not ask him to do so.

Ms. Breslaw stated to the OIG that she does not specifically recall Mr. Hubbell's calling her back and telling her that Rose could accept the case. She also said that she does not believe that Mr. Hubbell told her anything about Mr. Ward when he agreed to litigate the Frost lawsuit because she believes she would have had Mr. Hubbell write her a letter explaining the situation, which is what she did when the issue was raised in June 1989. Ms. Breslaw

further said that she does not believe that Mr. Hubbell told her in March 1989 that Rose had done any prior work for Madison, and she is fairly certain that he did not mention any work Rose did for Madison before the ASD. We found no documentation in the Madison Conservatorship litigation files or from Ms. Breslaw to substantiate this telephone call.

Mr. Hubbell explained that he believed Ms. Breslaw was replacing the Gerrish & McCreary firm because it had a conflict of interest. He said it was his understanding that Gerrish & McCreary was being replaced because the firm was representing a client who was suing FDIC in its corporate capacity. He did not think that Gerrish & McCreary was being replaced because the firm was adverse to the Corning Bank Receivership. Mr. Hubbell did not inform Ms. Breslaw about any Rose clients that he knew were adverse to a receivership or conservatorship. He thought that FDIC treated each failed institution as a separate entity so that the Firm could be adverse to FDIC regarding one failed institution but could also represent another failed institution for FDIC. However, during the investigation we obtained a copy of a Legal Services Agreement (LSA) related to the Corning Bank Receivership and signed by Mr. Hubbell for the Rose Law Firm in December 1987. The LSA contained a statement indicating that FDIC did not differentiate between its Corporate or Receivership capacity with respect to conflicts. The LSA signed by Mr. Hubbell for the Rose Law Firm states: "The Undersigned state and represent that they . . . have no professional or personal interests adverse to or in potential conflict with the FDIC, (whether in its Corporate or Receivership capacity), and are not otherwise ethically disqualified to represent the FDIC." (See Exhibit 14.)

On or about March 24, 1989, Rose was retained and immediately began to represent FDIC in the Madison litigation concerning the Frost lawsuit. An already existing LSA signed by Mr. Hubbell on December 28, 1987, for the Corning Bank Receivership prevailed until an LSA which was effective on October 3, 1990, was signed by Rose and FDIC for the Madison Conservatorship. Rose continued to represent the Madison Conservatorship until this lawsuit was settled in April 1991. The Frost lawsuit was the only matter Rose handled for the Madison Conservatorship.

CONFLICT OF INTEREST ISSUE RAISED WITH FDIC

Paul A. Jeddeloh, former FDIC Managing Attorney for the Madison Conservatorship, provided a sworn statement to OIG special agents. (See Exhibit 15.) According to Mr. Jeddeloh, soon after the March 1989 transfer of the Frost lawsuit to the Rose Law Firm, Sue Strayhorn, a former employee of both Madison and MFC who was working for the Madison Conservatorship, raised concerns to him about a conflict of interest because of Mr. Hubbell's family relationship with Mr. Ward. She informed Mr. Jeddeloh that she saw Mr. Hubbell at Mr. Ward's trial against Madison, which took place in August 1988. He further said that Ms. Strayhorn was noticeably agitated over Mr. Hubbell's involvement in the Frost lawsuit and expressed concern over the possibility that information garnered from the Frost lawsuit could be used against Madison in the Ward lawsuit. Mr. Jeddeloh stated that he also discussed the Hubbell-Ward relationship with David Paulson, FDIC Managing Agent for the Madison Conservatorship, and that Mr. Paulson had the same concerns as Ms. Strayhorn. Mr. Jeddeloh said that he then telephoned Ms. Breslaw to relay the concerns expressed by both Ms. Strayhorn and Mr. Paulson. He said that during the telephone conversation Ms. Breslaw advised him that 1) she wanted Rose for the litigation because they were influential; 2) that it was not his case; and 3) he should mind his own business. Mr. Jeddeloh was left with the impression that Ms. Breslaw did not think the Ward lawsuit against Madison was a significant matter. Mr. Jeddeloh stated that he considered the conflict of interest issue significant enough to write to Ms. Breslaw and believed that, by putting his concerns in writing, she would deal with the situation appropriately. Mr. Jeddeloh forwarded Ms. Strayhorn's information to Ms. Breslaw in a June 8, 1989, letter for her resolution. (See Exhibit 16.)

Ms. Strayhorn was interviewed and provided a sworn statement to OIG special agents. (See Exhibit 17.) She said that during the time she was employed at Madison Financial Corporation (MFC) Seth Ward was also employed at MFC, but she was not aware if he was being paid by MFC or Madison. She further stated she was aware that Webster L. Hubbell was Mr. Ward's son-in-law and that he was associated with the Rose Law Firm. Ms. Strayhorn said that, soon after Madison was placed into conservatorship in March 1989, the Frost lawsuit was transferred to Rose. When she learned that the litigation files had been transferred to Mr. Hubbell, she became concerned that the FDIC personnel responsible for the transfer were not aware of the relationship between Messrs. Hubbell and Ward and that Mr. Ward's lawsuit against Madison was still pending. She stated that she informed Billy Carroll, who was FDIC Managing Agent for Madison at that time, about the Hubbell-Ward

relationship. Ms. Strayhorn remembers that Mr. Carroll called either Mr. Jeddeloh or Ms. Breslaw to check on the situation. She could not recall being present during this telephone call. However, she does recall being told that Mr. Hubbell would be acting as lead attorney, but would not be arguing the case and that Rose attorneys Richard Donovan or Gary Speed would be responsible for all aspects of the case.

Mr. Paulson was interviewed and provided a sworn statement to OIG special agents. (See Exhibit 18.) He stated that he replaced Billy Carroll as Madison's Managing Agent in May 1989. He explained that a professional liability case that was ongoing when he arrived at the Madison Conservatorship involved Frost. The first information he received concerning a possible conflict of interest with Rose came from Ms. Strayhorn. Mr. Paulson stated that Ms. Strayhorn told him that Mr. Hubbell was related by marriage to either Seth Ward or Seth Ward II, both of whom were involved in litigation against Madison, and that Ms. Strayhorn felt it was a conflict of interest for Rose. Mr. Paulson asked Kenneth K. Schneck, FDIC Credit Specialist assigned to Madison, to look into the situation for him. He said that Mr. Schneck was adamant that the Hubbell-Ward relationship was a conflict of interest. Mr. Paulson believes that Mr. Schneck discussed the issue with Ms. Breslaw by telephone, but that Ms. Breslaw did not agree there was a conflict. Mr. Paulson also recalls discussing the issue with Mr. Jeddeloh. He further said he recalls correspondence from Ms. Breslaw and Mr. Hubbell on the matter. Mr. Paulson explained that, after he and Mr. Schneck did not get anywhere with Ms. Breslaw on this issue, they decided to write a letter to John O'Donnell, FDIC Savings and Loan Project Area Coordinator, and inform him of their concerns. Mr. Paulson stated that once the letter was sent to Mr. O'Donnell, he had no further involvement in this issue.

Ms. Breslaw informed OIG special agents that her first recollection of being told about a potential conflict for Rose with Madison was a letter she received from Mr. Jeddeloh after Rose had begun work on the Frost lawsuit. She also stated she believes she received either a letter or telephone call at about the same time from Mr. Paulson, who was Madison's Managing Agent at the time. OIG special agents showed Ms. Breslaw the June 8, 1989, letter to her from Mr. Jeddeloh. After reviewing the letter, Ms. Breslaw questioned whether the letter raised true conflict issues. Nevertheless, she stated that, after having received Mr. Jeddeloh's letter originally, she contacted Mr. Hubbell and discussed with him over the telephone his relationship with his father-in-law. Mr. Hubbell explained to her that he did not have a close relationship with his father-in-law. She specifically recalls that Mr. Hubbell told her that he and Mr. Ward had different political affiliations and that he was not

representing Mr. Ward. Mr. Hubbell did not inform her of any of his other relationships with Mr. Ward. From this information, Ms. Breslaw concluded that there was no conflict of interest. However, she requested that Mr. Hubbell write to Mr. Paulson to inform him that he was not representing Mr. Ward. Mr. Hubbell wrote a letter (Exhibit 19) to Mr. Paulson on June 28, 1989, stating that he had not represented Mr. Ward in his dispute with Madison and had no intention of representing Mr. Ward in the future concerning any matter relating to Madison. As a result of Mr. Jeddeloh's letter to her, Ms. Breslaw also wrote a letter (Exhibit 20) to Mr. Paulson on June 23, 1989, stating that she was not inclined to take the Frost lawsuit away from Rose because of Mr. Hubbell's relationship to Mr. Ward. However, according to Ms. Breslaw, in his telephone conversation with her Mr. Hubbell omitted addressing his business relationship with Mr. Ward. Mr. Hubbell also did not disclose his business relationship with Mr. Ward in his June 28, 1989, letter to Mr. Paulson.

The Regional Counsel for the Chicago Regional Office in 1989 was Pamela A. Shea. During our investigation, Ms. Shea provided OIG special agents with a sworn statement (Exhibit 21) in which she recalled that Mr. Jeddeloh was the Managing Attorney for the Madison Conservatorship. OIG special agents showed Ms. Shea the June 8, 1989, letter from Mr. Jeddeloh to Ms. Breslaw, which indicates a copy was sent to Ms. Shea. After reviewing the letter, Ms. Shea stated that she had no recollection of having received a copy of the letter in 1989. Ms. Shea said that she had no supervisory responsibility for PLS matters and very little interaction or communication with the Washington, D.C., Professional Liability Section. Ms. Shea believes that Mr. Jeddeloh took the appropriate action by informing Ms. Breslaw of the situation, and that no further action was required by her or Mr. Jeddeloh.

Concerns regarding the Hubbell-Ward relationship were raised again in an August 10, 1989, letter from Mr. Schneck to Mr. O'Donnell. (See Exhibit 22.) In a sworn statement provided to the OIG by Mr. Schneck (Exhibit 23), he stated that he was assigned as Credit Specialist at Madison in late June or early July 1989. Mr. Schneck said that his main duties were to collect the loans and handle the credit side of the institution and that he had no responsibility over the professional liability issues at Madison. Someone at the Madison Conservatorship, whom he could not recall, informed him that Mr. Hubbell's father-in-law was Seth Ward and that Mr. Ward had been a Madison borrower and was involved in litigation adverse to the Madison Conservatorship.

Mr. Schneck also was concerned whether a conflict of interest existed because of Mr. Hubbell's relationship to Mr. Ward. In late July or early August 1989 Mr. Schneck attended

a strategy meeting at the Rose Law Firm to discuss settling the Frost lawsuit. He stated that during a break in the meeting he pulled Ms. Breslaw aside and informed her he felt the Hubbell-Ward relationship was a conflict of interest and that, from a credit standpoint, it would be best to replace the Firm. Mr. Schneck said that Ms. Breslaw responded by telling him that it was no concern of his because it was a Professional Liability Section issue. He further said that it was his impression that talking with Ms. Breslaw about this issue was not going to do any good and, therefore, decided to put something in writing. Mr. Schneck believed that Ms. Breslaw's opinion that there was no conflict was incorrect and that he wanted to bring this issue to someone else's attention in the hope that she would be overruled. Therefore, sometime after the meeting he wrote the letter to Mr. O'Donnell. He said he wrote to him because Mr. O'Donnell was next in the chain of command after Mr. Paulson. Mr. Schneck does not know what action Mr. O'Donnell took after he received the letter, but he later heard from Mr. Paulson that the Rose Law Firm was not going to be replaced. He said that after hearing that, he decided not to waste any more of his time dealing with this issue.

Mr. O'Donnell provided a sworn statement (Exhibit 24) to OIG special agents in which he stated that his main duties as FDIC Savings and Loan Project Area Coordinator were to review credit cases and handle the administrative responsibilities associated with the managing agents and credit specialists who were assigned to Arkansas savings and loan institutions that were in conservatorship. He stated that he did not recall that Rose had been hired to represent the Madison Conservatorship or the lawsuit that had been filed against Frost. Mr. O'Donnell said that he did remember that Messrs. Paulson and Schneck were assigned to the Madison Conservatorship. He further stated that he remembers discussing with someone a conflict of interest situation involving Seth Ward, but he does not recall the specifics of the conflict. After Mr. O'Donnell reviewed the August 10, 1989, letter, he stated to OIG special agents that he does not recall receiving this letter. However, he said that, since the issue involved the Legal Division, his normal procedure in 1989 would have been to have made sure that someone in the Legal Division at the Chicago Regional Office was made aware of the issue. Mr. O'Donnell stated that the legal aspects of the conservatorships were handled by the Legal Division, and he had no responsibility in this area. He believes he would have told Mr. Schneck to make sure that someone at the Chicago Regional Office was aware of the issue. He said that he does not recall speaking with anyone about this matter. Ms. Breslaw also was shown a copy of Mr. Schneck's August 10, 1989, letter, and she stated that she does not believe the letter was sent to her when it was written. She further said that she does not recall discussing this issue with Mr. Schneck.

In addition to substantiating the personal relationship between Messrs. Hubbell and Ward, our investigation evidenced that Mr. Hubbell also had been for several years a part owner and corporate official of POM, Mr. Ward's company. (See page 34 of this report for details of Mr. Hubbell's involvement with POM.) The Rose Law Firm and Mr. Hubbell had regularly represented Mr. Ward and his company in legal matters. Neither the Rose Law Firm nor Mr. Hubbell provided the OIG evidence that this information was communicated to FDIC or the RTC.

Further, during interviews by OIG special agents, both Ms. Breslaw and various individuals at Rose stated that the Firm set up a "firewall" to ensure that Mr. Hubbell did not learn about issues from the Frost lawsuit that could affect his father-in-law. However, we found no documents that confirmed the firewall existed or that Mr. Hubbell was prevented from learning of developments regarding his father-in-law's case. Further, we found that Mr. Hubbell billed the Madison Conservatorship on two separate occasions for reviewing the Borod & Huggins report, which included information on loans Mr. Ward received from Madison, which were the same loans that were later charged off by Madison, and his employment with MFC. Ms. Breslaw informed the OIG that she knew of the firewall, but that it was not imposed at her direction. Mr. Hubbell stated to the OIG that the firewall was formed because of the concerns raised by the Madison Conservatorship staff. Mr. Hubbell said there was nothing in writing relative to the firewall. He said that the firewall eventually broke down because he needed to review documents that related to Mr. Ward in order to be prepared for the Frost trial. Mr. Hubbell stated that initially he did not review the Borod & Huggins report because it contained material on Mr. Ward. However, once he learned that the defense attorneys had a copy of it he read the report. Mr. Ward's lawsuit against the Madison Conservatorship was still ongoing when Mr. Hubbell read the Borod & Huggins report.

FAILURE TO INFORM FDIC OF CONFLICTING REPRESENTATION - UNIVERSAL SAVINGS

Universal Savings Association, F.A., Chickasha, Oklahoma (Universal), was placed into Receivership by the Federal Home Loan Bank Board (FHLBB) on February 13, 1987. Prior to being placed into Receivership, Universal filed suit in 1985 against First Investment Securities Corporation (FIS), which was being defended in the lawsuit by the Rose Law Firm. The lawsuit alleged securities fraud against FIS and others. After Universal was placed into

receivership FSLIC, as receiver for Universal, was substituted as the plaintiff in this action in February 1987. During 1987 all of the parties agreed on a settlement; however, FSLIC ultimately rejected the settlement due to unacceptable indemnification provisions. In January 1988 FSLIC filed a motion to return the cause of action to the docket for a trial date. In February 1988, FIS, still being defended by Rose, filed a motion to enforce the settlement agreement against FSLIC. These motions were never ruled on by the court, and the case became essentially dormant in 1989. The FDIC Legal Division currently lists this as an open matter and is attempting to reactivate the lawsuit.

Our investigation evidenced that Rose was informed as early as November 1986 by FSLIC which wanted to know if the Firm was representing any client in litigation against or otherwise known to have interests in conflict with FSLIC, either in its corporate capacity or as receiver or conservator. We also obtained a November 3, 1988, Rose memorandum from Vincent Foster to all Rose attorneys. (See Exhibit 25.) The memorandum states that the Firm represents defendants in an action by a savings and loan that was put into receivership by FSLIC. Further, Mr. Foster's memorandum states that under FSLIC policy, Rose therefore was disqualified from receiving any new business while the Firm was representing defendants adverse to a FSLIC receivership. Mr. Foster wrote to the FHLBB which was responsible for FSLIC matters, and asked that the Firm not be disqualified from receiving new business because of the conflict with FSLIC. By a November 21, 1988, letter, the FHLBB informed Mr. Foster that Rose would be allowed to bid on new legal matters related to savings and loan associations. (See Exhibit 26.) On February 28, 1989, Mr. Foster wrote a letter to both FSLIC and FDIC requesting that Rose be considered for legal services arising out of failed savings and loans in Arkansas. The FSLIC letter disclosed that Rose was currently representing FIS against the FSLIC Universal Receivership; the FDIC letter did not.

In addition to being informed of FSLIC policies regarding conflicts of interest, in December 1987 Mr. Hubbell was sent the FDIC's Guide for Legal Representation. The Guide containing a section regarding conflicts of interest was sent to the Firm in connection with its representation of the Corning Receivership. (See Exhibit 1.) This section provides that FDIC be promptly informed of a representation of a client adverse to FDIC. Also, the Corning Bank LSA signed in December 1987 prohibited the Firm from having any professional or personal interests adverse to or in potential conflict with FDIC, whether in its Corporate or Receivership capacity. In May 1990 FDIC and RTC issued joint guidelines, which were sent to Rose concerning conflicts of interest. The guidelines do not differentiate between FDIC's various capacities, including its conservator, receiver and corporate capacity.

Our investigation evidenced that Mr. Hubbell did not inform FDIC of Rose's representation of FIS in 1989 when he agreed to represent FDIC in the Madison litigation. Mr. Hubbell admitted during his sworn testimony to the OIG that he did not inform Ms. Breslaw that Rose was representing FIS against the Universal Receivership. He stated that it was his belief that FSLIC and FDIC treated each receivership or conservatorship as a separate entity. Mr. Hubbell further said that Rose would have a conflict of interest if the Firm was representing someone against FSLIC or FDIC in their corporate capacities.

In sworn testimony to the OIG (Exhibit 8), Ms. Breslaw said that Mr. Hubbell did not inform her of the FIS representation. She further said that she believed that Rose's representation of FIS against the Universal Receivership was a conflict of interest for Rose and that, had she been informed of this matter, she would have brought it to the attention of her supervisor. Ms. Breslaw stated that, in order for the Firm to represent the Madison Conservatorship, a waiver for Rose related to the Universal Receivership would have been necessary.

WARD LAWSUITS AGAINST MADISON

Mr. Hubbell's father-in-law, Seth Ward, was hired in 1985 by James McDougal, President of Madison's wholly owned subsidiary, Madison Financial Corporation (MFC), to represent MFC in real estate transactions. Mr. Ward provided a sworn statement (Exhibit 27) to the OIG in which he said that he received a salary of $25,000 per year from MFC and was to receive a 10 percent commission on sales he arranged. In one such transaction, known as the Castle Grande Development, Mr. Ward negotiated and signed for the purchase of $1.75 million of real estate for MFC from the Industrial Development Company (IDC). According to information contained in the Borod & Huggins report, at that time MFC had an investment limitation of $600,000. Consequently, Madison loaned $1.15 million to Mr. Ward, who purchased part of the property, and MFC purchased the remainder of the property for $600,000. The loan to Mr. Ward was made on a nonrecourse basis and, therefore, Mr. Ward was not personally obligated to repay the loan, and Madison's sole security was the property. Through an agreement with MFC, Mr. Ward was able to pay down the $1.15 million debt with proceeds from Castle Grande sales.

Mr. Hubbell stated to the OIG that he recalls Rose had represented both Mr. Ward and Madison concerning the purchase of property from the IDC. He stated that at least one Rose attorney attended the closing for this property on behalf of Mr. Ward and Madison.

Mr. Hubbell said that he did not work on this matter and that he did not perform any legal work for Madison while it was an open institution.

During the period October 1985 through July 1986, Mr. Ward and his son, Seth Ward II, received several separate loans from Madison totaling approximately $1.9 million. The $1.9 million figure includes the $1.15 million that Mr. Ward borrowed for the purchase of the IDC property. At least two of the loans to Mr. Ward - one for $400,000 on March 31, 1986, and another on June 6, 1986, for $70,000 - were charged off by Madison on October 31, 1988. Madison also charged off a third loan for $93,000 on September 30, 1987. During its litigation of the Frost lawsuit, Rose obtained information concerning Mr. Ward's loans.

Mr. Ward filed suit in Circuit Court of Pulaski County, Little Rock, Arkansas on September 2, 1987, against Madison and MFC, claiming Madison failed to pay him commissions of $300,000 plus interest on land he sold. Madison countersued Mr. Ward claiming he owed Madison $93,000. The jury entered a verdict for Mr. Ward, and a judgment for $353,502 was entered against Madison on September 6, 1988. Madison and MFC appealed the decision to the Arkansas Court of Appeals on October 6, 1988.

Mr. Alston Jennings, Sr., an attorney with the law firm of Wright, Lindsey & Jennings, Little Rock, Arkansas, originally represented Mr. Ward in this case against Madison. Madison was represented by the Mitchell, Williams, Jackson, Selig & Tucker law firm. However, in March 1989, after Madison had been placed into conservatorship, Mr. Jennings' law firm developed a conflict of interest regarding FDIC work and withdrew as counsel for Mr. Ward. Thomas Ray, an attorney with Shults, Ray and Kurrus then became Mr. Ward's attorney during the appeal. While the case was pending, the RTC and Mr. Ward entered into a settlement agreement in April 1993 and, as part of the agreement, Mr. Ward paid the RTC $325,000. This matter was concluded on May 10, 1993, when the United States District Court, Little Rock, Arkansas, ordered all claims and counterclaims dismissed with prejudice as a result of the settlement.

While Mr. Hubbell was handling the Frost lawsuit for the Madison Conservatorship and during the appeal of Mr. Ward's lawsuit against Madison, Mr. Hubbell had several telephone conversations with Mr. Ward's attorney, Mr. Ray, and received copies of significant briefs and filings in this matter. Further, Mr. Hubbell also called Mr. Ward's former attorney, Mr. Jennings, on or about October 26, 1989, and informed him of the dismissal of the Madison appeal. After Mr. Hubbell called him, Mr. Jennings removed the funds from the

Madison escrow account that had been established to cover Mr. Ward's judgment. Mr. Hubbell confirmed during his testimony to the OIG that he received copies of documents from Mr. Ray that related to the lawsuit, but did not give Mr. Ray any advice on this matter.

During our investigation we obtained the file and documents from Rose regarding Seth Ward's lawsuit against Madison. One of these documents was a letter sent by David M. Powell, Attorney, Wright, Lindsey & Jennings, to Mr. Hubbell on January 18, 1990, regarding an indemnification agreement between Mr. Ward and the Wright, Lindsey & Jennings law firm. (See Exhibit 28.) Mr. Powell's letter was sent to Mr. Hubbell during the time Mr. Hubbell was handling the Frost lawsuit for the Madison Conservatorship. Further, this letter enclosed a draft agreement slightly revising the proposed agreement Mr. Hubbell had recently submitted to Alston Jennings, also with the Wright, Lindsey & Jennings firm. The proposed letter agreement that was enclosed was also dated January 18, 1990, and it was from Seth Ward to Alston Jennings, Sr. According to the proposed letter, RTC wanted the agreement as assurance that Mr. Ward would pay any final judgment entered against him in favor of the RTC related to their ongoing litigation.

In a sworn statement (Exhibit 29) provided to the OIG by Mr. Powell, he said that in 1990, he was a member of Wright, Lindsey & Jennings' Executive Committee and became involved with an issue related to the removal of the escrow funds related to the Ward lawsuit. After Mr. Jennings learned that the state court had dismissed Madison's appeal, Mr. Jennings involved himself in releasing funds held in escrow at the Worthen Bank and delivering the funds to Mr. Ward. According to Mr. Powell, RTC became extremely upset with Mr. Jennings and his firm for what it perceived as his improper involvement in obtaining the escrow funds. The proposed agreement resulted when RTC took the position that it was a conflict of interest for Wright, Lindsey & Jennings to have anything to do with the Ward v. Madison lawsuit and refused to give the firm any new work. Mr. Powell said that the firm did not believe Mr. Jennings' actions constituted a conflict of interest, but wanted to resolve the matter to RTC's satisfaction. The RTC wanted Mr. Ward to return the funds to an escrow account, but Mr. Ward refused to do so. The RTC also requested that the firm put up collateral for the judgment amount in case the lawsuit was reversed on appeal. The members of the firm decided not to put up collateral, but they agreed to enter into an indemnification agreement with RTC stating the firm would be responsible for the judgment if it was reversed and Mr. Ward refused to pay any judgment rendered against him.

Mr. Powell said that he is not sure how Mr. Hubbell became involved in the matter, but believes that Mr. Ward asked the firm to deal with his son-in-law on this issue. Mr. Powell stated that he did not know whether Mr. Hubbell was just helping Mr. Ward because of his family relationship with him or if Mr. Hubbell was actually advising Mr. Ward on how to deal with this matter. Either Mr. Powell or Mr. Jennings contacted Mr. Hubbell concerning the indemnity. Mr. Powell believes he drafted the original agreement and sent it to Mr. Hubbell. He said that either Mr. Hubbell or Mr. Ward made changes to the agreement. Mr. Powell recalls that a few drafts went back and forth before they agreed on a statement. Mr. Powell provided the OIG with a copy of the signed January 18, 1990, agreement. (See Exhibit 30.)

Mr. Jennings also provided a sworn statement to the OIG regarding this matter. (See Exhibit 31.) He stated that he thought Mr. Ward needed to have Mr. Hubbell review the draft indemnification agreement because Mr. Ward was in an adversarial position with Wright, Lindsey & Jennings and needed representation. He did not recall whether he suggested that Mr. Hubbell represent Mr. Ward on this issue or if Mr. Ward suggested that Mr. Hubbell review the agreement. Mr. Jennings believed that another reason Mr. Hubbell became involved was that Mr. Ward did not want to incur any additional legal fees. Mr. Jennings further said that he did not want to place Mr. Ray in the middle of this issue because it was a potentially awkward situation, since Mr. Jennings had recommended that Mr. Ray handle Mr. Ward's appeal.

Office of Inspector General special agents interviewed Mr. Ray and showed him a copy of the January 1990 indemnification agreement. During his interview, Mr. Ray stated that he had not previously seen the agreement and did not know of its existence. (See Exhibit 32.) He further said that Mr. Ward did not ask him to represent him regarding this matter even though he was representing Mr. Ward on the appeal. He could only speculate that Wright, Lindsey & Jennings thought it would be easier to get Mr. Ward to sign the agreement if they went through Mr. Hubbell rather than approaching him.

Negotiation of the indemnification agreement took place while Mr. Hubbell was litigating the Frost lawsuit on behalf of the Madison Conservatorship. Mr. Hubbell became involved with this matter after stating to FDIC in a June 28, 1989, letter (Exhibit 19) to the Madison Conservatorship that he would not become involved in Mr. Ward's dispute with Madison. Mr. Hubbell stated to OIG special agents that in January 1990, at the request of attorneys from the Wright, Lindsey & Jennings law firm, he agreed to become involved in negotiating

the indemnification agreement between the firm and his father-in-law. Mr. Hubbell did not believe his involvement in this agreement was contrary to his June 1989 letter to the Madison Conservatorship because he did not think of this as being involved in the lawsuit, rather, he saw this as a private agreement between Mr. Ward and Wright, Lindsey & Jennings. Mr. Hubbell acknowledged to OIG special agents that he did not inform Ms. Breslaw of his involvement in this matter.

Seth Ward II, Mr. Hubbell's brother-in-law, also had active litigation against Madison at the time it was placed into conservatorship. The litigation began in December 1988 when Mr. Ward II filed a lawsuit against Madison alleging that Madison was charging him a higher rate of interest on his $260,000 mortgage loan than was agreed upon. Mr. Ward II was represented in this lawsuit by Judd Kidd, an attorney with the Little Rock law firm of Dodds, Kidd, Ryan & Moore. After Madison was placed into conservatorship, FDIC removed the case to federal court in March 1989. A hearing was held in January 1990 in United States District Court that granted Madison's motion for summary judgment and dismissed the case. Had Mr. Ward II prevailed, the result would have been a loss of interest earned to Madison in the amount of $28,654 over the life of the mortgage.

Seth Ward II stated to OIG special agents that Mr. Hubbell was not involved in his lawsuit against Madison. He further stated that a personal friend, Judd Kidd, represented him, and Mr. Hubbell did not advise him or Mr. Kidd regarding this lawsuit. (See Exhibit 33 for a copy of Mr. Ward II's interview.)

WEBSTER HUBBELL RELATIONSHIP WITH AND REPRESENTATION OF POM, INC.

Mr. Hubbell had a longstanding business relationship with Seth Ward that was not disclosed to FDIC. We contacted the Office of Secretary of State, State of Arkansas, and confirmed that Seth Ward, as President, filed Articles of Incorporation for the Deta Corporation in Arkansas on August 12, 1981. The application was signed by "Webb Hubbell" acting as incorporator, and using the address of the Rose Law Firm. On August 16, 1984, the name of Deta Corporation was changed to POM, Incorporated, with the application for amendment signed by Seth Ward as President and Webb Hubbell as Secretary. The stated business purpose of POM was described as the manufacture of parking meters.

Mr. Hubbell and his wife owned five percent of POM's stock and the remaining shares were held by Mr. and Mrs. Ward and Seth Ward II. Mr. and Mrs. Hubbell continued to hold POM stock at the time Rose was hired by FDIC to handle the Madison litigation against Frost. Mr. and Mrs. Hubbell subsequently deeded their shares to Seth Ward II in October 1989. Mr. and Mrs. Ward also deeded their shares to Seth Ward II during 1989. In addition, we learned that Mr. Hubbell was Acting Secretary for the company from 1981 to January 1987. POM records evidenced that Mr. Hubbell was the corporate counsel for the company from 1981 through 1992, around the time Mr. Hubbell left Rose to become the Associate Attorney General of the U.S. Department of Justice. Mr. Hubbell acknowledged to the OIG that he incorporated Deta Corporation. He further stated that he was elected secretary, and served in that capacity for many years until Mr. Ward II asked him to resign because having to send him documents to sign was cumbersome. Mr. Hubbell also acknowledged that he acted as POM's general counsel and performed legal services for POM without charge. He said that he received no salary or dividends from POM and that he received no money from Mr. Ward II when he deeded his POM stock to him in 1989. Mr. Hubbell stated that, during the time he was litigating the Frost lawsuit, he did not inform Ms. Breslaw that he was representing POM or that he had owned stock in the company.

While Rose was still litigating the Frost lawsuit, POM filed suit against Duncan Industries Parking Control Systems Corporation of Delaware (Duncan Industries). The May 4, 1990, complaint alleged a variety of issues, including patent infringement, false advertisement, and monopoly or attempts to monopolize. Mr. Hubbell and the Rose Law Firm filed the complaint and represented POM. This representation by Rose was also principally handled by Mr. Hubbell. A trial began on November 6, 1991, and a verdict was rendered in favor

of the defendant on December 3, 1991. In addition to representing POM in the 1990 lawsuit against Duncan Industries, Mr. Hubbell and Rose represented POM as defendant and counter-claimant with respect to a patent infringement lawsuit filed June 26, 1992, by Duncan Industries. Our investigation also evidenced that several Rose attorneys routinely represented POM regarding legal matters. Mr. Hubbell, Richard Donovan, Richard Massey and Gary Speed all performed legal services for POM in the 1980s. Messrs. Hubbell, Donovan and Speed handled the Frost lawsuit for the Madison Conservatorship.

ROSE AND HUBBELL REPRESENTATION OF WARDS

Our investigation evidenced several instances in which Rose and its predecessor law firm, Rose, Nash, Williamson, Carroll, Clay & Giroir, had represented Mr. Ward as early as 1975. For example, during December 1975, Mr. Hubbell represented Mr. Ward regarding property tax payments. Other Rose attorneys represented Mr. Ward in 1976 regarding the creation of a life insurance trust and litigation of a tax matter. Mr. Ward had a longstanding relationship with the Rose Law Firm that spanned a period of time before, during and after Rose litigated the Frost lawsuit for FDIC and RTC from March 1989 through April 1991.

We also found instances where Mr. Hubbell was involved with Mr. Ward regarding Madison issues. We obtained from Rose a September 24, 1985, letter from Mr. Ward to James McDougal, President, MFC. (See Exhibit 34.) This letter sets forth the terms of an agreement between Mr. Ward and Madison concerning the purchase and resale of the Industrial Development Company property. Mr. Hubbell was shown this letter during his interview with the OIG. He stated that he did not draft this letter for Mr. Ward although he may have seen it. He said that his father-in-law would visit his office and would occasionally give his secretary, Martha Patton, handwritten notes to type. We also obtained from Rose a December 11, 1986, draft letter, from Mr. Hubbell to H. Don Denton, Senior Vice President, Madison. (See Exhibit 35.) The subject of the letter was two loans that Madison had made to Mr. Ward. The text of the letter stated that Mr. Ward did not intend to pay off these loans and, instead, offered a deed in lieu of foreclosure on the property that secured the loans. These loans were later charged off by Madison and figured into the damage assessment calculated for the Frost lawsuit. Mr. Hubbell was shown this letter and stated to the OIG that his name at the bottom of the letter below the signature line was a typographical error and that the letter should have been signed by Mr. Ward. He further said that his secretary probably typed this letter for Mr. Ward from his handwritten notes and accidentally

typed his (Hubbell's) name at the bottom. Mr. Hubbell said that he did not represent Mr. Ward regarding his dealings with Madison while it was an open institution.

We interviewed (Exhibit 36) Martha Patton who was Mr. Hubbell's secretary at Rose until December 31, 1986. After reviewing the September 24, 1985, letter from Mr. Ward to Mr. McDougal, Ms. Patton stated she believes she typed it because the type is similar to the IBM typewriter she used at Rose and the second page is formatted in the style she used while a Rose secretary. Ms. Patton also reviewed a copy of the December 11, 1986, letter and stated that she believes she typed it because her initials are at the bottom and the type resembles the IBM typewriter she used while at Rose. She further said that both letters appear to be in her style of typing. She said she cannot recall Mr. Ward's handing her handwritten notes to type for him, and she does not think she ever saw Mr. Ward's handwriting. Ms. Patton said she is sure that Mr. Ward never directly asked her to type anything for him. She recalled that Mr. Ward was one of Mr. Hubbell's clients and that, over the years, he had many businesses for which Mr. Hubbell did legal work. She also recalled that Mr. Hubbell represented Mr. Ward on matters related to Madison, although she could not recall any of the specific issues.

OTHER RELATIONSHIPS BETWEEN HUBBELL AND WARD

At the time Mr. Hubbell accepted the engagement for the Madison Conservatorship, he was indebted to his father-in-law regarding real estate he had purchased from him. Seth Ward and his wife, Yvonne, sold property located in Little Rock, Arkansas, to Webster and Suzanna Hubbell on June 1, 1981. The Hubbells purchased the property for $200,718.81 and agreed to make monthly payments to the Wards over 14.5 years. The Wards granted the Hubbells a warranty deed related to the property on January 31, 1991. Mr. Hubbell stated to the OIG that Mr. Ward had a mortgage on this property that he paid in full in the late 1980s or early 1990s. Once Mr. Ward paid the mortgage he deeded the property to the Hubbells. However, Mr. Hubbell stated that he continued to pay on the note after Mr. Ward deeded the property to him. He further stated that he currently owes the Wards approximately $100,000 regarding this property. Mr. Hubbell said that he did not inform Ms. Breslaw that he was indebted to the Wards at the time FDIC retained Rose to handle the Frost lawsuit for Madison.

ROSE REPRESENTATION OF MADISON BEFORE ARKANSAS SECURITIES DEPARTMENT

We investigated whether Rose informed FDIC in March 1989 that the Firm was retained in 1985 to represent Madison before a state agency, the Arkansas Securities Department (ASD). Our investigation evidenced that in April 1985 Rose was retained to represent Madison before the ASD in order to get approval of a proposed capitalization plan to allow Madison, an Arkansas chartered savings and loan association, to issue preferred stock and engage in brokerage activities. An April 30, 1985, letter from Rose to the ASD stated Rose's opinion that it is permissible for an Arkansas savings and loan association to authorize and issue preferred stock. (See Exhibit 37.) The letter was signed "Rose Law Firm" and identified Hillary Rodham Clinton or Richard Massey as the responsible Rose attorneys for this matter. On May 14, 1985, Beverly Bassett, Savings and Loan Supervisor, ASD, wrote Mrs. Clinton concurring with Rose's opinion that Madison's proposed capitalization plan was not inconsistent with Arkansas law, but did not authorize Madison to proceed with the issuance of the stock. (See Exhibit 38.) This information was forwarded to Madison by Mrs. Clinton in a May 23, 1985, letter addressed to Mr. McDougal at Madison. (See Exhibit 39.)

On July 25, 1985, Rose responded to concerns raised by the ASD regarding Madison's proposed brokerage activities by submitting additional information to the ASD. (See Exhibit 40.) This submission contained a letter from John Latham, Chairman and Chief Executive Officer, Madison, in which he stated that the independent auditor's adjusting entries for the year ended December 31, 1984, were included as Attachment 2. Madison's independent auditor at the time was Frost & Company. Mr. Massey's submission also included a letter dated July 24, 1985, from Michael D. Robinson, a Frost partner, to the ASD, explaining the difference in the calculation of net worth under Generally Accepted Accounting Principles versus Regulatory Accounting Principles (RAP). Ms. Bassett subsequently wrote to Mr. Massey on October 17, 1985, and informed him that Madison's request to engage in brokerage activities was approved by the ASD on September 20, 1985, conditioned upon Madison's meeting the Federal Home Loan Bank Board's minimum net worth requirements by December 31, 1985. (See Exhibit 41.) Our investigation evidenced an undated handwritten memorandum to the file written by Ms. Bassett that stated that Madison never completed the additional capitalization of the association. Therefore, the application was never approved. (See Exhibit 42.)

During our investigation, Mrs. Clinton provided the OIG with an affidavit. (See Exhibit 43.) She was subsequently interviewed by OIG special agents. (See Exhibit 13.) Mrs. Clinton declined to be placed under oath for our interview. She stated that she was the billing partner on this matter; however, the great bulk of the work was done by Richard Massey, who was then an associate at Rose. She further said that Mr. Massey's specialty was securities law, and that she was not involved in the day-to-day work on the project.

We also interviewed Mr. Massey who declined to provide us with a sworn statement. (See Exhibit 44.) He stated that he was given the assignment to represent Madison before the ASD in 1985. He stated that he worked on two issues: 1) obtaining the authority from the ASD for Madison to issue preferred stock, and 2) obtaining authority from the ASD for Madison to operate a broker-dealer securities business they had purchased. Mr. Massey said he used Mrs. Clinton's name in correspondence to the ASD because, at the time, he was an associate, and it was a procedure at the Firm to name a partner as a contact. Mr. Massey also stated to the OIG that, while working on the preferred stock issue, he relied on audit information provided by Frost. He further stated that he neither endorsed the Frost information nor reviewed the audit work Frost performed for Madison. Mr. Massey said that in 1985 he had no reason to believe there was anything wrong with the Frost audits of Madison.

Mr. Robinson was interviewed by OIG special agents (Exhibit 45) and stated that he is currently the Director of Frost's Tax Division. Mr. Robinson said that Frost first was hired by Madison as a result of a telephone call from John Selig, an attorney with the Little Rock law firm of Mitchell, Williams, Selig, Jackson & Tucker. Mr. Selig requested Mr. Robinson's assistance as a consultant regarding recapitalization issues for Madison. Mr. Robinson further said that he could not recall the exact services Frost performed for Madison. However, he did recall meeting with Messrs. Selig and Latham and Madison's Chief Financial Officer, Greg Young, to discuss various recapitalization ideas. Mr. Robinson stated that his primary contact for the recapitalization issues was Mr. Selig and that he did not have any contact with any Rose attorneys regarding this issue. Mr. Robinson also said that Frost prepared tax returns for Madison. He further stated that Jimmy Alford, a former Frost Audit Director, was involved in performing audits for Madison and that the audit work evolved from Frost's consulting work on the recapitalization. OIG special agents showed Mr. Robinson the July 25, 1985, submission by Rose to the ASD, which included a July 24, 1985, letter that Mr. Robinson wrote to the ASD. After reviewing the letter, Mr. Robinson acknowledged that he, or his staff, wrote the letter that he subsequently signed.

Mr. Robinson also reviewed Attachment 2 to the July 25, 1985, submission which contained the adjusting journal entries. He stated that the adjusting journal entries could have been prepared by Frost. He added that one of the journal entries included the statement "Client will not book entry in accordance w/RAP" which lead Mr. Robinson to believe that the adjusting journal entries could very well have been prepared by Frost.

Mr. Hubbell, in his sworn testimony to the OIG, stated that he did not inform Ms. Breslaw of the prior representation of Madison before the ASD because he did not know about it in March 1989. He said he informed Ms. Breslaw that Rose did not have a conflict, although they had done a small amount of work for Madison. Mr. Hubbell stated that this was a 15-second conversation with Ms. Breslaw and that he did not elaborate on what the earlier Madison work had entailed. He stated that he became aware of the ASD representation only after Rose had begun the Frost lawsuit. Once Mr. Hubbell became aware of the representation before the ASD, he recalled discussing it with the other Rose attorneys who were assisting him with the Frost lawsuit. He does not recall discussing this matter with Ms. Breslaw, although he said that he could have. Mr. Hubbell stated that he did not see the prior ASD representation as a significant issue because Rose was representing Madison in both matters.

Mr. Hubbell was assisted in the Frost lawsuit by another Rose partner, Gary N. Speed. During the FDIC OIG interview of Mr. Speed (Exhibit 46), he declined to be placed under oath. Mr. Speed stated that he discussed Rose's 1985 representation of Madison before the ASD with Mr. Hubbell when he began working on the Frost lawsuit. According to Mr. Speed, Mr. Hubbell told him that he, Mr. Hubbell, had discussed the matter with Ms. Breslaw and that there was no conflict of interest. Mr. Speed did not directly speak to Ms. Breslaw about the prior ASD representation.

In addition, Mr. Speed informed the OIG that Julie Baldridge, his wife at the time he was working on the Frost lawsuit, and her former husband, Steve Smith, along with James and Susan McDougal and others had purchased Madison in 1982. Ms. Baldridge reportedly sold her interest in Madison less than one year later. Mr. Speed indicated he reported this information to Mr. Hubbell. According to Mr. Speed, Mr. Hubbell told him that he discussed this issue with Ms. Breslaw and it was determined that there was no conflict of interest. Mr. Speed stated that he did not personally discuss this issue with Ms. Breslaw because he believed the matter had been resolved. Mr. Hubbell stated that once Mr. Speed started working on the Frost lawsuit Mr. Speed told him that his wife was a former Madison

stockholder. Mr. Hubbell said he did not know why Mr. Speed did not mention this issue in response to the conflicts check that was done prior to accepting the case. He stated that since Ms. Baldridge's stock ownership did not overlap with the Frost audits, they determined it was not a conflict of interest. He does not recall discussing this issue with Ms. Breslaw but he said either he, Mr. Donovan or Mr. Speed could have done so. Ms. Breslaw informed the OIG that she does not recall previously learning of the information regarding Mr. Speed's wife, and does not recall ever discussing this issue with him. She further said that she could not recall ever discussing any personal conflict of interest issue with Mr. Speed.

Our investigation also evidenced that Mrs. Clinton advised Madison in April 1985 that Rose would credit legal fees against a monthly retainer and then bill Madison for whatever fees might be in excess of the retainer at the end of each month. Madison records indicate that at least eleven $2,000 payments to Rose were made in 1985 and 1986. By letter dated July 14, 1986, from Mrs. Clinton to Mr. McDougal (Exhibit 47), she said that Madison was relying on other law firms to provide ongoing representation and that Rose's representation had been for isolated matters and had not been continuous or significant. Mrs. Clinton further stated in the letter that Rose did not believe it appropriate to take a prepayment of fees from Madison when Rose was only representing them on one matter and she returned the $4,622.53 balance of fees in Madison's account.

FAILURE TO INFORM FDIC OF CONFLICTING REPRESENTATION - PACE INDUSTRIES

Our investigation evidenced Rose was representing Pace Industries, Inc. (Pace), at the direction of a former Frost partner during the time Rose was representing the Madison Conservatorship against the same former Frost partner. Jimmy D. Alford, a vice president and stockholder of Pace, hired Rose to represent the company regarding a labor dispute. Mr. Alford was the former Frost partner who was responsible for the oversight of the Madison audits that were the subject of the Madison Conservatorship's lawsuit against Frost and was a named defendant in the Frost lawsuit. Mr. Alford informed the OIG in sworn statements (Exhibit 48) that he left Frost and joined Pace in September 1988. Pace had been one of Mr. Alford's audit clients since 1979. Also in September 1988 Mr. Alford and others at Pace formed Precision Industries, Inc. (Precision), to acquire the assets of Universal Die Casting, Inc. (UDC), which owned aluminum die casting plants in Little Rock and Malvern, Arkansas. According to Mr. Alford, Rose had previously performed labor relations work for UDC. Precision became a division of Pace in August 1990.

Mr. Alford stated that in approximately July or August 1988 he and his business partners had a discussion with Tim Boe, Rose partner, about hiring criteria to be used after Precision acquired the UDC assets. Mr. Alford felt it would be a good idea to hire Rose to guide Precision through the administration of rehiring the plant workers and renegotiating the contract. Mr. Alford recommended hiring Rose to the Pace Board of Directors and the Board approved the recommendation. In October 1988 Pace, through Precision, acquired the UDC Little Rock and Malvern plants. In addition to his position with Pace, Mr. Alford was the president and chief operating officer of Precision and he owned five percent of the stock. According to Mr. Alford, in approximately December 1988, several Precision employees filed complaints with the U.S. Equal Opportunity Commission (EEOC) and Rose handled the matter for Precision. He said the Rose attorneys who worked on this matter were Mr. Boe and Jim Birch, another Rose partner. The EEOC matter laster approximately two and a half to three years.

According to Mr. Alford, the next matter Rose was involved in was a National Labor Relations Board (NLRB) complaint filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) in approximately April 1989. Mr. Boe originally estimated that the representation would cost between $25,000 and $50,000. However, the case became much more complicated, and Precision ultimately paid Rose $400,000 to $500,000 in legal fees.

On June 8, 1989, Rose, on behalf of Precision, filed an answer to the complaint with the NLRB. Records further evidence that the hearing began on November 13, 1989, and that Messrs. Boe and Birch appeared at the hearing on behalf of Precision. The hearing took place over several sessions, and a final decision was reached in the UAW's favor on May 4, 1993. According to Mr. Alford, this case is currently on appeal.

Mr. Alford stated to OIG special agents that he has a vague recollection of discussing with Mr. Boe the fact that Rose was representing him on one matter and suing him on another as he was individually named as a defendant in the Frost lawsuit. He stated that Mr. Boe replied that he had nothing to do with the Frost lawsuit. Mr. Alford also said that he discussed the Precision matter with Peter Kumpe, the attorney representing Frost in the Madison litigation. Mr. Alford did not recall Mr. Kumpe's reaction, but he believes that Mr. Kumpe may have discussed this issue with the Rose Law Firm. Mr. Alford never had any indication that hiring Rose for the Precision matter had any influence on the Frost settlement. Mr. Kumpe said in a sworn statement (Exhibit 49) to the OIG that he did not see

how the defense could have used the Precision issue to help their case. He further stated that he did not discuss the Precision matter with anyone at Rose, and he believes the Precision representation had no impact on the settlement that was reached in the Frost lawsuit.

Mr. Hubbell initially stated to the OIG that he was very concerned about the Precision matter when he became aware of it late in the Frost lawsuit. He said that he discussed the situation with Messrs. Donovan and Speed. He also said that they did not discuss this with Ms. Breslaw. Mr. Hubbell stated that, before they could decide what to do, the Frost lawsuit was settled.

The OIG obtained Mr. Speed's handwritten notes regarding an April 1990 conference he had with other Rose attorneys, including Jim Birch, who was working on the Precision matter. On the bottom of page three of the notes Mr. Speed wrote, "Pat has worked a little bit on Precision case, but Jim will cut her out of it." This indicates that Rose was aware of the Precision case as early as April 1990, a full year prior to the settlement of the Frost lawsuit. The FDIC's Guide for Legal Representation requires law firms to inform FDIC of conflicts of interest as soon as the firm becomes aware of the conflict.

In a subsequent interview of Mr. Hubbell by RTC special agents, he was again questioned about the possible conflict of interest regarding Rose's representation of Precision. (See Exhibit 10.) Mr. Hubbell stated during the second interview that he discussed the possible conflict with Mr. Boe. Mr. Hubbell stated that Mr. Boe refused to withdraw from his representation of Precision and he (Hubbell) refused to withdraw from his representation of the Madison Conservatorship. He further said that Rose did not obtain consent from Mr. Alford to represent him in the Precision matter while simultaneously representing the Madison Conservatorship against him. Mr. Hubbell again admitted that Rose did not inform Ms. Breslaw about this situation.

The Rose Law Firm refused to allow OIG special agents to interview Mr. Boe and Mr. Birch regarding the Firm's representation of Precision.

Ms. Breslaw stated to the OIG (Exhibit 8) that she was not informed of Rose's representation of Precision during the time they were litigating the Frost lawsuit. She believes that the Precision representation was a conflict of interest for the Firm and that Rose was required to inform her of this matter. She further said that, if any of the Rose attorneys had informed her of the Precision representation, she was required to request a waiver to allow the Firm

to litigate the Frost lawsuit. Ms. Breslaw stated that she would not have been inclined to seek a waiver for Rose on this matter.

FORMER MADISON EMPLOYEE HIRED BY ROSE DURING FROST LAWSUIT

The Rose Law Firm did not inform FDIC that in October 1989 Rose hired Patricia J. Heritage, who was a former Madison employee. Ms. Heritage began her Rose employment prior to graduating from the University of Arkansas School of Law in December 1989. She left Rose in June 1994. She joined Madison in June 1985 as an administrative assistant to John Latham, the chief executive officer, and later became a collection officer. Ms. Heritage left Madison in June 1987.

An attorney for Borod & Huggins interviewed Ms. Heritage, while she was employed at Madison, twice during their investigation of Madison. The Borod & Huggins Investigative Report includes memorandums of those interviews. (See Exhibit 50.) The report states that Ms. Heritage created minutes of MFC board of directors meetings even though no such meetings took place. The report also indicates that Ms. Heritage created the minutes at Mr. Latham's direction. The report further indicates that Mr. Latham told her what to write in the minutes and that he reviewed and made changes to her first drafts of the minutes. Further, the report states that Ms. Heritage included approvals in the minutes for bonuses that were previously paid. Mrs. Heritage stated that she began creating the minutes in February 1986 because Mr. Latham had received notice that the Federal Home Loan Bank Board examiners would arrive on March 1, 1986, to examine Madison. Ms. Heritage said she created the minutes for January 1985 forward. She said the minutes were presented to the examiners as though they had been written shortly after each meeting, and the examiners never knew the minutes were written after the fact.

During his sworn testimony to the OIG, Mr. Hubbell stated that he was not involved in Rose's hiring of Ms. Heritage. He further said that Mr. Speed came to him after reviewing the Borod & Huggins report and said that it contained allegations against Ms. Heritage and she needed to be fired. Mr. Hubbell said that he then reviewed the Borod & Huggins report to determine if any action was warranted. He stated that he discussed the information in the report with Messrs. Speed and Donovan. He further said that after they looked into the matter they determined that some of the allegations had no merit, and they decided not to fire Ms. Heritage. Mr. Hubbell stated they did not discuss this matter with Ms. Breslaw.

The OIG obtained Mr. Speed's handwritten notes regarding an April 1990 conference he had with Ms. Heritage. Also present during the conference were Rose attorneys Richard Donovan and Jim Birch. The notes indicated that they questioned Ms. Heritage about her duties while she was employed at Madison. According to the notes, Ms. Heritage admitted that she created the minutes for MFC. She further admitted that she knew the minutes were created to satisfy the FHLBB examiners. The notes also state that Ms. Heritage admitted to changing the cover sheet of a property appraisal from $82,000 to $182,000 at Mr. Latham's request. Ms. Heritage confirmed to the OIG that this interview took place.

As part of the Madison litigation, Ms. Heritage, who was a Rose attorney, was deposed on February 27, 1991, by Steven Quattlebaum, an attorney who was defending Frost. In her deposition, Ms. Heritage again stated that she wrote the minutes for MFC board meetings that had not taken place. She also stated that, while she was a collection officer she was instructed by Mr. Latham not to send past due letters to certain Madison borrowers. She said there was a list of Mr. McDougal's relatives and friends whom she was not supposed to contact, and Seth Ward was one of the persons on the list.

Ms. Heritage was interviewed by OIG special agents during our investigation. She stated that she did draft MFC minutes for several meetings at Mr. Latham's request. She further said that, although she knew of no formal MFC board meetings, Messrs. Latham and McDougal frequently discussed MFC business. Ms. Heritage stated Mr. Latham told her to write the minutes in order to reflect purchases of property by MFC and bonuses that were paid by MFC. She said that Mr. Latham asked her to write the minutes when he learned that the FHLBB examiners were coming to examine Madison. Ms. Heritage stated that she obtained dates of property purchases and bonus payments and made sure that they were properly reflected in MFC minutes as having been authorized. She stated that in addition to creating new minutes, she reviewed the existing MFC minutes and added authorizations if needed. Ms. Heritage could not recall ever changing the value of an appraisal.

Ms. Heritage also informed the OIG that, during her first two years as a Rose attorney, she specialized in labor law. Ms. Heritage said that Precision was a Rose client and that she handled equal employment opportunity lawsuits for Precision while a Rose attorney. She further said that she knew of the NLRB case Rose was handling for Precision, but she did not assist with this case. She was aware that Mr. Alford, a former Frost partner and a named defendant in the Frost lawsuit, was employed by Precision, but said that she had no contact with Mr. Alford regarding her representation of Precision. Ms. Heritage confirmed that she

was interviewed in April 1990 by Messrs. Speed, Donovan and Birch, and she stated that she learned that Rose was litigating the Frost lawsuit during this interview. She believed the Rose attorneys interviewed her in anticipation that the Frost attorneys would depose her related to her former Madison employment.

Ms. Breslaw stated to the OIG that she did not have any contact with Ms. Heritage until 1992 or 1993. She said she did not realize at that time that the Ms. Heritage working at Rose was the same Ms. Heritage who was a former Madison employee. Ms. Breslaw indicated that she read the Borod & Huggins report in March or April 1989, and did not connect the Ms. Heritage in the report with the Rose attorney three years later. Ms. Breslaw said that she did not believe she was told that Ms. Heritage was deposed in connection with the Frost matter at the time it happened. She was troubled to discover that a Rose attorney was deposed in a Madison matter concerning actions she took while employed at Madison. Ms. Breslaw further said that opposing counsel might have tried to use the situation to RTC's detriment if the Frost lawsuit had not been settled. She stated that Rose should have specifically advised her of Ms. Heritage's involvement with Madison and that opposing counsel sought to depose her.

During our investigation, we interviewed several witnesses that provided us with additional information related to Rose's legal services for the Madison Conservatorship or the Hubbell-Ward relationship. See Exhibit 82 for copies of those additional sworn statements and memorandums of interview.

FIRST AMERICAN SAVINGS AND LOAN ASSOCIATION

BACKGROUND

The First American Savings and Loan Association, Oak Brook, Illinois, was placed into conservatorship on April 14, 1986, by the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation (FSLIC) was appointed conservator. The law firm of Hopkins & Sutter, Chicago, Illinois, was retained by FSLIC to handle all of the legal matters related to the First American Conservatorship. The FDIC was not involved in this matter. Before being placed into conservatorship, First American filed suit on October 9, 1985, in federal court in Arkansas against Lasater and Company, a Little Rock securities brokerage firm under contract with First American. The complaint stated that Lasater and Company had made unauthorized trades for U.S. Treasury Bond futures contracts, which caused First American to lose approximately $361,000.

Our investigation evidenced that Lasater and Company was owned by Danny Ray Lasater, who allegedly had a relationship to the family of Hillary Rodham Clinton, a former Rose partner. Mr. Lasater is an Arkansas businessman who has been involved over the years in several ventures including the securities brokerage business. In 1982 he became the sole shareholder of Lasater and Company, Inc., a securities brokerage firm he co-founded in 1980 with two partners. All of the stock of Lasater and Company was actually held by Mr. Lasater's holding company, Lasater, Inc. On October 6, 1986, he sold all of the stock of Lasater and Company to a corporation formed by two purchasers who pledged all of Lasater and Company's stock as collateral for the note held by Lasater, Inc., and renamed the company United Capital Corporation (UCC). One of these purchasers was president of Lasater and Company. By September 1988 UCC had defaulted on its note to Lasater, Inc., and Mr. Lasater repossessed the UCC stock and took control of the brokerage. Mr. Lasater's relationship to Mrs. Clinton and the Rose Law Firm was included in the scope of our investigation. However, Mr. Lasater's other business ventures were not included in the scope of our investigation.

On October 30, 1986, shortly after selling the stock of Lasater and Company, Mr. Lasater pleaded guilty to a federal drug offense in Arkansas. He was convicted on December 18, 1986, of knowingly and intentionally conspiring to possess and to distribute cocaine and was sentenced to 30 months' imprisonment. Mr. Lasater was paroled in November 1987, and in

September 1988 he regained control of UCC. He received a conditional pardon from then Governor Clinton in November 1990. Mr. Lasater requested the pardon to restore his right to own and possess firearms for hunting purposes.

In July 1986 Hopkins & Sutter hired Rose to handle the ongoing Lasater and Company lawsuit on behalf of the First American Conservatorship, and the late Vincent Foster, Jr., former Rose partner, was the Rose partner who was in charge of the case. Hopkins & Sutter hired Rose because both Rose and Lasater and Company were located in Little Rock, Arkansas, and the lawsuit had been filed in court in Little Rock. Rose began litigating this lawsuit in July 1986 and negotiated a settlement with UCC in the amount of $200,000. The settlement was executed on November 19, 1987. This was the only matter Rose handled related to the First American Conservatorship. Rose received fees and expenses totaling $59,471. The FDIC had no involvement in the retention of the Rose firm in this matter. However, FDIC is the successor in interest to FSLIC due to the enactment of FIRREA. See Appendix B for a chronology of events concerning the First American litigation and Mr. Lasater.

FIRST AMERICAN v. LASATER AND COMPANY

Antony Burt was the Hopkins & Sutter partner who was in charge of the First American Conservatorship legal matters. In a sworn statement (Exhibit 52), Mr. Burt stated to OIG special agents that he attended FSLIC's closing of First American, reviewed pending First American litigation, and determined that the Little Rock law firm of Hardin & Grace was at the time of closing representing First American in a lawsuit against Lasater and Company. He further determined that Hardin & Grace was also representing J.R. Hodges, a large borrower of First American and close associate of former Governor Dan Walker, the controlling shareholder and a director of First American. Mr. Burt told the OIG he concluded that Hardin & Grace should be replaced as outside counsel on the Lasater and Company lawsuit. At that point, according to Mr. Burt, the FSLIC attorney assigned to the First American Conservatorship either recommended or directed Mr. Burt to contact Rose about representing First American against Lasater and Company. Mr. Burt stated that Rose was FSLIC's primary law firm in Little Rock, Arkansas, at that time, and had a standard contract with FSLIC.

Our review of the records provided by Hopkins & Sutter regarding the Lasater and Company lawsuit disclosed no formal contract between Hopkins & Sutter and Rose. Mr. Burt also confirmed that no formal contract existed. However, Hopkins & Sutter did provide to the OIG an unsigned July 11, 1986, engagement letter, addressed to Mr. Foster regarding the Lasater and Company lawsuit. The engagement letter requested that Mr. Foster act as Counsel for FSLIC as Conservator in this action. Mr. Burt stated that Rose agreed to charge FSLIC approved rates regarding the Lasater and Company lawsuit.

The documents provided to the OIG by Hopkins & Sutter and Rose contained no documentation showing that a conflicts check had been conducted by Rose concerning the Lasater and Company lawsuit. Mr. Burt stated that he contacted Mr. Foster by telephone to determine if Rose could handle the case. He discussed with Mr. Foster the Lasater and Company lawsuit and the parties involved. Mr. Burt could not recall specifically discussing any conflict of interest issues with Mr. Foster. However, he was under the impression that, if there was a conflict of interest or any reason why Rose could not handle the Lasater and Company lawsuit, he believed Mr. Foster would have informed him.

First American's original law firm, Hardin & Grace, and then the Rose Law Firm each filed multicount complaints on behalf of First American seeking actual and punitive damages from Lasater and Company. Our investigation evidenced that the actual loss to First American had been estimated at approximately $361,000, and the final settlement in November 1987 was $200,000. Allegations that the complaints sought up to $3.5 million apparently were obtained by adding together separate counts and including punitive damages. We were advised by the First American Conservatorship's attorney, Mr. Burt, that he believes the Lasater and Company settlement was fair, based on the information that was available to him. He also stated that he believed that Mr. Foster and Rose were competent and professional in the representation of First American in the Lasater and Company lawsuit.

HILLARY CLINTON REPRESENTATION OF FIRST AMERICAN AND RELATIONSHIP TO LASATER

In order to determine Mrs. Clinton's involvement in the Lasater and Company lawsuit, we obtained from Hopkins & Sutter and Rose the fee bills submitted by Rose related to this litigation. Rose submitted its fee bills directly to Hopkins & Sutter, which in turn submitted the bills to FSLIC. A review of the fee bills showed that Rose personnel billed a total of

$59,471 for 467 hours for time spent on the Lasater and Company lawsuit. The following is a breakdown of the Rose attorneys who worked on the Lasater and Company lawsuit, the hours they worked, and the amounts billed for those hours:

- Vincent Foster, Jr., billing partner, 261 hours, $31,042.64
- B. Michael Bennett, associate attorney, 123 hours, $10,489.00
- Hillary Rodham Clinton, partner, 2 hours, $238.00
- Jerry Jones, partner, 0.25 hours, $25.50

See Exhibit 53 for a complete breakdown of the Rose personnel who worked on this case and the hours that they billed. A review of the litigation records evidenced that Mr. Foster was in Chicago, Illinois, on May 8, 1987; therefore, he was not available to sign and file the documents with the court in Little Rock. A travel agency itinerary indicates that on May 6, 1987, Mr. Foster traveled to Chicago where he worked on several aspects of the litigation on May 6, 7, and 8. We also located other documentation that supports that Mr. Foster was in Chicago on these days. Further, we located documentation to support that on May 9, Mr. Foster traveled from Chicago to Itasca, Illinois, which is just west of Chicago O'Hare Airport, deposed a witness, and then flew back to Little Rock on the evening of May 9, 1987.

The fee bills showed that, during Mr. Foster's absence, Mrs. Clinton billed a total of two hours on the Lasater and Company lawsuit. (See Exhibit 54.) According to the litigation records, on May 8, 1987, Mrs. Clinton reviewed and signed three motions and one brief already prepared related to the lawsuit. The documents signed by Mrs. Clinton were the following:

- Motion to Amend Complaint with attached Amended Complaint (Exhibit 55)
- Motion for Continuance and Extension (Exhibit 56)
- Plaintiff's Motion to Compel Discovery (Exhibit 57)
- Brief in Support of Motion to Compel (Exhibit 58)

All of these signed documents were filed with the court on May 8, 1987. The amended complaint was signed and filed with the court by Mr. Foster on May 20, 1987. (See Exhibit 59 for a copy of the amended complaint and a copy of the original complaint which was filed by Hardin & Grace.) We compared the amended complaint that was submitted with the Motion to Amend Complaint signed by Mrs. Clinton with the amended complaint signed and filed with the court by Mr. Foster. We found the two amended complaints to be virtually identical. Our review of the litigation files for the Lasater and Company lawsuit did not disclose other court documents or correspondence signed by Mrs. Clinton.

Mrs. Clinton provided the OIG with an affidavit (Exhibit 43) and she was subsequently interviewed by OIG special agents. (See Exhibit 13.) She declined to be placed under oath during the interview. Mrs. Clinton stated to OIG special agents that she has no independent recollection of the work she did on this lawsuit. It is her belief that, during part of the two hours, she would have talked with Mr. Foster about the documents she reviewed and about the case, but she has no recollection of such discussions. Mrs. Clinton further said that she did not speak with Mr. Lasater concerning this lawsuit, and she was not involved in the settlement negotiations. She stated that it was a Rose policy that motions and pleadings filed with the court be signed by a partner rather than an associate. Therefore, she believes that is why Mr. Foster asked her to file the documents on May 8, 1987, instead of asking Mr. Bennett, the associate who was assisting him.

In order to determine Mrs. Clinton's involvement in the Lasater and Company lawsuit, we interviewed the following:

- B. Michael Bennett, Former Associate, Rose Law Firm (Exhibit 60)
- Antony Burt, Partner, Hopkins & Sutter (Exhibit 52)
- Patrick Goss, Partner, Wright, Lindsey & Jennings (Exhibit 61)
- Danny Ray Lasater, Former Owner, Lasater and Company (Exhibit 62)
- Dan Moudy, Former In-house Counsel, Lasater and Company (Exhibit 63)

The witnesses we interviewed who were involved in the First American litigation stated that they could recall no involvement by Mrs. Clinton related to the Lasater and Company lawsuit.

Mr. Bennett, a former Rose associate, was interviewed and provided the OIG with a sworn statement. He stated that he joined Rose in July 1987 and began working on the Lasater and Company lawsuit under the direction of Mr. Foster. Mr. Bennett does not recall working with Mrs. Clinton regarding the lawsuit, and he does not know if she performed any work on the litigation. It is his belief that Mrs. Clinton was aware of the Lasater and Company lawsuit and may have discussed it with Mr. Foster. According to Mr. Bennett, both Mr. Foster and Mrs. Clinton worked together as partners in Rose's litigation section. However, Mr. Bennett said that he was not aware of any conflict of interest related to the First American litigation.

Mr. Burt stated to OIG special agents that his primary contact at Rose was Mr. Foster. Mr. Burt also recalls one telephone conversation with Mr. Bennett. Mr. Burt further stated that he had no contact with Mrs. Clinton regarding the Lasater and Company lawsuit, and he believes that Mr. Foster was the primary author of the documents signed by Mrs. Clinton.

Lasater and Company was represented throughout this litigation by the Wright, Lindsey & Jennings law firm. The partner who handled the case was Patrick Goss. Mr. Goss informed the OIG that Mr. Foster was the Rose attorney who handled the lawsuit and he could not recall having any contact with any Rose attorney other than Mr. Foster. He further stated that he did not speak with Mrs. Clinton regarding this lawsuit. Mr. Goss stated that, based on his records, he was in Chicago on May 8, 1987, taking depositions with Mr. Foster; therefore, Mr. Foster was not available to sign the documents that were filed that day. Mr. Goss said that Mr. Foster was the only Rose attorney who attended the taking of the depositions. He further said that all of the settlement negotiations were between Mr. Foster and himself.

Mr. Lasater was interviewed by OIG special agents in the presence of his counsel, Michael Lax, of the law firm Lax, Vaughn, Pender & Evans. A statement was prepared, based on the interview, and Mr. Lasater reviewed and made changes to the statement. However, on the advice of his counsel, Mr. Lasater declined to sign and swear to the statement. Mr. Lasater's counsel informed the OIG that he had advised his client not to sign the statement, due to the investigation currently being conducted by the Office of the Independent Counsel.

Mr. Lasater stated that Lasater and Company employed Dan Moudy as its in-house counsel, and it was Mr. Moudy's responsibility to hire outside counsel to represent the company. Mr. Lasater said that Mr. Moudy hired Wright, Lindsey & Jennings to represent the company regarding the First American litigation. He further stated that he was not aware of the fact that Rose replaced Hardin & Grace as counsel for First American. Mr. Lasater informed the OIG that he did not speak with any of the Rose attorneys regarding the First American litigation. Further, he had no contact with Mrs. Clinton regarding this case and does not recall discussing this lawsuit with any Wright, Lindsey & Jennings attorneys. He said that Mr. Moudy was the Lasater and Company point of contact for all attorneys regarding this lawsuit. Mr. Lasater stated that he was not named personally as a defendant in this lawsuit, nor was he deposed. According to Mr. Lasater, this case was ongoing when he sold his stock in Lasater and Company in September 1986, and he had no input in the settlement process.

Mr. Moudy was interviewed and confirmed to the OIG that he was the in-house counsel at Lasater and Company and that he regularly received updates on the First American litigation from Mr. Goss. Mr. Moudy also stated that he had no dealings with Mrs. Clinton concerning First American. He further said that he did not participate directly in the settlement negotiations, but was involved in approving the final $200,000 settlement. Mr. Moudy stated that he was aware of the friendship between the Clintons and Mr. Lasater.

We investigated Mr. Lasater's relationship with Mrs. Clinton and her family. Mr. Lasater stated that he was friends with the President and Mrs. Clinton, but has not spoken with them since 1986. Mr. Lasater said that he was close friends with Mrs. Clinton's brother-in-law, Roger Clinton, and her mother-in-law, the late Virginia Kelley. Mr. Lasater also said that he made a contribution to President Clinton's 1984 campaign for Governor of Arkansas. However, he has only been in President Clinton's presence a total of six times (when President Clinton was Governor of Arkansas) and he has had even fewer contacts with Mrs. Clinton.

Mrs. Clinton informed us that she met Mr. Lasater twice, did not consider him a personal or social friend, and did not do any legal work for him or Lasater and Company. She asked her attorney, David Kendall, of the law firm Williams & Connolly, to research contributions made by Mr. Lasater, his companies or his family, to her husband's political campaigns. Mr. Kendall indicated in an affidavit (Exhibit 51) that between 1982 and 1985 Mr. Lasater, his companies or his family, contributed a total of $16,000 to President Clinton's political campaigns for Governor of Arkansas, or referendum initiatives.

We obtained from Mr. Lasater's attorney a copy of the flight logs for airplanes owned by Mr. Lasater. The logs covered December 1980 through February 1986, when the last airplane was sold. Our review of the flight logs indicated that then - Governor Bill Clinton used a Lasater airplane on two occasions in 1984. (See Exhibit 64.) Governor Clinton's name did not again appear in the log. However, the other entries in the passenger names section of the log only list one name and the number of accompanying passengers. Therefore, every passenger on the plane is not identified in the flight log by name. We found no entries naming Mrs. Clinton as a passenger, and she stated to OIG special agents that she never flew on Mr. Lasater's plane.

During our investigation, we interviewed several witnesses that provided us with additional information related to Rose's legal services for the First American Conservatorship. See Exhibit 83 for copies of those additional sworn statements and memorandums of interview.

LEGAL DIVISION REVIEW OF ROSE RETENTION FOR MADISON

BACKGROUND

The FDIC Legal Division conducted a review of the retention by FDIC of the Rose Law Firm for the Madison Conservatorship lawsuit against Frost & Company. The Legal Division began its review in October 1993 in response to inquiries by the media regarding Rose conflicts of interest. The Legal Division's stated objective was determining whether: 1) Rose's prior representation of Madison before the Arkansas Securities Department (ASD) constituted a conflict of interest; 2) the litigation against the Madison Conservatorship by Seth Ward, the father-in-law of Webster Hubbell, the Rose partner in charge of the Frost lawsuit, was a conflict of interest; and 3) any action against Rose was warranted.

In late January 1994 Legal Division representatives met with staff of the Senate Banking Committee (Committee) and briefed them on their review. Subsequently, during former Acting Chairman (now Vice Chairman) Hove's confirmation hearings on February 1, 1994, regarding his reappointment to the FDIC Board of Directors, he told the Committee that the Legal Division would soon complete its review. On February 17, 1994, the Legal Division released its report related to Rose, concluding that neither Rose's representation of Madison before the ASD nor Mr. Ward's lawsuit against Madison constituted a conflict of interest and, consequently, that no action against Rose was warranted. (See Exhibit 65 for a copy of the Legal Division report.)

The FDIC OIG conducted an examination of the Legal Division's review at the request of Congressman James A. Leach, Ranking Minority Member (currently Chairman), Committee on Banking and Financial Services. Congressman Leach expressed concern that the Legal Division had investigated itself and had implicitly determined that the Legal Division and Rose had done nothing wrong. Therefore, he requested that the OIG conduct an independent review of the conflict of interest allegations against Rose and examine the Legal Division's determination that no conflict of interest existed. (See Exhibit 66 for a copy of Congressman Leach's request letter.)

BASIS FOR LEGAL DIVISION REVIEW

Jack D. Smith, Jr., Deputy General Counsel, Litigation Branch, FDIC Legal Division, informed the OIG in a sworn statement (Exhibit 67) that, after he had received several telephone calls in October 1993 from reporters concerning the retention of Rose for the Madison Conservatorship, he initiated a review of Rose's retention. Mr. Smith stated that media inquiries were alleging two possible conflict of interest situations related to Rose. Specifically, the reporters were questioning whether Rose informed FDIC of its prior representation of Madison and of the Hubbell-Ward relationship, and wanted to know if either of these situations constituted a conflict of interest for Rose. Mr. Smith asked Thomas A. Schulz, Assistant General Counsel, Corporate and Special Litigation Section, FDIC Legal Division, to conduct a review to determine the facts surrounding Rose's retention and what information Rose had provided to FDIC. John T. Downing, Senior Attorney, Corporate and Special Litigation Section, FDIC Legal Division, assisted Mr. Schulz in this review.

PROCESS, PROCEDURES AND CRITERIA USED BY LEGAL DIVISION

During its review, the Legal Division reviewed the FDIC litigation file related to the Madison lawsuit against Frost, other relevant FDIC and RTC documents, and documents the Legal Division obtained from Rose. Representatives of the Legal Division interviewed current and former FDIC and RTC personnel who were involved in the Madison Conservatorship, and current and former Rose attorneys who worked on the litigation. (See Exhibit 68, containing write-ups prepared by the Legal Division of these witness interviews.) All persons were interviewed by telephone except Mr. Hubbell, then Associate Attorney General, who was interviewed in person by Messrs. Smith and Downing at his office in the U.S. Department of Justice. The documents reviewed from outside FDIC were obtained voluntarily, and the interviews were not conducted under oath.

The criteria used by the Legal Division for determining whether a conflict existed are contained in the American Bar Association's Model Rules of Professional Conduct (Model Rules) that the State of Arkansas adopted effective 1986.

LEGAL DIVISION RESULTS AND HOW THEY WERE REPORTED

Mr. Downing, in a sworn statement (Exhibit 69) to the OIG, said that he prepared the initial draft report regarding the review. The draft report was edited by several Legal Division officials, including Messrs. Schulz, Smith and Douglas H. Jones, Senior Deputy General Counsel, FDIC Legal Division. The draft report (Exhibit 70) was also discussed at the February 9, 1994, meeting of the Outside Counsel Conflicts Committee (OCCC). The OCCC is a joint FDIC-RTC committee that reviews requests for waivers of conflicts concerning outside counsel who wish to represent FDIC or RTC. The OCCC is comprised of FDIC and RTC attorneys. James Lantelme, Assistant General Counsel, Special Projects Section, FDIC Legal Division, is one of its nine members. In a sworn statement (Exhibit 71) provided to OIG special agents, Mr. Lantelme said that the OCCC was asked to review and discuss the draft report. Messrs. Schulz and Downing attended the OCCC February 9, 1994, meeting to answer questions when the draft report was discussed. According to Mr. Lantelme, the members of the OCCC agreed with the conclusions reached by the Legal Division in its draft report that there were no conflicts of interest.

The Legal Division found no documentation to show that any information was provided to FDIC by Rose when it was retained in March 1989. Current and former Rose attorneys and April A. Breslaw, the FDIC staff attorney who retained Rose, gave the Legal Division conflicting accounts about what was disclosed. Richard Donovan, a Rose partner who worked on the Frost lawsuit, told the Legal Division that Mr. Hubbell had advised Ms. Breslaw of Rose's prior representation of Madison before the Arkansas Securities Department. However, Mr. Hubbell told the Legal Division that at the time Rose was retained, he was not aware of the ASD representation so he did not discuss it with Ms. Breslaw. Mr. Hubbell also said that he believed he told Ms. Breslaw that Rose had done a small amount of lending and collection work for Madison years earlier. Ms. Breslaw informed the Legal Division that she had no recollection of the ASD representation being raised by any Rose attorney.

The Legal Division concluded that it was unclear whether Rose may have orally disclosed the prior Madison representation to FDIC. The Legal Division went on to state that the more important question was whether a conflict of interest existed that should have been disclosed by Rose before the Firm agreed to represent the Madison Conservatorship. The Legal Division relied on the Model Rules of Professional Conduct as its criteria but did not include FDIC Legal Division or FSLIC policies. The Legal Division concluded that Rose's

representation of Madison before the ASD was not directly adverse to its 1989 representation of the Conservatorship. Further, the Legal Division found no indication that Rose had done any work on the Frost audit of Madison and no indication that Rose edited or participated in the preparation of Frost material that was presented to the ASD by Rose. Therefore, the Legal Division further concluded that the prior Rose representation of Madison did not represent a conflict.

As to the involvement of Webster L. Hubbell, the Rose partner for Madison, in his father-in-law's litigation against Madison, the Legal Division reported that:

- It was uncertain whether the Hubbell-Ward relationship was disclosed at the time of retention, but that it was clearly discussed within three months after the retention;

- The staff attorney (Ms. Breslaw) concluded that this relationship was not a conflict of interest, and the Legal Division agreed with that assessment;

- Mr. Hubbell did not represent Mr. Ward in his lawsuit against Madison so there was no conflict of representation [sic] directly adverse to the Conservatorship, and Mr. Hubbell's representation of the FDIC did not appear to have any effect on Mr. Ward; and

- Although there was no requirement that Mr. Hubbell's relationship with Mr. Ward be disclosed, they wanted to emphasize that the better course would have been for the attorney (Mr. Hubbell) to make full disclosure in writing to the FDIC.

Representatives of the Legal Division also spoke by telephone to four outside experts in the conflicts field and discussed the review results with them without divulging the identity of the law firm. All four experts agreed with the Legal Division's conclusion that neither situation was a conflict of interest.

RESULTS OF OIG INVESTIGATION OF LEGAL DIVISION REVIEW

The results of the OIG's investigation evidenced that in March 1989 Rose did not inform FDIC of either its prior representation of Madison before the ASD or Mr. Hubbell's business relationship with his father-in-law, Seth Ward - a frequent borrower and consultant of Madison Financial Corporation. Mr. Hubbell stated to the Legal Division during its review that he attended the closing arguments in his father-in-law's trial against Madison, but had no other involvement in the lawsuit. We found that although Mr. Hubbell was not his father-in-law's attorney of record in Mr. Ward's lawsuit against Madison, the evidence is that Mr. Hubbell:

- Involved himself in his father-in-law's lawsuit against the Madison Conservatorship;

- Was a part owner of POM, Incorporated, with Seth Ward and Seth Ward II at the time he accepted the Madison Conservatorship engagement and until October 1989 when Mr. Hubbell transferred his shares of stock to Seth Ward II;

- Served as corporate counsel for POM from 1981 through 1992;

- Represented POM in an antitrust lawsuit in 1990 while Rose was still representing the Madison Conservatorship in the Frost lawsuit; and

- Was indebted to his in-laws, the Wards, regarding property that he had purchased from them in 1981.

With regard to Seth Ward, the evidence is that he had:

- Worked for the Madison subsidiary, Madison Financial Corporation;

- Won a $353,502 judgment against Madison that was being appealed by Madison when it was placed into conservatorship; and

- Received loans from Madison on which he defaulted and which were included in the damage calculation being used in its lawsuit against Frost & Company.

At the time the Legal Division conducted its review, they did not learn the information concerning Mr. Hubbell, but they did learn the information concerning Mr. Ward. The Legal Division's review concluded that neither Rose's representation of Madison before the ASD nor the Hubbell-Ward relationship constituted a conflict of interest.

The Legal Division's opinion that Rose did not have a conflict of interest resulted from the relevant information available to the Legal Division, and the Legal Division's decision to limit its analysis to determine whether the Firm violated Model Rule 1.7. Our investigation did not disclose that the Legal Division in reaching its decision failed to consider relevant information that had been gathered. The Legal Division, however, did not include in its evaluation of Rose other relevant conflict criteria, including the "appearance of impropriety" standard or FDIC guidelines and policies. Douglas H. Jones, Senior Deputy General Counsel, FDIC Legal Division, provided two sworn statements (Exhibit 72) to the OIG during our investigation. Mr. Jones was the Acting General Counsel for FDIC Legal Division from November 12, 1993, to January 3, 1995. Mr. Jones explained in his statements that in 1989, the Legal Division was still developing the more global conflict of interest guidelines that were ultimately adopted in 1990 as the "Guidelines of the FDIC/RTC With Respect To Conflicts Of Interest." Therefore, the Legal Division used the conflict of interest provisions in the Model Rules as its criteria and did not rely on other criteria from FDIC contracts and policies. The Arkansas Supreme Court in 1990 recognized the continued validity of the appearance of impropriety standard that had been codified before 1986 in the Model Code adopted in Arkansas. The Legal Division review footnoted, but declined to adopt this standard. Mr. Jones stated that the Legal Division did not want to hold Rose responsible for something that occurred in 1989 based on a 1990 court decision. He further said it was not clear that the facts in this instance arose to the level of an "appearance of impropriety" under existing court precedent. The Legal Division also chose not to include in its criteria the Guide for Legal Representation, which was in effect in 1989 and had been provided to Rose as early as 1987. Among other things, the Guide (Exhibit 1) informed Rose that FDIC:

- Expected the highest ethical standards in the firm's representation;

- Required the firm to be free of conflicting interests;

- Required any potential conflict to be discussed with the FDIC as soon as the firm recognized its existence;

- Reserved the FDIC's right to decide whether an actual or potential conflict exists; and

- Required the firm to list conflict of interest situations peculiar to the firm's representation of the FDIC, in addition to actual or potential conflicts covered by the Code of Professional Responsibility or applicable federal or state provisions.

Our investigation evidenced that in 1987 FDIC issued internal policies and procedures for its managing attorneys relating to the retention of outside counsel. (See Exhibits 73 and 9.) One of these procedures was set forth in an August 27, 1987, memorandum from FDIC Deputy General Counsel to the Regional Counsels, Liquidation Branch, FDIC Legal Division. This memorandum transmitted internal procedures for the selection and termination of outside counsel. Section g. of the memorandum states that FDIC attorneys should ask outside counsel to perform a thorough conflicts check and submit a written response. This memorandum was not addressed to other branches of the Legal Division, including the branch responsible for professional liability matters. In January 1988 Ms. Breslaw transferred to Washington, D.C., to work in the Professional Liability Section (PLS) of FDIC Legal Division. Before transferring to PLS, Ms. Breslaw was an attorney in the Liquidation Branch in the Dallas Region of FDIC Legal Division when these internal procedures were issued. Ms. Breslaw informed the OIG in a sworn statement (Exhibit 8) that she was not familiar with the internal procedures and did not recall having received them in 1987. She further said that she was not aware of any written FDIC or RTC internal conflicts procedures prior to May 1990; however, she was aware of the Guide when she hired Rose to represent the Madison Conservatorship in March 1989. Other than the two 1987 policies and the Guide discussed above, the Legal Division did not have extensive policies regarding conflicts of interest in 1989. Further, the Legal Division's review did not address whether FDIC procedures were followed when Rose was retained in 1989.

The conflicts of interest section is in Section B1. of the Guide for Legal Representation, and this section of the Guide did not specifically mention family relationships or prior representation of financial institutions. However, Ms. Breslaw pointed out that this section did state that at the time a law firm is retained it will be asked to provide a list of potentially

conflicting representations and that FDIC reserves the right to decide whether an actual or potential conflict exists. Ms. Breslaw believes that the Guide makes it clear that the law firm should disclose anything that could be a potential conflict. She further stated that the Seth Ward matter and the prior representation of Madison before the ASD might have been considered potential conflicts or might have raised appearance questions. Given the overall tone of the Guide, Ms. Breslaw expected a firm, including the Rose Law Firm, to err on the side of broad disclosure.

Douglas A. Jones, FDIC Deputy General Counsel, informed the OIG in sworn statements that, while some procedures for the retention of outside counsel had been established prior to 1989, it became clear during the Legal Division's review that these procedures were not consistently provided to Legal Division staff. Mr. Jones said that the Legal Division did not locate the 1987 internal policies during its review. However, after reviewing the policies and the Guide that was in effect in 1989, Messrs. Jones, Schulz and Downing, the attorneys who conducted the review, stated to the OIG that the policies and Guide would not have required law firms to disclose prior representation, such as the ASD matter, or relationships such as the Hubbell-Ward family relationship. They further said that, had these policies been located during the review, the report would not have been affected. Mr. Jones also stated, that even though FDIC had a Conflicts Committee in 1989 and only the Conflicts Committee could issue a waiver, the Legal Division did not have a clear-cut policy defining conflicts of interest. Mr. Jones said that each Legal Division branch was allowed to issue its own policies until 1990. Mr. Schulz advised that there was no requirement that policies issued by one branch, be followed by other branches. Therefore, the Professional Liability Section was not bound by the policies and procedures issued by the Liquidation Branch when the Rose Law Firm was hired to represent the Madison Conservatorship. However, in 1990 the Legal Division issued formal written procedures on the retention of outside counsel and conflict of interest matters, and these procedures were applicable to all branches within the Legal Division.

We found in Rose's records a copy of FDIC's Guide for Legal Representation which was sent to Rose in December 1987 when it was hired by FDIC in connection with the Corning Bank failure. This Guide was still in effect in 1989 when Rose was hired to represent the Madison Conservatorship. Our review of Rose records also disclosed that, in addition to receiving the Guide, Rose received in September 1988 a draft copy of the Outside Counsel Handbook prepared by FSLIC's Office of General Counsel which included conflicts policies. Further, we found in Rose records a copy of a May 3, 1990, letter from Mr. Jones addressed to all

FDIC and RTC outside counsel, stating that the Outside Counsel Conflicts Committee had adopted guidelines regarding conflicts of interest and waiver of conflicts, and enclosing the guidelines. (See Exhibit 74.)

The Legal Division stated in its report that when law firms are aware of prior representation of institutions or family relationships they expect the firms to make full disclosure to FDIC. However, the Legal Division did not criticize Rose for its failure to inform FDIC of relationships and representations that could be viewed as relevant to FDIC in making a final determination with respect to the retention of the Firm. Further, the Legal Division did not criticize itself for Ms. Breslaw's lack of documentation regarding her discussions with Mr. Hubbell or how she arrived at the conclusion there was no conflict of interest in the face of concerns raised by other FDIC employees at the Madison Conservatorship. Mr. Jones stated that the Legal Division was not more critical of Rose because it could not be certain that Rose had not orally disclosed the ASD representation. He further said that the Legal Division did not criticize Rose for not informing Ms. Breslaw that Mr. Hubbell's father-in-law was involved in litigation with the Madison Conservatorship because, when she was informed, she determined that it was not a conflict of interest. Therefore, the Legal Division concentrated on determining if a conflict of interest existed that should have been disclosed.

Even though the Legal Division spoke to four outside experts concerning its review, Mr. Smith explained to the OIG during our investigation that the experts were given no written materials to review, were not paid, and were not asked to give FDIC a written opinion. Mr. Smith added that the Legal Division report did not mention the consultations because they did not believe it would be fair to the experts for the foregoing reasons. During our investigation, we interviewed the four outside experts and they confirmed that, they were contacted by telephone, not given any written materials to review, and received no compensation for their opinion. The experts also confirmed that based on the information they were provided, they agreed with the Legal Division's conclusion that there was no conflict of interest violation.

During our investigation, we informed the Legal Division attorneys who had conducted the review of the business relationship Mr. Hubbell had with the Wards and of apparent instances when Mr. Hubbell represented Mr. Ward concerning Mr. Ward's loans from Madison. The attorneys who conducted the Legal Division review stated that they did not uncover these facts during the Legal Division review. They were particularly concerned when they learned that Mr. Hubbell involved himself in Mr. Ward's lawsuit against the Madison

Conservatorship in January 1990. Mr. Schulz stated (Exhibit 75) that Mr. Hubbell should have informed Ms. Breslaw about his involvement with Mr. Ward when she asked him to represent the Madison Conservatorship. He also said that the January 1990 correspondence regarding Mr. Ward's agreement with Wright, Lindsey & Jennings leads him to believe that Mr. Hubbell was much more involved with Mr. Ward than the Legal Division discovered during its review. He further said that he does not believe Mr. Hubbell should have represented Mr. Ward regarding the indemnification agreement. Mr. Schulz stated that, had he been the responsible FDIC attorney for the Frost lawsuit and learned of Mr. Hubbell's involvement with Mr. Ward's lawsuit, he would have terminated the services of the Rose Law Firm. He also stated that, had the Legal Division learned of Mr. Hubbell's relationship with POM and his involvement with Mr. Ward's dealings with Madison, their report probably would have stated that Mr. Hubbell should not have been involved in the Frost lawsuit.

All of the Legal Division attorneys involved in the Rose review provided the OIG with sworn statements asserting that no influence was exerted on their review of Rose by any FDIC official or anyone outside of FDIC. Messrs. Schulz and Downing stated that no restrictions were placed on their review by anyone in the Legal Division or at FDIC. Mr. Downing in his sworn statement to the OIG added that he was never prevented from speaking with anyone or reviewing any documents that he believed were necessary to review. Messrs. Schulz and Downing also said that they had no prior dealings with Rose and had never met any of the Rose attorneys prior to their review. All of the Legal Division officials we interviewed who were involved with conducting the review stated that they were not contacted by anyone from the White House regarding the review. They further stated that they did not contact the White House to discuss the review. In addition, they stated that they agreed, when the report was issued in February 1994, with the determination in the Legal Division's report that no conflict of interest existed.

During our investigation, we interviewed several witnesses that provided us with additional information related to the Legal Divisions review of the Rose retention for the Madison Conservatorship. See Exhibit 84 for copies of those additional sworn statements and memorandums of interview.

HOME FEDERAL SAVINGS AND LOAN ASSOCIATION

BACKGROUND

Home Federal Savings and Loan Association of Centralia, Illinois (Home Federal), filed a lawsuit against United Capital Corporation (UCC) on March 14, 1988. Home Federal was represented by Vincent Foster and Michael Bennett of the Rose Law Firm. The lawsuit alleged that UCC defrauded Home Federal by making unauthorized trades of U.S. Treasury futures contracts using Home Federal's account. On March 16, 1989, while the litigation was still ongoing, Home Federal was placed into conservatorship and FDIC became the Conservator.

ROSE ATTORNEY SHEMIN RELATIONSHIP TO LASATER

During our investigation, we obtained draft letters prepared in August 1988 by a Rose attorney, Kenneth Shemin, regarding possible representation of Dan Lasater. OIG special agents interviewed Mr. Shemin (Exhibit 76) about this possible representation. On advice from his counsel, Mr. Shemin refused to be placed under oath for our interview. Mr. Shemin stated that he was approached in the summer of 1988 by Gerald Hannahs, a mutual friend of his and Mr. Lasater's. According to Mr. Shemin, Mr. Hannahs explained that Mr. Lasater was concerned about the viability of UCC since Mr. Lasater was UCC's primary creditor. At that time, Mr. Lasater was acting as a consultant to UCC, and Mr. Shemin gave him some advice. Mr. Shemin stated that he did not charge Mr. Lasater for his advice and did not obtain a client billing number for Mr. Lasater related to this issue.

Mr. Shemin also informed the OIG that Mr. Lasater requested that he represent Mr. Lasater in the sale of UCC's assets. Mr. Shemin further stated that he discussed possibly representing a new entity that might be formed by the buyers and Mr. Lasater regarding UCC's assets. Mr. Lasater was anticipating regaining control of UCC because UCC was no longer making payments to Mr. Lasater regarding the 1987 sale of Lasater and Company to UCC. Mr. Shemin stated that in July 1988 he attended a meeting held at Mr. Lasater's residence to discuss the possible sale of UCC assets. After this meeting, Mr. Shemin discussed the possible representation with Rose's Executive Committee and with Mr. Foster, who was litigating the Home Federal lawsuit. In connection with this possible representation,

Mr. Shemin drafted letters of waiver to the parties involved. He stated that he believed Mr. Foster discussed the possible representation with King Betz, the president of Home Federal, and that it was his understanding that Mr. Betz did not have a problem with Mr. Shemin's possible representation.

Mr. Shemin stated that he ultimately decided he would not become involved in the sale of UCC's assets because one of Rose's partners, William Bishop, objected to Rose having any involvement with the potential buyers. Mr. Shemin said that Mr. Bishop had some unpleasant experiences with the buyers in the past and did not want Rose to be involved with them. According to Mr. Shemin, the decision not to become involved in the sale of UCC's assets was made between August 20 and August 25, 1988. Since the decision was made not to become involved in the sale of UCC's assets, Mr. Shemin did not know if Mr. Foster drafted a waiver letter to Mr. Betz or Home Federal regarding this issue.

LASATER REGAINED CONTROL OF UCC

Mr. Lasater informed the OIG that the investors who purchased Lasater and Company and renamed it UCC defaulted on their note. Therefore, in 1988 he began to take steps to repossess the company. He asked Kenneth Shemin to represent him regarding the repossession of UCC; however, Mr. Shemin informed him that Rose had a conflict of interest so he could not accept the case. Mr. Lasater could not recall what the conflict was, but Rose was representing Home Federal in its lawsuit against UCC at that time. Mr. Lasater stated that he then hired John Calhoun, an attorney with Hilburn, Calhoon, Harper, Pruniski & Calhoun to represent him. Records provided by Mr. Lasater confirm that he reacquired UCC's stock on September 14, 1988. According to Mr. Lasater, at that time UCC was inactive, but there were approximately five or six lawsuits that were ongoing. Mr. Lasater recalls that one of the litigation matters was a lawsuit filed against UCC by Home Federal. Wright, Lindsey & Jennings was the law firm handling this case for UCC when he regained control, but Mr. Lasater replaced them with Mr. Mars of Stanley, Harrington & Mars. Mr. Mars was UCC's attorney when the Home Federal case was settled in 1989.

Mr. Lasater stated that he signed the Home Federal settlement in his capacity as president of UCC. He further stated that he was not personally involved in the settlement negotiations, as those were handled by Messrs. Mars and Foster. According to Mr. Lasater, he had no contact with any Rose attorney, including Mrs. Clinton, regarding the Home Federal lawsuit.

According to Mr. Bennett, during the settlement process between Home Federal and UCC he was instructed by Mr. Mars to send drafts of the settlement agreement directly to Patsy L. Thomasson, who Mr. Bennett believed was an officer of UCC. At that time, Mr. Bennett did not know of any connection between Ms. Thomasson and the Clintons. He has since learned that Ms. Thomasson is the Director, Office of Administration, at the White House.

We interviewed Ms. Thomasson under oath (Exhibit 77) regarding her involvement with Lasater and Company. She stated that she met Dan Lasater through a mutual friend in 1975, and began working for one of his companies in 1983. After approximately six months, Ms. Thomasson began working as Mr. Lasater's assistant at his holding company, Lasater Farms, Inc. This company was subsequently renamed Lasater, Inc., and was the holding company for Mr. Lasater's business interests. Ms. Thomasson stated Mr. Lasater gave her his power of attorney to run his businesses while he was serving his prison term in 1988. She said she ended her affiliation with Mr. Lasater in August 1992 when she began working for the Democratic Party of Arkansas.

Ms. Thomasson recalled that when Mr. Lasater reacquired control of UCC in 1988 there were six or seven ongoing lawsuits, but she could not recall if the Home Federal case was one of the open litigation matters. She could not recall reviewing the draft settlement agreements related to Home Federal, but she stated it was possible that she did. Ms. Thomasson stated that she did not speak with any Rose attorney, including Mrs. Clinton, about the Home Federal lawsuit.

Ms. Thomasson said she first met President Clinton in 1968 during the Fulbright campaign in Arkansas. She believes she did not meet Mrs. Clinton until she became the First Lady of Arkansas. According to Ms. Thomasson, Mr. Lasater did not have a close relationship with the Clintons. She described Mr. Lasater as being an associate of the Clintons and said that he occasionally saw them at Arkansas events. She added that Mr. Lasater was close friends with Roger Clinton and President Clinton's mother, the late Virginia Kelley. Our review of the litigation files we obtained from Rose related to the Home Federal/UCC lawsuit did not evidence that Mrs. Clinton was involved in this lawsuit. We found no pleadings signed by

her, no correspondence authored by her, and the fee bill we reviewed did not list Mrs. Clinton as having charged time to this case. We also obtained and reviewed a copy of the court file related to this lawsuit. None of the pleadings or motions were signed by Mrs. Clinton.

Our investigation evidenced that the settlement agreement between the Home Federal Conservatorship and UCC was signed by Mr. Lasater, who used the title, "President" of UCC. The settlement agreement was also signed by a representative of the Home Federal Conservatorship and was approved by FDIC in its capacity as conservator. The UCC paid $250,000 to the Home Federal Conservatorship in 1989 to settle the lawsuit. Home Federal had claimed damages in the amount of $1,264,336.

During our investigation, we interviewed two witnesses that provided us with additional information related to Rose's legal services for the Home Federal Conservatorship. See Exhibit 85 for copies of those additional memorandums of interview.

CONFLICT OF INTEREST ISSUES INVOLVING ROSE LAW FIRM AND FSLIC

Our investigation evidenced the following instances when the Rose Law Firm and the Federal Savings and Loan Insurance Corporation (FSLIC) were involved in resolving conflict of interest issues regarding Rose while the Firm was representing FSLIC concerning a failed savings and loan association. The Rose Law Firm was hired by FSLIC in November 1985 to handle all of the litigation matters arising out of the Guaranty Savings and Loan Association Receivership, Harrison, Arkansas (Guaranty). The Rose Law Firm represented the Guaranty Receivership until March 1993. During this period, FSLIC raised several concerns over conflicts of interest at the Rose Law Firm.

FIRSTSOUTH, F.A.

On January 28, 1988, FSLIC in its corporate capacity and in its capacity as Receiver for FirstSouth, F.A., Pine Bluff, Arkansas (FirstSouth), alleged that the Rose Law Firm had a conflict of interest regarding a partner of the firm and FirstSouth. The conflict concerned transactions involving letters of credit and financing involving a company owned by Rose's former managing partner, C. Joseph Giroir; FirstSouth; and other financial institutions. The transactions, which took place in 1984, 1985, and 1986, allegedly resulted in a financial loss to FirstSouth. Webster Hubbell was the Rose Law Firm partner who participated in the negotiations with FSLIC. The FSLIC regarded Rose's involvement in the transactions as a conflict of interest, and in order to avoid being sued by FSLIC, Rose entered into a settlement agreement the terms of which are subject to a confidentiality provision between FSLIC and Rose.

BOHEMIAN SAVINGS AND LOAN ASSOCIATION

Bohemian Savings and Loan Association, St. Louis, Missouri (Bohemian), was placed into conservatorship by the FHLBB on January 30, 1986. As a result of the passage of the Financial Institutions Reform, Recovery, and Enforcement Act in August 1989, responsibility for this conservatorship was transferred to FDIC. Bohemian, while an open institution, was party to a participation loan in which the Worthen Bank and Trust Company, Little Rock,

Arkansas (Worthen), a longstanding Rose client, was the lead lender. The participation loan was for a development project in Arizona, and Worthen retained local counsel in Arizona to represent them on the project in addition to retaining Rose. Documentation obtained by the OIG evidenced that a Rose attorney assisted the Arizona counsel with drafting loan documents. The borrowers defaulted on the project, and Worthen, as lead lender, foreclosed.

The other participants, unsatisfied with the manner in which Worthen was managing the project during the foreclosure, filed a lawsuit against Worthen in July 1987. The FSLIC Bohemian Receivership was a named plaintiff in the lawsuit. Worthen added Rose as a third-party defendant in December 1987. The lawsuit was settled in March 1989, and Rose paid $200,000 as part of the settlement. Therefore, Rose was a third-party defendant in a FSLIC lawsuit while the Firm was representing FDIC regarding the Guaranty Receivership.

KNOX FEDERAL SAVINGS AND LOAN ASSOCIATION

Knox Federal Savings and Loan Association, Knox, Tennessee (Knox), was placed into receivership by the Federal Home Loan Bank Board in November 1984. In December 1986, FSLIC learned that Rose was a defendant in a pending lawsuit and that the Knox Receivership might need to join. According to a FSLIC memorandum dated March 18, 1987, the lawsuit alleged that Rose had represented Worthen, while knowing that Worthen had been accused of securities fraud. The lawsuit also alleged that Rose attorneys engaged in malpractice and fraud. The memorandum recommended that due to conflicts of interest, Rose be released from representing the Guaranty Receivership due to the Knox and FirstSouth matters. (See Exhibit 78.)

REVIEW OF LEGAL PAYMENTS TO ROSE LAW FIRM

In support of our investigation, Office of Inspector General auditors reviewed all payments, which totaled $1,049,930, to the Rose Law Firm (Rose or Firm) for legal services provided to FDIC since July 1, 1987 and the Federal Savings and Loan Insurance Corporation (FSLIC) since January 1, 1989. This includes all payments made for legal services related to the failure of the Madison Guaranty Savings and Loan Association, McCrory, Arkansas, for which FDIC hired the Rose Law Firm prior to the creation of RTC which in August 1989 assumed responsibility for the Madison litigation. In addition to Madison, the review covered work performed by Rose related to the failed financial institutions of Corning Bank, Corning, Arkansas; Guaranty Savings and Loan Association, Harrison, Arkansas; and Bohemian Savings and Loan Association, St. Louis, Missouri. A limited review was also performed of Rose billings related to its representation of the First American Savings and Loan Association, Oak Brook, Illinois, Conservatorship for FSLIC from July 1986 through November 1987. Rose was a subcontractor for the Hopkins & Sutter law firm of Chicago, Illinois, during the First American litigation and received ten payments totaling $59,471.

Webster L. Hubbell, Rose partner, was designated by Rose as the FDIC billing attorney for the Rose Law Firm on the Corning, Madison, and Bohemian representations, and Vincent Foster, Jr., was the designated billing attorney for the Guaranty and First American representations. According to the Rose Law Firm, the billing attorney is responsible for understanding and complying with the provisions in the governing agreements and rate schedules and to ensure the accuracy of all fees and expenses billed. The Firm is ultimately responsible for the actions of its billing partners.

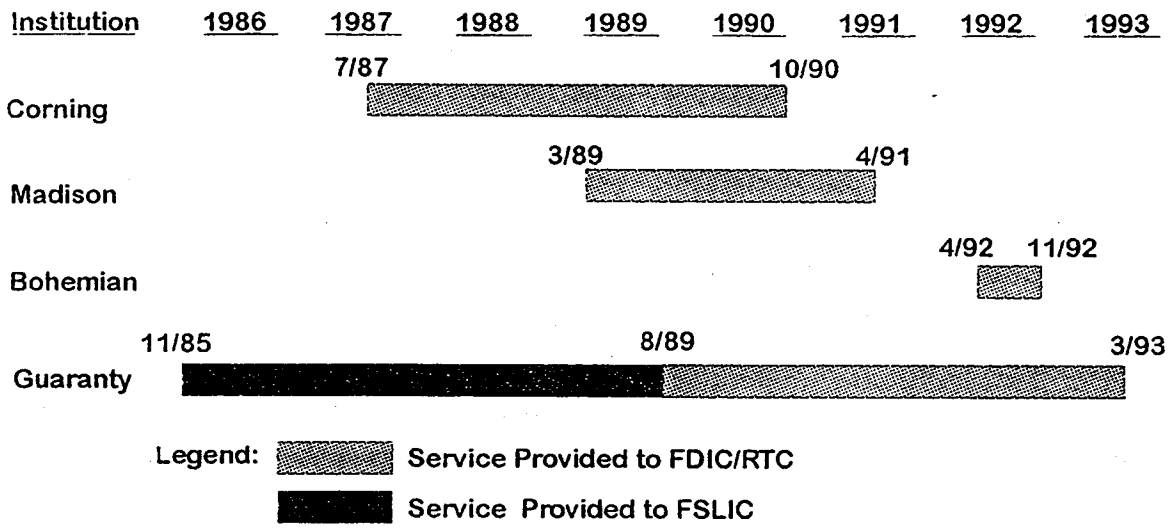
FDIC hired Rose in July 1987 to provide legal services arising from the failure of Corning Bank. A Legal Services Agreement (LSA) signed by Mr. Hubbell on December 28, 1987, established the authorized hourly rates and incorporated FDIC's Guide for Legal Representation that provided the rules to be followed during the Firm's representation of FDIC. The LSA provided that these terms would extend to any other employment or service by the Firm to FDIC, or its representatives, as receiver or other fiduciary.

A new LSA signed by Mr. Hubbell was executed between the Rose Law Firm and FDIC effective as of October 3, 1990. This LSA required the Firm to maintain all billing records for at least three years from the billing date. This criteria was later amended by FDIC Guide

for Outside Counsel dated December 1991, which was received by the Rose Law Firm on January 27, 1992. (See Exhibit 79.) The Guide for Outside Counsel required that the Firm retain copies of all bills and underlying documentation, including original timesheets and other time and expense records for four years after payment. The October 3, 1990, LSA incorporated these amendments by stating that FDIC periodically changes the Guide, and the firm hereby expressly agrees to be bound by any such changes, modifications, clarifications, and supplemental instructions. While the Firm was not required to have maintained billing information prior to October 3, 1990, a substantial portion was made available for our review.

As shown by the chart on the next page, the Rose Law Firm provided legal services related to Corning Bank from July 1987 through October 1990. Rose received 14 payments totaling $279,204 for legal services related to Corning Bank. In March 1989 FDIC contracted with the Rose Law Firm to provide counsel with respect to the Madison Conservatorship lawsuit against Frost & Company, P.A. The FDIC Legal Division supervised the Madison litigation on behalf of the RTC until the creation of the RTC Legal Division in September 1991. The Rose Law Firm received 19 payments related to the Madison litigation totaling $375,380 with the last payment being made by the RTC in April 1993. Legal services were also provided by the Rose Law Firm related to Bohemian Savings from April 1992 through November 1992. The October 3, 1990, LSA was amended to include legal services related to Bohemian. The hourly rates for professional services related to Bohemian were also amended specifically for this litigation. Mr. Hubbell signed this amended Legal Services Agreement in May 1992. Rose received six payments totaling $3,443 for work related to Bohemian Savings.

Rose Law Firm Periods of Legal Service



The Federal Savings and Loan Insurance Corporation (FSLIC) contracted with the Rose Law Firm to provide counsel to FSLIC with respect to Guaranty Savings and Loan Association, Harrison, Arkansas (Guaranty). The FSLIC contract with Rose was effective December 4, 1985, with several amendments extending the contract through September 30, 1990. When FSLIC was abolished under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Rose Law Firm contract was transferred to FDIC. The FDIC Legal Division informed the Firm that the legal services provided to FDIC would continue to be governed by the existing FSLIC contract. Our review of Guaranty related invoices began with those paid after January 1, 1989. We identified 191 separate legal cases for Guaranty. The review covered total payments of $391,903 on 904 invoices submitted by the Rose Law Firm.

Hopkins and Sutter hired the Rose Law Firm as a subcontractor to provide legal services on behalf of the First American Conservatorship for FSLIC in July 1986. The Rose Law Firm did not have a written agreement with Hopkins and Sutter stating billing rates or expense terms related to their work as subcontractor on the First American litigation. The Firm also advised that, due to the age of the litigation, they did not have timesheets related to work on

First American. As such, our review of fees billed was limited to comparing the billing rates to those agreed to between Hopkins and Sutter and FSLIC. Rose was able to locate vendor receipts for $10,940 of $16,137 in expenses billed on First American. We compared vendor information to the invoices submitted to Hopkins and Sutter to determine the accuracy of expenses billed.

For payments authorized by FDIC, the Rose Law Firm submitted invoices for payment to the FDIC managing attorney. The FDIC did not require outside counsel to provide supporting expense documentation with their billings. Therefore, the review of these billings by FDIC managing attorney was limited to the information shown on the face of the bill. Due to the workload of the FDIC Legal Division during the time these invoices were submitted, a detailed review of the information on the face of the invoices was not generally performed. Of the $156,286 in questioned costs[3] from our review, $29,219 related to the rates billed, miscalculated fees, and non-billable expenses that should have been questioned by FDIC managing attorney when the invoices were submitted for payment.

The review identified questioned costs totaling $156,286 related to payments for work on the four institutions of which $78,391 related to Madison. Of the $156,286 in questioned costs, Mr. Hubbell pleaded guilty to defrauding FDIC and RTC by falsifying expenses and inflating fees totaling $41,995. Mr. Hubbell's fraudulent claims to FDIC primarily involved misrepresenting and billing his personal expenses as legitimate business expenses on behalf of FDIC. Mr. Hubbell pleaded guilty to one count of mail fraud and one count of tax evasion related to fraudulent billings sent to FDIC and RTC. On June 28, 1995, Mr. Hubbell was sentenced to 21 months in prison and ordered to make restitution in the amount of $135,000 to the Rose Law Firm.

Our review of the Rose Law Firm's billing system disclosed that the Firm did not have the internal controls necessary to safeguard the integrity of the billing process. Therefore, Mr. Hubbell was able to misrepresent the expenses billed to FDIC. Mr. Hubbell was allowed

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[3]For purposes of this investigation, questioned costs are those that have been questioned by the OIG with respect to a finding that:

1) the cost was not authorized by the contract;
2) at the time of the review, the cost was not supported by adequate documentation; or
3) the expenditure of funds for the intended purpose was unnecessary or unreasonable.

to sign Firm checks for expenses that would later be billed to clients without submitting receipts or invoices verifying that the checks were actually written for the expenses and clients identified by him. As a result, Mr. Hubbell was able to write Firm checks to pay for his personal expenses and have the expenses billed to Rose clients without verification that these expenses were legitimate business expenses.

Other questioned costs from our review related primarily to instances in which the Rose Law Firm did not comply with the terms of applicable guidelines and agreements. Rose billed fees such as those which were 1) unsupported or did not agree with original timesheets; 2) in excess of authorized hourly rates; 3) duplicated or miscalculated; and 4) excessive related to depositions. Also, expenses billed were questioned because they were 1) unsupported by vendor invoices; 2) in excess of the Firm's cost; and 3) non-billable per the FDIC contract.

Tables 1 and 2 below summarize total payments and questioned costs from our review of legal payments to the Rose Law Firm. The RTC Office of Inspector General has conducted a separate audit of legal fees paid to the Rose Law Firm which included payments on the Madison litigation. Questioned costs related to payments on the Madison litigation from our review will be reported to the RTC Office of Inspector General for further action. Other questioned costs related to Corning, Guaranty, and Bohemian will be reported to FDIC Legal Division for collection. No questioned costs were noted from our review of billings on the Rose Law Firm's representation of First American.

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Table 1

SUMMARY OF PAYMENTS REVIEWED					
DESCRIPTION	**MADISON**	**CORNING**	**GUARANTY**	**BOHEMIAN**	**TOTAL**
FEES	$ 329,627	$ 197,636	$ 328,844	$ 2,984	$ 859,091
EXPENSES	$ 45,753	$ 81,568	$ 63,059	$ 459	$ 190,839
TOTAL	$ 375,380	$ 279,204	$ 391,903	$ 3,443	$1,049,930
QUESTIONED COSTS	$ 78,391	$ 57,762	$ 19,752	$ 381	$ 156,286
QUESTIONED COSTS AS A PERCENTAGE OF PAYMENTS REVIEWED	21%	21%	5%	11%	15%

Table 2

SUMMARY OF QUESTIONED COSTS						
	CONDITION	MADISON	CORNING	GUARANTY	BOHEMIAN	TOTAL
1	Unsupported Fees	$ 23,823	$ 2,124	$ 5,817	$ 10	$31,774
2	Unsupported Fee Adjustments	9,823	14,601	375	156	24,955
3	Unauthorized Billing Rates	6,808	11,452	2,440	0	20,700
4	Miscalculated Fees	6,556	0	0	0	6,556
5	Fees for Depositions Not Attended	4,982	0	0	0	4,982
6	Excessive Time for Depositions	3,227	N/A	N/A	N/A	3,227
7	Multiple Representation at Depositions	1,533	0	N/A	N/A	1,533
8	Duplicate Payments	4,571	1,539	7,864	0	13,974
9	Unsupported Expenses	12,911	13,850	1,730	44	28,535
10	Expense Discrepancies	2,484	12,220	0	0	14,704
11	Increased Expenses	1,511	321	1,440	111	3,383
12	Non-Billable Expenses	162	1,655	86	60	1,963
	TOTAL	$ 78,391	$ 57,762	$ 19,752	$ 381	$ 156,286

N/A - Depositions were not reviewed for these conditions related to Corning, Guaranty and Bohemian

UNSUPPORTED FEES (Table 2, Condition 1)

The Rose Law Firm received legal fees totaling $859,091 (Table 1) for time billed by attorneys and other legal staff. However, the Firm could not provide original timesheets to support $177,764 of the $859,091 in legal fees. Of the $177,764 which was not supported, $145,990 was paid prior to the October 3, 1990, LSA. The remaining unsupported fees of $31,774 (Table 2) related to work that was paid after October 3, 1990. Rose was required to maintain this documentation for three years from the billing date based on the October 1990 LSA. The FDIC Guide for Outside Counsel then amended this contract to require outside counsel to retain copies of all FDIC bills and underlying supporting material, including original timesheets for at least four years after final payment.

Rose provided printouts of time billed from the Firm's billing database as support for fees billed to FDIC. We did not accept these as adequate support for fees billed because information entered to the Firm's database from original timesheets is subject to error and modification by others without review by the employee who originally provided the service and recorded their time. Therefore, we consider hours charged to FDIC that cannot be verified by an original timesheet as unsupported.

The lack of timesheets during our review limited the extent to which we could verify the validity and accuracy of FDIC legal fee payments to the Rose Law Firm. For example, during trial preparation on the Madison litigation in August 1990, Mr. Hubbell billed a total of 173 hours during a 22 consecutive day period at a cost to FDIC of $21,625. Timesheets were not provided by Mr. Hubbell or the Firm for these billings. Therefore, we could not determine whether fee adjustments were made to hours billed by comparing the original timesheet to the invoice submitted for payment. Where timesheets were provided for our review, numerous adjustments were found to have been made to Mr. Hubbell's billings, as shown in Condition 2, Unsupported Fee Adjustments.

The Firm responded that they agreed to keep "billing records" for three years from the billing date based on the October 1990 LSA. The Firm maintained billing memos, automated billing records, and copies of final bills to comply with this criteria. The Firm did not consider timesheets as part of a client's billing records because they contain confidential and privileged information about work being done for many clients. Rose further responded that, once they received the FDIC Guide for Outside Counsel on January 27, 1992, they began maintaining timesheets as part of their billing records, and none of the missing timesheets from the OIG review relate to those required after January 27, 1992.

We do not accept the Firm's contention that the 1990 LSA requirement to maintain billing records did not include original timesheets. The original timesheet of an employee performing the work is the best record of the time for which FDIC should be charged for the related service. It is the basis for the hours billed to FDIC and, as such, is considered a billing record.

UNSUPPORTED FEE ADJUSTMENTS (Table 2, Condition 2)

The Rose Law Firm was paid $24,955 (Table 2) more in legal fees than was supported by timesheets prepared by the employee providing the service. Further, Mr. Hubbell has admitted that $4,650 of these adjustments were falsely made by him to cover personal expenses he charged to the Rose Law Firm. For fees paid, we compared the hours shown on the invoice submitted for payment to an original timesheet prepared by the attorney or legal staff performing the service. By comparing the timesheets to the invoice submitted for payment, we noted that 246 more hours were billed to FDIC than were shown on the employees timesheets. According to the Firm, these adjustments were made by the billing attorney during the billing process.

During the period of our review, Rose employees typically recorded the time that they billed to FDIC and other Firm clients on timesheets. The time was then entered into the Firm's automated billing databases. From these systems, Rose's accounting personnel generated draft bills that identified all of the fees and charges that individual attorneys and paraprofessionals allocated to Firm clients. Rose officials explained that the draft bills were distributed to the partner who had been designated as the FDIC's billing attorney. The billing attorney would then review the bills for accuracy and make adjustments based on their understanding of the billing agreement with FDIC. For example, certain expenses were written off or hours billed were adjusted because the billing partner believed the associate or other employee may have underestimated or overestimated their time.

Most of the time adjustments between the original timesheets and final invoice identified during our review occurred on the Madison and Corning litigation in which Mr. Hubbell was the billing partner. On the Madison litigation, 47 adjustments increased hours billed and five adjustments decreased hours billed, resulting in a net increase of 97 hours. On the Corning litigation, 108 adjustments increased hours billed and eight decreased hours billed, resulting in a net increase of 146 hours billed. However, on the Guaranty cases in which Mr. Foster

was the billing attorney, no adjustments were noted. Differences found between timesheets and final invoices related to Guaranty totaling three hours were determined to be the result of a transcription error by a secretary when entering timesheet data into the billing system.

Where description changes were noted between the original timesheet and the final bill, we attempted to verify the reasonableness of the time adjustments. In some instances, adjustments were noted where additional description that did not appear on the timesheet was added to the final invoice. For example, one Rose attorney may have omitted a conference with another Rose attorney from his timesheet which was added to the final invoice. When we could verify that the second Rose attorney had recorded the conference on their timesheet, we did not take exception to the adjusted hours.

The Rose Law Firm responded that FDIC's Guide for Outside Counsel recognizes that time and expense records may be "adjusted" to ensure accuracy. Out of the thousands of time records reviewed, the questioned adjustments are an infinitesimal percentage, approximately 1 percent of the hours originally recorded, and less than 2 percent of the dollars billed. As with timesheets, the adjustments cover times for which the Firm was not obligated to retain records. The Firm advised that they do not possess the necessary information to further address this issue at this time.

We understand that time adjustments may occasionally be necessary to ensure accuracy as the Firm contends. As noted above, we did not question time adjustments where additional description of work performed was included on the final bill. We question the unexplained adjustments because of the lack of evidence that additional work was performed to justify the increased hours. Further, Mr. Hubbell's admission that he made false adjustments leads us to question all unsupported adjustments related to the Madison and Corning invoices.

UNAUTHORIZED BILLING RATES (Table 2, Condition 3)

Our review identified that the Rose Law Firm billed hourly rates that were unauthorized and, as a result, was overpaid $20,700 (Table 2) in legal fees. The hourly rates authorized by FDIC were provided in the December 1987 and October 1990 Legal Services Agreements that Rose executed with FDIC. The December 1987 LSA provided that any increase in rates must be requested and approved in writing. However, the Firm could not provide any correspondence authorizing increased rates.

Most of the unauthorized rates were related to hours billed on the Corning and Madison litigation prior to the signing of the October 1990 Legal Services Agreement (LSA). We compared rates billed to those authorized in the December 1987 LSA and noted numerous instances where Rose billed hourly rates exceeding those authorized in the LSA. While the December 1987 LSA was executed in connection with the Corning Bank litigation, it provided that: "The representations made herein and the terms hereto shall also extend to every employment or service by the Undersigned whether in connection with the Bank named herein, or any other matter, and to any co-partner, associate or employee engaged by the Undersigned to assist in any such matter." Therefore, we applied the rates authorized in the December 1987 LSA for both the Corning and Madison litigation until execution of the October 1990 LSA.

The Firm responded that the hourly rates stated in the December 1987 LSA should not apply to the Madison litigation. The Firm contends that no written Legal Services Agreement covered the Madison litigation, and the best evidence of the fee schedule is the invoices received, reviewed, approved, and paid by FDIC - not recollections colored by time or other factors. By cover letter Mr. Hubbell always submitted statements to the supervising attorney for "review and comment" and regularly invited the reviewer to call if the statements were inaccurate. Rose also contends that the Corning Bank LSA was with FDIC - not the RTC, which was the Firm's client.

The Firm's contention that the rates stated in the Corning LSA should not apply to the Madison litigation differs with statements Mr. Hubbell made to the FDIC OIG. Mr. Hubbell stated that the terms and rates in the Corning LSA applied to the Madison litigation until the October 1990 LSA was signed. He also did not recall ever discussing a rate increase with anyone at FDIC during his time as billing partner. Further, the contention that the Corning LSA was with FDIC and not the RTC is not valid because FDIC hired the Rose Law Firm for the Madison litigation prior to the creation of the RTC.

MISCALCULATED FEES (Table 2, Condition 4)

Rose incorrectly calculated the fees for professional services on two of its invoices resulting in overcharges of $6,556 (Table 2). During our review, we noted discrepancies between the hours shown on the time summary and the fee detail information reported on the same invoice. The time summary shows the total hours each attorney and paraprofessional charged during the entire billing period. The fee detail describes the services and hours billed by the attorney on a daily basis. The time summary information should equal a total of the fee detail on the invoice. However, for two of the invoices submitted for the Madison litigation, the time summary included 75.5 hours over those included in the fee detail. The FDIC made payments based on the totals included in the summary information on these invoices and therefore overpaid Rose for legal services provided during this billing period.

The Firm responded that they were not obligated to maintain billing records for the period of time covered by the two invoices in question. They believe that the error resulted from an overlap in the billing periods when the time summary information was generated. Unlike fee detail, summary information was created by hand. Since draft fee statements often covered different billing periods than final invoices did, it is likely that the time summary was not changed when the final bill was prepared.

FEES FOR DEPOSITIONS NOT ATTENDED (Table 2, Condition 5)

The Rose Law Firm charged $4,982 (Table 2) for Mr. Hubbell to attend eight depositions related to the Madison litigation for which the official deposition transcripts produced by a court reporter did not indicate that he was present at any of those depositions. Mr. Hubbell has admitted that he falsely billed fees totaling $3,648 related to these depositions.

The Rose Law Firm also charged $875 for Mr. Speed's services in connection with two depositions held on the same day. According to Firm billing information, Mr. Speed billed seven hours for "Depositions of Bill Blackwell and Lee Sorenson," indicating to us that Mr. Speed attended the two depositions. The deposition transcripts, however, did not indicate that Mr. Speed was present at either of these depositions. Mr. Speed provided the OIG with a sworn statement regarding his activities on the day in question. (See Exhibit 80.) In his statement, Mr. Speed explained that he did not attend the depositions, but, instead, was working on matters related to the ongoing depositions. We found Mr. Speed's explanation plausible and have, therefore, decided not to question the related costs.

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EXCESSIVE TIME FOR DEPOSITIONS (Table 2, Condition 6)

We evaluated the reasonableness of the Firm's time charges to attend depositions. Rose billed 522 hours for legal services provided on days Firm attorneys attended depositions. If the Firm's bills did not specify the time spent attending depositions, we estimated such time. We estimated that the Firm billed 368 hours to attend the 50 depositions for the Madison litigation.

We then computed the length of the deposition from the beginning and ending times shown on the deposition transcript, and added one hour for preliminary or closing matters not recorded on the transcript. We then compared the length of the deposition to the actual or estimated hours charged by Rose for attending the depositions. For 25 of the 50 depositions, we determined that Rose attorneys charged 47.6 hours of excessive time to attend those depositions. We did not include charges by Mr. Hubbell to attend depositions that he did not, in fact, attend; these charges are already questioned in Condition 5. We included in the 47.6 hours of excessive time 19.6 hours for lunch breaks that appear to have been taken by Rose attorneys during the course of various depositions. The Firm explained that lunch breaks were used for reviewing the morning session of a deposition and preparing for the afternoon session. Our exceptions related to the 47.6 hours of excessive time charged for attending depositions total $3,227 (Table 2).

MULTIPLE REPRESENTATION AT DEPOSITIONS (Table 2, Condition 7)

Rose billed FDIC $1,533 for more than one Rose Law Firm attorney or paraprofessional to attend certain depositions at which only one attorney actively participated. The FDIC Legal Division's Guide for Legal Representation (Guide) provided to the Rose Law Firm in 1987 states that outside counsel should avoid multiple representation at meetings or depositions. The Guide further states that multiple representation at meetings should be discussed in advance with the FDIC managing attorney. Of the 50 Madison depositions, more than one attorney or paraprofessional billed for attending 17 depositions, not including the eight depositions charged for but not attended by Mr. Hubbell. We determined that in eight of the 17 depositions, the Firm's multiple representation was unnecessary because either Mr. Hubbell did not actively participate in the deposition, or the deposition primarily consisted of questions by the opposing counsel.

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Mr. Hubbell, the Rose billing partner for the Madison litigation, stated to the OIG that he does not recall obtaining approval or discussing the issue of multiple representation with FDIC managing attorney, Ms. Breslaw. Ms. Breslaw stated that she did not recall discussing deposition attendance with any Rose attorneys; however, she would disallow time charged by Mr. Hubbell if he did not actively participate in depositions taken by Rose attorneys who, at the time, were not experienced in conducting depositions. Ms. Breslaw further stated that she would question multiple representation by Rose attorneys at those depositions primarily consisting of questions by opposing counsel. The Rose Law Firm stated that multiple representations were reasonable because the Firm's three attorneys were assigned different roles in the Madison litigation, and these assignments were known to the FDIC managing attorney.

DUPLICATE PAYMENTS (Table 2, Condition 8)

Our review identified duplicate payments made to the Rose Law Firm totaling $13,974 (Table 2) that the Firm had not reimbursed. We found 48 duplicate payments totaling $10,641 to Rose for work related to Guaranty Savings. These involved instances where the Rose accounting department resubmitted charges for lack of payment, and both the original charge and the resubmission were paid by FDIC. Rose had identified and reimbursed FDIC $2,993 of this amount prior to our review. However, $7,648 has not been returned to FDIC by the Firm. Two duplicate payments were also identified on invoices related to the Madison litigation. Both of these involved photocopy expense charges and totaled $878. The FDIC's Guide for Legal Representation dated June 1989 cautioned firms not to include past due invoice amounts in their fee bills, as such practices could cause duplicate payments.

We also noted 17 instances resulting in overpayments of $5,448 in which FDIC was billed twice for services performed on the same day. Of the total duplicate entries identified, 11 occurred in the Madison litigation, five in the Corning Bank litigation and 1 entry was identified in the Guaranty litigation. Ten of the 17 duplicate entries were billed within the same invoice. (See Exhibit 81.) The remaining seven duplicate entries were same-day services, but were billed on separate invoices. It appears that many of these duplicate fee charges resulted from overlaps in the cutoff period used by the Firm for billing services.

The Rose Law Firm responded that they did not maintain the necessary documentation to research these payments and that the records related to these payments were outside the record retention guidance of FDIC.

UNSUPPORTED EXPENSES (Table 2, Condition 9)

The FDIC reimbursed the Rose Law Firm a total of $190,839 (Table 1) for expenses such as long-distance telephone calls, computer research, travel expenses, deposition expenses, postage, photocopying and other miscellaneous expenses. However, the Firm could not provide evidence from outside vendors to support $85,382 of the $190,839 which showed that the expenses were incurred by the Firm on behalf of FDIC. Of the $85,382 in unsupported expenses, $75,271 was paid prior to the October 3, 1990, LSA that required the Firm to maintain billing records. However, Mr. Hubbell has admitted to the OIG that $21,740 of these unsupported expenses were for his personal expenses that were falsely billed to FDIC. In addition to the personal expenses of Mr. Hubbell, we question as unsupported an additional $6,795 of the $85,382 which was paid after the October 3, 1990, Legal Services Agreement requiring Rose to maintain billing records. Therefore, we question unsupported expenses totaling $28,535 (Table 2).

The lack of third-party documentation supporting expenses limited the extent to which we could verify the validity and accuracy of FDIC legal expense payments to the Rose Law Firm. For example, we noted discrepancies between expense descriptions on the Firm's internal billing memoranda and final legal bills submitted to FDIC. Therefore, we could not verify that the costs billed for these unsupported expenses were on behalf of FDIC.

The Firm advised that documentation to support expenses incurred by their attorneys on behalf of clients is not maintained in a central location. Each Firm attorney was responsible for maintaining their own expense receipts. When Rose attorneys incurred expenses they were permitted to obtain Rose Law Firm checks from the accounting department and to address and sign the checks for expenses incurred on behalf of clients. In these cases, the attorney or the attorney's secretary was required to note on the check a brief description of the expense for which the check was written and which client should be billed. Until 1993, the Firm did not require its attorneys to submit any type of receipt to the accounting department to verify that the checks were actually written for legitimate business expenses on behalf of clients.

Rose provided canceled checks or carbons of checks to the OIG as support for many of these expenses. However, the checks did not contain sufficient third party information for us to verify that the amounts paid were for legitimate business expenses incurred on behalf of FDIC. In addition, most of the canceled checks were made payable to the billing attorney,

his personal credit card company, or cash and were not supported by invoices, detailed cash register receipts, etc.

The Rose Law Firm reimbursed $12,895 of the $28,535 (Table 2) in unsupported expenses in February 1995 based on an in-house review that the Firm conducted indicating that the charges were inappropriately billed to FDIC by Mr. Hubbell. Of the $12,895 reimbursement, $6,884 related to payments for Madison litigation and $6,011 related to payments for Corning litigation.

EXPENSE DISCREPANCIES (Table 2, Condition 10)

We identified $14,704 (Table 2) in expense discrepancies where expense descriptions changed during the Firm's billing process. We noted numerous instances in which the expense descriptions noted on the invoice submitted for payment to FDIC conflicted with the descriptions on the checks and/or underlying billing records of the Firm. For instance, 13 separate expenses described on the Firm's internal billing documents as travel expenses were stated as expert witness fees, court reporter, photocopy expense, computer research expense, or deposition expense on the final invoice submitted to FDIC. For example, a $600 deposition charge on the Firm's check register appears to have been carried forward as a computer research charge on the final invoice to FDIC. We identified 14 of these expense discrepancies related to billings on the Corning litigation and 6 related to the Madison litigation. Many of the checks were written to the personal credit card companies of Mr. Hubbell or to Mr. Hubbell himself. Mr. Hubbell has admitted to the OIG that $10,957 of these expense discrepancies related to his personal expenses and should not have been charged to FDIC.

In February 1995 the Firm reimbursed $10,591 of these expense discrepancies to FDIC based on information that the Firm had at that time indicating that the charges were inappropriately billed to FDIC by Mr. Hubbell. Of the $10,591 reimbursement, $1,237 related to payments for Madison litigation and $9,354 related to payments for Corning litigation.

INCREASED EXPENSES (Table 2, Condition 11)

Terms of FDIC's LSA specified that the Firm will be reimbursed for necessary expenses at the Firm's cost, not including overhead. During our review of expense documentation, we noted that expenses were increased without explanation on one invoice and on others Rose billed various expenses above the Firm's cost. As a result, Rose was overpaid by FDIC a total of $3,383 (Table 2) for expenses including computer research, photocopying, facsimile and long-distance telephone charges.

Related to the Madison litigation, one invoice was found to have been increased by a total of $1,000 prior to billing FDIC. The increase was related to expenses on an interim billing document reporting total expenses of $3,027. However, these same expenses were carried forward to the invoice to FDIC totaling $4,027. A credit memo for the $1,000 in expenses appeared on the Firm's interim billing document the subsequent month; however, the credit memo was marked off by Mr. Hubbell and not included in the final invoice to FDIC. Mr. Hubbell has admitted to the OIG that the $1,000 credit memo was deleted to cover personal expenses he charged to the Rose Law Firm.

We determined that computer research was billed to FDIC at cost for each minute of research performed plus an additional $1.00 per minute. As a result, FDIC was overcharged $795 for computer research. The FDIC considers any charges over those of the research service as overhead.

We also noted that photocopy charges related to Madison, Guaranty, and Bohemian were in excess of those permitted in the governing agreements. The October 3, 1990, LSA specified that photocopy charges would be reimbursed at a cost not to exceed $.15 per copy. In January 1992, Rose received FDIC's Guide for Outside Counsel which amended this to $.08 per copy. Our review noted that Rose billed for photocopying at rates up to $.20 per page, resulting in an overcharge to FDIC of $960.

Facsimile charges were billed at a rate of $2.00 for the first page and $1.00 for each additional page. The Firm contends that these charges include their direct cost for long-distance service, cost of facsimile equipment, paper and other supplies for facsimile service. The FDIC policy is only to pay for the cost of the long distance telephone rates associated with the production of facsimiles. As a result of the Firm's billing practices, we determined that Rose was overpaid by FDIC $443 for facsimile charges.

Long-distance telephone charges billed to FDIC by Rose were increased $185 above the Firm's cost. Rose used a phone system to bill clients for long distance telephone that automatically added a surcharge to the programmed long distance rate. The surcharge included in the programmed rate table is used to recover overhead costs to the Firm. The FDIC's guidance specifies that the Firm will not bill for overhead.

Rose has agreed to reimburse $1,000 related to the credit memo deleted by Mr. Hubbell. The Firm responded that they considered the other charges billed to FDIC to be direct costs incurred by the Firm for services provided. However, they agree that similar charges are consistently denied during audits of other law firms by the OIG.

NON-BILLABLE EXPENSES (Table 2, Condition 12)

Rose billed FDIC for expenses totaling $1,963 (Table 2) that were not reimbursable according to FDIC's guidance to the Firm. The majority of these expenses related to secretarial overtime charges on the Corning matter totaling $1,421. The FDIC only pays for secretarial overtime if required by the nature and timing of our projects. We did not find any authorization for Rose to bill for this secretarial overtime. The other non-billable expenses included charges for supplies, business meals, and parking. These should not have been paid by FDIC per the Guide for Legal Representation. Rose responded that the Firm does not have, nor is it suppose to have, records showing authority for these charges under FDIC record retention guidance. Mr. Hubbell stated to the OIG that he does not recall obtaining authorization for the non-billable expenses.

REDACTED

STATUS OF INVESTIGATION

This investigative report is being forwarded to the Office of the Vice Chairman for consideration and appropriate administrative action. The report is also being forwarded to the newly appointed FDIC General Counsel for final determination with respect to the Rose Law Firm's failure to comply with FDIC policies regarding the reporting of conflicts of interest, including appropriate sanctions; the referral of professional misconduct to appropriate authorities; overbillings by the Rose Law Firm; and FDIC Legal Division assessment of current policies and procedures.

Office of Investigations
Office of Inspector General
Federal Deposit Insurance Corporation

REPORT OF INVESTIGATION

Title
ALLEGED CONFLICTS OF INTEREST BY THE ROSE LAW FIRM

Case Number	**Date**
IO94-096	July 28, 1995
Distribution:	
Andrew C. Hove, Jr., Vice Chairman	
William F. Kroener, III, General Counsel	

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GLOSSARY OF TERMS

ABA - American Bar Association

ARH - Allison, Rosenblum and Hannahs, Incorporated

ASD - Arkansas Securities Department

Duncan Industries - Duncan Industries Parking Control Systems Corporation

FDIC - Federal Deposit Insurance Corporation

FHLBB - Federal Home Loan Bank Board

Firm - Rose Law Firm, Little Rock, Arkansas

FIRREA - Financial Institutions Reform, Recovery, and Enforcement Act

First American - First American Savings and Loan Association, Oak Brook, Illinois

FirstSouth - FirstSouth. F.A., Pine Bluff, Arkansas

FIS - First Investment Securities

Friday - Friday, Eldredge & Clark, Little Rock, Arkansas

Frost - Frost & Company, P.A.

FSLIC - Federal Savings and Loan Insurance Corporation

Guaranty - Guaranty Savings and Loan Association, Harrison, Arkansas

Guide - FDIC Guide for Legal Representation

Home Federal - Home Federal Savings and Loan Association, Centralia, Illinois

IDC - Industrial Development Company

LCA - FDIC List of Counsel Available

LSA - FDIC Legal Services Agreement

Madison - Madison Guaranty Savings and Loan Association, McCrory, Arkansas

MFC - Madison Financial Corporation

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GLOSSARY OF TERMS

Model Rules - American Bar Association Model Rules of Professional Conduct

NLRB - National Labor Relations Board

OCCC - FDIC/RTC Outside Counsel Conflicts Committee

OIG - Office of Inspector General

Pace - Pace Industries, Incorporated

PLS - Professional Liability Section

POM - Park O Meter, Incorporated, Russellville, Arkansas

Precision - Precision Industries, Incorporated

Rose - Rose Law Firm, Little Rock, Arkansas

RTC - Resolution Trust Corporation

UAW - United Automobile, Aerospace, and Agricultural Implement Workers of America

UCC - United Capital Corporation

UDC - Universal Die Casting, Incorporated

Universal - Universal Savings Association, F.A., Chickasha, Oklahoma

GOVERNING FEDERAL STATUTES

The following federal criminal and civil statutes relate to this investigation:

Title 18 United States Code, Section 1001
Statements or entries generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Title 18 United States Code, Section 1007
Federal Deposit Insurance Corporation transactions

Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

Title 18 United States Code, Section 287
False, fictitious or fraudulent claims

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

Title 18 United States Code, Section 1341, Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any

counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than $1,000 or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more that $1,000,000 or imprisoned not more than 30 years, or both.

Title 18 United States Code, Section 1343
Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

Title 31 United States Code, Section 3729 False claims

(a) Liability for certain acts. Any person who:

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

* * *

(7) knowingly makes, uses or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, ...

B

CHRONOLOGY OF EVENTS

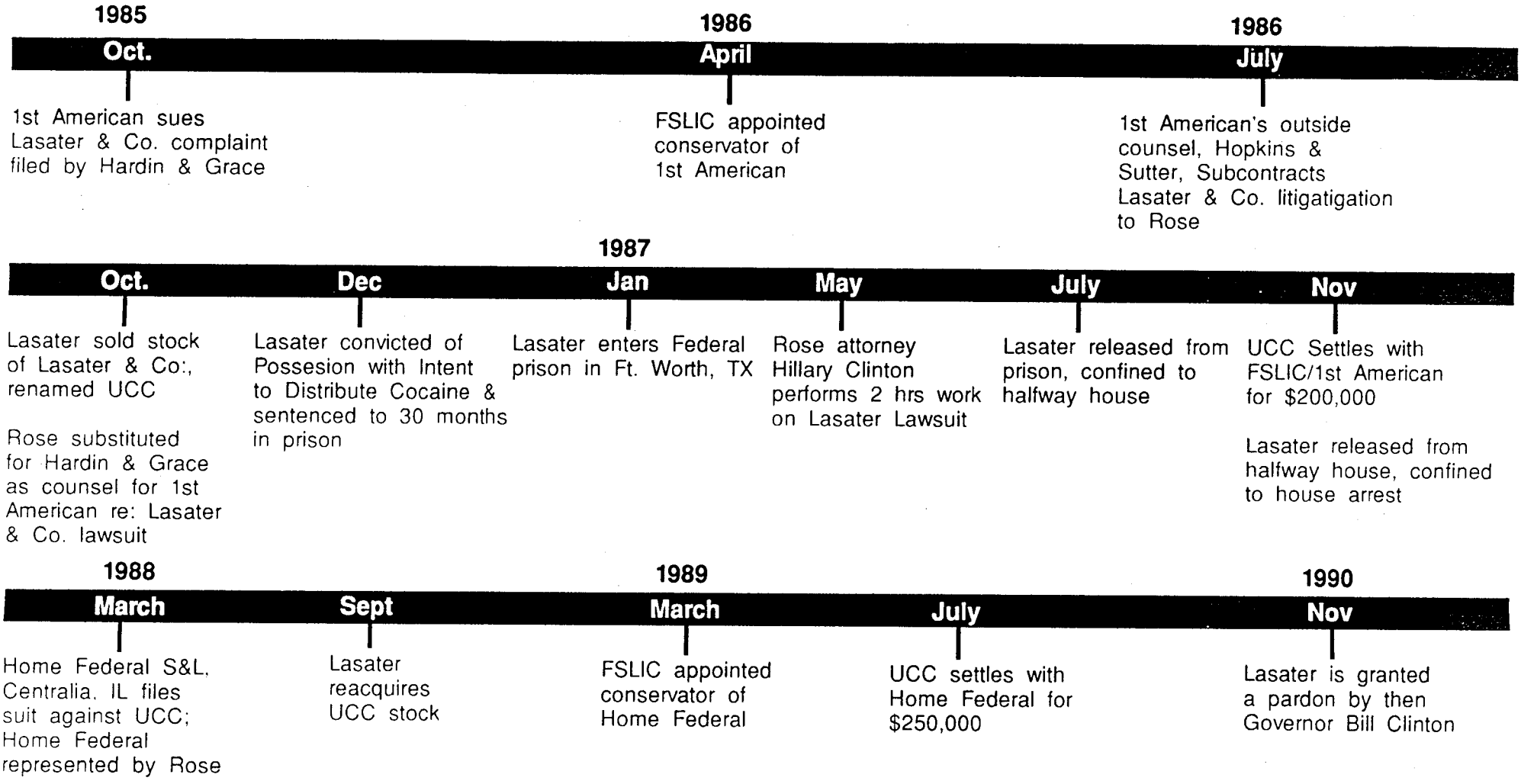
DATE	EVENT	REPORT REFERENCE
Aug. 1981	Seth Ward files Articles of Incorporation for Deta Corporation. Webster Hubbell signs as incorporator using Rose Law firm address	p.34
Jan. 1982	James McDougal purchases majority interest in Madison	p.15
Feb. 1982	MFC incorporated as wholly owned subsidiary of Madison	p.15
Jan. 1984	FHLBB examination finds questionable investment and lending practices at Madison	p.15
Mar. 1984	Worthen enters into participation with Bohemian SLA. Rose represents Worthen	p.68
Jul. 1984	FHLBB executes Supervisory Agreement with Madison	p.15
Aug. 1984	Name of Deta Corporation changed to POM, Incorporated. Seth Ward signs as President and Webster Hubbell signs as Secretary	p.34
Nov. 1984	Knox Savings and Loan Association fails; FSLIC inherits lawsuit	p.69
Mar. 1985	Frost issues unqualified opinion regarding Madison 1984 financial statements (concludes that Madison is solvent)	p.15
Apr. 1985	Rose retained to represent Madison before Arkansas Securities Commissioner re: preferred stock and broker/dealer subsidiary	p.37
May 1985	Arkansas Securities Commissioner issues opinion - thrifts are permitted to issue stock to raise capital	p.37
Oct. 1985	First American sues Lasater & Co. - complaint filed by Hardin & Grace	p.47
Nov. 1985	Universal Savings Association sues FIS; Rose represents FIS	p.27
Dec. 1985	Guaranty Savings and Loan Association fails; FSLIC appointed Conservator	p.68
Dec. 1985	FSLIC contracts with the Rose Law Firm to provide counsel for Guaranty Savings and Loan Association Conservatorship	p.68
Jan. 1986	Bohemian Savings and Loan Association fails and FSLIC appointed Conservator	p.68
Feb. 1986	Frost issues unqualified opinion regarding Madison 1985 financial statements	p.15

Mar. 1986	FHLBB examination discloses unsafe/unsound practices, and insider abuse by McDougal	p.15
Apr. 1986	FSLIC appointed conservator of First American	p.46
Jul. 1986	First American's outside counsel, Hopkins & Sutter, subcontracts Lasater & Co. litigation to Rose	p.47
Aug. 1986	Cease and Desist Order signed: imposes severe operating restrictions; requires Madison to obtain new audit for 1985	p.16
Sept. 1986	At Supervisory Agent's request, Madison retains Borod & Huggins to investigate internal abuses	p.15
Oct. 1986	Lasater sold stock of Lasater & Company; renamed UCC	p.46
Dec. 1986	Lasater convicted of Possession with Intent to Distribute Cocaine & sentenced to 30 months in prison	p.46
Feb. 1987	FHLBB places Universal Savings Association, F.A., into Receivership	p.27
May 1987	Rose attorney Hillary Clinton performs two hours of work on Lasater lawsuit	p.49
Jul. 1987	FDIC hires Rose Law Firm for legal services related to the failure of Corning Bank	p.18
Aug. 1987	FHLBB examination concludes that Madison has been insolvent since December 1985	p.16
Sept. 1987	Seth Ward files suit against Madison and Madison Financial Corporation, claiming Madison failed to pay him commissions for land he sold	p.30
Nov. 1987	UCC settles with FSLIC/First American for $200,000	p.48
Dec. 1987	Mr. Hubbell signs FDIC Legal Services Agreement on behalf of Rose Law Firm to provide legal services for the failure of Corning Bank	p.10
Dec. 1987	FDIC Guide for Legal Representation sent to Mr. Hubbell at the Rose Law Firm	p.10
Dec. 1987	Worthen files claim against Rose Law Firm concerning Bohemian representation	p.69
Jan. 1988	Rose settles FirstSouth allegation with FSLIC	p.68
Feb. 1988	Madison files suit against Frost for defective audits; retains Gerrish and McCreary. Lawsuit seeks $10 million in damages	p.16
Mar. 1988	Borod & Huggins separates into three new law firms, one of which is Gerrish & McCreary. The Frost lawsuit is transferred to the Gerrish & McCreary law firm	p.16

Mar. 1988	Home Federal Savings and Loan Association files a lawsuit against United Capital Corporation. Home Federal is represented by the Rose Law Firm	p.64
Mar. 1988	Home Federal is placed in conservatorship with the FDIC as conservator	p.64
Aug. 1988	Rose Law Firm establishes a Conflicts Committee. Original members include Webster Hubbell and two other partners	p.14
Sept. 1988	Seth Ward obtains judgement against Madison for $353,000 in commissions owed by Madison. Ward represented by Wright, Lindsey & Jennings. Madison appeals the decision	p.30
Sept. 1988	Dan Lasater reacquires UCC's stock	p.47
Dec. 1988	Seth Ward II, Mr. Hubbell's brother in law files a lawsuit against Madison and MFC alleged interest overcharges	p.33
Feb. 1989	FDIC entered agreement with FSLIC to act as agent for FSLIC in any conservatorship/receivership appointed for an insured Savings and Loan association after January 1, 1989	p.16
Feb. 1989	Vincent Foster, of Rose, sends letter to FDIC that generally solicits business in Arkansas	p.28
Feb. 1989	FSLIC appointed conservator of Madison	p.15
Feb. 1989	Paul Jeddeloh, FDIC, named Managing Attorney for the Madison Conservatorship.	p.17
Mar. 1989	April Breslaw, Professional Liability Section, FDIC Legal Division, designated as the responsible attorney for PLS matters related to Madison.	p.17
Mar. 1989	Wright, Lindsey & Jennings develops conflict regarding Ward v. Madison and withdraws as counsel. Thomas Ray becomes Ward's attorney	p.30
Mar. 1989	FDIC accepts appointment as FSLIC's Managing Agent for Madison	p.16
Mar. 1989	Gerrish discloses that his firm is representing three sets of D&Os in litigation against the FDIC; FDIC refuses to waive conflicts	p.18
Mar. 1989	Webster Hubbell and other members of Rose Firm retained to represent government in Frost malpractice case	p.22
Mar. 1989	Home Federal placed into FSLIC conservatorship	p.64
Mar. 1989	Settlement between Rose Law Firm and Worthen for $200,000 concerning Bohemian representation	p.69
Jun. 1989	Letter from Paul Jeddeloh to April Breslaw expressing concern about Hubbell-Ward relationship	p.23
Jun. 1989	Letter from Breslaw to David Paulson responding to Jeddeloh's letter of 6-8-89; Breslaw refuses to replace Rose	p.25

Jun. 1989	Letter from Hubbell to Paulson stating Hubbell had not represented Ward in dispute with Madison, and had no intention of doing so in the future	p.25
Jul. 1989	Precision Industries Inc., retains Rose Law Firm for representation in a labor dispute at it's Malvern plant	p.40
Aug. 1989	RTC created by FIRREA	p.16
Aug. 1989	Letter from Ken Schneck to John O'Donnell asking him to look into possible conflict of interest concerning Hubbell-Ward relationship	p.26
Sept. 1989	Settlement of Home Federal lawsuit for $250,000	p.68
Oct. 1989	Webster Hubbell signs a new Legal Services Agreement on behalf of Rose Law Firm with the FDIC	p.22
Oct. 1989	Rose Law Firm hires Patricia J. Heritage, a former Madison employee	p.43
May 1990	POM files suit against Duncan Industries, Webb Hubbell and the Rose Law firm file the complaint and represent POM	p.34
May 1990	FDIC and RTC issue joint guidelines concerning conflicts of interest. A copy of the guidelines is sent to the Rose Law Firm	p.28
Oct. 1990	Webster Hubbell signs Madison Legal Service Agreement on behalf of Rose	p.22
Nov. 1990	Lasater is granted a pardon by then Governor Bill Clinton	p.48
Fall 1991	RTC Professional Liability Section created; FDIC lawyers responsible for RTC projects are transferred to RTC Legal Division	p.16
Feb. 1991	RTC approves $1,025,000 settlement of Frost lawsuit	p.17
Apr. 1991	Frost settlement documents executed	p.17
Apr. 1993	RTC settles Seth Ward claims	p.30
Oct. 1993	FDIC Legal Division begins a review of the retention of the Rose Law Firm by the FDIC	p.54
Feb. 1994	FDIC Legal Division releases its report on the retention of Rose	p.54
Jun. 1995	Webster Hubbell sentenced to 21 months in prison and ordered to make restitution of $135,000 to the Rose Law Firm	p.7

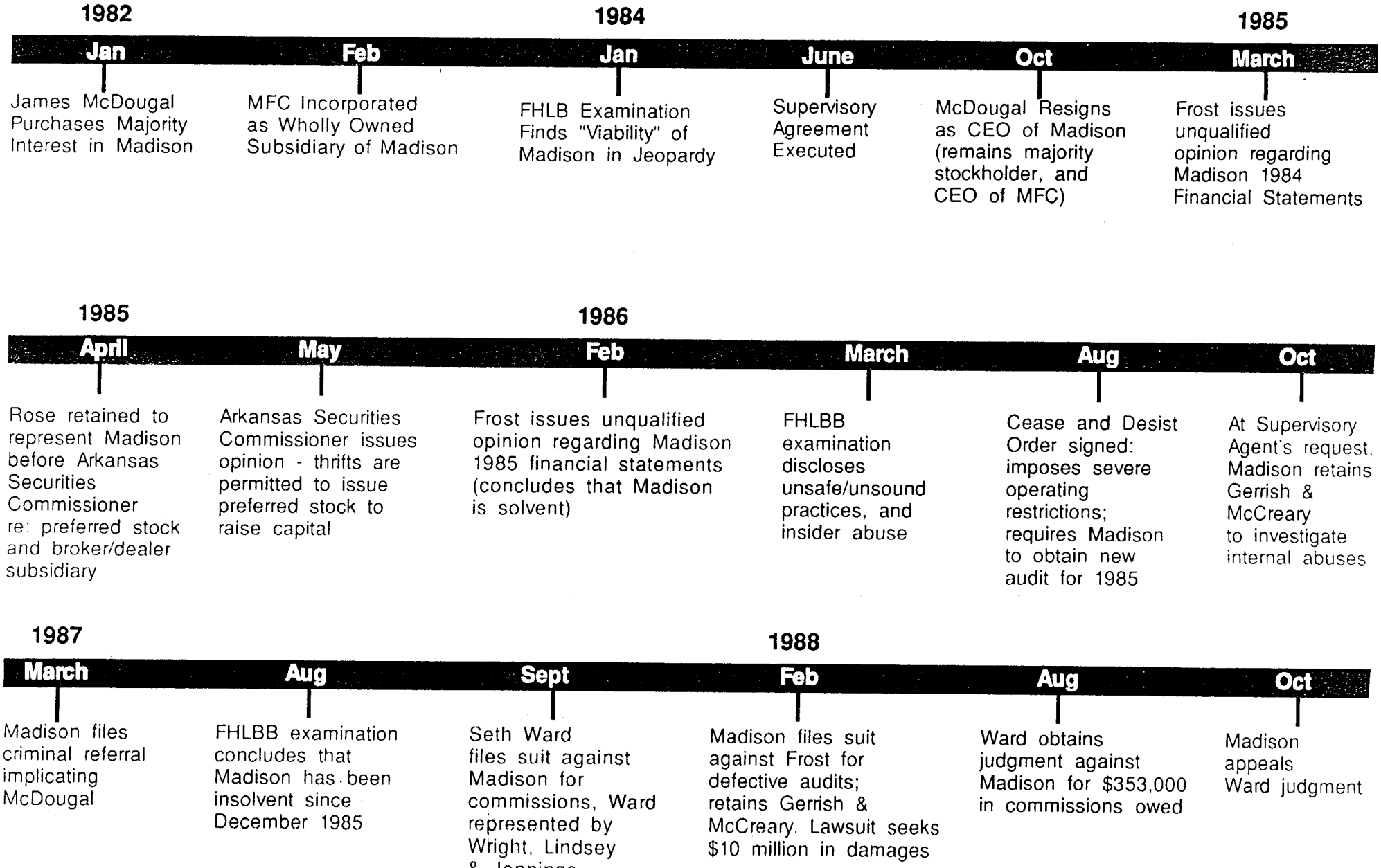
Conflict of Interest Chronology of Events
First American - Lasater



Legend

Madison	= Madison Guaranty Savings & Loan Association of McCrory, AR	Rose	= Rose Law Firm
MFC	= Madison Financial Corporation	UCC	= United Capital Corporation
Frost	= Frost & Company	FHLBB	= Federal Home Loan Bank Board
1st American	= First American Savings & Loan Association of Oak Brook, IL	FSLIC	= Federal Savings and Loan Insurance Corporation

Conflict of Interest Chronology of Events
Madison - Hubbell - Ward



Conflict of Interest Chronology of Events
Madison - Hubbell - Ward

1989

Feb

FDIC entered agreement with FSLIC to act as agent for FSLIC in any conservatorship/ receivership appointed for an insured Savings and Loan association after January 1, 1989

Vincent Foster of Rose, sends letter to FDIC which generally solicits business in Arkansas (no mention of Madison as either prior or prospective client)

FSLIC appointed conservator of Madison

March

Wright, Lindsey & Jennings develops conflict regarding Ward v. Madison and withdraws as counsel. Thomas Ray becomes Ward's attorney

FDIC accepts appointment as FSLIC's Managing Agent for Madison

Gerrish discloses that his firm is representing 3 sets of D&O's in litigation against the FDIC; FDIC refuses to waive conflicts

June

Webster Hubbell and other members of Rose firm retained to represent government in Frost malpractice case

FDIC substituted as party in Frost case, matter removed to Federal District court for Eastern District of AR

Letter from Paul Jeddeloh to April Breslaw expressing concern about Hubbell/Ward relationship

Letter from Breslaw to David Paulson responding to Jeddeloh's letter of 6-8-89, Breslaw refuses to replace Rose

Letter from Hubbell to Paulson stating Hubbell had not represented Ward in dispute with Madison, and had no intention of doing so in the future

Aug

RTC created by FIRREA

Letter from Ken Schneck to John O'Donnell asking him to look into possible conflict of interest re: Hubbell/Ward relationship

1990

Jan

Hubbell becomes involved in Ward's lawsuit against the Madison Conservatorship

1990

May

P.O.M., Inc. files suit against Duncan Industries for patent infringement; P.O.M. represented by Rose, primarily Hubbell

Oct

Madison Directors' and Officers' Liability investigation closed (not cost effective); Fidelity bond investigation closed (conditions precedent to recovery under bond cannot be met)

Nov

RTC appointed Receiver of Madison

Conflict of Interest Chronology of Events
Madison - Hubbell - Ward

Feb — RTC approves $1.025.000 settlement of Frost lawsuit

April — Frost settlement documents executed

Dec — Verdict rendered in favor of Duncan Industries at P.O.M. trial

April — Ward pays RTC, Madison lawsuit settled

Aug — RTC Investigations (Kansas) files 10 criminal referrals which pertain to Madison

BIOGRAPHIES OF WITNESSES

ALFORD, JIMMY D.
Former Partner, Frost & Company, P.A. (Frost), currently Vice President for Corporate Development, Pace Industries, Fayetteville, Arkansas. He was responsible for oversight of the two audits Frost completed for Madison Guaranty Savings and Loan Association (Madison).

BASSETT (SCHAFFER), BEVERLY
Former Commissioner, Arkansas Securities Department (ASD), currently an attorney in private practice. She was appointed Commissioner by then Governor Bill Clinton.

BENNETT, B. MICHAEL
Former Associate, Rose Law Firm (Rose). During Rose tenure, he worked on the First American Savings and Loan Association v. Lasater and Company and the Home Federal Savings and Loan Association v. United Capital Corporation lawsuits. He currently works for a Dallas, Texas, law firm.

BRESLAW, APRIL A.
Counsel, Professional Liability Section (PLS), Division of Legal Services, RTC, Washington, D.C. She was the PLS Attorney for the Madison Conservatorship.

BURT, ANTONY S.
Partner, Hopkins & Sutter, Chicago, Illinois. Hopkins & Sutter was hired by the FSLIC to handle legal matters for the First American Savings and Loan Association, Oak Brook, Illinois (First American), Conservatorship. He hired Rose to litigate the Lasater and Company lawsuit.

CASTLE, F. GUTHRIE, Jr.
Attorney, private practice. Formerly, an attorney with Gerrish & McCreary, the law firm that Madison hired to file suit against Frost.

CLINTON, HILLARY RODHAM
Former Partner, Rose Law Firm. She performed a limited amount of work on the First American v. Lasater and Company lawsuit. She also represented Madison before the ASD.

DENTON, HARRY DON
Former Madison executive who served as senior vice president and loan officer.

DONOVAN, RICHARD T.
Partner, Rose Law Firm. As an associate, he assisted Webster Hubbell with the Frost lawsuit.

DOWNING, JOHN T.
Senior Attorney, Legal Division, FDIC, Washington, D.C. Assisted in the Legal Division's review of the retention of Rose related to the Madison Conservatorship.

EISENSTEIN, DAVID G.
Senior Counsel, PLS, Division of Legal Services, RTC, Washington, D.C. He became Ms. Breslaw's first-line supervisor in October 1989.

GERRISH, JEFFREY C.
Partner, Gerrish & McCreary law firm. His firm was hired by Madison to file the Frost lawsuit.

GIROIR, C. JOSEPH
Former Partner, Rose Law Firm. He left the firm in 1988 when Rose settled a professional liability claim with the FSLIC.

GOSS, PATRICK J.
Partner, Wright, Lindsey & Jennings law firm. He represented Lasater and Company regarding the First American lawsuit.

GRACE, DAVID A.
Partner, Hardin & Grace law firm. He represented First American in the lawsuit against Lasater and Company before being replaced by Rose.

HANDLEY, CHARLES F.
Assistant Commission, ASD. He was at the ASD in 1985 when Rose represented Madison regarding a plan to recapitalize the institution by issuing preferred stock.

HERITAGE (HAYS), PATRICIA
Former Executive Assistant, Madison, and former Rose attorney. She reportedly falsified minutes of Madison Financial Corporation's board of director meetings. She is currently an attorney with the City of Little Rock, Arkansas.

HINDES, THOMAS L.
Assistant General Counsel, PLS, Division of Legal Services, RTC. He became Ms. Breslaw's supervisor in May 1992.

HUBBELL, WEBSTER L.
Former Partner, Rose Law Firm. He was the partner in charge of the Madison Conservatorship litigation against Frost. He is also the son-in-law of Seth Ward, a former Madison insider who had a lawsuit against Madison during the time Rose was litigating the Frost case.

JEDDELOH, PAUL A.
Senior Program Attorney, Office of the Executive Secretary, FDIC, Washington, D.C. Former Intervention Attorney for the Madison Conservatorship. He informed Ms. Breslaw in a June 1989 letter, that Rose had a possible conflict of interest due to the Hubbell/Ward relationship.

JENNINGS, ALSTON, Sr.
Attorney, Wright, Lindsey, & Jennings law firm. He represented Mr. Ward in his lawsuit against Madison in 1988.

JONES, DOUGLAS H.
Senior Deputy General Counsel, Legal Division, FDIC, Washington, D.C. He was the Acting General Counsel of the Legal Division when it conducted its review of the retention of Rose regarding the Madison Conservatorship.

JONES, JERRY C.
Partner, Rose Law Firm. Performed a limited amount of work on the First American v. Lasater and Company lawsuit.

KUMPE, PETER G.
Partner, Williams & Anderson law firm. He was the attorney who represented Frost regarding the Madison litigation.

LANTELME, JAMES T.
Assistant General Counsel, Legal Division, FDIC, Washington, D.C. He is a member of the Outside Counsel Conflicts Committee, and he assisted the Legal Division in its review of the retention of Rose regarding the Madison Conservatorship.

LASATER, DAN R.
Former President and owner of Lasater and Company. He was an acquaintance of the Clintons.

MASSEY, RICHARD N.
Partner, Rose Law Firm. He was the Rose associate who represented Madison before the ASD in 1985 regarding its attempt to raise capital by issuing preferred stock.

MOUDY, DAN
Former In-house Counsel, Lasater and Company/United Capital Corporation (UCC). He was Lasater and Company's in-house counsel during the First American litigation.

O'DONNELL, JOHN A.
Assistant Regional Manager, Division of Depositor and Asset Services, FDIC, Atlanta, Georgia. He was the S&L Project Coordinator for Arkansas when Madison was placed into conservatorship in 1989.

PAULSON, DAVID
Former Managing Agent for the Madison Conservatorship. He was the Managing Agent in June 1989 when Ms. Breslaw was informed of the Hubbell-Ward relationship.

RAY, THOMAS
Partner, Shults, Ray & Kurrus law firm, Little Rock, Arkansas. Represented Mr. Ward when Madison appealed his judgement in 1989.

ROBINSON, MICHAEL D.
Director, Tax Division, Frost & Company. He was a consultant to Madison in 1985 regarding Madison's recapitalization efforts. He also provided a letter that was submitted by Rose to the ASD regarding Madison's application to engage in broker/dealer activities.

SCHNECK, KENNETH K.
Supervisory Liquidation Specialist, Division of Depositor and Asset Services, FDIC, Chicago, Illinois. He was the Credit Specialist for the Madison Conservatorship in August 1989, and he informed Mr. O'Donnell about Rose's possible conflict of interest regarding the Hubbell-Ward relationship.

SCHULZ, THOMAS A.
Assistant General Counsel, Legal Division, FDIC, Washington, D.C. Assisted in the Legal Division's review of the retention of Rose by the Madison Conservatorship.

SELIGA, BENITA M.
Staff Attorney, Litigation Section, Division of Legal Services, RTC, Overland Park, Kansas. She became the Intervention Attorney for the Madison Conservatorship in December 1989.

SHEA, PAMELA A.
Regional Counsel, Legal Division, Chicago Regional Office, FDIC,
Chicago, Illinois. She was Mr. Jeddeloh's supervisor in 1989. She was informed by Mr. Jeddeloh in 1989 of a possible conflict of interest for Rose regarding the Hubbell-Ward relationship.

SHEMIN, KENNETH R.
Partner, Rose Law Firm. He was asked to assist Mr. Lasater in regaining control of UCC and selling the assets to a third party. He provided advice but ultimately decided not to formally represent Mr. Lasater.

SMITH, DAVID A.
Partner, Rose Law Firm. He performed work for the Madison Conservatorship regarding the Frost lawsuit.

SMITH, JACK D.
Deputy General Counsel, Legal Division, FDIC, Washington, D.C. Assisted in the Legal Division's review of the retention of Rose by the Madison Conservatorship.

SPEED, GARY N.
Partner, Rose Law Firm. As an Associate, he assisted Mr. Hubbell with the Frost lawsuit.

SORENSON, LEE
Former Liquidation Assistant, Division of Depositor and Asset Services, FDIC. He assisted Ms. Breslaw and Rose attorneys in the investigation of Frost. Specifically, he was involved in determining the amount of damages FDIC was alleging in the lawsuit.

STRAYHORN, SUE
Former Executive Secretary at Madison. She informed Mr. Jeddeloh of Rose's possible conflict of interest due to the Hubbell-Ward relationship.

THOMAS, JOHN V.
Associate General Counsel, PLS, Legal Division, FDIC, Washington, D.C. He was in charge of the PLS office when Ms. Breslaw hired Rose for the Madison Conservatorship. He remained Ms. Breslaw's supervisor until she was transferred to the RTC.

THOMASSON, PATSY L.
Former officer of Lasater, Inc. She is currently employed in the Administrative Office of the White House. She managed Mr. Lasater's business interests for him while he was in jail in 1987.

WARD, SETH
Father-in-law of Webster Hubbell. He was a consultant for Madison Financial Corporation in 1985 and 1986. He helped negotiate the purchase of property from the Industrial Development Company for MFC. His lawsuit against Madison was on appeal when Madison was placed into conservatorship. He obtained several loans from Madison, some of which were charged off for nonpayment. These loans were included in some of the damage calculations related to the Frost lawsuit.

WARD, SETH, II
Brother-in-law of Webster Hubbell. He was a co-owner of P.O.M., Inc., with his father and Mr. Hubbell. He sued Madison in 1988, and the lawsuit was pending when Madison was placed into conservatorship.

WHITE HOUSE LITIGATION - CITE-CHECKS

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CIA + SENATE HEARINGS

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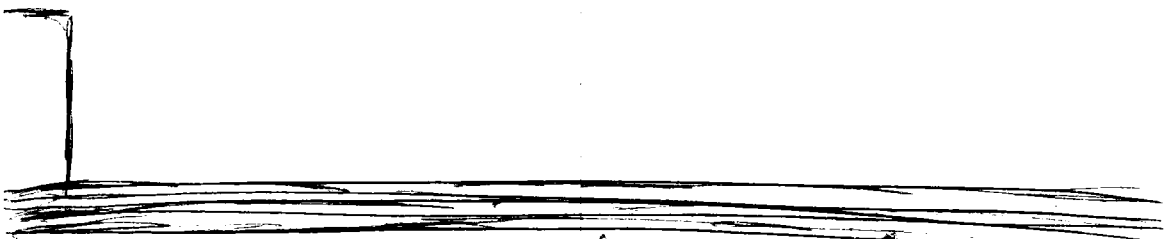
Gubbing

① no 302's on Foster docs

② green light letter – interviews next couple of days

③ WH document request



Ⓐ precedent – Fisher – closed investigation

Ⓑ 302's – not PT
not BN

want Secret Service

✱ docs protocol

✱ no 302's

✱

MEMORANDUM

TO: ALL OIC-DC Attorneys
ALL FBI-DC

FROM: Brett Kavanaugh

RE: Congressional Requests for Documents

DATE: May 31, 1995

As you likely know, Congress has requested documents from various agencies on the Foster office issue. Steve Kubiatowski will be our point of contact with the agencies as they seek guidance from us in responding to the requests. So that we speak with one voice to the agencies, we should ensure that Steve is involved in all substantive discussions with an agency about the congressional document requests.

MEMORANDUM

TO: Judge Starr
Mark Tuohey

FROM: Brett Kavanaugh

RE: Letter to Senators D'Amato and Sarbanes

DATE: April 18, 1995

Bob Giuffra has requested that Ken send a letter to Senators D'Amato and Sarbanes confirming that the Senate Banking Committee's plans to investigate the Foster documents issue would not hinder or impede our investigation. He wants this letter so that he can assure various agencies that they are free to respond to document requests by the Senate.

We can handle Giuffra's request in a few different ways. First, we could send a letter to the Senators stating that the Senate Banking Committee's plan to investigate the handling of documents in the office of former Deputy Counsel Vincent W. Foster, Jr., after his death on July 20, 1993, would not hinder or impede our continuing criminal investigation into that matter. We could also send a more narrow letter stating that the Senate Banking Committee's plans to request and obtain documents relevant to the handling of documents in the office of former Deputy Counsel Vincent W. Foster, Jr., after his death on July 20, 1993, would not hinder or impede our continuing criminal investigation into that matter. If we choose this option, we presumably would send future letters regarding depositions and hearings. Third, we could tell Giuffra that we do not wish to send a letter, but that he can tell the agencies to contact us if they have any questions about complying with Congress' request for documents.

No matter which option we choose, we should make clear to Giuffra that we would like advance notice of all document and interview requests.

I suggest we talk about this issue in the next day or two.

MEMORANDUM

TO: OIC Attorneys
Professor Dash

FROM: Brett Kavanaugh

RE: 302's to Congress

DATE: April 24, 1995

Bob Giuffra, Chief Counsel to the Senate Banking Committee, just called me and asked, "So when are we getting your 302's from the Foster documents investigation?" I said we would get back to him.

Giuffra's informal "request" suggests that we formulate our 302 policy in the near future. As noted in an earlier memo on this general subject (which I have attached), we obviously should give the Committee the 302's that we must disclose under FOIA -- the number of which could vary depending on our interpretation of FOIA Exemption 7(D). As to the 302's beyond the category that we must disclose under FOIA, we need to determine our position.

I have learned from various mid-level persons at DOJ and FBI that these situations usually involve negotiation with Congress, with no bright-line rules as to how to proceed. (Ken and Mark plan to meet soon with JoAnn Harris to obtain her views.) The persons to whom I have talked have stated, however, that Congress is sensitive -- "surprisingly sensitive," as they phrased it -- to the negative effect on law enforcement caused when DOJ or the FBI is required to release or disclose 302's.

No matter our substantive position on release of 302's, we should keep one procedural point in mind with respect to the 302's that we do give the Committee. We may want to negotiate a procedure whereby the Committee agrees: (a) that it will allow only certain specified Senators and staff persons to have access to 302's; and (b) that it will not publicly disseminate or disclose 302's, which includes not quoting them in public hearings or in depositions. The persons to whom I talked at DOJ and FBI said that Congress often is amenable to that kind of arrangement.

MEMORANDUM

TO: OIC-DC Attorneys
Professor Dash

CC: Bill Duffey

FROM: Brett Kavanaugh

DATE: March 28, 1995

RE: 302's -- FOIA and Congress

In recent weeks, witnesses in several investigations in Washington have expressed their concern that their 302's will be available to the public under FOIA or, if not, will be given to Congress by this Office. Our policy on these issues will affect (and has already affected) the willingness of witnesses to be fully forthcoming. (One witness all but said as much.) In any event, we need to have a consistent and coherent policy on 302's. For purposes of discussion at our Friday team meeting, this memorandum will simply outline the basic issues; a lengthier analysis and perhaps a full team discussion will be necessary in the near future.

1. FOIA Exemption 7(D) exempts from disclosure records that "could reasonably be expected to disclose the identity of a confidential source" or "information furnished by a confidential source." The Supreme Court interpreted that provision in Department of Justice v. Landano, 113 S. Ct. 2014 (1993) (9-0). Quoting the legislative history, the Court stated that Exemption 7(D) applies if a witness "provided information under an express assurance of confidentiality or in circumstances from which such an assurance could reasonably be inferred." Id. at 2019. The Court then considered the circumstances under which an assurance of confidentiality could reasonably be inferred. First, the Court stated that an assurance of confidentiality could be inferred even in situations where the witness or the government anticipated or could have anticipated that Brady and applicable procedural rules such as the Jencks Act might ultimately require disclosure of the information. Id. at 2020. The Court reasoned that "an exemption so limited that it covered only sources who reasonably could expect total anonymity would be, as a practical matter, no exemption at all." Id. The Court stated, therefore, that a confidential source is one who "furnished information with the understanding that the FBI would not divulge the communication except to the extent the Bureau thought necessary for law enforcement purposes." Id.

The Court then considered the Government's argument that an assurance of confidentiality is inherently implicit whenever a source provides information to the FBI in a criminal

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 6

investigation -- an interpretation that would render virtually all 302's automatically exempt from FOIA disclosure. The Court did not go as far as the Government wished; the Court stated: "[W]e have determined that it is unreasonable to infer that all FBI criminal investigative sources are confidential, [but] we expect that the Government can often point to more narrowly defined circumstances that will support the inference. . . . We agree that the character of the crime at issue may be relevant to determining whether a source cooperated with the FBI with an implied assurance of confidentiality. So too may the source's relation to the crime." Id. at 2023. The Court did not spell out this standard in much greater detail, however.

Exemption 7(D) clearly applies when we provide an express assurance of confidentiality to witnesses. (Perhaps we should provide such an assurance as a matter of course in this investigation, albeit with a caveat about the potentially necessary use of a 302 at a subsequent judicial or congressional proceeding.) Absent an express assurance of confidentiality, we still have strong arguments, given the nature and magnitude of this investigation, that many of our witnesses have "furnished information with the understanding that the FBI would not divulge the communication except to the extent the Bureau thought necessary for law enforcement purposes." Id. at 2020. We have especially strong arguments with respect to information provided by persons "on the inside" who may face reprisals of one form or another if their information becomes public. See Landano, 113 S. Ct. at 2023 (listing such examples).[1]

2. Upon request, we should give Congress the 302's from closed investigations that must be disclosed under FOIA. What about 302's (or portions thereof) from closed investigations that need not be disclosed under FOIA? That is an extremely delicate issue, one of great importance to many witnesses. (In that regard, I note that numerous witnesses have expressed extreme displeasure at the fact that their 302's on the Foster death are now publicly available at the Archives and have become the subject of press articles.)

While we will have to consider many issues in resolving this important question (for example, standard DOJ practice, executive privilege, etc.), my initial suggestion is that we treat 302's that are not subject to disclosure under FOIA as sacred unless Congress decides to investigate our investigation under 28 U.S.C. §595(a)(1) (in which case we have no real choice

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[1] In addition to Exemption 7(D), Exemption 7(C) of FOIA also will apply to names and other identifying information contained in 302's. Exemption 7(C) covers records the release of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy," a standard that requires the balancing of privacy concerns against the public interest in disclosure. In Safecard Services v. SEC, 926 F.2d 1197 (D.C. Cir. 1991), the court held that the identities of individuals who appear in law enforcement files need not be disclosed unless "there is compelling evidence that the agency . . . is engaged in illegal activity" because disclosure of the information would virtually never be "very probative of an agency's behavior or performance." Under that standard, even with respect to 302's where Exemption 7(D) does not apply, certain identifying information such as names of witnesses and the like can be redacted from 302's.

but to turn over the 302's), as opposed to investigating the underlying facts. I fear that a policy of producing 302's that would not otherwise be disclosed under FOIA will hinder and impede our continuing investigation and cause harm to future investigations: Witnesses no doubt will be quite wary of providing information when they know that the information might someday be disseminated to Congress and the public.

In short, Congress has every right to investigate the same subjects we are investigating, but it is not clear to me that Congress has any right to piggy-back on our investigation by using our reports of interviews that have been conducted in circumstances where the witnesses reasonably expected confidentiality.

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STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

May 26, 1995

By Facsimile

Louis J. Freeh
Director, Federal Bureau of Investigation
Ninth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Mr. Freeh:

On May 17, 1995, the Senate passed Senate Resolution 120, a copy of which is enclosed, establishing a Special Committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters. As part of this investigation, and in order to prepare for public hearings, we request that the Federal Bureau of Investigation ("FBI") produce certain records to the Special Committee.

The FBI may have custody, control, or possession of records, including records of present and former FBI personnel, that relate to matters specified in the resolution and listed below. We hereby request that you provide all records, regardless of format, including, but not limited to, e-mail, electronic "dump files," memoranda, correspondence, notes, and records in any other medium, including drafts of any of the foregoing, that relate in any manner to the following: (1) investigative activities of the United States Park Police and the Federal Bureau of Investigation relating to the death of Vincent Foster and occurring at the White House or involving any White House official or officials; or (2) the handling of any and all documents that were in the office of Vincent Foster at the time of, or following, his death on July 20, 1993.

To the extent that FBI officials have gathered records from individuals and locations throughout the agency, please indicate where and from whom each of those records was obtained. It would also be helpful if you provide a list of the records that you are submitting so that the Committee and your office have a common list of the records supplied by the FBI. If any records are withheld based on the assertion of any privilege, please provide a log identifying the date, author, any and all recipients, and subject matter of any such records, and the basis for the privilege asserted.

The records should be delivered to Joseph Kolinski, Chief Clerk, 534 Dirksen Senate Office Building. You may submit copies in response to this request, but the Committee reserves the right to obtain the original records. As you know, the Committee is seeking to complete its work as expeditiously as possible. Therefore, it is necessary that the Committee receive these documents no later than June 5, 1995, and prior to that date, if possible.

If you have any questions concerning this request, please contact Michael Davidson, Senate Legal Counsel, at 224-4435. This request is an initial request and may be supplemented by additional ones. We recognize that you may wish to designate a FBI official who will be responsible for responding to this request. We have consulted with Independent Counsel Kenneth W. Starr with regard to this document request, and, as indicated in the attached letter, dated April 22, 1995, the Office of Independent Counsel's investigation would not be "impeded" by the Committee's request for records regarding "the way in which White House officials handled documents in the office of Vincent Foster at the time of his death."

Your cooperation in this matter is greatly appreciated.

Sincerely,

Paul S. Sarbanes
Ranking Member

Alfonse M. D'Amato
Chairman

Enclosure

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

May 26, 1995

By Facsimile

The Honorable Janet Reno
Attorney General of the United States
Department of Justice
Washington, D.C. 20530

Dear Madam Attorney General:

On May 17, 1995, the Senate passed Senate Resolution 120, a copy of which is enclosed, establishing a Special Committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters. As part of this investigation, and in order to prepare for public hearings, we request that the Department of Justice ("DOJ") produce certain records to the Special Committee.

The DOJ may have custody, control, or possession of records, including records of present and former DOJ personnel, that relate to matters specified in the resolution and listed below.

We hereby request that you provide all records, regardless of format, including, but not limited to, e-mail, electronic "dump files," memoranda, correspondence, notes, and records in any other medium, including drafts of any of the foregoing, that relate in any manner to the following: (1) investigative activities of the United States Park Police and the Federal Bureau of Investigation relating to the death of Vincent Foster and occurring at the White House or involving any White House official or officials; or (2) the handling of any and all documents that were in the office of Vincent Foster at the time of, or following, his death on July 20, 1993.

Your response should include, but not be limited to, all records of telephone conversations or wire communications, including, but not limited to, phone logs, copies of message pads, and electronic or written records, relating to communications that took place, between 5 p.m. on July 20, 1993 and 5 p.m. July 22, 1993, between:

(i) Philip B. Heymann, Webster Hubbell, or David Margolis of DOJ, or any member of their respective staffs and

(ii) any individual at the White House.

To the extent that the DOJ has gathered records from individuals and locations throughout the Department, please indicate where and from whom each of those records was obtained. It also would be helpful if you provide a list of the records that you are submitting so that the Committee and the DOJ have a common list of the records being supplied. If any records are withheld based on the assertion of any privilege, please provide a log identifying the date, author, any and all recipients, and subject matter of any such records, and the basis for the privilege asserted.

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Your cooperation in this matter is greatly appreciated.

Sincerely,

Paul S. Sarbanes
Ranking Member

Alfonse M. D'Amato
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LAUCH FAIRCLOTH, NORTH CAROLINA
[illegible] BENNETT, UTAH
[illegible], MINNESOTA
[illegible], TENNESSEE
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
CAROL MOSELEY BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

HOWARD A. MENELL, STAFF DIRECTOR
ROBERT J. GIUFFRA JR., CHIEF COUNSEL
PHILIP L. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

May 26, 1995

By Facsimile

Robert Langston
Chief, United States Park Police
National Capital Region Headquarters
1100 Ohio Drive, S.W.
Washington, D.C. 20242

Dear Chief Langston:

On May 17, 1995, the Senate passed Senate Resolution 120, a copy of which is enclosed, establishing a Special Committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters. As part of this investigation, and in order to prepare for public hearings, we request that the Park Police produce certain records to the Special Committee.

The Park Police may have custody, control, or possession of records, including records of present and former Park Police personnel, that relate to matters specified in the resolution and listed below. We hereby request that you provide all records, regardless of format, including, but not limited to, e-mail, electronic "dump files," memoranda, correspondence, notes, and records in any other medium, including drafts of any of the foregoing, that relate in any manner to the following: (1) investigative activities of the United States Park Police or the Federal Bureau of Investigation relating to the death of Vincent Foster and occurring at the White House or involving any White House official or officials; or (2) the handling of any and all documents that were in the office of Vincent Foster at the time of, or following, his death on July 20, 1993.

To the extent that Park Police personnel have gathered records from individuals and locations throughout the your agency, please indicate where and from whom each of those records was obtained. It would also be helpful if you provided a list of records that you are submitting so that the Committee and the Park Police have a common list of the records being supplied. If any records are withheld based on the assertion of any privilege, please provide a log identifying the date, author, any and all

recipients, and subject matter of any such records, and the basis for the privilege asserted.

The records should be delivered to Joseph Kolinski, Chief Clerk, 534 Dirksen Senate Office Building. You may submit copies in response to this request, but the Committee reserves the right to obtain the original records. As you know, the Committee is seeking to complete its work as expeditiously as possible. Therefore, it is necessary that the Committee receive these documents no later than June 5, 1995, and prior to that date, if possible.

If you have any questions concerning this request, please contact Michael Davidson, Senate Legal Counsel, at 224-4435. This request is an initial request and may be supplemented by additional ones. We recognize that you may wish to designate a Park Police official who will be responsible for responding to this request. We have consulted with Independent Counsel Kenneth W. Starr with regard to this document request, and, as indicated in the attached letter, dated April 22, 1995, the Office of Independent Counsel's investigation would not be "impeded" by the Committee's request for records regarding "the way in which White House officials handled documents in the office of Vincent Foster at the time of his death."

Your cooperation in this matter is greatly appreciated.

Sincerely,

Paul S. Sarbanes
Ranking Member

Alfonse M. D'Amato
Chairman

Enclosure

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
PHIL GRAMM, TEXAS
RICHARD C. SHELBY, ALABAMA
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
[illegible] FAIRCLOTH, NORTH CAROLINA
[illegible] BENNETT, UTAH
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HOWARD A. MENELL, STAFF DIRECTOR
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PHILIP E. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

May 26, 1995

By Facsimile

Eljay B. Bowron
Director, United States Secret Service
Department of Treasury
1800 G Street, N.W.
Washington, D.C. 20223

Dear Mr. Bowron:

On May 17, 1995, the Senate passed Senate Resolution 120, a copy of which is enclosed, establishing a Special Committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters. As part of this investigation, and in order to prepare for public hearings, we request that the Secret Service produce certain records to the Special Committee.

The Secret Service may have custody, control, or possession of records, including records of present and former Secret Service personnel, that relate to matters specified in the resolution and listed below. We hereby request that you provide all records, regardless of format, including, but not limited to, e-mail, electronic "dump files," memoranda, correspondence, notes, and records in any other medium, including drafts of any of the foregoing, that relate in any manner to the following: (1) investigative activities of the United States Park Police and the Federal Bureau of Investigation relating to the death of Vincent Foster and occurring at the White House or involving any White House official or officials; or (2) the handling of any and all documents that were in the office of Vincent Foster at the time of, or following, his death on July 20, 1993.

To the extent that Secret Service personnel have gathered records from individuals and locations throughout the agency, please indicate where and from whom each of those records was obtained. It would also be helpful if you provide a list of the records that you are submitting so that the Committee and the Secret Service have a common list of the records being supplied. If any records are withheld based on the assertion of any privilege, please provide a log identifying the date, author, any and all

recipients, and subject matter of any such records, and the basis for the privilege asserted.

The records should be delivered to Joseph Kolinski, Chief Clerk, 534 Dirksen Senate Office Building. You may submit copies in response to this request, but the Committee reserves the right to obtain the original records. As you know, the Committee is seeking to complete its work as expeditiously as possible. Therefore, it is necessary that the Committee receive these documents no later than June 5, 1995, and prior to that date, if possible.

If you have any questions concerning this request, please contact Michael Davidson, Senate Legal Counsel, at 224-4435. This request is an initial request and may be supplemented by additional ones. We recognize that you may wish to designate a Secret Service official who will be responsible for responding to this request. We have consulted with Independent Counsel Kenneth W. Starr with regard to this document request, and, as indicated in the attached letter, dated April 22, 1995, the Office of Independent Counsel's investigation would not be "impeded" by the Committee's request for records regarding "the way in which White House officials handled documents in the office of Vincent Foster at the time of his death."

Your cooperation in this matter is greatly appreciated.

Sincerely,

Paul S. Sarbanes
Ranking Member

Alfonse M. D'Amato
Chairman

Enclosure

2 June 1995

NOTE

To: Steve Kubiatowski

From: Monica Burke MLF

cc: Tim Elliott

Subject: Senate Banking Committee's request of 5/26/95 for documents re: V. Foster investigation

Per our telephone conversation last night, I am faxing you an index of those documents in the Department of the Interior's possession that we feel are responsive to the Banking Committee's request. Please note that we will not provide the Committee with documents in our possession that were generated by other agencies (particularly the Secret Service, the Department of Justice, and the Federal Bureau of Investigation). We continue to work with those agencies to make sure each agency releases its own documents as it deems appropriate.

I hope the attached information will permit you to determine which if any documents are particularly sensitive. Please advise me of the results of your review after it is concluded. I can be reached at 208-4471 or faxed at 219-1790. Thanks.

U.S. Park Police Documents
Responsive to Senate Banking Committee Request of 5/26/95

Document numbers marked with an asterisk indicate third party records that will not be released by DOI.

Doc. No.	Description
14-15	Supplemental Criminal Incident Record (SCIR) summarizing investigation and concluding death was a suicide. Dated 8/5/93.
29	SCIR summarizing interview with Bernard Nussbaum. Dated 7/21/93.
30-31	SCIR summarizing interview with Betsy Pond, Staff Assistant to Bernard Nussbaum. Interview took place 8/22/93.
32-33	SCIR summarizing interview with Deborah Gorham, Executive Assistant to Vince Foster.
34	SCIR summarizing interviews with Tom Castleton and Linda Tripp. Interviews conducted 7/22/93.
36-37	SCIR describing review of Documents from Vince Foster's office. Review took place 7/22/93.
41-42	SCIR summarizing interview with Berl Anthony, Vince Foster's brother-in-law. Dated 7/29/93.
43	SCIR describing meeting with B. Nussbaum re: search of Foster office and discovery of note. Dated 8/2/93.
44	SCIR summarizing interview with Jim Hamilton, Foster family attorney. Dated 8/1/93.
45-46	SCIR summarizing interview with Steven Neuwirth, Assistant White House Counsel. B. Nussbaum was present and answered questions. Interview conducted 7/29/93.
50	SCIR describing examination of Foster telephone log. Examination conducted 7/30/93.
52-53	SCIR summarizing phone log for 7/20/93. Callers: Buck, Lyons, Rather.
60	Mobile Crime Lab Report Supplement (MCLRS) describing handling of evidence including clothing and note. Dated 7/29/93.
63	MCLRS describing treatment of original and copies of note. Dated 7/30/93.
64-66	Laboratory Examination Results summary re: handwriting identification. Dated 7/29/93.
67	MCLRS describing treatment of note. Events took place 8/1/93.
68	Copy of handwritten note.
69-70*	FBI memo re: examination of 27 pieces of paper (note). Dated 8/2/93.
71*	FBI results on examination of 28 pieces of paper (note). Dated 8/2/93.
84*	USSS report on Office alarm system. Dated 7/21/93.
85*	USSS map of West Wing Second Floor. Dated 1/25/93.

86*	USSS log of persons entering Mr. Foster's office. Dated 7/21/93.
87	Phone log. Dated 7/20/93.
Same 88	Mr. Foster's desk calendar for July 1993.
89	Mr. Foster's desk calendar for July 1993.
106-107	USPP Evidence/Property Control Receipt on note. Dated 7/27/93.
110	Note containing Nussbaum phone number. Undated.
111	Watkins business card
117	USPP officer's handwritten notes re: investigation. Includes references to Nussbaum, Pond and Gorham interviews, other White House staff, checking account status, Castleton, Tripp, Gorham, phone calls, meeting at 3000 K St., phone log, interviews with family members, White House security. Dated 7/20-29/93.
371*	Memo from P. Heymann to J. Keeney and M. Shaheen (all DOJ) re: further investigation. Dated 8/3/93.
372*	DOJ undated reproduction of Foster note.
380	Note re: letter from "EJ". Dated 7/30/93.
392-400	GAO fax summarizing interview with Capt. Hume re: V. Foster and White House travel office. Interview took place 8/30/93.
413	Phone message notes. Dated 7/21-29/93.
416	Note regarding handling of note. Dated 8/1/93.
419	Original SCIR describing meeting with Nussbaum and others regarding search of Foster office and discovery of note. Report was retyped; retyped SCIR is document no. 43. Meeting took place 7/27/93.
420-21	Handwritten copy of note. Dated 7/28/93.
430	Letter from Lankler, DOJ, to Langston, USPP, requesting copies of documents. Dated 3/16/94.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 6, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
Committee on Banking, Housing and
Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman D'Amato and Senator Sarbanes:

Thank you for continuing to apprise this Office of the investigative efforts by the Senate Committee on Banking, Housing, and Urban Affairs. At this point, our investigation would not be impeded by the Committee's plan to interview and/or depose witnesses concerning the following issues: (1) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death; (2) the handling of criminal referrals relating to Madison Guaranty Savings & Loan Association or Whitewater Development Corporation by Resolution Trust Corporation ("RTC") employees in both the Kansas City and Washington, D.C. RTC offices; and (3) the administrative leave and/or suspension of certain RTC employees in the Kansas City RTC office.

In order to ensure the completeness, integrity and confidentiality of our ongoing investigation, we would respectfully request: (1) that copies of transcripts of interviews and depositions be forwarded to this Office as soon as possible; (2) that the Committee refrain from asking questions about what witnesses have been asked by or told to this Office or the grand jury; and (3) that the Committee refrain from asking witnesses whether, how often, or in what fora they have been asked questions by this Office, or whether and what documents they have produced to this Office.

As always, thank you for your kind consideration of this request. Please do not hesitate to contact me with respect to this or any other matter.

Very truly yours,

Kenneth W. Starr
Independent Counsel

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
PHIL GRAMM, TEXAS
RICHARD C. SHELBY, ALABAMA
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
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HOWARD A. MENELL, STAFF DIRECTOR
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STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 13, 1995

By Facsimile and Mail

Stephen A. Kubiatowski, Esq.
Office of the Independent Counsel
Assistant Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Steve:

The Special Committee has now put in place security procedures to protect the confidentiality of documents. A copy of those security procedures is attached.

Very truly yours,

Lance Cole
Democratic Deputy Special Counsel

Robert J. Giuffra, Jr.
Chief Counsel

Attachment

UNITED STATES SENATE

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

SECURITY PROCEDURES

1. **Categories of documents**

Highly Confidential Documents (i.e., national security documents or other documents produced to the Special Committee for which a compelling need exists for restricted access, e.g., their disclosure would impede the Independent Counsel's investigation).

Confidential Documents (i.e., all other documents produced to the Special Committee pursuant to document requests or subpoenas, and all transcripts of depositions and interviews conducted by the Special Committee's staff).

2. **Access to documents**

A. **Original production sets:**

The Chief Clerk will maintain the original production sets of all documents produced to the Special Committee, including both Highly Confidential and Confidential Documents, in a safe that will be used only for that purpose and that can be opened only by the Chief Clerk.

B. **Highly Confidential Documents:**

The Chief Clerk will initially make only four copy sets of Highly Confidential Documents. Two copy sets will be maintained in a specially-designated secure document room for the Majority Special Committee staff and two copy sets will be maintained in a specially-designated secure document room for the Minority Special Committee staff. The secure document rooms for Highly Confidential Documents will be subject to the following security protocols:

i. The four copy sets of Highly Confidential Documents will be copied by the Chief Clerk onto special paper bearing a shaded "SHC" (for "Senate Highly Confidential") pattern. During the preliminary phase of the Committee's investigation (i.e., prior to public hearings), the Committee will not permit: (a) any further copying of Highly Confidential Documents without the approval of the Chairman or the Ranking Member; or (b) the removal of Highly Confidential documents from the specially-designated secure document rooms for Highly Confidential Documents (except for depositions and witness interviews or for review by the Chairman or Ranking Member, as provided in Paragraph 2.B.iv.).

ii. Only designated staff will have access to the secure document rooms containing the Highly Confidential Documents. The designated staff will be limited to the Majority and Minority Special Counsels to the Special Committee and the Majority and Minority Staff Directors, Chief Counsels and the Chief Clerk of the Banking Committee. In addition, the Chairman and Ranking Member, respectively, may each designate not more than six additional persons employed by either the Special Committee or the Banking Committee to have access to Highly Confidential Documents. The Chairman and Ranking Member may agree to increase the number of designated persons who may review Highly Confidential Documents during the period prior to public hearings. A 24-hour Capitol Police guard (discussed in Paragraph 5) will control access to the specially-designated secure document rooms for the Highly Confidential Documents and will maintain an access log for those rooms.

iii. The specially-designated secure document rooms for Highly Confidential Documents may contain computers and printers, but will not contain telephones, copiers or telecopy machines.

iv. Only designated staff can transport Highly Confidential Documents to depositions and witness interviews, or to the offices of the Chairman and Ranking Member for their personal review. The designated staff will be limited to the Majority and Minority Special Counsels to the Special Committee and the Majority and Minority Staff Directors, Chief Counsels and the Chief Clerk of the Banking Committee. In addition, the Chairman and Ranking Member, respectively, may each designate not more than three additional persons employed by either the Special Committee or the Banking Committee to transport Highly Confidential Documents. After the removal of any such Highly Confidential Documents from the specially-designated secure document rooms, the documents must be returned promptly to those rooms. No copies of Highly Confidential Documents will be made while they are removed from the specially-designated secure document rooms, and no copies of Highly Confidential Documents will be attached to deposition transcripts.

v. The persons designated in Paragraph 2.B.ii. may remove work product, including computer disks, from the specially-designated secure document rooms. Work product must be prepared on non-white paper, and the confidentiality of any such work product must be maintained.

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 23

C. **Confidential Documents:**

All copies of Confidential Documents will be maintained within specially-designated secure document rooms in the Majority and Minority Special Committee respective suites of offices at all times (except for depositions and witness interviews or review by the Chairman or Ranking Member). The secure document rooms for Confidential Documents will be subject to the following security protocols:

i. The copy sets of Confidential Documents maintained in the specially-designated secure document rooms will be copied by the Chief Clerk onto special paper bearing a shaded "SC" (for "Senate Confidential") pattern.

ii. The specially-designated secure document rooms for Confidential Documents may contain computers, printers, and copiers, but will not contain telephones or telecopy machines. Telephones and telecopy machines may be maintained within the Majority and Minority office suites outside of the specially-designated secure document rooms.

iii. Only Special Committee staff who have signed confidentiality agreements (as provided for in Paragraph 4) will have access to Confidential Documents. Such staff may copy Confidential Documents, but must maintain those copies within the specially-designated secure document rooms, except as provided for in Paragraph 2.C.iv.

iv. Designated staff (as defined in Paragraph 2.B.iv.) can transport Committee Confidential Documents to depositions and witness interviews, or to the offices of the Chairman and Ranking Member for their personal review. After the removal of any such Confidential Documents from the specially-designated secure document rooms, the documents must be returned promptly to those rooms. No copies of Confidential Documents will be made while they are outside of the specially-designated secure rooms in the Majority and Minority office suites, and no copies of Confidential Documents will be attached to deposition transcripts.

v. The persons designated in Paragraph 2.C.iii. may remove work product, including computer disks, from the specially-designated secure document rooms. Work product must be prepared on non-white paper, and the confidentiality of such work product must be maintained.

3. **Classification of documents**

The producing agency or party will designate documents as Highly Confidential or Confidential, subject to Committee review and, where appropriate, taking into account the views of the Independent Counsel. The Chairman and Ranking Member also may designate documents as Highly Confidential.

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 24

4. **Confidentiality agreements**

All Special Committee staff, as defined by section 6(d) of S. Res. 120, shall have access to confidential documents only after entering into a confidentiality agreement (a form of that agreement is attached). Any staff member who violates these confidentiality procedures shall be immediately subject to sanctions, including removal from employment.

5. **Capitol Police Security**

A 24-hour Capitol Police officer will be posted at the specially-designated secure document rooms containing the Highly Confidential and Confidential Documents. The Police Officers will control access to the specially-designated secure document rooms containing the Highly Confidential and Confidential Documents and will restrict access to those document rooms to designated staff. The police officers will permit only designated staff to remove documents from the secure document rooms only for depositions, witness interviews, or review by the Chairman or Ranking Member. When a designated staff member removes documents for this purpose, the staff member will sign the officer's log book and indicate the time and purpose of the removal of documents, but will not be required to identify the specific documents that are being removed. All staff (except staff members designated in Paragraph 2.B.ii.) will be required to permit the Capitol police officers to search handbags, briefcases and file folders taken from the specially-designated secure document rooms.

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 25

UNITED STATES SENATE

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

CONFIDENTIALITY AGREEMENT

I have read and understand Section 6 of Senate Resolution 120 (104th Congress), Paragraph 5 of Senate Rule XXIX, and the Security Procedures of the Special Committee to Investigate Whitewater Development Corporation and Related Matters ("Special Committee"). I will abide by those confidentiality requirements and maintain the confidentiality of all materials and information of which I become aware related to the Special Committee's investigation and study pursuant to S. Res. 120, unless I am authorized to disclose such materials by the Special Committee or by both the Chairman and the Ranking Member of the Special Committee. I understand that I will be subject to sanctions, including removal from employment, if I disclose confidential information or materials of the Special Committee without such authorization.

_____
Signature

_____
Name (Printed)

_____
Office or Committee

_____
Social Security Number

_____
Date

SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
• Fax (202) 224-5137

TO: Stephen A. Kubiatowski, Esq.

NUMBER FAXED TO: 202/514-8802

FROM: Robert J. Giuffra, Jr.

DATE: 6.13.95

NUMBER OF PAGES. 7
(Including this cover sheet)

MESSAGE:

If you do not receive the specified number of pages, please contact sender at our main number. Thank you.

Mark, John, Alex, Steve:

Paul Fishman called Tuesday night, and I talked to him for a few minutes.

1. He too has concerns about the McKay material and is having trouble dealing with Giuffra on the issue. (Fishman sounds none too fond of Giuffra.) I told Fishman that we were meeting internally on this issue on Wednesday morning and that we would contact him at some time on Wednesday.

2. He flagged an issue regarding the OPR Travel Office interview reports (the Judith Wish interviews), which in large part dealt with Foster's state of mind. These reports are within the scope of document requests by Clinger and D'Amato. Because disclosure of these reports would not hinder or impede our investigation and because these reports were not part of our investigation, the Fiske investigation, or the McKay investigation, I suggest that we raise no objection to release of the reports. (That would be consistent with our earlier response to Chairman Clinger about the possibility of hearings on the Travel Office.)

3. Fishman also has concerns about allowing FBI agents Salter and [redacted] to be deposed, but he recognized that to be a pure DOJ issue.

FOIA(b)(7) - (C)

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
PHIL GRAMM, TEXAS
RICHARD C. SHELBY, ALABAMA
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
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CHRISTOPHER J. DODD, CONNECTICUT
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
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PATTY MURRAY, WASHINGTON

HOWARD A. MENELL, STAFF DIRECTOR
ROBERT J. GIUFFRA, JR., CHIEF COUNSEL
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STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

6/26 — VIA fax to Kelleher

June 20, 1995

VIA FACSIMILE AND MAIL

Robert M. McNamara, Jr., Esq.
Assistant General Counsel (Enforcement)
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. McNamara:

To follow up on the staff's meeting today with William Cheatham of the Secret Service, we hereby request that the Secret Service produce certain additional records to the Special Committee.

The Secret Service may have custody, control, or possession of records, including records of present and former Secret Service personnel, that relate to matters listed below. We request that you provide any and all Secret Service alarm records, from July 20, 1993 through July 22, 1993, for the offices or suites of the following White House officials:

(a) the offices of William Kennedy, Associate Counsel; Sylvia Mathews, National Economic Counsel; Patricia L. Thomasson, Special Assistant to the President for Management and Administration and Director of the Office of Administration; and David Watkins, Assistant to the President for Management and Administration;

(b) the suite of the Chief of Staff to the President, including, but not limited to the offices of Thomas F. McLarty, Chief of Staff, William Burton, Deputy Chief of Staff, and Roy Neel, Assistant to the President;

(c) the suite of the Chief of Staff to the First Lady, including, but not limited to the office of Margaret Williams, Chief of Staff; and

(d) the suite of the Director of Communications, including, but not limited to the offices of Mark Gearan, Director of Communications, and Dee Dee Myers, Press Secretary.

We further request that you provide any records relating to so-called security "card readers," from 7 a.m. on July 20, 1993 to 12 p.m. on July 21, 1993, for each of the above mentioned individuals, and any of the following individuals: Betsy Pond, Executive Assistant; Thomas Castleton, Intern; Deborah Gorham, Executive Assistant; Craig Livingston, Director of White House Security; Steven Neuwirth, Associate Counsel to the President; Bernard Nussbaum, Counsel to the President; and Clifford Sloan, Associate Counsel to the President.

Finally, we request that you provide the name of the Secret Service guard posted at the "control center" on July 20, 1993, between 8 p.m. and 9 p.m. In particular, we are seeking to identify the person who was monitoring the alarm system for the White House Counsel's suite during that time period.

The records should be delivered to Joseph Kolinski, Chief Clerk, 534 Dirksen Senate Office Building.

Your continued cooperation in this matter is greatly appreciated.

Sincerely,

Lance Cole
Democratic Deputy Special Counsel

Robert J. Giuffra, Jr.
Chief Counsel

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEPARTMENT OF THE TREASURY
OFFICE OF THE ASSISTANT GENERAL COUNSEL (ENFORCEMENT)
15TH & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20220

DATE: 6/30/95

NUMBER OF PAGES TO FOLLOW: ____

TO: Alex Azar

ADDRESSEE'S FAX NUMBER: 514-8802

ADDRESSEE'S CONFIRMATION NUMBER:

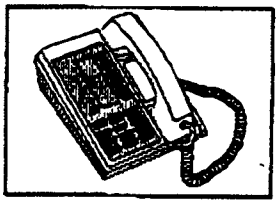
FROM: Bob McNamara

SENDER'S FAX NUMBER: 622-1944

SENDER'S CONFIRMATION NUMBER: 622-

COMMENTS/SPECIAL INSTRUCTIONS:

Alex — this is the Senate Banking request for additional Foster-related documents I mentioned to you. Any concerns? Bob



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*** ACTIVITY REPORT ***
****

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CONNECTION TEL	202 622 1944
CONNECTION ID	
START TIME	06/30 12:30
USAGE TIME	01'14
PAGES	3
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ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
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HOWARD A. MENELL, STAFF DIRECTOR
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PHILIP G. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 21, 1995

Honorable Kenneth Starr
Independent Counsel
2 Financial Center
10825 Financial Center Parkway
Suite 134
Little Rock, Arkansas 72211

Dear Independent Counsel Starr:

I remain committed to pursuing the Banking Committee's oversight duties regarding the Whitewater-Madison matter in a manner that is consistent with safeguarding the integrity of your investigation. Accordingly, I am enclosing letters that I have sent today to the Inspectors General of the FDIC and RTC, requesting status reports on inquiries that the FDIC and RTC Inspectors General initiated in response to Banking Committee requests.

I wanted to inform you of these requests. Please forward any questions or comments to Joseph Kolinski, Chief Clerk of the Senate Banking Committee.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Chairman

06/21/95 15:14 ☎501 221 8707 INDEP COUNSEL 003

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 21, 1995

Honorable John Adair
Inspector General
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Adair:

In February 1994, the Committee requested a review of the RTC's Office of Contract Oversight and Surveillance's report regarding the retention of the Rose Law Firm in connection with the Madison Guaranty Savings and Loan Association conservatorship and an audit of legal fees paid to the Rose Law Firm. The Committee has received a draft copy of the audit report. I am writing to inquire as to the status of your office's investigation regarding the retention of the Rose Law Firm. I understand the extenuating circumstances presented by the Independent Counsel's concurrent investigation. Nevertheless, the Committee, in furtherance of its oversight responsibility, needs to be apprised of your progress. Please advise the Committee in writing of the status of your inquiry into the retention of the Rose Law Firm.

Please forward the requested information to Joseph Kolinski, the Chief Clerk of the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen Senate Office Building, Washington, D.C. 20510 by no later than June 28, 1995. Please note that I will apprise the Independent Counsel's Office of this request.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Chairman

cc: Honorable Kenneth Starr
Honorable John E. Ryan

06/21/95 15:14 8501 221 8707 INDEP COUNSEL 004

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 21, 1995

Honorable James A. Renick
Inspector General
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Rm. PA 4130
Washington, D.C. 20429

Dear Mr. Renick:

In February 1994, your office was asked to undertake an investigation regarding the Rose Law Firm's legal work for the FDIC. I am aware of the extenuating circumstances presented by the Independent Counsel's concurrent investigation, but the Committee, in furtherance of its oversight responsibility, needs to be apprised of your progress. Please inform me in writing of the status of your inquiry and the date that your final report should be available.

Please forward the requested information to Joseph Kolinski, the Chief Clerk of the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen Senate Office Building, Washington, D.C. 20510 by no later than June 28, 1995. Please note that I will inform the Independent Counsel's Office of this request.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Chairman

cc: Honorable Kenneth Starr
Honorable Andrew C. Hove, Jr.

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 35

06/21/95 15:15 8501 221 8707 INDEP COUNSEL 005

Steve:

Giuffra called back, and I covered all of the issues with him.

1. He was happy about Hubbell and Lindsey.

2. July 18 is the target date for hearings.

3. Someone named Becky on his staff will coordinate transcripts. He asked who would pay for the transcripts. How do we handle that with the House?

4. He was very coy about asking agencies whether they had provided all documents that had been provided to the OIC. He first stated that the Senate did not have to follow our request. He then backed off and said simply that there was a fine line between (a) asking someone to make sure that there were no more responsive documents that might have been provided to the OIC and (b) asking someone to provide all documents that had been given to the OIC.

In the end, at least with respect to document requests, I do not think they plan to follow the spirit of our letter to them, and I am not sure there is much we can do about it.

5. He has not received a letter from Fishman, so we will deal with that issue tomorrow.

Brett

cc: Alex, John

2 **Issues with Congress on Foster documents investigation while investigation is still open**

The goal, I suppose (and correct me if you disagree) is to put Congress in the same shoes that "we" were in when "we" began this investigation. (I am not sure that goal should or will change once this investigation is closed.) This stated goal of course begs the question of who "we" are. I think the Fiske investigation is clearly part of our investigation; I am far less certain about the July-August 1993 FBI and Park Police investigations, however.

With that in mind, here is an outline of the relevant issues, and my suggestions as to whether we allow certain documents to be given to Congress.

1. Interview Reports

Starr 302's and Sworn Statements
-- **NO**

Fiske 302's and Sworn Statements
-- **NO**

after closed - DOJ issue

FBI 302's (July-August 1993)
-- **maybe (have they been previously produced?) (are we a continuation of this investigation?)**

Park Police reports (July-August 1993)
-- **maybe (have they been previously produced?) (are we a continuation of this investigation?)**

2. Attorney/investigator work product (e.g., investigative outlines, interview questions, etc.)

from Starr -- **NO**

from Fiske -- **NO**

from pre-Fiske DOJ/FBI -- **probably yes (not really an issue in Foster documents investigation) (are we a continuation of this investigation?)**

Park Police -- **probably yes (not really an issue in Foster documents investigation) (are we a continuation of this investigation?)**

3. Agency Notes and Reports of Communications with Prosecutors

with Starr -- **NO**

with Fiske -- **NO**

with pre-Fiske DOJ/FBI -- **probably yes (not really an issue in Foster documents investigation) (are we a continuation of this investigation?)**

with Park Police -- **probably yes (not really an issue in Foster documents investigation) (are we a continuation of this investigation?)**

4. Non-Interview-Report Documents

from DOJ/FBI -- **OK, subject to #2-3**
from Park Police -- **OK, subject to #2-3**
from White House -- **OK, subject to #3**
from Secret Service -- **OK, subject to #3**

SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
• Fax (202) 224-5137

TO: Brent Kavanaugh, OIC

NUMBER FAXED TO: 202/514-8802

FROM: Robert J. Giuffra

DATE: 3/20/95

NUMBER OF PAGES: 4
(Including this cover sheet)

MESSAGE:

If you do not receive the specified number of pages, please contact sender at our main number. Thank you.

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 22, 1994

Lloyd N. Cutler
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Cutler:

On June 21, 1994, the Senate passed Senate Resolution 229, a copy of which is enclosed, directing the Committee on Banking, Housing, and Urban Affairs to conduct hearings on matters specified in the resolution. In preparation for the hearings, we are requesting present and former White House officials, as shown on the attached initial list, to produce records to the Committee.

Your office may have custody, control, or possession of records, including records of present and former White House personnel, which relate to the matters specified in the resolution and listed below. Our request embraces these and any other White House records relating to those matters.

Accordingly, please provide to the Committee all such records, regardless of format, that relate in any manner to the following subjects:

(a) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(b) the Park Service Police investigation into the death of Vincent Foster; and

(c) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death.

To the extent that your office has gathered documents from individuals and locations throughout the White House, please indicate where and from whom each of those records was obtained. It would also be helpful if you provided a list of the records that you are submitting so that the Committee and your office have a common list of the records supplied by the White House.

Additionally, we request that you provide to the Committee any written policies or descriptions of those policies issued by the White House Chief of Staff or the White House Counsel's Office, in effect now or to your knowledge previously, concerning communications between White House officials and officials in departments and agencies, such as the Department of the Treasury, the Resolution Trust Corporation, and the Park Service Police or other law enforcement entities.

The records should be delivered to Kelly Cordes, the Committee's Chief Clerk, 534 Dirksen Senate Office Building. As you know, Senate Resolution 229 provides that public hearings on this matter begin no later than July 29, 1994. Therefore, it is necessary that these documents be received by the Committee no later than July 1, 1994, and prior to that date, if possible.

If you have any questions concerning this request, please call Michael Davidson, Senate Legal Counsel, at 224-4435. This request is, of course, an initial request and may be supplemented by additional ones.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Alfonse M. D'Amato
Ranking Member

Donald W. Riegle, Jr.
Chairman

Enclosure

ATTACHMENT

Bruce R. Lindsey
Assistant to the President and Senior Advisor

George R. Stephanopoulos
Senior Policy Advisor to the President

Thomas F. McLarty, III
Chief of Staff to the President

Harold Ickes
Assistant to the President and Deputy Chief of Staff

Mark D. Gearan
Assistant to the President for Communications

John D. Podesta
Assistant to the President and Staff Secretary

Clifford Sloan
Associate Counsel to the President

Stephen R. Neuwirth
Associate Counsel to the President

Betsy Pond
Office of White House Counsel

Patsy L. Thomasson
Special Assistant to the President for Management and Administration and Director of the Office of Administration

Margaret Ann Williams
Chief of Staff to the First Lady

Lisa M. Caputo
Press Secretary to the First Lady

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

June 23, 1995

Mr. Robert Giuffra, Jr.
Mr. Neil Kravitz
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20510-6075

Dear Messrs. Giuffra and Kravitz:

I am writing to confirm my various telephone conversations with you and Michael Chertoff.

In response to my letter of June 15, you have advised that the committee staff would like to schedule depositions of four FBI agents: Special Agents Condon, Gillis, Danna and Salter. Although you originally had suggested that the depositions would take place this week. I now understand that they will occur next week.

There are, however, certain preliminary matters that need to be resolved. First, the Independent Counsel has interposed an objection to Special Agent Gillis's testimony at this time because of the agent's extensive involvement in the Independent Counsel's investigation. Accordingly, until we are advised whether the Independent Counsel's concerns can be accommodated, we do not believe it would be appropriate to schedule his deposition.

With respect to the other three agents, the prospect of subjecting agents and prosecutors to congressional interviews can have a profound chilling effect on law enforcement. Accordingly, for many years, the Department's policy has been that such personnel should not be called before congressional committees to testify about the scope of, and reasons for, their investigative and prosecutive decisions. As you have described, however, the testimony of these agents is sought to relate their observations during the period following the death of Vincent Foster, and they will be available on Wednesday, June 28, to do so. If that understanding is incorrect, please let me know immediately.

In addition, I understand that the Committee would like to depose former Deputy Attorney General Philip Heymann, Associate Deputy Attorney General David Margolis, Counsel to the Deputy Attorney General Roger Adams, Deputy Associate Attorney General Nancy McFadden, and former Special Assistant to the Deputy

Attorney General Cynthia Monaco. As we discussed on Friday, Mr. Margolis underwent emergency coronary by-pass surgery last Thursday and will be unavailable for at least several weeks. In addition, Mr. Heymann left Tuesday for a long-scheduled trip to Indonesia. He will return to the United States on July 16 and has informed me that he will make himself available as soon thereafter as reasonably can be arranged. Mr. Adams will be available as requested on June 29. I am advised that Ms. Monaco's attorney will contact you to arrange for her appearance, and I have not yet made arrangements with Ms. McFadden, who is out of town.

next [redacted] Thursday

As we discussed, it is our understanding that all such depositions will be under oath with a court reporter present. Consistent with our usual practice, the Department will designate an appropriate representative to attend.

Finally, I understand that the Committee would like to take the deposition of the Attorney General. As you know, the Attorney General is scheduled to testify on Tuesday in oversight hearings before the Senate Judiciary Committee. As soon as those hearings are completed, we will respond to your request.

Please feel free to call on me if you have any questions.

he set it up

Dave Stewart

Very truly yours,

Paul J. Fishman
Counsel to the Deputy
Attorney General

cc: Hon. Kenneth W. Starr
Andrea Simonton, Deputy General Counsel, FBI
Philip Heymann
David Margolis
Roger Adams
Nancy McFadden
Cynthia Monaco

See, we have this idea that Democrats rejected about 40 years ago, and that is families can do a better job of spending their own money than you do for them.

Now that sounds alien in Washington, DC, but in Little Rock, AR, people are beginning to think maybe that is the way we ought to do things.

Mr. DORGAN. I wonder if the Senator from Arkansas would yield to me?

Mr. PRYOR. I do not have the floor, actually.

Mr. GRAMM. I have to go to a hearing on Legal Services, to let them know the bad news.

The PRESIDING OFFICER. The Chair would say, the hour of 10:30 having arrived, morning business was to close.

Mr. PRYOR. Mr. President, seeing no other Senators desiring recognition, I ask unanimous consent that the Senator from North Dakota be allowed to proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was curious about the question asked by my colleague from Arkansas.

Our colleague, Senator GRAMM from Texas, said that at this fundraiser they were not giving anybody anything. I assume he forgot, probably, that in the vote in the House of Representatives on the Contract With America, just to name one little piece of that, they eliminated the alternative minimum tax for corporations.

You remember those stories in the old days about a big corporation that earned $3 billion in earned income, net profit, and paid zero in Federal income tax. Well, the Federal Government said they wanted to correct that, so they set up what was called an alternative minimum tax, so you could never zero it out, talking about the real big corporations now.

Well, in the House of Representatives, in the tax bill under the contract, they zero it out and they say, "No more alternative minimum tax. You big companies, you make $5 billion, it is all right if you pay zero in taxes." But at same time they do that, they say, "But we can give those companies"—incidentally, about 2,000 companies—"the equivalent of $2 million each in tax breaks. We can afford to do that, but we cannot afford to provide student aid, as we used to, so we will have to ask kids who are going to go to college who do not have any money to pay for it, we will make if harder for kids to go to college because we cannot afford investing in kids who go to college, as we used to, but we do have the money to provide the equivalent of a $2 million tax break for each of 2,000 corporations by saying to those corporations, You no longer have to worry about a little thing called the alternative minimum tax. You can zero it out, if you like."

I am guessing the Senator from Texas just forgot about that.

And there are a dozen more like it, little old things that I am sure folks would show up to show their appreciation for, but they are the kinds of things that represent priorities—the priorities that say we really believe in the big interests here, we really think the big interests need a lot more help because if we rain on big interests somehow it will all seep down to the little folks that are trying to send their kids to college. That is what I think has been forgotten in this equation and this discussion between the Senator from Texas and the Senator from Arkansas.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Under a previous order, the Senate will now proceed to the consideration of a resolution to be submitted the Senator from New York [Mr. D'AMATO].

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have a resolution which I will shortly be sending to the desk. May I ask, what is the pending business?

The PRESIDING OFFICER. The pending business is the resolution to be considered by the Senator from New York.

Mr. D'AMATO. I believe we have agreed that there will be no more than 2 hours.

The PRESIDING OFFICER. That is correct, from the time you bring it up.

Mr. D'AMATO. Will the time start to run as of now?

The PRESIDING OFFICER. It is when the Senator submits the resolution to the desk.

ESTABLISHING A SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORP. AND OTHER MATTERS

Mr. D'AMATO. Mr. President, I send the resolution to the desk on behalf of myself and Senator DOLE—and I know others would like to join—and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 120) establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corp., Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance authority, and other related matters.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. D'AMATO. Mr. President, Whitewater is a very serious matter. Some questions raised by Whitewater go to the very heart of our democratic system of government. We must determine whether the public trust has been abused. We must ascertain whether purely private interests have been placed above the public trust. The American people have a right to know the full facts about Whitewater and related matters.

After the Banking Committee's hearings last year, many important questions still remain. The American people have a right and a need to know the answers to these questions.

Congress has the responsibility to serve as the public's watchdog. We would be derelict in our duties if we did not pursue these Whitewater questions. The Senate must proceed in an even-handed, impartial, and thorough manner. We have a constitutional responsibility to resolve these issues.

Mr. President, we now bring before the Senate a resolution that authorizes a special committee administered by the Banking Committee to continue the Whitewater inquiry that was started but not completed during the last Congress.

I thank my distinguished colleague, Senator SARBANES, for his hard work and cooperation in the preparation of this resolution. We have jointly prepared a resolution that is balanced and fair and that will allow the special committee to search for the truth. I am confident that Senator SARBANES and I will continue the Banking Committee's bipartisan approach to the Whitewater matter.

Mr. President, our pursuit of these questions must be and will be fair, straightforward, and responsible. The American people expect and deserve a thorough inquiry committed to the pursuit of truth. That is the American way.

Last summer, the Banking Committee met these vigorous requirements. Our examination of the Whitewater matter was impartial, balanced, and thorough. That is our goal in this Congress. I am confident that we will meet these goals.

During last summer's hearings, many facts were uncovered. We learned that certain top administration officials were not fully candid and forthcoming with the Congress. That is an undisputed fact. The public has a right to expect more from those in positions of trust. We also learned that senior Treasury Department and Clinton White House officials mishandled confidential law enforcement information concerning Madison Guaranty. That is another undisputed fact. Madison is now defunct; it is a defunct S&L at the heart of the Whitewater matter. The failure of this Arkansas S&L eventually cost American taxpayers more than $47 million.

Mr. President, the American people have a right to know the answers to

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many serious questions still remaining about Whitewater and related matters. We have a constitutional obligation to seek the answers to these questions. That is why I am offering this resolution today.

Now I will briefly outline some of the matters that this resolution authorizes the special committee to investigate. We will begin with the handling of the papers in deputy White House counsel Vince Foster's office following his death. Who searched Mr. Foster's office on the night of his death? What were they looking for? What happened to Mr. Foster's papers? Were any papers lost or destroyed? And who authorized the transfer of Mr. Foster's Whitewater file to a closet in the First Family's residence? The public has a right to the answers to these questions.

Mr. President, this resolution encourages the special committee to coordinate its activities with those of the independent counsel, Kenneth Starr. Senator SARBANES and I have met with the independent counsel. Judge Starr has indicated to us that he has no objection to the special committee's plan to inquire into the handling of Mr. Foster's papers. Senator SARBANES and I are committed to coordinating the committee's activities with those of the special counsel.

This resolution authorizes the special committee to pursue answers to other questions raised during the Banking Committee's hearings last year.

We will explore the scope and impact of the improper dissemination of confidential law enforcement information concerning Madison Guaranty. How widely did the Clinton administration officials communicate this confidential information? Did any high-ranking officials inform targets of criminal investigations? If so, did this impact any ongoing investigations? The public has a right to know the answers to these questions.

The special committee will also examine whether there were any improper contacts between the Clinton White House and the Justice Department regarding Madison Guaranty.

We know that Paula Casey, the U.S. attorney in Little Rock, declined to pursue criminal referrals involving Madison. That is an undisputed fact. We also know that Webster Hubbell, who has pleaded guilty to mail fraud and tax evasion, was the No. 3 official at the Justice Department at this critical time. This is another undisputed fact.

The committee will ascertain whether Mr. Hubbell contacted Paula Casey about Madison. And who else, if anyone, knew about these contacts with the U.S. attorney. The public has the right to know.

Mr. President, this resolution authorizes the special committee to explore whether the Resolution Trust Corporation and other officials in Washington tried to interfere improperly with RTC staff in Kansas City responsible for investigating wrongdoing at Madison. If such interference occurred, who authorized it, and why? The public deserves answers to these questions.

During last summer's hearings, the Banking Committee learned that the Treasury inspector general furnished the Clinton White House, at the White House counsel's request, transcripts of the inspector general's depositions. That is an undisputed fact.

The committee will now look into whether these deposition transcripts were used to coach administration witnesses before they appeared in front of the committee. That would be wrong. The public has a right to know if it happened.

All of these matters that I have discussed so far involve events that occurred after January 1993 when President Clinton took office. There are also serious questions regarding events that occurred in Arkansas in the 1980's when President Clinton was Governor. This resolution also authorizes the special committee to examine these matters. Some of these Arkansas matters are complex and will require the committee's close review of many thousands of pages of documents.

We will review the operations and regulations of Madison Guaranty. Did James McDougal, Madison's chairman and Governor Clinton's business partner, improperly divert Madison's funds to himself and others? Did any of this money find its way into the White House real estate project in which McDougal and Governor Clinton were partners? Did McDougal misuse Madison funds to cover any losses the First Family suffered on their Whitewater investment? The public has a right to know the answers to these questions.

Mr. President, the resolution further authorizes the special committee to examine the Rose law firm's representation of both Madison and RTC, and senior partners at the Rose law firm, including Larry Rodham Clinton, Webster Hubbell, and Vince Foster. The committee must ascertain whether the Rose law firm properly handled the RTC civil claims concerning Madison.

Did the firm have a conflict of interest, and did American taxpayers lose money in the process?

We will also examine Capital Management Services and its president, David Hale, a former Arkansas judge and Clinton appointee. Hale has publicly charged that the President pressured him to make Small Business Administration loans that were used to prop up Madison.

Did this happen? Did Hale also make improper Small Business Administration loans to current Arkansas Gov. Jim Guy Tucker?

Then there is the matter of the financing of the 1990 Arkansas gubernatorial campaign. We now know that the president of the Perry County Bank, Neal Ainley, has pleaded guilty to violating Federal laws in connection with the handling of certain large cash transactions for the Clinton campaign. Ainley claims he did so at the direction of campaign officials. The public has a right to know who authorized this activity and why.

Mr. President, this resolution will authorize the special committee to examine these and related matters. We will take every reasonable step to complete this inquiry promptly. We hope that the administration cooperates with us in this regard. But we also intend to be thorough and comprehensive.

This resolution provides $960,000 to fund the special committee through February 29, 1996. If additional money is needed, the special committee will make a recommendation not later than January 15, 1996, and the majority and minority will meet to determine the time for any vote.

Mr. President, we expect to hold public hearings into the handling of the papers of Vince Foster's office in late June or early July. We will continue our inquiry by subject matter until it is completed. In doing so, we will make every effort not to interfere with the independent counsel's criminal investigation.

Mr. President, the American people deserve to know the full facts about Whitewater and related matters. As I said at the outset, we will conduct this inquiry in a fair, evenhanded, and impartial manner.

That is what the American people want, expect, and deserve. I urge the approval of this resolution.

I see that my distinguished colleague and ranking member, Senator SARBANES, is here. We have allocated up to 2 hours, equally divided.

I yield the floor.

Mr. SARBANES. Mr. President, may I ask what the time situation is?

The PRESIDING OFFICER (Mrs. HUTCHISON). There are 2 hours, of which 15 minutes has already been used.

Mr. SARBANES. There is an hour now remaining on this side?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I thank the Chair.

Madam President, it is not my intention to use the entire hour. I hope at some point both sides might be able to yield back time and proceed to final consideration of the resolution.

Let me say at the outset that the resolution we are considering today, which authorizes a special committee to be administered by the Committee on Banking, Housing, and Urban Affairs, is really a carrying out of resolutions that were adopted last year by this body. I think it is important to consider this resolution in the context of those resolutions—actions taken by the Senate last year.

On March 17, 1994, a little over a year ago, the Senate adopted a resolution by a vote of 98–0 expressing the sense of the Senate that hearings should be held on all matters relating to Madison, to Whitewater, and to Capital Management.

Then, to carry out that resolution, at least in part, on June 21 of last year,

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the Senate agreed to Senate Resolution 229, which authorized hearings to be held into certain areas. Those hearings were done last summer. We had 6 days of public hearings. We had extensive analysis of documents that were provided to the inquiry committee in order to enable it to carry out its responsibilities.

Now, one of the things that was authorized to be looked into by the June 21 resolution was the handling of the Foster documents. That was later deferred, in response to a request from the independent counsel who contacted the committee and indicated that, given the nature of his inquiry, it would be preferable if the Committee did not go ahead with that hearing. Accordingly, we held off.

Now the distinguished chairman has indicated that it would be the first item which will be considered in the hearings that will now take place under the resolution we are considering here today.

So this resolution is in effect a continuation of our earlier work. It authorizes the completion of work specified in last year's resolution, as well as matters developed during and arising out of the hearings that were held last summer, and also a number of matters my colleague has enumerated that carry forth on the sense-of-the-Senate commitment last year to investigate all matters pertaining to Madison.

I want to go through some other aspects of this resolution, just to lay them out on the record. The chairman of the Banking Committee, Senator D'AMATO, has gone through a number of matters that have been provided for in this resolution to be examined by the special committee. The special committee, administered by the Banking Committee, shall consist of all of the members of the Banking Committee plus two members added from the Judiciary Committee. The chairman and ranking members of the Committee on the Judiciary, or their designees, will join with the members of the Banking Committee to constitute the special committee which will be administered by the Banking Committee. So it is essentially—or primarily, let me say—a Banking Committee activity, since most of the areas to be examined clearly fall under the jurisdiction of the Banking Committee. But we did add from the Judiciary Committee last year. A member came on in order to help carry out the inquiry. And there are some matters that are contained in the resolution, to be examined that, it could well be argued, are under the jurisdiction of the Judiciary Committee. So, to bring that together, we are bringing on two members from the Judiciary Committee, the chairman and ranking member or their designees. They will be designating someone else to handle this responsibility if they choose to do so, and I do not know at this point what Chairman HATCH and ranking member BIDEN intend to do in that regard. But obviously we will abide by their decision.

We have also provided in the resolution which is now before us, and which shortly will be adopted, for rules and procedures of this committee which essentially will be the rules and procedures of the Senate, the Standing Rules of the Senate, and the rules of procedure of the Committee on Banking, Housing, and Urban Affairs. That is, in effect, the rules framework, procedural framework within which we will operate. There are in the resolution sections that cover aspects of the process that the special committee will follow; these are matters it was deemed important that we spell out in the resolution how they were going to be dealt with. Those involve questions of subpoena powers, questions of how the hearings will be conducted—important questions about immunity. I want to underscore that because that is a matter we have had to address before.

We provide that to grant a witness immunity—I want to read this section because it is an important matter. The special committee has the power: "To grant a witness immunity under section 6002 and 6005" of title 18, United States Code, "provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations."

We also provide for staffing of the committee. There is power to appoint special committee staff including consultants, assistance from the Senate legal counsel, assistance from the Comptroller General. There is a provision whereby the committee can draw on other Government agencies, Government personnel, and on other congressional staff. And we hope, through a combination of all of these sources, that we will have an adequate staff to carry out a proper inquiry and investigation.

There is also, of course, special provision for the protection of confidential information, since we will be interacting with the independent counsel and others and we think it is important to have such provisions.

Finally, the money asked for in this resolution, just under $1 million, $950,000, is to cover the salaries and other expenses of the special committee carrying out this inquiry, beginning on the date of the adoption of this resolution—I assume today—and ending February 29, 1996.

If it is judged that additional money is needed, that the inquiry needs to go forward and additional money is required in order to fund it, the special committee will recommend that. Of course there will have to be a further vote for the providing of additional moneys to the special committee.

Mr. President, let me just make a couple of further, more general observations. I have very quickly gone through the resolution and I think most of it is straightforward. I think Members of the Senate upon reviewing it will conclude that is the case. Many of the provisions are what one might call boilerplate for such an inquiry, and track previous provisions that have been used in various Senate resolutions establishing committees to carry out inquiries or investigations of the sort that is being authorized here.

I listened to the chairman with great interest and I was particularly encouraged by his very strong statement of the need to conduct impartial, balanced and thorough hearings, which is exactly what I think needs to be done. There are a lot of allegations that are swirling around and there are a lot of questions that are being raised. We see them from time to time raised in the press and in the media. And, of course, one could sit around all day long and conjure up one question after another. It is not difficult, it is very easy. It is not difficult just simply to say, "Well, suppose this happened or suppose that happened; or if this or if that." Of course, one of the purposes of these hearings is to get a good, tough-minded examination of these various allegations to see if there is anything to them. It needs to be appreciated, that it is very easy to make the allegations. Whether the allegations are in fact substantiated by the facts is a tougher question to determine, and that does require an impartial, balanced and thorough hearing. In fact, the President himself has said the best way to address these matters is to look at the facts candidly, and that is what I very much hope and expect that this committee will be able to do.

I do think last summer we conducted hearings that were perceived by all as being thorough and fair and impartial. We went at it, in effect, to find out what the facts were, to ascertain the truth. I think we pressed that issue in a resolute manner, and I would expect the special committee will do so in the case that is—in the instance that is before us.

These hearings will make an effort to get the facts out fully and impartially. We anticipate that the administration will cooperate with this effort. They certainly have indicated that is what they intend to do. Last year they made every document available that was requested, as I recall. I think I am correct in that statement. Now the time has come to move forward, to begin our hearings, to begin, in effect, to examine these various questions and allegations and ascertain with respect to each of them whether there is any factual grounding behind them or whether they simply raise questions that people can ask. And that, of course, is the purpose of the inquiry which we will be undertaking here with this provision of $950,000 to carry out this investigation in the period between now and February 29. The resolution provides that the special committee shall make every reasonable effort to complete

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not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

This resolution does provide the basis for carrying out a full and proper, impartial, and balanced hearing.

I think our challenge now is to move ahead in carrying out our responsibilities in the special committee. It is a heavy burden to add to the responsibilities that Members already have but is one that obviously we are charged with responding to.

As I said, we adopted resolutions last year addressing this matter. This, in effect, carries forward on those resolutions. It is a continuation, in effect, of that work. But I hope that if we apply ourselves to it over the coming months, we will be able to work through all of these matters and, in effect, bring this issue to closure in the sense that the Members of the Senate and the American people know that the various questions have been raised and thoroughly examined, that it has been done with a great deal of balance and fairness and impartiality, and that these are what the facts are as a consequence of that investigation and inquiry.

Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum. Will time be equally charged?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. SARBANES. I ask unanimous consent to put in a quorum call and that the time be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The time will be charged to both sides equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from North Carolina?

Mr. D'AMATO. I yield to the Senator from North Carolina whatever time he needs, Madam President.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Madam President, I want to begin my remarks by saying that I plan to enthusiastically support the Whitewater resolution.

I think it is a good resolution. I am concerned, however, that a few key things have been left out of it. Nevertheless, I think that before the hearings are over, we will wind up working them in.

Nothing in this resolution allows us to probe the circumstances surrounding the death of Vince Foster. When we held the hearings last year in the Senate, a key witness, Captain Hume, simply did not show up at the hearings the day he was supposed to be there. The hearings had been planned for months. Captain Hume was out of town that day. He was supposed to be there. Our ranking member at the time demanded that they bring him back for several days. But they did not bring him back. The hearings adjourned and we never heard from him. I do not think this was a thorough airing of the issues, and I think we need to do it again.

I understand that Mr. Starr is looking at this again. I hope that he will, given the miserable job that Mr. Fiske did of investigating.

Madam President, the Congress also needs to probe the $100,000 profit in the commodities market that came to Mrs. Clinton courtesy of Red Bond and Jim Blair, the general counsel of Tyson Foods. This is not mentioned in the resolution, and it should be.

Just recently, I discovered that a friend of the Clintons, Barbara Holum, was conveniently installed as acting head of the CFTC before the story of Mrs. Clinton's commodity trades broke.

There are many confusing issues. Now we find that Red Bond, who did the commodity trading, who is practically bankrupt, was able to pay off $7 million in back taxes just 2 months before the commodity trading story became public. To me, the evidence on this is just too much to believe that all of this is a coincidence.

Madam President, this resolution does not allow us to probe the failure of First American Savings & Loan in Illinois.

If you can believe this, Vince Foster and Mrs. Clinton were hired by the Federal Government to sue Dan Lasater. The same Dan Lasater that was a close friend of the Clintons. That is right, Mrs. Clinton was hired by the Federal Government to sue Dan Lasater in connection with the failure of First American Savings & Loan in Illinois. Mrs. Clinton participated in the decision to lower the amount of money the Government would recover from Dan Lasater from $3.3 million to $200,000, and we do not know yet what percentage of that went to her as attorney's fee because the records were sealed.

The Government spent over $100 billion to resolve the savings and loan crisis. With crooks like Dan Lasater involved and with Mrs. Clinton acting on behalf of the taxpayers, suing a friend, it is no wonder the cost was so high.

I want to again state my strong support—and I say this not necessarily in the language as we often use in the Senate—but of my good friend, fellow member of the Banking Committee and our chairman, ALFONSE D'AMATO. He truly is a good friend, and he has given us the leadership we need.

I hope, and I know that before this hearing is over, under his leadership, we will have probed all aspects of Whitewater in a fair manner so that the American people understand what happened, when it happened, and who knew it when it happened. I look forward to the hearings.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Madam President, I know of my good friend, Senator FAIRCLOTH's concern that there be ample scope to look into all of the matters that are relevant, and I share that concern. I think that this resolution very fairly embodies us with the authority—and I would refer to page 4.

As my friend raises, we did not attempt to spell out every single area. Page 4, line 12, says:

Subsection 3. To conduct an investigation and public hearings into and study all matters that have any tendency to reveal the full facts about . . .

Then we go through all of the various areas. There are other Senators who are going to speak, but I believe it is important to summarize those areas. Senator SARBANES has. The fact is that we include the ability to look into the bond underwriting contracts between the Arkansas Development Finance Authority and Lasater & Co., and all of those activities to which my friend has referred. But there must be a connection, and if there is a connection, well, then, we will look into the area, and I will touch on these areas in more detail before our time is up.

So I share my friend's concern. This will be thorough. It will be thoughtful. And when subpoenas are issued—and I must tell you that the specific instance that he raises is troubling, that of a witness who failed to respond to a subpoena, especially one who works for the Government, who was given notice, and who gave the committee, either the majority or the minority or our staff, no reason to believe that he would not be there. That will not be tolerated. If we run into a situation like that, I can assure you, and I know that the ranking member shares this same concern, we want people to respond to subpoenas. We will not issue them frivolously.

I think in that case a subpoena might not have even been issued because we assumed that he was going to be there. So it is not a bad track record to have almost everybody respond, including even those who were not subpoenaed. But, we will remain vigilant in seeking this kind of cooperation.

I see that Senator BOND is in the Chamber, and he is on the Banking Committee and was an integral part of last year's hearings, and I yield to him 10 minutes from my time.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank my good friend, my colleague from New York.

Madam President, as we begin the debate on this resolution authorizing a second round of Whitewater hearings, I thought it would be helpful to review why the Senate and the committee need these issues to be aired.

I wish to summarize for my colleagues some points that are particularly important to me and have come from my experience with the first round of hearings and also with the hearing back in February where we asked the questions that began some of the process in finding out what has gone on in the administration.

As most of the Nation now knows, Madison Guaranty was a Little Rock savings and loan which went belly-up at the cost of nearly $50 million, and was owned by James McDougal—the business partner of the Clintons' in the Whitewater real estate deal.

Madison Guaranty was the classic S&L story of insider dealing, reckless loan policies and ultimate failure with the U.S. taxpayers picking up the tab. It is a part of the $105 billion cost of the S&L debacle, and in that way is a story repeated in many communities around the country.

But one part of this case has made it famous—many of its borrowers, directors, and counsel were prominent figures in Arkansas politics and government.

The tangled web of Madison, Jim McDougal, and the Clintons has led to two sets of criminal referrals, an ongoing civil liability investigation by the RTC, a potential conflict of interest case for the First Lady's former law firm, a conviction of a Little Rock judge who improperly loaned SBA money to McDougal and Whitewater, several other recent guilty plea agreements and an ongoing investigation by independent counsel Starr.

Since these issues first came to light, I have said over and over that the American people have a right to know what happened to the millions of dollars lost, and we, in Congress, must fulfill our obligation and get the facts out into the open.

Last year the Senate was engaged in a lengthy struggle over what questions and areas the Banking Committee would be allowed to address as Whitewater—Madison hearings begin. Unfortunately, the Democratic leadership at that time did everything in their power to limit the scope of the hearings, and to block our efforts to get at the truth—particularly as it relates to what Clinton administration officials have done to control or interfere with investigations.

The questions we asked last year remain as relevant today as they did last May:

Did Whitewater Development Corp. benefit from taxpayers insuring of Madison Guaranty deposits?

Did any of Madison's federally insured funds go to benefit the Clinton campaigns?

Were the bank regulatory agencies operating in an impartial and independent manner as they handled Madison Guaranty?

How did the Resolution Trust Corporation handle the criminal referrals on Madison—both under the Bush administration as well as the Clinton administration?

How did the Resolution Trust Corporation and the FDIC handle potential civil claims against Madison—both under the Bush administration as well as the Clinton administration?

How did the Department of Justice handle the RTC criminal referrals it received, again both under the Bush administration and the Clinton administration?

What were the sources of funding and lending practices of Capital Management Services, and how did the SBA regulate and supervise it, particularly as it related to loans to Susan McDougal and her company, Master Marketing.

Full hearings on the Whitewater-Madison affair are needed so that all these questions can be fairly asked and answered. What happened in Arkansas, what happened in the 1992 Clinton campaign in their efforts to keep the lid on about the actions in Arkansas, and what has the administration done to manage the Madison-Whitewater issues since they took office.

If we are to finally get to the bottom of the story as to what happened with the criminal referrals, I believe that we need to start with the first criminal referral on Madison Guaranty which was already in the Justice Department awaiting action when the Clinton administration took office.

Remember, Madison Guaranty had failed in 1989 and had been first taken over by the FDIC, and then in August 1989 when Congress passed the S&L bailout bill the newly created RTC took over Madison.

The RTC's mission was to close down failed thrifts, sell the assets, pay off the depositors and then seek out criminal or civil wrongdoing that may have occurred. If they found criminal wrongdoing—fraud, or attempts to enrich, they referred their findings to the Department of Justice for further action.

If they found civil wrongdoing—for example, law firms or accounting firms who helped institutions stay open by providing misleading, incomplete or incorrect information to regulators or the S&L's board members—the RTC would pursue those cases.

Thus from August 1989 the RTC had Madison Guaranty on its plate. No action was taken by the RTC on potential civil claims, but several criminal referrals were developed. In one case Jim McDougal and two others were accused of fraud, but were acquitted, in another case a board member plead guilty to falsifying documents.

Then came March 1992 when the New York Times reported a series of potential misdealings in Madison Guaranty and spurred the RTC to take another look at the institution. This second look caused the first criminal referral to be sent to Justice in the fall of 1992, and it was this referral which awaited final action when the Clinton administration came into office in January 1993.

I give this brief history in order to put things into perspective. Last year, Senator SPECTER and I offered amendments to the Whitewater Committee resolution which would have allowed the Banking Committee to pick up story at this point, and follow the trail of the first referral as it made its way through the Government, and then to follow the trail of the second referral as it was developed throughout 1993, up to and including the improper contacts by Treasury officials with White House staff. This of course would entail questioning the RTC officials involved, Justice Department officials involved, as well as Treasury and White House staff.

Because we must remember that on the day that the Clinton administration officials walked in the door on January 21, 1993, a criminal referral on Madison Guaranty was sitting in the Department of Justice.

I for one still want to know:

How did the Department of Justice handle this referral?

Was the White House informed and if so when and by whom?

Who in Justice was assigned to monitor the Madison case, and what actions did they take?

And then, as we know now, just months after taking office, a second set of referrals was being developed—and it too was sent off to the Clinton Justice Department by RTC officials in Kansas City.

I want to know why the RTC decided to stay on the case. What happened to get a series of RTC officials reassigned and taken off the case? Is there a pattern of special treatment for politically sensitive cases? And again, how did the Department of Justice handle the second referral?

I want to know why did the Clinton appointed Little Rock U.S. attorney Paula Casey, along with Webb Hubbell, delay their recusals until after the decision not to prosecute Madison was made? I also want to know the details about Paula Casey and Webb Hubbell's phone contacts during the period when Casey was deciding what to do with the referrals, and did either one of them have any contact with the White House on the referrals at any time?

And now, just in the past weeks we have seen reported by the Associated Press that:

> Preparing for televised Whitewater hearings last summer, White House attorneys consulted confidential depositions from a Treasury investigation in an effort to reconcile differing accounts of administration officials who were about to testify.
>
> Former White House counsel Lloyd Cutler acknowledged this week that the depositions were used to identify discrepancies in the recollections of presidential aides before the congressional hearings.
>
> White House lawyers would then "confront" the aides with information they had obtained from the depositions without revealing the sources, he told The Associated Press.
>
> "If we found inconsistencies, we would go back to White House officials, and go back over testimony they gave us," Cutler explained, "and then we would say 'we have heard other reports.'"

This of course brings into play several other issues which I have been following since the close of the hearings last August. As we know now, confidential information was again turned over by Treasury to the White House—this time under the guise of a Treasury Department inspector general's investigation.

This calls into question not only the independence of the IG, but also the willingness of this administration to politicize what is supposed to be an internal watchdog.

It also calls into question the entire testimony offered by White House officials before the Senate Banking Committee—as they were given another heads up in order to best tailor their testimony to help the boss.

Last November I wrote to then Chairman Riegle and ranking member D'AMATO about what I had discovered. In my letter I stated:

As you know, over these past several months I have continued my efforts to resolve outstanding questions which were raised during the Banking Committee's Whitewater hearings. Initially I became concerned upon discovering during our hearings that the Treasury Inspector General had turned over to the White House—at Lloyd Cutler's specific request—transcripts of all the testimony taken by the investigators a full week before the Office of Government Ethics (OGE) report was made public. At the time we learned this, several former Inspectors General expressed amazement at this unprecedented action. However, no further review of the incident was undertaken.

During my investigation of this disclosure, I discovered that not only were the documents released to the White House at the specific request of White House Counsel Lloyd Cutler, but, in doing so, the Treasury turned over confidential RTC information to the White House.

On Saturday, July 23, 1994, the Department of the Treasury gave the White House all of the sworn depositions of Treasury, White House, and RTC personnel. These depositions were unedited.

According to the RTC, it was not until July 26 or 27 that the RTC became aware of the fact that RTC depositions had been provided to the White House.

July 26, after reviewing the information provided by the Treasury I.G., Lloyd Cutler testified before the House Banking Committee.

July 28 and 29, Counsel to the RTC Inspector General Patricia Black redacted all the Treasury, RTC, and White House depositions in order to remove confidential RTC information.

July 31 the OGE report, with edited testimony, was provided to Congress and subsequently made public.

Given that the focus of our hearings this past August was the improper transmittal of confidential information from the RTC to the White House regarding Madison Guaranty and the Clintons, I must tell you I am appalled that the same Treasury Department, acting under specific direction from Secretary Bentsen, would again provide nonpublic information about the Madison Guaranty case directly to the White House.

In addition, I found it extraordinary that the White House, which was itself under investigation, would be given nonpublic information prior to Congressional hearings—particularly when Congress itself was not given the information.

And now of course we have discovered that Mr. Cutler and others used this information not only to assist in the drafting of Mr. Cutler's testimony—but to help White House staff with the inconsistencies in their own stories.

I find this entire episode just another example of the extraordinary lengths the White House was willing to go to keep the facts from Congress, keep the facts from the American people, and ultimately to protect the administration.

As I have said on this floor before, breaching the public trust is as serious an offense as committing a crime, or being found liable for financial penalties. Governments in free societies have a fundamental pact with the governed. In exchange for the powers and responsibilities which is given the Government, the people expect fairness, evenhanded justice, impartiality, and they held the innate belief that those in power can be trusted to be good stewards of their power.

Our form of democracy relies on checks and balances to keep too much power from ending up in just one place—and Congress, as the people's closest link to their Government has the responsibility to keep a sharp eye out for abuses and breaches of the people's trust.

Thus every Member of Congress takes an oath of office, to uphold the Constitution—and certainly part of that duty to be ever watchful for abuses of power. Interestingly, and not surprisingly, it nearly always falls to the party out of power to be the more diligent in watching out for abuses.

No one disputes this.

But one other fact should also be noted. As important it is for the general public to believe in and trust that their elected leaders are performing their jobs in an ethical, truthful, and fair manner—we, in Congress, must also believe that those in high positions of responsibility are telling us the truth. When we ask questions or make inquiries we must trust that administrations will tell the truth, will be honest, and that when we get an answer, it is a full and complete one.

Unfortunately, Madam President, it is this standard that inevitably some administration officials seem unable to comprehend.

Instead of cooperation and truthfulness we have seen evasions, omissions, misstatements, and possibly outright lies.

And the story of potential abuse of the public trust, the politicization of independent agencies and investigations, the use of confidential material for political gain—it only seems to get worse the deeper you look.

Madam President, the next rounds of hearings will go a long way toward clearing the air, and I commend the chairman of the Banking Committee for brining this matter back into the public eye.

I reserve the remainder of my time and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Madam President, I yield 5 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Thank you, Madam President, and I thank my colleague from Maryland.

Madam President, let me begin these brief remarks by commending our colleagues from New York and Maryland for what I think is a very fair and balanced resolution. Obviously, matters such as this are a source of deep controversy and can get out of hand. The fact that they have presented us with a resolution that is balanced and fair is a credit to both the Senator from Maryland and the Senator from New York. Any discussion of this ought to begin with an expression of appreciation on the part of all of us in this body, particularly those of us who will serve on the special committee and who will be working during this calendar year to carry out the mandates and requirements of this resolution. Now I would like to make a few brief observations about the resolution.

As my colleagues know, Madam President, there was a vote by 98 to 0 on March 17 of last year to look into these matters, and what we are talking about here is a continuation of that process. This resolution is simply another step in a process designed to help the American public know the facts about Whitewater.

Second, I would like to point out, Madam President, that the President has fully cooperated in this process. We ought to commend him for this unprecedented level of cooperation.

Many of us recall other Presidents who, when confronted with similar situations, have clogged up the courts of this land, fighting everything along the way. This administration has not done that. In fact, the administration has been entirely forthcoming.

As we discuss these matters, it is important to make it clear that, unlike previous situations where there was a constant conflict between the executive branch and the legislative branch over documents and testimony, that has not been the case here. The administration has complied with every document request, answered every question that has been submitted to it, and I am confident is ready and willing to cooperate in this second stage of the proceeding.

I think that is an important point to make because, as we look down the road, there is the potential for a prolonged and nasty conflict between the executive and legislative branch.

Third, Madam President, I think last year's hearings, despite moments of passion and emotion, were credible and fair. I think it is important to point out and to state emphatically that it was the conclusion of the committee

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last year that there had been no violation of criminal statutes or ethical standards.

Of course, individual Members may have their own particular opinions on those matters, and certainly that is their right. But, as a conclusion of the committee, let me restate. Madam President, there were no violations of any criminal statute or any ethical standards. That was the conclusion of last year's hearings.

Now we are going to go to a second phase. I have listened to some who are suggesting that there must have been some wrongdoing, or, even worse, they have already reached the conclusion that there was wrongdoing. Quite simply, that is inappropriate. The purpose of the hearings is to determine whether there was wrongdoing—we must not prejudge the matter.

We do not want to end up appearing like that famous character from the West, Judge Roy Bean. Everyone will remember Judge Roy Bean. He used to say, "We'll hang 'em first and try 'em later."

Sometimes that can happen in congressional proceedings, and I know it is not the intention of anyone on the committee to have that be the case.

So let us avoid partisan wrangling and get the facts on the table. Now the presumption of innocence may not apply to congressional hearings in the same way as in our court system, but there ought to at least be an effort to fully consider matters, and let people have their say, before we reach any conclusions.

Last year, the Senate held thorough hearings, as I mentioned earlier. The committee heard from 30 witnesses, generating 2,600 pages of testimony: 38 witnesses were deposed, generating some 7,000 additional pages of testimony.

It is very difficult to sort through that much material and I want to thank the staff for the work they did. That was a herculean effort. Both the majority and minority staff had to work extremely long hours on this matter, Madam President, and they deserve our appreciation.

Obviously, Madam President, the Senate's integrity and credibility are at stake. The American public has a right to know the facts about Whitewater and the Senate has a constitutional obligation to see that they do.

Last year, the facts were presented fully and impartially. That must be our goal this year. The public, in my view, is fed up with the partisanship that seems to cloud every issue.

As we go through this process, I urge my colleagues to avoid that partisan pitfall. Because we are entering a presidential campaign cycle, that may be difficult for some. But we must all try. The President is sadly correct, and I suspect most of my colleagues, regardless of their political persuasion, would agree when he says that the politics of personal attack are alive and well. I agree with the President that the best way to put this matter behind us is to address the facts candidly.

Madam President, I ask for 2 additional minutes.

Mr. SARBANES. I yield whatever time the Senator requires.

Mr. DODD. I thank my colleague. I will wrap this up.

Madam President, the public wants us to present the facts impartially, come to our conclusions and then move on. And it bears repeating that after going through such a process last year, the Banking Committee concluded that there had been no violation of criminal statutes or ethical standards.

During this next stage, we must not get into political diversions and drag this thing out. The American people want us to get on with the business of creating jobs and expanding economic opportunity, of dealing with health care issues and education. They want us to tackle the hard problems that they face every day.

I think it was there sense of frustration with politics as usual, more than anything else, that created the changes in the Congress. We now have a Republican leadership, and every committee is chaired by that party. They now have an even greater responsibility to the public. They must elevate the good of the nation above politics and I hope that they will do so in proceeding with this matter.

Once again, I commend Senator D'AMATO and Senator SARBANES for putting together a fair resolution and for stating their determination to wrap this matter up by February of next year. I hope we can stick to that schedule and finish this job efficiently.

Finally, while the subject of the independent counsel statute is not the subject of this particular resolution, Madam President, I want to suggest that we revisit that legislation as soon as we can.

The idea of appointing an independent counsel was to keep politics out of these issues. Unfortunately, it seems that the statute may invite fishing expeditions. We need to be very careful about spending the taxpayers dollars in this way. Otherwise we will have some questionable expenditures. I was told the other day that someone was looking at a witnesses' grade school and high school transcripts. I hope that report is inaccurate because there is just no way to justify that kind of expenditure.

There is the potential for an independent counsel to run wild and we need to carefully monitor these matters. I caution those who would like to use independent counsels for political gain—regardless of whether it was a previous administration or this administration—that whatever goes around comes around. We would be well advised, in my view, to take a hard look at how some of these operations are being run.

Of course, Congress spends a great deal of money on these investigations. The Banking Committee spent about $400,000 last year, and this resolution authorizes another $950,000. But even that amount is only a fraction of what the independent counsel is spending. We are looking at almost $10 million spent by the independent counsel and that is just the beginning of it. That figure will go higher.

Of course, the Federal Government must investigate serious accusations of wrongdoing to maintain the public trust. But when it appears there are more Federal agents operating in Little Rock than there are in high-crime areas in certain parts of our country, then one ought to pause and look carefully at what we are doing.

Again, I know that the independent counsel statute is not the subject of this resolution. I do not want to inject a whole new subject of debate. But I think we ought to take another look at that law and make sure it is operating properly.

Again, I commend the chairman of the Banking Committee, my friend from New York, Senator D'AMATO, and my colleague and friend from Maryland, Senator SARBANES, for the fine job they have done in working out this resolution. We have a very difficult job in front of us. Hopefully, we will conduct our work thoroughly, fairly, and promptly, and in a manner that brings credit to this great body. I look forward to the effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, at this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I yield to the Senator from Pennsylvania 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes.

Mr. SPECTER. Madam President, I thank the distinguished chairman for yielding me this time. I support the resolution and commend the chairman and the ranking member of the Banking Committee for presenting a resolution which I understand will have wide bipartisan support.

I believe it is important to have a congressional inquiry on this in the broad terms which are described in the resolution. It is with some regret, I note, that it has taken us more than a year to get to this point. But it is better late than never, and these are matters where congressional oversight is important.

I recognize the sensitivity of a congressional inquiry on a matter which is being handled by an independent counsel, also known as the special prosecutor. But the functions are very, very different where you have an investigation which is handled through grand jury proceedings which are secret and which are directed at indictments. I know that field with some detail, having been a district attorney myself and

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having run grand jury investigations. That is very, very different from a congressional inquiry where we are inquiring into matters in the public record for the public to see what is going on in Government with a view to legislative changes.

The thrust and focus are entirely different between a grand jury investigation conducted by independent counsel and a congressional inquiry which will be handled through the Banking Committee. I am glad to see that the composition of the committee will be expanded to include the chairman and ranking member of the Judiciary Committee, or their designees.

Madam President, the issues involved here have long been a concern of many of us in this Chamber, and I refer to statements which I made last year dated March 17, June 9, June 16, and June 21. I will not incorporate them because that would unduly burden the RECORD, but a good many of my thoughts were expressed last year on the matter.

I was particularly concerned about issues involving the RTC as to their inclusion, which was not handled last year, and I am glad to see that the Resolution Trust Corporation is included in the scope of the inquiry which we are about to undertake.

This matter was one that I focused on when we had an oversight hearing on the Department of Justice on July 28 of last year, and I ask unanimous consent, Madam President, that a number of documents be printed in the RECORD which have not been made a part of the RECORD heretofore: My letter dated July 26, 1994, to Attorney General Reno; the attachment of a list of documents which I had wanted to inquire into during the proceedings before the Judiciary Committee; the response which was made by Robert Fiske, who was then independent counsel; and a portion of the transcript dated July 28, 1994 before the Senate Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. I thank the Chair.

Madam President, these documents will show on their face concerns which were on the record and which were apparent from such documents: that there were considerable issues to be investigated in the RTC at that time. It is unfortunate, in a sense, that there has been the long delay, because we all know, as a matter of investigative procedure, that leads grow cold and witnesses' memories diminish and that the best investigation is a prompt investigation. But the time factor is something that cannot be altered at this time, and at least now we will have a congressional inquiry which will move forward into these very, very important matters.

I agree with the distinguished Senator from Connecticut when he talks about the presumption of innocence. I think that is indispensable as a matter of fairness to all concerned. But these are questions which need to be answered, and questions do not imply an answer of any sort; they raise issues which ought to be answered. We ought to let the chips fall where they may. And in a Government based on a Constitution which elevates the separation of powers among the Congress in article I, and the executive branch in article II, and the judiciary in article III, the congressional oversight function is a very, very important function. Now, finally, we will be in the context where we will be able to inquire into these matters and to find out what those answers are.

I am confident that there will be a fair, judicious, quality inquiry conducted by the committee, and this resolution is one which I think ought to be supported broadly by the U.S. Senate.

I thank the Chair and yield the floor.

EXHIBIT 1

U.S. SENATE, COMMITTEE ON THE JUDICIARY,
WASHINGTON, DC, JULY 28, 1994

(The following is a partial transcript of the above proceedings)

Senator SPECTER. Thank you, Mr. Chairman. Attorney General Reno, as you know, I had intended to ask you questions about the handling by the Department of Justice in the matter involving David Hale in this oversight hearing, and I may be able to cover the principal points of my interest without undue specification, or at least undue specification from your point of view.

At the outset, I would like to put into the record my letter to you dated July 26, 1994, together with the chronology of events and all the attachments which I sent over to you, except for numbers 20 and 21. I may get into 20 and 21. I think the balance have been in the record in one form or another, and even if they haven't I think they are appropriate for the public record.

[The letter referred to follows:]

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 26, 1994.

HON. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: I have just noted that you are scheduled to testify before the Judiciary Committee on Thursday, July 28, at 2:00 p.m. at an oversight hearing.

In that hearing I intend to ask questions on the Justice Department's role in investigations of Madison Guaranty and/or "Whitewater." While I have not had access to many of the relevant documents, I have seen a few and am alerting you to those documents which will formulate at least some of the basis for my questions.

Some of the documents are referred to in my floor statement on June 21. Other documents that I may refer to are listed on the attached index.

Sincerely,

ARLEN SPECTER.

Senator SPECTER. I would also want to put into the record the faxed letter from Robert Fiske, Independent Counsel, to me, dated July 27, 1994.

[The letter referred to follows:]

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE INDEPENDENT COUNSEL,
Little Rock, AR, July 27, 1994.

HON. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: The Department of Justice has sent over to me a copy of your letter of July 26, 1994 to Attorney General Reno, together with the index of documents enclosed with it.

It is apparent from a review of the documents on that index that they relate to the handling by the Department of Justice of a particular criminal referral from the RTC. Based upon interviews we have had with representatives from the Kansas City Field Office of the RTC, we are currently actively investigating this matter. Accordingly, I would respectfully request that you not go into this subject with the Attorney General at your hearing tomorrow since to do so might prejudice our ongoing investigation. (For similar reasons we request that you not go into the matter referenced by documents #20 and #21.)

We have made a similar request to both the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs which, as you know, are in the process of conducting Whitewater hearings. Both of those Committees have agreed not to go into this subject until we have completed our investigation.

Respectfully yours,

ROBERT B. FISKE, Jr.,
Independent Counsel.

Senator SPECTER. At the outset, I want to say for the record that I do not agree with the deference which the Congress has accorded the independent counsel because I believe that Congress has independent status, and at least equal status, if not more important status, on matters of public policy than the criminal prosecutions. But the Senate has decided otherwise as a political matter, in my opinion.

As I reviewed the charter of Mr. Fiske, it seemed to me that questions about oversight on what happened with David Hale were not within his charter, his charter being to investigate matters of possible criminal or civil wrongdoing. I am advised to the contrary on that, and we may get into that in some specificity.

So let me start in an effort to ask the questions in a generalized way, but candidly as they arise on David Hale's matter. I refer to a memorandum from RTC investigator Jean Lewis to Richard Iorio which quotes officials within the Department of Justice, which is why I ask you about this specifically, Ms. Donna Henneman in the Office of Legal Counsel. Without making anything more specific as to the Hale matter, my question to you as a general matter is, any time a referral comes in to the Department of Justice that would make the Department look bad or has political ramifications, it goes to the Attorney General. Is that true?

Attorney General RENO. I don't know whether any time something comes in to the Department that would make the Department look bad it comes to the Attorney General.

Senator SPECTER. Well, if you don't know, who does, Attorney General Reno?

Attorney General RENO. I would suspect that each one of the 26,000 people who hear something that might make the Department look bad. I think your question is a little bit broad. I cannot answer it. As I have tried to say from the very beginning, when I appointed Mr. Fiske I tried to make sure that he was as independent as possible. I have continued to try to do that, and I think the

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worst thing that I could do would be to comment or talk about matters that he is pursuing. I should be happy, because I have great respect for the Senate and for you, at the conclusion of the matter to try to respond to anything, including the specifics.

Senator SPECTER. Well, I don't think that is sufficient, Attorney General Reno, because I think this is a legitimate matter for Judiciary Committee oversight, and we don't have very much of it. But I accept your point that my question was too general, so I will be specific.

The investigator, L. Jean Lewis, of RTC, had many conversations with representatives of the Department of Justice, as reflected in the number of the memoranda which I sent on to you. So if it is too general as to whether any time a referral comes in that would make the Department look bad or has political ramifications it goes to the Attorney General, I would ask you, were you personally informed about the referral from the RTC on the check kiting case involving Madison Guaranty?

Attorney General RENO. As I indicated to you, Senator, I made a determination when I appointed Mr. Fiske that I would not comment or make any comment. He has expressed to you that he would prefer that I not comment on the specific matters. I do not want to do anything that would impair has independence. I do think you have an oversight function with respect to the Department of Justice, and when it would be appropriate for me to comment I would look forward to the opportunity to do so.

Senator SPECTER. Well, tell me, Attorney General Reno, has would it impair Mr. Fiske's investigation or prosecution for you to answer a question as to whether you had personal knowledge of a referral to the Department of Justice?

Attorney General RENO. I can't tell you, sir, because I have tried to do everything in my power to make sure that Mr. Fiske's investigation is independent and I don't know what his investigation involves. Therefore, I am not going to say anything that could possibly interfere with his investigation.

Senator SPECTER. Well, my question to you is how could it possibly interfere with his investigation to answer a question as to when you had knowledge of a referral to the United States Department of Justice.

Attorney General RENO. I don't know, sir, because I am not going to take the chance of interfering with it. You would have to ask Mr. Fiske because I don't want to do anything at this time that would interfere or impair that investigation. I do not know the nature of the process of that investigation and it would be inappropriate for me to comment, but I do——

The CHAIRMAN. Put another way, Senator, how would it shed any light in this oversight if the Attorney General answered that question? What the hell difference does it make now?

Senator SPECTER. Well, the hell difference that it makes now is on an earlier question which I asked that whenever there is a matter with political ramifications that it goes to the Attorney General—and I asked that question in its broadest terms and was told that it was too general, so that is when I came back to the specific question.

The CHAIRMAN. Let me ask the question the other way to the Senator. Mr. Fiske's investigation in this matter is likely to be wrapped up. He has been moving expeditiously. Does it matter to the Senator whether or not the Attorney General speaks to this issue today or in two weeks or a month, or whenever it is when Mr. Fiske settles this part of his investigation? I don't know when he is going to settle that, but I mean he has been moving very rapidly.

In terms of oversight for next year's budget and last year's actions, it seems to me the Senator would have plenty of time to ask these questions as it would impact on the outcome of the Senator's view as to what the Attorney General should or shouldn't do in the future.

Senator SPECTER. Well, I would be glad to respond to the chairman. It does make a difference to me, and it makes a difference to me because this is an oversight hearing and the request to the committee chairman to have oversight on these matters was declined. There has been a charter which is very, very narrow before the Banking Committee, and this does not involve, to my knowledge, a matter which is within the charter of Mr. Fiske until when I sent a letter to the Attorney General. I suddenly find a reply from Mr. Fiske.

I had two detailed conversations with Mr. Fiske, the thrust of which—and I would be glad to detail them—led me to the conclusion that there was absolutely no interference with the criminal prosecution, a subject that I have had some experience with.

So when I asked the Attorney General a question as to when she has knowledge of a referral, I can't conceive that it interferes with an investigation, and that is why I am asking an experienced prosecutor who is now the Attorney General how could it conceivably interfere with a pending investigation.

Attorney General RENO. An experienced prosecutor, Senator, doesn't comment about something that she doesn't know about. I don't know about the details of Mr. Fiske's investigation. But if Mr. Fiske doesn't have any problem with it, what I would suggest that we do is prepare the questions, submit them to Mr. Fiske. If he has no objection to my answering them, then we will try to answer them because I honor your oversight function and I would want to be able to honor that and to not interfere with Mr. Fiske's investigation.

Senator SPECTER. Attorney General Reno, I did not say that Mr. Fiske did not have a problem. He specifically told me that he would like the field to be totally left alone. What I said to you was that after talking to Mr. Fiske, I had no doubt that these questions were appropriate, in my judgment, on oversight by the Judiciary Committee.

Let me ask you this, Attorney General Reno. In terms of the charter that Mr. Fiske has about investigating matters which may involve a violation of the criminal or civil law, is the handling by the Department of Justice of David Hale's matter something that falls within that charter?

Attorney General RENO. I have tried to, again, let Mr. Fiske define that based on the charter that we described so that I would not in any way impair his independence.

Senator SPECTER. Well, do you have any interest in whether any current employees of the Department of Justice are subject to an investigation which might be within Mr. Fiske's charter for possible criminal wrongdoings?

Attorney General RENO. Yes.

Senator SPECTER. Well, if that were so, would you have a duty as the head of the Department of Justice to take some action on those matters before a long investigation was concluded?

Attorney General RENO. It depends on what they are, sir.

Senator SPECTER. Well, suppose they were obstruction of justice?

Attorney General RENO. It depends on the nature of the facts and the circumstances, sir.

Senator SPECTER. Well, do you know anything about that on the Hale matter?

Attorney General RENO. Again, sir, I can't comment on the Hale matter.

Senator SPECTER. I am not asking you to comment on the Hale matter. I am asking you whether you know anything about the Hale matter.

Attorney General RENO. That would be commenting, sir, and what I would suggest, if we want to pursue this, is that you pose the questions and then let's see whether Mr. Fiske thinks that they would in any way interfere with the investigation. I am delighted to answer them if they don't interfere.

Senator SPECTER. Well, I am not going to follow the way you would like me to proceed. I make a judgment as to what I think a Senator ought to do by way of oversight, and if you have a concern about that I am prepared to discuss it with you, but I am not prepared to take your instruction or your suggestion.

The question that I pose on an investigation by Mr. Fiske as independent counsel within his charter to investigate crimes, obstruction of justice, within the Department of Justice is not something which bears on anything which could conceivably implicate the underlying facts on what David Hale is doing.

Is Ms. Paula Casey—I understand that she is, but can you confirm for me that she is still the United States attorney?

Attorney General RENO. Yes, sir, she is.

Senator SPECTER. Is she the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske.

Senator SPECTER. Do you know whether or not she is the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske. I have avoided having anything to do with Mr. Fiske's investigation in terms of any information that he may have so that I do not impair his independence.

Senator SPECTER. Would you continue a United States attorney operating actively if that United States attorney were the subject of a criminal investigation?

Attorney General RENO. It would depend on the circumstances.

Senator SPECTER. Well, under what circumstances would you terminate such an attorney?

Attorney General RENO. It would depend on the circumstances. Again, you get into a situation of hypotheticals and it is far better that we look at the actual facts, and I would be happy at the appropriate time to do that with you.

Senator SPECTER. Well, Attorney General Reno. I consider your responses, as I see them, totally unsatisfactory, and I consider them totally unsatisfactory because I am not asking you anything about a pending investigation. I am asking you questions as to what came to your knowledge as the Attorney General of the United States Department of Justice.

I am asking you questions about what you know and about what your policy would be if there were charges of criminal wrongdoing, and I don't ask these questions in a vacuum or for no purpose. I ask these questions in the context of having initiated an inquiry on oversight on something which is outside the charter of the independent counsel.

The CHAIRMAN. In your opinion, Senator, right, is that correct? In your opinion?

Senator SPECTER. Everything I say is in my opinion. You can add that to everything. I don't speak for anybody but myself, but I do speak independently for myself.

I took a look at an extensive series of correspondence which has gotten to the Department of Justice and gotten to the FBI and gotten to the United States attorney's office and gotten to the executive office and gotten to the Office of Legal Counsel, according to these documents, which I sent to you as soon

as I knew there would be this hearing so you would have an opportunity to review them. I promptly advised the chairman as to what I intended to do there would be no surprises about it.

The CHAIRMAN. That is correct.

Senator SPECTER. When I pursue the matter and find I have a telephone call and a letter from the independent counsel, I call him and then I am told that it is within his charter, that there is an investigation which is underway for obstruction of justice.

As I review the facts of this matter, I am struck with wonderment as to how officials in the United States attorney's office decline to have immunity granted to David Hale, and then independent counsel comes in and in a short time has a grant of immunity. Then officials in the United States attorney's office in Little Rock recuse themselves in a later matter, and I wonder how can they recuse themselves in a later matter without having recused themselves in an earlier matter, given their relationship to subjects of the investigation.

I ran a big office myself as a prosecutor, and if I had any reason to believe anybody in my office had any problem, I wouldn't wait for anybody to cleanse it totally and thoroughly and immediately. I do not believe that the charter to the independent counsel takes away any of the authority or the responsibility of the Attorney General to act in that circumstance.

In my opinion—everything I say is in my opinion—the questions which I have asked you are entirely appropriate questions, and I give some additional background because I think these are matters which ought to be answered, and I intend to pursue them and I don't intend to wait.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

General, I think you have answered totally appropriately, in my opinion. I think were you to do otherwise, in light of Mr. Fiske's comments, you would be excoriated by Mr. Fiske and anyone else. I guarantee you, you would have an article saying that you have interfered if you went in and, quote, "cleansed," were there a need to cleanse. You would be accused of whitewashing to avoid Mr. Fiske being able to fully look at the matter.

You are answering, in my opinion, totally appropriately, and you have done what I don't know many others have been willing to do. You have said to this committee, without having to have some big show on the floor, that when Mr. Fiske says he is finished with this phase of the investigation you will come back and you will answer questions. It seems to me you are being totally appropriate, but that is why there are Democrats and Republicans, chocolate and vanilla, good and bad, right and wrong, different points of view. Our opinions are different.

I respect this man. He did notify me. Stick to your guns, don't answer his questions, in my opinion.

Senator SPECTER. If I might have just one sentence?

The CHAIRMAN. Yes. You may have more than one sentence.

Senator SPECTER. I don't think this matter has anything to do with good and bad or chocolate and vanilla.

The CHAIRMAN. Well, it may not have to do with good and bad, but it has to do with what one considers to be the appropriate way for you to respond. I think you are responding appropriately because I think you are in the ultimate catch-22 position. At the request of all of us in the Senate, you appointed a Republican named Fiske. Now, the Republican named Fiske tells you, please don't respond to anything having to do with this. You are being asked to respond to something having to do with this, and if you respond or don't respond, you are in deep trouble in the minds of whoever wants to view you as being in trouble. I think you are doing just fine. My view is worth no more, probably a little less in this circumstance, than the Senator from Pennsylvania's, but good job, General.

INDEX

1. RTC Chronology of Criminal Investigation.

2. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Steve Irons (FBI) transmitting criminal referral.

3. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Charles A. Banks (DOJ) transmitting criminal referral.

4. RTC Internal Memorandum, May 3, 1993. Background remarks and conversation with AUSA Bob Roddey's Office re: Madison Guaranty Savings referral.

5. RTC Internal Memorandum, May 19, 1993. Additional conversation with Office of Legal Counsel for U.S. Attorney's U.S. Justice Department, Washington, D.C. No record of Madison criminal referral at Washington DOJ.

6. RTC-KC E-Mail, May 19, 1993. Madison matter forwarded to Donna Henneman in "Legal Counsel." Referral submitted to that office "because of the political ramifications and political motivations."

7. RTC-KC E-Mail, May 26, 1993. Follow-up call from Donna Henneman (DOJ). RTC advised by an FBI agent in Little Rock that it was a 'very solid case of check kiting, and was highly prosecutable." Henneman was growing increasingly frustrated by the situation, because she had seen the information, knew that it had come in, and couldn't understand why she was having such a hard time tracking where the referral and exhibits had gone.

8. RTC-KC E-Mail, June 8, 1993. Conversation with Donna Henneman (DOJ). Madison Referral has reappeared on her desk. Criminal Division has sent memo to Doug Frazier (in Deputy, Atty. General Heyman's office) advising him that there was "no identifiable basis for recusal of the U.S. Attorney in the Eastern District of Arkansas." Referral sent to Frazier for review and final decision.

9. RTC-KC E-Mail, June 23, 1993. Conversation with Donna Henneman (DOJ). Package returned from Frazier. Frazier appointed U.S. Attorney in Florida.

10. RTC-KC E-Mail, June 23, 1993. Further conversation with Donna Henneman (DOJ). Spoke with Doug Frazier. Decision made to return the referral back to the Arkansas U.S. Attorney. No basis for recusal.

11. RTC-KC E-Mail, June 29, 1993. Source indicates Madison referral has been returned to Little Rock. Acting U.S. Attorney will not act on referral. It is being held until U.S. Attorney designee Paula Casey takes office.

12. RTC-KC E-Mail, September 23, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ would like to be copied on all future transmittal letters concerning Madison referrals with an additional one paragraph summary of the content of the referrals with the transmittal letters, so that Henneman will be aware of those with "sensitivity issues."

13. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). DOJ would like copies of all future Madison referrals sent to Washington in addition to sending to U.S. Attorney in Little Rock. Henneman will confirm this in writing.

14. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ withdrawing request for referrals to be sent directly to Washington, but would still like copies of transmittal letters with addendum summary paragraph.

15. RTC-KC E-Mail, October 27, 1993. Conversation with Donna Henneman (DOJ). Inquiry on whether declination letter had arrived from Little Rock U.S. Attorney.

16. Letter of October 27, 1993 from Paula J. Casey (U.S. Attorney) to L. Jean Lewis (RTC). Declination letter on the Madison referral.

17. Letter of November 1, 1993 from L. Jean Lewis (RTC) to Paris J. Casey (U.S. Attorney). Confirmation of declination letter and the stipulation from October 27th letter that the matter was concluded prior to the beginning of Paula Casey's tenure and that the RTC had never been advised of such result. Chronology of correspondence between RTC and DOJ.

18. RTC-KC E-Mail, November 15, 1993. Transmittal of white paper outlining chronology of events related to 1992 Madison referral. Challenges news article indicating that decision to decline Madison referral had been prior to Paula Casey's appointment.

19. RTC-KC E-Mail with attachment, January 6, 1994. Discussion of contact with reporter.

20. Letter of September 15, 1993 from Randy Coleman (David Hale Attorney) to Paula Casey. Coleman has been trying to negotiate a plea and senses that Casey is reluctant because of "political sanitivity."

21. Letter of September 20, 1993 from Randy Coleman to Michael Johnson. Reiterates interest in plea negotiations, offering David Hale's information and willingness to participate in undercover activities.

Mr. SARBANES. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Maryland has 31 minutes; the Senator from New York has 20 minutes.

Mr. SARBANES. Mr. President, I yield 10 minutes to the Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, we have come to a point in this debate when we are about to vote on this particular resolution. If I might, I would like to talk for a few moments about the public's right to know, as the distinguished chairman of the Banking Committee from New York has made reference to.

He says the public has a right to know what happened in the Whitewater matter. The public has a right to know who did what, when, and whatever. I can assure you that the Senator from Arkansas does not disagree.

But I think also the public has a right to know something else. I think the public has a right to know in this case exactly how much money of the taxpayers' dollars we are spending in the so-called Whitewater matter. I think the public has a right to know that with this resolution, if it passes and if the funding goes through—and we all assume it will—the Senate alone will have spent, up through January or maybe February of next year, in the Whitewater matter $1.250 million of Senate money to investigate this matter. I do not have available the amount of money the House of Representatives has spent and will spend in the future. And we do not know exactly how much the cost of the independent counsel will be. But here are some figures I might throw out for the RECORD at this time. To the best of our knowledge, Mr.

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President, thus far, as of August 31, 1994, the independent counsel, Mr. Starr and Mr. Fiske, combined, spent $1.879 million. Projected funding for the independent counsel for the 1995 fiscal year is $6.3 million, which is a subtotal of $8.129 million, and a total, adding all the figures up, Mr. President, for both the Senate and the independent counsel to investigate so-called Whitewater, comes to almost $10 million in taxpayers' dollars.

Mr. President, I think there is something else the public has a right to know. I think the public has a right to know that this White House, this President, this First Lady, this administration, has never one time been accused of lack of cooperation. In fact, our President has pointed out, as one of our colleagues has already mentioned, that to be candid and truthful in this matter is going to be the quickest and best way to get to the bottom of it.

In the first round of hearings last summer, the committee heard from 30 witnesses generating 2,600 pages of testimony, deposing 38 witnesses, generating 7,000 pages of testimony.

The administration has produced thousands of pages of documents for committee review. This administration has complied with every document request. They have answered every question posed to it. The administration is ready and willing to cooperate on this second round of hearings and it bears emphasis, I think, that after the long days of hearings and pages of documents reviewed, that the Banking Committee concluded at the end of this hearing, in phase 1, that there had been no violation of a criminal statute and no violation of an ethical standard.

Mr. President, I think, too, it needs to be added that at no time during any of these investigations or any of these hearings, whether it be in Little Rock or Washington, the Banking Committee or the special counsel, wherever, to the best of our knowledge, not one witness, not one person has taken the fifth amendment.

I think that this speaks loudly and clearly about this administration's position, wanting to get on with the important business of our country.

Mr. President, let me compliment our friend, Senator SARBANES, for working out what I think—and going forward with—is a fairly reasonable proposal in trying to attack this problem and to set up these hearings. I think that there are some things, however, that I must state that I do not feel are fair. I do not feel that it is fair for one of the members of the committee, as he did earlier in this debate, to come to the floor and say what should have been within the scope of this hearing and then start talking about those particular issues as if to condemn them, even though they are not in the scope of these particular hearings.

Mr. President, I think for a Senator to come to the floor who is a member of the Banking Committee and to make a statement like he knows for a fact, or he has knowledge that Kenneth Starr, the special counsel, is now going to reinvestigate the death of Vince Foster, I think the public has a right to know how that particular Senator from North Carolina has knowledge of this so-called fact, Mr. President. I think the Senator from North Carolina needs to explain how he knows Mr. Kenneth Starr is now looking or relooking at the death of Vincent Foster.

Mr. President, we hope that these hearings will be fair. We hope they will be soon. We hope that they will be done in a very efficient manner. I am just hoping above all, Mr. President, that in this hearing, these issues are not going to be bogged down in the political morass that we have seen some other hearings conclude with. I would like to say, also, Mr. President, that I think for us to go back to the 1990 Governor's campaign, I think is stretching it a bit. I do not know what that has to do with Whitewater. I think some of my colleagues would like to see us investigate Bill Clinton when he was the attorney general of Arkansas. Maybe we would like to go back to look at his campaign of 1974 when he ran for the U.S. Congress and was defeated. There might be some who have no limits on how far back in time we should go.

I hope we can keep our eye on the ball. I am hoping, Mr. President, that we can keep our eye focused on the issue of Whitewater and the particular mission under which carefully this resolution has basically pointed out would be the scope of this particular hearing.

I am also concerned that one of our colleagues has referred to the "the miserable job of Mr. Fiske." Those remarks were made earlier on this floor. Of course, they refer to Mr. Fiske, who was allegedly fired from this investigation as special counsel because he was not finding out enough, bringing forward enough, to satisfy some of our colleagues.

Mr. President, I will conclude once again, as I have done other times on this floor, by quoting a note that Vince Foster wrote. It is his last note. It was his last sentence in this note, when he said "Here"—reference to Washington—"ruining people is considered sport." Those were the words written by the late Vincent Foster.

I am hoping, Mr. President, that when this investigation begins, every person involved with that investigation, from top to bottom, will realize these are human beings; they have families; they have hopes and desires; they have beliefs; and they have reputations. Hopefully, we will not treat lightly those reputations, and hopefully we will make certain that the character and the nature of these hearings seek fairness and justice.

I yield the floor.

Mr. SARBANES. Mr. President, I yield such time as he may consume to the minority leader.

Mr. DASCHLE. Mr. President, I thank the ranking member. Let me say, I did not have the opportunity to hear all of his remarks, but let me commend the distinguished Senator from Arkansas for what I have heard him say. Let me associate myself with each and every one of his words. He speaks from the heart, and he certainly speaks for all Members in representing what we hope will be the ultimate goal of this committee as we begin this ever once more.

This resolution provides a sum of $950,000 for the purpose of completing the work on the Whitewater matter. I think it needs to be emphasized again, as we consider the funding, that this resolution includes every issue related to Whitewater that has any credence whatever. There ought not be any question about its work, its scope, and the effort undertaken after today by the Banking Committee.

The funding will expire on February 29 of next year. It is an adequate amount to fund and an ample allowance of time to permit comprehensive and thorough hearings, while providing also for the completion of this issue.

In the 103d Congress, the Senate voted on March 17, 1994, on a bipartisan vote of 8 to 0, to authorize hearings on the Whitewater matter. Senate Resolution 229, adopted in June of last year, authorized a first round of hearings which were subsequently held by the Banking Committee.

The new resolution creates a special committee, administered by the Banking Committee, to conduct the final round of these hearings. The committee will be comprised of the full membership the Banking Committee, with the addition of one Republican and one Democratic member of the Judiciary Committee.

Chairman D'AMATO will also chair this special committee. Senator SARBANES will serve as the ranking member.

Last year, the Banking Committee heard from a substantial number of witnesses and took thousands of pages of testimony. Last year's hearings were thorough, fair, and bipartisan. They are the model which this year's hearings must emulate.

The majority, which conducted the hearings last year, were fair and judicious in their approach. The new majority in this Senate has the obligation to follow that record in exactly the same manner.

It is important to be thorough and comprehensive, because the American people have a right to know all the facts about this matter; but it is equally important that hearings be fair and responsible. We must all strive to remember and draw the distinction between an unproven allegation and a known, verifiable fact.

What is at stake is the integrity and credibility of the U.S. Senate. The last Senate recognized this by voting unanimously to authorize hearings when questions were raised that deserved examination. This Senate should follow that example.

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The Senate has the constitutional obligation to see that the facts are brought out. It has the moral obligation to do so fully and impartially. If we do less, we risk reinforcing the unfortunate impression that Senators care more about partisanship than about conducting the Nation's business in the best interests of all the people.

The President has said that in an era of attack politics, the best way to put this matter behind America is to address the facts candidly. He is entirely right.

The administration cooperated fully and extensively with hearings last year and stands ready to do so again this year. Last year, the President ordered his administration to cooperate and all parties did so. Every document request was honored. Every question raised by the committee was answered.

Americans have the right to know the facts of Whitewater. But Americans care about other matters which are also on the Senate agenda a great deal more than they do about this.

Americans are now facing a budget which seeks to dramatically alter Medicare and student aid programs, as well as virtually every other thing the Government does. They are anxious about the future, because so many millions of Americans are either Medicare enrollees or have parents who are Medicare enrollees. They are anxious to see the Senate begin the debate over the budget soon.

Americans expect the Senate to devote the bulk of our efforts to the issues that are of most importance to the majority of American people. I agree. That should be our priority. Today, no issue is more critical than resolving the budget debate.

Mr. President, I urge prompt action on this resolution. I hope it allows for completion of this matter with fairness and impartiality, so that Senators can focus their attention on the issues that deserve it most, the problems facing the American people.

I thank the ranking member for yielding.

Mr. D'AMATO. Mr. President, I did not mean to unduly delay acting on this resolution, because I think most things that have been said summarize where we are at, what we are attempting to do, and the scope of the investigation and the manner in which we hope to conduct it.

I think is important to point out that what one of my colleagues, the Senator from North Carolina, Senator FAIRCLOTH, pointed out is a matter of public record. That is that Judge Starr is reexamining all matters reviewed by Special Counsel Fiske, including Vincent Foster's death.

I think he alluded to that, and I think he did so in that context. That is not an area we intend to revisit unless there are some very special circumstances, which I certainly do not envision. However, I think we have to at least put it in that context.

As it relates to what the committee did and did not find last year, I think it is important to note that the Republican minority did make findings on the three major areas where there were questions of misconduct and malfeasance. I will not attempt to enunciate all of them now, but that was a very strong finding.

I would also like to point out that the majority made some findings and recommendations as it related to the need to indicate very clearly that before Congress, all executive branch members and others who testified are "required to be fully candid and forthcoming," and testify "truthfully, accurately, and completely."

The committee recommends that the President issue an Executive order reinforcing this obligation and setting forth procedures requiring the prompt correction, amplification and/or supplementation of congressional testimony to ensure that it is accurate, thorough and completely responsive.

Why did they do that? Without going through the entire history, it was because it was clear and evident—and, by the way, we have sent to Mr. Fiske and to his successor, Mr. Starr, those areas, we being the Republicans on the committee, the minority—that those areas of concern, that, at the very least, there was testimony that was disingenuous, if not outright false. And that is being reviewed.

So, to say that there were no findings of any wrongdoing, that everything was OK, or to imply that there was nothing wrong, is simply an oversimplification and is not an accurate or fair representation of the situation.

Now, I do not intend, nor is it my job and duty, to defend the work of the special counsel. The special counsel was appointed because the Attorney General concluded that it was necessary. It was not this Congress. I thought it was. I believe it was. There were leading Democrats who spoke to the necessity—Senator MOYNIHAN, Senator BRADLEY, and others—as it relates to dealing with this. But as it relates to the expenditures of money, let us look at the record.

This committee, I think, has been very judicious. The Democratic leadership working with Republicans last year authorized $400,000. We only spent $300,000. This year we have set $950,000. I hope we spend less than that. We have been very judicious in using taxpayers' money. So to date we have spent $300,000. Although that is not an inconsequential sum, we have been extremely judicious.

With regard to the expenditures and what has taken place with the special counsel, let me just indicate, first, that David Hale pleaded guilty. He was a municipal judge and has made some extremely serious allegations. The special counsel is reviewing his allegations with respect to why he made certain loans that were illegal or inappropriate, who asked him to do so, and so forth.

Webster Hubbell, the third ranking official in the Attorney General's office, pleaded guilty to charges that emanated, again, from this investigation.

Neil Ainley, president of the Perry County Bank, where large sums of money, $180,000, were taken out to fund campaign activities, pleaded guilty.

Chris Wade, a real estate agent who was the sales agent for Whitewater Development, pleaded guilty in a bankruptcy matter. Robert Palmer, last December, a Little Rock real estate appraiser, pleaded guilty to conspiracy charges relating to backdating and falsifying appraisals for Madison Guaranty.

I make these remarks because I do not believe that it is fair to leave the impression that this has just been a big waste of time and that there was no wrongdoing. Five individuals, at this early and preliminary stage of these investigations, have already pleaded guilty, some in very high, responsible positions. That is the work of the special counsel. He has to defend the appropriateness of the expenditures which he makes.

However, I think for the record it is fair to reflect that several individuals have pleaded guilty to various charges. As it relates to our work, I am going to reiterate that I believe this committee has properly set forth the venue, the scope and the way in which it intends to move forward in a bipartisan manner to find out the truth and get the facts. Was there an attempt to impede legitimate investigations undertaken at RTC? Why were certain people taken off the case? Why were certain RTC investigators disciplined? Why was information about confidential criminal referrals made public? Was there a failure to go forward? These are legitimate questions. There may be appropriate reasons. But, then again, we might discover inappropriate action.

So these areas are within the scope. We are not going to attempt to dig up something that does not appear to be really connection to the matters that we have set forth. And it is our hope, depending upon the schedule of the special counsel as he goes through the materials, that we can wind this up sooner rather than later, and conduct the business of the people in a manner which reflects credibly on our constitutional obligations as Senators.

Mr. President, I am prepared to yield the remainder of my time. My colleagues may have something to do. I am prepared to vote on the resolution.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will take just a couple of minutes. I say to my distinguished colleague from New York.

First of all, I want to underscore the positive and constructive way in which the chairman of the Banking Committee and members of his staff interacted with us in trying to address the question of working out a resolution that we would bring to the floor of the Senate. Obviously, it is not an easy thing to do, and Members of the Senate have

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differing views about this matter. But I do think we were able to, in the end, work out a rational approach to this inquiry and investigation, which I indicated in a sense had been committed to last year.

Obviously, you always have to work out carefully the scope questions, which has been done in this resolution, because the scope could be infinite, in a sense, if you leave it to people's imagination. So there were candidates for scope that I think went beyond the horizon, and they are not included. But we have tried to, in effect, put a focus here.

In fact, some of the questions the distinguished Senator from New York just raised, that he felt emerged out of the previous hearings—and he made reference to last year's minority statement in the report—have in fact been spelled out here as matters that could be looked into under this resolution.

There were other candidates, of course, that were not included. We have tried to be rational here. We have tried to be reasonable. The matters specified herein have been the outcome of that process.

Second, I want to say the resolution has been put together in a way that presumes that the two sides will work together cooperatively in carrying out the inquiry, that the staffs will interact in that fashion, that material will be generally available and so on. We are trying to get an inquiry here in which everyone is joined in trying to find out what the facts are. A lot of questions are raised, and will be looked into. If you did not raise questions, you would not have an inquiry, so I recognize that. But our job, I think, is to probe the factual matter behind those issues.

I was interested that my colleague earlier used the word "allegations," and that is what it is until you actually get the facts that sustain it. And that is the process we are going to engage in. Some things, you know, when you finally examine them, turn out to be fairly innocent. At least I think. We had this point about Captain Hume, who did not appear when he was supposed to be a witness.

Well, what happened—obviously there was a slip-up, but I think that is what it was, a slip-up. Captain Hume was deposed. He had over 300 pages of deposition testimony. Apparently at his deposition he said he was about to take a—go on a vacation. After that the hearing date was set. Everyone sort of assumed that Captain Hume could be brought back in for the hearing. A subpoena, I do not think, was issued for him.

Mr. D'AMATO. I do not think it was issued.

Mr. SARBANES. I do not think it was issued for him so he did not, as it were, ignore a subpoena. And he went on a hunting and fishing trip and could not be located, is what happened.

In the end, I think it was judged that given we had 300 pages worth of deposition it was not worth having another hearing simply to bring Captain Hume in. I mean it is a small matter, but I only mention it to show that sometimes when you really examine the facts you discover that something that looked amiss at first has a very simple, plausible, and reasonable explanation for it.

We expect, as I understand it, now to move forward with this. I know that the chairman and his staff will be talking with our staff to begin to plan the first set of hearings which I think will probably be in the next month or so, and then we can proceed from there as we schedule other matters which have been stipulated here in the resolution as being within the scope of the inquiry which this special committee will now undertake.

But I do again want to underscore the, I think, responsible way in which the chairman and members of the staff have worked with us in order to try to frame a resolution which we could bring to the floor of the Senate today which I think carries forward the legitimate requirements imposed upon us in terms of carrying out an investigation without straying beyond what most people regard as reasonable bounds.

Mr. President, with that, I made my statement. I see the distinguished Senator from Arkansas, and I would like to yield time to him.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Ten minutes.

Mr. SARBANES. Mr. President, I yield 4 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator from Maryland for yielding.

Mr. President, when I was a student in law school I remember studying criminal law. There never had been a lawyer in my family. So I knew nothing about any kind of law. But I remember the professor about the second day said, "Remember, the presumption of innocence is the hallmark of our system of criminal jurisprudence." It is not presumption of guilt.

I asked the question, "Should I defend somebody if they came into my office and told me they were guilty?"

He said that will be a personal call, but you bear one thing in mind. That person may not know whether he or she is guilty under the law. They may think they are and are not.

I am going to vote for this resolution. I have no objection whatever to a fair, open hearing giving everybody a chance to answer the questions of this committee. But I have heard some names thrown around here this morning.

Mr. President, in cases like this, all you have to do is throw out a name. Oftentimes you have destroyed a person or at least destroyed their reputation. And there has been entirely too much of that surrounding this case.

So let me admonish my friends in the U.S. Senate, and especially on this special committee, lawyers and nonlawyers, to ask yourself when you are making some of these speeches and you are throwing out names, why did not this happen, why did not that happen? Well, hindsight is a wonderful thing. But ask yourself when you are throwing names around and wondering whether or not you are destroying that person, a perfectly innocent person for life, you ask yourself this question: "How would you like to be in that somebody's shoes and hear your name bandied around on the floor of the Senate which carries with it the connotation of some wrongdoing or some guilt?"

I hope the Members of this body will rise above that sort of thing, and when they say something and use some of these names in regard to this hearing, make awfully sure they are not destroying some innocent person needlessly and wrongfully.

I look forward to the hearings. I look forward to the people having an opportunity to say what they want to say and answer the questions of the Members of this committee. But for God's sakes do not prejudge everybody that is going to be called as a witness before they get there and have an opportunity to answer the questions.

I yield the floor.

Mr. SARBANES. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for yielding me 2 minutes. I had not planned to speak again. But the distinguished chairman of the committee made reference to three or four individuals who have either pled guilty or have been indicted, et cetera. I would like to talk about some of those.

Neil Ainley worked with a bank in Perryville about 50 miles from Little Rock. He pled guilty to four counts, but not one of those counts related to Whitewater; not even close to Whitewater. One was his so-called failure to file with the Internal Revenue Service a withdrawal of cash for the 1990 Clinton campaign; nothing whatsoever to do with Whitewater.

The second individual the distinguished chairman mentioned is Chris Wade. If I am not mistaken, Chris Wade was a real estate broker I believe in Mountain Home, near the Whitewater development area. Chris Wade, subsequent to these many years of dealing with the lots at Whitewater, filed bankruptcy; not related to Whitewater in any way. But in the bankruptcy filing he failed to disclose either an asset or a debt. I do not know all the facts, but this matter is unrelated, totally unrelated to Whitewater; no relationship whatsoever to the President and Mrs. Clinton. But yet

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the prosecution has now had him plead guilty.

The third person referred to was Webb Hubbell. We know that case. Webb Hubbell has pled guilty. It is a sad day. He is a good friend. But it was nothing that related to Whitewater Development Corp., absolutely nothing that related to Madison Guaranty, nothing whatsoever. Web Hubbell pled guilty to overbilling his clients; nothing to do with the RTC, nothing to do with Whitewater; totally irrelevant.

If we continue spreading this dragnet out further, if we go after every person that has ever had contact with Bill Clinton or Hillary Clinton or James McDougal or whatever, if they have ever made a phone call to them, if they have ever borrowed money or given them a campaign contribution, Lord only knows how long this investigation is going to go. It will go beyond the year 2000.

I just hope that our colleagues on the Banking Committee will realize that we must focus this investigation as it relates to Whitewater and to its original mission.

Mr. President, I thank the distinguished Senator, ranking member, and the distinguished chairman for yielding me this time.

I yield the floor.

Mr. SARBANES. Mr. President, I am prepared to yield back time.

Mr. D'AMATO. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the resolution.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—96

Abraham	DeWine	Inouye
Akaka	Dodd	Jeffords
Ashcroft	Dole	Johnston
Bancus	Domenici	Kassebaum
Bennett	Dorgan	Kempthorne
Biden	Exon	Kerrey
Bond	Faircloth	Kerry
Boxer	Feingold	Kohl
Bradley	Feinstein	Kyl
Breaux	Ford	Lautenberg
Brown	Frist	Leahy
Bryan	Gorton	Levin
Bumpers	Graham	Lieberman
Burns	Gramm	Lott
Byrd	Grams	Lugar
Campbell	Grassley	Mack
Chafee	Gregg	McCain
Coats	Harkin	McConnell
Cochran	Hatch	Mikulski
Cohen	Hatfield	Moseley-Braun
Conrad	Heflin	Moynihan
Coverdell	Helms	Murkowski
Craig	Hollings	Murray
D'Amato	Hutchison	Nickles
Daschle	Inhofe	Nunn
Packwood	Roth	Specter
Pell	Santorum	Stevens
Pressler	Sarbanes	Thomas
Pryor	Shelby	Thompson
Reid	Simpson	Thurmond
Robb	Smith	Warner
Rockefeller	Snowe	Wellstone

NAYS—3

Bingaman	Glenn	Simon

NOT VOTING—1

Kennedy

So the resolution (S. Res. 120) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 812 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, it has been our hope that we could work out some agreement on H.R. 483, the so-called Medicare Select bill. I know Senator ROCKEFELLER has some concerns about it. What we would like to do is bring the bill up, and if anybody has amendments, they can offer the amendments and see if we cannot complete action. It is a program that expires on June 30. I am not an expert on the program itself. I think Senators PACKWOOD and CHAFEE will be happy to manage the bill. I will not do that.

I would like to ask unanimous consent that we turn to the consideration of H.R. 483, the Medicare Select bill, but I am not going to make that request yet.

Is the Senator from West Virginia prepared to object to that?

Mr. ROCKEFELLER. I am afraid I will have to.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to consideration H.R. 483 under the following time agreement: 1 hour on the bill to be equally divided between the chairman and ranking member of the Finance Committee, with one amendment to be offered by Senator ROCKEFELLER relative to Medicare, 1 hour for debate to be equally divided in the usual form, and that no motion to table be in order; further, that following disposition of the Rockefeller amendment, the bill be advanced to third reading and that final passage occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. I do object.

The PRESIDING OFFICER. Objection is heard.

EXTENDED USE OF MEDICARE SELECTED POLICIES—MOTION TO PROCEED

Mr. DOLE. In light of the objection, I move to proceed to the consideration of H.R. 483.

The PRESIDING OFFICER. The question is on the motion to proceed.

Is there debate on the motion?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this is not one of the most broadly understood issues. But it is a very important one, Medicare Select. There are, I guess, two issues that concern me. One—and this is less important, but nevertheless important to me—is the area of process. I had written Senator DOLE, the majority leader, a number of months ago asking for a hearing on the subject of Medicare Select. I was told in a letter back from the majority leader that we would have hearings on Medicare, obviously, and that Medicare Select would be a part of those hearings. The Finance Committee has not had any hearings on Medicare Select and, therefore, that constitutes a problem.

Second, there is a study on Medicare Select which is going to be completed by the end of the summer, and it is not a frivolous study or a frivolous problem. It is a serious problem involving seniors and Medicare supplementary insurance. Currently, 15 States are participating in the 3½-year experimental Medicare Select Program. This bill would expand Medicare Select to all 50 States for 5 years.

One of the States that has Medicare Select is, in fact, the State of Florida. I cosponsored legislation sponsored by Senator GRAHAM that would temporarily expand Medicare Select for another year. So this is not just a question of those States that have Medicare Select wanting to continue to expand it, or to make it permanent, or whatever. We have genuine concerns.

There are other issues involved. One of the conclusions of the preliminary evaluation of this study which I have been referring to, which will be completed at the end of the summer—and that is why I hoped we could wait until that time, this being the first year of a 2-year session—was that about half of the savings in the form of cheaper MediGap premiums for beneficiaries came about as a result of discounting payments to hospitals.

Now, theoretically, if seniors are having their care actually managed, the Medicare Program would realize savings from the lower use of health care services.

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104TH CONGRESS
1ST SESSION

S. RES. 120

IN THE SENATE OF THE UNITED STATES

Mr. D'AMATO (for himself _____
_____
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_____) submitted the following resolution; which was
_____

RESOLUTION

Establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

Resolved,

SECTION 1. ESTABLISHMENT OF SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee administered by the Committee on Banking, Housing, and Urban Affairs to be known as the "Special Committee to Investigate Whitewater Development Corporation and Related Matters" (hereafter in this resolution referred to as the "special committee").

(b) PURPOSES.—The purposes of the special committee are—

(1) to conduct an investigation and public hearings into, and study of, whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death;

(2) to conduct an investigation and public hearings into, and study of, the following matters developed during, or arising out of, the investigation and public hearings concluded by the Committee on Banking, Housing, and Urban Affairs prior to the adoption of this resolution—

(A) whether any person has improperly handled confidential Resolution Trust Corporation (hereafter in this resolution referred to as the "RTC") information relating to Madison Guaranty Savings and Loan Association or

Whitewater Development Corporation, including whether any person has improperly communicated such information to individuals referenced therein;

(B) whether the White House has engaged in improper contacts with any other agency or department in the Government with regard to confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(C) whether the Department of Justice has improperly handled RTC criminal referrals relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(D) whether RTC employees have been improperly importuned, prevented, restrained, or deterred in conducting investigations or making enforcement recommendations relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation; and

(E) whether the report issued by the Office of Government Ethics on July 31, 1994, or related transcripts of deposition testimony—

(i) were improperly released to White House officials or others prior to their testimony before the Committee on Banking, Housing, and Urban Affairs pursuant to Senate Resolution 229 (103d Congress); or

(ii) were used to communicate to White House officials or to others confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(3) to conduct an investigation and public hearings into, and study of, all matters that have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, and any subsidiary, affiliate, or other entity owned or controlled by Madison Guaranty Savings and Loan Association;

(B) the activities, investments, and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors, and shareholders;

(C) the policies and practices of the RTC and the Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) regarding the legal representation of such agencies with respect to Madison Guaranty Savings and Loan Association;

(D) the handling by the RTC, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty Savings and Loan Association;

(E) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds to Whitewater Development Corporation;

(F) the bond underwriting contracts between Arkansas Development Finance Authority and Lasater & Company; and

(G) the lending activities of Perry County Bank, Perryville, Arkansas, in connection with the 1990 Arkansas gubernatorial election;

(4) to make such findings of fact as are warranted and appropriate;

(5) to make such recommendations, including recommendations for legislative, administrative, or other actions, as the special committee may determine to be necessary or desirable; and

(6) to fulfill the constitutional oversight and informational functions of the Congress with respect to the matters described in this section.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs; and

(B) the chairman and ranking member of the Committee on the Judiciary, or their designees from the Committee on the Judiciary.

(2) SENATE RULE XXV.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as the chairman or other member of the special committee shall not be taken into account.

(b) ORGANIZATION OF SPECIAL COMMITTEE.—

(1) CHAIRMAN.—The chairman of the Committee on Banking, Housing, and Urban Affairs shall serve as the chairman of the special committee (hereafter in this resolution referred to as the "chairman").

(2) RANKING MEMBER.—The ranking member of the Committee on Banking, Housing, and Urban Affairs shall serve as the ranking member of the special committee (hereafter in this resolution referred to as the "ranking member").

(3) QUORUM.—A majority of the members of the special committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate. A majority of the members of the special committee, or one-third of the members of the special committee if at least one member of the minority party is present, shall constitute a quorum for the conduct of other business. One member of the special committee shall constitute a quorum for the purpose of taking testimony.

(c) RULES AND PROCEDURES.—Except as otherwise specifically provided in this resolution, the special committee's investigation, study, and hearings shall be governed by the Standing Rules of the Senate and the Rules of Procedure of the Committee on Banking, Housing, and Urban

Affairs. The special committee may adopt additional rules or procedures not inconsistent with this resolution or the Standing Rules of the Senate if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures shall become effective upon publication in the Congressional Record.

SEC. 3. STAFF OF THE SPECIAL COMMITTEE.

(a) APPOINTMENTS.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the chairman and the ranking member each may appoint special committee staff, including consultants.

(b) ASSISTANCE FROM THE SENATE LEGAL COUNSEL.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the Senate Legal Counsel and the Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special committee.

(c) ASSISTANCE FROM THE COMPTROLLER GENERAL.—The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel or other appropriate assistance as may

be required by the special committee, or by the chairman or the ranking member.

SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—Consistent with the rights of persons subject to investigation and inquiry, the special committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study, as described in section 1.

(b) DUTIES.—In furtherance of the right of the public and the Congress to know, the special committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, hearings on specific subjects, subject to consultation and coordination with the independent counsel appointed pursuant to chapter 40 of title 28, United States Code, in Division No. 94–1 (D.C. Cir. August 5, 1994) (hereafter in this resolution referred to as "the independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains—

(A) a description of all relevant factual determinations; and

(B) recommendations for legislation, if necessary.

SEC. 5. POWERS OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—The special committee shall do everything necessary and appropriate under the laws and the Constitution of the United States to conduct the investigation, study, and hearings authorized by section 1.

(b) EXERCISE OF AUTHORITY.—The special committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978, including the following:

(1) SUBPOENA POWERS.—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person des-

ignated by the chairman or the authorized member anywhere within or outside of the borders of the United States to the full extent permitted by law. The chairman, or any other member of the special committee, is authorized to administer oaths to any witnesses appearing before the special committee. If a return on a subpoena or order for the production of documentary or physical evidence is incomplete or accompanied by an objection, the chairman (in consultation with the ranking member) may convene a meeting or hearing to determine the adequacy of the return and to rule on the objection. At a meeting or hearing on such a return, one member of the special committee shall constitute a quorum. The special committee shall not initiate procedures leading to civil or criminal enforcement of a subpoena unless the person or entity to whom the subpoena is directed refuses to produce the required documentary or physical evidence after having been ordered and directed to do so.

(2) COMPENSATION AUTHORITY.—To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special committee, or the chairman or the ranking member, considers necessary or appropriate.

(3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree, the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the yielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning

shall alternate back and forth between members of the majority party and members of the minority party. In their discretion, the chairman and the ranking member, respectively, may designate majority or minority staff to question a witness or a panel of witnesses at a hearing during time yielded by a member of the chairman's or the ranking member's party then present at the hearing for his or her turn.

(5) TESTIMONY OF WITNESSES.—To require by subpoena or order the attendance, as a witness before the special committee or at a deposition, of any person who may have knowledge or information concerning any of the matters that the special committee is authorized to investigate and study.

(6) IMMUNITY.—To grant a witness immunity under sections 6002 and 6005 of title 18, United States Code, provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations. Not later than 10 days before the special committee seeks a Federal court order for a grant of immunity by the special committee, the Senate Legal Counsel shall cause to be de-

livered to the independent counsel a written request asking the independent counsel promptly to inform the special committee in writing if, in the judgment of the independent counsel, the grant of immunity would interfere with the ability of the independent counsel successfully to prosecute criminal violations. The Senate Legal Counsel's written request of the independent counsel required by this paragraph shall be in addition to all notice requirements set forth in sections 6002 and 6005 of title 18, United States Code.

(7) DEPOSITIONS.—To take depositions and other testimony under oath anywhere within the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory. All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the

special committee. Any subsequent round of questioning shall proceed in the same order. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling on the objection from the chairman. If the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to answer after having been ordered and directed to answer.

(8) DELEGATIONS TO STAFF.—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.

(9) INFORMATION FROM OTHER SOURCES.—To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government;

(B) any person or entity purporting to act under color or authority of State or local law; or

(C) any private person, firm, corporation, partnership, or other organization;

to produce for consideration by the special committee or for use as evidence in the investigation, study, or hearings of the special committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions that the special committee is authorized to investigate and study which any such person or entity may possess or control.

(10) RECOMMENDATIONS TO THE SENATE.—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or

to answer interrogatories, in compliance with a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during the appearance of that person as a witness before the special committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government;

(ii) any person or entity purporting to act under color or authority of State or local law; or

(iii) any private person, partnership, firm, corporation, or organization;

to produce before the special committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in compliance with any subpoena or order.

(11) CONSULTANTS.—To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(12) OTHER GOVERNMENT PERSONNEL.—To use, on a reimbursable basis and with the prior consent of the Government department or agency concerned, the services of the personnel of such department or agency.

(13) OTHER CONGRESSIONAL STAFF.—To use, with the prior consent of any member of the Senate or the chairman or the ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such member of the Senate or other Senate committee or subcommittee, whenever the special committee or the chairman or the ranking member considers that such action is necessary or appropriate to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution.

(14) ACCESS TO INFORMATION AND EVIDENCE.—To permit any members of the special committee, staff director, counsel, or other staff members or consultants designated by the chairman

or the ranking member, access to any data, evidence, information, report, analysis, document, or paper—

(A) that relates to any of the matters or questions that the special committee is authorized to investigate or study under this resolution;

(B) that is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee or subcommittee; and

(C) that will assist the special committee to prepare for or conduct the investigation, study, and hearings authorized by this resolution.

(15) REPORTS OF VIOLATIONS OF LAW.—To report possible violations of any law to appropriate Federal, State, or local authorities.

(16) EXPENDITURES.—To expend, to the extent that the special committee determines necessary

and appropriate, any money made available to the special committee by the Senate to carry out this resolution.

(17) TAX RETURN INFORMATION.—To inspect and receive, in accordance with the procedures set forth in sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, any tax return or tax return information, held by the Secretary of the Treasury, if access to the particular tax-related information sought is necessary to the ability of the special committee to carry out section 1(b)(3)(B).

SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.

(a) NONDISCLOSURE.—No member of the special committee or the staff of the special committee shall disclose, in whole or in part or by way of summary, to any person other than another member of the special committee or other staff of the special committee, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the special committee or the chairman in concurrence with the ranking member.

(b) STAFF NONDISCLOSURE AGREEMENT.—All members of the staff of the special committee with access to

confidential information within the control of the special committee shall, as a condition of employment, agree in writing to abide by the conditions of this section and any nondisclosure agreement promulgated by the special committee that is consistent with this section.

(c) SANCTIONS.—

(1) MEMBER SANCTIONS.—The case of any Senator who violates the security procedures of the special committee may be referred to the Select Committee on Ethics of the Senate for investigation and the imposition of sanctions in accordance with the rules of the Senate.

(2) STAFF SANCTIONS.—Any member of the staff of the special committee who violates the security procedures of the special committee shall immediately be subject to removal from office or employment with the special committee or such other sanction as may be provided in any rule issued by the special committee consistent with section 2(c).

(d) STAFF DEFINED.—For purposes of this section, the term "staff of the special committee" includes—

(1) all employees of the special committee;

(2) all staff designated by the members of the special committee to work on special committee business;

(3) all Senate staff assigned to special committee business pursuant to section 5(b)(13);

(4) all officers and employees of the Office of Senate Legal Counsel who are requested to work on special committee business; and

(5) all detailees and consultants to the special committee.

SEC. 7. RELATION TO OTHER INVESTIGATIONS.

(a) PURPOSES.—The purposes of this section are—

(1) to expedite the thorough conduct of the investigation, study, and hearings authorized by this resolution;

(2) to promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) to engender a high degree of confidence on the part of the public regarding the conduct of such investigation, study, and hearings.

(b) SPECIAL COMMITTEE ACTIONS.—To carry out the purposes stated in subsection (a), the special committee is encouraged—

(1) to obtain relevant information concerning the status of the investigation of the independent counsel, to assist in establishing a hearing schedule for the special committee; and

(2) to coordinate, to the extent practicable, the activities of the special committee with the investigation of the independent counsel.

SEC. 8. SALARIES AND EXPENSES.

A sum equal to not more than $950,000 for the period beginning on the date of adoption of this resolution and ending on February 29, 1996, shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special committee under this resolution, which shall include not more than $750,000 for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(b)(11). Payment of expenses shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 9. REPORTS; TERMINATION.

(a) COMPLETION OF DUTIES.—

(1) IN GENERAL.—The special committee shall make every reasonable effort to complete, not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

(2) EVALUATION OF PROGRESS.—The special committee shall evaluate the progress and status of

the investigation, study, and hearings authorized by section 1 and, not later than January 15, 1996, make recommendations with respect to the authorization of additional funds for a period following February 29, 1996. If the special committee requests the authorization of additional funds for a period following February 29, 1996, the Majority Leader and the Democratic Leader shall meet and determine the appropriate timetable and procedures for the Senate to vote on any such request.

(b) FINAL REPORT.—

(1) SUBMISSION.—The special committee shall promptly submit a final public report to the Senate of the results of the investigation, study, and hearings conducted by the special committee pursuant to this resolution, together with its findings and any recommendations.

(2) CONFIDENTIAL INFORMATION.—The final report of the special committee may be accompanied by such confidential annexes as are necessary to protect confidential information.

(3) CONCLUSION OF BUSINESS.—After submission of its final report, the special committee shall promptly conclude its business and close out its affairs.

(c) RECORDS.—Upon the conclusion of the special committee's business and the closing out of its affairs, all records, files, documents, and other materials in the possession, custody, or control of the special committee shall remain under the control of the Committee on Banking, Housing, and Urban Affairs.

SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the special committee is granted pursuant to this resolution, notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
PHIL GRAMM, TEXAS
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STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

July 5, 1995

VIA FACSIMILE

Stephen A. Kubiatowski, Esq.
Assistant Independent Counsel
Office of the Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Kubiatowski:

As requested, enclosed is a list of the White House employees who have been scheduled for depositions by the Special Committee to Investigate Whitewater and Related Matters.

If you have any questions concerning this matter, please call me at (202) 224-0558. Best Regards.

Very truly yours,

Alice S. Fisher

List of White House Deponents

✓Bill Burton
Lisa Caputo ✓
✓Thomas Castleton
✓Mark Gearan
David Gergen sw
✓Deborah Gorham
✓Carolyn Huber
✓ William Kennedy
Evelyn Lieberman sw
Bruce Lindsey ✓
✓Craig Livingstone
✓ Sylvia Matthews
Marlene McDonald✓
✓ Thomas McLarty
✓ Cheryl Mills
DeeDee Myers sw
Roy Neel ✓
✓ Steve Neuwirth
✓ Bernard Nussbaum
Howard Paster sw
✓Betsy Pond
✓Jack Quinn
✓Clifford Sloan
✓George Stephanopoulos
✓ Patsy Thomasson
✓Linda Tripp
✓David Watkins
✓Margaret Williams

SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
• Fax (202) 224-5137

TO: Mr. Stephen Kubiatowski

NUMBER FAXED TO: 514-8802

FROM: Alice S. Fisher

DATE: 7/5/95

NUMBER OF PAGES. 3
(Including this cover sheet)

MESSAGE:

If you do not receive the specified number of pages, please contact sender at our main number. Thank you.

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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER AND RELATED MATTERS
(202) 224-0218 (MAIN TELEPHONE) ☎ (202) 228-0017 (FACSIMILE)

FACSIMILE TRANSMITTAL SHEET

DATE: July 11, 1995

TO: Kenneth W. Starr, Esquire

FAX NUMBER: (501) 221-8707

FROM: Richard Ben-Veniste/Michael Chertoff

CONFIRM ARRIVAL: ☒ YES, Please contact me at 224-0218

☐ NO

NUMBER OF PAGES TRANSMITTED, INCLUDING THIS COVER SHEET: 3

MESSAGE:

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FOIA RD 55805 IIRTS 16302 Docid: 70104916 Page 87

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AND CHIEF COUNSEL

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510–6075

July 11, 1995

BY FACSIMILE AND FIRST-CLASS MAIL

Kenneth W. Starr, Esquire
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, AR 72211

Dear Judge Starr:

We are writing on behalf of the Chairman and Ranking Member of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to request that you provide the information described below to the Special Committee. All of the information we are requesting is important to the Special Committee's hearings on the handling of documents in Vincent Foster's office following his death. These hearings are scheduled to begin on July 18, 1995, so we ask that you address our requests at your earliest opportunity.

There is a substantial conflict in deposition testimony that Margaret Williams and Henry O'Neill have provided to the Special Committee regarding whether or not Ms. Williams removed documents or other materials from the White House Counsel Office suite on the night of July 20, 1993. We understand that both witnesses have been interviewed by the FBI regarding the handling of documents in Mr. Foster's office in connection with investigations conducted by Mr. Fiske and by you. Indeed, we understand that on five or more occasions in 1994 and 1995 FBI agents working for the Office of the Independent Counsel interviewed Mr. O'Neill regarding his observations on the night of July 20, 1993.

We anticipate that Ms. Williams and Officer O'Neill both will be witnesses at the Special Committee's hearings this month and that the Special Committee will need all available information to consider the conflicts in their testimony. We thus request that you provide the Special Committee with copies of all FD-302 reports and FBI interview notes from all relevant FBI interviews of Ms. Williams and Officer O'Neill.

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 88

07/11/95 17:17 ☎501 221 8707 INDEP COUNSEL 003

We also understand that one or more persons working under the auspices of the Office of the Independent Counsel has administered a polygraph examination to Margaret Williams regarding matters relevant to the Special Committee's current inquiry. According to press reports, the polygraph examination indicated that Ms. Williams was not being deceptive when she stated that she did not remove documents or other materials from Mr. Foster's office on the night of July 20, 1993.

We recognize that you may not wish to provide the report of the polygraph examiner to the Special Committee, however, we request that you provide us with the questions asked and the answers given together with the expert's conclusion regarding truthfulness as to each.

Thank you very much for your prompt attention to these requests.

Sincerely yours,

Richard Ben-Veniste
Democratic Special Counsel

Michael Chertoff
Special Counsel

****
*** ACTIVITY REPORT ***
****

RECEPTION OK

TX/RX NO.	7332
CONNECTION TEL	501 221 8707
CONNECTION ID	INDEP COUNSEL
START TIME	07/11 17:17
USAGE TIME	01'42
PAGES	4
RESULT	OK

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

July 12, 1995

Robert J. Giuffra, Jr., Chief Counsel
Lance Cole, Democratic Deputy Special Counsel
United States Senate
Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510-6075

Dear Messrs. Giuffra and Cole:

I am writing to address certain matters that have arisen during the depositions over the last two weeks.

1. During Roger Adams' deposition, Mr. Chertoff showed him an excerpt of a newspaper article from the New York Times regarding Whitewater and asked whether there was any reason Mr. Adams had saved such an item in a file related to Vincent Foster. As I suggested at the time, although the excerpt was separately copied in the Department's document production, the original in Mr. Adams' file is merely the other side of a Foster-related newsclip that bears Bates #F003150. Accordingly, it does not appear that the assumption underlying Mr. Chertoff's question was correct.

2. The FBI notes produced by the Department on June 23, 1995, were not Bates stamped. Enclosed is a duplicate set bearing such numbers.

3. Enclosed are the handwritten notes (Bates #F000152 to F000153) prepared by Mr. Adams that correspond to the typewritten documents numbered F001707 to F001708.

4. You have asked for the name of the FBI agent who analyzed the Foster note for fingerprints. The analysis was performed by Louis Hupp who also is the expert who has performed a variety of analyses at the direction of both Mr. Fiske and Judge Starr. Mr. Hupp is available on Friday July 14, at 9:30 a.m. Per my conversations with Mr. Ben-Veniste and with Mr. Kubiatowski of OIC, it is my understanding that Mr. Hupp's deposition will be limited to the analysis he performed in July and August of 1993.

5. Although Mr. Margolis may return to work at the end of July, his doctor has advised him not to be interviewed or deposed until at least the second week in August.

6. You have asked to interview the Attorney General as part of your investigation. Although such a staff interview is relatively extraordinary, the Attorney General is pleased to cooperate with the Committee's investigation. Accordingly, she will be available for a staff interview on July 14 at 3:00 in her conference room. Please let me know by Thursday, July 13, who will be attending.

It is my understanding that the subject of the interview will be limited to the Attorney General's personal knowledge of the events relating to the death of Vincent Foster, including any contact with the White House; the review of documents in Mr. Foster's office; the role of the Department of Justice in that review; and the discovery of Mr. Foster's note. To the extent that you have reason to believe that you will raise any additional matters with the Attorney General, please notify me in advance.

7. Enclosed are the notes taken by Pat Binninger requested in your letter of July 10, 1995 (Bates #A000026 to A000028). Apparently, Ms. Binninger was unable to locate these notes earlier because they had been inadvertently placed in an unrelated file.

8. Finally, please let me know which, if any, Department witnesses you expect to call at the public hearings.

Please call me if you have any other questions.

Sincerely,

Paul J. Fishman
Counsel to the Deputy
Attorney General

cc: Steve Kubiatowski, OIC
Andrea Simonton

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

July 14, 1995

Robert J. Giuffra, Jr., Chief Counsel
Richard Ben-Veniste, Democratic Special Counsel
United States Senate
Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510-6075

Dear Messrs. Giuffra and Ben-Veniste:

Enclosed are the following two documents which were requested by Mr. Ben-Veniste and Mr. Comey during the July 14, 1995, deposition of Mr. Louis Hupp of the FBI:

(1) a photo taken by the FBI latent fingerprint laboratory identified on the back as Deposition Exhibit 1 Hupp; and

(2) a more legible copy of documents previously produced to the Committee bearing Bates stamp numbers FBI00000079, FBI00000080, FBI00000081, FBI00000082, FBI00000083, FBI00000085, FBI00000086.

If you have any questions, please feel free to contact me.

Sincerely,

Charles J. Sgro
Special Assistant to the
Deputy Attorney General

cc: Steve Kubiatowski, OIC
Andrea Simonton, FBI

Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

July 18, 1995

FOR IMMEDIATE RELEASE

The following statement was issued by Independent Counsel Kenneth W. Starr today from his office in Little Rock, Arkansas:

The statement of Mark D. Fabiani on behalf of the White House is wrong. The Office of the Independent Counsel has not and will not disclose matters occurring before the grand jury to anyone. In response to a joint request made by counsel for both the Chairman and Ranking Member of the Senate Banking Committee well in advance of the hearing, the Office of the Independent Counsel agreed to provide Mr. Foster's briefcase for inspection and use in the course of the Committee's investigation. The briefcase was provided last night to a representative acting on behalf of the entire Committee. The briefcase is neither a matter occurring before the grand jury nor investigative work product created by this or Mr. Fiske's office. In circumstances where such pre-existing material cannot be obtained from any other source and where disclosure of it would not hinder or impede our investigation, it is not inappropriate to disclose such material to the Committee upon its joint, bipartisan request.

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

My Dear Senator:

At **9:30 a.m.** on **Tuesday**, July 18, **Wednesday**, July 19, and **Thursday**, July 20, 1995

in Room SH-216, Hart Senate Office Building, the

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Special Committee to Investigate Whitewater Development Corporation and Related Matters: will meet in OPEN SESSION to conduct a hearing on the Handling of the Documents in Deputy White House Counsel Vincent Foster's Office after his death. Among the Witness will be: **Webster Hubbell**, *former Associate Attorney General*; **Cheryl A. Braun**, Sergeant, U.S. Park Police, *formerly assigned to Criminal Investigation Branch*; **John Rolla**, Detective, U.S. Park Police, *formerly assigned to Criminal Investigation Branch*; **Robert Hines**, Major, U.S. Park Police, *former Commander of Office of Inspectional Services*; **Sylvia M. Mathews**, Chief of Staff, Department of Treasury, *formerly Special Assistant to the Assistant for Economic Policy, the White House*; **Mark D. Gearan**; Assistant to the President, Director of Communications and Strategic Planning, White House; **W. David Watkins**, Carlsbad, California, *former Assistant to the President for Management and Administration*; **Patsy L. Thomasson**, Deputy Assistant to the President, Assistant Director for Presidential Personnel, *former Director of the Office of Administration and Special Assistant to the President for Management and Administration, White House*; **Dennis S. Martin**, United States Secret Service, Department of Treasury; **John Magaw**, Director, Alcohol, Tobacco and Firearms, Department of Treasury, *former Director of the United States Secret Service*; **Donald A. Flynn**, Presidential Protective Division, United States Secret Service, Department of Treasury; **Paul S. Imbordino**, Office of Protective Operations, United States Secret Service, White House; and **Henry P. O'Neill**, United States Secret Service, Department of Treasury.

At the direction of the Chairman
Respectfully,
HOWARD A. MENELL,
Staff Director

GPO: 1995 87-041 (m)

SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
• Fax (202) 224-5137

TO: Steve Kubiatowski, Esq.

NUMBER FAXED TO: 514-8802

FROM: Robert Giuffra

DATE: 7-17-95

NUMBER OF PAGES: 2
(Including this cover sheet)

MESSAGE:

If you do not receive the specified number of pages, please contact sender at our main number. Thank you.

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*** ACTIVITY REPORT ***
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RECEPTION OK

TX/RX NO.	7428
CONNECTION TEL	
CONNECTION ID	
START TIME	07/17 10:56
USAGE TIME	00'48
PAGES	2
RESULT	OK

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN

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AND CHIEF COUNSEL

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 18, 1995

BY FACSIMILE AND FIRST-CLASS MAIL

Kenneth W. Starr, Esquire
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211

Dear Judge Starr:

On behalf of all of the members of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, we write to reiterate the requests made by our Special Counsel by letter of July 11, 1995. A copy of that letter is enclosed for your convenience.

As you may know, the Special Committee's hearings are now ongoing, and both Officer O'Neill and Ms. Williams are scheduled to testify within the next several days. We ask that you provide the requested materials at your earliest convenience.

Thank you very much.

Sincerely yours,

Paul S. Sarbanes
Ranking Member

Alfonse D'Amato
Chairman

Enclosure

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
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AND CHIEF COUNSEL

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

July 11, 1995

BY FACSIMILE AND FIRST-CLASS MAIL
Kenneth W. Starr, Esquire
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, AR 72211

Dear Judge Starr:

We are writing on behalf of the Chairman and Ranking Member of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to request that you provide the information described below to the Special Committee. All of the information we are requesting is important to the Special Committee's hearings on the handling of documents in Vincent Foster's office following his death. These hearings are scheduled to begin on July 18, 1995, so we ask that you address our requests at your earliest opportunity.

There is a substantial conflict in deposition testimony that Margaret Williams and Henry O'Neill have provided to the Special Committee regarding whether or not Ms. Williams removed documents or other materials from the White House Counsel Office suite on the night of July 20, 1993. We understand that both witnesses have been interviewed by the FBI regarding the handling of documents in Mr. Foster's office in connection with investigations conducted by Mr. Fiske and by you. Indeed, we understand that on five or more occasions in 1994 and 1995 FBI agents working for the Office of the Independent Counsel interviewed Mr. O'Neill regarding his observations on the night of July 20, 1993.

We anticipate that Ms. Williams and Officer O'Neill both will be witnesses at the Special Committee's hearings this month and that the Special Committee will need all available information to consider the conflicts in their testimony. We thus request that you provide the Special Committee with copies of all FD-302 reports and FBI interview notes from all relevant FBI interviews of Ms. Williams and Officer O'Neill.

We also understand that one or more persons working under the auspices of the Office of the Independent Counsel has administered a polygraph examination to Margaret Williams regarding matters relevant to the Special Committee's current inquiry. According to press reports, the polygraph examination indicated that Ms. Williams was not being deceptive when she stated that she did not remove documents or other materials from Mr. Foster's office on the night of July 20, 1993.

We recognize that you may not wish to provide the report of the polygraph examiner to the Special Committee, however, we request that you provide us with the questions asked and the answers given together with the expert's conclusion regarding truthfulness as to each.

Thank you very much for your prompt attention to these requests.

Sincerely yours,

Richard Ben-Veniste
Democratic Special Counsel

Michael Chertoff
Special Counsel

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER AND RELATED MATTERS
(202) 224-0218 (MAIN TELEPHONE) ☎ (202) 228-0017 (FACSIMILE)

FACSIMILE TRANSMITTAL SHEET

DATE: 7·18·95

TO: Kenneth Starr

FAX NUMBER: _____

FROM: Senators Sarbanes/D'Amato

CONFIRM ARRIVAL: ☐ YES, Please contact me at _____

☒ NO

NUMBER OF PAGES TRANSMITTED, INCLUDING THIS COVER SHEET: 4

MESSAGE:

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 101

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: July 18, 1995

TO: Richard Ben-Veniste, Democratic Special Counsel

Company Name: Senate Committee on Banking, Housing & Urban Affairs

Fax Number: 202-228-0017 Telephone Number: 202-224-8077

FROM: Kenneth W. Starr/Mark H. Tuohey III

Number of Pages: 3 (including this cover sheet)

Message:

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*** ACTIVITY REPORT ***
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TX/RX NO.	7476
CONNECTION TEL	92280017
CONNECTION ID	
START TIME	07/18 14:47
USAGE TIME	01'41
PAGES	3
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 18, 1995

BY FACSIMILE

Mr. Michael Chertoff, Special Counsel
Mr. Richard Ben-Veniste, Democratic Special Counsel
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Messrs. Chertoff and Ben-Veniste:

In connection with the Committee's investigation into the handling of documents of former Deputy Counsel to the President Vincent W. Foster, Jr., you have requested that this Office provide the Committee with reports of interviews of Henry O'Neill and Margaret Williams that were conducted by this Office and by Mr. Fiske's Office. In addition, you have requested a copy of a particular polygraph report, or at least of questions asked during a particular polygraph examination. Finally, you have requested permission to ask an individual employed by the FBI Laboratory questions about the work he has performed for the Independent Counsel.

We respectfully decline these requests. As we have informed you on this and previous occasions, we will not disclose to the Congress any investigative work product from this active and ongoing investigation. As you know, we must abide by the strictures of grand jury secrecy contained in Federal Rule of Criminal Procedure 6(e). In addition, our position that we will not disclose to the Congress any investigative work product from an open investigation represents sound policy that is deeply rooted in the history and tradition of this Nation. See generally Memorandum for Oliver B. Revell Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. Off. Legal Counsel, at 5 (March 24, 1989) ("the policy and practice of the executive branch throughout our Nation's history has been to decline, except in extraordinary circumstances, to provide committees of Congress with access to, or copies of, open law enforcement files. No President, to our knowledge, has departed from this position affirming the confidentiality and privileged nature of open law enforcement files"). We will adhere to this deeply rooted tradition, and so we must decline each of the above requests.

We note, moreover, that our policy on these issues is not based on whether the requested information is exculpatory or incriminating, but rather is made in accordance with long-standing Executive prerogatives to protect the internal work of this Office with respect to an active and ongoing investigation and to protect the privacy of individuals.

You also had jointly requested on behalf of the Committee the use of Mr. Foster's briefcase. As an accommodation to the Committee's investigative needs, we provided the briefcase to the Committee yesterday. Such pre-existing evidence, which was neither created nor modified by this Office or Mr. Fiske's office, is in our view readily distinguished from investigative work product. Moreover, in circumstances where such evidence cannot be obtained from any other source and where disclosure of it would not hinder or impede our ongoing investigation, we believe it appropriate to disclose such evidence to the Committee upon its joint request. We have adhered to this policy thus far, and do not believe that there has been any inconsistency in our responses to the Committee's joint requests.

Thank you for your cooperation.

Respectfully yours,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

Mark H. Tuohey III
Deputy Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: July 18, 1995

TO: Michael Chertoff, Special Counsel

Company Name: Senate Committee on Banking, Housing & Urban Affairs

Fax Number: 202-228-0020 Telephone Number: 202-224-7391

FROM: Kenneth W. Starr/Mark H. Tuohey III

Number of Pages: 3 (including this cover sheet)

Message:

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TX/RX NO.	7477
CONNECTION TEL	92280020
CONNECTION ID	
START TIME	07/18 14:49
USAGE TIME	01'41
PAGES	3
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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(202) 514-8688
Fax (202) 514-8802

July 19, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Chairman D'Amato and Senator Sarbanes:

We have received your letter of July 18, which incorporates by reference the letter of July 11 sent to this Office by Mr. Chertoff and Mr. Ben-Veniste on behalf of the Committee. We have given your request considerable thought in view of the importance of our respective obligations.

In connection with the Committee's investigation into the handling of documents of former Deputy Counsel to the President Vincent W. Foster, Jr., the Committee has requested that this Office provide the Committee with reports of interviews of Henry O'Neill and Margaret Williams that were conducted by this Office and by Mr. Fiske's Office. In addition, the Committee has requested a copy of a particular polygraph report, or at least of questions asked during a particular polygraph examination. Finally, the Committee has requested permission to ask an individual employed by the FBI Laboratory questions about the work he has performed for the Independent Counsel.

We respectfully decline these requests. As we have informed the Committee on this and previous occasions, we will not disclose to the Congress any investigative work product from this active and ongoing investigation. As you know, we must abide by the strictures of grand jury secrecy contained in Federal Rule of Criminal Procedure 6(e). In addition, our position that we will not disclose to the Congress any investigative work product from an open investigation represents sound policy that is deeply rooted in the history and tradition of this Nation. See generally Memorandum for Oliver B. Revell Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. Off. Legal Counsel, at 5 (March 24, 1989) ("the policy and practice of the executive branch throughout our Nation's history has been to decline, except in extraordinary circumstances, to provide committees of Congress with access to, or copies of, open law enforcement files. No President, to our knowledge, has departed from this position affirming the confidentiality and privileged nature of open law enforcement files"). We will adhere to this deeply rooted tradition, and therefore we are constrained, with respect, to decline each of the above requests.

We note, moreover, that our policy on these issues is not based on whether the requested information is exculpatory or incriminating, but rather is made in accordance with long-standing Department of Justice policy to protect the internal work of this Office with respect to an active and ongoing investigation and to protect the privacy of individuals.

Separately, through Mr. Chertoff and Mr. Ben-Veniste, the Committee had also requested the use of Mr. Foster's briefcase. As an accommodation to the Committee's investigative needs, we provided the briefcase to the Committee. Such pre-existing material, which was neither created nor modified by this Office or Mr. Fiske's office, is in our view readily distinguished from investigative work product. Moreover, in circumstances where such material cannot be obtained from any other source and where disclosure of it would not hinder or impede our ongoing investigation, we believe it appropriate to disclose such material to the Committee upon its joint request.

In sum, the question whether and under what conditions a law enforcement agency such as this Office can and should provide information to Congress relating to an open criminal investigation entails a delicate balancing of numerous competing concerns. With respect to the Foster documents investigation, we have balanced the competing concerns and formulated the above policy. In so doing, we have been advised by Ethics Counsel Samuel Dash. We have adhered to this policy thus far, and we intend to continue to do so. We do not believe, moreover, that there has been any inconsistency in our responses to the Committee's joint requests.

Thank you for your cooperation. Please do not hesitate to contact me if you have any questions.

Respectfully yours,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

July 27, 1995

Michael Chertoff
Richard Ben-Veniste
Special Committee to Investigate
Whitewater and Related Matters
United States Senate
534 Dirksen
Washington, D.C. 20510-6075

Dear Mr. Chertoff and Mr. Ben-Veniste:

As we discussed last week, the Committee has advised that it may call Louis Hupp of the Federal Bureau of Investigation to testify about certain fingerprint analyses. As you know, the Independent Counsel has expressed concern about the scope of that testimony. Although it is not appropriate for the Department of Justice to take a position in that regard, you have assured that, before Mr. Hupp is called, the Committee and the Independent Counsel will reach a definitive agreement about the scope of his testimony.

Please confirm in writing that such an agreement has been reached so that Mr. Hupp is not asked by the Committee about matters that the Independent Counsel has directed him not to discuss.

Very truly yours,

Paul J. Fishman
Counsel to the Deputy
Attorney General

cc: Andrea Simonton, FBI
Steve Kubiatowski, OIC

U. S. Department of Justice
The Deputy Attorney General

Washington, D.C. 20530

FACSIMILE COVER SHEET

DATE: 7-27-95

TO: Steve Kubiatowski
Office of the Independent Counsel

FAX NUMBER: 4-8802

PHONE NUMBER:

FROM: Paul Fishman

FAX NUMBER: (202) 514-6897

PHONE NUMBER:

ADDITIONAL INFORMATION: Please deliver ASAP. Thank you.

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CONNECTION TEL	202 514 6897
CONNECTION ID	DAG
START TIME	07/27 07:42
USAGE TIME	00'51
PAGES	2
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 31, 1995

Mr. Michael Chertoff, Special Counsel
Mr. Richard Ben-Veniste, Democratic Special Counsel
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Messrs. Chertoff and Ben-Veniste:

This letter confirms that our Office will treat in an appropriate manner any information Associate Independent Counsel Brett M. Kavanaugh may have learned as a result of attending the deposition of FBI fingerprint examiner Louis Hupp on July 14. As you know, his sole purpose in attending that deposition was to ensure that Mr. Hupp was not asked to provide information about work he had performed for the Independent Counsel or about information he had gathered after August 1993. In fact, Mr. Ben-Veniste did ask a question calling for such information, and Mr. Hupp declined to answer it.

Please note that Mr. Kavanaugh took no notes at the deposition, except to transcribe the question asked by Mr. Ben-Veniste referenced above.

Sincerely yours,

Mark H. Tuohey III
Deputy Independent Counsel

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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510–6075

July 31, 1995

VIA FACSIMILE AND FIRST-CLASS MAIL

Mr. Paul J. Fishman
Counsel to the Deputy Attorney General
U.S. Department of Justice
Office of the Deputy Attorney General
Washington, DC 20530

Dear Mr. Fishman:

This will respond to your letter of July 27, 1995 regarding Louis Hupp. I do not intend to ask Mr. Hupp about anything beyond what was covered in his deposition. In view of your stated position on the appropriateness of the Department of Justice taking a position on scope, it might make sense for a representative of the Independent Counsel to be present should any question arise.

Sincerely yours,

Richard Ben-Veniste
Minority Special Counsel

cc: Mike Chertoff, Esq.

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER AND RELATED MATTERS
(202) 224-0218 (MAIN TELEPHONE) ☎ (202) 228-0017 (FACSIMILE)

FACSIMILE TRANSMITTAL SHEET

DATE: July 31, 1995

TO: Paul J. Fishman

FAX NUMBER: (202) 514-6897

FROM: Richard Ben-Veniste

CONFIRM ARRIVAL: ☐ YES, Please contact me at _____

☐ NO

NUMBER OF PAGES TRANSMITTED, INCLUDING THIS COVER SHEET: 2

MESSAGE:

OFFICE OF THE DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

FACSIMILE TRANSMISSION SHEET

TO: Steve Kulinofowski
Office of the Independent Counsel

FAX #: ( ) 4-8802 VOICE #: _____

FROM: Paul Hoskinson
Office of the Deputy Attorney General

FAX #: (202) 514-6897 VOICE: 514-2073

THIS TRANSMISSION CONTAINS 3 SHEETS INCLUDING THIS SHEET

****

Special Note(s) Please deliver ASAP. Thank you.

If any page(s) are missing, please call 514-2073 for re-transmission.

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HOWARD A. MENELL, STAFF DIRECTOR
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PHILIP E. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510–6075

July 31, 1995

BY FACSIMILE AND FIRST-CLASS MAIL

Kenneth Starr, Esquire
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211

Dear Judge Starr:

On behalf of all the members of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, we write to renew our earlier requests that you provide the Special Committee copies of all FD-302 reports and interview notes from all FBI interviews of Margaret Williams and Henry O'Neill.

Our Special Committee first requested these reports and notes, along with other materials, on July 11, 1995. We reiterated this request on July 18, 1995. Copies of those letters are enclosed for your convenience.

We wish to call your attention to a change in circumstance since our last request for this information. Last week both Officer O'Neill and Margaret Williams testified about the events of July 20, 1993 in open hearings before our Special Committee and made reference to their prior FBI interviews. (A transcript of their hearing testimony is enclosed.) As the record now stands, only you have the ability to provide information that might shed light on whether the Senate testimony of Officer O'Neill and Ms. Williams. about these interviews and the substantive information contained therein, is consistent with prior statements to law enforcement officials.

In view of our concerns, and taking into consideration the fact that now both Officer O'Neill's and Ms. Williams's conflicting versions of these events, as well as references to their prior FBI interviews, are in the public record, we ask again that you provide the requested materials at your earliest convenience.

Thank you very much.

Sincerely yours,

Paul S. Sarbanes
Ranking Member

Alfonse D'Amato
Chairman

Enclosures

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 1, 1995

Michael Chertoff, Majority Special Counsel
Richard Ben-Veniste, Minority Special Counsel
Special Committee to Investigate
Whitewater and Related Matters
United States Senate
534 Senate Dirksen Office Building
Washington, D.C. 20510-6075

Dear Messrs. Chertoff and Ben-Veniste:

This letter will confirm this Office's request that Mr. Louis Hupp's testimony before the Committee on August 2, 1995 be limited to what was covered in his earlier deposition before the Committee -- namely, the work Mr. Hupp conducted in July and August, 1993 during the investigation by the Department of Justice and Federal Bureau of Investigation. This request is consistent with Mr. Ben-Veniste's position, as stated in his July 31, 1995 letter to Mr. Paul J. Fishman of the Department of Justice. The Office of Independent Counsel believes that, at this time, questioning Mr. Hupp about matters beyond the scope of his deposition may hinder or impede its investigation.

If you have any questions, please feel free to contact me at (202) 514-8688. Thank you for your cooperation with this request.

Sincerely,

Mark H. Tuohey, III
Deputy Independent Counsel

cc: Paul J. Fishman, Department of Justice
Andrea Simonton, Federal Bureau of Investigation

U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

August 1, 1995

Steve Kubiatowski, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-N
Washington, D.C. 20004

Re: Testimony of Latent Fingerprint Examiner
Louis Hupp Before the Senate Special Committee
to Investigate Whitewater and Related Matters

Dear Mr. Kubiatowski:

As we discussed, Mr. Hupp is scheduled to testify before the Senate Committee on August 2, 1995, at 9:30 a.m. I have enclosed a copy of the letter from Minority Special Counsel Richard Ben-Veniste to Paul Fishman, Counsel to the Deputy Attorney General, which sets forth the scope of Mr. Hupp's testimony. It does not, however, resolve the issue of whether Mr. Hupp will be asked the same question in his Senate testimony that, based upon the request by the Office of the Independent Counsel (OIC), he declined to answer in his deposition. This question concerned the results of the palm print examination he performed for the OIC.

In his letter, Mr. Ben-Veniste suggests that a representative of the OIC be present at the testimony should any questions arise.

I request that the OIC advise Mr. Hupp in writing of any position the OIC wants him to take when being questioned at the hearing, and that a representative of the OIC be present at the hearing if the OIC wants to lodge an objection to any testimony.

Steve Kubiatowski, Esq.

Please contact me to resolve this matter as soon as possible. My telephone number is 324-8067; my fax number is 324-8541.

Sincerely,

Andrea M. Simonton
Deputy General Counsel

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN
PHIL GRAMM, TEXAS
RICHARD C. SHELBY, ALABAMA
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
ROD GRAMS, MINNESOTA
BILL FRIST, TENNESSEE
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

HOWARD A. MENELL, STAFF DIRECTOR
ROBERT J. GIUFFRA, Jr., CHIEF COUNSEL
PHILIP E. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

July 31, 1995

VIA FACSIMILE AND FIRST-CLASS MAIL

Mr. Paul J. Fishman
Counsel to the Deputy Attorney General
U.S. Department of Justice
Office of the Deputy Attorney General
Washington, DC 20530

Dear Mr. Fishman:

This will respond to your letter of July 27, 1995 regarding Louis Hupp. I do not intend to ask Mr. Hupp about anything beyond what was covered in his deposition. In view of your stated position on the appropriateness of the Department of Justice taking a position on scope, it might make sense for a representative of the Independent Counsel to be present should any question arise.

Sincerely yours,

Richard Ben-Veniste
Minority Special Counsel

cc: Mike Chertoff, Esq.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 3, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Mr. Chairman and Senator Sarbanes:

We have received your letter of July 31, which renews the Special Committee's earlier requests that this Office provide the Special Committee copies of all FD-302 reports and notes from all interviews of Margaret Williams and Henry O'Neill conducted by this Office and Mr. Fiske's Office.

We deeply appreciate the importance of Congress's oversight authority and the constitutional underpinnings of that power; to that end, we have attempted to accommodate the Committee in executing its oversight duties. We likewise recognize the Special Committee's particular interest in obtaining any information that might shed light on whether the Senate testimony of Officer O'Neill and Ms. Williams is consistent with their prior statements to law enforcement officials. Nevertheless, after careful reflection, we are constrained to adhere to our firmly-held position that we cannot in conscience disclose to Congress any investigative work product from our active and ongoing investigations. Therefore, we again respectfully decline the Committee's request.

As we stated in our letter to you of July 19, our position reflects a time-honored policy first expressed by President Washington and subsequently reaffirmed by or on behalf of Presidents Jefferson, Jackson, Lincoln, Theodore Roosevelt, Franklin Roosevelt, and Eisenhower, among others. See "History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress" (Part I), 6 Op. O.L.C. 751 (1982). The reason for this policy is as simple as it is fundamental: the Executive Branch is obligated to protect its Article II responsibility to prosecute the laws fully and fairly. If Congress is apprised of details of an investigation while that investigation is ongoing, there is a distinct danger that congressional pressures will influence, or will be perceived to influence, the course of that investigation. Accordingly, the

Executive Branch has, as a matter of course, declined to provide Congress with access to, or copies of, open law enforcement files. See generally, Memorandum for Oliver B. Revell, Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. O.L.C., at 5 (March 24, 1989).

Attorney General Robert H. Jackson addressed this very issue over 50 years ago. Recognizing the competing interests of both Congress and the Executive Branch where the dissemination of investigative materials was at stake, then-Attorney General Jackson concluded:

> It is the position of [the] Department [of Justice], restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to "take care that the laws be faithfully executed," and that congressional or public access to them would not be in the public interest.
>
> Disclosure of the reports could not do otherwise than seriously prejudice law enforcement. Counsel for a defendant or prospective defendant, could have no greater help than to know how much or how little information the Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain.

40 Op. Att'y Gen. 45, 46 (1941). In short, the Executive Branch "cannot effectively investigate if Congress is, in a sense, a partner in the investigation." Memorandum for Edward L. Morgan, Deputy Counsel to the President, from Thomas E. Kauper, Deputy Assistant Attorney, Office of Legal Counsel (Dec. 19, 1969).

The concerns articulated by Justice Jackson are as valid now as they were at the dawn of World War II. Moreover, the disclosure of investigative materials presents other perils to law enforcement that are similarly compelling. Consider, for example, the following: sensitive law enforcement techniques, methods and strategies may be revealed; witnesses may be "chilled" from speaking with law enforcement officers for fear of embarrassment or personal safety; and law enforcement officers themselves may be reluctant to express candidly their views and recommendations on controversial and sensitive matters if those views could be exposed to public scrutiny by Congress upon request. See generally, Memorandum for the Deputy Attorney

General from Robert B. Shanks, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Congressional Subpoenas of Department of Justice Investigative Files 14-20 (Oct. 17, 1984); United States v. Nixon, 418 U.S. 683, at 705 (1974) ("[H]uman experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interest to the detriment of the decision-making process.").

As we have previously stated, our policy against disclosing investigative material does not hinge on whether the requested material is exculpatory or incriminating. Nor do we believe that this policy can or should be reevaluated based on the course of congressional proceedings. Indeed, with respect to the Special Committee's request, we would be setting a dangerous precedent were we to release FD-302 reports or any other prior statements made to law enforcement officials whenever there is speculation that such statements contain inconsistencies with testimony taken before the Senate.

We hasten to recognize that there have been instances deemed to constitute extraordinary circumstances in which federal law enforcement disclosed to Congress certain investigative information. See, e.g., Letter to John D. Dingell, Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, from William French Smith, Attorney General, 6 Op. O.L.C. 31, at 103 (1982) (regarding request for open law enforcement investigative files of the Environmental Protection Agency). However, after reviewing the present circumstances with the aid and consultation of our Ethics Counsel Professor Samuel Dash, we believe that relevant authority and tradition guides us to one conclusion -- this Office's interest and obligation to protect the confidentiality of its open investigations is paramount in this instance. We must, accordingly, respectfully decline the Special Committee's request.

Respectfully yours,

Kenneth W. Starr
Independent Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 3, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Mr. Chairman and Senator Sarbanes:

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We deeply appreciate the importance of Congress's oversight authority and the constitutional underpinnings of that power; to that end, we have attempted to accommodate the Committee in executing its oversight duties. We likewise recognize the Special Committee's particular interest in obtaining any information that might shed light on whether the Senate testimony of Officer O'Neill and Ms. Williams is consistent with their prior statements to law enforcement officials. Nevertheless, after careful reflection, we are constrained to adhere to our firmly-held position that we cannot in conscience disclose to Congress any investigative work product from our active and ongoing investigations. Therefore, we again respectfully decline the Committee's request.

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40 Op. Att'y Gen. 45, 46 (1941). In short, the Executive Branch "cannot effectively investigate if Congress is, in a sense, a partner in the investigation." Memorandum for Edward L. Morgan, Deputy Counsel to the President, from Thomas E. Kauper, Deputy Assistant Attorney, Office of Legal Counsel (Dec. 19, 1969).

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General from Robert B. Shanks, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Congressional Subpoenas of Department of Justice Investigative Files 14-20 (Oct. 17, 1984); United States v. Nixon, 418 U.S. 683, at 705 (1974) ("[H]uman experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interest to the detriment of the decision-making process.").

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We hasten to recognize that there have been instances deemed to constitute extraordinary circumstances in which federal law enforcement disclosed to Congress certain investigative information. See, e.g., Letter to John D. Dingell, Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, from William French Smith, Attorney General, 6 Op. O.L.C. 31, at 103 (1982) (regarding request for open law enforcement investigative files of the Environmental Protection Agency). However, after reviewing the present circumstances with the aid and consultation of our Ethics Counsel Professor Samuel Dash, we believe that relevant authority and tradition guides us to one conclusion -- this Office's interest and obligation to protect the confidentiality of its open investigations is paramount in this instance. We must, accordingly, respectfully decline the Special Committee's request.

Respectfully yours,

Kenneth W. Starr
Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: August 3, 1995

TO: Michael Chertoff

Company Name: Senate Committee on Banking, Housing & Urban Affairs

Fax Number: 202-224-5137 Telephone Number: 202-224-0440

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

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*** ACTIVITY REPORT ***
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RESULT	OK

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: August 3, 1995

TO: Richard Ben-Veniste

Company Name: Senate Committee on Banking, Housing & Urban Affairs

Fax Number: 202-228-0017 Telephone Number: 202-224-8077

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

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*** ACTIVITY REPORT ***
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TRANSMISSION OK

TX/RX NO.	7818
CONNECTION TEL	92280017
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START TIME	08/03 14:49
USAGE TIME	02'46
PAGES	4
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 7, 1995

Mr. Michael Chertoff, Special Counsel
Mr. Richard Ben-Veniste, Democratic Special Counsel
United States Senate
Special Committee on Whitewater and Related Matters
Washington, DC 20510

Dear Mr. Chertoff and Mr. Ben-Veniste:

Because a Senator raised a question at the hearings on August 3, 1995, about the joint request by the two of you on behalf of the Committee for Mr. Foster's briefcase, we write to clarify the record. As you know from our letter of July 18th, the briefcase was submitted by this Office to the Committee upon its joint, bipartisan request as an accommodation to the Committee's legitimate investigative needs. The briefcase met our three conditions for disclosure by this Office to Congress: First, under governing precedent, the briefcase is not a matter occurring before the grand jury for purposes of Rule 6(e) of the Federal Rules of Criminal Procedure. See Senate of the Commonwealth of Puerto Rico v. United States Department of Justice, 823 F.2d 574, 582 (D.C. Cir. 1987) . Second, the briefcase is not investigative work product of this Office; rather, it is preexisting evidence that cannot be obtained from any other source. Third, disclosure of the briefcase to the Committee would not hinder or impede our ongoing investigation.

As to our physical transfer of the briefcase, the Committee should be assured that the briefcase was transmitted to an agent of the Committee by agents of the Federal Bureau of Investigation detailed to this Office in a manner that properly recorded its chain of custody.

As to the use of the briefcase during the hearings, we appreciate that there may be differing opinions within the Committee as to the most appropriate way to use the briefcase. This Office cannot and does not take any position on the proper use of the briefcase during the hearings. We reiterate our request that the briefcase be maintained in a secure place when not in use at the hearings, that it not be lost or physically damaged, and that it be returned to this Office after completion of the hearings.

Thank you for continuing to ensure that the Senators on the Committee have full and accurate information about this Office's dealings with the Committee.

Sincerely yours,

Mark H. Tuohey III
Deputy Independent Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 6, 1995

Robert J. Giuffra, Jr.
Majority Chief Counsel
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Senate Dirksen Office Building
Washington, D.C. 20510-6075

Dear Bob:

If possible, the Office of the Independent Counsel would like to receive copies of the depositions the Senate Special Committee conducted in preparation for its hearings this summer. Receiving the depositions in disk format would be particularly helpful for our investigation.

If you have any questions, please feel free to give me a call at (202) 514-3703. Thank you for your kind consideration of this request.

Sincerely,

Stephen A. Kubiatowski
Assistant Independent Counsel

cc: Lance Cole

13

DRAFT OF SEPTEMBER 10, 1995

PRELIMINARY LIST

POTENTIAL WITNESSES:

I. THE HANDLING OF RTC CONFIDENTIAL INFORMATION THE PROCESSING OF RTC CRIMINAL REFERRALS AND

RTC

1) Jean Lewis - Criminal investigator

2) Lee Aussen - Criminal investigator

3) Richard Iorio - Field Investigations Officer

4) Julie Yanda - Chief, Professional Liability Section

5) Karen Carmichael - Criminal Coordinator

6) April Breslaw - Professional Liability Section

7) Ellen Kulka - General Counsel, Washington

8) Andy Tomback - Deputy Counsel, Washington

9) Jim Thompson - Vice-President RTC, Kansas City

10) Bill Roelle - Senior Vice-President in Washington

11) Jim Dudine - Criminal investigations chief, Washington

12) Albert Casey - CEO

13) Randy Knight - investigator

14) Gilion Curtis - Acting RTC Counsel

15) Tom Hindes - Counsel

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16) David Swiss - Senior Counsel

17) Russell Kaufman - Senior Counsel

18) John Ryan - Deputy CEO

19) Michael VanValkenburg - Director of Tulsa investigations

20) Ken Faust - Investigator, Kansas City Investigative Office

21) Carl Gamble - National Criminal Coordinator?

22) Phillip Adams - Professional Liability Attorney, Kansas City,

23) Mike Carron - Criminal investigator, Kansas City

24) Mark Gabrellian - Professional Liability Section supervisor

25) L.J. Wilson - Criminal Investigator

26) Thomas Murray - Civil Review Investigator

FBI

1) Don Peters - Agent in Charge, Little Rock

2) Steve Irons - Agent, Little Rock

3) [redacted] - Agent, Kansas City

FOIA(b)(7) - (C)

DOJ

1) Paula Casey - U.S. Attorney, E.D. AR

2) Mark McDougal - DOJ Frauds Section attorney

3) Charles Banks - former U.S. Attorney, Little Rock

4) Richard Pence - Acting U.S. Attorney, E.D. AR between Banks and Paula Casey

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5) Donna Henneman - Ethics Program Manager in the DOJ Executive Office for U.S Attorneys

6) Mack Dotson - AUSA, Little Rock

7) Donald McKay - Frauds Section, DOJ

8) Deborah Westbrook - EOUSA supervisor

9) Anthony Moscato - Executive Director EOUSA

10) Webster Hubbell - former Associate Attorney General

WHITE HOUSE

1) Bernard Nussbaum

2) Bruce Lindsey

OTHERS

1) Persons listed on criminal referrals as suspects or witnesses.

II. IMPROPER RELEASE OF OFFICE OF GOVERNMENT ETHICS REPORT OF JULY 31, 1994

1) Lloyd Bentsen - former Secretary of the Treasury

2) Lloyd Cutler - former White House Counsel

3) Jim Cottos - Chief Treasury Investigator

4) Francine Kerner - Counsel to the Inspector General

5) Robert Cesca - Acting Inspector General, Department of Treasury

6) Patricia Black - RTC Deputy Inspector General

7) Stephen D. Potts - Director, Office of Government Ethics

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8) Steve J. McHale - Deputy assistant general counsel Treasury

9) Staff and attorneys of the White House Counsel's staff who participated in the preparation of congressional testimony

III. OPERATIONS, SOLVENCY AND REGULATION OF MADISON GUARANTY SAVINGS AND LOAN

1) James T. Clark, national bank examiner, Controller of the Currency and examiner in charge of the 1986 Federal Home Loan Bank Board examination of Madison Guaranty

2) Dawn Pulcer, Field Manager of the Office of Thrift Supervision, Detroit who assisted James Clark in the 1986 examination of Madison

3) Sarah Hawkins, Federal Home Loan Bank examiner in charge of the 1984 examination of Madison Guaranty and subsequent director of Madison from 1985-1989

4) James McDougal

5) John Latham and other board members of Madison

6) Marlin Jackson - State Banking Commissioner

7) Beverly Bassett Schaffer - Arkansas Securities Commissioner

8) Pat Heritage - loan officer for Madison

9) Bill Brady - staff attorney, Arkansas Securities Commission

10) Rick Massey - Rose Law Firm Lawyer (worked on proposed stock offering)

11) Nancy Jones - Assistant Securities Commissioner, Arkansas

12) R.D. Randolph

13) Seth Ward

14) Robert Palmer

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IV. ACTIVITIES, INVESTMENTS AND TAX LIABILITY OF WHITEWATER

1) Pillsbury, Madison employees who handled investigation on behalf of RTC

2) RTC employees working with the Pillsbury Madison firm

3) Charles James - registered agent for Whitewater

4) James and Susan McDougal - partners in Whitewater

5) James Lyons - advised on Whitewater issues

6) Leslie Patten - accounting work on Whitewater

7) Yoly Redden - accounting work on Whitewater

8) Betsy Wright

9) Susan Thomases

10) Bruce Lindsey

11) Employee of Frost & Company

12) Chris Wade - real estate agent for Whitewater

V. ROSE LAW FIRM REPRESENTATION OF MADISON AND THE RTC

1) John Adair - RTC Inspector General

2) Patricia Black - Counsel to the RTC Inspector General

3) Clark Blight - Assistant Inspector General for Investigation

4) Sharon Vander Vennot - Assistant Inspector General for Audit

5) James Renick - Inspector General of the FDIC

6) Carolyn Ryals - Deputy Inspector General, FDIC

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 140

7) Thomas Coogan - Deputy Counsel to the Inspector General

8) John Almond - Audit Manager

9) Webster Hubbell

VI. CAPITAL MANAGEMENT/DAVID HALE

1) Dick Steiner - Director, Office of Special Investigations, General Accounting Office

2) Don Fulwider - GAO agent who led GAO investigation of Capital Management

3) Wayne Foren - former Associate Administrator of Investment, Small Business Administration

4) David Hale

5) James and Susan McDougal

6) Jim Guy Tucker

7) Stephen Smith

8) Larry Kuca

9) Charles Matthews

10) Eugene Fitzhugh

VII. LASATER AND ARKANSAS DEVELOPMENT FINANCE AUTHORITY

1) Dan Lasater

2) Employees of ADFA

3) Patsy Thomasson

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 141

VIII. PERRY COUNTY BANK & CLINTON CAMPAIGN ACCOUNT

1) Bruce Lindsey

2) Neal Ainley

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 142

ALFONSE M. D'AMATO, NEW YORK, CHAIRMAN

PHIL GRAMM, TEXAS
RICHARD C. SHELBY, ALABAMA
CHRISTOPHER S. BOND, MISSOURI
CONNIE MACK, FLORIDA
LAUCH FAIRCLOTH, NORTH CAROLINA
ROBERT F. BENNETT, UTAH
ROD GRAMS, MINNESOTA
BILL FRIST, TENNESSEE

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

HOWARD A. MENELL, STAFF DIRECTOR
ROBERT J. GIUFFRA, JR., CHIEF COUNSEL
PHILIP E. BECHTEL, DEPUTY STAFF DIRECTOR
STEVEN B. HARRIS, DEMOCRATIC STAFF DIRECTOR
AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

September 14, 1995

John Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear John:

At our meeting yesterday we discussed the Special Committee's prior requests for polygraph examination results of Maggie Williams and FBI 302 Reports for Ms. Williams and Secret Service Uniformed Division Officer Henry P. O'Neill. I raised those requests in the context of the public hearing testimony provided by Ms. Williams and Officer O'Neill, as well as the public statement to the Committee by Ms. Williams' counsel, Edward S. G. Dennis, concerning the results of Ms. Williams' polygraph examination administered by the FBI under the auspices of the Independent Counsel.

I referred you to Mr. Dennis' statement to the Committee that he had been advised that Ms. Williams had passed her FBI polygraph examination (July 26, 1995 hearing transcript at page 206). I also referred you to Officer O'Neill's sworn testimony that on each of the five or six occasions he was interviewed by FBI agents and representatives of the Office of the Independent Counsel, he recounted exactly the same version of events regarding his observations on the night of July 20, 1993 (July 26, 1995 hearing transcript at pages 35-36). As I explained at our meeting yesterday, I would expect that if the Office of the Independent Counsel has any information contrary to the statement of Mr. Dennis or the testimony of Officer O'Neill on these points, you would inform the Committee so that incorrect testimony or information would not stand unrefuted in the Committee's public record. In my view, an obligation to inform the Committee that it has been provided inaccurate information or testimony about your Office's investigation exists notwithstanding your Office's position, described in your letters of July 18, July 19, and August 3, 1995, that it is inappropriate to disclose to Congress "investigative work product" from an active and ongoing investigation. Under such circumstances, depending on your response, we could discuss whether the

release of the underlying material would constitute an appropriate exception to your previously stated policy.

Thank you for your willingness to reconsider the Committee's request. It would be helpful if you could tell me at our meeting tomorrow what your position is on this issue.

Very truly yours,

Richard Ben-Veniste /ec

Richard Ben-Veniste

cc: Robert J. Giuffra, Jr., Esq.

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*** ACTIVITY REPORT ***
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United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER AND RELATED MATTERS
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FACSIMILE TRANSMITTAL SHEET

DATE: September 14, 1995

TO: John Bates, Esq.

FAX NUMBER: (202) 514-8802

FROM: Richard Ben-Veniste, Esq.

CONFIRM ARRIVAL: ☐ YES, Please contact me at _____

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FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 146

Office of the Independent Counsel

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September 27, 1995

The Honorable Alfonse M. D'Amato, Chairman
The Honorable Paul S. Sarbanes, Ranking Member
United States Senate
Committee on Banking, Housing, and Urban Affairs
534 Senate Dirksen Office Building
Washington, D. C. 20510-6075

Dear Mr. Chairman and Senator Sarbanes:

At our meeting on September 19, 1995, you raised some concern about my response to the Special Committee's inquiry regarding possible investigations and hearings related to certain subject matters identified in Senate Resolution 120. We have continued to examine this issue since that meeting. Our effort has involved consultations among the entire legal staff of this Office, including our trial teams and our Ethics Counsel Samuel Dash.

We are, of course, mindful of the Committee's important responsibilities. However, our duties and responsibilities as prosecutors compel us to conclude that, at this time, investigations and hearings on the following subject matters identified in Senate Resolution 120 would hinder or impede our investigations or prosecutions and might jeopardize the fair administration of justice: (1) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association ("Madison Guaranty"); (2) the activities, investments, and tax liability of Whitewater Development Corporation ("Whitewater"); (3) the policies and practices of the RTC and other federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty; (4) the handling by the RTC and other federal banking agencies of civil or administrative actions against parties regarding Madison Guaranty; (5) the sources of funding and the lending practices of Capital Management Services, Inc. ("CMS"); and (6) the lending activities of Perry County Bank in connection with the 1990 Arkansas gubernatorial election. These are six of the thirteen subject matters listed in Section 1(b) of Senate Resolution 120.

We are particularly concerned that investigations and hearings on subject matters relating to Madison Guaranty, Whitewater and CMS would hinder or impede our investigations and prosecutions and might jeopardize the proper and fair administration of justice in light of the pending indictment in United States v. James B. McDougal, et al. Mr. McDougal was an owner of Madison Guaranty and the president and chairman of the board of Madison Financial Corporation. The pending indictment charges Mr. McDougal and the other defendants with criminal wrongdoing involving Madison Guaranty and CMS transactions. Likewise, any conceivable Committee investigations or hearings on Madison Guaranty and CMS subject matters would involve inquiries into the activities of Mr.

McDougal and the other defendants relating to Madison Guaranty and CMS. Similarly, any Committee inquiry into Whitewater subject matters would involve an exploration of activities and transactions of Mr. McDougal and Madison Guaranty.

Congressional investigations or hearings on these three subjects will necessarily involve taking the testimony of at least some of the witnesses this Office expects to call at trial. That would significantly impede our preparation for trial. It would also risk the disclosure of certain non-public information that is the focus of ongoing criminal investigations. Furthermore, the publicity from Committee investigations and hearings on Madison Guaranty, Whitewater and CMS subject matters could lead to a contention by one or more of the criminal defendants that unbiased juries could not be impaneled or that the defendants otherwise suffered prejudice to their rights to a fair trial. Long-standing Department of Justice policy -- which we are required by statute to follow where possible -- leads us to conclude that this Office must express its strong concerns about investigations or hearings on Madison Guaranty, Whitewater and CMS subject matters in these circumstances.

The third, fourth and sixth subjects we have listed above (relating to the practices of federal banking agencies in securing representation or pursuing actions with respect to Madison Guaranty and relating to certain activities of Perry County Bank) do not directly affect the pending indictment in United States v. James B. McDougal, et al. Nonetheless, we believe that Committee investigations and hearings into these subjects, at this time, will hinder or impede our investigation. We are actively pursuing these matters, and expect important investigative steps and crucial judgments in the upcoming weeks. Hearings or contacts with witnesses and others involved in these investigations could substantially disrupt our ongoing efforts.

Accordingly, we must respectfully adhere to the concerns we previously have expressed about investigations and hearings into the six subject matters identified above. As prosecutors, we are bound to do no less. At the same time, we confirm our willingness to continue to review proposals from your staff regarding Committee investigations and hearings on some of the other seven subject matters identified in Senate Resolution 120. We have informed the Committee that hearings on these subject matters will not hinder or impede our investigations.

You also have asked when our concerns in any of the six areas discussed above might change. The trial in United States v. James B. McDougal, et al. is the most significant upcoming event affecting that issue with respect to hearings on Madison Guaranty, Whitewater and CMS subjects. Although pending and anticipated motions make it unlikely that the trial will commence on October 10, 1995, as presently scheduled, we will urge that it occur as soon as practicable. However, that decision rests ultimately within the discretion of the District Court. The completion of that trial will significantly reduce our concerns, barring additional relevant developments. The concerns we have expressed on three other subject matters listed in Senate Resolution 120 may well change appreciably in the next ninety days.

We recognize that the decision whether to hold hearings at this time ultimately is one for the Committee to make. We only can provide our perspective as prosecutors with respect to the impact of proposed hearings on pending criminal cases and on our ongoing investigations, and hope that the Committee will consider our concerns.

Respectfully yours,

Kenneth W. Starr/joe

Kenneth W. Starr
Independent Counsel

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AND CHIEF COUNSEL

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

October 2, 1995

By U.S. Mail and Facsimile

Kenneth W. Starr, Esq.
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

We have reviewed your September 27, 1995 letter advising us of your belief that, at this time, your office's investigation would be hindered or impeded by the Special Committee's inquiry into the matters specified in Sections 1(b)(3)(A), (B), (C), (D), (E) and (G) of Senate Resolution 120 (104th Congress). You have raised no specific concerns respecting the Special Committee's investigation of the other seven matters specified in the Resolution, including all of those contained in Section 1(b)(2), although in our meeting on September 19, 1995 you did indicate concerns about the Committee's investigation of the substance of the RTC's criminal referrals relating to Madison Guaranty Savings and Loan Association.

The Senate has consistently sought to coordinate its investigation of Whitewater and related matters with the Office of the Independent Counsel. Last year, in Senate Resolution 229 (103rd Congress), the Senate refrained from authorizing the Banking Committee to investigate a great majority of such matters. Moreover, at the request of then-Special Counsel Robert Fiske, the Banking Committee postponed in July 1994 its authorized investigation of the handling of documents in the office of White House Deputy Counsel Vincent Foster following his death.

Senate Resolution 120 encourages the Special Committee, to the extent practicable, to coordinate its activities with the investigation of the Independent Counsel. As a result, over the past four months, the Special Committee has delayed its investigation into the vast bulk of the matters specified in Section 1(b) of Senate Resolution 120. We held public hearings this past summer into the handling of documents in Mr. Foster's office following his death only after you indicated that your investigation would not be hindered or impeded by such hearings.

The Senate has directed the Special Committee to make every reasonable effort to complete its investigation and public hearings by February 1, 1996. (S.R. 120 § 9(a)(a)(1)). Your letter of September 27th asks the Special Committee to forebear, until some unspecified time, any investigation and public hearings into the bulk of the matters specified in Senate Resolution 120.

Your staff has indicated that the trial in United States v. James B. McDougal, et al. is not likely to commence until at least early 1996 and is expected to last at least two months. Our staffs have discussed the possibility that this trial could be delayed even further by pretrial motions and by possible interlocutory appeals, depending on certain pretrial rulings. Under these circumstances, if the Special Committee were to continue to defer its investigation and hearings, it would not be able to complete its task until well into 1996.

Over the past month, we have instructed the Special Committee's counsel to work diligently with your staff to find a solution that appropriately balances the prosecutorial concerns expressed in your September 27th letter and the Senate's constitutional oversight responsibilities. We have now determined that the Special Committee should not delay its investigation of the remaining matters specified in Senate Resolution 120.

The Senate has determined, by a vote of 96-to-3, that a full investigation of the matters raised in Senate Resolution 120 should be conducted. The Senate has the well established power under our Constitution to inquire into and to publicize the actions of agencies of the Government, including the Department of Justice. At the same time, our inquiry must seek to vindicate, as promptly as practicable, the reputations of any persons who have been unfairly accused of improper conduct with regard to Whitewater and related matters.

We understand that courts have repeatedly rejected claims that the publicity resulting from congressional hearings prejudiced criminal defendants. Fair and impartial juries were selected in the Watergate and Iran-Contra trials following widely publicized congressional hearings. Even where pretrial publicity resulting from congressional hearings has been found to interfere with the selection of a fair and impartial jury, the sole remedy applied by courts has been to grant a continuance of the trial.

For these reasons, we believe that the concerns expressed in your letter do not outweigh the Senate's strong interest in concluding its investigation and public hearings into the matters specified in Senate Resolution 120 consistent with Section 9 of the Resolution. Accordingly, we have determined that the Special Committee will begin its next round of public hearings in late October 1995. This round of hearings will focus primarily on the matters specified in Section 1(b)(2) of Senate Resolution 120. Through the remainder of this year, the Special Committee will investigate the remaining

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matters specified in Senate Resolution 120 with the intention of holding public hearings thereon beginning in January 1996.

Having determined that the Senate must now move forward, the Special Committee will, of course, continue to make every effort to coordinate, where practicable, its activities with those of your investigation. The Special Committee has provided your staff with a preliminary list of witnesses that the Committee intends to depose. We stand ready to take into account, consistent with the objectives set forth above, your views with regard to the timing of such private depositions and the public testimony of particular witnesses.

The Special Committee does not intend to seek the testimony of any defendant in a pending action brought by your office, nor will it seek to expand upon any of the grants of immunity provided to persons by your office or its predecessors. Indeed, Senate Resolution 120 expressly provides that the Special Committee may not immunize a witness if the Independent Counsel informs the Committee in writing that immunizing the witness would interfere with the Independent Counsel's ability "successfully to prosecute criminal violations." (§5(b)(6)).

As you know, the Special Committee has solicited the views of your office prior to making requests for documents. We will continue to take into account, where practicable, your views with regard to the public disclosure of particular documents.

In sum, it is our considered judgment that the time has come for the Senate to commence its investigation and public hearings into the remaining matters of inquiry specified in Senate Resolution 120. We pledge to do so in a manner that, to the greatest extent practicable, is sensitive to the concerns expressed in your September 27th letter.

Sincerely yours,

Paul S. Sarbanes
Ranking Member

Alfonse M. D'Amato
Chairman

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SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
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TO: Kenneth W. Starr, Esq.

NUMBER FAXED TO: 514-8802

FROM: Chairman D'Amato and Ranking Member Sarbanes

DATE: October 2, 1995

NUMBER OF PAGES. 4
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MESSAGE:

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2 U.S.C. 190d, which directs all standing committees of the Congress to engage in continuous legislative oversight of the administration and application of laws within their respective jurisdictions, and "may require a Government agency" to assist in doing so. In 1955, the Attorney General of the United States opined that the authorization required by the Trade Secrets Act was "reasonably implied" under § 190d.[109] A second source is the rules of each House authorizing committee oversight.

C. Accessing Information in Open and Closed Civil and Criminal Cases: The Special Problem of Overseeing the Justice Department

Congressional oversight of the conduct of civil and criminal enforcement matters by agencies, and most particularly the Department of Justice (DOJ), has raised sensitive questions respecting the exercise of prosecutorial discretion by the executive and interference with protected rights of individuals who may be the subject of such enforcement actions. However, a review of congressional investigations that have implicated DOJ or DOJ investigations over the past 70 years, from the Palmer Raids and Teapot Dome to Watergate and through Iran-Contra and Rocky Flats,[110] demonstrates that DOJ has been consistently obliged to submit to congressional oversight, regardless of whether litigation is pending, so that Congress is not delayed unduly in investigating misfeasance, malfeasance, or maladministration in DOJ or elsewhere. A number of these inquiries spawned seminal Supreme Court rulings that today provide the legal foundation for the broad congressional power of inquiry.[111] All were contentious and involved Executive claims that committee demands for agency documents and testimony were precluded on the basis of constitutional or common law privilege or policy.

In the majority of instances reviewed, the testimony of subordinate DOJ employees, such as line attorneys and FBI field agents, was taken formally or informally, and included detailed testimony about specific instances of the Department's failure to prosecute alleged meritorious cases. In all instances, investigating committees were provided with documents respecting open or

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109 41 Op. Atty. Gen. 221 (1955).

110 See Morton Rosenberg, "Legal and Historical Substantiality of Former Attorney General Civilette's Views as to the Scope and Reach of Congress' Authority to Conduct Oversight of the Department of Justice," CRS, October 15, 1993, *reprinted in* Hearing, "EPA's Criminal Enforcement Program", before the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, 103d Cong., 1st Sess. 12-41 (1993). For an in-depth description of the most recent investigation of the DOJ, see Staff Report, Damaging Disarray: Organizational Breakdown and Reform in the Justice Department's Environmental Crimes Program, House Subcomm. on Oversight and Investigations, Comm. on Energy and Commerce, 103rd Congress., 2d Session (Dec. 1994) (Comm. Print No. 103-T).

111 See notes, 13-20, *supra*, and accompanying text for a review of *McGrain v. Daugherty* and *Sinclair v. United States*.

closed cases that included prosecutorial memoranda, FBI investigative reports, summaries of FBI interviews, memoranda and correspondence prepared during the pendency of cases, confidential instructions outlining the procedures or guidelines to be followed for undercover operations and the surveillance and arrests of suspects, and documents presented to grand juries not protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure, among other similar "sensitive" materials.

The reasons advanced by the Executive for declining to provide information to Congress about civil proceedings have included avoiding prejudicial pre-trial publicity, protecting the rights of innocent third parties, protecting the identity of confidential informants, preventing disclosure of the government's strategy in anticipated or pending judicial proceedings, the potentially chilling effect on the exercise of prosecutorial discretion by DOJ attorneys, and precluding interference with the President's constitutional duty to faithfully execute the laws.[112]

As has been recounted previously, the Supreme Court has repeatedly reaffirmed the breadth of Congress' right to investigate the government's conduct of criminal and civil litigation.[113] The courts have also explicitly held that agencies may not deny Congress access to agency documents, even in situations where the inquiry may result in the exposure of criminal corruption or maladministration of agency officials. The Supreme Court has noted, "[B]ut surely a congressional committee which is engaged in a legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding . . . or when crime or wrongdoing is exposed."[114] Nor does the actual pendency of litigation disable Congress from the investigation of facts which have a bearing on that litigation, where the information sought is needed to determine what, if any, legislation should be enacted to prevent further ills.[115]

Although several lower court decisions have recognized that congressional hearings may have the result of generating prejudicial pre-trial publicity, they have not suggested that there are any constitutional or legal limitations on Congress' right to conduct an investigation during the pendency of judicial proceedings. Instead, the cases have suggested approaches, such as granting a

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112 A leading statement of the executive branch position is found in an opinion of Attorney General Robert Jackson. 40 Op. A.G. 45 (1941).

113 See discussion of case law, *supra* at notes 2-8 and 13-20, and accompanying text.

114 *Hutcheson v. United States,* 369 U.S. 599, 617 (1962).

115 *Sinclair v. United States,* 279 U.S. 263, 294 (1929).

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continuance or a change of venue, to deal with the publicity problem.[116] For example, the court in one of the leading cases, *Delaney v. United States*, entertained "no doubt that the committee acted lawfully, within the constitutional powers of Congress duly delegated to it" but went on to describe the possible consequences of concurrent executive and congressional investigations:

> We think that the United States is put to a choice in this matter: If the United States, through its legislative department, acting conscientiously pursuant to its conception of the public interest, chooses to hold a public hearing inevitably resulting in such damaging publicity prejudicial to a person awaiting trial on a pending indictment, then the United States must accept the consequences that the judicial department, charged with the duty of assuring the defendant a fair trial before an impartial jury, may find it necessary to postpone the trial until by lapse of time the danger of the prejudice may reasonably be thought to have been substantially removed.[117]

The *Delaney* court distinguished the case of a congressional hearing generating publicity relating to an individual not under indictment at the time (as was Delaney):

> Such a situation may present important differences from the instant case. In such a situation the investigative function of Congress has its greatest

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[116] See e.g., *Delaney v. United States*, 199 F.2d 107 (1st Cir. 1952); *United States v. Mitchell*, 372 F.Supp. 1239, 1261 (S.D.N.Y. 1973). For discussion of issues in addition to prejudicial publicity that have been raised in regard to concurrent congressional and judicial proceedings, including allegations of violation of due process, see, Contempt of Congress, H.R. Rpt. No. 97-968, 97th Cong., 2d Sess. 58 (1982; and the discussion of the potential consequences of congressional grants of testimonial immunity on criminal trials, *supra*, at notes 57-67 and accompanying text.

[117] 199 F.2d 107, 114 (1st Cir. 1952). The court did not fault the committee for holding public hearings, stating that if closed hearings were rejected "because the legislative committee deemed that an open hearing at that time was required by overriding considerations of public interest, then the committee was of course free to go ahead with its hearing, merely accepting the consequence that the trial of Delaney on the pending indictment might have to be delayed." 199 F.2d at 114-5. It reversed Delaney's conviction because the trial court had denied his motion for a continuance until after the publicity generated by the hearing, at which Delaney and other trial witnesses were asked to testify, subsided. See also, *Hutcheson v. United States*, 369 U.S. 599, 613 (1962)(upholding contempt conviction of person who refused to answer committee questions relating to activities for which he had been indicted by a state grand jury, citing *Delaney*.)

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> utility: Congress it is informing itself so that it may take appropriate legislative action; it is informing the Executive so that existing laws may be enforced; and it is informing the public so that democratic processes may be brought to bear to correct any disclosed executive laxity. Also, if as a result of such legislative hearing an indictment is eventually procured against the public official, then in the normal case there would be a much greater lapse of time between the publicity accompanying the public hearing and the trial of the subsequently indicted official than would be the case if the legislative hearing were held while the accused is awaiting trial on a pending indictment.[118]

The absence of indictment and the length of time between congressional hearing and criminal trial have been factors in courts rejecting claims that congressionally generated publicity prejudiced defendants.[119] Finally, in the context of adjudicatory administrative proceedings, courts on occasion have held that pressures emanating from questioning of agency decisionmakers by Members of Congress may be sufficient to undermine the impartiality of the proceeding. [120] But the courts have also made clear that mere inquiry and oversight of agency actions, including agency proceedings that are quasi-adjudicatory in nature, will not be held to rise to the level of political pressure designed to influence particular proceedings that would require judicial condemnation.[121]

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118 199 F.2d at 115.

119 See, *Silverthorne v. United States,* 400 F.2d 627 (9th Cir. 1968), *cert. denied,* 400 U.S. 102 (1971)(claim of prejudicial pretrial publicity rejected because committee hearings occurred five months prior to indictment); *Beck v. United States,* 298 F.2d 622 (9thCir. 1962)(hearing occurred a year before trial); *United States v. Haldeman,* 559 F.2d 31, 63 (D.C. Cir. 1976), *cert. denied,* 433 U.S. 933 (1977); *United States v. Ehrlichman,* 546 F.2d 910, 917 (D.C. Cir. 1976), *cert. denied,* 429 U.S. 1120 (1977); *United States v. Mitchell,* 372 F.Supp. 1239, 1261 (S.D.N.Y. 1973)(post-indictment Senate hearing but court held that lapse of time and efforts of committee to avoid questions relating to indictment diminished possibility of prejudice); *United States v. Mesarosh,* 223 F.2d 449 (3rd Cir. 1955)(hearing only incidentally connected with trial and occurred after jury selected).

120 See, *e.g., Pillsbury Co. v. FTC,* 354 F.2d 952 5th Cir. (1968).

121 See *e.g., ATX, Inc. v. Department of Transportation* 41 F.3d 1522 (D.C. Cir. 1994); *State of California v. FERC,* 966 F.2d 154 (9th Cir. 1992); *Peter Kiewet Sons' v. U.S. Army Corps of Engineers,* 714 F.2d 163 (D.C. Cir. 1983); *Gulf Oil Corp. v. FPC,* 563 F.2d 588 (3d Cir. 1977), *cert. denied,* 434 U.S. 1062 (1978); *United States v. Armada Petroleum Corp.,* 562 F.Supp 43 (S.D. Tex. 1982). See also, Morton Rosenberg and Jack Maskell, Congressional Intervention in the Administrative Process: Legal and Ethical Considerations (CRS Report No 90-440A, Sept. 7, 1990).

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Thus, the courts have recognized the potentially prejudicial effect congressional hearings can have on pending cases. While not questioning the prerogatives of Congress with respect to oversight and investigation, the cases pose a choice for the Congress: congressionally generated publicity may result in harming the prosecutorial effort of the Executive; but access to information under secure conditions can fulfill the congressional power of investigation and at the same time need not be inconsistent with the authority of the Executive to pursue its case. Nonetheless, it remains a choice that is solely within Congress' discretion to make irrespective of the consequences.[122]

In the past the executive frequently has made a broader claim that prosecution is an inherently executive function and that congressional access to information related to the exercise of that function is thereby limited. Prosecutorial discretion is seen as off-limits to congressional inquiry and access demands are viewed as interfering with the discretion traditionally enjoyed by the prosecutor with respect to pursuing criminal cases.

Initially, it must be noted that the Supreme Court has rejected the notion that prosecutorial discretion in criminal matters is an inherent or core executive function. Rather, the Court noted in *Morrison v. Olson,* [123] sustaining the validity of the appointment and removal conditions for independent counsels under the Ethics in Government Act, that the independent counsel's prosecutorial powers are executive in that they have "typically" been performed by Executive Branch officials, but held that the exercise of prosecutorial discretion is in no way "central" to the functioning of the Executive Branch.[124] The Court therefore rejected a claim that insulating the independent counsel from at-will presidential removal interfered with the President's duty to "take care" that the laws be faithfully executed. Interestingly, the *Morrison* Court took the occasion to reiterate the fundamental nature of Congress' oversight function (" . . . receiving reports or other information and oversight of the independent counsel's activities . . . [are] functions that we have recognized as generally incidental to the legislative function of Congress," citing *McGrain v. Daugherty.*)[125]

The breadth of *Morrison's* ruling that the prosecutorial function is not an exclusive function of the Executive was made clear in a recent decision of the Ninth Circuit Court of Appeals in United States ex rel Kelly v. The Boeing Co.,[126] which upheld, against a broad based separation of powers attack, the

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122 See remarks of Independent Counsel Lawrence E. Walsh, *supra n.*66 and accompanying text.

123 487 U.S. 654 (1988).

124 *Id.* at 691-92.

125 *Id.* at 694.

126 9 F.3d 743 (9th Cir. 1993).

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constitutionality of the *qui tam* provisions of the False Claims Act vesting enforcement functions against agencies by private parties.[127]

Prosecution, not being a core or exclusive function of the Executive, cannot claim the constitutional stature of Congress' oversight prerogative. In the absence of a credible claim of encroachment or aggrandizement by the legislature of essential Executive powers, the Supreme Court has held the appropriate judicial test is one that determines whether the challenged legislative action "'prevents the Executive Branch from accomplishing its assigned functions',"

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[127] Boeing argued, *inter alia*, that Congress could not vest enforcement functions outside the Executive Branch in private parties. Applying *Morrison* the appeals court emphatically rejected the contention.

> Before comparing the *qui tam* provisions of the FCA to the independent counsel provisions of the Ethics in Government Act, we must address Boeing's contention that only the Executive Branch has the power to enforce laws, and therefore to prosecute violations of law. *It is clear to us that no such absolute rule exists. Morrison* itself indicates otherwise because that decision validated the independent counsel provisions of the Ethics in Government Act even though it recognized that "it is undeniable that the Act reduces the amount of control or supervision that the Attorney General and, through him, the President exercises over the investigation and prosecution of a certain class of alleged criminal activity." 487 U.S. at 695. The Court also stated in *Morrison* that "there is no real dispute that the functions performed by the independent counsel are 'executive' in the sense that they are law enforcement functions that typically have been undertaken by officials within the Executive Branch." 487 U.S. at 692 (emphasis added). Use of the world "typically" in that sentence, considered in light of the Court's ultimate conclusion upholding the independent counsel provisions, must mean that prosecutorial functions need not always be undertaken by Executive Branch officials. See Stephanie A.J. Dangel, Note, Is Prosecution a Core Executive Function? Morrison v. Olson and the Framers' Intent, 99 Yale L.J. 1069, 1070 (1990)(Framers intended that prosecution would be undertaken by but not constitutionally assigned to executive officials, and that such officials would typically but not always prosecute). *Thus, we reject Boeing's assertion that all prosecutorial power of any kind belongs to the Executive Branch.*

9 F.3d at 751 (emphasis supplied).

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and, if so, "'whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress'." [128]

Congressional oversight and access to documents and testimony, unlike the action of a court, cannot stop a prosecution or set limits on the management of a particular case. Access to information by itself would not seem to disturb the authority and discretion of the Executive Branch to decide whether to prosecute a case. The assertion of prosecutorial discretion in the face of a congressional demand for information is arguably akin to the "generalized" claim of confidentiality made in the Watergate executive privilege cases. That general claim -- lacking in specific demonstration of disruption of Executive functions -- was held to be overcome by the more focused demonstration of need for information by a coordinate branch of government.[129]

Given the legitimacy of congressional oversight and investigation of the law enforcement agencies of government, and the need for access to information pursuant to such activities, a claim of prosecutorial discretion by itself would not seem to be sufficient to defeat a congressional need for information. The congressional action itself does not and cannot dictate prosecutorial policy or decisions in particular cases. Congress may enact statutes that influence prosecutorial policy and information relating to enforcement of the laws would seem necessary to perform that legislative function. Thus, under the standard enunciated in *Morrison v. Olson* and *Nixon v. Administrator of General Services*, the fact that information is sought on the Executive's enforcement of criminal laws would not in itself seem to preclude congressional inquiry.

In light of the Supreme Court's consistent support of the power of legislative inquiry, and in the absence of a countervailing constitutional prerogative of the Executive, it is likely that a court will be "sensitive to the legislative importance of congressional committees on oversight and investigations and recognize that their interest in the objective and efficient operation of ... agencies serves a legitimate and wholesome function with which we should not lightly interfere."[130]

D. Access to Grand Jury Materials

Rule 6(e) of the Federal Rules of Criminal Procedure provides that members of the grand jury and those who attend the grand jury in its proceedings may not "disclose matters occurring before the grand jury, except as otherwise

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128 *Nixon v. Administration of General Services*, 433 U.S. 425,433 (1977); *Commodity Futures Trading Commission v. Schor*, 487 U.S. 833, 851 (1986); *Morrison v. Olson*, 487 U.S. 654, 693-96 (1988).

129 *U.S. v. Nixon*, 418 U.S. 683, 705-706, 711-712 (1974).

130 *Gulf Oil Corp. v. FPC*, 563 F.2d 588, 610 (3d Cir. 1977).

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 160

SENATE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

534 Dirksen Building, Washington, D.C. 20510

• Main Number (202) 224-7391
• Fax (202) 224-5137

TO: Brent Kavanaugh, OIC

NUMBER FAXED TO: 202/514-8802

FROM: Robert J. Giuffra

DATE: 3/20/95

NUMBER OF PAGES: 19
(Including this cover sheet)

MESSAGE: Here is the correspondence we discussed relating to the handling of papers in Vincent Foster's office following his death.

If you do not receive the specified number of pages, please contact sender at our main number. Thank you.

CHRONOLOGY OF SENATE BANKING COMMITTEE CORRESPONDENCE REGARDING VINCENT FOSTER DOCUMENTS

June 22, 1994	**Letter from the Senate Banking Committee to Janet Reno, Attorney General of the United States**, requesting all DOJ records, including all records of the FBI, that relate to, among other subjects, "the way in which White House officials handled documents in the office of Vincent Foster at the time of his death." The Committee also requested records relating to the handling of documents from the Treasury Department, the White House, the RTC and the U.S. Park Police.
July 1, 1994	**Letter from the Senate Banking Committee to Robert B. Fiske, Jr., Office of the Independent Counsel**, requesting all records that relate to, among other subjects, "the way in which the White House officials handled documents in the office of Vincent Foster at the time of his death."
July 1, 1994	**Letter from Lloyd N. Cutler, Special Counsel to the President, to the Senate Banking Committee** in response to the Committee's document request of June 22, 1994. The White House is producing documents previously gathered in response to subpoenas issued by Mr. Fiske. In accordance with the understanding reached at the June 29, 1994 meeting, White House staff members to whom the Committee made individual requests do not need to produce separately documents that they previously provided to the Office of White House Counsel in response to Mr. Fiske's subpoenas. The White House production does not, however, include any personal documents that these individuals may have provided to Mr. Fiske.[1]
July 1, 1994	**Letter from Jeffrey D. Robinson, Deputy Assistant Attorney General, to the Senate Banking Committee** in response to the Committee's document request of June 22, 1994. Mr. Fiske will directly provide to the Committee DOJ documents generated in his investigation. DOJ will directly provide documents in its possession to the Committee only after Mr. Fiske has reviewed DOJ's proposed production.

[1] Individual requests for documents were made to 12 present and former White House Staff members; only Betsy Pond, Office of the White House Counsel, and Patsy L. Thomasson, Special Assistant to the President, did not provide individual responses.

July 5, 1994	**Letter from Timothy S. Elliott, Deputy Associate Solicitor, U.S. Department of Interior, to Michael Davidson, Senate Legal Counsel** in response to the Committee's document request of June 22, 1994. Enclosed are certain U.S. Park Police records. Documents relating to the handling of documents by the White House, however, are not included. "The Park Police advised the Independent Counsel they would not release documents that might interfere with any ongoing investigation being conducted by him. We understand Mr. Fiske still has under consideration matters that might implicate the handling of certain documents. We believe the documents in our files may be part of his investigation."
July 11, 1994	**Letter from Robert B. Fiske, Jr., Independent Counsel, to the Senate Banking Committee** in response to the Committee's document request of July 1, 1994. Enclosed are copies of records in the possession of the OIC pertaining to the completed investigation into the death of Vincent Foster. "I cannot yet release to you records pertaining to the possible mishandling of documents in the office of Vincent Foster because...the document investigation is ongoing."
July 18, 1994	**Letter from John C. Keeney, Deputy Assistant attorney General, to the Senate Banking Committee** in response to the Committee's document request of June 22, 1994. Enclosed are DOJ records relating to the death of Vincent Foster. This response does not include documents solely in the custody and control of Mr. Fiske. DOJ will produce documents relating to the handling of documents in the office of Vincent Foster at the time of his death "as soon as Mr. Fiske determines that disclosure will not interfere with his ongoing investigation."
July 27, 1994	**Letter from John C. Keeney, Deputy Assistant Attorney General, to the Senate Banking Committee** regarding the DOJ's refusal to produce FBI documents relating to the handling of documents in the office of Vincent Foster at the time of his death. "As stated previously, the Department will produce these documents as soon as Mr. Fiske determines that disclosure will not interfere with his ongoing investigation."

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 163

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
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STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 22, 1994

The Honorable Janet Reno
Attorney General of the United States
Department of Justice
Constitution Avenue and Tenth Street, N.W.
Washington, D.C. 20530

Dear Madam Attorney General:

On June 21, 1994, the Senate passed Senate Resolution 229, a copy of which is enclosed, directing the Committee on Banking, Housing, and Urban Affairs to conduct hearings on matters specified in the resolution. In preparation for the hearings, we are requesting that you provide to the Committee all Department of Justice records, including all records of the Federal Bureau of Investigation, in your custody, control, or possession, regardless of format, that relate in any manner to the following subjects:

(a) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(b) the Park Service Police investigation into the death of Vincent Foster; and

(c) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death.

To the extent that your office has gathered documents from individuals and locations throughout the Department, please indicate where and from whom each of those records was obtained. It would also be helpful if you provided a list of the records that you are submitting so that the Committee and your office have a common list of the records supplied by the Department of Justice.

The records should be delivered to Kelly Cordes, the Committee's Chief Clerk, 534 Dirksen Senate Office Building.

As you know, Senate Resolution 229 provides that public hearings on this matter begin no later than July 29, 1994. Therefore, it is necessary that these documents be received by the Committee no later than July 1, 1994, and prior to that date, if possible. If you have any questions concerning this request, please call Michael Davidson, Senate Legal Counsel, at 224-4435. This request is, of course, an initial request and may be supplemented by additional ones. We recognize that you may wish to designate a Department of Justice official who will be responsible for responding to this request.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Alfonse M. D'Amato
Ranking Member

Donald W. Riegle, Jr.
Chairman

Enclosure

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 1, 1994

Robert B. Fiske, Jr.
Office of the Independent Counsel
1001 Pennsylvania Avenue, NW
Suite 490 North
Washington, D.C. 20037

Dear Mr. Fiske:

On June 21, 1994, the Senate passed Resolution 229, a copy of which is enclosed, directing the Committee on Banking, Housing, and Urban Affairs to conduct hearings on matters specified in the resolution.

In preparation for the hearings, we request that you provide to the Committee all records that are within your custody, control or possession, regardless of format, that relate in any manner to the following subjects:

(a) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(b) the Park Service Police investigation into the death of Vincent Foster; and

(c) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death.

These records should be delivered to Kelly Cordes, the Committee's Chief Clerk, 534 Dirksen Senate Office Building. As you know, Senate Resolution 229 provides that public hearings on this matter begin no later than July 29, 1994. Therefore, it is necessary that these documents be received by the Committee no later than July 11, 1994, and prior to that date, if possible. Please provide us, together with the delivery of documents, with a list of the records that you are submitting so that the Committee and you have a common list of the records supplied by you.

If you at one time had records on the matters listed above, but have provided them to someone else, please advise us in writing, by July 11, 1994, to whom you provided those records and furnish us a list of the records provided.

If you have any questions concerning this request, please call Michael Davidson, Senate Legal Counsel, at (202) 224-4435. This request is, of course, an initial request and may be supplemented by additional ones.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Alfonse M. D'Amato
Ranking Member

Donald W. Riegle, Jr.
Chairman

Enclosure

Committee confidential

THE WHITE HOUSE

WASHINGTON

July 1, 1994

The Honorable Donald W. Riegle, Jr.
The Honorable Alfonse M. D'Amato
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
534 Senate Dirksen Office Building
Washington, D.C. 20510-6075

Dear Chairman Riegle and Senator D'Amato:

By cover of this letter, the White House is producing documents responsive to the requests made in your letter of June 22, 1994. As indicated in a meeting with your staff on July 29, 1994, the documents we are producing in response to your enumerated requests are from the set of documents previously gathered by the White House in response to subpoenas issued by Independent Counsel Robert Fiske. We have withheld a small number of responsive documents until we conclude arrangements for their special handling.

In accordance with the understanding reached at the July 29 meeting, we have directed White House staff members to whom the Committee made individual requests that they need not separately produce documents they previously provided to the Office of White House Counsel in response to Mr. Fiske's subpoenas. Those documents are included in the White House production. The White House production does not include any personal documents that these individuals may have provided to Mr. Fiske.

We are also producing written policies requested by the Committee that have been issued by the White House Chief of Staff or the White House Counsel's Office concerning communications between White House officials and officials in departments and agencies and at law enforcement entities.

As you requested, we are providing a list that identifies each document produced and its source.

The White House is making this document production with the understanding that, until the time of the Senate Banking Committee hearing:

(1) the documents will be treated as if they are classified material;

(2) they will be maintained in a secure reading room that is guarded or locked at all times;

(3) access to the documents will be limited to Committee Members, one or two designated members of the staff of each Committee Member, Mr. Codinha and his staff, and Mr. Chertoff and his staff;

(4) all staff members will be required to sign an appropriate confidentiality agreement before being given access to the documents;

(5) documents will be maintained in a safe within the reading room; Messrs. Codinha and Chertoff and one additional person from each of their staffs will be the only individuals with the combination to the safe;

(6) documents will not be copied or removed from the room except for the limited purpose of temporary use at a deposition or interview;

(7) deposition transcripts will be treated in the same manner as documents;

(8) there will be two stand-alone computers in the reading room for use by staff; no print-outs may be taken out of the room.

We look forward to working cooperatively with your Committee on this matter.

Sincerely yours,

Lloyd N. Cutler, jcs

Lloyd N. Cutler
Special Counsel to the President

FOIA RD 56806 (URTS 16302) DocId: 70104916 Page 169

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 1, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, D.C. 20510

Honorable Alfonse M. D'Amato
Ranking Member
Committee on Banking, Housing and
Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman and Senator D'Amato:

This is in response to your letter of June 22, 1994 to Attorney General Reno requesting that the Committee be provided documents relating to the following subjects:

(a) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(b) the Park Service Police investigation into the death of Vincent Foster; and

(c) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death.

Representatives of the Department met today with majority and minority staff of the Committee and Senate Counsel Michael Davidson concerning production of these materials. It was noted that documents generated in the investigation of these matters by Independent Counsel Robert B. Fiske, Jr. would be provided directly to the Committee by Mr. Fiske. Documents in the possession of Department would be provided by the Department.

The Department has set July 11 as its goal for production of the documents. But as was noted at the meeting, Mr. Fiske will review our proposed production to assure it will not interfere with his investigation. We hope to adhere as closely as possible to the target date.

Sincerely,

Jeffrey D. Robinson
Deputy Assistant Attorney General

United States Department of the Interior

OFFICE OF THE SOLICITOR

Michael Davidson, Esq.
Senate Legal Counsel
United States Senate
Washington, DC

JUL 5 1994

Dear Mr. Davidson:

Enclosed with this letter, as I discussed with Ms. Beth O'Neill-Maloney on the telephone today, are certain of the records of the United States Park Police. These records are being provided in response to the request from the Committee on Banking of the United States Senate and dated June 22, 1994. We will supply a list of the documents released herewith no later than July 6, 1994.

As I advised, we are not releasing at this time the following information or types of information:

1) photocopies of the "handwritten" note
2) records pertaining to the handling of documents by the White House
3) photographs, or copies thereof, of Vincent Foster's body at the death scene
4) photographs, or copies thereof, of the body taken during the autopsy

While we are prepared to discuss all of these documents at your convenience, nos. 1, 3, and 4 above would, in our opinion, result in an unwarranted invasion of the personal privacy of the Foster family. They have not to our knowledge been released outside of the Executive Branch. Furthermore, we are protecting them in pending litigation under the Freedom of Information Act.

As for no. 2, we have either removed from the copies being provided to you, or noted on relevant pages these documents as being 7(A). The Park Police advised the Independent Counsel they would not release documents that might interfere with any ongoing investigation being conducted by him. We understand Mr. Fiske still has under consideration matters that might implicate the handling of certain documents. We believe the documents in our files may be part of his investigation; therefore, in keeping with our commitment, we have not included them in this package.

In addition, we have deleted the names of certain persons who were at, or near, Fort Marcy when Mr. Foster's body was discovered. Again, while we are prepared to discuss these, we are concerned for the privacy of the individuals since neither their names or other identifying information have been made public. These witnesses were interviewed by the Park Police and are not mentioned by name

in the Report of the Independent Counsel.

We have not included copies of the contents of Mr. Foster's wallet. These are personal items, most of which were listed generically in the Independent Counsel's Report. The only added information photocopies would reveal are details such as PIN numbers, shopping habits, and charge card numbers.

Finally, we are not producing documents we believe to be substantively within the purview of another agency. We are attempting to determine from those agencies whether they might object to the release of their documents. As soon as we hear from them, we will advise you and produce copies of their documents, as appropriate.

While we have not deleted the names or other information that might identify law enforcement officers (whose names were not included in the Independent Counsel's Report), we have put brackets around the information. This is to alert you to the fact that we are protecting it in the FOIA litigation, in accordance with case law allowing the withholding of such information under FOIA. We would appreciate you understanding of this, and ask that, if you receive a request for the bracketed information, you provide us with the opportunity to respond or advise you of its continued sensitivity. Furthermore, should you believe you must release such information, we would like notice in advance of such a release.

We look forward to our meeting to discuss further the documents you have sought and how we may further assist you.

Sincerely,

Timothy S. Elliott
Deputy Associate Solicitor

Enclosure

U. S. Department of Justice

Office of the Independent Counsel

July 11, 1994

Donald W. Riegle, Jr.
Chairman
United States Senate
Committee on Banking, Housing,
and Urban Affairs
Washington, D.C. 20510

Alfonse M. D'Amato
Ranking Member
United States Senate
Committee on Banking, Housing,
and Urban Affairs
Washington, D.C. 20510

Dear Senators Riegle and D'Amato:

Pursuant to your request of July 1, 1994, enclosed please find copies of records in the possession of the Office of the Independent Counsel ("OIC") pertaining to the completed investigation(s) into (1) the death of Vincent W. Foster, Jr., and (2) communications between officials of the White House and the Department of the Treasury or Resolution Trust Corporation. As we have discussed, I cannot yet release to you records pertaining to the possible mishandling of documents in the office of Vincent Foster because, unlike the two aforementioned investigations, the document investigation is ongoing. As you also know, under Federal Rule of Criminal Procedure 6(e), I cannot produce to you any record pertaining to any of the three investigations if it involves matters presented to the Grand Jury.

Much of the material provided to you today is in the form of "FBI FD-302s" -- records of witness interviews conducted by FBI agents and attorneys on my staff. In an effort to expedite a production to you and to avoid needless repetition, I am not at this time producing the "backup" to these forms -- handwritten notes of the agents, memos to file, communications between members of my staff, or other material that reflects the deliberative process of this Office or is traditionally protected attorney work product. I am similarly not producing documents that I know are being produced to you from their original sources and documents such as newspaper articles that are publicly available.

I have attempted to release as much information as is possible today. In many instances, witnesses were interviewed on more than one topic, and the records of their interviews have had to be redacted to the extent that they reflect either Grand Jury or ongoing investigation material. In the interest of expediency, to the extent that a record consists primarily of such material, it is being withheld in its entirety at this time.

Out of respect and consideration for the Foster family and in appreciation of the witnesses who came forward despite great hesitancy to become involved in this investigation, I have redacted certain names and descriptive information from the FBI FD-302s, and withheld the original note found in Mr. Foster's office and photographs taken on July 20, 1993 at the scene of his death.* I am sure you will appreciate their need for privacy as much as I, and I understand that all materials released to you today will be afforded the same security procedures as those produced to you by the Department of the Interior.

Finally, it has recently come to my attention that some records responsive to your request might already be in an FBI storage facility in Virginia. My office is looking into this, and if necessary, I will supplement this production. If you have any questions, please feel free to contact me at (202) 514-8688.

Respectfully yours,

Robert B. Fiske, Jr.
Independent Counsel

* Large aerial photographs of Ft. Marcy Park are available for viewing at the OIC, should you so desire.

U.S. Department of Justice

Criminal Division

Office of the Assistant Attorney General Washington, D.C. 20530

July 18, 1994

Donald W. Riegle, Jr., Chairman
Alfonse M. D'Amato, Ranking Member
United States Senate
Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

Dear Senators Riegle and D'Amato:

Enclosed are Department of Justice records responsive to part (b) of your June 22, 1994 request relating to the Park Police investigation into the death of Vincent Foster. This response covers all Department of Justice components, but does not include documents solely in the custody and control of Independent Counsel Robert B. Fiske, Jr. The enclosed documents were produced from the Office of the Deputy Attorney General. We understand that you have obtained copies of the Park Police report and related Park Police records from the Department of the Interior; therefore, the Department of Justice has not provided additional copies of those records.

The Department will produce documents responsive to part (c) of your request as soon as Mr. Fiske determines that disclosure will not interfere with his ongoing investigation into the handling of documents in Vincent Foster's office. The Department has no documents responsive to part (a) of your request.

We have not construed your request to seek copies of other requests for documents. Thus, we have not produced FOIA requests and the like, departmental responses, or other documents relating to ongoing FOIA litigation. To the extent that newsclippings maintained by Department employees could be deemed responsive to the Committee's request, you should be aware that the Department provides a clippings service through the Office of Public Affairs and back clippings are available through that office. You and your staff are welcome to review the clippings. We have provided copies of clippings only if they are attached to a responsive document or otherwise contain responsive markings or notes.

We have redacted very limited information, consisting mainly of home addresses and telephone numbers, because of the concern for the privacy of persons named. Please feel free to contact me if you would like to review the redacted information. By

producing these materials to the Committee, the Department of Justice does not intend to waive any claims it may otherwise raise pursuant to FOIA.

If you have any questions, please feel free to contact me.

Sincerely,

John C. Keeney

John C. Keeney
Deputy Assistant Attorney General

Enclosures

U.S. Department of Justice

Criminal Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

July 27, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, D.C. 20510

Honorable Alfonse M. D'Amato
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman and Senator D'Amato:

This responds to your letter dated July 19, 1994, received by the Department on July 26, 1994, regarding the Department of Justice's production of documents in response to part (b) of the Committee's June 22, 1994 request. The Department's response covered all of its components, including the FBI. Other than duplicates of documents, the Department has turned over all documents in its possession that relate solely to the Park Service Police investigation into the death of Vincent Foster.

The Department has not turned over documents (including documents from the FBI and documents from the Office of the Deputy Attorney General) pursuant to part (c) of your request relating "to the way in which White House officials handled documents in the office of Vincent Foster at the time of his death." That subject remains part of the ongoing investigation by Independent Counsel Robert B. Fiske, Jr. After receiving your letter, we again reviewed the documents collected from the FBI. Although the FBI was involved in the early stages of the investigation into the death of Vincent Foster, the FBI reports relate also to the issue of the handling of the documents in Vincent Foster's office. As stated previously, the Department will produce these documents as soon as Mr. Fiske determines that disclosure will not interfere with his ongoing investigation.

In response to your question as to where in the Department Park Police records were located, the following components had copies of Park Police records: Office of the Deputy Attorney

General; Executive Secretariat Office; Office of Professional Responsibility; the Criminal Division; and the FBI.

If you have any questions, please feel free to contact me.

Sincerely,

John C. Keeney

John C. Keeney
Deputy Assistant Attorney General

GRAND JURY SCHEDULING

Screened by NARA (RD-F) 07-25-2018
FOIA RD 56806 (URTS 16302) DOCID:
70104918

FILED
APR 13 1995
CLERK U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

O R D E R

It appearing to the Court that the public interest requires that a grand jury be impanelled in May 1995,

It is, Therefore,

ORDERED, this 13th day of April 1995 that 700 persons be summoned to meet this requirement.

THE HONORABLE JOHN GARRETT PENN
Chief United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY
NANCY M. MAYER-WHITTINGTON, CLERK
By _____
Deputy Clerk

95-11

FILED

DEC 2 1993

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF A SPECIAL GRAND JURY)

ORDER

Based upon the letter from the Acting Assistant Attorney General, Criminal Division, United States Department of justice, certifying that in his judgment a special grand jury is necessary because of criminal activity in this district,

IT IS HEREBY ORDERED, pursuant to Title 18, United States Code, Section 3331, that a special grand jury be summoned and impaneled, and the Clerk of the Court is hereby directed to do so forthwith.

DATED: DEC 16 1993

THE HONORABLE JOHN GARRETT PENN
Chief United States District Judge

93-87

United States District Court
for the District of Columbia
A TRUE COPY
NANCY M. MAYER-WHITTINGTON, CLERK
By Deputy Clerk

FILED

FEB 2 2 1994

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

O R D E R

It appearing to the Court that the public interest requires that a grand jury be impanlled in March 1994,

It is, Therefore,

ORDERED, this 26 day of February 1994 that 700 persons be summoned to meet this requirement.

THE HONORABLE JOHN GARRETT PENN
Chief United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY
NANCY M. MAYER-WHITTINGTON, CLERK
By Deputy Clerk

94-05

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

OFFICE OF THE JURY

F A X (FTS) 2 7 3 - 0 4 9 5

T E L (FTS) 2 7 3 - 0 4 1 0

FACSIMILE TRANSMITTAL	
AGENCY:	USAO
ATTENTION:	Brett Cavanaugh
FROM:	Michael McGrath
DATE & TIME:	1/19/96 3:00 pm
FAX NUMBER:	(202) 514-8802
NO. OF PAGES: INCLUDING COVER	4

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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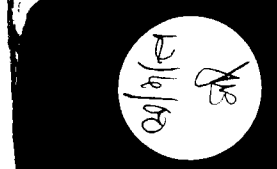
WHITE HOUSE LITIGATION - 8th CIRCUIT BRIEFS+~~PAPERS~~



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SUPREME COURT OF THE UNITED STATES

Office of the President
Petitioner

v. No. 96-1783

Off. of Ind. Counsel, et al.
Respondent

To John D. Bates Counsel for Respondent:

YOU ARE HEREBY NOTIFIED pursuant to Rule 12.3 that a petition for writ of certiorari in the above-entitled case was filed in the Supreme Court of the United States on May 12, 1997, and placed on the docket May 14, 1997. Pursuant to Rule 15.3, the due date for a brief in opposition is June 13, 1997. If the due date is a Saturday, Sunday, or federal legal holiday, the brief is due on the next day that is not a Saturday, Sunday, or federal legal holiday.

Unless the Solicitor General of the United States represents the respondent, an appearance/waiver form is enclosed and should be sent to the Clerk only in the event you do not intend to file a response to the petition.

Your attention is directed to Rule 9 of the Rules of the Supreme Court reproduced on the back of the appearance form. Only counsel of record will receive notification of the Court's action in this case.

Andrew L. Frey
Counsel for Petitioner
Mayer, Brown & Platt
2000 Pennsylvania Ave., N.W.
Number and Street

Washington, D.C. 20006
City, State, and Zip Code

(202) 778-0602
Telephone Number

NOTE: This notice is for notification purposes only, and neither the original nor a copy should be filed in the Supreme Court.

APPEARANCE FORM / WAIVER

SUPREME COURT OF THE UNITED STATES

No. _____

_____ v. _____

(Petitioner) (Respondent)

I do not intend to file a response to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☐ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

_____

_____

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed from when you were admitted):

Signature _____

Date: _____

(Type or print) Name _____

☐ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm _____

Address _____

City & State _____ Zip _____

Phone ( ) _____

A copy of this form must be sent to petitioner's counsel or to petitioner if *pro se*. Please indicate below the name(s) of the recipient(s) of a copy of this form:

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HALE SENTENCING

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs. No. LR-CR-93-147(1)

DAVID HALE, Monday, March 25, 1996
Little Rock, Arkansas
9:30 a.m.

Defendant.

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE STEPHEN M. REASONER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

On Behalf of the Plaintiff:
MR. KENNETH W. STARR, Independent Counsel
MR. HICKMAN EWING, Associate Independent Counsel
Office of Independent Counsel
Two Financial Center Parkway, Suite 134
Little Rock, Arkansas 72211

On Behalf of the Defendant:
MR. RANDY COLEMAN, Attorney at Law; and
MR. GEORGE J. BEQUETTE, Attorney at Law
Skokos, Bequette & Smith
425 West Capitol Avenue, Suite 3200
Little Rock, Arkansas 72201

Also Present:

Mr. Robert B. Fiske, Jr.
Mr. Rusty Hardin
Mr. Dennis J. McInerney
Mr. W. Ray Jahn
Mr. Timothy Mayopoulos
Ms. Amy J. St. Eve

Proceedings reported by machine stenography; transcript prepared by computer-aided transcription.

Eugenie M. Power
United States Court Reporter

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THE COURT: Good morning.

MR. STARR: Good morning.

THE COURT: The matter scheduled for this date and time is the sentencing in the case of United States v. David L. Hale. The sentencing is subject to the Sentencing Guidelines.

Mr. Hale was originally charged in a four-count indictment on September 23, 1993. In February, 1994, the Office of Independent Counsel filed a four-count Superceding Indictment against Mr. Hale, and subsequently on March 22, 1994, the Office of Independent Counsel charged Mr. Hale in a two-count Superceding Information. The two-count Superceding Information charged Mr. Hale with, one, conspiracy to defraud the United States, in violation of 18, United States Code, Section 371, and one count of mail fraud, in violation of 18, United States Code, Section 1341 and 1342.

Mr. Hale appeared here in this court with Randy Coleman, his attorney, on March 22, 1993, and entered a plea of guilty to both counts of the Superceding Information.

Mr. Ewing, have you read the Presentence Report and addendum?

MR. EWING: Yes, we have, Your Honor, and we have no objections to it.

THE COURT: Very well. Mr. Coleman, have you read the Presentence Report and addendum?

MR. COLEMAN: Yes, I have, Your Honor.

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THE COURT: Mr. Hale, have you read the Presentence Report and addendum and discussed them with Mr. Coleman?

MR. HALE: Yes, I have, Your Honor.

THE COURT: Do you understand today I will resolve your objections, make factual findings, and impose your sentence?

MR. HALE: Yes, sir, I do.

THE COURT: Thank you very much. The Court then is given to understand the Presentence Report was prepared and submitted to both the defendant and his counsel and to the Office of Independent Counsel, both sides have had time to review the Presentence Report, objections have been filed by the defendant going to paragraphs 13 and 25.

Therefore, Mr. Coleman, we will hear you on your objections at this time.

MR. COLEMAN: Your Honor --

THE COURT: Yes, sir.

MR. COLEMAN: -- if it please the Court, I think our objections are more in the nature of a clarification as it relates to paragraph 13 of the Presentence Report in relation to the initial 1.5 million dollars of original capitalization put into Capital Management. We merely wish to point out to the Court that that $500,000.00 of that money, against which monies were leveraged and obtained from the SBA, were done so as a product of Mr. Hale's own funds. Those were not

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ill-gotten --

THE COURT: Which $500,000.00 are you talking about? Are you talking about the Dean Paul loan?

MR. COLEMAN: No, sir.

THE COURT: Oh, okay.

MR. COLEMAN: That's not --

THE COURT: I'm not following it.

MR. COLEMAN: That's not it. If that's it, there's a mistake in the Presentence Report which I did not catch.

There are references in the Presentence Report to the -- and maybe Mr. Klingbeil can help me with this. But there are references in the Presentence Report to the original 1.5 million dollars that the defendant obtained in the course of capitalizing Capital Management from the federal government. It was merely our intent to point out to the Court that those monies that originally went to the capitalization of Capital Management Services, Inc. were Mr. Hale's funds, and not funds from some other source that are the product of any of the alleged criminal conduct in this case.

THE COURT: All right. But the Presentence Report is correct, is it not, that $500,000.00 was obtained in relation to the Dean Paul loan, which generated 1.5 million dollars of funding from SBA?

MR. COLEMAN: 500,000 was obtained, and I think that's more appropriately addressed, if I'm following the

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scenario correctly, in paragraph 25, and that is true, Your Honor. That is where that came from. But, again, we merely wanted to point out to the Court that Mr. Hale and his wife did, indeed, own the property that was utilized to collateralize the loan from Madison Guaranty Savings & Loan, that it had a value. We recognized that that value was inflated at the time of the transaction, but, still, some of those monies represented monies of Mr. Hale.

THE COURT: Well, I understand that, and I think the Presentence Report spells that out. I understood that was their property. It was just in this scheme it was greatly inflated as to the value, and then the rest followed from that.

MR. COLEMAN: That's correct, Your Honor.

THE COURT: All right. Okay. But I don't think there's an error in the Presentence Report in that regard, Mr. Coleman.

MR. COLEMAN: Well, in any respect, Your Honor, what we wanted to point out to the Court is that that property had a value, it was involved in the scheme to inflate the value. That money was placed into Capital Management and subsequently loaned out, and all of those funds were lost to Mr. Hale and Capital Management Services because they were not repaid. And those are the factors that we wanted to point out to the Court in the course of making our clarification.

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THE COURT: All right. Now, does that take care of both of the objections?

MR. COLEMAN: Yes, Your Honor.

THE COURT: All right. Well, the record will reflect what Mr. Coleman has just stated, but I don't think any of that in any way affects or vitiates the accuracy of the Presentence Report.

Therefore, to the extent those are objections going to the accuracy of the Presentence Report, they will be overruled, and the Court adopts the facts set out in the Presentence Report and adopts the Presentence Report in its entirety.

Any further objections?

MR. COLEMAN: No, Your Honor.

MR. EWING: No, Your Honor.

THE COURT: All right. According to the Sentencing Guidelines passed by Congress, then, in Mr. Hale's case we have a total offense level of 23; criminal history category of Roman Numeral I; imprisonment range of 46 to 57 months; supervised release of not less than two, no more than three years; fine range of 10,000 to $100,000.00. Restitution would be applicable, the victim being the Small Business Administration, and a 50- dollar assessment on each felony count would also be required, for a total of $100.00.

All right. With those guideline ranges in mind, Mr. Ewing, let me turn to you and ask about the recommendation

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on behalf of Independent Counsel.

MR. EWING: Your Honor, we have filed a motion for a downward departure under Section 5K1.1 of the Sentencing Guidelines. I will address a couple of general remarks, and then I will call on Mr. Bob Fiske, who was the original Independent Counsel, to address this, and then to Mr. Starr.

Your Honor, we have put in our written motion that the government does recommend a downward departure. When Mr. Hale pled guilty, that was an agreement that Mr. Fiske will speak to. But I point out, Your Honor, that under the Sentencing Guidelines, Your Honor has stated what is in the Presentence Report, but the Sentencing Guidelines does recognize this matter of substantial assistance to the authorities, and it states upon motion for the government, of the government, stating the defendant has provided substantial assistance in the investigation or prosecution of another person, the Court may depart from the guidelines.

The appropriate reduction, of course, Your Honor, is up to you. But the Guidelines themselves state that there should be certain considerations, one of which is "... the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered". The commentary states: "Substantial weight should be given to the government's evaluation of the extent of the defendant's

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assistance, particularly where the extent and value of this assistance are difficult to ascertain".

Further, the Court is to consider "... the truthfulness, completeness, and reliability of any information or testimony provided by the defendant, the nature and extent of the defendant's assistance, any injuries suffered, or any danger or risk of injury to the defendant or his family, and the timeliness".

Your Honor, so with those remarks, I would like to call on Mr. Fiske and Mr. Starr to present the government's evaluation of Mr. Hale's assistance.

THE COURT: Okay. Good to see you again.

MR. FISKE: Good to be back in Little Rock.

As Your Honor knows, I was appointed by Attorney General Janet Reno as the Independent Counsel in January of 1994. On August 5 of that year I was replaced by Kenneth Starr pursuant to a decision issued by the Special Division of the United States Court of Appeals for the District of Columbia following the re-enactment of the independent counsel statute. I, of course, will be speaking today only about Mr. Hale's actions in cooperation during the period of time that I held the position of Independent Counsel, up to August 5, 1994.

At the time that I was appointed, Mr. Hale was then under an indictment obtained by the United States Attorney's Office in this district, charging Mr. Hale with conspiracy to defraud

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the SBA of $900,000.00. He, along with his two co-defendants, Charles Matthews and Eugene Fitzhugh, were scheduled to go to trial on March 28, 1994. As Your Honor noted earlier, in February we obtained a Superceding Indictment and said that we would be ready for trial on the March 28 date already scheduled. At that time Your Honor severed the trial of Mr. Matthews and Mr. Fitzhugh, which eventually occurred in June, and confirmed that Mr. Hale's trial would go forward as scheduled on March 28.

In early March, several weeks before the trial was to begin, Mr. Coleman entered into plea discussions with our office and expressed Mr. Hale's willingness to cooperate in the ongoing investigation.

As part of the discussions leading up to the acceptance of the plea by our office, Mr. Hale agreed to meet with attorneys from our office and agents from the FBI to answer any and all questions we had on any matters, including both the case that was about to go to trial under the then-pending indictment and any other criminal conduct that Mr. Hale had engaged in or was aware of.

Virtually every day for the next two weeks Mr. Hale met with attorneys from my office, as well as agents from the FBI. During those meetings he fully admitted to participating in the criminal conduct from which he was already under indictment. In addition, he fully admitted to participating in criminal

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conduct that went far beyond the crimes for which he was then under indictment. He also told us about the conduct of others in the crimes in which he had personally participated, and, finally, he told us about possible criminal conduct of others in situations in which he was not personally involved, but that he had either known about or had heard of.

During those meetings he produced voluminous records that corroborated many of his statements, and he suggested various additional ways in which we would be able to obtain further evidence to corroborate his information. For example, he identified other potential witnesses as well as locations where relevant records could be found. Although we had already been in the process of investigating many of the matters that he told us about, there were several entirely new matters that he brought to our attention that we had no prior knowledge of. One example of such a new and unknown matter was information that he provided to us relating to an alleged tax fraud that he told us Governor Tucker and others had participated in. The investigation that followed Mr. Hale's providing us with that information ultimately led to an indictment of Governor Tucker as well as William Marks and John Haley for tax and loan fraud, and, of course, that case is currently pending in this district.

Following this detailed proffer to us over those two weeks, Mr. Hale agreed to plead guilty both to the conduct that

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was the subject of the then-pending indictment as well as the conduct that he was not under indictment for, including conduct that he had brought to our attention and of which we had been unaware. He also agreed to enter into a cooperation agreement with our office, pursuant to which he agreed to cooperate fully with the Independent Counsel's Office in connection with its investigation and prosecutions of others.

The plea agreement that we entered into provided that if Mr. Hale did that, the full nature and extent of his cooperation with the Independent Counsel's Office and the date when such cooperation commenced would be brought by our office to the attention of the Probation Office and to Your Honor at the time of sentence. And I am here today, Your Honor, pursuant to that plea agreement and to the commitment we made to Mr. Hale at that time.

On March 22, Mr. Hale pled guilty to the already charged conspiracy to defraud the SBA, as a result of his activities at CMS from late 1988 through early 1989. And he also pled guilty to the additional criminal conduct that he told us that he had engaged in over the years. Specifically, he pled guilty to having engaged in a course of conduct over a seven-year period in which he caused his company, CMS, to make loans to various individuals and entities in order to improperly benefit himself and various other people. As Your Honor is aware, Count One of the information to which Mr. Hale has pled guilty relates to

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the charges on the then-pending indictment. Count Two relates to the new information that he provided to us with respect to the seven-year course of conduct.

After his guilty plea in March, through early August of 1994 when I left, I could tell Your Honor that Mr. Hale fully lived up to the terms of his cooperation agreement. Over the course of the next several months, he was consistently responsive to our requests for interviews and documents. He was interviewed extensively on dozens of occasions by lawyers working in my office at the time, specifically Rusty Hardin and Dennis McInerney, both of whom are here today, and also by the FBI. In those meetings Mr. Hale continued to provide our office with detailed information regarding many of the matters already under investigation, as well as other matters that the office as a result of his information subsequently investigated. He greatly assisted us, both in our overall understanding of many of the core aspects of our investigation, and also in our specific understanding of particular transactions and events that are often very complex and quite old.

His assistance was extremely beneficial in bringing about cases that resulted in pleas of guilty, as well as in providing information with respect to cases that have since been indicted and are currently pending. For example, it helped greatly to our office in refining our understanding of the criminal

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conduct of his two co-defendants, Charles Matthews and Eugene Fitzhugh, and, therefore, in our ability to try that case. As Your Honor knows, they both ended up pleading guilty during the middle of that trial.

Mr. Hale's assistance was also extremely valuable in connection with our investigation of numerous other matters. Our office was still in the process of attempting to corroborate Mr. Hale's extensive information in investigating the many leads that Mr. Hale has provided us relating to these matters when Mr. Starr took over the investigation.

As Your Honor notes from the Government's motion pursuant to Section 5K1, several of the individuals who were the subjects of the investigation of those other matters have since pled guilty to criminal charges, with most of them also agreeing to cooperate with the Office of the Independent Counsel in connection with its various cases and investigations.

Specifically, between March and August of 1994, Mr. Hale provided substantial information to our office in connection with investigations that subsequently led to guilty pleas by the following individuals: Robert Palmer, who pled guilty to conspiracy to make false entries in the records of Madison Guaranty Savings & Loan Association; Chris Wade, who pleaded guilty to bankruptcy fraud and making a false statement to a financial institution; Stephen Smith, who pleaded guilty to

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conspiracy to misapply the funds of CMS; and Larry Kuca, who also pleaded guilty to conspiracy to misapply the funds of CMS.

Finally, Mr. Hale had also provided a great deal of information to my office in connection with that part of the investigation that relates to the case that is currently being tried before Judge Howard. My office was intensively investigating that information at the time Mr. Starr took over.

In conclusion, Your Honor, for all those reasons, we believe that Your Honor should grant the government's motion pursuant to Section 5K1 and consider all of these facts as well as obviously all the additional facts that Mr. Starr will bring to your attention for the period since August, 1994 in determining the appropriate sentence in this matter.

Thank you very much.

THE COURT: Thank you. Mr. Starr.

MR. STARR: May it please the Court.

In addition to the points made, and made well, by my distinguished predecessor Mr. Fiske, I would note the following: That Mr. Hale has committed crimes, and the punishment that he receives from this Court should reflect the full extent of his criminal activities. We have, however, moved, as Mr. Fiske has indicated, and Mr. Ewing has likewise indicated, and with the Court's permission, Mr. Ewing will

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elaborate further, we have moved for a downward departure. We have declined to make a specific sentencing recommendation because we do believe that that determination is best left entrusted to this Court's sound discretion. Discretion informed by taking into account all of the relevant factors. And among those relevant factors are two in particular that I want to lift up and to emphasize to the Court today.

First, in my judgment, Your Honor, Mr. Hale has accepted full personal responsibility for his actions. He has accepted accountability. He has, Your Honor, openly admitted his guilt, and he has accepted with humility the fact that he will be punished. He might have elected to exercise his right to put the United States to the expensive and the very time-consuming test of proving his guilt beyond a reasonable doubt. It was his right as a citizen to do that. But instead, to his great credit, he admitted his wrongdoing, and he acknowledged before Your Honor in open court that he had committed serious crimes.

In my own dealings with Judge Hale, I have seen, I have witnessed his contrition. I believe, Your Honor, that he is genuinely remorseful of his criminal past. I have been impressed with his humble spirit.

Also significant I believe today to the Court's decision is Judge Hale's decision to cooperate with Mr. Fiske and Mr. Fiske's able collegues, including Mr. Hardin and Mr. McInerney, as they began their efforts in this complex

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investigation, a highly complex investigation, to determine whether others had also committed federal crimes. Mr. Fiske has spoken about Mr. Hale's fulfillment fully of his agreement during Mr. Fiske's distinguished tenure. Likewise, during my tenure, Judge Hale has fully complied, and he continues to comply to this very day and beyond with all of the terms of his agreement.

I would also note for the Court's consideration that Judge Hale's decision in March of 1994 to cooperate with the United States Government, represented by Robert Fiske, came at significant personal sacrifice. A man of considerable stature, including holding judicial office, including having been President of the National Jaycees, Judge Hale's decision to cooperate with the United States in the conduct of its duties to investigate and possibly to prosecute, has cost him. It has cost him, Your Honor, the support and the friendship of many in this community. His cooperation, Your Honor, has subjected him and his family to risks and to hardships, including living in seclusion away from his home. Mr. Hale has shown, I believe, considerable courage and fortitude throughout these two extraordinarily difficult years.

If I may conclude, his assistance, Your Honor, has been not only useful, it has been highly useful. It has been significant. It has not only been significant, it has been highly significant to this investigation, begun first by

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Mr. Fiske, who in turn was building upon the work of the United States Department of Justice, which had begun this investigation. And on that solid foundation, we have been laboring.

In short, Judge Hale has provided, Your Honor, substantial assistance with respect to the overall investigation of the Office of the Independent Counsel, including substantial assistance in a number of matters which have resulted in public criminal charges, which we have detailed in our written motion for a downward departure. We so move, and I thank the Court for its consideration.

THE COURT: Okay.

MR. EWING: Your Honor, I know this sometimes is difficult for a court when you are asked to make decisions and in your discretion determine what is substantial assistance. I want to talk a little more. You've heard from Mr. Fiske and you've heard from Mr. Starr concerning their opinions as the Independent Counsel as to their evaluation of the extent of Mr. Hale's assistance, especially when the value and extent are difficult to ascertain.

Your Honor, I want to say some practical things here. Really, four things, that would be my outline.

First, Mr. Hale agreed to cooperate fully, and he did it. That's very important, Your Honor, because many people say they will cooperate, but it ends up being their cooperation is

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limited to what you can already prove on them. A lot of people when they get caught will say, "Yes, you caught me, I admit what you can already prove, and that's it". Mr. Hale said, "I will tell you about what you can prove on me, and I'm going to tell you about everything". Some people say they'll cooperate and they hold back information as to certain acts or other people; people they've been friends with, they've been political allies with. The mentality that says, "I will tell them this, but I'm not going to tell them about Mr. X because he's been my friend", or "I don't want to tell them about Mr. X and Mr. Y because they're still in power, and I've got to come back after I serve my sentence to this community, and if I tell on them, I know I've had it with the peers in my community." That's the way a lot of people allegedly cooperate with the government, which turns out to be very minimal. David Hale agreed to cooperate fully, and he did it.

Second, David Hale provided substantial assistance within the meaning of the Guidelines. Your Honor, we have had, Mr. Fiske's office and Mr. Starr's office, veteran, seasoned federal prosecutors, and state prosecutors, who are very experienced in evaluating the cooperation and information provided by people. Some would say, "Oh, well, he said that and you all just took it and ran with it." No, it's just like anybody else. Mr. Hale was a criminal, he violated the law. You don't just take what they say at face value. You start

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digging, you start looking at records, you start finding out. For example, if David Hale said, "You know, this Steve Smith loan, I later found out there's something wrong with that". Well, do you just take his word? No, you go in there and dig and dig, and ultimately, guess what? "Mr. Smith said you're right, that was a crime".

Your Honor, Mr. Fiske had on his staff Rusty Hardin, who is a very experienced state prosecutor from Houston. He had Dennis McInerney, who is a very experienced federal prosecutor from New York, and others. Mr. Starr had Mr. Lerman, who was an Assistant U.S. Attorney from Chicago with many years of experience, who worked very closely with Mr. Hale. He had Mr. Steve Learned, who has been a federal prosecutor over 20 years who is now an A.U.S.A. in the Eastern District of Virginia. He had people from the Department of Justice, experienced Assistant U.S. Attorneys from San Antonio. I was a U.S. Attorney in Memphis 19 years. Your Honor, Republicans, Democrats, Independents, career prosecutors, all came to the same conclusion that David Hale has provided substantial assistance, that he has been truthful, he has been complete, and he has been reliable. The nature and extent of his assistance has been massive. It's taken a long time. Not only is it massive, but it's ongoing. It's ongoing as we stand here today. He has got testimony to give in the future, he has testified before the grand jury twice, he is expected to be

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called upon, not only in the pending trial, but on other occasions to give information and testimony in the future.

Third, Your Honor, David Hale's value I can tell you is very important because David Hale was an insider. Conspiracies, Your Honor, and other joint criminal conduct, especially in the white collar crime and corruption area is very, very difficult. Why? Because we're dealing with people who otherwise have good reputations in the community, the conspirators are often close friends, they are intelligent, they know how to cover transactions with paperwork, whether it's falsifying, backdating, misrepresenting. To the naked eye they are transactions that appear kosher or proper, if you just look at them with the naked eye. And unless you have an insider, you can't figure out what really happened. And as long as everybody in the conspiracy or the illegal venture keeps quiet, then everybody will be fine. But once somebody comes forward and the conspiracy starts to unravel and the illegal acts get exposed, then the government can make progress. Your Honor, there was no progress being made, except in Mr. Hale's case, until Mr. Hale came forward.

Your Honor, I can tell you after years of experience, when one person departs from the inner circle, they are going to suffer the wrath of everybody still in it. That's what's happening to Mr. Hale. He has been attacked ferociously. He has been attacked not only by those still on the inside, but

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those that would defend the ones on the inside, who presume that Mr. Hale is making stuff up. People are spinning things on him, he has lost friends, and he's lost many in the community because he had the courage to come forward. It becomes a war, Your Honor, for the minds and hearts of people who will tell the truth and who won't.

Now, Mr. Hale was the first one to come forward. On March 22, 1994, David Hale was it. As time has gone along, because of Mr. Hale coming forward, now there are others who admitted their wrongdoing, and now who are cooperating with the government. He was an insider. He knew how the system worked, he knew about deals, some of them were merely patronage, some were merely unethical, but some are crimes. It's very important to have somebody on the inside, otherwise this investigation would have been very much diminished.

And lastly, Your Honor, David Hale's value to this investigation was because he was an insider and he cooperated and he was available. David Hale would be criticized by some because he's been elusive, he's been hidden out. Your Honor, David Hale had reason to be concerned about his privacy. David Hale gave information about himself, not only what's in the Presentence Report, not only what's in our 5K1, but he's been available to talk about a variety of things. When you come in and investigate different people and different allegations, it is very crucial to have somebody who is available with the

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right mind-set that has said "I will cooperate", and will do so. I'm going to give you one example of something that was very helpful that's not in our 5K1 motion. This is an anecdote, Your Honor, but it shows the value of Mr. Hale.

Your Honor, we were in the process of investigating Mr. Hubbell. In November of 1994, Mr. Hubbell, the proof showed, had taken approximately $500,000.00 from his law firm, from clients, from government agencies by false billing. There were many that thought this was terrible that we were investigating Mr. Hubbell. There was an effort made to have us back off of Mr. Hubbell. "This should be a civil dispute." His lawyer said, "You ought to charge him with a misdemeanor. You shouldn't do anything to make Mr. Hubbell lose his law license, so just let him plead to a misdemeanor."

Your Honor, Mr. Hale gave us a name. He gave us a name of a lawyer who was prosecuted in federal court in Little Rock in 1984 for padding his expense accounts named Wayne Lee. He was an assistant city prosecutor. I think the amount of his padded bills was $9,000.00, which compared to Mr. Hubbell's was like one, whatever, one-fiftieth, one-one hundredth of what Mr. Hubbell had. Based on getting this information from Mr. Hale, I went down to the Supreme Court of Arkansas to the files. Mr. Lee pled guilty, Judge Eisele gave him 20 months for mail fraud, for padding his bills of $9,000.00. In 1990 Mr. Lee had served his sentence, had petitioned the Arkansas

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Supreme Court to get his law license back, and a panel appointed by the Supreme Court, an ethics panel ruled on whether Mr. Lee should get his law license back. Chairman of that commission, Webster Hubbell. Mr. Hubbell wrote an opinion in late 1990, which ironically was right in the middle of his four-year fraudulent scheme, wherein he ruled that no, Mr. Lee can't have his license back. Any lawyer that pads bills and takes money should never have his law license back again.

Your Honor, I can tell you when we saw that, we had a lot of ammunition to deal with Mr. Hubbell's lawyer. It's just an example, though, Your Honor, an anecdote of Mr. Hale being available to give us information that helped us in the overall investigation that Mr. Fiske and then Mr. Starr was assigned to do.

The Independent Counsel was given a mandate by Ms. Reno and by the Special Division. Mr. Fiske and Mr. Starr and the office down here is going about our business. We cannot do so in a vacuum, unless people cooperate who have been a part of the system and gave knowledge about activities that have gone on. We couldn't go anywhere. David Hale has provided substantial assistance. Yes, David Hale didn't always stay on the straight and narrow. He admitted that. He took the crooked way. Some could say he's a crook, some could say he's corrupt, but, Your Honor, he wasn't the only one in Arkansas like that. And the fact that he has chosen now to enlighten us

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and give us this information, hopefully the truth about whoever will come out and this investigation will go forward.

Your Honor, in summary, we believe that the Court should depart down because of Mr. Hale's substantial assistance, and we will leave it to the Court to determine the amount.

Thank you, Your Honor.

THE COURT: Thank you. Mr. Coleman?

MR. COLEMAN: Your Honor, if the Court would bear with me today, I may appear to struggle a little bit at times, and that's because I quit practicing law a little over a year ago. Before that, it had been some months since I've made a formal presentation in court, and you can probably find a lot of people that would say I wasn't that good to start with. It's -- I'm not quite as nervous, Your Honor, as I would be if I had to try the case to the people we have in the box over here today (indicating). But I have always over the course of time that I practiced law found these proceedings to be the most difficult of anything you did in the practice of law. You live with somebody for so long, and it gets to the point that you almost live their life with them. You sit beside them, as I did with Mr. Hale two years ago in this very courtroom, and you see a man take an act and make a public confession that strips away from him everything, materially, that he's ever had. Strips away from him all of the personal achievements that he's ever had and worked for all of his life. And it's

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hard to put into words what somebody feels like. I can't -- I can't possibly do it. I can sense it when I sit beside someone in that position.

So it's always difficult for me, at least, at a time like this to search for words that can reach out and touch the heart and soul of one human who has the unenviable task of passing judgment on another. It is a very difficult circumstance, and has always been for me. I feel like that in some respects I'm privileged to represent David Hale. If I am to believe all that I read and hear, I must represent one of the most powerfully influential human beings to have ever come down the pike in this state; if I'm to believe all that I read and hear, David Hale has singularly possessed the ability to lead astray some of the most highly sophisticated, intelligent, well-educated people this community has ever produced. He has been demonized in some circles, locally, over the last two years. Some of that continues on today. In the trial that's going on down the hall, Mr. Hale is presented in that fashion, and I understand that. Some of the best friends I have, personally and in the legal community, are participating in that trial, and I understand what they have to do for their clients. It's one of the best accepted trial techniques in the world; to defend your client, you put somebody else, or something else at issue. And I note some of that is what's happening.

Eugenie M. Power
United States Court Reporter

I read with some degree of amusement that I was even given some credit for having manipulated Janet Reno and the Justice Department into the appointment of Mr. Fiske as an independent counsel to come down here and investigate. As I told the Court earlier, I've sort of retired from the practice of law, but I'll be damned, if I'm that good, I may come back. I don't believe that any more than I believe all the bad things that are being said about David in those proceedings.

I also noticed that one of the attorneys in that other case in his opening statement compared David Hale to Jacob in the Bible by stating that he would allow you to feel the arms of Esau to cover the voice of Jacob. I don't mean to turn this into a Sunday school lesson, but there's more to the story between Esau and Jacob than that one event. Esau and Jacob were both sons of Isaac, Esau being the oldest. Esau being the oldest carried with it a very valuable spiritual commodity called the birthright of the first born. In the sibling rivalry, Jacob made a deal with Esau whereby Esau sacrificed that birthright to Jacob and all that went with it, which we're led to believe in the Old Testament were considerable rights in those days, Esau being the first born in the line of Abraham. But Esau for a momentary gratification of his own greed and to satisfy his own needs, sacrificed that in a deal with Jacob. A lot of that's happened in this case, Your Honor.

First of all, I think to utilize the Bible to try to

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condemn David Hale, or an example from the Bible is inappropriate, because the story of that book is human fault, shortcoming, confession, forgiveness, mercy.

In the second place, those folks who are making the complaints now are those folks who were like Esau, who at that critical moment allowed their greed to replace their good judgment, to walk into Dave Hale's bank and say, "David, I'm in trouble, I need help, I need financial help, I have problems", and with David and them all knowing that what David would have to do to satisfy that request was wrong, and in many instances against the law.

Now matters are presented, publicly, against David, that it's almost a situation where he took these people in off the streets, put a gun to their head and made them take the money. But that doesn't ring true to anybody in this room, and it shouldn't. It was a two-way street, just as it was with Esau and Jacob. And I will remind everyone that Jacob, the individual with whom Mr. Hale has been identified, went on to become the nation of Israel and the tribes of Israel. So maybe there is some reward down the line for somebody who initially gets themselves in trouble because they honor and obey the relationships that they had built for a number of years, both personally and politically.

It is presented that Mr. Hale is the same man now that he was earlier, years ago, and I don't doubt that. Mr. Hale is

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the same man that Governor Tucker trusted to manage his campaign for Senate in 1978. David Hale is the same man that everybody went to when they had money problems. Nothing bad was said about David as long as he had the purse strings open in 1983 and 1984 and 1985, and -6 and -7, when he was helping everybody out. In the eyes of many, David did not become a different man until he broke from the crowd and decided for the first time in many years to do the right thing and come to face with himself in 1993 when he went public in 1994 when he made his confession to this Court. David was forced to take a good look at himself. That's something that's hard for all of us to do. It's something that's hard for us as a community sometimes to do. For a lot of years all of us in this area have looked at the same things through the same glasses, we probably declined to take a look at ourselves and how we operate, and now some of us are mad because someone from the outside has had to come in here and do it, and David's partially blamed for that, in the eyes of many. David did it so that he could attempt to regain some measure of self-respect and dignity. He's had to start from the ground up on that.

It's also been presented that because David is a cooperating witness he has somehow had a one-way ticket to paradise, that he has been in Canada fishing. I heard one story that he has been on a cruise to the Bahamas. But none of that is true. David in a statement to the Court has described

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what his life has been like for the last two years. Two years ago last Friday David lost his freedom. There are prisons of all shapes and descriptions, absent what this Court can order Mr. Hale to, and Mr. Hale has been living in one of those for two years. He's had deprivation of freedom, contact with other people, and it's been like being in a prison for him. A little more unusual than just himself, though, this one has had to be shared by his family, his wife, Sue, who is here today, his daughter, Amy, and his son, David, have had to share that prison with him. For two years David has been paying his debt to society, and, tragically, his family has been paying that debt with him, also.

I would ask the Court to look at the entire landscape before passing sentence on David, to take note of the fact that many others involved in these transactions have received immunity, some misdemeanors, some felonies with probationary sentences. I think that's something that needs to be taken into account.

Your Honor, this is not just an ordinary case. This is not an ordinary defendant. It's a defendant who has tried to do something for his community, and he's paying a price for it. I do not think that this is a case which deserves the application of the bureaucratic, rigid Sentencing Guidelines. I think David Hale deserves something far less than that, and in that application, on behalf of David, I am not ashamed to

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ask this Court to show its mercy to David in its sentencing. Thank you.

THE COURT: Thank you. Mr. Hale, I've read your sentencing memorandum and also letters that have been submitted on your behalf. Do you have anything further to add to that, or what Mr. Coleman has just said?

MR. COLEMAN: Your Honor, if I could just one moment, Mr. Hardin is here from Houston, and he was one of the original --

THE COURT: I remember, yes.

MR. COLEMAN: -- people that I came into contact with on this, and I asked Mr. Hardin if he would come up here today and make a brief statement for David, and we would like to present that, if we could.

THE COURT: Very well.

MR. HARDIN: Good morning, Your Honor.

THE COURT: Welcome back to Arkansas.

MR. HARDIN: Thank you, sir.

Very briefly. Mr. McInerney and I spent over two weeks, I guess, on a daily basis with Mr. Hale and his lawyer, back after -- before the Court was approached about a plea. And I don't feel like that I fell off a turnip truck as far as being aware of the criminal justice system, and I don't know what the New York equivalent to a turnip truck would be, but I'm comfortable that Mr. McInerney did not. And I could represent

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to the Court and to the community, and the Court I think properly has some consideration for it in assessing sentence, that we believed the man then and we believe him now. And I think for what that's worth I would like to say that to the Court.

In over 15 years as a prosecutor, and I am very mindful of how difficult your role is now, and now that I'm in private practice, and none of us would presume to suggest that we know best what you should do. But I saw firsthand the remorse, I saw firsthand the things Mr. Ewing said 10 times better than I could about the significance of David Hale and his testimony. And I've watched from afar now that I've been gone a year and a half as he has been assailed from every direction, both in the media and by those who have their own special spin, as Mr. Ewing has put it. And all I could say, as professional prosecutors who had an obligation to see that justice was done, we looked and listened and delved and considered greatly over a long period of time before we were willing to put our imprimatur on what he was saying, and for what it's worth in the Court's consideration today, I believe this man told us 10 times more than we would have ever known about him.

Many of the things in the Presentence Report before the Court are there solely because he told us. We would not have known them. They were never things he could have been prosecuted for because we would never have had a case. As

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Mr. Ewing has said very aptly, these things were not taken at face value and moved forward. These things were looked into and corroborated. And one of the things that perhaps is most helpful to the Court to keep in mind, and for the world at large as they consider David Hale when this is over, is that we always looked for corroboration, and we did not on behalf of Mr. Fiske, first, and now Mr. Starr, make recommendations or suggestions without having been very personally comfortable with the fact that we believed both what he was doing was very substantial and what he was telling us was very truthful, and as the Court considers is the first step toward admitting everything, whether the other side knows it or not, and I'm very satisfied that he did. We ask that the Court to keep that in consideration.

Thank you for your time.

MR. COLEMAN: Mr. Hale would like to make just a brief statement.

THE COURT: All right, Mr. Hale.

MR. HALE: Your Honor, I will keep my statement very short, realizing that the investigation is continuing, in the middle of a trial, and realize the potential of testifying in future trials. But I would like to restate what I stated to the Court when I entered my plea.

I want to apologize first to my family for the hurt and suffering that they've had to go through because of what I've

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done. I'd like to apologize to my church family and to my friends for their disappointment that I have shown for them -- that -- for what I've done, and to the people of Arkansas. Truly sorry. And I want to also thank my church family and friends who have steadfastly stood beside me, because it has not been easy. Your Honor, for two years, it has been really unbearable. And I thank the Court.

THE COURT: All right. Before I announce the sentence of the Court and my reasons, I do feel compelled to make one statement in response to Mr. Coleman's remarks. I thought Mr. Coleman's statement was extremely eloquent, one of the most eloquent that I've ever heard in my court, in any kind of proceeding, sentencing hearing or otherwise. However, Mr. Coleman, and I'm not quoting him exactly, I'm sure, but he remarked of the anger of some people here in Arkansas because some people that have come from out of state to shine a light on -- and this is an exact quote -- "how we operate". I feel compelled to say that I don't think the way that Capital Management and Mr. Hale and this group of borrowers were operating is the way most people, most businesspeople, most professional people in Arkansas operate.

Mr. Hardin, I didn't fall off a turnip truck, either. I spent 19 years practicing law. I represented a bank regularly, I represented a lot of large financial institutions. I was involved in all sorts of things, all the way from a

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15,000-dollar loan for a couple to buy their first home to four and five million dollar bond issues and agricultural loans to buy farms. I never dealt with one of those where it wasn't understood from the very beginning that the borrowers were either going to pay back every penny of that loan, with interest, or they were going to literally lose the farm. And I believe that what we saw here is an aberration of the character of the professional and business community in Arkansas, and I'll always believe that.

We have to deal with the fact that this was a sophisticated scheme to illegally obtain money from the Small Business Administration and to lend it out to certain well-connected people. Mr. Hale allowed Capital Management to be used as a veritable pool of money to which certain few Arkansans could go dip out of; some of them apparently with no obligation to even pay back the loans.

Mr. Hale, in your memorandum, at one point I felt that you were almost saying that you were being used by the people that were the borrowers. But the facts, I think, overwhelmingly show that you willingly operated this service for these people, and while you certainly may not be the only one at fault, you're not a victim.

MR. HALE: Yes, sir, Your Honor.

THE COURT: You're anything but a victim.

However, the Independent Counsel's motion for downward

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departure in this case is well-founded. I don't know if I've ever seen a case where the amount of help and the results stemming from a single person's efforts has even approached anything like this. Directly related to Mr. Hale's assistance, we've had five guilty pleas and two multi-count felony indictments. I also realize, Mr. Hale, that you have become a pariah among certain of your old acquaintances and supposed friends who shun you now. Worse, and more troubling to the Court, I understand that you and your family have been subjected to threats.

MR. HALE: Yes, sir.

THE COURT: That has caused you to have to live in seclusion under FBI protection. I realize you have paid a much higher price for your cooperation than most people do. And I think that a downward departure in the range of 50 percent is appropriate in your case. However, because of the nature of this offense, I do think that that has to come off the top of the range and not the bottom.

Therefore, it will be the judgment of this Court, Mr. Hale, that you'll be committed to the custody of the Bureau of Prisons for a period of 28 months. You'll serve three years of supervised release. I will impose a minimum fine in your case of $10,000.00, because I am going to impose a restitution figure of $2,040,000.00. However, let me say in regard to that, I am fully cognizant, Mr. Hale, at this time, or any time

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in the near future, you're not going to be able to pay anything like that. And, therefore, I want the schedule for restitution payments to be set up on a reasonable basis with the Probation Office. It may be that that schedule, if you run it out and you live to be 200 years old, you won't be able to pay it all back. But, I do want to keep, if you want, the pressure on you to help the SBA in recovering some of these loans. I have to believe some of these loans could be recovered. I read the Presentence Report, and I realize that some of them say that there was a side agreement not to repay the loan, but I'm not sure that's valid. So I want you, and as long as -- let me say this. As long as you're making efforts to help the SBA in recovering those loans and recovery of payments are being made, then the payment schedule that you have that will be set by the Probation Office may be deferred.

Let me ask the people in the audience, we're going to be finished in just a couple of minutes, so please keep your seats. Mr. Marshal, will you enforce that, please?

DEPUTY MARSHAL: Yes, sir.

THE COURT: I'm going to be finished here in just a minute. I'm almost through. I will have to impose a special mandatory penalty assessment of $100.00; $50.00 for each felony count. I am going to allow you to remain on the same bond. I'm going to set a reporting time and date of Monday, April the 8th, at 2:00 p.m.. However, I am cognizant of the fact that

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you may not be through with your obligations under your agreement in testifying in the trial that's going on in Judge Howard's court at this time. And if I am advised by the Office of Independent Counsel that that date needs to be extended, I will extend that date.

Any further findings that the Court needs to make in this matter? Thank you. Court will be in recess.

(Whereupon the hearing concluded at 10:40 a.m.)

C E R T I F I C A T E

I, Eugenie M. Power, Official Court Reporter, do hereby certify that the foregoing is a true and correct transcript of proceedings in the above-entitled case.

_____

Eugenie M. Power, Official Reporter

Date: _____

Eugenie M. Power
United States Court Reporter

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M E M O R A N D U M

TO: Jackie Bennett

FROM: Kimberly Nelson Brown

DATE: March 10, 1997

RE: Rule 35 Motion

I. Rule 35 Generally

Rule 35 of the Federal Rules of Criminal Procedure provides in pertinent part for a reduction of a defendant's sentence because of "changed circumstances." Fed. R. Crim. P. 35(b). Specifically, the court "may reduce [the] sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense," in accordance with the Federal Sentencing Guidelines. The government must file the motion within one year after the imposition of the sentence. Where the defendant's "substantial assistance involves information or evidence not known by the defendant until one year or more after imposition of the sentence," however, the court may consider such a motion one year or more after sentencing. Id.[1] The advisory committee notes to the 1991 amendments indicate that "[i]n deciding whether to consider an untimely motion, the court may, for example, consider whether the assistance was provided as early as possible."

II. Timing of a District Court's Ruling on a 35(b) Motion

The advisory committee notes further indicate that, under the 1987 amendment, district courts had been required to rule on the government's motion within one year after imposition of sentence. The notes explain why this requirement was changed in 1991:

> . . . This caused problems . . . in situations where the defendant's assistance could not be fully assessed in time to make its motion to reduce the sentence before one year had elapsed. The amendment requires the government to make its motion to reduce the

---

[1] The Rule further provides that "[t]he court's authority to reduce a sentence under this subsection includes the authority to reduce such sentence to a level below that established by statute as a minimum sentence." Fed. R. Crim. P. 35(b).

> sentence before one year has elapsed but does not require the court to rule on the motion within the one year limit. This change should benefit both the government and the defendant and will permit completion of the defendant's anticipated cooperation with the government. Although no specific time limit is set on the court's ruling on the motion to reduce sentence, the burden nonetheless rests on the government to request and justify a delay in the court's ruling.

In my brief search, I did not find any case precisely addressing a district court's delay in ruling on a timely 35(b) motion. In United States v. Snipes, 19 F.3d 13, No. 92-5370, 1994 WL 62252 (4th Cir. 1994) (unpublished disposition), however, the defendant argued that the government improperly failed to advise the court at sentencing of his cooperation. The Fourth Circuit disagreed, observing that the defendant would suffer no prejudice as a result of the government's decision to delay assessing the value of his assistance and to file instead a Rule 35(b) motion at a later date. The court explained: "it is implausible for [defendant] to argue that a departure would result in a sentence of less than the time he will have to serve prior to the Rule 35(b) motion being made and ruled upon." Id. at *3. Perhaps similar reasoning would bear upon a judge's decision to rule upon a timely 35(b) motion.

III. Case Law

A. Courts (including the Eighth Circuit) are reluctant to grant 35(b) motions where defendants already received downward departures pursuant to 5K1.1 of the Sentencing Guidelines

The Eighth Circuit has affirmed a lower court's denial of a 35(b) motion where the government made 5K1.1 motions for downward departure at the sentencing hearings, and the defendants received sentences "significantly below the guideline range and below the statutory ten-year minimum." United States v. Griffin, 17 F.3d 269, 270 (8th Cir. 1994). The district court had "concluded that the 5K1.1 departures contemplated the cooperation that the government now raises as grounds for further reductions in sentence." Id. at 270 n.3. See also Goff v. United States, 965 F.2d 604, 605 (8th Cir. 1992) (affirming District Judge Reasoner's denial of 35(b) motion on same grounds).

B. The factors a court should consider in ruling on a Rule 35(b) motion correspond to those set forth in the Sentencing Guidelines for 5K1.1 departures

The primary difference between Rule 35(B) and section 5K1.1

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of the Sentencing Guidelines is temporal: while the guideline provision was intended to recognize assistance prior to sentencing, Rule 35(b) was designed to reward subsequent cooperation. United States v. Drown, 942 F.2d 55, 59 (1st Cir. 1991); see also United States v. Speed, 53 F.3d 643, 645 (4th Cir. 1995) (downward departure granted pursuant to Rule 35(b) can only apply to substantial assistance that takes place after sentencing). However, courts have "require[d] the extent of a downward departure [pursuant to Rule 35(b)] to be linked to the structure of the Guidelines." United States v. Hayes, 5 F.3d 292, 295 (7th Cir. 1993). Indeed, the Sixth Circuit has stated that "the government makes these motions under identical criteria." United States v. Mullins, Nos. 95-6554, 95-6555, 1997 WL 63149, at *4 (6th Cir. Feb 12, 1997) (unpublished disposition). The court quoted the United States Attorney's Manual on this subject as follows:[2]

> "Every United States Attorney . . . shall maintain documentation of the facts behind and justification for each substantial assistance pleading [under § 5K1.1]. . . .
>
> The procedures described above shall also apply to Motions filed pursuant to Rule 35(b), Federal Rules of Criminal Procedure, where the sentence of a cooperating defendant is reduced after sentencing on motion of the United States. Such a filing is deemed for sentencing purposes to be the equivalent of a substantial assistance pleading."

Id. at *5 (quoting United States Dep't of Justice, U.S. Attorney's Manual § 9-27.410 (1993)).

The Sentencing Guidelines, in turn, provide that

> [t]he appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:
>
> (1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
>
> (2) the truthfulness, completeness, and reliability of any information or testimony

---

[2] I quoted this version because it is more current than the copy kept in the OIC-DC office.

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provided by the defendant;

(3) the nature and extent of the defendant's experience;

(4) the timeliness of the defendant's assistance.

U.S.S.G. § 5K1.1.

United States v. Shampine, 978 F.2d 1264, No. 92-1763, 1992 WL 311894 (8th Cir. Oct. 30, 1992) (unpublished disposition) sheds some light on the Eighth Circuit's interpretation of "substantial assistance" under 35(b).[3] In that case, the Eighth Circuit affirmed the district court's denial of the defendant's motion to compel the government to file a Rule 35(b) motion. The government had asserted that the defendant "'had not lived up to his end of the agreement,'" that is, "[h]e had not been particularly forthcoming" during the trial of a co-defendant, and the government did not credit his claim that he knew nothing about a third individual allegedly involved in the crime. Id. at *1.

[3] While I performed a relatively broad search of Eighth Circuit law on the subject, it was not exhaustive; Shampine contains a more substantive discussion of the factors considered than other Eighth Circuit cases I found.

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U.S. Department of Justice

Office of the Independent Counsel

Little Rock, Arkansas

March 19, 1994

Randy Coleman, Esq.
Skokos & Coleman, P.A.
Suite 3200
425 West Capital
Little Rock, Arkansas 72201-3439

U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
FILED
IN OPEN COURT
JAMES W. McCORMACK, CLERK
BY: AAB
DEPUTY CLERK 3-22-9

Re: David L. Hale

Dear Mr. Coleman:

On the understandings specified below, the Office of the Independent Counsel ("this Office") will accept a guilty plea from David L. Hale to a criminal information charging him with violations of (1) Title 18, United States Code, Section 371, and (2) Title 18, United States Code, Sections 1341 and 2. These charges each carry a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of the greatest of $250,000, twice the gross gain, or twice the gross loss, and a mandatory $100 special assessment. The total maximum sentence of incarceration on both counts is 10 years' imprisonment.

If David L. Hale fully complies with the understandings specified in this Agreement, he will not be further prosecuted for any crimes related to his participation in the conduct of the affairs of Capital Management Services, Inc., Diversified Capital, Inc., and Madison Guaranty Savings and Loan, and any other crimes, to the extent David L. Hale has disclosed such criminal activity to this Office as of the date of this Agreement.

The understandings are that David L. Hale shall truthfully disclose all information with respect to the activities of himself and others concerning all matters about which this Office inquires of him, shall cooperate fully with this Office, the Federal Bureau of Investigation and any other law enforcement agency so designated by this Office, shall attend all meetings at which his presence is requested with respect to the matters about which this Office inquires of him, and further, shall truthfully testify before the grand jury and/or at any trial or other court proceeding with respect to any matters about

GOVERNMENT EXHIBIT 2
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which this Office may request his testimony. Any assistance David L. Hale may provide to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and those investigators. This obligation of truthful disclosure includes an obligation upon David L. Hale to provide to this Office, upon request, any document, record or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of him.

It is further understood that the sentence to be imposed upon David L. Hale is within the sole discretion of the sentencing judge. This Office cannot and does not make any promise or representation as to what sentence David L. Hale will receive. However, this Office will inform the sentencing judge and the Probation Department of (1) this Agreement; (2) the nature and extent of David L. Hale's activities with respect to this case; (3) the nature and extent of any and all other activities of David L. Hale which this Office deems relevant to sentencing; and (4) the full nature and extent of David L. Hale's cooperation with this Office and the date when such cooperation commenced. In so doing, this Office will use any and all information it deems relevant, including information and statements provided by David L. Hale both prior to and subsequent to the signing of this Agreement. In addition, if it is determined by this Office that David L. Hale has provided substantial assistance in an investigation or prosecution, and if David L. Hale has otherwise complied with the terms of this Agreement, this Office will file a motion, pursuant to Section 5K1.1 of the Sentencing Guidelines, advising the sentencing judge of all relevant facts pertaining to that determination and requesting the Court to sentence David L. Hale in light of the factors set forth in Section 5K1.1(a)(1)-(5).

It is understood that, even if such a motion is filed, the sentence to be imposed on David L. Hale remains within the sole discretion of the sentencing judge. Furthermore, this Office retains the right to present to the sentencing judge and Probation Department, either orally or in writing, any and all facts and arguments relevant to sentencing. It is further understood that this Agreement in no way affects or limits this Office's right to respond to and take positions on post-sentencing motions or requests for information which relate to reduction or modification of sentence.

It is further understood that David L. Hale must at all times give complete, truthful, and accurate information and testimony and must not commit any further crimes whatsoever. Should David L. Hale commit any further crimes or should it be determined that he has given false, incomplete, or misleading testimony or information, or should he otherwise violate any provisions of this Agreement, David L. Hale shall thereafter be

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subject to prosecution for any federal criminal violation of which this Office has knowledge, including, but not limited to, perjury and obstruction of justice. Any such prosecutions may be premised upon any information and statements provided by David L. Hale both prior to and subsequent to the signing of this agreement. Moreover, any such prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against David L. Hale in accordance with this Agreement, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of any such prosecutions. It is the intent of this Agreement to waive any and all defenses based on the statute of limitations with respect to any prosecutions which are not time-barred on the date this Agreement is signed.

Furthermore, it is agreed that in the event that it is determined that David L. Hale has violated any provision of this Agreement, (i) all statements made by David L. Hale to this Office or other designated law enforcement agents, or any other testimony given by David L. Hale before a grand jury or other tribunal, whether prior to or subsequent to this Agreement, or any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings hereafter brought against David L. Hale and (ii) David L. Hale shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by him prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed. It is the intent of this Agreement to waive any and all rights in the foregoing respects.

It is further understood that this Office agrees to take steps that the Office determines to be appropriate to assist David L. Hale in maintaining his privacy interests.

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With respect to this matter, this Agreement supersedes all prior, if any, understandings, promises and/or conditions between this Office and David L. Hale. No additional promises, agreements, and conditions have been entered into other than those set forth in this letter and none will be entered into unless in writing and signed by all parties.

Very truly yours,

ROBERT B. FISKE, JR.
Independent Counsel

RUSTY HARDIN
Associate Counsel

DENIS J. MCINERNEY
Associate Counsel

AGREED AND CONSENTED TO:

David L. Hale — DATE 3-19-94

APPROVED:

Randy Coleman, Esq.
Attorney for David L. Hale — DATE 3/19/94

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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
MAR 25 1996
JAMES W. MCCORMACK, CLERK
By: _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA)
)
v.) No. LR-CR-93-147(1)
)
DAVID L. HALE)

MOTION OF THE UNITED STATES
FOR DOWNWARD DEPARTURE PURSUANT TO U.S.S.G. § 5K1.1

The United States of America, by Kenneth W. Starr, Independent Counsel, pursuant to U.S.S.G. § 5K1.1, hereby moves this Court to depart downward from the applicable Sentencing Guidelines in imposing sentence on Defendant David L. Hale.

There is no doubt that David Hale has committed serious federal crimes. The nature and scope of Mr. Hale's criminal conduct is reflected by the offense level calculated by the Probation and Pretrial Services Office under the Sentencing Guidelines. The sentence the Court imposes on Mr. Hale should take full account of Mr. Hale's criminal conduct.

The United States requests that the Court also take full account of a number of other factors, including Mr. Hale's acceptance of responsibility for his crimes and his cooperation with the United States. Mr. Hale has provided substantial assistance in the investigation and prosecution of a significant number of other persons who, like Mr. Hale, have committed serious federal offenses. The government expects that Mr. Hale will continue to provide substantial assistance to the United States in ongoing investigations and prosecutions. Mr. Hale's

decision in March 1994 to cooperate with the United States involved significant personal sacrifice. He has lost the support and friendship of many. He has subjected his family to risks and hardships, living in seclusion away from home.

In entering into his plea agreement with the United States, Mr. Hale committed himself to full cooperation. Among other things, the plea agreement required Mr. Hale to:

-- truthfully disclose all information with respect to the activities of himself and others concerning all matters about which this Office inquires of him;
-- cooperate fully with this Office, the Federal Bureau of Investigation, and any other law enforcement agencies designated by this Office;
-- attend all meetings at which his presence was requested; and
-- testify truthfully before the Grand Jury and at any trial or other court proceeding with respect to any matters about which this Office may request his testimony.

Mr. Hale has fully complied, and continues to comply, with all of the terms of the plea agreement. Mr. Hale's assistance has been useful and significant to the Independent Counsel's investigative and prosecutorial efforts, as detailed below. See U.S.S.G. § 5K1.1(a)(1).

Mr. Hale has provided truthful, complete and reliable information to the United States. See U.S.S.G. § 5K1.1(a)(2).

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Mr. Hale's assistance has been timely, permitting the United States to investigate and prosecute crimes within applicable statutes of limitation. See U.S.S.G. § 5K1.1(a)(5). Mr. Hale has made himself available whenever attorneys and law enforcement agents working with this Office have requested it. He has spent many hours reviewing documents relevant to the Independent Counsel's investigation. Mr. Hale has given sworn testimony before the Grand Jury, and he is expected to testify in two cases currently under indictment. See U.S.S.G. § 5K1.1(a)(3).

Mr. Hale has provided substantial assistance with respect to the overall investigation of the Office of the Independent Counsel, including substantial assistance in matters which have resulted in the following criminal informations and indictments:

United States v. Charles Matthews, No. LR-CR-93-147(2):

On June 23, 1994, following Mr. Hale's guilty plea and agreement to cooperate with the United States, Charles Matthews pleaded guilty to two misdemeanor counts of violating 18 U.S.C. § 215, bribing a small business investment company official, namely Mr. Hale.

United States v. Eugene Fitzhugh, No. LR-CR-93-147(3):

On June 23, 1994, following Mr. Hale's guilty plea and agreement to cooperate with the United States, Eugene Fitzhugh pleaded guilty to one misdemeanor count of violating 18 U.S.C. § 215, bribing a small business investment company official, namely Mr. Hale.

United States v. Robert W. Palmer, No. LR-CR-94-240:

On December 5, 1994, Robert Palmer pleaded guilty to one count of conspiring to make false entries in the books and records of Madison Guaranty Savings and Loan Association ("MGS&L"), in violation of 18 U.S.C. §§ 371 and 1006.

Mr. Palmer has agreed to cooperate with the United States, and the United States expects to call Mr. Palmer to testify at

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the trial in United States v. James B. McDougal, et al., discussed below.

United States v. Christopher V. Wade, No. LR-CR-95-48:

On March 21, 1995, Christopher Wade pleaded guilty to one count of bankruptcy fraud in violation of 18 U.S.C. § 152 and one count of making a false statement to a financial institution in violation of 18 U.S.C. § 1014.

United States v. Jim Guy Tucker, William J. Marks, Sr. & John H. Haley, No. LR-CR-95-117:

On June 7, 1995, the Grand Jury returned a three-count indictment against Jim Guy Tucker, William J. Marks, and John H. Haley, alleging that (1) Messrs. Tucker and Marks conspired to make false statements to Mr. Hale's small business investment company, Capital Management Services, Inc. ("CMS"), for the purpose of influencing CMS, in violation of 18 U.S.C. §§ 371 and 1014; (2) Messrs. Tucker and Marks made a false statement for the purpose of influencing the actions of CMS in violation of 18 U.S.C. § 1014; and (3) Messrs. Tucker, Marks and Haley conspired to defraud the United States for the purpose of impeding the Internal Revenue Service in the collection of income taxes, in violation of 18 U.S.C. § 371.

On September 5, 1995, the indictment was dismissed. On March 15, 1996, the Court of Appeals reversed and remanded the case for trial. The government expects to call Mr. Hale to testify at the trial.

United States v. Stephen A. Smith, No. LR-CR-95-118:

On June 8, 1995, Stephen Smith pleaded guilty to one misdemeanor count of conspiring to misapply funds of Mr. Hale's small business investment company, CMS, in violation of 18 U.S.C. §§ 371 and 657.

Mr. Smith has agreed to cooperate with the United States, and the United States expects to call Mr. Smith to testify at the trial in United States v. James B. McDougal, et al., discussed below.

United States v. Larry E. Kuca, No. LR-CR-95-150:

On July 13, 1995, Larry Kuca pleaded guilty to one misdemeanor count of conspiring to misapply funds of Mr. Hale's small business investment company, CMS, in violation of 18 U.S.C. §§ 371 and 657.

Mr. Kuca has agreed to cooperate with the United States, and the United States expects to call Mr. Kuca to testify at the

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trial in United States v. James B. McDougal, et al., discussed below.

United States v. James B. McDougal, Jim Guy Tucker & Susan H. McDougal, No. LR-CR-95-173:

On August 17, 1995, the Grand Jury returned a 21-count indictment against James B. McDougal, Jim Guy Tucker and Susan H. McDougal. The indictment charges conspiracy to misapply funds of MGS&L, to make false entries in the books and records of MGS&L, to defraud MGS&L, to misapply the funds of CMS, to make false entries in the books and records of CMS, and to make false statements to CMS, as well as wire fraud, bank fraud, mail fraud, false statements to a small business investment company, misapplication of bank funds, and making false entries in bank records, in violation of 18 U.S.C. §§ 371, 2, 1343, 1344, 1341, 1014, 657, and 1006.

Trial of the case is currently proceeding before the Honorable George Howard, Jr. The United States expects to call Mr. Hale to testify at the trial.

CONCLUSION

For all of the foregoing reasons, the United States requests, pursuant to U.S.S.G. § 5K1.1, that the Court depart downward from the applicable Sentencing Guidelines in imposing sentence on Defendant David L. Hale.

Dated: March 22, 1996

Respectfully submitted,

Kenneth W. Starr by Hickman Ewing Jr.
Deputy Independent Counsel

KENNETH W. STARR
Independent Counsel

Office of the Independent Counsel
10825 Financial Centre Parkway
Suite 134
Little Rock, Arkansas 72211
Tel.: (501) 221-8700

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CERTIFICATE OF SERVICE

I certify that on March 22, 1996, I caused copy of the foregoing document to be served as indicated below:

Randy Coleman, Esq. (by fax and first class mail)
Ten Shackleford Plaza
Little Rock, Arkansas 72221

Joe Klingbeil (by fax and by hand)
Supervising U.S. Probation Officer
600 W. Capitol Avenue
Little Rock, Arkansas 72201

Kenneth W. Starr
Independent Counsel

By: _____
Timothy J. Mayopoulos
Associate Counsel

FOIA RD 56806 (URTS 16302) DocId: 70104922 Page 52

Ferlin GOFF, Appellant,
v.
UNITED STATES of America, Appellee.

No. 92-1301.

United States Court of Appeals,
Eighth Circuit.

Submitted May 11, 1992.

Decided May 26, 1992.

A defendant who previously pleaded guilty to a drug charge and firearm charge appealed from an order of the United States District Court for the Eastern District of Arkansas, Stephen M. Reasoner, Chief Judge, denying government's motion for further reduction of sentence. The Court of Appeals held that denial of further reduction for substantial governmental assistance was not an abuse of discretion.

Affirmed.

CRIMINAL LAW⊜ 996(1.1)
110k996(1.1)
Denial of the government's request for further reduction of sentence based on defendant's postsentencing grand jury testimony was not an abuse of discretion; sentencing court stated that it anticipated defendant's continued cooperation and rewarded him accordingly when it granted a downward departure in imposing original sentence. 18 U.S.C.A. § 924(c)(1); Fed.Rules Cr.Proc.Rule 35(b), 18 U.S.C.A.; U.S.S.G. § 1B1.1 et seq., 18 U.S.C.A.App.

***605** Appellant appeared pro se in this appeal.

Terry L. Derden, Little Rock, Ark. (Charles A. Banks and Terry L. Derden, on the brief), for appellee.

Before JOHN R. GIBSON, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Ferlin Goff appeals from an order of the district court [FN1] denying a motion filed by the government under Federal Rule of Criminal Procedure 35(b) to reduce Goff's sentence. We affirm.

FN1. The Honorable Stephen M. Reasoner, Chief Judge, United States District Court for the Eastern District of Arkansas.

Goff previously pleaded guilty to a drug charge and a firearm charge. The court calculated a Guideline sentencing range on the drug offense of 70 to 87 months; the firearm offense carried a mandatory consecutive five-year sentence. See 18 U.S.C. § 924(c)(1). At sentencing in March 1991, the government moved for a downward departure based on Goff's substantial assistance, which the district court granted, sentencing Goff to fifty-seven months imprisonment on the drug offense and four years imprisonment on the firearm offense. Goff did not appeal his sentence. In January 1992, the government moved for a further reduction of Goff's sentence under Rule 35(b), because after sentencing, Goff had appeared before the grand jury to testify in another investigation. The government also reminded the court of a detailed statement Goff had given which was useful. The district court denied the government's motion, stating that when it granted the downward departure in March 1991, it anticipated Goff would continue to cooperate and had rewarded him accordingly.

Rule 35(b) states in part:

> The court, on motion of the Government made within one year after the imposition of the sentence, may reduce a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense....

Fed.R.Crim.P. 35(b) (emphasis added). It lies within the discretion of the district court to decide whether it will grant or deny such a motion. See, e.g., United States v. Richardson, 939 F.2d 135, 140 (4th Cir.1991), cert. denied, 502 U.S. 987, 112 S.Ct. 599, 116 L.Ed.2d 623 (1991), 502 U.S. 1061, 112 S.Ct. 942, 117 L.Ed.2d 112 (1992); United States v. Emanuel, 734 F.Supp. 877, 878 (S.D.Iowa). We have reviewed the record and find no abuse of discretion here.

Goff also argues the district court and the government breached the plea agreement at sentencing. Those matters are not properly before us.

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Accordingly, we affirm.

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Date and Time Printing Started:	03/23/97	12:42:43 pm (Central)
Date and Time Printing Ended:	03/23/97	12:42:46 pm (Central)
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Number of Lines Charged:	77	

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UNITED STATES of America, Appellee,
v.
Terrance GRIFFIN, Appellant,
UNITED STATES of America, Appellee,
v.
Joseph H. DONNELL, Appellant,
UNITED STATES of America, Appellee,
v.
Kevin COKES, Appellant.

Nos. 93-2852, 93-3068 and 93-3069.

United States Court of Appeals,
Eighth Circuit.

Submitted Dec. 14, 1993.

Decided Feb. 28, 1994.
Rehearing Denied in Nos. 93-3068, 93-3069
April 8, 1994.

Defendants entered guilty pleas in the United States District Court for the Western District of Missouri, Dean Whipple, J., to drug conspiracy charges, and they appealed from sentencing. The Court of Appeals, Beam, Circuit Judge, held that district court was not required to grant prosecutor's motions for downward departure for providing substantial assistance and did not abuse its discretion in following magistrate's recommendation that motions be denied absent support for defendant's claim that magistrate judge's report revealed bias against them.

Affirmed.

Bright, Senior Circuit Judge, filed dissenting opinion.

CRIMINAL LAW⇐ 996(1.1)
110k996(1.1)
District court was not required to grant prosecutor's motions under plea agreement for downward departure for providing substantial assistance and did not abuse its discretion in following magistrate judge's recommendation that motions be denied, absent support for defendants' claim that magistrate judge's report revealed bias against them. Fed.Rules Cr.Proc.Rule 35(b), 18 U.S.C.A.

***270** Counsel who represented the appellant in 2852 was John R. Cullom of Kansas City, MO; in 3068 and 3069, Glenn E. Bradford of Kansas City, MO.

Counsel who represented the appellee was Peter Ossorio of Kansas City, MO.

Before MAGILL, Circuit Judge, BRIGHT, Senior Circuit Judge, and BEAM, Circuit Judge.

BEAM, Circuit Judge.

Terrance Griffin, Kevin Cokes and Joseph Donnell were arrested for conspiracy to distribute cocaine base. All three entered pleas of guilty and cooperated with the FBI and other drug enforcement authorities in investigations of the drug conspiracy. In exchange for this cooperation, the government made 5K1.1 motions for downward departure at the sentencing hearings in all three cases. As a result, Griffin, Cokes and Donnell received sentences significantly below the guideline range and below the statutory ten-year mandatory minimum. The government later filed a motion for correction of sentence pursuant to Rule 35(b) [FN1] and requested a further reduction in the sentences for subsequent, substantial assistance.

FN1. Rule 35(b) states in part:
The court, on motion of the Government made within one year after the imposition of the sentence, may reduce a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense....
Fed.R.Crim.P. 35(b) (emphasis added).

The same district judge [FN2] who initially sentenced the appellants directed a magistrate judge to conduct hearings and to recommend a disposition for the Rule 35(b) motions. The magistrate judge issued findings of fact and conclusions of law recommending that the Rule 35(b) motions be denied as inappropriate. After an independent review of the record, the district court adopted the magistrate judge's report and denied the motions. Griffin, Cokes, and Donnell appeal contending that the Rule 35(b) motions were an integral part of their plea agreements and that the district court abused its discretion by denying the motions. We affirm.

FN2. The Honorable Dean Whipple, United States District Judge for the Western District of Missouri.

The government filed the Rule 35(b) motions, thereby fulfilling any obligations it may have had under the plea agreement. The appellants concede

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that the district court was not bound to grant the Rule 35(b) motions. After a hearing, the magistrate judge concluded that the appellants had not provided subsequent, substantial assistance that would warrant further reductions in their sentences. The district court adopted this conclusion. The decision to grant or deny a Rule 35(b) motion is entirely within the discretion of the district court. Goff v. United States, 965 F.2d 604 (8th Cir.1992) (per curiam). Absent an abuse of that discretion, [FN3] the appellate courts cannot interfere. We find no evidence that the district court ***271** abused its discretion in this case. Accordingly, the decision of the district court is affirmed.

FN3. The appellants allege that the magistrate judge's report revealed bias against them. We read the magistrate judge's report differently. The magistrate judge chastised the government for bringing Rule 35(b) motions without adequate grounds. He rejected the government's contention that the willingness of the appellants to testify against co-conspirators constituted subsequent, substantial assistance. Instead, the magistrate judge concluded that this cooperation was part of the assistance contemplated by the 5K1.1 reduction granted by the district court. He also noted that the Rule 35(b) motion with regard to Griffin was time-barred. We cannot conclude that these findings constitute an abuse of discretion.
While chastising the government, the magistrate judge discussed in detail how he would have managed the plea agreements had he been the Assistant United States Attorney in charge of the case. We are troubled by this digression and by the weight that the magistrate judge seemed to place on an internal Justice Department memo issued by former Attorney General Thornburgh. However, we cannot agree with the appellants' contention that these comments amount to an abuse of discretion. Nothing in the record indicates any bias against these particular defendants, or, indeed, against any defendants. Furthermore, after an independent review of the record, the district court concluded that the 5K1.1 departures contemplated the cooperation that the government now raises as grounds for further reductions in sentence. The district judge who had responsibility for the initial sentencing is clearly in the best position to determine what kinds of cooperation the 5K1.1 departures encompassed.

BRIGHT, Senior Circuit Judge, dissenting.

I dissent.

The facts are undisputed. [FN1]

FN1. The appellee does not contest the facts or the prosecutor's right to move for the reduction in sentence. Appellee's claim of nonappealability fails. United States v. Evidente, 894 F.2d 1000, 1003-04 (8th Cir.1990) (determination that judge lacks power to reduce sentence is appealable pursuant to 18 U.S.C. § 3742). See also Wade v. United States, 504 U.S. 181, ----, 112 S.Ct. 1840, 1843-44, 118 L.Ed.2d 524 (1992) (constitutional due process issue raised by appellant makes case appealable).

1. The federal prosecutor promised the defendants-appellants that he would make the appropriate motions to reduce the heavy drug sentence each faced if defendants assisted in the prosecution of other members of the drug conspiracy. Immediately, the defendants cooperated; the prosecutor made the necessary motions [FN2] to reduce defendants' sentences and the district court recognized and enforced the prosecutor's promises. [FN3]

FN2. These motions were brought under both U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(e).
U.S.S.G. § 5K1.1 provides as follows:
Substantial Assistance to Authorities (Policy Statement)
Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines.
(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:
(1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
(3) the nature and extent of the defendant's assistance;
(4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
(5) the timeliness of the defendant's assistance.
18 U.S.C. § 3553 provides in pertinent part:
(e) Limited authority to impose a sentence below a statutory minimum.--Upon motion of the Government, the court shall have the authority to

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> impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.

> FN3. Below are listed the applicable guideline range and the terms of imprisonment the defendants were actually sentenced:

	Guideline Range	Sentence Received
Griffin	135-168 months	90 months
	(11 yrs, 3 mos-14 yrs)	(7 yrs, 6 mos)
Cokes	235-293 months	100 months
	(19 yrs, 7 mos-24 yrs, 5 mos)	(8 yrs, 4 mos)
Donnell	151-181 months	70 months
	(12 yrs, 7 mos-15 yrs, 1 mo)	(5 yrs, 10 mos)

In each case, the convictions called for a mandatory minimum sentence of no less than ten years imprisonment. The harshness of the sentences under the guidelines rested in principal part on the weight of the crack attributed to each defendant in the conspiracy.

2. The prosecutor further promised the defendants that if each provided further assistance in pending drug investigations, he would move for a second reduction in their sentences. The defendants gave additional assistance for other pending prosecutions. The prosecutor made the appropriate motions but the magistrate judge hearing the case determined, as a matter of fact and law, that the court could not honor the prosecutor's promises. The district court adopted the magistrate judge's findings and conclusions and denied further sentence reductions. This appeal followed.

In my view, the magistrate judge erred and the district court continued the error. I would therefore reverse and remand for reconsideration of the motions.

I.

The prosecutor represented to the magistrate judge that defendants Terrance Griffin *272 and Kevin Cokes provided additional and new assistance more than one year after the defendants had been initially sentenced. [FN4] The prosecutor also represented that under the arrangement made with Joseph Donnell, who assisted in getting Cokes to cooperate, Donnell would benefit from Cokes' further cooperation. Additional assistance from these defendants and others led to the preparation of cases against other drug defendants, who then pleaded guilty. Nevertheless, the prosecutor represented that assistance from these defendants gave the government important new information which benefitted the government in its additional prosecutions.

> FN4. The prosecutor relied on a provision of Fed.R.Crim.P. 35(b), reading in pertinent part:
> The court may consider a government motion to reduce a sentence made one year or more after imposition of the sentence where the defendant's substantial assistance involves information or evidence not known by the defendant until one year or more after imposition of sentence. The court's authority to reduce a sentence under this subsection includes the authority to reduce such sentence to a level below that established by statute as a minimum sentence.

The magistrate judge rejected the defendants' claims for a second reduction, asserting that the additional assistance counted for nothing as a matter of law or fact. The magistrate judge's rationale appeared to rest solely on his own personal experience as an Assistant U.S. Attorney, who in that role, had made all deals "up front." In part, the magistrate judge said:

> I would suggest, though, that in the future, Mr. Ossorio [Assistant United States Attorney presenting the motion], you might alert your fellow assistant United States attorneys that as was my practice and I know you love to hear this, when I was in that office, I always gave everybody the benefit on the front end, so that it was clear that I

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> anticipated they would testify and they got the benefit for that testimony at the time the [§ 5K1.1] motion was filed, even though it hadn't been accomplished.

Motion Tr. (11/10/92), at 31 (emphasis added). Further, the magistrate judge claimed that the prosecutor's arrangement violated an Attorney General policy.

We reject this reasoning, as Fed.R.Crim.P. 35(b) contains no limitation excluding an additional reduction of sentence when that defendant has already received a benefit for prior substantial assistance under § 5K1.1 or 18 U.S.C. § 3553(e).

Moreover, the asserted violation of the Attorney General's policy appears to be irrelevant and probably wrong. The policy violation of the prosecutor, as here asserted by the magistrate judge, may be a concern of the Department of Justice but is generally not binding on a judge who is limited to matters of fact and law in making sentencing decisions. Cf. United States v. Lorenzo, 995 F.2d 1448, 1453 (9th Cir.1993) (U.S. Attorney's Manual does not create any substantive or procedural right enforceable at law). Moreover, Attorney General Thornburgh's policy in part reads:

> The most important departure is for substantial assistance by a defendant in the investigation or prosecution of another person. Section 5K1.1 provides that, upon motion by the government, a court may depart from the guidelines and may impose a non-guideline sentence. This departure provides federal prosecutors with an enormous range of options in the course of plea negotiations. Although this departure, like all others, requires court approval, prosecutors who bargain in good faith and who state reasons for recommending a departure should find that judges are receptive to their recommendations.

App. at 55-56.

Thus, the policy gives the prosecutor broad discretion in this area. Here, the prosecutor clearly acted in "good faith" and stated reasons for recommending departure. Thus, the alleged "policy" violation appears groundless.

The record indicates that the magistrate judge confused his function as a judge with his prior duties as a federal prosecutor. [FN5] This confusion led to his error in failing to *273 consider defendants' additional assistance before rejecting their pending motions. The district court adopted the magistrate judge's views and persisted in the error, as indicated above.

> FN5. The following colloquy at the hearing on the motions is illustrative:
> THE COURT: ... If there was a contemplation that [sic] [defendants pleading guilty under an agreement] would testify, they should've gotten the benefit from that testimony on the front end. That's what they were getting, that's what this whole case was about. The 35(b) motion has to do with if somebody is sitting in jail and suddenly they decide, well, I'm going to tell you about General Noriega and all the stuff that was going on in Panama, and I'm going to tell you before the grand jury, suddenly, you know, that's new information. That's not what we have here, though. I mean, not substantially, we don't have it here. This is just--
> MR. CULLOM [Griffin's attorney]: Well--
> THE COURT: This is just a poor way of doing business. It just is.
> MR. CULLOM: With all due respect, I disagree with you on that. I think they have provided substantially [sic] assistance subsequent to the sentence.
> THE COURT: Well--
> MR. CULLOM: Those two convictions are proof of it.
> THE COURT: I think it's still--the jury is still out, though, whether that information was made before they had their first downward departure.
> MR. CULLOM: But their testimony hadn't been--
> THE COURT: That doesn't matter though. I mean, that doesn't matter. Suppose a trial judge is taking these 5(k) motions [referring to U.S.S.G. § 5K1.1] and reducing the sentence, he doesn't think--that trial judge isn't thinking, John, well, I'm just going to give them the benefit of this information and reduce it as much as they were reduced in this case. And then if they come in and testify, I'm going to give them a further--there's no record of that here.
> ....
> THE COURT: Right. I think I get--I think I know what everybody was thinking here. The problem is I don't know that that's the appropriate tact to take, John. That's the whole issue. Does that rise to the level of subsequent substantial assistance? I don't think it does. And I haven't seen any case law that supports that. The fact that there--I mean, nobody gets in this business and debriefs people and gets them pled and gets them in front of a judge and sentenced and find--does a downward departure, and then says but, you know, but we're not contemplating they're going to testify about

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> anything. I mean, that's absurd. That's absurd. No one would ever do that, see. But clearly, that apparently was what the U.S. attorney was saying, I think. I think that's what he was saying, that if you guys come in and you puke and you tell us everything you know, and I'm going to file 5(k) motion. And then if you go and you continue and you come to trial and you testify at trial, I'm going to file another motion under 35(b).
>
> That is wrong. I don't think that's what the law is.
>
> Motion Tr. at 32-33, 35.

Accordingly, I would reverse and remand for reconsideration of the motions for reduction of the sentences. I would suggest a referral, if any, by the district judge, be made to a different magistrate judge.

II.

THE MYTH OF CONSISTENCY IN SENTENCES.

I take this opportunity to comment on the obvious unfairness of mandatory minimums and guideline sentencing. First, this case graphically punctures a myth that mandatory minimums and guideline sentences in drug cases result in equal treatment for offenders. The promise under federal law that all drug dealers and other drug offenders shall serve long prison terms as a strong deterrent in the so-called war on drugs is also false. As already observed, the defendants received heavy slashes in the guideline mandatory sentences through motions made by the prosecutor, accepted by the sentencing judge. [FN6]

> FN6. Compared to the applicable minimum guideline sentence, the defendants received the following downward departures, by percentage:

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Griffin:  135 months less 45 months = 33.3%
          (11 yrs, 3 mos. less 3 yrs, 9 mos.)
Cokes:    235 months less 135 months = 57.4%
          (19 yrs, 7 mos. less 11 yrs, 3 mos.)
Donnell:  151 months less 81 months = 53.6%
          (12 yrs, 7 mos. less 6 yrs, 9 mos.)
```

See also ante, note 3.

In this case these defendants and others had something to sell--information on their former cohorts. [FN7] For that each became entitled to a motion for sentence reduction and *274 initially received sentences well below the guidelines and the mandatory minimums. Further, as disclosed by the letter quoted in footnote 7, some of the conspiracy members had obtained additional sentence reductions.

> FN7. We excerpt a portion of a letter written by the assistant prosecutor Peter Ossorio to the magistrate judge:
>
> Dear [magistrate judge]:
>
> The plea tendered by the last defendant, Ronald E. Whitley, in the case of United States of America v. Anthony S. Rashid, et al, No. 90-171-01-CR- W-5, permits bringing to a close a series of prosecutions in this district involving a number of defendants in other cases who agreed to provide substantial assistance in the Rashid investigation and trial. To assist the court in reaching appropriate decisions regarding the pending cases, the following updated information is provided:
>
> .... [Listing eleven defendants prosecuted in the drug conspiracy, including appellants, who received very substantial reductions in sentences and several who obtained second reductions in sentences for continuing assistance.]
>
> All defendants made statements to authorities about their knowledge of the drug trafficking of Anthony S. Rashid and later, Frank H. Fore and Ronald E. Whitley....
>
> App. at 9-10.
>
> The letter specifically commented on the assistance rendered by defendants as follows:
>
> Griffin: "(Substantial witness regarding Whitley bringing 'crack' to Kevin Cokes; corroborates much of Cokes' information)." Id. at 11.
>
> Cokes: "(One of four most important witnesses regarding Whitley. Second most important witness in establishing the scale of the multi-kilogram 'crack' traffic between Houston and Kansas City in 1990-91)." Id.
>
> Donnell: "(Useful information linking Terrance Griffin, Kevin Cokes and Ronald Whitley tending to corroborate Griffin and Cokes)." Id.

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I do not criticize this policy. Its rationales include "giving the prosecutor a powerful law enforcement tool, ... [and] providing a just reward for a cooperative defendant." United States v. Kelley, 956 F.2d 748, 755 (8th Cir.1992). I must observe, however, that prosecutors, not federal judges, possess this awesome power to initiate reductions of prison sentences below mandatory minimums and below guideline ranges.

Some of the defendants in this case may or may not be the most culpable in the conspiracy. I do suggest, however, that at least one defendant bears heavy responsibility for the previously flourishing crack conspiracy. Some sense of fairness, compassion and honesty in sentencing compels the conclusion that other drug offenders may be deserving of a break, particularly first-time offenders, those low on the totem pole of the drug hierarchy with little culpability, people who have no information to sell, and other minor players who are fit subjects for rehabilitation because they have learned the lesson of their wrongful ways. These are persons who can be saved from years and years of imprisonment which benefits neither society nor the offender.

What kind of a criminal justice system rewards the drug kingpin or near- kingpin who informs on all the criminal colleagues he or she has recruited, but sends to prison for years and years the least knowledgeable or culpable conspirator, one who knows very little about the conspiracy and is without information for the prosecutors?

Imposing heavy sentences on first offenders who play only a minor role in an offense and who do not use any weapon wastes lives. The statistics are striking:

1. Low level, non-violent drug offenders account for 21.2% of the federal prison population. These small-time drug offenders often serve longer prison sentences than robbers, rapists and kidnappers. [FN8]

FN8. A news story appearing in U.S.A. Today reported on the Justice Department's report on mandatory minimum sentences (relating to 16,316 prisoners). Data from a table accompanying this story is reproduced below.
Crime and punishment
Non-violent drug offenders account for 21.2% of the federal prison population. Punishments for first-time drug offenses, compared with other offenses:

Offense	Time served
Drugs	60 months
Kidnapping	57 months
Robbery	51 months
Arson	36 months
Racketeering/Extortion	36 months
Sexual Abuse	27 months
Assault	24 months
Firearms	15 months
Manslaughter	12 months

Dennis Cauchon, Sentencing study treads cautiously, U.S.A. Today, Feb. 7, 1994, at 4A.

2. Statistics available from the Sentencing Commission on drug offenses indicate that of the 16,684 offenders sentenced in fiscal year 1992, a great percentage (41.3%) and a total of 6,897 persons had zero criminal ***275** history points, used no weapon, and played a non-aggravating role in the offense. [FN9]

FN9. United States Sentencing Commission, Defendants Sentenced under the Federal Sentencing Guidelines for Drug Offenses--Fiscal Year 1992.

3. These same statistics show that of those sentenced under the guidelines subject to mandatory minimum statutes, 34.7% of those sentenced--3,198 persons--had no criminal history points, used no weapon and played no aggravating role in the crime. We know that such offenders received sentences no less than five years, or no less than ten years, or no less than fifteen years and some no less than twenty years imprisonment, as called for by whatever

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mandatory minimum sentences applied in the case (based substantially on weight of drugs).

Our sentencing opinions have frequently recited the irrationality of the guidelines in drug sentences. New data demonstrate the frequency and regularity of lengthy sentences for non-violent crimes committed by first-time drug offenders.

These heavy sentences seem not to have served as a deterrent. [FN10] Again, this observer comments: the sentencing system is irrational; it "cries out for change.". See United States v. Smith, 997 F.2d 396, 399 (8th Cir.1993) (Bright, J., dissenting) (citing and quoting Marc Miller & Daniel J. Freed, Suggestions for the President and the 103rd Congress on the Guideline Sentencing System, 5 Fed.Sent.R. 187 (Jan./Feb.1993)).

FN10. Recently, Philip B. Heymann, formerly a very high official in the Justice Department (second in command), as reported by the New York Times, "dismissed mandatory minimum prison sentences for many low-level drug offenders as almost useless in deterring crime." David Johnston, Ex- Official Attacks Crime Bill Backed by Clinton, N.Y. Times, Feb. 16, 1994, at A1.

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U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

June 19, 1995

Honorable James E. Leach
Chairman, Committee on Banking
and Financial Services
United States House of Representatives
Washington, DC 20515-6050

Dear Chairman Leach:

I am writing in response to the Committee's request to the Attorney General requesting the production of documents regarding Madison Guaranty Savings and Loan and related matters. As you are aware, since receiving that letter, we have had several telephone conversations and one meeting with Jackson R. Sharman III, regarding the scope of the request. Although the substance of those conversations has been the subject of several letters from Mr. Sharman, please accept this letter as the Department's response to that correspondence as well.

Read literally, the Committee's request would encompass all Madison related documents in the possession of every component of the Department of Justice, including the Federal Bureau of Investigation. As you know, however, many of those documents relate directly to matters under investigation by the Independent Counsel and were created under his direction and supervision; others were created as part of Departmental investigations, the supervision of which was assumed by the Independent Counsel. Accordingly, until the Independent Counsel has had an opportunity to evaluate the full breadth of the Committee's request and the impact of such a production on his investigation, we have limited our production to the seven specific categories identified by the Committee.

With that caveat we are responding to your request by providing copies and an index of the following material to both the majority and minority staffs of the Committee:

1. Enclosed are all of Webster Hubbell's telephone messages that, on their face, appear to relate to the Committee's inquiry. In addition, the Department is producing all of Mr. Hubbell's 1993 telephone messages from the following entities: the RTC, the FDIC, and the White House. We do so, however, to

insure that our production is as complete as possible; the Department does not represent that these latter messages relate to the subject matter of the Committee's inquiry.

Similarly, we have enclosed copies of all of Mr. Hubbell's 1993 calendar entries for meetings with representatives from the White House, the RTC, and the FDIC. Once again, we do not represent that these meetings concerned matters related to the Committee's inquiry.

We have also enclosed all of Mr. Hubbell's relevant notes, memoranda, or E-mail messages that were reduced to written form. I am advised that Mr. Hubbell's office maintained no telephone logs.

To the extent that the Department maintains electronic telephone records, they are contained in tape form. Because of the volume of telephone calls made by Department employees, we have not attempted to reduce that data to written form. We will attempt to accommodate specific requests for information once the Committee has had the opportunity to review documents. We have, however, enclosed the 1993 bills for Mr. Hubbell's cellular telephone.

2. I am advised that United States Attorney Paula Casey did not maintain a telephone log during 1993, nor did her office maintain message pads for her. We have enclosed bills for Ms. Casey's cellular telephone from August 1993, when Ms. Casey took the oath of office, to December 1993. To the extent that they exist, we also have produced calling card bills for Ms. Casey from that same time period.

3. Enclosed are documents relating to the recusal of United States Attorney Paula Casey. Copies of some or all of these documents were located in several offices within the Justice Department. In order to avoid unnecessary duplication, we have attempted not to provide multiple copies. Nevertheless, we have provided all copies of documents bearing or attached to handwritten notes.

4. We do not believe that the Department possesses any documents responsive to this request that are not included in category 1 above.

5. There do not appear to be any documents responsive to this request.

6. The Department is in the process of reviewing these documents and will consult with the Independent Counsel to determine if any responsive material can be produced at this time.

7. Department of Justice documents relating to the transmittal of RTC referrals are enclosed.

As I discussed with Mr. Sharman, we have not produced documents such as FOIA requests or responses, Congressional correspondence, or documents relating to ongoing FOIA litigation. To the extent that newspaper clippings maintained by Department employees could be deemed responsive to the Committee's request, they have been provided only if they were attached to an otherwise responsive document or themselves contained responsive markings or notes.

Needless to say, the Department will continue to cooperate with the Committee's requests as fully and expeditiously as possible, and we will produce any additional responsive records that come to our attention. If you have any questions, please feel free to contact me.

Sincerely,

Paul J. Fishman
Counsel to the Deputy
Attorney General

Enclosures

cc: Hon. Henry B. Gonzalez (w/enclosures)
Hon. Kenneth Starr (w/enclosures)

TO: FILE

FROM: Stephen A. Kubiatowski

RE: Conversation with Jack Sharman on 6/13/95

DATE: June 14, 1995

On Tuesday, June 13, 1995, at approximately 7;05 PM, I spoke with Jack Sharman and Jim Clinger of the House Banking Committee. I indicated that the OIC had received the Committee's press release discussing the Committee's proposed hearings date. I told him that the release raised serious matters which would bear directly on our investigation, and that Judge Starr would want as much detail as possible regarding (1) the subject matters to be covered, (2) the proposed order of subject matters covered, and (3) the witnesses to be called on each subject matter. Jack told me he needed 15 minutes to jot down some notes so he could be coherent, and got back to me shortly at which point a more substantive conversation ensued.

Jack began with two caveats. First, he stated that the Committee's plans were only a "working plan" which was subject to amendment by Chairman Leach, even at the last minute. Second, he stated that the Committee would request, to the extent possible, that any information given the OIC regarding their proposed hearings be "kept in our quarters" alone.

According to Jack, Chairman Leach's plan is to cover most of the issues "in one fell swoop" during a two week period in August. The theory would be that, to the extent possible, the Committee would "march through" the issues chronologically beginning with the operation of Madison Guaranty. Jack noted, however, that supplemental hearings in September or October would not be precluded if the Committee did not cover all the ground it wanted to.

The following is an outline of Chairman's Leach's "working plan," as described to me by Jack and Jim:

I. Operations of Madison Guaranty

A. Scope: This segment would discuss Madison's operations and its relationship with the Whitewater Development Corp. and CMS.

(1) One related subject that might be discussed during this segment is the Maple Creek transaction.

B. Witnesses: According to Jack, the "stage-setting" witnesses would be Jim Clark, a bank examiner who wrote the 1986 report on Madison, and Charles James, an accountant for the Whitewater Development Corp. until 1985. Other witnesses to be called would be Jim McDougal, Susan McDougal, and "perhaps" David Hale.

(1) On Maple Creek, Jack contemplates calling Lex Dobbins and Tom Butler, both of whom are state employees.

II. State Regulatory Issues

A. Scope: This segment would generally focus on conflicts issues concerning the Rose Law Firm, including RLF's representation of Madison with respect to any stock offering plans.

(1) Jack did not think that the bond underwriting contracts between the ADFA and Lasater & Company would be covered.

B. Witnesses: The principal witness for this segment would be Beverly Bassett Schaffer. Dan Lasater may be called, though Jack indicated that this was a "question mark."

III. April 1985 Fundraiser/Campaigns Generally

A. Scope: This segment would focus primarily on the April 1985 fundraiser at Madison, although the 1990 gubernatorial campaign may also be discussed.

(1) According to Jack, "any" campaign related issues would be covered in this segment.

B. Witnesses: The principal witness would be Betsy Wright, though Jack indicated Bruce Lindsey might be called as well.

(1) Jack specifically stated that Lindsey, if called, would be the only WHS witnesses who would be called to testify on <u>any subject area</u>.

(2) Jack noted that Jim McDougal might need to testify on this issue, in addition to Wright. The Committee has not contemplated calling any other witnesses on this issue at this point, though Jack indicated that could change.

IV. Creation/Submission/Handling of Both Sets of Criminal Referrals

A. Scope: This subject would generally cover the creation, submission, and handling of all the criminal referrals, from September 1992 and onward. The substance -- as well as the handling -- of the referrals would be reviewed. The administrative leave and/or suspension of certain RTC employees would also be covered.

(1) Jack indicated that the WHS contacts issue, to the extent it bore on the handling of the referrals, might be covered in this segment. However, he was very clear that the Committee would not "retread" ground on an area which had already been "gone over last year."

(2) Jack emphasized that the Committee has not yet made any formal document request to the WHS, although it might in the future.

B. Witnesses: The principal witnesses would be the "K.C. Three": Jean Lewis, Richard Iorio, and Lee Ausen. Jack could not indicate which RTC-Washington D.C. or DOJ witnesses the Committee might call, as the Committee is still in the process of interviewing possible witnesses from those agencies.

(1) Jack noted however, that anyone at DOJ (or formerly at) is fair game as a witness, upto and including Webb Hubbell.

V. Foster Death/Foster Documents

A. Scope: These issues will not be covered by the HBC in any degree.

VI. Inspector-General Transcripts

A. Scope: Jack stated that the Committee was still pursuing this issue, but was unsure whether it would warrant being discussed in the forum of a Congressional hearing.

Following our conversation regarding the above outline, I expressed my concern that the Committee's program may be "ambitious" for a two week period. Jack agreed that such might be the case, but stated that Chairman Leach does not want to "torture every conceivable investigatory issue." Rather, Chairman Leach simply want a "thorough airing" of the issues.

I asked Jack when Chairman Leach's plan would be more than tentative. Jack couldn't say, but suggested that speaking with the OIC regarding these issues now, rather than later, would help resolve my question.

Jack indicated that he would be in depositions this morning until 2:00 PM, but would be willing to meet with us after that, if need be.

JAMES A. LEACH, IOWA, CHAIRMAN
BILL M. COLLUM, FLORIDA
MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
TOM BLILEY, VIRGINIA
RICHARD H. BAKER, LOUISIANA
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FREDERICK HEINEMAN, NORTH CAROLINA
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FRANK LOBIONDO, NEW JERSEY
J.C. WATTS, OKLAHOMA
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MAURICE HINCHEY, NEW YORK
GARY ACKERMAN, NEW YORK
KEN BENTSEN, TEXAS

BERNARD SANDERS, VERMONT

(202) 225-7502

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING AND FINANCIAL SERVICES

ONE HUNDRED FOURTH CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

June 19, 1995

The Honorable Henry B. Gonzalez
2413 Rayburn House Office Building
Washington, DC 20515

Dear Henry:

I appreciate the concerns you expressed about hearings during the August recess.

A number of Members on both sides have also indicated that two weeks' of hearings in August decimate prearranged family time and commitments in their districts. In view of these concerns, I have decided to restrict the August hearings to the week of August 7-11. Given the scope of the issues involved, the elimination of the second week of proposed hearings very likely precludes the prospect of concluding Committee consideration of Whitewater in one hearing segment.

Sincerely,

JAMES A. LEACH
Chairman

JAL:dmd

cc: All Members, Committee on Banking and Financial Services
The Honorable Abner J. Mikva
Office of the Independent Counsel

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

July 20, 1995

Mr. Jackson R. Sharman, III
Oversight and Investigations
Committee on Banking and Financial Services
212 O'Neill House Office Building
Washington, D.C. 20515

Dear Mr. Sharman:

On June 19, 1995, the Department of Justice made its initial document production in response to the House Committee on Banking and Financial Services's May 15, 1995, request to Attorney General Reno and FBI Director Freeh for documents pertaining to Madison Guaranty Savings & Loan Association ("Madison Guaranty") and related matters. As we have discussed on a number of occasions, the Department has continued to review additional documents in its possession to ascertain which, if any, may be responsive to that request. Enclosed are additional documents within the categories described in your earlier requests.

In addition, we have collected Department documents pertaining to the Committee's request for the following two categories of documents: (1) communications between the Department and James Hamilton or David Kendall about obtaining the files removed from Vincent Foster's Office after his death; and (2) Don Mackay's November 1993 meeting at the Kansas City office of the Resolution Trust Corporation. As you know, I have remained in consultation with the Office of the Independent Counsel ("OIC") to ensure that the Department's document production does not interfere with any ongoing inquiry by the OIC. OIC has advised us that they will let us know as soon as possible whether they will object to our producing these two categories of documents at this time.

Be assured that the Department will continue to cooperate with the Committee's request as fully and expeditiously as possible. If you have any questions, please fell free to contact me.

Sincerely,

Paul J. Fishman
Counsel to the Deputy
Attorney General

cc: Joe Reilly
Hon. Kenneth Starr

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FOIA RD 56806 (URTS 16302) DOCID:
70104926

MEMORANDUM

TO: Judge Starr
Mark Tuohey

FROM: Brett Kavanaugh

RE: House Hearings on Travel Office

DATE: April 18, 1995

Barbara Comstock of Chairman Clinger's staff contacted me to find out whether we would have any problem if the House Government Reform Committee holds hearings on the Travel Office firings this summer. (They want to hold hearings in June; at this point they do not plan to await completion of the Billy Dale trial.) I told her that I would check with the two of you and get back to her before the end of the week.

I propose that we tell Ms. Comstock that hearings on the White House's firing of the Travel Office employees would not hinder or impede our investigation, but that we would like advance notice of their document and interview requests.

I suggest we talk about this in the next day or two.

Barbara Comstock

hearings
- Travel Office
- Files / Harry T's involvement / documents / FBI contacts
- talked to many attorneys in office ⇒

early → June

- waiting for criminal process to not going to happen

- contacting staff at WH
- GAO docs
- Chris Ceroli → contact person at WH

* GAO interview reports
  - McCarty
  - Nussbaum
  - Patsy
  - Magpie

MEMORANDUM

TO: File

FROM: Brett Kavanaugh

RE: House Hearings on Travel Office

DATE: April 19, 1995

I talked today to Barbara Comstock and told her that this Office had decided that House hearings on the White House firing of Travel Office employees would not hinder or impede our ongoing criminal investigation.

MEMORANDUM

TO: Judge Starr

CC: Mark Tuohey
Hickman Ewing
John Bates
Steve Kubiatowski

FROM: Brett Kavanaugh

RE: DOJ OPR Report on Travel Office

DATE: May 31, 1995

URGENT

Chairman Clinger plans to hold hearings on the Travel Office affair as soon as practicable. He has requested from the Department of Justice the Department's OPR Report on the Travel Office. The Department (Peggy Irving) has contacted me to determine whether we object to release of the OPR report. **THE DEPARTMENT NEEDS AN ANSWER IMMEDIATELY.**

I recommend that we not object to release of the Travel Office report. I see no danger that release of this report would hinder or impede our investigation of Mr. Foster's state of mind. Indeed, I think it possible that congressional inquiry may further illuminate the involvement of Mr. Foster and others, including the First Lady, in the Travel Office affair.

Mr. Fiske had objected to release of the OPR report while his investigation of the Foster death was proceeding. I do not believe that should alter our decision, however. Much of the information regarding Mr. Foster in the OPR Travel Office report is now public by means of the Fiske report and other news articles. Therefore, we are not in an identical situation to Mr. Fiske with respect to the OPR report. In addition, even were that not the case, I would still recommend that we adopt a position different from the one adopted by Mr. Fiske. It seems to me that we need to be cautious in dealing with Congress, and resist Congress only when it "really matters." This seems an especially tangential matter over which to incur the wrath of Congress. If we object to congressional inquiry into any matter in which Mr. Foster was involved, we would object to inquiry into the Travel Office, WACO, gays in the military, etc. In my opinion, that is not a posture that we should adopt.

RECOMMENDATION: I call Peggy Irving and tell her that we do not object to release of the OPR report on the Travel Office.

Please give me an answer today if possible.

HRC + ST staff listings

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KENDALL LETTER - SPEECHES [redacted]

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FOIA RD 56806 (URTS 16302) DOCID:
70104930

To: Judge Starr
John Bates

1/29/97

From: Stephen Bates

re: propriety of speeches by prosecutors

John asked about public speeches by prosecutors and independent counsels. Here's what I've found.

Justice Department Policy

Regulations and the U.S. Attorney's Manual govern federal prosecutors' public comments. The Manual speaks of the need to balance the public's right to know, the individual's right to a fair trial, and the government's ability to enforce the laws effectively. U.S. Attys. Man. § 1-7.110. It adds:

> Likewise, careful weight must be given in each case to . . . the right of the people in a constitutional democracy to have access to information about the conduct of law enforcement officers, prosecutors and courts, consistent with the individual rights of the accused. Further, recognition should be given to . . . the rights of the public to be informed on matters that can affect enactment or enforcement of public laws or the development or change of public policy.

Id., § 1-7.112. One provision governs comments on a current investigation:

> In matters that have already received substantial publicity, or about which the community needs to be reassured that the appropriate law enforcement agency is investigating the incident, . . . comments about or confirmation of an ongoing investigation may need to be made.

The U.S. Attorney or the responsible Department Division must authorize the release of information "[i]n these unusual circumstances." Id., § 1-7.530; see id., §§ 1-7.111 ("limited confidentiality" is necessary concerning on-going investigations and grand jury matters), 9-2.211 ("no statements should be made concerning the subject matter of a grand jury").

Ethics Rules

Rule 3.6(a) of the ABA's Model Rules of Professional Conduct proscribes public statements that "the lawyer knows or reasonably should know . . . will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter."

(The U.S. Attorney's Manual, at sec. 1-7.510, contains a similar prohibition.) The commentary following the rule notes that otherwise-impermissible statements may be permissible to rebut prejudicial statements made by others, which might apply here in light of the President's CNN interview, Susan McDougal's TV appearances, and Carville's activities. "Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others."

I haven't delved into the literature on free press/fair trial issues, or researched the Arkansas and District of Columbia ethics and court rules on this subject. Let me know if you'd like more.

Watergate Special Prosecutors

I haven't found evidence that any of the Watergate special prosecutors gave speeches about the investigation. Leon Jaworski gave several speeches during his tenure, but the only one whose text I've found did not concern Watergate. If you wish, I can look for information on his other speeches.

Though he apparently gave no speeches, Archibald Cox held at least five news conferences during his tenure, and his deputy, Henry Ruth, held one. Cox also appeared on the CBS Evening News after his firing. Jaworski, so far as I can tell, held no news conferences, but he did appear on Issues and Answers, Today, and Meet the Press, among others.

The initial report of the Watergate special prosecutors says that "Cox was mindful of the national concern over Watergate and of the public's right to be kept as fully informed as possible about the work of his office," and that he and Jaworski sought, through their dealings with the press, "to give the public as much information as possible about the Special Prosecutor's office in the early stages of their work." Watergate Special Prosecution Force, Report 227, 229 (1975). According to his press secretary, Cox believed that he had an obligation to keep public opinion on his side, both to reassure the public that justice was being pursued impartially and to help persuade the White House to cooperate. See James Doyle, Not Above the Law 45 (1977). Because of these concerns, Cox asked for and received the authority to "from time to time make public such statements or reports as he deems appropriate." Nomination of Elliot L. Richardson to be Attorney General: Hearings before the Senate Judiciary Comm., 93d Cong., 1st Sess. 146 (1973).

FOIA RD 56806 (URTS 16302) DocId: 70104930 Page 3

Iran-contra Independent Counsel

Lawrence Walsh gave a number of speeches about Iran-contra. A 1988 news article in the Wall Street Journal reported that "Mr. Walsh has used strategically timed speeches, status reports and announcements of guilty pleas by lower-level targets to demonstrate progress and emphasize his independence." Among the speeches, according to a database search, were the following:

Walsh addressed an ABA prayer breakfast in San Francisco on August 9, 1987. Walsh said that his investigators had interviewed more than a thousand witnesses, and that the grand jury handling the case had met several times each week for more than six months. He outlined his efforts to insulate his staff from the recent congressional hearings. And he stressed, in unspoken reference to Oliver North, that in deciding whether to prosecute, he would pay no attention to the popularity of the potential defendant.

On April 20, 1990, Walsh spoke at the University of Oklahoma about Iran-contra. Some in the Reagan administration, he said, had behaved like "simple-minded conspirators" when word of their secret dealings had emerged. "First some lied separately. Then some lied in concert. Then some destroyed documents and notes." At this point in the investigation, the convictions of John Poindexter and Oliver North were still standing.

On September 27, 1990, Walsh spoke at Washburn University in Topeka, Kansas. In his prepared remarks, Walsh said that his office had recently obtained new evidence and that additional indictments were possible.

Before the New York City Bar Association on April 18, 1991, he said that the growth of the executive branch had created "fertile ground for politically motivated misconduct." He talked about the need for independent counsels, with reference to Attorney General Meese's conflicts of interest in Iran-contra. He also spoke of the problems of prosecuting cases related to national security, with reference to the North case. This was reported to be Walsh's sixth speech since his appointment.

On February 9, 1993, after President Bush's pardons, Walsh again addressed the ABA. "It is a disparagement of the rule of law for a president to use his pardon power to prevent the trial of a personal colleague," he said.

Finally, Walsh criticized the pardon again the following month in a speech at Yale.

The Iran-contra files in the National Archives may contain additional material on Walsh's speeches. Let me know if you want me to check.

FOIA RD 56806 (URTS 16302) DocId: 70104930 Page 4

[[levin letter / speech section / s. bates draft / 4/8/97]]

[[this covers some but not all issues raised in Qs 7, 14, & 15]]

You also ask about the speeches I have delivered since my appointment as Independent Counsel. None of them has addressed electoral matters. In most cases, the sponsoring organization has made my travel arrangements or reimbursed out-of-pocket expenses. I have accepted no honoraria for speeches arranged since my appointment.

Perhaps it will be helpful for me to outline the two goals that have animated my speeches as Independent Counsel. First, I have sought to inform the public about the Ethics in Government Act, its history, its purpose, and its operation. I have tried to demarcate the narrow category of cases in which the Act requires appointment of an Independent Counsel. I have also tried to dispel widely held misconceptions about the law. For instance, a number of people expect an Independent Counsel to issue a comprehensive final report, one that addresses each and every unsolved mystery laid before his office. In several speeches, I have stressed that the Independent Counsel's principal role is not to provide final answers to all questions of fact, but rather to enforce the criminal law.

Second, I have tried to fulfill every official's duty to account for the exercise of governmental power, a duty I consider particularly crucial in the realm of law enforcement. Prior Independent Counsels, especially those investigating Presidents, have recognized and heeded this obligation. Archibald Cox held a number of news conferences during the Watergate investigation. His successor, Leon Jaworski, discussed the investigation on Issues and Answers, Today, Meet the Press, and other news programs. Judge Lawrence Walsh spoke about Iran-contra before an American Bar Association prayer breakfast, a New York City Bar Association meeting, and several university audiences, as well as holding at least ten news conferences and appearing on, among other programs, Nightline, This Week with David Brinkley, Good Morning America, and MacNeil/Lehrer NewsHour. Likewise, Attorneys General frequently appear on news programs, hold press conferences, and make speeches. Indeed, Attorney General Reno addressed the Detroit Economic Club a few months before I did so.

Unlike some other Independent Counsels and Special Prosecutors, I have chosen to rely principally on speeches to inform the public. I have held only a single scheduled news conference since my appointment. With the exception of a C-SPAN interview focusing on my personal background, I have turned down all requests for on-air television interviews, including an invitation to appear on CBN on the day of my remarks at Regent University.

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DAVID E. KENDALL
(202) 434-5145

RECEIVED
1997 JUN -4 P 12:33
OFFICE OF
INDEPENDENT COUNSEL

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

June 4, 1997

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

Thank you for your response to the letter I sent you yesterday.

I appreciate that there are times when it may be appropriate for you or your staff to speak to the press regarding matters of public record or to correct errors in the media. The complaint I expressed yesterday, which is unrebutted by your letter, concerns commentary by you and your staff about the substance of pending grand jury investigative matters. I am aware of no precedent in "similar past investigations," and you have cited none, for the kind of commentary and speculation on grand jury evidence and witnesses which was contained in the New York Times magazine article. Nor is there a syllable in the independent counsel statute about any general public education function of your office, apart from your statutory reporting obligations. Public confidence in your investigation will ensue not from the speeches you give and the public statements you make but rather by your following the traditional prosecutorial rules and bringing this lengthy, expensive, and burdensome investigation to closure.

Because you have mischaracterized my proposal regarding the two sets of White House attorney's notes and asserted legal barriers where there are none, I am publicly releasing our exchange on this matter.

Sincerely,

David E. Kendall

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EDWARD BENNETT WILLIAMS (1920-1988)
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DAVID E. KENDALL
(202) 434-5145

April 28, 1997

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

As you are aware, on behalf of Mrs. Clinton personally, we intervened to participate in the briefing and argument of the sealed case, In re Grand Jury Subpoena Duces Tecum, in the United States Court of Appeals for the Eighth Circuit. Before a petition for writ of certiorari is filed seeking review of the Eighth Circuit's decision, I want to assure that every possible avenue has been explored to determine whether there is an outcome that would preserve both the interests identified by you and the vital institutional interests of both the White House and the Executive Branch more generally.

Andy Frey emphasized to you at our meeting on April 18 that the White House has challenged the right of the Independent Counsel to obtain the White House Counsel's Office attorney notes at issue not because the White House has any concern about their content but because no government law office (including the White House Counsel's Office) can carry out its professional responsibilities without the protections afforded by the attorney-client privilege and the attorney work product doctrine. We agree with that assessment.

I believe that the Supreme Court will endorse the White House position. This will, of course, take time. You have expressed the view recently in your motion to extend the term of the grand jury that assertions of privilege are delaying the completion of your investigation. I do not know what assertions you may be referencing, but, as you know, the district court in

this case agreed with the assertions of privilege made and denied your motion to compel. Likewise, Judge Kopf, who dissented from the panel ruling, would have denied your motion to compel. In any event, if your concern here is to secure the two sets of White House attorney notes that you have subpoenaed rather than to seek to establish what appears to me to be an unprecedented and unwise new principle of law, I suggest an alternative solution, which is similar to a mechanism used to resolve a similar dispute with the Senate Whitewater Committee in 1995.

As you will recall, that Committee had demanded a set of notes taken by a member of the White House Counsel's Office (Bill Kennedy) at a November 5, 1993, meeting of White House and private attorneys. It was both our belief and that of the White House that an important principle was at stake which we did not want to see waived or dishonored, but it was also our joint view that protecting the notes qua notes was not the critical issue. The White House Counsel's Office and we ultimately arranged with the Senate Committee, and with other interested parties including your Office, to obtain non-waiver agreements, whereby the White House produced the notes but with all parties agreeing that the act of production would not in any way affect any party's legal position. I think you would have to agree that the Kennedy notes at issue contained nothing of substantive value.

In a similar fashion, I would propose to initiate discussions with the White House Counsel's Office with a view toward settling this litigation by providing you with the two sets of notes that are the subject of the motion to compel on the following conditions: (1) the White House is able to obtain non-waiver agreements from your Office, the Congress, and other interested parties, to the effect that such production would not affect either the White House's or our ability to assert attorney-client privilege or work product protection with respect to other notes and their subject matter in the future; (2) your Office will agree that the White House Counsel's Office continues to have the right to assert the attorney-client privilege and work production protection in the future (as would we), subject, of course, to the factual and legal constraints that would govern the assertion of such protection by any person or entity; and (3) the Court of Appeals is agreeable, on the basis of a joint motion, to withdrawing its opinion.

If your purpose in pursuing this litigation is to obtain information that you believe to be important to your investigation, this proposal should enable the matter to be settled and for you speedily to acquire the information. Indeed, if you can devise some other approach that would both meet your

investigative needs and allow the White House and us to preserve our position, I would be happy to consider it. If, instead, you wish to continue this litigation in order to establish some new precedent permitting the ongoing invasion of confidential attorney-client communications, then review in the Supreme Court is entirely appropriate.

Given the severe time constraints involved, I request at least a preliminary response as soon as possible.

Sincerely,

David E. Kendall

Office of the Independent Counsel

Redding Building
1701 Centerview Drive, Suite 203
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

April 29, 1997

David E. Kendall, Esq.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005-5901

Dear Mr. Kendall:

We received your letter late last evening. You requested a preliminary response as soon as possible. This letter sets forth that response.

The linchpin to your proposal is that the Court of Appeals (or the Supreme Court) would agree, upon motion of the parties, to vacate the judgment of the Court of Appeals and withdraw the Court's opinion. The fundamental flaw is that the proposed action by the Court, which is the sine qua non of your entire proposal, is not lawfully authorized, regardless of what the parties agree to do.

The Supreme Court has held that appellate courts do not possess general authority to vacate judgments upon settlement. As the Court has unanimously stated, "Where mootness results from settlement,...the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim to the equitable remedy of vacatur.... In these respects the case stands no differently than it would if jurisdiction were lacking because the losing party failed to appeal at all." Bancorp Mortgage Co. v. Bonner Mall Partnership, 115 S. Ct. 386, 392 (1994). The Court elaborated:

> Judicial precedents are presumptively correct and valuable to the legal community as a whole.... Congress has prescribed a primary route...through which parties may seek relief from the legal consequences of judicial judgments. To allow a party who steps off the statutory path to employ the secondary remedy of vacatur as a refined form of collateral attack on the judgment would -- quite apart from any considerations of fairness to the parties -- disturb the orderly operation of the federal judicial system.... [S]ome litigants, at least, may think it worthwhile to roll the dice rather than settle in the district court, or in the court of appeals, if, but only if, an unfavorable outcome can be washed away by a settlement-related vacatur.

Id. at 392-93; see also Nahrebeshi v. Cincinnati Milacron Marketing Co., 41 F.3d 1221, 1222 (8th Cir. 1994)(applying Bancorp); In re Memorial Hospital, 862 F.2d 1299, 1302 (7th Cir. 1988)(Easterbrook, J.)("History cannot be rewritten. There is no common law writ of erasure.... If parties want to avoid stare decisis and preclusive effects, they need only settle before the district court renders a decision.").

Because the law, as clearly set forth by the Supreme Court, mandates that the judgment and opinion of the Court of Appeals cannot be vacated by action of the parties, your proposal does not appear practicable.

Sincerely,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) 434-5145

May 5, 1997

VIA HAND DELIVERY

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

This letter responds to your letter of April 29, 1997.

I explicitly stated my willingness to explore alternatives to my proposal, so I am perplexed by your characterization of the third element of my proposal as the "linchpin" and the "sine que non" of any negotiated resolution. In any event, you appear to have misunderstood the governing law. The Supreme Court has not held, as you suggest, that appellate courts are without authority to vacate judgments upon settlement. Indeed, the Supreme Court begins its analysis in *Bancorp Mortgage Co.* v. *Bonner Mall Partnership*, 513 U.S. 18 (1994), by recognizing the general authority of a federal appellate court to vacate decisions in such circumstances. *Id.* at 21. Congress has explicitly provided that, "[t]he Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review . . . ." 28 U.S.C. § 2106.

The appellee in *Bancorp*, of course, opposed the appellant's motion to vacate -- a situation quite different from my proposal where all the parties would support vacatur. The Supreme Court's limited decision was, as you correctly quoted, that "[w]here mootness results from settlement, . . . the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim

to the equitable remedy of vacatur." *Bancorp Mortgage Co.*, 513 U.S. at 25 (emphasis added). Federal appellate courts continue to have the authority to vacate decisions according to principles of equity even where mootness is caused by settlement. As the Supreme Court expressly noted in *Bancorp*, "[t]his is not to say that vacatur can never be granted when mootness is produced [by reason of settlement]." *Id.* at 29.

You have, however, elected to litigate the matter rather than resolve it in a way that would speedily afford you the notes. *Jacta alea est.*

Sincerely,

David E. Kendall

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EDWARD BENNETT WILLIAMS (1920-1988)
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RECEIVED
97 JUN -4 P 12:33
OFFICE OF
INDEPENDENT COUNSEL

June 4, 1997

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

Thank you for your response to the letter I sent you yesterday.

I appreciate that there are times when it may be appropriate for you or your staff to speak to the press regarding matters of public record or to correct errors in the media. The complaint I expressed yesterday, which is unrebutted by your letter, concerns commentary by you and your staff about the substance of pending grand jury investigative matters. I am aware of no precedent in "similar past investigations," and you have cited none, for the kind of commentary and speculation on grand jury evidence and witnesses which was contained in the New York Times magazine article. Nor is there a syllable in the independent counsel statute about any general public education function of your office, apart from your statutory reporting obligations. Public confidence in your investigation will ensue not from the speeches you give and the public statements you make but rather by your following the traditional prosecutorial rules and bringing this lengthy, expensive, and burdensome investigation to closure.

Because you have mischaracterized my proposal regarding the two sets of White House attorney's notes and asserted legal barriers where there are none, I am publicly releasing our exchange on this matter.

Sincerely,

David E. Kendall

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April 28, 1997

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

As you are aware, on behalf of Mrs. Clinton personally, we intervened to participate in the briefing and argument of the sealed case, In re Grand Jury Subpoena Duces Tecum, in the United States Court of Appeals for the Eighth Circuit. Before a petition for writ of certiorari is filed seeking review of the Eighth Circuit's decision, I want to assure that every possible avenue has been explored to determine whether there is an outcome that would preserve both the interests identified by you and the vital institutional interests of both the White House and the Executive Branch more generally.

Andy Frey emphasized to you at our meeting on April 18 that the White House has challenged the right of the Independent Counsel to obtain the White House Counsel's Office attorney notes at issue not because the White House has any concern about their content but because no government law office (including the White House Counsel's Office) can carry out its professional responsibilities without the protections afforded by the attorney-client privilege and the attorney work product doctrine. We agree with that assessment.

I believe that the Supreme Court will endorse the White House position. This will, of course, take time. You have expressed the view recently in your motion to extend the term of the grand jury that assertions of privilege are delaying the completion of your investigation. I do not know what assertions you may be referencing, but, as you know, the district court in

this case agreed with the assertions of privilege made and denied your motion to compel. Likewise, Judge Kopf, who dissented from the panel ruling, would have denied your motion to compel. In any event, if your concern here is to secure the two sets of White House attorney notes that you have subpoenaed rather than to seek to establish what appears to me to be an unprecedented and unwise new principle of law, I suggest an alternative solution, which is similar to a mechanism used to resolve a similar dispute with the Senate Whitewater Committee in 1995.

As you will recall, that Committee had demanded a set of notes taken by a member of the White House Counsel's Office (Bill Kennedy) at a November 5, 1993, meeting of White House and private attorneys. It was both our belief and that of the White House that an important principle was at stake which we did not want to see waived or dishonored, but it was also our joint view that protecting the notes qua notes was not the critical issue. The White House Counsel's Office and we ultimately arranged with the Senate Committee, and with other interested parties including your Office, to obtain non-waiver agreements, whereby the White House produced the notes but with all parties agreeing that the act of production would not in any way affect any party's legal position. I think you would have to agree that the Kennedy notes at issue contained nothing of substantive value.

In a similar fashion, I would propose to initiate discussions with the White House Counsel's Office with a view toward settling this litigation by providing you with the two sets of notes that are the subject of the motion to compel on the following conditions: (1) the White House is able to obtain non-waiver agreements from your Office, the Congress, and other interested parties, to the effect that such production would not affect either the White House's or our ability to assert attorney-client privilege or work product protection with respect to other notes and their subject matter in the future; (2) your Office will agree that the White House Counsel's Office continues to have the right to assert the attorney-client privilege and work production protection in the future (as would we), subject, of course, to the factual and legal constraints that would govern the assertion of such protection by any person or entity; and (3) the Court of Appeals is agreeable, on the basis of a joint motion, to withdrawing its opinion.

If your purpose in pursuing this litigation is to obtain information that you believe to be important to your investigation, this proposal should enable the matter to be settled and for you speedily to acquire the information. Indeed, if you can devise some other approach that would both meet your

investigative needs and allow the White House and us to preserve our position, I would be happy to consider it. If, instead, you wish to continue this litigation in order to establish some new precedent permitting the ongoing invasion of confidential attorney-client communications, then review in the Supreme Court is entirely appropriate.

Given the severe time constraints involved, I request at least a preliminary response as soon as possible.

Sincerely,

David E. Kendall

Office of the Independent Counsel

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April 29, 1997

David E. Kendall, Esq.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005-5901

Dear Mr. Kendall:

We received your letter late last evening. You requested a preliminary response as soon as possible. This letter sets forth that response.

The linchpin to your proposal is that the Court of Appeals (or the Supreme Court) would agree, upon motion of the parties, to vacate the judgment of the Court of Appeals and withdraw the Court's opinion. The fundamental flaw is that the proposed action by the Court, which is the sine qua non of your entire proposal, is not lawfully authorized, regardless of what the parties agree to do.

The Supreme Court has held that appellate courts do not possess general authority to vacate judgments upon settlement. As the Court has unanimously stated, "Where mootness results from settlement,...the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim to the equitable remedy of vacatur.... In these respects the case stands no differently than it would if jurisdiction were lacking because the losing party failed to appeal at all." Bancorp Mortgage Co. v. Bonner Mall Partnership, 115 S. Ct. 386, 392 (1994). The Court elaborated:

> Judicial precedents are presumptively correct and valuable to the legal community as a whole.... Congress has prescribed a primary route...through which parties may seek relief from the legal consequences of judicial judgments. To allow a party who steps off the statutory path to employ the secondary remedy of vacatur as a refined form of collateral attack on the judgment would -- quite apart from any considerations of fairness to the parties -- disturb the orderly operation of the federal judicial system.... [S]ome litigants, at least, may think it worthwhile to roll the dice rather than settle in the district court, or in the court of appeals, if, but only if, an unfavorable outcome can be washed away by a settlement-related vacatur.

Id. at 392-93; see also Nahrebeshi v. Cincinnati Milacron Marketing Co., 41 F.3d 1221, 1222 (8th Cir. 1994)(applying Bancorp); In re Memorial Hospital, 862 F.2d 1299, 1302 (7th Cir. 1988)(Easterbrook, J.)("History cannot be rewritten. There is no common law writ of erasure.... If parties want to avoid stare decisis and preclusive effects, they need only settle before the district court renders a decision.").

Because the law, as clearly set forth by the Supreme Court, mandates that the judgment and opinion of the Court of Appeals cannot be vacated by action of the parties, your proposal does not appear practicable.

Sincerely,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

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DAVID E. KENDALL
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May 5, 1997

VIA HAND DELIVERY

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

This letter responds to your letter of April 29, 1997.

I explicitly stated my willingness to explore alternatives to my proposal, so I am perplexed by your characterization of the third element of my proposal as the "linchpin" and the "sine que non" of any negotiated resolution. In any event, you appear to have misunderstood the governing law. The Supreme Court has not held, as you suggest, that appellate courts are without authority to vacate judgments upon settlement. Indeed, the Supreme Court begins its analysis in *Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18 (1994), by recognizing the general authority of a federal appellate court to vacate decisions in such circumstances. *Id.* at 21. Congress has explicitly provided that, "[t]he Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review . . . ." 28 U.S.C. § 2106.

The appellee in *Bancorp*, of course, opposed the appellant's motion to vacate -- a situation quite different from my proposal where all the parties would support vacatur. The Supreme Court's limited decision was, as you correctly quoted, that "[w]here mootness results from settlement, . . . the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim

to the equitable remedy of vacatur." *Bancorp Mortgage Co.*, 513 U.S. at 25 (emphasis added). Federal appellate courts continue to have the authority to vacate decisions according to principles of equity even where mootness is caused by settlement. As the Supreme Court expressly noted in *Bancorp*, "[t]his is not to say that vacatur can never be granted when mootness is produced [by reason of settlement]." *Id.* at 29.

You have, however, elected to litigate the matter rather than resolve it in a way that would speedily afford you the notes. *Jacta alea est.*

Sincerely,

David E. Kendall

abs. minimum

purpose of publicity rather than to communicate

June 3, 1997

David E. Kendall, Esq.
Williams & Connolly
725 Twelfth St., N.W.
Washington, DC 20005-5901

* 6(e) response
* vacates
* pub info.

Dear Mr. Kendall:

I have received your letter of this morning, which warrants immediate response.

To begin with, this Office has been the subject of an unfortunate ~~unprecedented smear~~ campaign orchestrated and conducted by White House officials and surrogates. (Even today, we have been informed, for example, that the White House -- rather than you as the Clintons' personal lawyer -- has been faxing your letter to various news organizations.) The ~~smear~~ campaign is both well-known and undeniable.

[THIS PARAGRAPH FOR VETTING] This campaign has included, inter alia, unfounded statements by your client challenging the basic integrity of this Office and agreeing with the statements of a felon (Susan McDougal) who is continuing to flout federal law by refusing to obey a court order to testify before the grand jury. The President has refused to rule out a pardon of Susan McDougal, or even to say that Ms. McDougal should obey the law and testify. The smear campaign has included a wild, scattershot offensive by James Carville, formerly a close advisor to the President -- yet the President has chosen not to distance himself from Mr. Carville's comments. To the contrary, a spokesman for the President's campaign called Mr. Carville a "surrogate" and a "valuable asset." Weekly Standard, Aug. 26, 1996. [END OF ¶ FOR VETTING]

unfortunate

There, of course, has been repeated and extensive criticism of these ~~unprecedented~~ attacks -- ranging from the ~~Washington Post to the New York Times to Senator Wyden to Senator Hatch~~. The Post stated, for example, that the President "should make clear that . . . he will not subvert the judicial process through attacks on the special prosecutor's office or by abusing his pardon power. That much should be obvious." Sept. 27, 1996, at A24. Senator Hatch added that the President "should call off his attack dogs trying to impugn the integrity" of this Office. Bost. Globe, Nov. 16, 1996, at A7. Senator Wyden stated that "[s]pecial prosecutors ought to be allowed to do their work and

make their calls on the merits." San. Fran. Examiner, Dec. 5, 1996, at A16. The New York Times noted that "[t]he taxpayers deserve to examine the outcome . . . in an atmosphere unpolluted by pre-emptive political static." Dec. 5, 1996, at A34. See also San Fran. Examiner, Dec. 5, 1996, at A16 ("For the president to let Carville attack Starr is plain sleazy."). But the urgings of the commentators and officials of all stripes have apparently had no effect on the juggernaut attempting to undermine this Office's legitimacy.

Prosecutors are, of course, accustomed to harsh and unfounded public attacks by subjects and witnesses in the investigation, particularly in public corruption investigations. In all cases, the initial question is whether to respond. Your apparent theory is that prosecutors should sit there and take it -- no matter what the circumstances, no matter how inaccurate or unfair the slur. Fortunately, no federal prosecutor must acquiesce in that kind of public smear. The interests of the United States in a thorough and proper criminal investigation require more. Thus, as Archibald Cox has said, not only is it appropriate to respond, there is a duty to respond. The question is how.

The easiest method would be to resort to the below-the-belt tactics of the attackers and engage in a behind-the-scenes, off-the-record leakage of facts unknown to the public that have been gathered in the investigation. We have never engaged in such tactics, which are improper no matter how much those being investigated have attempted to tar the investigators. Indeed, your letter implicitly concedes as much, as it is strikingly empty of reference to any particular witness statement or document that this Office has inappropriately revealed.

We instead have been guided in our public posture by the model of Archibald Cox who attempted to comply with what was referred to as "the public's right to be as fully informed as possible about the work of his office." Watergate Special Prosecution Task Force Report 227, 229 (1975). Mr. Cox believed that he had an obligation to reassure the public that justice was being pursued impartially (and also to persuade the White House to cooperate). Doyle, Not Above the Law 45 (1977). We agree.

The question for a prosecutor, then, is the manner in which to fulfill this public information function. Mr. Cox held several news conferences during his brief tenure. His successor Mr. Jaworski appeared on Issues and Answers, Today, Meet the Press, and other news programs. Lawrence Walsh appeared on Nightline, This Week with David Brinkley, Good Morning America, and McNeil/Lehrer Newshour. Despite these precedents and numerous entreaties to appear on similar programs, I have frowned on such appearances because the questions and answers can quickly hurtle out of control and cross the line between the appropriate and the inappropriate. During my tenure, therefore, I have sat for only one televised interview, by Brian Lamb of C-Span, and

have conducted very few press conferences.

This Office instead has preferred a more orderly process to fulfill the proactive prong of the traditional and well-recognized public information function. I thus occasionally give speeches at law schools and other neutral public fora primarily to summarize the procedures and policies our Office follows and to emphasize important attributes of my staff prosecutors -- in particular, their vast experience in the Department of Justice. These speeches fulfill an important function because the public must be confident at the end of the day that our ultimate decisions, whatever they may be, have resulted from a careful and thorough process conducted by dedicated and experienced professional prosecutors.

Similarly, when print organizations inform us that they intend to write about this Office, we have a duty to ensure that the procedures and policies of this Office are set forth accurately so that the public can have confidence -- despite attacks by White House officials and surrogates -- that the investigation is being conducted fairly and thoroughly. That is completely appropriate and explains our response when we were informed by Jeffrey Rosen that he planned to write an article on this Office.

As to your specific allegations stemming from the Rosen piece, we totally reject the suggestion of impropriety. To begin with, the extant Supreme Court litigation (and the release of accompanying documents) has again publicly confirmed various aspects of our investigation, including the billing records and the Madison issues. In addition, although we do not believe that the portions of the Rosen article quoted at the bottom of page 2 of your letter reflect statements made by prosecutors in this Office, the information is substantially similar to information contained in filings in the now-public litigation. ~~For example, the idea that the concealment and discovery of the billing records may involve "possible obstruction of justice" is a banal truism.~~ Also, it is appropriate for us to point out what Susan McDougal has publicly said and not said -- especially given her repeated unfounded attacks, which are supported, we might add, by no evidence.

Your comments on page 4 require separate response. Neither you nor the White House ever offered unconditionally to produce the Sherburne or Nemetz notes on a non-waiver basis. Rather, only after the Eighth Circuit ruled in our favor did you offer to attempt to produce the notes on a non-waiver basis -- and even then, only if the parties could successfully persuade the Eighth Circuit to withdraw its opinion. As we have previously informed you, however, your suggestion reflected a basic misunderstanding of the Supreme Court's vacatur jurisprudence. The parties do not have the power to erase a court of appeals precedent from the case books. See Bancorp Mortgage Co. v. Bonner Mall Partnership, 115 S. Ct. 386, 392 (1994) (rejecting procedure by which

litigants can "roll the dice rather than settle" in the hope that "an unfavorable outcome can be washed away by a settlement-related vacatur"). Offers of compromise thus should be made before a district court decision, not after the resources of the courts have been expended. See In re Memorial Hospital, 862 F.2d 1299, 1299, 1302 (7th Cir. 1988) (Easterbrook, J.) ("History cannot be rewritten. There is no common law writ of erasure. . . . If parties want to avoid stare decisis and preclusive effects, they need only settle before the district court renders a decision."). Neither you nor the White House ever tendered a non-waiver proposal in 1996, however, when it would have allowed us to avoid litigation entirely.

In sum, this Office possesses reams of sensitive factual information, which as you well know has remained confidential. There was, in addition, no improper leak of the Arkansas litigation. At certain times during that litigation, of course, even a suggestion that the White House was not cooperating could have become a substantial political issue. This Office's record of confidentiality compares well, I submit, to congressional investigations, to high-profile criminal investigations conducted by the Department of Justice, and to criminal investigations of the conduct of past Presidents.

I thus reject the tone and substance of your letter. This Office has been placed in an extremely awkward and difficult position because of statements and accusations by White House officials and surrogates. We nonetheless keep our heads down, do our work, and make our decisions without regard to such hyperbolic attacks. When those final decisions are made, however, the public must be assured that they have resulted from a fair and thorough process. Therefore, when we are the subject of harsh and false public attacks, we are duty-bound to publicly defend ourselves. And so we have. And so we will.

Sincerely,

Kenneth W. Starr
Independent Counsel

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97 JUN -4 P 12:33
OFFICE OF
INDEPENDENT COUNSEL

June 4, 1997

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Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

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April 28, 1997

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BY HAND

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Independent Counsel

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DAVID E. KENDALL
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May 5, 1997

VIA HAND DELIVERY

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Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004

Dear Judge Starr:

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#9 global response to Kendall

June 4, 1997

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

4th letter in series

Dear Judge Starr:

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David E. Kendall

LAW OFFICES
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DAVID E. KENDALL
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April 28, 1997

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

As you are aware, on behalf of Mrs. Clinton personally, we intervened to participate in the briefing and argument of the sealed case, In re Grand Jury Subpoena Duces Tecum, in the United States Court of Appeals for the Eighth Circuit. Before a petition for writ of certiorari is filed seeking review of the Eighth Circuit's decision, I want to assure that every possible avenue has been explored to determine whether there is an outcome that would preserve both the interests identified by you and the vital institutional interests of both the White House and the Executive Branch more generally.

Andy Frey emphasized to you at our meeting on April 18 that the White House has challenged the right of the Independent Counsel to obtain the White House Counsel's Office attorney notes at issue not because the White House has any concern about their content but because no government law office (including the White House Counsel's Office) can carry out its professional responsibilities without the protections afforded by the attorney-client privilege and the attorney work product doctrine. We agree with that assessment.

I believe that the Supreme Court will endorse the White House position. This will, of course, take time. You have expressed the view recently in your motion to extend the term of the grand jury that assertions of privilege are delaying the completion of your investigation. I do not know what assertions you may be referencing, but, as you know, the district court in

this case agreed with the assertions of privilege made and denied your motion to compel. Likewise, Judge Kopf, who dissented from the panel ruling, would have denied your motion to compel. In any event, if your concern here is to secure the two sets of White House attorney notes that you have subpoenaed rather than to seek to establish what appears to me to be an unprecedented and unwise new principle of law, I suggest an alternative solution, which is similar to a mechanism used to resolve a similar dispute with the Senate Whitewater Committee in 1995.

As you will recall, that Committee had demanded a set of notes taken by a member of the White House Counsel's Office (Bill Kennedy) at a November 5, 1993, meeting of White House and private attorneys. It was both our belief and that of the White House that an important principle was at stake which we did not want to see waived or dishonored, but it was also our joint view that protecting the notes qua notes was not the critical issue. The White House Counsel's Office and we ultimately arranged with the Senate Committee, and with other interested parties including your Office, to obtain non-waiver agreements, whereby the White House produced the notes but with all parties agreeing that the act of production would not in any way affect any party's legal position. I think you would have to agree that the Kennedy notes at issue contained nothing of substantive value.

In a similar fashion, I would propose to initiate discussions with the White House Counsel's Office with a view toward settling this litigation by providing you with the two sets of notes that are the subject of the motion to compel on the following conditions: (1) the White House is able to obtain non-waiver agreements from your Office, the Congress, and other interested parties, to the effect that such production would not affect either the White House's or our ability to assert attorney-client privilege or work product protection with respect to other notes and their subject matter in the future; (2) your Office will agree that the White House Counsel's Office continues to have the right to assert the attorney-client privilege and work production protection in the future (as would we), subject, of course, to the factual and legal constraints that would govern the assertion of such protection by any person or entity; and (3) the Court of Appeals is agreeable, on the basis of a joint motion, to withdrawing its opinion.

If your purpose in pursuing this litigation is to obtain information that you believe to be important to your investigation, this proposal should enable the matter to be settled and for you speedily to acquire the information. Indeed, if you can devise some other approach that would both meet your

investigative needs and allow the White House and us to preserve our position, I would be happy to consider it. If, instead, you wish to continue this litigation in order to establish some new precedent permitting the ongoing invasion of confidential attorney-client communications, then review in the Supreme Court is entirely appropriate.

Given the severe time constraints involved, I request at least a preliminary response as soon as possible.

Sincerely,

David E. Kendall

Office of the Independent Counsel

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Little Rock, Arkansas 72211
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Fax (501) 221-8707

April 29, 1997

David E. Kendall, Esq.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005-5901

Dear Mr. Kendall:

We received your letter late last evening. You requested a preliminary response as soon as possible. This letter sets forth that response.

The linchpin to your proposal is that the Court of Appeals (or the Supreme Court) would agree, upon motion of the parties, to vacate the judgment of the Court of Appeals and withdraw the Court's opinion. The fundamental flaw is that the proposed action by the Court, which is the sine qua non of your entire proposal, is not lawfully authorized, regardless of what the parties agree to do.

The Supreme Court has held that appellate courts do not possess general authority to vacate judgments upon settlement. As the Court has unanimously stated, "Where mootness results from settlement,...the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim to the equitable remedy of vacatur.... In these respects the case stands no differently than it would if jurisdiction were lacking because the losing party failed to appeal at all." Bancorp Mortgage Co. v. Bonner Mall Partnership, 115 S. Ct. 386, 392 (1994). The Court elaborated:

> Judicial precedents are presumptively correct and valuable to the legal community as a whole.... Congress has prescribed a primary route...through which parties may seek relief from the legal consequences of judicial judgments. To allow a party who steps off the statutory path to employ the secondary remedy of vacatur as a refined form of collateral attack on the judgment would -- quite apart from any considerations of fairness to the parties -- disturb the orderly operation of the federal judicial system.... [S]ome litigants, at least, may think it worthwhile to roll the dice rather than settle in the district court, or in the court of appeals, if, but only if, an unfavorable outcome can be washed away by a settlement-related vacatur.

Id. at 392-93; see also Nahrebeshi v. Cincinnati Milacron Marketing Co., 41 F.3d 1221, 1222 (8th Cir. 1994)(applying Bancorp); In re Memorial Hospital, 862 F.2d 1299, 1302 (7th Cir. 1988)(Easterbrook, J.)("History cannot be rewritten. There is no common law writ of erasure.... If parties want to avoid stare decisis and preclusive effects, they need only settle before the district court renders a decision.").

Because the law, as clearly set forth by the Supreme Court, mandates that the judgment and opinion of the Court of Appeals cannot be vacated by action of the parties, your proposal does not appear practicable.

Sincerely,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

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EDWARD BENNETT WILLIAMS (1920-1988)
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DAVID E. KENDALL
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May 5, 1997

VIA HAND DELIVERY

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

This letter responds to your letter of April 29, 1997.

I explicitly stated my willingness to explore alternatives to my proposal, so I am perplexed by your characterization of the third element of my proposal as the "linchpin" and the "sine que non" of any negotiated resolution. In any event, you appear to have misunderstood the governing law. The Supreme Court has not held, as you suggest, that appellate courts are without authority to vacate judgments upon settlement. Indeed, the Supreme Court begins its analysis in *Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18 (1994), by recognizing the general authority of a federal appellate court to vacate decisions in such circumstances. *Id.* at 21. Congress has explicitly provided that, "[t]he Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review . . . ." 28 U.S.C. § 2106.

The appellee in *Bancorp*, of course, opposed the appellant's motion to vacate -- a situation quite different from my proposal where all the parties would support vacatur. The Supreme Court's limited decision was, as you correctly quoted, that "[w]here mootness results from settlement, . . . the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim

to the equitable remedy of vacatur." *Bancorp Mortgage Co.*, 513 U.S. at 25 (emphasis added). Federal appellate courts continue to have the authority to vacate decisions according to principles of equity even where mootness is caused by settlement. As the Supreme Court expressly noted in *Bancorp*, "[t]his is not to say that vacatur can never be granted when mootness is produced [by reason of settlement]." *Id.* at 29.

You have, however, elected to litigate the matter rather than resolve it in a way that would speedily afford you the notes. *Jacta alea est.*

Sincerely,

David E. Kendall

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EDWARD BENNETT WILLIAMS (1920-1988)
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DAVID E. KENDALL
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June 3, 1997

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

BY HAND

Dear Judge Starr:

My correspondence with you concerning various issues relating to the so-called "Whitewater" investigation has previously been conducted privately. Your public relations offensive in Sunday's New York Times magazine ("Kenneth Starr, Trapped," by Jeffrey Rosen), however, leaves me no choice but to respond publicly.

The course you have chosen is unprecedented and profoundly ill-advised for a number of different but mutually reinforcing reasons. First, the conduct exemplified in the magazine article is wholly inconsistent with your professional obligations as a prosecutor. You have behind you the truly awesome might of the federal government: the power to subpoena evidence and testimony, the power to conduct grand jury investigations anywhere in the United States, an unlimited budget, unrestricted utilization of the full resources of the FBI, the IRS, and other investigative agencies, and (finally) the power to threaten and prosecute criminal charges. This awesome might carries with it the responsibility to conduct grand jury investigations fairly so that the reputations of those investigated but not charged will not be besmirched.

To this end, legal and ethical obligations of silence are imposed upon you and your staff. These obligations are set forth in ethical rules (the Rules of Professional Conduct of Arkansas and the District of Columbia, which govern prosecutors in both jurisdictions; the ABA Standards for Criminal Justice Relating to Prosecution Function and Fair Trials; the National

Prosecution Standards, published by the National District Attorneys Association), Department of Justice guidelines, the Federal Rules of Criminal Procedure (particularly Rule 6(e)), and the general prosecutorial traditions of the Department of Justice. Rule 6(e) explicitly prohibits government attorneys from disclosing "matters occurring before the grand jury," and this phrase is construed by the courts very broadly to encompass "events which have already occurred before the grand jury," In re Grand Jury Investigation, 610 F.2d 202, 216-217 (5th Cir. 1980), as well as "matters which will occur," id. at 217, including "the strategy or direction of the investigation," Fund for Constitutional Government v. National Archives & Records Service, 656 F.2d 8546, 869 (D.C. Cir. 1981). Former Watergate Special Prosecutor Archibald Cox has stated the general understanding that "'it would be a good rule'" if independent counsels "did not make statements on a case under investigation before indictments. 'I held two or three press conferences,' Cox said, 'I don't think I made any speeches or lectures or gave any individual . . . interviews. And I don't think I ever went out to explain the strength of the case.'" (USA Today, Dec. 3, 1996, p.8A).

The comments of you and persons in your office, directly and indirectly quoted in the magazine article, flout all these obligations. Mr. Rosen notes that you "provided background assistance for this article but declined to be quoted directly" (emphasis added). I am hard pressed to discern what this meaningless formal fig leaf really signifies in the context of an article that frequently quotes members of your staff by name, refers authoritatively to your own personal beliefs, emotions and prosecutorial strategy, and attributes statements and explanations to "prosecutors" in your office. Perhaps most troubling are the plain violations of grand jury secrecy. For example, the article discloses the following:

> "What about Hillary Clinton? When Starr alluded, during the McDougal sentencing, to newly discovered documents and witnesses, 'previously unknown to us [and] known to very few people,' he was referring, according to prosecutors, to documents from Arkansas that might cast light on her representation of Madison Guaranty and the truthfulness of her statements to federal investigators. By contrast, on April 22, when Starr asked for a six-month extension of the Whitewater grand jury in Arkansas, he noted that the jury had heard 'extensive evidence of possible obstruction of the administration of justice.' Here, prosecutors say, he was referring to events in Washington relating to the disappearance of Hillary Clinton's billing records." (Emphasis added.)

Grand jury secrecy rules are aimed at preventing precisely this kind of leak-and-smear damage. You well know that you have no evidence whatsoever that Mrs. Clinton had anything to do with any "disappearance" of the Madison Guaranty billing records, yet you've chosen to comment publicly on her "truthfulness." To make sure the slur is not missed, the article reports that "lawyers in Starr's office make no attempt to squelch speculation that they have weighed the possibility of indicting her." True, the sentence is not technically accusatory (your staff might have "weighed the possibility of indicting" you, for all I know), but in context, the derogatory intimation is clear, particularly because "a lawyer close to Starr's investigation" (and in context, the reader knows who this must be!) ominously states that "'If notes from the White House counsel's office indicate that a person's story changed over time, you could have countless issues of possible false statements to the grand jury.'" This sort of public musing about the thinking of the grand jury is exactly what Rule 6(e) is designed to prohibit. This Rule leaves no discretion to a prosecutor to decide, as you apparently have, that the public interest somehow warrants public (although unattributed) airing of the grand jury's deliberative process, or of the evidence it may or may not have gathered about the conduct of any particular individual.

And again, Mr. Bates is quoted with regard to your stated desire that all you want from Ms. Susan McDougal is "the truth": "Bates . . . added that when Susan McDougal says that the President and the First Lady didn't break the law, 'she could be referring to the underlying banking events' and dodging the question of whether Bill and Hillary Clinton lied in their statements to Whitewater investigators. 'I'm not sure she has ever publicly said he testified truthfully,' said Bates." What conceivable right do representatives of the IC have to speculate like this? This is a gross breach of prosecutorial ethics and betrays an appalling ignorance of constitutional procedures. As Archibald Cox has written, "[i]n the end, independent counsels must see their function not as pursuit of a target to be wounded or destroyed, but as an impartial inquiry with as much concern for public exoneration of the innocent as for indictment of the guilty." (New York Times, Dec. 12, 1996, p.21). The perception that your investigation has proceeded not in pursuit of a target but even-handedly in search of the "truth" might not be shared by some of those who have been in contact with it, such as Ms. Sarah Worsham Hawkins, Ms. Rosalie Wade, Mr. Steve Smith, Ms. Betty Tucker, Mr. Bruce Lindsey, the children of Mr. Herbie Branscum and Mr. Rob Hill, and others. In any event, it's both fundamentally unfair and inconsistent with normal prosecutorial

practice to impugn a witness by unsupported and insupportable innuendo.

Second, your PR offensive is deceptive. The article's reported suggestion by you that the President and Mrs. Clinton have not cooperated with your investigation is, as you must know, unfounded and false. Their cooperation has been unprecedented. They have each voluntarily given testimony you have requested under oath at the White House three times in the past three years. They have answered written interrogatories from you. Mrs. Clinton appeared before your now-disbanded Washington, D.C., grand jury to give several hours of testimony in January, 1996. The Clintons have produced more than 90,000 pages of documents to you, and on many different occasions we have provided you information informally on the clients' behalf. As you well know, the President and Mrs. Clinton have waived attorney-client, work product, and any accountant's privilege over all documents and testimony with respect to the Whitewater investment and other historical matters which you have been investigating.

The suggestion in the article that the present litigation over your demand for two sets of interview notes taken by White House Counsel is an attempt to hide evidence or slow your investigation rather than a serious and good faith disagreement over principle is wholly and demonstrably false. As you know, the claims of attorney-client and work product privilege here do not arise from the underlying transactions you are investigating but rather from legal relationships arising out of and necessitated by this investigation itself. The notes would never have been generated unless there had been a good-faith belief in the existence of the privileges. Two judges have declined to enforce your request for the notes, and two judges on the Court of Appeals panel have ordered the notes produced. The matter is now before the Supreme Court, and it is by no means my intention to argue the matter in this letter. But the "spin" on these events set out in the article is simply wrong. As you well know, this fight is about principle, not the notes. I offered to you to try to work out with the White House a non-disclosure agreement similar to the one your office signed in December, 1995 (with respect to the notes Bill Kennedy took of a 1993 meeting) whereby you would be given the two sets of notes but the parties would agree to maintain their respective legal positions. You rejected that overture, and now the Supreme Court will decide the matter.

Finally, a public relations campaign, whether open, as in Sunday's magazine article, or more indirect, as in the making of public speeches in controversial forums using code words,

subverts the very institution you and your office embody. The purpose of creating an "independent" counsel was not only to separate that prosecutor from the Department of Justice but also to insulate the person so appointed from a public perception of partisan involvement. As you know, the first Whitewater independent counsel was removed by the Special Division because (as the Court stated) the Act "contemplates an apparent as well as the actual independence on the part of the Counsel" and Mr. Fiske had been appointed by General Reno. It is truly baffling how you can fail to appreciate the fundamental need to keep your profile low, your public comments discreet, and every appearance nonpartisan.

The magazine article portrays you as engaging in considerable hand-wringing over the delays in the investigation, as it crawls into its fourth year. I, of course, completely agree that the interests of the country, your office, and all those who may be under investigation are best served by a comprehensive but prompt investigation. Indeed, Sec. 593(b)(2) of the independent counsel statute provides that the Special Division will only appoint as independent counsel someone who "will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner." The law further requires that the individual appointed IC "will serve to the extent necessary to complete the investigation and any prosecution without undue delay." Ibid. Some delay, of course, is inherent in every criminal investigation. (This is hardly the first time privilege has been claimed in response to a grand jury subpoena -- such litigation is a frequent occurrence and a well-established check on prosecutorial power.) What is needed is a whole-hearted commitment to winding up this investigation in an appropriate way. This means not chasing every rainbow or every partisan rumor, whether in the hope of wounding or destroying a target, or for any other reason. This investigation will not have been a failure if it does not result in the indictment of particular individuals. Mature, fair, and independent judgment is the very essence of what is called for, and thus it is hardly reassuring to read that "Starr seems to have decided that if a zealous prosecutor is what his critics want, that is what his critics shall have." The present public posturing on your part suggests to me a total loss of perspective: I don't believe that there's ever been a jugular here for you to go for, but in the last several months, you've demonstrated an unerring instinct for the capillary.

The magazine article asks whether the "most sympathetic person" in this whole investigation might be you yourself because you cannot "disentangle" yourself from the investigation. With

all respect, I don't believe your situation is either intolerable or irremediable. The solution is to abandon your public relations offensive, get on with your investigation in the manner of previous independent counsels, and bring it to a speedy conclusion. Neither the legal process nor the country is well or properly served by Sunday's magazine article.

Sincerely,

David E. Kendall

DEK/bb

LEAK INVESTIGATION

FOIA RD 56806 (URTS 16302) DocId: 70104932 Page 1

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FOIA RD 56806 (URTS 16302) DOCID:
70104932

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Office of the Independent Counsel

Report of: SA DANA M. GILLIS Office: WMFO
Date: July 11, 1994

Field Office File #: 29D-LR-35063 Bureau File #:

Title: MOZARK;
FAG - SBA;
FIF;
MAJOR CASE 106;
OO: LITTLE ROCK

Character: GOVERNMENTAL FRAUD

Synopsis: In regards to the dissemination of the United States Park Police (USPP) report, FBI, Department of Justice (DOJ) and USPP officials deny submitting the complete death investigation report regarding VINCENT W. FOSTER, JR., to White House officials. There is no evidence that The White House requested of these agencies, the complete report.

DOJ officials advised, and USPP concurred, that USPP in response to Freedom of Information Act (FOIA) requests, directed to Mr. BERNARD NUSSBAUM, White House Counsel's Office, two separate requests for opinion regarding disclosure of portions of the USPP investigative report. The first request was for records previously furnished to the USPP by The White House and the second included three pages from the USPP report and a U.S. Secret Service log of persons entering Mr. FOSTER's office on 7/21/93. This second request did contain results of USPP investigation, which were submitted to Mr. NUSSBAUM after consultation with the Freedom of Information and Privacy Act (FOIPA) Section, DOJ. Mr. NUSSBAUM denied release of USPP's initial request but failed to respond to USPP's second request. The USPP provided portions of it's report to the White House based on recommendations by FOIPA, DOJ.

USPP officials advised that in early April, 1994, they were instructed to furnish to the Solicitor's Office,

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Department of the Interior, a copy of both the unredacted and redacted portions of the USPP investigative report dealing with interviews of White House staffers and assistants. USPP officials assume that this request by the Department of Interior was to insure that FOIA exceptions and exemptions were properly applied.

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1. ROBERT LANGSTON, Chief, U.S. Park Police (USPP)

2. ALBERT JEZ, Investigator, USPP

3. DAVID MARGOLIS, Associate Deputy Attorney General, U.S. Department of Justice (DOJ)

4. RICHARD HUFF, DOJ

5. PATRICK FORAN, Inspector, Federal Bureau of Investigation (FBI)

6. JANE ERICKSON, Supervisory Special Agent, FBI

7. STEVE IRONS, Supervisory Special Agent, FBI

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

On May 30, 1994, Special Agents William E. Colombell and Lawrence Monroe met with Robert Langston, Chief, U.S. Park Police (USPP), and Robert H. Hines, Major, USPP, at Park Police Headquarters, 1100 Ohio Drive, S.W.,Washington, D.C. 20242. SA Colombell inquired if Chief Langston could provide a list of those individuals and/or agencies who were given a copy of the USPP investigative report regarding the death of White House counsel Vincent Foster. Chief Langston advised that the original report is maintained in the USPP criminal investigative file.

Three copies of the report are also maintained by his department. One with USPP FOIPA Section, one with Major Robert Hines, Commander Criminal Investigative Branch and a copy that Chief Langston maintains in his office.

In addition, USPP has provided copies of the report to the below-listed individuals and/or federal agencies:

1 - Dept. of Justice - Mr. Margolis
1 - Dept. of Justice FOIPA Section
1 - Dept. of Justice Office of Professional Responsibility
1 - FBI - Criminal Investigative Division (OPR Investigation)
1 - SA Jane Erickson, FBIHQ (subsequently given to Mr. Rod Lankler, Office of Independent Counsel)

Chief Langston advised that his department did not provide copies of the report to the White House or to the Secretary of the Interior.

Investigation on 3/30/94 at Washington, D.C. File # 29D-LR-35063

by SA William E. Colombell / SA Lawrence Monroe Date dictated 4/3/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/24/94

30175401.wec

Sergeant ALBERT JEZ, Investigator, U.S. Park Police (USPP), Internal Affairs Office, Annocostia Operations Facility, Washington, D.C. (telephone number 690-5050) was advised of the identity of Special Agent WILLIAM E. COLOMBELL of the FBI. Sergeant JEZ provided the following information regarding his handling of Freedom of Information Act (FOIA) requests received by the USPP concerning the death investigation of VINCENT FOSTER.

The only USPP records relating to the VINCENT FOSTER death investigation that he provided to Mr. BERNARD NUSSBAUM, White House Legal Counsel Office, related to a number of FOIA requests received by the USPP beginning in August of 1993.

By cover letter dated 9/3/93 (attachment #1), Mr. NUSSBAUM was provided with four pages of records previously provided to the USPP by the White House described as follows: FOSTER's personal calendar (two pages); FOSTER's phone log (one page), and a note left by FOSTER (one page). The USPP cover letter explained that the above documents were considered White House documents. The USPP requested White House recommendations as to the releasability under FOIA of these specific documents.

By letter dated 11/8/93 (attachment #2), Mr. NUSSBAUM responded, stating that in the opinion of The White House Legal Counsel Office, the above four pages of records should not be disclosed. Mr. NUSSBAUM's letter also included legal justifications under FOIA for withholding release of such documents.

The USPP sent a second letter to The White House Legal Counsel Office dated 12/13/93 (attachment #3), adding that this second letter also related to USPP efforts to respond to these pending FOIA requests. Sergeant JEZ stated that this letter was sent after consultation between Sergeant JEZ and Ms. PEGGY IRVING, FOIA Section, Department of Justice (DOJ). Additional USPP FOSTER death report documents were sent to The White House as enclosures to this second letter, including three pages from the USPP investigative report (marked as items 36, 50 and 52) and

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Investigation on 6/24/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL WEC Date dictated 6/24/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

FD-302a (Rev. 11-15-83)

29D-LR-35063

Continuation of FD-302 of ALBERT JEZ, On 6/24/94, Page 2

a U.S. Secret Service log of persons entering Mr. FOSTER's office on 7/21/93 (marked as item 87).

Items 36, 50 and 52 are not White House documents but rather the written result of USPP investigative efforts. Items 50 and 52 reflect the USPP follow-up investigation generated from a review of the FOSTER phone log. Items 36 reflects USPP investigation generated from a review of U.S. Secret Service log of persons entering FOSTER's office on 7/21/93. It was the USPP position, after consultation with the FOIA section of the DOJ, that these items, although not White House documents, related to the previously described White House documents and thus White House views and legal opinion were necessary prior to any release under FOIA.

To his knowledge, Mr. NUSSBAUM, White House Legal Counsel's office, never did send a response back to the USPP letter dated 12/13/93.

With the appointment of Mr. ROBERT FISKE as Independent Counsel in Whitewater related matters, all pending FOIA requests re the FOSTER death investigation were denied based on exemption 7A (pending investigation).

The decision to send the above portions of the USPP report to The White House was based on recommendations to his department made by Ms. PEGGY IRVING, FOIPA, DOJ.

Normally, if he has legal issues to resolve re handling of FOIA requests, he checks with the Solicitor's Office for the U.S. Department of Interior (Attorneys RICK ROBBINS or RANDY MYERS). In this case, he was told by his superior, Commander HINES, to work with Department of Justice, FOIA section re all FOIA requests received by USPP relating to FOSTER's death. It was his understanding that this decision was based on a letter, dated August 20, 1994 from Ms. PEGGY IRVING, Department of Justice, (attachment #4) citing the need for coordination and consultation between the various federal entities that had received FOIA requests re FOSTER's death.

He had also discussed with Ms. IRVING, those portions of the USPP FOSTER death report dealing with interviews of White House staff persons and assistants, specifically the issue of referring those parts of the report to The White House Legal Counsel Office for their input prior to any FOIA release. It was

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Continuation of FD-302 of ALBERT JEZ, On 6/24/94, Page 3

his understanding that the Department of Justice, FOIA section would handle this matter and that prior to any release, the Department of Justice would make those portions of the report (interviews of White House staff) available to The White House Legal Counsel's Office for its legal opinion regarding release of this material under FOIA. He has no knowledge whether the FOIA section, Department of Justice, subsequently provided these portions of the USPP report to The White House or not.

Sergeant JEZ concluded by stating that in early April, 1994, he was contacted by Mr. RICHARD ROBBINS, an attorney with the Solicitor's Office, Department of Interior, adding that ROBBINS instructed him to make a copy of both the unredacted and redacted portions of the USPP FOSTER investigation dealing with interview of White House staffers and assistants. Sergeant JEZ assumed that Mr. ROBBINS wanted to review those sections of the report to ensure that FOIA exemptions and exceptions were properly applied. On April 7, 1994, he provided Mr. ROBBINS with both clear and redacted copies of those portions of the report dealing with interviews of all White House staffers and assistants (attachment #5).

Sergeant JEZ stated that the above information represents the totality of his knowledge concerning who was provided portions of the USPP FOSTER death investigation by the FOIA unit of the USPP.

Att #1

United States Department of the Interior

NATIONAL PARK SERVICE
Headquarters, United States Park Police
1100 Ohio Drive, S. W.
Washington, D. C. 20242
DRAFT

TAKE PRIDE IN AMERICA [redacted]

R Hines 9/3

IN REPLY REFER TO:
P36(NCR-FOIA)

9/3

9/10/93

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

While processing a Freedom of Information Act (FOIA) request from Mr. William Neuman, received on August 11, 1993, the United States Park Police located four documents containing information furnished by White House Staff. We request your review of the documents, making any deletions or recommendations regarding withholding a document in entirety. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you have made. If there should be any other justification for withholding this information from public disclosure, please provide supporting documentation.

We have enclosed the following:

1. a copy of Mr. Neuman's FOIA request;
2. copies of the documents you provided us;

If you should have any questions concerning this referral, please contact Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures
bcc:
USPP FOIA Surname
Cmdr., OIS
Cmdr., IAU

FOIA file 93-026

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony 4:00pm Bacsey Wright BD 1317 F, Suite 600	2 9:00am Staff 7:30pm Chevy Chase CC	3
4 7:30pm Ice Cream Social	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevans-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich - Joan 12:15pm Pincus-Hay Adams	10
11	12 8:00am Sr. Staff 9:00am Staff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hrg Begins 9:00am Staff	21 9:00am Staff	22 9:00am Staff 1:15pm Sharon lunch	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

7/8/1993

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony	2 9:00am Staff 7:30pm Chevy Chase CC	3
4	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevans-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich 12:15pm Pincus 5:00pm Interns	10
11	12 8:00am Sr. Staff 9:00am Staff 10:45am Mtg w/ Watkins re staff 12:00pm Beth & Cliff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hearing 9:00am Staff	21 9:00am Staff	22 9:00am Staff 10:00am Judicial Selection 1:15pm Sharon lunch (4)	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff 8:00pm Mrs. Simpsons & Hernreich BDay	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
		Brant Buck	501 377 0310	
1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter; if she cannot reach you, she will go ahead and call
		Gordon Rather	501 371 0808	personal matter (secy did not know specifics)
3:35 PM		Maggie	7194	has an answer to one of our questions
5:10 PM		Mrs. Foster		

WH. 7/30/93

I made mistakes from ignorance, inexperience and overwork

I did not knowingly violate any ~~law~~ standard of conduct

No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was not a trust to benefit any individual or specific group.

The FBI lied in their report to the AG

The press is covering up the illegal benefits they received from the travel staff

The GOP has lied and misrepresented its knowledge and role and covered up a prosecution

The Ushers Office plotted to have excessive costs incurred, taking advantage of Kake and HRC

The public will never believe the innocence of the Clintons and their loyal staff

The WSJ editors lie without consequence

I was not meant for the ~~job~~ or the spotlight of public life in Washington. Here ruining people is considered sport.

Att. #2

THE WHITE HOUSE

WASHINGTON

11/8/93

November 8, 1993

Robert H. Hines, Major
Commander, Office of Inspectional Services
United States Department of the Interior
National Park Service
Headquarters, United States Park Police
1100 Ohio Drive, S.W.
Washington, D.C. 20242

Re: FOIA Request of William Neumann Dated August 11, 1993

Dear Major Hines:

You have asked for our opinion regarding the above-referenced request, under the Freedom of Information Act, for documents previously forwarded to the National Park Service by the White House Counsel's Office. We have reviewed these documents, and, for the reasons stated below, have concluded that such documents should not be disclosed.

First, the documents requested are not "agency records" subject to the FOIA. See 5 U.S.C. § 552(a)(4)(B). The Office of the President, including the President's immediate personal staff and units in the Executive Office whose sole function is to advise and assist the President, does not constitute an "agency" for the purposes of FOIA. See, e.g., Kissinger v. Reporters Committee, 445 U.S. 136, 156 (1980); National Security Archive v. Archivist of the United States, 909 F.2d 541, 545 (D.C. Cir. 1990) (Counsel's Office exempt from FOIA). Although the documents requested were forwarded to the Park Service, they remain White House documents not subject to the provisions of the FOIA. See, e.g., Goland v. CIA, 607 F.2d 339, 347 (D.C. Cir. 1978), vacated in part on other grounds, 607 F.2d 367 (D.C. Cir. 1979), cert. denied, 445 U.S. 927 (1980) (Congress' retention of control over documents turned over to agency).

Second, the requested documents do not qualify as "agency records" since they were primarily personal documents prepared for the convenience of an employee and were not distributed. See, e.g., Bureau of National Affairs v. U.S. Dep't of Justice, 742 F.2d 1484, 1485-96 (D.C. Cir. 1984) (personal diary, appointment calendars, phone logs not "agency records.")

Third, even assuming arguendo that these White House documents are "agency records", they are exempt from disclosure both under FOIA's exemption 6 (the privacy exemption) and exemption 7(c) (the privacy exemption in the context of a law enforcement

investigation). See 5 U.S.C. § 552(b)(6) & (b)(7)(c). Disclosure of these documents would violate the privacy rights of a former White House employee and his family, and would not serve any significant public interest. As the D.C. Circuit has cautioned, "[T]he legitimate and substantial privacy interests of individuals . . . cannot be overridden by general public curiosity." Fund for Constitutional Government v. National Archives and Records Service, 656 F.2d 856, 866 (D.C. Cir. 1981).

The privacy provisions of FOIA exemptions 6 and 7(c) apply fully to Mr. Foster's handwritten note. As has been publicly stated, the Foster family has requested that the handwritten version of the note not be released. That the note is handwritten only confirms the significant privacy interest in that note. Moreover, any public interest in release of the handwritten note is minimized because the complete contents of the note have been previously released and widely reported. See, e.g., New York Times Co. v. NASA, 920 F.2d 1002, 1004 (D.C. Cir. 1990) (en banc) (finding, under exemption 6, personal information in tape recording of astronauts' last conversation where transcript already published).

As you have requested, enclosed please find the copies of the documents you provided for our consideration. We appreciate your cooperation with this matter.

Sincerely,

Bernard W. Nussbaum
Counsel to the President

Att. #3

United States Department of the Interior

NATIONAL PARK SERVICE
HEADQUARTERS, UNITED STATES PARK POLICE
1100 Ohio Drive, S.W.
Washington, D.C. 20242

IN REPLY REFER TO:
P36(NCR-PPIA)

DEC 13 1993

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

We have determined that it is necessary we refer to you the enclosed documents marked #36, #50, #52 and #87. These documents were determined to be responsive to Mr. William Neuman's Freedom of Information Act (FOIA) request.

Document #87 titled, "Communication Record", was initially referred to the United States Secret Service (USSS). The USSS has determined that this document should be referred to the White House, Mr. Bernard Nussbaum, Counsel to the President, 1600 Pennsylvania ave., N.W., Washington, D.C. 20500 regarding a public disclosure determination.

Document #36 contains information, bracketed in red, directly related to document #87. Documents #50 and #52 contain information, bracketed in red, directly related to a document we previously referred to you on September 3, 1993.

We request you review the entire document #87 and the information on documents #36, #50 and #52 that is bracketed in red, making any deletions or recommendations regarding the public disclosure of these documents and information. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you make. If there should be other justification for withholding this information from public disclosure, please provide documentation regarding this.

We have enclosed the following:

1. A copy of Vincent Foster's phone log that was previously referred to you on September 3, 1993;
2. A copy of your response regarding the September 3, 1993, referral;
3. A copy of Mr. Neuman's FOIA request;
4. A copy of documents #36, #50, #52 and #87 that we request you review;

If you should have any questions concerning this referral, please contact me on 202-619-7350 or Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures

bcc:
USPP IAU FOIA Surname
USPP IAU FOIA File

AFJEZ:aj:12-10-93:WP51\FINUS.326

Document Returned to Gov

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
		Brant Buck	501 377 0310	
1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter she cannot reach you, she will go ahe and call
		Gordon Rather	501 371 0808	personal matter (secy did not k w specifics)
3:35 PM		Maggie	7194	has an answer to one of our questio
5:10 PM		Mrs. Foster		

#50

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 DATE OCCURRED MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 1 2

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

On Friday, July 30th, Detective [redacted] and I responded to the Executive Office Building (EOB) Room 128 to meet with [redacted] The purpose of the meeting was to examine the telephone message log of Vincent Foster during the month of July and in particular to attempt to determine if he had gotten a call just prior to his departure on July 20, 1993. We learned that the phone logs were just a message log of calls he received when he was absent or unable to take the call. The administrative assistants would type time, person's name, phone number, and messages if one was left. The log was no assistance in determining if anyone had called him just prior to 1300 hours on July 20, 1993, if the call had been put through. There was one notation of interest on July 19, 1993. A [redacted] had called at 1047 hours and left his phone number [redacted] There were no messages. Prior to 1300 hours on July 20, he had received several phone messages. Some of the messages were from his staff. There were two calls made from Arkansas from the same person and one call from Colorado. Attempts will be made to contact these people and see if either reached Vincent prior to 1300 hours.

[redacted] requested if any information about the phone logs is contemplated being released, [redacted] would like to have the counsel's office notified at the White House prior to any release. I told [redacted] that I would put his request in my report. This caused [redacted] some concern because [redacted] didn't want special or unusual attention drawn to his request.

8 ARRANT(S) YES NO	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

NATIONAL FORM SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR? MO.	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
States Park Police	07	20	93	1993	-30501

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT:

7 RESULTS OF INVESTIGATION

July 20,, 1993 Phone Log

[redacted]

The phone message log indicated [redacted] called for Foster at 10:55 a.m. and left only his phone number 501-377-0310. The log indicated he called again at 11:11 a.m. and left the same phone number.

On August 2, I called [redacted] office and spoke to his secretary, [redacted]. [redacted] was on vacation. She said [redacted] did get a return call from Foster on July 19th, but [redacted] had stepped away from his desk. Foster returned the call to Buck at 11:17 a.m. central time (12:17 a.m. eastern time). [redacted] had a brief conversation with Foster that was characterized as normal, nothing unusual. Brant [redacted].

[redacted]

The phone message log indicated a call from [redacted] at 11:11 a.m. with only a phone number left, [redacted] Lyons is from the [redacted] I contacted [redacted] by telephone on August 2nd. He had known Foster since the late 1980's. He met him through Hillary Rodham Clinton and the Rose Law Firm. They had worked together on the Campaign. [redacted] was going to be in Washington on Wednesday, July 21st. He had called and spoken with Foster Sunday July 18th between 8:00-9:00 p.m. eastern time and they had agreed to meet for dinner Wednesday.

[redacted] had told Foster he would call him and let him know when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993.

[redacted]

The phone message log indicated that a [redacted] called Foster at 2:14 p.m. and left his phone number, [redacted] and a message was noted by the administrative assistant "personal matter (secy did not know specifics)"

8 ARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	18 INVESTIGATOR	BADGE/ID	DATE	SUPERVISOR

#36

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 ITEM AREA: United States Park Police

3 WHEN DID IT OCCUR? MO 07 DAY 20 YR 93

4 YEAR 93

CASE INCIDENT NUMBER 93-3050

5 NATURE OF INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT

ITEM

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life. The very limited examination of the documents and notes were done by the [redacted]. The following people were also present during this meeting: [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted] Department of Justice Attorney, [redacted] and [redacted] U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted] with [redacted] near [redacted] side and [redacted] at the end of the desk.

8 WARRANT(S) ☐ YES ☐ NO

9 ☐ LATENTS ☐ PHOTOS

10 ID TECH NOTIFIED

11 INVESTIGATOR NOTIFIED

12

13

#87

COMMUNICATION RECORD

Log of Persons entering Mr. Foster's office

Wednesday July 21st 1993

11:16A MR Nussbaum Received a small P/U photo (Off. Mixon)

6:34P Cliff Sloan, To Replace a bag of trash previously taken from Mr. Foster's Trash Can (Off. Chaney)

8:02P Kevin Pebbins, Kenneth Blair, To Place the lock on the door to Foster's office. (Sgt Flynn)

10:32P Lock installed, Door Secured by Flynn

Thursday July 22nd 1993

1:15P MR Nussbaum, Steve Neuwirth, Cliff Sloan, Bill Burton, Michael Spafford, David Margolis, Roger Adams, Capt Charles Hume, Pete MacKland, Sgt Sabol, Dennis Condon, Revi Interdine, Dan Flynn.

2:49P Dignitaries Security door, Key issued to Mr Nussbaum by Flynn

A/L 774

U. S. Department of Justice

Washington, D.C. 20530

August 20, 1993

HAND-DELIVERED

MEMORANDUM

TO: Major Robert Hines
U.S. Park Police
Department of Interior

FROM: Margaret Ann Irving
Associate Director
Office of Information and Privacy

SUBJECT: Freedom of Information Act Requests for U.S. Park Police Report Regarding Death of Deputy White House Counsel Vincent Foster

The Office of Information and Privacy, acting on behalf of the Deputy Attorney General, has received several requests for access to various records regarding the death of Vincent Foster. The enclosed report which was provided to the Deputy Attorney General by your agency is among the responsive documents. In an effort to provide a consistent response to all requesters, we are directing the report to you for consultation prior to making our final responses.

Accordingly, please provide us with any comments or recommendations you may have as to the sensitivity of this report. As you are aware, certain material in this report originated with the Bureau of Alcohol, Tobacco and Firearms; you may wish to consult with it regarding its information prior to making your response to this Office. Also contained in your report are documents that originated with the FBI. Such documents are duplicative of records which we are directing to the FBI for its review. We will apprise you of the FBI's disclosure recommendations as soon as such review is completed.

Please return the document, along with your comments, to me at the following address:

U.S. Department of Justice
Office of Information and Privacy
Room 7238
Washington, D.C. 20530
Attention: Ms. Irving

Lastly, I understand that your Office has also received FOIA requests directly. To ensure consistent responses, we ask that you consult and coordinate with this Office prior to any response to the requesters. If you have any questions regarding this matter, please call Charlene Wright or me at 514-4251.

Enclosure

ATT #5

Material delivered to K. Myers or K. Robbins office on 4/7 pursuant to A. M phone call from K. Myers.

Clean copies of 4/7 employee interviews #29, 30, 31, 32, 33, 34 36, 37, 43, 45, 46

Redacted copies 4/7 of 29, 30, 31, 32, 33 34, 36, 37, 43, 45, 46

4/7

FYI

Bracketed material on document #36 was forwarded to WH. I have provided #50+52 which were forwarded to WH. We have not received a return.

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
d States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

DENT — 6 RECLASSIFICATION OF INCIDENT

rh Investigation

ULTS OF INVESTIGATION

7/21/93: Bernard Nussbaum

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A Condon, S/A Salter, Captain Hume, and Detective Markland responded to the West Wing and spoke with Mr. Nussbaum to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. Mr. Nussbaum is Chief Counsel to the President. S/A Salter and Det. Markland obtained the following information from Mr. Nussbaum as a result of that meeting:

-Mr. Nussbaum had determined that Mr. Foster had left his office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. Mr. Nussbaum tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, Mr. Nussbaum left and proceeded to his domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to him, Mr. Nussbaum responded back to the White House where he went through Mr. Foster's office with Patsy Thomassen and Maggie Williams. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on his desk. This search lasted from 2200 to 2400 hours. Mr. Nussbaum stated that no documents were removed from the office.

-Mr. Nussbaum stated that he learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on his desk top "to make it neat".

-At approximately 0900 hours Mr. Nussbaum again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-Mr. Nussbaum requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

29

RANT(S) ES /O	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES

TATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Richard Markland					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tes Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2
ENT vestigation	6 RECLASSIFICATION OF INCIDENT				

ULTS OF INVESTIGATION

On Thursday, August 22, 1993, Detective Pete Markland and I responded to the White house to meet with Special Agents Scott Salter and Dennis Condon of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent Condon interviewed Ms. Betsy L. Pond; Staff Assistant to Bernard Nussbaum, Chief Counsel for the White House. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were Clifford Sloan; associate counsel to Nussbaum, and Paul Imbordino; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. Clifford Sloan took notes throughout the interview. During the interview Bernard Nussbaum burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. Ms. Pond got in to work at around 0900 hours on Tuesday, July 20th. Usually there is a staff meeting of the counsel's office from 0900 to 0945 hours each morning that Vincent Foster would attend. She assumed he was at the staff meeting as she didn't see him when she arrived at work. She first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

She doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She recalled there were M & M's on the tray with the food because Linda wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". Ms. Pond recalled that she and Linda were in the office when he left. She wasn't sure if Tom was in the office or not. Tom Castleton is a young college graduate working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight lost. She was unaware of him taking any medication or seeing any doctors. I asked here would she be surprised if I found out he was seeing a psychiatrist. She said yes. She was not aware of any depression problems. She had no information whether he owned any weapons.

30

ANT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGES

ATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hume					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
tes Park Police	07	20	93	93	-305021

5 RECLASSIFICATION OF INCIDENT

vestigation

LTS OF INVESTIGATION

Ms. Pond said she left work at approximately 1845-1850 hours on Tuesday; but, before she left at around 1820 or so, Maggie Williams (Mrs. Clinton's Chief of Staff) called for Vincent. She paged Vincent and left the White House number for him to call. She recalled no other phone messages for Vincent.

She learned about Vincent's death from messages on her home answering machine around 0500-0600 hours on Wednesday, July 21. She came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when she arrived at work. She believed that Tom Castleton or Bernard Nussbaum were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. She went into his office and "squashed" the papers together that were on his desk. She realized that she shouldn't have touched the papers as soon as she did it but probably did it out of habit.

When I questioned her if she had been told how to respond to our questions, she stated that Clifford Sloan (who was present during our interview) and Steve Neuwirth, both associate counselors, had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

31

RANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
ES O	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

TATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Capt. Charles Hume #852		8/4/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
d States Park Police	0 7	2 0	9 3	9 3 -	3 0 5 0 2

DENT
h Investigation

6 RECLASSIFICATION OF INCIDENT

ULTS OF INVESTIGATION

Interview: Deborah Gorham

Deborah Gorham is the Executive Assistant that was assigned to Vincent W. Foster. Her desk is located in the common area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying this common office space are Betsy Pond (Executive Assistant to Mr. Nussbaum), Linda Tripp (Executive Assistant), Tom Castleton (Staff Assistant), and Marlene McDonald (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. Markland (USPP), S/A Salter (FBI), and Assistant White House Counsel Steven Neuwirth.

Ms. Gorham stated that she did not know Mr. Foster before she was hired on March 8, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

Ms. Gorham recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when Mr. Neuwirth asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for Mrs. Foster. Ms. Gorham did not see this as a real problem or place any significance on it.

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WARRANT(S) ☐ YES ☐ NO	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED	CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED					
4 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR BADGE/ID DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
07	20	93	93	- 3050 2

d States Park Police

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h Investigation

6 RECLASSIFICATION OF INCIDENT

SULTS OF INVESTIGATION

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. Hume), Det. Markland and S/A Salter were asked to remain and were ushered into Mr. Nussbaum's office by Mr. Neuwirth. Ms. Gorham was brought in and she stated that she had just remembered some conversations that she thought were important to our investigation. Within the last two weeks Ms. Gorham had received calls from Mr. Foster's eldest son and Mrs. Foster inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

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WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

NATIONAL PARK SERVICE
SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
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2 States Park Police

5 ENT Investigation

6 RECLASSIFICATION OF INCIDENT

7 LTS OF INVESTIGATION

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective Markland and Special Agent Salter on 7/22/93. The information provided by these two individuals was brief.

Tom Castleton (Staff Assistant) @ 1000 hours:

Mr. Castleton stated that he worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although he could not place the time. Mr. Castleton was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to Mr. Castleton to be "In his own world", focused, disturbed.

Linda Tripp (Executive Assistant) @ 1150 hours:

Ms. Tripp stated that she began her workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to her, however, she had no personal dealings with him on that day.

Ms. Tripp makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for herself how long she may expect them to be away from the office. Ms. Tripp was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Markland #330					

★ U.S. GPO 1992-0-625-524/41193

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tates Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

5 INCIDENT
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6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the Chief Counsel, Bernard Nussbaum. The following people were also present during this meeting: William Burton, Deputy Chief of Staff for the President, Clifford Sloan and Steven Neuwirth; Associate Legal Counselors, Michael L. Spafford; Attorney representing the Foster family, Captain Charles Hume and Detective Pete Markland; U.S. Park Police, Special Agents Scott Salter and Dennis Condon; Federal Bureau of Investigation, David Margolis, Deputy Assistant Attorney General Criminal Division; and Roger Adams; Department of Justice Attorney, Paul Imbordino and Donald Flynn; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector Dennis Martin of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. Bernard Nussbaum took a seat at Foster's desk, He was surrounded by his two associates, Sloan and Neuwirth, with Burton near his side and Spafford at the end of the desk.

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ARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

EPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Capt. Charles Hume #952		8/4/93			

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
ates Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

5 INCIDENT: nvestigation

6 RECLASSIFICATION OF INCIDENT

ULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process Bill Burton left the office on at least two occasions and returned. Bernard Nussbaum did the actual review of the documents in a very hurried and casual fashion. There was some conversation between Nussbaum and Margolis as what constituted privileged communication. Nussbaum carried his interpretation of what was considered privileged to the extreme; one example was when he picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. Nussbaum would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, he decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective Markland or Margolis would ask him to place a certain note or document in a pile for possible police examination. At one point, Nussbaum pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. He put them on the desk and went through them. He then looked in the valise/briefcase again, but did not take anything out of it. A little later he moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind him and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent Scott Salter got up to stretch and Clifford Sloan challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that Nussbaum had separated out were left in the office with the exception of the pile containing what Mr. Nussbaum determined to be personal papers of Foster. It was agreed between Margolis and Nussbaum that the family lawyer could take those papers and after getting approval from Mrs. Foster the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. Margolis cautioned Nussbaum and his staff not to remove anything from the office. Nussbaum stated he could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and Nussbaum was given the key after we cleared the office on Thursday at 1449 hours.

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WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED — CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Cpt. Charles Hume	#852	8/4/93			

* U.S. GPO: 1992-0-625-524 41193

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
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5 IDENT: ath Investigation

6 RECLASSIFICATION OF INCIDENT:

SULTS OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with Mr. Bernard Nussbaum in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, Mr. Phillip Heymann, as well as Asst. Chief of Staff Bill Burton, also Mr. Gergen and Mr. McLarty.

Mr. Nussbaum had before him on the table small pieces of yellow lined note paper which he was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. Mr. Nussbaum read the contents of the notes to the undersigned of which I took notes. He then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to Mr. Nussbaum, on Monday 7-26-93 he directed one of his assistants, Mr. Steven Neuwirth enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, he found the torn pieces of a hand written page. The scraps were dumped out and then, taken to Mr. Nussbaum's Office where they were assembled and Mr. Nussbaum was notified. Mr. Nussbaum then went through notification procedure, to Bill Burton, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was Mr. Jim Hamilton, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to Mr. Bill Burton 202-456-6798 Mr. Steven Neuwirth will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

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RANT(S) / ES / IO	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE OF PAGES

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			[illegible]	2467	7-27-93	Capt. C.L. Jarvis	825	8/2/93

U.S GPO 1992-0-625-524/1193

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
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5 INCIDENT
ath Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

Interview: Steven Neuwirth

Steven Neuwirth is an Assistant White House Counsel and the person reported to have found the note presumably written by Vincent W. Foster that was turned over to Detective L. J. Megby on 7/27/93. The note had been discovered by Mr. Neuwirth during the packaging of Mr. Foster's personal effects on 7/26/93. On 7/29/93 at approximately 1130 hours, Steven Neuwirth was interviewed in Bernard Nussbaum's office by Detective Peter W. Markland and Captain Charles Hume. Mr. Nussbaum was also present and became a subject of the interview.

The following questions were posed to the two gentlemen regarding the note in question:

How could this note have avoided detection during the search of Mr. Foster's office by Mr. Nussbaum and other members of the White House Counsel's office in our presence on 7/22/93?

If the note was found on 7/26/93 why were the police not notified of it's existence until approximately 8:00 P.M. on 7/27/93?

Mr. Nussbaum stated it was his recollection that he removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of him. He then went through the materials. He inferred that because of this he had missed the small scraps of yellow paper that obviously remained in the bottom of the briefcase. I informed Mr. Nussbaum that I was seated on the small couch directly across from and facing him and that I had a clear view of the briefcase when he removed it's contents, also that after the contents were removed I could see that he spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. Mr. Nussbaum did not recall doing what I described. Captain Hume stated that he observed that Mr. Nussbaum handled the briefcase a third time when he slid it back towards the wall behind him in order to access the desk's file drawer. Mr. Nussbaum agreed with Captain Hume's recollection of sliding the case to the rear.

Mr. Nussbaum then related that the following people were contacted to view the document before a determination could be made to disclose it to the U. S. Park Police:

Bill Burton (Deputy Chief of Staff)
Thomas F. McLarty (Chief of Staff)
Lisa Foster (wife of Vincent Foster)
Phillip Heymann (Deputy Attorney General)
Janet Reno (Attorney General)

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER BADGE/ID DATE | 15 INVESTIGATOR BADGE/ID DATE | 16 SUPERVISOR BADGE/ID DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY (EDIT CODE)	MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
ited States Park Police	07	20	93	93	-305 02

5 INCIDENT
eath Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

President Clinton was made aware of the existence of the document. Only Mr. Neuwirth and Mr. Nussbaum handled the document.

Mr. Neuwirth then related his recollection of the discovery of the document. He stated that he was in the process of gathering and packaging Mr. Foster's personal affects for delivery to the family when he turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with Mr. Foster's daughter, Laura. When he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. He then retrieved a number of other similar scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where he assembled the document which was, ultimately, turned over to Detective Megby.

Mr. Nussbaum was asked if he could clarify two entries on the handwritten note. "HRC" refers to the first lady; "KAKI" refers to an interior decorator employed by Mrs. Clinton.

Mr. Nussbaum stated that there were only "three or four" work related documents on Mr. Foster's computer.

Inquiries were made regarding the phone logs kept at the office. Mr. Neuwirth stated that they had been assembled and that they will review them and contact us.

The interview concluded at approximately 1230 hours.

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
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DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	07	20	93	1993	- 3050 02

States Park Police

6 RECLASSIFICATION OF INCIDENT

Investigation

TS OF INVESTIGATION

7/21/93: [redacted]

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A [redacted] S/A [redacted] Captain [redacted] and Detective [redacted] responded to the West Wing and spoke with [redacted] to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. [redacted]. S/A [redacted] and Det [redacted] obtained the following information from [redacted] as a result of that meeting:

[redacted] had determined that Mr. Foster had left [redacted] office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. [redacted] tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, [redacted] left and proceeded to [redacted] domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to [redacted] responded back to the White House where [redacted] went through Mr. Foster's office with [redacted] and [redacted]. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on [redacted] desk. This search lasted from 2200 to 2400 hours. [redacted] stated that no documents were removed from the office.

[redacted] stated that [redacted] learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on [redacted] desk top "to make it neat".

-At approximately 0900 hours [redacted] again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-[redacted] requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

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9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

OFFICER BADGE/ID DATE | 15 INVESTIGATOR BADGE/ID DATE | 16 SUPERVISOR BADGE/ID DATE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

Park Police

WHEN DID IT OCCUR: MO. 07 DAY 20 YR. 93 4 YEAR | CASE/INCIDENT NUMBER: -30-50

RECLASSIFICATION OF INCIDENT

tigation

OF INVESTIGATION

On Thursday, August 22, 1993, Detective [redacted] and I responded to the White house to meet with Special Agents [redacted] and [redacted] of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent [redacted] interviewed [redacted], [redacted]. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were [redacted]; [redacted], and [redacted]; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. [redacted] took notes throughout the interview. During the interview [redacted] burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. [redacted] got in to work at around 0900 hours on Tuesday, July 20th. Usually there is a staff meeting of the counsel's office from 0900 to 0945 hours each morning that Vincent Foster would attend. [redacted] assumed he was at the staff meeting as [redacted] didn't see him when [redacted] arrived at work. [redacted] first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

[redacted] doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation [redacted] had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. [redacted] and [redacted] went to the cafeteria and ordered his lunch. [redacted] recalled there were M & M's on the tray with the food because [redacted] wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". [redacted] recalled that [redacted] and [redacted] were in the office when he left. [redacted] wasn't sure if [redacted] was in the office or not. [redacted] is a [redacted] working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks [redacted] did not notice any changes, either physically or emotionally. [redacted] noticed no weight lost. [redacted] was unaware of him taking any medication or seeing any doctors. I asked [redacted] would [redacted] be surprised if I found out he was seeing a psychiatrist. [redacted] said yes. [redacted] was not aware of any depression problems. [redacted] had no information whether he owned any weapons.

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(5) | 9 CLAIMANTS CPHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 2 PAGE

5: OPEN SUSPENDED | CLOSED BY: ARREST EXCEPTION UNFOUNDED

ING OFFICER BADGE/ID DATE | 15 INVESTIGATOR [redacted] BADGE/ID [redacted] DATE | 16 SUPERVISOR BADGE/ID DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 WHEN DID IT OCCUR?	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
	07	20	93	1993	-03050

Park Police

6 RECLASSIFICATION OF INCIDENT

igation

INVESTIGATION

[redacted] said she left work at approximately 1845-1850 hours on Tuesday; but, before she left at around 1320 or so, [redacted] (Vice Chief of Staff) called for Vincent. She paged Vincent and left the White House number for him to call. She recalled no other phone messages for Vincent.

She learned about Vincent's death from messages on her home answering machine around 0500-0600 hours on Wednesday, July 21. She came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when she arrived at work. She believed that [redacted]n or [redacted] were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. She went into his office and "squashed" the papers together that were on his desk. She realized that she shouldn't have touched the papers as soon as she did it but probably did it out of habit.

When I questioned her if she had been told how to respond to our questions, she stated that [redacted] (who was present during our interview) and [redacted]h, both [redacted], had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

3/31

9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGE

☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[redacted]		7/21/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

3 WHEN DID IT OCCUR	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3 -	3 0 5 0 1

d States Park Police

5 RECLASSIFICATION OF INCIDENT

h Investigation

ULTS OF INVESTIGATION

Interview: [redacted]

[redacted] Deborah Gorham is the [redacted] case is located in the common area between the two offices in the West Wing of the White House occupied by Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying offices in the common office area are [redacted] (Executive Assistant to Mr. Nussbaum), [redacted] (Executive Assistant), [redacted] (Staff Assistant), and [redacted] (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. [redacted] (USPP), S/A [redacted] (FBI), and [redacted] (Assistant White House Counsel).

[redacted] stated that she did not know Mr. Foster before she was hired on March 5, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

[redacted] recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when [redacted] asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for [redacted]. Ms. Gorham did not see this as a real problem or place any significance on it.

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GRANT(S) YES NO	8 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGE

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

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6 RECLASSIFICATION OF INCIDENT

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. [redacted]), Det. [redacted] and S/A [redacted] were asked to remain and were ushered into Mr. Nussbaum's office by [redacted]. [redacted] was brought in and [redacted] stated that [redacted] had just remembered some conversations that [redacted] thought were important to our investigation. Within the last two weeks [redacted] had received calls from [redacted] and [redacted] inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

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NT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 2 OF 2 PAGES

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• U.S. GPO: 1992-0-625-524/41153

tes Park Police | WHEN DID IT OCCUR: MO 07 DAY 20 YR 93 | 4 YEAR 93 | CASE INCIDENT NUMBER 30510

6 RECLASSIFICATION OF INCIDENT

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INVESTIGATION

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective [redacted] and Special Agent [redacted] on 7/22/93. The information provided by these two individuals was brief.

[redacted] (Staff Assistant) @ 1000 hours:

[redacted] stated that [redacted] worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although [redacted] could not place the time. [redacted] was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to [redacted] to be "In his own world", focused, disturbed.

[redacted] (Executive Assistant) @ 1150 hours:

[redacted] stated that [redacted] began [redacted] workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to [redacted], however, [redacted] had no personal dealings with him on that day.

[redacted] makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for [redacted] how long [redacted] may expect them to be away from the office. [redacted] was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

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(S) | 9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 1 PAGES

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Det. [redacted] 8-5-93

* U.S. GPO: 1992 0 625 824/411

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police		0 7	2 0	9 3	9 3 -	3 0 5 0 1-

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT:

RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life. The very limited examination of the documents and notes were done by the [redacted] Counsel, Bernard Nussbaum. The following people were also present during this meeting: [redacted] the President, Cliff Sloan and Steven [redacted]; [redacted] Counselors, [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted] near [redacted] side and [redacted] at the end of the desk.

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8 ARRANT(S)	9	10 D TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
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SUPI :ORD 1 JUVENILE CASE

YR	2 YEAR	CASE INCIDENT NUMBER
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States Park Police

6 INCIDENT
Investigation

7 RESULTS OF INVESTIGATION

On Thursday, July 2 ollowing persons met in the office c determine if he left a suicide not information that might have led him to take his own life. The very limited examination of the documents and notes were done by the [redacted] The following people were also present during this meeting: [redacted] the President, [redacted]; [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

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2, all 13 of us entered the office [redacted] took a seat at Foster's desk, [redacted], with [redacted] the end of the desk.

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11 INVESTIGATOR NOTIFIED

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PAGE 1 OF 2 PAGES

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NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

	WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
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6 RECLASSIFICATION OF INCIDENT

ESULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process [redacted] left the office on at least two occasions and returned. [redacted] did the actual review of the documents in a very hurried and casual fashion. There was some conversation between [redacted] and [redacted] as what constituted privileged communication. [redacted] carried [redacted] interpretation of what was considered privileged to the extreme; one example was when [redacted] picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. [redacted] would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, [redacted] decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective [redacted] or [redacted] would ask [redacted] to place a certain note or document in a pile for possible police examination. At one point, [redacted] pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. [redacted] put them on the desk and went through them. [redacted] then looked in the valise/briefcase again, but did not take anything out of it. A little later [redacted] moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind [redacted] and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent [redacted] got up to stretch and [redacted] challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that [redacted] had separated out were left in the office with the exception of the pile containing what [redacted] determined to be personal papers of Foster. It was agreed between [redacted] and [redacted] that the family lawyer could take those papers and after getting approval from [redacted] the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. [redacted] cautioned [redacted] and [redacted] staff not to remove anything from the office. [redacted] stated [redacted] could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and [redacted] was given the key after we cleared the office on Thursday at 1449 hours.

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NT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 2 OF 2 PAGES

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SUPPLEMENTAL CRIMINAL INCIDENT REPORT

	WHEN DID IT OCCUR: MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
. Marcy	0 7	2	0 9 3	9 3	0 1 3 0 5 9
i Investigation	6 RECLASSIFICATION OF INCIDENT				

S OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with ~~Mr. Bernard Nussbaum~~ in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, ~~Mr. Phillip Heymann~~, as well as ~~Asst. Chief of Staff Bill Burton~~, also ~~Mr. Gergen~~ and ~~Mr. Neuwirth~~.

~~Mr. Nussbaum~~ had before ~~him~~ on the table small pieces of yellow lined note paper which ~~he~~ was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. ~~Mr. Nussbaum~~ read the contents of the notes to the undersigned of which I took notes. ~~He~~ then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to ~~Mr. Nussbaum~~, on Monday 7-26-93 ~~he~~ directed one of ~~his~~ assistants, ~~Mr. Steven Neuwirth~~ enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, ~~he~~ found the torn pieces of a hand written page. The scraps were dumped out and then taken to Mr. Nussbaum's Office where they were assembled and ~~Mr. Nussbaum~~ was notified. ~~Mr. Nussbaum~~ then went through notification procedure, to ~~Bill Burton~~, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was ~~Mr. Jim Hamilton~~, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to ~~Mr. Bill Burton 202-456-6703~~ ~~Mr. Steven Neuwirth~~ will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

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								7/21

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

States Park Police | WHEN DID IT OCCUR: MO 07 DAY 20 YR 93 4 YEAR 1 | CASE/INCIDENT NUMBER 93-10-5012

Investigation | 6 RECLASSIFICATION OF INCIDENT

ES OF INVESTIGATION

Interview: [redacted]

[redacted] is an [redacted] White House Counsel and the person reported to have found the note presumably written by Vincent W. Foster that was turned over to Detective [redacted] on 7/27/93. The note had been discovered by [redacted] during the packaging of Mr. Foster's personal effects on 7/26/93. On 7/29/93 at approximately 1130 hours, [redacted] was interviewed in Bernard Nussbaum's office by Detective [redacted] and Captain [redacted]. [redacted] was also present and became a subject of the interview.

The following questions were posed to the two [redacted] regarding the note in question:

How could this note have avoided detection during the search of Mr. Foster's office by Mr. Nussbaum and other members of the White House Counsel's office in our presence on 7/22/93?

If the note was found on 7/26/93 why were the police not notified of it's existence until approximately 8:00 P.M. on 7/27/93?

[redacted] stated it was [redacted] recollection that [redacted] removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of [redacted] then went through the materials. [redacted] inferred that because of this [redacted] had missed the small scraps of yellow paper that obviously remained in the bottom of the briefcase. I informed [redacted] that I was seated on the small couch directly across from and facing [redacted] and that I had a clear view of the briefcase when [redacted] removed it's contents, also that after the contents were removed I could see that [redacted] spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. [redacted] did not recall doing what I described. Captain [redacted] stated that [redacted] observed that Mr. [redacted] handled the briefcase a third time when [redacted] slid it back towards the wall behind [redacted] in order to access the desk's file drawer. [redacted] agreed with Captain [redacted] recollection of sliding the case to the rear.

Mr. [redacted] then related that the following people were contacted to view the document before a determination could be made to disclose it to the U. S. Park Police:

[redacted] (Deputy Chief of Staff)
[redacted] (Chief of Staff)
[redacted] (wife of Vincent Foster)
[redacted] (Deputy Attorney General)
Janet Reno (Attorney General)

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51 | 9 ☐ STATEMENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 2 PAGES

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NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	5 CASE INCIDENT NUMBER
United States Park Police	07	20	93	93	30500

INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT

RESULTS OF INVESTIGATION

President Clinton was made aware of the existence of the document. Only [redacted] and [redacted] handled the document.

[redacted] then related [redacted] recollection of the discovery of the document. [redacted] stated that [redacted] was in the process of gathering and packaging Mr. Foster's personal affects for delivery to the family when [redacted] turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with [redacted] When he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. [redacted] then retrieved a number of other similar scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where [redacted] assembled the document which was, ultimately, turned over to Detective [redacted]

[redacted] was asked if [redacted] could clarify two entries on the handwritten note. "HRC" refers to the first lady; "KAKI" refers to an interior decorator employed by Mrs. Clinton.

[redacted] stated that there were only "three or four" work related documents on Mr. Foster's computer.

Inquiries were made regarding the phone logs kept at the office. [redacted] stated that they had been assembled and that they will review them and contact us.

The interview concluded at approximately 1230 hours.

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☐ LATENTS ☐ PHOTOS

10 ID TECH NOTIFIED

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12 PAGE 2 OF 2 PAGES

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7 RESULTS OF INVESTIGATION

1 JUVENILE CASE ...

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On Friday, July 30th, Detective [redacted] and I responded to the Executive Office Building (EOB) Room 128 to meet with [redacted]. The purpose of the meeting was to examine the telephone message log of Vincent Foster during the month of July and in particular to attempt to determine if he had gotten a call just prior to his departure on July 20, 1993. We learned that the phone logs were just a message log of calls he received when he was absent or unable to take the call. The administrative assistants would type time, person's name, phone number, and messages if one was left. The log was no assistance in determining if anyone had called him just prior to 1300 hours on July 20, 1993, if the call had been put through. There was one notation of interest on July 19, 1993. A [redacted] had called at 1047 hours and left his phone number [redacted]. There were no messages. Prior to 1300 hours on July 20, he had received several phone messages. Some of the messages were from his staff. There were two calls made from Arkansas from the same person and one call from Colorado. Attempts will be made to contact these people and see if either reached Vincent prior to 1300 hours.

[redacted] requested if any information about the phone logs is contemplated being released, [redacted] would like to have the counsel's office notified at the White House prior to any release. I told [redacted] that I would put his request in my report. This caused [redacted] some concern because [redacted] didn't want special or unusual attention drawn to his request.

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WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

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JUVENILE CASE

EAR CASE/INCIDENT NUMBER

93-03051

July 20,, 1993 [Phone Log]

[redacted]

The phone message log indicated [redacted] called for Foster at 10:55 a.m. and left only his phone number [redacted]. The log indicated he called again at 11:11 a.m. and left the same phone number.

On August 2, I called [redacted]s office and spoke to his secretary, [redacted]. [redacted] was on vacation. She said [redacted] did get a return call from Foster on July 19th, but [redacted] had stepped away from his desk. Foster returned the call to Buck at 11:17 a.m. central time (12:17 a.m. eastern time). [redacted] had a brief conversation with Foster that was characterized as normal, nothing unusual. [redacted]

[redacted]

The phone message log indicated a call from [redacted] at 11:11 a.m. with only a phone number left, [redacted]. [redacted] is from the [redacted] I contacted [redacted] by telephone on August 2nd. He had known Foster since the late 1980's. He met him through Hillary Rodham Clinton and the Rose Law Firm. They had worked together on the Campaign. [redacted] was going to be in Washington on Wednesday, July 21st. He had called and spoken with Foster Sunday July 18th between 8:00-9:00 p.m. eastern time and they had agreed to meet for dinner Wednesday.

[redacted] had told Foster he would call him and let him know when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993.

[redacted]

The phone message log indicated that a [redacted] called Foster at 2:14 p.m. and left his phone number, [redacted], and a message was noted by the administrative assistant "personal matter (secy did not know specifics)"

VT(S) | 9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12

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ING OFFICER BADGE/ID DATE | 13 INVESTIGATOR BADGE/ID DATE | 14 SUPERVISOR

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

DAVID MARGOLIS, Associate Deputy Attorney General, U.S. Department of Justice (DOJ), telephone (202) 514-4945 (work), (703) 264-0483 (home), was interviewed at the Office of the Independent Counsel, Washington, D.C. MARGOLIS was advised of the identity of the interviewing agent and of the purpose of the interview, which was a follow-up to his original interview with the Office of the Independent Counsel on April 11, 1994. CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted in this interview. MARGOLIS provided the following information:

In connection with the search of VINCENT FOSTER's office on July 22, 1993, following FOSTER's death, MARGOLIS and ROGER ADAMS represented the DOJ during the U.S. Park Police (USPP) investigation. When asked what understanding the Park Police may have had concerning the procedure for the search of FOSTER's office, MARGOLIS answered that the original plan was that he and ROGER ADAMS would look at the first page of any documents located in FOSTER's office. It was MARGOLIS' sense that BERNARD NUSSBAUM, Chief Counsel at the White House, and PHIL HEYMAN of the DOJ, had discussed this procedure. When MARGOLIS met with NUSSBAUM, there was an "unequivocal" agreement that this procedure would be followed. MARGOLIS could not recall if Captain CHARLES HUME, USPP, was in on this original meeting with NUSSBAUM or not. MARGOLIS said that the room where they met was small and there were people in the hallway. MARGOLIS was not sure if HUME was one of these individuals or not.

MARGOLIS understood his function at the White House to be two roles: (a) solidify the agreement with NUSSBAUM for the search and thereafter he and ROGER ADAMS look at documents located in FOSTER's office for privilege concerns, and (b) speaking on behalf of the Attorney General of the United States.

MARGOLIS felt there was a clear understanding with Captain HUME and the USPP that the Park Police would defer to the DOJ. MARGOLIS said that the Captain was glad that DOJ was there and wanted DOJ involvement. It was MARGOLIS' understanding that

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Investigation on 6/8/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/9/94

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29D-LR-35063

HUME had talked with PHIL HEYMAN regarding the DOJ participation. NUSSBAUM may also have been making this request.

The USPP looked to MARGOLIS for guidance. MARGOLIS described the first meeting on July 21, 1993 with NUSSBAUM as going as "smooth as glass." The next day, the USPP were caught by surprise. NUSSBAUM announced new rules for the search of FOSTER's office too late for anyone to object. It was a fait accompli.

The original procedure agreed to was that the USPP would spend the morning of July 22, 1993 conducting interviews of White House personnel and, at the same time, ADAMS and MARGOLIS would review FOSTER documents with NUSSBAUM. MARGOLIS believed this "pre-review" was okay with law enforcement. MARGOLIS said that he himself tossed and turned the night before the search regarding his involvement with making "calls" of privilege. The ground rules agreed to were that he would look at the "first page or so" of documents to determine privilege and relevance. MARGOLIS was concerned with the problem of "buried" relevant information within those documents.

MARGOLIS said it was not much of an oversimplification to say that during the search of VINCE FOSTER's office, they were looking for a "smoking gun." He elaborated by saying they were looking for pictures or a suicide note or anything else that would help explain FOSTER's death.

One of NUSSBAUM's errors in judgment concerning the search was that NUSSBAUM considered the investigators "gumshoes" who would be trampling through every detail of First Family records found in FOSTER's office. MARGOLIS said that this was not the case. They were not there for a full analysis of documents in FOSTER's office. They were "evidence casting" for the reason for FOSTER's death, like a note regarding a planned meeting he had for Fort Marcy Park on July 20, 1993, or something of this nature.

The USPP reaction to the change in procedure for the search of July 22, 1993 was one of puzzlement and an attitude of let's get it done.

29D-LR-35063

MARGOLIS speculated there may have been someone else calling the shots for NUSSBAUM. He made this comment in explaining NUSSBAUM's change of plans for the search.

At either 1:30 p.m. or 2:00 p.m. on July 22, 1993, MARGOLIS could not remember the exact time, he was advised by NUSSBAUM that we have a "slight change" in ground rules for the search. At that point, the search was to begin at 2:00 p.m. MARGOLIS was not sure if the Park Police had been kept advised with a current status report of this change or not.

At the start of the search, NUSSBAUM announced that "I (NUSSBAUM) will look at the documents and decide if privilege exists, either Presidential or lawyer/client, in connection with personal documents or other stuff you can look at." Concerning the latter category, NUSSBAUM did locate such items. As an example, MARGOLIS cited a calendar. As an example of an overreaction to the privilege issue, MARGOLIS again mentioned NUSSBAUM locating a newspaper article and placing it in a privilege pile, saying that from looking at this article, investigators could tell an "executive agenda" and, therefore, this article should be placed in the privilege pile. The privilege issue was given a "very stringent test" by NUSSBAUM. Essentially, four piles of documents resulted: (a) Presidential material; (b) CLINTON family documents; (c) HAMILTON stuff (FOSTER personal documentation); and (d) total innocuous documents or a "you can see this" pile.

MARGOLIS was asked if there was an occasion where investigators would express an interest in documents after NUSSBAUM described the papers. MARGOLIS answered that this worked both ways. Sometimes the Park Police would express an interest and sometimes NUSSBAUM would say that an item located was something that may be relevant. MARGOLIS recalled telling NUSSBAUM "a couple of times" to read more of the document. MARGOLIS explained his concern as being one where he thought NUSSBAUM would miss some information because he was being too careless or too much in a hurry. MARGOLIS described this as "being BERNIE." MARGOLIS said "cops being cops" were suspicious of NUSSBAUM's motives from the "get go." MARGOLIS said they did not articulate these concerns, other than through their body language and groans at some of NUSSBAUM's jokes.

29D-LR-35063

Following the search of FOSTER's office, MARGOLIS was worried that NUSSBAUM had "played him for a fool" as part of a "coverup." MARGOLIS spoke with HEYMAN regarding this and HEYMAN called NUSSBAUM. NUSSBAUM answered this charge with something like, "PHIL, how could you ask that?"

MARGOLIS could not remember an instance where the Park Police asked for an item during the search that they didn't get. There may have been some items that could have gone to JIM HAMILTON for a decision which they had expressed in, but MARGOLIS understood investigators later reviewed documents in HAMILTON's possession.

MARGOLIS recalled NUSSBAUM searching FOSTER's briefcase on July 22, 1993. He said NUSSBAUM was in a position to see if it was empty. MARGOLIS was satisfied through NUSSBAUM's "motions" and "eyes" and his (NUSSBAUM's) decision to discard it, that the briefcase was empty. He said to miss a torn up note in the briefcase, at best, was humiliating. MARGOLIS recalled NUSSBAUM looking into the briefcase and holding it up for the group as empty "in BERNIE style."

MARGOLIS said that at the time of the search, he "would like to think" that the mention of Whitewater or Madison would have "triggered me." MARGOLIS doesn't recall seeing or hearing any statements regarding Whitewater or Madison during the search on July 22, 1993. He explained his familiarity with Madison as being his involvement with a previous USA declination concerning Madison.

MARGOLIS was asked how many copies of the USPP report of the FOSTER death investigation were received by the DOJ. MARGOLIS answered that the DOJ received one, maybe two, copies of the report. There would have been one for MARGOLIS and one for the Deputy, PHIL HEYMAN. He said copies could have been reproduced at his or HEYMAN's direction. He believes he authorized copies for the FBI and DOJ Office of Professional Responsibility. MARGOLIS believed he gave a copy to the FBI, although the FBI may have also received a copy directly from the Park Police. MARGOLIS said that ADAMS or special assistants at DOJ would have used existing copies of the report. MARGOLIS said the Department does not have a system to sign for such items or numbered copies. MARGOLIS also recalled that prior to the press conference on the FOSTER investigation, that CARL STERN had

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wanted to give out copies of this report at the press conference. MARGOLIS was able to prevail upon him to not do so.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/20/94

RICHARD HUFF, of the U.S. Department of Justice (DOJ), Office of Information and Privacy, telephone number 202-514-4233, was interviewed regarding his knowledge related to the dissemination of the United States Park Police (USPP) report concerning the death investigation related to VINCENT W. FOSTER, JR. After being advised of the identity of the interviewing agent and the purpose of the interview, HUFF thereafter provided the following information:

HUFF advised that the DOJ Office of Information and Privacy did not disclose the Park Police report to The White House nor did other divisions within DOJ disclose the USPP report to The White House.

HUFF was aware that the DOJ Office of Information and Privacy was in the process of responding to Freedom of Information Act requests related to the USPP report regarding FOSTER's death, circa September - November, 1993. HUFF believes that the USPP may have shared part of the report with The White House in order to determine what could be disseminated pursuant to FOIA requests at DOJ. HUFF recalls the USPP informing DOJ of disclosing to The White House, information from the FOSTER report in order to comply with incoming FOIA requests.

No further information of investigative value was provided.

(telephonically)

Investigation on 6/20/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS Date dictated 6/20/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/8/94

Inspector PATRICK J. FORAN Federal Bureau of Investigation, was interviewed regarding his recollection of the number of United States Park Police (USPP) investigative reports received by the FBI regarding the investigation into the death of VINCENT W. FOSTER, JR. After being advised of the identity of the interviewing agent and the nature of the interview, FORAN thereafter provided the following information:

FORAN recalls reviewing one copy of the USPP report related to the investigation of the death of FOSTER. FORAN did not make any copies of the Park Police report. He was not aware of whether or not anyone else within the FBI made a copy of the Park Police report. After FORAN reviewed the Park Police report, it was then sent to FBI Headquarters investigative files.

FORAN thought that DAVID MARGOLIS, of the United States Department of Justice (DOJ), might be a point of contact regarding the number of copies of the USPP report that was provided to DOJ. Another individual who may be able to provide information regarding the number of USPP reports provided to DOJ might be ROGER ADAMS. ADAMS serves as an assistant to MARGOLIS.

No further information of investigative value was provided.

Investigation on 6/6/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by SA DANA M. GILLIS:DMG/sla Date dictated 6/6/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

Supervisory Special Agent (SSA) JANE ERICKSON, Federal Bureau of Investigation (FBI), was interviewed regarding her recollection of the number of United States Park Police (USPP) investigative reports received by the FBI, related to the investigation into the death of VINCENT W. FOSTER, Jr. After being advised of the identity of the interviewing agent and the nature of the interview, ERICKSON thereafter provided the following information:

ERICKSON received a copy of the USPP report from Captain CHARLES HUME, USPP, on February 3, 1994. ERICKSON provided a copy of that report to Special Prosecutor ROBERT FISKE, Deputy Special Prosecutor RODERICK LANKLER, FBI Special Agent DANA M. GILLIS, and FBI SSA STEVE IRONS. ERICKSON still has custody of one copy of the USPP report. Her report is maintained in a locked file cabinet with limited access.

No further information of investigative value was provided.

(telephonically)

Investigation on 6/8/93 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS/DMG:sla Date dictated 6/9/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/12/94

Supervisory Special Agent (SSA) STEVE IRONS, Federal Bureau of Investigation (FBI), was interviewed regarding his receipt of a copy of the United States Park Police (USPP) investigative report related to the death of VINCENT W. FOSTER, Jr. After being advised of the identity of the interviewing Agent and the purpose t the interview, IRONS thereafter provided the following information:

IRONS received one copy of the USPP report from SSA JANE ERICKSON, FBI Headquarters, on February 8, 1994. Upon receipt of the report, IRONS placed it in a safe located in his office within the Little Rock Division of the FBI. No copies of the report were made by IRONS or any other Little Rock Division personnel. The report continues to be maintained in the aforementioned safe in IRONS' office.

No further information of investigative value was provided.

(telephonically)

Investigation on 7/12/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS DMG:dg Date dictated 7/12/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/20/94

PHILIP HEYMAN, former Deputy Attorney General, currently teaching at Harvard Law School, telephone 617-495-3137 was interviewed telephonically by writer on July 20, 1994. Being acquainted with the interviewing agent and the nature and purpose of the interview, HEYMAN provided the following information:

HEYMAN said that he recalls receiving a copy of the U.S. Park Police report on the death of VINCENT FOSTER, JR. in August, 1993. He said that he got his copy from DAVID MARGOLIS who had received it the Friday or Saturday before the press conference, which was held with the Park Police and ROBERT "BEAR" BRYANT of the Washington Metropolitan Field Office of the FBI on Tuesday, August 10, 1993. HEYMAN explained that at that stage there was only one copy in The Department of Justice and that was the one that he and DAVID MARGOLIS shared. HEYMAN said he wanted to read the report over the weekend before the press conference.

HEYMAN advised that the report was not released to the public at the time of the press conference. At the conference they said that any inquiries would have to go through the Department of Justice and they had to have time for their Freedom of Information Act experts to redact from the report that material which was inappropriate for public dissemination. HEYMAN said that that process could take as long as six weeks but he actually has no idea whether the report was ever released.

HEYMAN believes that four copies existed in the Department in all. One was the original that he shared with MARGOLIS, a second was given to the FOIA office at DOJ, a third one was given to DOJ's criminal division with instructions from HEYMAN to follow-up on one of the items found in FOSTER's note found on July 26, 1993 in which he listed things that were bothering him, and the fourth was given to DOJ's OPR office in order to follow-up on another item listed in the same note by FOSTER.

HEYMAN advised that at the time he received the Park Police report, no photographs accompanied the report. Moreover,

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there were no xeroxes of photographs contained in the report or accompanying it.

During a previous interview PHILIP HEYMAN had provided the following personal information:

Date of Birth: October 30, 1932
Place of Birth: Pittsburgh, Pennsylvania
Social Security Number: [redacted] FOIA(b)(6)

HEYMAN is currently on the faculty of Harvard Law School where he can be reached at 617-495-3137, fax number 617-495-1110.

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March 23, 1994

Honorable Janet Reno
Attorney General
U.S. Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

In a hearing in federal district court in New York earlier this month, Justice Department attorneys opposed Dow Jones' motion requesting release of the various reports regarding the death of White House aide Vincent Foster. (See Dow Jones & Co., et al. v. DOJ, 94 Civ. 0527 (SS)). Only days later, ABC's "World News Tonight" reported it had reviewed the same documents and even aired a photograph purportedly of Mr. Foster's hand gripping a handgun.

It troubles me that at a time when Special Counsel Robert B. Fiske, Jr. is arguing that public release of the Foster files would impede his investigation, and when your Department is spending taxpayer dollars to prevent the release of the same report, it would appear that the Administration is handing copies of this report to friendly news organizations. Such actions suggest that the Administration is seeking to influence public opinion through the press on this important matter and calls into question your willingness to support the efforts of Mr. Fiske.

I ask that you conduct a thorough review of this matter to determine who released the Foster investigative reports. As part of that review, I ask that you provide to my office the names of every individual and their organization with possession of or access to the U.S. Park Police and autopsy reports and photographs.

Thank you for your immediate attention to this matter.

Sincerely,

William F. Clinger

William F. Clinger, Jr.
Ranking Republican
Committee on Government Operations

LEGAL - DOUBLE JEOPARDY - McDOUGAL

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McDOUGAL
DOUBLE JEOPARDY NOTES

- under Brown, still get an expedited appeal even if district court finds that it is frivolous

- evidentiary hearing? print Benefield, 874 F.2d at 1505-06

- Q is Braverman: whether single (same) conspiracy or different conspiracies [5-factor test]

LERNER — REPORTING REQUIREMENT

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FOIA RD 56806 (URTS 16302) DOCID:
70104936

MEMORANDUM

To: Brett Kavanaugh
cc: John Bates

From: Craig Lerner

Re: Section 594(h)(2) of the Ethics in Government Act

Date: January 24, 1997

The Ethics in Government Act (Act) provides:

> The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B)[1] available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report.

28 U.S.C. § 594(h)(2).

Background to section 594(h)(2)

The Act imposes a duty on all independent counsels to file a final report. See 28 U.S.C. § 594(h)(1)(B). This duty distinguishes the independent counsel from all other prosecutors. As the Special Division has observed,

> [c]onsistent with the power and responsibility of their office, prosecutors do not issue reports, and they do not pronounce persons guilty of crimes who have not been indicted, tried, and convicted. The filing of reports by Independent Counsels is "a complete departure from the

---

[1] Paragraph 1(B) provides that an independent counsel shall, before the termination of his office, "file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought."

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authority of a United States Attorney" and is "contrary to the practice in federal grand jury investigations."

In re North (Omnibus Order), 16 F.3d 1234, 1238 (D.C. Cir. Spec. Div. 1994) (quoting In re Sealed Motion, 880 F.2d 1367, 1369-70 (D.C. Cir. Spec. Div. 1989)). In the Omnibus Order, a number of parties objected to the accusatory tone of Walsh's final report. While the special division acknowledged that Walsh's report was "rife with accusations of guilt," it held that "[u]nfortunately for movants, and perhaps for the tradition of fairness, the [Act] does require that the Independent Counsel file a report." Id. Compare with United States v. Briggs, 514 F.2d 794, 801 (5th Cir. 1975) (there is "no substantial authority permitting a federal grand jury to issue a report accusing named private persons of criminal conduct").

It is worth noting, however, that, earlier versions the Act, under which Walsh operated, required the independent counsel to give a description of his work, as well as "the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel." The 1994 Act dropped the requirement that the independent counsel explain his decision not to prosecute. Senator Dole, who had proposed this amendment, explained that this "amendment narrows the permissible scope of the final report." 139 Cong.Rec. S15971-04, S15972 (Nov. 18 1993).

Analysis of section 594(h)(2)

1. The first sentence of section (h)(2) is couched in discretionary terms: "The division of the court may release to Congress, the public, or any appropriate person, such portions of a report ... as the division of the court considers appropriate." How should the special division exercise its discretion in determining whether to disclose the IC's special report?

After Walsh[2] had prepared his final report, and a number of parties had filed comments, several individuals moved the special division to withhold the release of the report in toto, or to withhold those parts that contained grand jury materials. Omnibus Order, 16 F.3d at 1235-36. The court clearly had some misgivings about the accusatory tone of Walsh's final report. See id. at 1240 ("we find the objections of those movants who seek to have us rescind the release of the Report weighty"). Nonetheless, the court consented to the report's release, though it emphasized that "the Court places no imprimatur upon it." Id.

---

[2] The relevant section of the Act for the Walsh investigation was 28 U.S.C. § 595(b)(3)(1982). That section was later recodified in its present form as section 594(h)(2). See Omnibus Order, 16 F.3d at 1235 & n.1.

"The Independent Counsel does not operate under our supervision and his acts, including the writing of the Report, do not bear our aegis." Id. at 1239. See also Morrison v. Olson, 487 U.S. 654, 680-84 (1988) (had the special division been invested with supervisory powers over the independent counsel, the Act would have been constitutionally suspect); In re North (Walsh Show Cause Order), 10 F.3d 831, 836 (D.C. Cir. Spec. Div. 1993) (Butzner, J., dissenting) ("The Act confers very limited powers on the court with respect to the Independent Counsel. Adherence to these limitations is essential to preserve the constitutionality of the Act."). Cf. In re Charge of Judicial Misconduct or Disability, 85 F.3d 135, 138 (D.C. Cir. 1996) (en banc) (the special division does not "adjudicat[e] the merits of a controversy between opposing parties"). But cf. id. at 140 (Tatel, J., concurring) (the opportunity for judicial impropriety on the part of the Special Division exists "because the special panel exercises some degree of discretion").

In deciding to release the Walsh report, the special division sought guidance from an unenacted 1987 Senate report, which stated:

> In considering whether to release court filings, it is intended that the court balance the right of the subjects of the investigation to be shielded form [sic] publicity about unfounded or unfair allegations with the right of the public to inquire about prosecutions under this Act. In balancing these concerns, the court should weigh such factors as [1] whether the subjects of the investigations have already disclosed to the public; [2] whether the subjects do not object to the filings being released to the public; [3] whether the filings contain information which is already publicly known; and [4] whether the filings consist of legal or factual rulings in a case which should be publicly available to understand the court's rules and precedents or to follow the developments in a particular matter.

S.Rep. No. 123, 100th Cong., 1st Sess. 21 (1987), reprinted in 1987 U.S.C.C.A.N. 2150, 2170, quoted in Omnibus Order, 16 F.3d at 1237. In the Omnibus Order, the special division noted that the subjects of the Walsh investigation, as well as much of the information in the report, were already publicly known, 16 F.3d at 1240; and that the court filings "do not consist of either legal or factual rulings," id. at 1241. While the court acknowledged that some people mentioned in the report opposed its release, other persons expressed no opinion one way or another, and still others supported the report's release. Id. at 1240.

There may be limits to the lessons that can be drawn from the Omnibus Order, for the court emphasized that "given all of the facts and circumstances as they now prevail in this unique case, we will order release." Id. at 1241 (emphasis added).

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Nevertheless, the Omnibus Order articulates at least two generally applicable principles: (1) disclosing the final report is essential "to 'ensure the accountability' of the Independent Counsel to the government and the public," id. (quoting S.Rep.No. 170, 95th Cong., 2d Sess. 70-71), and (2) the special division is wary of exercising a "supervisory power over the essentially executive functions performed" by the independent counsel, id. at 1239; cf. Morrison, 487 U.S. at 681 ("The Act simply does not give the Division the power to 'supervise' the independent counsel in the exercise of his or her investigative or prosecutorial authority.") The upshot is that the special division will, in most instances, order the release of the independent counsel's report.

The legislative history of the 1994 Act makes clear that, whatever misgivings Congress had with Walsh and his blistering final report, it approved of the special division's decision to release that report. The House proposed an amendment to section 594(h)(2) to "add[] language encouraging the court to release the report and associated material if the court determines it would be in the public interest and would be consistent with maximizing public disclosure, ensuring a full explanation of the independent counsel's activities and decisionmaking, and facilitating the release of information which the independent counsel had determined to be disclosed." H.Rep. No. 103-511 (May 19 1994), 1994 WL 200711 at *20. See also H.Rep. No. 103-224 (August 6, 1993), 1993 WL 302057 at *20-21.

The Senate version of the 1994 Act tracked the language of the 1987 version. The conference followed the Senate bill because it regarded the proposed House language as redundant. "The conferees agree that the standards in the 1987 law on releasing a final report to the public are not overly restrictive, as evidenced by the special court's decision to release the final report in the Iran-Contra matter despite numerous motions by persons named in the report to repress [sic] all or portions of it. For this reason, the conferees have determined that additional statutory language encouraging disclosure is unnecessary." H.Rep. No. 103-511, 1994 WL 200711 at *20 (emphasis added).

2. The second sentence of section (h)(2) provides that the special division "shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution."

As already indicated, a number of individuals appealed to the special division to withhold the release of the Walsh final report. Those individuals specifically appealed to section (h)(2), which empowers the special division to "make such orders as are appropriate to protect the rights of any individuals named" in the final report. Omnibus Order, 16 F.3d at 1235. The

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special division rejected these motions, stating that, "it is in the public interest that this matter of extended national controversy be afforded as full a conclusion as possible." Id. at 1245.

3. The third sentence of section (h)(2) provides that "the division of the court may make any portion of a final report ... available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit." Three questions arise: (a) who receives a copy of the report -- only putative subjects or any persons mentioned in the report, (b) do the individuals receive the entire final report or only a relevant portion, (c) what is the time limit for comments?

a. Who receives a copy?

In determining which individuals are to receive a copy of the final report for comment, the Act is couched in discretionary terms: "the division of the court may make any portion ... available to any individual named in the final report." The special division originally submitted portions of the Iran/Contra report to all individuals mentioned in it except "[s]ome given only minor or passing mention." Omnibus Order, 16 F.3d at 1236 n.2. Soon thereafter, the special division "endeavored to provide notice and access ... for comment even as to those individuals. After the filing of comments had been closed, one individual, mentioned in a footnote, notified the Court that he had not received notice. The Court does not deem it necessary to reopen the comment period." Id.

To judge from the Walsh report, the special division will presumably try to notify nearly all individuals who are discussed in some detail in the final report, and may also endeavor to allow comments even from minor players.

b. Do individuals receive the entire report or only a portion?

The plain language of the Act provides that only a "portion" of the final report is made available to individuals for their comments. This is how the special division has interpreted the Act. In the Iran/Contra investigation, "[e]ach named individual and/or counsel for such named individual received access to the portion or portions of the Report naming that person. In two instances, an individual named was discussed so pervasively that the full Report was provided to the individual and the individual's counsel." Omnibus Order, 16 F.3d at 1236.

c. What is the time limit for comments?

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Walsh filed his final report on August 5, 1993. Omnibus Order, 16 F.3d at 1236. The special division originally granted named individuals until October 3, 1993, to provide comments, and it later extended the deadline until December 3, 1993. In re North (Emergency Motion of Society of Professional Journalists) (not reported) 1993 WL 560094, *1 (D.C. Cir. Spec. Div. 1993). In short, there was a four-month comment period. It is worth noting that the Walsh report was "lengthy and complex," In re North (Shields and Gruner Fee Applications), 53 F.3d 1305, 1308 (D.C. Cir. Spec. Div. 1995); accordingly, the special division may allow a shorter comment period for other final reports.

4. The fourth sentence of section (h)(2) provides that "comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report." Who oversees the preparation of such an appendix?

The special division has stated that "[t]he independent counsel's investigation ends when he or she files a final report 'setting forth fully and completely a description of the work of the independent counsel.'" In re North (Reagan Fee Application), 94 F.3d 685, 689 (D.C. Cir. Spec. Div. 1996) (quoting 28 U.S.C. § 594(h)(1)(B)). Even after the independent counsel files the final report, the special division has recognized that he has the residual duty of compiling an appendix consisting of comments by named persons. Walsh Show Cause Order, 10 F.3d at 833. Apparently, Walsh was charged with this duty.

Related issues

1. Does the Act's reporting requiring negate the secrecy requirements imposed by Fed.R.Crim.P. 6(e)?

No. In its Omnibus Order, the Special Division made clear that it had "nowhere" held "that the secrecy requirement of Rule 6(e) does not apply to Independent Counsels." 16 F.3d at 1243. The Special Division further held that the Act's reporting requirement did not effect a "repealer by implication" of the secrecy requirements of Rule 6(e). See id. ("we are not to construe statutes so as to work a repealer by implication unless the statutes are in irreconcilable conflict") (quotation omitted).

The special division nonetheless concluded "courts may loosen those bonds [of secrecy] under the terms of the Rule." Id. at 1244. The special division then quoted Fed.R.Crim.P. 6(e)(3)(C), which provides that "[d]isclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made -- (i) when so directed by a court preliminarily to or in connection with a judicial proceeding." The special division held that its actions in overseeing the

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release of a final report "constitute a judicial proceeding," thereby implicating the above exception to the secrecy requirements otherwise imposed by Rule 6(e). Id. The court added that "[a]rguably, the Independent Counsel should have applied to us for a Rule 6(e)(3)(C) exception before fining the Report containing the grand jury material." Id.

Another reason mentioned by the special division to justify the release of the grand jury material is that much of that material had already been made public and therefore had "lost its protected character." Id. The court cautioned, however, that "[w]e do not intend to formulate a rule that once a leak of Rule 6(e) material has occurred, government attorneys are free to ignore the pre-existing bond of secrecy." Id. at 1245.

2. Can the independent counsel respond to comments filed by persons named in the final report?

No. A divided panel concluded that the independent counsel cannot respond to comments submitted by persons named in the final report. Judge Sentelle, writing for the majority, reasoned that, pursuant to Section 594(h)(1)(B), the independent counsel's office terminates upon the filing of a final report. Walsh Show Cause Order, 10 F.3d at 833. It is true that the independent counsel has the residual duty of compiling an appendix consisting of comments by named persons. Id. Nonetheless, Judge Sentelle emphasized that the independent counsel's residual duties do not "include the making of revisions or additions to his prior report." Id. at 834.

A dissenting Judge Butzner observed that "[t]he Special Division ... should not use the power of termination as a method of supervising the Independent Counsel. Id. at 837 (quotation omitted). He added that "to assume control and supervision over the Independent Counsel in the discharge of his duties to report, and to terminate the office before he has completed his report raise constitutional issues in the application of the Act that should be avoided." Id. at 838. See also Morrison, 487 U.S. at 680-84 (had the special division been invested with supervisory powers over the IC, the Act would have been constitutionally suspect).

Attachments

In re North (Omnibus Order), 16 F.3d 1234 (D.C. Cir. Spec. Div. 1994).

In re North (Walsh Show Cause Order), 10 F.3d 831 (D.C. Cir. Spec. Div. 1993).

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LINDSEY - STRUCTURING

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Memorandum **Office of the Independent Counsel**

To : All OIC Attorneys Date 5/15/95

From : Jackie M. Bennett, Jr.
Timothy J. Mayopoulos

Subject: Status of CTR investigation

Attached for your review is a memorandum describing the status of our investigation into currency transactions by the 1990 Clinton for Governor campaign at the Perry County Bank in May and November 1990.

We are scheduled to discuss this matter on Wednesday, May 17, at 1:30 p.m. Central time.

Meeting - May 17

- what was Lindsey's motivation?
- Ainley's credibility?
- KWS: what was Ainley's motivation?

HIGHLY CONFIDENTIAL
CONTAINS RULE 6(e) MATERIAL

MEMORANDUM DRAFT VERSION

To: Kenneth W. Starr
Independent Counsel

All OIC Attorneys

From: Jackie M. Bennett, Jr.
Timothy J. Mayopoulos
Associate Counsel

Date: May 15, 1995

Re: Status of investigation of currency transactions by the 1990 Clinton for Governor at the Perry County Bank

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INTRODUCTION

This memorandum summarizes the status of our investigation of criminal activity in connection with currency transactions by the 1990 Clinton for Governor campaign at the Perry County Bank in Perryville, Arkansas. Neal T. Ainley, the former President of the Perry County Bank, was indicted by the Grand Jury in Little Rock on February 28, 1995 on five felony charges relating to his failure to prepare and file currency transaction reports of two cash withdrawals by the 1990 Clinton for Governor campaign in May and November 1990. Approximately two weeks ago, Ainley pled guilty to reduced charges, and is currently cooperating with our investigation.

Apart from Ainley, the other principal actors in the May and November 1990 currency transactions were Bruce R. Lindsey, then treasurer of the Clinton for Governor campaign and now a senior advisor to President Clinton; Robert M. Hill, an accountant in Perryville and a 50% owner of the Perry County Bank; and Herby Branscum, Jr., a lawyer and well-known Democratic party figure in Arkansas, and the other 50% owner of the Perry County Bank.

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A. Case Summary

On May 25, 1990, four days before the Arkansas primary election, Bruce Lindsey, treasurer of the 1990 Clinton for Governor campaign, went to the Perry County Bank (PCB) and withdrew $30,000 in cash from the campaign's account using four checks, each in the amount of $7,500. Neal Ainley, then president of PCB, handled the transaction. Although the four checks aggregated well over the $10,000 threshold for triggering the preparation and filing of a Currency Transaction Report, at the request of Lindsey and Ainley's superior, Robert Hill, Ainley did not prepare or file such a report with the Internal Revenue Service as required by law. The Clinton campaign used the cash withdrawn from PCB to make so-called "Get Out the Vote" or "GOTV" payments to black leaders and activists to turn out the black vote on election day.

On November 2, 1990, this time four days before the Arkansas general election, Lindsey arranged for the Clinton for Governor campaign to withdraw $22,500 in cash from its account at PCB, again for use in the campaign's election day GOTV efforts among black voters. On this occasion, PCB personnel prepared a CTR, and Ainley left a photocopy of the document in the bank's files for eventual scrutiny by bank examiners. However, Ainley, at Hill's urging, removed the original CTR from the bank's outgoing mail so that the transaction would not be reported to the Internal Revenue Service.

On February 20, 1991, Ainley falsely stated on a FDIC bank examiner's questionnaire that PCB had filed a CTR for all transactions requiring such a report. Ainley did so because he knew that if he indicated that PCB had not filed CTRs for all transactions requiring them, the examiners would review the bank's currency transactions and discover that CTRs had not been filed for the withdrawals by the 1990 Clinton campaign. Ainley did not consult with Lindsey, Hill or Branscum with regard to his false statement to the bank examiners.

B. Prosecution of Neal Ainley

Neal T. Ainley served as president of PCB from June 1989 through March 28, 1994. Before becoming president of PCB, Ainley served as a bank examiner and a supervisor for the Arkansas State Banking Department from June 1983 through June 1989. As a state bank examiner, Ainley reviewed bank compliance with, among other things, CTR regulations.

On February 28, 1995, we indicted Ainley on five felony counts relating to the May and November 1990 currency transactions, including conspiracy, substantive violations of the CTR reporting statute, and causing false entries and statements. As we stated in our previous prosecution memorandum, that

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prosecution was designed to charge appropriately Ainley's criminal misconduct and to set the stage for potential cooperation by him in a prosecution of Lindsey and others.

At the time, we hoped that we would obtain a speedy trial which would permit us to convict Ainley before we lost the ability to charge Lindsey and others with regard to the May 25, 1990 currency transaction. We also hoped that, in the absence of an early trial, Ainley would agree to plead to at least one felony count and cooperate with the investigation.

When the initial trial date of April 10 was pushed back to July 5, and Ainley's counsel expressed a willingness to accept a misdemeanor plea but refused to ever consider a felony resolution, we had to choose between proceeding with our case against Ainley alone -- and losing our best potential count against Lindsey and others -- or agreeing to a misdemeanor disposition which would keep alive the possibility of bringing an additional case before May 25. We opted for the latter alternative.

On May 2, 1995, Neal Ainley pled guilty to two misdemeanor counts charging that he delivered and caused to be delivered to the Secretary of the Treasury or his delegate a document known to false and fraudulent as to a material matter in violation of 26 U.S.C. § 7207. In exchange for the reduced charges, Ainley agreed to cooperate with the investigation. In entering his plea, Ainley admitted to the same underlying conduct with which he had been charged in the felony indictment. The parties made no agreements whatsoever with respect to Ainley's sentence.

what is max sentence what guidelines?

[redacted]

Lindsey is an attorney and was a partner in Wright, Lindsey & Jennings, a prominent Little Rock law firm founded by his father. Described in recent press accounts as "perhaps Clinton's closest political confidant," Lindsey is a longtime friend and supporter who served as treasurer of the 1990 Clinton for Governor campaign. He also served as a key strategist and operative in a number of Clinton campaigns, including the 1992 presidential race. For years he has been a member of Clinton's select inner circle of advisers.

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Lindsey has been a senior advisor to the President from the beginning of the Clinton administration, and currently holds the position of Deputy White House Counsel. Recent press accounts have commented on Lindsey's role as President Clinton's ubiquitous traveling companion -- "a signal of presidential confidence no other staffer comes close to receiving" -- and have portrayed Lindsey as the last survivor among the Arkansas political insiders who came to Washington to be part of the administration.

Hill is a certified public accountant and a 50% shareholder of Perry County Bancshares, a bank holding company that owns the Perry County Bank. Active in Democratic party politics, Hill has served as chairman of the Perry County Democratic Party for the past 10 years. Hill has made numerous political contributions to Clinton campaigns.

Branscum, is an attorney in private practice in Perryville. He served as the Arkansas State Democratic Party Chairman from 1976 to 1982. Like Hill, he is a 50% shareholder in Perry County Bancshares. Also like Hill, Branscum consistently has made political contributions to Clinton gubernatorial campaigns.

Lindsey is represented by Washington attorneys Allen R. Snyder and William D. Nussbaum of Hogan & Hartson, and by Little Rock attorney Winslow Drummond of the McMath Law Firm. (While he has not surfaced in any dealings with us, a senior partner in the McMath firm, Sandy McMath, is considered the most highly regarded trial lawyer in Arkansas, and would probably represent Lindsey at a trial.) Hill is represented by Little Rock attorney Jack Lassiter, a highly respected member of the Arkansas defense bar. Branscum is represented by Dallas attorney Dan C. Guthrie.

FACTS

A. The 1990 Clinton for Governor campaign

In the spring of 1990, then Governor Clinton began putting together a team for his campaign for re-election. Gloria Cabe, a former Arkansas legislator and Clinton loyalist who had worked on all of Clinton's gubernatorial campaigns since 1980, was selected to be manager of the 1990 campaign.

As previously noted, Lindsey acted as treasurer of the 1990 campaign. A third key member of the campaign team was Carol D. Willis. Willis had worked on every campaign that Clinton had conducted since 1974, his principal responsibility having been to manage the GOTV initiatives in black communities outside Pulaski County (the county in which Little Rock is located). Willis is now Senior Advisor to the Chairman of the Democratic National Committee in Washington, D.C.

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B. The Perry County Bank campaign account

Although Clinton's earlier gubernatorial campaigns had maintained their bank accounts at the Bank of Cherry Valley, for unknown reasons the 1990 Clinton for Governor campaign departed from that practice and opened a checking account on March 9, 1990, at the Perry County Bank in Perryville, Arkansas. Both Hill and Branscum claim that PCB did not seek the campaign's business.

Bruce Lindsey and Gloria Cabe were the authorized signatories on the campaign checking account at PCB. Lindsey was listed on the opening account document as the contact person on the account. Neal Ainley functioned as the campaign's principal contact at PCB, and Robert Hill served as the contact when Ainley was unavailable. (Hill and Branscum were not officers of the bank, and did not maintain offices at the bank.)

PCB's banking relationship with the campaign commenced with the origination of an unsecured campaign loan to the Clintons in the amount of $50,000, which was eventually repaid. Neal Ainley was responsible for originating and documenting the loan.

C. The Clinton campaign's currency transactions

The Arkansas Democratic and Republican primary elections were held on May 29, 1990. The general election was held on November 6, 1990. In both the primary and general elections, the Clinton campaign made cash withdrawals from its account at PCB, and used those funds in connection with Carol Willis' black GOTV program.

Gloria Cabe has stated that, as treasurer, Lindsey would have been aware of all cash withdrawals from the campaign's account at PCB.

1. The May 25, 1990 transaction

Ainley has told us on several occasions that his first contact on May 25, 1990 regarding the $30,000 withdrawal was from Branscum, who advised him that Lindsey would be in touch with him and that he should help Lindsey. Ainley said that Branscum told him in very general terms to do what Lindsey wanted.[1] (Long

[1] In questioning Ainley, we have pressed him to be as precise as he can be about the specific conversation he had with Branscum on May 25. After thoroughly questioning him on this point, our assessment of the evidence is that, although Ainley is confident that Branscum knew full well about the CTR issue and the Clinton campaign's desire to keep the cash withdrawal secret, the actual words Branscum used in his conversation with Ainley on

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distance telephone toll records corroborate that Branscum could have spoken with Lindsey about the withdrawal. The telephone records show that several very short calls were made from the Clinton campaign headquarters to Branscum's home and law office between 8:00 a.m. and 9:00 a.m. on May 25. At 9:08 a.m., a call was made from Branscum's law office to the Clinton headquarters; the call lasted 12 minutes.)

Shortly after speaking with Branscum, Ainley called Lindsey, or Lindsey called Ainley (Ainley is not sure which), and they spoke about the withdrawal. Ainley has stated that in his telephone call with Lindsey, Lindsey asked whether the transaction had to be "reported," which Ainley interpreted as meaning reported as a large currency transaction to the IRS, since that is the only kind of report that is made of currency withdrawals. Ainley has stated that he explained to Lindsey that the transaction had to be reported, and that Lindsey asked whether there was any way around the rules.

Ainley told us that, in response, he suggested to Lindsey two avenues by which the campaign could, in Ainley's view, withdraw the cash while lawfully avoiding the CTR requirement. One suggestion Ainley made was for the campaign to withdraw several thousands of dollars per week over a series of weeks. Ainley said that, while it was a fine line, he would consider that legal and not requiring a CTR. Lindsey said that he could not do that as he needed the money that day. Ainley said that he also suggested to Lindsey that the campaign could go to a variety of local banks and cash a check at each bank. (Ainley explained that Little Rock banks would probably cash a check for the Governor's campaign, even if the campaign did not maintain an account at that bank.) Lindsey said that he did not want to do that.

Ainley has stated that, after Lindsey rejected Ainley's suggestions, the conversation continued and either Ainley or Lindsey suggested that the $30,000 be withdrawn in amounts less than $10,000. Ainley claims he specifically suggested that the campaign make three withdrawals of $9,900 and a fourth in the amount needed to bring the total withdrawal to $30,000. Lindsey responded that he did not want to use $9,900 amounts, stating that he instead wanted to divide the $30,000 amount by four, and thus write four checks for $7,500. Ainley has also stated that Lindsey indicated that he wanted the cash in $100 bills.

We have not been able to corroborate the telephone call between Ainley and Lindsey. While telephone toll records show a telephone call from PCB to Wright, Lindsey & Jennings at 9:33

May 25 were sufficiently vague that a case against Branscum would not be viable on the strength of Ainley's testimony alone.

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a.m. on May 25 (just a 13 minutes after the call between Branscum's office and the Clinton campaign ended), the records indicate that the call lasted only one minute. It seems unlikely that the conversation that Ainley has described could have taken place in just one minute. We have not been able to identify a return call from Lindsey to Ainley at PCB.

Following his initial conversation with Lindsey, Ainley determined that PCB was approximately $23,000 short of having sufficient cash on hand to accommodate Lindsey's withdrawal request. Accordingly, someone at PCB contacted the First National Bank in Morrilton to ask to purchase cash to conduct the transaction requested by Lindsey. Long distance telephone toll records show a four-minute telephone call from PCB to the Morrilton bank at 9:48 a.m.

After determining that cash could be obtained from First National, Ainley claims he called Lindsey to tell him that the $30,000 he requested was available. Long distance telephone records do not show such a call.

According to Ainley, Robert Hill's daughter, Tracy Hill, who was then a Perry County Bank employee, was dispatched to First National to obtain the additional cash necessary to accommodate Lindsey's requested withdrawal.

To obtain the cash, Tracy Hill apparently took with her a cashier's check dated May 25, 1990, in the amount of $23,000, made payable to First National. The check was signed by Ainley and indicated Perry County Bank as the remitter. The check had on it a notation which read: "For currency, $20M -100 & 3M - 50" indicating that the amount requested was $20,000 in hundreds and $3,000 in fifties. First National's "Cash Out Credit" document evidences that First National paid $23,000 in "Big Bills to Perry Co Bank."

Later on May 25, 1990, Lindsey traveled to PCB's office in Perryville. Prior to Lindsey's arrival, Ainley spoke with Robert Hill. It is not clear whether this conversation was before or after Ainley's initial conversation with Lindsey. According to Ainley, Hill was concerned about the currency reporting requirement. Ainley claims that Hill asked if a transaction over $10,000 had to be reported, and that he responded in the affirmative. Ainley stated that Hill mentioned that Marty Satterfield, the person at PCB who ordinarily prepared and filed CTRs, was on vacation. Hill said that since Satterfield was not on the premises, if Ainley took care of the transaction, it would

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not be reported.[2] Satterfield has confirmed that he was out of town on May 25. He has also acknowledged that the $30,000 withdrawal was suspicious and that he would have required a CTR to be filed.

According to Ainley, Lindsey arrived at PCB shortly before or shortly after Tracy Hill returned from First National with the cash. Ainley and Lindsey waited in Ainley's office where another bank employee, PCB vice president Helen Brandon, delivered and counted out the $30,000 cash in their presence. At this time, according to Ainley, Lindsey gave Ainley four checks in the amount of $7,500 each. Each check is in the amount of $7,500, and was signed by both Lindsey and Gloria Cabe. (Cabe does not deny signing the checks, but claims that she has no recollection about them whatsoever.)

Both the amounts of the checks and the payees are in Lindsey's handwriting. Check no. 326 is made payable to Committee to Re-elect Governor Clinton; no. 327 is made payable to Clinton for Governor Campaign Committee; no. 328 is made payable to Clinton for Governor Committee; and no. 329 is made payable to Clinton for Governor Committee. However, the check stubs indicate that each check is written to the Clinton for Governor Committee. Ainley believes that Lindsey endorsed the checks while they were in the office. After Brandon delivered the cash, Lindsey stayed another twenty minutes or so and then departed.

Ainley has stated that a CTR was not prepared for this transaction because, during the conversation between Ainley and Lindsey when the withdrawal was first requested, they specifically agreed to break down the transaction into amounts less than $10,000 so that no CTR would be filed. Ainley stated that Lindsey made the ultimate decision on how this transaction would be conducted. Ainley said that no one at the campaign, including Lindsey, had ever expressed concern regarding the processing of checks, and noted that checks drawn on PCB accounts are processed in-house.[3] Ainley stated that he informed both Robert Hill and Bruce Lindsey that no CTR had been filed.

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[2] Since a call between Hill's office or residence and PCB is a local call, it is not possible to corroborate a telephone call between Ainley and Hill by reference to telephone toll records.

[3] See discussion of Lindsey's concern about check processing below.

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2. The November 2, 1990 transaction

As with the primary election that had been held in May, the Clinton campaign spent a substantial amount of cash to fund its GOTV initiative for the November 6, 1990 general election. As before, the campaign sought the cash four days in advance of the election.

Ainley has stated that his first contact with regard to the November 2 withdrawal was with Robert Hill. Ainley believes that this call occurred the morning of November 2. According to Ainley, Hill informed him that the Clinton campaign needed to make a cash withdrawal, and several times asked whether it needed to be reported. Ainley stated that he replied that such currency transactions did have to be reported. Ainley claims that, at Hill's prompting, he asked Marty Satterfield whether it was Satterfield's view that the transaction would need to be reported. Satterfield agreed that it did.

Ainley said that after he spoke with Hill, he spoke with Lindsey. Ainley claims that Lindsey said that the campaign needed to withdraw cash, and expressly asked whether the withdrawal would have to be reported. Ainley said that he told Lindsey it did, and that Satterfield was going to be handling the transaction.

Long distance telephone records do not indicate any telephone calls between PCB and the Clinton campaign or Wright, Lindsey & Jennings during the morning of November 2. The records for November 1 show a one-minute telephone call from PCB to Wright, Lindsey & Jennings. Perhaps that was when Ainley and Lindsey spoke. The records for November 2 show a call from PCB to the Clinton campaign headquarters at 3:33 p.m., but that is hours after the transaction occurred.

Ainley said he proceeded to process the withdrawal requested by Lindsey. Ainley said that he asked Satterfield whether PCB had a sufficient inventory of cash for the campaign to withdraw $22,500. Satterfield checked and reported that PCB had sufficient cash funds to honor the withdrawal request in that amount.

On November 2, 1990, campaign manager Gloria Cabe approached Glenda Cooper, a campaign volunteer at the campaign offices, and asked her to drive to PCB in Perryville to pick up a package. Cooper has testified that Cabe gave her the name of a man at PCB (Cooper cannot remember the name) and told her that this man would give her something to bring back to the campaign office. Cooper assumed that the items she was to pick up were campaign related articles, such as signs. Cooper left campaign headquarters at approximately 10:00 a.m. and arrived at the bank at approximately 11:00 a.m.

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Upon her arrival at PCB, Cooper identified herself and was escorted to an office and met with a female bank representative and a male bank representative, whose names she cannot remember. One of the bank personnel in the room asked Cooper to provide a check or checks so that they could give her cash for the campaign. At this point, Cooper first learned that the purpose of her trip to the bank was to obtain cash.

Cooper said that she advised the bank personnel that Cabe had not provided her with any checks or documents, and the male representative said that he would telephone the campaign and attempt to obtain authorization to provide Cooper with the cash to be withdrawn. The male representative then left the office; he returned a short time later and advised Cooper that the mechanics of the cash withdrawal had been resolved.[4] The male representative then instructed the female representative to obtain the cash necessary to complete the withdrawal. Cooper said that the female representative left the room and later returned with the cash.

Marty Satterfield recalled that, at some point Ainley contacted him and asked him to withdraw $22,500 from the vault and to bring the money to Ainley's office. Satterfield went to the vault, obtained $14,000 in hundreds, $6,000 in fifties and $2,000 in twenties. He recorded the withdrawal from the vault on a "Cash Out" ticket. Five hundred dollars was withdrawn from the teller's drawer, thus bringing the total withdrawal to $22,500. Satterfield took the cash to Ainley's office. Glenda Cooper recalled the female representative counting out the $22,500 in her presence. The cash was put into a plastic bank bag. Cooper said that she put the cash in a secret compartment of her Volvo station wagon and left the bank at about 11:30 a.m. She returned to the campaign headquarters with the cash at approximately 12:30 p.m.

According to Cooper, when she arrived back at the headquarters, she immediately went to Cabe's office, gave Cabe the plastic bag of cash, told Cabe that she had been uncomfortable picking up such a large amount of cash, and stated that she never again wanted to be put in that position. Cooper said that Cabe later approached her and advised Cooper that she had spoken with Lindsey. Cabe stated that Lindsey was unhappy that Cooper had been sent to PCB to pick up the currency on behalf of the campaign.

According to Cooper, Cabe informed her that Lindsey had instructed Cabe to tell Cooper that the IRS might contact her in

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[4] Telephone toll records do not show a call between PCB and the Clinton campaign headquarters during the morning of November 2.

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the future regarding this currency withdrawal. Cooper said that Cabe informed her that banks are required to file a form with the IRS reporting cash transactions over $10,000. Cooper said that Cabe had recounted to her that Lindsey had stated that, should the IRS contact Cooper regarding this transaction, he would take care of it and that she should not be concerned about the possibility of being contacted by the IRS.[5]

[redacted]

Bank records confirm that $22,500 was disbursed on November 2, 1990, pursuant to a request by Lindsey made by telephone to Ainley, and that the funds were received by Cooper at 11:08 a.m. Satterfield recalls that he prepared a CTR for this transaction. He signed the document, obtained Ainley's signature on it and placed it in the stack of mail to be delivered to the Post Office. A copy of the CTR was placed in PCB's files.

According to Ainley, a short time after the November 2 transaction, Hill called him and asked him if he could "get his hands on" the CTR. Ainley said that he understood that Hill was referring to the CTR report prepared covering the November 2 withdrawal. Telephone toll records show a telephone call between Branscum's office and the Clinton campaign headquarters at approximately 11:18 a.m.

Ainley said that, aware that neither Lindsey nor Hill wanted the CTR filed, he went through PCB's outgoing mail and retrieved

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[5] Cooper said that a short time after November 2, she questioned her neighbor, Tom Holland, a certified public accountant, concerning bank reporting requirements of cash transactions. Cooper said that Holland advised her that banks are required to file a form with the IRS which reports cash transactions in excess of $10,000. Cooper said that she did not specifically discuss the $22,500 transaction with Holland. Holland said in an interview that, while he could not deny that Cooper had discussed CTR requirements with him, he had no recollection of that conversations.

Cooper has advised us that, due to her concern that the use of cash by the 1990 Clinton campaign could be analogized to the Watergate conspiracy, and that she might be described as a "bag lady," she has not discussed with anyone her involvement in the cash withdrawal.

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the CTR. Ainley said that he later told Hill in a telephone conversation that he had pulled the CTR.

Ainley maintains that, on a following Friday morning, he gave the CTR to Hill before a meeting they both were attending. Branscum was also present. Ainley said he delivered the CTR to Hill stating "you may want this." The CTR was still in the original envelope addressed to the IRS. According to Ainley, Hill accepted the envelope, folded it, and put it into his pocket. Ainley left the copy of the CTR in PCB's files in the event that bank examiners reviewed the file.

3. Branscum and Hill's appointments

Five weeks after Governor Clinton won re-election, Bruce Lindsey called Clinton's scheduler and asked for an appointment for Robert Hill and Kent Dollar (a friend of Hill's and the outside auditor of PCB) to meet with Clinton to give him $5,000 to $6,000, and to "put in a word for Herby Branscum to be appointed" to the State Highway Commission.[6] Gloria Cabe testified that she had no knowledge about this meeting, but that it was unusual for Lindsey to get involved in commission appointments.

Hill and Dollar met with Governor Clinton on December 14 at the Governor's Office. Dollar testified that the meeting lasted about 15 minutes. He said that he delivered about $4,000 in contributions from other persons to the Governor. He did not know how much Hill delivered, but campaign records indicate that Hill and Branscum and persons related to them gave approximately $10,000 in contributions on December 14. Dollar said that Clinton asked him whether Branscum would make a good Highway Commissioner, and Dollar indicated that he would. Dollar said that Clinton did not discuss the issue with Hill at the meeting. On January 23, 1991, Clinton officially appointed Branscum to the Highway Commission.

At the end of 1991, Clinton also re-appointed Hill to the State Banking Board. (Clinton had initially appointed Hill to the Banking Board in 1987.) Cabe said that she had one passing conversation about Hill's 1991 re-appointment with Craig Smith, Clinton's staffer in charge of making appointment recommendations. She testified that Smith mentioned to her that Hill was going to be appointed, and that "we might as well appoint our friends." Cabe testified that she did not know why

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[6] The Arkansas State Highway Commission is one of the most powerful governmental agencies in the State. The Commission is one of only two commissions constitutionally independent of the Governor. An appointment to the Highway Commission is for 10 years.

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Clinton would consider Hill to be a "friend," as she had never heard of Hill in political or banking circles. Smith does not recall any of the specifics of the appointments of Hill or Branscum.

Apart from the timing of the appointments (especially Branscum's), we have not been able to corroborate that the appointments were rewards to Branscum and Hill for their efforts in avoiding the filing of CTRs for the currency withdrawals. Branscum and Hill will presumably be able to call witnesses to establish legitimate reasons, such as party loyalty and expertise, for Clinton to have appointed them to their respective positions.

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[redacted]

b. Press reports of Lindsey's explanations

In connection with news accounts disclosing Lindsey's target status, Lindsey's principal counsel, Allen Snyder, has indicated that Lindsey will deny in all particulars the allegations made by Neal Ainley concerning their conversations about CTR reporting requirements.

In an Associated Press article published May 9, 1995, Snyder "offered the explanation for a transaction that Whitewater prosecutors have called an 'overt act' of a criminal conspiracy in which an Arkansas banker already has pleaded guilty." According to Snyder, Lindsey used four checks of $7,500 each not to avoid filing a CTR for a $30,000 transaction, but instead "to

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avoid creating an issue for political opponents, who might somehow exploit an 'unusually large transaction.'"[7]

Through the press reports, Snyder also has amplified Lindsey's alleged concern that bank check processors might leak to the press that the Clinton campaign had withdrawn large sums of cash. According to the Associated Press account, Snyder stated that people who stamp checks at banks during weekends often come from outside firms or are temporary employees.[8] "An article might appear on a Monday or Tuesday when there wasn't even time for the campaign to respond to whatever kind of allegation might be made," Snyder is quoted to have said.

5. Hill and Branscum's account

Hill and Branscum have twice stated in interviews with us that they had no knowledge at or about the time of the currency transactions that the transactions had even occurred. Hill and Branscum have both claimed that they first learned that the Clinton campaign had withdrawn cash from its account in late 1991 or early 1992 when Ainley mentioned in passing to them and Charles Roland (a director of PCB) that the Clinton campaign had withdrawn cash during the 1990 gubernatorial campaign for "the brothers in east Arkansas."

While he does not recall the specific conversation, Ainley admits that it sounds like something he would say.

There are no documents which indicate that Hill or Branscum were involved in the cash withdrawals. A case against Hill depends entirely on Ainley's testimony. In our view, there is no case to be charged against Branscum on the current record.

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[7] When interviewed on April 22, 1995, at the White House, President Clinton did not refer to the $30,000 transaction as being "unusually large." Instead, the President stated that because the sum of cash was only a "modest" amount, there would be no need he could think of to have to hide the transaction from anyone.

[8] Ainley has told us that PCB did not use temporary employees during this time period.

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D. The campaign's explanation of the withdrawals -- the 1990 Get Out the Vote Initiative

As discussed above, the Clinton campaign conducted a Get Out the Vote program during the primary and general elections in 1990. Carol Willis was responsible for the GOTV program outside of Pulaski County. According to Cabe, GOTV generally consisted of small payments of an average of $40 made out of a small petty cash fund of $200. GOTV monies from the fund were given to persons to drive voters to the polls, purchase gasoline and to buy lunches for campaign workers. Cabe described the program in race-neutral terms. Cabe acknowledged that Arkansas law prohibits cash disbursements by a campaign in excess of $50.

Cabe was responsible for deciding what cash would be allocated for the GOTV program and specifically what Willis would receive to conduct the GOTV programs in areas outside of Pulaski County. The campaign trusted Willis to spend his GOTV monies properly. Willis believes that he was the only person in the campaign to receive cash.

Willis explained the GOTV program differently than Cabe. He stated that Clinton's campaign strategy relied heavily on winning the black vote. According to Willis, the white vote in Arkansas is split about evenly between the Democratic and Republican candidates. Accordingly, for Clinton to win he needed to capture the support of the black community. (Cabe confirmed this as well.) According to Willis, GOTV was primarily a black voter initiative.

Willis recalls requesting $30-34,000 for the 1990 primary for his use in getting out the black vote. He believes he may only have received $25,000. He believes that he asked for $50,000 for the general election but believes he received only about $30,000. Willis claimed that he received his cash funding in envelopes in installments of about $7,000. He began receiving installments about a week before the applicable election. The largest installment he recalls receiving was about $10,000. He received his funding in installments because the campaign did not have sufficient sums to give him all that he wanted in a lump sum.[9] Willis would divide the money, place it into other envelopes which would be delivered to county coordinators. He claims that he ordinarily requested his GOTV cash in $20 bills because large bills were hard to break and the payments he made generally were in small amounts.

[9] As noted above, the May 25 and November 2 withdrawals were made on the Friday before the election, or only four days before the electorate voted.

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One of the GOTV programs Willis developed was entitled "preventative maintenance." Willis claimed that this program had not been used in any previous campaign. "Preventative maintenance" included cash payments to blacks which, according to Willis, was for them to give speeches in support of Clinton, against his opponent, or to be neutral in the election.

Prior to the general election, Willis prepared a memorandum addressed to Cabe and Clinton in which he outlined GOTV programs he proposed. The memorandum was prepared three or four weeks before the November 1990 general election. In the memorandum "preventative maintenance" was described as follows: "In every campaign there are persons that cannot do much for you but can stifle your efforts with their personal prestige. Something has to be budgeted to mediate that threat." Included in the memorandum was a list of people to whom he proposed to make "preventative maintenance" payments. This memorandum, which lists eighteen separate individuals in a county-by-county breakdown, budgets payments ranging from $200 to $500.[10] While Willis sometimes made projections or estimates of proposed GOTV expenditures, Willis did not keep records of his actual GOTV expenditures. Rather he kept the records "in his head."

Willis acknowledged that he directly or indirectly made cash payments at or near the amounts indicated to a large number of

[10] Willis said that he gave the memorandum to Cabe, but does not know if Governor Clinton or Lindsey received it. Cabe admitted that both she and Clinton received copies of the memorandum, but said that neither she nor Clinton read it in any detail. Cabe said that she knows that Clinton did not read it because the two of them discussed during the campaign that they had not read it. Cabe said that Willis was the only person at the campaign who used the phrase "preventative maintenance."

Lindsey said that he had never seen the memorandum until recently, and that he did not know whether Willis had conducted a preventative maintenance program similar to what is described in the memorandum. Still other campaign representatives have denied ever hearing of "preventative maintenance."

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the people listed as "preventative maintenance" payment recipients.[11] These generally were teachers and preachers. Initially, Willis said that "preventative maintenance" payments were in the $50 range. However, after being referred to the "preventative maintenance" amounts listed in the memorandum, he acknowledged that the "preventative maintenance" payments he made were far greater than $50 and were close to those listed on page 6 of his memorandum. He noted that one person probably received $500. Willis claims that he was unaware of the $50 limit on cash expenditures by a campaign.

E. Ainley's post-guilty plea allegations of misapplication of PCB funds by Branscum and Hill

Within a day of his guilty plea, we began to debrief Ainley, and when we touched upon Ainley's contributions to the Clinton campaign in 1990, his lawyer gave us a proffer in Ainley's presence that implicated Ainley, Branscum and Hill in a possible misapplication of bank funds. Ainley's counsel, Jay Bequette, advised us that Ainley, Branscum and Hill all made contributions to Clinton's 1990 gubernatorial and 1992 presidential campaigns, and that each of them sought and received reimbursement of those contributions from PCB. Bequette said that, at Hill's direction, Ainley submitted claims to PCB for "miscellaneous expenses" to cover more than $1,000 in contributions Ainley and his wife made to Clinton. Bequette said that Ainley knew that Branscum and Hill likewise made applications to PCB for reimbursement of contributions they made.

We were particularly interested in these allegations because we believed that, if they were true, they would give us leverage in attempting to persuade Hill and Branscum to come clean on the CTR transactions and cooperate with the investigation. The day we received the allegations we issued a subpoena to PCB for bank records regarding reimbursement of miscellaneous and travel and entertainment expenses to Ainley, Hill and Branscum during the relevant time period. On Friday, May 11, we received most of the subpoenaed records. They do not corroborate Bequette's proffer.

We have advised Bequette of the results of our subpoena and asked him to confer with Ainley immediately to see whether Ainley has any further information to substantiate his allegations. Today Bequette provided us with additional information, and by Wednesday we hope to be able to determine whether PCB did in fact reimburse Ainley for his contributions, and if so, how. At this time, however, we cannot be sure that with additional time we

[11] A number of the individuals identified in the memorandum have been interviewed, and have acknowledged receiving sums at or near the amounts listed.

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Page Denied

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[redacted]

C. Other Substantive charges and limitations periods

In addition to the CTR offenses and possible conspiracy charges, the facts would support charging one or both of the following substantive offenses, on the theory that were "reasonably foreseeable" acts by a co-conspirator (Ainley) in furtherance of the conspiracies discussed above. Under Pinkerton v. United States, 328 U.S. 640, 647-48 (1946), each member of a conspiracy is liable for each substantive offense committed by a co-conspirator in furtherance of the conspiracy, provided that the substantive offense could be "reasonably foreseen as a necessary or natural consequence of the unlawful agreement."[14]

[14] The issues of whether an act (a) was in furtherance of a conspiracy and (b) was reasonably foreseeable to the co-conspirators are factual determinations for the jury. Here,

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First, there is Ainley's false statement in violation of 18 U.S.C. § 1001 when he falsely certified to the FDIC on February 20, 1991 that PCB had filed a CTR for every currency transaction in excess of $10,000. The limitations period for a Section 1001 violation is five years from the date of the statement, which here would take us to February 1996.

[redacted]

There appears to be a valid argument that Ainley committed a Section 1005 violation when he failed to prepare a CTR for the May transaction and failed to retain a copy in the bank's files. The regulations under Title 31 not only required Ainley to prepare and file a CTR with the IRS, but also required him to retain in the bank's files a copy of each CTR filed. 31 C.F.R. § 103.27(a)(3). We would contend that the failure to place a copy of a CTR in the bank's files had the tendency to deceive bank examiners into believing that no currency transaction had occurred for which a CTR was warranted.[15]

[redacted]

[15] Note that this is superficially inconsistent with our charge against Ainley that his causing a copy of the CTR of the November 1990 transaction to be maintained in the files of the bank was a false entry on the theory that the copy of the CTR represented something that was not true, i.e., that a CTR had been filed with respect to that transaction. But we believe that the two false entry charges are reconcilable: the failure to place a CTR of the May withdrawal in the bank's files was a false

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The proposed theory would appear to fall within the generally accepted principle that an omission where an honest entry would otherwise be made can be a false entry for Section 1005 purposes. United States v. Copple, 827 F.2d 1182, 1187 (8th Cir. 1987), cert. denied, 484 U.S. 1073 (1988). The law is well-settled that, where there is a duty to accurately record a transaction, a failure to make such a record constitutes a false entry. Eighth Circuit Model Jury Instructions, Instruction No. 6.18.1005.

However, we have not found any case in which a court has considered whether the failure to retain a CTR in the bank's files (where no original CTR was sent to the IRS) constitutes a Section 1005 violation. Note that, if a court were to accept this theory, it would essentially convert every failure to file a CTR into a false entry violation. That may make the theory unpalatable to some courts, and we need to recognize that there is an unquantifiable risk that this Section 1005 charge may be declared legally invalid.

[redacted]

do we have any proof that this is not true?

THE DEFENSE STRATEGY AND OTHER PROBLEMS

[redacted]

---

entry because it misled bank examiners into believing that no reportable currency transaction had occurred, while placing a copy of a CTR of the November transaction in the bank's files was a false entry because misled the examiners into believing that the November withdrawal had been reported to the IRS. In both cases, the bank's records failed to reflect accurate information regarding the underlying transactions.

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[redacted]

A. Ainley's motive to commit the crime

The best argument we have is that Ainley had no personal motive to violate the CTR requirements, unless instructed to do so, as he otherwise had nothing to gain.

[redacted]

B. Ainley's demeanor

Ainley is a youthful and clean-cut "All American" sort from a prominent family in northeastern Arkansas. He has a wife and two small children, and will probably make a good initial impression on a jury.

However, even with extensive preparation, we can expect Ainley to be very nervous if called upon to testify. He was visibly shaking during his guilty plea.

Moreover, Ainley's recollection is sometimes faint, and he cannot always recall with specificity what was said in critical conversations. He often does not speak clearly, and frequently recounts the same conversation in ways that are significantly different from one recitation to the next. Ainley is not

[redacted]

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especially bright, and is not the sort of witness who will be able to fend well for himself under an extended cross-examination.

C. Specific cross-examination attacks

We can anticipate strong attacks on Ainley's credibility in cross-examination, including lines of attack as to the following areas:

1. Ainley's plea agreement, described by White House Counsel Abner Mikva as "fabulous," in which five felony counts exposing Ainley to thirty years incarceration were reduced to two misdemeanors with a maximum of two years imprisonment. The defense will contend that Ainley has agreed to provide a particular version of the facts in accord with what the prosecutors want to hear.

2. Discrepancies and inconsistencies in statements made by Ainley to investigators on June 21, 1994 and July 5, 1994, as set forth in 302s:

a. In his first interview on June 21, Ainley initially told the agents that a CTR had been filed for the November 2 transaction. Only when confronted later in the interview did he admit that a CTR had not been filed.

b. Ainley stated that he withdrew the CTR that Marty Satterfield prepared for the November 2 transaction from the outgoing mail and destroyed it. On July 5th Ainley stated that he gave the CTR to Hill and that he had not destroyed it as he claimed earlier.

c. Ainley stated several times during his June 21 interview that the campaign conducted only one cash transaction for an amount greater than $10,000. At the time, Ainley knew that there was a second transaction in May 1990, but he did not admit to this transaction and the failure to file a CTR until the July 5 interview.

d. On June 21 Ainley stated that the bank did not have sufficient cash to accommodate the $22,500 withdrawal requested by Lindsey in November and the bank had to purchase cash from another institution. However, the bank had sufficient cash in November. It was the May withdrawal where cash had to be purchased.

e. On June 21 Ainley recalled that Lindsey had asked whether there was any way around the reporting requirement. Ainley said that he suggested consecutive checks of less than $10,000 negotiated over consecutive days. Ainley claims that Lindsey responded that he needed the cash that

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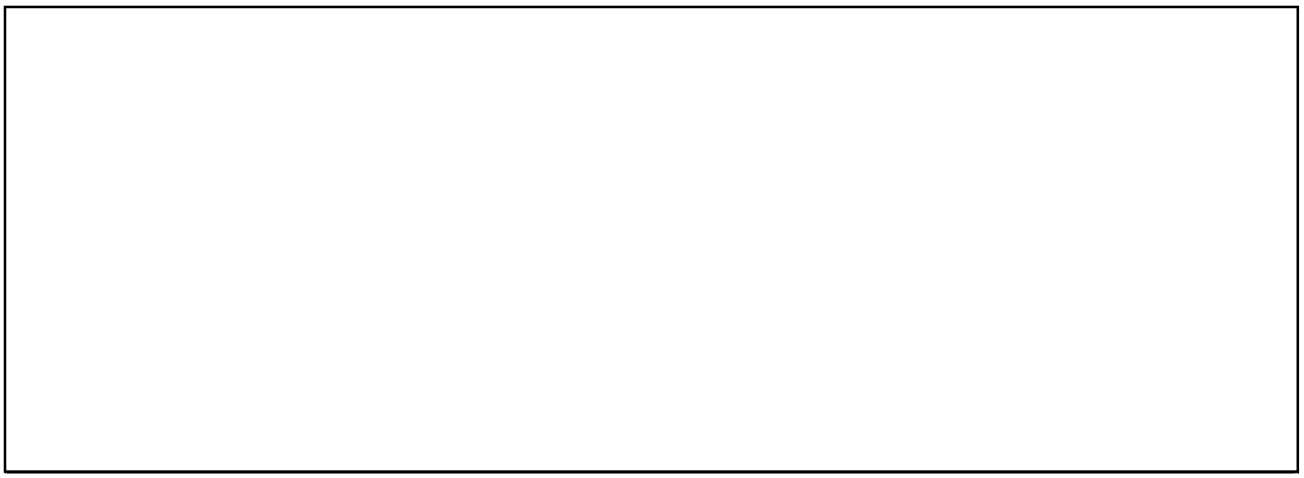
day. It appears that this discussion of checks negotiated on consecutive days may have occurred in connection with the May transaction rather than the one that transpired in November.

3. Ainley's protestations of innocence, as articulated by his lawyers and family members, at the time of his arraignment on five felony counts, contrasted with Ainley's admissions in open court during his guilty plea to two misdemeanor counts, in which he agreed that he had engaged in misconduct identical to that for which he originally had been indicted.



6. That Ainley has an axe to grind against PCB because PCB accused Ainley's friend and business partner, Jeff Glenn, of check forgery, the event that led to Ainley's resignation from the bank. This charge so infuriated Glenn that two months ago he filed a defamation suit against PCB.[17]

7. That Ainley is biased against Clinton, and therefore against Lindsey. Ainley voted against Clinton in every election except the 1990 gubernatorial race; he voted for Clinton then only because Clinton was a PCB customer.

Not all of the above-described areas of potential cross-examination give us significant concern. For example, we can establish that the so-called audit of Ainley's activities after his departure from PCB was expressly "commissioned" by Robert Hill to discredit Ainley after federal investigators began to make inquiries about the Clinton campaign's transactions at PCB. Nor are we overly concerned with criticism about Ainley's

[17] In addition, if we are unable to substantiate Ainley's allegations that Hill and Branscum obtained reimbursement of their contributions to the 1990 and 1992 Clinton campaigns, the defense will also contend that Ainley's allegations were lies.

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favorable plea bargain -- such criticisms are typical and are to be expected in criminal cases. Nonetheless, there is certainly potential for some of this expected cross-examination of Ainley to find its mark.

D. Lindsey character testimony

In addition to hostile attacks on Neal Ainley's credibility, and suggestions of his motives to lie to incriminate Lindsey and Hill, we should anticipate a virtual parade of character witnesses in support of Lindsey and, to a lesser extent, Hill. Lindsey has long-standing relationships with a number of prominent Arkansas political figures independent of his relationship with Bill Clinton, and we can expect such individuals to be called to testify about Lindsey's good character. We would expect both of Arkansas' United States Senators, Dale Bumpers and David Pryor, to be among this group.

Moreover, in view of a recent news account discussing Lindsey's explanation for the cash withdrawals, we can even expect to hear testimony favorable to Lindsey from the person who arguably was one of the victims of the GOTV effort, Clinton's principal opponent in the Democratic primary, Tom McRae. In a front page story in the Arkansas Democrat Gazette on May 12, 1995, McRae is described as "accepting" Lindsey's benign explanation for cashing four $7,500 checks rather than one $30,000 check, that is, that "Bruce had a mild concern that if there were a $30,000 check, somebody processing checks at the bank might be a very hostile anti-Clinton partisan" and "go to the press" on the eve of the election.

E. Other "environmental" factors

Apart from the particular facts of the case, we can expect to face the following additional problems:

1. The defense will stress the "technical" nature of the crime. The jury will hear much about the fact that the Clinton campaign had every right to withdraw cash from its own account, and that this case is merely about the bank's failure to file a one-page form with the federal government. The defense will stress that, while there may be a legitimate governmental need for CTRs where it is necessary to detect drug trafficking or money laundering, the prosecution here, even with all of the resources of the OIC, cannot prove that the funds were used for an illegal purpose.

2. The defense will contend that this technical crime would not have been prosecuted if one of the defendants were not a senior advisor to the President. The jury will be told that this is a politically motivated effort to embarrass local boys who have made good, to denigrate Arkansas, and to reinforce

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negative public perceptions (by "Northerners" or "Easterners") of "Arkansas mores."

3. We are outsiders, to both the jury and the judges. In the past few weeks we have had occasion to appear before district judges on matters including Neal Ainley's guilty plea and several in camera hearings on motions to quash grand jury subpoenas. The judges presiding over those matters have made comments that make us worry whether the OIC will be treated impartially in a highly publicized and politically-charged proceeding.

In one episode, occurring in Judge Susan Webber Wright's chambers following the Ainley plea, Judge Wright commented that she had read in news accounts that several sentencings had been put off to permit time for the defendants to cooperate with the OIC, and that this office's practice of asking for delays in sentencings had been the subject of some criticism in the community (which we understood to mean within the federal courthouse). Judge Wright expressed hope that Ainley's sentencing would not be delayed, and stated that a request for a delay would be looked upon with disfavor (although she indicated that she would probably grant such a motion to postpone sentencing if asked to do so).

Another episode involved Chief Judge Reasoner, who in the last week entertained three separate motions to quash subpoenas for documents, including a motion filed by Lindsey. In the course of the hearings on these motions, Judge Reasoner referred to Bruce Lindsey's good reputation in the local legal community, and questioned us about news accounts he had read in which Lindsey's attorneys had claimed that Lindsey had no motive to hide the transactions because the campaign made a public reporting of GOTV expenditures only a short time after the elections. Also, in discussing our arguments, Judge Reasoner essentially reformulated our burden in the hearing such that we were required to show that the Clinton campaign was so worried about the risk of losing the election that Bruce Lindsey would be tempted to do something that he would never otherwise do -- violate the law.

FOIA(b)(7) - (C)

CONCLUSION

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Page Denied

Memos - Perjury / Obstruction / False Statements

Screened by NARA (RD-F) 07-25-2018
FOIA RD 56806 (URTS 16302) DOCID:
70104940

To: John Bates
Alex Azar
Steve Colloton
Brett Kavanaugh

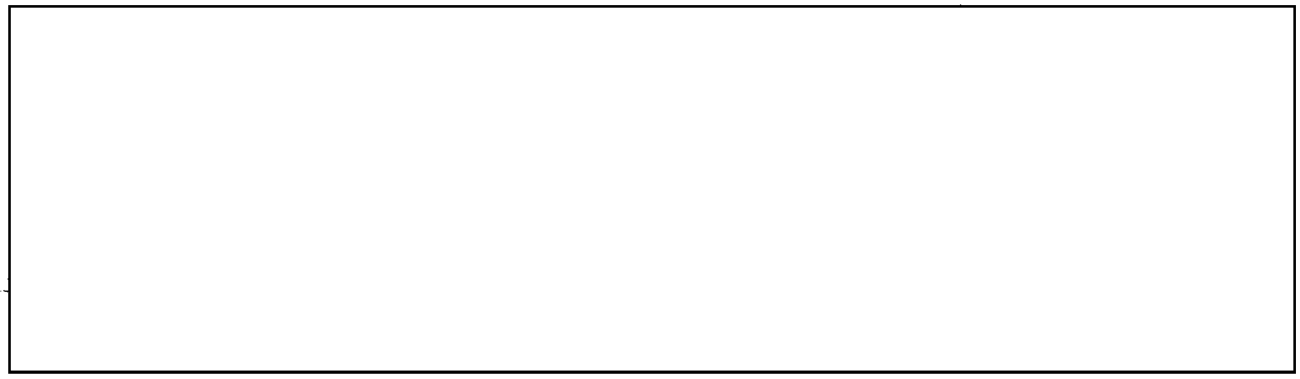
5/22/96

From: Stephen Bates

re: further venue matters

FOIA(b)(7) - (C)

1. Venue under Section 1001



In general, "the situs of the criminal conduct is the determining factor in questions of proper venue." United States v. Brakke, 934 F.2d 174, 176 (8th Cir. 1991); see Fed. R. Crim. Proc. 18. An offense begun in one district and completed in another, or committed in multiple districts, ordinarily can be charged in any district where the offense was "begun, continued, or completed." 18 U.S.C. § 3237(a). Several courts have treated Section 1001 violations as multidistrict crimes to which Section 3237(a) applies. See, e.g., United States v. Simpson, 995 F.2d 109, 111-12 (7th Cir. 1993); United States v. Candella, 487 F.2d 1223, 1227-28 (2d Cir. 1973), cert. denied, 415 U.S. 977 (1974); but see United States v. Mischlich, 310 F. Supp. 669, 671 (D.N.J. 1970), aff'd on other grounds, 445 F.2d 1194 (3d Cir.), cert. denied, 404 U.S. 984 (1971). The Eighth Circuit has not addressed the issue.

It looks to me as if we have a strong argument for Arkansas venue for the interrogatories, but not for the interviews.

(a) Interrogatories

The Eighth Circuit has not considered whether a Section 1001 violation can be prosecuted where a false statement, prepared elsewhere, reaches the government. The court has construed another false-statement statute, 26 U.S.C. § 7206(1) of the tax code, which proscribes "[w]illfully mak[ing] and subscrib[ing]" particular falsehoods on tax documents. The court held that venue lies "in any district in which a false tax return was made and subscribed or filed." United States v. Shyres, 898 F.2d 647,

657 (8th Cir.) (emphasis added), cert. denied, 498 U.S. 821 (1990). Shyres thus indirectly supports venue in Arkansas as well as Washington for the interrogatory answers.

Several other courts have held that Section 1001 venue is proper both where a false statement is made and where it reaches the government. See United States v. Bilzerian, 926 F.2d 1285, 1301 (2d Cir.), cert. denied, 502 U.S. 813 (1991); De Rosier v. United States, 218 F.2d 420, 422-23 (5th Cir.), cert. denied, 349 U.S. 921 (1955); United States v. Lang, 766 F. Supp. 389, 397 (D. Md. 1991) (citing additional cases). I found no appellate cases holding that venue is not proper where a false statement reaches the government.

In its single 1001 venue case, the Supreme Court held that venue lay exclusively where the statement was filed with the government. Travis v. United States, 364 U.S. 631, 636 (1961). The statute at issue required the NLRB to have an affidavit on hand before investigating particular matters. Although lower courts have construed Travis narrowly in light of the unusual statute involved, see, e.g., United States v. Mendel, 746 F.2d 155, 165 (2d Cir. 1984), cert. denied, 469 U.S. 1213 (1985), it may offer us a bit of support.

In sum, I believe we can advance a strong argument for Arkansas venue for the interrogatory responses, given that several courts have allowed venue at the site of receipt and that (so far as I can tell) no circuit has barred venue there.

FOIA(b)(7) - (C)

(b) Interviews

[redacted]

One Second Circuit case supports downstream venue of this sort. United States v. Candella, 487 F.2d 1223 (2d Cir. 1973), cert. denied, 415 U.S. 977 (1974), concerns a HUD-funded program run by New York City. The defendants prepared and filed false statements with a City office in Brooklyn (the Eastern District of New York); the documents were conveyed to another City office in Manhattan (the Southern District) for examination and payment. Some of the documents remained in the City office in Manhattan for HUD audits; others were transferred to a HUD office in Manhattan. See id. at 1227. The defendants contended that prosecution in the Southern District was inappropriate; "appellants cite no authority for their position but seem to rely

on the theory that since enough had been done to constitute a crime in the Eastern District, the crime therefore terminated." Id. The Second Circuit disagreed, holding that "[a]lthough enough was done in the Eastern District to constitute a crime there, . . . it does not follow that the crime then terminated, and that what transpired in Manhattan was irrelevant for venue purposes." Id. at 1228. The court added:

> We think that venue is properly laid in "the whole area through which force propelled by an offender operates." The force propelled here by the defendants immediately contemplated Manhattan. 18 U.S.C. § 1001 defines the offense as the making of a false or fraudulent statement or representation in a matter within the jurisdiction of a federal agency. The false statements here were intended to produce funds. The statements continued to be false and continued to be within the jurisdiction of the United States not only when initially presented but also upon arrival in Manhattan, where the decision was reached to make the funds available.

Id. (citations omitted); cf. United States v. Barsanti, 943 F.2d 428, 434-35 (4th Cir. 1991) (where defendant signed document at attorney's office in Washington, and document was sent to mortgage bank in Virginia and from there to HUD in Washington, "pass-through" venue was proper in Virginia), cert. denied, 503 U.S. 936 (1992); United States v. DeLoach, 654 F.2d 763, 767 (D.C. Cir. 1980) (in prosecution for submitting false statement to joint federal-state program, venue was proper both where defendants submitted documents to state agency and where state agency forwarded them to federal agency), cert. denied, 450 U.S. 933 (1981).

Note, though, that these cases find venue where statements pass en route to federal authorities (Barsanti and DeLoach) or where statements first reach federal authorities (Candela and DeLoach); I have not seen any cases that mirror our situation, where false statements reach federal authorities in one jurisdiction and get passed on to federal authorities in a second jurisdiction. In addition, I'm dubious about some of the Candela court's considerations. The court noted that the false statements were intended to produce funds, but that's not an element of 1001. The court also observed that the utterances remained within the jurisdiction of a federal agency when they reached Manhattan, but that principle would support venue wherever the federal government happens to send documents containing false statements.

The Eighth Circuit did allow downstream venue in one false-statement case, but only after expressly distinguishing Section 1001 from the statute at issue. The defendant filled out a student loan application in North Dakota and submitted it to a

bank there; the bank forwarded it to a guaranty agency in South Dakota, which approved the loan; the North Dakota bank then disbursed the funds. After being convicted in South Dakota of violating 20 U.S.C. § 1097(a), the defendant argued that venue was improper. Citing Section 1001 cases, she contended that the crime was complete when she made the false statement in North Dakota. The court found the Section 1001 cases inapplicable because 1001 proscribes false statements, whereas 1097(a) proscribes obtaining funds by false statements. Accordingly, her crime was not complete until she received the funds; and under the continuing offense statute, she could be charged in either state. United States v. Redfearn, 906 F.2d 352, 353-54 (8th Cir. 1990).

An Eighth Circuit fraud case may be marginally helpful. In United States v. Chandler, 66 F.3d 1460 (8th Cir. 1995), the defendant was convicted in the Eastern District of Arkansas of misapplying federally insured bank funds. He contended that Arkansas venue was improper, given that the loan at issue had been made by a California service corporation to a California resident who in turn had passed the funds on to the defendant, himself a California resident. The court held that Arkansas venue was appropriate because the California service corporation was a second-tier subsidiary of an Arkansas institution, and because the Arkansas institution treated the transaction on its books as a direct consumer loan. Id. at 1465. Though not a false-statement case, Chandler may lend analogous support.

FOIA(b)(7) - (C)

In permitting downstream venue, neither Redfearn nor Chandler (the two Eighth Circuit cases) indicates that the defendant knew or had reason to know that the false statements would be processed in another jurisdiction, and thus that they would be rendered prosecutable there.

But cf. Barsanti, 943 F.2d at 435 (finding Virginia venue proper where defendant made statements in Washington "knowing that they would go to the lending institution in Virginia"); Candella, 487 F.2d at 1227 (finding Manhattan venue appropriate where government contended that documents "were simply accepted at the City's branch offices in Brooklyn for the convenience of parties seeking to file papers").

Finally, in the course of an extensive venue analysis for Sections 1503 and 1623, the Second Circuit made a statement that may help us: "[P]laces that suffer the effects of a crime are entitled to consideration for venue purposes. Such districts have an obvious contact with the litigation in their interest in preventing such effects from occurring." United States v. Reed, 773 F.2d 477, 482 (2d Cir. 1985) (citing cases involving Hobbs Act, Taft-Hartley, bail-jumping, and inducement of illegal entry of immigrants).

In sum, I think we'll have a tough time establishing Arkansas venue for the interviews, given the dearth of directly supportive case law and the Eighth Circuit's damaging Redfearn dictum.

2. Why Congress added § 1512(h)

The venue provision was part of The Minor and Technical Criminal Law Amendments Act of 1988. See 134 Cong. Rec. S7446-01 (June 8, 1988) (statement of Senator Kennedy). "Congress enacted the venue section because there was a split in authority on the question of where proper venue was laid under 18 U.S.C. § 1512 and under a related statute, 18 U.S.C. § 1503." United States v. Gonzalez, 922 F.2d 1044, 1054 (2d Cir.), cert. denied, 502 U.S. 1014 (1991). Although the split evidently concerned venue for Section 1503 only, and not 1512, see United States v. Cofield, 11 F.3d 413, 421 n.3 (4th Cir. 1993) (Luttig, J., dissenting in part), cert. denied, 114 S. Ct. 1125 (1994), the courts had considered the two statutes in tandem, see, e.g., United States v. Frederick, 835 F.2d 1211, 1213 (7th Cir. 1987) ("In view of the obvious relationship between sections 1503 and 1512, what is authority for one also controls the other."), cert. denied, 486 U.S. 1013 (1988).

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OFFICE OF THE INDEPENDENT COUNSEL **MEMORANDUM**

TO: John Bates
Steve Colloton
Brett Kavanaugh

FROM: John McCarrick

DATE: July 5, 1996

RE: Perjury and Obstruction Cases Against Public Officials

I have surveyed prosecutions of public officials for perjury or obstruction of justice. The search for relevant cases included all federal circuit and district court cases involving U.S. senators and representatives, state senators and representatives, governors, lieutenant governors, and senior state officials. I did not search prosecutions on the state court level.

The following is a summary of the circumstances and results of the cases located. I have separated them by cases from the courts in Washington and cases from the rest of the country.

WASHINGTON CASES

United States v. Lavelle, 751 F.2d 1266 (D.C.Cir. 1985)

Rita Lavelle was the EPA's Assistant Administrator in charge of Solid Waste and Emergency Response. Prior to taking this position, she agreed, in writing to the EPA General Counsel and orally during her Senate Committee confirmation hearing, not to participate in any matters involving her previous employer, Aerojet-General Corporation ("Aerojet").

Some months later, Aerojet was identified as a responsible party in connection with a toxic waste disposal site. In response to a House Oversight Subcommittee's request, Ms. Lavelle signed a "Statement of Certification" on December 14, 1982. Under oath, she wrote in this statement that she was unaware of the Aerojet connection until June 17, 1982. Ms. Lavelle repeated this claim before the House Oversight Subcommittee during hearings in February of 1983. However, evidence revealed that she was aware of the connection before June 17: 1) Ms. Lavelle knew of Aerojet's involvement on May 28, 1982, when a member of her staff suggested that she recuse herself; 2) on May 31, Ms. Lavelle spoke with an official of Aerojet; and 3) on June 2, she participated in a weekly staff meeting where the Aerojet

matter was discussed.

Ms. Lavelle was convicted for the Statement of Certification under 18 U.S.C. § 1001 and 18 U.S.C. § 1505. Her testimony before the Subcommittee resulted in two convictions under 18 U.S.C. § 1621. There is nothing in the opinion to indicate that her underlying behavior, ie. contacting Aerojet and participating in the meetings, was illegal.

The Lavelle case has been cited in district court opinions resulting from litigation in the North and Poindexter prosecutions as an example of obstruction of Congress in violation of § 1505. United States v. North, 708 F. Supp. 385, 386 (D.D.C. 1989); United States v. Poindexter, 725 F. Supp. 13, 28 (D.D.C. 1989).

In re Olson, 818 F.2d 34 (D.C.Cir. 1987)

Mr. Olson was Assistant Attorney General. During a House Committee investigation into Superfund, he advised the EPA to assert executive privilege in response to a request for documents. The House Judiciary Committee subsequently investigated the involvement of DOJ officials' actions during the first probe. The Judiciary Committee recommended the appointment of an independent counsel to investigate possible violations of 18 U.S.C. §§ 1001, 1505, 1621-23, 371, or any provision of federal law. Alexia Morrison was appointed to investigate whether Mr. Olson, DAG Edward Schmults or AAG Carol Dinkins violated the aforementioned sections.

The Independent Counsel declined to prosecute Mr. Olson, Mr. Schmults or Ms. Dinkins. It is notable however that the Independent Counsel's primary jurisdiction included only potential violations relating to obstruction or perjury provisions without any other underlying crime.

United States v. Kelley, 36 F.3d 1118 (D.C. Cir. 1994)

John Kelley was Deputy Director for Information Research Management at the U.S. Agency for International Development ("AID"). He had responsibility for two large scale projects. He solicited and received substantial kickbacks from the contractors involved with the projects.

Mr. Kelley was convicted for obstructing justice under 18 U.S.C. § 1505 (lying to the AID Inspector General) and influencing the testimony of another person under 18 U.S.C. § 1512. He was also convicted for the underlying crimes: conspiracy to commit bribery and bribery. His convictions were upheld on appeal.

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United States v. Dean, 55 F.3d 640 (D.C.Cir. 1995)

Deborah Gore Dean was an official at HUD. She administered a HUD program which oversaw state and local governments' management of funds provided by the federal government to rehabilitate deteriorated rental housing and subsidize rent of lower income families. Congress altered the way HUD could distribute these funds in 1984 and HUD officials soon devised less formal methods for allocating funds. Dean used her position to secure funds for developers who paid huge fees to lobbyists associated with Dean.

Dean was indicted on three counts of conspiracy under 18 U.S.C. § 371, four counts of perjury under 18 U.S.C. § 1621, five counts of concealment under 18 U.S.C. § 1001, and one count of accepting an illegal gratuity under 18 U.S.C. § 201(c)(1)(B). The conspiracy charges were a result of Dean's involvement in steering funds towards certain developers. The § 1621 and § 1001 charges stemmed from testimony she provided before the Senate Banking Committee. She was found guilty on all charges except one of the § 1001 counts.

On appeal, all four of her convictions under § 1001 were overturned under Hubbard v. United States, which limited the scope of § 1001 to statements made to "departments," specifically excluding Congress. 115 S.Ct. 1754, 1765. All three of her convictions under § 371 and her conviction under § 201(c)(1)(B) were upheld.

One of the four perjury convictions was overturned. This conviction was reversed because the court determined that her statement was literally true and such a statement "cannot support a perjury conviction." Dean at 662. Two of the other § 1621 convictions were upheld because the government proved that her denials under oath were patently not truthful. The final § 1621 conviction was upheld on grounds less firm than the other two perjury convictions. Dean had testified before the Banking Committee that although she was on a committee that made recommendations in the awards process, this committee made decisions "solely on information provided by the Assistant Secretary for Housing." The court determined that evidence introduced at trial showing that she had discussed projects outside the process she described was sufficient to sustain a guilty verdict. The court reasoned through this point in great detail.

United States v. Watt, 911 F.Supp. 538 (D.D.C. 1995)

Former Secretary of the Department of the Interior Watt was also a target of the HUD investigation for his involvement in securing contracts for builders. He testified about his involvement before the House Subcommittee probing the matter and before the grand jury investigating potential violations. As a result of this testimony and statements in a letter to the FBI and OIC, he was indicted on 25 counts: five counts of perjury under 18 U.S.C. § 1621 for his testimony to the House Subcommittee; six counts of perjury under 18 U.S.C. § 1623 for his testimony to the Grand Jury; five counts of concealment under 18 U.S.C. § 1001 for his testimony to the House Subcommittee; six counts of concealment under 18

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U.S.C. § 1603 for his testimony to the Grand Jury; two counts of making false statements under 18 U.S.C. § 1001 for his statements to the FBI and OIC; and one count for obstruction under 18 U.S.C. § 1503 for concealing documents subpoenaed by the grand jury.

Mr. Watt challenged the indictment. The district court dismissed the five counts under § 1001 for his testimony before the House Subcommittee, citing Hubbard v. United States. The district court also dismissed the remaining two § 1001 counts for statements Mr. Watt made in a letter sent to an FBI SA assigned to the OIC. The court reasoned that the letter was in response to a grand jury subpoena and therefore was actually a statement to the grand jury and not independently to the OIC . Statements to the grand jury are not within the scope of § 1001.

Although he argued that the counts against him were duplicitous, no other counts against Mr. Watt were dismissed.

On January 2, 1996, Mr. Watt pleaded guilty to one misdemeanor count and was sentenced to community service, a $5000 fine and probation.

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United States v. North, 910, F.2d 843 (D.C.Cir. 1990)

Reagan administration officials were indicted for, among other things, obstructing congressional inquiries into the Iran-Contra affair. North and Poindexter wrote letters and made unsworn statements denying that the White House was assisting the Contras and had dealt arms to the Iranians.

Admiral Poindexter was convicted for destroying documents in violation of 18 U.S.C. § 2071 and four counts of obstruction and false statements under 18 U.S.C. §§ 1505 and 1001. All of Poindexter's convictions were overturned because the OIC failed to show that his immunized testimony was not used against him at trial. The § 1505 counts were reversed on the additional grounds that the statute did not provide sufficient notice that Poindexter's actions were illegal, specifically, that the term "corruptly" from § 1505 was unconstitutionally vague. The § 1001 counts were also reversed because Congress is not considered a "department" as the statute requires.

North was convicted for obstructing a congressional inquiry in violation of 18 U.S.C. § 1505. His convictions were vacated on appeal because Judge Gesell had not conducted a proper Kastigar hearing to determine whether witnesses had been tainted by immunized testimony. Eventually the case was dismissed by the OIC.

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Clair George was Deputy Director of Operations at the CIA. He was indicted for giving false unsworn testimony before the Senate Committee on Foreign Relations under 18 U.S.C. §§ 1505 and 1001. He sought dismissal of the § 1505 counts because § 1505 does not apply to unsworn false statements before a Committee. United States v. Poindexter, 951 F.2d 369 (D.C.Cir. 1991). The Government did not object and those counts were dismissed. He had also been indicted for perjury under 18 U.S.C. §§ 1621 and 1623.

The OIC filed a superseding indictment under § 1505 charging that Mr. George obstructed justice by instructing a subordinate, Alan Fiers, to withhold testimony during his testimony before the committee. Eventually Mr. George was convicted for one count of making false statements and one count of perjury. Mr. George was pardoned by President Bush before he was sentenced.

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Mr. Clarridge was a senior officer at the CIA. He was indicted 18 U.S.C. §§ 1621 and 1001 for statements made to a Senate Committee, House Select Committees and the Tower Commission in relation to Iran-Contra. He challenged the indictment by arguing that the statements were literally true. The court refused to grant his motion, noting that the statements could have different interpretations and the government could prove that the statements were false at trial. The case was scheduled to begin in early 1993, but never went to trial because President Bush pardoned several former government officials, including Mr. Clarridge.

United States v. Weinberger, 1992 WL 294877 (D.D.C.)

Former Secretary of Defense Weinberger was indicted for obstruction under 18 U.S.C. § 1505 for failing to provide subpoenaed notes to a Senate Committee; twice under 18 U.S.C. § 1001 for making false statements to the OIC/FBI and the Senate Committee; and twice under 18 U.S.C. § 1621 for perjury before the Senate Committee.

Mr. Weinberger challenged his indictment and the district court dismissed the § 1505 charge. According to the court, the OIC did not have sufficient evidence to charge Weinberger under the new Poindexter reading of § 1505, ie. Weinberger did not corrupt someone else to obstruct the investigation.

Weinberger was scheduled to go to trial on the remaining counts in early 1993, but was pardoned by President Bush.

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Watergate

The Watergate Special Prosecution Force (WSPF) prosecuted several Nixon administration officials:

Charles Colson was indicted under § 1503 and pleaded guilty several months later to this obstruction charge.

John Dean pleaded guilty to conspiracy to obstruct justice under 18 U.S.C. § 371.

John Ehrlichman was indicted for obstruction of justice under § 1503, two counts of false statements before a grand jury under § 1623 and two counts of making false statements to the FBI under 18 U.S.C. § 1001. The § 1001 counts against him were dismissed. He was convicted on all other counts and sentenced to prison. His conviction was upheld on appeal.

Harry Haldeman was indicted on one count of conspiracy to obstruct justice under § 371, one count of obstruction of justice under § 1523, and three counts of perjury under § 1623. He was found guilty on all counts and his conviction was upheld on appeal.

Jeb Magruder pleaded guilty to conspiracy to obstruct justice under § 371.

John Mitchell was indicted for obstruction of justice under § 1503, two counts of false statements before a grand jury under § 1623 and one count of making false statements to the FBI under 18 U.S.C. § 1001. The § 1001 count against him was dismissed. He was convicted on all other counts and sentenced to prison. His conviction was upheld on appeal.

Congressmen

Several Congressmen have been indicted for false statements under § 1001 relating to false reports filed with the House Finance Office. However those cases have been rendered moot by Hubbard. United States v. Rostenkowski, 1996 WL 342110 (D.D.C.).

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Mayor of Washington was indicted for conspiracy to possess cocaine and three counts of making false declarations before the grand jury under § 1623. He was found not guilty on all but one possession count.

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Biaggi, a U.S. Congressman, was convicted for perjury and obstruction as well as bribery and racketeering for his dealings with defense contractors. His convictions were upheld on appeal.

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Grubb, a state judge, was convicted for perjury and obstruction as well as bribery and racketeering. His convictions were upheld on appeal.

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LeMaster, a state legislator, was convicted under § 1001 for making false statements to FBI investigators but found not guilty of extortion.

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Governor of Guam was found guilty of bribery and extortion. He was also convicted for witness tampering under § 1512. His conviction for § 1512 was upheld on appeal.

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Schmermerhorn, a state senator, was convicted for obstruction of justice under § 1523 as well as tax evasion and mail fraud. His conviction was upheld on appeal.

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OFFICE OF THE INDEPENDENT COUNSEL **MEMORANDUM**

TO: John Bates
Steve Colloton
Brett Kavanaugh

FROM: John McCarrick

DATE: July 5, 1996

RE: Perjury and Obstruction Cases Against Public Officials

I have surveyed prosecutions of public officials for perjury or obstruction of justice. The search for relevant cases included all federal circuit and district court cases involving U.S. senators and representatives, state senators and representatives, governors, lieutenant governors, and senior state officials. I did not search prosecutions on the state court level.

The following is a summary of the circumstances and results of the cases located. I have separated them by cases from the courts in Washington and cases from the rest of the country.

WASHINGTON CASES

United States v. Lavelle, 751 F.2d 1266 (D.C.Cir. 1985)

Rita Lavelle was the EPA's Assistant Administrator in charge of Solid Waste and Emergency Response. Prior to taking this position, she agreed, in writing to the EPA General Counsel and orally during her Senate Committee confirmation hearing, not to participate in any matters involving her previous employer, Aerojet-General Corporation ("Aerojet").

Some months later, Aerojet was identified as a responsible party in connection with a toxic waste disposal site. In response to a House Oversight Subcommittee's request, Ms. Lavelle signed a "Statement of Certification" on December 14, 1982. Under oath, she wrote in this statement that she was unaware of the Aerojet connection until June 17, 1982. Ms. Lavelle repeated this claim before the House Oversight Subcommittee during hearings in February of 1983. However, evidence revealed that she was aware of the connection before June 17: 1) Ms. Lavelle knew of Aerojet's involvement on May 28, 1982, when a member of her staff suggested that she recuse herself; 2) on May 31, Ms. Lavelle spoke with an official of Aerojet; and 3) on June 2, she participated in a weekly staff meeting where the Aerojet

matter was discussed.

Ms. Lavelle was convicted for the Statement of Certification under 18 U.S.C. § 1001 and 18 U.S.C. § 1505. Her testimony before the Subcommittee resulted in two convictions under 18 U.S.C. § 1621. There is nothing in the opinion to indicate that her underlying behavior, ie. contacting Aerojet and participating in the meetings, was illegal.

The Lavelle case has been cited in district court opinions resulting from litigation in the North and Poindexter prosecutions as an example of obstruction of Congress in violation of § 1505. United States v. North, 708 F. Supp. 385, 386 (D.D.C. 1989); United States v. Poindexter, 725 F. Supp. 13, 28 (D.D.C. 1989).

In re Olson, 818 F.2d 34 (D.C.Cir. 1987)

Mr. Olson was Assistant Attorney General. During a House Committee investigation into Superfund, he advised the EPA to assert executive privilege in response to a request for documents. The House Judiciary Committee subsequently investigated the involvement of DOJ officials' actions during the first probe. The Judiciary Committee recommended the appointment of an independent counsel to investigate possible violations of 18 U.S.C. §§ 1001, 1505, 1621-23, 371, or any provision of federal law. Alexia Morrison was appointed to investigate whether Mr. Olson, DAG Edward Schmults or AAG Carol Dinkins violated the aforementioned sections.

The Independent Counsel declined to prosecute Mr. Olson, Mr. Schmults or Ms. Dinkins. It is notable however that the Independent Counsel's primary jurisdiction included only potential violations relating to obstruction or perjury provisions without any other underlying crime.

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John Kelley was Deputy Director for Information Research Management at the U.S. Agency for International Development ("AID"). He had responsibility for two large scale projects. He solicited and received substantial kickbacks from the contractors involved with the projects.

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Schmermerhorn, a state senator, was convicted for obstruction of justice under § 1523 as well as tax evasion and mail fraud. His conviction was upheld on appeal.

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70104942

(REVISED MAY 31, 1995, SUPERSEDES APRIL 6 MEMO)

Prosecution Memo

(Confidential--Contains Grand Jury Information)

read

To: OIC Attorneys

From: Stephen P. Learned

Re: James B. McDougal

Date: May 31, 1995

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I. Introduction

This memo sets forth the evidence in support of a multi-count indictment of James McDougal. It supersedes our April 6 memo on the subject. The memo takes into account comments received from the April draft and discusses more recent information. To be as comprehensive as possible this memo repeats most, but not all, of what was stated in our April memo. It also discusses revisions to our proposed indictment.

McDougal was the chairman of Madison Financial Corporation, a wholly owned subsidiary of Madison Guaranty Savings and Loan Association, a state chartered, federally insured savings and loan association. McDougal and his wife, formerly Susan Henley, owned 77 per cent of the stock of Madison Guaranty.

The proposed charges against McDougal stem from specific acts of insider abuse beginning in October 1984 and ending in March 1986, when the Federal Home Loan Bank Board commenced its 1986 examination which resulted in McDougal's removal.[1] The insider abuse outlined below and encompassed in the proposed indictment cost the institution approximately $100,000 in losses. The proposed indictment involves five individuals: Lisa Aunspaugh, a 21 year old interior decorator from Little Rock; Eric Sorensen, a Danish national married at the time to Paula Henley, Susan McDougal's sister; Bill Henley, a former state

[1]McDougal was effectively removed from any influence over Madison Guaranty and Madison Financial when the Bank Board, under threat of a lawsuit, forced Madison to sign an all encompassing cease and desist order in the summer of 1986 which dramatically changed Madison's operations.

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senator and brother of Susan; Seth Ward, a wealthy Arkansas businessman; and Robert Palmer, a Little Rock appraiser who pleaded guilty to backdating Madison Guaranty appraisals. The ten year statute of limitations has already run with respect to three misapplication counts involving Eric Sorensen, one false statement count involving Lisa Aunspaugh, and one false statement count involving Seth Ward.

In a nutshell the proposed indictment alleges that, from October 1984 until February 1986, James McDougal enriched himself and his wife and provided unearned funds to other family members at the expense of the institution. In order to conceal this pattern of self-dealing from the Federal Home Loan Bank Board, McDougal created false and misleading documents, material omissions, a false financial statement, a nominee loan, an accommodation real estate sale, and a bogus lease.

Also mentioned in this memo are two officers of Madison Guaranty: John Latham and Greg Young. Both were young when they started at Madison. McDougal made Latham the Chief Executive Officer of Madison Guaranty when Latham was 29. Greg Young became the Chief Financial Officer when he was 25. Young and Latham are different personalities.

McDougal, who had been Madison Guaranty's chief executive officer, resigned from Madison Guaranty's Board in 1984 when Latham was appointed CEO. But McDougal remained as the CEO of Madison Financial Corporation, the institution's wholly owned subsidiary. Despite this change, McDougal and Latham never

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switched offices. McDougal kept the prominent office in the upper half of Madison's split foyer entrance area. Latham kept his office in the back, away from customers and near the operations area where cashiers processed checks. In 1985 Latham hired Pat Heritage to be his executive assistant. Heritage met with Latham every morning to take orders. Latham remained in his office with his door closed while Pat Heritage worked with the staff and carried messages to and from Latham's office.[2]

II. The Approach Taken To A Prosecution Of McDougal

The proposed indictment attempts to follow the four basic principles set forth below:

Avoid any conceivable collateral estoppel argument that might give rise to an interlocutory appeal under United States v. Abney, 431 U.S. 651 (1977).

In the 1989 indictment, McDougal was charged with defrauding Madison Guaranty with respect to two transactions: (1) the Levi Strauss transaction and (2) the Master Developers transaction. The thrust of the government's case was that McDougal, who was entitled to ten per cent of the annual net profit of Madison Financial had fraudulently enriched himself by booking artificial profit from the sale of two portions of the 145th Street property

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[2]In 1989 Latham pleaded guilty to one false entry count. He admitted that he had changed the terms on a note (from "non-recourse" to "recourse") on the Davis Fitzhugh loan, a loan that was prominently covered in the first McDougal trial. Latham admitted that he did this unilaterally to deceive the examiners but claimed as well (and this is typical of Latham) that he thought that the original terms of the Davis Fitzhugh note were consistent with the change he made to the note. Although he had signed a plea agreement with the government, he testified as a defense witness in McDougal's 1990 trial.

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that Madison Financial had purchased in October 1985. The property later became known as Castle Grande Estates. The profit was artificial, according to the government, because the two sales in question were "sham" sales. The sales were financed by Madison Guaranty with nonrecourse notes. Hastily arranged commissions paid to the purchasers served as the purchasers' downpayments. In the case of Master Developers, there were arguably false financial statements.

Nothing in the proposed indictment resembles this 1989-90 case.[3] There is no mention of Castle Grande, nonrecourse notes, ad hoc commissions, McDougal's ten per cent bonus, or the six per cent investment limitation imposed on Madison Financial. The proposed indictment, however, does involve a nominee loan and an accommodation real estate transaction involving Lisa Aunspaugh. But this transaction is fraudulent not because it allows Madison Financial to book artificial profit but because it involves undisclosed self-dealing at the expense of Madison Guaranty.

Highlight those instances in which McDougal or family members, through deception or false documents, gain at the expense of the institution.

In the 1989 case the government sought to tarnish McDougal by pointing out that he received a ten per cent bonus on the annual net profit of Madison Financial and therefore was motivated to artificially inflate Madison Financial's profit.

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[3]Sam Heuer, McDougal's lawyer, succinctly summarized the 1989-90 case in his Rule 29 argument when he told the Judge: "Their whole case is based on the theory that a 6% limitation was imposed on the savings and loan's investment and they had to shed assets and that created these two sham transactions." (T. 708).

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There are two weaknesses to this approach: (i) the ten per cent bonus was a normal fully disclosed basis of compensation and (ii) McDougal's gain is, on the short term at least, tied to the gain of the institution. While McDougal gains in the short term by taking his bonus, the institution loses in the long term only if real estate prices stabilize or crash. This is what happened. In early 1986 the Bank Board "wrote down" the value of Madison Financial's real estate investments. Since a large portion of Madison Guaranty's loans were tied to these investments or other declining Arkansas real estate, the Bank Board classified a large portion of the loans. The severe write down of Madison's assets resulted in a negative net worth.

The proposed indictment eliminates the "declining real estate prices" defense. It focuses on discrete transactions in which McDougal or some family member, through deception and false documents, personally gained at the expense of the institution regardless of any economic scenario.

Emphasize McDougal's intent and motivation to deceive the Bank Board examiners.

In the 1989 case, the government practically ignored the role of the examiners and McDougal's intent to deceive them. With the bank fraud and misapplication statutes, the entire focus was on McDougal's intent to defraud Madison.[4] But this presented

[4]There are two counts in the 1989 indictment which charge a violation of 18 U.S.C. 1014 (submitting false financial statements). These counts allege among other things that the false financial statements were submitted "for the purpose of influencing the Federal Home Loan Bank Board." But the indictment fails to explain how they might have influenced the

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problems for the prosecution. Why would McDougal want to defraud and injure the institution that he and his wife owned? At trial, McDougal's lawyer produced a CPA witness who attempted to explain that, with McDougal's 10 per cent bonus and the extent of his and his wife's stock ownership, it made no economic sense for McDougal to fraudulently book profit from Madison Financial when the entire financing for the transaction came from Madison Guaranty.[5]

One way to counter McDougal's defense is to fashion an indictment which emphasizes that Madison is not just any corporation. Its liabilities are insured by the federal government and for that reason its activities are strictly regulated. Since we will show economic loss to the institution, the proposed indictment does indeed charge McDougal with defrauding an institution in which he is the majority shareholder. But eight of the eleven counts of the proposed indictment charge McDougal with deceiving the examiners or defrauding the Bank Board (by deceiving its examiners). The benefit of this dual victim approach (both Madison and the examiners were defrauded) is that it shifts the focus away from an institution McDougal owns to an institution that the public

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Bank Board. In fact, the 1989 indictment never alleges that McDougal intended to deceive the bank examiners. Moreover, there was no testimony at trial from an examiner who might have explained the examination function and the materiality of various false statements.

[5]The testimony of defense witness Milton Halford at trial is difficult to follow and may not be correct. But the government was unable to counter it.

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(including the depositors and members of the jury) have a stake in.

Capitalize on the fact that McDougal was placed on notice with the 1984 Supervisory Agreement.

The 1984 Supervisory Agreement, signed by McDougal, never surfaced in the 1990 trial. Nor was it disclosed that McDougal signed a cease and desist consent order in 1983 regarding Madison Bank and Trust, in Kingston, Arkansas, a small (FDIC insured) bank which he also controlled. By highlighting the 1984 agreement and by making the Bank Board one of the two victims (Madison Guaranty being the other), we will be able to prove that by 1985 McDougal was acutely aware of bank examiners and that he was motivated to deceive them.

III. The Proposed Indictment And The Statutes

The proposed indictment utilizes two statutes: 18 U.S.C. §§657 (misapplication) and 1006. Two different clauses of section 1006 are used, namely, the false entry clause and the fraudulent participation clause. To keep the matter simple for the jury, we have used section 657 only when we allege an intent to defraud Madison Guaranty. In contrast, the false entry clause of section 1006 is used only when we allege an intent to deceive the examiners. We have used the fraudulent participation clause where we allege both an intent to defraud Madison Guaranty and an intent to defraud the Bank Board (by deceiving its examiners).

18 U.S.C. § 657 provides in pertinent part:

> Whoever, being an officer, agent or employee of or connected in any capacity with...any savings and loan corporation or association...the accounts of which are

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> insured by the Federal Savings and Loan Insurance Corporation...embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution...shall be [guilty of an offense].
>
> 18 U.S.C. §1006 provides in pertinent part:
>
> Whoever, being an officer, agent or employee of or connected in any capacity with...any savings and loan corporation or association...the accounts of which are insured by the Federal Savings and Loan Insurance Corporation...
>
> [false entry clause]
>
> ...with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution,...or...
>
> [fraudulent participation clause]
>
> ...with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be [guilty of an offense].

The indictment uses the misapplication statute three times: (i) the $64,000 nominee loan to Lisa Aunspaugh; (ii) McDougal's December 1985 payment of Madison Financial funds to Eric Sorensen; and (iii) McDougal's February 1986 payment of $18,000 to Bill Henley as a lease payment, covering months in which Henley never owned the building.

The false entry clause of section 1006 is used five times. In each use of the false entry statute the indictment alleges only an intent to deceive the examiners. The five uses are as follows: (i) the June 1985 Lisa Aunspaugh loan application; (ii) the December 1985 entry in the books of Madison Financial

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regarding a payment to Eric Sorensen; (iii) the backdated Madison Financial lease on 1308 Main from Bill Henley; (iv) the consulting fee invoice submitted by Robert Palmer in March 1986; and (v) the March 1986 Management Questionnaire submitted to the examiners.

The fraudulent participation clause of section 1006 is used three times. The fraudulent participation clause is essentially a conflict of interest prohibition. The three uses are as follows: (i) the receipt of the June 1985 loan proceeds to the Designers Construction account on July 3, 1985 [an account to which McDougal owed money], (ii) the receipt of the $25,000 from Designers Construction in July 1985; (ii) and the July 1985 receipt of the $25,000 for the airplane.

In our April memo we proposed charging McDougal for his interest free use of Designers Construction funds, an account that was almost always in overdraft status. Based upon our more conservative calculation of the amount of interest lost that could be traced directly to McDougal, and other factors discussed below, we do not recommend any specific charges relating to the overdraft status of the Designers Construction account. Nonetheless, we will still expose for the jury McDougal's use of the Designers Construction account in order to show that he received the Aunspaugh loan proceeds through the account.

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IV. Lisa Aunspaugh And Designers Construction (Counts 1-4)

A. The Events Of 1984

Except for choosing paint colors, fixtures, carpeting, or wallpaper, Lisa Aunspaugh was inexperienced and naive. She lived at home with her parents and drove a 1981 Datsun. According to her mother, Lisa was sincere, religious, and trusting. One of her favorite TV channels was (and still is) Pat Robertson's Christian Broadcast Network. After high school she spent a year studying interior decorating at South Central Career College. In 1984 Susan McDougal met Lisa when Lisa was working at the Walls and All Design store. Susan had gone to the store seeking decorating advice, furniture and accessories for the Madison offices. After numerous contacts, Lisa confided in Susan that she did not trust her employer.[6] Susan then offered Lisa a job. Susan told Lisa that Madison needed someone to help with the renovation of Madison's main office at 1501 Main St. and to assist the builders at Maple Creek Farms or at other development sites.[7]

Lisa placed so much trust in Susan that she agreed to work for Susan without knowing what her compensation would be. She had just turned 20 and was too shy to raise the topic. She started working for Susan in February 1984. Her pay was irregular. She recalls that she had worked for Susan for

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[6]Lisa told Susan that her employer was cheating Madison when various orders were placed.

[7]Maple Creek Farms was a 1300 acre development owned by Madison Financial approximately 20 minutes from Little Rock.

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approximately three months before Susan asked her, "Have we paid you?" Lisa said no. It was mid-May and Lisa was finally paid.[8]

Throughout the rest of 1984 she worked under Susan's supervision. She worked with contractors and builders, selecting interior and exterior colors, carpeting, wallpaper and fixtures. She also did miscellaneous chores helping Susan run Madison Marketing, a company Susan owned which purchased advertizing time and space for Madison Guaranty and Madison Financial.

In January 1985 Jim McDougal asked her if she wanted a new Mercedes. He explained that Madison was going into the car leasing business and that Madison would give her 100 per cent financing. Lisa accepted the offer. She sold her Datsun and signed a $20,000 note without submitting a loan application. The Mercedes loan was all the more attractive since she never had to make periodic payments on the car loan. She only made payments when Jim McDougal told her it was necessary. According to the terms of the note, the full amount was due in one year with only one semi-annual interest payment. Ex. 0.5.

B. The Formation Of Designers Construction

In January 1985 Jim McDougal called Lisa to his office. He told her that they were going to consolidate all the construction and renovation work in one company and that she was going to continue her decorating work through this company. Either Jim or Susan came up with the name Designers Construction. Jim McDougal

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[8]She was paid $3000 in the form of two identical $1500 checks. It appears from her 1984 tax return that Lisa received $7500 in payments over the eleven month time period.

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told her to go downstairs and open a bank account for the company. It was not clear to Lisa what her role was but she was reluctant to ask questions. At some point in early 1985, Jim McDougal explained that Designers Construction would bill the customer whatever its costs were plus eight per cent. In most cases the customer would be Madison or individuals or companies connected to Madison. The eight per cent markup could then be used to pay Lisa.

Lisa kept the checkbook and collected the bills when they arrived. Jim McDougal would periodically tell her when it was time to pay the bills and who should be paid. Occasionally, a contractor would come to Lisa and say that Jim had approved payment of an invoice.

In April 1985 Jim McDougal told Lisa that he was making Designers Construction a corporation and that she should go to Steve Cuffman's office to pick up papers.[9] The papers she picked up were standard incorporation papers. Ex. 1. But Lisa does not know of any stock issued for Designers Construction or any Board of Directors meetings.

C. The Maple Creek Home And The $64,000 Nominee Loan (Counts 1-4)

In approximately March 1985 McDougal called Lisa to his office and told her that he and Susan had a modular home in Kingston that they were unable to sell. He told her that they

[9]Steve Cuffman recalls that somebody at Madison (he does not recall who) asked him to incorporate Designers Construction. Thereafter he had no further dealings.

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planned to move the home to a Maple Creek lot and then sell it. He told her that he and Susan could not sell it in their name and wanted to use Lisa's name. Typically, McDougal gave no further explanation. Lisa, in turn, was too shy to ask questions.

Lisa signed an Offer and Acceptance for an $8000 lot (Lot 747) which was dated March 20, 1985.[10] Ex. 2. She never read it and does not recall when she actually signed it. She does recall going downstairs to the Quapaw Title Office and attending the closing on April 5, 1985, where she signed (without reading) a $7200 Promissory Note and Mortgage. Exs. 3-4. At the closing, she wrote an $800 check from her own account for downpayment on the lot. Ex. 5. Jim McDougal had told her that she would be reimbursed. A few days later she deposited a $1000 Flowerwood Farms check (apparently signed by Susan) in her personal account.[11] Ex. 6.

The $7200 Promissory Note contains a material false statement. Typed in the space designated for the purpose of the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[10]Pat Harris signed the Offer and Acceptance on behalf of Madison Financial. In 1985 Harris was selling Maple Creek lots on commission. As a recent college graduate, Harris had worked on McDougal's 1982 congressional race.

Harris is currently a public defender in Nashville and was a 1993 graduate of the University of Michigan Law School. In a bizarre twist of events, Harris, who continues for the most part to cooperate with the investigation, is currently engaged to Susan McDougal.

[11]Flowerwood Farms was a company owned exclusively by the McDougals. Although the $1000 check was signed by "S McDougal," Lisa could not be sure that Susan signed the check.

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loan is the statement "purchase lot for personal residence."

[redacted]

Lisa had nothing to do with moving the house from Kingston to Maple Creek and does not know when it happened.[12] She does remember signing additional papers in June 1985. On June 28, 1985, she signed a $64,000 Promissory Note and Mortgage. Ex. 7-8. These funds (the stated purpose of the loan was "personal") were used to "buy" Jim and Susan's modular home.[13]

Like the earlier lot loan for $7200, Lisa never considered this to be her loan. She never noticed that by signing the loan she was committed to a monthly payment of $658. It was an

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[12]Sue Strayhorn, McDougal's secretary, routinely screened McDougal's calls. She recalls talking to individuals involved in moving Jim and Susan's home from Kingston to Maple Creek. The individuals had questions directed to McDougal. Only after Jim and Susan were removed from the bank did Strayhorn learn of Lisa's involvement with the house.

[13]According to Robert Palmer, his partner Bennie Beard did a legitimate appraisal on lot 747 (without the house) dated April 1, 1985. The value of the lot was $8000. Palmer himself actually signed the appraisal. Later in July, according to Palmer, Beard did a second appraisal of the lot (with the house attached). Beard valued the lot at $69,250. Palmer can not say that there is anything wrong with this appraisal. However, Beard dated the second appraisal March 1, 1985. Palmer believes from other documents in the file, i.e., the certification sheet signed by Mariann Richards (using Palmer's name) dated 7-1-85 that Beard's 3-1-85 date is a typographical error and should have been 7-1-85. Beard's photographs show leaves on the trees which would not have been possible on 3-1-85. Exs. 9-10.

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obligation that Jim would handle for her and so Lisa paid no attention to the details. Whereas Lisa clearly recognized that the Mercedes loan was her loan.

The settlement statement for the $64,000 loan shows that part of the proceeds were used to pay off Lisa's earlier $7200 lot loan. Ex. 11. After the closing costs were deducted, Quapaw Title paid Lisa $56,087.79. McDougal told her to deposit these funds into the Designers Construction account which she did.

The $64,000 loan is accompanied by an undated "Residential Loan Application" which Lisa signed but did not read. Her only recollection of this loan application is that Jim McDougal telephoned her and asked her for her credit card balances. A few days later he handed her the loan application and she signed it. Other than her credit card information, Lisa claims to have had no input in the loan application.

The application contains a number of material false statements. Ex. 12. (Attached) For example, on the income side it overstates her income ($3,682 a month) by more than 50 per cent. The application lists her monthly salary as $3000 and states that she receives $682 a month in rent. [redacted] Her bank account indicates that in 1985 she was receiving regularly $1000 a month from Madison Marketing. There is also some additional deposits to her account from Madison Marketing in 1985 (approximately $4000) that appear to be income. Her 1985 income tax return (prepared almost a year after the $64,000 loan)

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indicates that she received $35,825 in gross profit from Designers Construction but had $24,445 in expenses leaving her with a net profit of $11,380. Her 1985 return also listed $15,000 in contract fees. As a result her 1985 1040 listed a total income of $26,508.[14] Ex. 13. This was a big jump from 1984. Her 1984 income tax return reported less than $10,000 in total income. Ex. 14.

The loan application also contains a misleading statement of net worth. Just three years out of high school, Lisa, according to the application, had a net worth of $101,000. Three fourths of her purported net worth was attributable to a listed "$135,500" equity in 1308 Main, a building that Lisa did not at the time understand to be hers.[15] Nor did she have any idea of the building's value. The application also lists her furniture and other personal property at $16,000--a figure Lisa claims is grossly inflated.[16]

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[14]Contrast the $26,508 with the $44,184 (12 x $3682) listed on her financial statement.

[15]According to the documents, Lisa assumed Jim Guy Tucker's $47,000 mortgage on 1308 Main--a building Lisa remembers as Sues Barbershop--on March 22, 1985. On March 25, 1985, at McDougal's direction she wrote and delivered a $12,000 check to Jim Guy Tucker. Sometime later Tucker deeded 1308 Main to Lisa. Although she signed various documents, Lisa never understood that her name was being used on this property until Jim had her borrow $125,000 on 1308 Main to finance its renovation. Unlike her Mercedes, 1308 Main was something she understood she was holding for either Jim or Madison. In any event, Lisa had only "paid" $59,000 ($47,000 assumption and $12,000 in cash) for 1308 Main only three months earlier.

[16]A month or two earlier, Lisa had moved out of her parents' home and moved into West Side Creek Apartments. According to Lisa's mother, Bessie Aunspaugh, Lisa had taken some of her

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D. The Acquisition Of 1308 Main St. And The October 1985 Loan

In early 1985 Jim Guy Tucker owned 1308 Main St, a run down two story building both Lisa and McDougal referred to at times as "Sues Barbershop."[17] Tucker had borrowed $45,000 from Madison to purchase the building. On March 25, 1985, McDougal told Lisa to write a $12,000 check from the Designers Construction account and to deliver it to Tucker. Ex. 15. McDougal also had Lisa sign an Assumption Agreement in which she personally assumed Tucker's $45,000 mortgage on the building. Ex. 16. The Assumption Agreement is dated March 22, 1985, although Lisa does not know that she actually signed it on that date.[18] Tucker also executed a deed of the property to Lisa that is dated March 22, 1985.[19]

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furniture from home. She bought a sofa and a bed. The bed was purchased, according to Lisa, at a garage sale. Lisa's parents bought her a TV. According to Bessie, Lisa never had any personal property, including clothing and jewelry, that could have been valued at $16,000.

[17]Sues Barbershop at one time had been a tenant but Lisa recalls that in 1985, before renovation began, homeless people were living in 1308 Main St.

[18]Lisa does recall that the $12,000 check to Tucker was properly dated (March 25, 1985).

[19]Although the Deed is ostensibly executed March 22, 1985, we know that it was executed in October 1985. We have a letter dated October 9, 1985, from McDougal to Tucker in which McDougal tells Tucker that he "should execute the enclosed Warranty Deed to complete the assumption of the 1308 Main St property." The letter goes on to say that if Tucker "will just return it to me, I will take care of having it notarized and recorded." Ex. 16.5. Sue Strayhorn has told us that she sent the letter and deed to Tucker in October 1985 and that she later notarized it in accordance with McDougal's instructions. In the lower left corner of the deed is the statement "prepared by John Latham, attorney at law." This statement, according to Strayhorn, was placed on nearly every deed utilized by Madison and it does not

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Ex. 17. Accordingly, on paper at least, Tucker sold Lisa 1308 Main for $12,000 and her assumption of his mortgage. Lisa, on the other hand, recalls that she never connected in her mind the Tucker check and the Assumption Agreement with her "ownership" of 1308 Main. Unlike the Maple Creek house, McDougal had not told her that he was using her name to hold the building. Only later (in October 1985) when Lisa signed documents for a $125,000 loan to renovate 1308 Main, did she understand that her name was being used in connection with the building. Like the Maple Creek transaction, Lisa considered 1308 Main as something she has holding for Jim or Madison.

Lisa remembers that the October loan came up when McDougal told her that they were going to renovate 1308 Main and that they needed the funds to pay for it. When he gave her loan papers to sign she realized that her name was being used. The $125,000 loan was closed at Beach Abstract and Title Company on October 15, 1985. Lisa signed a promissory note and mortgage. Exs. 18-19. The file contains no loan application.[20] The stated purpose of the loan was "business investment." $49,000 of the loan proceeds were used to pay off Tucker's Madison loan on 1308 Main that Lisa had assumed. Ex. 21. The remainder,

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mean that John Latham, Madison Guaranty's 30 year old CEO, actually prepared the deed or ever saw it. Latham confirms this.

[20]There is a Robert Palmer appraisal, dated October 2, 1985, with a value of $247,000. This is not an "as is" appraisal. Instead it appraised the value of 1308 Main contingent upon a host of renovation plans which specifically included increasing the square footage (rental space) of the building. Ex. 20.

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approximately $74,000, was deposited into the Designers Construction account.

In short, at a time when Lisa recalls earning roughly $2,000 a month before taxes, the October loan obligated her to a $1,286 monthly payment. Like the Maple Creek house loan, Lisa never considered the $125,000 loan to be her obligation, but rather an obligation that Jim would handle for her in some manner or fashion.[21]

E. The Relationship Between Jim, Susan, and Lisa

By late 1985, Lisa wanted to end her relationship with Jim and Susan McDougal. Two things bothered her. First, Jim had made sexual advances to her and seemed to "play mental games with her." She felt uncomfortable about this and told no one about it, including her mother, Bessie, who was working at the bank. Jim seemed to be aware that Susan was interested in Pat Harris and he put pressure on Lisa when Susan was not around. Despite this fact, she agreed to go to California with Jim in the summer of 1985. She expected to have her own room but Jim had made arrangements for them to share a single room with twin beds. She knew the risks of going with him but she had never been to

[21]Lisa is corroborated by her mother, Bessie Aunspaugh, who worked as a Madison receptionist in 1985-1986. Bessie Aunspaugh was shocked when we showed her the loan application which listed Lisa's net worth in June 1985 at $101,000. According to Bessie, Lisa was so trusting of Jim and Susan that she would sign anything they placed in front of her. Bessie has told us that Lisa never told her that she was buying a Maple Creek house or that she owned 1308 Main--a building that Bessie knew was being renovated two blocks from the Madison Guaranty office. But as we discuss below in our section on Bessie Aunspaugh, Lisa did not keep her mother informed on some important matters.

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California and wanted to see it. At our most recent interview of Lisa, we pressed her on whether or not she ever succumbed to Jim's advances and she told us that, despite the pressure, she had not.[22]

Secondly, Lisa was tired of lying for Susan who was romantically preoccupied with Pat Harris. Susan always had Lisa lie to Jim about her (Susan's) whereabouts. In March 1985, Susan took Lisa to Aruba for a vacation. Jim did not know that Pat Harris met Lisa and Susan in Dallas and flew with them to Aruba.

In January 1986, Lisa responded to a telephone solicitation from Fort Worth regarding a company selling leadership franchises. The company provided books, tapes, and training materials whereby a franchisee would solicit corporations to conduct leadership seminars and training sessions. She visited Fort Worth more than once and was impressed by the promoters. Lisa saw this franchise as a new line of work--something that would enable her to leave Madison and the McDougals. At some point Lisa told Jim that she was purchasing this franchise.

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[22]John Latham, who was married, also made at least one unwelcome advance to her. Lisa, on the other hand, was interested in Larry Kuca. But Kuca already had a girlfriend. Both Kuca and Denton recall Lisa dressing, on occasions, like Susan (i.e. with the low cut blouse). Kuca found this somewhat out of character for Lisa. Denton, who had very little to do with Lisa, recalls that she simply followed Susan around serving no "economic purpose to Madison." Kuca recalls that Lisa "had no business sense." Sue Strayhorn, McDougal's secretary, has described Lisa and Susan as two "peas in a pod" who often dressed alike. Strayhorn has described Lisa as nice but "immature."

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F. The Sale Of 1308 Main To Bill Henley

A review of the Designers Construction account shows that periodic work was done on 1308 Main even before Tucker conveyed it to Lisa. The bulk of the Designers Construction expenditures, however, were not made until the last five months of 1985 when renovation began in earnest. This renovation was complete in approximately January 1986 when she, Davis Fitzhugh, Vernon Dutton and other Madison Financial employees moved in.[23]

Sometime in January 1986 McDougal told Lisa that he was ready to sell the building to Bill Henley. Lisa was casually acquainted with Henley because he was Susan's brother. Lisa played no role in the sale and was unaware of the $190,000 sales price. At McDougal's request, Lisa executed a deed conveying the building to Bill Henley on January 15, 1986. Ex. 23. Henley borrowed the $190,000 from Madison Guaranty. Ex. 24. McDougal told Greg Young to put $130,000 of Henley's loan proceeds into the Designers Construction account and the remaining $60,000 of the proceeds into Lisa's personal account. Exs. 25-26. Lisa recalls that, when she returned to work after a few days off, Jim McDougal called her to his office and told her that he had placed $60,000 in her account to pay her for her Designers Construction work, particularly on the 1308 Main renovation. He told her as

[23]Lisa can estimate the time when renovation was complete based upon some of the checks written to various contractors. For example, Lisa recalls that the Designers Construction check to "Business Communications of Arkansas," dated January 7, 1986, paid for the installation of the telephone system. Ex. 22.

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well that she had to pay off her Mercedes loan which she promptly did.

A review of bank records shows, however, that Lisa was not on vacation when the $60,000 hit her bank account. She was writing Designers Construction checks virtually every day around mid January. When this was pointed out to her, she told us that she recalled being away from the bank for several days and thought she had been away on vacation. We know that Lisa spent time away from the bank working at various development sites and we assume that this occurred around January 15, 1986.

A review of the bank records and our April 27 interview of Lisa shows the following. On January 15, 1986, 1308 Main was sold and the $60,000 was deposited into her personal account. Sometime between Wednesday, January 15, and Saturday, January 18, McDougal told her about the money in her account and ordered her to pay off her car loan. On Sunday January 19, she wrote a personal check of $10,000 to Pat Robertson's Christian Broadcast Network. She has told us that she responded to a fundraising telecast on CBN. Monday was the Martin Luther King holiday. On Tuesday, January 21, she wrote a check in the amount of $21,337.39 to pay off her car loan.

On Wednesday January 29, Lisa wrote a $15,000 personal check to her mother, Bessie Aunspaugh. Lisa has explained that she was planning to purchase a franchise from Leadership Management Incorporated and that she wanted to transfer the money to her mother's account before McDougal could ask her to return some of

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the $60,000 to Designers Construction or to use the remainder of the money for some other purpose.

Lisa's fear that McDougal would try to retrieve some of the $60,000 proved to be valid. On Friday January 31, Lisa returned $20,000 of the funds to the Designers Construction account because McDougal told her that he needed the money to close out the Designers Construction account. Lisa authorized her mother to sign Lisa's name on Lisa's personal check in the amount of $20,000 payable to Designers Construction.

But Lisa had already overextended herself. With the $10,000 contribution to Pat Robertson, the $21,000 pay off of the car loan, and the $15,000 temporary transfer to her mother's account (for a total of $46,000), there was insufficient funds in her personal account to cover her $20,000 payment on Friday, January 31, to Designers Construction. As a result on Monday, February 3, Lisa transferred back to her personal account $10,000 of the $15,000 she had temporarily parked in her mother's account. But this meant that she would not have enough funds to buy the leadership franchise which she realized would cost her $18,000.

Two weeks later, acting behind McDougal's back, Lisa decided to take $15,000 from the Designers Construction account in order to enable her to purchase the leadership franchise. This was her way of undoing what McDougal had her do only a few days earlier, namely, returning $20,000 of the $60,000 to Designers Construction--something Lisa did not like doing since she had planned to use the remainder of the $60,000 to buy the franchise.

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Lisa had her mother sign Lisa's name to a $15,000 Designers Construction check payable to Lisa Aunspaugh which was then deposited into Lisa's personal account. Lisa also had her mother return to Lisa's account $3,000 of the original $15,000 Lisa had transferred to her mother's account. This enabled Lisa to write an $18,000 check to purchase the leadership franchise. She needed her mother to sign the $15,000 Designers Construction check and make the necessary deposits at the bank since Lisa was in Fort Worth on February 18 to buy the franchise. She needed to make sure that her personal $18,000 check would clear her account (which it did on February 20).

G. Lisa's Mother, Bessie Aunspaugh

Bessie Aunspaugh was laid off from her Timex job in 1983. Sometime in late 1984 or early 1985, while Lisa was still living at home, Lisa told her mother that she and Susan needed part time help at Madison. Bessie came to work on a part time basis, doing odd jobs and answering the telephone for Susan and Lisa in the Madison Marketing office in the back of the Madison Guaranty office at 1501 Main. She also temporarily relieved Kirby Randolph who worked as a receptionist at the bank's main entrance.

Susan also gave Bessie the job of keeping the check register for Jim and Susan's private accounts, such as Flowerwood Farms, Tucker-Smith-McDougal, and Pembrook Manor (but not White Water Development Co.). According to Bessie, Jim would move money from one account to another and Bessie would prepare a check for Jim

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to sign. Bessie recorded the checks in the register but did not reconcile the accounts when the monthly statements were delivered to her.

Bessie also wrote a number of Designer Construction checks and signed Lisa's name to the checks. Bessie explained that Lisa was often out of the office doing decorating work at some location and that Jim, Susan, or Lisa would want a check to be written to some contractor. Since the Designers Construction checkbook was kept in the Madison Marketing office in the back of the bank, Bessie would write the check. She is sure that Jim directed her to write at least some Designers Construction checks. Bessie regarded Designers Construction as Jim or Susan's company through which Lisa did most of the interior decorating work. Bessie was aware of the sizeable overdrafts in the Designers Construction account but was not concerned about it because of Jim and Susan's involvement with the company. She never regarded Designers Construction as Lisa's company although she knew that Lisa had signatory authority over the account.

Amazingly, Bessie could not remember that Lisa had parked $15,000 into her (Bessie and her husband's) checking account on January 29, 1986, and that Lisa had returned at least $13,000 of those funds to Lisa's account within a few weeks. Nor could she recall writing a $15,000 Designers Construction check to Lisa on February 18, 1986, which enabled Lisa to buy the leadership franchise. Indeed, Bessie has no recollection of Lisa's purchase of the leadership franchise. Bessie does not contradict Lisa.

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She corroborates Lisa to the extent that Bessie acknowledges her signature on the checks and agrees that she wrote the checks at the direction of either Lisa, Susan, or Jim. She simply can not remember the circumstances in which she wrote the checks. Bessie also corroborates Lisa on the question of who appeared to run Designers Construction and the reason why the overdrafts never appeared to be a problem.

It appears, however, that Lisa did not confide in her mother to the degree that we had originally thought. Lisa recently told us that she never told her mother that she was unhappy with Jim and Susan and that Jim had made advances to her. Bessie told us that Lisa appeared to be happy in her relationship with Jim and Susan. Bessie did not even know that Lisa had made a trip to California, much less a trip with Jim. Bessie did say that Lisa probably would not have told her about matters that might have upset her (Bessie).

H. McDougals' Use of Designers Construction Funds

Designers Construction directed the renovation or home improvement of a number of properties besides those owned by Madison Guaranty or Madison Financial. For example, it ordered work done on properties owned by Pat Harris, Jim Henley, and Larry Kuca. According to Lisa, after the work was done, the contractors submitted their bills to Designers Construction. Jim McDougal would approve payment and Lisa would write the necessary

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checks.[24] With an eight per cent markup, Designers Construction would then bill the owners of the properties (including Madison Guaranty and Madison Financial) for the work performed. But the owners were slow to pay Designers Construction. As a result the Designers Construction account was almost always in an overdraft status.

For example, the Designers Construction account had a negative balance for its first six months, reaching a high negative balance of $146,000 on May 31, 1985.[25] Ex. 28. The account was in existence for 417 days, during which it had a negative balance for 363 days. Over those 363 days, it had an average negative balance of $36,123. Ex. 30.

Jim and Susan McDougal were also using the Designers Construction account for their own renovation work. On February

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[24]We have a memo, dated June 3, 1985, typed by Sue Strayhorn, in which McDougal tells Pat Harris to "pay Designers" and "list lot 747." Ex. 29. The memo is significant because it shows McDougal's direct involvement in the business of Designers Construction and the fact that he is trying to sell his modular home in Maple Creek (lot 747) that Lisa was about to "purchase" from Jim and Susan with the June $64,000 loan. Harris has no memory of the memo. But Harris does remember that Lisa and Susan had spent substantial funds from Designers Construction renovating his house in the Quapaw quarter in Little Rock. When shown the memo, Harris concluded that he was probably late paying Designers Construction and Jim McDougal wanted him to pay up. Bank records confirm this. On the same date as the memo, Designers Construction records show a $66,350 deposit from Pat Harris.

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22, 1985, Jim and Susan borrowed from Madison $360,000 to purchase and "renovate" #4 Bettswood. Ex. 31. The loan was supported by a Robert Palmer appraisal which assumed that major renovation would be done to the house.[26] Ex. 32. At the direction of Jim and Susan, Lisa became involved in the Bettswood renovation by paying the architect and the contractors with Designers Construction funds. Payments to the architect began in February 1985. The bulk of the expenditures occurred during the summer months of 1985, although some work was done as late as January 1986. In all, Designers Construction made payments of $150,792 for work done on #4 Bettswood.[27]

At times McDougal was making payments to the Designers Construction account of his own money to compensate for these expenditures. But McDougal's payments always lagged behind the expenditures, thereby aggravating the overdraft status of the account. For example, on June 21, 1985, McDougal deposited $10,000 of his own funds into the Designers Construction account. But by this time (June), Designers Construction had already spent over $40,000 on #4 Bettswood. Ex. 28.

To pay for the Bettswood expenditures, McDougal turned to the June 28th $64,000 nominee loan to Lisa Aunspaugh. This money turned out to be the largest source of funds to pay for the #4 Bettswood renovation. These funds amounted to a deposit of

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[26]Not all of the loan proceeds were used, however, for the renovation. Nearly $100,000 of the loan proceeds were used to pay off five other loans that Jim or Susan or both had.

[27]We have this figure from Lisa's ledger. Ex. 28.5.

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$56,087--a deposit so substantial that it took the Designers Construction account out of overdraft status.[28] It also created a temporary surplus vis-a-vis the amount coming from the McDougals versus the amount going to the McDougals. In other words, just before Jim McDougal contributed $56,087 in nominee loan proceeds to the Designers Construction account, the account had spent $30,000 more on Bettswood than either Jim or Susan had contributed to the account. But once the $56,087 was deposited to the account, the account had received more from Jim and Susan McDougal (albeit in the form of nominee loan proceeds) than it had spent on Bettswood by the amount of $25,000. Ex. 33. But that $25,000 surplus was temporary. Within two weeks Designers Construction spent an additional $24,000 on #4 Bettswood and $4,701 on McDougal's personal American Express Card.

From that point on, until February 26, 1986, the day before McDougal had Lisa close out the Designers Construction account, Jim and Susan McDougal had received more from the Designers Construction account than what they put into the account. By February 26, 1986, McDougal owed Designers Construction approximately $30,917. The account balance itself stood at a negative $31,026. McDougal ordered Lisa to write a refund check to Campobello Co. for $6,983,03.[29] McDougal then borrowed

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[28]Not all of the $64,000 was available since it was necessary to retire Lisa's April loan which purchased lot 747 in the first place.

[29]According to Lisa, Campobello had made a prepayment to Designers Construction of $10,200 for renovation work, not all of which was needed. Her final payment to Campobello of $6,983.03

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$40,000 from Madison Guaranty and deposited $38,000 to Designers Construction. This brought the account to a negative $39.31. $39.31 (from Madison Guaranty) was then credited to the account as the account's final entry on February 27, 1986.[30]

As a result of McDougal's last minute $38,000 deposit, he ended up paying approximately $7,000 more into Designers Construction than what he and Susan received. In our April memo, however, we had calculated the opposite, namely, that Jim McDougal received more from the Designers Construction account than what he deposited into the account--$9,400 more. But this earlier $9,400 figure assumed that the $16,367 Designers Construction spent on the Maple Creek lot (Lot 747 with McDougal's home) was for McDougal's (not Lisa's) benefit.[31] We have reconsidered this issue. Taking a more conservative position, we no longer assume that the Lot 747 improvements and loan payments were for the McDougals' benefit.

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was a return of the remainder of those proceeds.

[30]We have a memo signed by Bessie Aunspaugh (Lisa's mother) on Designers Construction letterhead addressed to Madison Guaranty telling Madison to close the account "when all my checks are in." Bessie does not remember this memo. We have been unable to determine from bank microfilm who signed off on the debit memo that transferred the $39.31 needed to zero out the account. The Madison Guaranty general ledger shows on the date in question that its overdraft income account was debited $39.31.

[31]According to Lisa, McDougal directed Lisa to make two payments on her $64,000 loan from the Designers Construction account. These payments add up to $3,649. The remainder of the $16,367 was spent on improvements to the property, such as landscaping and septic and interior decorating improvements that Jim had Lisa order.

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I. The Indirect $25,000 Payment To McDougal And The California Trip

On July 26, 1985, three weeks after the $56,087 deposit was made, Jim McDougal told Lisa to write a $25,000 check to herself from the Designers Construction account. He then told her to deposit the funds into her personal account and to write him a $25,000 check from her personal account.[32] All of this was done to disguise from the examiners a direct payment from Designers Construction (a negative balance account) to an affiliated party, namely, James McDougal. Exs. 34-35.

This $25,000 indirect payment to McDougal on July 26, 1985, brought the Designers Construction account to an $11,000 negative balance. It also meant that by July 26, 1985, Jim and Susan McDougal had received either directly or indirectly $28,744 more from the account than what they had put into the account. Ex. 33.

And so it went. More payments were made on #4 Bettswood or for other benefits to Jim McDougal. Occasionally Jim or Susan made a deposit.[33] But their deposits into the Designers Construction account always lagged behind what they were

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[32]The examiners eventually discovered this $25,000 payment to McDougal in their 1986 examination. But according to Jim Clark, the examiner in charge, the examiners never realized that the source of these funds came from the $64,000 loan to "buy" Jim McDougal's Kingston house.

[33]At times Susan or Jim used Madison Marketing funds (over $51,000) to pay Designers Construction for its expenditures on #4 Bettswood. Madison Marketing was a sole proprietorship of Susan McDougal through which she ordered advertising for Madison Guaranty or Madison Financial.

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receiving from the account. This created for them an interest free loan since the account was almost always in an overdraft status. From February 1985, when Designers Construction first spent money on #4 Bettswood, until February 1986, when McDougal deposited $38,000 into the Designers account, the McDougals effectively borrowed interest free for a year an average of $18,000.[34] This is an undisclosed use of Madison's assets by an affiliated party.

There were other ways in which Jim McDougal personally gained from the use of Designers Construction money. In June 1985 Jim McDougal asked Lisa to take a trip with him to California. He told her he wanted to look at properties. She had never seen California and agreed to go. They were in San Diego four or five days.

A month later McDougal

[34]We have been able to calculate that, by failing to make timely payments to Designers Construction, McDougal caused an interest lost to Madison of $2,282. The overall interest lost to Madison from the Designers Construction overdraft status was $4,481. We have calculated this interest loss by assuming that Designers Construction had a 12.5 per cent line of credit with the bank. Overdrafts under this theory were treated as extensions of credit. We used the 12.5 per cent figure since this is the rate McDougal paid on his own commercial loan with Madison Guaranty that he obtained in May 1985. The $18,000 figure is arrived at by backing in the principle value of a loan for a year at 12.5 per cent interest that cost the borrower in interest $2,282.

[35]Sue Strayhorn recalls that she discovered the trip when the airlines had called about the reservations. Strayhorn thought that the trip was to Atlanta not California. Strayhorn recalls that Lisa was embarrassed and told her "You weren't supposed to know about that." According to Strayhorn, Jim and

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told Lisa that his American Express bill had arrived and that he had to pay for the California trip. At his direction she wrote out a Designers Construction check to American Express for $4701.91. She gave him the check and in the memo portion of the check McDougal wrote his American Express card number.[36] Ex. 36.

J. The Events Of 1986

In February 1986, McDougal told Lisa that he was closing out the Designers Construction account and that she would be needed for some decorating work at the lodge and sales office on Campobello Island. Lisa went to the island with Larry Kuca and Paula Sorensen.[37] Two months later, Susan called her and told her to return to Little Rock because she was needed to gather the Designers Construction invoices and checks. Lisa returned and at Susan's direction prepared a spread sheet itemizing each expenditure. She gave the records to Susan and returned to Campobello.

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Susan had respect for each other but had different friends and were not compatible with each other.

[36]American Express no longer has records of the statement in question. But we do have copies of checks Jim or Susan wrote to American Express which reference the same American Express card number. These checks were written out of Jim and Susan's "424" personal account. Exs. 37-38.

[37]Paula Sorensen was Susan's sister and Eric Sorensen's wife. She was separated from Eric at the time and eventually divorced him.

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With the decorating work completed a month later, Lisa returned to Little Rock. Jim and Susan were no longer around and Lisa sensed that things had changed at Madison. It was now tax time and Lisa went looking for Susan to see what she should do. Susan took Lisa and various Designers Construction documents to a Little Rock accountant who prepared Lisa's 1985 return.[38]

In December 1986, Lisa received a call from someone telling her that she needed to be interviewed by a lawyer. Lisa did not know it at the time but the lawyer was Jeff Gerrish of Borod and Huggins. Lisa was contacted by Susan who met with her before the interview. Susan told her that Jim wanted the two of them to get together to decide what to say about Designers Construction. Based on what Susan told her to say, Lisa made a number of inaccurate or misleading statements to Gerrish. According to Gerrish's interview memorandum, Lisa appeared to act on her own initiative when she "bought" 1308 Main, renovated it and sold it to Bill Henley. When asked about the $64,000 Maple Creek home loan, Lisa told Gerrish that she had purchased it as an investment. When asked how she could carry so much debt on a "$12,000 a year income," Lisa gave the misleading response that

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[38]The 1985 return lists Designers Construction as a Schedule C business of Lisa Aunspaugh with gross receipts of $35,825. After deductions and depreciation, Lisa reported a Designers Construction net profit of only $11,380. In addition to the $11,380, she reported an additional $15,000 in "contract fees." According to Lisa, the $15,000 consisted of her irregular 1985 "pay checks" from Madison.

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she had other customers besides Madison.[39] Lisa has explained that she gave these misleading responses at the behest of Susan.

In November 1986 Lisa married Mike Thompson, an industrial air conditioning and heating specialist, whom she had met at the Lake Faircrest sales office in late 1985. Shortly thereafter she received some bad news. She was notified by Sue Strayhorn that "her" Maple Creek house loan was in default. Lisa responded with the statement that both the loan and house belonged to Jim and Susan.[40] Neither Jim nor Susan could be located. Lisa's husband contacted McDaniel Realty which still had the Maple Creek house listed. He continued to have it listed. The property never sold. In May 1989 Lisa was sued by the FDIC. In March 1990 a judgment was entered against her for $81,000. Ex. 39. In a foreclosure sale in May 1990 the RTC bought the house for $34,500. Ex. 40.

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[39]Technically Lisa did have other clients but they were all tied to Madison and Jim McDougal.

[40]Sue Strayhorn recalls calling Lisa and telling her that her loan was due. According to Strayhorn, Lisa said that Jim had given her the house. Lisa claims that Strayhorn is mistaken about her response. She recalls telling Strayhorn that the loan belonged to Jim and Susan. Under either interpretation, Lisa never told Strayhorn that she purchased the house and that the loan was hers--which is what any examiner would assume from a review of the documents. In other words, if you believe Strayhorn's version of the conversation, Lisa did not tell Strayhorn, yes, I know, I need to pay it off, how can I arrange payments, etc.

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V. The $18,000 Rent Payment To Bill Henley (Counts 8-9)

A. Henley Takes An Investment Tax Credit

We have recently discovered that Greg Young, at McDougal's request, prepared Bill Henley's 1985 income tax return. Young recalled that sometime in late 1985 or early 1986, while he was in McDougal's office, McDougal told him that Henley was going to take an investment tax credit on 1308 Main (renovating an historic building) and that Henley owned the building even though it was in Lisa's name. Young did not know what arrangements, if any, there were between Henley and Lisa. McDougal, who Young described to us as his "ultimate boss," assured Young that Henley was "liable" for the building to satisfy the investment tax credit. Young's notes indicate that McDougal told Young that the building was placed in service in August 1985, that the purchase price was $60,000 with $130,000 in renovations. With these figures, Young prepared Henley's 1985 return in which Henley claimed an investment tax credit.[41]

Records show that on January 15, 1986, Lisa Aunspaugh signed a deed conveying 1308 Main St. to Bill Henley. Ex. 23. Records

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[redacted]

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also show that on the same date, Henley borrowed $190,000 from Madison Guaranty. On the same date, January 15, 1986, under directions from Jim McDougal, Greg Young, the chief financial officer for both Madison Guaranty and Madison Financial, placed $130,000 of the Henley loan proceeds into the Designers Construction account and the remaining $60,000 in Lisa Aunspaugh's personal account. Records show that the $130,000 placed in the Designers Construction account was used to pay off Lisa's October $125,000 renovation loan. Exs. 41-43.

B. The $18,000 Payment To Henley

A month later on February 18, 1986, McDougal told Greg Young that six months' back rent (at $3000 a month) was owed to Bill Henley. Young knew at the time that 1308 Main had been under renovation for some time, that Henley was taking a tax credit for the building, and that the property was being leased to Madison Financial. Acting at McDougal's direction and without reviewing any documents, Young had an $18,000 check issued to Henley and deposited into Henley's account. Ex. 44.

On the same day, February 18, 1986, at McDougal's direction Young transferred $12,840 from Henley's account to the Designers Construction account. Ex. 45. McDougal told Young that the $12,840 was Henley's payment for renovations at 1308 Main. Shortly thereafter, Young recalls seeing the lease dated August 1, 1985, with McDougal's and Henley's signatures. Ex. 46. The

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lease provides that Henley owns 1308 Main and for a period of four years will lease the building to Madison Financial. The lease was maintained in Madison's accounting department to justify periodic lease payments to Henley.

Lisa Aunspaugh remembers being in McDougal's office about the time that Henley bought the property in early 1986. McDougal had a document at his desk and she believes that Henley was also present. Lisa heard McDougal say something about having to backdate a document because Henley needed money to pay his taxes.[42] Lisa does not know what the document was that was backdated. The only explanation for McDougal's statement is that he backdated the August 1985 lease which justified an $18,000 payment to Henley and further substantiated Henley's claim for an investment tax credit in 1985.

The August 1985 lease is false because it states that the lessor, Henley, owns the property as of August 1, 1985. But Henley could not have leased the property to Madison Financial sooner than January 15, 1986. Why did McDougal give this $18,000 windfall to Henley?

The $18,000 payment to Henley also served McDougal's purpose. McDougal had told Lisa that he wanted to close out the Designers Construction account which still had a negative balance. He had Greg Young draw $12,840 from Henley's account

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[42]It makes sense that Henley would need to worry about his 1985 taxes. Madison Financial records show that in 1985 Henley was paid at least $198,000 in commissions.

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and deposit it to the Designers Construction account.[43] This brought the Designers Construction account from a negative $44,856 balance to a negative $32,016. Ex. 28. Eight days later McDougal borrowed $40,000 from Madison Guaranty and deposited $38,000 into the Designers Construction account. This deposit coupled with a few more payments from the Designers Construction account brought the account to a zero balance. The account had its last activity on February 27, 1986, one week before Bank Board examiners commenced their examination. Ex. 28.

According to Lisa Aunspaugh, Madison Financial did not move into 1308 Main until December 1985 or early January 1986 within a few weeks of when Henley bought the property. She can estimate the time of the move based upon the date of the Designers Construction checks with which she paid certain contractors who were doing the final renovation of 1308 Main.

Lisa Aunspaugh also explained that Larry Kuca and Campobello Properties moved into 1308 Main as a separate tenant at approximately the same time that Madison Financial moved in. The

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[43]We have been unable to figure out how the $12,840 was arrived at. [redacted] After the Tucker mortgage and its accrued interest was paid off out of Lisa's $125,000 October loan, $74,677 was left over. This $74,677 was deposited into Designers Construction, according to Lisa, to pay for the 1308 renovation. But by February 1986 Designers Construction spent $88,608 on 1308 renovation. Ex. 28. This is a difference of $13,931. McDougal then had Henley pay $12,840 of this amount. This left an extra $1000 that had to be paid by somebody. When McDougal closed out the account, he deposited $38,000 of his own funds. This $38,000 covered not only what McDougal owed personally to Designers Construction but also the extra $1000 needed to cover 1308 Main.

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earliest rent check Bill Henley has from Campobello Properties is in February 1986.

In mid-1986 the examiners ordered Madison Financial to stop paying rent to Bill Henley.[44] The examiners disallowed it because Henley was a stockholder of Madison Guaranty. He could not rent property to the institution (or its subsidiary) without supervisory approval. Henley then defaulted on his $190,000 Madison Guaranty loan. When he was sued on the note he counterclaimed for back rent on 1308 Main Street.

In his deposition on February 24, 1988, Henley was asked about the August lease and the fact that he did not own the property until January 1986. Henley admitted that he negotiated exclusively with McDougal for the sale of the property and had nothing to do with Lisa Aunspaugh. When asked why he was entitled to rental payments back to August 1985 when he did not own the building until January 1986, Henley explained that in August 1985 he discussed with McDougal his decision to buy the building and to lease it back to Madison Financial. McDougal agreed to Henley's proposal but the purchase and lease got delayed. From this fact alone, Henley drew the feeble conclusion that he was entitled to receive back rent even though he did not

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[44]The loan to Henley and the lease back to Madison Financial was a highly suspect transaction. McDougal negotiated a lease which enabled Henley to receive $3,000 a month from Madison Financial. But Henley's monthly payment on his $190,000 loan to buy the building was only $1,900. As a result, with no down payment, Henley walked into a transaction which guaranteed him a positive cash flow of $1,100 per month for the life of the four year lease.

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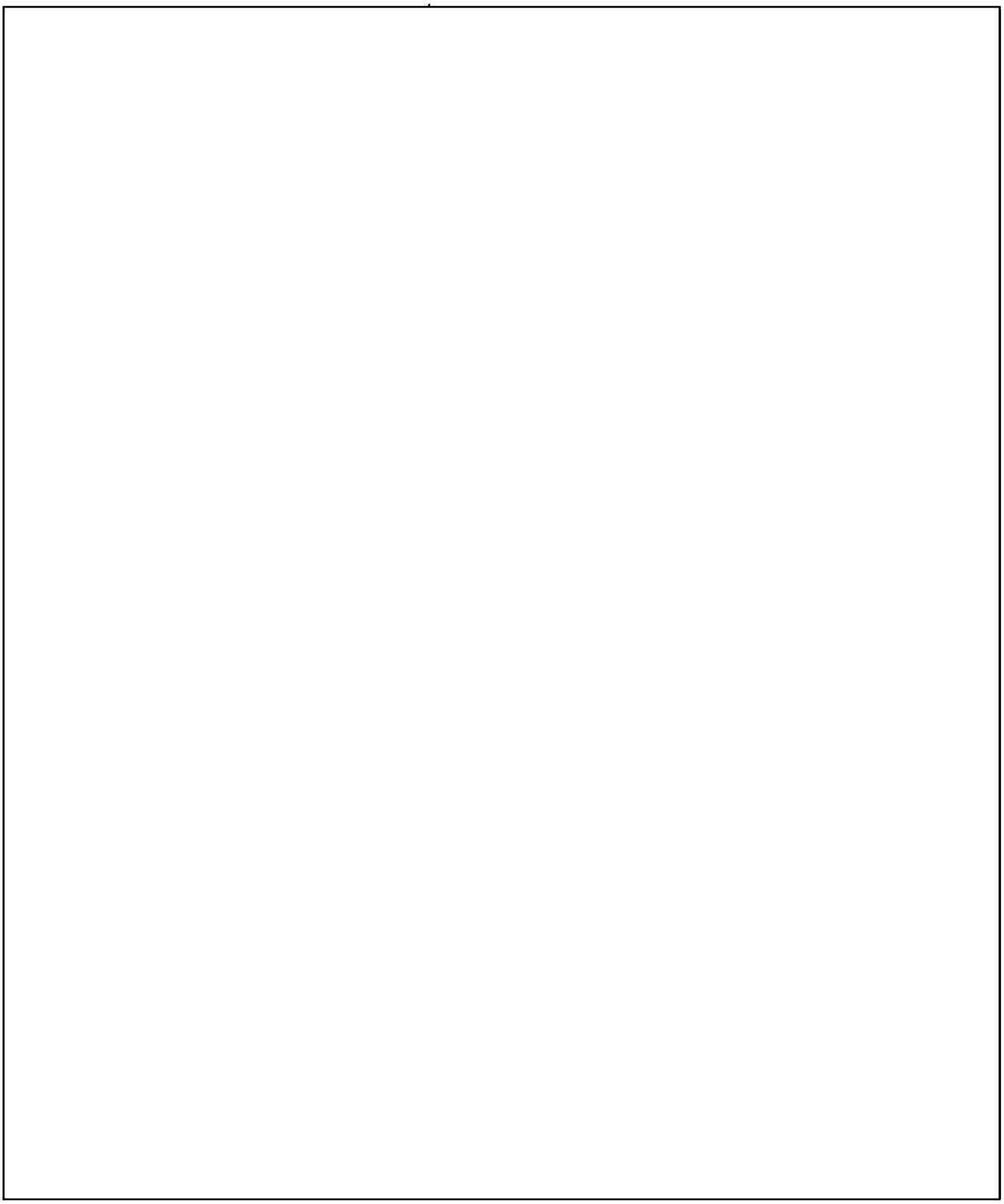
buy the building until January, had not made a deposit, and had not spent any money on it until that time.



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[redacted] Henley was clearly worried about his taxes. He had received at least $198,000 in commissions in 1985. He wanted to be in a position to substantiate or document his claim for a 1985 investment tax credit.

With the examiners coming in a few days, McDougal, on the other hand, wanted additional funds to bring down the negative balance in the Designers Construction account. The $18,000 payment helped both Henley and McDougal.

We are reluctant to use Henley as a government witness at trial. He is hostile to the investigation and contradicts Eric Sorensen (discussed below). We can prove the $18,000 misapplication from the documents and the testimony of Young and Aunspaugh. If Henley is used as a defense witness, we will be able to use him to our advantage on the $18,000 payment.

VI. Seth Ward And The Piper Seminole (Count 5)

74 year old Seth Ward sees mostly with one eye and relies on a hearing aid. Erect and dignified, Ward walks slowly with a cane, having recovered from a fall from the second story window at his daughter's (and Webster Hubbell's) house in 1989. He fell to the ground on his back when he slipped from a ledge trying to attach a downspout to a gutter. He was hospitalized for months. Although he is physically slow, he is mentally alert with an

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unfailing memory, particularly when it comes to recalling his unhappy experiences with Jim McDougal or the RTC.

Ward earned his pilot's license in 1936 when he was 16 years old. While a student, he worked part time flying crop dusters. After Pearl Harbor he was commissioned in the Marine Corps and spent most of the war as a flight instructor. Toward the end of the war he flew some missions out of the Philippines and Okinawa. After the war, Ward remained in the Marine Corps, eventually flying numerous combat missions in Korea.

After Korea, Ward joined the reserves and returned to Arkansas. After working for a metal fabricating supply warehouse, Ward went into the metal fabricating business for himself. By the 1970's his company was doing $50 to $60 million in sales a year. His company merged with National Steel Corporation, and in 1975 he retired, a wealthy man.

Ward then owned a Datsun dealership for five years. After he sold the dealership he purchased a parking meter company in Russellville. After he was injured in 1989 he transferred the parking meter company to his son.

In 1985 Ward was playing gin rummy at the Little Rock country club when Don Denton approached him. It was a fateful meeting, one that Ward always refers to as the opening episode of his unhappy McDougal saga. Ward had known Denton for a number of years when Denton had been the chief lending officer at Union National Bank. Denton was Madison's newly hired senior loan officer. Denton encouraged Ward to work for Madison Financial.

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Denton told him that McDougal wanted somebody to help locate properties for development. Ward had a real estate license and agreed to work for Madison. Ward told McDougal that he was not going "to punch a clock" and that he wanted a 10 per cent commission and $25,000 per year salary. McDougal agreed.

A. The May 5th Letter: Ward Agrees To Buy The Airplane

Sometime in early May 1985, shortly after Ward agreed to work for McDougal, McDougal told Ward that he had purchased an airplane. Ward asked him what kind of airplane had he purchased. McDougal told him that he had purchased a Piper Seminole.[47] Ward responded that he hoped that McDougal had not paid too much for it. McDougal said that he had swapped some property for it. McDougal told Ward "that he would like for the company to have an airplane but that he was very reluctant for the company or himself to own the airplane because he thought it would be like waving a red flag to the regulators, the same as owning an airplane might attract the attention of an IRS agent." McDougal knew that Ward was a pilot. Ward had just taken McDougal to

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[47]In April 1985, McDougal came to Chris Wade and told him that he was "tired of messing with Whitewater...[and wanted] to get rid of the rest of the lots." Wade and his friend Dr. Russell Webb agreed to buy the rest of the lots in exchange for the assumption of a $35,000 portion of a $100,000 Whitewater loan. As an additional payment, they also transferred to Whitewater a Piper Seminole that they valued at nearly $35,000. They wanted to get rid of the airplane and McDougal agreed to take it. Wade thought that they were conveying the aircraft to Whitewater Development. Wade flew the aircraft to Central Flying Service and personally gave McDougal a blank bill of sale signed by Russell Webb. McDougal told Wade to fill in McDougal's name on the bill of sale which Wade did. Ex. 47.

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Camden and El Dorado on his (Ward's) airplane. McDougal asked Ward what he should do with the Piper Seminole. Ward told him that he would think about it.

The next day Ward told McDougal that there was no law prohibiting his company from owning an airplane. But McDougal again replied that "he didn't want to attract the attention of the regulators." Ward then told McDougal that McDougal could give Ward a letter stating that Ward was directed to buy an airplane but that all costs would be covered by McDougal's company and that, if the airplane was later sold, all profit or loss would go to the company. To make the sale indirect and less noticeable, Ward and McDougal agreed that McDougal should sell the airplane to Central Flying Service and that Ward in turn would buy it from Central Flying Service for the same price. McDougal liked the idea of selling the aircraft to Central Flying Service because Ward was working for Madison. They agreed that the sales price would be $25,000.

On May 5, 1985, McDougal delivered a one page letter to Ward. Ex. 48. The letter sets forth the conditions that Ward and McDougal had agreed upon. The letter authorizes Ward to buy a small airplane in the $25,000 to $50,000 price range. The letter provides that Madison Financial will cover all expenses and guarantee Ward's purchase price if the airplane is sold. Conspicuously absent from the May 5 letter is any reference to the fact that Ward was going to buy the aircraft of James McDougal, an affiliated party and chairman of the board of the

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very corporation that was guaranteeing Ward's purchase price in the event of a later sale.

B. McDougal Receives $25,000 For An Airplane In Need Of Repair

When he examined the airplane, Ward recognized that it needed a one hundred hour inspection. On June 6, 1985, Ward obtained a bill of sale for the aircraft from Central Flying Service even though he had not yet paid for it. A few days later, Ward flew the aircraft to Starke Aviation in Russellville where the mechanic, Harvey Starke, discovered that the right engine needed to be replaced. Ward told McDougal that it would be an expensive proposition to replace the engine.

On July 15, 1985, while the aircraft was waiting in Russellville for repair, Ward borrowed $25,000 from Madison for a "business" purpose. Ex. 49. He obtained a cashiers check, endorsed it, and delivered it to Central Flying Service the same day. On July 15, 1985, Richard Holbert of Central Flying Service wrote a $25,000 check to Jim McDougal.[48] Ex. 50. McDougal endorsed the $25,000 check to Henry Hamilton to partially repay a $28,000 personal loan Hamilton extended to McDougal. McDougal

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[redacted] Since Holbert was a tenant at the Little Rock airport and Ward was one of the Little Rock airport commissioners, Holbert did not want to turn Ward down. Holbert wrote out a $25,000 check to McDougal the same day Ward delivered a $25,000 check to Central Flying Service. Holbert had no dealings with McDougal and believes that he gave his $25,000 McDougal check to Ward.

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had used the $28,000 to make a payment on his Worthen Bank loan for Madison Guaranty stock.

The next day, July 16, 1985, Ward obtained an additional loan from Madison. He borrowed $10,000 for a "business" purpose and immediately prepaid $10,000 to Harvey Starke for anticipated repairs to the Piper Seminole. Exs. 51-52.

When the aircraft was being repaired in Russellville, McDougal told Ward that he planned to use it to fly to Campobello Island in Canada. Ward was amused. He told McDougal that the Piper Seminole was a short distance "puddle jumper" and that he could get to Campobello faster on a Greyhound bus. McDougal was surprised. "What should I do?" he asked. Ward told him to sell the airplane. McDougal agreed.

The aircraft was not ready to fly until September 1985. On October 25, 1985, Ward borrowed an additional $5,000 from Madison. Ex. 53. From these proceeds he made a final payment to Harvey Starke of $2,951. Ex. 54. He then flew the aircraft back to Central Flying Service in Little Rock. For several months Ward tried to find a buyer. On one occasion he flew the aircraft to Fort Scott, Kansas, to show it to a family he knew. Finally, in December 1985, a couple he knew from Atlanta agreed to buy the aircraft for $28,500. Ex. 55.

The aircraft had made only two trips the entire time that Ward owned it--back and forth to Russellville for repair and one trip to and from Ft Scott, Kansas, for the purpose of selling it.

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At no point in time had the aircraft been used for any Madison Financial purpose.

C. Ward Settles With Madison Financial

The agreement with McDougal since May had been that Ward would not suffer any out of pocket expense for the aircraft. As a result, on December 18, 1985, a week after he sold the Piper Seminole to the Atlanta couple for $28,500, Ward prepared a letter to McDougal detailing his costs of owning and maintaining the aircraft. Ex. 56. A part of these costs was $1,904 that Ward owed in accrued interest based on the three loans (totalling $40,000) that he had taken out at Madison to either purchase or repair the aircraft. He kept the $28,500 in sales proceeds to help pay off the three loans. When the costs and credits were added up in the December 18 letter, Ward claimed that Madison Financial owed him $12,827.

A week later on December 24, 1985, when Ward paid off all three Madison loans, Lisa McIntyer, at Greg Young's instruction wrote out a $13,000 check to Seth Ward.[49] Ex. 57.

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McDougal ordered Young to book the $13,000 as a travel expense of Madison Financial even though McDougal knew that the aircraft had never been used for any Madison Financial purpose and that the reason why the $13,000

[49]Ward was slightly overpaid but had agreed with McDougal that this overpayment was proper in light of the fact that Ward had flown McDougal to Camden in Ward's own airplane and had never been compensated for it.

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payment to Ward was so high was because the airplane (with a costly repair) had been overvalued (at $25,000) in the first place. Ex. 58. McDougal knew that a substantial portion of the $13,000 expense would have been borne by McDougal personally had he not passed the aircraft on to Ward who in turn was covered by Madison Financial.

Don Denton was the loan officer who approved Ward's airplane related loans. Through conversations with Ward, Denton was aware of all the material facts of the transaction except for the most significant fact, namely, that McDougal personally received the initial $25,000 used to buy the airplane.[50] Denton knew that Chris Wade was involved and that McDougal had arranged for the sale through Central Flying Service. But Denton thought that Chris Wade or someone connected to Chris Wade was selling the airplane and thus Wade or some other person was receiving the $25,000. Denton thought that McDougal wanted Madison Financial to use (or indirectly "own") an airplane but was afraid of what the examiners might think if it was on the Madison Financial books as an asset.[51] When Ward settled up with Madison Financial in December 1985 at the time the aircraft was sold, Denton

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[50]We confirmed this with an interview of Denton on April 25, 1995.

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calculated the amount of interest due on Ward's airplane related loans so that Ward could add the interest figure as a cost of owning the airplane.

VII. Eric Sorensen And The Inflated Invoices (Counts 6-7)

A Danish national, Eric Sorensen was 34 years old when he visited Arkansas in August 1982. He came to Camden, Arkansas, because he had a high school friend who had a business there. In Camden he met 25 year old Paula Henley. By the end of the year the two had gone to Denmark to get married. Since Sorensen spoke English and Paula was hopeless in Danish, the two decided to return to Arkansas to live.

For a few months Sorensen helped run a small hardware store owned by Bill Henley, Paula's brother. Bill Henley had been elected to the Arkansas state senate and was away from Camden when the legislature was in session. Sorensen then worked for Brunswick Defense in East Camden. In September 1983 he quit his job with Brunswick when he was told that he would have to work a night shift. Sorensen then decided that he wanted to be self-employed. He worked for a few months doing remodelling work and building meter bases for the Maple Creek Farms subdivision where Bill Henley was selling lots.[52]

In late 1983 Sorensen had discussions with Jim and Susan McDougal. Jim McDougal wanted to build a modular home factory near Pine Bluff where homes could be manufactured and then sold

[52]A meter base is a kind of utility pole that the utility company uses to direct switches to various mobile homes within an area.

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to Maple Creek purchasers. Sorensen had operated a factory in Denmark for eight years prior to coming to the United States. Jim and Susan McDougal wanted Sorensen to determine what it would take to build and operate a factory that could produce one modular home per day. Although he had considerable experience at remodeling, Sorensen responded that he could not determine the investment and operational costs of such a factory until he had experienced the building of a house from start to finish. It was then decided that Sorensen would hire the builders and observe them build a Maple Creek house. With this knowledge of materials and labor costs, Sorensen would then submit a feasibility study to Jim McDougal.

Citing regulations, Jim McDougal explained that Sorensen would have to "own" the property since Madison was not in the "house building business." McDougal explained further that Madison would make a construction loan to Sorensen, the proceeds of which would be used to buy the lot and build the house. Sales agents at Maple Creek would then sell the house. Sorensen planned to use the proceeds of the sale to pay off his construction loan.

A. The Two Maple Creek Homes

Jim McDougal selected lot 206 in an area allocated for mobile homes. The actual plans for the house were given to Sorensen by either Jim or Susan McDougal. Although the house was built conventionally, it resembled a "modular" house, what Sorensen called a "shoebox" house.

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On December 16, 1983, Sorensen took out a $48,000 construction loan for lot 206. Ex. 59. Sorensen observed the building of the house and paid the builders out of the loan proceeds. When the house was finished in February 1984, Sorensen submitted a feasibility study to McDougal and was paid $2,000 or $3,000. The house was then put on the market for sale.

Immediately after completing the house on lot 206, McDougal told Sorensen to build another house on a nicer Maple Creek lot. Lot 313, a residential lot, was chosen. On February 13, 1984, Sorensen borrowed $55,200 and purchased lot 313. Ex. 60. McDougal gave Sorensen the plans for this more elaborate house. Again, Sorensen observed the building of the house and paid the builders from the construction loan proceeds. By April 1984, this more elaborate house was near completion.

But as the lot 313 house was nearing completion, it became evident to Sorensen that he was spending more money than what he had borrowed. The problem was that the construction loans to lot 206 and lot 313 were not sufficient to build the kind of houses that Sorensen had been told to build. Spending more on the two houses was not an immediate problem for Sorensen since he was permitted to overdraft his Madison checking account.[53] But the negative balance in Sorensen's checking account kept growing. By the time he was finished with the lot 313 house, he had a $27,000 negative balance.

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[53]This account (700111) was under the name of Sorensen Enterprises. All of Sorensen's construction business was conducted out of this account.

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B. The Need To Borrow $27,000

Sorensen discussed this negative balance problem with McDougal who told him not to worry and that Madison would make him a personal loan to cover the overdraft. Accordingly, Sorensen borrowed $27,000 on April 13, 1984, which balanced his checking account. Ex. 61. McDougal told Sorensen that he would not have to pay back the $27,000 personal loan.

In the meantime neither of the two houses (lots 206 and 313) were selling. It bothered Sorensen to think that the two houses might not sell for enough to clear the two outstanding construction loans plus the $27,000 personal loan plus the accrued interest on all three loans. He voiced this concern to his brother-in-law Bill Henley and to Jim McDougal and was told not to worry.

C. The Two 1984 Inflated Invoices

One hundred miles from Maple Creek, Madison Financial opened a new development outside Camden, called Greentree Farms Subdivision. In September 1984 Sorensen did some remodelling at Bill Henley's request. Henley was working at Greentree Farms as the sales manager. Sorensen converted a farm building into a sales office and garage. When he completed the work, Sorensen submitted a $4,109.90 invoice to Madison Financial, dated October 6, 1984. The $4,109 invoice consisted of Sorensen's out-of pocket

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costs plus a 10 per cent markup for his own fee. When he handed the invoice to Bill Henley, Henley told him that "Jim wants you to add $10,000 to this bill." Although Henley did not say it, Sorensen immediately realized that McDougal and Henley were trying to help Sorensen with his $27,000 personal loan and the two construction loans on the two Maple Creek homes which had not yet sold. Sorensen then inflated the invoice by $10,000. Ex. 62.

A few days later, Sorensen's Madison checking account was credited with a payment of $14,109.90. Ex. 63. With these extra funds Sorensen immediately wrote a $10,000 check and sent it to McDougal to apply to Sorensen's two construction loans or his personal $27,000 loan. Ex. 64. In his checkbook ledger, Sorensen wrote "Jim's discretion," meaning that he left it to McDougal's discretion to apportion the $10,000 among the three loans. Ex. 65.

A few weeks later, Bill Henley asked Sorensen to build a sales office in the form of a log cabin at Madison Financial's Fair Oaks Subdivision southwest of Camden. Sorensen built the log cabin on two huge beams which enabled Madison to move the log cabin to another subdivision. When he was finished with the log cabin, he gave a $9,592 bill to Bill Henley.[54] Again, Bill Henley told Sorensen, "Jim wants you to add $10,000 to this bill." As a result, on December 31, 1984, Sorensen submitted a

[54]Sorensen had actually billed Madison Financial $19,952 for the project. But since he had earlier received an advance of $10,000 on the log cabin project, his final bill was for $9,592.

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$19,592.89 bill to Madison Financial. Ex. 66. A few weeks later, Sorensen's checking account was credited with a $19,592.89 payment. Ex. 67.

Sorensen wrote a $10,000 check to Madison Guaranty and sent it to McDougal. In the memo section of the check Sorensen wrote "apply toward loans." Ex. 68. A few days later Sorensen telephoned Madison and found out how the $10,000 payment was apportioned among his loans.

D. The Sale Of Sorensen's Maple Creek Homes

While Sorensen was working on the log cabin sales office for Fair Oaks, sales agents at Maple Creek succeeded in finding a buyer for the second of the two homes Sorensen built and owned at Maple Creek (lot 313). On the same day (December 31, 1984) that Sorensen submitted the inflated $19,592 invoice to Bill Henley for the Fair Oaks log cabin sales office, Madison Financial closed on lot 313 on Sorensen's behalf. Sorensen recalled that the sales price obtained from the buyer was sufficient to pay off Sorensen's $55,000 construction loan that encumbered the property.[55]

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[55]Sorensen did not attend the closing but (at somebody's direction) signed a quitclaim deed to the property to the purchasers on January 2, 1985. Exs. 69, 70. The closing statement actually records the seller, not as Sorensen, but as Madison Financial. The December 31 closing documents include a December 31 Madison Financial deed to the purchasers signed by McDougal. According to the closing statement, after closing costs were deducted, the actual price obtained from the buyer provided a small profit of $728.97 to Madison Financial. Technically, this money belonged to Sorensen since he held title to the property. But Sorensen has no recollection of the sale other than being told that the sale was sufficient to cover his construction loan on the property.

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Four months later, Maple Creek sales agents obtained a buyer for the first house (the "shoebox" house) that Sorensen built at Maple Creek. It had been on the market for over a year. On April 9, 1985, Madison loaned $47,000 to the new buyer who agreed to pay $49,500 for the house. But Sorensen's original $48,000 construction loan that encumbered the property now had a balance (with accrued interest) of $50,091. Moreover, there were closing costs that were owed by the seller (Sorensen). As a result, the seller (Sorensen) owed at closing $2,448.52. Ex. 70. Since Sorensen did not attend the closing, he did not know that he owed $2,448 for the transaction to close. But McDougal must have known that Sorensen needed these funds to sell the Maple Creek house because on May 6, 1985, McDougal told Greg Young, Madison's chief financial officer, to write a check to Eric Sorensen for $2,448.52. Ex. 71. Young knows that McDougal told him to write the check because the check is written out in Young's handwriting. This was unusual, according to Young. It could only mean that McDougal ordered Young to write the check immediately.[56] Otherwise the check would have been prepared by the computer after the proper documentation had been submitted to the accounting department. Young was given no invoice from

[56]Young will say that McDougal ran Madison Financial. The directions on the check and how it was to be booked had to come from McDougal. But Young will say that Latham may have passed on the directions to Young. However, Young will say that the procedure in the office was that Latham, who ran Madison Guaranty, exercised no direction or control over Madison Financial. If he (Latham) passed on instructions regarding Madison Financial, the directions came from McDougal.

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Sorensen but only directions from McDougal to book the payment as an expense from the reserve account of the Fairs Oaks development.

Sorensen never saw the check and did not endorse it. The check was endorsed by Quapaw Title on Sorensen's behalf and was applied to Sorensen's obligation at the April closing on the Maple Creek lot.

E. The December 1985 Inflated Invoice

Now that the two Maple Creek homes were sold, Sorensen did not have to worry about his two construction loans. But he became even more concerned about his $27,000 personal loan. The loan was more than a year old and had a 14 per cent interest rate. Although partial payments had been made on it from the proceeds of the two previously inflated invoices, the $27,000 loan had a balance of approximately $16,000 by December 1985. Sorensen recognized that he had personally signed for the note but that McDougal had promised him that either he (Jim) or Madison would take care of it. Throughout the summer and fall of 1985, Sorensen expressed his concern to Henley and McDougal that the loan be paid off.

There are two McDougal memos that confirm Sorensen's account that McDougal and Henley were trying to help Sorensen retire the $27,000 note. On July 17, 1985, McDougal wrote a memo to Bill Henley (Ex. 72) which said:

> Call me about the Eric Sorensen note which is now due. I think he can earn enough to pay it at El Dorado.

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On July 23, 1985, McDougal sent a second memo to Henley (Ex. 73) which told Henley that "[w]e need to discuss the following ...Eric's note..."

Sue Strayhorn typed both memos and will be able to introduce them at trial.

In the fall of 1985, at McDougal's request, Sorensen was building a three bedroom house at the newer El Dorado subdivision. Sorensen had agreed with McDougal that he would own the lot, build the house to McDougal's specifications, and then sell the house to Madison Financial (to be used as a sales office) when it was completed. Sorensen further agreed that he would sell the house to Madison Financial "at cost."[57]

On September 24, 1985, Sorensen borrowed $62,400 and applied $10,000 of the loan proceeds for purchase of the lot. Ex. 74. He used the remainder of the loan proceeds (approximately $51,000) to build the house. But McDougal ordered some last minute changes to the construction. As a result Sorensen spent

[57]Sorensen's "costs" always included a 10 per cent fee for his own services. That is, Sorensen would add up his expenditures for labor and material and multiply the figure by 10 per cent. The resulting figure for Sorensen was his "cost" in the project.

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approximately $12,000 more than was available from the loan proceeds. Sorensen simply overdrafted his account in order to accommodate the changes McDougal wanted in the house. On December 20, 1985, he gave his final bill ($12,662.96) on the Lake Faircrest home to Jim McDougal. McDougal told him to add $10,000 to the invoice which Sorensen did. Ex. 75. Sorensen recalls that McDougal said nothing else. Given the fact that Sorensen had repeatedly complained to McDougal that he had been promised help in retiring the $27,000 loan, Sorensen understood that this was McDougal's way of helping him.

Ex. 76. Sorensen used the extra $10,000 to pay on his $27,000 personal note which brought it down to approximately $7,000.

In the summer of 1986 Sorensen visited Denmark. When he returned everything had changed at Madison. McDougal was no longer around. Sorensen's bank account had a $30,000 negative balance and the bank examiners wanted him to pay it off. Sorensen explained that he had done major remodelling of Bill Henley's house and was waiting for Henley to pay him approximately $23,000. Sorensen also claimed that Madison Financial owed him approximately $14,000 for work done at Castle Grande Estates. The examiners paid him the $14,000 but made him sign a $30,000 note to cover the overdraft. Henley never paid

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Sorensen for the remodelling work he had done.[58]

VIII. The 1986 Examination, Robert Palmer, and The Management Questionnaire (Counts 10-11)

The 1986 examination commenced on March 4, 1986. The examiner in charge was Jim Clark, who is currently a national bank examiner in Michigan. Clark had been a Bank Board examiner since 1973 and an examiner in charge since 1976. He and his team (3 other examiners) were from the Indianapolis Region. They had been called to the Dallas Region (which included Little Rock) because the Dallas Region did not have enough qualified examiners to cope with what was turning out to be a multi-billion dollar disaster. Clark will testify that under normal procedures in 1986, the Bank Board would give at least 3-4 weeks notice that an examination (scheduled every two years) was about to commence.

[redacted]

A. The Consulting Fee Invoice (Count 10)

Latham has told us that in February 1986 he told Don Denton (Madison's senior loan officer) that the examiners were coming and to get the files in shape. Denton has confirmed this. According to Little Rock appraiser Robert Palmer, Denton and Sarah Hawkins, Madison's compliance officer, told Palmer and his partner, Bennie Beard, to do appraisals for approximately 79 loan

[redacted]

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files which contained inadequate appraisals or no appraisals at all. Palmer was told by both Hawkins and Denton to be sure that the date of the appraisals coincided with the date of the loans. This way the examiners would not know that the loan files had been incomplete. Palmer and Beard spent a whole day on a weekend at the Madison office reviewing files. Palmer remembers that on that day McDougal came by and said hello.

On February 27, 1986, Palmer sent a $15,350 itemized bill to Don Denton which listed the 79 appraisals he and Beard had done on the eve of the examination. Ex. 77. Palmer waited to get paid and finally had to call Denton. Denton told Palmer that he would have to talk to Latham. When Palmer reached Latham, Latham told him that there was a problem with writing him a check since "they" did not want the examiners to know that he (Palmer) had done all those appraisals. Latham asked Palmer to submit a "consultant fee" bill to Madison Financial in the same amount. Palmer agreed and that very day presented the "consultant fee" bill to Latham who paid him on the spot. Ex. 78. The date was March 13, 1986. By this time the examiners were on site.

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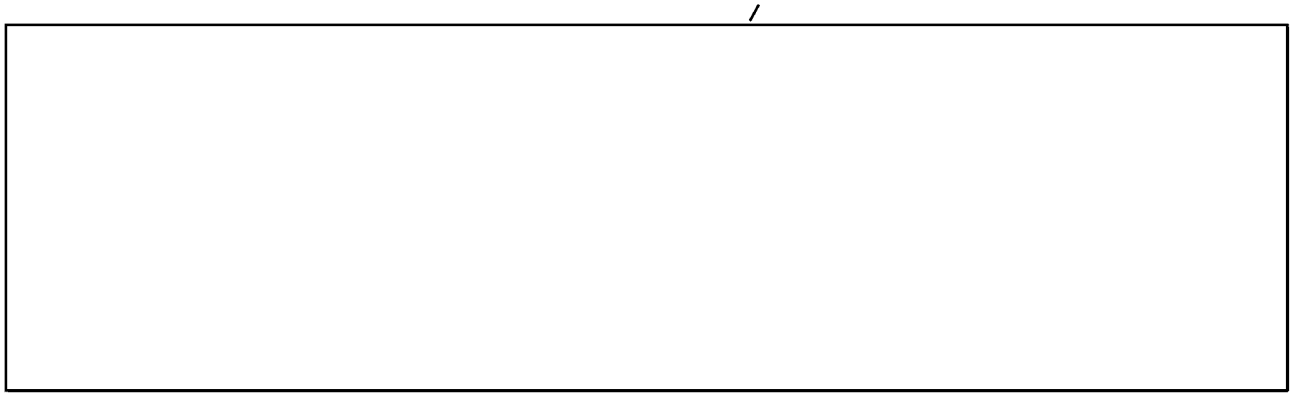

B. The Management Questionnaire (Count 11)

After the examiners arrived, Latham completed the Management Questionnaire. Ex. 79. It was notarized by Latham's assistant, Pat Heritage. According to Jim Clark, the Management Questionnaire is designed to identify affiliated parties, affiliated party transactions, problem loans, contingent liabilities, major service contracts, relations with other financial institutions, and other matters of concern to examiners.

Item 7 of the Management Questionnaire required the association to:

> "List all loans or contracts made or purchased by the institution since the last examination wherein any part of the proceeds was disbursed or credited to the benefit, directly or indirectly, of any affiliated person of the institution... Name the persons benefitted and state the amount and purpose of, and the basis and reasons for, such disbursements or credits."

Latham answered this question by attaching a list of all documented loans to affiliated parties (excluding loans secured by the affiliated parties' principal place of residence). Clark will testify that (i) McDougal's airplane transaction with Seth

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Ward, (ii) the Lisa Aunspaugh $64,000 loan, and (iii) McDougal's overdraft use of the Designers Construction account should have been identified in response of Item 7.

[redacted]

C. The Examiner In Charge Confronts McDougal And Latham

Jim Clark spent the first day or two of the Madison exam at the Little Rock District Office of the Federal Home Loan Bank Board. When he reviewed the file on Madison, he familiarized himself with the 1984 exam and Supervisory Agreement. Steve Parr, who ran the small Little Rock office, told Clark that they had had an informant who complained about Madison. Clark recalls that it was some disgruntled employee (relatively low level) who told Parr that Madison had a number of overdraft problems.

When Clark arrived at Madison, he was introduced to Latham. He also met McDougal casually. McDougal had moved out of his spacious office and made it available to the examiners. McDougal had moved to the Castle Grande Estates sales office. A week or so later Latham drove Clark and his fellow examiner Bob Young to Castle Grande to meet McDougal. The meeting was cordial and

[redacted]

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Clark and Young listened while McDougal did most of the talking, mainly about his development plans and philosophy. Clark and Young asked few questions.

Clark was required to file an interim 30 day report with the Dallas Regional Office. What he found in his first thirty days foreshadowed the rest of the examination. Concerning three major topics of the Supervisory Agreement, namely, regulatory net worth,[60] affiliated party transactions, and record keeping, Clark concluded that "[s]ome actions have been taken by management which give the appearance of compliance but, from all indications, management has intentionally attempted to evade compliance." Ex. 80.

With respect to affiliated party transactions, Clark mentioned three "companies": Designers Construction, Madison Marketing, and Madison Real Estate. All three entities, Clark noted, had received substantial funds from Madison Guaranty or Madison Financial. With respect to Designers Construction, Clark reported as follows:

> "Lisa Aunspaugh is the sole signatory on Designers Construction's checking account and was the incorporator of Madison Marketing as well as being one

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[60]Clark concluded that Madison (with deposits over $100 million) had a reported net worth of only 2 per cent of assets. Clark concluded that this was too low and violated the regulatory net worth regulation. 12 CFR 563.13. Regulatory net worth is too complicated to explain in a footnote. There was no simple percentage. It was basically a function of a number of factors, including liability (deposit) growth and contingent liabilities. As deposits (liabilities) and assets grew, it was necessary to capitalize earnings to maintain net worth. Clark's major concern was the way Madison recognized income from the sale of Madison Financial properties.

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of the signatories on its checking account. Since Ms. Aunspaugh is 22 years old with two years of college, it is difficult to understand how she is capable of owning and operating these businesses. It is the examiner's understanding that James and Susan McDougal actually operate these entities through Ms. Aunspaugh, a friend of Mrs. McDougal's, who acts as a front." Ex. 80.

In his 60 day report to Dallas on May 8, 1985, Clark criticized Madison Financial for the way it recognized income on the first three projects the examiners reviewed.

Finally, in late May, Clark had to make a tactical decision. Up to this point in time he had not disclosed to Madison officials what his findings were. He wanted to know their response but he was fearful that if he disclosed his findings too early, they would alter records or substitute transactions to counter his conclusions. Finally, on May 27, 1986, Clark decided it was necessary to tip his hand and disclose his concerns. He wrote a letter to Latham in which he asked detailed questions about a number of entities, including Designers Construction and Sorensen Enterprises. In the letter, Clark stated that "[a]ssociation records concerning these entities are incomplete and responses to our inquiries regarding them have been inadequate." Ex. 81. He also scheduled a meeting with Latham and McDougal.

Two days later (May 29, 1986) in Latham's office, Jim Clark and Robert Young met Latham and McDougal. It was Clark's third and last meeting with McDougal. Clark decided to leave the most sensitive discussion (payments to affiliated parties) to the end. Clark and Young then outlined for McDougal and Latham why they

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felt they would have to classify significant portions of Madison Financial's projects as either "loss," "doubtful," or "substandard." Clark and Young were particularly critical of Madison Financial's recognition of income. Latham and McDougal asked questions, according to Clark, but made little or no effort to challenge Clark and Young. Clark was surprised that Latham and McDougal gave such a lackluster response.

Toward the end of the meeting, Clark broached the topic of payments to affiliated parties, what he called the "McDougal-Henley Group," including Designers Construction. Clark pointed out that these transactions violated the Supervisory Agreement. Clark remembers (and it is reflected in his memo of the meeting) that "[t]hey did not respond." Ex. 82. Again, Clark was surprised by their response. McDougal seemed to understand "affiliated party" and "Supervisory Agreement" and expressed no surprise at Clark's initial findings.

At some point Latham did state that Madison had disclosed to the Bank Board (and sought permission for) Susan McDougal's receipt of real estate commissions. McDougal then elaborated on Susan's brokerage license and real estate activities. Clark asked for the Bank Board correspondence regarding Susan McDougal and a few days later received it. After a brief discussion on Campobello, the meeting broke up.

From that point on, Clark recalls, the communications between the parties became adversarial. Requests for information and responses were in writing. Finally in July 1986, Walter

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Faulk, the Principal Supervisory Agent from the Dallas Region summoned Madison Guaranty's Board of Directors to Dallas. Since McDougal was not on the Board, he did not attend. Faulk threatened to take removal action unless the Board signed a Cease and Desist Order which called, in part, for Latham's and McDougal's resignation. A few days later Madison Guaranty's Board signed the Cease and Desist Order. Jim's and Susan's days at Madison were over.

IX. The Law As Applied to McDougal

A. "Connected In A Capacity"

A common element of both statutes (sections 657 and 1006) is the status of the defendant. In McDougal's case we will be required to show that he is "connected in a capacity" with the insured institution, Madison Guaranty. McDougal will no doubt argue that he is not "connected" to the savings and loan association within the meaning of the statute. The evidence will show otherwise. He was the largest single stockholder of Madison Guaranty and was chairman of the board of Madison Financial, a wholly owned subsidiary of Madison Guaranty which was a principle source of income to the association. But we cannot rely on a per se rule to establish that McDougal is "connected in a capacity" to Madison Guaranty. Courts have examined the facts of each case. In United States v. Bolstad, 998 F.2d 597 (8th Cir. 1993), the court concluded that the defendant, who was the president of a wholly owned subsidiary of the savings and loan association and who prepared loan documentation and made loan recommendations to

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the association, was sufficiently "connected in a capacity" with the association. Similarly, in United States v. Prater, 805 F.2d 1441 (11th Cir.1986), the court held that under the facts of the case, the president and chief executive officer of a wholly owned subsidiary of a savings and loan association was "connected in a capacity" with that association. The Prater court noted that the phrase "connected in a capacity" should be construed broadly to effectuate congressional intent by protecting federally insured lenders from fraud.[61]

There is overwhelming evidence of McDougal's influence over Madison Guaranty. McDougal's office was on the premises of the association. Bonnie Crocheron, the head cashier, will testify that she furnished McDougal with the daily overdraft report and that on one occasion he called her to his office and complained to her about the size of the overdraft problem. Latham and Young will both testify that McDougal had input and influence over loans affecting Madison Financial.

Moreover, there are memos authored by McDougal which indicate that he is telling Latham what to do regarding various loans. For example, on March 27, 1985, he wrote the following to John Latham:

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> "Have Charles Peacock execute the $50,000 note secured by the air conditioners. Have him carry a blank note

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[61]"Control" is not a requirement in determining whether or not a defendant is "connected in a capacity." United States v. Payne, 750 F.2d 844, 855 (11th Cir. 1985).

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> and mortgage as well as a standard Offer and Acceptance form with him for he and his wife, Judy, to execute. Have him resign from the [Madison Guaranty] Board, and do not fund the $50,000 loan. Tell him I will call him about it Friday." (Ex. 83).[62]

With this kind of evidence it will be difficult for McDougal to argue that he exercised no influence over the association and therefore was not "connected in a capacity" with it.

B. "Belonging To Such Institution"

Another element common to both statutes is the insured status of the funds in question. We will be required to prove that the funds misapplied (under section 657) or received (under section 1006) came from the insured institution. There is no problem on this point with respect to those counts relating to Lisa Aunspaugh. The $64,000 loan or the funds in the Designers Construction account are clearly funds under the custody and control of Madison Guaranty. Similarly, the $25,000 McDougal received for the airplane came from a Seth Ward loan from Madison Guaranty. But the $18,000 lease payment to Bill Henley and the payments to Eric Sorensen were payments of Madison Financial not Madison Guaranty. McDougal may argue that he cannot be charged with misapplying funds of the uninsured subsidiary. We will counter with the two cases on point that we have found. In United States v. Cartwright, 632 F.2d 1290, 1292 (5th Cir. 1980),

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[62]See also McDougal's memo to Latham on May 6, 1985, in which he complains that the loan department is slowing up the sales at Maple Creek. "I want processing of these loans to begin today and a report given to Pat Harris that it has been done before the close of business on Monday." (emphasis in the original) Ex. 84.

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the court held that "funds of a wholly-owned subsidiary 'belong to' the parent within the meaning of 18 U.S.C. § 657." See also United States v. Mouton, 617 F.2d 1379, 1383 (9th Cir.), cert. denied, 449 U.S. 860 (1980) (as long as the misapplied moneys are assets of an insured institution, it is irrelevant whether they are specifically insured).

C. The Law Of Misapplication--Intent To Defraud

"Misapplication" has no precise meaning and is defined only by case law. It is as old as banking and as versatile as human ingenuity. The Eight Circuit Pattern Instruction (No. 6.18.656) states that:

> "Misapplication" means the unauthorized, or unjustifiable or wrongful use of a bank's funds. Misapplication includes the wrongful taking or use of money of the bank by a bank officer or employee for his own benefit or for the use and benefit of some other person."

Misapplication requires an intent to injure or defraud the institution. According to the same Pattern Instruction, "to act with intent to defraud" means to act with intent to deceive or cheat, for the purpose of causing a financial loss to someone else or bringing about a financial gain to the defendant or another.

Some of the most helpful law on intent to defraud in the misapplication context has come from the Fifth and Ninth Circuits. The Fifth Circuit specifically approved the following instruction in United States v. Cauble, 706 F.2d 1322, 1355, n.138 (5th Cir. 1983), cert. denied, 465 U.S. 1005 (1984):

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> "Intent to injure or defraud the savings and loan, within the meaning of this statute [18 U.S.C. §657], means to act knowingly, that is with knowledge. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result. The element of intent to injure or defraud is not fulfilled by a mere showing of indiscretion or neglect on the part of the defendant. However, intent to injure or defraud may be inferred from acts knowingly done with a reckless disregard for the interests of the savings and loan. Further, it is not necessary that actual injury to the savings and loan be shown."

See also United States v. Adamson, 700 F.2d 953, 965 (5th Cir.) (en banc), cert. denied. 464 U.S. 833 (1983)("the trier of fact may infer the required intent, i.e., knowledge, from the defendant's reckless disregard for the interest of the bank").

The Ninth Circuit in United States v. Unruh, 855 F.2d 1363, 1371 (9th Cir. 1987)(as amended in 1988), cert. denied, 488 U.S. 974 (1988) succinctly defined misapplication as follows: "misapplication 'occurs when funds are distributed under a record which misrepresents the true state of the record with the intent that bank officials, bank examiners, or the FDIC will be deceived.'"[citation omitted].

In the context of nominee loans, the Eighth Circuit has followed the majority of circuits by holding that the ability of the nominee borrower to pay off the loan in question is irrelevant as long as the loan is a subterfuge. Virtually all cases concerning third party or "nominee" loans have either followed United States v. Gens, 493 F.2d 216 (1st Cir. 1974), an early case limiting the misapplication statute in the context of nominee loans, or have followed United States v. Krepps, 605 F.2d

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101 (3d Cir. 1979), which refused to follow Gens. In Gens, the court held that the ability of the nominee borrower to pay off the loan was a factor in determining the fraudulent intent of the bank insider. The Krepps court, on the other hand, viewed as irrelevant the borrower's ability to repay the loan. Krepps at 108 held that:

> "The very existence of a mediated transaction demonstrates that the bank officer had the measure of criminal intent needed to establish a willful misapplication of bank funds."

The Eighth Circuit follows Krepps. United States v. Marx, 991 F.2d 1369, 1373 (8th Cir. 1993).

D. False Entries And Fraudulent Participation Under Section 1006

Regarding the false entry statute the Eighth Circuit Pattern Instruction (6.18.1005)[63] states as follows:

> "An entry is 'false' if untrue when made. An entry may be false if it records a transaction which did not occur, or fails to record a transaction which did occur and should have been accurately recorded, or inaccurately reports or records a transaction."
>
> "To act with 'intent to deceive' means to act with intent to mislead or to cause a person to believe that which is false."

There have been a limited number of reported unlawful participation prosecutions under the third clause of section 1006. Most of them have involved an intent to defraud the institution as well as the United States. United States v. Payne, 750 F.2d at 844 (diversion of loan proceeds by a closing

[63]Except for the terms "intent to defraud," there is no standard jury instruction for the unlawful participation clause of section 1006.

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agent to a nominee); United States v. Chenaur, 552 F.2d 294 (9th Cir. 1977)(accepting kickbacks). But in United States v. Beebe, 792 F.2d 1363 (5th Cir. 1986), where the defendant participated in a small business investment company through a sham corporation, the defendant was charged only with intending to defraud the Small Business Administration.

The Fifth Circuit in United States v. Brechtel, 997 F.2d 1108, 1116 (5th Cir. 1993) recently characterized the third clause of section 1006 as a conflict of interest prohibition:

> "We have long recognized the §1006 insider participation provision as a typical conflict of interest prohibition. Thus, a fiduciary who benefits or causes loss to the bank by knowingly subordinating the institution's interests to his own in a transaction for which he has responsibility acts with the "intent to defraud" required by §1006. As direct evidence of mental state is seldom available, the government may demonstrate that element of a §1006 violation by circumstantial evidence. An inference of intent to defraud arises where a responsible bank insider acts to procure a transaction which he knows will benefit him, without disclosing his interest therein."

X. The Case Against McDougal And McDougal's Defense

A. Lisa Aunspaugh And Designers Construction (Counts 1-4)

There are four counts in our proposed indictment relating to Lisa Aunspaugh's $64,000 June 1985 loan. In our April memo we proposed two counts relating to McDougal's interest free use of the Designers Construction account. For the reasons discussed below, we do not recommend charging McDougal for his abuse of the Designers Construction account.

1. Insider Loan Restrictions

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We will attempt to prove that the $64,000 loan and sale of McDougal's modular home was an accommodation to McDougal designed to enable McDougal to obtain an additional "commercial" loan from Madison Guaranty that he was not allowed to receive under Bank Board regulations and Madison Guaranty's Bank Policy Manual.[64] The Bank Board's Insurance Regulations at 12 CFR 563.43(b)(5) provide that an insured institution may not loan for "commercial purposes" more than $100,000 to an affiliated person. On May 16, 1985, Jim McDougal obtained from Madison Guaranty an unsecured $85,000 "commercial loan."[65] Ex. 86. In February 1985, McDougal had already obtained a $360,000 loan on his personal residence at #4 Bettswood. Ex. 87. According to Jim Clark, the Bank Board's examiner in charge of the 1986 examination, a loan on McDougal's modular home in Kingston would not have been a loan on his primary residence but would have been characterized as a "commercial loan." But since McDougal had already borrowed $85,000 as a "commercial" loan from Madison Guaranty and was limited under the regulations to $100,000, he could not (without further adjustments) have borrowed $64,000 on his home in Kingston.

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[64]Madison's Lending Policy Manual (prepared by Sarah Hawkins) effectively repeats what is contained in the Bank Board's Insurance Regulations regarding insider loans. Ex. 85.

[65]The note itself does not state a purpose but the Madison Guaranty Minutes of May 16, 1985 approve the loan as a "commercial loan." This loan was one of three loans that McDougal defaulted on.

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We cannot prove that McDougal understood the precise restrictions he was under. What we can prove, however, is that he knew that affiliated party loans were under some restrictions and would be scrutinized by the examiners. For this reason he created an accommodation sale of his house so that he could "borrow" additional funds from Madison Guaranty.

In the Eighth Circuit, nominee loans by insiders are clearly misapplications when they are designed to circumvent lending restrictions. This is true whether or not the nominee borrower acknowledges the loan as hers and has the ability to repay it. In United States v. Marx, 991 F.2d 1369, 1373 (8th Cir. 1993), citing prior Eighth Circuit decisions the court held:

> ". . . that when the person who gets the money from a nominee loan is a bank insider, the transaction may be found to have been undertaken with the intent to defraud the bank or deceive its officers or examiners even though the named borrower was able to repay and understood his obligation to do so. In such a case:
>
> > a jury might plausibly deduce that the bank officer, by channeling the funds through another party, sought to conceal from the bank his own interest in the transaction and thereby to circumvent the barrier--imposed by both the statute and the bank's own regulations--to the bank's making the particular loan directly to him....Moreover, by concealing the fact that he is the real beneficiary of the loan, the bank officer has deceived the other bank officers and agents who are appointed to examine the affairs of the bank and who are entitled to be kept informed of all loans to bank officers so that they may properly fulfill their duties." (Citing United States v. Krepps, 605 F.2d 101, 106 (3d Cir. 1979))

Even if Lisa wanted to buy the McDougals' Kingston house as an investment and the transaction was not designed to accommodate

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McDougal, Bank Board regulations would have raised serious questions regarding the $64,000 loan to Aunspaugh to purchase the house. 12 CFR 563.43(c)(1) prohibits the institution to finance the sale of real estate owned by an affiliated party (except when the property is the affiliated party's principal place of residence). McDougal might argue that this restriction does not apply since his modular house (like a mobile home) is not "real estate." But Jim Clark, the examiner in charge of the 1986 exam, would point out that since the $64,000 loan was secured by a mortgage that took into account the enhanced value of lot 747 (with the modular home attached to the lot), the modular house would likely have been considered "real estate" for the purposes of the loan. Moreover, Jim Clark will testify that the conflict of interest regulation, 12 CFR 571.7, at the very least would have required full disclosure to the Madison Guaranty Board that McDougal personally gained from the loan, with full disclosure in the minutes for the examiners to review and evaluate. But full disclosure of McDougal's interest in the loan would have triggered a close look at his relationship with Lisa Aunspaugh and the details of her financial statement.

2. Is The Sale And Loan A Sham Or Just An Accommodation?

In our April memo we took the position (and alleged in the proposed indictment) that the loan and sale was a "sham"--that the documentation of the transaction did not reflect the reality of the transaction. This aggressive approach may impose a heavier burden of proof on us than what is necessary to convict

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McDougal of misapplication and fraudulent participation. The problem with characterizing the loan and sale as a "sham" in the indictment is that it denies the government certain flexibility at trial. No doubt Lisa will testify that she thought that she was holding the Maple Creek home for Jim and Susan and that repayment of the loan was Jim's obligation and not hers. At trial we will have the flexibility to argue that Lisa's testimony shows that the loan was a sham. But in light of the Eight Circuit's wholehearted adoption of Krepps, all we need to prove is that the loan was an accommodation to McDougal, structured by him to conceal his interest (regardless of whether or not Lisa had the ability to repay and understood her obligation to do so).[66]

Therefore, even though Lisa's testimony will tend to show that she never considered the loan to be her obligation, we have removed from the proposed indictment the allegation that the purchase of the home and the $64,000 loan was a "sham." Instead, we allege that the loan and sale was an "accommodation" to

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[66]There is another danger with characterizing the loan as a sham. The term "sham" may connote to the jury that there was something fictitious about the loan and that Lisa should not have been bound by the terms of the note (like a note with a forged signature could be called a sham). But in the eyes of the law, both the Maple Creek home and the loan belonged to Lisa, not Jim and Susan. There never could have been a deficiency judgment against her if the loan and sale were not binding upon her. Therefore, in one sense the transaction was not a sham. Similarly, in every nominee loan case, when the bank is seeking a judgment against the nominee borrower, it is no legal defense for the borrower to claim that he borrowed the funds for the benefit of (and as an accommodation to) the bank insider and that therefore he is not liable on the loan.

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McDougal designed by him to circumvent insider loan restrictions, fraudulently buttressed by Lisa's loan application. This way we will maintain maximum flexibility at trial and the jury will be focused less on how Lisa regarded her obligation on the note and more on McDougal's undisclosed self-dealing.

McDougal will no doubt argue that there was nothing deceptive about the sale, that it was not an accommodation designed by him, and that Lisa's testimony is shaped by the fact that she never wanted to be held responsible for the loan.[67]

To counter this we will argue the following facts:

[redacted]

b) Documents show that McDougal gave Lisa the downpayment to purchase the lot (lot 747);

[redacted]

[67]McDougal may point to two 1985 memos he sent to Lisa Aunspaugh in which he referred to the house as "your house at Maple Creek." In April 1985, among other directions, he told Lisa that he needed "a status report daily on the repairing of your house at Maple Creek." (Ex. 88). In July 1985 he told Lisa that "[w]e need to talk about a dishwasher and changing the closet arrangement on your house at Maple Creek." (Ex. 89). Lisa does not remember receiving the memos although she does remember decorating the house in accordance with McDougal's directions. While the memos refer to the house as "your house," they also show McDougal's hands on approach to the house. Why would he care about Lisa's house if he were not concerned about getting it resold. He knew that Lisa looked to him to retire the $64,000 loan.

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d) Bessie Aunspaugh (Lisa's mother), who worked as a receptionist at Madison Guaranty, will testify that Lisa never told her that she planned to move out of the house and live in Maple Creek or that she had ever "purchased" any house as an investment;

e) Lisa took no action to move the Kingston house to Maple Creek and does not know when it arrived;

[redacted]

g) There is a memo from McDougal to Pat Harris telling Harris to "List Lot 747";

h) Lisa never dealt with a loan officer but dealt exclusively with Jim McDougal who gave her the necessary papers to sign;

[redacted]

[redacted]

In short, we will argue that the transaction in part is falsely documented and conceals the fact that it is an accommodation to McDougal. As the court stated in United States v. Unruh, 855 F.2d 1363, 1371 (9th Cir. 1987)(as amended in 1988), cert. denied, 488 U.S. 974 (1988): "misapplication 'occurs when funds are distributed under a record which misrepresents the true state of the record with the intent that bank officials, bank examiners, or the FDIC will be deceived.'"[citation omitted].

3. Did McDougal Create the False Loan Application?

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Count 4 charges McDougal with creating a false entry to deceive the examiners, namely, the "residential loan application" which states that Lisa had a net worth of $101,000 and a monthly income of $3682. McDougal will argue that we can not prove that he actually prepared the document.

In response we will argue that McDougal had to have prepared the document or had it prepared under his direction because Lisa dealt only with McDougal.[68] She remembers that he called and asked about her credit card information and that he later gave her the document to sign. Where else did the information come from? Somebody who prepared the document knew about Lisa's involvement in 1308 Main. Who else but McDougal knew this in June 1985? The only documentation existing in June 1985 connecting Lisa to 1308 Main was an Assumption of Mortgage document that McDougal had Lisa sign and a $12,000 Designers Construction check to Jim Guy Tucker that McDougal had her sign and deliver. Who would have known to put a $135,000 piece of real estate on Lisa Aunspaugh's financial statement other than

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[68]Lisa told Borod and Huggins lawyer, Jeff Gerrish, in December 1986, that Bob Secrest handled the $64,000 loan. Lisa has told us that she said this because Susan told her what to say. Robert Secrest, an old AA friend of McDougal's, working in Madison's loan department, has told us recently that he did not recall ever dealing with Lisa but that he did recall McDougal telling him to expedite the $64,000 loan. Secrest is a binge drinker, currently unemployed, who can be contacted only through his father in Louisiana. Secrest had no recollection of ever seeing Lisa's residential loan application. Secrest also signed, as the representative of Madison Guaranty, the March 1985 Assumption Agreement in which Lisa assumed Jim Guy Tucker's 1308 Main mortgage. Secrest has no recollection of the mortgage assumption.

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McDougal? There was no appraisal, from what we know, prior to Palmer's October 1985 appraisal.

There is no motive for Lisa, on her own initiative, to have lied about her income on the financial statement. Both Jim and Susan had an idea of what her income was. Moreover, she never exhibited any interest on her own in buying the Maple Creek home. Had she wanted to buy the home (even as an investment), she would have moved out of her apartment 20 minutes away rather than continue to pay rent for the last six months of 1985. Her subsequent conduct shows that she was not motivated to make the $64,000 loan. So why would she on her own submit a false financial statement?

Denton does not recall ever dealing with Aunspaugh and he does not know who originated her two loans.[69] It could have been McDougal or Latham, according to Denton. Denton does recall at some point learning that Lisa owned a home in Maple Creek.[70]

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[69]Denton, however, recognized his initials on some of the loan documents for the October loan but he has no recollection of his involvement on the loan. Only recently, we discovered Denton's initials on the lower left hand corner of the original copy of Lisa's $64,000 note. We believe that Denton will say that he processed the note in some fashion but did not originate the loan.

[70]Denton appeared to draft a memo to McDougal in July 1985 in which he referred to the $64,000 Aunspaugh loan. The memo (Ex. 90) tells McDougal how he can structure the loan to come within the 90 per cent loan to value ratio. Denton, however, does not remember the memo and does not believe that the language in the memo is the kind of language he would use. The memo was typed by Strayhorn. There is also a July 1986 memo (Ex. 91) from Denton to Latham discussing what was contained in the Aunspaugh loan file. Denton believes that he authored this memo on the eve of Latham's fateful visit to Dallas to discuss the 1986 exam with the Federal Home Loan Bank Board. The memo in question was a

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[redacted] Like Denton, he too at some point recalls that Lisa bought a home in Maple Creek. According to Latham, such a loan (to buy McDougal's house) would have generated an affiliated party transaction that would have required some legal advice.

4. McDougal's Relationship With Aunspaugh And The $60,000

We can not fully explain why McDougal gave Lisa $60,000 from the sale of 1308 Main. She has told us that she simply thought that her name was being used with respect to the building. Since Lisa was the owner of record for 1308 Main, Jim had to transfer the profit on the sale, at least on paper, to Lisa. McDougal did not use, at least immediately, any of the $60,000 for his own benefit, although he did direct Lisa to return $20,000 of the funds to Designers Construction, which was a negative balance account in which he (McDougal) gained personally through overdrafted funds.[71]

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series of memos that Denton drafted to Latham to inform Latham on the status of certain problem or sensitive loans.

[71]Nonetheless McDougal will be able to argue successfully (because of his last minute $38,000 deposit to the account) that he put more into Designers Construction than what he received from Designers Construction.

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Lisa has told us that she did not expect to receive the $60,000. Yet, once she got it, she felt she earned it. When asked why she felt she earned it, she stated that Jim told her that she had earned it. That alone, plus the work she performed, made her believe that she earned the $60,000.

McDougal clearly wanted a relationship with Lisa. There may have been more to their relationship than what Lisa has admitted. But Lisa insists that nothing ever happened between the two of them despite the pressure he placed on her. McDougal may have given her the $60,000 because he was confident that he could still exert influence over her. In fact he told her what to do with part of the funds (pay off the car loan) and he told her to return $20,000 to Designers Construction two weeks later. The influence McDougal exerted over her is exhibited in part by the fact that Lisa transferred $15,000 of the funds to her mother (whose account was at another bank). She has explained to us that, even though the $60,000 was in her personal account, she wanted to transfer the $15,000 to her mother because she felt Jim would still have access to it unless she could tell him that she had already spent it.

Lisa may have been a church going 21 year old, manipulated by McDougal, but she has admitted that she acted behind McDougal's back and withdrew $15,000 from the Designers Construction account in order to pay for the leadership franchise. It was her way of undoing what McDougal had her do only a few days earlier, namely, return $20,000 of the $60,000 to

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Designers Construction. The franchise was a naive endeavor on her part since she never succeeded and was completely ill-suited for its promotional aspects. She effectively lost the $18,000 entry fee the promoters had her pay. Part of this was due to the fact that she was married in November 1986. Children followed, and she did not devote the time needed for the franchise.

5. Lisa Aunspaugh's Prior Inconsistent Statements

As we pointed out in our April memo, Lisa admitted lying to the Borrod and Huggins attorney Jeff Gerrish in December 1986. When asked about the $64,000 Maple Creek home loan, Lisa told Gerrish that she had purchased it as an investment. When asked how she could carry so much debt on a "$12,000 a year income," Lisa gave the misleading response that she had other customers besides Madison.[72] Lisa has explained that she gave these misleading responses at the behest of Susan.

In March 1989 during the Madison investigation but before McDougal was indicted, FBI agent Gary Aaron interviewed Lisa. Most of what she said in the interview is consistent with her current version of events, except that she told agent Aaron that she purchased the Maple Creek house "for an investment." She told agent Aaron that the purchase was something McDougal told her to do. Her entire statement on the Maple Creek matter is important since it is largely consistent with her current recollection on a number of key points. For example, Lisa told

[72]Technically Lisa did have other clients but they were all tied to Madison and Jim McDougal.

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agent Aaron that McDougal filled out the loan application and that she signed it without reading it. Agent Aaron summarized Lisa's statement to him on the Maple Creek house as follows:

> "Thompson stated that there was another occasion wherein she purchased a house located at Maple Creek Farms at Jim McDougal's urging. This house had been at Huntsville, Arkansas, and it was the house that Jim and Susan McDougal had lived in. Thompson stated that she has never lived in this house and that she bought it for an investment. Once again, it was a situation wherein McDougal was actually telling her to purchase this rather than asking her if she wanted to. Thompson reviewed a copy of an application for the purchase of a piece of property at lot #747 in Maple Creek Farms. Thompson advised that this is the lot on which the particular house is located. Thompson again stated that she believes that Jim McDougal filled out this loan application and that she signed it without reading it. Thompson advised that she does not recall Jim McDougal either giving her or Designers Construction any money which was utilized to make payments on this house. Thompson further stated she still owns the house and that she is currently negotiating with Madison Guaranty to allow Madison Guaranty to take the house back...."

Lisa also told agent Aaron that she purchased 1308 Main at McDougal's urging.

Regarding the entire 1308 Main matter, agent Aaron wrote the following:

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> "Thompson recalled that there was an occasion when Jim McDougal called her to come to his office at Madison. When she got there, McDougal told her that there was a building at 1308 Main Street which was for sale. McDougal asked her if she would like to buy this building, fix it up, and then sell it. Thompson stated that although it was phrased as a question, it was her impression that McDougal meant it as more of a statement of what she should do. Thompson stated that since she had a great deal of trust in McDougal she agreed to do this. Thompson recalled McDougal telling her that the building would be appraised for what it would be worth when the work was done and not to worry

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about selling it. McDougal made the additional statement that Madison Financial Corporation would lease part of the building for office space. Thompson further advised that it was her impression that Jim McDougal had filled out the loan application which she signed because when she came to his office it was already filled out and she merely signed where McDougal told her to without reading the application. Thompson advised that she subsequently hired the people to renovate the building and the building was renovated and cleaned up."

[redacted]

For example, agent Aaron wrote as follows:

"Thompson stated that sometime later Jim McDougal told her that Bill Henley needed to purchase the building for tax purposes. Thompson advised she has never talked to Bill Henley and, even in her discussion with McDougal, price was never discussed. She advised this was really not a question of whether or not she wanted to sell the building, it was a situation wherein McDougal was telling her what was going to take place. Thompson recalled that she was on a trip to Florida when the building was actually sold. When she got back to Little Rock, McDougal told her that they had sold the building, paid off her loan, and put $60,000 in her personal account. Thompson recalled that she used this money to pay off a loan which she had on her Mercedes. A portion was used to purchase a franchise called SMI, and the remainder was placed into the Designers Construction company. Thompson advised that she did not know anything about the appraisal which was done on this property and that she certainly never had it appraised."

In our April 27 interview of Lisa, we asked Lisa why she told special agent Aaron (apparently the first FBI agent she talked to about McDougal) that she had purchased McDougal's Maple Creek home "for an investment." Her response was that she was still characterizing or describing the transaction the way Susan had originally told her to describe it back in December 1986 right before Lisa was interviewed by Jeff Gerrish of Borrod &

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Huggins. In March 1989 when Aaron interviewed her, Lisa knew that she was stuck with the house and the $64,000 loan. She could not repudiate the loan; it was her signature.

In the summer of 1989 she was sued in a foreclosure action and obtained counsel for the first time.

When we showed her, in March 1995, the Borrod & Huggins report of her interview, she remembered the interview and Susan's role in telling her what to say.

[73]In September 1984, without showing her a copy of the Gerrish interview report or going over details of the Gerrish interview, OIC attorney Tim White and special agent

FOIA(b)(7) - (C)

6. McDougal's Use of the Designers Construction Funds

We will show that the Designers Construction account was in existence 417 days. During that time it was in a negative balance 363 days. Over those 363 days, it had an average negative balance of $36,123. Treating this as a line of credit at 12.5 percent interest--the same rate that McDougal was required to pay on his May 1985 commercial loan--Designers Construction would have owed Madison Guaranty approximately $4,481 in interest by the time the account closed in February 1986. We can show that a major reason for the size of the Designers Construction negative balance was McDougal's personal use of the account and his failure to make timely deposits to cover his expenditures. We can calculate that, of the $4,481 in lost interest, approximately $2,282 (slightly more than 50 per cent) is attributable to McDougal's own personal deficit in the account.[74] Ex. 92.

McDougal needed an illicit source of funds to continue to renovate his house. He had already borrowed from Madison Guaranty 90 per cent of its appraised value. The concealed

FOIA(b)(7) - (C)

asked her if she recalled being interviewed by Gerrish and telling Gerrish that she had purchased the Maple Creek home as an investment. She told White and [redacted] that she did not recall being interviewed by Gerrish but that, if she made the statement, it would have been because Jim or Susan had told her to make such a statement.

[74]In our April memo we had mistakenly calculated that McDougal was responsible for $3,400 of the $4,481 in lost interest. This figure is too high since we had calculated McDougal's interest even when the Designers Construction account was temporarily in a positive balance.

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overdraft violated Bank Board regulation 12 CFR 563.43(b)(1)(i), according to Jim Clark, since it amounted to a loan on his principal place of residence under conditions (loan to value ratios) which would not "be available to members of the general public."

In determining what was spent on behalf of Jim McDougal from the Designers Construction account, we have given McDougal the benefit of the doubt on all deposits and expenditures. For example, if a deposit was made to the Designers Construction account from Madison Marketing, Susan's advertising company, we considered it a contribution to the account (to offset McDougal's expenditures) since Lisa could not recall having Designers Construction do any work or renovation for Madison Marketing.

According to Lisa, at Jim McDougal's direction, Designers Construction spent approximately $12,700 on landscaping, septic, or interior improvements to the Maple Creek house (lot 747). Approximately, another $3,649 from Designers Construction (again at McDougal's direction) went to pay interest or principal on the $64,000 loan. In our April memo we had considered both of these payments (approximately $16,000) as payments for McDougal's personal benefit just as the payments for #4 Bettswood. We had done so since Lisa considered the Maple Creek house (and the loan) as Jim and Susan's and that they (not her) would gain from any improvements on the house once it was sold. But on reconsideration (and to be as conservative as possible) we no

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longer consider these payments as payments for the McDougals' benefit.[75]

In our April memo we proposed charging two counts that were tied to McDougal's interest free use of the Designers Construction account. But our recalculation of the amount of interest lost due to McDougal's failure to promptly pay Designers Construction makes us reconsider that option. We can conservatively calculate that, of the $4,481 in lost interest, approximately $2,282 (slightly more than 50 per cent) is attributable to McDougal's own personal deficit in the Designers Construction account. In our April memo we had mistakenly calculated McDougal's share of the lost interest at approximately $3,400.

There is a big difference between $3,400 and $2,282 because the Designers Construction account was assessed $2,380 in overdraft charges. According to Bonnie Crocheron, Madison Guaranty's head cashier, the typical overdraft charge was $15 per check. She remembers that her department was told (by someone--probably Latham) to honor the overdraft checks and not to assess any overdraft charges to Designers Construction. But a review of the account shows that there were occasional charges assessed (at what appears to be $15 per check) for a number of the overdraft

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[75]As a result on this change, instead of receiving $9,000 more from Designers Construction than what he put into Designers Construction (a figure we proposed in our April memo), McDougal in fact put into Designers construction $7,000 more than what he received from Designers Construction. This contribution was made late in the history of the account after months of maintaining a negative balance.

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checks that were honored. Crocheron has told us that these occasional charges must have been mistakenly or inadvertently assessed by the people working in her department who either forgot or who were never told that Designers Construction was given special treatment. In fact we have calculated that Designers Construction had 445 overdraft checks honored over the one year life of the account. Had Designers Construction been treated like any other customer with a $15 penalty for each check, Madison Guaranty would have assessed the account a total penalty of $6,675. But Designers Construction was given special treatment because it was doing business with the Madison Guaranty and Madison Financial.[76]

Honoring overdrafts was no simple matter, according to Crocheron. An overdraft report was prepared and circulated every day. The checks had to be manually pulled. A copy of the report was furnished to McDougal, Latham, and Young. Nonetheless, the issue of charging McDougal for his own overdraft abuse of the account has become clouded by the fact that McDougal can argue that his overdraft policy on Designers Construction netted Madison Guaranty $2,380.

B. Seth Ward And The Piper Seminole (Count 5)

There is only one count regarding the airplane (fraudulent participation) that is not time barred. This is McDougal's receipt of the $25,000 for the airplane in July 1985. In April

[76]Greg Young, John Latham, and Bonnie Crocheron mention this when asked why Designers Construction was given special treatment. The explanation originally came from McDougal.

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we proposed a false entry count regarding the May 5, 1985 letter in which McDougal, on behalf of Madison Financial, authorized Seth Ward to buy an airplane in the range of $25,000 to $50,000 and to use it for Madison Financial business. He also stated in the letter that Madison Financial would cover all maintenance costs and would guarantee that Ward, if he should later sell the airplane, would not lose money on the sale.

Even though we can no longer charge the May 5th letter as a separate count we can argue that it demonstrates fraudulent intent since it omits the material fact that it was McDougal's personal/Whitewater airplane that McDougal authorized Ward to buy with a money back guarantee from Madison Financial.

Examiner Jim Clark will testify that the examiners never knew about the airplane transaction or, if they did, never knew about McDougal's personal financial connection to it. Clark will testify that the omission of McDougal's ownership of the airplane is highly material. The transaction was designed by McDougal to avoid Bank Board regulation 12 CFR 563.41(b) which provides that "no insured institution...may directly or indirectly...purchase ...from...an affiliated person...any interest in real or personal property unless the transaction is determined by the Principal Supervisory Agent to be fair to, and in the best interest of, the insured institution or subsidiary." The transaction must receive prior written approval based upon an independent appraisal.

There are two ways in which McDougal might defend himself regarding the airplane. First, he could argue that Seth Ward is

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lying and that he (McDougal) never expressed any reservations about the regulators knowing about the airplane. ("I'm no friend of Seth Ward's," he told local AP reporter Bill Simmons.) He might argue that Seth Ward, a commissioner at the airport, for some reason (i) wanted the transaction run through Central Flying Service and (ii) wanted the May 5th letter to Ward to omit any reference to the fact that McDougal was selling the aircraft to Ward. Since the airplane count requires an intent to deceive the examiners, McDougal will attempt to show that he never intended to deceive them.

When he was interviewed by reporter Bill Simmons in the presence of his (McDougal's) lawyer, Sam Heuer, sometime in late 1993 or early 1994, McDougal denied that he even knew at the time of the sale that Seth Ward was buying the plane from Central Flying Service. The interview (p. 84 of the transcript) reads as follows:

McDougal: Well, he [Wade] brought it down [to Central Flying Service] as part of the, of the closing of this deal of purchasing the [Whitewater] land.

Simmons: All right.

McDougal: And I don't fly an airplane...

Simmons: Right.

McDougal: ...and, and Whitewater doesn't need an airplane.

Simmons: Right.

McDougal: And we had intended all along to sell it. It was immediately...

Simmons: All right.

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McDougal: ...put up for sale. I had never seen the plane.

Simmons: **All right, and Little Rock, uh, Central Flying Service sold the plane. Do you remember who they sold it to.**

McDougal: **No, I had read in the paper that they sold it to Seth Ward, but I'd.., I'm unaware that that's a fact.**

McDougal also denied in the same interview that he knew that Ward borrowed $25,000 from Madison to buy the airplane.

McDougal's explanation at the Simmons interview flatly contradicts Ward and is inconsistent with Richard Holbert at Central Flying Service. McDougal suggests that either he or Wade asked Holbert to sell the plane. But Holbert never dealt with Wade or McDougal, only Ward. Ward never went to Holbert and said, "I want to buy this aircraft...what is the owner willing to sell it for?" On the contrary, Holbert will deny that the aircraft was ever placed with him to sell in the first place. Holbert was asked by Ward to run the transaction through Central Flying Service with the understanding that the parties knew each other and had already agreed to a $25,000 price.

Moreover, McDougal cannot deny dealing directly with Ward without contradicting Chris Wade. In late 1993 or early 1994, Wade was asked by Sam Heuer to come to his office to discuss the newly opened Whitewater investigation with Jim McDougal. During the conversation, McDougal asked Wade if the airplane Wade had sold to him had a bad engine. Wade replied that he did not think so. McDougal went on to say that, when he sold it to Ward, Ward had told him that the airplane had a bad engine. Wade felt that

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McDougal suspected that Ward had cheated him by claiming that an engine was bad.

There is a second defense that McDougal may employ. He may argue that what Ward says is substantially true but such testimony is insufficient to establish an intent to deceive the examiners.

Defense counsel may argue that if Ward did not see anything improper with the transaction, why should McDougal? This is not an insurmountable problem for us. We will argue that the issue for the jury is McDougal's intent, not Ward's intent. It is McDougal who had the initial problem of disposing of the airplane, not Ward. It was McDougal who had dealt with examiners in the past and who had the motive to deceive them. And it was McDougal, not Ward, who had the obligation to make full disclosure to Madison and to be sure that the examiners were not deceived. Moreover, Ward was unaware of what disclosures, if any, McDougal had made to Madison Financial's Board of Directors. Since Ward made no money on the transaction and never authored any false document, it is no surprise that Ward saw nothing

[77]Similarly, Richard Holbert at Central Flying Service did not think he did anything illegal by buying McDougal's airplane and selling it the same day to Ward at no profit.

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illegal with the transaction.[78] His perspective was different and arguably his intent was different. What the jury needs to consider is not what Ward's opinion is today but what the conversations were at the time and what the documents reflect. The documents themselves unmistakably conceal an affiliated party transaction in which Madison Financial suffered a loss.[79]

C. Eric Sorensen (Counts 6-7)

[redacted]

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[78]It is for this reason that we told Ward when he first discussed this transaction with us last December that he was not a target with respect to this specific matter. It was his first meeting with OIC counsel (although agents had talked to him earlier) and he wanted some assurance from us that he did not need his lawyer. If we had hesitated in any way, the meeting would have broken up and we would have been dealing with Ward's lawyer. Ward was leery of us because of his bitter experience with RTC lawyers who denied him on appeal (solely on jurisdictional grounds) his hard fought jury victory in state court. He told us that he regarded the airplane transaction as a kind of IRS avoidance matter--something you do to avoid an audit but not something you think is illegal. Since he made no money on the transaction, had authored no false document, was 74 years old, had cooperated earlier with FBI agents, and had explained the transaction in "avoidance" terms, we told him that we thought there was insufficient evidence to conclude that he had committed a crime and that therefore we regarded him as a witness.

[79]Part of the $13,000 loss is attributable to the fact that McDougal did not sell the aircraft to Ward at a fair price. It cost Ward $10,000 to repair the engine and, after the repairs, he could only sell it for $28,500. But Ward's "loss" was passed on to Madison Financial.

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[redacted]

did Madison Financial have an obligation to cover Sorensen's loss on the sale of his two Maple Creek homes? Jim McDougal promised Sorensen that he and/or Madison would cover Sorensen's loss if in fact a loss occurred. Did this bind Madison Financial or did it simply bind Jim McDougal personally? Sorensen himself does not know who (Jim or Madison) was obligated to pay him. In Sorensen's eyes, Jim McDougal and Madison were one and the same. All Sorensen can say is that he was promised that his losses would be covered.

It is our view that a misapplication occurs even if Madison Financial was obligated to pay Sorensen for his losses. As the court stated in United States v. Wolf, 820 F.2d 1499, 1503 (9th Cir. 1987):

> "The intent element of 18 U.S.C. 656 is satisfied if the accused intends to deceive bank officials, bank

[redacted]

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examiners or the Federal Deposit Insurance Corporation. There need be no intent to injure."

McDougal chose to pay Sorensen in a surreptitious way. Had McDougal acknowledged that Madison Financial was obligated to cover Sorensen's losses, McDougal would have been forced to book the Sorensen loans as an investment of Madison Financial (since only Madison Financial took the risk of ownership). But McDougal knew about the state imposed six percent investment limitation placed on Madison Financial, according to Greg Young. Young will testify that if Madison Financial bore the risk of loss on Eric Sorensen's two Maple Creek homes, Madison Financial would have been forced to regard Sorensen's loans as Madison Financial investments. This would have changed Madison Guaranty's investment figure in its quarterly report to the Federal Home Loan Bank Board, according to Young.

Sorensen built the two Maple Creek homes according to the specifications that either Jim or Susan provided to him. He was told by Jim that he (Sorensen) would have to take out Madison Guaranty construction loans, purchase the lots in question, build the homes, then pay off the construction loans with the proceeds of the sale. Sorensen recalls that McDougal cited certain regulations and told him that Madison was not in the home building business.

The sale of the two homes in question, according to Sorensen, would be handled by Madison Financial sales agents who had a sales office at the Maple Creek site. Sorensen was not looking for a profit from the sale of the two homes. Sorensen

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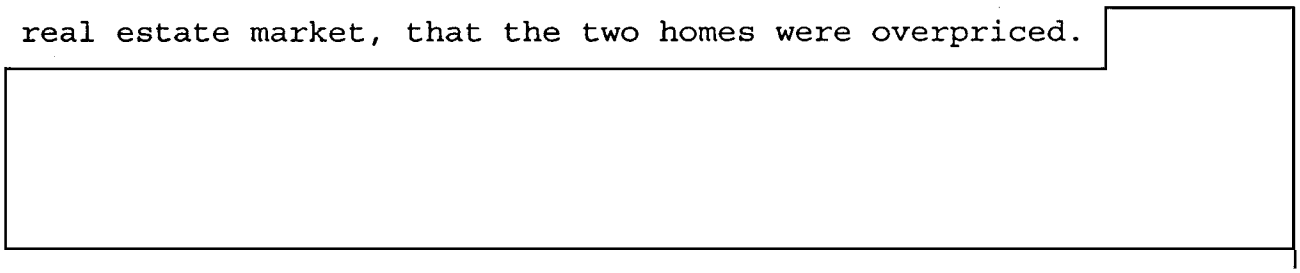
earned his fee by adding ten percent to his out of pocket costs of building the two homes. In other words, at various stages, Sorensen would draw down on the construction loan the amount of his out of pocket costs of construction plus a ten percent fee for his own services.

But the costs of construction (which included Sorensen's ten percent fee) exceeded the amounts available from the two construction loans. This was not an immediate problem for Sorensen since Jim McDougal allowed him to overdraft his checking account to cover additional expenses. After the second Maple Creek house was built, McDougal told Sorensen to take out a personal loan for $27,000 and to use these funds to eliminate the $27,000 overdraft balance in Sorensen's account. Sorensen agreed to do this but realized that he would be personally liable for the $27,000 personal loan in addition to the two construction loans. If the two Maple Creek homes sold for enough to pay off these three loans, Sorensen would suffer no personal loss.

When the two homes were sold, there was insufficient funds to pay off Sorensen's $27,000 personal loan. Sorensen was concerned about how he could pay off his $27,000 debt even before the homes were sold because it was apparent to him, given the real estate market, that the two homes were overpriced.



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McDougal will no doubt attack the credibility of Sorensen and may call Bill Henley as a defense witness. Henley has denied ever telling Sorensen that he could inflate an invoice. In fact Henley adamantly denied ever talking to McDougal about Sorensen's financial needs or Sorensen's $27,000 note. But Henley's credibility on this point is challenged by two memos that McDougal authored to Henley in the summer of 1985.

The memos were typed by Sue Strayhorn, McDougal's secretary. On July 17, 1985, McDougal wrote to Henley the following:

"Call me about the Eric Sorensen note which is now due. I think he can earn enough to pay it at El Dorado."

On July 23, 1985, McDougal sent a second memo to Henley which told Henley that "[w]e need to discuss the following...Eric's note..."

There are two arguments we can use to bolster the credibility of Eric Sorensen.

Young was given no invoice from Sorensen but only directions from McDougal to book the payment as an expense from the reserve account of the Fair

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Oaks development. McDougal could not have done this without wanting to help Eric Sorensen.[81]

Secondly, Sorensen (without immunity) has told substantially the same story since the Borod and Huggins investigation. On December 17, 1986, Sorensen was interviewed by Borod & Huggins consultant Ken Plunk in the office of Sorensen's attorney in Camden. Sorensen told Plunk about McDougal's Maple Creek promise. According to Plunk's memo of the interview, Sorensen stated that "McDougal later instructed [him] to pad his invoices to the extent of $10,000 on one occasion and smaller amounts on several subsequent occasions." [82] Ex. 93.

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[81]Moreover, Sorensen's detailed handwritten monthly ledgers show that he never earned the $2,448 in question.

[82]Sorensen had not reviewed his records at the time of the interview. He estimated to Plunk that he had padded his invoices by $20,000. When Sorensen was interviewed by FBI agent Gary Aaron two and one half years later in July 1989, Sorensen mentioned only one inflated invoice and said that he was not sure but that to the best of his recollection McDougal was behind the instruction he received from Henley. [redacted] Instead, they asked Sorensen about his 1986 statement to Plunk and his 1989 statement to agent Aaron. Sorensen reiterated what he had previously said about the one (December 1984) invoice and he stated that he thought McDougal was aware that Henley had instructed him to inflate his invoice. Two weeks later Sorensen told the same OIC FBI agents that he had reviewed his records and now recalls that there were three inflated invoices. He also told the agents that he only had conversations with McDougal and Henley regarding the $27,000 loan and inflating invoices.

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D. The $18,000 Payment To Bill Henley (Counts 8-9)

It is difficult to see how McDougal can defend himself on the $18,000 payment to Bill Henley. The documents are damning. Henley received $18,000 for rent going back to August 1, 1985, when he did not own the building until January 15, 1986.

We are confident we can prove that complete renovation was ongoing until at least December 1985. If rent was owed to anybody in 1985, why did the rent go to somebody other than Lisa Aunspaugh?[83]

Young recalled that sometime in late 1985 or early 1986, while he was in McDougal's office, McDougal told him that Henley was going to take an investment tax credit on 1308 Main (renovating an historic building) and that Henley owned the building even though it was in Lisa's name. Young did not know what arrangements, if any, there were between Henley and Lisa. McDougal, who Young described to us as his "ultimate boss," assured Young that Henley was "liable" for the building to satisfy the investment tax credit. Young was not inclined to ask too many questions. Young's notes indicate that McDougal told

[83] In fact there is an unsigned copy of the Madison Financial minutes in which a resolution was approved authorizing Madison Financial to lease office space from Lisa Aunspaugh at 1308 Main. Ex. 94. We know, however, from Pat Heritage that the Madison Financial minutes (unlike the Madison Guaranty minutes) were prepared months after the fact in an attempt to recall and formalize decisions already made.

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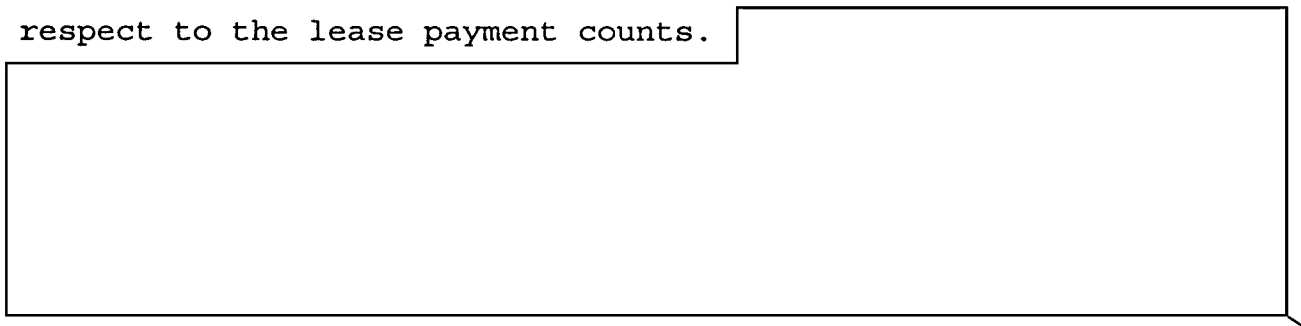
Young that the building was placed in service in August 1985, that the purchase price was $60,000 with $130,000 in renovations. With these figures, Young prepared Henley's 1985 return (not filed until August 1986) in which Henley claimed an investment tax credit.

Young is corroborated by Lisa who recalled that at the time of the sale to Henley, McDougal told her he had to backdate a document to help Henley on his taxes. After McDougal told Greg Young to make an $18,000 rent payment to Henley in February 1986, McDougal told Young to transfer $12,840 from Henley's account to the Designers Construction account.

Therefore, we can show McDougal's motive for the backdated lease and the $18,000 payment. The lease and payment provided fraudulent documentary support for Henley's claim to a 1985 investment tax credit. It also put extra funds into the Designers Construction account in February 1986 on the eve of the examination when McDougal was looking for deposits to close out the negative balance account which would have been a red flag to the examiners.

While it may help McDougal to call Bill Henley as a defense witness with respect to Eric Sorensen, it will hurt McDougal with respect to the lease payment counts.



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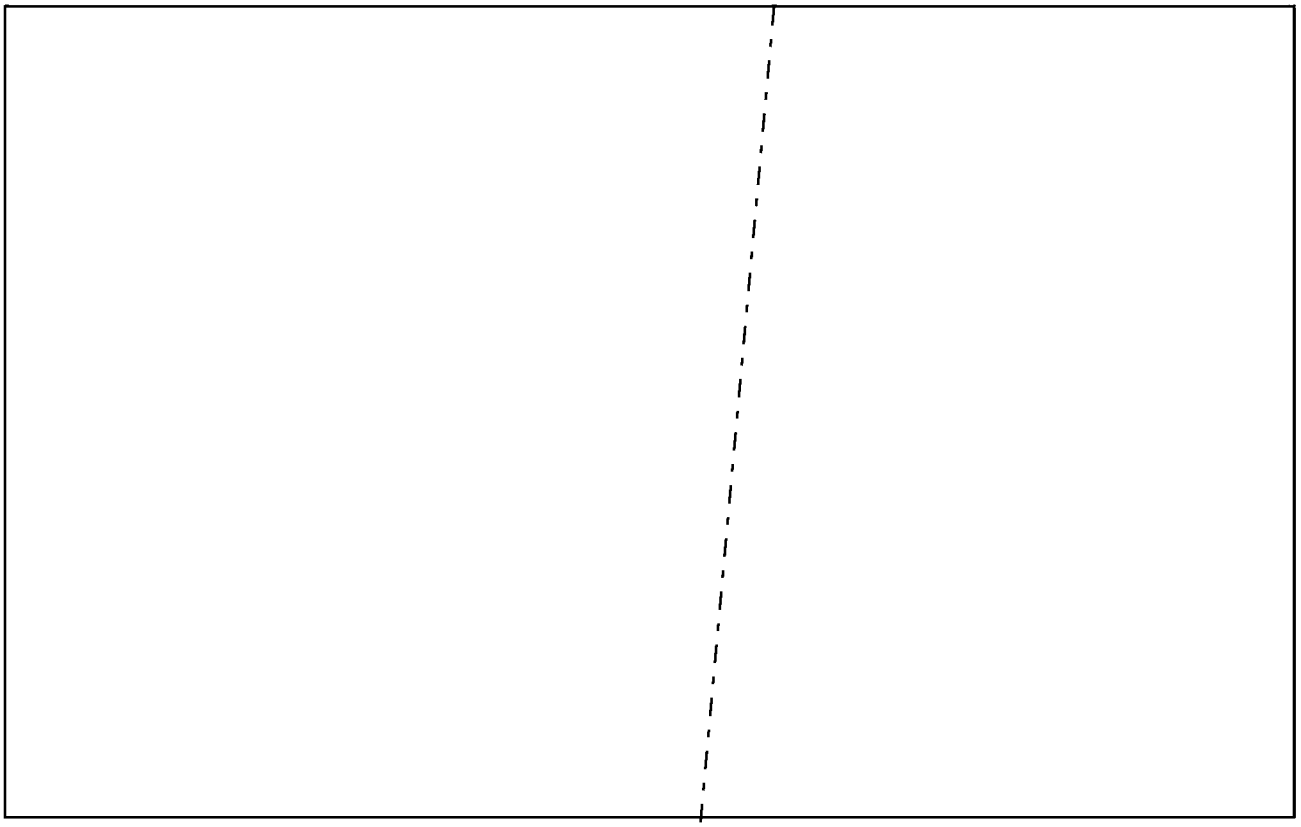
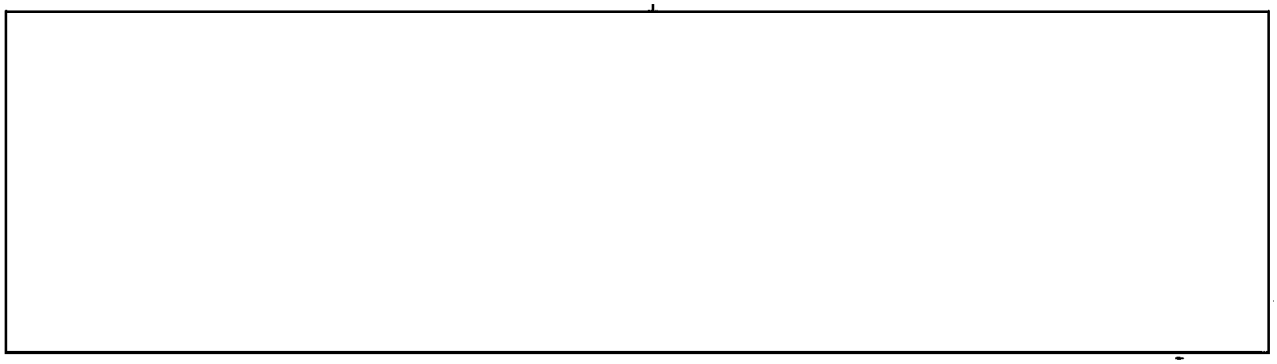


E. Robert Palmer And The Management Questionnaire (Counts 10-11)

McDougal claimed in his 1990 trial (what he continues to say today) that he had little to do with Madison Guaranty once he stepped down from Madison Guaranty's Board of Directors in 1984. He will no doubt claim at trial that he was fully engaged in the investment decisions and operations of Madison Financial and that CEO John Latham ran Madison Guaranty. As a result, he will



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categorically deny that he had anything to do with Palmer's "consulting fee" invoice or that he even knew about the Management Questionnaire.

1. John Latham And The Consulting Fee Invoice

Without the testimony of Latham, we can not charge McDougal with count 10 of the proposed indictment. As a result, this is the weakest count in the proposed indictment. Latham will testify that, at McDougal's direction, he asked Greg Young to book the payment on Palmer's bill to Madison Guaranty for $15,350 as a consulting fee for Madison Financial.

[redacted]

Latham's prior statements on this matter show that his memory has improved over time. For example, during the Madison investigation but before Latham pleaded guilty, special agent Gary Aaron interviewed Latham on August 30, 1989. Aaron suspected Palmer was involved in a last minute appraisal production which was concealed by paying Palmer a Madison

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Financial "consulting fee." When asked about it, Latham told Aaron that he did not recall how Palmer was paid and did not recall directing anyone to reflect the payment as a consulting fee. Two weeks later in September 1989, in a memo to his attorney Art Allen, Latham wrote as follows:

> "Mr. Aaron asked...whether...Palmer's fees were booked as consulting fees or appraisal fees and who ordered that.
> "... At the time Mr. Aaron asked these questions, I did not really recall the events.
> "...I believe that McDougal wanted the fees for... Palmer...booked as consulting fees so that they would not show up as appraisal fees. Most likely I'm the one that passed that on to Greg Young and asked him to book it as consulting fees."

A month later, Latham was interviewed a second time by special agent Aaron. Aaron wrote in his interview memorandum that "[i]t was Latham's recollection, on October 11, 1989, that McDougal directed that Palmer's work prior to the examination be reflected on the books as a consultant fee at one of the developments."

On November 2, 1989, the United States Attorney's Office, wrote a letter to Latham's attorney stating that it was willing to enter a plea agreement with Latham in which he would plead guilty to one false statement count regarding the Davis Fitzhugh loan. A plea agreement to that effect was signed by the parties on November 8, 1989.

At the 1990 McDougal trial, prosecutors decided not to call Latham as a witness since Latham claimed that he did not see anything wrong with what McDougal did with the Davis Fitzhugh loan. Instead, Latham was called as a defense witness. In the

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course of Latham's cross-examination by AUSA Ken Stoll, the following answers were given (p. 806):

> Q. Did you ever get any directions from anyone on how to show the expense for those appraisals to be reflected on the books?
>
> A. I believe that Mr. McDougal had suggested that we might book those as some sort of a consulting fee or something such as that.
>
> Q. Instead of what they actually were?
>
> A. Yes.
>
> Q. Did you ever say, "Look, Mr. McDougal, I'm the chief executive officer of this institution; I don't think we ought to do that"?
>
> A. No, I didn't. It didn't change the financial status of the institution at all. It was booked as an expense either way.
>
> Q. It was an expense either way, but for someone coming in looking at the books it might not raise questions if it was a consulting fee as opposed to a big expense for several appraisals all being done at the same time, is that true.
>
> A. That's correct.

Despite the problems with Latham, there are clear advantages to putting Palmer in a case against McDougal. Palmer's testimony shows how poorly run the institution was. There were no internal controls that would offset McDougal's dominant control of the institution. Moreover, Palmer's testimony against Hawkins and Denton may explain for the jury why the government did not call them as witnesses against McDougal.

2. <u>The Management Questionnaire</u>

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Even though Latham signed the Questionnaire, his testimony is not essential to this count. The document was notarized by Pat Heritage. Moreover, Jim Clark received a copy.

The person responsible for the false entries need not have actually made the entry himself; it is enough that he set into motion the actions that necessarily resulted in the making of the entry in the normal course of business. United States v. Wolf, 820 F.2d 1499, 1504 (9th Cir. 1987); United States v. Krepps, 605 F.2d 101, 109 n.28 (3d Cir. 1979). McDougal set in motion the $64,000 loan and the airplane transaction in such a way that there was no disclosure in the bank's records that he benefitted from both transactions. The natural and probable consequence of his actions was that there would be no disclosure to the examiners on the Management Questionnaire.

To rebut the false entry count, McDougal would have to take the stand and claim that he made full disclosure--something which (i) Latham denies, (ii) is never reflected in the minutes or any Madison document, and (iii) is inconsistent with McDougal's earlier behavior.

Appendix

Using Bank Board Regulations In A Case Against McDougal

We have to be cautious with Jim Clark's testimony at trial regarding Bank Board regulations. In a McDougal case the Bank Board regulations are important because the jury has to understand McDougal's motivation for doing what he did. But adducing testimony at trial about bank regulations leaves the

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prosecutor open to the charge that the defendant is being criminally tried for what amounts to a civil violation.

This argument succeeded in United States v. Christo, 614 F.2d 486 (5th Cir. 1980). In Christo, the defendant bank officer was charged with misapplication (18 U.S.C. §656) for approving the payment of overdrafts, including his own, in violation of the restrictions on loans to insiders, set forth at 12 U.S.C. §375(a). Indeed, at the conclusion of each count the indictment charged that the offense was in violation of both 18 U.S.C. §656 and 12 U.S.C. §375(a). Id. at 490, n.5. The Fifth Circuit reversed the conviction on the grounds that the instructions allowed the jury to improperly infer criminal intent (sufficient for misapplication) merely from a knowing and willful violation of 12 U.S.C. §375(a).

The Christo holding surfaced later in United States v. Wolf, 820 F.2d 1499, 1505 (9th Cir. 1987), cert. denied, 485 U.S. 960 (1988). In Wolf the defendant was a director of an Oregon bank and part owner of a mortgage company which had borrowed heavily from the bank. When the bank's line of credit to the mortgage company had reached the lending limit, the defendant arranged for loans to other stockholders of the mortgage company which funds, without disclosure to the bank, were simply transferred to the mortgage company. At trial the government introduced evidence of both the lending limit rules and Regulation O. The court of appeals found no error with respect to the government's use of the lending limit rules since the evidence showed that the

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defendant had created false loan records to avoid the bank's lending limit. The court of appeals reaffirmed a prior holding that "a misapplication occurs whenever bank funds are lent under a record that misrepresents a material fact, such as the name of the borrower or the purpose of the loan." Id., at §150.3. However, the government also charged, as an alternative theory, that the nominee loans violated Section 656 because the defendant failed to disclose his own interest in the loans in violation of Regulation O. The court of appeals reversed the misapplication counts on the grounds that, given two misapplication theories, the jury might have convicted the defendant simply because he failed to comply with Regulation O (an improper basis for misapplication) rather than for creating false loans records (a proper basis for misapplication).

An analogous situation occurred in United States v. McCright, 821 F.2d 226 (5th Cir. 1987), cert. denied, 484 U.S. 1005 (1988). In McCright the defendant bank officer was convicted of numerous violations, one of which was based on the evidence that he had failed to disclose his personal interest in a loan even though the government failed to show that he had done anything to advance or approve the loan. The government relied heavily on the fact that the defendant violated the bank's "Standards of Conduct" by failing to disclose his personal interest in a bank transaction. The court of appeals reversed the conviction on the grounds that, unlike Regulation O, "[s]ection 656 does not impose an affirmative duty on bank

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officers and directors to disclose their personal interest in loans that may be approved by other individuals or departments in the bank." Id. at 230. The court of appeals, however, upheld the conviction of the defendant on a false statement count (Section 1005) regarding his failure to list all his financial interests on the executive officer questionnaire in accordance with Regulation O.

For an upcoming trial of McDougal, the lessons from Christo, Wolf, and McCright, are threefold: (i) prove the regulatory violation only in the context of proving a specific misrepresentation, false statement, or sham transaction; (ii) be certain that the jury is told that they do not have to determine whether a regulatory violation actually occurred, United States v. Kindig, 854 F.2d 703, 707; and (iii) explain the applicable regulation in the context of proving the defendant's motivation behind the sham transaction or false statement. In this way the focus of the case is on the defendant's misrepresentation, designed to avoid the regulation, not on the regulatory violation itself. For example, in United States v. Stefan, 784 F.2d 1093, 1098 (11th Cir. 1986), the court of appeals upheld the government's right to introduce evidence of lending limit violations (12 U.S.C. §84) for the purpose of showing defendant's motivation for arranging sham loans. See also United States v. Unruh, 855 F.2d 1363, 1375 (9th Cir. 1987), cert. denied, 488 U.S. 974 (1988) ("testimony about Regulation O...tended to show [the defendant's] motive for funneling loans to himself through

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other borrowers"); United States v. Kindig, 854 F.2d 703, 707 (5th Cir. 1988).

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	LR-Cr
	)	18 U.S.C. §
JAMES B. MCDOUGAL	)	

INDICTMENT

THE GRAND JURY CHARGES:

That at all times relevant to this Indictment:

COUNT ONE

A. INTRODUCTION

1. The Federal Home Loan Bank Board (Bank Board) was an agency of the United States government established to regulate and supervise savings and loan institutions insured by the Federal Savings and Loan Insurance Corporation (FSLIC). The Bank Board examined insured institutions to assure that they were operated in a safe and sound manner and in conformity with applicable laws and regulations.

2. FSLIC was an agency of the United States established to protect depositors by insuring deposits in savings and loan institutions in amounts up to $100,000 per account.

3. Madison Guaranty Savings and Loan Association ("Madison Guaranty") was a state chartered savings and loan association, located in Little Rock, Arkansas. The accounts of Madison Guaranty were insured by the FSLIC.

4. As a federally insured financial institution, Madison was subject to (i) the regulations promulgated by the Bank Board

and (ii) periodic examinations conducted by Bank Board examiners.

5. Madison Financial Corporation ("Madison Financial") was a wholly owned subsidiary of Madison Guaranty. It engaged in real estate investment and development almost exclusively in the state of Arkansas.

6. JAMES B. MCDOUGAL was the chief executive officer of Madison Financial and the majority stockholder of its parent, Madison Guaranty. As the controlling stockholder of Madison Guaranty, JAMES B. MCDOUGAL was an "affiliated person" of the financial institution as defined at 12 CFR Section 561.29.

7. In order to review affiliated party transactions of a savings and loan association and to determine that those in control of the association operate it free from any conflict of interest, the Bank Board routinely submitted a Management Questionnaire to the chief executive officer of any savings and loan association undergoing a Bank Board examination. The Management Questionnaire, at Item 7, required the association to:

> "List all loans or contracts made or purchased by the institution since the last examination wherein any part of the proceeds was disbursed or credited to the benefit, directly or indirectly, of any affiliated person of the institution... Name the persons benefitted and state the amount and purpose of, and the basis and reasons for, such disbursements or credits."

8. After a 1984 examination, the Bank Board criticized Madison Guaranty regarding a number of loan documentation and lending matters, including Madison Guaranty's failure to maintain, as part of its underwriting procedures for some of its real estate loans, written appraisals in conformity with Federal

Home Loan Bank Board Memorandum R-41b and as required under 12 CFR Section 563.17-1 (c)(1)(iii)(1986), as amended, 12 CFR Section 563.170 (c)(1)(iv). In order to avoid enforcement proceedings by the Bank Board against persons affiliated with Madison Guaranty as a result of the 1984 examination, JAMES B. MCDOUGAL, on behalf of Madison Guaranty, entered into a July 1984 Supervisory Agreement with the Bank Board in which he agreed, among other things, (i) that "Madison and any of its current or future subsidiaries will not enter into any transactions with any 'affiliated person,'...except as provided by applicable regulations" and (ii) that Madison Guaranty will "adopt written loan underwriting standards...which at a minimum will include...a completed appraisal, if appropriate, which conforms in all respects with applicable Federal Home Loan Bank Board regulations and guidelines."

9. From on or about October 1984 until on or about February 1986, as set forth below, JAMES B. MCDOUGAL enriched himself and his wife and assisted certain other friends and family members at the expense of Madison Guaranty and Madison Financial. In order to conceal this pattern of self-dealing from the Bank Board and to prevent any disclosure that he had failed to comply with the 1984 Supervisory Agreement, JAMES B. MCDOUGAL, as set forth below, created false and misleading documents, material omissions, a false financial statement, and sham loans and real estates sales.

10. In March 1986, as set forth below, JAMES B. MCDOUGAL, created false documents and statements to mislead Bank Board

examiners who had commenced their 1986 examination of Madison Guaranty.

B. MISAPPLICATION OF FUNDS (NOMINEE LOAN)--JUNE 1985

11. On or about June 28, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, with intent to injure and defraud Madison Guaranty, knowingly and willfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to Madison Guaranty in that the defendant caused a $64,000 loan to be issued to a third party, knowing full well that (i) the third party was borrowing the funds as an accommodation to the defendant, that (ii) the loan proceeds would be used for the benefit of the defendant and his wife, and that (iii) the loan enabled the defendant to circumvent those restrictions that would have prevented Madison Guaranty from making the loan directly to the defendant.

(All in violation of Title 18, United States Code, Sections 657 and 2).

PARTICIPATION IN A BANK TRANSACTION WITH INTENT TO DEFRAUD MADISON GUARANTY AND AN AGENCY OF THE UNITED STATES (JULY 1985)

COUNT TWO

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about July 3, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, knowingly and willfully and with intent to defraud Madison Guaranty and an agency of the United States, namely, examiners of the Federal Home Loan Bank Board, did participate and share in and receive money directly and indirectly through a transaction and loan of Madison Guaranty, in that the defendant received $56,087 from the proceeds of a $64,000 Madison Guaranty loan for the sale of the defendant's modular home.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

PARTICIPATION IN A BANK TRANSACTION WITH INTENT TO DEFRAUD MADISON GUARANTY AND AN AGENCY OF THE UNITED STATES (JULY 1985)

COUNT THREE

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about July 25, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, knowingly and willfully and with intent to defraud Madison Guaranty and an agency of the United States, namely, examiners of the Federal Home Loan Bank Board, did participate and share in and receive money directly and indirectly through a transaction and loan of Madison Guaranty, in that the defendant received $25,000 from the proceeds of a $64,000 Madison Guaranty loan for the sale of the defendant's modular home.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

FALSE ENTRY TO DECEIVE BANK BOARD EXAMINERS--JUNE 1985

COUNT FOUR

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about June 28, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, and with intent to deceive examiners of the Federal Home Loan Bank Board, an agency of the United States, knowingly and willfully made and caused to be made false entries in the books of Madison Guaranty in that the defendant caused a Madison Guaranty "residential loan application" to contain false and inflated financial information of the borrower of a $64,000 loan to be signed and executed as a document of Madison Guaranty.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

PARTICIPATION IN A BANK TRANSACTION WITH INTENT TO DEFRAUD MADISON GUARANTY AND AN AGENCY OF THE UNITED STATES (JULY 1985)

COUNT FIVE

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about July 15, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, knowingly and willfully and with intent to defraud an agency of the United States, namely, examiners of the Federal Home Loan Bank Board, did participate and share in and receive money directly and indirectly through a transaction and loan of Madison Guaranty, in that the defendant, through his separate company, sold a $25,000 asset to a third party, the sale of which was based on an agreement whereby Madison Financial guaranteed to the third party that Madison Financial would bear all the risks of ownership of the $25,000 asset that would otherwise belong to the third party, thereby facilitating the third party's payment to the defendant of $25,000.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

MISAPPLICATION OF FUNDS--DECEMBER 1985

COUNT SIX

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about December 20, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, with intent to injure and defraud Madison Guaranty, knowingly and willfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to Madison Financial, a wholly owned subsidiary of Madison Guaranty, in that the defendant--in order to conceal a promise that the defendant made to a family member, namely, that either the defendant or Madison Financial would cover any personal loss that the family member might sustain in connection with his construction and sale of two homes on Madison Financial development property--issued and caused to be issued a Madison Financial check in the amount of $22,662.96 to the family member for work done on an unrelated Madison Financial project, when in fact, as the defendant well knew, the family member had earned only $12,662.96 on said project.

(All in violation of Title 18, United States Code, Sections 657 and 2).

FALSE ENTRY TO DECEIVE BANK BOARD EXAMINERS--DECEMBER 1985

COUNT SEVEN

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about December 20, 1985, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, and with intent to deceive examiners of the Federal Home Loan Bank Board, an agency of the United States, knowingly and willfully made and caused to be made a false and misleading entry in the books of Madison Financial, a wholly owned subsidiary of Madison Guaranty, in that the defendant caused a Madison Financial payment on behalf of a family member in the amount of $22,662.96 to be booked on the general ledger as a sales office expense for Madison Financial's Lake Faircrest development, when in fact, as the defendant well knew, only $12,662.96 represented an expense for the Lake Faircrest sales office.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

MISAPPLICATION OF FUNDS--FEBRUARY 1986

COUNT EIGHT

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about February 18, 1986, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, with intent to injure and defraud Madison Guaranty, knowingly and willfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to Madison Financial, a wholly owned subsidiary of Madison Guaranty, in that the defendant, in an attempt to assist a family member, issued and caused to be issued an $18,000 Madison Financial check to the family member for six months of back rent on a building Madison Financial leased from the family member beginning in August 1985, when in fact, as the defendant well knew, no such lease was in effect to justify the $18,000 payment.

(All in violation of Title 18, United States Code, Sections 657 and 2).

FALSE ENTRY TO DECEIVE BANK BOARD EXAMINERS--FEBRUARY 1986

COUNT NINE

1. Paragraphs 1 through 9 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about February 1986, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, and with intent to deceive examiners of the Federal Home Loan Bank Board, an agency of the United States, knowingly and willfully made and caused to be made a false and misleading entry in the books of Madison Financial, a wholly owned subsidiary of Madison Guaranty, in that the defendant, in order to justify an $18,000 payment to a family member, prepared and caused to be prepared a backdated lease agreement which falsely stated that the family member was the owner of the premises leased by Madison Financial on August 1, 1985, when in fact, as the defendant well knew, no such lease was in effect since the family member did not purchase the building until January 1986.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

FALSE ENTRY TO DECEIVE BANK BOARD EXAMINERS--MARCH 1986

COUNT TEN

1. Paragraphs 1 through 8 and 10 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about March 13, 1986, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, and with intent to deceive examiners of the Federal Home Loan Bank Board, an agency of the United States, knowingly and willfully made and caused to be made a false and misleading entry in the books of Madison Financial, a wholly owned subsidiary of Madison Guaranty, in that the defendant--in order to conceal the fact that in late February 1986, on the eve of the March 1986 Bank Board examination, Madison Guaranty officials had ordered over 70 appraisals to be performed covering loans previously issued without appraisals or with inadequate appraisals--caused Robert Palmer, a Little Rock appraiser, to withdraw his bill to Madison Guaranty of $15,350 which had accurately itemized the appraisals that his company had performed over the previous two weeks and to substitute in its place another $15,350 bill, addressed to Madison Financial, which bill falsely described Palmer's work as that of "a real estate consultant" regarding "market feasibility and economic analysis." (All in violation of Title 18, United States Code, Sections 1006 and 2).

FALSE ENTRY TO DECEIVE BANK BOARD EXAMINERS--MARCH 1986

COUNT ELEVEN

1. Paragraphs 1 through 10 of Count One are hereby realleged and incorporated by reference as though set forth herein.

2. On or about March 19, 1986, within the Eastern District of Arkansas, the defendant JAMES B. MCDOUGAL, connected in a capacity with Madison Guaranty, a financial institution the accounts of which were insured by the FSLIC, and with intent to deceive examiners of the Federal Home Loan Bank Board, an agency of the United States, knowingly and willfully made and caused to be made a false and misleading entry in the books of Madison Guaranty, in that the defendant caused the response of Madison Guaranty to Item 7 of the Management Questionnaire--which required Madison Guaranty to identify all loans or contracts in which an affiliated party has a beneficial interest--to be false and incomplete in that the response failed to identify those transactions which are referred to in Counts One, Two, Three and Five of this Indictment.

(All in violation of Title 18, United States Code, Sections 1006 and 2).

KENNETH W. STARR
INDEPENDENT COUNSEL

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70104944

HIGHLY CONFIDENTIAL
CONTAINS RULE 6(e) MATERIAL

present status -

MEMORANDUM

To: Kenneth W. Starr
Independent Counsel

All OIC Attorneys

From: Jackie M. Bennett, Jr.
Timothy J. Mayopoulos
Associate Counsel

Date: November 1, 1995

Re: Investigation of Campaign Contributions by Herby Branscum, Jr., Robert M. Hill, and other persons associated with them, to the 1990 Clinton for Governor Campaign and the 1992 Clinton Presidential Campaign

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INTRODUCTION

This memorandum summarizes the status of our investigation of political contributions by Herby Branscum, Jr., Robert M. Hill, and other persons associated with them to the 1990 Clinton for Governor campaign and the 1992 Clinton presidential campaign. Branscum and Hill are directors and the principal owners of the Perry County Bank ("PCB"). PCB is a state-chartered, federally insured financial institution, located in Perryville, Arkansas.

While we have made substantial progress in completing this investigation, there remains a significant quantity of evidence that is not yet available to us. Beginning in late June of this year, Branscum, Hill and PCB refused to comply with our subpoenas for documents on the grounds that the OIC does not have prosecutorial authority to investigate or prosecute the matters in question.

After months of briefing and argument, Chief Judge Reasoner upheld the validity of our subpoenas, holding that the Attorney General's decision to refer these matters to the OIC is not subject to judicial review. The subpoenaed parties nonetheless refused to comply with the subpoenas, and on September 8, 1995, Judge Reasoner found Branscum, Hill, their professional associations, and PCB in civil contempt. He ordered that, beginning September 15, 1995, Branscum and Hill and their professional associations would be fined $1,000 for each day of noncompliance with the subpoenas, and that PCB would be fined $5,000 for each day of non-compliance.

The subpoenaed parties immediately filed notices of appeal. Judge Reasoner and the Court of Appeals both refused to grant a stay of the contempt sanctions pending appeal. Facing the imposition of sanctions, on September 15, 1995, Herby Branscum, Jr., Robert Hill's professional association, and PCB complied with the subpoenas. Branscum's professional association and Robert Hill, individually, have not complied. All of the subpoenaed parties have continued to press their appeals. The Court of Appeals has scheduled argument for December 12, 1995.

In the meantime, we have analyzed the documents produced on September 15, and have issued two more subpoenas to PCB for additional materials. A number of requests are still outstanding, and we will not be able to get all of the materials we are seeking until mid-November. We will not know until we receive the outstanding materials whether we will need to issue any additional subpoenas.

We are submitting this memorandum to facilitate discussion of whether we should proceed to seek an indictment of these matters, and if so, what offenses should be charged, and when an indictment should be sought.

A. Case Summary

The evidence gathered to date indicates that Branscum and Hill engaged in an illegal conspiracy to mislead federal bank examiners, create false entries in PCB's records, and misapply over $13,500 in PCB funds, in violation of 18 U.S.C. §§ 371, 1005, and 656.[1]

---

[1] Section 371 provides:

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Section 1005 provides in part:

> Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the

(continued...)

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Branscum and Hill misapplied over $13,500 from PCB to reimburse themselves and others for political contributions made to as many as four candidates or office holders:

(1) Bill Clinton's 1990 gubernatorial campaign ($7,200);

(2) Bill Clinton's presidential exploratory committee ($6,100);

(3) Charlie Daniels, a candidate in 1990 for Arkansas State Land Commissioner ($200); and

(4) Jimmie Lou Fisher, who was Arkansas State Treasurer in 1993 ($250).

In misapplying these funds, Branscum and Hill caused false entries to be made in PCB's ledgers indicating that the funds were for legitimate business expenses, when in fact the expenses were to reimburse Branscum, Hill and others for political contributions made to the candidates or office holders indicated above.

Branscum and Hill used others, typically their wives, mothers, brothers, and children, as conduits to make contributions to the Clinton gubernatorial and presidential campaigns. Branscum and Hill evidently did so, at least in part, to circumvent the limitations that Arkansas and federal law impose on the amount a contributor may give to a candidate in an election. Through the 1990 general election, Arkansas law limited contributions to $1,500 for each primary and general election; thereafter, it limited contributions to $1,000 for each

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[1](...continued)
Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization . . . shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

Section 656 provides in part:

> Whoever, being an officer, director, agent or employee of, or connected in any capacity with any . . . insured bank . . . embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank . . . shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both: but if the amount embezzled, abstracted, purloined or misapplied does not exceed $100, he shall be fined under this title or imprisoned not more than one year, or both.

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primary and general election. Ark. Code Ann. § 7-6-203(b). The Federal Election Campaign Act ("FECA") limits contributions to $1,000 per election. 2 U.S.C. § 441a(a)(1)(A).

does FECA apply to state elections?

Both Arkansas law and FECA prohibit contributors from making contributions in another person's name. Ark. Code Ann. § 7-6-205(b); 2 U.S.C. § 441f. Arkansas law permits corporations to make contributions, subject to the same limitations set forth above. FECA, however, prohibits corporate contributions in any federal election. 2 U.S.C. § 441b. The FDIC does not prohibit FDIC insured institutions from making otherwise lawful campaign contributions in state or local elections. See Memorandum from Pamela E.P. LeCren, FDIC Senior Counsel, to Joseph A. Sano, FDIC Regional Counsel, dated May 9, 1995.[2]

Arkansas law provides that a person who knowingly or willfully violates its campaign finance laws may be convicted of a misdemeanor punishable by imprisonment of up to one year, a fine of up to $1,000, or both.[3] FECA violations are Class A misdemeanors, punishable by imprisonment of up to one year, and fines of up to $100,000 in the case of an individual, and up to $200,000 in the case of a corporation. 18 U.S.C. §§ 3559, 3571.[4]

B. Background

This investigation came about as a result of information provided to us by Neal T. Ainley. Ainley, the former President of the Perry County Bank, was indicted by the Grand Jury in Little Rock on February 28, 1995 on felony charges relating to his failure to prepare and file currency transaction reports of two cash withdrawals by the 1990 Clinton for Governor campaign in May and November 1990.

On May 2, 1995, pursuant to a plea agreement, Ainley pleaded guilty to a two-count Superseding Information charging him with willfully delivering and disclosing to the Secretary of the Treasury documents known to be fraudulent or false as to a material matter, in violation of 26 U.S.C. § 7207. In accordance with the plea agreement, Ainley has cooperated with the OIC in its investigation of the matters set forth herein.

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[2] Federal law prohibits national banks from making contributions in any federal, state or local campaign. 2 U.S.C. § 441b. The Perry County Bank is not a national bank.

[3] We have found no reported cases of prosecutions for violations of Arkansas' campaign finance laws.

[4] For reasons discussed below, we have concluded that we should not charge Branscum and Hill with such offenses.

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During a debriefing session with Ainley shortly after his plea, we learned for the first time about a possible misapplication of PCB funds by Ainley, Branscum and Hill in connection with the 1990 Clinton for Governor campaign. Ainley advised us that he, Branscum and Hill all made contributions to Clinton's 1990 gubernatorial and 1992 presidential campaigns, and that each of them sought and received reimbursement of those contributions from PCB. Ainley told us that, at Hill's direction, he submitted claims to PCB for legal or miscellaneous expenses to cover more than $1,000 in contributions Ainley and his wife made to Clinton. Ainley told us that Branscum and Hill likewise made applications to PCB for reimbursement of contributions they made.

Originally, we were interested in these allegations because we believed that, if they were true and could be corroborated, they would give us leverage in attempting to persuade Hill and Branscum to come clean on the CTR transactions and Bruce Lindsey's role in those transactions. Branscum and Hill each holds a professional license which would be jeopardized by a felony conviction. Their future involvement in PCB would also be at risk if convicted.

But there have been no overtures from Branscum and Hill about "calling off the dogs" as our investigation has progressed. We believe that Branscum and Hill have concluded that their challenge to our prosecutorial jurisdiction is their best strategy for escaping unscathed. We doubt seriously that they will plead to any charge until at least the Court of Appeals rules on whether the OIC has jurisdiction over the matters under investigation.

C. The Subjects

The subjects of this investigation, Herby Branscum and Robert M. "Rob" Hill, are by now fairly well known to this Office. Each played a prominent role in the CTR offenses. In 1985 or 1986, Branscum and Hill purchased controlling shares in PCB. Each is a 50% shareholder in Perry County Bankshares, Inc., the bank holding company that owns the Perry County Bank.

Branscum is an attorney in private practice in Perryville. He served as the Arkansas State Democratic Party Chairman from 1976 to 1982. Branscum consistently has made political contributions to Clinton gubernatorial campaigns, and was an early backer of the 1992 Clinton presidential bid, as discussed

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below. As discussed below, Branscum was appointed by Governor Clinton to the State Highway Commission in January 1991.[5]

Branscum is married to Billie Jo Branscum. Their children include Elizabeth Ann "Beth" Branscum and John C. "Chris" Branscum of Perryville. Their eldest son, James S. Branscum, is married to Colette Branscum and lives in Little Rock.

Rob Hill is a certified public accountant in Perryville. He is a former IRS revenue agent. Like Branscum, Hill has been active in state Democratic party politics, and has served as chairman of the Perry County Democratic Party for the past 10 years. Hill has also made numerous political contributions to Clinton campaigns.

In 1987, Hill was appointed to a four-year term on the Arkansas State Banking Commission by Governor Clinton. On December 31, 1991, Governor Clinton appointed Hill to another four-year term on the banking commission.

Hill is married to Shirley Hill. They have three daughters, Tracy Hill Price and Becky and Kayla Hill, all of whom live in Perryville. The Hills also have a son, Robert M. Hill, Jr., a high school student who still lives at home.

Hill's mother, Elise Hill, is the widow of his father, Woodrow Hill. Hill's brother, Harold, is the proprietor of Perry County Oil, Inc. Harold is married to Mary Kay Hill.

Hill is represented by Little Rock attorney Jack Lassiter, while Branscum is represented by Dallas attorney Dan C. Guthrie.

FACTS

A. Neal Ainley

As stated above, earlier this year Neal Ainley began cooperating pursuant to the terms of his plea agreement. According to Ainley, he discussed the topic of politics with Rob Hill at some point in time between his June 1989 arrival at the bank and about March 1990. Ainley recalled that he mentioned to Hill that he did not know much about politics, and asked that Hill provide advice and guidance to him concerning any political matters that concerned Ainley as bank president. Ainley recalled that Hill stated during their conversation that politics were

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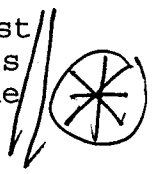
[5] The Arkansas State Highway Commission is one of the most powerful governmental agencies in the State. The Commission is one of only two commissions constitutionally independent of the Governor. An appointment to the Highway Commission is for 10 years.



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very important to both him and Herby Branscum, and Hill agreed to advise Ainley on political issues affecting him as president of PCB.

Ainley told us that, on the morning of May 23, 1990, Hill approached him and notified him that he was raising money for Bill Clinton's gubernatorial campaign. According to Ainley, Hill asked him to contribute $200 to the Clinton campaign, and Ainley agreed to the request. Ainley wrote out a $200 check on his business account and gave the check to Hill.

Later that same morning, according to Ainley, Hill instructed him to go see Naomi Chambliss, the PCB employee who oversaw the bank's expense account, and to have Chambliss issue a PCB expense check to Ainley for $200 to reimburse him for the contribution to Clinton. At Hill's direction, Ainley had Chambliss record the disbursement in the expense ledger as a "Conventions" expense.[6]

Ainley stated that, after the May 23 contribution, he understood that he would be reimbursed by PCB for any future political contributions made at the request of either Hill or Branscum. Thereafter, when asked for such a contribution by Hill or Branscum, Ainley would inquire how he should "handle" their request. On each such occasion, Hill or Branscum typically would instruct Ainley to obtain from PCB a reimbursement for the requested political contribution.

B. Branscum and Hill's financial support for the 1990 Clinton gubernatorial campaign

At various times throughout calendar year 1990, Branscum and Hill made campaign contributions in their own names to the 1990 Clinton for Governor campaign. Branscum and Hill also arranged for conduit contributions to be made to the Clinton campaign through Neal Ainley, Branscum's secretaries, and members of the Branscum and Hill families. In a number of cases, mainly occurring in December 1990, Branscum and Hill arranged for PCB to pay to them and to Neal Ainley "expense" checks, booked in PCB's ledgers as "legal and professional" expenses, the proceeds of which were passed on through conduits to the Clinton campaign.

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[6] According to Ainley, he had attended a bank convention in April in Hot Springs, along with Branscum and Hill. Indeed, Hill and Branscum received reimbursement checks, for $100 and $329.50, respectively, by PCB checks next in sequence to that received by Ainley. Nonetheless, Ainley insists that his reimbursement was for the political contribution, and not for the convention, despite the ledger entry.

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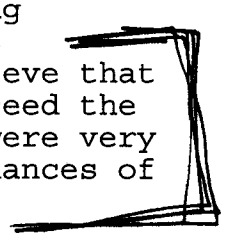
NOT QUID PRO QUO

As discussed above, under Arkansas law in force in 1990, individuals were permitted to make political contributions of up to $1,500 for each of the primary and general elections. Arkansas law also prohibited contributors from making contributions in the names of others. Likewise, federal law prohibited misapplications of bank assets, as well as false entries describing financial transactions.

We believe that Branscum and Hill probably had several motives for violating both state and federal law by making conduit contributions with bank funds falsely recorded as expenditures for legal or professional services. We believe that the primary motive was to permit Branscum and Hill to exceed the legal limits for campaign donations. Branscum and Hill were very likely also motivated to do this to improve Branscum's chances of obtaining an appointment to the State Highway Commission.



1. Contributions preceding the Arkansas primary election

The Arkansas state primaries were held on May 29, 1990. By check dated April 7, 1990, nearly two months in advance of the Democratic primary, Branscum donated the legal maximum under state law, $1,500.

On April 27, 1990, Shirley Hill, Rob's wife, made the maximum $1,500 contribution to Clinton for Governor. Herby Branscum's wife, Billie Jo, contributed $800 by check dated April 30. Finally, on May 11, Rob Hill made a $1,500 donation to the Clinton campaign.

Thus, more than two weeks before the May primary, each of the principals, Branscum and Hill, had made their legal maximum individual donations under state law. Shirley Hill had also made the maximum individual donation, and Billie Jo Branscum had made close to her individual maximum.[7] It was also on May 23, 1990, the week preceding the primary election, that Neal Ainley was asked to make his $200 contribution to Clinton for Governor, as discussed above.

[7] We believe that it is important to focus on the contribution amounts of not only Branscum and Hill, but their wives as well, because at a trial the defense will attempt to prove lack of criminal intent by demonstrating that what we have alleged were illegal conduit contributions could lawfully have been made by Branscum, Hill or their wives in their own names, and therefore there would be no motive to disguise the contributions by making them in the names of their children or others.

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2. Contributions preceding the Arkansas general election

In June 1990, a few weeks after the primary election, Herby Branscum paid each of his secretaries, Paula Franklin and Debbie Halbrook, $500 in checks drawn on the Herby Branscum, Jr., P.A. law account at PCB.[8] On June 13, 1990, Debbie Halbrook and her husband, Wes, by sequentially-numbered checks, each made $250 contributions to Clinton for Governor. On June 12 and 13, 1990, respectively, Paula Franklin and her husband, Garry, likewise made individual $250 contributions to Clinton for Governor.

Halbrook, who no longer works for Branscum, has been interviewed regarding these and other contributions made to Clinton. Halbrook told us that Herby Branscum approached her and Paula Franklin in June 1990, and told them that he had reached his lawful limit for campaign contributions to Clinton for Governor.[9] According to Halbrook, Branscum requested that they and their husbands pass on money from him to the campaign, and they agreed to do so. Franklin, who continues to work for Branscum, has not yet been interviewed. (We are waiting until we get copies of the relevant documents.)

In the months preceding the November general election, Branscum and Hill each made relatively small contributions in their own names to Clinton for Governor. On September 4, 1990, Rob Hill donated $200 to the campaign. Later, approximately one week before the November 6 general election, there was a small spate of contributions made to the campaign. On October 29, 1990, Herby Branscum and Rob Hill each made $250 contributions to Clinton for Governor. Also on October 29, Branscum's son, John, and Hill's daughter, Tracy, each made $250 contributions to the campaign. Although monthly account statements for John Branscum and Tracy Hill covering October 1990 each show corresponding $250 deposits into their respective accounts on October 29, 1990, we have not yet received subpoenaed deposit items which would reveal the sources of their contributions.

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[8] Branscum's P.A. has resisted production of these checks. Although also under subpoena from PCB, we have not yet received either of the checks paid by Branscum to his secretaries.

[9] Branscum's statement is a bit puzzling. Because the primary had concluded by the time of his June 1990 request that his secretaries contribute in their names, and because Bill Clinton had won the primary, Branscum was free to make an additional $1,500 in contributions in his own name which would have been attributed to the November general election.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

3. Availability of Arkansas State Highway Commission post

At some point in 1990, it became apparent that a position on the Arkansas State Highway Commission was or would soon become available, and both Hill and Branscum wanted Governor Clinton to fill the slot with Branscum. Ainley recalls that, around the time of the December 1990 Clinton for Governor contributions, Branscum was peeved that Clinton had not already appointed him to the position. In mid-December, after Clinton had been reelected in the November general election, Hill spearheaded a fundraising initiative designed to win for the Governor's appointment for Branscum.

Richard Tiago was the Mayor of Perryville from 1979 to 1994.

4. Contributions after the Arkansas general election

As part of the effort to push Branscum's candidacy for Highway Commissioner over the top, Branscum and Hill arranged for additional moneys to be funneled to Clinton for Governor from the PCB. These transactions are summarized in Exhibit 1 attached hereto.

Ainley has stated that, on December 11, 1990, Rob Hill approached him and, as in the past, advised Ainley that he was collecting money for the Clinton gubernatorial campaign. Hill

instructed Ainley to contribute $800, and to have his wife, Becky, contribute separately an additional $200.

On December 11, 1990, Ainley wrote an $800 check on his business account, payable to "CLINTON FOR GOV." He also obtained a $200 check from his wife, made payable to "Clinton for Governor." Ainley provided the $1,000 proceeds to Hill.

Ainley has informed us that, on December 11, 1990, he was instructed by Hill to have Naomi Chambliss prepare three PCB expense checks, totalling $7,000, to be charged as "legal and professional" expenses. Chambliss prepared the expense checks as follows:

Chk No.	Date	Payee	Amount
13850	12/11/90	Herby Branscum, Jr.	$3,000
13851	12/11/90	Robert Hill, CPA	3,000
13852	12/11/90	Neal Ainley	1,000

Each of the three checks was charged against PCB general ledger account #54750, styled "Legal and Professional" expenses, as instructed by Hill. Ainley deposited the $1,000 check into his own account, and thereafter reimbursed his wife the $200 she had contributed in her name. See Exhibit 2. Ainley provided to Branscum and Hill the $3,000 checks made out to them as legal and professional expenses by Naomi Chambliss.

As illustrated on Exhibit 1, by a series of checks dated between December 9, 1990 and December 13, 1990 (all of which cleared the bank on the same date, December 17, 1990), six members of the Branscum family, James, Colette, Elizabeth, John, Billie Jo and Herby, each made out separate $500 checks, totalling $3,000, all payable to Clinton for Governor.

A review of the bank records presently available for Herby Branscum's accounts at PCB discloses that, on or about December 14, 1990, Branscum deposited into his professional account, "Herby Branscum, Jr., P.A.", the $3,000 check which had been prepared by Naomi Chambliss. As shown on Exhibit 3, on December 13, 1990, Branscum paid out of his professional account $500 each to his daughter Elizabeth and his son John, and $1,000 to his son James and daughter-in-law Colette. Thus, each of his children and daughter-in-law who made contributions to Clinton for Governor in December 1990 had identical sums deposited into their respective checking accounts before the contribution checks had even cleared the bank.

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We have not to date discovered a similar direct reimbursement of Herby and Billie Jo Branscum of their contributions from his professional account.

Analyzing the money flow corresponding with the Hill family's political contributions is more problematic. We are suspicious that Hill, a former IRS revenue agent, may have had the foresight to cover his tracks a bit as to these transactions. Whether by design or not, it is evident that retracing Hill's money trail is much more difficult than for Branscum.

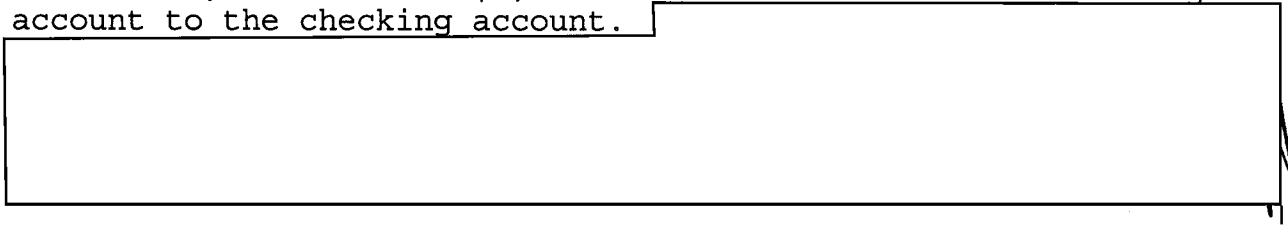
The Hill family's contributions to the Clinton for Governor campaign are summarized in Exhibit 1. Between December 12 and 14, 1990, four members of Rob Hill's family made contributions. Daughter Tracy contributed $750, wife Shirley contributed $1,000, mother Elise (Mrs. Woodrow) Hill contributed $1,000, and brother Harold contributed $250. Like the Branscum family contributions, the Hills contributed a total of $3,000 to Clinton for Governor.

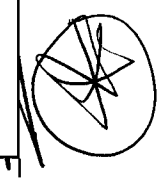
The evidence establishing reimbursements to Rob Hill's family members is incomplete. As summarized in Exhibit 4, on December 13, 1990, Rob Hill deposited the $3,000 PCB expense check into his professional account, styled "Rob Hill, CPA." On that same day, Hill wrote a check on that account, payable to "Cash," in the amount $2,000.

On December 14, an $800 check drawn on a separate Rob Hill personal account was deposited into Tracy Hill's account. On December 17, 1990, an additional $1,000 check from Rob Hill's personal account was deposited into Tracy's account. Presumably, the first check from Hill was to reimburse his daughter for the political contribution. We do not know the reason why he wrote the second check.

On December 11, 1990, Rob Hill's wife, Shirley, contributed a check for $1,000 to Clinton for Governor. Thereafter, a $400 check from Rob Hill's CPA account was deposited into Shirley Hill's account on December 14, 1990. As with daughter Tracy, an additional $1,000 check from Rob Hill's personal account was deposited into Shirley Hill's account on December 17, 1990. Again, the evidence is less clear than in the Ainley and Branscum transactions.

In analyzing the bank records corresponding with the December 12, 1990 campaign contribution from Rob Hill's mother, Elise Hill, we see that $1,000 was transferred from her savings account to the checking account.





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The final political contribution by a Hill family member during this time period involved Harold Hill. As mentioned above, Harold Hill is the proprietor of Perry County Oil, Inc., and is Rob Hill's older brother. According to records in our possession, Harold Hill made a $250 contribution to Clinton for Governor by a check dated December 14, 1990. On that same day, according to the monthly account statement for Harold Hill's checking account at PCB, a $250 cash deposit was made into the account.

C. Branscum and Hill's appointments by Clinton

A memorandum prepared by Fonda Lyle, Governor Clinton's assistant scheduler, indicates that on December 11, 1990, Bruce Lindsey called her and asked for an appointment for Rob Hill and Kent Dollar (a friend of Hill's and the outside auditor of PCB) to meet with Clinton to give him $5,000 to $6,000, and to "put in a word for Herby Branscum to be appointed" to the State Highway Commission.[11] Fonda Lyle has no independent recollection of the call from Lindsey.

Hill and Dollar met with Governor Clinton on December 14 at the Governor's Office.

On January 23, 1991, Clinton officially appointed Branscum to the Highway Commission.

On December 31, 1991, Clinton also re-appointed Hill to the State Banking Board. (Clinton had initially appointed Hill to the Banking Board in 1987.)

[11] This memorandum contains several layers of hearsay, and may not be admissible for its truth. We are sufficiently concerned about its admissibility that we recommend that, in assessing the strength of this case, the Office assume that the memorandum will not be admitted into evidence.

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D. Branscum and Hill's financial support for the Clinton presidential exploratory committee

In September 1991, Branscum, Hill, their employees and family members again made campaign donations to the Clinton presidential exploratory committee, and the pattern of contributions and reimbursements in late 1991 resembled that of the previous year's campaign. The Clinton Exploratory Committee received $3,000 in contributions from each of the Branscum and Hill families and employees. These transactions are summarized in Exhibit 5.

In examining financial records corresponding with the contributions, it appears that the funds with which Hill made reimbursements to his family members can be traced back to an inflated PCB expense check. However, in the case of Branscum, the source of proceeds used to reimburse his family members has not yet been shown to be PCB funds, as discussed below.

1. Branscum contributions/reimbursements

Between September 23 and 26, 1991, Branscum family members made a total of $2,000 in contributions to the Exploratory Committee, in the following denominations: John ($250); Billie Jo ($500); Herby ($500); James ($250); Colette ($250); and Elizabeth ($250). During that same three-day time frame, Branscum's secretaries, Debbie Halbrook and Paula Franklin, and their respective husbands, each gave checks in their own names for $250, or $1,000 in total additional contributions.

As summarized in Exhibit 6, a series of transactions, all occurring on September 24, 1991, reveal both the paper trail associated with reimbursements to Branscum family members and employees, and the difficulty in understanding the precise source of the funds used to make reimbursements.

On September 24, Herby Branscum deposited a total of $50,145 into his professional account.[12]

On September 26, 1991, Branscum wrote $500 checks to Halbrook and Franklin from this professional account. That corresponds to the amounts Halbrook and Franklin and their husbands contributed to the Exploratory Committee.

[12] The source of these funds is unknown; deposit items and other backup documentation have been subpoenaed.

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Thereafter, Branscum wrote a $50,000 check on his professional account to himself, and deposited that sum into the joint account he shared with his wife, Billie Jo. The same day, Branscum wrote a $46,000 check from the joint account payable to the Perry County Bank. The memo portion on the face of that check reads, in what appears to be Branscum's handwriting, "$1000 Kids Dep, Loan Pymts." Bank records show that on the same day the $46,000 check cleared, deposits were made into the accounts of Branscum's children in amounts identical to their respective contributions to the Exploratory Committee.

2. Hill contributions/reimbursements

Between September 25 and 26, 1991, members of Rob Hill's family made a total of $3,000 in contributions to the 1991 Clinton Exploratory Committee. As shown on Exhibit 7, contributions were made by Hill family members in the following denominations: Tracy ($250); Mrs. Woodrow Hill ($250); Robert Jr. ($250)[13]; Kayla ($250); Rob ($1,000); and Shirley ($1,000).

On September 26, 1991, Rob Hill deposited a check for $250 into the account of his mother, Elise (Mrs. Woodrow) Hill. A few days later, on September 29, Rob Hill deposited $550 into the accounts of each of his daughters, Tracy and Kayla.

On October 3, 1991, Rob Hill received an expense check in the amount $3575.55, recorded in PCB's ledger as a legal or other professional expense. The bill submitted by Hill "For Professional Services" which corresponds with the $3575.55 payment breaks down as follows:

For Services Rendered	$3,300.00
Reimbursement of Expenses	275.55
	3,575.55

During this time period, Rob Hill received a retainer of $300 per month to handle PCB's payroll preparation. It appears that Hill simply inflated his normal $300 retainer amount by $3,000, the total amount of his family's contributions, to obtain reimbursement by the Bank.

[13] Although the contribution was recorded in Clinton campaign financial records as from Robert Hill, Jr., the boy was thirteen at the time of the contribution in 1991. Moreover, we have been advised that Hill, Jr. had no accounts at PCB in 1991. We are, therefore, presently unaware of the financial instrument used to make the $250 contribution in his name.

3. Ainley contribution/reimbursement

Although not close in time to the September 1991 contributions made by the Branscum and Hill families discussed above, Neal Ainley has advised us that, at the request of Hill or Branscum, he made a $100 contribution to "CLINTON FOR PRES. COMMITTEE" on February 18, 1992. In accordance with his arrangement with Branscum and Hill, Ainley obtained a $100 reimbursement check on February 20, 1992, which was booked in PCB's ledger as a "miscellaneous" expense. See Exhibit 5.

E. Other Perry County Bank-related contributions

Neal Ainley has advised us that, aside from the contributions made by him and Branscum and Hill to the Clinton campaigns discussed above, there were two instances in which he was instructed to make contributions to candidates for much lower public offices. On October 25, 1990, Ainley was instructed by Branscum or Hill to make a $100 contribution to Charlie Daniels, who was then a candidate for Arkansas State Land Commissioner. Ainley stated that he made the contribution and obtained a corresponding $100 reimbursement check from PCB, which was recorded as a "miscellaneous" expense. Branscum made a similar contribution and was similarly reimbursed.

Similarly, on October 28, 1993, Ainley made a $250 campaign contribution to Jimmie Lou Fisher, who was the Arkansas State Treasurer and up for re-election in 1994. As before, Ainley received a reimbursement check on November 3, 1993.[14]

Ainley recalled that he made the Fisher contribution at Branscum's request, and also recalled that he gave the contribution to Fisher at a fundraiser reception attended by Branscum and "by nearly every banker in Arkansas."

THE DEFENSE STRATEGY

Branscum and Hill and their lawyers have not given us a preview of what their defense strategy might be. If we decide to proceed with an indictment, we plan to issue target letters to Branscum and Hill and invite them to testify before the grand jury. (We would expect them to decline this invitation.) We also plan to invite Jack Lassiter and Dan Guthrie to tell us why we should not indict their clients.

Even in the absence of such conversations, however, a few lines of defense are obvious. Branscum and Hill will undoubtedly continue to press their jurisdictional challenge until it is

[14] The documentation for this reimbursement is under subpoena from PCB.

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finally resolved. Assuming that the courts hold that we have prosecutorial authority to proceed with these matters, we would expect Branscum and Hill to argue some combination of the following:

(1) That Branscum and Hill provided legitimate legal and accounting services to the Bank, and the expense checks they received from the Bank were to pay them for those services. We cannot dispute that Branscum and Hill provided legal and accounting services to the Bank. But Branscum and Hill will need convincing evidence to persuade a jury that they just happened to receive expense checks for legitimate services at the same time they and their relatives were making political contributions, and moreover, that the amounts of the expense checks just happened to correspond exactly with the aggregate amounts of the contributions made.

(2) That Branscum and Hill did not know it was illegal for the Bank to reimburse them for their political contributions. Branscum and Hill will emphasize that Arkansas law permits corporate contributions to state campaigns, and that the Bank could have made the contributions in its own name. They may argue further that they believed that the same was true under federal law governing the presidential campaign.

This defense has several problems. First, while Arkansas law permits corporate contributions, every contributor is limited to $1500 for each of the primary and general elections. The aggregate Branscum/Hill/Ainley contributions to Clinton's 1990 campaign exceeded that amount. Second, federal law prohibits corporate contributions in any amount. Third, to be credible, the defense must provide some lawful explanation as to why Branscum and Hill arranged for conduit contributions and tried to hide the Bank's reimbursements. It is not apparent to us what that explanation could be.

(3) That Ainley is a convicted criminal, and that his allegations against Branscum and Hill are simply an effort to secure lenient treatment from the OIC and the sentencing court. They will emphasize Ainley's favorable plea agreement, and his protestations of innocence prior to his plea. In response, we would emphasize that Ainley's allegations are supported by contemporaneous documents.

(4) That the OIC must have found Ainley incredible, as it never charged anyone other than Ainley with the CTR violations to which he pleaded, even though Ainley admitted that he had conspired with others. Branscum and Hill will emphasize the fact that Ainley did not tell us about the illegal campaign contributions until after he pleaded guilty, and argue that he did so only after realizing that we were not going to pursue his CTR allegations against Branscum, Hill and Bruce Lindsey.

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5. That Branscum and Hill, as the owners of PCB, had no incentive to misapply funds from the bank. If they took money from PCB, they were simply taking it from themselves, and they had no reason to do that. We can try to counter this by explaining that the victim here was the FDIC, not the Bank. The FDIC limits the amount of money Branscum and Hill could take out of the Bank in the form of salary and dividends, and that the phoney expense checks were a way around this problem.

6. That if funds were misapplied or false entries made, this was done by Ainley, and that Branscum and Hill were unaware of his wrongdoing. This, Branscum and Hill will say, is consistent with Ainley's history of misconduct at PCB. An "audit" by Kent Dollar after Ainley's departure charged, among other things, that Ainley and his wife improperly charged personal expenses to the bank; that Ainley and his wife submitted false financial statements exaggerating their assets in order to obtain a business loan; that Ainley violated banking laws and PCB policies by holding checks for which the customer (Ainley's friend and business partner, Jeff Glenn) had insufficient funds; and that Ainley violated banking laws and PCB policies by inflating PCB's income statement by including interest from a loan on non-accrual status.

Ainley has a plausible explanation for each of these alleged misdeeds. In addition, Dollar's credibility will be tainted by his participation in Hill's December 14, 1990 meeting with Governor Clinton at which he presented the contributions to the gubernatorial campaign.

We believe that these lines of defense will not be successful.

MATTERS FOR IMMEDIATE CONSIDERATION

A. Should we indict this case?

There are several factors that support indicting Branscum and Hill with respect to the matters discussed herein.

First, we believe that there is strong evidence that Branscum and Hill committed repeated violations of Title 18, and that they have engaged in a pattern of abuse of PCB for their own purposes. While the dollar amounts involved are not huge, they are also not insignificant. After all, if a bank teller had misapplied $13,000 over 3 years, there is little doubt that he or she would be prosecuted.

Second, Branscum and Hill were the instigators of these crimes. Unlike Ainley, who was following orders in committing both the CTR violations to which he pleaded guilty, as well as

civil resolution

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the false entries discussed in this memorandum, Branscum and Hill were the principal wrongdoers in these crimes.

Third, the offenses discussed herein are not of the same "technical" character as the CTR violations which we have investigated. Even persons who question whether CTR violations that do not otherwise involve criminal activity are proper matters for criminal prosecution are likely to agree that owners and directors of a federally insured financial institution should be prosecuted for misusing the institution's funds and intentionally misleading bank examiners.

Nonetheless, there are some potential criticisms that could be leveled against us for pursuing these matters. While we should not be deterred simply because we might be criticized, we should consider whether these potential criticisms might undermine our other prosecutions, especially our success in the McDougal trial scheduled for January 1996.

First, the defendants would argue, and many people would probably agree, that the case is clearly not at the core of our mandate. The proper scope of our prosecutorial authority has, of course, been the subject of much debate and litigation here in Arkansas. On the other hand, if the case is to be prosecuted, this Office is the only real candidate to do so. We are confident that both the local U.S. Attorney's Office and the Department of Justice would conclude that they would have a conflict of interest, as the case involves contributions to President Clinton's state and federal campaigns. Accordingly, if our Office does not pursue this matter, no one will.

We nonetheless need to consider whether pursuing this case would give ammunition to those who are attempting to convince potential jurors that we are overstepping our bounds. We would be interested in hearing from the 825 team and others as to whether they believe that our prosecution of this case would have a detrimental effect on their prosecution.

Also relevant to the public perception of this case is that it does not involve a large amount of money. Independent Counsel Smaltz's recent prosecution of James Lake for his involvement in funnelling approximately $5,000 in illegal campaign contributions to Mike Espy's brother has been the subject of some criticism for this reason, among others.

We are advised, however, that this case would fall within the prosecutorial guidelines of the local U.S. Attorney's Office, which prosecutes all criminal wrongdoing by bank management, regardless of the amount involved. In addition, the Justice Department's guidelines for prosecution of campaign finance fraud provide that, while illegal activity involving less than $10,000 should normally be charged as a misdemeanor, illegal activity

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involving over $10,000 should be considered for felony prosecution. Federal Prosecution of Election Offenses 115 (6th ed. 1995).

Finally, and perhaps most seriously in light of the other potential criticisms, prosecution of this case might be viewed as an inappropriate effort to damage President Clinton as the election season begins. Fonda Lyle's memorandum linking the December 1990 contributions to Clinton's appointment of Branscum to the State Highway Commission is particularly volatile. We would not suggest, nor do we believe, that the evidence to date indicates that Governor Clinton "sold" the Highway Commission position in exchange for the contributions. But the press and those critical of the President might attempt to characterize our case as implying that there was such a quid pro quo.

We believe that the draft indictment we have prepared largely avoids this problem. It charges that Branscum and Hill engaged in a pattern of wrongdoing that involved contributions to four different campaigns or office holders, including two who are not affiliated with Clinton. Nonetheless, Bill Clinton would inevitably be part of the trial, as we would attempt to introduce evidence of Branscum and Hill's desire to get Clinton to appoint Branscum to the Highway Commission, evidence of Hill's in-person meeting with Clinton on December 14, 1990 to deliver the contributions, and evidence of Clinton's appointment of Branscum in six weeks later.

B. If we decide to proceed, who and what should we charge?

Assuming that a decision is made to indict this matter, we would propose an indictment along the lines of the draft attached hereto as Exhibit 8. Count One of the draft charges Branscum and Hill with engaging a single Section 371 conspiracy with two objects: to impede the FDIC, and to commit violations of Sections 1005 and 656. Counts Two through Four and Eighth and Nine charge Branscum and Hill with substantive violations of Section 1005, and Counts Five through Seven and Ten and Eleven charge them with substantive violations of Section 656.

The conspiracy includes the contributions to all four campaigns and office holders; the substantive offenses are limited to the contributions made to the 1990 Clinton for Governor campaign and the 1991 Clinton Exploratory Committee. We deemed the much smaller contributions to Charlie Daniels and Jimmie Lou Fisher to be too small to warrant separate substantive charges.

We have considered whether we can properly charge any other persons in this indictment. We cannot charge Ainley, as we agreed that we would not prosecute him for any criminal conduct

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about which he gives us truthful information during the course of his cooperation.

We have also concluded that it would not be appropriate to charge Branscum and Hill's relatives in this indictment. We have not found any evidence that they knew that Branscum and Hill were reimbursing them with PCB funds, or that they knew that Branscum and Hill were making false entries in the Bank's records.[15]

We do not recommend charging PCB itself in this indictment. A corporation may be held criminally liable for the criminal act of persons controlling the corporation. See, e.g., United States v. Carter, 311 F.2d 934, 942 (6th Cir. 1963); Minisohn v. United States, 101 F.2d 477 (3d Cir. 1939). But typically corporations are charged when the criminal conduct of the individual defendant was for the benefit of the corporation. Here, by contrast, Branscum and Hill were acting to the institution's detriment. Moreover, even if we could charge the Bank, there appears to be no significant tactical advantage in doing so.

We have also considered whether to include additional charges against Branscum and Hill in the indictment.

We have decided against charging FECA violations for the conduit contributions to the Clinton presidential campaign.[16] Since the statute of limitations for FECA misdemeanor violations is three years from the date of the violation, 2 U.S.C. § 455, the statute has run on any FECA misdemeanor violations relating to the contributions to the Clinton presidential campaign in 1991.

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[15] It appears that the relatives did knowingly permit their names to be used for conduit contributions in violation of 2 U.S.C. § 441f. But even if we could get around the three-year statute of limitations for this misdemeanor violation (see discussion in text infra), "[t]he Justice Department has a long-standing practice of not prosecuting persons who are used as conduits to disguise another person's illegal contribution, provided that allowing their names to be used by another is the extent of their participation in the scheme." Federal Prosecution of Election Offenses 117 (6th ed. 1995).

[redacted]

[16] FECA does not apply to contributions to campaigns for state office.

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At least two courts of appeals have held, however, that FECA's misdemeanor provisions are not the exclusive criminal penalties for conduct based on FECA violations. Those courts have permitted prosecutions of campaign finance violations under Section 371, and the false statements statute, 18 U.S.C. § 1001. See United States v. Curran, 20 F.3d 560, 563-66 (3d Cir. 1994); United States v. Hopkins, 916 F.2d 207 (5th Cir. 1990).

The Third Circuit has held that the general five-year statute of limitations, 18 U.S.C. § 3282, and not the three-year FECA statute of limitations, applies to such felony prosecutions. Therefore, we are probably not time-barred from charging Branscum and Hill with a conspiracy to impede the lawful functioning of the Federal Election Commission, or causing the treasurer of the Clinton Exploratory Committee to make a false statement to the FEC. However, we have decided against including such charges.

We believe that the best prosecutorial theory is to make the FDIC the victim of the scheme. Recent case law makes it much more difficult to prove that Branscum and Hill had the requisite intent to impede the function of, or to make false statements to, the FEC. The Third Circuit held in Curran that where the government charges such crimes, it must prove that the defendants knew of the campaign treasurer's duty to submit accurate contribution reports to the FEC, and that the defendants intended to thwart this requirement by causing the treasurer to make a false report. 20 F.3d at 567-68, 571. We lack any clear evidence that Branscum and Hill knew of this campaign obligation, or that they intended to cause the campaign treasurer to file a false report with the FEC. Charging a conspiracy to impede the FDIC does not present this problem, as Branscum and Hill will not be able to contend seriously that they did not know that their Bank was required to maintain accurate records of its expenses.

We have also considered whether to charge the CTR violations as part of Branscum and Hill's Section 371 conspiracy. We decided against that for several reasons. First, we were not sure the facts would support such a charge, as it is far from clear that the CTR violations were part of the same conspiracy to make false entries regarding reimbursement of the campaign contributions. Second, Ainley's uncorroborated testimony continues to be our only evidence against Branscum and Hill on the CTR offenses. Ainley's testimony with respect to the misapplications and false entries, on the other hand, is wholly corroborated by bank records. Third, inclusion of the CTR offenses might help the defense, as those offenses are more easily claimed to be technical in nature than the misapplications and false entries. Finally, the CTR offenses directly implicate Bruce Lindsey; Branscum and Hill would undoubtedly call him as a defense witness to deny Ainley's allegations. Leaving the CTR offenses out of the case should keep Lindsey out of the case as well.

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We also considered charging Branscum and Hill with violations of the bank fraud statute, 18 U.S.C. § 1344.[17] We are inclined not to do so, as it seems merely repetitive of the conspiracy and misapplication counts. If the indictment contains numerous counts, it may appear to the jury that we are "piling on."

Finally, the IRS has urged us to consider including a money laundering charge under 18 U.S.C. § 1956(a)(1).[18] While the facts of this case may fall within the literal proscriptions of Section 1956, we are likewise concerned that use of the money laundering statute here may appear to a judge and jury to be overkill. If others believe that a money laundering charge is

HOW DO THEY KNOW?

---

[17] Section 1344 provides:

> Whoever knowingly executes, or attempt to execute a scheme or artifice --
>
> (1) to defraud a financial institution; or
> (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;
>
> shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

[18] That statute provides:

> Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity --
> . . .
> (B) knowing that the transaction is designed in whole or in part --
> (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity . . . .
> shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

Title 18, U.S.C., Section 1956(c)(7), defines "specified unlawful activity" as including 18 U.S.C. §§ 656 and 1005.

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appropriate here, we recommend that we confer with consultants experienced in money laundering prosecutions.

C. If we decide to proceed, what should our schedule be?

The schedule for seeking an indictment should be consistent with our need to get all of the relevant evidence, especially with respect to the contributions to the Clinton presidential campaign, which provides one of the best bases for this prosecution. At this point, we do not have the necessary information to trace all of the funds used for those contributions. In the attached charts summarizing the money flow, we have highlighted in red the facts that we cannot yet prove with the evidence we have.

Assuming that we get full compliance with our outstanding subpoenas, we might have the necessary information as early as November 8. However, further subpoenas may be, and probably will be, required. We believe that the end of November is a reasonable target date for an indictment, subject to further developments.[19]

There are potential investigative reasons not to delay proceeding with an indictment beyond the end of the month. If Branscum and Hill decide to cooperate, it would be useful to debrief them before the statute of limitations runs on any potential violation relating to Governor Clinton's appointment of Branscum to the Highway Commission, which could occur, at the earliest, in mid-December. However, we believe that, even if we advised Branscum and Hill that they will be indicted by the end of the month, they will not plead to any charge until after their challenge to our prosecutorial authority is heard and decided.

If we decide to seek an indictment, we need to consider whether to seek the return of an indictment before or after the Eighth Circuit rules on the pending appeals. The Eighth Circuit might consider it bad form for us to indict Branscum and Hill just weeks before argument is to be heard on their challenges to our prosecutorial jurisdiction. Moreover, if we indict the case, and some weeks later the Court of Appeals rules that we do not have jurisdiction, some might contend that we knew that we were out of bounds, but nonetheless returned the indictment to try to damage the President.

However, in our view, we are not obliged to wait for resolution of the jurisdictional issue, and we do not recommend waiting. After all, Judge Reasoner has held that we have jurisdiction, and we believe that we have jurisdiction. Until

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the Eighth Circuit rules differently, we have authority to proceed.

We also note there is precedent for our proceeding with an indictment notwithstanding that a target has challenged our authority. In the months immediately preceding the indictment of the LMS bankruptcy matter, Governor Tucker moved to discharge the grand jury and to quash a grand jury subpoena on the grounds that the OIC lacked prosecutorial authority over that case. Judge Reasoner denied the motions. The same day that Tucker filed his notice of appeal, the grand jury returned the indictment.

Irrespective of whether we wait for the Eighth Circuit to resolve the jurisdictional challenge, we need to give Branscum and Hill notice of their target status and an opportunity to appear before the grand jury. As noted above, at this point we have not issued target letters to Branscum and Hill with regard to the matters discussed herein. If we target the end of November for the possible return of an indictment, we could give ample notice to Branscum and Hill.

KWS

- systematic failure of law enforcement in ED Ark → does this matter?
- culture of corruption
  - no accountability
  - HOLD FIRM AGST. FED INVESTIGATORS
- 2d check w/ Attorney General
- Reasoner ⇒ not fishing on top of water relationship

SD: not a cusdc appointed to investigate
- cannot justify this indictment on broader context
- has to stand on its own

Brad ⇒ if all this involves is Hill & Branscum, then should not do it

THINK - ① does CTR fit?
② focus on DOJ → talk to DOJ + see what should be done
③ finish how done certain things

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Summary of 12/90 Gubernatorial Contributions/Reimbursements
(All transactions at Perry County Bank)

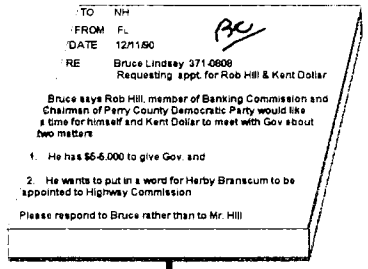
Contributions

12/09/90
Branscum, J.S. $500.00
ck# 256, Acct#
Branscum, C. $500.00
ck# 257, Acct#
12/11/90
Branscum, E. $500.00
ck# 951, Acct#
12/12/90
Branscum, J.C. $500.00
ck# 1829, Acct#
Branscum, B.J. $500.00
ck# 9647, Acct#
12/13/90
Branscum, H. $500.00
ck# 1053, Acct#

12/10/90
Hill, T. $750.00
ck# 158, Acct#
12/11/90
Hill, S. $1,000.00
ck# 3678, Acct#
12/12/90
Hill, W. $1,000.00
ck# 6544, Acct#
12/14/90
Hill, H. $250.00
ck# 4330, Acct#

12/11/90
Ainley, N. $800.00
ck# 156, Acct#
Ainley, B. $200.00
ck# 646, Acct#

12/14/90 Meeting with Clinton



TO NH
FROM FL
DATE 12/11/90
RE Bruce Lindsey 371-0808
Requesting appt. for Rob Hill & Kent Dollar

Bruce says Rob Hill, member of Banking Commission and Chairman of Perry County Democratic Party, would like a time for himself and Kent Dollar to meet with Gov about two matters

1. He has $5-6,000 to give Gov. and
2. He wants to put in a word for Herby Branscum to be appointed to Highway Commission

Please respond to Bruce rather than to Mr. Hill

FOIA(b)(4)

Branscum, J.S.	$500.00
Branscum, C.	500.00
Branscum, E.	500.00
Branscum, J.C.	500.00
Branscum, B.J.	500.00
Branscum, H.	500.00
	$3,000.00

Hill, T.	$750.00
Hill, S.	1,000.00
Hill, W.	1,000.00
Hill, H.	250.00
	$3,000.00

Ainley, N.	$800.00
Ainley, B.	200.00
	$1,000.00

Reimbursements by PCB to Branscum, Hill and Ainley

Herby Branscum
12/11/90 $3,000.00 PCB
ck# 13850, Acct#
Expensed: #54750 Legal and Professional

Robert Hill
12/11/90 $3,000.00 PCB
ck# 13851, Acct#
Expensed: #54750 Legal and Professional

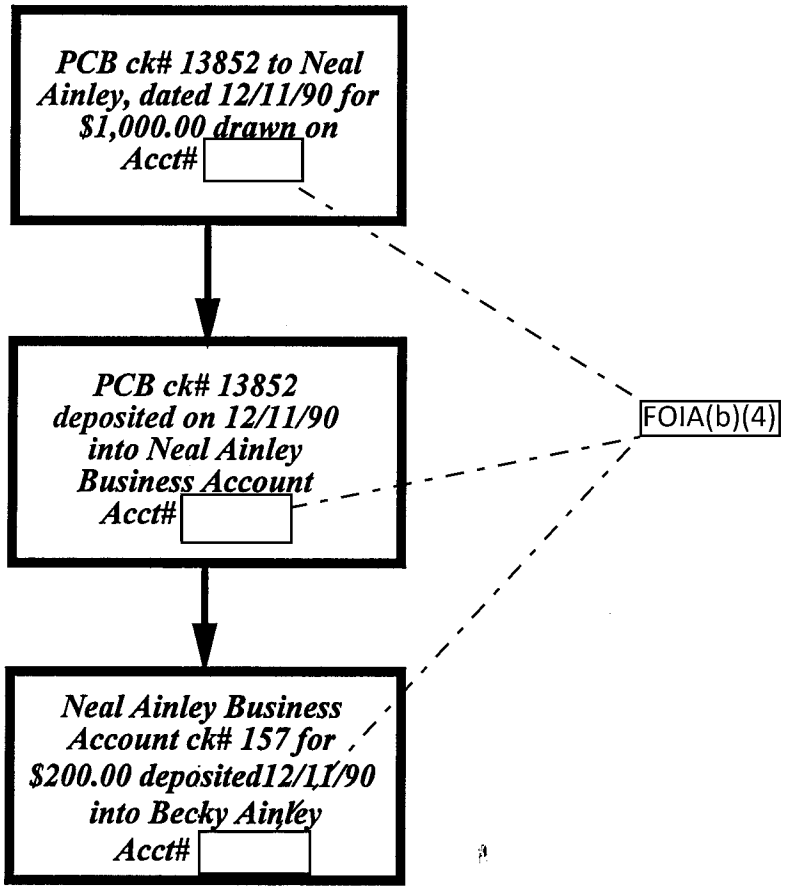
Neal Ainley
12/11/90 $1,000.00 PCB
ck# 13852, Acct#
Expensed: #54750 Legal and Professional

Draft: 11/1/95

Information not yet known or available highlighted in red.

Summary of Neal Ainley's Reimbursement of 12/90 Gubernatorial Conduit Contributions

(All transactions at Perry County Bank)

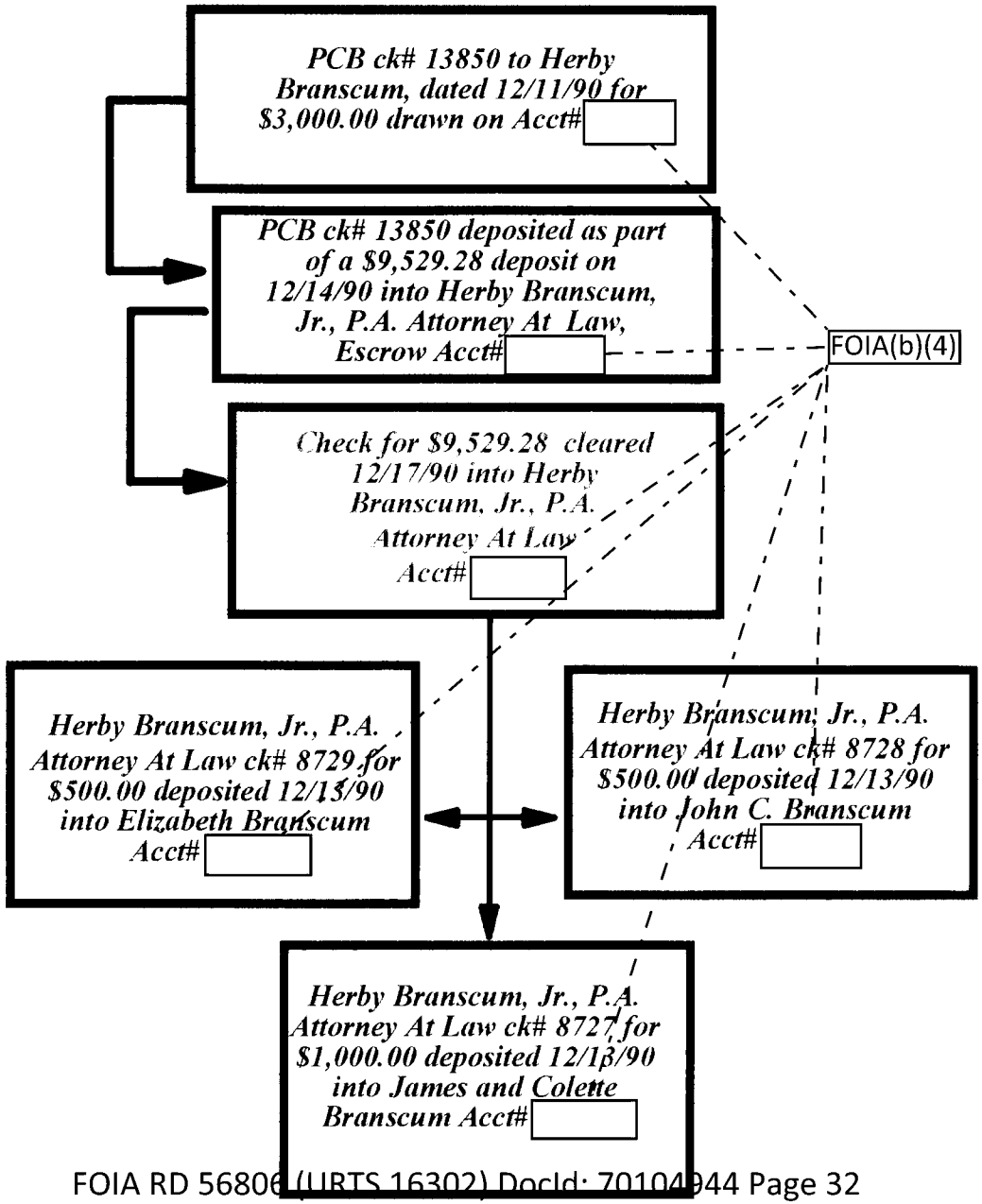


Draft: 11/1/95

Information not yet known or available highlighted in red.

Summary of Herby Branscum's Reimbursement of 12/90 Gubernatorial Conduit Contributions

(All transactions at Perry County Bank)

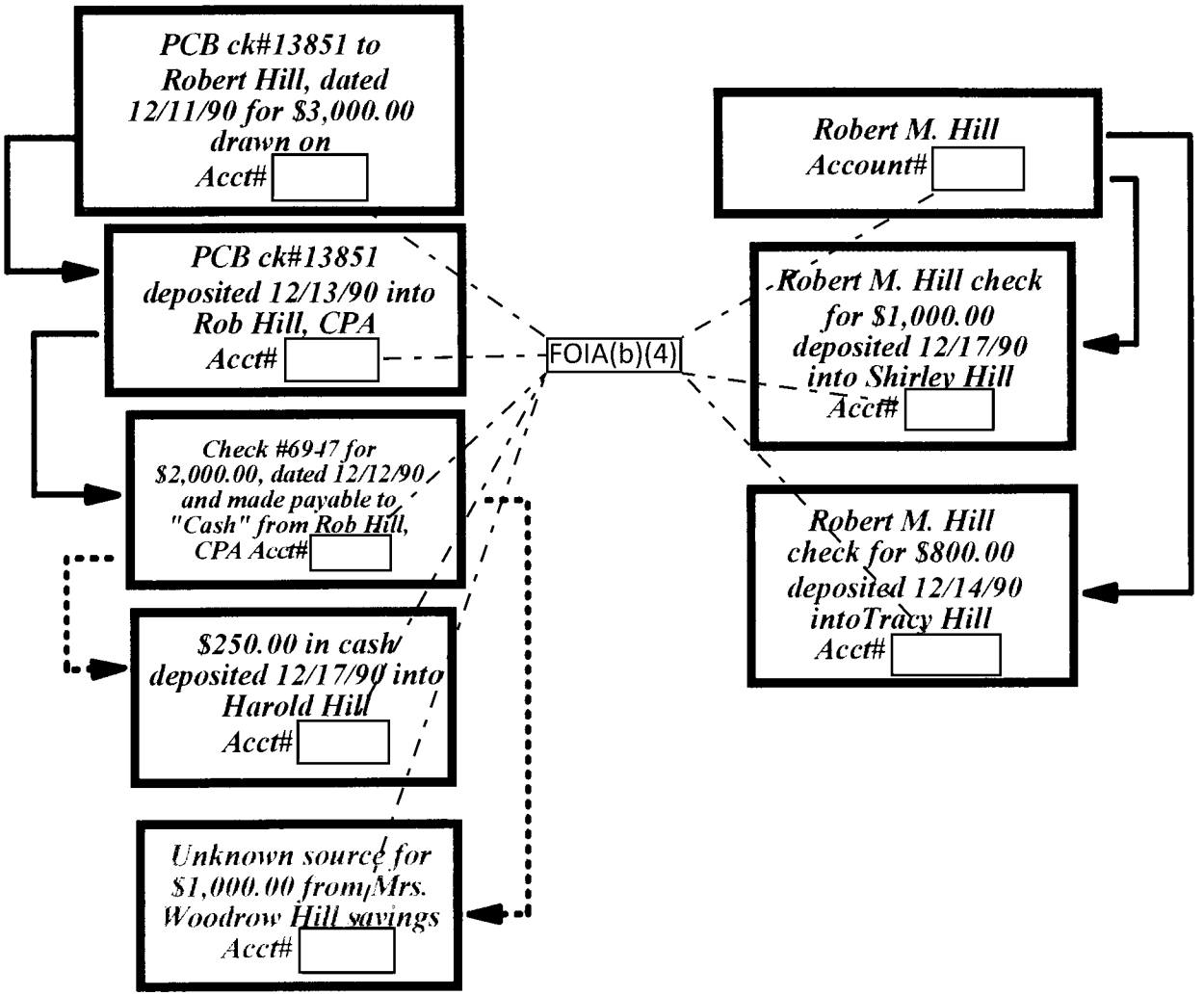


Draft: 11/1/95

Information not yet known or available highlighted in red.

Summary of Robert Hill's Reimbursement of 12/90 Gubernatorial Conduit Contributions

(All transactions at Perry County Bank)



Draft: 11/1/95

Information not yet known or available highlighted in red.

Summary of Presidential Contributions/Reimbursements
(All transactions at Perry County Bank)

Contributions

FOIA(b)(4)

9/23-26/91
Branscum, J.C. $250.00
ck#2117 , Acct#
Branscum, B.J. $500.00
ck#1114, Acct#
Branscum, H. $500.00
ck#1069, Acct#
Branscum, J.S. $250.00
ck#573, Acct#
Branscum, C. $250.00
ck#574, Acct#
Branscum, E. $250.00
ck#1219, Acct#
Halbrook, D. $250.00
ck#2020, MSB#
Halbrook, W. $250.00
ck#2021, MSB#
Franklin, P. $250.00
ck# unk
Franklin, G. $250.00
ck# unk

9/25-26/91
Hill, T. $250.00
ck#229, Acct#
Hill, S. $1,000.00
ck# unk, Acct# unk
Hill, R. $1,000.00
ck# unk, Acct# unk
Hill, W. $250.00
ck# 7190, Acct#
Hill, R. Jr. $250.00
ck# unk, Acct# unk
Hill, K. $250.00
ck#176, Acct#

2/18/92
Ainley, N. $100.00
ck#1384, Acct#

Clinton Exploratory Committee
September 30, 1991

Branscum, J.C.	*$250.00*
Branscum, B.J.	*500.00*
Branscum, H.	*500.00*
Branscum, J.S.	*250.00*
Branscum, C.	*250.00*
Branscum, E.	*250.00*
Halbrook, D.	*250.00*
Halbrook, W.	*250.00*
Franklin, P.	*250.00*
Franklin, G.	*250.00*
	$3,000.00

Hill, T.	*$250.00*
Hill, S.	*1,000.00*
Hill, R.	*1,000.00*
Hill, W.	*250.00*
Hill, R. Jr.	*250.00*
Hill, K.	*250.00*
	$3,000.00

Ainley, N.	*$100.00*

Reimbursements by PCB to Branscum, Hill and Ainley

Herby Branscum (unknown)

Robert Hill
10/03/91 $3,575.55 PCB
ck# 14812, Acct#
Expensed: 54750 Legal and Professional

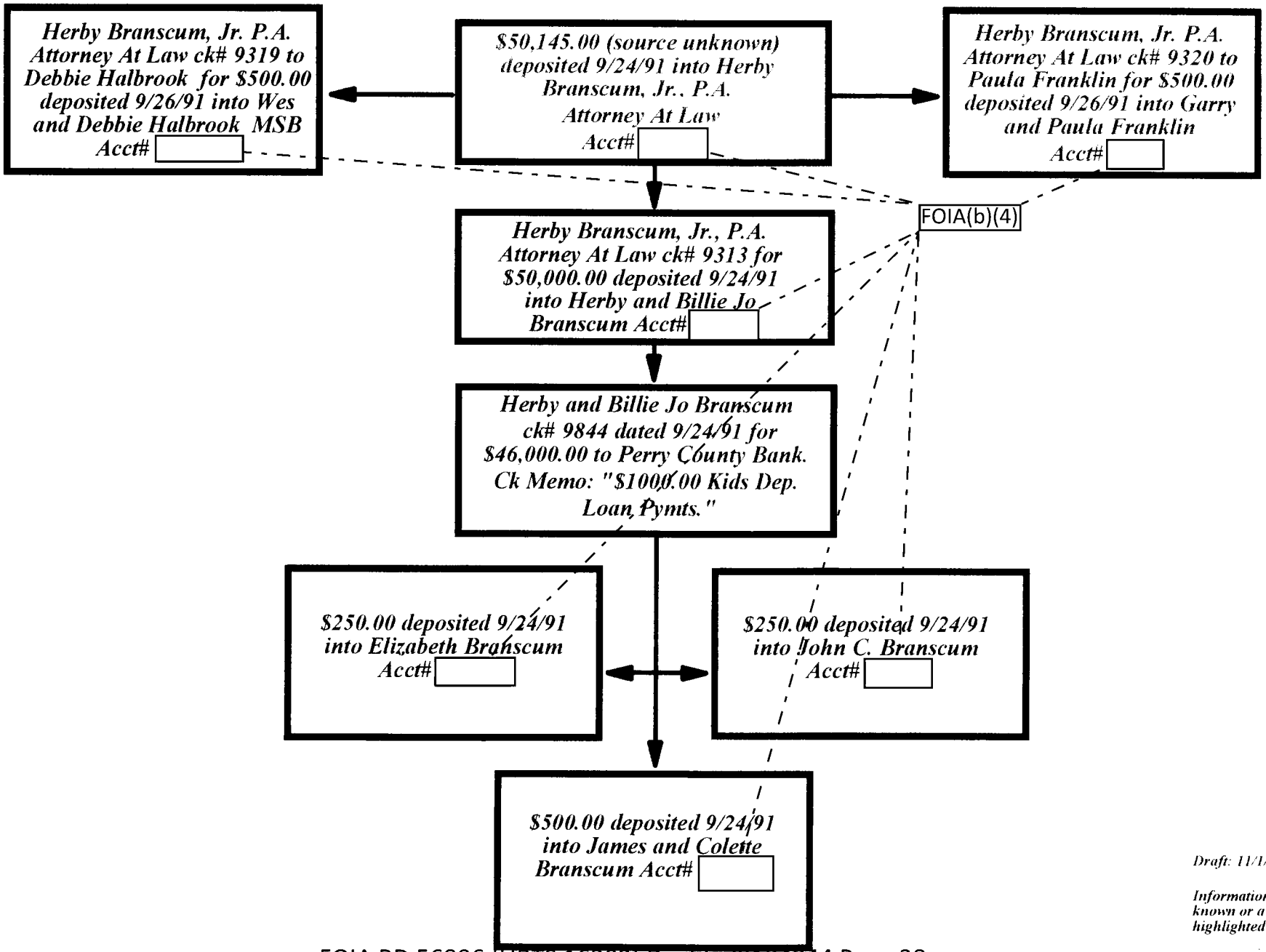
Neal Ainley
2/20/92 $100.00 PCB
ck# 15302, Acct#
Expensed: 53560 Misc

Draft: 11/1/95

Information not yet known or available highlighted in red.

Summary of Herby Branscum's Reimbursement of 9/91 Presidential Conduit Contributions

(All transactions at Perry County Bank)



Draft: 11/1/95

Information not yet known or available highlighted in red.

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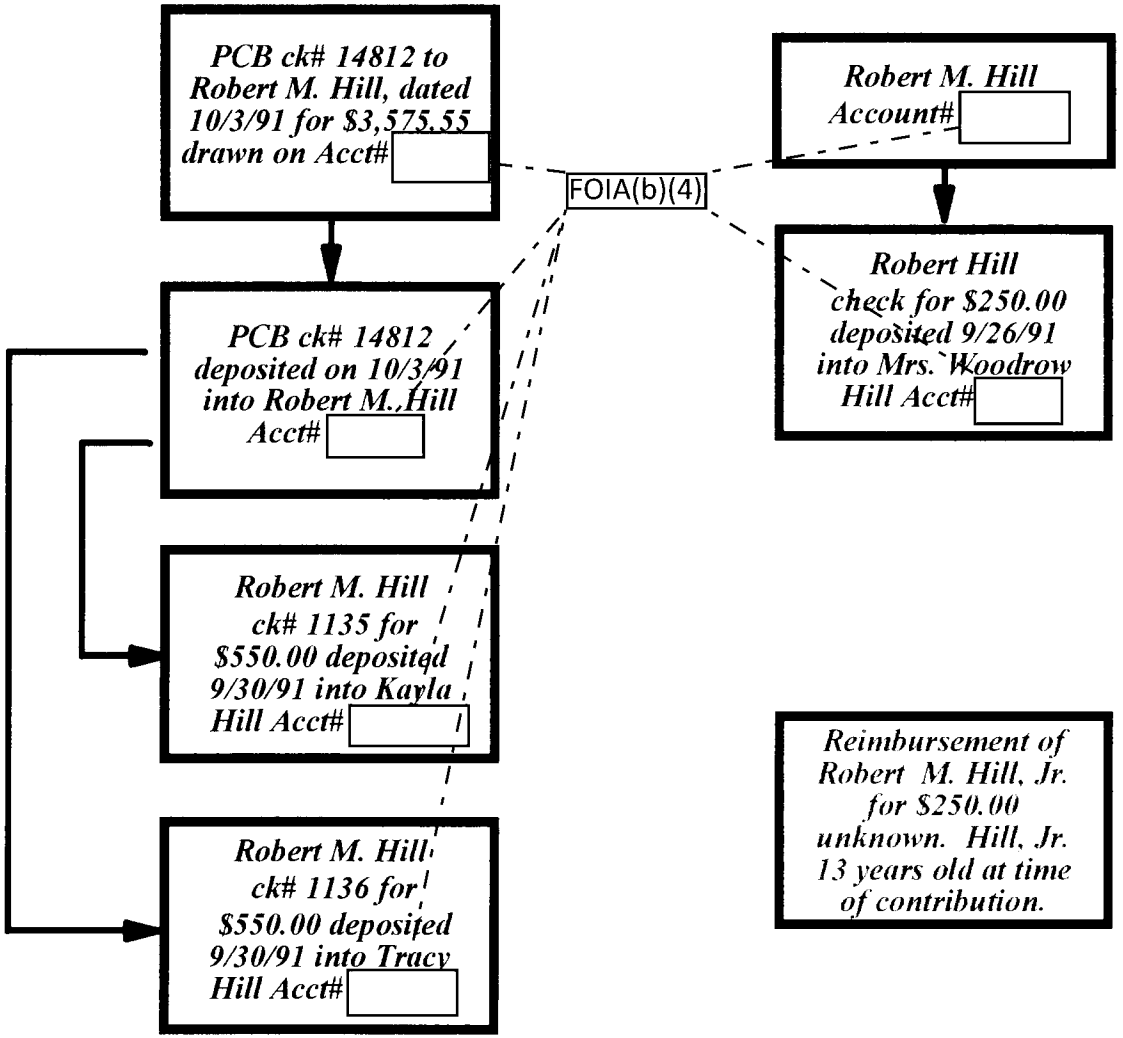
Summary of Robert Hill's Reimbursement of 9/91
Presidential Conduit Contributions

(All transactions at Perry County Bank)



Draft: 11/1/95

Information not yet known or available

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DRAFT DRAFT: 11/1/95

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA	)	No. LR-CR-95-____
	)	
v.	)	18 U.S.C. § 371;
	)	18 U.S.C. §§ 2, 656;
HERBY BRANSCUM, JR. and	)	18 U.S.C. § 1005
ROBERT M. HILL	)	

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

A. Introduction

At various times material to this Indictment:

1. The Perry County Bank was a state chartered bank located in Perryville, Arkansas. The deposits of the Perry County Bank were insured by the Federal Deposit Insurance Corporation ("FDIC").

2. Perry County Bankshares, Inc. was a bank holding company and the parent corporation of the Perry County Bank.

3. The FDIC was an agency of the United States government established to regulate and supervise institutions insured by the FDIC. The FDIC periodically examined insured institutions to assure that they were operated in a safe and sound manner and in conformity with applicable laws and regulations.

4. As a federally insured institution, the Perry County Bank was subject to periodic examinations by the FDIC to

assure that the Perry County Bank was operated in a safe and sound manner in conformance with, among other things, the laws and regulations prohibiting self-dealing, theft, embezzlement or misapplication of bank moneys and funds by persons affiliated with the Perry County Bank.

5. Beginning in or about 1985, and continuing until the present, Defendant HERBY BRANSCUM, JR. was a director of the Perry County Bank and a controlling shareholder of Perry County Bankshares, Inc. On or about January 23, 1991, the Governor of Arkansas, William Jefferson Clinton, appointed Defendant HERBY BRANSCUM, JR. a Commissioner of the Arkansas State Highway Commission.

6. Beginning in or about 1985, and continuing until the present, Defendant ROBERT M. HILL was a director of the Perry County Bank and a controlling shareholder of Perry County Bankshares, Inc. On or about December 31, 1991, the Governor of Arkansas, William Jefferson Clinton, re-appointed Defendant ROBERT M. HILL a Commissioner of the Arkansas State Banking Commission.

7. In or about June 1989, Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL hired Neal T. Ainley as the President of the Perry County Bank. Neal Ainley was the President of the Perry Count Bank from in or about June 1989 until in or about March 1994.

8. Clinton for Governor was a political campaign organization established to conduct William Jefferson Clinton's

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campaign in 1990 for re-election as Governor of the State of Arkansas.

9. Charlie Daniels was a political candidate for election as Arkansas State Land Commissioner in 1990.

10. The Clinton Exploratory Committee was a political campaign organization established to explore the possible candidacy of William Jefferson Clinton for election as President of the United States in 1992.

11. Jimmie Lou Fisher was Arkansas State Treasurer in 1993.

B. The Conspiracy

12. Beginning on or about May 1990, and continuing thereafter through at least October 1993, in the Eastern District of Arkansas, Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL combined, agreed and conspired together (a) to defraud the United States by impairing, impeding, obstructing and defeating the lawful function of the FDIC; and (b) to violate Title 18, United States Code, Sections 656 and 1005.

13. It was an object of the conspiracy that Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL intentionally would obstruct, impair and impede the FDIC in the lawful discharge of its function of examining the books and records of the Perry County Bank to assure that the Perry County Bank was being operated in a safe and sound manner and in conformity with applicable laws and regulations.

14. It was a further object of the conspiracy to

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permit Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL to misapply moneys and funds belonging to the Perry County Bank without detection by state or federal banking regulators, and to funnel the misapplied funds through Defendants, members of Defendants' families, and others to various political campaigns, candidates and office holders, including the Clinton for Governor campaign in 1990, the campaign of Charlie Daniels for Arkansas State Land Commissioner in 1990, the Clinton Exploratory Committee in 1991, and Jimmie Lou Fisher, Arkansas State Treasurer, in 1993.

15. It was a further object of the conspiracy that Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL would cause false and misleading entries to be made in the books of the Perry County Bank, as follows:

a. Defendants caused at least $7,200 in checks made payable to Defendants and others to be recorded in the Perry County Bank's ledgers as payments for convention expenses and for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, the payments were not for convention expenses and for legal or professional services rendered to the Perry County Bank, but instead were to reimburse Defendants, members of Defendants' families, and others for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of the Defendants;

b. Defendants caused at least $200 in checks made payable to Defendant HERBY BRANSCUM and Perry County Bank

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President Neal Ainley to be recorded in Perry County Bank's ledgers as payments for miscellaneous business expenses, when in fact, as Defendants well knew, the payments were not for miscellaneous business expenses incurred on behalf of the Perry County Bank, but instead were to reimburse Defendant HERBY BRANSCUM and Perry County Bank President Neal Ainley for political contributions they made to the campaign of Charlie Daniels for Arkansas State Land Commissioner at the direction of the Defendants;

c. Defendants caused $3,000 of a check in the amount of $3,575.55 made payable to Defendant ROBERT M. HILL to be recorded in Perry County Bank's ledgers as a payment for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, $3,000 of the $3,575.55 payment was not for legal and professional services rendered to the Perry Count Bank, but instead was to reimburse Defendant ROBERT M. HILL and members of his family for political contributions they made to the Clinton Exploratory Committee at his direction;

d. Defendants caused a check in the amount of $[insert] made payable to Defendant HERBY BRANSCUM, JR. to be recorded in Perry County Bank's ledgers as a payment for [insert], when in fact, as the Defendants well knew, the payment was not for [insert], but instead was to reimburse Defendant HERBY BRANSCUM, JR., members of his family and certain of his employees for political contributions they made to the Clinton

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Exploratory Committee at his direction;

e. Defendants caused a check in the amount of $250 made payable to Perry County Bank President Neal Ainley to be recorded in Perry County Bank's ledgers as a payment for [insert], when in fact, as the Defendants well knew, the payment was not for [insert], but instead were to reimburse Perry County Bank President Neal Ainley for a political contribution he made to Jimmie Lou Fisher, Arkansas State Treasurer, at the direction of the Defendants.

C. The Means of the Conspiracy

16. The means and methods used to accomplish this conspiracy were as follows:

a. Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL combined and agreed to obtain and misapply at least $7,200 in moneys and funds belonging to the Perry County Bank by obtaining "expense" checks from Perry County Bank's operating account, falsely reported as payments for convention expenses and for legal and professional services rendered to the Perry County Bank, and thereafter using such proceeds to reimburse Defendants, members of Defendants' families, and others for political contributions made in their names to the 1990 Clinton for Governor Campaign; and

b. Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL combined and agreed to make, and to cause to be made, false entries in the records of the Perry County Bank by:

(1) withdrawing from the Perry County Bank

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at least $200 in the form of an expense check made payable to Perry County Bank President Neal T. Ainley, on or about May 23, 1990, and causing such expenditures to by falsely recorded as for convention expenses;

(2) withdrawing from the Perry County Bank at least $200 in the form of expense checks made payable to Defendant HERBY BRANSCUM, JR. and Perry County Bank President Neal T. Ainley, on or about October 25, 1990, and causing such expenditures to be falsely recorded as for miscellaneous business expenses;

(3) withdrawing from the Perry County Bank at least $7,000 in the form of expense checks made payable to Defendants and Perry County Bank President Neal T. Ainley, on or about December 11, 1990, and causing such expenditures to by falsely recorded as for legal or other professional services;

(4) withdrawing from the Perry County Bank at least $3,000 in the form of an expense check in the amount of #3575.55 made payable to Defendant ROBERT M. HILL, on or about October 3, 1991, and causing such expenditures to be falsely recorded as for legal or other professional services;

(5) withdrawing from the Perry County Bank at least $[insert] in the form of an [insert] made payable to Defendant HERBY BRANSCUM, JR., on or about [insert], and causing such expenditures to be falsely recorded as for

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[insert]; and

(6) withdrawing from the Perry County Bank at least $250 in the form of an expense check made payable to Perry County Bank President Neal T. Ainley, on or about [insert], 1993, and causing such expenditure to be falsely recorded as for [insert].

D. Overt Acts

17. In furtherance of the conspiracy and to accomplish its unlawful objectives, Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL committed and caused to be committed various overt acts in the Eastern District of Arkansas, among which were the following:

a. On or about May 23, 1990, a $200 expense check was drawn on Perry County Bank operating account [redacted] check no. 13179, payable to Perry County Bank President Neal Ainley. FOIA(b)(4)

b. On or about December 11, 1990, a $3,000 expense check was drawn on Perry County Bank operating account [redacted] check no. 13850, payable to Defendant HERBY BRANSCUM JR.

c. On or about December 14, 1990, a $3,000 expense check was drawn on Perry County Bank operating account [redacted] check no. 13850, payable to Defendant HERBY BRANSCUM JR., was deposited into the account of Herby Branscum, Jr., P.A. Attorney at Law Escrow, at the Perry County Bank, account no. [redacted]

d. On or about December 11, 1990, a $3,000

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expense check was drawn on Perry County Bank operating account [redacted], check no. 13851, payable to Defendant ROBERT M. HILL.

e. On or about December 13, 1990, a $3,000 expense check was drawn on Perry County Bank operating account [redacted], check no. 13851, payable to Defendant ROBERT M. HILL, was deposited into the account of Rob Hill, CPA, at the Perry County Bank, account no. [redacted].

f. On or about December 11, 1990, a $1,000 expense check was drawn on Perry County Bank operating account [redacted], check no. 13851, payable to Perry County Bank President Neal Ainley.

FOIA(b)(4)

g. On or about December 11, 1990, a $1,000 expense check drawn on the Perry County Bank account [redacted] check no. 13852, payable to Perry County Bank President Neal Ainley, was deposited into his business account at the Perry County Bank, account no. [redacted].

h. [reimbursement to Branscum -- information not yet available]

i. On or about [insert], [insert] was deposited into the account of Herby Branscum, Jr. P.A. Attorney at Law, at the Perry County Bank, account no. [redacted].

j. On or about October 3, 1991, a $3,575.55 expense check was drawn on Perry County Bank operating account [redacted], check no. 14812, payable to Defendant ROBERT M. HILL.

k. On or about October 3, 1991, a $3,575.55 expense check drawn on Perry County Bank operating account [redacted]

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check no. 14812, payable to Defendant ROBERT M. HILL, was deposited into the account of Robert M. Hill, at the Perry County Bank, account no. [redacted] FOIA(b)(4)

1. On or about [insert], a $250 expense check was drawn on Perry County Bank operating account [redacted] check no. [insert], payable to Perry County Bank President Neal T. Ainley.

All in violation of Title 18, United States Code, Section 371.

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COUNT TWO

18. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

19. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL,

with intent to deceive the FDIC and the examiners appointed to examine the affairs of the Perry County Bank, knowingly and willfully made and caused to be made a false and misleading entry in the books of the Perry County Bank, in that the Defendants caused Check No. 13850, a $3,000 check made payable to Defendant HERBY BRANSCUM, JR., to be recorded in Perry County Bank's ledgers as payment for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, the payment was not for legal or professional services rendered to the Perry County Bank, but instead to reimburse Defendant HERBY BRANSCUM, JR. and members of his family for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendant HERBY BRANSCUM, JR.

All in violation of Title 18, United States Code, Section 1005 and Title 18, United States Code, Title 2.

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COUNT THREE

20. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

21. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL,

with intent to deceive the FDIC and the examiners appointed to examine the affairs of the Perry County Bank, knowingly and willfully made and caused to be made a false and misleading entry in the books of the Perry County Bank, in that the Defendants caused Check No. 13851, a $3,000 check made payable to Defendant ROBERT M. HILL, to be recorded in Perry County Bank's ledgers as payment for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, the payment was not for legal or professional services rendered to the Perry County Bank, but instead to reimburse members of the family of Defendant ROBERT M. HILL for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendant ROBERT M. HILL.

All in violation of Title 18, United States Code, Section 1005 and Title 18, United States Code, Title 2.

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COUNT FOUR

22. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

23. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL,

with intent to deceive the FDIC and the examiners appointed to examine the affairs of the Perry County Bank, knowingly and willfully made and caused to be made a false and misleading entry in the books of the Perry County Bank, in that the Defendants caused Check No. 13852, a $1,000 check made payable to Neal T. Ainley, to be recorded in Perry County Bank's ledgers as payment for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, the payment was not for legal or professional services rendered to the Perry County Bank, but instead to reimburse Neal Ainley and his wife for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL.

All in violation of Title 18, United States Code, Section 1005 and Title 18, United States Code, Title 2.

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COUNT FIVE

24. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

25. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL

each connected in a capacity with the Perry County Bank, a financial institution the accounts of which were insured by the FDIC, with intent to injure and defraud the Perry County Bank, knowingly and wilfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to the Perry County Bank, in that the Defendants caused the issuance of Check No. 13850, drawn on the Perry County Bank's legal and professional expenses account, in the amount $3,000, payable to Defendant HERBY BRANSCUM, JR., knowing full well that the $3,000 proceeds were not in payment for legal or other professional services rendered to the Perry County Bank, but rather to provide funds for Defendant HERBY BRANSCUM, JR. to reimburse himself, and to pass on reimbursement to members of his family, for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendant HERBY BRANSCUM, JR.

All in violation of Title 18, United States Code, Section 656 and Title 18, United States Code, Section 2.

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COUNT SIX

26. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

27. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL

each connected in a capacity with the Perry County Bank, a financial institution the accounts of which were insured by the FDIC, with intent to injure and defraud the Perry County Bank, knowingly and wilfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to the Perry County Bank, in that the Defendants caused the issuance of Check No. 13851, drawn on the Perry County Bank's legal and professional expenses account, in the amount $3,000, payable to Defendant ROBERT M. HILL, knowing full well that the $3,000 proceeds were not in payment for legal or other professional services rendered to the Perry County Bank, but rather to provide funds for Defendant ROBERT M. HILL to reimburse members of his family for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendant ROBERT M. HILL.

All in violation of Title 18, United States Code, Section 656 and Title 18, United States Code, Section 2.

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COUNT SEVEN

28. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

29. On or about December 11, 1990, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL

each connected in a capacity with the Perry County Bank, a financial institution the accounts of which were insured by the FDIC, with intent to injure and defraud the Perry County Bank, knowingly and wilfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to the Perry County Bank, in that the Defendants caused the issuance of Check No. 13852, drawn on the Perry County Bank's legal and professional expenses account, in the amount $1,000, payable to Neal T. Ainley, knowing full well that the $1,000 proceeds were not in payment for legal or other professional services rendered to the Perry County Bank, but rather to reimburse Perry County Bank President Neal Ainley and his wife for political contributions they made to the 1990 Clinton for Governor Campaign at the direction of Defendants HERBY BRANSCUM, JR. and ROBERT M. HILL.

All in violation of Title 18, United States Code, Section 656 and Title 18, United States Code, Section 2.

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COUNT EIGHT

30. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

31. On or about [insert], within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL,

with intent to deceive the FDIC and the examiners appointed to examine the affairs of the Perry County Bank, knowingly and willfully made and caused to be made a false and misleading entry in the books of the Perry County Bank, in that the Defendants caused [insert reimbursement -- information not yet available] but instead to reimburse Defendant HERBY BRANSCUM, JR., members of his family, and certain of his employees for political contributions they made to the Clinton Exploratory Committee at the direction of Defendant HERBY BRANSCUM, JR. in September 1991.

All in violation of Title 18, United States Code, Section 1005 and Title 18, United States Code, Title 2.

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COUNT NINE

32. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

33. On or about October 3, 1991, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL,

with intent to deceive the FDIC and the examiners appointed to examine the affairs of the Perry County Bank, knowingly and willfully made and caused to be made a false and misleading entry in the books of the Perry County Bank, in that the Defendants caused Check No. 14812, a $3,000 check made payable to Defendant ROBERT M. HILL, to be recorded in Perry County Bank's ledgers as payment for legal and professional services rendered to the Perry County Bank, when in fact, as the Defendants well knew, the payment was not for legal or professional services rendered to the Perry County Bank, but instead to reimburse Defendant ROBERT M. HILL and members of his family for political contributions they made to the Clinton Exploratory Committee at the direction of Defendant ROBERT M. HILL in September 1991.

All in violation of Title 18, United States Code, Section 1005 and Title 18, United States Code, Title 2.

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COUNT TEN

34. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

35. On or about [insert], within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL

each connected in a capacity with the Perry County Bank, a financial institution the accounts of which were insured by the FDIC, with intent to injure and defraud the Perry County Bank, knowingly and wilfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to the Perry County Bank, in that the Defendants caused [insert reimbursement to Branscum -- information not yet available] but rather to provide funds for Defendant HERBY BRANSCUM, JR. to reimburse himself, and to pass on reimbursement to members of his family and certain of his employees, for political contributions they made to Clinton Exploratory Committee at the direction of Defendant HERBY BRANSCUM, JR. in September 1991.

All in violation of Title 18, United States Code, Section 656 and Title 18, United States Code, Section 2.

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COUNT ELEVEN

36. Paragraphs 1 through 12 of Count One are hereby realleged and incorporated as though set forth in full herein.

37. On or about October 3, 1991, within the Eastern District of Arkansas, Defendants

HERBY BRANSCUM, JR.
and
ROBERT M. HILL

each connected in a capacity with the Perry County Bank, a financial institution the accounts of which were insured by the FDIC, with intent to injure and defraud the Perry County Bank, knowingly and wilfully misapplied and caused to be misapplied moneys and funds in excess of $100 belonging to the Perry County Bank, in that the Defendants caused the issuance of Check No. 14812, drawn on the Perry County Bank's legal and professional expenses account, in the amount $3,000, payable to Defendant ROBERT M. HILL, knowing full well that the $3,000 proceeds were not in payment for legal or other professional services rendered to the Perry County Bank, but rather to provide funds for Defendant ROBERT M. HILL to reimburse himself, and to pass on reimbursement to members of his family, for political contributions they made to the Clinton Exploratory Committee at the direction of Defendant ROBERT M. HILL in September 1991.

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All in violation of Title 18, United States Code, Section 656 and Title 18, United States Code, Section 2.

A TRUE BILL.

_____
FOREMAN

_____
KENNETH W. STARR
INDEPENDENT COUNSEL

Dated: November __, 1995

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POLYGRAPHS

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FOIA RD 56806 (URTS 16302) DOCID:
70104946

MEMORANDUM

TO: Judge Starr
OIC Attorneys

FROM: Brett Kavanaugh

RE: Polygraphs

DATE: August 14, 1995

An issue was raised at our meeting Monday regarding the use of polygraphs by this Office. Two witnesses in Washington have been given polygraphs: Maggie Williams and Betsy Pond. In the Williams case, the Office had evidence suggesting that she carried documents out of the Counsel's suite on the night of July 20. In the Pond case, we had evidence suggesting that she had lied to investigators about her purpose for going into Foster's office on the morning of July 21. In both cases, however, it was decided that the witness would not be prosecuted on the basis of the evidence we then possessed. (In the Williams case, the conclusion was reached by Mark Stein in August 1994 and the polygraph was given in early September.)

In these two cases, the polygraph was in effect a way to confirm to the satisfaction of the attorneys and agents the decision not to prosecute. It is important to note, however, that we have not confronted a case in Washington where a witness facing indictment has offered to take a polygraph. Therefore, I do not believe that we can be criticized for inconsistency in a decision to decline Watt's polygraph offer.

Even though there would be no problem of Office inconsistency in declining Watt's offer, I do note that the DOJ Manual appears more receptive to polygraphs than was suggested at our meeting Monday. It says that "Department policy therefore supports the limited use of the polygraph during investigations" and that "[t]he Department, unlike the Government Operations Committee, supports the limited use of polygraphs for investigatory purposes."

Memorandum **Office of the Independent Counsel**

To : AIC Brett Kavanaugh Date 11/20/95

From : CI Coy A. Copeland

Subject: Repeated Polygraph Examinations

On 11/20/95, Supervisory Special Agent JAMES K. MURPHY, Unit Chief, Polygraph Unit, Document Section, Laboratory Division, FBIHQ, telephone 202-324-2985, advised he is the polygraph examiner who examined MARGARET WILLIAMS in connection with this investigation.

He also advised when he administrated the examination to WILLIAMS, he was aware that she had previously been examined by a polygraph examiner in Philadelphia that her attorney had set up for her. He was also aware that at the time of the examination she was taking some type of prescription drug, which he could not now recall.

His professional opinion is that a "practice" examination(s) will not effect the outcome of subsequent examinations.

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70104948

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) Date of transcription 3/7/94

FOIA(b)(6)

GEORGE MICHAEL PAYNE (white male born [redacted] was interviewed at his place of employment, ED'S SUPPLY CO., INC., 2300 Cantrell Road, Little Rock, Arkansas 72202, telephone number (501) 375-9851, by Special Agents [redacted] and [redacted] Federal Bureau of Investigation (FBI). Mr. PAYNE was advised that this interview concerned the alleged shredding of documents and files by the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. PAYNE advised that his present residence address is P.O. Box 216, Vilonia, Arkansas 72173, telephone number (501) 796-2705.

Mr. PAYNE advised he is the co-owner of ED'S SUPPLY CO., INC., and his business is located next door to warehouse space leased by the ROSE LAW FIRM. He advised his business has been at this location since December 1990.

Mr. PAYNE advised he does not know any of the employees who work next door at the ROSE LAW FIRM. He stated he did not even know who was next door until a uniformed guard started showing up every day sometime in early 1992 (maybe March). He stated he does not know the identity of the guard company, but believes that the guards were in blue uniforms. He stated that the guards came in what he assumes were their personal cars as there were no markings on the vehicles. He advised that the guard service was there no more than six months.

Mr. PAYNE advised that sometime over a year ago, exact date unrecalled, he saw a BFI shredding truck backed up to the dock of the ROSE LAW FIRM next door. He stated that the truck was there for at least several hours. He stated he never saw any of the shredding being done nor does, he have any idea what was being shredded. He advised he is sure the truck was a BFI truck because it was painted blue and white.
He advised this was the first and only time he ~~has seen such a~~ truck at the ROSE LAW FIRM.

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Investigation on 3/4/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] SA Date dictated 3/7/94

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FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 2

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Mr. PAYNE advised he never saw a uniformed guard after the day this truck, as described above, was seen next door.

Mr. PAYNE provided the following information:

Name	GEORGE MICHAEL PAYNE
Race	White
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'10"
Weight	180 pounds
Hair	Gray
Eyes	Brown

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 3/7/94

FOIA(b)(6)

ROBERT EVERETT LEE (white male born [redacted] was interviewed at the AUTO SPORTS CENTER, 2226 Cantrell Road, Cajuns Wharf Complex, Little Rock, Arkansas 72202, telephone number (501) 375-7223, by Special Agents [redacted] and [redacted] Federal Bureau of Investigation (FBI). Mr. LEE was advised that this interview concerned the alleged shredding of documents and files by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. LEE advised that his present residence address is 5 Cherry Tree Court, North Little Rock, Arkansas 72116, telephone number (501) 771-4421. He advised he is retired from the poultry production business.

Mr. LEE advised he is a regular customer of the AUTO SPORTS CENTER and, until about one and one-half years ago, did not know that the ROSE LAW FIRM occupied space two doors west of the AUTO SPORTS CENTER.

Mr. LEE advised that one day, date unrecalled, in 1992 he saw a uniformed guard at the space he now knows is leased by the ROSE LAW FIRM. He advised that a few months later, possibly September 1992, he saw a large blue and white BFI shredding truck backed up to the ROSE LAW FIRM dock. He advised that he did not see anyone working on or around the truck, nor does he have any idea what was being shredded. He stated he never saw a security guard there after the truck left. He stated he recalls the guard was wearing dark blue pants and a light blue shirt. He stated he does not know for which security company the guard worked.

Mr. LEE provided the following information:

Name	ROBERT EVERETT LEE
Race	White
Sex	Male
DOB	[redacted]

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SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]
MAR 07 1994
FBI — LITTLE ROCK

Investigation on 3/4/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] SA Date dictated 3/7/94

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29D-LR-35063

Continuation of FD-302 of ROBERT EVERETT LEE FOIA(b)(6) . On 3/4/94 . Page 2

POB	
SSAN	
Height	5'9"
Weight	185 pounds
Hair	Gray
Eyes	Blue

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

FOIA(b)(6)

Date of transcription 3/7/94

LEONARD JOSEPH LAMIA (white male born [redacted] was interviewed at his place of employment, AUTO SPORTS CENTER, 2226 Cantrell Road, Cajuns Wharf Complex, Little Rock, Arkansas 72202, telephone number (501) 375-7223, by Special Agents [redacted] and [redacted] Federal Bureau of Investigation (FBI). Mr. LAMIA was advised that this interview concerned the alleged shredding of documents and files by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. LAMIA advised that his present residence address is 6324 South Wind Drive, North Little Rock, Arkansas 72118, telephone number (501) 771-1591.

Mr. LAMIA advised he is the owner of the AUTO SPORTS CENTER, and his business is located two doors east of the warehouse space leased by the ROSE LAW FIRM. He advised his business has been at this location since February 1988.

Mr. LAMIA advised he has known for sometime that the space next to ED'S SUPPLY CO., INC., was leased by the ROSE LAW FIRM. He stated he has seen the women who work there, but has never met them. He stated he can recall seeing uniformed security guards working in that space in 1992, but does not recall anything about them.

Mr. LAMIA advised he recalls, that sometime in either September or October 1992 (prior to the 1992 Presidential election), there was a shredding truck backed up to the ROSE LAW FIRM dock. He stated it was a large "dumpster" type truck with a shredder on the back. He stated it was painted blue and white, and he thinks it was from BFI. He advised that he did not see anyone bringing anything out to the truck, nor does he have any idea what was being shredded. He stated he cannot recall how long the truck was there, but believes it was for several hours.

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SERIALIZED [redacted] FILED [redacted]
MAR 07 1994
FBI — LITTLE ROCK

Investigation on 3/4/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 3/7/94

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(COPY) 29D-LR-35063-Sub-11 — 24

Mr. LAMIA advised he did not see the guards again after the truck left. He stated this was the first and only time he can recall ever seeing a shredding truck at the ROSE LAW FIRM dock.

Mr. LAMIA provided the following information:

Name	LEONARD JOSEPH LAMIA
Race	White
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'7"
Weight	190 pounds
Hair	Gray
Eyes	Brown

FEDERAL BUREAU OF INVESTIGATION FOIA(b)(6)

FOIA(b)(7) - (C)

Date of transcription 3/7/94

HARRY ALAN WHEELER (white male born [redacted] was interviewed at his place of business, ED'S SUPPLY CO., INC., 2300 Cantrell Road, Little Rock, Arkansas 72202, telephone number (501) 375-9851, by Special Agents [redacted] and [redacted] Federal Bureau of Investigation (FBI). Mr. WHEELER was advised that this interview concerned the alleged shredding of documents and files by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. WHEELER advised that his present residence address is 1115 Eastview Drive, Jacksonville, Arkansas 72076, telephone number (501) 982-0733.

Mr. WHEELER advised he is the technical services advisor for ED'S SUPPLY CO., INC., and his business is located next door to warehouse space leased by the ROSE LAW FIRM. He advised his employer has been at this location since December 1990.

Mr. WHEELER advised he recalls that, about March 1992 or shortly after the first Presidential primary, the ROSE LAW FIRM started having a uniformed guard on duty next door. He advised this was "round the clock" service. He stated he does not know which guard service it was, but thinks maybe the guards were in blue uniforms. He stated a guard continued to be on duty in the ROSE LAW FIRM space until about September or October 1992 when an alarm system was installed. He advised he does not know why the ROSE LAW FIRM would have wanted to use a guard service. He stated this warehouse district had not had any particular problems that would have warranted guard service.

Mr. WHEELER advised that in September or October 1992 he saw a blue and white BFI shredding services truck backed up to the ROSE LAW FIRM dock. He stated the truck was there most of the day. He stated he cannot recall hearing the shredder.

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Investigation on 3/4/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 3/7/94

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running, but assumes that it was. He advised he never saw any of the shredding being done, nor does he have any idea what was being shredded. He advised that this was the first and only time he has ever seen such a truck at the ROSE LAW FIRM.

Mr. WHEELER provided the following information:

Name	HARRY ALAN WHEELER
Race	White
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
Height	5'6"
Weight	215 pounds
Hair	Gray
Eyes	Blue

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury FOIA(b)(7) - (C)

Date of transcription 2/24/94

On 2/18/94, CATHY CAMPBELL, white female, was contacted at the ROSE LAW FIRM, 120 E. Fourth st., Little Rock, Ar. and advised of the identities of SAs [redacted] AND [redacted] verbally and by display of credentials.

[redacted]

CAMPBELL was furnished a receipt for these documents and they were transported for storage at the FBI Office, Little Rock, Ar.

29D-LR-35063 Sub A 11-27

CC: Orig. Sub A

Investigation on 2/18/94 at Little Rock, Ar. File # 29D-LR-35063

by [redacted] Date dictated 2/24/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 10

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FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

FOIA(b)(7) - (C)

Date of transcription 2/23/94

DELORES ANN WALKER (white female born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Associate Independent Counsel JULIE R. O'SULLIVAN and Special Agent [redacted] Ms. WALKER was advised that this interview concerned the alleged shredding of "Whitewater" documents at the ROSE LAW FIRM, Little Rock, Arkansas.

Present during this interview was Ms. WALKER's attorney, ALDEN L. ATKINS, of the firm of VINSON & ELKINS, L.L.P., the Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C., telephone number (202) 639-6613.

Ms. WALKER advised that her present residence address is 4720 South 78th East Place, Tulsa, Oklahoma 74145, telephone number (918) 665-2583. She stated she is currently employed as a clerk in the cash office of VENTURE, a Tulsa retail department store. She stated she started this employment two days ago.

Ms. WALKER advised she worked for the ROSE LAW FIRM from December 1986 until February 4, 1994, as a records clerk in the Firm's remote storage facility. She advised she was replaced in this position by her sister, BARBARA JEAN PERKINS.

Ms. WALKER advised that, when she was first hired, her original responsibility was to establish a central filing system. She stated she did this with another employee, RICKI STACEY, who was already working at the remote storage facility. She advised that later she was responsible for microfiching files maintained at the remote storage facility.

...ALIZED FILED

FEB 23 1994

FBI — LITTLE ROCK

Investigation on 2/22/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/23/94

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FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 11

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Ms. WALKER described the procedure for storing material at the remote storage facility. She stated a courier would bring boxes of material to be stored from the main office and put them in the warehouse area. She or Ms. STACEY would take the files out of the boxes, give each file a number, and put the files on the shelf for storage. She advised that a list was maintained by attorney's name of the documents and material in storage.

Ms. WALKER advised there was only one microfiche machine, and she was the only employee who used it.

Ms. WALKER advised that the lists would be sent to the attorneys who were responsible for marking the listed items either for destruction, shelving, or microfiching. She advised that, if they failed to mark an item, it was usually microfiched by default. She advised she and Ms. STACEY complied with the attorney's instructions. There was no system for review. She stated that, when she left the Firm, she was microfiching "accounting records," which microfiching she had started with the 1984 records. She advised she does not believe any "accounting records" before 1984 still exist.

Ms. WALKER advised she had nothing to do with the actual destruction of records. She stated that, after she or Ms. STACEY had pulled files marked by the attorney for destruction, they placed them in boxes. She advised that, when they had enough boxes for a "load," they would notify BOB BOUCHER, and he would pick them up. She advised that it was not her responsibility to decide what was to be destroyed. She stated she had nothing to do with the destruction of any files.

Ms. WALKER advised all the lists are maintained at the remote storage facility. She stated that Ms. STACEY had a list and she, Ms. WALKER, had a list. She stated Ms. STACEY's lists are more complete. She said there was no "master book" of lists. She stated all the attorneys would mark lists except for two or three of them. She stated these attorneys would have MARY RUSSELL call with their instructions. She stated that HILLARY CLINTON and VINCENT FOSTER always used written lists.

Ms. WALKER advised that, when a marked list was returned by an attorney, she would comply with the instructions, i.e., microfiche, destroy, etc., then mark Ms. STACEY's copy in red ink indicating what she (Ms. WALKER) had done. She advised she would then keep the attorney-marked copy in her files. She stated she kept the lists in file folders in her filing cabinet. She advised the cabinet was not locked. She stated that most of the time there were only two people in the remote storage facility.

Ms. WALKER advised everything that came in or left the remote storage facility was logged in and out. She advised the log would show who called for a file, the date and time it was sent, and when it was returned. She stated that, when an item was returned, it was "highlighted" so that she and Ms. STACEY would know it had been returned.

Ms. WALKER advised she recalls that a day or two prior to February 3, 1994, some boxes were sent for destruction, but she does not know what they were. She stated that she assumes they were probably "accounting records."

Ms. WALKER advised she recalls getting HILLARY CLINTON's list back, and Ms. CLINTON had marked every item on the entire list. She advised she cannot recall how much was for destruction and how much was to be microfiched. She said that she does recall some of the items on her list were to be destroyed. She advised that this was in either 1988 or 1989. She stated she cannot recall seeing Ms. CLINTON's list since she, Ms. CLINTON, left the Firm.

Ms. WALKER advised that about that time (1988 or 1989) the Firm used an outside company to do all its shredding.

Ms. WALKER advised that she has no specific recollection of anyone's calling for any of Ms. CLINTON's files about the time of the Presidential election. She advised that there were occasions that CAROLYN HUBER might call for files, but she (Ms. WALKER) has no specific recollection of this. She stated she does not recall any of Ms. CLINTON's files being destroyed during the election period or since the election.

Ms. WALKER advised she got VINCENT FOSTER's marked list from MARY RUSSELL about the time FOSTER left the Firm. She stated FOSTER had a "very large" list. She stated she cannot recall how much was to be microfiched and how much was to be destroyed. She advised that her recollection is that FOSTER did not want much done to his files except to store them.

Ms. WALKER advised that, after FOSTER's death in July 1993, there were calls for a few of his files. She stated Ms. STACEY would have handled that. She stated any files sent to the main office would have been logged out, and the log would show if any of them had been returned. She stated she does not know who might have requested the files, nor does she know the subject matter of those files. She advised she does not recall any destruction of FOSTER's records after his death.

Ms. WALKER advised she does not recall ever hearing of "Whitewater" until a couple of months ago. She stated she does recall seeing the name MADISON GUARANTY SAVINGS & LOAN (MGSL) on Ms. CLINTON's list. She advised she and Ms. STACEY were instructed to make a search for any files relating to the RESOLUTION TRUST CORPORATION (RTC), MGSL, and another unrecalled file. She stated that it was probably a day or two later that she and Ms. STACEY were told to also search for "Whitewater" material. She stated she does not recall ever finding any "Whitewater" material.

Ms. WALKER was shown a copy of a page from the list of HILLARY CLINTON. She stated this was a copy of the list maintained by Ms. STACEY, and the items listed on this page related to MGSL. She stated that the "D" on the list was made by her and indicated to Ms. STACEY that those files had been destroyed. She advised that, when she was searching for MGSL files, she double-checked her "CLINTON" list (the one actually marked by Ms. CLINTON) to make sure she had complied with all instructions. She advised that a few days later she tried to locate the above-noted page, but discovered it was missing. She advised this is the only page from the "CLINTON" list which is missing. She speculated that it may have inadvertently been put in another attorney's list file.

Ms. WALKER advised that, when KATHY HARRIS joined the Firm, she, Ms. HARRIS, requested that she receive copies of the attorney lists. Ms. WALKER advised she sent lists to Ms. HARRIS two or three times, but then she got busy and did not continue the practice.

Ms. WALKER advised that no one else in the Firm except Ms. STACEY and Ms. HARRIS knows how she handled the lists.

Ms. WALKER advised that the remote storage facility was kept locked when she and Ms. STACEY were not there. She advised that the facility was alarmed and that she, Ms. STACEY, and BOUCHER had keys for the alarm system. She stated that Ms. PERKINS now has access. She advised that RANDY (LNU) used to come over and work in the facility, and, of course, he had access to the facility.

Ms. WALKER provided the following information:

Name	DELORES ANN WALKER
Race	White
Sex	Female
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'3"
Weight	155 pounds
Hair	Red
Eyes	Brown

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 2/16/94

GARLAND JEROME GARRETT, also known as (aka) GARY GARRETT, voluntarily appeared at the Little Rock Office of the Federal Bureau of Investigation accompanied by his attorney, C. MICHAEL BUXTON, VINSON AND ELKINS LAW FIRM, Washington, D.C. PAT SMITH, Attorney with the Office of Special Counsel, introduced himself and Special Agent [redacted] GARRETT and BUXTON were familiar with the purpose of the requested interview, and Mr. GARRETT provided the following information:

In response to PAT SMITH's question, both GARRETT and BUXTON acknowledged that neither had a recording device, that the conversation was not being recorded by either of them. GARRETT acknowledged that he is a partner of the ROSE LAW FIRM, Little Rock, Arkansas, and has been a partner since 1985. He joined ROSE LAW FIRM approximately 13 1/2 years ago.

GARRETT advised that he has no personal policy for the retention or destruction of files related to his practice of law at the ROSE LAW FIRM. He further advised that there is no in-house policy at the ROSE LAW FIRM regarding the destruction or retention of files or documents with the decision regarding destruction or retention left to the individual attorney responsible for those files and documents.

GARRETT stated that in September or October, 1993, he physically changed office space within the ROSE LAW FIRM. At that time, he was aware that he would have less file space in the new office and, within one month after moving to the new office space, he completed a review of all files and documents which were under his personal control and responsibility, purging some of those documents, marking others for "remote storage," and moving the remainder to the new office space file area. Those documents which GARRETT marked "TO BE PURGED" were "to be thrown away as marked."

cc: Div. Sub A
Copy Sub 11

29D-LR-35063 Sub 11 - [illegible]

Investigation on 2/16/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/16/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 16

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It was GARRETT's best recollection that this file review process was completed within one month after his moving to new office space in September or October, 1993.

In response to a specific question regarding whether any of the files which were reviewed and marked for destruction, storage, or removal to new office space involved HILLARY RODHAM CLINTON, GARRETT stated that he had worked on nothing with Mrs. CLINTON. He continued by specifying those documents which were "thrown away" were primarily files pertinent to the ROSE LAW FIRM and gave as examples minutes of meetings, recruiting information from various memorandums, and firm financial information referring to the ROSE LAW FIRM.

GARRETT stated that HILLARY CLINTON's name was probably on documents in the files, but there was nothing particular in reference to HILLARY CLINTON.

It was GARRETT's recollection that none of those files or documents which he marked for removal or destruction pertained to WHITEWATER DEVELOPMENT CORPORATION, JAMES MC DOUGAL, SUSAN MC DOUGAL, MADISON GUARANTY SAVINGS AND LOAN (MGS&L), or VINCE and/or LISA FOSTER.

GARRETT responded in the negative when questioned whether any of the documents which were marked for removal or destruction were documents pertinent to VINCE FOSTER and FOSTER's work relative to the WWDC, JAMES and SUSAN MC DOUGAL, MGS&L, or President and Mrs. CLINTON. GARRETT reiterated that those documents which were "thrown away" related primarily to the ROSE LAW FIRM business rather than to specific files.

When questioned by SMITH regarding the destruction or removal of any documents in GARRETT's possession relating to WWDC, MGS&L, DAVID HALE, or JIM GUY TUCKER, GARRETT responded, "No," and then clarified his response by stating that possibly there were documents pertinent to JIM GUY TUCKER which would relate to legal representation of clients but not pertinent any of the persons or entities previously listed. GARRETT also affirmed that he had no documents in his possession which were marked for destruction or storage relative to Castle Grande or South Loop.

GARRETT identified ELISE MC SHAN, file clerk assigned to the commercial section of ROSE LAW FIRM, as the person who was given the assignment to comply with GARRETT's instructions for removal and/or destruction of the documents and files. GARRETT stated that since January 1, 1994, he has not directed ELISE MC SHAN or anyone else to shred any documents. Specifically, GARRETT stated he does not know of any shredding or other disposal of documents or files at ROSE LAW FIRM pertinent to President and Mrs. CLINTON, VINCE and LISA FOSTER, DAVID HALE, JIM GUY TUCKER, WWDC, or MGS&L.

It was GARRETT's recollection that the article in the Washington Times that referred to the destruction of WWDC documents by employees of the ROSE LAW FIRM led to only discussions at firm meetings and private conversations with other ROSE LAW FIRM attorneys wherein the general opinion was that couriers for the ROSE LAW FIRM must have talked to reporters. GARRETT stated that was only a theory as to how the information may have reached the Washington Times reporter, and he could not recall specifically who offered the theory regarding the couriers talking to reporters.

GARRETT, in response to a specific question, advised that, through conjecture, speculation, and rumors at the ROSE LAW FIRM, a courier, "CLAYTON" may be the courier who had spoken with the Washington Times reporter. GARRETT could not identify any disgruntled or recently dismissed employees or any employee who had voluntarily left the ROSE LAW FIRM in the recent past. GARRETT could not identify any firm employee or attorney by name who would fit the category of disgruntled or recently dismissed employees or employees who had voluntarily separated from the firm. GARRETT stated that he has not talked to any newspaper reporter or any member of the press about the alleged "shredding" of documents at the ROSE LAW FIRM.

GARRETT stated that prior to January 1, 1994, he did have some documents shredded. That shredding was done by ELISE MC SHAN with the total compilation of files and documents shredded being the contents of one or possibly one and a half file drawers, each drawer being approximately three feet deep. GARRETT stated that this was done when he moved to his new office space, which corresponded with the leaving of the ROSE LAW FIRM by ALLEN BYRD. GARRETT stated that the latest date that ELISE

MC SHAN would have probably completed the destruction and removal of documents would have been mid-November, 1993. GARRETT could not recall the exact length of time that ELISE MC SHAN was involved in the cataloging and destruction of files but, at the outside, he felt that two months was a reasonable guess on his part. GARRETT issued no specific instructions to ELISE MC SHAN to "shred" documents but rather instructed her to "trash" the documents and files. He stated that he placed yellow "sticky" papers to the outside of the file drawers with instructions to "remote," "trash," or to relocate to his new office space. He recalled that the "yellow stickies" remained on the outside file drawers for some period of time but were not in place on January 1, 1994, as he recalled various members of the firm commenting to him regarding the "yellow stickies" on the file cabinets. He was certain those were removed prior to January 1, 1994.

GARRETT stated that the ROSE LAW FIRM does have a policy regarding the shredding or "trashing" of confidential documents, that being that those documents are to be shredded; however, he does not know if ELISE MC SHAN is aware of that policy regarding the destruction of "confidential" documents. He would not expect ELISE MC SHAN to know the policy regarding the destruction of documents, specifically whether they were to be placed in a trash bag or run through a shredder.

GARRETT concluded his comments by stating that he has no other information pertinent to the allegation printed in the Washington Times, specifically regarding the allegation of recent shredding of WWDC documents by employees of the ROSE LAW FIRM.

GARLAND JEROME GARRETT, aka GARY GARRETT, is a white male, date of birth [redacted] place of birth [redacted] He is an attorney and a partner at the ROSE LAW FIRM, Little Rock, Arkansas, having been employed by that firm for approximately 13 1/2 years. He is assigned in the commercial section of the firm. GARRETT has been a partner in the ROSE LAW FIRM since 1985. He resides at 4114 Longtree Cove, Little Rock, Arkansas, home telephone number (501) 868-4022. GARRETT was represented by C. MICHAEL BUXTON, attorney for the VINSON AND ELKINS LAW FIRM, Washington, D.C., telephone number (202) 639-6571.

FOIA(b)(6)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) FOIA(b)(6)

Date of transcription 2/16/94

VELMA RUTH STACY, also known as RICKI, white female, date of birth [redacted] place of birth [redacted] Social Security Account Number (SSAN) [redacted] who is employed as a records clerk for the ROSE LAW FIRM at that firm's records storage facility located at 2304 Cantrell Road, Little Rock, Arkansas, voluntarily appeared at about 11:45 A.M. with her attorney, C. MICHAEL BUXTON, at the office of the Federal Bureau of Investigation (FBI), Little Rock, Arkansas, wherein at the outset the persons interviewing her identified themselves as [redacted] and [redacted] Special Agents for the FBI, at which time STACY provided the following information voluntarily:

She has been employed at this facility in her current position since about July 8, 1986, and throughout her tenure with this firm, she has had no change in employment location, job title, or duties performed.

She was previously employed as a records clerk for the law firm of WRIGHT, LINDSEY, AND JENNINGS at Little Rock for six years. Previous to that, she was employed for about one year at the LINCOLN NATIONAL INSURANCE COMPANY, Little Rock, Arkansas.

Her immediate supervisor in her current employment is KATHY HARRIS.

Her normal work day is from 8:30 A.M. until 5:00 P.M., and she reports daily to the records storage facility. Her duties consist primarily of marking and indexing attorney/client files for storage, retrieval, or destruction.

As such, she routinely receives boxes of closed files which are brought to her location on an intermittent basis usually by BOB BOUCHER, the maintenance supervisor for the ROSE LAW FIRM, but, on occasion, one or more couriers employed by this firm may bring them to the storage facility and provide such records to STACY. When such records are delivered by these

* Orig. sent to SubA 2/17/93 cg

Investigation on 2/15/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 2/15/94

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individuals to STACY, they may consist of as few as one to four boxes at a time, and, on other occasions, they may consist of as many as forty or fifty boxes at a time. There also are days when no such records are received.

There is no accounting for these records on STACY's part in the context that STACY is not required nor does she sign a receipt or certification to her acceptance of such boxes of records; however, each attorney's secretary or file clerk is supposed to put a list in such boxes or attach such a list to each box or on other occasions when there are only a few boxes, BOUCHER or a courier will simply have the list on their person and provide it in person to STACY when such boxes of records are delivered to her.

There are occasions, very infrequently, when a list is inadvertently not placed in the box or attached to the box or provided in person to STACY, and, when STACY discovers this, she then contacts the attorney's secretary or clerk telephonically and informs them that such a list was not received by her at which time the list is then forwarded to her immediately.

Upon receipt of these boxes which contain the attorney's initials or name, date the records were prepared and/or placed in the box and the box number, STACY then takes that same information and compares it to the list contained in the box or attached thereto so as to insure its veracity.

The next procedure is that STACY will remove from each of these boxes the attorney/client files with reference to a specific client and attorney and place a retrieval/storage number on them.

When STACY first began her employment on about July 8, 1986, the very first box that she tagged had the number A0001, and she presently is in the range of C2500 Plus.

If a particular attorney/client file contains only one volume, then a number such as A0001 would be the only number attached to that single volume; however, in the event the particular file contains several volumes, then the number corresponding thereto would be A0001 for the first volume; A0001.1 for the second volume; A0001.2 for the third volume; etc.

CAROLYN HUBER is normally the person at the ROSE LAW FIRM who is responsible for logging in the date that the records to be sent to the storage facility were placed in the boxes or prepared, the attorney's name or initials, the number of boxes and is also responsible for insuring that the list describing what each box contains is placed in each box or attached thereto.

As STACY removes the various attorney/client files from the boxes in which they were received by her, she prepared, i.e., types a three-inch by five-inch reference card which card will contain the previously mentioned referenced numbers assigned for each particular case file and volumes, and the reference card will also contain the attorney's last name and the date that these records were placed in storage, and these cards are then filed in alphabetical order according to client's name in a file box maintained by STACY. Actually, Mrs. STACY had provided the information contained thus far herein to Special Agent (SA) [redacted] and SA [redacted] prior to the arrival of her attorney, C. MICHAEL BUXTON, who upon arrival, announced that he was STACY's attorney and advised that in order for this interview to continue, it would be necessary for him to be present.

At that point, STACY exclaimed, "Oh, yeah, I was supposed to tell you that I was not to be interviewed without my attorney being present, but I forgot to tell you this."

At this point, BUXTON and STACY met in private for approximately five minutes after which the interview continued, it being noted that BUXTON then informed SA PAYNE that, in private, he and STACY had had conversation wherein STACY had informed BUXTON of the information she had thus far provided, and, at this point, both BUXTON and STACY advised they were desirous of continuing the interview.

Next, STACY advised that the records maintained at her facility are for storage and/or retrieval and with few or if any exceptions are closed files.

There is not a shredder located at this facility, and no records have ever been shredded there except on rare occasions when a file containing no more than three or four pages may be retrieved and such pages are simply torn in pieces by STACY upon the authority of the attorney's secretary who has on occasion telephonically contacted STACY and told her to do so. On those

occasions, STACY records on the reference card in her file box the date she did this and the name of the person directing or authorizing her to do so.

There are two ladies employed at this facility and the one other than STACY is currently BARBARA PERKINS who has been so employed for approximately the last three weeks. PERKINS replaced PERKINS's sister, ANNE WALKER, who had held the same job as PERKINS for several years.

It was WALKER's job, now that of PERKINS, to continuously take the records received and stored by STACY and place such records on microfiche after which such records are placed in a large box for destruction. These large boxes of records to be destroyed are then picked up by SMITH RECYCLING, Pine Bluff, Arkansas, to be shredded, and the shredded paper resulting therefrom is apparently then sold to area paper manufacturers for recycling.

During the eight years that STACY has been in her current employment, she can remember SMITH RECYCLING picking up records at her facility on only three occasions. One of those was within the last four weeks, and the other two were both in the calendar year 1993.

STACY can recall only one file as ever having been destroyed at her facility, and that was regarding an old estate, the identity of which she cannot recall.

No one has ever said or made statements to STACY to the effect that, "Send this file in here because I want to get rid of it."

In addition to the information previously mentioned herein that STACY places on the three by five inch file cards, she also utilizes the letters D, S, or M which means respectively destroy, save, or with respect to the M which means that the file hard copy may be destroyed after it has been microfiched.

STACY recalls that, on about February 1, 1994, KATHY HARRIS asked STACY to retrieve all documents at the storage facility with reference to WHITEWATER DEVELOPMENT COMPANY (WWD), MADISON GUARANTY SAVINGS AND LOAN (MGS&L), and BANK OF KINGSTON (BOK).

STACY recalls that subsequent to this request by HARRIS, STACY was unable to locate any documents pertaining to WWD. STACY was able to locate "some little things" on MGS&L and BOK; however, she does not have any recollection as to what these items were. What ever they were, she retrieved them and provided them to HARRIS.

Prior to about February 1, 1994, there were perhaps as many as four times when someone at the ROSE LAW FIRM had asked STACY to retrieve documents pertaining to the BOK; however, STACY does not recall who made such requests, the dates such requests were made, or the documents that she retrieved.

Also, there was one instance prior to about February 1, 1994, wherein MARTHA BARNES at the ROSE LAW FIRM asked for "something to do with MGS&L;" however, STACY does not recall the document requested by BARNES nor does she recall the date of such a request.

STACY noted there has never been an instance during the tenure of her employment at the ROSE LAW FIRM wherein she has been requested or instructed to conceal or shred documents pertaining to WWD, MGS&L, BOK, VINCENT FOSTER, DAVID L. HALE, BILL CLINTON, or HILLARY CLINTON so as to prevent this information from being made available to a law enforcement agency, specifically, the FBI or to the "WHITEWATER Special Prosecutor's Office."

STACY noted that the building where she works is equipped with a burglar alarm system activated by a keypad which is alarmed by the last employee leaving each day and is disarmed by the first employee arriving the following day. STACY does not know whether an "edit slip" or other written record is generated each time the keypad is activated or deactivated. With reference to the MGS&L file that previously had been stored at STACY's facility, STACY recalls looking on STACY's list and observed a notation of "destroy per HILLARY" which to STACY meant that HILLARY CLINTON had authorized that particular file's destruction. However, STACY does not recall when such a notation was observed by her and does not recall whether that notation was in the handwriting of Mrs. CLINTON. It is STACY's best recollection that the file she is speaking about is one that was captioned, "MADISON VS. BABCOCK," and other MGS&L records except

for MADISON vs. BABCOCK should still be stored at STACY's facility.

With reference to the "MADISON vs. BABCOCK" file, it is STACY's impression that HILLARY CLINTON would have either destroyed it while she had possession of that file or it would have been placed back in the box at STACY's facility to go to recycling.

With reference to the previously mentioned retrieval coding system utilized by STACY, there were occasions when a file would arrive for storage but there would be one or more volumes of that file missing in that the law firm would still be working on those particular volumes, and in those instances, STACY would leave the appropriate decimal point number open for that volume until it arrived and then it would be affixed thereto so as to insure a numerically ordered completion of all volumes to the file.

Also, within the past few weeks, STACY remembers BOB BOUCHER saying to STACY, "We don't have all of VINCE FOSTER's stuff yet."

At the time this comment was made, it was in response to a situation wherein one or more volumes of a VINCE FOSTER file delivered for storage by BOUCHER was missing.

Also with reference to the destruction by STACY at her location of a file containing only a few pieces of paper, STACY specifically recalls an instance where LOU ROBINSON telephonically contacted STACY and said, "RICKI, this has only one piece of paper in it. Destroy it." At that time, STACY simply removed the file containing only the one piece of paper and tore it up.

STACY recalls that within approximately the past week, perhaps February 9, 1994, an article appeared in the "Washington Times" newspaper alleging the shredding of WWD documents by the ROSE LAW FIRM, and, shortly thereafter, RON CLARK, the managing partner, had a meeting with the employees of that firm at which time he advised them that certain of them might be receiving a request by the Special Prosecutor's Office to make themselves available for an interview, and he advised that, "You will be

represented by an attorney in the event you receive such a request."

CLARK also advised the employees that in the event their interviews were requested by the Special Prosecutor, then they should answer truthfully all questions asked of them in that regard.

At this point, STACY was asked again by SA [redacted] if she had requested C. MICHAEL BUXTON to represent her as [redacted] had previously been informed by BUXTON at which point BUXTON injected, "RICKY, didn't you and I meet together yesterday?" STACY replied, "Yes." Then BUXTON said to STACY, "And at that time didn't I ask you if you wanted me to represent you and didn't you say yes?" STACY responded in SA [redacted] presence by saying, "Yes" in regards to the questions interjected by BUXTON. Then [redacted] asked STACY, "Has anyone ever told you that you could have an attorney of your choice as opposed to one hired by the law firm where you are employed?" STACY replied, "No."

At this point, the interview was concluded at which time Mr. BUXTON provided his business card which contains the name of C. MICHAEL BUXTON, VINSON AND ELKINS, L.L.T., The Willard Office Building, 1455 Pennsylvania Avenue NW, Washington, D. C. 20004-1008, business telephone number (202) 639-6571, facsimile copier telephone number (202) 639-6604.

This interview concluded at 1:02 P.M.

FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/15/94

TERESA MARIE LOGUE (white female born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Associate Independent Counsel PATRICK J. SMITH and Special Agent [redacted] She was advised that this interview concerned the alleged shredding of "Whitewater" documents at the ROSE LAW FIRM, Little Rock, Arkansas.

Present during this interview was Ms. LOGUE's attorney, ALDEN L. ATKINS, of the firm of VINSON & ELKINS, L.L.P., the Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C., telephone number (202) 639-6613.

Ms. LOGUE advised that her present residence address is P.O. Box 386, Beebe, Arkansas 72012, telephone number (501) 882-3134.

Ms. LOGUE advised she is presently employed as a file clerk by the ROSE LAW FIRM and has been so employed since August 1987. She advised that her business telephone number is (501) 375-9131, ext. 658.

Ms. LOGUE advised her duties as a file clerk include, but are not limited to, filing, making copies, making file labels, finding files, and going for coffee. She stated her supervisor is SHERRY BYRNE, secretary. Ms. LOGUE advised she does not have any subordinates. She stated that other people in the Firm also tell her what to do.

Ms. LOGUE advised she is very familiar with the Firm's filing system. She advised that files are indexed on a "files list" by client and subject matter. She stated that, about three years ago, they started adding the attorney's name to the lower right corner of the file label. She stated the files are stored in file cabinets. She advised that files which are sent to

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FEB 15 1994

FBI — LITTLE ROCK

Ref in Sub A 2/7/93 mg

Investigation on 2/15/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/15/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 27

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COPY

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"remote storage" are placed in boxes with an index list for each box. One copy of the list stays with each box, and the other is maintained at the main office. She advised that the list is also stored in the computer.

Ms. LOGUE advised it is not her job to shred or otherwise destroy any documents, files, etc., at the Firm. She stated that attorneys or secretaries make that decision. She stated couriers are given the material to be destroyed, and the couriers are responsible for shredding the material. She advised that the only time she might send something for destruction is if she messes something up in the copy room and puts it in the "shred box."

Ms. LOGUE advised that, on the day an article about the Firm appeared in the "Washington Times" concerning shredding of "Whitewater" records at the Firm, she learned about the article through "office gossip." She advised that on that day (she believes it was Wednesday, February 9, 1994) RON CLARK called a meeting at the Firm to tell them about the article and to instruct all employees to come forward if they knew anything about improper file destruction taking place. She stated Mr. CLARK asked them if anyone knew who did it. She stated that she did not know anything.

Ms. LOGUE advised there was another meeting yesterday, Monday, February 14, 1994, at the Firm. She stated Mr. CLARK told her and several other employees they would be going to the FBI office to be interviewed concerning the "Washington Times" story. She stated that he (CLARK) told them they could have their attorneys present during interview. She stated she did not ask for one at that time, but later decided she did want an attorney present during the interview. She stated no fee was discussed.

Ms. LOGUE advised she has not been contacted by anyone in the news media concerning this story or any other relating to "Whitewater" or any other matter. She stated she has never contacted anyone in the new media concerning any matter.

Ms. LOGUE advised she has not destroyed, recycled, or disposed of any files, records, or computer records, nor does she know of any destruction, recycling, or disposal of any files, records, or computer records concerning the following:

VINCENT or LISA FOSTER
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS AND LOAN
JIM GUY TUCKER
DAVID HALE

Ms. LOGUE advised that, now that she is fully aware of the Government's interest in this matter, she will report any destruction of files which she believes might be of interest to the Independent Counsel.

Ms. LOGUE provided the following information:

Name	TERESA MARIE LOGUE
Race	White
Sex	Female
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'6"
Weight	138 pounds
Hair	Brown
Eyes	Hazel

FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/15/94

BARBARA JEAN PERKINS (white female born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Associate Independent Counsel PATRICK J. SMITH and Special Agent [redacted] She was advised that this interview concerned the alleged shredding of "Whitewater" documents at the ROSE LAW FIRM, Little Rock, Arkansas.

Present during this interview was Ms. PERKINS's attorney, ALDEN L. ATKINS, of the firm of VINSON & ELKINS, L.L.P., the Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C., telephone number (202) 639-6613.

Ms. PERKINS advised that her present residence address is 1927 Linda Lane, Jacksonville, Arkansas 72076, telephone number (501) 982-1735.

Ms. PERKINS advised she is presently employed as a records clerk at the remote storage facility of the ROSE LAW FIRM and has been so employed since January 26, 1994. She advised that the remote storage facility is located at 2407 Cantrell Road, Little Rock, Arkansas, and her business telephone number is (501) 375-8929.

Ms. PERKINS advised she was unemployed from 1989 until she took the job with the ROSE LAW FIRM. She stated she replaced her sister, DELORES ANN WALKER, who had the job before her.

Ms. PERKINS advised her duties include, but are not limited to, filing, copying, microfilming, and locating files. She advised she works with RICKI STACEY. Ms. PERKINS advised she does not have any subordinates.

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Investigation on 2/15/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/15/94

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Ms. PERKINS advised she and Ms. STACEY make lists of documents and materials at the remote storage facility, and then the attorneys decide what can be destroyed and what needs to be put on microfilm. She stated that all materials in the facility must be logged in and out. She advised all the materials in the facility are filed by attorneys' names.

Ms. PERKINS advised that BOB BOUCHER brought some files over for recycling about a week prior to the "Washington Times" story. She stated the files were just put in the warehouse.

Ms. PERKINS advised she first heard about the "Washington Times" article from her husband and Ms. STACEY. She stated that she did not actually read the story.

Ms. PERKINS advised that an employee meeting with RON CLARK was held on February 9, 1994. She stated that he (CLARK) told the employees he did not want the Firm to be doing anything improper, and, if anyone knew anything about the story, he/she should come forward. She stated that CLARK seemed concerned. She stated that, during the meeting, CLARK said it is possible that some of VINCE FOSTER's "personal papers" may have been destroyed.

Ms. PERKINS advised she has not been contacted by the news media and has not made any contacts with the news media. She stated reporters have contacted Ms. STACEY, and it has upset her (Ms. STACEY). She stated that Ms. STACEY cannot understand how the reporters got her name and "number."

Ms. PERKINS advised she does not know anything about the matter under investigation.

Ms. PERKINS advised she has not destroyed, recycled, or disposed of any files, records, or computer records, nor does she know of any destruction, recycling, or disposal of any files, records, or computer records concerning the following:

VINCENT or LISA FOSTER
BILL or HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS AND LOAN
JIM GUY TUCKER
DAVID HALE

Ms. PERKINS advised her sister or Ms. STACEY told her that some of HILLARY CLINTON's files were destroyed a long time ago at HILLARY CLINTON's request. She stated she does not know what files or how much may have been involved. She stated this is only hearsay.

Ms. PERKINS advised that, now that she is fully aware of the Government's interest in this matter, she will report any destruction of files which she believes might be of interest to the Independent Counsel.

Ms. PERKINS provided the following information:

Name	BARBARA JEAN PERKINS
Race	White
Sex	Female
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'3"
Weight	120 pounds
Hair	Red
Eyes	Brown

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 2/16/94

On 2/15/94, L. D. BROWN, Corporal, Arkansas State Police, Special Investigations Division, Little Rock, Ar. was telephonically contacted by SA [redacted] in response to his attempt to call SA [redacted]

BROWN advised that since his interview with the FBI on 2/14/94, he had recalled the name of another individual who would probably have knowledge of the relationship of HILLARY RODHAM CLINTON and VINCENT FOSTER as well as the goings on in the ROSE LAW FIRM. He advised that individual is RITA HOOVER, who at one time worked for the ROSE LAW FIRM in an unknown capacity, however, BROWN thought she worked with the computers or records section. BROWN advised HOOVER is employed with the Judicial Task Force in Ashdown, Ar. He advised JIM STEELE is the prosecutor running this task force.

K

Orig. placed in sub A 3/7/93 mg

29D LR 35063 FBI - 15

Investigation on 2/15/94 at Little Rock, Ar. File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/16/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) FOIA(b)(6)

Date of transcription 2/15/94

MARY KATHERINE VICK HARRIS, described as a white female, date of birth [redacted] whose residence is 1003 Shepherd Drive, White Hall, Arkansas 71602, telephone number (501) 247-5238, was interviewed at the Little Rock Office of the Federal Bureau of Investigation (FBI). HARRIS was represented in the interview by Attorney C. MICHAEL BUXTON, VINSON AND ELKINS LAW FIRM, L.L.P., The Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D. C. 20004-1008, telephone number (202) 639-6571 and facsimile number (202) 639-6604. BUXTON was present in the interview conducted by Associate Counsel PATRICK J. SMITH who identified himself and the nature of the interview. HARRIS was advised of the identity of Special Agent (SA) [redacted]

HARRIS advised that the ROSE LAW FIRM was to pay for the legal services of her attorney, C. MICHAEL BUXTON, and she was advised of this by her superior, RONALD M. CLARK, attorney and senior member of the ROSE LAW FIRM as well as its chief operating officer. She advised that she was hired by CLARK to be the office manager of the ROSE LAW FIRM on January 15, 1993, and has held that position to the present time. She stated that, previous to her employment with ROSE LAW FIRM, she worked for the RESOLUTION TRUST CORPORATION (RTC) as a receiver for SAVERS FEDERAL from 1990 to July 6, 1992. She advised that, previous to that employment with RTC, she was an employee of SAVERS FEDERAL for twenty years, and her last position was corporate secretary and senior vice president.

HARRIS advised that those individuals who report to her are JOYCE LOUGHRIDGE, who is the accountant supervisor; LARRY SMITH, who is in charge of purchasing and the couriers; BOB BOUCHER, who is in charge of maintenance; MELBA THOMAS, who is in charge of the copy center; and RICK STACY and BARBARA PERKINS, who work at the remote storage warehouse on Cantrell Road near CAJUN'S WHARF RESTAURANT. She stated that a previous employee of the remote storage warehouse, ANN WALKER, moved to Tulsa, Oklahoma, due to the complications regarding custody of children following her daughter's divorce.

Sig. placed in SubA 3/7/93 JF

Investigation on 2/15/94 at Little Rock, Arkansas File # ~~29D-LR-35063 Sub A~~

by SA [redacted] Date dictated 2/15/94

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HARRIS was questioned regarding the document retention policy of the ROSE LAW FIRM, and she advised that she knows of no written policy. She stated that each attorney is responsible for the retention of his documents. She advised that the attorney may chose to keep the original document, microfilm the document, or destroy the document as he or she wishes. She advised that the attorney may chose to destroy the original document and not microfilm the original. HARRIS stated that a list of attorney files is maintained by the remote storage warehouse personnel.

HARRIS stated that, in October, 1993, she was asked by CLARK to collect any and all attorney files dealing with MADISON GUARANTY SAVINGS AND LOAN, the MC DOUGALs, and WHITEWATER. She stated that she used the attorney list of files as well as a fees list to determine any and all references to the areas that CLARK requested her to locate and collect. She advised that the remote warehouse storage personnel, STACY and PERKINS, helped her in that search. However, she advised that most of the work of collecting the documents was done by herself, and any heavy lifting or movement was done by BOUCHER. She stated that the documents were gathered and brought to the ROSE LAW FIRM and placed in a room located close to her office. She stated that the lists that she generated were placed on a computer, and the computer disk regarding her collection of documents is in existence. She stated that the only item that was not collected at that period of time was the FROST litigation that was held by Attorney RICK DONOVAN who apparently was working on that legal question at the time of the collection. She stated that she does not know whether the FROST documents were added to the inventory list, because she completed her work in November, 1993. She advised that she has a key to the office where the documents are collected, and CLARK may have a key. She has not checked recently if all of the documents that she gathered are still in the locked office. However, she stated that she does not know of any documents that have been removed from the locked office. She advised that a list of those documents is maintained by herself, the remote storage warehouse personnel, and a copy is a part of the documents in the locked office.

HARRIS stated that the document list of each attorney would identify the cases that particular attorney worked on at the ROSE LAW FIRM. She advised, in gathering the collected documents for the ROSE LAW FIRM, she noted that HILLARY RODHAM CLINTON's list showed that there were two MADISON GUARANTY

SAVINGS AND LOAN files that were marked with "D's" which would indicate that they were destroyed. She stated that she believed that those files were destroyed before Mrs. CLINTON left the ROSE LAW FIRM. She advised that she remembers that the most collected evidence was regarding MADISON GUARANTY SAVINGS AND LOAN, and four to five attorneys had files on MADISON GUARANTY SAVINGS AND LOAN at the remote storage warehouse. She advised that she does not believe that she found any files regarding WHITEWATER. She stated that she does not remember any destroyed files listed on LISA FOSTER and/or VINCENT FOSTER's list. She advised that she checked both the remote storage warehouse and the inactive files that were still maintained at the ROSE LAW FIRM which were requested for collection by CLARK. She stated that she did not search the remote storage facility or the ROSE LAW FIRM for files dealing with DAVID L. HALE or JIM GUY TUCKER.

HARRIS stated that the shredding by the ROSE LAW FIRM couriers was usually done on a Tuesday or Thursday. She said that was routine, and LARRY SMITH usually directed who did the shredding, and she (HARRIS) did not witness any shredding. She stated that the handling of the documents for shredding was handled in two manners. She stated that the couriers collected documents, would then take them to the basement, and be shredded by one of the couriers or BOUCHER. She advised that the shredder is located in BOUCHER's office which is in reality a small storage room inside the ROSE LAW FIRM. She stated that she does have a master key to the building but has determined on several occasions that the master key does not open all doors in the firm. She advised that the larger volume of files would be taken to the remote storage warehouse where SMITH RECYCLING would come to the remote storage warehouse and remove the files for shredding. She stated that she started using the SMITH RECYCLING company in March or April of 1993. She stated that a secretary could call the courier to come get some documents to shred if it was needed. However, she does not know if that actually occurred where a secretary made a special request to shred documents. HARRIS further stated that she is not aware if any documents of the CLINTONs, LISA and/or VINCENT FOSTER, WHITEWATER, JIM GUY TUCKER, or DAVID L. HALE were shredded before October, 1993.

She stated that she is aware that a Federal Grand Jury subpoena was served [redacted] on the ROSE LAW FIRM and believes that CLARK told her about the subpoena; however, she may have heard it in an executive committee meeting of the ROSE LAW

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FIRM. She advised that the executive committee has met three to four times since January, 1994. She stated that members of the executive committee are RON CLARK; BRENT BUCK, treasurer; PHILIP CARROLL, member at large; and a representative from each section which are KEVIN BURNS, HERB RULE, JERRY JONES, and WILSON JONES. She further stated that CLARK has had no meeting with her regarding their response to the subpoena issued [redacted]

HARRIS advised that there was a staff meeting about a month ago in the morning about 8:30 which lasted from ten to fifteen minutes in which CLARK referred to the media coverage in the newspapers regarding WHITEWATER. CLARK told the staff that no one had done anything wrong, and they could not respond to the media because of client/attorney privilege. He further advised the staff that he was the spokes person, and the staff could not discuss anything with the media regarding WHITEWATER because of the privileged areas.

HARRIS stated that, on Wednesday, February 9, 1994, CLARK had a meeting in the morning with her, BOUCHER, and the couriers. CLARK reassured them that nothing had been done wrong, that document destruction should be reported, and to tell the truth when interviewed regarding the matter. CLARK did not ask directly if any files concerning the CLINTONs, FOSTER, WHITEWATER, or MADISON GUARANTY SAVINGS AND LOAN were destroyed; however, she believes that what he was saying was clear, and the couriers should have understood his meaning, but there was no response by anyone regarding destruction of files. She advised that CLARK did not ask anyone present at the meeting if they had talked to the newspaper. She advised that later that afternoon CLARK had a meeting with the rest of the staff of the firm.

She advised that she is aware that a meeting occurred on Friday, February 11, 1994, with the couriers and CLARK, but she was not present and does not know what was discussed at the meeting.

She advised that she had a meeting with CLARK on February 14, 1994, a Monday, in which CLARK told her that she was to be interviewed, she believed, by the FBI, and she should tell the truth along with the other file clerks who were going to be interviewed. She stated, other than the meetings mentioned, she has not been in any other meetings regarding the news accounts about WHITEWATER.

HARRIS stated that she has had conversations with CLARK in a curious manner about who was the individual who told the "Washington Times" that the ROSE LAW FIRM had shredded WHITEWATER records. She stated that she believed it was a courier but does not know specifically who the individual was that talked to the "Washington Times." She advised that rumors are that CLAYTON LINDSEY and JEREMY HEDGES were the couriers that shredded the FOSTER box. She stated that she was told this by LARRY SMITH. She also stated that she has seen LINDSEY and HEDGES talking to CLARK outside of the meetings that they had had as a group. She stated that she does not know as fact that a box labeled as FOSTER's was shredded. Further, she commented that a box with an attorney's name on it is not unusual because sometimes boxes that are empty are used to carry other documents when, in fact, the documents in the box do not relate to the attorney's name on the box. Also, she advised that she knows of no shredding that occurred at the ROSE LAW FIRM after 4:30 P.M. Specifically, she does not know of any shredding on Thursday, February 3, 1994, after 4:30 P.M. In fact, she does not know of any shredding that goes on at night at the firm. She advised that BOUCHER informed her approximately two to three weeks ago that the TCBY litigation files which were a large shipment were sent to the remote storage facility, and they were to be picked up by SMITH RECYCLING. She stated their usual custom was to accumulate boxes to be shredded by SMITH RECYCLING, and it would take from two to three months to accumulate a normal shipping of approximately 500 pounds for shredding by SMITH RECYCLING. She advised that she is not sure if any other boxes were involved in the pickup by SMITH RECYCLING which involved the TCBY litigation.

Special Counsel SMITH advised HARRIS that a pending Federal Grand Jury subpoena has been issued for the records relating to President BILL CLINTON or Mrs. HILLARY RODHAM CLINTON, VINCENT or LISA FOSTER, WHITEWATER, MADISON GUARANTY SAVINGS AND LOAN, DAVID L. HALE, or JIM GUY TUCKER, and any shredding, alteration, or destruction of those records may be a violation of a Federal law involving Obstruction of Justice.

The following is a physical description of MARY KATHERINE VICK HARRIS:

Race	White
Sex	Female
Date of Birth	[redacted] - - - - - FOIA(b)(6)

Social Security Account Number (SSAN)	[redacted]
Residence	1003 Shepherd Drive, White Hall, Arkansas 71602
Telephone Number	(501) 247-5238
Employment	Office Manager of ROSE LAW FIRM since January 15, 1993
Telephone Number	(501) 377-0353
Previous Employment	Twenty years employed SAVERS FEDERAL, Little Rock, Arkansas, last position being corporate secretary and senior vice president; RTC receiver for SAVERS FEDERAL from 1990 to July 6, 1992.
Attorney	C. MICHAEL BUXTON with the law firm of VINSON AND ELKINS, L.L.T., The Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1008
Telephone Number	(202) 639-6571
Facsimile Number	(202) 639-6604

FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/13/94

CLIFTON TRYNAE WHITE, date of birth [redacted] black male, was advised of the identities of the interviewers, Special Counsel JULIE O'SULLIVAN and Special Agent (SA) [redacted] of the Federal Bureau of Investigation (FBI) and the purpose of the interview. WHITE was informed that the interview concerned incidents of shredding documents related to the current Whitewater investigation. WHITE was interviewed in the presence of his attorney, GREGORY KITTERMAN. WHITE furnished the following information:

WHITE stated he works in Purchasing and Receiving, handles the mail on occasion, and performs some of the couriers' responsibilities. WHITE said that he reports to LARRY SMITH from whom he takes orders directly. WHITE also acknowledged that he receives orders from other administrative personnel including attorneys, secretaries, and CATHY HARRIS, LARRY SMITH's boss. WHITE said that he began employment at the ROSE LAW FIRM during the middle of December 1993. WHITE said he is still employed by the City of Little Rock as the receptionist at the WAR MEMORIAL FITNESS CENTER (Friday evenings). WHITE said he works at the ROSE LAW FIRM from 7:00 a.m. to 3:30 p.m. or 4:00 p.m. five days a week. WHITE advised that he is currently attending the University of Arkansas at Little Rock (UALR).

WHITE confirmed that he has on occasion shredded documents, usually when he filled in for the couriers.

WHITE explained that each person would be assigned a floor and go around to the offices to pick up documents to be shredded. WHITE stated that this activity was done on Tuesdays and Thursdays at no particular time during the day. WHITE went on to mention that approximately one month ago, shredding was done on an as-needed basis; employees would call to have documents shredded. WHITE said that he usually receives a box full of paper off a single floor. WHITE claimed that he never reads the material given to him to be shredded nor was he ever given a whole box of documents to be shredded.

Orig placed in Sub A 2/17/93 mm

Investigation on 2/12/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA [redacted] Date dictated 2/12/94

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WHITE said that he did not do any shredding one week ago Thursday. WHITE acknowledged that he was not asked to do shredding that day either. WHITE said that every courier was at work that day except JEREMY. WHITE assumed the couriers did shredding that day.

WHITE said that he does not recall staying late that Thursday or during the last two weeks. WHITE advised that he leaves work around 3:00 or 4:00 p.m. WHITE said that he leaves the firm first and the couriers are always still there.

WHITE stated that there is only one shredder at the ROSE LAW FIRM located in BOB BOUCHER's office. WHITE did not know who has the keys to BOUCHER's office but said that the door to his office is usually left open. WHITE was unaware if BOUCHER's office door is closed in the evening.

WHITE again confirmed that he did not do any shredding of documents that Thursday.

WHITE was asked about the Washington Times article alleging that an employee of the ROSE LAW FIRM shredded Whitewater documents. WHITE opined that the story in the newspaper had no credibility as far as he was concerned. WHITE did not talk to any employee about the alleged shredding nor did he hear talk about shredding of Whitewater documents.

WHITE did not recall anything unusual occurring at the firm on Friday. WHITE said that he did not do any shredding on Friday. WHITE said that he has not done any shredding since last Tuesday.

WHITE was asked if he has ever read documents related to the following persons/entities: Whitewater, VINCE FOSTER, BILL and HILLARY CLINTON, MADISON, JIM GUY TUCKER, and DAVID HALE. WHITE claimed that he has not read documents related to those persons/entities.

WHITE again confirmed that he has never received a box of documents to shred.

WHITE said that no one has ever mentioned in any meeting the shredding of Whitewater or VINCE FOSTER related documents.

On Wednesday around 7:30 a.m. to 7:45 a.m., WHITE learned of the Washington Times articles from the E-Mail on LARRY SMITH's computer terminal. WHITE said that RON CLARK posted a message on the E-Mail system regarding the article.

WHITE recalled a meeting of staff and secretaries (no attorneys) with CATHY HARRIS and RON CLARK occurring a couple of weeks or more prior to the Wednesday he observed the E-Mail message. WHITE said this meeting was called to allow employees to air their grievances and complaints. WHITE learned of this meeting through a memorandum. This meeting lasted approximately 15 minutes. WHITE mentioned that he heard the words "subpoena" and "served" and that documents were being gathered for Mr. FISKE. WHITE said he was not aware if FISKE was appointed at that time.

WHITE was asked whether any couriers expressed concern about shredding documents related to Whitewater or VINCE FOSTER.

WHITE said that he first read the actual Washington Times article when he observed a Xerox copy of the article at the couriers' station. WHITE thought the article was fantasy. WHITE read the article out loud in the presence of LARRY SMITH and JEREMY HEDGES. WHITE commented that the article did not seem right. WHITE claimed that the couriers are light-hearted people and that the "scared to death" part did not sound like them. WHITE did not think a lawyer talked with the reporter. WHITE believed the article's story was fabricated.

WHITE recalled a later meeting last Wednesday lasting five to ten minutes. WHITE said that the following firm employees were present: RON CLARK, BOB BOUCHER, LARRY SMITH, JEREMY HEDGES, CATHY HARRIS, MARK MC MAHON, and CLIFTON WHITE. WHITE said that CLARK spoke to the group and said that he had faith that no one had acted improperly. WHITE initially said that basically CLARK did not want people to talk to the press but then rescinded that statement. WHITE clarified CLARK's statement by stating that CLARK said people could talk to the press but to be aware that the press can switch around what they say. CLARK said that any press inquiries can be directed to himself. WHITE was asked if the FBI or Special Counsel was mentioned by CLARK. WHITE confirmed that CLARK did not mention these organizations in the meeting. According to WHITE, CLARK told everyone that, if

they had information concerning shredding, they could come to CLARK with the information.

WHITE said that he did not go to work Thursday. KIRK, a fellow employee, called WHITE at home requesting LARRY SMITH's telephone number. KIRK needed to call SMITH to let him know that he would not be at work. WHITE claimed that KIRK talked to him about the Arkansas-Kentucky game. WHITE said that he also called LARRY SMITH and informed SMITH that he was iced in. WHITE said he did not go to work Thursday. WHITE confirmed that he did not talk to KIRK about the newspaper article.

WHITE said that he learned of the meeting with the FBI at 10:00 a.m. on Friday from Mr. SMITH. WHITE noted that he came to work at 1:00 p.m. on Friday after he called LARRY SMITH earlier to advise him that he would be to work after the ice melted. At 2:00 p.m. on Friday, RON CLARK told WHITE that the FBI meeting had been canceled. CLARK suggested that WHITE tell the truth to the FBI and Special Counsel. According to WHITE, RON CLARK said that no one gave the authority to shred Whitewater documents and that they had no knowledge of shredding documents of concern.

WHITE stated that he does not have anything to do with SMITH RECYCLING or the law firm's computer system (deleting files).

WHITE said that he did not talk with the Washington Times.

WHITE mentioned that CLAYTON was contacted by a reporter. JEREMY HEDGES told a reporter, "No comment," and asked the reporter how he got his name.

WHITE was unaware of any increase in shredding activities at the firm. WHITE claimed to be unaware of the firm's deposition of documents. WHITE was unsure whether CLARK mentioned that counsel would be provided to those meeting with the FBI/Special Counsel.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

WHITE provided the following pedigree information:

Name	CLIFTON TRYNAE WHITE
Home Address	1812 Reservoir Road, #276, Little Rock, Arkansas
Business Address	ROSE LAW FIRM, 120 East 4th Street, Little Rock, Arkansas
Date of Birth	[redacted] FOIA(b)(6)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6) FOIA(b)(7) - (C)

Date of transcription 2/14/94

MARK WAYLAND MC MAHAN, described as a white male, date of birth [redacted] whose residence is 42 Master's Place, Maumelle, Arkansas 72113, telephone number (501) 851-2114, was interviewed at the Little Rock Office of the Federal Bureau of Investigation (FBI). MC MAHAN was represented in an interview by Attorney GREGORY KITTERMAN, 1101 Garland Street, Little Rock, Arkansas 72201, telephone number (501) 374-1145, and fax number (501) 375-9131. KITTERMAN was present in the interview conducted by Associate Counsel JULIE R. O'SULLIVAN who identified herself and the nature of the interview. MC MAHAN was advised of the identity of Special Agent (SA) [redacted]

MC MAHAN described his employment with the ROSE LAW FIRM as a courier. He stated that his duties consisted of running errands, both official and personal, for the attorneys of the firm, filing documents with the clerks of the local, state and Federal courts, as well as shredding documents. He stated that his usual work hours are on Monday, Wednesday, and Friday from 9:00 A.M. to 11:00 A.M. and from 2:00 P.M. to 5:00 P.M. as well as on Thursday and Friday at 12:00 P.M. after his morning class at the University of Arkansas at Little Rock (UALR). He advised that, on days that the had the mail run with FEDEX, he was at ROSE LAW FIRM until 6:15 P.M. or 6:30 P.M.

He stated his duties of shredding began with a notice in a courier box that he was assigned to the shredding. He stated that, on those days that he was shredding, he would go to the attorneys' offices and collect documents from the trash or containers set out by the attorneys for shredding. He advised that he collected the documents and put them in a box for transportation to the shredder. MC MAHAN stated that the average shredding was approximately one-half of a box to about three boxes per day. He said that the one-half box would take approximately fifteen minutes to shred, and the three boxes would take about 45 minutes to shred. He further stated that he has not shredded documents at night nor has anyone asked him to shred documents at night. He also advised that he knows of no one who

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no orig. in Sub A
cc: in main file 2/17/93

Investigation on 2/12/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub A 11 - 12

by SA [redacted] Date dictated 2/12/94

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shredded documents at night at the firm. He further advised that he did not shred any documents on Thursday, February 3, 1994, and cannot recall any unusual activity regarding the shredding of the documents on February 3, 1994. He stated that he would have left work at the firm at 5:00 P.M. on February 3, 1994, if he did not have the mail run duty. He further advised that BOB BOUCHER, who is the janitor, locks his office at 4:30 P.M.; however, LARRY SMITH has a key to BOUCHER's office.

He stated that he does not look at the documents he shreds nor has he been asked to shred any documents or files reference MADISON GUARANTY SAVINGS AND LOAN, BILL or HILLARY CLINTON, WHITEWATER, or VINCENT FOSTER. He stated specifically that he was not asked to shred FOSTER's box. He stated that he does not know what documents attorneys ask to have shredded and did not know about an outside firm that did the shredding for ROSE LAW FIRM. He further advised that he was aware that there is a remote storage for the firm and has moved boxes to and from the remote storage facility. He said that he does not remember removing any boxes to and from the remote storage facility to ROSE LAW FIRM during the first week of February, 1994. He also stated that he knows of no other couriers who were moving boxes to the remote facility during that same time period.

He advised his immediate supervisor at ROSE LAW FIRM is LARRY SMITH who has had that position since December, 1993. His previous supervisor was MARY RUSSEL. SMITH is supervised by the managing partner of the firm, RON CLARK, and the office manager, KATHY HARRIS. MC MAHAN said that, on February 9, 1994, which was Wednesday, he came in the office around 9:00 A.M. It was at the office while talking to CURT FRIEBERG and LARRY SMITH that he was advised about the news article that appeared in the "Washington Times" newspaper regarding the shredding of WHITEWATER files. He was advised by SMITH that a meeting would be held that afternoon with CLARK, and, by that afternoon, he had read a photocopy of the "Washington Times" article about the shredding of the WHITEWATER files. He stated that he had no contact with CLARK before the meeting that was held on the afternoon of February 9, 1994.

The couriers had talked among themselves on February 9, 1994, about who might have told the "Washington Times" newspaper about the shredding of the documents. He stated that the people that he talked to that day were his best friend, CURT FRIEBERG,

and other couriers, CLAYTON LINDSEY, JEREMY HEDGES, and BRENT LEMEY. He advised that he did not contact the "Washington Times" newspaper or any other press regarding anything dealing with WHITEWATER, and the ROSE LAW FIRM has not asked him whether he had shred any WHITEWATER documents. He advised that CLAYTON LINDSEY and JEREMY HEDGES had discussed the fact that a box of documents with FOSTER's name on it was shredded about three weeks ago by them, and they mentioned it to him (MC MAHAN) the day that the shredding occurred. HEDGES also told him (MC MAHAN) that LINDSEY had received a telephone call from the "Washington Times" newspaper about WHITEWATER a couple of days before the date of February 9, 1994.

MC MAHAN stated that the couriers met with RON CLARK on Wednesday, February 9, 1994, and Friday, February 11, 1994, regarding the "Washington Times" article and the impending interviews by the Special Counsel's Office.

The Wednesday meeting with CLARK occurred about 10:00 A.M. and included BOUCHER, SMITH, and other couriers. CLARK told them that the ROSE LAW FIRM would deny that the shredding occurred. CLARK recommended that they not talk to the press. CLARK stated also that, if contacted by the press, they (couriers) should let CLARK know about the contact. MC MAHAN advised that CLARK did not mention a subpoena for FOSTER files but did say that the firm was saving FOSTER documents which were being stored in an office next to CLARK's office on the first floor of the firm.

He stated that the Friday meeting with CLARK began about 2:00 P.M. He advised that he came into the office about 10:30 A.M. MC MAHAN also stated that he did not come into the office on Thursday, February 10, 1994, because of the ice storm but was called by FRIEBERG on Thursday and told that there would be a meeting at the firm on Friday. Present in the Friday meeting was also Attorney JERRY JONES as well as CLARK and the couriers. CLARK advised the group that questions the FBI might ask would be concerning the process of shredding at ROSE LAW FIRM and the possible shredding of WHITEWATER files. MC MAHAN stated that CLARK told him and others in the meeting that they could have an attorney. MC MAHAN was asked if the ROSE LAW FIRM promised to pay for his (MC MAHAN's) attorney. Attorney KITTERMAN objected to the question citing client/attorney privilege regarding that information. MC MAHAN did not answer

the question of whether payment of the attorney was promised by ROSE LAW FIRM upon advice of his counsel.

He advised that he knows of no meeting on Thursday, February 10, 1994, and has no contact with the computer system of the ROSE LAW FIRM.

The following is a physical description of MARK WAYLAND MC MAHAN:

Race	White
Sex	Male
Date of Birth	[redacted] FOIA(b)(6)
Social Security Account Number (SSAN)	[redacted]
Resides	42 Master's Place, Maumelle, Arkansas 72113
Telephone Number	(501) 851-2114
Present Employment	Courier, ROSE LAW FIRM, since October, 1991
Previous Employment	HI-BOY RESTAURANT, Maumelle, Arkansas, summer, 1991
Education	Graduate of Mc Clellan High School, 1990
Parents	WILLIE C. MC MAHAN and MARY HELEN MC MAHAN, 42 Master's Place, Maumelle, Arkansas 72113
Telephone Number	(501) 851-2114
Attorney	GREGORY KITTERMAN, 1101 Garland Street, Little Rock, Arkansas 72201
Telephone Number	(501) 374-1145
Fax Number	(501) 375-9131

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/14/94

ROBERT PAUL BOUCHER appeared at the Little Rock Office of the Federal Bureau of Investigation (FBI) as scheduled at 4:00 P.M. and agreed to be interviewed. Mr. BOUCHER was advised of the identity of the interviewing Agent and of the purpose of the interview. Also present during the interview were JULIE O'SULLIVAN, and PAT SMITH, assistants to Special Counsel ROBERT FISKE. Mr. BOUCHER identified himself as having been born [redacted] at [redacted] and having Social Security Account Number (SSAN) [redacted] He resides at Number 23 Dawn Court, Jacksonville, Arkansas, telephone number (501) 985-2360. His work telephone number is (501) 377-0403, and his beeper number is 399-1882.

Mr. BOUCHER stated that he has worked at the ROSE LAW FIRM since September, 1986, as maintenance supervisor. He works alone in his position as maintenance man, which includes duties such as fixing desks, chairs, and other general maintenance jobs. He stated that, prior to coming to ROSE LAW FIRM, he was an employee of the United States Air Force from which he retired at Little Rock Air Force Base in Jacksonville. He said that his normal working hours are Monday through Friday at ROSE LAW FIRM from 7:30 A.M. until 4:30 P.M. His immediate supervisor is KATHY HARRIS, whom he described as the office manager. He stated that he directly answers to her.

Mr. BOUCHER described ROSE LAW FIRM as having approximately 110 employees but explained that he was uncertain about this number. He stated they did have paralegals employed there. He described the basement area of the ROSE LAW FIRM building complex as having a shredding machine in his room or office. He stated that this was the only shredder in ROSE LAW FIRM office space. He stated that the basement also includes the break room or snack room which contains vending machines of various types, a photocopying room, and the accounting department. He said that there is also a full scale kitchen located in the basement. He described the shredding machine as a normal size machine which at one time takes no more than a

FOIA(b)(7) - (C)

Investigation on 2/11/94 at Little Rock, Arkansas File # 29D-LR-35063 5.2 11 10

by SA [redacted] Date dictated 2/12/94

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quarter-inch stack of papers. He said any more than that would clog up the machine. He described the brand name of the machine as Intimass (phonetic). He said that the room containing the shredder is open during his normal working hours and is locked at night. He stated the only persons having a key to this room besides himself are KATHY HARRIS, his supervisor; RON CLARK, the managing partner of the law firm; and LARRY SMITH, the courier supervisor. He said that there is a security guard at the front door of the ROSE LAW FIRM building until 10:00 P.M. at night. There is also an alarm system on the glass areas of the building, and employees wishing to gain entry to the building after hours must use their own individual code on a keypad at the entrance. He stated that after-hours entries through use of the keypad are recorded on a computerized data bank in KATHY HARRIS' office. He stated that the two main doors, on Third Street and Fourth Street, open at 8:00 A.M. and close at either 5:00 or 6:00 P.M. He explained that the computer system recording the entries after hours by use of the keypad is on a separate data bank or computer system from the other computer system being used in the office. He stated that the only people having a master key for the entire ROSE LAW FIRM building complex are RON CLARK, KATHY HARRIS, LARRY SMITH, as well as he (BOUCHER).

He explained that the job of shredding papers was solely his job until about one and one-half to two years ago at which time couriers or messengers were assigned to do this job. He stated that couriers would pick up material to be shredded from each floor. He said that there was one card on each floor which was used to indicate that shredding needed to be done, and the couriers would then pick up the shredding. LARRY SMITH would take the cards and post them in the courier box to assign couriers to do the shredding. He added that there was a lock box on each floor. Employees would put more sensitive documents, particularly such as related to personnel matters, in these lock boxes for shredding. BOUCHER has the task of taking the material from the lock boxes and shredding this material himself. The lock boxes have been in place for at least two years. He said that there are no written instructions as to what items are to be put into the lock boxes but only a general understanding that anything of a more sensitive nature or something which one would not want others to see would be placed into a lock box. He said it would depend on individual lawyers as to what they thought was sensitive or not sensitive. He does not know of any type of policy regarding shredding which is written on paper. He stated

that shredding was being done on a daily basis during the day when his office was unlocked, and all shredding normally ceased by 4:00 P.M. because he would lock the door at that time.

Mr. BOUCHER described the couriers as far as he was aware of their names as MARK; BRENT, who is a fairly new employee; CLAYTON; KURT FRIEBERG; JEREMY HEDGES; and CLIFTON. He stated that CLIFTON also takes care of handling the mail runs.

Mr. BOUCHER stated that he is rarely in the room while shredding is going on because the machine is very noisy. He stated that LARRY SMITH's desk is right near the door to the room where the shredding is being done, and the door is normally closed during shredding because of the noise. After the bag in the shredding machine is full, it is then taken and placed in the dumpster. He said that the shredder destroys the papers in a crosscut fashion rather than vertically or perpendicular. He said items which are normally shredded are sheets of paper and, on some occasions, file covers.

Mr. BOUCHER stated that he last shredded on about Tuesday, a week ago (February 1, 1994). He is, however, unsure if it was on that particular day. He recalls that there was a lock box on the second floor which had documents in it to be shredded including photocopies which had turned out to be too dark. He said it may have included bond paper, but he could not be sure. There were no checks or files but only loose papers in that lock box. He added that this lock box on the second floor is in the copying room. He did not see anything related to WHITEWATER, BILL CLINTON, HILLARY CLINTON, MADISON GUARANTY SAVINGS AND LOAN, VINCENT FOSTER, or DAVID HALE in these papers, but he explained that he did not pay any attention to the papers and cannot say for sure what was on them.

He added that he hauled boxes to the remote storage area used by ROSE LAW FIRM on Monday or Tuesday of this week. He said that the remote storage area is on Cantrell Road near CAJUN'S WHARF. He believes the address is 2304 Cantrell Road. He said that, in this area, the firm maintains old files or closed cases. There are two ladies employed who work at this remote storage area. They are RIKI STACY and BARBARA PERKINS. He said PERKINS started to work about two weeks ago, replacing her sister, ANNE WALKER. He said that a company known to him as SMITH RECYCLING picks up boxes from their remote storage area for

shredding or destruction. He said that, on Thursday, February 10, 1994, SMITH RECYCLING picked up boxes, including ten to fifteen boxes which had been stored at the remote storage area and another eight to twelve boxes from JOYCE MCKENNA. He explained that MCKENNA had asked him to take eight to twelve boxes to the remote storage area which contained files which had been copied onto microfilm. He is unsure of what was in these boxes which were picked up by SMITH RECYCLING on Thursday. He seemed to recall that the boxes had two or three different names on them, one of them possibly having been related to a case involving TCBY. He said that SMITH RECYCLING is based in Pine Bluff, Arkansas. He said there is no one contact person there to arrange for shredding to be picked up. He normally calls the secretary at this company and tells them that they need a pickup. He seemed to recall that the last one had been made two to three weeks prior to the one on Thursday.

Mr. BOUCHER stated that he has never shredded or disposed of material or documents which were unusual or out of the ordinary. He stated that he had never seen any documents being destroyed which had the names FOSTER, WHITEWATER, MADISON GUARANTY SAVINGS AND LOAN, President or Mrs. CLINTON, VINCENT or LISA FOSTER, DAVID HALE, or JIM GUY TUCKER on them. He said that he never saw anything with FOSTER's name on it at the remote storage area nor with any of the other above-mentioned names. He had been told two to three weeks ago by RON CLARK and KATHY HARRIS that any boxes with FOSTER's name on them were to be taken to a special room. At that time, there were ten to twelve boxes related to FOSTER which were ready to be taken to the remote storage area, but CLARK told him not to take them to the remote storage area but to place them in the special room. He said he does not know where these boxes came from but added that they may have come from LORRAINE KLINE (phonetic) who used to be FOSTER's secretary.

BOUCHER stated that RIKI STACY has a list of items located in the remote storage area. About two to three weeks ago, BOUCHER brought boxes back from the remote storage area after KATHY HARRIS told him to do so. He did not know if the boxes had names on them or what names may have been on these boxes. He said normally RIKI STACY writes the name and location of each box that is kept in the remote storage area. She also notes the names of the person requesting certain boxes to be

brought from the storage area and the dates on which this request is made.

Mr. BOUCHER said that, on Thursday of last week (February 3, 1994), he left the office at 4:30 P.M. but does not recall if there may have been shredding in the bag in the shredding machine. He explained the machine is of the type that one cannot see the bag unless one opens the machine. He does not know if anyone shredded on that particular day. He stated that he did not know if anyone shredded after hours on that day and is not aware of any conversation that he or others may have had about shredding after hours at that time.

He stated he first became aware of the news article regarding the alleged destruction of files on Wednesday, the day that the article was published, when he saw photocopies of it on the couriers' table in the basement at ROSE LAW FIRM. He is uncertain of the exact time when he first saw the copies of this article. He stated he did hear mentioned on the radio on his way to work something about shredding being done at ROSE LAW FIRM and then saw the article. He stated that he never saw two people doing any shredding as was described in the article. He mentioned the contents of the articles to LARRY SMITH, the courier supervisor at ROSE LAW FIRM, who said he did not believe it happened. He stated that SMITH has only been there one or two months. He said, on the day that the article was published, there were numerous calls received from people with the news media. On Thursday, February 10, 1994, RON CLARK; JERRY JONES, another partner in ROSE LAW FIRM; KATHY HARRIS; and LARRY SMITH met, and, at that time, RON CLARK told everyone present about the fact that the FBI wished to speak to the couriers. He said that they should be totally honest about everything, and ROSE LAW FIRM had nothing to hide. He stated that no one at ROSE LAW FIRM had done anything wrong. He said that, on the afternoon of February 11, 1994, at 3:00 P.M., RON CLARK called a meeting which included BOUCHER, LARRY SMITH, KATHY HARRIS, and all of the couriers. RON CLARK told the group at this meeting that they were to be interviewed by the FBI, that they should not be nervous, but be totally honest. He said that the meeting lasted 15 to 20 minutes, and neither CLARK nor anyone there told them what they should or should not say during the FBI interviews. CLARK did state that, if they wanted a lawyer to be present during the interviews, they would be offered a lawyer. CLARK did state that any questions which would involve the attorney/client

privileged relationship should not be answered. He asked them to talk to him about such questions first, and he would check them out.

BOUCHER said that one or two of the couriers were apparently called at home by members of the press. He said that there had been a meeting on either Monday, Tuesday, or Wednesday at which time RON CLARK told everyone that the press would be calling and that it would be up to each individual whether or not they wanted to speak to the press. CLARK suggested that they not talk to the press. He said this meeting actually was composed of two meetings which included all of the staff but not the lawyers of the firm. The two meetings were held during the morning at 10:30 and then again at 11:00. BOUCHER did not know what the lawyers were told as far as speaking to the press. BOUCHER stated he did not know anything about the topic discussed in the "Washington Times" article before seeing the actual article. He stated that he has not discussed the subject matter in the article with anyone. He said that he never saw any lawyers doing any shredding.

BOUCHER stated that, just before coming to the interview with the FBI, he remembers one courier saying that there were two boxes which had been shredded. BOUCHER did not know the date on which these two boxes had been shredded. He thinks it may have been the courier named MARK who brought up the subject of the two boxes being shredded during the Friday 3:00 P.M. meeting. He stated that the courier, MARK, told this to RON CLARK, and RON CLARK said to go ahead and tell the FBI about it.

BOUCHER stated that he has no knowledge of the computers in the building. He said everyone has a computer except for himself. He stated that they were apparently networked together. He said that the data processing supervisor is a person named KIM KNACAS (phonetic), and a DONNA COLLINS is the problem solver for the data processing system.

He said that, when the subject of WHITEWATER first came up, RON CLARK called a meeting, and, at that time, he told everyone that no one had done anything wrong, and the ROSE LAW FIRM was innocent. During that meeting, CLARK told everyone that anything related to FOSTER was not to be thrown out. He said that this was the first time that they were told not to throw

anything out related to FOSTER. He said this meeting occurred about two weeks ago. He explained some secretaries put the lawyer's name on the outside of the box but usually not the client's name. He said that the boxes related to FOSTER were being kept in a special room located on the first floor. He said there were about 20 to 30 boxes in this room. He said, in order to take boxes and put them in the room, he had to go to KATHY HARRIS and tell her that he had boxes to put in that room. The last time when he took boxes into that room was on Monday or Tuesday of this week. He said there were two or three boxes regarding FOSTER. He remembered about two or three weeks ago being told by KATHY HARRIS to put a different lock on the door to this particular room. The only people that he remembers seeing in this room besides himself were RON CLARK, PHIL CARROLL, who is an attorney, and GARY SPEED, another attorney with ROSE LAW FIRM. He believes that GARY SPEED had some boxes of files which he had stored in that room previously and was in the room only to take those files out before it was being used to store FOSTER-related files.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

FOIA(b)(7) - (C)

Date of transcription 2/13/94

CLIFTON TRYNAE WHITE, date of birth [redacted] black male, was advised of the identities of the interviewers, Special Counsel JULIE O'SULLIVAN and Special Agent (SA) [redacted] of the Federal Bureau of Investigation (FBI) and the purpose of the interview. WHITE was informed that the interview concerned incidents of shredding documents related to the current Whitewater investigation. WHITE was interviewed in the presence of his attorney, GREGORY KITTERMAN. WHITE furnished the following information:

WHITE stated he works in Purchasing and Receiving, handles the mail on occasion, and performs some of the couriers' responsibilities. WHITE said that he reports to LARRY SMITH from whom he takes orders directly. WHITE also acknowledged that he receives orders from other administrative personnel including attorneys, secretaries, and CATHY HARRIS, LARRY SMITH's boss. WHITE said that he began employment at the ROSE LAW FIRM during the middle of December 1993. WHITE said he is still employed by the City of Little Rock as the receptionist at the WAR MEMORIAL FITNESS CENTER (Friday evenings). WHITE said he works at the ROSE LAW FIRM from 7:00 a.m. to 3:30 p.m. or 4:00 p.m. five days a week. WHITE advised that he is currently attending the University of Arkansas at Little Rock (UALR).

WHITE confirmed that he has on occasion shredded documents, usually when he filled in for the couriers.

WHITE explained that each person would be assigned a floor and go around to the offices to pick up documents to be shredded. WHITE stated that this activity was done on Tuesdays and Thursdays at no particular time during the day. WHITE went on to mention that approximately one month ago, shredding was done on an as-needed basis; employees would call to have documents shredded. WHITE said that he usually receives a box full of paper off a single floor. WHITE claimed that he never reads the material given to him to be shredded nor was he ever given a whole box of documents to be shredded.

Investigation on 2/12/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11-1

by SA [redacted] Date dictated 2/12/94

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WHITE said that he did not do any shredding one week ago Thursday. WHITE acknowledged that he was not asked to do shredding that day either. WHITE said that every courier was at work that day except JEREMY. WHITE assumed the couriers did shredding that day.

WHITE said that he does not recall staying late that Thursday or during the last two weeks. WHITE advised that he leaves work around 3:00 or 4:00 p.m. WHITE said that he leaves the firm first and the couriers are always still there.

WHITE stated that there is only one shredder at the ROSE LAW FIRM located in BOB BOUCHER's office. WHITE did not know who has the keys to BOUCHER's office but said that the door to his office is usually left open. WHITE was unaware if BOUCHER's office door is closed in the evening.

WHITE again confirmed that he did not do any shredding of documents that Thursday.

WHITE was asked about the Washington Times article alleging that an employee of the ROSE LAW FIRM shredded Whitewater documents. WHITE opined that the story in the newspaper had no credibility as far as he was concerned. WHITE did not talk to any employee about the alleged shredding nor did he hear talk about shredding of Whitewater documents.

WHITE did not recall anything unusual occurring at the firm on Friday. WHITE said that he did not do any shredding on Friday. WHITE said that he has not done any shredding since last Tuesday.

WHITE was asked if he has ever read documents related to the following persons/entities: Whitewater, VINCE FOSTER, BILL and HILLARY CLINTON, MADISON, JIM GUY TUCKER, and DAVID HALE. WHITE claimed that he has not read documents related to those persons/entities.

WHITE again confirmed that he has never received a box of documents to shred.

WHITE said that no one has ever mentioned in any meeting the shredding of Whitewater or VINCE FOSTER related documents.

On Wednesday around 7:30 a.m. to 7:45 a.m., WHITE learned of the Washington Times articles from the E-Mail on LARRY SMITH's computer terminal. WHITE said that RON CLARK posted a message on the E-Mail system regarding the article.

WHITE recalled a meeting of staff and secretaries (no attorneys) with CATHY HARRIS and RON CLARK occurring a couple of weeks or more prior to the Wednesday he observed the E-Mail message. WHITE said this meeting was called to allow employees to air their grievances and complaints. WHITE learned of this meeting through a memorandum. This meeting lasted approximately 15 minutes. WHITE mentioned that he heard the words "subpoena" and "served" and that documents were being gathered. WHITE said he was not aware if FISKE was appointed at that time.

WHITE was asked whether any couriers expressed concern about shredding documents related to Whitewater or VINCE FOSTER.

WHITE said that he first read the actual Washington Times article when he observed a Xerox copy of the article at the couriers' station. WHITE thought the article was fantasy. WHITE read the article out loud in the presence of LARRY SMITH and JEREMY HEDGES. WHITE commented that the article did not seem right. WHITE claimed that the couriers are light-hearted people and that the "scared to death" part did not sound like them. WHITE did not think a lawyer talked with the reporter. WHITE believed the article's story was fabricated.

WHITE recalled a later meeting last Wednesday lasting five to ten minutes. WHITE said that the following firm employees were present: RON CLARK, BOB BOUCHER, LARRY SMITH, JEREMY HEDGES, CATHY HARRIS, MARK MC MAHON, and CLIFTON WHITE. WHITE said that CLARK spoke to the group and said that he had faith that no one had acted improperly. WHITE initially said that basically CLARK did not want people to talk to the press but then rescinded that statement. WHITE clarified CLARK's statement by stating that CLARK said people could talk to the press but to be aware that the press can switch around what they say. CLARK said that any press inquiries can be directed to himself. WHITE was asked if the FBI or Special Counsel was mentioned by CLARK. WHITE confirmed that CLARK did not mention these organizations in the meeting. According to WHITE, CLARK told everyone that, if they had information concerning shredding, they could come to CLARK with the information.

WHITE said that he did not go to work Thursday. KIRK, a fellow employee, called WHITE at home requesting LARRY SMITH's telephone number. KIRK needed to call SMITH to let him know that he would not be at work. WHITE claimed that KIRK talked to him about the Arkansas-Kentucky game. WHITE said that he also called LARRY SMITH and informed SMITH that he was iced in. WHITE said he did not go to work Thursday. WHITE confirmed that he did not talk to KIRK about the newspaper article.

WHITE said that he learned of the meeting with the FBI at 10:00 a.m. on Friday from Mr. SMITH. WHITE noted that he came to work at 1:00 p.m. on Friday after he called LARRY SMITH earlier to advise him that he would be to work after the ice melted. At 2:00 p.m. on Friday, RON CLARK told WHITE that the FBI meeting had been canceled. CLARK suggested that WHITE tell the truth to the FBI and Special Counsel. According to WHITE, RON CLARK said that no one gave the authority to shred Whitewater documents and that they had no knowledge of shredding documents of concern.

WHITE stated that he does not have anything to do with SMITH RECYCLING or the law firm's computer system (deleting files).

WHITE said that he did not talk with the Washington Times.

WHITE mentioned that CLAYTON was contacted by a reporter. JEREMY HEDGES told a reporter, "No comment," and asked the reporter how he got his name.

WHITE was unaware of any increase in shredding activities at the firm. WHITE claimed to be unaware of the firm's deposition of large boxes of documents. WHITE was unsure whether CLARK mentioned that counsel would be provided to those meeting with the FBI/Special Counsel.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

WHITE provided the following pedigree information:

Name	CLIFTON TRYNAE WHITE
Home Address	1812 Reservoir Road, #276, Little Rock, Arkansas
Business Address	ROSE LAW FIRM, 120 East 4th Street, Little Rock, Arkansas
Date of Birth	[redacted] FOIA(b)(6)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) FOIA(b)(6) Date of transcription 2/14/94

JEREMY CHAD HEDGES, white male, date of birth [redacted] Social Security Account Number (SSAN) [redacted] 1701 West Park Drive, Apartment 44, Little Rock, Arkansas, telephone number (501) 666-9222, parents' address 1003 South Dogwood Drive, Siloam Springs, Arkansas, was interviewed at the Little Rock Office of the Federal Bureau of Investigation (FBI) by PAT SMITH, Office of the Independent Counsel, and Special Agent (SA) [redacted] of the FBI. Present during the interview was DEAN OVERSTREET, counsel for HEDGES. After being advised of the identity of the interviewers and of the nature of the interview, HEDGES provided the following information:

HEDGES advised that he was hired as a courier for the ROSE LAW FIRM, Little Rock, Arkansas, by MARY RUSSELL in February, 1992. He advised that, in his position, he delivers packages to other law firms, files to various courthouses, and picks up packages at various law firms. He advised that he works part time, averaging 26 hours per week, and attends the University of Arkansas at Little Rock (UALR) where he is a junior majoring in Biology. HEDGES further advised that he is directly supervised by LARRY SMITH who reports to KATHY HARRIS.

HEDGES stated that he receives his assignments for the day by picking up file cards from his box that tell him where documents to be shredded are located. He provided an explanation of how the card works by saying that a card with "two old" on it would mean that documents to be shredded were located on the second floor of the old building. He further stated that documents to be shredded are picked up by the couriers on Tuesdays and Thursdays.

HEDGES advised that it is standard procedure to pick up documents to be shredded and take them to the office of BOB BOUCHER in the basement where the shredder is located. He advised that this shredder is the only one in the building to his knowledge.

Investigation on 2/12/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 2/12/94

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HEDGES stated that, last Wednesday, February 9, 1994, BOUCHER told him that a recycling company had picked up numerous boxes of records to be shredded that had been generated from litigation involving TCBY. He stated that he interpreted this to mean that the boxes had been picked up on Thursday, February 3, 1994. He further stated that BOUCHER told him that these records had nothing to do with the CLINTONs, WHITEWATER DEVELOPMENT, VINCENT FOSTER, MADISON GUARANTY SAVINGS AND LOAN, DAVID L. HALE or JIM GUY TUCKER. HEDGES further stated that he has never sent out documents to a recycling firm.

HEDGES advised that he personally shredded files of HILLARY CLINTON once prior to the Presidential election and once in February, 1993. HEDGES could not recall who ordered the shredding but advised that various secretaries would usually call a courier and tell them to pick up documents for shredding. HEDGES speculated that the HILLARY CLINTON files may have been shredded because they had been put on microfilm. He further advised that he knew the shredded documents were HILLARY CLINTON's because they had the initials "HC" on them, and tabs of files had her full name on them. HEDGES further advised that, to his knowledge, no documents regarding WHITEWATER DEVELOPMENT CORPORATION, MADISON GUARANTY SAVINGS AND LOAN, DAVID L. HALE, or JIM GUY TUCKER were among the HILLARY CLINTON documents that were shredded.

HEDGES stated that it is standard practice at the ROSE LAW FIRM to reuse boxes containing documents to be shredded. He stated that the name on the side of the box was usually crossed through with a marker. He stated that, approximately three weeks ago, he participated in the shredding of documents with VINCENT FOSTER's name on them. HEDGES stated that he knows they were FOSTER's because they had his initials on them, had file tabs with his full name, and several cover letters were signed by him. He stated that ELISE MC SHAEN (phonetic) brought down the documents of FOSTER's to be shredded. He further stated that MC SHAEN primarily works on the second floor of the new building and reports to KATHY HARRIS. HEDGES further stated that a couple of other couriers knew FOSTER's files had been shredded. HEDGES identified CURT FRIEBERG and CLAYTON LINDSEY as couriers who knew this, and LINDSEY shredded one-half of the box of FOSTER's documents. HEDGES further stated that FRIEBERG told him that he saw the FOSTER documents in a box in a discussion they had on February 11, 1994.

HEDGES advised that he learned on February 9, 1994, that VINCENT FOSTER's files had been taken to a room next to RONALD CLARK's, the managing partner's, office. He advised that he had learned that the firm was holding FOSTER's files approximately one and one-half weeks ago. He advised that CLARK told him that the file boxes concerning FOSTER were in the room next to his office. HEDGES further advised that, for three to four months, he saw several boxes with FOSTER's name on the outside stacked near an entrance to the firm located off an alley next to the parking lot. He further advised that, if he saw the boxes again, he would probably recognize them.

HEDGES stated that a meeting occurred on Tuesday at 9:30 A.M. during the last week of January that he was told to attend, but he was unable to due to school obligations. He stated that SMITH told him that the meeting concerned the press trying to talk to employees of the ROSE FIRM, and they were not supposed to comment on anything to the press. HEDGES stated that he does not know why the meeting was called but assumed it had something to do with the investigation of WHITEWATER DEVELOPMENT CORPORATION.

HEDGES advised that no one has instructed him not to shred documents regarding WHITEWATER DEVELOPMENT, the CLINTONs, DAVID HALE, JIM GUY TUCKER, MADISON GUARANTY SAVINGS AND LOAN, or JIM MC DOUGAL. He advised that a meeting was called on Wednesday, February 9, 1994, at 10:30 A.M. and included the couriers, BOUCHER, and CLARK. He further advised that CLARK told them that an article appearing in the "Washington Times" was false, and, to his knowledge, no shredding had occurred at the firm and, if any of them knew of shredding that had occurred, to tell him or leave an anonymous note.

HEDGES stated that he has never seen any documents at the ROSE LAW FIRM regarding WHITEWATER DEVELOPMENT, MADISON GUARANTY SAVINGS AND LOAN, or JIM MC DOUGAL. He stated that, during the meeting on February 9, 1994, CLARK did not ask if any couriers had shredded documents, and, therefore, he did not tell him about shredding FOSTER's documents approximately three weeks ago.

HEDGES advised that, on February 11, 1994, at 2:00 P.M. a meeting occurred between the couriers, BOUCHER, CLARK, HARRIS, and JERRY JONES, an attorney at the firm. He advised that CLARK

told them about pending interviews with the FBI, and they should tell the investigators anything they knew about shredded documents, and they should not worry about hurting the firm.

HEDGES stated that he felt like he needed an attorney because of his knowledge of the FOSTER document shredding that had occurred three weeks ago. He stated that, in the meeting of February 11, 1994, JONES asked him if he knew for a fact that documents shredded had been FOSTER's, and JONES told him to not assume the documents were concerning WHITEWATER DEVELOPMENT unless he had actually seen that.

HEDGES advised that he does not know what the FOSTER documents that he shredded pertained to. He advised that he decided on the night of February 11, 1994, that he wanted an attorney to accompany him to instant interview. He advised that he came to this conclusion after talking with his parents and HARRY JANSEN, JR., a fraternity brother at Sigma Nu, who told him to never meet with the FBI without an attorney. HEDGES further advised that he contacted LINDSEY, and they decided on OVERSTREET, who was referred by LINDSEY's aunt.

HEDGES stated that he did not work on February 3, 1994, as he was at school that day. He stated that he does not know if any shredding occurred on that day at the firm. He further stated that his only knowledge of shredded documents were the ones previously mentioned regarding the TCBY litigation.

HEDGES advised that he had a discussion with LINDSEY last weekend regarding LINDSEY being contacted by a "Washington Times" reporter on Friday, February 4, 1994. He further advised that he was contacted by a "Washington Times" reporter on Sunday, February 6, 1994, but he told the reporter he had no comment.

HEDGES stated that, on the morning of the article appearing in the "Washington Times," all of the couriers were wondering who had spoken to the reporter, but no names were ever decided upon as to who may have spoken with the reporter.

HEDGES advised that two associate attorneys, SAMMY STRANGE and another attorney, name unrecalled, have recently been asked to leave the firm and were given a two-week period to seek other employment. He advised that he and FRIEBERG had wondered if the two attorneys may have spoken to the "Washington Times."

HEDGES further advised that he has seen both attorneys that have been let go as recently as last Wednesday.

HEDGES stated that, to his knowledge, no records, with the exception of the records previously mentioned as being shredded, concerning President and Mrs. CLINTON, VINCENT and LISA FOSTER, WHITEWATER DEVELOPMENT CORPORATION, DAVID L. HALE, or MADISON GUARANTY SAVINGS AND LOAN have ever been destroyed at the ROSE LAW FIRM. He stated that he has seen JIM GUY TUCKER's name on files that were destroyed sometime in the summer of 1993, but he does not know what those files pertained to. HEDGES stated that he has no access to the computer nor does he have any knowledge of files deleted from the computer system.

HEDGES advised it is his understanding that the firm will pay for his attorney as he was told this by CLARK, the managing partner. OVERSTREET, HEDGES' attorney, stated that he has no written agreement with the ROSE LAW FIRM, but it is also his understanding that they will be paying for his services based on what HEDGES has told him.

HEDGES stated that he got his job at the ROSE LAW FIRM after BRUCE ANIBLE (phonetic), a fraternity brother, told him that he was leaving the firm, and he should look into applying for a job there. He stated that he was working for another law firm prior to that and called RUSSELL to set up an interview. HEDGES further stated that he was hired right away, and he has no other connections to the ROSE LAW FIRM.

HEDGES advised that he had nothing to change regarding information given to the interviewers during the course of the interview.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

FOIA(b)(6)

Date of transcription 2/13/94

JASON BRENT LEMLEY (white male born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Associate Independent Counsel DENIS J. McINERNEY and Special Agent [redacted] He was advised that this interview concerned the alleged shredding of "Whitewater" documents at the ROSE LAW FIRM, Little Rock, Arkansas.

Present during this interview was LEMLEY's attorney, JOHN S. KITTERMAN, business address and telephone number 1101 Garland, Little Rock, Arkansas 72201, telephone number (501) 375-8840.

LEMLEY advised he presently resides at 6900 Cantrell Road, Apartment E-3, Little Rock, Arkansas 72207, telephone number (501) 661-9252. He stated he is a student (junior year) at the University of Arkansas at Little Rock (UALR) majoring in nursing. He stated he is a member of the Sigma Nu fraternity at UALR.

LEMLEY advised he is presently employed as a courier by the ROSE LAW FIRM and has been so employed since August 1993. He advised he works Monday through Friday from 2:00 p.m. until about 5:30-6:00 p.m. He advised that, prior to this job, he worked in a similar capacity during the summer of 1993 with the WRIGHT, LINDSEY, and JENNINGS LAW FIRM. He stated that, prior to that, he was a full-time student.

LEMLEY advised his duties as a courier generally involve such things as moving boxes, making deliveries and pickups at the courthouse and other offices, and shredding. He stated that couriers usually receive their instructions from LARRY SMITH or KATHY HARRIS of the ROSE LAW FIRM. He advised that, when he first started at the firm, his supervisor was MARY

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by SA [redacted] Date dictated 2/13/94

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(LNU) who resigned shortly after his arrival. He stated that shredding is done on Tuesdays and Thursdays, and the shredder is maintained in the office (maintenance room) of BOB BOUCHER. He stated this room is usually unlocked during the day, but is locked at 4:30 p.m. until 7:00 a.m. the next morning.

LEMLEY advised he has never seen any shredding other than on Tuesdays and Thursdays, and he has never seen anything shredded after 4:30 p.m. on those days. He advised that there has not been any increase in shredding over the past few months.

LEMLEY advised that CLAYTON LINDSEY and JEREMY HEDGES are also couriers at the firm as well as Sigma Nu fraternity brothers of his. He advised that on Sunday night, February 6, 1994, while taking LINDSEY and MATT POWELL home after their fraternity chapter meeting, LINDSEY told him about being contacted by the "Washington Times." He stated he cannot recall what else was said about this at that time.

LEMLEY advised that a day or two before the "Washington Times" story came out, probably on Monday, February 7, 1994, or Tuesday, February 8, 1994, he was having a conversation with several other couriers, probably LINDSEY, HEDGES, and CURT FRIEBERG, and someone said that some boxes had been shredded several weeks ago. LEMLEY stated that LINDSEY seemed worried about how the "Washington Times" got his name and "number." He stated that nobody seemed to know what the boxes contained. LEMLEY advised LINDSEY said this had been the first time he (LINDSEY) had been contacted by reporters.

LEMLEY advised that, on the day the article was printed, HEDGES told him that he (HEDGES) had gotten several telephone calls from the "Washington Times." He advised HEDGES told him that the person described in the article as "not talking" was probably LINDSEY. He stated that he had asked LINDSEY who the others mentioned in the article might be, but LINDSEY did not know.

LEMLEY advised he has had no further conversations with any of the couriers concerning this story. He stated he has no idea whom the people mentioned in the story might be. He stated they are all friends, but "not really good friends." He said he has known HEDGES as a fraternity brother since the fall of 1992, and does not believe him to be the type of person who would have contacted reporters.

LEMLEY advised that two or three weeks ago LINDSEY and HEDGES shredded a box that had the initials "VF" on it. He stated the box was already in the maintenance room, and he believes it was LARRY SMITH who told LINDSEY and HEDGES to do it. He stated that he does not know who brought it to the room. He advised that LINDSEY and HEDGES described it as a "Xerox paper" size box packed full of files and papers. He stated that LINDSEY and HEDGES did not look at the papers before shredding them. He said that he believes there was only this one box at that time.

LEMLEY advised he has never seen any of the firm's attorneys shredding documents. He stated couriers are the ones who usually do the shredding. He stated they never shred on other than normal days, and they never ship documents outside the office to be shredded. LEMLEY advised the firm has a remote storage facility on Cantrell Road, but there is no shredding done there. He advised that the firm has only one shredding machine.

LEMLEY advised he has never shredded any files which he knows to have been associated with any of the following:

VINCENT FOSTER
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS AND LOAN
JIM GUY TUCKER
DAVID HALE

LEMLEY advised that yesterday (February 11, 1994) about 3:30 p.m., there was a meeting with the couriers at the firm. Present with the couriers were HARRIS, JERRY JONES, and Mr. CLARK. He stated the couriers were told to come to the FBI office on Saturday and to answer all questions truthfully. He

stated that they were told they could have attorneys with them if they wanted. He advised he thinks Mr. CLARK told them that the "Washington Times" story was wrong.

LEMLEY advised that, during this meeting, HEDGES told Mr. CLARK about the "VF" box being shredded. He (CLARK) did not seem to know about it. He (CLARK) did not seem particularly concerned. LEMLEY advised that Mr. CLARK did not ask who wanted this particular box shredded. He advised they were not asked if one of them was the person described in the article as having done the shredding. LEMLEY stated they were not told they could not talk to the press. He stated he has no desire to talk to a reporter. LEMLEY stated the only talk among the couriers regarding the newspaper article is their curiosity about whom the article refers.

LEMLEY advised that now that he is fully aware of the Government's interest in this matter, he will report any destruction of files which he believes might be of interest to the Independent Counsel..

LEMLEY provided the following information:

Name	JASON BRENT LEMLEY
Race	White
Sex	Male
DOB	
POB	FOIA(b)(6)
SSAN	
Height	6'2"
Weight	207 pounds
Hair	Black
Eyes	Brown

At the conclusion of this interview, LEMLEY was served with a subpoena to appear before the Federal Grand Jury, Little Rock, on February 16, 1994, at 10:00 a.m.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 2/14/94

On February 12, 1994, CLAYTON ARTHUR LINDSEY was interviewed at the Little Rock Office of the Federal Bureau of Investigation (FBI) by Special Agent (SA) [redacted] FBI, Little Rock Division, and PATRICK J. SMITH, Associate Counsel, Office of the Independent Counsel. Present with LINDSEY was his attorney, WILLIAM DEAN OVERSTREET, of DOVER AND DIXON, 425 West Capitol, Suite 3700, Little Rock, Arkansas 72201, telephone number (501) 375-9151. OVERSTREET was present during the entirety of the interview. After being advised of the identities of the interviewers and of the nature of the interview, LINDSEY provided the following information:

LINDSEY stated that he is a sophomore enrolled at the University of Arkansas, Little Rock, and only works at ROSE LAW FIRM part time. He advised that he normally works 30 to 35 hours per week, and his work hours are generally from 12:30 P.M. until 6:00 P.M. during week days. LINDSEY advised that his position is that of a courier, and KATHY HARRIS is the overall supervisor and office manager. LINDSEY stated that he has worked at the ROSE LAW FIRM since February, 1993.

According to LINDSEY, the couriers have one large area in the basement of the ROSE LAW FIRM which is accessed by taking the stairwell to the basement. He stated that the area is an open area with no door, and the couriers sit in the area at a table awaiting work assignments. He further advised that LARRY SMITH fills out the assignment cards which are dropped into a box, which each of the couriers, upon returning from an assignment, review for additional work assignments. Next to the area utilized by the couriers is an office occupied by BOB BOUCHER. BOUCHER's office has a door that is locked when he is off duty, and the only paper shredder that LINDSEY is aware of at the ROSE LAW FIRM is in that office. According to LINDSEY, BOUCHER has a key to the office, and the office manager additionally has a master key and can access the office when shredding needs to be done after BOUCHER has left.

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by SA [redacted] Date dictated 2/12/94

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In describing the work done by the couriers for the ROSE LAW FIRM, LINDSEY said that he and the other couriers make runs when a secretary or attorney bring materials, along with a courier slip, for delivery to various offices in town and when documents need to be delivered to the clerks of the various courts in Little Rock. There is also a main run for the courts in town twice a day, and one of the couriers will be assigned to make those runs. LARRY SMITH is in charge of making the assignments. Additionally, the couriers make mail runs around the office and pick up trash from the offices in the ROSE LAW FIRM for shredding. LINDSEY stated that the attorneys and secretaries working with documents all have two trash cans, one for regular trash and one for trash to be shredded. The couriers retrieve the trash to be shredded and take it to BOUCHER's office to shred those papers. LINDSEY said that six or seven assignment cards will be filled out and placed in the assignment box for the couriers to pick up, and each of the cards will have an area of assignment for picking up the trash to be shredded in a given area of the office. LINDSEY gave an example of what might appear on one of the assignment cards for shredding as "Pick up shredding three old." This would mean to pick up the trash to be shredded from the third floor of the older portion of the building. LINDSEY advised that the couriers will take with them a box and empty the trash to be shredded into the box, and then take those materials to the shredder in BOB BOUCHER's office. He stated that BOUCHER is normally not in the room while the shredding is going on, and, if someone else is already using the shredder, the courier will simply set his box of materials to be shredded on the table and wait his turn.

After BOUCHER leaves at approximately 4:30 P.M. in the afternoon, his door is locked, and, if there is additional shredding, the couriers then attempt to get a key from KATHY HARRIS, or she will open the door for them. LINDSEY stated that he had shredded documents after 4:30 P.M., but he cannot remember when he last did so. He further stated that he had not shredded any documents after 4:30 P.M. within the last two weeks.

Additionally, he advised that the normal types of materials to be shredded are letters to other attorneys, clients, and old court files, all of which are normally loose papers. When questioned as to whether he had ever read any of the documents, LINDSEY stated that he had not read them to the extent that he knew what was in them, but they were letterhead documents

and so on. LINDSEY was then questioned as to whether he had ever destroyed files or documents or recalled hearing anything regarding destruction of documents regarding President or Mrs. CLINTON, VINCENT or LISA FOSTER, WHITEWATER DEVELOPMENT CORPORATION, MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION, DAVID L. HALE, or JIM GUY TUCKER. LINDSEY replied that he did not recall nor did he have any knowledge of ever destroying any documents related to any of the persons or entities about which he was questioned with the exception of documents related to VINCENT FOSTER. He stated that he had assisted in shredding a box containing files belonging to VINCENT FOSTER, but he could not recall the exact date, but it had been approximately three weeks before the interview date. As he recalled the event, JEREMY HEDGES had received the box which LINDSEY described as a white banker's box which contained files and documents, and HEDGES had shredded approximately one-half of the box and had advised him (LINDSEY) that he was tired. LINDSEY then took over the shredding for HEDGES and completed shredding the remaining items in the box. LINDSEY recalled that this shredding occurred in the afternoon, and he was aware that the box contained files belonging to FOSTER because he had observed "VWF Files" on the outside of the box. Additionally, HEDGES had also advised him that it was a box of files or documents belonging to FOSTER.

LINDSEY was then questioned as to whether or not the shredding of the contents of a box containing files was a normal occurrence. He replied that it is normal to shred the contents of a whole box when the files have been closed and/or when items in the box have been placed on microfilm for storage. He additionally related that the ROSE LAW FIRM sends out items in bulk for destruction, but he does not know how much is sent out in that fashion, but stated that BOB BOUCHER does know. Further, he advised that he does not know who takes care of the shredding or destruction outside of the firm.

When LINDSEY was questioned as to whether or not he was aware who brought the box of FOSTER materials to JEREMY HEDGES to be shredded, he recalled that HEDGES had said to him that ELISE MC SHAN (phonetic) gave it to him (HEDGES). He further related that he had learned that information the morning of the interview, and his attorney, OVERSTREET, had been present as well. He stated that he had had no other conversation with other persons regarding the recent shredding of the materials in the box belonging to VINCENT FOSTER. He further stated that he does

not know who else might have that knowledge and stated that he did not tell anyone else.

Regarding the contents shredded by HEDGES and himself, LINDSEY was questioned as to whether any materials from WHITEWATER DEVELOPMENT CORPORATION, MADISON GUARANTY SAVINGS AND LOAN, DAVID L. HALE, or JIM GUY TUCKER were in the box. LINDSEY stated that he knows the WHITEWATER CORPORATION name, but that he has never shredded any documents related to WHITEWATER to his knowledge and stated that he is not aware of any documents related to any of the other persons or entities having been in the box or that were shredded by himself and HEDGES. He stated that the shredding seemed routine to him.

LINDSEY was then asked whether or not he is familiar with the story published by the "Washington Times" on Wednesday, February 9, 1994. He stated that he is familiar with the story, and, when asked how he had become aware of it, LINDSEY advised that he had come to work and found a copy of the article sitting on the desk at the courier station. When asked with whom he had discussed the article, he replied that he had talked with people at work, that is "the guys at the courier station;" his mother, CAROLYN LINDSEY; and his girlfriend, SHEA SCRUGGS. He further denied any knowledge of who the persons are referred to in the "Washington Times" as having talked to the reporter.

LINDSEY did state that JERRY SEPER, author of the "Washington Times" story, had contacted him at his residence and had called twice. He stated that SEPER had left a message on the answering machine at his residence Friday, February 4, 1994, stating that he was calling for CLAYTON LINDSEY, and he was with the "Washington Times." SEPER left two numbers for LINDSEY to return his call, but LINDSEY did not return the calls. He stated that he told his girlfriend, SHEA SCRUGGS, and his mother, CAROLYN LINDSEY, and his mother advised him not to call back. He also told JEREMY HEDGES and BRENT LEMLEY, other couriers at work. He stated he believed that he told them either that Friday or Saturday about the call. SEPER then called again on Sunday, February 6, 1994. LINDSEY remembered having come home after being at the house of one of his girlfriend's friends. LINDSEY had been in the shower and had just gotten out sometime between 3:00 and 4:00 P.M. when the phone rang. After SEPER identified himself, LINDSEY told him that he did not have anything to say. SEPER then asked him about the shredding of WHITEWATER documents,

and LINDSEY claimed to have told SEPER that he did not know anything regarding the shredding of WHITEWATER documents and had no comment. LINDSEY further recalled that SEPER then said to him that he (SEPER) did not have to use LINDSEY's name but said that the Federal prosecutors will be down in Little Rock, and he (SEPER) was just trying to clear "your name." LINDSEY recalled that SEPER did not ask whether or not the shredding had occurred on a specific date. When asked whether any documents related to the WHITEWATER DEVELOPMENT CORPORATION or specific documents were shredded, he advised he had no comment. LINDSEY stated that the call lasted approximately three to four minutes, and he told his mother about it and related to her the extent of the conversation.

LINDSEY further related that he was aware that there had been an 8:00 A.M. meeting called at the ROSE LAW FIRM for all of the employees approximately two to three weeks before his interview at the FBI Office. LINDSEY stated that he had not been there because he had been in class, but LARRY SMITH had told him what had been said. LINDSEY recalled that he had been told that the employees were advised by RON CLARK, the managing partner, not to speak to the press. Additionally, at the meeting, CLARK announced that Attorneys JIM BIRCH and SARAH HOOD TEED were leaving the firm. LINDSEY stated that he does not know why that they left. When questioned whether or not such a meeting has occurred previously to his knowledge, LINDSEY stated that there had never been a meeting like that before, or even a whole staff meeting before, during the time in which he has been employed at ROSE LAW FIRM, and he is not aware of others before that time. He did say that KATHY HARRIS, the office manager, had tried to involve the couriers more with the happenings at the office.

LINDSEY was then asked whether he knew of other instances where documents were destroyed or had knowledge that documents had ever been destroyed relating to the CLINTONs, VINCENT or LISA FOSTER, the WHITEWATER DEVELOPMENT CORPORATION, the MADISON GUARANTY SAVINGS AND LOAN, DAVID HALE, or JIM GUY TUCKER. LINDSEY replied that he did not, with the exception that he recalled being told by JEREMY HEDGES that HILLARY CLINTON's documents had been destroyed earlier, approximately a year ago, before LINDSEY had become employed at the ROSE LAW FIRM. HEDGES had told him that he had shredded her files before. LINDSEY then stated that the only other destruction he was aware of was the

incident already reported regarding the box of VINCENT FOSTER papers which had occurred approximately three weeks earlier.

LINDSEY was then again questioned related to the telephone call received from JERRY SEPER on Sunday, February 6, 1994, and who else he might have talked to regarding the conversation. LINDSEY recalled that he did not work Monday, February 7, 1994, and that he had told JEREMY HEDGES and BRENT LEMLEY about the conversation and also a friend, JIMMY LYNCH, who does not work at the ROSE LAW FIRM. He also told his girlfriend, and then, after the article was published, he and JEREMY HEDGES, who had also received a call from the ASSOCIATED PRESS, went upstairs to tell RON CLARK about being called by the reporters. According to LINDSEY, HEDGES went with him because the ASSOCIATED PRESS people had called HEDGES at work. When they arrived at CLARK's office, his door was shut, and they then went to tell WILSON JONES, who LINDSEY stated he knows fairly well. JONES then instructed them to tell RON CLARK, and, when they entered CLARK's office, JERRY JONES was in the office as well, and he and HEDGES told the two of them. LINDSEY recalled telling them what had happened and that they, meaning CLARK and JONES, had said to them that they had done the right thing. Neither told CLARK and JONES at that time about having shredded the materials in the VINCENT FOSTER box but told them about it on Friday, February 11, at about 2:00 P.M. CLARK had wanted to know how they knew that the box contained VINCENT FOSTER files, and LINDSEY said that he had seen the name on the box and letterhead, and the signature had been seen by JEREMY HEDGES. This conversation transpired during a meeting of all of the couriers, along with BOB BOUCHER as they were talking about the interviews schedule at the FBI. LINDSEY recalled that CLARK told them to tell the truth but not to assume anything. He also recalled CLARK saying that they should not try to protect anyone, and that the firm would provide a lawyer or would pay for a lawyer if any of the couriers felt that they needed one. LINDSEY stated he had called his aunt, DONNA CLAYTON, who is an attorney, and she had told him that he should obtain an attorney.

LINDSEY was then asked whether or not he works with computer files and the destruction of computer files, and he responded that he had no idea how it is done. He also advised that he has no access to the computers except for the sending of messages within the office. He denied having any knowledge of any destruction of computer files. LINDSEY was then asked as to

what knowledge he had of others who also shred documents and trash to be shredded. He advised that BOB BOUCHER handles the bulk shipment for destruction, and he had heard that maybe the last shipment had gone out during the previous week. LINDSEY stated that this had just been general conversation. When asked whether he knows of any other shredders present in the office, he advised that he did not and had not been aware of there being additional shredders at other times. He was also asked whether or not he knew of any previous meetings similar to the one that occurred with the entire staff approximately two to three weeks ago, and he also responded in the negative. When asked whether he had any knowledge or had heard any rumors or gossip regarding the destruction of files or the newspaper article, he indicated that he had not.

He was further asked whether or not he had any specific recollection of documents from the VINCENT FOSTER box. He stated that he did not recall personally seeing FOSTER's signature, but he was not paying attention. When asked whether he had knowledge of whether or not there had been Federal Grand Jury subpoenas issued regarding documents at the ROSE LAW FIRM, LINDSEY responded that he had not. He further stated that, on February 11, 1994, he had heard there was to be no more shredding until the issue regarding shredding of documents had been resolved, but there had been no instructions given to him before regarding not shredding certain documents. He further stated that, also on February 11, 1994, he had heard that all FOSTER documents were being placed in a room next to RON CLARK's office, but he does not know who has access to the room and did not have knowledge of documents being placed in that room before.

LINDSEY provided the following information regarding himself:

Name	CLAYTON ARTHUR LINDSEY
Race	White
Sex	Male
Date of Birth	[redacted] FOIA(b)(6)
Place of Birth	
Height	6'1"
Weight	180 pounds
Hair	Brown
Eyes	Hazel

Social Security Account Number (SSAN)	[redacted] - - FOIA(b)(6)
Residence Address	6515 R Street, Little Rock, Arkansas 72207
Home Telephone	(501) 661-1104
Employed	ROSE LAW FIRM
Work Telephone	(501) 375-9131

FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date of transcription 6/2/94

LORETTA M. LYNCH, Campaign Manager, DELAINE EASTIN COMMITTEE FOR CALIFORNIA SUPERINTENDENT OF PUBLIC INSTRUCTION, 311 California Street, Suite 510, San Francisco CA 94104, 414-837-5460, was contacted at the offices of LEGAL STRATEGIES GROUP, Watergate Towers, 2000 Powell Street, Suite 875, Emeryville CA 94608, 510-450-9600. Present was WILLIAM A. BROCKETT, LYNCH's legal counsel. Also, present were WILLIAM S. DUFFEY, JR. and RUSTY HARDIN, Office of the Independent Counsel, Little Rock, Arkansas, who identified themselves to LYNCH. LYNCH was advised of the identity of [redacted] Special Agent of the Federal Bureau of Investigation, [redacted] LYNCH provided the following information:

[redacted]

LYNCH started with the CLINTON Campaign on MARTIN LUTHER KING's birthday, January 20, 1992 or January 21, 1992. She came to do issues work responding to negative press stories. She was not hired to be a lawyer. She was hired to handle press issues. CHRISTINE VARNEY was hired as the campaign lawyer. LYNCH received her assignments from the Friends of Bill (FOB's), MICKEY KANTOR, JIM LYONS, KEVIN O'KEEFE, and others. Her assignment would be: "What's in the press, and how do we handle it." It changed with the WHITEWATER issue when they started getting calls from Arkansas, about February 8th through the 11th. SUSAN THOMASAS was mostly in charge of WHITEWATER, but LYNCH was the person on the ground. She would call THOMASAS and tell her about the issues. LYNCH kept THOMASAS apprised. Before the story hit, LYNCH communicated with THOMASAS, and THOMASAS communicated with HILLARY CLINTON.

29D-LR-[redacted] - Sub 11-97

SEARCHED [redacted] INDEXED [redacted]
SERIAL NR NR

JUL 21 1994

Investigation on 6/1/94 at Emeryville, California File # 29D-LR-35063

by SA [redacted] Date dictated 6/2/94

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Copy to Sub 10, 11, 12, 24, OIC(2), SA's(3) 7/25/94 NR

The "Defense Team" changed at times. As of March 10, 1992, the "Defense Team" was DIANE BLAIR, ROGER MARTIN, SUSAN THOMASAS, and JIM LYONS. About March 20, 1992 or March 21, 1992, BETSEY WRIGHT joined.

LYNCH reviewed WHITEWATER documents at the ROSE LAW FIRM a couple of times before the GERTH article was published. To review them on these occasions, she went into the conference room where the documents were waiting for her. She dealt with BILL KENNEDY, WEBB HUBBELL, JIM LANCE, or CAROL HUBER. On the night of the GERTH story, she met HUBBELL in the parking lot of the ROSE LAW FIRM, and HUBBELL gave her the documents concerning WHITEWATER. She first looked at the documents just before the Colorado primary, sometime between February 8, 1992 and March 3, 1992. She recalled looking at the records two or three times. There were about three boxes of WHITEWATER records. There were a lot of documents that were not relevant to her purpose. Primarily, her goal was to figure the amount the CLINTON's put into WHITEWATER. She was not worried about deeds or correspondence. The night before the GERTH article appeared, she recruited quite a few campaign workers to look at the documents. After their review, the documents that were reviewed stayed in an office she shared with DIANE BLAIR and ROGER MARTIN. On the weekend of March 22, 1992, the documents were moved to a different building. MARTIN or MIKE COOK, a file clerk, took care of the documents until she gave them back to VINCE FOSTER or HUBBELL at the ROSE LAW FIRM.

LYNCH did not make a judgement as to whether the documents she had received before the article were sufficient to get a complete understanding of the amount that the CLINTON's contributed to WHITEWATER. She noted that she received more documents after the article. She talked with CHARLIE JAMES, CHRIS WADE, and JIM MCDOUGAL about WHITEWATER, and she had someone go to Marion County Courthouse for records. She determined she needed to review the WHITEWATER investment.

She kept notes on her laptop computer, but she "actually" deleted her notes when she left. She left the CLINTON Campaign on June 14, 1992 or June 15, 1992 to become the Campaign Manager for DIANE FEINSTEIN. She did not keep a personal diary. She kept personal notes on the computer. She did not know if they still exist. She has not looked.

She called various banks, CHERRY VALLEY, PARAGOULD, FIRST OZARK, probably UNION NATIONAL, and STEVE SMITH's bank for various documents which they sent to her.

She was responsible for other issues that arose during the campaign: the draft, CLINTON's personal issues, bond and state business that went to the ROSE LAW FIRM. She answered reporters questions about all of these issues. They did not go many places to look at records. It was more of who wanted to give them documents. They did not go looking for documents. She often received documents from unknown sources. She spoke with CHARLIE JAMES, who was the MADISON GUARANTY accountant, and he was very helpful. He had a very thick southern Arkansas accent, and it was difficult understanding him. She talked with JIM MCDOUGAL a couple of times. The first meeting she had with MCDOUGAL was at SAM HEUER's office. JIM BLAIR was there to interpret Arkansas accents. He just helped out from time to time.

She had called BLAIR when she saw the commodities story in the press which mentioned his role in the trades. She had talked with BLAIR about what to do with her options trading. She called BLAIR to offer her general support. During the conversation, she mentioned that she saw his picture in the New York Times. She told him that it was a great photo.

She thought that GERTH's initial article was inaccurate, and she put together a response to show the inaccuracies. GERTH called her from time to time. She pretty much told him to go away. She did not particularly like GERTH and did not think he was interested in reporting things accurately.

The first meeting with MCDOUGAL lasted less than an afternoon. BLAIR wrote a memorandum about the meeting. She did not know who called the meeting. The reason for the meeting was MCDOUGAL had talked with the ARKANSAS DEMOCRAT GAZETTE and had said some unkind things. When asked if the purpose of the meeting was to tell MCDOUGAL to shut up, she responded, "That's one way to characterize it." She did not recall MCDOUGAL being told to shut up. She was just there to focus on Lot #13 and what happened with Lot #13. HEUER and MCDOUGAL also talked about the law suit.

LYNCH was asked if she had seen the 1992 letter from BLAIR to HEUER referring to the Statute of Limitations and the question of whether it had run on certain claims that still could be asserted against MCDOUGAL. She responded:

She had not seen it at the time, but she had heard about it. She did not consider SAM HEUER a friend of the party since he represented someone who had said bad things about the campaign. MCDOUGAL was a very bright person. He was not crazy. She did not think that she met with BLAIR again. She might have talked with him on the phone. BLAIR knew everyone. He was there to raise the comfort level. MCDOUGAL did most of the talking. She got the feeling that he was put out with HILLARY. There was a concern that he would speak with the press. She did not know if he was saying the truth. At the time that the story hit, the campaign thought that he was going around telling tales. She thought all of the stories were not true-- GENNIFER FLOWERS, COLONEL HOLMES, and all of the other stories. They were all slanted against the CLINTON's.

LYNCH was asked if anyone told MCDOUGAL to get lost during the campaign, in light of the fact that during the campaign he moved to Texas. There was a long pause. Then she answered:

She did not know if anybody ever told MCDOUGAL to get lost for awhile. She thought that R.D. (RANDOLPH) talked with MCDOUGAL. If anyone told MCDOUGAL to get lost, it would have been him. She knew that when MCDOUGAL was out of touch with the press, she did not have to worry about a press story. MCDOUGAL had always been described to her as crazy as a loon. At the meeting, she just thought he was on drugs. They chatted about his breakdown after the trial and the fact that he was on drugs.

She has not seen BLAIR in person since the inauguration. She has talked with him from time to time when she has been called by a reporter. She would call a variety of people, BLAIR being one of the people she would call. JIM and DIANE BLAIR were close friends of BILL and HILLARY CLINTON. They were in each other's weddings.

Before providing documents in compliance with the aforementioned subpoena, BROCKETT issued the caveat that he was in possession of additional documents that he had not yet

determined if they were covered under the subpoena. He then provided two sets of documents. One set was numbered from one to 237 (#129 - #131 were withdrawn) and described as documents from LYNCH's files. The other set of documents consisted of 63 pages which were described by BROCKETT as documents LYNCH received from a source that would not be identified, but then BROCKETT volunteered that they were provided by DAVID KENDALL to prepare for the interview.

INTERVIEW SUMMARY

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Person interviewed: LORETTA M. LYNCH
Hostile (H): *Yes* X *No* _

General Topic:

Short summary of interview (use second page if needed):

LYNCH was not forthright with her responses. She answered in genralities with no substantive detail.

Should person be reinterviewed? *Yes* __ *No* X

Leads from the interview: (includes evidentiary items to be obtained to corroborate interview, other persons to be interviewed, apparent violations identified)

None based on this interview.

Names mentioned by interviewee (company/individual):

CHRISTINE VARNEY
JIM LYONS
SUSAN THOMASAS
DIANE BLAIR
BETSEY WRIGHT
WEBB HUBBELL
CAROL HUBER
VINCE FOSTER
JIM MCDOUGAL
STEVE SMITH
R.D. RANDOLPH
BILL CLINTON
MICKEY KANTOR
KEVIN O'KEEFE
HILLARY CLINTON
ROGER MARTIN
BILL KENNEDY
JIM LANCE
MIKE COOK
CHRIS WADE
DIANE FEINSTEIN
SAM HEUER
DAVID KENDALL

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/14/94

LARRY AL SMITH, black male, date of birth [redacted] Social Security Account Number (SSAN) [redacted] home address 2123 Labette Drive, Apartment X19, Little Rock, Arkansas 72205, home telephone number (501) 228-4736, was advised of the identity of the interviewing Agent and the purpose of the interview. Also present during the interview was SMITH's attorney, GREGORY KITTERMAN, business address 1101 Garland Street, Little Rock, Arkansas 72201, business telephone number (501) 374-1145, and Independent Counsel JULIE O'SULLIVAN. SMITH then provided the following information:

SMITH is employed by the ROSE LAW FIRM, business address 120 East Fourth Street, Little Rock, Arkansas 72201, business telephone number (501) 377-0364, as their supervisor of the supply area. SMITH has worked at the ROSE LAW FIRM for approximately six weeks and reports to KATHY HARRIS. A part of SMITH's duties is to supervise the couriers that work at ROSE LAW FIRM. SMITH identified the following individuals as being couriers at the ROSE LAW FIRM: CLIFTON WHITE, KURT FRIEBERG, CLAYTON LINDSEY, JEREMY HEDGES, BRENT LENLEY, and MARK MC MAHON. SMITH advised that, previous to coming to work at the ROSE LAW FIRM, he worked at WORTHEN BANK AND TRUST as their production coordinator for approximately three months. Prior to that, SMITH worked at the SCHOOL OF DEAF in their central supply department.

SMITH advised that he did not participate in the shredding, destruction, or alteration of documents or computer files during his six weeks at the ROSE LAW FIRM. SMITH advised that the usual procedure for shredding of documents at the law firm was that, on Tuesdays and Thursdays, cards would be placed in certain boxes for the couriers to pick up and then to take downstairs into the office of BOB BOUCHER. In BOUCHER's office was one single shredding machine that was used for all of the shredding at ROSE LAW FIRM. SMITH described the cards that were placed in the boxes as being coded as to being either for the old building or the new building at ROSE LAW FIRM, and it also included the floor number. For example, the card would say "one

211-A-35063 Sec. 11-3

Investigation on 2/12/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~

by SA DAVID F. REIGN/bkw Date dictated 2/12/94

SEARCHED INDEXED FILED FBI — LITTLE ROCK

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old" which would signify that on the first floor of the old building at ROSE LAW FIRM a box was to be picked up for destruction. Previous to SMITH's employment at ROSE LAW FIRM, he was not aware of when the shredding was occurring, and he set up the twice a week pick up when he began employment at ROSE LAW FIRM. SMITH could not comment on the volume of shredding that occurs but advised that typically the couriers would carry down a brown box with handles to shred. SMITH added that some of the other duties of the couriers involved deliveries in and out of the building, handling the mail and the shredding which they did twice a week.

SMITH provided the following work schedules for each of the couriers:

Name	Frequency	Hours
CURT FRIEBERG	Daily	8:00 A.M. to 5:00 P.M.
CLIFTON WHITE	Daily	7:00 A.M. to 3:00 P.M.
JEREMY HEDGES	Monday, Wednesday, Friday	9:00 A.M. to 5:00 P.M.
CLAYTON LINDSEY	Daily	12:30 P.M. to 5:00 P.M.
BRENT LENLEY	Monday, Tuesday, Wednesday, Thursday	2:00 P.M. to 5:00 P.M.
	Friday	1:00 P.M. to 5:00 P.M.
MARK MC MAHON	Monday, Wednesday, Friday	9:00 A.M. to 11:00 A.M.
		2:00 P.M. to 5:00 P.M.
	Tuesday, Thursday	12:00 P.M. to 5:00 P.M.

SMITH advised that usually one of the couriers would stay until sometimes as late as 6:00 P.M. in order to get out the FEDERAL EXPRESS items for the day. Usually the mail was picked up by 5:45 P.M., and, if there were no FEDERAL EXPRESS deliveries, the shift at that time was over. SMITH advised that there was no night shift for the couriers, and, after he left the building, usually there was only a cleaning crew left in his area. SMITH could not recall any late night deliveries and had no knowledge of any shredding occurring at night. SMITH emphasized that the shredding was actually a small part of the job which was only done on Tuesdays and Thursdays and was done usually by the person that picked up the boxes on those days.

SMITH advised that he and BOUCHER have master keys which SMITH believes will open most all of the offices at the ROSE LAW FIRM. This key also opens BOUCHER's room where the shredding machine is kept.

SMITH advised, on February 3, 1994, allegedly the day that documents concerning WHITEWATER and VINCENT FOSTER were shredded by unidentified personnel at the ROSE LAW FIRM, SMITH had left at approximately 6:15 that night after he had finished the FEDERAL EXPRESS items for that day. When SMITH left the building, he advised that only the cleaning people were left, and the door to BOUCHER's office was closed. SMITH had no knowledge of any individuals or any of his couriers going back into the ROSE LAW FIRM that evening. On February 3, 1994, SMITH advised that nothing unusual happened nor did he have any conversations with BOUCHER about the preceding evening. When SMITH came to work that morning at approximately 7:40 A.M., CLIFTON WHITE was already there, and BOUCHER showed up approximately five minutes later. SMITH advised that BOUCHER usually opens up the shredding room door when he comes in.

Concerning what happened to the material that is shredded, SMITH advised that it is usually taken out by BOUCHER or one of the couriers and put into a plastic bag. At that time, it is then taken out to a dumpster, although SMITH has not personally seen anyone place it into the dumpster. SMITH did not recall any items being carried out to the dumpster on February 4, 1994.

SMITH could provide no information about the ROSE LAW FIRM lock boxes.

When the couriers or BOUCHER shred documents, SMITH advised that he has no knowledge of what documents are being shredded. SMITH had no knowledge as to whether the couriers would read the documents prior to shredding them and advised that he cannot ever recall shredding or seeing documents relating to President or Mrs. CLINTON, VINCENT or LISA FOSTER, WHITEWATER, MADISON GUARANTY SAVINGS AND LOAN, DAVID HALE, or JIM GUY TUCKER. SMITH added that he had never been asked to shred anything unusual nor has he heard of anyone being asked to do this.

SMITH advised that he has no knowledge about the computer system being used at ROSE LAW FIRM nor any knowledge concerning the deletions of files from the computer system.

Concerning the "Washington Times" article which appeared in the paper on September 9, 1994, SMITH advised that, after lunch on that day, he saw three copies of the article on his table. He was told by CLIFTON WHITE that the article was there, and that was the first time that SMITH read the article. SMITH did recall that his wife had said something about seeing something on the news concerning documents being shredded by individuals at the ROSE LAW FIRM, but he could not specifically remember which day this was. SMITH advised that he was not concerned about anything he was reading in the newspaper due to the fact that the items that they shredded was "normal stuff" that was picked up on a twice-weekly basis by the couriers. SMITH advised that he did not talk with any of his couriers specifically about the news article although they may have jokingly accused each other of doing the shredding.

SMITH advised that RON CLARK, managing partner at ROSE LAW FIRM, had spoken about a news article which was going to appear concerning WHITEWATER documents approximately one week before the article appeared in the "Washington Times." SMITH could not recall the date, but, at this meeting which was attended by almost all of the support staff at ROSE LAW FIRM, CLARK told the staff what was going on and that allegedly someone had shredded documents relating to WHITEWATER at the ROSE LAW FIRM. SMITH advised that he learned about this meeting being held through the computer E-Mail System, and, after he got this message, he deleted the message from his computer. The meeting was held in the dining room or break area at the ROSE LAW FIRM, and, although SMITH cannot be positive, he believes there were less than 50 people present during this meeting. Prior to this meeting, SMITH did recall BOUCHER mentioning something to SMITH about the WHITEWATER documents and the fact that someone in the firm had supposedly shredded these documents, but SMITH could not recall any more of this conversation. SMITH recalled that possibly CLIFTON WHITE was also present during this conversation. During this conversation, SMITH was not asked if he or his couriers had done the shredding. During the aforementioned meeting that CLARK had with all of the support associates, he advised the staff that there was also going to be a subpoena served for documents concerning the WHITEWATER, and none of these

documents could be destroyed. CLARK also asked if anyone had any knowledge about the shredding of the documents, and, if so, to relate this information to CLARK. SMITH recalled that no one had any comments to make to CLARK concerning this matter. SMITH advised that he had another meeting with CLARK on February 10, 1994, the day after the article came out, with himself, CLARK, JERRY JONES, and BOUCHER. During this meeting, CLARK advised that the FBI and the Independent Counsel wanted to talk with SMITH and some of the others, and they were to tell the truth, because they had nothing to hide. On the next day, February 11, 1994, there were two meetings which SMITH attended where CLARK spoke to some or all of the couriers who were previously mentioned. During both of these meetings, CLARK basically said the same thing that he had said to SMITH on February 10, 1994, that being that the FBI and the Independent Counsel wanted to speak with them, and they were to show up at the FBI Office and tell them the truth. SMITH recalled that the first interview with the FBI was scheduled to be at 10:00 A.M. on February 11, 1994, but, due to the ice storm that occurred in Little Rock on that date, the interviews were moved to February 12, 1994.

SMITH advised that he was told by JEREMY HEDGES that CLAYTON LINDSEY received a telephone call from the "Washington Times" approximately one week prior to the article appearing in the newspaper. When SMITH spoke with him, CLAYTON said he believes that it was someone at the "Washington Times," and, later when he saw the newspaper article, he believes it was the same person who wrote the article. During the telephone conversation, LINDSEY told the reporter that he did not know anything about the shredding that had occurred. SMITH also recalled that JEREMY HEDGES was called about a week prior to the article by an ASSOCIATED PRESS reporter, and he recalled HEDGES asking the reporter, "How did you get my name," in which HEDGES replied to SMITH later that the reporter stated he had obtained a list of the employees of the ROSE LAW FIRM. SMITH could not specifically recall what was said during the conversation but believes that HEDGES possibly said "I don't know anything about the shredding."

It is the opinion of SMITH that someone made up this entire matter, and he could not speculate as to who would have done this. SMITH advised that he has never talked to a reporter concerning this matter nor does he have any specific knowledge of any individuals who shredded documents after hours at the ROSE

LAW FIRM or who had contacted the "Washington Times" allegedly to talk about shredding at the ROSE LAW FIRM.

During one or several of the meetings that CLARK had with SMITH and the other couriers, they were told that, if the press calls them, they can say anything they want to the press.

SMITH advised that he saw BOUCHER when he left his office sometime late in the afternoon on February 11, 1994, but, after BOUCHER spoke with the FBI and the Independent Counsel on February 11, he had no conversations with him. SMITH added that he has not talked with BOUCHER prior to SMITH's interview on February 12, 1994.

SMITH advised that he is aware of a company called SMITH RECYCLING which does off-site shredding but advised that he had no other information about this other than that BOUCHER had told them on Wednesday, February 9, 1994, that boxes were being picked up by SMITH RECYCLING. Smith could not recall any other portions of this conversation.

SMITH recalled CURT FRIEBERG telling SMITH that FRIEBERG and BOUCHER shredded documents relating to VINCE FOSTER. SMITH could not specifically identify the date but did advise it occurred in either late January or early February of 1994. SMITH advised that he believes that FRIEBERG knew this was FOSTER's box because of initials that appeared on the box.

SMITH advised that there were two rooms which were used to store records although SMITH was not sure what these records were, and this practice started after the first of the year. SMITH advised that he did not pay much attention to this and learned about this through the computer E-Mail System.

SMITH advised that no one has told him what to say or not to say to the writer or to the Independent Counsel during his interview on February 12, 1994. SMITH was asked specifically if he had hired the attorney that was present with him, and, at that time, KITTERMAN advised that he would advise his client not to answer any questions concerning who hired him, how much he was paid, and why he was being hired. During the course of the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

interview, KITTERMAN asked if the Independent Counsel or the FBI was recording this conversation, and, if so, he requested a transcript and tape of the conversation, and Independent Counsel O'SULLIVAN advised on several occasions that the conversation was not being taped. The writer also informed KITTERMAN and SMITH that no recording devices were being used during this interview. Independent Counsel O'SULLIVAN asked KITTERMAN and SMITH if they were recording this conversation, and they both advised that they were not.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
FOIA(b)(7) - (C)

FOIA(b)(7) - (C)

Date of transcription 2/14/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

On [redacted] Special Agent (SA) [redacted] of the Little Rock Division of the Federal Bureau of Investigation (FBI) [redacted] SMITH advised the following:

SMITH stated that he did not, at that time, have any documents from the ROSE LAW FIRM which had not already been processed. He stated that these items were baled into bales of paper and mixed in with papers and documents from other firms or customers and had been stored for shipment to paper plants. He advised that the last pickup which his firm, SMITH RECYCLING, had made from the ROSE LAW FIRM was January 31, 1994, and the most recent prior pickup of papers from the ROSE LAW FIRM had occurred December 15, 1993. He stated that the items received from ROSE LAW FIRM on January 31, 1994, had not been sent to the paper companies as of the service of the subpoena, and he believed he could narrow down to approximately six bales of paper the bales into which ROSE LAW FIRM documents had been mixed. Those six bales were baled on February 1, February 2, or February 4, 1994, and the total weight of paper for all six would be somewhere between 12,000 and 14,000 pounds. He stated that the bales are tagged, and he knows which ones they are.

When questioned about the processing, he advised that the papers had been compacted into the bales, but they had not been shredded. SMITH was then advised by SA SMITH not to dispose of the bales of paper nor to destroy them without first talking with JULIE O'SULLIVAN at the Office of the Independent Counsel.

[redacted]

Investigation on 2/12/94 at Pine Bluff, Arkansas File # 29D-LR-35063 Sub 11 - 8

by SA [redacted] Date dictated 2/12/94

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SMITH provided the following information regarding himself:

Name	EDWARD HOWELL SMITH
Race	White
Sex	Male
Date of Birth	[redacted] FOIA(b)(6)
Place of Birth	
Height	6'
Weight	170 pounds
Hair	Brown
Eyes	Hazel
Social Security Account Number (SSAN)	[redacted]
Residence Address	4020 Linden, Pine Bluff, Arkansas
Employed	SMITH RECYCLING SERVICES
Position	President
Mailing Address	P.O. Box 9389, Pine Bluff, Arkansas 71611
Work Telephone	(501) 536-2225
Facsimile Number	(501) 534-5521

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 2/14/94

JOYCE ANNE MC KINNON appeared at the Little Rock Office of the Federal Bureau of Investigation (FBI) for an interview at approximately 11:30 A.M. Mrs. MC KINNON identified herself as having been born on [redacted] residing at 42 Colony Road, Little Rock, Arkansas 72207, telephone number (501) 225-0580. Also present during the interview were PAT SMITH, Assistant to the Special Counsel ROBERT FISKE, and ALDEN L. ATKINS, attorney with the firm VINSON AND ELKINS, 1455 Pennsylvania Avenue, Northwest, Washington, D.C., telephone number (202) 639-6613. Mr. ATKINS stated that he was the attorney representing Mrs. MC KINNON. Mrs. MC KINNON was advised of the identity of the interviewing Agent and of the purpose of the interview.

At the beginning of the interview, Mr. ATKINS stated that Mrs. MC KINNON had worked with JERRY JONES, attorney for the ROSE LAW FIRM, on a closed litigation matter involving the company TCBY in order to determine which documents were to be shredded. Mr. ATKINS indicated that some of the boxes concerning TCBY files were marked with the initials of VINCENT FOSTER. Mr. ATKINS clarified that he did not want questions asked which might relate to attorney/client privileged information. He stated that TCBY has not waived this attorney/client privilege.

Mrs. MC KINNON stated that she is currently employed by ROSE LAW FIRM as a legal secretary. She said that her immediate superior is KENNETH R. SHEMIN, an attorney with the ROSE LAW FIRM. She stated that she started as a temporary floating secretary in October, 1981, and began permanently working with Mr. SHEMIN in April or May, 1982. She stated that she has also worked with Attorneys JERRY JONES, JESS ASKEW, VINCENT FOSTER, and WEBB HUBBELL. She stated that she also works with two file clerks in relation to Mr. SHEMIN's work, and these two file clerks are SANDRA HATCH and KARA (Last Name Unknown [LNU]). She stated that KARA is a part time employee.

FOIA(b)(7) - (C)

~~Orig. in 58A~~
cc: main file 2/17/93 mf

Investigation on 2/14/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11-16

by SA [redacted] Date dictated 2/14/94

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Mrs. MC KINNON advised that the document retention policy at the ROSE LAW FIRM does not consist of a specified or set period of time at the end of which documents are destroyed. She stated it depends on the individual case and the individual lawyer as far as which records are retained and for how long they are retained. She explained that the originals of evidentiary items are normally returned to the client, and copies of these evidentiary records are shredded by ROSE LAW FIRM. The lawyer who handled the case would normally decide the time of this shredding. She said that, on the average, records are kept six months up to a year at least after a case has been completed. She explained that, as a normal procedure, she would approach the attorney and ask him, "Can I remote these files." He would then review them and let her know whether to retain the files, send them to remote storage for retention, or for shredding. She stated she does not know if a record is kept of what files have been or are being shredded. She stated that all records now are being copied onto microfiche. She advised that she is unsure as to how long this has been in effect but believes that it may have been in about 1985 or 1986 when records were being copied for retention on microfiche. She stated that hard copies of records which had been on microfiche are then destroyed. She said that the copying of records onto microfiche is carried out by a lady at the remote storage facility named ANNE. She said the other person who works at this remote storage facility is a lady named RIKI (phonetic). She said that she is not aware of any outside firm which conducts copying of records onto microfiche. She added that the organization of files being maintained by the secretaries of each attorney differs from one secretary to the next. She explained that she keeps an index of all of her files being maintained by her (MC KINNON).

She stated that LORAINE CLINE, formerly the legal secretary for VINCENT FOSTER, is still employed at the ROSE LAW FIRM and currently works for Attorney JESS ASKEW and SAM STRANGE. She advised that CLINE was the only secretary responsible for FOSTER's files. She stated that she never saw any documents or files related to MADISON GUARANTY SAVINGS AND LOAN, WHITEWATER DEVELOPMENT, DAVID L. HALE, JIM GUY TUCKER, BILL CLINTON, or VINCENT FOSTER, explaining that she has seen FOSTER's name on files which were being handled by FOSTER. These files include cases involving TCBY and the company ARTHUR MURRAY INTERNATIONAL. Regarding the TCBY case, she stated that she had been asked during the fall of 1990 to go to the paralegals employed by TCBY

to assist them in organizing evidence which was to be turned over to ROSE LAW FIRM in connection with the case. She then had no other contact with this case because she was involved in another matter which was due to go to trial in December, 1990. Then, in about May of 1991, she was asked to review evidence which had been received in the TCBY case because one of the paralegals for TCBY had quit her job. She stated that the TCBY case was settled before FOSTER left the ROSE LAW FIRM. Thereafter, the files were kept in a so-called "war room." She stated there were also other documents stored in the "war room."

She stated that, on January 26, 1994, Attorney JERRY JONES asked her to go through the TCBY records and destroy all duplicates of records related to this matter. She stated that some of the boxes containing these records were labeled with VINCENT FOSTER's initials and had other labels on them such as "loose papers." She said that she went through these records and placed documents to be destroyed in boxes destined for shredding. She said that the maintenance man for ROSE LAW FIRM, BOB BOUCHER, then took the boxes as she had several of them ready and delivered them in a ROSE LAW FIRM delivery truck to the remote storage facility for shredding. Boxes in the "war room" aside from the TCBY boxes included several boxes from Attorney JERRY JONES. She explained that JONES moved into the office previously occupied by FOSTER. At the time of this move, JONES placed several boxes into the "war room." These boxes and others had to be moved into another room next door to the one which contained the TCBY files. She stated that, as she went through the TCBY records, she would, after looking at the documents, remove all paper clips and rubber bands and, in most cases, file covers and place them in empty boxes. She recalled one of these boxes had the initials of JERRY JONES written on the outside. As she reviewed these documents, she did give them a quick glance but did not remember seeing any documents related to the following names: WHITEWATER, DAVID L. HALE, JIM GUY TUCKER, BILL CLINTON, amd MADISON GUARANTY SAVINGS AND LOAN. She stated she did recall seeing HILLARY CLINTON's name on some documents because HILLARY CLINTON was, at one time, a member of the Board of Directors for TCBY. FOSTER's name was on the documents because he was involved in the handling of the case. She said that BOUCHER moved five to six boxes at a time as she got them filled up with documents for shredding. She stated there were a total of about fifteen file boxes and ten to fifteen bankers boxes. BOUCHER took them to the remote storage at her (MC KINNON's) instructions for shredding.

The instructions to shred these documents were given by JERRY JONES. She recalled BOUCHER telling her that the shredding company would come on Monday, January 31, 1994, to pick up material for shredding. At that time, MC KINNON was not finished reviewing all of the documents. She stated that BOUCHER took more documents to the remote storage facility on February 1, 1994. She said that she finally finished her review of documents on the following day, February 2, 1994. After that, BOUCHER told her that all of the boxes had been taken to the remote storage facility. She stated that she placed her initials "JM" on each box and the word shred. She said that normally shredding is carried out by the couriers inside the ROSE LAW FIRM's building except when there is a massive quantity of documents to be shredded as in the TCBY case.

As concerns normal shredding at the ROSE LAW FIRM, she stated that each secretary has a separate garbage can by her desk where all documents related to clients which are to be shredded are placed, and, when the can is full, she would call one of the couriers or BOB BOUCHER to come pick the documents up for shredding. She stated that, unless there was more than one or two boxes of documents, it was generally the practice to have them shredded by the couriers in the basement.

Mrs. MC KINNON stated she became angry when she first saw the article in the "Washington Times" on February 9, 1994, regarding the alleged shredding of WHITEWATER documents at the ROSE LAW FIRM. She explained that this type of activity did not sound like anything ROSE LAW FIRM engaged in. She did not see the article until after the managing partner of ROSE LAW FIRM, RON CLARK, had sent an E-mail message to all employees saying that he had been contacted by the "Washington Times" about WHITEWATER document shredding. CLARK asked that all calls from reporters be referred to him. At the same time, CLARK stated in his message that those people who wished to talk to reporters could do so. Inasmuch as the article mentioned a large number of documents having been shredded, MC KINNON thought that they might be referring to her boxes of TCBY records, particularly since she had carried out the review of records for shredding at about the same time as the activity discussed in the article allegedly took place. MC KINNON stated she did send an E-mail message back to RON CLARK relaying her suspicion that the article might be referring to the boxes of TCBY records.

She stated that a meeting was held by CLARK including all the secretaries and staff wherein he again mentioned the article and stated that no one at the firm had or would destroy documents related to WHITEWATER. CLARK did say that he wanted to know if anyone had done this. She stated that she recalls a memo with instructions from CLARK advising that FOSTER documents should not be destroyed. She does not remember when this memo came out. She added that she did write a memo on February 8, 1994, which contains a list of all TCBY files which she had designated for destruction.

Mrs. MC KINNON stated that Attorney JERRY JONES called her on Sunday, February 13, 1994, and asked her if she remembered the day when she started the review of the TCBY files for destruction. JONES asked MC KINNON if she looked at the documents as she reviewed them. He also said that assistants to the Special Counsel ROBERT FISKE might wish to talk to her.

She stated that DONNA COLLINS is the person responsible for maintenance of the software at ROSE LAW FIRM. She stated that access to computer files at ROSE LAW FIRM was generally not restricted. She advised that an individual could protect their files through use of a password if desirable. She said that she is not aware of the destruction of any computer files, advising that she remembers that all TCBY-related computerized data had been taken off the system and put onto a separate tape. She also explained that she had some backup disks of TCBY-related information.

She advised that the only person she remembers having left the ROSE LAW FIRM during the recent past is a paralegal named CAROLYN REHM, who worked in the litigation department. She stated that Ms. REHM left on January 31, 1994, to go to work for a florist in Conway. REHM apparently lives in Conway and is soon to be married there.

She reiterated that no shredding is done without the authorization of one of the attorneys at the ROSE LAW FIRM, except in such instances as when a secretary has single piece of paper or a single copy of a document which is extra and is not needed. Such pieces of paper or extra copies are then placed by the secretary into the previously described garbage can for shredding purposes. She stated that boxes of files, however, would certainly never be shredded without the authorization of an

attorney. She did state that it is the policy of the law firm to try to reuse boxes and even file folders where ever possible. She said she recently sent two boxes with empty file folders to the courier station. These boxes had the initials of VINCENT FOSTER written on the outside. She said she had sent the boxes to the courier station for reuse or for shredding.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 2/22/94

FOIA(b)(6)

JERRY JONES, a white male, date of birth [redacted] #4 Hillendale Drive, Little Rock, Arkansas, was interviewed at the Little Rock Office of the Federal Bureau of Investigation (FBI). Present during the interview were JULIE O'SULLIVAN, Office of the Independent Counsel; Special Agent [redacted] FBI; MIKE BUXTON; and ALDEN ATKINS of the law firm ROSE LAW FIRM. After being advised of the identities of the interviewers and the nature of the interview, JONES provided the following information:

JONES advised that he is an attorney at the ROSE LAW FIRM, Little Rock, Arkansas, in charge of the litigation section and has been with the firm since May of 1980. He advised that he and VINCENT FOSTER served as Co-Lead Counsel in a litigation involving TCBY that had been brought by an asserted class of shareholders. JONES characterized the case as a "securities suit." He advised that a settlement agreement was reached in June of 1992 in the Eastern District of Arkansas in Judge STEPHEN M. REASONER's court. JONES further advised that a final conference hearing was held in August or September of 1992. JONES identified attorneys JESS ASKEW, JESS FREEMAN, and WEBSTER HUBBELL and paralegals JOYCE MC KINNON and CAROLYN REHM as individuals who primarily worked on the TCBY matter.

JONES stated that, upon completion of the confidential final hearing, FOSTER asked the paralegals to discard sensitive TCBY documents. He stated that the type of documents to be discarded or shredded included internal client documents, data bases, client calendars, analyst reports, and other types of TCBY documents. JONES stated that all pleadings, correspondence, etc., were kept by the firm. He further stated that the plaintiff's attorneys were required by agreement to return all of their sensitive TCBY documents for destruction as well. JONES further stated that the TCBY documents were comprised of 10 to 12 file drawers of material.

cc: Orig. SLA

290-LR-35063-dll-25

Investigation on 2/14/94 at Little Rock, Arkansas File # ~~29D-LR-35063~~ 6 4

by SA [redacted] Date dictated 2/14/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 99

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JONES advised that his office is located on the third floor and that the TCBY documents were kept in an office known as "The War Room" next to his. He advised that, to his recollection, a memo stating that all of the TCBY documents had been destroyed was generated. He advised that he thought the document destruction was completed approximately two weeks after January 14, 1994, which was his son's birthday. JONES further advised that MC KINNON was primarily responsible for ensuring the destruction of the TCBY documents but that he did remember seeing BOB BOUCHER, the maintenance man, carting some of the documents off on a green dolly.

JONES stated that Tuesdays and Thursdays are shredding days at the firm. He stated that he knows this because LARRY SMITH, the courier supervisor, circulated a memo stating this. He stated that he does not remember ever using the shredder and really never knew how the shredding was accomplished.

JONES advised that the firm had concerns that their trash was being searched during the Presidential campaign of 1992 and has been extra sensitive about destruction of sensitive documents. He advised that the firm's document retention policy is an ad hoc one and that it is left up to the attorney in charge of the file to determine what to do with it. JONES advised that he has no knowledge of a formal policy regarding document retention.

JONES stated that the firm has a local area network (LAN) computer system that he personally uses for some Word Perfect and E-Mail functions. He stated that he thought files could have locked access but that he was not positive. He stated that there is also a summation program that will allow the searching of depositions, will scan documents, and will provide a document summary. JONES further stated that the TCBY document data base was archived and then returned to the system on the morning of February 14, 1994.

JONES advised that he recalled the firm's receipt of a Federal Grand Jury subpoena on January 13, 1994. He advised that this was very unusual and that the Executive Committee, comprised of himself, RONALD CLARK, PHIL CARROLL, HERB RULE, KEVIN BURNS, BRENT BUCK, DAVID SMITH, and possibly WILSON JONES met at lunch to discuss the subpoena. He advised that the committee talked about the subpoena and about the firm retaining counsel. JONES

further advised that they decided that each section, including litigation, tax, commercial, and labor would notify the attorneys in their respective sections to discuss the subpoena. He further advised that he notified the litigation attorneys and told them what items had been requested in the subpoena but could not remember if he gave them a copy of the list of the items subpoenaed.

JONES stated that the firm attempted to mobilize very quickly to gather the documents requested as they were very sensitive to the impact the subpoena would have on their business. He stated that, prior to receipt of the subpoena, the firm anticipated that some Government agency would want any files on the WHITEWATER DEVELOPMENT CORPORATION (WWDC) and other entities involved with that corporation. He stated that the firm retained VINSON AND ELKINS, a firm in Washington, D.C., to represent them, as well as TOM RAY, as they wanted to open a dialogue with the Department of Justice attorneys who issued the subpoena. JONES stated that on the afternoon of January 13, 1994, the same day the subpoena was issued, the subpoena was withdrawn, but he did not know why. JONES further stated that he was not sure if the administrative staff of the firm was notified of the subpoena but that a memo was sent to all attorneys asking them to gather any documents related to the subpoenaed entities and to notify CLARK, who was managing the process.

JONES advised that he and CLARK met frequently as they were designated as counsel to the firm. He advised that all pertinent documents had been put in a room to which he, CLARK, and CARROLL have keys. JONES advised, however, that he doubted the room was locked all day.

JONES stated that he is aware of preliminary memorandums being prepared for counsel by GARY SPEED, RICK DONOVAN, CARROLL, CLARK, and possibly RICK MASSEY regarding WWDC, FROST AND COMPANY, etc., that may have been discarded. He stated that they would only have been drafts and that the finished product should be in existence.

JONES advised that MC KINNON told him that she sent a box of empty file folders with FOSTER's name on them to be shredded approximately two to three weeks ago. He advised that these would have gone to the basement where the only shredder he is aware of is located. JONES advised he was not sure if

shredded drafts occurred on February 3, 1994. He advised that several years ago a gray and black shredder was near the workout room but is no longer there.

JONES stated that he attended a meeting with CLARK and all the firm couriers on Friday, February 11, 1994. He stated that he told KURT FRIEBERG, a courier, that, if he was questioned about the firm's clients in an interview with the Government on February 12, 1994, to not answer until he could speak with the firm's attorneys. He further stated that CLARK told the couriers that he had no knowledge of any shredding of WWDC documents and that it should not be occurring. JONES further stated that JEREMY HEDGES, a courier, stated that he had shredded a box of FOSTER documents and that HEDGES told him that he assumed they had to do with WWDC. He stated that this information "floored him" and that he asked HEDGES what the documents looked like. JONES further stated that he told HEDGES to be very cautious regarding assumptions and facts when speaking with the Government. He further stated that his interpretation, after talking with HEDGES, was that he had not read the documents he shredded.

JONES advised that he and CLARK talked with HEDGES and CLAYTON LINDSEY, a courier, on Wednesday or Thursday, at which time LINDSEY told them a Washington Times reporter had called but that he told the reporter, "No comment."

JONES stated that, after the report alleging shredding of documents appeared in the Washington Times on Wednesday, February 9, 1994, he and CLARK spent the day in CLARK's office in a state of disbelief. He stated that they did not believe the shredding occurred but that, if it had, it needed to stop. He stated that the firm was mad about the slandering by the Washington Times and called their counsel with instructions for them to contact Mr. FISKE, Independent Counsel, and offer the full cooperation of the firm. JONES further stated that an E-Mail message was sent around the firm regarding the article but that no gag order was placed on employees. JONES characterized the article as a public relations/political issue with the firm being placed in the middle.

JONES advised that he speculated that couriers were sources of the information contained in the Washington Times article. He advised that he has a low opinion of the Washington Times and thinks that the article may be totally false. He advised that his firm is seriously considering suing the Washington Times over the article.

JONES stated that several FOSTER boxes had been stacked in the basement by the entrance from the alley. He stated that these boxes contained a "mishmash" of FOSTER files. He stated that he asked HEDGES if the box he shredded came from the stack but does not recall his answer. JONES stated that the firm had gone through a listing of FOSTER's files to determine if records asked for in the first Federal Grand Jury subpoena were located in his files. He further stated that he does not know if anyone has physically gone through FOSTER's files but that CLARK would know.

JONES advised that the FOSTER boxes located in the basement area are not sealed but are now safeguarded in a locked room.

JONES stated that some remote storage is on microfiche.

JONES advised that he talked with MC KINNON on the evening of Sunday February 13, 1994, regarding her talking with the FBI on February 14, 1994. He advised that he asked her questions regarding the TCBY records clean out process, when and how it occurred, and what was contained in the discarded documents. He further advised that he did not tell MC KINNON what to say and to only tell the truth.

JONES stated that he knows of no destruction of any documents relating to WWDC, MADISON GUARANTY SAVINGS AND LOAN, JIM MC DOUGAL, HILLARY CLINTON, or FOSTER records relating to those entities.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date of transcription 5/9/94

Orig - SbA
Copy - Sb11

Investigation on 5/6/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

29D-LR-35063-Sb11-96

by SA KLAUS WOLFENBERGER/dgf Date dictated 5/6/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 104

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FEDERAL BUREAU OF INVESTIGATION FOIA(b)(6)

Date of transcription 4/5/94

PATRICIA JOAN HERITAGE, born [redacted] Social Security Account Number [redacted] arrived as requested for an interview at the Office of the Independent Counsel, ROBERT B. FISKE JR., Two Financial Centre. She was advised of the identity of the interviewing Agent and the purpose of the interview. HERITAGE advised she is currently employed as associate lawyer at the ROSE LAW FIRM in Little Rock and resides at 602 Parkway Place Drive, Little Rock, Arkansas 72211, telephone (501) 224-9110. HERITAGE was accompanied by JOHN M. BELEW, attorney, who has his law office at 500 East Main, Suite 208, Batesville, Arkansas, 72503, telephone (501) 793-4247. Also present and conducting the interview was JULIE R. O'SULLIVAN, Assistant to Independent Counsel FISKE. BELEW predicated the interview by stating that HERITAGE would be cooperative in providing information and that, with regard to her current employment, it was common knowledge at ROSE LAW FIRM that HERITAGE was being interviewed by representatives of Independent Counsel FISKE. Information provided by HERITAGE, in part and in substance, is as follows:

HERITAGE advised she plans to leave the ROSE LAW FIRM within the next few weeks, partly because she intends to be married in May 1994.

HERITAGE stated that her superiors at the ROSE LAW FIRM were aware that she had been asked for an interview by the Federal Bureau of Investigation. Prior to coming to the interview, she was offered the services of an attorney by the ROSE LAW FIRM which she declined to accept.

She explained that she had worked with HUBBELL as an associate attorney before HUBBELL was appointed to the U.S. Department of Justice. She stated that she became aware of HUBBELL's overbilling of clients through the paralegal clerk who was also assigned to work with HUBBELL. The paralegal clerk pointed out and provided her with copies of checks paid by overbilled clients. She stated that one of the most overbilled clients was the RTC on the FROST litigation matter. She saw bills to clients whereon HUBBELL charged what were apparently his

cc: ORIS-Sub A
Copy - Sub II

FOIA(b)(7) - (C)

29D-LR-35663-Sub 11-93

Investigation on 3/31/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11
LEJ LEJ

by SA [redacted] Date dictated 4/4/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 105

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personal expenses against the hours worked by HERITAGE for a particular client on a particular date. She is also aware that HUBBELL wrote off charges on draft bills for his personal expenses and inserted fee charges for his time that were false.

She advised that the paralegal clerk is especially worried, and she (HERITAGE) felt that the ROSE LAW FIRM would regard her and the paralegal as scapegoats in any allegations against HUBBELL. HERITAGE said she would maintain copies of the above-described checks in her possession.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 3/24/94

MARY RUSSELL, date of birth [redacted] address 809 North Jackson, Little Rock, Arkansas 72205, telephone number 501/666-6279, was advised of the identity of the interviewing Agent and furnished the following information, in part and in substance:

RUSSELL worked at the ROSE LAW FIRM from 1982 through 1993. Her title at the time that her employment expired was "Operations Manager". Her daily duties included ordering supplies, supervising couriers, and supervising the mail room.

RUSSELL advised that shredding of documents was a daily activity. RUSSELL didn't allow the shredders to pick up the material that was to be shredded until noon. Each attorney had 2 garbage cans; 1 for shredding and 1 for regular thrash. Each copy room also had a shred box. The material identified for shredding was shredded downstairs at the law firm.

RUSSELL stated that ROSE has always had documents shredded primarily to protect the privacy of their clients. The reason ROSE started doing the actual shredding themselves was because the company that had been shredding for them no longer did. RUSSELL further advised that there were people going through the thrash bins at the law firm during the time of the presidential campaign but that this within itself did not engender the shredding. Again, she stated that the primary reason for the shredding was to protect their clients.

RUSSELL advised that JEREMY HEDGES was not the type to actually sort through boxes to ascertain what was contained in them. Most of the shredders viewed the shredding as a mundane task and did everything in their power to expedite the process. So it was highly unlikely that HEDGES or any of the other couriers actually knew what was contained in the boxes of information that was shredded. In addition, RUSSELL stated that boxes with names of clients delineated on them were used over and over, and that it is possible for a box delineated VINCE FOSTER to have contained other nebulous and unrelated information.

CC: OIG - SJbA
Copy - SJb11

29D-LR-35063-SJb11-91

FOIA(b)(7) - (C)

Investigation on 3/23/94 at LITTLE ROCK, ARKANSAS File # 29D-LR-35063 (SUB11)

by SA [redacted] Date dictated 3/24/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 107

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RUSSELL added that she supervised couriers for four to ten years and does not recall any courier ever being concerned with what was in the boxes that were to be shredded. Further, that HEDGES was not conscientious enough to be concerned with what was contained in the boxes, thus it is highly unlikely that he actually delved into the contents of the boxes.

RUSSELL added that the attorneys at ROSE are smart and that if they wanted to cover something up, there were capable of doing just that. Access to the shredder was not limited; thus, RUSSELL feels that it is highly unlikely that attorneys attempting a cover up would allow couriers to shred esoteric information.

RUSSELL reported to CAROLYN HUBER while employed at ROSE. HUBER was the administrative manager at ROSE. HUBER is now employed with the current Presidential administration.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/28/94

PHILIP HANSFORD JOHNSON, 14 Beverly Place, home telephone number 664-1135, was contacted at his residence. After being advised of the personal and official identities of the interviewing Agents and the nature of the interview, JOHNSON provided the following information in part and in substance:

JOHNSON stated he worked as a courier for THE ROSE LAW FIRM (TRLF), 120 Fourth Street, for several years. JOHNSON stated he is unable to recall the exact dates of his employment. However, JOHNSON did recall working for TRLF approximately three and a half years, going to Mexico for a semester, and then returning to TRLF for approximately six months. JOHNSON stated that, during the last six-month period he worked for TRLF, BILL CLINTON was running for President, but had not yet been elected. JOHNSON stated he left TRLF in May 1992.

JOHNSON stated that, as a courier for TRLF, his job responsibilities were shredding papers and delivering documents and packages to other law firms. JOHNSON stated that TRLF had one shredder, which was located in the basement of TRLF known as the courier area. JOHNSON advised the documents to be shredded were brought down to the basement by the couriers and placed by the shredder. JOHNSON stated the couriers obtained the documents to be shredded from the attorneys' desks. The attorneys specified which documents were to be shredded by placing them in a particular location, such as in the corners of their offices, or by giving the documents to their secretaries, who then gave them to the couriers.

JOHNSON stated the documents to be shredded were brought to the basement in boxes. JOHNSON stated the attorneys placed their initials or names on the documents themselves, but not on the boxes used to bring the documents to the shredder. JOHNSON stated he never read any of the documents he shredded.

cc: orig - Sub A
Copy - Sub II

FOIA(b)(7) - (C)

29D-LR-35063-Sub11-90

Investigation on 3/10/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 10

by SA [redacted] Date dictated 3/24/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 109

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While he was employed by TRLF, JOHNSON stated that documents were not always shredded. Approximately two months before JOHNSON stopped working for TRLF, a meeting was held for the entire firm. At that meeting, JOHNSON stated his supervisor, MARY RUSSELL, advised that the firm was going to start doing things differently. It was at that time that TRLF began shredding documents. JOHNSON believed documents were being shredded to prevent the media from obtaining information . regarding HILLARY CLINTON.

JOHNSON stated that, to his knowledge, the shredding of documents took place during normal business hours. JOHNSON stated he did not work past 5:00 p.m., he did not work weekends, and he did not work any overtime hours. JOHNSON advised he is not aware of any other courier who worked overtime hours or on weekends.

JOHNSON stated he currently is employed on a temporary basis by RATHERS & JENNINGS, a landscaping company in Little Rock, Arkansas. JOHNSON stated he has not spoken with anyone currently employed by TRLF. JOHNSON stated that MICHAEL D'JARNETTE (phonetic) is the only courier with whom he worked who is still employed by TRLF.

The following was obtained through observation and interview:

Name	PHILIP LANSFORD JOHNSON
Race	White
Sex	Male
Date of Birth	[redacted] FOIA(b)(6)
Address	14 Beverly Place, Little Rock, Arkansas

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 3/29/94

FOIA(b)(6)

MARGARETE ELIZABETH (Maggie) CROCKER (white female born [redacted] was telephonically contacted at her residence in San Antonio, Texas, by Special Agent [redacted] Federal Bureau of Investigation (FBI). Ms. CROCKER was advised that this interview concerned the allegation that "Whitewater" documents were destroyed by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Ms. CROCKER advised her present residence address is 1700 Jackson Keller Street, Apartment 314, San Antonio, Texas 78213, telephone number (210) 979-0467. She stated she is presently employed as a teacher at the Serna Elementary School, San Antonio, Texas, telephone number (210) 599-0110.

Ms. CROCKER advised she was employed as a courier by the ROSE LAW FIRM from August 1991 until April 1992. She advised that she started there following graduation from Tulane University and stayed with the Firm until she went to graduate school at Trinity University. She advised that, as a courier, her duties included, but were not limited to, transporting files, mail, etc., and shredding files and documents. She advised that she usually worked from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Ms. CROCKER advised that the Firm had only one shredding machine and to the best of her recollection, it was there when she started to work for the Firm. She stated that the shredding machine was located in the basement of the main office. She advised that she was assigned to shred on many occasions.

Ms. CROCKER advised that she made many trips to the Firm's remote storage facility as did all the couriers. She advised the door was always locked and she was admitted by one of the women who worked in the facility. She advised that she never

CC, Orig - Sub A
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Copy - Sub 11

(telephonically)

Investigation on 3/28/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 3/29/94

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FOIA RD-56806 (URTS 16302) Docid: 70104948 Page 111

29D-LR-35063-Sub 11 - 89

saw any shredding take place at the facility and does not believe that there was a shredding machine located there. She stated that she never saw a uniformed guard at the remote storage facility. She stated she is unaware of any commercial shredding having been done at the remote storage facility while she worked for the ROSE LAW FIRM.

Ms. CROCKER advised that she was involved in the shredding of many items on a routine basis, but advised she cannot recall specifically shredding anything she knew to have been associated with any of the following:

VINCENT FOSTER, JR.
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS & LOAN
JIM GUY TUCKER
DAVID HALE

Ms. CROCKER advised she is aware of the allegations concerning the shredding of a box of Mr. FOSTER's files, which allegations have appeared in the newspaper recently. She stated she has no personal knowledge of any such shredding as alleged by the news media.

Ms. CROCKER advised she has not been contacted by either anyone from the ROSE LAW FIRM or any representative of the news media.

Ms. CROCKER advised that, now that she is fully aware of the Government's interest in this matter, she will report any information which she may receive from any source which she believes might be of interest to the Independent Counsel.

Ms. CROCKER provided the following information:

Name	MARGARETE ELIZABETH CROCKER
Aka	Maggie Crocker
Race	White
Sex	Female
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/23/94

FOIA(b)(6)

COURTNEY NEWTON LITTLE, a white male, date of birth [redacted] #3 Colony Road, Little Rock, Arkansas, telephone number (501) 582-2002, was contacted at his residence. After being advised of the identities of the interviewing Agents and the nature of the interview, LITTLE provided the following information:

LITTLE advised that he worked at the ROSE LAW FIRM as a courier from October until Christmas of 1992. He advised that he worked approximately 25 hours a week, primarily in the afternoon after attending class at the University of Arkansas at Little Rock. He advised that his duties included picking up mail from attorneys, personal deliveries to other law firms, shredding documents, and making final runs to the post office. LITTLE further advised that a former fraternity brother got him the job at the firm.

LITTLE stated that anything in the various attorneys' trash would usually be shredded. He stated that newspapers and garbage were thrown with regular trash but very little else. He stated that on some days there would be seven to eight boxes of documents to be shredded. LITTLE further stated that each courier was assigned an area of the firm in which to pick up documents to be shredded. LITTLE stated that the standard procedure entailed picking up file boxes with documents to be shredded and taking them downstairs to the shredder located next to the pool area.

LITTLE advised that he never worked later than post office hours and that neither he nor the other couriers ever worked past 5:30 p.m. He advised that all of the partners were usually gone by 5:30 p.m. as well at the latest and that only associates worked late hours.

LITTLE stated that, when he left the ROSE LAW FIRM, they were putting everything on microfiche and storing file boxes in a warehouse near CAJUN'S WHARF RESTAURANT until they were put on the microfiche.

cc: Orig-SubA
Copy - SubII

29D-LR-35063-Sub11-88

FOIA(b)(7) - (C)

Investigation on 3/11/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/18/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 113

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LITTLE advised that on one occasion he picked up some personal computers and documents from the Governor's mansion and took them to VINCENT FOSTER and WILLIAM KENNEDY. LITTLE advised that he did not know to what the documents pertained.

LITTLE stated that HILLARY CLINTON was leaving the firm when he first started working there. He stated that he likes what the CLINTONs are trying to do for the country and, therefore, does not follow reports about WHITEWATER. LITTLE further stated that he does not believe that any attorney at the ROSE LAW FIRM would send WHITEWATER or FOSTER documents to be shredded by a courier. He further stated that he only saw good things at the firm, everyone was very open, and that the firm even went as far as telling employees not to buy stock in companies for whom they were working due to potential conflicts.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) Date of transcription 3/21/94

L. JEAN LEWIS, also known as JEAN LEWIS, Senior Criminal Investigator, RESOLUTION TRUST CORPORATION (RTC), Kansas City Office, Kansas City, Missouri, business telephone number (816) 968-7237, was interviewed in the offices of the Office of the Independent Counsel, Little Rock, Arkansas, wherein, at the outset, LEWIS was informed of the identities of the individuals conducting this interview, who identified themselves as PATRICK SMITH and JULIE O'SULLIVAN, Deputy Independent Counsels, and [redacted] Special Agent (SA), Federal Bureau of Investigation (FBI).

Thereafter, LEWIS provided the following information voluntarily:

She first became employed for the RTC in about July, 1991, at the Tulsa, Oklahoma, Field Office as secretary to the Data Processing Department. She was previously employed at a savings and loan association in Dallas, Texas, and previous to that, in about 1982, she was employed at COMMONWEALTH SAVINGS AND LOAN, Houston, Texas, although her college major was in Political Science.

In February, 1986, she was employed at WESTERN SAVINGS AND LOAN, Dallas, Texas, as Executive Assistant to the Chief Financial Officer, BOB DAWSON; however, within about six weeks of her working for DAWSON, DAWSON was fired by JERRY WOODS. Thereafter, JON BOYLE became Executive Vice President for about five weeks. WESTERN SAVINGS was experiencing extreme financial difficulties during this time and were being watched very closely by regulators, and, upon the departure of BOYLE, LEWIS was assigned as a Loan Administrator and placed in charge of reviewing, servicing, and mending those loan files wherein problems had been identified or had surfaced.

An audit was commenced, which occurred from about May through September 1986, and LEWIS had previously decided that she was going to leave on the 91st day from the date in February that

cc: Orig - Sub A Copy - Sub 9
Copy - Sub 5 " " 10
" - " 7 " " 11
" - " 8 " " 12

Investigation on 3/14/94 at Little Rock, Arkansas File # 29D-LR-35063 Subs 5,7,8, 9,10,11 &12

by SA [redacted] Date dictated 3/18/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 115

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she had first become employed at WESTERN SAVINGS had that agency not found a job for her as Loan Administrator.

The audit lasted from May through September, 1986, and LEWIS intended to terminate her employment at 1:00 p.m. on September 12, 1986; however, on that day, her boss said to her, "Hold on one more day because the regulators are taking us over this afternoon."

The following Monday, the FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION (FSLIC) did, in fact, take over that savings and loan, and the following Monday is when that institution actually became WESTERN FEDERAL SAVINGS AND LOAN. As a result of the failure of this savings and loan, several employees were thereafter indicted by a Federal Grand Jury.

LEWIS explained that, when a savings and loan association is "taken down," the division of the RTC that performs that function is the OFFICE OF THRIFT SUPERVISION (OTS), and the other division of RTC, which is made up of the remaining components of the previous FSLIC and the FEDERAL HOME LOAN BANK BOARD (FHLBB), were combined into an agency known as the SAVINGS ASSOCIATION INSURANCE FUND (SAIF), and SAIF is the separate insuring agency for savings and loan associations.

After LEWIS became employed by the RTC at the Tulsa Field Division Office, she subsequently became an investigator and eventually a senior investigator, but, at that time, as an investigator, was responsible for investigations of savings and loans in Arkansas while CLARK WALTON was responsible for such investigations in Oklahoma.

Normally when a savings and loan association is taken over by RTC, the 20 "top" problem loans are seized for investigation, and all other records pertaining to that savings and loan are seized along with all documentation and forwarded to the RTC Kansas City Regional Office where such documents are examined by the Civil Division, as well as the Criminal Division, which divisions are separate. Also, when a particular savings and loan is "taken down," an inventory of the various documentation is conducted on a "by file" basis.

With reference to MADISON GUARANTY SAVINGS AND LOAN (MGS&L), that institution was placed under FHLBB in about July, 1986, and JEFFERY GERRISH of the firm BORAD & HUGGINS, did his "by file" inventory in about 1986 or 1987, and, thereafter, MGS&L was "taken down" in 1989. There was no criminal investigation on MGS&L previous to LEWIS initiating same, which action was not a monetary decision and which action was initiated following the acquittal of JAMES B. MC DOUGAL in U.S. District Court at Little Rock, Arkansas.

At that time, CHUCK WALTON, as previously noted herein, was the criminal coordinator for Oklahoma and was LEWIS' immediate supervisor.

Additionally, two other RTC employees, identified as RICHARD IORIO, a Field Investigations Officer, and MIKE VAN VALKENBURG, had input with reference to MGS&L being targeted by LEWIS for December, 1992.

Previous thereto, in about March, 1992, an article appeared with reference to the WHITEWATER DEVELOPMENT controversy in the "New York Times" newspaper connecting MGS&L and WHITEWATER (WW).

Actually, the original request for the investigation of MGS&L came from JOHN WALKER, an RTC Deputy Counsel, and ALLAN CORBETT through VIRGINIA LEWIS, who was then Director of the Tulsa RTC Field Office.

CHUCK WALTON's request for such an investigation had gone "two ways." One was back to the Kansas City Regional RTC Office and to the Tulsa Field Office.

At about that time, MARK VAN VALKENBURG was "back in town" and asked for a confidential talk" with LEWIS wherein VAN VALKENBURG stated, "I think we have a problem with MGS&L," and "Go check it out."

At that time and through the present, JEAN LEWIS has had a good relationship with the United States Attorney's Office and the FBI at Little Rock, Arkansas.

What LEWIS remembers VAN VALKENBURG as saying was, "JEAN, we have a problem. PAT HERITAGE of the ROSE LAW FIRM allegedly fabricated two or three years worth of Board of Directors minutes for MADISON FINANCIAL CORPORATION while she was at MGS&L."

This information apparently came from an interview that GERRISH had previously conducted with HERITAGE.

Also, while HERITAGE was working at MGS&L, she obtained a J.D. law degree in about 1990 wherein, upon obtaining such a degree, HERITAGE immediately terminated her employment at MGS&L, and she was immediately employed at the ROSE LAW FIRM.

It appeared to LEWIS that "BORAD & HUGGINS seemed to know this long before MIKE VAN VALKENBURG advised LEWIS of PAT HERITAGE's interview."

In about March, 1992, WYATT ADAMS, an associate of LEWIS, and LEWIS were directed to Little Rock where, in about April, 1992, they met with FBI SA GARY A. AARON and KENNETH STOLL and SANDRA CHERRY, both Assistant United States Attorneys, who had prosecuted JAMES B. MC DOUGAL, which had resulted in the acquittal. It is LEWIS' understanding that prosecution "couldn't prove where the money went," and the jury, during deliberations, deadlocked with six voting for conviction and six voting for acquittal; however, the jury eventually reached a unanimous verdict of not guilty.

While in Little Rock in about April, 1992, ADAMS and LEWIS "spent three hot weeks" in late April or early May in an unventilated warehouse that had no air conditioning and was dimly lit, which warehouse contained certain of the seized records of MGS&L, which had been seized by the RTC in about 1989. While examining such records, WYATT ADAMS discovered a binder containing a stack, perhaps four or five inches thick, of demand deposits, commonly known as "force pays." LEWIS noted that it is her experience such "force pays" from a demand deposit account in a financial institution is normally about 99% fraudulent, and it is her expectation that such is the case with respect to MGS&L. ADAMS also found certain of the demand deposits or "force pays" to be for WW. ADAMS also found five pages of green ledger sheets pertaining to Maple Creek Farms wherein WW was listed as reserve for the Maple Creek Farms development.

LEWIS is actually the person who found the "reserve for development" scheduled for payment in October, 1985, and WYATT ADAMS found the corresponding demand deposit items.

It was obvious to LEWIS, from PAT HERITAGE's admissions to JEFFERY GERRISH, and from examining the minutes and balance sheets found in the MGS&L records, that these minutes and balance sheets were "cooked," interpreted by LEWIS to mean fabricated.

LEWIS also found money going out of these various development fund accounts into personal accounts, and such funds were usually deposited into the personal accounts in a range from approximately $1,500 to $3,500 each.

At the time, LEWIS identified 12 separate accounts which had received funds from the direct deposit account as "force pays," and these occurred during 1985 and 1986.

In about May, 1992, when LEWIS returned to Tulsa from examining the records in the warehouse, as previously noted herein, the Tulsa office "was being shut down," and LEWIS was detailed to Kansas City.

With reference to the minutes of the Board of Directors and the balance sheets being fabricated, LEWIS acknowledged that records of proof machines, as maintained in federally insured financial institutions, "cannot be cooked," and she advised that

LEWIS prepared the transfers from various of the 12 accounts previously mentioned herein and others with a massive "check kite" and noted that the reason there was never a "bust out" as the float kept becoming larger and larger is because the float from the various affected accounts was transferred to the demand deposit account through the "force pays."

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

LEWIS noted that this was the case with regard to practically all, if not all, of the nine criminal referrals sent to the FBI via RTC letters dated October 8, 1993, and LEWIS expressed the view that most of these referrals are interrelated.

LEWIS characterized the transfers of funds from among these accounts ranging from $1,500 to $3,500 as merely a contrivance designed to deceive examiners and regulators as to the true financial soundness of the institution as was evident when MGS&L became insolvent.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 3/21/94

FOIA(b)(6)

DONALD DUPREE BLAIR, JR. (white male born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Special Agents [redacted] FBI. Mr. BLAIR was advised that this interview concerned the allegation that "Whitewater" documents were destroyed by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. BLAIR advised his present home address is 140 Valley Club Circle, Little Rock, Arkansas 72212, telephone number (501) 227-8863 or 227-4915. He stated that he is a full-time student (senior) at the University of Tennessee (UT), Knoxville, Tennessee, where he is majoring in political science and business. He advised he will graduate in May 1994. He stated his university address is 509 11th Place, Apartment 4001, Knoxville, Tennessee 37916, telephone number (615) 546-5213. He stated he is presently unemployed.

Mr. BLAIR advised he was employed as a courier by the ROSE LAW FIRM from July 6, 1992, until mid-August 1992. He stated he was at the Firm for no more than five or six weeks. He stated that, as a courier, his duties included, but were not limited to, transporting files, mail, etc., and shredding files and documents. He advised that he usually worked from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Mr. BLAIR advised he got his job with the Firm because he and his family were close friends of VINCENT FOSTER, JR., and his family. He stated that he had expressed an interest in becoming a lawyer to Mr. FOSTER and Mr. FOSTER had suggested that he (BLAIR) work with him (FOSTER) during the summer of 1992. He advised that since Mr. FOSTER was so heavily involved with the CLINTON's Presidential campaign that summer, he (BLAIR) was not able to work with Mr. FOSTER and spent those five or six weeks working as a courier.

cc, Copy - Main
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SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]

MAR 21 1994

FBI — LITTLE ROCK

Investigation on 3/21/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] SA [redacted] Date dictated 3/21/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 1

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Mr. BLAIR advised that the Firm had only one shredding machine and that it was the couriers responsibility to shred material picked up from the various offices in the building. He stated that there were days when it seemed like shredding was going on all day long. He stated that no courier was assigned to shred more than two hours at a time. He advised that he cannot recall anything about any of the shredding he did.

Mr. BLAIR advised that on three or four occasions he made trips to the Firm's remote storage facility. He stated that the door was always locked and he was admitted by one of the women who worked there. He stated he believes they were always called in advance when a courier was on the way out there. He stated he never saw any shredding at the remote storage facility nor did he ever see a uniformed guard there. He stated he is unaware of any commercial shredding having been done at the remote storage facility while he worked for the ROSE LAW FIRM.

Mr. BLAIR advised he cannot recall specifically shredding anything he knew to have been associated with any of the following:

VINCENT FOSTER, JR.
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS & LOAN
JIM GUY TUCKER
DAVID HALE

Mr. BLAIR advised he is aware of the allegations concerning the shredding of a box of Mr. FOSTER's files, which allegations have appeared in the newspaper recently. He stated he has no personal knowledge of any such shredding as alleged by the news media.

Mr. BLAIR advised he has not been contacted by either anyone from the ROSE LAW FIRM or any representative of the news media.

Mr. BLAIR advised that, now that he is fully aware of the Government's interest in this matter, he will report any information which he may receive from any source which he believes might be of interest to the Independent Counsel.

Mr. BLAIR provided the following information:

Name	DONALD DUPREE BLAIR, JR.
Race	White
Sex	Male
DOB	
POB	
SSAN	
Height	6'2"
Weight	180 pounds
Hair	Brown
Eyes	Brown

FOIA(b)(6)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 3/15/94

JASON ERIC FORD, white male, date of birth [redacted] Social Security Account Number [redacted] was contacted at his residence located at 801 South Rodney Parham Road, Unit 35C, Little Rock, Arkansas. FORD was advised of the identity of the interviewing Agent and the nature of the interview. He then provided the following information:

FORD was employed as a courier for the ROSE LAW FIRM in Little Rock from February 1, 1992, through September 30, 1992. FORD's father, ROGER FORD, was employed as the City Manager for Texarkana and contacted LES BALDAGE, Attorney for the ROSE LAW FIRM, regarding potential employment for his son. JASON FORD contacted MARY RUSSELL, an administrative manager for the ROSE LAW FIRM, who eventually hired FORD. FORD is currently attending college and is employed on a part-time basis with COMMON CAUSE.

FORD advised that his duties as a courier consisted of running errands and anything else requested by an attorney or secretary of the law firm. Couriers were not usually allowed into an attorney's office at any time until the ROSE LAW FIRM began shredding documents. FORD recalled that the ROSE LAW FIRM did not have a shredder until the "trash bin incident." FORD advised that a "Washington Post" reporter was found rummaging through the ROSE LAW FIRM trash bin, which caused the firm to purchase a shredder to destroy documents and protect client confidentiality. FORD advised that each attorney's office and secretary had two garbage cans, one for confidential trash and another for regular trash. The confidential trash bins were picked up by the couriers on a daily basis, taken down to the basement of the ROSE LAW FIRM, and shredded. FORD advised that the shredding began during the summer of 1992. FORD had shred documents while he was employed with the ROSE LAW FIRM, but he indicated he was not assigned to shred documents for any specific attorney or secretary. All the couriers spent time shredding documents on a daily basis.

cc Copy - Sub'n
Orig - Sub'n

FOIA(b)(7) - (C)

29D-LR-35063-Sub11-59

Investigation on 3/14/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/15/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 124

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FORD advised that on one occasion he and some other couriers were told by RUSSELL to go to REMOTE STORAGE to pick up several boxes of documents and bring them back to the ROSE LAW FIRM. FORD advised that RICKY (Last Name Unknown) was employed by REMOTE STORAGE and had the boxes waiting for the couriers when they arrived. FORD could not recall what documents were contained in the boxes that were picked up but believed they were all dated in the 1990s.

FORD advised that he was unaware of any boxes maintained in the basement beneath the stairwell at the ROSE LAW FIRM.

In approximately September, 1992, FORD recalled two occasions where RUSSELL had him travel to the Governor's mansion to pick up legal documents from HILLARY CLINTON, who performed most of her legal duties at the mansion instead of at the law firm. On both occasions, Mrs. CLINTON handed FORD a large envelope sealed and stamped "Confidential," which was to be returned to Mrs. CLINTON's secretary, MILLIE AUSTIN. Upon returning to the ROSE LAW FIRM, AUSTIN advised FORD to shred the documents contained in the envelope without unsealing the envelope. FORD recalled that another courier, JEFF MARROW, also performed similar duties of traveling to the Governor's mansion to pick up documents from Mrs. CLINTON.

FORD advised that he never reviewed any legal files or documents that he was instructed to shred because he was not interested in the contents of the documents being destroyed.

FORD advised that in February, 1993, he was contacted by STEVEN ENGLEBERG of the "New York Times" regarding an interview concerning his employment with the ROSE LAW FIRM. FORD advised that he informed ENGLEBERG of the same information as he has discussed during this interview. FORD advised that he has not been contacted by any other reporters nor anyone from the ROSE LAW FIRM since his resignation in September, 1992.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) FOIA(b)(6)

Date of transcription 3/17/94

BRUCE DOUGLAS ANIBLE, white male, date of birth [redacted] was interviewed at the Little Rock Office of the Federal Bureau of Investigation by Special Agent [redacted] ANIBLE was advised that this interview concerned the allegation that "Whitewater" documents were destroyed by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

ANIBLE stated that he went to work for the ROSE LAW FIRM as a courier in October 1991 and left the employment in February of 1992. He advised that he was attending the University of Arkansas at Little Rock at the time. He stated that, during his time of employment with the firm, he was not aware of there being a paper shredder at ROSE LAW FIRM. He stated that he went into the supply room, in which BOB BOUCHER kept his equipment, and he did not see a shredder in that room. He advised that he knows of no couriers at the time of his employment who were involved in any shredding. He stated that he did take boxes of files to the remote storage facility on Cantrell Road, but there was no uniformed guard, and there was no paper shredder there.

He advised that his duties as a courier involving the mail in the office was to handle the incoming and outgoing mail. He advised that they had a cart with the attorneys' names on different slots and that the mail was put into those slots and delivered to the attorneys, and, whatever mail was to go out of the firm, was placed in those attorneys' slots and taken from their offices. He advised that he did not pick up any trash during his employment at the ROSE LAW FIRM from the offices of the attorneys. He assumed that the janitorial crew, which was a night crew, did the cleaning up and the handling of trash. He advised that MARY RUSSELL, who was his supervisor, would inform the couriers when they were to pick up a box of files to take to the remote storage facility and that they would go to the attorney's office, obtain the box of files from the secretary, and remove it to the storage facility. He advised that he would use his own car in transporting the boxes of files and that, when he got to the remote storage facility, the lady who was in charge

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290-LR-35063-Sub 11

Investigation on 3/15/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/17/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 126

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of the facility would unlock the door, and they would put the boxes of files in the facility. He advised that he worked on Tuesdays and Thursdays from 8:00 a.m. to 11:30 p.m. and on Fridays from 12:00 noon to 5:00 p.m. He advised there was some variances in the times, for example, during spring break or on holidays, but that usually those were the times that he worked at the firm.

ANIBLE stated that he has no firsthand knowledge of any shredding of the following listed individuals' files: VINCENT FOSTER, JR.; BILL CLINTON; HILLARY CLINTON; WHITEWATER DEVELOPMENT; MADISON GUARANTY SAVINGS AND LOAN; JIM GUY TUCKER; DAVID HALE.

ANIBLE advised that he would report any information that he may receive from any source which he believes might be of interest to the Independent Counsel regarding the Government's interest in this matter.

The following is a physical description of BRUCE DOUGLAS ANIBLE:

Race	White
Sex	Male
Date of Birth	[redacted] FOIA(b)(6)
Place of Birth	
Social Security Account Number	
Residence	29 South 10th Street, Cabot, Arkansas 72023
Telephone	(501) 843-6412
Parents	DONALD and HARLU ANIBLE, 29 South 10th Street, Cabot, Arkansas 72023 Telephone (501) 843-6412
Education	Presently a senior at the University of Arkansas at Little Rock

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 3/15/94

WILLIAM ERIC TOWNSEND, white male, date of birth [redacted] place of birth [redacted] Social Security Account Number [redacted] who is presently a senior at the University of Arkansas at Little Rock majoring in Speech Communications and who resides at 3802 Kavanaugh, Apartment Number 518, Little Rock, Arkansas 72205, residence telephone number (501) 280-0639, was advised at the outset of the identities of the interviewing Agents and of the nature of the investigation being conducted at which time he provided the following information voluntarily:

TOWNSEND was employed as a courier at the ROSE LAW FIRM from about September 1990 until January 15, 1992. During that time, TOWNSEND was living with MICHAEL DEJARNETT, a co-worker who was also a courier at the ROSE LAW FIRM.

TOWNSEND and DEJARNETT are both from Pine Bluff, Arkansas, and had been classmates at the Pine Bluff High School. DEJARNETT's mother had a friend who was a secretary for one of the attorneys at the ROSE LAW FIRM, and DEJARNETT got a job at the law firm first and then TOWNSEND obtained employment there.

DEJARNETT had worked for about one month at the ROSE LAW FIRM previous to TOWNSEND obtaining similar employment.

TOWNSEND has never been contacted by the media with reference to his previous employment at the ROSE LAW FIRM concerning the WHITEWATER investigation or any other matter.

TOWNSEND, within the past two or three days, has seen two alleged former couriers at the ROSE LAW FIRM on the national news media, but TOWNSEND did not work at the ROSE LAW FIRM when these two individuals did, but it is TOWNSEND's recollection that he did meet one of them, name not recalled, at TOWNSEND's and DEJARNETT's apartment approximately one and a half years ago. TOWNSEND was a courier throughout his tenure at the ROSE LAW FIRM. There were about 10 couriers employed there when TOWNSEND was there. TOWNSEND's duties, as well as those of the other

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FOIA(b)(7) - (C)

Investigation on 3/10/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/11/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 128

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couriers, included the delivery and filing of documents at both the Federal and county courthouses, receiving Federal Express mail and dispatching same, attorney deliveries, airport pick-ups, but TOWNSEND has never shredded anything at the ROSE LAW FIRM and does not recall a shredder ever being present.

TOWNSEND advised he was paid $4.25 per hour plus $.20 per mile, and practically all of his courier deliveries and pick-ups were within the Little Rock-Pulaski County area, except on rare occasions when he would go out of town to file papers in courts at El Dorado, Arkansas, or other locations within the state.

MARY HELEN RUSSELL was the person who actually hired TOWNSEND and was his immediate supervisor throughout his tenure at the ROSE LAW FIRM.

TOWNSEND originally had not intended to work while attending school but decided he needed the extra money. TOWNSEND left the ROSE LAW FIRM employment of his own volition because his car, a 1985 Dodge Daytona, silver in color, two-door, was becoming worn out. TOWNSEND left on good terms and had provided the necessary two weeks notice, which makes him eligible for rehire. TOWNSEND worked approximately 20 to 25 hours per week and normally would work from four to six hours each weekday, usually from about 1:00 to 6:00 p.m. TOWNSEND noted that RUSSELL was always very accommodating with the couriers who were college students in arranging their hours so as to not conflict with their studies.

TOWNSEND estimates that there were times when he would make as many as 15 trips per day to the remote storage facility located on Cantrell Road near CAJUN'S WHARF to either pick up or drop off attorney files; however, he was never involved in such files' destruction, specifically shredding.

The only time that there was an incident wherein employees may have become disgruntled occurred when an attorney named RICK MASSEY fired a courier who had been employed continuously for approximately three years. The name of this courier is JOHN PHILLIPS, and PHILLIPS was fired by MASSEY when PHILLIPS apparently failed to make a timely delivery after dark even though PHILLIPS had "logged it off" on his courier records. It may have been that JOHN PHILLIPS had already left for the day,

and the following day PHILLIPS may have logged the delivery as having been made the previous day when PHILLIPS did not make the delivery until the succeeding day.

JERRY BELL, a black male, and SHAWN PEEL are recalled by TOWNSEND to have been present when MASSEY fired PHILLIPS.

The only attorneys with whom TOWNSEND had direct contact were those who played on a ROSE LAW FIRM basketball team, and those attorneys are identified as SAMMY STRANGE, MARK PEOPLES, and JEFF GEARHEART, it being noted that GEARHEART was the team coach. Also, TOWNSEND had direct contact with another attorney named WILSON JONES in that TOWNSEND did "house sitting" and yard work for JONES.

TOWNSEND advised that PHILLIPS, after being fired by MASSEY, obtained employment as manager of a U.S. PIZZA COMPANY outlet in the Little Rock area.

Except for those persons previously mentioned herein, TOWNSEND is unaware of the identities of any other persons, i.e. current or former ROSE LAW FIRM employees, who may be providing information to the media.

As noted, TOWNSEND never destroyed or shredded any documents or files while employed at the ROSE LAW FIRM.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

Date of transcription 3/15/94

RANDALL PAUL COX, also known as RANDY, white male, date of birth [redacted] place of birth [redacted] Social Security Account Number [redacted] Apartment D-2, Ridgeway Apartments, 601 Ridgeway Street, Little Rock, Arkansas 72205, residence telephone number (501) 664-6052, was advised at the outset of the identity of the interviewing Agents and of the nature of the investigation being conducted at which time he provided the following information voluntarily:

He is single and has two years of college at the University of Arkansas at Little Rock where he last attended in May 1993. He was employed at the ROSE LAW FIRM from April 1990 through December 1993. For the first one and a half years, he was a courier, and thereafter he was in charge of the mail. As such, he would pick up the mail at the post office at about 6:30 a.m. and deliver it to the ROSE LAW FIRM. Upon return to the law firm, he would separate the mail and distribute it to the incoming mailboxes of the secretaries for each of the attorneys employed by the firm.

Thereafter, each hour during the day, he would pick up outgoing mail from the outgoing mailboxes of each secretary for each attorney in the law firm, and, except for the initial delivery of mail each morning to the various secretaries' incoming boxes, Mr. COX did not use a mail cart, rather he would simply go by each secretary's outgoing box and place their mail in a standard bank type box and would then return to his duty station in the basement and sort the mail for delivery. Then various couriers would take the mail to the post office and would normally leave the law firm at about 5:45 p.m. en route to the post office in that the mail had to be at the post office by 6:00 p.m.

It is noted that, after being a courier for the first one and a half years of his employment at the ROSE LAW FIRM, COX then became the mail clerk, but, while performing those duties, he occasionally would make emergency courier deliveries,

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29D-LR-35063 Sub 11-52

Investigation on 3/10/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/11/94

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particularly during the noon hour or when no one else was available to do it.

MARY HELEN RUSSELL hired COX and was his immediate supervisor throughout his tenure until RUSSELL left about two or three months prior to COX terminating his employment at the law firm. It is COX's best recollection that RUSSELL was last employed about August 1993.

COX noted that it was the individual courier's duty to shred documents as they were picked up from the various trash receptacles designated for shredding at each of the firm's secretaries' desks once they were returned to the shredding room. Each courier had an "assignment pocket" in the courier's room in the basement of the ROSE LAW FIRM, and RUSSELL would place assignment cards in the various couriers' "assignment pockets" wherein a particular courier was given a specific floor assignment where he was to pick up those documents to be shredded from the shredder waste cans by each secretary on each floor. COX never picked up any documents for shredding; however, if certain couriers, upon arrival at the shredding room, did not shred their assigned documents immediately as should have been done, COX, because of boredom from his working crossword puzzles and reading newspapers, would shred documents for certain of the couriers in order to "break the boredom." Also, COX would transport various boxes containing attorney files to the remote storage facility; however, most such transports by COX were in large volume, consisting of perhaps 25 or 30 boxes at a time, which would be done on a Saturday by COX, acting alone, in a borrowed pickup truck. COX recalls that most of the large volume of boxes transported by him to remote storage were those regarding a major case that the law firm had handled involving "PRECISION INDUSTRIES."

COX was paid $5 per hour throughout most of his tenure for 10-hour workdays except when COX would assist BOB BOUCHER in building shelves or performing similar storage tasks at the remote storage facility, then he would be paid $8 per hour.

COX estimates that, at one time in perhaps the summer of 1992, there may have been as many as 15 couriers employed at this firm at one time; however, that number was reduced inasmuch as these individuals "were taking up all the parking."

COX noted that the only current or former ROSE LAW FIRM employees of whom he is aware who have been talking to the media are JEREMY HEDGES, CLAYTON LINDSEY, and CHRIS CORDERO.

COX noted that COX does not believe the information that these individuals are providing to the media and specifically pointed out that HEDGES very rarely ever shredded any files in that HEDGES appeared to COX to have an extreme dislike for that portion of his duties.

COX stated that, except for information in the media, COX does not have any knowledge regarding the possible destruction of any files pertaining to those matters pertaining to the ROSE LAW FIRM.

COX noted that he left his employment at the ROSE LAW FIRM of his own volition for a better paying job and was eligible for rehire and noted that he is still permitted to utilize the exercise room in the basement of the law firm.

COX also stated that he did not think that any couriers were provided with any files from the ROSE LAW FIRM to destroy, which might be the focus of the investigation of the Office of the Independent Counsel, and stated, "Do you think people as smart as these guys that are allegedly involved would send such files to couriers to shred for them?"

COX continued to discredit those couriers currently speaking to the news media, as previously mentioned herein, in particular HEDGES, in that COX said, "You could hardly get HEDGES to go in and shred anything."

COX noted that the documents to be shredded each day were carried to the shredder from each floor in bankers' boxes and noted that the specific pocket card assignments would be for "One Old, Two Old, Three Old, One New," or "Two New," which referred to the various floors of the old and new buildings comprising the ROSE LAW FIRM.

COX noted that, since his terminating his employment at the ROSE LAW FIRM on December 15, 1993, he has been in telephonic contact with three different attorneys of that firm but would not identify these attorneys or the reasons for these contacts, noting that "these guys are friends of mine," the only exception

being that, within the past three or four weeks while COX was still living at his previous address of 7405 Marcia, Little Rock, telephone number (501) 562-8840, COX received a telephone message from a female caller asking that COX return her call, and, at that time, COX, prior to returning that call, did telephonically contact an attorney at the ROSE LAW FIRM to seek advice at which time this attorney advised COX that the caller might perhaps be a representative of the news media, and that, although it was up to COX to make such decisions, the attorney noted that, in the event this person was a representative of the news media and COX did return her call, that COX might be inviting the media to begin following him around and disrupting his activities.

This attorney also told COX that COX could speak to anyone he wished regarding his former employment at the ROSE LAW FIRM and mentioned to COX that COX might be contacted in the near future by someone from the Federal Bureau of Investigation or the Office of the Independent Counsel and suggested that, in the event of such an occurrence, that COX should go ahead and talk to such individuals and "tell them the truth."

Thereafter, COX did not immediately return the call from the female caller, but, since COX became concerned that it might be a notification that he had won something from the Readers Digest Sweepstakes, he then telephonically contacted that female and learned that she was a representative of a collection agency, and this call occurred prior to COX moving from 7405 Marcia to his current residence during the weekend of March 5, 1994.

COX stated he is not aware of any disgruntled or dissatisfied current or former employees at the ROSE LAW FIRM.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

FOIA(b)(6)

Date of transcription 3/11/94

MARY HELEN RUSSELL, white female, date of birth [redacted] place of birth [redacted] Social Security Account Number (SSAN) [redacted] who resides at 808 North Jackson Street, Little Rock, Arkansas 72205, listed residence telephone number (501) 663-5874, voluntarily appeared with her attorneys, WALTER B. STUART IV and C. MICHAEL BUXTON, VINSON AND ELKINS LLP, The Willard Office Building, 1455 Pennsylvania Avenue Northwest, Washington, D. C. 20004-1008, office telephone number (202) 639-6571, office fax telephone number (202) 639-6604, at the Office of the Independent Counsel, Little Rock, Arkansas, wherein, at the outset, RUSSELL was informed of the identities of the individuals conducting this interview who identified themselves as PATRICK SMITH, a Deputy Independent Counsel, and [redacted] Special Agent (SA), Federal Bureau of Investigation (FBI).

Thereafter, RUSSELL provided the following information voluntarily:

On March 7, 1994, RUSSELL opened a new business which is known as the CARD SHOP located at 2909 Kavanaugh Street, Little Rock, Arkansas.

RUSSELL was previously employed at the ROSE LAW FIRM, Little Rock, Arkansas, from 1982 until September 30, 1993. She was first employed there part time and made courier assignments and performed other duties as assigned to her by her immediate supervisor identified as CAROLYN HUBER who at that time had the title of office supervisor and later had the title of office administrator.

During the early years of RUSSELL's employment at this firm, closed or pending inactive files were stored either in the basement of the law firm building or at a remote location located at 300 Spring Street in the basement of that building.

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Investigation on 3/8/94 at Little Rock, Arkansas File # 29D-LR-35063 SUB 11

by SA [redacted] Date dictated 3/8/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 135

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were placed in a couriers' assignment box, and, as time permitted each day, the various couriers to whom such tasks were assigned would appear on the various floor of the ROSE LAW FIRM, pick up the trash to be shredded, and return with it to the basement where it would be placed in the room to be shredded. The courier assignment boxes would contain various other assignments, and those of a priority nature had to be accomplished immediately while other such tasks, like picking up the trash to be shredded, would be performed as the various couriers' duties permitted.

However, once the trash to be shredded was brought to the shredding room, it was to be shredded immediately, and "some couriers liked shredding because it permitted them to listen to the commercial radios while others did not like the task of shredding because those persons were more interested in accumulating mileage and would rather be performing courier services outside the building utilizing their automobile." Also, BOUCHER did some shredding as time permitted consistent with his other duties.

With reference to files to be shredded from the remote storage facility, upon the installation of the shredding machine in the basement of the ROSE LAW FIRM, such files would be returned from the remote facility to the shredding room by either the couriers or BOUCHER. ANN WALKER was the employee at the remote facility in charge of microfilming such records, and, once they were microfilmed, either WALKER or RICKI STACEY would then contact RUSSELL and provide a list of the files that should be picked up and shredded. As WALKER would microfilm these files, she would place them in old "Perma File" boxes, and, as such, the files to be destroyed had no connection whatsoever with what may have been written on the outside of such boxes.

This shredding would be accomplished as circumstances dictated, or, "if the couriers became rowdy," RUSSELL would assign shredding to keep them occupied or disciplined.

There were five or six couriers employed when RUSSELL terminated her employment on September 30, 1993.

In addition, there was a "shredder box" situated on each floor of the ROSE LAW FIRM which boxes were kept locked and were maintained with a "drop slot" in the top of each such box, and BOUCHER had the keys to these boxes, and the contents of

those boxes would normally be picked up once each week or as they became full.

There were no changes in the shredding policy during the 1992 Presidential Campaign; however, in about 1990 or 1991, while the law firm was considering purchasing their own shredder, which eventually was purchased from CROCKETT BUSINESS MACHINES, there was an incident wherein someone, perhaps news reporters, had sifted through the law firm's trash; however, the law firm, as noted, was already considering the purchase of their own shredder before this incident.

Also there was a short lapse in time, perhaps three or four weeks, between the time that the on-site BFI shredder was last used and the installation of the shredder at the law firm building.

Also, for a very brief time, perhaps two months or less, the law firm used a recycling company that would come to the firm's main building and pick up papers to be shredded and recycled. It is RUSSELL's belief the person owning this company was named NANCY GREEN, and the recycling company was known as the GREEN COMPANY; however, this firm was interested only in picking up the white paper, and, since the ROSE LAW FIRM's daily memos were on pink paper, NANCY GREEN decided that she did not want to continue such pickups which she or her employees usually made in an old white pickup truck.

With reference to the shredding of files at the remote facility, a list of those files proposed for destruction would be prepared and circulated among the attorneys and, when such lists were circulated, RUSSELL would receive some of them back within the two-week time period specified on such a list or memo as the one shown to RUSSELL by Attorney PATRICK SMITH, and, with reference to other attorneys in the firm, RUSSELL would never receive such back from those others.

However, with respect to HILLARY RODHAM CLINTON, RUSSELL recalls that Mrs. CLINTON was the exception in that she always responded promptly and noted Mrs. CLINTON would return such lists to RUSSELL within ten days to two weeks, the time limit specified on the memo itself.

Also, with reference to the memo shown to RUSSELL by Attorney SMITH, RUSSELL identified the handwriting at the bottom, i.e. the "D" "K" or "M," as that of Mrs. CLINTON. Also, the "C" appearing on this memo is believed by RUSSELL to be the first initial of one of a number of secretaries that Mrs. CLINTON had, which secretary's first name was CHERYL.

The wordprocessing system utilized at the firm in 1988 was the brand Wang. While utilizing that system, if a list of documents to be destroyed had been typed, then the disk containing such information should have been stored. However, RUSSELL doubts this to be the case in that the firm "had a terrible time" with the Wang disk which they refer to as "platters" because of the various difficulties the firm experienced with the Wang equipment. That equipment, date not recalled, was replaced, and, at that time, an employee named JOHN BROWN, who had previously had the responsibility of overseeing the Wang computer system, "went out with the old Wang equipment."

RUSSELL is not certain whether BROWN ever knew anything about computers, and, during his tenure, if the system went down, it would totally shut down the entire office operation in that there was no backup or independent system that would "kick in."

While the Wang system was in existence, each Thursday, the platters would be removed and placed in empty styrofoam-lined suitcases for storage, and, when this occurred, there were times when the work from the previous week would be "completely wiped out."

Since JOHN BROWN was in charge of the "backup," RUSSELL doubts whether information allegedly stored on the Wang platters is presently retrievable but is of the impression that DONNA COLLINS, a present employee at the law firm, would be the individual most knowledgeable with reference to either a temporary or permanent computer back-up system.

In addition to the codes of M for microfilm, D for Destroy, and K for keep, an additional notation of NB would occasionally be placed on the index cards with reference to the files stored at the remote site location, and this designation meant that a particular file was searched and found to not be in the box.

One problem experienced in attempts to retrieve files from boxes stored at the remote site was the fact that "some of the law firm's clerks did not even know the alphabet." With reference to the document, i.e. memo, that was viewed by RUSSELL as displayed by Attorney SMITH, RUSSELL advised that this particular item was done correctly, but RUSSELL advised that, in her opinion, the competence level of RICKI STACEY was very low with respect to STACEY's performing the task of marking her lists consistently correct.

Also, at some point, DONNA COLLINS collated the database for the index cards, but RUSSELL does not know when the computer's database began.

An employee named SUSIE, when she did not have much to do, would be tasked by RUSSELL to enter the data from these index cards into the database, and perhaps as many as 20,000 cards at a time, to include the dates, were implemented.

This database is not widely known in the firm, but KATHY HARRIS, another employee at the ROSE LAW FIRM before RUSSELL left, knew how to access this database because RUSSELL had specifically shown HARRIS how to do so before RUSSELL's departure.

The memo and attachments, previously referred to herein, in RUSSELL's opinion, were together originally because of the "A" number which means to RUSSELL that this attachment was cataloged "early in the game" wherein the main file would have been assigned a peculiar number, and, at the outset, such numbers began with "A," and then there is a peculiar subfile number for succeeding documents, and STACEY is the employee who provides such numbers on these documents.

To RUSSELL's knowledge, Mrs. CLINTON never contacted RUSSELL wherein Mrs. CLINTON requested a "pickup" at the Arkansas Governor's Mansion of any files to be shredded either prior to or subsequent to the fall election of 1992, and the same is true with reference to files maintained by the ROSE LAW FIRM at their remote storage facility.

The only records that RUSSELL is aware of that were shredded with reference to Mrs. CLINTON were those contained in a box designated "children's defense fund," and these records had

come from Mrs. CLINTON's office in the law firm and were shredded shortly before Mrs. CLINTON moved to Washington, D. C.

Almost everything that came to the couriers at the ROSE LAW FIRM went through RUSSELL.

With reference to the one box of children's defense fund material, the possibility exists that one of Mrs. CLINTON's secretaries, identified as MILLIE, may have called RUSSELL and said, "I've got a box up here to be shredded."

However, as noted, nothing at the Governor's Mansion, to RUSSELL's knowledge, was ever brought to the ROSE LAW FIRM and shredded.

Also, RUSSELL noted that the couriers would never see the CLINTONs. At the time, Mr. CLINTON was Governor, and Mrs. CLINTON worked at the ROSE LAW FIRM. MILLIE, or anyone of a number of Mrs. CLINTON's secretaries, would tell RUSSELL what instructions to give a particular courier with reference to transporting items or documents to or from the Governor's Office or elsewhere. As such, it would have been next to impossible for anything to come from the Governor's Mansion to the ROSE LAW FIRM to be shredded since the couriers were required to place any items they may have picked up in the ROSE LAW FIRM's interoffice mail, and the only exception to such a policy would be if the items brought to the ROSE LAW FIRM by the couriers were in a heavy box or were bulky items that would not fit within the mail slots.

As noted, although RUSSELL cannot recall whether the children's defense fund records were shredded before or after the November Presidential election in 1992, it is her belief that these records were shredded shortly before Mrs. CLINTON moved to Washington in perhaps about February, 1993.

RUSSELL has no knowledge with reference to any documents being shredded that pertained to JIM GUY TUCKER or WHITEWATER.

RUSSELL never heard of WHITEWATER prior to seeing it in the printed media and does not know whether any other MADISON GUARANTY SAVINGS AND LOAN files were designated for destruction other than those appearing on the memo previously mentioned

herein which was exhibited to RUSSELL during this interview by Attorney SMITH.

With reference to the files of VINCE FOSTER, RUSSELL observed that LORRAINE had been working on FOSTER's closed files and was preparing a list of numbers pertaining thereto, and, in so doing, she was working with RICKI STACEY wherein STACEY was trying to get FOSTER's files in alphabetical order. As such, LORRAINE was trying to be sure that all of FOSTER's files had the correct numbers on them, so she had apparently called and asked RICKI for those numbers. No material was destroyed as a result of that process. There were only two occasions when FOSTER actually responded to the request listing those files being considered for destruction. On one occasion, FOSTER advised that he was too busy preparing for a trial, and, on the second occasion, FOSTER went to the remote storage facility and looked at the list of files being considered for destruction where upon FOSTER made mentioned that to review the files then listed would be "like writing an entire epistle," and, as such, FOSTER never responded to requests that certain of his files be reviewed before their destruction. The time that FOSTER went to the remote facility is recorded in a spiral notebook maintained by RUSSELL as having occurred on March 16, 1988.

Apparently, it was a staff meeting conducted by BILL KENNEDY, a former boss and managing partner, which gave FOSTER the idea of his appearing at the remote storage facility to check on his files that were being considered for destruction.

With reference to the spiral notebook previously mentioned herein, RUSSELL would maintain one such notebook for each year; however, there were occasions when, due to the number of entries that she had made in such notebooks, more than one notebook would be required per year.

RUSSELL currently has possession of such notebooks at her residence, and she was requested by Attorney SMITH to continue to maintain such possession and to not dispose of these items.

Additionally, RUSSELL noted there is an entry of April 3, 1990, about Mrs. CLINTON's materials being shredded, but RUSSELL does not relate this entry in her spiral notebook to the

documents listed on the memo previously mentioned herein as shown to RUSSELL during this interview by Attorney SMITH.

As RUSSELL recalls it, the last time that a truck appeared at the remote storage facility for on-site shredding was in about 1991 and not 1992 or 1993.

Also, there may have been one occasion wherein a mobile shredder was utilized at the main office of the ROSE LAW FIRM; however, RUSSELL is not certain that this did, in fact, occur or the year in which it may have occurred.

To reiterate, RUSSELL advised no action was taken with reference to the VINCE FOSTER files until after he left for Washington, and no one has ever told RUSSELL to destroy anything on VINCE FOSTER's list. This would include the date of March 16, 1988, forward.

The documents contained on the memo previously mentioned herein is the only time RUSSELL ever recalls the possibility of any of Mrs. CLINTON's files being destroyed except for those relating to the children's defense fund, and RUSSELL noted that MILLIE was in charge of Mrs. CLINTON's files before Mrs. CLINTON's leaving the law firm.

With reference to WEBB HUBBELL, to RUSSELL's knowledge, no shredding has occurred concerning HUBBELL's files after he left the law firm; however, RUSSELL noted that DEBBIE, HUBBELL's secretary, remained at the ROSE LAW FIRM and is presently employed there.

RUSSELL concluded by stating that, except for the incidents previously mentioned herein with reference to Mrs. CLINTON, RUSSELL is unaware of any destruction of documents pertaining to Messrs. FOSTER, HUBBELL, and KENNEDY or Mrs. CLINTON.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/15/94

A. D. EDGERSON, SR. (initials only), 205 South Walnut, Dumas, Arkansas, nonpublished residence telephone number (501) 382-6375, was advised at the outset of the identities of the interviewing Agents and of the nature of the investigation being conducted at which time he provided the following information voluntarily:

He is the father of A. D. EDGERSON, JR., who is presently residing at 4600 Stratton Road, Little Rock, Arkansas. He does not know whether his son has yet had a telephone installed at that residence. His son returned to work at the ROSE LAW FIRM on March 7, 1994, in that approximately two weeks ago, someone at the ROSE LAW FIRM telephonically contacted his son at the A. D. EDGERSON, SR., residence and asked his son to come back to work for them.

Mr. EDGERSON explained that his son has a four-year degree in Computer Science from the University of Arkansas at Little Rock (UALR), having graduated from that institution in May, 1993. Thereafter, on about November 24, 1993, his son moved from Little Rock, Arkansas, back to the A. D. EDGERSON, SR., residence at Dumas in that his son "was not getting enough work hours at the ROSE LAW FIRM and was 'homesick.'"

Upon A. D. EDGERSON, JR.'s, return to Dumas, he became employed as a dispatcher for the Dumas Police Department and worked eight-hour days there, but EDGERSON, SR., does not know what hourly compensation his son was paid at the Dumas Police Department or while his son was employed at the ROSE LAW FIRM.

His son drives a 1993 Hyundai, white in color, two-door, which is registered in both EDGERSON, SR's, and EDGERSON, JR.'s names. Prior to his son terminating his employment at the ROSE LAW FIRM on about November 24, 1993, his son had worked for the ROSE LAW FIRM as a courier for the preceding two years while his son attended UALR. To EDGERSON, SR.'s, knowledge, his son, prior to receiving the telephone call from the ROSE LAW FIRM representative within approximately two

cc: Orig - Sub A
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290-LR-35063 Sub 11-48

FOIA(b)(7) - (C)

Investigation on 3/10/94 at Dumas, Arkansas File # 29D-LR-35063 Sub 11

by SA [redacted] Date dictated 3/11/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 143

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weeks prior to March 7, 1994, had no intentions of returning to that firm as an employee, and EDGERSON, SR., is unaware of the ROSE LAW FIRM's representative's motive in telephonically contacting his son and requesting that his son return to work at that firm.

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

FOIA(b)(6)

Date of transcription 3/14/94

CHRISTOPHER ANTHONY CORDERO (white male born [redacted] was interviewed at the Little Rock Headquarters of the Federal Bureau of Investigation (FBI) by Special Agents [redacted] FBI. Mr. CORDERO was advised that this interview concerned the allegation that "Whitewater" documents were destroyed by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. CORDERO advised his present residence address is 9 West Mellwood, Little Rock, Arkansas 72204, telephone number (501) 565-6316. He advised he is presently employed by ZIMMER-HOOTEN, 1300 West Park, Suite 2, Little Rock, Arkansas 72204, telephone number (501) 664-9460.

Mr. CORDERO advised he was employed as a courier by the ROSE LAW FIRM from late October 1990 until mid-July 1993. He stated that, as a courier, his duties included, but were not limited to, transporting files, mail, etc., and shredding files and documents.

Mr. CORDERO advised his recollection is that, prior to about October 1991, the ROSE LAW FIRM put all its trash outside for city garbage collection. He stated the Firm bought a shredding machine about this time (October 1991). He stated that, during a courier's meeting, they (the couriers) were told that a news reporter had been caught going through the Firm's outside trash and, in order to protect the privacy of its clients, the Firm had purchased a shredder.

Mr. CORDERO advised he and other couriers routinely picked up material to be shredded on each floor of the Firm's main office. He stated the couriers would usually pick up trash after lunch each day and either shred it or leave it in the shredder room in the basement.

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SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____
MAR 14 1994
FBI — LITTLE ROCK

Investigation on 3/14/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 3/14/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 145

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He advised he personally picked up material to be destroyed from the offices of HILLARY CLINTON and VINCENT FOSTER, JR., as well as from the offices of other attorneys at the Firm. Mr. CORDERO advised he does not know what was in any of the boxes he picked up from the attorneys. He advised that frequently he would listen to the radio while he was shredding and did not pay any attention to what he was shredding. He stated that, if a box was still in good shape, it was used again, but, if it was worn out, it was thrown in the trash outside.

Mr. CORDERO advised that, between the 1992 Presidential election and February 1993, he and other couriers made many trips to the offices of the four attorneys going to Washington, D.C. (HILLARY CLINTON, VINCENT FOSTER, JR., WEBB HUBBELL, and WILLIAM KENNEDY). He advised his recollection is that the materials he shredded from Ms. CLINTON and Mr. FOSTER's offices were things that might have come from cleaning out a desk rather than files. He stated that they all seemed to be "personal" things as well as some memos and accounting ledgers. He stated that he has no specific recollection of having shredded anything from Mr. KENNEDY and Mr. HUBBELL.

Mr. CORDERO advised that, when he picked up boxes from the offices of Ms. CLINTON and Mr. FOSTER, the boxes were always from their secretaries or file clerks. He stated that he did not get the material directly from either Ms. CLINTON or Mr. HUBBELL. He stated he assumed these items were probably put into the boxes by their secretaries.

Mr. CORDERO advised he made three or four trips to the Governor's mansion during November 1992. He stated he would deliver small items, such as mail for Ms. CLINTON, to the mansion guard house, and, on two occasions, he would bring boxes of material back to the Firm for destruction. He stated he does not know what was in any of the boxes. He stated he gave these boxes to Ms. CLINTON's secretary, MILLIE AUSTIN.

Mr. CORDERO advised that, one day in November 1992, JEFF MORROW and possibly JASON FORD spent a day at the mansion working for Ms. CLINTON. He stated that all he knows about that is that one of them said they packed boxes, and Ms. CLINTON was in a "bad mood."

Mr. CORDERO advised he made courier trips to the Firm's remote storage facility. He stated these trips were usually at the direction of a supervisor at the Firm. He stated he never saw a uniformed guard at the remote storage facility, nor did he ever see any shredding taking place at that facility. He stated he is unaware of any commercial shredding having been done at the remote storage facility while he worked for the ROSE LAW FIRM.

Mr. CORDERO advised he cannot recall specifically shredding anything he knew to have been associated with any of the following other than as stated above:

VINCENT FOSTER, JR.
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS & LOAN
JIM GUY TUCKER
DAVID HALE

Mr. CORDERO advised he is aware of the allegations concerning the shredding of a box of Mr. FOSTER's files, which allegations have appeared in the newspaper recently. He stated he has no personal knowledge of any such shredding as alleged by the news media.

Mr. CORDERO advised he has talked to STEPHEN ENGELBERG of the "New York Times" and ALLAN FRANK of "ABC News." He advised his comments to ENGELBERG appeared in a story in the "New York Times" on March 4, 1994.

Mr. CORDERO advised he has not been contacted by anyone in management at the ROSE LAW FIRM.

Mr. CORDERO advised he has talked to a friend, KURT FREEBERG, who is still a courier at the ROSE LAW FIRM. He stated that he was at FREEBERG's residence on or about March 3, 1994. He said that FREEBERG said they were "still shredding -- shouldn't have said that." He stated that FREEBERG would not say any more about it.

Mr. CORDERO advised that, now that he is fully aware of the Government's interest in this matter, he will report any information which he may receive from any source which he believes might be of interest to the Independent Counsel.

Mr. CORDERO provided the following information:

Name	CHRISTOPHER ANTHONY CORDERO
Race	White
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	6'0"
Weight	141 pounds
Build	Slender
Hair	Brown
Eyes	Green

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 3/11/94

FOIA(b)(6)

RODERICK ANDERSON BRYAN (white male born [redacted] was interviewed at his residence, 610 South Victory Street, Little Rock, Arkansas 72201, telephone number (501) 372-7200, by Special Agents [redacted] and [redacted] Federal Bureau of Investigation (FBI). He was advised that this interview concerned the alleged shredding of "Whitewater" documents by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. BRYAN advised that he is currently employed as a waiter at YOUR MAMA'S GOOD FOOD, 2811 Kavanaugh Boulevard, Little Rock, Arkansas 72205, telephone number (501) 663-6333. He advised that at night he plays bass in a band called "Ho Hum."

Mr. BRYAN advised he was employed as a courier for the ROSE LAW FIRM during January and February 1992. He advised his main responsibility as a courier was to make deliveries. He stated he left the ROSE LAW FIRM because he did not like wearing a suit and tie every day.

Mr. BRYAN advised he was never called upon to do any shredding. He stated he does not even recall having ever seen the shredding machine.

Mr. BRYAN advised he recalls making trips to the remote storage facility. He stated these trips were to both deliver and pick up boxes of what he assumed were legal files. He stated that he has no idea what was in any of the boxes he transported. He advised he recalls that MARY RUSSELL would give him a "slip" setting forth instructions as to what he was to do. He stated a woman at the remote storage facility would always see him coming and would open the door for him. He stated he never saw a uniformed guard at the remote storage facility, nor did he ever see a commercial shredding truck there.

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MAR 11 1994

FBI — LITTLE ROCK

Investigation on 3/11/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] SA Date dictated 3/11/94

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Mr. BRYAN advised he made one or two trips to the Governor's mansion and believed he was delivering campaign material. He stated he never brought anything back from the mansion to the ROSE LAW FIRM.

Mr. BRYAN advised he is aware of the allegations concerning the shredding of a box of VINCENT FOSTER's files, which allegations have appeared in the newspaper recently. He stated he has no knowledge of any such shredding. He advised the only courier or former courier with whom he has had any recent contact is JEFF MORROW. He stated that MORROW told him he does not know anything about the alleged shredding, but does not believe the things JEREMY HEDGES has been saying to the news media. He advised that MORROW can be reached at telephone number (501) 663-3161.

Mr. BRYAN advised he has not been contacted by either anyone from the ROSE LAW FIRM or any representative of the news media.

Mr. BRYAN advised that, now that he is fully aware of the Government's interest in this matter, he will report any information which he may receive from any source which he believes might be of interest to the Independent Counsel.

Mr. BRYAN provided the following information:

Name	RODERICK ANDERSON BRYAN
Race	White
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	6'2"
Weight	208 pounds
Hair	Brown
Eyes	Green

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

FOIA(b)(6)

Date of transcription 3/11/94

ELMER TIMOTHY STOUT, JR., (black male born [redacted] was interviewed at the Little Rock Municipal Airport, Little Rock, Arkansas, by Special Agents [redacted] Federal Bureau of Investigation (FBI). He was advised that this interview concerned the alleged shredding of "Whitewater" documents by personnel of the ROSE LAW FIRM, Little Rock, Arkansas.

Mr. STOUT advised that his present residence address is 1103 West 23 Street, North Little Rock, Arkansas 72114, no telephone. He stated he is presently employed as a customer service representative with DELTA AIRLINES and works at the DELTA AIRLINES Office, Little Rock Municipal Airport.

Mr. STOUT advised he was employed as a courier for the ROSE LAW FIRM from August 1992 until either December 1992 or January 1993. He stated that, as a courier, his duties included, but were not limited to, transporting files, mail, etc., shredding, and some filing. He stated his usual work hours were from about noon until about 6:30-8:30 p.m. He stated that at that time he was a student at Philander Smith College, but is not currently enrolled.

Mr. STOUT advised the ROSE LAW FIRM had one shredder in the downtown main office. He advised there was no shredder at the remote storage facility. He stated all file destruction was done at the main office during the time he was employed by the ROSE LAW FIRM, and the file destruction was almost always done by couriers.

Mr. STOUT advised all ROSE LAW FIRM offices had trash containers which were picked up at noon each day. One container in each office was for "real trash" which could be put outside for the city garbage truck to pick up, and another container was for trash to be shredded. He stated that this trash was taken down to BOB's (LNU) office for shredding.

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MAR 11 1994

FBI — LITTLE ROCK

Investigation on 3/10/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] SA

Date dictated 3/10/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 151

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Mr. STOUT advised that BOB's office was usually open during the day, and couriers would do shredding as needed. He stated he does not recall ever having difficulty getting into the room. He stated that MARY RUSSELL had a key to BOB's room in her desk. He stated he thinks BOB locked the room when he left for the day.

Mr. STOUT advised that, when files were to be destroyed, they (the couriers) were instructed to pick them up at the remote storage facility and bring them back to the main office for shredding. He advised that anything picked up for shredding was brought to BOB's room.

Mr. STOUT advised the Firm did a great deal of shredding. He stated that he can recall a couple of times when they got behind, and BOB's room would be full of paper to be shredded.

Mr. STOUT advised he cannot recall specifically shredding anything he knew to have been associated with any of the following:

VINCENT FOSTER, JR.
BILL CLINTON
HILLARY CLINTON
WHITEWATER DEVELOPMENT
MADISON GUARANTY SAVINGS & LOAN
JIM GUY TUCKER
DAVID HALE

Mr. STOUT advised couriers routinely made trips to the Governor's mansion after the 1992 Presidential election. He stated he made trips out there once or twice. He said his deliveries were very small. He stated he did not transport "boxes" to and from the mansion.

Mr. STOUT advised the courier who made most of the mansion trips was BRAD JONES. He stated that JONES is now serving in the U.S. Army in Oklahoma, base unknown.

Mr. STOUT advised he made many trips to the remote storage facility while he was a courier. He advised the remote storage facility was always locked, and he never saw a guard at the facility. He stated he is unaware of any commercial shredding having been done at the remote storage facility while he worked for the ROSE LAW FIRM.

Mr. STOUT advised he is aware of the allegations concerning the shredding of a box of Mr. FOSTER's files, which allegations have appeared in the newspaper recently. He stated he has no knowledge of any such shredding. He advised that the only courier or former courier with whom he has had any recent contact is BRAD JONES. He stated he has not been contacted by anyone in the ROSE LAW FIRM.

Mr. STOUT advised that, now that he is fully aware of the Government's interest in this matter, he will report any information which he may receive from any source which he believes might be of interest to the Independent Counsel.

Mr. STOUT provided the following information:

Name	ELMER TIMOTHY STOUT, JR.
Race	Black
Sex	Male
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Height	5'3"
Weight	230 pounds
Hair	Black
Eyes	Brown

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C)

Date of transcription 3/14/94

AMY LEE STEWART, Attorney, ROSE LAW FIRM, Little Rock, Arkansas, appeared at the Office of the Independent Counsel, Little Rock, Arkansas, with her attorney, C. MICHAEL BUXTON. Ms. STEWART was advised of the identity of PATRICK J. SMITH, Associate Independent Counsel, and Special Agent [redacted] as well as the nature of the interview.

Ms. STEWART, a member of the ROSE LAW FIRM since 1988 and a partner as of October, 1992, advised that she knew HILLARY RODHAM CLINTON when she was an attorney at the ROSE LAW FIRM and that she had consulted with Mrs. CLINTON in a case dealing with a family matter involving custody. She stated that her field is litigation and that, with the departure of Attorneys FOSTER, HUBBELL, and the others to Washington, she became a partner in the law firm. She advised they have eight attorneys in the litigation section of the firm. She advised that she is not sure of the time frame but that Attorney WEBB HUBBELL asked her if she wanted to be in charge of Mrs. CLINTON's files now that Mrs. CLINTON was going to Washington, D.C. She stated she believes this conversation took place in the hallway between her and Mr. HUBBELL. She stated that Mrs. CLINTON was not in the office at the time this conversation took place and that Mrs. CLINTON's secretary, MILLIE AUSTON, was dealing with Mrs. CLINTON's files. Ms. STEWART stated that, after the furniture had left Mrs. CLINTON's office, there were a lot of files contained in boxes which were in her (CLINTON's) office. She advised that, at some point, she went through the files. On occasion, Ms. AUSTON would bring a file of Mrs. CLINTON's to her (STEWART) and ask what she should be done with it, and Ms. STEWART stated that she would have it sent to an attorney who was dealing with that particular subject matter at that time.

Ms. STEWART stated that Ms. AUSTON went to Washington, D.C. During the time that she (STEWART) worked with Ms. AUSTON, they did not have an understanding about how to handle Mrs. CLINTON's files. Ms. STEWART stated she assumed that someone was giving Ms. AUSTON instructions on what to do with the files. She stated that she did retrieve from Mrs. CLINTON's

cc: Orig - Sub A
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Investigation on 3/8/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub H

by SA [redacted] Date dictated 3/10/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 154

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files some files dealing with the Children's Defense Funds and segragated those files in her (STEWART's) file cabinets located outside her office. She also obtained research files and Issue Family files from Mrs. CLINTON's boxes of files. She defined the Issue Family files as being those issues such as the elderly with which Mrs. CLINTON was concerned. Ms. STEWART stated that, although those records were in the file cabinets, she does not remember doing the segragation of the files but must have because they are in her possession. She stated that the Children's Defense Fund files, research files, and Issue Family files are not destroyed, and she still has the files. Further, Ms. STEWART stated that six or more boxes were designated to go to the warehouse facility for storage, but the facility was full, and they were put in a store room at ROSE LAW FIRM on the third floor. She stated she does not have any memory of doing the storing of the six boxes, but she must have been in charge of that activity. She stated that Ms. AUSTON or a file clerk usually moved or reviewed the boxes of Mrs. CLINTON's files.

Ms. STEWART stated that she does not know anything about any destruction of any of Mrs. CLINTON's files, but that Ms. AUSTON would have the authority for the destruction of Mrs. CLINTON's files. She also stated that any record of where Mrs. CLINTON's files went would likely be on a list maintained by Ms. AUSTON. She stated that she saw lists of files of Mrs. CLINTON during the summer of 1993. Ms. STEWART stated that she knows of one list or record of Mrs. CLINTON's files and has been told by Ms. AUSTON that there was another list of Mrs. CLINTON's files. She stated that the second list showed from six to eight boxes containing Mrs. CLINTON's files. She advised that those files were marked as two boxes going to storage, two boxes to be destroyed, and two to three boxes to be forwarded to the White House. She stated that her (STEWART's) secretary, BARB FIELDMAN, has a copy of the second list. She stated that she assumes that the first list that she does not remember had the same designations for Mrs. CLINTON's files as the second list did. Ms. STEWART stated she remembers seeing the second list in November, 1993, after the birth of her twins. She advised that she was in and out of the ROSE LAW FIRM office during the summer of 1993 and did not see the second list until November.

Ms. STEWART advised that she talked to Mrs. CLINTON in March of 1993 when Mrs. CLINTON visited Little Rock, and she (STEWART) asked Mrs. CLINTON if she could be of any help to her. Mrs. CLINTON stated that she could take care of her files at ROSE LAW FIRM in response to Ms. STEWART's question. Ms. STEWART stated that was understood but asked her if she could do anything else for Mrs. CLINTON, and the conversation went on to other things. Ms. STEWART stated that she has talked to her attorney about Mrs. CLINTON's files but has not talked to the White House nor Mr. HUBBELL about Mrs. CLINTON's ROSE LAW FIRM files. Ms. STEWART stated that, when the issue of Mrs. CLINTON's files came up, she asked her secretary, Ms. FIELDMAN, if she knew where the CLINTON files were, and Ms. FIELDMAN pointed to the six or eight boxes in Ms. STEWART's office and the file cabinets outside her office and stated that those were Mrs. CLINTON's files. Ms. STEWART stated she has difficulty in putting a definite time period regarding events which occurred when she was involved in handling Mrs. CLINTON's files at the ROSE LAW FIRM.

She further advised she had no knowledge regarding destruction of files of VINCE FOSTER, WHITEWATER, MADISON GUARANTY SAVINGS AND LOAN, DAVID HALE, or JIM GUY TUCKER.

The following is a physical description of AMY LEE STEWART:

Race	White
Sex	Female
Date of Birth	[redacted] FOIA(b)(6)
Social Security Account Number	[redacted] FOIA(b)(6)
Residence	35 Knob View Circle, Little Rock, Arkansas 72205
Occupation	Attorney, ROSE LAW FIRM, Little Rock, Arkansas, telephone (501) 375-9131, employed at ROSE LAW FIRM since 1988 and a partner since 1992.
Education	Graduate of New York University Law School, 1986

Attorney

C. MICHAEL BUXTON,
VINSON & ELKINS, L.L.P.,
The Willard Office Building,
1455 Pennsylvania Avenue NW,
Washington, D.C. 20004-1008,
telephone (202) 639-6571,
fax number (202) 639-6604

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(6)

FOIA(b)(7) - (C)

Date of transcription 3/8/94

LORAINE WOLFE CLINE (white female born [redacted] was interviewed at the Office of Independent Counsel, Little Rock, Arkansas, by Associate Independent Counsel PATRICK J. SMITH and Special Agent [redacted] She was advised that his interview concerned the alleged shredding of "Whitewater" documents and the general office procedures at the ROSE LAW FIRM, Little Rock, Arkansas.

Present during this interview was Ms. CLINE's attorney, C. MICHAEL BUXTON, of the firm of VINSON & ELKINS, L.L.P., the Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C., telephone number (202) 639-6613.

Ms. CLINE advised that her present residence address is 5212 Stratford Road, North Little Rock, Arkansas 72116, telephone number (501) 758-2258.

Ms. CLINE advised she is a secretary at the ROSE LAW FIRM and has been so employed since September 2, 1986. She stated the ROSE LAW FIRM is located downtown at 120 East Fourth Street, Little Rock, Arkansas 72201, and her business telephone number is (501) 377-0372.

Ms. CLINE advised that, when she first applied for a position at the ROSE LAW FIRM, VINCENT FOSTER, JR., needed a secretary. She advised he interviewed her, and she was hired. She stated she did not work for any other attorneys until Mr. FOSTER left the Firm on January 15, 1993, to work at the White House for President CLINTON. She stated that, since Mr. FOSTER left, she has worked for JESS ASKEW and SAMMY STRANGE, both attorneys.

Ms. CLINE advised she was responsible for maintaining Mr. FOSTER's files. She stated she was assisted by various file clerks. She stated her present file clerk is SANDRA HATCH. She was unable to recall the names of any other file clerks who worked for her prior to Ms. HATCH. She advised that file clerk assignments are made by JOYCE McKINNON.

cc: Orig + Sub A
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Investigation on 3/8/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA [redacted] Date dictated 3/8/94

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FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 158

COPY 29D-LR-35063-Sub 11-38

29D-LR-35063

Continuation of FD-302 of LORAINE WOLFE CLINE, On 3/8/94, Page 4

Ms. CLINE provided the following information:

Name	LORAINE WOLFE CLINE
Race	White
Sex	Female
DOB	[redacted] FOIA(b)(6)
POB	
SSAN	
Arkansas DL	900-07-2656

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

FOIA(b)(7) - (C) FOIA(b)(6)

Date of transcription 3/11/94

STEVEN D. DURAND, white male, date of birth [redacted] Social Security Account Number (SSAN) [redacted] 1163 North Taylor Street, Little Rock, Arkansas, telephone number (501) 664-4989, was interviewed at the Office of the Independent Counsel. Present during the interview were PATRICK SMITH, Office of the Independent Counsel; Special Agent (SA) R. LEE WALTERS, Federal Bureau of Investigation (FBI); and MIKE BUXTON, VINSON AND ELKINS LAW FIRM. After being advised of the identity of the interviewers and the nature of the interview, DURAND provided the following information:

DURAND advised that he joined the ROSE LAW FIRM in 1989 after graduating from the University of Arkansas at Fayetteville Law School. He advised that he practices in the commercial section of the firm but does very little litigation work. He further advised that he does not have a direct supervisor and, as an associate, is given projects to work on by various partners of the firm.

DURAND stated that GARY GARRETT moved from his old office to ALLEN BYRD's old office at the firm after BYRD moved to Washington, D. C. He stated that this move occurred during the fourth quarter of 1993, possibly in September, but he could not recall the exact date. He further stated that GARRETT's furniture was moved very quickly over one weekend by BOB BOUCHER, but GARRETT's files were not moved as quickly. DURAND further stated that ELISE MC SHAN, a file clerk, was responsible for moving GARRETT's files but, for some reason, took several months.

DURAND advised that, prior to GARRETT'S files being moved, STEVE JOYNER moved into GARRETT's old office. He advised that he could not remember when GARRETT's files were moved in total but did remember that some files remained in his work area several weeks prior to Christmas, 1993. He advised that he complained to his secretary several times about a box that was in his work area. DURAND advised that the box was an unsealed, nondescript box that had an 8 1/2 by 11 yellow piece of paper with "to be shredded" attached to it.

CC: Orig - Subj
Copy - Subj

29D-LR-55063-SUB 11

Investigation on 3/8/94 at Little Rock, Arkansas File # 29D-LR-35063 SUB 11

by SA [redacted] Date dictated 3/9/94

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 160

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DURAND stated that the box in his work area contained some of GARRETT's files as he looked into the box and saw files with GARRETT's name on them. He stated that he did not look through the entire box and could not explain each document in the box. He further stated that the records he saw were monthly periodic reports by alpha basis of employees who had client receipts during the month. He further stated that the box was removed from his area sometime after January 2, 1994, as he returned from Europe at that time and remembers the box still being there.

DURAND advised that the box was gone prior to February 1, 1994, but he does not recall a specific date in January that it was removed. He advised that he only recalls that the box was "just gone." DURAND advised that he had no conversations with his secretary or anyone else about the box being gone.

DURAND stated that RONALD CLARK had a meeting with all associates of the firm on Friday, February 4, 1994, after an article appeared in the newspaper about couriers at the firm shredding VINCENT FOSTER's documents. He stated that, at the meeting, it became clear to him that the box of shredded documents in question had to have been the box that sat in his work area for several months. DURAND further stated that, if the box had FOSTER's name or initials on it or the documents in the box had FOSTER's name or initials on them, he would remember that and would have immediately brought them to the attention of CLARK at the time.

Office of the Independent Counsel

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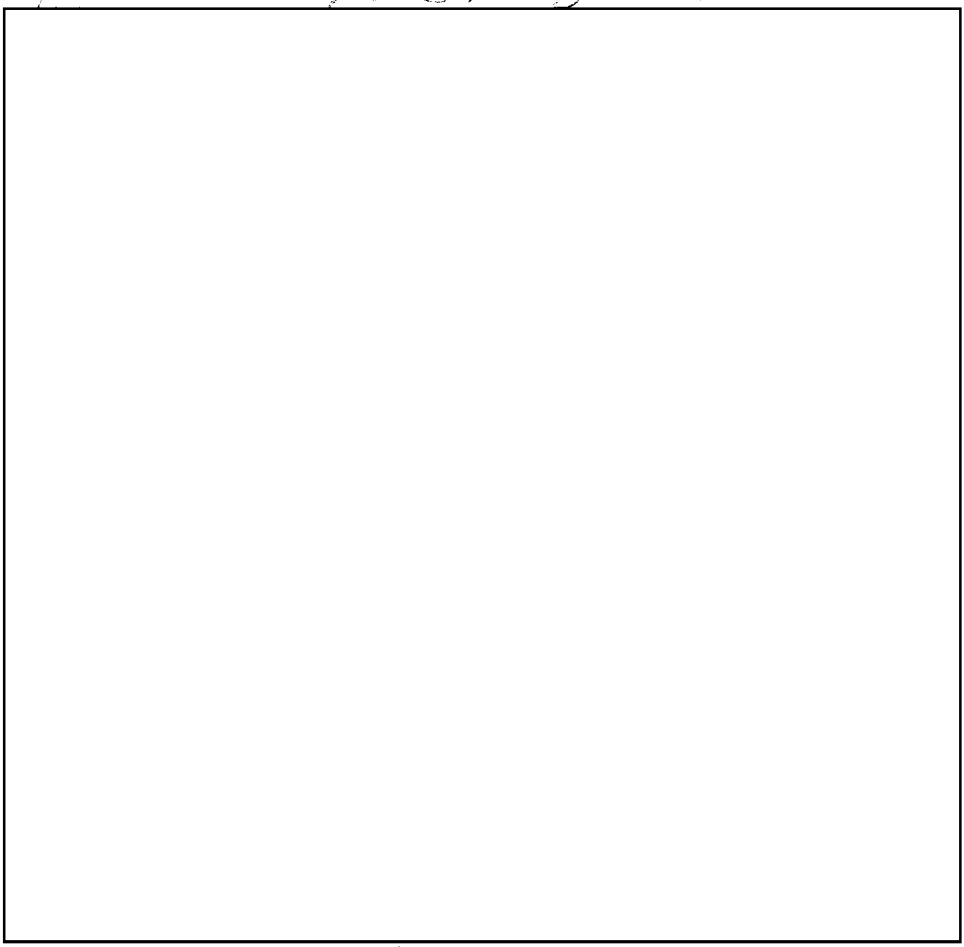

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Four cakes were divided
but not Serve as
Dessert for Luncheon

1135 16th St
SW - DC 20

UNCLASSIFIED

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

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USAGE TIME	00'50
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RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
Suite 490N
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
telephone (202) 514-8688
facsimile (202) 514-8802

TO: Bill Duffey

Company Name: _____

Fax Number: _____

Message:

Do you have the entire index of VF Closed Rose files? [See the first page attached] If so, can you send it? Thanks

SENDER: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

VINCENT FOSTER, JR.
CLOSED FILES
JANUARY 25, 1993

BOX 1

ACI MANAGEMENT, INC./SPECTRUM

VF'S NOTES

CORRESPONDENCE

ORIGINAL DOCUMENTS RECEIVED FROM RICHARD GRAYSON

EXTRA PLEADINGS

PRODUCTION TO PLAINTIFF

PLEADINGS

ACXIOM/BSA HEWLETT-PACKARD AUDITORS RESPONSE

ACXIOM CORPORATION/INSIGHT MARKET SYSTEMS, INC.

CORRESPONDENCE VOL. 1

PLEADINGS

EXTRA PLEADINGS

BACKGROUND MATERIAL

ACXIOM GENERAL CORRESPONDENCE

ACXIOM/BSA/THE BEN SILVER CORPORATION

CORRESPONDENCE

PLEADINGS

ARKANSAS LONG RANGE PLANNING

AETNA INSURANCE CO./MACHEN CONSTRUCTION

VF'S NOTES

ARKANSAS LEGAL SERVICES

ARTHUR MURRAY INTERNATIONAL, INC. AUDITORS RESPONSE

RLI02BFB.WP5
020193

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 167

* Little Rock
* subpoena to Rose LF
* [redacted]
* shredded VF documents
* early 1994 shredding
* HC shredded Madison files in 1980's
* look at Bob's report

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

*shredding maybe did
not get all attention
it deserved
Comments but a lot

FOIA RD 56806 (URTS 16302) DocId: 70104948 Page 169

RUFF- SUSAN McDOUGAL

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FOIA RD 56806 (URTS 16302) DOCID:
70104950

Office of the Independent Counsel

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February 14, 1997

The Honorable Charles F. C. Ruff
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Ruff:

As you know, President Clinton's former business partner, Susan McDougal, has refused to testify before a federal grand jury in Little Rock. Upon careful reflection, we are concerned that President Clinton, by his public statements, has reinforced Ms. McDougal's unlawful intransigence. I am writing to ask that the President remove this serious obstacle to our inquiry.

As is publicly known, Ms. McDougal received a subpoena to testify before the Little Rock grand jury that is continuing to investigate Whitewater-related matters. Judge Susan Webber Wright denied her motion to quash and issued an immunity order. On September 4, 1996, Ms. McDougal appeared before the grand jury and refused to answer questions. She was held in contempt of court and incarcerated so as to compel her compliance with a lawful order of a United States District Court. Her appeal has been denied by the Eighth Circuit.

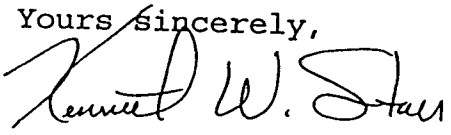
Ms. McDougal obviously can provide relevant evidence to the grand jury. The evidence at her trial; her relationships with the Clintons through Whitewater Development Corporation and otherwise; her answers to journalists' questions over the last few months; and her refusal to answer certain questions in media interviews, some quite recent -- all conclusively demonstrate that she possesses knowledge highly pertinent to the grand jury's investigation.

Ms. McDougal's stated rationale for refusing to testify before twenty-three Arkansans is that, in her view, Office of Independent Counsel investigators are seeking certain kinds of testimony, whether true or false. She has articulated this grave allegation in a series of media interviews. Needless to say, she has offered no evidence to support it, and neither the District Court nor the Eighth Circuit has credited it.

However, in a nationally televised PBS interview on September 23, 1996, President Clinton made comments that appeared to endorse Ms. McDougal's charges of misconduct. Asked about her claim that the Independent Counsel is seeking testimony against the Clintons without regard to its truthfulness or falsity, the President said: "There's a lot of evidence to support that." Asked if the Independent Counsel was out to get him, the President twice said, "Isn't it obvious?" These remarks, uttered in the White House, were televised just two weeks after Ms. McDougal's incarceration. Moreover, recent reports in the media, including Ms. McDougal's own statements, provide additional bases for our concern.

In sum, a key witness has unlawfully refused to testify before a duly empaneled federal grand jury, and we believe that the President, wittingly or unwittingly, has encouraged her unlawful behavior. In effect, the President, who is the charged by the Constitution with the faithful execution of the law, has raised an obstacle in this federal criminal investigation. Accordingly, in the interests of justice and the orderly conduct of this investigation, we request that the President publicly urge Ms. McDougal to testify truthfully before the federal grand jury in Little Rock.

Yours sincerely,



KENNETH W. STARR
Independent Counsel

Office of the Independent Counsel

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(202) 514-8688
Fax (202) 514-8802

March 7, 1997

The Honorable Charles F. C. Ruff
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Ruff:

At our meeting on February 26, you asked if we had any other concerns, beyond that discussed in our February 14 letter, relating to Susan McDougal's refusal to testify before the grand jury. Upon further reflection, we have determined that it is appropriate, in light of your inquiry, to raise one additional matter.

In his PBS interview on September 23, 1996, President Clinton was asked whether he might pardon Ms. McDougal and her co-defendants. While saying he had given the option no consideration, he declined to rule it out. The President took the same position in an exchange with reporters on October 4 and in a televised debate on October 14.

In the PBS interview, the President said that any decision to pardon Ms. McDougal would be made through the "regular process," based on evaluation by the Justice Department. That answer would seem to preclude a pardon during the course of the Administration, in view of the fact that, under its practice, the Justice Department would not consider her pardon petition until five years after she completes her sentence. See 28 C.F.R. § 1.2. By refusing to rule out a pardon, however, the President created some uncertainty about whether he might act outside that process.

Ms. McDougal has cited many reasons for refusing to testify. She has recently claimed she has no desire for a pardon; in September, however, she said that "anyone in my position would want a pardon." While we recognize that the Constitution grants the President sole and final authority over pardons, the lingering uncertainty about President Clinton's intentions may be a factor influencing Ms. McDougal's behavior.

Yours sincerely,

Kenneth W. Starr
Independent Counsel

Office of the Independent Counsel

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1701 Centerview Drive, Suite 203
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

April 29, 1997

Charles F. C. Ruff, Esq.
White House Counsel
The White House
Washington, DC 20500

Dear Mr. Ruff:

After careful reflection, I have decided to respond to your letter of April 4, 1997, regarding the President's September 1996 comments about the Susan McDougal situation.

At the outset, you may well be correct that my request of February 14 was unprecedented. But I am aware of no precedent for the situation that prompted my request: a President publicly indicating his essential agreement with a convicted felon's asserted reason for her continuing contumacious behavior.

You state that, in your judgment, it would be inappropriate for the President to offer what you describe as advice to any individual about her legal obligations. The President articulated the same position in public statements aired on Sunday, April 27. That position might be persuasive if the President had consistently followed a "no comment," hands-off policy regarding this criminal investigation. He has not done so, either generally or as to Ms. McDougal's situation. His public comments on September 23, 1996, indicated his essential agreement with Susan McDougal's proffered reason for unlawfully refusing to testify before the grand jury -- a position, it should be noted, that has been emphatically rejected by the federal courts. As should have been obvious at the time, the President's comments may well have had an effect on Ms. McDougal's decision to continue to flout the law. In addition, while it is the function of any attorney to provide legal advice to his client, in this instance, the law -- indeed, the law of the case -- is crystal clear: Ms. McDougal is legally obligated to testify.

The President's statements last fall are inconsistent with his current position that he should not comment on Ms. McDougal's continued contumacy. In light of what already has occurred, therefore, we believe it would be entirely appropriate for the President to say publicly that Ms. McDougal, like all citizens, should obey the law and testify truthfully before the grand jury.

Sincerely,

Kenneth W. Starr
Independent Counsel

04/29/97 15:51 ☎501 221 8707 INDEP COUNSEL 002

THE WHITE HOUSE

WASHINGTON

April 4, 1997

Kenneth W. Starr, Esq.
Independent Counsel
Suite 490 North
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Dear Mr. Starr:

This is in response to your letter of February 14, 1997, as supplemented by your letter of March 7.

I have given considerable thought to your unusual -- indeed, unprecedented in my experience -- request that the President speak publicly concerning the refusal of Susan McDougal to testify before the grand jury. The President has neither said nor done, wittingly or unwittingly, anything in the slightest degree improper, and I reject the suggestion that he has somehow encouraged Ms. McDougal to violate the law. It would, in my judgment, be entirely inappropriate for him to offer advice to any individual, particularly one who is represented by counsel, concerning her legal rights or obligations.

Sincerely,

Charles Ruff

Charles F.C. Ruff
Counsel to the President

* she had a lawyer before => inappropriate
* pay back fees
* not hands off
* totally inappropriate + has practical effect of impeding investigation
* HICKMAN EWING

THE WHITE HOUSE

WASHINGTON

April 4, 1997

Kenneth W. Starr, Esq.
Independent Counsel
Suite 490 North
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

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Sincerely,

Charles Ruff

Charles F.C. Ruff
Counsel to the President

Reggie

****
*** ACTIVITY REPORT ***
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Office of the Independent Counsel

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Sincerely,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

002 INDEP COUNSEL 501 221 8707 12:39 04/30/97

SENATE HEARINGS – NOTES

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FOIA RD 56806 (URTS 16302) DOCID:
70104952

7-18-95

(1)

HEARINGS

D'Amato says "took his own life"
" "his suicide"

AREAS
① night of July 20
② July 22 search
③ town mate

MACK Falziani
450 pages
* don't want to go back into that box
* McDougal's
* audit of proof of basis - can of worms

SARBANES "suicide"
- April 22
- June 6
privilege

DODD "tragic suicide" in Fort Marcy
not crime scene

HATCH "suicide"
"tragic death"
- reluctance to turn over all docs
"get out of Whitewater"

Presidential Records Act
A-C privilege

Kerry "suicide"
none has yet surfaced

FOIA RD 56806 (URTS 16302) DocId: 70104952 Page 2

7-18-95

(2)

- more grist for the mill

FAIRCLOTH

- "death"
- "committed suicide"
- Robert Fiske criticism
- hammering away at polygraph ⇒ JIM MURPHY
  - calls on WH to release test
- "can of worms"
- does not doubt that Faircloth man of integrity
  - censored
  - 2 weeks of phone calls

SARBANES

- IC requesting polygraph

D'Amato

- "renew his request" for polygraph

BRYAN

BOND "suicide"

- truth trickles out
- pattern of deception
- not telling truth
- SBA invest
- March 23, 1993 FAX
- US Atty's office [illegible] February 20, 1993

FOIA RD 56806 (URTS 16302) DocId: 70104952 Page 3

7-18-95

(3)

BOXER "suicide"

- Starr - 50 federal agents
- duplication + expense
- criticize USPP
- USPP never sealed an office not a crime scene

Foams

- Madison $60 M
- arrogance
- "uncontrolled rummaging"

- why not secured?

Brown

no reasonable doubt re: suicide

Shelby

- refused to allow USPP officers to enter

Murray - suicide

Bennett

Simon

Was there a conspiracy to cover up? I could be wrong, but no

Mikulski Foster suicide

(4)

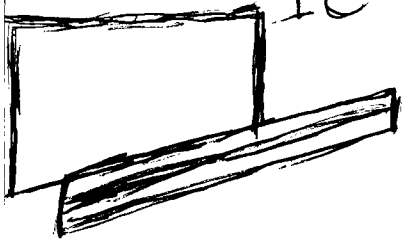
HUBBELL ⇒ D'A wants says truthful
- cooperative + truthful

McDougal
- records
- roster representation

- display of briefcase
- made available
- staff counsel

- Turkey

- July 11
questions + answers
IC produced briefcase



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FOIA RD 56806 (URTS 16302) DOCID:
70104954

846 F.Supp. 11
62 USLW 2532
(Cite as: 846 F.Supp. 11)

In re GRAND JURY SUBPOENA DUCES TECUM DATED NOVEMBER 15, 1993.

No. 93-M-11-189 (MBM).

United States District Court,
S.D. New York.

Feb. 8, 1994.

In grand jury proceedings, corporation moved to quash subpoena duces tecum. The District Court, Mukasey, J., held that subpoena duces tecum was unreasonably broad in demanding all computer hard disk drives and floppy diskettes supplied by corporation to specified officers and employees, even though grand jury's investigation had moved beyond securities trading activities into obstruction of justice.

Motion to quash granted.

GRAND JURY ⚖ 36.4(2)
193k36.4(2)
Grand jury subpoena duces tecum was unreasonably broad in demanding all computer hard disk drives and floppy diskettes supplied to specified officers and employees, even though grand jury's investigation had moved beyond securities trading activities into obstruction of justice; subpoena encompassed documents completely irrelevant to investigation, including personal documents, and government acknowledged that relevant documents could be isolated through keyword searching. Fed.Rules Cr.Proc.Rule 17(c), 18 U.S.C.A.

*11 OPINION AND ORDER

MUKASEY, District Judge.

This is a motion by a corporation and three of its executives to quash a subpoena duces tecum issued to the corporation by a grand *12 jury investigating initially certain activities related to securities trading. As discussed below, a later focus of the grand jury investigation has become possible obstruction of justice and kindred offenses. Because the subpoena is unreasonably broad, and because the representatives of the grand jury oppose any modification of its reach, the motion to quash is granted.

I.

The identities of the parties and, at the request of counsel for the movants, even the precise nature of the charges being investigated and the identities of counsel, have been omitted from this opinion so as to maintain grand jury secrecy. The subpoena at issue was addressed to a corporation that will be referred to as X Corporation. The subpoena demands that X Corporation provide the grand jury with the central processing unit (including the hard disk drive) of any computer supplied by X Corporation for the use of specified officers and employees of X Corporation, or their assistants. It demands also all computer-accessible data (including floppy diskettes) created by any of the specified officers and employees or their assistants. In addition to corporate records, personal documents are stored on the subpoenaed devices, including personal financial information, see President's Aff. ¶ 9, a draft of an employee's will, see Vice President and General Counsel's Aff. ¶ 5, and legal documents relating to the Chairman's personal funding of a third party's purchase of certain goods, see id.

Three of the specified officers of X Corporation--the owner and Chairman, the President, and the Vice President and General Counsel--and X Corporation itself have moved to quash the subpoena on three grounds: that it requests information that is not in the possession, custody or control of X Corporation; that it is overly broad; and that it requests privileged documents. Because the subpoena is quashed based on its unreasonable breadth, there is no need to address the movants' other objections.

II.

A grand jury subpoena duces tecum is unreasonably broad under Federal Rule of Criminal Procedure 17(c) if "there is no reasonable probability that the category of materials the Government seeks will produce information relevant to the general subject of the grand jury's investigation." United States v. R. Enters., 498 U.S. 292, 301, 111 S.Ct. 722, 728, 112 L.Ed.2d 795 (1991). The subpoena at issue here is not framed in terms of specified categories of information. Rather, it demands specified

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information storage devices--namely, particular computer hard drives and floppy disks that contain some data concededly irrelevant to the grand jury inquiry, see Hearing Tr. at 12 (representative of grand jury stating that "[w]e are obviously not concerned with the will or other documents that may be installed there"). As a result, there is an issue of whether the term "category of materials" used in the R. Enterprises standard should be applied to the information-storage devices demanded, or to the documents contained within them. If the categories of materials properly are seen to be hard disk drives and floppy disks, then the subpoena at issue would pass the R. Enterprises test because it is highly probable that these devices will contain some relevant information. If, on the other hand, the categories of materials properly are seen to be the various types of documents contained on these devices, then the subpoena would be unreasonably broad because there are easily separable categories of requested documents that undoubtedly contain no relevant information.

The Second Circuit has not yet addressed this issue as applied to computers and electronic documents, but it has addressed a closely related issue as applied to filing cabinets and paper documents. In In re Horowitz, 482 F.2d 72, 79 (2d Cir.), cert. denied, 414 U.S. 867, 94 S.Ct. 64, 38 L.Ed.2d 86 (1973), the Second Circuit considered a Fourth Amendment challenge to the breadth of a subpoena demanding the entire contents of particular filing cabinets. Although In re Horowitz was not decided under Rule 17(c) expressly, the criterion applied by the Second Circuit to assess the subpoena--reasonableness-- ***13** is the same criterion applicable under Rule 17(c).

The subpoena before the Second Circuit in In re Horowitz had been narrowed by the district court to exclude personal documents, yet the Second Circuit found that it still encompassed irrelevant documents. As a result, the Second Circuit through Judge Friendly narrowed it further, excluding from its scope categories of documents that "have no conceivable relevance to any legitimate object of investigation by the federal grand jury." Id. at 79-80. Implicit in In re Horowitz is a determination that subpoenas properly are interpreted as seeking categories of paper documents, not categories of filing cabinets. Because it is easier in the computer age to separate relevant from irrelevant documents, Judge Friendly's ontological choice between filing cabinets and paper documents has even greater force when applied to the modern analogues of these earlier methods of storing information.

The current matter warrants a resolution similar to that in In re Horowitz. Government counsel have conceded on behalf of the grand jury that the subpoena demands irrelevant documents. Moreover, the government has acknowledged that a "key word" search of the information stored on the devices would reveal "which of the documents are likely to be relevant to the grand jury's investigation." Id. at 3. It follows that a subpoena demanding documents containing specified key words would identify relevant documents without requiring the production of irrelevant documents. To the extent the grand jury has reason to suspect that subpoenaed documents are being withheld, a court-appointed expert could search the hard drives and floppy disks. See Fed.R.Evid. 706(a). Despite the suggestion that this procedure could resolve the dispute, the government opposes any modification of the subpoena, asking instead that this Court rule on the enforceability of the subpoena "as issued." Hearing Tr. at 17; accord id. at 25.

The government presses two principal arguments in favor of enforcing the subpoena without modification. First, it contends that insofar as the Fourth Amendment is the source of the constitutional prohibition on overbreadth, the movants have not established the requisite reasonable expectation of privacy. Although I am not unmindful of the privacy interests of X Corporation employees in the personal documents--such as personal financial information and a will--within the scope of the subpoena, the power to quash the subpoena pursuant to Rule 17(c), see Margoles v. United States, 402 F.2d 450, 451-52 (7th Cir.1968), obviates recourse to the Fourth Amendment. As a result, the government's first argument need not be addressed.

Second, the government argues that the subpoena must be broader than usual because the grand jury has expanded its investigation into suspected obstruction of justice and related offenses. Specifically, it argues for "a more sweeping demand than might normally be made" because it

> has reason to believe that [X Corporation] did not fully comply with prior subpoenas duces tecum to

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> it, that records in the possession of [X Corporation] were destroyed to avoid compliance with an SEC subpoena duces tecum and, further, that [X Corporation] would compliantly withhold from the grand jury any records demanded on the grounds that they were "personal," if asked to do so by any of its officers, even if related to [X Corporation's] business--as not "rightfully" in the possession of [X Corporation]. If this occurred, it was also possible--even likely--that such records would not be identified to the grand jury as having been withheld.

Opposition Memorandum, at 35. The wider grand jury investigation into obstruction and related charges indeed justifies a commensurately broader subpoena. For example, if computer directory files are relevant to the issue of whether stored documents have been tampered with or destroyed, a subpoena demanding such files would be justified. However, the expanded investigation does not justify a subpoena which encompasses documents completely irrelevant to its scope, particularly because the government has acknowledged that relevant documents can be isolated through key-word searching.

In sum, because the subpoena at issue unnecessarily demands documents that are ***14** irrelevant to the grand jury inquiry, it is unreasonably broad under Federal Rule of Criminal Procedure 17(c). Accordingly, because this Court does not have sufficient information to identify relevant documents (including directory files) and modify the subpoena, and because the government seeks a determination of the subpoena's validity "as issued" and opposes its modification, the subpoena is quashed in its entirety, without prejudice to issuance of a narrowed subpoena duces tecum. To preserve the practical ability of the grand jury to issue a narrowed subpoena, X Corporation and its officers, agents and employees--including the individual movants--are directed to continue to cause the computers and related materials that were the subject of the quashed subpoena to be preserved intact in the manner specified in Judge Sweet's sealed December 1, 1993 Order.

SO ORDERED.

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CA8 - TUCKER BANKRUPTCY CASE

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1995 JUDICIAL STAFF DIRECTORY

Beam, C. Arlen

BIOGRAPHY:

BIOGRAPHIES OF JUDGES AND STAFF

Beam, C. Arlen, Circuit Judge, U.S. Court of Appeals for the Eighth Circuit, Federal Bldg., Lincoln, NE 68508. Appointed to the Eighth Circuit Nov. 9, 1987. Born Jan. 14, 1930 to Clarence W. and Cecile M. Beam. Married July 22, 1951 to Betty L. Fletcher. Children: Randal A., James F., Thomas L., Bradley A. and Gregory J. Education: Univ. of Nebraska, B.S., J.D.; Delta Theta Phi, Alpha Gamma Rho. Admitted to Nebraska Bar, 1965; U.S. Supreme Court, 1975; U.S. Court of Appeals for the Eighth Circuit, 1976; U.S. Tax Court, 1979. Military Service: entered active duty, U.S. Army in 1951; released as Captain in 1953 after Korean War service; U.S. Army Reserve until 1964. Career Record: 1965-82, practicing attorney; 1982-86, Judge, 1986-87, Chief Judge, U.S. District Court for the District of Nebraska. Member: Judicial Conference Comm. on Court and Judicial Security, 1989-93; Conf. of Commissioners on Uniform State Laws, 1979-present; Nebraska and Lincoln Bar Assns. Presbyterian.

TO: STEVE C.

TO: STEVE C.

FROM: BRETT K.

11-7-95
1:15 pm

DRAFT

UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

No. 95-3268EALR

UNITED STATES OF AMERICA,

Appellant,

vs.

JIM GUY TUCKER,
WILLIAM J. MARKS, SR., and JOHN H. HALEY,

Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION
HONORABLE HENRY WOODS, JUDGE

REPLY BRIEF OF APPELLANT

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(501) 221-8700

ATTORNEY FOR APPELLANT

TOO LONG AN INTRO - SKIP IT OR COMBINE W/ TEXT

In their briefs, appellees and their amicus, Sun Diamond Growers, articulate a detailed, elaborate vision of the independent counsel statute ~~and its proper administration~~. That vision is highly technical; it portrays a complex administrative regime that looks to the judiciary to check closely its ~~operations, lest the constitutional separation of powers be violated~~.

who or what is "it"

That vision fails at a fundamental level. It rides roughshod over the straightforward system carefully created by Congress. What Congress envisioned was this: An orderly process of dialogue between the key Executive Branch official -- the Attorney General of the United States -- and the Independent Counsel. That system is both uncomplicated and practical. It contemplates precisely what happened here -- that the Independent Counsel would repair to the Attorney General for direction and guidance to determine whether to proceed on a particular investigatory path; that the Attorney General would, as here, then come to judgment as to whether the Independent Counsel should proceed on that path; that such day-to-day, operational judgments by the Attorney General would not be subject to (long) after-the-fact judicial reexamination; and that such Executive Branch judgments would raise no separation-of-powers concerns that would be created were an Article III court (the Special Division) to exercise Executive power.

"the regime" → seems circular b/c judiciary is part of regime → change to the Attorney General as she implements that statute.

Morrison v. Olson ~~was a separation-of-powers watershed. It continues to~~ loom large in appellees' (and Sun Diamond's) vision of the post-Morrison world of independent counsels. ~~Harmoniously with his co-defendants, Appellee Tucker, for example, takes us to task for ignoring Morrison and trumpets its high importance to a proper~~

~~analysis of the issues before this Court~~. But Appellees and their amicus ~~profoundly~~ misunderstand Morrison. That decision -- including Justice Scalia's vigorous dissent -- is ~~all~~ primarily about the degree to which the Judiciary can exercising Executive power. When the Special Division grants jurisdiction to an Executive Branch official (the independent counsel), the separation-of-powers issue is whether the Article III branch has strayed beyond its appropriate province and invaded the territory of a coordinate branch. For that reason, the Morrison Court took pains to emphasize the limited role of the Judiciary (through the Special Division) and the centrality of the Attorney General in determining an independent counsel's jurisdictional reach. Here, the Attorney General's role has been assiduously respected (as symbolized by her amicus brief in support of the United States' position). It was ~~the~~ the Attorney General ~~who~~ decided whether jurisdictional authority over the LMS bankruptcy would ultimately be referred to the independent counsel. That basic point is what appellees and their amicus are willfully ignoring. ~~Their tub-thumping cannot mask this decisive point~~: Executive power (the assignment of jurisdiction to a federal prosecutor) was exercised by the Attorney General of the United States. That simple, salient fact ends should any separation-of-powers concern treated by the Morrison Court.

~~Freeing the Attorney General's referral decision from~~ inevitably time-consuming judicial review breaks no new ground. Just as independence is the hallmark of the Article III function, so too in our system of separated powers the tradition of prosecutorial discretion is long established and well understood. ~~It is part of the legal culture in which Congress acted in~~

The Supreme Court thus made clear that the ~~Court~~ Special Division ~~could~~ must not deviate greatly from the factual circumstances giving rise to the AG's request for an IC. The decision did not purport to address the AG's authority to define or constrain the jurisdiction of an IC.

NO - also about the degree to which Congress can restrict ability of Executive to have control over prosecution of federal crimes

in defining the jurisdiction of an IC,

~~establishing an Independent counsel system with its obvious need for time-sensitive investigations~~

At bottom, this case involves a discretionary call by the Attorney General, over a year ago, that the fraudulent bankruptcy eventually charged by the grand jury was appropriately investigated by the federal prosecutor who (building upon the prior work of Robert Fiske, Jr.) had developed sufficient information concerning violations of federal law to report the matter to the Attorney General in the first instance. This system of communication and tasking between the Attorney General and the Independent Counsel is the precise routing and decisional mechanism ordained by Congress. And what is clear beyond peradventure -- and what virtually all 117 cumulative pages of appellee amicus briefs have flagrantly ignored -- is that Congress was explicit in its intent that the Attorney General's traffic-flow determinations (as to which federal prosecutor would investigate and prosecute federal crimes) would be insulated from judicial review. ~~Their~~ Appellees' studied silence about legislative intent, conveyed by Congress with exquisite precision in the Conference Committee report, only compounds the failure of Judge Woods' opinion to treat in any manner the manifest Congressional intent that the Attorney General's referral be afforded the respect due the prosecutorial decisions of the nation's ~~highest~~ law enforcement officer.

I. THE INDEPENDENT COUNSEL'S AUTHORITY TO PROSECUTE THIS INDICTMENT WAS ESTABLISHED CONCLUSIVELY BY THE ATTORNEY GENERAL'S REFERRAL.

Like Judge Woods, Appellees Tucker and Haley fail to acknowledge the specific legislative history of the Ethics in Government Act. That history demonstrates congressional intent

to make unreviewable the Attorney General's referral determinations under the independent counsel provisions of the Act. Appellees turn instead to judicial decisions under other statutes -- the Juvenile Justice Delinquency and Prevention Act and the Westfall Act -- and the Supreme Court's separation-of-powers decision in Morrison v. Olson to support their bid for judicial review. None of those decisions bolsters the conclusion by Judge Woods.

Appellees incorrectly argue that review of the Attorney General's referral is required by the Supreme Court's decision in Morrison. They rely on the Court's holding that the jurisdiction defined by the Special Division must be "demonstrably related to the factual circumstances that gave rise to the Attorney General's investigation and request for the appointment of the independent counsel." 487 U.S. at 679. ~~Appellees and their amicus go so far as to suggest that a referral by the Attorney General could implicate the constitutional issues discussed in Morrison.~~

The Court's decision in Morrison did not address prosecutorial judgments by the Attorney General, the chief law enforcement officer of the Executive Branch. The passage of Morrison cited by appellees concerned the question whether the Act contravened Article III of the Constitution by placing certain powers in the Special Division, an Article III court. The Supreme Court held that Congress could constitutionally vest the Special Division with authority to define an Independent Counsel's jurisdiction as an incident to the Special Division's power to appoint the counsel. The Court reasoned, however, that

"[i]n order for the Division's definition of the counsel's jurisdiction to be truly 'incidental' to its power to appoint, the jurisdiction that the court decides upon must be demonstrably related to the factual circumstances that gave rise to the Attorney General's investigation and request for the appointment of the independent counsel in the particular case." Id. at 679.

The passage from Morrison cited by appellees ~~begs~~ does not purport to address the question presented in this case. The controversy in this case involves a decision by the Attorney General, not the Special Division. There is no dispute about the propriety of the Special Division's grant of jurisdiction to this Independent Counsel. In accordance with Section 593(b)(3) of the Act upheld in Morrison, the Special Division defined the Independent Counsel's jurisdiction to include the subject matter of the Attorney General request (the relationships of the President, Hillary Rodham Clinton and McDougal with Madison, CMS, and Whitewater) and "all matters and individuals whose acts may be related to that subject matter." (App. 41). This case concerns the ~~The~~ Attorney General's subsequent determination that the LMS bankruptcy matters were "related" to the Independent Counsel's jurisdiction as originally defined. The case therefore does not implicate the constitutional issues discussed in Morrison: the limited power of federal courts under Article III, the strictures of the constitutional separation of powers, or the scope of the Appointments Clause. The Attorney General's referral is an action by a principal officer of the Executive Branch to confirm the prosecutorial authority of an inferior officer of the Executive Branch. ~~It~~ raises no constitutional question.

repetitive of pp. 1-3

Judicial review certainly is not necessary to guard the Justice Department's prosecutorial jurisdiction. In adopting the Ethics in Government Act, Congress did not intend to burden the courts with the task of protecting the Attorney General against the unlikely possibility that she would rashly delegate her own prosecutorial authority. The Attorney General should be trusted to exercise her discretion appropriately, subject to congressional oversight.

Appellees also rely heavily on this Court's decision in United States v. Juvenile Male, 923 F.2d 614 (8th Cir. 1990), which considered reviewability of a certification by the Attorney General under a provision of the Juvenile Justice Delinquency and Prevention Act. That provision, Section 5032 of Title 18, provides in part:

> "[a] juvenile alleged to have committed an act of juvenile delinquency . . . shall not be proceeded against unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that
>
> (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency,
>
> (2) the State does not have available programs and services adequate for the needs of juveniles, or
>
> (3) the offense charged is a crime of violence that is a felony . . . and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

Three courts of appeals, including this Court, have considered whether various certifications by the Attorney General under Section 5032 are subject to judicial review. Contrary to appellees' assertion, however, those decisions do not support the

conclusion that judicial review of the Attorney General's decision is available here.

In United States v. Vancier, 515 F.2d 1378 (2d Cir. 1975), the Second Circuit held that the Attorney General's certification that there was not an "appropriate" state court to prosecute the juvenile was final and unreviewable. The court explained that Section 5032 "does not provide for judicial review of the Attorney General's certification." Id. at 1380. In addition, the court reasoned, the statute does not "set out standards by which the court could determine the correctness of a certification," either on the issue whether an appropriate State court has jurisdiction over the juvenile's alleged act of delinquency, or the issue whether the State has adequate programs and services for the needs of juveniles. Id. at 1380-81.

In United States v. C.G., 736 F.2d 1474 (11th Cir. 1984), the Eleventh Circuit followed the decision in Vancier. The court held that absent a showing of bad faith, a certification of the Attorney General under Section 5032 is reviewable only to determine whether the form of the certification complied with the statute. Id. at 1477. Absent bad faith by the Attorney General, the court "may not inquire into the correctness of the statements made in the certification." Id.

This Court in United States v. Juvenile Male did not disagree with the holdings in Vancier or C.G. At issue in Juvenile Male was a certification of the Attorney General under Section 5032 that relied on the third prong of the statute, i.e., that the offense charged against the juvenile was a "crime of violence." This Court held that the judiciary could review

whether the Attorney General had certified that one of the crimes of violence specified by Congress had been alleged. Id. at 617.

The decision in Juvenile Male does not control this case. ~~The Juvenile Justice Act and the Ethics in Government Act are different statutes with different legislative histories.~~ The history of the ~~former~~ Juvenile Justice Act does not contain the powerful evidence of congressional intent to preclude judicial review that is present with respect to Section 594(e). Suppose, for example, the legislative history of Section 5032 stated explicitly (like that of the independent counsel law) that "[a]n Attorney General's determinations . . . are not subject to judicial review." See H.R. Conf. Rep. No. 452, 100th Cong., 1st Sess. at 22 (1987). Or suppose that Congress (as with the independent counsel law) had decided not to codify prior decisions that some Attorney General decisions under the Act were unreviewable, because "the conferees did not wish to suggest . . . that judicial review might be available of other Attorney General decisions" under the Act. See H.R. Conf. Rep. No. 452, 100th Cong., 1st Sess. at 22 (1987). Under those circumstances, the decision in Juvenile Male likely would have been different.

Just as important, this Court in Juvenile Male stressed that "no question exists as to the standard we should apply to determine whether the crime alleged is one of the crimes that Congress has determined merits the intervention of the federal courts." 923 F.2d at 617. In contrast, the standard for determining "relatedness" under Section 594(e), and the application of the statutory term "related" to a particular set of circumstances, is subject to dispute among the parties and the

Attorney General. The determination of "relatedness" in any particular instance is a prosecutorial decision that requires the exercise of judgment by the Attorney General. It is quite different from the straightforward question in Juvenile Male -- whether the crime charged against the defendant was among the "crimes of violence" specified by Congress in Title 18, United States Code, Section 16 -- which involved no exercise of prosecutorial judgment.

IS THAT REALLY TRUE - WERE ALL THE CRIMES OF VIOLENCE SPELLED OUT BY TITLE 18?

Tucker also relies on the Supreme Court's recent decision concerning the Westfall Act in Gutierrez de Martinez v. Lamagno, 115 S. Ct. 2227 (1995). Gutierrez involved a certification by the Attorney General that a federal employee was acting within the scope of his office or employment at the time of an incident that gave rise to a tort action against the employee. The Court held that the federal courts may review such a certification to determine whether the employee was acting within the scope of his employment.

~~The decision in Gutierrez also involved an entirely different statute. It is distinguishable on numerous grounds, two of which are highlighted in the Court's opinion~~. The Court stressed at the outset two considerations that "weigh[ed] heavily" in its analysis of the Westfall Act. First, the Court noted that Attorney General herself urged judicial review of her delegate's certification under the Westfall Act, because she recognized that her delegate had an incentive to certify in most cases. Second, the Court observed that under general principles of administrative law, there is a strong presumption that Congress intends judicial review of a government official's

determination of a dispositive fact or circumstance. 115 S. Ct. at 2231.

Those considerations are ~~dramatically inverted~~ absent in the case of Section 594(e). The Attorney General has urged this Court not to endorse judicial review of her determinations of "relatedness" under Section 594(e), explaining that such review is contrary to the statutory scheme and would create serious practical problems for the administration of the Act. Second, the normal presumption of judicial review is absent here, where the administrative action involved is the Attorney General's exercise of prosecutorial discretion. As we noted in our opening brief, there is a long tradition of deference to prosecutorial judgments of the Executive Branch, and the presumption in that context is against judicial review. That presumption is buttressed by specific legislative history rejecting judicial review of the Attorney General's determinations under the Ethics in Government Act.

Appellee Marks continues his quest to frame this case as one that does not turn ~~at all~~ on judicial review of a determination by the Attorney General. He argues that the propriety of the Attorney General's action in referring matters to the Independent Counsel is not at issue, because Section 594(e) states that the Independent Counsel "may accept such a referral if the matter relates to the independent counsel's jurisdiction."

The Attorney General's referral, however, is central to this case. Before a matter can be referred to the Independent Counsel by the Attorney General under Section 594(e), she must determine that it is related to the Independent Counsel's jurisdiction.

The Attorney General made such a determination in this case, and it is her determination that Appellees have attacked.[1]

Marks also relies on the district court decision in United States v. Secord, 725 F. Supp. 563 (D.D.C. 1989), to establish that the Attorney General's referral decision is subject to judicial review. But Marks mischaracterizes Secord as "the only case where a court has reviewed the validity of a referral under 28 U.S.C. § 594(e)." (Marks Brief at 36). Secord did not involve a referral by the Attorney General to the Independent Counsel under Section 594(e). Rather, the Independent Counsel proceeded against General Secord based only on the jurisdictional authority specified in the original order from the Special Division. The district court reviewed whether the perjury and obstruction allegations were "arising out of" or "related to" the jurisdiction granted to the Independent Counsel, and concluded that the Independent Counsel had jurisdiction to prosecute. Id. at 566-67. Contrary to Marks' assertion that the court in Secord "dismissed part of an indictment on the ground that the referred matter was not within the independent counsel's jurisdiction," (Marks Brief at 37), Judge Robinson held that the Independent Counsel had authority to proceed with the prosecution. 725 F.

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[1] Amicus Sun Diamond Growers argues that the Attorney General's referral is flawed because it states that the LMS bankruptcy is related to the Independent Counsel's "investigation" rather than his "prosecutorial jurisdiction." This distinction, not raised by any of the appellees, is immaterial. The Attorney General's designate cited the relevant statute, Section 594(e), in his letter and concluded that referral would be appropriate. Read in context, it is evident that the Justice Department used "investigation" as a shorthand for "prosecutorial jurisdiction."

Supp. at 567.

Properly stated, the reasoning of Secord illustrates the wisdom of the statutory design adopted by Congress. The statute creates a strong incentive for the Independent Counsel (criticized by appellees as unaccountable) to return to the politically-acccuntable Attorney General before proceeding with respect to related matters. If an Independent Counsel proceeds in a related matter without a referral from the Attorney General, the Independent Counsel's jurisdiction may be reviewed by the district court under the Secord approach. But the Independent Counsel can avoid that jurisdictional litigation by requesting and receiving a referral from the Attorney General. Thus, with respect to matters that are not ~~plainly~~ obviously within the subject matter of the Independent Counsel's jurisdiction, ~~but which are related to that subject matter~~, there is a built-in ~~stimulus~~ mechanism for the Independent Counsel to obtain confirmation by seeking a referral from the Attorney General.

Unlike Tucker, Haley, and Judge Woods, Marks and amicus Sun Diamond Growers ~~at least~~ acknowledge the ~~clear~~ legislative history stating congressional intent to preclude review of the Attorney General's determinations under the Act. Marks attempts to create a dichotomy, however, between cases where the Attorney General "exercised her discretion under Section 594(e)" and cases where a defendant contends that she exceeded her authority under Section 594(e). (Marks Brief at 31). He contends that the decision in Banzhaf v. Smith, 737 F.2d 1167 (D.C. Cir. 1984), which held unreviewable the Attorney General's decision not to conduct a preliminary investigation under the Act, dealt only with "discretionary actions by the Attorney General that were

clearly within the bounds of his statutory-decision making authority." (Marks Brief at 31-34).

Marks' distinction is inconsistent with Banzhaf itself. Banzhaf made precisely the type of claim advanced by appellees here. He asserted that the Attorney General acted outside his statutory authority by declining to investigate allegations of wrongdoing by officials of the Reagan Administration. Nonetheless, the D.C. Circuit, sitting en banc, unanimously held that the Attorney General's decision was not reviewable. Congress endorsed that holding when making the 1987 revisions to the Act.

Banzhaf submitted to the Attorney General what the district court found to be specific and credible evidence that high government officials may have violated criminal laws. See Banzhaf v. Smith, 588 F. Supp. 1498, 1500-01 & n.8 (D.D.C. 1984). He argued the Act commanded that the Attorney General "shall" conduct a "preliminary investigation" upon receipt of such information. See id.; Banzhaf v. Smith, 737 F.2d at 1168. The district court held that it had authority to review the Attorney General's decisions, and ordered the Attorney General to apply to the Special Division for the appointment of a counsel. 588 F. Supp. at 1510.

The D.C. Circuit reversed. Without expressing any opinion whether the factual information in the possession of the Attorney General was sufficiently specific and credible "to trigger the Attorney General's statutory duty to investigate allegations about persons covered by the Act," 737 F.2d at 1168, the Court held that Congress precluded judicial review of the Attorney

General's decision. Id. at 1169. In other words, even if the Attorney General has specific and credible information about violations of federal law, and thus has a "statutory duty" to investigate those allegations, the Attorney General's decision not to conduct an investigation is unreviewable.

The 1987 legislative history specifically endorsed the decision in Banzhaf that whether the Attorney General acted outside his decisionmaking authority is not subject to judicial review. (Compare Marks Brief at 31, 34). The conferees in 1987 went further to state that they also intended to preclude review of "other Attorney General decisions under the Act." H.R. Rep. No. 452, 100th Cong., 1st Sess. 22 (1987). Nowhere did Congress suggest an exception to the tradition of unreviewable exercise of prosecutorial discretion in cases where the litigant artfully framed his contention as a claim that the Attorney General acted beyond the confines of her statutory authority.

II. EVEN IF THE DISTRICT COURT HAD POWER TO REVIEW THE ATTORNEY GENERAL'S REFERRAL, JUDGE WOODS ERRED IN CONCLUDING THAT THE INDEPENDENT COUNSEL LACKS JURISDICTION.

To support their contention that the district court correctly reviewed and overruled the Attorney General's referral decision, Appellees present a caricature of the Independent Counsel's position concerning relatedness. Quoting a ~~snippet~~ line from the government's pleading filed in district court, Haley contends that the Independent Counsel has conceded that the matters charged in the indictment are not related to the prosecutorial jurisdiction granted by the Special Division. (Haley Brief at 6). Similarly, Marks asserts that "[t]he Independent Counsel has repeatedly admitted that the instant case

has nothing to do with [the] subject matter [of the appointment]." (Marks Brief at 20).

These assertions distort the OIC's position. We have urged consistently that the June 7 indictment is related to the OIC's jurisdiction. The very sentence fragment of the Independent Counsel's pleading cited repeatedly by Tucker continues that "the Attorney General reasonably concluded that the LMS matter was 'related to the independent counsel's prosecutorial jurisdiction' under Section 594(e) sufficiently to fall within that jurisdiction." (R. **). The preceding sentence maintained after a discussion of factual background, that "[t]hese facts show that the matters under indictment are related to the subject matter of the Independent Counsel's investigation." (Id.). At oral argument, the Independent Counsel explained, based on the August 17 indictment which had become public since the filing of briefs, that "there is a factual relationship" and that the indictments in the public domain "show an abundance of factual relatedness." (Tr. 34).

If the Court were to conclude that the Attorney General's referral determination is reviewable, then the dispute among the parties centers on the definition of the statutory term "related." Appellees defend the inordinately narrow construction adopted by the district court. Judge Woods held the indictment must allege that the defendants' conduct directly involves the relationship of James McDougal, the President, or Hillary Rodham Clinton to CMS, Madison, or Whitewater. (Opinion at 12). On appeal, Tucker appears to advance an even narrower position. He asserts that a matter is not "related" to the OIC's jurisdiction

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unless the indictment alleges that the President also participated in the charged transactions. (Tucker Brief at **). We have candidly acknowledged that the June 7 indictment does not allege that the President or James McDougal participated in the specific transactions alleged.

None of the appellees explains, however, why the Attorney General's construction of "related," which encompasses several salient decisionmaking factors, is inconsistent with the statute. Tucker belittles the Attorney General's considerations as mere "administrative convenience." But the Attorney General explains convincingly why these factors are important to the effective conduct of complex white-collar criminal investigations. There is no evidence that Congress intended to reject this sensible construction of the statute.

Indeed, the constructions urged by appellees and adopted by Judge Woods would render meaningless the "related matters" portion of the Independent Counsel's jurisdiction. The Special Division is required to confer jurisdiction over the "subject matter" of the Attorney General's request, and "all matters related to that subject matter." 28 U.S.C. § 593(b)(3). The "subject matter" in this case is "James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc." (App. 39). Any case that alleged direct involvement of the Clintons or James McDougal with any of the three named entities (the full scope of jurisdiction as viewed by Judge Woods and appellees) would be plainly within the "subject

matter" of the Independent Counsel's jurisdiction. But that category of cases cannot be the full scope of the jurisdiction, because the statute requires that the Independent Counsel be granted authority to investigate and prosecute additional matters that are not within the subject matter, but which are related to the subject matter.

Marks argues that none of the factors advanced by the OIC or the Attorney General establish relatedness. His analysis is flawed in two important respects. First, Marks isolates each aspect of relatedness and, in a divide-and-conquer approach, contends that none establishes relatedness. But the determination of "relatedness" must consider at once the constellation of factors that bear on that decision. The June 7 indictment is not, as Marks and Tucker would have it, "related" merely because the Independent Counsel "learned about it at work."[2] (Tucker Brief at 16; Marks Brief at 24). It is related because ~~the Independent Counsel learned about it at work, and~~ it arises out of the same underlying facts as the primary jurisdiction of the OIC, and it involves similar conduct by one of the same parties (Tucker) investigated in connection with the

THAT'S TRUE, I SUPPOSE, BUT I THINK IT'S BECAUSE OF THE UNIQUE WAY OUR ORIGINAL JUR WAS DEFINED IN TERMS OF RELATIONSHIPS

[2] Marks asserts that the Special Division was not authorized to confer jurisdiction over crimes "developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation." (App. 40). He says this is made clear by the decision in Morrison. (Marks Brief at 22). Morrison actually makes clear that the disputed grant of jurisdiction is consistent with the Act and the Constitution. The jurisdictional order upheld in Morrison provided the Independent Counsel with jurisdiction "to investigate any other allegations of evidence of violation of any Federal criminal law by Theodore Olson developed during investigations, by the Independent Counsel, referred to above, and connected with or arising out of that investigation . . ." 487 U.S. at 667 (emphasis added) (quoting Order, Div. No. 86-1 (CADC Special Division, April 23, 1986)).

OIC's primary jurisdiction, and it implicates a defendant (Tucker) who is also a target in another case within the OIC's jurisdiction, and it relies in part on testimony from a key witness in the balance of the OIC's investigation (Hale), and it involves allegations against a defendant (Tucker) who is a key witness in the OIC's ongoing investigation,[3] and it is most efficiently investigated and prosecuted by the OIC, which continued the investigation of Robert Fiske, rather than another attorney within the Executive Branch.

Second, neither Marks nor any of the other appellees acknowledges that any deference should be accorded the Attorney General's referral decision. Even if this Court concludes that some judicial review of the Attorney General's determination is permitted, general principles of administrative law and the tradition of deference to prosecutorial judgments dictate that the review must be deferential. The parsing of facts in which Marks engages does not accord appropriate deference to the Attorney General's judgment. If there is to be judicial review

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[3] Tucker represents to the Court that he "offered to confirm by interview or testimony the lack of presidential involvement in matters charged against Tucker, but the offer was never taken up by Independent Counsel." Tucker Brief at 25. We note that it was publicly reported earlier this year that Tucker confirmed he was subpoenaed to testify before the grand jury; that Tucker released publicly a letter stating that he would invoke his Fifth Amendment privilege against self-incrimination if called to testify and asking to be excused; and that Tucker was released from the subpoena. See Arkansas Democrat-Gazette, May 27, 1995, at 1A, 8A; June 2, 1995, at 1A; see also United States Attorney's Manual § 9-11.154 (target of grand jury investigation ordinarily should be released from grand jury subpoena if he states in writing that he will invoke privilege against self-incrimination). In response to Tucker's brief, we represent to the Court that this office offered the Governor an opportunity to make any statement he wished to the grand jury -- without questioning by attorneys -- but that he declined even that offer.

of referral decisions, and reasonable minds may differ as to "relatedness" in a particular circumstance, the uniform determination of the Attorney General, the Special Division, and the Independent Counsel should control.

Appellees complain that our opening brief cited materials that were not in the record before the district court. The primary issue in this case -- reviewability of the Attorney General's decision -- is purely legal, and the factual record does not bear on that analysis. Moreover, all of the factual materials cited in our opening brief to support a finding of "relatedness" were presented to Judge Woods.

Appellees' argument that the August 17 indictment was not properly presented to Judge Woods is ~~specious~~ erroneous. That indictment was a public document filed in the Eastern District of Arkansas. It was specifically cited to Judge Woods at the September 5 hearing. The Independent Counsel explained how the heretofore secret grand jury investigation made public on August 17 demonstrated further factual relationship between the June 7 indictment and the OIC's jurisdiction. (Tr. 33-34). Given this specific reference to a public document filed in the same district court, it would have been an abuse of discretion for Judge Woods not to consider the August 17 indictment. A certified copy of the indictment is included in the Appendix, and Appellees do not dispute its accuracy. We respectfully submit that this Court can and should take judicial notice of the August 17 indictment and make it part of the record on appeal. See Fed. R. Evid. 201(b); Gustafson v. Cornelius Company, 724 F.2d 75, 79 (8th Cir. 1983) ("[a]n appellate court may take judicial notice

TOO STRONG, AFTER WE MADE UP THE ARG. ON SEPT. 1

of a fact for the first time on appeal"); United States v. Jordan, 913 F.2d 1286, 1287 (8th Cir. 1990) (court may take judicial notice of authenticated public records, because they are "capable of ready determination by resort to sources whose accuracy cannot reasonably be questioned").

Marks' suggestion that the August 17 indictment was improperly raised at "the last minute" is without merit. (Marks Brief at 25). The indictment was returned after the completion of briefing on the motion to dismiss, and a hearing was set for only two weeks hence. Judge Woods clearly contemplated that the parties might raise new issues at oral argument, and indeed, he asked that counsel "confine yourselves to new matters." (Tr. 4). The government was not required to predict that Judge Woods would either have his opinion written before the hearing, or that he would produce a 21-page memorandum within four hours of the hearing without consideration of new information specifically discussed during the hearing.

The materials before the district court thus included the connection between the June 7 and the August 17 indictments. They showed that Tucker was a common defendant in the two cases. Appellees' own pleadings in the district court acknowledged that David Hale was cooperating with the government and would be a key witness in the trial of the June 7 indictment. (R. **). Hale was likewise identified as a named coconspirator in the August 17 indictment. It was apparent from the two indictments that Tucker, as an alleged coconspirator, was a potential key witness himself. And the Independent Counsel advised the Court at oral argument that the June 7 indictment was the culmination of an

investigation begun by Robert Fiske and continued by the OIC. (Tr. 29-30). See generally Appellant's Opening Brief at 39-42.

We acknowledge that certain materials in the public domain -- the Attorney General's application for appointment of an independent counsel, the United States Attorney's recusal letter, and newspaper articles recounting the history of the "Whitewater" investigation -- were not cited to Judge Woods. Their inclusion in the opening brief and appendix (App. 53-58, 107) is prompted by extra-record observations by Judge Woods that are controverted by information in the public domain. We do not cite them to urge reversal of Judge Woods based on information that was not presented to him, except to the extent that the public materials undermine factual statements by the court that are themselves unsupported by the record below.

We do submit that it is appropriate, however, for this Court to take judicial notice of the materials in the public domain that contradict factual conclusions reached by Judge Woods without any support in the record. That is particularly so, given that the district court defined the hearing as encompassing "purely a legal matter, a question of law." (Tr. 4).

Judge Woods' holding, for example, relied in part on the conclusion that "[w]hat 'gave rise to the Attorney General's investigation and request for the appointment of the independent counsel in the particular case' was that the President was a 'person' requiring appointment of an Independent Counsel. [28 U.S.C. § 591(b)(1)]." (Opinion at 4). The record below contained no request of the Attorney General that supported Judge Woods' factual statement. To the contrary, as described in our

opening brief, the Attorney General's request relied on a "political conflict of interest" that would arise from an investigation by the Justice Department. See 28 U.S.C. § 591(c)(1). (App. 53-59). A certified copy of the Attorney General's request is included in the Appendix, and we respectfully submit that this Court should take judicial notice of that public document.

So too, Judge Woods incompletely described the scope of Robert Fiske's investigation, contrary to information included in the record. (Opinion at 2; Tr. 29-30). More remarkably, he relied on personal knowledge and opinion to reach a factual conclusion about the likelihood of a business relationship between Tucker and President Clinton. (Opinion at 5). The published history of this investigation demonstrates that the relationship among Tucker, the President, and James McDougal is a matter central to the Independent Counsel's highly publicized investigation. It certainly is not a matter that can be resolved in the district court by judicial notice and personal knowledge. We respectfully submit, therefore, that this Court should take judicial notice of published accounts of the history of this investigation, so that the district court's unsupported factual assertions are placed in proper context.[4]

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[4] Marks' objection to inclusion in the appendix of Chief Judge Reasoner's order in the grand jury proceeding is frivolous. (App. 108). The order is legal authority, not evidence, and it may be cited like the Federal Supplement. The government promptly moved to unseal a redacted version of the order after it was issued on August 17, but that relief was not granted until after the decision by Judge Woods on September 5. Nonetheless, the order includes relevant legal authority that may inform this Court's decision.

The state of the record in the district court does reinforce the wisdom of a congressional decision to preclude judicial review of the Attorney General's referral decisions. The strictures of grand jury secrecy and the need for confidentiality in ongoing criminal investigations will, as here, prevent the Independent Counsel from making the sort of factual record that would be required under the regime ushered in by Judge Woods' opinion. In this very case, the Independent Counsel was forced to advise the district court that a complete discussion of factual relatedness at the hearing was not possible within the confines of Federal Rule of Criminal Procedure 6(e). (Tr. 34). We respectfully submit that even the limited public record that could be presented to the district court and to this Court supports the Attorney General's determination. But the serious problems attendant evidentiary hearings on "relatedness" further illustrate the sensibility of the congressional decision to insulate from review the Attorney General's decisions under the Act.

III. THIS CASE SHOULD BE REASSIGNED TO A DIFFERENT DISTRICT JUDGE ON REMAND.

Appellees' principal response to our request that this case be reassigned to a different district judge on remand is that it is untimely. The authorities cited by appellees in support of their contention, however, are inapposite to the relief sought. We do not urge, as Marks suggests, that the district court's order dismissing the indictment should be reversed because Judge Woods should have recused. (See Marks Brief at 39). To the contrary, we urge reversal on the ground that the dismissal was

wrong as a matter of law. Nor do we rely on 28 U.S.C. § 144, which is the focus of Tucker's response. (Tucker Brief at 34-35).

Our request is that if the Court agrees with our legal position that the indictment should be reinstated, then the case should be remanded for trial before a different district judge pursuant to 28 U.S.C. §§ 1651(a) and 2106, informed by the principles of 28 U.S.C. § 455(a). Contrary to Marks' flat statement that it is "obviously premature and improper" to advance this request for the first time on appeal, this Court has approved that procedure in Dyas v. Lockhart, 705 F.2d 993 (8th Cir. 1983). There, this Court held that "while we do not believe that District Judge Roy's failure to sua sponte recuse herself suggests any impropriety on her part, we nevertheless conclude that a remand to another district judge in the Eastern District of Arkansas would be in accordance with the purpose behind 28 U.S.C. § 455(a) (1976) of assuring the 'appearance of impartiality.'" 705 F.2d at 997-98. The Court noted that Dyas never raised the issue of Judge Roy's possible disqualification in the district court. Id. at 997 n.5. See also Reserve Mining Company v. Lord, 529 F.2d 181, 184, 188 & n.6 (8th Cir. 1976) (reassignment ordered where petitioner made request for the first time at oral argument before this Court).

The Ninth Circuit in United States v. Sears, Roebuck & Co., 785 F.2d 777 (9th Cir. 1985), explained the flaw in appellees' timeliness argument in the course of reassigning a case to a different district judge:

We are not acting under the disqualification

> statutes, which a party must first invoke before the district court. Instead, this court is being asked in the first instance to exercise its inherent power to administer the system of appeals and remands by ordering a case reassigned on remand. The basis for reassignment is not actual bias on the part of the judge, but rather a belief that the healthy administration of the judicial and appellate processes, as well as the appearance of justice, will best be served by such reassignment. We do not believe that the statutory provisions concerning disqualification are either exhaustive or the exclusive method whereby a judge may be removed from hearing a case. . . . [T]he appellate court's authority to reassign exists apart from the judicial disqualification statutes. There is simply nothing in the disqualification statutes to prohibit this court from taking appropriate action in the first instance.

785 F.2d at 780-81 (emphasis added) (citing United States v. Robin, 553 F.2d 8, 11 (2d Cir. 1977) (en banc)) (citation omitted).

In any event, there was abundant good cause for the government not to file a recusal motion in the district court: Judge Woods' own publicly reported statements demonstrated that the issue of an appearance of bias had been brought to his attention, but that he would not recuse.[5] Any motion to recuse would have been futile. Cf. Pearson v. Norris, 52 F.3d 740, 742-43 (8th Cir. 1995) (habeas petitioners must normally present issues first to state court but "are not required to pursue

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[5] Other judges have recused themselves sua sponte during this investigation. Judge William Wilson recused from the sentencing of former Associate Attorney General Webster Hubbell, noting the need to preserve "the appearance of doing justice." Arkansas Democrat-Gazette, Dec. 9, 1994, at 1A; New York Times, Dec. 9, 1994, at A13. It has been publicly reported that Chief Judge Richard Arnold of this Court has stated he will not sit on any case in which this Independent Counsel appears. Wall Street Journal, Oct. 4, 1995, at A14; Washington Post, Nov. 4, 1995, at A13.

obviously futile state court remedies"); Sioux Valley Hospital v. Bowen, 792 F.2d 715, 723 (8th Cir. 1985) (where an administrative appeal would be futile, normal exhaustion of remedies requirement not required).

Where the opinion of the district court itself provides additional basis for reassignment, it is appropriate to raise that matter for the first time on appeal. E.g., United States v. Microsoft Corporation, 56 F.3d 1448 (D.C. Cir. 1995). In this case, moreover, even since the since the preparation of our opening brief, additional information has appeared in the public domain that accentuates the need for reassignment. The Washington Times recently reprinted a letter from Judge Woods to the Deputy Counsel to the President Vincent Foster, Jr., dated June 16, 1993, which read as follows:

> Dear Vince:
>
> Reference is made to our telephone conversation earlier this week about Nina Martin, a reporter for Mother Jones magazine, who is seeking to interview me about Hillary. I have not responded to her telephone calls, as I mentioned to you on the phone. Today I received the enclosed letter. Would you take this up with Hillary or her press secretary and give me instructions as to whether this interview should be granted?
>
> Very truly yours,
>
> Henry Woods.[6]

This published correspondence -- showing an effort by Judge Woods to obtain "instructions" from "Hillary" concerning how to respond to a press inquiry about the First Lady -- is further reason for an informed observer to question the impartiality of Judge Woods

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[6] Washington Times, Oct. 10, 1995, at A19.

in cases involving the "Whitewater" Independent Counsel.[7]

Marks complains that the publicly reported information about Judge Woods should not be considered by this Court because it is presented for the first time on appeal. This contention is premised largely on his faulty assumption, rejected by this Court in Dyas and by the Ninth Circuit in Sears, Roebuck & Co., that a request for reassignment may not be raised before the court of appeals in the first instance. To the extent that Marks' objection to these materials goes beyond that flawed premise, it is established that this Court may take judicial notice of matters in the public domain. Gustafson v. Cornelius Company, 724 F.2d 75, 79 (8th Cir. 1983). Courts have considered news articles that shed light on the appearance of bias by the trial judge, e.g., Haines v. Liggett Group, Inc., 975 F.2d 81, 97 (3d Cir. 1992), including articles that recount interviews with the judge himself. In re IBM, 45 F.3d 641, 642-43 (2d Cir. 1995); In re Continental Airlines Corp., 901 F.2d 1259, 1261 & n.1, 1263 n.3 (5th Cir. 1990).

A remand for further proceedings on the question of reassignment is unnecessary. Appellees do not dispute Judge Woods' publicly reported acknowledgement of a close personal relationship with Hillary Rodham Clinton or his statement that he would recuse "if anything came up regarding President Clinton." Nor do they question the public statements of the President and

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[7] A Washington Times columnist reported that Judge Woods spoke to the Associated Press after the filing of the government's opening brief on this appeal, and stated in response: "I have no connection with Tucker, and the Clintons, in my opinion, are not involved in this matter. I don't know what he's talking about." Washington Times, Oct. 13, 1995, at A4.

Governor Tucker quoted in the opening brief.[8] The opinion below, of course, is part of the record and speaks for itself. The need for reassignment to preserve the appearance of justice is manifest, and this Court may act upon the information in the public domain.

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[8] Marks complains, ostensibly quoting from our opening brief, that "[t]he Independent Counsel simply asserts, based on no credible evidence whatsoever, that President Clinton and Governor Tucker are 'political allies.'" (Marks Brief at 41). The words "political allies" do not appear in our brief. Our point was that Governor Tucker has openly aligned his interests in this case with those of the Clintons, and that Judge Woods has acknowledged a personal relationship with Hillary Rodham Clinton that requires recusal in matters regarding the President. Tucker's further portrayed his interests as aligned with the President in a reported statement on June 2, 1995:

> "As I have said from the beginning, this has nothing to do with Whitewater or with the President of the United States, except that they don't want the President of the United States elected again in 1996 and they want to get the coonskin cap of some reasonably high Democratic official to hang on the wall."

Arkansas Democrat-Gazette, June 2, 1995.

Memorandum **Office of the Independent Counsel**

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
FOIA(b)(7) - (C)

To : Judge Starr
All OIC Attorneys

Date 1/26/96

From : Tim Mayopoulos

Subject: Conference call regarding attached prosecution memorandum

A conference call to discuss this matter has been scheduled for Monday, January 29, 1996, at 4:00 p.m. eastern time.

If you will not be able to participate, please feel free to call me with your views or comments.

HIGHLY CONFIDENTIAL
CONTAINS RULE 6(e) MATERIAL

MEMORANDUM

To: Kenneth W. Starr
Independent Counsel

All OIC Attorneys

From: Jackie M. Bennett, Jr.
Timothy J. Mayopoulos
Associate Counsel

Date: January 26, 1996

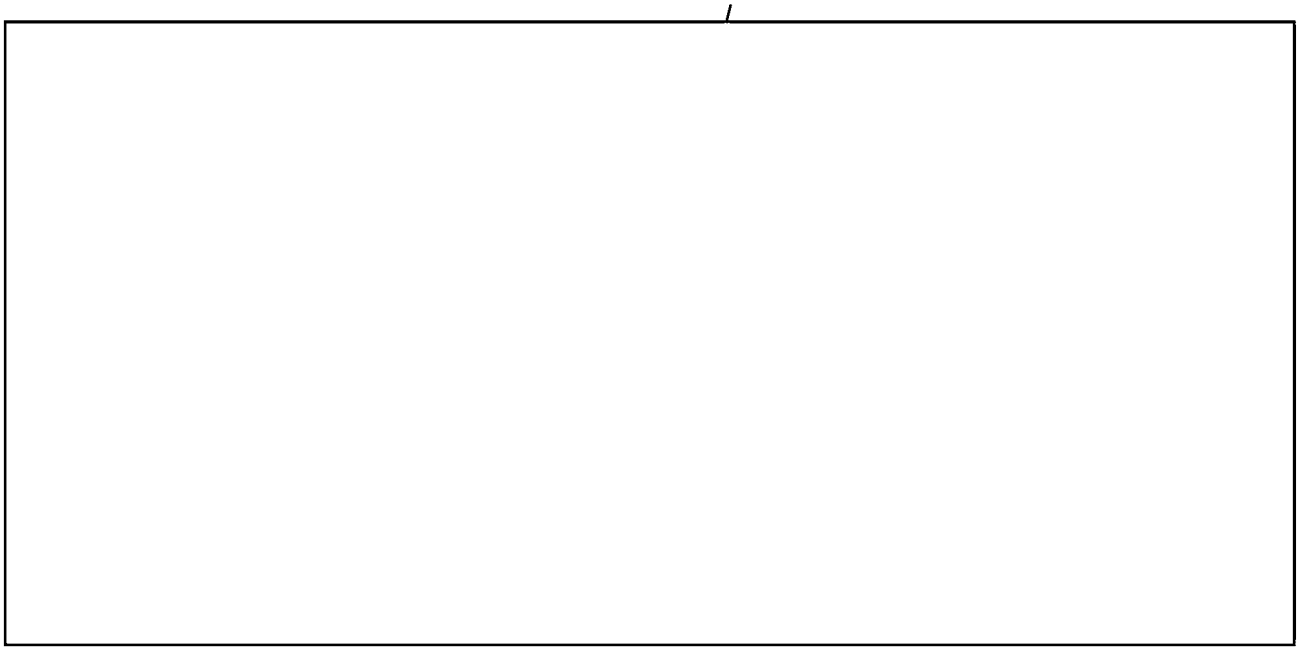
Re: Perry County Bank Investigation

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
FOIA(b)(7) - (C)

INTRODUCTION

We are in the final stages of our investigation of the matters involving the Perry County Bank, including our investigation of campaign contributions made by the two owners of the Bank, Robert M. Hill and Herby Branscum, Jr.

We expect to circulate shortly a memorandum updating our November 1, 1995 memorandum setting forth the evidence we have gathered. Barring unforeseen developments, we expect to recommend that we seek an indictment of Branscum and Hill during the grand jury's February 13-15 session.



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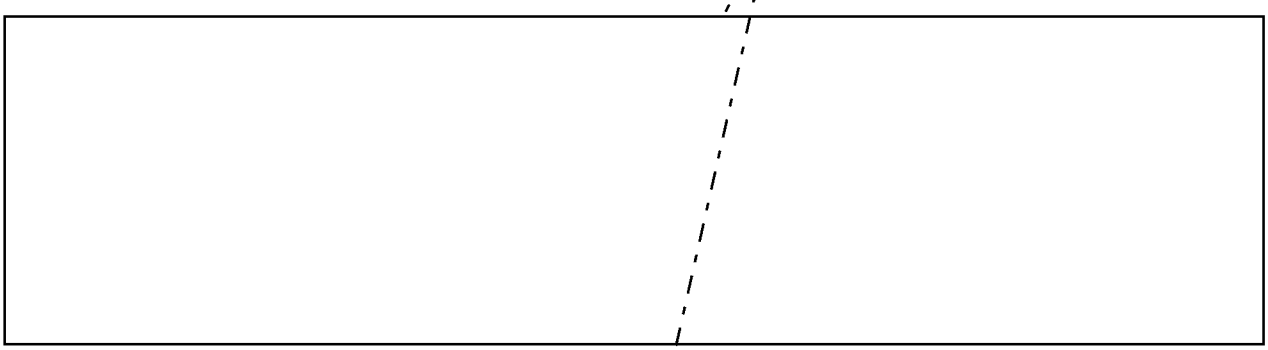

E. Applicable Law

violating 18 U.S.C. § 1623(a), which prohibits false declarations before a federal court or grand jury. It provides:

> Whoever under oath . . . in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration . . . , shall be fined under this title or imprisoned not more than five years, or both.

The Eighth Circuit has held that to establish a false declaration case under Section 1623, the government must prove that (1) while under oath, and (2) testifying in a proceeding before a court or grand jury of the United States, (3) the defendant knowingly made, (4) a false statement, and (5) the testimony was material to the proof of the crime. United States v. Sablosky, 810 F.2d 167, 168 (8th Cir.), cert. denied, 484 U.S. 833 (1987).

While materiality was historically held to be a question of law for the court, and not the jury, the Supreme Court held last year that materiality is a jury issue. United States v. Gaudin, 115 S.Ct. 2310 (1995). We would probably call the grand jury foreman to establish materiality.

The test for materiality is "whether the alleged false testimony was capable of influencing the tribunal on the issue before it . . . . The perjured statement need not be material to any particular issue, but may be material to any proper matter of inquiry, including the credibility of a witness." Sablosky, 810 F.2d at 169. "It is well settled in this circuit that the test for materiality in the context of a violation of 18 U.S.C. Section 1623 is whether the allegedly perjurious statement tends to impede or hamper the course of the investigation by the grand jury." United States v. Ashby, 748 F.2d 467, 470 (8th Cir. 1984). See also Gaudin, 115 S.Ct. at 2313 (parties agreed on definition of materiality: "the statement must have 'a natural tendency to influence, or [be] capable of influencing, the decision of the decisionmaking body to which it was addressed'").

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[redacted] testimony was material under this test. Her testimony was capable of influencing the investigation. Her answers could influence additional questions to be asked of her and others, and could influence whether charges were ultimately brought against others. As the Eighth Circuit stated in United States v. Williams,

> [Defendant's] false denials of involvement impeded the inquiries as the involvement of others and also frustrated the inquiry into the extent of his own involvement. The fact that the grand jury had other evidence before it of [defendant's] involvement in one instance does not affect the materiality of his testimony. In a similar case, this Circuit has recently held that a lawyer's denial that he told his clients he could fix a case for them was material even though the grand jury had already heard tapes of conversations between the lawyer and his clients.

552 F.2d 226, 230 (8th Cir. 1977) (citing United States v. Beitling, 545 F.2d 1106, 1110 (8th Cir. 1976), cert. denied, 430 U.S. 918 (1977)).

[redacted] under 18 U.S.C. § 1621, the general perjury statute, for two fundamental reasons.

First, Section 1621 has a higher mens rea requirement ("willfully") than Section 1623(a), which requires proof only that the defendant "knowingly" made a false statement. See United States v. Slawik, 548 F.2d 75, 84, 87 (3d Cir. 1977) ("knowingly" is a lower standard of proof than "willfully").

Second, Section 1621 requires the government to comply with the so-called "two witness" rule, but Section 1623 does not. The two-witness rule is a judge-made rule that the uncorroborated oath of one witness is not enough to establish that the defendant's testimony is false. It requires the government to produce two independent witnesses, or one witness and corroborating documents or other circumstances. Weiler v. United States, 323 U.S. 606, 607 (1945).

Section 1623(e) expressly abrogates the two-witness rule in Section 1623(a) prosecutions. It provides: "Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence."

F. Proposed Indictment

A copy of a draft proposed indictment is attached as Exhibit 3. It contains three counts: Count One concerns false declarations regarding the 1990 contributions; Count Two concerns

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the exploratory committee contributions; and Count Three concerns general statements not specifically relating to one of the two sets of transactions.

G. Factors In Favor Of and In Opposition to the Proposed Indictment

We believe that there are several important factors supporting the proposed indictment.

First, many witnesses have lied to the grand jury in the course of our investigation. This pattern appears to be the result of concerted action. A false declarations indictment would send a clear message that we will not tolerate such mendacity in the Perry County investigation, or in our Office's investigations generally.

Second, the grand jury has been offended by witnesses repeatedly lying to them, and some grand jurors have asked us if we could not seek perjury indictments to try to deter this behavior.

[redacted]

On the other side of the balance are several factors. Juries are generally loath to convict on perjury charges, in part on the theory that witnesses may simply be mistaken, as opposed to intentionally lying.

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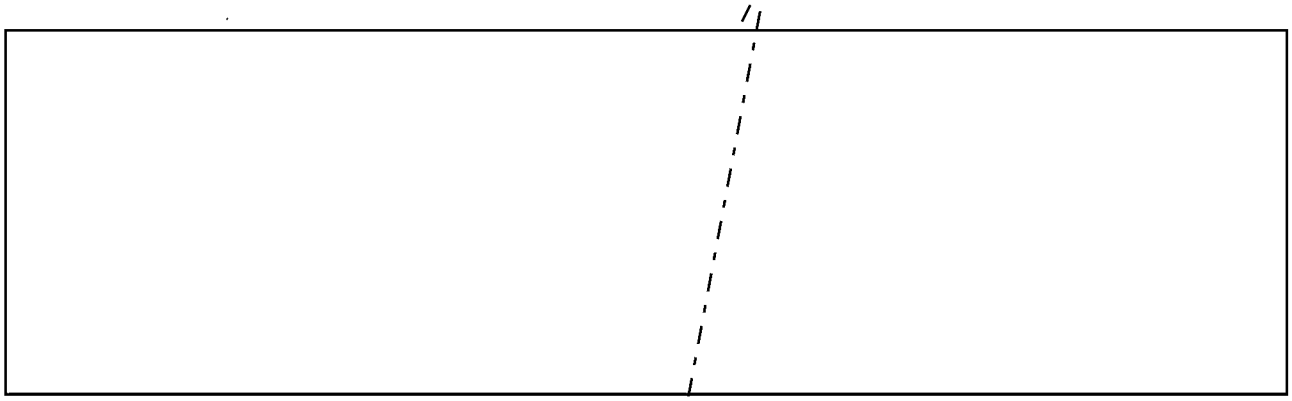

There are also all of the environmental factors we have faced in all of the prosecutions we have brought, including our status as outsiders, and the efforts of some to characterize us as politically motivated.

H. Conclusion and Recommendation

With the understanding that this would be difficult case to win, we nonetheless believe that prosecution is appropriate, and we recommend that we ask the grand jury to return the attached indictment.

[3] Of course, Branscum will quite likely be under indictment, or will have been under indictment, by the time this matter would go to trial, and his willingness to testify may be influenced accordingly.

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TUCKER

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**********FAX TRANSMITTAL SHEET**********

OFFICE OF THE INDEPENDENT COUNSEL
TWO FINANCIAL CENTRE, SUITE 134
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MAIN NUMBER: (501) 221-8700 FAX NUMBER: (501) 221-8707

TO: John Bates DATE: May 26, 1995

TEL: (202) 514-8688 FAX NUMBER: (202) 514-8802

FROM: Steven M. Colloton NO. OF PAGES: 20
(Including Cover Page)

TEL: (501) 221-8752

REMARKS:

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Memorandum **Office of the Independent Counsel**

To : All OIC Attorneys Date 5/26/95

From : Steven M. Colloton

Subject: Status of Tucker/Marks/Haley investigation

CONFIDENTIAL -- INCLUDES GRAND JURY MATERIAL

This memorandum sets forth possible criminal charges and supporting evidence developed in the investigation of an SBIC loan involving Jim Guy Tucker and William J. Marks, Sr., and cable television transactions involving Tucker, Marks, and John Haley.

The memorandum is marked DRAFT because the investigation continues with interviews and review of documents. For example, important new information was gathered in grand jury and interviews on May 24 and 25. This draft also does not include complete citations to documents and testimony. It is distributed at this time because of the need for decision in short order.

A detailed discussion of the evidence developed is necessarily lengthy. Although the memorandum is very long, I have erred on the side of overinclusion so that everyone may be apprised of as many useful facts as possible.

For those of you who do not have time to study the entire document, I have prepared a summary at the beginning that outlines the evidence. This summary is accompanied by helpful charts and diagrams prepared by Jim Rickards of the computer support group, and one diagram obtained as evidence.

Discussions of statements by potential witnesses are summaries based upon reports of interviews or transcripts. They should not be construed as verbatim statements for purposes of the Jencks Act.

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MEMORANDUM

DRAFT

To: Kenneth W. Starr
Independent Counsel

All OIC Attorneys

From: Steven M. Colloton
Associate Counsel

Date: May 26, 1995

Re: Status of investigation of Tucker/Marks/Haley

CONFIDENTIAL -- INCLUDES GRAND JURY MATERIAL

I. INTRODUCTION

The investigation has developed evidence to support several possible criminal charges against Tucker, Marks, and/or Haley. We have narrowed our focus at this time to three principal charges: (1) conspiracy to defraud the United States by impeding the lawful functions of the Internal Revenue Service, in violation of 18 U.S.C. § 371 (a Klein conspiracy); (2) false statements to a small business investment company, in violation of 18 U.S.C. § 1014, and (3) conspiracy to make false statements to an SBIC, in violation of 18 U.S.C. §§ 1014 and 371.

The elements of a Klein conspiracy, in violation of 18 U.S.C. § 371, are:

> One, two or more persons reached an agreement or understanding to defraud the United States by impeding, impairing, obstructing or defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, or collection of income taxes;
>
> Two, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;
>
> Three, at the time the defendant joined in the agreement or understanding, he knew the purpose of the agreement or understanding; and
>
> Four, while the agreement or understanding was in effect, a person or persons who had joined in the agreement knowingly did one or more overt acts.

The elements of a violation of 18 U.S.C. § 1014 are:

One, the defendant made a false statement to a federally-chartered small business investment company;

Two, the defendant did so for the purpose of influencing the SBIC's action;

Three, the statement was false as to a material fact; and

Four, the defendant made the false statement knowingly.

The elements of conspiracy to violate 18 U.S.C. § 1014 are the same as those for the Klein conspiracy, except that the first element is changed to reflect an agreement to make a false statement to an SBIC.

The statute of limitations for 18 U.S.C. § 1014 is ten years. There is no immediate statute problem with regard to that part of the investigation.

The statute of limitations for a Klein conspiracy is six years. United States v. White, 671 F.2d 1126, 1133-34 (8th Cir. 1982). The statute of limitations in a conspiracy begins to run from the last overt act proved. Grunewald v. United States, 353 U.S. 391, 397 (1957). With regard to an individual return, the law appears clear that when a return is received by the IRS within the time prescribed by statute (including any extensions), then the statute begins to run on the date that the return was received. 26 U.S.C. § 7502; First Charter Financial Corp. v. United States, 669 F.2d 1342, 1345 (9th Cir. 1982).

Tucker's 1988 tax return, which is central to the investigation, was filed on June 10, 1989. The return was due, pursuant to an extension, on August 15, 1989. Tucker's attorney has said that Tucker mailed the return on June 7, 1989.

The prosecution is not required to prove that each member of a conspiracy committed an overt act within the statute of limitations. As the evidence set forth below shows, there is a substantial argument that the conspiracy under investigation extended beyond June 10, 1989. Nonetheless, in order to avoid any question about whether there are overt acts after June 10 for which Tucker is accountable, or a dispute about whether the Tucker return was filed when received or when mailed, we have focused on June 7 as a final decision date. That is subject to amendment, of course, if there are sound legal and practical reasons for a different course.

II. SUMMARY

There are two tax concepts that are important to understanding this investigation. The first is that of "basis" and its relationship to taxable "gain" on the sale of an asset. Generally speaking, the basis in an asset is the amount that the owner paid for the asset. Basis may be adjusted upward over time to reflect subsequent capital expenditures on the asset, or downward to reflect deductions for depreciation of the asset.

When an asset is sold, the "adjusted basis" is the number used to determine the "gain" or "loss" on the sale for tax purposes. The gain on the sale is the sale price paid for the asset reduced by the adjusted basis. Absent other adjustments, the seller of an asset is subject to tax on this gain. Thus, the higher the basis in an asset, the less gain that will be realized in a sale, and the fewer taxes that must be paid.

The second tax concept is that of the corporate income tax. Subchapter C of the Internal Revenue Code treats corporations as independent tax-paying entities. A corporation operating under subchapter C rules is referred to as a "C corporation." If a C corporation earns income -- gain from the sale of an asset, for example -- that income is taxed to the corporation as it is received. If the income is distributed later to shareholders of the corporation, or if the shareholders sell their stock, the same income is taxed again by the personal income tax on the shareholder.

Subchapter S of the Internal Revenue Code creates an exception to this two-tier regime of taxation. That subchapter applies only to "small business corporations," which are defined as certain domestic corporations with no more than 35 shareholders or more than one class of stock. An eligible corporation may elect to be treated as an "S corporation" under the Code. If such an election is made, the corporation is not subject to the corporate income tax. Corporate income, whether or not distributed to the shareholders, is taxed to the shareholders. But the income is taxed only once.

Two corporate entities and three individuals are central to this investigation. The individuals are Jim Guy Tucker, Governor of Arkansas; John Haley, attorney in Little Rock; and William J. Marks, Sr., a cable television businessman. The entities are Cablevision Management, Inc. (CMI), an Arkansas S corporation, Planned Cable Systems Corporation (PCS), an Iowa C Corporation, and Landowners Management Systems, Inc. (LMS), a Texas C corporation.

In February 1987, CMI was owned 100% by Tucker. PCS was owned 82% by Meredith Corporation and 18% by Marks. Meredith also held a note for $7.9 million that it was owed by PCS for

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money advanced from Meredith to PCS. Both PCS and CMI owned cable TV systems. Meredith wanted to sell its interest in PCS for its book value of $6 million. Marks and Tucker knew this was substantially less than the market value of the company.

Tucker and Marks agreed that they would borrow several million dollars from a bank; Tucker would use some of the loan proceeds to buy Meredith's interest in PCS; and Tucker and Marks would merge PCS into CMI. Tucker and Marks would then have a 50/50 joint venture in the cable business.

On March 1, 1987, Tucker signed a purchase agreement with Meredith in which he agreed to buy for $6 million the 82% of PCS stock and the $7.9 million note. In May 1987, Fleet National Bank agreed to loan Tucker and Marks $8.5 million for the project. Fleet required Tucker and Marks to pledge all assets of PCS and CMI as collateral. Fleet also required Tucker and Marks to set up a $500,000 cash collateral account.

Tucker approached David Hale at Capital Management Services (CMS) to raise $300,000 for the cash collateral account. Tucker told Hale that he wanted a loan for that amount to D&L Telecommunications, Inc., a Florida cable construction company. Marks and one Don Smith of Florida each owned 50% of D&L. Smith was president of D&L and the controlling shareholder.

Hale agreed to lend $300,000. Tucker arranged for Hale to send the money to Fleet, and Tucker directed Fleet to deposit the money into the cash collateral account that secured the personal loan to Tucker and Marks. The promissory note was signed by Marks as president of D&L, Betty Tucker as secretary of D&L, and by Tucker individually.

None of the loan proceeds went to D&L. Don Smith of D&L says that he had no knowledge of the loan. Smith says that he never authorized Marks or the Tuckers to use D&L to borrow money. Tucker and Marks paid back CMS for the loan in a timely fashion. (See Figure 1)

On June 10, 1987, the Fleet loan closed. Tucker used $6 million of the proceeds to purchase Meredith's 82% of the stock in PCS and the $7.9 million note. Tucker assigned $4.6 million of the note to Marks. (See Figure 2).

Simultaneous with the closing of the Meredith sale to Tucker, PCS merged into CMI. Tucker and Marks contributed to CMI their stock in PCS and their portions of the $7.9 million note. In return, CMI issued stock to Tucker and Marks, and a note to Marks. As a result, Tucker and Marks each owned 50% of CMI. (See Figure 3).

On June 10, Tucker and Marks also contemplated a -

potentially lucrative sale of one of the cable systems in Plantation, Florida. (See Figure 3). On September 25, 1987, Tucker and Marks signed an agreement to sell the Plantation system to American Cablesystems of Florida for $12.75 million and $2 million in non-competition payments. (See Figure 4).

Tucker and Marks expressed concern about the tax implications of the sale of the Plantation system. They hired Coopers & Lybrand to calculate the basis in the system, and the gain on a possible sale of the system for $15 million. On October 9, C&L advised Tucker's accountant that the basis would be about $1.75 million, and the gain would be over $13 million. In November, C&L advised Tucker that a revised calculation showed a lower basis of $1.26 million. (See Figure 4).

On October 12, there was a meeting among Tucker, his attorney, John Haley, and two accountants from Frost & Company. Haley presented a "ten step chart" that showed a plan to rescind the CMI/PCS merger, to merge PCS into a Marks-controlled entity called Sattech, to place Sattech in bankruptcy, and to distribute the cable assets of PCS to Tucker and his company CMI. There is evidence that reduction of taxes was at least one of the purposes, if not the primary purpose, of this proposal. (See Figure 5).

On or about November 17, Tucker and Marks signed an agreement to rescind the PCS/CMI merger. The rescission was based upon an alleged material omission by Marks about the existence of another stockholder in PCS, and a technical flaw in the consummation of the merger. The result of the rescission differed from the status quo ante in two significant ways: (1) Tucker's ownership of 82% of the PCS stock was transferred to Marks' wife, Donna; and (2) The $7.9 million note -- which was purchased from Meredith by Tucker, assigned in part to Marks, and contributed to CMI -- was recreated and owned entirely by Tucker. (See Figure 6).

On November 13, 1987, Marks was assigned the Carrollton cable system to own individually. Marks made the assignment as president of PCS. The assignment claimed that the corporation did not own the system because Marks had advanced the money to construct the system. (See Figure 6).

On November 24, after the rescission of the PCS/CMI merger, PCS merged into a Texas shelf corporation called LMS. Haley obtained LMS from a former colleague in Texas. LMS had never issued stock before November 1987. After Haley acquired LMS, 82% of the stock was issued to Mikado Leasing Company, a car leasing company owned by Haley. The other 18% was issued to Marks. (See Figure 7).

On November 30, 1987, LMS filed a Chapter 11 bankruptcy

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petition in Texas. Tucker was listed as a secured creditor based on the $7.9 million note that he bought from Meredith. Tucker's company, CMI, was listed as a creditor based upon money that it had advanced to PCS/LMS between June and November. To discharge these debts, the Plantation cable system was distributed to Tucker, and three Texas cable systems were distributed to CMI. (See Figure 8).

Analysis of the bankruptcy pleadings, which were signed by Marks as president of LMS, shows the following:

(1) The pleadings said Meredith sold 82% of the stock in PCS/LMS to Mikado Leasing Company for $1 on June 10, 1987. In fact, Tucker bought 82% of the stock along with the note upon which he based his claim in bankruptcy. The bankruptcy court was not notified that Tucker had purchased the 82% of the PCS stock only five months earlier.

(2) The pleadings said that Tucker's claim of $8.85 million was equal to or greater than the fair market value of the Plantation system. The pleadings did not disclose the signed purchase agreement to sell the Plantation system for $12.75 million and $2 million in non-compete payments.

(3) Fleet Bank, which had a first lien on all assets of PCS and CMI was not listed as a secured party, and it did not receive notice of the bankruptcy.

(4) The bankruptcy court was not told that Tucker owned CMI, or that Tucker and Marks were business partners in the cable companies appearing in the bankruptcy.

(5) None of the numerous trade or business creditors of PCS/LMS was notified of the bankruptcy. The listed creditors all were parties with close relationships to Tucker or Marks, and some were even unaware of the basis for their claims.

On December 28, 1987, Tucker and Marks signed a new purchase agreement for the sale of the Plantation system. The new agreement showed Tucker as a seller. The sale closed on January 4, 1988. The buyer was not told why there was a change in the sellers. Tucker received $11.75 million for the system. (See Figure 9).

On February 8, 1988, Haley's law firm received from Tucker legal fees of $100,000 as partial payment for work on the Plantation acquisition and the LMS bankruptcy. The firm received another $50,000 from Tucker in December 1988.

On June 10, 1989, the Tuckers filed their tax return for 1988. They reported the sale of the Plantation system for $11.75 million. Because they obtained the system through the

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bankruptcy, their basis was $7.28 million rather than the $1.26 million calculated by Coopers & Lybrand prior to the bankruptcy. The taxable gain was reduced accordingly. There also was no corporate tax on the sale because it was sold by Tucker individually.

In May and October 1989, CMI and Marks, respectively, filed their 1988 tax returns. On February 29, 1988, Marks had sold the Carrollton system to Falcon Cable Media, and CMI had sold to Falcon the Texas systems obtained in the bankruptcy. (See Figure 10). Because Marks is an individual, and CMI was an S corporation, no corporate tax was paid. Without the distribution of the Carrollton system to Marks through the assignment, or the Texas systems to CMI through the bankruptcy, corporate tax would have been imposed on the sales.

The IRS has calculated preliminarily that the transfer of the Plantation system through the bankruptcy resulted in a loss of tax revenue of over $2.5 million. The IRS indicates that the aggregate loss is much greater if we consider all of the systems transferred through the bankruptcy and related events.

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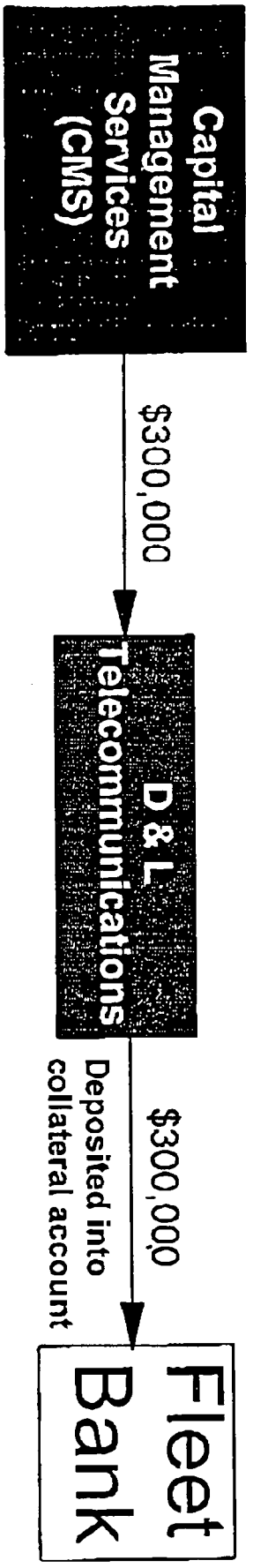

D & L Telecommunications Loan
Fleet Collateral Account
June 10, 1987

Figure 1

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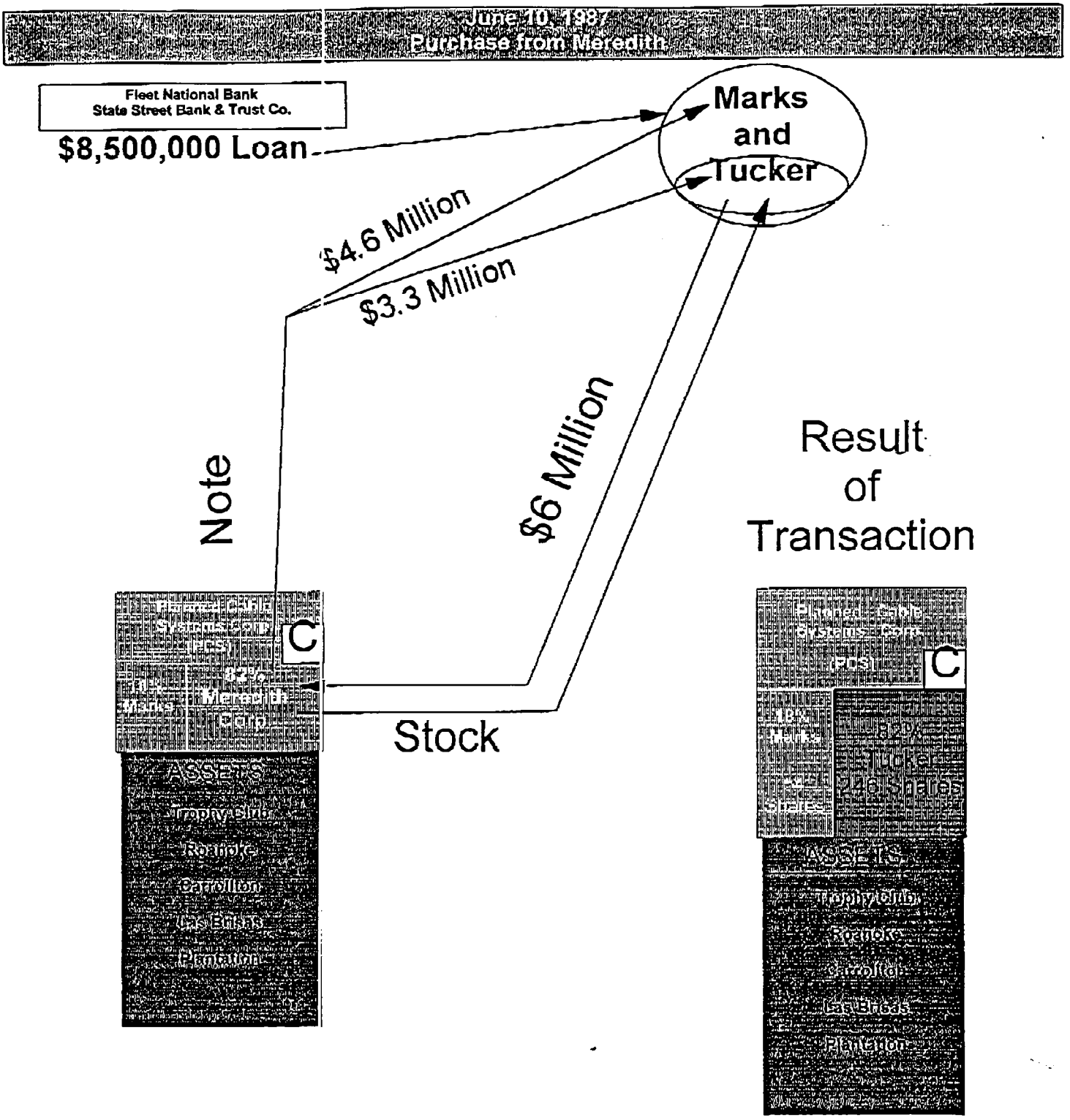

Figure 2

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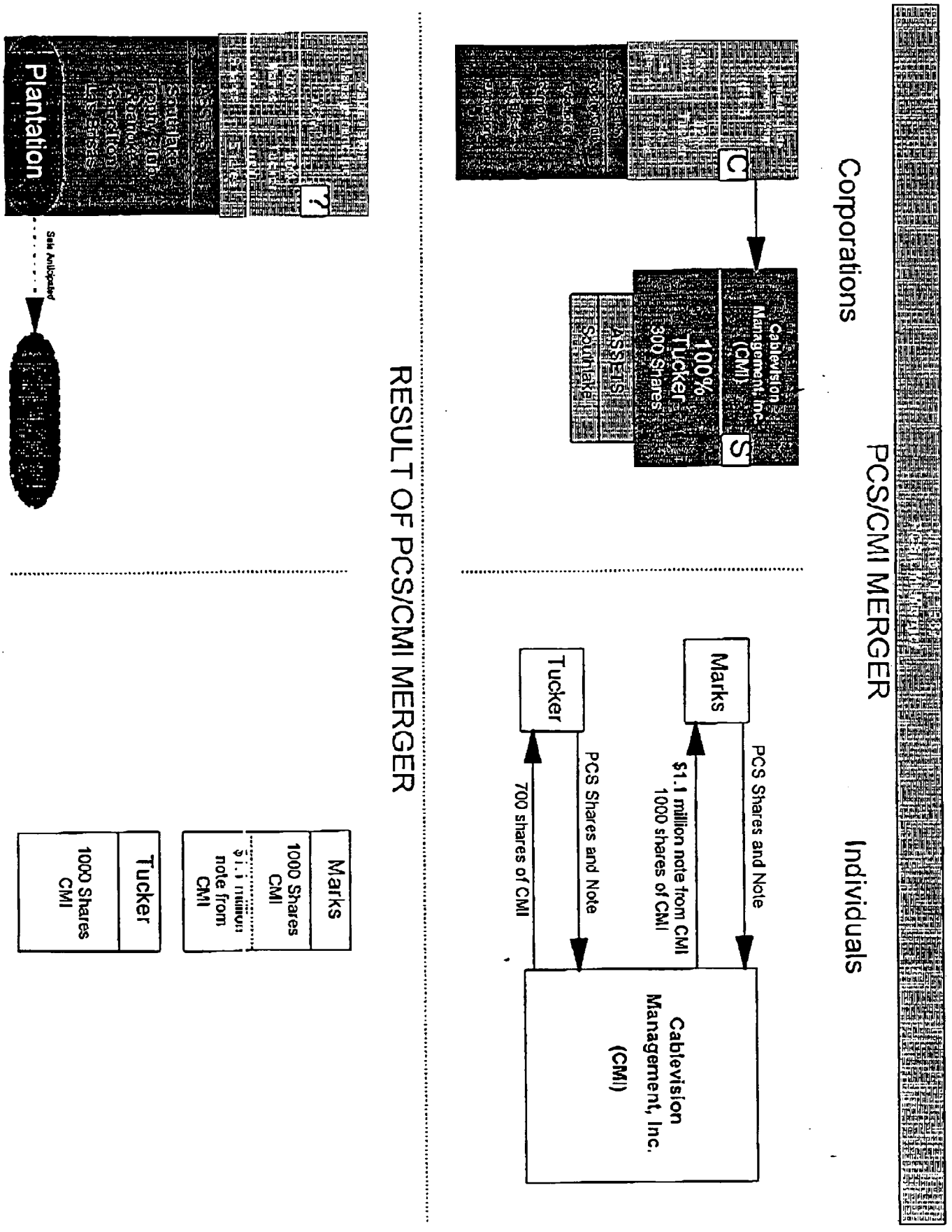

Figure 3

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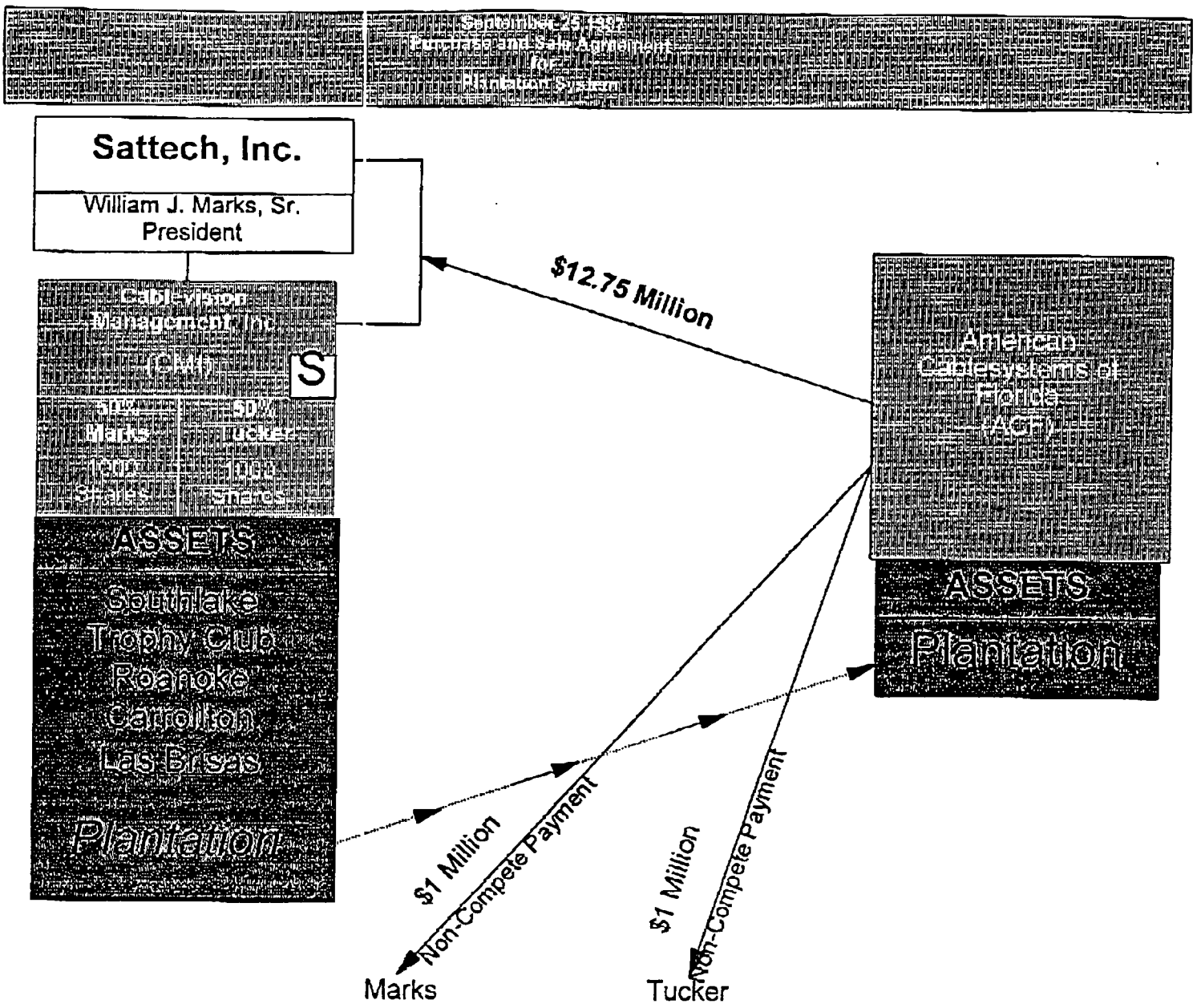

Tax Information

Assets		Non-Compete Income	
Sale Price:	$12,750,000		
Basis: (As calculated by Coopers & Lybrand)	$1,258,372	Marks:	$1,000,000
		Tucker:	$1,000,000
Gain:	$11,491,628		

Figure 4

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Figure 5

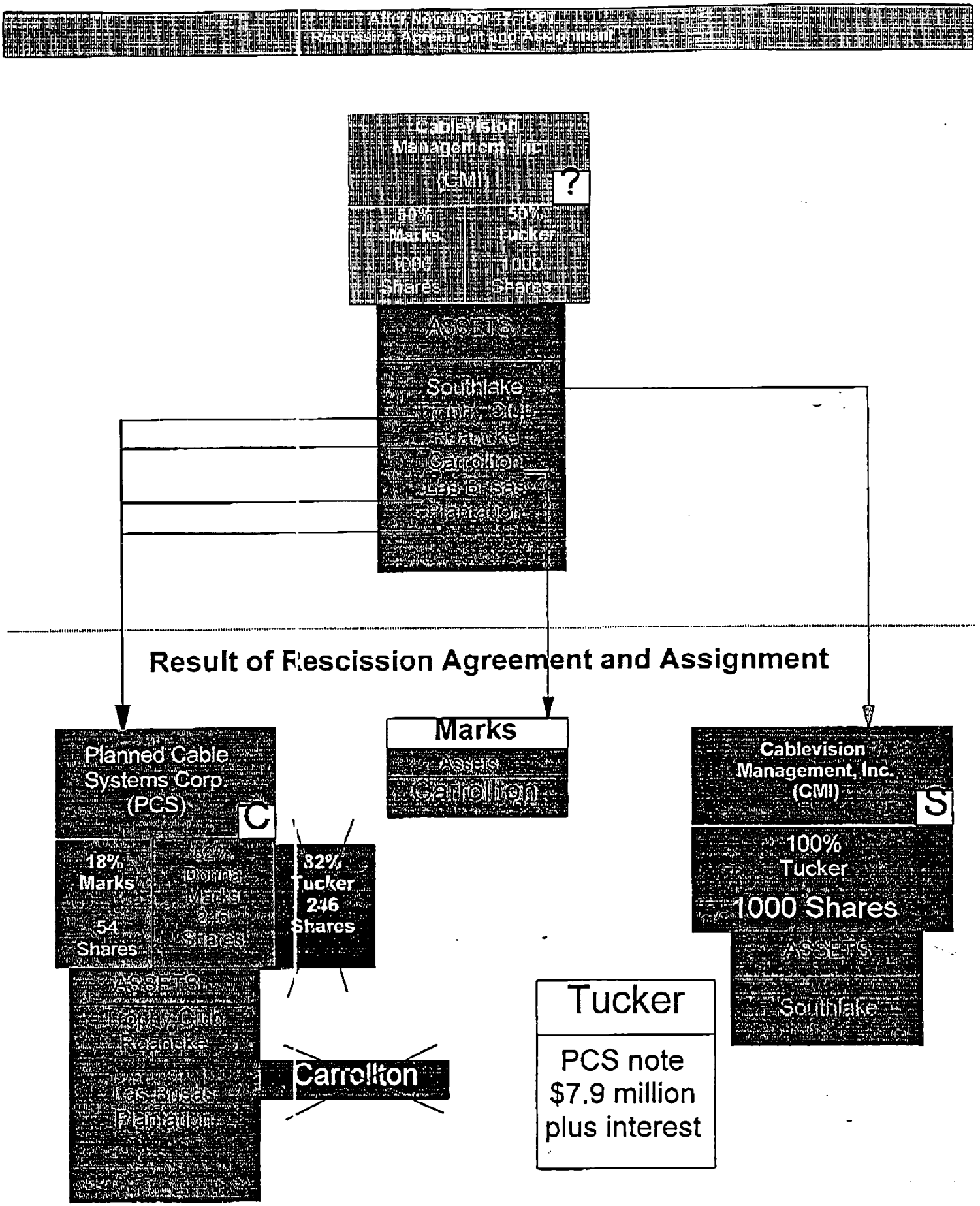
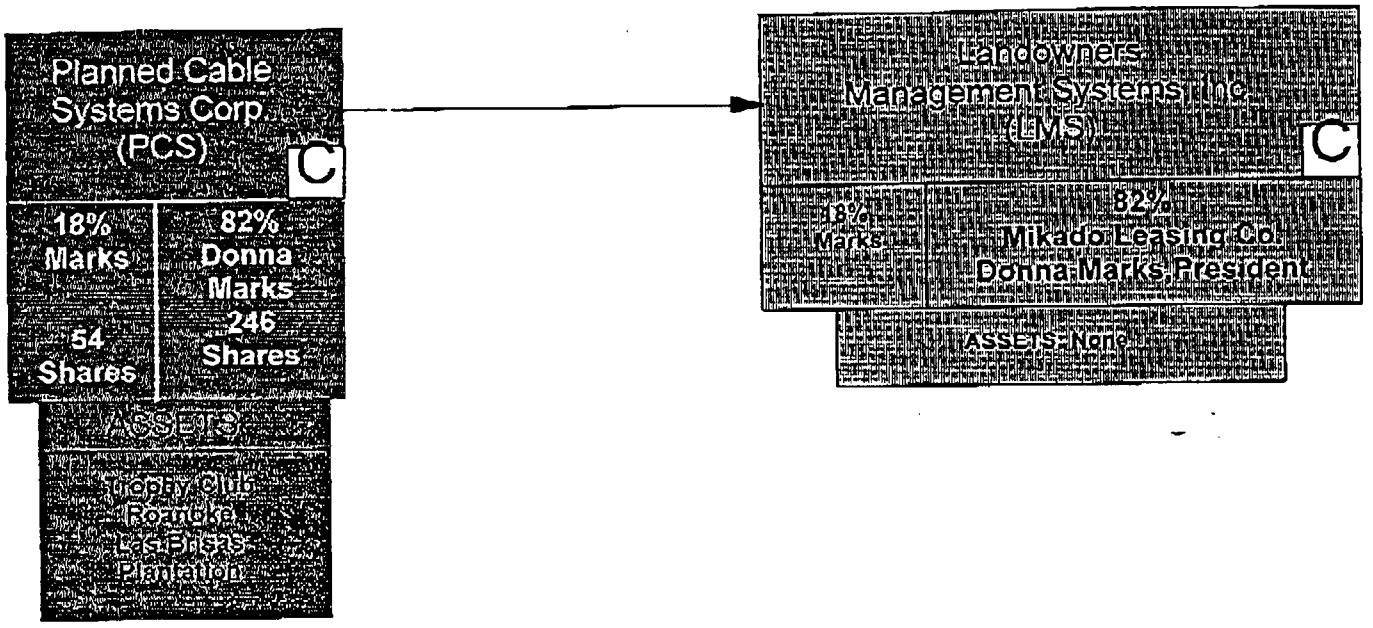

Cablevision Management, Inc. (CMI)
?
50% Marks
100 Shares
50% Tucker
1000 Shares
ASSETS
Southlake
Carrollton
Result of Rescission Agreement and Assignment
Planned Cable Systems Corp (PCS)
C
18% Marks
54 Shares
82% Tucker
246 Shares
ASSETS
Carrollton
Marks
Assets
Carrollton
Cablevision Management, Inc. (CMI)
S
100% Tucker
1000 Shares
ASSETS
Southlake
Tucker
PCS note
$7.9 million
plus interest

Figure 6

FOIA RD 56806 (URTS 16302) Docld: 70104958 Page 17

November 24, 1987
PCS/LMS Merger

PCS/LMS Merger



Result of PCS/LMS Merger

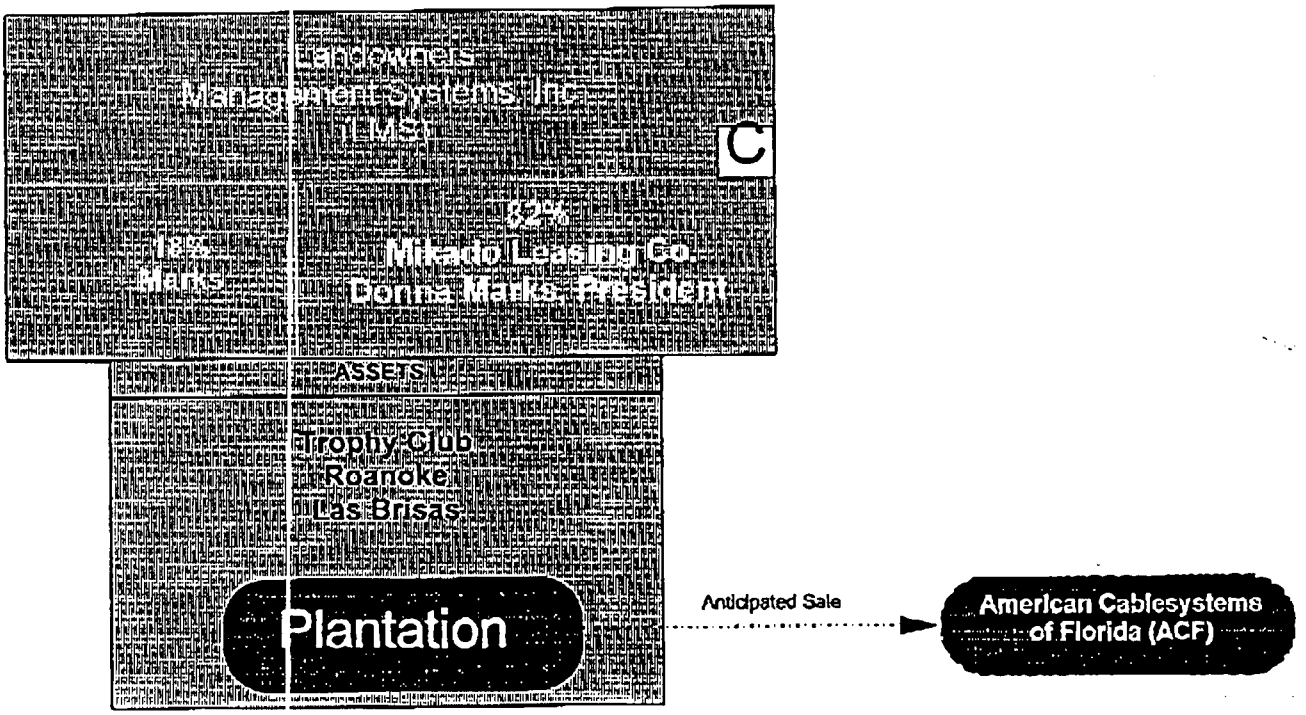


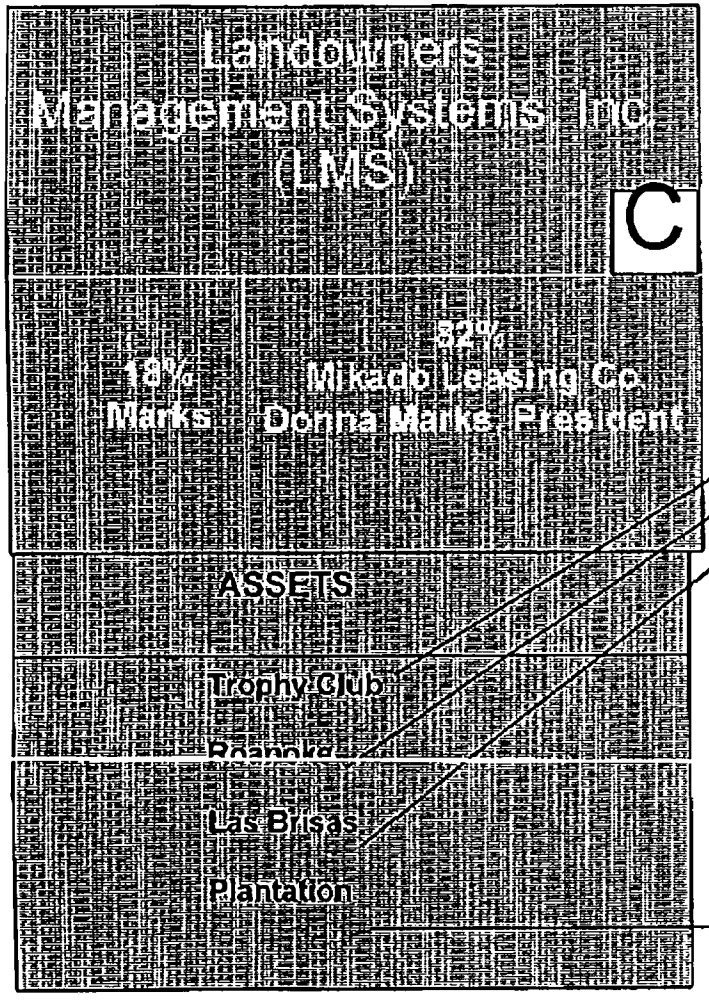
Figure 7

05/26/95 14:38 FOIA RD 56806 (URTS 16302) Docld: 70104958 Page 18
INDEP COUNSEL
3501 221 8707
017

Landowners Management Systems, Inc.
Bankruptcy
Filed: November 30, 1987

DEBTOR

CREDITORS



Unsecured

Cablevision Management, Inc. (CMI) S

To discharge debt ($ 1.15 Million)

Unsecured

William Marks	$ 265,000.00
S. Feldman	$ 37,500.00
CCLP	$ 66,408.00
Frost & Co.	$ 6,000.00
Linda Harlan	$ 450.00
Dwight Harlan	$ 250.00

Secured

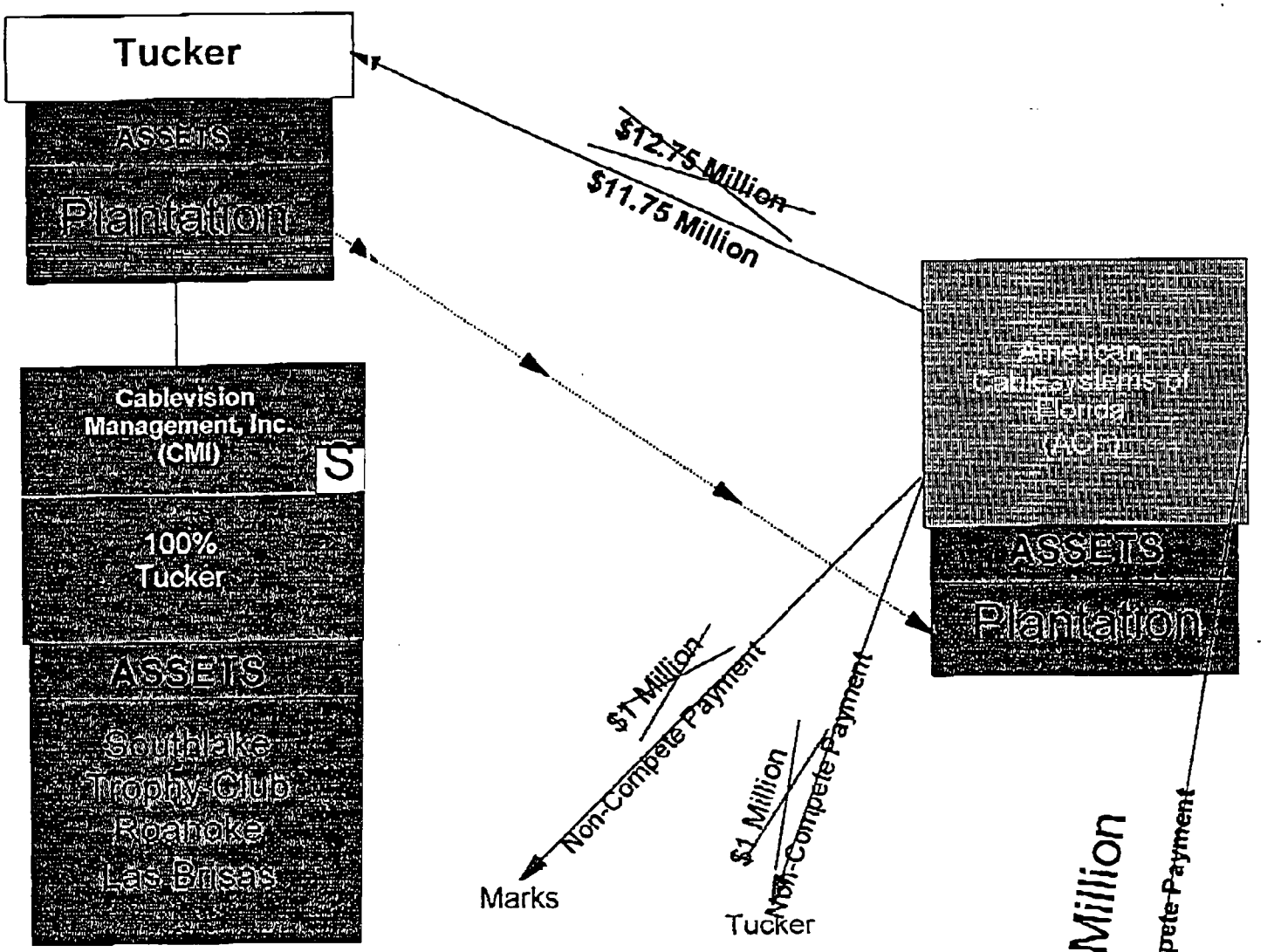
Tucker

To discharge note
($ 7.9 Million + interest)

Confirmed: December 18, 1987

Figure 8

December 28, 1987
Purchase and Sale Agreement
for Plantation System



Tax Information

Assets		Non-Compete Income	
Sale Price:	$11,750,000	**1988**	
Basis: (As reported by Tucker on 1988 return)	$7,283,023	Received by Marks:	$2,000,000
		Reported by Marks:	$1,000,000
Gain: (As reported by Tucker on 1988 return)	$4,466,977	**1989**	
		Received by Marks:	$1,000,000
		Reported by Marks:	$ 500,000

December 28, 1987

Figure 9

FOIA RD 56806 (URTS 16302) Docid: 70104958 Page 20

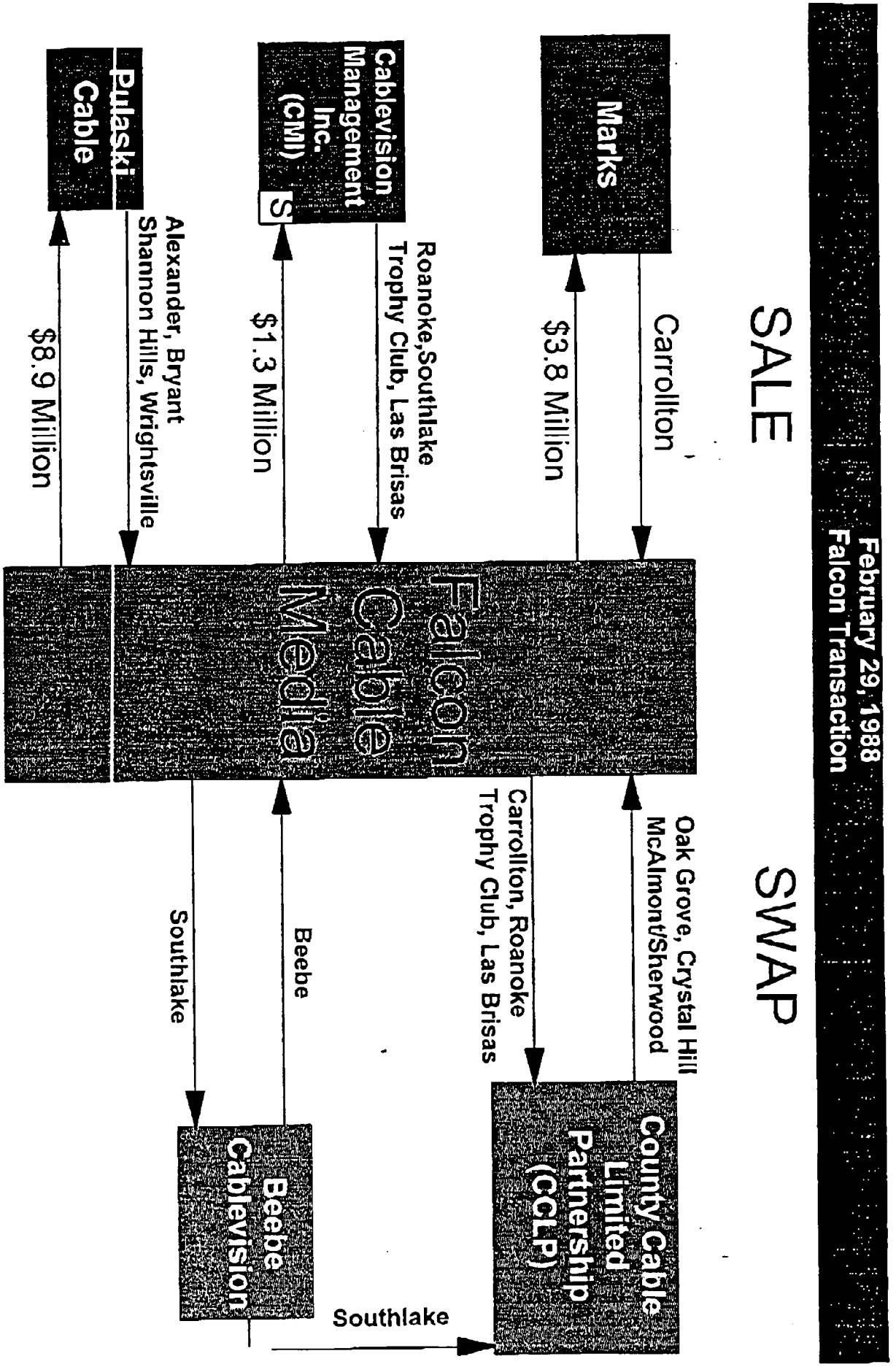


Figure 10

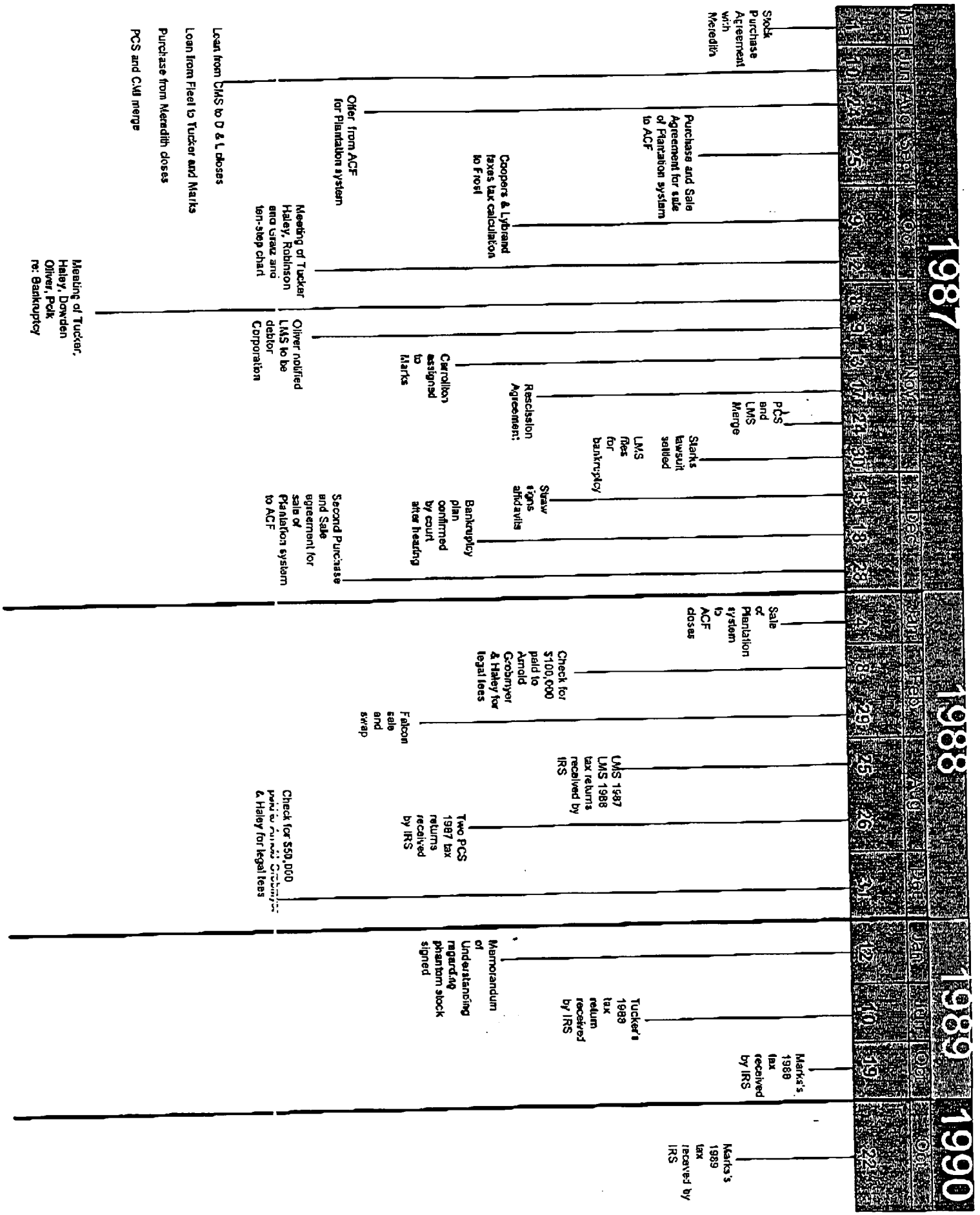

1987
1988
1989
1990
Stock Purchase Agreement with Meredith
Purchase and Sale Agreement for sale of Plantation system to ACF
Coopers & Lybrand taxes tax calculation to Frost
Offer from ACF for Plantation system
Meeting of Tucker Haley, Robinson and Diaz and ten-step chart
Loan from CMS to D & L closes
Loan from Fleet to Tucker and Marks
Purchase from Meredith closes
PCS and CMI merge
Meeting of Tucker, Haley, Dowden Oliver, Polk re: Bankruptcy
Oliver notified LMS to be debtor Corporation
Carrollton assigned to Marks
Rescission Agreement
PCS and LMS Merge
Starks lawsuit settled
LMS files for bankruptcy
Straw signs affidavits
Bankruptcy plan confirmed by court after hearing
Second Purchase and Sale agreement for sale of Plantation system to ACF
Sale of Plantation system to ACF closes
Check for $100,000 paid to Arnold Grobmyer & Haley for legal fees
Falcon sale and swap
LMS 1987 LMS 1988 tax returns received by IRS
Two PCS 1987 tax returns received by IRS
Check for $50,000 paid to Arnold Grobmyer & Haley for legal fees
Memorandum of Understanding regarding phantom stock signed
Tucker's 1988 tax return received by IRS
Marks's 1988 tax received by IRS
Marks's 1989 tax received by IRS

Figure 11

MEMORANDUM

DRAFT

To: Kenneth W. Starr
Independent Counsel

All OIC Attorneys

From: Steven M. Colloton
Associate Counsel

Date: May 26, 1995

Re: Status of investigation of Tucker/Marks/Haley

CONFIDENTIAL -- INCLUDES GRAND JURY MATERIAL

I. INTRODUCTION

The investigation has developed evidence to support several possible criminal charges against Tucker, Marks, and/or Haley. We have narrowed our focus at this time to three principal charges: (1) conspiracy to defraud the United States by impeding the lawful functions of the Internal Revenue Service, in violation of 18 U.S.C. § 371 (a Klein conspiracy); (2) false statements to a small business investment company, in violation of 18 U.S.C. § 1014, and (3) conspiracy to make false statements to an SBIC, in violation of 18 U.S.C. §§ 1014 and 371.

The elements of a Klein conspiracy, in violation of 18 U.S.C. § 371, are:

> One, two or more persons reached an agreement or understanding to defraud the United States by impeding, impairing, obstructing or defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, or collection of income taxes;
>
> Two, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;
>
> Three, at the time the defendant joined in the agreement or understanding, he knew the purpose of the agreement or understanding; and
>
> Four, while the agreement or understanding was in effect, a person or persons who had joined in the agreement knowingly did one or more overt acts.

The elements of a violation of 18 U.S.C. § 1014 are:

One, the defendant made a false statement to a federally-chartered small business investment company;

Two, the defendant did so for the purpose of influencing the SBIC's action;

Three, the statement was false as to a material fact; and

Four, the defendant made the false statement knowingly.

The elements of conspiracy to violate 18 U.S.C. § 1014 are the same as those for the Klein conspiracy, except that the first element is changed to reflect an agreement to make a false statement to an SBIC.

The statute of limitations for 18 U.S.C. § 1014 is ten years. There is no immediate statute problem with regard to that part of the investigation.

The statute of limitations for a Klein conspiracy is six years. United States v. White, 671 F.2d 1126, 1133-34 (8th Cir. 1982). The statute of limitations in a conspiracy begins to run from the last overt act proved. Grunewald v. United States, 353 U.S. 391, 397 (1957). With regard to an individual return, the law appears clear that when a return is received by the IRS within the time prescribed by statute (including any extensions), then the statute begins to run on the date that the return was received. 26 U.S.C. § 7502; First Charter Financial Corp. v. United States, 669 F.2d 1342, 1345 (9th Cir. 1982).

Tucker's 1988 tax return, which is central to the investigation, was filed on June 10, 1989. The return was due, pursuant to an extension, on August 15, 1989. Tucker's attorney has said that Tucker mailed the return on June 7, 1989.

The prosecution is not required to prove that each member of a conspiracy committed an overt act within the statute of limitations. As the evidence set forth below shows, there is a substantial argument that the conspiracy under investigation extended beyond June 10, 1989. Nonetheless, in order to avoid any question about whether there are overt acts after June 10 for which Tucker is accountable, or a dispute about whether the Tucker return was filed when received or when mailed, we have focused on June 7 as a final decision date. That is subject to amendment, of course, if there are sound legal and practical reasons for a different course.

II. SUMMARY

There are two tax concepts that are important to understanding this investigation. The first is that of "basis" and its relationship to taxable "gain" on the sale of an asset. Generally speaking, the basis in an asset is the amount that the owner paid for the asset. Basis may be adjusted upward over time to reflect subsequent capital expenditures on the asset, or downward to reflect deductions for depreciation of the asset.

When an asset is sold, the "adjusted basis" is the number used to determine the "gain" or "loss" on the sale for tax purposes. The gain on the sale is the sale price paid for the asset reduced by the adjusted basis. Absent other adjustments, the seller of an asset is subject to tax on this gain. Thus, the higher the basis in an asset, the less gain that will be realized in a sale, and the fewer taxes that must be paid.

The second tax concept is that of the corporate income tax. Subchapter C of the Internal Revenue Code treats corporations as independent tax-paying entities. A corporation operating under subchapter C rules is referred to as a "C corporation." If a C corporation earns income -- gain from the sale of an asset, for example -- that income is taxed to the corporation as it is received. If the income is distributed later to shareholders of the corporation, or if the shareholders sell their stock, the same income is taxed again by the personal income tax on the shareholder.

Subchapter S of the Internal Revenue Code creates an exception to this two-tier regime of taxation. That subchapter applies only to "small business corporations," which are defined as certain domestic corporations with no more than 35 shareholders or more than one class of stock. An eligible corporation may elect to be treated as an "S corporation" under the Code. If such an election is made, the corporation is not subject to the corporate income tax. Corporate income, whether or not distributed to the shareholders, is taxed to the shareholders. But the income is taxed only once.

Two corporate entities and three individuals are central to this investigation. The individuals are Jim Guy Tucker, Governor of Arkansas; John Haley, attorney in Little Rock; and William J. Marks, Sr., a cable television businessman. The entities are Cablevision Management, Inc. (CMI), an Arkansas S corporation, Planned Cable Systems Corporation (PCS), an Iowa C Corporation, and Landowners Management Systems, Inc. (LMS), a Texas C corporation.

In February 1987, CMI was owned 100% by Tucker. PCS was owned 82% by Meredith Corporation and 18% by Marks. Meredith also held a note for $7.9 million that it was owed by PCS for

money advanced from Meredith to PCS. Both PCS and CMI owned cable TV systems. Meredith wanted to sell its interest in PCS for its book value of $6 million. Marks and Tucker knew this was substantially less than the market value of the company.

Tucker and Marks agreed that they would borrow several million dollars from a bank; Tucker would use some of the loan proceeds to buy Meredith's interest in PCS; and Tucker and Marks would merge PCS into CMI. Tucker and Marks would then have a 50/50 joint venture in the cable business.

On March 1, 1987, Tucker signed a purchase agreement with Meredith in which he agreed to buy for $6 million the 82% of PCS stock and the $7.9 million note. In May 1987, Fleet National Bank agreed to loan Tucker and Marks $8.5 million for the project. Fleet required Tucker and Marks to pledge all assets of PCS and CMI as collateral. Fleet also required Tucker and Marks to set up a $500,000 cash collateral account.

Tucker approached David Hale at Capital Management Services (CMS) to raise $300,000 for the cash collateral account. Tucker told Hale that he wanted a loan for that amount to D&L Telecommunications, Inc., a Florida cable construction company. Marks and one Don Smith of Florida each owned 50% of D&L. Smith was president of D&L and the controlling shareholder.

Hale agreed to lend $300,000. Tucker arranged for Hale to send the money to Fleet, and Tucker directed Fleet to deposit the money into the cash collateral account that secured the personal loan to Tucker and Marks. The promissory note was signed by Marks as president of D&L, Betty Tucker as secretary of D&L, and by Tucker individually.

None of the loan proceeds went to D&L. Don Smith of D&L says that he had no knowledge of the loan. Smith says that he never authorized Marks or the Tuckers to use D&L to borrow money. Tucker and Marks paid back CMS for the loan in a timely fashion. (See Figure 1)

On June 10, 1987, the Fleet loan closed. Tucker used $6 million of the proceeds to purchase Meredith's 82% of the stock in PCS and the $7.9 million note. Tucker assigned $4.6 million of the note to Marks. (See Figure 2).

Simultaneous with the closing of the Meredith sale to Tucker, PCS merged into CMI. Tucker and Marks contributed to CMI their stock in PCS and their portions of the $7.9 million note. In return, CMI issued stock to Tucker and Marks, and a note to Marks. As a result, Tucker and Marks each owned 50% of CMI. (See Figure 3).

On June 10, Tucker and Marks also contemplated a

potentially lucrative sale of one of the cable systems in Plantation, Florida. (See Figure 3). On September 25, 1987, Tucker and Marks signed an agreement to sell the Plantation system to American Cablesystems of Florida for $12.75 million and $2 million in non-competition payments. (See Figure 4).

Tucker and Marks expressed concern about the tax implications of the sale of the Plantation system. They hired Coopers & Lybrand to calculate the basis in the system, and the gain on a possible sale of the system for $15 million. On October 9, C&L advised Tucker's accountant that the basis would be about $1.75 million, and the gain would be over $13 million. In November, C&L advised Tucker that a revised calculation showed a lower basis of $1.26 million. (See Figure 4).

On October 12, there was a meeting among Tucker, his attorney, John Haley, and two accountants from Frost & Company. Haley presented a "ten step chart" that showed a plan to rescind the CMI/PCS merger, to merge PCS into a Marks-controlled entity called Sattech, to place Sattech in bankruptcy, and to distribute the cable assets of PCS to Tucker and his company CMI. There is evidence that reduction of taxes was at least one of the purposes, if not the primary purpose, of this proposal. (See Figure 5).

On or about November 17, Tucker and Marks signed an agreement to rescind the PCS/CMI merger. The rescission was based upon an alleged material omission by Marks about the existence of another stockholder in PCS, and a technical flaw in the consummation of the merger. The result of the rescission differed from the status quo ante in two significant ways: (1) Tucker's ownership of 82% of the PCS stock was transferred to Marks' wife, Donna; and (2) The $7.9 million note -- which was purchased from Meredith by Tucker, assigned in part to Marks, and contributed to CMI -- was recreated and owned entirely by Tucker. (See Figure 6).

On November 13, 1987, Marks was assigned the Carrollton cable system to own individually. Marks made the assignment as president of PCS. The assignment claimed that the corporation did not own the system because Marks had advanced the money to construct the system. (See Figure 6).

On November 24, after the rescission of the PCS/CMI merger, PCS merged into a Texas shelf corporation called LMS. Haley obtained LMS from a former colleague in Texas. LMS had never issued stock before November 1987. After Haley acquired LMS, 82% of the stock was issued to Mikado Leasing Company, a car leasing company owned by Haley. The other 18% was issued to Marks. (See Figure 7).

On November 30, 1987, LMS filed a Chapter 11 bankruptcy

petition in Texas. Tucker was listed as a secured creditor based on the $7.9 million note that he bought from Meredith. Tucker's company, CMI, was listed as a creditor based upon money that it had advanced to PCS/LMS between June and November. To discharge these debts, the Plantation cable system was distributed to Tucker, and three Texas cable systems were distributed to CMI. (See Figure 8).

Analysis of the bankruptcy pleadings, which were signed by Marks as president of LMS, shows the following:

(1) The pleadings said Meredith sold 82% of the stock in PCS/LMS to Mikado Leasing Company for $1 on June 10, 1987. In fact, Tucker bought 82% of the stock along with the note upon which he based his claim in bankruptcy. The bankruptcy court was not notified that Tucker had purchased the 82% of the PCS stock only five months earlier.

(2) The pleadings said that Tucker's claim of $8.85 million was equal to or greater than the fair market value of the Plantation system. The pleadings did not disclose the signed purchase agreement to sell the Plantation system for $12.75 million and $2 million in non-compete payments.

(3) Fleet Bank, which had a first lien on all assets of PCS and CMI was not listed as a secured party, and it did not receive notice of the bankruptcy.

(4) The bankruptcy court was not told that Tucker owned CMI, or that Tucker and Marks were business partners in the cable companies appearing in the bankruptcy.

(5) None of the numerous trade or business creditors of PCS/LMS was notified of the bankruptcy. The listed creditors all were parties with close relationships to Tucker or Marks, and some were even unaware of the basis for their claims.

On December 28, 1987, Tucker and Marks signed a new purchase agreement for the sale of the Plantation system. The new agreement showed Tucker as a seller. The sale closed on January 4, 1988. The buyer was not told why there was a change in the sellers. Tucker received $11.75 million for the system. (See Figure 9).

On February 8, 1988, Haley's law firm received from Tucker legal fees of $100,000 as partial payment for work on the Plantation acquisition and the LMS bankruptcy. The firm received another $50,000 from Tucker in December 1988.

On June 10, 1989, the Tuckers filed their tax return for 1988. They reported the sale of the Plantation system for $11.75 million. Because they obtained the system through the

bankruptcy, their basis was $7.28 million rather than the $1.26 million calculated by Coopers & Lybrand prior to the bankruptcy. The taxable gain was reduced accordingly. There also was no corporate tax on the sale because it was sold by Tucker individually.

In May and October 1989, CMI and Marks, respectively, filed their 1988 tax returns. On February 29, 1988, Marks had sold the Carrollton system to Falcon Cable Media, and CMI had sold to Falcon the Texas systems obtained in the bankruptcy. (See Figure 10). Because Marks is an individual, and CMI was an S corporation, no corporate tax was paid. Without the distribution of the Carrollton system to Marks through the assignment, or the Texas systems to CMI through the bankruptcy, corporate tax would have been imposed on the sales.

The IRS has calculated preliminarily that the transfer of the Plantation system through the bankruptcy resulted in a loss of tax revenue of over $2.5 million. The IRS indicates that the aggregate loss is much greater if we consider all of the systems transferred through the bankruptcy and related events.

D & L Telecommunications Loan
Fleet Collateral Account
June 10, 1987

Figure 1

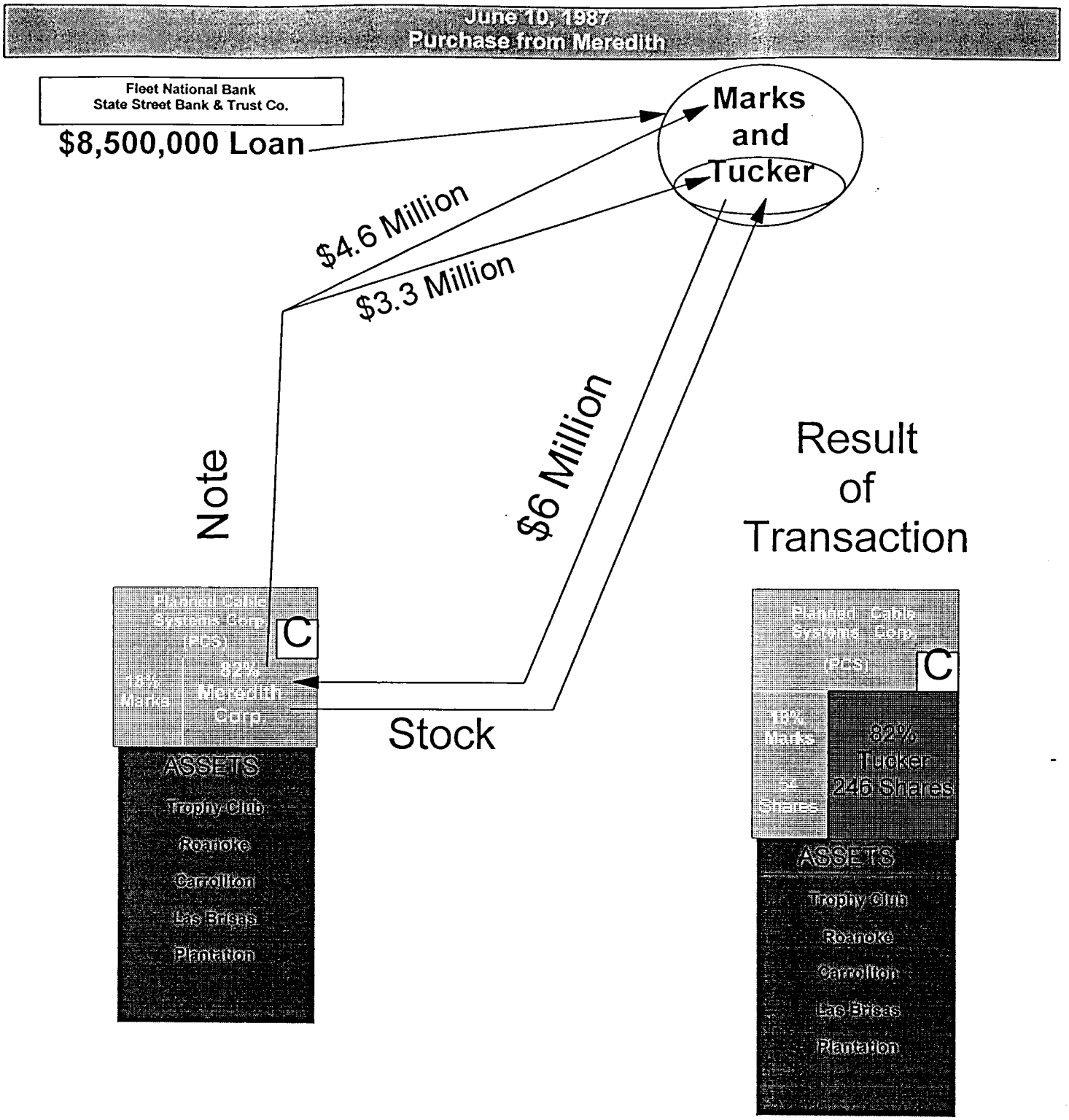
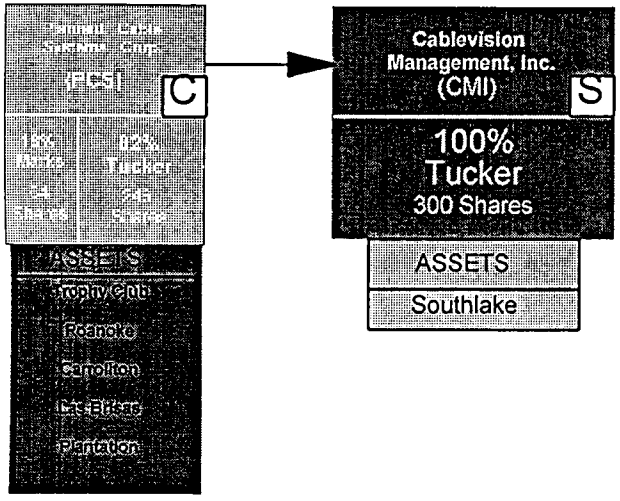

June 10, 1987
Purchase from Meredith
Fleet National Bank
State Street Bank & Trust Co.
$8,500,000 Loan
Marks and Tucker
$4.6 Million
$3.3 Million
$6 Million
Note
Stock
Result of Transaction
Planned Cable Systems Corp. (PCS)
C
18% Marks
82% Meredith Corp.
ASSETS
Trophy Club
Roanoke
Carrollton
Las Brisas
Plantation
Planned Cable Systems Corp. (PCS)
C
18% Marks
82% Tucker
246 Shares
ASSETS
Trophy Club
Roanoke
Carrollton
Las Brisas
Plantation

Figure 2

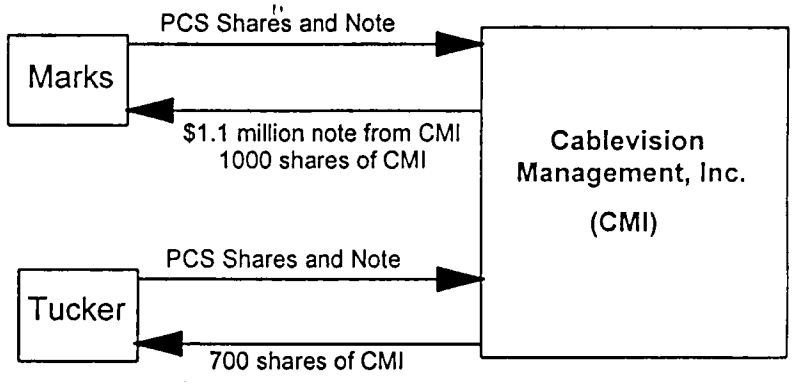
June 10, 1987
PCS/CMI Merger

PCS/CMI MERGER

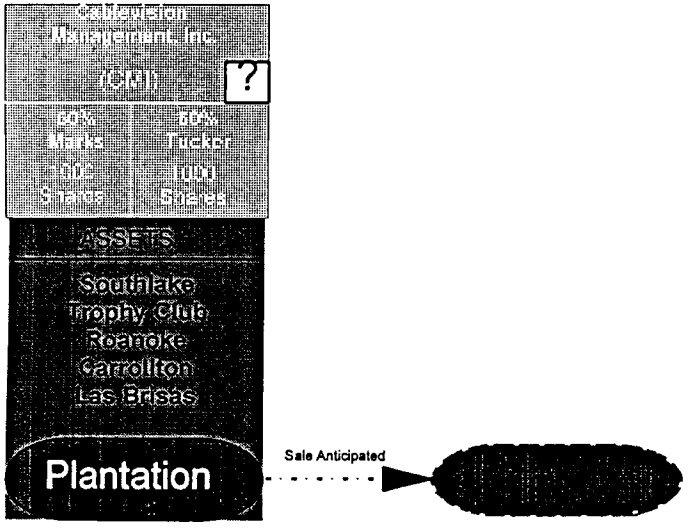
Corporations



Individuals



RESULT OF PCS/CMI MERGER



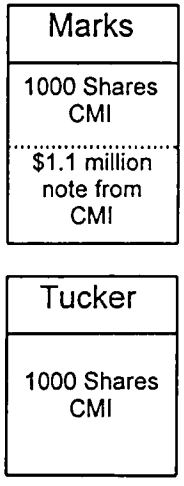
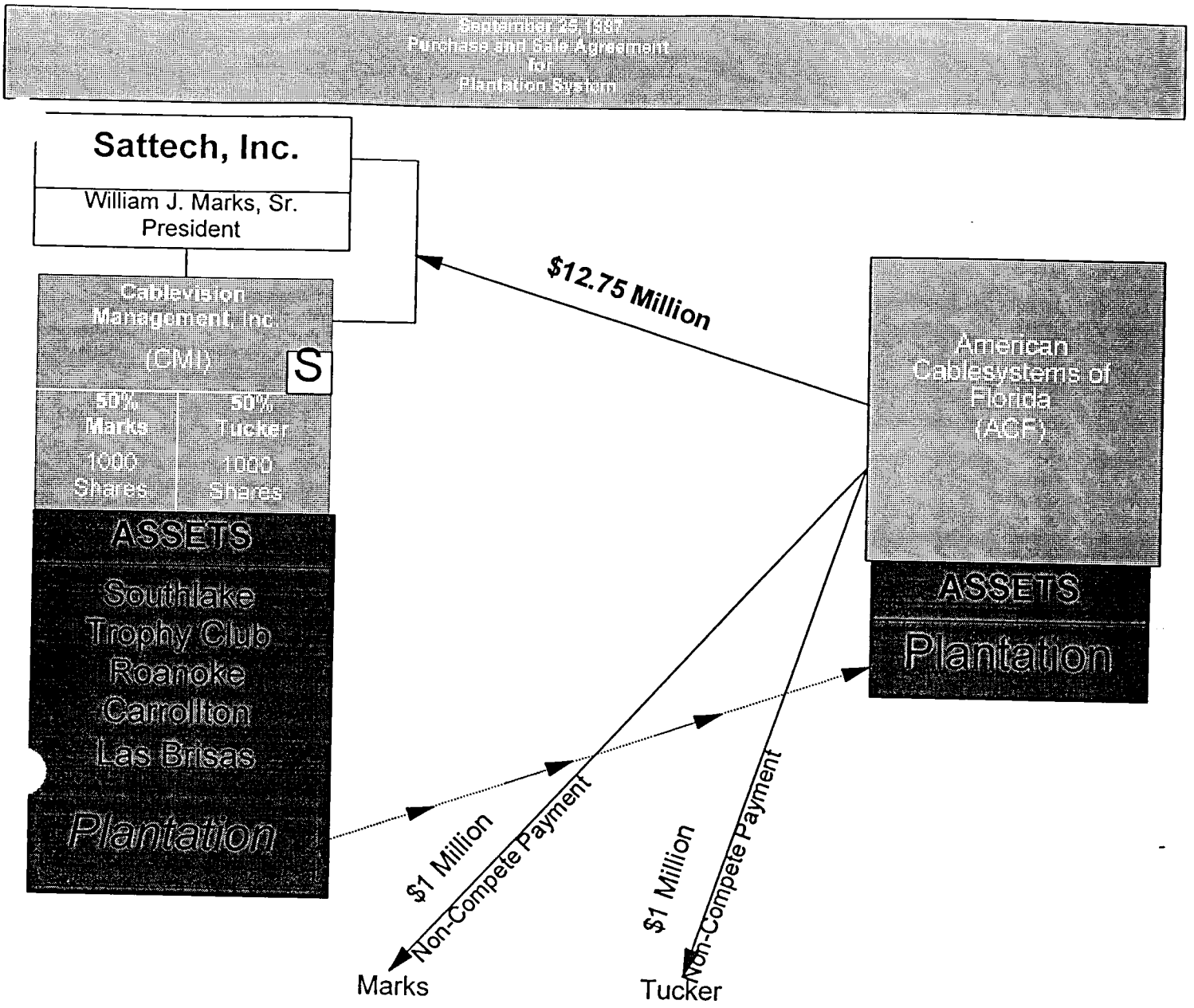


Figure 3



Tax Information

Assets		Non-Compete Income	
Sale Price:	$12,750,000		
Basis: (As calculated by Coopers & Lybrand)	$1,258,372	Marks:	$1,000,000
		Tucker:	$1,000,000
Gain:	$11,491,628		

Figure 4

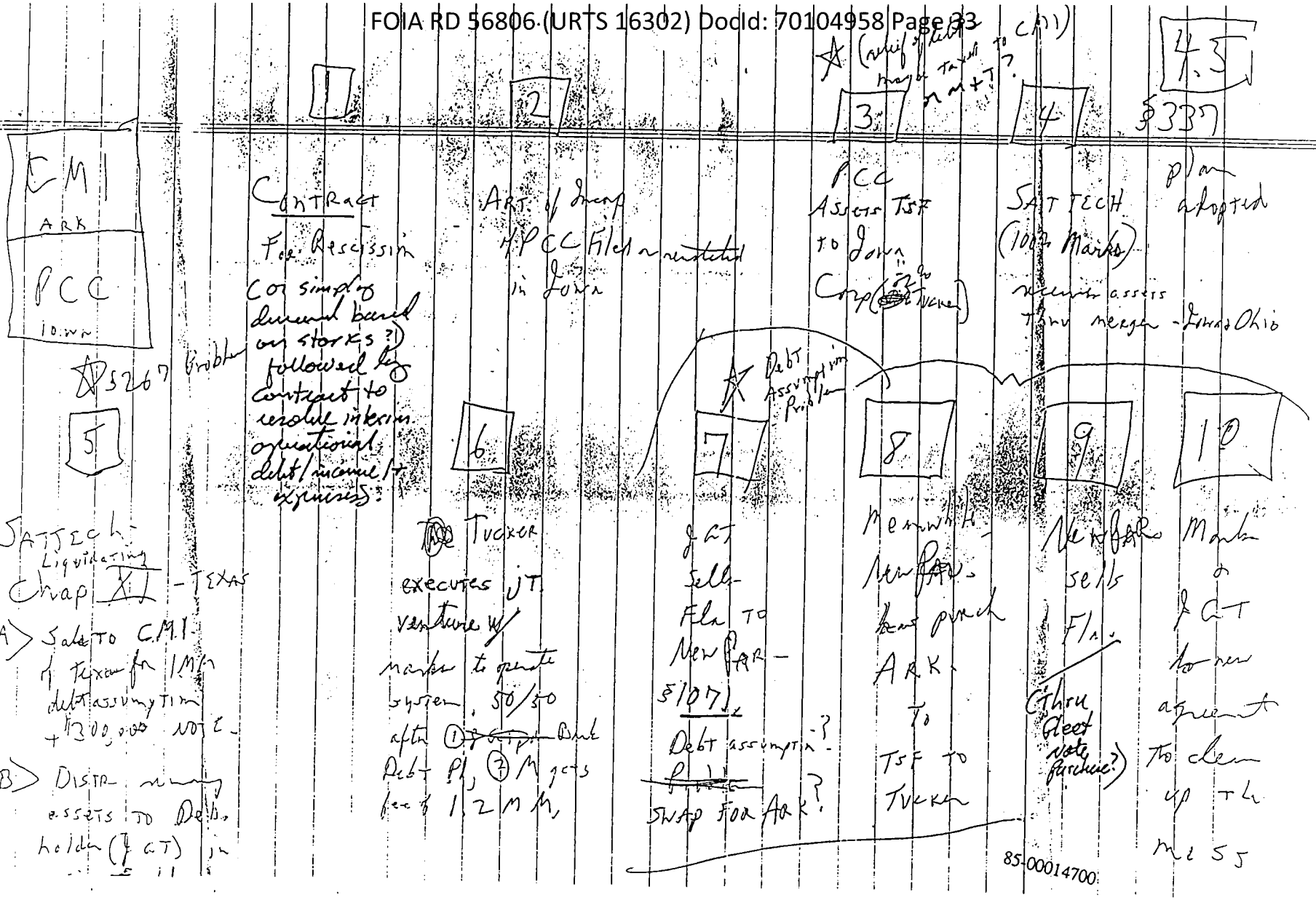

CMI
ARK
PCC
Town
$267 Proble
5
1
2
3
4
4.5
$337
plan adopted
CONTRACT
For Rescission
Consumer demand based on stocks?) followed by contract to resolve interim operational debt/income expenses?
ART of Incorp
PCC Filed restated in Town
PCC
Assets TSF to Town Corp (Tucker)
SATTECH
(100% Marks)
receive assets thru merger - Town & Ohio
6
7
8
9
10
SATTech
Liquidating
Chap XI - Texas
A> Sale TO C.M.I
1 Texan for 1M/s
debt assumption
+$300,000 NOTE
B> DISTR
assets TO Deb.
holder (1 CT) in
The Tucker
executes JT
Venture W/
market to create
system. 50/50
after (1) Chap. Bank
Debt Pl, (2) M gets
fee & 12M M,
Debt Assumption Problem
1 CT
Sell-
File TO
New PAR -
$107
Debt assumption -?
Plan
SWAP FOR ARK?
New PAR
New Par.
Texas purch
ARK
To
TSF TO
Tucker
Metro
sells
File
(Thru Fleet vote purchase?)
Metro
sells
1 CT
to new
agreement
To clean
up TL
M & S
85-00014700

Figure 5

After November 17, 1997
Rescission Agreement and Assignment

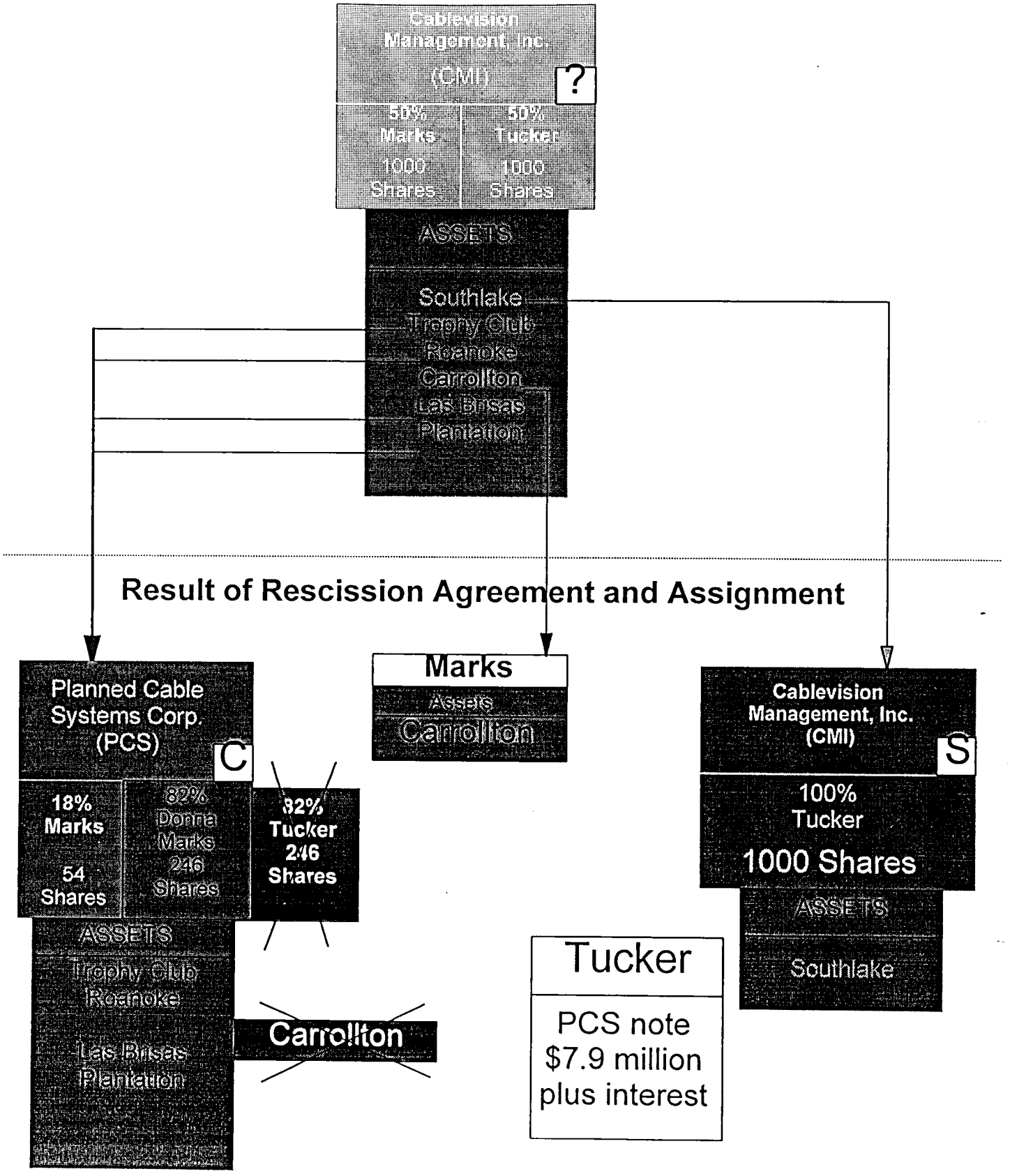
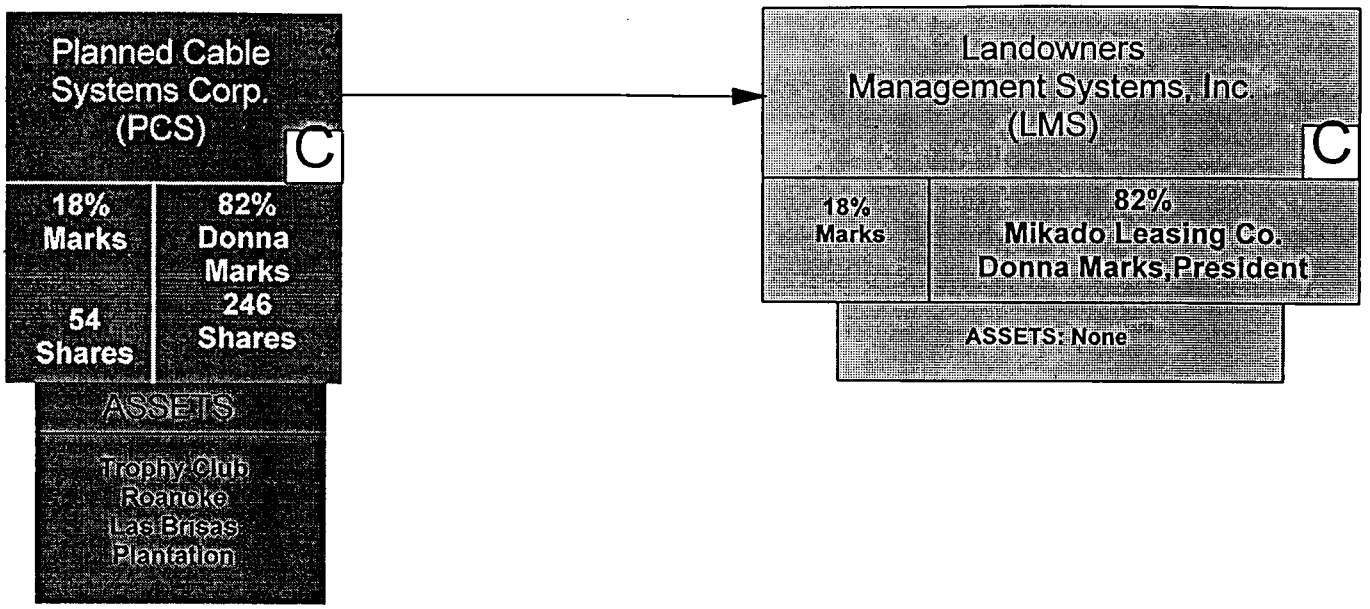


Figure 6

November 24, 1987
PCS/ LMS Merger

PCS/LMS Merger



Result of PCS/LMS Merger

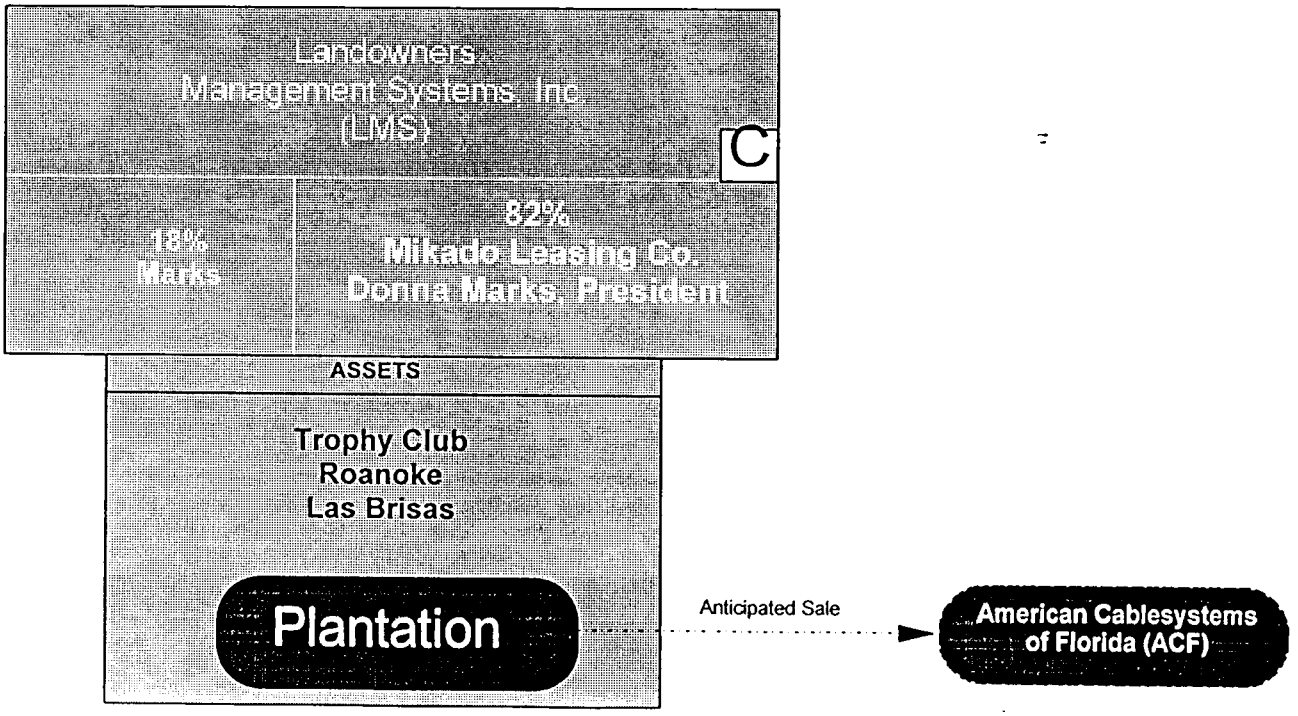
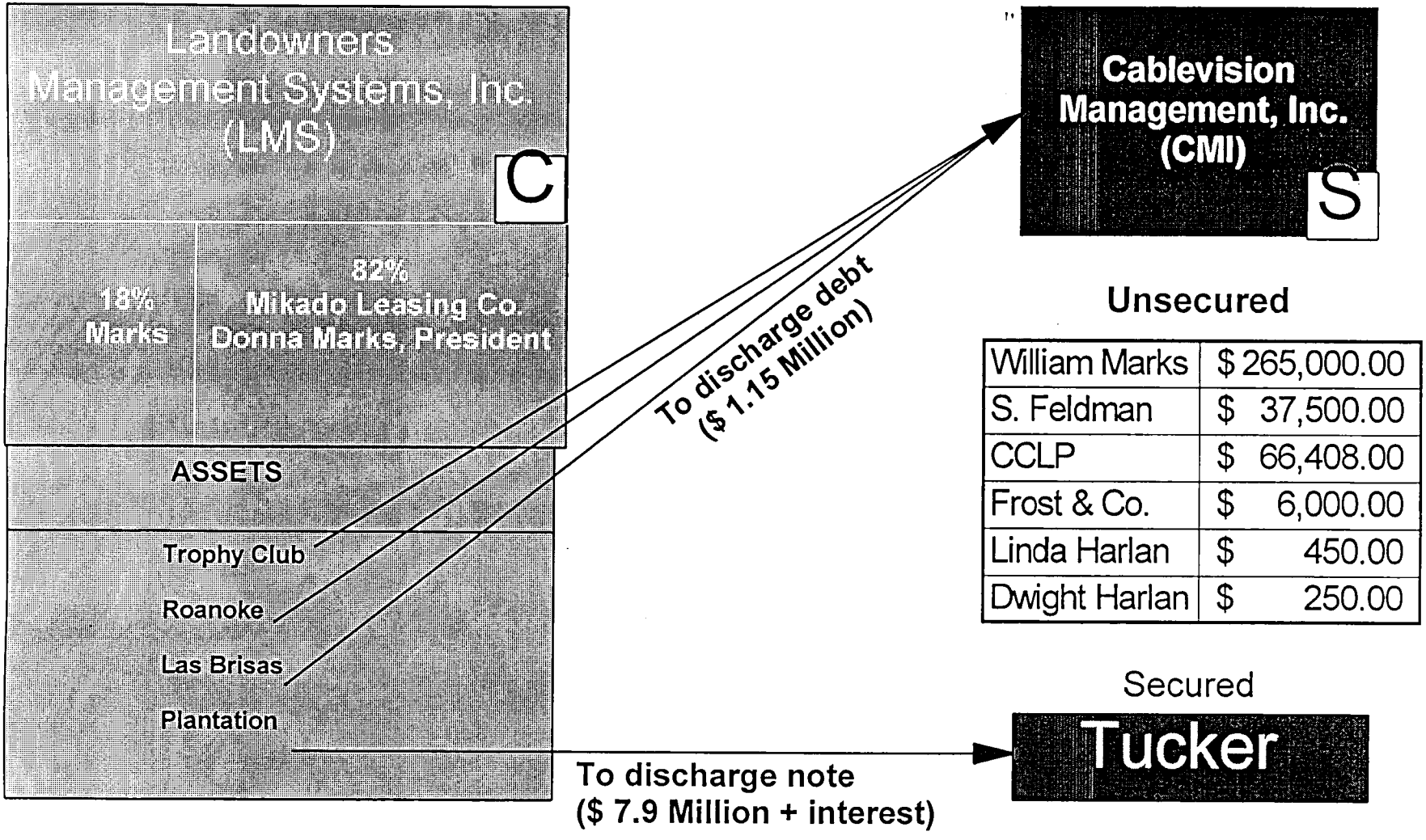


Figure 7

Landowners Management Systems, Inc.
Bankruptcy
Filed: November 30, 1987

DEBTOR

CREDITORS

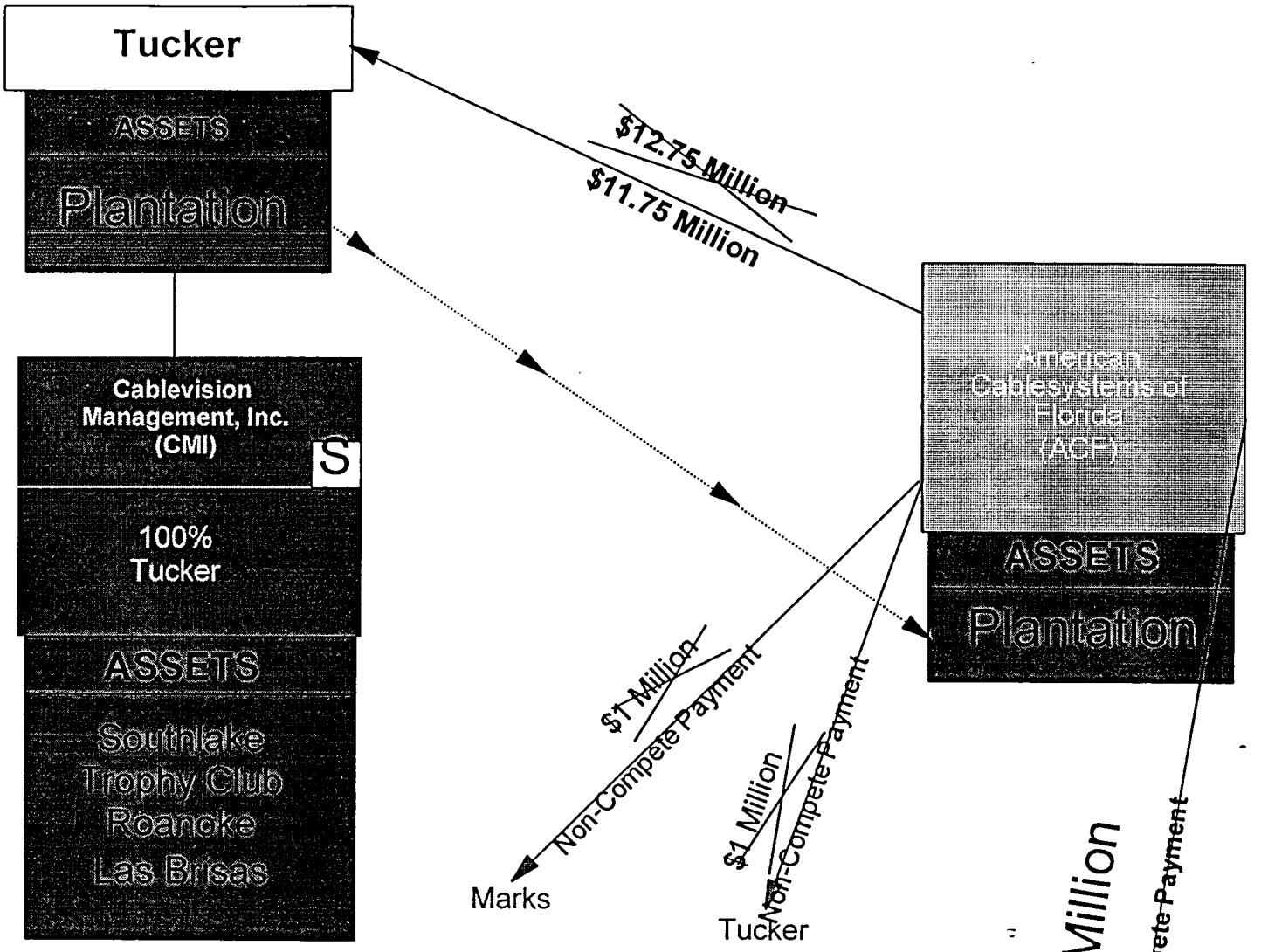


William Marks	$ 265,000.00
S. Feldman	$ 37,500.00
CCLP	$ 66,408.00
Frost & Co.	$ 6,000.00
Linda Harlan	$ 450.00
Dwight Harlan	$ 250.00

Figure 8

Confirmed: December 18, 1987

December 28, 1987
Purchase and Sale Agreement
for Plantation System



Tax Information

Assets		Non-Compete Income	
Sale Price:	$11,750,000	**1988**	
Basis: (As reported by Tucker on 1988 return)	$7,283,023	Received by Marks:	$2,000,000
		Reported by Marks:	$1,000,000
Gain: (As reported by Tucker on 1988 return)	$4,466,977	**1989**	
		Received by Marks:	$1,000,000
		Reported by Marks:	$ 500,000

Figure 9

February 29, 1988
Falcon Transaction

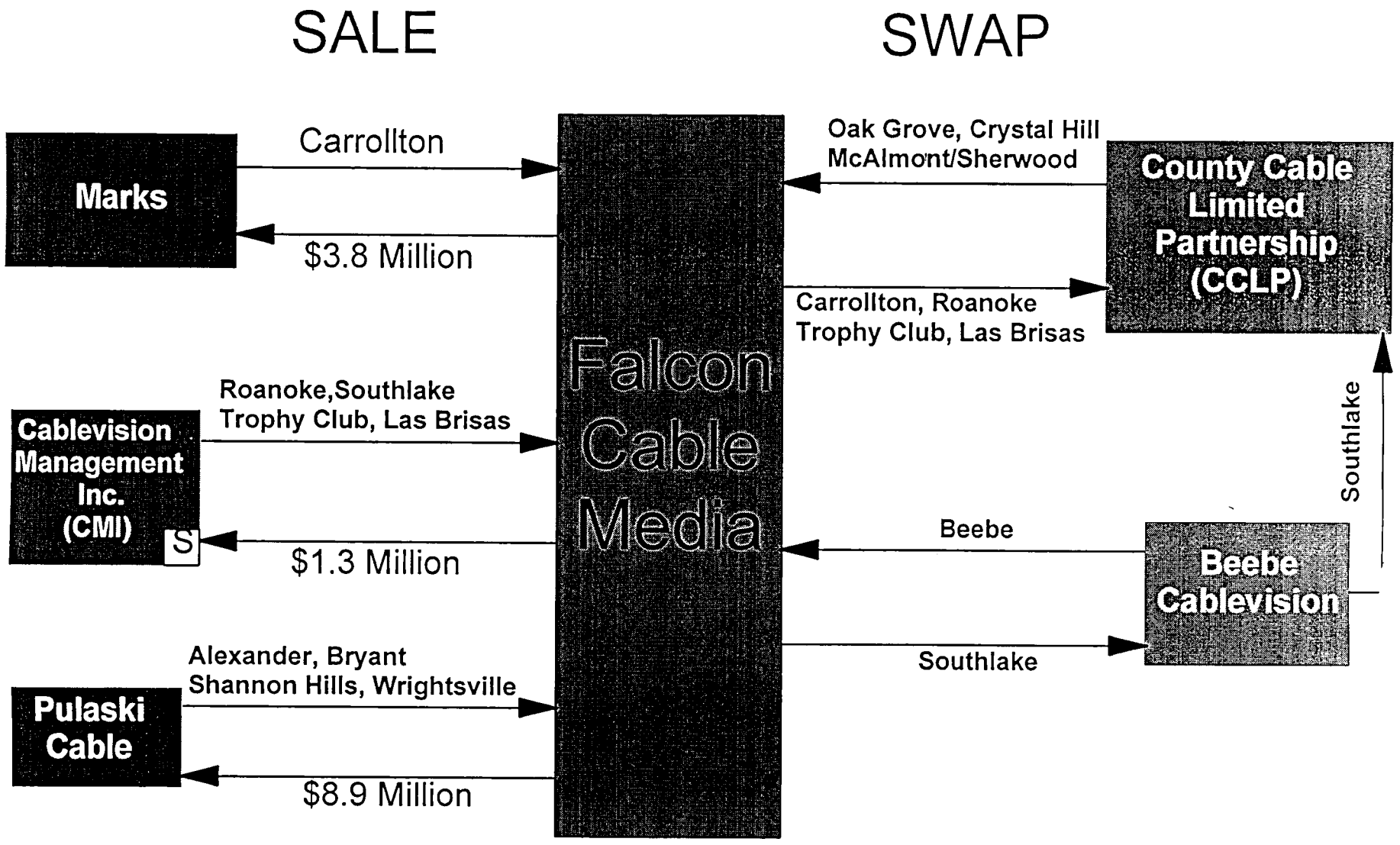
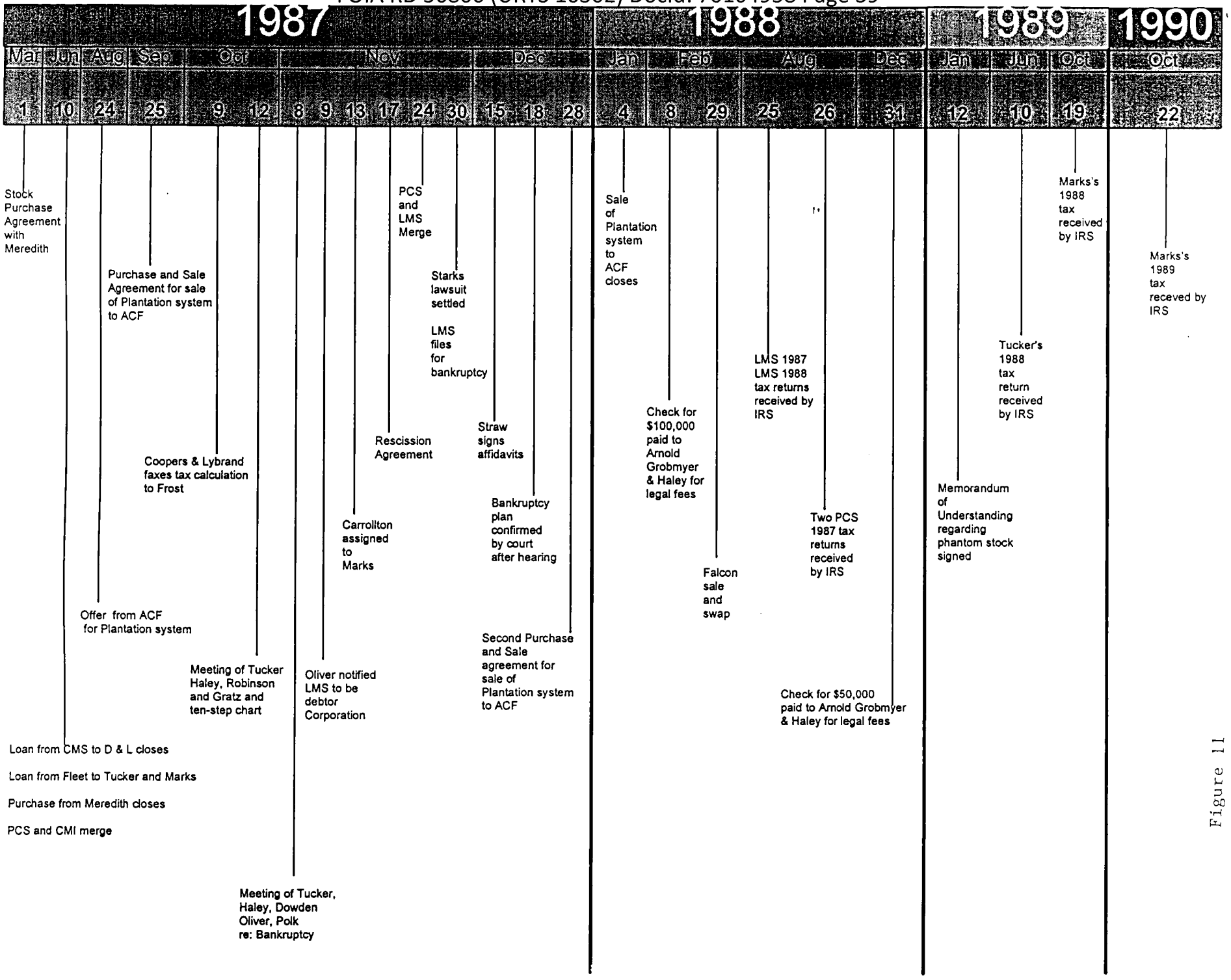


Figure 10


1987
1988
1989
1990
Mar
Jun
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Aug
Dec
Jan
Jun
Oct
Oct
1
10
24
25
9
12
8
9
13
17
24
30
15
18
28
4
8
29
25
26
31
12
10
19
22
Stock Purchase Agreement with Meredith
Loan from CMS to D & L closes
Loan from Fleet to Tucker and Marks
Purchase from Meredith closes
PCS and CMI merge
Purchase and Sale Agreement for sale of Plantation system to ACF
Offer from ACF for Plantation system
Coopers & Lybrand faxes tax calculation to Frost
Meeting of Tucker Haley, Robinson and Gratz and ten-step chart
Meeting of Tucker, Haley, Dowden Oliver, Polk re: Bankruptcy
Oliver notified LMS to be debtor Corporation
Carrollton assigned to Marks
Rescission Agreement
PCS and LMS Merge
Starks lawsuit settled
LMS files for bankruptcy
Straw signs affidavits
Bankruptcy plan confirmed by court after hearing
Second Purchase and Sale agreement for sale of Plantation system to ACF
Sale of Plantation system to ACF closes
Check for $100,000 paid to Arnold Grobmyer & Haley for legal fees
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LMS 1987 LMS 1988 tax returns received by IRS
Two PCS 1987 tax returns received by IRS
Check for $50,000 paid to Arnold Grobmyer & Haley for legal fees
Memorandum of Understanding regarding phantom stock signed
Tucker's 1988 tax return received by IRS
Marks's 1988 tax received by IRS
Marks's 1989 tax receved by IRS

Figure 11

III. STATEMENT OF THE EVIDENCE

A. Cablevision Management, Inc. and Jim Guy Tucker

Jim Guy Tucker is the Governor of Arkansas. According to a resume from 1987, Tucker graduated from Harvard in 1964 and the University of Arkansas Law School in 1968. He was a partner in the law firm of Mitchell, Williams, Selig, Jackson & Tucker, specializing in trial work, corporate matters, and real estate matters. Tucker served in the United States House of Representatives from 1977 to 1979. He was Arkansas Attorney General from 1973 to 1977, and he was the Prosecuting Attorney for the Sixth Judicial District of Arkansas from 1971 to 1973.[1]

Cablevision Management, Inc., (CMI) was incorporated in Arkansas by Jim Guy Tucker on May 13, 1985. The articles of incorporation state that the corporation would "engage in the business of providing management, billing, operational consulting and related services to cable television partnerships and companies, including service as a managing general partner of limited partnerships."[2] The articles further state that CMI would "buy, sell, lease, use, develop, mortgage, improve and otherwise deal in and dispose of all types of personal property in connection with the conduct of the business enterprise."[3] The articles authorized 300 shares of common stock,[4] and 300 shares were issued to Jim Guy Tucker on May 13, 1985.[5]

Tucker was active in the cable television business before May 1985. One of his principal ventures was with a man named Bill Cost. [redacted]

Although this information is not directly relevant to the investigation of events in 1987, it shows similar acts by Tucker that may be admissible pursuant to Federal Rule of Evidence 404(b). This information also provides a background to Tucker's involvement in the cable business.

[redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[1] 85-43862

[2] 199-174885

[3] 199-174855

[4] 199-174866

[5] 202-2545

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Cost hired an attorney from the Mitchell Law Firm named Chris Barrier to handle legal matters relating to CCI. Barrier asked Cost whether he would like a partner in the cable business. Cost replied that he would, because he was "dead broke" and needed someone to finance his ventures. Barrier suggested that Cost meet Jim Guy Tucker.

Cost received a telephone call from Tucker, and they arranged a meeting at Tucker's law offices. At that meeting, Tucker and Cost agreed on a 50/50 partnership in the cable business. Tucker told Cost that he would "start drawing up the papers." On August 29, 1983, Cost and Tucker signed a partnership agreement between County Cable, Inc., and Jim Guy Tucker. The new partnership, in which CCI and Tucker each had 50% shares, was named County Cable Limited Partnership (CCLP).[8]

Cost began to build the cable system near Maumelle, and Tucker began to try to raise money. Cost tried to borrow money from the Small Business Administration, but was rejected because of a personal bankruptcy in 1978. Tucker was upset because Cost had not disclosed to Tucker the bankruptcy, but told Cost not to worry about financing. Tucker said that he knew a man in Little Rock named David Hale, who had a Small Business Investment Corporation, and that Hale could possibly lend money to CCLP. Tucker arranged for Cost to meet Hale, and in September 1983, Cost obtained a $50,000 loan from Hale's SBIC, Capital Management Services, Inc. (CMS).

Tucker arranged for other bank loans needed by CCLP. Cost did not study the financing arrangements made by Tucker. He simply trusted Tucker on those matters. For example, Cost related one occasion when Tucker called him to a conference room where several financing contracts were laid out around a large table. Tucker introduced Cost to several lawyers and bankers in the room, and then directed Cost to "start right here," and sign the contracts. Cost signed the documents without understanding them. He emphasized that he believed that he could trust Tucker, who was former Attorney General of Arkansas and a distinguished attorney.

In 1985, Cost began to feel uncomfortable at CCLP. Cost and Tucker had purchased an existing CATV system in Shannon

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[6] 199-513

[7] GJ Exh. 623

[8] 199-4125

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Hills, Arkansas. The manager of this system, Dwight Harlan, continued to work for CCLP after the purchase. Because Harlan was an experienced manager, while Cost worked in construction, Cost sensed that his future role at CCLP would be limited. Cost was also disturbed by some of Tucker's business dealings, which he felt were not honest.

[redacted]

9 [redacted]

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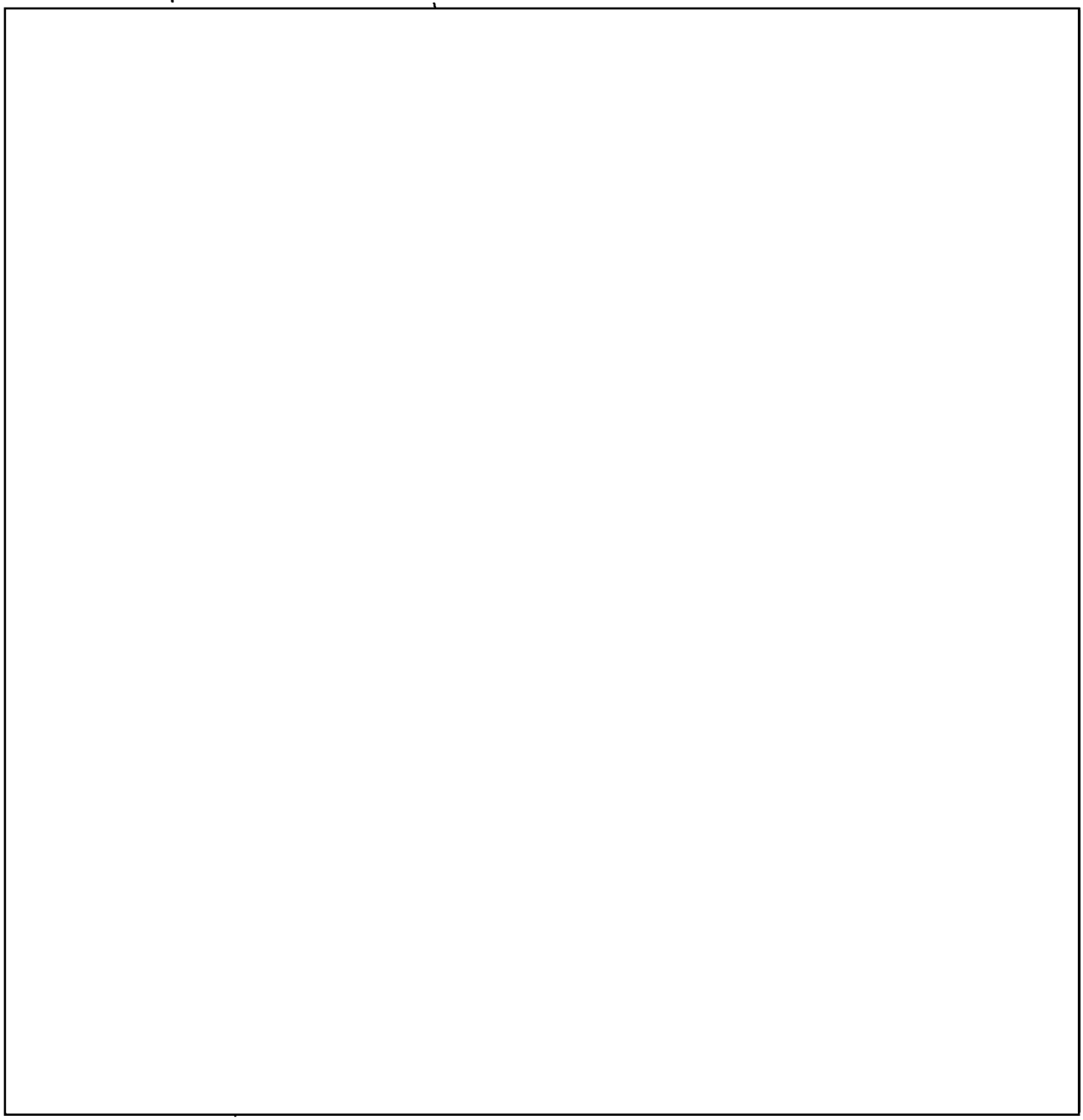
11

12 [redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Cost moved to Louisiana after he left Arkansas. He now lives in Houston, Texas. He has not worked for the last year, because he has had emotional problems. Cost said in an interview that he suffers from post traumatic stress disorder, which is related to child abuse that he suffered. He also has a bipolar disorder for which he takes medication. Cost told agents that he recently learned that he was adopted, and this caused many of his recent problems.

B. Planned Cable Systems Corporation and William J. Marks, Sr.

According to a biography from 1987, William Marks has worked in the cable television industry since 1968. A profile in "CATV Weekly" from August 1976 characterized Marks as "a zealous cableman if there ever was one."[18] Gene Fink of Gamco Industries was quoted as saying, "Wild Bill Marks is a real maverick. He's the type of guy who says and does exactly what he thinks is right, and you can take it or leave it." The 1987 biography says that he graduated from Akron University in 1965, and that he received a law degree from the Thomas Jefferson College of Law in 1980. He and his wife, Donna Marks, lived in Las Colinas, Texas.[19]

[redacted]

To formalize this financing arrangement, Meredith and PCS entered a Secured Loan Agreement on March 21, 1984.[21] This agreement consolidated previous and future lending into three notes: a Principal Note in the amount of $4,378,678.98; an Interest Note for the interest due on the Principal Note; and a Line of Credit Note covering future advances of up to $1,600,000. The Agreement was amended on April 5, 1984, to increase the Line of Credit Note to $1,772,000.[22]

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[18] 199-149050

[19] 85-43858

[20] [redacted]

[21] 269-1868

[22] 253-1331

Also on March 21, 1984, Meredith and PCS entered into a Security Agreement to establish collateral for the secured loans of that date.[23] In the Security Agreement, PCS granted Meredith a continuing security interest in all PCS assets then existing or thereafter acquired. This Security Agreement appears in later transactions that are important to the tax fraud investigation.

On October 10, 1984, Meredith and PCS entered into a Shareholder's Agreement that altered the ownership of PCS.[24] As a result of the agreement, Meredith owned 246 shares of PCS, and Marks owned 54 shares of PCS. Meredith owned 82% of the PCS stock, and Marks owned 18%.

Also on October 10, 1984, Meredith and PCS entered into a Loan Amendment Agreement that amended the March 21 secured loan agreement.[25] The Loan Amendment Agreement provided that the total debt under the notes of March 21 was $7,906,888.48. PCS executed an Income Note for that amount, which represented the aggregate amount owed by PCS to Meredith.[26] Subsequent events relating to this Income Note are critical to the tax fraud investigation.

The Loan Amendment Agreement also provided that the Security Agreement of March 21 applied to the new Income Note. In other words, the October 10 note for $7.9 million continued to be secured by all of the assets of PCS -- i.e., the cable systems owned by the company.

[redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[23] 253-1147

[24] 269-1063

[25] 253-1333

[26] 253-1267

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[redacted]

C. The Meeting of Tucker and Marks

Dwight Harlan was interviewed by agents on December 28, 1994. Harlan explained that he introduced Tucker and Marks in 1986 or 1987. Harlan said that he worked as general manager of CCLP in Mabelvale, Arkansas, from 1984 to 1988. Around 1986, Harlan worked to obtain a cable franchise for CCLP in Southlake, Texas. In 1986 or 1987, Tucker expressed an interest in selling the Southlake franchise.

Before moving to Arkansas, Harlan had worked as construction manager and general manager for Planned Cable Systems Corporation in Trophy Club, Texas. During that time, Harlan met Bill Marks, who was a shareholder of PCS. Harlan kept in touch with Marks after Harlan moved to Arkansas. Marks continued to work with PCS in Texas, and PCS operated cable systems near Southlake.

When Tucker stated that he wanted to sell the Southlake franchise, Harlan recalled that Marks had expressed an interest in purchasing that system. Harlan set up a meeting in Texas between Tucker and Marks in 1986 or 1987.

A "Rescission Agreement" dated November 1987 and signed by Tucker and Marks was produced to OIC by Tucker. It provides the following account of the initial Tucker-Marks meeting: Tucker and Marks met near Dallas on January 13, 1987. Tucker wanted to sell the Southlake system to PCS. Marks explained that Meredith Corporation, which owned 82% of PCS, wanted to sell its interest in PCS. Thus, Marks told Tucker that PCS would not buy Southlake, but that Tucker should consider buying Meredith's interest in PCS.[28]

[redacted]

[27] [redacted]

[28] 199-222039

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

D. The Tucker-Meredith Stock Purchase Agreement

Shortly thereafter, on March 1, 1987, Tucker and Meredith entered into a Stock Purchase Agreement.[29] Subject to a price adjustment described below, Meredith agreed to sell Tucker 246 shares of PCS and the Income Note for $7.9 million in exchange for $6 million. The agreement provided, inter alia, that PCS "shall have valid and binding cable television franchise agreements for the cities of Plantation, Florida; [and] Carrollton and Roanoke, Texas."[30] The closing date for the transaction was set for on or before May 8, 1987.

The agreement further provided that "[t]he purchase prices shall be increased by an amount equal to the sum of any funds advanced by seller between the date of this contract and the closing date . . . and used by [PCS] in connection with the construction or operation of a cable television system in the City of Carrollton, Texas."[31] The increase was not to exceed $500,000 plus interest. Straw explained that the purchase price adjustment was included so that Meredith would be reimbursed by Tucker for any monies spent by Meredith on construction at Carrollton between the date of the purchase agreement and the date of the closing.

[redacted]

Straw said that Marks' action in Carrollton put him in a difficult position. He was trying to sell Meredith's interest in the system, and he was thus not in a position to ask his superiors to inject more money into PCS for Carrollton. On the

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[29] 85-44181

[30] 85-44186

[31] 85-44182

[32] [redacted]

[33]

[34] GJ Exh. 588

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted]

Accordingly, two promissory notes were issued. One note evidenced a loan from Meredith to Marks for $500,000, and included a restriction that the proceeds be spent solely in connection with construction of a CATV system in Carrollton.[38] The second note said that PCS promised to pay Marks $500,000.[39]

[redacted]

E. Tucker and Marks: Joint Venture Planning

The evidence shows that contemporaneous with the Stock Purchase Agreement, Tucker and Marks planned to combine their cable television interests into some sort of joint venture. [redacted]

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[35] [redacted]

[36] Id.

[37] [redacted]

[38] 269-1899

[39] 269-1902

[40] [redacted]

[41] 672-41; [redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Tucker and Marks declared in an "Assignment" dated March 1 that "Tucker has entered into the Purchase Agreement in contemplation of Tucker and Marks combining the operation and control of the assets of [PCS] and the assets of CCLP into a joint venture or other entity equally controlled by Marks and Tucker," which venture they referred to as "Newco."[42] On March 6, Tucker and Marks signed an "Agreement" that CMI would be the initial entity that would own and control PCS, and that Marks and Tucker should each initially own 50% of CMI.[43] To reach that 50/50 ownership, the parties agreed that CMI would issue 600 shares of stock to Marks in exchange for his 54 shares of PCS, and that Tucker would also have 600 shares.[44] They also agreed to seek a loan of $19 million, on or before June 1, 1987, that would allow them to pay Tucker's obligation of $6 million to Meredith, and Marks' note to Meredith in the amount of $500,000 -- the "proceeds of which were loaned to PCS by Marks for construction of a cable television system in the City of Carrollton."[45]

F. Tax Concerns in Spring 1987

The evidence shows that in March 1987, Tucker began to seek tax advice concerning the reorganization of PCS and CMI, and the sale of assets belonging to PCS. On March 30, 1987, Tucker wrote a memorandum to Richard Williams, a senior tax partner at the Mitchell Law Firm. Tucker explained his pending purchase of the PCS stock and note from Meredith for $6 million. He stated that "[m]anagement of CMI believes that the assets of PCS have a market value of $11.5 million to $12 million."[46]

Tucker told Williams that management of CMI had two concerns: (1) "They wish to retain sub-chapter S status for CMI; and (2) They wish to avoid, if possible a gain on resale measured by the present book value of the CMI assets rather than measured by the purchase price of the stock." The latter was a concern because the book value, or the adjusted basis, of the assets

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[42] 672-138

[43] 672-161

[44] 672-155

[45] 672-163

[46] 85-44179

purchased from PCS was lower than the $6 million purchase price for the stock and note from Meredith. Thus, the taxable gain on a resale of former PCS assets would be lower if the basis were measured by the price of the stock. Accountants later advised Tucker that because he bought the stock of PCS and not just the cable assets, the basis must be measured by the book value of the assets.

By memorandum dated April 17, 1987, Williams advised Tucker and Marks that based on a Revenue Ruling by the IRS, he believed CMI could maintain its subchapter S status after the reorganization, even though PCS (a C corporation) would be merged into CMI. Williams did not address in his memorandum the issue of how to measure the gain on resale of the CMI/PCS assets. In an interview, Williams said that he thought that problem had been resolved, but he could not recall how.

G. Fund-raising for the Meredith Purchase

To raise money for their new venture, Tucker and Marks engaged Waller Capital Corporation to prepare a Debt Placement Memorandum. In an interview, Richard Patterson, vice president to Waller, stated that in early 1987, he received a phone call from Jim Guy Tucker "out of the blue." Tucker told Patterson about his plan to buy Meredith's interest in PCS. Patterson also recalls that he was told, probably by Tucker, that another Florida cable company wanted to buy the PCS system in Plantation, Florida. Patterson said that he recognized immediately that Tucker had arranged a good deal, because the market value of the PCS systems was several million dollars greater than the $6 million price asked by Meredith. Patterson also met Marks during his work on this project. He understood that Tucker and Marks had an agreement to divide equally their collective cable interests.

Tucker provided Patterson with a document entitled "Management Strategy," which described the cable systems owned by PCS and CCLP.[47] The document described the Arkansas systems owned by CCLP, which were in Beebe, West Pulaski, McAlmont and the southeast Pulaski/Northwest Saline areas. The Management Strategy listed PCS systems in Florida (Plantation) and Texas (Trophy Club, Roanoke, Southlake, and Carrollton). The Southlake system was owned by CCLP at the time, but CMI planned to buy it at the time of the closing of the Meredith sale to Tucker.

Part IV of the Management Strategy provided to Patterson by Tucker was entitled "Asset Sale Opportunities." That part stated: "The Plantation system has a present market value of over $10 million. That market value can be increased to

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[47] 287-55

$12 million or more in the next year. At that point, the company should consider the relative value of continuing to hold the Plantation system or selling it to pay off company debt and focus on joint venture opportunities."[48] In separate letter to Steve Hansen dated April 23, 1987, Tucker wrote that "[t]he PCS assets with Southlake will have a value of $13.4 million at the closing (Plantation $9.5; Trophy Club, Roanoke, $2.1; Carrollton $1.; Southlake $.8)."[49]

Based on the Management Strategy and financial statements provided by Tucker, Patterson prepared a two-volume Debt Placement Memorandum. In that document, Patterson emphasized that "PCS is being acquired at a below market price. The value of the Plantation system alone exceeds the price being paid for PCS."[50] The Memorandum concluded that the market value of the PCS assets exceeded the Meredith sale price by about $3.5 million.[51] The Memorandum also included the statement that the market value of the Plantation system was over $10 million and could be increased to $12 million in the next year.[52] Throughout the Debt Placement Memorandum, in both the text and accompanying financial statements, the Carrollton system is identified as one of the PCS cable systems.[53]

We have also obtained from Michael Starks, former business manager of PCS, an "office copy" of an undated Strategic Plan for PCS that was prepared at about this time. In interviews, Starks stated that Bill Marks prepared this document after Marks and Tucker agreed to their joint venture. The Strategic Plan includes the Carrollton system in all listings of the PCS systems.[54] The Plan also recounts that representatives of a competitor in Plantation, Florida, "have often tried to buy Planned Cable."

The Strategic Plan does not state a market value of the PCS/CMI assets. Starks told interviewers, however, that he and Marks were overjoyed when the Tucker/Meredith transaction was finalized, because they knew the fair market value of the systems

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[48] 287-77

[49] 199-145292

[50] 85-43803; 287-316

[51] 85-43801

[52] 85-43854

[53] 85-43801, 43831, 43857

[54] 288-37,39,41,69,74,79,84,105,106,107.

was considerably more than the sale price agreed to by Meredith. In February 1985, Starks had reached a written agreement with Marks in which Marks agreed to convey to Starks one-sixth of Marks' shares in PCS. After Marks learned that Meredith would sell its 82% of the PCS stock to Tucker for $6 million, he told Starks, "you are now a millionaire."

There is evidence that Tucker and Marks adopted the statements in the Debt Placement Memorandum prepared by Waller. On April 23, 1987, Tucker sent a copy of the Debt Placement Memorandum to Diane Kaufman of MONY in New York in an effort to obtain funding for CMI/PCS.[55] The letter shows that a copy was sent to Marks. On April 28, 1987, a vice president of First American Bank in Little Rock wrote to Tucker and returned to him the Debt Placement Memorandum.[56] On that same date, Tucker wrote to Steven Hansen and said that Hansen had been provided with a copy of the Debt Placement Memorandum the previous day.[57] On May 13, 1987, Tucker sent a copy to Elizabeth Munnell, attorney for Fleet National Bank, and explained that Volume I contained a "helpful introduction, use of proceeds, and prose description of the companies and their strategy."[58] Again, Tucker sent a copy of the letter to Marks.

H. Initial Arrangements with Fleet National Bank

In May 1987, Tucker and Marks successfully arranged a loan from Fleet National Bank in Providence, Rhode Island and State Street Bank & Trust (SSB) in Boston. Fleet was the lead lender and the agent for SSB. By letter dated May 4, 1987, Colin Clapton, Senior Vice President of Fleet, stated that Fleet would be willing to commit $8.5 million to CMI.[59] Clapton said that the loan would have to be secured by a first lien on the assets of PCS, Tucker's 50% equity interest in CCLP, personal guaranties of Tucker and Marks, and a $500,000 cash collateral account. As discussed below, the loan was ultimately made to Tucker and Marks personally, rather than to CMI.

On May 13, 1987, Tucker sent a detailed memorandum to Munnell, counsel for Fleet.[60] Tucker explained that

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[55] 287-977

[56] 199-148954

[57] 199-145292

[58] 287-174

[59] 199-90767

[60] 287-162

simultaneous with the closing of the loan from Fleet and the purchase of the PCS stock and note from Meredith, he and Marks would also complete a merger of CMI and PCS. Tucker wrote that the right to purchase Meredith's 82% of the PCS stock would be assigned from Tucker to CMI. Marks would contribute his 18% of PCS stock to CMI in exchange for $200,000 plus shares of CMI. The Income Note for $7.9 million "will be negotiated to Tucker and Marks at the Closing and then subordinated to and assigned to Lender as additional collateral."[61] Tucker also wrote that "we presently expect the [Income Note] to be left in place but subordinated to the Fleet loan and assigned to Fleet as additional collateral."[62]

Tucker explained that some loan proceeds would be used to pay the $500,000 advanced by Meredith for construction at Carrollton. He wrote that "[a]t the time of Tucker's purchase from Meredith, Marks, through PCS, was anxious to begin construction of the Carrollton system. Thus, Meredith loaned Marks $500,000 for the purpose of Marks' lending the $500,000 to PCS for the Carrollton construction."[63]

Tucker and Marks also made efforts to locate money for the $500,000 cash collateral account required by Fleet. As described below, a majority of this money eventually was obtained through a loan from Capital Management Services, Inc., to a company called D&L Telecommunications, Inc. In the May 13 memo to Munnell, however, Tucker wrote that "CMI will also post additional cash collateral of $500,000. Those funds are being arranged now."[64]

We also obtained from Tucker a letter dated May 14, 1987, from Marks to Wayne Spencer of Equitable Bank in Dallas, Texas. The letter stated that "Fleet wants Jim Guy and myself to contribute $500,000 in working capital until such time that we bring in new equity into our company, which is to be done almost immediately after closing the loan."[65] The Marks letter proposed to borrow the $500,000 from Equitable Bank. The letter states further that "PCS has had an offer to sell just our Plantation, Florida system for 9.5 million dollars. So, as you can see, with what we have going, it sure gives one a comfortable feeling about the cable television business." The letter

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[61] 287-164

[62] 287-166

[63] 287-165

[64] 287-170

[65] 199-90750

reflects that a copy was sent to Tucker.

I. The D&L Telecommunications Loan from David Hale and CMS

The Fleet requirement of a $500,000 cash collateral account was eventually funded from two sources. Marks funded $200,000 with money that he received from CMI in exchange for his contribution of 54 shares of PCS to the capital of CMI. The other $300,000 was funded by a loan from Capital Management Services to D&L Telecommunications. That loan has been a focus of our investigation.

In 1987, D&L Telecommunications, Inc., was a Florida corporation in the business of constructing cable television systems. It was owned 50 percent by Donald Smith and 50 percent by William Marks. Smith was the president and controlling shareholder of D&L. In a stockholders agreement dated August 29, 1983, Marks granted Smith all voting rights that Marks had in 10 shares of D&L "for the express purpose of granting to Donald Smith a majority and controlling voting interest in and for all shares of stock" of D&L.[66] On the same date, Marks appointed Smith irrevocably as his proxy with full power to vote 10 shares of D&L stock.[67] This arrangement was reaffirmed in an addendum to the stockholders agreement dated June 27, 1985.[68]

In interviews, David Hale, former president of Capital Management Services, said that Tucker approached him in June 1987 about obtaining a loan from CMS to D&L Telecommunications, Inc. Hale had never heard of D&L, but he had a close relationship with Tucker, and was willing to loan to any company affiliated with Tucker. Tucker told Hale that Fleet National Bank was going to give major financing to a joint venture that Tucker had with Marks, but that Fleet required an additional capital contribution before it would make the deal. Tucker told Hale that Marks was the president of D&L.

Tucker did not tell Hale very much about D&L or the use of the loan proceeds. Tucker did say that he would need the money only for a short period of time. Tucker said that he was going to make a lot of money from the sale of a Florida cable system; Hale recalls a figure of about $10 million.

Hale funded the D&L loan within a few days of Tucker's request. Tucker had not sent Hale any loan documents before the loan was funded. Rather than have the $300,000 wired directly to

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[66] 449-331

[67] 449-304

[68] 449-389

the Fleet escrow account, Tucker arranged for D&L to assume certain outstanding loans from CMS to Tucker's cable company, CMI. Hale had several conversations with Betty Tucker to determine the total amount outstanding, and determined that it was approximately $244,000.

After he obtained this figure, Hale authorized a wire transfer of the difference between $300,000 and $244,000, i.e., $56,000, to Fleet National Bank from Pulaski Bank & Trust on June 5, 1987. Tucker arranged for the CMI loans of $244,000 to be paid off by a separate Fleet loan to CCLP that was obtained on June 10, 1987. Tucker then directed that Fleet send the $244,000 directly to the $500,000 cash collateral account that secured the $8.5 million loan.[69] CMS assumed this amount as part of the loan to D&L, for a total of $300,000.

We have obtained from both the SBA and Tucker a letter dated June 4, 1987, from Tucker to Hale. In that letter, Tucker wrote that "D & L is a construction company engaged primarily in underground cable and electrical utility construction." He wrote that Marks "is a principal owner of D&L and a 50% owner and President of Cablevision Management, Inc. ('CMI')." Tucker further stated that "D&L is beginning business in Arkansas and will be doing extensive work for CMI in underground cable construction, especially in west Pulaski County."[70]

With his letter of June 4, Tucker enclosed financial statements for D&L, and a promissory note for $300,000 from Tucker, Marks, and Betty Tucker to CMS. Marks signed the note as President of D&L. Betty Tucker signed as Secretary of D&L.[71]

On August 5, 1987, Tucker sent to Hale originals of loan documents called a "Size Status Declaration" and an "Assurance of Compliance" by D&L.[72] A copy of a cover letter was sent to William Marks. Hale said that he had given Tucker blank forms and waited for him to return them. Hale stated that parts of the Size Status Declaration were completed by Tucker because Hale had no information about D&L other than its name.[73] Tucker wrote that D&L's address was in care of Cablevision Management, Inc., in Little Rock. William J. Marks signed both

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[69] 85-14675; 83-1713.

[70] E-365;83-1714

[71] E-28,356,1716

[72] E-366;83-1709

[73] E-370

forms as President of D&L.[74]

Hale wrote to the SBA on October 9, 1987, and sent an SBA Form 1031, or "Portfolio Financing Report," concerning the D&L loan.[75] In his cover letter, Hale said that the loan had taken a long time to close because of the speed at which CMI was growing. Hale said in his letter to the SBA that D&L was owned by CMI. In interviews, Hale said that this statement was based on knowledge that he obtained from Tucker. Hale believed that D&L was controlled by Tucker, and he thought of D&L and CMI as the same entity. According to Don Smith, president of D&L, his company was never affiliated with CMI.

The Portfolio Financing Report, which was signed by Hale, stated that the proceeds of the D&L loan would be used for "Working Capital."[76] In interviews, Hale said that working capital could be used for anything but the purchase of permanent assets like real property. Hale also said that the proceeds of a loan for working capital could not be used to secure a loan to a third party. Hale explained that a loan to secure another loan is the equivalent of a loan to a third party, and both types of loans were prohibited by SBA regulations. Hale said that Tucker never told him that the D&L loan would be used to secure a personal loan to Tucker and Marks.

Hale also identified a schedule of loans made by CMS between March 1, 1987 and June 30, 1988, which Hale prepared annually for the SBA.[77] This form reports that William Marks was President, Director, and Shareholder of D&L, and that Betty Tucker was Secretary, Director, and Shareholder of D&L. The form also states that Marks and Betty Tucker each owned 50% of D&L. Hale said in interviews that he always called the loan holder to verify ownership before completing his financing schedule. Hale said that the information about the ownership of D&L came from either Jim Guy or Betty Tucker.

Hale said that his listing of Marks and Betty Tucker as owners does not necessarily mean that they owned the company. Hale may have reported this information to get the D&L loan information past the SBA regulators. Hale did not list Jim Guy Tucker as an owner of D&L, because Tucker had other loans from CMS, and Hale and Tucker were concerned that Tucker may have been near the limit for loans that CMS could make to entities

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[74] E-369,370;83-1710,1712

[75] E-367,368

[76] E-367

[77] E-1706

controlled by a single individual.

[redacted]

We obtained from Tucker three documents relating to Don Smith and the D&L loan. An American Express card receipt for cardmember "Tucker" shows a rental from Hertz Rental Car in Fort Lauderdale, Florida, from August 2 through August 4, 1987.[79] A billing record from the Mitchell Law Firm, where Tucker was a partner in 1987, lists work done for CMI in August 1987. That record reflects the following entry on August 4, 1987: "Conference with Mr. Don Smith re P&L Loan."[80] This "conference" with Don Smith is the day before Tucker sent loan documents to Hale on August 5, 1987.

Finally, Tucker produced a letter dated August 7, 1987, from William J. Marks, Sr., to Don Smith.[81] The letter bears the initials of Tucker's secretary Michelle Forbess, and it reflects a carbon copy to Jim Guy Tucker. Forbess said in an interview that she typed the letter at Tucker's request while Marks was in the office. She explained that the phrase "cc: Jim Guy Tucker" was added later on a white strip of sticker. This was done because the letter was signed before the "cc" was needed. Tucker asked to have a copy after the letter was signed, and instead of retyping the letter and obtaining a new signature, Forbess used the white sticker.

The August 7 letter from Marks to Smith states that "[y]ou and I are the sole shareholders of D & L Telecommunications, Inc." It then says that the letter is "to confirm our agreement as stockholders" of statements contained in four numbered paragraphs. First, Marks and Betty Tucker are

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[78] [redacted]

[79] 199-127005

[80] 199-102858

[81] 83-1708

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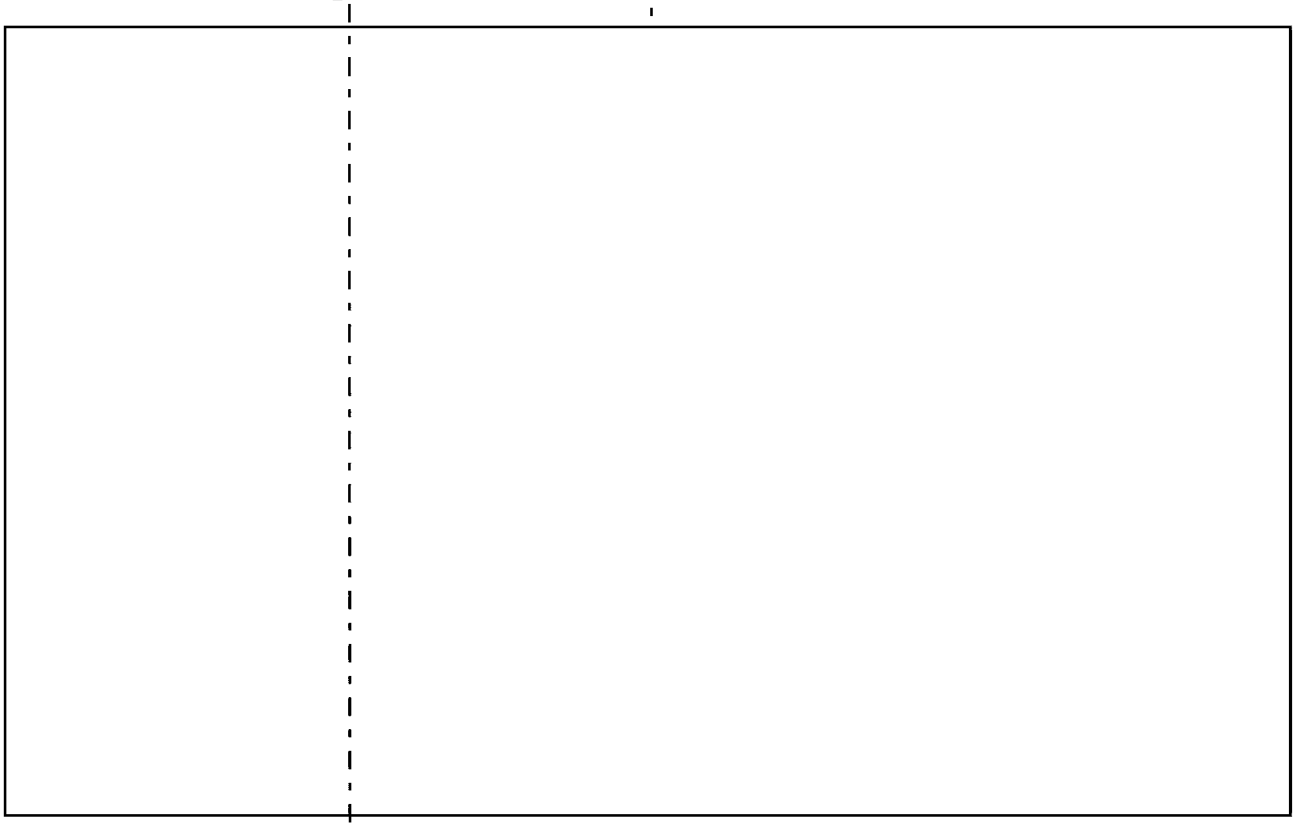
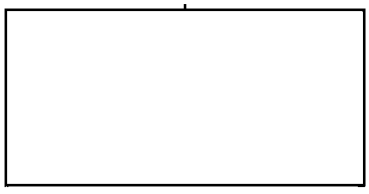
authorized "to have acted and signed as President and Secretary of D&L for the purpose of securing a $300,000 loan from Capital Management Services, Inc." Second, Marks and Tucker will indemnify D&L from any loss on the loan. Third, "D&L will apply for authority to do business in Arkansas and be available for cable construction in Arkansas for CMI as soon as possible." Fourth, "[p]rior to the company's entering into the proposed $800,000 acquisition, you have discussed with me you will give me an opportunity to review the documents and details of the acquisition." The letter appears to be signed by Marks, although attorney Cam Zachry has raised a question whether Marks signed a document relating to D&L.



The D&L loan was repaid on January 5, 1988, immediately after the sale of one of the cable systems that will be discussed below. On that date, Tucker wrote a check from his account at First Commercial Bank to a joint account held by Tucker and Marks at the same bank.[85] Marks wired $150,000 from an account a

82 

83

84

85 444-566

First Republic Bank to the Tucker/Marks account.[86] A check for $300,000 was issued from the Tucker/Marks account to CMS.[87]

[redacted]

We have obtained one other document regarding D&L that may bear on the loan. Attorney Bob Blumenthal of Dallas produced several documents that he received from Tucker's paralegal, Cynthia Wolfe Barnett, in November 1987. The documents came with a cover letter that said it enclosed "all documents relating to the Planned Cable/Cablevision Management Merger."[90] Blumenthal represented Marks at that time.

One of the documents produced by Blumenthal was an unsigned "Memorandum of Understanding and Intentions" between Tucker and Marks dated February 1987. The Memorandum outlined a prospective joint venture of Tucker and Marks. One paragraph stated:

> Marks owns 50% of D&L Telecommunications, Inc. a cable television construction company ("D&L"). Marks will either divert [sic] himself of ownership in D&L, sell one-half of his interest to D&L to Tucker, or sell 100% of his interest in D&L to CMI. Marks and Tucker recognize and acknowledge that D&L . . .[91]

The sentence concerning D&L is not completed. We have found no other evidence that Tucker or CMI planned to acquire an interest in D&L, and neither did acquire such an interest.

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[86] 442-541

[87] 199-74632

[88] 449-400

[89] [redacted]

[90] 893-798

[91] 893-799

J. The Closing on June 10, 1987

June 10, 1987, is an important date in this investigation. Three major transactions closed on that date. First, Tucker and Marks closed their loan from Fleet National Bank and State Street Bank & Trust. Second, Tucker closed his purchase of the 82% of PCS stock and the $7.9 million note from Meredith. Third, a statutory merger of PCS and CMI was effected on that date.

All three transactions were related, and the closing of all of them was consolidated. Fleet National Bank and Tucker produced to OIC closing binders that include all of the documents compiled at the closing.[92] There were two separate loans closed on June 10 -- one for $8.5 million and one for $4.5 million. Only the former is central to this investigation.

Section 2.10 of the loan agreement states that the proceeds of the $8.5 million loan shall be used by Tucker and Marks for five purposes. First, approximately $6 million was to be used to acquire from Meredith 246 shares of PCS and the $7.9 million Income Note. The agreement stated that Tucker had "assigned in part" to Marks his rights under the Stock Purchase Agreement with Meredith. An assignment, dated June 9 and signed by Tucker and Marks, provided that Tucker assigned to Marks his right to purchase $4,603.444.24 of the $7.9 million Income Note, and 96 shares of the PCS stock.[93] Section 2.10 of the agreement further stated that all 246 shares of PCS and the Income Note "shall be contributed" by Tucker and Marks to CMI pursuant to the merger of PCS into CMI, which also took effect on June 10.

Second, approximately $200,000 was to be retained by Marks. Marks agreed to contribute his 18% of PCS (54 shares) to CMI as part of the merger. Fleet had been advised by Tucker's accountants at Frost & Company that if the 82% of PCS stock purchased by Tucker were worth $6 million, then the remaining 18% owned by Marks was worth $1.3 million.[94] In partial recognition of Marks' contribution of his 54 shares in PCS, CMI issued to Marks a subordinated debenture for $1.1 million.[95] The $200,000 in loan proceeds retained by Marks was the balance of his $1.3 million equity contribution to CMI. Marks then contributed this

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[92] 202-2428

[93] 202-2913

[94] 202-3149

[95] 202-3014

$200,000 to the cash collateral account.[96] That sum, together with the $300,000 from the D&L loan, allowed Tucker and Marks to satisfy the $500,000 requirement.

Third, approximately $500,000 was to be reloaned by Tucker and Marks to CMI. This money was to be used to repay the money spent for construction at Carrollton after March 1, 1987. Specifically, the 500,000 was to be used to retire the March 2 note from PCS to Marks, and, in turn, the $500,000 note from Marks to Meredith dated March 1, 1987.

Fourth, approximately $800,000 was to be reloaned to CMI and used to purchase the Southlake cable system from CCLP. Fifth, the balance of the loan proceeds were to be used for working capital of CMI.

The security or collateral for the notes was set forth in Section 2.09 of the loan agreement. The obligations of Tucker and Marks were to be secured by, inter alia, (i) a first priority perfected security interest in all assets of Tucker and Marks used in or related to the operation of the cable systems of CMI and PCS; (ii) a first priority perfected pledge of all shares of CMI, which was wholly owned by Tucker and Marks; and (iii) cash collateral of $500,000. The agreement also provided that any debt owed by Tucker or Marks to CMI, CCLP or any of its affiliates would be subordinate to the debt owed by Tucker and Marks to Fleet.[97]

In a Security Agreement, Tucker and Marks granted to Fleet a security interest in all cable systems owned by CMI and PCS, and all property used in connection with those systems.[98] To perfect the security interests, UCC-1 forms were filed with public offices in Arkansas, Texas, and Florida.[99] The Security Agreement also required Tucker and Marks to deliver all shares of CMI stock to Fleet for the bank to hold as collateral.[100] Tucker and Marks represented that the collateral was free from any other security interest; that no financing statement covering the collateral was on file in any public office; that they would not sell, assign, transfer, or dispose of any shares of CMI pledged as collateral; and that they would keep those shares free

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[96] Cite

[97] 202-2628

[98] 202-2524

[99] 202-2573 to 2596

[100] 202-2525

from any other security interest.[101]

It was a "special condition" of the loan agreement that the merger of CMI and PCS "shall have been consummated in a manner satisfactory to the Lenders," and Tucker and Marks were required to furnish to Fleet satisfactory evidence of the merger.[102] It was also required that Tucker close the purchase of Meredith's interest in PCS. (The closing date had been extended by Meredith and Tucker to June 8, 1987.)[103] Accordingly, numerous documents relating to the Meredith stock purchase and the CMI/PCS merger are included in the loan binders. We also have obtained such documents from Tucker and attorney Bob Blumenthal, who received a letter and "all documents regarding the PCS/CMI merger" from Tucker's paralegal in November 1987.

In a Preincorporation Agreement dated June 4, 1987, Tucker and Marks reached an agreement about what to do after the Fleet loan money was used to purchase the PCS stock and Income Note from Meredith. Tucker and Marks agreed to contribute their respective interests in the all PCS stock and the Income Note to CMI in exchange for 1000 shares of CMI issued to Marks, and 700 shares of CMI issued to Tucker (who already owned 300 shares).[104] The agreement also called for Marks to receive from CMI a "subordinated capital note" for $1.1 million. (The Preincorporation Agreement did not address the various agreements from March 6 that purported to issue Tucker and Marks a total of 600 shares each in CMI, and the CMI stock transfer ledger shows no shares issued on March 6).[105] The agreement provided that "as soon as practicable" after the issuance of CMI stock to Tucker and Marks, they shall cause the merger of PCS into CMI.

To close the Stock Purchase Agreement, Meredith vice president William Straw signed an assignment of Meredith's 246 shares of PCS to Tucker.[106] Meredith also assigned to Tucker and Marks the $7.9 million Income Note and the Security Agreement of March 21, which pledged all PCS assets as security for that Note.[107] Meredith filed UCC-3 termination statements in Texas

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[101] 202-2526

[102] 202-2477

[103] 199-222078

[104] 893-821

[105] 199-173753

[106] 202-2839

[107] 202-2840

and Florida, which state that Meredith no longer claimed a security interest in the PCS assets.[108] In accordance with Tucker's assignment to Marks of part of his rights under the Income Note,[109] Straw signed a "Form of Endorsement" that paid to Tucker $3,303.44 of the principal and to Marks $4,603,444.24 of the principal.[110] (We have found no assignment of 96 shares from Tucker to Marks, as outlined in the June 9 assignment).

An Amendment to the Article of Incorporation of CMI was filed in Arkansas and June 9, 1987.[111] This document increased the total authorized capital stock of CMI from 300 shares of common stock to 10,000 shares. Stock certificates for Tucker's 300 shares and 700 shares of CMI and Marks' 1000 shares of CMI, along with stock assignment certificates signed in blank, were provided to Fleet as collateral.[112]

Articles of Merger of PCS into CMI, signed by Tucker and Marks, were filed on June 10, 1987, with the Secretaries of State of Iowa and Arkansas.[113] These Articles stated that CMI and PCS each had 300 outstanding shares, and that all shares had been voted for the merger. The shareholders and boards of directors of CMI and PCS, respectively, signed documents that consented to a Plan of Merger between CMI and PCS.[114] Tucker and Marks, as the only shareholders of CMI or PCS, signed all of these documents. Fleet received an opinion letter from Richard Williams of the Mitchell Law Firm, which stated that the CMI/PCS merger took effect on June 10, 1987, and that the merger had been "duly authorized by all requisite partnership and corporate action . . . ."[115]

K. Negotiations for Sale of the Plantation System

As suggested by the documents cited above, Tucker and Marks anticipated that they would sell the Plantation cable system for a handsome profit after the merger. According to an

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[108] 253-1353, 253-1354, 199-222165, 199-222166

[109] 202-2913

[110] 202-2842

[111] 202-2988

[112] 202-2545 to 2551

[113] 202-2915, 2921

[114] 202-2926, 2929, 2932, 2935, 2936, 2940

[115] 202-3203

interview of John Chapple, former senior vice president of American Cablesystems of Florida (ACF), his company had been in negotiations with Marks about buying Plantation since 1985. ACF had owned other cable systems in Broward County, Florida, and believed that it would be more efficient if they also owned the PCS system in Plantation. Chapple recalled that Marks never got serious about selling Plantation until Chapple left his position as senior vice president. He was replaced in that post by Thomas Walsh.

In an interview, Walsh said that he first met Marks in July 1986 when Walsh arrived in Florida as vice president and regional manager for ACF. Walsh expressed an interest to Marks about buying Plantation when the two first met, and Walsh said that he pursued the matter aggressively. Walsh said that Marks did not "come to the table" ready to negotiate a sale of Plantation until the summer of 1987.

By letter dated August 24, 1987, from Chapple to Marks, ACF offered to buy the Plantation system from PCS for $15 million.[116] Chapple said that he "didn't have a clue" about the ownership structure of PCS, and that he assumed that Marks was the majority owner. Walsh said that it was not until after the August 24 offer during the course of "due diligence" that he discovered that Marks was not the sole owner of the Plantation system. The offer letter of August 24 was addressed to Marks as President of CMI.

L. Tax Concerns over the Sale of Plantation

In July or August 1987, Tucker began to seek advice about the tax consequences of a sale of one or more of the cable systems that were owned by CMI after the merger with PCS. In an interview, Richard Williams of the Mitchell Law Firm said that in early August, Tucker told him that he might be able to sell some of the cable systems and wanted to know what his tax would be if he sold the assets. Williams told Tucker that he could not provide that information until a tax basis was established for each of the cable systems. Thus, Tucker engaged the accounting firm of Coopers & Lybrand (C&L) in Dallas to determine that information.

Williams said that on August 21, 1987, he met in Dallas with John Furst and Richard Hutchins of C&L, Michael Robinson of Frost & Company, Richard Smith of Gardere & Wynne, and Richard Jans of the Mitchell Law Firm. Williams stated that the purpose of the meeting was to tell C&L to calculate the basis of each system owned by CMI, because Tucker needed this information to get an estimate of his tax liability on a proposed sale.

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[116] 284-2846

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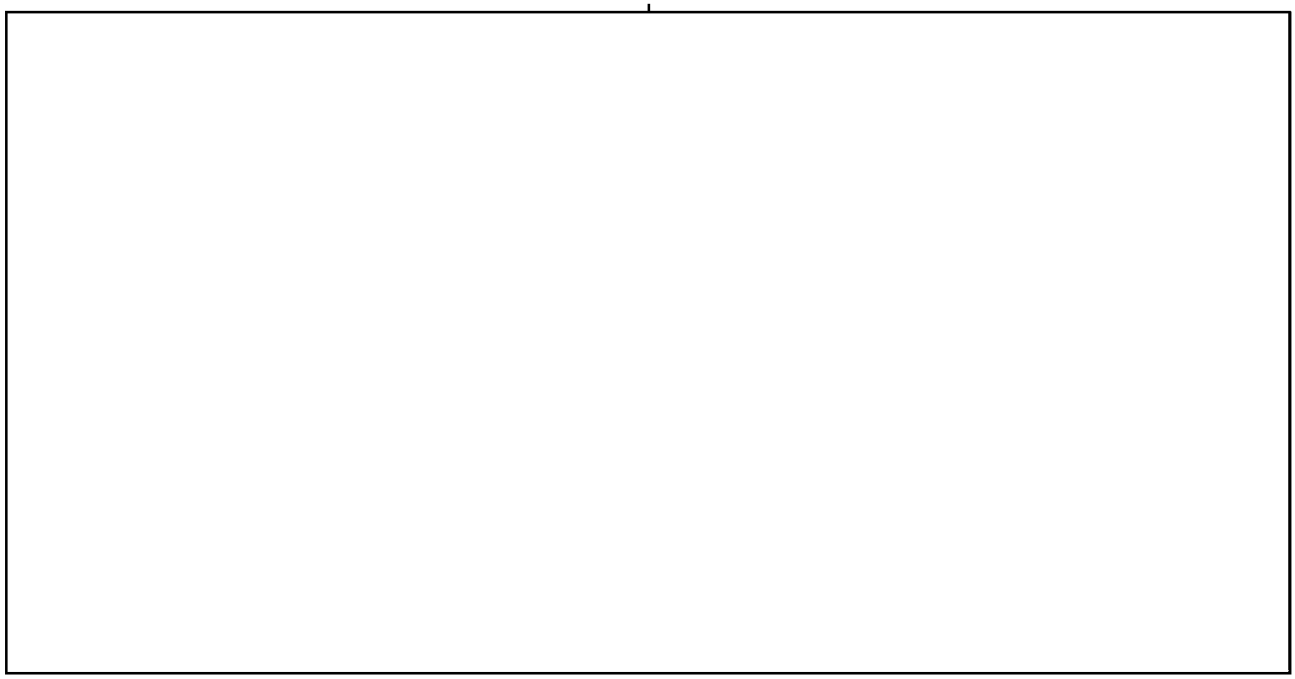
Williams identified a letter that he sent to Smith, Furst, and Hutchins on August 24, 1987, in which he confirmed that "[a]fter we supply you with the current tax information on the Florida and Arkansas properties, Coopers & Lybrand will move forward in the preparation of estimated income tax liability upon the proposed sale of Florida properties and the proposed sale of Arkansas properties."[117]



John Furst was Hutchins' supervisor at C&L. In an interview, he identified a memorandum produced to OIC by C&L, which was addressed to him from Tucker, and dated August 31, 1987.[118] In the memo, Tucker wrote that "[w]e are contemplating a sale of the Plantation, Florida assets to occur on or about October 1, 1987. We urgently need a calculation of the tax consequences. The sale price will be $15 million." Tucker asked, "How much capital gain will we have? At what rate will it be taxed?" He wrote that "[w]e need the tax calculation urgently."

The August 31 memo from Tucker to Furst also stated that a copy of an article on a case called Haley Brothers was attached. The Haley Brothers case was decided by the United States Tax Court in 1986. It held that if an S corporation held a C corporation as a subsidiary for a brief period of time, then

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[117] 445-97

[118] 445-128

the S corporation could not maintain its sub-S status.[119] The Haley Brothers decision distinguished, however, an earlier revenue ruling from the IRS that said an S corporation could maintain its status if a C corporation was held by the S corporation only momentarily before a merger and liquidation. Furst could not recall the Haley Brothers decision or any advice given by C&L to Tucker on this issue.

The corporate tax issue was also reflected in notes taken by Richard Hutchins during the engagement. Hutchins' notes from the August 21 meeting, where he wrote "1374 built-in gain problem because most of the appreciated assets in the Sub-S are from a Sub C corporation." Hutchins interpreted this to mean that the client had raised a question whether gain on the sale of one of the cable systems owned by CMI (an S corp.) would be subject to double taxation under Section 1374 of the Internal Revenue Code, because the assets had been owned by PCS (a C corp.) that was merged into CMI.

Additional notes that Hutchins made on September 8, 1987, state "Planned Cable was bought as a C so Service will view portion of that gain as built in gain, hence taxed at corp and individual rates."[120] Immediately thereafter, Hutchins wrote, "Q - Where S Corp in effect prior to '86 Act acquires C Corp assets, does this cause built in gain?" The Haley Brothers case is cited in the margin. Hutchins did not recall doing work on this issue or providing any conclusion to the client. He is not sure whether his notes of September 8 reflect a conversation with a representative of the client, or with his superior, John Furst.

Although Hutchins could not recall giving advice on the corporate tax issue, the law appears to be clear that gain on the sale of PCS assets would have been subject to double taxation at the corporate and individual levels. Under the law applicable at the time, if an asset held by a C corporation was transferred to an S corporation through a merger and then sold, the gain on the sale of the asset was taxed at the corporate level, even though the seller of the asset was an S corporation. IRC § 1374. In other words, the answer to the question posed by Hutchins' notes -- Does the transfer of PCS assets to CMI cause a built in gain or capital gain that will be taxed at the corporate level? -- is yes.

Hutchins identified a facsimile dated October 9, 1987, from Hutchins to Mike Robinson of Frost & Company in Little

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[119] 87 T.C. 498 (1986)

[120] 445-105

Rock.[121] This facsimile transmitted to Robinson handwritten work papers that showed C&L's computation of the taxable income resulting from a sale of the Plantation system for $15 million. The workpapers were prepared by Amir Khanzadeh of C&L on September 9, 1987, and adopted by Hutchins as C&L's final calculation. They showed a "net book value" or adjusted basis of $1.75 million, and a gain from the sale of at least $13.2 million. The papers indicated that the seller of Plantation would have to pay tax of over $4 million on the sale.[122]

Hutchins later sent a facsimile to Tucker on November 18, 1987, that corrected the calculations based on new information received from Meredith by C&L.[123] The November 18 calculations showed that the basis of the Plantation system was about $1.26 million; the gain on a sale for $15 million would be $13.74 million. The tax owing, based on the rates listed in the October 9 facsimile, would be over $4.1 million.

[redacted] In a letter to John Furst of C&L dated October 26, 1987, Tucker appeared to acknowledge that he had received the October 9 calculations. He wrote Furst that "if any work produce has been created, I would like a copy. So far all I have is a two page handwritten preliminary draft of the basis allocation within the system."[126]

We have obtained other evidence showing that Tucker and Marks were very concerned during the summer or fall of 1987 about their tax liability on the Plantation sale. Marc Nathanson, Chairman, President, and CEO of Falcon Cable TV was interviewed by agents on November 8, 1994. Nathanson explained that he was involved in negotiations in 1987 to purchase cable systems in Arkansas from Tucker and Marks. Nathanson described Tucker and

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[121] 85-14694

[122] 85-14695

[123] 445-278

[124] [redacted]

[125]

[126] 445-133

Marks as "obsessed with taxes," although he said that it was not unusual for sellers of cable systems to be preoccupied with large tax liabilities that could result from sales.

Nathanson identified a memorandum dated September 3, 1987, that he wrote to Hillary Clinton, who was Falcon's local counsel in Arkansas, and M. Goldman, another attorney for Falcon, regarding "Acquisition - Jim Guy Tucker's Cable TV Properties."[127] The memorandum described a dinner meeting that Nathanson had with Tucker and Marks about the Arkansas systems. Nathanson could not recall the conversation at the dinner, but he had no doubt that the memorandum reflects accurately the conversation at the meeting.

Nathanson's memorandum of September 3, 1987, includes the following discussion:

> Tucker and Marks are in negotiations on another complicated deal to sell their system in Plantation, Florida to American Cablevision. They have all kinds of tax problems because Plantation is in a corporation and, according to them, of the $15 million purchase price, they are making a profit of $13 million. They do not want to pay a tax of $4.0 million. They are thinking of some type of three-way swap with the Arkansas properties (value $14.0 million) that we are interested in.[128]

Nathanson recalled that Tucker and Marks, but mostly Marks, were preoccupied with their tax problems resulting from selling their systems. He did not recall which of the two men raised the topic of the Florida sale discussed in his memorandum. Nathanson, who had known Marks prior to these dealings, said that Marks called him often with different proposals to structure a sale to Falcon in a way that would minimize the tax liability for Tucker and Marks.

David Hale told interviewers that not long after he funded the CMS loan to D&L, Tucker told him that he already had someone who wanted to buy the Florida cable property. Tucker told Hale that attorney John Haley was giving Tucker tax advice.

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[127] 502-1104

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[128]

Tucker did not want to pay taxes to the federal government on the sale, and Haley was working to structure the transaction so that Tucker would have to pay as few taxes as possible. According to the draft report of interview, Tucker told Hale that he was going to do whatever it took not to pay the taxes. Tucker said he would make $10 million on the sale. Tucker said that he could make a lot of money, but there was a legal problem, and Tucker wondered if it was worth the chance. Tucker told Hale that John Haley was working on this issue.

M. The Signed Agreement to Sell Plantation

The negotiations with American Cablevision of Florida resulted in a signed Purchase and Sale Agreement for the Plantation system dated September 25, 1987. ACF produced to OIC a draft Agreement of Purchase and Sale from September 15, 1987, and a signed agreement from September 25. The unsigned draft reflected a sale of the Plantation system from CMI to ACF for $13,000,000, and an additional $2 million in non-competition payments to Tucker and Marks.[129]

An Agreement of Purchase and Sale was signed on September 25, 1987.[130] In that agreement, CMI and Sattech, Inc., as sellers, agreed to convey the Plantation cable system to ACF for $12.75 million. The agreement was signed by Marks as president of Sattech and CMI, and by Thomas Walsh for ACF. Sattech, Inc., was an Ohio corporation owned 50% by Marks and 50% by Don Smith. The agreement set a closing date of no later than January 19, 1988.

In addition to the purchase price in the September 25 agreement, ACF agreed to pay to Marks and Tucker, jointly, $2 million as consideration for a non-competition agreement with Marks and Tucker. Tucker and Marks both signed the agreement individually for purposes of the non-competition provisions. A separate Non-Competition Agreement was formed on September 25, 1987, between Tucker, Marks and ACF. In exchange for agreements by Tucker and Marks not to compete in Florida, ACF agreed to pay $500,000 each to Tucker and Marks in January 1988, and $500,000 each to Tucker and Marks on January 2, 1989.[131] Tucker and Marks signed the non-competition agreement.

N. The Starks Dispute

Sometime between June 10 and September 1987, a dispute

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[129] 284-227

[130] 284-131

[131] 284-131, 284-134, 284-165

arose between Marks and a former employee named Michael Starks. Starks had worked for several years with PCS as its business manager. He was the principal employee of Marks during the period when Meredith controlled PCS. As noted, in February 1985, Starks had reached a written agreement with Marks in which Marks agreed to convey to Starks one-sixth of Marks' shares in PCS.[132]

In interviews with OIC, Starks said that after Tucker and Meredith reached their purchase agreement in March 1987, he began to think about leaving PCS. Before the June closing, he approached Marks and said that he wanted to liquidate his share of PCS under the written agreement. Marks responded by offering $750,000, and the two shook hands on that agreement.

On August 18, 1987, Starks wrote to Marks, and thanked him for "allowing me to continue as an employee of PCS/CMI . . . at least until we've had a chance to work out the stock purchase."[133] Marks responded by letter dated September 2, 1987, and said that "[s]ince August 21, you have not been an employee of Cablevision Management, Inc. ("CMI") and you are not an employee at this time."[134]

Starks told interviewers that Marks began to renege on their agreement for a liquidation price of $750,000. Starks says Marks told him that if the assets of PCS, a C corporation, were liquidated and distributed to shareholders, the proceeds would be taxed twice. Thus, Marks argued, the corporate taxes would have to be paid before Starks would receive his $750,000. Marks also told Starks that he could not stay as an employee of CMI, because Tucker did not believe that Starks would fit in.

There is evidence that Tucker was upset about the Marks-Starks stock agreement because he was not notified of it before the Meredith stock purchase and the PCS/CMI merger. We have obtained from Tucker a letter dated September 15, 1987, in which Tucker wrote to Marks and demanded that the merger of PCS and CMI be rescinded.[135] Tucker asserted that neither Marks nor PCS had disclosed the purported stock purchase agreement between Marks, PCS, and Starks before the June 1987 closing. Tucker said that CMI undertook to merge with PCS based on the understanding that PCS had only two shareholders. Tucker complained that "[h]aving Starks as a shareholder of CMI is totally unacceptable

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[132] 893-95

[133] 893-387

[134] 288-305

[135] 893-714

to me," and that Starks' demand raised serious problems concerning "representations to banks that there are no other stockholders in CMI and that there are no adverse claims to the stock or ownership of CMI or its assets."[136]

Tucker told Marks in the September 15 letter that "[i]n view of the fact that you cannot resolve the matter as you had expected, I believe it is critical for CMI to extricate itself from the merger, Starks' claims, and Starks' disputes with you."[137] He wrote that "[o]ur goal should be to get everyone back to pre-merger status so that Starks can have his rights (if any) determined without jeopardizing our ability to operate, borrow funds, and continue in our ordinary course of business."[138]

By this time, Starks had retained attorney Michael McClelland of Dallas to represent him in the dispute with Marks. On September 17, 1987, McClelland had a telephone conversation with Tucker. In interviews with OIC, McClelland says that he has a good recollection of the conversation, and he produced contemporaneous notes of his conversation.[139] According to McClelland, Tucker said that he first saw the Starks-Marks agreement two weeks after the June closing.

Tucker told McClelland that because PCS was a C corporation, income from the sale of PCS assets could be subject to corporate tax and individual tax. Tucker argued, therefore, that the value of Starks' claim was greatly diminished. McClelland wrote to Tucker on September 18, and said that Starks had not yet chosen to involve CMI in his dispute with Marks.[140]

On September 25, 1987, Starks sent Marks a "WRITTEN REQUEST FOR SHARES UNDER AGREEMENT FOR STOCK DISTRIBUTION."[141] Starks made a formal demand for one-sixth of Marks' 1000 shares

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[136] 893-715

[137] 893-715

[138] 893-716

[139] Tucker produced to OIC a document entitled "Telephone Conversation with Mike McClelland and Jim Guy Tucker, September 17, 1987," which appears to be a transcript of a tape of the telephone call described by McClelland. (We have been unable to authenticate the transcript, however, and no witness from the Mitchell Law Firm has said that Tucker tape recorded telephone calls.) 199-175616.

[140] 288-271

[141] 288-734

in CMI. A copy of the request was sent to Tucker. On October 5, 1987, Marks' attorney, Bruce Hallett, wrote to McClelland saying that Marks did not plan to convey to Starks any shares of CMI.

O. The Plan is Hatched: A Ten Step Chart

On October 12, 1987, there was a significant meeting at the offices of Frost & Company among Michael Gratz and Mike Robinson of Frost & Company, Jim Guy Tucker, and John Haley. This meeting took place one week after Marks rejected the Starks request for CMI shares, and three days after Hutchins of C&L faxed to Robinson the calculation that there would be over $13 million in gain on a sale of the Plantation system.

Gratz was the lead account at Frost who handled Tucker's account. Frost and Company produced to OIC documents that Gratz says were made or obtained by him at the October 12 meeting. One document is a "ten step chart" that Haley brought to the meeting.[142] The chart is handwritten. The principal author has not yet been identified, but the circumstances suggest strongly that it is Haley. Tucker's handwriting appears a few places on the chart. The ten step chart appears to outline the following scenario for PCS and CMI:

(1) a contract for rescission of the merger between PCS and CMI;

(2) the reinstatement of the PCS articles of incorporation in Iowa;

(3) transfer of the PCS assets to the Iowa corporation, which the chart identifies as owned 82% by Tucker;

(4) a merger of PCS into Sattech, an Ohio corporation that is listed on the chart as owned 100% by Marks;

(5) liquidation of Sattech through a Chapter 11 bankruptcy in Texas, including (a) a sale to CMI of the Texas cable systems in exchange for assumption of $1 million in debt and a $300,000 note, and (b) distribution of the remaining assets to "debt holder (JGT)";

(6) execution of a joint venture between Tucker and Marks to operate systems 50/50 after (1) bank debt (presumably Fleet) is repaid, and (2) Marks gets a fee of $1.2 million;

(7) Tucker sells the Plantation system to "New Par," apparently to take advantage of § 1071 of the Internal Revenue Code, which allows a seller to defer tax on gain from the sale of

[142] 85-14700

a cable system to a qualified minority, or Tucker swaps the Plantation system to "New Par" for Arkansas cable systems;

(8) Meanwhile, "New Par" has purchased "Ark," presumably the Arkansas cable systems owned by another Tucker entity, CCLP, and transferred them to Tucker;

(9) "New Par" sells the Plantation system, possibly "thru Fleet note purchase," and

(10) Marks and Tucker "do new agreement to clean up the mess."

Gratz made notes within 24 hours of the October 12 meeting, and these notes were produced to OIC. In an interview on July 20, 1994, Gratz said that Haley explained the ten step chart at the meeting. Gratz's notes reflect that he was told at the meeting about the September 25 purchase agreement with ACF for the Plantation system, and the dispute between Starks and Marks.[143] His notes also list a net book value for the Plantation system (1,538,000) that is almost identical to the number sent by Hutchins of C&L in the October 9 fax to Robinson (1,538,196).[144]

In the interview with OIC, Gratz said that the meeting on October 12, 1987, was one of several discussions about the tax impact on PCS of the sale of the Plantation system. Gratz said that there came to be a difference of opinion about the tax treatment of the sale of the Plantation system. He and Robinson believed that the sale of the Plantation system should be reported on the tax return of PCS, and that the gain should be computed using the basis provided by Coopers & Lybrand.

Gratz also said in the interview that one could not transfer the assets of PCS to an S corporation to avoid taxation because there was a recapture provision that would cause the S corporation to owe tax on a sale of the assets. He said that Frost concluded that PCS (a C corporation) would have to report the gain on the sale of the Plantation system. Again, the basis for the system would be that used by Meredith and calculated by C&L.

According to Gratz, Haley proposed to use a bankruptcy action to effect certain tax consequences. As Gratz understood the plan on October 12, the Texas systems would be transferred out of PCS prior to any bankruptcy. The Plantation system would be sold by PCS, and the Fleet loan would be repaid. With the

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[143] 85-14702 to 14703

[144] 85-14703

Fleet loan repaid, there would be no cash remaining in PCS to pay the tax due on the gain from the sale of the Plantation system. Haley suggested that under Section 108 of the Internal Revenue Code, there exists a "technical bankruptcy" if liabilities of the corporation exceed its assets. Thus, Haley proposed to use Section 108 to avoid paying tax on the gain from the Plantation sale.

Gratz said that the plan was "complicated," and that Frost did not prepare the PCS tax returns because of a difference of opinion about the use of Section 108 in these circumstances. Gratz said that Robinson told Tucker that Frost would not prepare such a return. He said that Frost believed there was a reportable gain from the sale of the Plantation system, and they did not see how PCS did not owe tax. On the one hand, Gratz said that Frost was unwilling to sign off on the concept and did not want to prepare a return reporting the transaction, because Frost felt that it might have some exposure if the transaction were ever audited. On the other hand, after Frost decided not to prepare a return, it did not go back to form an opinion on the correctness of Haley's recommendation.

Gratz said that the use of Section 108 to effect a reduction in tax was Haley's idea, and that Tucker relied on Haley as his tax attorney. Haley alone explained the chart, and Gratz believed that Tucker did not understand Haley's proposal. Marks was not involved in any of these discussions.

[redacted]

145 [redacted]

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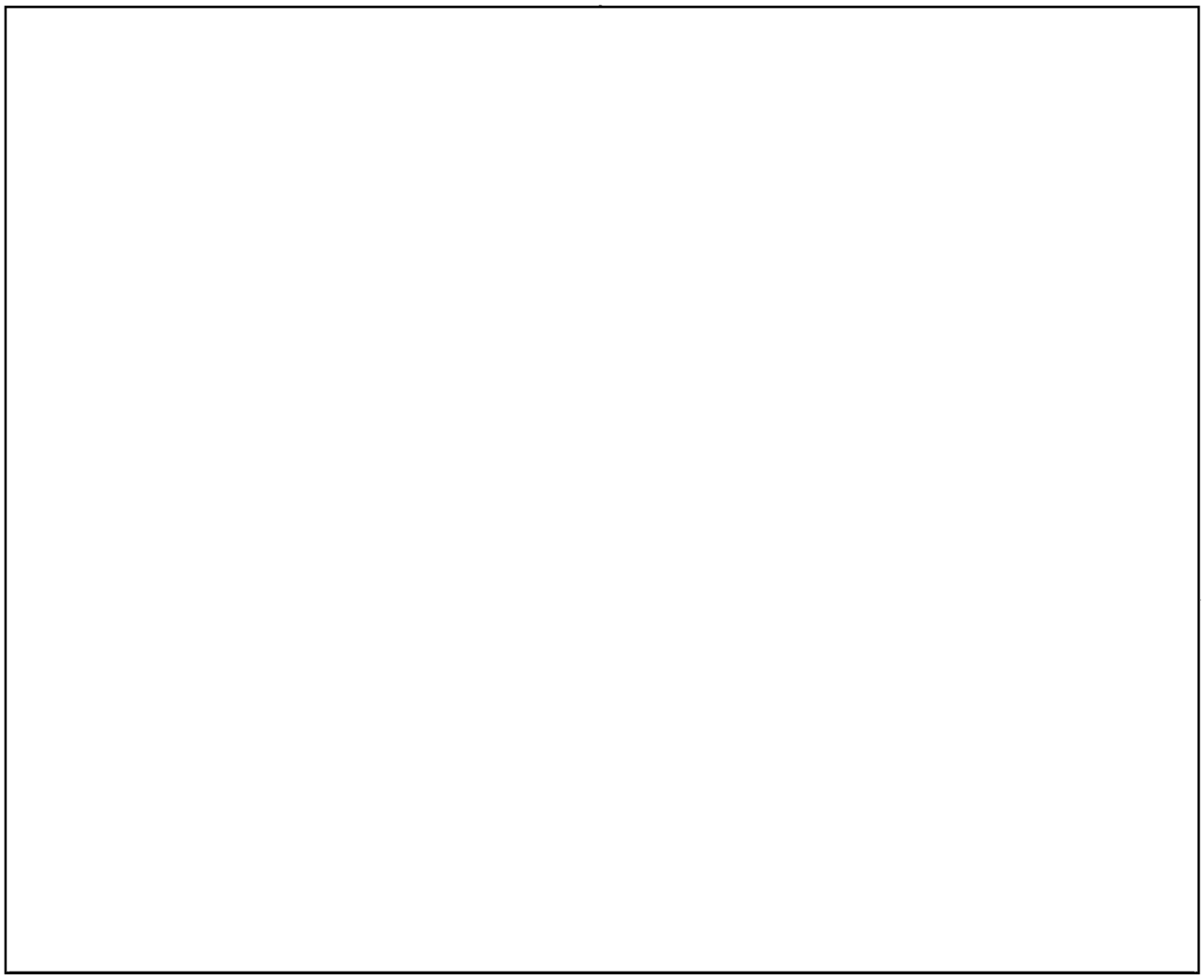
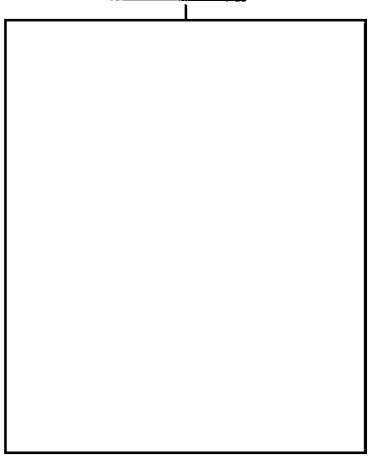


Mike Robinson, who was the senior person at Frost on the Tucker account, was also interviewed about the October 12 meeting. On June 27, 1994, he told agents that he did not remember the meeting or the transactions reflected on the chart.



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In a later interview on November 4, 1994, Robinson said that Haley had told him in 1987 that there was going to be a demerger of PCS and another company because a disgruntled PCS employee claimed to be due a payment or assets. This created a cloud over the title to PCS stock or underlying assets. According to Haley, the demerger and bankruptcy were the speediest way of removing this cloud over the title. Haley said that the lender needed clean title to the assets, and that a demerger and bankruptcy would take care of these problems. Robinson said that Frost was never asked for advice on the demerger or a bankruptcy.

Robinson did say that he asked Haley in 1987 about the tax consequences of the demerger and the bankruptcy. Robinson called Tucker and told him that he did not understand the tax impact of these steps. Robinson told Tucker that he knew of no precedent for the actions described by Haley. Tucker told Robinson that he had no ownership interest in LMS, and that he was a creditor. Robinson told Tucker that he was not certain of the tax consequences of the bankruptcy action, and that Frost would not prepare tax returns reflecting the demerger and bankruptcy described by Haley.

[redacted]

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P. November and December 1987: Rescission and Bankruptcy

(1) Summary

The events of November and December 1987 are critical to this investigation. The following four paragraphs are a summary of those events, followed by a detailed discussion of the evidence.

Tucker and Marks agreed to rescind the merger of PCS and CMI. In the rescission, the 246 shares of PCS stock that were sold to Tucker by Meredith were transferred to Donna Marks, the wife of William Marks. The $7.9 million Income Note from PCS to Meredith, which was assigned to Tucker and Marks in June 1987 and contributed to CMI in the merger, was recreated through the rescission. At some point, the note was negotiated to Tucker in full by William Straw of Meredith. PCS, acting through Marks as president, disclaimed any ownership interest in the Carrollton system and assigned the system to Marks individually.

After these events, PCS merged into a Texas shelf corporation called Landowners Management Systems, Inc. (LMS). LMS had earlier that month issued 82% of its shares to Mikado Leasing Company, Inc., a car leasing company controlled by John Haley, and 18% of its shares to Marks. Donna Marks was declared president of Mikado Leasing Company. On November 30, 1987, LMS filed a Chapter 11 bankruptcy petition in Texas. Tucker appeared as a secured creditor of LMS, based on the $7.9 million Income Note that he had purchased from Meredith. CMI appeared as a secured creditor based on $1.15 million in "advances" that it had provided to PCS and LMS.

To discharge these debts, LMS proposed to transfer the Plantation system to Tucker individually, and the Texas systems to CMI, an S corporation. The plan of reorganization was confirmed by the bankruptcy court. Tucker and Marks reached a superseding purchase and sale agreement with American Cablesystems of Florida to reflect that Tucker was now one of the sellers of the Plantation system.

One tax effect of the bankruptcy was to increase the basis of the Plantation system from the $1.26 million calculated by Coopers & Lybrand to about $7.3 million. The gain was thus reduced from over $13 million to $4.47 million. Tucker reported the higher basis and the lower gain on his 1988 tax return. The change occurred because Tucker's basis in the Plantation system after the bankruptcy included the market value of the Income Note

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that he exchanged for the asset ($6 million), plus related expenses. The new basis supplanted the $1.26 million basis in the assets prior to the bankruptcy. LMS did not pay tax on gain from the sale of the Plantation system through the bankruptcy, and the IRS has advised that this was appropriate because the system was sold in bankruptcy. According to preliminary calculations by the IRS, the tax liability on the Plantation sale was reduced by over $2.5 million.

(2) November 1 through 6: Studying

On November 1 through 3, 1987, billing records from the Mitchell Law Firm show that someone worked to "draft rescission agreement."[169] Also on November 3, time was spent to "study tax consequences of rescission," and to do "legal research regarding cancellation of indebtedness under IRC 108." These entries were posted for the matter captioned "Mike Starks." On November 5, Mitchell records show "study tax issues of sale" on the matter of "Plantation (Sale)."[170] On November 6, Mitchell records show "study rescission issues" on the Mike Starks matter.

(3) November 8: The first bankruptcy meeting

On Sunday, November 8, 1987, Mitchell records show "conference with Messrs. Haley, Polk, Dowden, and Oliver re rescission and Chapter 11." Van Oliver is an attorney with Andrews & Kurth in Dallas, Texas, who represented Landowners Management Systems, Inc., in the Chapter 11 bankruptcy filed in November 1987. James Dowden is a bankruptcy attorney with John Haley's law firm in Little Rock. Joe Polk is a tax attorney with Haley's firm.

Dowden was interviewed and told agents that he recalled attending a weekend meeting at Haley's law firm regarding a bankruptcy. He said that Tucker, Haley, Polk, and Oliver attended. Dowden could recall only that he was asked to do research concerning the procedures for an expedited bankruptcy action. He said that he did not recall anything about a

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[169] 199-122058. Tucker produced to OIC select billing records from the Mitchell Law Firm, including bills to CMI from November 1987. These bills show descriptions of work done on particular days, but they do not show the name of the attorney or staff member who performed the services. Based on interviews of attorneys at the firm, we believe that Tucker is the attorney who did virtually all of the work for CMI, and that he billed his company for his own work. The firm has refused, based on Tucker's assertion of attorney-client privilege, to produce underlying documents that show the name of attorneys who performed the work.

[170] 199-122047

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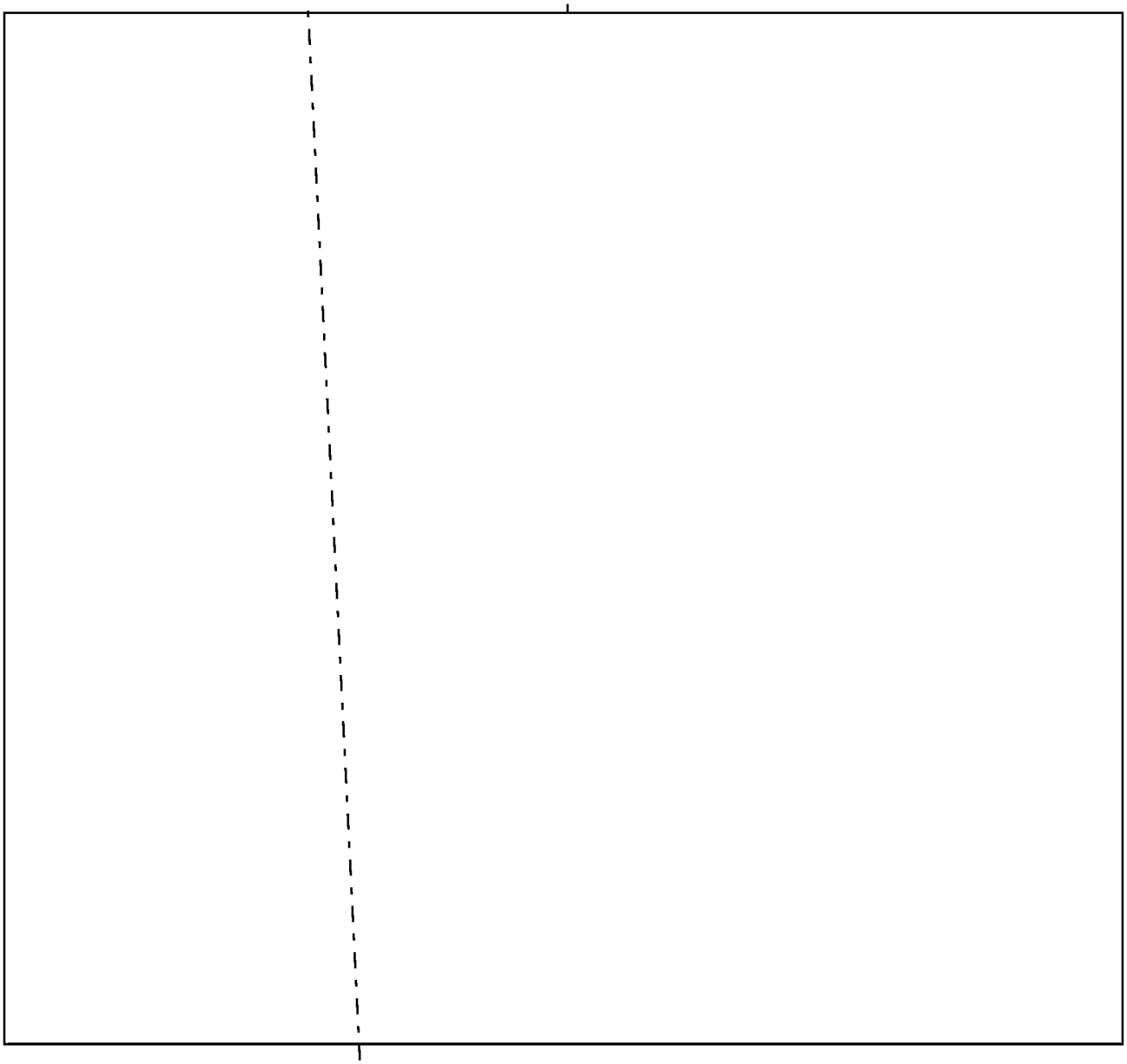
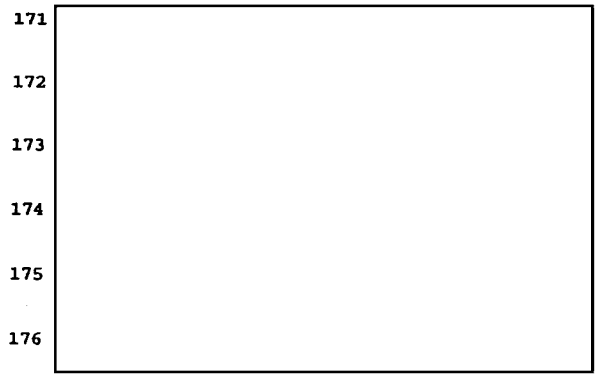
rescission of a merger, or about the reasons for the bankruptcy.





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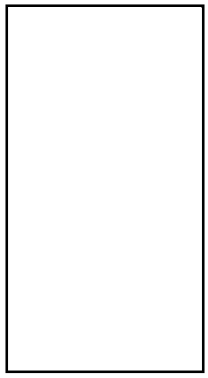
The following day, Haley faxed to Oliver a chart that shows an early version of the proposed plan of rescission and the



bankruptcy. Oliver says that he did not understand the transactions, and that he spoke with Haley to get an explanation. Oliver took contemporaneous notes on Haley's chart. His notes show the following comment about the bankruptcy:

> 2 objectives:
>
> Basis to Tucker of Plantation assets
>
> I. (1) Price paid Meredith $ 6 million
> (2) $1 million of advances from Fleet to
>
> II. Limit Starks claim against Marks to what Marks started out 1/6 of 18% = 3%

(4) November 9: The selection of LMS

On November 9, 1987, the day after the Little Rock meeting, Jim Dowden of Haley's law firm sent a letter to Oliver. In the letter, Dowden wrote, "Attached hereto please find notes from a conference Haley had this morning with Don Windle indicating that the name of the debtor corporation will not be Neighborhood Cable Systems, but rather Landowners Management Systems, Inc."[183] The attached notes say, "Telephone conference with Don Windle - he relayed the following information regarding Texas corporation: Carrollton Corporation - Landowners Management System, Inc."[184] After some general background on the corporation, the notes said, "Don't think there will be any problems, have a record book, seal, certificates, standard corporate kit, no minutes have ever been done, standard Texas bylaws, . . . Just a standard shelf corporation, can probably make it do whatever you need." (emphasis added).[185]

[redacted] Oliver identified two documents from his law firm's production that refer to "NCS, Inc.," apparently Neighborhood Cable Systems, as the client in this matter. Oliver identified his own handwritten notes on this matter that say "NCS, Inc. - Chapter 11," followed by names of Tucker, Marks, Starks, CMI, and other related parties.[186] He also identified a client intake sheet produced to OIC by Andrews & Kurth, dated November 10,

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[183] 253-195

[184] 253-197

[185] 253-198

[186] 253-4

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1987, which identifies "NCS, Inc. a Texas corporation," as a new client in a Chapter 11 bankruptcy matter.[187]

[redacted]

In response to Haley's request for a shelf corporation,

[redacted]

187 253-10

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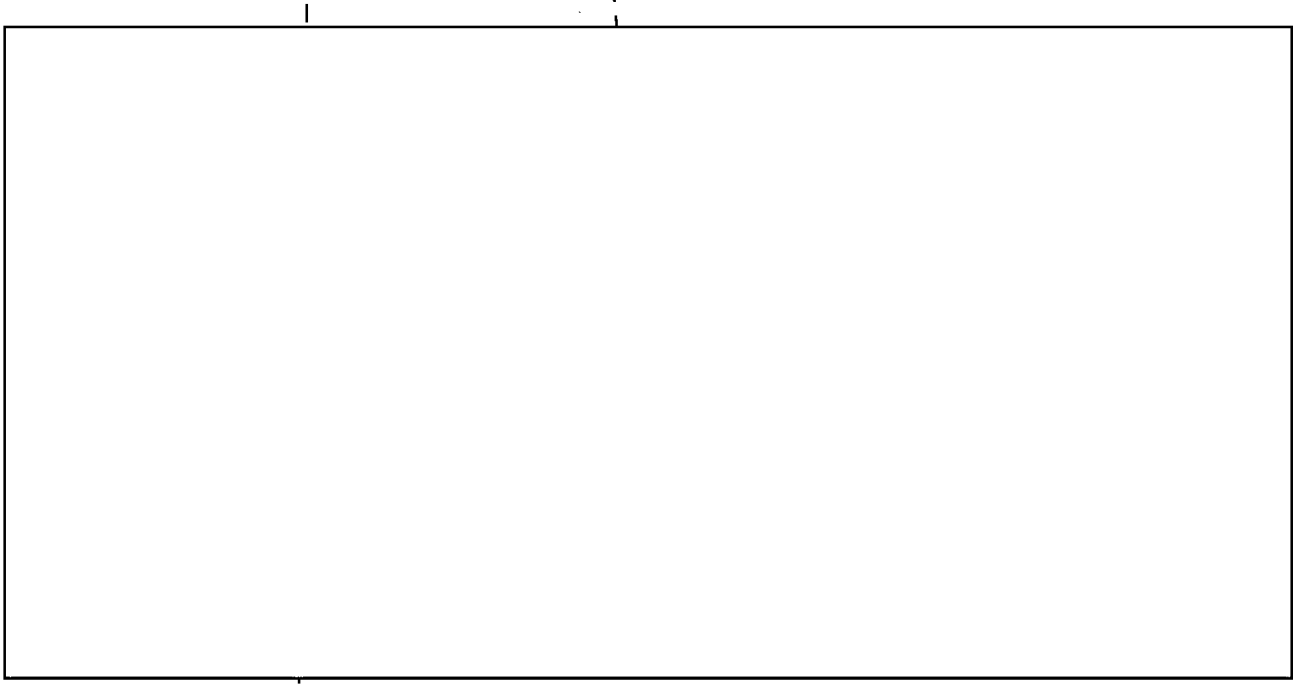

(5) November 11-12: Accounting matters

On November 11, 1987, the Mitchell billing records on the Starks matter show "study appraisal for rescission," "draft affidavits, re voiding merger," "telephone conference with Mr. Haley, re status," and "conference with Mr. Gratz, re basis." Mitchell billing records on the "General" matter show "telephone conference with Messrs. Marks, et al. re cash flow status." We have obtained from Tucker a facsimile dated November 10 from a PCS employee to Tucker, which details the accounts payable for PCS at that time.[199]

On November 12, 1987, the Mitchell billing records on the Starks matter show "draft memorandum to Mr. Gratz on basis of CCLP and Plantation." We obtained from Frost and Company a memorandum of that date from Tucker to Gratz and Joe Polk of Haley's firm, regarding "JGT basis in debenture purchased from Meredith."[200] In that memo, Tucker wrote that the debenture he purchased from Meredith had a value of approximately $8.877 million ($7.9 million in principal, plus interest). Tucker said that "the Plantation assets and 5,000 subscribers could be transferred in bankruptcy to satisfy approximately $8.9 million

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198

199 199-143785

200 85-23857

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of debt." Tucker's memo went on to calculate his basis in the debenture, his taxable gain on a sale of the Plantation system for $12.70 million, and the total tax payable on the gain ($1.152 million).[201]

(6) November 12: Draft Plan and Disclosure Statement

Also on November 12, 1987, Van Oliver sent to Haley a draft Plan of Reorganization and Disclosure Statement for the LMS bankruptcy. He wrote that he would like to sit down with Haley, Dowden and Tucker to go over the drafts.[202]

[redacted]

The draft disclosure statement was similar to the final disclosure statement filed in the bankruptcy court. LMS was identified as a company that had recently merged with PCS, and which had assets in the cable television business.[204] The draft listed Tucker as the only secured creditor, based on the $7.9 million Income Note that he purchased from Meredith. The draft said that CMI had an unsecured claim of $1.8 million, and that there were general unsecured trade creditors with claims totalling about $500,000. The draft said that the creditors also included "Mr. William Marks and Mr. Lance Allworth, Jr. who respectively own 18% and 82% of the outstanding common stock of

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[201] We obtained from Bob Blumenthal, an attorney who represented Marks in the Starks litigation, a letter from Tucker to Blumenthal dated November 12, 1987. Tucker sent Blumenthal a copy of the $1.1 million debenture issued to Marks in June 1987 in partial exchange for his contribution of PCS shares to CMI. Tucker wrote in pen on the letter that "[t]his debenture will be consumed by the recreation of the old debenture in the rescission between Bill and me."

We obtained from Tucker a memo dated November 12 from Tucker to Mike Gratz of Frost and Steve Feldman, Marks' accountant. The memo said, "I have asked Mike Gratz to prepare a tax return for PCSC for the one month it would not have been a part of the consolidated return for Meredith. If in fact the merger of PCS and CMI are void, this return is now past due." Marks and Haley are listed as copied on the memorandum.

[202] 253-167

[203] [redacted]

[204] 253-171

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LMS."[205] Recall that PCS was owned prior to June 1987 by Marks and Meredith, and that on June 10, Tucker closed his agreement to purchase 82% of the stock from Meredith.

(7) November 13: Draft Schedules and Management Agreement

On November 13, 1987, Mitchell billing records on the "Plantation (Sale) matter show "telephone conference with Mr. Mike Gratz, re PCSC tax return and Florida basis." Van Oliver's billing records show calls with Dowden and Polk regarding status.

We obtained from Andrews & Kurth a letter dated November 13 from Dowden to Tucker, Oliver, Feldman, Marks, and William J. Marks, Jr. (Marks' son).[206] The letter says that Dowden has enclosed "very rough initial draft of the schedules and statement of affairs in the proposed Chapter 11 filing" for LMS. Dowden identified the signature on the letter as that of his secretary, who signed for him. Dowden says that he has no independent recollection of the letter or the drafts. His letter says that he has "attempted to compile information from notes of our meeting last weekend."[207]

Dowden's letter of November 13 also says, "enclosed herewith please find John Haley's draft of the Management Agreement by which CMI is operating the systems for PCS and now, LMS."[208] A one-page "Management Agreement" is attached.[209] That draft document says, "[t]his agreement is entered into as of

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[205] 253-175

[206] 253-163

[207] 253-163

[208] 253-164

[209] 253-165

June 10, 1987," and sets forth a brief text of a management agreement between CMI and PCS. The draft disclosure statement sent by Oliver to Haley on November 12 had discussed such a management agreement: "Contemporaneous with the merger of PCS into LMS, LMS entered into a management agreement with CMI pursuant to which CMI has managed and operated LMS's cable television systems . . . ."[210] The draft left blank space for inclusion of the "principal terms and provisions of that agreement." The final disclosure statement filed on November 30 states that CMI is a creditor of LMS based on funds advanced pursuant to a management agreement between CMI and LMS.[211]

(8) November 13: Carrollton Assignment to Marks

We obtained from Tucker a significant document regarding the Carrollton cable system that is also dated November 13, 1987. A "Bill of Sale and Assignment" signed by Marks as president of PCS, says that PCS conveys to Marks the Carrollton cable system. The document states that PCS "acknowledges that it has held bare legal title to the Carrollton CATV assets for the use and benefit of Marks, Marks having provided all funds for its construction and development. Any amounts so advanced by Marks are acknowledged to be for this purpose, and not to be construed as advances which would otherwise constitute an account payable."[212]

(9) November 13: LMS and Mikado Leasing Company

We obtained from Tucker the book of stock certificates for LMS. Those records reflect that on November 13, 1987, 820 shares (82%) of LMS were issued to Mikado Leasing Co., and 180 shares (18%) of LMS were issued to William Marks, Sr.[213] We have not identified the handwriting on the record book.

Mikado Leasing Company, Inc., was incorporated in Arkansas in 1971 by Jack Young.[214] The registered agent for the company was changed on August 15, 1984, from Young to John Haley.[215] Haley signed Mikado Leasing's 1987 federal corporate tax return in September 1988, and listed its principal business

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[210] 253-175

[211] BG-143

[212] 199-126332

[213] 199-193268 to 193269

[214] 448-09

[215] 448-12

activity as leasing automobiles.[216] Haley was listed a president of the company on corporation franchise tax reports filed with the State of Arkansas from 1973 to 1987.[217] A certificate of dissolution for Mikado Leasing was filed with the Arkansas Secretary of State on April 14, 1988. The certificate was signed by John Haley as president and secretary.[218]

(10) November 15-16: More discussions

On November 15 and 16, 1987, Mitchell billing records show telephone conferences with Dowden, Oliver, and Haley, respectively, concerning the bankruptcy. Another record shows a telephone conference with Gratz of Frost regarding "basis in debenture." There is another entry reading "draft management agreement for CMI on remaining PCS assets." Oliver's billing records for November 16 show calls with Tucker, Haley and Dowden regarding the disclosure statement, statement of affairs, and plan of reorganization.

(11) November 17-19: Rescission of the PCS/CMI merger

We have gathered substantial evidence from November 17 through 19 concerning rescission of the merger between CMI and PCS. We obtained from Frost & Company a draft "Rescission Agreement" dated November 17, 1987.[219] No employee of Frost has yet told us the source of the document. Mitchell billing records for November 18 on the "Plantation (Sale)" matter show "attend conference at Mr. Haley's office re rescission." Another record for November 19 says "conference with Mr. Marks, re rescission." Most important, we obtained from Tucker a document entitled "Rescission Agreement," which is signed by Tucker and Marks. The document is dated November 1987, but no specific day is listed.[220]

The signed Rescission Agreement is central to this case. It begins with a recitation of the dispute between Marks and Tucker arising from the claim for PCS/CMI stock by Michael Starks. The agreement then states that "the parties desire to resolve the differences and disputes between them and restore the relative rights and liabilities that existed between the parties prior to the Merger so that the parties may conduct their

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[216] IRS-ML#01-3

[217] 413-68 to 413-89

[218] 448-13 to 14

[219] 85-6115

[220] 199-222032

business and allow time for the resolution of the dispute with Starks without further jeopardy or injury to Tucker or CMI."[221] (emphasis added).

The Rescission Agreement detailed Tucker's view of the effect of Starks' claim on Tucker and CMI. In sum, he believed that Starks and/or Marks intentionally misrepresented and omitted disclosure of Starks' claim until after the PCS/CMI merger. Thus, Tucker claimed that the PCS/CMI merger was "void at the election of Tucker or CMI and Tucker and CMI are entitled to a reformation of the agreements between Tucker, CMI, PCS, and Marks so that Tucker, and CMI and the business operations of Tucker and CMI will not be further adversely affected by Starks' claims."[222] Tucker's view was that the rescission should be "designed to return Tucker, Marks, PCS, and CMI to the status and rights that existed when Tucker contracted to purchase the PCS Note and stock owned by Meredith on March 1, 1987, and prior to any further agreement between Tucker, Marks, CMI, and PCS."[223] (emphasis added). The Agreement noted that the October 10, 1984 Shareholders Agreement between Meredith and Marks prohibited Marks from transferring any shares of PCS to a third party.[224]

The Agreement stated that "[t]he parties agree that the Merger of CMI and PCS is and should be void" under provisions of Arkansas and federal law concerning fraud, "and that the Merger is and should be void, subject to the terms and provisions of this Agreement."[225] The Agreement went on to say that "[i]n the review of the Articles of Merger, Tucker, Marks, PCS and CMI have discovered and agree that only 300 shares of the 2,000 shares of CMI outstanding were voted for the merger and, therefore, the merger having less than 2/3rds of all outstanding CMI stock voted in its favor was never lawfully effected."[226] Richard Williams of the Mitchell Law Firm opined in June 1987 that the merger was properly effected in accordance with state and federal law.[227] In an interview, Williams said that he was never advised of any flaw in the merger or a rescission of the merger, although he volunteered that he has made mistakes before, and the law has

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[221] 199-222033

[222] 199-222046

[223] 199-222047

[224] 199-222049

[225] 199-222047

[226] 199-222047

[227] 202-3200

equitable remedies for mistakes.

The Agreement declared void all agreements among Tucker, CMI, and Marks made on and after the date of the March 1, 1987 Stock Purchase Agreement between Tucker and Meredith.[228] Assets of PCS and CMI were "returned": The Southlake system was declared property of CMI; the Trophy Club, Roanoke, Las Brisas, and Plantation systems were said to be assets of PCS; and the Carrollton system was declared "the property of and an asset of Marks."[229]

The most important part of the Agreement concerns the 82% of stock in PCS and the $7.9 million Income Note from PCS, which were purchased by Tucker in June 1987 and contributed to CMI in the PCS/CMI merger. The Agreement provided that "Marks owns the 18% of the stock of PCS which he owned prior to the June 10, 1987 merger that [sic] Donna Marks owns 82% of the stock of PCS as her separate property. Donna Marks is the beneficiary of the Marks-Meredith Shareholders Agreement . . . and successor to all Meredith's rights therein." (emphasis added).[230] A separate section of the Agreement was titled "Transfer of Title to the 82% Stock of PCS Purchased from Meredith." The text stated, "The 246 shares of PCS stock purchased from Meredith shall become the separate property of Donna Marks." (emphasis added).[231]

The Agreement also declared that "Tucker owns all of the PCS Note," and that "Marks has no claim on or interest therein." Further, "the PCS Note is secured by all the assets of PCS and that $6,000,000 of the principal of the proceeds of the PCS Original Loan plus interest thereon is attributable to the PCS Note purchase."[232] There was no mention in the Agreement of the "Form of Endorsement" signed by William Straw of Meredith in June 1987,[233] which allocated the Income Note among Tucker or Marks.

The Rescission Agreement includes a section entitled "Existence of Lien on PCS Assets." There, the parties agreed that "all assets of PCS . . . existing immediately prior to the Merger were subject to a lien in favor of Meredith Corporation

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[228] 199-222049

[229] 199-222051

[230] 199-222052

[231] 199-222053

[232] 199-222052

[233] 202-2842

securing the payment of the PCS Note dated October 10, 1984 payable to Meredith . . . ."[234] Copies of the $7.9 million Income Note, and the Security Agreement dated March 21, 1984 (between Meredith and PCS) were attached as exhibits. The Agreement also stated that "copies of UCC 1's filed in Florida and Texas creating a lien on the PCS Assets are attached hereto as Exhibit 8."[235] Ironically, the documents attached are UCC-3 financing statements that terminated Meredith's security interest in PCS assets at the time of the sale from Meredith to Tucker.[236]

The pending bankruptcy of LMS was discussed briefly in the Rescission Agreement. It said that "Marks and Donna Marks shall cause the merger of PCS into LMSI and the transfer of all rights to the name 'Planned Cable Systems' to CMI."[237] In a separate section entitled "Inadequacy of PCS' Cash Flow to Serve PCS Debt," the Agreement stated that "[n]either the PCS assets existing on June 10, 1987 or those existing as of the date of this Agreement are adequate or sufficient to service the PCS Note or the debt acquired by Tucker, and/or CMI to acquire the PCS Note or the obligations of the various trade creditors related to the operation of the PCS Assets, or the CMI Note."[238] There was no mention in the Agreement of the executed agreement with ACF for sale of the Plantation system for $12.75 million (plus $2 million in non-compete income).

The Draft Rescission Agreement dated November 17 has a more detailed discussion of the bankruptcy, including a section entitled "Bankruptcy of PCS."[239] That section says PCS, Tucker, CMI, and Marks had agreed that Marks and Donna Marks would cause the merger of PCS into LMS; LMS would file a bankruptcy plan of reorganization providing, inter alia that: (1) LMS shall transfer the Plantation system to Tucker in exchange for release of all claims and security interests under the $7.9 million Income Note; (2) LMS shall transfer the Texas cable systems to CMI in exchange for release for all claims of CMI against LMS. The Draft stated that if the Plan of Reorganization were not approved by December 31, 1987, then the Rescission Agreement would be null and void,

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[234] 199-222048

[235] 199-222048

[236] 199-222165, 199-222166

[237] 199-222053

[238] 199-222053

[239] 85-6136

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and the parties would return to their present positions.[240]

There were several exhibits attached to the signed Rescission Agreement. In an affidavit dated November 20, 1987, and signed by Tucker, he stated that the PCS/CMI merger was void due to Marks' failure to disclose the Starks claim for shares of PCS.[241] In an affidavit dated November 17, 1987, and signed by Marks, he stated that the PCS/CMI merger was void due to a flaw in the number of outstanding shares of CMI that were voted for the merger.[242] This affidavit was filed with the Secretary of State of Iowa.

There are two other important affidavits attached to the Rescission Agreement obtained from Tucker. Both are signed by William Straw, former vice president of Meredith, and dated December 15, 1987.

[redacted]

The first affidavit signed by Straw says that at the time of the execution of the stock purchase agreement between Meredith and Tucker, "it was my opinion that the stock in PCS being sold under the Contract had no value or only nominal value, that the consideration to be paid by Tucker was attributable under the Contract to the value of the secured Promissory Note only."[243]

[redacted]

240 85-6139

241 199-222168

242 199-222169

243 199-222176

244 [redacted]

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The second Straw affidavit concerns the Carrollton cable system. It states that in December 1986 through February 1987, Marks proposed that PCS acquire a franchise for Carrollton and being construction of a cable TV system. "Financial responsibility for the Carrollton System was not approved by the Board of Planned Cable Systems Corporation ("PCSC") at any time prior to June 10, 1987, and I am not aware of what happened to it after that date." Finally, "[a]s far as I was aware, prior to June 10, 1987, the Carrollton System was funded by loans from William J. Marks, Sr. All assets and liabilities of the system as far as I know were the responsibility of William J. Marks, Sr."[247]

[redacted]

247 199-222174

248 [redacted]

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(12) November 20: PCS/LMS merger process begins

We obtained from Andrews & Kurth and from Tucker a document dated November 20 and entitled "Minutes of Special Joint Meeting of Shareholders and Board of Director of Planned Cable Systems Corporation."[252] This document is signed by Marks and Donna Marks. The minutes report that the shareholder and directors authorized the merger of PCS into LMS.

We obtained from Andrews & Kurth a copy of a corporate resolution of LMS dated November 20, 1987. This document is signed by William and Donna Marks as shareholders and directors of LMS. The resolution states that Marks is authorized to prepare and execute documents necessary to complete a Chapter 11 bankruptcy reorganization.[253] At this point, PCS and LMS were still separate entities.

Van Oliver's billing records show that on November 20, 1987, he had telephone calls with Tucker and Gratz of Frost & Company regarding financial information and revisions to the draft Plan of Reorganization and Disclosure Statement. Mitchell billing records for the Starks matter show "telephone conference with Mr. Van Oliver, re status of plan."

(13) November 21-24: More discussions re: bankruptcy

Mitchell billing records for the Starks matter on November 21, 1987, show "conference with Mr. Marks, re plan of reorganization; conference with Messrs. Marks and Haley, re plan of reorganization; telephone conference with Mr. Feldman; telephone conference with Mr. Gratz." Those records for November 22 show "conference with Mr. Gratz; study valuations; study plan of reorganization; telephone conference with Mr. Oliver." Mitchell records of November 23 show "travel to Texas, conference with attorney and return trip to Little Rock." For November 24, those records reflect "attend conference with counsel for PCS, Van Oliver and Mr. Marks in Dallas; telephone conference with Messrs. Haley and Oliver; telephone conference with Mr. Marks; telephone conference with Mr. Haley's office."

(14) November 24: PCS/LMS merger

[252] 1[illegible]Marks and Donna Marks signed a document dated November 24, 1987, in which they agreed to a merger between PCS and LMS.[253] [illegible]ame date, Marks and Donna Marks signed a "General Conveyance, Assignment, and Transfer" from PCS to LMS.[254] [illegible]ocument includes two interesting typographical errors that may reflect the earlier change in the name of the

[255] 253-2106

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proposed debtor from Neighborhood Cable Systems, Inc. to LMS. One line of the General Conveyance refers to the "merger of PCS and NCC," and another mentions "subrogation of NCC."[256]

On November 24, 1987, the Secretary of State of Iowa issued a Certificate of Good Standing for PCS to attorney Steve Zumbach of Des Moines, Iowa.[257] Zumbach is mentioned in Mitchell billing records as one who was contacted about the rescission of the PCS/CMI merger. The Marks affidavit concerning the flaw in the merger was filed with the Secretary of State in Iowa.

(15) November 25-28: Final revisions for the bankruptcy papers

[redacted]

256 253-2106, 2107

257 199-173692

258 [redacted]

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[redacted]

(16) November 30: The bankruptcy filing

On November 30, 1987, Oliver filed with the bankruptcy court in the Northern District of Texas an Original Petition Under Chapter 11,[264] a Statement of Financial Affairs,[265] a Disclosure Statement,[266] and a Debtor's Plan of Reorganization.[267] All of the documents were signed by Marks as president of LMS.

[redacted]

(a) The Reasons for the Bankruptcy

The Disclosure Statement said that LMS proposed the Plan of Reorganization "after substantial negotiations with J.G. Tucker, its primary secured creditor; with CMI, the present manager of LMS's principal assets and its largest unsecured creditor; and with other parties in interest . . . ."[269] In a discussion of "Reasons for Chapter 11 Filing," the statement cited "substantial, constant, and ever increasing capital and cashflow needs in order to continue the development and growth of their system and fund operating losses . . . ." It continued that "the economic uncertainties associated with the October 19 stock market crash, and the history of company losses, the

262 [redacted]

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264 BG 283

265 BG-254

266 BG-138

267 BG-102

268 [redacted]

269 BG-139

Company's highly leveraged position, and insolvency and management's strong belief that the value of the Systems will be irreparably harmed by prolonged proceedings preclude any other approach."[270]

The Statement said that "[i]n its negotiations with Mr. Tucker, LMS sought to allay his fears concerning an improper foreclosure of his liens against the assets of the Florida and Texas Systems, particularly in having them subject to a possible fraudulent transfer action in the event that LMS either were to file voluntarily a Chapter 11 petition after such a foreclosure or were to have an involuntarily [sic] bankruptcy case filed against it within the next year. Accordingly, LMS has determined that, under this Plan, it shall assign to Mr. Tucker the Florida System and related assets free and clear of all liens . . . ." (emphasis added).[271]

(b) The Starks claim

The Starks claim against Marks was discussed only briefly in Section 8.02 on page 15 of the Disclosure Statement. In a section entitled "Previous Failed Merger," the document explained that unbeknownst to Meredith, CMI, and PCS, Starks asserted an interest in one-sixth of Marks' stock ownership in PCS. The Disclosure Statement said that Starks had instituted a law suit against Marks, and that Marks was "defending and denying vigorously the relief requested therein."[272] The Starks claim was not listed as a reason for the filing of the bankruptcy petition.

Attorney Michael McClelland of Dallas represented Starks in his litigation with Marks. In interviews with OIC, McClelland said that he met with Haley on November 30, 1987, concerning the Starks claim. During a lunch at the Texas club, for which McClelland has a dated receipt,[273] Haley asked McClelland how much it would cost to settle the Starks suit. McClelland said "not a penny less than $600,000," and Haley replied, "done." Haley also asked for an agreement that if Tucker and Marks were to sell the Plantation system, Starks would not make a further claim against Marks, Tucker, or CMI. Haley and McClelland agreed that Starks would be entitled to one-sixth of any sale price for Plantation over $14.5 million.

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[270] BG-142

[271] BG-140

[272] BG-152

[273] 288-592

On December 2, 1987, McClelland wrote to Haley and Blumenthal (Marks' attorney) to submit drafts of documents "to formalize the binding agreements reached November 30" by Starks, Marks, Tucker, CMI, and PCS.[274] On December 4, 1987, Haley replied that he would "prefer that PCS not be a debtor under this Settlement Agreement because of some of the plans I have for it."[275] After that change and others were made to the draft, a final settlement agreement was signed by Starks, McClelland, Tucker, Marks, Blumenthal, and Haley on December 15 and 17, 1987. Marks signed a certification of authority for the settlement as president of CMI, which was dated December 15, 1987.

McClelland says that he was never notified before the settlement of the rescission of the PCS/CMI merger, the merger of PCS to LMS, or the bankruptcy of LMS. Nor did Haley or the others ever tell McClelland that a bankruptcy was even in the offing. The first that McClelland learned about these events was during the OIC investigation. McClelland told OIC that if he had known of these events, he would have considered them significant to his litigation on behalf of Starks. Oliver says that he was never told by Haley, Tucker, or Marks that the Starks litigation was settled.

(c) The Creditors

The bankruptcy schedules filed on November 30 listed the following creditors:

Secured:

(1) **Jim Guy Tucker.** Claim based on Income Note valued at $8,722,384.31 (principal and interest as of date of filing of petition), and secured by assets of LMS[276]

Unsecured:

(1) **Cablevision Management, Inc.** Claim based on "advances, plus other consideration under Management Agreement, the total of which equals approximately $1,150,000.00"[277]

(2) **County Cable Limited Partnership.** Claim

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[274] 288-219

[275] 288-1084

[276] BG-266

[277] BG-267

based on $66,408.39 cash advanced to LMS.[278]

(3) **Frost & Company.** Claim based on "accounting services" for $6,000.00[279]

(4) **Dwight Harlan.** Claim for $250.00[280]

(5) **Linda Harlan.** Claim for $450.00[281]

(6) **Steve Feldman.** Claim for $37,500 based on "accounting and bookkeeping services"[282]

(7) **William J. Marks, Sr.** Claim for $265,000 based on "Note advances to Corporation and rights under Employment Agreement (October, 1987)."[283]

As noted, Tucker's claim was based on the $7.9 million Income Note that he obtained from Meredith on June 10, 1987. That note had been contributed to the capital of CMI, but was "recreated" by Tucker and Marks in the rescission of the merger.[284]

On June 10, 1987, the note was divided between Marks and Tucker by the Form of Endorsement signed by William Straw of Meredith Corporation. We obtained the original note from Tucker during the investigation.[285] The back of the note now contains the following statement: "Negotiated to Jim Guy Tucker without recourse." It is signed by William H. Straw for Meredith Corporation.[286] The note in the Fleet loan binders from June 10, 1987, is not signed on the back. The back of the note must have been signed at a later date. Straw identified his signature on the back of the note, but says that he does not recall when he

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[278] BG-267

[279] BG-267

[280] BG-267

[281] BG-268

[282] BG-268

[283] BG-268

[284] 893-772

[285] 199-81557

[286] 199-81558

signed it. Handwritten on the front of the note is the statement, "Satisfied in full by transfer of assets. Jim Guy Tucker."

The bankruptcy papers state that the claim of CMI in the bankruptcy is based largely on advances of funds made by CMI to LMS/PCS under a management agreement. We obtained from Tucker and Andrews & Kurth during the investigation a document styled "Management Agreement" between PCS and CMI.[287] The Agreement says that is "effective as of June 10, 1987," and that it "shall expire on December 31, 1987, if the Plan of Reorganization voted for and approved by [CMI] has not been approved by a United States Bankruptcy Court on or before December 31, 1987." It is clear that the document was created after June 10, 1987, during the rescission of the PCS/CMI merger. The Agreement provides that CMI will manage all aspects of the operation of the PCS cable systems. It is signed by William Marks as president of PCS, and Betty Tucker as vice president of CMI. (The PCS systems are said to be Trophy Club, Roanoke, and Las Brisas; Marks and CMI have a separate Management Agreement covering Carrollton.)[288]

Others listed as creditors have been interviewed during the investigation. Dwight Harlan said that he did not remember how he became a creditor of LMS, but surmised that he may have been owed money for work that he did for Tucker. He does not remember doing any work for LMS. Harlan said that he signed a ballot accepting the Plan of Reorganization because he trusted Tucker, and Tucker told him that he should sign it. The handwriting on the ballot other than the signature appears to be Tucker's.

Linda Harlan was interviewed on December 8, 1994. She said that she does not think she ever was a creditor in a bankruptcy, and she did not think that she ever received $450. When she was shown a ballot accepting the Plan of Reorganization,[289] Harlan identified her signature on the ballot. She did not recall signing the ballot. She said that she has never heard of LMS, and does not think that she was ever notified of a bankruptcy.

Mike Gratz said that he signed a ballot accepting the Plan of Reorganization on behalf of Frost & Company.[290] When

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[287] 199-108990

[288] 199-108982

[289] 253-897

[290] 253-900

asked for the name of the client on whose behalf Frost had provided the accounting services listed in the bankruptcy, Gratz said that it was possible that the charges had been billed internally to the CCLP acquisition account. He did not know if Frost had been paid the $6000 described.

We have obtained from Tucker a memorandum dated May 11, 1988, from Tucker to his bookkeeper, Dorothy Shearer.[291] The memo asked Shearer to make two checks from CMI to Dwight and Linda Harlan for $250 and $450, respectively, and to mark them "Payment in full of claim against Landowners Management Systems, Inc." Shearer indicated on the memo that she did so on May 13, 1988. We have obtained the checks, which were signed by Betty Tucker, and cashed by the Harlans on May 19, 1988.[292]

The May 11 memorandum to Shearer also asks, "Can we identify at least $6000 paid to Frost & Company between November 30, 1987, and now which was for services rendered to PCS (or for its benefit) prior to December 31, 1987? How much can we identify?" At the bottom of the memo is a handwritten note from "DS," saying "Gave Jim Guy copies of invoice for $2100.00, $4980.00 & copies of cks. #470 for $2100.00 & #210 & 321 for $2490.00 each."

We have obtained from Tucker a document entitled "Planned Cable Systems Corp. -- Accounts Payable Detail," which is dated November 30, 1987." A handwritten notation at the top says "Master List, 12/11/87, 6:10 p.m." The document appears to list 18 pages of outstanding accounts owed by PCS.[293] None of these creditors was listed in the schedules filed with the bankruptcy court. We have not yet analyzed this information in detail. We have been able to determine, however, that at least some of the major accounts (such as HBO and Showtime) were paid by CMI in 1988.

In a "Queen for the Day" interview on January 9, 1995, Steve Feldman said that Tucker told him in 1987 that he would be a creditor in the LMS bankruptcy. Feldman said that the money owed to Feldman as salary for the remainder of the year would be listed as the amount of Feldman's claim in the bankruptcy. Feldman said that he was eventually paid the money as salary from CMI.

We have obtained from Frost & Company evidence of one other bookkeeping matter related to the bankruptcy. On November

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[291] 199-252452

[292] 199-36322, 199-36324

[293] 199-86021 to 86038

30, 1987, Tucker signed an agreement in which he agreed to assume $569,000 of CMI's claims against LMS. According to the agreement, CMI was "unwilling to vote for the Plan or to continue to incur expense in the operation of the Florida system, unless Tucker assumes responsibility for certain portions of the CMI claims."[294] Tucker produced to OIC a letter from him to CMI dated June 30, 1988, in which he attached a summary of obligations of LMS, which constituted part of CMI's claim in the bankruptcy, but which Tucker paid instead.[295]

(d) The Plantation Sale

The bankruptcy papers include several statements about the value of the Plantation system transferred to Tucker. The Disclosure Statement describes a lengthy analysis of various methods that could be used to value the assets: capitalization of earnings, cash flow multiplier, per subscriber multiplier, and liquidation analysis.[296] The Statement concludes that "[u]sing a combination of these different valuation methods, the Company has negotiated sales prices for the Systems and proposes to transfer the Systems . . . for what management believes to be the fair market value of each system." (emphasis added).[297] The "fair market value" recited in the Statement was $8.85 million for the Plantation system, and $1.15 million for the Texas systems (Trophy Club, Roanoke, and Las Brisas).[298] Similarly, the Plan of Reorganization said that "management" believed the $8.85 price for Plantation to be "equal to or in excess of the fair market value for the system."[299] None of the documents disclosed the signed purchase agreement to sell the Plantation system to ACF for $12.75 million, plus $2 million in non-compete payments. None of the persons interviewed from ACF had heard anything about a bankruptcy involving the Plantation system that ACF had contracted to purchase.

(e) The Meredith Sale

The Disclosure Statement listed the shareholders of LMS

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294 85-7663 to 7664

295 199-252488

296 BG-150 to 151

297 BG-151

298 BG-151

299 BG-127

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as Mikado Leasing Company (82%) and William Marks (18%).[300] The Statement of Financial Affairs said that "Meredith Corporation sold its 82% stock in the corporation to Mikado Leasing Company, Inc., for $1. Meredith considered the stock to have no value." (emphasis added).[301] The document went on to say that "Mikado Leasing Company, Inc. acquired 82% stock ownership effective June 10, 1987."[302] None of the documents disclosed that Tucker had purchased 82% of the PCS stock from Meredith.

(f) Fleet National Bank

Questions 14(b) and 15 of the Statement of Financial Affairs ask whether the debtor has transferred any property or accounts receivable, for purposes of security, during the year preceding the filing of the petition. Although Fleet National Bank held a security interest in all of the assets of PCS (now LMS), the bank was not listed in response to either question.[303]

Fleet has taken the position that it should have been notified of the rescission and bankruptcy, and that it would not have consented to those actions if it had been notified. Fleet has also said, however, that it suffered no harm as a result of these events, and that it will continue to do business with Marks, who has continued to borrow money from Fleet.

[redacted] In a letter to Citizens Savings Bank dated August 12, 1994, Elizabeth Munnell, attorney for Fleet, said that Fleet would not have consented to the transactions outlined above, but that Fleet suffered no harm, and planned to take no further action.[306]

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300 BG-144

301 BG-262

302 BG-262

303 BG-259 to 260

304 [redacted]

305

306 556-42

Colin Clapton, former vice president of Fleet, and now president of The Marks Group (a Bill Marks company) had a different view of Fleet's statement. Clapton said in an interview that he knows the way Fleet thinks, and that Fleet said it "would not have consented to the transactions," only because "the government would have killed them" if they had said otherwise.

A draft Statement of Financial Affairs dated November 23, 1987, was produced to OIC by Josephine Garrett. That draft stated that accounts or other receivables had been assigned "to Fleet National Bank for the benefit of Jim Guy Tucker."[307] The reference to Fleet is crossed out, and it does not appear in the final version. Oliver says that he was told by Haley to omit Fleet because the Fleet loan was to Tucker and Marks individually, and because CMI rather than LMS was guaranteeing the loan.

(g) The Carrollton System

The Statement of Financial Affairs included a discussion of the Carrollton system. Oliver said in an interview that Haley and/or Tucker drafted this decision. In response to a question about pre-bankruptcy transfers, it stated:

> The Corporation held bare legal title to a CATV system beneficially owned by William Marks. Marks and others on his behalf advanced all sums required from time to time to meet the financial requirement of holding, operating and constructing the system.
>
> The total amount advanced was in excess of $1,200,000. Title to the system was conveyed to William Marks on November 13, 1987, in termination of this bailment.
>
> The Corporation claimed no interest and presently claims no interest in the transferred system, and indeed, were it to adopt the position that it claims ownership of the system, then it would be required to treat as debt the more than $1,200,000 advanced by William Marks and treat as a future liability the continuing construction requirements for the system's fulfilling its franchise obligations of an additional $1,500.00. The sum of these figures exceed the value of the system transferred by at least $600,000.[308]
>
> We have not been able to verify the claim that Marks

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[307] 254-274

[308] BG-259

personally advanced $1.2 million for Carrollton. We have obtained from Tucker a workpaper produced by Bill Huffman of Frost & Company concerning Marks' "potential basis" in Carrollton.[309] That workpaper shows over $1.2 million allocated to Carrollton prior to November 1987. There are remaining questions, however, about whether some of the amounts were properly allocated.

Approximately $500,000 of the money that Marks claims to have "advanced" personally is the money that he borrowed from Meredith on March 1 and loaned to PCS for construction at Carrollton. The November 13 assignment and the Statement of Affairs recharacterize this loan as a personal advance by Marks.

Virtually all of the evidence that we have found shows that the Carrollton system was considered an asset of PCS prior to November 1987. Carrollton was included on PCS financial statements. PCS held the franchise for cable television in Carrollton. William Straw of Meredith and Mike Starks of PCS both have told OIC that they considered Carrollton part of PCS, and that Marks never claimed to own the system individually. The Debt Placement Memorandum circulated by Tucker and Marks to raise funds in the spring of 1987 includes Carrollton as a PCS asset. Marks' own Strategic Plan for PCS refers to Carrollton as part of the corporate assets.

There is one document to show that Marks had made a claim of ownership to the Carrollton system prior to November 1987. An unsigned draft Memorandum of Understanding and Intentions between Tucker and Marks, which was produced to OIC by former Marks attorney Bob Blumenthal contains the following discussion:

> PCS also holds a franchise for the city of Carrolton, Texas ("Carrolton") and a SMATV contract for the development known as Surrey Highlands (and others) in the city of Carrolton. However, Marks believes that the Carrolton franchise and those contracts are rightfully his due to the failure of Meredith to honor certain financing and other obligations to Marks in connection with the obtaining of the Carrolton franchise and SMATV contracts and the construction and operation of the system.
>
> As of 2/9/87, Marks had constructed approximately eight miles of underground cable plant passing 1300 homes, 900 of which

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[309] 199-173219

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are occupied in Carrolton. The city of Carrolton has also issued a franchise to Storer Corporation (?). Marks has overbuilt Storer for approximately five miles.[310]

Straw of Meredith and Starks of PCS say that Marks never voiced these claims during their dealings with Marks through June 1987.

(17) New UCC-1 Financing Statements

On December 16, 1987, Cynthia Barnett of Tucker's law firm sent a UCC-1 financing statement to the Florida Secretary of State. This statement listed PCS as a debtor and Tucker as secured party. The secured property was described as the Security Agreement dated March 21, 1984, between Meredith and PCS, which was assigned to Tucker on June 8, 1987 as part of the closing on the Stock Purchase Agreement. The Security Agreement had pledged all of the PCS assets as collateral for the $7.9 million Income Note from PCS to Meredith. Meredith had terminated its security interest in the PCS assets at the time of the June 1987 closing. A similar UCC-1 financing statement was filed in Texas on December 18, 1987. The apparent purpose of these documents was purportedly to perfect a security interest for Tucker in the PCS assets -- particularly the Plantation system -- that he was to receive through the LMS bankruptcy.

(18) The Bankruptcy Confirmation Hearing

On December 18, 1987, a confirmation hearing was held in Fort Worth on the LMS Disclosure Statement and Plan of Reorganization.[311] Van Oliver and Josephine Garrett appeared for LMS; Haley appeared on behalf of Tucker; and Don Windle appeared for CMI. According to Oliver and Windle, Tucker was also present. At the conclusion of the hearing, the bankruptcy court approved the Plan of Reorganization.

Marks testified at the hearing as president of LMS. Marks said that the Plan was proposed in good faith. He stated that his purpose in proposing the Plan was "to keep Mr. Tucker from foreclosing on the assets."[312]

[redacted]

[310] 893-799 to 800

[311] BG-290

[312] BG-298

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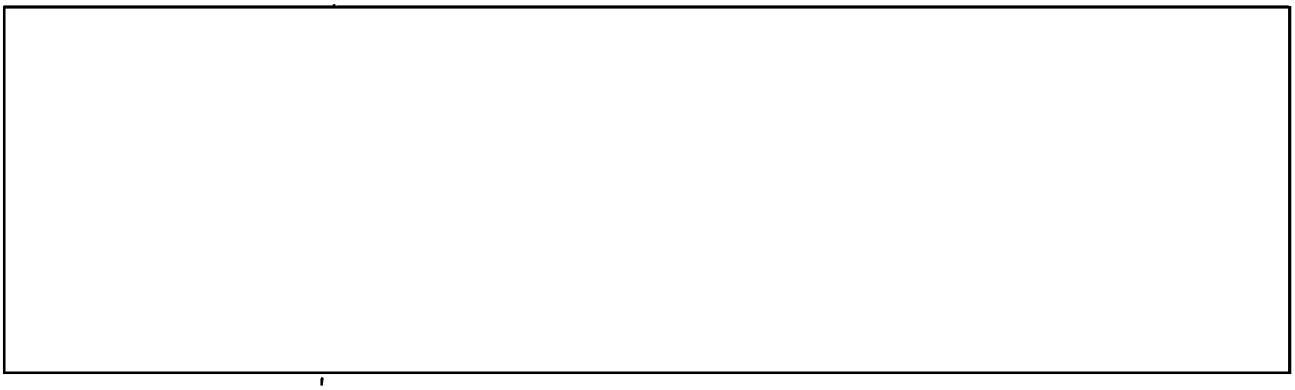
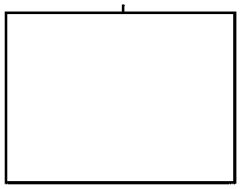


Josephine Garrett of Fort Worth served as local-local counsel for LMS in the bankruptcy. She was contacted by Oliver for that purpose because she was familiar with the presiding judge, Massie Tillman, and she knew the local procedures. In interviews with OIC, Garrett has claimed to have almost no memory about the substance of the bankruptcy. In an interview on December 14, 1994, Garrett characterized her role as "ministerial." She did no independent investigation of the facts as they were presented in the bankruptcy pleadings. Garrett said that she did not know that Fleet National Bank had a security interest in the assets of LMS; that LMS was a "shelf" corporation that had just been merged with PCS; or that an agreement had been signed to sell the Plantation system to ACF for $12.75 million and $2 million of non-competition payments.

Q. The Plantation Sale -- Superseded

In the midst of the activity surrounding rescission of the merger and the bankruptcy of LMS, Peter Portley, counsel for ACF, wrote to Tucker on November 18, 1987, to say that ACF tentatively approved of a closing date for the Plantation sale of January 4, 1988. After the bankruptcy was completed, Tucker and Marks renegotiated the purchase and sale agreement with ACF.

Tucker wrote to Walsh of ACF on December 9, 1987, and suggested that the name of one seller be changed from Sattech, Inc., to Tucker.[316] On December 28, 1987, Tucker, Marks, and Walsh signed an agreement that a new Purchase and Sale Agreement would supersede the earlier signed agreement from September 25,

313 

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315

316 284-565

1987.[317]

On December 28, 1987, a new Purchase and Sale Agreement was signed concerning the Plantation system. In this agreement, Tucker and CMI, as sellers, agreed to convey the Plantation cable system to ACF for $11.75 million.[318] In addition, ACF agreed to pay $3 million in non-compete payments to Tucker and Marks, jointly.[319] The agreement was signed by Tucker individually and as president of CMI, and by Thomas Walsh for ACF. Marks signed for purposes of the non-competition agreement. A separate non-competition agreement provided that ACF would pay $2 million to Marks and Tucker in January 1988, and $1 million to Marks and Tucker on or before December 31, 1988. The payments were not allocated between Tucker and Marks.

In an interview with OIC, Walsh of ACF said that he recalled some dispute about who was the owner of the Plantation system, but that it was not of great concern to him. During the closing, Walsh, Tucker, Betty Tucker, Marks, Haley, and ACF's attorney worked for three solid days to reach an agreement. Walsh had never heard of LMS, and he was unaware of any bankruptcy involving LMS or PCS. The ACF attorney, Portley, also said that he did not know about the rescission or the bankruptcy.

R. The Falcon Sale

On February 29, 1988, Marks sold the Carrollton system to Falcon Cable Media for $3.8 million. CMI sold Trophy Club, Roanoke, and Las Brisas to Falcon for $1.3 million. Pulaski Cable Company (another entity controlled by Tucker and Marks) sold systems in South Arkansas to Falcon for $8.9 million.[320] Falcon then immediately swapped those systems to CCLP and Beebe Cablevision (other Tucker-Marks entities), in exchange for other systems in North Arkansas that Falcon wanted to own.

S. Haley's Compensation

On February 8, 1988, John Haley's law firm received a $100,000 payment for work done on the LMS bankruptcy. Tucker wrote a check to himself from the joint account of Tucker and Marks for $100,000.[321] Tucker then paid $100,000 to Arnold,

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[317] 284-811

[318] 199-652

[319] 199-639

[320] 85-43716, 199-16, 199-851

[321] 199-74653

Grobmyer & Haley.[322] Arnold, Grobmyer & Haley received another $50,000 payment from CMI on December 31, 1988.[323] This payment corresponds to a bill dated January 3, 1989, in which Haley's firm billed Tucker for "miscellaneous services rendered 1988 concerning FCC, corporate and tax matters."[324]

T. Post-Confirmation Work

There is substantial evidence that Tucker was personally involved in accounting work related to the bankruptcy during much of 1988. On June 3, 1988, he wrote to Marks, Feldman, and Gratz about "accounting issues that urgently need resolution," including several relating to the report to the bankruptcy court on LMS.[325] On June 21, 1988, CMI paid the legal fees of Andrews & Kurth and Garrett & Garrett for the LMS bankruptcy with checks signed by Tucker.[326] On June 30, 1988, Tucker sent Garrett "the final report to the Bankruptcy Court prepared by Steve Fledman [sic] which I have reviewed and approve."[327] On August 25, 1988, Garrett filed for LMS a post-confirmation report and accounting.[328] The court approved that report on October 20, 1988.[329]

After the Falcon transactions, Tucker and Marks continued their joint venture through the operations of CCLP, which did business as PCS. CCLP operated the Texas systems -- Carrollton, Trophy Club, Roanoke, and Las Brisas -- which it had obtained from Falcon in the asset swap.[330]

U. The Phantom Stock Agreement

In January 1989, Tucker and Marks signed a Memorandum of Understanding to memorialize a 50/50 split of profits on their

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322 83-21144

323 199-223529

324 199-230082

325 85-8112

326 199-102762, 63

327 267-2

328 253-219

329 253-13

330 199-222672

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various CATV and SMATV enterprises.[331] Tucker and Marks wrote that they "both wish to share equally in the profits and losses from the previous sales as well as profits and losses from future operations."[332] The Memorandum provided that all profits from operation of the Texas cable systems would be divided 50% to Tucker and his controlled entities, and 50% to Marks and his controlled entities. Marks and Tucker said that this could be termed a "phantom" stock or parthership interest of Marks. The Agreement was "entered into by Marks and Tucker to memorialize their ultimate objectives, rather than the manner by which they may be accomplished, and will be executed as one original only to be safekept by John Haley for the benefit of both."[333]

In May and June 1989, Tucker and Marks arranged for a new CMI stock certificate to be sent to Fleet National Bank. As collateral for the June 1987 loan, Fleet still held stock certificates of CMI from Tucker and Marks. Fleet was not notified of the rescission of the CMI/PCS merger, however, and it still held 1000 shares of CMI that had been issued to Marks in June 1987 (CMI certificate Number 3).

[redacted]

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[331] 199-222671

[332] 199-222671, 672

[333] 199-222673

[334] 199-136552

[335] 199-173024

[336] 199-172972

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V. PCS in 1989: Robert Meyer and the Risk Note

During 1989, Tucker and Marks continued to run the Texas systems in Carrollton, Trophy Club, Roanoke, and Las Brisas. The systems were owned by CCLP, doing business as PCS. The general manager of PCS was Robert Meyer.

Meyer was interviewed by OIC agents. He learned some things about LMS during his tenure at PCS. Meyer said that during early 1989, Cynthia Wolfe Barnett of Tucker's law firm made trips to Texas to review boxes of documents that were kept by PCS in a storage area. On one occasion, Meyer saw Barnett tear up documents in his office, and take other documents back to Little Rock in a folder. Shortly after Barnett left his office, Meyer found two pages of a transcript of Marks testifying in a bankruptcy proceeding. Meyer inferred from this that Barnett had been tearing up documents relating to a bankruptcy.

Meyer said that in the fall of 1990, Tucker came to the Texas offices and asked about the boxes that Barnett and others had reviewed. Tucker saw a paper with Mike Starks' name and complained how Starks had "screwed" him. Tucker found three boxes relating to the Plantation system and said, "There's the f***** Plantation stuff we couldn't find." Tucker had Meyer load them into the trunk of his car. Tucker directed that Meyer take the boxes to an incinerator in Carrollton and destroy them.

Meyer never did destroy the boxes. He found that Carrollton had no incinerator. He left the boxes in his trunk for a while, and then removed them when he needed trunk space for his golf clubs. He still had the boxes when OIC agents approached him in March 1995. Meyer provided the boxes to agents.

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[337] 199-173754

[338] 199-173712

Among the boxes were two pages of handwritten notes about cable business that appear to be in Tucker's handwriting. One page calculates the gain and tax on the post-bankruptcy sale of the Plantation system as follows:

Fla. Sale

	11.5	
Basis in note:	(7.0)	
	5.5	Gain
	.32	
	$1.76	tax

The second page of the handwritten notes reads as follows:

Risk

Basis claimed	=	7
Actual basis	=	1
Risk	=	6
		.32
		1.926 + penalties + interest

The "basis claimed" is consistent with the $7.4 million basis claimed on Tucker's 1988 tax return. The "actual basis" corresponds to the $1.26 million in basis calculated by Coopers & Lybrand prior to the bankruptcy.

In 1991, Tucker and Marks sold CCLP to Richard Mays, but Tucker and Marks continued to run the company pursuant to a management agreement. During 1991, Tucker and Mays negotiated to sell CCLP to Harron Communications Corporation. In about August 1991, Meyer participated in a telephone conference with Mays, Cynthia Barnett, and representatives of Harron.

During the conference call, Meyer noticed that some SMATV contracts that would be conveyed to Harron in a sale were in the name of a company that Meyer remembered as "Landholders" or something similar. Meyer asked Barnett, "What is Landholders?" He said that she responded tersely, and told Meyer to call her on a separate telephone. When Meyer called Barnett, she told him never to mention Landholders [sic] to anyone because "Jim Guy will go through the roof."

Meyer said that after this conversation with Barnett, the atmosphere at PCS changed dramatically. Tucker had frequently made lengthy telephone calls to Meyer to discuss the cable business. After the "Landholders" call, Tucker spoke to Meyer only sparingly.

About one week later, Meyer traveled to Philadelphia to

meet with Harron representatives. Tucker told Meyer that he could make the trip, but told him not to discuss PCS. While Meyer was in Philadelphia, he received a message from Marks at a hotel where he was staying. The message said, "Watch your back, you're about to be ambushed."

On Labor Day 1991, Tucker, Betty Tucker, an accountant from Frost, and a locksmith confronted Meyer at the PCS offices. Betty Tucker told Meyer that they thought he was stealing from the company, and did not want him involved in their business. The locksmith changed all the locks in the office.

Tucker alleged that Meyer had misapplied funds to pay entertainment expenses for Bill Marks and others. Meyer told agents that there was a longstanding practice at PCS to use cash payments by cable customers for entertainment expenses. Meyer was careful, however, to obtain money orders for all payments so that he would have a record of the cash expenditures.

Tucker wrote a letter to Harron Communications saying that Meyer and another employee had "established a practice of diverting certain cash from customer payments," and that he used the account improperly.[339] Meyer said in interviews that he did not establish the practice complained of by Tucker; Marks was aware of the practice; Tucker should have been aware of it through review of accounting materials provided to him and his bookkeeper; Meyer never tried to hide the use of the unapplied cash account; and Meyer never personally benefited from the use of any cash. Meyer said that he provided Harron with documentation on the expenditures, and Harron was satisfied that Meyer should continue to be employed to work at the Texas systems.

W. Tax Returns

The Tuckers' tax return for 1987 was prepared by Deborah Newell and R.H. Borengasser of Little Rock. On July 26, 1988, Newell requested information from the Tuckers regarding their 1987 taxes. In particular, she inquired how PCS, LMS, and Mikado Leasing should be included. Tucker wrote to Newell on August 2, 1988, and said the following:

> On June 1, 1987, I purchased from Meredith Corporation a first mortgage promissory note made by Planned Cable Systems Corporation ("PCSC"). I paid $6,000,000 for the note. I borrowed money for the purchase price from Fleet National bank. I owned no stock in PCSC, Landowners Management Systems, Inc. or

[339] 199-116581

Mikado Leasing, Inc. No personal interests in cable systems were sold, exchanged or merged until 1988. (emphasis added)[340]

The tax returns for LMS for 1987 and 1988 were received by the IRS on August 25, 1988.[341] They were prepared by Stephen Feldman and signed by Marks. The LMS returns showed that Marks owned 100% of LMS by attribution (i.e., 82% is attributed to him apparently because it is owned by a company, Mikado Leasing, that was purportedly controlled by his wife, Donna).

Neither of the LMS returns reported any income from the sale of the systems that were distributed through the bankruptcy. We are advised by the IRS that if the bankruptcy is legitimate, the corporations need not report any gain on the sale of those systems through bankruptcy. That conclusion is based on Internal Revenue Code Section 108, which says that income from the discharge of indebtedness in a Chapter 11 bankruptcy is not subject to tax. There is some question about whether the IRS conclusion about Section 108 is correct. Our research has found decisions suggesting that LMS should have paid tax on gain from the sale to Tucker.[342]

Two tax returns for PCS were received by the IRS on August 26, 1988. One covered the period from June 1 to June 30, 1987; the second covered July 1 through November 24, 1987. Both returns were prepared by Stephen Feldman and signed by Marks. Both returns stated that Marks owned 100% of PCS "by attribution." PCS did not report any transaction relating to sale of any of the cable systems on its 1987 returns.

The Tuckers' tax return for 1988 was received by the IRS on June 10, 1989.[343] It was prepared by Deborah Newell, CPA, and signed by the Tuckers. In that return, the Tuckers reported the sale of the Plantation system for $11.75 million. They claimed as their basis $7,283,023. This number was calculated by Frost & Company, and we are advised by the IRS that if the bankruptcy is legitimate, the basis calculation by Frost appears to be appropriate. The total gain reported on the Florida sale by the Tuckers was $4,466,977. The total tax paid by the Tuckers in 1988 was $1,026,646.

The 1988 tax return for CMI was received by the IRS on

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[340] 630-2906

[341] IRS-LMS#06-6, and #06-26

[342] Gehl v. CIR, 1995 WL 115589 (8th Cir. 1995).

[343] IRS-JGT-#02-02

May 17, 1989. It was prepared by Mike Robinson of Frost and signed by Tucker. That return reports gain on the sale to Falcon Cable Media of the Texas systems that were distributed through the bankruptcy.[344] Because CMI is an S corporation, the tax on that gain was passed through to the individual shareholder, Tucker.

The 1988 tax return for Marks and Donna Marks was received by the IRS on October 19, 1989. It was prepared by Feldman and bears signatures for William and Donna Marks. Marks reported the sale of Carrollton on his 1988 return. He also reported only $1,000,000 of the $2,000,000 non-compete money paid in 1988 by ACF.

The 1989 tax return for Marks and Donna Marks was received on October 22, 1990. It was prepared by Feldman and bears signatures for William and Donna Marks. On that return, Marks reports $500,000 of the $1,000,000 non-compete money paid by ACF.

Investigators have traced to Marks all of the $3 million in non-competition payments that were paid by ACF in connection with the Plantation sale. As noted, Marks reported only half of this income on his 1988 and 1989 returns. We obtained draft returns for each year that report the full amount of noncompete money. Both the drafts and the final returns were prepared by Marks' accountant, Feldman. Feldman has given inconsistent explanations for why the final returns reported only half the money. Feldman has a prior conviction for embezzlement from Marks.

X. Tax Consequences

The IRS advises that the redistribution of cable television assets through the bankruptcy provides two principal tax advantages to Tucker and Marks.

First, Tucker and Marks were able to increase the basis in the Plantation system from the $1.26 million calculated by C&L pre-bankruptcy to the $7.2 million reported by Tucker for his post-bankruptcy sale to ACF. This increase in basis reduced the capital gain, and hence the tax on the sale to ACF. A tentative calculation by an IRS revenue agent concluded that the amount lost to the government was about $2.8 million.

Second, Tucker and Marks avoided corporate tax that would have been payable by CMI for the "built-in gain" or "capital gain" on the cable systems formerly owned by PCS, a C corporation. By using a bankruptcy to transfer the Plantation

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[344] IRS-CMI#05-61

system to an individual (Tucker) and the Texas systems to an S corporation (CMI), they were able to avoid corporate tax on the 1988 sales of those systems to ACF and Falcon, respectively. The assignment of the Carrollton system from CMI to Marks individually achieved the same purpose.

The IRS is revising its calculations of the total loss the government, and an estimate should be available shortly.

Y. The 1990 IRS Audit

In 1990, the IRS conducted an audit of CMI's 1988 tax return. The audit resulted in CMI's loss being reduced by $95,000 as a result of adjustments to certain claimed deductions and rental activity. As a result of the audit on the CMI return, the IRS made "flow through" adjustments to the Tuckers' personal return. Because CMI was an S corporation owned by Tucker, changes to the CMI return affected the individual return as well. The IRS also provided Tucker with letters confirming that the 1988 returns of Jim Guy and Betty Tucker and CCLP were audited.

The audit was conducted by Donna Simmons and Arlena Jackson of the IRS. Simmons was the primary auditor, and Jackson was a more experienced agent who did less work on the matter. Bill Huffman of Frost & Company represented the taxpayer at the audit.

In an interview, Simmons stated that she did some work on the Tuckers' individual return. The IRS examiners looked at Tucker's personal return primarily to verify the reporting of figures that passed through to the Tuckers from CMI. Simmons said that she did notice the large gain reported on the sale of Plantation, and that she was not uncomfortable with the way it was reported. But she did not analyze the basis reported.

The audit did examine the sale of Trophy Club, Roanoke, and Las Brisas to Falcon by CMI in 1988. The examiners were thus provided with some information about the LMS bankruptcy. These Texas systems were acquired by CMI in the LMS bankruptcy, and the IRS did not make changes to the reporting of the Falcon transactions. Simmons verified that the basis claimed in the Texas systems was correct based on an Asset Transfer Agreement that showed the acquisition of the Texas systems by CMI in exchange for discharge of $1.15 million of debt in the bankruptcy.

The examiners state that they did not look behind the information provided by Bill Huffman to determine if the assets were legitimately acquired through the bankruptcy. They were told that there was no relationship between Tucker and PCS or LMS. They did not do any research into the history of LMS or the reasons for the bankruptcy.

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Z. Recent witness contacts by Tucker

IV. **DISCUSSION**

A. Tax Fraud

A tax fraud charge against Tucker, Marks, and Haley would hinge on the evidence of intent to defraud the United States and the IRS. There should be no dispute that they agreed to rescind the CMI/PCS merger and proceed through bankruptcy. There should be no dispute that those events resulted in a reduced tax burden for Tucker and Marks, and entities that they controlled.

The intent argument is straightforward: Tucker and Marks were very concerned about the amount of tax that they would have to pay on the sale of cable assets formerly held by PCS. They obtained a calculation of the basis in the assets, and they expressed concern about the "built in gain" that might be taxable on the assets formerly held by the C corporation. Tucker, Marks, and Haley engineered a rescission of the merger and a fraudulent bankruptcy in order to reduce the taxes payable on the sale of the cable systems. The intent to defraud is shown by material

false statements in the bankruptcy, the use of shelf corporations to hide the true ownership of the entities, and the failure to notify significant parties of the fundamental corporate changes.

In particular:

(1) The rescission did not actually return the parties to the positions that they held prior to the merger. The 82% of PCS stock was transferred from Tucker to Donna Marks.

(2) PCS was merged into a shelf corporation, LMS, immediately before the bankruptcy.

(3) The bankruptcy court was told that Meredith sold 82% of PCS to Mikado Leasing Company. Meredith sold the stock to Tucker.

(4) The bankruptcy court was told that $8.8 million paid for the Plantation system in the bankruptcy was fair market value. But Tucker and Marks had a signed purchase and sale agreement for $12.75 million and $2 million non-competition payments.

(5) Fleet National Bank, which had a first lien on all of the assets of PCS/LMS was not notified of the bankruptcy. Neither were the trade and business creditors of PCS. Some of the creditors who were listed did not know why they were creditors of LMS.

(6) The Carrollton system was "assigned" to Marks by Marks himself acting as president of PCS, despite ownership of the franchise by the corporation, and longtime acknowledgement by all parties that Carrollton was a PCS system.

In short, Tucker, Marks, and Haley took numerous steps to keep secret the bankruptcy in Texas and related events, and to hide the true facts from the bankruptcy court and other interested parties. The result of their efforts was a substantial tax loss to the government, and a substantial tax benefit to them and their entities.

B. SBA Fraud

A false statement charge on the D&L Loan would based on the fact that Tucker applied for a loan on behalf of D&L Telecommunications, Inc., but instead intended to use the money as collateral for a personal loan to Tucker and Marks. The statement to CMS that the loan was for D&L was material; an SBIC cannot loan money to individuals, or to secure personal loans. Tucker knew that the money would not go to D&L, and the controlling stockholder of D&L said that the company never intended to do the work that Tucker represented to CMS. Marks

knew of the false representation that the loan was for D&L, and he also gained the benefit of the proceeds. Marks signed documents as president of D&L, but he knew that Don Smith was president. Marks knew that Don Smith was the controlling shareholder of D&L, but he never sought Don Smith's approval for the loan. Marks and Tucker prepared a false letter addressed to Don Smith about the loan.

V. DEFENSES OR EXPLANATIONS

If this case is charged, we are certain to face a vigorous defense. We have received some indication of likely defenses from several sources.

A. Prior Statements or Explanations

(1) Statements by attorneys for Tucker and Marks

With regard to the possible tax fraud charge, attorney George Collins has said that we will face the strongest advice of counsel defense that we have ever seen. He says that Tucker has one attorney (Haley) who advised him on the propriety of this course of action, and they believe they have others who will say that all parties acted properly.

Bob Davis and Cam Zachry (counsel for Marks) have stated to OIC during a meeting in our offices that the bankruptcy and associated transactions were a "sunlight" deal. By this, they appear to mean that various parties, such as Frost & Company and Andrews & Kurth, were notified of material facts. Thus, they argue, it is difficult to prove criminal intent. Marks' attorneys have also said that Marks relied on advice of counsel from Haley, Oliver, and Tucker.

(2) Statements by Haley to OIC

On April 26, 1994, Haley told OIC attorney Gabrielle Wolohojian how Tucker acquired an interest in PCS:

Governor Tucker bought from Heritage Publishing in Iowa a note payable to it from one of its subsidiaries, Planned Cable Systems (PCS). Tucker also acquired the right to the stock of PCS. In order to finance the growth of the cable systems, Tucker had obtained loan commitments from Fleet Bank and State Street Bank. After Tucker purchased PCS and despite having done due diligence, Tucker discovered that a certain Michael Starks claimed to have a document which entitled him to a percentage ownership of PCS. This was supposedly in a contract between Starks and Marks. Marks denied to Tucker that the contract was ever effectuated. As a result of this cloud on the title of the stock of the company, as well as other problems with creditors, they decided that the only way to clean title for Fleet was to

put the company in bankruptcy. They also paid Starks $600,000 to get rid of his claims.

On July 11, 1994, Haley told OIC attorneys Julie O'Sullivan and Gabrielle Wolohojian about Mikado Leasing Company. Haley said that Mikado Leasing bought vehicles and leased them to lawyers, accountants, and others who wanted to lease rather than own their vehicles. The business ceased in 1986, at which point Mikado became a shelf corporation.

Haley said that in 1987 the stock in Mikado was transferred to Marks by Haley for $10. Haley said that Marks acquired Mikado to hold title to PCS and LMS. Marks had wanted to hold stock in PCS/LMS in corporate form, rather than individually. When Marks no longer needed it for this purpose, he wanted it dissolved. Haley dissolved Mikado for Marks in 1988.

Haley said that he did not have stock records and corporate minute books for Mikado Leasing, because he sent them to Marks. Haley sent the stock certificate and assignment to Marks when he sold him the corporation. Haley said that he does not have the transfer documents. He said that Marks would have them. Haley noted that the transfer documents would consist simply of stock certificates that were cancelled and reissued in Marks' name. The number of Mikado shareholders varied through the years, but the last remaining shareholder prior to the transfer to Marks was Haley.

(3) Statements by Haley to Fleet National Bank

Representatives of Fleet National Bank met with Haley and Marks on July 15, 1994, to discuss the events of 1987. According to a report of interview with Elizabeth Munnell, counsel for Fleet, Haley provided the following explanation for the bankruptcy:

Mike Starks, a former controller for PCS was seeking to blackmail Marks based upon a pre-existing written agreement by which Starks would have an ownership interest in PCS. Starks threatened to derail the sale of the Plantation system by contacting the purchaser, American Cablesystems, and telling them of his claim, and later brought a suit against PCS, claiming an ownership interest in the company. "Nobody wanted to blow that deal," referring to the ACF sale, and the bankruptcy was devised as a defensive tactic in order to deal with Starks' "dangerous litigation."

According to Haley, Starks also had a prior oral agreement whereby he and Marks agreed to settle for $200,000. Starks' lawyer, at one point, admitted they had an oral agreement for that amount. At some point after that agreement, Starks

began to investigate the value of the cable systems, got a lawyer, and later filed suit. At some point during this time, Tucker asked Haley to take care of the Starks problem. Haley devised the bankruptcy in order to extinguish the Starks suit and claimed sole responsibility for it. According to Haley, the Starks litigation was stayed as a result of the bankruptcy, and Starks settled shortly after it was filed.

Munnell said that Haley also told her that after Starks had become vice president of PCS, he and Marks agreed that Starks would be paid $200,000 for his interest in the company. Starks reneged on the agreement after he began investigating the worth of the company. After Starks filed suit, Haley came up with the idea of the bankruptcy in order to "zero out" Marks' interest in PCS, and thereby to eliminate Starks' interest.

Haley went to Andrews & Kurth, where his son works, to file the bankruptcy. Because they were on a "fast track" concerning negotiations over the sale of the Florida property, Haley wanted to file bankruptcy in Texas, to avoid a multi-district case, and hopefully, to get the bankruptcy approved in short order.

To accomplish this, he needed a clean Texas corporation that had not issued any shares. He called Don Windle, who provided LMS. The bankruptcy petition was filed on November 30, 1987, and Haley met with McClelland on the same day. At first, McClelland wanted $500,000 to be paid now, and another $500,000 to be paid at a later date. He settled for $600,000, and asked for 8.33% of the "overage" from the Plantation sale. On December 15, 1987, the settlement agreement was executed.

Munnell asked Haley why Fleet was not notified of the bankruptcy or listed as a creditor. Haley responded that it was an oversight, that things were moving too quickly, and that "they kept it in the Fleet family." Munnell asked Haley if Andrews & Kurth knew about Fleet's secured interest, and Haley said, "yes."

In a letter to Fleet dated July 25, 1994, Haley said that he still had "some difficulty about characterizing Planned Cable Systems or Landowner's Management as a Fleet 'borrower' or having its assets subjec [sic] to a security interest to Fleet when, under the preapproved plan, the assets which were encumbered were being delivered to the Fleet borrowers themselves, hence, raising no problems of exoneration." Haley also sent Munnell documents used by a Pittsburgh law firm to "unmerge" two unrelated companies in March 1987. He said that this precedent was "our authority for proceeding as we did."

(4) Statements by Marks' attorney Bruce Hallett to Fleet

Munnell said that she had also spoken with Marks' attorney Bruce Hallett. Hallett said that Starks and Marks had orally agreed to settle for $200,000, and that Starks went back on his promise and sued Marks for a greater amount. According to Hallett, Starks also called someone at ACF and told them that if they went ahead with the sale, "there would be a problem." Hallett said that Marks did not really understand what was going on, and just assumed that Fleet was taken care of, and that Haley would be able to tell them from a legal perspective what the bankruptcy was all about.

In a letter to Citizens Savings Bank in August 1994, Munnell stated that "Mr. Marks informed Fleet that Mr. Haley was solely responsible for carrying out the general plan, all for the purpose of neutralizing the litigation."[345] Munnell said that she has known and done business with Marks for a long time, and she believes he is a man of his word. She does not believe that he understood what he was doing with respect to the bankruptcy, and she does not believe that he intended to defraud Fleet.

(5) Statements by Haley to the press

Haley was quoted at length about the LMS matter in an article in the Arkansas Democrat Gazette dated January 15, 1995. According to the article by Mary Hargrove, Haley suggested the rescission of the PCS/CMI merger and the subsequent bankruptcy. They were worried, Haley said, "when we found out about this loose cannon out there who was claiming an interest in the business." Starks' lawsuit had put Tucker "in a position of looking at years of litigation before finding out what he owned." The company did not have audited statements, and Haley wondered if there were other stock ownership claims that would suddenly surface.

Haley was quoted as saying, "The problem is if you want to sell a system, then you can sell it, at best, at a severe discount because you've got problems." He said it also would make banks wary of lending money to expand the other systems that were not being sold.

Haley said, "My suggestion was to place the system in bankruptcy where all these problems could be sorted out and you would end up with a clean corporation with a known list of assets and liabilities. So that's what we did."

Haley told the paper that on November 30, 1987, he

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[345] 556-43

struck a tentative settlement with Starks' attorney. He said, "I told Starks' attorney as little as possible. I certainly told him that a bankruptcy was in the offing. I don't know if I had told him we had filed it that day or not. I don't know why I would have."

Haley also told the newspaper that the IRS audited Tucker's 1987 and 1988 tax returns. He said that auditors reviewed the Florida sale "and approved it without change."

B. Anticipated Defenses -- tax charge

(1) Advice of Counsel

Whatever explanation is offered for the bankruptcy, we are sure to hear that the transactions of November and December 1987 were undertaken by Tucker and Marks upon advice of counsel. The primary advisor is sure to be Haley, who will be characterized as a renowned tax attorney, or in the words of Frost accountant Mike Gratz, a "tax guru." In addition, Marks and perhaps Tucker will attempt to rely on Van Oliver, the bankruptcy attorney from Andrews & Kurth. Marks' attorneys have suggested that he may also claim reliance on Tucker.

Advice of counsel may be considered to determine whether a defendant lacked specific intent to violate the law. If a defendant sought the advice of an attorney in good faith before taking action, made a full and accurate report of all material facts to the attorney, and acted strictly in accordance with advice given, then the defendant would not be willfully doing wrong in doing something that the law forbids. Acting upon advice of counsel, however, does not confer complete immunity. A defendant cannot insulate himself from prosecution simply by having a lawyer tell him that a particular course of action is legal, without regard to the consciousness of wrongdoing on the part of the defendant and his lawyer. United States v. Poludniak, 657 F.2d 948, 959 (8th Cir. 1981).

We have interviewed several attorneys who may have been involved in the bankruptcy, and it appears unlikely that any other than Haley or Oliver could provide a basis for an advice of counsel defense. Jim Dowden from Haley's firm is a bankruptcy lawyer, but he says that his role in this matter was minimal, and he recalls almost nothing about it. [redacted] Attorneys from the Mitchell Law Firm say that they were not consulted about the rescission and bankruptcy. Marks' attorney for the Starks litigation, Bob Blumenthal, says that he did not work on the bankruptcy.

Apart from Haley and Tucker, Van Oliver was the attorney most heavily involved in the bankruptcy. There is

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evidence that would allow the defense to assert that Oliver was informed of Tucker's Stock Purchase Agreement with Meredith, the rescission of the PCS/CMI merger, the PCS/LMS merger, the Fleet loan, the Starks claim, and the possible tax advantages of the bankruptcy. Thus, they could argue, he was advised of all material facts, and he approved the bankruptcy filing.

Consider the following defense theory, which incorporates the various statements made by Tucker, Haley, Marks and others:

Marks and/or Starks defrauded Tucker by failing to disclose the Starks agreement prior to the closing on the Meredith stock purchase agreement and the merger of PCS/CMI. That omission, as well as the inadequate number of shares voted for the merger, justified the rescission of the merger. Haley's advice concerning the rescission was based on a similar demerger handled by a Pittsburgh law firm. Tucker and Marks relied on this advice.

The bankruptcy was filed to "zero out" the claims of Starks and any others who might make claims to an interest in the stock of PCS/CMI. Tucker and Marks had made representations to Fleet that they held clear title to all of the assets pledged as collateral. It was thus essential to make sure the title was clear of the Starks claim and any others. Although Starks agreed to settle on the date that the bankruptcy petition was filed, Tucker, Marks, and Haley continued to worry that they might face other such claims in the future. PCS did not have audited financial statements; Marks was known to be a "loose cannon;" and Haley wondered if there were other stock ownership claims that would suddenly surface. With loans over $10 million outstanding, they could not take that chance. Haley advised that this was proper. Oliver was informed of this situation, and raised no concerns about the propriety of the bankruptcy. Tucker relied on Haley. Marks relied on Haley and Tucker.

Moreover, PCS was in poor financial condition. Its cash flow was inadequate to cover expenses, and bankruptcy was justified for that reason alone.

Tucker and Marks decided to merger PCS into LMS before the bankruptcy because they wanted to avoid bad publicity for PCS. PCS was a valuable trade name that they intended to use in the future. Even after PCS was dissolved, Tucker and Marks used "PCS" as a trade name for one of their other cable entities.

Because the merger was void from its inception in June 1987, CMI had spent substantial money running the PCS systems during the period between June and November 1987. The Management Agreement between PCS/LMS and CMI, which was declared "effective June 10, 1987," reflected the reality of what had taken place

between June and November. Although the document was not drafted until November (when the merger was considered void), it is fair to say that the management agreement was effective earlier, because CMI did run the companies from June to November. CMI spent over $1 million on PCS systems during that period, and the CMI claim in bankruptcy was substantiated.

There was no need to notify Fleet of the bankruptcy because the assets were simply transferred from an entity controlled by one of the borrowers (Marks) to another borrower (Tucker). There was no risk to Fleet from the distribution of assets in the bankruptcy.

The only reason that Tucker agreed to buy the PCS stock from Meredith was to merge PCS with CMI. As Meredith's Straw said in his affidavit, the stock was worthless. When Tucker discovered that Marks had defrauded him by not disclosing the Starks claim, he told Marks to take the worthless stock. Knowing that he had wronged Tucker, Marks agreed to take the worthless stock. Marks wanted to hold the stock in a corporation rather than individually, perhaps because he did not want it known that a business of his had filed for bankruptcy. That would be bad for business. Haley agreed to provide Marks with Mikado Leasing Company, an inactive car leasing company, to hold the stock.

It was fair for the bankruptcy papers to say that Meredith sold its 82% of the stock of Mikado Leasing Company, because that reflects the reality of what happened. Tucker and Marks essentially agreed to rescind Tucker's purchase of Meredith's worthless stock because of fraud by Marks or Starks. The effect was that Marks (rather than Tucker) obtained the stock from Meredith on June 10, and he obtained it under the name of the Mikado Leasing Company. The stock was worthless, so the papers reflected a sale price of $1.

The bankruptcy papers fairly stated that the market value of the Plantation system was $8.85 million -- the value of Tucker's note. The signed purchase/sale agreement with ACF for $12.75 million was not a good measure of market value. As long as Starks or others had claims on the ownership of PCS/CMI stock, the ACF sale could not go through. Prospective purchasers would be wary of a title problem, and the value of the system was thus reduced. In fact, Tucker and Marks even heard through the cable TV grapevine that Starks had called ACF and warned them that if they went through with the purchase of Plantation, there would be a title problem.

The actions of Tucker, Marks, and Haley are not consistent with criminal intent. Tucker and Haley explained their plan to Frost & Company. They filed public documents regarding the bankruptcy, and appeared publicly in court. The entire transaction was done in the "sunshine."

The IRS already has audited the Tuckers' tax return for 1988, which reported the sale of the Plantation system that was distributed out of the bankruptcy. The IRS also audited the CMI return for that year, which reported the sale of other systems distributed out of bankruptcy. The auditors were provided with information about the bankruptcy and the rescission of the PCS/CMI merger. They approved the Plantation sale as reported. It was only when the OIC came to town that anyone questioned the propriety of the returns.

C. Anticipated Defenses -- SBA Fraud

We have received some indication from Tucker's attorney, George Collins, about a defense to a false statement charge based on the D&L loan. We might expect something like the following:

The D&L loan was paid back promptly, and there was no loss to the government or the SBIC. Marks told Tucker that he had authority to act on behalf of D&L. To be safe, Tucker even met in Florida with Don Smith of D&L, and Marks sent a letter to Don Smith of D&L showing that Smith ratified the actions of Marks and Betty Tucker to apply for the loan.

The June 4 letter from Tucker to Hale shows that Hale knew that the money was going to Fleet National Bank to secure a loan. If Hale thought Tucker was going to use the money to secure a loan directly to D&L, Hale misunderstood. Tucker told Hale that the loan would be used to secure a personal loan that was for the benefit of the cable companies. It was fair to say that the loan was for the benefit of D&L, because by funding the cable transactions of CMI, D&L was promoting its own cable construction business in Arkansas. Moreover, consistent with the draft memorandum of understanding from February 1987, Tucker and Marks had even considered making D&L part of the CMI corporate entity.

Tucker's representation that D&L would begin work in Arkansas was true at the time. Marks did tell Tucker that he would arrange for D&L to do business in Arkansas for CMI. Don Smith told Tucker the same thing in August, and Marks confirmed that understanding in his letter to Smith. Smith reneged on the agreement, and he is lying when he says that he never agreed to the loan. Smith must be concerned that because the OIC is investigating this loan, he could be subject to charges if he admitted his involvement.

Marks, in turn, could say that Smith told him that D&L would agree to do business in Arkansas, and that Marks and Betty Tucker could sign for the loan. Smith reneged on the agreement to do business in Arkansas, and he is lying when he claims that he did not agree to the loan proposal.

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**********FAX TRANSMITTAL SHEET**********

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

6-3-95

DRAFT

UNITED STATES OF AMERICA, Plaintiff, v. JIM GUY TUCKER, WILLIAM J. MARKS, SR., and JOHN H. HALEY, Defendants.	)	No. 18 U.S.C. § 371 18 U.S.C. § 1014 18 U.S.C. § 2

INDICTMENT

The Grand Jury charges:

COUNT ONE

Introduction

At various times material to this indictment:

1. In 1987, JIM GUY TUCKER was a practicing attorney in Little Rock, Arkansas, and was also involved in the cable television business.

2. WILLIAM J. MARKS, SR., was a businessman involved in the cable television industry.

3. Betty Tucker was the wife of Defendant JIM GUY TUCKER.

4. The Small Business Administration ("SBA") was an agency of the United States Government with responsibility for providing financial assistance to small business investment companies ("SBICs") in order to aid SBICs in lending money to small business concerns.

5. Capital Management Services, Inc. ("CMS"), was a privately-owned SBIC licensed by the SBA and located in Little Rock, Arkansas. CMS specialized in making loans to what were represented to be socially or economically disadvantaged small business concerns.

6. D&L Telecommunications, Inc., ("D&L") was a Florida corporation in which Defendant WILLIAM J. MARKS, SR., was a 50 percent shareholder with less than 50 percent voting rights.

7. Fleet National Bank ("Fleet") was a bank headquartered in Providence, Rhode Island.

8. State Street Bank and Trust was a bank headquartered in Boston, Massachusetts.

9. In June 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., arranged to borrow personally $8.5 million from Fleet

and State Street (collectively "Fleet") for use in a joint cable television venture.

10. Fleet required that Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., pledge $500,000 cash as part of the collateral for the loan. Fleet required that the cash be placed into an escrow account at the bank.

The Conspiracy

11. From on or about June 5, 1987, continuing through about January 5, 1988, in the Eastern District of Arkansas and elsewhere, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., did unlawfully, willfully, and knowingly combine, conspire, confederate and agree with each other and with others known and unknown to the Grand Jury to knowingly make false material statements for the purpose of influencing the action of Capital Management Services, Inc. ("CMS"), a federally licensed small business investment company, in connection with a $300,000 loan from CMS, in violation of Title 18, United States Code, Section 1014.

The Purpose of the Conspiracy

12. The purpose of the conspiracy was to make false statements to CMS for the purpose of influencing CMS to lend

money for the personal use of the Defendants.

Manner and Means of the Conspiracy

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

13. It was a part of this conspiracy that the Defendants would apply to CMS for a loan of $300,000.

14. It was part of this conspiracy that the Defendants would represent to CMS that the borrower and beneficiary of the $300,000 loan would be D&L Telecommunications, Inc.

15. It was part of this conspiracy that Defendant JIM GUY TUCKER would represent to CMS that D&L was beginning business in Arkansas, when in fact D&L never did business, intended to do business, or applied as a foreign corporation to do business in Arkansas.

16. It was part of this conspiracy that Defendant WILLIAM J. MARKS, SR., would sign CMS loan documents as president of D&L, when in fact he was not an officer of the corporation.

17. It was part of this conspiracy that the Defendants would arrange for Betty Tucker to sign a promissory note to CMS

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as secretary of D&L, when in fact she was not an officer of D&L.

18. It was part of this conspiracy that instead of using the proceeds of the CMS loan to benefit D&L, the Defendants would arrange for the proceeds of the CMS loan to be placed into the escrow account at Fleet as collateral for the Fleet loan to the Defendants.

19. It was part of this conspiracy that the Defendants would create false documentation purportedly to ratify the actions of Defendant WILLIAM J. MARKS, SR., and Betty Tucker.

20. It was part of this conspiracy that the Defendants would repay the CMS loan with proceeds of the sale of cable television systems acquired with the proceeds of the Fleet loan.

Overt Acts

In furtherance of the conspiracy, and to effect the objects and purposes of the conspiracy, the following overt acts were committed in the Eastern District of Arkansas, and elsewhere:

21. On or about June 4, 1987, Defendant JIM GUY TUCKER asked the president of CMS for a loan of $300,000 to D&L. Defendant JIM GUY TUCKER told the president of CMS that Defendant WILLIAM J. MARKS, SR., was the president of D&L, and that D&L

would be the surviving entity after a merger between cable television entities owned by Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR..

22. On or about June 5, 1987, Defendant JIM GUY TUCKER caused the president of CMS to transfer proceeds of the CMS loan to the escrow account at Fleet.

23. In or about June 1987, the exact date unknown, Defendant JIM GUY TUCKER sent to the president of CMS a promissory note for $300,000, which promissory note was signed by Defendant WILLIAM J. MARKS, SR., as president of D&L, by Betty Tucker as secretary of D&L, and by Defendant JIM GUY TUCKER, Defendant WILLIAM J. MARKS, SR., and Betty Tucker as individual guarantors.

24. In about June 1987, the exact date unknown, Defendant JIM GUY TUCKER sent to the president of CMS a letter dated June 4, 1987, stating that "D&L is beginning business in Arkansas" and that D&L would be doing extensive work in underground cable construction in West Pulaski County.

25. On or about August 5, 1987, Defendant JIM GUY TUCKER sent to CMS loan documents labeled "Size Status Declaration" and "Assurance of Compliance," which identified D&L as the borrower of the $300,000 loan.

26. On or about August 7, 1987, Defendant WILLIAM J. MARKS, SR., signed the "Size Status Declaration" and the "Assurance of Compliance" as president of D&L, and Defendant JIM GUY TUCKER attested the signature on the "Assurance of Compliance."

27. On or about August 7, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., created a letter to the actual president of D&L purporting to confirm an agreement that Defendant WILLIAM J. MARKS, SR., and Betty Tucker were authorized to have acted as officers of the corporation to secure the loan from CMS, and that D&L would apply for authority to do business in Arkansas.

28. On or about October 9, 1987, Defendant JIM GUY TUCKER and another conspirator caused CMS to submit a letter to the SBA that represented that the $300,000 lent by CMS was for working capital of D&L Telecommunications, Inc.

29. On or about January 5, 1988, Defendant JIM GUY TUCKER sent to CMS a check for $300,000 signed by Defendant JIM GUY TUCKER and Betty Tucker to repay the loan to D&L.

30. In or about September 1988, Defendant JIM GUY TUCKER and another conspirator caused CMS to represent to the SBA that the stock of D&L was owned 50 percent by Defendant WILLIAM J. MARKS, SR., and 50 percent by Betty Tucker, that Defendant

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WILLIAM J. MARKS, SR., was president of D&L, and that Betty Tucker was secretary of D&L.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

On or about June 5, 1987, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., aided and abetted by each other, knowingly made a false material statement and caused the making of a false material statement for the purpose of influencing the action of Capital Management Services, Inc. ("CMS"), a federally licensed small business investment company, in connection with a $300,000 loan from CMS in that the Defendants represented to CMS that the borrower and beneficiary of the $300,000 loan was a cable construction company called D&L Telecommunications, Inc., when in truth and in fact, as the Defendants well knew, the proceeds of the loan would not be used for D&L Telecommunications, Inc., but as collateral for a personal loan from Fleet National Bank to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

This in violation of Title 18, United States Code, Section 1014, and Title 18, United States Code, Section 2.

COUNT THREE

Introduction

At various times material to this indictment:

1. JIM GUY TUCKER was a practicing attorney in Little Rock, Arkansas. He was also a businessman involved in the cable television industry. In early 1987, he owned 100% of the stock of an Arkansas corporation called Cablevision Management, Inc.

2. WILLIAM J. MARKS, SR., was a businessman involved in the cable television industry. In early 1987, he owned 18% of the stock of Planned Cable Systems Corporation, and he was president of that corporation.

3. JOHN H. HALEY was a practicing attorney in Little Rock, Arkansas, with the firm of Arnold, Grobmyer & Haley.

4. Donna Marks was the wife of Defendant WILLIAM J. MARKS, SR.

5. The Internal Revenue Code is legislation passed by Congress that governs the ascertainment, computation, assessment and collection of revenue, including income taxes, by the United States Government.

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6. The "basis" of an asset for tax purposes generally is the amount that the owner paid for the asset. Basis may be adjusted upward over time to reflect subsequent capital expenditures on the asset, or downward to reflect deductions for depreciation of the asset. The resulting amount is called the "adjusted basis."

7. The "gain" on the sale of an asset is the sale price paid for the asset reduced by the adjusted basis. Generally, the seller of an asset must pay tax on the gain.

8. Subchapter C of the Internal Revenue Code treats corporations as independent tax-paying entities. A corporation operating under subchapter C rules is referred to as a "C corporation." Income earned by a C corporation is taxed to the corporation. If the income is distributed later to shareholders of the corporation, the same income is taxed again to the shareholder.

9. Subchapter S of the Internal Revenue Code applies to "small business corporations," which are defined as certain domestic corporations with no more than 35 shareholders or more than one class of stock. An eligible corporation may elect to be treated as an "S corporation" under the Internal Revenue Code. If such an election is made, the corporation is not subject to

the corporate income tax. Corporate income, whether or not distributed to the shareholders, is taxed only once to the shareholders.

10. At the beginning of 1987, Cablevision Management, Inc., ("CMI"), was an Arkansas S corporation owned 100% by Defendant JIM GUY TUCKER.

11. At the beginning of 1987, Planned Cable Systems Corporation ("PCS") was an Iowa C corporation owned 82% by Meredith Corporation and 18% by Defendant WILLIAM J. MARKS, SR. PCS owned franchises for cable television systems in the cities of Trophy Club, Roanoke, and Carrollton, Texas, and Plantation, Florida.

12. In 1987, Meredith Corporation ("Meredith") was an Iowa corporation. In addition to owning 82% of the stock of PCS, Meredith held an income note ("the Income Note") that obligated PCS to pay Meredith $7.9 million, plus interest, for money advanced by Meredith to PCS. In early 1987, Meredith wanted to sell its 82% of PCS stock and the Income Note for approximately $6 million.

13. Fleet National Bank ("Fleet") was a bank headquartered in Providence, Rhode Island.

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14. State Street Bank & Trust was a bank headquartered in Boston, Massachusetts.

15. Landowners Management Systems, Inc., ("LMS") was a Texas C corporation. It was incorporated in 1983 by an attorney in Texas, who was known to Defendant JOHN H. HALEY. Prior to November 1987, LMS had issued no shares, had done no business, and had owned no tangible assets.

16. Mikado Leasing Company ("Mikado") was an Arkansas corporation incorporated in 1971. Defendant JOHN H. HALEY was president of the company from 1973 to 1987. The primary business of the company was leasing automobiles.

17. American Cablesystems of Florida ("ACF") was a cable television company headquartered in Massachusetts.

18. The Plantation cable system was a cable television system located in Plantation, Florida. At the beginning of 1987, it was owned by PCS.

19. The Trophy Club, Roanoke, Las Brisas, and Carrollton cable systems were located in Texas. At the beginning of 1987, these systems were owned by PCS.

20. In 1987, Sattech, Inc., was an Ohio corporation owned

50 percent by Defendant WILLIAM J. MARKS, SR.

21. In early 1987, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., met and agreed to undertake a joint venture in the cable television business in which they would divide equally their profits.

22. On or about March 1, 1987, Meredith and Defendant JIM GUY TUCKER signed a "Stock Purchase Agreement" in which Defendant JIM GUY TUCKER agreed to purchase from Meredith for $6 million its 82% of the stock in PCS and the Income Note.

23. On or about June 10, 1987, Fleet and State Street (collectively "Fleet") lent to Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., the sum of $8.5 million. Approximately $6 million of the proceeds of this loan were used to purchase Meredith's stock in PCS and the Income Note. As part of the collateral for the loan, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., pledged all of the cable television assets of PCS and CMI. As additional collateral, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., pledged a $500,000 cash escrow account, a portion of which was funded by a $300,000 loan purportedly to D&L Telecommunications, Inc., from Capital Management Services, Inc.

24. On or about June 10, 1987, in accordance with the Stock

Purchase Agreement of March 1, 1987, Meredith sold, assigned, and transferred to Defendant JIM GUY TUCKER its 82% of the stock of PCS.

25. On or about June 10, 1987, in accordance with the Stock Purchase Agreement of March 1, 1987, and an Assignment by Defendant JIM GUY TUCKER to Defendant WILLIAM J. MARKS, SR., of part of his rights under that Stock Purchase Agreement, Meredith endorsed the Income Note to Defendant JIM GUY TUCKER in the amount of about $3.3 million, and to Defendant WILLIAM J. MARKS, SR., in the amount of about $4.6 million.

26. On or about June 10, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., caused the merger of PCS into CMI. Defendant WILLIAM J. MARKS signed the Articles of Merger as president of CMI, and Defendant JIM GUY TUCKER signed as secretary of CMI.

27. On or about June 10, 1987, as part of the merger of PCS into CMI, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., contributed to CMI all of the stock of PCS and the Income Note.

28. On or about June 10, 1987, as a result of the merger of PCS into CMI, the surviving entity, CMI, was owned 50% by Defendant JIM GUY TUCKER and 50% by Defendant WILLIAM J. MARKS, SR. CMI owned the Plantation cable system in Florida and several

systems in Texas.

29. On or about August 24, 1987, American Cablesystems of Florida wrote to Defendant WILLIAM J. MARKS, SR., and offered CMI $15 million for the Plantation cable system.

30. On or about August 31, 1987, Defendant JIM GUY TUCKER wrote to accountants in Dallas, Texas, saying "[w]e are contemplating a sale of the Plantation, Florida assets to occur on or about October 1, 1987. We urgently need a calculation of the tax consequences. The sale price will be $15 million."

31. On or about September 3, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., discussed a prospective sale of the Plantation cable system. They commented that they would make a profit of $13 million from the sale, and that they did not want to pay a tax of $4 million on the sale.

32. On or about September 25, 1987, ACF and Defendant WILLIAM J. MARKS, SR., on behalf of CMI, signed an "Agreement of Purchase and Sale of Assets" in which ACF agreed to purchase the Plantation cable system from CMI and Sattech, Inc., for $12.75 million, and to pay $2 million in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., as part of the sale.

33. On or about October 9, 1987, accountants in Dallas, Texas, notified accountants in Little Rock, Arkansas, working with Defendant JIM GUY TUCKER that the tax basis of the Plantation cable system was approximately $1.75 million, and that the gain on a sale of the system for $15 million would be over $13 million.

34. On or about November 18, 1987, Defendant JIM GUY TUCKER received from accountants in Dallas, Texas, a facsimile reflecting that a corrected calculation showed a basis in the Plantation cable system of approximately $1.26 million, and gain on a sale of the system for $15 million of over $13 million.

The Conspiracy

Beginning no later than October 1987, the exact date being unknown to the Grand Jury, and continuing thereafter up to and including about October 1990, in the Eastern District of Arkansas and elsewhere, Defendants JIM GUY TUCKER, WILLIAM J. MARKS, SR., and JOHN H. HALEY, did unlawfully, willfully, and knowingly combine, conspire, confederate and agree with each other and with other individuals both known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing and defeating the lawful government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment and collection of the

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revenue: to wit, income taxes.

Manner and Means of the Conspiracy

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

35. It was a part of this conspiracy that the Defendants would devise a scheme to transfer the Plantation cable system owned by PCS to Defendant JIM GUY TUCKER through a fraudulent bankruptcy proceeding in Texas to increase the basis in the system, remove the system from a C corporation, and impede the ability of the Internal Revenue Service to collect taxes that would be due on a subsequent sale of the system.

36. It was a further part of this conspiracy that the Defendants would devise a scheme to transfer other cable systems owned by PCS to individuals or S corporations to impede the ability of the Internal Revenue Service to collect taxes that would be due on subsequent sales of those systems.

37. It was a further part of this conspiracy that Defendants JIM GUY TUCKER and JOHN H. HALEY would devise a "ten-step chart" to demonstrate a "rescission" of the merger between PCS and CMI, a merger of PCS into a dormant corporation, a bankruptcy of the new entity, and the distribution of the cable

television assets of PCS to Defendant JIM GUY TUCKER and CMI.

38. It was a further part of this conspiracy that in an agreement rescinding the merger of PCS and CMI, the Defendants would purport to transfer to Donna Marks ownership of 82% of the stock of PCS, when the Defendants knew that the stock was purchased from Meredith by Defendant JIM GUY TUCKER.

39. It was a further part of this conspiracy that in the rescission of the merger between PCS and CMI, the Defendants would cause the Income Note to be recreated and assigned completely to Defendant JIM GUY TUCKER.

40. It was a further part of this conspiracy that the Defendants would attempt to locate and acquire a "shelf" corporation.

41. It was a further part of this conspiracy that Defendant JOHN H. HALEY would acquire control of a "shelf corporation" in Texas called Landowners Management Systems, Inc.

42. It was a further part of this conspiracy that the Defendants would cause 82% of the stock of LMS to be issued to Mikado Leasing Company, and 18% of the stock of LMS to be issued to Defendant WILLIAM J. MARKS, SR.

43. It was a further part of this conspiracy that the Defendants would designate Donna Marks as president of Mikado Leasing Company.

44. It was a further part of this conspiracy that the Defendants would cause the merger of PCS into LMS.

45. It was a further part of this conspiracy that the Defendants would cause LMS to file a petition for bankruptcy.

46. It was a further part of the conspiracy that the Defendants would cause the bankruptcy petition to be filed in the Northern District of Texas.

47. It was a further part of this conspiracy that the Defendants would create a "pre-packaged" Plan of Reorganization that was approved by all listed creditors prior to filing of the petition in bankruptcy court.

48. It was a further part of this conspiracy that Defendant WILLIAM J. MARKS, SR., would sign bankruptcy pleadings as president of LMS, and appear in bankruptcy court as the president of LMS.

49. It was a further part of this conspiracy that the Defendants would cause Defendant JIM GUY TUCKER to appear in

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bankruptcy court as the only secured creditor of LMS with a claim of approximately $8.85 million based on the Income Note.

50. It was a further part of this conspiracy that the Defendants would propose a Plan of Reorganization to the bankruptcy court that would transfer ownership of the Plantation cable system from LMS to Defendant JIM GUY TUCKER in exchange for cancellation of the Income Note.

51. It was a further part of this conspiracy that the Defendants would cause CMI to appear in bankruptcy court as an unsecured creditor of LMS with a claim of $1.15 million based in part on funds advanced pursuant to a Management Agreement dated "effective June 10, 1987," but which was created in November 1987.

52. It was a further part of this conspiracy that the Defendants would propose a Plan of Reorganization to the bankruptcy court that would transfer ownership of certain Texas cable systems from LMS to CMI in exchange for cancellation of the debt of $1.15 million purportedly owed by LMS to CMI.

53. It was a further part of this conspiracy that the Defendants would represent to the bankruptcy court that Meredith sold 82% of the stock of PCS to Mikado Leasing Company for $1, when the Defendants knew that Meredith sold 82% of the stock of

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PCS to Defendant JIM GUY TUCKER.

54. It was a further part of this conspiracy that the Defendants would represent to the bankruptcy court that the fair market value of the Plantation cable system was $8.85 million, when the Defendants knew that the fair market value was $14.75 million, because American Cablesystems of Florida had signed an agreement to purchase the Plantation cable system for $12.75 million, plus an additional $1 million in non-competition payments to Defendant JIM GUY TUCKER and $1 million in non-competition payments to Defendant WILLIAM J. MARKS, SR.

55. It was a further part of the conspiracy that the Defendants would represent to the bankruptcy court that there had been arms-length negotiations between Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., that led to the Plan of Reorganization proposed in the bankruptcy, when the Defendants knew that Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., were partners in the cable television business.

56. It was a further part of the conspiracy that the Defendants would represent to the bankruptcy court that Defendant JIM GUY TUCKER was the only secured creditor of LMS, when the Defendants knew that Fleet National Bank had a first lien on all the assets held by LMS, i.e., all those cable systems owned by PCS and CMI as of June 1987 that were later transferred to LMS.

57. It was a further part of the conspiracy that the Defendants would not disclose to Fleet National Bank that the merger of PCS and CMI was rescinded, that PCS was merged into LMS, or that LMS filed for bankruptcy.

58. It was a further part of this conspiracy that the Defendants would cause the $8.5 million loan from Fleet National Bank to be repaid without notice of the rescission, merger, or bankruptcy action.

59. It was a further part of this conspiracy that the Defendants would cause the pleadings filed with the bankruptcy court to omit reference to numerous trade creditors of PCS.

60. It was a further part of this conspiracy that the Defendants would cause numerous trade creditors of PCS to be paid without notice of the bankruptcy action.

61. It was a further part of the conspiracy that the Defendants would not disclose to ACF that ownership of the Plantation system had been distributed in a bankruptcy.

62. It was a further part of the conspiracy that the Defendants would cause to be signed a new Agreement for the Purchase and Sale of the Plantation cable system in which Defendant JIM GUY TUCKER was named as one of the sellers of the

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Plantation cable system, and American Cablesystems of Florida agreed to pay $11.75 million to Defendant JIM GUY TUCKER and CMI, plus $3 million in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS.

63. It was a further part of the conspiracy that of the $14.75 million paid by ACF for the Plantation cable system, Defendant JIM GUY TUCKER would receive $11.75 million, and Defendant WILLIAM J. MARKS, SR., would receive the $3 million in non-competition payments.

64. It was a further part of the conspiracy that Defendants JIM GUY TUCKER would pay Defendant JOHN H. HALEY at least $100,000.00 in legal fees.

65. It was a further part of the conspiracy that the Defendants would cause 1987 tax returns to be filed for PCS and LMS that would not report as income the gain from the sale of the Plantation cable system or any other cable system, and that no corporate tax would be paid on the sale of any of the cable systems owned in 1987 by PCS or LMS.

66. It was a further part of the conspiracy that Defendant JIM GUY TUCKER would report the sale of the Plantation cable system on his 1988 individual tax return.

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67. It was a further part of the conspiracy that as a result of the distribution of the Plantation cable system to Defendant Tucker in the bankruptcy, Defendant JIM GUY TUCKER would claim a "basis" in the Plantation system of approximately $7.4 million and a gain of approximately $4.5 million from the sale of the system to ACF, when Defendant JIM GUY TUCKER knew that the actual basis of the Plantation cable system was approximately $1.26 million, as calculated by accountants in Dallas.

68. It was a further part of the conspiracy that Defendant WILLIAM J. MARKS, SR., would report on his individual tax return for 1988 the sale of the Carrollton cable system.

69. It was a further part of the conspiracy that Defendant WILLIAM J. MARKS, SR., would report on his individual tax returns for 1988 and 1989 some or all of the non-competition payments made by ACF in connection with the purchase of the Plantation cable system.

70. It was a further part of the conspiracy that Defendant JIM GUY TUCKER would cause to be represented to auditors from the Internal Revenue Service that there was no relationship between Defendant JIM GUY TUCKER and PCS, when Defendant JIM GUY TUCKER knew that he had purchased 82% of the stock of PCS.

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71. It was a further part of the conspiracy that Defendant JIM GUY TUCKER would attempt to cause the destruction of documents referring to the tax computations on the sale of the Plantation cable system.

Overt Acts

In furtherance of the conspiracy, and to effect the objects and purposes of the conspiracy, the following overt acts were committed in the Eastern District of Arkansas, and elsewhere:

72. On or about October 12, 1987, Defendants JOHN H. HALEY and JIM GUY TUCKER devised a "ten step chart" to demonstrate the rescission of the merger between PCS and CMI, a merger of PCS into a dormant corporation, a bankruptcy of the new entity, and the distribution of the assets of PCS to Defendant JIM GUY TUCKER and CMI.

73. On or about October 12, 1987, Defendants JOHN H. HALEY and JIM GUY TUCKER presented the "ten step chart" to accountants in Little Rock, Arkansas.

74. In early November 1987, Defendant JIM GUY TUCKER caused to be drafted an agreement to rescind the merger of Cablevision Management, Inc., and Planned Cable Systems Corporation, which was entitled "Rescission Agreement."

75. On or about November 5, 1987, Defendant JOHN H. HALEY contacted a bankruptcy attorney in Dallas, Texas, concerning a possible Chapter 11 bankruptcy filing in Texas.

76. On or about November 7, 1987, Defendant JOHN H. HALEY caused to be sent to the bankruptcy attorney in Dallas, Texas, a draft "Rescission Agreement," which showed that 82% of the stock of PCS would be transferred to an entity called "PCS II."

77. On or about November 8, 1987, Defendants JIM GUY TUCKER and JOHN H. HALEY met in Little Rock with the Dallas bankruptcy attorney and with two attorneys from Defendant JOHN H. HALEY's law firm concerning events leading up to a rescission of the merger between PCS and CMI, and a Chapter 11 bankruptcy proceeding.

78. On or about November 9, 1987, Defendant JOHN H. HALEY sent to the Dallas bankruptcy attorney a diagram that depicted a bankruptcy and the distribution of the Plantation cable system to Defendant JIM GUY TUCKER.

79. On or before November 9, 1987, Defendant JOHN H. HALEY told the Dallas bankruptcy attorney that the debtor in the bankruptcy proceeding would be named Neighborhood Communication Systems, Inc., or NCS, Inc.

80. On or about November 9, 1987, Defendant JOHN H. HALEY advised the Dallas bankruptcy attorney that an objective of the bankruptcy was related to the basis for Defendant JIM GUY TUCKER in the Plantation cable system.

81. On or about November 9, 1987, Defendant JOHN H. HALEY indicated to the Dallas bankruptcy attorney that the owner of 82% of the debtor corporation would be the stepson of Defendant JIM GUY TUCKER.

82. On or about November 9, 1987, Defendant JOHN H. HALEY spoke to an attorney in Texas and arranged to acquire an inactive "shelf" corporation called Landowners Management Systems, Inc.

83. On or about November 9, 1987, Defendant JOHN H. HALEY caused another member of his law firm to notify the bankruptcy attorney in Dallas that the name of the debtor would be Landowners Management Systems, Inc., rather than "Neighborhood Cable Systems."

84. On or about November 12, 1987, Defendant JIM GUY TUCKER wrote a memorandum in which he discussed the tax consequences of a sale of the Plantation cable system after the transfer of that system to Defendant JIM GUY TUCKER in a bankruptcy.

85. On or about November 13, 1987, Defendant JOHN H. HALEY

received from the Dallas bankruptcy attorney a draft Disclosure Statement and Plan of Reorganization concerning a bankruptcy of Landowners Management Systems, Inc., which Disclosure Statement said that 82% of LMS was owned by a stepson of Defendant JIM GUY TUCKER, and 18% of LMS was owned by Defendant WILLIAM J. MARKS, SR.

86. On or about November 13, 1987, Defendant JOHN H. HALEY prepared a draft "Management Agreement" between PCS and CMI that said that agreement was "entered into as of June 10, 1987."

87. On or about November 13, 1987, the Defendants caused the issuance of 820 shares of LMS to Mikado Leasing Company, and 180 shares of LMS to Defendant WILLIAM J. MARKS, SR.

88. On or about November 13, 1987, Defendant WILLIAM J. MARKS, SR., signed as president of PCS a "Bill of Sale and Assignment" that conveyed the ownership of the Carrollton cable system to Defendant WILLIAM J. MARKS, SR., individually.

89. On or about November 16, 1987, Defendant JIM GUY TUCKER and Defendant JOHN H. HALEY conferred with the Dallas bankruptcy attorney about pleadings to be filed in bankruptcy court.

90. On or about November 18, 1987, Defendant JIM GUY TUCKER and Defendant JOHN H. HALEY met in Little Rock with the Dallas

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bankruptcy attorney to discuss pleadings to be filed with the bankruptcy court on behalf of Landowners Management Systems, Inc.

91. On or about November 19, 1987, Defendant JIM GUY TUCKER conferred with the Dallas bankruptcy attorney regarding financial information needed for the LMS bankruptcy pleadings.

92. On or about November 20, 1987, Defendant JIM GUY TUCKER conferred with the Dallas bankruptcy attorney regarding revisions to the Plan of Reorganization and the Disclosure Statement to be filed in the LMS bankruptcy action.

93. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR., signed "Minutes of Special Joint Meeting of Shareholders and Board of Directors of Planned Cable Systems Corporation," which identified the shareholders of PCS as Defendant WILLIAM J. MARKS, SR., and "Donna Marks, individually and as representative of the shareholder Mikado Leasing Company, Inc."

94. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR., signed "Minutes of Special Joint Meeting of Shareholders and Board of Directors of Planned Cable Systems Corporation," which stated that the shareholders of PCS approved a merger of PCS into Landowners Management Systems, Inc.

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95. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR., signed a "Corporate Resolution" that identified Mikado Leasing, Inc., as a shareholder of Landowners Management Systems, Inc., and Donna Marks as President of Mikado Leasing, Inc.

96. On or about November 20, 1987, Defendant WILLIAM J. MARKS, SR., signed a "Corporate Resolution" that authorized Defendant WILLIAM J. MARKS, SR., to take actions necessary to prepare and execute a petition for Chapter 11 bankruptcy and other necessary documents on behalf of Landowners Management Systems, Inc.

97. In or around late November 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., signed a document entitled "Rescission Agreement" that, among other things, purported to (1) rescind the merger of Planned Cable Systems and Cablevision Management, Inc., (2) transfer ownership of 82% of the stock in PCS to Donna Marks, and (3) grant to Defendant JIM GUY TUCKER exclusive rights to the Income Note owed by PCS.

98. In or around late November 1987, Defendant WILLIAM J. MARKS, SR., signed, as president of PCS, a Management Agreement between PCS and CMI that was "effective as of June 10, 1987."

99. On or about November 21, 1987, Defendants JIM GUY

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TUCKER, WILLIAM J. MARKS, SR.,, and JOHN H. HALEY conferred regarding the Plan of Reorganization to be filed on behalf of Landowners Management Systems, Inc.

100. On or about November 22, 1987, Defendants JIM GUY TUCKER and JOHN H. HALEY conferred with the Dallas bankruptcy attorney regarding pleadings to be filed with the court in the LMS bankruptcy.

101. On or about November 24, 1987, Defendant WILLIAM J. MARKS, SR., signed an "Agreement of Merger of Planned Cable Systems Corporation and Landowners Management System, Inc."

102. On or about November 24, 1987, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., met with the Dallas bankruptcy attorney regarding pleadings to be filed with the court in the LMS bankruptcy.

103. On or about November 24 or 25, 1987, Defendant JOHN H. HALEY caused to be deleted from a draft Statement of Financial Affairs a statement that accounts and other receivables of LMS had been assigned as security "[t]o Fleet National Bank for the benefit of Jim Guy Tucker."

104. On or about November 25, 1987, Defendant JIM GUY TUCKER and Defendant WILLIAM J. MARKS, SR., met with the Dallas

bankruptcy attorney regarding revisions to the Disclosure Statement to be filed with the court in the LMS bankruptcy.

105. On or about November 25, 1987, Defendant WILLIAM J. MARKS, SR., executed a final Disclosure Statement to be filed with the court in the LMS bankruptcy, which stated, among other things, that (1) the shares of LMS were owned 82% by Mikado Leasing, Inc., and 18% by Defendant WILLIAM J. MARKS, SR.,, (2) "management believes" the fair market value of the Plantation cable system is $8,850,000, and (3) LMS had "negotiated" to sell the Plantation cable system to "J.G. Tucker" in lieu of foreclosure on the Income Note held by Defendant JIM GUY TUCKER.

106. On or about November 27, 1987, Defendant WILLIAM J. MARKS, SR., met with the Dallas bankruptcy attorney regarding final revisions of the Statement of Financial Affairs and the petition to be filed with the court in the LMS bankruptcy.

107. On or about November 27, 1987, Defendant JIM GUY TUCKER conferred with the Dallas bankruptcy attorney regarding the Statement of Financial Affairs to be filed with the court in the LMS bankruptcy.

108. On or about November 27, 1987, Defendant WILLIAM J. MARKS, SR., executed, under penalty of perjury, a final Statement of Financial Affairs and accompanying Schedules to be filed with

the court in the LMS bankruptcy, which stated, among other things, that (1) "Meredith Corporation sold its 82% stock in the corporation to Mikado Leasing, Inc., for $1," and (2) Defendant JIM GUY TUCKER was the sole secured creditor of LMS with a claim of approximately $9,000,000.

109. On or about November 30, 1987, the Defendants caused to be filed in United States Bankruptcy Court for the Northern District of Texas, Wichita Falls Division, various pleadings captioned In re: Landowners Management Systems, Inc., Tax Identification No. 75-2001914, including an Original Petition Under Chapter 11, a Statement of Financial Affairs, a Disclosure Statement and Solicitation of Ballots to Plan of Reorganization to be Filed Under Chapter 11 of the United States Bankruptcy Code, and a Debtor's Plan of Reorganization.

110. On or about November 30, 1987, in Dallas, Texas, Defendant JOHN H. HALEY reached a binding settlement agreement to resolve for $600,000 a lawsuit in which a former employee of PCS claimed an interest in that share of PCS and CMI owned by Defendant WILLIAM J. MARKS, SR.

111. On or about December 9, 1987, Defendant JIM GUY TUCKER wrote to a representative of ACF and proposed that the contract for sale of the Plantation cable system be modified to list Defendant JIM GUY TUCKER as one of the sellers.

112. On or about December 15, 1987, the Defendants caused to be presented for signature to an official of Meredith Corporation affidavits regarding PCS.

113. On or about December 18, 1987, Defendant WILLIAM J. MARKS, SR., testified on behalf of the debtor, LMS, at a hearing in United States Bankruptcy Court that the debtor's Plan of Reorganization was proposed in good faith, and that his purpose in proposing the Plan was "to keep Mr. Tucker from foreclosing on the assets."

114. On or about December 18, 1987, Defendant JIM GUY TUCKER appeared as a secured creditor at a hearing in United States Bankruptcy Court to confirm the Plan of Reorganization proposed by LMS.

115. On or about December 18, 1987, Defendant JOHN H. HALEY appeared in United States Bankruptcy Court as the attorney for Defendant JIM GUY TUCKER.

116. On or about December 28, 1987, Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., signed an Agreement with ACF that a new Agreement of Purchase and Sale of Assets for the Plantation cable system would supersede the earlier agreement of September 25, 1987.

117. On or about December 28, 1987, Defendant JIM GUY TUCKER signed a new Agreement of Purchase and Sale of Assets in which ACF agreed to purchase the Plantation cable system from Defendant TUCKER and CMI for $11.75 million, and to pay $3 million in non-competition payments to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR.

118. On or about February 8, 1988, Defendant JIM GUY TUCKER wrote a check for $100,000 to the law firm Arnold, Grobmyer & Haley for "Plantation & LMS -- partial payment of legal fees & expenses."

119. On or about March 30, 1988, Defendant JIM GUY TUCKER wrote a memorandum to Defendant JOHN H. HALEY and three accountants, with a copy to Defendant WILLIAM J. MARKS, SR.,, stating that responsibility for preparation and filing of tax returns for PCS, LMS, and Mikado Leasing should be determined as soon as possible.

120. On or about May 11, 1988, Defendant JIM GUY TUCKER asked a bookkeeper for CMI to write checks to two persons listed as creditors in the LMS bankruptcy action.

121. On or about August 2, 1988, Defendant JIM GUY TUCKER wrote to his accountant in Little Rock that he purchased the Income Note from Meredith in June 1987, and that he "owned no

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stock" in Planned Cable Systems Corporation.

122. On or about August 25, 1988, the Defendants caused to be filed with the Internal Revenue Service tax returns for Landowners Management Systems, Inc., for the years 1987 and 1988, neither of which reported taxable gain on the sale of the Plantation cable system or other cable systems.

123. On or about August 26, 1988, the Defendants caused to be filed with the Internal Revenue Service two 1987 tax returns for PCS, neither of which reported sales of cable systems.

124. On or about August 25, 1988, the Defendants caused to be filed with the United States Bankruptcy Court in Texas a Chapter 11 Post-Confirmation and Accounting regarding the LMS bankruptcy

125. On or about August 25, 1988, the Defendants caused to be filed in United States Bankruptcy Court in Texas an Application for Final Decree and an Application to Close Proceedings, which applications were granted on December 19, 1988.

126. On or about June 10, 1989, Defendant JIM GUY TUCKER and Betty Tucker caused to be filed a United States Individual Income Tax Return for 1988, which reported the sale of the Plantation

cable system and claimed a basis in that system of $7,906,888.48.

127. On or about June 26, 1989, Defendant JIM GUY TUCKER caused to be sent to Fleet National Bank a new stock certificate for CMI that replaced a previous certificate, which was held by Fleet as collateral for the $8.5 million loan to Defendants JIM GUY TUCKER and WILLIAM J. MARKS, SR., but which had been invalidated by the rescission of the merger between PCS and CMI.

128. On or about October 19, 1989, Defendant WILLIAM J. MARKS, SR., caused to be filed a United States Individual Income Tax Return that reported, among other things, income from the sale of the Plantation cable system.

129. In or around July 1990, when asked by agents of the Internal Revenue Service what was the ownership/relationship of PCS to CMI or Defendant JIM GUY TUCKER, Defendants JIM GUY TUCKER caused agents of the Internal Revenue Service to be told, "None. CMI managed certain cable properties for this entity."

130. On or about October 22, 1990, Defendant WILLIAM J. MARKS, SR., caused to be filed a United States Individual Income Tax Return for 1989 that reported, among other things, income from the sale of the Plantation cable system.

131. In about the fall of 1990, Defendant JIM GUY TUCKER attempted to cause the destruction of documents in Texas relating to the sale of the Plantation cable system, including one page that calculated the gain and tax on the post-bankruptcy sale of the Plantation cable system, and one page that stated:

Risk

Basis claimed = 7

Actual basis = 1

Risk = 6

.32

1.926 + penalties + interest

All in violation of Title 18, United States Code, Section 371.

COUNT FOUR

On or about June 10, 1989, in the Eastern District of Arkansas, Defendant JIM GUY TUCKER, a resident of Little Rock, Arkansas, did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Director, Internal Revenue Service Center, at Memphis, Tennessee, which tax return he did not believe to be true and correct as to every material matter in that the tax return claimed a basis of $7,283,023 in a cable system in Plantation, Florida, that was sold during 1988, whereas, as he then and there well knew and believed, the actual basis of the Plantation cable system was approximately $1.26 million, as calculated for Defendant JIM GUY TUCKER by accountants in Dallas, Texas.

This in violation of Title 26, United States Code, Section 7206(1).

A TRUE BILL.

_____
FOREMAN

_____
KENNETH W. STARR
INDEPENDENT COUNSEL

Dated: June 6, 1995.

(1)

Tucker Meeting Mon. 6/5

- first issue concerns 337

-

O

Tucker Meeting 6/1

(A) preliminary issue - whether it is appropriate to subpoena Tucker to GJ when he might take the 5th or would take the 5th

Marks sent letter saying that he would take 5th

Sam "strongly urges" KWS not to do this
- cannot delegate the issue to the grand jury
- thinks defense may use this as basis for motion to dismiss

Sam - summary
(1) precedent
(2) fairness
(3) appearance of unfairness - days before indictment

- have to trust △ lawyer

Brad

FOSTER – INTERNATIONAL TAX NEWS

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70104960

LEVEL 2 - 3 OF 3 STORIES

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April 16, 1993, Friday, Final Edition

SECTION: FIRST SECTION; PAGE A13

LENGTH: 480 words

HEADLINE: Clintons Pay $ 70,228 in Tax on Income of $ 290,697 Last Year

SERIES: Occasional

BYLINE: Charles R. Babcock, Washington Post Staff Writer

BODY:

Like lots of other taxpayers, Bill and Hillary Clinton wrote a check to the Internal Revenue Service yesterday.

Their federal income taxes totaled $ 70,228 -- about 24 percent -- of an adjusted gross income of $ 290,697, according to copies of the return released by the White House. The Clintons made a $ 4,085 payment.

Vice President Gore and his wife, Tipper, reported $ 622,838 in income for 1992, including $ 461,529 from royalties on hardcover sales of his best-selling book, "Earth in the Balance: Ecology and the Human Spirit," according to their tax return. They paid $ 166,979 in federal taxes, or 27 percent.

The Gores donated $ 50,000 of the royalties to the University of Tennessee to establish a chair focusing on global environmental issues in honor of the vice president's late sister.

The Gores listed $ 61,876 in itemized deductions, including $ 1,928 in other charitable donations, most in the form of equipment donated by Tipper Gore's family plumbing business to the Salvation Army for victims of Hurricane Andrew.

They paid no state taxes, a spokeswoman said, because Tennessee does not have an income tax, Gore was exempt as a member of the Senate from Virginia taxes, and Tipper did not owe any.

As has been the case for many years, Hillary Rodham Clinton provided the bulk of the Clintons' income. She reported wages of $ 203,172 from the Rose law firm in Little Rock, Ark. She reported nearly $ 110,000 in income from the firm the previous year. A spokeswoman noted that her salary from the firm was based on a five-year average, not her work last year when she spent most of her time campaigning for her husband. In addition, she received 15 months worth of her pay during calendar 1992.

Hillary Clinton also reported receiving $ 32,400 in directors' and speaking fees and a $ 13,199 capital gain on the sale of her interest in a partnership that owns the firm's office building.

The president was paid $ 34,527 as governor of Arkansas.

The Clintons took $ 39,190 in itemized deductions, including $ 18,576 in state and local taxes and $ 19,452 in charitable donations.

They also reported a $ 1,000 gain from the sale of their interest in Whitewater Development Corp., a land deal that became an issue last spring after disclosure that a partner, James McDougal, had been the head of a troubled state-chartered savings and loan. Spokeswoman Ricki Seidman said the Clintons sold their half-interest in the unsuccessful 230-acre Ozark Mountain resort development back to McDougal and his wife.

Though the Clintons said they lost thousands of dollars on the investment, they listed its initial value for tax purposes as zero. "They decided to take the most conservative position," Seidman said. "The IRS needs extensive documentation to establish basis and not all the documentation was available, so they declined to show the loss."

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

USA TODAY

April 19, 1993, Monday, FINAL EDITION

SECTION: MONEY; Pg. 3B

LENGTH: 482 words

HEADLINE: Clintons among wealthiest 1% of taxpayers

BYLINE: Bill Montague

BODY:
Judging from their 1992 tax return, President Clinton and his family appear to be members in good standing of a very elite group - the wealthiest 1% of all taxpayers.

The Clintons' adjusted gross income: $ 290,697. AGI is total income minus some items, such as contributions to certain pension plans. As of 1989, the latest year for which statistics are available, only 787,000, or 0.7%, of taxpayers had AGI of $ 200,000 or more.

All in all, the Clintons look like the kind of country-club Republicans they criticized during the campaign. "You can't say the Clintons look like typical tax-and-spend liberals," says Tom Ochsenschlager, a partner with accounting firm Grant Thornton.

The Clintons probably will earn less this year. Hillary Rodham Clinton, who has been the family's breadwinner, has given up all outside income while the couple are in the White House. But they'll hardly be paupers: President Clinton's new $ 200,000 salary, plus their investment earnings, should keep them in the golden 1%.

Last year was an unusually lucrative one for Hillary Rodham Clinton, as she received $ 203,172 from Rose Law Firm, including accelerated payment in December of her share of the firm's 1992 profits. Ordinarily, that payment would have been made in January. On the couple's 1991 return, she reported income of only $ 110,000 from the firm.

Other highlights from the Clintons' 1992 tax forms:

- The couple earned capital gains of $ 16,336, mostly from the sale of the first lady's interest in the Rose firm's Little Rock office building, which is owned by the firm.

- The Clintons earned $ 13,893 in interest. Sources include bank accounts and bonds. Of that, $ 6,624 was from tax-exempt bonds issued by Arkansas.

- President Clinton earned a $ 34,527 salary last year as governor of Arkansas.

- The Clintons paid $ 6,318 in mortgage interest, presumably on a condominium they own with her mother.

- The Clintons sold their interest in Whitewater Development, a company they and another couple created in 1978 to develop land in Arkansas' Ozark Mountains. The Clintons reportedly sank $ 69,000 into the project. They sold their interest in December for $ 1,000, leaving a loss of $ 68,000, which they apparently claimed in previous years.

The Clinton's '92 gifts

Contribution	Amount
Church	$ 10,220
Natl. Ctr. on Education & the Economy	$ 2,000
Arkansas Children Hospital	$ 1,500
Ark. Arts Center	$ 800
Yale Law	$ 600
Amer. & Ark. Bar Foundations	$ 550
Watershed Proj.	$ 500
Wellesley College	$ 500
Misc. charities	$ 2,782
Total	$ 19,452

Source: USA TODAY research

GRAPHIC: GRAPHIC, b/w; Source: USA TODAY research; PHOTO, b/w, Danny Johnston, AP

LANGUAGE: ENGLISH

LEVEL 1 - 2 OF 9 STORIES

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August 6, 1995, Sunday, Late Edition - Final

SECTION: Section 1; Page 20; Column 1; National Desk

LENGTH: 1687 words

HEADLINE: Whitewater Papers Cast Doubt on Clinton Account of a Tax Underpayment

BYLINE: By JEFF GERTH and STEPHEN LABATON

DATELINE: WASHINGTON, Aug. 5

BODY:

In March 1992, Bill Clinton, running for President, acknowledged that he and his wife, Hillary, had improperly claimed tax deductions for interest payments that had actually been made by the Whitewater Development Company, not by themselves. Mr. Clinton and his aides said the couple's accountant had simply made a mistake, and he pledged to reimburse the Government.

But no payment was made to the Government until almost two years later, on Dec. 28, 1993.

A few days before that reimbursement, Justice Department investigators had begun seeking the Clintons' Whitewater files. Those files, some of them made public by the White House on Friday, contained letters that now cast doubt on Mr. Clinton's account of the deductions: they show that Mrs. Clinton knew that the company had made the payments for which she and her husband later claimed the deductions, on their 1984 and 1985 tax returns.

The Clintons were not legally obligated to reimburse the Government for any error that old. They never announced the payment and did not file an amended tax return, choosing instead to quietly send a check for $4,900 to the Treasury Department's Bureau of the Public Debt.

In a prepared statement issued on Friday in response to a reporter's questions, the couple's personal lawyer, David E. Kendall, described the payment but declined to discuss the reason for the 22-month delay. He noted that it would have been less expensive if the Clintons had made the payment earlier; most of the $4,900 was interest on the tax underpayment.

A cryptic 1993 letter in a file found in the office of Vincent W. Foster Jr. after his suicide indicates a plan, never realized, for the Clintons' 1992 tax return to correct "an erroneous tax deduction" taken earlier.

Mr. Foster, deputy White House counsel, worked on the Clintons' 1992 return. In the letter, written on April 5, 1993 -- 10 days before the return was due -- he told another Clinton lawyer that an improper deduction related to Whitewater "was intended" to be corrected on it. No such correction ever appeared on the return, though.

Asked about Mr. Foster's letter, Mr. Kendall said in his prepared statement that "we cannot now ascertain what was meant by that vague reference." Mr.

Kendall's statement did not address a question that had also been put to him, as to whether Mrs. Clinton had been involved in decisions about how to correct the deductions.

In a note found in one of his files, Mr. Foster, long after Mr. Clinton had publicly acknowledged error in the matter, appeared to be still troubled by the Clintons' having taken deductions for payments that had actually been made by the corporation. The scribbled note spoke of the "propriety of taking" personal interest deductions "for debt which should be corp."

At issue were payments made on one of the loans obtained to finance land purchases and improvements by Whitewater, the Arkansas land venture in which the Clintons joined with James and Susan McDougal in 1978. The partners hoped to quickly resell the lots, but the real estate market sagged, interest rates soared, and the company's losses mounted along with its loan payments.

In a sworn statement that was among the documents made public by the White House on Friday, Mrs. Clinton told investigators for the Government's Resolution Trust Corporation earlier this year that she had always expected that Whitewater would be responsible for repaying the loan in question. She also said that whenever tax issues had arisen over Whitewater, she or the Clintons' accountant had obtained the relevant information from the McDougals.

Also included in the documents released on Friday were letters from the Whitewater file sought by the Justice Department in late 1993. Among the letters is one dated Oct. 4, 1984, in which Mr. McDougal, at Mrs. Clinton's request, forwarded a Whitewater corporate check for her to send to the bank to pay interest and principal on a loan that Mr. Clinton had obtained in connection with the Whitewater operation.

Although the improper deductions were relatively small, they are part of a broader pattern. Almost all the Clintons' $42,000 investment in Whitewater was deducted on their personal tax returns as interest payments even though, according to questions raised later by Mr. Foster and others who tried to reconstruct Whitewater's tangled finances, the couple may not have been entitled to several of those deductions.

Mr. Kendall asserts that the Clintons' tax returns are correct except for the interest deductions in 1984 and 1985. It remains unclear why the reimbursement to the Government for the tax underpayment was delayed so long, but Mr. Kendall denies that there was any effort to hide it.

The Clintons have said the mistake arose because their accountant relied on the lending bank's statements, which did not identify who had made the interest payments.

But a tax lawyer who has reviewed the newly public documents said this defense would not have met Internal Revenue Service standards dealing with negligence penalties. The lawyer, Lee A. Sheppard, a contributing editor of Tax Notes, widely regarded as the leading journal on tax matters, said Mrs. Clinton should have known better than to take the deductions. As a corporate lawyer, Mrs. Clinton would have been held to a higher standard of care than the average taxpayer, added Ms. Sheppard, who analyzed the Clintons' taxes in connection with a coming article in the journal.

"She can't avoid negligence penalties by blaming the problems on her accountants," Ms. Sheppard said. "A judge would say that reliance was unreasonable and she should have known better than to take those interest deductions."

From Whitewater's beginning in 1978, just before Mr. Clinton was first elected Governor of Arkansas, he and his wife sought tax advantages from the venture. That year they took an interest deduction of $10,130, even though that "interest on the Whitewater debt was only partially due in 1978," according to a report prepared recently for the R.T.C.

And in 1980, the Clintons wrote a check for $9,000 that was used to reduce the principal on Whitewater's main bank debt, according to the R.T.C. report. On that year's tax returns the Clintons deducted the $9,000 as an interest payment to Mr. McDougal, a claim whose appropriateness was questioned by Clinton campaign accountants in 1992.

The deductions that led to the back tax payment by the Clintons in late 1993 also have their roots in 1980, when Mrs. Clinton, acting as a surrogate for Whitewater, borrowed $30,000 from a bank controlled by Mr. McDougal. The loan was to pay for a model prefabricated house to help market Whitewater's lots.

As part of the transaction, Mrs. Clinton took title to the land on which the house would sit, Lot 13. The next year the property was sold. Payments on the loan continued to be made by Whitewater, a fact emphasized by Mrs. Clinton when she responded in 1982 to a past-due notice from the bank. "I ask that you speak with Mr. or Mrs. McDougal, who have made all the arrangements for this loan," she wrote, according to the R.T.C. report. "It has been my understanding that the loan has been paid out of proceeds from sales by the White Water Development Corporation."

The next year Mrs. Clinton's bank loan was retired with $20,800 that Mr. Clinton obtained from another institution, Security Bank in the town of Paragould, Ark.

The new loan faced the same troubles. In October 1984, after Mr. Clinton received a final payment notice from the bank, Mrs. Clinton wrote to Mr. McDougal, reminding him that the loan stemmed from the prefabricated house and asking him to take care of it.

He replied three days later, forwarding Mrs. Clinton a corporate check for $4,811 made out to Security Bank "to pay the interest and make a $2,000 principal reduction on the note," according to the R.T.C. report. He reminded Mrs. Clinton that "we receive monthly payments on the sale of the house and must use the proceeds to retire this note."

The Clintons nonetheless took a $2,811 interest deduction on their 1984 return.

In 1985, the Clinton loan at the Security Bank was past due again. This time Governor Clinton's state bank commissioner, Marlin Jackson, who owned Security Bank, acted as an intermediary to clean up the problem.

After talking to Mr. McDougal and Mr. Clinton, Mr. Jackson wrote the bank on Nov. 1, 1985, that Mr. McDougal would be sending a payment to cover the

interest as well as some principal. A $7,322 check on Whitewater's account was forwarded a few days later.

But on their 1985 tax returns the Clintons themselves deducted the $2,322 interest payment.

Over the next few years, with Whitewater no longer functioning, the Clintons took over the payments on this loan until they completed the sale of Lot 13 in 1988. They realized a profit of $1,600, which they reported on their tax return.

The tangled tale of Lot 13 did not surface again until 1992, when Mr. McDougal, in an interview with The New York Times, expressed irritation that he had put $100,000 more than the Clintons into Whitewater, including payments to the bank on Lot 13, and that Mrs. Clinton had then sold the lot for a profit to her and her husband.

In response, the Clinton campaign assigned a team of accountants to review the venture's finances. The accountants interviewed Mrs. Clinton in March 1992, according to Mr. Foster's files, but it is not known whether they discussed her correspondence on the issue.

Later that year Mr. Foster became involved in cleaning up unresolved financial issues from Whitewater, including the payment of back taxes. But, according to an Arkansas associate of Mr. Foster who spoke on condition of anonymity, Mrs. Clinton had some reservations about paying any more money for anthing at all related to Whitewater.

According to Mr. Kendall, the matter was resolved on Dec. 28, 1993, when the couple made a payment of $4,900 to the Treasury. A payment was also made to an Arkansas charity, in the amount of $ 800: the sum of the state tax underpayment plus interest.

LANGUAGE: ENGLISH

LOAD-DATE: August 6, 1995

LEVEL 1 - 1 OF 9 STORIES

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August 13, 1995, Sunday, Late Edition - Final

SECTION: Section 4; Page 14; Column 1; Editorial Desk

LENGTH: 869 words

HEADLINE: The Whitewater Tax Questions

BODY:

For a close follower of Whitewater -- and it takes a close following to keep up -- the week's most interesting information came from L. Jean Lewis and from the reconstruction developed by Representative Jim Leach of the tangled relationship between then-Gov. Bill Clinton and James McDougal, the Clintons' partner in the Whitewater real estate venture. Together, they point to the question of the Clintons' tax returns. All along, taxes have seemed a powerful and logical reason for President Clinton's willingness to absorb damage to his popularity and credibility rather than yield a full public accounting of his and Mrs. Clinton's Whitewater finances.

Mr. Leach, an Iowa Republican, is the chairman of the House Banking Committee, which is conducting hearings into Whitewater at the same time that Senator Alfonse D'Amato of New York is conducting hearings in the Senate on the death of Vincent Foster. It now appears that before his death, Mr. Foster himself was deeply troubled by the Clintons' personal financial affairs.

There are two basic tax questions. One is whether the Clintons, who on paper were 50-50 partners with Mr. McDougal, were obliged to report as income money that he contributed to the Whitewater venture on their behalf. The other is whether they knowingly took improper deductions.

Mr. Leach's chronology -- backed up by a recent report commissioned by the Resolution Trust Corporation -- shows that Mr. McDougal paid large amounts on behalf of the Clintons to cover their share of Whitewater expenses and losses. A letter from Mr. McDougal in November 1986 informed the Clintons that the venture had run up $90,000 in losses and that Mr. McDougal and his wife had paid most of them.

The report prepared for the R.T.C. by the San Francisco law firm of Pillsbury, Madison & Sutro puts Whitewater's ultimate losses at $200,000 and confirms that Mr. McDougal took by far the bigger hit. Of the $200,000, Mr. McDougal paid about $158,000, the Clintons about $42,000.

These figures, of course, do not provide a complete picture of the Clintons' finances. But they show enough to raise this question. If thousands of dollars were being paid on the Clintons' behalf by a friend, should some of that money be counted as income to them? In that case, were they obligated to report the McDougal payments to the Internal Revenue Service and pay taxes on it? If so, do their tax returns for the 1980's show this?

Mr. Leach and his staff have also raised a second tax question -- whether the Clintons took improper deductions relating to their Whitewater investment. They charge that during the 80's the Clintons underpaid the I.R.S. by $13,272 by

improperly claiming Whitewater deductions for interest, land payments and other advances.

The White House has branded these charges as the "same shopworn allegations" that have been circulating for three years. It is impossible to tell whether Mr. Leach's numbers are right. But last Sunday, Jeff Gerth and Stephen Labaton of The Times reported that the Clintons had deducted interest payments of $2,811 on their 1984 return and $2,322 on their 1985 return on bank loans that had in fact been paid off by the Whitewater Company with checks written by Mr. McDougal.

Mr. Clinton acknowledged these improper deductions when he was running for President in 1992 and blamed the error on his accountant. Nevertheless, he did not make restitution until almost two years later, after Whitewater had become a major public issue. The Times article further suggests that this was not an accountant's error and that Mrs. Clinton knew full well that Whitewater had made the payments for which she and her husband later claimed deductions.

Of course, it stands to reason that smart people like the Clintons could not have been totally ignorant of where the money was coming from. Ms. Lewis, an R.T.C. investigator, made this point nicely in a tape played for Mr. Leach's committee last week. She said: "You don't turn a blind eye to your business investments. And if you are not putting money in you have to wonder where the money is coming from that's making your real estate payments."

Politically, this could be the heart of the matter. We now know that at the time of his death, Vincent Foster was deeply worried about the Clintons' taxes and the "can of worms" that an I.R.S. audit could become. The Clintons owe it to the public to release the tax analyses they have commissioned and to waive their privacy rights at the I.R.S. Then Congress could call the I.R.S. to explain if the Whitewater payments made for the Clintons were taxable income and if they paid the proper taxes.

It may take Kenneth Starr, the Whitewater independent counsel, to unravel all the tax questions. He is the only person capable of deposing the Clintons and the only person with access to all the relevant documents. But until he completes his inquiry and publishes his findings, the tax question will fester, and with it the larger question of whether the then-Governor and First Lady of Arkansas were truthful taxpayers. There is hardly a more sensitive political question than whether elected officials pay the taxes they levy on other citizens.

LANGUAGE: ENGLISH

LOAD-DATE: August 13, 1995

LEVEL 1 - 5 OF 9 STORIES

Copyright 1995 The New York Times Company
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July 24, 1995, Monday, Late Edition - Final

SECTION: Section A; Page 13; Column 1; Editorial Desk

LENGTH: 685 words

HEADLINE: Essay;
Vincent Foster's 'Can of Worms'

BYLINE: By WILLIAM SAFIRE

DATELINE: WASHINGTON

BODY:
"Was dread of further scandal a triggering cause of the apparent suicide?"

That central question, posed in this space a few weeks after Vincent Foster's body was found in a park where he may have shot himself, was long denounced as a "conspiracy theory."

But when The Washington Times discovered months later that Whitewater files were secretly spirited out of Foster's White House office, a firestorm forced the Clintons to appoint untainted counsel. Robert Fiske's first assignment: to explode the "conspiracy theory" that Whitewater worries had affected Foster's state of mind.

Fiske reported being told "Whitewater was not an issue of any significance within the White House during that period." He found "no evidence that matters relating to Whitewater, Madison Guaranty or CMS played any role in his death."

"No evidence" made the headlines. But with the Senate Banking Committee no longer under Democratic control, we now find that such evidence was there all along. Foster, working on the Clintons' tax returns, was in a sweat about their claim of loss in Whitewater. "A can of worms you shouldn't open," he noted. Because the Clintons' explanation during the campaign was deceptive, "Don't want to go back into that box."

The same urge to conceal Whitewater dealings permeated the White House as it resisted investigation into the motive behind Foster's death.

The Park Police are great if you have a cat up a tree, but the joke has always been that when they need muscle they send for the meter maids. Improperly assuming suicide, they made no search for a bullet and were fooled into failing to seal the dead man's White House office.

A carton of documents was taken out of Foster's office that night, the frustrated police chief said soon afterward. Bernard Nussbaum, then White House counsel, claimed it was only a basket of trash, later retrieved. We now know that several Clinton aides were poking around the dead man's office; Whitewater files were taken out by Hillary Clinton's chief of staff and hidden in a closet.

LEVEL 1 - 7 OF 9 STORIES

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July 19, 1995, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 5; National Desk

LENGTH: 1066 words

HEADLINE: Details Emerge On Whitewater As Panel Starts

BYLINE: By STEPHEN LABATON

DATELINE: WASHINGTON, July 18

BODY:

With a theatrical flourish and a few revelations, the Senate today began months of scheduled hearings about Whitewater and the personal finances of the President and Hillary Rodham Clinton.

The hearings, conducted by a special committee on Whitewater, are supposed to examine the White House's handling of papers in the office of deputy counsel Vincent W. Foster Jr. after he killed himself in a Virginia park two years ago. In Mr. Foster's office were personal papers of the Clintons, including files about their investment in Whitewater, a land-development venture in Arkansas.

The committee's lead witness, who barely began his testimony before the hearing halted for the day, was Webster L. Hubbell, the former Associate Attorney General who was sentenced last month to 21 months in prison for taking almost $500,000 from his clients and former law partners at the Rose Firm of Little Rock, Ark. At the Rose Firm, Mr. Hubbell had been partners with Mr. Foster and with Mrs. Clinton, and he has been one of Mr. Clinton's closest friends.

Mr. Hubbell's testimony produced no bombshells, but some new details emerged about Mr. Foster's office papers, about Whitewater and about Madison Guaranty Savings and Loan Association. Madison was owned and operated by a partner of the Clintons in Whitewater, James B. McDougal. Investigators have been examining whether the savings association provided federally insured money to either Whitewater or a Clinton campaign for governor.

The disclosures included these:

*Handwritten notes by Mr. Foster in the spring of 1993 contradict an important conclusion of the report prepared by the former independent counsel in the case, Robert B. Fiske Jr., about the circumstances surrounding Mr. Foster's death. Mr. Fiske concluded in his report that there was no evidence that Mr. Foster or the White House had any concerns about Whitewater during the first half of 1993. But Mr. Foster's notes, which were found in his files, show that he was deeply concerned about how the Clintons would account for their investment on their 1992 tax returns and whether the returns would be cited by critics as evidence that Mr. McDougal had protected them against losses.

*Contradicting an account provided by Mr. Hubbell and the Clinton campaign three years ago, Mr. Hubbell today acknowledged that Mrs. Clinton had helped

to bring Madison as a client to the Rose law firm in 1985. At the time, Madison was seeking permission from Arkansas regulators appointed by Governor Clinton to do a novel recapitalization. Mr. Hubbell and the campaign had previously said that a young associate at the firm had brought in the Madison account and that Mrs. Clinton had not been involved.

*Mr. Hubbell also testified that after the 1992 campaign, he took custody of many of the campaign records, including Whitewater and Madison records. He said he kept them in his house and turned them over to the Clintons' lawyers at the firm of Williams & Connolly in November 1993. While he had the papers, the Justice Department was considering whether to take action on a request by regulators to begin a criminal investigation of Madison. Mr. Hubbell officially removed himself from all aspects of the Madison case in the fall of 1993.

Senator Bob Bennett, Republican of Utah, said today in a statement at the hearing that the depositions of two White House officials, Bernard W. Nussbaum and Tom Castleton, showed that the papers were moved from Mr. Foster's office to the third-floor residence section of the White House after Mr. Foster died so that the Clintons could review them.

Mark D. Fabiani, a special associate White House counsel, said after the hearing that the Clintons never reviewed the papers and that they remained in a locked closet, undisturbed for five days between the time when were delivered from Mr. Foster's office to the residence and the time they were sent to the lawyers at Williams & Connolly. Democratic aides who have seen Mr. Nussbaum's deposition as well as Mr. Nussbaum's lawyer, James Fitzpatrick, said that Senator Bennett's characterization of Mr. Nussbaum's testimony was inaccurate and that Mr. Nussbaum had never implied or meant to suggest that he believed the Clintons would be reviewing the papers from Mr. Foster's office.

The day's most striking moment came when a Republican Senator startled the otherwise staid proceeding by brandishing Mr. Foster's brown leather briefcase, in which 27 scraps of a torn note recording his disenchantment with Washington were found six days after he died. The scraps had originally been overlooked by Mr. Nussbaum, the White House counsel who had searched Mr. Foster's office two days after the suicide.

While news photographers scampered for an angle and Democrats sat in stunned silence, Senator Frank H. Murkowski, Republican of Alaska, raised the briefcase, put 27 torn pieces of yellow legal paper into it and opened its mouth wide toward the hearing room to show how easily the pieces of paper could be seen.

"It's very hard for this Senator to understand why it took four days -- four days -- to discover this note if it was in fact in Foster's briefcase all along," Mr. Murkowski said. "Now, maybe it was an oversight, but that's what happens when you allow the political people to take over an investigation that should be run by professional law-enforcement personnel."

Senator John Kerry of Massachusetts and other Democrats later criticized Mr. Murkowski's show-and-tell as grossly misleading. Mr. Kerry later staged a counter-demonstration meant to show how easily Mr. Nussbaum, pulling files from a briefcase sitting beside him, might have overlooked the scraps at the briefcase's bottom.

After the hearing, the White House tried to take the offensive, issuing a statement about the use of Mr. Foster's briefcase that attacked the committee's Republican chairman, Senator Alfonse M. D'Amato of New York, for receiving grand jury evidence from the Whitewater independent counsel and "for use as a prop" at the hearings.

Mr. D'Amato called the accusation "nonsense," and the independent counsel, Kenneth W. Starr, said that the committee's request for the brief case had been made jointly by the Republicans and the Democrats. Mr. Starr said the briefcase was not grand jury material, and was not part of the confidential material generated by the investigation.

GRAPHIC: Photos: Senators Frank H. Murkowski, top, and John Kerry with the briefcase of Vincent W. Foster Jr., the former deputy White House counsel, showing how easy, or hard, it was to overlook his torn-up suicide note. (Photographs by David Scull/The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE: July 19, 1995

LEVEL 1 - 8 OF 9 STORIES

Copyright 1995 The New York Times Company
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July 18, 1995, Tuesday, Late Edition - Final

SECTION: Section A; Page 12; Column 1; Editorial Desk

LENGTH: 713 words

HEADLINE: Old Questions, New Hearings

BODY:

When the matter now known as Whitewater first arose during the 1992 Presidential campaign, candidate Bill Clinton called it no big deal. But he and his staff, in the campaign and later at the White House, stonewalled on the details that would have revealed whether he and Mrs. Clinton were telling the truth about their finances.

Today's renewed Senate hearings on Whitewater are the bitter fruit of those original evasions. For reasons known but to them, the Clintons have offered tricky answers that brought confusion rather than clarity to their land deals with a high-rolling Arkansas banker and campaign supporter named Jim McDougal.

So for the second summer in a row, Mr. Clinton must endure this irksome probing of bygone years when he was Governor of Arkansas. But this time, hostile Republicans are in charge of a special Whitewater committee. They seem eager to see their work ripple into the re-election campaign.

The first stage of the hearings concerns the White House's clumsy handling of the papers of Vincent Foster, the deputy counsel who committed suicide in 1993. At the time of his death, he was trying to help his friend Bill Clinton clean up old Arkansas business without running afoul of new investigations. The theories that Mr. Foster died under suspicious circumstances seem cracked, but there is plenty of room for embarrassing testimony.

The first scheduled witness is Webster Hubbell, former law partner of Mrs. Clinton and close family friend, who has pleaded guilty to fraud and theft in Little Rock. Mr. Hubbell and Bernard Nussbaum, the former White House counsel, had a hand in preventing National Park Police from handling the Foster investigation in a professional manner. It is clear that the committee chairman, Senator Alfonse D'Amato, and other Republicans on the committee have reason to grill all the witnesses about the paper trail running through Mr. Foster's office.

But the Clintons are not alone under the hearing lights. Washington and the nation will be watching Mr. D'Amato to see if this dogged partisan can maintain the dignity of these proceedings. Mr. D'Amato -- not to mention his home state of New York -- would be well served if he exhibits less than his usual stridency. As an officeholder with a checkered ethical history of his own, he needs to show that he can proceed with a gravity that matches the seriousness of the financial questions to be addressed in the days ahead.

The public still has a right to know what the Clintons have never willingly offered, an accurate accounting of how much they paid for their half share of the Whitewater land investment. The committee also has an obligation to

explore whether the Clintons' tax returns correctly reflected any losses they incurred in the Whitewater Development Company and any financial benefits they received from the firm, Mr. McDougal or his bank.

One of the enduring mysteries of this Presidency is why Mr. Clinton has been willing to absorb such tremendous political damage rather than authorize a full accounting of the Whitewater deal. Now a report by the Resolution Trust Corporation gives the clearest picture yet available of the firm's finances. It shows that of Whitewater's losses of about $200,000, Mr. McDougal absorbed more than $158,000, while the Clintons paid only about $42,000, far less than their half share.

As for the tax consequences, documents gathered for Senate hearings show that before his suicide Mr. Foster worried considerably over whether the President's tax returns should show a loss from the Whitewater land dealings. That might trigger a tax audit, "a can of worms you shouldn't open," he wrote.

For three years now, the Clinton team has acted as if anything connected to Whitewater was a can of worms that no one had a right to open. It has denounced as political enemies anyone who expressed reasonable curiosity about who paid what monies and for what purpose. Some of those in charge of the inquiry are indeed their political enemies. Yet they are only seeking what should have been offered voluntarily. The R.T.C. figures show that the public has not yet had a full factual accounting and that those who have persisted in their questioning have had good reason to hunger for straight answers.

LANGUAGE: ENGLISH

LOAD-DATE: July 18, 1995

LEVEL 1 - 9 OF 9 STORIES

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July 16, 1995, Sunday, Late Edition - Final

SECTION: Section 1; Page 18; Column 1; National Desk

LENGTH: 1762 words

HEADLINE: Documents Show Clintons Got Vast Benefit From Their Partner in Whitewater Deal

BYLINE: By JEFF GERTH and STEPHEN ENGELBERG

DATELINE: WASHINGTON, July 15

BODY:

From the moment questions about the Whitewater real estate venture began arising nearly three years ago, the main defense by President Clinton and his wife, Hillary, has been that they lost money on the ill-fated deal and were personally liable for its extensive bank loans.

But newly available documents -- including the first completed independent review of Whitewater, prepared for a Federal agency by a law firm -- cast both positions in a new light.

The review shows that the Clintons' partner in the deal, the owner of an Arkansas savings and loan association whose failure cost the Federal Government $60 million, shielded them, to an extent far greater than previously reported, from paying their half of Whitewater's losses.

From 1980 to 1986, that partner, James B. McDougal, advanced the Whitewater venture the $100,000 it needed to avoid a messy default on its bank loans, while the Clintons, half-owners of the corporation, contributed nothing, the report says.

While what has become known as the Whitewater affair now embraces a number of matters under investigation by Congress and an independent counsel, two central questions concerning the land deal that gave the episode its name are these: Did the Clintons pay their share of the venture's losses? And did Mr. Clinton, as Governor of Arkansas, help his business partner, Mr. McDougal, get any favors from state officials?

The report, which puts Whitewater's total losses at about $200,000, addresses only the first question. According to the document, the Clintons contributed $42,192 to Whitewater, while Mr. McDougal, his wife and his companies paid the rest: $158,523.

Those figures are in contrast with a report done for Mr. Clinton's 1992 Presidential campaign, which found that the Clintons had contributed $68,000, and Mr. McDougal and his wife, Susan, $92,000. The White House later acknowledged that the report had overstated the Clintons' contribution by $22,000, but never gave a revised estimate for the McDougals' payments.

The New York Times, July 16, 1995

Other newly available documents, released by the White House, show that the Clintons' closest advisers were worried about the political implications of the Whitewater losses soon after he took office as President in 1993.

The Clintons had sold Mr. McDougal their Whitewater stock for $1,000 in 1992, and the issue was whether to report any of the Whitewater losses on the couple's 1992 income tax return.

Lawyers for the Clintons noted that the most conservative tax approach was not to report a loss. But an accountant working for the Clintons warned in a letter that the Whitewater issue was "very sensitive" and that reporting neither a loss nor a gain on the project "bolsters the opponents' position" that Mr. Clinton had been protected from its losses.

"The President said he incurred a significant loss -- the return shows no loss," the accountant said in the letter, forwarded on April 7, 1993, to Vincent W. Foster Jr., the deputy White House counsel.

But Mr. Foster, in a handwritten note found in his White House files soon after he committed suicide that summer, expressed no enthusiasm for reporting Whitewater's losses on the tax return. Being required to document them in audit, he said, would be a "can of worms you shouldn't open."

Ultimately, not only did the Clintons decline to report a loss, they actually reported a gain of $1,000, the entire price on their sale of stock to Mr. McDougal -- meaning they would never have to document a cost basis.

The independent study of Whitewater, based on the Clintons' private files and previously unavailable bank records, was prepared for the Resolution Trust Corporation in April by the San Francisco-based law firm of Pillsbury, Madison and Sutro. The 143-page report, labeled "preliminary," is part of an effort by the R.T.C. to see whether it can recover some of the losses created by the collapse of Mr. McDougal's savings and loan association, Madison Guaranty.

David E. Kendall, the Clintons' lawyer, has not seen the report. He declined to be interviewed but said in a statement, "It's simply not accurate that the McDougals somehow disproportionately relieved the Clintons of their share of Whitewater-related debts."

But the report details how Mr. McDougal steadily reduced the Clintons' personal liability for Whitewater's bank loans.

When the real estate venture began in 1978, the Clintons and the McDougals together obtained $202,000 in loans to buy the land, Arkansas vacation property. Both couples were personally liable for those debts, and could have been sued to cover any of the banks' losses.

By 1986, the report says, the Clintons' exposure had been reduced, even though Whitewater had fared quite poorly. According to the report, the Clintons then were obligated for only $77,000, a third of the Whitewater company's total debts of $225,000.

Mrs. Clinton has rejected the notion that she and her husband were protected from Whitewater's losses by Mr. McDougal and, in an April 1994 news conference, pointed to the shared bank loans as evidence.

"The ownership of the corporation was 50-50," she said. "The liability on the underlying debt was 100 percent for each one of us."

If at any time Mr. McDougal had been unable to pay his share of the bank debt, she said, "we would not only have been left with 50 percent of the obligation, we would have had 100 percent of the obligation."

She did not mention Mr. McDougal's role in substantially reducing the size of the bank debt, saying only, "We gave whatever money we were requested to give by Jim McDougal."

The report said investigators could not determine "how much, if anything, the Clintons knew about the McDougals' advances to Whitewater." It explicitly supports the Clinton's oft-repeated assertion that they were "passive investors" in Whitewater and had little role in its financial management until 1988.

But it includes some newly available documents showing that the chaotic finances of Whitewater did occasionally require the earlier attention of the Clintons. Taken together, those documents suggest that the couple could have had reason to suspect that the venture was failing to pay its bills.

In October 1984, for example, Mrs. Clinton wrote to Mr. McDougal that she had been forced to pay the company's local real estate taxes "because of my concern that any delinquency could become fodder for election year rhetoric."

And when an Arkansas bank from which Mr. Clinton had borrowed $20,800 on behalf of Whitewater sent a final payment notice to the couple, Mrs. Clinton wrote to Mr. McDougal, "Will you please take care of it or let me know what I need to do?"

Thus prodded, Mr. McDougal sent Mrs. Clinton $4,811 from Whitewater's checking account.

Whitewater's continuing failure to break even also meant troubles with a $182,000 loan from its main lender, the Citizens Bank of Flippin, and the Clintons were told of the loan's occasional delinquency in the early 1980's, according to present and former officials of the bank. The R.T.C. report said the Clintons did not provide a financial statement when that loan was obtained in 1978.

One director of the bank recalls speaking to Mr. Clinton about Whitewater's failure to keep up its payments on the loan, which was renewed nine times.

And a former bank official recalls that on another occasion a senior bank manager approached Mr. Clinton at a political event and raised questions about missing financial statements. Mr. Clinton, this former official said, "got red-faced and said something like, 'You can't dun the Governor.' "

In 1986, the report shows, the Clintons wanted to take their names off the mortgage entirely. "I can well understand your desire to keep your name off the note," Mr. McDougal wrote the Clintons on Nov. 14 that year.

In that letter, Mr. McDougal said he was hoping to extricate them from the money-losing investment "because of the high potential for embarrassment to you." He acknowledged that there had been a "large deficiency" in loan

repayment, attributing it to defaults by three purchasers of Whitewater property, and said the arrears would most likely continue to "mount at an unacceptable rate" in the following months.

Finally, Mr. McDougal pointed out that he and his wife had "in large measure contributed to the company the funds necessary" to cover Whitewater's losses, which he put then at $90,000.

Mr. Kendall, the Clintons' lawyer, said in his statement that the couple had wanted to be released from personal liability on Whitewater loans in exchange for giving Mr. McDougal their equity in the project. But that deal never took place.

The R.T.C. report draws no conclusions about several other Whitewater-related issues, among them whether Mr. McDougal diverted money from his savings and loan to help repay Mr. Clinton's 1984 re-election debts.

And, responding to another allegation raised by R.T.C. investigators, the report concludes that although $58,000 flowed from Madison Guaranty through intermediaries and then to Whitewater's accounts, "little is known about the purpose or reason for these transfers." This is one of the most significant issues in the Whitewater affair. It would be particularly embarrassing for Mr. Clinton if Mr. McDougal siphoned money out of his federally insured savings and loan to prop up Whitewater.

The report has other limitations, too. Some documents are missing, and many important witnesses were not interviewed, in part because of restrictions imposed by Kennth W. Starr, the independent counsel now investigating the Whitewater affair.

The report also makes no recommendation on a central question posed by the R.T.C.: whether a suit should be filed to recover Madison's losses, if any, in the Whitewater venture.

The report offers no evidence that Mr. McDougal benefited from his relationship with Mr. Clinton. But it does disclose that in 1986, in a meeting with Mr. Clinton and Arkansas health department officials at the Governor's offices, Mr. McDougal vented his grievances concerning sewage inspections of another of his projects. State health officials said in interviews that it had been unusual to hold such a meeting in the Governor's presence, but they insisted that Mr. McDougal's projects had received no special treatment as a result.

While the documentary record sheds new light on the relationship between the Clintons and the McDougals, the investigators acknowledge that without interviews with the two couples, it was impossible to assess their motives and intentions.

GRAPHIC: Photo: James B. McDougal (Associated Press)

LANGUAGE: ENGLISH

LOAD-DATE: July 16, 1995

LEVEL 1 - 25 OF 204 STORIES

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July 10, 1995, Monday, Late Edition - Final
Correction Appended

SECTION: Section B; Page 8; Column 3; National Desk

LENGTH: 653 words

HEADLINE: White House Offers Documents to New Whitewater Hearings

BYLINE: By TODD S. PURDUM

DATELINE: WASHINGTON, July 9

BODY:

On the eve of new Congressional hearings into the Whitewater affair, the White House today made available some documents from the office of Vincent W. Foster Jr., the former deputy White House counsel who committed suicide in 1993, in an effort to buttress its case that there was no link between his death and the controversy over the failed Arkansas land deal.

Breaking months of silence imposed by the special Whitewater prosecutor, Kenneth W. Starr, White House lawyers summoned reporters to review pager records, security logs and Secret Service reports on the handling of access to Mr. Foster's office and papers in the hours and days after his death on July 20, 1993.

They also allowed reporters to inspect the file of around 50 pages relating to Whitewater that was in Mr. Foster's office at the time of his death. The handling of that file later became a matter of controversy after it was removed several days later and stored with other Clinton files from Mr. Foster's office in a locked closet in the White House residence before being turned over to the Clintons' personal lawyer.

The White House lawyers acknowledged there were some inconsistencies in recollections among White House aides about the removal of the file. It contained mostly routine corporate records and was not the only Whitewater file the Clintons had at the time but have since turned over to investigators. But the lawyers said multiple witnesses could account for the file's whereabouts at all times, and the documents appeared to provide little new information.

In a report last year, Mr. Starr's predecessor, Robert B. Fiske Jr., concluded that there was no violation of law in the handling of Mr. Foster's papers after his death and that Whitewater was probably not a factor in his suicide. But some questions have lingered, kept alive by Congressional Republicans in particular.

The White House lawyers said that they were speaking out now because Mr. Starr had allowed Congressional Whitewater hearings to proceed and that they wanted to make their case in advance of the next round, which begins next week under the direction of Senator Alfonse M. D'Amato, Republican of New York.

"The subject matter of these hearings has been reviewed by two independent counsels that have had enormous resources at their disposal," said Mark Fabiani, an associate White House counsel who handles Whitewater matters. "The fact is, these hearings will duplicate everything the independent counsel's office has done."

People familiar with the investigation said there would undoubtedly be some contradictions highlighted in Mr. D'Amato's hearing, including the assertion of a Secret Service guard that he saw Maggie Williams, chief of staff to Hillary Rodham Clinton, carry a stack of documents from Mr. Foster's office on the night of his death. Ms. Williams and other witnesses deny this and she passed a lie detector test for Mr. Starr last fall.

The White House lawyers also allowed reporters to inspect Mr. Foster's file on the firing of the White House travel office staff in the spring of 1993 and on the subsequent controversy. His handwritten notes show some concern that the White House correctly explain the extent of Mrs. Clinton's knowledge and involvement in the matter. On June 30, 1993, Mr. Foster wrote that "H.R.C. is perceived as being involved in decisions and events in which she has no participation."

The lawyers also released a list summarizing the contents of 23 other files relating to the Clintons' personal affairs that were removed from Mr. Foster after his death.

David E. Kendall, the Clintons' personal lawyer, said in a telephone interview that those files "concern such matters as the Clintons' income taxes, their blind trust, the President's Federal financial disclosure form and proposals for 'Arkansas White House,' " a residence for the Clintons in Arkansas that was never set up.

CORRECTION-DATE: July 11, 1995, Tuesday

CORRECTION:
An article yesterday about documents removed from the office of the former White House counsel, Vincent W. Foster Jr., after he died, misstated the position taken by Robert B. Fiske Jr., the former Whitewater independent counsel, on the handling of the documents. Before leaving office, Mr. Fiske never reached any legal conclusions about the handling of the documents by other White House officials; he did not conclude that no law had been violated in the handling of the documents.

GRAPHIC: Photo: Vincent W. Foster Jr. (Associated Press)

LANGUAGE: ENGLISH

LOAD-DATE: July 10, 1995

LEVEL 1 - 37 OF 204 STORIES

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April 15, 1995, Saturday, Late Edition - Final

SECTION: Section 1; Page 6; Column 1; National Desk

LENGTH: 642 words

HEADLINE: Clintons Earn Less but Donate More

BYLINE: By TODD S. PURDUM

DATELINE: WASHINGTON, April 14

BODY:

Both are baby-boomer Southerners with Ivy League educations and six-figure incomes. But Vice President Al Gore disclosed some big differences with President Clinton when they released their 1994 income tax returns today: Mr. Gore earned quite a bit more last year and was a lot less generous.

Mr. Clinton and his wife, Hillary, claimed $30,125 in charitable contributions, or 11 percent of their adjusted gross income of $263,900, with most of it, their aides said, given to churches they attend.

By contrast, Mr. Gore and his wife, Tipper, claimed no itemized deductions on their adjusted gross income of $411,713. The reason, an aide said, was that all the itemized deductions they might have taken, including charitable contributions, amounted to less than the $6,350 standard deduction available to married couples filing jointly (which equals just 1.5 percent of their income).

To be fair, $12,000 of the money the Clintons gave away was given to them as a gift anyway, proceeds from the private Henry G. Freeman Jr. Pin Money Fund, established in 1912 for the benefit of First Ladies. The fund made its first payout in 1993, after litigation over Mr. Freeman's estate was resolved following the death of his last known heir.

Counting only the $18,000 of their own earnings that they gave away, the Clintons still donated nearly 7 percent of their adjusted gross income to charity. They did not release the list of their charities, but the White House spokesman, Michael D. McCurry, said most of the money had gone to churches.

Over all, the Clintons paid $55,313 in Federal taxes, or 21 percent of their adjusted gross income. They overpaid by $14,418 and chose to apply about half of the overpayment to next year's bill. Their income was almost $30,000 less than in 1993, when they said their blind trust was the second most important source of their income.

The Gores paid $142,688 in Federal taxes, or 35 percent of their adjusted gross income, and chose to apply all of a $4,881 overpayment to their 1995 taxes. More than half their earnings -- $259,013 -- came from Mr. Gore's best-selling book on the environment, "Earth in the Balance." His Vice-Presidential salary is $171,500; Mr. Clinton receives $200,000 as President.

Mr. Gore's press secretary, Lorraine Voles, declined to comment on the contrast between the Clinton and Gore returns for 1994. She noted that Mr. Gore donated $50,000 to the University of Tennessee in 1992 to establish a chair in environmental studies in honor of his late sister, Nancy. His entire contribution to charity was $52,558 that year.

Despite their relatively high income, the Gores have few of the expenses that would make it worthwhile to itemize deductions, in part because Tennessee has no state income tax. They have a mortgage on their home in Virginia, but now rent the house out as income-producing property and so cannot claim the home mortgage interest, Ms. Voles said. They also have a small mortgage on property in Tennessee, which, even combined with whatever charitable contributions they made, would still not exceed the $6,350 standard deduction, she added. She said the same was true last year.

The gift from the Pin Money Fund lifted the Clintons' charitable contributions, the single largest deduction they claimed, from the $17,000 on their 1993 return. Their next biggest deduction for 1994 was $10,000 in legal and tax preparation expenses for their 1993 returns.

Mr. McCurry said none of that money had gone for lawyers' fees to defend the President against the sexual harassment lawsuit filed by Paula C. Jones or the Whitewater investigation.

The Clintons also filed a return paying taxes of $911 for their 15-year-old daughter, Chelsea, who received $6,678 in royalties from the autobiography of the President's mother, Virginia Kelley, who died last year.

LANGUAGE: ENGLISH

LOAD-DATE: April 15, 1995

LEVEL 1 - 64 OF 204 STORIES

Copyright 1994 The New York Times Company
The New York Times

December 7, 1994, Wednesday, Late Edition - Final

SECTION: Section A; Page 22; Column 1; Editorial Desk

LENGTH: 700 words

HEADLINE: Persisting on Whitewater

BODY:
Whitewater is back, without televised Senate hearings for the moment. The affair has returned in humbler guise -- the patient prosecutorial efforts of Kenneth Starr, the independent counsel. He has now reached two plea bargains -- from Robert Palmer, a land appraiser whose phony estimates appear to have enriched his associates at great cost to the American taxpayer; and from Webster Hubbell, personally installed by the President as political manager of the Justice Department.

It is important to review what these developments mean and do not mean for Mr. Clinton and Hillary Rodham Clinton. The downfall of even so close an associate as Mr. Hubbell does not mean that the Clintons have done anything wrong. Similarly, Mr. Palmer seems more closely tied to Jim Guy Tucker, the Governor of Arkansas. But the Palmer case establishes beyond a doubt that there were serious problems of mismanagement and political favoritism at Madison Guaranty, a savings and loan operated by James McDougal, the Clintons' business partner in the Whitewater Development Corporation.

This makes all the more pressing the questions that the Clintons, their campaign aides and the White House have refused to answer for three years. Why would they suffer grave political damage, periods of near-paralysis in the Government and the loss of friends to resignation and legal problems rather than answer straightforward questions about their finances? No one save Mr. and Mrs. Clinton knows the answer to that mystery.

In any case, questions that were valid in 1992 are more so now that Mr. Starr has cast new light onto Madison's tangled affairs. Were depositors' or Mr. McDougal's funds used to the Clintons' benefit in the Whitewater real estate venture, in which the Clintons had a 50 percent interest? If neither, why did the Clintons claim losses of $47,000, when Mr. McDougal -- on paper an equal partner -- claimed twice that amount? Was someone putting money into Whitewater on the Clintons' behalf, and if so, what did that do to their income tax obligation?

Given Mr. McDougal's role as a fund-raiser and banker for the campaign, were Madison funds used to pay off Mr. Clinton's 1984 campaign debts? Did Mr. McDougal and his savings and loan receive favorable treatment from Clinton-appointed bank regulators, increasing the cost to taxpayers when Madison collapsed?

Compared with the scope of these unanswered questions, Mr. Palmer, the appraiser, seems like small fry. But in fact he was the foundation upon which Mr. McDougal built his fraudulent savings and loan, creating fictitious values that allowed Mr. McDougal to pursue his schemes.

It is unclear what, if anything, Mr. Hubbell has to tell about Whitewater, Madison and Mrs. Clinton's legal work for the savings and loan. But as our colleague William Safire observes, the prosecutor and Congress must review Mr. Hubbell's work at Justice in light of what we now know about his standards as an attorney. A key question is whether the Department, under his political stewardship, tried to bury criminal referrals made by banking officials about Madison Guaranty's dubious lending practices. These referrals were not acted upon in a timely way and might never have surfaced had not investigators gone public with their frustrations.

Mr. Starr's apparent progress seems to have dissuaded Senator Alfonse D'Amato from quickly reopening full-scale hearings. Mr. D'Amato will be the new chairman of the Senate Banking Committee, and he is clearly eager to exercise its legitimate oversight role in Madison's failure. But he was the soul of deference on television last weekend, leaving the firm impression that he will continue to honor Congress's commitment not to compete with the important Arkansas phase of Mr. Starr's investigation until Mr. Starr agrees.

Mr. D'Amato's caution makes sense, at least for now. The Republicans would be foolish to act vindictively -- especially when Mr. Starr seems to be making plenty of headway on his own. As a result, those who have questioned the entire business of investigating Whitewater have been answered. There is every reason for the special prosecutor and Congress to keep seeking answers.

LANGUAGE: ENGLISH

LOAD-DATE: December 7, 1994

LEVEL 1 - 72 OF 204 STORIES

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November 19, 1994, Saturday, Late Edition - Final

SECTION: Section 1; Page 11; Column 1; National Desk

LENGTH: 562 words

HEADLINE: Another Arkansan Quits White House Staff

BYLINE: By MICHAEL WINES, Special to The New York Times

DATELINE: WASHINGTON, Nov. 18

BODY:

William Kennedy 3d, a onetime law partner of Hillary Rodham Clinton, has resigned as associate White House counsel and will return to private life in Little Rock, Ark., the White House said today.

Mr. Kennedy had an occasionally stormy tenure in an office that has itself been controversial during Mr. Clinton's time in office. A White House spokeswoman, Ginny Terzano, said Mr. Kennedy was completing his work today and would return to Arkansas on Sunday.

Mr. Kennedy did not return a reporter's telephone call, and Ms. Terzano said he had not disclosed his plans.

"His decision to leave the White House was a personal decision," she said. "His family was back in Arkansas, and he has small children there that he wants to spend time with."

Mr. Kennedy was one of four partners in the Rose law firm in Little Rock who came to Washington and high Government positions when President Clinton took office 22 months ago. His departure leaves only one of the four, Mrs. Clinton.

A third Rose partner, Webster L. Hubbell, resigned as Associate Attorney General early this year after questions were raised about his billing practices at the Rose firm. The charges are under investigation by Kenneth Starr, the independent counsel examining the Whitewater affair.

A fourth Rose firm member, Vincent W. Foster, who was deputy counsel to the President, committed suicide in July 1993.

Mr. Kennedy came to Washington with a reputation as a one of his firm's most hard-nosed litigators. He was placed in charge of ethical matters and quickly found himself enmeshed in a dispute.

When a distant cousin of President Clinton sought early in his term to dismantle the White House travel office, accusing some of its employees of impropriety, Mr. Kennedy independently called the Federal Bureau of Investigation into the inquiry rather than forwarding the request to the Justice Department.

A White House inquiry concluded that the efforts to overhaul the travel office created the impression of impropriety, in part because friends of the Clintons had stood to benefit by gaining air charter contracts. And the report on inquiry stated that Mr. Kennedy's decision to summon the F.B.I. created the perception that the bureau was being used for political purposes, for which he was reprimanded.

Later that spring, several Administration officials and nominees to high posts came under attack for failing to pay Federal taxes on wages to housekeepers and nannies. It was later disclosed that Mr. Kennedy, too, had failed to pay Social Security taxes on his family's nanny until shortly after the issue became a matter of dispute, and that he had then paid the back taxes using his wife's former name, Leslie Gail McRae. Mr. Kennedy said the use of that name was not an attempt to escape public scrutiny. The White House later removed ethical matters from his responsibilities.

Recently, it was reported that Mr. Kennedy was assigned in 1993 to handle questions about the background of President Clinton's nominee as Navy Secretary, John Dalton. The White House's public description of Mr. Dalton's career omitted the fact that he had headed a Texas savings and loan that had failed at a cost to taxpayers of $100 million, and that Federal regulators had secured a private settlement over what they called his "gross negligence" in mananging the institution.

LANGUAGE: ENGLISH

LOAD-DATE: November 19, 1994

LEVEL 1 - 94 OF 204 STORIES

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July 31, 1994, Sunday, Late Edition - Final

SECTION: Section 6; Page 20; Column 1; Magazine Desk

LENGTH: 12609 words

HEADLINE: The President's Past

BYLINE: By Michael Kelly; Michael Kelly is the staff writer of The New York Times Magazine.

BODY:

A good place to begin thinking about how Bill Clinton became who he is today is the Arkansas town of Springdale, where a short, red-faced man known as Mr. Chicken sits in a room modeled after the Oval Office of the President of the United States (although not precisely; the White House's Oval Office does not have doorknobs shaped like hen's eggs) and tells a story about the political education of a bright young fellow.

It may seem an act of considerable vanity for a chicken farmer to build himself a copy of the President's office. But Don Tyson is a realist to his thick fingertips, as befits a man who presides over the largest abattoir the world has ever seen -- every week, Tyson Foods reduces 25 million chickens to plucked and gutted shadows of their former selves -- and he sees politics as a series of unsentimental transactions between those who need votes and those who have money. His office decor is an accurate, not immodest statement about where, in a world where every quid has its quo, power lives.

Money men like Tyson are strong in politics everywhere, but the realities of Arkansas favor them particularly. Power in Arkansas rests upon two enduring conditions complicated by an enduring contradiction. The first condition is that most people in Arkansas have very little money while a few people have a great deal. The second condition is that Arkansas is not really a democracy. It has been ruled for almost all of its existence, and is largely ruled still, by a thin upper crust of Democratic Party officials and Democratic legislative leaders and important landholders and businessmen. This elite, bound together not by party or even ideology but by mutually advantageous relationships, holds sway over a small and politically disorganized middle class and a large but well-beaten population of the poor. The contradiction is that Arkansas voters, in a class-based reaction against this condition, perpetually favor politicians who are "common" in touch, populist in theology and reformist in policies.

What results is a system in which voters consistently reward candidates who promise change, but in which men like Tyson consistently reward those who preserve the pro-business status quo. Because each candidate must, in the absence of real party politics, build his own organization, and because the money men are the only dependable sources of the heavy financing that this requires, Arkansas's wealthy corporatists possess far greater clout than they would in a state with a strong party system, large professional class or powerful unions. They are the equivalent of Broadway's "angels," determining who appears on the big stage and who does not. There are a few Republicans among the angels, and perhaps one or two mild ideologues, but most of the heavenly host

fit the description Don Tyson applies to himself: "businessman's Democrat," which means they support Democrats who support them.

"The Arkansas system had always been to find some good young people and encourage them to work on the local level," Tyson ruminates by speakerphone from his oval office. "The system kind of weeds them out, and out of that comes a United States Senator or a governor. . . . It's like a horse race. You back three or four, so you always got a winner."

The Tyson family has been backing winners in Arkansas politics since 1954, when John Tyson, Don's father and the founder of the family business, bet on a promising young man named Orval Faubus. "Orval was my dad's first political deal," Tyson recalls, speaking of the six-term Governor with the nostalgic affection of an old horseplayer remembering a 5-to-1 shot that paid off. "Orval was a little newspaper editor 25 miles east of here in Huntsville. He got over here one day and had a lunch with a bunch of Springdale people here in a restaurant. He said, 'I want to run for Governor and I need $1,500 and don't have it.' Dad was one of the three people who gave him $500 apiece so he could pay his filing fee."

The generation that entered Arkansas politics in the 1970's was exceptionally rich in talent, but even so, Bill Clinton caught Tyson's eye. "He was young and he was impressive," Tyson recalls. "I don't believe we ever talked about his politics; hell, he was a Democrat." Tyson put a modest sum of money on Clinton in his yearling race, a Congressional run in 1974. Although Clinton lost that election, he showed excellent form, and Tyson backed him again in his successful 1976 run for State Attorney General; and again in 1978, when the 32-year-old ran as the overwhelming favorite for Governor.

But before Tyson made his gubernatorial choice for 1978, he posed a question. In the relentless drive of expansion and acquisition that would make Tyson Foods the largest poultry processing company in the world, Tyson faced a serious obstacle. In recent years, most other states had raised their legal truck weight limits from about 73,000 to 80,000 pounds. Arkansas, though, still stuck to the old limit, which put the state's poultry and trucking companies at a disadvantage with their out-of-state competitors and cost them millions of dollars. Would a Governor Clinton take care of that problem? Candidate Clinton, recalls Tyson, said he would be happy to.

"Bill promised a bunch of us that he'd raise the weight limit on trucks," Tyson remembers. "Damn right he did. He promised me, personally, in my car driving to the airport three or four months before the election. He said that if he was elected, he'd do it. He said he'd take care of it. Now, there's a bunch of chicken folks in this state, and we all had a big interest in this weight thing, so we supported Clinton."

It was, by Tyson's account, several months after this private talk that a great windfall came into the lives of a young and relatively poor couple named Bill Clinton and Hillary Rodham. The windfall fell from the hand of the Clintons' close friend James Blair, an important Arkansas Democrat of the back-room genre and a Springdale lawyer whose most important client was Don Tyson and Tyson Foods.

Blair was a man who greatly desired to be rich. In 1977, he began plunging deep into a string of commodities speculations that he expected would make him

so. Trading in cattle futures through the Springdale branch of the Ray E. Friedman and Company (Refco) chain run by Robert (Red) Bone, a commodities broker (and former Tyson executive) of dubious reputation, Blair had already made several hundred thousand dollars by October 1978, and expected to make millions more. With Clinton up 30 points in the polls less than a month before Election Day, Blair approached Hillary Rodham to urge her to invest in his sure-thing scheme, telling her that "it was one of those rare chances to put aside some money," and that "she wouldn't have to be the expert. I'd give her advice."

Mrs. Clinton put up $1,000, and on her first day made a post-commission profit of $5,300, trading on 10 cattle futures contracts. She continued to invest with Blair and Bone for nine months, during which time her husband was elected and sworn in as Governor. Although Mrs. Clinton was a small, inexperienced and cash-poor customer, Bone's Refco office accorded her privileged treatment generally reserved only for investors with deep pockets or proven records. The Blair-Clinton investments ended in July 1979, having netted $99,537, a nearly 10,000 percent return.

On April 22, 1994, Hillary Rodham Clinton, soft-edged in a warm pink sweater and smiling sweetly at the badgering White House reporters, acknowledged that she had opened her account at Blair's "very strong recommendation," that Blair had always guided her about which trades to make and that "often" he had simply placed the trades for her. Her role, as she described it, was largely limited to approving Blair's suggestions. But, Mrs. Clinton insisted, Blair had done this large favor only because he and his wife were "among our very best friends." Scorn crisping the edges of her voice, Mrs. Clinton dismissed the idea that Blair might have meant to guarantee good will towards Tyson Foods with his $100,000 boon to the Governor and his wife. "I found it a little bit surprising that anyone would suggest that," Mrs. Clinton said, "because, in 1980, right during the time that this was all going on, when my husband ran for re-election, Tyson supported his opponent."

Mrs. Clinton's artful explanation notwithstanding, the records show that she had concluded her commodities trading with Blair by July 1979 -- more than a year before the next gubernatorial campaign. For his part, Tyson says today that he never knew about the financial arrangements between his attorney and the Clintons until he read about them in The New York Times earlier this year. But Tyson also says the reason he didn't support Bill Clinton in 1980 is not because he couldn't buy Clinton's favors in 1978. It was because Tyson thought he had indeed obtained a favor -- the promised truck weight increase. But Clinton had failed to deliver his part of the bargain. "He didn't raise the limit," Tyson says.

The fact is, even if he had wanted to, Governor Clinton could probably not have pushed the higher truck weight through the Legislature. The opposition of the powerful Arkansas Highway Commission -- on the grounds that heavier trucks would damage the state's highways -- was just too strong. But Tyson blamed the young Governor for not even making the fight. "He never even tried to get it through," Tyson says.

And so, when Clinton ran again for Governor in 1980, against a little-known Republican businessman named Frank White, Tyson took revenge: "I said, 'Hell, I'll support Frank White.' "

Clinton lost the 1980 election, a defeat that threatened to end his political career. But in 1982, after a brutal campaign against White, he won back the Governor's seat. Tyson, who had backed White a second time, watched with interest to see what the resurrected Governor would do about the truck weight limit, which remained unchanged despite White's support of an increase. Almost immediately after taking office again in 1983, Clinton maneuvered the 80,000-pound limit through the Legislature by linking it to a special tax on the heavier trucks, to pay for potential road damage. And when Clinton ran for re-election in 1984, Tyson supported him, as he has in every election since. He is refreshingly candid about why. "He started running the state better and learned a few lessons," Tyson says, "And, hell, my trucks were running full, 80,000 pounds."

HE 42D PRESIDENT IS AN IMPRESSIVE THINKER, a talented political performer and something of a visionary. Indeed, although Bill Clinton has been largely successful (for better and worse) in presenting himself as a moderate, he is, in a true and unpejorative sense of the word, a radical, committed to a level of change far more ambitious than that of most Presidents. Through his ability to speak with both uncommon intelligence and a common touch, he has advanced issues that had been frozen for years in a left-right stalemate, most notably health care, welfare and crime. The expanded earned-income tax credit program he won from Congress last year was a historic measure, the Government's first real attempt to guarantee that no one who works full time and has a family to support would fall below the poverty line. The health care reform he is trying to get through Congress this year would be the most significant expansion of entitlements since the creation of Social Security and among the most ambitious efforts at social engineering in the nation's history. The Clinton Administration is the first to openly (if at times gingerly) embrace the idea of according protected minority status to homosexuals. The Clinton welfare-reform bill may not entirely meet the grand campaign promise of "ending welfare as we know it," but it nevertheless represents a genuine attempt to impose the toughest work requirements ever attached to welfare, the first serious effort by any President, Democrat or Republican, to stop the disastrous generational cycle of America's dole society. Because Clinton is President, it has become harder now for criminals and lunatics to arm themselves, and easier for parents to take time off work without losing their jobs.

So why doesn't all of this seem to matter more? Why doesn't Bill Clinton get more credit for his successes, and less vilification for his failures, which seem to loom so large? Why does the President get so little respect? The problem is not just criticism from the right, where many passionately loathe Clinton. That is to be expected; conservatives understand, if liberals do not, how serious the President is about dramatic change. What threatens this President seems to be much larger than mere partisanship. There is a level of mistrust and even dislike of him that is almost visceral in its intensity. In Washington, where power is generally treated with genuflecting reverence, it is no longer surprising to hear the President spoken of with open and dismissive contempt. In mainstream journalism and even more so in popular entertainment, President Clinton is routinely depicted in the most unflattering terms: a liar, a fraud, a chronically indecisive man who cannot be trusted to stand for anything -- or with anyone.

Bob Woodward, in his book "The Agenda: Inside the Clinton White House," describes the President as a lost leader, berating himself and his aides for selling out the populist promise of his campaign to satisfy Wall Street, being

berated in turn by his own Vice President to "get with the goddamn program." At a television town-hall gathering in North Carolina, a woman confronted the President: "Many of us Americans are having a hard time with your credibility. How can you earn back our trust?" At another public event, a newspaper editor informed the President that his explanations on Whitewater reminded him of his young daughter's excuses for undone homework. The political columnist Joe Klein, once one of Clinton's great fans, writes that the President's idea of character is "adolescent, unformed, half-baked," and that "with the Clintons, the story is always subject to further revision," as "trust is squandered in dribs and drabs."

Much of this is unfair, some of it is irrational and some of it has more to do with the savagery of an angry and fearful time than it does with Clinton personally. It is true as well that Clinton suffers from a fundamental handicap; in the unusual three-way race of 1992, he was elected with only 43 percent of the vote, putting him in office with one of the weakest bases of support any President has ever had. But there is a fundamental reason for Clinton's plight. Bill Clinton is the first President since Richard Nixon to be threatened with the awful intimacy of rejection not simply as a leader or as a politician but as a person. As was also true with Nixon, this threat flows from a deep source, an abiding public doubt about the ethical content of the President's character. Such doubt is quite different from the criticisms of job performance that plague every President. It is an assessment of the man as a whole, of what is bred in the bone, one of those national gut decisions that happen in politics, something that solidifies after the accumulation of evidence passes some unseen tipping point: Lincoln is honest, Carter is weak, Reagan is decent but doddering, Bush is a wimp. Only Richard Nixon and now Bill Clinton have been tagged with nicknames that reflected a popular suspicion that the President of the United States could not be fully trusted: Tricky Dick and Slick Willie.

What plagued Nixon, and now Clinton, is that this sort of judgment is extremely difficult to overcome; it is almost entirely impervious to the machinations of speech writers and political consultants, and even to substantive achievements of office. Bill Clinton ran for President promising to revive the economy and bring about universal health care. Less than halfway through his term, the economy is in strong shape and health care reform in some form is almost assured. Most Americans acknowledge these achievements. According to a New York Times-CBS poll in mid-July, 53 percent of Americans view the economy as healthy, compared with only 23 percent when Clinton took office. Seventy-nine percent think universal health care is "very important." Yet the public is strongly disinclined to give Clinton credit. The Times-CBS poll found that 63 percent of Americans think Clinton has made no progress in improving the economy. Even more startling, 60 percent say Clinton has made no progress in advancing health care insurance. The President's overall approval, which has never risen more than about 10 points beyond the 43 percent mark, has dropped precipitously in the past six months; 47 percent of the public disapprove of the way Clinton is doing his job and only 42 percent approve.

Nixon's problems were rooted in the record of his life, and Clinton's are, too, in the things he has said and done to get where he is today. Clinton's life trails him like a peculiarly single-minded mugger, popping out from the shadows every time it seems the President is for a moment safe -- to whack the staggering victim anew. The past has slugged Clinton so often, so publicly and so brutally, that its attacks have become known, in the pop-culture shorthand that signifies universal acquaintanceship, by their tabloid handles: Gennifer,

the Draft, I Didn't Inhale, Whitewater, Troopergate, Hillary's Commodities, Paula Jones. Each episode has moved the national assessment closer to the tipping point.

What makes this sad, even tragic, rather than merely sordid, is that Bill Clinton's predicament owes itself directly to Bill Clinton's promise. The President's problems did not come about because he was a cheap political hack. They came about because he was not. For what has happened to Clinton has happened because he wanted, more than anything in life, to get to where he is today, and because he wanted this, at least in part, in order to do good -- and because the great goal of doing good gave him license to indulge in the everyday acts of minor corruption and compromise and falsity that the business of politics demands. Bill Clinton was perceptive enough to master politics -- but not perceptive enough to see what politics was doing to him.

CIRCUMSTANCES OF BOTH NATURE and nurture set Bill Clinton up for a life in politics. The Hollywood version of Clinton's life, produced for his 1992 Presidential campaign, centered on his early childhood "in a place called Hope," a parable of small-town innocence and working-class roots. But Clinton really grew up in the old gangster city of Hot Springs, where his mother, Virginia, had moved when he was 6. As she describes it in her recent, posthumously published memoirs, "Leading With My Heart," Hot Springs was "a town in which the con job was considered an art form," and the home of the some of the most thoroughly crooked politics in America. The city of Clinton's youth was a place where whorehouses and illegal gambling halls thrived under police protection, where the retired New York mobster Owney Madden was a celebrated citizen and the town's leading madam was another, where illegal gambling and liquor sales were routine -- a place, Virginia writes, "where gangsters were cool, and rules were made to be bent, and money and power -- however you got them -- were the total measure of a man."

Virginia and her second husband, Roger (Dude) Clinton, were not peripheral citizens but successful members of the Hot Springs business and political establishment. Virginia built what was for three decades a successful practice as a nurse-anesthetist, and Roger was employed at his brother Raymond's thriving Buick dealership. In her memoirs, Virginia Kelley (as she was known at the time of her death in January) describes a family that always had a big, comfortable home, at least one late-model Buick convertible in the garage and enough spending money to indulge in frequent night-clubbing and gambling with a group of "running buddies" that included many of the men who ran Hot Springs. Indeed, the Clintons themselves were important political players: Roger's brother Roy was a member of the State Legislature from 1951 to 1954, and his brother Raymond, the family leader whom Clinton has described as a father figure, was a behind-the-scenes power in town. He made his Buick dealership "a gathering place for powerful, politically savvy men in Hot Springs," Kelley writes. "The big wheels."

One critical point that the young Clinton could not have failed to notice was that people who had power and connections could do things that other people could not. Kelley's unblushing account makes it clear that Roger Clinton and his friends had a long history of getting away with crimes and acts of drunken violence. She writes, offhandedly, that before she met Roger, Raymond had used his influence to get Roger out of trouble with the Hot Springs police after he had "bashed a Puerto Rican boy in the head with a cue stick." In later years, Kelley recounts, there was a litany of violent occasions: "the night I danced

with a man at the Tower Club and Roger Clinton beat him to a pulp"; Roger punching and kicking her at a public dance; Roger and his drinking buddies driving roaring drunk down the highways; nights the cops were called to the Clinton home to protect her and her sons.

And the lesson was not merely that the right people could get away with doing wrong. As Kelley describes her philosophy, the right people -- herself, her family and friends -- couldn't really do wrong.

In the two years and eight months of her marriage to her first husband, Bill Blythe, Kelley writes, he never told her of his previous three marriages or that he had fathered at least one child besides Bill. Of her third husband, Jeff Dwire, Kelley writes that her friends suspected him of being "a con man," and of running a house of prostitution out of his beauty salon. Kelley says she "never believed" those "awful rumors." In 1961 Dwire was indicted on 25 counts of stock fraud (for which he was ultimately convicted and sentenced to nine months in prison) for his part in a scheme in which he and a partner bilked small-time investors of more than $32,000 by pretending they were producing a movie on the life of the gangster Pretty Boy Floyd. As far as Kelley was concerned, "that one mistake wasn't a reflection of the inner man."

Kelley calls her approach to life "brainwashing," and describes it in clear terms: "Inside my head, I construct an airtight box. I keep inside what I want to think about, and everything else stays beyond the walls. Inside is white, outside is black . . . Inside is love and friends and optimism. Outside is negativity, can't-doism and any criticism of me and mine."

Also outside the parameters of Kelley's construct were the past and the future; she insisted on living in the present. "I've always felt the past is irrelevant," she writes. "I've always maintained that whatever's in someone's past is past, and I don't need to know about it." As for the future: "I've trained myself not to worry about what-ifs, either. . . . And when bad things do happen, I brainwash myself to put them out of my mind." Kelley's relentless accentuation of the positive must have been a great help in dealing with years of adversity, and Bill Clinton clearly owes much of his own optimism, tenacity and resilience to his mother's inspiration. Clinton also may owe to Kelley the character trait that was perhaps the essential determinant of his political success -- an unusually large need for adulation, a hunger for afffirmation from others so intense that approval is seen almost as an entitlement. "I think Bill and Roger and I are all alike in that way," Kelley writes. "When we walk into a room, we want to win that room over. Some would even say we need to win that room over, and maybe that's true. Roger says the three of us, if there are 100 in a room and 99 of them love us and one doesn't, we'll spend all night trying to figure out why that one hasn't been enlightened."

This powerful need doubtless had a great deal to do with turning Clinton into the remarkable political performer he is, a campaigner driven to treat each encounter with a prospective voter as an occasion for seduction, an opportunity to win another's love. But this need also made him peculiarly vulnerable to the universal temptation of political life -- to tell people what they want to hear. Kelley's philosophy could only have encouraged this behavior. Her world view taught, ultimately, that people are not to be judged by their actions, but are endlessly free to reinvent themselves, to be whatever the moment demands. Since "what ifs" do not exist, one needn't worry that the promise of the moment cannot be met in the future, or that the action of the moment might have a harmful

consequence. Since the "irrelevant" past does not really exist either, the actions of the moment cease to exist once the moment becomes the past, and cannot be held against one later.

Kelley describes herself as a natural performer who craved to be the center of admiring attention, and it is noteworthy that the early ambition of both of her sons was to be a popular music star like Kelley's idol, Elvis Presley. Roger Clinton never advanced beyond that adolescent dream; Bill Clinton, recognizing his true talents, put aside his saxophone and turned to politics.

Clinton's career began while he still a student at Hot Springs High School, where he was president of his junior class, the Beta Club (for academic achievers) and the Kiwanis Key Club. By his late teens, Clinton was already a semi-professional politician, so greatly in demand as a civics club speaker and leader of charitable fund drives that his high-school principal had to limit his engagements in order to protect his schooling.

It was clear early on that Clinton possessed great political gifts. He was intelligent, charming and driven, and he had an extraordinary gift for intimacy, a chameleonlike quality of immense value in politics. All sorts of people, meeting Clinton, saw someone much like themselves. Like his hero, John F. Kennedy, he was at home on stage or in front of a camera.

Moreover, Clinton was precisely the kind of budding politician to appeal to the Arkansas powers. In an age of radicalism, he was an instinctive establishmentarian. He was a joiner: the calculus club, the advanced math club Mu Alpha Theta, DeMolay (an organization of "future leaders"), the Junior Classical League, the Bio-Chem-Phy Club, the marching band, concert band, stage band and pep band. He was the right kind of achiever: a National Merit Scholarship semifinalist, winner of the Hot Springs High School Civitan Junior Businessman Award and the Elks Youth Leadership Award for Arkansas, accepted at Georgetown, Oxford and Yale. He was not a bomb-thrower or even a boat-rocker. He ran for his first college office, the 1964 freshman class presidency of Georgetown University, on a platform of solid, modest reform. After his victory, he informed the college newspaper that "the freshman year is not the time for crusading, but for building a strong unit for the future. You must know the rules before you can change them."

A young man of such obvious promise would have been encouraged in any state, but in a poor, chronically put-upon state like Arkansas, he was particularly prized. As A. J. Liebling once noted, the states of the old Confederacy are always searching for those exceptional "national" political talents, the bright young men who will go to Washington and make those damn Yankees stop their endless sneering. But neither Clinton's inarguable appeal nor his inarguable talent for wooing support explain why so many people were willing, and would always be willing, to do so much to further his ambitions. The real explanation lies in the conviction, held by Clinton's elders and friends, as well as by Clinton himself, that he was ambitious for the right reasons -- because he wanted power in order to do good.

"We all believed, at that time, that the most noble direction we could take was to serve in elective or appointive office," recalled David Mixner, a longtime Clinton friend and liberal political activist, in an interview with the Clinton biographer Robert E. Levin. "He really deeply believed that Government could feed people, that we could end war, that poverty did not have to be a

permanent condition, that we could make our country great and prosperous and that our generation would be the one to do it."

The danger in this admirable thought was that it led, almost inevitably, to a logical successor: that the advance of a generational idealist like Bill Clinton was a moral imperative -- one that justified any means necessary. The acceptance of this rationalization was the signal event in the development of Clinton's character -- the ur-compromise from which all later compromises would flow. It occurred when Clinton was only 23, in response to the first great crisis in his life, the Vietnam War.

For Clinton, as for so many men of his generation, Vietnam would be the crucible, the testing ground that would shape their characters forever. Clinton's successful multiyear effort to avoid the Vietnam draft reached its apex in April 1969, when he was a Rhodes scholar at Oxford and received an induction notice from the Hot Springs draft board. At his request, the induction was postponed for two months so that he could finish his term. That summer, he returned to Arkansas and won a deferment on the strength of his pledge to enroll in the Reserved Officers Training Corps program at the University of Arkansas, whose law school he said he planned to attend once he'd finished at Oxford. It was a move of desperation. The R.O.T.C. deferment could protect him for four more years, but would at the same time commit him to two undesirable courses of action: attending the University of Arkansas Law School instead of the far more prestigious one at Yale and serving a lengthy stint in the Army reserves after graduation. The deferment was granted on Aug. 7, 1969, and was put into effect immediately, protecting Clinton from the draft for two crucial months in which the Hot Springs draft board inducted two younger men.

On Oct. 30, Clinton was reclassified 1-A. He has said that this was his idea, and that he took this step because he had come to feel, after several years of maneuvering to avoid the draft, a moral obligation to take his chances along with the other young men of his community. But Clinton's timing suggests otherwise; he changed his draft status only after President Nixon had announced that inductions would be sharply decreased and that graduate students, like Clinton, would be allowed to finish the school year even if drafted, thus guaranteeing protection through the late spring of 1970. Moreover, Nixon had begun winding the war down; 25,000 troops had already been withdrawn, and the Administration was reportedly considering withdrawing all troops by the end of 1970. On Nov. 26, Congress enacted the new draft lottery system, and on Dec. 1, Clinton's birth date was assigned the number 311, high enough that he knew he would never be called. On Dec. 2, in violation of his promise to enroll in the R.O.T.C. program at the University of Arkansas, Clinton applied to Yale Law School. On Dec. 3, he sent a letter explaining his actions (and seeking the approval he craved even from someone he had deceived) to Col. Eugene Holmes, the Army R.O.T.C. commander at the University of Arkansas.

The now-famous Holmes letter, made public during the 1992 campaign, captures the young Clinton at a crossroads. On one hand, the writer of this letter is obviously and passionately concerned with doing, and being, good. But the letter also captures, with shattering clarity, a young man learning to rationalize acts of deception and compromise as necessary in the pursuit of that good -- which Clinton now regarded as inseparable from his own political advancement.

In his carefully crafted explanation of his thinking, Clinton made clear that he regarded the draft as 'illegitimate," and the Vietnam War as immoral. He

described two close friends who had openly resisted the draft as heroes, and portrayed the path of the conscientious objector as the honorable one for anyone opposed to the war. But in the end, Clinton wrote, he decided to put the moral imperative of his political success above his principles:

"I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years, I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead."

Here, astonishing in its hubris, is the idea at last expressed in its all-excusing force. Other young men of Clinton's generation might justify their actions regarding Vietnam on the grounds of simple self-interest: they did not want to lose their lives to a stupid war. Clinton decided that his self-interest was the same as his country's. He was acting for the sake of the nation's future.

The Arkansas that Bill Clinton came home to in the summer of 1973 after getting his law degree at Yale was in middle of the most significant generational reform movements since the late 1940's. Clinton plunged immediately into it, with a 1974 challenge to the popular Republican Representative John Paul Hammerschmidt of the Third Congressional District, which covered most of northwestern Arkansas. That included Fayetteville, where Clinton had accepted a teaching position at the University of Arkansas Law School. Although Clinton was unlikely to win against Hammerschmidt, he nevertheless attracted strong backing, beginning with his family connections and expanding quickly throughout the Democratic establishment.

In the Democratic primary and in the general election, both the A.F.L.-C.I.O. and the Arkansas Education Association supported Clinton, as did consumer groups, the United Mine Workers and some of the angels of Arkansas politics, most notably Don Tyson. According to Meredith Oakley, the author of "On the Make: The Rise of Bill Clinton," Clinton was able to outspend Hammerschmidt by $20,000. In his campaign, Clinton was much aided by his de facto campaign manager and wife-to-be, a young woman whose reformist zeal surpassed even his. By running hard on an anti-big-business platform and by unfairly tarring Hammerschmidt with Watergate, the young candidate nearly pulled off what would have been a tremendous upset, winning nearly 49 percent of the vote.

Falling back on his teaching job, Clinton immediately began planning his next race, a run for Attorney General that he won as expected in 1976. The new Attorney General was a populist reformer in the classic Arkansas style: anti-utilities, anti-big-business, pro-environment, pro-working class. Every week, he and his young staff attacked the utility companies over rate hikes and other issues, pushed environmental issues and energy conservation and sued local dairy farms and General Motors. He worked all the time, and kept his name before increasingly impressed voters through frequent photo ops and media shows that demonstrated his deepening understanding of the new performance art of television politics. After only one two-year term as Attorney General, Clinton won the Governor's seat, becoming, at 32, the youngest chief executive in the nation.

Much of what the new Governor did in his first term, in 1979 and 1980, was relatively uncontroversial. For instance, he increased spending on public

education by 40 percent and expanded legal, health and social services for the elderly. But a good deal of it directly challenged the moneyed interests. Clinton did not merely alienate Don Tyson and his fellow poultry barons; he took on the entire host of Arkansas angels: the utilities, the timber interests and the trucking companies.

The Administration's most famous and popular battles were fought against the Arkansas Power and Light Company, a perennial target of reform governors. The "whiz kids" who ran Clinton's new Energy Department -- Scott Trotter, Walter Nixon 3d, Basil Copeland and Jerry Lawson -- made headlines with a suit that forced the utility to refund to its customers $8.5 million in overcharges, and challenged the company over its secret plans to pass on to Arkansans up to one-third of the cost for Grand Gulf nuclear plant, which was being built near Port Gibson, Miss., by A.P.&L. and two other Southern utilities.

Thus, in 1980, when the first-term Governor ran for what was expected to be an easy re-election, it wasn't just Don Tyson who was looking for revenge. Much of the entire corporate establishment of Arkansas lined up behind Frank White, a Little Rock investment banker and political neophyte. The timber companies and the Stephens family, financiers who wielded immense political power, either supported White or sat on their wallets. Both A.P.&L. and Southwestern Bell openly endorsed White, contributing heavily. When financial disclosure reports were filed a few weeks before Election Day, Clinton, who had expected to far outraise his relatively unknown opponent, was shocked to learn that White had collected an impressive $400,000.

The fat cats' backing allowed White to run an aggressive, late-campaign series of television commercials attacking the arrogance and incompetence of the Clinton Administration. White won the election, and Clinton became the youngest ex-governor in the nation. White's first official act as Governor was a gift to A.P.&L.: he abolished the Energy Department and fired the whiz kids.

Clinton brooded about his first real political setback, potentially fatal to his long-term ambitions. Publicly, he blamed himself for losing touch with the people. In private conversations with friends, he attributed his failure at least equally to losing touch with the moneyed interests.

"During his lame-duck period, I went to his office to visit him," recalls Trotter. "He was in this real funk, and he told me that after the news got out about Grand Gulf, A.P.&L. went out and raised a lot of money for Frank White, and that this money had enabled White to run the negative TV ads late in the campaign that Clinton figured cost him the race. The message was: If we hadn't done this thing, he'd still be Governor."

Clinton's traumatic defeat took its place alongside the Vietnam draft as a watershed in his development. His first term as Governor had been a grand experiment in reform, motivated both by ideals and by political instincts that told him change was what the voters wanted. Where had all this got him? The voters had paid little attention to his successes, and had held his failures greatly against him. The angels, on the other hand, had paid close attention to what Clinton had done, and had punished him for it.

The lesson was clear: to be successful, a politician had to appear hugely concerned with bettering the lives of ordinary citizens but had to be careful to avoid acting on those concerns so aggressively that they threatened the

interests of the business elite. Exiled to an office in the Little Rock law firm of Wright, Lindsey & Jennings, Clinton pondered how he could win votes as a populist reformer and still raise money as a businessman's Democrat. Arkansas political observers credit two people, Jim Blair and a tough political operative from Texas named Betsey Wright, with teaching the defeated Governor how to walk the line between the two competing demands. "It was Betsey who taught him -- hammered it into his head, really -- the idea that perception was reality," recalls Brownie Ledbetter, president of the reformist Arkansas Fairness Council. "That became the battle cry of the new Clinton approach."

Bill Clinton had never been much good at the old style of populism, the bellowing, wisecracking, denunciatory style practiced by Arkansas candidates since the days of Jeff Davis. But his own natural style -- his intuitive desire to please, his chameleonesque habit of becoming whoever he was with, his talent for losing himself in the moment -- was ideally suited to the new style of perception-based populism, primarily defined by television. The small screen did something perverse. It diminished and distorted the traditional thunderers of politics, translating their grand oratorical sweeps and outsize physical gestures into cartoons. Clinton realized that the new medium permitted a much more sophisticated level of communication with voters, by playing intimate scenes before the camera as if the camera weren't there. He understood that the camera rewarded the evocation of a different kind of sincerity in politics. It transmitted more than words; it transmitted performances, and the performances it transmitted most effectively were all about seduction.

The right words and the right nonverbal signals -- the way in which a politician stood, sat, listened, laughed, smiled, frowned -- combined to create a message that overrode the content of the words alone. If a politician was good at this, he could create not only a political reality out of perception, but also several conflicting realities at the same time, subtly manipulating the nuances of language, voice, expression and body posture so that each member of his audience saw and heard what he wanted to see and hear. It was possible to speak even on a subject that aroused sharp division -- abortion or affirmative action or welfare -- and have people on opposing sides perceive the speaker to be one of them.

Bill Clinton was beyond good at this new political performance art. When he spoke, perception was not only reality. It was a reality that changed, quicksilver-quick, from eye to eye and ear to ear. "You and Clinton might disagree totally on a subject and you'll never know it unless you listen closely to every word," marveled Robert S. McCord, executive editor of The Arkansas Democrat, in 1978. "Most people don't. They rely on tone of voice and facial expressions, which from Clinton, will never be harsh or unpleasant . . . Liberals and conservatives alike go away from him thinking he's one bright fellow."

In the 1982 campaign to regain the Statehouse, Clinton appeared to run hard as a populist. He accused White of being the tool of the moneyed interests, telling a Democratic Women's Club audience: "He's got half a million dollars because the people who wanted decisions from the Governor's office paid for them." Diane Blair, an Arkansas political scientist (and the wife of Jim Blair) later wrote that Clinton's ads "portrayed White as an untrustworthy, interest-dominated plutocrat who might run with the good-old-boy hounds by day but slept with the utility foxes at night, while Clinton was just a caring and concerned, down-home Baptist family man who wanted nothing more than another

chance to fight the fat cats on behalf of the little guys."

Publicly and frequently, Clinton embraced his former energy whiz kids Trotter and Nixon, who were themselves campaigning for a 1982 ballot referendum to reform the state's regulation of the utilities. "Clinton made a big media deal out of signing our petition to put the reform on the ballot, and during the primary season, he exploited the hell out of the issue," Trotter says now. "We had a flat commitment from him that he would enact our reforms if he got back in."

But offstage, Clinton took pains to establish a cordial and lucrative relationship with the big-money interests against whom he was railing. To that end, he appointed as his finance chairman a small-town banker named W. Maurice Smith, a second-generation political heavyweight and formidable fund raiser. "Smith's wealthy friends were numerous," the Arkansas columnist Oakley has written. "His selection as finance chair in the 1982 campaign -- and all subsequent Clinton re-election campaigns -- was one of the smartest decisions Clinton made." With Smith's help, Clinton raised more than $1 million, then a record. When Clinton regained office, Smith came along as the resurrected Governor's executive assistant.

From 1983 until he resigned halfway through his fifth term to seek the Presidency, Governor Clinton achieved a number of moderate reforms. He opened up high-level government jobs to blacks and women. He helped win passage of the first ethics law for elected officials in Arkansas's history. He greatly increased spending on social services. He developed tax-credit and bond-issuing programs to create thousands of new jobs, although most of them were low-paying. He and his wife, who had established herself as a powerful figure in Arkansas political and legal circles, worked to fashion a settlement that ended a long-running lawsuit over Little Rock schools, which had resegregated along residential lines. He established some regulatory controls on Arkansas's largest pollution problem, animal wastes. His showpiece act, the 1983 education reform, primarily designed and sold by Mrs. Clinton, won large increases in tax-generated financing for state schools and established a mandatory competency test for public-school teachers and standarized testing of students. He sponsored improvements in the prison system, the child-welfare system and the administration of juvenile justice.

But he would never again take on the angels with anything like the vigor of his first term. "A big intersection of interests -- timber, farms, A.P.&L., the Stephenses -- was aligned against Clinton when he took office again in the early 80's, and I think there was basically a conscious decision not to antagonize any of these guys anymore," says Ernest Dumas, a veteran Little Rock political writer and editor. "Clinton, in essence, said, 'Fellas, I'm going to concentrate all my energies on education reform.' Well, that was fine with the interests. They were for education reform. It would be nice to be able to hire people who could read and write, and it didn't hurt them any."

And Clinton's other reforms -- many of which came about as a result of Federal court decisions forced by class-action and interest-group litigation -- often turned out to be much grander in the selling than in their real effects. Clinton's 1983 education reform was a classic case in point. With the promise that teacher testing would rid the schools of incompetent educators, Governor Clinton had won broad public support for a tax increase to finance his education program. What was actually delivered struck many in Arkansas as a cynical

exercise: a test that could be passed by teachers possessing only eighth-grade-level skills in language and math. Teachers were coached in special workshops, and those who failed were allowed to retake the test.

Perhaps the most striking example of the discrepancy between what Clinton the populist Governor promised and what Clinton the businessman's Democrat Governor delivered came in his handling of issues involving Arkansas Power and Light.

Two of the original energy whiz kids, Scott Trotter and Walter Nixon, maintain that Clinton won re-election in 1982, at least partly, on the strength of his opposition to the utilities. "But when he was re-elected, we did not go back to work," Nixon recalls. "He did not recreate the Energy Department, did not re-engage on the energy issues which he believed had helped get him defeated in 1980, never followed through again with any fervor on energy reform."

Publicly, Clinton remained committed to the fight. In his first month back in office, the Governor introduced eight utility reform bills that encompassed many of his campaign promises. But only three of the weakest bills passed, and the four that were the centerpieces of his reforms were killed. Trotter charges that Clinton, while officially urging passage of the bills, never really fought for them. "We pushed and pulled and poked, but he was completely dilatory," Trotter said. "He and I argued about it in his office before I quit, and he just said that he didn't need the utility issue anymore. He was going into education."

Clinton's handling of Don Tyson evolved similarly. During the 1980's, Tyson Foods grew at an explosive rate, climbing to $4.2 billion in sales in 1993. It became the largest chicken processor in the world, controlling more than 20 percent of the American market and churning out more than 80 million pounds of chicken products every week. Critics among Arkansas's environmental and labor groups found much to object to in the way Tyson did business. One growing complaint was that the huge volume of animal waste -- especially the euphemistically named "litter" from chicken houses, much of it generated by Tyson's ever-expanding empire -- was seriously polluting Arkansas's crystalline rivers and streams. In one famous incident that took place shortly after Clinton was restored to office in 1983, the sewage system in the town of Green Forest, which had been for years overloaded by Tyson-produced animal waste, dumped so much raw sewage into Dry Creek that a giant sinkhole formed, sending largely untreated sewage into the aquifer that supplied much of the local drinking water at a rate of one million gallons a day.

Clinton's response to the pollution issue was typical of his new style. Seventeen months after the Green Forest crisis, he declared a state of "disaster emergency." That same year, the state environmental agency, which had been given enforcement powers for the first time by Clinton, began enforcing long-ignored directives to Tyson to pretreat waste from its Green Forest processing plant. But the state failed to levy any fines against the company or to sue it for damages. That was left to a group of outraged citizens, who eventually prevailed in a 1989 judgment that found Tyson Foods guilty of 43 violations of the Clean Water Act.

On the question of how poultry wastes should be handled in general, Clinton waited until 1990. He appointed a commission, the Animal Waste Task Force, which deliberated until November 1992 and then issued guidelines that called for state-enforced regulation of the liquid animal wastes produced by cattle and hog farmers, while allowing the poultry industry to comply with the guidelines

voluntarily. "Thousands of Arkansas poultry producers should be pleased," declared Poultry Times, the industry newspaper.

Certainly, the people at Tyson Foods noticed a difference in the Governor. "I think the defeat of 1980 was a watershed in his poltical career," says Archie Schaffer, a Tyson public relations official. "He came back in '82 with a different attitude, much less confrontational with the business community and others in the so-called establishment, much more conciliatory. . . . After he was reelected, he pushed some mildly controversial, progressive things, but I don't remember him ever again pushing any big controversial thing that he was willing to die for."

Clinton and his supporters have long argued that these sorts of compromises were necessary in a chronically poor state like Arkansas, where the urgencies of economic growth necessitate concessions to business. The point is, to a degree, valid. But it is also true that early in his career Clinton began to garner a reputation in Arkansas that now besets him nationally, a reputation for slipperiness and waffling in excess of even the norm of politics. The nickname Slick Willie, originally made popular by the Arkansas columnist Paul Greenberg in 1982, passed into common usage among the Governor's critics on the right and the left and soon stuck with the public. Jokes about Clinton's honesty, about his predilection for saying whatever his listener of the moment wanted to hear, about his willingness to reverse himself, were common midway through his second term and grew steadily through his five terms as Governor.

One Clinton characteristic that attracted increasing critical attention was his readiness to do favors for current or potential financial supporters. There were two paradigmatic cases, both involving revenue bonds issued by the Arkansas Housing Development Agency and its 1985 successor, the Arkansas Development Finance Authority.

In 1989, the nation's largest nursing home company, Beverly Enterprises, was in deep financial trouble. The company, with more than 1,000 nursing homes in 40 states, had suffered crippling losses in 1988 and 1989, and had agreed to a restructuring requiring it to sell off some facilities to pay off its debt by 1991. The fate of Beverly was of intense interest to the Stephens family, whose brokerage house, Stephens Inc., held all of the company's preferred stock, worth approximately $100 million. Three Stephens appointees sat on Beverly's eight-member board, and the Stephenses also served as Beverly's well-paid financial advisers.

Beverly, guided by the Stephenses and the Rose Law Firm in Little Rock, where Hillary Rodham Clinton had become a partner, put together a $149 million plan to sell off all of Beverly's nursing homes in four states. A Rose lawyer, William H. Kennedy 3d, served as counsel to Beverly in the matter. (Kennedy, who had joined Mrs. Clinton, Vincent Foster and Webster Hubbell to form a powerful clique at the firm, is currently serving as an associate White House counsel.) The deal worked out by Beverly, with advice from Stephens and the Rose firm, was precisely the sort of arrangement the future First Lady would have called a health care rip-off. It was designed to take advantage of a loophole in the 1986 Tax Reform Act by using government-issued bonds to finance the sale of Beverly's nursing homes to nonprofit "shell" companies that were, in fact, fronting for for-profit companies.

The first sale was completed in August 1989, when Beverly sold 45 nursing homes to a Texas investor named Bruce Whitehead. The deal, essentially a tax-exempt, leveraged buyout, was structured around a series of transactions that ended with Whitehead holding most of the homes in a nonprofit shell company called Care Initiatives. Whitehead put up no money in the deal; the creation of Care Initiatives (then Mercy Health Initiatives) was capitalized almost entirely through the issuance and sale of $86 million in tax-exempt bonds from the Iowa Finance Authority. Iowa courts later ruled that the entire transaction had been designed to generate "millions of dollars of excessive profits" for the principals in the transaction -- at the expense of Iowa taxpayers. All told, the courts found, the businessmen, lawyers and underwriters involved made in excess of $20 million, a profit that District Court Judge Gene L. Needles called "unconscionable."

The second deal put together by Beverly, the Stephenses and the Rose firm was a replication of the first, involving the same parties and structure. The only difference was that it was set up in Arkansas. Pride House Care Corporation of Dallas, another Whitehead concoction, would buy Beverly's 32 nursing homes or leases. The sale was to be financed by $81 million in revenue bonds issued by the Arkansas Development Finance Authority.

The Finance Authority's preliminary limited-offering memorandum describing the proposed bond issue made it embarrassingly clear that the state agency knew Whitehead's companies were nothing but shells. As the offering put it, Whitehead's Pride House Care "has no assets and has not acquired any facilities, nor does it operate any" and has "no current operations and therefore has no employees." The state justified the sale on the grounds that Arkansas could not afford to see Beverly collapse and that the large institutional investors who would finance the deal through their bond purchases would, in any case, bear all the risks. As was the case in Iowa, the proposed deal would greatly enrich those who fashioned it. Whitehead was to make an immediate $1.9 million profit, and lawyers and underwriters would make off with $6.4 million. The Finance Authority, presided over by its Clinton-appointed president, Robert Nash, had already tentatively approved the transaction when news reports began to raise serious questions.

Clinton, who, as Governor, had the power to stop the Finance Authority bond issue, remained silent through weeks of mounting public outrage. It was not until the Arkansas Attorney General, Steve Clark, announced that "a Beverly-Stephens Inc. representative" had offered him $100,000 in campaign contributions if he would end his opposition to the deal that Clinton urged the agency under his control to kill the bond issue. (The lobbyist maintained that his offer did not constitute a bribe, and Stephens denied any connection with the incident.)

Afterward, Clinton claimed he had opposed the deal from the beginning. Writing in his Arkansas Gazette column, John Brummett declared: "The Governor's assertion that he was against this proposal all along is false. The fact is that Clinton sat by as Nash and the board approved this deal Sept. 21 -- back when it contained those personal profits for Bruce Whitehead that the Governor now says are so obscene."

The second controversial Finance Authority-related affair centered on a well-known Little Rock figure named Dan Lasater. A flashy young millionaire -- at the age of 22, he had founded the Ponderosa Steakhouse chain -- Lasater, in

1980, opened a bond house that, within a year, was selling $1 billion worth of bonds a month. In the tradition of Witt Stephens, Lasater quickly made himself a prominent figure in local politics and society, contributing heavily to the campaigns of Governor Clinton and other politicians. In three consecutive Clinton gubernatorial campaigns, Lasater contributed thousands of dollars personally, and hosted fund-raising events that netted many thousands more. But the services did not stop there. Lasater provided Clinton use of his private jet and hired the Governor's famously unemployable brother, Roger, as his driver and stable hand. Once he even lent the Governor's brother $8,000 to pay off Roger's debt to his cocaine wholesalers.

In 1982, after strongly supporting the campaign that reseated Clinton in the Governor's office, Lasater and his partners asked to be included in Arkansas state bond issues. Clinton agreed. "They wanted to do some business, and I said I thought they ought to be able to compete for it," Clinton told U.S. News & World Report in 1982. The name of Lasater and Company first appeared as an underwriter of an Arkansas Housing Development Agency bond issue in 1983, after Clinton was sworn in for his second term.

Over the next three years, until Lasater was convicted of distributing cocaine in the fall of 1986 and served six months in prison, the company won assignments to co-manage 13 bond issues from the Arkansas Development Finance Authority, handling a total of $664 million worth of bonds, and received brokerage fees of $1.6 million.

As in the case of Beverly nursing homes, what is telling about the Lasater affair is Clinton's evident willingness to risk the reputation of his state and his Administration in order to benefit a powerful financial supporter. Dan Lasater was, to put it mildly, a known quantity in Little Rock. In the 80's, he was the king of the city's "bond daddies," hustlers who used high-pressure, dishonest sales tactics to peddle wildly overpriced and risky bond deals on the telephone, and who became so famous that they gave Little Rock a new nickname in financial circles: "Slam City," a term derived from the daddies' word for a successful hustle -- "slamming."

Lasater and Company was one of the most prominent of the bond daddy firms, with a downtown office where 72 salesmen worked the telephones from desks arranged in tiers around a central pit. There, Lasater hosted after-hours, high-rolling parties where cocaine was passed around on silver trays. "They were crooks pure and simple," said Vernon Giss, a longtime adviser to Witt Stephens at Stephens Inc. "They would sell bonds that had been defaulted, absolutely crooked stuff."

Warren Stephens, the president of Stephens Inc., is among the many in Little Rock who say Bill Clinton had full knowledge of Lasater's character but allowed him to win state business anyway. "You didn't even open the door to these places, 'cause of all the snakes down there," Stephens says. "These guys, these firms, smelled to high heaven."

Asked if he believes Lasater's campaign support and his helping Roger Clinton had anything to do with the Governor's failure to oppose Lasater, Stephens says dryly, "I would think they played a role in it, I would."

The criticism Governor Clinton faced over the Beverly and Lasater affairs were part of a larger pattern. One of the great paradoxes of Clinton's career

is that during the years he was winning a national reputation as a courageous truth-teller -- particularly about the problems of Democratic politics and policies -- he was winning a reputation at home as someone who, as John Brummett writes in his forthcoming biography of Clinton, "Highwire," "seems to have an almost pathological inability to tell the whole truth."

Politics, in its own strange fashion, is an honest business. The rules of the game allow small lies of omission, waffling, fudging and any amount of hedging. But flat-out lying and acts of direct betrayal are much rarer than cynics believe, and greatly frowned upon. The survival of the system demands this. Every relationship in politics -- whether between voter and candidate or between lobbyist and elected official -- is based on the assumption that a bold statement of fact or an unhedged promise can be taken as true. And almost every statement or promise, from the back-room deal to the campaign pledge, is unwritten and therefore vulnerable. A politician who blatantly goes back on his word threatens the entire fragile structure, and is likely to be punished harshly. Consider the example of George Bush and his "read my lips" promise. Long-term successful politicians typically measure the consequences of their words, carefully couching the language of every pledge they make and deal they cut in the knowledge that no one ever forgets, and almost no one forgives, anything.

What became increasingly clear in Arkansas was that Clinton was different, blithely and flatly promising what he couldn't deliver, reversing himself on a position to which he had been, only moments before, firmly committed. It sometimes seemed he would say anything to win support, or even to get through a conversation without conflict, ignoring the consequences.

One famous evening in 1985, for example, the Governor vetoed a bill providing a tax credit for private contributions to Arkansas colleges and universities. After the bill, stamped "Disapproved," had been slipped under the door of the legislative clerk's office, Clinton called the state's university presidents to explain his decision. When they protested vehemently, the Governor sent a state trooper to retrieve the bill. With a coat hanger, the trooper fished the bill out from under the door and returned it to Clinton, who crossed out the prefix "Dis" and had the trooper return the bill to the clerk's office, now "approved." Later, after the bill caused the state unacceptable financial losses, as the Governor's advisers had warned, Clinton was forced to call a special session of the Legislature to amend it.

Of all the bonds of politics, the handshake deal made to insure the passage of legislation matters the most. As Governor, Bill Clinton quickly earned a reputation as someone who didn't understand that these agreements between professionals were inviolate. During the legislative battles to pass the 1983 education reform, J. Bill Becker, president of the Arkansas A.F.L.-C.I.O., and Brownie Ledbetter of the Arkansas Fairness Council, led a successful effort in the Arkansas House to block the 1-cent sales tax increase Clinton needed to finance his program, complaining it would hurt the poor and working class. The Governor then proposed a deal in which he asked that Becker and Ledbetter agree to drop their opposition in exchange for his support of an amendment offering a rebate to poor people for the sales tax they paid on groceries. "Bill called Becker and me in," recalls Ledbetter. "And he said, 'If you let me get this through the House with the low-income rebate on it, I'll help you in the Senate so the tax bill will come out in the end with the rebate attached.' So we did, and he shafted us. When it came to the Senate, the Governor's man on the bill

made no effort at all." Clinton, speaking to reporters, explained that his promise to Becker and Ledbetter had been nothing more than "a 24-hour commitment." (In retrospect, Ledbetter says, it is clear that Clinton never had the power to effect Senate passage of the amendment but should not have made a commitment he couldn't meet.)

In 1983, Clinton said that the tax increase he was seeking for education reform would be earmarked entirely for primary and secondary schools. But after personal lobbying by Jim Blair, then chairman of the University of Arkansas board of trustees, Clinton peeled off a third of the allocation for higher education.

In 1987, Clinton promised several journalistic organizations that he would kill a bill that had been proposed to deny public access to previously available tax records, including those of the state's corporations. He then turned around and supported passage of the measure. Carol Griffee, an Arkansas reporter who was then regional director of the Society of Professional Journalists' Freedom of Information Committee, spoke openly of the "betrayal by the Governor."

By 1990, when Clinton ran for his fifth and final term as governor, his honesty had become an open issue. It was in this race that the A.F.L.-C.I.O. president Becker memorably described Bill Clinton as a man "who will pat you on the back" and micturate down your leg.

The candidate found himself dogged by a well-founded suspicion that he would not serve out his four-year term if re-elected Governor, but would instead use the job as a platform from which to run for President in 1992 -- a move he had publicly considered in 1988 and for which he had been busy positioning himself with his work on the Democratic Leadership Council. In a televised debate, Craig Cannon, a reporter, asked Clinton a simple but encompassing question: "Will you guarantee to us that, if re-elected, there is absolutely, positively no way that you'll run for any other political office and that you'll serve out your term in full?"

This was exactly the sort of question that most politicians would have answered with an un-Shermanesque hedge: "I have no intentions of running for President. . . . I certainly am not planning to run for President."

But Clinton responded with a stunning lack of equivocation. "You bet," he said. "I told you when I announced for Governor I intended to run, and that's what I'm gonna do. I'm gonna serve four years. I made that decision when I decided to run. I'm being considered as a candidate for Governor. That's the job I want. That's the job I'll do for the next four years."

When a year later Bill Clinton announced his candidacy for President, not many in his home state were surprised. "He has always wanted to be President -- that was his whole idea in life, and Hillary's whole idea was to be Mrs. First Lady," says the veteran Little Rock liberal activist Edwin Dunaway. "He talked a good game and he had big ideas, but he never followed through. I fell out with Bill because he never followed through on anything. His word is no good."

The Newsweek writer Joe Klein recently quoted the President on the subject of character: "Character is a journey, not a destination." No, Klein responded, life is a journey; character is a destination reached by the actions of a life. What you are, by the time you are the President's age, is the cumulative

result of all that you have done, all the thousands of decisions that build an adult. Bill Clinton's problem isn't merely that his past haunts him. It is that his past has made him what he is today.

But Clinton's definition of character reveals an essential truth about him. The President does still seem to be on a journey to maturity; he is a brilliant young man who has not quite arrived at a clear understanding of himself. It is as if, in the hard, ambivalent business of getting to where he is, he has somehow put off the business of who he is, of what he stands for and of what he will not stand for.

A line of consequence runs from The Draft to 'I Didn't Inhale' to Whitewater to Hillary's Commodities to Dan Lasater to Lani Guinier to Somalia to Bosnia to Haiti: the episodes of rationalization and compromise from Clinton's Arkansas past are the progenitors of the indecision and betrayal that have done so much damage to the White House present. Bill Clinton is today, as he was 20 years ago, clearly concerned with doing the right thing, and his Presidency still holds some of the promise that stirred so many Americans to such hope in 1992. But there is a hollowness to the Clinton Presidency, a sense that it lacks a center because the man at its center lacks one of his own.

No one is surprised any more when the President reverses himself on a matter of policy, or breaks a promise, or axes an old friend. In both houses of Congress, controlled by Clinton's own party, there is a nearly collective assumption that the President's stated intention on a policy or a piece of legislation is not to be taken as his final word; the legislators all remember how the White House whipped Democratic House members into line to vote for the unpopular B.T.U. energy tax in 1993, and then dropped it when it encountered strong resistance in the Senate Finance Committee. After the Administration's flip-flops on Haiti, Bosnia, Somalia and China, the conventional diplomatic wisdom is that the pledges of the President of the United States are to be regarded more as well-meaning sentiments than actual commitments.

The President is a ubiquitous electronic presence, always on the go and on the tube, in some vivid new tableau that is a masterwork of the campaigner's art. But the scenes that Clinton so brilliantly conjures seem more and more disconnected from the realities of his actions. The President evokes the memories of World War II to warn against the dangers of appeasement, isolationism and cowardice while his Administration declines to call the slaughter in Rwanda "genocide," for fear such honesty would force America to do something to stop it. The President denounces the influence of big-money special interests in politics while the Democratic National Committee, under his de facto control, raises $40 million in "soft money" contributions from the rich, corporations and unions.

Two contrasting events from the Clinton Presidency perfectly capture the disunity of the man's character:

On Nov. 13, the President delivered a passionate and, in part, extemporaneous address to a group of black ministers in Memphis. He asked them to imagine Martin Luther King Jr. suddenly appearing by his side on stage, to issue a report card on the progress of black America over the last 25 years.

King would tell the ministers, Clinton said, that they had done a good job in creating a large black middle class: "But he would say: 'I did not live and

die to see the American family destroyed. I did not live and die to see 13-year-old boys get automatic weapons and gun down 9-year-olds just for the kick of it. I did not live and die to see young people destroy their own lives with drugs and then build fortunes destroying the lives of others. That is not what I came here to do. . . . I fought for people to have the right to work, but not to have whole communities and people abandoned. This is not what I lived and died for.' "

Seven months later, Bill Clinton walked on Omaha Beach, in Normandy, with three veterans of the bloody D-Day battle that had been fought there. The walk had been planned by the President's media advisers as part of an overall attempt to reshape the President's image as Commander in Chief, a mantle that had never rested comfortably on his shoulders. The event, staged as carefully as a small movie, was duly noted in the White House press schedule of the day: "6:15 C.E.T. President Clinton visits Omaha Beach with the American veterans of that beach. Note: no remarks are planned during this walk."

The President and the three men who had fought on the beach walked slowly along, talking in hushed tones among themselves, as a dozen or so photographers and television cameramen walked backward in front of them, recording the scene. After a few minutes, White House aides pulled the veterans off to one side, so that the President could continue his beach walk in Kennedy-esque solitude. At a certain point, where some beach stones had been gathered into a small pile to form a marker, the President stopped, and the photographers took up their positions so that he was nicely framed by the hulks of the old warships in the sea behind him.

The President stood for a moment, staring silently out to sea. Then he knelt down, his knees not quite touching the ground, in a pose that suggested worship. He reached for the pile of stones in front of him and slowly began rearranging them into the shape of a cross. A journalist who was there watching the scene recalls "getting that sick feeling you get sometimes with him, thinking 'Oh God, please don't do this.' "

As the cameras clicked and rolled, the President bowed his head as if to pray. Later, White House aides said the moment of silence had been planned, but that the cross of stones had been entirely the President's own idea.

The problem with Bill Clinton is that the same man is capable of playing both of these scenes. He is capable of delivering, as he did to the ministers, a message of breathtaking clarity, candor and courage. And when he does, it is impossible to doubt that he believes utterly in what he is doing. He is equally capable of kneeling on a beach where 2,000 American men were slaughtered and acting out an intimate communion with God in front of a platoon of cameras. And when he does this, it is also impossible to doubt that he believes utterly in what he is doing.

A former friend says, bitterly, that Clinton has become "a performer of empathy." The President's face is a screen upon which plays a loop of expressions that have become insistently familiar: the open-mouthed grin of joyous wonder; the scowl of righteous but controlled anger; the lip-biting, eyes-lowered glance of pondering humility, the near-tears of a man who is not afraid to show that he feels. In an important sense, these expressions are entirely honest; Clinton's empathy is wholly real. But it exists only in the moment. The President's essential character flaw isn't dishonesty so much as

a-honesty. It isn't that Clinton means to say things that are not true, or that he cannot make true, but that everything is true for him when he says it, because he says it. Clinton means what he says when he says it, but tomorrow he will mean what he says when he says the opposite. He is the existential President, living with absolute sincerity in the passing moment.

GRAPHIC: Photos: In the late 1950's, Bill Clinton wanted to be like his (and his mother's) idol, Elvis Presley. Even then, he was always at home in front of a camera. (PHOTOGRAPH FROM THE CLINTON FAMILY COLLECTION/SIPA PRESS)(pg. 21); Arkansas's favorite son, with his mother, at home after his first semester at Georgetown. (CLINTON FAMILY COLLECTION/SIPA PRESS); The band major at Hot Springs High. (GAMMA LIAISON)(pg. 22); Clinton was anti-big-business in this unsuccessful 1974 campaign. That stance would change after another loss in 1980. (THE NEW YORK TIMES)(pg. 23); The first-term Governor and Mrs. Clinton in 1979, around the time of her commodities windfall. (THE ARKANSAS DEMOCRAT-GAZETTE); The high-school yearbook photo, 1963. (SIPA PRESS)(pg. 24); The Governor and the Chicken Man in 1988. From Don Tyson, Clinton learned the cost of alienating Arkansas's moguls. (THE ARKANSAS DEMOCRAT-GAZETTE)(pg. 25); The Clintons looked like winners on Election Day 1984, when he was re-elected for a third term. Top: Clinton, still only 38, in 1985. (DAVE FORNELL/THE NEW YORK TIMES)(pg. 26); Witt and Jack Stephens, millionaire financiers, established the fundamental symbiosis between business and politics in modern Arkansas. (THE ARKANSAS DEMOCRAT-GAZETTE)(pg. 27); Virginia Kelley and her sons in 1990. Both inherited their need for adulation from their mother, a natural performer. (MIKE STEWART/SYGMA); Top: Clinton in 1992. (TOMAS MUSCIONICO/CONTACT)(pg. 28); Clinton declared his candidacy in 1991, a year after promising Arkansas voters that he was interested only in being Governor. (THE ARKANSAS DEMOCRAT-GAZETTE/SIPA PRESS)(pg. 29)

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HEADLINE: The Man Clinton Turns to in Times of Turmoil and Moments of Doubt

BYLINE: By STEPHEN ENGELBERG, Special to The New York Times

DATELINE: WASHINGTON, July 4

BODY:

In March 1992, a few days after the first news account appeared on Bill and Hillary Clinton's Ozark real estate investment, James B. Blair set out to bury Whitewater as a campaign issue.

When he was done, James B. McDougal, Mr. Clinton's voluble partner in the venture, had dropped from sight and stopped giving interviews or documents to reporters. The Clintons' remaining debt in Whitewater was paid off, and the affair was relegated to obscurity for the balance of the 1992 campaign.

After Mr. Clinton was elected President, Mr. Blair helped the Clintons sell their share in the Whitewater Development Company. And when Vincent W. Foster Jr., the deputy White House counsel who committed suicide in July 1993, had trouble filing the company's delinquent tax returns, Mr. Blair took over the task of prodding a Little Rock accounting firm to complete the work.

Mr. Blair, the general counsel for Tyson Foods, the nation's largest poultry company, was a natural choice for such delicate missions. Over Mr. Clinton's political career, he had already played an influential, if largely unseen, role as sounding board, confidant, fund-raiser and personal emissary. He anchored the Clintons' finances in 1978 and 1979, guiding Mrs. Clinton to nearly $100,000 in profits from trading in commodity futures.

'What's Wrong With That?'

Mr. Blair modestly describes his Whitewater work as "janitorial services."

"If you're in the middle of a campaign and a story is hurting the campaign and you can stop the story, particularly if you don't think it has any relevance to the political issues of the day, why not?" Mr. Blair asked recently in a wide-ranging three-hour interview on the back porch of a restaurant in Fayetteville, Ark. "What's wrong with that?"

The relationship between Jim Blair and Bill Clinton stretches across two decades, beginning in the early 1970's when Mr. Clinton was a young law professor at the University of Arkansas and Mr. Blair was teaching a course in contract law.

Mr. Blair, close associates of Mr. Clinton say, has had a hand in every important decision of Mr. Clinton's political career. An informal liaison to

the state's powerful business community, he helped Mr. Clinton cope with a host of local issues, from education to a long-running dispute over a nuclear power plant.

Bill Bowen, Mr. Clinton's last chief of staff while Governor of Arkansas, said that Mr. Blair and his wife, Diane, a professor of political science at the University of Arkansas, would have been consulted "on every major confrontation" since Mr. Clinton became a public figure. "It is clear both from the record and their friendship," he said.

Appearance of Conflict?

Nearly every nationally successful politician has such a person in his life, valued for his discretion, friendship and canny advice. In this instance, as in many others, the personal ties between the chief lawyer for a Fortune 500 company and an Arkansas Governor raised questions about the appearance, if not the reality, of various conflicts of interests.

Even before the disclosure this spring that Mr. Blair had guided Mrs. Clinton's commodity trading, Arkansas environmentalists, had complained for years that Tyson Foods, Arkansas's largest company, received favorable treatment from Governor Clinton.

The Blairs bridle at suggestions that the investment, or the longstanding friendship, had benefits for Tyson Foods. The Clintons, Mrs. Blair said, were like family. "We didn't talk about business," she said; "we didn't talk about chickens. That wasn't what it was all about."

Nonetheless, at times Mr. Blair's personal views and professional interests have merged. A devout free trader, Mr. Blair was among the business leaders pressing Mr. Clinton last year to embrace the North American Free Trade Agreement, which was strongly supported by the poultry industry. Tyson Foods had holdings in Mexico even before the treaty was passed.

Asked in the interview how often he spoke with the President, Mr. Blair would say only, "Not as often as a good friend should."

The Closest of Friends
Late-Night Talks And Deep Trust

When Governor Clinton visited northwest Arkansas on official business, he would often sleep on the pullout sofa in the Blairs' den. Mrs. Blair said the two couples would talk late into the night, four opinionated people seguing from books to movies to public policy.

In 1980, Bill Clinton suffered his most stinging political defeat as Arkansas voters rejected him after one term as Governor. The Clintons commiserated over lunch with the Blairs the next day. As Mrs. Blair later wrote in a book of reminiscences titled "The Clintons of Arkansas" (University of Arkansas Press, 1993), Mr. Clinton was "half-laughing, half-crying over the country song on the cafe jukebox, "I Feel So Bad I Don't Know Whether to Kill Myself or Go Bowling.' "

Eleven years later, Mr. Blair was in the kitchen of the Governor's Mansion, encouraging Mr. Clinton to run for President and suggesting how he might

defuse allegations about his personal life.

A broad-shouldered man with a shock of gray hair, Mr. Blair has a self-assurance that even friends say can edge toward arrogance.

Humble Origins, Troubled Families

His friendship with Mr. Clinton, who is 11 years younger, arose naturally, associates say. Both are native Arkansans from humble origins and troubled families who married independent, professional women from outside the South.

Mr. Blair said he was abandoned by his parents and reared in Fayetteville by his grandparents in a small brick house that doubled as a grocery.

He was marked early as a leader. At 13, Jim Blair dressed down his church congregation for what he recalled as "their non-religious focus." Ordained as a Baptist minister at 18, he raced through the University of Arkansas, completing law school before he was 22.

After practicing law by himself, Mr. Blair joined a Springdale law firm that represented Tyson Foods, quickly earning a reputation as a gifted trial lawyer.

A friendship blossomed in the early 1970's when Bill and Hillary Clinton joined the faculty of the University of Arkansas law school. Mr. Blair and Mrs. Clinton won a mixed doubles tennis tournament at a local country club. Diane Blair, who married Mr. Blair in 1979, forged close ties to Mrs. Clinton, sharing frustrations about the male-dominated hierarchy at the university.

Mr. Blair raised money when Mr. Clinton ran for attorney general in 1976. Jim Brooks, his business partner, remembered Mr. Blair asking him for a $300 contribution with the pitch that Mr. Clinton was "a very brilliant man who could be President some day."

Mr. Clinton won that election, and in 1978 he took Mr. Blair's advice, passing up a crowded United States Senate race to run for governor.

The Profit Margin
Gaining Influence Or Friendly Help?

Headed toward an easy victory in the 1978 campaign, Mr. Clinton and his wife made the two riskiest investments of their lives. In August, they joined Mr. McDougal and his wife, Susan, to borrow $200,000 for a land purchase in the Ozarks.

A few weeks later, Mrs. Clinton got a hot tip from Mr. Blair about trading cattle futures. Whitewater Development Company, the real estate venture, wound up a loser, but Mr. Blair's advice reaped big profits.

Mr. Blair said he had already earned several hundred thousand dollars in profits through a company that seemed to have the inside track on the cattle market when he invited Mrs. Clinton to join him. His broker was Robert L. Bone, a friend and former Tyson Foods employee.

Mr. Blair shared the wealth with more than a dozen friends, family members, and partners and associates at his law firm.

Mrs. Clinton has said she made her own decisions in the commodities market, sometimes after consulting Mr. Blair. She acknowledges that Mr. Blair placed many of the orders.

Several others who benefited from Mr. Blair's expertise said they left the trades entirely to him.

H. Franklin Waters, a law partner, who is now a Federal judge, said he had known little about the commodities market, and had been only dimly aware of its risks. "We left it all up to Blair," he said. "I think that was true for everyone Blair was trading for." Mr. Waters walked away with $60,000 in profits.

Mr. Brooks was another beneficiary. From July 1979 to July 1981 he was also chairman of the Arkansas Pollution Control and Ecology Commission.

Both Mr. Blair, who said he was trying to earn enough money to give up his legal practice, and the Clintons have denied that the investment was intended to gain influence for Tyson Foods, sentiments echoed by others.

"Blair knew he couldn't try to improperly influence me, and he didn't," said Mr. Brooks, the chairman of the pollution panel. "I have no qualms about our relationship being very proper. I guess it looks kind of bad. But I don't think it's as bad as it looks, if you really know the ins and outs of it."

Mr. Waters argued that Mr. Blair's motives were personal, not professional.

"I don't see the conflict," he said. "I believe Blair, like most of us, likes to be appreciated. That was obviously one of his motives. Jim likes to be associated with, and near power."

The cattle market collapsed in October 1979, and Mr. Blair never earned enough money to leave his legal practice and pursue his dream of being a writer.

Arkansas Politics
Crucial Issue, Friend's Opinion

Early in his first term as Governor, Mr. Clinton donned white tie and tails to officiate at the wedding of Diane and Jim Blair. Hillary Clinton served as "best person."

Over the next 12 years, Mr. Clinton consulted Mr. Blair on a wide variety of issues, and in 1985 named him to the board of the University of Arkansas.

A former state official recounted how Mr. Clinton once interrupted a meeting with several advisers, saying he wanted to telephone "a smart friend in Fayetteville."

"He came back and told us, 'Blair says this is not such a good deal,' " the official recalled.

Mr. Blair lobbied for passage of Mr. Clinton's most significant legislative initiative, a sales tax increase for education. A newspaper photo shows the two men embracing on the steps of the State Capitol after the victory.

The Grand Gulf Debate

Their relationship deepened in September 1985 when Mr. Blair helped persuade Mr. Clinton to drop one of his longstanding populist positions: implacable opposition to Arkansans paying for a Mississippi nuclear power plant called Grand Gulf.

Mr. Clinton's decision to make a deal on Grand Gulf was later seen by some Arkansas opponents of the project as a big step toward the state's business establishment. Mr. Blair acknowledged playing a behind-the-scenes role as both adviser and emissary.

Grand Gulf was the hottest dispute of the early 1980's in Arkansas, and business leaders were pressuring Mr. Clinton to pay for some of the plant. Some state officials believed that Arkansas should continue its court fight. Mr. Blair said he had urged Mr. Clinton to settle the case and, according to a participant, informally met with utility officials to prepare the ground before talks began.

As Mr. Blair helped Mr. Clinton, the state government helped Tyson Foods, the state's largest employer. Under Mr. Clinton, the company received nearly $9 million in tax credits and refunds through a program designed to spur industrial development.

Mr. Clinton's defenders say the tax breaks and the state's less-than-aggressive environmental regulation, stem from Tyson Foods' pre-eminent position in the Arkansas economy, not preferential treatment.

The White House
Taking Advice On Delicate Issues

As Mr. Clinton weighed a run for the Presidency in 1991, Mr. Blair said he and the Governor spoke frequently about how to deflect what became known as the "character issue."

"One of the things that obviously was discussed was, I mean, wouldn't it be better to get it out early, and wouldn't it be better if something came out that you could deal with, and let's see how the American people would react," Mr. Blair said. "When I was trying lawsuits and I knew that my side had a big weak spot in it, I'd rather be the one to bring it out to the jury than let my opponent pull it out his way."

The campaign set up a special unit to parry questions about women, Mr. Clinton's draft history and his record as Governor. It was run by Betsy Wright, Mr. Clinton's longtime aide, from a Little Rock office dubbed "The Bunker." One full-time staff member was Diane Blair, who took a leave from the University of Arkansas to deal with questions about Mr. Clinton's years as Governor.

On March 8, 1992, the first national news article appeared on Whitewater, the troubled business partnership between Mr. Clinton and Mr. McDougal, the owner of a failed Arkansas savings and loan.

The Clintons promised full disclosure and hired a Denver accounting firm to produce a report. Behind the scenes, Mr. Blair went to work.

A Talk With a Fraternity Brother

He met with Mr. McDougal, a University of Arkansas fraternity brother, whose comments and documents were a basis for the original article. Mr. Blair said he urged Mr. McDougal and his lawyer to consider a libel suit, and to refrain from further interviews.

"The purpose of the conversation was to try to explain to him and his lawyer that it wasn't in his interest to keep talking to the press," Mr. Blair said. "Did I have another motive? Yes. It wasn't in the campaign's interest to keep giving documents to the press that we didn't have copies of and we didn't know anything about."

On March 16, he wrote to Sam Heurer, Mr. McDougal's lawyer. Mr. McDougal said the letter stated that while the Clintons had no intention of pursuing legal action, the time limit for prosecuting crimes at the savings and loan had not yet expired.

Mr. McDougal said in 1992 that he took this as a cleverly phrased threat. Mr. Blair replied, "If McDougal thinks I intimidated him, he's wrong."

At about the same time, Mr. Blair dispatched R. D. Randolph, a state employee with longstanding ties to Mr. Clinton, to discourage Mr. McDougal from giving further interviews. Mr. Randolph has told friends that Mr. Blair and Mr. Clinton separately asked him to visit Mr. McDougal.

After hearing Mr. Randolph out, Mr. McDougal told him, "I think I'm going to go hide," said an associate of Mr. Clinton.

A Matter of Authorization

A little later, Mr. Blair chartered a plane and flew to Flippin, Ark., and prodded a real estate agent to pay money he owed on the original Whitewater loan. The agent, Chris Wade, had bought most of the remaining Whitewater land, but the loan was still personally guaranteed by the Clintons. Although Mr. Wade was entangled in bankruptcy, he borrowed money and paid the balance, said Rosalee Wade, his wife and partner.

Mr. Blair is vague on the question of what sort of direct instructions, if any, he had from the Clintons in visiting Mr. Wade. "Maybe I went up there without any authority, without any purpose except my own curiosity," he said, adding:

"Have I acted as his counsel on occasion, as his lawyer? Yes I have. Have I acted on occasion as counsel to the campaign? I guess you could say that. Do I sometimes act without verifying my status? You could probably say that, too."

Mr. Blair said he had no regrets about blunting what he saw as an unfair news story. Next time, he said, "maybe we'll have a different strategy."

"Maybe we'll say we're going to hold a seven-day press conference on Whitewater," he said, "and we're not going to let anyone leave the room until they're thoroughly bored."

GRAPHIC: Photo: James B. Blair, the general counsel for Tyson Foods, advised Hillary Rodham Clinton on the commodities market and Bill Clinton on political moves. (Michael Wyke for The New York Times)

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HEADLINE: Arkansas Governor's Business and Political Life

BYLINE: By ANNE FARRIS, Special to The New York Times

DATELINE: LITTLE ROCK, Ark.

BODY:

For most of his political career in Arkansas, Jim Guy Tucker toiled in the shadow of Bill Clinton. Now that Mr. Tucker has finally inherited the governorship he long coveted, a shadow remains: the same special prosecutor who is investigating the finances of Bill and Hillary Rodham Clinton is also examining Mr. Tucker's business dealings.

If anything, the investigation of Mr. Tucker has already reached a more advanced stage. In March, David Hale, a former Little Rock municipal judge, admitted in a plea agreement with the Whitewater special prosecutor, Robert B. Fiske Jr., that he had committed fraud in connection with loans he had made to Mr. Tucker.

Mr. Hale, who worked in Mr. Tucker's campaigns, told Federal officials that he had made three loans to Mr. Tucker's cable companies with money fraudulently obtained from the Small Business Administration. Mr. Tucker's lawyer, John Haley, said that Mr. Tucker had not known the source of Mr. Hale's capital and that the loans had been repaid.

Federal investigators are also examining Mr. Tucker's loans from Madison Guaranty Savings and Loan, the Arkansas lending institution owned by James B. McDougal, the Clintons' partner in the Whitewater Development Company. Madison was shut down in 1989 and it is expected to cost taxpayers $60 million or more to pay off depositors.

In contrast to the close attention paid to the Clintons and Whitewater, few here have seemed to care that Mr. Tucker, a former Congressman and state attorney general, is under scrutiny.

Uncontested Primary

Mr. Tucker, who has raised $1 million for the campaign, was the Democratic Party's first gubernatorial candidate in 80 years without opposition for the nomination. Sheffield Nelson, the Republican nominee, said when he entered the race that Whitewater would not become a campaign issue. But last week, Mr. Nelson, at the request of reporters, provided copies of his own Federal subpoena for records related to a land deal in which he had invested with Mr. McDougal.

Mr. Nelson, a former Democrat who ran for Governor unsuccessfully against Mr. Clinton after switching parties, has also been suspected of being a primary source of Whitewater and Madison leaks -- involving Mr. Clinton and Mr. Tucker -- since 1992.

Mr. Nelson said the Lieutenant Governor "simply scared off the competition" with the money he raised. The Republican candidate, a millionaire himself, said he, too, could raise a large amount of money and give Mr. Tucker a tough race in the general election.

"I think Tucker's got problems," he said. "He has the same tax-and-spend propensity as his predecessor."

The story of Mr. Tucker's metamorphosis from struggling lawyer to successful businessman in five years provides an even more detailed picture of the interplay between business and politics in Arkansas than have the scores of articles about the President's finances.

Like Mr. Clinton, Mr. Tucker returned to Arkansas with an Ivy League degree and entered politics young, winning his first election as district prosecutor when he was 27. Mr. Tucker had met Mr. McDougal while working with Mr. Clinton and Mr. McDougal for Senator J. William Fulbright. Mr. McDougal and Mr. Tucker were also bachelor roommates in 1969.

Madison Connection

Mr. Tucker began borrowing from Madison in the early 1980's, when he had $250,000 in debts from failed campaigns.

From 1983 to 1986, entities controlled by Mr. Tucker and his wife, Betty, received 13 loans totaling $853,000 from Madison and from Mr. Hale's investment company, Capital Management Services, to finance their cable business, to buy an airplane and to invest in real estate, according to the Tuckers' financial statements. The Tuckers made at least $5 million when they sold their cable interests in 1988, said Mr. Haley, their lawyer, but they also had loans from other institutions to start the cable business.

"Mr. Tucker has made some money, and he's lost some money in other endeavors," Mr. Haley said. "For the most part, he made money. I'm familiar with Tucker's finances. There's nothing to be critical of."

Federal investigators are also looking at four other loans totaling $1.56 million that Mr. Tucker's companies received from Madison Guarantee and Capital Management to finance developments with Mr. McDougal. Those developments failed and subsequently resulted in some of Madison's largest losses. The loans, most of them never repaid, were made when Federal regulators were expressing concern over Madison's solvency and Mr. McDougal's lending practices.

Mr. Haley said that Federal regulators had reduced one loan by half and that Mr. Tucker was not personally liable for the defaulted loans because they had been made to corporations from which Mr. Tucker withdrew years ago.

Links Are Numerous

While Mr. Clinton had a relatively limited financial association with Mr. McDougal, Mr. Tucker held stock in Madison Guarantee and his law firm represented both Madison Guarantee and Capital Management.

In 1980, Mr. McDougal and Mr. Tucker owned stock in a small Arkansas bank and established corporations to buy and develop land. Mr. Tucker and Mr. McDougal's former wife, Susan, were partners in a Little Rock condominium development.

Mr. Tucker, when asked in a television interview about his involvement with Madison Guarantee, lashed out at Republicans, saying the investigation stemmed from "the Tonya Harding school of politics."

Mr. Tucker refused to be interviewed but his office released a statement playing down the investigations, asserting that Mr. Tucker's transactions with Madison Guarantee and Capital Management had been a small portion of his business in the last 14 years. It also said he had repaid all the loans in question for which he was responsible.

'No Clone of Clinton'

In the political arena, people say his style is much different from his predecessor's.

"He's certainly no clone of Clinton," said State Senator Wayne Dowd of Texarkana. "Their political philosophies are not vastly different, but Jim Guy is a much more traditional wielder of power. He believes if you're not going to follow, get the hell out of the way."

"The relationship between them was good," said Gerald Austin, Mr. Tucker's political consultant. Mr. Tucker dropped out of the Democratic primary race in 1990 when Mr. Clinton ran for re-election.

While in the traditionally figurehead role of Lieutenant Governor, Mr. Tucker assumed a visible and aggressive stance, but he was sometimes forced to acquiesce to Mr. Clinton's agenda. When Mr. Tucker proposed rewriting the state Constitution with himself as the convention president, Mr. Clinton quietly quashed the plan.

And some say that while Mr. Clinton campaigned for the Presidency, Mr. Tucker loyally staved off controversial issues, delaying things like like seeking new taxes to pay for Medicaid.

Mr. Clinton and Mr. Tucker last met at the White House on Oct. 6, two days before Federal regulators formally asked the Justice Department to begin an investigation of Madison and a week after Mr. Hale's indictment. The two men discussed health care and highways in Arkansas, a spokesman for Mr. Tucker said.

"They have a relationship of mutual respect," Mr. Haley said.

Because of an editing error, the article referred incorrectly to some of Mr. Tucker's holdings in Arkansas. He owned stock in Madison Bank & Trust, not Madison Guaranty. The two institutions were not related, though James B. McDougal, an Arkansas businessman, owned interests in both.

The New York Times, May 29, 1994

CORRECTION-DATE: June 4, 1994, Saturday

CORRECTION:
An article on Sunday about the business dealings of Gov. Jim Guy Tucker of Arkansas referred incorrectly to a plea agreement made by a Little Rock businessman in a loan-fraud case. The businessman, David Hale, admitted having committed loan fraud, but his plea agreement did not cite loans that he made to Mr. Tucker.

GRAPHIC: Photo: Jim Guy Tucker, who became Governor of Arkansas when President Clinton took office and is now seeking a full term, at a recent luncheon. (Rollin Riggs for The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE: May 29, 1994

LEVEL 1 - 117 OF 204 STORIES

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April 24, 1994, Sunday, Late Edition - Final

SECTION: Section 4; Page 16; Column 1; Editorial Desk

LENGTH: 562 words

HEADLINE: Mrs. Clinton Steps Forward

BODY:

As political theater, Hillary Rodham Clinton's news conference Friday afternoon was undeniably a smash hit. She serenely answered an hour's worth of aggressive questions on her complex adventures in the commodities and Arkansas real estate markets. She was also forthrightly remorseful about her earlier resistance to the press and to the appointment of a special counsel.

The First Lady, declaring she had decided to emerge from her "zone of privacy," seemed finally to grasp a central truth that has eluded the White House staff and her husband for months: In Presidential behavior, unanswered questions create a vacuum that sucks everything into it -- including the energies of the press, the legislative vitality of Congress and the attention of the chief executive.

It is of course up to Robert Fiske, the special counsel, to determine whether the Clintons' financial dealings broke the law or whether they merely reflected the fluid ethical mores of Arkansas. But from the beginning, the White House's inability to provide a consistent factual narrative of the Clintons' financial history has made the entire business seem suspicious. Mrs. Clinton's appearance, even this late in the game, was a welcome if belated antidote to months of stonewalling.

Mrs. Clinton did not, however, adequately dispense with one central issue: whether wealthy benefactors who did business with the state government were padding the Clinton family income while Mr. Clinton was Attorney General and Governor. She conceded that most of her highly profitable commodities trades were executed on the advice of James Blair, a lawyer for Tyson Foods, a large company that was heavily regulated by and received substantial tax credits from the Arkansas government. That might have raised an ethical red flag with some people, but Mrs. Clinton said she saw no problem because Mr. Blair "and his wife are among our very best friends."

Mrs. Clinton likewise insisted that James McDougal, the Clintons' partner in the Whitewater land deal and the owner of a savings and loan regulated by the state, had provided no special favors. But she could not explain why Mr. McDougal wound up losing a lot more money than the Clintons did in what was supposedly a 50-50 deal. Her only real answer was that for 10 years she had no idea of what was going on and that she did not receive "any documents until late in the 1980's." That was a strange confession of ignorance from a woman who had spent the previous hour insisting that she maintained hawklike vigilance over her commodities trades and was deeply concerned with building a family nest egg.

Nor was it comforting to find the First Lady slipping into answers that seemed guarded or legalistic. When asked if her commodities broker might have

given her a favorable advantage because of her position, she replied with a lawyerly "There's really no evidence of that. I didn't believe it at the time." Often she denied awareness of events without quite denying the events themselves, as when she said she knew "nothing to support" allegations that money was diverted from the troubled Madison S.& L. into Whitewater to benefit the Clintons.

The First Lady's willingness to open herself to questions is welcome but her performance, however deft, leaves plenty of troubling issues for the special prosecutor and Congress to explore.

LANGUAGE: ENGLISH

LOAD-DATE: April 25, 1994

LEVEL 1 - 118 OF 204 STORIES

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April 23, 1994, Saturday, Late Edition - Final

SECTION: Section 1; Page 11; Column 1; National Desk

LENGTH: 7295 words

HEADLINE: THE WHITEWATER AFFAIR;
Excerpts From Hillary Clinton's News Session on Whitewater

BODY:
Following are excerpts from Hillary Rodham Clinton's news conference at the White House yesterday, as recorded by The New York Times:

Q. Since Whitewater's been in the news so much, I feel it's fair to ask you the same question I put to the President some time ago -- and you were, are, a co-partner: Do you know of any money that could have gone from Madison to the Whitewater project or to any of your husband's political campaigns?

A. Absolutely not. I do not.

Q. Actually on this same theme, with your commodities profits, you know, it is difficult for a layman and probably for a lot of experts to look at the amount of the investment and the size of the profit. I mean, is there any way you can explain how you --

A. Well, I can certainly tell you what happened. And I appreciate your asking me about it because I've tried to follow the accounting in the press about it and I want to explain as clearly as I can what occurred.

Back in 1978, in October, one of our best friends, Jim Blair, who had been a friend of my husband's and mine for some time, talked to me about what he thought was a great investment opportunity. He is someone who has been an investor ever since he was a teen-ager with usually very good results. And he had followed closely what had been happening in the cattle market. And I only knew a little bit about that, although living in Arkansas, particularly northwest Arkansas, as I did, I was familiar with a lot of ranchers and people who were in the cattle industry. And when Jim said, "I think there's going to be a great opportunity to make money" and explained why and asked me what I thought we could afford to invest, I told him a thousand dollars.

So I opened an account at his very strong recommendation and proceeded to trade over the next months, until July. You know, not all my trades made money. Some of them lost money. I talked to Mr. Blair very frequently. In fact, Jim would call me on a regular basis, and I would make a decision whether I would or would not trade. And then the trade would be placed. Often he placed it for me. And there was nothing wrong with that. He was on the spot. He was often in the offices of the broker.

I stopped trading in July of 1979. And I did stop trading in large measure because I could not keep up with it. It takes a lot of nerve to be in the commodities trading, and I'd just found out I was pregnant. And so when he called again, I said, "You know, I just don't want to do this anymore." And I

think he may have even called a few more times, saying: "You know, it's really still doing well. Trade again." And I didn't, and I'm glad I didn't because he and other friends of mine who were trading ended up losing money.

So it was a good investment offered by somebody who knew a lot who could provide a lot of good advice, and I was lucky and made the decision to stop when I did.

Q. Do you understand this -- if maybe your broker might have, because of your position or your husband's, might have given you some kind of unfavorable or, you know, favored advantage?

A. There's really no evidence of that. I didn't believe it at the time. As I said, you know, I made and lost money in that commodities account. It was my money. It was at risk. The account was in my name. I got the reports. We've released all of the documents we could find from that period from that account. So, no, I had no reason to believe that. And as Mr. Leo Melamed, the former head of the Chicago Mercantile Exchange, said when he looked at all of my trading records, there isn't any evidence that anybody gave me any favorable treatment. And even Mr. Blair, who ended up losing money, I think would find it very hard to argue that he got any favorable treatment. I just don't think there's any evidence there.

Q. Mrs. Clinton, you said you stopped trading in July of 1979. Could you talk about the second account that was opened?

A. Sure.

Q. There was a second account, with the Stephens Company, in which I think you invested $5,000. And at first the White House claimed you lost money on it, but later you put out documents showing you actually made $6,000 on it and didn't close it until a few months after Chelsea was born.

A. That's right. And I'm glad you asked that, because I really want to clarify it. I think there's been a lot of confusion. There were two accounts. The first account -- the one that I was just talking about -- was the Refco account. I traded in that from October '78 to July of '79, when I found out I was pregnant and I stopped trading. Now, I closed that account for good in October of '79, and I took some of the money that I had made and put it into an account at Stephens. And at that point, I made that a discretionary account. My Refco account was a nondiscretionary account, which meant that I had to approve and give the go-ahead for every trade. In the discretionary account at Stephens, my broker made most of the decisions. And I think he did a good job for me. He diversified the money that I gave him and put it into money markets and stocks and bonds, and $5,000 into some commodities.

Now, what happened then is -- in retrospect, as I've been able to reconstruct it now -- is that my broker made these decisions. He checked with me maybe a couple of times a month, but because it was discretionary he did not have to get my approval. And so money would be moved from one investment to another investment. And during the course of the time between October of '79 and probably May of 1980, he had me in and out of three different commodity accounts in much smaller numbers than what I had been in charge of doing in my Refco account.

In February of 1980, my daughter was born, at the very end of the month. And I remember talking to my broker sometime after that and said, "You know, I just want to get out of commodities altogether. I don't ever want to have to worry about it." So he got me out of the positions that I had been in, so that by May I was no longer doing any kind of commodity trading in the Stephens account. Now, what happened, though, is that he took the money that I now know I made -- I really didn't think I'd made any money in commodities -- and he bought some stock, and he did some other things for me.

Now, in the fall of 1980, my husband lost his election. We moved. So by 1981, when I gathered all my documents together to give to my accountant, I had a year-end statement from Stephens which did not report anything about commodities. I had a year-end statement from the Peavey Brokerage Company which reported a loss, and I had no year-end statement from either Clayton or the company called ACLI. So I think what happened is we bundled all of the documents we had, because I took all of the reports that I had, gave them to the accountant, and I believe that in the absence of a year-end statement the accountant and my husband and I missed the fact that we had actually made some money in the ACLI account.

Q. Do you remember that profit?

A. No. I did not remember that profit. I did not. And in fact, as you said, when some people looking at the records for me began looking at it originally, they looked at the records and they thought I'd had a $5,000 loss. And they came to me and said, "We think you had a loss which you didn't report." And I said, you know, I just don't remember. I thought I basically got out with what I put in. And then they went back and relooked at it again with, you know, more accountants, and they came up with the gain. So it was hard to find, apparently.

Q. With regard to the Refco account, just how did the procedure go? Did Mr. Blair basically recommend to you the transactions which you either said yes or no to? Or was it based more on knowledge that you had gained -- as some of your staff have suggested -- from reading the papers, or whatever? What happened?

A. Well, Brit, it was primarily Jim's suggestion. But I also did try to educate myself. You know, I did try to read some things. He actually gave me a few documents to read. Because he had this theory that because of the economy in the early part of the 1970's, a lot of cattle herds had been liquidated, so that there was going to be a big opportunity to make money in the late 70's. And he gave me things to read about that. And I did occasionally read, you know, publications like The Journal and others and, you know, I tried to educate myself because I took the responsibility seriously. But I relied primarily on his advice, because he really spent an enormous amount of time studying the market and talking to many more people than I ever could have -- people who, you know, ran feedlots or bought beef for large supermarket chains. So he would talk to me, and he'd say: "Here's what I think is going on. What do you think?" Now, I did not make every trade he recommended. And certainly, by July -- when I began to, you know, get nervous about it -- I stopped taking his recommendations, because I just couldn't bear the risk anymore.

Q. Did it concern you at the time that because of his position with the company that he represented, that there was an ethical question raised by your accepting this level of assistance in a financial matter from him?

A. No, it did not. And the reason it didn't is that he and his wife are among our very best friends. My husband performed their marriage ceremony. I was the best person at the wedding. We are very close friends. And I found it a little bit surprising that anyone would suggest that, because in 1980, right during the time that this was all going on, when my husband ran for re-election, Tyson supported his opponent. So there's really no basis for suggesting it was anything other than what it was, which was a friend who made a suggestion -- and not just to me, but to a number of people -- which I think was, you know, very fortunate for me.

Q. You said that there was no preferential treatment in all of this. The records indicated that your account was short of money at various points. Were there margin calls? And did you meet any of those calls? And were you aware at any time that Refco was coordinating trades to drive prices up or down?

A. No, I was not aware of that, Andrea. I was told that after I stopped trading some months later. And I know there were lawsuits filed alleging that. I don't think any of that was ever proved, at least that I'm aware of. And when my position was under margin, I would either close out my position or use the equity that I had -- and I think Mr. Melamed said, based on his review of the records, there were a couple of occasions when I was under margin. Nobody ever called and asked me for anything. They just, I guess, took the money that I had in the account and closed out the position. But that was the responsibility of the broker. And from what I know, they were doing so many trades and there was so much volume going through that I was a relatively small customer. I mean, it was very big money for me and my family, but it was a very small account, and I don't think they paid any attention to my particular situation.

Q. Why do you think that they gave you this treatment with you being such a small customer? Don't you think that was preferential treatment --

A. No.

Q. -- based upon who you were and who your husband was?

A.No. I really don't believe that. I don't think there's any evidence of that. You know, from what I know about commodity trading and what I know about the cattle market during that period of time, they were just buying and selling on a huge basis, day in and day out. And I think that they may have not gotten around to the paperwork. They may have not thought it was worth it. They may have seen that I was a regular customer and that I covered my losses, that there was never an occasion when they really had to be concerned about it. I can't read their minds or speculate, but I had absolutely no reason to believe that I got any favorable treatment. And the fact that I closed the account out and took my money, whereas the people whom I knew were much bigger traders like Jim Blair and others -- they lost money -- and why would Jim Blair try to help me get favorable treatment that he couldn't get for himself? I mean, it doesn't make any sense to me at all.

Q. Mrs. Clinton, one of the things that has made all of this so controversial is the shifting accounts of what happened. Because initially the White House explained that you were consulting Blair and many others and reading The Wall Street Journal, and then later had to correct that. And we found out that Mr. Blair was in fact most often placing your trades for you, phoning the trades in. Why was the account -- why did the account have to be corrected?

Why was it not explained accurately the first time?

A. Well, Linda, I think it's because, you know, we're trying to reconstruct events of, you know, 15, 16, 17 years ago. There are a lot of people who are trying to help. But until relatively recently there wasn't any one person in charge of trying to get everything together and get the, you know, information as accurate as possible. I think the people in the White House did the best job they could. I think that we did the best job we could trying to remember things and oftentimes having to search to see whether we had any records. I mean, I don't know how many of you keep, you know, records from 1978 or '79, but, I mean, we went through a lot of effort to try to see whether we had anything so that we could answer questions and then make things available. Sometimes we'd find part of something. Sometimes we'd then find the rest of it. So I appreciate and understand the concern about, you know, why we would have to add information or go back and say, "Well, this needs to be corrected."

But the fundamental facts have not changed. I mean, the fundamental facts are, as I have said: I opened an account with my money. I made the trades. It was nondiscretionary. I took the risk. I was the one who made the decision to stop trading. And that I did rely on Jim Blair. I used some other advice as well, but he was my principal adviser in this.

Q. But that wasn't a question of documents, that particular fact, the fact that he was really driving the trading for you. I guess I wanted to re-ask that question again. Why -- that would be something you would remember or not remember without documentary support -- so, why was that fact not made clear? And were you essentially riding on his coattails when you traded?

A. No, I wasn't. I was riding on the money I invested. You know, I don't know how any of you make investment decisions, but I like to listen to people I know and trust who I think know what they're doing. And he was somebody who I very much thought knew what he was doing and was more than willing to share his information, not only with me but with many people: members of his family and other of his friends. And it was for all of us a decision to put ourselves basically at the mercy of the market. And as Jim Blair found out, he wasn't always right. He lost a lot of money. And I was lucky -- I didn't. But that was my decision.

Q. Mrs. Clinton, a number of your old friends in Little Rock -- Warren Stephens, who I guess is an old friend; Curt Bradbury, Bill Bowen, people like that -- had a meeting on March 31. And they decided that really Arkansas has taken a beating -- portrayed, in the words of one of them, as a moral and ethical backwater -- basically because people hear us saying, "It was done that way in Arkansas." How do you feel about what's happening down there and what's happening to those people who feel they're being hurt by events out of their control? And they feel that they're not really being -- the state is not really being -- defended by you and your husband. I wonder if you'd address that.

A. Well, I feel very bad about it, because I think Arkansas is a wonderful place and filled with some of the best people I've ever been privileged to know or work with. And I do think that many of the charges have been very unfair and have really lacked any historic or realistic context. I don't think it's necessary to point fingers at any other state in the Union to say that, you know, every place there are people who have problems and there are people who cause problems. And I think that, you know, the state of Arkansas is a place

that has, you know, just so much to be proud of. So I hope that we can get back to a more realistic assessment of what goes on there.

Q. May I follow?

A. Sure.

Q. They've said -- and specifically Bradbury and Mr. Stephens have said -- that to a certain extent they feel you've brought this on yourself, the two of you, because of campaign statements about a decade of greed and just things that they feel, in their words, make it look like hypocrisy: that you were into go-go trading. You were trying, as you said, an opportunity to make money, just as they were. And they felt like they had been condemned by you -- that people like that had been condemned by you during the campaign and that now you were being shown to be doing the things you spoke against.

A. Well, Curt and Warren have never said that to me, so I'll have to take your word for it. But I do think you raised an important question that I would like to talk about a little bit. You know, I was raised to believe that every person had an obligation to take care of themselves and their family. And that meant, you know, earning an income and saving and investing. I was raised by a father who had me reading the stock tables when I was a little girl, and I started doing that with my daughter when she was a little girl. I don't think you'll ever find anything that my husband or I said that in any way condemns the importance of making good investments and saving or that in any way undermines what is the heart and soul of the American economy, which is risk-taking and investing in the future.

What I think we were saying is that like anything else, that can be taken to excess. When companies are leveraged into debt, when loans are not repaid, when pension funds are raided -- you know, all of the things that marked the excess of the 1980's are things which we spoke out against.

I think it's a pretty long stretch to say that the decisions that we made to try to create some financial security for our family and make some investments come anywhere near there. I also think that, you know, my husband and I made different choices than to concentrate on making money during the 1980's. We obviously wanted enough financial security to send our daughter to college and put money away for our old age and help our parents when we could. But we were primarily interested in -- in his case -- in trying to provide opportunities for people in Arkansas and make a difference in their lives. And what I tried to do both to help him and to work on behalf of children or education reform was what was really important to us. So I think that is, you know, something that needs to be put again in a proper perspective.

Q. In the same vein, somewhat in the same vein, you were reported to have opposed a special prosecutor, at least in the beginning -- and some of the release of tax documents -- on the basis of privacy, that you felt you had a right to privacy. Do you think that that helped to create any impression that you were trying to hide something?

A. Yes, I do. And I think that is probably one of the things that I regret most and one of the reasons why I wanted to do this, because I've had to really do a lot of thinking the last couple of months. You know, again, I was raised to really believe that what was important was what you thought about yourself and

how you measured up to the standards you set for yourself. And I think if my father or mother said anything to me more than a million times, it was don't listen to what other people say, don't be guided by other people's opinions, you know, you have to live with yourself. And I think that's good advice. I mean, I'm glad I got it as a girl growing up, and I've passed it on to my daughter. But I do think that that advice and my belief in it, combined with my sense of privacy -- because I do feel like I've always been a fairly private person leading a public life -- led me to perhaps be less understanding than I needed to of both the press and the public's interest as well as a right to know things about my husband and me.

So you're right. I've always believed in a zone of privacy. And I told a friend the other day that I feel after resisting for a long time, I've been re-zoned. You know, and I now have a much better appreciation of what's expected, and not only what I have done -- because I am extremely comfortable and confident about everything that I have done -- but about my ability to communicate that clearly and to give the information that you all need.

Now, to your other question, about the special counsel. I was not the only one of my husband's advisers who questioned the idea of a special counsel. I think that those of us who did were concerned about the precedent that would be set by having such an appointment made when none of the existing standards that had always been in place had been met. There was no credible allegation -- you know all of the things that usually are required. So I was questioning of that. But the President made the decision that we needed to get on with the business he came to Washington to do and that this was an important step to take, and I respected that decision.

. . .

Q. Mrs. Clinton, do you know anything about Mr. Foster's death? Do you know what he wanted to tell the President that he didn't get to tell him?

A. You know, I don't know that he wanted to tell the President anything. That's the first I've heard of that. My memory is that the President actually talked to Vince Monday night, before he died, and when I talked with the President afterward he was stunned because the conversation was a very normal kind of a conversation. So I don't know.

Q. Well, I understood they made an appointment to talk not the next day but Wednesday, and that would have been the day after he died.

A. I don't know. I don't know.

Q. Mrs. Clinton, my question -- I'd like a follow-up too. The first one has to do with Susan MacDougal. She said that she brought the document of Whitewater over to you at the governor's mansion. Did you receive all the documents? And if so, what became of them?

A. I don't believe that we received all the documents in that way. Over the past several years, we have made a very deliberate effort to try to obtain documents. And every document that we have obtained has been turned over to special counsel, no matter where it came from.

Q. My follow-up has to do with the death of Mr. Foster, the way his office was sealed or the people who were in it. There's been a lot of criticism of the papers in Mr. Foster's office -- that some may have been removed.

A. Well, you know, I know there's been a lot of concern and criticism about that. I cannot speak to that in any detail. But I know that the special counsel is looking into the circumstances surrounding Mr. Foster's death, and I assume he will issue a report about that which I hope will put all these matters to rest once and for all.

Q. You said that -- just now -- that you'd decided that $1,000 was as much as you could risk. Can you tell us what your understanding was of how much you could be at risk with the little amount of money that you and your family had then? We were told earlier that $1,000 was what you were asked to put in. And second of all, can you give us some explanation -- given that a cattle contract at the time, just one contract, was $1,200 -- for the mystery of the $5,300 that was made really in the course of one day, or at least a few days, in the first trade?

A. No, I can't. I do not remember any of those details. I've given you every record that I have about that. The $1,000 was what I wanted to start with. And it was what I thought was a good beginning, a good investment for me. And once I had made the initial return that I did, I reinvested that. This was a roller coaster, and what I believed was that I was getting very good information and that I would end up making money. But there were a couple of days when I lost money. And I knew that I would be responsible for any losses that I suffered. But I did reinvest, and I covered the losses by closing positions. And then I eventually stopped trading.

Q. But when you first started with $1,000, did you believe you were putting at risk more than $1,000?

A. I believed that was certainly possible, yes.

Q. Then why did you take such a risky investment?

A. Because I didn't think it was that big a risk, because I thought that Jim and the people he was talking with knew what they were doing. And, you know, I've read a letter to the editor that somebody sent me from one of your newspapers, I think, which talked about a woman who invested $1,000 during the same time and made $750,000. Well, she had a stronger stomach than I did. I couldn't do that.

. . .

Q. The Whitewater development was set up, as you say, as a 50-50 partnership between the Clintons and the MacDougals, meaning that you were liable for 50 percent of the losses or 50 percent of the gains. And yet, by your own accounting, you lost half or even maybe a third of what the MacDougals lost. This is according to the Lyons report. Doesn't that discrepancy represent some sort of a gift or gratuity?

A. No. And let me say that, yes, the ownership of the corporation was 50-50. The liability on the underlying debt was 100 percent for each one of us. I mean, there was no gift in that. When my husband and I signed that mortgage, and when we re-signed guarantees, we assumed the whole responsibility. I mean, if Jim had gone into bankruptcy early on, if Susan had left, we would not have only 50 percent of the obligation; we would have 100 percent of the obligation.

Q. But why was it that the MacDougals lost so much more money than you did? I don't understand it.

A. I can't answer that. I mean, we gave whatever money we were requested to give by Jim MacDougal. I mean, he was the one who would say: "Here's what you owe on interest. Here's what your contribution should be." We did whatever he asked us. We saw no records. We saw no documents. He was someone that my husband had known a very long time. He was someone who had been in the real estate business with many people we knew, including Senator Fulbright, and we just assumed that whatever he needed he would ask for. And we didn't have any information to the contrary.

Q. It's just that given that you were jointly and separately liable for all the debt and that you and your husband are both lawyers, that you would be so passive about a fairly substantial investment.

A. Well, we were not real estate developers, and Jim had a track record. And I wasn't a cattle expert; I trusted Jim Blair, and it worked out for me. And I wasn't a real estate expert, and we lost money. Those things happen.

Q. Mrs. Clinton, just to get back to Linda's earlier question. One of the things that has been driving this is either the lack of explanations or the shifting explanations. And in terms of the way that your commodities trading was first described: that you did the trades, you relied on some advice from Mr. Blair. Later it was revealed that Mr. Blair placed most of the trades, if not all of them. Can you explain what happened? Did you have a new recollection? Why the shift?

A. Well, if you just listen to what you said: I did the trades. They were my trades. I was responsible for them.

But I did them on the advice of Jim Blair. And very often he placed them for me. I'm not in any way excusing any confusion that we have created. I think we have created it because I don't think that we gave enough time or focused enough. I have been traveling, and I'm more committed to health care than anything else I do. I probably did not spend enough time, get as precise. Different people heard different things that I said, or by the time it got passed to the third or fourth person, or one member of the press would call somebody in the White House but somebody else would call another person. So I think that the confusion was our responsibility. We did not give you a focused place to come, and we did not spend the time necessary. There's not really a contradiction in what you said and what I said. But I can understand how somebody might assume that.

Q. Now that we're clearing up a lot of confusion, I'll ask you about one other thing that I've had problems with. During the campaign -- I think it was right after the primary debate between Jerry Brown and your husband -- you made a statement in, I think, a Chicago restaurant that you never did any

regulatory work for Madison Guaranty. When the letter went to Beverly Bassett Schaffer about perhaps the legality of offering preferred stock, your name was at the bottom of that letter.

A. Right.

Q. Could you explain that?

A. Yes. I'm glad you asked that, because that's another thing that I feel has gotten confused in the telling. Let me just try to describe what happened there. When in 1985, I believe, -- maybe '86 -- there was an effort made on the part of various financial institutions around the country to increase their capital net worth, they began looking for ways to do that. There was a very bright young associate in our law firm who had a relationship with one of the officers at Madison, a young man whom he had known. They began talking.

And if you'll remember what happened when the S.& L.'s were deregulated, many states were left wholly unprepared: they did not have a regulatory system in place, they didn't even really have good laws. All of a sudden there was no Federal regulation to speak of, and so people were asking state governments whether things could be done.

Those two young men thought that it would be legal under Arkansas law for a savings and loan to issue preferred stock. But there was absolutely no law on that, and so they couldn't be sure. But they decided that what they wanted to do was to ask the person who regulated savings and loans whether it was legal -- not if Madison could do it; that was the second step. The first step was could you even do it in Arkansas, whether you were A, B or C, not just Madison.

When they talked about doing that, the young attorney in question needed a partner to serve as his backstop, and that was one of the rules we had in our firm. He knew that I knew Jim MacDougal. He also knew that Jim had been a client of our firm in the past. This was not a new representation.

So he came to me and asked me if I would talk with Jim to see whether or not Jim would let the lawyer and the officer go forward on this project. I did that, and I arranged that the firm would be paid a $2,000-a-month retainer. And that was ordinary and customary. That would be billed against, unlike retainers of some really big law firms that if you pay the retainer they keep it, no matter whether they do any work for you. This was really an advance against billing. That was arranged.

The young attorney, the young bank officer did all the work, and the letter was sent. But because I was what we called the billing attorney -- in other words, I had to send the bill to get the payment made -- my name was put on the bottom of the letter. It was not an area that I practiced in, it was not an area that I really know anything, to speak of, about.

At that point, the regulatory authorities -- namely, Beverly Bassett Schaffer -- answered the legal question. And the legal question was: Yes, it is permissible under Arkansas law to issue this preferred stock. Then the question moved on to the second phase, in which I had no involvement that I have any memory of, or anyone that I've talked with. That was trying to determine whether Madison could go forward.

And I think that the Securities Commissioner acted absolutely appropriately. She answered the legal question: Yes, it is legal to do this. But as to Madison, she laid out conditions that had to be met for Madison to do it. And Madison could never meet those conditions, and so they never issued preferred stock. So the legal question was answered, but Madison got no benefit at all from the answer of that legal question.

Q. Can you clarify for us what documents were removed from Vince Foster's office after he died, and why they were there in the first place?

A. I can tell you what I know, which is I did not know Vince had any of the documents related to our personal business in his office until after his death. What I believe he was doing with them was serving as a coordinator among our private lawyers and accountants and certain government officials, like the Office of Government Ethics, with respect primarily to our blind trust. Because there were all these questions that had to be answered and he was kind of the, you know, the coordinator. The private lawyers would talk to him; the Office of Government Ethics people would talk to him. I think that's why he had any documents of a personal nature in his office at the time of his death.

Q. Why did your chief of staff, Maggie Williams -- why was she involved at all to remove these documents from his office within a day of his death?

A. I don't think that she did remove any documents. I think that what happened is that after Mr. Nussbaum reviewed the documents, and after he did so -- as I recall; I was not here, I was in Arkansas -- but I believe that was done in the presence of officials from the park police and maybe some other agencies. Then Mr. Nussbaum distributed the files according to whom he thought should have them. There were files related to ongoing work in the counsel's office that needed to be passed on to other lawyers, there were personal files of Vincent's that needed to go to his family, and there were these personal files of ours that went to our lawyers.

Q. Another question about this re-zoning of private and public lives: I'm wondering what kind of a toll, if any, this has taken on you, on your and the President's personal and political lives. And do you ever look in the mirror and wish that you'd just never got into this?

A. No, never. Never. I mean, some days are better than other days, but, you know, I think what has helped me in the last couple of weeks -- aside from some good friends who have talked with me and helped me get re-zoned, if you will -- is my belief that this is really a result of our inexperience in Washington, if you will; that I really did not fully understand everything that I wish now I had known. You know, it's a learning experience, sometimes a difficult one but I think one that both the President and I are anxious to do because we think that the reason he was elected was to deal with the big issues that we want the country to deal with. And so it is a little disappointing if we in any way contribute to a diversion from that. That's something I don't want to have happen in the future, and I'm certainly going to try to be more sensitive to what you all need, and what we need to give you, and do it in a more efficient and effective way the first time.

Because, as I said earlier, I feel very confident about how this will all turn out. This is not a long-term problem or issue in any way. But I don't want anybody to have the wrong impressions of either of us, and I don't want

anything to interfere with doing what the people of this country need done.

Q. Mr. Clinton has spoken of the politics of personal destruction. Who do you believe are main perpetrators of that?

A. I don't want to get into that. I don't think that that bears any real useful discussion. I think that what's important is for us -- not just the President and me but the entire Administration -- to keep focused on what really will stand the test of history and what we really are trying to do for the country. And I can't really help it if some people get up every day wanting to destroy instead of build, or wanting to undermine. That's something that I try not to think about or dwell on, and try to do what I'm expected to do, which for me is working on health care.

Q. When was your last conversation with Vince Foster, and what was your understanding of the state of his mind?

A. You know, I've thought about that so many times. I don't think I had any conversation with him for at least three weeks before he died because, you know, we left for Tokyo somewhere around the Fourth of July is my best memory. And for about a week before that, I was very preoccupied with getting ready for the trip and doing the things you have to do. So I don't have any memory of having talked to Vince, and I never talked to him during the time that I was gone. And like every one of our friends, you know, we relived everything that happened or didn't happen. The people who talked to him, the people who spent time with him, they question whether they said the right thing, whether they could have done something else. The fact that I didn't talk to him makes me wonder whether if I had called him I could have picked up a clue. I just don't have any way of knowing.

Q. It supposedly had been depression, or so we were told, for a considerable period of time. Were you ever aware of that?

A. No.

Q. Did you have any clue what was going on?

A. No. Neither did people who, you know, spent the weekend with him or saw him in the office that day. You know, one of the things that I've spent a lot of time doing in the last months is trying to educate myself about depression. And my good friend Tipper Gore has been a great help on that, as have the people she's worked with on mental health issues. And I just hope that we get over the stigma that is still often attached to people admitting they need help or that they can't understand what's happening to them. I have no doubt now, in retrospect -- and many of my friends now can reconstruct conversations or things they saw in Vince in those last weeks, but they didn't know, they didn't understand. And he didn't either feel comfortable or know himself. So maybe out of all of this tragedy and the aftermath, all of the speculation, maybe once we put to rest once and for all the fact that he committed suicide and that it was a tragic loss of one of the best people we've ever known, maybe it can do something to help other people understand what depression can do to you.

Q. Mrs. Clinton, what was your personal reaction when you learned that Jay Stephens would be representing the R.T.C. in a case against Madison?

A.My personal reaction?

Q. About the fairness of that decision by the R.T.C. to hire him.

A. Well, I didn't understand it, you know. But I don't know Mr. Stephens, and I assume he will be a very fair and judicious lawyer. I guess that's what I would expect.

Q. You're not concerned about his being a Republican appointee and a U.S. Attorney appointed by President Bush?

A. Not if he abides by the code of professional ethics and does his job professionally, I'm not, and you all keep an eye on him.

Q. Mrs. Clinton, do you think, with the benefit of hindsight, that it was improper for you and your law firm to represent the Federal Government against a family friend, Dan Lassiter, and against accountants for Madison S.& L. without fully disclosing that you had been business partners with Mr. MacDougal?

A. Well, Ann, I don't know what was disclosed and what wasn't. Those were not my cases. Those were cases that came to the firm to other lawyers. I've been told that things were disclosed quite extensively. And certainly in Arkansas, most things are known. And the relationship with Mr. MacDougal, the fact that Mr. Lassiter made campaign contributions to my husband, was certainly well-known. In both of those instances, I don't think I had anything to do at all with the representation against Madison on behalf of the Federal Government. At least I have absolutely no memory of having done anything on that case.

With respect to the Lassiter case: I think out of that entire case I worked two hours, as a favor to one of the lawyers who was out of town who asked me to review a pleading. And I have specifically inquired whether there was any ethical conflict with respect to that and have been assured there was not. He was not a client that we had any obligation to. Thousands and thousands of people contributed to my husband. That is not considered disqualification. We were not personal friends or social friends. So I don't see any basis for saying that my work for him, as limited -- or against him -- as limited as it was, amounted to any kind of conflict.

Q. It's not just the press that has questions -- sometimes the American citizens who talk to your husband at town meetings and all. And one young woman in Charlotte asked him a question I'd like to pose to you. She said that in the recent news reports about the First Lady's cattle futures earnings, and with all these Whitewater allegations, many of us Americans are having a hard time with your credibility. How can you earn our trust back? Is there a fundamental distrust of the Clintons in America?

A. Well I hope not. I mean, that would be something that I would regret very much. I do think that we are transition figures, if you will. We don't fit easily into a lot of our pre-existing categories. And let me speak just about myself. You know, I came to this role having worked my entire life. I mean, I started working in the summers when I was 13. I always worked. I worked through college. I worked through law school. That's what I did. And after I married, I continued to work. And after my daughter was born, with the exception of the four months I took off for maternity leave, I worked. Now, I took time off from work to do volunteer work, like I took long time off from my law firm work to

work on education reform, or I would take time off to work on my husband's campaigns, or I would be in Washington on the Children's Defense Fund. I would certainly take a lot of time, but I was fundamentally working.

And I think that having been independent, having made decisions, it's a little difficult for us as a country maybe to make the transition of having a woman like many of the women in this room, sitting in this house. So I think that the standards -- and to some extent, the expectations and the demands -- have changed. And I'm trying to find my way through it and trying to figure out how best to be true to myself and how to fulfill my responsibilities to my husband and my daughter and the country. So I do think that there is some of that.

And then additionally, as I have said earlier, I think that my fundamental belief in privacy and my feeling that we were being asked things and demands were being placed on us that had never been demanded of prior inhabitants of this house -- unprecedented, in Arthur Schlesinger's words -- didn't make sense to me. I couldn't quite figure it out, and I resisted that. And I think I resisted it in ways that may have raised more questions than they answered. And I just don't think that was a very useful road for me to go down, and I'm trying now to better understand how to fit my personal needs and my own personal beliefs and what I want to do with this role for the country and the contribution I want to make into a broader context so that I can be as forthcoming and accessible as you need me to be.

GRAPHIC: Photos: Hillary Rodham Clinton gave the White House counsel Lloyd N. Cutler a kiss yesterday after her White House news conference. With her was her press secretary, Lisa Caputo. John D. Podesta, the White House staff secretary, left, also greeted the First Lady. (Paul Hosefros/The New York Times)(pg. 12); Hillary Rodham Clinton taking questions from reporters yesterday at a White House news conference at which she sought to offer an explanation of her financial dealings. (Reuters)(pg. 11)

LANGUAGE: ENGLISH

LOAD-DATE: April 23, 1994

LEVEL 1 - 125 OF 204 STORIES

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April 13, 1994, Wednesday, Late Edition - Final
Correction Appended

SECTION: Section B; Page 9; Column 1; National Desk

LENGTH: 627 words

HEADLINE: Clintons Used Trade Profits To Cut Taxes

BYLINE: By STEPHEN LABATON, Special to The New York Times

DATELINE: WASHINGTON, April 12

BODY:

The White House said today that the Clintons used some of the profits from Hillary Rodham Clinton's lucrative commodity trades to make large interest payments on a real estate venture in the late 1970's as a way to reduce their income taxes.

Confirming parts of an account provided earlier in the day by James B. McDougal, the Clintons' business partner in the real estate venture, the Whitewater Development Company, the White House said the Clintons had pre-paid interest on the venture to lower their tax bill.

Using the money from trading profits to make interest payments is not illegal, and in fact, interest deductions are a common way for investors to reduce their tax liabilities.

"If you look at their tax returns, they offset interest in one investment with profits on another investment, the way the tax code is set up," said Dee Dee Myers, the White House press secretary.

Earlier in the day, Mr. McDougal said he had suggested the strategy to Mrs. Clinton when she sought advice on how to lower her tax bill from the commodity trades, which earned her nearly $100,000 in 1978-79.

Mr. McDougal said Mrs. Clinton accelerated interest payments on loans of more than $200,000 taken out by the Clintons and Mr. McDougal and his wife to buy 230 acres in the Ozarks. By making the payment in 1979, Mrs. Clinton was able to claim a deduction that helped offset her profitable commodities trades that year, he said.

Impact on Investigation

This latest account of the Clintons' finances virtually insures that Robert B. Fiske Jr., the special prosecutor looking into Whitewater, will have to review the commodity transactions.

Mr. Fiske has been examining the circumstances surrounding Whitewater and whether the development company or Mr. Clinton's 1984 campaign for governor of Arkansas received improper payments from Madison Guaranty Savings and Loan. The Arkansas savings association, owned and operated by Mr. McDougal, was seized

by Federal regulators in 1989.

Three weeks ago the White House said that the Clintons made more than $35,000 in interest payments to the land venture from 1978 to 1980, representing about 75 percent of their total payments for Whitewater. That was about the same time Mrs. Clinton was profiting from commodity trades, which significantly increased the couple's otherwise modest income.

Mr. McDougal's account was provided to reporters at a news conference this morning in Little Rock, Ark., at which he offered for sale copies of 2,000 pages of Whitewater documents sent to him last week by the White House.

Mr. McDougal said the records showed the Clintons had done nothing illegal in Whitewater.

"These documents, taken together," he said, "totally exonerate them from all charges that this is some sort of cash cow or some sort of Mafia front or whatever fantasy the Republicans have been able to create about it."

Mr. McDougal's comments and the White House response provided the first link between Whitewater and Mrs. Clinton's commodity trades. The trades became public on March 18 after The New York Times learned of them during a two-month review of the Clintons' finances.

During the 1992 Presidential campaign, the Clintons sought to prevent the disclosure of the trades, and since acknowledging their existence, the White House has revised its account several times of the circumstances under which Mrs. Clinton, a novice investor, parlayed a $1,000 investment into a nearly $100,000 profit over 10 months of trading in the highly risky commodities market.

A chronology about the Clintons' financial dealings that accompanied the article misstated the date on which the White House released the Clintons' tax returns for 1977, 1978 and 1979. It was March 25, not March 24.

CORRECTION-DATE: April 14, 1994, Thursday

CORRECTION:
An article yesterday about the Clintons' finances misattributed a statement that they had used profits from Hillary Rodham Clinton's commodities trades to make interest payments on the Whitewater real estate venture. That information was provided by Clinton aides who spoke on condition of anonymity, not by the White House on an official basis.

GRAPHIC: Chart: "CHRONOLOGY: The Clintons' Financial Dealings"

When the White House announced on Monday that the Bill and Hillary Rodham Clinton owed back taxes on earnings from commodity trades in 1980, it was the latest of several revisions in their explanations of crucial aspects of their personal finances.

In recent weeks, the White House lowered the estimate of how much money was lost in the Whitewater real estate venture and gave varying accounts of the circumstances and terms of Mrs. Clinton's commodity trades. The White House has cited the difficulty of reconstructing events from years ago.

Following is a chronology, by subject, of the various accounts:

Whitewater Development Company:

March 9, 1992:

After the first news reports about the Clintons' investment in the Whitewater Development Company, Mr. Clinton insists he lost "more than $25,000" on the venture.

March 23, 1992:

A report by a Denver accounting company made public by the Clinton Presidential campaign says the couple lost $68,900 on Whitewater, contradicting an earlier estimate from the Clintons' personal accountant that put the losses at around $43,000.

Fall 1993:

James B. McDougal, the Clintons' partner in the real estate venture, contests the campaign report, asserting that the White House mistakenly counted Mr. Clinton's repayment of a $20,000 loan as a Whitewater contribution. White House aides insist Mr. McDougal is wrong.

March 24, 1994:

The White House acknowledges that the 1992 report commissioned by a Denver lawyer, James Lyons, overstated the Clintons' losses by $22,244. Mr. Clinton says at a news conference that the mistake arose when the $20,000 loan, which he had taken out to buy his mother a house, was included as a Whitewater expense. Mr. Clinton said he recognized the error recently, when he was reviewing the galley proofs of his late mother's autobiography, and recalled taking out the loan.

Mrs. Clinton's Commodity Trades:

February-March 1992:

Aides in the Clinton Presidential campaign assert that the couple's $60,000 down payment for their 1980 purchase of a house came from an unspecified investment by Mrs. Clinton. Later, the campaign issued a statement in Mrs. Clinton's name that said the money came from "our savings and a gift from our parents."

March 17, 1994:

Responding to reporters' questions about Mrs. Clinton's commodity investments through Refco Inc., a brokerage with offices in Springdale, Ark., White House officials say she traded on her own and paid all appropriate taxes on profits of nearly $100,000. They now acknowledge that this money contributed to the down payment on the house.

Aides say Mrs. Clinton made her own trades, and that her decision were based on an astute reading of The Wall Street Journal and advice from associates. James B. Blair, the chief counsel for Arkansas-based Tyson Foods Inc., was

only one of several people who helped her shape a market strategy, White House officials say.

They say Mrs. Clinton got out of the commodities market in late 1979 because she was pregnant and found the investments nerve-wracking. The White House says the Clintons invested their own money, but decline to specify how much or make public her trading records or the couple's 1978-79 tax returns.

March 24, 1994:

The White House releases the Clintons' tax returns for the years 1977 through 1979. They give no indication of how much money was initially invested, or which commodities were traded.

March 29, 1994:

After a news report claims that Mrs. Clinton had invested no money, the White House releases partial trading records indicating that her account began with a deposit of $1,000. Officials also say that Mrs. Clinton traded commodities through a second account managed at Stephens Inc. in Little Rock, with small losses in 1979 and 1980. Mrs. Clinton "ceased trading in this account soon after her daughter Chelsea was born. The account was closed in March, 1980," the statement says. White House officials, speaking on the condition that they not be identified, insisted that Mrs. Clinton had made her own trades and had left the market because she could not stand the tension.

April 5:

At a town meeting in Charlotte, N.C., Mr. Clinton says that the trading records were made available "as soon as they asked about them." Defending his wife against accusations that she received special treatment -- in particular that she was allowed to trade with an unusually small amount of money in her account -- Mr. Clinton recalls his wife receiving a "margin call," a request from her brokerage to deposit cash against possible losses. The records released by the White House do not show any sign of such a demand.

April 9:

White House officials acknowledge that Mr. Blair placed orders for some of Mrs. Clinton's trades. They say the First Lady still made the final decisions.

April 11:

The White House says the Clintons did not lose money in their second account, with Stephens Inc., but made $6,498 in commodities profits, which they failed to report on their 1980 tax return, resulting in tax underpayment of $3,315. Although they are not required to, Clintons repay the IRS with interest a total of $10,134. The commodities trading, through Stephens Inc. lasted until May 14, 1980, several months after Chelsea was born. One of Mrs. Clinton's most active trading months was March 1980, days after Chelsea's birth.

LANGUAGE: ENGLISH

LOAD-DATE: April 13, 1994

LEVEL 1 - 135 OF 204 STORIES

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March 31, 1994, Thursday, Late Edition - Final

SECTION: Section A; Page 20; Column 1; Editorial Desk

LENGTH: 766 words

HEADLINE: Arkansas Secrets

BODY:
There will be plenty of time to explore whether laws were violated when the Clintons went into the land development business with James and Susan McDougal or when George Stephanopoulos and other White House aides meddled with Treasury Department investigations. For the moment, it is enough to ponder the fluid morality implicit in the Clintons' tax returns and the records of Mrs. Clinton's short but profitable career as a commodities trader.

The inescapable conclusion is that this couple, early and late, suffered from a thematic insensitivity to the normal rules of conflict of interest. At every turn of their financial life, the then-Governor and First Lady of Arkansas were receiving financial favors from individuals who had something to gain from having friends in high places.

Consider the Whitewater case. The 230-acre development was supposed to be a 50-50 partnership between the two couples. To be clean politically, the deal had to be one of equal investment and equal risk. But from the moment that Jeff Gerth of The New York Times wrote the first Whitewater story in 1992, the Clinton campaign and later the White House press office dodged questions and withheld documents.

The reason is clear. The Clintons put up $500 initially and claimed losses of $43,635, most of it in payments on loans, by the time of the 1992 campaign. In contrast, the McDougals paid out $268,000 and withdrew $175,800 for a loss of $92,200. Although the records are muddled, the McDougals apparently paid dramatically larger amounts to support Whitewater than did their supposedly equal partners, the Clintons.

Moreover, Mr. McDougal's heaviest contributions to the partnership came after he acquired Madison Guaranty, a savings and loan that was part of Mr. Clinton's regulatory responsibility as Governor. The disorder of Whitewater and Madison records is such that it is unknown whether the Clintons benefited from any fund transfers between Madison Guaranty and Whitewater Development, or whether Madison benefited from favorable treatment by Mr. Clinton's regulators. That is a legal determination, but the political conclusion is clear. From the start of his governorship, Mr. Clinton was involved in potentially compromising financial entanglements.

The same goes for Mrs. Clinton. On an initial investment of $1,000 she made $98,000 by trading in agricultural commodities while her husband was running for governor. Her principal adviser was James Blair, the lawyer for Tyson Foods Inc.; the broker he chose for her, Robert (Red) Bone, had once worked for Tyson and had been disciplined by regulators for not keeping good records on which accounts made money and which lost. Once Mr. Clinton was in office, Tyson

received $9 million in state loans and very gentle treatment when it came to the extensive water pollution associated with raising and cleaning chickens.

The investigators are nowhere near the bottom of Whitewater. But we now have a a fairly clear idea of how it got started and what it is about. It started with a well-meaning young couple who seemed to have an extraordinary indifference to, or difficulty in understanding, the normal divisions between government and personal interests. Their conduct may not have been illegal, but it was reckless and politically unattractive.

To deal with these seedy appearances, Clinton supporters are now engaged in what we have come to recognize as The Arkansas Defense. A central argument is that while the Clintons' dealings were not pretty, you cannot apply the standards of the outside world to Arkansas, where a thousand or so insiders run things in a loosey-goosey way that may look unethical or even illegal to outsiders. This logic holds that whatever the Clintons did was penny-ante stuff that the Republicans and the press ought to be willing to overlook in service to the higher national interests.

Certainly, there is a national interest in a viable Presidency and in swift progress on health care reform and other pressing issues. But the genius of the Federal system does not reside in importing to Washington the faults and idiosyncracies of the state capitals.

The effort to keep a lid on the Clintons' personal and financial histories has led to the development of a distinctive Clinton style -- to withhold critical information and to respond furiously with attacks on the motives of critics. It is a viable campaign practice. But the clumsy efforts to silence Congressional critics and the possible White House interference with Federal agencies demonstrate that it is a dangerous way to govern.

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LOAD-DATE: March 31, 1994

LEVEL 1 - 136 OF 204 STORIES

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March 30, 1994, Wednesday, Late Edition - Final

SECTION: Section D; Page 1; Column 3; Financial Desk

LENGTH: 1365 words

HEADLINE: Washington at Work;
A Tax Lawyer Now Atop the I.R.S.

BYLINE: By ROBERT D. HERSHEY Jr., Special to The New York Times

DATELINE: WASHINGTON, March 29

BODY:

A year ago, just after President Clinton announced her nomination as Commissioner of Internal Revenue, Margaret Milner Richardson was toasted at lunch by friends, all female tax lawyers. Someone mentioned her legendary success as a fund-raiser for political causes and charities.

"Well, I think I'm now going into the biggest fund-raising job there is," responded the Vassar graduate, originally from Waco, Tex., who took a leave of absence from her Washington law firm to work in Mr. Clinton's campaign. "And this time," she added, thinking of the agency's 115,000 employees and vast legal powers, "I won't even have to use my Rolodex."

In the throes of her first filing season, which officials say has produced few problems besides a slower-than-usual flow of returns because of the winter's snow and ice, Mrs. Richardson is charged with one of the Government's formidable challenges.

Her mission is to oversee the continuing transformation of an agency whose structure evolved in the early 50's, and whose computers date from the 1960's, into a center efficient enough to collect $1 trillion a year in taxes as well as to try to get some of the estimated $150 billion that slips through the Treasury's hands.

"We realize that for our voluntary income tax system to survive, and for us to accomplish our mission, we need to change the way we do business," Mrs. Richardson said recently, adding she was shocked to learn that 10 million individuals and businesses file no returns.

She promised to "listen to our customers" who have become accustomed to instant account service by credit-card companies and others in private business, a service the I.R.S. will not provide for a few years.

The agency has made some efforts at user-friendliness recently. Tax forms are available in Spanish in an experimental program in Los Angeles and South Florida. Toll-free I.R.S. lines for taxpayers with questions on filling out their returns are available evenings and weekends.

Filing by telephone has been expanded beyond Ohio to Florida, Indiana, Kentucky, Michigan, South Carolina and West Virginia, and the agency has asked

Congress to permit payment by credit card.

In addition, returns can be prepared by personal computer, following agency software specifications. Authorized tax transmitters -- whether franchise preparers or a local C.P.A. office -- can file to the I.R.S. electronically.

At the same time, the I.R.S. is raising fees for taxpayers to retrieve copies of previously filed returns, to pay by installment and for informing banks that refunds from electronically filed returns need not be applied to unpaid Government loans.

Credentials and Friends

The wry but businesslike Commissioner pressing this agenda -- multibillion-dollar modernization and reinvigorated compliance -- has not openly discussed her ambitions, people who have known her for a decade or more say. But given her credentials, they are not surprised by her ascendancy to the top I.R.S. job.

A longtime Washington tax lawyer, first in the I.R.S. trenches and since 1980 as partner in a leading private firm, Sutherland, Asbill & Brennan, Mrs. Richardson has another important credential: she is a politically active friend of another prominent former tax lawyer, Hillary Rodham Clinton, whom she advised on women's health issues during the campaign. She also worked on the Administration's transition team for the Justice Department.

And she possesses a vividly demonstrated ability to make people part with their money, as demonstrated in the campaign lunch she organized for Mrs. Clinton and Tipper Gore.

At $100 each, all 2,500 tickets for the lunch at the Washington Hilton sold so quickly that the tables had to be removed and the menu changed to what could be put in a brown paper bag and eaten by standees. There were about 4,000 people in all.

"We were going to have chicken breasts," Mrs. Richardson recalled. "We turned them into chicken salad. The chef couldn't quite believe it."

When friends and former colleagues began encouraging her to seek the top I.R.S. job, which pays $123,100 a year, she could not resist the idea of trying to fix the creaking giant. A self-described "yellow-dog Democrat," an admiring Southern term for a party loyalist, she was intrigued by the challenge because it reflected her belief in the essential worthiness of Government.

"The Internal Revenue Service really does touch the lives of almost every American," she said in an interview in her commodious third-floor office overlooking the Mall. "If you can make a difference in the way people perceive the I.R.S., you go a long way toward making a difference for the Government at large."

Her specific goal is to raise collections to at least 90 percent of taxes due from 83 percent now, with each percentage point worth about $10 billion a year. This includes money lost from taxpayers who under-report income, overstate deductions, fail to pay what they owe, or do not file.

Some have suggested that, given the present deficiencies, it might be better to stop taxing incomes and switch to some other levy.

But Mrs. Richardson, who has discussed this abroad, was doubtful. "I will tell you that my personal belief is that a consumption tax, a value-added tax, a national sales tax, has many problems," she said, adding that the subject "needs to be looked at periodically, but I wouldn't want anybody to think that's the simple way to solve all of these problems."

"There's a significant issue about paperwork burden," she added. The 1996 election results permitting, the Commissioner said she planned to stay in her post for eight years, a tenure rarely achieved among her 43 predecessors since the I.R.S. was established during the Civil War. She is the second woman to hold the job, succeeding Shirley D. Peterson, who served during the Bush Administration.

Although it is too early to assess Mrs. Richardson's performance, tax specialists are impressed with the Administration's support for her $7.6 billion budget request for next year, up 3.5 percent, and for an additional $400 million to pay for 2,000 more people in enforcement work, jobs like auditors or collectors.

Asked if she was reviewing the tax returns of anyone associated with Whitewater, the failed Clinton real-estate venture, she smiled slightly while an aide quickly invoked Section 6103 of the tax code, which bars discussion of any specific taxpayer.

Abridgement of Privacy

Indeed, Mrs. Richardson, exhibiting a streak of independence, recently told Congress that she feared a loss of privacy in the Administration's idea of enlisting outside contractors to help the I.R.S. collect back taxes.

She expressed no particular concern about duties the agency might be assigned in overhauling the nation's health care system, like verifying income for determining eligibility for subsidies. "I think there probably will be a role," she said. "What it will be, I don't know."

Unlike many well-to-do people, including predecessors in the job, Mrs. Richardson fills out her own tax return, subject to review by an accountant. She has not filed this season because she is waiting for information from her husband, a transportation lawyer, who is said to joke that it is a conflict of interest for his wife to pay income tax.

She also drives herself to and from work each day in a Volvo station wagon -- a more sedate one, friends say, than the bright orange one she used years ago when she was less prominent in Washington.

Evidence of her Texas roots -- she discovered Vassar as a child while living at West Point, where her father was stationed -- seems to be fading, but Mrs. Richardson said the family still ate chili. And she has found her origins helpful in avoiding inopportune chitchat.

"I always say I have two conversation stoppers," she told an audience early this year when the Government's siege of the Branch Davidian compound near

Waco was still fresh in people's minds: "When I am sitting on an airplane and the person next to me says, 'What do you do?' and I say 'I.R.S. Commissioner.' "

"If that doesn't stop them," she added, "when they ask where I am from, that usually does."

GRAPHIC: Photo: Margaret Milner Richardson, Washington tax lawyer and Southern Democratic loyalist, sees her place as President Clinton's Internal Revenue Commissioner as "the biggest fund-raising job there is." (Paul Hosefros/The New York Times)

Chart: "Margaret Milner Richardson"

Born: May 14, 1943

Hometown: Waco, Tex.

Education: Weatherford High School, Texas; Vassar College, 1965, political science; George Washington University, 1968, J. D. with honors

Career highlights: I.R.S., docket attorney, Tax Court Litigation Division, 1969-1974; director, Administrative Services Division, Office of Chief Counsel, 1974-1977; Sutherland, Asbill & Brennan, 1977-1993. Partner in 1980; Sworn in as I.R.S. Commissioner May 27, 1993

Family: Married to John L. Richardson, transportation lawyer. One daughter, Margaret, high school senior

Hobbies: Gardening, cooking, reading

LANGUAGE: ENGLISH

LOAD-DATE: March 30, 1994

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March 26, 1994, Saturday, Late Edition - Final

SECTION: Section 1; Page 1; Column 1; National Desk

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HEADLINE: Clintons Release Tax Data Showing Land Deal Losses

BYLINE: By JEFF GERTH, Special to The New York Times

DATELINE: WASHINGTON, March 25

BODY:

Bowing to political pressure, Bill and Hillary Rodham Clinton today released tax returns and other financial data that give the clearest picture to date of how the couple made and lost money early in Mr. Clinton's political career.

The documents, which include tax returns from 1977 to 1979, show that the couple nearly quadrupled their annual income in those years, from $41,731 to $158,495.

That increase was largely attributable to commodity trades by Mrs. Clinton, which were arranged with the help of a lawyer for Tyson Foods, the nation's largest poultry company.

Amount at Risk Unknown

The speculative trading, which netted about $100,000 from October 1978 to October 1979, is described incompletely in the forms. The returns do not show how much money, if any, was initially invested, and a person familiar with the returns who briefed reporters today at the White House was unable to provide a figure. Mrs. Clinton's commodity trading was first reported by The New York Times on March 18.

In another aspect of the inquiries involving the White House and the Clintons' financial activities, a senior Administration official said tonight that he had raised questions about the Resolution Trust Corporation's investigation into the failed Arkansas savings and loan at the center of the inquiries after a well-known Republican prosecutor was hired to handle a portion of the civil case.

The official, George Stephanopoulos, a senior aide to President Clinton, said that he spoke on Feb. 25 with Joshua Steiner, the chief of staff to Treasury Secretary Lloyd Bentsen, about the decision to hire the Republican, Jay B. Stephens, a former United States Attorney for the District of Columbia.

Mr. Stephanopoulos's statement confirmed that he had discussed Mr. Stephens with Mr. Steiner,as reported in Saturday's issue of The Washington Post. It was the first acknowledgement by White House officials that they had expressed any concern about the Resolution Trust Corporation investigation into the Madison Guaranty Savings and Loan Association, which financed part of the Whitewater real estate deal in which the Clintons had invested.

Political Pressures

The disclosure of Mr. Stephanopoulos's talk with Mr. Steiner came as a number of other conversations between the Treasury Department and the White House were being challenged as a possible effort to interfere with the investigation into Madison.

The President and his wife are under mounting political pressure to put questions about Whitewater, an Arkansas land development in the Ozark Mountains, behind them. The documents that they released today, however, may have weakened one of the Clintons' central defenses to questions about the deal.

For two years, the Clintons have asserted that they lost $68,800 on the investment, using the figure to rebut accusations that their partner, James B. McDougal, had covered a disproportionate share of the losses. Mr. McDougal and his wife at the time, Susan, were equal partners in the venture, and the Clinton campaign said the McDougals had lost $92,000.

Mr. McDougal was the owner of Madison Guaranty, which permitted sizable overdrafts in Whitewater's checking account in the 1980's.

A lawyer who oversaw a report on the Clintons' finances that was released by the campaign in 1992 said in a letter made public today that his report had overstated the Clintons' losses by $22,244, making the Clintons' total loss $46,635. The lawyer, James M. Lyons, said the error was caused, in part, by "interviews and statements by the Clintons."

The documents released today also showed that the Clintons gave Mr. Lyons inaccurate information about a $20,000 loan from a small bank also owned by Mr. McDougal and that the information in part led the Clinton Presidential campaign to overstate significantly the couple's losses in the Whitewater real estate venture.

President Clinton said on Thursday that he had forgotten until this week that he had taken out the loan in 1981 to help his mother buy a house. He said it had nothing to do with Whitewater. Mr. Clinton repaid the loan with a check for $20,700 in 1982 after his mother remarried and paid him back.

Mr. Lyons's letter raised new questions about how Mr. and Mrs. Clinton responded in 1992 to potentially damaging news accounts suggesting that Whitewater might have been a sweetheart deal in which the Clintons put up far less than the couple who were their equal partners.

Closing the gap between the Clintons' losses and those of the McDougals lessened the impact of Whitewater and any appearance that Mr. McDougal was seeking to influence the Governor, whose appointees regulated state-chartered institutions like Madison.

Campaign aides said at the time that a report by the Clintons' personal accountant put the couple's Whitewater loss at about $43,000, the figure that the White House now confirms.

In his news conference on Thursday, Mr. Clinton acknowledged that Mr. Lyons's report was in error, but he did not say how the campaign's accountants had

come to overstate his Whitewater losses by roughly 50 percent.

Mr. Clinton said recent news reports about the Whitewater affair had prompted him to "start racking my brain" about a 1982 check for $20,700 that his top aides said was repayment of a Whitewater-related loan. By Mr. Clinton's account, the process of "fact-checking" galleys of his late mother's autobiography led him to remember "something that I had genuinely forgotten," namely taking out a $20,000 loan in his name from Madison Bank and Trust, the other small institution that Mr. McDougal owned, to help his mother buy a home.

Mr. McDougal, in interviews this year, insisted that the $20,700 check was unrelated to Whitewater. Bruce Lindsey, a senior adviser to the President, replied that Mr. McDougal was mistaken and that the White House stood by the Lyons report. Mr. Lyons said the same earlier this month.

The tax returns and other information were made public today at the White House.

At a subsequent briefing, the person familiar with the tax returns said there was incomplete information and documentation to back up tax deductions taken by the Clintons for Whitewater interest payments. But the person did not indicate whether the Clintons intended to pay any more taxes in connection with those deductions.

The business ventures whose details were amplified in the disclosures today were two of the largest investments of the Clintons' lives. Both Whitewater and the commodity trading arose in 1978 after Mr. Clinton won the Democratic nomination for Governor, which in Arkansas made him the favorite in the general election.

Although Mr. Clinton was a rising star in Arkansas politics, he and his wife had few assets. For the previous year, 1977, their earnings had totaled only $41,731, their tax return showed.

Borrowing by Partners

In August 1978, the McDougals and the Clintons took out $203,000 in loans to purchase land in the Ozarks. All four signed the biggest mortgage, for $183,000.

Three months earlier, Mr. McDougal had helped Mr. Clinton earn $2,100 on another Arkansas land deal -- a return of more than 70 percent, said the person who briefed reporters today.

The couple was hoping for similar results with Whitewater, a venture in which their cash investment was only $500, according to a Whitewater financial summary that was among the documents made public today.

Two months after Mrs. Clinton signed the loans for Whitewater, she began trading in commodities, a risky investment that in her case proved enormously profitable. In the 1978 return, the couple showed net gains of $26,541. Although taxpayers are required to specify when the assets were bought and sold, and for how much, the Clintons' return does not do so.

The following year, the couple reported $72,436 in gains. The trades were listed as occurring in 1979. No other information was included.

It appears that the Clintons' success in the commodities market was significantly offset by their troubles in the real estate venture. After its first few years, Whitewater did not sell land quickly enough to make the interest payments on the mortgage.

Between 1978 and 1980, the Clintons appear to have borne their half of the interest costs, paying more than $42,000, which was deducted on their tax returns.

But from 1981 to 1984, years in which Whitewater sold little land, the venture's income was far less than the costs of the interest payments, a difference that was made up largely by Mr. McDougal, records show. According to the accounting made public today by the Clintons, the couple paid only $243 in Whitewater-related interest from 1981 to 1986.

The person familiar with the Clinton's tax returns said the couple had never received any disbursements from Whitewater. That means their $46,000 in payments were a loss.

Mr. McDougal, who was briefly an aide to Governor Clinton in 1979, bought a state-regulated bank in 1980 and state-chartered savings and loan in 1982. His savings and loan, Madison Guaranty, allowed Whitewater frequent, sizable overdrafts, causing what Federal investigators later estimated was a loss to Madison of at least $70,000.

L. Jean Lewis, an investigator for the Resolution Trust Corporation who reviewed Whitewater's records in 1992 and 1993, argued earlier this year that the Clintons must have known that Mr. McDougal was carrying their share of the venture.

The conversation described by Mr. Stephanopoulos occurred on the same day that Roger C. Altman, the Deputy Treasury Secretary and acting head of the Resolution Trust Corporation, recused himself from any matters involving Madison Guaranty.

Mr. Stephanopoulos said tonight that he had not tried to persuade Mr. Steiner to halt the appointment of Mr. Stephens, who is one of the more than 100 United States Attorneys who were not retained when Mr. Clinton took office last year. The Post's account, however, said that Mr. Stephanopoulos and another high White House aide, Harold M. Ickes, were outraged when they learned of Mr. Stephens's appointment and that they had inquired about removing him.

Mr. Stephanopoulos said he could not recall if the subject arose once more later that day when he and Mr. Ickes, the White House deputy chief of staff, spoke by telephone with Mr. Altman.

The Treasury Department oversees the Resolution Trust Corporation, and Mr. Altman has been acting head of the agency. He has recused himself from involvement on matters involving Madison and acknowledged holding several discussions with White House officials to alert them of that intention.

Mr. Stephanopoulos said he spoke to Mr. Steiner on Feb. 25 to discuss Mr. Altman's decision to recuse himself and mentioned Mr. Stephens during that discussion.

"I was puzzled and blew off steam over the unfairness of that decision," Mr. Stephanopoulos said. "Because Jay Stephens had accused the President of improper interference in an investigation."

Thomas F. McLarty 3d, the White House chief of staff, said in a statement to The Post that neither Mr. Ickes nor Mr. Stephanopoulos recalled having asked anyone to rescind the Stephens hiring. "There was no suggestion that any action was taken," he said.

Mr. Stephens, who was heading the prosecution of Representative Dan Rostenkowski, Democrat of Illinois, complained that after he had been replaced as United States Attorney Mr. Clinton was interfering in the investigation. Administration officials have viewed him with suspicion ever since.

A senior Administration official said that White House officials had asked whether the hiring of the former prosecutor could be reversed and backed down only after Mr. Steiner insisted that such action would not be possible.

Mr. Stephanopoulos denied that he had suggested terminating Mr. Stephens. "I got the facts from Josh," he said. "That was the end of the matter as far as I was concerned. I have no memory of discussing this with Altman."

Meanwhile, the grand jury investigating the Whitewater affair has subpoenaed another Administration official, John Podesta, the White House staff secretary. He is the 11th Administration official to be called to testify.

GRAPHIC: Photo: Trying to put Whitewater questions behind them, the Clintons released tax returns for the late 1970's. Reporters and photographers gathered at the White House yesterday for the documents. (Associated Press)(pg. 6)

Chart: "Investing in Whitewater" shows a summary of payments Bill and Hillary Clinton reported for the Whitewater Development Company. (pg. 6)

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HEADLINE: THE WHITEWATER INQUIRY;
Transcript of President's News Conference on the Whitewater Affair

BODY:
Following is a transcript of President Clinton's news conference at the White House last night, as recorded by The New York Times:

PRESIDENT CLINTON Good evening, ladies and gentlemen. Yesterday we were reminded that protecting our democracy and expanding its promise around the world can be costly and dangerous. Here at home, we mourn the loss of the servicemen in the tragic aircraft accident at Pope Air Force Base, and we pray for a speedy recovery for those who were injured. This tragedy reminds us that the men and women who serve in the military put their lives at risk in the service of our nation.

In Mexico, an assassin killed Luis Donaldo Colosio, the Presidential candidate of the Institutional Revolutionary Party. We send our condolences and our prayers to his family, and I urge the Mexican people at this difficult time to continue their strides toward economic and political reform and progress.

With the Congress beginning its Easter recess tomorrow, this is a good time to assess the real work we are getting done on behalf of the American people. We're moving forward on our economic plan. The budget now moving through Congress, when passed, will give us three consecutive years of deficit reduction for the first time since Harry Truman was President. In 1995, we'll have the lowest budget deficit as a percentage of our annual income of any of the major industrialized countries. Our recovering economy produced two million jobs last year, and we're on track to create two million more in '94.

Around the world America's efforts have helped to bring much needed calm to Sarajevo and led to an important political accord between the Bosnian Muslims and Croats.

Our call for restraint has helped to start talks again in the Middle East.

We'll continue our efforts to stop North Korea's nuclear program and to seek progress on human rights in China, working to build a more positive relationship with that very important nation.

This Friday, a week ahead of schedule, our troops will return home from Somalia. Because of their courageous efforts, Somalia can now build its own future, a step it made in the right direction today with the accord between the leaders of the largest factions in that country.

Since we came here, our country has been moving in the right direction. Just today, the House of Representatives passed our legislation to limit the

influence of lobbyists. Our Administration is completing work on a comprehensive welfare reform proposal. We have presented to the Congress our very important re-employment proposal to change the unemployment system to provide immediate retraining to those who lose their jobs.

In a few days, with bipartisan support, the country will have an education reform law that sets national standards for our public schools. In a few weeks, Congress will pass a crime bill and put more police on the street, tougher gun laws on the books and make three-strikes-and-you're-out the law of the land.

Speaker Foley assured me last night that the crime bill will be Item No. 1 on the agenda of the House when it returns to work. And in a few months we will succeed in passing health care reform. Just yesterday the House subcommittee on health passed legislation to provide health security for every American, and while there will be lots of twists and turns in the legislative process, this year Congress will pass, and I will sign, a health reform law which guarantees health care security to every American that can never be taken away.

With the right to choose a doctor, with the plan that outlaws insurance abuses, no more dropping coverage or cutting benefits, no more lifetime limits, no more raising rates just because someone in your family has been sick, or some are older than others. We want to preserve and strengthen Medicare, and we believe in this Administration that those health benefits should be guaranteed to the work place -- building on what works today.

I know that many people around America must believe that Washington is overwhelmingly preoccupied with the Whitewater matter, but our Administration is preoccupied with the business we were sent here to do for the American people.

The investigation of Whitewater is being handled by an independent special counsel whose appointment I supported. Our cooperation with that counsel has been total. We have supplied over 14,000 documents, my tax returns dating back to 1978, and made available every Administration witness he has sought.

I support the actions of the House and the Senate clearing the way for hearings at an appropriate time that does not interfere with Mr. Fiske's responsibilities, and I will fully cooperate with their work as well. Tomorrow I will make available my tax returns dating back to 1977, when I first held public office. Cooperation, disclosure and doing the people's business are the order of the day. This is the best moment we have had in decades to do the hard work on so many issues that affect not only our own progress and prosperity, but the very way we think about ourselves as a nation. The American people should know that I and my Administration will not be distracted. We are committed to taking advantage of this rare moment in achieving these important goals. Terry?

QUESTIONS AND ANSWERS

Q. Mr. President, you just said that you would release your tax returns back to 1977. Questions also have been raised about whether you made money or lost money in your Whitewater investment. Do you still believe that you lost about $70,000, and do you have any reason to believe that you owe any back taxes?

A. I am certain that we lost money. I do not believe we owe any back taxes. If it is determined that we do, of course, we will pay. I am now sure

that we lost something less than $70,000. Based on an interview I heard on television, or I heard about on television, with Jim McDougal on one of the networks, where he said that he felt that one of the loans I had taken from a bank where we've also borrowed money for the land development corporation -- he said he thought one of those was a personal loan.

So I started wracking my brain to try to remember what that might have been, and by coincidence I was also re-reading the galleys of my mother's autobiography, just fact-checking it, and I noticed that she mentioned there something that I had genuinely forgotten, which is that I helped her to purchase the property and what was then a cabin on the place that she and her husband, Dick Kelley, lived back in 1981, and that I was a co-owner of that property with her for just a few months. After they married, he bought my interest out. So that's where that -- I borrowed the money to go in on that investment, and I paid the money back with interest. That was unrelated to Whitewater.

All the other losses that we have documented to date we believe clearly are tied to the investment Hillary and I made in Whitewater. So we, in fact, lost some $20,700 less than the Lyons report indicated because that loan came from a different place, or came for different purposes. And there was another $1,500 payment I made on it. So whatever the total in the Lyons report was, should -- you should subtract from that $20,700 and another $1,500. And we believe we can document that clearly.

Tomorrow, my counsel, David Kendall, will brief the press on the evidence that we have, what's in the tax returns. You will see when you see the tax returns that those losses were clearly there, and he will be glad to support it with other information as well. Helen?

On Financing for Campaigns

Q. Do you know of any funds, any money -- Whitewater seems to be about money -- having gone into any of your gubernatorial campaigns or into Whitewater, particularly federally insured money. Do you know of any money that could have gone in?

A. No. I have no knowledge of that. I have absolutely no knowledge of that. Rita?

Q. President Clinton, you just mentioned James McDougal, your former business partner. A lot of questions have been raised about his business practices. Can you tell us what drew you to him to begin with, and whether or not you still have faith now that he was -- that he is an honest businessman?

A. Well, I can tell you that when I entered my relationship with him -- let's go back to then and not now -- I knew Mr. McDougal and had known him for many years. I met him in the late 60's, when he was running Senator Fulbright's office in Arkansas. I knew that sometime around that time, perhaps later, he got into the real estate business. When I entered into this investment, it was with a person I had known many years who was in the real estate business, who'd never been in the S.& L. business or the banking business. That all happened at a later time.

Now he had done quite well. The reason we lost money on Whitewater is not surprising; a lot of people did at that time. Interest rates, as you'll

remember, went through the roof in the early 80's. People stopped immigrating to my state to retire, at least in the numbers they had all during the 70's. And the market simply changed. So we didn't sell as many lots, and the venture was not successful, so we lost the money. Principally, the money I lost was on the interest payments I had to make on the loans, which were never reimbursed because the venture never turned a profit.

Q. Do you still believe in his honesty now and do you think that ----

A. All I can tell you, to the best of my knowledge, he was honest in his dealings with me. And that's all I can comment on, you know. In my experience, and as I said when I heard about his comments on television since he had -- he's always told you that I had nothing to do with the management of Whitewater, that Hillary had nothing to do with it.

We didn't keep the books or the records, that this investment was made, as you know, back in 1978 and that we were essentially passive investors, that none of our money was borrowed from savings and loans and we had nothing to do with the savings and loan. So that's what he has always said, so when he said he didn't think this note that I, where I borrowed money from a bank, not an S.& L., in 1981 had anything to do with Whitewater, I started thinking about it. We talked about it; we couldn't remember what else it could have been until I literally just happened across that in reading my mother's autobiography.

Andrea?

On Accusations by Leach

Q. Mr. President, Congressman Leach made some very dramatic charges today. He said that Whitewater is really about the arrogance of power. And he didn't just mean back in Arkansas. He said that Federal regulators tried to stop investigators for the Resolution Trust Corporation in Kansas City from putting Whitewater into their criminal referrals. That would amount to a cover-up and possibly obstruction of justice. Do you have any knowledge of that?

A. Absolutely not. And it's my understanding -- let me just say this -- it's my understanding that Mr. Leach was rather careful in the words that he used, and apparently he didn't even charge that any political appointee of our Administration had a any knowledge of this.

So he may be talking about an internal dispute within the R.T.C. from career Republican appointees for all I know. Keep in mind, until I came here, all the appointees of the R.T.C. were hired under previous Republican Administrations. There has never been a Democratic President since there's been an R.T.C., and I can tell you categorically I had no knowledge of this and was not involved in it in any way, shape or form.

Q. In light of all that's happened so far, Mr. President, do you think you made any mistakes in the initial investment and in the way the White House has handled it?

A. I certainly don't think I made a mistake in the initial investment. It was a perfectly honorable thing to do, and it was a perfectly legal thing to do. I didn't make any money; I lost money. I paid my debts and then later on, as you know, Hillary and I tried to make sure that the corporation was closed down in

an appropriate way and paid any obligations that it owed, after we were asked to get involved at a very late stage, and after Mr. McDougal had left the S.& L. So I don't think that we did anything wrong in that at all. And I think we handled it in an appropriate way. We were like a lot of people. We invested money and we lost.

I'd be the last person in the world to be able to defend everything we've done here in the sense that whatever we did or didn't do has sparked an inordinate amount of interest in a 16-year-old business venture that lost money. But to suggest, let me just say again, I have had absolutely nothing to do, and would have nothing to do, with any attempt to influence an R.T.C. regulatory matter, and I think if you look at the actions of the R.T.C. just since I've been President, and you examine the facts, everybody that works there was appointed by a previous Republican Administration. The evidence is clear that I have not done that.

Q. You've been kind of tough at times on people you felt made out during the 80's, who didn't pay their fair share. Can you tell us, sir, tonight that you have abided by the very high ethical standards ----

A. Absolutely.

Q. ---- to which you've sought to hold others? And also, sir, if it turns out that you do owe something in back taxes, will you be prepared perhaps to revise some of those judgments you've made about others?

A. No, not at all. I ask you to tell the American people what percentage of my income I paid in taxes in every year where I reported my tax returns.

And let me tell you what my wife and I spent the 80's doing. I was the lowest-paid governor of any state in the country. I don't complain about it. I was proud of that. I didn't do it for the money. I worked on creating jobs and improving education for the children of my state. Every year I was Governor my wife worked in a law firm that had always done business with the state. She never took any money for any work she did for the state. And, indeed, she gave up her portion of partnership income that otherwise came to the firm and instead every year gave an enormous percentage of her time to public service work, helping children and helping education and doing a lot of other things, giving up a lot of income.

Now, we did that because we wanted to. The fact that we made investments, some of which we lost money on, some of which we made money on, has nothing to do whatever with the indictment that I made about the excesses of the 80's. And we always made every effort to pay our taxes. I would remind you that we, like most middle-class folk, we turned our records over to an accountant. We did -- I always told the accountant to resolve all doubts in favor of the Government. I never wanted any question raised about our taxes.

When it turned out, in our own investigation of this Whitewater business that one year we had inadvertently taken a tax deduction for interest payments when in fact it was a principal payment, even though the statute of limitations has run, we went back and voluntarily paid what we owed to the Federal Government. And if it turns out we've made some mistake inadvertently, we will do that again. But I have always tried to pay my taxes, and you'll see when you look at all the returns that we've always paid quite a considerable percentage of our

income in taxes.

Yes.

Q. Mr. President, one thing that's puzzled a lot of people is why, if you did nothing wrong, did you act for so long as if you had something to hide. And now that you're about to release these documents to the public, your tax records and other things, do you think it would have helped if you had released these documents to the public earlier? Would it have stopped this issue from reaching the proportions that it has?

A. I don't have any idea. But I don't think I acted as if I had anything to hide. After all, I did volunteer, I had already given out my tax returns going back to 1980. And then when -- keep in mind, when the furor arose at the request for the special counsel, even though everybody at the time said, well, we don't think that he's done anything wrong, there's no evidence that he or the First Lady have done anything wrong, we still think there ought to be a special counsel. I said we would give all this over to the special counsel.

It was only after the special counsel had all the information that the people who first wanted the special counsel decided they wanted the documents as well. So we're making them available. Perhaps I should have done it earlier, but you will see essentially what I've told you, and things that you basically already know.

On Use of Influence

Q. Mr. President, you said a few minutes ago that the people in the R.T.C. who are involved in Mr., in Congressman Leach's allegations, are all career Republican officials. But aren't they members of your Administration? And do you plan to take any action in speaking to either Mr. Bentsen or Mr. Altman about taking action and investigating Mr. Leach's charges?

A. I think the last thing in the world I should do is talk to the Treasury Department about the R.T.C. You all have told me that that creates the appearance of impropriety. I don't think we can have a -- it's not just a one-way street, it's a two-way street. I -- you know, Mr. Leach will see that whatever should be done is done. But I can tell you I have had no contact with the R.T.C. I have made no attempt to influence them. And you can see by some of the decisions that they have made that that is the furthest thing, it seems to me, that ought to be on your mind.

Q. You abandon all reponsibility for a department, a Cabinet department in your Government?

A. No. I haven't abandoned all reponsibility. You can't have it both ways. Either we can talk to them or we can't. And, you know, I just think this is a matter of public record now, and Mr. Leach will certainly see to it that it is looked into. He's already said that that's his job, and I'm sure he will see that it is.

Yes.

On Hillary Clinton's Role

Q. With so many questions swirling around Whitewater and the Rose Law Firm, there's some concern that the moral authority of the First Lady is eroding as well. Are you reconsidering her role as the point person for health care reform?

A. Absolutely not. Absolutely not. People should not be able to raise questions and erode people's moral authority in this country. There ought to, have to be, evidence and proof. We live in a time when there is a great deal of question-raising. It seems to be the order of the day. But I know what the facts are and I'm giving you the facts on this. Here we just had -- all these questions were raised about whether she was properly or improperly representing a client before a state agency -- to do something, I might add, that the Federal Government had asked savings and loans to do -- that is, go out and raise more capital to become more solvent -- so that's what she was doing, in the full light of day, in full disclosure.

Now we have, even in retrospect, an eminent national expert saying that she is getting a bum rap. When people ask questions that don't have any basis -- no, I think you should ask whatever questions you want to ask, and I think that we should do our best to answer them -- but I think that the 20-year record she made as a lawyer, never before having her ethics questioned, never before having her ability questioned, when everybody who knew her knew that every year she was giving up a whole lot of income to do public business, to advance the cause of children and to advance the cause of our state. No, I don't think so. I think in the end, when all these questions get asked and answered, her moral authority will be stronger than it has ever been because we will have gone through this process and been very forthcoming, as we are, to the special counsel.

And then in the end, people will compare how we did this with how previous Administrations under fire handled their business, and I think it'll come out quite well.

Q. Mr. President, the assassination of Mr. Colosia today has shaken the financial markets in this country, created doubt about the stability of Mexico. Mexico opens its stock market and banks tomorrow. You said you would help Mexico. What can the United States do to help Mexico in these trying times?

A. Well, first of all, let me say Mexico is a very great country that has made enormous progress, economically and politically. There is a lot of ferment and change going on there that is inevitable and that can be very positive. What I think the United States can do first of all is to tell the rest of the world that we know this about Mexico, they're our neighbors and we think they have a great future. And we don't expect any long-term damage to come from this terrible personal tragedy and political setback.

Second, the only business I did last night on this -- I called President Salinas as a friend as well as as the President of the United States to express my sorrow -- the only business I did was to talk to the Secretary of the Treasury about what we might be able to do in the event there was some sort of unusual trading against the Mexican currency. And there may be something we can do to step in and stabilize that. As you know, there've been times in the past when our friends have had to come to our aid; the Germans, the Japanese and others have come to our aid when there was unusual trading against the dollar. And we are prepared to try to help the Mexicans if that is necessary, but we hope it won't be.

Today we did just a little bit on Mexican securities when we suspended trading here in the United States for a very short time so that the American people who would be interested in this would at least be able to verify what the facts were, and what they were not, about the terrible incident last night. And I think that helped a bit; I certainly hope that it did.

On Public's Perception

Q. Increasingly, polls are showing that more and more Americans are unsure whether you acted properly in Whitewater -- that maybe you did something wrong. Does that concern you? And when do you think it would be proper for the first lady to answer questions about Whitewater?

A. Well, first of all -- does it concern me? Only a little bit. The truth is I'm amazed when I read in The New York Times or some place today that there'd been three times as much coverage of Whitewater as there had been of health care. I'm amazed that there hadn't been more change in the polls.

I think what the American people are really upset about is the thought that this investment that we made 16 years ago that lost money, that did not involve savings and loans, might somehow divert any of us from doing the work of the country and getting the economy going and dealing with health care and the other issues.

So in that sense, I think people are right to be concerned.

And they want to know that I'm going to answer the questions. A lot of people don't even know, I don't think, that there is a special counsel, that we have fully cooperated, that he has said we have, that the Watergate prosecutor, Sam Dash, contrasted our conduct with previous Presidents and said we'd been highly ethical. And we're moving forward.

Now, the First Lady has done several interviews. She was out in three different places last week answering questions exhaustively from the press. I think she will continue to do that. And if you have questions you want to ask her about this, I think you ought to ask the questions.

<HBOn Living Up to Standards

Q. Mr. President, during the campaign you said your Administration would set a higher standard, yet in the travel office case last year, your own chief of staff found that some of your aides used their official position to advance their personal interests. More recently we've seen a senior White House official delinquent in Social Security taxes that disqualified others from serving in your Administration and others in the White House neglecting until recently to undergo security clearance required of other Government officials handling classified information.

Why, sir, do you think it's so difficult for members of your staff to live up to your campaign promise?

A. First of all, let's deal with those things each in turn. Now, the finding was not that anybody who worked for me sought to advance themselves personally, financially in the travel office issue. That was not defined. We found that the issue had not been well handled, and I might say, unlike other White Houses

that stonewalled, denied or delayed, we did our own internal investigation, admitted what mistakes we made, and made some changes there. I'm proud of that.

Secondly, no one was barred from serving in our Administration because they hadn't paid Social Security taxes. The people were barred from serving in Presidential appointed positions that required Senate confirmation unless they complied with Administration policy. Mr. Kennedy did not do that entirely, and he has been reassigned. He has been under -- he's had a difficult time -- and I am convinced that he has done a lot of work that's been very valuable for us. But I think that he should not have done what he did; I think he should fully pay. He has done that. I think that's what he should have done.

Now when the White House passes -- let me just talk about what the facts are. About 90 percent of the people who work here have been through all the clearances. The others are going through the clearances. I learned, when I read about this, that apparently previous Administrations have had some of the same problems. That is, they'd been lax, because of the cumbersome nature of the process. We now basically put in rules that say that anybody comes to work here now has to get all this done in 30 days or is immediately on leave without pay. They can't get paid unless they do it. I asked Mr. McLarty and Mr. Cutler to fix this and make sure it never happens again, so I feel confident that we have. But since you raise the issue, let me also ask you to report to the American people that we have, and we have enforced higher standards against the ethical conflicts than any previous Administration.

People leave the White House; they can't lobby the White House. If they're in certain positions, they can't lobby the White House for a long time. If they're in certain positions now, they can never lobby on behalf of a foreign government. I have supported a campaign finance reform bill that I am hoping the Congress will pass, and I believe they will, which will change the nature of financing political campaigns. I've supported a very tough lobby reform bill, which will require more disclosure and more restraint on the part of lobbyists and public officials than ever before, and we will comply with those laws. So I think our record on balance is quite good, and when we make mistakes we try to admit them, something that has not been the order of the day in the past.

On Assessing the Blame

Q. Thank you Mr. President. So many things have happened since this Whitewater story broke or resurfaced depending on your point of view. Your counsel has resigned. A number of your top aides have been subpoenaed because of their contacts with Treasury officials in on the investigation. I'm curious: Who do you blame more than anything else for the Whitewater mess that the Administration is in now?

A. Well, I don't think it's useful to get into blame. I think what's important is that I answer the questions that you have that are legitimate questions, that I fully cooperate with the special counsel, which was requested widely by the press and by the members of the Republican Party and who is himself a Republican, that we fully cooperate. And we've done that. Senator Inouye from Hawaii pointed out today, he said I've been experienced in these investigations, he said, you folks have claimed no executive privilege, you've fully cooperated. No one can quarrel with that.

And then I get back to the work of getting unemployment down, jobs up, passing a health care bill, passing the crime bill, moving this country forward. I think the worst thing that can happen is for me to sort of labor over who should blame -- who should be blamed by this. There'll probably be enough blame to go around. I'm just not concerned about it.

Q. A follow up sir. Do you feel ill served in any way by your staff?

A. Well, I think on the -- I've told you what I think about these meetings. Now let's go back to the facts of the meetings. We now know that Mr. Altman's counsel checked with the ethics officer in Treasury before he came over and gave the briefing to the White House. But I have said, so it appears at least that the counsel thought that Mr. Altman had an ethical clearance to come and do this briefing. We certainly know that no one in the White House, at least to the best of my knowledge, has tried to use any information to in any way improperly influence the R.T.C. or any Federal agency.

Would it have been better if those meetings had not occurred? Yes, I think it would have been. Do we have people here who wouldn't do anything wrong but may -- but perhaps weren't sensitive enough to how something could look in retrospect by people who are used to having problems in a Presidency or used to having people not tell them the truth? I think that we weren't as sensitive as we should have been and I said before, it would have been better if that hadn't occurred.

But I think, you know, the one thing you have to say is you learn things as you go along in this business. None of this in the light of history will be remotely as important as the fact that by common consensus we had the most productive first year of a Presidency last year of anyone in a generation. That's what matters -- that we're changing people's lives. That's what counts, and I'm just going to keep working on it.

Yes.

On a Conflict of Interest

Q. Mr. President, you and your wife have both used the phrase "bewildered, confused" about why all the interest in Whitewater. Yet in the Arkansas savings and loan business, your wife represented Madison Savings and Loan before the Arkansas Savings and Loan Board whose head was a former lawyer who had done work for Madison Savings and Loan. Do you not see any conflicts of interest in your actions or your wife's actions which would appear to contradict what you just said about her not doing any work before the state, that would cause people to question -- --

A. I did not say that. I said that when my wife did business, when her law firm represented some state agency itself -- state agencies all over America use private lawyers -- if she did any work for the state she never took any pay for it. And when the firm got income from state work, she didn't take her partnership share of that income; she gave that up, because she wanted to bend over backwards to avoid the appearance of conflict.

Was there anything wrong with her representing a client before a state agency? And if you go back and look at the facts, that basically the firm wrote the securities commissioner a letter saying, Is it permissible under Arkansas

law to raise money for this S.& L. in this way? And it showed that she was one of the contacts on it. And the securities commissioner wrote her back and said it's not against the law. That was basically the extent of her representation.

Now all I can do is tell you that she believed there was nothing unethical about it. And today, in an interview Prof. Steven Gillers of New York University, who is a widely respected national expert on legal ethics, once again said there was nothing at all unethical in doing this. These kinds of things happen when you have married couples who have professions. And the most important thing there is disclosure. There was no sneaking around about this; this was full disclosure. Professor Gillers -- I brought the quote here -- said, "I think this is a bum rap on Mrs. Clinton, and I'm amazed that it keeps getting recirculated."

Now there's a person who doesn't work for us, whose job it is to know what the code of professional responsibility requires.

Yes?

Q. Mr. President, you and the First Lady have several times said that you've been amazed and dismayed by the intensity of both the opposition and the scrutiny surrounding Whitewater in particular. Has any of this been instructive for you? Have you taken any lessons from this ordeal whether it's about the Presidency, about the process, about the city, or anything?

A. Oh, I think I've learned a lot about it. I think one of the things that I've learned about it is that it's very important to try to decide what the legitimate responsibility of the President is to be as forthcoming as possible and to do it. It's important for me to understand that there is a level here, and this is not a blame, this is just an observation, because of the experiences of the last several decades, of which I was not a part in this city, I think there is a level of suspicion here that is greater than that which I have been used to in the past, and I don't complain about it, but I've learned a lot about it, and that my job is to try to answer whatever questions are out there so I can get on with the business of the country. And I think I've learned a lot about how to handle that.

I also learned here that there may or not be a different standard than I had seen in the past -- not of right and wrong, that doesn't change -- but what may appear to be right or wrong. And I think that you will see that like everything else, this Administration learns and goes on. We always learn from our mistakes, and we've proven that.

Yes sir, in the back.

From Korea to Russia

Q. Muchas gracias, Senor Presidente. I wonder if you realize the situation that is developing in Korea, what is the perspective? What will be the situation in South Africa next month? And do you believe that the former Soviet Union, Russia, has a stabilization and that will contribute peace to the world? How do you respond?

A. That's the quickest anybody ever asked me three questions at once.

Let me see, first of all, the situation in Korea is serious. And we have responded in a serious way. The North Koreans themselves have said they are committed to a non-nuclear Korean peninsula. We want that. We want a good normal relationship with them. They have terminated the I.A.E.A. inspections. We are examining what we can do. We're talking to our South Korean partners as well as to the Chinese, the Japanese, the Russians and others. We still hope that this can be resolved and we believe it can be. But the choice is really up to North Korea.

Will they be isolated form the world community or will they be a full partner? They could have a very bright future indeed. They have many contributions to make indeed to a united Korea and we hope that it will work out. But we did -- I did decide to deploy the Patriots on the recommendation of General Luck as a purely defensive measure in the wake of the difficulties we've had and we'll make further decisions as we go along.

With regard to South Africa, I am immensely hopeful. I have tried once to encourage Chief Buthelezi to join in the political process. And I still have some hope that he will. It is not too late, and they have made real efforts to try to accommodate the conflicts between national and local interests. But I think we will be celebrating in late April a great triumph of democracy of the first nonracial or multiracial democratic process in South Africa.

With regard to Russia, I think that on balance our relationship is still sound. It is based on our perception and their perception of our shared interests. And when we disagree we will say so. And we will act accordingly. But I do think that the Russians have made a constructive contribution to our efforts in Bosnia which are -- have had a lot of success. We've got a long way to go but we've had some real success and I'm hopeful that they will elsewhere. I know they made a suggestion on Korea today and we'll see what happens there.

On Alternative Health Plan

Q. Congressman Stark's health care bill doesn't do everything that you have proposed. Would you veto it if it reaches your desk?

A. No, because it does what I ask. It doesn't solve all the problems but it does provide universal coverage. It emphasizes the workplace -- that is, there is no tax on people unless they elect not to take out insurance. And it provides comprehensive benefits, which I think are very important, and it leaves Medicare alone with the integrity of Medicare. There's things that it doesn't do that I wish it did. I don't think it's as successful, or would be as successful in holding down costs and extending opportunities as our plan, but certainly if it were to be enacted by the United States Congress I would sign it because it meets the fundamental criteria I set up of covering all Americans with health care.

I guess we've got to go. Everybody wants to be watching these ball games, I think. You know, we're going to -- I'm going to make -- nobody's asked me if we're going to tax gambling or anything. Go ahead.

Q. Mr. President ----

A. This is a setup. It's my joke. Only people who bet against my team in the N.C.A.A. Go ahead.

On Past Tax Returns

Q. Mr. President, I take it that the tax returns you're putting out tomorrow are the ones that have already gone to the special counsel. If the special counsel wanted to question you about that, would you answer a subpoena? Would Mrs. Clinton? And what about Congressional hearings? What would be the protocol on going before Congress to explain it to them?

A. Well, let me answer the first question first. We decided, in addition to putting out the '78 and '79 returns, we should go ahead and put out the '77 returns -- that that would be an appropriate starting point because that's the year I first entered public life. And you know, I mean, there's, I know there's kind of a moving bar here. None of us are quite sure how far back anybody should go anymore about anything. But we thought that we would do that and at least you would then have a complete record of the money we earned and the taxes we paid -- Hillary and I together did -- as long as I've been in public life.

In terms of the information, I expect that the special council will want to question me and will want to question the First Lady.

It's my understanding that, typically, in the past it's been done in a different way. I mean, I will cooperate with him in whatever way he decides is appropriate. Similarly, if Congress wants any information direct from us, we'll of course provide it to them in whatever way seems most appropriate. Again, I understand there are certain protocols which have been followed in the past which I would expect would be followed here but I intend to be fully cooperative so that I can go back to work doing what I was hired to do.

Thank you very much.

Q. [Several reporters shouting] ----

A. No. I -- what I said, I made a joke about that. I said I was going to try to tax anybody who bet against my team in the basketball finals.

But I have made no decision on the financing of welfare reform. I can tell you this: It's a tough issue because we have to pay for anything we do. And we'll -- and there are all kinds of proposals out there. I know that the Republican welfare reform proposal has a lot of things in it that I like. But I think it's way too hard on financing things through savings from immigrants. I think it goes too far there. So there are no real easy answers. But I can say categorically that I have been briefed on a very wide range of options and that nobody in this Administration has made any decision -- and no one will make a decision except me -- about how to fund it. That decision has not been made.

We will come forward with that plan. We do think it offers the real promise of ending welfare as we know it, of moving people from welfare to work, if we can also guarantee these welfare parents that when they go to work their children will not lose the health care that they have on welfare, so they won't be punished for going to work. That's the key issue.

Thank you very much.

GRAPHIC: Photos: President Clinton defended himself against new Whitewater allegations at a White House news conference last night. (Stephen Crowley/The New York Times) (pg. A18); David R. Gergen, second from left, a senior Presidential adviser; Thomas F. McLarty 3d, the White House chief of staff, and Lloyd N. Cutler, the White House special counsel, listening to President Clinton at the White House during his news conference. (Michael Geissinger/The New York Times) (pg. A19)

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March 24, 1994, Thursday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1269 words

HEADLINE: White House Aide Who Failed to Pay A Tax Is Punished

BYLINE: By DOUGLAS JEHL, Special to The New York Times

DATELINE: WASHINGTON, March 23

BODY:

A senior White House lawyer, William H. Kennedy 3d, was stripped tonight of his job overseeing background checks of Administration appointees after lapses that suggested that he himself had sought to conceal embarrassing information.

The announcement, in a terse White House statement, followed an intensive review by top Clinton aides of Mr. Kennedy's conduct, including his failure until three weeks ago to pay 1991 Social Security taxes for a nanny employed by him and his wife.

Mr. Kennedy has also acknowledged taking the unusual step early last year -- about the time he was undergoing his own background review -- of using a check imprinted with his wife's old name to pay 1992 Social Security taxes for the nanny.

Mr. Kennedy, an associate White House counsel and a former law partner of Hillary Rodham Clinton, will be reassigned to less important duties within the counsel's office. In deciding not to dismiss him, Thomas F. McLarty 3d, the White House chief of staff, took into consideration that Mr. Kennedy is in the middle of a contentious divorce and has recently weathered other personal setbacks, a senior Administration official said.

Mr. Kennedy's failure to pay his 1991 taxes until recently was reported today in The Washington Post.

As the official responsible for reviewing the backgrounds of virtually every senior Administration appointee, any appearance that Mr. Kennedy concealed damaging information about himself is highly embarrassing. White House officials insisted that Mr. Kennedy had made an "honest mistake" in failing to pay his taxes, but they said the impression he had created had given Mr. McLarty and Lloyd N. Cutler, the White House's new special counsel, no option but to discipline him.

But the officials said that Mr. Kennedy had not informed the former White House counsel, Bernard W. Nussbaum, or Mr. McLarty about his original tax problem, and told White House officials only last month that he had owed taxes dating from 1991.

In a White House atmosphere supercharged by various accusations of misconduct, including those related to the Whitewater affair, officials said

today that Mr. Kennedy's troubles had been compounded by his responsibility for delays in forwarding to the Secret Service files with information about scores of White House officials.

Those delays were among the factors that kept the Secret Service from completing, until recently, reviews necessary for nearly 300 officials to receive permanent White House passes. White House officials offered no explanation tonight for Mr. Kennedy's withholding of those files, in some cases for many months, but they said mishandling of the process was as much a factor in his being disciplined as was his failure to pay the taxes.

First Test for Cutler

For Mr. Cutler, installed earlier this month as the White House's ethical guardian, Mr. Kennedy's case was the first test of a White House pledge that the conduct of the staff would be held to standards that could not be questioned.

Mr. Cutler, who met with Mr. Kennedy at length today, is continuing to review his handling of the Social Security tax matter, a senior White House official said tonight. In addition to being stripped of his role in overseeing the investigation of appointees and the issuing of passes, the senior official said, it was also possible that Mr. Kennedy could be demoted to assistant White House counsel.

In its statement, the White House said his place would be taken by another associate White House counsel, Beth Nolan.

Mr. Kennedy, 42, a former managing partner of the Rose firm, was reprimanded last summer after an internal White House review concluded he had improperly pressured the Federal Bureau of Investigation to assist the White House in its inquiry into wrongdoing in the travel office.

Except for Mrs. Clinton, he is the last member of the Little Rock firm still in the Administration, which also plucked from it Vincent W. Foster Jr., the deputy White House counsel who committed suicide last summer, and Webster L. Hubbell, who resigned as Associate Attorney General last week amid accusations from his former law partners that he overbilled his law firm and clients.

In an interview published this morning in USA Today, Mr. Clinton complained that news organizations had adopted a "presumption against the White House" in their coverage of the Whitewater case. But even before Mr. Kennedy's reassignment was announced, Mr. Clinton scheduled a prime-time news conference Thursday night in a step intended in part to confront new questions about the Whitewater matter.

At the White House, a spokewoman, Dee Dee Myers, insisted today that Mr. Kennedy had not intended to conceal either his failure to pay the 1991 taxes until recently or the 1992 payment he made earlier under his wife's name.

The White House was forced last year to withdraw several nominations for Administration posts after the nominees were similarly found to have failed to pay taxes for household help,most notably the President's first choice for Attorney General, Zoe Baird. A memorandum issued to the White House staff last March ordered that all such taxes be brought up to date.

Mr. Kennedy did not return telephone calls to his office today. He told The Washington Post that he had told Mr. Nussbaum and Bruce Lindsey, a senior adviser to Mr. Clinton, only in mid-February that he had a problem with his taxes.

Today, White House officials said that Mr. Kennedy explained to them in recent days that his nanny had asked to be paid in cash, and that he had agreed to do so through 1991 and 1992 but had left the details up to his wife. He said he had neglected to pay his 1991 taxes until recently because he was unable to determine how much the nanny had been paid.

The officials said he directed his accountants to estimate the 1991 taxes, and paid about $700 within the last three weeks, leaving it to the Government to determine interest and penalties.

The unusual circumstances in which Mr. Kennedy earlier paid the 1992 taxes for the same nanny were reported on Tuesday by The Wall Street Journal. The Journal said that Mr. Kennedy informed Mr. Foster, who had been his partner at the Rose firm, in January 1993 of his failure to pay the 1992 taxes, and arranged to pay about $3,000 in back taxes, interest and penalties. But Mr. Kennedy made the payment by check in his wife's former name, Leslie Gail McRae, who took his name when they married.

Mr. Kennedy's troubles have added to a deep sense of uneasiness at the White House, already feeling uncomfortable about Deputy Treasury Secretary Roger C. Altman's changing accounts of his discussions with Mr. Clinton's top aides about whether to recuse himself from a Resolution Trust Corporation inquiry into Madison Guaranty Savings and Loan, which was owned by the Clintons' partner in the Whitewater real estate venture, James B. McDougal.

Mr. Altman's changing accounts of those discussions, in four letters to Congress, have put the White House officials he has cited in an awkward position, and Lloyd Bentsen, the Treasury Secretary, has made what associates describe as an unmistakable effort to distance himself from his deputy by ordering Internal Revenue Service agents to search the offices of Mr. Altman and others for evidence of communications between them and the White House about the inquiry.

Clinton on TV

The following television networks have scheduled broadcasts of the President's news conference tonight at 7:30: CBS (channel 2), NBC (channel 4), ABC (channel 7), FOX 5 (channel 5), PBS, CNN and C-SPAN.

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HEADLINE: Clinton Taxes Properly Done, Official Says

BYLINE: AP

DATELINE: WASHINGTON, March 19

BODY:
One day after President Clinton said he was unsure if he owed back taxes, the White House said Saturday it was confident his tax returns had been "correctly done." But it added that if more money is owed, "any amounts underpaid will be paid."

Mr. Clinton told reporters on Friday that any mistakes on his and his wife's tax returns "certainly were not intentional."

His comments came amid increasing indications that the Clintons may have underpaid their income taxes over the past 15 years. The records are being scrutinized as part of the special counsel's investigation into the Clintons' investments in the 1980's in the Whitewater Development Corporation in Arkansas.

Asked how she was holding up under the Whitewater allegations, Hillary Rodham Clinton told NBC today after a speech on health care, "It breaks my heart for people to think that my husband and I would do anything wrong." She added: "You do what you have to do. Come visit us in the bunker some time."

John D. Podesta, the White House staff secretary, issued a statement today that said the Clintons' tax returns "have been professionally prepared by qualified C.P.A.'s, and we have confidence that they were correctly done."

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March 19, 1994, Saturday, Late Edition - Final

SECTION: Section 1; Page 1; Column 5; National Desk

LENGTH: 1435 words

HEADLINE: Review Likely to Find Taxes Were Underpaid by Clintons

BYLINE: By DOUGLAS JEHL, Special to The New York Times

DATELINE: WASHINGTON, March 18

BODY:

A review being conducted by President Clinton's personal lawyer is likely to conclude that the Clintons lost less money from their Whitewater investment than they have claimed and may therefore have underpaid their income taxes, associates of Mr. Clinton said today.

The review, by accountants working for the lawyer, David E. Kendall, may be concluded as early as next week, the associates said. They said the Clintons were considering whether to make the findings public after sharing them with Robert W. Fiske Jr., the special prosecutor who is looking into the Whitewater matter.

The associates of Mr. Clinton said they did not know by how much the Clintons might have overestimated their investment loss, which they claimed as a tax deduction, or underestimated their tax liability. But they said it appeared that the review would reach both conclusions.

Mr. Clinton moved today to pre-empt any criticism by telling news agency reporters that any mistakes made on his family's tax returns "certainly were not intentional." He said he was ready to pay back taxes if necessary.

"I don't think we owe any extra taxes, but I'm not sure yet," Mr. Clinton said in the interview. "If we do owe, we'll make it good."

Until now, the Clintons have cited a review prepared by a Denver accounting firm in 1992 in maintaining that they had lost $68,000 from their investment in an Arkansas land venture known as the Whitewater Development Company. But Mr. Clinton and his wife, Hillary, have chosen not to repeat that assertion in recent days, and Mrs. Clinton said in interviews last weekend that the couple might have underestimated their tax liability.

A tax return prepared for Whitewater last year at the direction of Vincent W. Foster Jr., the deputy White House counsel and former law partner of Mrs. Clinton who killed himself in July, also suggests that the enterprise had been closer to breaking even than the 1992 report. That review was commissioned by James Lyons, a Denver lawyer who was a campaign adviser to Mr. Clinton.

A study of Clinton tax returns in the April issue of Money magazine, which will be published soon, suggests that the couple may have underpaid their taxes by a total of about $16,000 from 1980 to 1992. The magazine estimates

that more than $8,000 of that comes from what the audit found to be questionable deductions related to the Whitewater investment. The article said the total amount the Clintons might owe to the Internal Revenue Service, including interest, could amount to $45,411.

Mr. Fiske, who is looking into a broad range of issues connected to the Clintons' investment in the Whitewater venture, is similarly expected to review the tax records. In weighing whether to make their own findings public, the Clintons may be interested in pre-empting any embarrassing findings by the special prosecutor while also providing answers to questions about the investment that have remained unresolved.

A senior White House official who discussed the status of Mr. Kendall's review said it was too soon to say for sure whether the Clintons overestimated their loss or underestimated their tax liability. But two associates of Mr. Clinton, who said both findings were expected, also said that it was unclear whether Mr. Kendall would provide specific estimates of the sums involved.

Mr. Clinton acknowledged today that he and his wife were trying to "go back over this" and said any revised findings would be shared with Mr. Fiske. The records from the Arkansas land deal have never been complete, and the Clintons have previously acknowledged taking $2,156 in unjustified tax deductions from Whitewater-related interest payments in 1984 and 1985. To make amends, they voluntarily repaid the Government $4,000 in back taxes and interest during the 1992 campaign.

In a magazine interview last weekend, Mrs. Clinton said that as new information about the real estate project was uncovered, it might reveal further tax liabilities. The First Lady said the couple would "act appropriately" if their lawyers determined that some taxes remained unpaid.

A senior White House official said today that it was uncertain when the couple would decide whether to make public Mr. Kendall's findings. Because Mr. Clinton has urged that Mr. Fiske, the special prosecutor, be left to reach his own conclusions about the Whitewater case, the official said the Clintons would want to seek his approval before releasing any revised judgments of their own.

But one Clinton associate said he believed that the Clintons would prefer to make available new findings about their Whitewater losses and tax liability -- even if they proved somewhat embarrassing -- rather than wait to see their earlier statements contradicted by Mr. Fiske.

Details on Contacts

In the meantime, a new detail in the tangled Whitewater case emerged today as Roger C. Altman, the Deputy Treasury Secretary, identified Harold M. Ickes, the deputy White House chief of staff, as the official he talked to about whether to recuse himself from any role in a Federal investigation of the Arkansas bank at the center of the affair.

The conversation is one of several contacts between Treasury and White House officials being reviewed by Mr. Fiske to determine whether they were proper. Last week, senior Administration officials said that Mr. Altman had told at least one senior White House official that he was trying to determine whether to recuse himself from the sensitive case, but today marked the first time that

Mr. Ickes was named as the person with whom he talked.

White House officials sought to minimize the disclosure that Mr. Ickes had been the official in whom Mr. Altman confided before recusing himself from the Resolution Trust Corporation inquiry into Madison Guaranty Savings and Loan Association, an Arkansas institution with ties to the Clintons. The owner of Madison Guaranty and his wife were partners with the Clintons in the Whitewater investment. Mr. Altman identified Mr. Ickes in a March 11 letter to Senator Donald W. Riegle Jr., Democrat of Michigan, but the document was not made public until today, when it was obtained and released by Senator Alfonse M. D'Amato, Republican of New York.

The White House moved to resolve another potentially embarrassing matter today by ordering a tightening of rules that had allowed nearly 300 staff members in the executive office to work for months at the White House without full security clearances, officials said. The office has a work force of about 1,000.

White House Passes

Thomas F. McLarty 3d, the White House chief of staff, ordered all employees to fill out background questionnaires by 6 P.M. These are needed to obtain permanent passes. Other White House officials said tonight that everyone except those hired since March 1 had now met that deadline. Mr. McLarty also imposed strict limits on how long the temporary passes could be used.

The questionnaires, which must be filled out by those seeking a permanent White House pass, ask applicants to detail their use of illegal drugs for the past five years and to describe any alcohol or financial problems. White House officials have said that delays in filling out the forms, rather than any effort to hide personal problems, have been the main reason that so many employees have obtained only temporary passes.

Even Mr. McLarty has obtained his permanent pass only in the last several weeks, White House officials said tonight. But the officials said he had received a full security clearance more than a year ago and indicated that a failure by others to complete the necessary paperwork had been responsible for the delay.

Law enforcement officials said today that some applicants who had completed the forms had admitted to illegal drug use, but said that most of these appeared to have taken drugs, like marijuana, only on a casual basis that does not usually disqualify applicants from Government jobs.

LAW FIRM'S COMPLAINT

LITTLE ROCK, Ark., March 18 (AP) -- The Rose Law Firm decided today to file a formal ethics complaint against a former partner, Webster L. Hubbell, who had been Associate Attorney General until this week, said someone familiar with the proceedings.

Mr. Hubbell could not be reached for comment.

A lawyer familiar with the matter said the complaint will be filed with the Arkansas Supreme Court's committee on professional conduct. The move comes after news reports that Mr. Hubbell may have overbilled clients and used the firm's money to pay personal expenses.

GRAPHIC: Photo: Five-year-old Sean Sausman of Burlington County, N.J., who wrote to President Clinton several times about his ambition to be President, was given a tour of the White House yesterday by the President. (White House Photo via Reuters)(pg. 11)

LANGUAGE: ENGLISH

LOAD-DATE: March 19, 1994

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March 16, 1994, Wednesday, Late Edition - Final

SECTION: Section B; Page 6; Column 3; National Desk

LENGTH: 1111 words

HEADLINE: Clintons' Investment Loss Is Disputed

BYLINE: By STEPHEN ENGELBERG, Special to The New York Times

DATELINE: WASHINGTON, March 12

BODY:

When questions first arose in early 1992 about Bill and Hillary Clinton's Ozark real estate venture, the Clinton Presidential campaign hired a Denver accounting firm that concluded that the couple had lost $68,000 on their investment.

The firm's report put questions about the Whitewater Development Company to rest during the campaign. And it has been the cornerstone of the Clintons' defense against allegations stemming from the investment. How could they be criticized, they argue, for a deal in which they had heavy losses?

But a tax return prepared for Whitewater last year at the direction of Vincent W. Foster Jr., the deputy White House counsel who committed suicide last July, suggests that the enterprise was closer to breaking even than the 1992 report asserted.

The discrepancy is not evidence of wrongdoing or that the Clintons are mistaken in calling the venture a losing proposition. But just how much money the venture lost -- and how much of that loss was borne by the Clintons -- are central questions in evaluating Republican charges that Whitewater was a sweetheart deal.

Back Income Tax Returns

The 1990 tax return was prepared last June. Mr. Foster, a longtime friend of the Clintons, was overseeing the preparation of back income tax returns that the company had failed to file and which the Clintons agreed to clear up when they sold their share in Whitewater shortly after Mr. Clinton was elected President.

Douglas R. Carmichael, a professor of accounting at Baruch College in Manhattan who is a former vice president of the American Institute of Certified Public Accountants, said the disparity between the report released by the Clintons and the Whitewater tax filing could not be attributed to differences in accounting methods.

"They just don't seem to be looking at the same project, the same entity," Mr. Carmichael said. "It's difficult to understand how they could possibly have been based on the same facts."

The Clintons regularly allude to the 1992 report, which was put together in three weeks by a Denver firm then known as Patten, McCarthy & Associates Inc.

[On Monday, Hillary Rodham Clinton told reporters, "When this is all over, it's going to be the same story we've been telling for two years: we made a bad investment, we lost money and there's really not much more to add to it."

[But while Mrs. Clinton referred in December to the $68,000 loss as "provable by the accountants," on Monday she said the White House "was trying to get an exact figure" for the venture, indicating that the Clintons may be moving away from their steadfast adherence to the report.]

Still, the White House has declined to answer questions about it, referring questions to James M. Lyons, a Denver lawyer and a friend of the Clintons who commissioned the report. In interviews over the last month Mr. Lyons generally defended the report's accuracy, but declined to make public its underlying documents.

Incomplete Records Mentioned

In the report, the firm said incomplete records had hampered its work and, where necessary, it filled gaps with judgments based on "experience" in similar projects.

Billed as a reconstruction of Whitewater's finances, the report is centered on a two-page balance sheet and income statement that says the Whitewater partners lost a total of $157,000 -- $68,300 by the Clintons and the rest by the their partners, James B. McDougal and his wife, Susan.

The special prosecutor in the Whitewater matter, Robert B. Fiske Jr., is examining charges that Mr. McDougal bore a disproportionate share of its risk at a time when his savings institution, the Madison Guaranty Savings and Loan Association, sought favorable rulings from state regulators appointed by Mr. Clinton, who was then Governor of Arkansas, or whether Mr. McDougal improperly used Madison to prop up the venture.

Mr. McDougal has said that he paid for most of the losses, and that the Clintons lost no more than $13,500. Before his campaign issued the report, Mr. Clinton contended that he had lost $25,000.

Whitewater had its roots in a 1978 investment by the two couples. They purchased land along the White River in the Ozarks of northern Arkansas, hoping to ride a boom in vacation and retirement homes. But while other investors who bought similar land at the same time made quick profits or broke even, Whitewater was left with most of its lots unsold when the real estate market soured in the early 1980's.

The Clintons finally ended their involvement in Whitewater in December 1992, selling their stake to Mr. McDougal for $1,000.

As part of the sale, the Clintons agreed to file tax returns that the company had neglected in previous years. Mr. Foster, who had been a partner of Mrs. Clinton's at the Rose Law Firm in Little Rock, Ark., took on the work and brought it with him when he moved to Washington.

Accountants generally give great weight to tax documents because the filing of a knowingly false return is a crime under Federal law.

The Patten report paints Whitewater as an indisputably failed investment. It puts the company's cumulative losses as of May 31, 1991, at $118,000. On the tax return, cumulative losses -- listed as an entry for retained profits or losses -- as of the same date are reported at $58,000.

At Odds Over Land Holdings

Laurence Goldfein, head of litigation services at Richard A. Eisner & Company, a forensic accounting firm based in New York City, said that judging by the tax return, it appears that if the company was able to collect the money it was owed -- its receivables -- and sell its remaining land, the cumulative loss on the Whitewater deal falls to only $15,000.

The two documents are even at odds over the company's land holdings. On the tax return, the company owns $27,000 worth of land as of May 31, 1991. On the 1992 Patten report, it had none as of the same date. It is not clear what land could be referred to in the tax filing but, while Whitewater purchased no new lots, it had in previous years repossessed land whose buyers had defaulted.

Whitewater did not file tax returns for several years. Returns for 1990-1992 were drawn up last June by a Little Rock accounting firm hired by Mr. Foster; the 1991 return is dated June 21, 1993.

Mr. Goldfein said a complete set of Whitewater records might yet explain the disparities between the return and the Patten report. Financial statements and tax returns can differ, he said, but should agree on basic data, such as how much land is owned.

"They don't reconcile in any fashion whatsoever," said Daniel Beneish, professor of accounting at Duke University. "I don't see the link."

LANGUAGE: ENGLISH

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March 14, 1994, Monday, Late Edition - Final
Correction Appended

SECTION: Section B; Page 6; Column 4; National Desk

LENGTH: 725 words

HEADLINE: Clinton Partner Denies One Allegation

BYLINE: By DAVID E. ROSENBAUM, Special to The New York Times

DATELINE: WASHINGTON, March 13

BODY:

As Democrats and Republicans continued bickering on television this morning over whether Congressional hearings should be held on the Whitewater case, Bill and Hillary Clinton's business partner in the Arkansas land venture that gave the case its name said that one main instance of supposed wrongdoing never occurred.

The former partner, James B. McDougal said on the ABC News program "This Week" that "in no way, shape, form or fashion" did any money from a savings and loan he headed go "into a Clinton campaign."

Mr. McDougal held a fund-raising event in 1985 to help Mr. Clinton pay off a $50,000 loan that had helped finance his 1984 campaign for re-election as Governor of Arkansas. One matter under investigation by the independent counsel, Robert B. Fiske Jr., is whether any money raised by Mr. McDougal came from the savings and loan, Madison Guaranty. The savings association ultimately collapsed at a cost to the Federal Government of more than $60 million.

Mistake by Aides

Mr. McDougal, his head shaven, sat stiffly before the camera in a high-backed leather chair in his office in Arkansas and complained that the Clintons were refusing to give him corporate records of the Whitewater Development Company that he needed to complete his income taxes.

A White House spokeswoman responded this afternoon that all the records had been turned over to the independent counsel. She said she did not know if the Clintons had kept copies.

Mr. McDougal said he did not believe that the Clintons had committed any crime, but he suggested that material in the records might somehow embarrass them.

The new White House counsel, Lloyd N. Cutler, appeared on all three network interview programs this morning and said that White House aides had made a mistake by discussing the Madison investigation in meetings with officials from the Treasury Department and the Resolution Trust Corporation, the agency managing the savings and loan bailout.

But on the NBC News program "Meet the Press," Mr. Cutler said the mistake was "more the appearance of those meetings than anything else."

Between the lines of Mr. Cutler's remarks, one aspect of the White House strategy began to take shape. The White House seems to hope that Mr. Fiske will deal first with the meetings between Treasury Department and White House staff members on Madison Guaranty, as he has said he might, and publish an interim report exonerating Administration officials of wrongdoing on that angle of the case.

Then, they may hope to argue that since nothing wrong has been done since Mr. Clinton became President, Congressional hearings are unnecessary.

Having been named to his position only on Monday, Mr. Cutler said he had not had time to review many relevant documents.

But, he declared: "From everything I have heard, it seems to be clear that no effort was made by any White House people to indicate to the Treasury people what they ought to do, and, indeed, the Treasury and the R.T.C. did not change their position."

Mr. Cutler and the Speaker of the House, Thomas S. Foley of Washington, argued that Congressional hearings should not take place until Mr. Fiske had completed his inquiry.

But Senators Bob Dole of Kansas, Alfonse M. D'Amato of New York and William S. Cohen of Maine and Representative Jim Leach of Iowa, all Republicans, maintained that public hearings were necessary to clear the air.

Mr. Cutler insisted that his job was to advise the President in his public duties and that Whitewater matters would be handled by the Clintons' personal lawyer, David Kendall.

Possibility of Back Taxes

Mr. Kendall said in an interview published this week in U.S. News & World Report that the Whitewater investigation might end up showing that the Clintons would have to pay some back taxes.

Mrs. Clinton, in interviews with Time and Newsweek to be published on Monday, said she and the President would pay whatever additional taxes they owed.

In the interviews Mrs. Clinton took an approach often favored by politicians, admitting that mistakes had been made but rarely saying precisely what they were. For example, in the Newsweek interview, she said: "Clearly there were lots of missteps along the way. I'd be the first to say that, and obviously I wish there weren't because this thing has gotten blown so out of proportion.

CORRECTION-DATE: March 15, 1994, Tuesday

CORRECTION:
An article yesterday about the Whitewater case misstated the source of a report that David Kendall, Bill and Hillary Clinton's lawyer, believed the Clintons might owe some back taxes on their real estate investment in the Ozarks of Arkansas. The report, published this week in U.S. News & World Report, was

attributed by the magazine to unidentified "insiders," not to Mr. Kendall.

GRAPHIC: Photos: Lloyd N. Cutler, the White House counsel, receiving makeup before a network interview program yesterday. (Associated Press); As aides sought to still the call for Congressional hearings on Whitewater, President Clinton strolled down the colonnade at the White House yesterday before going to Detroit for an international conference on chronic unemployment and stagnant wages in the industrialized nations. (Reuters)

LANGUAGE: ENGLISH

LOAD-DATE: March 14, 1994

LEVEL 1 - 178 OF 204 STORIES

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February 27, 1994, Sunday, Late Edition - Final

SECTION: Section 4; Page 14; Column 1; Editorial Desk

LENGTH: 671 words

HEADLINE: Slovenly White House Ethics

BODY:

President Clinton and his helpers keep saying they have nothing to hide on Whitewater. So some evil genie must be making them act as if they do. The latest affront is the boneheaded conclave convened by Deputy Treasury Secretary Roger Altman to give a "heads up" to three White House officials about the Resolution Trust Corporation inquiry into a savings and loan association connected to Mr. and Mrs. Clinton.

Mr. Altman said he wanted to brief Bernard Nussbaum, the White House counsel, Harold Ickes, the deputy chief of staff, and Margaret Williams, the First Lady's chief of staff, on when the statute of limitations would run out on the R.T.C. investigation of Madison Guaranty Savings and Loan.

That is an interesting question and not unrelated to other questions that Republicans on the Senate Banking Committee and other reasonably curious Americans would like to have answered. Here are four:

1. Was Madison used to convert Clinton campaign funds to personal funds for the then Governor?

2. Did a regulator appointed by Governor Clinton go easy on Madison because it was owned by the Clintons' political ally, James McDougal, who was also the Clintons' business partner in the Whitewater Development Company?

3. Did the Clintons pay the same amount of money for their half share of Whitewater that Mr. McDougal paid for his? This question is important because it bears on whether Mr. Clinton, while Governor, received gifts or claimed undeserved tax deductions in connection with Whitewater.

4. Did Mrs. Clinton's law firm behave properly in its dealings with Madison and bank regulators?

Given that such questions are now before a special counsel and the R.T.C., a meeting between Mr. Altman and top White House aides was improper on its face. It could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the sham ethics of the early Reagan Administration. That crowd believed conflicts of interest could not exist since they could not conceive of letting any law or rule of propriety interfere with the political and financial interests of the President or his buddies.

The stated reason for this meeting will not wash. Information on the statute of limitations could be had from the newspapers or a brief memo from the R.T.C. legal staff. Senator Alfonse D'Amato and Representative Jim Leach therefore

have reason to suspect that the goal of the meeting was to control political damage or compromise the R.T.C.'s investigation. Who knows what the White House has learned about the R.T.C. findings? After all, it was only through Mr. D'Amato's efforts that the Government released an R.T.C. document suggesting that Mrs. Clinton's law firm had failed at proper disclosure of its dealings with Madison.

In response to bad publicity, Mr. Altman has recused himself from the R.T.C. inquiry on Whitewater. His R.T.C. deputy should now take over all his duties at the agency until a permanent director is appointed. Senator Donald Riegle, the chairman of the Senate Banking Committee, needs to step up his committee's oversight activities. Other Democrats like Senator John Kerry need to cease their myopic defense of Mr. Clinton on a matter about which neither the Senator nor the public has been fully informed.

Opposition leaders are right when they say that a Republican White House that so recklessly meddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless Congressional investigations. It is time for the Democratic Congressional leaders, Thomas Foley and George Mitchell, to try to educate this White House about the normal protocols of governance. Explaining what Representative Leach meant when he said "arm's length" would be a start.

Clinton aides behave as if their President had deep deposits of public trust. In fact, that account was pretty slim when Mr. Clinton got to Washington, and it is just about tapped out now.

LANGUAGE: ENGLISH

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LEVEL 1 - 181 OF 204 STORIES

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February 7, 1994, Monday, Late Edition - Final

SECTION: Section A; Page 14; Column 1; National Desk

LENGTH: 2175 words

HEADLINE: Clintons' Whitewater Investment: Details of a Land Deal That Soured

BYLINE: By STEPHEN ENGELBERG with JASON DePARLE, Special to The New York Times

DATELINE: FLIPPIN, Ark.

BODY:

The Ozark air smelled of easy profits on Aug. 2, 1978, when Arkansas's hottest young politician walked into a tiny bank here and set in motion what has become one of the most closely examined sets of financial transactions in the state's history.

At age 32, Bill Clinton was in the midst of the campaign that a few months later would make him the nation's youngest governor. With a meager salary, few assets and no business experience, he was scarcely in a position to ride a land boom, even one that seemed to promise lucrative returns at low risk.

But Mr. Clinton arrived with a financially impressive partner, James B. McDougal, a former Congressional aide turned land developer. It was Mr. McDougal's personal wealth, bank officials said, that allowed them to approve the $183,000 loan taken out by Mr. Clinton and his wife, Hillary, and Mr. McDougal and his wife, Susan, to buy the land.

Frank Burge, a bank officer who was present for the closing, recalls Mr. Clinton and his wife being surprisingly "uninquisitive" as they took on what, to that point, was their largest financial liability. After a cursory look, the four partners signed the papers that brought them 230 acres of Ozark property that day, and a Federal investigation 15 years later.

"The crux of the whole deal was McDougal was trying to do something to help Bill," said Mr. Burge, who was then senior vice president at Citizen's Bank and Trust of Flippin. "They all thought they were going to be rich."

That did not happen. Today only a handful of small homes dot the hilly land that the couples bought at the juncture of Crooked Creek and the White River.

Last month, a special prosecutor began setting up shop in Little Rock to look into a host of questions. Many arise directly from the venture's tangled finances, in particular whether Mr. McDougal improperly diverted money from his savings and loan, Madison Guaranty, to shore up or benefit the Clintons. The prosecutor, Robert B. Fiske Jr., will also examine whether Mr. Clinton showed favoritism to Mr. McDougal in later years as Madison moved toward collapse.

Among the topics that Mr. Fiske will confront is the Clintons' contention that they and their partners lost $160,000 on a $203,000 land purchase. The prosecutor has also said he will range far beyond Arkansas to events since Mr.

Clinton became President, including the suicide of a longtime friend and top White House aide, Vincent W. Foster Jr.

Interviews with several dozen people and a review of land documents, mortgages, and other records provide only partial answers to the questions about the venture's finances.

But what does emerge clearly is a portrait of a deal born in a boom that quickly fizzled, and that had its origins in the kind of interplay of personal, political and governmental interests that has become synonymous with the words Whitewater Development Company.

Seeing Opportunity On Banks of River

In the summer of 1978, the small business circles of Marion County were abuzz with word of the largest land deal in the county's history. A 3,200-acre parcel of riverfront property was about to become available after years of being tied up in an Oklahoma bankruptcy court.

It was viewed as a particularly ripe opportunity, since the picturesque Ozark county, about a three-hour drive north of Little Rock, had recently begun to attract prosperous retirees fleeing Illinois and other wintery states.

Land that had recently sold for $75 an acre was suddenly fetching $500, and some people thought that development might even surpass ranching and dairy as the county's economic lifeblood. "A lot of people who were shrewd investors found out it was easier to graze Yankees than to graze cattle," Mr. Burge said. "Everyone was doing it."

Six Marion County businessmen joined to capitalize on the bankruptcy sale, forming a corporation called 101 River Development. The partners included a real estate agent, Terry Wood; the president of Citizen's Bank, James N. Patterson, and the man who was running Mr. Clinton's campaign for governor in Marion County, Kearnie Carleton.

Before going through with the $1.4 million purchase, the group lined up 15 sets of buyers for parcels of the 3,200 acres. One was the Clintons and the McDougals. The inclusion of the Democratic nominee for governor seemed to bode well for Marion County, and its hopes of spurring development.

"You do things for a guy, you get him indebted to a degree," said Steven Sanders, who was then a director of Citizens Bank and Trust. "At least you get access."

Mr. Sanders said the addition of Mr. Clinton, who was Arkansas Attorney General at the time and considered a shoo-in for governor, also lent the deal a form of subtle elan.

"You bring in one of these politicians just to use their name," Mr. Sanders said. "You say, 'Oh, the Governor's involved in this deal.' "

One Small Hurdle: Raising the Money

There remained an important question: How would the Clintons and the McDougals raise the $203,000 they needed to buy their piece of the land?

As a public official, Mr. Clinton had a big name but a small purse. His job as Attorney General paid only $26,500 a year; his elevation to governor would raise that only to $35,000. His wife, who had kept her maiden name of Hillary Rodham, had only recently begun working at Little Rock's prestigious Rose law firm. Officials of Citizens Bank and Trust said the couple had few financial assets.

"Clinton himself couldn't have gotten the loan," Mr. Sanders said. "McDougal was the guarantee of the resource here," Mr. Sanders recalled, and Mr. Burge agreed.

Even so, the bank's board insisted that both couples personally guarantee the note, rather than letting them take out a loan under some corporate entity. "There was even some discussion: isn't it rather impudent of you to require the future governor to sign such a thing?" Mr. Sanders said. "Some of the directors felt it was a little insulting."

That loan covered all but a down payment of $20,000. Mr. Burge said he then believed that the couples were putting up their own money, as is customary. But the Clinton campaign acknowledged in 1992 that the couples had taken out a $20,000 loan from another Arkansas bank, meaning that the entire land purchase was financed with borrowed money. Mr. Burge said he was surprised to learn of this from recent newspaper articles on Whitewater.

Some local real estate agents contend that the couples paid an unusually high price for the land. Just 19 days before the Clinton purchase, the entire 3,200-acre tract had been bought by 101 River Development for $1.4 million, an average of $440 an acre. The land was then resold by the company to the 15 purchasers or partnerships.

The Clintons and the McDougals paid $880 an acre for their land, making it the most expensive single parcel of the 15. Several 101 River partners said the high price was justified by the Clinton tract's view of the White River and Crooked Creek. And Mr. McDougal, they say, should have been savvy about land values in Marion County from his previous deals.

Other land agents wondered, insisting that at these prices, access to the river was more important than the view. "I know what land values are," said Bobby Joe Baker, a local real estate agent who had helped begin the land boom with some well-placed advertisements in Chicago newspapers. "They paid three times what that land was worth."

Land Is Here. Where Are Buyers?

Mr. Clinton won the November election easily, took office as Governor in January 1979, and soon brought Mr. McDougal into the state government as an economic development aide.

In 1979, in Mr. Clinton's first term as Governor, the Clintons and the McDougals formed the Whitewater Development Company and transferred the land to it. The company officers were James and Susan McDougal; the Clintons were shareholders, entitled to half the company's profits and obligated for half its debt.

Land records valued the property at $250,000. In a 1992 interview, Sam Heuer, Mr. McDougal's lawyer, said the increase reflected his client's additional investment of $46,000 for roads, surveying and subdividing the land.

Whitewater was ready to sell, but the local land market was already souring. The size of the original 3,200-acre deal meant that many lots were coming up for sale simultaneously, while rocketing interest rates discouraged buyers.

Carol Wood, a Marion County real estate agent, remembers it as a frightening time. Her husband, Terry, was president of the 101 River Development Company. She and another Marion County land agent, Nancy Watts, had bought a 378-acre tract from the company for $486 an acre. But Mrs. Wood now had to scramble to make a modest profit before recession arrived in the early 1980's.

In fact, almost everyone involved in buying the 101 River land, except the Clintons and the McDougals, either broke even or made money, Mr. Wood id.

He said Whitewater, too, could have made money if it had sold its lots quickly. "Maybe they spent money on things they didn't need to," he said. "They should have gotten their investment back in 18 months."

The Clintons say Whitewater lost $160,000 of its original $203,000 investment. But since the Clintons have refused to make public the underlying documentation, that contention cannot be verified.

As of May 1980, according to an incomplete account of Whitewater's finances released in 1992 by the Clinton campaign, only a handful of lots had been sold. And of the $60,500 in sales, only $10,000 had been collected, with the rest tied up in installment contracts.

Whitewater was in a squeeze. But the partners disagree about who kept the company afloat.

In a 1992 interview, Mr. McDougal said: "I put money into it. Money was owed me. I don't remember them putting anything in."

Bruce Lindsey, a senior White House official, said the Clintons made $22,000 in interest payments on the bank loan in 1978 and 1979. The Clintons have declined to release copies of the checks or their tax returns for those years.

Trying to increase sales in 1981, Whitewater built a modest house on one of the lots, to help buyers envision what their own might look like. Mrs. Clinton borrowed $30,000 for the house, in her name, not Whitewater's, from the Kingston Bank and Trust, a bank owned by Mr. McDougal, who had by then left government work. Regulators frown upon bank executives making loans to their own corporations.

Whitewater made payments on the $30,000 loan, but the Clintons improperly deducted the interest on it from their personal taxes, the campaign acknowledged in 1992.

In 1983 and 1984, the company sold no property. Interest charges mounted, and Mr. McDougal shuffled tens of thousands of dollars from his other ventures to pay the bills. In at least one instance, more than $5,000 came from Madison Marketing, an advertising company owned by Mrs. McDougal, whose sole client

was her husband's savings and loan.

Similar Inquiry, Different Approach

By mid-1985, Whitewater still had 24 lots on its hands. At the end of May that year, the company transferred all of its remaining property to Chris Wade, the Flippin real estate agent who was Madison's chief sales agent. Mr. Wade said that in return he gave Whitewater an airplane worth $35,000 that was used by Madison and eventually sold to Mr. McDougal, and agreed to repay $35,000 of the $100,000 the company still owed on the original loan from Citizen's Bank and Trust.

The grand dream of a developed community along the banks of the White River never materialized. Mr. McDougal lost control of his savings and loan in 1986 and later was tried and acquitted on Federal bank fraud charges. The collapse of his savings and loan cost taxpayers $60 million and left him bankrupt; he lives today on a pension.

Federal investigators are now poring over bank records and other documents to determine whether Mr. McDougal improperly diverted money from his savings and loan to Mr. Clinton's campaign for governor or to Whitewater, or in any other way that might have benefited the Clintons.

There are questions about how Arkansas regulators responded to the early signs of collapse at Madison, at a time when Mr. Clinton and Mr. McDougal were still united in a costly business failure. The collapse of Madison cost taxpayers $60 million.

Since the case arose as a national political issue, the Clintons have been reluctant to make public the underlying documents and records that would dispel questions about Whitewater's finances.

They handled a similar inquiry very differently in 1979, when a reporter for The Arkansas Democrat found out about the land deal and began pressing for details.

Mr. Burge, the banker, said he told the reporter that such information was private. A few days later, he said, Mr. Clinton telephoned him to waive his privacy rights.

"He said, 'Tell them the truth; I've got nothing to hide,' " Mr. Burge said. "So I just told them what they wanted, and right after that the story died."

GRAPHIC: Photos: Trying to increase sales in 1981, the Clintons built a modest house to help buyers envision what their own might look like. The current owner has posted a message to the press, saying, "Go Home Idiots." In the summer of 1978, the small business circles of Marion County were abuzz with word of the largest land deal in the county's history. A 3,200-acre parcel of property fronting the White River was about to become available after years of being tied up in an Oklahoma bankruptcy court. (Photographs by Alan S. Weiner for The New York Times)

Map of Arkansas showing location of the site of Ozark property.

The New York Times, February 7, 1994

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LEVEL 2 - 2 OF 3 STORIES

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April 16, 1993, Friday, 2 STAR Edition

SECTION: A; Pg. 17

LENGTH: 486 words

HEADLINE: Clintons paid $ 70,000 in '92 federal taxes, 24% of their income; They made $ 290,000, return indicates

BYLINE: CHARLES R. BABCOCK; Washington Post

DATELINE: WASHINGTON

BODY:
WASHINGTON -- Like lots of other taxpayers on Thursday, Bill and Hillary Clinton wrote a check to the Internal Revenue Service.

Their federal income taxes totaled $ 70,228 -- about 24 percent -- of an adjusted gross income of $ 290,697, according to copies of the return released by the White House. The Clintons made a $ 4,085 payment.

Vice President Al Gore and his wife, Tipper, reported $ 622,838 in income for 1992, including $ 461,529 from royalties on hardcover sales of his best-selling book, ""Earth in the Balance: Ecology and the Human Spirit,'' according to their tax return. They paid $ 166,979 in federal taxes.

The Gores donated $ 50,000 of the royalties to the University of Tennessee to establish a chair focusing on global environmental issues in honor of the vice president's late sister.

The Gores listed $ 61,876 in itemized deductions, including $ 1,928 in other charitable donations, most in the form of equipment donated by Mrs. Gore's family plumbing business for victims of Hurricane Andrew.

They paid no state taxes, a spokeswoman said, because Tennessee does not have an income tax. Gore was exempt as a member of the Senate from Virginia taxes, and Mrs. Gore did not owe any.

As has been the case for many years, Hillary Rodham Clinton provided the bulk of the Clintons' income. She reported wages of $ 203,172 from the Rose law firm in Little Rock, Ark. She reported nearly $ 110,000 in income from the firm the previous year. A spokeswoman noted that her salary from the firm was based on a five-year average, not her work last year when she spent most of her time campaigning for her husband. In addition, she received 15 months' worth of her pay during calendar 1992.

Mrs. Clinton also reported receiving $ 32,400 in directors' and speaking fees and a $ 13,199 capital gain on the sale of her

interest in a partnership that owns the firm's office building.

The president was paid $ 34,527 as governor of Arkansas.

The Clintons took $ 39,190 in itemized deductions, including $ 18,576 in state and local taxes and $ 19,452 in charitable donations.

They also reported a $ 1,000 gain from the sale of their interest in Whitewater Development Corp., a land deal that became an issue last spring after disclosure that a partner, James McDougal, had been the head of a troubled state-chartered savings and loan. Spokeswoman Ricki Seidman said the Clintons sold their half-interest in the unsuccessful 230-acre Ozark Mountain resort development back to McDougal and his wife.

Though the Clintons said they lost thousands of dollars on the investment, they listed its initial value for tax purposes as zero.

""They decided to take the most conservative position,'' Seidman said. ""The IRS needs extensive documentation to establish basis and not all the documentation was available, so they declined to show the loss. ''

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HEADLINE: Clintons Pay $ 70,228 in Tax on Income of $ 290,697 Last Year

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BYLINE: Charles R. Babcock, Washington Post Staff Writer

BODY:

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LOAD-DATE: October 14, 1993

MEMORANDUM

TO: OIC Task Force

FROM: Brett Kavanaugh

RE: Madison/CMS in Jan.-July 1993

DATE: July 18, 1997

Attached are portions of the Senate Whitewater Committee's final report regarding Madison/CMS issues of which White House officials, including Vincent Foster, might have been aware during the first six months of the Administration.

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104TH CONGRESS
2d Session
SENATE
REPORT
104–280

INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

JUNE 17, 1996.—Ordered to be printed

Filed under authority of the order of the Senate of June 13, 1996

Mr. D'AMATO, from the Special Committee to Investigate Whitewater Development Corporation and Related Matters, submitted the following

FINAL REPORT

together with

ADDITIONAL AND MINORITY VIEWS

PREFACE

On May 17, 1995, the United States Senate, by a vote of 96–3, adopted Senate Resolution 120, which established the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereinafter the "Special Committee"), to be administered by the Committee on Banking, Housing, and Urban Affairs (the "Banking Committee"). Resolution 120 charged the Special Committee with the responsibility to conduct an extensive investigation into and to hold public hearings on specified matters relating to the President's and Mrs. Clinton's investment in Whitewater Development Corporation ("Whitewater") along with James and Susan McDougal, Madison Guaranty Savings and Loan Association ("Madison Guaranty"), and related matters.

In discharging its responsibilities under Resolution 120, the Special Committee deposed 274 witnesses and held 60 days of public hearings, during which 136 witnesses testified. The Committee also reviewed approximately 1 million pages of documents produced by the President and Mrs. Clinton, the White House, various federal agencies, and a number of individual witnesses.

Resolution 120 authorized the Committee to investigate and to hold public hearings into three general subject areas: Section 1(b)(1) authorized investigation into whether White House officials

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S&L and the Whitewater real estate investment. Parts of this larger pattern include (i) Mrs. Clinton's decision in 1988—when federal investigators were examining possible misconduct leading to Madison Guaranty's failure just two years before—to order the destruction of records relating to her representation of this S&L; (ii) Mr. Foster's and Mr. Hubbell's improper and unauthorized 1992 removal of Rose Law Firm records and files relating to Mrs. Clinton's representation of this corrupt S&L; and (iii) and the improper communication to White House officials during the fall of 1993 of confidential information relating to ongoing criminal investigations of Madison Guaranty and of Capital Management Services, Inc., a small business investment company also central to the Whitewater affair.

By the time of Vincent Foster's death in July 1993, the Clintons had established a pattern of concealing their involvement with Whitewater and the McDougals' Madison Guaranty S&L

The actions of senior White House officials and other close Clinton associates in the days and weeks following Mr. Foster's death cannot be viewed in a vacuum. Their actions were but part of a pattern that began in 1988 of concealing, controlling and even destroying damaging information concerning the Whitewater real estate investment and the Clintons' ties to James and Susan McDougal and the Madison S&L. Indeed, at the time of Mr. Foster's death, the Clintons and their associates were aware that the Clintons' involvement with Whitewater land deal, the McDougals, and the Madison S&L might subject them to civil liability and even criminal investigation.

In 1988, Mrs. Clinton ordered the destruction of records relating to her representation of Mr. McDougal's Madison S&L.[11] This was not a routine destruction of records. At the time, federal regulators were investigating the operation and solvency of Madison in anticipation of taking it over. These Rose Law Firm records, which after Madison's failure would have belonged to the Resolution Trust Corporation ("RTC"),[12] were directly relevant to that investigation.

By ordering their destruction, Mrs. Clinton eliminated pertinent records and also exposed her firm to potential liability with respect to her representation. Indeed, if such representation was proper, as Mrs. Clinton has claimed, her document destruction deprived the law firm of the records necessary to defend itself in a suit by federal investigators. Moreover, in 1988, Seth Ward, a former associate of Mr. McDougal and Webster Hubbell's father-in-law, was actually suing Madison Guaranty over a land deal that federal regulators have described as a fraud.[13] Mrs. Clinton had performed work on the project, including having numerous telephones calls and meetings with Mr. Ward, and the law firm record of her work and the transactions surrounding this land deal certainly would have been highly relevant to the conduct of that suit.

Accordingly, Mrs. Clinton's destruction of documents could constitute a breach of legal ethics and, possibly, a violation of law if done with the knowledge that the documents are material to investigations or ongoing litigation.[14] Professor Stephen Gillers of New York University, a noted ethics expert, has recently stated: "I don't know how it could be that these files were destroyed. . . . It makes

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it stranger that they were destroyed, not only so soon after they were created but also at a time when this lawsuit was about to go to trial. . . . It certainly could lead to suspicion that she has something to hide because one possible inference from the destruction is that there was something in those files that she did not want to have made public."[15]

The pattern further continued during the 1992 presidential campaign, after questions arose about the Clintons' investment with the McDougals in Whitewater and Mrs. Clinton's representation of Madison Guaranty before a state agency. In an effort to respond to inquiries from the press and charges from other candidates, Mrs. Clinton's then-law partner, Vincent Foster, collected all the information he could on the Madison representation. At the conclusion of the campaign, the Madison files, which were by now the property of the RTC as conservator of Madison, as well as the files of other Rose clients for whom Mrs. Clinton had performed legal services, were secretly removed from the firm by another then-Rose Law Firm partner, Webster Hubbell. Mr. Hubbell removed these files, at times taking the firm's only copies,[16] without obtaining the consent of the firm or client.[17] Given that Mr. Hubbell was about to assume a position of great public trust as Associate Attorney General, his unauthorized decision to remove these files is especially troubling.

Also during the 1992 presidential campaign, Mr. Foster or Mr. Hubbell ordered the printing of billing records relating to the Rose Law Firm's representation of Madison Guaranty. These important records revealed the extent of Mrs. Clinton's legal work for McDougal's S&L, including her telephone call to Beverly Bassett Schaffer, the Arkansas Securities Commissioner appointed by Governor Clinton, about the troubled thrift's controversial proposal to raise capital by issuing preferred stock. The records also reflected Mrs. Clinton's work on the IDC or Castle Grande transaction, which federal regulators described as a series of fraudulent land flips.[18] The records contain the handwritten questions of Mr. Foster to Mrs. Clinton and notations by Mr. Hubbell.[19] Mrs. Clinton has recently stated through her lawyer that she may have reviewed them during the 1992 presidential campaign.

After federal investigators began to look into matters relating to Madison Guaranty and Whitewater, a number of subpoenas were issued for these Rose Law Firm billing records. By then, however, the records were nowhere to be found. Despite extensive searches conducted by the law firm, neither the originals nor copies were discovered.[20] They were not in the firm computers, its client files, or the firm's storage facility.[21]

Apparently, at some point, someone removed these billing records from the Rose Law Firm. In August 1995, Carolyn Huber, an assistant to Mrs. Clinton, discovered them in the book room of the White House Residence, next to Mrs. Clinton's office.[22] At the time, Mrs. Huber did not realize the records were under subpoena, and she placed them in a box in her office. In January 1996,[23] Mrs. Huber identified these records, and personal counsel for the President and Mrs. Clinton turned them over investigators. Mr. Hubbell testified that he last saw the records during the 1992 presidential campaign in the possession of Mr. Foster.[24]

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By July 1993, the Clintons and their associates had established a pattern of concealment with respect to the Clintons' involvement with Whitewater and the Madison S&L. Because of the complexity of the allegations of misdeeds involving these institutions, documents and files are critical to any inquiries into the matter. Yet, at every important turn, crucial files and documents "disappeared" or were withheld from scrutiny whenever questions were raised.

The Clintons and their associates were aware, at the time of Mr. Foster's death, that the Clintons' involvement with Whitewater and the Madison Guaranty S&L might subject them to liability

In late fall 1992, Betsey Wright, the coordinator of "damage control" efforts during the presidential campaign and a former chief of staff to Governor Clinton, learned of a "criminal referral regarding a savings and loan official in Arkansas and . . . involv[ing] the Clintons."[25] Ms. Wright testified that she learned this information from a Clinton supporter from California who had a friend who heard it at a cocktail party in Kansas City.[26] At the cocktail party, an RTC official informed someone, whose friend reported it to Ms. Wright, that the RTC had just sent a "criminal referral up to the prosecutor in Little Rock."[27] Upon hearing the news, Ms. Wright tried to gather more information about the referral.[28] She then told Mrs. Clinton about the referral directly. Ms. Wright testified: "I remember I asked Hillary if she was aware of any friend of theirs who was in a savings and loan business who might be under criminal investigation, and we couldn't think of anybody."[29]

It is with this knowledge that the Clintons and their advisers came to Washington, taking with them the important documents relating to Whitewater and Madison. The documents (including documents improperly taken from the law firm) were entrusted only to close associates of the Clintons, chiefly Messrs. Foster and Hubbell.

By March 1993, senior Clinton Administration officials confirmed that the RTC had sent a criminal referral mentioning the Clintons to the Justice Department.[30] Specifically, RTC Senior Vice President William H. Roelle testified that, after taking office, Roger Altman, then Deputy Treasury Secretary, directed the staff to inform him of all important or potentially high-visibility issues.[31] According to Mr. Roelle, on or about March 23, 1993, he told Mr. Altman of an RTC referral involving the Clintons.[32]

Powerful documentary evidence strongly indicates that Mr. Altman immediately passed this important information on to White House Counsel Bernard Nussbaum. On March 23, Mr. Altman sent Mr. Nussbaum a facsimile with a handwritten cover sheet, forwarding an "RTC Clip Sheet" of a March 9, 1992 New York Times article with the headline, "Clinton Defends Real-Estate Deal."[33] This article reported the responses of presidential candidate, Bill Clinton, to an earlier Times report on the Clintons' Whitewater investment. The next day, Mr. Altman faxed to Mr. Nussbaum the same article that he sent the day before and portions of the earlier *Times* report on Whitewater, dated March 8, 1992, entitled "Clintons Joined S&L Operator in an Ozark Real-Estate Venture."[34]

In addition, SBA Associate Administrator Wayne Foren testified that, in early May 1993, he briefed Erskine Bowles, the new SBA

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Administrator about the agency's ongoing investigation of David Hale's Capital Management Services because the case involved President Clinton.[35] Shortly thereafter, Mr. Bowles told Mr. Foren that he had briefed White House Chief of Staff Mack McLarty about the case.[36] Although Mr. Bowles did not recall being briefed by Mr. Foren about Capital Management[37] or talking to Mr. McLarty about the case,[38] Mr. Foren's account was corroborated by his deputy, Charles Shepperson.[39] Mr. McLarty's calendar indicated that Mr. Bowles had two meetings with Mr. McLarty at the White House in early May 1993.[40]

As of July 1993, therefore, Mrs. Clinton and others in the Administration were on notice that there was an ongoing federal investigation to which Madison-related documents could be relevant.

At the time of his death, Mr. Foster's office contained damaging evidence about the Whitewater and Travelgate affairs

After he became Deputy White House Counsel, Mr. Foster continued to play a key role in controlling potential damage to the Clintons from Whitewater. He was given the responsibility for overseeing the preparation of Clintons' tax returns for 1992 to reflect properly the sale of their shares in Whitewater.[41] Mr. Foster worked with other White House officials in the Spring of 1993 in preparing a response to expected Whitewater questions.[42] And, most interestingly, Mr. McDougal had left a message for Mr. Foster on June 16, 1993, "re tax returns of HRC, VWF and McDougal."[43] The documents in Mr. Foster's office at the time of death included a file on Whitewater and his notes of conversations with the Clintons' accountant, Yoly Redden, concerning the tax treatment of the sale of Whitewater.[44] The notes identified the tax problem as a "can of worms you shouldn't open"[45] and further warned: "Don't want to go back into that box Was McD trying to circumvent bank loss—why HRC getting loan from other."[46]

Mr. Foster also played a central role in both the firing of seven career employees of the Travel Office on May 19, 1993 and subsequent attempts to conceal Mrs. Clinton's true role in the controversial firings. Harry Thomason, a close Clinton confidant, reportedly instigated the firings after the career employees rejected his plan to obtain the White House's charter business for a company he partly owned.[47] With public criticism growing, the White House circumvented normal procedures and directly asked the FBI (not the Department of Justice) to investigate allegation so possible criminal misconduct by the career employees of the Travel Office.[48] Although Mr. Foster was not formally reprimanded for his role in the firings, he felt personally responsible.[49]

Other senior White House officials implicated in Travelgate include David Watkins and Patsy Thomasson. The Special Committee belatedly obtained a memorandum of Mr. Watkins outlining Mr. Foster's extensive involvement as Mrs. Clinton's conduit to the firings.[50] Indeed, Mr. Watkins fingered Mr. Foster as the person who directly communicated to him Mrs. Clinton's order that the Travel Office staff be fired: "Foster regularly informed me that the First Lady was concerned and desired action—the action desired was the firing of the Travel Office staff."[51] Notwithstanding Mrs. Clinton's clear involvement in the firing of the staff, Mr. Foster and

other White House officials did nod disclose her true role to investigators probing the affair.

Significantly, at the time of his death, Mr. Foster's briefcase contained files, a personal notebook and a torn-up note, all concerning the controversial Travel Office matter.

Thus, when Mr. Foster committed suicide in July 1993, White House officials were aware that a danger existed that the law enforcement officials might discover documents concerning Whitewater or Travelgate in his office. In fact, David Margolis, one of the Justice Department officials who attended the search of Mr. Foster's office two days after his death, was aware of an RTC criminal referral concerning Madison that mentioned the Clintons.[52] This risk of discovery provides the backdrop against which the story of Mr. Foster's death and the White House's subsequent scramble must be viewed.

END

White House officials engaged in highly improper conduct in handling documents in Vincent Foster's office following his death

The evidence before the Special Committee established that White House officials engaged in a pattern of deliberate obstruction, and interference with, efforts by law enforcement authorities to conduct their several investigations into Mr. Foster's death.

This White House interference began immediately following Mr. Foster's death on the night of July 20. Senior White House officials ignored specific requests by the Park Police to seal Mr. Foster's office on the night of his death.[53] Instead, White House Counsel Bernard Nussbaum, Chief of Staff to the First Lady Margaret Williams and Deputy Assistant to the President Patsy Thomasson entered Mr. Foster's office purportedly to search for a suicide note.

According to career Secret Service Office Henry O'Neill, and corroborated by Secret Service records, Ms. Williams removed file folders from Mr. Foster's office that night. Even assuming, contrary to the testimony of Officer O'Neill, that no files were removed from the office that night, the multiple entries into Mr. Foster's office plainly compromised the integrity of evidence the Park Police considered to be valuable.[54] Beyond this, Mr. Nussbaum not only ignored instructions to seal Mr. Foster's office, but also allowed Ms. Thomasson, a staffer without a security clearance who was involved in the Travel Office matter, to conduct an improper search of Mr. Foster's office. For reasons unknown—but to a large extent illuminated by Officer O'Neill's testimony—Margaret Williams also participated in the late night foray through Mr. Foster's office.

The next morning, on July 21, Mr. Nussbaum's personal secretary, Betsy Pond, also rummaged through Mr. Foster's office—ostensibly to straighten it up—thereby disturbing important evidence.[55] Stephen Neuwirth, Mr. Nussbaum's associate, immediately recognized the impropriety: "I didn't think it was appropriate for an assistant to Mr. Nussbaum to be in the office at that time."[56] Thomas Castleton, a staff assistant, also entered Mr. Foster's office in the morning of July 21.[57] Only the Park Police investigators were impeded in their attempt to enter Mr. Foster's office to search for evidence. They waited in vain all day "for approval from Mr. Nussbaum" to conduct their investigation.[58]

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the Clintons and James and Susan McDougal jointly purchased 233 acres in the Arkansas Ozarks. Neither the Clintons nor the McDougals contributed any equity into the purchase. Instead, Jim McDougal and Bill Clinton, then Attorney General and the Governor-elect of Arkansas, borrowed $20,000 from Union National Bank. Mr. McDougal's loan officer at Union National Bank, Harry Denton, would later become the chief lending officer at Mr. McDougal's Madison Guaranty S&L. The rest of the purchase money was financed by a mortgage of $182,611.20 from Citizens Bank of Flippin, a loan in which Union National Bank took a 50 percent participation.

START

In June 1979, the Clintons and McDougals formed Whitewater Development Company, Inc. ("Whitewater") and eventually transferred ownership of the land to the new corporation. The Clintons and McDougals intended to subdivide the property into lots for sale as vacation property. Slow sales at lower than anticipated prices, however, resulted in a cumulative loss of $193,189 for Whitewater by the end of 1986. Although the McDougals and the Clintons purportedly were equal partners in the project, their contributions to the company to cover its losses were greatly disproportionate. Of the $194,493 that the shareholders contributed to Whitewater, the McDougals and their companies contributed $158,523, while the Clintons advanced only $35,970.

When Bill Clinton ran for President in 1992, the Whitewater investment and his relationship with James McDougal became a source of political embarrassment. Over the years, the Clintons took a series of questionable deductions on their federal income tax returns related to their investment in Whitewater.[157] And, in March 1989, federal regulators closed Madison Guaranty S&L. Madison's insolvency ultimately cost federal taxpayers over $60 million.[158]

On March 8, 1992, the front page of the New York Times carried this headline: "Clintons Joined S&L Operator In An Ozark Real-Estate Venture." The article, written by Jeff Gerth, reported the ties between the Clintons and the McDougals, focusing attention on their investment in Whitewater and the questionable tax deductions taken by the Clintons in 1984 and 1985. The Times report suggested that Whitewater may have been used as a conduit to funnel money to the Clintons or to Bill Clinton's political campaigns.

Ms. Thomases played a key role in responding to the Times inquiries about Whitewater. She and Loretta Lynch, another attorney working for the Clinton campaign, gathered information relating to Whitewater and, specifically, to Mrs. Clinton's representation of McDougal's Madison Guaranty before state regulators.

Mr. Hubbell and Mr. Foster compiled information from the Rose Law Firm to help the response effort. According to Mr. Hubbell, "the issue then, way back when, was did Mrs. Clinton ever have any contact with the Arkansas Securities Department. When we went back to the bills, that was the only, I believe, indication on the bills of a direct contact with the Arkansas Securities Department, so I underlined that—probably gave that to Vince."[159]

Indeed, in notes taken during the 1992 campaign, Susan Thomases recorded a February 24, 1993 conversation with Webster

Hubbell about the Rose Law Firm's representation of Madison. According to the notes, Mr. Hubbell told Ms. Thomases that Mrs. Clinton did all the billing for the Rose Law Firm to Madison, and that she had numerous conferences with Jim McDougal, Madison President John Latham, and Rick Massey, then a junior associate at the firm.[160] The notes also indicated that Mrs. Clinton had reviewed some documents and that she had one telephone conversation with Beverly Bassett Schaffer in April 1985.[161] Ms. Thomases recorded in the margin of her notes at this point: "Acc. to time Rec." She testified that "[t]his is my notation for according to time records," [162] which is what Mr. Hubbell had indicated to her.[163] Ms. Lynch confirmed that Mr. Hubbell reviewed timesheets and billing records relating to the Rose Law Firm's representation of Madison.[164]

The billing records mysteriously disappeared after the 1992 campaign. Despite four subpoenas from separate federal investigations for over two years, the billing records were not disclosed until they were "discovered" in the third floor of the White House Residence, next to Mrs. Clinton's office in the private quarters.

Eventually, the Clinton campaign released a report on the Whitewater investment authored by James Lyons, a Colorado attorney retained by the campaign. The Lyon's report stated that, rather than gaining an illicit profit from their association with Mr. McDougal, the Clintons actually lost $68,900 on their investment in Whitewater. Mr. Lyons apparently prepared two versions of his report. In a confidential letter to the Clintons on April 10, 1992, he enclosed a "complete report" on Whitewater by Patten, McCarthy & Associates, an accounting firm he had retained to study Whitewater. Mr. Lyons wrote:

> Please note the enclosed complete report discusses such things as the $9,000 interest deduction taken by you in 1980 (paragraph 4, page 5), lot 13 and borrowings associated with it (paragraph 5, page 5), and the sale of 24 lots in 1985 to Ozark Air for assumption of the mortgage and an airplane (paragraph 6, page 6). None of these items is set out in the summary report which was released to the press.[165]

Mr. Lyons advised the Clintons that there are only three copies of the complete report, and wrote that "it is my recommendation to you that you maintain the complete report in strictest confidence and do not waive either the attorney/client or accountant/client privilege which attaches to the enclosed report." [166] Mr. Foster assisted Mr. Lyons in preparing the report.[167]

The Lyons report temporarily quelled the media interest in the Whitewater story, but Clinton advisors remained worried over legal and political implications of this investment. Among the documents in Mr. Foster's office at the time of his death was his handwritten note: "Get out of White Water." [168] To that end, Mr. Foster, Mr. Hubbell and others in the Clinton organization met with Mr. Lyons on November 24, 1992, two weeks after Mr. Clinton was elected President.[169]

The point man for the Clinton team in this effort was James Blair, General Counsel of Tyson Foods and a longtime friend and

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advisor to the Clintons. Mr. Blair had also known Mr. McDougal for over 30 years and had contacted Mr. McDougal in early 1992 when questions arose about Whitewater.[170] Mr. Blair called Mr. McDougal's attorney, Sam Heuer, and told him that "the Clintons and the McDougals needed to be totally separated over the Whitewater thing."[171] According to Mr. Blair, he suggested that Mr. McDougal pay a nominal amount to buy the Clintons' interest in Whitewater.[172] "I think we settled on a thousand dollars as an appropriate nominal amount."[173] There was one problem: "McDougal doesn't have a thousand dollars."[174] Mr. Blair then told Mr. Heuer, "[W]ell, what the heck, I will loan him the thousand dollars. I'll just Fed Ex you a check to your trust account. And I believe that's what I did."[175] Mr. McDougal has never repaid Mr. Blair.[176]

On December 22, 1993, Mr. McDougal and the Clintons executed the transaction to get the Clintons out of Whitewater. Mr. Blair then assigned Mr. Foster the task of contacting the accountants and preparing the Clintons' tax returns.[177] The issue facing Mr. Foster in the months preceding his death was how to treat the $1000 sale on the Clintons' 1992 tax returns. The basic dilemma stemmed from the Clintons' claim, bolstered by the publicly released Lyons report, that they had incurred significant losses on their investment in Whitewater. The problem with declaring the loss on the Clintons' tax return was the lack of a proper basis with which to calculate the cost of the venture to the Clintons. Despite their claim that they were 50% partners in the venture, the Clintons had contributed less than 25% of the funds used to cover Whitewater's losses.

Among the documents in Mr. Foster's office at the time of death were his notes of conversations with the Clintons' accountant, Yoly Redden.[178] The notes, in Mr. Foster's hand, identified the tax problem as a "can of worms you shouldn't open."[179] His notes in the file outlined the basic tax issues the Clintons faced in connection with Whitewater:

> "(1) What was nature of deductions: A. How deduct interest/principal payments for corp?
> (2) Can you use contribution which predated incorporation?
> (3) Contribution/advancements of $68,900 to the McD
> (4) Inability to utilize $8000 capital loss"[180]

Mr. Foster's objective was to avoid calling attention to Whitewater during the annual audit of the President and Mrs. Clinton's tax returns by the Internal Revenue Service audit.[181] One approach was simply to report a wash, that is, to show no loss and no gain from the venture, thereby obviating the need for any tax treatment. The problem with such treatment, however, was that it would have bolstered the allegation that the Clintons were insulated from Whitewater losses and thus the company was a vehicle for Mr. McDougal to channel funds to the Clintons. In notes titled "Discussion Points," Mr. Foster wrote:

> (1) An argument that they were protected against loss:
> A) wash is consistent with this theory[182]

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But Mr. Foster did not a have a proper cost basis with which to calculate the Clintons' true losses or gains. His discussion points continued:

> (2) Improper to reduce basis by improper tax benefit.
> (3) Computation of economic loss was based, in part, on assumptions Whereas computation of tax gain or loss must be defensible in audit.[183]

Therein lay the problem. To claim a loss based on economic assumptions, as the Lyons' report did, was one thing.[1] But to claim a loss on the Clintons' 1992 tax returns without proper support and documentation increased the likelihood of calling attention to Whitewater during the IRS audit—of opening the can of worms that Mr. Foster and the Clintons' accountant wished to keep sealed.[184] Mr. Foster's notes summarized the options as follows: "10 Options $1000 basis so no tax effect but is arbitrary & still risks audit vs. 0. basis w/$1000 gain avoids any audit of issue."[185]

In a letter to Mr. Foster days before the tax returns were due, Ms. Redden, the accountant the Clintons hired to handle Whitewater tax issues, wrote: "Because of the numerous problems with Whitewater records and the commingling of funds with other companies and individuals, I believe many explanations may have to be made if we claim a loss."[186] This letter, addressed to Mr. Foster, was not among the documents in Mr. Foster's office that the White House produced to the Special Committee. It was obtained by the Special Committee through another source.[187] Ms. Redden testified that after the Clintons were in the White House she had a number of discussions with Mr. Foster concerning tax issues related to Whitewater.[188] The main focus of these numerous communications was the tax basis for the Clintons' contributions to Whitewater and how to treat the $1000 payment.[189]

The Clintons' final tax returns for 1992 reported a capital gain of $1000 from the sale of stock to Mr. McDougal.[190] According to Ms. Redden, "I think we need to claim no gain or a loss."[191] Mr. Foster did not follow her advice, however, because he was also consulting with another accountant, and "[a]t the end we compromised what we were going to put in the return in connection with Whitewater."[192]

For reasons unknown, on June 16, 1993, Mr. McDougal called Mr. Foster at the White House. Unable to reach Mr. Foster, he left a message with his secretary: "re tax returns of HRC, VWF and McDougal."[193] It is unclear whether Mr. Foster returned Mr. McDougal's telephone call, and it is unclear why Mr. McDougal contacted Mr. Foster about Mr. Foster's tax returns.

Mr. Foster also worked with Ricki Seidman, then Deputy Assistant to the President and Deputy Director of Communications, on the Whitewater matter in the first half of 1993. In June 1994, Ms. Seidman told the FBI the following about her relationship with Mr. Foster and her involvement in Whitewater:

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[1] Elsewhere in his notes, Mr. Foster wrote:
A. Colo analysis was of economic loss
(1) did not take into account interest deductions
(2) calculation included some items for which there were no canceled cks.Williams & Connolly Document DKSN000517. "Colo analysis" was an apparent reference to the Lyons report.

> Seidman was asked about FOSTER's involvement with Whitewater. She said the only Whitewater issue she could recall was in April, 1993 in connection with the CLINTONs tax returns. The tax returns show that the CLINTONs had divested themselves of their interest in Whitewater. SEIDMAN's involvement was from a "communications perspective". The Whitewater issue had surfaced during the campaign, interest had then ended, and it was believed the tax returns would bring the Whitewater issue into the "public domain again". SEIDMAN said there was discussion regarding the "soundest way" to seek closure to the issue. The options considered were (1) declare a loss; (2) declare an even split; and (3) declare the Clintons received a $1000 gain. SEIDMAN said she and FOSTER were discussing these options. She remembered attending meetings at WILLIAMS and CONNOLY [sic] on the issue.[194]

The Clintons' Whitewater investment created other problems that occupied Mr. Foster's time as Deputy White House Counsel. Among the documents found in Mr. Foster's office following his death were campaign disclosure forms, required by law, accounting the personal finances of the Clintons and of their campaign organization.[195] On January 10, 1992, the Clinton for President campaign filed a disclosure form that failed to disclose that the Clintons had personally guaranteed a loan to the Whitewater Development Corporation.[196] Yoly Redden, the Clintons' accountant, testified that she assisted the campaign in preparing the disclosure statements.[197] According to Ms. Redden, there were discussions about the Clintons' Whitewater investment, and a decision was made to omit it from the statements. "We were told, it was our understanding that the Whitewater investment was worthless, they were not going to get anything out of it at that point in time."[198]

On April 6, 1992, after the New York Times article detailing the Clintons' Whitewater investment, the campaign revised the statement to disclose the Clintons' personal liability for the Whitewater loan.[199] The revision, however, did not deal with the more troublesome issue concerning disclosure: how to treat the McDougals' disproportionate share of Whitewater losses? By assuming more than 50 percent of Whitewater losses, the McDougals had in effect given money to the Clintons, their supposed equal partners in Whitewater. This transfer could be treated as a gift, a loan, or income. Although the Clintons would incur a tax liability only if the transfer was considered income, campaign laws required disclosure of all three categories, a requirement that had not been met with respect to the McDougals' contributions to Whitewater. At one point, Mr. Foster complained to his friend and the Clintons' confidant, Susan Thomases, about the poor condition of the Clintons' Whitewater records.[200]

Mr. Foster was working on another matter involving the Clintons' financial investments in the months and days preceding his death. On June 18, 1993, USA Today published an article on Hillary Clinton's investment in a limited partnership named Value Partners, managed by Smith Capital Management of Little Rock, Arkansas.[201] The article noted the success of the investment for

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Mrs. Clinton, but erroneously reported that Mrs. Clinton's "investments are now held in a blind trust."[202] A copy of the article was found in Mr. Foster's office following his death. Mr. Foster personally circled two places where the article asserted that Mrs. Clinton's assets had been placed in a blind trust. He sent copies of the article to Lisa Caputo, Mrs. Clinton's press secretary, Ricki Seidman, White House Deputy Communications Director,[2] and Margaret Williams, Mrs. Clinton's Chief of Staff. His handwritten comments identified a problem: "The assets are not yet in a blind trust. The document has been approved but is not signed yet, pending working out some details."[203] The article apparently bothered Mr. Foster enough to prompt him to complain immediately to Bill Smith, the head of Smith Capital Management. Smith replied apologetically that his company does not talk to the press about the First Lady's investment, "particularly during the recent flurry of articles and interviews regarding the holdings of health care stocks in Value Partners."[204]

The "flurry of articles" concerned the strategy of Value Partners to profit by selling stocks "short." A short-seller borrows stocks from his broker to sell at current market price, anticipating that the value of the stock will fall. When the price does fall, the short-seller buys the lower-priced stock to return to his broker, profiting from the difference in price. On May 31, 1993, the Wall Street Journal disclosed that Value Partners actively sold short several health care stocks.[205] At this time, Mrs. Clinton was directing the administration's efforts to reform the nation's health care system. The Administration's proposal depressed the value of health care stocks.[3] Value Partners was structured as a limited partnership, and no evidence exists that Mrs. Clinton directed or reviewed the fund's investment decisions. However, Mrs. Clinton's investment amounted to nearly $100,000 in a fund that dedicated 13% of its $1.3 million portfolio to short positions in health care stocks.[206] Mrs. Clinton thus came under media criticism for personally benefiting from her high-profile public campaign.

In addition to an appearance of impropriety, the investment in Value Partner posed a potential legal problem. Title 18, Section 208 of the United States Code exposes an executive officer or employee to felony liability for participating "personally and substantially" in a "particular matter" in which he is aware of a financial interest. Mr. Foster apparently had advised Mrs. Clinton that she need not be concerned by this criminal statute because she was not an officer or employee of the executive branch.[207] In reaching this conclusion, Mr. Foster apparently did not consult with the Office of Legal Counsel of the Department of Justice, and ignored a contrary opinion issued by that office 17 years earlier.[208]

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[2] In a later interview with the FBI, Ms. Seidman acknowledged that she worked with Foster on "accusations concerning shorted health positions taken by HILLARY CLINTON in connection with Value Partners." II Hearings, p. 1794.

[3] See, e.g., Stefan Fatsis, Stocks Sink on Clinton Economic Plan, Associated Press, Feb. 16, 1993 ("Pharmaceutical stocks led yesterday's decline. Clinton week accused drug companies of price gouging and made them a prime target of health care reform efforts"). A detailed University of Michigan study concluded that the public pronouncements of the Clintons criticizing pharmaceutical firms depressed stock prices of those firms by as much as 27 percent. S. Craig Pirrong, Political Rhetoric and Stock Price Volatility: A Case Study, Catalyst Institute Research Project, University of Michigan, November 1993.

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Mr. Foster's conclusion that the First Lady was not covered by government ethics laws also conflicted with the position of the White House in *Association of American Physicians and Surgeons* v. *Clinton*.[209] That litigation sought to compel the White House to release the documents and deliberations of Mrs. Clinton's health care task force. The Federal Advisory Committee Act ("FACA") compels such public disclosure if a government agency, like the health care task force, consults advisers who are not government employees.[210] The plaintiffs alleged that Mrs. Clinton is such a nongovernmental adviser and thus the records of the task force were covered by FACA. In order to avoid disclosure, the White House argued that Mrs. Clinton was indeed a federal official and therefore FACA did not apply to the task force. The United States Court of Appeals for the D.C. Circuit agreed with the White House. Recognizing the potential spillover effect of the holding, however, the court cautioned in a footnote: "We do not need to consider whether Mrs. Clinton's presence on the Task Force violates . . . any conflict of interest statutes."[211]

The matter apparently weighed heavily in Mr. Foster's mind. The Wall Street Journal, in a series of editorials, criticized Mr. Foster for his role with respect to the Health Care Task Force.[212] Mr. Foster complained to James Lyons, a Foster friend and former legal adviser to the Clinton campaign, that "the press had been particular vicious in their attacks on members of the Rose Law Firm."[213] In particular, Mr. Foster complained about criticisms for his handling of the *Association of American Physicians and Surgeons* v. *Clinton* litigation.[214] Mr. Lyons told the FBI in an interview:

> FOSTER won a victory for the Task Force (and by association, for HILLARY RODHAM CLINTON) on that matter and the Wall Street Journal accused him of "sharp tactics". LYONS advised that the allegation really bothered Foster.[215]

In the note apparently discovered in Mr. Foster's briefcase six days after his death, Mr. Foster wrote, "The Wall Street Journal editors lie without consequence."[216]

Just before his suicide, Mr. Foster concentrated on finalizing plans to place the First Family's investments in a blind trust, which would have remedied the ethical and legal problems posed by the Value Partners investment. In Mr. Foster's papers was a facsimile from Brantly Buck, a partner of the Rose Law Firm, who had been retained to assist in the creation of the blind trust. The facsimile, dated July 19, 1993, the day before Mr. Foster's suicide, forwarded draft statements of financial objectives for the blind trust. White House phone records indicated that Mr. Buck called Mr. Foster twice on the morning of his suicide.[217]

Mr. Foster's phone log also showed that he received a call from James Lyons, the author of the Whitewater report for the Clinton campaign, at 11:11 a.m. on July 20, 1993, the morning of Mr. Foster's death.[218] When contacted by the Park Police, Mr. Lyons said that he had spoken with Mr. Foster on July 18, and they had agreed to meet for dinner on July 21. According to a Park Police report, "Lyons had told Foster he would call him and let him know

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when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993."[219] In a later interview with the FBI, Mr. Lyons provided more detail into his scheduled dinner with Mr. Foster. Mr. Foster was very concerned about the Travelgate affair and regarded himself and Bill Kennedy as potential witnesses in the matter. According to the FBI report, Mr. Foster "felt strongly that White House should hire outside counsel to be handling the Travelgate matter for this reason. He also believed that he would be needing a personal attorney to represent him in the matter."[220] It was to seek personal representation that Mr. Foster purportedly scheduled dinner with Mr. Lyons. Mr. Foster, however, also complained to Mr. Lyons about the extent to which he and other members of the Counsel's office were handling personal matters for the Clintons:

> FOSTER believed that private sector attorneys should be handling many of the matters they [White House Counsel's office] were handling, both for ethical and workload reasons. The CLINTON administration had called for a 25 percent cut. Under the BUSH administration the Counsel's office had 18 to 20 lawyers at its peak and when CLINTON took office there were only 6 or 7.[4] There were many discussions about the composition and character of the associates in the Counsel's office and everybody was spread incredibly thin.[221]

Linda Tripp, Mr. Nussbaum's executive assistant, testified that she approached Mr. Nussbaum and questioned him, based on her experience in the previous administration, about the inordinate amount of time that Mr. Foster seemed to spend on the Clintons' personal matters. Ms. Tripp believed that Mr. Foster worked mostly on personal matters for the Clintons. According to Ms. Tripp, "I questioned the role of the deputy counsel in the Clinton Administration as opposed to what I had perceived it to be in the Bush Administration."[222] Indeed, C. Boyden Gray, President Bush's White House Counsel testified that, under President Bush, "[p]ersonal, what I would call personal work, taxes, blind trusts, problems involving his residence, his house in Maine, for example, those matters would be handled by his private counsel. How to deal with the book royalties from Mrs. Bush's book, for example; they would be handled by his personal lawyer."[223] When asked why, Gray explained that "I don't think the taxpayers should pay for personal matters, I suppose, is the short way to answer it."[224]

END

II. THE TRADITIONAL INDEPENDENCE OF THE WHITE HOUSE COUNSEL'S OFFICE

The Office of the White House Counsel originated from presidential custom. The Reorganization Act of 1939,[225] which author-

[4] In reality, the number of lawyers in the Bush administration was about 14, the same as under President Reagan. Jeremy Rabkin, "At the President's Side: The Role of the White House Counsel in Constitutional Policy," Law and Contemporary Problems, Volume 56, Autumn 1993, at 63, 71 n. 39. Although the official directory of the Clinton White House lists, in addition to the Counsel and his deputy, only several Associate Counsels, the staff actually includes about 13 lawyers. Id. at 71, n. 39. According to one commentator, "Official listings of the White House staff never give the full number of lawyers because extra lawyers are usually 'detailed' from departments to circumvent congressional restrictions or concerns about excessive size of the full time staff." Ibid.

START

Mr. Nussbaum claimed that he had no knowledge that Mr. Foster was working on any matter involving Whitewater.[272] Mr. Nussbaum emphasized that "[t]he Whitewater matter, which subsequently became the focus of so much attention, was not on our minds or even in our consciousness in July 1993."[273] He repeated that although Whitewater had surfaced briefly during the 1992 campaign, "in 1993, Whitewater was not on my screen, nor, as far as I know, was it the subject of discussion in the White House. And if it was, it was something I would have known."[274]

Evidence obtained by the Banking Committee during the summer of 1994 flatly contradicts Mr. Nussbaum's testimony. Resolution Trust Corporation ("RTC") Senior Vice President William H. Roelle testified that, upon taking office, former Deputy Secretary of the Treasury Roger Altman directed the staff to inform him of all important or potentially high-visibility issues.[275] According to Mr. Roelle, on or about March 23, 1993, he told Mr. Altman that the RTC had sent a criminal referral mentioning the Clintons to the Justice Department.[276]

The White House produced files to the Banking Committee showing that Mr. Altman immediately sent Mr. Nussbaum two facsimiles about Whitewater. The first facsimile, sent on March 23, 1993 with a handwritten cover sheet, forwarded an "RTC Clip Sheet" of a March 9, 1992 New York Times article with the headline, "Clinton Defends Real-Estate Deal."[277] The article reported the responses that Bill Clinton, then a presidential candidate, offered to an earlier Times report detailing the Clintons' investment in Whitewater and their ties to Jim and Susan McDougal.

The second facsimile from Mr. Altman to Mr. Nussbaum, sent the next day, March 24, 1993, forwarded the same article that was sent the day before and portions of the earlier Times report—an article dated March 8, 1992, by Jeff Gerth entitled "Clintons Joined S&L Operator in an Ozark Real-Estate Venture," which originally broke the story in the news media.[278]

According to the report of the Banking Committee on the communications between officials of the White House and the Treasury Department:

> Mr. Altman testified that he did not recall having sent either facsimile to Mr. Nussbaum. Mr. Nussbaum testified that he did not recall having received either facsimile from Mr. Altman. Mr. Altman and Mr. Nussbaum both testified that they had no recollection of having spoken to one another during March 1993 about the articles contained in the facsimiles or the subject of those articles. Nevertheless, Mr. Altman and Mr. Nussbaum both testified that the facsimiles were apparently sent and received by their respective offices.[279]

Before the Special Committee, Senator Bond asked Mr. Nussbaum specifically about the apparent contradiction between his assertion that he had no knowledge of Whitewater at the time of Mr. Foster's death and the existence of Mr. Altman's facsimiles. Mr.

22, 1993, and kept in a safe until March, 1994. Letter from Abner J. Mikva, Counsel to the President, to Hon. William F. Clinger, Chairman, House Committee on Government Reform & Oversight, August 30, 1995, p. 1.

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Nussbaum maintained that he did not know of the facsimiles.[280] He testified that he first heard of Whitewater in late September 1993.[281] "So, in July of 1993, I had no knowledge and no memory of receiving a fax from Roger Altman, and Whitewater, as I said in my statement, was not on my mind nor, do I believe, on anyone else's mind in the White House in July of 1993."[282]

There is further evidence, however, that Mr. Foster was not the only White House official working on personal matters for the Clintons involving Whitewater. Until July of 1993, Ricki Seidman was Deputy Assistant to the President and Deputy Director of Communications. She reported to the FBI in 1994 that she and Mr. Foster had worked together on Whitewater issues before his death:

> Seidman was asked about FOSTER's involvement with Whitewater. She said the only Whitewater issue she could recall was in April, 1993 in connection with the CLINTONs tax returns. The tax returns show that the CLINTONs had divested themselves of their interest in Whitewater. SEIDMAN's involvement was from a "communications perspective".[283]

Ms. Seidman explained that she discussed various options with Mr. Foster for treating the transaction on the Clintons' 1992 tax returns. Ms. Seidman confirmed notes found in Mr. Foster's office at the time of his death summarizing the three options under consideration: (1) report a loss on the Whitewater investment; (2) not report any gains or losses; or (3) declare a $1.000 gain to the Clintons from their transfer of all Whitewater stock to Jim McDougal in December, 1992.[284]

In addition, SBA Associate Administrator Wayne Foren testified that, in early May 1993, he briefed Erskine Bowles, the new SBA Administrator about the agency's ongoing investigation of David Hale's Capital Management Services because the case involved President Clinton.[285] Shortly thereafter, Mr. Bowles told Mr. Foren that he had briefed White House Chief of Staff Mack McLarty about the case.[286] Although Mr. Bowles did not recall being briefed by Mr. Foren about Capital Management[287] or talking to Mr. McLarty about the case,[288] Mr. Foren's account was corroborated by his deputy, Charles Shepperson.[289] Mr. McLarty's calendar indicated that Mr. Bowles had two meetings with Mr. McLarty at the White House in early May 1993.[290]

When asked why Mr. Nussbaum prevented law enforcement officials from looking at documents in Mr. Foster's office on July 22, Detective Markland replied: "In my mind, at this time, I believe he was afraid we would have uncovered some indication of the Whitewater situation and other things that Mr. Foster was involved with that are just now coming to light."[291]

Mr. Nussbaum claimed that he did not seek to conceal damaging information about the Whitewater matter. In his view, the groundswell of interest in the handling of documents after Mr. Foster's death resulted from "the unfair linkage of two separate, disparate events,"[292] the way he reviewed and handled documents in Mr. Foster's office and the emergence of the Whitewater investigation in late 1993.[293]

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Yet, as early as the spring 1993, White House officials expected the then-dormant Whitewater issue to reemerge in the media. According to the FBI report of Ms. Seidman's interview, in April 1993, "it was believed the tax returns would bring the Whitewater issue into the 'public domain again'. SEIDMAN said there was discussion regarding the 'soundest way' to seek closure to the issue."[294] [10] In addition to Ms. Seidman's sworn statement, common sense casts doubt on Mr. Nussbaum's testimony that Whitewater was not on the White House's radar screen in 1993. Whitewater was a major issue in the 1992 campaign, and the Clintons went to the extraordinary step of retaining an outside attorney to issue a report on the matter. The "unfair linkage," in Mr. Nussbaum's words, so obvious when investigations relating to Whitewater were reported later in 1993, was never made in the weeks following Mr. Foster's death precisely because Mr. Nussbaum concealed any mention of Whitewater from law enforcement officials. There is little doubt that Mr. Nussbaum foresaw the embarrassment and political liability of such a linkage between Mr. Foster's death and Whitewater when he examined the documents in Mr. Foster's office. It is against this backdrop of motive that the events and actions following Mr. Foster's death must be examined.

II. JULY 20, 1993

A. The discovery of Mr. Foster's body

At about 5:30 p.m. on July 20, 1993, the driver of a white utility van stopped at Fort Marcy Park off the George Washington Parkway in Virginia to relieve himself.[295] The man parked his car next to a white two-door Honda with a blue interior and Arkansas plates.[296] He walked about 200 yards away from the parking lot. As he was urinating, the man noticed the body of a white male wearing a white dress shirt and grey pants.[297] Traces of blood were visible on the man's face, and the right shoulder was stained light purple.[298]

The man then returned to his van to find a telephone.[299] He drove to nearby Turkey Run Park, where he found two uniformed

[10] Like Mr. Nussbaum, the President and Mrs. Clinton have denied knowledge of Foster's work involving Whitewater. Following are excerpts from a deposition of President Clinton by former Special Counsel Robert Fiske:

Q: Was he [Foster] during this period of time working on any matters for you personally?

A: Yes, I believe that he was trying to handle the transition of our assets into a blind trust. I think that's all he was doing.

Q: Were you aware that he was also doing some work in connection with the preparation and filing of the tax returns for Whitewater for '90, '91, and '92?

A: I don't recall that I was aware of that, no.

Fiske received the same testimony from the First Lady:

Q: Was he [Foster] doing any personal work for you or the President other than the blind trust?

A: Not that I'm aware of, no. Oh, wait. The only thing I would add to that is I think he also did some personal advising, or at least was in some way involved in the tax returns when they were being finalized for '93, but that was part of the blind trust work, as I recall.

Q: Your own tax returns?

A: Yes.

Q: Was he doing work, to your knowledge, with respect to the filing of the Whitewater tax returns?

A: Not that I know of, no.

It is unclear whether Mrs. Clinton's answer to Mr. Fiske's question encompassed Mr. Foster's work on the Clintons' personal returns relating to their tax liability for Whitewater. In her interview with the FBI, Ms. Seidman reported that she attended meetings with the Clintons' personal lawyers at Williams & Connolly on the treatment of the 1992 sale of Whitewater on the Clintons' 1993 tax returns.

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Police."[935] Mr. Heymann did not want to pull the Park Police from the investigation, but told Mr. Collier that the FBI, at Mr. Heymann's request, were already involved in the White House investigation. Mr. Heymann also assured Mr. Collier that he would intervene with the White House to ensure future cooperation.

Mr. Heymann then called David Gergen at the White House and explained the problems that the Park Police investigators were encountering. Mr. Gergen told Mr. Heymann that he would call back in a few minutes so that Mr. Gergen could assemble a number of White House personnel in his office.[936] When Mr. Gergen called back, he was on a speakerphone with a number of White House officials, "eight or nine or ten people."[937] Mr. Gergen does not have a clear memory of the conversation, but he testified that Mr. Heymann "may have conveyed to me a sense of, not a precise x, y, z, here's what you guys are doing, but a sense of watch it, you know, an alert. Make sure the White House was doing this, to remind me in effect, these are very highly charged kinds of investigations and they can be misunderstood very easily."[938]

Mr. Heymann's recollection is clearer:

> I read them the riot act in unmistakable terms, telling them that this was a disaster very near to occur, that I was sending, I had sent the FBI in to interview on the note. That I wanted all interviews to take place without White House counsel there. That I wanted full cooperation. That there was a very good chance that nothing could avoid sort of a major failure of credibility and sense of biased investigation, but that only the most vigorous of steps, at this point, could do that, and I wanted a complete turnaround.[939]

According to Mr. Heymann, he deliberately delivered a "very strong message" seeking to change the White House attitude toward the investigation.[940] He received some, but not much, argument from the White House officials involved in the conference call. After the conversation, according to Mr. Heymann, "the cooperation with the Park Police and with the FBI turned around immediately and completely."[941]

Findings of the Special Committee

In the course of its investigation, the Special Committee was confronted with witnesses who provided conflicting testimony about events highly relevant to the Special Committee's inquiry. To resolve these conflicts in testimony, Senate Resolution 120 authorized the Special Committee to make factual findings based on the available evidence. In doing so, the Special Committee placed primary emphasis on documentary or other physical evidence whenever such evidence was available and when there was no indication that such evidence had been altered or otherwise compromised. When judgments of credibility had to be made, the Special Committee focused on the factors that, from common sense and logic, contribute to the reliability of a person's testimony—factors such as a motive to lie or embellish, the detail and vividness of memory, and the internal and external consistency of a person's overall testimony. The Special Committee summarizes its factual findings below.

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Finding 1. At the time of his death, Vincent Foster was intimately involved in two brewing scandals—Travelgate and Whitewater—touching on President and Mrs. Clinton

Mr. Foster played a central role in both the firing of the Travel Office staff and subsequent attempts to conceal Mrs. Clinton's true role in the firings. Mr. Foster participated in the May 12, 1993 meeting with Harry Thomasson, Catherine Cornelius, and David Watkins where the replacement of the Travel Office staff was first discussed.[942] Mr. Foster then assigned his former law partner, William Kennedy, to investigate alleged financial mismanagement in the Travel Office. When the July 2, 1993 report of an internal White House review into the matter sharply reprimanded Mr. Kennedy, Mr. Foster felt personally responsible and insisted that Mr. Nussbaum allow him to shoulder the blame.[943]

Mr. Watkins' belatedly disclosed memorandum concerning the Travel Office affair clearly outlined Mr. Foster's extensive involvement as Mrs. Clinton's conduit to the firings. Mr. Kennedy wrote, for example, "Once this made it on the First Lady's agenda, Vince Foster became involved, and he and Harry Thomasson regularly informed me of her attention to the Travel Office situation—as well as her insistence that the situation be resolved immediately by replacing the Travel Office staff."[944] Indeed, Mr. Watkins fingered Mr. Foster as the person who directly communicated to him Mrs. Clinton's order that the Travel Office staff be fired. "Foster regularly informed me that the First Lady was concerned and desired action—the action desired was the firing of the Travel Office staff."[945] Despite Mrs. Clinton's obvious and extensive involvement in the firing of the staff, Mr. Foster and other White House officials did not disclose to investigators probing the affair about her true role.

It is also undisputed that Mr. Foster played a central role in the effort to respond to and manage the brewing Whitewater scandal. When questions first arose in the 1992 campaign about Whitewater and Mrs. Clinton's representation of Mr. McDougal's Madison Guaranty, Mr. Foster compiled the files and billing records of the Rose Law Firm relating to that representation.[946] He and Mr. Hubbell improperly removed the files from the Rose Law Firm without authorization and transported them to Washington after the campaign. In order to "[g]et out of White Water,"[947] Mr. Foster also perfected the sale of the Clintons' interest in Whitewater to Mr. McDougal.[948]

After becoming Deputy White House Counsel, Mr. Foster continued his role as the Clintons' personal counsel on Whitewater. He was assigned the task of preparing the Clintons' tax returns for 1992 in order to reflect properly the sale of their shares in Whitewater,[949] a problem that his notes described as a "can of worms you shouldn't open."[950] Mr. Foster worked with other White House officials in the Spring of 1993 in coordinating a response to questions about Whitewater.[951] And Mr. Foster's telephone log indicated an inexplicable message from Mr. McDougal on June 16, 1993, "re tax returns of HRC, VWF and McDougal."[952]

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Finding 2. Senior White House officials were aware that the President and Mrs. Clinton faced potential liability over Whitewater and their relationship with the McDougals

Before the Special Committee, Mr. Nussbaum boldly announced: "The Whitewater matter, which subsequently became the focus of so much attention, was not on our minds or even in our consciousness in July 1993."[953] The testimonial and evidentiary record belies Mr. Nussbaum's exculpatory declaration.

Questions about Whitewater and Mrs. Clinton's representation of Madison were a major campaign issue in 1992, so much so that the Clintons took the extraordinary step of retaining Jame Lyons, an "outside attorney," to issue a report on the matter. Mr. Foster and Mr. Hubbell at that time compiled the files and billing records of the Rose Law Firm relating to Mrs. Clinton's representation of Madison,[954] and transported the files to Washington after the campaign. And Mr. Foster was specifically asked to prepare the Clintons' personal tax returns as they relate to Whitewater,[955] a project which consumed his time in the White House.

More important, as early as 1992, the Clintons and their advisors were aware that questions about Whitewater would again resurface, this time in a criminal investigation. In the fall of 1992, Betsey Wright heard of a "criminal referral regarding a savings and loan official in Arkansas and . . . involv[ing] the Clintons."[956] Ms. Wright learned specifically that the RTC had just sent a "criminal referral up to the prosecutor in Little Rock."[957] She passed this news onto Mrs. Clinton.[958]

According to RTC Senior Vice President William H. Roelle, former Deputy Secretary of the Treasury Roger Altman, upon taking office, directed the staff to inform him of all important or potentially high-visibility issues.[959] Mr. Roelle testified that, on or about March 23, 1993, he told Mr. Altman that the RTC had sent a criminal referral mentioning the Clintons to the Justice Department.[960] Mr. Altman immediately sent Mr. Nussbaum two facsimiles about Whitewater. The first facsimile, sent on March 23, 1993 with a handwritten cover sheet, forwarded an "RTC Clip Sheet" of a March 9, 1992 *New York Times* article with the headline, "Clinton Defends Real-Estate Deal."[961] The article reported the responses that Bill Clinton, then a presidential candidate, offered to an earlier *Times* report detailing the Clintons' investment in Whitewater and their ties to Jim and Susan McDougal. The second facsimile from Mr. Altman to Mr. Nussbaum, sent the next day, March 24, 1993, forwarded the same article that was sent the day before and portions of the earlier *Times* report—an article dated March 8, 1992, by Jeff Gerth entitled "Clintons Joined S&L Operator in an Ozark Real-Estate Venture," which originally broke the story in the news media.[962]

In addition, SBA Associate Administrator Wayne Foren testified that, in early May 1993, he briefed Erskine Bowles, the new SBA Administrator about the agency's ongoing investigation of David Hale's Capital Management Services because the case involved President Clinton.[963] Shortly thereafter, Mr. Bowles told Mr. Foren that he had briefed White House Chief of Staff Mack McLarty about the case.[964] Although Mr. Bowles did not recall being briefed by Mr. Foren about Capital Management[965] or talking to Mr.

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McLarty about the case,[966] Mr. Foren's account was corroborated by his deputy, Charles Shepperson.[967] Mr. McLarty's calendar indicated that Mr. Bowles had two meetings with Mr. McLarty at the White House in early May 1993.[968]

Mr. Foster's role in response to Whitewater was known in the White House. Ricki Seidman, former Deputy Director of Communications in the White House, reported to the FBI that she and Mr. Foster had worked together on Whitewater issues before his death. Specifically, she recalled that she worked with Mr. Foster in April 1993 in connection with the Clintons' tax returns.[969] Seidman participated in the discussions from a "communications perspective,"[970] thus indicating the White House's identification of Whitewater as a potential issue in the spring of 1993. Indeed, according to the FBI report of Ms. Seidman's interview, "it was believed the tax returns would bring the Whitewater issue into the 'public domain again.'"[971] And Ms. Seidman stated that there was discussion in the White House regarding "the 'soundest way' to seek closure to the issue."[972]

Given this overwhelming evidence, the Special Committee finds that White House officials knew about Mr. Foster's work for the Clintons on Whitewater, and that, at the time of his death, the Clinton White House was acutely aware that Whitewater was a potential political and criminal matter.

Finding 3. Senior White House officials ignored repeated requests by law enforcement officials to seal Mr. Foster's office on the night of his death

Nine different persons recalled four separate requests to White House officials to seal Vincent Foster's office on the evening of July 20. Park Police investigator Sergeant Cheryl Braun testified that, as she left the Foster residence, she asked Assistant to the President David Watkins to seal Mr. Foster's office.[973] Detective John Rolla expressly corroborated her testimony.[974] Park Police Major Robert Hines testified that he called and asked another senior White House official, Bill Burton, to seal Mr. Foster's office.[975] Another White House official, Sylvia Mathews, testified that she overheard Mr. Burton's conversation with the Park Police[976] and that right after the telephone call, Mr. Burton asked Counsel to the President Bernard Nussbaum to seal the office.[977]

Counselor to the President David Gergen testified that he asked Director of Communications Mark Gearan whether Mr. Foster's office was sealed.[978] Mr. Gearan then asked Mr. Burton, who assured Mr. Gearan that the office had been sealed.[979] Associate Attorney General Webster Hubbell testified that both his wife and Marsha Scott remembered him calling Chief of Staff Mack McLarty on the night of Mr. Foster's death to ask that Mr. Foster's office be sealed.[980] All the persons who received these requests to seal Mr. Foster's office denied having been asked to do so.

Mr. Watkins was the critical person in the failure to seal Mr. Foster's office on the night of his death. He received a specific request from the Park Police to seal Mr. Foster's office. Instead of doing so, he directed his assistant, Patsy Thomasson, to search the office. Mr. Watkins was intimately involved, along with Mr. Foster, in firing the career Travel Office staff and in the apparent subse-

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UPDATED MEMORANDUM

TO: OIC Task Force

FROM: Brett Kavanaugh

RE: Vincent Foster and the Whitewater Development Corporation

DATE: July 18, 1997

This memorandum is an update of a memorandum I circulated on August 17, 1995. It briefly summarizes evidence regarding Vincent Foster's involvement in Whitewater matters, including his involvement in the tax treatment of Whitewater on personal Clinton returns and corporate Whitewater returns. (Whitewater is defined for purposes of this memo by its plain terms and does not include Rose-Madison issues.) The summary is based primarily on the documents from Foster's office that deal with Whitewater, supplemented by some testimonial evidence.

Background

The Whitewater issue arose in March 1992 as the result of a news article by Jeff Gerth in the New York Times. (This article was in Foster's files at the time of his death.) The article was based in part on an interview with Jim McDougal and suggested, among other things, that the Clintons had improperly deducted at least $5,000 on their personal tax returns in 1984 and 1985 for interest paid on a portion of at least $30,000 in bank loan payments that Whitewater made for them. In addition, the article suggested that McDougal heavily subsidized the Whitewater investment, insuring that the Clintons were under little financial risk.

When the story broke in 1992, Governor Clinton stated at a press conference that he believed he had lost about $25,000 in the Whitewater investment. The campaign then commissioned Jim Lyons to do a report on the investment. He did so, and concluded that the Clintons had lost nearly $59,000 on the investment, but also noted that the Clintons had taken certain improper deductions totalling $5,133 in 1984 and 1985 on their personal tax returns. (Because of their age, those improper deductions did not need to be repaid, but the Clintons did repay them in late 1993.) The story lay dormant for the remainder of the campaign and until late 1993 when it became known that the documents from Foster's office included Whitewater documents.

The basic issues remain to this day, however. Indeed, the New York Times editorial of Sunday, August 13, 1995, is not much different from earlier stories written about the Clintons' Whitewater investment and tax treatment of it. The Clintons have admitted they took improper deductions in the 1980's; the question remains whether they knowingly did so.

And questions remain about the extent of the Clintons' risk in the Whitewater investment and about the extent of their contributions to the investment.

Foster's Involvement

The documents in Foster's office reveal that Foster's involvement in Whitewater breaks down into three distinct categories:

(1) sale of the Clintons' interest in Whitewater to Jim McDougal in December 1992;
(2) treatment of Whitewater on the Clintons' personal tax returns in April 1993; and
(3) filing of delinquent Whitewater corporate tax returns in June 1993.

The news stories in recent weeks (e.g., "can of worms") have focused on the second of these issues.

1. Sale of Interest in Whitewater to Jim McDougal

After the election in 1992, the Clintons decided to sell their interest in Whitewater to Jim McDougal. Foster's notes of a November 24, 1992, meeting with Foster, Lyons, Lindsey, Tisdale, and Hubbell show that a number of issues were discussed at that time, including:

(a) executive orders on the gag rule, gays in the military, and the reduction of White House staff;

(b) a Presidential retreat; and

(c) personal finances, including Whitewater and blind trust versus diversified trust.

It appears that Jim Blair was to take the lead for the Clintons in transferring their interest to McDougal. According to a Foster memo to file written on December 30, 1992, Blair intended to meet with McDougal and McDougal's attorney on December 22, 1992, to close the sale. Little Rock was fogged in, however, so Foster took the transfer agreement to Sam Heuer's office at Blair's request. The agreement stated that the Clintons would transfer their interest in Whitewater to McDougal for $1000. There was some discussion at the meeting about preparation of the delinquent corporate tax returns, but ultimately Heuer and McDougal signed the transfer agreement. The agreement stated that "Grantee [McDougal] warrants that all tax returns due for the period of Grantors' ownership of the stock being transferred shall be filed forthwith, and Grantee warrants that he shall cause said returns to be filed forthwith."

On December 23, 1992, Foster wrote a letter to accountant Yoly Redden enclosing the signed agreement and asking her to prepare the delinquent corporate tax returns for WWDC.

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The letter stated that "the Corporation will determine independently whether the returns are accurate and take the responsibility for filing them." Mrs. Clinton and Jim Blair were blind-copied on this letter. Also on December 23, 1992, Foster sent Jim Blair a copy of the transfer agreement.

On December 24, 1992, a $1000 check payable to the Clintons was mailed to Foster by Sam Heuer.

2. Preparation and Filing of Clintons' 1992 Taxes in April 1993

Having sold their interest in Whitewater for $1000, the Clintons had to decide how to treat the $1000 on their 1992 taxes. Did they have a gain or loss to report? There is little doubt that Foster and others such as Yoly Redden were concerned prior to April 15, 1993, that the Clintons could be audited and required to pay more taxes if they claimed a loss with respect to the Whitewater investment on their 1992 personal tax returns.

Foster received a letter on April 2, 1993, from Yoly Redden enclosing a draft of the Clintons' federal and state returns. It stated: "If I receive additional documentation from Mr. Patten of Patten, McCarthy & Associates in Denver, we may be able to claim a $10,000 to $15,000 loss in the disposal of Whitewater stock. The present return reflects no gain or loss on the disposal. I will let you know if a loss can be claimed. I realize that we need to take the most conservative approach possible and that was the position taken in the return."

On April 5, 1993, Foster sent a letter to Bob Barnett of Williams & Connolly enclosing the draft returns. The letter discusses several issues, but says the following about Whitewater: "At this point, there is no gain or loss reflected from the sale of the interest in Whitewater Development Corporation. The local accountant thus far has been unable to obtain documentation of payments to or for the benefit of the Corporation in excess of the stock sales price. This could change, however, in the next few days. Enclosed is a copy of the analysis by Jim Lyons and his forensic accountants on the Whitewater financial issues. There was an erroneous tax deduction taken in a prior year which was intended to be accounted for in this return."

On April 6, 1993, Foster sent a letter to Barnett with various supporting documents, including various federal and state returns and financial disclosure statements. Included is "a memorandum from the Media Research Office concerning news articles about financial and tax issues which were published during the campaign, including specifically articles about Whitewater Development Company. The memorandum also includes articles concerning the tax returns filed by the Bushes and the Quayles in 1989. I have confirmed that the Whitewater Development Company has not filed tax returns in recent years." It appears that this letter and the enclosures were likely sent in response to a phone call from Barnett.

On April 6, 1993, Yoly Redden sent a letter to Foster covering a few issues and

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concluding, "I should be calling you tomorrow afternoon concerning Whitewater."

Barnett apparently had another accountant review the returns in his office on April 6, 1993. That accountant prepared a letter dated April 7, 1993. (Note that Blood Sport mistakenly says that Foster wrote the following letter. That is incorrect; the accountant did.) The letter discusses a number of issues and says the following about Whitewater:

> I guess the treatment of the Whitewater investment will be a very sensitive item. I read the press reports you made available to me and it seems that the opposition was contending that the Clintons' investment in Whitewater was such that they had an opportunity to realize half of the profits if the project was successful but were protected against losses if the project was unsuccessful. The President responded that they had lost at least $25,000.
>
> The return currently shows that disposition of the investment on Schedule D at a cost of $1,000 and a sales price of $1,000 and no gain or loss. It seems to me that this treatment bolsters the opponents' position. That is, they claim he was protected against loss -- the President said he incurred a significant loss -- the return shows no loss.
>
> Judging from the return I assume that the Clintons are not expecting to get tax benefit from the loss. I further assume, based on the President's response as reported in the press, that they did not receive any proceeds upon disposition of the investment. [This was not true; thus, the remainder of this paragraph does not follow. BK] Thus, it appears that the $1,000 of proceeds on Schedule D is for cosmetic purposes. If that is the case, wouldn't the best course of action be to simply not report anything on the return. I am not aware of any provision in the tax law that requires one to claim all losses that have been incurred. And even if there were such a provision, the present method of reporting does not report the loss that the President says was incurred.

Barnett faxed a copy of this letter to Foster on April 7, 1993.

On Foster's handwritten notes that are undated (but likely are some time from April 7 to April 12) and list a number of different issues with respect to the draft returns, such as "pay Keough" and "use of name Rodham," Foster notes the following: "Options: FN -- cost in excess but not documented yet $1000 gain." He also wrote notes to "call Sam Heuer, Jim Lyons."

On April 12, Foster sent a one-page FAX to Yoly Redden stating: "Insert re: WWDC: The estimated basis substantially exceeds the sales price; however, because of the unavailability of complete documentation, no basis is claimed."

On April 12, Redden wrote a letter to Foster. It is unclear whether this letter is before

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or after the above FAX. It states as follows:

> I am enclosing summary workpapers on Whitewater to document the assumed loss of $5,878.35. These include the report from Patten, McCarthy detailing their findings of an estimated investment of $68,880.07, workpapers that we had in our Whitewater file of payments made on behalf of Whitewater, deductions taken on tax returns, and lists prepared possibly by Carolyn Huber concerning the same items.
>
> I still recommend that we do not attach any statement to the tax return concerning Whitewater other than the listing of the sale of stock. We have a minimum basis of $500, which was the amount allocated on the corporate books as 50 percent of the capital stock. Because of the numerous problems with Whitewater records and the commingling of funds with other companies and individuals, I believe many explanations may have to be made if we claim a loss. I do not believe we should claim a gain, because the Clintons did suffer a loss, and that should be the implication in closing the transaction. . . .

Handwritten notes that are undated say the following: "Worst case -- IRS audits return, disallows $1000 loss -- press says 'you said you invested $25,000 and couldn't even prove 1000.'" (I am not sure these notes are in Foster's handwriting, but I might have an analysis done. All other notes referenced in this memo appear clearly to be Foster's handwriting.)

On Foster's handwritten notes that are undated but were probably taken at some time from April 7 through 13 and that appear to reflect one or more conversations with at least Yoly Redden, Norris Weese, and Jim Lyons, Foster wrote the following:

Q's

1. What was nature of deductions
   A. How deduct interest/principal payments for corp.?
2. Can you use contributions which predated incorporation?
3. Contribution/advancements of $68,900 to the McD
4. Inability to use $8000 capital loss.

500 eliminate precision
1000 arbitrary
0 would be presumed

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JR [Yoly Redden] resists any gain since inconsistent with saying we had a loss -- zero is arbitrary

(were making payments because McD was missing)

opposes FN

reason is 0 is what IRS uses if you don't prove basis

JR -- we did not know WWDC existed in earlier years

Discussion Points

1. An argument that they were protected against loss:
   A) wash is consistent with this theory

2. Improper to reduce basis by improper tax benefit

3. Computation of economic loss was based, in part, on assumptions whereas computation of tax gain or loss must be defensible in audit

Weese [he was one of the Denver accountants]

sometimes relied on Clinton's returns as evidence
don't want to go back into that box
Was McD trying to circumvent bank loss
why HRC getting loans from other

Lyons

HCR transaction re: lot
A) long-term capital loss limitation

raises Q's re

reasonable for forensic purposes vs IRS audit

On Foster's handwritten notes that are undated but were probably written at some time from April 7 through April 13, Foster made a list of various issues related to the returns, including "pay Keough," "Chelsea's return," and "California return." There also are notes

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about Whitewater. It is unclear, but these notes appear to reflect conversations with Yoly Redden and Ricki Seidman.

9. Whitewater

Discuss w/ Yoly **[query whether what follows reflects Foster's views or Redden's views. Redden says it reflects her views as communicated to Foster. BK]**

A. Colo. analyses of economic loss

1. did not take into account interest deductions

2. calculation included some items for which there were no cancelled checks

3. when back out [? BK] unsupported and deductions $5800 -- rec'd $1000 for tk

4. Yoly recommends vs taking a loss of $4800

A) other interest deduction of $4300 which cannot be sure were not WW

B) more importantly would result in an audit of proof of basis
can of worms you shouldn't open
[Note: **I believe the "worms" are the next three listed items. BK]**

1) propriety of characterizing pre-incorp payments on affiliated corporations ($10M to Great Southern Land)

2) propriety of taking int deductions for debt which should be corp

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3) prior deduction of
$8000 prior [?]
payment in 1980

Colo came up with theory to justify but it is shaky

10. Options

$1000 basis so no tax effect but is arbitrary and still risks audit
versus 0 basis w/ $1000 gain avoids any audit of issue

political

in Ricki's view no significant difference in
answering Q's for $4000 loss, no loss, $1000 gain

On April 15, 1993, Redden wrote a letter to Foster enclosing an original and a copy of the 1992 Arkansas return "which [she] revised to allocate to the President $500 of the gains from the sale of the Whitewater stock. I am sorry for the inconvenience of so many revisions."

The returns treated Whitewater as a $1000 gain with a 0 basis, so the only real concern over the returns' treatment of Whitewater was whether the press would seize upon those returns as an indication that the Clintons' statements during the campaign about the extent of their investment in Whitewater were incorrect. There was, however, no risk of an IRS audit on these returns, at least on the basis of their treatment of Whitewater.

As it turned out, the press had very little to say about these returns. I found only two articles mentioning the returns, both on Monday, April 19. The Washington Post reported as follows:

> They also reported a $1000 gain from the sale of their interest in Whitewater Development Corp., a land deal that became an issue last spring after disclosure that a partner, James McDougal, had been the head of a troubled state-chartered savings and loan. Spokeswoman Ricki Seidman said the Clintons sold their half-interest in the unsuccessful 230-acre Ozark Mountain resort development back to McDougal and his wife. Though the Clintons said they lost thousands of dollars on the investment, they listed its initial value for tax purposes as zero. "They decided to take the most conservative position," Seidman said. "The IRS needs extensive documentation to establish basis and not all the documentation was available, so they declined to show the loss."

USA Today reported as follows: "The Clintons sold their interest in Whitewater

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Development, a company they and another couple created in 1978 to develop land in Arkansas' Ozark Mountains. The Clintons reportedly sank $69,000 into the project. They sold their interest in December for $1000, leaving a loss of $68,000, which they apparently claimed in previous years." The USA Today story was obviously somewhat inaccurate.

3. Whitewater Corporate Tax Returns

I have found very little documentation in Foster's files relating to the preparation of the Whitewater corporate tax returns. It appears that, consistent with the December 1992 sale, Jim Blair took the lead on this issue. Foster did receive a letter on June 23, 1993, from Yoly Redden stating "I am enclosing copies of the letters that were sent to Mr. Blair today, together with the income tax returns of Whitewater Development Company. Please let me know if you need copies of these returns for your files."

This letter suggests that Foster did not even see the returns before they were filed and that Foster was not involved in the filing of the Whitewater corporate tax returns. That is appropriate because it is difficult to see how he ethically could have been substantially involved in such matters for a corporation while a government attorney.

Conclusions

That summarizes the evidence we possess from Foster's office related to Whitewater. It seems likely that Foster, as well as Seidman, Barnett, Redden, and Lyons, were aware by April 15, 1993, if not earlier: (1) that it would be difficult for the Clintons to prove with documentation that the Clintons had contributed to, and therefore lost as much money on, Whitewater as the Lyons report had claimed (but note that this was stated publicly at the time of the 1993 tax returns); (2) that it might even be difficult for the Clintons to prove (although it did not appear that they would ever have to) that they were at risk of loss in the Whitewater investment; and (3) that the Clintons claimed improper deductions on their personal tax returns in the 1980's (which they conceded, at least in part, during the campaign).

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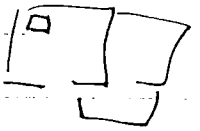
7/12 Tom C.

6/16 → Cas's office - Spec Asst to the Cas C.
Was in west wing. 

Docs myst. for BN at time. VF maintained own files —
DG - 2 outer cabinets + VF inner office
cabinets + desk drawer.

AP called 5:30-6:30 am 7/21. 20th Case in 8.
Deb, Linda, DN, BP all there, Don't remember
SN, ~~Don't know anyone~~ in VF office. Door closed.
7/21 1030-11 Office locked out on { locked. SS gds - not identified.
Seen interviewed by Park Pol. 22nd, 3rd Mtg on 21st w/ 20th
BP, LT, DG, SN, BN? - to get idea
of events occurred given day & give leads
upon AP mtg talk to next day & ensure
not fed pressure & say or not say anything
specific fact. ~ 25 mins.
Honestly not why myst've killed herself.

Interviewed briefly. 5-10 mins. 7/22, 21st
DN there. No obj's to presence. Relaxed.
Didn't have much to say / didn't know him
v well.

No involvmt w/ review of docs.

F 126764

F 126765

22nd – Didn't go into MC office. Didn't help MW pack up.

Helped her move for 2 boxes + 2 evening journs from a WW office – drove from MC office – to the residence – work qtrs. in main outer office/hallway x's office?

Think MW asked if someone did help her moving a box. No specific recall. MW in outer office @ some pt. Ton not paying attn. to conversation. Someone maybe told him, he may've heard her + resp'd. Bef. funeral. Dont recall day. Wed or Th. Strong feeling Thu later in day possibly evening, the dark outside. Seem to recall oth's in elev lobby of details of putting 2 of 4 manifest for funeral + remember Thurs night activity re manifest.

Left w/ her – to MW office or MC's pers'l office. Stray impression MC off Box(s) near or on couch. Never looked in. Pt some pt MW or someone told him pers'l docs of hers + MC + transfer to resid they did have chance to review them. – in outer office and along w/ request?

Told Nelson time asked + deposited box. Same impression from same person(s) – that had to below pers'l docs also sent

F 126766

were files maintained in VG office,
Wanted to see if knew what had
been kept there. Told so. Pres + MACC did not know what was in [illegible] files kept in VG.
Denied that was inference I got from what was said.

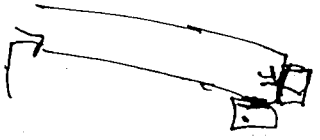
At least one other woman in [redacted] office area. Linda? Betsy? Not Deb.
Did not w/in sight,
1-1½' longer than a Zerex box, deeper by ½'
wider by ½'. 10-20 lbs. Didn't feel
stuff. Closed.
Maybe been another box, on top.
MW took gowns.
Bet at carrying box + 1 or 2 gowns.) MW carried
both gowns some.
MW carry-on something.

MW + TC Elevator → ? → walked past area next to press
office → walking by close Conf → Thru Palm Aire → elev in res'l
up to key area → - busy redecorated →
assure key (4th floor) → cramped hallway
→ look at - close by 2 over door-fcher + one
[redacted] ahead — go in stay 2 ahead. MW spoke w/ people along
way. Don't recall who,
Not busy secretive,

go into relatively small room w/ not fully unpacked
boxes. Not fully set up. Lot misc

there stored. Sys sec office. On left - corner closet w/ door w/ handle. Other boxes.

Lots boxes on flr. 1/2 unpacked. Maybe no furniture; no gen furnit. Artem's memorabilia. Copy's mementos.



+ other things in closet. Had to move some and do accom. box. No recoll pulling 2nd box in closet. Dont think went to East Wing. No recoll was locked or not.

some closed some gen furnit stuff.

Chit chat on way over about UF. Dont recall seeing anyone in residence.

Walked on MW to furnish something. Looked in other rm. Mary asked what was going to be. Study or gen'l library. Left w/ MW. Dont recall how far she went w/ Rem. Went back to office.

hanging up some? looking down?

Did not go to Jones.

F 126767

Knew VO had in his office
copies of inc tax returns —
Saw cohen interv'd.
Had why ag ones files, even if prob,
left stacks on TC's desk on 7/20, No understdg why/not usual
Things that had been sent to Frank Hunger. Dib dident kno.
Gave to SO — maybe next wk.
Looked thru files. Cost's office had taken
steps needed. TC reg'ly drafted
transmittal to DOJ thru for these files.

F 126768

F 126769

~~Ford~~ Cassleton

June 16 — Special Assistant to the Counsel. Back left desk.
Documents manager -- entirely manager VF maintained this file -- Deb Gorham maintained in 2 auto cabinets.
Bernie Files in 2nd drawer.

7/21 Phoned by Ford 6am. In to office by 8.
Gorham
Troy
BN
Betsy
DR Kenneth Rose

Door closed to VF Rm.
Mtg BPs CT, DG, SN, maybe BN, DR CS,
PP interview
point guys to get idea of events taken place on premises day
Heads up re PP.
Make people comfortable at beginning
Assume everyone involved disc + feel
Documents memos
25 minutes
understood will be continued next day.

5-10 minute interview next day. SN present. DR argue objecting to presence

& SN. Relaxed tone. TC had to fix things to provide.
Interviewed on 7/22.

[redacted] Office sealed on 21st between 10:30 - 11.
Installed ~~Locked~~.

Assisted MW in moving 1-2 boxes from WW office to residence. Room

No specific recollection of MW

MW asked for help. In counsel's office at some point. Not paying attn. Inferring she made request.

Before the funeral. Thursday in evening. Impression it was dark.
Recall SS in elevator. Details of putting together flight manifest.

First Lady's Office. Near door on a couch.
Someone told me that night that box contained personal docs of Pres & 1st lady. Transferring docs to residence so they could review them.

before deposited box

Some persons told me they originated in VE Office. Wanted to know what had been kept. Female

F 126770

Longer than a ~~box~~ box by 1-1½ feet.
½ ft. deeper. Wider by ½ ft.
10-20 lbs.

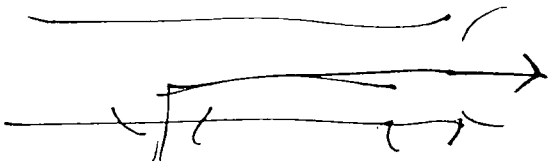
At some point, Carried gowns. MW
Carried gowns. MW had something in
her hands. At some point TC had
gowns & box. Not sure.

not Deb Gorham
Linda Tripp
Betsy Pond
MW

So Pres. & first Lady had chance to review personal docs that had been in WF office.

Took elevator. Walked past
press office, rose garden, palm
room.
Take elevator up to living area
of residence. Top floor

When out of elevator. Crappyed
hallway. Took right. Close by,
2 doorways.



both doors open. Go in
door at end of hall.

F 126772

MW spoke to several people on the way.

Relatively small room - had boxes all over floor. Locked / Clinton Library could not be unpacked. Half of the size of B-Ships. Not a regular wash room.

→ Arkansas memorabilia

Closet. W door. → Campaign moments

Remember having to move some of boxes inside to make room for a door.

Remember going to East Wing. W MW the entire time.

other boxes

Didn't notice whether MW locked door.

Waiting for MW to do something. Remember looking at other room. Thought we'd see / study.

→ Stuff eg. baseball bat, stuffed animal, pictures in frames.

Maggie W key pass

Elevator down remember going back to office. MW did not [redacted] so all the way back

Knowledge of VF file -- Copies of case & tax returns. Remember seeing them when interviewed. Files of lit. against the President.

Left active litigation files on TC desk on day fired. Kinds of matters normally referred to Paul Bruce of Civil ~~Division~~ Division of DOJ.

Looked through files. Seemed as if ready to be referred. No action pending.

F 126773

STATEMENTS ON RENOVATION FILE 3/31/96

Bernard Nussbaum

GRAND JURY 5/26/94:

Q Who selected the files that were Clinton personal files?

A Maggie and I. I mean, we looked and we selected the files. And one of the files we selected Maggie returned, because it wasn't a personal file. It was really a residence file. It looked like a personal file; it was a file concerning the residence, you know the operation of the White House, which is not a personal file. The operation of the White House residence. But we selected them. But other than that file the other files were personal files.

CHESTON NOTES (7/7):

Decide CL pers'l files to Dl's lwyrs. --
tax + invest, fin'l

BN or CS or ?
Call MW. Finished search. Sent VF 2
[illegible]. Want CL pers'l files out of here
too. (defined as fin'l;tax;investmt

She comes. fairly soon. They look in drawers w/
[illegible] etc. Most in draw lt side.
Review. Mostly MW, bad back. Put in box.

Castleton & MW carry over to residence. } 20 min. at 5:30.
[illegible] in outer office
asked to help carry

Files outside -- which forgot about -- incl
some pers'l VF.

Sent over 1 file re renovation of residence. Returned a few days later. SN told BN came back }
not pers'l file.

* * *

Lock office. Go to funeral next day.

MW or SN told file came back.

Ck w/ DK wh on inventory --

Maybe said to MW -- no -- stays.
But related renovation file
may've gone.

DK --
1) wh. returned
2) wh. have on list file renovation

SN or MW told BN a file re: WH residence came back next wk.

Wkend in Maine

SHERBURNE NOTES (undated):

Call MW -- finished search
got Foster file take Clinton
personal.

Open drawer -- mostly together
told MW to look around

Remember sent over file concerning
residence renovation.
* Steve or someone told BN came back.
20 minutes.

Spend weekend in Maine

SENATE DEPOSITION, 7/13/95:

Q In the files, did you check to see whether commingled in particular files were official documents?

A We sent over -- we did check to see whether we were sending over personal records as opposed to White House counsel records. And we made an effort to send over solely personal records. And actually, one record was sent over and returned.

Q Which record was that?

A A record with respect to the residence, a residence file.

Q Who returned it?

A I think Ms. Williams returned it.

Q When did she return it?

A Sometime thereafter.

Q When thereafter?

A Within a matter of days.

Q Before the documents went to Williams & Connolly?

A I don't know. I don't remember at this point.

Q But you're quite sure that Ms. Williams returned the document?

A No, I'm not quite sure Ms. Williams returned the document. I believe Ms. Williams returned the document. A residence file was returned. There was a file that was returned because we were making an effort to send over solely personal documents which had been used -- yes -- which were in the White House counsel's office because there was an official purpose.

That purpose was now over. Vince Foster was dead. We weren't going to be using those files now so we sent over the personal records to the Clintons and their personal attorneys.

Q Did Ms. Williams tell you who had made the decision to return that document?

A No.

Q Did she say anything about how she came to return it?

A It's just some statement, merely that this concerns the residence. It's not really a private file, although the Clintons live in the residence --

MR. PEDOWITZ: Can we take a break for a minute?

MR. CHERTOFF: Can I hear the answer to the question?

THE WITNESS: And consequently the documents should remain in the White House counsel's office.

BY MR. CHERTOFF:

Q Can you remember any other discussion with Ms. Williams concerning this occasion when she returned the document?

MR. PEDOWITZ: I really would like to talk to my client for a moment and he'll answer the question.

(Witness conferred with counsel.)

BY MR. CHERTOFF:

Q You've had an opportunity to consult with counsel?

A Yes.

MR. CHERTOFF: Can I get the last question read back?

(The reporter read the record as requested.)

THE WITNESS: As I indicated in my testimony, look back at the record, I'm not certain I even had this discussion with Ms. Williams. I'm not positive. It's either Ms. Williams or Mr. Neuwirth I had a discussion with.

I remember a discussion with regard that a residence file, a file concerning the residence should remain in our office rather than be sent over as part of the Clinton personal files to the Clintons and their new personal attorneys. And I had the discussion either with Ms. Williams or with Mr. Neuwirth. It was one of them. That's what I remember.

BY MR. CHERTOFF:

Q This conversation occurred after the documents had been taken out on the 22nd; correct?

A Yes.

Q And it's very hard to confuse Mr. Neuwirth and Ms. Williams physically, isn't it?

A Of course, but they're both -- they're both involved in the subject matter. The reason Mr. Neuwirth is involved in the subject matter is because Mr. Neuwirth was working on matters concerning the residence. He had been working with Mr. Foster concerning matters of the residence and he was working with Ms. Williams who was involved in matters concerning the residence. And one of them said that file should remain in the White House counsel's office.

Q Who brought the file --

A So why is that so strange, that it's hard to confuse Mr. Neuwirth and -- Ms. Williams and Mr. Neuwirth?

Q Who brought the file back?

A That I don't remember. Either Ms. Williams or Mr. Neuwirth, even though they're quite distinct, one of them brought the file back.

Q Where did they bring it back from?

A I don't know because I wasn't there when the file was brought back, and I'm not sure it was brought back from the residence or from Ms. Williams's office where this file was. It was a residence file, and we made a determination that it was not a personal file that we should send to the Clintons' personal lawyers.

That's all that happened here. We came across a residence file which was returned to Mr. Foster's office for Mr. Neuwirth to work on in the future, just like Mr. Foster had worked on residence matters with Ms. Williams and Mr. Neuwirth.

Q It was originally a Foster file; right?

A I'm not positive it was in his office. It was either in his office or Ms. Williams's office but it was a matter he worked on.

Q But it originated in Mr. Foster's office?

A I'm not 100 percent positive of that. It may have originated in Mr. Foster's office and gone out and was returned or it may have been in Ms. Williams' office and was put into Mr. Foster's office, but it was a residence file. There was a discussion as to whether this is a personal file that should go to the Clintons and their new personal attorneys and it was determined that it was not a personal file. It was a file that should stay in the White House counsel's office so we could continue to work on that matter.

SENATE HEARING, 8/9/95:

Sen. Bond. And, in fact, after those files did go over to the residence, they must have been reviewed because one file was returned, was it not?

Mr. Nussbaum. What I remember about that Senator, is that at some point a file was returned, but not necessarily from the residence. I am not positive at this point where the file was returned from. It could have been from the residence, or it could have been from Maggie's office, perhaps.

Sen. Bond. But you think Ms. Williams returned it?

Mr. Nussbaum. I think Ms. Williams returned it or was involved in the return in some fashion. It was file that had to do with the decorators or the ushers or something, something to do with decorating the White House, which was sort of an official thing. And that file came back. I am not positive if it was one of the files that we sent out. I just don't know. I just don't remember at this point.

Sen. Bond. So the file just came back to you out of thin air?

Mr. Nussbaum. Well, somebody -- my best memory is Steve [Neuwirth], who was working on these issues with Foster -- somebody at that point told me that a file had been returned or a file had come back with respect to this issue. That's what I remember about it.

Sen. Bond. Was it your understanding that that file had been in Mr. Foster's office, had left, and was coming back?

Mr. Nussbaum. My memory today is vague on that, on that subject. I just -- I just don't remember. I remember a file came back, and it could have been a file from Mr. Foster's office. I don't say it couldn't have been. It was a file with respect to the residence, with respect to the decoration of the residence.

Sen. Bond. But you do know that the files did go to the Clinton residence?

Mr. Nussbaum. That's correct.

Sen. Bond. If that file had been one of those that had gone up there, obviously somebody had to take some action to send it back.

Mr. Nussbaum. Well, somebody made a judgment, yes, Senator.

Sen. Bond. Somebody made a judgment to send it back.

Mr. Nussbaum. Absolutely. And somebody must have looked at it, made a judgment. If it was that -- I don't know if it was that -- but if it was that, somebody looked at it and made a judgment that this is not a personal file and

sent it back.

Now, you know, Senator, there has been a lot of talk about this. You know, I understand that no one, at least the President and the First Lady, did not review files at the residence. Let me say to you, Senator, as far as I am concerned, it would have been totally proper for the President or the First Lady, if they wished, to review their personal files. I find nothing wrong or suspicious about that.

Maggie Williams

OIC INTERVIEW, 10/28/94:

Q Was there a time that you returned a document or documents to the counsel's office or to Bernie Nussbaum, indicating that they didn't belong with the personal papers?

A I don't remember that, but I wouldn't have done that on my own, I think.

Q Do you remember somebody telling you to do that?

A No. I'm just trying to think how I would decide that it wasn't -- shouldn't have been in -- I don't remember returning anything to Bernie. I do remember the discussion about a renovation file.

had

Q Now, you indicated that occurred on July 22nd?

A Yeah. Right.

Q Was that renovation file already in the pile to be transferred or did you see the renovation file?

A No. I remember asking about it. I don't remember necessarily seeing it in the pile. I didn't look through the pile that was there. I mean, the only thing that I can remember, in terms of specifically, you know, a file that was marked, you know, that I would remember it, would be the one I picked up, the tax related file. I remember that they said "President," whatever. Everything else I didn't even pay any attention to.

Q You don't recall anything else about a document being returned to the counsel's office by you?

A I don't recall. A document?

Q Or a file.

A I don't recall.

SENATE DEPOSITION, 7/7/95:

Q And did you say, Bernie, I found something marked "taxes"; what should I do with it?

A I put it on the stack of files. I put it on the stack of files.

Q And then what happened?

A I may -- I remember having a discussion with him about the renovation files. And I said should I take the renovation files, and he said no, that has to do with the White House counsel's office. So I remember that was the only discussion, and then I remember either leaving to get a box or leaving because I took a few more calls.

. . .

SHERBURNE NOTES (undated):

MW asked abt Renovation file ----> asked Bernie
if XXX personal. BN said No,
that is a working file.

SHERBURNE NOTES (undated):

Renovation. Couldn't take seriously b/c
No public funds. Kaki had
decorator's temperament. VF got
overly serious. Well on way to being
resolved at time of death.

WJC & HRC want to decorate
Usher trying to please
Decorator from Ark w/ unlimited
budget

If cover one, need one or two
extras in case grape juice

interviewed by FBI about issue
b/c of note -- exchanged
mat'l w/ Neuwirth

CHESTON NOTES (7/15):

ushers/renov -- SN more involved aft VF death.
MW involved bef.
Hard time worrying about -- pillows, no public $,
Kaki's decorator temperament. VF viewed
overly seriously.

Well on way to being resolved bef. 7/20.
surfaced again >
VF note.
that unlim'd time & $,
+ usher - Gary - wanted to plse ---> lack [illegible] 2.
+ need xtras. ---> costs

Id'd renov file for BN. Said part of
ongoing work in office.
VF wldve shown her renov. docs. She had copies
some docs.
Dont recall having VF file on renov. or giving
SN file.

Dont recall disc'g file in VF office
aft note.
Talked lot w/ SN re issue. XXXXX
rev'd docs w/ him. Cldve given some
docs

Steve Neuwirth

FD-302, 5/13/94

Neuwirth said that he has no knowledge of how any documents were removed from Vincent Foster's office with the exception of one file regarding the "White House ushers and White House renovation" matter that was assigned to him from Vincent Foster after Foster's death.

CHESTON NOTES (7/11):

Ushers/renov -- wkg on @ time death. Given file
by BN or MW the following wk. think after Mon. > 1st Lady
or MW asked if SN ld take over proj.
Had till doc prod. -- As was. Yellow env w/ file fldr,
+ papers inside + outside fldr. Was VF's file on renov
+ ushers. Dont recall from 22nd review.

Office Public Integrity -- shown a doc from file. Q re
[illegible] line in note.

Given file aft told he picking up wk. -- by
MW and/or BN. If got from MW, wldve
told BN been asked to do it.
Disc'd w/ BN HRC & MW had asked SN
to pick up some subst wk VF had been doing.

VF, MW + SN v close wkig relat. Wldntve surp'd
if she had a VF file. VF ldve left
file w/MW to look at. MW was very
involved w/ -- pt person on renovation.

* * *

No wk on ushers/renov till got file --
knew 0 about it. XXX MW was
involved in renov. process/press
decisions aft. SN took over proj.
Docs in file show MW @ earlier mtgs when issue
came up.

Didnt rec any other files from VF office.

SHERBURNE NOTES (undated):

Matter of renovation of WH and ushers office working on [illegible] VF at time he died. Matter given to Neuwirth by BN or MW.

Best guess got it > day note found.

Yellow envelope. File folder inside.
Documents inside and outside of file folder.
Never disturbed the integrity of this file.
Never got anything else told came from VF office.

Roy Neel/SN interviewed by PIS at DOJ.
Showed doc from file to investigators.

Either BN or MW told SN being assigned.
BN said First Lady & Maggie wanted Neuwirth to pick up work.

MW, Neuwirth, VF had very close relationship
MW was person Neuwirth consulted with
Would not have been abnormal for Maggie to have had file.

Understood MW was point person
handled in residence by usher's office

* * *

Never worked on it b/4 got renovation file. MW Heavily on relations w/ press, how explained > SN got involved. Could tell MW involved < SN took over from documents in file.

Never received any other file from VF office.

GRAND JURY, 2/28/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Q

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

A

B10 7/7

F 126774

July 20 – pre 9 – quiet day. Just read; called by Bigms. 2 brief mtgs.
Cohen's rest 9 pm. Clear as pages.
Go to WH residence. Ones on LK. Wants to
come down. MM goes up to see Ones. WK to, I body.
Ones & MM come down. Ones + MM → Leon.
Want to office to see if left anything & to make calls.
No recall my desk re what Sorg & I told do. No order to send.
Get to office, ~15 mins after LK over.
See door open & Uke in VP office
MW on sofa w/ OT
OT behind desk } looking to see if left note
Look in desk. See nothing.

F 126775

07 goes 1-2 diaries. See nothing.
looking for something obvious left to be found.
They leave together. Take D w/ them. Lock man off +
BN arrives.

BN into his office. Starts calling staff. Only
1 there. 10-15 mins. Walked and WD - water - talking,
corridor. Pastor Sparkly ...? Dont recall who at end of locked on light +
Didnt look. Not crime scene so cleave. Volunteer been for long.
Spoke w/ SM. Someone? SM? Said should see get
garbage - yes, 2nd flr.
Someone on my level, Burton
there. and said never trash.
What do. Just leave here & cont office
locked by them, BN on way out. Moved upstairs day
cleaned office when left. ~ 11:45.

Craig go w/ B Kirby & look @ body?
Dont recall who sent him or not that early.
No one w/ DW.
No recall doc sealing office.
Made more calls after not done.
7/21 - Came in ~ 8
- Woken by call from US re am. Did not feel. Ready for night.
- Baby Ford in office. Had left message night before.
She told BN she'd come in + straightened out papers
on desk. Told don't touch.
- 10-10:30 am mtg w/ BD. Met in DW office. (Where all now
They described. Arranged by DW. DW, BS, B Kirby (wanted to go w/ BN), BN
Taken BD scene night.
8:30-
9 am staff mtg - police. Discuss sealing office. Confirm after
mtg w/ CS + SN. Not crime scene. ... But why not.
Call SS + come up + start search. ~ 10 ...

F 126776

Reno 6 kgs'd yst. only thy recalls in his safe.
Travel office sensitive but over -
7/2 most recs.

RP describe what found. At of mtg, Ad end, said wld conduct investg, + people wld be coming, BN-Zinn, we'll be cogs, Confirm suicide. No disc Coles.

Other
DD shld up 12 to start invest. - interviews etc.
Keep working & Ck 1066y, Lots going on. Probably will be ineligible emps. SS, OGE etc, Maybe disc'd in / Sumter. Shld coordin all. WD shld not call Heymann + ask if he'll coord various investgs.
Agree to have only 1 aber in day.

Recs come to WH office to conduct staff. 10 recs MM to go maybe. In WH office. Some staff come in. Recs telly VF stores. BN goes into VC office to take out pictures undergarments dress to show Pres. MM not in pic. SS records.

Staff use by.
Decision to speak to WH - Pres + BN.
Pres, MM + BN so to OEOB. Had to wait for MM.
Agent 2pm.
x 4 - atty Mayo's + Adams (DOJ), CS, SN, 2 from DD (Coudert, not mad others), OGE, SS.
Secret want to look in VC office underwear, fine. Note of 20-5, Long hand dgs.
Funeral arrgmts beg made.

F 126777

BR - concerned
lot of sensitive mat'l in VA office. Velby ...
OO essentially looking for extortion or suicide note,
decide do next day. Do search + interviews.
Say things will tell in. No obj.
Say deal w/ sensit mat'ls in approp. way. Said
will conduct search in their presence. Not
extensive disc but no objs.

Concern re WH - Bills, MM, Quan - activity what
day. Ensure not to libel/censure.
Abdallah
Take that day? and next am serves disc.
Bill Barton (MM worked) ; MM, Quan (next day);
A what day + why.
Desire not to let rummage, but do at thing.
Deemed SW, CS, 3 choices - do as will, O or
in between - all do together.
BR reviews in their presence, discuss gen'ly.
Doesn't know of MM discussed w/ Anne.
At some pt, talked w/ Susan Thomases - asked
what doing + why. Didn't say WHC said anything.

No disc WW.

OO not aff re My 22nd.

Limit disc differences generic - exec priv.
See what in report.

Tell CS + SW to keep witnesses they want.
Calm them, tell truth ...

Let one pt suggested might interesting info any Hy

didn't - sensitive, priv. not appreally.

F 126778

SO in mtgs w/ Sessions et al
cs dealing w/ DOJ, ~~[illegible]~~ may.

7/22 – DD start interview process,
BR arrive later.
Poke head in – have empathy for you,
Really crazy. No objns to keeping them.
Encourages Debbie to add/explain etc.

7/13 – new docs. Delayed some 3 shall have
convos, w/ WH re how to do], 2-2½ hrs.

Some
Discuss w/ Mayorkas re how handle docs.
Doesn't recall DOJ having great concern,
" " disc w/ Heymann.
– Said will go in together, SA examine docs for role,
[elaborately little from right] describe generally, I'd describe what
Do the same 3 sensitive matl.
They did, I'd like wanted – will set aside.
May may say that 3A hand over doc
but May see. May agree no public
now re DOJ.
– note not be cleared
– vetting
– privacy

– Did ask to see things. Got all I'd'd.
– Alley descript so gen'l didn't id.
– No obj – include re extortion. Negatory. Sept
– no objns making descript. Only ask for remedy – given.
– After note discovered, no req for addit'l b/cle.
" " " Δ attitude – no with cast @ WH
(got an hugs),

F 126779

Announce gde rules @ beg's o/fice mtg. No Q's.
BR doesn't recall every Wayne a call before recess or
Wayne says just usual results.
No one asked re T file. Over by then.
Files in fmr RF's sec'y's desk + in safe, (if any) – if any, would have been same file.
denying search.
Didn't say were all files.
Beg was to search office for exhibit/attachment –
– not rev'w files to shed light on motive.
Bull didn't ask for T, usher or any file
re Sen or note.

3 times in interv –
reached mtg. Pulled out files. Incl. T.
Were in ~~[illegible]~~ stayed in CBS's o/fice. Wked w/RE,
BR took 70 docs to wk in matter.

Docs asked to put aside – logs, recent contacts,
Gyle index,

Search – Bill Burton, Mayotis, Adams, SS, GO,
OGC, CS, Sen Jud Com, OLA, Symington.
– so this each file. Pick up. Describe.
Typically put back where came from.
– process evolved somewhat. Asked for
Wayne logs. Asked to see Thys. Put all
in file. Said will consider; dtg to be resp.
– found pers'l things. Lease. Check,
concerned w/ privacy info. Said will set in
resp file + SWE to review SS. If you want
to look at, ask Kim or Hamilton. Handled
to SS.

F 126780

No objn. Ultimately went to JH + asked to see same. Did. He showed.
Also DK.

Pers'l files, id'd as such. Didn't ask to see.
Mostly tax + investmt.

Cliff takes top file. Leaves. ~~Gone.~~
Shows all.

Real est one file - how described WW.

Shown anything behind. Sund desk by self.
And suit c/b - says, that's ok. CS agrees'd.

Brief case - ~~bb~~ by back wall. Bill
over. Reach in + pull out files.
Put on desk. This is TO.
See no other files. Dust back of wall.
Left TO file on desk or credenza.

2 files - VC pers'l + things they wanted to see.
Transferred to Sandi. Leaves w/ box full
in fact all. No objn. friendly.
W/in 1-2 days, Sol back w/ docs examined.

No disc re sealing office. Done.

CS taking notes. Don't know if others were -
not much.

No E - no files outer office.

Was search office, not all VC files regardless
where.

F 126781

After all left –
Monday transfer more gen'l & VC lawyers, Rice etc SN, Comp.

Decide CL gen'l files & CL's lawyers. –
tax + invest, fin'l.

Wrapson?
Call MW. Denied search. Sent VC – to
cons'l. Want CL gen'l files out of law
box. ↳ defined as fin'l, tax, invest.
Like cases. Barlysom.
Self work in drawers w/
boxes etc. most in drawer inside. Reserve. / Mostly MW, but both.
Put in box.
Cashill + MW carry over to residence. 20 mins. at 5:31
↳ stored in outer office.
Asked to help carry.
Files outside – which forgot about – incl
some gen'l VC.

renovation of
Sent over / file & Returned a few days re residence.
later. SN told SN came back &
not gen'l file.

1) Not process w/ investigators over,
2) judgt evolved as saw what was in files –
that gen'l files should go to gen'l lawyers;
3) didn't intend to rely CL's anymore in these
matters, those issues over.
Handed done + behind; get on w/ WK office.

Needed gen'l fin'l docs to do re functioning as Pres
prep taxes etc. VC had rep'd in gen'l
cap ref. Docs fairly done. Some re 1/20.
Didn't think successor should take over.

F 126782

No list of files handed over.
Kept cc what gave Scott.

Lock office. Go to funeral next day.

MW or SN told file care back.

Ck w/ DK wk on inventory —

Maybe said to MW — no-stays.
But related renovation file
maybe gone.

DK —
1) wh. returned
2) wh have on
lost file
renovation

SN or MW told SN re file care back.
next wk.

Whend in Maine

Mon — 2/26 — Tell SN to go thru office
inventory list files so can distrib. wky
files to other days. + Collect pics
etc to send to JH.
Above taken TO file out on 22nd or 26th.
Mgt Rev had just been issued

Called back to office. SN at table gabby
together mode. Kind of shy had been looking for.
SN said packy up, Jewel came over to
put in box, fell out.
Wanted to make sure, Pres, family town about.

Went to see MM, Reminded re Chi'c w/ Pres,
Told Barbara. Walked into WHC office. Brot wks

F 126783

o/l i.e. Discussed. Planned. Emot'l. Do it they, I don't want to be involved.

Put in call to Mack w/Burton + SA. Read to MM. DG put on phone too. Said want kill after speech. Back dom. Called JH - told LG carry in 5 dom, said buy her in. Robt wanted both to see (in person). Prepared transc. 5-6 pm. Put in envel. in safe. [That night + next day Hale HRC + Ores discussed.] Discld w/ SW, MM, legal issues - principle, primary, obstruction... Needed to look at the attorneys assumed turnover. Burton running got'l legal issues. People raised Qs. Never real doubt w/ turnover, BN decision. SA doesn't recall many pres. BN no recoll either way.

Next am. Ores busy. 2P carry in at 3. Met w/ her + JH. Maybe CS or SA - prob by not. Show note. Says Barbara to make docs w/ hints bothering; didn't like suc note. Will turn over. Raised prosp but not MM 6 pm. - to prosp thinks. 5-6 Called AG (Talked to MM every day.) maybe knows coming? Maybe per o/l pres said that.

Walked in oval o/l pres 5:30-6. He knows (HRC, DG or MM?), said didn't want to read it. Do it they, smo Kessler in day. DG came in MM's o/l pres 6-), Reno, Meyer, MM, BN, SW?, RS?. Explained what happened. Give to you to give to whoever prosp. Appropriate they take - give to OO w20 is conducting invest. Meyer called OO. I Deke before it to be taken. Give + tell story. called Maybe?

Doesn't recall disc w/ Hulkower CS predrumover.

7/29-30 lots interviews. Copy'd. Meyer wanted only pres'l keys. Stayed but gone in.

At some pt PH called BN/SE b/c search. Advise him? to 7/15 at some point in early

Said maybe you still keep all docs in o/l pres. Said

F 126784

working office, can't + already transferred files out. Said for WH prot'n. OA disagreed.

AM Tom Collier called. Wanted to know what happ'd, was proper procedure followed, Said yes + none req'd. Aft note.

Did OT look in briefcase?

F 126785

BN

F 126786

F 126787

7/20 Best day in history of Counsel Office.
Toughest thing to do → FBI

Paged at restaurant. Ground floor residence.

Occurred to BN to go to office.
① look for note
② call staff

15 minutes > Larry King goes to office
see door open
light on

Maggie on sofa
Patsy behind desk

What doing. Patsy says looking for note.
Look on desk. Patsy opens her 2 drawers. Looking for something BN says that he left for Moscow.
Leave together. BN observes them leaving together.

Remember walking around WW that night. COS (Suite) Spoke w/ Sylvia Mathews about garbage. Said fine -- let's receive. Bruton, Roy Neel. → someone walked in

w/ Dash. to Counsel Bird looked to put in Roy Neal office. OK discussion re Gunn bags.

Locked door. Put in alarm.
left Brand on flight → made some calls at home.

7/21 – write up to LF call asking if SN had fired Vince.
Went to OEOB
Betsy Pond already there.
Vice, Loyal.
The Enemy people would see in office so she straightened up.

10am PP mtg in Watkins office
GS, Kennedy, Livingstone probably there

Discussion at staff mtg w/ Sloan & Newsom re sealing
not crime scene
Docs to sealing to now
what's the harm →
called SSeries to come up.

[7/2 management counseling/reprimand]

Clear → go to Watkins office. This was a report on what PP had found.
Confirmation numbers & initials.

F 126788

noon.

Often PP shows up. Want to speak to people. Realize multiple inquiries -- SS, FBI. Get idea - discussion Mack / Bruton.

BN calls Heyman re being whipsawed by multiple.

10-15 min. Pres comes to office w/ Mack. In BN office. Telling stories about Vince.

Decide to have call WH together in OEOB — Pres & BN going to speak.

2-3 pm — Pres & BN waiting for Mack -- tied up on economic plan

Mtg w/ PP in BN office. Maythis, Roger Adams

They want to look in VF office. Sealed.

BN. Late. 5pm. Long day.

Know sensitive stuff

Fresh file

S Ct

Talking about suicide note or extortion threat — looking for in non-medical

F 126789

way. Come over tomorrow.

Want people prepared for interviews.
Tell them lawyers in for interviews.

Come in and conduct int., conduct appropriate search of office.

I will conduct search in their presence.
They decide if object.

Bruton / McLarty / Quinn
~~Nonnatses~~ asking what I was doing —
ongoing not being prejudiced.
Bruton primarily

Don't let people rummage through
drawers.
① wide open
② entirely closed
③ middleground

Tell Cliff / Steve to prepare / calendar.

Come in next day and start interviews.
No objections to lawyers present.
Delay a little bit still in WH

F 126790

Describe ground rules & Mayflies
(go in I did review docs)
reason → sensitivity that I
make judgment – what
any thing else

describe what I am
looking at.

Did not represent seeing all VF files.
Request was to review Office.
Not a deliberate decision to to avoid
looking ~~for~~ in anteroom files.

[redacted] Not a search of files. A search
Vince's Office.

TO file
3 times mentioned in briefing
BN took TO file because going to
work on it.

Upon search last 2-2½ hrs.

F 126791

Bill Burton there -- cast of characters.
BN behind desk. Pickup. debrief. Put back.

made a pile of stuff ~~that~~ mostly contemporary/relevant contracts.
Also found personal stuff of VF.

Lease, checkbook. etc. Give to Spafford. No objections. Ultimately went to SH who cleared everything.

told P would
~~agree~~ to see Spafford
ordered by asking
Spafford.

Going through drawers, see Clinton personal ~~files~~ - tax files. Didn't ask to see VF.

Sloan said FBI looking.
Reach into briefcase pull out files - desuds file - kept file on desk.

They walk out. Say back to them later - day or two

As far as I'm concerned - Done. If wanted anything could ask Subpoena.

Realize more Foster personal.

Clinton personal go to Clinton's.
Barnett representing

Investment files
Financial files
Tax files

Call MW – finished search
got Foster file Take Clinton
personal.

Open drawer – mostly together
told MW to look around

Remember sent over file concerning
residence renovation.
* Steve or someone told BN came
back
20 minutes.

Spend weekend in Maine.

F 126793

7/26 – Monday – Tell Nemerich to do inventory
so could distribute working files &
collect personal files to send
to Stafford.

BN

Nemith never completed list. Called
PR Nemith to come back & do. Nemith sitting
called to et conf. papers — putting stops together.
come in. Go over. Look down. Remember reading
it. Knew if found on VF desk, wld
have turned it over.
Knew immediately wld create
stir.
Wanted to make sure WJC, HRC
knew about it. Went to see Blair but
remembered he in Chicago w/ Pres.
Told Burton.
Got HRC — looked. Said do what
you think needs to be done. Out to
Burton, Bowie, Nemith → called
back. Began w/ Blair. Not done
now.
Called Hamilton. Said LF
coming in next day at 3 pm Did I
Told JH just to bring in LF. Wanted
WJC to see — have opp to say what he
wanted to say. Prepared transcripts
Put in envelope. Left.
Further conversations w/ Blair & Burton
Never any Q wld be turned over. Going
to make decision. HRC not involved
in decision to hold overnight.

F 126794

Assuming potential legal issues.
~~[redacted]~~ DR missing piece.

Next morning. Lisa F. coming in around 3. Met w/ LF & Hamilton. She is calm. She didn't think suicide note. Turn over. Started asst pursuing.

5-6 pm. called AG. (6/4 pres.)

5-6 pm saw Pres. He knew. Talked to KRC, Mark & Bergen. Didn't want to see.

AG Come in around 6-7 pm. Reno, Heyman, Mark BN. Maybe Nemroff. AG said give to PP. Called Heyman called PP (He shows up 1/2 hr. later. She still pres. He looks at note.

Lets investigations regarding of note. Expanded cooperation.

F 126795

At some point, Heymann called at home (maybe 7/22). Said might be keep all docs in Wash? Responded: don't agree. This is a working office. Docs already transferred files out.

Could have been 25th or may have been 22nd.

← Tom Collier called at some point. Heard I'd made to look bad.

> note

> note found, never asked for additional documents

F 126796

9/12

B Pond

3/93 – dec for BN.

– had asked Lesher on House Judiciary Impeachment Inquiry Staff, can read in on do other Jud Cc Cathy was also an asst to Jerome

– stayed in touch w/ BN, dec 1/3 yrs in NY w/ his asst Jane (@ Winchell + on comm.)

– Bank Meetings – by + pvt affairs.

Contacted BN. Hired.

– 3/93 – add to BN – scheduled, drafted corresp, phones, personal files (appts, trips, speeches) + put things in alphabetical files

– helped w/ VF as needed

– DJ detailees – Cynthia McMannis till May/June

Deb Cochran – worked for VF (then bef. SB)

Elaine Burke – did mail for 6 wks.

Tom Castleton – ~~8/17~~ – took over mail + kept official subject files

Linda Trujo – VF floater. Came when Cynthia on vac (late May); hired by office mid July

– 7/28 am learned of suicide. 5 am Had dressed shave w/ light bf. Had message on + 2 trips. Called WH exec. She told SB. Talked to LT, Deb Coyle Had called LT at light bf.

Came in early – Tom (v. 9-9:30) – ~~4~~ 5 hot wild to lock of doors, opened under door. Went into VP + accessed office. Called JD from inside + let him accessed office. Papers scattered on coffee table – shower then up – pulled BS – + turned over. 2 min Log ops – clear heart news clips. In + a few mins. Didn't touch desk, V. neat guy. Closed door.

Went back to desk. Called BN ~ 7:05 to find out what to do

re: need alert at anyone in VP's office.

are 2 wires to call guard.

F 126797

Sitting at desk – called two friends. Was hysterical.
Steve N came in ~ 7:30. Went into BN's
office. Waiting for BN. [stuff into top'y]
~8 Linda Trapp came in. – in jeans. Been up all
night. Ad told her + everyone to stay
out of VC office.
Deb Grether comes in. Tom arrives.
Had called Tom C from home – didn't want
him to learn from news.
Cheryl, Beth, Cliff, came over + into BN's office.
BN arrived. 8:30-9 maybe. Went into his
office + closed door.
Started trying to get people to come ~~search~~ guard
the office. Presumably BN into, Ad + Lt Called mtl
office. Not come. Call again.
No one knew what to do. Someone came to
guard. Before Bres came up. Maybe 7:10, stood/sat in front of door, sent home? Relieved each other during day.
Place going crazy. Phones ringing etc.
BN went to see Bres. Came back + told Bres was coming up.
55 then Bres came up. Photographer w/ him? Not Mack.
Introd to everyone. Asked for coffee. Said been
up most of night. Talked casually – pics on
wall. Into BN office. BN stepped out
to get pics from VC release of
Bres, VC + Mack in handcuffs. Asked
Jid if he did so + get. Did. Showed
to Bres. Don't recall pics
going back in. Bres left. Staff into EOB,
@ seen. Bres / mm / BN together.
Returned to office. Ed there all time,
At some pt, starting calling to get lock
put on door. Closed outer doors for few days
to + fingerprinting / searching. Took not finished
that aft BN 9:00 / BO 9:30 left ~ 9:20. Ed still
there. Ed was to leave 2 keys still calling,
w/ Jid downstairs when done. Next morn.
BN got keys. Kept 1. Other to Deb G.

F 126798

BR told Deb, Tom, Lindat Betsy not to go
Abbeville anywhere. Said BR ok w/ a quality time w/out touching
want to interview. base w/ him. BR nanny and all day,
~6:30-7 Linda + Betsy went into BR office.
BR and wanted 2 interview, just tell truth -
tell them what happened, Dont worry about it/route
CS + SW there too.
/ OR call in am - told crazy, talk later.
OR/FBI/DOJ types all over the place. Didnt
know who they were. None mad. BR running all over.
Know interv. 1st thing - 9 am
But actually didnt start till 9:30.
Pam Burnett came in to cover phones.
In Carol Rasco's office for int - w/ Cliff,
Ann Kelley OR, FBI, + Cliff.
BR what happened; VF said, on medication,
when last see it, what say, reg events 7/20, ...
Not go to any enemies, or inquiry under,
CS rules of int.

Have VF in Rose Garden @ Rock announcement - told CS in am.
Cliff reminded her of that in interview.
VF stay apart, near door.
BR came in. May have stuck head in or
may've rang'd self and in. 15 min into int.
BR - mighty ok? CS signal fine. May be too. BR leave,
Hadnt discu'd w/ BR earlier in am, don't recall
Not make uncomf, Not less forthcoming,
No one commented on BR. No one seemed to OJ.
No swinging / go.
~ 30 mins. Amicable.
Went back to office. Chaotic.
Thurs a/o - all go into VF office. (next two come in goes in
Copy & everywhere. BR, CS + ? in office. Closed door.
No evid obj'ns. not aware of any door box. Dont remember talk on BR coming in. Y
7/20 6:20 Paged VF for MW. 6:40 left.

not aware of files/work for clo.

left + 8-8:30 maybe spoken BR near home.

F 126799

[Oct-1100. Before JK & arrive.
Cagers called in o/i ce, all - Have Tom
C pack up & inders. Sat. Takes sent b
WK's o/i ce.]

Took Monday o/b.

F 126800

SN

F 126816

matters VF working on --
health care / HRC / blind trust
* request guidance on how to limit responses
to questions about other matters VF
working on.
Aware of VF → work for HRC.

1/26/93 → been here in transition
role 6/4 that
worked w/ BN in NYC before that.
met VF in transition session in wk before
inauguration.

[redacted]

7/20 late Tuesday evening BN called at
home. BN at office. I told him
Foster had killed himself. Called
Bob Nash afterward. He in DC.

7/21 Betsy in VF office - not sure where.
Believe Betsy only one arrived.
Told her she should leave VF office
as it was. Saw her walk out.

During morning BN arrived & others
from counsel's office came over -- stayed -
left. Meeting in ground floor office of
WH with BN and Kennedy at Park

F 126817

around 9 a.m.

Police. Kennedy was in BN office perhaps
Said he had been asked to ID VF
body.

624-2745

Counsel staff gathered - President
637-6741 showed off with Mack. Mack may have
only been present at late OEOB staff mtg.
Not really a meeting. At some point a
discussion leading to conclusion should
284-1568 ask SS to seal VF office. No one
said it was a bad idea or shouldn't
be done.

I called Watkins and asked if he
knew appropriate person to contact to put
lock on door. Gave him 2 names from
WH SS detail -- Don Flynn. Not
informed. Made call. In response to
call, agent posted at door. Later that
day, lock placed on door.

Some recollection that BN in VF office first
to stand inside to talk to Bundy
on use phone.

When Press in counsel office, BN got
pix.

No recollection of discussion about
suicide note.

F 126818

Those participating in
Office access discussion --
BN, CS, Bill Kennedy.

Watkins meeting -- DP may have given some description of circumstances of finding VF.

At some point, when people in outer office had arrived, SN, CS & BN asked them if they knew of any reason VF killed herself. Each said didn't know. DR. Fin grps individually. Talked about day before. Nothing of consequence. Documentaries. Conversations with Lisa Foster related to financial matters; conversations of VF about spiritual things.

DR read this as preparation for no one else in outer office group informed DP them that DP wanted to intervene. Nothing from Betrayal. Nothing like dep prep.

Wed p.m. — Mayglis & Roger Adams were present. Meeting in BN office. Avani Bernie talking to Hegmann.

Know that Mayglis recommended that

Any conversations about VF office based on privilege. Told people take access. VF lawyer. Add'l layer of privilege. Office had material in core zone of privilege.

F 126819

Mayhies proposed attys from DOJ could play a role in analyzing that materials in VF file even if found privileged and not related to suicide case.

BN concerned proposal a problem b/c DOJ would have access to privileged materials. Common understanding that priv. is one that allows WH to maintain privacy wh internal deliberations.

Bernie said would have to think about. DOJ proposal doesn't solve problem.

After initial meeting, understanding that DOJ & WH would think about.

OR conversation. Mayhies said it may be helpful to have DOJ determine priv issue.

Roger Adams here as debrief before going to work w/ Heymann / Mayhies.

Entry covered on first day (2), unlike any conclusions reached.

F 126820

At some point on Wed, request made to Counsel's office to interview -- made by PP -- maybe FBI.

Further discussions

Thursday am. Mtg began in Mack's suite and ended up in VP's office.

BN, B², SN, BL, JQ

Topic → what to do about request of investigators about what to do in light of privilege, waiver etc. Discussion of issues and precedents effect. Bill suggested consult of Quinn. Jack also asked Q about precedential effect. Never lose sight of privilege issue. Historical erosion of privacy of what went on in WH.

perception that POTUS had legitimate interest in learning state of VP's office. Ad conclusion →

Purpose of search → look for suicide note. Writing by VF.

Discussions ended not to long before investigators, Adams, Murphy's showed up. Understood BN had made decision about how to handle the search.

F 126821

At some point in WorPh, BN aware she was concerned about issue of investigators going into VP Office.

Think after BN said he had been talking to Susan Thomases -- left SN w impression conversation was about Russia. That Susan said WH concerned.

BN spoke periodically to Susan Thomases. Not unusual.

SN sat in on Deb Gorham, Tom Casstlen w handwritten notes

In one of interviews made call to PP and mentioned someone from Counsel Office planning to attend an interview. CS & SN may have sat in on PP interview of BN.
SN interviewed -- CS present.

During Deb's interview, Q asked & SN thought she had not given full answer on basis of info she had provided to Counsel Office. Didn't say anything during interview -- not coaching.

F 126822

Red Cliff & Bruins maybe about an issue. Cliff asked Sald make arrangement to tell ~~it~~ those who interviewed him to get this info.

Maybe > Search had Def provide info to PP & FBI to listen to Def's further information.

Just before review, had sense investigators gathered at Bosk COP re suite. OK. & Came into BN office to talk about ground rules.

Not a search. More like a review. Effort to accommodate PP request to find out what in VF office & minimize risks to privilege.

BN showed people where he was looking and told give general description -- this is what I took -- identify subject matter if personal item. Let them know what nature of material was. Investigators made requests to review. Each accommodated w/in few days > month.

F 126823

At start of process, Mugshots requested position that DOS be allowed to confirm BN characterization of docs.

Bernie did what he did. Pile of personal items; pile of items asked to review.

224-0236

Dave Shultz pitney, newspaper article

At conclusion of day, w/ agreement of all present, Staffed removed documents.

Not in room throughout process. Out a few times.

People in room, including full FBI agent trying to see what BN reviewing. SN whispered/mentioned to Chief looked like trying to see. Chief said something -- trying to make what BN looking at. Knowing BN, tried to calm down.

window

BN CS

B7

SN

F 126824

Not sure in room when BN did any thing w/ bag. Remembers being aware. It was there.

-31

2000028 → inconsistent w/ current recollection

penultimate ft. No recollection of whether BN removed does from bag.

No recollection of own bag.

371-7699 Not sure in room when it ended.

Request review on what was on computer. Asked for phone logs and calendar.

At some point that day, BN said would be a good idea to do inventory. At some point BN said he needed $. On Monday looked on computer.

Computer issue resolved. Looked at CVP files. Nothing of note.

At some point 2 investigators left, CS & BN in office perhaps categorizing. May have seen MW in office.

Later became aware that does removed.

F 126825

On way back on flight home from funeral Barnett introduced self to Pat Buchanan indicated he would be receiving certain material from VF Office in capacity as outside atty for Clinton.

Tonight he said he would be getting them Thursday. Something re talking to NW about it. No details.

Matter of separation of WH and Cabinet Offices working on by VF at time he died. Matter given to Newman by BN or NW.

Best guess got it > day note found.

Yellow envelope. File folder inside. Documents inside and outside of file folder.

Never distributed the integrity of this file. Never got anything else that could from VF Office.

Roy Neel / SN interviewed by PIS at DOJ. Turned doc from file to investigators.

Notes Either BN or NW told Cathy Cook (SN being First Lady & Maggie wanted Newman to [illegible] work.

F 126826

MW, Nemeth, VF had very close relationship
MW was person Nemeth consulted with.
would not have been abnormal for Maggie
to have had file.

Understood MW was point person
handled in residence by other's
office.

Primary focus: Litigation working Healthcare Task
Force → whether WHC shld have
d'ee of Federal govt. → 6/22 meeting in
Cong Affairs

Got involved in Healthcare issue.
All purpose POC in counsel's office
for First Lady's office.

WHC, Melanne, MW

Never worked on. Got renovation
file. MW Handy on relations w/ press,
Have explained to SN got
involved. Could tell MW
involved < SN took over from
Comments in file.

Never received any other file from VF
office.

F 126827

PP/BF interview. Recall CS sitting in. Asking whether anything aware of that would indicate use or consumption.

Never heard objections to presence of CS at interview.

NY Times story → Post response in Spicy. Press briefing.

Note > Monday staff only began to do inventory. Purpose of inventory to let BN know what working files in VF office so he could know who needed to pick them up.

Box locked over weekend. Had to be opened for him.

Took lunch break. Didn't BN have key.

Finished inventory late in p.m.

No help except BC w/ computer & directing where VF kept various things.

BN said put most of VF material. Found large Black & white photos of VF & Pres & daughter. Put in box. so wouldn't get damaged. Then saw leather bag. Thought belonged to Vince. Picked it up carried

F 126828

it over. H put in top of box w/ old damage pictures. Turned it to fit on side of box. Some pieces of paper fell out. Looked white. Rubbed hand in box then and found more.

Said to outer ofc — page Bernie.
Started to piece paper together on table in BN's apt.
Saw handwriting -- looked like H. And writing on it.
Had a complete piece of paper.
No recollection missing.

At some point BN transcribed. Later.

Right away, BN went to get Mack. Returned w/ B2 (Mack traveling w/ Pres.) BN calls Mack in Chicago. B2 still in office. BN advises Mack date found. Discussion of part that was distort. Pull apart dark substance. Mack call right back.

BN went next door and returned w/ HRC. BN pointed to table. Said this had been found. Minimal discussion. Mack called back w/ HRC still in room. When Mack call began, HRC said it important for people in room to

F 126829

decide how to handle it. She left. Agent called back. Determined to tell if had been found & if doing any kind of note. Also, tell President. But not point in immediate phone when pres could be told. Speech. Telephone of congressional delegation. Wait til next day. Necessary for LF to see note.

BN took pieces & put in envelope in drawer in desk. SN observed. BN had already made deception.

Possession of BN B2 by Nemitz re note. Matters related to forging matters -- TO eg.

B2 — legitimate Q whether this really related to suicide. What was nature of obligation to make note available to investigators BN & B2 thought useful to do research. News re questions about making it available. Just anticipating questions the next day.

Relevant principles of obstruction of justice.

2-3 hrs.

Dale Smith/ORL

told BN not aware of any restriction could say things this would be provided to investigators if inquired.

a. guidance re whether previous work note b. not providing note constitutes obstruction of justice

F 126830

Not aware of any rationale for withholding note. Spoke to BN at 9am. Not again until later in day. Knew CF and JH at BN office w/ Mark. Later learned Rad Rem/Algeran → to DOJ or PP.

F 126801

Betsy

March 93 → personal secretary

9 mos. ~~to~~ 1974 knew BN House Judic Impeach
typing staff. ~~Head of~~ Sr.
Counsel to Judiciary Committee
Domestic Assisted w/ typing etc.

Maintained contact - every 3 yrs or
so to NYC. Dinner w/ Jane.

Worked at Paul Hastings
Legisl & Gov't affairs.
Wanted to work in Clinton Admin.
Contacted BN and he said come.

Scheduling BN asst
social/business
Drafting correspondence
Maintained personal file.
Appointments, speeches, etc.
Alphabetical files.

Others → detailees from DOJ
Cynthia McManus (end of day/June
Deborah Gorham → Vince
girl hired to do mail → Elaine Bunke
replaced by Tom Casselton
(J 11-171)

F 126802

Tom kept Original files — keys in military, EOs. Subject files.

Linda was WH floater. Came up and filled in. 2 wks end of May and then hired by one of us in Dec - July.

On vacation Mon first few weeks of July.

Learned of suicide on morning of 7/21. Turned phone off. Turned on in a.m. WH operator told Betsy. Sam Patched through to Linda (Cafe had told her.)

Came to work at 7 am (usual time 9-9:30) Opened outer door. Went into VF Office to access Office. Called guard & told him from Betsy's office. Back to VF Office.
Coffee table spread papers. News clips maybe. Straightened up & turned over. 2 minutes. Closed door to VF Office.
Called BN for instructions. He said not to let anyone go into VF Office.

News folks in next around 7:30. Into BN Office. Linda Came in around 8. Jeans. Awake all night. Told her that no one was to enter VF Office.

F 126803

Bob Pond called Castleton before left bldg
Bob if want him to hear anything.)

Bob Gorham / Tom Castleton in Office.
Cheryl Mills, Betty, Cliff. All in BN Office.

BN came about — 9 or 8:30. 2h. Left BN
Office & closed door.

Started effort to seal Office. Didn't
know how to make it happen. Pond &
Tripp ~~called~~ made calls → Military
Off., S.S. maybe about 10.
Someone came over. Chief of
President. BN went down to see Pres.
Advance people came Came back
President came up. and said
Photographer with him. He was com
DR Mac with him.
Asked for coffee. Upall urgent/routine
urgent. Casual chat.
BN left into his Office. BN stepped
out to go into Bath &c. to get bandages
Pix. Friend let in. Took pix. Pres. left.

Noon Staff mtg — Pres, Heads of BN Depts
Returned! Agent still there. At
some point started calling Goldsmith or
Administration

F 126804

BN and Betsy Byrd until 9:30 that night. Both left before 10 pm. Bennis left about 9:20.

Grand told leave keys downstairs w/ guard. BN one copy of key; gave other to Bob Graham next morning.

6:30 - 7 -- around quitting time

BN told us not to go anywhere; said at some point FBI/Secret Svc want to interview.

Went into BN Office (Linda going home; bus to Columbia -- couldn't get WH authorized cab). He said we probably be interviewed. Maybe Cliff, Steve. Not to worry about it. Be calm. Tell the truth.

close office

Thought interviews at 9. Didn't actually happen until 9:30. Pam Barnett (WH Counsel's Office) came in to cover ~~for~~ to phones. In Rose's Office. PP, FBI, -- seemed like 4 people there in addition to Cliff. Voice despondent, depressed, when saw VF. Supreme Court events on 7/30, what did he say; Cliff saying little until remind Betsy of seeing VF in Rose Garden. Must have talked to Cliff the night before b/c he knew she had told him that she had seen VF in Rose Garden at

F 126805

Fresh nominations. ✠

BN come in) about 15 minutes.
May have introduced self.
Everything going OK ? → said to room
6/2/1932 Cliff waved OK
Felt amicable.
1 minute appearance

✠ Interview lasted ½ hour.
Returned to office. Chaos.

Thursday in afternoon next entry of ✠ VF
Office / Bernie / Cliff.

Paged VF for Maggie around 6:20.
She called VF. Betty passed to page.
✠ Wms. said OK.

Just left JK, papers still in VF Office.
Begged Bernie ask Chairs for out for
Sat. BN says index Thursday pack
Memory. Tuesday Sat. Betty
begged BN again and he said take them
over to Kennedy's Office.
Took Monday PB.

MW.

SW 9/11

- motivation issue?
Health care whistleblower - Safire piece

- 1/26 official Stark Lake - Lee in transit no lk for wk.
- Wed w/ SW in NY before.
- Set mtg VO wk by many, in transit mtg.
- Never worked w/ Ons / 1st lady. Did you see Lee - just hey encounters

- Tues night ~11 SW called from office b/c say VO had killed self. Then SW called brother.
- Came in early next am ~7:30-8. Went straight to SW's office. Office gen. open there; told SW on her arrival saw her in VO office. Either in there when 1st arrived or came returned w/ coffee.
Didn't look in. She said she was straight up office. Near desk? Didn't seem Something things on desk? Can't recall. Nebraska Nowhere else in site.
SW told her she'd still leave office as was + come out. Resignation but to leave as was day committed suicide.
SW walked out of VO office. Not carrying anything.
Many emails.
SW arrived. Other keys came over. Gathered and 9. My in SW for office WH. SW + WK w/ reps DO. Maybe Watkins office.*
WK in SW office - asked Lee if'd body right by. I think?
Ons + Mack came + spoke to folks in office.

* DO may've described ons body's condition to body.

F 126813

[GN, CS, ax;];

Left yesterday — usually later. Desc → asked
asked SS to seal office. Not much going on.
and approved. GN called Watkins + asked him
how to do it / get locks. He rec'd call
Dr Flynn or ——— SS — VM deleted; not informed.
SN called them. Agent posted @ door.
Later that day / back out on.

Vague recall
SN went in VP office — inside door talking w/ GN or
was alone.
Then Pres came up — SN went in to get
kindergarten picture to show Pres. Prob'ly
told by then. All before noon assembly,
@ which O, M + B spoke.

Don't recall desc conv'n to be that am.

At some pt in am (Wed or Thurs?), after (early) Linda, Deb + Jon all
there — GN CS + AX asked them if they
knew any reason Bill busy, ↓ No.
Sat talked about what had (Watkins mtg/book w/ Lacuna?)
happened in office day before, but noticed.
Deb mentioned convs w/ VP re fin'l matters —
conv. w/ VP re criminal issues. VP's am
seemed normal.

Left mtg 0200. Midday. 12-1230.

Sometime Wed / Th — prob'ly Wed pm — 1 or >1 mtg.
mtg w/ Mangoles + Adams + [author?] ? + others.
in GN office. Must've been to discuss
investig. GN rec'd DOJ as pd of contact.
Think GN spoke to Bill H, by telecons
Wed / Thurs. GN in + out of office. Doesn't
recall VP overhead one, told of... Just
aware occ'd.

F 126814

Mayo bs - source w/o w DOJ bos ok. On rec'd Exec. [privilege & atty/cl - WDP. If does in one sense on
In best b DOJ many reason
Expressed views - rec'd attys
pers DOJ may Adm cld play role in confirm
matt'rs n o/ice were prov'd & not
related b what OO today bn - i.e. suicide
note.
Bll concerned ea - want DOJ have access b their
prov'd matt'rs. Bll views - internal debits
create pers DOJ bc - anyone outside WH.
May proposal client - to be prob prov'd.

Aft int mtg, expectation both sides
consider more.

Never condemns. May suggested as helpful -
that would
May be helpful b you b have DOJ
confirm matt's prov'd, not re suicide.

Concerned w/ precedential element.
Adams quotes; may've agreed w/ May. Had
been inform dec by pers b Meese o/ice.

If in Wed - no final conclusion.

At some pt Wed? OO/FBI?
2 reg b consl o/ice b
intervene - Deb, Ashley, BN, SN, CS,
Linda, Tom.

As SOS or indiv'dly met w/ T re rec'd
events that might shed light on suicide &
informal conv w/ Tom, Linda, Deb, Ashley - indiv
as SOS - CS, BN &/or SN - and OO wanted to
interview. Nothing b worry about,
Be truthful. Make comfortable. Not cause
for concern. No prep session.

F 126815

interviews Thomas?
obj to minute

Thurs am - started MM's ste. Ended in VP office. Burton, BN, BL, SW + later Quinn. On logic how resp dec invest. reg d to info office in light privilege issue. Focus exclusively nature" + breach (effect waiver) from in these cases. Concern w/ invest having free access to files, given nature. Jack + others expressed views - never top side grew, had been hesit'l erosion what occurs in WH. Every waiver have long term effect.

Recog AP reg - b/c it to want to det w/h sanc. note or doc in office reflecting on why sanc. Recalls no disc extortion/threat. If anything else, a w/f. Disc ended not too long bef Mary et al showed up. maybe been upset they'd shown up unsupervised

At scene of, BN made decs to proceed as did.

A- direct conv Dies re HRC. - in Pole

At scene of W/Th, BN made aware HRC concerned about issue invest by any info office. BN said talking to Susan Thomas + logic f/up. Left impression they concern. SI expressed mtg w Beck made BN think HRC concerned w/ any unfettered access to office. Doesn't think unusual to like to S7 at this time. Dont think call prompted by HRC. Or that they talk about this issue/sought her advice.

Thinks before the search.

Andrews – sat in on Deb + Terri. Have given notes for both. Maybe been present w/CS @ SA's interview? Re / interview – SA called OS agent to sched; during call said could sit in. – several hrs bef. No objns to being present @ interviews. CS myself sat in on SA's int.

Dang Delo int, & asked. Then + later felt – hadn't prov'd relev info. Had shared w/ CAS's office earlier. Didn't feel place to speak during interviews. Omitted info – Thinks was call for MS of re VO's acct @ credit union overdrawn. At some pt told CS + perhaps SA re concern. CS @ least doesn't disag approp to arrange for Deb to tell SA/S-CS. Dang in @ end doc rev, told Deb of item not ment'd; asked if conf. Telling. Said yes. Attend doc rev – Asked SA/S-CS/ interviews to come into SA office / Deb told of issue.

Dont know if are no info. Just by rev, interviewers gathering and CAS's office.

Process – to access OS req to find out what was in VO office in very minimizing one.

SA went thru office – showed where looking, what G's. Desc'd desc in book sheet of SA depending on item. I'd inventory of mat'ls in office.

Analysts asked to review SA. All shortly accomodated.

F 126807

At beg'g - many repeated views - that best if DOJ attys confirm ID characterization of docs, y
agree/declined/objected ID explic or explicit denial. | maybe been many contemporaneous objs.
No other leg phys'ly to look in drawer...
No addit'l objns/comments on process.
Asked some follow-up qs re descrip.
(file cover'g, file docs folks said wanted to review (Gideon sent after).
+ taken out
At conclusion, given to D.J w/ agmt all moved.

Not in use entire time. Out + out bounds end, esp'ly. Not for long prds.

Call FBI agent + others dirg to see matter.
Mayer assigned to CS. At some pt, CS said - you're not hrg any to read that are you. Led to sarcastic remarks. ID probably led to defuse.

SA [redacted] Custom
CS FBI
[redacted] ← Recall recog'g was there + told included in process.
Not sure in what context recv'd.
Don't recall.

2000028 - not all consist w/ current recoll - both agt, not all style wkly. Doesn't recall w/ in particular in. Not in eight.
No recoll re what ID did w/ hrd bag.
Doesn't think office locked at aft review.

No recoll re burn bag.

F 126808

SW interview -

Not sure when review ended. No disc further rec except for file r'd'd + Asked if rec what was on eagle in office + for share logs + calendar. think CS handled

Files outside office didn't come up on search.

At some pt later, SW mentioned do do inventory of what was in office for indictment grp. Turned next day, SW said take weekend off + do Mon.
On Monday - looked on eagle. Nothing of and concerning note. Rec'd 1-3 wd work related files, file-macros - w/ docs. Deb G - std files every eagle has. Didn't erase anything.
Rob'G told SW or CS. Not Issue resolved.
C.I. interface w/ DD.
Not aware any eagle person rec'd hard drive.

At some pt after rec. left, CS+SW in VG office perhaps to do some further categ'g. Aware MW went in office w/ SW.

Rec'd LOR 06/. Fld both. Rob Burnett instr'd self. Indicated he would be req'g certain files from VG's office in capac. pris'l duty. Subject Indicated getting that weekend + said something about talking to MW about it. Didn't disc details what docs were or how get. All incl v. death.

Witness/recov - wkg on @ time death. Given file by SW or MW the following wk. by 1st Lady Thurs after Mon.
or MW asked if SW cld take over proj. Had full doc prod. - As follows. Yellow env w/ file fldr, + papers inside fldr. Was VG's file on recov

F 126809

+ others. Dont recall from 2nd review,

Office Public Integrity - shown a doc from file. Q re Hatch. Info in note,

Given file oft + did he pick up wk. - by MW/SN. Not got from MW, wldve told SN been asked to do it.
Disc'd w/ SN HRC + MW had asked SN to pick up subst wk VF had been doing,

VF, MW + SN v close wkg relat. Wldntve susp'd if she had a VF file. VF didve left file w/ MW to look at. MW was very involved w/ - OA issues re renovation,

Health care wkg task force - HRC fall fire wk on ~~task force~~ project pre reading? oh yes, you've been engaged? Ethics go/ot contact HRC issues. 6/22 Victory ltr Aggs. what rules applied Health care task force. Disc w/ HRC, Melanie, MW ... VF v. involved too. And malpractice reform.
No wk on others/renov till got file - knew O about it, ~~Also~~ MW was involved in renov. process/press decisions oft. SN took over go/j. Docs in file show MW @ beginning when issue came up. earlier.

Didnt rec any other files from VF office.

Interviews by OA +/or FBI. Wed or Thurs. CS sat in on it. Not contentious. Wkg wk. anything aware of to confirm/clarify or explain why. ~~Also~~ No obj'n to CS presence. Nothing less than coop. Thanks.

F 126810

not subside in agony — DD upd explain cool's office obstruct. Cost story next day — Lucl DD refusing. DOJ Hoyer/Kamp to Press Conf's — no objn. Wld be surprised if anyone suggested any of this as being less than fully wgs.

Note - Mon.

am, apt staff mtg, began inventory of files in office too dull SN so did reassign. Also chcd emails. 1-2 hrs lunch break. Door had been locked over wkend. Agent for SN. - Deb or SN had key, but after knocked. Deb mayor given gen'l info on where what was. SN had asked to put remaining gen'l things sm pics in box for Jim H. Brown box, little 3 zero box. Lge unframed black + white pics w/ Bres + daughter. Stored 3 of the in other office/SN. Put in box. Saw cy back of wall, rather big. Not empty. Picked up, carried over. Cldnt just put in box or damage pics, turned to put clear side, some pieces yellow paper fell out. Saw 2 'wd' that looked like VG. Hint booklet looked in side. Ran hand along bottom, found more, took pieces/bag into SN office. Handed str to page SN. Placed by at cub table. SN arrived. Briefed her. Recall no press mtg, but conceivable that had while lost + not pay attn. SN later heard wrote out. 1st SN went to get mail. Came back w/ Burton. SN called M in Chic. SN + BB told him note found, Disc no mention death or sonic, may or not've been read to MM. M said had to CB

F 126811

AD went & got HRC, Bill + SN there. Pocketed to tablet + told " been found. Almost immed'ly MM cb'd w/ David G. HRC said wgs for people in rm to decide what appeared + left. Didn't appear more upset at this pt. BB, BN, MM, DG +/c. Determined 1st to tell CC by dial anything + to tell Pres, then speech, dinner, fly back w/ VIPs, no GO to tell sons. Best to wait till next day when the 2 del be told. Shd also see + be told in person. By now SN done trans. Put slip in envel or draw in desk. Pass no guess ball. Then + taken following conv BN, BB + SN - note referred to TOT + other injury non public matters, still that + SN agreed one mtg & wh was related to suicide. BB asked go in nature obly to turnover to law enfmt. Bill + SN short useful to research. Never SN & wh turnover, but in public disc next day wanted ans,

+ Went to library. Quick rev in obvious places for any thing relev. Told results BB that evening & next am.

told & DO for Monica not to turn over.

2-3 pm in the library

BN attended mtgs next day, AD spent day in his office. Think lunch w/ fathers cousin. Late mday, aware CC + DH in BN's office w/ MM + assumed were drawing CC note. Aware mtgs w/ DH + JR + note to DO ultly, Absolutely not present when note turned over.

Q - 1) any guid wh this is a suicide note?

2) wh not proc's note = obstr. justice

} told AD not sure DO/DOJ agent but not aware any rat'le why s/d not be prov'd to investig.

F 126812

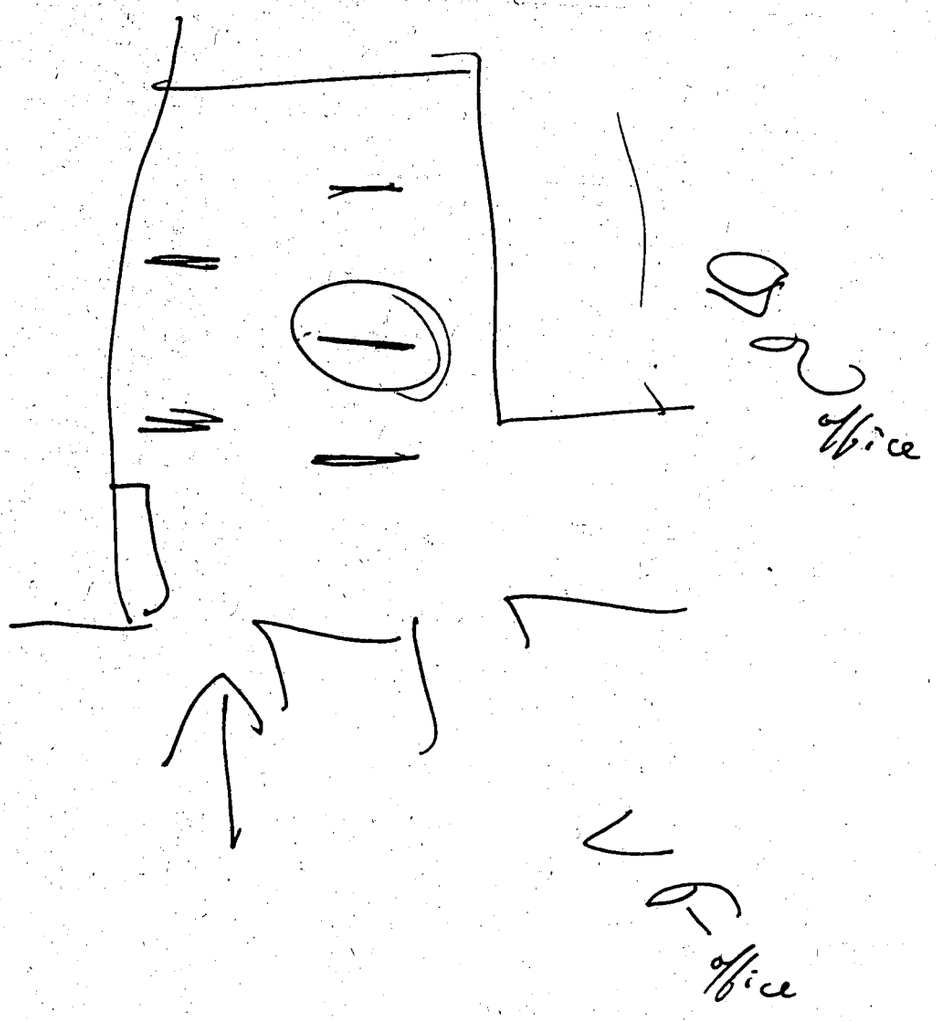
9/14/94

Mike Scaffid

— on DVs call from JH. SW had asked to see family + pastor in doc rec. JH called MS pm 21st. Asked to see next am.
arrived 8:30-10 - when SW sent to see up.
waited till 1 in see area. SW busy.
Mayo in + out.
— understood SW's comments. Role to monitor, look for civil things for family / rep them into - eg pharmacy. Inform family what there.
JH had told OB, GB, maybe Mayo.
— arrived before 5:30. Sat in lobby for hr.
Husband left 1. - bomber. Busy. SW said try to get to ~~Alexandra~~ soon. Mayor who'd do May. At 1 pm, May + SW met in office. Met May mother so worthy bereaved.
— see second in at pastic. sack. (see map next pg)
— Blood before 1, ~12:30 went in SW office w/ Sloan + Nemuth. Thought lunch.
SW suggested already disc w/ ~~SW~~ M + Iwo, Viewed 1 by as served suicide note.
V concerned w/ gun. Wanted to proceed in my'd way, gradually give.
He could describe + arrange for Iwo exp to see more what that req'd.
SW sugg'n - do Iwo exp mt. SW said he'd rather give civil does do MS + for MS to deal (sudden w/ Iwo exp. *
DM only real voice for Iwo exp.
Understd SW-SM earlier conv re process + need to protect gun.
— Agent re process finalized once started in VO office.
SW - still do x. DM - no prob but like make sure...

* MS said fine. Concern w/ bringing into awake

F 126831



F 126832

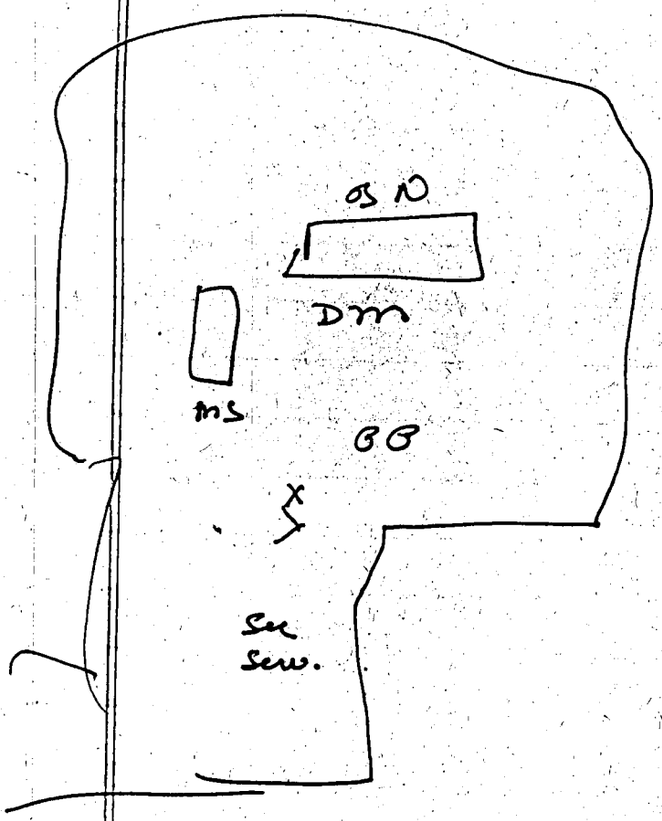
matters cause of concern w/ Gates.
12:00 - Also Disc ed'l article in WSJ that am; drop to DK for
funeral; chat that. during to record T/C on
unhappy DM. And process in office, apparent DM
not unhappy w/ process.
- Low notes + memo to file that night +
media avail files sent back. Other notes
mtgs OK, mtg of... Bruce.
- BW convey views for sure note night of 20th
and see new SD. Understood none else
in office other than Wyatt left. Not clear
anyone else went in w/ BW that I see.
Knew BW had talked w/ VC's see re what
happened.
- May, 1-2 * from OSD, 2 OR (Mahlon + —), 1-2 sec new,
[BW, SW, CS, Burton] - behind desk. Others in
frt + down hall. See map next pg)

DM * MS
BW D

- BW press. Speaking to DM - dating bad for low exist,
BW said wld new docs + describe contents
but express BW - DM gen'ly discl + agreed
how do for new *.
As did, low exp ask go - BW wld + did
and low exp go on proceeded w/m gen concerns.
Divide what had interest in, more gen'l VC
docs, - BW prefer MS take + DM - MS
deal w/,
Descrip + - memo a la b re — in case
cognac - gen.

* DM said wld be docs wanted actually to see,
Wld id those + agreed wld ~~[illegible]~~ later set

F 126833



F 126834

up ppr for law enf't to see. DM recog'd
pvt concerns + also need to do law enf job.
knowledgable not waiving anything but id's
certain docs wanted to see up frt +
doc taken access to other things on
crypt, dictaphone (immunity)
1st time to see if issue to be, threat/anger/ambition
taken arrange to see some docs. ? doctors name, re health/fin'l troubles, unusual names.
Not contentious. All appeared to recognize
conflicting info/concerns. Interested in
working tog to resolve.
Aft while SD said she shut + see
what have. No objn.
Agree this is procedure for Reg 1. Then
agree on next steps as how taken
see id'd docs.
DM never said ok but don't know anything
by mike want to come back.
Dan ppr - ef DM asked SD to have
someone with him to go thru crypt + review
emails + other docs. Same w/ dictaphone -
asked to have someone taken. Agreed + Dan to type.

DM rule of ppr docs wanted to see.
Docs for MS.
Others.
(categs docs divided into -

Read just titles of files in cabinet. DM said
I want you + staff to review + see if
anything in categs. We care about Prob'ly orgs of concern stated DM recog'd as valid.

After 4pt, met w/ DM + set up T/C for next
am for DM to review w/ Pete to see how

F 126835

DM said not normal, but to be expected w/ WH + all wanted to wk to resolve to go. Reg'd unique case. Not agitation/exhaustion.

File draws in credenza — Kalkh w/cum ... BD said all wk related.

Next wk, BD sent over add'l gen'l files + 62 bks/pics found (2 boxes) when went thru other docs.
All understd BD will go thru wk files + get back to DM if any w/in id'd cat's.

BD v helpful.

All stood up + began to read docs. CS - are you happy to read? BD - not comfortable, Told CS to chill out. Wks not set unt. p.m. Diffused sit.
All sat down + went on.
DM reiterated - lets go on, don't need to be conf'l.

Stacked on top of desk. Dialogue. Qs of BD except. EJ was copy of DC.
DM asked wh of pics were copy or marked.
BD ckd + said no. DM Put in box @ later
/mp date.
Stack bk w/ bkg forms checks. Gen gen'l file for BS to take but w/ note DM wanted to see later.
Hwn notes w/ unknown names went into file.

F 126836

Notes suggest SD/Bill went thru desk & bag in room w/ Bill; desk & bag returned to rm. May not've in cred/bkg shape etc.

ck memo

SD said had desk key returned. Bag key? Both there; not sure wh both returned, will ck notes. /asked

DM said abandonment i. no prec. SD disagreed

Dictaphone – DM asked SD to have staff bring to attorney. Req. SD guessed no tape. Another tape had on it?

Rec/cass. DM asked wh always carried. SD – no. Used as extra file drawer. Black w/ handles. Holds files. SD took out, put on desk & went thru. Notes list cabs & gs. 2 maybe not complt.

ck re travel office file? DM said something re TO file
" " w/o/ Bike dec. No. Was travel office mgt dec file in briefcase. SD said.
2 no low on index. ref to Bike real est matters Egan thinks was re P's property

DM – 95% cases leave exec note. If none, old be foul play. Need to clean up, told MS want to ask LF if left @ Rosslyn/ come in mail.

ck w/ SD re d/d Had newsp clipping file WSJ & other misc / TO artcls.

Out Several folders & some loose papers.
Briefcase on desk. Overstuffed. Pulled out files. Out on desk. Didn't turn it upside down. Dont recall much of wh in briefcase.

all ck notes

Didn't go thru bkshelf.

7/27 w/ SD [illegible] to mvg office, to add filing cab'l items which you said have, DK Cabs, 2 boxes. And'd 6k w/ 3 VP- memos re elections. Not w/in last 6 mos.

F 126837

sat w/ DM after. DM said rather see all but... MS - need to review, discuss w/ chief.
called next am w/ JH. Said wanted to look @ docs, talk to LC. started dealing more w/ OO than DM.
Didn't go look @ docs for ≥ 2 wks.

At end, BN said these are questions, want MS to take. DM said'd love wild cards.
DM said wanted to discuss specifics w/ MS. Fine. Did take.
BN shd to review add'l mat'l; make arrangements to see rec'd docs. BN-DM to discuss further.

DM described status quo - found gun, lack note causes & found play the all obs & said. Need to close loose ends,
BN - want to copy. Want to do in very practical way.
J. copy: spirit. BN handled v well.
seemed to have copy readily w/ DM.
Jud, stress.

Some discuss:
Doctor has access & P/U. & involved in conv.
D.C. removed w/out consulting DM.
Recall gen. disc. Don't recall conclusions or not.
Progression - part of ongoing disc/process
BN-DM. No sass in 24 hr period, but some
negative impression maintained indep by docs + recog. ongoing
At last
BN said we need to use files in terms of
ongoing matters.

invest. Said that w/ fact files on ongoing matters etc.
Need to balance.

F 126838

what does/b/c's.

law enfmt
~~atty~~ leave.
DM said wait for documents. MS gets box + packs up. Meets DM downstairs — outside under awning w/ Markley? + 2 other law enfmt ppl. FBI? DM said he did get SJ subps if need be but prefer copys, MS - we will copy but need to rev docs + talk to client. Will keep secure. Talk in am.
DM - ok. You're officer of. Custody to your care. Take care of.
Returned to office. Made index.
Talked to JH. to DM - said wanted to manage to see docs + talk to family.
JH - sent leaks. Wild rumors about Roy.
DM - want to tie loose ends + play be this as press coverage.

Finc has rebuts, bk accts, proj flow, resumes kids - job search
Rose from sale shares ... agent, questions,
file re advise to Pres sent back to DM -
2 news articles w/ memo, showing Pres recon.
Pres'l coverage, docs re sale Lee, rent, articles on Lee, Finn, JJ
Lge file box full.
Tape lecture to take bar.

Eventually, DD looked thru all, despite good rather not say so'l.
DD said worked. So said ok. But all asked for.
desire contrary. Focused money, ~~ok~~ endurance, Town notes to avoid'd people. Then Returned Mrs F.

Didnt inventory 2 take boxes. Most pics/bks. Maybe few subpoenaed files. missing.
DD saw these Dec.

Disc w/DD landlord note. w/pres But dont recall details.
Always takes posit that note shall/dont be released.

F 126839

Understd go thru files + see if anything mtgs.
Guess would have expected index docs in office — what was would've done.
but no desc index, seal...

OO asks taken said to see them then; maybe want; no for lost AN.

F 126840

F 126841

9/14 Mike Spafford

on 7/21

Call from SH re BN call to rep family of VH and be present at review of office

9:30 - 10am on 7/22 → sat there an hour sat until 7 pm

they would review contents of office w/ law enforcement people

SH had other prob police involved

somber affair. BN introduced. Obviously lots going on.

Introduced to Magistrics.
Thought BN & ~~he~~ met in BN office.

Magistrics was somber so waiting something.

Entered office at 1 pm. Just prior, BN invited ~~to~~ office ~~&~~ w/ Nemiroff & Sloan. BN gave impression he had discussed w/ Magistrics. Viewed as counsel for suicide re Concerned re privilege. Handle in org. way to protect privilege.

½ hr.

His suggestion -- he review docs & determine contents and work out way for LE to review what wanted.

10 Understood BN & Magistrics had worked out concept for review.

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F 126842

When entered Pric clear had discussions already at Margolies.

BN – preference that personal docs give to MS and not deal w investigators.

Concern re leaks / privacy.

May have been discussion re WST selection and funeral arrangement.

Do not remember anything re May. being unhappy. OR specific phone calls.

Memorandum / Notes → privileged and any waiver risk

SNemitz → BN review cursorily on 7/20 and found nothing. Sealed ~~tod to believe~~ Had impression no one else entered. SN not interviewed VF secretary.

Abt 6pm entered Pric. Margolis DAG w/FBI (one or two), 2 PP guys (one Washington), 2 SS, BN, SN, CS, BB.

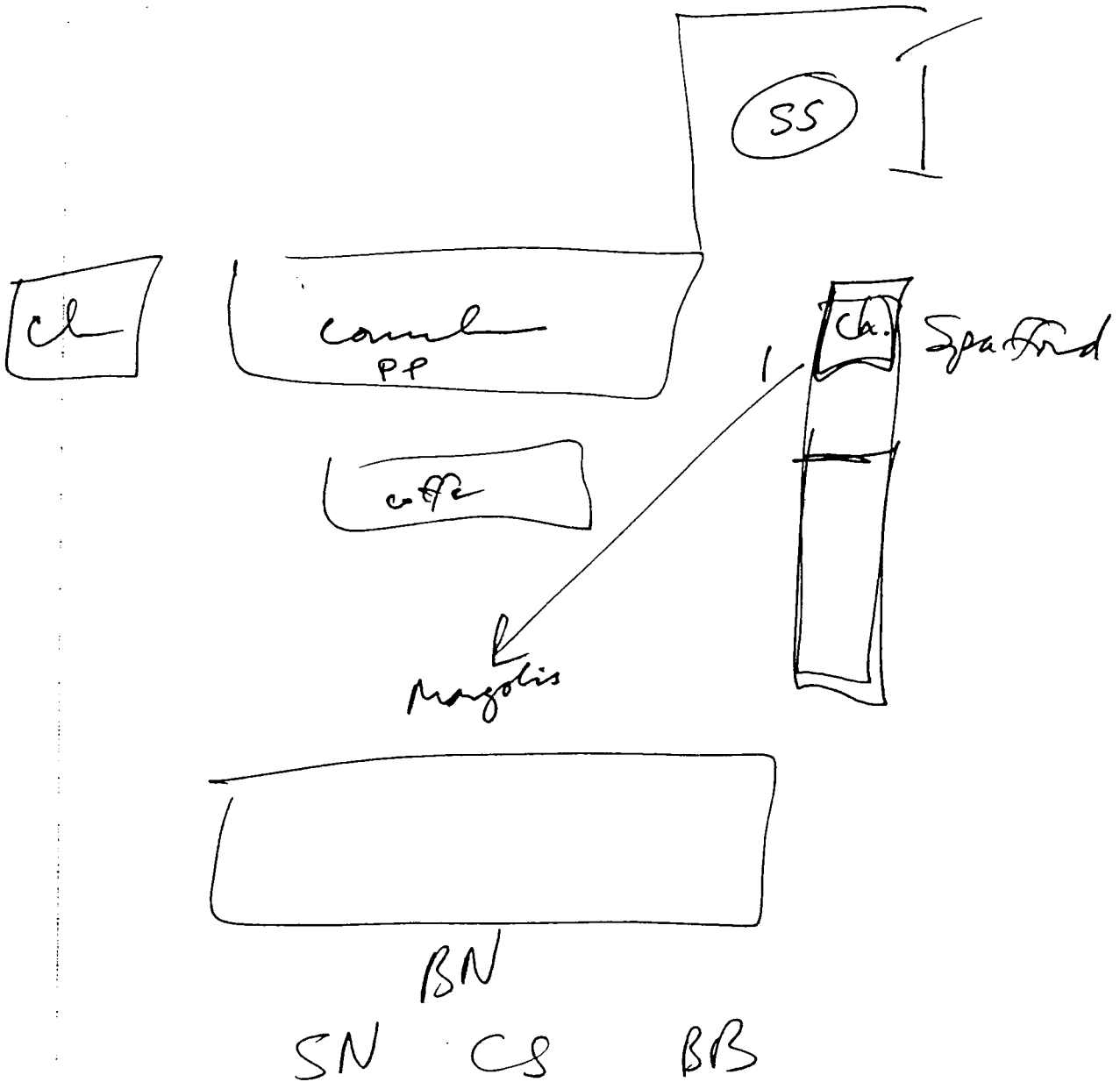
behind desk -- only who could see.

Opens w/ BN saying to Margolis who was clearly taking lead for DE types, explaining ~~that~~ this is how review going to be done.

Pirko brief case

Agreed this is how we're doing it. Ok now. LE ask Qs. BN answer if could (and did). Private docs to MS (

F 126843



F 126844

Waylis dealt later.

Waylis said going to be docs urgent to look at. Relayed privileged issues but had DN instructions to review docs. Agreed would look out review of privilege docs sooner/later.

Some docs sooner than later. This was 1st cut to (a) see if possible note (b) Threats (Waylis example -- letter constituting threat or angry tone) (c) review in depth of other docs of interest.

NS notes show that (M) concerns:
- letter unnecessarily critical
- doctors names
- health
- financial matters

Tenor → Not confrontational. Everyone recognizes diff. personal issues. This is way to proceed. BN said let's get going:

Computer → (M) asked BN: "Have someone on your staff look in computer and make sure nothing in it."

Dr telephone → (M) → have someone on your staff listen to immediately.

Divided into 3 piles
1 — urgent sooner rather than later
2 — nice "other" pile → all work related
(M) asked to have it reviewed to determine if any thing misfiled or related to categories identified by (M). Some entire file cabinets designated as "other"

privilege concerns dominated use of WH staff to conduct further review. Acknowledged it not optimal but may be called for in fluid unusual circumstances

F 126845

Only point of confrontation - PP & FBS stood up and clearly trying to read docs upside down CS said → "Hey trying to read docs?" BN told CS, trying to be cooperative. (M) written

Started on top of desk. As BN described as Rs. "Map of Metropolitan Wash. (M) → map of metropolitan wash have markings re East Mary. BN said no. ~~but~~ (M) asked to put in file for further review.

Blank notebook of Clients. Went in VF file but of note that (M) wanted to review.

Handwritten notes of names not recognized

MS to VNotes

[BN said had trash retrieved -- maybe bum bag.
(M) → Clearly abandonment
As no privilege there
BN → assume abt that

(M)

Briefcase → (M) asked if he one to carry around wherever he goes. BN - Yes, another place to RC.

BN took out contents, put on desk. described.

(M) (M)

Issue of TO the same as from (M) -- any TO file? (M) (looking at indications of any suicide).

No suicide note and client may suggest foul play. Very unusual no indication of

F 126846

why he did what he did. (M) looking for motivation clues.

MS ✓ clippings file.

briefcase → pulled out contents. stuffed. folders, loose papers.

MS ✓ date Need later — file & 2 boxes of papers and book One book and 3 entries of DT musings, most recent 6 mos b/4 death. Under 7 seem during mtg.

→ think 7/27

Agreed to call (M) on 7/23 am. Did not VH next morning.

files outside office

JvdB BN → These are personal effects
(M) → synopsis of meeting // wrapup
→ old shm
→ no note; most suicides leave note
BN → want to cooperate

Limiting access to office → trying to make sure whatever in there not removed w/out consulting (M), SS involved in discussions.
had impression there old be continuing discussions between BN and M and BN would make every effort to protect integrity of contents of office.

BN said VH ordered Secret Svc and needed access/use of current library files.

F 126847

understood there would be attempt to keep integrity of docs in relation to ongoing investigation but had to balance w/need for ~~ongoing~~ use of docs involved in ongoing matters.

case (M) says will wait for docs in WC lobby, MS stays to put mat'l in box. (M) met mat'l under basement awning. Said could get OJ subpoena but would prefer to cooperate. MS said will cooperate but want to talk to VH & review what in there.

(M) w/ 2 others, may be Marklin and FBI guy.

MS said will keep secure. (M) said OK, entrusting to your custody.

Returned to office and made complete index.

Talked next day. Told (M) no note. (M) want to talk to family. VH said get back to you; concern re leaks.

✓MS Docs - Y tax returns
FF flyer
resumes of children
bank acct stmts
mat'l related to former firm
personal matters
one file of mat'l to Pres returned to BN
blk clearly not personal.
small 2 newspaper articles w/ memo attached.

index

F 126848

sale of House in Arkansas
rental of GT house
trying to get jobs for kids in Fort.

lots of articles criticizing him
type of lecture to Arkansas Bar.

PP later reviewed docs; interviewed LF same day
> note came out
handwritten musings

2nd set of boxes — inventory
mostly books and pictures

let them look at everything
asked that they not look at some docs clearly
personal but they wanted to so let them
just asked for confidentiality.

Handling of note issues. Only wanted contents released, notarial note.

Informed of acts by SH, who handled w/ finally all related issues.

F 126849

Spafford - NOTES

Briefcase
"WH Travel Office Management WK"
no interest expressed
"May Calendar" (M) interested

reservations

INDEX
Clinton memos
2 memos clearly from President sent back to BN

Mineral interests and land apparently relating to inheritance from father?

Nothing in NOTES re Whitewater or other Arkansas real estate apart from matters Foster personal

Trash bag from today - picked up Tues (day BN went through trash
(M) interested in credit union slip (show balance)
interest expressed in personal notes -- abandonment discussion took place

brown bag - picked up every day, all work related.
MS documents BN staying returned in bag.

F 126850

BN

General discussion of B working files and asked by (M) to look for anything unusual.

File of editorials — no subjects

VF files anywhere else —
came up but not at meeting. Later asked about files at home.

letter from BN enclosing addl personal files → dated 7/27.

7/6

CS

- 6/14 official starting date - Assoc. Cns L.
take May started comm in every case

F 126851

Foster —

BN called 7/20. No subst disc. Already asleep. 11 pm. Bad news.

7/21 — 9 cans vic (w shg/b mtg. All in Stake Block/Yard. Franklin up @ NSG hyp) Melanie in w/ BN.

BN raised: 1) Book. Should seal — SD/CS - yes; others not sure. Thot suicide. Occas (spec w/ Foss Quaroman. [No disc any index MM might fall to read.] On 7/22 CM reading dyp — saw ref to article Sam in at Land. Mitch to Landed, Cpl was taken, ment'd to SD + talked to CM. She talked to Kenny. BN said AP consider, Sgts'd CS tell Jim H.

Decided should seal off/ice. Called SS & post guard + taken post back in door. Took awhile to get up to off/ice. 2 calls. Cd posted.

2) AD wanted to go into off/ice. BN runny Q — unusual for AD to be @ WM. " didn't know w/ SOJ or DOJ w/ AP or just invest. Q wd should do. Decided to call Chief H. + maybe Babbitt: Called Klympaun.

At some pt BN + WK → meet w/ CO re S's re body.

F 126852

One + man to SAC office. Removing, signature Photo. Shld only DEOBS + one + MM year Caesar one shot.

Wed: 4 pm mtg w/ DD.
SA mentioned DOJ, OSI + DD coming over. to discuss prelim matters. Focus on office to be next day.
Asked prelim qs to SAC re VC, camps + surp. Majorkis, Adams, SAC, DAC & DD ~~E~~ OSI, SS OOII4C Markland, Salter, Flynn, Hume, Danna. E Lists attendees.
SAC explained IO an read. Majorkis said good thinking. No Q so why not night office.
Explained black + white photo to show Dan, Cole had been told + upted at mtg
Today by trash intercepted from cleaning lady + in Neals office.
Cole was agreed to get + return DOJ & office by ~~on~~ next day,
Later learned of burn bag returned by SAC + Sy. M. Pooling @ contents maybe w/ one Equity + drug ups credit card receipt.

No explicit understdg as to process - just that will come into office to look next day. Also reg to interview secs. next am. Chad mtg AS had reg'd back pass'd checks ~~my~~ wallet so Pres did by to DC that night. Helpful in proving 7-730 CS -> 83.

Cooperative mtg. No expression displeasure.

F 126853

Then + next day thot all acted prof'ly/
no expression displeasure.

Ultimately did not thru undisclosed purpose going into VA office to look for
suicide or extortion note.
Mayo's " " - used terms.

Ned atty + I hr. Mostly d/s SN re VA
office procedures.
No mention of disc re two recent office proceed.

Got trust bag. Put on file w/ note.

Organ secs for interim. w/ SN - Deb, Linda
+ Betsy.
SN asked to talk w/ + be present @ int.
Explained wanted to interview, basis n/c
re VA, bell dunk ...
Briefly gpd re VA + fam dynamics.
Deb Graham said has family been called
w/ 72 hrs & previously days are warned
about him. 15-30 mins.
Lock on door that night.

Thurs —
CM, Walter Dellinger, --- - disc re 1st Amd.
OD + C-BI show up for interview.
CS — Betsy (FBI) DOD, SSS (inside? outside?) w. Mayo's + Cmd
SN — Deb " Mayo's office.
Notes of interview — 1181-6
OD — poke head in + asks — everything ok.
Harmless: No rpt OD/C-BI.
Asked if interval SN (off reading leaked portion OD report)
suggested interim risk re.

F 126854

No objn to CS/SN presence. ½ hr mtg.
Made no no any Q asked.
Same advice as facilitators.
Can BP mtg rm.
SN told CS Deb didn't want family cally —
should she so called. Yes - she told
her to & she did.
Done w/returns. Walking to go into
office. Mayo Cox & Adams
& Stafford shew up
Shelley and. Can he stay. CS took to lunch once a while.
@ least / is moves in office.
SN at part of / & that is next thing Deb CS about
it. Maybe get some from SN.

SN returned. Allan told CS & maybe Mary
told all go in office & SN
describe docs. Mary T/C Lloyd.
May be told
Mary SN CS of SN concern. CS talked to PH.
Said shld disc w/ SN. Seg'ly discussed
SN - PH T/C. Resolved. One T/C? & Elders issue w/ PH.
Ultimately SN said proceed this way.
SN pick up & describe docs.

[A go sugs. May since expressed strong obj'n to proc]

Go into office. SN sat behind desk.
SN, SN, CB, Sallys (in+out), 2 OBJ & OBJ,
(list) 001206
SN describe docs
CS some notes. shewing some SN comments.
Most notes took up over time.
No one else taking notes.

F 126855

SR
Oatley in
3 piles on VC desk.
1 - A's pers'l docs
1 - docs anyone in rm expressed int in poss'ly security taken.
1 - all else - pers, unrelated

FBI agent Scott Salter stood up
SR told CS - looking @ docs. Did seem to be.
Hold desk. Differ from prd rules: ONLY review docs.
CS - said not stdg up to look @ docs
are yours? No, like not get
carried away.
led to uncomfortable dynamic.
SR said - he not sug'g that
CS - apologiz'd. Was taken
kindly anyone seem stood up.

[redacted] do objns expressed.
Thought settled issue.

Started at desk. Went thru drawers? not every file?
w/ desk but not credenza. "

Wanted to see notes phone messages in drawer.

Were some pers in docs.

What seem to be looking for? phone call, logs, calendars
Seen [redacted] list of objs in middle file,
1108-82 1108-24, 1103-06, 001107, 001210-76
001277-82 [redacted]
1149-50 notes of mtg.

F 126856

Mayobe dony most ldy does want to see.

Dont recall much re buf bag.

Mgt 7/30 FBI interv., wrote notes of interview.

Notes say recalled does pulled out of buf case. No indep recall.

CS Starkey behind desk, off to side.

At some pt, wondering why notes. Didnt make sense, no others dony, Wrote less and less as dony prog'd. Buf case towards end dony.

No recall travel file.

Safe

Travel Office Mgt does ref in notes — doesn't know what refers to.

No recoll of one outside files.

Some chron/Deb C re calendar?

No disc. safe.

In fall, Sept-Oct SN had in safe VC file on war powers act, pulled out + gave to CS to comm'n another prog'.

All

Agreed on'l efforts of JH. Sgp. had box which filled. Understood if wanted to see, contact JH.

All left. Talking w/ SN + SW.

"WH TO – Mgt Review" on CS hist.

F 126857

BB/BBI left. SS -> BB key. Ch wldnt be scaled anymore. To disc not mobg docs.
Aft BB/BBI left.
BB told CS to get Maggie + go thru D's desk still.
Moot. BB + SM talked to Maggie.

Brandt Buck (Note) doc -> VC,
BB wanted to get for MCC,
Needed to be stopped. Re Blind Trust.
11/16. 7/15 sent from Atk.
SM beg.

No discuss recall re Landlord Ch could docs during rec. Some I'd'd during rec.

Talking to BB. Behind VC desk. BB reminded not obly to retain all docs there,
CS - shld return (not discard) but not rec'ly there. DM & legal basis.
C - not sure, but shld. SM came in + not up on rec'ls desk.
CS left.

BB T/C w/ Susan Thomases re what had happened. Have recvd docs.

Fri -> DC/Maggie for funeral.
Sat-Sun beach
Mon - check w/ H.
Tues 9am - re 10am called to BB office. SM there. Told of note. BB concerned - if release next day or so, need stat, O&As, asked to draft some re travel office.
Next few days - work on that.

F 126858

→ BN notation – found in 1 of OC's briefcases.
– ?

Press re note.
Thurs – 2x FBI interviews re birdy
CS writing notes of his interv.
Reqs for release of note. DOJ should
not be release while meet's,
BN asks CS to follow up. CS calls OC to set up mtg,
after 7/30 – rep. mtg w/ OC to be cont
back to review the middle pile.
Cut aside for further review/consideration,

FBI found more note; OC on outside.

Before note released, OC decided how FBI
lying #6 – OOR to handle.
Advise integrity consider all other issues.
Told WS. Re notes, int'd SN, NE. Re others –
BN + CS – Asked gen'l background re issues in note.
OOR didn't shut till after note released.

Start re
- press release
w/ release
note.

added into
upon public
mtg
re Trump
(Stewart
Goldberg)

Came on to review. Saw all middle
7/30 notes. Asked go.
001149. Disc with docs not subj
FOIA. Early mtg so another mtg.
Asked Law Dept: Dave told note in
opt 2nd wants adv. notice – ~~said~~ asked wh
grant – said no
So said don't put down.

No recoll. return of docs.

F 126859

Dec. WW b/c issue. JK + CS decided b/c w/ Maggie. Closet in record → Barnett. 7/27 4pm
NE 100.

F 126860

CS

Came to Counsel's Office
6/14/93 — Came in regularly late
May Associate Counsel

F 126861

Foster 7/21

Came to meeting at 9

Melanne in talking to BN

& here in.

BN:

we filed in -- few issues needed to be discussed. One issue -- whether VF shld be sealed. S Nemnich & CS said yes. Others thought overreaction.

Chengh — was if VF left landed. Gun found in at hand

Call made to SS to post guard. Seemed to take aback. Off guard

PP circumstances. Wanted to go inside VF office. BN not sure exactly how Cutler & DOJ (Haynam) will coordinate.

not sure where PP was

Bernie, Bill Kennedy left to talk to PP re findings.

Parade declarity

4 p.m.

BN mentioned calls from DOJ FBI & PP. Discussions

4 pm mtg — questions about

F 126862

7/21 Mtg. 100067 → attendees
Pete Maitland etc.
may have been one more SS.
preliminaries --
asked general Qs abt VF
BN said sealed at 10
Maglies said good idea

Told Sag of trash intercepted stored in Roy Week's office. Everyone agreed Sloan should get hand out in VF office. Silvia Mathews looking at home Sag w/ Gene Sperling.
returned home Sag.
Wrapped credit card receipts.

Made request to interview secretaries.
Clear Sag & came on Tuesday

Bill Burton wanted personal effects & Gene & Pres & give to VF.

understood Enter office & see if surrender exhibit note.
Remind Maglies mentioning this.

F 126863

Secretary prep.

Thursday Cheryl Bellings → left hand

Cliff to Betsy — IFBI IPP 155
Statement w/ Graham —

maggie
raises
½ dozen or so
votes 1981-86

How's everything
Everything OK

just being
friendly and
cooperative

Saw function as facilitator.

Newman noted that Bob had not
had anything about family calling.
went back in and some added.

Newman at one of meetings re procedures.

Group waiting to join. BN said going to
go in & BN describe what in there.
~~had~~ daughter in Phil Heyman who
had concerns. Cliff S. said stick
to method of procedure. Talk to BN

BN talked to Phil Heyman — CS
put him on phone.
Had been resolved in BN/Phil H. call.

F 126864

CS took to Old EOB cafeteria. Sitting around few tables.

VF. Benin behind desk

001206 2 FBI Nemnich
2 S.S Scott Salter / full Butler in & out
2 PP BN
Haughies / Adams

Notes reflect only BN comments, not comments on notes.

No one else taking notes.
3 piles → Foster personal
→ interest in seeing
→ everything else privileged / case related

Scott Salter stood up.
Nemnich — "look at guy. / He's looking at docs." Was. ~~too~~ Different from understanding.
"You're not stg up to look at docs are you?"
"Let's not get carried away."
BN → "I'm not saying that."
CS → apologized. joked

F 126865

1108

Middle pile file →

100031
1108-24 Docs viewed by PR.
1103-06
1107
1210-76
1277-80 1281
1282

1148?
1149
1150
1125-27
1140-43

Third briefcase forward end of afternoon. referred in notes to Thread Office Agent file.

Knew BN had VP file on War Powers Gp agreed to limit in Sept/Oct.

End of review of personal efforts to Spafford. Ed want to see any personal docs, talk to Spafford/Hamilton.

F 126866

Outsiders left.
WHTO Management Review

Say in presence of PP — BN paid tribute to Maggie, & Thanked Clinton personal staff.

Became most blk when BN or Nemnich died.

1146 — Brantley Beach → 7/15 Blair
Trust

Concurrent clearing — talk to BN. He raised issue re whether he should retain all docs. Should things be preserved. Nemnich joined discussion → Presidential Records Act.

Left Agreement at end of review that Office would no longer be sealed.

Bernie on phone w/ Susan Thomases describing way in which review had been conducted.
Sat/Sun beach
Mon/Tues Brecksville
6/27 Tues night asked to come to BN office. Old last note. Had been turned over. Q & As on note

F 126867

Found in area of VP Briefcase

FBI interviewed people re how notes handled.
Getting drafts in a row for release of notes.

7/30 FBI notes

PP review → CS may initiate call to PP

B/C notes released, Heyman said OPR looking into FBI lying. WH rest, Butler integrity

Ushers → Newman/Neil
rest → Sloan/Bernie.

CS → go according ordinary practice

December — Joel & CS said do WDC file.

F 126868

MW

F 126869

July 20. Home. HRC called. Stay put.
called Evelyn.

Had tried to reach VF during day / home. Unlike VF not to call back.
Beeper.

in reception area —
outside HRC office.
w/ Evelyn → she stayed
went to Ocean Pastry (?).
People milling. Sitting in his office.
MG handed sheet. → Capitol.
Went back upstairs. 9:30 – 10pm
worried about HRC schedule
Knew it would change.

F 126870

Then
2 went to MW's. back to Oval office.
walked back by. No notice
of Counsel's off.

People around — maybe cleaning people. Not staff people.
Door open.
light on. went in.

Patsy at Vince's desk when MW entered
Eyes red / tears.

Patsy: If note, would give Liza comfort.
Looking at p's
Sitting in couch. Sobbing.

what Patsy doing → doesn't seem purposeful.

BN. Patting back of head. in front of VF desk.
There about 5 minutes.
Got up. Walked out. Left Patsy in office.
Back to Oval's office. Maybe Evelyn first then Oval. Recall being in Skincare w/ BN.

F 126871

Evelyn took home.
Talked to HRC later. Trying to comfort.

20 → T
21 → W
22 → Th
23 → F
24 S
25 S
26 M
27 T

News account re search of VF office.

7/22 – get call from BN 3:30-4 late p.m.
I'm dispersing files in VF office.
Sending material to LIBA
Giving material to other lawyers.
Came get papers belonging to HRC
Pres to get to personal lawyer.

Knew search was over.

Not huge emergency. ~~Cost~~

Things all over office. Stacks. Drawers open.

Took things pile collected

BN said — These are files.
Look around see if anything forgotten.

In mind → Chelsea. VF had Q re stocks left to Chelsea by Mr. Rodham. related to blind trust. In BN head, looking for anything related to Rubs. Did see something said re income

fax. Pickup. Added to pile.
BN in. out to take call
MW in " " " few calls.

Called BB Barnett in Procets.
Other before got to VT Office & cashier
There.
He said → When ready, send someone
to pick up.

Late in day. Next day VT Funeral.
Didn't want to hang around.
Called BB & Selma — not going to
send today.

Didn't review pile assembled by
BN.
~~BN's~~
When MW got to Office, BN said
talked to DOJ. Had impression DOJ
said OK.

Called HRC-in Ark. Have files.
Not to Barnett. She said call Carolyn
Huber. Locked closet. 3rd floor.

Called Carolyn - Said need to put stuff
in closet.

F 126873

Walked over to residence. Carolyn already on ground floor. Waiting to catch metro before dark.

Carolyn must have come with ups this. Pushed things aside inside closet to make room for box.

Didn't think knew where closet was. Think Carolyn had to show where. MM got key.

B² on phone. Spoke. Nothing remarkable.

26th Monday. Didn't think about files. ~~Lunch~~ B² came to see HRC about something on 1/27 - Tuesday - MM came to 2nd floor to see HRC and B².
What abt files. B² Got to get someone from office.

When Ops called → opened door. Took box. Taped it. Didn't open. MM signed something.

Never heard about it.

F 126874

By time knew about note, never saw. knew mention of Kaki & renovations. related to press questions.

Absolutely sure did not know about note.

MW asked asst Renovations file → asked Bernie, if ~~Not~~ personal. BN said NO, that is a working file.

F 126875

MW/2nd

O'Rourke
Bruce

F 126876

F 126877

Foster Dors — —
Didn't know if already in box
vague how it happened.

Called DRC — could have made
call from either apt. Remember
going back and forth from apts.

Destination was personal lawyer.
Their documents. Put in Residence.

Clothes — how more he could take in
clothes.
OK if safe in area. Lock on door

but only recently looking. Not then.

Didn't even reject idea. Never even thought of keeping in own office, WHC, or even VF office.

Did if BN around to ask/refer to about waiting/clearing docs in VF office.

When she was there, not comfortable leaving anything in residence. Needed to know where to put them when home empty.

X Met Hubert at base of elevator. At time, wouldn't have known where 3rd floor closet was. So assume Hubert went too.

Chelsea Rd grade cards in closet. Insurance records. 15

Renovation. Couldn't take seriously like No public funds. Kaki had Bernard's temperament. VF got overly serious. Well on way to being resolved at time of death.

F 126878

WSC & DRC want to decrate
Ashen Ingrig to Plaza
Decrate from Bkt w/ combined
budget

If ever one need one or two
extras in case grape juice.

(by RSS)
intervened about issue
b/c quote -- exchanged
mail w/ Wenwich

*

F 126879

MW II
8/15

*

7/22. In VF office. Looking and to see if add
... to file. SW in + out.
... Cant remem wh found xerox box,
... in box already, sot " " elsewhere.
Box in VF office or neighbor area; not
... MW office.
... Doesnt recall if MW or someone else asked
... TC to help. No recall him in VF
... office.
...
... Called HRC to find out what to do w/
... docs [illegible] Maybe been in MW office.
... Taking calls from own office,
... Going back + forth VF - MW office @
... this time, Alone called HRC from
... MW office.
Why call HRC - their files; so J to them help;
... shld be in their box.
Assumed MW resp for ultimately getting to Chap,
Never that >1 box

F 126881

F 126882

Also been
Were clothes from somewhere, HRC's office?
Vaguely recall
An elw w/ TC + saying how we old look
in town
Not aware any safe MW + HRC office.
Key exchange.
Office used as conf rm occ'ly by folks
w/ small offices. Then not locked.
Never thot about safety in MW/HRC offices, y
Didn't even consider it yet.
That guy'd so go to resid, y
Hdgs nothg value ww.
WW had asked to take out. Wouldn't obj'd to stay there.

Doesn't recall wd BW there when decided
to move; tol to wait for Darnell messages,
None recall about trash many docs. If anything
really mgs folks + many mgs, would have stayed
late.
Just that guy's in nature.

Didn't know wards ... Not comfortable even just
leaving anything in resid anywhere,
Place wld be empty w/ funeral.

No recollection carrying bxs to MW/HRC office.

Jewelers clothes, print, photos delivered to
MW who then takes over to resid.

No recall. Talking TC about was in bx/why taking to.

F 126883

No recall of anyone saying Lake d resid
so Cres/Hale did rev.
Dont remember anyone else in clus.

Met Carlyn in hall by elev up
d resid. Said something about metro.
Think she rode up
elev w/ them; MW not sure
knew where mm was then.
Now knew " 3rd flr closet is, locked closet - always used as closet for board - past papers...
- Chelsea's old puzzle cards, mrs rec
Am then had boxes thru... Now shelves.

...ashes/remov — SW more involved aft VF death.
MW involved bef.
Rebid done worrying about - pillows, no public,
Rabi's decision argument. VF viewed
Not involved fire + Bi
+ Water - Gary wanted to / VF. overly seriously.
...dell in way of being resolved bef. 7/20.
Surprised agreem 3 VF rode.
→ Jack comm + letter 2.
+ Rebid x thurs. => Mcows.

DD'd renew file for SW. Said part of
ongoing work in office.
VF wldve shown her remov. docs. Some docs. Some had copies
Dont recall having VF file on remov, or seeing
SW file.

Dist recall discs [illegible] VC office
off note,
Talked lot w/ SW re issue. Should
decid docs w/ him. Also gives some
docs

F 126884

F 126885

PT

David Williams
Tim Bradley

7/20 late in evening
between 8-8:30 dinner
Segovia Lyda Bannal
Sister husband
kids

Board 10pm. (1 glass of wine) As Leary
Page went off. Called switchboard.
Watkins wanted to call back. Held.
5 minutes. Watkins: Vince has killed himself

Watkins — we're here at VF house.
we want you to go to VF office to look for
suicide note.

Mark and David

Came in cab. Let in front of
W. Exec gate. Lyda said told at
calendar. Only person know who
killed self.

Went into Office Purse etc.
Went to 1st floor. Ran into Bernie.
Said: David asked me to look for a note. Going to
Vince Foster Office. Cleaning lady. Open
Went into VF → cleaning lady. Open
Watkins.

F 126886

If left note, wld have been obvious place.

BN entered w/ PT. Visibly distraught. Sat behind desk
Looked at top of desk - in drawers. Surface. By Phone just thinking out. Looked in briefcase. Lots of files Stuff in briefcase. Not one self contained file.

BN left VF office. MW entered. Sat on sofa. Started talking. Crying alot. Upset tears. Talk about Vince! So many convos & tears on sofa w/ VF. Can't imagine being there about this. Chatted / cried for several minutes.

BN back in. MW left. 2-3 minutes later BN & PT left VF office.

Re Hand to say how long. Maybe less than 20 minutes.

Maggie no Phone
BN no Phone
PT no Phone

Back to 1st floor. Dana Lawrence, Secretary

F 126887

Bl. Deb Coyle

Called David back,
OR making any calls from VF office.

to say Nadia found anything.
Paged David to call me.
What else. DW said ~~Kelly~~ got press release delivered to VF house.
Delivered press release personally.
In house 5-6 minutes.
Had car drop close to house. Walked.

no talk of files
Nothing on talking minutes work of anything but note

Talked to David W.,
Sheila Anthony.
Remember Nadia being there.
Press no longer.

June - comment about
Vince David PT
communicates about TO

Week made
Pat Mancini → Friday / Sat / Sun
Brief PT, BK and / or VF
Briefed FBI → involved in
David returned from.
Briefed Mark - rec. re terminations of TO employees.

Management Audit — 7/2

F 126888

Safes - Didn't even know had responsibility for safes when NY Post story came out. Called Chuck Easely

Nothing about safe.

Never had any conversations w/ knowledge of movement of documents.

↓ late Feb or early March

determine if there had ever been safe in VF office

Did not go to funeral.

~~Cuba~~ No knowledge of security / locks in office.

PP interviews week after → 2 men request for interview came from WHCO. Interviewing those around 7/20. in WV. Not long.

F 126889

OR discussions about working
that night.
Next day helped get guard.

7/12 Oats 4

David Williams
Tim Dudley

7/20 - [redacted] @ OH Hill 8-8:30. Drove Glass w/ friends. Cal & Glen. Segwas. Lyda Samuel + families. Sat outside. Dinner. Lunch ~ 10. 1 Glass wine. Paper as ".
Went to [redacted]; called Signal on DW switchbd Later? Give #. DW to call back.
Can't — Dry phone. Hold while get on phone. 5 mins. Came on line — V has called Lunch. Can't. Must take this after 2 that can't do. We're at Rose. We want you to go to office + see if Off + switch node.
Later [redacted] w/ Mack, Webb ... M + D = we

An shock. Told Lyda. Trucks to. Offered to go w/. Called. Cal w/ them. Left a/c Safe @ Exe Ave. Lyda just reminded to look @ cal - only question was 2nd matter on cals. Don't remember looking for it / seeing. [redacted]
Came on basement. Opened a/c. Took a/c alarm. Out across down. Went up to 1st level. Saw GN Told him as Pat DW been asked to do. DW asked me to look for node.
He went w/ OT to VA office. Was all open. All doors + Lights. Only lady came out VA office as OT went in.
Off leave node - easy to find. Typ desk or drawers. Don't know if only access have key.
Walk in w/ GN - she drawing Pat.
Search — Tops credenza / desk / table; opened

F 126890

each desk drawer. Subtly behind desk. More surface look. Saw suitcase. Looked briefly either side docs on ... Sofa bottle Looks shiny/blue in it. No slow motion.

BN left. VF office. 1-2 mins later MW came in. Sat on sofa. Crying. Talk about VG. Didn't envy him not being there. Quiet for few mins. Stayed behind desk. Ok last glance in hand. BN returned. Said didn't think I had anything. MW left. Then BN + PT left VF office for ~ 2 mins. 2-3 mins. Doesn't recall where BN went. < 20 mins, but don't know MW, PW, took nothing w/ them when they left.

Went back @ 1:52 pm. Saw Dana Lawrence - prob prob, Emerson asst. John E, BL, Deb Coyle, All walking around in dogs. Called DW back. Maybe from own office. Told found O.

Prayed him to call PT. VG line busy. Asked what did do anything else. Any guns rel. Got address. When done, called car & have it delivered. Went in carport car to deliver in person. Delivered, there 5-6 mins. Had car drop rear door + walked next very close. Spoke w/ DW, Sheila (V's sister) + ? Deb G was there. (Not sure. - been there earlier.

not allowed to name, done to avoid

Gave him guns rel. Asked if anything else did do. Nothing. DW knew what to take.

F 126891

DW, VF, BT mtg M - rec. term. Bft. Wknd rec w/
Branick #. Knd 18 K deficit.
June - went w/ VF re mtg w - now dens,
Mgt Audit - 7/2.

No talk w/DW re Kuwait office. Only w/ note -
want family to have.

7/20
- not in DSO office. No T/C CE
- no effort safe combin.
Feb - March 94 - Next door story told he she had keys to safes.
That day came over + saw 2 safes in DO office
- no known safe night 20th. Dim VF office

- never instructed anyone to remove docs
not aware anyone.
- Aft 7/20, no conc re anything in VF office.

- Found out about note from DOST?
Maybe seen in Bahr.
- Stayed here. Didn't go to funeral.

- don't know if had crypto in office,
Wldn't assume w crypto absence.

- May've been called to set sec gd for office,
Can't recall 2nd SSC gd who cld do
for 1-2 days only.
- Andrews - gd there? - next wk,
OS/FSI/Andrews. - 2 men.

Reg them exc/s office, knd of people and at the
meetings. No objections either side. No keys @ Andrews,
or discuss/keep in safes. Not v. long.
Asked what happened that night.

F 126892

CL –
Att sheet directing traffic outside VO-
use when SOL there. Send hello.
No subst chic.
No conv re docs.
– Doesn't recall conv re locking office –
Clerk was asked to set grd.
Called SS + asked to send someone.

F 126893

F 126894

JH Called at 11 – here between 11-12
TUESDAY what to do – to Mark's in early p.m.
won't until CF
arrived from LR at 5. JH called at
5, she here at 6.

from a so

what to do?
Mark, Gregg Gearan,
GS, Dee Dee, Bernie.

from for awhile

free flowing – produced to DOJ
redactions.?
JH: privileged material
– Do Priv.
– AC
– need to protect VP equities.
– raising whether redactions
proper way to go.

F 126895

area of process
Need meeting CF -- discuss & know
what the Thought

Don't remember final decision --
Sept: Found running over to DOJ
redactions politically unwise

Pres had to make decision.
Eager worried re pulse relations
Respects

Lisa no real objection.
Lisa there at 6
Decision made to get Janet & Phil
here.

Issue - assert this was a private docs.

Not there when Janet & Phil removed
Doc but came in later & said had
Concerns about making it public.
Human aspect foremost in Janet's mind.
Told Janet & Phil ~~DOJ~~ doc wasn't ours --
wanted PP to have it.
Called PP. ~~DOJ~~ Didn't want to be
there. BA

F 126896

All took place in Hank's office.
Turned over to an duty PP. 9pm
50 - shared Gold Leaf
w/ earring
10 — VH confirmed w/ him about printing
& note & already been had
leaks out of PP. If leaked --
entered 9:30 later
"not worth remedies."

Between 9-10 pm.

Cesar Longa Pam Gorga.
Mark, Gergen, Bernie

Considering what gave to Liza.

Talked about destruction of privilege.

F 126897

*

F 126898

*

Foster → Larry King

docs
guide

Watkins office — some discussion about looking in VF office

PP, investigator

Mark Geiger in Chicago

Conf call about note Mark's office

when release to public

do it fast. valid reason not to release 7 - talk 1st

longer held at, more trouble

F 126899

Discussions re Court ruling regarding
for investigation

F 126900

7/4 Geo. S.

F 126901

[illegible]

Kingsbury. BB → MM/GS. Think VG. Next hr w/MM + ___ – T/C Webb. D² re statt cond'l. [illegible] w/MM re what say to Pres. M, C, Pres → Pres. G → Beaman, mod's stat.

1 doc rec'd day DW office re new doc – BB investigates
Let them do what have to. Stat here. Left. May not have send anything.
Next Mon learned of role. Conv'd all w/ Mark + Bergen in Chic. for Macho office

F 126902

Gen'l
Ch'm + 6 cmo new events – note.
Possible return/how release to public.
Wanted to talk to Lesa bef. note released.

Next few days disc demo likely resp all
invest.
May've been in comm twice.
Have his/h cooperation of note.

F 126903

MMC

*

F 126904

F 126905

Foster

Concerned w/ verify Foster
working WJC, HRC, Foster fax
get to Foster home
press work

Mark + called
Gergen/Gearan → returned to residence → had impression
office sealed from this conversation

Gearan could have said trailwitnesses occurred needed supervision to VF office
made more
knew BN there

Tom Collier COS Babbitt (

Gergen next week said interior dept not satisfied. Called BN to discuss damage ordinary powers. Collier satisfi

Note Bunker call – mid/late pm.
had noted less go Cheney to business
note unsettled.

privacy
Executive privilege

wanted to see note -- Bonchfuel made some VF.

*

Liza Foster seemed to appreciate need to turn over.

Janet said I don't think I should get this. Turn over to PP.
BN faxed out note.
Interviewed

Janet 5-6
Tuesday around 8 or 8:30

F 126906

F 126907

7/20

Any disc or docs / note / sealing office?

No. Focus – confirming facts, notify Ors, HRC, family, how to go to Sec discreetly – SS protection issues. How get in touch w/ his mother. M + Ors might see SN as leaving. Relying on SN to deal w/ attachment, SB – Sec's office; MG – comms.

Dont recall ordering sealed.

mtg w/ DG + M T/F w/ Reason –

Le said office had been looked at sealed.

Ors had been notified.

can't remember who discussed w/ SN or just SB.

SN originally in office so felt proper people there to take care of what had to be done.

Access limited + things handled properly.

F 126908

21st - no recoll sp'g to VA o/ice w/ Pres.
SN - kindergarten pic? Cldve happened
Remember b'day party pic. but not from then.

Any role re SS - assigned resp to SN.
Told him to handle approp'ly w/ SP.
Any mtgs 21st/22nd - but mtg/discussion.
Wld be certain follow up.
Dont recall wh Quinn there.
" " desc re privilege. SN merger
outlined approach but no spec. recoll.
Tom Colliers - chg's 24/6 Sabbath. DOJ
No conv w/ anyone march.
Next wk? - DG told M DOJ/OA not
fully subs/ted w/ many reviews done,
Collier expres concerns to DG.
M called SN to o/ice. Said understd
need to bal but orderly process
highly desirable + if probs arose
need to D.
DG rptd cple days later that
Collier now happy w/ process.
Think conv of 1 role found but cldve
been 2 thru 5 before.

Mon morning. Pic. SS calls - SN sick
SN M morning/clearing up/getting for family
had turned bf ever upside down.
Fallen out. Pneed dog. Rshed wh
pic. role. No. SN got on phone,
Repeated. Shocked + bewildered. Unassbly.
Had turned + dog'g to nerves.
Affected reg. feelings. Troubling.

F 126909

3-4-5 pm

BN raised legal issues – guid + privacy.
A ok dell Pres,
M said let me confer w/ DG.
Conferred. Same pm – bewildered, why not
found earlier, doubly, solid pm
over – MM didn't classify but BN
called felt strongly re by pm
BN. talked more.

5-6 Evening. Wanted to see note, confirm h'ing,
told BN to w/e then legal issues.
Had 1st day am. BN advised re: legal
issues not preclude during over,
BN had conferred w/ JH on privacy.
Saw note – no underlying w/ work means.
Nothing Pres, EC, then prod. auths, then pres.
Can way to DC, to arrive 3-4.
Full sched. Didn't want to disc ~~purely~~ haphazardly
4-5 pm 1st real break in sched. M told
Pres. BN came in. Dept Def wanted to
see. Described. Agreed pm over, 10 mins.

JF care to WH. Disc'd w/ her in BN
office. M arrived in middle.
Tried to get her for news.

BN advised pm over JR. Already
sched'd mtg – anyone delayed.
DG, BN, —?, M, Jm?, JR, BH

5-6 after JR BN outlined to JR. She said give to DD
min'ly. 2 nothing, legal issues...
3-8:30 Noted DD, 2 care to MM w/ Pres. Related
3-8 thing. Shred note.

F 126910

Interviewed M, DC & B. No law found.
Took note.

F 126911

MG

F 126912

Foster Pres on carrying line.
pulled Mark
GS & Mark divided calls

① worked w CNN producer – 1 hr limit
② Pres not Q from caller.

that night
Conversations w Watkins that w BN
-- Conversations preparing for briefing who said he had lost in VF office for note. (began at residence)
over phone (to him)
Conversations w Bergen, reported that office ~~closed~~ locked. knew that from Bruton.
Never went only to VF office.

No knowledge of PP procedures
No knowledge of ~~PP~~ discussions re Kenny over note.

> ~~CF~~ BC returned from Foster

Official business, personal to VF Clinton
Be told by BN & Cliff.
Briefing, done in December.
Divided into these 3 & nothing taken out.

F 126913

Went back to BN → Knows eve
and asked him how divided.
May be CS

Barnett - Mrs. Kelly's book.
Not sure of this status.

F 126914

7/14

Pearson

F 126915

F 126916

Foster –

July 20 – Bus on UK Lane from lib rec'd.
Dive across Hall was
Bell is pulled + held. – body, stuck
VC, self inflicted
Pulled mgd. GS + MG divided calls to
Rec. Dispd w/ grad'er to end
60 rol 90 + assume no G from
caller – scream out.
All who may run so when Bus exited
a go + else not see sdg/b.
Talked to DW – said would go w/ Pol to inform family.
WH contact w/ police + friend from Hyde.
Talked to ASW re: bodily in office for rope.
Maybe next dem in mgr's [illegible] brass knuckle.

Convos w/ D Gergen re poster (closer to 12 after one left)
Knew from Bill B. - don't recall when -
Magnum → MG office & org process that,
talked over & BB's office. Left in early Dec.
Told D Gergen

No substantive discussion what to do w/ docs.
Re Nole - told found, met w/ Reno.

Told by BD or CS

Told reps
FBI, SS, DOJ met in WH office. CS, BD,
& so then files. Distribute mtg -
off'l business, personal + official.
family kept separated

In July go re who do work.
In Dec - understood 3 categories files; Oremoved
from office before mtg. [that still next to WH when BD conducting rep]
- went to BD again + asked
how divided.
- re WW file, understood => W+C.
Knew stopped, & discuss re which boys send to.
Knew O about role/dismissing.

*

F 126917

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ADVICE OF RIGHTS FORMS

Advice of Rights

A. The grand jury is conducting an investigation of possible violations of federal criminal laws.

B. You may refuse to answer any question if a truthful answer to the question would tend to incriminate you.

C. Anything that you do say may be used against you by the grand jury or in a subsequent legal proceeding.

D. If you have retained counsel, the grand jury will permit you a reasonable opportunity to step outside the grand jury room to consult with counsel if you so desire.

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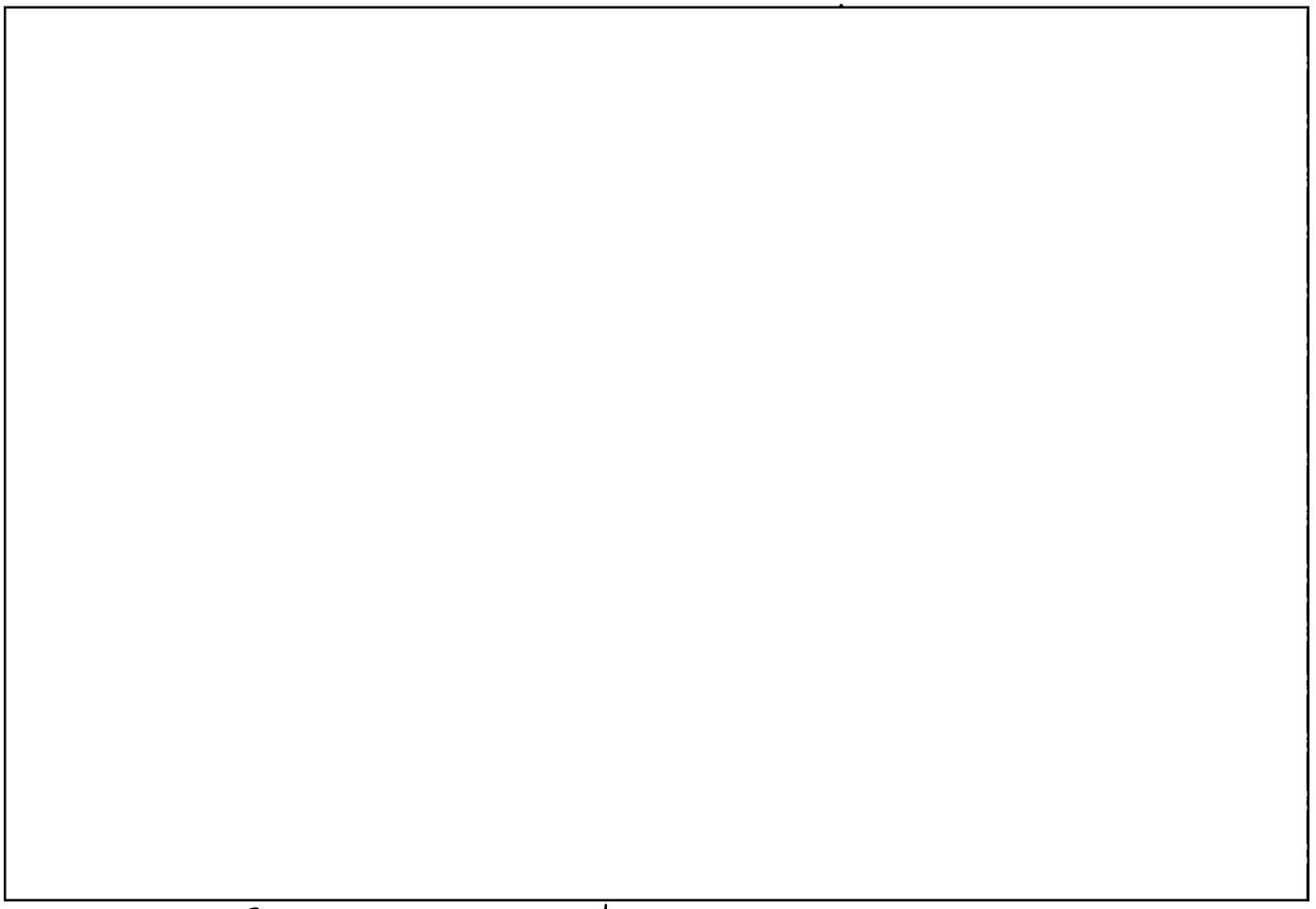
ALSTON, MILLIE

MILLIE ALSTON

Hank Schwelke

861-0600



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Renee Apt

[redacted]

FOIA(b)(7) - (C)

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/4/94

Renee M. Apt, Investigator, United States Park Police (USPP) (telephone number 690-5050) was interviewed at the Annocostia Operations Facility, Washington, D.C. Ms. Apt was advised as to the identity of the interviewing agent and informed of the nature of the inquiry. She then provided the following information:

Investigator Apt advised that around 6:00 pm on July 20, 1993, she was informed that a dead body had been located at Fort Marcy Park, Virginia and in the company of U.S. Park Police personnel, John Rolla and Cheryl Braun responded to this call arriving at the Fort Marcy parking area at approximately 6:30 pm. To the best of her recollection, Identification Technician, [redacted] (USPP), also assigned to the Annocostia Operations Facility, responded in a separate vehicle, arriving at the park shortly after her arrival with Mr. Rolla and Ms. Braun.

According to Investigator Apt, upon arriving at the Fort Marcy parking lot, her initial actions were to obtain necessary vehicle description and identification for a Mercedes vehicle which had been abandoned on the ramp leading up to the Fort Marcy parking lot. Subsequent to obtaining this vehicle information, she returned to the Fort Marcy parking lot where she observed Officer [redacted] (USPP), interviewing a middle-aged, white couple who had apparently been picnicking in an area south of the parking lot. Ms. Apt then advised she immediately proceeded to the death scene in the company of Investigators John Rolla, Cheryl Braun with Officer [redacted] following them to the scene. She recalled that at the death scene she observed Sergeant [redacted] USPP and possibly Officers [redacted] and [redacted] USPP.

Upon arriving at the death scene, she specifically observed Sergeant [redacted] in the process of completing polaroid photography of the body and to the best of her recollection, believes that contemporaneous with [redacted] finishing his polaroid photography, Investigator John Rolla commenced taking a series of polaroid photographs. Upon Investigator Rolla completing his

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Investigation on 5/2/94 at Washington, D.C. File # 29D-LR-35063

by LAWRENCE J. MONROE Date dictated 5/2/94

FOIA #56806 (URTS 16304) DocId: 70104968 Page 2
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polaroid photography, she believes that Officer [redacted] commenced taking 35mm photographs of the body and the surrounding environs. Investigator Apt maintained, however, that under no circumstances did any of the USPP personnel who arrived on the scene with her touch or any way disturb the body prior to the above described photographs being taken.

Investigator Apt advised that upon arriving at the scene she took personal responsibility for taking notes of the death scene and as such observed the decedent from a series of vantage points. She advised that after viewing a series of enlarged polaroid photographs obtained from USPP that these photographs were a true and accurate depiction of the decedent's body and the surrounding area which she personally observed on July 20, 1993. She stated that in her opinion, portions of the facial blood appeared dry while other portions appeared to be liquid in nature. Additionally she did observe a segment of blood on the decedent's lower right cheek which appeared to be transferred blood and specifically mentioned observing a number of flies on the decedent's face to include flies in the mouth and in the nostrils with numerous other flies swarming around the body.

In regards to the positioning of the body, Investigator Apt advised that the head was straight up and positioned slightly below the top of the berm with the arms at the side. She also stated that the decedent's clothing was not rumpled or in disarray specifically stating that the decedent's white shirt was opened and she could view the undershirt. She stated the shirt was devoid of any dirt or soil but as noted in the death scene polaroid photographs did contain blood on the upper right shoulder portion of the shirt. In regards to the decedent's trousers, Investigator Apt stated that like the shirt, the trousers were relatively neat, noting that the bottom of the trousers were slightly hitched indicating to her the possibility of the body having slightly slid down the embankment. Her further observations included noting in the decedent's thumb of the right hand, a revolver with a portion of the right hand slightly cupped over the revolver. Additionally she observed what in her opinion were powder burns in the web of the right hand. In regards to the spotting of the revolver in the decedent's right hand, Investigator Apt did state that the weapon was not clearly observable from a viewing point on top of the berm.

In response to questions regarding her observations of any individuals touching the body, Investigator Apt advised that subsequent to all polaroid photographs being taken, she did observe Investigator Rolla check the decedent's fingers for the presence of rigamortous but could not recall Investigator Rolla or any other individuals at the death scene physically touching the body prior to the Medical Examiner, Dr. Haut arriving on the scene.

In addition to providing the above sighted observations of the decedent's body, Investigator Apt advised that she also checked out the immediate vicinity of the death scene but did not observe any items of an evidentiary nature. Furthermore, based on her observations of the death scene, there was no indication that the vegetation had been trampled; that there had been any sign of a struggle at the scene or for that matter any evidence that the body had been physically positioned at the death scene.

Investigator Apt stated that she remained at the death scene until the Medical Examiner, Dr. Haut arrived and believes, in fact, that for a short period of time she was the only individual at the death scene. According to her recollection, she believes that Officer Braun escorted the Medical Examiner to the scene where the Medical Examiner in the presence of herself, John Rolla and possibly Cheryl Braun and [redacted] examined the body in detail. This, according to Investigator Apt, included rolling the body over with the body slipping down the hill requiring the officers at the scene to assist in stopping the slide. After a short period of time, the deceased, with the assistance of Emergency Rescue personnel was placed in a body bag and then placed on a gurney and removed to the parking lot for transportation to Fairfax, Virginia Hospital. She advised that after the body was removed from the Fort Marcy parking lot, she returned to the Annocostia substation delivering her notes of the death scene to Investigator John Rolla.

Dressed in liquid

white L/S Dress Shirt top button open — Large blood pattern Rt shoulder + Collar of shirt
white crew neck T-shirt
Blk Belt
Blk Socks
Blk Shoes
Dk Grey pinstripe Long dress pants — powder burns Rt hand w Revolver + 2 rounds
m Salt + Pepper hair poss. Hazel eyes >-30-93
= clean shaven — 42-45 yoa
1910hrs.
#93-30502
Head East
feet ~~South~~ West > prone face up?
eyes open
Death Investigation
CMK

glasses - down slope on nose tortoise shell frame
13 ft from subjects feet

Silver colored Ring w "Diamond" Rt Ring finger
Seiko Quartz watch #200-757 Brn leather band gold face
left wrist
motorola bravo pager #052943 w+CA engraved Rt side
Turned Off from Rt side waist
gold band Ring inscribed EBA VWF 4-30-68

1943 hrs. Coroner Haut Wx Co. Take to Bx Co. Hosp to be pronounced · Rolled

2003 Wx Co. fire + Rescue Rescue one (mclean)
Bx Co fire + Rescue Truck one

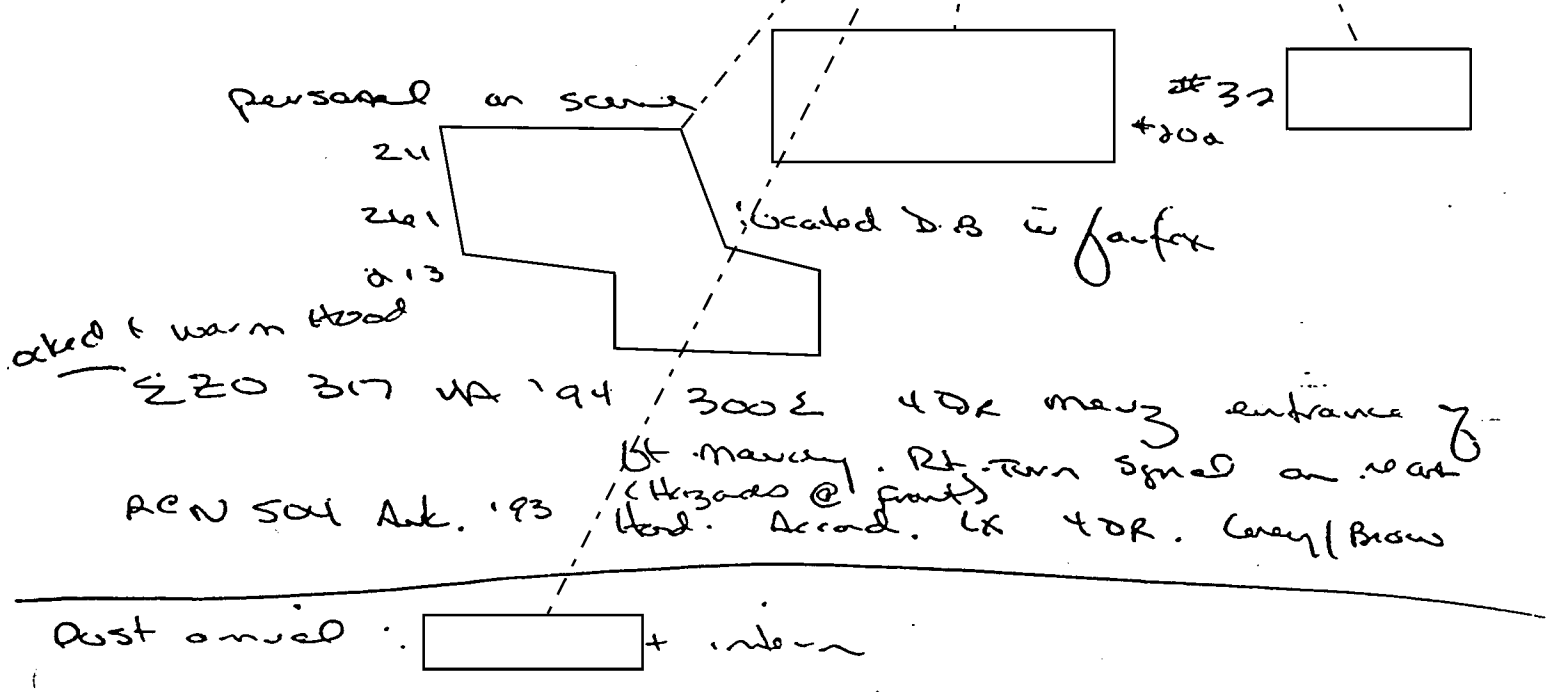
ABT

182

FOIA(b)(7) - (C)

Rec'd
7-20-93
1910hrs.
#93-30502
South West.

.15 requested + responding (Brooks, Rojla + myself)
1835 arrived



Dust arrived: [redacted] + [redacted]

183

7/02/14 1830hrs. (Rent)

Dr. Allen — listed with Approx. 10 Referral systems are being protocall.

2121 Wisconsin Ave.

DC 20007

Hadaya
Paternak
Allen
> Georgetown
Faculty
Dept. of Psych.

Hersh - other doctor in his office

Didn't recognize decedents name nor was he treating him.

Hadaya
Paternak
Allen
> All listed with Georgetown M.D (Medical Directory Referrals)

He is a preferred provider and possibly decedents insurance info would lead Allen in direction of where he obtained names

209

His notes

FOIA(b)(7) - (C)

GAVIN

VINCENT FOSTER SUICIDE Deputy General Counsel to the Presi

CHIEF 301 983 1898
Hines 301 596 7577

Bill Burton A/white house chief of staff asked about weapon (see note below)
202 456 1414 white house switchboard
202 456 6797 direct Honcho, coordinated press release, gave him 2 briefings

David Watkins/General Counsel to the president 2 & 3 called about same time
202 757 5000 white house signal room pager 4019 3 also asked about weapon
202 333 0299, home 1554 34 st NW Watkins went with Nolan to make notification to family
With detectives on notification

Officer of the Day USS UD Lt. Woltz
395 4366 Gave him initial death notification

Dr. Haut /FFX medical Examiner no recollection Dr Haut at scene

Cristina Tea/ FFX Hospital She called him; saw couple & H people at Resp Patient to see body - should she let them see body. Talked to Tipton doc re seeing body. Told Tipton let them see body make sure they don't disturb or take effects
703 698 1110 Concerned over WH officals wanting to view the body

[redacted] FFX PD.
703 573 2852 Advised him to allow viewing but not disturb body or effects

Craig Livingston WH Security Chief
William Kennedy Counsel to pres, travel-gate } Two WH officials at hospital
Viewed body at FFX

D.D. Myers WH Press Sec.
202 456 6423
Was faxed press release per Maj. Hines

[redacted] USSS Presidential Protection Intelligence
202 435 6600
Was concerned about WH passes, classified docs in vehicle

[redacted] USSS
Relayed that car was sealed and processing in AM

Burton was very concerned about the registration of the weapon, asked several times.
.38 Colt old 2 rounds, spent under hammer, next up live.
Engine warm on vehicle.

Beryl & Sheila Anthony

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[redacted]

BERYL ANTHONY-
TOOHEY

FOIA(b)(6)

Outline of Major Issues for Interview of Beryl Anthony

* general background re: family
  -- Foster's father's death
  -- history of depression and suicide in Foster family

* general background re: Foster
  -- his interests
  -- his marriage
  -- his children (Sheila has noted problems with children before)
  -- his friends: President, First Lady, Webb Hubbell, Marsha Scott, Bill Kennedy (ask in particular about Marsha Scott and her conversations with Foster on July 19)

* White House
  -- Foster's responsibilities
  -- staffing
  -- relationship with Bernie Nussbaum

* failed appointments
  -- Zoe Baird
  -- Kimba Wood

* gays in the military
  -- what was Foster's involvement?

* Wall Street Journal articles

* Travel Office
  -- outside counsel: describe discussions
  -- fear of congressional hearings? why?
  -- First Lady's involvement? ever mentioned?
  -- ever state that "FBI lied" (note that his November 15, 1993, interview with Judith Wish indicates as much)
  -- you have stated previously that you believe Foster knew things that had not been made public; what are those things?

* phone conversation on Monday, July 12, 1993
  -- what attorneys
  -- any subsequent discussions with those attorneys about the conversations

* did family know he was depressed?
  -- Sheila had apparently told you months beforehand that Vince was very depressed
  -- had his depression started in Arkansas?

* Guns

-- guns removed from elder Foster's home before death
-- one remaining gun in elder Foster's home after his death

DEATH

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

BERYL FRANKLIN ANTHONY, JR., former U.S. Representative, Fourth District, Arkansas, was interviewed regarding events surrounding the death of VINCENT W. FOSTER, JR. FOSTER was the former Deputy Counsel to the President, The White House, Washington, D.C. (WDC). ANTHONY was interviewed in the presence of his attorney, JAMES HAMILTON of the law firm of Swidler & Berlin, 3000 K Street, N.W., WDC. Also participating in the interview was Mark Stein, Attorney, Office of the Independent Counsel (OIC). The interview was conducted at the Office of the Independent Counsel, 1001 Pennsylvania Ave., N.W., WDC. After being appraised of the purpose of the interview and the identities of all participants, ANTHONY thereafter provided the following information:

ANTHONY was the brother-in-law of VINCENT W. FOSTER, JR. He is married to SHELIA ANTHONY, FOSTER's sister. FOSTER was described to be a quiet man when it came to the expression of his opinion of issues. FOSTER lived with ANTHONY and his wife, SHELIA, for approximately 90 days upon his arrival in Washington. FOSTER came to Washington as part of the Clinton Administration on January 20, 1993.

FOSTER rarely talked about his work, but did mention to ANTHONY his concern regarding the White House Travel Office affair. Most of the Travel Office related conversation occurred in bits and pieces between FOSTER, ANTHONY, and other individuals. The thrust of FOSTER's discussions regarding the Travel Office, centered around the Federal Bureau of Investigation (FBI) lying in its report to the Attorney General regarding the Travel Office investigation. ANTHONY had no reason to believe that the FBI misrepresented its position to the Department of Justice. FOSTER never relayed to ANTHONY what the FBI lied about.

ANTHONY thought that FOSTER's statement regarding the FBI lying, was an uncharacteristic statement to have been made by FOSTER. The reason ANTHONY specifically recalls this particular assertion is that it was so uncharacteristic of FOSTER that it

FOIA(b)(7) - (C)

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made an impact on ANTHONY. ANTHONY was only cursorily familiar with the White House Travel Office affair. Most of his knowledge was gained through newspaper reports. ANTHONY thought that FOSTER's remarks regarding the Travel Office and the veracity of the FBI's report to the Attorney General might have been in regards to WILLIAM KENNEDY, another member of the White House Counsel's office.

FOSTER's statement regarding the FBI lying, was a contemporaneous statement recalled to have been made prior to the White House issuing its own report of the Travel Office affair. ANTHONY recalls FOSTER making his statement about the FBI on more than one occasion. At no time did ANTHONY ask any follow-up questions with regards to FOSTER's opinion about the FBI.

In addition to the White House Travel Office affair, ANTHONY was aware that FOSTER was troubled by a series of editorials that were written about him in the Wall Street Journal newspaper. ANTHONY was under the impression that the newspaper articles bugged him more than did the Travel Office affair. According to ANTHONY, this appeared to be the case whenever FOSTER made any comments in ANTHONY's presence. FOSTER would frequently discuss the Wall Street Journal articles with SHELIA and with BERYL ANTHONY. FOSTER was of the opinion that the Wall Street Journal articles were written with the intent to ruin the Clinton Administration and furthermore thought that they were written with a sense of willful maliciousness. FOSTER viewed the Wall Street Journal articles as tearing his reputation down in an almost "smirky way." ANTHONY advised FOSTER to forget about the articles. FOSTER was described to have been unable to cope with the criticism of the Washington press corp. FOSTER came from a background of praise and adoration and the criticism was quite foreign to his previous experience.

ANTHONY initiated several conversations with FOSTER to try to get him to put everything back into perspective and not take these articles too seriously. ANTHONY recalls the Wall Street Journal articles occurring at about the same time as the White House began to receive criticism for the nomination of ZOE BAIRD for the position of Attorney General. Also in the press at this time were stories regarding BAIRD, the White House Travel Office and other issues for which the Clinton White House was under a great deal of criticism. FOSTER rationalized these problems to be his fault. It was at about this time that ANTHONY

began to detect depression on the part of FOSTER. SHELIA ANTHONY asked BERYL ANTHONY to talk to FOSTER about this condition. BERYL ANTHONY would try to make contact with FOSTER to console him during this time period. ANTHONY believes that FOSTER was upset regarding the loss of control that he had as part of the political forum in WDC. ANTHONY thought that FOSTER carried too much of the burden for criticism received by the Administration on his (FOSTER's) shoulders. ANTHONY was able to describe FOSTER's condition as depression in that

BERYL ANTHONY was aware that his wife, SHELIA ANTHONY, encouraged FOSTER to seek professional help for his condition.

ANTHONY found out later that FOSTER had gotten medical advice in Little Rock. ANTHONY recalled that FOSTER's depression occurred sometime after his (FOSTER's) initial 90 day stay with the ANTHONYs. This whole depression episode probably started prior to FOSTER's wife moving to WDC.

FOSTER became increasingly alarmed at the threats made by Republican lawmakers in area newspapers regarding holding hearings on the Travel Office matter. FOSTER felt he needed counsel if hearings did occur. He feared that his role at the White House may become adversarial as a result of the Travel Office matter. On July 12, 1993, BERYL ANTHONY gave FOSTER the names of three attorneys he could utilize in the event Congress held hearings on the Travel Office Affair. ANTHONY did not recall the names of the attorneys.

ANTHONY did not recall FOSTER ever discussing Whitewater or Madison Guaranty.

With regard to knowledge of guns possessed by FOSTER, ANTHONY advised that one Thanksgiving his father-in-law showed him a weapon that belonged to his (FOSTER SENIOR's) father. This occurred approximately 25 years ago. ANTHONY advised that he did not have any weapons in his home.

ANTHONY was aware that LISA FOSTER, FOSTER's spouse knew of a gun in the FOSTER home in Little Rock. LISA FOSTER asked ANTHONY to take possession of the gun. According to ANTHONY, there was no ammunition in the gun he took possession

of. ANTHONY was unable to identify from a USPP photograph the gun located at the death site where FOSTER's body was located. ANTHONY was also shown the gun that was found at the death site and he was unable to identify it as the one belonging to the FOSTER family.

ANTHONY is convinced that press reports and the viciousness of the WDC political establishment was what contributed to FOSTER's death. In ANTHONY's opinion, FOSTER's role as Deputy Counsel to the President caused his demise. ANTHONY provided no further information of investigative value.

FOIA(b)(6)

November 16, 1993

MEMORANDUM

TO: White House Travel Office File

FROM: Judith Wish

SUBJECT: Interview of Beryl Anthony

Rob Lyon and I interviewed Beryl Anthony today, November 16, 1993, at his office at Winston & Strawn at 10:30 a.m. He provided the following information:

1. Vince Foster lived with the Anthonys for 90 days after coming to Washington. His family joined him then and they moved into their own house. After he moved out of their home, the Anthonys did not see Foster as often.

2. Foster and Sheila Anthony were very close. She is the oldest of three children and Vince was the youngest.

3. Foster's family knew that he was depressed and had been working with him for a long time before his death. According to Anthony, his wife first mentioned to him that Foster was depressed about 90 days before his death. Time passed and she mentioned to Anthony again that Foster was really depressed. Time passed and she mentioned to Anthony again that Foster was very depressed. She was not specific with respect to symptoms because

4. When it appeared that the Hill would hold hearings on the WHTO matter, Foster talked to Anthony on the telephone and told him that the prospect of hearings created a dilemma for him: he had given and would continue to give advice to WH employees regarding the Travel Office matter and yet he might be called as a witness to testify at the hearings. He did not say why he might be a witness or what information he had that would make him be such. He was very cautious. But he wanted an independent viewpoint to sort it all out. Anthony tried to tell him he had nothing to worry about and agreed to call around to get the names of some attorneys who could help. During this conversation Foster did not mention the FBI. Based on Anthony's experience as a trial attorney, he assumed some people at the WH must have told told Foster things that were not public and that maybe he thought he would have to testify about them.

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5. With respect to the FBI, Anthony said that on at least two occasions he recalled Foster saying, "Beryl, you would be surprised (or shocked) that our own people would lie to us (or deceive us)." According to Anthony, Foster made it very clear that, in the context of the WHTO matter, "our own people" referred to the FBI. Foster provided no specifics. According to Anthony, Foster was a troubled individual who was struggling with a tough adjustment to a new job and new life. There were clamorings for investigations and he was taking it hard. His name appeared in the Wall Street Journal and the Post in, among others, the context of the WHTO matter.

6. Foster was a man of very few words who did not engage in casual conversation. Anthony did not try to probe regarding his statement about the FBI because Foster said what he wanted to say and no more. Anthony would have been cut off or Foster would have changed the subject. There was, thus, no reason to try to interrogate Foster. Anthony was just happy to listen to him and provide support if possible.

7. According to Anthony, Foster was not subject to exaggeration and never made inflammatory statements against anyone. For that reason, Foster's statements made a big impression on Anthony. He wanted to find a way to get Foster to settle down and open up to someone. Foster would not come to Winston & Strawn because Anthony was a lobbyist there and Sheila was at DOJ.

8. According to Anthony, Foster sincerely believed that someone in the FBI had lied, whether right or wrong.

9. Anthony has no recollection of Foster ever mentioning the FBI internal management report.

10. Anthony said that Foster was relieved that he was not reprimanded by the WH Report re the WHTO matter. Foster did not believe he had done anything wrong; if anything, he had tried to slow it down [the FBI]. But he was still bothered by the report.

11. Anthony never heard Foster say that the FBI "set up" the WH, specifically referring to the FBI report. But he knows that it had been discussed with the "inner circle" of the WH, i.e., the Arkansas and Rose Law Firm people. Foster's wife said it too. McLarty?. Anthony said that Foster and his wife were close.

12. Anthony worked with Lisa Foster after the suicide. She had a lawyer but asked him to sit in on her interviews with the lawyer and the Park Police, as an independent view.

13. Anthony will provide us with the names of the lawyers he recommended to Foster. The Park Police may also have this information. Anthony does not think that Foster talked to any of these attorneys, but thinks that he may have talked to an attorney

in Denver from whom he had sought advice before. The Park Police report should contain that name.

14. Sheila Anthony never mentioned any conversation she had with Foster to Anthony. She never mentioned her conversation with Alice Sessions and she never mentioned that Foster told her that the FBI lied. They just don't discuss these things because it brings back the whole experience of Foster's suicide and she becomes depressed.

15. The first time Anthony heard that Foster was considering resigning was from Lisa Foster after Foster's death. He was surprised; it did not seem consistent with Foster's way of operating. In addition, if anyone should resign, Anthony thought, it should have been Nussbaum. He had made wrong political decisions at every turn. Foster had made the right ones, but been countermanded. Ex. - Foster told Clinton not to take on the gays in the military issue until his second year, but Nussbaum said do it now, there won't be any repercussion. Anthony said there were lots of other things like that. But Foster desperately wanted the administration to be a success and took the criticism on himself. Anthony would tell him to lighten up, that he'd been beaten up too, that Foster needed a thicker hide, that he should forget about it, and that the press was hired to do that job.

16. Foster's depression was work related and press related and with the hearings on the horizon, and it appearing that Foster was going to be dragged into them, he saw no light at the end of the tunnel.

17. Foster was adamant that the WH had done nothing illegal re the WHTO matter, but they had made a political mistake in the way it was handled. The mistake had to do with dismissing the WHTO employees overnight. They should have thought it out better. He never said anything about the mistake being going to the FBI in the first place. He also never pointed fingers at anyone re fault.

18. Anthony thinks he heard the comment that the FBI wanted to go into the WH with both guns blazing (re the WHTO matter) from Lisa Foster.

19. Anthony never talked to McLarty, Kennedy, Watkins or Nusbaum about the FBI/WHTO matter. He did talk alot to Lisa Foster and a limited amount to Foster's children.

20. Anthony said that Marcia Scott works in the WH (in correspondence) and heard her make categorical statements, based on conjecture or preconceived notion (he could not tell), about the WHTO matter to the effect that the WH was the good guy and the FBI the bad guy. She is from Arkansas and visited Foster all the time at the WH. The Anthonys socialize with her.

21. Mrs. Clinton and Foster were very close. It would be consistent with their relationship that Foster would have talked to Mrs. Clinton re the WHTO matter and his thoughts re. He was the Clintons' personal lawyer as well as the Deputy GC and was working on a lot of matters for them. While Foster never told Anthony that he and Mrs. Clinton had talked, Anthony would not be surprised if Foster had talked to Mrs. Clinton about this subject. Anthony assumed that Foster was Mrs. Clinton's confidant. Anthony noted that if he ever wanted to get a message to Mrs. Clinton and didn't want to call her himself, he would send the message through Foster.

22. According to Anthony, Foster's credibility was such that, regarding the statement re the FBI in the Foster Note, he considers it true until and unless it is proven false (or the FBI is guilty until proven innocent.)

(83)

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 SYSTEM AREA	3 WHEN DID IT OCCUR?	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
United States Park Police		07	27	93	93	030502

5 NATURE OF INCIDENT	6 RECLASSIFICATION OF INCIDENT
Death Investigation	

ITEM

7 RESULTS OF INVESTIGATION

Investigator John C. Rolla 07/27/93

On 07/27/93 myself and Captain Hume conducted an interview with Mr. Berl Anthony concerning case number 93-30502, death investigation of Vincent FOSTER, Jr.

Mr. Anthony is the brother-in-law of Vincent Foster, Jr. Mr. Anthony stated that he has known Vince Foster for thirty-five years. Mr. Anthony is married to Mr. Foster's sister Sheila. Mr. Anthony stated that he and his wife were very close to Vincent Foster and that Vince Foster had lived with he and his wife for ninety days when he first came to Washington, D.C. Mr. Anthony stated that he and his wife had noticed a gradual decline in Mr. Foster's general disposition to the point of depression. Mr. Anthony stated that Mr. Foster was not handling the politics in Washington, D.C. very well and blamed himself personally for the failed nominations for Attorney General and some of the sub-Cabinet posts. Mr. Foster also was very upset over some unfavorable articles printed by the Wall Street Journal in the last several weeks and seemed to take them personally. Mr. Anthony stated the Mr. Foster was also concerned about his legal advice and his role in the firing of seven White House travel office aides, aka (Travelgate).

During the month preceding Mr. Foster's death, Mr. Anthony stated that he and his wife noticed that Mr. Foster's depression had become increasingly worse and became very worried about Mr. Foster's well being. Mr. Anthony stated that he believed his wife had given Mr. Foster a list of three counselors, psychiatrists or other doctors who do counseling. Mr. Anthony stated that during a conversation approximately three weeks prior to Mr. Foster's death, Mr. Foster made a comment to the effect, I have spent a lifetime building my reputation and now I am in the process of having it tarnished.

Mr. Anthony stated that the last time he spoke to Mr. Foster he believed was the morning of July 12, 1993. Mr. Foster had called him and stated that he was worried that there might be a Congressional inquiry into the above mentioned firings of seven White House travel office aides. Mr. Foster asked Mr. Anthony to refer him to an attorney. Mr. Anthony stated that he thought this an odd request because Mr. Foster was a man who kept his own counsel and was not open even with the people who knew him best. Mr. Anthony stated that he got some information together on six different attorneys and it was taken by courier to Mr. Foster's residence on July 15, 1993 at 6:53 pm.

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☒ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			John C. Rolla		7/27/93		834	7/29/93

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*U.S.GPO:1992-0-625-624/41193

ABJ

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 SYSTEM AREA	3 WHEN DID IT OCCUR?	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
United States Park Police		07	27	93	93	030502

5 NATURE OF INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT:

ITEM

7 RESULTS OF INVESTIGATION

Mr. Anthony stated that he knew that Mr. Foster owned an old gun, but he hadn't seen it in a long time. Mr. Anthony was shown a photograph of the firearm but could not positively identify it as the one owned by Mr. Foster. Mr. Anthony stated that Mr. Foster's father had owned a couple of guns and that Mr. Foster's sister Sharon Bowman, picked up the guns from the family house in Arkansas shortly before the fathers death. Mr. Anthony believed that Mrs. Bowman might be able to identify the gun.

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☒ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
John C. Rolla	284	07/27/93					84	7/29/93

GPO: 1992-0-626-524/41193

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SHEILA ANTHONY-
TUOHEY

FD-302 (Rev. 3-10-82)

~~CONFIDENTIAL~~

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/3/94

SHEILA FOSTER ANTHONY was interviewed at the United States Department of Justice, Washington, D.C., where she serves as Assistant Attorney General for Legislative Affairs. JAMES HAMILTON, who is associated with the law firm of Swidler & Berlin, Washington, D.C., and who is representing the FOSTER family, was present during the interview. Also participating in the interview were MARK STEIN and CARL STICH, Associate Counsels with the Office of the Independent Counsel, Washington, D.C. After ANTHONY was advised of the official identities of the interviewing agents and that the interview pertained to the circumstances of the death of her brother, VINCENT W. FOSTER, JR., on July 20, 1993, she furnished the following information:

Among the duties of the Office of the Assistant Attorney General for Legislative Affairs are the clearance of bills before they are forwarded to the Office of Management and Budget and a role in the ~~selection~~ confirmation of nominees for positions as United States Attorneys, United States Marshals and Federal Judges. ANTHONY's office also corresponds with Congress and assists in attempting to advance legislation which is regarded as important to members of Congress. To the administration

ANTHONY has not been interviewed previously by either the United States Park Police (USPP) or the Federal Bureau of Investigation (FBI) regarding the death of her brother.

ANTHONY has no personal knowledge regarding the gun which was found with the body of VINCENT W. FOSTER, JR. ANTHONY's father, VINCENT W. FOSTER, owned a number of handguns, rifles and shotguns. The elder MR. FOSTER was very ill with cancer approximately two years ago, and he eventually died as a result of the disease in June 1991.

Either VINCENT FOSTER, JR. or ANTHONY's sister, SHARON BOWMAN, or possibly both of them removed the guns owned by the elder MR. FOSTER from his home in Hope, Arkansas. ANTHONY recalls that the guns were removed from the house sometime during the period of March to May 1991, but

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OIC 000192

by _____ Date dictated 5/2/94

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ANTHONY is not certain exactly when this event took place.

SHARON BOWMAN is familiar with guns since she took riflery courses in her youth and has hunted in the past.

SHEILA ANTHONY was born on [redacted] SHARON FOSTER BOWMAN was born on [redacted] VINCENT W. FOSTER, JR. was born on January 15, 1945. All three siblings grew up in the same household in Hope, Arkansas and were children of the same parents.

VINCENT W. FOSTER, JR. attended Hope Elementary School and Hope High School in Hope, Arkansas. During the summer of 1964, FOSTER resided with ANTHONY in Little Rock, Arkansas, and was employed in a bank there, possibly the Worthen Bank. Following his graduation from high school, FOSTER attended Davidson College in North Carolina and graduated in 1967. FOSTER studied law at the Vanderbilt University Law School for approximately one to one and one-half years, but dropped out to join the National Guard in New Jersey during the Viet Nam war. After he decided to return to the study of law, FOSTER enrolled at the University of Arkansas Law School because the semester structure at the school coincided with the time when he wanted to return to the study of law. Immediately after he graduated from law school, FOSTER went to work for the Rose Law Firm in Little Rock, Arkansas.

During one of his summer vacations from undergraduate school, FOSTER was employed at the Arkansas State Mental Hospital. FOSTER had previously indicated a desire to major in the study of psychology, but ANTHONY now believes that FOSTER's experience at the State Mental Hospital may have changed FOSTER's mind in this regard.

After the elder MR. FOSTER died from his illness, ANTHONY and SHARON BOWMAN went to clean their parents' home in Hope, Arkansas and found one remaining gun in the house. ANTHONY's recollection is unclear at this time, but she believes that the weapon may have been a pistol. ANTHONY has fired ~~rifles~~ shotguns in the past but has never shot a handgun. However, ANTHONY does know the difference between a revolver and a semi-automatic

pistol. ANTHONY only recalls seeing a black-colored pistol from among the handguns owned by her late father. This pistol is the gun which ANTHONY and SHARON BOWMAN found while they were clearing their parents' house after the death of the elder MR. FOSTER.

ANTHONY does not know if VINCENT FOSTER, JR. owned any guns. ANTHONY does not recall any discussion about whether the ammunition in her parents' home was removed from the house. FOSTER never spoke with ANTHONY about having a desire to either own or purchase a handgun. ANTHONY does not know if FOSTER had a gun with him in Washington, D.C. FOSTER never discussed guns with ANTHONY, and ANTHONY is not aware of any conversations between FOSTER and her husband, BERYL ANTHONY, about guns.

ANTHONY and BERYL ANTHONY have no handguns in their own home. The ANTHONYS do have hunting ~~rifles~~ longguns in their home, but ANTHONY does not know what kind of ammunition is kept there.

FOSTER came to Washington, D.C. for the inauguration on January 20, 1993. FOSTER stayed with ANTHONY for perhaps two and one-half months until FOSTER and his family moved into a residence , in Washington, D.C. ANTHONY is aware that some repairs and work had to be performed on the house before the FOSTER family could move in.

After FOSTER began working as Deputy Counsel to the President, he was working long and hard hours. The issues involved in his work were broad and constant. On a typical day for FOSTER, he would leave home between 7:00 a.m. and 8:00 a.m. and return home between 10:00 p.m. and 11:00 p.m. There were no regular secretaries working in the White House Counsel's office for the first few weeks of the new Administration, which further contributed to an overwhelming workload for the attorneys in the Counsel's office. FOSTER never discussed specific matters of his work with ANTHONY. ANTHONY and FOSTER would often talk to each other during the day so that they could coordinate the times that they departed work since they were frequently driving to work together. FOSTER would occasionally go out to eat while he was still at work, but when he ate, it was frequently later in the evening, such as between the hours of 8:30 p.m. and 9:00 p.m.

FOSTER was very distressed over the Travel Office matter. ANTHONY recalls that she and FOSTER spoke about the

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Travel Office case when they were having dinner together on one occasion. ANTHONY tried to reassure FOSTER and told him he had always exhibited good judgment. FOSTER responded that he had not shown good judgment this time. After the White House report on the Travel Office was issued, FOSTER told ANTHONY that he felt badly for WILLIAM KENNEDY, who was also an attorney in the White House Counsel's office. FOSTER told ANTHONY that KENNEDY was getting more criticism than he deserved.

ANTHONY recalls having two conversations with FOSTER about the Travel Office case. One of these conversations occurred when the issue of the firing of the Travel Office employees first broke in the press. The second conversation occurred when the White House report regarding the Travel Office case was issued. This latter conversation occurred over the telephone at a time when FOSTER was no longer living with ANTHONY. ANTHONY believes that FOSTER's distress at that time was severe. ANTHONY was unable to make FOSTER understand that the treatment of the Travel Office case was par for the course in a very partisan city such as Washington, D.C. ANTHONY does not now recall whether FOSTER was more distressed during the second conversation or not. She does recall that FOSTER was very distraught over a series of articles which had appeared in the Wall Street Journal newspaper regarding FOSTER. ANTHONY now recalls that she told FOSTER that no one who had voted for BILL CLINTON would read the Wall Street Journal anyway. FOSTER did not find ANTHONY's remark to be humorous, and he still appeared to be upset. The only newspaper article which FOSTER and ANTHONY specifically discussed from the Wall Street Journal was an article entitled "Who is Vincent Foster?". ANTHONY recalls that FOSTER was upset over two aspects of this particular article. FOSTER had learned that there had been confusion at the White House regarding the sending of a photograph of FOSTER to the Wall Street Journal to accompany the article. FOSTER complained to ANTHONY that the Communications Office at the White House had not sent the photo of FOSTER to the Wall Street Journal, and that this failure to forward the photograph may have triggered the critical article which appeared in the paper. FOSTER was also upset that the Wall Street Journal article denigrated the Rose Law Firm.

ANTHONY has no knowledge of FOSTER continuing to be affected by Rose Law Firm business once he left the firm. FOSTER

was a "lawyer's lawyer" who never discussed his clients with people outside his firm.

Prior to assuming a post in the Commerce Department after the CLINTON administration took office, ANTHONY had been an attorney with the law firm of DOW, LOHNES & ALBERTSON in Washington, D.C. ANTHONY was employed at this firm for approximately ~~fifteen years~~ 7½ during which time she became acquainted with DEBORAH GORHAM. GORHAM worked at this same law firm for approximately seven years, all of which coincided with ANTHONY's employment there. After FOSTER arrived in Washington, D.C., ANTHONY inquired at her former firm's personnel office in an effort to identify any qualified secretaries who might be leaving the firm. The Personnel Director at the law firm suggested GORHAM's name to ANTHONY. ANTHONY spoke to GORHAM and then gave GORHAM's telephone number to FOSTER. GORHAM was subsequently interviewed by FOSTER, but she turned down his offer of a job because the salary was too low. FOSTER had not known GORHAM prior to her name being furnished to him by ANTHONY. ANTHONY assumed at that time that there was no longer any possibility of GORHAM being hired by FOSTER. However, GORHAM and FOSTER continued to negotiate about the salary which he could offer her, and eventually she was hired as his secretary in the Counsel's office at the White House.

ANTHONY called and spoke to GORHAM last week to ask how she was doing. ANTHONY had not spoken to GORHAM since approximately December 1993. ANTHONY and GORHAM did not speak specifically about FOSTER, but they each spoke about their respective families.

GORHAM has not said anything to ANTHONY about FOSTER being depressed prior to his death. She has not mentioned anything about FOSTER being depressed either directly or indirectly. ANTHONY believes it is possible that GORHAM may have spoken about FOSTER's mental state with his wife, LISA FOSTER. ANTHONY presumes that GORHAM and LISA FOSTER spoke to each other during the summer months of 1993.

In terms of her relationship with FOSTER, ANTHONY was extremely close to him and they spoke to each other often. ANTHONY saw FOSTER daily when he was living with her. ANTHONY spoke to FOSTER two to three times a week after he and his family moved to their home in Washington, D.C.

ANTHONY last saw FOSTER in July 1993. On approximately July 2, 1993, FOSTER surprised ANTHONY during a dinner held at his residence by having ANTHONY's daughter attend the dinner. ANTHONY was aware of the dinner in advance, but she was unaware that FOSTER had arranged for ANTHONY's daughter to fly to Washington from Texas in order to be present for ANTHONY's confirmation as Assistant Attorney General. ANTHONY does not recall exactly when this dinner occurred, but she believes it was either in the latter part of June or the first part of July. During this same time frame, ANTHONY and her husband went to supper with LISA and VINCENT FOSTER, JR. and their daughter LAURA at the Cactus Cantina restaurant in Washington, D.C. The FOSTERs had first gone to the ANTHONY residence to have drinks, and they then walked to the restaurant, which was near the ANTHONY residence.

From the time that FOSTER first came to Washington, D.C. until his death, ANTHONY observed several noticeable behavioral and emotional changes in him. One noticeable change during FOSTER's first few months in Washington was that he was tired and seemed to feel a great deal of pressure. During the months just prior to his death, FOSTER told ANTHONY that he was unable to sleep and was waking up every two hours. ANTHONY spoke to FOSTER by telephone on July 16, 1993, which ANTHONY recalls as the last Friday prior to July 20, 1993. ANTHONY noted that FOSTER's voice was different in its tenor, and his voice sounded strained. ANTHONY recalls noticing the strain in FOSTER's voice because it sounded so much like the strain she had heard in her father's voice when he had been distraught during his illness. ANTHONY believes that the phone call that Friday was the first time that she had heard the change in tenor in FOSTER's voice. FOSTER exhibited many characteristics of a depressed person, most noticeable of which was the fact that he had no sense of humor left. This telephone conversation with FOSTER also concerned the seriousness with which he viewed events and circumstances.

In late April 1993, VINCENT and LISA FOSTER took ANTHONY to dinner to help them celebrate their anniversary. ANTHONY encouraged FOSTER to leave Washington, D.C. and go away on weekends. FOSTER had become quite concerned when people in Congress began to speak of holding hearings on the Travel Office case. ANTHONY does not know if FOSTER was taking sleeping pills, and he did not mention doing so to her. (This is understated)

FOSTER had an excellent reputation in Arkansas, and he had received numerous awards there. FOSTER had been inducted into an honorary association of trial lawyers while still in Arkansas. ANTHONY did not discuss with FOSTER why he elected not to go to a ceremony in Arkansas where he was to be honored by the Arkansas Bar Association as "Lawyer of the Year." ANTHONY believes that some event arose which prevented FOSTER from attending the ceremony, but she does not recall the nature of this event.

In terms of coping with problems in his life, FOSTER never seemed to have any difficulties. FOSTER became a partner at the Rose Law Firm in two years and was slated to become President of the Arkansas State Bar.

On July 16, 1993, which ANTHONY recalls as the last Friday before July 20, 1993, FOSTER called ANTHONY and wanted to discuss two topics of significance. First, FOSTER told her that he was battling depression for the first time in his life. ANTHONY responded by asking FOSTER to allow her to help him. She offered to contact a doctor for FOSTER. FOSTER then expressed concern that if he were to be seen by a doctor, his security clearance could be jeopardized. ANTHONY attempted to reassure FOSTER by saying that she would determine the parameters for a visit with a doctor prior to actually scheduling an appointment for FOSTER. The second topic which FOSTER brought up with

ANTHONY during this same phone call was to ask ANTHONY to recommend a place on the Eastern Shore of Maryland where he and his wife could go that weekend. ANTHONY told FOSTER that she would check with her husband and call FOSTER back. ANTHONY later called LISA FOSTER and recommended two or three places on the Eastern Shore where the ANTHONYS had previously stayed. ANTHONY also called a friend who had received treatment from a psychiatrist in the past. The friend provided ANTHONY with the name of one psychiatrist. The friend later called ANTHONY back approximately thirty minutes later and furnished ANTHONY with the names of two additional psychiatrists.

ANTHONY called one of the psychiatrists and asked how she could structure a visit to him so that the visit would be unrecorded until FOSTER could decide whether to start a course of treatment. ANTHONY then called FOSTER back that same day and furnished him with the names of the three psychiatrists. She encouraged FOSTER to make an appointment with one of the psychiatrists, but he said that he wanted to think about that course of action over the weekend.

ANTHONY does not believe that she ever spoke to LISA FOSTER about FOSTER's statement that he was battling depression. She remembers speaking with LISA FOSTER about trying to get FOSTER to leave work earlier during the week or to go away on weekends. ANTHONY recalls that LISA FOSTER wanted FOSTER to come home more.

ANTHONY believes that LISA FOSTER came to Washington, D.C. to look for a family house in March 1993. LISA FOSTER continued to travel back and forth between Little Rock, Arkansas and Washington, D.C. in an effort to prepare the house so that it would be ready for her family to move into it. LAURA FOSTER, FOSTER's daughter, came to Washington, D.C. when her school semester was over, which was possibly in April 1993. FOSTER's youngest son was still attending school in Little Rock. The FOSTER family also had a foreign student living with them in Little Rock at that time. LISA FOSTER came to Washington, D.C. permanently in mid to late May 1993.

On July 19, 1993, possibly in the morning, ANTHONY called FOSTER. FOSTER stated that he was feeling good and that the weekend had gone pretty well. FOSTER said that he was not yet ready to see a psychiatrist in Washington, D.C., but he told

ANTHONY that he had called his physician in Little Rock and had gotten a prescription. FOSTER did not tell ANTHONY anything further about the preceding weekend. FOSTER said that going away from the city was such a good idea that he would like to do it more often or possibly every weekend.

To the best of ANTHONY's knowledge, FOSTER was not receiving any type of medical treatment.

ANTHONY has no knowledge of FOSTER having any financial difficulties, problems with gambling, or any type of extramarital involvement. In terms of identifying a person in whom FOSTER would confide, ANTHONY hopes that FOSTER would have confided in either herself or his wife. FOSTER also had a number of close friends in the Rose Law Firm. However, FOSTER, although known to be a good listener, was a very private person. ANTHONY does not believe that FOSTER was close to either a minister or a priest. FOSTER did not attend church very often after he grew up except for certain family occasions.

At the last dinner which FOSTER shared with ANTHONY, FOSTER confided to her that he was considering resigning from his post at the White House. FOSTER indicated that the job in the White House Counsel's office was not right for him. FOSTER was not specific about what was causing him to consider resignation. Among the reasons that became apparent to ANTHONY were the Travel Office investigation, the stress of his job, and the constant overwork. ANTHONY hoped that FOSTER would choose to resign the position.

In terms of changes in personal appearance, ANTHONY noted that FOSTER's face had become gray and drawn. FOSTER had

been thin when he arrived in Washington but had gained a significant amount of weight while working at the White House. ANTHONY believes that the weight gain may be at least partly attributable to the fact that FOSTER was not eating well and was eating quite a bit of fast food due to the overwork situation. FOSTER began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in ~~January~~ March 1993. However, ANTHONY is unable to estimate the amount of weight FOSTER lost in terms of pounds. FOSTER did not mention to ANTHONY any problems with headaches, loss of appetite, indigestion or vomiting.

Among the activities which FOSTER engaged in to relax was reading. FOSTER had a swimming pool in the back yard of his home in Little Rock, and he and the family enjoyed swimming in their pool. FOSTER also enjoyed cooking and traveling, and he took his family on numerous trips. FOSTER did not participate in many sports, but he enjoyed attending his childrens' games and watching them play. ANTHONY did not observe any recent changes in FOSTER's interests or hobbies after he arrived in Washington.

FOSTER typically worked Monday through Saturday each week. On alternating Sundays, either FOSTER or BERNARD NUSSBAUM was on standby duty to be available to deal with matters which arose at the White House Counsel's office.

In terms of describing FOSTER's relationship with his wife, ANTHONY regarded it as warm and real. FOSTER was married to LISA FOSTER for approximately twenty-five years. ANTHONY regarded FOSTER as an excellent father who spent much time with his children. In particular, FOSTER was very conscientious about spending time with each of his children so that they each received individual attention. FOSTER would occasionally take one of the children on a trip with him just so the child could receive this individual attention. FOSTER was very interested in everything that his children did.

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In terms of describing FOSTER, ANTHONY believes that he was a man of great integrity and honesty. He also had a dry sense of humor. FOSTER felt very strongly about giving back to the community in which he lived and he was involved in charitable organizations in Little Rock. The only occasion known to ANTHONY when FOSTER ever got into trouble occurred when he was in college and he wrecked a car.

FOSTER was able to blend in at the Rose Law Firm because the firm shared many of his positions on social issues. For example, the Rose Law Firm had taken a stand against racial segregation. FOSTER had worked for a black attorney during one of his summers while attending school. FOSTER had a very strong sense of fair play and he was a very thoughtful person who was always gracious to his family and friends. FOSTER particularly enjoyed hosting friends and social events at his home. FOSTER also counseled both of ANTHONY's children, but only when they came to him first for advice. In all their lives together, ANTHONY and FOSTER never had a cross word, and she knows absolutely nothing bad about FOSTER.

To the best of her knowledge, ANTHONY is not aware of any incidences of FOSTER going to parks in the Washington, D.C. area. FOSTER never mentioned to ANTHONY any visits to Fort Marcy Park in Virginia. Following FOSTER's death, ANTHONY read in the newspaper that FOSTER had driven a Honda automobile to Fort Marcy Park on the date of his death. FOSTER did not have the Honda automobile with him when he lived with ANTHONY initially following his arrival in Washington, D.C. ANTHONY recalls that the Honda was dark in color since she subsequently saw the automobile in front of FOSTER's residence.

ANTHONY is aware of a letter which FOSTER sent to his mother from his office shortly before his death. ANTHONY was with her mother on the day when she opened the letter from FOSTER. The letter from FOSTER concerned oil leases which had been passed on to FOSTER's mother from her late husband's estate. In attempting to recall what was in the envelope, ANTHONY now believes that there was an extremely brief cover letter which had been typewritten, and which contained one to two sentences asking FOSTER's mother to sign the enclosed form and return it to the oil company. The cover letter bore the handwritten signature of FOSTER.

ANTHONY recalls FOSTER as being a person who was more likely to call on the telephone than write a letter.

ANTHONY's mother still resides in Hope, Arkansas. ANTHONY is not aware of any other letters which may have been sent by FOSTER shortly before his death. ANTHONY has no knowledge of whatever insurance policies were maintained by FOSTER, but she assumes that there were such policies.

ANTHONY does not believe that there was a single cause for FOSTER taking his own life. She believes that inquiries by the media, the pressure caused by the Travel Office case, and overwork at the White House were all factors. An additional source of stress may have been FOSTER's realization that he had made a mistake in coming to Washington, D.C., and this realization may have contributed to his decision to end his life.

Lisa attended

FOSTER personally prepared the speech he delivered as the commencement address at the University of Arkansas Law School in May 1993. ANTHONY recalls that FOSTER discussed the speech with her prior to delivering the address. ANTHONY and other family members attended the commencement ceremony and heard FOSTER's address ~~because they~~ were all in Arkansas to celebrate Mother's Day that weekend. In reflecting on FOSTER's address ~~that weekend~~, ANTHONY now believes that she heard the same strain in his voice that day that she heard later during the telephone call on July 16, 1993. ANTHONY believes that FOSTER's address was videotaped and that a video tape and transcript of the address may be available through the law school.

in Fayetteville like back a question that she saw & heard on a news broadcast,

ANTHONY knows of no other information which could be of assistance in investigating FOSTER's death.

and had lunch with Vince and Lisa on ~~Saturday~~ Friday returned from Fayetteville.

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FOIA(b)(6)

Outline of Major Issues for Interview of Sheila Anthony

* general background re: family
  -- father's death
  -- history of depression and suicide

* general background re: Foster
  -- his interests
  -- his marriage
  -- his children (Sheila has noted problems with children before)
  -- his friends: President, First Lady, Webb Hubbell, Marsha Scott, Bill Kennedy (ask in particular about Marsha Scott)

* White House
  -- his responsibilities
  -- staffing
  -- relationship with Bernie Nussbaum

* Guns
  -- guns removed from elder Foster's home before death
  -- one remaining gun in elder Foster's home after his death

* Travel Office
  -- July 9, 1993, conversation at dinner
  -- Alice Sessions
  -- outside counsel
  -- fear of congressional hearings? why?
  -- First Lady's involvement? ever mentioned?

* phone conversations on July 16, 1993
  -- battling depression
  -- names of psychiatrists

* phone conversation on July 19, 1993
  -- prescription from doctor in LR
  -- anything else?

* Resignation
  -- ever discussed?

DEATH

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/3/94

SHEILA FOSTER ANTHONY was interviewed at the United States Department of Justice, Washington, D.C., where she serves as Assistant Attorney General for Legislative Affairs. JAMES HAMILTON, who is associated with the law firm of Swidler & Berlin, Washington, D.C., and who is representing the FOSTER family, was present during the interview. Also participating in the interview were MARK STEIN and CARL STICH, Associate Counsels with the Office of the Independent Counsel, Washington, D.C. After ANTHONY was advised of the official identities of the interviewing agents and that the interview pertained to the circumstances of the death of her brother, VINCENT W. FOSTER, JR., on July 20, 1993, she furnished the following information:

Among the duties of the Office of the Assistant Attorney General for Legislative Affairs are the clearance of bills before they are forwarded to the Office of Management and Budget and a role in the selection of nominees for positions as United States Attorneys, United States Marshals and Federal Judges. ANTHONY's office also corresponds with Congress and assists in attempting to advance legislation which is regarded as important to members of Congress.

ANTHONY has not been interviewed previously by either the United States Park Police (USPP) or the Federal Bureau of Investigation (FBI) regarding the death of her brother.

ANTHONY has no personal knowledge regarding the gun which was found with the body of VINCENT W. FOSTER, JR. ANTHONY's father, VINCENT W. FOSTER, owned a number of handguns, rifles and shotguns. The elder MR. FOSTER was very ill with cancer approximately two years ago, and he eventually died as a result of the disease in June 1991. Prior to his death, the elder MR. FOSTER had hinted to other family members that he might use a weapon to take his own life. Either VINCENT FOSTER, JR. or ANTHONY's sister, SHARON BOWMAN, or possibly both of them removed the guns owned by the elder MR. FOSTER from his home in Hope, Arkansas. ANTHONY recalls that the guns were removed from the house sometime during the period of March to May 1991, but

FOIA(b)(7) - (C)

Investigation on 4/28/94 at Washington, DC File # 29D-LR-35063

by [redacted] RTB:deq Date dictated 5/2/94

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ANTHONY is not certain exactly when this event took place. Both SHARON BOWMAN and VINCENT FOSTER, JR. had told ANTHONY that they were concerned that the elder MR. FOSTER might use one of the guns in the house to take his own life.

SHARON BOWMAN is familiar with guns since she took riflery courses in her youth and has hunted in the past.

SHEILA ANTHONY was born on [redacted] SHARON FOSTER BOWMAN was born on [redacted] VINCENT W. FOSTER, JR. was born on January 15, 1945. All three siblings grew up in the same household in Hope, Arkansas and were children of the same parents.

VINCENT W. FOSTER, JR. attended Hope Elementary School and Hope High School in Hope, Arkansas. During the summer of 1964, FOSTER resided with ANTHONY in Little Rock, Arkansas, and was employed in a bank there, possibly the Worthen Bank. Following his graduation from high school, FOSTER attended Davidson College in North Carolina and graduated in 1967. FOSTER studied law at the Vanderbilt University Law School for approximately one to one and one-half years, but dropped out to join the National Guard in New Jersey during the Viet Nam war. After he decided to return to the study of law, FOSTER enrolled at the University of Arkansas Law School because the semester structure at the school coincided with the time when he wanted to return to the study of law. Immediately after he graduated from law school, FOSTER went to work for the Rose Law Firm in Little Rock, Arkansas.

During one of his summer vacations from undergraduate school, FOSTER was employed at the Arkansas State Mental Hospital. FOSTER had previously indicated a desire to major in the study of psychology, but ANTHONY now believes that FOSTER's experience at the State Mental Hospital may have changed FOSTER's mind in this regard.

After the elder MR. FOSTER died from his illness, ANTHONY and SHARON BOWMAN went to clean their parents' home in Hope, Arkansas and found one remaining gun in the house. ANTHONY's recollection is unclear at this time, but she believes that the weapon may have been a pistol. ANTHONY has fired rifles in the past but has never shot a handgun. However, ANTHONY does know the difference between a revolver and a semi-automatic

pistol. ANTHONY only recalls seeing a black-colored pistol from among the handguns owned by her late father. This pistol is the gun which ANTHONY and SHARON BOWMAN found while they were clearing their parents' house after the death of the elder MR. FOSTER.

ANTHONY does not know if VINCENT FOSTER, JR. owned any guns. ANTHONY does not recall any discussion about whether the ammunition in her parents' home was removed from the house. FOSTER never spoke with ANTHONY about having a desire to either own or purchase a handgun. ANTHONY does not know if FOSTER had a gun with him in Washington, D.C. FOSTER never discussed guns with ANTHONY, and ANTHONY is not aware of any conversations between FOSTER and her husband, BERYL ANTHONY, about guns.

ANTHONY and BERYL ANTHONY have no handguns in their own home. The ANTHONYS do have hunting rifles in their home, but ANTHONY does not know what kind of ammunition is kept there.

FOSTER came to Washington, D.C. for the inauguration on January 20, 1993. FOSTER stayed with ANTHONY for perhaps two and one-half months until FOSTER and his family moved into a residence on Cambridge Place, N.W., in Washington, D.C. ANTHONY is aware that some repairs and work had to be performed on the house on Cambridge Place before the FOSTER family could move in.

After FOSTER began working as Deputy Counsel to the President, he was working long and hard hours. The issues involved in his work were broad and constant. On a typical day for FOSTER, he would leave home between 7:00 a.m. and 8:00 a.m. and return home between 10:00 p.m. and 11:00 p.m. There were no secretaries working in the White House Counsel's office for the first few weeks of the new Administration, which further contributed to an overwhelming workload for the attorneys in the Counsel's office. FOSTER never discussed specific matters of his work with ANTHONY. ANTHONY and FOSTER would often talk to each other during the day so that they could coordinate the times that they departed work since they were frequently driving to work together. FOSTER would occasionally go out to eat while he was still at work, but when he ate, it was frequently later in the evening, such as between the hours of 8:30 p.m. and 9:00 p.m.

FOSTER was very distressed over the Travel Office matter. ANTHONY recalls that she and FOSTER spoke about the

Travel Office case when they were having dinner together on one occasion. ANTHONY tried to reassure FOSTER and told him he had always exhibited good judgment. FOSTER responded that he had not shown good judgment this time. After the White House report on the Travel Office was issued, FOSTER told ANTHONY that he felt badly for WILLIAM KENNEDY, who was also an attorney in the White House Counsel's office. FOSTER told ANTHONY that KENNEDY was getting more criticism than he deserved.

ANTHONY recalls having two conversations with FOSTER about the Travel Office case. One of these conversations occurred when the issue of the firing of the Travel Office employees first broke in the press. The second conversation occurred when the White House report regarding the Travel Office case was issued. This latter conversation occurred over the telephone at a time when FOSTER was no longer living with ANTHONY. ANTHONY believes that FOSTER's distress at that time was severe. ANTHONY was unable to make FOSTER understand that the treatment of the Travel Office case was par for the course in a very partisan city such as Washington, D.C. ANTHONY does not now recall whether FOSTER was more distressed during the second conversation or not. She does recall that FOSTER was very distraught over a series of articles which had appeared in the Wall Street Journal newspaper regarding FOSTER. ANTHONY now recalls that she told FOSTER that no one who had voted for BILL CLINTON would read the Wall Street Journal anyway. FOSTER did not find ANTHONY's remark to be humorous, and he still appeared to be upset. The only newspaper article which FOSTER and ANTHONY specifically discussed from the Wall Street Journal was an article entitled "Who is Vincent Foster?". ANTHONY recalls that FOSTER was upset over two aspects of this particular article. FOSTER had learned that there had been confusion at the White House regarding the sending of a photograph of FOSTER to the Wall Street Journal to accompany the article. FOSTER complained to ANTHONY that the Communications Office at the White House had not sent the photo of FOSTER to the Wall Street Journal, and that this failure to forward the photograph may have triggered the critical article which appeared in the paper. FOSTER was also upset that the Wall Street Journal article denigrated the Rose Law Firm.

ANTHONY has no knowledge of FOSTER continuing to be affected by Rose Law Firm business once he left the firm. FOSTER

was a "lawyer's lawyer" who never discussed his clients with people outside his firm.

Prior to assuming a post in the Commerce Department after the CLINTON administration took office, ANTHONY had been an attorney with the law firm of DOW, LOHNES & ALBERTSON in Washington, D.C. ANTHONY was employed at this firm for approximately fifteen years, during which time she became acquainted with DEBORAH GORHAM. GORHAM worked at this same law firm for approximately seven years, all of which coincided with ANTHONY's employment there. After FOSTER arrived in Washington, D.C., ANTHONY inquired at her former firm's personnel office in an effort to identify any qualified secretaries who might be leaving the firm. The Personnel Director at the law firm suggested GORHAM's name to ANTHONY. ANTHONY spoke to GORHAM and then gave GORHAM's telephone number to FOSTER. GORHAM was subsequently interviewed by FOSTER, but she turned down his offer of a job because the salary was too low. FOSTER had not known GORHAM prior to her name being furnished to him by ANTHONY. ANTHONY assumed at that time that there was no longer any possibility of GORHAM being hired by FOSTER. However, GORHAM and FOSTER continued to negotiate about the salary which he could offer her, and eventually she was hired as his secretary in the Counsel's office at the White House.

ANTHONY called and spoke to GORHAM last week to ask how she was doing. ANTHONY had not spoken to GORHAM since approximately December 1993. ANTHONY and GORHAM did not speak specifically about FOSTER, but they each spoke about their respective families.

GORHAM has not said anything to ANTHONY about FOSTER being depressed prior to his death. She has not mentioned anything about FOSTER being depressed either directly or indirectly. ANTHONY believes it is possible that GORHAM may have spoken about FOSTER's mental state with his wife, LISA FOSTER. ANTHONY presumes that GORHAM and LISA FOSTER spoke to each other during the summer months of 1993.

In terms of her relationship with FOSTER, ANTHONY was extremely close to him and they spoke to each other often. ANTHONY saw FOSTER daily when he was living with her. ANTHONY spoke to FOSTER two to three times a week after he and his family moved to their home on Cambridge Place in Washington, D.C.

ANTHONY last saw FOSTER in July 1993. On approximately July 2, 1993, FOSTER surprised ANTHONY during a dinner held at his residence by having ANTHONY's daughter attend the dinner. ANTHONY was aware of the dinner in advance, but she was unaware that FOSTER had arranged for ANTHONY's daughter to fly to Washington from Texas in order to be present for ANTHONY's confirmation as Assistant Attorney General. ANTHONY does not recall exactly when this dinner occurred, but she believes it was either in the latter part of June or the first part of July. During this same time frame, ANTHONY and her husband went to supper with LISA and VINCENT FOSTER, JR. and their daughter LAURA at the Cactus Cantina restaurant in Washington, D.C. The FOSTERs had first gone to the ANTHONY residence to have drinks, and they then walked to the restaurant, which was near the ANTHONY residence.

From the time that FOSTER first came to Washington, D.C. until his death, ANTHONY observed several noticeable behavioral and emotional changes in him. One noticeable change during FOSTER's first few months in Washington was that he was tired and seemed to feel a great deal of pressure. During the months just prior to his death, FOSTER told ANTHONY that he was unable to sleep and was waking up every two hours. ANTHONY spoke to FOSTER by telephone on July 16, 1993, which ANTHONY recalls as the last Friday prior to July 20, 1993. ANTHONY noted that FOSTER's voice was different in its tenor, and his voice sounded strained. ANTHONY recalls noticing the strain in FOSTER's voice because it sounded so much like the strain she had heard in her father's voice when he had been distraught during his illness. ANTHONY believes that the phone call that Friday was the first time that she had heard the change in tenor in FOSTER's voice. FOSTER exhibited many characteristics of a depressed person, most noticeable of which was the fact that he had no sense of humor left. This telephone conversation with FOSTER also concerned the seriousness with which he viewed events and circumstances.

In late April 1993, VINCENT and LISA FOSTER took ANTHONY to dinner to help them celebrate their anniversary. ANTHONY encouraged FOSTER to leave Washington, D.C. and go away on weekends. FOSTER had become quite concerned when people in Congress began to speak of holding hearings on the Travel Office case. ANTHONY does not know if FOSTER was taking sleeping pills, and he did not mention doing so to her.

FOSTER had an excellent reputation in Arkansas, and he had received numerous awards there. FOSTER had been inducted into an honorary association of trial lawyers while still in Arkansas. ANTHONY did not discuss with FOSTER why he elected not to go to a ceremony in Arkansas where he was to be honored by the Arkansas Bar Association as "Lawyer of the Year." ANTHONY believes that some event arose which prevented FOSTER from attending the ceremony, but she does not recall the nature of this event.

In terms of coping with problems in his life, FOSTER never seemed to have any difficulties. FOSTER became a partner at the Rose Law Firm in two years and was slated to become President of the Arkansas State Bar. The only problems which FOSTER experienced in his personal life were in regard to his teenage children. ANTHONY was able to commiserate with FOSTER in this regard as she also had teenage children. For the most part, FOSTER enjoyed a "charmed" life. However, he had been very distraught over his father's illness. ANTHONY recalls that FOSTER cried when he called to tell her their father had been diagnosed with cancer. FOSTER picked up ANTHONY at the airport in Arkansas when she flew there following the death of their father. ANTHONY and FOSTER shared stories about growing up with their father, and she now recalls that was perhaps the only time she actually saw FOSTER cry. FOSTER had been very close to his father, and his father's will had been prepared through the Rose Law Firm. Following the death of the elder MR. FOSTER, FOSTER's mother depended very much on FOSTER. ANTHONY is uncertain how FOSTER dealt with this situation since she returned to Washington, D.C. not long after the funeral services for her father. FOSTER did not appear to be acting differently to ANTHONY at that time.

On July 16, 1993, which ANTHONY recalls as the last Friday before July 20, 1993, FOSTER called ANTHONY and wanted to discuss two topics of significance. First, FOSTER told her that he was battling depression for the first time in his life. ANTHONY responded by asking FOSTER to allow her to help him. She offered to contact a doctor for FOSTER. FOSTER then expressed concern that if he were to be seen by a doctor, his security clearance could be jeopardized. ANTHONY attempted to reassure FOSTER by saying that she would determine the parameters for a visit with a doctor prior to actually scheduling an appointment for FOSTER. The second topic which FOSTER brought up with

ANTHONY during this same phone call was to ask ANTHONY to recommend a place on the Eastern Shore of Maryland where he and his wife could go that weekend. ANTHONY told FOSTER that she would check with her husband and call FOSTER back. ANTHONY later called LISA FOSTER and recommended two or three places on the Eastern Shore where the ANTHONYS had previously stayed. ANTHONY also called a friend who had received treatment from a psychiatrist in the past. The friend provided ANTHONY with the name of one psychiatrist. The friend later called ANTHONY back approximately thirty minutes later and furnished ANTHONY with the names of two additional psychiatrists.

ANTHONY called one of the psychiatrists and asked how she could structure a visit to him so that the visit would be unrecorded until FOSTER could decide whether to start a course of treatment. ANTHONY then called FOSTER back that same day and furnished him with the names of the three psychiatrists. She encouraged FOSTER to make an appointment with one of the psychiatrists, but he said that he wanted to think about that course of action over the weekend.

ANTHONY does not believe that she ever spoke to LISA FOSTER about FOSTER's statement that he was battling depression. She remembers speaking with LISA FOSTER about trying to get FOSTER to leave work earlier during the week or to go away on weekends. ANTHONY recalls that LISA FOSTER wanted FOSTER to come home more.

ANTHONY believes that LISA FOSTER came to Washington, D.C. to look for a family house in March 1993. LISA FOSTER continued to travel back and forth between Little Rock, Arkansas and Washington, D.C. in an effort to prepare the house so that it would be ready for her family to move into it. LAURA FOSTER, FOSTER's daughter, came to Washington, D.C. when her school semester was over, which was possibly in April 1993. FOSTER's youngest son was still attending school in Little Rock. The FOSTER family also had a foreign student living with them in Little Rock at that time. LISA FOSTER came to Washington, D.C. permanently in mid to late May 1993.

On July 19, 1993, possibly in the morning, ANTHONY called FOSTER. FOSTER stated that he was feeling good and that the weekend had gone pretty well. FOSTER said that he was not yet ready to see a psychiatrist in Washington, D.C., but he told

ANTHONY that he had called his physician in Little Rock and had gotten a prescription. FOSTER did not tell ANTHONY anything further about the preceding weekend. FOSTER said that going away from the city was such a good idea that he would like to do it more often or possibly every weekend.

To the best of ANTHONY's knowledge, FOSTER was not receiving any type of medical treatment. Both ANTHONY and her daughter have suffered from depression in the past. ANTHONY is not certain but she believes that both her parents possibly suffered from depression as well. However, neither of her parents ever sought treatment for depression and ANTHONY is uncertain whether such a diagnosis of depression would have been made since treatment for mental difficulties in that era was considered socially unacceptable. One of the male first cousins of ANTHONY's mother committed suicide. ANTHONY believes that this cousin was born in approximately 1914 and was in his twenties or thirties when he committed suicide. ANTHONY does not know whether FOSTER was aware of the circumstances of this relative's suicide.

ANTHONY has no knowledge of FOSTER having any financial difficulties, problems with gambling, or any type of extramarital involvement. In terms of identifying a person in whom FOSTER would confide, ANTHONY hopes that FOSTER would have confided in either herself or his wife. FOSTER also had a number of close friends in the Rose Law Firm. However, FOSTER, although known to be a good listener, was a very private person. ANTHONY does not believe that FOSTER was close to either a minister or a priest. FOSTER did not attend church very often after he grew up except for certain family occasions.

At the last dinner which FOSTER shared with ANTHONY, FOSTER confided to her that he was considering resigning from his post at the White House. FOSTER indicated that the job in the White House Counsel's office was not right for him. FOSTER was not specific about what was causing him to consider resignation. Among the reasons that became apparent to ANTHONY were the Travel Office investigation, the stress of his job, and the constant overwork. ANTHONY hoped that FOSTER would choose to resign the position.

In terms of changes in personal appearance, ANTHONY noted that FOSTER's face had become gray and drawn. FOSTER had

been thin when he arrived in Washington but had gained a significant amount of weight while working at the White House. ANTHONY believes that the weight gain may be at least partly attributable to the fact that FOSTER was not eating well and was eating quite a bit of fast food due to the overwork situation. FOSTER began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in January 1993. However, ANTHONY is unable to estimate the amount of weight FOSTER lost in terms of pounds. FOSTER did not mention to ANTHONY any problems with headaches, loss of appetite, indigestion or vomiting.

Religion was not particularly important to FOSTER. He had been raised as a Presbyterian and had attended a Presbyterian college. LISA FOSTER was a Catholic, however, and LISA and the children were raised as Catholics. Therefore, FOSTER would go alone when he attended church.

Among the activities which FOSTER engaged in to relax was reading. FOSTER had a swimming pool in the back yard of his home in Little Rock, and he and the family enjoyed swimming in their pool. FOSTER also enjoyed cooking and traveling, and he took his family on numerous trips. FOSTER did not participate in many sports, but he enjoyed attending his childrens' games and watching them play. ANTHONY did not observe any recent changes in FOSTER's interests or hobbies after he arrived in Washington.

FOSTER typically worked Monday through Saturday each week. On alternating Sundays, either FOSTER or BERNARD NUSSBAUM was on standby duty to be available to deal with matters which arose at the White House Counsel's office.

In terms of describing FOSTER's relationship with his wife, ANTHONY regarded it as warm and real. FOSTER was married to LISA FOSTER for approximately twenty-five years. ANTHONY regarded FOSTER as an excellent father who spent much time with his children. In particular, FOSTER was very conscientious about spending time with each of his children so that they each received individual attention. FOSTER would occasionally take one of the children on a trip with him just so the child could receive this individual attention. FOSTER was very interested in everything that his children did.

In terms of describing FOSTER, ANTHONY believes that he was a man of great integrity and honesty. He also had a dry sense of humor. FOSTER felt very strongly about giving back to the community in which he lived and he was involved in charitable organizations in Little Rock. The only occasion known to ANTHONY when FOSTER ever got into trouble occurred when he was in college and he wrecked a car.

FOSTER was able to blend in at the Rose Law Firm because the firm shared many of his positions on social issues. For example, the Rose Law Firm had taken a stand against racial segregation. FOSTER had worked for a black attorney during one of his summers while attending school. FOSTER had a very strong sense of fair play and he was a very thoughtful person who was always gracious to his family and friends. FOSTER particularly enjoyed hosting friends and social events at his home. FOSTER also counseled both of ANTHONY's children, but only when they came to him first for advice. In all their lives together, ANTHONY and FOSTER never had a cross word, and she knows absolutely nothing bad about FOSTER.

To the best of her knowledge, ANTHONY is not aware of any incidences of FOSTER going to parks in the Washington, D.C. area. FOSTER never mentioned to ANTHONY any visits to Fort Marcy Park in Virginia. Following FOSTER's death, ANTHONY read in the newspaper that FOSTER had driven a Honda automobile to Fort Marcy Park on the date of his death. FOSTER did not have the Honda automobile with him when he lived with ANTHONY initially following his arrival in Washington, D.C. ANTHONY recalls that the Honda was dark in color since she subsequently saw the automobile in front of FOSTER's residence.

ANTHONY is aware of a letter which FOSTER sent to his mother from his office shortly before his death. ANTHONY was with her mother on the day when she opened the letter from FOSTER. The letter from FOSTER concerned oil leases which had been passed on to FOSTER's mother from her late husband's estate. In attempting to recall what was in the envelope, ANTHONY now believes that there was an extremely brief cover letter which had been typewritten, and which contained one to two sentences asking FOSTER's mother to sign the enclosed form and return it to the oil company. The cover letter bore the handwritten signature of FOSTER.

ANTHONY recalls FOSTER as being a person who was more likely to call on the telephone than write a letter.

ANTHONY's mother still resides in Hope, Arkansas. ANTHONY is not aware of any other letters which may have been sent by FOSTER shortly before his death. ANTHONY has no knowledge of whatever insurance policies were maintained by FOSTER, but she assumes that there were such policies.

ANTHONY does not believe that there was a single cause for FOSTER taking his own life. She believes that inquiries by the media, the pressure caused by the Travel Office case, and overwork at the White House were all factors. An additional source of stress may have been FOSTER's realization that he had made a mistake in coming to Washington, D.C., and this realization may have contributed to his decision to end his life. In addition, PHILLIP CARROLL of the Rose Law Firm had been very angry at FOSTER for leaving the firm. CARROLL and FOSTER did not speak to each other for a period of several months after FOSTER left the firm and came to serve the Administration. Eventually, CARROLL and FOSTER mended their relationship and resumed speaking to each other. However, ANTHONY believes that FOSTER may have felt boxed in due to his falling out with CARROLL, and he may have feared that he would have been viewed as a failure if he had returned to the Rose Law Firm after resigning from the CLINTON Administration.

FOSTER personally prepared the speech he delivered as the commencement address at the University of Arkansas Law School in May 1993. ANTHONY recalls that FOSTER discussed the speech with her prior to delivering the address. ANTHONY and other family members attended the commencement ceremony and heard FOSTER's address because they were all in Arkansas to celebrate Mother's Day that weekend. In reflecting on FOSTER's address that weekend, ANTHONY now believes that she heard the same strain in his voice that day that she heard later during the telephone call on July 16, 1993. ANTHONY believes that FOSTER's address was videotaped and that a video tape and transcript of the address may be available through the law school.

ANTHONY knows of no other information which could be of assistance in investigating FOSTER's death.

I, Sheila Foster Anthony, having been duly sworn by Office of Professional Responsibility of the Department of Justice (OPR-DOJ) Assistant Counsel Judith B. Wish, hereby make the following statement to Ms. Wish, whom I know to be an attorney with OPR-DOJ, and to Marlene M. Wahowiak, whom I know to be a law clerk with OPR-DOJ. I am presently the Assistant Attorney General for the Office of Legislative Affairs, having been confirmed on June 30, 1993.

I understand that this is an administrative inquiry and that I am being interviewed concerning the conduct of the Federal Bureau of Investigation (FBI) regarding its contacts with the White House concerning the White House Travel Office (WHTO) matter.

I have been asked if I ever discussed the WHTO matter with my brother Vincent Foster (Vince), the former Deputy Counsel to the President. I recall that Vince and I specifically discussed the WHTO matter on July 9, 1993. On July 9th, Vince and I and our families met at a restaurant for dinner. We sat next to one another and during a private conversation I had that evening with him, Vince expressed to me that he felt that the FBI had lied regarding the WHTO matter. I remember Vince also stating that "it was a set-up" or "we were set-up" in reference to FBI actions concerning the WHTO matter. During this conversation Vince also indicated to me that he was considering resigning from his position at the White House. Because the part of the conversation concerning the FBI took place while we were preparing to leave the restaurant, I did not pursue that comment because of my concern over the presence of other individuals. I also did not pursue it after July 9, 1993.

By July 9, I had read parts of the White House's report of its inquiry into the WHTO matter and particularly the conversations between the Counsel's Office and the FBI during the WHTO matter. It was my interpretation that Vince's remarks about the "lie" and "set-up" concerned those conversations.

I particularly remember Vince's comments on July 9, 1993 about the FBI because of a conversation I had had with Alice Sessions (Alice), wife of former FBI Director William Sessions, several weeks before. Although I know Alice personally because we belong to the same social club, I do not know her well. Upon receiving a message that Alice had phoned me, I spoke with Attorney General Janet Reno regarding the propriety of returning Alice's call. The Attorney General stated that if I returned the call, I should take notes of the conversation and have another person present.

Subsequently, I returned Alice's call. She told me of a number of things that she felt were wrong at the FBI, including the fact that the "Travel Office shouldn't have happened if there weren't people within the FBI who were trying to "do in" the Administration." Alice also named a number of individuals whose loyalty she questioned. I encouraged her to tell her husband to report these matters to Attorney General Reno.

Sometime later, during a telephone conversation with Vince, the WHTO came up, and I told Vince what Alice had said about the WHTO matter and the FBI. He asked me what I made of it, and I said that it was probably just a wife trying to save her husband's job. On July 9, 1993, when Vince offered his comments concerning the FBI

having lied and "set-up" the White House Counsel's Office, I reminded him of Alice's comments about the WHTO matter and the FBI.

I took extensive notes of my conversation with Alice as did a staff person who was present when I returned Alice's call. I had those notes transcribed and personally gave them to Deputy Attorney General Philip Heymann on the day of my phone call with Alice. I did not retain a copy nor have I since discussed the phone call with Deputy Attorney General Heymann or with the Attorney General.

Shortly after Vince's death, Deputy Attorney General Heymann informed me that DOJ was inquiring into the WHTO matter. I told Mr. Heymann that he should pursue Vince's concern that the FBI had lied, and I told the Deputy Attorney General of my conversation with Vince on July 9, eleven days before his death, in which Vince characterized the FBI's actions as a "set-up."

In addition to the July 9th conversation, I recall other conversations which took place in May or June of this year in which Vince and I discussed the WHTO matter. On one of those occasions, Vince said to me that "no matter what we do, we can't stop the bleeding in the press."

I recall another conversation which occurred immediately prior to the televised press conference about the issuance of the White House report on the WHTO matter. Vince called and asked that I phone our mother and let her know that the report was about to be made public. He was concerned because he did not know what the report would say and asked me to tell our mother that she should not respond to inquiries if the press called her.

That evening, on July 2, 1993, after the televised press conference and publication of the White House's report, I had a conversation with Vince while we were both attending a party in honor of Webster Hubbell's confirmation as Associate Attorney General. Vince told me that while he was pleased that he had not been named in the report, he felt badly for the White House Counsel's Office, and particularly for Bill Kennedy. He thought that the report had been too harsh on them.

I also recall a subsequent telephone conversation with Vince regarding the report. Vince asked me if I had read the report and I responded that I had read some -- not all -- and that it seemed OK to me. Vince then said, "You didn't pick up anything that worried you about it?" I said "no." I did not pursue the comment at that time, I have not reviewed the report since then, and I do not know what Vince meant.

During the period of the WHTO matter, Vince was aware of an investigation on the part of DOJ. As a result, Vince was very concerned about discussing any detail of these matters with either me or Webster Hubbell. I believe that Vince did not want to jeopardize the separateness which exists between the White House and DOJ and so our conversations were always in general terms and usually about the press accounts or the Republican exploitation of the matter.

I have also been asked by OPR-DOJ for the names of any other individuals Vince may have confided in regarding the FBI and the WHTO matter. I do know that he discussed the possibility of his

hiring a lawyer with my husband, Beryl Anthony. I became aware of this after Vince's death. As far as I can recall, my husband and I have not discussed Vince's comments to me about the FBI on July 9. Regarding any other possibilities, I have no personal knowledge whether my brother discussed his feelings about the WHTO matter and the FBI with anyone else.

I have read this statement consisting of this and (4) other pages and it is true and correct.

Sheila Foster Anthony

Sheila Foster Anthony

Sworn to and subscribed before me this 12th day of November, 1993, at Washington, D.C.

Judith B. Wish

Judith B. Wish
Assistant Counsel, OPR-DOJ

Witness:

_____

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/20/94

SHIELA FOSTER ANTHONY was telephonically interviewed regarding events occurring subsequent to the death of her brother, VINCENT W. FOSTER, JR., on July 20, 1993. Participating in the interview were JAMES HAMILTON, of the law firm of Swidler & Berlin, Washington, D.C., and MARK STEIN, Associate Counsel with the Office of the Independent Counsel (OIC), Washington, D.C. (WDC). After being apprised of the identities of parties participating in the interview, ANTHONY thereafter furnished the following information:

ANTHONY stayed at the FOSTER residence, 3027 Cambridge Place, NW, WDC, on the evening of July 20, 1993. Present at the FOSTER residence that evening were LISA FOSTER, and her three children. ANTHONY noted that LISA FOSTER and her daughter LAURA, were the first to go to bed that evening. ANTHONY stayed up and talked to LISA FOSTER's son VINCENT, prior to going to bed. Everyone in the home was in bed no later than 1:00 or 2:00 am.

ANTHONY awakened between 7:00 and 7:30 am on July 21, 1993. She did not look out of residence windows and therefore was unaware of any presence by individuals from The White House or from members of the press. At approximately 9:00 am on July 21, BARBARA PRYOR arrived at the FOSTER residence to transport ANTHONY to her (ANTHONY's) residence. Upon leaving the FOSTER residence, ANTHONY did not recall seeing anyone from The White House or members of the press.

ANTHONY does not know CRAIG LIVINGSTONE.

ANTHONY vaguely recalls that someone may have been at the FOSTER home prior to her departure. She did not recall if that was a family member or a close friend of the family.

No further information of investigative value was provided.

FOIA(b)(7) - (C)

(telephonically)

Investigation on 7/20/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by [redacted] Date dictated 7/20/94

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BARTLEY, ANNE

(1)

Anne Bartley

George Manning

- some documents
- 1 of her calendars has VF - WH on day

- have materials by 9th

Screened by NARA (RD-F) 07-18-2018 FOIA #56806
(URTS 16304) DOCID: 70104974

Alan L. Berman

SUICIDE EXPERT

[redacted]

Office of the Independent Counsel

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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

Bretts copies

March 10, 1997

~~PERSONAL AND CONFIDENTIAL~~

Alan L. Berman, Ph.D.
Washington Psychological Center, P.C.
4201 Connecticut Avenue, Northwest
Suite 602
Washington, D.C. 20008

Dear Dr. Berman:

Attached is a draft report on the Foster death for your review. While it still has a couple of loose ends, it is a fairly complete draft. We ask you to do two things. First, we seek your advice or suggestions about any and all aspects of the report. No question or suggestion is too minor. Second, before the report is filed with the Court, we want you to be very comfortable that the report accurately reflects your understanding of the evidence and your conclusions. That obviously will require a careful review on your part.

We would hope that you could turn this draft around within a week or so -- by about March 18. Depending on the responses we receive to this draft of the report, we may then ask you to review it one more time before it is filed.

We would ask that you continue not to answer any media inquiries about this matter. Please refer all such inquiries to this Office, and we will address them as appropriate.

Please feel free to contact me at 202-514-8688 or Jim Clemente if you have any questions. Thank you as always for your generous help.

Sincerely,

John D. Bates

Office of the Independent Counsel

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Suite 490-North
Washington, D.C. 20004
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Fax (202) 514-8802

March 10, 1997

~~PERSONAL AND CONFIDENTIAL~~

Brian D. Blackbourne, M.D.
County Medical Examiner
555 Overland Avenue, Building #14
San Diego, California 92123

Dear Dr. Blackbourne:

Attached is a draft report on the Foster death for your review. While it still has a couple of loose ends, it is a fairly complete draft. We ask you to do two things. First, we seek your advice or suggestions about any and all aspects of the report. No question or suggestion is too minor. Second, before the report is filed with the Court, we want you to be very comfortable that the report accurately reflects your understanding of the evidence and your conclusions. That obviously will require a careful review on your part.

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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

March 10, 1997

~~PERSONAL AND CONFIDENTIAL~~

Dr. Henry C. Lee, Chief
Connecticut State Police
Bureau of Forensic Science
278 Colony Street
Meriden, Connecticut 06451

Dear Dr. Lee:

Attached is a draft report on the Foster death for your review. While it still has a couple of loose ends, it is a fairly complete draft. We ask you to do two things. First, we seek your advice or suggestions about any and all aspects of the report. No question or suggestion is too minor. Second, before the report is filed with the Court, we want you to be very comfortable that the report accurately reflects your understanding of the evidence and your conclusions. That obviously will require a careful review on your part.

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Sincerely,

John D. Bates

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DIPLOMATE IN CLINICAL PSYCHOLOGY
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SUMMARY C.V.: DR. ALAN L. BERMAN (LANNY)

Dr. Berman is Executive Director of the American Association of Suicidology (AAS). He is a Past-President of the AAS (1984-1985) and their 1982 Shneidman Award recipient (for Outstanding Contributions in Research in Suicidology). In addition, he serves on the Board of Directors of the National Committee on Youth Suicide Prevention.

Dr. Berman holds a B.A. degree from the Johns Hopkins University and a Ph.D. from the Catholic University of America. From 1969 to 1991 he taught at the American University where he attained the rank of tenured full professor. In 1991 Dr. Berman changed his appointment to that of Distinguished Adjunct Professor when he was named Director of the newly established National Center for the Study and Prevention of Suicide at the Washington School of Psychiatry.

A Diplomate in Clinical Psychology (American Board of Professional Psychology) and a Fellow of the American Psychological Association, Dr. Berman maintains a full time private practice of psychotherapy and psychological consultation at the Washington (D.C.) Psychological Center. He has published over 70 professional articles and book chapters. From 1990-1994, he served as Case Consultation Editor of the journal Suicide and Life Threatening Behavior (SLTB). He continues as a consulting editor to SLTB and two other journals, and writes a column for the international journal, Crisis.

Dr. Berman appears frequently on both national and local media. He has appeared on The Today Show (2x), Good Morning America, Hour Magazine, and The Larry King Show and has testified on Capitol Hill three times. He served on the HHS Federal Task Force on Youth Suicide Prevention (1985-6) and was an initiating member of the Centers for Disease Control sponsored "Working Group" on the operational criteria for the classification of suicide and the NIMH sponsored conference on developing a nomenclature for suicide morbidity. He frequently is asked to serve as an expert witness in legal cases involving suicide malpractice and wrongful death and has a national reputation as a

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teacher and professional workshop leader on the topics of suicide and youth suicide (assessment and intervention).

Dr. Berman has edited (1) Suicide Prevention: Case Consultations (1990), N.Y.: Springer; is the senior author of (2) Adolescent Suicide: Assessment and Intervention (1991), Wash., D.C.: American Psychological Association (David Jobes, co-author); and co-edited (with Drs. Ronald Maris, John Maltsberger, and Robert Yufit) (3) Assessment and Prediction of Suicide (NY: Guilford Press). He currently is under contract with Guilford Press to write (4) The Comprehensive Textbook of Suicidology (with Drs. Ronald Maris and John Mann) and (5) Avoiding Liability with Suicidal Patients (with Drs. Bruce Bongar, Ron Maris, and Morton Silverman).

Revised: March, 1996

VITA

Name: Alan Lee Berman (Lanny)

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Date of Birth: [redacted] FOIA(b)(6)

Marital Status: Married, 2 sons

Education: Malden, MA High School (1961)
The Johns Hopkins University (B.A., 1965)
The Catholic University of America (Ph.D., 1970)

Current Employment:

1995-: Executive Director, American Association of Suicidology, Washington, DC

1991-1995: Director, The National Center for the Study and Prevention of Suicide, Washington School of Psychiatry, Washington, DC

1977-present: Private practice of psychotherapy and psychological consultation. Washington Psychological Center, P.C.

1991-present: Distinguished Adjunct Professor of Psychology, American University, Washington, DC

Past Employment:

1969-1991: Department of Psychology, American University, Washington, D.C.: professor with tenure (1979-1991); associate professor (1975-79); assistant professor (1970-74); instructor (1969).

1971-1976: Part-time practice of psychotherapy and psychological consultation. Washington, D.C.

1969-1976: The American University Counseling Center. Joint appointment with

academic position. Director of internship and externship training; Co-director, A.U. Multiple Emergency Service.

Part-Time Past Employment:

1972-1976: Kingsbury Center, Washington, D.C.
1972: Guide, Inc., Montgomery County, MD.
1968-1972: Boy's Village of Maryland, Cheltenham, MD.

Honors/Awards

Edwin S. Shneidman Award for outstanding contribution in research, American Association of Suicidology, 1982.

Diplomate in Clinical Psychology, American Board of Professional Psychology, 1979.

Elected Fellow, Academy of Clinical Psychology, 1994.

Elected Fellow, International Academy of Suicide Research, 1993.

Appointed (April, 1994) Editor-in-Chief, Suicide and Life- Threatening Behavior, 1995-2000. Position returned to current editor in November, 1994 in order to accept following:

Elected (November, 1994) Executive Director, American Association of Suicidology.

Consulting Editor, Suicide and Life-Threatening Behavior, 1981-present.

Case Conference Editor, Suicide and Life-Threatening Behavior, 1989-1995.

President, American Association of Suicidology, 1984-1985.

Board of Directors, National Committee on Youth Suicide Prevention, 1984-present.

Elected Fellow, American Psychological Association, Division 12 (Clinical), 1986; Division 42 (Independent Practice), 1990; Division 29 (Psychotherapy), 1993.

Appointed, Task Force on the Prevention of Adolescent Suicide, U.S. Dept. of Health and Human Services, 1985-6.

Appointed, Violence Prevention Panel, Centers for Disease Control, Atlanta, GA, 1990-1991.

President, Mid-Atlantic Regional Chapter of the American Association of Suicidology (MARCASS), 1992-1993.

Appointed Founding Editorial Board Member, Crisis Intervention and Time-Limited Treatment, 1992-present.

Appointed, Columnist, Crisis, 1993-present

Elected, Faculty, Child and Adolescent Program, Washington School of Psychiatry (1993-); and Brief Psychotherapy Program (1993-).

Recipient, Governor's Citation, State of Maryland (1993)

Co-Director, Summer Institutes at Santa Fe, American Association of Suicidology, 1990-1994.

Publications:

Books

Berman, A. L. (Ed.) (1982). Proceedings of the fourteenth annual meeting of the American Association of Suicidology, Albuquerque.

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Book Chapters, Articles, Monographs

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Berman, A.L. An interactive research/training/ outreach model for community gatekeepers. Paper presented at the American Association of Suicidology Convention, Los Angeles, CA, 4/76.

Berman, A.L. University psychological center--a five year follow-up. Presented at the American Psychological Association Convention, Washington, D.C. , 9/76.

Berman, A.L. Discussant: Is death necessary? An experiential approach. Presented at the American Psychological Association Convention, Washington, D.C., 9/76.

Berman, A.L. Dyadic death: Homicide-suicide revisited. Presented at the American Association of Suicidology Convention, Boston, MA, 5/77.

Berman, A.L. & Decker, R.E. Observation and recording effects on group therapy client behaviors. Presented at the American Psychological Association Convention, San Francisco, CA, 8/77.

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Berman, A.L. The role of the victim. Presented at a symposium on the Clinical Management of Aggression, Psychiatric Institute, Washington, D.C., 12/78.

Berman, A.L. The psychopathology of multiple sclerosis. Presented at a symposium on Multiple Sclerosis, sponsored by the Neurology Center, Washington, D.C., 12/78.

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Berman, A.L. & Cohen-Sandler, R. Suicidal behavior in childhood and early adolescence. Presented at the American Association of Suicidology Convention, Nashville, TN, 4/80.

Berman, A.L. Standards: Optimal vs. acceptable. Presented as part of a symposium on the hospital's obligations to the suicidal patient, American Association of Suicidology Convention, Albuquerque, NM, 4/81.

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Jobes, D.A. & Berman, A.L. Response biases and the impact of psychological autopsies on medical examiners' determination of mode of death. Presented at the American Association of Suicidology Convention, Anchorage, AK, 5/84.

Berman, A.L. From the laboratory to the couch: Child and adolescent suicide. Presented at the American Association of Suicidology Convention, Anchorage, AK, 5/84.

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Cohen-Sandler, R. & Berman, A.L. Dyadic death and "double" phenomena. Presented at the American Association of Suicidology Convention, Toronto, Canada, 4/85.

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Berman, A.L. Keynote address. American College Health Association Convention, Washington, D.C., 5/85.

Berman, A.L. Panel member. Public Forum on Youth Suicide ("Teenage Suicide: A Call to Action"), sponsored by The Denver Post, Denver, CO, 11/85.

Berman, A.L. Keynote Address: Youth Suicide. Mental Health Association of Greater New Orleans, LA, 11/85.

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Berman, A.L. Keynote Address: Suicidal Behaviors in Children and Adolescents. Maryland School Psychologists' Convention, Greenbelt, MD, 5/86.

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Berman, A.L. The media and youth suicide prevention. Presented at the DHHS Conference on Youth Suicide Prevention, Oakland, CA, 6/86.

Berman, A.L., Suicide Defined. Presented at Conference on Non-natural Death, sponsored by the Center for Applied Biomedical Ethics at the Rose Medical Center, Denver, CO, 6/86.

Berman, A.L. Suicide as a Malpractice Issue. Presented at the Annual Meeting of the American Psychological Association, Washington, D.C., 8/86.

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Berman, A.L. Panelist: Adolescents in the News: Fair Representation or Cheap Exploitation? Meeting of the American Orthopsychiatry Association, Washington, D.C., 3/87.

Berman, A.L. The Mass Media and Youth Suicide. Presented to the Maryland Chapter, National Committee on Youth Suicide Prevention, Baltimore, MD, 5/87.

Berman, A.L. Keynote Address: Beyond Bergenfield: The Influence of Media on Youth Suicide. Presented at Conference sponsored by the University of Southern Maine, Kennebunkport, ME, 5/87.

Ragland, D. & Berman, A.L. Farm Suicide: Dying on the Vine: Presented at the Annual Meeting of the American Association of Suicidology, San Francisco, 5/87.

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Berman, A.L. Youth suicide. Presented at Conference on Adolescent Self-destructive Behavior, Fair Oaks Hospital, Summit, NJ, 10/87.

Berman, A.L. Suicide prevention--A critical need and a critical perspective. Plenary address, First National Conference on Suicide Prevention and the Schools. Orlando, FL, 11/87.

Berman, A.L. Suicidal behaviors in adolescence: Meanings and implications. Presented at Sixth Annual Lee B. Macht Memorial Suicide Symposium: Suicide Treatment and Meaning, Harvard Medical School/Cambridge Hospital, Cambridge, MA, 2/88.

Berman, A.L. Youth Suicide: Update-1988. Presented at Eleventh Annual Conference: Children and Death, St. Francis Center, Washington, D.C., 5/88.

Berman, A.L. Research findings across the life span: Children and adolescents. Presented at symposium Suicide Across the Life Span: Emerging Issues, Center for Gerontological Education, Research and Services, University of Notre Dame, Notre Dame, IN, 5/88.

Berman, A.L. Panelist: Teaching Suicidology. American Association of Suicidology Convention, Washington, D.C., 4/88.

Berman, A.L. Panelist: Psychological Autopsy in the Courtroom: The Fort Lauderdale Case. American Association of Suicidology Convention, Washington, D.C., 4/88.

Berman, A.L. Standard of care in the assessment of suicide potential. Presented at the American Psychological Association Convention, Atlanta, GA, 8/88.

Berman, A.L. Suicide prevention: What works, what doesn't? Presentation to Governor Schaefer's conference: Marylanders helping Marylanders: A youth suicide symposium. UMBC, Catonsville, MD, 10/88.

Berman, A.L. Youth suicide. Presentation made to Brown University Child Study Center Teleconference on Risk Taking Behavior in Children and Adolescents. Washington, D.C., 10/88.

Berman, A.L. Suicide Prevention: Critical need and critical perspective. Keynote address to Illinois Association of Suicidology, Beloit, IL, 11/88.

Berman, A.L. Youth suicide prevention. Keynote address to Greater Federation of Women's Clubs, Arlington, 3/89.

Berman, A.L. & Schwartz, R. Suicidal behaviors among drug using adolescents. Presented at Annual meeting of the American Association of Suicidology, San Diego, CA, 4/89.

Berman, A.L. Suicide Assessment: The first interview. Panel presentation at Annual meeting of the American Association of Suicidology, San Diego, CA, 4/89.

Berman, A.L. Depression and suicide among adolescents. Presented at ADAMHA Conference on Treatment of Adolescents with Alcohol, Drug Abuse, and Mental Health Problems, Alexandria, VA, 10/89.

Berman, A.L. The psychological autopsy. Presented at the 20th Annual Meeting of the American Academy of Psychiatry and the Law, Washington, D.C., 11/89.

Berman, A.L. Avoiding legal liability in treating the suicidal patient. Keynote address, Florida Association of Suicide Prevention Services & Pinellas County Emergency Mental Health Services Annual Conference, Clearwater, FL, 11/89.

Berman, A.L. The treatment of the suicidal adolescent. Keynote Address, Alberta Suicide Prevention Conference, Calgary, Alberta, 2/90.

Berman, A.L. Suicide attempts and drug using adolescents. Presented at Illinois State Suicide Prevention Conference, Springfield, IL, 4/90.

Berman, A.L. Youth suicide and the media. Panel presentation at the Annual Meeting of the American Association of Suicidology, New Orleans, LA, 4/90.

Berman, A.L. The case method. Panel presentation at the Annual Meeting of the American Association of Suicidology. New Orleans, LA, 4/90.

Berman, A.L. Suicide among multiple sclerosis patients. Poster presentation at the

Annual Meeting of the American Association of Suicidology, New Orleans, LA, 4/90.

Berman, A.L. Presenter: The Assessment and Treatment of Adolescent Suicide, American Association of Suicidology's Snowmass at Aspen Summer Institute, July 22-26, 1990.

Berman, A.L. The USS Iowa investigation. Panel presentation at the annual meeting of the American Psychological Association, Boston, MA, 8/90.

Berman, A.L. Suicide and the media. Panel presentation at the annual meeting of the American Psychological Association, Boston, MA, 8/90.

Berman, A.L. Youth suicide. Panel presentation at the annual meeting of the American Psychological Association, Boston, MA, 10/90.

Berman, A.L. Treating the suicidal adolescent. Presentation to the Canadian Association for Suicide Prevention, Vancouver, BC, 10/90.

Berman, A.L. Suicide Liability: Outpatient policies and procedures. Panel presentation at the annual meeting of the American Association of Suicidology, Boston, MA, 4/91.

Berman, A.L. Professional training in suicidology: Past, present, and future. Panel presentation at the annual meeting of the American Association of Suicidology, Boston, MA 4/91.

Berman, A.L. Suicidal behaviors: Toward consensus definitions. Case conference at the annual meeting of the American Association of Suicidology, Boston, MA, 4/91.

Berman, A.L. Suicide coping and the life-span. Panel presentation at the Annual meeting of the American Association of Suicidology, Boston, MA, 4/91.

Berman, A. L. Presenter: Assessment and Treatment of Adolescent Suicide. Presenter: Forensic Suicidology. American Association of Suicidology's Snowmass at Aspen Summer Institutes, 7/91.

Berman, A. L. Youth suicide prevention. Keynote address to Statewide Training Conference, Dover, DE, 2/92.

Berman, A. L. & Horgas, P. Analysis of an adult suicide cluster. Presented to the Annual Meeting of the American Association of Suicidology, Chicago, 4/92.

Berman, A. L. Panelist, Past President's Symposium. Annual Meeting of the American Association of Suicidology, Chicago, 4/92.

Berman, A. L. Suicide Intervention. Keynote address to Annual Meeting of the NJ State Chapter of the American Association of Suicidology, Morristown, NJ, 5/92.

Berman, A. L. Keynote Speaker. Meeting of Chief Psychologists, Federal Bureau of Prisons Conference, Baltimore, MD, 5/92.

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Berman, A. L. Presenter: Assessment and Treatment of Adolescent Suicide. Presenter: Case Consultations. American Association of Suicidology's Snowmass at Aspen Summer Institutes, 7/92.

Berman, A. L. Risk management strategies for the treatment of suicidal adolescents. American Psychological Association Convention, Washington, DC. 8/92.

Berman, A. L. Primary prevention of adolescent and young adult suicide. Conference of the Primary Prevention of Psychosocial Problems of Native American Children, Indian Health Service, Tempe, AZ, 8/92.

Berman, A. L. Plenary Presentation, 4th Annual Maryland State Youth Suicide Prevention Conference, Hunt Valley, MD, 10/92.

Berman, A. L. Interventions for suicidal adolescents: Clinical vignettes. Suicide Symposium, Harvard Medical School/Cambridge Hospital, Boston, MA, 2/93.

Berman, A. L. Suicide prevention: If we're not sure it works, why do we do it? Annual Meeting of the American Association of Suicidology, San Francisco, 4/93.

Berman, A. L. Community Suicide Prevention: Bridge Barriers. Annual Meeting of the American Association of Suicidology, San Francisco, 4/93.

Berman, A. L. and Jobes, D. A. Adolescents and suicide: An update. Annual Meeting of the American Association of Suicidology, San Francisco, 4/93.

Berman, A. L. Keynote Address: The impact of suicide on the helper. International Association of Suicide Prevention Congress, Montreal, 6/93.

Berman, A. L. Legal liability and the schools. Prince William County, VA, 9/93.

Berman, A. L. & Jobes, D. A. Suicide and Malpractice. Maryland State Youth Suicide Conference, Bethesda, MD, 10/93.

Berman, A. L. Working Group on Suicidal Behaviors: Terminology and Classification, Annual Meeting of the American Association of Suicidology, New York, NY, 4/94.

Berman, A. L. Panelist: Expert Testimony and the Standard of Care in Working with Suicidal Patients. Annual Meeting of the American Association of Suicidology, New York, NY, 4/94.

Berman, A. L. Standards of Care -- Practical Applications. Pre-Conference Institute, Annual Meeting of the American Association of Suicidology, New York, NY, 4/94.

Berman, A. L. Panelist: Ethical Issues in Caregivers' Suicide Interventions. Annual Meeting of the American Association of Suicidology, Phoenix, AZ, 5/95.

Berman, A. L. Moderator: The Cobain Suicide: Research, Crisis, Prevention, and Media Perspectives. Annual Meeting of the American Association of Suicidology, Phoenix, AZ, 5/95.

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O'Carroll, P., Berman, A. L., Maris, R. & Moscicki, E. Beyond the Tower of Babal: A Nomenclature for Suicidology. Annual Meeting of the American Association of Suicidology, Phoenix, AZ, 5/95.

Berman, A. L., Jobes, D. A., & O'Carroll, P. The Aftermath of Kurt Cobain's Suicide. Congress of the International Association of Suicide Prevention, Venice, Italy, 6/95.

Berman, A. L. An Idiographic Approach to Understanding Suicide in the Young. International Conference on Suicide in Youth. Tel Aviv, Israel, 8/95.

Berman, A. L. "Why are our children killing themselves?" Distinguished visiting scholar lecture, John Hazen White Honors Colloquium, University of Rhode Island, Kingston, March 11, 1996.

Workshops/Consultations

1970: Boy's Village, Cheltenham, MD.

1971: American University, Washington, D.C.
Mental Health Assoc., Montg. Cty., Md.
SUNY, Delhi, NY.
Psychology Svc. Area C CMHC, Wash., D.C.

1972: Psychol. Svc., Walter Reed Hosp., D.C.
Livingston College, Rutgers Univ., NJ.
Psychol. Dept., Univ. of MD, College Park.
Psychol. Program, St. Eliz. Hosp., D.C.
Prince George's County Bd. of Ed., Md.

1973: Georgetown Univ. Medical School, D.C.

1974: Passage Crisis Center, Silver Spring, Md.
Georgetown Univ. Medical School, D.C.

1975: Sedgwick County CMHC, Wichita, KS
No. Va. Community College Couns. Ctr.
Falls Church, Va. Dept. of Welfare
Prince George's County, MD. Housing Dept.
Passage Crisis Center, Silver Spring, Md.
Georgetown Univ. Medical School, D.C.
FACT Hotline, D.C.

1976: Conf. of Friends' School Cnslrs, D.C.
Georgetown Univ. Medical School, D.C.
Am. Orthpsy. Ass. Pre-Conf. Inst., NYC
FACT Hotline, D.C.

1977: Passage Crisis Center, Silver Spring, Md.
Am. Orthpsy. Ass. Pre-Conf. Inst., Atlanta
FACT Hotline, D.C.

Va. Council on Social Welfare, Alex., Va.
D.C. Psych. Assoc. Conf., D.C.
McCully Conf., Nat'l. Cap. Personnel & Guidance Assoc., College Park, Md.

1978: APA Div. 29 Conf., Phoenix, AZ.
Montgomery Cty., Md. Health Dept.
Catholic Univ. School of Soc. Wk., D.C.
Passage Crisis Center, Silver Spring, Md.
Charles Cty., Md. Dept of Health

1979: Am. Orthopsy. Ass. Pre-Conf. Inst., D.C.
Md. Inst. for Emerg. Medicine, Balto.
Wash. Psychol. Ctr. CE Program
Boys & Girls Homes of Montg., Cty., Md.
Arlington, County, Va. Hotline
Norristown State Hosp. Psychiat. Dept. PA.
Catholic Univ. School of Soc. Wk., D.C.
Montgomery Cty. Youth Svcs., Md.

1980: Alternative House, Fairfax, VA
The Green Door, Wash., D.C.
United Central Service, Toledo, OH
The Crossing Place, Wash., D.C.
Nat'l Youth Workers Alliance Conv., D.C.
Mt. Tom Institute, Holyoke, MA
San Luis Obispo County, CA Psych Assoc.
CMHC Services, San Luis Obispo, CA
Catholic Univ. Schl. of Soc. Wk., D.C.
St. Francis Center, Wash., D.C.

1981: VA Dept. of Corrections, Fairfax, VA
Pastoral Couns. & Consult. Ctr., D.C.
Prince William County, VA M.H.C.
Arlington County, VA Dept. Soc. Svc.
Fairfax County, VA Dept. Soc. Svcs.
Wash. Psy. Ctr.: Scottsdale, AZ
Norristown State Hosp., Norristown, PA
Catholic Univ. Couns. Ctr., Wash., D.C.

1982: Catholic Univ. Schl. of Soc. Wk., D.C.
Wash. Psych. Ctr., Wash., D.C.
Prince William County M.H., VA
Loudon County, VA Mental Health (2x)
Hall-Brooke Foundation, Westport, Ct. (2x)
Danville, VA Mental Health
U.S. Dept. of State, Foreign Svc. Inst. (2x)
Prince George's County, Md. Mental Health
Children's Defense Fund, Wash., D.C.
Montgomery County, Md. Mental Health

1983: Los Angeles, CA Suicide Prevent. Ctr.

Phoenix Schools, Montgomery County, Md.
Family Stress Svcs., Wash., D.C.
Catholic Univ. Schl. of Soc. Wk., D.C.
Multiple Sclerosis Society, Wash., D.C.
U.S. Dept. of State Foreign Svc. Inst. (2x)
St. Elizabeth's Hospital, Wash., D.C.
West Virginia Psychological Assn., Wheeling
Wash. Psych. Ctr.: Indianapolis, IN
Armed Forces Institute of Pathology, D.C.
Psychological Associates of the Albemarle:
Harrisburg, PA, Pittsburgh, PA,
Colorado Springs, CO.,
Sacramento, CA., Long Beach, CA, Boston, MA.,
Charlottesville, VA.

1984: Hall-Brooke Foundation, Westport, CT
Grad. Schl. Profsl. Psych., Rutgers U. NJ (2x)
Wash. Psych. Ctr.: Wash., D.C., Salt Lake City, UT,
Portland, OR
No. VA Mental Health Inst., Falls Church
Psychological Associates of the Albermarle:
Cincinnati, OH., Miami, FL., St. Petersburg, FL.,
Jacksonville, FL., Syracuse, NY., Albany, NY., Minneapolis,
MN., Madison, WI.
U.S. Dept. of State Foreign Svc. Institute (3x)
Maryland Assoc. of Youth Svc Bureaus, Greenbelt, Md.
Human Services Consultants, Wilkes-Barre, PA
Salt Lake City (UT) Mental Health
Niagara University, Office of Continuing Education,
Buffalo, NY
Rutgers University Graduate School of Psychology,
Piscataway, NJ

1985: Montgomery County (MD) Crisis Center
Georgetown University (DC) Counseling Center
Jewish Family Service, Memphis, TN
Washington (DC) School of Psychiatry
Niagara University, Office of Continuing Education,
Buffalo, NY
Georgetown University (DC), Office of Residential Life
Human Services Consultants, Philadelphia, PA
University of Western Ontario, London, Ontario, Canada
Topeka Youth Council, Topeka, KS
Washington Psychol. Ctr: Westbury, NY
Connecticut Youth Services, Groton, CT
Family Liaison Office, US Dept. of State
Mental Health Association, Indianapolis, IN
Mental Health Association, Prince Georges County, MD
Lehigh University, Bethlehem, PA
National Conference, National Association of Student
Councils, Pittsburgh, PA
Suburban Hospital, Department of Psychiatry, Grand Rounds,

Bethesda, MD
Juvenile Welfare Board, Pinellas County, (Largo/St. Petersburg) FL
Suffolk County, NY Dept. of Training & Education
Hardin-Simmons University, Irvin School of Education, Abilene, TX
Florida State School Psychologists Association, Tampa, FL
Louisiana Chapter, American Association of Suicidology, New Orleans, LA
Jewish Center of Greater Buffalo, NY
Rutgers Medical School Community Mental Health Center, Piscataway, NJ
Maryland State PTA Convention, Baltimore, MD

1986: Marquette University School of Nursing, Milwaukee, WI
University of So. Alabama, School of Education, Mobile, AL
Centennial Area Health Education Center, Greeley, CO (2x)
University of Connecticut School of Social Work, West Hartford, CT
Family Life Center, Columbia, MD
Hall-Brooke Foundation, Westport, CT (2x)
U.S. Dept. of State Family Liaison Office, Rosslyn, VA
Bethesda Naval Hospital, Dept. of Psychiatry Grand Rounds, Bethesda, MD
Washington School of Psychiatry, DC
Washington Psychological Center Continuing Education: Little Rock, AR & San Antonio, TX
Fort Morgan, CO Public Schools
Texas Dept. of Mental Health, Univ. of Texas, Austin, TX
Outreach South Hills Mental Health Center, Pittsburgh, PA
Niagara University, Buffalo, NY
Rivendell Foundation, Memphis, TN
National Multiple Sclerosis Society, Houston, TX

1987: Board of Education, Anne Arundel Co. (MD), Annapolis
Washington Psychological Center, Oklahoma City, OK
University of Maryland Counseling Center, College Park, MD
U.S. Public Health Service, Salt Lake City, UT
Connecticut Dept. of Mental Healthy, Bridgeport, CT
Life Crisis Services, St. Louis, MO
Niagara University, Buffalo, NY
Washington Psychological Center: Cleveland, OH and Dallas, TX
North Carolina Psychological Association Annual Conference, Winston-Salem, NC
Holy Cross College, Worcester, MA
St. John Medical Center, Tulsa, OK

1988: University of Maryland Counseling Center, College Park, MD
Mental Health Services of Clark Co., Springfield, OH

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Suicide Prevention & Awareness, Windsor, Ontario, Canada
Charter Pines Hospital, Charlotte, NC
Baltimore County School System, Suicide Prevention Task Force, Solomons Island, MD
ABC Television, Public Affairs Office (Movie: Surviving)
Martin Wender Productions (Script review)
Suicide Prevention Task Force, Montgomery County, MD
Kingsbury Center, Washington, D.C. (Tutors)
Jewish Community Center, Rockville, MD (Community Forum)
Northern Virginia Jewish Community Center, Falls Church, VA (Community Forum)
Community Psychiatric Clinic, Wheaton, MD (Staff)
Bethesda Naval Hospital, Bethesda, MD (Psychology Interns)
New England Educational Institute and Brattleboro Retreat Cape Cod Summer Institute
Clinical Treatment Staff, Patuxent Institution, MD.
American University Counseling Center, DC.
Convalescent Hospital for Children, Rochester, NY.
Orange County School System and Laurel Oaks Hospital, Orlando FL.

1989: Edmund Burke School Parents Association, Washington, DC.
Washington Psychological Center, P.C.: Birmingham, AL, Tulsa, OK, Des Moines, IA.
Bethesda Naval Hospital Psychology Training Program, MD.
Suicide Prevention & Education Center, Louisville, KY
Arkansas Council of Community Mental Health Centers Summer Institutes, Hot Springs, AR
Community Service Board, Prince William County, VA.
Niagara University, Buffalo, NY.
Mental Health Association, Ulster County (Kingston), NY
Arlington County (VA) Department of Human Services

1990: Alberta Suicide Prevention, Calgary, Alberta, Canada
Georgetown University Hospital Pediatrics Department
Bethesda Naval Hospital Psychology Training Program
Gallup Organization, Princeton, NJ
University of Wisconsin, Madison, WI
Fairfax-Falls Church (VA) Community Services Board
Washington School of Psychiatry, Washington, D.C.
Community Mental Health Subsystem, San Jose, CA
Mental Health Association, Dutchess County (Poughkeepsie) NY
Division of Child Mental Health, State of Delaware, DE
American Psychological Association Pre-Conference Institute on Suicide and Malpractice, Boston, MA

1991: Edmund Burke School, Washington, DC
American University Counseling Center, Washington, DC
Gallup Organization and Institute, NYC
Drew Leavens & Associates, Seattle, WA

Bethesda (MD) Naval Hospital, Psychology Intern Program
Psychological Association of Western NY, Buffalo
DC Psychological Association
Washington School of Psychiatry

1992: Washington School of Psychiatry (3x)
Specialized Training Services (San Diego, CA): San Diego, Seattle, San Francisco, Pasadena, CA
Capitol Hill (DC) Psychotherapy Network
Children's Crisis Management Program, United Way, New Orleans, LA
Talbert House/Crisis Center, Cincinnati, OH
Mental Health Association, Phoenix, AZ
Kingsley House, New Orleans, LA
Gallup Organization (Elderly Suicide), New York City

1993: Children's Hospital Dept. of Psychiatry, Washington, DC
Specialized Training Services, Schaumberg, IL
Quinco Counseling Services, Nashville, IN (2x)
DuPage County Mental Health, Oakbrook, IL
Bethesda Naval Hospital, Dept. of Psychology
Saratoga Springs, NY Mental Health Association
West Virginia Psychological Association Fall Conference
Georgetown University Student Health Services
Metropolitan Psychiatric Group: Depression Screening Day

1994: Springfield State Hospital (MD) Grand Rounds
Delaware Office of Prevention and Mental Health Assoc. Conference (Dewey Beach)
Bethesda Naval Hospital Dept. of Psychology
Center for Mental Health Services/National Institute of Mental Health Dimensions and Classifications of Suicide Morbidity Workshop, Wash., DC

1995: Sedgwick County Mental Health Asociation, Wichita, KS
Washington Pastoral Counseling Association
Community Psychiatric Clinic, Gaithersburg, MD
Loudon County Mental Health Assoc., Leesburg, VA
BeaverCreek (OH) School System
Bergin Pines Hospital, Paramus, NJ
Oregon Psychological Association, Portland, OR
Uniformed Services University Hospital, Psychiatry Dept., Bethesda, MD
AAS Summer Institutes, Santa Fe, NM
Hyland Training Institute, St. Louis, MO

1996: The Menninger Clinic, Topeka, KS

Grants/Contracts

Faculty Academic Development Grant, American University, Washington, D.C., 1970.

Assoc. Director for Research Office of Child Development. DHEW Grant #OCD-CB-478, Training Paraprofessionals to Work on the University Campus, 1973-1976.

Summer Faculty Research Grants, American University, Washington, D.C., 1976, 1983.

Principal Investigator, Suicide and self-destructive behaviors among Duck Valley Reservation Indians, Roger McCormick Foundation, 1978-1979.

Principal Investigator, Duck Valley Reservation Follow-up Project, Roger McCormick Foundation, 1979-1980.

Mellon Foundation Grant for Faculty Development, American University, Washington, D.C., 1980.

Faculty Research Grant, Dean's Office, College of Arts & Sciences, American University, 1986-1987: "Televised Fictional Suicide and Imitative Youth Suicide."

Principal Investigator, Duck Valley Reservation: Suicide at Duck Valley: A Decade Later, Roger McCormick Foundation, 1988-1990.

Principal Investigator, Suicide among Multiple Sclerosis Patients. National Multiple Sclerosis Society, 1990-1991.

Co-Principal Investigator, Investigative Study of Suicide, U.S. Postal Service, 1991.

Principal Investigator, Suicide Risk and Multiple Sclerosis: A Validation Study. National Multiple Sclerosis Society, 1993-1995.

Joyce Foundation Grant: Youth Suicide and Firearms: A Town Meeting, 1996.

Scholarly, Professional, & Community Service:

Director, Placement Service, Eastern Psychological Association Convention, May, 1973, Washington, D.C.

Board of Director, Concepts for Human Services, Inc., Washington, D.C. 1972-1975.

Chairman, Social Action Committee, D.C. Psychological Association, 1972-3.
Editorial Board, Crisis Intervention. 1973-75.

Consultant to D.C. Mental Health Association Report: Focus on Children under Stress, Washington, D.C., 1975.

American Association of Suicidology:
Member, Membership Committee, 1975.

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Member, Nomenclature Committee, 1978-79
State Chairperson, Regionalization Committee, 1978-79.
Member, Hospital Standards Committee, 1980-81
Chair, Training Committee, 1983-1991
Chair Publications Committee, 1991-1993
Member, Board of Directors, 1980-81; 1986-88, 1993-1995.
Chair, Nominating Committee, 1985-86.
Treasurer, 1981-83.
President-Elect, 1983-84.
Past-president, 1985-1986.
Co-Program Chair, Annual Meeting, 1987-1988.
Co-Director, Snowmass at Aspen Summer Institutes, 1990-1992; Institutes at Santa Fe, 1993-1994.

Member, Death and Dying Course Instructors Group, Kennedy Institute, Georgetown University, Washington, D.C. 1975-1977.

Invited Editorial Reviewer: American Psychologist, Victimology, Psychological Reports, American Journal of Orthopsychiatry (1988-present), Omega, Journal of Nervous and Mental Disease, Journal of Hospital and Community Psychiatry (1975-present), Psychological Assessment, Death Studies, U.S. Preventative Services Task Force (Public Health Service), Professional Psychology: Research and Practice (1995).

Chairperson, D.C. Psychological Association Ethics Committee (1979); Member (1977, 1978).

Invited testimony before U.S. Senate Sub-Committee on Health and Readjustment, Committee on Veterans' Affairs (RE: S.1693), June, 1977.

Member, Contract Review Committee, NIDA, DHEW, Rockville, Md., 1978.

Grant Reviewer, NEH Implementation Grants, 1978.

Director of Externship and Internship Training, American University Counseling Center, 1975-1977. Coordinator for Continuing Professional Education, Washington Psychological Center, P.C., Wash., D.C., 1977-1986.

Board of Directors, Samaritans of Washington, D.C., 1979-1981.

Member, Working Committee on Criteria for the Determination of Suicide, Centers for Disease Control, Atlanta, GA, 1984.

Invited testimony, (The Problem of Teenage Suicide) Senate Sub-committee on Juvenile Justice, U.S. Senate Committee on the Judiciary, October 3, 1984.

Consultant and Technical Advisor, ABC-TV's "ABC Notebook: Teen Suicide," 1985.

Resource Panelist, Keeping Posted Magazine, 1985.

Resource, Panelist, Phi Delta Kappan Magazine, 1985.

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Appointed to Community Advisory Council, St. Francis Center, Washington, D.C., 1987-present.

Invited testimony, D.C. Dept. of Commerce and Regulatory Affairs, (on Ellington Bridge Suicide Barriers), July, 1987.

Letter to Editor: (with C.P. Ross): "Yes, There is a Teen Suicide Crisis." Washington Post, Feb. 7, 1987, A7.

Book prospectus reviewer, Allyn & Bacon Co.,1987.

Invited testimony on behalf of the American Psychological Association, House Armed Services Committee Hearings on the USS Iowa Explosion, December 21, 1989.

Member, American Psychological Association Media Awards Committee, 1990.

Research Grant Evaluator, Social Sciences and Humanities Research Council of Canada, 1990.

Adjunct Professorships:

Western Maryland College, 1971
Federal City College, D.C., 1972

Professional Organizations:

American Psychological Association (Divs., 12 - clinical, 29 - psychopathology, & 42 - independent practice)
D.C. Psychological Association
American Association of Suicidology
International Association for Suicide Prevention
International Academy of Suicide Research
American Orthopsychiatric Association

License/ Certifications:

Washington, D.C., 1972-present
Maryland, 1975-present
National Register of Health Service Providers in Psychology, 1975-present

Inpatient Admitting Priveleges:

Courtesy Staff: Psychiatric Institute of Washington

Report to the Office of Independent Counsel

The Death of Vincent W. Foster, Jr.

Alan L. Berman, Ph.D.

September 4, 1996

FOIA Case #63061 (16204) Docid: 70108

Report to the Office of Independent Counsel

The Death of Vincent W. Foster,Jr.

Alan L. Berman, Ph.D.
September 4, 1996

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Report to the Office of Independent Counsel
Death Investigation: Vincent W. Foster, Jr.

Introduction

In the summary of a March, 1996 Office of Independent Counsel (OIC) "State of Mind" analysis by the FBI, the need for a "suicide expert" was raised regarding the apparent suicide of Vincent W. Foster, Jr. Several specific questions were addressed: e.g., Was Vincent Foster suffering from depression?, Why was there no suicide note?, Were indications of his impending suicide given?, etc. In addition, divergent on-site observations, investigative lapses and inconsistencies had given rise to alternative (cover-up and conspiratorial) theories and questions (e.g., the Sprunt report), necessitating a behavioral scientist's review of available evidence.

Between May and July, 1996 this author was given access to an array of documentary evidence (see below). In addition, a site visit to Fort Marcy Park was made on May 24, 1996 in the company of two FBI agents [redacted] Independent interviews, as requested, of Foster family members, however, were blocked by attorneys for surviving family members; thus, none were conducted. The following analysis and conclusions, therefore, are based entirely on the sources of information listed below.

Case Synopsis

Between 5:00 pm and 6:00 pm on Tuesday, July 20, 1993, Deputy White House Counsel Vincent W. Foster, Jr., age 48: D.O.B.: 1-15-45, was found dead of an apparent self-inflicted gunshot wound to the mouth. His body was located by a passerby some 700 feet from his parked car in Fort Marcy Park, VA, lying face up on his back on the slope of a berm near the northernmost cannon (cannon #2). His eyeglasses were located 13' down the berm. In his right hand was found a 38 caliber, six shot Colt, Army Special revolver. There was one live round of ammunition in the gun. An exhaustive search of Ft. Marcy Park, in an arc of 90° to a distance of 175 meters, failed to produce the fatal bullet.

Foster was last seen leaving the White House shortly after 1:00 pm. His whereabouts on the afternoon of July 20-- from the time he left the White House till when his body was discovered-- remain unknown.

Investigative Procedures and Sources of Information

The following sources of information were supplied by the OIC and reviewed for this report:

U.S. Park Police Investigative Reports and Exhibits; Site pictures and Maps/Plats, the "Fiske Report" (6/30/94);*The Wall Street Journal* articles of 6/17, 6/24, and 7/19/93; transcripts of Foster's torn note found after his death in his briefcase, and his University of Arkansas Law School Commencement Address of May 8, 1993; the Autopsy Report, a report of Fort Marcy Park Artifacts Inventory; 1/30/96 Summary of Fort Marcy Park Search; the Blackbourne and Lee Forensic Pathology Reports; Dr. Henry Lee's Forensic Report (vols. I&II); Ballistics Test results (8/29/95); Citizen's Independent Report (Sprunt: 7/31/95); Reports drafted by Alexander Magnus and

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Christopher Ruddy; Time Line written by Jim Bell; Medical Records from Dr. Watkins, "State of Mind" Summary, and videotapes of the Law School Commencement Address and "Unsolved Mysteries" (3/22/96).

In addition, interview summaries, FBI "302s," depositions, and/or Grand Jury Tesimony transcripts from the following individuals were made available and reviewed:

Crime Scene Evidence/Site Investigation

Standard operating investigative procedures at Fort Marcy Park were not followed. As noted in Dr. Lee's report, a number of limitations in the available data made death reconstruction difficult. The lack of certain records and photographs, moreover, presented more of a Rorschach card for analysis than is typical, particularly in a death of this import. The relative inexperience of U. S. Park Police officers and Fairfax County Fire and Rescue paramedics/EMTs in death investigation procedures, and the lack of sufficient photographic documentation, made for an extraordinary divergence of reported and validated observations. For example, witness statements (numbers of witnesses in parentheses) allegedly referring to Foster's car in the parking lot described: a white Honda (2), a brown honda (1), a gray Honda (2), a blue Toyota Corolla (1), an older model Subaru (1), and a Chrysler Corporation K-car (1). Moreover, Foster's suit jacket was either: on the front passenger side seat (3), on the rear seat (2), hanging behind the driver's seat (1), or neatly folded over the passenger seat back (1). Furthermore, the lack of x-rays taken at the time of autopsy and the lack of identifiable fingerprints on the textured handle of the gun added to the absence of confirmatory data regarding the manner of death.

In spite of these issues, the following incontovertible facts appear established and developed in the Blackbourne and Lee reports:

1. Vincent Foster died from a single gunshot wound to the mouth.

2. Residue on his hands, glasses, etc. and blood and tissue matter taken from the gun describe this as a contact wound.

3. No signs of a struggle, e.g., other trauma, or evidence for the body having been moved to the location where it was discovered were in evidence. Furthermore, alternative access to this site, e.g., through the Rt. 123 access to the Park, was highly unlikely without being observed or recorded by a security camera from the Saudi compound.

4. Trace materials strongly suggest that the gun was transported from the Foster home, first in the oven mitt found in his car and, subsequently, in his pants pocket to the site of his death.

Psychological Autopsy

Basic Personality and Character

Descriptors used by interviewees with regard to Vincent Foster's basic personality were extraordinarily consistent in describing a controlled, private, perfectionistic character whose public persona as a man of integrity, honesty, and unimpeachable reputation was of utmost importance. The following verbatim remarks reflect these and related themes [numbers refer to multiple reporters using the same descriptor]:

Private: kept own counsel; not open; did not engage in casual conversation; very private [4]; tough to read; laconic; taciturn; carried confidentiality to extreme [2]; inward; introverted [4]; an internalizer; did not openly display emotions; strong, silent type; close to the vest; shut off; uncomfortable talking about personal feelings; kept distance from associates; difficult to get close to;...to get to know; quiet.

Always in Control; used to being in control [4]; rigidity; no resilience; (too) responsible; intellectual/thoughtful [2]; reflective; not given to rash judgments; disciplined; mild-mannered; calm; reserved [5]; sober/serious [3]; cautious [2]; restrained [2]; careful; never effervescent; an anchor, a rock; a Rock of Gibralter.

Perfectionist [7]; demanding; not tolerant of mistakes or sloppiness [2]; intense [6]; focused [2]; meticulous/methodical [2]; a detail man; lacked experience at failure; never seemed to have any difficulties; **Thin-skinned , not used to criticism**; did not like having honor questioned; moody; took too much to heart; paranoid.

Persona: Reputation (unimpeachability) [2]; Impecccable reputation [3]; lived his life to maintain his reputation; man of high principle, high honor; integrity/honesty [3]; ethical [2]; loyalty [2]; the perfect family.

Hobbies/Interests;Typical Patterns of Coping with Stress/Change

Foster's life, since arriving in Washington, was filled with long, intense and demanding hours of work. The relative comfort of his lifestyle in Little Rock and his civic/social involvements, theater, etc. were no longer in evidence. As well, his retreat in Michigan was not replicated in DC [neither was his advice to the University of Arkansas Law School graduation class to "Take some time out for yourself. Have some fun...Take an occassional walk in the woods...Learn to relax"] . Where he once exercised daily in the RLF gym, he now only had/took time to read and jog to "relax." Until the week before his death, he appears not to have taken time off. Religion as a protective factor was not significantly in his life.

Significant Relationships

Driven, self-reliant men value their autonomy and tend to avoid intimate relationships. Foster was an intensely private man whom few felt close to. His most significant relationships were with his wife, Lisa, and his three children. Since coming to Washington, and until early June when they arrived to stay, these relationships were strained by distance and the demands of his work; as were those with his working associates at the Rose Law Firm. Most significant among these was a falling out with a father figure at the firm, Phillip Carroll, and the change in his relationship to Hillary Rodham Clinton, a partner and friend, who now was in a conflictual role as a superior whom Foster was to protect.

In addition, he was close to his sister Sheila and her husband Berl Anthony, with whom he lived upon coming to DC. Marsha Scott may have been a confidante.

Communication Style

As noted above, Foster generally was not open with others. His role as a protector, as responsible and serious, was more important to him than his comfort with others as an emotionally vulnerable and communicative person. Significant changes in this controlled style were evident beginning in 1993 and escalated as he neared his death.

Note should be made here of his two written communications: (1) his Commencement Address, delivered in early May, which is a study in regret, and (2) the "Torn Note," allegedly written within two weeks of his death, which highlights his preocupation with themes of guilt, anger, and his need to protect others (see below).

Method/Familiarity/Knowledge/Frequency of Use

Foster was not known to use guns, to hunt or target shoot. The lethal weapon, however, was known to him and, most probably, was one (of several) confiscated from his parents' house in 1991, when there was some anxiety that his father might suicide with one of them; and packed in his suitcase when he moved to DC. Within two weeks of his death, his wife twice told him to remove the guns from their house. Upon learning of her husband's death, she reportedly went to a closet and found a gun was missing. Her behavior suggests an awareness of her husband's potential for suicide.

History and Recent Status:

Marital History/Children

Vincent Foster met Lisa while he attended Vanderbilt Law School; they married in April, 1968. This was the first marriage for both. There is a strong implication that there was considerable marital strain during the last several months after his move to DC. Lisa Foster's interview reported in the September 11, 1995 *New Yorker* quoted her as "unreserved about

voicing her feelings," "angry with Vince about 90% of the time," and "that it was not easy for us to console each other." Moreover, it is probable that his intense and stressful work life, in addition to their separation, had significantly and negatively impacted their sexual relationship.

Foster was described as "family oriented." His children, two sons and a daughter: Vincent W. Foster, III, Laura Foster, and John Brugh Foster, were born, respectively, in 1972, 1973, and 1975. The two oldest children described their relationship with Foster as "excellent" and "great." He appears to have been least close with Brugh. Foster was described as most anxious about the effect of the family's move on [redacted] Moreover, he felt responsible for his son, Brugh's unhappiness about being in DC.

Educational History

Foster graduated Davidson in 1967, entered law school at Vanderbilt, graduating from the University of Arkansas Law School in 1971. He graduated first in his class and had the top score on the Arkansas bar exam.

Military History

After 1 and ½ years at Vanderbilt Law School, Foster dropped out to enter the New Jersey National Guard, during the Viet Nam War, but decided to return to the study of the law at the University of Arkansas, during which time he was defered from military service..

Occupational History

Foster began employment at the Rose Law Firm (RLF) in 1971, upon his graduation from the University of Arkansas Law School. Until President Clinton's election, Foster's entire professional life was spent with the RLF. In January, 1993 he resigned his partnership with the RLF, arriving in DC for the innauguration. In Little Rock, he was on a pedestal, well-respected and admired. His work style was pressured by self-imposed demands for perfection; however, he generally had the luxury of a measured pace. At the RLF, "20 drafts" were possible. His May 8th (1993) Commencement Address to the University of Arkansas Law School graduates is replete with reflections upon and regret regarding the changes wrought by his experiences in Washington.

At the White House, Foster was second in command to Bernard Nussbaum with primary responsibilities for issues affecting the first family and their finances. Upon his death, several files were found in his office regarding open cases on which he was working. In addition, during early 1993 Foster had responsibilities relating to Whitewater, the White House Travel Office firings, various nominations, and the remodeling of the White House; all issues of considerable stress.

Medical/Physical Health History

Dr. Larry Watkins in Little Rock was Foster's personal physician since 1979. His records are relatively unremarkable. However, beginning in late 1992, there are signs of increased stress and complaints of insomnia, for which a prescription for Restoril (30 mg PRN) was ordered. Foster's weight ranged from 200# in 1987 to 207# in August, 1990 to 194# on 12/31/92. [Reports of Foster having lost weight during the spring of 1993 are not verified in these, or any other records; Foster's weight at autopsy was 197#]. Foster's blood pressure appears to have been mildly elevated, ranging as high as 140/90 in 1990; no treatments are noted.

Most notable is Watkins' characterization of Foster's insistent telephone call of July 19th as "unprecedented." Over the phone Watkins prescribed trazadone (Deseryl), a heterocyclic antidepressant, for what he referred to as symptoms of a mild depression (insomnia and anorexia), "lots of stress, criticism, and long hours." Watkins did not ask Foster about suicide ideation, nor did he refer him to a local (DC area) colleague for further evaluation, monitoring of medication effects, or psychotherapy. Watkins appears not to have any records regarding Foster's family medical history and did not know that Foster's daughter had been treated psychologically for her eating disorder.

Foster took only one (of 30 available) Desyrel (50 mg) the night prior to his death. One pill would have had no significant therapeutic effect as the majority of those prescribed this drug do not report benefit for at least two weeks' treatment.

The Friday before his death Foster admitted to his sister Sheila that he was depressed. This was most uncharacteristic of him. She passed three names of DC area psychiatrists to him. Foster attempted to call one of the three, but never connected. His lack of follow-through reflects his ambivalence about help-seeking and, perhaps, his feared vulnerability and paranoia about the confidentiality of mental health treatment.

Mental Health History -none; see above.

Family Mental Health History

FOIA(b)(6)

Both sisters (Sheila and Sharon)

Sheila believes both parents were depressed. Foster's father hinted to "family members that he might use a weapon to end his ...life" before his death from cancer in June, 1991. Vincent Foster expressed concern and removed multiple firearms from his parents' house.

Financial History

The Fosters lived well in Little Rock on his salary reputed to be almost $300,000 per annum. Foster took a sizable pay cut in moving to his White House position (see Commencement Address reference) and downsized his personal lifestyle in a more expensive

Washington, DC. References to a possible overdrawn credit union account appear to be unsupported.

Religious Involvement

Foster's religiosity was low. There are no references to church-related activity during his days in Washington.

Alcohol and Drug Use (licit and illicit) History

Foster was a social drinker and collected fine wines. No increase (in 1993) in his alcohol use was reported.

Evidence of Thought Disorder

None; although signs of paranoia in the late sping, 1993 were evident (see below).

Cognitions/Hopelessness/Negativity

Foster's drive for perfection masked his fear of failure and criticism. When criticism came, Foster responded to the public scrutiny and criticism with anger and anxiety. He feared these issues would "never die." The publicity "ate him up." He no longer was in control. He felt trapped and talked of resigning, but considered a return to Little Rock to be a "humiliation." But, his wife pressured him to stay ("You can't quit; I just got here."). He "saw no light at the end of the tunnel." He and his wife "compromised" that he would not leave his job until Christmas (1993), but Foster had too much guilt and sense of failure to last that long.

His admission to his sister that he needed help was a profound expression of his depression. Concurrently, he had concerns about the confidentiality of therapy.

Foster appears to have lost perspective in his thinking, "blowing [things] out of proportion" according to observers. Indeed, a reading of the *New Yorker* editorials does not lead the disinterested observer to anywhere near the same level of sensitivity or outrage.

Stressors: Anticipated/threatened changes/losses/transitions

1. The Move to Washington:

Foster missed his life in Little Rock (his house, being able to walk to work). In addition, the move was costly financially--Foster was living in a more expensive city on a lessened income in a "cramped house."

2. Family/Marital problems:

Foster's separation from his family in the early months of his job, then the increasing pressure from and demandingness of his wife about his long working hours led to

marital tension and an unavailability of each to the other, as well as probable sexual distance, etc. As a responsible family man these demands would have placed a burden on Foster and concomitant feelings of conflict (between work and home) and role failure. It is unknown what, if any, problems were surfacing with his children; however, there is clearly an emotional shift in his Commencement Address when he talks of his children ("The office can wait..."). That his [redacted] morever, strongly indicates family conflicts.

3. Job Stress:

Foster was excited about and wanted an influential role in the Administration; but, soon was overwhelmed with the demands of his job: its long hours and seemingly never-ending emergencies; a lack of felt success as evidenced by the problems listed below; the immediacy of the White House pace, so different from the luxury of time afforded most of his work at the RLF where time and pace allowed his meticulousness to flourish. He now was "forced to fire at the hip" with the added demand to be correct all the time. Where he once was "the guy in charge;" he now was always on call to others. According to his wife, he "lost control once at the White House."

4. Role Failure:

Foster was known both as a star and as a protector of others. There were readily apparent cracks in the dike (see below): the failed nominations, Travelgate (and consequent blame shouldered by associate counsel Kennedy whom Foster felt was "scapegoated"), Hillary Rodham Clinton's upset with him, his wife's apparent unhappiness, etc., that placed in question his sense of self. According to his wife, he took these failures personally and hard. Foster reportedly was angry about the cost overruns in remodeling the White House, blamed himself as responsible for the failure of various nominations, e.g., Zoe Baird as Attorney General, and for the Waco Branch Davidian raid. It is probable that Whitewater issues also weighed heavily in the background.

5. Anticipated Hearings:

As an intensely private man, Foster was alarmed by the possibility of Congressional Hearings regarding Travelgate. He "thought the worst was yet to come," and was observed as "brooding" and "consumed." He told his daughter that a Congressional investigation might be "rough on the family" (see #4 above).

6. Tarnished Reputation:

As evidenced in his Commencement Address, Foster considered his reputation to be his "greatest asset" and "dents to [his] reputation...[to be] irreperable." Beginning with the June 17 *Wall Street Journal* editorial, public criticisms of him and his performance caused him "severe distress." He "hated to be on display; he was now being questioned in public. He viewed these articles as "trashing" him and attempting to "ruin the administration," again speaking to his failure as protector. He told his sister, Sheila, "We can't stop the bleeding."[see Role Failure, above]. He was angry and constantly tense. The "Torn Note," again, speaks eloquently to these foci.

7. Loss of Support:

Foster increasingly felt alone, responsible for failures, and untrusting to the point of an increasing paranoia. To Webster Hubbell he "would not speak openly over the phone," and "did not trust the walls of the White House." He told Jim Lyons that he "would not talk with him at the White House."

Evidence of recent change in behavior, mood, life style

There is little doubt that Foster was clinically depressed (see below) in early 1993, and, perhaps, sub-clinically even before this. Additionally, signs of intense anxiety (insomnia, "absently wringing his hands, pacing, tension, profuse sweating) appeared, perhaps reactivating earlier experienced panic attacks. He increasingly started his sentences with, "I just can't handle..." Numerous observations are documented of changes in his last few months, e.g., "His sense of humor wasn't quite as available;" "He was more reserved than usual;" " In last 2 weeks his tone of voice changed...he wasn't participating; he just wasn't there." He called in sick for two days during the week before his death. His morning call to Dr. Watkins on the 19th was "unprecedented." He did not get up to greet Marsha Scott, as usual (in their meeting on the 19th): He "seemed preoccupied; quieter than usual." On July 20th he "was very quiet;" "He was more reserved and non-responsive;" He was uncharacteristically anxious to get his lunch and seemed rushed to eat; He was distracted; the newspapers on his office table were left in "uncharacteristic disarray."

Future Orientation

Foster had a scheduled meeting on Wednesday, July 21 with Jim Lyons, his personal attorney, on legal issues related to "Travelgate." Telephone calls were placed to Lyons on Sunday night, the 18th, upon returning from the Eastern Shore and again on the morning of the 20th. It was understood that Foster was anxious about his vulnerability.

Foster's sister, Sharon Bowman, had arrived in town on the 20th. It is not known what or if they had any plans scheduled, although his calendar listed a dinner date with her later in the week.

Talk of Death or Evidence of Suicide Ideation

None known; however, in the last two weeks of his life his wife wanted the guns removed from their house. References to death are noted in two circled passages found among his belongings.

Evidence of Exposure

Foster recently (date unknown) watched the movie "A Few Good Men," which involved a

scene involving a gunshot wound suicide in the mouth. Foster's father was allegedly suicdal shortly before his death from cancer.

Specific Description of Behavior in Last Four Days Before Death

Foster's last 96 hours show clear signs of crisis and uncharacteristic vulnerability: He admits his depression to his sister, Sheila, and asks for help. His ambivalence about help-seeking is evident in his not following through to reach the one psychiatrist to whom he placed a call, and making no attempt to reach either of the other two names given him by his sister.

The weekend getaway to the Tidewater Inn was intended to relax him, but appears to have been a disappointment. He was stressed; tears welled in his eyes when he talked of feeling trapped. At the Cardozo's he was non-interactive and withdrawn. It is not known if there was any attempt at a sexual interaction (and possible performance failure) with his wife during the weekend. It is not known what the content of their discussions were, for example, in the car upon returning to DC. [Here it would be most helpful to have his wife's further observations and recollected verbalizations both during this weekend and in the car while in transit]. The night of his return to DC (Sunday), he evidently was immediately focused on (and anxious about) a possible Congressional inquiry. Immediately upon returning home he called his attorney, Jim Lyons.

By Monday, he turns, uncharacteristically, to Dr. Watkins and discloses enough to get medication, but not enough to alarm his physician to insist he be evaluated in person. He meets with Marsha Scott for what appears to be longer than usual. She has not been forthcoming about this meeting.

On Tuesday, he uncharacteristically asks about his wife's plans. Awaiting lunch he shows signs of impatience. It is unknown what he might have read in the paper, however the *Wall Street Journal* column regarding the FBI director's replacement appeared the day before and Freeh was presented this morning. Out of character, he leaves the White house in mid-afternoon (and leaves the newspapers in disarray on his table). It is probable that he developed his plan to suicide before this date and was ambivalent to the end about carrying it out. He knew his family's schedule on the 20th, most probably secreted the gun from his house in the early afternoon, and drove around for some time before arriving at a secluded, pastoral setting, at which he killed himself.

Indicators Signaling a Troubled Employee (Scale from Dietz)

1. Harsh criticism of others or self √
2. Difficulty concentrating, remembering, thinking, problem-solving, or decision-making
3. Ruminating/excessive preoccupation √
4. Negativity √
5. Inability to receive criticism and/or compliments √
6. Excessive vigilance and preoccupation about breach of rules or procedures √
7. Marked change in usual mamnner, patterns, or grooming √
8. Irritability, belligerence, hostility, insubordination, anger, temper tantrums
9. Excessive use of alcohol, drugs, compulsive gambling
10. Avoidance of situations and problem-solving
11. Consistently non-compliant, resistant, or uncooperative
12. Extreme mood swings, unpredictability
13. Problems with performance despite adequate training and motivation
14. Overwhelming emotional pain √
15. Blocked emotions; can't feel anything
16. Stuck feelings; can't get beyond anger, disappointment, sadness, or guilt over time √
17. Depressed, anxious, or angry mood √
18. Fatigue, exhaustion √
19. Eating and/or sleeping disturbance √
20. Inability to stand up for self
21. Strained relationships √
22. Inability to let go of a grudge √
23. Isolation; social withdrawal √
24. Consistent blaming of others √
25. Persistent unresolved conflict at work √

Indicia for Suicide

1. Depression, complicated by anxiety
2. Perfectionistic character
3. Self-blame; rage
4. Non-help seeker
5. Loss of security/connectedness
6. Cognitive rigidity
7. Work problems/stress
8. Marital stress
9. Lethal weapon accessible and available
10. Breakdown of usual defenses/coping strategies
11. Trapped/talk of quitting
12. Middle-aged, white male

Suicide Risk: Clinical Approach

1. Mental Status: Foster's judgment was severely affected by his depression and anxiety. His usual defenses and coping strategies showed signs of breakdown.

2. Presence of a Psychiatric Disorder:

A. Evidence for Major Affective Disorder (MAD)

loss of interest or pleasure ✓
loss of appetite or weight ??
insomnia ✓
trouble thinking, concentrating, making decisions ✓
reduced general activity level ✓
feelings of worthlessness ✓
perceived inability to cope ✓
loss of energy or fatigue ✓
hopelessness ? [trapped] ✓
less talkative ✓
social withdrawal ✓

Commentary: In addition to the diagnostic criteria above, there is sufficient evidence for a history of major depression in Foster's family. Affective disorders are the most important diagnoses related to suicide (Tanney, 1992), with proportional mortality by suicide as high as 26%. Males, ages 18-35, with major depression, are 32 times as likely to complete suicide as those in the general population (Boyer et al, 1992); studies have shown that up to 65% of completed suicides had a major affective disorder (Roy, 1982); suicides among those with major affective disorder are more common early in course of the disorder. (Maris, Berman, Maltsberger, & Yufit, 1992). Moreover anxiety (panic, obsessive-compulsive features, insomnia) increases acute suicidality in major affective disorder (Fawcett et al, 1990). Clear signs of anxiety and probably depression, as well, date back to 1992 (Dr. Watkins' records) and possibly to the time of his father's death.

2. Underlying Character Structure: Foster's character displayed an unyielding need for perfection in both his and other's eyes. He had self-imposed high standards, was competitive, hard-working, demanding detailed perfection of himself and others. He placed demands on himself for excessive achievement, to protect and be loyal to others, and to be strong (a "Rock of Gibralter," a "Tower of Strength"). To accomplish this he had to engage a critical self-scrutiny--in psychoanlytic jargon he had a harsh, punitive super-ego: to be "less than" was intolerable and unacceptable. He could tolerate self-criticism as a whip toward better performance, but could not accept external criticism. This type of thinking is unrealistic, but in Little Rock it generally "worked."

Most important to Foster was that he maintain his reputation, his public image for honesty and integrity, so well-achieved in Little Rock.

Commentary: Recent studies by Hewitt and his colleagues (Hewitt et al, 1992, 1994) have documented a significant relationship between perfectionism and both depression and suicidality, particularly when mediated by stress.

3. Help-seeking Interaction: Foster was not a help-seeker; he was private and fearful (paranoid?) about the consequences of seeking help for his depression and anxiety. He sought help only in his last few days and preferred the safety of his family physician, who asked few evaluative questions, to the immediacy and presence of other, unknown professionals in the DC area.

4. Behavioral: Foster was methodical and perfectionistic in character. He showed no signs of impulsivity. He was known to be moody, and, although not aggressive, was clearly angry at both others and self-blaming in his last few weeks. Generally his aggression was handled in a controlled fashion through a rigid demandingness of self and others. His history of handling stress was good. However, in his last few months there are clear and evident signs of a breakdown in his ability to cope with stress. He, uncharacteristically and unacceptably (to his ego) talked of quitting. There is no indication in his history of ever giving up or not engaging the battle.

5. Environment: A social support system, although present, was burdensome for Foster. He felt responsible for increasing family stress and was not/could not accept being supported at home. He kept his own counsel for the most part and did not have any clear intimate friendships. He disliked his living arrangements in DC. His daily routine was intense, filled with long hours of defending the fort. He did not work out physically as he used to.

A Suicide Paradigm

Death Before Dishonour

Litman (personal communication) has used the phrase "death before dishonour" to describe the suicides of executive personalities facing public disgrace, humiliation, disclosure of wrong-doing, etc. In essence, death is preferred to preserve one's identity. The suicide has an inability to tolerate an altered view of himself; suicide maintains a self-view and escapes having to incorporate discordant implications about the self. These types of suicides are typically complete surprises to others in the available support system.

Vincent Foster showed a real vulnerability and sensitivity to external criticism (rigid/fragile defenses). A number of negative life-events, now opened to public scrutiny by the *Wall Street Journal* articles and the threat of a Congressional Inquiry, posed serious questions of character and exposed him to feelings of failure and the threat of punishment. Mistakes, real or perceived, posed a profound threat to his self-esteem/self-worth and represented evidence for a lack of control over his environment. Feelings of unworthines, inferiority, and guilt followed and were difficult for him to tolerate. There are signs of an intense and profound anguish, harsh self-evaluation, shame, and chronic fear. All these on top of an evident clinical depression and his separation from the comforts and security of Little Rock. He, furthermore, faced a feared humiliation should he resign and return to Little Rock in disgrace. Foster felt trapped and had no felt hope of changing his circumstances in the near term. Feelings of hopelessness increases suicide risk significantly (see Figure 1).

Aware he was in trouble psychologically, Foster, nevertheless, was reluctant to seek help. This difficulty accepting the vulnerable position is common to successful executives. By the Friday before his death he was desperate; calling for names of psychiatrists was a clear public (and personally intolerable) admission of his failure. He was ambivalent and fearful about this help-seeking. Even his call to Dr. Watkins on Monday signals his attempt to minimize while announcing his depression to someone other than Lisa or Sharon (and, perhaps, Marsha Scott on the 19th).

Specific Questions:

1. **If Foster was intent on his suicide, why did he eat lunch?**

There is no study in the professional literature that has examined eating behavior prior to suicides. Gastric contents are usually not recorded on autopsy unless there is a specific reason to look and record.

Foster was ambivalent about his death until the end. His behavior on the 20th is consistent with this: He did not need to go to work if he was unambivalent in his suicide intent that morning. I believe the fatal decision was not made until lunch-time, perhaps triggered by something read in the newspaper. However, the plan to secret the gun from the home was probably formed over the weekend. In any event, even death row inmates, knowing they are to die within a short time, eat a last meal.

2. **Does the finding of semen on his boxer shorts reflect a possible sexual liason in Fort Marcy Park?**

No: involuntary urination, secreted seminal fluid, and defecation often occur upon death from any cause.

3. **Why did this death occur in Fort Marcy Park?**

If we accept the idea that Foster was ambivalent to the end and that he may have driven his car for some time after secreting the gun from his home, the following possibilities are apparent: he may have simply and inadvertently happened upon the park or he may have purposely picked it off the area map found in his car.

We know Foster valued privacy. He spoke in his Commencement Address of taking "an occassional walk alone in the woods." Similar to the typical male physician who suicides by seeking the guaranteed privacy of a hotel room, and a "do not disturb" sign, Foster, protective of his family, would be most unlikely to suicide at home, leaving the possibility of being discovered by his children as a legacy.

4. **Why was no suicide note left by Foster?**

First, it is less, vs. more, common to leave a suicide note. Only 12-15% of suicides leave a note; 85-88% do not (Leenaars, 1992).

Secondly, Foster, again, was intensely private, protective, and loyal to his family and the president/first family. It would be out of character for him to leave a disclosure such as a note.

Thirdly, I believe Foster was intensely self-focused at this point; overwhelmed and out of control.

5. **Why did the pressure get to Foster now?**

He was under an increasing burden of intense external stress, a loss of security, a painful scanning of his environment for negative judgments regarding his performance, a rigid hold of perfectionistic self-demands, a breakdown in and the absence of his usual ability to handle that stress primarily due to the impact of a mental disorder which was undertreated. He simply could not maintain control or see a way out. Most likely, the precipitating "event" that triggered his suicide was a complex of: dashed expectations of relief from the weekend away, anxiety pertaining to the possible Congressional inquiry, highlighted by the meeting planned with his attorney, and the Freeh nomination placed in the context of the *Wall Street Journal* column the day before.

Mode of Death Determination:

In my opinion and to a 100% degree of medical certainty, the death of Vincent Foster was a suicide. No plausible evidence has been presented to support any other conclusion.

At worst, there remains a lack of **additional** validating evidence answerable by a number of yet unresolved/unanswered questions posed by the unavailabilty of family members for direct

interview, a paucity of information regarding Foster's early childhood (which would help to better understand the formation of his character structure) and, particulrly, communications on the weekend of June 16-18, and the unknowability of other evidence, including the remote possibility that other documentation was removed from his office before it was secured two days after his death.

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Foster Suicide Paradigm

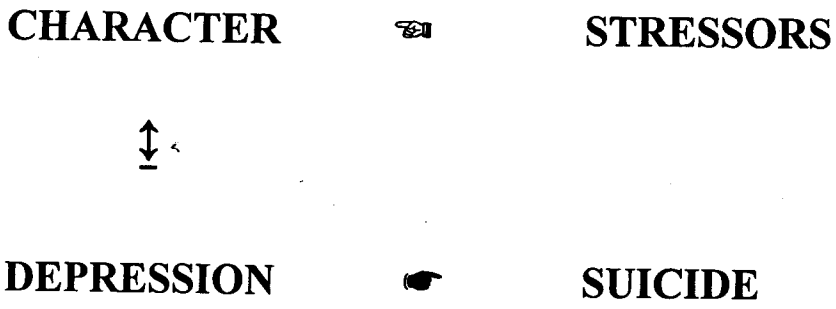

Figure 1

Addendum

Chronology of Major Events in Last Several Months

December, 1992

Foster tells Dr. Watkins he's under stress/has insomnia (post-election) and is prescribed Restoril. Weight = 194

January, 1993

Foster resigns RLF; arrives in DC on 20th for Innauguration; lives with Berl and Sheila Anthony.

March, 1993

Leases house

April, 1993

Receives buy-out from RLF building

May, 1993

Commencement Address delivered at University of Arkansas Law School: affect = flat; content = regret. Travel Office Report Issued. End of month: Dinner with Sheila, Webb Hubbell: "to cheer Vince up." Tells wife he wants to resign (two weeks prior to her arrival).

June, 1993

5th: Family moves to DC
8th Lisa notices Vince is emotionally down
2nd week: comments re seeking job with less pressure to Kennedy
17th WSJ editorial: "Who is Vincent Foster?"
24th WSJ Review & Outlook: "VF's victory"
29th Comments to Berl: "I spent a lifetime building my reputation and now I am in the process of having it tarnished."

July, 1993

2nd His sister (Sheila) last sees him at dinner, at which he confides his thoughts of resignation
Kennedy et al given formal reprimands
4th-20th: Lisa Foster twice tells him to remove guns; she and their eldest son call office to ask how he's doing (Gorham)
12th Telephone call to Berl re travel office/congressional inquiry -- asks names of

attorneys. Takes "unusual" day off

13th Talks to wife about resigning; looked "very tired" [Rutherford]

14th Talks with Susan Thomases about needing more legal help, anticipating congressional inquiry, and being unhappy. Calls Jim Lyons; pulls him out of deposition.

15th Wife expresses concern about account being overdrawn. Receives names of attorneys from Berl.

16th Telephone conversation with Sheila ("strained voice"); Admits depression, concerned about security clearance if sees Therapist; Sheila gives 3 psychiatrists' names; Foster asks re Eastern Shore getaway. Blood Pressure reading: 160/100; 10' later: 140/90. Calls/Books Tidewater Inn for weekend; Calls R. Hedaya, MD. Arrives home at 4:00 pm, leaves for Tidewater.

16th-18th: "very upset/emotional" at Tidewater; tearful. At Cardozo's: jogs with Harolyn Cardozo; not interested in watching tennis, did not want to stay for dinner, more withdrawn.

18th: At home, 6:00 pm: speaks with Jim Lyons regarding meeting on the 21st. Talks by phone with mother: "sounded unhappy"

19th: jogs in morning. WSJ article published: Review & Outlook: "What's the Rush" (re Freeh nomination). Makes "unprecedented" call (10:30 am) to Dr. Watkins, reports he is not eating well, not sleeping well, depressed. Watkins prescribes 30 tabs trazadone (Desyrel): 50 mg.

Marsha Scott spends 20-30' [afternoon] and/or 1-2 hours in a.m. with him, discusses weekend. Foster did not get up to greet her ("unusual")--seemed more relaxed. Tells her he's "going to get some rest." Sends life insurance payment

Evening: takes 1 Desyrel 50mg

20th: Does not jog

8:30 am: leaves for work: according to his wife his "mood [is] better." He, uncharacteristically, asks about her plans for the day

8:50 am: at work; has breakfast

10:00 am: attends Freeh nomination Rose Garden; makes "weak" response to Nussbaum's comment about "2 home runs."

12:00-12:30 pm: Orders then eats hamburger, french fries, coke, some M&Ms; expresses impatience with time taken to get luch); reads news clippings.

12:45 pm: appears "distracted" to Chadwick and Tripp. Tripp conjectures he's "very distressed" re an article in the paper.

1:00 pm: Leaves office, stating "I'll be back" to B. Pond; does not respond to Tom Castleton's "so long." He has his suit jacket with him.

1:10 pm: leaves the White House in his car.

3:05 pm: car possibly seen by J. Ferris making abrupt cut into Fort Marcy Park

4:15 pm: Knowlton sees Honda at FMP

5:10 pm: Wife calls ofc

5:15-5:30 pm: Doody/Feist arrive FMP - leave car @ 6:00 for walk

5:30-5:45 pm: CW discovers body
6:00 pm: 911 call from Swann
6:03 pm: US Park Police receive notice
6:10 pm: Gonzalex & Fornshill discover body
7:15 pm: Medical Examiner arrives

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Operational Criteria for the Determination of Suicide

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ABSTRACT: Suicide is an important public health problem for which we have an inadequate public health database. In the United States, decisions about whether deaths are listed as suicides on death certificates are usually made by a coroner or medical examiner. These certification decisions are frequently marked by a lack of consistency and clarity, and laws and procedures for guiding these decisions vary from state to state and even from county to county.

Without explicit criteria to aid in this decision making, coroners or medical examiners may be more susceptible to pressures from families or communities not to certify specific deaths as suicide. In addition, coroners or medical examiners may certify similar deaths differently at different times. The degree to which suicides may be underreported or misclassified is unknown. This makes it impossible to estimate accurately the number of deaths by suicide, to identify risk factors, or to plan and evaluate preventive interventions.

To remedy these problems, a working group representing coroners, medical examiners, statisticians, and public health agencies developed operational criteria to assist in the determination of suicide. These criteria are based on a definition of suicide as "death arising from an act inflicted upon oneself with the intent to kill oneself." The purpose of these criteria is to improve the validity and reliability of suicide statistics by: (1) promoting consistent and uniform classifications; (2)

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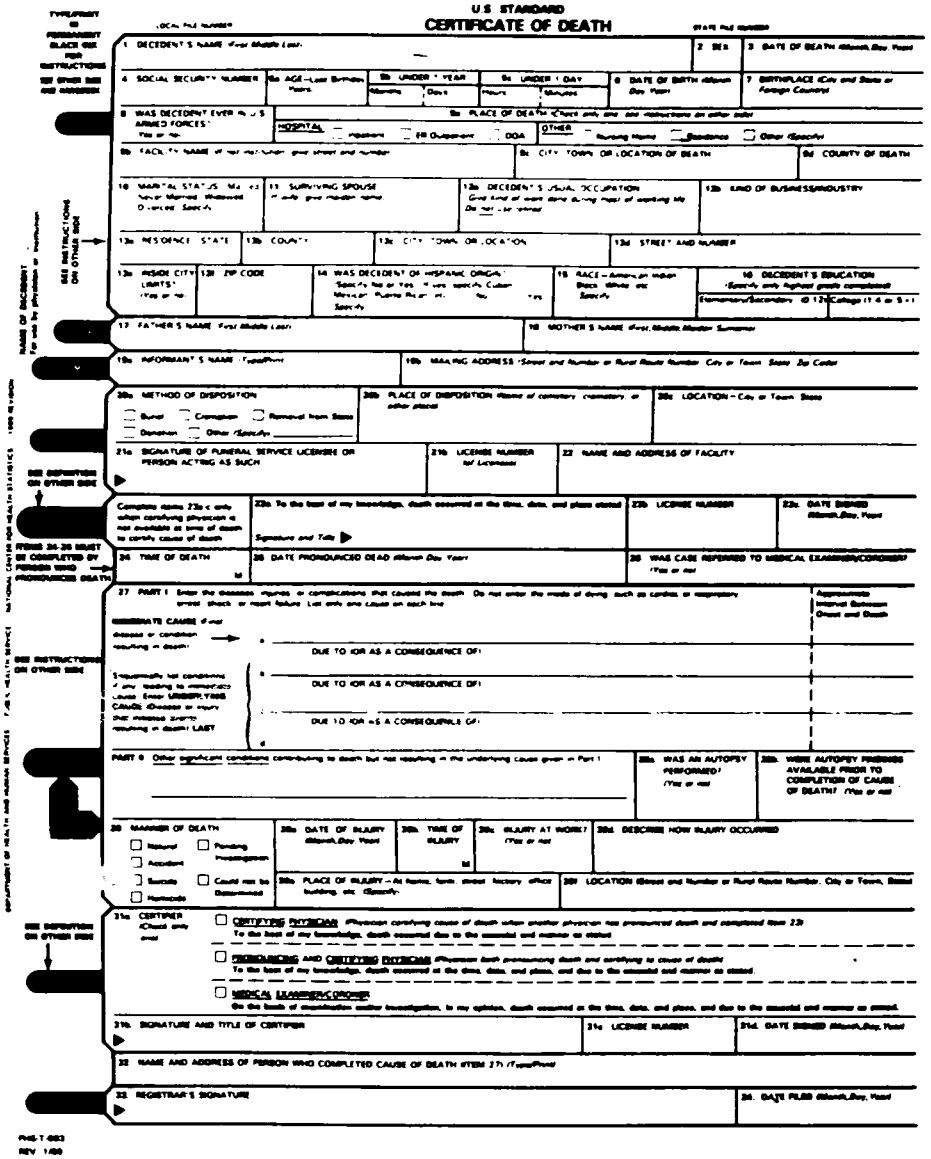
U.S STANDARD
CERTIFICATE OF DEATH

FIG. 1—*U.S. Standard Certificate of Death.*

(IACME), National Association of Counties (NACO), National Association of Medical Examiners (NAME), and National Center for Health Statistics (NCHS). The representatives developed operational criteria and refined them by obtaining comments from their respective organizations on multiple revisions. Other leaders in the areas of suicide and medical and psychiatric classification critiqued drafts of the criteria, and their comments were reviewed and incorporated by the group.

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Criteria for the Determination of Suicide

Self-Inflicted

There is evidence that death was self-inflicted. This may be determined by pathological (autopsy), toxicological, investigatory, and psychological evidence, and statements of the decedent or witnesses.

Intent

There is evidence (explicit, implicit, or both) that at the time of injury the decedent intended to kill himself or herself or wished to die and that the decedent understood the probable consequences of his or her actions.

1. Explicit verbal or nonverbal expression of intent to kill self.
2. Implicit or indirect evidence of intent to die, such as
   - preparations for death inappropriate to or unexpected in the context of the decedent's life,
   - expression of farewell or the desire to die or an acknowledgment of impending death,
   - expression of hopelessness,
   - expression of great emotional or physical pain or distress,
   - effort to procure or learn about means of death or to rehearse fatal behavior,
   - precautions to avoid rescue,
   - evidence that decedent recognized high potential lethality of means of death,
   - previous suicide attempt,
   - previous suicide threat,
   - stressful events or significant losses (actual or threatened), or
   - serious depression or mental disorder.

Elaboration of Specific Terms for the Determination of Suicide

The following discussion of specific terms and parts of the criteria is meant to reduce ambiguity and clarify the actual use of the criteria in certifying deaths.

Self-Inflicted

Pathological evidence from an autopsy may indicate the relative probability of a particular injury being self-inflicted. A bullet wound is more likely to have been self-inflicted, for example, if autopsy evidence indicates that a gun had been fired from a distance close enough to leave powder burns on the skin or to cause a contact wound.

Toxicologic evidence might indicate if death resulted from a potentially lethal substance that was accessible to the decedent. Toxicologic screens are limited, however, by their sensitivity and specificity and by the range of specific toxins they are designed to detect. A full analysis, however, might pick up any drug or metabolite. In addition, an individual may survive long enough to allow the substance to "metabolize away" or diminish to a nonlethal or nondetectable level. In many possible suicides, toxicologic studies may not have been performed if suicide had not been suspected or if appropriate specimens had not been obtained at the time of death.

Investigational evidence includes data from police reports; photographs, notes, and diagrams from the scene of death; and information collected from the deceased's medical or mental health records.

Psychological evidence includes explicit or implicit evidence that the decedent planned to harm himself or herself based on observed behaviors, communications, and characteriza-

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tions of personality, habit, and life-style. This evidence may be gathered through interviews with family, friends, employers, physicians, and others in a position to provide relevant information about the decedent. Standardized interview formats for such investigations are available and can be routinely completed with a minimum of time and personnel for most cases. Routine police reports of death investigations frequently do not provide the minimum necessary information.

Statements by the deceased can also constitute evidence as to whether or not the injury was self-inflicted. Verbal statements may have been made indirectly in the course of conversation, directly to a witness, or recorded on audiotape or videotape. Written statements may include diaries, letters, drawings, or notes (handwritten, typed, or stored in a word processor, tape, or diskette).

Intent

Whether or not the decedent intended to kill himself or herself is usually more difficult to determine than whether the injury was self-inflicted or not. "Intent" requires that the decedent knew or had in mind that a specific act would probably result in death. Alcohol, drugs, mental illness, or youth may all contribute to an individual's inability to have the mental capacity to form intention. But evidence that the decedent consumed a large amount of alcohol before death, for example, does not by itself demonstrate inability to form intent. In such a case, the investigator should attempt to determine whether or not evidence demonstrated that the subject had intended to kill himself or herself before becoming too intoxicated to form intent. About 25% of all suicides involve recent alcohol consumption [*12*]. In all such cases, the specific relationship of alcohol consumption to formation of intent should be examined. Similarly, mental illness does not make it impossible to form intent: it is important to look for specific evidence that the deceased understood and intended the likely consequences of this act near the time he or she decided to proceed with the act. Conversely, evidence may suggest that the decedent had an impaired state of consciousness or impaired judgment at the time the critical decision was made; impairment may have been due to alcohol, drugs, metabolic state, or illness.

Specific types of evidence often suggest that death resulted from unintended or accidental injuries. First, evidence may show that the subject intended to survive. The subject may have a history of carelessness, poor judgment, or previous unintentional injuries similar to the fatal injury. In the case of death as a result of drug or alcohol overdose, a subject's history of nonfatal abuse of the same substances suggests that the fatal overdose might have been unintentional. A history of previous misuse of a fatal modality with evidence that self-destructive consequences were not intended (such as playing with loaded guns, driving recklessly, or playing on high, unprotected ledges) suggests that death might have been unintentional. Finally, evidence that the subject did not recognize the high potential lethality of the means of injury could indicate the death was unintentional.

Several types of death present more difficult decisions to the person completing the death certificate. Since even experts disagree as to whether or not Russian roulette should be classified as suicide, establishing criteria for such decisions is essential. Drug or alcohol intoxication raises the difficult questions of whether or not the fatal outcome was intended or accidental and whether or not the individual had the mental capacity to form intention. Single motor-vehicle crashes may result from suicidal behavior, for instance, and may be too commonly dismissed as "accidents" [*13*]. Intent is often difficult to determine in the following situations: (1) when death is delayed or when it is the unanticipated consequence of a potentially self-destructive act; (2) when a body is never found; (3) when drownings, leaps, or falls are unwitnessed; or (4) when the death is of a child too young to realize the consequences of jumping from a window, swallowing poison, or running in front of a car.

In these criteria, the term "implicit evidence of intent" refers to an indicator of intent

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communicated by the decedent but not explicitly stated; "indirect" evidence includes what are commonly called "risk factors." A risk factor is an attribute or exposure that is associated with an increased likelihood of suicide; a risk factor is not necessarily a causal factor. A family history of suicide, for example, is a risk factor but not an implicit indicator of intent or implicit evidence of an intention to commit suicide.

Specific Phrases and Criteria Related to Intent—Explanations and Examples

The types of evidence of intent that follow *are not* listed in order of significance or importance. Examples of verbal expressions include written diary notes, audiotape recordings, and videotape messages; nonverbal expressions might include drawings or a very recent, potentially lethal attempt where a timely discovery led to rescue. This list is not meant to be exhaustive. Recent behaviors and feelings are deemed more important, but historical data also bear on the decision. Serious depression, for example, is usually a recurrent problem, and a person who has experienced a serious depression in the past is at higher risk of another depressive episode years later [*14*].

1. *Preparations for death inappropriate to or unexpected in the context of the decedent's life.* Examples: Unexplained giving away of possessions and making provisions for the future care of children or pets.

2. *Expression of farewell or the desire to die or an acknowledgment of impending death.* Examples: "I won't be here to be kicked around anymore"; "You were real important to me"; "Have a good life"; "You'll be sorry when I'm gone"; "I can't stay around to face the future."

3. *Expression of hopelessness.* Examples: "It just doesn't matter anymore"; "It wouldn't make any difference if I . . ."; "What's the use of . . .?" Actions signaling hopelessness include giving up activities or medical treatments that are clearly necessary to sustain life.

4. *Expression of great emotional or physical pain or distress.* Examples: "This pain is killing me; I can't stand it anymore"; "I cannot live like this"; "It is too much for me to take." Indirect manifestations of extreme pain may be seen in failures to obtain relief from standard medical treatments.

5. *Effort to procure or learn about means of death or rehearse fatal behavior.* Examples: Recently purchasing firearms or ammunition, stockpiling potentially lethal drugs, purchasing rope, and obtaining access to high places.

6. *Precautions to avoid rescue.* Examples: Locking doors, going to a prearranged, secluded place, telling lies about one's whereabouts, and arranging to be alone.

7. *Evidence that decedent recognized high potential lethality of means of death.* Examples: A pharmacist or physician taking an overdose of a highly lethal drug or the decedent's "researching" different drugs to determine their degree of lethality.

8. *Previous suicide attempt.* Previous attempts include self-destructive acts carried out with the goal of killing oneself or with an awareness that the consequences could be lethal. The more recent attempts and those with a high potential lethality may be more significant indicators of intent. Previous attempts, however, need not be recent or potentially highly lethal. Furthermore, the methods used in the previous attempts may differ.

9. *Previous suicide threat.* A "threat" need not be a coercive statement made to force another person to do something—it can be a statement of intent. Examples of threats include playing with a gun and saying "I'm going to shoot myself." Thoughts or fantasies about suicide (such as an imagined reunion with a dead relative) should be differentiated from threats, although questions about such thoughts or fantasies should be asked.

10. *Stressful events or significant losses (actual or threatened).* Examples: Loss of a relationship (with a boyfriend, girlfriend, child, or spouse), intangible losses (not being elected to a desired office or being passed over for a promotion), loss of self-esteem, or financial

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losses. Anticipating difficult changes may constitute severe stress, even when those changes represent "desired" transitions such as leaving for college or getting promoted at work.

11. *Serious depression or mental disorders.* Depression is not used here to refer to a brief period of sadness. It is a mental disorder characterized by a serious and pervasive loss of pleasure and loss of interest in one's usual activities that lasts at least two weeks. Additional signs of depression include sadness, sleep disturbances, difficulty concentrating, excessive guilt ruminations, loss of energy, loss of appetite, or a marked change in weight. Since depression is usually a recurrent disorder, a past history of depression may indicate a persistent problem. A person may commit suicide when he or she appears to be recovering or getting more energy. Depression or another mental disorder need not have been diagnosed by a mental health professional. Signs of impairment by a mental disorder might include inability to care for oneself, inability to maintain relationships, or previous psychiatric hospitalization. Other mental disorders include manic state or manic-depressive illness, difficulty controlling impulses, psychoses, substance abuse disorders, and organic mental disorders. A person with a mental disorder may commit suicide in response to a perceived command that was part of a hallucination (for example, "My mother is calling me to join her in heaven"; "The space creatures told me that if I did not kill myself they would torture me.").

Applications of These Criteria

These criteria are meant to aid decision makers in exercising their judgment, not to replace judgment with a mathematical formula for decision making. These criteria are intended as guidelines to promote accuracy, consistency, and uniformity in certifying and reporting suicide. They are also intended to make the decision making process more explicit, which can help decision makers minimize bias and resist family and community pressures to avoid calling a death a suicide.

The definition of suicide implicit in these criteria is "death arising from an act inflicted upon oneself with the intent to kill oneself." Thus, the two fundamental questions for the decision maker are (1) whether or not the injury was self-inflicted and (2) whether or not the decedent intended to kill himself or herself. The criteria are designed to allow separate and sequential determinations of a death as being self-inflicted and intentional.

Absolute certainty is not the goal in certifying deaths. With respect to suicide deaths in particular, no decision maker will ever be certain of the decedent's intent because the decedent is unavailable for questioning and because almost everyone who contemplates suicide has some degree of ambivalence [*15*]. Rather than absolute certainty, a "yes" or "no" decision is needed representing the decision maker's best judgment after collecting and reviewing all the evidence. These criteria can help decision makers specify the types of evidence that should be collected and used in the decision. The criteria specify, for example, that information about the decedent's past mental health, previous suicidal behavior, and recent communications with acquaintances should be collected and considered. Determining the manner of death will not result from applying a mathematical formula to the yes and no answers for various criteria. Instead, the basis for the decision should correspond to the legal notion of "the preponderance of the evidence"; otherwise stated, it is an opinion based on "reasonable probability." Obviously, certain types of evidence may be helpful in deciding between suicide and homicide, for example, and other types of evidence may be helpful for deciding between suicide and accident.

The relative importance of particular criteria may vary with the victim's age, sex, race, or socioeconomic status. Among young persons who commit suicide, for example, depression may be uncommon; among older persons, depression may be very common. Similarly, serious mental disorders may be expressed differently among young persons. Manic-depressive illness might be easily diagnosed in an adult who has had several episodes of depression and at least a single manic episode. In a young person with no history of full-blown manic or

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depressive episodes, however, the diagnosis might be suggested only by a labile mood, impulsivity, family history of manic-depressive illness, and a positive response to treatment (lithium).

Since these criteria indicate the kinds of information that should be collected during the investigation of possible suicides, they should be available to the investigator before and during the investigation. Criteria could be printed on a pocket reference card that would be available to the investigator if he or she wishes to use it. They might also be printed on the investigation report form, but labeled "Guidelines." This would allow the decision making process to be reconstructed in difficult cases and would also document cases that are subsequently reviewed for legal or quality assurance purposes. The criteria could be incorporated into software packages now being developed to assist both in analyzing data and in preparing medical examiner reports [*16*]. The criteria could help in training personnel who investigate or certify possible suicides. Teaching a procedure that has been made explicit through criteria specification is easier than teaching an "intuitive" process. These criteria could also be used to analyze the quality of the death certification process, since case reviewers could identify both the amount and content of the information upon which the decision about manner of death had been made and the decision making process itself.

Discussion

Accurate determination of true suicide deaths is essential in identifying high-risk groups and targeting preventive programs and interventions to those groups. Recognizing that specific subpopulations, such as white males or Native Americans, are at increased risk is an outgrowth of suicide reporting [*17,18*]. Although our presently imperfect suicide statistics are useful, the possibility of systematic and selective certification errors may undercut our ability to identify other potential groups at high risk for suicide [*19*]. For example, certifiers who discount suicide as a possible manner of death in younger children may skew reported suicide rates toward older age groups. We need more educational materials to highlight the differences between adult and child suicide.

Consistent and accurate suicide certification also allows us to follow trends. Among young persons today, firearms are the most frequently used method of suicide, whereas at the turn of the century hanging and poisoning were more common [*20,21*]. Such trend information is vital in assessing the potential and actual impact of prevention strategies. For example, lower suicide rates in Great Britain following the conversion of household fuel supplies from carbon-monoxide-containing coal gas to less lethal natural gas demonstrate the beneficial effects of changing the availability of one method of suicide [*22*].

Additionally, accurate determination of suicide deaths is important for understanding suicide risk factors and causes. Long-term outcomes of various disease processes and events have been determined through analyses of death certificates. For example, causes of mortality for persons with mental disorders such as schizophrenia, alcoholism, and depression have been identified by matching treatment records with death certificates [*23–25*]. From this type of study, epidemiologists can estimate the lifetime risk of suicide, the years of potential life lost to suicide, or the health care costs attributable to suicide for these disorders. The relative frequency of suicide is also being examined for persons with specific exposures, such as military service in Vietnam [*26*]. Adverse perinatal events also have been reviewed as risk factors for adolescent suicide in a study linking hospital records with death certificates [*27*]. The recently inaugurated National Death Index will allow large studies of this sort to be conducted.

Factors temporally associated with suicide have been identified from medical examiner data. Toxicology studies have documented how commonly suicidal persons consume alcohol just before death [*28,29*]. Other toxicologic studies have provided information on the specific

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substances ingested in suicides by overdose and show the predominance of overdose suicides by antidepressant medications. This information may be important in preventing suicides by improving prescribing practices [*30*].

The death certificate or medical examiner's file may be a starting point for more in-depth studies that relate sociological and psychological characteristics to suicide. Information beyond that on a death certificate or in a medical examiner's file has been obtained through interviews termed "psychological autopsies." One such study of deaths classified as suicide highlighted the negative impact of the recent loss of a significant other on the decedent [*31*]. Although these studies require information sources beyond death certificates, their foundation is the identification of valid cases of suicide as determined by the certifier.

The operational criteria for the determination of suicide (OCDS) will improve suicide determination by standardizing the type of information collected and incorporated into determining the manner of death. The certifier is more likely to identify a suicide correctly when the case file contains objective information regarding intent to die. Certifying districts might develop checksheets for case files that could be used in all types of cases referred to the coroner or medical examiner (see Appendix for example). The checksheet would provide documentation either for or against the decedent's intent to die. Thus, the process for information collection becomes systematic. These data, when routinely collected, will form a practice standard for determining cause of death. The OCDS will allow more meaningful comparisons of vital statistics data among various geographic, age, racial, and socioeconomic groups. Such comparisons would more closely reflect actual differences in rates of occurrence, rather than different practices for determining mode of death.

We hope these criteria will be disseminated, used, and subsequently revised to incorporate the suggestions of medical examiners and coroners. We also hope to measure the validity, sensitivity, and specificity of these criteria and to revise them in light of these measurements. And we will look for ways to make them clearer, more practical, and more useful.

From its inception, the working group felt that the role of the Centers for Disease Control (CDC) and the National Center for Health Statistics (NCHS) was to catalyze the process of criteria development by helping to bring the relevant parties together; because the group did not want these criteria to be government guidelines imposed upon certifiers, the group did not seek official government endorsement. Because the primary users of these criteria are medical examiners and coroners, we presented the criteria to the International Association of Coroners and Medical Examiners. Their executive board approved the criteria in June 1987. Representatives of the National Association of Medical Examiners participated in every step of criteria development. These criteria were also presented to the American Association of Suicidology (AAS) membership—which includes psychiatrists, psychologists, and suicide prevention researchers and practitioners—several times during the course of their development. While the AAS does not endorse scientific research or findings, their board of directors in May 1987 officially recommended dissemination of these criteria.

Disseminating and successfully implementing the OCDS will depend on the initiative of relevant individuals and organizations such as those involved in developing the criteria. To assist in their dissemination, the working group is developing a training manual and conducting research to assess the validity and value of the criteria, and to assess such characteristics as intra- and inter-observer variability. Widespread adoption of these criteria could result in an apparent increase in reported rates of suicide. It will be important to understand the effect of these criteria in changing reported suicide rates so that future rates could still be compared to historical rates and so that the effect of any reporting artifacts could be estimated.

Suggestions or inquiries should be addressed to OCDS Working Group, c/o Division of Injury Epidemiology and Control, Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, GA 30333.

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APPENDIX

Example of a Questionnaire For Possible Use by Medical Examiners and Coroners

Fill in every column and row. Use the following codes:

Y = yes, decedent showed positive evidence of intent to die
N = no, decedent showed evidence contrary to intent to die
0 = there was no evidence relating to this category, or respondent did not know
- = respondent was not asked

Write in details for any Y or N codes.

	Source of Information			
	Family	Acquaintance	Other	Details
A. Explicit expression of decedent's intent to die:				
1. Verbal statement				
2. Handwritten suicide note, unambiguous				
3. Recorded statement, e.g., audio tape, word processor disk, typewritten note, video tape				
B. Implicit or indirect evidence of decedent's intent to die:				
1. Expressions by the decedent of farewell, desire to die or acknowledgement of impending death				
2. Expressions by the decedent of hopelessness				
3. Expressions by the decedent of great emotional or physical pain or distress				
4. Expressions by the decedent that the decedent recognized high potential lethality of means of death				
5. Efforts or actions by the decedent to prepare for death, inappropriate to or unexpected in the context of his or her life				

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6. Efforts or actions by the decedent to procure or learn about means of death or rehearse fatal behavior				
7. Efforts or actions by the decedent or precautions to avoid rescue				
8. Decedent's history of previous suicide attempt				
9. Decedent's history of previous suicide threat				
10. Decedent's history of stressful events or significant losses (actual or threatened)				
11. Decedent's history of serious depression or mental disorder				

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Those of you with any interest in Foster state of mind/death issues likely will find the attached draft report by Dr. Berman worth reading.

Brett

Report to the Office of Independent Counsel

The Death of Vincent W. Foster, Jr.

Alan L. Berman, Ph.D.

September 4, 1996

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FOIA(b)(7) - (C)

Report to the Office of Independent Counsel
Death Investigation: Vincent W. Foster, Jr.

Introduction

In the summary of a March, 1996 Office of Independent Counsel (OIC) "State of Mind" analysis by the FBI, the need for a "suicide expert" was raised regarding the apparent suicide of Vincent W. Foster, Jr. Several specific questions were addressed: e.g., Was Vincent Foster suffering from depression?, Why was there no suicide note?, Were indications of his impending suicide given?, etc. In addition, divergent on-site observations, investigative lapses and inconsistencies had given rise to alternative (cover-up and conspiratorial) theories and questions (e.g., the Sprunt report), necessitating a behavioral scientist's review of available evidence.

Between May and July, 1996 this author was given access to an array of documentary evidence (see below). In addition, a site visit to Fort Marcy Park was made on May 24, 1996 in the company of two FBI agents [redacted] Independent interviews, as requested, of Foster family members, however, were blocked by attorneys for surviving family members; thus, none were conducted. The following analysis and conclusions, therefore, are based entirely on the sources of information listed below.

Case Synopsis

Between 5:00 pm and 6:00 pm on Tuesday, July 20, 1993, Deputy White House Counsel Vincent W. Foster, Jr., age 48: D.O.B.: 1-15-45, was found dead of an apparent self-inflicted gunshot wound to the mouth. His body was located by a passerby some 700 feet from his parked car in Fort Marcy Park, VA, lying face up on his back on the slope of a berm near the northernmost cannon (cannon #2). His eyeglasses were located 13' down the berm. In his right hand was found a 38 caliber, six shot Colt, Army Special revolver. There was one live round of ammunition in the gun. An exhaustive search of Ft. Marcy Park, in an arc of 90° to a distance of 175 meters, failed to produce the fatal bullet.

Foster was last seen leaving the White House shortly after 1:00 pm. His whereabouts on the afternoon of July 20-- from the time he left the White House till when his body was discovered-- remain unknown.

Investigative Procedures and Sources of Information

The following sources of information were supplied by the OIC and reviewed for this report:

U.S. Park Police Investigative Reports and Exhibits; Site pictures and Maps/Plats, the "Fiske Report" (6/30/94);*The Wall Street Journal* articles of 6/17, 6/24, and 7/19/93; transcripts of Foster's torn note found after his death in his briefcase, and his University of Arkansas Law School Commencement Address of May 8, 1993; the Autopsy Report, a report of Fort Marcy Park Artifacts Inventory; 1/30/96 Summary of Fort Marcy Park Search; the Blackbourne and Lee Forensic Pathology Reports; Dr. Henry Lee's Forensic Report (vols. I&II); Ballistics Test results (8/29/95); Citizen's Independent Report (Sprunt: 7/31/95); Reports drafted by Alexander Magnus and

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Christopher Ruddy; Time Line written by Jim Bell; Medical Records from Dr. Watkins, "State of Mind" Summary, and videotapes of the Law School Commencement Address and "Unsolved Mysteries" (3/22/96).

In addition, interview summaries, FBI "302s," depositions, and/or Grand Jury Tesimony transcripts from the following individuals were made available and reviewed:

Crime Scene Evidence/Site Investigation

Standard operating investigative procedures at Fort Marcy Park were not followed. As noted in Dr. Lee's report, a number of limitations in the available data made death reconstruction difficult. The lack of certain records and photographs, moreover, presented more of a Rorschach card for analysis than is typical, particularly in a death of this import. The relative inexperience of U. S. Park Police officers and Fairfax County Fire and Rescue paramedics/EMTs in death investigation procedures, and the lack of sufficient photographic documentation, made for an extraordinary divergence of reported and validated observations. For example, witness statements (numbers of witnesses in parentheses) allegedly referring to Foster's car in the parking lot described: a white Honda (2), a brown honda (1), a gray Honda (2), a blue Toyota Corolla (1), an older model Subaru (1), and a Chrysler Corporation K-car (1). Moreover, Foster's suit jacket was either: on the front passenger side seat (3), on the rear seat (2), hanging behind the driver's seat (1), or neatly folded over the passenger seat back (1). Furthermore, the lack of x-rays taken at the time of autopsy and the lack of identifiable fingerprints on the textured handle of the gun added to the absence of confirmatory data regarding the manner of death.

In spite of these issues, the following incontovertible facts appear established and developed in the Blackbourne and Lee reports:

1. Vincent Foster died from a single gunshot wound to the mouth.
2. Residue on his hands, glasses, etc. and blood and tissue matter taken from the gun describe this as a contact wound.
3. No signs of a struggle, e.g., other trauma, or evidence for the body having been moved to the location where it was discovered were in evidence. Furthermore, alternative access to this site, e.g., through the Rt. 123 access to the Park, was highly unlikely without being observed or recorded by a security camera from the Saudi compound.
4. Trace materials strongly suggest that the gun was transported from the Foster home, first in the oven mitt found in his car and, subsequently, in his pants pocket to the site of his death.

Psychological Autopsy

Basic Personality and Character

Descriptors used by interviewees with regard to Vincent Foster's basic personality were extraordinarily consistent in describing a controlled, private, perfectionistic character whose public persona as a man of integrity, honesty, and unimpeachable reputation was of utmost importance. The following verbatim remarks reflect these and related themes [numbers refer to multiple reporters using the same descriptor]:

Private: kept own counsel; not open; did not engage in casual conversation; very private [4]; tough to read; laconic; taciturn; carried confidentiality to extreme [2]; inward; introverted [4]; an internalizer; did not openly display emotions; strong, silent type; close to the vest; shut off; uncomfortable talking about personal feelings; kept distance from associates; difficult to get close to;...to get to know; quiet.

Always in Control; used to being in control [4]; rigidity; no resilience; (too) responsible; intellectual/thoughtful [2]; reflective; not given to rash judgments; disciplined; mild-mannered; calm; reserved [5]; sober/serious [3]; cautious [2]; restrained [2]; careful; never effervescent; an anchor, a rock; a Rock of Gibralter.

Perfectionist [7]; demanding; not tolerant of mistakes or sloppiness [2]; intense [6]; focused [2]; meticulous/methodical [2]; a detail man; lacked experience at failure; never seemed to have any difficulties; **Thin-skinned , not used to criticism**; did not like having honor questioned; moody; took too much to heart; paranoid.

Persona: Reputation (unimpeachability) [2]; Impecccable reputation [3]; lived his life to maintain his reputation; man of high principle, high honor; integrity/honesty [3]; ethical [2]; loyalty [2]; the perfect family.

Hobbies/Interests;Typical Patterns of Coping with Stress/Change

Foster's life, since arriving in Washington, was filled with long, intense and demanding hours of work. The relative comfort of his lifestyle in Little Rock and his civic/social involvements, theater, etc. were no longer in evidence. As well, his retreat in Michigan was not replicated in DC [neither was his advice to the University of Arkansas Law School graduation class to "Take some time out for yourself. Have some fun...Take an occassional walk in the woods...Learn to relax"] . Where he once exercised daily in the RLF gym, he now only had/took time to read and jog to "relax." Until the week before his death, he appears not to have taken time off. Religion as a protective factor was not significantly in his life.

Significant Relationships

Driven, self-reliant men value their autonomy and tend to avoid intimate relationships. Foster was an intensely private man whom few felt close to. His most significant relationships were with his wife, Lisa, and his three children. Since coming to Washington, and until early June when they arrived to stay, these relationships were strained by distance and the demands of his work; as were those with his working associates at the Rose Law Firm. Most significant among these was a falling out with a father figure at the firm, Phillip Carroll, and the change in his relationship to Hillary Rodham Clinton, a partner and friend, who now was in a conflictual role as a superior whom Foster was to protect.

In addition, he was close to his sister Sheila and her husband Berl Anthony, with whom he lived upon coming to DC. Marsha Scott may have been a confidante.

Communication Style

As noted above, Foster generally was not open with others. His role as a protector, as responsible and serious, was more important to him than his comfort with others as an emotionally vulnerable and communicative person. Significant changes in this controlled style were evident beginning in 1993 and escalated as he neared his death.

Note should be made here of his two written communications: (1) his Commencement Address, delivered in early May, which is a study in regret, and (2) the "Torn Note," allegedly written within two weeks of his death, which highlights his preocupation with themes of guilt, anger, and his need to protect others (see below).

Method/Familiarity/Knowledge/Frequency of Use

Foster was not known to use guns, to hunt or target shoot. The lethal weapon, however, was known to him and, most probably, was one (of several) confiscated from his parents' house in 1991, when there was some anxiety that his father might suicide with one of them; and packed in his suitcase when he moved to DC. Within two weeks of his death, his wife twice told him to remove the guns from their house. Upon learning of her husband's death, she reportedly went to a closet and found a gun was missing. Her behavior suggests an awareness of her husband's potential for suicide.

History and Recent Status:

Marital History/Children

Vincent Foster met Lisa while he attended Vanderbilt Law School; they married in April, 1968. This was the first marriage for both. There is a strong implication that there was considerable marital strain during the last several months after his move to DC. Lisa Foster's interview reported in the September 11, 1995 *New Yorker* quoted her as "unreserved about

voicing her feelings," "angry with Vince about 90% of the time," and "that it was not easy for us to console each other." Moreover, it is probable that his intense and stressful work life, in addition to their separation, had significantly and negatively impacted their sexual relationship.

Foster was described as "family oriented." His children, two sons and a daughter: Vincent W. Foster, III, Laura Foster, and John Brugh Foster, were born, respectively, in 1972, 1973, and 1975. The two oldest children described their relationship with Foster as "excellent" and "great." He appears to have been least close with Brugh. Foster was described as most anxious about the effect of the family's move on [redacted] Moreover, he felt responsible for his son, Brugh's unhappiness about being in DC.

Educational History

Foster graduated Davidson in 1967, entered law school at Vanderbilt, graduating from the University of Arkansas Law School in 1971. He graduated first in his class and had the top score on the Arkansas bar exam.

Military History

After 1 and ½ years at Vanderbilt Law School, Foster dropped out to enter the New Jersey National Guard, during the Viet Nam War, but decided to return to the study of the law at the University of Arkansas, during which time he was defered from military service..

Occupational History

Foster began employment at the Rose Law Firm (RLF) in 1971, upon his graduation from the University of Arkansas Law School. Until President Clinton's election, Foster's entire professional life was spent with the RLF. In January, 1993 he resigned his partnership with the RLF, arriving in DC for the innauguration. In Little Rock, he was on a pedestal, well-respected and admired. His work style was pressured by self-imposed demands for perfection; however, he generally had the luxury of a measured pace. At the RLF, "20 drafts" were possible. His May 8th (1993) Commencement Address to the University of Arkansas Law School graduates is replete with reflections upon and regret regarding the changes wrought by his experiences in Washington.

At the White House, Foster was second in command to Bernard Nussbaum with primary responsibilities for issues affecting the first family and their finances. Upon his death, several files were found in his office regarding open cases on which he was working. In addition, during early 1993 Foster had responsibilities relating to Whitewater, the White House Travel Office firings, various nominations, and the remodeling of the White House; all issues of considerable stress.

Medical/Physical Health History

Dr. Larry Watkins in Little Rock was Foster's personal physician since 1979. His records are relatively unremarkable. However, beginning in late 1992, there are signs of increased stress and complaints of insomnia, for which a prescription for Restoril (30 mg PRN) was ordered. Foster's weight ranged from 200# in 1987 to 207# in August, 1990 to 194# on 12/31/92. [Reports of Foster having lost weight during the spring of 1993 are not verified in these, or any other records; Foster's weight at autopsy was 197#]. Foster's blood pressure appears to have been mildly elevated, ranging as high as 140/90 in 1990; no treatments are noted.

Most notable is Watkins' characterization of Foster's insistent telephone call of July 19th as "unprecedented." Over the phone Watkins prescribed trazadone (Deseryl), a heterocyclic antidepressant, for what he referred to as symptoms of a mild depression (insomnia and anorexia), "lots of stress, criticism, and long hours." Watkins did not ask Foster about suicide ideation, nor did he refer him to a local (DC area) colleague for further evaluation, monitoring of medication effects, or psychotherapy. Watkins appears not to have any records regarding Foster's family medical history and did not know that Foster's daughter had been treated psychologically for her eating disorder.

Foster took only one (of 30 available) Desyrel (50 mg) the night prior to his death. One pill would have had no significant therapeutic effect as the majority of those prescribed this drug do not report benefit for at least two weeks' treatment.

The Friday before his death Foster admitted to his sister Sheila that he was depressed. This was most uncharacteristic of him. She passed three names of DC area psychiatrists to him. Foster attempted to call one of the three, but never connected. His lack of follow-through reflects his ambivalence about help-seeking and, perhaps, his feared vulnerability and paranoia about the confidentiality of mental health treatment.

Mental Health History -none; see above.

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Family Mental Health History

Both sisters (Sheila and Sharon)

Sheila believes both parents were depressed. Foster's father hinted to "family members that he might use a weapon to end his ...life" before his death from cancer in June, 1991. Vincent Foster expressed concern and removed multiple firearms from his parents' house.

Financial History

The Fosters lived well in Little Rock on his salary reputed to be almost $300,000 per annum. Foster took a sizable pay cut in moving to his White House position (see Commencement Address reference) and downsized his personal lifestyle in a more expensive

Washington, DC. References to a possible overdrawn credit union account appear to be unsupported.

Religious Involvement

Foster's religiosity was low. There are no references to church-related activity during his days in Washington.

Alcohol and Drug Use (licit and illicit) History

Foster was a social drinker and collected fine wines. No increase (in 1993) in his alcohol use was reported.

Evidence of Thought Disorder

None; although signs of paranoia in the late sping, 1993 were evident (see below).

Cognitions/Hopelessness/Negativity

Foster's drive for perfection masked his fear of failure and criticism. When criticism came, Foster responded to the public scrutiny and criticism with anger and anxiety. He feared these issues would "never die." The publicity "ate him up." He no longer was in control. He felt trapped and talked of resigning, but considered a return to Little Rock to be a "humiliation." But, his wife pressured him to stay ("You can't quit; I just got here."). He "saw no light at the end of the tunnel." He and his wife "compromised" that he would not leave his job until Christmas (1993), but Foster had too much guilt and sense of failure to last that long.

His admission to his sister that he needed help was a profound expression of his depression. Concurrently, he had concerns about the confidentiality of therapy.

Foster appears to have lost perspective in his thinking, "blowing [things] out of proportion" according to observers. Indeed, a reading of the *New Yorker* editorials does not lead the disinterested observer to anywhere near the same level of sensitivity or outrage.

Stressors: Anticipated/threatened changes/losses/transitions

1. The Move to Washington:

Foster missed his life in Little Rock (his house, being able to walk to work). In addition, the move was costly financially--Foster was living in a more expensive city on a lessened income in a "cramped house."

2. Family/Marital problems:

Foster's separation from his family in the early months of his job, then the increasing pressure from and demandingness of his wife about his long working hours led to

marital tension and an unavailability of each to the other, as well as probable sexual distance, etc. As a responsible family man these demands would have placed a burden on Foster and concomitant feelings of conflict (between work and home) and role failure. It is unknown what, if any, problems were surfacing with his children; however, there is clearly an emotional shift in his Commencement Address when he talks of his children ("The office can wait..."). That his [redacted] moreover, strongly indicates family conflicts.

3. Job Stress:

Foster was excited about and wanted an influential role in the Administration; but, soon was overwhelmed with the demands of his job: its long hours and seemingly never-ending emergencies; a lack of felt success as evidenced by the problems listed below; the immediacy of the White House pace, so different from the luxury of time afforded most of his work at the RLF where time and pace allowed his meticulousness to flourish. He now was "forced to fire at the hip" with the added demand to be correct all the time. Where he once was "the guy in charge;" he now was always on call to others. According to his wife, he "lost control once at the White House."

4. Role Failure:

Foster was known both as a star and as a protector of others. There were readily apparent cracks in the dike (see below): the failed nominations, Travelgate (and consequent blame shouldered by associate counsel Kennedy whom Foster felt was "scapegoated"), Hillary Rodham Clinton's upset with him, his wife's apparent unhappiness, etc., that placed in question his sense of self. According to his wife, he took these failures personally and hard. Foster reportedly was angry about the cost overruns in remodeling the White House, blamed himself as responsible for the failure of various nominations, e.g., Zoe Baird as Attorney General, and for the Waco Branch Davidian raid. It is probable that Whitewater issues also weighed heavily in the background.

5. Anticipated Hearings:

As an intensely private man, Foster was alarmed by the possibility of Congressional Hearings regarding Travelgate. He "thought the worst was yet to come," and was observed as "brooding" and "consumed." He told his daughter that a Congressional investigation might be "rough on the family" (see #4 above).

6. Tarnished Reputation:

As evidenced in his Commencement Address, Foster considered his reputation to be his "greatest asset" and "dents to [his] reputation...[to be] irreperable." Beginning with the June 17 *Wall Street Journal* editorial, public criticisms of him and his performance caused him "severe distress." He "hated to be on display; he was now being questioned in public. He viewed these articles as "trashing" him and attempting to "ruin the administration," again speaking to his failure as protector. He told his sister, Sheila, "We can't stop the bleeding."[see Role Failure, above]. He was angry and constantly tense. The "Torn Note," again, speaks eloquently to these foci.

7. Loss of Support:

Foster increasingly felt alone, responsible for failures, and untrusting to the point of an increasing paranoia. To Webster Hubbell he "would not speak openly over the phone," and "did not trust the walls of the White House." He told Jim Lyons that he "would not talk with him at the White House."

Evidence of recent change in behavior, mood, life style

There is little doubt that Foster was clinically depressed (see below) in early 1993, and, perhaps, sub-clinically even before this. Additionally, signs of intense anxiety (insomnia, "absently wringing his hands, pacing, tension, profuse sweating) appeared, perhaps reactivating earlier experienced panic attacks. He increasingly started his sentences with, "I just can't handle..." Numerous observations are documented of changes in his last few months, e.g., "His sense of humor wasn't quite as available;" "He was more reserved than usual;" " In last 2 weeks his tone of voice changed...he wasn't participating; he just wasn't there." He called in sick for two days during the week before his death. His morning call to Dr. Watkins on the 19th was "unprecedented." He did not get up to greet Marsha Scott, as usual (in their meeting on the 19th): He "seemed preoccupied; quieter than usual." On July 20th he "was very quiet;" "He was more reserved and non-responsive;" He was uncharacteristically anxious to get his lunch and seemed rushed to eat; He was distracted; the newspapers on his office table were left in "uncharacteristic disarray."

Future Orientation

Foster had a scheduled meeting on Wednesday, July 21 with Jim Lyons, his personal attorney, on legal issues related to "Travelgate." Telephone calls were placed to Lyons on Sunday night, the 18th, upon returning from the Eastern Shore and again on the morning of the 20th. It was understood that Foster was anxious about his vulnerability.

Foster's sister, Sharon Bowman, had arrived in town on the 20th. It is not known what or if they had any plans scheduled, although his calendar listed a dinner date with her later in the week.

Talk of Death or Evidence of Suicide Ideation

None known; however, in the last two weeks of his life his wife wanted the guns removed from their house. References to death are noted in two circled passages found among his belongings.

Evidence of Exposure

Foster recently (date unknown) watched the movie "A Few Good Men," which involved a

scene involving a gunshot wound suicide in the mouth. Foster's father was allegedly suicdal shortly before his death from cancer.

Specific Description of Behavior in Last Four Days Before Death

Foster's last 96 hours show clear signs of crisis and uncharacteristic vulnerability: He admits his depression to his sister, Sheila, and asks for help. His ambivalence about help-seeking is evident in his not following through to reach the one psychiatrist to whom he placed a call, and making no attempt to reach either of the other two names given him by his sister.

The weekend getaway to the Tidewater Inn was intended to relax him, but appears to have been a disappointment. He was stressed; tears welled in his eyes when he talked of feeling trapped. At the Cardozo's he was non-interactive and withdrawn. It is not known if there was any attempt at a sexual interaction (and possible performance failure) with his wife during the weekend. It is not known what the content of their discussions were, for example, in the car upon returning to DC. [Here it would be most helpful to have his wife's further observations and recollected verbalizations both during this weekend and in the car while in transit]. The night of his return to DC (Sunday), he evidently was immediately focused on (and anxious about) a possible Congressional inquiry. Immediately upon returning home he called his attorney, Jim Lyons.

By Monday, he turns, uncharacteristically, to Dr. Watkins and discloses enough to get medication, but not enough to alarm his physician to insist he be evaluated in person. He meets with Marsha Scott for what appears to be longer than usual. She has not been forthcoming about this meeting.

On Tuesday, he uncharacteristically asks about his wife's plans. Awaiting lunch he shows signs of impatience. It is unknown what he might have read in the paper, however the *Wall Street Journal* column regarding the FBI director's replacement appeared the day before and Freeh was presented this morning. Out of character, he leaves the White house in mid-afternoon (and leaves the newspapers in disarray on his table). It is probable that he developed his plan to suicide before this date and was ambivalent to the end about carrying it out. He knew his family's schedule on the 20th, most probably secreted the gun from his house in the early afternoon, and drove around for some time before arriving at a secluded, pastoral setting, at which he killed himself.

Indicators Signaling a Troubled Employee (Scale from Dietz)

1. Harsh criticism of others or self √
2. Difficulty concentrating, remembering, thinking, problem-solving, or decision-making
3. Ruminating/excessive preoccupation √
4. Negativity √
5. Inability to receive criticism and/or compliments √
6. Excessive vigilance and preoccupation about breach of rules or procedures √
7. Marked change in usual mamnner, patterns, or grooming √
8. Irritability, belligerence, hostility, insubordination, anger, temper tantrums
9. Excessive use of alcohol, drugs, compulsive gambling
10. Avoidance of situations and problem-solving
11. Consistently non-compliant, resistant, or uncooperative
12. Extreme mood swings, unpredictability
13. Problems with performance despite adequate training and motivation
14. Overwhelming emotional pain √
15. Blocked emotions; can't feel anything
16. Stuck feelings; can't get beyond anger, disappointment, sadness, or guilt over time √
17. Depressed, anxious, or angry mood √
18. Fatigue, exhaustion √
19. Eating and/or sleeping disturbance √
20. Inability to stand up for self
21. Strained relationships √
22. Inability to let go of a grudge √
23. Isolation; social withdrawal √
24. Consistent blaming of others √
25. Persistent unresolved conflict at work √

Indicia for Suicide

1. Depression, complicated by anxiety
2. Perfectionistic character
3. Self-blame; rage
4. Non-help seeker
5. Loss of security/connectedness
6. Cognitive rigidity
7. Work problems/stress
8. Marital stress
9. Lethal weapon accessible and available
10. Breakdown of usual defenses/coping strategies
11. Trapped/talk of quitting
12. Middle-aged, white male

Suicide Risk: Clinical Approach

1. Mental Status: Foster's judgment was severely affected by his depression and anxiety. His usual defenses and coping strategies showed signs of breakdown.

2. Presence of a Psychiatric Disorder:

A. Evidence for Major Affective Disorder (MAD)

loss of interest or pleasure ✓
loss of appetite or weight ??
insomnia ✓
trouble thinking, concentrating, making decisions ✓
reduced general activity level ✓
feelings of worthlessness ✓
perceived inability to cope ✓
loss of energy or fatigue ✓
hopelessness ? [trapped] ✓
less talkative ✓
social withdrawal ✓

Commentary: In addition to the diagnostic criteria above, there is sufficient evidence for a history of major depression in Foster's family. Affective disorders are the most important diagnoses related to suicide (Tanney, 1992), with proportional mortality by suicide as high as 26%. Males, ages 18-35, with major depression, are 32 times as likely to complete suicide as those in the general population (Boyer et al, 1992); studies have shown that up to 65% of completed suicides had a major affective disorder (Roy, 1982); suicides among those with major affective disorder are more common early in course of the disorder. (Maris, Berman, Maltsberger, & Yufit, 1992). Moreover anxiety (panic, obsessive-compulsive features, insomnia) increases acute suicidality in major affective disorder (Fawcett et al, 1990). Clear signs of anxiety and probably depression, as well, date back to 1992 (Dr. Watkins' records) and possibly to the time of his father's death.

2. Underlying Character Structure: Foster's character displayed an unyielding need for perfection in both his and other's eyes. He had self-imposed high standards, was competitive, hard-working, demanding detailed perfection of himself and others. He placed demands on himself for excessive achievement, to protect and be loyal to others, and to be strong (a "Rock of Gibralter," a "Tower of Strength"). To accomplish this he had to engage a critical self-scrutiny--in psychoanlytic jargon he had a harsh, punitive super-ego: to be "less than" was intolerable and unacceptable. He could tolerate self-criticism as a whip toward better performance, but could not accept external criticism. This type of thinking is unrealistic, but in Little Rock it generally "worked."

Most important to Foster was that he maintain his reputation, his public image for honesty and integrity, so well-achieved in Little Rock.

Commentary: Recent studies by Hewitt and his colleagues (Hewitt et al, 1992, 1994) have documented a significant relationship between perfectionism and both depression and suicidality, particularly when mediated by stress.

3. Help-seeking Interaction: Foster was not a help-seeker; he was private and fearful (paranoid?) about the consequences of seeking help for his depression and anxiety. He sought help only in his last few days and preferred the safety of his family physician, who asked few evaluative questions, to the immediacy and presence of other, unknown professionals in the DC area.

4. Behavioral: Foster was methodical and perfectionistic in character. He showed no signs of impulsivity. He was known to be moody, and, although not aggressive, was clearly angry at both others and self-blaming in his last few weeks. Generally his aggression was handled in a controlled fashion through a rigid demandingness of self and others. His history of handling stress was good. However, in his last few months there are clear and evident signs of a breakdown in his ability to cope with stress. He, uncharacteristically and unacceptably (to his ego) talked of quitting. There is no indication in his history of ever giving up or not engaging the battle.

5. Environment: A social support system, although present, was burdensome for Foster. He felt responsible for increasing family stress and was not/could not accept being supported at home. He kept his own counsel for the most part and did not have any clear intimate friendships. He disliked his living arrangements in DC. His daily routine was intense, filled with long hours of defending the fort. He did not work out physically as he used to.

A Suicide Paradigm

Death Before Dishonour

Litman (personal communication) has used the phrase "death before dishonour" to describe the suicides of executive personalities facing public disgrace, humiliation, disclosure of wrong-doing, etc. In essence, death is preferred to preserve one's identity. The suicide has an inability to tolerate an altered view of himself; suicide maintains a self-view and escapes having to incorporate discordant implications about the self. These types of suicides are typically complete surprises to others in the available support system.

Vincent Foster showed a real vulnerability and sensitivity to external criticism (rigid/fragile defenses). A number of negative life-events, now opened to public scrutiny by the *Wall Street Journal* articles and the threat of a Congressional Inquiry, posed serious questions of character and exposed him to feelings of failure and the threat of punishment. Mistakes, real or perceived, posed a profound threat to his self-esteem/self-worth and represented evidence for a lack of control over his environment. Feelings of unworthines, inferiority, and guilt followed and were difficult for him to tolerate. There are signs of an intense and profound anguish, harsh self-evaluation, shame, and chronic fear. All these on top of an evident clinical depression and his separation from the comforts and security of Little Rock. He, furthermore, faced a feared humiliation should he resign and return to Little Rock in disgrace. Foster felt trapped and had no felt hope of changing his circumstances in the near term. Feelings of hopelessness increases suicide risk significantly (see Figure 1).

Aware he was in trouble psychologically, Foster, nevertheless, was reluctant to seek help. This difficulty accepting the vulnerable position is common to successful executives. By the Friday before his death he was desperate; calling for names of psychiatrists was a clear public (and personally intolerable) admission of his failure. He was ambivalent and fearful about this help-seeking. Even his call to Dr. Watkins on Monday signals his attempt to minimize while announcing his depression to someone other than Lisa or Sharon (and, perhaps, Marsha Scott on the 19th).

Specific Questions:

1. **If Foster was intent on his suicide, why did he eat lunch?**

There is no study in the professional literature that has examined eating behavior prior to suicides. Gastric contents are usually not recorded on autopsy unless there is a specific reason to look and record.

Foster was ambivalent about his death until the end. His behavior on the 20th is consistent with this: He did not need to go to work if he was unambivalent in his suicide intent that morning. I believe the fatal decision was not made until lunch-time, perhaps triggered by something read in the newspaper. However, the plan to secret the gun from the home was probably formed over the weekend. In any event, even death row inmates, knowing they are to die within a short time, eat a last meal.

2. **Does the finding of semen on his boxer shorts reflect a possible sexual liason in Fort Marcy Park?**

No: involuntary urination, secreted seminal fluid, and defecation often occur upon death from any cause.

3. **Why did this death occur in Fort Marcy Park?**

If we accept the idea that Foster was ambivalent to the end and that he may have driven his car for some time after secreting the gun from his home, the following possibilities are apparent: he may have simply and inadvertently happened upon the park or he may have purposely picked it off the area map found in his car.

We know Foster valued privacy. He spoke in his Commencement Address of taking "an occassional walk alone in the woods." Similar to the typical male physician who suicides by seeking the guaranteed privacy of a hotel room, and a "do not disturb" sign, Foster, protective of his family, would be most unlikely to suicide at home, leaving the possibility of being discovered by his children as a legacy.

4. **Why was no suicide note left by Foster?**

First, it is less, vs. more, common to leave a suicide note. Only 12-15% of suicides leave a note; 85-88% do not (Leenaars, 1992).

Secondly, Foster, again, was intensely private, protective, and loyal to his family and the president/first family. It would be out of character for him to leave a disclosure such as a note.

Thirdly, I believe Foster was intensely self-focused at this point; overwhelmed and out of control.

5. **Why did the pressure get to Foster now?**

He was under an increasing burden of intense external stress, a loss of security, a painful scanning of his environment for negative judgments regarding his performance, a rigid hold of perfectionistic self-demands, a breakdown in and the absence of his usual ability to handle that stress primarily due to the impact of a mental disorder which was undertreated. He simply could not maintain control or see a way out. Most likely, the precipitating "event" that triggered his suicide was a complex of: dashed expectations of relief from the weekend away, anxiety pertaining to the possible Congressional inquiry, highlighted by the meeting planned with his attorney, and the Freeh nomination placed in the context of the *Wall Street Journal* column the day before.

Mode of Death Determination:

In my opinion and to a 100% degree of medical certainty, the death of Vincent Foster was a suicide. No plausible evidence has been presented to support any other conclusion.

At worst, there remains a lack of **additional** validating evidence answerable by a number of yet unresolved/unanswered questions posed by the unavailabilty of family members for direct

interview, a paucity of information regarding Foster's early childhood (which would help to better understand the formation of his character structure) and, particulrly, communications on the weekend of June 16-18, and the unknowability of other evidence, including the remote possibility that other documentation was removed from his office before it was secured two days after his death.

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Foster Suicide Paradigm

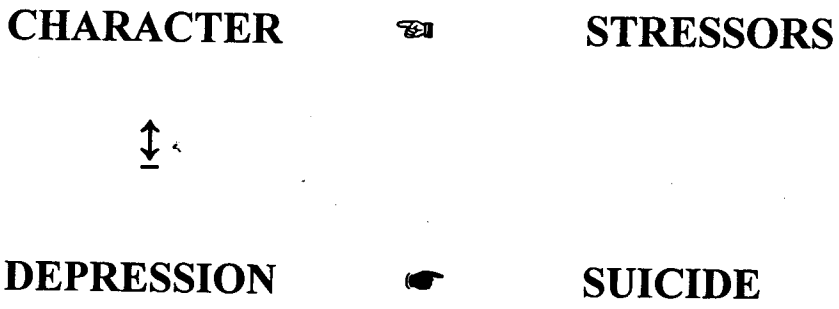

Figure 1

Addendum

Chronology of Major Events in Last Several Months

December, 1992

Foster tells Dr. Watkins he's under stress/has insomnia (post-election) and is prescribed Restoril. Weight = 194

January, 1993

Foster resigns RLF; arrives in DC on 20th for Innauguration; lives with Berl and Sheila Anthony.

March, 1993

Leases house

April, 1993

Receives buy-out from RLF building

May, 1993

Commencement Address delivered at University of Arkansas Law School: affect = flat; content = regret. Travel Office Report Issued. End of month: Dinner with Sheila, Webb Hubbell: "to cheer Vince up." Tells wife he wants to resign (two weeks prior to her arrival).

June, 1993

5th: Family moves to DC
8th Lisa notices Vince is emotionally down
2nd week: comments re seeking job with less pressure to Kennedy
17th WSJ editorial: "Who is Vincent Foster?"
24th WSJ Review & Outlook: "VF's victory"
29th Comments to Berl: "I spent a lifetime building my reputation and now I am in the process of having it tarnished."

July, 1993

2nd His sister (Sheila) last sees him at dinner, at which he confides his thoughts of resignation
Kennedy et al given formal reprimands
4th-20th: Lisa Foster twice tells him to remove guns; she and their eldest son call office to ask how he's doing (Gorham)
12th Telephone call to Berl re travel office/congressional inquiry -- asks names of

attorneys. Takes "unusual" day off

13th Talks to wife about resigning; looked "very tired" [Rutherford]

14th Talks with Susan Thomases about needing more legal help, anticipating congressional inquiry, and being unhappy. Calls Jim Lyons; pulls him out of deposition.

15th Wife expresses concern about account being overdrawn. Receives names of attorneys from Berl.

16th Telephone conversation with Sheila ("strained voice"); Admits depression, concerned about security clearance if sees Therapist; Sheila gives 3 psychiatrists' names; Foster asks re Eastern Shore getaway. Blood Pressure reading: 160/100; 10' later: 140/90. Calls/Books Tidewater Inn for weekend; Calls R. Hedaya, MD. Arrives home at 4:00 pm, leaves for Tidewater.

16th-18th: "very upset/emotional" at Tidewater; tearful. At Cardozo's: jogs with Harolyn Cardozo; not interested in watching tennis, did not want to stay for dinner, more withdrawn.

18th: At home, 6:00 pm: speaks with Jim Lyons regarding meeting on the 21st. Talks by phone with mother: "sounded unhappy"

19th: jogs in morning. WSJ article published: Review & Outlook: "What's the Rush" (re Freeh nomination). Makes "unprecedented" call (10:30 am) to Dr. Watkins, reports he is not eating well, not sleeping well, depressed. Watkins prescribes 30 tabs trazadone (Desyrel): 50 mg.

Marsha Scott spends 20-30' [afternoon] and/or 1-2 hours in a.m. with him, discusses weekend. Foster did not get up to greet her ("unusual")--seemed more relaxed. Tells her he's "going to get some rest." Sends life insurance payment

Evening: takes 1 Desyrel 50mg

20th: Does not jog

8:30 am: leaves for work: according to his wife his "mood [is] better." He, uncharacteristically, asks about her plans for the day

8:50 am: at work; has breakfast

10:00 am: attends Freeh nomination Rose Garden; makes "weak" response to Nussbaum's comment about "2 home runs."

12:00-12:30 pm: Orders then eats hamburger, french fries, coke, some M&Ms; expresses impatience with time taken to get luch); reads news clippings.

12:45 pm: appears "distracted" to Chadwick and Tripp. Tripp conjectures he's "very distressed" re an article in the paper.

1:00 pm: Leaves office, stating "I'll be back" to B. Pond; does not respond to Tom Castleton's "so long." He has his suit jacket with him.

1:10 pm: leaves the White House in his car.

3:05 pm: car possibly seen by J. Ferris making abrupt cut into Fort Marcy Park

4:15 pm: Knowlton sees Honda at FMP

5:10 pm: Wife calls ofc

5:15-5:30 pm: Doody/Feist arrive FMP - leave car @ 6:00 for walk

5:30-5:45 pm: CW discovers body
6:00 pm: 911 call from Swann
6:03 pm: US Park Police receive notice
6:10 pm: Gonzalex & Fornshill discover body
7:15 pm: Medical Examiner arrives

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BLAIRS, JIM + DIANE

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Sharon Bowman

SHARON BOWMAN-
TUOHEY

FOIA(b)(6)

Outline of Major Issues for Interview of Sharon Bowman

* general background re: family
  -- father's death
  -- history of depression and suicide in Foster family (note that [redacted] [redacted]

* general background re: Foster
  -- his interests
  -- his marriage
  -- his children (Sheila noted problems with children before)

* Foster's visit to Arkansas in May 1993
  -- any notable events, conversations
  -- any mention of Travel Office

* why were you visiting Washington July 20, 1993
  -- any sense that Foster had been depressed (from conversations with Lisa or Sheila?)
  -- did you see him
  -- where were you staying
  -- had you made arrangements to visit him at White House

* gun?

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

SHARON BOWMAN, sister of VINCENT W. FOSTER, JR. was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Ave., N.W., Washington, D.C. (WDC), regarding events that may have contributed to the death of her brother. Participating in the interview were her attorney, JAMES HAMILTON, of the law firm of Swidler & Berlin, 3000 K Street, N.W., WDC and Mark Stein, Attorney, Office of the Independent Counsel (OIC). After being appraised of the purpose of the interview and the identities of all parties participating, BOWMAN thereafter provided the following information:

BOWMAN did not consider herself to be a close confidant of her brother's. She further noted that in the recent past, she had had infrequent contact with her brother. She was not aware of FOSTER's depression until after his death.

BOWMAN was aware that FOSTER's spouse, LISA FOSTER, was concerned about her husband (VINCENT FOSTER). BOWMAN did not know what that concern was about.

After VF came to Washington

BOWMAN arrived in Washington, D.C. on July 20, 1993, the day of FOSTER's death. This trip was BOWMAN's ~~first~~ visit to WDC. After VINCENT FOSTER came to Washington as part of the Clinton Administration, he returned to Little Rock on a couple of occasions. The last time BOWMAN saw FOSTER was in May, 1993 when he returned to Arkansas to deliver a graduation speech at the University of Arkansas Law School. During his stay, FOSTER appeared to be tired which BOWMAN attributed to knowledge of FOSTER working long hours. BOWMAN was aware that FOSTER was under a great deal of stress with his job.

In describing her brother, BOWMAN used the word reticent with regard to his personality. In conversations between BOWMAN and FOSTER there was no talk of what he was working on at the White House.

BOWMAN was aware that FOSTER was working long hours in the White House Counsel's Office. From LISA FOSTER, BOWMAN was

FOIA(b)(7) - (C)

aware that FOSTER was disturbed by the burning of the David Koresh compound in Waco, Texas, and was concerned with "Travelgate." BOWMAN did not recall any reference to the Wall Street Journal articles that she is aware of since FOSTER's death that may have been a contributing factor to his depression.

Regarding the gun that was found at the death scene, BOWMAN was aware that her father owned several guns. These weapons were recalled to be hunting rifles and several pistols. BOWMAN used the term "pistol" in a generic sense for handgun. BOWMAN was aware that VINCENT FOSTER, SR.'s will was written by BERYL ANTHONY's daughter, indicated who the senior FOSTER's gun collection would go to. BOWMAN did not have any strong concern that her father would use one of the guns in his collection to take his own life. VINCENT FOSTER, SR. had made an offhand comment that caused ~~SHELIA ANTHONY, her sister~~ SHARON BOWMAN, to acquire the guns from the senior FOSTER's residence.

VINCENT FOSTER, SR. maintained a gun in ~~his~~ bedside table, ~~which was known to have been taken from him~~. This particular gun had previously been identified by BOWMAN. BOWMAN believed that VINCENT FOSTER, JR. took the guns out of her father's house upon her father's death. The afternoon of VINCENT FOSTER SR.'s funeral, SHARON BOWMAN showed one of the guns to her son. At that time the guns were taken by VINCENT FOSTER, JR. BOWMAN recalls that she received two guns. She was aware that one of the guns was a ".22 automatic pistol." BOWMAN thought BERYL ANTHONY may have some of the guns but was unsure. BOWMAN remembers that her father had a gun similar to a revolver that was displayed to her during the course of the interview. She remembered the detailing on the handle of the gun but remembers the handle on the gun she saw to be brown. Upon reflection she could not be sure about the color of the handle. BOWMAN ~~thought~~ stated her father ~~may have~~ had a gun similar to the gun she was displayed in the course of the interview, in his bedside table.

BOWMAN does not recall FOSTER, SR. having made mention of the weapon that was displayed to her in the course of the interview. BOWMAN admitted that she had never really carefully examined the gun that was thought to have come from her father's night table. BOWMAN was unable to say whether the gun that was displayed to her during the course of the interview belonged to her father.

BOWMAN believes that her son may have been fascinated

by the fact that the gun was a Colt revolver. BOWMAN's son, LEE FOSTER BOWMAN, can be telephonically contacted at telephone number, (212) 412-6859. As far as the color of the handle of the gun being brown in color, BOWMAN believes the earlier reference to the gun having a brownish handle may have come from JOHN SLOAN who showed her a photograph of the gun subsequent to her brother's death.

BOWMAN did not recall if the pistol in her father's bedside table was loaded. BOWMAN was aware that her brother, VINCENT FOSTER, may have gone back to their father's residence at a later time and acquired ammunition for the weapon believed to have come from her father's bedside table. BOWMAN does not have any old ammunition in her possession. BOWMAN was unable to provide any further information of investigative value.

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Cheey / Brawn

Cheryl Braun

Reports

- 144 -
- Rolla Report
- Evid Report - Body
- Evid Report - Car
- Evid Report - Keys — Car keys, other } into Evid locker

Pre-July 20

- Training - 6 week Course (Harvard Train)
  - 120 days OJT
- Plain Clothes Investigator - 1 yr. - 1½ yr.

July 20

- call from Anacostia
- Knew of Ft. Marcy
- arrived w/ radio
  note book
  John Doe
  Blonde Hat

6:35

brief case
- rope (cut
- rubber gloves
- Canvas - blue or Small
  beige & black

wp photos -
Pete Smith
hand

- Parking lot

See diagram

- talked to Gavin
- " " Speth ← Doug Feist

- Foster's car

  - told by Fuerstle that car VF loc. of clothing - how known?

- CB - went to car w/ Rolla + Apt (waiting for Simonds to arrive)

  - looked at car

    - Gray ~~Buick~~ Honda
    - Axle plates — told Apt or Rolla to run plates in system (also checked others)

  - d/l found or knew car locked or unlocked

  - looked inside from passenger side
    - map on floor
    - jacket on pass seat
    - canvas bag
    - AO briefcase

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FOIA(b)(7) - (C)

- At this point - went to scene
advised by [redacted]

6:50 - 6:55

- Saw SGT [redacted]
(EMTs gone)

- gave CB 2-3 polaroids
- had camera in hand
- assumed Edsel took

- knew from what told
- descrip of scene
- of an age
location
gun in hand

-

- looked at scene - from head of VT

- dense foliage (canopy)
- on incline 45°
- head at top
- arms at side
- went to mid torso
- saw gun - cupped in hand

Rollo (Polaroid)
Apt
(35mm)
- polaroid)

- saw in standing over head

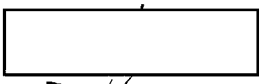
- moved to mid-torso

FOIA(b)(7) - (C)

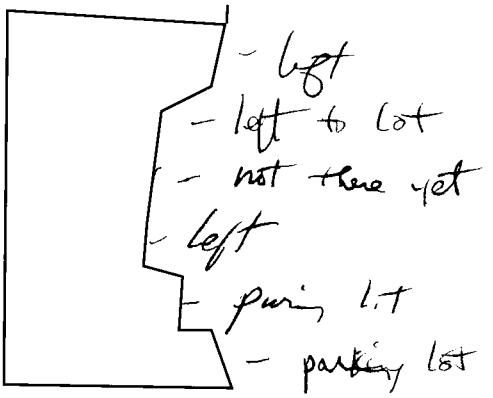
- Apt - record what was going on
  - did so

-144? - NO

- who else at took -



Rolla
Apt



- Rubber gloves
  - CB had on civilian clothes
    - black slacks
    - denim sleeveless shirt
    - black blazer
    - white gloves

PS took - Rolla - in civilian clothes
- white short sleeve shirt

- picture - John Rolla

- slow trailing blood transfer pattern

- Told Rolla to take photos w/ polaroid given by Pete Simonella

he did so

NB
- left Rolla + Apt
- conduct investigation
∴ they took notes

NB. Expense issue — sometime Hr. [redacted] mentioned that some photos did not come out
- something wrong w/ camera
- good thing polaroids

FOIA(b)(7) - (C)

NB Rolla - prior photo experience - d/n/k

- NO log for photos

NB - Video camera on sight - did not use bec. tailored suicide - PS determined

Rolla - pola - [redacted] camera - not used

[redacted] - 35 [redacted] photos - to Det

time noted was time started

See note on photo 19:30

- CB went to parking lot — 7:25 - 7:30

- escorted Watson + college intern to body (Sgt Hunt – random patrol – stopped by to help)

- Rolla told CB he did not find keys or Id

- Went back to parking lot

- CB at car — wearing gloves on

- PS at car

→ opened front pass door - unlocked

Photo #1

→ picked up coat - in fold of coat with Id

FOIA(b)(7) - (C)

— advised [redacted] to call Comm to advise [that] WH person

— NB [redacted] dead not DOA - Hr

Boarding pass from Comm - checked

CB double checked and not done

Main comm # 619-7105

(on cellular phone)

Check whether recorded or tape link

near 8:30

[redacted]

getting dark

– CB then called Comm + spoke to Patty O'Brien – told Lt. Gavins that W/I person

– used cellular phone rather than radio to avoid press monitoring

Photo #2 → Pass side Rear

JUNK – cigarette box

– beer can

Photo #3 → Driver Side Front

– storage pocket

Photo 4 → Driver Side Rear

Photo #5 → Car

→ called flat bed truck to facilitate towing
bec no keys found

— N.B. Black Briefcase shown in photo #5
appears to be USPP issue briefcase
and CB believes it is hers

(USPP)
— brown paper bag as case
wood contained
VF coat

— NB only photos - 5 polaroid

→ ~~CB went to hospital~~
Dr. Hrapt arrive — Fuerstel accompanies
to body

→ Ambulance arrives

→ Fuerstel accompanies Amb to hosp

FOIA(b)(7) - (C)

— body put body bag — transported

— CB w/ Rolla to Printers

— on way phone call from [redacted] — David Watkins (friend of Foster) wanted to accom USPP to

— Rolla called D.W., got directions to Watkins home

— got to house — opened both bag in morgue — found 2 sets of keys in pocket

— CB had suspicion that keys fell in pockets

— CB went to DW house

— got call from [redacted] — USPP contacted by WH CO — Kennedy & Livingston

wanted to see body. CB made

decision to OK the ID process at morgue. (Team Rock Hoop)

→ Watkins House

— DW got in USPP car (wife [to] follow)
(had played tennis w/ Lisa Foster)

— Q to DW — had noticed VF depressed earlier. a knew reason why suicide

A: only thing — Travelgate scandal would bother

— fixings

— Foster Home

- narrow; parking tight; parked at end of street & walked back
- saw several cars parking; Watkins said Webb Hubbell - Sheila Anthony - Sharon Bowman

around 9:45 - 10:00 — CB rang bell

CB JR

Waiting

Hubbell et al still up street

- told Laura to get mother
- LF came down in robe
  - Hubbell came in
- JR/LA approached LF
  - said Mrs Foster have to tell you ~~[illegible]~~ He is dead

- LF - ~~became~~ hysterical
- CB - comforting Laura
  - could not establ rapport w/ LF

Ask JR — LF asked JR if he killed himself w a gun or gun in mouth

- hectic — many people came in
  - phone off hook

- N.B. CB talking to Sheila Anthony — not upset & talking to CB
  WH pushed her out of way & took Sheila in arms
  " took her out of room

re: if she had known or had indication about departure

W/I conduct Q&A

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* ~~NB~~ SA SB) Steered in control of questions (uncharacteristic)

- 2-3 minutes of conv. before it happened
  - built some rapport
  - had started to ask if she knew of anything but being busy, family matters

-NB CB Hr. found out that [redacted]

President entered

FOIA(b)(7) - (C)

- Before leaving -

CB approached Watkins

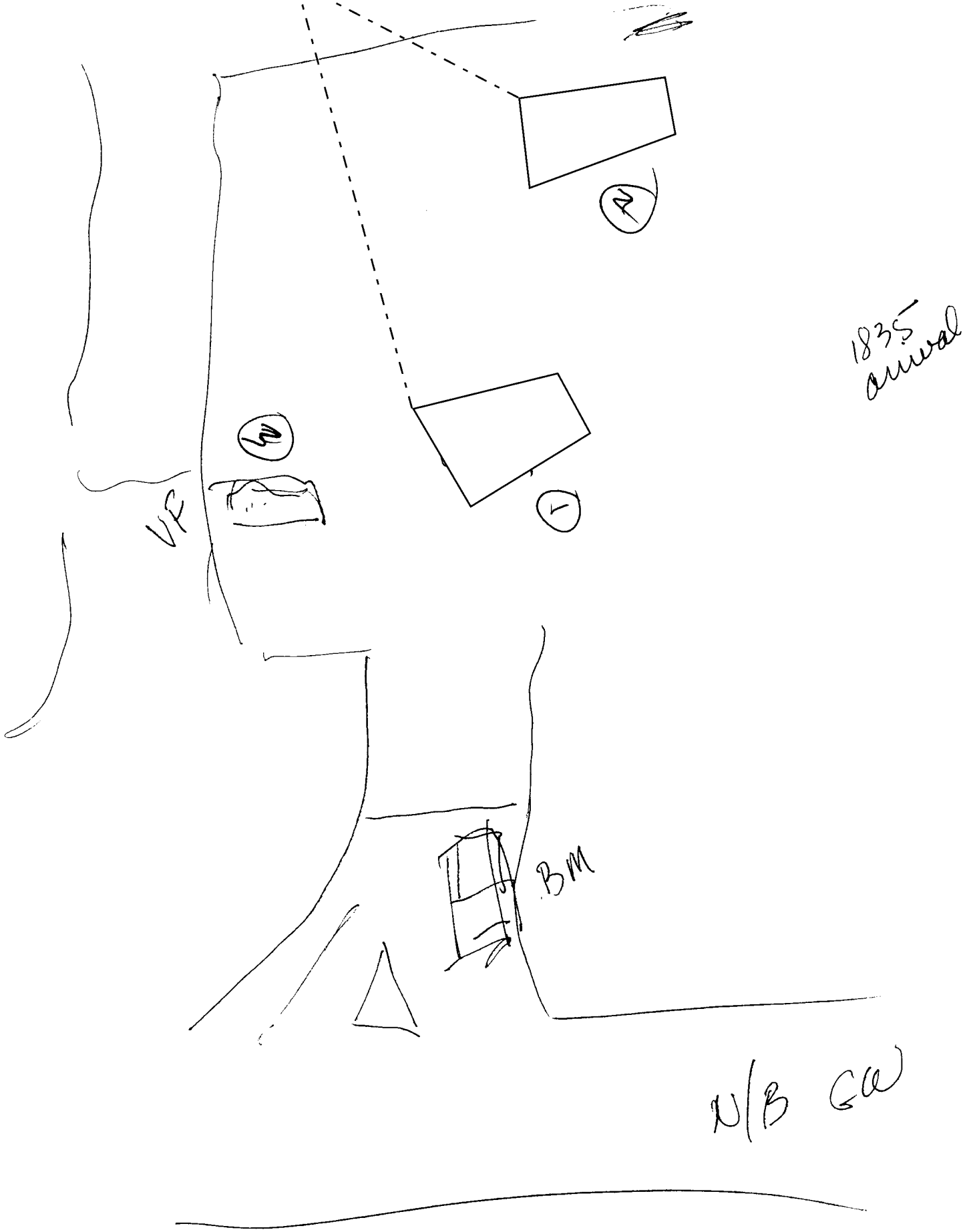
- Watkins - do not do pres release just yet (mother)

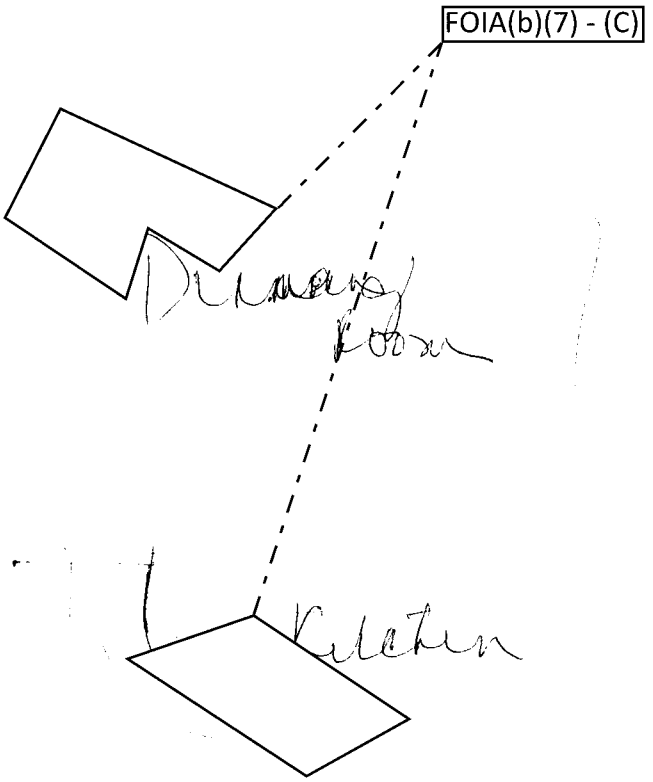
CB - would wait

- CB - would you insure office is secured so that we can send someone in a.m. to look through papers to look for suicide note

DW - acknowledge request + take care of it

FOIA(b)(7) - (C)

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CASTLETON, TCN

① File → CASTLETON

Chris Todd / Jeff Lamken

① no resume
② personal statement ⇒ bright lines //
* proposal
CT: ↳ if call him as a witness, //

[CT will keep it]

Personal Document

SLAMS WH IMPLICITLY

③ shorter statement — NO NEED

④ personal statement - VWF

⑤ dibb personal statement (Sept. 1994 ?)
↳ para. pp. 1-2 relevant

⑥ Synopsis ab. W.H. experience
- reputation

⑦ personal statement
rough draft

* CT will Bates-stamp when gets back + send letter confirming
↳ agree to keep them

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②

OTHERS

taking gant prop. ⇒ he works

① he has copy of
① May 10, 1994 ⇒ index

↓

CT keep them, # them

→ TC won't have access to them

② earlier draft of index
* 1st sentence + last sentence
* drafts of indices

* → CT trying to avoid is having to go back to W. H.

* → double-check draft index

→ one shown to him dated May 3, 1994, and not "privileged + confidential"

* → check both May 3 and May 10

(3)

(*) May 26, 1994 TC memo to file

redacted
↳ in entirety

(*) don't need work product

* May 26, 1993 letter from Bumpers

BK: do we have it w/ note from TC to SNs in top right corner

CHECK

(*)

(*) Feb 25, 1994 — morning digest re: Foster death invest ⇒ Clinger Report

(*) Bumpers inquiry
↳ want handwritten notes on news summary

(4)

- internal docs

- index DG's desk

↳ already have it but need it

billing records ?

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

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COYLE, DEBORAH

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Date: *April 7, 1995*

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Fax: *(202) 514-8802*

Re: *Deborah Coyle*

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April 7, 1995

VIA FAX NO. (202) 514-8802

Brett Kavanaugh
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Mr. Kavanaugh:

Please contact me at your earliest convenience.

Thank you.

Sincerely yours,

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

James V. Doramus

JVD/tmk

Miriam + Paul

* Travel Office
  - before Foster's death w/ Fostes
  - any conversations about VWF
  - VWF

clearly does not involve

- RTC referals

9:30 Wednesday

****
*** ACTIVITY REPORT ***
****

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2 areas - caution

① legal services BK provided for Mrs. K for Whitewater at Rose — WAIVED

② conversations + actions during campaign of 1992 w/r/t Whitewater w/ Lyons + Loretta Lynch - docs

dual role

③ PRIVILEGED - mtg. at W+C in early Nov. 1993

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[redacted] – WALL ST. JOURNAL LAWSUIT

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty Savings & Loan Association	Division No. 94-1

APPENDIX OF NEWS ARTICLES CITED IN CONNECTION WITH DOW JONES & COMPANY, INC.'S MOTION FOR DISCLOSURE OF AND ACCESS TO REPORT OF FORMER INDEPENDENT COUNSEL ROBERT B. FISKE

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213TH STORY of Level 1 printed in FULL format.

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December 21, 1993, Tuesday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1131 words

HEADLINE: White House Took Clinton Files After a Top Aide Killed Himself

BYLINE: By JOHN O'NEIL, Special to The New York Times

DATELINE: WASHINGTON, Dec. 20

BODY:

The White House said tonight that personal financial files of President Clinton and his wife were **removed from the office** of Vincent W. **Foster** Jr. after his suicide before Federal investigators had a chance to examine them.

Mark D. Gearan, the White House director of communications, said the files that were removed included **documents** relating to the Clintons' personal tax returns and their investment in an unsuccessful real estate company, the **Whitewater** Development Corporation, which is a subject of the Federal investigation into a failed savings and loan in Arkansas.

At the direction of the White House counsel, Bernard W. Nussbaum, Mr. Gearan said, personal files of Mr. **Foster,** a deputy White House counsel who shot himself on July 20, were also removed without being shown to investigators.

Files Sent to Lawyers

Mr. Gearan's statement provided a solid link between Mr. **Foster,** a longtime personal friend of the Clintons who had handled many of their financial dealings, and **Whitewater,** about which details of the Federal investigation have become known in recent months. The disclosure raised as many questions as it answered -- notably, why the White House waited so long to acknowledge the existence and the removal of the **Whitewater** files.

A Justice Department spokesman said tonight that the Department had not yet been officially informed that the papers had been in Mr. **Foster's** possession. Investigators complained last week that the White House was being uncooperative in helping determine if the files even existed.

A senior White House official who would speak only if not identified said tonight that the Clintons would "cooperate fully" with a Justice Department investigation into the circumstances surrounding the death of Mr. **Foster.** But the official added that "we would reserve the right to invoke certain principles if appropriate."

"The President and the First Lady are entitled to the same privileges as other citizens when it comes to their personal records," he said. "Lawyer-client

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privilege still exists."

Legally, several lawyers said, there is little doubt about the applicability of that privilege, although it would be difficult to withhold **documents** from a criminal investigation. And the politics of the situation could make such an assertion of privilege difficult.

The Clinton files were sent to the Clintons' personal lawyer in Washington, David Kendall, while the **Foster** files were sent to the **Fosters** lawyer, James Hamilton, Mr. Gearan said.

Whitewater Development was created in 1978 by James McDougal, who owned the failed Madison Guaranty Savings and Loan; his wife, Susan; Mr. Clinton and his wife, Hillary Rodham Clinton. The four had equal shares, but the Clintons have insisted that their role was passive and that Mr. McDougal made all the investment decisions.

The intent, Mr. McDougal has said, was to buy lots in the Ozarks and sell them for second homes. In interviews in 1992, Mr. McDougal asserted that he contributed a disproportionate share of the money to a venture in which both couples were to share profits equally.

In an interview tonight, Mr. Nussbaum concurred with Mr. Gearan's account of the division of the records in Mr. **Foster's** office.

"I acted like any lawyer worth his salt would act," Mr. Nussbaum said. "The Clintons' personal legal files went to their personal attorneys. The **Fosters'** personal files went to their personal attorneys, and the files for Vince's White House work stayed in the counsel's office."

'They May Get Them'

White House officials insisted last night that the President had the right to maintain control over his personal files and that investigators would have to direct their requests for that information to Mr. Kendall.

Mr. Kendall could not be reached for comment tonight.

"If investigators want any of those files, they just go to the people who have those files," one official said. "They may get them, if there is no privilege attached to those files."

The Justice Department spokesman declined to say tonight if the department would seek access to the files. Investigators are looking separately into the circumstances surrounding Mr. **Foster's** death and into the financial dealings of Mr. McDougal.

Ever since the initial sense of shock subsided at the White House over the death of Mr. **Foster,** Administration officials have insisted that everything relevant had been made known and that the suicide stemmed from a case of depression.

On Aug. 12, Mr. Gearan said President Clinton was satisfied with the way the investigation had been handled.

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Nothing that has arisen since then has provided any suggestion of any other motive for Mr. **Foster's** suicide. But the handling of Mr. **Foster's documents** has kept a Justice Department inquiry alive and proved embarrassing for a number of White House officials, particularly Mr. **Foster's** boss, Mr. Nussbaum.

The first White House official said Mr. Nussbaum made the decisions about what files to provide investigators.

Acting under the assumption that the initial inquiry into Mr. **Foster's** suicide in a Virginia park was concerned primarily with the narrow range of facts about his death, Mr. Nussbaum set aside files that seemed to him to be irrelevant, the official said.

Among those papers Mr. Nussbaum set aside, Mr. Gearan said, were files pertaining to the filing of the tax returns by the Clintons and by **Whitewater and documents** about the disposition of the Clintons' interest in **Whitewater.** Mr. Geran's statement came after an article today in The Washington Times, which asserted that papers concerning **Whitewater had been removed** from Mr. **Foster's office** during two searches.

The Clintons assert that **Whitewater** was a money-losing corporation. A reconstruction released last year by the Clinton campaign stated that Mr. McDougal and his wife put up $92,000, and the Clintons $68,000. This **document,** released by the Clinton campaign in response to a 1992 report in The New York Times, acknowledged that the calculations were estimates and that some records were not available.

A Federal investigation into the failure of Madison Guaranty, Mr. McDougal's savings and loan, focused new attention on **Whitewater,** Mr. Clinton's share of which was sold back to Mr. Mcdougal at the end of 1992. Federal officials said investigators found evidence that Mr. McDougal was diverting money from Madison to several of his real estate ventures, including **Whitewater.** Bank records show that **Whitewater's** checking account was permitted frequent overdrafts, the Federal officials have said.

The Resolution Trust Corporation, the Government agency that disposes of failed savings and loans, asked the Justice Department to examine whether any transaction violated Federal banking laws.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: December 21, 1993

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The Wall Street Journal
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Monday, January 31, 1994

Politics & Policy

Madison Employees Say Executive Promised Reimbursement for Contributions to **Clinton**

By Bruce Ingersoll
Staff Reporter of The Wall Street Journal

Corrections & Amplifications

TWO ARKANSAS STATE AGENCIES rented space in an office building and a renovated service station owned by **Madison** Guaranty Savings & Loan in 1985 for a total of $7,432 a month. An article Monday incorrectly reported that the rent on the service station alone totaled $7,432.

(WSJ Feb. 2, 1994)

LITTLE ROCK, Ark. -- Employees at a savings and loan owned by Bill **Clinton's** former business partner James McDougal had a secret incentive to make a political contribution in 1985 to Mr. **Clinton,** then governor of Arkansas. It wouldn't cost them a dime.

The employees contend in interviews that a **Madison** Guaranty Savings & Loan executive promised that they would be reimbursed for whatever they **contributed** at an April 1985 fund-raiser to help retire Mr. **Clinton's** 1984 **campaign** debt of $50,000.

H. Don Denton, a senior vice president, says he was reimbursed for a $500 contribution, but refuses to say whether he was repaid by Mr. McDougal or with **Madison** Guaranty funds. "It could be incriminating," Mr. Denton explains. If **Madison** funds were used, such reimbursement could be an illegal misuse of federally insured deposits; if Mr. McDougal's own money was used, it could be an evasion of political contribution limits under state election law.

There is no evidence that either Bill or Hillary Rodham **Clinton** knew of the alleged fund-raising gambit. But it promises to be yet another political embarrassment arising from their entanglement with Jim McDougal, the S&L executive who rode **Madison** Guaranty $50 million into the red while favoring politicians with loans and investment opportunities. Robert B. Fiske Jr., the newly appointed

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special counsel, is setting up shop here in Little Rock, taking over the government's investigation of the **Clintons' Whitewater** Development Co. partnership with Mr. McDougal.

Federal investigators are trying to determine whether **Madison** Guaranty funds were illegally diverted into the **Whitewater** vacation-home development in northern Arkansas or into the campaign coffers of Mr. **Clinton** and other politicians. Of special interest are the funds raised at the cocktail party that Mr. McDougal hosted in his thrift's art deco lobby.

Among the 50 **Madison** employees, directors and borrowers in attendance was a senior executive who helped Mr. McDougal solicit contributions. The executive, who would speak only on the condition of anonymity, says he may have made a contribution himself -- he doesn't recall whether it was $500 or $1,000 -- with the understanding that he would be paid back.

Davis Fitzhugh, vice president of a **Madison** subsidiary, says he was approached by this executive, but declined to go along with the fund-raising stratagem. "I was left with the distinct impression that I would be reimbursed," says Mr. Fitzhugh. "It wasn't something I wanted to get involved in."

Meanwhile, another employee, Larry Kuca, who at the time was managing a **Madison** real-estate venture on **Campobello** Island off the Canadian coast, says he **contributed** $1,000 to Gov. **Clinton** at Mr. McDougal's request, but without a promise of repayment. Instead, he says, Mr. McDougal pointed out how much Mr. Kuca would be reaping in real-estate commissions.

These contributions, all personal checks, helped swell the total take from the fund-raiser to about $30,000. Federal investigators already are inquiring about $12,000 in cashier's checks issued by **Madison,** including some from Mr. McDougal's personal and corporate accounts. One check for $3,000 bore the name of Ken Peacock, son of a **Madison** director and a major borrower. At the time of the fund-raiser, Mr. Peacock was a 24-year-old college student. Last month, he denied making such a contribution. Investigators are also trying to trace the source of funds for a $3,000 cashier's check from Mr. McDougal.

Mr. **Clinton** used the **contributions** to help pay off the $50,000 loan that he had obtained from a bank in Cherry Valley, Ark., toward the close of the 1984 **campaign.** Federal investigators have subpoenaed records from the Cherry Valley bank as well as whatever records are still available from the 1984 campaign. Certain records, including the list of contributors from the fund-raiser, have been discarded or lost.

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Mr. McDougal, who couldn't be reached for comment, has denied illegally funneling money into the campaign or the **Whitewater** venture. His attorney, Sam Heuer, says Mr. McDougal "didn't do anything wrong" and dismisses the notion of employee reimbursment for contributions as just "another smoke trail."

For Mr. McDougal, throwing a party for the governor was hardly extraordinary. By all accounts, Mr. McDougal, a failed politician himself, reveled in hobnobbing with elected officials. He also sought to ingratiate himself by doing financial favors, such as cutting the **Clintons** into the **Whitewater** real-estate deal in 1978 and putting Hillary **Clinton's** law firm on a $2,000-a-month retainer in April 1985, after the governor had complained about being financially strapped.

"McDougal bragged about what he could get done, about greasing the skids," says Mr. Fitzhugh.

And it appears that he did get things done, such as finding renters for office space at **Madison** Guaranty. The Arkansas Development Finance Authority, a **Clinton** brainchild, moved into the thrift's's maroon headquarters in 1985, when offices in a more convenient location, Little Rock's financial district, were going unrented at comparable rates. Another state agency leased a McDougal-renovated service station across the street from the S&L for $7,432 a month. Adding to Mr. McDougal's image as a man who could get things done was Mr. **Clinton's** March 1985 appointment of John Latham, **Madison** Guaranty's chief executive officer, to the Arkansas Savings and Loan Board.

In banking and political circles, before Mr. McDougal was ousted from **Madison** by federal regulators in mid-1986 and tried and acquitted of bank fraud charges in 1990, he was widely admired for his folksy charm and persuasiveness.

Mr. Kuca recalls how Mr. McDougal telephoned him on **Campobello** Island and talked him into **contributing** $1,000 to Gov. **Clinton.** "It wasn't 'give the money or else,"' he says. "It was actually very polite." At the time, Mr. Kuca was earning $100,000 a year in commissions plus a small salary selling oceanfront lots. "He pointed out how well things were going," Mr. Kuca says. "He didn't have to be crude about it."

On the other hand, the **Madison** executive who solicited contributions in Little Rock was decidedly more blunt, according to Don Denton, the thrift's senior vice president: "He said, 'I need a check for $500.' I made out my check to Bill **Clinton.** I was reimbursed for it."

---- INDEX REFERENCES ----

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LEVEL 1 - 125 OF 154 STORIES

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March 4, 1994, Friday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1508 words

HEADLINE: Grand Jury Is Reportedly Told Of Shredding at Little Rock Firm

BYLINE: By STEPHEN ENGELBERG, Special to The New York Times

DATELINE: LITTLE ROCK, Ark., March 3

BODY:

An employee of the Rose Law Firm here has told a Federal grand jury that in late January he was ordered to destroy a box of documents from the files of Vincent W. Foster Jr., the White House lawyer whose suicide is under investigation by an independent counsel.

People familiar with the testimony of the employee, an in-house courier, said he had told the grand jury that he and a colleague had used a shredder in the firm's basement to destroy the papers. He testified that he had done so at the request of a clerk in the firm.

The firm's former partners include Hillary Rodham Clinton; Webster L. Hubbell, the Associate Attorney General; William H. Kennedy 3d, an associate White House counsel, and Mr. Foster, the deputy White House counsel who committed suicide in July. All left the firm to go to Washington last year.

The courier, a college student who is among several assigned to run messages and errands, told the grand jury on Feb. 16 that he did not know precisely what he had shredded but that he was certain the papers had come from Mr. Foster's files, those familiar with the account said. He testified that he had looked inside the box and saw that the papers were separated by binders marked with the initials "VWF," the firm's typical abbreviation for Mr. Foster. The box itself also bore Mr. Foster's initials, which no other employee at the Rose firm had.

In a brief statement, the Rose firm denied that any of Mr. Foster's documents had been shredded.

"No files of Vincent Foster's have been destroyed," the statement said. "In the process of a lawyer changing offices, a box of old files containing internal Rose firm materials, such as copies of notes of firm committee meetings, was destroyed earlier this year."

The firm's lawyers declined to answer specific questions.

What Rose Handled

Mr. Foster's files are potentially important to investigators. While he was

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at the Rose firm, he worked on a wide array of legal matters for the Clintons, including the sale of the Clintons' share of the Whitewater Development Company, a real estate venture in the Ozark Mountains. At the time of his suicide, Mr. Foster was working on various personal matters for the Clintons, including tax filings and the creation of the family's blind trust.

Investigators have sought clues to the circumstances of Mr. Foster's death, as well as the Clintons' finances, in everything from Mr. Foster's internal memos and telephone logs to his personal diary and even some cryptic scribblings discovered among his White House papers.

The courier testified that he had seen no references to Whitewater in the papers he shredded.

The timing of the shredding is unclear. By the courier's account to the grand jury, he destroyed the papers about the time that Robert B. Fiske Jr., the independent counsel, was appointed on Jan. 20.

At the news conference called that day to announce his appointment, Mr. Fiske said he would investigate the circumstances of Mr. Foster's suicide and accusations that money had been improperly diverted from the Madison Guaranty Savings and Loan Association in Arkansas to Mr. Clinton's business interests or his 1984 gubernatorial campaign. The savings institution failed in 1989, and its assets and accounts were taken over by the Government.

Shortly after Mr. Fiske began his work, he issued a sweeping subpoena that, among other things, demanded all documents relating to Mr. Foster.

The date of that subpoena has not been disclosed publicly. If the shredding occurred after the firm was put on notice that Mr. Fiske wanted to review Mr. Foster's documents, such an action might have been improper, legal experts said.

Mr. Fiske's investigators are trying to determine when the shredding took place, what kinds of the documents were destroyed and whether any of them might have been relevant to the inquiry.

Republican Pressure

Mr. Fiske's appointment came after after weeks in which Congressional Republicans pressed for an investigation into Whitewater and into Mr. Foster's activities. The Republican demands followed reports that the White House counsel, Bernard W. Nussbaum, had removed records from Mr. Foster's office shortly after his death. Among the documents that were removed and sent to Clinton's personal lawyer, David Kendall, were records of Whitewater.

The Government's independent counsel, Mr. Fiske, said today that he could not comment on matters before the grand jury.

In complex inquiries, investigators conduct many interviews. But Mr. Fiske's decision to call the courier as one of the first witnesses indicates that the employee's account is being taken seriously.

The courier's lawyer, Dean Overstreet, said, "It's not something I can comment on because of the stage it's in."

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What Law Says on Evidence

Many law firms, including Rose, say they routinely destroy documents for purposes of privacy and to save storage space. But legal experts said in interviews that the law prohibited people from intentionally impeding an investigation by destroying evidence they knew investigators wanted.

The firm has acknowledged that it received an order from Mr. Fiske in February demanding that it preserve all evidence. Mr. Fiske has never explained the reason for the order.

The courier was identified by people involved in the case as Jeremy Hedges, a college student who has worked part time at the Rose Law Firm for several years. He was said to have told the grand jury that he glanced at some of the documents as he fed them into the machine. By his account, he saw none that mentioned Whitewater Development.

Federal investigators have interviewed other Rose employees, including one who helped Mr. Hedges shred the box of Mr. Foster's documents, those familiar with the case said. That witness has not appeared before the grand jury.

Privacy of Clients

In interviews, lawyers and former employees of the Rose firm described how the firm set up a system for shredding documents in 1991, weeks after Mr. Clinton declared his Presidential candidacy.

The firm's managing partner, Ronald M. Clark, said last month that the firm had begun shredding out of concern that confidential information about would be compromised as reporters examined the firm's activities.

By Mr. Clark's account, each lawyer was given a separate garbage can to throw out material to be shredded. Other current and former employees said couriers picked up papers to be shredded daily from lawyers and their secretaries.

Questions about shredding arose on Feb. 9, when The Washington Times, quoting an unidentified Rose employee, reported that the firm had destroyed documents pertaining to Whitewater Development. The newspaper reported that the documents were shredded on Feb. 3.

The courier's testimony describes shredding that occurred in January and appears to be unrelated.

The law firm denied The Washington Times article, and there has been no independent confirmation of it. But the article prompted Mr. Fiske to announce that he would investigate any incidents of shredding. Soon afterward, agents from the Federal Bureau of Investigation began interviewing Rose employees.

Former employees said couriers were told of the firm's new policy on shredding in a meeting in the fall of 1991. By their accounts, their supervisor told them that the firm had caught reporters going through the trash behind the building. To safeguard the privacy of clients, the firm's senior partners decided that sensitive documents would be shredded daily, former employees quoted the supervisor as saying.

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One former employee said in an interview that in the summer of 1992 he was twice sent to the Governor's mansion to deliver an envelope to Mrs. Clinton and to pick up a half-inch-thick sheaf of documents to be shredded. He said he was escorted by two Secret Service agents as he walked up a driveway and exchanged envelopes with Mrs. Clinton. The courier said he fed the material into the shredder without opening it.

Shredding After Election

Several former employees said in interviews that after the election the pace of shredding picked up. Christopher A. Cordero, a 22-year-old who worked as a courier until the summer of 1993, said he had collected and shredded several legal-sized boxes of documents from Mrs. Clinton's office at the law firm in late November or early December of 1992. He said he was shown the boxes by secretaries or file clerks.

Asked if she could shed any light on what the couriers said about shredding Mrs. Clinton's documents, Lisa Caputo, spokeswoman for the First Lady said, "I cannot say in stronger terms I know nothing about what you're talking about."

About that time, couriers were sent to the Rose firm's storage warehouse at a riverside complex near downtown Little Rock. Former employees said they collected at least eight full boxes of documents from the files of Mrs. Clinton, Mr. Kennedy, Mr. Hubbell and Mr. Foster. The former employees said they seldom looked at what they fed into the machine.

GRAPHIC: Photos: The Rose Law Firm has denied shredding any documents of Vincent W. Foster Jr., who committed suicide. (Arkansas Democrat-Gazette); Robert B. Fiske Jr., the independent counsel, leaving the Federal courthouse in Little Rock, Ark., on Tuesday. (Associated Press) (pg. A22)

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 4, 1994

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LEVEL 1 - 106 OF 154 STORIES

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March 9, 1994, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 4; National Desk

LENGTH: 1124 words

HEADLINE: Courier at Little Rock Firm Recalls Shredding After the Inquiry Began

BYLINE: By STEPHEN ENGELBERG, Special to The New York Times

DATELINE: WASHINGTON, March 8

BODY:

The law firm employee who testified before a Federal grand jury about destroying documents from the files of Vincent W. Foster Jr. now says he was told to shred the material after a special prosecutor had announced that he would look into the suicide of the White House aide.

Jeremy Hedges, a part-time courier at the Rose Law Firm in Little Rock, Ark., pinpointed the date in a telephone interview today. Mr. Hedges said that when he had fed the documents into the firm's shredder, he had already heard of the appointment of Robert B. Fiske Jr. as special counsel.

At the time of his appointment on Jan. 20, Mr. Fiske said that he would not only be investigating the Whitewater real estate venture, in which President Clinton and his wife were partners, but also looking into the circumstances of the suicide in July of Mr. Foster, a longtime friend of the Clintons who was a deputy White House counsel and who in private practice represented the Clintons in Whitewater and other personal matters.

Even before a subpoena is issued, the law prohibits people from intentionally impeding an investigation by destroying evidence they know investigators want.

What to Tell Investigators

The courier also said today that he and the other couriers employed by the Rose firm met with two of the firm's partners in February and that one partner challenged his recollection that he had shredded documents belonging to Mr. Foster and then cautioned him against relating "assumptions" to investigators.

Mr. Hedges said that although the partners had encouraged the couriers to cooperate fully with investigators, he felt that the sense of the meeting was "I should not tell them something they did not ask."

Ron Clark, a partner in the firm and its chief operating officer, said in a telephone interview today that the meeting's only goal was to insure complete cooperation with Mr. Fiske's inquiry. Mr. Clark, who presided over the meeting, said Jerry Jones, the partner who counseled against assumptions, "was trying to say: 'They'll be asking a lot of questions. Just tell them the facts.' "

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The firm, whose former partners include Hillary Rodham Clinton, Associate Attorney General Webster L. Hubbell, and an assistant White House counsel, William H. Kennedy 3d, asserts that the documents Mr. Hedges shredded were an assortment of internal firm papers that did not come from Mr. Foster's files. Mr. Clark said that the firm had four witnesses, two lawyers and two clerks, who support this account. He declined to identify them but said they were prepared to testify.

Mr. Hedges said today that the explanation was "hard for me to believe." He said the box and all its file folders were marked "VWF," the firm's shorthand for Mr. Foster. He said that he had glanced at a handful of the documents and that some were letters on the firm's stationary that bore Mr. Foster's signature.

None of the documents he saw related to the Whitewater Development Company, Mr. Clinton's real estate investment, or James B. McDougal, Mr. Clinton's partner in Whitewater and the owner of the failed Arkansas savings and loan that is at the center of Mr. Fiske's inquiry, Mr. Hedges said.

After Mr. Foster's death, the removal of the files about Whitewater from his White House office led to much of the pressure on Mr. Clinton to ask for a special prosecutor.

Most large law firms routinely dispose of sensitive client files by shredding them. Mr. Clark said last week that the Rose firm set up a shredding system in 1991 in anticipation of greater scrutiny by reporters during Bill Clinton's Presidential campaign.

Questions about shredding at Rose first arose in February, when The Washington Times reported that an unidentified employee said the firm had destroyed large quantities of Whitewater documents. Shortly afterwards, Mr. Fiske served subpoenas on law firm employees and issued an order admonishing the firm against destroying any evidence in the case.

Couriers Called to Meeting

Mr. Hedges said the couriers were then called to a meeting with Mr. Clark and Mr. Jones.

He said Mr. Clark began by instructing everyone to tell what they knew to Mr. Fiske's investigators. At that point, Mr. Hedges said, he disclosed his intention to report the shredding of Mr. Foster's documents.

"I said," Mr. Hedges recounted, "I shredded some documents of Vincent Foster's three weeks ago."

Mr. Jones replied with skepticism. "He said: 'How do you know they were Foster's? Don't assume something you don't know.' "

Mr. Hedges insisted he was certain the documents came from Mr. Foster's files, but he said Mr. Jones then told the couriers: "Don't assume they had anything to do with Whitewater."

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Mr. Hedges said today that he was convinced that the documents had once been part of Mr. Foster's files.

"The file folders were stacked up neatly and the tabs all said, 'VWF Correspondence,' 'VWF notes,' 'VWF pleadings.' It looked like every file box I've ever looked at in the firm," he said. In addition, he said, the box had the initials VWF on its side and he looked at several letters in the file that bore Mr. Foster's signature.

Mr. Clark said the letters might be explained by the fact that the box included files from the firm's recruiting efforts. Mr. Foster, he said, routinely sent letters to lawyers the firm was seeking to hire. He acknowledged, however, that the box of documents the firm says was shredded should not have had binders bearing the initials VWF. "I can't give you any fact that is going to resolve that," he said.

Mr. Hedges said he had fed documents into a shredding machine for 30 minutes before being relieved by another courier, who took another 30 minutes to finish the job.

Another Employee's Account

Clayton Lindsey, the courier who took over the shredding, said in a telephone interview today that he, too, clearly remembered the VWF markings on the binders. Mr. Lindsey said that when he placed documents into the machine, he generally keeps them in their jackets. The tabs, with identifying initials, are typically facing up.

"I saw the same stuff Jeremy did," Mr. Lindsey said. "I saw the initials on the side of the box and on some of the manila folders. It said VWF correspondence and like that. I didn't look into any of them."

Mr. Lindsey has been interviewed by the F.B.I. but has not testified to the grand jury.

In his Feb. 16 testimony before the grand jury, Mr. Hedges said only that the incident happened three weeks previously, or in the same week as Mr. Fiske's Jan. 20 appointment. But in the interview, Mr. Hedges said he had distinctly recalled hearing of Mr. Fiske's appointment when he was asked by a file clerk in the firm to carry out the shredding.

GRAPHIC: Photo: Jeremy Hedges, a courier at the Rose Law Firm in Little Rock, Ark., says he began shredding papers from the files of Vincent W. Foster Jr. after a special counsel said he would look into the Clinton aide's suicide. (Spencer Tirey for The New York Times) (pg. B7)

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HEADLINE: Shredding Date Uncertain, Rose Firm Employees Say

SERIES: Occasional

BYLINE: Sharon LaFraniere, Washington Post Staff Writer

DATELINE: LITTLE ROCK, Ark., March 9

BODY:

Two employees of the Rose Law Firm said today that in late January they shredded documents from the files of Vincent W. Foster Jr., a former Rose partner and deputy White House counsel who committed suicide in July. But they said they were not certain when they destroyed the papers or whether the documents dealt with anything of interest to special counsel Robert B. Fiske Jr.

Jeremy Hedges, 20, and his roommate, Clayton Lindsey, 19, have become small-time celebrities in the past two days after describing to the New York Times and ABC News how they shredded the contents of a box labeled with Foster's initials in the law firm's basement. Students at the University of Arkansas at Little Rock with part-time jobs as couriers for the Rose firm, they have been interviewed by Fiske's investigators, and Hedges has testified before a federal grand jury about the incident.

Hedges said in an interview today he believed the shredding took place after Fiske was appointed Jan. 20 to investigate the Whitewater real estate venture partly owned by President Clinton and his wife and the circumstances of Foster's suicide. "We're pretty sure he had been [appointed]. I mean, I knew his name and I couldn't think of any other reason I would know his name other than hearing it on the TV and the radio," Hedges said.

But he added, "It's very likely it could have been some of Vince's files that were completely unrelated to the investigation. I've said that from the beginning. I don't know what it was."

Ronald M. Clark, the firm's managing partner, did not respond to inquiries for comment today. In previous interviews, Rose lawyers have said the box involved contained old documents related to internal workings of the firm, including minutes of partnership meetings and financial statements. Clark said a clerk assembled the box while clearing out space for a lawyer moving from one office to another.

Fiske's interest in the incident is evident from the subpoenas he issued last month. According to Lindsey, who is scheduled to appear before the grand jury

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Tuesday, at least two other Rose employees have testified besides Hedges: the office manager, Kathy Harris, and Ricki Stacy, the employee in charge of closed files.

Hedges said Rose law clerk Elise McShane called him to pick up a box of documents to be shredded sometime in late January. The outside of the box was labeled VWF, and it contained at least five or six files that were clearly Foster's, he said. Both Hedges and Lindsey, who took over the task after 30 minutes, said they remember files labeled "VWF correspondence," "VWF pleadings," "VWF notes."

Hedges said he glanced at several documents and saw Foster's signature but no mention of Whitewater or Madison Guaranty Savings & Loan, the failed thrift also being investigated by Fiske. Lindsey said he paid little attention to the documents.

On Feb. 9, the Washington Times, quoting an unnamed Rose employee, said the firm had shredded Whitewater documents that related to the Clintons, who were partners with James B. McDougal in the venture. Two days later, Clark met with the firm's six couriers to inform them that FBI agents would be interviewing them the next day, according to Hedges and Lindsey.

Hedges said, "Ron Clark said basically, to tell the FBI everything we knew. Don't hold back anything. Don't think we have to protect the firm, or anybody in the firm."

When Hedges said he had shredded some of Foster's files about three weeks earlier, Jerry Jones, a Rose partner who attended the meetings, responded skeptically, according to Hedges. He said Jones asked him, "Do you know for sure? . . . I don't want you to assume something you didn't know."

Hedges said that when he insisted the files were Foster's, Jones asked him if he knew what the documents pertained to, then advised him, "Don't assume they had anything to do with the investigation."

The Rose firm began routinely shredding documents -- a common practice at many firms -- during the 1992 presidential campaign. Rose officials said they wanted to keep confidential client information out of the hands of the news media.

Since last month, the firm has been assembling a roomful of documents to turn over to Fiske, who served the firm with an extensive subpoena. The special counsel's wide-ranging investigation includes events related to Foster's apparent suicide last summer. Foster, Hillary Rodham Clinton and Associate Attorney General Webster L. Hubbell were Rose partners before the 1992 election.

Fiske's office is looking into a wide array of entities and individuals with ties to Madison, including some also with ties to the Rose firm. Madison was a Rose client, and the law firm is known to have handled at least some minor legal work involving Whitewater.

Foster worked on personal financial matters for the Clintons. Shortly before his death, Foster had prepared three years of back tax returns for Whitewater Development Corp. and sent them to McDougal, the Clintons' partner in the real estate venture. Foster also had handled the December 1992 sale to McDougal of

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the Clintons' interest in Whitewater.

Staff writer Susan Schmidt in Washington contributed to this report.

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Monday, March 14, 1994

Politics & Policy

Fiske Gets Off to Fast Start in **Whitewater** Probe By Moving Forward Aggressively on All Fronts

By Ellen Joan Pollock
Staff Reporter of The Wall Street Journal

After only six weeks on the job, special counsel Robert Fiske has launched aggressive probes on all fronts of the tangled **Whitewater** controversy.

His opening salvo was a stern warning to the White House, Congress and Hillary Rodham Clinton's former law firm that he won't tolerate anything that impedes his investigation. In a show of prosecutorial muscle, Mr. Fiske came to Washington last week from his Little Rock, Ark., headquarters to urge lawmakers to delay hearings. He also questioned White House aides before a **grand jury** to see if there were improper contacts with Treasury officials about a criminal inquiry into a failed thrift once owned by a Clinton business partner.

The fulcrum of the investigation will soon shift again to Little Rock, where a small band of lawyers and FBI agents has been poring over records of Madison Guaranty Savings & Loan and preparing to question witnesses before a special **grand jury** set to convene on March 23.

So far, Mr. Fiske, a Republican, is getting good marks from veterans of other investigations, including Iran-Contra prosecutor Lawrence Walsh. But Thomas Puccio, who prosecuted the Abscam corruption cases, says it was a waste of time to subpoena White House officials to testify about how they learned of the impending Madison investigation because the Justice Department would have eventually told them about it anyway.

Mr. Fiske has a reputation for fierce independence and is staying clear of the web of social and professional connections that helped spawn the **Whitewater** controversy in the first place.

Shortly after his appointment in January, Mr. Fiske received a friendly note from Little Rock lawyer Alston Jennings Jr., who like Mr. Fiske is a former president of the prestigious American College

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of Trial Lawyers. Mr. Jennings represents Seth Ward, a former Madison consultant and father-in-law of Associate Attorney General Webster Hubbell. But when Mr. Jennings followed up with a call, he got a polite brushoff from Mr. Fiske. "He obviously didn't want to be seen anywhere with me," Mr. Jennings said.

Mr. Fiske, a New York litigator on leave from the Wall Street law firm of Davis, Polk & Wardwell, is pursuing a number of different investigative threads at once.

The McDougals and the Clintons

The heart of the **Whitewater** controversy centers on the Clintons' business relationship with Arkansas businessman James McDougal, who owned Madison, and his ex-wife, Susan. The Clintons and McDougals were partners in **Whitewater** Development Co., a 230-acre real estate venture on Arkansas's White River, in which President Clinton and the first lady say they lost money. Unsorting the tangled business dealings between the Clintons and the McDougals is one of the central preoccupations of Mr. Fiske's squad of investigators in Little Rock.

Mr. McDougal, a highflying deal-maker with connections to prominent members of Little Rock's business and political communities, ran Madison as his own financial fiefdom. In 1985, Mr. Clinton asked him to host a fund-raiser to help retire a $50,000 campaign loan. At the fund-raiser, which then-Gov. Clinton didn't attend, Mr. McDougal raised $30,000. But there is evidence that some of the money may not have come from contributors but from Madison accounts.

The Fiske staff hopes that documents involving Madison, a Cherry Valley, Ark., bank that furnished the 1984 campaign loan, and the Clinton campaign, will shed light on that flow of money.

Mr. Fiske is expected to investigate allegations that Mr. McDougal "carried" the Clintons in the **Whitewater** venture, launched with $203,000 in loans. There is evidence that the McDougals shouldered more of the financial burden in the investment than the Clintons even though the two couples had an equal stake. Mr. Fiske will also question why Mr. McDougal and President Clinton have conflicting accounts of their investment. For example, the Clintons say they lost almost $69,000 in **Whitewater** but Mr. McDougal says they lost only about $9,000. The Clintons didn't claim any **Whitewater** loss on their tax returns. Cash also inexplicably moved between **Whitewater's** account and other accounts at Madison, which failed in 1989.

The investigators already have voluminous documents involving the McDougals' business interests. James Lyons, a Denver lawyer who

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prepared a report on **Whitewater** for the Clinton presidential campaign, has also turned over documents.

Madison's Failure

Mr. Fiske is trying to discover whether the Clintons improperly used their influence to bolster Madison's sagging fortunes. In 1985, Madison hired Mrs. Clinton and the Rose Law Firm to help it get authorization for a stock offering. The Arkansas securities department, which had to approve the plan, was headed by Beverly Bassett Schaffer, a Clinton appointee.

Mr. Fiske recently subpoenaed the commission's records. Mrs. Schaffer, a lawyer now in private practice, has turned over her private calendars for that time, according to her husband. Mr. Fiske has subpoenaed files from the Rose Law Firm as well.

Also on Mr. Fiske's agenda is an examination of the web of Mr. McDougal's failed business and real-estate interests. Mr. McDougal had business relationships with many people prominent in business and in politics, including current Arkansas Gov. Jim Guy Tucker. Gov. Tucker received a **grand jury** subpoena before Mr. Fiske was appointed special counsel. Mr. McDougal has complained that allegations of mismanagement at his S&L are being recycled from a 1990 federal fraud trial in which he was acquitted.

The Rose Law Firm

The Rose firm, meanwhile, has become tangled in the **Whitewater** controversy on several levels. Mr. Fiske is expected to examine whether the firm had conflicts of interest when it represented the Resolution Trust Corp., after it took over Madison, in litigation against the thrift's auditor. A **grand jury** has subpoenaed documents involving Seth Ward, Mr. Hubbell's father-in-law, who sued Madison for commissions stemming from real-estate transactions.

Ronald Clark, Rose managing partner, says the firm is cooperating fully with Mr. Fiske. Several rooms at the firm are devoted to culling documents to ensure that client confidences are not divulged as documents are turned over. Mr. Clark also insists that any documents that may have been shredded have nothing to do with Mr. Fiske's inquiry.

David Hale

Later this month, Mr. Fiske will prosecute David Hale on charges of defrauding the Small Business Administration, which had licensed him to grant loans through his Capital Management Services. On the face of it, this case has nothing to do with **Whitewater.** But Mr. Hale, a former municipal judge, has alleged that Mr. Clinton, when

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he was governor, pressured him into making a $300,000 loan to a firm owned by Mr. McDougal's wife, Susan. Some of that loan was allegedly diverted to **Whitewater.**

When Mr. Fiske replaced other federal prosecutors in the Hale case last month, Mr. Hale's co-defendants objected strenuously because they didn't want to be pulled into the **Whitewater** controversy. But Mr. Fiske's lawyers prevailed. The trial is set for March 28.

The Death of Vincent Foster

Mr. Fiske has assigned a deputy, Roderick Lankler, to take charge of the most sensitive corner of his investigation, a full-scale probe of the death of Vincent Foster.

The goal is to solve the mystery of why Mr. Foster killed himself and whether the **Whitewater** controversy contributed to his despondent mood. Even if a definitive answer can't be found, investigators hope to quash some of the zanier conspiracy theories. They don't believe speculation, rampant in the tabloid press, that Mr. Foster was murdered. Forensic experts and pathologists will examine documents already turned over by the U.S. Park Service, which investigated Mr. Foster's death, and Mr. Lankler is considering retaining a psychiatrist to evaluate Mr. Foster's mood before he died.

Under the supervision of Mr. Lankler, who once prosecuted homicide cases in the Manhattan District Attorney's office, investigators are also looking into allegations that White House officials may have impeded the park-police investigation. In the aftermath of the suicide, a file containing **Whitewater** documents was found in Mr. Foster's office and turned over by White House counsel Bernard Nussbaum to the Clintons' personal lawyer. The file has now been turned over to Mr. Fiske. According to White House accounts, Mr. Foster had the **Whitewater** file in his office because he was preparing delinquent tax returns for the partnership.

Unravelling **Whitewater**

To unravel the **Whitewater** controversy, special counsel Robert Fiske must answer the following questions:

-- Did the Clintons improperly use their influence to try to keep Madison Guaranty and **Whitewater** Development Co. afloat?
-- Did funds from Madison accounts end up in then-Gov. Clinton's campaign coffers?
-- Were Madison funds improperly diverted to **Whitewater?**
-- Did then-Gov. Clinton induce an associate to make an improper $300,000 federally sponsored loan to a **Whitewater** partner?

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-- Did the **Whitewater** affair play a role in deputy White House counsel Vincent Foster's suicide, and did White House officials attempt to impede an investigation of his death?

-- Did Treasury officials improperly brief White House aides on an impending criminal investigation of Madison?

---- INDEX REFERENCES ----

MARKET SECTOR: FINANCIAL (FIN)

INDUSTRY: REAL ESTATE INVESTMENTS; SAVINGS & LOANS, THRIFTS (REA SAL)

NEWS SUBJECT: LAW & LEGAL ISSUES (LAW)

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Monday, March 21, 1994

Politics & Policy

Rose Law Firm to File Ethics Complaint In Arkansas About Hubbell's Expenses

By Ellen Joan Pollock and Kenneth H. Bacon
Staff Reporters of The Wall Street Journal

The Rose Law Firm has decided to file a complaint with Arkansas ethics authorities about undocumented expenses incurred by former Associate Attorney General Webster Hubbell.

According to a lawyer familiar with the Rose inquiry, the firm's partners agreed to send a letter to disciplinary officials of the Arkansas Supreme Court.

Mr. Hubbell failed to document roughly $100,000 in expenses, said a person at the Rose firm, and the firm is concerned that they were personal charges. Mr. Hubbell, who announced his resignation from the Justice Department last week, wrote checks on the firm's bank account to cover these expenses. Most of the checks were made out to credit card companies, said the lawyer familiar with the inquiry.

The ethics complaint focuses on expenses reimbursed to Mr. Hubbell by the Rose firm. The charges weren't passed on to clients, according to the lawyer, but they were incurred while doing client work. The lawyer said the Rose firm was concerned that Mr. Hubbell had violated an ethics rule barring misrepresentations by a lawyer and decided it had "an obligation to report" the possible breach.

John Nields, Mr. Hubbell's Washington lawyer, declined to comment. Ronald Clark, the law firm's managing partner, didn't return phone calls.

Rose partners have also been mired in a dispute with Mr. Hubbell about his handling of an unsuccessful lawsuit for P.O.M. Inc., an Arkansas company owned by his brother-in-law. The P.O.M. case isn't an issue in the ethics complaint.

The Rose firm is the target of investigations by Whitewater Special Counsel Robert Fiske and the Resolution Trust Corp., which is auditing the firm's bills. Mr. Hubbell was one of several Rose lawyers who did RTC work. Mr. Fiske isn't looking into questions involving Mr. Hubbell's expenses, but is likely to do so if asked by

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the Justice Department, according to a person familiar with his operation.

On another front in the **Whitewater** case, Deputy Treasury Secretary Roger Altman told the Senate Banking Committee that his contacts with the White House over the **Whitewater** issue were more extensive than he had initially revealed.

In a March 11 letter to committee Chairman Donald Riegle (D., Mich.), Mr. Altman said he had talked briefly last month with Harold Ickes, President Clinton's deputy chief of staff, about recusing himself from dealing with any matters concerning Madison Guaranty Savings & Loan. Madison Guaranty is a failed Arkansas thrift that has been linked to Mr. Clinton's political campaigns and his investment in **Whitewater** Development Co., a land venture.

Mr. Altman is acting chairman of the RTC, which last year recommended a criminal investigation of Madison's 1989 failure. The referral mentioned Bill and Hillary Rodham Clinton as possible beneficiaries of allegedly illegal acts. The Clintons have denied any wrongdoing.

The March 11 letter, which was disclosed Friday by Sen. Alfonse D'Amato (R., N.Y.), marks the second time that Mr. Altman has written Mr. Riegle since his Feb. 24 testimony to report additional meetings between Treasury and White House officials. "This has been nothing less than a pattern of deception," Mr. D'Amato said of the letter.

Mr. Altman has told associates that he didn't mention the Ickes meeting during the hearing because he didn't consider the five-minute discussion substantive. "There was no discussion whatsoever of the case itself," Mr. Altman said in his letter.

News of a series of meetings has triggered concerns that the White House or the Treasury may have been trying to halt or stall the Madison investigation. As a result, Mr. Fiske has called all the Treasury and White House officials involved to testify before a federal **grand jury** in Washington. Mr. Altman has said he's confident that the **grand jury** will clear the Treasury and White House of suspicion that they attempted to manipulate the case.

Separately, Rep. James Leach (R., Iowa) has charged that officials in Washington may have "gagged" RTC officials in Kansas City, Mo., where the Madison investigation was taking place. Last week the RTC's spokesman dismissed the charge, which Mr. Leach hasn't backed up. "I don't know what Congressman Leach is talking about," Steve Katsanos said. "If he would bring any specific examples or concerns to our attention, we would be happy to respond."

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Mr. Leach may try to substantiate this and possibly other allegations at a House Banking Committee hearing scheduled for Thursday. But the Chairman, Rep. Henry Gonzalez (D., Texas), is determined to prevent Madison from becoming an issue. Mr. Gonzalez has told witnesses to deal only with such questions as the progress the RTC is making in selling the assets of failed thrifts.

The Gonzalez stance could hurt Mr. Altman, however. The acting RTC chief has told associates that he's looking forward to the hearings to explain his White House meetings and brush away any appearance of impropriety.

On NBC News' "Meet the Press" yesterday, House Majority Leader Richard Gephardt (D., Mo.) said the House might be able to hold Madison-related hearings after Mr. Fiske completed the Washington portion of his inquiry. "I think we're going to be talking to the Republican leadership early in the week; we'll be talking with Mr. Leach," Rep. Gephardt said. "If there's a way to coordinate what they're doing, even in this RTC oversight hearing, with what Mr. Fiske is doing, that's what we ought to do."

---- INDEX REFERENCES ----

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Thursday, March 24, 1994

Politics & Policy

Special Counsel's Probe of Whitewater Includes Bond Dealer Linked to Clinton

By Ellen Joan **Pollock**
Staff Reporter of The Wall Street Journal

Special Counsel Robert Fiske's investigation of the Whitewater matter has now extended to a highflying bond dealer with ties to President Clinton.

In a recent wave of subpoenas, Mr. Fiske sought documents about Mr. Lasater and his Lasater & Co., which had a piece of the Arkansas bond business while Mr. Clinton was governor. Mr. Clinton's relationship with Mr. Lasater was an issue in the 1992 presidential campaign. Mr. Lasater raised money for Mr. Clinton's 1984 gubernatorial campaign and gave a job to Roger Clinton, the president's brother.

As governor of Arkansas, Mr. Clinton lobbied the state legislature for a bond deal that benefited Mr. Lasater, while the bond dealer was under investigation for trafficking in cocaine. Mr. Lasater pleaded guilty to drug charges in 1986.

Mr. Fiske also is seeking documents involving former Associate Attorney General Webster Hubbell and White House aide Patsy Thomasson, who once worked for Mr. Lasater. P.O.M. Inc., a company owned by Mr. Hubbell's brother-in-law, is listed on Mr. Fiske's subpoenas as well.

Mr. Lasater couldn't be reached to comment, and it couldn't be determined whether he has received a subpoena from Mr. Fiske. The special counsel has issued more than 150 subpoenas since February. They list dozens of names and request "all documents and/or communications referring or relating" to the people listed. Mr. Fiske declined to comment.

Ms. Thomasson, whose name also appears on Fiske subpoenas, is director of the White House Office of Administration. She was formerly a senior executive of several of Mr. Lasater's companies and helped to run his business while he was jailed on the drug charges.

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She was also one of three White House aides who went to Deputy Counsel Vince Foster's office after he committed suicide last July.

Phoenix Group Inc., an investors group once headed by Ms. Thomasson, is being investigated by the Securities and Exchange Commission in connection with possible insider trading in Arctic Alaska Fisheries Corp. stock in June 1992. Shortly afterward, Arkansas-based Tyson Foods Inc. announced an agreement to acquire the company. Phoenix Group was once called Lasater Inc. and was headed by Mr. Lasater.

Ms. Thomasson said last week that she neither traded in, nor executed an order for, the stock. She hasn't received a subpoena from Mr. Fiske, according to White House officials.

Mr. Hubbell, whose name also appears on subpoenas issued by Mr. Fiske, is linked to several aspects of the Whitewater controversy, including conflict-of-interest allegations involving a suit he handled for the Resolution Trust Corp. while a partner in the Rose Law Firm.

The Rose firm has been trying to determine whether Mr. Hubbell inflated expenses he billed to the firm, and recently referred the matter to state disciplinary authorities. The Little Rock firm has also been mired in a dispute with Mr. Hubbell over $1 million in expenses and unbilled time charges incurred during his unsuccessful handling of a lawsuit for P.O.M., which has become part of Mr. Fiske's inquiries. John Nields, Mr. Hubbell's Washington lawyer, and the president of P.O.M., Seth "Skeeter" Ward, the brother-in-law of Mr. Hubbell, didn't return phone calls.

The Whitewater affair is expected to dominate a news conference that President Clinton has scheduled for 7:30 p.m. EST tonight. The press conference is part of the administration's new strategy of being more open about the Whitewater controversy.

---- INDEX REFERENCES ----

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Monday, April 4, 1994

Law

Legal Beat

Hale's Past May Harm Credibility As Accuser in **Whitewater** Inquiry

By Ellen Joan Pollock
Staff Reporter of The Wall Street Journal

LITTLE ROCK, Ark. -- Former municipal judge David Hale is the only player in the **Whitewater** affair to make a specific allegation of wrongdoing by President Clinton. But his credibility as a witness may prove slim.

Mr. Hale recently pleaded guilty to two financial-fraud charges, and his sentencing was postponed for at least 120 days to allow him to tell his story to special counsel Robert Fiske and a special **grand jury** looking into the **Whitewater** affair. Mr. Hale says the president pressured him to make a $300,000 government-sponsored loan to a firm owned by Susan McDougal, a **Whitewater** partner. Lawyers involved in the matter say that some of that money ended up in **Whitewater** Development Corp., in which the Clintons had a stake.

Whether Mr. Hale can convince a **grand jury** that his story is true will depend on whether Mr. Fiske comes up with solid corroborating evidence. Even Mr. Hale has admitted that he has no proof of President Clinton's pressure. And felons who promise information in exchange for the possibility of a lighter sentence are always suspect as witnesses.

"In desperation he has had to point fingers in other directions and create a commotion in order to buy himself a lighter sentence," says John Haley, a lawyer for Arkansas Gov. Jim Guy Tucker, who received loans from Mr. Hale. "Under the pressure that he's under, I don't think that anything he says is capable of belief."

Mr. Hale has a long history of dealings in which his trustworthiness has been questioned.

Even his former attorney, Rogers Cockrill, questions Mr. Hale's credibility. Mr. Cockrill, who worked on loan documentation for Mr. Hale in the late 1970s, says he quit representing him after becoming convinced he "couldn't rely on what he said at all times."

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Mr. Fiske himself is delving into other questionable deals by Mr. Hale. The special counsel recently subpoenaed documents for a convoluted real-estate transaction orchestrated by Mr. Hale in 1986.

The deal appears to have been meant to benefit Arkansas Gov. Tucker and former governor Frank White, who had reappointed Mr. Hale to his municipal judgeship in 1981. Mr. Tucker had guaranteed a friend's mortgage on a Little Rock house, according to Mr. Haley, the lawyer for Mr. Tucker. The friend defaulted and Mr. Hale eventually took title to the house and arranged for its sale so Mr. Tucker could recoup the $131,000 that he lost.

The house was then sold to a firm partly owned by municipal judge William Watt. Mr. Hale's firm loaned Mr. Watt's firm $10,000 to cover closing costs, according to Mr. Watt, who says Mr. Hale also directed that $2,000 left over be donated to Mr. White, who was waging an ultimately unsuccessful gubernatorial campaign against Mr. Clinton. Mr. White says he knew nothing about the donation, which was made under the names of two undisclosed individuals.

Mr. Hale is also under investigation by Arkansas's insurance department, which wants to know why $150,000 is missing from a failed insurance company he owned. The money was invested in the company last year, after regulators found it was insolvent. The cash apparently "went right back out," says commissioner Lee Douglass.

Mr. Hale pleaded guilty last month to defrauding the Small Business Administration out of $900,000 in financing for his firm, Capital Management Services, which was licensed to make loans to businesses owned by disadvantaged individuals. Mr. Fiske alleged that Mr. Hale funneled $800,000 in borrowed funds through CMS to make it appear that the firm was financially sound and eligible for additional SBA financing.

A recent General Accounting Office study found that Mr. Hale made loans to people of "questionable eligibility," including Ms. McDougal. In a separate 1990 audit, the SBA chastised Mr. Hale's firm for making a $137,500 loan to a firm owned by Harry Townsend, even though he did not appear to be disadvantaged. Mr. Townsend loaned Mr. Hale the money that allegedly was used to make it appear that CMS was healthy. Mr. Townsend has denied any wrongdoing.

The GAO report also found that 13 of the 57 firms that CMS financed were "secretly controlled" by Mr. Hale. For example, Mr. Hale apparently used a disadvantaged businessman as "a front" to borrow money for Retail Liquidators, a company he covertly owned, according to the GAO. He also loaned $350,000 to Little Rock Clothiers, a company in which he had "a hidden interest," according to the report.

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Randy Coleman, Mr. Hale's attorney, says that he doesn't think all of the allegations in the GAO report are correct, but he says that his client has admitted to making loans to ineligible recipients. He notes that some defendants who plead guilty "turn out to be very good witnesses."

In the meantime, President Clinton and his associates not only deny pressuring Mr. Hale to make the loan to Ms. McDougal, they also deny that the president had any ties to the former judge. Says then-Gov. Clinton's chief of staff, Betsey Wright, "We never had anything to do with David Hale."

A Case of 'Forum Shopping'

One of Chicago's premier law firms is facing possible penalties for trying to steer a case on behalf of one of its clients -- the Catholic Archdiocese -- to a favored judge.

The law firm, Mayer, Brown & Platt, last week issued statements apologizing for the scheme. Today, the lawyers involved and a senior partner are scheduled to appear before the chief judge of Chicago's Chancery Court to explain what occurred. The judge will determine whether any sanctions are to be handed down.

Tyrone C. Fahner, the senior partner, said Mayer Brown has apologized to the Archdiocese of Chicago and to the opposing law firm in the case, Altheimer & Gray. "There's no excuse, there's no defending it," said Mr. Fahner. "It's absolutely wrong. It isn't how we practice law."

In March, Mayer Brown attorneys Michael J. Gill, a litigation partner, and Jonathan L. Marks, an associate, tried to circumvent the random selection of judges in a suit they were handling by filing five identical copies within 14 minutes. The archdiocese, which wasn't aware of the scheme, was contesting a $468,636 arbitration award won by a local construction company, George Allen Construction. Mayer Brown's actions were first reported by the Chicago Daily Law Bulletin.

When a lawsuit is filed in Chicago's courts, a computer randomly assigns it to a judge. That practice is intended to prevent "forum shopping," in which lawyers seek to have a case assigned to a friendly judge. In court papers, attorneys for the construction company contend that the only rationale for filing five copies of the same suit was "to receive a panel of judges from which to choose."

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The day after the suits were filed, Mayer Brown issued summonses in only one of the five suits. "There can only be one conclusion drawn," lawyers for Altheimer & Gray contended in court papers. "The complaints were taken back to the office of the Catholic Bishop's attorneys after filing, the panel of judges reviewed, the favored judge selected and summonses on that complaint and only that complaint issued the next day."

Mr. Fahner blamed the maneuver on "inexplicable bad judgment" and overzealousness but said the law firm was awaiting the results of today's hearing before deciding whether to take any disciplinary action on its own. As sanctions, Altheimer & Gray is asking that the archdiocese's lawsuit be dismissed and that attorneys fees and costs be awarded, in addition to "such other monetary sanction as this court deems necessary."

Mr. Fahner said the law firm already has offered to pay Altheimer & Gray's costs.

Milo Geyelin contributed to this article.

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Thursday, April 7, 1994

Law

Two Who Shredded Documents at Rose Law Firm Resign

By Ellen Joan Pollock
Staff Reporter of The Wall Street Journal

The two couriers at the center of the controversy over document shredding at the Rose Law Firm have quit their jobs.

Robert Fiske, special counsel in the **Whitewater** case, has been investigating allegations that the two part-time couriers destroyed documents belonging to White House aide Vincent Foster, whose body was found in a Virginia park last year. Rose managing partner Ronald Clark and a lawyer for the two couriers said they left the firm of their own volition.

Mr. Clark and one of the couriers, Clayton Lindsey, testified about the shredding before a special **grand jury** in Little Rock, Ark., last week, according to people familiar with Mr. Fiske's investigation. Jeremy Hedges, the other courier, testified earlier before another **grand jury.**

Mr. Hedges has said that he and Mr. Lindsey destroyed documents in a box marked with Mr. Foster's initials. Mr. Foster handled some tax matters involving President Clinton's and Hillary Rodham Clinton's **Whitewater** Development Corp. investment. A file pertaining to the investment was found in Mr. Foster's office after his death. Prior to becoming deputy White House counsel, Mr. Foster was a partner at the Rose Law Firm. Mr. Clark has said that none of Mr. Foster's files were shredded.

Messrs. Hedges and Lindsey, who are students at the University of Arkansas at Little Rock, have been vague about the timing of the shredding, and their versions of events have varied in numerous interviews with reporters. In an interview yesterday, Mr. Lindsey said, "I don't have any idea" whether the materials he shredded were Foster files. "I just don't think the Rose Law Firm would do that," he added. Mr. Hedges couldn't be reached for comment.

Last month, Mr. Hedges said that he thought the shredding occurred after Mr. Fiske was appointed in late January, as he was aware of Mr. Fiske's name at the time. He has told at least one

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person that the shredding took place after the Rose firm received a subpoena. "The FBI helped him place the date," said this person.

The law firm received a subpoena in January from a Justice Department lawyer investigating **Whitewater** prior to Mr. Fiske's appointment. A lawyer on Mr. Fiske's staff declined to comment.

Pat Aydelott, the couriers' lawyer, said Mr. Hedges was able to remember the date after he "related it to something he was doing at school." He said he thinks Mr. Fiske is "done with my boys and he's moving on up the ladder to see where the box came from and who compiled the box."

Meanwhile, David Kendall, the Clintons' lawyer, returned to James McDougal 2,000 pages of **Whitewater** documents. Mr. McDougal, who said he needed the documents to prepare his tax returns, was a partner of the Clintons in the ill-fated real-estate investment. The documents included bank records, escrow receipts and corporate tax returns.

In a letter to Mr. McDougal's attorney, Mr. Kendall noted that the Clintons got the records in late 1989 or early 1990, when their accountant sought to prepare corporate tax returns. He said the Clintons never possessed a complete set of corporate records for **Whitewater,** and he noted that the Clintons sold their share in the development to Mr. McDougal in 1992.

Separately, the Federal Deposit Insurance Corp. has asked about 100 law firms nationally whether they hired the Rose firm to work on any FDIC or Federal Savings & Loan Insurance Corp. matters as a subcontractor or local counsel. The FDIC asked the law firms to preserve all files and bills related to work performed by Rose.

Alan J. Whitney, an FDIC spokesman, said the letter was sent to law firms in the past week so that the agency could provide the information to New York Sen. Alfonse D'Amato and Iowa Rep. James Leach, who have called for congressional hearings into **Whitewater.** Mr. Clark, of the Rose firm, said he didn't know of the FDIC request.

Bruce Ingersoll in Washington contributed to this article.

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Thursday, April 14, 1994

Politics & Policy

Fiske Focuses on Numerous Businesses Of McDougal That Lent to Whitewater

By Viveca Novak and Bruce **Ingersoll**
Staff Reporters of The Wall Street Journal

LITTLE ROCK, Ark. -- Special counsel Robert Fiske is investigating a raft of businesses under James McDougal's control that lent more than $113,000 to his Whitewater Development Corp. venture with Bill and Hillary Rodham Clinton.

Much of the money went to Whitewater during then-Gov. Clinton's 1984 campaign for re-election, according to an unreleased draft report on the company's tangled finances. More than $80,000 in loans were never repaid by Whitewater, an Arkansas vacation-home development that was 50%-owned by the Clintons.

Mr. Fiske is trying to determine whether funds from Madison Guaranty Savings & Loan, a thrift owned by Mr. McDougal until 1989, were funneled into Whitewater or into Clinton gubernatorial campaigns. He has issued subpoenas seeking information about numerous McDougal enterprises, including at least seven that lent money to Whitewater between 1979 and 1986. Many of those companies banked at Madison Guaranty.

Transfers totaling about $68,000 occurred during a 12-month span that ended May 31, 1985, when Mr. Clinton was seeking re-election and then trying to pay off a $50,000 personal loan used for his campaign. The figures come from a draft report that was prepared for the 1992 Clinton presidential campaign by Clinton friend and attorney James Lyons and an accounting firm Mr. Lyons hired.

Campaign officials decided against identifying any of the McDougal entities and giving details of any of the transactions in the final Lyons report. Instead, they used the final report -- released in March 1992 -- simply to buttress the Clintons' claims that Whitewater was a moneyloser and that they were merely passive investors.

White House Press Secretary Dee Dee Myers said yesterday that the presidential campaign was aware that McDougal-related companies passed money to Whitewater. But she said the campaign "didn't detail

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it" in the final report because it was reporting on the Clintons' involvement, not Mr. McDougal's. She insisted that the campaign had no evidence that Madison Guaranty improperly diverted any money into Whitewater.

In an interview Tuesday, Mr. McDougal said the loans were used to cover Whitewater "operating expenses."

Mr. McDougal's attorney, Sam Heuer, described the transactions as "short-term loans" and rejected any suggestion that Madison Guaranty funds were improperly diverted through McDougal businesses into Whitewater or the 1984 campaign. "I have yet to see any factual data to back it up," he said in an interview yesterday. "I don't believe that to be true."

Investigators for the Resolution Trust Corp., the savings-and-loan cleanup agency, have uncovered indications of a possible "massive check-kite" scheme involving purported loans to numerous McDougal enterprises as well as Whitewater, according to an RTC document released recently by Rep. James Leach (R., Iowa).

The draft report shows large sums of money flowing from McDougal enterprises into Whitewater. A real-estate company called Flowerwood Farms Inc., for one, pumped in more than $40,000 in 1984-86. Meanwhile, Great Southern Land Co. lent Whitewater $35,000, only $11,000 of which has been repaid, the draft shows.

A partnership among Mr. McDougal, Clinton friend Stephen Smith and Jim Guy Tucker, the current governor of Arkansas, lent Whitewater $11,950 in the year ended May 31, 1985, only $1,000 of which has been repaid, according to the draft. John Haley, Mr. Tucker's attorney, said the governor doesn't know of any such loans.

Speaking about Whitewater yesterday, Mr. Clinton said he has done his best to answer questions on the issue. "Maybe you have total and complete recollection of every question that might. . . .be asked of you at any moment of things that happened to you 12, 13, 14 years ago," he told a questioner at a Washington gathering of the American Society of Newspaper Editors. "You think I should have shut the whole federal government down and done nothing but study these things for the last two months?"

Ellen Joan Pollock contributed to this article.

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Excerpts From Hillary Clinton's News Session on Whitewater

BODY:

Following are excerpts from Hillary Rodham Clinton's news conference at the White House yesterday, as recorded by The New York Times:

Q. Since Whitewater's been in the news so much, I feel it's fair to ask you the same question I put to the President some time ago -- and you were, are, a co-partner: Do you know of any money that could have gone from Madison to the Whitewater project or to any of your husband's political campaigns?

A. Absolutely not. I do not.

Q. Actually on this same theme, with your commodities profits, you know, it is difficult for a layman and probably for a lot of experts to look at the amount of the investment and the size of the profit. I mean, is there any way you can explain how you --

A. Well, I can certainly tell you what happened. And I appreciate your asking me about it because I've tried to follow the accounting in the press about it and I want to explain as clearly as I can what occurred.

Back in 1978, in October, one of our best friends, Jim Blair, who had been a friend of my husband's and mine for some time, talked to me about what he thought was a great investment opportunity. He is someone who has been an investor ever since he was a teen-ager with usually very good results. And he had followed closely what had been happening in the cattle market. And I only knew a little bit about that, although living in Arkansas, particularly northwest Arkansas, as I did, I was familiar with a lot of ranchers and people who were in the cattle industry. And when Jim said, "I think there's going to be a great opportunity to make money" and explained why and asked me what I thought we could afford to invest, I told him a thousand dollars.

So I opened an account at his very strong recommendation and proceeded to trade over the next months, until July. You know, not all my trades made money. Some of them lost money. I talked to Mr. Blair very frequently. In fact, Jim would call me on a regular basis, and I would make a decision whether I would or would not trade. And then the trade would be placed. Often he placed it for me. And there was nothing wrong with that. He was on the spot. He was often in the offices of the broker.

I stopped trading in July of 1979. And I did stop trading in large measure

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because I could not keep up with it. It takes a lot of nerve to be in the commodities trading, and I'd just found out I was pregnant. And so when he called again, I said, "You know, I just don't want to do this anymore." And I think he may have even called a few more times, saying: "You know, it's really still doing well. Trade again." And I didn't, and I'm glad I didn't because he and other friends of mine who were trading ended up losing money.

So it was a good investment offered by somebody who knew a lot who could provide a lot of good advice, and I was lucky and made the decision to stop when I did.

Q. Do you understand this -- if maybe your broker might have, because of your position or your husband's, might have given you some kind of unfavorable or, you know, favored advantage?

A. There's really no evidence of that. I didn't believe it at the time. As I said, you know, I made and lost money in that commodities account. It was my money. It was at risk. The account was in my name. I got the reports. We've released all of the documents we could find from that period from that account. So, no, I had no reason to believe that. And as Mr. Leo Melamed, the former head of the Chicago Mercantile Exchange, said when he looked at all of my trading records, there isn't any evidence that anybody gave me any favorable treatment. And even Mr. Blair, who ended up losing money, I think would find it very hard to argue that he got any favorable treatment. I just don't think there's any evidence there.

Q. Mrs. Clinton, you said you stopped trading in July of 1979. Could you talk about the second account that was opened?

A. Sure.

Q. There was a second account, with the Stephens Company, in which I think you invested $5,000. And at first the White House claimed you lost money on it, but later you put out documents showing you actually made $6,000 on it and didn't close it until a few months after Chelsea was born.

A. That's right. And I'm glad you asked that, because I really want to clarify it. I think there's been a lot of confusion. There were two accounts. The first account -- the one that I was just talking about -- was the Refco account. I traded in that from October '78 to July of '79, when I found out I was pregnant and I stopped trading. Now, I closed that account for good in October of '79, and I took some of the money that I had made and put it into an account at Stephens. And at that point, I made that a discretionary account. My Refco account was a nondiscretionary account, which meant that I had to approve and give the go-ahead for every trade. In the discretionary account at Stephens, my broker made most of the decisions. And I think he did a good job for me. He diversified the money that I gave him and put it into money markets and stocks and bonds, and $5,000 into some commodities.

Now, what happened then is -- in retrospect, as I've been able to reconstruct it now -- is that my broker made these decisions. He checked with me maybe a couple of times a month, but because it was discretionary he did not have to get my approval. And so money would be moved from one investment to another investment. And during the course of the time between October of '79 and

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probably May of 1980, he had me in and out of three different commodity accounts in much smaller numbers than what I had been in charge of doing in my Refco account.

In February of 1980, my daughter was born, at the very end of the month. And I remember talking to my broker sometime after that and said, "You know, I just want to get out of commodities altogether. I don't ever want to have to worry about it." So he got me out of the positions that I had been in, so that by May I was no longer doing any kind of commodity trading in the Stephens account. Now, what happened, though, is that he took the money that I now know I made -- I really didn't think I'd made any money in commodities -- and he bought some stock, and he did some other things for me.

Now, in the fall of 1980, my husband lost his election. We moved. So by 1981, when I gathered all my documents together to give to my accountant, I had a year-end statement from Stephens which did not report anything about commodities. I had a year-end statement from the Peavey Brokerage Company which reported a loss, and I had no year-end statement from either Clayton or the company called ACLI. So I think what happened is we bundled all of the documents we had, because I took all of the reports that I had, gave them to the accountant, and I believe that in the absence of a year-end statement the accountant and my husband and I missed the fact that we had actually made some money in the ACLI account.

Q. Do you remember that profit?

A. No. I did not remember that profit. I did not. And in fact, as you said, when some people looking at the records for me began looking at it originally, they looked at the records and they thought I'd had a $5,000 loss. And they came to me and said, "We think you had a loss which you didn't report." And I said, you know, I just don't remember. I thought I basically got out with what I put in. And then they went back and relooked at it again with, you know, more accountants, and they came up with the gain. So it was hard to find, apparently.

Q. With regard to the Refco account, just how did the procedure go? Did Mr. Blair basically recommend to you the transactions which you either said yes or no to? Or was it based more on knowledge that you had gained -- as some of your staff have suggested -- from reading the papers, or whatever? What happened?

A. Well, Brit, it was primarily Jim's suggestion. But I also did try to educate myself. You know, I did try to read some things. He actually gave me a few documents to read. Because he had this theory that because of the economy in the early part of the 1970's, a lot of cattle herds had been liquidated, so that there was going to be a big opportunity to make money in the late 70's. And he gave me things to read about that. And I did occasionally read, you know, publications like The Journal and others and, you know, I tried to educate myself because I took the responsibility seriously. But I relied primarily on his advice, because he really spent an enormous amount of time studying the market and talking to many more people than I ever could have -- people who, you know, ran feedlots or bought beef for large supermarket chains. So he would talk to me, and he'd say: "Here's what I think is going on. What do you think?" Now, I did not make every trade he recommended. And certainly, by July -- when I began to, you know, get nervous about it -- I stopped taking his recommendations, because I just couldn't bear the risk anymore.

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Q. Did it concern you at the time that because of his position with the company that he represented, that there was an ethical question raised by your accepting this level of assistance in a financial matter from him?

A. No, it did not. And the reason it didn't is that he and his wife are among our very best friends. My husband performed their marriage ceremony. I was the best person at the wedding. We are very close friends. And I found it a little bit surprising that anyone would suggest that, because in 1980, right during the time that this was all going on, when my husband ran for re-election, Tyson supported his opponent. So there's really no basis for suggesting it was anything other than what it was, which was a friend who made a suggestion -- and not just to me, but to a number of people -- which I think was, you know, very fortunate for me.

Q. You said that there was no preferential treatment in all of this. The records indicated that your account was short of money at various points. Were there margin calls? And did you meet any of those calls? And were you aware at any time that Refco was coordinating trades to drive prices up or down?

A. No, I was not aware of that, Andrea. I was told that after I stopped trading some months later. And I know there were lawsuits filed alleging that. I don't think any of that was ever proved, at least that I'm aware of. And when my position was under margin, I would either close out my position or use the equity that I had -- and I think Mr. Melamed said, based on his review of the records, there were a couple of occasions when I was under margin. Nobody ever called and asked me for anything. They just, I guess, took the money that I had in the account and closed out the position. But that was the responsibility of the broker. And from what I know, they were doing so many trades and there was so much volume going through that I was a relatively small customer. I mean, it was very big money for me and my family, but it was a very small account, and I don't think they paid any attention to my particular situation.

Q. Why do you think that they gave you this treatment with you being such a small customer? Don't you think that was preferential treatment --

A. No.

Q. -- based upon who you were and who your husband was?

A.No. I really don't believe that. I don't think there's any evidence of that. You know, from what I know about commodity trading and what I know about the cattle market during that period of time, they were just buying and selling on a huge basis, day in and day out. And I think that they may have not gotten around to the paperwork. They may have not thought it was worth it. They may have seen that I was a regular customer and that I covered my losses, that there was never an occasion when they really had to be concerned about it. I can't read their minds or speculate, but I had absolutely no reason to believe that I got any favorable treatment. And the fact that I closed the account out and took my money, whereas the people whom I knew were much bigger traders like Jim Blair and others -- they lost money -- and why would Jim Blair try to help me get favorable treatment that he couldn't get for himself? I mean, it doesn't make any sense to me at all.

Q. Mrs. Clinton, one of the things that has made all of this so

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controversial is the shifting accounts of what happened. Because initially the White House explained that you were consulting Blair and many others and reading The Wall Street Journal, and then later had to correct that. And we found out that Mr. Blair was in fact most often placing your trades for you, phoning the trades in. Why was the account -- why did the account have to be corrected? Why was it not explained accurately the first time?

A. Well, Linda, I think it's because, you know, we're trying to reconstruct events of, you know, 15, 16, 17 years ago. There are a lot of people who are trying to help. But until relatively recently there wasn't any one person in charge of trying to get everything together and get the, you know, information as accurate as possible. I think the people in the White House did the best job they could. I think that we did the best job we could trying to remember things and oftentimes having to search to see whether we had any records. I mean, I don't know how many of you keep, you know, records from 1978 or '79, but, I mean, we went through a lot of effort to try to see whether we had anything so that we could answer questions and then make things available. Sometimes we'd find part of something. Sometimes we'd then find the rest of it. So I appreciate and understand the concern about, you know, why we would have to add information or go back and say, "Well, this needs to be corrected."

But the fundamental facts have not changed. I mean, the fundamental facts are, as I have said: I opened an account with my money. I made the trades. It was nondiscretionary. I took the risk. I was the one who made the decision to stop trading. And that I did rely on Jim Blair. I used some other advice as well, but he was my principal adviser in this.

Q. But that wasn't a question of documents, that particular fact, the fact that he was really driving the trading for you. I guess I wanted to re-ask that question again. Why -- that would be something you would remember or not remember without documentary support -- so, why was that fact not made clear? And were you essentially riding on his coattails when you traded?

A. No, I wasn't. I was riding on the money I invested. You know, I don't know how any of you make investment decisions, but I like to listen to people I know and trust who I think know what they're doing. And he was somebody who I very much thought knew what he was doing and was more than willing to share his information, not only with me but with many people: members of his family and other of his friends. And it was for all of us a decision to put ourselves basically at the mercy of the market. And as Jim Blair found out, he wasn't always right. He lost a lot of money. And I was lucky -- I didn't. But that was my decision.

Q. Mrs. Clinton, a number of your old friends in Little Rock -- Warren Stephens, who I guess is an old friend; Curt Bradbury, Bill Bowen, people like that -- had a meeting on March 31. And they decided that really Arkansas has taken a beating -- portrayed, in the words of one of them, as a moral and ethical backwater -- basically because people hear us saying, "It was done that way in Arkansas." How do you feel about what's happening down there and what's happening to those people who feel they're being hurt by events out of their control? And they feel that they're not really being -- the state is not really being -- defended by you and your husband. I wonder if you'd address that.

A. Well, I feel very bad about it, because I think Arkansas is a wonderful

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place and filled with some of the best people I've ever been privileged to know or work with. And I do think that many of the charges have been very unfair and have really lacked any historic or realistic context. I don't think it's necessary to point fingers at any other state in the Union to say that, you know, every place there are people who have problems and there are people who cause problems. And I think that, you know, the state of Arkansas is a place that has, you know, just so much to be proud of. So I hope that we can get back to a more realistic assessment of what goes on there.

Q. May I follow?

A. Sure.

Q. They've said -- and specifically Bradbury and Mr. Stephens have said -- that to a certain extent they feel you've brought this on yourself, the two of you, because of campaign statements about a decade of greed and just things that they feel, in their words, make it look like hypocrisy: that you were into go-go trading. You were trying, as you said, an opportunity to make money, just as they were. And they felt like they had been condemned by you -- that people like that had been condemned by you during the campaign and that now you were being shown to be doing the things you spoke against.

A. Well, Curt and Warren have never said that to me, so I'll have to take your word for it. But I do think you raised an important question that I would like to talk about a little bit. You know, I was raised to believe that every person had an obligation to take care of themselves and their family. And that meant, you know, earning an income and saving and investing. I was raised by a father who had me reading the stock tables when I was a little girl, and I started doing that with my daughter when she was a little girl. I don't think you'll ever find anything that my husband or I said that in any way condemns the importance of making good investments and saving or that in any way undermines what is the heart and soul of the American economy, which is risk-taking and investing in the future.

What I think we were saying is that like anything else, that can be taken to excess. When companies are leveraged into debt, when loans are not repaid, when pension funds are raided -- you know, all of the things that marked the excess of the 1980's are things which we spoke out against.

I think it's a pretty long stretch to say that the decisions that we made to try to create some financial security for our family and make some investments come anywhere near there. I also think that, you know, my husband and I made different choices than to concentrate on making money during the 1980's. We obviously wanted enough financial security to send our daughter to college and put money away for our old age and help our parents when we could. But we were primarily interested in -- in his case -- in trying to provide opportunities for people in Arkansas and make a difference in their lives. And what I tried to do both to help him and to work on behalf of children or education reform was what was really important to us. So I think that is, you know, something that needs to be put again in a proper perspective.

Q. In the same vein, somewhat in the same vein, you were reported to have opposed a special prosecutor, at least in the beginning -- and some of the release of tax documents -- on the basis of privacy, that you felt you had a

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right to privacy. Do you think that that helped to create any impression that you were trying to hide something?

A. Yes, I do. And I think that is probably one of the things that I regret most and one of the reasons why I wanted to do this, because I've had to really do a lot of thinking the last couple of months. You know, again, I was raised to really believe that what was important was what you thought about yourself and how you measured up to the standards you set for yourself. And I think if my father or mother said anything to me more than a million times, it was don't listen to what other people say, don't be guided by other people's opinions, you know, you have to live with yourself. And I think that's good advice. I mean, I'm glad I got it as a girl growing up, and I've passed it on to my daughter. But I do think that that advice and my belief in it, combined with my sense of privacy -- because I do feel like I've always been a fairly private person leading a public life -- led me to perhaps be less understanding than I needed to of both the press and the public's interest as well as a right to know things about my husband and me.

So you're right. I've always believed in a zone of privacy. And I told a friend the other day that I feel after resisting for a long time, I've been re-zoned. You know, and I now have a much better appreciation of what's expected, and not only what I have done -- because I am extremely comfortable and confident about everything that I have done -- but about my ability to communicate that clearly and to give the information that you all need.

Now, to your other question, about the special counsel. I was not the only one of my husband's advisers who questioned the idea of a special counsel. I think that those of us who did were concerned about the precedent that would be set by having such an appointment made when none of the existing standards that had always been in place had been met. There was no credible allegation -- you know all of the things that usually are required. So I was questioning of that. But the President made the decision that we needed to get on with the business he came to Washington to do and that this was an important step to take, and I respected that decision.

. . .

Q. Mrs. Clinton, do you know anything about Mr. Foster's death? Do you know what he wanted to tell the President that he didn't get to tell him?

A. You know, I don't know that he wanted to tell the President anything. That's the first I've heard of that. My memory is that the President actually talked to Vince Monday night, before he died, and when I talked with the President afterward he was stunned because the conversation was a very normal kind of a conversation. So I don't know.

Q. Well, I understood they made an appointment to talk not the next day but Wednesday, and that would have been the day after he died.

A. I don't know. I don't know.

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Q. Mrs. Clinton, my question -- I'd like a follow-up too. The first one has to do with Susan MacDougal. She said that she brought the document of Whitewater over to you at the governor's mansion. Did you receive all the documents? And if so, what became of them?

A. I don't believe that we received all the documents in that way. Over the past several years, we have made a very deliberate effort to try to obtain documents. And every document that we have obtained has been turned over to special counsel, no matter where it came from.

Q. My follow-up has to do with the death of Mr. Foster, the way his office was sealed or the people who were in it. There's been a lot of criticism of the papers in Mr. Foster's office -- that some may have been removed.

A. Well, you know, I know there's been a lot of concern and criticism about that. I cannot speak to that in any detail. But I know that the special counsel is looking into the circumstances surrounding Mr. Foster's death, and I assume he will issue a report about that which I hope will put all these matters to rest once and for all.

Q. You said that -- just now -- that you'd decided that $1,000 was as much as you could risk. Can you tell us what your understanding was of how much you could be at risk with the little amount of money that you and your family had then? We were told earlier that $1,000 was what you were asked to put in. And second of all, can you give us some explanation -- given that a cattle contract at the time, just one contract, was $1,200 -- for the mystery of the $5,300 that was made really in the course of one day, or at least a few days, in the first trade?

A. No, I can't. I do not remember any of those details. I've given you every record that I have about that. The $1,000 was what I wanted to start with. And it was what I thought was a good beginning, a good investment for me. And once I had made the initial return that I did, I reinvested that. This was a roller coaster, and what I believed was that I was getting very good information and that I would end up making money. But there were a couple of days when I lost money. And I knew that I would be responsible for any losses that I suffered. But I did reinvest, and I covered the losses by closing positions. And then I eventually stopped trading.

Q. But when you first started with $1,000, did you believe you were putting at risk more than $1,000?

A. I believed that was certainly possible, yes.

Q. Then why did you take such a risky investment?

A. Because I didn't think it was that big a risk, because I thought that Jim and the people he was talking with knew what they were doing. And, you know, I've read a letter to the editor that somebody sent me from one of your newspapers, I think, which talked about a woman who invested $1,000 during the same time and made $750,000. Well, she had a stronger stomach than I did. I couldn't do that.

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. . .

Q. The Whitewater development was set up, as you say, as a 50-50 partnership between the Clintons and the MacDougals, meaning that you were liable for 50 percent of the losses or 50 percent of the gains. And yet, by your own accounting, you lost half or even maybe a third of what the MacDougals lost. This is according to the Lyons report. Doesn't that discrepancy represent some sort of a gift or gratuity?

A. No. And let me say that, yes, the ownership of the corporation was 50-50. The liability on the underlying debt was 100 percent for each one of us. I mean, there was no gift in that. When my husband and I signed that mortgage, and when we re-signed guarantees, we assumed the whole responsibility. I mean, if Jim had gone into bankruptcy early on, if Susan had left, we would not have only 50 percent of the obligation; we would have 100 percent of the obligation.

Q. But why was it that the MacDougals lost so much more money than you did? I don't understand it.

A. I can't answer that. I mean, we gave whatever money we were requested to give by Jim MacDougal. I mean, he was the one who would say: "Here's what you owe on interest. Here's what your contribution should be." We did whatever he asked us. We saw no records. We saw no documents. He was someone that my husband had known a very long time. He was someone who had been in the real estate business with many people we knew, including Senator Fulbright, and we just assumed that whatever he needed he would ask for. And we didn't have any information to the contrary.

Q. It's just that given that you were jointly and separately liable for all the debt and that you and your husband are both lawyers, that you would be so passive about a fairly substantial investment.

A. Well, we were not real estate developers, and Jim had a track record. And I wasn't a cattle expert; I trusted Jim Blair, and it worked out for me. And I wasn't a real estate expert, and we lost money. Those things happen.

Q. Mrs. Clinton, just to get back to Linda's earlier question. One of the things that has been driving this is either the lack of explanations or the shifting explanations. And in terms of the way that your commodities trading was first described: that you did the trades, you relied on some advice from Mr. Blair. Later it was revealed that Mr. Blair placed most of the trades, if not all of them. Can you explain what happened? Did you have a new recollection? Why the shift?

A. Well, if you just listen to what you said: I did the trades. They were my trades. I was responsible for them.

But I did them on the advice of Jim Blair. And very often he placed them for me. I'm not in any way excusing any confusion that we have created. I think we have created it because I don't think that we gave enough time or focused enough. I have been traveling, and I'm more committed to health care than anything else I do. I probably did not spend enough time, get as precise. Different people heard different things that I said, or by the time it got

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passed to the third or fourth person, or one member of the press would call somebody in the White House but somebody else would call another person. So I think that the confusion was our responsibility. We did not give you a focused place to come, and we did not spend the time necessary. There's not really a contradiction in what you said and what I said. But I can understand how somebody might assume that.

Q. Now that we're clearing up a lot of confusion, I'll ask you about one other thing that I've had problems with. During the campaign -- I think it was right after the primary debate between Jerry Brown and your husband -- you made a statement in, I think, a Chicago restaurant that you never did any regulatory work for Madison Guaranty. When the letter went to Beverly Bassett Schaffer about perhaps the legality of offering preferred stock, your name was at the bottom of that letter.

A. Right.

Q. Could you explain that?

A. Yes. I'm glad you asked that, because that's another thing that I feel has gotten confused in the telling. Let me just try to describe what happened there. When in 1985, I believe, -- maybe '86 -- there was an effort made on the part of various financial institutions around the country to increase their capital net worth, they began looking for ways to do that. There was a very bright young associate in our law firm who had a relationship with one of the officers at Madison, a young man whom he had known. They began talking.

And if you'll remember what happened when the S.& L.'s were deregulated, many states were left wholly unprepared: they did not have a regulatory system in place, they didn't even really have good laws. All of a sudden there was no Federal regulation to speak of, and so people were asking state governments whether things could be done.

Those two young men thought that it would be legal under Arkansas law for a savings and loan to issue preferred stock. But there was absolutely no law on that, and so they couldn't be sure. But they decided that what they wanted to do was to ask the person who regulated savings and loans whether it was legal -- not if Madison could do it; that was the second step. The first step was could you even do it in Arkansas, whether you were A, B or C, not just Madison.

When they talked about doing that, the young attorney in question needed a partner to serve as his backstop, and that was one of the rules we had in our firm. He knew that I knew Jim MacDougal. He also knew that Jim had been a client of our firm in the past. This was not a new representation.

So he came to me and asked me if I would talk with Jim to see whether or not Jim would let the lawyer and the officer go forward on this project. I did that, and I arranged that the firm would be paid a $2,000-a-month retainer. And that was ordinary and customary. That would be billed against, unlike retainers of some really big law firms that if you pay the retainer they keep it, no matter whether they do any work for you. This was really an advance against billing. That was arranged.

The young attorney, the young bank officer did all the work, and the letter

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was sent. But because I was what we called the billing attorney -- in other words, I had to send the bill to get the payment made -- my name was put on the bottom of the letter. It was not an area that I practiced in, it was not an area that I really know anything, to speak of, about.

At that point, the regulatory authorities -- namely, Beverly Bassett Schaffer -- answered the legal question. And the legal question was: Yes, it is permissible under Arkansas law to issue this preferred stock. Then the question moved on to the second phase, in which I had no involvement that I have any memory of, or anyone that I've talked with. That was trying to determine whether Madison could go forward.

And I think that the Securities Commissioner acted absolutely appropriately. She answered the legal question: Yes, it is legal to do this. But as to Madison, she laid out conditions that had to be met for Madison to do it. And Madison could never meet those conditions, and so they never issued preferred stock. So the legal question was answered, but Madison got no benefit at all from the answer of that legal question.

Q. Can you clarify for us what documents were removed from Vince Foster's office after he died, and why they were there in the first place?

A. I can tell you what I know, which is I did not know Vince had any of the documents related to our personal business in his office until after his death. What I believe he was doing with them was serving as a coordinator among our private lawyers and accountants and certain government officials, like the Office of Government Ethics, with respect primarily to our blind trust. Because there were all these questions that had to be answered and he was kind of the, you know, the coordinator. The private lawyers would talk to him; the Office of Government Ethics people would talk to him. I think that's why he had any documents of a personal nature in his office at the time of his death.

Q. Why did your chief of staff, Maggie Williams -- why was she involved at all to remove these documents from his office within a day of his death?

A. I don't think that she did remove any documents. I think that what happened is that after Mr. Nussbaum reviewed the documents, and after he did so -- as I recall; I was not here, I was in Arkansas -- but I believe that was done in the presence of officials from the park police and maybe some other agencies. Then Mr. Nussbaum distributed the files according to whom he thought should have them. There were files related to ongoing work in the counsel's office that needed to be passed on to other lawyers, there were personal files of Vincent's that needed to go to his family, and there were these personal files of ours that went to our lawyers.

Q. Another question about this re-zoning of private and public lives: I'm wondering what kind of a toll, if any, this has taken on you, on your and the President's personal and political lives. And do you ever look in the mirror and wish that you'd just never got into this?

A. No, never. Never. I mean, some days are better than other days, but, you know, I think what has helped me in the last couple of weeks -- aside from some good friends who have talked with me and helped me get re-zoned, if you will -- is my belief that this is really a result of our inexperience in Washington, if you will; that I really did not fully understand everything that I wish now I

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had known. You know, it's a learning experience, sometimes a difficult one but I think one that both the President and I are anxious to do because we think that the reason he was elected was to deal with the big issues that we want the country to deal with. And so it is a little disappointing if we in any way contribute to a diversion from that. That's something I don't want to have happen in the future, and I'm certainly going to try to be more sensitive to what you all need, and what we need to give you, and do it in a more efficient and effective way the first time.

Because, as I said earlier, I feel very confident about how this will all turn out. This is not a long-term problem or issue in any way. But I don't want anybody to have the wrong impressions of either of us, and I don't want anything to interfere with doing what the people of this country need done.

Q. Mr. Clinton has spoken of the politics of personal destruction. Who do you believe are main perpetrators of that?

A. I don't want to get into that. I don't think that that bears any real useful discussion. I think that what's important is for us -- not just the President and me but the entire Administration -- to keep focused on what really will stand the test of history and what we really are trying to do for the country. And I can't really help it if some people get up every day wanting to destroy instead of build, or wanting to undermine. That's something that I try not to think about or dwell on, and try to do what I'm expected to do, which for me is working on health care.

Q. When was your last conversation with Vince Foster, and what was your understanding of the state of his mind?

A. You know, I've thought about that so many times. I don't think I had any conversation with him for at least three weeks before he died because, you know, we left for Tokyo somewhere around the Fourth of July is my best memory. And for about a week before that, I was very preoccupied with getting ready for the trip and doing the things you have to do. So I don't have any memory of having talked to Vince, and I never talked to him during the time that I was gone. And like every one of our friends, you know, we relived everything that happened or didn't happen. The people who talked to him, the people who spent time with him, they question whether they said the right thing, whether they could have done something else. The fact that I didn't talk to him makes me wonder whether if I had called him I could have picked up a clue. I just don't have any way of knowing.

Q. It supposedly had been depression, or so we were told, for a considerable period of time. Were you ever aware of that?

A. No.

Q. Did you have any clue what was going on?

A. No. Neither did people who, you know, spent the weekend with him or saw him in the office that day. You know, one of the things that I've spent a lot of time doing in the last months is trying to educate myself about depression. And my good friend Tipper Gore has been a great help on that, as have the people she's worked with on mental health issues. And I just hope that we get over the

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stigma that is still often attached to people admitting they need help or that they can't understand what's happening to them. I have no doubt now, in retrospect -- and many of my friends now can reconstruct conversations or things they saw in Vince in those last weeks, but they didn't know, they didn't understand. And he didn't either feel comfortable or know himself. So maybe out of all of this tragedy and the aftermath, all of the speculation, maybe once we put to rest once and for all the fact that he committed suicide and that it was a tragic loss of one of the best people we've ever known, maybe it can do something to help other people understand what depression can do to you.

Q. Mrs. Clinton, what was your personal reaction when you learned that Jay Stephens would be representing the R.T.C. in a case against Madison?

A.My personal reaction?

Q. About the fairness of that decision by the R.T.C. to hire him.

A. Well, I didn't understand it, you know. But I don't know Mr. Stephens, and I assume he will be a very fair and judicious lawyer. I guess that's what I would expect.

Q. You're not concerned about his being a Republican appointee and a U.S. Attorney appointed by President Bush?

A. Not if he abides by the code of professional ethics and does his job professionally, I'm not, and you all keep an eye on him.

Q. Mrs. Clinton, do you think, with the benefit of hindsight, that it was improper for you and your law firm to represent the Federal Government against a family friend, Dan Lassiter, and against accountants for Madison S.& L. without fully disclosing that you had been business partners with Mr. MacDougal?

A. Well, Ann, I don't know what was disclosed and what wasn't. Those were not my cases. Those were cases that came to the firm to other lawyers. I've been told that things were disclosed quite extensively. And certainly in Arkansas, most things are known. And the relationship with Mr. MacDougal, the fact that Mr. Lassiter made campaign contributions to my husband, was certainly well-known. In both of those instances, I don't think I had anything to do at all with the representation against Madison on behalf of the Federal Government. At least I have absolutely no memory of having done anything on that case.

With respect to the Lassiter case: I think out of that entire case I worked two hours, as a favor to one of the lawyers who was out of town who asked me to review a pleading. And I have specifically inquired whether there was any ethical conflict with respect to that and have been assured there was not. He was not a client that we had any obligation to. Thousands and thousands of people contributed to my husband. That is not considered disqualification. We were not personal friends or social friends. So I don't see any basis for saying that my work for him, as limited -- or against him -- as limited as it was, amounted to any kind of conflict.

Q. It's not just the press that has questions -- sometimes the American citizens who talk to your husband at town meetings and all. And one young woman in Charlotte asked him a question I'd like to pose to you. She said that in the recent news reports about the First Lady's cattle futures earnings, and with all

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these Whitewater allegations, many of us Americans are having a hard time with your credibility. How can you earn our trust back? Is there a fundamental distrust of the Clintons in America?

A. Well I hope not. I mean, that would be something that I would regret very much. I do think that we are transition figures, if you will. We don't fit easily into a lot of our pre-existing categories. And let me speak just about myself. You know, I came to this role having worked my entire life. I mean, I started working in the summers when I was 13. I always worked. I worked through college. I worked through law school. That's what I did. And after I married, I continued to work. And after my daughter was born, with the exception of the four months I took off for maternity leave, I worked. Now, I took time off from work to do volunteer work, like I took long time off from my law firm work to work on education reform, or I would take time off to work on my husband's campaigns, or I would be in Washington on the Children's Defense Fund. I would certainly take a lot of time, but I was fundamentally working.

And I think that having been independent, having made decisions, it's a little difficult for us as a country maybe to make the transition of having a woman like many of the women in this room, sitting in this house. So I think that the standards -- and to some extent, the expectations and the demands -- have changed. And I'm trying to find my way through it and trying to figure out how best to be true to myself and how to fulfill my responsibilities to my husband and my daughter and the country. So I do think that there is some of that.

And then additionally, as I have said earlier, I think that my fundamental belief in privacy and my feeling that we were being asked things and demands were being placed on us that had never been demanded of prior inhabitants of this house -- unprecedented, in Arthur Schlesinger's words -- didn't make sense to me. I couldn't quite figure it out, and I resisted that. And I think I resisted it in ways that may have raised more questions than they answered. And I just don't think that was a very useful road for me to go down, and I'm trying now to better understand how to fit my personal needs and my own personal beliefs and what I want to do with this role for the country and the contribution I want to make into a broader context so that I can be as forthcoming and accessible as you need me to be.

GRAPHIC: Photos: Hillary Rodham Clinton gave the White House counsel Lloyd N. Cutler a kiss yesterday after her White House news conference. With her was her press secretary, Lisa Caputo. John D. Podesta, the White House staff secretary, left, also greeted the First Lady. (Paul Hosefros/The New York Times) (pg. 12); Hillary Rodham Clinton taking questions from reporters yesterday at a White House news conference at which she sought to offer an explanation of her financial dealings. (Reuters) (pg. 11)

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HEADLINE: First Lady's Explanations Yield Little Information

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BYLINE: Sue Schmidt, Charles R. Babcock, Washington Post Staff Writers

BODY:

First Lady Hillary Rodham Clinton provided little new information about the Clinton's finances yesterday, sidestepping direct responses to some questions and saying she did not know the answer to others.

She said she did not know about the Whitewater documents that were removed from White House deputy counsel Vincent Foster's office after his suicide last July; said she could not explain how she was able to make a $ 5,300 profit in her first day as a trader in the volatile cattle futures market; and professed ignorance about how the unsuccessful Whitewater land venture was able to pay off its bank debts in the 1980s.

The White House has changed its explanations of the Clintons' finances repeatedly, she said, because "until relatively recently there wasn't any one person in charge of trying to get everything together and get, you know, information as accurate as possible."

Over recent weeks the White House has revised several times its explanation of Clinton's commodities trading in 1978 and 1979.

For the first time, Clinton gave her version of how she got into the commodities markets on the advice of friend James B. Blair, counsel to Arkansas' largest employer, Tyson Foods Inc. She discussed how, with his help, she turned a $ 1,000 investment into nearly $ 100,000 in 10 months. She said Blair told her " 'I think there's going to be a great opportunity to make money' " in the cattle market and urged her to open an account.

She said that living in northwest Arkansas at the time, she was "familiar with a lot of ranchers and people in the cattle industry." Clinton said, though, she relied primarily on Blair's advice on when and how to trade and that Blair frequently placed her trades because he was often in the broker's offices.

She said she did not believe she received favorable treatment from the broker, Refco, but said she could not find the records of her first trades, when the $ 1,000 grew to $ 6,300 in one day. Futures experts have said this would have been impossible because $ 1,000 would control only one contract and the most that could have been made on one contract on that day was $ 600.

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No one from Refco ever called and asked her for more money, she said, as was required if prices changed and her contracts were valued at less than she had in her account. "Nobody ever called and asked me for anything, they just, I guess, took the money I had in the account and closed out the position," she said.

But, at least once in July 1979, prices had moved so far in the opposite direction she was betting that her account did not have enough money in it for the broker to close out her position.

Clinton said she has belatedly come to realize her desire for privacy is not paramount, and the public has a right to know certain information about her family's finances.

Recently, the White House released 1978 and 1979 tax returns that show $ 100,000 in profits from the commodities trading, records the Clintons have for years insisted were private. To rebut speculation that Hillary Clinton got a sweetheart deal from Blair and had no money of her own at stake, the White House released the trading records.

But to date, the White House has steadfastly refused to release any of the thousands of pages of Whitewater records in the Clintons' possession, first citing their right to privacy. More recently, White House officials have said they were asked by special counsel Robert B. Fiske Jr. not to release records publicly. Fiske's office, however, said that request has not been made.

Yesterday, Hillary Clinton was not asked why the Clintons have not publicly released copies of some of the thousands of pages of Whitewater records that they have turned over to Fiske under subpoena. She skirted a question about White House counsel Bernard Nussbaum's removal of a Whitewater file from Foster's office after his death, and why the office was not immediately sealed.

"I know there has been a lot of concern and criticism about that," said said, adding that she assumed Fiske's report on Foster's death will put questions to rest. She said he would have had Whitewater records because he was acting as a "coordinator" between the Clintons' personal lawyers and government ethics officers in creating their blind trust.

Clinton was asked what her aides told her about meetings last fall between White House officials and political appointees at the Treasury Department who had learned the Clintons were being named by regulators in Justice Department criminal referrals on McDougal's failed savings and loan, Madison Guaranty Savings & Loan. She said she was told nothing and knows nothing about their recent grand jury testimony on the subject.

She also said she knows nothing about the key allegations in the criminal referrals -- that Madison funds may have been improperly diverted to her husband's 1985 gubernatorial campaign to repay a bank debt and to Whitewater's checking account.

Responding to a question about the fact that the McDougals, the Clintons' 50-50 partners in Whitewater, put more money in than they did and lost more money on it, Clinton stressed that she and her husband were "100 percent liable"

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as were the McDougals on Whitewater's more than $ 200,000 of bank debt.

She denied the McDougal's disproportionate contribution constituted a gift, but had no explanation about why the McDougals lost more than the Clintons. "I can't answer that," she said. "I mean we gave whatever money we were requested to give by Jim McDougal. We saw no records. We saw no documents.

"He was someone that my husband had known a very long time. He was someone who had been in real estate business with many people we knew, including Senator [J.W.] Fulbright, and we just assumed that whatever he needed, he would ask for."

One questioner cited a government investigator's recent memo suggesting the Clintons should have known that McDougal was paying off Whitewater's bank debt because the venture was not bringing in enough money from land sales.

"Well, shoulda, coulda, woulda, we didn't," Clinton said.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: April 22, 1994

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Wednesday, August 3, 1994

Politics & Policy

Altman Apologizes for Not Being 'Forthcoming' On Whitewater, Puts Some Blame on Hanson

By Ellen Joan Pollock and Jackie Calmes
Staff Reporters of The Wall Street Journal

WASHINGTON -- Deputy Treasury Secretary Roger Altman, fighting to protect his reputation and his job, apologized to the Senate Banking Committee for not being "as forthcoming as I should have been."

Mr. Altman, under pressure from Republican lawmakers to resign, pinned some of the blame on Treasury General Counsel Jean Hanson and stoutly defended his briefing of White House officials about the Resolution Trust Corp.'s investigation of Madison Guaranty Savings & Loan, the Arkansas thrift at the heart of the Whitewater affair.

The hot topic at yesterday's hearings was whether Mr. Altman had told the truth when he testified about contacts between Treasury and White House officials Feb. 24. Questions about the veracity of Mr. Altman's prior testimony have become so central to these hearings that when he swore to tell the truth at the outset of his testimony yesterday, some audience members tittered.

Once the hearing began, both Democratic and Republican senators confronted Mr. Altman with discrepancies between his account of contacts between Treasury and White House officials and those of other witnesses. "In order to believe you, we have to disbelieve other people who have sworn under oath," said Sen. Robert Bennett (R., Utah). Sen. Phil Gramm (R., Texas) described Mr. Altman's account as "totally unbelieveable." Mr. Altman was unflappable and stuck to his version. "I did not lie to Congress," he said.

Mr. Altman even presented a videotape of the Feb. 24 hearing, showing himself conferring with Ms. Hanson, to prove that he had done his best to answer completely. The hearings at some points bogged down in hair-splitting, as Mr. Altman debated what constituted a "substantial contact," and whether he had "gracefully ducked" the senators' question at the earlier hearing, as Treasury aide Joshua Steiner suggested in his diary.

Mr. Altman conceded that "I may have heard or understood questions in

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a way that was not intended by the senator asking questions" last February. But for the most part, he was on the offensive. He even challenged the senators to requestion White House aide Harold Ickes, who has testified that Mr. Altman told former White House Counsel Bernard Nussbaum and others that the RTC wouldn't be prepared to decide on whether to sue Madison by a statutory deadline. Mr. Altman suggested that Mr. Ickes would change his account.

Everything about Mr. Altman's appearance was orchestrated to give the appearance of confidence. Seated behind him, next to his wife, Jurate Kazickas, was B.A. Bentsen, the wife of Treasury Secretary Lloyd Bentsen, who is well-known to the senators who once served with her husband. And at the White House yesterday, a spokeswoman reiterated President Clinton's support for Mr. Altman and said he "hopes that he'll stay on."

Repeatedly, the senators went back to Mr. Altman's Feb. 24 testimony. Mr. Altman had said that he had one "substantive" contact, on Feb. 2, with White House officials, and that he only discussed statute-of-limitation issues. Sen. Gramm reminded Mr. Altman that when he was asked whether other meetings had taken place, he said no, excluding possible encounters in hallways. In fact, Mr. Altman, who was acting RTC chief at the time, had discussed the question of whether to recuse himself from Madison-related matters at the Feb. 2 meeting and again at a meeting with White House officials Feb. 3. He paged Ms. Hanson electronically to summon her to the second meeting.

"We now know that there were over 40 contacts that we have verified," Sen. Gramm admonished him. "We now know that you made four of those contacts you were involved in yourself. We now know that the sole subject matter was not the statute of limitation."

Defending himself, Mr. Altman said he didn't think he was being asked about recusal at the Feb. 24 meeting. "Recusal had nothing to do whatsoever with the RTC investigation of Madison," he insisted.

Sen. Alfonse D'Amato (R., N.Y.) snapped, "To suggest recusal has nothing to do with Madison and Whitewater is a figment of someone's imagination."

Mr. Altman also defended himself by insisting he had relied on Ms. Hanson, who endured about seven hours of hostile questioning from the committee Monday, to help him prepare his testimony and refresh his recollection as he answered senators' questions Feb. 24. When asked how White House officials had found out about criminal referrals involving Madison, Mr. Altman said they hadn't learned about it from the RTC. In fact, Ms. Hanson had discussed the referrals with White House aides at two meetings the previous fall.

To prove his point that he'd counted on Ms. Hanson for help in

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answering, Mr. Altman said that after he was asked the question, "I turned to her and she confirmed my answer." He said that a videotape of his Feb. 24 testimony would prove his point. The tape showed Mr. Altman, after he said White House aides hadn't found out about the referrals from RTC officials, leaning back to confer with Ms. Hanson, who shook her head no. As the senators waited for the next video, one of them said into an open microphone, "He's going to try to lay it on her."

During the hearings, much has been made of Mr. Nussbaum's efforts to persuade Mr. Altman not to recuse himself from the Madison case. In his now infamous diary, Mr. Steiner said that although Treasury officials thought Mr. Altman should recuse himself, the White House staff told him that decision was "unacceptable." He marveled that at the Feb. 24 hearing, the subject of recusal "amazingly did not come up," and that Mr. Altman "gracefully ducked" the question about whether his staff has engaged in more than one discussion with the White House.

When Mr. Steiner testified yesterday morning, he tried to distance himself from his diary, saying that it was "never intended to be a precise narrative." But the senators tried to hold him to it as they complained that Mr. Altman hadn't been forthright on Feb. 24. "Make a distinction between 'ducking' and lying," Sen. Lauch Faircloth (R., N.C.) told Mr. Steiner.

Separately, the White House said there was a five-day delay between the time that a Whitewater-related file was removed from Vincent Foster's office after his death in July 1993 and handed over to the Clintons' personal attorney.

Margaret Williams, the chief of staff for Hillary Rodham Clinton, was handed the file by Mr. Nussbaum and it was stored in the White House residence for five days until it was given to the lawyer. Ms. Williams, officials said, checked with Mrs. Clinton before storing the documents in a locked closet.

Dee Dee Myers, the president's press secretary, yesterday called the episode "a mistake," and said White House spokesmen weren't aware of the delay when they told reporters that the documents were taken from Mr. Foster's office and given to the lawyer.

---- INDEX REFERENCES ----

MARKET SECTOR: FINANCIAL (FIN)

INDUSTRY: REAL ESTATE INVESTMENTS; SAVINGS & LOANS, THRIFTS (REA SAL)

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GOVERNMENT: CONGRESS; EXECUTIVE; RESOLUTION TRUST CORP.; TREASURY

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HEADLINE: THE **WHITEWATER** AFFAIR: WHITE HOUSE;
New Misstatements Admitted In Handling of **Foster's** Files

BYLINE: By MICHAEL WINES, Special to The New York Times

DATELINE: WASHINGTON, Aug. 2

BODY:

The White House said today that it had given a misleading account for months of how senior officials had disposed of files on President Clinton's **Whitewater** real estate investment that were found in the office of Vincent W. **Foster** Jr. after his suicide a year ago.

It was the third time since December that officials have acknowledged inaccurate or incomplete explanations of how they dealt with papers in Mr. **Foster's** office.

Under questioning by reporters, Mr. Clinton's spokeswoman, Dee Dee Myers, said today that Bernard W. Nussbaum, the former White House counsel who discovered **Whitewater** papers in Mr. **Foster's** office after his death, did not give the papers to the Clinton family's personal lawyer, as officials have said for a year.

Instead, Ms. Myers said, Mr. Nussbaum gave the files to Margaret Williams, the chief of staff to Hillary Rodham Clinton, who put them in a safe in the Clinton residence on the third floor of the White House. Five days later the papers were turned over to the Clintons' family lawyer.

'That Was a Mistake'

Ms. Williams was following the instructions of Mrs. Clinton, who was in Little Rock, Ark., at the time, the White House said. Mrs. Clinton's role in storing the papers was disclosed today in The Washington Post.

Ms. Myers said she had been unaware that the White House's past accounts of the handling of the files were inaccurate.

"I think in hindsight we should have been more clear about exactly what the chain of custody on those **documents** was, and I think that was a mistake," she said.

Ms. Williams was with Mr. Nussbaum, agents of the Federal Bureau of Investigation and members of the National Park Service Police when Mr.

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Foster's office was searched soon after his death, but questions about her handling of his papers had not been directly answered until today.

The contents of the **Whitewater** papers in Mr. **Foster's** office have not been made public. The **Whitewater** special counsel, Robert B. Fiske Jr., is continuing to examine the White House's handling of those papers and the search of Mr. **Foster's** office.

Turning Over of Files

After Mr. **Foster's** death on July 20, 1993, the White House communications office said that assorted personal papers in his office had been transferred to the Clintons' lawyer. But in December, as the Justice Department opened an inquiry into ties between the **Whitewater** venture and the bankrupt Madison Guaranty Savings and Loan, officials disclosed that the papers given to the lawyer included **Whitewater**-related **documents.**

Days later, the White House said Mr. Clinton was voluntarily turning those papers and other **Whitewater** files over to Justice Department investigators. But not much later, officials conceded that the Justice Department had in fact issued a subpoena for the **documents.** They said Mr. Clinton had been unaware of the department's action when he ordered the papers handed over.

In April, at a White House news conference, Mrs. Clinton was asked why Ms. Williams was "among those who **removed these documents**" from Mr. **Foster's office.**

"I don't think that she did **remove** any **documents,**" Mrs. Clinton replied. "After Mr. Nussbaum reviewed the **documents,** and after he did so, as I recall -- I was not here, I was in Arkansas -- but I believe that that was done in the presence of officials from the Park Police and maybe some other agencies. Then Mr. Nussbaum distributed the files according to whom he thought should have them."

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Wednesday, August 31, 1994

Politics & Policy

Former **Madison Aide** Tells Prosecutor He Recalls Clinton Signature on Loan

By Ellen Joan Pollock
Staff Reporter of The Wall Street Journal

LITTLE ROCK, Ark. -- Kenneth Starr, the new Whitewater prosecutor, has inherited plenty of unsolved mysteries from his predecessor. But few are as baffling as the suggestion that Hillary Rodham Clinton may have guaranteed a loan from Madison Guaranty Savings & Loan to Susan McDougal and her husband, Jim McDougal, the owner of the failed thrift.

If the loan guarantee's existence were proved, it might add credence to a potentially damaging allegation that President Clinton improperly pressured an Arkansas businessman into making a federally guaranteed loan to Mrs. McDougal. Mr. Clinton has denied the allegation, and the Clintons' lawyer says that Mrs. Clinton didn't guarantee a loan to the McDougals. More broadly, President and Mrs. Clinton have denied any wrongdoing in connection with their dealings with Madison or Whitewater Development Corp., a failed Arkansas land venture.

Don Denton, a former Madison senior vice president, has told members of the independent counsel's staff that he read through the McDougal loan file in 1986, and that when he looked on the reverse side of a loan document, he saw that it was guaranteed by Mrs. Clinton. Mr. Denton says he doesn't know if the loan documents still exist to support his eight-year-old memory.

Some of Mr. Denton's details are sketchy. For example, he recalls that the loan was for an amount between $100,000 and $300,000 and was made to a McDougal business interest, although he doesn't recall which one. He also admits that at the time he couldn't verify Mrs. Clinton's signature. David Kendall, the Clintons' lawyer, adamantly denies that such a loan ever took place.

But Mr. Denton says he remembers the guarantee by Mrs. Clinton, whose husband was then governor, because whoever documented the loan did not use the form usually used by Madison for guarantees. Also in the file, Mr. Denton recalls, was support material for a federally backed loan Mrs. McDougal received around the same time from David Hale, who has pleaded guilty to defrauding the Small Business Administration and is cooperating with the Whitewater prosecutor.

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Mr. Hale claims that Mr. Clinton pressured him to make a $300,000 loan to Mrs. McDougal in 1986. Mr. Clinton has denied the charge. If Mr. Denton's memory is correct and Mrs. Clinton did guarantee a loan, it would seem plausible that President Clinton might want to make sure that Mrs. McDougal had enough funds to repay the loan guaranteed by his wife.

Rumors of a loan to Mrs. McDougal guaranteed by Mrs. Clinton have circulated in Little Rock for months, although Mr. McDougal remembers no such loan and Mrs. McDougal's lawyer won't comment. But investigators have spent many hours interviewing Mr. Denton about Madison deals.

Mr. Denton can't explain one puzzling aspect of his recollection. He remembers the signature "Hillary Rodham," but Mrs. Clinton added "Clinton" to her name in the early 1980s. That raises questions about whether the signature he remembers seeing is genuine.

Mr. Kendall puts it this way: "Any allegation that Mrs. Clinton guaranteed a loan in 1986 with the signature 'Hillary Rodham' has the unmistakable and clanging ring of falsity."

---- INDEX REFERENCES ----

MARKET SECTOR: FINANCIAL (FIN)

INDUSTRY: REAL ESTATE INVESTMENTS; SAVINGS & LOANS, THRIFTS (REA SAL)

NEWS SUBJECT: LAW & LEGAL ISSUES (LAW)

GOVERNMENT: EXECUTIVE; JUSTICE DEPARTMENT (EXE JUS)

REGION: ARKANSAS; NORTH AMERICA; UNITED STATES (AR NME US)

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Wednesday, August 31, 1994

Politics & Policy

Starr Takes Over Whitewater **Probe** as Decisions Must Be Reached on Batch of Possible Indictments

By Ellen Joan Pollock
Staff Reporter of The Wall Street Journal

LITTLE ROCK, Ark. -- The political thunder clouds are only just beginning to disperse over the appointment of Kenneth Starr as special Whitewater prosecutor. But he already is facing decisions that are likely to send him back into the thick of controversy.

Mr. Starr has assumed control of the Whitewater investigation at a critical moment. Former independent counsel Robert Fiske was expected to decide next month which Whitewater characters, if any, should be charged.

Those decisions now fall to Mr. Starr, who spent last week absorbing the myriad details of the investigation and recruiting new lawyers with prosecutorial experience. If Mr. Starr seeks indictments, the first charges aren't likely to deal directly with the Whitewater real-estate investment by President Clinton and his wife, Hillary Rodham Clinton, nor with Mr. Clinton's campaign finances when he was governor of Arkansas. Indeed, many elements of the wide-ranging investigation centering largely on events before Mr. Clinton was elected president have nothing to do with Mr. and Mrs. Clinton. The president says he did nothing wrong and has repeatedly expressed confidence that the lengthy investigation will prove his innocence.

Nevertheless, if there are charges, they could target some of the Clintons' friends and political associates; the repercussions would be felt as strongly in Washington as they would be here in Arkansas. A decision against seeking indictments would suggest that evidence of wrongdoing is much weaker than some early government investigators -- and many of Mr. Clinton's political opponents -- contend.

On the list of possible targets are two well-known political figures, former associate attorney general Webster Hubbell and Arkansas Gov. Jim Guy Tucker.

Mr. Hubbell is being vigorously pursued by the independent counsel staff because he allegedly charged personal expenses to the Rose Law

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Firm, where he was once a partner with Mrs. Clinton, according to people familiar with the investigation.

Gov. Tucker, who is likely to win an election this November (he was the lieutenant governor before Mr. Clinton became president), borrowed heavily from Madison Guaranty Savings & Loan and a company owned by David Hale that was only supposed to lend to disadvantaged businesses. Some of the loans are believed to have contributed to Madison's failure, and Gov. Tucker was named in a criminal referral from the Resolution Trust Corp. to the Justice Department. Madison's former owner, James McDougal, also has received intense scrutiny from investigators.

Mr. Hubbell was chosen for his top Justice post from the Clintons' circle of close Arkansas friends and any indictment of him would be a deep embarrassment for the White House. Although he resigned in March after his dispute with the Rose firm became public, he since has been invited back to the White House for social occasions.

Mr. Starr is in possession of records indicating that Mr. Hubbell allegedly billed the Rose firm for roughly $100,000 in expenses that he said were business-related but turned out to be personal, according to lawyers involved in the investigation. Mr. Hubbell, they say, used Rose firm checks to pay his credit-card bills. Possible felony charges against him could include mail fraud.

Mr. Starr's staff also has been trying to ascertain whether Mr. Hubbell billed the RTC for personal expenses. If he did, he could also be charged with making false statements to a federal agency. Mr. Hubbell represented the thrift agency in litigation. His attorney declined to comment.

At least two Rose Law Firm partners, including managing partner Ronald Clark, have spoken with the Whitewater prosecutors. Lawyers familiar with the investigation say Mr. Starr has substantial documentary evidence against Mr. Hubbell and that the investigation is likely to be wrapped up by late September.

Mr. Tucker, a Democrat, was never a close ally of Mr. Clinton's in Arkansas, but any legal problems for him would also present a sticky political situation. His opponent in November, Sheffield Nelson, has been one of President Clinton's most vocal critics on Whitewater. During Senate Banking Committee hearings earlier this month, Republicans worked hard to insinuate that the president was in a position to tip off Gov. Tucker to a pending investigation when they met in 1993, after Treasury Department officials told White House aides about the RTC's Madison probe. White House aides have said that President Clinton didn't know that Gov. Tucker was named in a criminal referral.

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Some of Mr. Tucker's business deals resulted in serious losses to Madison and the governor could face charges if those losses can be attributed to malfeasance. Gov. Tucker's loans from Madison and Mr. Hale's firm are being aggressively scrutinized by the independent counsel's office. The RTC's criminal referral, which was transferred to Mr. Fiske, involved a $260,000 loan Gov. Tucker got from Madison to purchase a roughly 35-acre property for a shopping center near a trailer park being developed by Madison. The RTC alleged that about $130,000 was improperly diverted to pay off an unrelated loan the governor had guaranteed at another bank.

Gov. Tucker's lawyer, John Haley, says there was nothing improper about the diversion because Madison itself forwarded the money to the other bank. Gov. Tucker later sold the property to a company he partly owned. After Madison failed, Ikansa, a company set up and owned by Mr. Haley, acquired a $220,000 note for the remaining debt from the RTC on behalf of Gov. Tucker.

But the independent counsel office's interest in Gov. Tucker's business deals goes beyond the scope of that criminal referral. The team is also looking at a $1,050,000 loan from Madison to Castle Sewer & Water, a company partly owned by Gov. Tucker. Castle Sewer used the money to buy a sewer system from Madison, but the loan was written down by half, with the approval of federal regulators, after the company couldn't meet its loan payments.

As of 1987, Castle Sewer was owned by Gov. Tucker, R.D. Randolph, a businessman, and a firm owned by Mr. Hale, who has pleaded guilty to defrauding the Small Business Administration and is cooperating with the Whitewater prosecutor. Gov. Tucker transferred his share to Mr. Randolph. Madison's loans to Castle Sewer haven't been fully repaid, Mr. Haley said.

The investigators have subpoenaed thousands of pages of documents from Gov. Tucker and even from Mr. Haley, who complains that the government has been overzealous in demanding documents. The lawyer has turned over the records of Ikansa and recently was asked to turn over documents for Mikado Leasing, a company he set up that held shares in a cable-TV company the governor owned. The cable companies, which received loans from Mr. Hale, are also being scrutinized by investigators.

The political stakes are also high for Mr. Starr. He is standing firm despite calls for his resignation by those who say his appointment was sponsored by conservatives. But he may bend over backward to avoid the appearance of partisanship when he decides whom to indict. "It's going to be very difficult for him to make any close calls against the president," notes a lawyer familiar with Whitewater. "He'll have to satisfy a higher threshold of proof."

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Mr. Starr, and Mr. Fiske, are mum on the direction of the investigation. How fast Mr. Starr can move will depend to some degree on whether he persuades Mr. Fiske's staff to stay on. Some are expected to leave this fall but are committed to staying until a transition is complete. That, says Starr staffer William Duffy, will minimize "whatever delay there is and I think in a number of situations will avoid a delay."

---- INDEX REFERENCES ----

MARKET SECTOR: FINANCIAL; INDUSTRIAL (FIN IDU)

INDUSTRY: GENERAL INDUSTRIAL & COMMERCIAL SERVICES; REAL ESTATE INVESTMENTS; SAVINGS & LOANS, THRIFTS; ALL INDUSTRIAL & COMMERCIAL SERVICES (ICS REA SAL SVC)

NEWS SUBJECT: LAW & LEGAL ISSUES (LAW)

GOVERNMENT: EXECUTIVE; RESOLUTION TRUST CORP.; STATE GOVERNMENT; TREASURY DEPARTMENT (EXE RTC STE TRE)

REGION: ARKANSAS; NORTH AMERICA; UNITED STATES (AR NME US)

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available after 3:45

Sam Dash

- Fisha filed report
- need to pull copy of it
  - ↓ required by CFR — 28 CFR 600. — AG regulation → minors statute
  - raises delicate separation of powers issues on Court

* Wall St. Journal is asking court to release report that has been filed
  - motion to stay release"
  - KWS has sent nothing to Court

① filing a response — NO, except w/r/t following sentence

② beyond appropriate ambit — we are powerless to act in absence of statute passed by Congress

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- North of // Poindexter
- Morrison v. Olser

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- Bob said that in North, the Court made interesting comments about

(*) special division in Jan. 1994 ⇒ statute

→ informative language

→ under statute

OLC under Reagan

record show

quickly went through it → clearly 6(e) material →

(*) look at North, In re: Madison Guaranty
(*) pull CFR
(*) Morrison v. Olsen

(2) call Sam Dash
(3) sit down w/ KWS and go over report
(4) KWS call Fiske

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November 15, 1994

WRITER'S DIRECT DIAL NUMBER

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OUR FILE NUMBER

T 22170-00094

VIA HAND DELIVERY

Mr. Ron Garvin, Clerk
United States Court of Appeals
for the District of Columbia Circuit
333 Constitution Avenue, N.W.
Room 5409
Washington, D.C. 20001

Re: *In re Madison Guaranty Savings & Loan Association*, Div. No. 94-1

Dear Mr. Garvin:

I am enclosing herewith for filing an original and four copies of a redacted, public version of the motion that Dow Jones filed under seal yesterday with the Court. Dow Jones filed that motion under seal only because it referred to material that this Court had ordered to be sealed. The enclosed public version of the motion deletes all references to sealed material and it therefore bears the legend "Public Copy -- Sealed Material Deleted" on the first page. *See* D.C. Circuit Rule 47.1(d)(1).

Thank you for your assistance in this matter.

Very truly yours,

Theodore B. Olson

TBO/sdw
Enclosure

cc: Robert B. Fiske, Esq.
Kenneth W. Starr, Esq.

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty Savings & Loan Association	Division No. 94-1 **(Public Copy -- Sealed Material Deleted)**

MOTION OF DOW JONES & COMPANY, INC.

PRELIMINARY STATEMENT

Dow Jones & Company, Inc., publisher of *The Wall Street Journal*, hereby moves this Court to reconsider its

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1

[Footnote continued on next page]

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Dow Jones' motion was based on information it had received that Mr. Fiske had filed a report with the Court concerning his investigation of the "Whitewater" controversy involving President and Mrs. Clinton and many of their highest ranking aides and advisers. The motion explained that the First Amendment and principles of common law concerning access to judicial proceedings and filings required the Court to lift its seal from the report immediately.

While Dow Jones believes that both Mr. Fiske and Kenneth W. Starr, the independent counsel appointed by this Court under 28 U.S.C. § 593 to investigate Whitewater, may have filed responses to Dow Jones' motion, neither Mr. Starr nor Mr. Fiske would confirm the fact of any such responsive pleadings to Dow Jones and any such responses that may have been communicated to the Court were not served on Dow Jones. *See* Declaration of Theodore J. Boutrous, Jr., ("Boutrous Decl."), ¶¶ 3-5, attached hereto as Appendix A.

[Footnote continued from previous page]

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The Court should afford Dow Jones access to the Fiske report -- or to such portions of the Fiske report that may be unsealed without demonstrable, serious injury to the rights of individuals. As shown below, this Court unquestionably possesses the power to grant public access to the report. Even if the Court determines not to unseal the full report, the common-law and First Amendment rights of access to judicial records require the Court at least to confirm the existence of the report and, if it exists, to issue specific and detailed findings explaining why the report, or any portion thereof, must remain secret. And these same principles, as well as due process, require that all responses to Dow Jones' motion for access to the Fiske report be disclosed to Dow Jones immediately.

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ARGUMENT

I

THIS COURT IS EMPOWERED TO GRANT PUBLIC ACCESS TO THE FISKE REPORT

This matter concerns a request by Dow Jones for access to a document that apparently has been filed with this Court that is of extraordinary public interest and importance. Mr. Fiske's Whitewater inquiry concerned allegations relating to the President, the First Lady and other high-ranking Executive Branch officials, and there is an obvious public interest in Mr. Fiske's conclusions and analysis of the facts surrounding the Whitewater controversy. It is possible that Mr. Fiske's report may include discussion of other issues, such as whether Mr. Fiske's investigation was, as Attorney General Reno said it would be, truly conducted independent from, and without interference by, other Justice Department or Executive Branch officials. It is also possible that Mr. Fiske may have included discussion, and perhaps criticism, of other aspects of the process which led to his appointment and then resulted in his termination when this Court appointed Mr. Starr under the Ethics in Government Act. Such speculation is both inevitable and antithetical to the public interest as long as this Court shields the report from access by the public.

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The Court does not need permission from the Executive Branch, however, to keep the courthouse door open to the public.

Indeed, records of judicial proceedings and documents filed with courts are presumptively open to the public, and only a strong, affirmative showing in an adversarial proceeding would permit the Court to close off the public from access to its judiciary. This strong presumption is deeply rooted in both the common law and the First Amendment. *E.g.*, *Press-Enterprise Co.* v. *Superior Court*, 464 U.S. 501, 510 (1984) (First Amendment establishes "presumption of openness" of judicial proceedings that can only be overcome by demonstration of "an overriding interest based on findings that closure is essential to preserve higher values"); *Globe Newspaper Co.* v. *Superior Court*, 457 U.S. 596, 606-07 (1982) (where Government "attempts to deny the right of access in order to prohibit disclosure of sensitive information, it must be shown that the denial is necessitated by a compelling governmental interest"); *Nixon* v. *Warner Communications, Inc.*, 435 U.S. 589, 597, 602 (1978) (recognizing that it "is clear that the courts of this country recognize a general right to inspect public records and documents including judicial records and documents," and that there is a "presumption . . . in favor of access to judicial records"); *The Washington Post* v. *Robinson*, 935 F.2d 282, 287 (D.C. Cir. 1991) (The First

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Amendment "guarantees the press and the public a general right of access to court proceedings and court documents unless there are compelling reasons why it cannot be observed."); *Johnson* v. *Greater Southeast Community Hospital Corp.*, 951 F.2d 1268, 1277-78 (D.C. Cir. 1991) (common-law creates "strong presumption in favor of public access to judicial proceedings" and party seeking to seal records is obligated "to come forward with specific reasons why the record, or any part thereof, should remain under seal"); *Rushford* v. *New Yorker Magazine*, 846 F.2d 249, 253 (4th Cir. 1988) (common-law presumption of access can only be rebutted by proof that "countervailing interests heavily outweigh the public interests").

This Court therefore needs no affirmative grant of authority from the Executive or Legislative Branches to allow public access to judicial records and files. "'It has long been understood that '[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,' powers 'which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.'" *Chambers* v. *NASCO, Inc.*, 501 U.S. 32, 43 (1991). One such "implied power" is the inherent authority of courts over their own files. "*Every* court has supervisory power over its own records and files . . . ." *Nixon*, 435 U.S. at 598 (emphasis added).

Neither of the other two Branches may exercise power over this Court's determinations regarding access to the Court's files. Unlike the act of appointing independent counsels, which involves the exercise of this Court's power under the

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Appointments Clause of Article II of the Constitution, *see generally Morrison* v. *Olson*, 487 U.S. 654, 673-79 (1988), this Court's resolution of a motion seeking access to documents that have been filed with it is a case or controversy that requires the exercise of the Court's Article III "judicial Power." *See In re North*, 16 F.3d 1234, 1244 (D.C. Cir. 1994) (Special Division's decision whether to release final report of Independent Counsel is "a genuine case or controversy between the movants and the Independent Counsel," and therefore "constitute[s] a judicial proceeding"). No Branch is permitted "'to possess directly or indirectly, an overruling influence over the others in the administration of their respective powers." *Mistretta* v. *United States*, 488 U.S. 361, 409 (1989) (*quoting The Federalist* No. 48, at 332 (J. Cooke ed. 1961) (Madison)). Thus, it would raise serious separation-of-powers questions for this Court to cede its inherent judicial power over its own files to the Executive Branch. *Cf. Hayburn's Case*, 2 U.S. (2 Dall.) 408, 411 (1792) ("allowing revision and control" by the Executive Branch of the judgments of Article III courts would be "radically inconsistent with the independence of that judicial power which is vested in the courts").

The Justice Department regulation

28 C.F.R. § 600.1, *et seq.*, neither grants nor withdraws power from this Court. This Court was established for the sole purpose of appointing independent counsels pursuant to the Ethics in Government Act, *see* 28 U.S.C. § 49, and taking other specifically identified actions with respect to such

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investigations. 28 U.S.C. § 593 (defining duties of the division of the court). Mr. Fiske was not appointed by this Court, has no responsibility to it, and has no authority to insist that the Court shield from the public any documents he may have lodged with it.

The Justice Department regulation is nothing more than an internal policy articulating criteria and guidelines for the Attorney General to invoke when vesting investigative responsibility in an Attorney General subordinate. While the regulation requires attorneys who conduct investigations pursuant to its terms to file reports with this Court, *id.*, § 600.2(b)(1)-(2), that does not confer jurisdiction on this Court to monitor, supervise or otherwise ensure the accountability of such prosecutors. In fact, the constitutional separation-of-powers doctrine precludes this Court from exercising any such powers. *See, e.g., Morrison*, 487 U.S. at 681 (interpreting independent counsel statute narrowly so as not to "give the Division the power to 'supervise' the independent counsel in the exercise of his or her investigative or prosecutorial authority"); *North*, 16 F.3d at 1239 ("the Supreme Court in *Morrison* carefully construed the [Ethics in Government] Act to place severe limitations on this Court's authority over the Independent Counsel in order to save the constitutionality of the Act"). In this case, of course, this Court does not have any authority over Mr. Fiske because he is, or was, purely a functionary of the Executive Branch and not an appointee of this Court.

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The fact that the Justice Department regulation gives *Mr. Fiske* discretion to release his report to the public is therefore irrelevant to the inquiry whether this Court can or should allow the public to have access to any report that Mr. Fiske has chosen to file with the Court. The Attorney General ordered him to do so for reasons known only to the Attorney General. But that requirement vests this Court with no special jurisdiction to receive, or withhold from the public, such reports. The reports thus must be treated by the Court like any other document lodged with it by an Executive Branch prosecutor (or anyone else), and the public is entitled to access to the report unless Mr. Fiske or Mr. Starr (whose role in this particular dispute is dubious at best) comes forth with affirmative and compelling justifications for keeping the report or any portion of it under seal.[2]

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[2] Even if the Executive Branch had some power to grant or refrain from granting power to the federal courts to authorize the public to see documents filed in court, the reporting requirement at issue here involves no such restriction. In the statutory context, this Court has declared that the purpose of requiring an independent counsel to file a report is to "'insure the accountability of a special prosecutor.'" *In re Sealed Motion*, 880 F.2d 1367, 1370 (D.C. Cir. 1989) (quoting S. Rep. No. 95-170, 95th Cong., 1st Sess. 5, 70, March 16, 1977). The reporting requirement thus guarantees that, "in most cases, the court, the Congress, the Department of Justice and, ultimately, the public would have access to 'a detailed and official record of the activities of the special prosecutor [independent counsel] which may be reviewed at the appropriate time.'" *In re Sealed Motion*, 880 F.2d at 1370 (quoting S. Rep. 95-170, p. 70-71); *accord In re North*, 16 F.3d 1234, 1238 (D.C. Cir. 1994). Thus, the report is ultimately for the benefit of the public.

[Footnote continued on next page]

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Accordingly, this Court possesses ample authority to grant the relief sought by Dow Jones in its motion seeking access to the Fiske report. The Court should therefore grant the public immediate access to the entire report, or at least to those portions of the report that may be disclosed without causing demonstrable, serious injury to the rights of individuals.

II

THE COURT MUST CONFIRM THE EXISTENCE OF THE REPORT AND ARTICULATE SPECIFIC, COMPELLING REASONS BEFORE DENYING PUBLIC ACCESS TO ANY PORTION OF THE REPORT

Even if the Court determines not to permit access to the full report, the Court must at least confirm that such a report has been filed and explain in detail why the Court believes it is necessary to deny access to any portion of the report. The Justice Department independent counsel regulation requires Mr. Fiske to prepare a report and file it with this

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[Footnote continued from previous page]

Furthermore, as a matter of policy, Justice Department regulations provide: "Because of the vital public interest in open judicial proceedings, the Government has a general overriding affirmative duty to oppose closure. There is . . . a strong presumption against closing proceedings or portions thereof, and the Department of Justice foresees very few cases in which closure would be warranted." 28 C.F.R. § 50.9. This Justice Department policy favoring openness of judicial proceedings is binding on both Mr. Fiske and Mr. Starr. 28 C.F.R. § 600.2(f) ("An Independent Counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws."); 28 U.S.C. § 594(f) (same).

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Court, and the American people are entitled to know whether Mr. Fiske has complied with this mandate.

Both the common-law and First Amendment also require that the Court narrowly tailor restrictions on public access to the report, and issue specific findings to justify the sealing of any part of the report. Thus, for example, in *Press-Enterprise Co.*, the Supreme Court held that the "presumption of openness" of judicial proceeding can be overcome

> only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. That interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.

464 U.S. at 510. The D.C. Circuit has adopted similar requirements. *See Johnson*, 951 F.2d at 1277-78 (holding that courts must "articulate the precise reasons why" sealing of record is appropriate and ensure that "sealing order is . . . no broader than is necessary to protect those specific interests identified as in need of protection.").

The Court must therefore issue findings explaining the reasons justifying the denial of access to any portion of the report.

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III

THE COURT SHOULD AFFORD DOW JONES ACCESS TO ALL RESPONSES TO ITS MOTION

Dow Jones received no response from either Mr. Fiske or Mr. Starr to its motion seeking access to the Fiske report. When counsel for Dow Jones requested service of their respective responses, each refused to comment on that topic, and would not even disclose whether they had filed a response. *See* Boutrous Decl., ¶¶ 3-5. The Court should immediately unseal and provide Dow Jones access to any responses filed by Messrs. Fiske and Starr, the Department of Justice, or any other person or entity.

Dow Jones is entitled to review, and reply to, any responses to its motion. The Federal Rules of Appellate Procedure explicitly require service of *all* papers "at or before the time of filing" on opposing parties to the proceedings, Fed. R. App. P. 25(b), and Justice Department policy generally requires the Government's arguments seeking to limit access to judicial proceedings be "made on the record." 28 C.F.R. § 50.9(c)(4). Moreover, traditional notions of fairness and due process preclude ex parte submissions to a court by a party to a judicial proceeding.

The Due Process Clause strictly limits the use of ex parte proceedings. *See, e.g., United States* v. *James Daniel Good Real Property*, 114 S. Ct. 492 (1993). And due process concerns are heightened where the Government seeks to restrict activity protected by the First Amendment. For example, the Supreme Court observed in *Speiser* v. *Randall*, 357 U.S. 513 (1958):

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> [S]ince only considerations of greatest urgency can justify restrictions on speech, and since the validity of a restraint on speech in each case depends on careful analysis of the particular circumstances, the procedures by which the facts of the case are adjudicated are of special importance and the validity of the restraint may turn on the safeguards which they afford.

Id. at 521 (citations omitted).

The Supreme Court has therefore emphasized the particular importance of adversarial proceedings in cases where First Amendment rights are at stake. *See, e.g., Fort Wayne Books, Inc.* v. *Indiana*, 489 U.S. 46, 62-67 (1989) (where RICO violation could only be established "by rebutting the presumption that expressive materials are protected by the First Amendment" adversary proceeding required). Indeed, the requirement that this Court make specific findings of fact in order to keep the Fiske report under seal, *e.g., Press-Enterprise Co.*, 464 U.S. at 510, presupposes that the Court would engage in some sort of adversarial process before adjudicating Dow Jones' common-law and First Amendment access claims.

"[F]airness can rarely be obtained by secret, one-sided determination of facts decisive of rights . . . . No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him *and an opportunity to meet it.*" *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 170 (1951) (Frankfurter, J., concurring), *quoted in James Daniel Good Real Property*, 114 S. Ct. at 502 (emphasis added). Perhaps Messrs. Fiske and Starr attempted to provide this Court with a balanced view of the need for keeping the Fiske report under seal, but they cannot and do

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not represent the sole and final word on the interests of the public in this respect. "However impartial a prosecutor may mean to be, he is an advocate, accustomed to stating only one side of the case." *United States* v. *Napue*, 834 F.2d 1311, 1319 (7th Cir. 1987) (quoting *Haller* v. *Robbins*, 409 F.2d 857, 859 (1st Cir. 1969)). "The purpose of an adversary hearing is to ensure the requisite neutrality that must inform all governmental decisionmaking." *James Daniel Good Real Property*, 114 S. Ct. at 502.[3]

It would be highly anomalous and improper to deprive the public of its "precious," "fundamental common law right" to "inspect and copy judicial records," *In re Application of National Broadcasting Co.*, 653 F.2d 609, 613 (D.C. Cir. 1981), or its general First Amendment "right of access to court proceedings and court documents," *The Washington Post Co.* v. *Robinson*, 935 F.2d at 287, in an ex parte proceeding where the Government's arguments are presented to the Court in secret. "Public argument is the norm even, perhaps especially, when the case is about the right to suppress publication of information." *In re Krynicki*, 983 F.2d 74, 76 (7th Cir. 1992) (opinion of Easterbrook, J., on motion to seal appellate briefs). Allowing government officials to make their arguments for closure under seal -- and without even permitting the party seeking access to evaluate and respond

[3] Rule 3.5(b) of the D.C. Rules of Professional Conduct provides that "[a] lawyer shall not . . . communicate ex parte with [a judge] except as permitted by law." Dow Jones is aware of no "law" that authorizes litigants to respond ex parte to motions filed with this Court.

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to those arguments -- would mock the constitutional and common-law rights of access, which generally serve the purpose of ensuring the integrity of, and public confidence in, the criminal justice system. *See, e.g., National Broadcasting*, 653 F.2d at 612; *Richmond Newspapers, Inc.* v. *Virginia*, 448 U.S. 555, 571-72 (1980) ("To work effectively, it is important that society's criminal process 'satisfy the appearance of justice,' and the appearance of justice can best be provided by allowing people to observe it.").

While Messrs. Starr and Fiske may argue -- indeed, they may have already argued -- that unsealing their responses to Dow Jones' motion for access will risk revealing information from the Fiske report that they contend must remain under seal, *see* 28 C.F.R. § 50.9(c)(4), that kind of sweeping argument -- which could be made in virtually every access case -- cannot override the traditional rules in favor of access and against ex parte adjudication. Nor can such an argument shield the *entire* response from Dow Jones. As Judge Easterbrook observed in *Krynicki*, courts routinely require public briefing and argument in cases involving highly sensitive and even classified information, although sometimes sealing certain portions of the record. Thus,

> [b]riefs in the *Pentagon Papers* case, *New York Times Co.* v. *United States*, 403 U.S. 713, 91 S. Ct. 2140, 29 L.Ed.2d 822 (1971), and the hydrogen bomb plans case, *United States* v. *Progressive, Inc.*, 467 F. Supp. 990, rehearing denied, 486 F. Supp. 5 (W.D. Wis.), appeal dismissed, 610 F.2d 819 (7th Cir. 1979), were available to the press, although sealed appendices discussed in detail the documents for which protection was sought. The Court denied a motion to close part of the oral

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> argument in the *Pentagon Papers* case. 403 U.S. 944, 91 S. Ct. 2271, 29 L.Ed.2d 854 (1971). *See also In re United States*, 872 F.2d 472 (D.C. Cir. 1989) (public briefs and opinion in a national security case, although parts of the dissenting opinion were sealed to protect confidences).

983 F.2d at 76; *cf.* D.C. Circuit Rule 47.1(d) (establishing special procedures for filing and service of briefs that require parties to refer to material under seal and requiring the filing of two sets of briefs, including one public set that omits references to sealed material). Even in the rare instance where a court withholds the name of a litigant, that process "does not shield the facts and arguments of the case. The parties present public arguments leading to a public decision." *Krynicki*, 983 F.2d at 76.

In *Krynicki*, Judge Easterbrook rejected the United States' request to file its brief under seal, even though it might have been necessary to discuss grand jury material protected from disclosure under Fed. R. Crim. P. 6(e). Judge Easterbrook concluded, "[a]ny part of the record that must remain secret under Rule 6(e)(2) may be disclosed in sealed appendices to the briefs, but the briefs themselves, including all of the legal argument, belong in the public domain." *Id.* at 77.

CONCLUSION

The Court not only has the authority to release the report filed with it by Mr. Fiske, it has a powerful obligation to do so. It cannot allow itself to become a repository of

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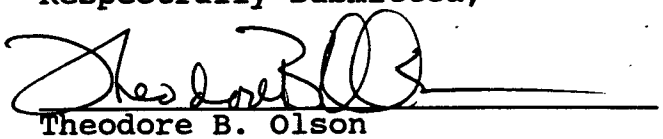
secret Executive Branch reports and a forum for concealed, one-sided government advocacy.

Dated: November 15, 1994

Respectfully submitted,



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Theodore J. Boutrous, Jr.
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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty Savings & Loan Association	Division No. 94-1

DECLARATION OF THEODORE J. BOUTROUS, JR.

I, Theodore J. Boutrous, Jr., hereby declare and state as follows:

1. I am an attorney representing Dow Jones & Company, Inc., publisher of *The Wall Street Journal*, in this matter.

2. On October 25, 1994, Dow Jones filed a motion seeking disclosure of and access to a report that apparently has been filed with this Court by former Independent Counsel Robert B. Fiske. In its motion, Dow Jones requested that the Court consider this matter on an expedited basis. Dow Jones hand-served its motion on Independent Counsel Kenneth W. Starr and served Mr. Fiske by facsimile and overnight delivery.

3. Dow Jones never received a response to its motion from either Mr. Fiske or Mr. Starr. On November 2, 1994, I telephoned Brett Kavanaugh, a lawyer in Independent Counsel Starr's office, to ask for the courtesy of hand-service of a copy of any response that Mr. Starr might intend to file. Mr.

Kavanaugh stated that the Independent Counsel's answer to that inquiry would be "no comment." Mr. Kavanaugh also responded "no comment" when I asked whether the Independent Counsel had filed, or intended to file, a response to Dow Jones' motion.

4. On November 3, 1994, I had a similar conversation with Mr. Fiske. I asked him whether he planned to file a response to Dow Jones' motion and, if so, whether he would serve it on me by overnight delivery and facsimile. Mr. Fiske refused to comment on whether he would file a response or whether and how he would serve it on counsel for Dow Jones.

5. As noted above, no response to the Dow Jones motion was served on Dow Jones by either Mr. Fiske or Mr. Starr. Thus, any communications to the Court by them in response to Dow Jones' motion were not only ex parte, but the fact as well as the substance of such communication were secret.

I swear under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Dated: November 14, 1994

Theodore J. Boutrous, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion Of Dow Jones & Company, Inc. For Reconsideration Of The Court's November 3, 1994 Order Denying Access To The Report Of Former Independent Counsel Robert B. Fiske was served this 14th day of November, 1994, by hand delivery to Independent Counsel Kenneth W. Starr, Office of Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. 20004, (202) 514-8688; and, by facsimile and overnight delivery to Robert B. Fiske, Esq., Davis, Polk & Wardwell, 450 Lexington Avenue, New York, NY 10017, (212) 450-4000.

Theodore J. Boutrous, Jr.

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MEETINGS NOVEMBER 1, 1994
WILLIAM E. COLOMBELL & MIGUEL RODRIGUEZ

The following items are needed to assist MIGUEL RODRIGUEZ in his review of FOSTER death investigation:

1. List of all physical evidence obtained from the Park Police.
2. All FD-302s/lab reports regarding weapon used by FOSTER.
3. Wants to speak with Lab Tech who lifted fingerprint from weapon. on Hupp
4. Pictures of vehicles in parking lot - is the DOODY car depicted.
5. Review 302s of officers at scene re how DOODY's car was parked.
6. Scaled map of park

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 29, 1995

HAND DELIVERED

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Jurisdiction of Independent Counsel

Dear Attorney General Reno:

I hereby request that certain matters investigated by the Federal Deposit Insurance Corporation (the "FDIC") and the Resolution Trust Corporation (the "RTC") that are related to the jurisdiction granted to me by the Special Division of the United States Court of Appeals (the "Special Division") pursuant to 28 U.S.C. § 593 be referred to this Office by the Department of Justice pursuant to 28 U.S.C. § 594(e).

Section 594(e) of Title 28 authorizes the Independent Counsel to request you or the Special Division to refer "matters related to the independent counsel's prosecutorial jurisdiction." The Special Division's August 5, 1994 Order appointing me Independent Counsel grants jurisdiction and authority to investigate "whether any individuals or entities have committed a violation of any federal criminal law . . . relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Assn., Whitewater Development Corp., or Capital Management Services Inc." Paragraph 2 of the August 5 Order grants jurisdiction and authority to investigate "other allegations or evidence of violation of any federal criminal law . . . by any person or entity developed during the independent counsel's investigation referred to above and connected with and arising out of that investigation."

On July 10, 1995, the Acting Inspector General of the FDIC sent this Office a "Referral of Possible Criminal Violations" involving the Rose Law Firm ("Rose"). A copy of the FDIC's referral is attached hereto. Additionally, on July 28, 1995, the FDIC sent this Office a four volume "Report of Investigation" including exhibits, further detailing the results of their investigation. The FDIC referral outlines evidence of possible criminal violations by members of Rose. The violations

Exhibit A

include conflicts of interest by Rose in its representation of the RTC and FDIC and the failure of Rose to disclose relevant information to the FDIC, including Rose's prior representation of Madison Guaranty Savings and Loan ("MGSL"). As stated in the referral, the FDIC sent the referral to this Office because it had "been directed previously by the Justice Department to bring matters related to these violations to the attention of [the Office of the Independent Counsel]." FDIC Referral at 7.

On September 25, 1995, the Assistant Inspector General for Investigation of the RTC sent this Office a referral of possible criminal violations related to Rose's representation of the RTC. A copy of RTC's referral is attached hereto. The referral references a "Report of Investigation" dated August 18, 1995, which details the results of the RTC's investigation and the facts of the allegations as outlined in its referral.

Information related to the FDIC's referral and the RTC's September 25, 1995 referral is also found in RTC criminal referral 730CR0196 ("Referral 196") which was sent to the United States Attorney for the Eastern District of Arkansas on October 8, 1993 and subsequently forwarded to this Office. Hillary Rodham Clinton is noted in the referral as a "witness[] who might have information about the suspected violation." Referral 196 at 14. Referral 196 alleges, inter alia, that James McDougal and others conspired to misappropriate MGSL funds for the purpose of making illegal campaign contributions for the benefit of then-Governor Bill Clinton. In describing the facts of the alleged campaign violations, the referral details Hillary Rodham Clinton's business and professional relationship with McDougal and her representation of MGSL:

> During the April 1985 time frame in which these $12,000 in contributions were made, James B. McDougal and Bill Clinton, along with their wives, Susan H. McDougal and Hillary Rodham Clinton, were business partners in White Water Development, Inc., as previously noted. Also during April 1985, Hillary Clinton, a partner in the Rose Law Firm of Little Rock, was acting as counsel to Madison Guaranty Savings in their representations to the Arkansas Securities Department. Ms. Clinton was soliciting approval for the thrift to authorize and issue a class of preferred stock, which would provide badly needed capital for the thrift.... Other documentation and memoranda obtained from the MGS&L files indicate that this was not the only time that McDougal and/or MGS&L EVP John Latham requested Ms. Clinton's specific legal assistance in addressing sensitive thrift issues (see

attached exhibits), rather than utilizing John Selig of the Mitchell firm, who served as General Counsel to MGS&L.

Referral 196 at 8. In November 1993, the United States Attorney in Little Rock, Paula Casey, recused herself from Referral 196 and other criminal referrals relating to MGSL. All of the RTC referrals relating to MGSL, including Referral 196, were then turned over to the Department of Justice Criminal Division, Fraud Section. These referrals were later forwarded to regulatory Independent Counsel Robert B. Fiske, Jr. and then to this Office.

I have concluded that the matters described in the FDIC and RTC referrals are within the jurisdiction granted to this Office by the Special Division. Accordingly, I specifically request that the matters set forth in the FDIC and RTC referrals be referred to this Office pursuant to 28 U.S.C. § 594(e).

Respectfully yours,

Kenneth W. Starr
Independent Counsel

Enclosures

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429
Office of Inspector General

SENSITIVE INVESTIGATIVE INFORMATION
- FOR OFFICIAL USE ONLY -

July 10, 1995

Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
Two Financial Center, Suite 134
10825 Financial Center Parkway
Little Rock, Arkansas 72211

Re: Referral of Possible Criminal Violations

Dear Mr. Starr:

The Office of Inspector General (OIG) is investigating allegations related to the retention of the Rose Law Firm (Rose), Little Rock, Arkansas. These allegations relate to the firm's Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC) contract work on behalf of the Madison Guaranty Savings and Loan Association (Madison), McCrory, Arkansas, Conservatorship and the First American Savings and Loan Association (First American), Oak Brook, Illinois, Conservatorship.

Specifically, we were requested to investigate allegations that Rose did not inform the FDIC that 1) in 1985 the firm had represented Madison before the Arkansas Securities Department; 2) a former Rose partner, Webster L. Hubbell, was the son-in-law of a Madison borrower and consultant who was in litigation with the Madison Conservatorship; and 3) another former Rose partner, Hillary Rodham Clinton, had assisted in litigation on behalf of the First American Conservatorship and that the owner of the defendant corporation in the First American litigation was a personal friend of Mrs. Clinton's family and a contributor to her husband's political campaign for Governor of Arkansas. We also were requested to examine a review conducted by the FDIC Legal Division into the circumstances surrounding the retention of Rose to perform legal work for the Madison Conservatorship. In addition, we completed a review of payments made to Rose by the FDIC for legal services.

Although our investigation found that Mrs. Clinton did bill the FSLIC two hours for work performed in the First American v. Lasater and Company lawsuit, we found no evidence of criminal violations by either her, or Rose, regarding this case. Our review of the FDIC Legal Division's review of the Rose retention also did not reveal evidence of

criminal violations by either Rose attorneys or FDIC officials. The following is a summary of the evidence from our investigation that has provided the OIG with reasonable grounds to believe that the Rose Law Firm, Webster L. Hubbell, or other current or former Rose employees, violated the following criminal statutes:

18 USC Section 4, Misprision of a felony
18 USC Section 287, False, Fictitious or fraudulent claims
18 USC Section 657, Lending, credit and insurance institutions
18 USC Section 1001, False statements generally
18 USC Section 1007, Federal Deposit Insurance Corporation transactions
18 USC Section 1341, Frauds and swindles
18 USC Section 1343, Fraud by wire, radio or television

SUMMARY OF EVIDENCE

No Evidence that the Rose Law Firm Informed the FDIC of its Prior Representation of Madison or of the Hubbell-Ward Relationship.

Our investigation has revealed that Rose had represented Madison before the Arkansas Securities Department (ASD) in 1985, but did not inform the FDIC of its prior representation of Madison when hired to represent the Madison Conservatorship. Rose was hired by the FDIC in March 1989 to act as legal counsel for the Madison Conservatorship in a lawsuit brought by Madison against one of its former auditors, Frost & Company, P.A. (Frost). Mr. Hubbell was the Rose partner and principal Rose attorney assigned to the FDIC litigation.

At the time Rose agreed to perform legal work on behalf of the Madison Conservatorship, the FDIC attorney who hired Rose, April Breslaw, was not informed of the firm's prior representation of Madison before the ASD. In sworn testimony to the OIG, Ms. Breslaw stated that she did not become aware of the prior representation until 1993, after Rose had completed its legal work in 1991 for the Madison Conservatorship. In sworn testimony provided by Mr. Hubbell to the OIG, he stated that he conducted a conflict of interest check after Ms. Breslaw asked the firm to take over the Frost litigation. Mr. Hubbell said that after the conflicts check, he informed Ms. Breslaw that Rose did not have a conflict although they had done a small amount of work for Madison. Mr. Hubbell stated that this was a 15 second conversation with Ms. Breslaw and that he did not elaborate on what the earlier Madison work had entailed. He further said that he did not tell Ms. Breslaw that the earlier Madison work had been before the ASD because at the time of the telephone call he was not aware of this representation. Mr. Hubbell stated that he only became aware of the ASD representation after Rose had begun the Frost litigation.

Once Mr. Hubbell became aware of the representation before the ASD, he recalled discussing it with the other Rose attorneys who were assisting him with the Frost litigation. He does not recall discussing this matter with Ms. Breslaw although he said that he could have discussed it. Mr. Hubbell stated that he did not see the prior ASD representation as a significant issue because Rose was representing Madison then and they were representing the Madison Conservatorship in the Frost lawsuit.

Our investigation also revealed that Rose had represented Mr. Hubbell's father-in-law, Seth Ward, a Madison consultant and frequent borrower but did not inform Ms. Breslaw, and that Mr. Hubbell was involved in his father-in-law's lawsuit against the Madison Conservatorship but did not inform the FDIC. Mr. Hubbell stated to the OIG that he informed Ms. Breslaw during a brief telephone conversation that Rose did not have a conflict of interest and could litigate the Frost lawsuit. Mr. Hubbell said he told Ms. Breslaw during that conversation that his father-in-law was a Madison borrower and had a lawsuit against Madison. He further said that he did not think he informed Ms. Breslaw of his father-in-law's name. Additionally, Mr. Hubbell said that he did not put anything concerning his conflicts check in writing because Ms. Breslaw did not ask him to put it in writing.

According to Ms. Breslaw, almost three months after she had engaged Rose to litigate the Frost lawsuit, she learned of the family relationship in a June 8, 1989, letter to her from Paul Jeddeloh, FDIC Managing Attorney for the Madison Conservatorship who expressed concerns relating to Mr. Hubbell's apparent conflict. When Ms. Breslaw learned of this relationship, she contacted Mr. Hubbell who she recalls stated that his family relationship did not constitute a conflict; that Mr. Hubbell and Mr. Ward had different political affiliations and, in general, were not close; and that Mr. Hubbell was not representing Mr. Ward. Mr. Ward had already won a $353,000 judgment against Madison prior to Madison being placed into conservatorship in February 1989, and Madison was appealing this judgment at the time Madison went into conservatorship. After talking with Mr. Hubbell, Ms. Breslaw, without elevating the concerns within FDIC, determined that the relationship did not constitute a conflict of interest, and did not remove Rose as counsel for the lawsuit, but also required Mr. Hubbell to notify the Madison Conservatorship in writing that he had not and would not represent Mr. Ward. Mr. Hubbell, in a June 28, 1989, letter to David Paulson, FDIC Managing Agent for the Madison Conservatorship, stated that he had not, and would not in the future, represent Mr. Ward in any matter related to Madison. Our investigation revealed that Mr. Hubbell did in fact provide legal advice to Mr. Ward related to his litigation against the Madison Conservatorship and did not inform Ms. Breslaw of his business relationship or his financial dealings with Mr. Ward.

Mr. Hubbell stated to the OIG that he recalled Ms. Breslaw contacted him in June 1989 to inform him of concerns raised by some of the Madison Conservatorship employees. He said that the employees were concerned that he was litigating the Frost lawsuit because of his relationship to Mr. Ward and Mr. Ward's on-going lawsuit against Madison.

Mr. Hubbell said that he informed Ms. Breslaw that he was not representing Mr. Ward in that matter and that he would write a letter to the Madison Conservatorship stating that he was not representing Mr. Ward. Mr. Hubbell further stated that in January 1990, at the request of attorneys from the Wright, Lindsey & Jennings law firm, the firm that represented Mr. Ward in his lawsuit against Madison, he agreed to become involved in an agreement between the firm and his father-in-law. Wright, Lindsey & Jennings wanted Mr. Ward to sign an agreement stating that he would be responsible for any final judgment the Resolution Trust Corporation (RTC) may obtain regarding the appeal of Mr. Ward's lawsuit. Mr. Hubbell stated that he did not believe his involvement in this agreement was contrary to his June 1989 letter to Ms. Breslaw because he did not think of this as being involved in the lawsuit, rather, he saw this as a private agreement between Mr. Ward and Wright, Lindsey & Jennings. Mr. Hubbell acknowledged that he did not inform Ms. Breslaw of his involvement in this matter.

The OIG investigation revealed that Mr. Hubbell was part owner and a corporate official, of P.O.M., Incorporated (P.O.M.) a closely held company that was largely owned by Mr. Ward. Mr. Hubbell and his wife owned 5% of P.O.M. stock until October 1989, when they deeded their stock to Seth Ward, II. Mr. Hubbell was the Acting Secretary for P.O.M. from 1981 until 1987, and was considered P.O.M.'s corporate counsel from 1981 through 1992 when he left Rose to become the Associate Attorney General, of the Department of Justice. In addition, the Rose Law Firm, primarily represented by Mr. Hubbell, was retained as legal counsel for P.O.M. during Rose's litigation of the Frost lawsuit. Further, two Madison loans to Mr. Ward for $400,000 and $70,000, were included in the losses giving rise to the Frost litigation which was being handled by Mr. Hubbell for the Madison Conservatorship. Our investigation also revealed that Mr. Hubbell and Mr. Ward participated jointly in personal real estate transactions. Mr. Hubbell was in debt to Mr. Ward for approximately $100,000 during the time he was litigating the Frost lawsuit. Mr. Hubbell confirmed during his interview that none of this information was brought to the FDIC's attention by Rose or him at the time Rose was retained in March 1989. Mr. Hubbell also said that he did not believe he informed Ms. Breslaw that he had agreed to represent P.O.M. in a lawsuit, which was during the same time that he was litigating the Frost lawsuit.

Possible Conflict with Rose Client

Our investigation revealed a possible conflict of interest regarding Rose's representation of Pace Industries, Inc. (Pace) during a labor dispute. Jimmy D. Alford, the former Frost partner who was responsible for the oversight of the Madison audits that were the subject of the Madison Conservatorship's lawsuit against Frost, was a vice president and stockholder of Pace. Mr. Alford was personally named as a defendant in the Frost lawsuit and would have been personally liable if a judgment had been rendered in Madison's favor.

We learned that Pace hired Rose to represent them in a case that was filed before

the National Labor Relations Board. Rose was hired by Pace at approximately the same time as FDIC hired Rose for the Frost lawsuit. Mr. Alford joked with the Rose attorneys who were handling the Pace matter for him, Tim Boe and Jim Birch, that he was being sued by Rose regarding one issue, and represented by them on another. Mr. Hubbell stated to the OIG that he became aware of the Pace representation very late in the Frost case, and thought it was a possible conflict of interest. He said he discussed this issue with the attorneys who were assisting him, Gary Speed and Richard Donovan, but he did not inform Ms. Breslaw. Our investigation revealed that Messrs. Speed and Donovan were aware of the Pace representation one year prior to the settlement of the Frost lawsuit.

Investigation Revealed that Rose was Adverse to FSLIC
While Representing the Madison Conservatorship

Our investigation determined that Rose was adverse to a FSLIC receivership, Universal Savings Association, F.A (Universal), Chickasha, Oklahoma, while Rose was representing the government. The Rose Law Firm was representing the defendant in a lawsuit filed by Universal while it was still an open institution. After Universal was placed into receivership, Rose continued to represent the defendant. Mr. Hubbell stated in his sworn testimony to the OIG that he did not inform Ms. Breslaw of this matter when she hired him for the Madison Conservatorship. Mr. Hubbell further stated that it was his understanding that the FDIC and FSLIC treated each receivership or conservatorship as a separate entity and that Rose only had to disclose representation that was adverse to the FDIC or FSLIC in their corporate capacities. However, both FDIC and FSLIC policies indicated that both agencies wanted to be informed of any adverse representation whether it was against the agency in its corporate, receivership or conservatorship capacity.

Rose Law Firm Made False Claims Against the FDIC

In conjunction with our investigation, we conducted a fee bill review of payments to Rose for legal services. The review covered $1,049,930 in payments to Rose related to the Madison Conservatorship and the failures of Corning Bank, Corning, Arkansas; Guaranty Savings and Loan Association, Harrison, Arkansas; and Bohemian Savings and Loan, St. Louis, Missouri. We found no indication of fraudulent billings related to the Guaranty or Bohemian matters.

Mr. Hubbell was the billing attorney on matters related to Madison and Corning Bank. As the billing attorney, Mr. Hubbell was responsible for ensuring that work was performed and billed in accordance with the governing agreements. Our review of Rose invoices found that fees and expenses were not billed in compliance with the terms and provisions of the governing agreements between the FDIC, FSLIC, or the RTC, and Rose.

Our audit staff reviewed all payments made to Rose by the FDIC or the RTC related to Madison and Corning. The audit staff traced all fees from invoices submitted to FDIC

to available supporting documentation including timesheets, prebills, audit trail reports, and Rose cash receipt reports. The audit staff also traced all expenses from invoices to available supporting documentation including original vendor invoices, canceled checks, prebills, and audit trail reports. Finally, the audit staff interviewed Mr. Hubbell and other Rose lawyers and staff related to the firm's billing practices.

As a result of our review, we have identified the following billings by Mr. Hubbell as false claims against the FDIC:

Corning	$29,331	38 entries on 8 different invoices from October 1988 to August 1990
Madison	$13,569	31 entries on 12 different invoices from May 1989 to March 1991
TOTAL	$42,900	

We consider these claims to be false claims because they are unsupported. The claims were made to the FDIC by Rose for charges by Mr. Hubbell relating to law firm checks signed by Mr. Hubbell made out to cash, his credit card company, or himself; travel expenses; and litigation expenses.

Corning payments to Rose were made from funds administered by the FDIC; Madison payments were made from funds administered by the FDIC and the RTC. Therefore, consideration should be given to any duplicate findings that may be reported to you by the RTC. Rose has recently reimbursed the FDIC $23,486.53 related to Mr. Hubbell's false claims, representing $8,121.09 for Madison, and $15,365.44 for Corning. However, the FDIC's acceptance of the firm's payment is not an acknowledgement by the FDIC of the amount or nature of Rose's liability for any claims, and is not a final resolution, settlement, satisfaction, or other disposition of any matter. The FDIC retains its rights to initiate legal actions as it deems appropriate.

In addition, our review also revealed that Mr. Hubbell billed the FDIC for eight depositions that he did not attend in the Madison litigation. We therefore questioned an additional $4,982 in charges. Our review also found that Rose billed the FDIC for two depositions that Gary Speed did not attend; we therefore questioned an additional $875 in fees. Mr. Hubbell's and the firm's false claims against the FDIC, therefore, totaled $48,757 from October 1988 to March 1991.

We interviewed former Rose attorney, Patricia Heritage Hays, who stated that she and others at Rose were aware that Mr. Hubbell was submitting false expenses to the firm related to his contract work for FDIC and RTC. She also stated that she was aware that Mr. Hubbell was fraudulently billing the RTC for hours that he did not work. Specifically,

Ms. Hays stated that she and Susan Murdoch, a Rose paralegal, became aware in the summer of 1992 that Mr. Hubbell was listing fraudulent expenses on RTC draft audit bills. They discovered that Mr. Hubbell would delete the expenses from the final bills, but would allocate other attorney's fees to cover the expenses. Ms. Hays said she informed Jim Birch, a partner in the firm, of the fraudulent expenses when she first learned of them in 1992. Mr. Birch allegedly told Ms. Hays that he discussed this issue with Richard Donovan, another Rose partner, and they had decided to do nothing about the fraudulent expense charges. Ms. Hays stated that she also discovered that Mr. Hubbell was billing the RTC for hours that he did not actually work. Ms. Hays said that she was the Rose attorney who was handling all of the RTC cases from 1992 forward, and that Mr. Hubbell was the billing partner for the matters. She said that she was the attorney who completed the work, but that Mr. Hubbell would also bill for fees when he had spent no time on the cases. Ms. Hays stated that she did not bring the fraudulent fee charges to anyone's attention at Rose because they had decided not to do anything about the fraudulent expense charges. Ms. Hays further said that she did not inform anyone at the RTC about the fraudulent bills.

In conclusion, it appears that Mr. Hubbell, and other Rose attorneys, did not provide to the FDIC relevant information about possible conflicts of interest the firm had regarding the Madison conservatorship. Even when Ms. Breslaw directly asked Mr. Hubbell about his relationship with his father-in-law, he neglected to inform her that he owed Mr. Ward approximately $100,000, and was the outside counsel for and had an ownership interest in P.O.M. Mr. Hubbell also did not inform Ms. Breslaw that one of the Frost partners they were suing also was the part-owner of a company that was a Rose client. Mr. Hubbell wrote to the Madison Conservatorship's managing agent and to Ms. Breslaw and stated he would not become involved with Mr. Ward's dispute with Madison; however, six months later he did provide legal counsel to Mr. Ward regarding the lawsuit. Mr. Hubbell did not inform Ms. Breslaw of this involvement. Other Rose attorneys knew that Mr. Hubbell was fraudulently billing expenses and fees relating to FDIC and RTC matters but did nothing to stop the billings. We have reasonable grounds to believe the above evidence indicates potential violations by the Rose Law Firm, and its employees, of various federal criminal statutes. These violations have resulted in injury to the FDIC and have adversely effected the integrity of the federal banking system. Consequently, we believe it would be in the best interests of the United States for your office to pursue aggressive prosecution of the Rose Law Firm and its employees who defrauded the FDIC.

Section 4(d) of the Inspector General Act requires me to report expeditiously to the Attorney General whenever there are reasonable grounds to believe there has been a violation of Federal criminal law. In the ordinary course of business, the potential criminal violations described herein would have been brought to the attention of the cognizant U.S. Attorney's Office, or the Justice Department. In this instance, we have been directed previously by the Justice Department to bring matters related to these violations to the attention of your office. Therefore, we are bringing these matters to your attention. However, in the event these violations fall outside your jurisdiction and your office declines

to petition the court for jurisdiction, we respectfully request that your office forward this letter to the Attorney General for referral to the appropriate prosecutor's office.

Throughout our investigation, we have kept your office informed of our results. As I am sure you are aware, we have been working closely with Associate Independent Counsel Amy St. Eve, and this letter formalizes our previous discussions and correspondence. Ms. St. Eve has advised us that we may disclose the results of our investigation to FDIC management and the Congress before your office responds to this referral. We expect to issue a final report around the end of July 1995. Should you or Ms. St. Eve have questions regarding this referral or need additional information, please contact Deputy Inspector General Carolyn R. Ryals on (202) 942-3615, or Deputy Counsel to the Inspector General Thomas Coogan on (202) 942-3622.

Sincerely,

James A. Renick
Acting Inspector General

OFFICE OF
INSPECTOR
GENERAL

RESOLUTION TRUST
CORPORATION

Office of Investigation

September 25, 1995

Mr. Kenneth Starr
Office of the Independent Counsel
Two Financial Center, Suite 134
10825 Financial Center Parkway
Little Rock, Arkansas 72211

Dear Mr. Starr:

We forwarded to your office a copy of our Report of Investigation concerning conflicts of interest and the Rose Law Firm by letter dated August 18, 1995. We are requesting that your office review the Report to determine whether there are potential criminal violations within your jurisdiction that may be of interest to your office.

We believe that certifications which were signed by Webster Hubbell, former partner of the Rose Law Firm, and submitted to the RTC to enable the Rose Law Firm to perform legal services may constitute false statements covered by 18 USC 1001. Specifically, when interviewed by RTC agents, Hubbell acknowledged certifications dated May 30, 1991, relating to conflicts of interest with First Federal Savings and Arkansas Federal Savings and Loan were signed by him and were incorrect. Further, he stated that an incorrect certification dated August 6, 1991, relating to Home Federal Savings and Loan was not signed by him, but he authorized his signature on the form. Hubbell also acknowledged that a certification dated August 6, 1991, which bears his signed name and relates to Independence Federal Savings and Loan was incorrect.

Our investigation relating to these institutions can be found in Part IV of our Report. If you believe that further work needs to be done, please let us know.

Thank you for reviewing this matter. If you have any questions, please contact me on (703) 908-7860 or Patrick I. Noble at (202) 416-2226.

Sincerely,

Clark W. Blight
Assistant Inspector General
for Investigation

1735 N. Lynn Street ■ Rosslyn, VA 22209

B

U. S. Department of Justice

Criminal Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

January 17, 1996

The Honorable Kenneth W. Starr
Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

Dear Judge Starr:

Thank you for your letter concerning jurisdiction to handle two referrals received by your office concerning the Rose Law Firm. It is our conclusion that these matters are encompassed by the language of your original grant of jurisdiction, and therefore can be properly handled by you. Please do not hesitate to contact me if I can be of any further assistance with respect to this or any other matter.

Sincerely,

John C. Keeney

John C. Keeney
Acting Assistant Attorney General

Exhibit B

WHITE HOUSE LITIGATION - CORRESPONDENCE W/ PARTIES

[redacted]

Screened By: NARA (RD-F) Date: 07-13-2018 DOCID: 70104988

LAW OFFICES
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WASHINGTON, D. C. 20005-5901
(202) 434-5000
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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) 434-5145

May 5, 1997

VIA HAND DELIVERY

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

This letter responds to your letter of April 29, 1997.

I explicitly stated my willingness to explore alternatives to my proposal, so I am perplexed by your characterization of the third element of my proposal as the "linchpin" and the "sine que non" of any negotiated resolution. In any event, you appear to have misunderstood the governing law. The Supreme Court has not held, as you suggest, that appellate courts are without authority to vacate judgments upon settlement. Indeed, the Supreme Court begins its analysis in *Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18 (1994), by recognizing the general authority of a federal appellate court to vacate decisions in such circumstances. *Id.* at 21. Congress has explicitly provided that, "[t]he Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review . . . ." 28 U.S.C. § 2106.

The appellee in *Bancorp*, of course, opposed the appellant's motion to vacate -- a situation quite different from my proposal where all the parties would support vacatur. The Supreme Court's limited decision was, as you correctly quoted, that "[w]here mootness results from settlement, . . . the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim

to the equitable remedy of vacatur." *Bancorp Mortgage Co.*, 513 U.S. at 25 (emphasis added). Federal appellate courts continue to have the authority to vacate decisions according to principles of equity even where mootness is caused by settlement. As the Supreme Court expressly noted in *Bancorp*, "[t]his is not to say that vacatur can never be granted when mootness is produced [by reason of settlement]." *Id.* at 29.

You have, however, elected to litigate the matter rather than resolve it in a way that would speedily afford you the notes. *Jacta alea est.*

Sincerely,

David E. Kendall

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BRUSSELS 1040 BELGIUM
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TELEFAX: 32-2-502-1598

May 28, 1997

BY FACSIMILE

Brett M. Kavanaugh, Esq.
Office of the Independent Counsel
Washington, D.C.

Re: Office of the President v. Office of the Independent Counsel, No. 96-1783

Dear Mr. Kavanaugh:

As you know, we represent Professor Paul F. Rothstein and a number of other law professors who intend to file an *amicus curiae* brief in support of the petitioner in the above-captioned matter. As we discussed earlier this week, I am writing pursuant to Supreme Court Rule 37 to confirm that you have consented to the filing of the brief. If you do consent, please so indicate by signing below and faxing a copy of the counter-signed letter to me at (202) 778-5641.

Please do not hesitate to call me if you have any questions. Thank you for your consideration.

Very truly yours,

Ivan K. Fong

I consent.

Brett M. Kavanaugh

Brett M. Kavanaugh, Esq.
Counsel for the Office of the Independent Counsel

Date: May 28, 1997

FROM COVINGTON & BURLING 05.28.1997 18:45 P.02

****
*** TX REPORT ***
****

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FAX

DATE: May 28, 1997

TO: Brett M. Kavanaugh, Esq.
Office of the Independent Counsel

FROM: IVAN K. FONG
ROOM: 1107B

PHONE: (202) 662-5641
direct FAX NO.: (202) 778-5641
E-MAIL: ifong@cov.com

PAGES: 2 (including cover)

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FAX

DATE: May 28, 1997

TO: Brett M. Kavanaugh, Esq.
Office of the Independent Counsel

FROM: IVAN K. FONG
ROOM: 1107B

PHONE: (202) 662-5641
direct FAX NO.: (202) 778-5641
E-MAIL: ifong@cov.com

PAGES: 2 (including cover)

RETURN FAX TO IVAN FONG

LAW OFFICES
WILLIAMS & CONNOLLY
725 TWELFTH STREET, N.W.
WASHINGTON, D. C. 20005-5901
(202) 434-5000
FAX (202) 434-5029

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) 434-5145

May 5, 1997

VIA HAND DELIVERY

The Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Judge Starr:

This letter responds to your letter of April 29, 1997.

I explicitly stated my willingness to explore alternatives to my proposal, so I am perplexed by your characterization of the third element of my proposal as the "linchpin" and the "sine que non" of any negotiated resolution. In any event, you appear to have misunderstood the governing law. The Supreme Court has not held, as you suggest, that appellate courts are without authority to vacate judgments upon settlement. Indeed, the Supreme Court begins its analysis in *Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18 (1994), by recognizing the general authority of a federal appellate court to vacate decisions in such circumstances. *Id.* at 21. Congress has explicitly provided that, "[t]he Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review . . . ." 28 U.S.C. § 2106.

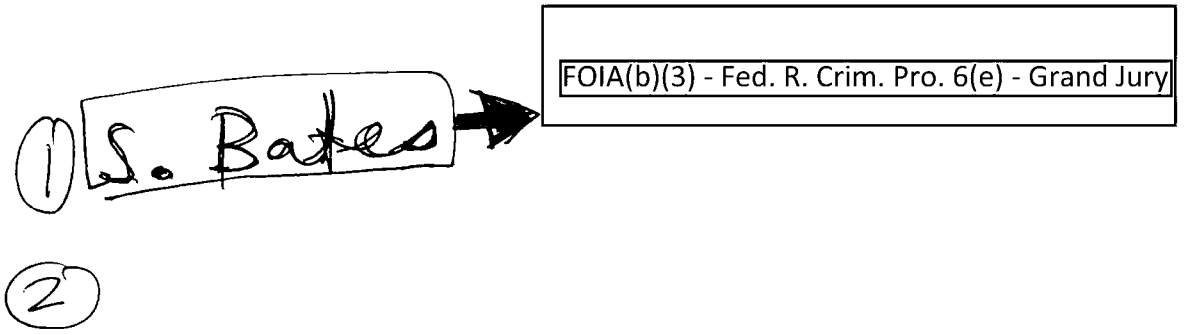
The appellee in *Bancorp*, of course, opposed the appellant's motion to vacate -- a situation quite different from my proposal where all the parties would support vacatur. The Supreme Court's limited decision was, as you correctly quoted, that "[w]here mootness results from settlement, . . . the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim

to the equitable remedy of vacatur." *Bancorp Mortgage Co.*, 513 U.S. at 25 (emphasis added). Federal appellate courts continue to have the authority to vacate decisions according to principles of equity even where mootness is caused by settlement. As the Supreme Court expressly noted in *Bancorp*, "[t]his is not to say that vacatur can never be granted when mootness is produced [by reason of settlement]." *Id.* at 29.

You have, however, elected to litigate the matter rather than resolve it in a way that would speedily afford you the notes. *Jacta alea est.*

Sincerely,

David E. Kendall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WHITE HOUSE LITIGATION - S. CT. FILINGS

SUPREME COURT OF THE UNITED STATES

Office of the President
Petitioner

vs.

Office of Independent Counsel, et al.
Respondent

No. 96-1783

To Kenneth Starr & John D. Bates Counsel for Respondent:

YOU ARE HEREBY NOTIFIED pursuant to Rule 12.3 that a petition for a writ of certiorari in the above-entitled case was filed in the Supreme Court of the United States on May 12, 1997, and placed on the docket _____. Pursuant to ~~Rule 15.3~~ Agreement, the due date for a brief in opposition is May 29, 1997. If the due date is a Saturday, Sunday, or federal legal holiday, the brief is due on the next day that is not a Saturday, Sunday, or federal legal holiday.

An appearance form is enclosed and should be sent to the Clerk only in the event you **do not** intend to file a response to the petition for a writ of certiorari. No appearance form is enclosed if the Solicitor General of the United States represents the respondent.

Your attention is directed to Rule 9 of the Rules of the Supreme Court reproduced on back of the appearance form. Only counsel of record will receive notification of the Court's action in this case.

Andrew L. Frey
Counsel for Petitioner

2000 Pennsylvania Avenue, N.W.
Number and Street

Washington, D.C. 20036
City, State, and Zip Code

(202) 778-0602
Telephone Number

NOTE: This notice is for notification purposes only, and neither the original nor a copy should be filed in the Supreme Court.

APPEARANCE FORM / WAIVER

SUPREME COURT OF THE UNITED STATES

No. _____

_____ v. _____

(Petitioner) (Respondent)

I do not intend to file a response to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☐ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

_____

_____

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed from when you were admitted):

Signature _____

Date: _____

(Type or print) Name _____

☐ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm _____

Address _____

City & State _____ Zip _____

Phone ( ) _____

A copy of this form must be sent to petitioner's counsel or to petitioner if *pro se*. Please indicate below the name(s) of the recipient(s) of a copy of this form:

CC:

CLER-0080-9-95

Supreme Court Rule 9

APPEARANCE OF COUNSEL

1. An attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5, except that admission to the Bar of this Court is not required for an attorney appointed under the Criminal Justice Act of 1964, see 18 U. S. C. § 3006A(d)(6), or under any other applicable federal statute. **The attorney whose name, address, and telephone number appear on the cover of a document presented for filing is considered counsel of record, and a separate notice of appearance need not be filed.** If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record shall be clearly identified.

2. **An attorney representing a party who will not be filing a document shall enter a separate notice of appearance as counsel of record indicating the name of the party represented.** A separate notice of appearance shall also be entered whenever an attorney is substituted as counsel of record in a particular case.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 8, 1997

William K. Suter, Esq.
Clerk
Supreme Court of the United States
One First St., N.E.
Washington, D.C. 20543

Dear Mr. Suter:

We write to state our views regarding the caption of the anticipated case involving this Office and the White House.

Pursuant to the Ethics in Government Act, the Independent Counsel was appointed at the request of Attorney General Reno by the United States Court of Appeals for the District of Columbia Circuit. Under 28 U.S.C. § 594(a), the Independent Counsel is authorized to "exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice." This includes the authority to "conduct[] proceedings before grand juries and other investigations"; to "participat[e] in court proceedings"; "to contest the assertion of any testimonial privilege"; and to "initiat[e] and conduct[] prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States." 28 U.S.C. § 594(a) (emphasis added).

In Supreme Court cases arising out of federal grand jury proceedings, the caption refers to the federal government prosecutors as the "United States." See, e.g., Hill v. United States, 117 S. Ct. 432 (1996); The Corporation v. United States, 117 S. Ct. 333 (1996); Doe v. United States, 510 U.S. 1091 (1994); Scarce v. United States, 510 U.S. 1041 (1994); Lewis v. United States, 510 U.S. 918 (1993); Union Bank of Switzerland v. United States, 502 U.S. 1092 (1992); DeGeurin v. United States, 499 U.S. 959 (1991); United States v. R. Enterprises, Inc., 498 U.S. 292 (1991); Backiel v. United States, 498 U.S. 980 (1990); Model Magazine Distributors, Inc. v. United States, 496 U.S. 925 (1990). In addition, the caption of Supreme Court cases in which the United States has been represented by an independent counsel appointed under the Ethics in Government Act (or a special prosecutor appointed by the Attorney General) refers to the "United States." See Tucker v. United States, 117 S. Ct. 76 (1996); Marks v. United States, 117 S. Ct. 76 (1996); Haley v. United States, 117 S. Ct.

76 (1996); Fitzhugh v. United States, 117 S. Ct. 256 (1996); United States v. Poindexter, 506 U.S. 1021 (1992); North v. United States, 500 U.S. 941 (1991); United States v. Nofziger, 493 U.S. 1003 (1989); Poindexter, North, and Hakim v. United States, 490 U.S. 1004 (1989); Deaver v. United States, 484 U.S. 829 (1987); Deaver v. United States, 483 U.S. 1301 (1987) (stay application); Mitchell and Haldeman v. United States, 431 U.S. 933 (1977); Ehrlichman v. United States, 431 U.S. 933 (1977); Barker v. United States, 421 U.S. 1013 (1975); United States v. Nixon, 418 U.S. 683 (1974).[1]

The reference in the caption to the party represented by this Office as the "United States" is proper despite the fact that a federal government agency or official is the opposing party. In United States v. Nixon, 418 U.S. 683 (1974), for example, the caption referred to the "United States" notwithstanding the fact that another entity within the Federal Government was the subpoena recipient and opposing party.

In short, both the law of Section 594(a) and the consistent practice of the Supreme Court require that the caption in this case refer to the "United States" as the party represented by this Office.[2]

The other question, of course, is how the White House should be referenced. There seem to be three possibilities: "Executive Office of the President"; "White House Office"; or "William Jefferson Clinton, President of the United States." We offer a few observations. First, the grand jury subpoena was directed to "The White House." Second, the White House Office is an official entity within the Executive Office of the President.[3] (There is no official

---

[1] The exception of which we are aware, Morrison v. Olson, 487 U.S. 654 (1988), was extraordinary on several levels. First, the statute under which Ms. Morrison was appointed as independent counsel had been declared unconstitutional by the Court of Appeals. Ms. Morrison's status as a federal officer thus was somewhat uncertain, and it might have been thought inappropriate to refer to her Office as the "United States." In any event, the Department of Justice, instead of the Independent Counsel, represented the "United States" in both the Court of Appeals and the Supreme Court. Those extraordinary facts are not present in this case; moreover, the caption in that case has not been the guide for the caption in subsequent cases involving independent counsels.

[2] We therefore intend to file our brief in opposition using the traditional gray cover, consistent with the practice of the United States (including when an independent counsel represents the United States) in criminal matters. See S.Ct.R. 33.1(e).

[3] There are 14 executive departments and numerous agencies. The Executive Office of the President (EOP) is an agency established in 1939 by Executive Order 8248, September 8,

entity entitled the "Office of the President," at least so far as we are aware.) Third, the caption in the District Court was "In re: Grand Jury Subpoena Duces Tecum to the White House."

We appreciate very much your assistance in this matter.

Sincerely,

Kenneth W. Starr
Independent Counsel

Copy: Kenneth S. Geller, Esq.

1939, pursuant to the Reorganization Act of 1939, and comprised over the ensuing years of numerous units, including the White House Office and the Office of Administration, among others. See generally The United States Government Manual 1996-97 90 (various agencies transferred to EOP in 1939); 3 C.F.R. § 100.735-2(a) ("Agency means the followings agencies in the Executive Office of the President: The White House Office . . . .").

MAYER, BROWN & PLATT

2000 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006-1882

WRITER'S DIRECT DIAL:
(202) 778-0602

MAIN TELEPHONE
202-463-2000
MAIN FAX
202-861-0473

May 14, 1997

Honorable William K. Suter
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: *Office of the President* v. *Office of Independent Counsel*, No. 96-1783

Dear Mr. Suter:

We are writing in response to Independent Counsel Starr's letter of May 8, 1997, concerning the caption of this case. Mr. Starr objects to our denominating the respondent as "Office of Independent Counsel" rather than "United States."

We preface our response by observing that *each* of the parties to this somewhat unusual proceeding is unquestionably presenting its best understanding of the institutional interests of *the United States*. The Office of the President, like the Independent Counsel, is a governmental entity that appears in these proceedings solely to espouse official, not private or personal, interests. But, as we discuss below, each of these federal governmental entities has a somewhat limited perspective; and the Department of Justice too may appear to offer its view of the matter, and has a better claim to speak for the United States in these singular circumstances than either of the parties.

We believe that the current caption is correct for several reasons:

1. First and foremost, the closest relevant precedent is *Morrison* v. *Olson*, 487 U.S. 654 (1988). That case, like this one, involved a pre-indictment dispute between an independent counsel and a subpoena recipient. The independent counsel was called, not "United States," but "Alexia Morrison, Independent Counsel," in the caption – a decision we understand to have been deliberate. After consulting with your Office, we concluded that it was appropriate simply to follow that precedent in the present case.

Indeed, *Morrison* suggests that the respondent in this case could have been identified

FOIA # none (URTS 16303) DocId: 70104990 Page 8

as "*Kenneth W. Starr, Independent Counsel*". However, when your Office notified us that Mr. Starr had expressed concern about such a format, we readily agreed, as an accommodation to Mr. Starr and in an effort to avoid needless squabbling about nomenclature, to adopt the modification reflected in the present caption. We understood our discussion with your Office to have resolved the matter and are frankly mystified that Mr. Starr continues to insist on such a complete break from the most relevant precedent of this Court.

2. We were fortified in our view that we had selected the most appropriate caption because we adopted precisely the same nomenclature as used by the court of appeals – without any objection from Mr. Starr. In its opinion, the Eighth Circuit consistently referred to the appellant as "Office of Independent Counsel" or "OIC," not "the United States." It is the usual practice to style a case in the Supreme Court by employing the same party names used by the court below.[1]

3. We also believe that the caption we selected not only is technically correct but best reflects the institutional interests at stake in this litigation. *Both* parties, as noted above, speak on behalf of the United States, as each perceives its interests to demand. Moreover, the Department of Justice – which we expect to file as *amicus curiae* in this case – speaks for the United States as well, and in our view has the superior claim to be denominated "the United States" in this setting. In fact, when Attorney General Reno authorized the White House to retain counsel in this proceeding (see Letter of August 26, 1996, from Attorney General Janet Reno to Counsel to the President John M. Quinn, a copy of which is attached hereto), and again when she authorized the undersigned to file the certiorari petition in this matter (see Letter of May 9, 1997, from Attorney General Reno to Messrs. Frey, Geller and Robbins, a copy of which is also attached hereto), the Department of Justice expressly "retain[ed] the responsibility for representing the broad institutional interests of the United States in regard to this matter, and therefore retain[ed] the prerogative of appearing in court on behalf of *the United States*" (emphasis added).

Indeed, Independent Counsel Starr himself makes that point in attempting to distinguish *Morrison* v. *Olson*. As he observes (at 2 n.1), the Department of Justice spoke for the "United States" in *Morrison* – a fact that, in his view, explains why it was appropriate

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[1] We might add, in this connection, that we were fully prepared to adopt the identical caption that had appeared in the two lower courts – *i.e.*, *In re Grand Jury Subpoena Duces Tecum (Office of the President, Petitioner)*. We were advised by your Office, however, that the Court would prefer a caption that also identifies the respondent.

to denominate the prosecutor in *Morrison* by name. So, too, here: as Mr. Starr well knows, it is quite possible that the Department of Justice will elect to file an *amicus* brief in this case, just as it did in *Morrison*. See 28 U.S.C. § 597(b). Both Mr. Starr and the Office of the President have met with the Office of the Solicitor General regarding that possibility. If the Department of Justice chooses to present its views to the Court, it will speak (while not necessarily conclusively) for the institutional interests of the United States on the questions presented.

4. Independent Counsel Starr cannot seriously contest any of the foregoing. Instead, he principally relies on 28 U.S.C. § 594(a)(9), which authorizes an independent counsel, in pertinent part, to "initiat[e] and conduct[] prosecutions in any court of competent jurisdiction, fram[e] and sign[] indictments, fil[e] informations, and handl[e] all aspects of any case, in the name of the United States." But until the Independent Counsel "initiates the prosecution," or "frames and signs an indictment," or "files an information," there simply is no "case" in which to proceed "in the name of the United States." Mr. Starr's citation (at 1-2) to cases involving *post*-indictment proceedings is therefore beside the point.[2]

In sum, we submit that the caption we have used should be accepted, because it is supported by the most directly relevant precedent, is consistent with the way the parties were designated in the lower courts, best reflects the institutional interests at stake in this intra-governmental dispute, and was discussed with your Office in advance. The Independent Counsel's insistence that he alone be referred to as the "United States" takes account of none of these factors.

Sincerely,

Andrew L. Frey

Andrew L. Frey

Enclosures

cc: Kenneth W. Starr, Esq.
David E. Kendall, Esq.

---

[2] Even less germane is the litany of cases cited by Mr. Starr (at 1) that arise out of federal grand jury proceedings unconnected to any independent counsel. In those cases, of course, the Department of Justice is both the prosecutor and the representative of the non-prosecutive interests of the federal government, and there is thus no question that the caption should refer to the "United States."

Court Sealed
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

Court Sealed
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

Office of the Attorney General
Washington, D. C. 20530

May 9, 1997

Mr. Andrew L. Frey
Mr. Kenneth S. Geller
Mr. Lawrence S. Robbins
2000 Pennsylvania Ave., N.W.
Suite 6500
Washington, D.C. 20006

Re: In Re: Grand Jury Subpoena Duces Tecum,
No. 96-4108 (8th Cir. Apr. 9, 1997)

Dear Messrs. Frey, Geller, and Robbins:

Because of the nature of this proceeding, you previously were appointed as Special Assistant United States Attorneys to furnish representation in connection with the motion to compel the production of documents served on the Office of the White House Counsel by Independent Counsel Kenneth Starr. Under that arrangement, although you are subject to the ultimate control of the Attorney General, you are detailed to the White House and subject to the day-to-day control of the White House Counsel. To the extent that separate, more specific authorization now is required by 28 U.S.C. 518(a) for Supreme Court proceedings, see, e.g., FEC v. NRA Political Victory Fund, 115 S. Ct. 537, 539-543 (1994), you are hereby authorized to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit in this case, and to continue with your representation in the Supreme Court.

As I stated at the time the representation arrangement was approved, the Department of Justice retains the responsibility for representing broad institutional interests of the United States in regard to this matter, and therefore retains the prerogative of appearing in court on behalf of the United States.

Sincerely,

Janet Reno

Janet Reno

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 14, 1997

William K. Suter, Esq.
Clerk
Supreme Court of the United States
One First St., N.E.
Washington, D.C. 20543

Dear Mr. Suter:

At approximately 3:15 p.m. today, we received a letter from counsel for the White House regarding the caption. We contacted Frank Lorson at approximately 4:00 p.m. to let him know that we intended to file a brief letter in response this afternoon. A few minutes later, you notified us that you had made a decision on the issue. We nonetheless send this letter so that the historical record is complete and reflects our considered judgment. Because the White House relied in its letter on the Department of Justice's supposed views on the captioning of this case, we also respectfully suggest that the Department itself should be notified and provided an opportunity to comment.

As to the substance of the White House's letter, we make the following points.

First, under the independent counsel statute, this Office was provided "full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice." 28 U.S.C. § 594(a). The statute specifically states that the Independent Counsel exercises authority in "all aspects of any case in the name of the United States." Id. (emphasis added). There is no basis in law or policy for the White House's newly minted distinction between pre-indictment and post-indictment cases. If the Department of Justice or a United States Attorney's Office authorizes issuance of a grand jury subpoena and subsequently files a motion to compel production, and the matter then proceeds to the Supreme Court, the party represented by the Department or the U.S. Attorney's Office is the "United States" -- and by law and custom is so denominated in the caption in the Supreme Court. The relevant statutory provisions demonstrate that the same must be true here.

Second, under the statute, "the Attorney General or the Solicitor General" is authorized

to "mak[e] a presentation as amicus curiae." 28 U.S.C. § 597(b). But in such cases the Independent Counsel still exercises his authority "in the name of the United States." 28 U.S.C. § 594(a). Section 597(b) of Title 28 in no way suggests that the Attorney General or Solicitor General can displace the Independent Counsel as the party representing the "United States" in a criminal investigation or prosecution (at least without removing the Independent Counsel for good cause pursuant to 28 U.S.C § 596(a)). In fact, by their careful wording, Sections 594(a), 597(a), and 597(b), in conjunction, appear designed to preserve the authority of the Independent Counsel to represent the United States. For example, then, in the case of United States v. Tucker, 78 F.3d 1313 (8th Cir.), cert. denied, Tucker v. United States, 117 S. Ct. 76 (1996), this Office represented the "United States." In the Court of Appeals, the Attorney General filed an amicus brief styled "Amicus Curiae Brief for the United States, as Represented by the Attorney General, Addressing Motions to Dismiss Indictment." We assume that the Attorney General or the Solicitor General, if either appears in this case in the Supreme Court, will use some similar appellation. But that possibility is simply not a basis for suggesting that the Independent Counsel does not properly represent the United States.

Third, in Morrison v. Olson, 487 U.S. 654 (1988), the very question raised by the case was whether the Independent Counsel in fact was an officer of the United States and could exercise the prosecutorial and investigative authority of the United States. There is no such question at issue here. Morrison is thus completely inapposite.

Fourth, the White House does not attempt to explain United States v. Nixon, 418 U.S. 683 (1974). Importantly, in that case, President Nixon was not the defendant. Rather, the White House had received a trial subpoena. The litigation concerned a privilege issue raised in response to a third-party subpoena in criminal proceedings -- as is the case here. The arguments made by the White House would suggest that in Nixon the caption should have referred to the "Office of the Special Prosecutor." The case was not so captioned, and there is no plausible basis for a different conclusion in this case.

Finally, in our initial letter, we noted that the "Office of the President" is not an entity within the Executive Branch, at least so far as we are aware, although the Executive Office of the President and the White House Office are. The White House did not respond to that point in its letter.

Sincerely,

Kenneth W Starr/dB

Kenneth W. Starr
Independent Counsel

Copy: Kenneth S. Geller, Esq.

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

William K. Suter
Clerk of the Court

202-479-3014
Fax 202-479-3555

May 12, 1997

Kenneth S. Geller, Esquire
Mayer Brown & Platt
2000 Pennsylvania Avenue, N.W.
Washington, DC 20006

RE: Petition No. 96-1783

Dear Mr. Geller:

I received by hand on May 8, 1997, a letter from Independent Counsel, Kenneth W. Starr, in which he presents his views regarding the caption of the petition you presented for filing today that will bear the number 96-1783.

Before this petition can be placed on the docket, I request that you file a response to Mr. Starr's letter in which you present your views regarding the caption, and that such response be filed in my office by 2 p.m., Wednesday, May 14, 1997.

Your prompt attention to this matter is appreciated.

Sincerely yours,

William K. Suter
Clerk

cc: Kenneth W. Starr, Esquire
David E. Kendall, Esquire

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 14, 1997

William K. Suter, Esq.
Clerk
Supreme Court of the United States
One First St., N.E.
Washington, D.C. 20543

Dear Mr. Suter:

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to "mak[e] a presentation as amicus curiae." 28 U.S.C. § 597(b). But in such cases the Independent Counsel still exercises his authority "in the name of the United States." 28 U.S.C. § 594(a). Section 597(b) of Title 28 in no way suggests that the Attorney General or Solicitor General can displace the Independent Counsel as the party representing the "United States" in a criminal investigation or prosecution (at least without removing the Independent Counsel for good cause pursuant to 28 U.S.C § 596(a)). In fact, by their careful wording, Sections 594(a), 597(a), and 597(b), in conjunction, appear designed to preserve the authority of the Independent Counsel to represent the United States. For example, then, in the case of United States v. Tucker, 78 F.3d 1313 (8th Cir.), cert. denied, Tucker v. United States, 117 S. Ct. 76 (1996), this Office represented the "United States." In the Court of Appeals, the Attorney General filed an amicus brief styled "Amicus Curiae Brief for the United States, as Represented by the Attorney General, Addressing Motions to Dismiss Indictment." We assume that the Attorney General or the Solicitor General, if either appears in this case in the Supreme Court, will use some similar appellation. But that possibility is simply not a basis for suggesting that the Independent Counsel does not properly represent the United States.

Third, in Morrison v. Olson, 487 U.S. 654 (1988), the very question raised by the case was whether the Independent Counsel in fact was an officer of the United States and could exercise the prosecutorial and investigative authority of the United States. There is no such question at issue here. Morrison is thus completely inapposite.

Fourth, the White House does not attempt to explain United States v. Nixon, 418 U.S. 683 (1974). Importantly, in that case, President Nixon was not the defendant. Rather, the White House had received a trial subpoena. The litigation concerned a privilege issue raised in response to a third-party subpoena in criminal proceedings -- as is the case here. The arguments made by the White House would suggest that in Nixon the caption should have referred to the "Office of the Special Prosecutor." The case was not so captioned, and there is no plausible basis for a different conclusion in this case.

Finally, in our initial letter, we noted that the "Office of the President" is not an entity within the Executive Branch, at least so far as we are aware, although the Executive Office of the President and the White House Office are. The White House did not respond to that point in its letter.

Sincerely,

Kenneth W Starr /dlb

Kenneth W. Starr
Independent Counsel

Copy: Kenneth S. Geller, Esq.

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	4987
CONNECTION TEL	94793021
SUBADDRESS	
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ST. TIME	05/14 17:23
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RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 5-14-97

TO: William K. Suter

Company Name: _____

Fax Number: 479-3021 Telephone Number: _____

FROM: Kenneth W. Starr

Number of Pages: 3 (including this cover sheet)

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PGS.	3
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1001 Pennsylvania Avenue, N.W., Suite 490N
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telephone (202) 514-8688 facsimile (202) 514-8802

Date: 5-14-97

TO: Frank Lorson

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Kenneth W. Starr

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TX/RX NO	4989	
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SUBADDRESS		
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USAGE T	01'07	
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Date: 5/14/97

TO: Gary Winters / Ken Geller

Company Name: _____

Fax Number: 861-0473 Telephone Number: _____

FROM: John Bates

Number of Pages: 3 (including this cover sheet)

Message: _____

SUPREME COURT OF THE UNITED STATES

Office of the President
Petitioner

vs.

Office of Independent Counsel, et al.
Respondent

No. 96-1783

To Kenneth Starr & John D. Bates Counsel for Respondent:

YOU ARE HEREBY NOTIFIED pursuant to Rule 12.3 that a petition for a writ of certiorari in the above-entitled case was filed in the Supreme Court of the United States on May 12, 1997, and placed on the docket _____.

Agreement Pursuant to ~~Rule 15.3~~, the due date for a brief in opposition is May 29, 1997. If the due date is a Saturday, Sunday, or federal legal holiday, the brief is due on the next day that is not a Saturday, Sunday, or federal legal holiday.

An appearance form is enclosed and should be sent to the Clerk only in the event you **do not** intend to file a response to the petition for a writ of certiorari. No appearance form is enclosed if the Solicitor General of the United States represents the respondent.

Your attention is directed to Rule 9 of the Rules of the Supreme Court reproduced on back of the appearance form. Only counsel of record will receive notification of the Court's action in this case.

Andrew L. Frey
Counsel for Petitioner

2000 Pennsylvania Avenue, N.W.
Number and Street

Washington, D.C. 20036
City, State, and Zip Code

(202) 778-0602
Telephone Number

NOTE: This notice is for notification purposes only, and neither the original nor a copy should be filed in the Supreme Court.

CO-90

CLER-0032-9-95

MAYER, BROWN & PLATT

2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-1882

MAIN TELEPHONE
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MAIN FAX
202-861-0473

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MESSAGE TO:	FROM:
Brett Kavanaugh	Gary A. Winters
FIRM: Independent Counsel	NO. OF PAGES 1+cover (ALL PAGES MUST BE NUMBERED)
FAX NO.: 514-8802	TELEPHONE: (202) 778-0193

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Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

William K. Suter
Clerk of the Court

202-479-3011
Fax 202-479-3039

May 12, 1997

Kenneth S. Geller, Esquire
Mayer Brown & Platt
2000 Pennsylvania Avenue, N.W.
Washington, DC 20006

RE: Petition No. 96-1783

Dear Mr. Geller:

I received by hand on May 8, 1997, a letter from Independent Counsel, Kenneth W. Starr, in which he presents his views regarding the caption of the petition you presented for filing today that will bear the number 96-1783.

Before this petition can be placed on the docket, I request that you file a response to Mr. Starr's letter in which you present your views regarding the caption, and that such response be filed in my office by 2 p.m., Wednesday, May 14, 1997.

Your prompt attention to this matter is appreciated.

Sincerely yours,

William K. Suter
Clerk

cc: Kenneth W. Starr, Esquire
David E. Kendall, Esquire

FAX COVER SHEET

Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543

To: Kenneth Starr

Fax Number: (202) 514-8802

From: William K. Suter
Fax: (202) 479-2959

Description: Request re: caption of petition

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Time sent: 4:15 pm

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FOIA # none (URTS 16303) DocId: 70104990 Page 25

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 8, 1997

William K. Suter, Esq.
Clerk
Supreme Court of the United States
One First St., N.E.
Washington, D.C. 20543

Dear Mr. Suter:

We write to state our views regarding the caption of the anticipated case involving this Office and the White House.

Pursuant to the Ethics in Government Act, the Independent Counsel was appointed at the request of Attorney General Reno by the United States Court of Appeals for the District of Columbia Circuit. Under 28 U.S.C. § 594(a), the Independent Counsel is authorized to "exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice." This includes the authority to "conduct[] proceedings before grand juries and other investigations"; to "participat[e] in court proceedings"; "to contest the assertion of any testimonial privilege"; and to "initiat[e] and conduct[] prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States." 28 U.S.C. § 594(a) (emphasis added).

In Supreme Court cases arising out of federal grand jury proceedings, the caption refers to the federal government prosecutors as the "United States." See, e.g., Hill v. United States, 117 S. Ct. 432 (1996); The Corporation v. United States, 117 S. Ct. 333 (1996); Doe v. United States, 510 U.S. 1091 (1994); Scarce v. United States, 510 U.S. 1041 (1994); Lewis v. United States, 510 U.S. 918 (1993); Union Bank of Switzerland v. United States, 502 U.S. 1092 (1992); DeGeurin v. United States, 499 U.S. 959 (1991); United States v. R. Enterprises, Inc., 498 U.S. 292 (1991); Backiel v. United States, 498 U.S. 980 (1990); Model Magazine Distributors, Inc. v. United States, 496 U.S. 925 (1990). In addition, the caption of Supreme Court cases in which the United States has been represented by an independent counsel appointed under the Ethics in Government Act (or a special prosecutor appointed by the Attorney General) refers to the "United States." See Tucker v. United States, 117 S. Ct. 76 (1996); Marks v. United States, 117 S. Ct. 76 (1996); Haley v. United States, 117 S. Ct.

76 (1996); Fitzhugh v. United States, 117 S. Ct. 256 (1996); United States v. Poindexter, 506 U.S. 1021 (1992); North v. United States, 500 U.S. 941 (1991); United States v. Nofziger, 493 U.S. 1003 (1989); Poindexter, North, and Hakim v. United States, 490 U.S. 1004 (1989); Deaver v. United States, 484 U.S. 829 (1987); Deaver v. United States, 483 U.S. 1301 (1987) (stay application); Mitchell and Haldeman v. United States, 431 U.S. 933 (1977); Ehrlichman v. United States, 431 U.S. 933 (1977); Barker v. United States, 421 U.S. 1013 (1975); United States v. Nixon, 418 U.S. 683 (1974).[1]

The reference in the caption to the party represented by this Office as the "United States" is proper despite the fact that a federal government agency or official is the opposing party. In United States v. Nixon, 418 U.S. 683 (1974), for example, the caption referred to the "United States" notwithstanding the fact that another entity within the Federal Government was the subpoena recipient and opposing party.

In short, both the law of Section 594(a) and the consistent practice of the Supreme Court require that the caption in this case refer to the "United States" as the party represented by this Office.[2]

The other question, of course, is how the White House should be referenced. There seem to be three possibilities: "Executive Office of the President"; "White House Office"; or "William Jefferson Clinton, President of the United States." We offer a few observations. First, the grand jury subpoena was directed to "The White House." Second, the White House Office is an official entity within the Executive Office of the President.[3] (There is no official

---

[1] The exception of which we are aware, Morrison v. Olson, 487 U.S. 654 (1988), was extraordinary on several levels. First, the statute under which Ms. Morrison was appointed as independent counsel had been declared unconstitutional by the Court of Appeals. Ms. Morrison's status as a federal officer thus was somewhat uncertain, and it might have been thought inappropriate to refer to her Office as the "United States." In any event, the Department of Justice, instead of the Independent Counsel, represented the "United States" in both the Court of Appeals and the Supreme Court. Those extraordinary facts are not present in this case; moreover, the caption in that case has not been the guide for the caption in subsequent cases involving independent counsels.

[2] We therefore intend to file our brief in opposition using the traditional gray cover, consistent with the practice of the United States (including when an independent counsel represents the United States) in criminal matters. See S.Ct.R. 33.1(e).

[3] There are 14 executive departments and numerous agencies. The Executive Office of the President (EOP) is an agency established in 1939 by Executive Order 8248, September 8,

entity entitled the "Office of the President," at least so far as we are aware.) Third, the caption in the District Court was "In re: Grand Jury Subpoena Duces Tecum to the White House."

We appreciate very much your assistance in this matter.

Sincerely,

Kenneth W. Starr
Independent Counsel

Copy: Kenneth S. Geller, Esq.

1939, pursuant to the Reorganization Act of 1939, and comprised over the ensuing years of numerous units, including the White House Office and the Office of Administration, among others. See generally The United States Government Manual 1996-97 90 (various agencies transferred to EOP in 1939); 3 C.F.R. § 100.735-2(a) ("Agency means the followings agencies in the Executive Office of the President: The White House Office . . . .").

TELECOPY COVER SHEET

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1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: May 8, 1997

TO: Lawrence Robbins, Esq.
Kenneth S. Geller, Esq.

Company Name: Mayer, Brown & Platt

Fax Number: 202-861-0473 Telephone Number: 202-463-2000

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 4 (including this cover sheet)

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SUBADDRESS	
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ST. TIME	05/08 10:57
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1001 Pennsylvania Avenue, N.W., Suite 490N
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Number of Pages: 4 (including this cover sheet)

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 8, 1997

William K. Suter, Esq.
Clerk
Supreme Court of the United States
One First St., N.E.
Washington, D.C. 20543

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Kenneth W. Starr
Independent Counsel

Copy: Kenneth S. Geller, Esq.

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No. 96-1783

In The

Supreme Court of the United States

OCTOBER TERM, 1996

OFFICE OF THE PRESIDENT,
Petitioner,

v.

OFFICE OF INDEPENDENT COUNSEL, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF OF LAW PROFESSORS PAUL F. ROTHSTEIN, RONALD J. ALLEN, MARGARET A. BERGER, WILLIAM J. BRIDGE, PAUL C. GIANNELLI, STEPHEN GILLERS, LAIRD C. KIRKPATRICK, DAVID P. LEONARD, MIGUEL A. MÉNDEZ, ROGER C. PARK, MYRNA S. RAEDER, JOHN W. REED, MARK REUTLINGER, LEO M. ROMERO, STEPHEN A. SALTZBURG, AND PETER TILLERS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

Professor Paul F. Rothstein
GEORGETOWN UNIVERSITY
LAW CENTER
600 New Jersey Ave., N.W.
Washington, D.C. 20001
(202) 662-9094

Robert A. Long, Jr.
Ivan K. Fong*
COVINGTON & BURLING
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044-7566
(202) 662-6000

Counsel for Amici Curiae

* Counsel of Record

June 2, 1997

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Paul R. Rice, *Attorney-Client Privilege: State Law* (1996) 15
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Paul F. Rothstein, *A Re-Evaluation of the Privilege Against Adverse Spousal Testimony in the Light of Its Purpose*, 12 Int'l & Comp. L.Q. 1189, 1194 (1963) 10
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Stephen A. Saltzburg, *Privileges and Professionals: Lawyers and Psychiatrists*, 66 Va. L. Rev. 597 (1980) 14
Scott N. Stone & Robert K. Taylor, *Testimonial Privileges* (2d ed. 1995) 3
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FOIA # none (URTS 16303) DocId: 70104990 Page 38

INTEREST OF *AMICI CURIAE*

Amici are law professors who regularly conduct scholarly research in, publish on, and teach the subjects of evidence or professional responsibility in law schools throughout the Nation. *Amici* law professors have written extensively on issues relating to the attorney-client privilege, and several have written or edited leading textbooks and treatises on the law of evidence or professional responsibility. In addition, many *amici* have had practical experience on both sides of civil and criminal cases; experience working as attorneys in government offices or agencies; and experience teaching evidence to the bench and bar.

Amici have a professional interest in and concern for the effective workings of the courts, government, and the legal profession. In particular, *amici* have an interest in the integrity and soundness of rules of evidence and privilege as they may affect the processes by which public policy, law, and regulations are made. As teachers of law, *amici* are also students of the legal profession and the contribution it makes to our system of government. These interests are heightened when the subject is, as in this case, the application of the attorney-client privilege in the context of government agencies and attorneys.

Brief biographical statements of individual *amici* are included in an Appendix to this brief. All parties have consented to the filing of this brief.

REASONS FOR GRANTING THE WRIT

This Court should grant review not only because this is a case of national importance and prominence, but also because the decision below is a conspicuous departure from settled principles of evidence law. The panel majority concluded that communications between government lawyers and government officials are not protected by the attorney-client privilege, at least when those communications are sought by a federal grand jury. That conclusion conflicts with the predominant common-law understanding that the attorney-client privilege applies to government entities and that where the privilege applies, it is absolute (*i.e.*, it protects against disclosure in all types of legal and investigative

FOIA # none (URTS 16303) DocId: 70104990 Page 39

proceedings). In particular, the Court of Appeals' decision rests on a fundamental misunderstanding of this Court's decisions in *Upjohn Co. v. United States*, 449 U.S. 383 (1981), and *United States v. Nixon*, 418 U.S. 683 (1974).

Moreover, this case warrants further review because the decision below has profound implications beyond the parties to this dispute. The Court of Appeals' ruling, if allowed to stand, will create widespread uncertainty among federal, state, and local officials concerning the extent to which their communications with their agency lawyers, for the purpose of seeking legal advice in the conduct of governmental affairs, are protected by the attorney-client privilege. Unless this Court grants review and resolves this uncertainty, the decision below will likely have an adverse effect on the current and future operation of not only the Office of the President of the United States, but also government at all levels. At the very least, a decision of such vast implications (as in the present case) should be made by the highest court in the land. We accordingly urge the Court to grant the petition for review.[1]

I. THE DECISION BELOW CREATES AN EXCEPTION TO THE ATTORNEY-CLIENT PRIVILEGE THAT IS NOT IN ACCORD WITH ACCEPTED LEGAL PRINCIPLES AND HAS IMPORTANT ADVERSE CONSEQUENCES FOR GOVERNMENT

A. It Is Well-Settled That The Attorney-Client Privilege Applies To Government Entities

Rule 501 of the Federal Rules of Evidence provides, with limited exceptions, that "the privilege of a witness, person, government, State, or political subdivision thereof shall be governed

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[1] Because this brief urges the Court merely to grant further review, *amici* do not address in this brief the question whether, assuming the attorney-client privilege applies to government entities and is absolute, the requirements for asserting the privilege have been satisfied in this case. Those questions are more appropriately addressed if and when this Court elects to grant certiorari. *Amici* also do not address in this brief the attorney work-product issue raised by petitioner.

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by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience." As the court below recognized (Pet. App. 5a), the starting point of analysis is therefore the common law, "interpreted . . . in the light of reason and experience." Fed. R. Evid. 501.

At common law, it has long been understood that the attorney-client privilege applies to communications between government entities and government lawyers for the purpose of seeking and providing legal advice. *See, e.g.*, Jack B. Weinstein & Margaret A. Berger, *Weinstein's Evidence Manual* ¶ 18.03[02][a], at 18-18 (1996) ("Artificial entities, public or private, are . . . considered clients for purposes of the attorney-client privilege."); Paul R. Rice, *Attorney-Client Privilege in the United States* § 4:28, at 4-98 (1993) ("When government agencies consult with legal counsel for the purpose of obtaining legal advice or assistance . . . the attorney-client privilege protects [their] communications to those attorneys."); 1 Scott N. Stone & Robert K. Taylor, *Testimonial Privileges* § 1.18, at 1-47 (2d ed. 1995) ("Courts agree that the client may be an . . . organization or entity, either public or private.") (footnotes omitted); Richard O. Lempert & Stephen A. Saltzburg, *A Modern Approach to Evidence* 693 (2d ed. 1982) ("The proposed federal rule and most of the rules that have been enacted by states which used it as a guideline assume that a client can be a government agency as well as a corporation.").[2]

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[2] In *SEC v. World-Wide Coin Investments, Ltd.*, 92 F.R.D. 65, 67 (N.D. Ga. 1981), for example, the court applied the principles of this Court's *Upjohn* decision to communications between SEC staff and SEC counsel. And in *Deuterium Corp. v. United States*, 19 Cl. Ct. 697, 699 (1990), the court concluded that the "same reasoning" that this Court employed in *Upjohn* applies to "Government employees at all levels." In addition to the cases cited by petitioner in its Petition for Certiorari ("Pet."), *see* Pet. 18 n.5, other cases that recognize a governmental attorney-client privilege include *Connecticut Mut. Life Ins. Co. v. Shields*, 18 F.R.D. 448, 450 (S.D.N.Y. 1955) (communications between bridge commission and its attorneys held to be privileged), *State v. Today's Bookstore, Inc.*, 621 N.E.2d 1283, 1288 (Ohio Ct. App. 1993) ("The city is like a corporation, and the same attorney-client privilege enjoyed by

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Although the issue has typically arisen in the context of civil litigation, we are aware of no reported decision (prior to this one) that suggests a different rule applies in criminal or grand jury proceedings. Any such distinction would be a departure from a fundamental feature of the attorney-client privilege; namely, that the privilege protects against compelled disclosure regardless of the forum in which the privileged communication is sought. *See infra* pp. 6-9. Indeed, the few decisions that have confronted the issue in a criminal setting have recognized the existence of the privilege. *See In re Grand Jury Subpoena*, 886 F.2d 135, 138-39 (6th Cir. 1989) (vacating district court's order to enforce a federal grand jury subpoena and remanding to determine whether minutes of a city council meeting were confidential); *In re Grand Jury Subpoenas Duces Tecum Served by the Sussex County Grand Jury*, 574 A.2d 449, 454-56 (N.J. Super. Ct. App. Div. 1989) (attorney employed by a county board of freeholders cannot be required to reveal client communications to a grand jury investigating the county).[3]

Apart from judicial decisions, the Freedom of Information Act ("FOIA") expressly recognizes that an attorney-client privilege exists between government agencies and their lawyers. *See* 5 U.S.C. § 552 (1994); *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 154 (1975); *Mead Data Central, Inc. v. United States Dep't of Air Force*, 566 F.2d 242, 252-53 (D.C. Cir. 1977). Although the panel majority below dismissed FOIA jurisprudence as "sui

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corporations is enjoyed by the city."), and *Rowley v. Ferguson*, 48 N.E.2d 243, 248 (Ohio Ct. App. 1942) (communications between attorney and client, both of whom were public officials, held to be privileged).

[3] It should not be surprising that there are few reported judicial decisions in the criminal or grand jury context, because the decision whether to waive attorney-client privilege in the context of a criminal or grand jury proceeding is often made within the Executive Branch. *See* Pet. 20 n.6. In addition, *amici* surmise that one reason this issue is not litigated more frequently is that, in the past, lawyers, judges, and scholars had no reason not to assume — or reasonably took for granted — that government agencies, no less than other entities, could assert the attorney-client privilege in the face of a criminal or grand jury investigation.

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generis," Pet. App. 10a, it would have been singularly odd for Congress, which is presumed to be well-versed in this area of the law, to recognize an attorney-client privilege in the FOIA context if the general rule were that no such privilege exists.

Furthermore, Proposed Federal Rule of Evidence 503 provides that any "organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from him," is entitled to the protection of the attorney-client privilege. Proposed Fed. R. Evid. 503(a)(1), *reprinted in* 56 F.R.D. 183, 235 (1972).[4] The Advisory Committee Notes to Proposed Rule 503 confirm that "[t]he definition of 'client' includes governmental bodies." *Id.* at 237 (citations omitted). Although the panel majority's analysis began with Proposed Rule 503, it abandoned further consideration on the curious ground that the Proposed Rule announces a "broad proposition" without specifically addressing "the particular situation before us in this case." Pet. App. 6a-7a. Courts usually do not disregard plain language in a statute or rule on the basis that the text speaks in general terms.

More importantly, Proposed Rule 503 has been recognized as "a powerful and complete summary of black-letter principles of lawyer-client privilege. Perhaps more than any other privilege proposal that was contained in the draft rules presented to Congress, Standard 503 represents a convenient and logical summary of core principles in privilege doctrine." 3 *Weinstein's Federal Evidence* § 503.02, at 503-8 (McLaughlin ed., 2d ed. 1997). Because Proposed Rule 503 "is useful as a restatement of the traditional

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[4] Although Rule 503 is a proposed rule, and therefore not binding on the courts, its pedigree makes it a persuasive authority. *See, e.g.*, Weinstein's Evidence Manual ¶ 18.03[01], at 18-17 ("Standard 503 remains a useful starting point in examining the use of the attorney-client privilege in the federal courts today. It is an accurate restatement of actual practice and is cited to frequently") (footnote omitted); *In re Bieter Co.*, 16 F.3d 929, 935 (8th Cir. 1994) (Proposed Rule 503 is "a useful starting place" for examination of the federal common law of attorney-client privilege).

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common law lawyer-client privilege that had been applied in the federal courts prior to the adoption of the federal rules," *Weinstein's Federal Evidence*, *supra*, § 503.02, at 503-8 (footnote omitted), the court below should have viewed Proposed Rule 503 as persuasive (though not dispositive) authority that federal common law, interpreted "in the light of reason and experience," Fed. R. Evid. 501, includes a governmental attorney-client privilege.[5]

B. The Purposes Served By The Attorney-Client Privilege Apply With Full Force To Communications Between Government Entities And Government Lawyers

The attorney-client privilege is a long-recognized exception to the general rule that the public has a right "to every man's evidence," *United States v. Bryan*, 339 U.S. 323, 331 (1950) (internal quotation and citation omitted). Indeed, it "is the oldest of the privileges for confidential communications known to the common law." *Upjohn*, 449 U.S. at 389 (citing 8 John H. Wigmore, *Evidence* § 2290 (McNaughton rev. 1961)). The purpose of the privilege is to

> encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of the law and administration of justice. The privilege recognizes that sound legal advice or advocacy serves

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[5] Other authorities also recognize a government attorney-client privilege. *See, e.g.*, Restatement (Third) of the Law Governing Lawyers § 124 (Proposed Final Draft No. 1, 1996) ("The attorney-client privilege extends to a communication of a governmental organization."); Uniform Rule of Evidence 502 (defining "client" to include governmental bodies and public officers; subsection (d)(6), which restricts the scope of the privilege, has been rejected by most States, *see infra* note 10); Model Rules of Professional Conduct 1.6 comment ("The requirement of maintaining confidentiality of information relating to representation applies to government lawyers . . ."); *cf.* Earl C. Dudley, Jr., *Federalism and Federal Rule of Evidence 501: Privilege and Vertical Choice of Law*, 82 Geo. L.J. 1781, 1841 (1994) (proposing a new Federal Rule of Evidence 501 that includes a governmental attorney-client privilege).

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> public ends and that such advice or advocacy depends upon the lawyer's being fully informed by the client.

Id. The attorney-client privilege "'rests on the need for the advocate and counselor to know all that relates to the client's reasons for seeking representation if the professional mission is to be carried out.'" *Id.* (quoting *Trammel v. United States*, 445 U.S. 40, 51 (1980)). Its purpose is "to encourage clients to make full disclosure to their attorneys." *Id.* at 389 (quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976)); *see also Commodity Futures Trading Comm'n v. Weintraub*, 471 U.S. 343, 348 (1985).

In *Upjohn*, the Court rejected a narrow application of the attorney-client privilege to corporations, concluding that the narrow "control group" test "overlook[ed] the fact that the privilege exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." 449 U.S. at 390 (citations omitted). The *Upjohn* Court recognized that "[t]he first step in the resolution of any legal problem is ascertaining the factual background and sifting through the facts with an eye to the legally relevant. . . . 'It is for the lawyer in the exercise of his independent professional judgment to separate the relevant and important from the irrelevant and unimportant.'" *Id.* at 390-91 (quoting ABA Code of Professional Responsibility, Ethical Consideration 4-1).

This Court in *Upjohn* also recognized that "if the purpose of the attorney-client privilege is to be served, the attorney and client must be able to predict with some degree of certainty whether particular discussions will be protected. An uncertain privilege . . . is little better than no privilege at all." *Upjohn*, 449 U.S. at 393. *Upjohn* thus affirmed the central principle that the attorney-client privilege, where it exists, is absolute and cannot be overcome by a showing of need. *See, e.g.*, Rice, *supra*, § 2.2, at 2-50 ("If the protection were not absolute, it would not be predictable, and the client could not rely on it. Absent a waiver of the protection, therefore, the privilege precludes disclosure of the communications

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regardless of the need that might be demonstrated for the information in them") (footnotes omitted).[6]

The purposes served by the attorney-client privilege in the corporate setting apply with equal force in the government setting. *See* Rice, *supra*, § 4:45, at 4-175 (government agencies "need legal advice and assistance, and the privilege's rationale of encouraging more open communications from the client to the attorney is no less applicable, even though these entities can only speak and act through the individuals who represent them"). Government lawyers, no less than lawyers serving private clients, need to know all relevant facts before providing legal advice. The need to promote full and frank disclosure between clients and their lawyers is no less pressing in the government context than in the private context.[7]

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[6] The focus on encouraging the communication *ex ante* means that the privilege derives its justification independently of the context in which the information is sought *ex post*. In other words, given the rationales supporting the attorney-client privilege, there is no principled basis on which to distinguish between privileged information sought later in a criminal investigation or in civil litigation. Moreover, because the focus is on encouraging communication *ex ante*, the essence of the privilege goes to the need for candor and full access to information at the time the communication is made, not to the need for the information after the communication is made. In creating an exception to the attorney-client privilege for communications sought by a federal grand jury, the court below appears to have ignored this bedrock principle of privilege law.

[7] "The United States government employs more than 22,000 lawyers to handle its legal problems (two to three percent of all U.S. lawyers). . . . The variety of legal work performed by government lawyers is nearly as broad as the breadth of legal activity generally. Lawyers for the federal government are advisors, counselors and litigators; and they deal virtually in every legal specialty, ..." Roger C. Cramton, *The Lawyer as Whistleblower: Confidentiality and Government Lawyers*, 5 Geo. J. Legal Ethics 291, 292 (1991). "Recognition of the attorney-client privilege for governmental entities is said to encourage more open communication between governmental officials and their lawyers, thereby enhancing the quality of governmental decisionmaking. Denial of the privilege would put

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This Court in *Upjohn* recognized that a corporation's lawyers cannot function effectively for a corporation without the information provided by employees of the corporation, and that in the absence of privilege such information might be withheld from the lawyers to the detriment of the corporation, the legal system, and the public generally. *See Upjohn*, 449 U.S. at 390-95. The same is true of lawyers for government agencies. Legal advice is just as essential to a government agency's proper functioning as it is to a corporation's. Legal advice can be key to the agency's understanding of and obedience to the law, and key to the agency's formulation of sound public policy and sound legal regulations. Legal advice for a government agency is particularly necessary in the modern world's increasingly complex and sometimes counterintuitive laws governing agencies and their officials. As this Court observed in *Upjohn*, "[i]n light of the vast and complicated array of regulatory legislation," efforts to comply with the law will require "'constantly go[ing] to lawyers to find out how to obey the law,' particularly since compliance with the law in this area is hardly an instinctive matter." 449 U.S. at 392 (citations omitted). There can be little dispute that this observation applies with at least equal force to government agencies. At bottom, just as this Court recognized in the context of corporate attorney-client communications in *Upjohn*, application of the attorney-client privilege in a governmental context promotes, rather than impedes, the fair and accurate administration of justice.

C. The "Grand Jury Exception" Created Below To The Governmental Attorney-Client Privilege Erodes The Benefits Of The Privilege So Severely That Only The Nation's Highest Court Should Make That Decision

The panel majority below rejected the proposition that "an entity of the federal government may use the attorney-client privilege to avoid complying with a subpoena [issued] by a federal grand jury." Pet. App. 5a. But just as limiting the privilege to

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public entities at an unfair disadvantage in both criminal prosecutions and civil litigation." 2 Christopher B. Mueller & Laird C. Kirkpatrick, *Federal Evidence Second* § 191, at 352 (1994).

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members of a corporation's "control group" would "frustrate[] the very purpose of the privilege," *Upjohn*, 449 U.S. at 392, so too would the decision of the court below to remove communications from the governmental attorney-client privilege when they are sought in a grand jury proceeding deny the essence of the privilege for the governmental entity.

The panel majority assumed that "confidentiality will suffer only in those situations that a grand jury may later see fit to investigate." Pet. App. 19a.[8] But grand jury investigations of governmental decisionmaking and decisionmakers are (unfortunately) no longer uncommon, and there can thus be considerable uncertainty whether a future grand jury may someday be interested in otherwise privileged communications. As this Court recognized in *Upjohn*, "if the purpose of the attorney-client privilege is to be served, the attorney and client must be able to predict with some degree of certainty whether particular discussions will be protected." *Upjohn*, 449 U.S. at 393; *see also Jaffee v. Redmond*, 116 S. Ct. 1923, 1932 (1996) ("We reject the balancing component of the privilege . . . . Making the promise of confidentiality contingent upon a trial judge's later evaluation of the relative importance of the . . . evidentiary need for disclosure would eviscerate the effectiveness of the privilege."); *cf.* Paul F. Rothstein, *A Re-Evaluation of the Privilege Against Adverse Spousal Testimony in the Light of Its Purpose*, 12 Int'l & Comp. L.Q. 1189, 1194 (1963) (contrasting communications privileges, which require certainty of applicability, with other privileges, which do not). Given the broad

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[8] The court below also asserted that it did not

> foresee any likely effect of our decision on the ability of a government lawyer to advise an official who is contemplating a future course of conduct. If the attorney explains the law accurately and the official follows that advice, no harm can come from later disclosure of the advice. . . . [W]e cannot conclude that advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution.

Pet. App. 19a-20a (citation omitted).

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investigative mandate of federal grand juries, the uncertainty as to whether otherwise protected communications may lose that protection will frustrate the very purpose of the privilege.

Indeed, denial of the attorney-client privilege in the grand jury context would be an unprecedented exception to the privilege. There is no "grand jury exception" to the attorney-client privilege for individuals or corporations. A grand jury exception to the attorney-client privilege in the government context would cut a gaping hole in the privilege and would have a significant chilling effect on communications. Federal grand juries can investigate a wide range of conduct or suspected conduct and are not limited by relevancy rules applicable at trial. *See, e.g., United States v. Calandra*, 414 U.S. 338, 343-44 (1974). Thus, a government employee speaking with agency counsel about matters necessary to the daily effective functioning of the agency would not necessarily know if the matter could possibly be of interest one day to a federal grand jury. The fear that it *might*, however, would undoubtedly chill communications with agency attorneys. In addition, if the attorney-client privilege did not apply to government agencies in the context of federal grand jury investigations, every agency lawyer could become a potential prosecution witness against agency officials who have sought legal advice from that lawyer or against government employees who have provided information necessary for that lawyer to offer such advice.

As a result of both these implications, government officials and employees would likely be deterred from seeking legal advice regarding the legality of their conduct, which would have several undesirable effects. First, it might encourage agency officials and employees to remain deliberately ignorant of the law. Second, it might deter some officials or employees from engaging in proper and desirable conduct for fear that it might be illegal. Also, it might cause government agencies to establish policies they might not establish had officials obtained confidential legal advice, or to engage in conduct they might have eschewed had officials consulted government counsel about their proposed course of conduct. Those government officials who do actually seek legal advice might decide to withhold crucial information or otherwise refrain from free and

frank exploratory discussions, thus undermining the quality and effectiveness of any legal advice that is ultimately given.

This uncertainty over the prospect of a future grand jury investigation that would require disclosure of otherwise privileged communications is compounded by other uncertainties raised by the decision below. For example, unless this Court grants review and announces a uniform rule, there will be uncertainty over whether other courts will follow the court below and, if so, whether a future grand jury will seek such communications in those jurisdictions. There will be uncertainty over whether the rule announced by the court below might also apply to other types of proceedings, such as criminal trials or civil proceedings. The decision below also raises substantial uncertainty as to whether the same exception would apply to state or local government agencies and officials and, if so, whether a future grand jury will seek such communications in a jurisdiction that applies the "grand jury exception" created below to state and local government agencies and officials. *Cf.* Paul F. Rothstein, *The Proposed Amendments to the Federal Rules of Evidence*, 62 Geo. L.J. 125, 130-35 (1973) (urging general conformity of privileges with state law to avoid uncertainty). These uncertainties, each of which tends to undermine the very existence of the privilege, *see Upjohn*, 449 U.S. at 393, present an independent, compelling basis on which this Court should grant review.

D. A "Grand Jury Exception" To The Governmental Attorney-Client Privilege Pays Far Fewer Dividends to Grand Jury Investigations Than The Court Below Assumed

The decision below sought to distinguish application of the privilege in a civil setting from application of the privilege in a criminal setting by advancing "the general principle that the government's need for confidentiality may be subordinated to the needs of the government's own criminal justice processes." Pet. App. 15a (discussing *United States v. Nixon*, 418 U.S. 683 (1974)). The panel majority also cited *Nixon* to support its conclusion that "[e]ven if . . . the governmental attorney-client privilege ordinarily

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applies in civil litigation," a different rule is warranted in criminal proceedings. Pet. App. 11a.

At the outset, the panel majority's conclusion rests on a fundamental misreading of *Nixon*. This Court's opinion in *Nixon* expressly distinguished the *qualified* privilege at issue in that case from *absolute* privileges, such as those that apply to military or diplomatic secrets. 418 U.S. at 706-07. *Nixon* did not suggest that the attorney-client privilege, which has long been regarded as an absolute privilege, is subject to a balancing analysis. To the contrary, the Court expressly acknowledged the existence of "common-law . . . privileges," including the privilege of "an attorney" who "may not be required to disclose what has been revealed in professional confidence." 418 U.S. at 709. Furthermore, there was a much stronger showing of need for the evidence in *Nixon*. In *Nixon*, the information at issue was not available from any other source, because the relevant individuals could not be called as witnesses in a criminal trial. In this case, by contrast, the Independent Counsel has other sources for the information he seeks. Because Mrs. Clinton has already testified before the grand jury, for example, the Independent Counsel's need for counsel's debriefing notes related to that testimony is far less pressing than the Special Prosecutor's need for the tapes in *Nixon*.

More importantly, even apart from the panel majority's misreading of *Nixon*, the decision below overestimates the potential benefits to law enforcement from denial of a governmental attorney-client privilege in the context of grand jury proceedings. First, it is well-established that "[t]he privilege only protects disclosure of *communications*; it does not protect disclosure of the underlying *facts* by those who communicated with the attorney." *Upjohn*, 449 U.S. at 395 (emphasis added). As such, recognition of the privilege in the context of a grand jury subpoena does not and would not prevent the Independent Counsel (or some future party seeking grand jury evidence) from obtaining the underlying information from sources other than attorney-client communications. *See id.* at 396 ("While it would probably be more convenient for the Government to secure the results of petitioner's internal investigation by simply subpoenaing the questionnaires and notes taken by petitioner's attorneys, such considerations of convenience

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do not overcome the policies served by the attorney-client privilege."). In this case, for example, because Mrs. Clinton has already testified before a grand jury, the Independent Counsel presumably has had ample opportunity to question her about underlying facts relevant to his investigation. What the attorney-client privilege protects — in this as in any other context — are confidential communications where there is an overarching public benefit in "encourag[ing] full and frank communication between attorneys and their clients [to] promote broader public interests in the observance of the law and administration of justice." *Upjohn*, 449 U.S. at 389.

Second, as this Court and others have recognized, the privilege does not serve to suppress evidence; rather, the privilege serves to encourage communications from the client to the attorney that otherwise might not have been uttered. *Cf. Jaffee*, 116 S. Ct. at 1929 ("Without a privilege, much of the desirable evidence to which litigants . . . seek access . . . is unlikely to come into being. This unspoken 'evidence' will therefore serve no greater truth-seeking function than if it had been spoken and privileged").[9] Thus, even apart from the significant adverse effect on governmental operations that is likely to occur, denial of the governmental attorney-client privilege for grand jury investigations provides no commensurate benefits for the administration of justice.

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[9] The privilege "keeps from the court only sources of information that would not exist without the privilege." Rice, *supra*, § 2:3, at 56-57 (quoting *Developments in the Law: Privileged Communications*, 98 Harv. L. Rev. 1501, 1508 (1985)). As such, "when the attorney-client privilege is properly understood, it reaches communications that are presumed to have been made precisely because the privilege exists. . . . It is not accurate, therefore, to say that the privilege operates in derogation of the truth. . . . [I]t is important, in understanding the privilege, to focus on the time period before the communications are made." Stephen A. Saltzburg, *Corporate Attorney-Client Privilege in Shareholder Litigation and Similar Cases: Garner Revisited*, 12 Hofstra L. Rev. 817, 823-24 (1984); *see also* Stephen A. Saltzburg, *Privileges and Professionals: Lawyers and Psychiatrists*, 66 Va. L. Rev. 597, 600 n.9 (1980) (courts should recognize the information-generating effect of a privilege).

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II. THE COURT OF APPEALS' DECISION RAISES A SERIOUS ISSUE OF FEDERALISM

The panel majority's decision also raises significant federalism concerns. Federal Rule of Evidence 501 provides that state law governing attorney-client privilege does not apply in the federal courts, except in civil actions and proceedings "with respect to an element of a claim or defense as to which State law supplies the rule of decision." Fed. R. Evid. 501. Accordingly, if state law provides that communications between state government officials and state government lawyers are protected by the attorney-client privilege, that *state* law will not be applied in federal criminal or grand jury proceedings or in federal civil actions that arise under federal law. Any protection in those proceedings is entirely dependent on the shape of *federal* privilege law. *See generally* Paul F. Rothstein, *Rules of Evidence for United States Courts and Magistrates* 139-40 (2d ed. 1996).[10]

This case concerns the federal government rather than a state government, and the panel majority itself recognized that "a standoff between a federal grand jury and a city government[] implicates potentially serious federalism concerns." Pet. App. 9a. But the Court of Appeals' reasoning denying privilege to the federal government applies as well to state and local governments. Having concluded (Pet. App. 18a) as a matter of federal common law that "the strong public interest in honest government and in exposing wrongdoing by public officials would be ill-served by recognition

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[10] This Court has considered "the policy decisions of the States" in determining the scope of privileges under federal law. *Jaffee*, 116 S. Ct. at 1929. Many States recognize that the attorney-client privilege applies to government agencies. *See, e.g.*, Cal. Evid. Code § 951 comment (West 1995) ("public entities have a privilege insofar as communications made in the course of the lawyer-client relationship are concerned"). *See generally* 1 Gregory P. Joseph & Stephen A. Saltzberg, *Evidence in America: The Federal Rules in the States*, ch. 24 (1987 & Supp. 1994); Paul R. Rice, *Attorney-Client Privilege: State Law* § 4.28 (1996). Of the States that have adopted Uniform Rule of Evidence 502, most have declined to adopt subsection (d)(6) of that Rule, which restricts somewhat the government's attorney-client privilege. *Id.*

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of a governmental attorney-client privilege applicable in criminal proceedings inquiring into the actions of public officials," it is difficult to see how the court could reach a different result for state and local officials.

As a result of the Court of Appeals' decision, a state lawyer who serves as counsel to a Governor (or, for that matter, any other state or municipal lawyer) could find herself having to testify as to otherwise privileged communications as an adverse witness in either a federal criminal or federal grand jury proceeding. Despite the State's own determination that the benefits of the governmental attorney-client privilege outweigh its costs, state and local officials will thus be deterred from seeking legal advice, and their communications with counsel will be constrained. *Cf. Jaffee*, 116 S. Ct. at 1930 ("Denial of the federal [psychotherapist-patient] privilege therefore would frustrate the purposes of the state legislation that was enacted to foster these confidential communications."). This could well result in significant damage to the effective functioning of State governments.

CONCLUSION

For the reasons stated in this brief and in the Petition, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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APPENDIX

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Professor Paul C. Giannelli is Albert J. Weatherhead III & Richard W. Weatherhead Professor of Law at Case Western Reserve University Law School. His publications include *Scientific*

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Evidence (2d ed. 1993) (with Imwinkelried); *Ohio Evidence* (1996) (with Snyder); and *Courtroom Criminal Evidence* (2d ed. 1993) (with Imwinkelried, *et al.*). Professor Giannelli is a former chair of the AALS Evidence Section and serves as counsel to the Ohio Supreme Court Rules Advisory Committee.

Professor Stephen Gillers is Professor of Law at New York University School of Law, where he teaches courses in evidence and professional responsibility and has taught civil procedure and federal courts. He is author of *Regulation of Lawyers: Problems of Law and Ethics* (4th ed. 1995).

Professor Laird C. Kirkpatrick is Hershner Professor of Jurisprudence at the University of Oregon School of Law. His publications include *Evidence Under the Rules* (3d ed. 1996) (with Mueller); *Oregon Evidence* (3d ed. 1996); *Modern Evidence* (1995) (with Mueller); *Federal Evidence Second* (1994) (with Mueller); and *Evidence* (1994) (with Mueller). He served as an Assistant U.S. Attorney from 1978 to 1980 and is chair-elect of the AALS Evidence Section.

Professor David P. Leonard is Professor of Law and William M. Rains Fellow at Loyola Law School, Los Angeles. His publications include *The New Wigmore: A Treatise on Evidence: Selected Rules of Limited Admissibility* (1996). He is a former chair of the AALS Evidence Section.

Professor Miguel A. Méndez is Adelbert H. Sweet Professor of Law at Stanford Law School. His publications include *Evidence—The California Code and the Federal Rules: A Problem Approach* (1995) and *California Evidence with Comparison to the Federal Rules of Evidence* (1993). He has taught evidence since 1978 and has tried numerous civil and criminal cases.

Professor Roger C. Park is Distinguished Professor of Law at Hastings College of Law, University of California and the author of, among other publications, *Cases and Materials on Evidence* (7th ed. 1992) (with Kaplan & Waltz). Professor Park is a former chair of the Evidence Section of the AALS.

Professor Myrna S. Raeder is Professor of Law at Southwestern University School of Law and is the author of *Federal*

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Pretrial Practice (2d ed. 1995). Professor Raeder served as a Special Assistant U.S. Attorney in 1972-73 and is a former chair of the Rules of Criminal Procedure and Evidence Committee of the ABA Criminal Justice Section. She currently serves as chair of the AALS Evidence Section and is the ABA's advisor to the drafting committee revising the Uniform Rules of Evidence for the National Conference of Commissioners on Uniform State Rules.

Professor John W. Reed is Thomas M. Cooley Professor of Law Emeritus at the University of Michigan Law School. He has taught and published in the field of evidence for over five decades and is chair of the committee that prepares the evidence section of the Multistate Bar Examination.

Professor Mark Reutlinger is Professor of Law at Seattle University School of Law and is the author of *Evidence: Essential Terms and Concepts* (1997) and *Cases and Materials on the Law of Evidence* (1970).

Dean Leo M. Romero is Dean and Professor of Law at the University of New Mexico School of Law. He served as a Special Assistant Attorney General for the State of New Mexico in the 1980s, representing the State in its assertion of attorney-client, work-product, and executive privileges.

Professor Stephen A. Saltzburg holds the Howrey Chair of Trial Advocacy, Litigation, and Professional Responsibility at George Washington University Law School. He is the author of, among other publications, *Evidence: The Objection Method* (1997) (with Prater, Arguello, Martin & Capra); *Federal Rules of Evidence Manual* (6th ed. 1994) (with Martin & Capra); *Evidence in America* (1987) (with Joseph); *A Modern Approach to Evidence* (2d ed. 1982) (with Lempert); and *American Criminal Procedure* (5th ed. 1996) (with Capra). Professor Saltzburg served on the Advisory Committee for the Federal Rules of Evidence from 1993 to 1995 and was Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice from 1988 to 1989.

Professor Peter Tillers is Professor of Law and former Director, International Seminar on Evidence in Litigation, at Yeshiva University, Cardozo School of Law. His publications

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include 1 & 1A *Wigmore on Evidence* (rev. ed. 1983) and *Probability and Inference in the Law of Evidence: The Uses and Limits of Bayesianism* (1988) (with E. Green). Professor Tillers is a former chair of the Evidence Section of the AALS.

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No. ____

In the Supreme Court of the United States

October Term, 1996

OFFICE OF THE PRESIDENT,
Petitioner,

v.

OFFICE OF INDEPENDENT COUNSEL, ET AL.,
Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

ANDREW L. FREY
Counsel of Record
KENNETH S. GELLER
LAWRENCE S. ROBBINS
GARY A. WINTERS
Mayer, Brown & Platt
2000 Pennsylvania Ave., N.W.
Suite 6500
Washington, D.C. 20006
(202) 463-2000

Special Attorneys for the Petitioner

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Screened by NARA (RD-F) 07-19-2018 FOIA #56806 (URTS 16304) DOCID: 70104992

FOSTER - REVIEW OF DOCS - WH - ~~NOT SEEN BUT ACCESSED~~

June 8, 1995

TO: BRETT M. KAVANAUGH
FROM: DANA M. GILLIS
SUBJECT: DOCUMENTS OIC SHOULD REQUEST FROM WHITE HOUSE PRODUCTION RE FOSTER'S OFFICE

Item Requested	Bates Stamp
Box labeled DEBORAH GORHAM'S desk	
1. Black looseleaf binder titled FOSTER Printed Rolodex-Arkansas	11951-12062
2. Letter-sized redwell containing five boxed microcassettes	11847
3. Letters that appeared to be transcribed from the aforementioned microcassettes	11848-11850
4. Document labeled VINCENT FOSTER, JR. personal information to include credit card numbers, social security account number, bank account number	11867-11877
5. NUSSBAUM telephone log dated 11/17/93	11943
Box labeled VINCE FOSTER's desk files	
6. Folder with two inner folders: folder labeled VWF calendar 1993	12106-12108
7. Folder labeled VWF HUBBELL, WEBSTER 1993	12445-12509
8. Folder (unlabeled)	13290-13306
9. Folder labeled Transition-general Personal and Confidential. Announcement calls-VINCE	13590-13592
Box labeled VWF Files Outer Cabinet (box number 2)	

10. Folder labeled VWF GREENBERG Book 1993	11248-11256
11. Letter from CATHERINE L. HUGHES re meeting with FOSTER. (Could be friends based on tone of letter)	111647-111650
Box labeled VWF Files Outer Cabinet (box number 4)	
12. Folder labeled VWF RTC 1993	113970-113994
13. Folder labeled Waco	114757-114797
14. Folder labeled VWF Wall Street Journal-photos 1993	114799-114819
Box labeled VWF Files Outer Cabinet (box number 6)	
15. Folder labeled VWF July Chronological File 1993	117258-117311
16. Folder labeled June 1993-Chronological	117312-117389
17. Folder labeled VWF June 1993 Telephone Log 1993	117390-117423
18. Legal sized redwell	117424-117662
Box labeled OEOB Room 142	
19. Legal sized redwell containing folder labeled Bldg Waves clearances 1993	118719-118844
20. Letter sized redwell labeled FOSTER Telephone Messages and Calendars	2390-119059
21. Folder (unlabeled)	121128-121240 (NOTE: Listing of computer files
22. Legal sized redwell containing folder labeled VWF Renovation/Oval Office 1993 and Executive Residence	118574-118628
23. Loose documents regarding renovation of White House	118367-118631

Brown box labeled cabinet one

24. Log dated 7/22/93	2409-2415
25. Folder labeled Telephone Number VWF	2428-2469
26. Executive Office of the President Interim Telephone Directory	2480
27. Notes from FOSTER	2669-2671
28. U.S. Park Police Evidence Control Receipt	2724
29. Attorney resumes fax stamped 7/13/93	2832-2838
30. Office of the First Lady Telephone Directory	2839-2840
31. White House Staff Telephone Directory	2854-2863
32. Various White House and Cabinet telephone directories	2864-2881
33. Memo re summer clerks at White House, second session	2905-2913
34. List of White House staff dated 1/14/93	2290-2292
35. Legal pad (to be processed for indented writing)	2237
36. Note on White House note pad to be processed for indented writing	2392
37. Note on single legal pad sheet (torn)	2396-2397
38. White House note pad (to be processed for indented writing)	2400-2401
39. Phone message with writing on back	2405-2406
40. Envelope containing	3055-3060

internal envelopes and resumes

Box labeled desk and briefcase

41. Desk message pad with one partially used and one unused package of pads with the name VINCENT FOSTER, JR. marked across top of the page.

42. Two blue tablets (pills) Corgard 80/ppp 241

43. One legal sized yellow note pad blank (indented writing)

44. Executive Office of the President Interim Telephone Directory 2/25/93 — 11690-11830

45. Portfolio with legal pad — 11831-11840

46. Washington Post editorial titled "...and Some Tips for Caring". Also an editorial on the Travel Office — 11845-11846

Box labeled (Book Case (First Box))

47. White House Secure Voice Telephone Directory — 9295

48. Blank letter-sized legal pad (indented writing) — 9087

49. Letter-sized legal pad (indented writing) — 7784-7796

50. Letter-sized legal pad (indented writing) — 7855-7895

Box labeled cabinet IV

51. Legal-sized folder labeled Executive Residence Security — 5497-5584

52. Executive Residence Staff Book — 5498-5537

6/14/95

TO: BRETT

FROM: RUSS

The following are documents which OIC may want to obtain from the White House:

FROM BOX MARKED "VWF FILES OUTER CABINET":

F004407- Handwritten, undated notes of FOSTER; have the name "DR. WATKINS" written in red ink. Unclear context.

F110020- Article from Arkansas Democrat Gazette, Sunday, 4/18/93. JOE PURVIS, Little Rock lawyer, says re FOSTER: "He's working himself to death."

F110282- Agenda for deputies' meeting on 7/19/93. Reflects FOSTER was responsible for "discussion of permissible ways to contact other government agencies."

FROM BOX MARKED "VWF FILES OUTER CABINET BOX # 5":

F115329- WILLIAM KENNEDY memo re background investigations.

F115355- Letter to FOSTER, dated 2/25/93, from C. BRANTLY BUCK which mentions FOSTER working too hard.

F115550- Letter to FOSTER from PHIL CARROLL, dated 3/23/93, re judicial nominee STANLEY FISHER.

F115603- Memo to DAVID WATKINS from NUSSBAUM and FOSTER, dated 3/9/93, titled "Fiscal Year 1994 Budget." Exhibit A of the document reflects FOSTER's salary as $110,000. (CHUCK REGINI would like this as documentation of FOSTER's salary unless OIC can obtain more specific documentation from the White House).

F115882- Letter from FOSTER, dated 6/17/93, to PHIL CARROLL, expressing regret that FOSTER could not be present for Outstanding Lawyer Award.

F115883- Letter from CARROLL, dated 6/10/93, to FOSTER re the award ceremony that night.

F115941- FOSTER letter to the Israeli ambassador expressing regret at missing dinner on 4/19/93 due to Waco.

F115989- Letter to FOSTER from THOMAS RAY in which RAY urges FOSTER "not to work yourself to death."

F116013- Letter from FOSTER to PHIL CARROLL, dated 3/4/93. Re FOSTER's state of mind.

F116014- Letter to FOSTER, dated 1/23/93, from PHIL CARROLL. CARROLL writes: "I hope the dismay I showed you when you announced your plans did not upset you."

F116059- Memo to CHRISTOPHER VIEN, Administration, dated 2/23/93, from SUSAN LISTER (detailee to WHCO). Requests installation of a printer in FOSTER's office.

F116236- Letter from FOSTER, dated 2/9/93. to J. MICHAEL BOOE, notes that FOSTER came to WDC on 1/9/93.

F116480- Letter from FOSTER to ROBERT H. DUDLEY, dated 4/28/93. Re FOSTER's state of mind.

F116720- Letter from FOSTER to DREW DAYS, dated 7/19/93, re a person interested in the Deputy Solicitor General position. Reflects that FOSTER was still sending out typical letters the day before his death.

F116855- Copy of FOSTER's letter of resignation, dated 5/19/93, from the Country Club of Little Rock.

F116911- Contains "Vincent Foster, Jr. Personal Information," including credit card and frequent flyer numbers.

F116923- Letter from FOSTER to CYNTHIA EAST in Little Rock re her family's visit with FOSTER in WDC in April 1993.

F116937- Among documents pertaining to security clearances. There is a handwritten check mark on the page next to Title 50 (War and National Defense), Section 783 (b), entitled "Communication of classified information by Government officer or employee."

F116972- Letter to FOSTER, dated 5/5/93, from FRED URSERY in Little Rock. Refers to FOSTER's state of mind and weight loss.

F116985- Letter to FOSTER, dated 5/16/93, from JOSEPH HOUSTON PURVIS. Re FOSTER's state of mind.

F117006- Letter to FOSTER, dated 3/6/93, from MIKE in North Carolina, who writes "reading between the lines, it sound like you could use someone to talk to."

F117013- Letter to FOSTER, dated 7/2/93, from WILLIAM P. CREASMAN of TCBY. Contains quotes about the media and refers to the WSJ (FOSTER's state of mind).

F117019- Letter to FOSTER, dated 6/23/93, from WM. R. WILSON Jr. Mentions the WSJ article.

F117038- Letter to FOSTER, dated 7/12/93, from DENNIS L. SHACKLEFORD, El Dorado, Arkansas. Letter block stamped (presumably in WHCO) on 7/16/93. Letter invites FOSTER out to dinner in WDC on 9/16/93. FOSTER handwrote on the letter, "Tentatively schedule & write him back to that effect."

Boxes

White

1. Deborah Gorham's Desk"
2. "Vince Foster's Desk Files"
3. "VWF Files Outer Cabinet"
4. "VWF Files Outer Cabinet (Box # 2)"
5. "VWF Files Outer Cabinet (Box # 3)
6. "VWF Files Outer Cabinet (Box # 4)" CHECK
7. "VWF File Outer Cabinet (Box # 5)
8. "VWF Files Outer Cabinet (Box # 6)"

Brown

1. "Cabinet I"
2. "Cabinet II"
3. "Cabinet III"
4. "Cabinet IV"
5. "Desk + Briefcase"
6. "Bookcase (1st Box)"
7. "Bookcase (2nd Box)"

---

1. Miscellaneous Box from Others

---

1. Red Folder - "Loose"

Box [illegible] 0003 Rm 142

(1)

Box 1 - White Box

labelled Deborah Gorham's desk

⊛ 11951 - 12062 black binder labelled "Foster Printed Rolodex - ARK"

GET ✓

Paula Casey - no phone but address
- yellow post-it on page w/ David Hale
[why is tab on page with David Hale? 501-793-4099]
Milas Hale 501-376-4000

⊛ 11847 - 11855 (redwell)
Gorham index
tapes

⊛ 11890 - 11894
airline ticket - Boston
Boston - Washington
June 10, 1993
528
1227

⊛ 11857 - 11868
file labelled "Pending for DLG"

✓ 11858 is letter from Hulett Askew stating "P.S. Don't ever run out of gas in Washington" ⇒ responding to June 28 letter
11859 - memo - questions for Steven
11860 - VWF - Existing Files"

(2)
Box 1-
white

GET ✓

(*) 11869 - 11877
"Vincent Foster Jr. Personal information" ⇒ 9-page document

* 11878 - 11888
Pres Clinton's Exec Orders on Ethics commitments + Patt's letter OGE
[5 USC 5316 level V must sign]

(*) 11889 - 11930
blue folder 8½ x 11 labelled "Travel"
11895 - 11898 ⇒ vouches for Boston trip on June 10

11899 - 11918 ⇒ blank vouches
11919 - Watkins memo
(*) 11920 21 vouches for trip to Dallas on ~~May~~ April 29, 1993
same-day trip
signature whited out

(*) 11922 - 11927
forms entitled
"Acceptance of Travel Expenses from Outside Source"

(*) 11928 - Pierre, South Dakota trip on April 21 - 23

(*) 11929 - Carol Rasco trip on April 21 - 23

* 11930 folder

(3) Box 1 - White

⊛ 11931 - 11950

- red folder unlabelled

11932 - 11939

Nov. 7, 1993, Outlook Section w/ "Murdered by the Mob"

- various xeroxes of in the loop columns on DOJ people

11949 -

Deborah Gorham's resignation to Nussbaum w/ CC to Kennedy

(1)
Box 2 - White

Box 2 - White Box

"Vince Foster's Desk Files"

⊛ 12063 - 12074
- manila file labelled "Armstrong"
- file re: suit before Judge Richey on em-mail
- Armstrong v. EOP

⊛ 12075 - 12099
manila folder labelled "Michael Beatty"

⊛ 12100 - 12101
empty green 8½ x 14 file folder

⊛ 12102 - 12109
green folder w/ 1 manila and 1 light green folder inside
- manila folder labelled "Cabinet Secretary"
  one-page memo of 2-12-93 mtg
- green folder labelled "VWF Calendars 1993"
- June 1993 calendar 12107 GEI √ w/ handwritten things
- √ - June 15 "AM off"

⊛ 12110 - 12123
green folder unlabelled w/ manila folder labelled "Clearance Procedures" memo from Janet Key 1-page yellow sheet VWF

Box 2 - White (2)

(*) 12124 - 12257
green folder w/ 2 manila folders inside

12125 - 12204 "Department of Energy" manila folder
list missing

"Department of Justice" manila folder

- 12208 - 12218 - Calabresi bio w/ yellow tab on 12215
- 12225 - 12227 - New Republic article
- 12228 - 12238 - Schmidt resume, letter, + articles

- 12240 - 12244 - must - carry provisions litigation

- 12245 - 12252 - packet on DEA wiretap prosecutions w/ letter from Frey

- 12253 - 12255 - voting rights page
- 12256-7 ⇒ folders

(*) - 12258 - 12274 manila folder entitled "Ethics Summary VWF" 12-29-92 memo from Quinn and Rogovin on Ethics Rules + newspaper articles

(*) 12275 - 12319
manila folder entitled "Executive Action Procedure / General Research"
- 12278 - 12300 - memo from Alston Johnson to Jim Lyons re: Power of president

(3)
Box 2-
WHHL

12301 - 12317
memo on exec orders
by Roger Ballentine on
11-16-92

12318
article on 1-14-93 re:
secrecy
12319 - folder

(*) 12320 - 12329
manila folder labelled
"Ethics Pledge"
- 12321 - 12325 ⇒ Potts memo
- 12326 - 12327 ⇒ Jane ley fax
- 12328 - senior appointee
pledge DRAFT
- 12329 - folder

(*) 12330 - 12347
green folder with one
manila folder inside
labelled "Ethics - One year
Recusal Rule"
12332 - 12336 1-11-93 memo from Bulfon
3 copies through 12344

12345 - 1 page memo from
Quinn and Mills on Cabinet
Memberships

(*) 12349 - 12379
green folder w/ manila
folder labelled
"Executive Orders / Actions -
Miscellaneous"

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(4)
Box 2
with

-12350-12353
Jerome Chapman memo
on Family + Medical leave

-12354-12359
same

-12360-12362
advisory committees

-12363-12364
Diane Love to VWF on natl. servic

-12365
memo re: Deb Gorham
from Sheila Anthony

✓ -12366-12371
GET handwritten notes off 1-21-93
re: lots of pending issues

-12372
*1-page memo from Dekes
on exec orders

-12373
1-10-92 draft exec order on
day of thanksgiving

-12374-377
LA Times article

-12378-79 => folders

(*) 12380-381
empty green folder

(*) 12382-123961
green folder w/ manila
folder labelled "Executive
Clerk" - memo

(5)
Box 2
WHO

(*) 12397 - 12419
green folder w/ manila folders

- 12398 - 12409 ⇒ manila folder w/ "Haitian Options"

- 12410 - 12418 ⇒ manila folder labelled "FERC Commission"
↳ memo from Podesta on how to talk to President w/ memos

(*) 12420 - 12444 - manila folder labelled "Judicial Nomination" most missing

(*) 12445 - 12509
manila folder labelled "Hubbell, Webster"
- 12446 - 12460 - various letters in support of WH to Biden + articles
- 12461 - 12479
memo by Ann Walker to George Steph + VWF re: 4-9-93 exempting Clinton from Arkansas ethics legislation
- 12480-81 WSJ Hubbell article of 4-22-93
- 12482-83 - Arkansas Business ed.
- 12484 - NYT editorial on Justice re: Hubbell + Arkansas ethics stnd. - handwritten Hillary note

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(6)
Box 2 - White

12485-86 wash t imes
3-31-93 ~~Gift~~ Rockets

- 12487 - Gigot on Reno massacre
- 12488 - HRC advisory committee
- 12489-90 Ark. Dem-G article on Reno + Ford
- 12491-92 3-12-93 NYT ed. on Reno
- 12493 - 3-9-93 WSJ article re: Reno + Hubbell
- 12494-95 Ent. WSJ 3/2/93 re: WH
- 12496 - 12504 yellow envelope from ~~AG~~ to ~~WH~~ WF ⇒ inside is draft financial disclosure form of Hubbell
- 12505-6 article on Hubbell in Ark papers
- 12507 - 12508 2-2-93 article re: Hubbell

~~(6)~~ 12510 - 12606
green folder w/ manila folder
⇒ "White House Acquisitions"
+ memo on events 12512-32
- 12533-5 ⇒ Cardozo memo on personal + residence expenses
- 12536-540 ⇒ Cardozo 3-3-93 memo on travel + entertainment

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(7)
Box 2 white

12541-589
authorities on accessions

12591-1260
manila folder labelled
"Herman, Alexis"
- background info

✱ 12602-12605 - manila folder
labelled "Top Secret Security
Clearance"
Hamilton letters re:
Espy + Ron Brown - Jerry
Rubino [?] car jet BIIs

-12606 - green folder back

✱ 12607 - 12647
green folder w/ manila
folder labelled "McLarty - General"

missing 12610 - 12612 ⇒
Parts OCE

12638 - 12639 - letter to VWF
from Mack
12641 - 12647 - folders

✱ 12648 - 12649 - empty
~~missing~~

✱ 12650 - 12777
green folder w/ 2
manila folders, 1 labelled
12651-12746 "VWF Policies, White House Conduct"
12747-12776 and one "Office Procedure"

(8)
BOX 2
White

12653 - 12663
6-9-93 memo from BN to all staff on limitations in political activity

12664 - 12671
3-1-93 memo on ethics

12672 - 12690
5-5-93 memo on records

12691 - 12745
various memos from Counsel's Office
Office Procedure manila folder
12748
various memos

* 12778 - 12783
green folder w/ manila folder labelled "Pardons"

* 12784 - 785 - Empty green folder labelled "President - Commercial Appropriation"

* 12786 - 12789
"Presidential Disability" - Empty

* 12790 - 13056
green folder w/ 3 manila folders
"Presidential Gift Research"
"Presidential Personnel - General"

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(A1)
Box 2-
White

"Presidential Papers, Advice / FOIA Incoming"

manila
- 12791 - 12941 "Pres. Gift . . ."
various memos

manila
- 12942 - 12975 "Pres Personnel-ber"
memos

manila
- 12976 - 13055 "Pres. Papers . . ."

manila
⊛ "Reading File"
13057 - 13157
13075 - 13156 missing

⊛ green folder 13158 - 13253
- "Ruff" manila folder
"Rubin" manila folder

Ruff - 13158 - 13229

"Rubin" 13230 - 13252
↳ letters + memos on Rubin flap

⊛ green folder w/ 2 manila folders
- "staff - Budget" 13255 - 13357
3-9-93 memo w/ employees

⊛ BN, UWF, BK, Beth Nolan, Klair, Mills, Newmyer, Livingston, Gorham, Jennifer Miller, Ed Bueno, Florence Champagne, Dorothy Stucke
detailees - McManus, Helen Jones, Sheppard Flowers, Martha Stanley,

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(10)
Box 2 - White

- Roger Adams, Dick Wehrman
Linda Donaghy, Phyllis Anderson
Elis Fine, Gary Ginsberg, Pappas

GET ~~(1)~~ 13290-13294 - map of 1st floor west wing

GET 13301 - 13302
manila "Staff - Detailees"
13358-13366

manila "Staff - Personnel"
13367 - 13480
lots of resumes

green folder 13481 - 13557
(1) manila folder "Staff Secretary"
various memos
(2) "Staff - Structural Operations"
lots memos

12 green folder "Standards of Conduct - FICA"
empty

manila 13562 - 13567
"Sessions" - letter - acc

green folder
"Transition Personnel Form"
13568 - 13569 → empty

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(11)
Box 2 - White

* Green 13570 - 13596
"Transition - general personal and confid"

GET √ 13587 - 13589 - resume
Pulaski Cty Bar Assn
Ark Bar Assn
A C T L
A B T A
Inns of Court
Ark Bar Found
Ark IOLTA Found
A B A
Ark Trial Lawyers Assn.

Legal Services of Ark, Inc
Chair 83-85

- Ark Finance Council, Dem Natl Committee, 1992
- Natl Lawyers Council, DNC 1992

GET √ 13590 - 13592
announcement calls for Vince - get

FOIA #56806 (URTS 16304) DocId: 70104992 Page 23

Box 3 White ①

"VWF Files outer Cabinet"

⊛ 13597 - 13675
"Agency Contact"

5-4-93 memo on contacts w/ agencies
3-9-93 memo
Ron Lewis memo

⊛ 13677 - 13683
"AIDS Policy
EMPTY

⊛ 13684 - 13709
"ABA"

ABA memos

⊛ 13710 - 13805
"American Board of Trial Advocates"

GET — 13730 Letter to VWF by Bill Wilson

FOIA #56806 (URTS 16304) DocId: 70104992 Page 24

Box 3
WHP
(5)

(*) "Arkansas Bar" 13806-13822
6-18-93 ⇒ recognized
as one of 3 attys
outstanding

GET (*) ✓ set 13809-13810
Tom Ray letter + back

"BIO - Senior Officials"
13825 - 13870

(*) "British Airways -
US Air"
merger notes

(*) "Bradley Born"
letter re: Bradley
Born + Iraqgate

(*) 13922-949
"Bush Administration
EMPTY/MISSING 24

Box 3
White
(3)

⊛ "Center for the Study of the Presidency
13951 - 13961
letters etc.

⊛ "Command Influence"
13962 - 13966
memos

⊛ Commercialization - Arkansas
13968 - 13982
various letters

⊛ Commercialization
013984 - 110230
tons of Sobol memos

[Foster misread psychology"
4-18-93 article
in Dem-Gazette

FOIA #56806 (URTS 16304) DocId: 70104992 Page 26

Box 3
White

"U.S. Court of Claims"

GET 110249 - 110266
speech

(*) "Standards of Conduct"
memos - Newmith re:
lobbying

(*) "Deputies' Meetings"
110281 - 110355

GET 110282 - 110284
GET 110290

July 19 deps mtg - Foster
to present rules on
contacting other agencies

GET 110296

Box 3
White
(5)

"Department of Defense Accounting Centers"

MISSING

(*) "Meinhold v. US Dept of Defense"

110405 - 110430

various decision, orders

(*) "DOD Investigations"

2-16-93

110431 - 110450

(*) "Ethics"

110453 - 110548

Jan 20 exec order letters, memos revolving door

(*) "Executive Actions Family"

110555-110669

abortion gag rule et al

1-20-93

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Box 3
White House
(6)

* Executive Actions
Gays in the Military
Steffan
news articles

---

* "Executive Actions
Midnight Regulations"
110705 - 110737
memos on reg. reform +
lifting moratorium

---

* "Executive Actions - Perks"
110739 - 110859
lists memos
cars, staff reductions

---

* "Executive Orders - Labor"
Reich memos

---

* "Congressman Harold Ford"
110888 - 110915

---

* "Foreign Relations"
110916 - 110977

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Box 3
White
(1)

(1)
Box 4 White

Box Labelled
"VWF Files Outer Cabinet
(Box # 2)

110980 - 111058
"FOIA"
lots memos
cases

111060 - 111078 8½x14 green
"FOIA - Requests
one letter

(*) 111080 - 111263
green folders
2 green folders
"Judge Ginsburg"
"Greenberg Book"

Ginsburg - letters, articles

GET (*) ✓ 11249 - 11255
Steve Smith correspondence

---

* 11257 - 11262
Our Contract

(*) 111264 - 111337 light green folders
"Health Care Task
Force Malpractice Articles"

(*) manila 111338 - 111394
"Notes"

MISSING

(2)
Box 4-
White

(*) "FOIA requests" - manila
111395 - 111441

(*) 111442 - "WF correspondence"
111598 Redwell
↳ nothing too exciting
Health Care

(*) 111599 - 111745
redwell w/ light green folder
A) "Health Care Reform Task Force"
lots letters etc.

B) "Health Care Reform
Task Force Malpractice
Reform Correspondence
6-9-93 memo to HRC

(*) 111746 - 111805
"Fourth Estate"
light - green folder
w/ news articles

FOIA #56806 (URTS 16304) DocId: 70104992 Page 32

(3)
box 4
white

* light green 8 1/2 x 14 folder
111806 - 111964
labelled "press releases")

3-10-93 Wash Times article,
on Health Care Task Force panel

* redwell file labelled "pleadings"
111965 - 112364

letter from David williams
re: health care [last sentence]
[FACA lawsuit]

112153 - 112169 re
declaration of Ira Magaziner,
on 3-3-93

* 112365 - 112747
redwell labelled "pleadings"

GET
112466 → "but are all sent cc" - VWF note
from p. 15 of 3-10-93 Lambsdorff
opinion

* 112748 - 112753
8 1/2 x 11 light green
labelled "Household
Employment"

(1)
Box 5
White

labelled
"VWF Files Outer Cabinet (Box #3)"

(*) 112754 - 112778
8½ x 11 light green labelled
MISSING "Inauguration
Tax of law

(*) 8½ x 14 file labelled
~Reverend Jesse Jackson
112779 - 112789

112782 is VWF 2-16-93 memo to file
regarding Jackson letter
of 2-10-93 on Harold Ford
MISSING 2 pages → discusses that inappropriate
for WH to take a position,
that DOJ would handle;
told JJ to call Webb;
Webb said he had agreed
to meet w/ Ford's attorneys

(*) 112790 - 112835 green
8½ x 14 w/ light green 8½ x 14
labelled "Jogging Track"

FOIA #56806 (URTS 16304) DocId: 70104992 Page 34

(2)
BCM
White

(*) "Judicial Conference ~~Reports~~ Requests "
8½ x 11 light green
112836 – 112946
lists of letters / requests

(*) 112948 - 113009
"Judicial Nominations"

GET COPY ✓ 112949 – letter from VWF
"life has been quite hectic here in Washington since January 1"

→

(*) 113010 – 113114
8½ x 14 light green "Justice Resumé"
sets of letters + resumes from persons seeking jobs

(*) dark green w/ light green 8½ x 14
A) "Virginia Kelly"
B) "Virginia Kelly - Canada 10-28-93"

113117-113236
(A) "Virginia Kelly"
letters on hooks

(3)
Box 5
White

(*) 113260 - 113344
dark green 8½ x 14 w/
light green 8½ x 14 folder
"Kennedy Book President's Preface"
lots of letters + notes
re: book preface
to RFK book

(*) 8½ x 14 green w/
8½ x 11 light green

113345 - 113473

A) "Legal Services Corporation"

B) "Little Rock" - empty
Missing 4 pages

c) "MFN"
113464 - 113472
Missing

(*) light green 8½ x 11
NAFTA/USTR Suit
113475 - 113524

5-14-93 letter to Baucus
from ~~Charles~~ Carl Peterssen
claiming criminal violations
by USTR - grass-roots
lobbying

(4)
Both
White
light green
(*) "NEPA" 113525 - 113529
MISSING

light green
(*) "NEA" 113530 - 113538

(*) "National Archives"
113539 - 113569

Jodi Greenstone involved -
Geyer file

(*) "National Economic Council
113570 - 113583
nothing

(*) "National Security Council"
113584 - 113588
nothing relevant

(*) "PCIE" [President's Council on Integrity and Efficiency]
113591 - 113607

(*) "Personnel Staffing"
113612 - 113625
Missing 2

(*) "Pickering" 113626 - 113647
missing some

Box 6 White (1)

VWF files
Outer Cabinet (Box #4) check

* "Regulatory Reneu"
113849 - 113885
various memos

* "Resumes" - manila
113890 - 113969

* "Janet Reno"
113886 - 113888
1 page ea.

* "RTC"
113971 - 113993

113977 -
VWF recusal on
RTC policy in
letter from Sen.
Bumpers

* green folder
113995 - 114023

March 18, 1993 Home
Section w/ article
on Kaki Hockersmith

Box 6
White
(2)

⊛ "Sentencing"
114025 - 114155
various pleas for
mercy - random

⊛ "Sentencing Commission"
114157 - 114293
Wilkins letters

⊛ "Slater"
various provisions
of Anti Code + Statute

⊛ "Speeches Delivered"
GET √ 114407 - letter to Dean
of U of A re: speech

⊛ "Speech Materials"
various HRC speeches
+ BC speeches

FOIA #56806 (URTS 16304) DocId: 70104992 Page 39

Box 6
White
(3)

(*) Dept. of State"
one page missing

---

empty large dark green folders
114635 - 114636
114734 - 114735

(*) "Supreme Court"
114637 - 114733
list of Byron White articles

(*) "U.S. Attorneys"
114737 - 114756

(*) "WACO"
various press statements 114757 - 114797

GET
114771 - handwritten notes
114774 - " "
114775 - " "

FOIA #56806 (URTS 16304) DocId: 70104992 Page 40

Box 6
White
(4)

---

* "Wall Street Journal - Photos"
- Sobal letter saying Bartley called on 6-17 w/ apology

---

* "Wards Cove" 114820 -
various letters 114833

"WH Acquisitions & 114834 -
of Property" 114930
→ draft booklet

---

* "White House Communications
Agency" 114933 - 115023
various letters

---

* WH Fellows Program
1 page note 115026 - 115030

---

* "WH Internship Program"
various letters

FOIA #56806 (URTS 16304) DocId: 70104992 Page 41

Box 6
White
(5)

---

* "White House Technology"
various letters
115076 - 115100

---

* "Lea Willenburg"
RTC employee who
sent letter to WH re:
RTC

---

* 115118 - 115128.
"Timothy Wirth"
few letters - Kelms

* "Kimba Wood"
115129 - 115135
3 pages total [??]

FOIA #56806 (URTS 16304) DocId: 70104992 Page 42

White Box-7 (1)

"WWF Files Outer Cabinet (Box #5)"

---

* Black Binder
115136 ~ 115245

Linda Shemwick File
(Pickens employee aff stuff

---

* General Correspondence - Received"

115247 - 115517

get 115262 - McCarty memo re: Tokyo trip

get 115274-5 letter from David Williams

get 115313 Jim Bailey memo re: GCC

get 115318 Herb Rule memo

get 11534-347 letter from Cathy Constantino

get 115355

white-7

(*) 115371 - letter re: FSLIC receivership

(*) get 115374 letter

(*) set 115380 - Lyons letter

Chron File
1-25/2-28/93

* 116035 - 116383

get 116056 letter

get 116167 re: resignation of Rankin + Dodson

get 116205

get 116222 - letter

get 116236

get 116259

get 116309

FOIA #56806 (URTS 16304) DocId: 70104992 Page 44

White-7

~~get~~ 116333

*get 116360
salary info

*get 116365-66

"VWF Chronological File"
116384-116465

get 116387 cable

BN's mobile
202-494-8985
(H) 202-338-7335

*~~get~~ 116399

*get 116401

*get 116407

*get 116408

*~~get~~ 116425

*get 116432

*get 116442 - original

White ? (4) (4)

get 115834

get 115941

get 115988-89

Tom Ray letter saying "don't work yourself to death."

get 116013 letter to Phil Carroll

get 116014

March Chron File

115518 ~ 115647

get 115552

get 115567

get 115604 - salary info

115605

April Chron File

White?

(E)

letters alt. death

~~(*) get 116643-6444~~

(*) get 116677

(*) ~~get~~ 116852

* get 116887

* get 116894

* get 116903

* get 116911-116919

* get 116967
article in Ark Dem Gazette

* get 116972-973

* get 117006-117007

→ WH # for Pres + 1st Lady
is 456-6794

White
Box 8
①

"VWF Files outer Cabinet (Box #6)

GET ✓ ⊛ Yedwell
"March, April, May telephone log"

- Jim Lyons - Grand Cayman
809-947-5026
March 8 -

- Susan Thomas 3/12

- Jim Lyons 3/15

- Kalzi 3/15 and others

- 3/22 Michael Zeldin
434-1649 re: Independent Counsel matter

- 3/23 Jim Lyons twice

- 3/26 Jerry Jones
"re: ~~Peter~~ Webb"

- 3/29 - Capricia
Nancy Grace
1201 24th St NW

- 4/6 - Jim Lyons
- 4/6 - Jim Hamilton

(2)
Box 8

- 4/7 Jean H. re: WACO
- 4/7 Jim Lyons

- Ullian Buchman
  4/13
  2:50 pm
  501-220-4747
  "with Systematics - wants to meet w/ some of her 'friends'"

- 4/21/93
  Jerry Jones
  "Webb's state of mind"

- 4/23 Newsweek
  Jim Lyons

- 4/23 11:25
  "David Matthews"
  "Keep your head up"

- May 3, 1993
  "Randy Caleman
  501-374-1107"

(1) - May 6, 1993
  Dana — w/ Kaki
  501-666-6966
  Fayetteville for day

- ~~Betsey~~ Wright
  5-11
  wants to meet on personal matter

FOIA #56806 (URTS 16304) DocId: 70104992 Page 49

(3)
Box 8

- May 13
  1:30 Beth
  "Did you hear from your POC re: WJC's loans and if they were paid off"

- May 19 Marsha Scott
  "will call you later re: Webb"

- May 19
  Skip Rutherford
  Urgent
  6798

- May 27, 1993
  Amy Stewart
  "Do you Webbs and Ams want to have dinner tonight"

---

sheet 8 1/2 x 11

GFT "July Chron file"

GFT ESP 117262
117268
117270
117290 - letter from Bumpers on RTC

Box 8
(4)

GFT ✱ "June 1993 - Chronological"
$17313 - letter

Nussbaum home
202-338-7335

✱ June 1993 Telephone Log

June 29 - Jim Lyons
twice

Kaki - 6/25 - re: figures

- 6/25 - Walter Pincus

- 6/18 Carolyn Huber
"out of town until late next week ... documents in the safe on the right"

- 6/16 Jim McDougal
501-246-4420
re: tax returns of HRC, VWF, and McDougal

- 6/3 ⇒ Kaki
"HRC wants two of you to get together today"

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(5)
Box 8

(*) unlabelled redwell

resumes
Stellan (as)

(1)

Cabinet 1 – Brown Box

GET July 22, 1993 directory
002409 - 002415

Jim Lyons - Jan. 11
#2459

get #2468
"I'll be back
in touch when
I catch my breath"

GET 2486 - 2488 Beth
memo re: library

GET 002705 - 002717
draft of speech in Dallas

GET 002756 - 002757
USA Today ed.

GET 2762
note from Kyle
Chadwick on
malpractice

GET 002832 - 002838
Tom Buchanan's resumé

GET 002870
memo from Mulp
Berman re: GAO residency

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(2)
Cats 1-
Brown

- 002917
John Will
501-376-3800

- Set 002978
fax from Alston Johnson
re: dinner

- 003032-3033
get => 7/5 letter to Patti
Solis re: possible speech

- 003093
Cheryl Mills on Vacation
Time

- copy 003094 - 003107 -
asking Cheryl for copy of
Daily Diaries of Right

- copy 003112 - 003114
see note on bottom
"discussed w/ SN sensitivity
of passing this on even
tho privileged"

- 002294 - 2293
SN - what working on from
Nemnith / Sloan

002240 - 002247, 2246 - 2244, 2243
news re. Hillary Thomason 2242,
+ editorial on Travel

FOIA #56806 (URTS 16304) DocId: 70104992 Page 54

(3)
cab 1 -
Brown

GET - 002390
Jim Lyons to
see VMF on 5-14-93

GET 002396
"AXID
DEYSREL"

GET 002400-2401
list of attorneys

GET 002406
6/3 9:55p
re: Lani Guinier

001796-1864
file of approvals of
pres appointees

Is there an
"HRC - general file"?
SEE 1805 + GET IT

1865 - 1990
file of appointees

④
Cabinet
1 - Brown

⊛ "Hubbell Confirmation" file

* GET 001576 - newspaper clipping on Hubbell - blah "I wish I had done more . . ."

GET * memo from Floyd Brown on unusual stock trading 1624 - 1672

various articles re: Hubbell McCants + Arkes

* get 1741 - 1742 allegation re insider trading + Hubbell

* get 1790 which was Xd w/ note by Hillary

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(1)

Brown Box
"Cabinet II"

~~Transition Notes, etc~~

GET ~~xx~~ clipped yellow note -
get 4479-4482

GET 4256 - 4260
agreement ab assignment
of interest re:
whitewater

GET 4268 - 4272

GET 4294 - 4296
law firm
Sheila A. re:
jobs in WH on 11-11-92

GET 4338 - 4343

GET 4398 - WH personnel
4402
notes on "Clinton personal"

GET 4406 - US Atty

GET 4407 -
- Betsy documents

Brown Box
"Cabinet
II"

(2)

folder "Nepotism - Vol II"
Personal and confidential

various docs on whether
HRC can play official role
in WH

---

* folder "Nepotism - Vol. I"
at Rose
5 USC 105
in Ark - translation

Castleton memo
to Kislon of 5-10-94

"WJC - Form 278 5/14/93"
Personal & confidential
3118 - 3177
[Do we have?]

3137 - 3138 ⇒ GET
5-4 memo from Yale
Redden to Foster re:
financial discl. ??

get 3153 - Schedule C draft
which crosses out that WDC
has "negative net worth."

Brown Box - "Cabinet" (3) II

"Clinton Public Financial Disclosure Report
3178 - 3261
letter from Hamilton w/
SF-278 on May 15, 1992
SF-278 on Nov 1, 1991
Amended Statement of Fin. Interest on 5-15-92

"Clinton - Mansion"
3264 - 3280

"WJC Passport" -⇒ passport files
3283 - 3318

GET 3287
↳ Clift as contact person on Clinton passport

"Clinton - Campaign & Correspondence"
3321 - 3429

"Clinton - Baird Confirmation
MISSING

"Clinton - Clinton Papers"
3431 - 3490

Brown Box
Cabinet II
(4)

34493 - 3527 "Clinton - DOJ"
~~missing~~ not labeled

(1)

Brown Box
"Cabinet III"

Black Binder
"D.C. Superior Court
Vacancy"

Blue Binder
"State, Justice
Institute"

(1)

Brown Box
"Cabinet IV"

"Residence Security"
no 5493 - 5496

"Executive Residence Security"

✓ Get 5504 - 5536
names + faces of
those who work
in residence

VWF involved in
sorting out rumors
of IRC yelling at
USSS + Bill in residence

"Bush - File Index"

NO AG Binder 5446 - 5478
GET 5454 - D'Agostino
"daughter in Playboy"

GET ✓ Residence folders
5480 - 92
GET renovation costs

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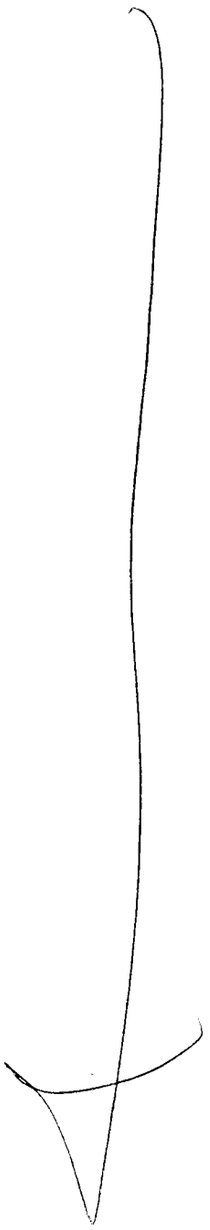
(2)
Binder
Cubs FW

Sean Haddon Black Binder
w/ numerous tabs on
FOIA



NOTHING

(3)
Brown IV
Cab IV

~~Missing~~ (~~GET~~)

(*) Sean Haddon binder
yellow tabs on
various docs
GET 5766-67 - tabbed
sheets insi

* get 5951
computer codes list
1 page

Black Binder
5268 - 5444

GET 5274 - list of
Deputy Assistants to
President that lists
Jim Lyons - get
"Special Counsel" portion
get 5297 w/ "Lyons" crossed
out

(4)
Brown
Cab IV

Breyer File
4915 - 4983
~~4879 - 4883~~
lots of Social Sec.
nanny tax forms/docs

Babbitt
4984 - 5262

* Oberdorfer letter recommending Arnold + "dissing" Breyer

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(1)

Brown Box – "Desk + Briefcase"

- various empty notepads
- notepad
  GET 11833 - list of items to work on early
- get 11845-11846 news articles on June 16
- 2-25-93 phone dir
- get 11830
- get 11843/11844 Texaco receipt
- Sanyo dictaphone prints (?)

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(1)

Brown Box labelled
"Boardcase (1st box)"

- RFK book
- white binder
  National Performance Review

- couple books

00629 huge white binder
"Malpractice and
Tort Reform"

✓ get 006425/006424 - notes

✓ get 006535/6534/ - notes
6536

(*) white notebook
6/8/93
"CFW HCR, MV, Ina"
"
6/6/93 notes - Kaiser"

(*) mlwf
notebook - 007855
4/30/93

GET 007855

GET 007917 - 007946
VWF's reaction to
med malpractice

(2)
Brown
"Bookcase
(1st box)

Note to BK: V W/F
heavily involved in
med malpractice reform

(3) notebook
8825
CFW, HRC 5/10/93

FOIA #56806 (URTS 16304) DocId: 70104992 Page 68

(1) Brown Box
"Bookcase (2nd Box)"

(*) Binder
9572-9776
"S. Ct. Rules"

(*) S. Ct. Candidates

(*) Judicial Selection Process

(*) blue book on med. malpractice

(*) D. Ct. Rules

(*) " " "

(*) Ct. of Appeals

book "Patients, Lawyers, + Doctors"

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① MISC BOX - papers from Cathers/phone

GET ✱ green files "WAVES Clearances"
118719 -
118844

✱ Disk Files

119146 - 2/9/93
119148
119152

119169 - withheld

119177 - rosters
Nussbaum
Foster
Nemuth
Dellinger
Kennedy
Klain
Mills
Nolan
R Adams
Donaghy
Ely Ring
Gary Gunsberg
Gail Halperin
Peter Pappas
Frank Sobal

(2)

Misc.

- 119255
  memo re:
  trust MERCK

- GCT
  - 119378-
  - 119380
  - 119396
  - 119561-2
  - 119578
  - 119582-589
  - 119609
  - 119615
  - 119651-119659
  - 119659-119673
  - 119707-119719
  - 121128-121135
  - 12143-44

space 16 - Thomasson

121149-121150

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(3)
Misc.

GET 121192-3
121200-01

Misc Box (5)

- Babbitt File
  - various lists of contributors to his campaigns
  - memo he wrote

- Clarissa Cerda file
  lawsuits agst Pres [crazy people]
  religion

- DC taxes

- Ickes Vetting Files 117696-117901
  - went to Nussbaum
  - on 3-14-94 from BN to Kennedy
  various pleadings from NYC cases from his firm
  - various articles re: Ickes representation of law firm clients

FOIA #56806 (URTS 16304) DocId: 70104992 Page 73

Misc. Box (6)

GET ✓ RENOVATIONS FILE - from Newmyer

118366 - 118717

115375 - Hillary's studs - $23K

get 118407 - 118415 which is residence + usher's office memo

get 118420 which was VWF memo to self re: pending issues

get 118458 => residence expenses

get 118460 - 118459 handwritten

get 118461 - 474 6-4-93 cost estimates

get 118476

118480 - 118501 notes of meeting

118505 - 118514 - Bush redecorations

DEF. GET 118510

def. GET 118515 - 118518 analysis of Kaki's billing by outside Washington Parks

FOIA #56806 (URTS 16304) DocId: 70104992 Page 74

Misc
Box 7

6/2/93 notes of meeting
Kaki, Maggie, Walters, Capricia

118633-118717 - blue binder

118576-118628 - green folder

get 118591 - memo
to Maggie W.

118625

get 118626 - notes
from 6-24-93 meeting
w/ Benjamin, Maggie, Lisa, Capricia

white-2

(1)

Red Folder - "Loose"

DC Forces

"Tikkun Magazine" Article

"Immediate Attention"

"Dallas, Texas 4-2993 meeting"

"Signature"
Letter to Pena + Noble after receiving "Ward, the Big Lie"

"Pending"
get 6075 - 6106

(1)

MISSING

① 11890 - 11894 in blue Travel Folder
Box 1 - White Box

② 12076 - 12098
papers in Michael Beatty file
Box 2 - White

③ 12126 - 12182 and 12196 - 12203 in
Department of Energy file
Box 2 - White

④ 12206 - 12207 DOJ file
~~[redacted]~~
12219 - 12234
~~[redacted]~~
12238

⑤ Haitian Options File
12399 - 12408

⑥ Judicial Nominations
12421 - 12429
12432 - 12434
12436 - 12444

⑦ 12613 - 12637 in
McLarty file ⇒ also 12640 - 12645

⑧ "Reading file"
13075 - 13156

missing
(3)

(17) AID policy
5 pages

(18) "Bush Administration"
24 pages

(19) 110359 - 110404
DOD Acctg. Center

(20) 118349 - 118364
Babbitt Aide

(21) Ickes files
117697 - 117719

(22) 004593 - 004616
"Clinton Arkansas affairs"

(23) 004552 - 004554
Pers + Confidential - Miscellaneous

(24) AG Candidates
4432 - 4443
4445 - 4447

(25) Transition Notes
Personal and Cons
4192 - 4199

(4)

Missing

(26) "Clinton Memos"
4185 - 4187

(27) "Nepotism
4149 - 4159

(28) "Clinton - Baird
Confirmation"
3431 - 37

(29) Clinton - Clinton Papers
3440 - 3466

(30) 3493 - 3527
missing w/o label

(30) various docs
re "Jean Haddon"
binder

Missing - cfd.

(*) Breyer file
4819 - 4837
4879 - 4882

(*) Babbitt file

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

(1)

Phone Records (CM) / Message Pads

Need

120264 - top left
120282 - bottom left
120293 - top left message [not green]
120309 - top right [blue] [not green]
120702 [Berger-Heymann NEED]

Don't Need

120264 - bottom left
120266 - bottom left
120310 - top left
120321 - bottom right
120327 - bottom left
120343 - top left but left
120741 - top left
120751 - top lef

DON'T NEED

120688 - tabs
120689 - both tabs
120690 - tab
120692 - all 3 tabs
120699 - tabs
120709 (redact substance keep names + places)
120714
120715
120722 (no)
120723 - both tabs

120421 - No
120433 (Reynolds)
120438 - "
120439 - "

120485 - top
120492 - top

120661 - tabs/red
120665 - red tab
120668 - tabs
120671 - tabs
120684 - tabs

(2)

Phone
Recs (2)

NEED

* 120357
* 120938
[unredact Jim Lyons] or Lindsey

DON'T NEED

120724 - tabs
120728 - tabs
120359 - tabs
120368 - phone #
120369 - no doctors needed
120370 - no phone #

120960 - 2 tabs
120962 - tabs
120966 - 2 tabs
120968 - tabs
120972 - all 4 tabs
120973 - Hallings Vomiting

120974 - tabs
120975 - tabs
120976 - tabs
120977 - 2 tabs
120979 - tabs
120980 - 2 tabs
120981 - 2 tabs
120982 - 2 tabs

121122 - NO
120935 - redact Breast meeting
120937 - redact Antiemesis
120943 - Reed
120944 - all 3
120945 - NO
120946 - tabs
120947 - tabs
120952 - tabs
120953 - tabs
120954 - all
120955 - both tabs
120958 - tabs

(3)

get better copies of CL's phone recs

DON'T NEED

120983 - tabs
120984 - tabs
120985 - tabs
120986 - 2 tabs
120988 - tabs
120988 - 2 tabs
120990 - tabs
120991 - tab
120992 - tabs
120993 "
120995 - tabs
120996 - 2 tabs
120998 - 3 tabs
121003 - tabs
121004 - 2 tabs

DON'T NEED ALL TABS EXCEPT

(1) p.1b

Cheston + Sherburne

BN-all
SN
MW
p.1b

Notes

Nussbaum - all
Nemnich - not all
Castleton - "

Cheston

CASTLETON

ISSUES
(A) observations of Foster on 20th
(B) carrying docs
(C) conversations while carrying

22d ⇒ didn't go
didn't help MW
help
1 or 2 boxes
from a WW office
could have been HRC office
think MW asked people in
Counsel's office could her
move box

Tom not paying attn
he may have heard her MW asking

Wed or. Thurs.

strong feeling "_____"

- later in day possibly evening
think dark

= left w/ her to MW's office
or HRC's personal office

= "strong" impression HRC office
box(s) near or on couch

(2)

- never looked
- at some point someone MW or (in outer office said, along with request?) told him pers docs of Pres and HRC + transporting to residence — they could have chance to review them

= told between time asked + deposited box

= files maintained in VF office

deduced — thought reasonable inference from what had been

→ wanted to review b/c wanted to know what had been kept told so Pres + HRC could review + see what's in there

= at least 1 other woman in outer office (LT or BP)

= 1-1½ ft longer than xerox - deeper by ½ ft. 10-20 pounds closed

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(3)

may have been another box on top
- at pt carrying box and 1/2 gowns
- MW carrying something

- MW + TC elevator → ? → walked past area next to press
  through palm room
  elevator
  being redecorated
  assume top floor →
  cramped
  took right →
  close by 2 open doors →
  1 on right + 1 ahead
  go in straight ahead

- go into rel sm
  w/ not fully unpacked boxes

- - -

MW spoke w/ people along way
not being secretive

- size SEC office
- on left, corner closet w/ door w/
- other boxes

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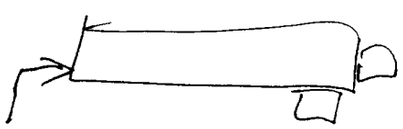
(4)

= lots boxes on floor unpacked

= Ark memorabilia campaign mementos

= had to move some around to accommodate box

- some closed, some open had personal stuff



= no recollection putting any 2d box in closet

= locked — doesn't know

= chit-chat re: VF

= don't recall seeing anyone in residence

= waiting for MW to do something

= looked in other room study or pers library

= left w/ MW

(5)

~~MEUWERTH~~

NUSSBAUM

7/20

~~pre-9~~

bearan pages

MM goes up to see Pres.

went to office to see if left anything

10:15 ⇒ gets to office
light

MW on sofa crying

PT behind desk
↳ 1/2 drawers

looking for something obviously

- take 0 w/ them
- leave 4 mins
- BN to office ⇒
  10/20 mins.

- Paster, Sperling?
- does not recall locking
- in MM suite at 1 point
- spoke w/ SM

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(6)

Neel, Burton

what do?
just leave here
moved up next day

BN seemed offline when left

don't recall whether CL there

no talk w/ DW
no disc. w/ sealing

- more calls after home

- when by call from LF
Q'ed whether fired
searching for explanation (?)

- BP in office
Deb too?

- BP told BN she had gone in & straightend papers on desk

- 8:30 - 9:00 staff mtg.
- discuss sealing
- CS + SN after also

- approx. 10:00

(7)

- 10-10:30 w/ PP
  - basement WW
  - arranged by DW
    to hear PP give report

- Reno bground report only thing recalls in safe
- WHTO sensitive but oves
- July 2 man - review
- at end people will be coming

BN - fine
no disc - files

- other PP show up
- mult. inquiries
- may have discussed w/ Burton - should coordinate
- call Heymann - coord.
- Pres to BN

- Margolis/Adams DOJ
  CS/SN/2 PP/
  (very understanding not mad then?)

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(8)

decide want to look in VF office + interview

- now 4:30 - 5:00
- BN - concerned lat ab sensitive material
- PP looking for extortion or suicide note
- BN search in presence no objection
- concern in WH: BB, MM, Quinn — asking what doing ensure not too liberal/ reverse
- late that day + next a.m. discussion
  - several
    - Burton (MM asked to deal)
    - MM
    - Quinn (next day)

(?)

→ at 1 pt suggested complete inventory before anything

Q what day? why desire not to leverage discuss SN + CS

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(9)

- doesn't know if [redacted] discussed w/ Pres.

- "at same pt talked w/ ST – asked what doing + why – didn't say HRC said X [redacted] Y."

SC: one thing or another

- no disc. WW {Whitewater?}
  limit disc. difference op-ex pur.
- "see what in [redacted] first" ——— (?)

SN in mtgs. w/ CS dealing w/ DOJ

7/22 – PP

1:15 – rev docs delayed some b/c still having conv w/ WH re: how to do

2 – 2½ hours

(10)

- doesn't recall disc w/ Heymann
- describe generally, ID
- Margolis may say thought BN hand over sens. portion
- May argue no app pin ✓: DOJ
- got all ID'ed
- allege descrips. so general couldn't ID
- primary objective: suicide or extortion
- no objection: inad. description
- after note discovered no req for addtl files
- no objections
- doesn't recall Heymann call
- no one asked re: T file
- files in front sec's desk + safe if any would have been
- req. was to search office

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(11)

- still didn't ask for Tylers — SM on note
- 3x in "_____" reached in bag — include T. — stayed in Concord
- walked w/ NE
- BN took TO docs
- logs, recent contacts Pd aside

— process evolved - asked for phone logs

- found pers docs
  lease, checkbook
  └ NO OBJECTION
  sent to JH
- personal bills — mostly tax + investment
  real estate inv. file
- briefcase back wall
  "this is TO"
  left TO file on desk
- Spafford leaves w/ box

(12)

- no disc. re: sealing
- CS taking in
- no Q re: outer office

Monday – more pers to VF's attys.

CS
- decide Clintons' pers files to Clintons' lawyers
  - ↳ want define as priv / tax / invest.

MW comes soon
most in drawer left side
mostly MW but both put in box
Castleton asked to help carry
→ [20 minutes at 5:30 ish]

files outside which forgot about
"sent over / file re: renovation all resident returned, a few days later
SN told BN came back b/c not personal file"

---

needed pers docs to do official work
- VF had replied in pers matter

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(13)

-no list of files handed over
-

(*) "may have said to MW — no — stays — but related renovation file may have gone"

BREAK

-SN or MW told BN a file re... w/ residence
came back next week

4/26
-tell SN to go into office
-could have taken TO file on 22d or 26th
-SN at table
-BN ⇒ went to see
walked into HRC office
HRC: "do right thing I don't want to be involved"

-read to MM
-said wait 'til after speech
-called JH

-coming in
-prepare transcript 5-6 pm

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(14)

(*) Pres + FL discd w/ SW, MM, DG, BB that night?

Burton raised legal Q's

- BN no recollection either way

- 5-6 ⇒ called AG

5:30-6:00 ⇒ Oval office
HRC, MM, or DG saw it earlier
- said didn't want to read

- AG comes . . .

USPP come . . .

(?) - doesn't recall disc. w/ Hubbell or GS pre-turnover

(*) PH called BN at home in evening re: bike search on 22d or 25th
"said maybe you should keep all docs in office"
said working office + already transferred out

Tom Fallier ⇒ wanted to know what happened

(15)

-did PT look in briefcase?

POND 21st

7-21 AM

7:00 AM

papers scattered on coffee table - pulled together + turned over

long pages

"didn't touch desk"

-called BN

NEUWIRTH

return of a file

SC never understood what happened w/ return of bile

planning for search/discussion re: ~~search~~ search itself binding mtg

- VF does in core zone priv.
- SW seems to be suggesting that DOJ act as mediator

WH view:

never contentious

DM: offered suggestion

Adams quotes

on Wed: no final conclusion

(16)

started
SN
ST ended VP

Bauer, BN, BL, SN, later Quinn

privilege + precedent

- pres. effected ab waivers
- concerned w/ access
- Jack
- disc. ended not too long bef Mary arrived
- BN made dec. to proceed w/
- "no direct com Pres on HRC"
- (*) "at some pt w/Th BN made aware HRC concerned about issue investing ~~whether~~ going into VF office"
  - ↳ BN said talking to Sus on chances + topic brought up ... left impression during com ST expressed something which made BN think HRC concerned w/ going into VF office"
- (*) Sus on chances + topic brought up ... left impression during com ST expressed something which made BN think HRC concerned w/ going into VF office"

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(17)

-solicit her advice
-doesn't think [ST] call prompted by HRC
-thinks before search

at bes, Mary reiterated view - may have been raising cont. obj.
↳ no addtl objs

-some follow-up
-NOT ~~in room~~ entire time
-recall recognition was there + ~~briefcase~~ included in process

7000028 ⇒ not all consistent w/ current recollection
-no recollection re: bum bag
-not sure there when review ended

⇒ CS handwriting
- files outside office didn't come up
- SN looked in comp - nothing of concernable note

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(18)

- not aware any computer person reviewing hard drive
- CS + BN in VP office to do some further categorizing
  ↓
  MW went in after w/ BN
- Usher's office
  ↓ given file by BN
  on MW re: renovation
  b/c FL or MW asked if SN could take over ongoing work

(*)

file could have been in Maggie's office + given to him by SN

BK 1/26 + BN?

Note 7/26

- Deb may have given general info re: what was
- leather bag (back wall)
  took bag into BN office
  recall no piece missing

BN hand-wrote out

(19)

- BN sat HRC Bill + SN there
- HRC said impt for people in room to decide what's app
- told LF + President
- original in envelope

* Bill thought whether suicide
* BN never Q'ed whether turn over
* SN 2-3 hrs. in law library whether or not providing note obs. of justice
- ~~told~~ BN results that night (?)
- abs. not present when turned over

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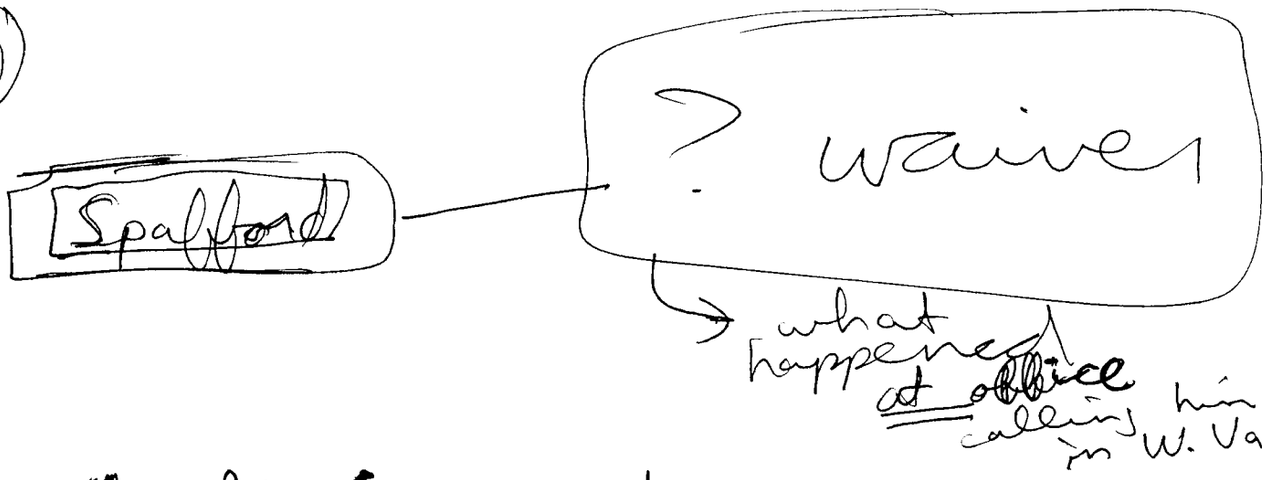
(20)



- Margolis in + out
- arr bef 9:30 lobby for 1 hour

~~see Attached~~

- 12:30 in BN office
"concern w/ leaks"
- agt. re: process finalized
- 12:30 - 1 ⇒ disc re: WSJ ed.
- DM not unhappy

BN "describe docs"
→ DM would ID docs wanted to see

- BN answered law enf. Q's

DM: - threat, dis. name

- conflicting interests but not contentious
- procedure for Step 1
- DM never said "freeze office"
dictaphone
e-mail

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(21) BK: was there a 3rd (Clinton pers) pile at search?

- BN sent addtl. personal files next week

- dialogue

- black book w/ names clients → D

- handwritten w/ surname names

burn bag + trash bag both there

dictaphone
- DM →

briefcase
black w/ handles - lots files - BN took out put on desk - went through

- SN id'ed
- no WW
  Ark real estate matters

- DM: 95% leave suicide notes

  LF house
  come in mail

- put briefcase on desk
- not much of int in briefcase

(22)

7/27
BN to JH
↳ 2 boxes
book w/ 3 VF musings

JH + MS
↳ deal w/ PP

DM
BN ↳ discuss further

[redacted] SS some disc. re: limiting access to file
"not a disc. whether removed w/o consulting DM"

= no suggestion 2 gd.
= balanced BN + DM re: whether to take out

- MS meets DM downstairs
↳ DM say could get GJ subs.

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(23)

SLOAN → same as SN

- unusual for PP to be at WH
  → decided to call Heymann

Wed 4:00 p.m.
→ prelim Q's to SN re: VF,
and
Danna there on Wed.

- bag trash
  → agree to get + return
- a couple of weeks later learned of burn bag retrieved by SM.
  SM looking at contents

- no explicit process at mtg.
  ↳ personal effects

* cooperative meeting
- "suicide or extortion" – Margolis
- BN off at mtgs at least 1 re: process in office
- Margolis TC Heymann
- CS talked to PH
- BN said proceed this way

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(24)

F/Q's suggest Margolis since expressed strong ~~views~~ problems re: search

- 3 piles
  1. F. pers.
  2. docs interested
  3. all else

- not every file?

- "not much re: brief bag"

- after 7:30 FBI interview

↳ docs pulled out of briefcase

* no rec. TO file

- no disc. safe
- some check w/ DG re: files

all agreed personal effects to JH

- no disc. Clinton personal docs handling
- CS should preserve / retain discard
- SN brought up pres
- BN TC w/ Susan Thomases re: what had happened, how review done

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25

Tues 10:00 pm
told of note
Q's + A's
cuff work on that

- found in one of VF's briefcases

2d one

WILLIAMS

Fostes

7/22 in VF office - looking around
add to pile
can't remember
whether found xerox box, in box already,
or got xerox box elsewhere.
in VF office or reception
- box in/not MW office

TC: - no recollection him in VF office
- called HRC to find out what to do w/ docs
- may have been in MW office

why call HRC?
their bike, going to their attys, should be in their house

- "assumed MW resp. for ultimately getting to lawyers"

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(26)

- never thought > 1 box
- could have been clothes
  ↳ gown

? - "key credenza"

sc: HRC or MW's office — ~~office~~ used ~~by folks~~ as conf room occ by folks w/ small offices

- ther not locked
- never thought re: putting in MW/HRC office
- keep nothing of value WW
- BN had asked to take out - would not have objected to staying there
- doesn't recall whether BN there when decided to move;
- ~~don~~ not to wait for Barnett messenger
- no one asked re: task moving docs
- if understood really imp files + moving ~~imp~~. would have stayed late - just thought personal in nature
- didn't know maids
- not conf just leaving anything in res anywhere
- my rec - carrying box to HRC/MW office

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(27)

- no rec. telling TC what in box / why residence
- no rec. saying taking to residence so Pres/HRC could review
- met CH in Hall in hall by elevator

↙

MW not sure knew where room was

- locked closet always used as closet for boxes, pers. papers, Chelsea's . . . .

⊛ now shelves

SN more involved after death

⊛ identified renovation file for BN - said part of ongoing work in office.

- VF would have shown hes renovation docs
- don't recall having VF file on renovation as giving SN file
- don't recall discussing file in VF office after move
- talked bf w/ SN re: issue

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(28)

-could have given same docs

Meeting 6/12/95

* Congress
  - index
  - produce those unproduced

- A-C + WP privilege
- regardless of view of legitimacy of privilege claim

BASIC SUBJECTS

(1) core exec privilege
- memos to President
- internal deliberations + info re: meetings

(2) A-C ⇒ communications from client to atty seeking legal advice

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① Cabinet I

Pres Appts + Nomin file

*memo from Peter 2/27 Knight regarding nominations that have been

* 2-6-93 handwritten 2776 from Vince to Beth w/ note on one of nominees [Deputy Secretary of Energy]

* handwritten notes 2777

~~2-8-93~~ 3-8 to-9 Orlando vetting issues for nominee DOT nominee

* handwritten notes 1-29-93 message name is ~~these~~ 2228 - 2229

* vetting notes - DOT 1-29-93 2230

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Cabinet I
Pulitzer-Bundled File #1

2416-7 2-pg memo to 7-2-93
Clarissa Cerda to Foster => legal analysis of potential resp of OA

2418 - 2426
to Clarissa Cerda from Chip Cannon 6-24-93 longer mem

2506 - 2537 7-20-93
memo from Civil Division (Dave Anderson) regarding Haddon case

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(*) 2892
- vetting notes
- name + issue
-- nanny's + green cards

(*) 2893
7-6-93
?? Miriam
- letter from Bennett to Foster

(*) 3034
4-20-93
FAX to UWF from Mike Berman w/ attachment memo re to Foster & Watkins re expenditure of non-appropriated funds for certain non-political activities
- few handwritten notes

- outside advice could fall w/in exec privilege w/n/t
- Foster's notes on back

Cab I - Rubber - Banded Rule

2339 -

4-page FAX

3-3-93

- from Jim Lyons to VLF w/ attached letter dated 12-15-92 from John Tisdale to Barbara Yates + Cheryl Mill,
- legal advice on fundraising + expenditures at foundation -

2344 – 2370

- 3-5-93 memo from Deborah Ashford to Christine Varney
- legal memo re: funding of certain WH functions w/ attached LEXIS printouts)
- 6 page memo

2372 - 76

memo to DD ?? "received 11-30-92" re D. Watkins + Tarplin from Tisdale + Cortley regarding treatment of handling of clinton documents
- general ??s about potential ways of collecting (loc)

- Clinton Library

2377 - 2389

memo 11-15-92 re
J. Gunn [illegible] Sonya
Fox + Abby Cheever
- copies of gift notes
to Pres - Vest

Cabinet II -
Clinton - Bond confirmation

3432 - 3437

6 pages of handwritten
notes re: Baird
nominations
- yellow-lined paper
- 1-19-93 written

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Cab II
"Clinton Papers"

3440 - 3446 — 4 pg. memo
dated 12-21-92
from Jim Lyons to
Acker, Lindsey, Tisdale,
Herington, T Quinn,
W. Hubbell, VWF re:
overview & research re:
treatment of Clinton
papers looking backward
& looking forward
— attachments

Exh. A 12-17-92 memo
to Jim Lyons from
[illegible]
re: PCIA

Exh B 12-15-92 memo
to Herington from
Anthony Suter re:
disposition of campaign
& transition records

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Exh. C
memo to all transition personnel re: description of transition docs

Exh. D
12-15-92 to Lyons from David Thompson - more analysis

12-15-92 letter to Tuttle + Yates

3904-3907
Cat. II - "Nepotism Vol. II" research on anti-nepotism statute
- memo from Foster dated 1-5-93 on statute

4091-4107
- memo from Foster dated 12-25-92 called Nepotism statute Research

4147 - page of handwritten notes re: anti-nepotism, - 8½ x 11 (undated)

4150 - 4158
FAX (from Capricia Marshall dated 12-16 to Foster w/ attachments memos from Richard Nenstadt re: advice on nepotism act
- 3 words on back (undated)

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Cabinet II
"Clinton Memos"

4155 - memo to Pres
from Nancy H
summarizing correspondence
on issue referred to
Foster [2d home]

4156-57
4-19 memo from
Podesta to BNJ VWF
on Senate Rule XXII →
Pres. L.

Cab II = Transition
Vetting Notes"

4276-4277
another version of Nepotism
12-23-92
research from VWF
to Bernie Anthony
- Labelled confidential
- A-C privilege

4299 - 4306

memo 12-16-92
from WHH to Chuck (1)
w/ attached statute
re: Ark gift disclosure
rules

4358 - 4372

- 8½ x 14 yellow legal
pad w/ notes on
variety of vetting
issues re: specific
candidates
- 1-10-92
WH staff

~~Foster~~ Dates 4381 memo to ~~Foster~~
1-10-93
GIVEN

4442-4443
- memo from Fowler 1-11-93 summarizing vetting issues (to WH staff)
-- typewritten sum of handwritten notes

Cabinet II - "Transition Notes"

4192-4195//
4196-4199.
memo of 1-12-92 from Tisdale to Clay Hill, Transition Planning Foundation

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Cabinet II - AG candidates

4432 - 4443
handwritten notes re
vetting AG candidates
2-6-93
2-7-93

~~4445~~ - 7
→ typed
general
memo
profile of AG candidate
=confidential info
from

Cab II - File
"Miscellaneous"

(4452 - 4454)
memo from Dwat
to VWF dated 2-24-93
using 4 G's re
cleaning matters from
transition - unsigned
answers by hand on
3-2-93 ⇒ copy to Chron
Nell

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Cab II - "Adv. Office"

4593-4 ⇒ memo (re)
Tisdale from D. Walker
cc: Foster
3-25-93
various legal / admin
items regarding
transition ops

4595-6
memo from Tisdale to
Watkins, Yates, Foster dated
4-1-93 re: G's ops
transition planning
foundation

4597-4607
2 memos - 1 from Tisdale
to Watkins 3-2-93 re
operations of Clinton
Law Firm Committee
et al

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* David Watkins to Lynn Utrecht dated 3-5-93 re: provide estab of Ark. office

attached cc: notes re: billing
- notes of Foster re 3-8 conversation w/ Watkins

4605 - 4614

2-17-93 - memo re: survey
w/ mtg. w/ Hall re: Clinton Commission, Transition Planning Foundation
DW, TH, Sutin, Yates, Tribble, Pshaigh, McCarty

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4615 - notes

4616 - notes re: telephone
cont w/ Tindall re
2-23

Folder ⇒ Cab IV
"Stephen Breyer"

4819 - 4837
Legal pad - all
notes on Breyer
dated 6-9 ⇒ Sat(Kag
RS
BL
BWN
RK

page 4832 blank

4879 - 4882
notes re Journal
Breyer re: vetting

4960
Breyer's health
4963-72
typed profile of Breyer

Cat II Breyer/Babbitt

4985 - 5054
Legal pad
↓
1st 2 pages do not relate to Babbitt
↓
"To DC List"?
↳ all notes to Breyer

5015 - 5029
Breyer SS

5030 - 5053
Breyer

5057 - 5116
6-6-93
Babbitt's Memo to WH Counsel "Plans w/ no header

5065 - 5066 draft memo
Foster's NB on Babbitt
dated 6-6-93 legal pad

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5117 - 5125
typed putlog of BP
1 marginal comment

5221 - 2 / 3 - 4
2 copies of memo
from Klain to BL, BN,
+ VWF on steps
before announcing

Cab II - Binder on
Sean Hilton
pulled memos from
Cory Walters

4 - 26
5 - 25
5 - 21
5 - 28
5 - 28
6 - 14
6 - 11
6 - 10
6 - 22
6 - 15
6 - 22

Cab IV - Book

2263-7
typed packet of
AC nominee - no
handwriting

Cab.
"Briefcase 1st box"
Health Care Task Force

9089-9092
4-21-93 (for WRC
from Mike Lux re
Fri Focus => need other
med. malpractice
- no handwriting

Foster's Desk File

* "Michael Beatty"
memo (from Carey)
Gins w/ attachments
dated 2-15-93
- vetting - type info.

- "Dept. of Energy"
12164 - 12165

1-28-93 memo
from Burton to WH
re: potential vetting
issue at DOE
12164 notes of 3-5
conversation w/
Burton

12127-
12146 => memo 4-6 93
John Carey => legal
memo to BL re FECA
Dept of Madison waste

12141 - 2

memo to UWF from Burton 3-31-93 re: Evans + Novak column Russia's reprocessing of uranium

12143 - 12161 ⇒ UWF to BL on 2-26-93 re: US uranium enrichment corp

12162 - 12163

2-22-93 note, DOE appts

12166 - 12167

1-22-93 Burton to UWF re: FERC appts

12168 - 12182

Burton to UWF

2-23-93

12196 - 12203

→ 1-28-93 memo
re Potter from Bridge

"DOJ" file

12206 - 12207

3-1-93 memo from
Peter Pappas to WWF, WK, +
TG ⇒ financial arrangements

12219 - 12224

B Kem to BW + WWF

2-18-93
re: 2 candidates for
DOT appts

"Haitian Options"

"12399 - 12408"

→ Gredisk memo
or 1-25-93 sending
memo from Hendricott
to Bryza re: Haitian policy

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"Judicial Nominations"

12421 - 12423

memo from Ron Klain to Melissa Winter 6-25-93 re: Mass vacancy

12424 - 9

12423-4

4-8-93 memo from Klain to Potter re: pending judicial nominations

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12436 - 12443

memo w/ FAX
(12-6-92
to Eisenknight 12-3-92
re: key decisions
for judicial nominations

"McLarty - General"

12613 - 5

letter re: McLarty
(inman arrangements)
1-20-93 [illegible]

12616 - 615

notes on McLarty vetting
+ [illegible]

12619 - 12633

[illegible]

12641 - 12644

notes re. McLarty financial campaign

Pres Personnel - General

memos John Carey + Susan Ravenelish to BL w/ cc to WJT

12932 - 12973

- dual pay + dual employment
- WH Small Bus Commission
- Veterans Affairs
- Surface Transp Reserves

"Reading" file

13706 - 13716

1-5-93 memo to Chertoff + Seitz re Surgeon General withdrawal

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file - "Ruff"
vetting material,
of Chuck Ruff
13163 - 13167
dated 1-93

"Rubin"
13241-3 ⇒ draft
2-15-93 for Rubin [illegible]
Rubin re [illegible]
policy of Rubin

"State Budget"
13321 - 13337 ⇒ sample
appointment memoranda
[illegible] Frank Iobst to
Cheryl Mills,
3 cover 2 of pgs.

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"Cutler Cabinet – Communications"

5-4-93 note from Beth to Vince re communications

13994-5

11C224-11C226 – Porter memo to Mack 2-10-93

11C227-5 – CIA 1-13-93 memo to BI

→ A-Copies

"Bush Annex" (13925-94)

3-29-93 memo (w/ notes from Dreyer re OPM review w/ Bush attachments) – note from C to Vince

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"NAFTA - USTR suit"

113495 - 113516
July 2, 1993 from
Bo Cutter from Cresco
+ Wolin

113520 - 523 ⇒ 4-13-93
memo to Rubin from
Foster + Beth

"NEPA"

113526 - 8 ⇒ letter to
per from Dep Sec
of Defense on NEPA

"Virgin in Kelley"

11B170 - memo to McLarty from VWF re: commercialization of Pres.

"Little Rock"

113459 - 113462

FAA flight service station in Little Rock
memo to McLarty from Karen Hancock
(*) per handwriting

"MFN"

113467 - 7 ⇒ memo 4-6-93 for Berger from VWF + Bentsen re MFN matters - context

"Personnel - Staffing"
113625-626
2-19-93 memo to BN
from Jennifer O'Connor
on bumping rights
- ~~Cheryl~~ note to ~~UWF~~
Cheryl to get other
views

"Pickering" 113629-113695
↳ Ambassador 113846
- memo for President
- handwritten notes
- memo to UWF from Ken
- chronology typed
- Nemuth phone
interviews
- Foster notes
- outline of
Foster's or issue

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112765 - 112774

2-19-93 to Rahm + Christine Varney from Deb Ashford re: excess fund

- 3 pages notes of Fosters dated 4-22-93 re: phone call

~ Rev. Jesse Jackson

112787-88

1-27-93 talking pts. for mtg. w/ Jackson US Atty - DC

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"Regulatory Review"
113867-867
1-7-93 memo to Pres Elect
from Pres management
of reg process
2-8-93 note on cover
from Vince to Gene

"Slater"
2 memos 1-93
114295 - 114299
- Rogovin
- Beth Berger
dual employment issue

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"Health Care Task Force"

111601 4-7-93
Robert Kopp from SH

Outer Cabinet
"Judge Ginsburg" → m

111193 - 111201
typed probable

111245 - 111246
white legal pad
writing ends at 156
different dates

Outer Cabs #3
"Inauguration" folder

112756-764
3-2-93 FAX to VWF
from Lyons attaching
Isdale memo on
foundation funds

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Box IV

"Dept. of State"

114632 - 3/4 notes - vetting of State Dept. ee

"Supreme Court"

114639 - 114651

2 memos from Klain in March on process for appointing

114652 - handwritten notes

"US Attorneys"

114745 - 114755

- 1 page handwritten undated notes
- 3-21-93 draft memo for AG re: process calling for resignation

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111570-575
to SN from Jeff Eastman re: GSA's position

111576-111579
memo on guidelines for mtgs w/ Pres to discuss health

111580-111585 ⇒ Foster + SN to Paster re: Clergy

111586-111591 ⇒ 2-2-93
Memo to HRC from BN + VWF on FACA

IV - "WHCA"

114937-938 - memo
Foster 3-8-93 to D Watt +
Ellen re: authority
of WHCA

114960 - 2-24 notes
of conf w/ Ellen + Watkins
on WHCA

IV - "WH Technology"

115095 - 2-24-93 from
Watt to BN + UWF re:
software

115096-098 - handwritten
(2-23 + 3-10) notes re:
accepting gifts of
computer equipment

115099-100
3-4-93 mem to
Watkins

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111539 - memo 2/18/93 to McLarty & BL from Foster

111540 - from law firm of T's to BN ⇒ handwritten notes to HRC on bottom

111543-548 ⇒ 2-4-93 for Podesta from VWF + JN to respond to Clinger on

111557 ⇒ appeal of FTCA decision Atty. pts

111558-567 ⇒ draft DOJ to JN re: prospects on appeal

111
568-569

"Tim Wirth"

115125 - memo to UWF from BK 3-22-93 vetting

V - March Chron File

115610-611

↳ memo to Wat + Elles re: WT CA

V - General Correspondence

115838-854

3-3-93 memo fr. Pasdera for UWF + Beth re: fundraising

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Box II - Outer Cabinet

"Notes" file

notes on health care task force - legal pad + loose papers & FACA draft declaration of Ira Magaziner 111375-386

111339 - 111369

Box II - ~~Outer Cab.~~

"Correspondence"

health care task force ⇒

111448 - 452 2/3/93 - talking pts to UWF et al.

111454 ~~4760~~ ⇒ 3/14/93 note from Foster to Hillary w/ attachments of talking points

111495 - 1/28/93 memo to HRC + Magaziner from Foster re. FOIA

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Outer Cab - British - Irish

C13572-4
memo to Pres from Panetta

13902-5 Mar 4
3-12-93 memo to Pres
from Rubin

"Exec. Orders - Labor" folder
proposed exec orders
from Reich
→ memos to President

11862 - 11576 → Jan. 1993

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"Cutler Cabinet -
DCD tcctg. Centers"

DFAS site selection
→ natl defense
- Base Closure Commission jurisdiction

110359-370
110371-3
110374-403
→ no Foster handwriting

AIDS policy

C13675-682
Khalaba memo to
Pres on AIDS
policy coordinator
3-23-90

(1)

Tuesday 6/13

2893
* 7/6/93 letter to Foster from Barnett re: payment of invoice for tax-related services

Outer Cab 5 - "Chron File"
" 1-25-93 // 2-28-93 "

116168-173
- memo from VWF + BN to Richard Riley re: vetting of ED candidate
2-10-93 - attached is memo from Riley to Lindsey on same

116174-5
same

116150
2-16-93 memo to Rule from VWF re: letter from Jesse on Harold Ford

116059
2-19 memo from VWF to Nash + Bl re: FACA

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(c)

116036
Jan 28 memo to HRC + Maj from VWF re: FOIA and Health Care Task Force

116362-363
1-27 memo to pres Felts pts - Jesse

"May Chron File"

116447-63
5-5 memo to VWF from Marsha Scott re: financing of Times Cover memo to Cheryl

16459-60
5-3 memo to Susan Brophy from VWF re: prohib contacts w/ JAG Corps

116461
4-30 memo from Nolan to VWF re: fundraising, marginal notes

"April Chron File"

116558
4-16 memo to Podesta + Emmanuel from Marsha re: public affairs pt help to pres — handwritten VWF

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(3)

116604-606
4-6-93 memo for Berger re: MFN

116610-612
4-5-93 memo for VWF — Base Closing
[4-6 cover note to BL from VWF]

116578-581
4-13 memo for Rubin from VWF + Bet re: NAFTA

"untitled folder"
→ 116659-662
ambassador nomination
6-22-93 memo to Foster from Tom Donilon
→ copy to BL + BK

116664-676
6-24 draft memo for Pres from Cliff re: Felts on arrest of Lincosts

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(4)

116699-701
6-9 memo from Steve N to Podesta re: draft pres. statement on Voting Rights Act

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Box VI – untitled folder

117495-511
5-3-93 memo to Foster from VNF + Beth re: attending fundraiser for candidate

117645-649
6-2-93 latest draft proclamation re: Haiti

Miscellaneous Box

file on Harold Ickes maintained by Bernie after 7-20-93

117700-117719
117867-889
1-8-93 } VNF's notes re:
1-9-93 } vetting of Ickes in early 1993

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(5)

" Bruce Babbitt

117905 - 934

6-6 response to WH ~~6-6~~ questionaire

117935 - 938

memo dated 6-8 from BK to Jim H on Babbitt vetting

117939 - 118024

6-6-93 response to questionaire prepared by

118175 - 118210

FBI report on Babbitt
↳ some dates 302's from 1-93

118211 - 218

6-7-93 memos / notes of telephone conversations re: Kennedy WHK + CS

118222 - 258

FBI

118349 - 364

SF-86 of Babbitt

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(6)

"ushers Material"

118406

3-15-93 notes on funding of expenses of resi

118502-4

6-9 notes of meeting re: funding ~~see~~ of entertainment
- Mike Berman to Eli legal memo

118575-6 confidential A-C privilege

costs v funding

6-22-93 draft of memo to bill re: costs incurred in renovating residence

118592-605

5-4 memo committee on preparation of WH memos from Per Skowron

118634

3-17-93 notes re: funding of renovation expenses

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(7)

118606-607
6-21 draft of memo to file
↳ handwritten notes

118630
3-9-93 notes of
funding renovations

"Deb Gorham's disk"

119134 → 1-28-93 memo to HRC on FOIA + health care task force

119167-8 chron re: fisheries

119178-9
2-25 memo from WWF to BL re: unanimicem environment

119253
3-24 file outline
→ WWF's on Fisheries

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(8)

119454-5
↳ 6-22 memo to file
re renovations

119533-4
↳ 2-11-93 memo to
Riley repeat

119535-6
2-15-93 memo to Riley

119537
3-3 memo to Todd S. from
VWF re: commemidgation

119538 ⇒ Phil Canall
letter

119539 ⇒ 3-4 memo
from VWF to Sabal
re: FOIA to WH

119540-1
memo from VWF
to Ellen re:
WHCA's call

(9)

119668-673
5-24-93 folder
↓
outline for structure of health care task
– 2-2-93 memo for HRC FACA re task force

119169
2-19 memo to Mack + BL from VWF re: FACA suit

121231-233
5-22 memo for HRC from VWF re: blind trust
cc: Burd, Huber

A-C pin
revisions to blind trust

121237
memo to Pres.
→ amdt. to liaison

121238-9
draft memo for BN from Pres to amend financial disclosure report
July

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(10)

121241 4-13 memo for Pres from VWF re: preface to RFK book
cc: Dreyer, RN

JANET RENO'S VETTING FILE
↳ docs related to vetting + corr. of Reno

NOTHING LATER THAN MARCH

RECAP McLarty file
↳ 2 sets of notes
1264/-1265
① relate to financial disc report
② address variety of vetting - type issues

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WHITE HOUSE LITIGATION - INTERNAL NOTES

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WHITE HOUSE LITIGATION- WILSON EPES

12/6/08

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FOIA # none (URTS 16303) DocId: 70104996 Page 1

From: Neille Russell
To: bkavan,dlipp
Date: 5/15/97 7:59am
Subject: Wilson Epps

I spoke with Ty this morning, and he advises that the schedule for getting the brief over to him that we discussed last night is accurate. Please note that the doors are locked promptly at 5:00 there, so we would either have to get the brief over there by then, or slip it through the door. (Given the location of the printing company, it would probably be best to get it there before 5:00.)

Recap:

(1) Brief must be over there by 5:00 on 5/27
(2) They will have the proofs here by Noon on 5/28
(3) We must get it back to them with any changes before COB on 5/28
(4) Brett is to go over to WE on the early morning of 5/29 to give the brief a final look-see (take Certificate of Service and any labels, if we want WE to send it out to the opposing attorneys)

Decision still needs to be made about how we want the brief filed with the Supreme Court; options are (1) WE to file; or (2) OIC to file.
BEfore we get to step (4) above, we should have made that decision.

CC: glefever,soldham,lmatson,cthie

ORDER FOR SUPPLIES OR SERVICES

PAGE 1 OF PAGES

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER	2. CONTRACT NO. (If any)	3. ORDER NO.	4. REQUISITION/REFERENCE NO.
8/6/96		96 STAR 2046	

5. ISSUING OFFICE (Address correspondence to)
Office of the Independent Counsel-Starr
1001 Pennsylvania Avenue, N.W., Suite 490-North
Washington, D.C. 20004

6. SHIP TO: (Consignee and address, ZIP Code)
Office of the Independent Counsel-Starr
1001 Pennsylvania Avenue, N.W., Suite 490-North
Washington, D.C. 20004
SHIP VIA:

7. TO: CONTRACTOR (Name, address and ZIP Code)
Wilson Epes Printing Company
707 6th Street, Northwest
Washington, D.C. 20001
Telephone: 202-789-0096 Fax: 202-842-4896
Attention: Ty Alion

8. TYPE OF ORDER
☐ A. PURCHASE — Reference your _____
Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. This purchase is negotiated under authority of:
☐ B. DELIVERY — Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. ACCOUNTING AND APPROPRIATION DATA
96-QSTARRX-392752-2403-$1,861.10

10. REQUISITIONING OFFICE
Office of the Independent Counsel-Starr

11. BUSINESS CLASSIFICATION (Check appropriate box(es))
☐ SMALL ☐ OTHER THAN SMALL ☐ DISADVANTAGED ☐ WOMEN-OWNED

12. F.O.B. POINT	14. GOVERNMENT B/L NO.	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)	16. DISCOUNT TERMS
13. PLACE OF INSPECTION AND ACCEPTANCE			

17. SCHEDULE (See reverse for Rejections)

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (G)
	Brief of the United States in Opposition #95-2008, 95-2013, and 95-2070	100				

SEE BILLING INSTRUCTIONS ON REVERSE	18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.	$1,861.10	17(H). TOT. (Cont. pages)
	21. MAIL INVOICE TO: (Include ZIP Code)			$1,861.10	17(I). GRAND TOTAL

22. UNITED STATES OF AMERICA BY (Signature) [redacted]

23. NAME (Typed) [redacted] Harris, Administrative Ofcr.
TITLE: CONTRACTING/ORDERING OFFICER

FOIA #none (URTS 16303) DocId: 7010496 Page 4

From: Steve Colloton
To: nrussell
Date: 7/11/96 5:57pm
Subject: Tucker cert petition

We have to file a brief in opposition to the certiorari petitions in U.S. v. Tucker, Marks, and Haley. It is due on July 26. The brief needs to be prepared by a professional printer. Ken said he would like to use Wilson Epps, and he mentioned someone there named Ray with whom he was familiar when Ken was at the SG's office.

Would you please call Wilson Epps and find out the details about what they need from us in order to print the brief, including:

In what form do they want the brief (on disk, hard copy, etc.)?
How much lead time do they need?
What is the process? (Drafts, corrections by us, turnaround time, etc.)
What else do we need to know?

Thanks.

From: Neille Russell
To: SCOLLOTO
Date: 7/12/96 1:04pm
Subject: Tucker cert petition -Reply

I have spoken with Ty of Wilson Epes Printing Company, 707 6th Street, Northweest (telephone: 789-0096). Ty advised that Ray retired, but he knows Judge Starr from the Court of Appeals and SG days.

Answers to your questions are as follows:

Must submit a double-spaced typewritten manuscript (including Cover Page, Table of Contents, Table of Authorities, and Appendix [if necessary]). Footnotes and indents must be single-spaced. Must be 10 characters per inch. For every 5 pages of typed manuscript (double-spaced) there will be 4 printed pages. Maximum allowable printed pages for brief is 30 (does not include the table of contents, table of authorities, or appendix).

It is best to provide the printer with the final version of your brief. The reason being that once the brief has been put into print, any alteration we make to the text would be at a cost of $2.45 per line.

Turn around time on getting the brief printed and in final:

If we give to to Epes on the 24th during the day, we will get it back no later than Noon on the 25th. Then we must return the printed copy to them with our corrections on the 25th before close of business. On the morning of the 26th, the attorney in charge of the project would have to have to go over to Epes to look over the brief one more time and sign off on the final version so that it may be printed. Epes would run off the copies in the next three to four hours. (Epes can file the brief with the Supreme Court, and if we provide labels for copies to be sent to the counsels of record, Epes will mail them for us.) Alternatively, Epes will either have the brief hand-delivered to us or call us to come and pick the copies up. (It's our choice, but we must let them know when we make initial arrangements.) **I wouldn't cut it that close, if I were you.**

Number of copies needed:

40 for the Supreme Court
3 copies each for each counsel of record
+ how ever many copies we want

Pricing for the Brief

Let us say the brief is 36 pages, including table of contents, table of authorities,

For the first 50 copies, it would be:

$60 for the cover page
$39.50 per page for the index [redacted]
$3 .00 per page for the text
$1.75 per line for each footnote.

Total cost would run approximately $1,700.

For each copy over the 50, it would run 10 cents per page, plus 60 cents for each cover. So each 36-page additional brief would cost $4.20 each. (Must let Epes know how many we want at the outset.)

We may either pay through a Purchase Order or they will bill us.

CC: jharris, glefever,jbates

From: Steve Colloton
To: NRUSSELL
Date: 7/12/96 3:31pm
Subject: Tucker cert petition -Reply -Reply

Thank you. I will probably get the substance of the document in final form and turn it over to you to make sure the format is right before it goes to the printer.

INVOICE

WILSON-EPES PRINTING CO., INC.

★ ★ ★ *LEGAL AND COMMERCIAL PRINTING SINCE 1941* ★ ★ ★

707 SIXTH STREET N.W. TEL: 202-789-0096 FAX: 202-842-4896 WASHINGTON, D.C. 20001

OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE., N.W.
SUITE 490 - NORTH
WASHINGTON, D.C. 20004

ATTN: HON. KENNETH W. STARR

INVOICE #: 12883 07/26/96

TERMS: Due upon receipt

100	BRIEF OF THE UNITED STATES IN OPPOSITION #95-2008, 95-2013, and 95-2070	1,861.10
	0.00% Sales Tax:	0.00
	Total Due:	1,861.10

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1996 AUG -5 P 4:06
OFFICE OF INDEPENDENT COUNSEL

40 copies sent to S.C.
40 copies received at O.I.C.
Task Completed Successfully
Keith Miller & Russell

WHITE HOUSE LITIGATION- DISTRICT

JHS
12/6/88

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: The Honorable Susan Webber Wright, Judge

Company Name: United States District Court for the Eastern District of Arkansas

Fax Number: 501-324-6576 Telephone Number: 501-324-5422

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

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telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: David E. Kendall, Esq.

Company Name: Williams & Connolly

Fax Number: 202-434-5029 or 5061 Telephone Number: 202-434-5145

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

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1001 Pennsylvania Avenue, N.W., Suite 490N
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Date: October 25, 1996

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Company Name: Williams & Connolly

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1001 Pennsylvania Avenue, N.W., Suite 490N
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telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: Andrew Frey, Esq. and Gary Winters, Esq.

Company Name: Mayer, Brown & Platt

Fax Number: 202-861-0473 Telephone Number: 202-778-0602 (Frey) ~~202-778-0193~~ (Winters)

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

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Date: October 25, 1996

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FROM: Kenneth W. Starr, Independent Counsel

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Filed November 21, 1997

No. 97-3006

IN RE: SEALED CASE

Consolidated with
No. 97-3007

Appeals from the United States District Court
for the District of Columbia
(No. 95ms00446; No. 95ms00447)

BEFORE: EDWARDS, *Chief Judge*; WALD, SILBERMAN, WILLIAMS, GINSBURG, SENTELLE, HENDERSON, RANDOLPH, ROGERS, TATEL and GARLAND, *Circuit Judges*.

On Appellees' Suggestion
for Rehearing *In Banc*

O R D E R

Appellees' Suggestion for Rehearing *In Banc* and the response thereto have been circulated to the full court. The

Bills of costs must be filed within 14 days after entry of judgment. The court looks with disfavor upon motions to file bills of costs out of time.

taking of a vote was requested. Thereafter, a majority of the judges of the court in regular active service did not vote in favor of the suggestion. Upon consideration of the foregoing, it is

ORDERED that the suggestion be denied.

A statement of *Circuit Judge* TATEL dissenting from the denial of rehearing *in banc*, in which *Circuit Judge* GINSBURG joins with respect to the issue of attorney-client privilege, is attached.

Circuit Judges SENTELLE and GARLAND did not participate in this matter.

TATEL, *Circuit Judge*, with whom GINSBURG, *Circuit Judge*, joins with respect to the issue of attorney-client privilege, dissenting from the denial of rehearing *in banc*: Dramatically departing from the common law rule that protects the attorney-client privilege after a client's death, and threatening the vitality of that privilege, this case raises issues of exceptional importance worthy of *in banc* consideration. *See* FED. R. APP. P. 35(a)(2). The case especially warrants *in banc* review because the consequences of the court's new balancing test will extend far beyond federal criminal cases in the District of Columbia. Clients involved in civil or criminal proceedings anywhere in the country have no way of knowing whether information they share with their lawyers might someday become relevant to a federal criminal investigation in Washington, D.C. As the Supreme Court noted regarding the psychotherapist privilege, "any State's promise of confidentiality would have little value if the patient were aware that the privilege would not be honored in a federal court." *Jaffee v. Redmond*, 116 S. Ct. 1923, 1930 (1996).

As I pointed out in my dissent, the common law rule has been incorporated in the Uniform Rules of Evidence and the Model Code of Evidence, adopted by the Supreme Court's Advisory Committee, and codified by at least twenty state legislatures. *In re Sealed Case*, 124 F.3d 230, 238 (D.C. Cir. 1997) (Tatel, J., dissenting). The Independent Counsel cites two cases that have abrogated the privilege after a client's death, but neither is relevant here. In both *State v. Gause*, 489 P.2d 830 (Ariz. 1971), and *State v. Kump*, 301 P.2d 808 (Wyo. 1956), courts held that an accused husband could not invoke the privilege on behalf of his dead wife to bar his wife's lawyer from testifying, a situation quite different from this case where the attorney himself has invoked the privilege on behalf of his deceased client. As the court in *Gause* said, "the privilege is that of the client and must be claimed by the client or someone authorized by law to do so on the client's behalf." *Gause*, 489 P.2d at 834. Until this court's decision, only one reported case—a never-cited opinion of a mid-level Pennsylvania appellate court—actually supported posthumous abrogation of the privilege when asserted by the lawyer in a

nontestamentary dispute. *Cohen v. Jenkintown Cab Co.*, 357 A.2d 689 (Pa. Super. Ct. 1976).

According to the Independent Counsel, empirical support is "nonexistent" for the proposition that abrogating the attorney-client privilege after the client's death will chill client communication. Opposition of the United States to Appellees' Petition for Rehearing With Suggestion for Rehearing In Banc at 12. But because the Independent Counsel himself urges overturning the common law rule, and because that rule rests on the proposition that preserving the attorney-client privilege after the client's death is necessary to promote client disclosure, the Independent Counsel bears the responsibility of producing evidence to the contrary. In place of such evidence, he offers only his opinion that "any hypothesized chilling effect would be minimal," *id.*, citing only this court's opinion that it "expect[s]" its balancing test's "chilling effect to fall somewhere between modest and nil," *Sealed Case*, 124 F.3d at 233. Without convincing evidence that abrogating the privilege will do no harm to client communications, this court should not abandon centuries of common law.

Invoking a parade of horribles not before us, the Independent Counsel claims that injustice will result if courts cannot abrogate the attorney-client privilege after the client's death. While in some cases the privilege will deny information to the trier of fact, it does so in order to promote a broader and more important value—encouraging the free flow of information from client to lawyer. The common law long ago determined that the benefits gained by recognizing the privilege posthumously outweigh whatever damage might flow from denying information to the trier of fact in any particular case. *Id.* at 241 (Tatel, J., dissenting).

Petitioner also seeks rehearing *in banc* with respect to the court's work product ruling. *Id.* at 235–37. Because drawing a precise line between fact and opinion work product is a difficult and sensitive question with serious implications for the attorney-client relationship, and because I think the court has drawn the line in the wrong place, this issue also warrants *in banc* review.

The court's conclusion that because the interview was "preliminary" and "initiated" by the client, the lawyer may not have "sharply focused or weeded" the words of the client, *id.* at 236, reflects a view of the lawyer's role very different from my own experience. No lawyer approaches a client's problems with a "blank slate." Appellees' Petition for Rehearing With Suggestion for Rehearing En Banc at 14. Even at a first meeting, regardless of who initiates it, lawyers bring their own judgment, experience, and knowledge of the law to conversations with clients. Of course lawyers may want to encourage wide-ranging discussions at first meetings, but they do so in order to draw out and record information they think might be important. Unless they take verbatim notes, the questions they ask and those facts they write down reflect their own views about what is important to their client's case. Whether courts can require production of attorney work product should turn not on the stage of representation or who initiates a meeting, but on whether the attorney's notes are entirely factual, or whether they instead represent the "opinions, judgments, and thought processes of counsel." *In re Sealed Case,* 676 F.2d 793, 809 (D.C. Cir. 1982).

The notes in this case demonstrate quite clearly that the lawyer actively exercised his judgment when interviewing his client. In two hours, he created only three pages of notes. Far from taking verbatim notes, the lawyer obviously wrote down what he thought was significant, omitting everything else. The notes bear the markings of a lawyer focusing the words of his client; he underlined certain words, placing both checkmarks and question marks next to certain sections. The notes clearly represent the opinions, judgments, and thought processes of counsel.

After this decision, no lawyer will risk having his notes end up before a grand jury because of a judicial finding that he had not "sharply focused or weeded" the words of the client; lawyers will simply stop taking notes at early, critical meetings with clients. Not only will this damage the ability of lawyers to represent their clients but in the end there will be no notes for grand juries to see. Similar consequences, of course, may flow from the court's new attorney-client privi-

lege balancing test; advised that their disclosures might be unprotected after death, clients may simply not talk candidly. As the Supreme Court noted in the psychotherapist privilege context, "[w]ithout a privilege, much of the desirable evidence to which litigants . . . seek access . . . is unlikely to come into being." *Jaffee*, 116 S. Ct. at 1929. This court's two new holdings—one chilling client disclosure, the other chilling lawyer note-taking—will damage the quality of legal representation without producing any corresponding benefits to the fact-finding process.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 97-3006

September Term, 1997

95ms00446
95ms00447

In re: Sealed Case

United States Court of Appeals
For the District of Columbia Circuit

FILED NOV 21 1997

Consolidated with 97-3007

BEFORE: Wald, Williams and Tatel, Circuit Judges

ORDER

Upon consideration of appellees' petition for rehearing filed October 8, 1997, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Robert A. Bonner
Robert A. Bonner
Deputy Clerk

Circuit Judge Tatel would grant the petition.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 97-3006

September Term, 1997

95ms00446
95ms00447

In re: Sealed Case

United States Court of Appeals
For the District of Columbia Circuit

FILED NOV 21 1997

Consolidated with 97-3007

BEFORE: Edwards, Chief Judge; Wald, Silberman, Williams, Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel and Garland, Circuit Judges

ORDER

Appellees' Suggestion For Rehearing In Banc and the response thereto have been circulated to the full court. The taking of a vote was requested. Thereafter, a majority of the judges of the court in regular active service did not vote in favor of the suggestion. Upon consideration of the foregoing, it is

ORDERED that the suggestion be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Robert A Bonner
Robert A. Bonner
Deputy Clerk

A statement of Circuit Judge Tatel dissenting from the denial of rehearing in banc, in which Circuit Judge Ginsburg joins with respect to the issue of attorney-client privilege, is attached.

Circuit Judges Sentelle and Garland did not participate in this matter.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 97-3006 **September Term, 1997**

95ms00446
95ms00447

In re: Sealed Case

United States Court of Appeals
For the District of Columbia Circuit
FILED NOV 21 1997

Consolidated with 97-3007

BEFORE: Edwards, Chief Judge; Wald, Silberman, Williams, Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel and Garland, Circuit Judges

ORDER

Appellees' Suggestion For Rehearing In Banc and the response thereto have been circulated to the full court. The taking of a vote was requested. Thereafter, a majority of the judges of the court in regular active service did not vote in favor of the suggestion. Upon consideration of the foregoing, it is

ORDERED that the suggestion be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Robert A Bonner
Robert A. Bonner
Deputy Clerk

A statement of Circuit Judge Tatel dissenting from the denial of rehearing in banc, in which Circuit Judge Ginsburg joins with respect to the issue of attorney-client privilege, is attached.

Circuit Judges Sentelle and Garland did not participate in this matter.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 97-3006 **September Term, 1997**

95ms00446
95ms00447

In re: Sealed Case

United States Court of Appeals
For the District of Columbia Circuit

FILED NOV 21 1997

Consolidated with 97-3007

BEFORE: Wald, Williams and Tatel, Circuit Judges

ORDER

Upon consideration of appellees' petition for rehearing filed October 8, 1997, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Robert H. Bonner
Robert A. Bonner
Deputy Clerk

Circuit Judge Tatel would grant the petition.

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No.96-1783 Office of the President v. Office of Independent Counsel

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No. 96-1783

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

OFFICE OF THE PRESIDENT, PETITIONER

v.

OFFICE OF INDEPENDENT COUNSEL, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

LODGING

SETH P. WAXMAN
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No. 96-1783

In the Supreme Court of the United States

OCTOBER TERM, 1996

OFFICE OF THE PRESIDENT,
Petitioner,
v.

OFFICE OF INDEPENDENT COUNSEL, ET AL.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

REPLY BRIEF FOR THE PETITIONER

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LAWRENCE S. ROBBINS
GARY A. WINTERS
Mayer, Brown & Platt
2000 Pennsylvania Ave., NW
Suite 6500
Washington, D.C. 20006
(202) 463-2000

Special Attorneys for the Petitioner

No. 96-1783

IN THE
Supreme Court of the United States
OCTOBER TERM, 1996

OFFICE OF THE PRESIDENT,
Petitioner,
v.
OFFICE OF INDEPENDENT COUNSEL, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

BRIEF OF WILLIAM T. COLEMAN, JR., ARTHUR B. CULVAHOUSE, JR., LLOYD N. CUTLER, NICHOLAS deB. KATZENBACH, ABNER J. MIKVA, AND ELLIOT L. RICHARDSON AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

WILLIAM T. COLEMAN, JR.*
555 13th Street, N.W.
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ARTHUR B. CULVAHOUSE, JR.
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* *Counsel of Record*

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No. 96-1783

In The

Supreme Court of the United States

OCTOBER TERM, 1996

OFFICE OF THE PRESIDENT,
Petitioner,

v.

OFFICE OF INDEPENDENT COUNSEL, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF OF LAW PROFESSORS PAUL F. ROTHSTEIN, RONALD J. ALLEN, MARGARET A. BERGER, WILLIAM J. BRIDGE, PAUL C. GIANNELLI, STEPHEN GILLERS, LAIRD C. KIRKPATRICK, DAVID P. LEONARD, MIGUEL A. MÉNDEZ, ROGER C. PARK, MYRNA S. RAEDER, JOHN W. REED, MARK REUTLINGER, LEO M. ROMERO, STEPHEN A. SALTZBURG, AND PETER TILLERS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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Counsel for Amici Curiae

* Counsel of Record

June 2, 1997

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SUPREME COURT OF THE UNITED STATES

Office of the President
Petitioner

v. No. 96-1783

Off. of Ind. Counsel, et al.
Respondent

To John D. Bates Counsel for Respondent:

YOU ARE HEREBY NOTIFIED pursuant to Rule 12.3 that a petition for writ of certiorari in the above-entitled case was filed in the Supreme Court of the United States on May 12, 1997, and placed on the docket May 14, 1997. Pursuant to Rule 15.3, the due date for a brief in opposition is June 13, 1997. If the due date is a Saturday, Sunday, or federal legal holiday, the brief is due on the next day that is not a Saturday, Sunday, or federal legal holiday.

Unless the Solicitor General of the United States represents the respondent, an appearance/waiver form is enclosed and should be sent to the Clerk only in the event you do not intend to file a response to the petition.

Your attention is directed to Rule 9 of the Rules of the Supreme Court reproduced on the back of the appearance form. Only counsel of record will receive notification of the Court's action in this case.

Andrew L. Frey
Counsel for Petitioner
Mayer, Brown & Platt
2000 Pennsylvania Ave., N.W.
Number and Street

Washington, D.C. 20006
City, State, and Zip Code

(202) 778-0602
Telephone Number

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APPEARANCE FORM / WAIVER

SUPREME COURT OF THE UNITED STATES

No. _____

_____ v. _____

(Petitioner) (Respondent)

I do not intend to file a response to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☐ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

_____

_____

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed from when you were admitted):

Signature _____

Date: _____

(Type or print) Name _____

☐ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

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A copy of this form must be sent to petitioner's counsel or to petitioner if *pro se*. Please indicate below the name(s) of the recipient(s) of a copy of this form:

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Supreme Court Rule 9

APPEARANCE OF COUNSEL

1. An attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5, except that admission to the Bar of this Court is not required for an attorney appointed under the Criminal Justice Act of 1964, see 18 U. S. C. § 3006A(d)(6), or under any other applicable federal statute. **The attorney whose name, address, and telephone number appear on the cover of a document presented for filing is considered counsel of record, and a separate notice of appearance need not be filed.** If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record shall be clearly identified.

2. **An attorney representing a party who will not be filing a document shall enter a separate notice of appearance as counsel of record indicating the name of the party represented.** A separate notice of appearance shall also be entered whenever an attorney is substituted as counsel of record in a particular case.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

No. 96-1783

OFFICE OF THE PRESIDENT, PETITIONER

v.

OFFICE OF INDEPENDENT COUNSEL, ET AL.

CERTIFICATE OF SERVICE

It is hereby certified that all parties required to be served have been served copies of the **typewritten BRIEF AMICUS CURIAE FOR THE UNITED STATES, ACTING THROUGH THE ATTORNEY GENERAL, SUPPORTING CERTIORARI** (to be replaced with printed copies) via Hand Delivery and First Class mail, postage prepaid, on this 6th day of June, 1997.

See Attached Service List

SETH P. WAXMAN
Acting Solicitor General

June 6, 1997

96-1783
OFFICE OF THE PRESIDENT
OFFICE OF INDEPENDENT COUNSEL, ET AL.

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WRITER'S DIRECT DIAL NUMBER
(202) 383-5325

OUR FILE NUMBER
600,000-010
DC1-287309.V1

BY HAND

Honorable Kenneth W. Starr
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Re: Office of the President v. Office of Independent Counsel, No. 96-1783

Dear Mr. Starr:

Arthur B. Culvahouse, Jr., Lloyd N. Cutler, Nicholas deB. Katzenbach, Abner J. Mikva, Elliot Richardson, and I intend to file a brief as amici curiae in support of the petition for a writ of certiorari in No. 96-1783, Office of the President v. Office of Independent Counsel. Pursuant to Supreme Court Rule 37.2, we request that you consent on behalf of your client, the Federal Respondent, to the filing of our brief.

To indicate your client's consent, please countersign this letter below and return it in the enclosed envelope. A copy of this letter is also enclosed for your records. Please call me if you have any questions.

Sincerely,

William T. Coleman, Jr.

WTC,Jr:seb
Enclosures

Consented to on behalf of
the Federal Respondent:

_____
Kenneth W. Starr, Esquire
Counsel of Record for the Federal Respondent

* take no position on FL

* Carol [redacted]
  - → secretary
  - → get him brief

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GERGEN, DAVID

~~PRIVILEGED AND CONFIDENTIAL~~
ATTORNEY WORK PRODUCT

July 13, 1995

MEMORANDUM FOR THE FILE

FROM: Miriam Nemetz

542-DC-00037735

RE: Gergen Deposition

Yesterday I received a debriefing regarding David Gergen's deposition from Andy Krulwich. Gergen's deposition lasted for three and one-half hours. Giuffra and Kravitz were the questioners.

Background. In response to a series of background questions, Gergen testified as follows. Gearan did not report to Gergen, but Gergen did oversee some of Gearan's activities. Gergen reported to McLarty and the President. Gergen had virtually no relationship with Foster. Foster came to the White House in June and Foster died in July. Gergen had contact with Foster in connection with the Wall Street Journal's request for photographs and the Supreme Court vacancy. He also occasionally passed him on the stairwell. Gergen never discussed Whitewater with Foster, the President, or Maggie Williams.

Night of July 20th. Gergen learned of Foster's death at a dinner party at the Bradleys' house. Jody Greenstone (who Krulwich thinks was Gergen's assistant) had received a call from Gearan and then contacted Gergen. Gergen called Gearan from the party and was told that Foster's body had been found by the Park Police and that the President had already been told. Gergen asked whether a note had been found, and Gearan said no, but that it was an apparent suicide. Gearan asked Gergen's recommendation on press response, and Gergen recommended notifying the press that night. Gergen himself told the news to a Washington Post reporter who was at the party. Gergen spoke to Mickey Kantor and James Carville, who were also there, about the emotional effect the death would have on the President. He also spoke with Vernon Jordan about the public impact of the suicide.

Gergen and Jordan went to Foster's house at about 11 p.m. The President, Senator Pryor, Webb Hubbell, David Watkins, and McLarty were among the 15 people at the house. There was a lot of grieving and crying. There were no police officers there. Gergen was asked whether there was any discussion at the house about the need to seal or lock the office, and Gergen said no.

Gergen went back to the Residence in Vernon Jordan's car and met with others in the 2nd floor kitchen. The President, McLarty, Jordan, and Gergen were there. Mickey Kantor and his

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wife were there for part of the time. Gergen was asked the subject matter of the discussion, and he said the President was grieving and reminiscing about growing up with Foster. The President went into the living room two or three times to call Hillary. Gergen said the subjects of their conversations were mutual grieving and what to do with the schedule the next few days.

Gergen was asked whether he had any conversations about sealing the office at the Residence. Gergen said he called Gearan to let him know where they were, and they had two or three conversations between about 12 and 1. McLarty and Gergen discussed sealing the office. Gergen then asked Gearan whether the office was sealed, and Gergen said he had to check. He either put Gergen on hold or said he would call back, and a few minutes later said the office was sealed. Gergen did not know the source of Gearan's information, but had the impression it was someone in the Deputy Chief of Staff's office (Burton or Roy Neel).

Gergen was asked about his conversations with McLarty, and he said that they mostly talked about why Foster would take his life and what the President should do. Sealing the office was secondary. Gergen said he was not aware of any request by law enforcement to seal the office.

Gergen was asked what he knew about the burn bag and the trash bag. He said that Gearan told him that Foster's trash had been secured, but that the burn bag had been taken out and was intermingled with other material and that the decision had been made not to pursue it. He asked who decided, and said he did not know. He told McLarty, who "took it aboard." Gergen did not think he was being consulted about the matters; he thought it was already done.

Gergen was asked if he ever discussed with Nussbaum that Nussbaum entered Foster's office that night, and he said possibly, later. He gave the same answer with respect to Williams. He was sure he never had such a conversation with Thomasson.

Gergen said he spoke with the First Lady briefly that night. She asked how the President was doing.

July 21st. Gergen said he attended the senior staff meeting Wednesday morning. He did not recall any discussion there about the investigation of Foster's death.

Gergen did not see anyone carrying a box. He does not recall going to the Counsel's Office suite or talking to Nussbaum that day. He does not specifically recall talking to Maggie Williams, although a call from her is reflected on his phone log.

DF 781221

Although he does not remember the conversation, he has the impression she was concerned about the Clintons' grief. He did not do anything to follow up on the sealing of the office.

Review of Foster Office. Gergen said he knew nothing about the review of Foster's office before it occurred.

The Note. Giuffra jumped around when asking questions about the note, but I will describe Gergen's testimony chronologically. Gergen went to Chicago on July 26th. He was making calls in his hotel room when McLarty came in to tell him that he had been called and that a note had been found in the bottom of Foster's briefcase. McLarty either read the note or described its highlights to Gergen. Gergen said he thought the note should be turned over as soon as possible, but McLarty said Burton had raised some issues. McLarty put Gergen on the phone with Burton. Gergen said the note should be turned over. Burton raised executive privilege and privacy concerns.

Giuffra then asked whether Gergen spoke to anyone other than Burton or McLarty that evening about the note, and Gergen said no. (Because of the way he framed the question, Giuffra did not elicit testimony regarding a second conversation Gergen had with McLarty. According to Burt Rein, in the later conversation, McLarty said he had decided to wait until the next day to decide whether to turn over the note. McLarty said that the First Lady was very upset and believed the matter required further thought and that the President should not yet be told. She said they should have a coherent position and should have decided what to do before they told the President. She also was concerned about the privacy of the family.)

Gergen said that the next morning, back in Washington, there were a series of conversations about the note. Nussbaum said he was not opposed to turning over the note, but put a number of issues on the table -- executive privilege, privacy, was it a suicide note, letting Foster family know.

Jim Hamilton came over to the White House in the morning. He said the family should be told before the note was released. Gergen agreed it was only decent to wait until Mrs. Foster could be told. However, she was on her way back from Arkansas, so this caused some delay. Hamilton told them in the mid-afternoon that Mrs. Foster agreed the note could be turned over.

Gergen said he was present when McLarty told the President about the note in a 6 p.m. meeting on Tuesday, July 27th. Nussbaum may also have been present. It was Gergen's impression that the President did not know about the note before this meeting. The contents of the note were reviewed with the President, and he said it should be turned over right away. They

did not discuss legal issues with the President, only privacy and decency.

Gergen was also present at the meeting with Reno and Heymann. Gergen said Reno immediately asked why the note had note been turned over and told them to call the Park Police. She seemed to accept the reasons for the delay when they were explained to her.

Gergen was asked if there were any discussions that the note would reflect badly on the White House. He said the speculated that the note, particularly the statement that the FBI lied, might cause the Attorney General to feel she had to investigate.

Complaints. Gergen was asked whether, prior to the 27th, he had any knowledge of DOJ concerns about he investigation. Gergen said he had some conversations with Heymann, with whom he had a longstanding relationship. Gergen asked Heymann about what the process would be. Heymann said that the Park Police, not DOJ, would investigate. Gergen also recalled a conversation with Heymann in which the White House asked permission to do a preemptive release of the note; Heymann said no.

Gergen was asked about his conversation with Tom Collier. Gergen said Collier called him because he was not on good terms with Neel and Burton. Collier said he had spoken with Neel and Burton. He was concerned about the pace of the investigation. There also were complaints from the Park Police that during the office review Nussbaum would not let them see papers that he did not deem to be relevant. Collier did not say whether Nussbaum was right or wrong, but he said he could not guarantee that the Park Police would not go to the press. Collier asked Gergen to speak to McLarty and speed up the White House's response to the Park Police's request for Foster's telephone logs. Gergen said he did this, and understood that the telephone logs were delivered the next day.

Gergen was asked McLarty's views of Nussbaum. He said that McLarty respected Nussbaum's legal judgment but was frustrated because he (McLarty) had a broader perspective that also took into account perception and political issues. Gergen said he did not recall talking directly to Nussbaum about the pace of the Park Police investigation.

Gergen said that, despite his philosophical differences with Nussbaum, he understood that Foster was working on official White House and personal Clinton legal matters that were totally unrelated to the Park Police investigation. Giuffra then asked when he learned that Foster was working on Clinton personal matters. Gergen said he was not sure, but he assumed it was so

because, based on his experience with prior administrations, the White House Counsel's Office always does personal work for the President.

Gergen said he had no conversations with the First Lady or the President about Foster's papers. He did not recall having such a conversation with Maggie Williams.

Kravitz Questions

Kravitz showed Gergen an FBI 302 that summarized an interview on July 30, 1993. As reflected in the memo, Gergen said that by 10:30 a.m. on July 27 everyone agreed that the note should be turned over. Gergen said his memory was fresher at that time and he had no reason to doubt the accuracy of the memo.

Kravitz asked whether Nussbaum used the concerns he identified as a basis not to turn over the note at all. Gergen said no, he was just raising questions that should be answered before doing so. He observed that they turned the note over quickly after Mrs. Foster and the President were told.

Kravitz asked whether, on July 26, Gergen told anyone that they were taking too long to tell the President about the note. He said he thought it should be more quick, but that McLarty said he wanted to wait until the next day, and Gergen thought that was reasonable.

Kravitz asked whether Reno was comfortable after being walked through the reasons for delay in turning over the note, and Gergen said yes.

Kravitz asked whether he was sure he had used the word "sealed" when talking to McLarty and Gearan and he said yes. Kravitz asked whether, when he talked about sealing the office, he had a distinction in mind between Foster's office and the Counsel Office suite, and Gergen said he was thinking of Foster's office.

Kravitz asked about the atmosphere at the White House after Foster's death. Gergen said people were distraught. It was the first suicide of a high-ranking official since Forrestal, fifty years ago.

DF 781224

FOIA #56806 (URTS 16304) DocId: 70105000 Page 6

There were three witnesses present when Mrs. Clinton saw the note and would have given her "views" or "instructions" regarding the handling of the note: Nussbaum, Neuwirth, and Burton. Their testimony is consistent in that they say that Mrs. Clinton had an emotional reaction (she started crying) and that she said Nussbaum should take care of the situation. Nussbaum recently confirmed that testimony and denied adamantly that Mrs. Clinton had expressed any view to him on the handling of the note.

McLarty confirms that he talked to Nussbaum and Burton on Monday the 26th. But he has never said that Nussbaum or Burton related Mrs. Clinton's views on the subject, and his attorney recently confirmed, according to reports, that McLarty never talked to Mrs. Clinton about the handling of the note. (McLarty's attorney further stated that McLarty did not relate Mrs. Clinton's views as to when to communicate the information to the President.)

Note that Gergen's recollection of McLarty's statement would be admissible only in a case against McLarty (unless McLarty's statement was during and in the furtherance of a conspiracy).

Because there is no evidence that McLarty talked to Mrs. Clinton; because Nussbaum, Neuwirth, and Burton support McLarty's testimony; and because the note was in fact disclosed to law enforcement in a timely manner, I do not recommend any further follow-up.

Screened by NARA (RD-F) 08-01-2018 FOIA #56806 (URTS 16304) DOCID: 70105002

HAMILTON, JAMES

codicil
re-phrased Q
letter
↓
next day
or so

Jim
responses to Q's

clients prepared to respond

- items - why do you need them?
#1, 2, 3

contents of folder
- .45 calibre pistol ⇒ in Sharon's possession
  - why?
  - when can get it back?

magazine - list
why?

original book of quotes?
↳ Lisa not comfortable?
↳ why?

John → information re: Travel Office
* disinclined to do that

confirm description of it

limit to VWF Sn.

nobody checked to see if ammo chambered in it ⇒

in DC Tuesday
Wed - govt agency

Fri - South Carolina -
couple of weeks

not opposed to put them in writing

(1) gray
bright blue
blue-gray
bright + light pink + white
dark red (maroon)
dark blue
beige

(2) yes
sometimes

(3) he possessed
kept in garbage can to
feed birds

(4) maybe Bugh + VWF III -
don't remember
VWF III all the time

(5) Laura had several roadmaps
in car b/c didn't know
where he was going?
NO? ⇒ maps in car

(6) Tom ⇒ Tom Burnett,
friend of Laura's

(7) NO

(8) NO

(9) NO ONE HAS SEEN CODICIL [redacted] 302 *

(10) p.63 New Yorker

[redacted] * auto withdrawals

$35.00
↳ auto drafts from Chevron $35
came through as $3500 ⇒ mistake

[redacted]

(11)

letter to Ham.

(1) codicil

(2) responses

(3) book of quote - pages ⇒ from 30?

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 15, 1996

James Hamilton, Esq.
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

Dear Jim:

I am writing regarding two closely related subjects, both involving the completion of our investigation of the circumstances of Vince Foster's death. Your cooperation on the second of these subjects likely will help to expedite that process.

At the outset, some context may be helpful. Mr. Foster would have been an important witness with respect to at least three separate issues that have been investigated extensively by various regulatory agencies, committees of Congress, and law enforcement agencies (including this Office): the operation of Whitewater Development; the operation of Madison Guaranty, including the Rose Law Firm's work for Madison Guaranty; and the Travel Office firings. In addition, there is a fourth issue that has been extensively investigated and that obviously implicates Mr. Foster's name: the handling of his documents and papers by White House officials and others in the aftermath of his death. These issues are in addition to our ongoing investigation of the circumstances of Mr. Foster's death.

These issues have been investigated in multiple fora and have been the subject of innumerable media stories. We understand the family's distress at seeing or hearing Mr. Foster's name bandied about in media stories or congressional hearings in connection with these issues. Recent stories on a new subject -- the FBI background files matter -- must further add to that distress. As you know, however, we cannot control the media's interest in these issues, and we cannot control any investigation but our own.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted] there also has been a great deal of media focus on Mr. Foster's death. That attention has involved primarily the motive, rather than the manner or location, of the death. But some outlets, [redacted] have devoted a great deal of attention as well to the manner and location of the death.

We suspect that the primary reason Mr. Foster's death still gathers attention from the media and the public is, at least in part, because of these issues still under investigation (Whitewater, Madison, the Travel Office, the Foster documents, and the FBI background files matter). Indeed, a national editorial as recently as last Friday illustrates that point. See Wall Street Journal, page A-12, July 12, 1996. [redacted] Please be assured that there has been no deliberate delay or decision to prolong the investigation of Mr. Foster's death, or any of our other investigations for that matter.

There are at least four reasons that we have not yet been able to announce any results of our investigation of Mr. Foster's death. We believe you are aware of these reasons, but they are worth repeating. First, we insisted upon a painstaking review of the physical evidence, a process that we believed had the potential to be quite helpful in resolving some unanswered questions and in assessing the manner and location of the death. That process, as you might imagine, has taken a great deal of time, frankly more than we anticipated. Second, we have been in litigation with you for six months over certain pre-death notes of your conversations with Mr. Foster and certain post-death notes that likely contain relevant evidence regarding Mr. Foster's activities and state of mind in the days before his death. Third, assessing the motive of Mr. Foster's death is complicated because it may be intertwined with at least some of the issues noted above; indeed, the family itself has referred to the Travel Office as an important factor weighing on Mr. Foster. Finally, as you have implored us, we must take great care in any report issued or filed with the Court, which means that any report-writing process also takes a good deal of time.

[redacted] Media attention on Mr. Foster derives at least in part from other ongoing issues, not from the pendency of our investigation of Mr. Foster's death. Indeed, it is our understanding that a committee

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

of Congress was contemplating holding hearings on Mr. Foster's death in late 1995 or early 1996, but determined not to do so because this Office had not yet concluded its investigation. Such hearings no doubt would have greatly increased the public attention devoted to Mr. Foster's death.

In sum, let us assure you and the family that we do consider them to be victims of all of this publicity and that we have tried, to the extent we can, not to cause them further distress.

[redacted] We are proceeding, we believe, with appropriate dispatch, and we appreciate the patience and understanding of you and the family.

The second matter I want to raise involves the acquisition of further information relevant to our investigation of Mr. Foster's death. In the course of gathering additional evidence, a few questions have arisen that, we believe, can only be answered by your clients, the Foster family members. Although it might be easier for us simply to ask to interview the family members again, we recognize that might be more burdensome on you and them. Hence, we are prepared to obtain this additional information by means of written responses to a few questions and requests for materials.

The prompt provision of this small amount of additional information will significantly assist us in our effort to bring the investigation of Mr. Foster's death to closure in the near future. Therefore, please provide answers to the written questions and responses to the requests for materials that are enclosed herewith, on behalf of your clients Lisa Foster Moody, the Foster children, Beryl Anthony and Sharon Bowman. We would appreciate any efforts you and your clients can make to provide this information by August 2, 1996. We hope and strongly believe that the provision of written responses will obviate the need for any additional interviews of family members as part of our investigation of Mr. Foster's death.

Thank you for your assistance. Please feel free to contact me if you or your clients have any questions or want to voice further concerns.

Sincerely,

John D. Bates
Deputy Independent Counsel

QUESTIONS FOR FOSTER FAMILY

1. Please describe the colors of the carpets located in the Foster home in Washington, D.C.

2. Did Vince Foster ever eat sunflower seeds, and, if so, how frequently?

3. Did anyone see Vince Foster buy, eat, or possess sunflower seeds in the days immediately prior to his death?

4. Did any other Foster family members or friends buy sunflower seed, or eat or possess them in the grey Honda sedan, in the days immediately prior to Vince Foster's death?

5. Do Laura Foster or Vincent Foster III recall seeing a road map of the Washington, D.C., metropolitan area on the front passenger side floorboard of the Honda on the morning of July 20, 1993?

6. A birthday card addressed to "Tom" was found in the car; who is Tom, what is Tom's relationship to Vince Foster, and why was the card in the Honda?

7. Was the "cowboy" type gun ever located at the Foster home in Washington, D.C. after July 20, 1993? Was it ever found anywhere else?

8. Was any ammunition found in the Foster house after July 20, 1993? If so, where was it found? (Other than the .45 caliber bullet which Lisa Foster showed SA James Clemente in Little Rock.)

9. Do any Foster family members know of or possess any hand guns which were formerly owned by Vincent Foster, Sr., but which were not listed on the codicil to his will?

10. In Lisa Foster's New Yorker interview, she reportedly stated that there was a White House Credit Union (WHCU) error that caused an overdraft in Foster's account shortly before his death. This overdraft reportedly caused Lisa Foster to request and obtain weekly account statements from the WHCU. However, a review of WHCU records and interviews of WHCU employees reveals no such occurrence prior to July 20, 1993. Please explain in full.

PRODUCTION OF ITEMS

1. Please deliver to OIC the .45 caliber semi-automatic "squared-off" pistol, and any ammunition that was or is currently loaded therein, which Lisa Foster has stated is in the possession of Beryl Anthony.
2. Please deliver to OIC the .45 caliber magazine and bullet that were removed from the "squared-off" gun before it was given to Beryl Anthony.

3. Please deliver to OIC the original book of quotes that had notations around the quotes about death and about life after death.

4. Please deliver to OIC the file folder labeled "Insurance policy" (and its contents) that was shown to SA Russell Bransford on April 13, 1994 at Mr. Hamilton's office.

5. Please deliver to OIC Mr. Foster's passport.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 30, 1996

Mr. James Hamilton
Mr. Michael Spafford
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jim and Mike:

This Office has a need for the [redacted] that were subpoenaed by the grand jury and that we reviewed at your office. We request that you have those documents delivered to our office as soon as possible, preferably before this Thursday.

Please do not hesitate to call me or John Bates if you have any questions about this request. Thank you very much for your cooperation.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 6-30-96

TO: Jim Hamilton/Michael Spafford

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: Please deliver one copy to Mr. Hamilton and one copy to Mr. Spafford.

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*** TX REPORT ***
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TRANSMISSION OK

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PGS.	2
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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 6-30-96

TO: Jim Hamilton/Michael Spafford

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: Please deliver one copy to Mr. Hamilton and one copy to Mr. Spafford.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

April 12, 1996

James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Dear Jim:

We write to request that you produce to this Office as soon as possible two narrow categories of documents: (1) all correspondence between your firm and the White House reflecting the transfer of any of Vince Foster's files or documents from the White House to Swidler & Berlin or from Swidler & Berlin back to the White House; and (2) all labelled or unlabelled file folders (as opposed to the documents within the folders) that were used to store Vince Foster's documents at the White House. We request such information in order to enable us to wrap up our investigatory work with respect to the movement of documents from Vince Foster's office.

We of course recognize that this Office is currently in litigation with you over a broader category of documents, but we nonetheless hope that you could produce these limited categories in order to facilitate the completion of this particular aspect of our investigation. We would agree that production of these documents in no way waives or affects any right you may possess not to produce any other documents.

Please do not hesitate to call me if you have any questions.

Sincerely,

John D. Bates
Deputy Independent Counsel

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1402
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SUBADDRESS	
CONNECTION ID	
ST. TIME	04/12 10:11
USAGE T	00'47
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 4/12/96

TO: Jim Hamilton

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: John Bates

Number of Pages: 2 (including this cover sheet)

Message: _____

FOIA #56806 (URTS 16304) DocId: 70105002 Page 15

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 4/12/96

TO: Jim Hamilton

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: John Bates

Number of Pages: 2 (including this cover sheet)

Message: _____

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

March 4, 1996

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

Last year some items were removed from the Foster family home in Hope to allow the FBI to obtain fingerprints from them. Vince Foster's mother very much wishes that these items be returned and is upset that they have not been. Would you please have them returned at your earlier convenience.

I appreciate your cooperation in this regard.

Sincerely,

James Hamilton

JH/cmb

3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

FOIA #56806 (URTS 16304) DocId: 70105002 Page 17

SWIDLER & BERLIN
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3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: March 4, 1996 Time: 5:35pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 2 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

March 4, 1996

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

Last year some items were removed from the Foster family home in Hope to allow the FBI to obtain fingerprints from them. Vince Foster's mother very much wishes that these items be returned and is upset that they have not been. Would you please have them returned at your earlier convenience.

I appreciate your cooperation in this regard.

Sincerely,

James Hamilton

JH/cmb

3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

SWIDLER & BERLIN
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3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: March 4, 1996 Time: 5:35pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 2 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

March 14, 1996

James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jim:

As we understand it, [redacted] We also understand that you have gathered all documents that Swidler & Berlin received from the White House following Vince Foster's death. As we have agreed, we will review those documents in the first instance at Swidler & Berlin beginning on Thursday, March 21. After we have reviewed the documents, we may request the documents (or copies of them) from you and [redacted] We have agreed that the review process will not in any way affect our right to seek those documents. We have also agreed that the review process will not in any way affect or waive any right [redacted] may possess to object to production of documents.

Thank you and please do not hesitate to contact me if you have any questions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: MARCH 14 1996

TO: JAMES HAMILTON, ESQ.

Company Name: SWIDLER & BERLIN

Fax Number: 202-424-7643/45 Telephone Number: 202-424-7826

FROM: JOHN D. BATES, ESQ., DEPUTY INDEPENDENT COUNSEL

Number of Pages: 2 (including this cover sheet)

Message:

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*** TX REPORT ***
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TRANSMISSION OK

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SUBADDRESS	
CONNECTION ID	
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RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: MARCH 14 1996

TO: JAMES HAMILTON, ESQ.

Company Name: JWIDLER & BERLIN

Fax Number: 202-424-7643/45 Telephone Number: 202-424-7826

FROM: JOHN D. BATES, ESQ., DEPUTY INDEPENDENT COUNSEL

Number of Pages: 2 (including this cover sheet)

Message:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

April 20, 1995

BY FEDERAL EXPRESS

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

William S. Duffey, Jr., Esq.
Deputy Independent Counsel
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211

Dear Bill:

Best regards,

James Hamilton

JH/cmb

Enclosures

820-00000001

6037551.1

Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

December 13, 1995

VIA TELECOPIER

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Mr. James Hamilton
Attorney-at-law
Suite 300
Swidler & Berlin
3000 K Street, N.W.
Washington, DC 20007

Re: Grand Jury Subpoena

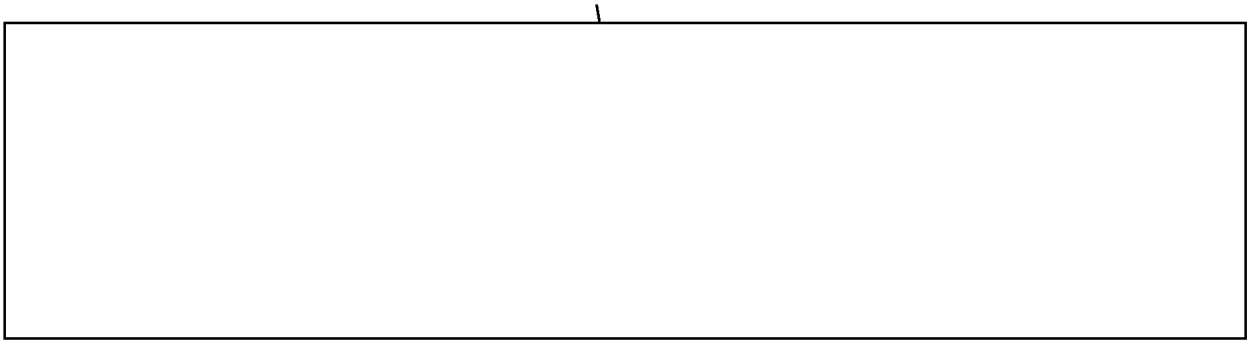
Dear Jim:

On Friday, a grand jury subpoena was issued to relating to said documents to be produced for the grand jury in

In our telephone conference on the afternoon of December 12, I advised you that it was our position that all such records should be produced.

It was your position that you did not think that some of the documents would be relevant. I advised you, that at this point, any and all documents related to the following should be produced, without waiving the total subpoena at this point:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



If you have any questions regarding this, please give me a call.

Very truly yours,

W. Hickman Ewing, Jr.

cc: Alden Atkins, Esq.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 13, 1995

James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jim:

Attached is a grand jury subpoena calling for certain documents in the possession, custody, or control of your client [redacted] The subpoena has a return date of [redacted] Thank you for agreeing to accept service on her behalf.

This subpoena does not call for [redacted]

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

Dear Jim:

As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

In your letter of December 1, 1995, you stated that you and your firm would not comply with this Office's document request, and indeed would not even produce a log. Because of your unwillingness voluntarily to provide the requested documents or a log, grand jury subpoenas were issued today to you and to the law firm of Swidler & Berlin requiring production of certain documents on or before December 18, 1995.[1]

Your letter of December 1, 1995 made several other points that warrant a brief response.

You point out the family's concerns about our requests and the continuing nature of our investigation. We are sorry for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued

[1] Our document request of November 9, 1995 also requested documents from your client Lisa Foster. We will continue to discuss with you and pursue any requests or subpoenas to the Foster family separately from the grand jury subpoenas to you and your law firm.

interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief, however, that we must continue to press forward to obtain all relevant information.[2]

With respect to documents in the possession, custody, or control of you or your law firm that were created either before or after Mr. Foster's death, and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) concern that we have not received the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death. Those concerns have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that had not been provided to this Office or, indeed, to any law enforcement officials. We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death.

Regarding documents created after Mr. Foster's death that are relevant to possible obstruction of justice with respect to the July-August 1993 federal investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony, as you well know. Given the role of you and Mr. Spafford in those events, it has become apparent to us, after talking to you, Mr. Spafford, and a number of other people, that you and your law firm may have relevant documentary information about the events occurring in the days after Mr. Foster's death.

We do recognize that some of the documents created before or after Mr. Foster's death that are in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. As you know, however, we have serious doubts about some of the general claims you have made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents that we believe are in your possession or your firm's possession.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

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[2] That does not mean that we must publish all information provided to this Office; appropriate safeguards can be used to protect against the dissemination of sensitive information.

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M E M O R A N D U M

TO : Steve Colloton

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FROM : Currie Brankstone CB

DATE : January 30, 1996

RE : Subpoena compliance - James Hamilton/Lisa Foster

Attached please find four subpoenas, [redacted] that were served on [redacted] I have searched the compliance files, as well as Rbase, for any documents produced that would have been responsive to these subpoenas, and have found nothing. Even the correspondence files did not yield any information as to the status of these subpoenas.

[redacted] The original subpoena (noting service) has not been returned to this office, therefore I can only assume that it either has not been served, or that nothing has been produced. When Hickman returns to the office, I will ask him if he has had any word from Mr. Hamilton with regard to this subpoena.

Sorry I couldn't be of more help. Let me know what else I can do.

Thanks,
Currie

ADDENDUM:

Pam gave me a letter that Hickman wrote to Mr. Hamilton on December 13, 1996. It will probably tell you what you want to know.

CB

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

file
Wh. Water

January 5, 1994

BY HAND

The President
The White House
Washington, D.C. 20500-2000

Dear Mr. President:

At Renaissance you asked for my ideas on management of the Whitewater and trooper matters. This responds.

As a preface let me mention that, because of my representation of the Foster family, I've had numerous calls from the media about these issues and thus know the views that some of them hold. Let me also say that, so far, the White House generally has handled these matters well.

Here are my ideas, some of which are obvious and have been implemented, but perhaps bear repeating.

1. Despite the falsity of the allegations, these remain treacherous matters. L.A. Times reporters basically believe the troopers (although this confidence should now be shaken). Washington Post reporters consider the Lyons report a "joke" because of its incompleteness, and suspect a cover-up when it is cited in response to current inquiries. Reporters are intrigued by Vince's inexplicable death, and thus continue to search for Whitewater connections.

2. Investigations, like other significant matters, must be carefully managed. One person in the White House (Bruce, I assume) should be assigned responsibility for coordinating information gathering, responses to official inquiries and public statements about these matters. This cannot be treated as an incidental assignment.

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(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

3. The White House should say as little and produce as few documents as possible to the press. Statements and documents likely will be incomplete or inconclusive, and could just fuel the fires.

4. The White House should ensure that what statements it does make are consistent and coordinated. Erroneous or conflicting statements could be disastrous; the Nixon White House brought huge trouble upon itself by issuing inaccurate, inconsistent statements about Watergate. The Washington Times in particular has been dissecting current White House communications.

5. Responses to official inquiries -- both written and oral -- must be carefully made. Even oral misstatements could result in investigations and sanctions. Moreover, the Department of Justice, FBI and Park Police all leak unconscionably (and already have as to these matters), and some officials obviously are inclined to attack the White House's handling of the inquiries.

6. The White House should not forget that attorney-client and executive privileges are legitimate doctrines in proper contexts. While the on-going release of Whitewater documents to Justice seems appropriate, Bernie initially acted properly in protecting the contents of Vince's files.

7. If politically possible, Janet Reno should stick to her guns in not appointing an independent counsel for Whitewater. An independent counsel -- who might pursue his or her self-aggrandizement rather than the truth -- is a recipe for trouble.

8. The White House must let Justice do its investigation without interference. Any hint of attempts at interdiction or manipulation would raise the spectre of Watergate.

9. The White House also should avoid any future contacts with subjects of the investigation that might provoke cover-up allegations.

10. You should continue to demonstrate that you are engaged fully in the business of running the government and not distracted by these side shows. If the press senses concern, its efforts redouble.

11. Because you will continue to receive reporter questions about these matters, I respectfully suggest that you always be prepared personally with a response to the issues of the day. I expect that "no further comment" often will suffice.

S 012512

I hope the above views are at least somewhat useful. Kristina and I hugely enjoyed the opportunity to visit and recreate with you and Hillary in Hilton Head. The football game was stupendous fun; the "scrum play" was the call of the day. I only wish the rest of America knew you as the Renaissance family does and had heard your moving remarks on Saturday night.

Best regards,

James Hamilton

JH/cmb

S 012513

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

file
Wh. Water

January 5, 1994

BY HAND

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The White House
Washington, D.C. 20500-2000

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S 012511

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Best regards,

James Hamilton

JH/cmb

S 012513

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

November 15, 1995

BY HAND

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

I appreciate your November 9, 1995 letter because it allows me to comment on your specific requests to this firm and Lisa Foster. Let me say at the outset that this response is made without an exhaustive review of our firm's voluminous Foster family files, which are more than three feet thick. Such a review would be extremely time consuming and could not be accomplished before the Wednesday, November 15 deadline on which we agreed. Thus, my responses of necessity are preliminary. Nonetheless, I hope my comments below will convince you, Ken and others that many of your requests are overly broad and seek materials that are privileged. As set forth below, however, there are a number of areas as to which, in appropriate circumstances, we voluntarily would provide information.[1/]

In my conversation today with you, I requested a meeting with Ken, and others he may wish to assemble, to discuss these matters. You said this would occur after you have reviewed

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1/ This letter should be viewed, pursuant to Federal Rule of Evidence 408, as an attempt to compromise the disputes between your office and our clients and us. Also, it is submitted pursuant to the on-going non-waiver agreement we have reached.

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this submission. This firm also will be represented by our partners, Tony Fitch and Andrew Lipps.

Your requests seem essentially to deal with four different areas:

A. My relations with Vince Foster before he died;

B. Documents in Vince's possession before he died;

C. Documents relating to our representation of the Foster family; and

D. Documents in Lisa Foster's possession.

I will respond seriatim to the requests relating to these four categories. Certain legal issues regarding the work product privilege are discussed in more detail in a separate attachment to this letter.

A. Let me deal first with your requests that appear to involve, at least in part, my relations with Vince before he died. These requests are Nos. 1, 2, and 4.

Most of my involvement with Vince during the specified time period related to my work as transition counsel (which mainly involved vetting Cabinet officials, some sub-Cabinet officials and White House staff) and my work after this Administration took office in heading the outside vetting teams examining Supreme Court candidates. For example, Vince, I, and others interviewed Justices Ginsburg and Breyer and Secretary Babbitt. I believe my notes

relating to these meetings are irrelevant to your concerns.[2/] In any event, the White House now has them if they exist.

As I have informed you on a non-waiver basis, I had a private, privileged conversation with Vince about my retention regarding the White House Travel Office matter. This conversation, and my notes of it, would be protected, absent waivers, by the attorney client privilege and also by the work product privilege, for the conversation was had and the notes were made in anticipation of various expected investigations and any ensuing litigations.[3/] Nevertheless, these notes could be made available to you in appropriate circumstances.

I should note, however, another significant legal obstacle your office would face in attempting to subpoena information from me about my contacts with Vince before he died. You seek this information in connection with your investigation of Vince's suicide. We all know, after the many official investigations that have been undertaken, that his death was just that, and not a homicide. Under Sec. 9-2.161(a) of the Criminal Division Guidelines, which your office is obligated to follow by Sec. 594(F)(1) of the Independent Counsel statute, your office may issue a subpoena to an attorney only if there are "reasonable grounds to believe a crime has been . . . committed." You do not have "reasonable grounds to believe" Vince was

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[2/] I also believe my other dealings with Vince regarding vetting or other transition matters are irrelevant to your inquiry.

[3/] A criminal trial regarding the Travel Office proceeds as I write.

murdered, and thus any subpoena to me to investigate his death would contravene the authorizing statute.

B. I have certain documents that were in Vince's possession before he died. These include the documents we received from his office, all of which personnel assigned to your office already have reviewed. As you know, in appropriate circumstances and under certain conditions, the Foster family would not object to another review. There are certain documents whose copying the family strongly would resist because of their fear of leaks, their concern about how the briefcase was handled by your office, and the realization that, as in the past, Congress may be given records (e.g., 302's) that will then be made public.

I also have in my possession certain documents relating to Vince's work at the Rose Law Firm, which Vince had kept at home. Some of these documents were turned over to the FDIC; others were not because of privileges the law firm asserted or other reasons. They all predate 1992, many by a number of years, and likely are irrelevant to your inquiries.

I have copies of other documents from Vince's White House office that recently have been released by the White House or the President's attorney, which I obtained in the course of representing the family. You undoubtedly have copies of those documents and do not need them from me. I also have copies of Vince's note, which, of course, you have.

C. Many of the requests in your letter -- see, ¶¶ 1, 3, 4, 5, 7 and 8 -- seek work product created during our representation of our clients, including many pages of handwritten notes regarding conversations with various parties. These notes embody our mental

impressions, conclusions, opinions, theories, thought processes, selection of topics of importance, and strategies. Not only are these notes work product, they are to a significant degree core work product.[4/] Your requests also cover certain legal research done by our office relating to our representation of the family.

I believe the work product doctrine protects these documents.[5/] Your sole response appears to be that these materials were not created or collected in anticipation of litigation. This is simply not so.

I was engaged by the Foster family to represent it regarding all investigations relating to Vince's death and "any ensuing litigation." See, United States v. Paxson, 861 F.2d 730, 736 (D.C. Cir. 1988). Having been involved in (and written extensively about) many very public Washington controversies, I anticipated that litigation might well result, as it has.[6/] Indeed, virtually everything we did was done with "an eye toward litigation" -- see, In Re Sealed Case, 29 F.3d 715, 718 (D.C. Cir. 1994) -- for we recognized that the events relating

---

[4/] Item 7 requests documents regarding contacts with various persons "or any attorneys of the above-named persons" that relate to various matters. In addition to the work product protections that pertain to those conversations, certain conversations were conducted under a joint defense or common interest privilege.

[5/] You asked us, if we claim privilege as to any documents requested, to identify the documents and the precise privilege claimed. We have not done so in part because of the burden involved.

[6/] I was, after all, retained because I have experience in litigation and criminal, Congressional, and other investigations, not because I am a probate, estates, or corporate attorney. See, United States v. Bonnell, 483 F. Supp. 1070, 1078 (D. Minn. 1979).

death and its aftermath (particularly those concerning the search of his office and his note) eventually might end up in court. Among the litigations we anticipated were the following:

1. Early on we anticipated that litigation might result because of grand jury or Congressional requests for information from the Foster family. After reviewing the documents received from Vince's office, Mrs. Foster concluded that she did not want these records turned over to investigating authorities because they were, in some respects, highly personal and the family feared leaks. Litigation almost resulted after the Department of Justice issued a subpoena to Mrs. Foster for these documents. We prepared papers seeking a protective order, but did not file them because an accommodation with Mr. Fiske's office was reached after he assumed responsibility for the investigation.

2. In 1993, Mrs. Foster concluded that she did not want her children interviewed by investigating authorities. Had a grand jury or Congressional committee sought to do this by subpoena, litigation could well have resulted. We also have considered and researched how to resist other investigative activities by Mr. Fiske's and your offices that fortunately have not been undertaken. Indeed, a major focus of our representation has been protecting the family from overreaching investigations; use of litigation always has been a distinct possibility in this regard.

3. Early on, the family requested the Attorney General not to release a photocopy of Vince's note, and she agreed. However, we anticipated FOIA requests and subsequent litigation, which indeed occurred. Dow Jones and the editor of The Wall Street Journal

brought an FOIA suit that sought a photocopy of Vince's note.[7/] Mrs. Foster has intervened in this suit, which is still pending and which required a balancing of the public's right to know against the Foster family's privacy interest and consequently directly raised issues concerning the discovery of the note, the briefcase, the note's handling and its authenticity. Your requests, e.g., ¶8, seek attorney work product directly related to this litigation and actions taken in anticipation of it.

4. We also anticipated that Mrs. Foster or other clients could well be involved as witnesses in grand jury and Congressional investigations and in litigations against others regarding various matters, including the handling of the note.[8/] For example, as you know Mrs. Foster was at the White House on July 27, 1993, and participated in discussions about the note, its discovery, its authenticity and how it would be handled.

5. As you also know, Mike Spafford and I, as representatives of the Foster family, were involved in events at the White House concerning the search of Vince's office and discussions about discovery of the note, its authenticity and how it would be handled. We anticipated that we might be witnesses in grand jury and Congressional investigations and

---

[7/] We also anticipated that The Journal, which had attacked Vince, would be the entity taking such action.

[8/] Cases cited in the attached memorandum -- see, Sec. B(4), p. 10 -- indicate that the work product privilege applies to work related to Congressional proceedings, even though no litigation is contemplated.

litigations concerning what we had done for the family in these regards. This is one reason for Mike's copious documentation as to the matters in which he participated.

6. We anticipated, given the wild allegations that have swirled around regarding Vince's death and conduct, that the various investigations somehow might focus (however wrongly) on our clients -- e.g., that someone falsely might claim that our clients participated in or knew about conduct in which Vince allegedly was involved. Even you now seek information about Vince's travel -- a question we assume relates to the totally false allegations that Vince had a secret bank account in Geneva and was involved in nefarious spying activities. There are equally false allegations that attempt to tie Sheila Anthony and Lisa Foster to this alleged conduct -- i.e., untrue allegations that shortly before Vince's death Mrs. Anthony wired a large sum of money to Mrs. Foster. These false allegations appear intended to leave the impression that Vince was paid to keep quiet about something. Without giving credence to such outlandish allegations, we did anticipate that family members' conduct might be investigated.

7. We also actively have considered the suits family members could bring against those who defame them, invade their privacy, and use Vince's name and image and events surrounding his death (including discovery of his note) for commercial reasons. And on various occasions we have asked government bodies -- the Department of Justice, the Department of Interior and the Special Senate Whitewater Committee -- to investigate and seek prosecution of persons leaking items related to Vince's death, including a photocopy of his

note. I will be pleased to provide you with the letters I have written to government officials in these regards.

The attached memorandum provides authority for the proposition that the work product doctrine protects the notes generated during our representation of the Foster family. And it shows (as does the above discussion) that the anticipation of litigation requirement is more than met.

--- 0 ---

In addition to the legal principles that protect work product material from grand jury subpoena, the Independent Counsel statute places specific obligations on your office to respect that privilege and the attorney-client relationship. As discussed above, that statute requires you to follow the Criminal Division guidelines regarding subpoenas to attorneys. Several guidelines are relevant.

Guideline E(6) provides that, for a subpoena to issue, "[t]he information sought shall not be protected by a valid claim of privilege." As described above and in the attached memorandum, the notes you seek are protected by the work product privilege belonging both to our clients and to us.[9/]

[9/] The D.C. Circuit has held that the work product privilege belongs to both the lawyer and his or her clients. In Re Sealed Case, 29 F.3d 715, 718 (D.C. Cir 1994).

Guideline E(4) provides that "[t]he reasonable need for this information must outweigh the potential adverse effects upon the attorney-client relationship." Surely, if our notes can be subpoenaed in the present circumstances, we and other attorneys will be greatly handicapped in representing our clients.[10/]

Guideline E(3) provides that "[a]ll reasonable attempts to obtain information from alternative sources shall have proved to be unsuccessful." You thus generally must try to

---

10/ As said in Horn & Hardart Co. v. Pillsbury Co., 703 F. Supp. 1062, 1972 (S.D.N.Y.), aff'd, 808 F.2d 8 (2d Cir. 1989):

> Had the notes been ordered to be produced, . . . we are certain that Stringer and any other attorney learning of such a happening would long hesitate before again making a similar memorandum, with resulting erosion of conscientious representation of their clients.

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obtain information about our conversations with third parties from them before you seek information from us by a subpoena. We are not informed that you have done so.[11/]

--- 0 ---

[redacted]

11/ Moreover, Rule 3.8(f) of the American Bar Association Model Rules of Professional Conduct provides:

> The prosecutor in a criminal case shall:
> ...
>
> (f) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless:
>
> (1) the prosecutor reasonably believes
>
> (a) the information sought is not protected from disclosure by any applicable privilege;
>
> (b) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution;
>
> (c) there is no feasible alternative to obtain the information; and
>
> (2) the prosecutor obtains prior judicial approval after an opportunity for an adversarial proceeding.

[redacted]

The current request calls for some materials covered by the [redacted] subpoena. For example, both specifically [redacted] Moreover, [redacted] identified in ¶7 of your current requests dealt with subjects covered by the [redacted] subpoena. Surely, the prior understanding pertains to [redacted] now requested that were covered by the [redacted] subpoena.

The family would not have agreed to the visit to Hope had they been informed that [redacted] As Mark knows, the subpoena was a major subject of controversy and your office had every opportunity to inform me that more information would be sought, which it did not. I certainly believed no further subpoena [redacted] would issue. There are issues here of good faith and fair dealing!

[redacted]

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D. Let me now respond to your requests to Mrs. Foster, first stating each request. I assume you are not asking for any documents covered by the attorney-client privilege.

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

A request covering such documents was made in the Department of Justice's [redacted] She has no additional documents, except she now may have pertinent newspaper clippings and public documents, such as Mr. Fiske's report.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

Mrs. Foster has no such documents except newspaper clippings and public documents, such as the Fiske report.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

This request is overbroad, burdensome, and seeks irrelevant information. It would cover any travel at any time by Mr. Foster -- foreign, domestic, or within Arkansas. For example, it would cover documents relating to the Foster's honeymoon in 1968. It would cover documents pertaining to travel to Hope to see his parents or travel to appear in court or to take depositions. I believe, however, that Mrs. Foster would agree to a review of certain documents, such as Vince's passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

This request is overbroad, burdensome and seeks irrelevant information. For example, it seeks every check written by Vince during the time period. It would cover all messages, no matter how personal or trivial, from Mr. Foster to his wife, even though any such confidential communications would be protected by the marital privilege. It may be, however, that Mrs. Foster would agree to a review of certain documents if the request were narrowed.

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

This request is overbroad, burdensome and seeks irrelevant information. For example, it would cover messages, however personal or trivial, from Mr. Foster's family to him. Confidential messages from his wife would be covered by the marital privilege. Again, if the request is narrowed, Mrs. Foster might agree to a review of certain documents.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

This request is overbroad, burdensome and seeks irrelevant information. For example, it would include messages or records of meetings that have nothing to do with his state of mind or other matters under investigation. Perhaps Mrs. Foster would respond to a more limited request.

John, I hope you and Ken will rethink these requests to Mrs. Foster, which truly are invasive and would produce considerable irrelevant information. Given the fact that Mrs.

Foster, her children, Vince's sisters and his mother have been interviewed extensively (thrice in some instances), the material you now request seems most unnecessary. Moreover, these requests -- which would require extensive review of her husband's records -- are particularly harsh at this time as Mrs. Foster prepares for marriage and a new life. She understandably is loath to undertake such a review and to turn over highly personal, irrelevant information. She also finds most disturbing the prospect of even more requests (which you allude to in your letter) that would arrive almost two and one-half years after Vince's death. She wonders, as does Mrs. Anthony, why these requests come at such a late date in your investigation, which the family fervently believes should have been concluded long ago.

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We ask you, given the above considerations, to reconsider the sweeping requests contained in your letter. We hope a compromise can be reached that allows this matter to be resolved without a subpoena and litigation, which we firmly believe you would lose. Indeed, it would be quite extraordinary for a court to allow your office to intrude in a major way into our analyses, research, inquiries, and strategies regarding an almost two and one-half year representation, which has involved both litgation and multiple investigations (including that by your office) and where the potential for other litigation always has loomed large.

May I close by reminding you again how cooperative the family and this firm have been during your investigation. Your office has achieved much that it would not have -- or would not have without controversy -- without this cooperation, for example:

a. the interviews with Vince's mother

b. access to the family home in Hope to remove articles belonging to Vince's father in order to obtain fingerprints

c. the bullets found in Hope, which were volunteered

d. additional interviews with family members

e. interviews with Vince's children

f. the turning over of Mike's notes, memorandum and inventory relating to the search of Vince's office

g. my two interviews, on a non-waiver basis, which you have said provided helpful information.

The family and this firm remain willing to cooperate with reasonable requests.

Sincerely,

James Hamilton

JH/cmb

cc: The Honorable Kenneth W. Starr
Mark H. Tuohey, III, Esq.
Professor Samuel Dash
(all by hand)

6048201.1□

MEMORANDUM RE WORK PRODUCT PRIVILEGE

Introduction

The work product privilege finds its genesis at common law, where the English courts protected "all documents prepared by or for counsel with a view to litigation." Hickman v. Taylor, 329 U.S. 495, 510 n.9 (1947); In re Grand Jury Proceedings, 473 F.2d 840, 844-45 (8th Cir. 1973). In Hickman, the Supreme Court adopted this common law privilege and extended it to all information, both tangible and intangible, prepared by or for counsel "with an eye toward litigation." 329 U.S. at 511. The Supreme Court articulated the strong public policy underlying the work product doctrine:

> In performing his various duties...it is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties or their counsel. Proper preparation of a client's case demands that he assemble information, sift what he considers to be relevant facts from irrelevant facts, prepare his legal theories and plan his strategy without undue or needless interference. . . . This work is reflected, of course, in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways -- aptly though roughly termed by the Circuit Court of Appeals as the "Work product of the lawyer." Were such materials open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten. An attorney's thoughts, heretofore inviolate, would not be his own. Inefficiency, unfairness and sharp practices would inevitably develop in the giving of legal advice and in the preparation of cases for trial. The effect on the legal profession would be demoralizing. And the interests of the clients and the cause of justice would be poorly served.

Hickman v. Taylor, 329 U.S. at 511.

Rule 26(b)(3) partially codified Hickman, by providing that:

> a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision (b)(1) of this rule and prepared in anticipation of litigation or for trial....only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, **the court shall protect against disclosure of**

> **the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation**." (Emphasis added).

Rule 26 thus accords special protection to documents that record an attorney's thought processes.

A. Attorneys Notes Are Sacrosanct

An attorney's notes are entitled to special protection. The Supreme Court observed that "[n]ot even the most liberal of discovery theories can justify unwarranted inquiries into the files and mental impressions of an attorney." Hickman v. Taylor, 329 U.S. at 510. Since Hickman, "the Supreme Court has never permitted intrusion into work product revealing the attorney's thought processes." 3 Weinstein's Evidence, ¶ 612[04], pp. 612-45.

In Upjohn Co. v. United States, 449 U.S. 383 (1981) the Supreme Court held that discovery of notes and memoranda prepared by an attorney in connection with an internal investigation, including notes summarizing witness interviews, is particularly disfavored because:

> it tends to reveal the attorney's mental processes....Rule 26 accords special protection to work product revealing the attorney's mental processes...Based on the foregoing, some courts have concluded that no showing of necessity can overcome protection of work product which is based on oral statements from witnesses.... Those courts declining to adopt an absolute rule have nonetheless recognized that such material is entitled to special protection.
>
> * * *
>
> The notes and memoranda sought by the Government here...are work product based on oral statements....[T]hey reveal the attorneys' mental processes in evaluating the communications. As Rule 26 and Hickman make clear, such work product cannot be disclosed simply on a showing of substantial need and inability to obtain the equivalent without undue hardship.

Upjohn v. United States, 449 U.S. at 400.

The lower courts generally have refused to order the production of an attorney's notes, including witness interviews, absent proof of criminal activity by the attorney sufficient to satisfy

the crime fraud exception. For example, in United States v. Paxson, 861 F.2d 730 (D.C. Cir. 1988), the lower court denied a criminal defendant discovery of notes taken by a witness' attorney during the witness' interviews with prosecutors. The "notes of the interviews were not verbatim but rather contained assessments, thought processes, analyses and strategy of counsel, and reflected his judgment on how best to advise and protect the interests of his client." Id. at 735. The Court of Appeals for the District of Columbia affirmed, holding that a party seeking such materials bears a heavy (if not impossible) burden that the criminal defendant in Paxson could not meet.

> While the Supreme Court in Upjohn did not adopt a rule of absolute protection for an attorney's notes and memoranda, neither did it reject such a rule. The Court simply found it unnecessary to reach the question of absolute protection, holding instead that discovery of such material required "a far stronger showing of necessity and unavailability by other means than was made by the Government. . . in this case."

Id. at 736 (quoting Upjohn Co. v. U.S., 449 U.S. 383, 402 (1981).

The District Court in In Re Grand Jury Investigation, 412 F. Supp. 943 (E.D. Pa. 1976), reached a similar conclusion, holding that a file memorandum prepared by an attorney of a telephone conversation with an officer of the client was "so much a product of the lawyer's thinking and so little probative of the witness's actual words that they are absolutely protected from disclosure." 412 F. Supp. at 949. See also In Re Grand Jury Proceedings, 43 F.3d 966, 970 (5th Cir. 1994) (documents that reflect oral conversations between an attorney and third parties are entitled to strict protection as opinion work product "due to the likelihood that such documents will reveal the attorney's mental processes or litigation strategy"); In Re Grand Jury Investigation, 599 F.2d 1224, 1230-33 (3d Cir. 1979) (interview notes protected).

This protection also has been extended to writings other than interview notes. In Horn & Hardart v. Pillsbury, 888 F.2d 8 (2d Cir. 1989), a takeover competitor sought to discover notes prepared by the acquiring corporation's counsel about meeting (which the attorney did not attend) between representatives of the competitors to discuss negotiation ground rules. The district court had denied discovery on the ground that the notes contained "mental impressions." Id. at 12. The Second Circuit affirmed. "[P]ermitting discovery of the [ ] notes would have contradicted 'the general policy against invading the privacy of an attorneys' course of preparation [that] is so well recognized and so essential to an orderly working of our system of legal procedure." Id.

In United States v. Bonnell, 483 F. Supp. 1070 (D. Minn. 1979), the court accorded protection to an attorney's memorandum summarizing his meeting with clients and others concerning certain IRS inquiries. "Although [the memorandum] is hardly replete with legal theories and strategies, it is a personal recollection or memorandum," discovery of which cannot be obtained absent extraordinary circumstances. Id. at 1078.

The mere fact that an attorney has selected documents or other evidence for review or elected to retain them may be enough to trigger work product protection. In U.S. v. Horn, 811 F. Supp. 739 (D.N.H. 1992), rev'd in part on other grounds, 29 F.3d 754 (1st Cir. 1994), the prosecutor ordered copies for the government of documents selected for copying by defense counsel. When defense counsel discovered the prosecutor's conduct, he demanded return of the extra copies, but the prosecutor refused. The district court sanctioned the prosecutor, finding that "[t]he high degree of selectivity resulting in a relatively small number of documents being copied clearly reflected the thought processes of defense counsel" and thus fell "within the highly-protected category of opinion work product." 811 F.Supp. at 746-47.

In Sporck v. Peil, 759 F.2d 312 (3d Cir. 1985), cert. denied, 474 U.S. 903 (1985), the Third Circuit reversed the lower court's order that counsel produce documents shown to a witness prior to his deposition. "[N]one of the individual documents. . . contained work product of defense counsel." Id. at 313. Nevertheless, the group of documents constituted opinion work product because they were selected by counsel.

> Opinion work product includes such items as an attorney's legal strategy, his intended lines of proof, his evaluation of the strengths and weaknesses of his case, and the inferences he draws from interviews of witnesses. Such material is accorded an almost absolute protection from discovery because any slight factual content that such items may have is generally outweighed by the adversary system's interest in maintaining the privacy of an attorney's thought processes and in ensuring that each side relies on its own wit in preparing their respective cases.
>
> We believe that the selection and compilation of documents by counsel in this case in preparation for pre-trial discovery falls within the highly-protected category of opinion work product.

Id. at 316 (citations omitted).

B. In Anticipation of Litigation

Most courts have interpreted broadly the Rule 26(b)(3) requirement that documents be created "in anticipation of litigation" to mean "with an eye toward litigation." Hickman v. Taylor, 329 U.S. at 511; In re Sealed Case, 29 F.3d 715, 718 (D.C. Cir. 1994); Martin v. Bally's Park Place Hotel & Casino, 983 F.2d 1252, 1260-61 (3d Cir. 1993); United States v. Paxson, 861 F.2d at 736. It is not necessary that a complaint be filed or that litigation be imminent in order for the work product privilege to apply. "[T]he generic prospect of litigation may be enough." United States v. Exxon Corp., 87 F.R.D. 624, 638 (D.D.C. 1980) (documents prepared two years before litigation commenced may be work product). The fact that the attorney did not or could not "foresee the specific litigation that has resulted" is not determinative. United States v. Bonnell,

483 F. Supp. 1070, 1078 (D. Minn. 1979); see also In re Grand Jury Proceedings, 43 F.3d 966, 967, 971 (5th Cir. 1994) (successive grand jury investigations). As long as the "materials [were] prepared or collected by an attorney in the course of preparation for possible litigation," they are work product. In re Grand Jury Investigation, 599 F.2d 1224, 1228 (3d Cir. 1979).

"Only by looking to the state of mind of the party preparing the document...can [a court] determine whether [the in anticipation of litigation] test has been satisfied....This rule is limited, however, by the requirement that the preparer's anticipation of litigation be objectively reasonable." Martin v. Bally's Park Place Hotel & Casino, 983 F.2d at 1260. In applying this rule, courts look to see whether the materials were "assembled in the ordinary course of business, or pursuant to public requirements unrelated to the litigation or for other nonlitigation purposes." Fed.R.Civ.P. 26(b)(3) Advisory Committee Note. Attorney-prepared documents that do not fall within those categories typically are accorded work product protection, particularly where they are prepared by a litigation attorney. See, e.g., United States v. Bonnell, 483 F. Supp. at 1078 ("Levine is the head of the Dorsey firm's trial department; he was clearly not brought into the case as a business advisor").

Courts have held that the work product protection extends to the following:

(1) In Anticipation of Grand Jury Investigations or Proceedings. In re Sealed Case, 29 F.3d 715 (D.C. Cir. 1994), involved an attorney who met with his client and gave him legal advice. Almost two years later, a grand jury investigation of the client commenced. When the client learned he was a target of the investigation, he met with the prosecutor and recounted in some detail his consultations with the attorney. The client did not assert the attorney-client privilege. 29 F.3d at 718. A grant jury subpoena for the attorney's files followed. The Court of Appeals for the District of Columbia rejected the lower court's determination that "the [work

product] privilege was inapplicable because no grand jury investigation had commenced at the time."

> Even though the grand jury investigation had not begun when the Lawyer met with the appellant and prepared his file, he may well have had an eye toward litigation . . . . "Some cases [interpreting work product privilege] have attributed significance to whether a document was obtained before or after litigation was commenced, but this cannot be sound. Prudent parties anticipate litigation, and begin preparation prior to the time suit is formally commenced."

29 F.3d at 718 (citations omitted) (quoting 8 Wright & Miller, Federal Practice & Procedure § 2024, at 197-98 (1970)).

In another In Re Sealed Case, 676 F.2d 793 (D.C. Cir. 1982), a grand jury subpoena sought production of the files of a corporation's former general counsel. Two of the documents were notes prepared by the attorney in accumulating information relevant to IRS inquiries, but prior to any formal litigation or grand jury proceeding. The Court of Appeals found the notes to be "material 'obtained or prepared by an adversary's counsel' in the course of his legal duties. . . 'with an eye toward litigation,'" 676 F.2d at 809-10 (quoting Hickman v. Taylor, 329 U.S. at 511), that clearly "were not meant for any eyes but the author's." Id. at 811.

In re Grand Jury Proceedings (McCoy), 601 F.2d 162 (5th Cir. 1979), involved a client who retained counsel to determine whether his conduct was subject to criminal sanctions; counsel retained an accountant to assist him. Over two years later, a grand jury commenced an investigation of the client and subpoenaed the accountant's work. The Third Circuit held that the accountants' financial analyses were prepared "in anticipation of litigation" because they were prepared to assist the attorney "in assessing [the client's] potential criminal liability." 601 F.2d at 171. The court found it significant that the records prepared by the accountant were not records that the client ordinarily kept for his business. Id.

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In re Grand Jury Investigation (Appeal of United States), 599 F.2d 1224 (3d Cir. 1979), involved a law firm's investigation of "suspected criminal violations" begun over a year prior to a grand jury investigation.

> [T]he [law firm's] investigation concerned suspected criminal violations . . . . If further investigation confirmed that suspicion, litigation of some sort was almost inevitable. The obvious possibilities included criminal prosecutions, derivative suits, securities litigation, or even litigation by [the client] . . . .
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> * * *
>
> [W]e perceive no reason to distinguish between the [law firm]'s role as a legal advisor and its role as an investigator. The attorney in Hickman acted in a similar dual capacity when he interviewed witnesses. Under these circumstances we conclude that the district court did not err in holding that [the law firm] was acting in contemplation of litigation and that the work-product doctrine applies to the questionnaires and interview memorandum at issue.

599 F.2d at 1229-30. See also United States v. Nobles, 422 U.S. at 236 ("[a]lthough the work-product doctrine most frequently is asserted as a bar to discovery in civil litigation, its role in assuring the proper functioning of the criminal justice system is even more vital").

(2) Documents Prepared in Connection with an Administrative Proceeding. In Upjohn Co. v. United States, the company's attorneys commenced an internal investigation when its outside auditors discovered "questionable payments" by company employees to foreign government officials. Subsequently, the IRS issued a summons demanding production of the "files" created as a result of the internal investigation. Even though no litigation was pending or even imminent, the Supreme Court overruled the lower court's enforcement of the summons. The attorney's notes and memoranda were prepared in anticipation of litigation because they were "'written statements, private memoranda and personal recollections prepared or formed by an

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adverse party's counsel in the course of his legal duties.'" 449 U.S. at 397 (quoting Hickman, 329 U.S. at 510).

In United States v. Bonnell, 483 F. Supp. 1070 (D. Minn. 1979), an attorney attended a meeting to discuss his client's responses to certain requests for information from the IRS. Subsequently, the IRS subpoenaed his notes. The court found that the notes were work product because, as a trial attorney, the lawyer

> was clearly not brought into the case as a business adviser, a private investigator or a tax expert. He was present as a result of [his client]'s reasonable belief that [their] tax problems would produce litigation. Litigation need only be a reasonable contingency for the work-product doctrine to apply. That [the client] and [the attorney] could not foresee the specific litigation that has resulted does not mean that [the attorney] did not prepare his document "with an eye toward litigation."

483 F. Supp. at 1078 (citations omitted).

In Martin v. Bally's Park Place Hotel & Casino, 983 F.2d 1252 (3d Cir. 1993), OSHA notified Bally's of an employee's complaint and directed Bally's to investigate the allegations and make corrections, if necessary. As a result, Bally's counsel retained an expert and conducted an internal investigation of those allegations. OSHA subsequently sought a copy of the consultant's report. The Third Circuit held that the report was protected work product.

> The Secretary [of Labor] reads [Rule 26(b)(3)] to insulate work product prepared for litigation only when the litigation has begun or is at least "imminent," a standard narrower than that embodied in Fed. R. Civ. P. 26(b)(3), which requires only that the material be prepared "in anticipation of litigation." As we previously indicated, a document satisfies Rule 26(b)(3) where "in light of the nature of the document and the factual situation in the particular case, the document can fairly be said to have been prepared or obtained because of the prospect of litigation.
>
> * * *

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> In limiting work product to materials prepared "in anticipation of litigation," the drafters of Rule 26(b)(3) excluded from the rule's protection "[m]aterials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes." Fed. R. Civ. P. 26(b)(3) advisory committee note . . . . The consultant's report . . . was not such a routine record . . . .

984 F.2d at 1260-61.

(3) Notes concerning witnesses in a criminal investigation. In Paxson, the Court of Appeals for the District of Columbia held that the attorney's notes were protected as work product, even though the witness was neither a target of the investigation nor a defendant in the ensuing litigation.

> Paxson further argues that the material sought is not within the work product doctrine because [the attorney] "did not prove as he must, that the primary motivating purpose behind the creation of the [memorandum was] to aid in possible future litigation.'" This argument is an unusually lame one. The entire record is to the effect that [the witness] retained [his attorney] only for the purpose of protecting himself against criminal exposure in an ongoing antitrust investigation and any ensuing litigation.

861 F.2d at 736.

(4) In anticipation of a congressional investigation or hearing. In United States v. Davis, 131 F.R.D. 391 (S.D.N.Y. 1990), the government sought discovery of documents prepared as a result of an internal investigation conducted in response to a newspaper article about a former employee. Company counsel's affidavit stated that he ordered the internal investigation, in part, to enable him "to offer informed advice and counsel to the Company's Chairman and Chief Financial Officer, who were scheduled to testify at a Congressional hearing" concerning the former employee's allegations. The court rejected the government's contention that "the assertion of the work product privilege is improper because the documents were not

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prepared in the anticipation of imminent or concrete litigation." 131 F.R.D. at 403. Instead, the court found that the work product privilege applicable because:

> the investigation was conducted at the behest of the general counsel. Contrary to the Government's assertion, it is of no consequence that the investigation followed the publication of [the employee's] allegations.

The court thus assumed that an attorney's preparation for a congressional hearing may be work product. 131 F.R.D. at 404. See also In re Air Crash Disaster at Sioux City, Iowa, 133 F.R.D. 515, 526 (N.D.Ill. 1990) (drafts of letter to a member of Congress concerning questions posed to client during Congressional hearing were work product); Eagle-Pitcher Industries, Inc. v. United States, 11 Cl. Ct. 452 (US Claims Court 1987) ("documents and other sources of information" used by the Assistant Attorney General to prepare for his testimony before Congress are protected by the work product doctrine).

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C. All reasonable attempts shall be made to voluntarily obtain information from an attorney before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to subpoena such information from the attorney if such attempts prove unsuccessful.

D. No subpoena may be issued in any matter to an attorney for information relating to the representation of a client without the express authorization of the Assistant Attorney General of the Criminal Division.

E. In approving the issuance of a subpoena in any matter to an attorney for information relating to the representation of a client, the Assistant Attorney General of the Criminal Division shall apply the following principles:

(1) In a criminal investigation or prosecution, there must be reasonable grounds to believe that a crime has been or is being committed and that the information sought is reasonably needed for the successful completion of the investigation or prosecution. The subpoena must not be used to obtain peripheral or speculative information;

(2) In a civil case, there must be reasonable grounds to believe that the information sought is reasonably necessary to the successful completion of the litigation.

(3) All reasonable attempts to obtain the information from alternative sources shall have proved to be unsuccessful;

(4) The reasonable need for the information must outweigh the potential adverse effects upon the attorney-client relationship. In particular, the need for the information must outweigh the risk that the attorney will be disqualified from representation of the client as a result of having to testify against the client;

(5) Subpoenas shall be narrowly drawn and directed at material information regarding a limited subject matter and shall cover a reasonably limited period of time; and

(6) The information sought shall not be protected by a valid claim of privilege.

These guidelines on the issuance of grand jury or trial subpoenas to attorneys for information relating to the representation of clients are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on other-

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wise lawful investigative or litigative prerogatives of the Department of Justice.

9-2.162 Grand Jury Subpoenas for Financial Records

The Supreme Court held in *United States v. Miller*, 425 U.S. 435 (1976), that a bank depositor lacks the necessary Fourth Amendment interest to challenge a *subpoena duces tecum* issued to a bank for its records of its depositor's transactions. It is important, nevertheless, that U.S. Attorneys exercise a close control over the obtaining for law enforcement purposes of the business records of banks and other financial institutions. There is a danger that the Congress will curtail the government's access to such financial records unless past abuses and putative abuses of grand jury process are completely avoided.

It is required that:

A. U.S. Attorney or Assistant U.S. Attorney shall personally authorize the issuance of a *subpoena duces tecum* to obtain financial records in such a way as to avoid any appearance that the matter was left to the discretion of an investigative agent serving the subpoena;

B. Every such subpoena shall be returnable only on a date when the grand jury is in session and the subpoenaed records shall be produced before the grand jury unless the grand jury itself has previously agreed upon some different course, *see United States v. Hilton*, 534 F.2d 556, 564, 565 (3d Cir.1976); and

C. If, for the sake of convenience and economy, the subpoenaed party is permitted voluntarily to relinquish the records to the government agent serving the subpoena, a report shall be made in due course to the grand jury as to the nature and contents of the records.

While these three requirements may seem to involve simply an observance of the fundamentals of grand jury practice, there is the broader intention of avoiding any semblance of abuse of the grand jury.

9-2.164 Number of Counts in Indictments

In order to promote the fair administration of justice, as well as the perception of justice, all U.S. Attorneys should charge in indictments and informations as few separate counts as are reasonably necessary to prosecute fully and successfully and to provide for a fair sentence on conviction. To the extent reasonable, indictments and informations should be limited to fifteen counts or less, so long as such a limitation does not jeopardize successful prosecution or preclude a sentence appropriate to the nature and extent of the offenses involved.

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proceedings against a member of the news media should be aware of the requirements of 28 C.F.R. § 50.10.

Except in cases involving exigent circumstances, the express approval of the Attorney General is necessary prior to the interrogation, indictment, or arrest of a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media. The Attorney General's authorization is also required before issuance of any subpoena to a member of the news media except in those cases where both a media representative agrees to provide the material sought and that material has been published or broadcast. In addition, the Attorney General's permission is required before the issuance of a subpoena for the telephone toll records of a member of the news media. Failure to obtain the prior approval of the Attorney General, where required, may constitute grounds for disciplinary action.

Whenever the government seeks the Attorney General's authorization pursuant to 28 C.F.R. § 50.10 in a case or matter under the supervision of the Criminal Division, the Legal Support Unit of the Office of Enforcement Operations should be contacted at FTS 786-4987. In cases or matters under the supervision of other divisions of the Department of Justice, the appropriate division should be contacted.

9-2.161(a) Policy With Regard to the Issuance of Grand Jury or Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients

Because of the potential effects upon an attorney-client relationship that may result from the issuance of a subpoena to an attorney for information relating to the representation of a client, it is important that the Department exercise close control over the issuance of such subpoenas. Therefore, the following guidelines shall be adhered to by all members of the Department in any matter involving a grand jury or trial subpoena:

A. In determining whether to issue a subpoena in any matter to an attorney for information relating to the representation of a client, the approach must be to strike the proper balance between the public's interest in the fair administration of justice and effective law enforcement and individual's right to the effective assistance of counsel.

B. All reasonable attempts shall be made to obtain information from alternative sources before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to obtain such information from an attorney if such attempts prove unsuccessful.

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C. All reasonable attempts shall be made to voluntarily obtain information from an attorney before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to subpoena such information from the attorney if such attempts prove unsuccessful.

D. No subpoena may be issued in any matter to an attorney for information relating to the representation of a client without the express authorization of the Assistant Attorney General of the Criminal Division.

E. In approving the issuance of a subpoena in any matter to an attorney for information relating to the representation of a client, the Assistant Attorney General of the Criminal Division shall apply the following principles:

(1) In a criminal investigation or prosecution, there must be reasonable grounds to believe that a crime has been or is being committed and that the information sought is reasonably needed for the successful completion of the investigation or prosecution. The subpoena must not be used to obtain peripheral or speculative information;

(2) In a civil case, there must be reasonable grounds to believe that the information sought is reasonably necessary to the successful completion of the litigation.

(3) All reasonable attempts to obtain the information from alternative sources shall have proved to be unsuccessful;

(4) The reasonable need for the information must outweigh the potential adverse effects upon the attorney-client relationship. In particular, the need for the information must outweigh the risk that the attorney will be disqualified from representation of the client as a result of having to testify against the client;

(5) Subpoenas shall be narrowly drawn and directed at material information regarding a limited subject matter and shall cover a reasonably limited period of time; and

(6) The information sought shall not be protected by a valid claim of privilege.

These guidelines on the issuance of grand jury or trial subpoenas to attorneys for information relating to the representation of clients are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on other-

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wise lawful investigative or litigative prerogatives of the Department of Justice.

9-2.162 Grand Jury Subpoenas for Financial Records

The Supreme Court held in *United States v. Miller*, 425 U.S. 435 (1976), that a bank depositor lacks the necessary Fourth Amendment interest to challenge a *subpoena duces tecum* issued to a bank for its records of its depositor's transactions. It is important, nevertheless, that U.S. Attorneys exercise a close control over the obtaining for law enforcement purposes of the business records of banks and other financial institutions. There is a danger that the Congress will curtail the government's access to such financial records unless past abuses and putative abuses of grand jury process are completely avoided.

It is required that:

A. U.S. Attorney or Assistant U.S. Attorney shall personally authorize the issuance of a *subpoena duces tecum* to obtain financial records in such a way as to avoid any appearance that the matter was left to the discretion of an investigative agent serving the subpoena;

B. Every such subpoena shall be returnable only on a date when the grand jury is in session and the subpoenaed records shall be produced before the grand jury unless the grand jury itself has previously agreed upon some different course, *see United States v. Hilton*, 534 F.2d 556, 564, 565 (3d Cir.1976); and

C. If, for the sake of convenience and economy, the subpoenaed party is permitted voluntarily to relinquish the records to the government agent serving the subpoena, a report shall be made in due course to the grand jury as to the nature and contents of the records.

While these three requirements may seem to involve simply an observance of the fundamentals of grand jury practice, there is the broader intention of avoiding any semblance of abuse of the grand jury.

9-2.164 Number of Counts in Indictments

In order to promote the fair administration of justice, as well as the perception of justice, all U.S. Attorneys should charge in indictments and informations as few separate counts as are reasonably necessary to prosecute fully and successfully and to provide for a fair sentence on conviction. To the extent reasonable, indictments and informations should be limited to fifteen counts or less, so long as such a limitation does not jeopardize successful prosecution or preclude a sentence appropriate to the nature and extent of the offenses involved.

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proceedings against a member of the news media should be aware of the requirements of 28 C.F.R. § 50.10.

Except in cases involving exigent circumstances, the express approval of the Attorney General is necessary prior to the interrogation, indictment, or arrest of a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media. The Attorney General's authorization is also required before issuance of any subpoena to a member of the news media except in those cases where both a media representative agrees to provide the material sought and that material has been published or broadcast. In addition, the Attorney General's permission is required before the issuance of a subpoena for the telephone toll records of a member of the news media. Failure to obtain the prior approval of the Attorney General, where required, may constitute grounds for disciplinary action.

Whenever the government seeks the Attorney General's authorization pursuant to 28 C.F.R. § 50.10 in a case or matter under the supervision of the Criminal Division, the Legal Support Unit of the Office of Enforcement Operations should be contacted at FTS 786-4987. In cases or matters under the supervision of other divisions of the Department of Justice, the appropriate division should be contacted.

9-2.161(a) Policy With Regard to the Issuance of Grand Jury or Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients

Because of the potential effects upon an attorney-client relationship that may result from the issuance of a subpoena to an attorney for information relating to the representation of a client, it is important that the Department exercise close control over the issuance of such subpoenas. Therefore, the following guidelines shall be adhered to by all members of the Department in any matter involving a grand jury or trial subpoena:

A. In determining whether to issue a subpoena in any matter to an attorney for information relating to the representation of a client, the approach must be to strike the proper balance between the public's interest in the fair administration of justice and effective law enforcement and individual's right to the effective assistance of counsel.

B. All reasonable attempts shall be made to obtain information from alternative sources before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to obtain such information from an attorney if such attempts prove unsuccessful.

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C. All reasonable attempts shall be made to voluntarily obtain information from an attorney before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to subpoena such information from the attorney if such attempts prove unsuccessful.

D. No subpoena may be issued in any matter to an attorney for information relating to the representation of a client without the express authorization of the Assistant Attorney General of the Criminal Division.

E. In approving the issuance of a subpoena in any matter to an attorney for information relating to the representation of a client, the Assistant Attorney General of the Criminal Division shall apply the following principles:

(1) In a criminal investigation or prosecution, there must be reasonable grounds to believe that a crime has been or is being committed and that the information sought is reasonably needed for the successful completion of the investigation or prosecution. The subpoena must not be used to obtain peripheral or speculative information;

(2) In a civil case, there must be reasonable grounds to believe that the information sought is reasonably necessary to the successful completion of the litigation.

(3) All reasonable attempts to obtain the information from alternative sources shall have proved to be unsuccessful;

(4) The reasonable need for the information must outweigh the potential adverse effects upon the attorney-client relationship. In particular, the need for the information must outweigh the risk that the attorney will be disqualified from representation of the client as a result of having to testify against the client;

(5) Subpoenas shall be narrowly drawn and directed at material information regarding a limited subject matter and shall cover a reasonably limited period of time; and

(6) The information sought shall not be protected by a valid claim of privilege.

These guidelines on the issuance of grand jury or trial subpoenas to attorneys for information relating to the representation of clients are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on other-

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wise lawful investigative or litigative prerogatives of the Department of Justice.

9-2.162 Grand Jury Subpoenas for Financial Records

The Supreme Court held in *United States v. Miller*, 425 U.S. 435 (1976), that a bank depositor lacks the necessary Fourth Amendment interest to challenge a *subpoena duces tecum* issued to a bank for its records of its depositor's transactions. It is important, nevertheless, that U.S. Attorneys exercise a close control over the obtaining for law enforcement purposes of the business records of banks and other financial institutions. There is a danger that the Congress will curtail the government's access to such financial records unless past abuses and putative abuses of grand jury process are completely avoided.

It is required that:

A. U.S. Attorney or Assistant U.S. Attorney shall personally authorize the issuance of a *subpoena duces tecum* to obtain financial records in such a way as to avoid any appearance that the matter was left to the discretion of an investigative agent serving the subpoena;

B. Every such subpoena shall be returnable only on a date when the grand jury is in session and the subpoenaed records shall be produced before the grand jury unless the grand jury itself has previously agreed upon some different course, *see United States v. Hilton*, 534 F.2d 556, 564, 565 (3d Cir.1976); and

C. If, for the sake of convenience and economy, the subpoenaed party is permitted voluntarily to relinquish the records to the government agent serving the subpoena, a report shall be made in due course to the grand jury as to the nature and contents of the records.

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HAMILTON MEETING - KEY POINTS

Status and Report

1. Status of Foster death investigation

   - Ongoing; attempting to bring fact-gathering to conclusion in near future (within several weeks); final decisions soon thereafter

2. Will OIC issue statement when concluded?

   - Seriously [actively] considering doing so

3. Will OIC issue a public final report on Foster death?

   - At this time, we anticipate preparing a report once investigation complete and no other action to be taken by OIC

   - It must be submitted to the court (Special Division), and it is their decision whether to make it public

4. When would a report be issued?

   - We would anticipate doing an "interim" report at the conclusion of the Foster death investigation, rather than waiting for the completion of all OIC investigations and prosecutions

Our Request for Information

5. What we seek:

   - Three categories of information

      (1) Review of documents from Vincent Foster's office

      (2) Documents and information relating to conversations, etc. that Hamilton had with Vincent Foster prior to Foster's death ("state of mind" materials)

      (3) Documents and information relating to conversations, etc. that Hamilton had with White House officials, DOJ officials or others from July 20, 1993 through July 30, 1993, particularly regarding the search or inspection of Vincent Foster's office and disposition of documents from office

6. Our general position

   - Firm; need to acquire all non-privileged information; not subject to negotiation, although we will discuss process

7. Re: documents from Vincent Foster's office

- Have previously reviewed (Park Police, Gillis, Bransford) - even the diary

- Brett, with his comprehensive knowledge, needs to do so

- Hamilton position that only KWS can review diary (purportedly because of concerns about leaks) is insulting to Brett and to the office

8. Re: conversations, etc. with Vincent Foster ("state of mind")

- Hamilton concedes has some information, including notes of conversation with Vincent Foster a few days before his death (regarding legal help on Travel Office)

- Highly relevant, and we have asked other lawyers these same things (*e.g.*, Jim Lyons)

- White House certainly would not assert any privilege

9. Re: conversations, etc. after Vincent Foster death about search of office and disposition of documents

- Hamilton concedes had such conversations

- Highly relevant to obstruction of justice investigation

- We have asked similar questions of, and sought documents from, other lawyers who interacted with White House, and the White House officials themselves

- No attorney-client privilege, as we do not seek communications with client [may be confidential communication under Code of Professional Responsibility, but not protected from compelled disclosure]

- Not work product - not in anticipation of litigation

10.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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B. All reasonable attempts shall be made to obtain information from alternative sources before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to obtain such information from an attorney if such attempts prove unsuccessful.

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

This letter, submitted under Federal Rule of Evidence 408, puts in writing much of what I said to you during our November 29 telephone call concerning your requests for information from Lisa Foster and this firm. I will not repeat here many of the points set forth in my November 15, 1995, communications to you, which still pertain.

Again, I must preface my remarks by stressing the family's concerns. The family fervently believes your investigation into matters relating to Vince's death has gone on much too long. They wonder why your office now asks for information that could have been sought many months ago. Mrs. Foster particularly is upset that you seek information from her at the time of her wedding (now scheduled for January 1). The family also is anxious about how personal and sensitive items would be handled. They know that Mr. Fiske turned over 302s recording their interviews to the Senate; they know that your office gave the Special Whitewater Committee Vince's briefcase without asking or informing the family. They thus are loathe to turn over personal items or information.

This being said, there nonetheless are possibilities for cooperation. As to the documents that were in Vince's White House office, Mrs. Foster is willing to let Brett review those in our offices, with the exception of Vince's so-called diary, which Ken may review. However, Brett's review would be done only with your office's agreement that, if you wish to copy any documents, you would consult with us; if Mrs. Foster believes such items are personal in nature, a subpoena would be required to obtain them, which she might contest. As to the diary, if Ken believes he needs a copy, a subpoena would be required, which Mrs. Foster would contest.

As for the other requests to Mrs. Foster -- items 1 through 6 at pages 2 and 3 of your November 9 letter to me -- she is willing to produce items such as Vince's passport and a

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calendar they kept in their Washington home. She is unwilling to produce or to allow your office to review personal items, such as personal correspondence.

Mrs. Foster will not voluntarily produce certain documents relating to Rose Law Firm matters Vince had kept at home; all these documents predate 1992 and, in her view, are irrelevant to your investigation.

As to materials I have prepared or gathered during my representation of the Foster family or regarding my conversation in July 1993 with Vince, the firm and family members, in response to a subpoena, will assert whatever privileges are applicable, including the work product privilege. We will not provide you a privilege log now because we believe to do so would be burdensome and would not be required in response to any subpoena you might issue. In any event, given our discussions and my correspondence to you, you already have a fairly good idea of the nature of the materials we have.

I will conclude by stating what I have said many times. The family and the firm are not seeking litigation and hope these matters can be resolved. If they cannot and if you intend to subpoena Mrs. Foster, I ask you to serve the subpoena on me in order to avoid additional stress to Mrs. Foster during the Holiday Season and at the time of her wedding.

Sincerely,

Jim Hamilton

James Hamilton

JH/cmb

6049084.1□

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jim:

As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

In your letter of December 1, 1995, you stated that you and your firm would not comply with this Office's document request, and indeed would not even produce a log.

Your letter of December 1, 1995 made several other points that warrant a brief response.

You point out the family's concerns about our requests and the continuing nature of our investigation. We are sorry for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued

[1] Our document request of November 9, 1995 also requested documents from your client Lisa Foster. We will continue to discuss with you and pursue any requests or subpoenas to the Foster family

interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief, however, that we must continue to press forward to obtain all relevant information.[2]

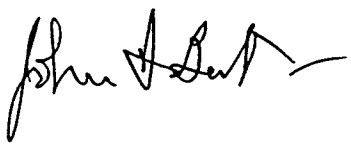
With respect to documents in the possession, custody, or control of you or your law firm that were created either before or after Mr. Foster's death, and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) concern that we have not received the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death. Those concerns have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that had not been provided to this Office or, indeed, to any law enforcement officials. We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death.

Regarding documents created after Mr. Foster's death that are relevant to possible obstruction of justice with respect to the July-August 1993 federal investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony, as you well know. Given the role of you and Mr. Spafford in those events, it has become apparent to us, after talking to you, Mr. Spafford, and a number of other people, that you and your law firm may have relevant documentary information about the events occurring in the days after Mr. Foster's death.

We do recognize that some of the documents created before or after Mr. Foster's death that are in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. As you know, however, we have serious doubts about some of the general claims you have made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents that we believe are in your possession or your firm's possession.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,



John D. Bates
Deputy Independent Counsel

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[2] That does not mean that we must publish all information provided to this Office; appropriate safeguards can be used to protect against the dissemination of sensitive information.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

December 13, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

VIA TELECOPIER

Mr. James Hamilton
Attorney-at-law
Suite 300
Swidler & Berlin
3000 K Street, N.W.
Washington, DC 20007

Re: Grand Jury Subpoena

Dear Jim:

On Friday, a grand jury subpoena was issued to relating to the said documents to be produced for the grand jury in

In our telephone conference on the afternoon of December 12, I advised you that it was our position that all such records should be produced.

It was your position that you did not think that some of the documents would be relevant. I advised you, that at this point, any and all documents related to the following should be produced, without waiving the total subpoena at this point:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted]

If you have any questions regarding this, please give me a call.

Very truly yours,

W. Hickman Ewing, Jr.

cc: Alden Atkins, Esq.

**********FAX TRANSMITTAL SHEET**********

OFFICE OF THE INDEPENDENT COUNSEL
TWO FINANCIAL CENTRE, SUITE 134
10825 FINANCIAL CENTRE PARKWAY
LITTLE ROCK, ARKANSAS 72211

MAIN NUMBER: (501) 221-8700 FAX NUMBER: (501) 221-8707

TO: John Bates DATE: December 13, 1995

TEL: FAX NUMBER: (202) 514-8707

FROM: Hickman Ewing NO. OF PAGES: 3
(Including Cover Page)

TEL: (501) 221-8700

REMARKS:

Confidentiality Note: This facsimile is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile by mail.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

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5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

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Office of the Independent Counsel

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December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jim:

As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

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Your letter of December 1, 1995 made several other points that warrant a brief response.

You point out the family's concerns about our requests and the continuing nature of our investigation. We are sorry for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued

[1] Our document request of November 9, 1995 also requested documents from your client Lisa Foster. We will continue to discuss with you and pursue any requests or subpoenas to the Foster family

interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief, however, that we must continue to press forward to obtain all relevant information.[2]

With respect to documents in the possession, custody, or control of you or your law firm that were created either before or after Mr. Foster's death, and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) concern that we have not received the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death. Those concerns have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that had not been provided to this Office or, indeed, to any law enforcement officials. We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death.

Regarding documents created after Mr. Foster's death that are relevant to possible obstruction of justice with respect to the July-August 1993 federal investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony, as you well know. Given the role of you and Mr. Spafford in those events, it has become apparent to us, after talking to you, Mr. Spafford, and a number of other people, that you and your law firm may have relevant documentary information about the events occurring in the days after Mr. Foster's death.

We do recognize that some of the documents created before or after Mr. Foster's death that are in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. As you know, however, we have serious doubts about some of the general claims you have made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents that we believe are in your possession or your firm's possession.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

---

[2] That does not mean that we must publish all information provided to this Office; appropriate safeguards can be used to protect against the dissemination of sensitive information.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

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Page Denied

SWIDLER & BERLIN
CHARTERED
3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: December 1, 1995 Time: 3:12pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 3 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

This letter, submitted under Federal Rule of Evidence 408, puts in writing much of what I said to you during our November 29 telephone call concerning your requests for information from Lisa Foster and this firm. I will not repeat here many of the points set forth in my November 15, 1995, communications to you, which still pertain.

Again, I must preface my remarks by stressing the family's concerns. The family fervently believes your investigation into matters relating to Vince's death has gone on much too long. They wonder why your office now asks for information that could have been sought many months ago. Mrs. Foster particularly is upset that you seek information from her at the time of her wedding (now scheduled for January 1). The family also is anxious about how personal and sensitive items would be handled. They know that Mr. Fiske turned over 302s recording their interviews to the Senate; they know that your office gave the Special Whitewater Committee Vince's briefcase without asking or informing the family. They thus are loathe to turn over personal items or information.

This being said, there nonetheless are possibilities for cooperation. As to the documents that were in Vince's White House office, Mrs. Foster is willing to let Brett review those in our offices, with the exception of Vince's so-called diary, which Ken may review. However, Brett's review would be done only with your office's agreement that, if you wish to copy any documents, you would consult with us; if Mrs. Foster believes such items are personal in nature, a subpoena would be required to obtain them, which she might contest. As to the diary, if Ken believes he needs a copy, a subpoena would be required, which Mrs. Foster would contest.

As for the other requests to Mrs. Foster -- items 1 through 6 at pages 2 and 3 of your November 9 letter to me -- she is willing to produce items such as Vince's passport and a

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FOIA #56806(URTS 16304) Docid: 70105002 Page 163

calendar they kept in their Washington home. She is unwilling to produce or to allow your office to review personal items, such as personal correspondence.

Mrs. Foster will not voluntarily produce certain documents relating to Rose Law Firm matters Vince had kept at home; all these documents predate 1992 and, in her view, are irrelevant to your investigation.

As to materials I have prepared or gathered during my representation of the Foster family or regarding my conversation in July 1993 with Vince, the firm and family members, in response to a subpoena, will assert whatever privileges are applicable, including the work product privilege. We will not provide you a privilege log now because we believe to do so would be burdensome and would not be required in response to any subpoena you might issue. In any event, given our discussions and my correspondence to you, you already have a fairly good idea of the nature of the materials we have.

I will conclude by stating what I have said many times. The family and the firm are not seeking litigation and hope these matters can be resolved. If they cannot and if you intend to subpoena Mrs. Foster, I ask you to serve the subpoena on me in order to avoid additional stress to Mrs. Foster during the Holiday Season and at the time of her wedding.

Sincerely,

James Hamilton

JH/cmb

6049084.1D

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Attorney Code: 150

Billing Code: 8821.01

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

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Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

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FOIA #56806 (URTS 16304) Docid: 70105002 Page 166

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Sincerely,

James Hamilton

JH/cmb

6049084.1D

Brett —
We need to include the substance of our last (telephonic) response/proposal to him — "for the record." My initial reaction to our attempts to convince him of the legitimacy of our pursuit of this topic is that we should condense it — we won't convince Hamilton and it may come across as too defensive. I am not yet comfortable with including numbered paragraph 3 — let's discuss what we could gain apart from the good feelings from just saying it.

John,
This is a rough first draft. I will be working on it some more on Sunday — but any thoughts you have at this point are welcome.
BK

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

Dear Jim:

[redacted]

Apart from indicating your unwillingness to provide documents voluntarily, your letter of December 1, 1995 make several other points that warrant a further response.

1. [redacted]

With respect to documents in the possession, custody, or control of you or your law firm that were created before and after Mr. Foster's death and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) doubt in our minds that we have received the full story about Mr. Foster's thoughts, words, and activities in the days and weeks before his death. Those doubts that have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that has never been provided to this Office or, indeed, to any law enforcement officials.

You must understand that it is vitally important that this Office obtain the full story in order for us -- or the American people -- to have any degree of confidence about the cause and manner of Mr. Foster's death.[1] As a practical matter, moreover, you should recognize that there

[1] As I am sure you know, a recent poll reveals that a majority of American people do not accept the conclusion that Mr. Foster committed suicide.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

is an enormous public interest in this case, which likely means that this will not be the last investigation of Mr. Foster unless his death is thoroughly examined by this Office.[2] You as well as the White House have suggested in the past that we will never be able to determine precisely what might have driven Mr. Foster to commit suicide. That is a conclusion, however, that legitimately can be reached only after undertaking a full and searching review of Mr. Foster's life and death.

You have drawn our attention in particular to the family's concerns about the continuing nature of our investigation. To be sure, one of the valid criticisms of modern law enforcement is its failure on occasion to consult with, and pay heed to the wishes of, the victims of violence and their loved ones. We have attempted to do so in this case. But it is an unfortunate fact that the desires of family members and the needs of law enforcement may diverge, and they appear to have done so here. We apologize for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief that we must continue to press forward to obtain all relevant information. Of course, that does not mean that we necessarily must publish all information provided to this Office; appropriate safeguards can be used to ~~guard~~ protect against the dissemination of especially sensitive information. But we simply must seek to obtain all relevant information, even if it is sensitive.

Let there, then, be no mistake about our intentions: We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and activities in the days and weeks preceding his death. We are fully prepared to deal with any criticism by you or others that may be directed at our Office for the time and effort spent in pursuing that goal, so any veiled threats in that vein do not affect us. Moreover, we are fully prepared to litigate if necessary to obtain all relevant information, even though ~~that we recognize that~~ litigation will occasion even further delay.

With respect to documents created after Mr. Foster's death that are relevant to potential obstruction of justice of the investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony regarding ~~those events~~ events in the immediate aftermath of his death. (As you know, the congressional testimony revealed numerous important conflicts, including conflicts: (1) between (a) Messrs. Margolis and Adams and (b) Mr. Nussbaum; (2) between (a) Mr. Neuwirth and (b) Mr. Nussbaum; and (3) between (a) Mr. Spafford and (b) Messrs. Nussbaum and Sloan.) Given the the role of you and Mr. Spafford in those events, it has become apparent to us, after interviewing a number of people, that you and your law firm may well have relevant documentary information about the events occurring in the days after Mr. Foster's death. also confirmed in our discussion with him

2. We do recognize that some of the documents created before and after Mr. Foster's death in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. (You seem to suggest in your letter that

[2] In recent weeks, we have received congressional inquiries that lead us to believe that Congress may yet want to re-examine Mr. Foster's death.

you need not produce a privilege log in response to a grand jury subpoena. It is not clear to me what possible justification you would have for refusing to produce a privilege log, but we will await your further response in that regard.) As you know, however, we have serious doubts about some of the claims you have preliminarily made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents we believe are in your possession or your firm's possession.

3. Finally, I note a general reaction of this Office to your recent letters and entreaties. Speaking bluntly, we have come to question the quality of your cooperation and your firm's cooperation with this and other law enforcement investigations. One reason stands above all others: the Michael Spafford incident. For the Spafford information to be provided to law enforcement two years after the fact and only in response to a precisely focused question that elicited a clearly reluctant response -- when both you and he were fully aware of the potentially enormous implications of that information -- is, in our view, unconscionable.

That incident dramatically altered the view of this Office about the willingness of you and your law firm to cooperate with law enforcement authorities in the absence of legal process compelling you to do so.

Sincerely yours,

Kenneth W. Starr
Independent Counsel

HAMILTON LETTER

① WH has notes of conversations re: transition counsel + vetting "if they exist"

② Travel Office notes could be made available
- notes problem that we are not investigating a crime

③ records from VWF's office could be received

④ records from Rose that VWF kept at home → likely irrelevant

⑤ docs from WH office released by others - WE HAVE

⑥ WORK PRODUCT
you may have been retained in part w/ an eye towards litigation but not everything was done in anticipation of litigation - Hamilton must connect each conversation to the particular litigation contemplated

⑦ fact of overlap w/ prior subpoena does not seem relevant

HAMILTON STRATEGY

- procedure for Mrs. Foster -
  - review

- procedure

- give them a little bit of our assessment of anticipation of litigation - both law and application of law

preliminary

what process to adopt as strs

1. subpoena
2. meeting
3. written communication

- Lisa Foster docs
- docs in office
- Travel Office docs + other docs

notes

MEMORANDUM

TO: File

FROM: Brett Kavanaugh

RE: Meeting with Hamilton

DATE: October 21, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I here catalogue for posterity some of the comments, including the many preposterous ones, made by Jim Hamilton in yesterday's meeting.

* "You would be hard-pressed to find someone who has been more cooperative with an investigation" **but** "The family only answered the questions that they were asked" and "Lisa's main concern from Day 1 was to keep records confidential."

* "The family wants a detailed report and wants it now."

* "I will let you see the documents I have from Foster's office, with one condition." [The unstated condition, of course, is that Ken and only Ken look at the diary -- an implicit attack on my integrity and credibility.]

* "Lisa is concerned about leaks from this Office."

* "I want an overall arrangement to deal with these subpoena issues. . . . I'm talking about a deal."

[redacted]

* "Litigation was a possibility even as early as July 21, but even if it was [sic] not a possibility, I still think my post-death conversations are protected by the work product privilege."

* "I hope we do not have to go to litigation, but if we do, I'll say what I've got to say." [the not-too-veiled threat so as to back us down]

* "You don't want to fight Lisa."

* "In the days after the death, I was either investigating or communicating thoughts or trying to get someone to do something." [the underlined portion should give everyone some pause]

* "I anticipated litigation in a future fight over evidence. . . . I'm in litigation [FOIA] right now with the Wall Street Journal over the note." [query whether these are bootstraps]

* "All you are trying to do is substantiate a conclusion you reached 6 months ago."

* "You should have done the search of the park 6 months ago."

* "Our interests are largely congruent."

* "You are not investigating a crime with respect to the death." [Note that this is truly preposterous because it means that an apparent suicide could never be investigated by a law enforcement investigatory body because there would be no crime to investigate.]

* "I think that the children told Lisa about A Few Good Men after the interview. It might have been before, but I think it was after. And she has become convinced that it is true."

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

ask Hamilton
re: note
found in
Foster's wallet

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(1)

Jim Hamilton conversation 11/3

John: appreciate your recent cooperation
- need to be consistent with how we've treated other lawyers
- we want your notes
- we are prepared to deal w/ claims of privilege

[redacted]

- we need to look at notes
- subpoena

[redacted]

↓

JH wants letter instead of subpoena

list of people + subject matters

- JB not waiving subpoena option

- JH was willing to discuss areas
  - → wants us to be selective
  - → notes are essence of work product
- → notes will be filled w/ views on numerous subjects
- → JH e.g. conversations w/ other lawyers gathering facts
- → enormous burden
- → PAXSON

JH: "I didn't think anyone was going to come after us for murder."

FOIA #56806 (URTS 16304) DocId: 70105002 Page 176

(2)

JH: → once sent letter to ~~JH~~ JH, have we gotten everything from JH or clients

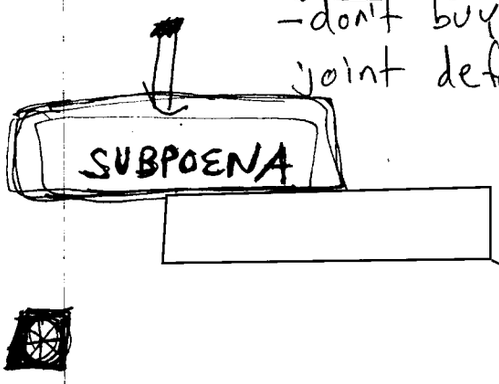
- work product
-

Jim Hamilton - STRATEGY FOR 11/3

① pre-death notes of conversations w/ Foster

② office docs

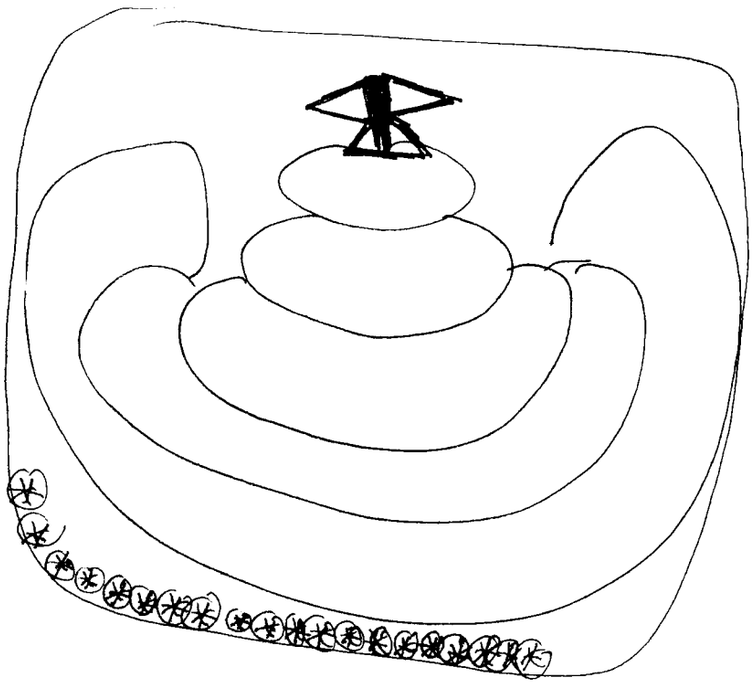
③ post-death notes — complimentary
- we need to look at them
- don't think in anticipation of litigation
- don't buy a joint defense agreement



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

HAMILTON

- new carpet receipts?
- guns
- resign at end of year?



(1)

HAMILTON MEETING 10/20

[redacted]

- no waivers by what JH says at this meeting

- family thinks it's time to be over
- family wants fairly detailed report now

wants - "overall arrangement"

- docs in office ⇒ yes, but under 1 condition
- conversations w/ Foster ⇒ yes, if get arrangement
- 2 weeks or so after VWF's death ⇒ NO, b/c A-C privilege + WP privilege his investigation analysis

litigation was a possibility but even if not a possibility, still thinks

JH's **WORK PRODUCT** ⇒ information reflecting what JH has done to represent his clients

- only litigation he anticipated was fight over evidence
- Lisa's main concern was to keep records confidential from Day 1

FOIA #56806 (URTS 16304) DocId: 70105002 Page 180

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(2)

- subpoena [redacted]

- "deal we made"

- did not make that agreement thinking that 2 months later someone

- threat ⟹ say what he's got to say in litigation if necessary

JB: - who was client in earlier subpoena?

- represented campaign ↓ transition

- MT says facts set forth are "essentially accurate" but quid pro quo is not ~~or~~ accurate

- MT thinks that JH said he wants to resolve issues w/ Wille Rock before turning to the fingerprint issue

CAMPAIGN

(3)

- MT says he would never agree to a quid pro quo
- JH is talking about a deal
- either investigating or communicating thoughts or trying to get someone to do something
- Spafford

NOT
→ most all WH

- trying to get BN to do something ⇒ PRIV
- investigating facts ⇒ PRIV

- litigating right now about doc that was in office
→ WSJ

Sam's suggestion
probber of information

[redacted]

"largely congruent interest"

(4)

- 2 are linked together

DOJ policies

- no crime committed
- e(1) ⇒ no crime for #1 or #2
- e(3) ⇒ talk
- e(6) ⇒ privilege
  → restrictive

lawyer's involvement in criminal investigation w/ witness ⇒ NOT subject or target

→ a witness who might resist subpoenas

- trying to substantiate conclusion reached 6 months ago

- "I generally think that I probably would sit down"
- sit down w/ you ⇒ NOTES
- fairly promptly

DO THIS FIRST

Nussbaum - Heymann

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

FOIA #56806 (URTS 16304) DocId: 70105002 Page 185

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

FOIA #56806 (URTS 16304) DocId: 70105002 Page 186

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

October 11, 1995

VIA FACSIMILE AND MAIL

James Hamilton, Esq.
Swidler & Berlin
3000 K Street, Northwest, Suite 300
Washington, D. C. 20007

Dear Mr. Hamilton:

This letter will expand on our recent discussions regarding documents and information we are seeking as part of our ongoing investigations. We are troubled by the position you have taken to date because it would preclude our acquisition of information that we believe is relevant but not protected by any privilege.

At this point, we have requested three categories of information: (1) the documents in your possession that came from Vincent Foster's office as of July 20, 1993; (2) documents and information relating to conversations or other interactions you had with Vincent Foster, Jr., in 1993 prior to his death; and (3) documents and information relating to conversations or other interactions you had with certain individuals during the ten-day period from July 20, 1993 through July 30, 1993, particularly as they relate to a search or inspection of Mr. Foster's office or to the disposition of documents from his office. To date, we have only made an "informal" request for these materials, although we have indicated our willingness and intention to pursue this information through an appropriate grand jury subpoena, if necessary.

You have agreed, with certain conditions acceptable to us, to provide what we seek pursuant to the first and second categories above. We appreciate that, as those materials are relevant to our investigations. For example, you have stated that you had a conversation with Vincent Foster, Jr., just a few days before his death, and that you have notes of that conversation.

However, you have been adamant in your position that you will not voluntarily provide documents or information in your possession relating to category three above, although you have also stated that you had several conversations with White House officials or others that would be responsive to our request. You have asserted your view that many of these conversations are privileged or protected as work product. Moreover, you have

insisted that any willingness by you to provide information responsive to categories one and two above is conditioned on our agreement to forego seeking information responsive to category three that you claim is "privileged" -- in short, you are insisting on a "package" deal.

We have proposed that you meet with us pursuant to our request for information under category three in a session in which we would ask questions, to which you could then either respond or identify a privilege. This would permit us to acquire some relevant information and at the same time narrow, or even eliminate, remaining issues between us. We believe this would be especially useful in that you have indicated that there were several conversations responsive to category three, some of which you concede are not privileged.*

Hence, we continue to urge you to agree to our proposal. We do not seek to question you about, or seek documents concerning, conversations between you and any of the Foster family. Rather, we seek information relating to your conversations or interactions with certain White House personnel, DOJ personnel, and a few other individuals, in the ten days or so following Vincent Foster's death.

Some of these conversations may be relevant to our investigation relating to Mr. Foster's death, while others may be relevant to our investigation of possible obstruction of justice, and some may be relevant to both. Based on our current knowledge, we believe that such conversations are material and very important to our investigative efforts. While there may be some information to which a privilege could apply, it would not seem that the attorney-client privilege is directly applicable because your conversations with clients are not being sought. Moreover, it is unclear to us how the work product doctrine would apply since it does not appear that these conversations were in anticipation of any specific litigation.

We are prepared to go forward with a session with you relating to the third category of information, as described above, at your earliest convenience. We would reserve the right to seek further information from you, either voluntarily or through other methods, following that session. Of course, as we have discussed, any waiver of a privilege on a specific question or subject will not be construed to extend to other questions or subjects. In the meantime, we would like also to go forward to

---

* Given the nature and sensitivity of our investigations, we must decline your request that we provide you with written questions in lieu of a meeting or interview.

acquire the information sought in categories one and two described above, subject to the conditions you have raised and to which we have agreed.

We hope we can resolve this matter voluntarily, and we will continue to work to do so. However, as you have noted, we all would like to bring the fact-gathering in these investigations to a close as soon as possible. If we do not have an agreement within a week from today, we will promptly pursue this information by other means. I look forward to hearing from you.

Sincerely,

John D. Bates
Deputy Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 11, 1995

TO: James Hamilton, Esq.

Company Name: Swidler & Berlin

Fax Number: 202-424-7643 Telephone Number: 202-424-7826

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

CONFIDENTIALITY NOTE

This facsimile is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile by mail.

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*** ACTIVITY REPORT ***
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CONNECTION TEL	94247643
CONNECTION ID	
START TIME	10/11 11:50
USAGE TIME	02'24
PAGES	4
RESULT	OK

JAMES HAMILTON
ATTORNEY-AT LAW

SWIDLER & BERLIN
CHARTERED

DIRECT DIAL
(202)424-7826

October 19, 1995

VIA FACSIMILE

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

As you know, I have arranged a meeting with Ken Starr and others on Friday to discuss various matters, including those raised by your October 11, 1995 letter to me. In this meantime, I want to record several brief responses to your letter.

1. Your letter partially recounts our conversations, but omits any reference to my reliance on the understanding that Mark Tuohey and I reached last summer about inquiries into matters involving my representation of the Foster family. That agreement -- as Mark recently has confirmed to me -- essentially was that, if the family allowed your office to obtain fingerprints from the family's home in Hope, your office would accept my claims of privilege as to my representation of the family without requiring me to undergo the burden of searching my voluminous files and preparing a detailed privilege log.

2. You also did not mention my reliance on the Department's guidelines as to subpoenaing attorneys in criminal matters (Department of Justice manual, Sec. 9-2.161(a)), which your office is obligated to follow by Section 594(f)(1) of the Independent Counsel's statute. Those guidelines severely limit your ability to subpoena information from attorneys and restrict your office in the current situation. On Friday, I will discuss my views on the guidelines, which Mark and I discussed before reaching the agreement referred to above.

3. The suggestion on page 2 of your letter that the work product privilege applies only where "conversations were in anticipation of any specific litigation" (emphasis added) is incorrect. Rather, this privilege may attach to a lawyer's work regarding an investigation when litigation might result. See, e.g., United States v. Paxson, 861 F.2d 730, 735-36 (D.C. Cir. 1988) (notes of attorney representing witness taken during

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FOIA #56806 (URTS 16304) DocId: 70105002 Page 192

OCT-19-95 17:50 FROM: SWIDLER BERLIN ID: 2024247643

interview of defendant by government attorneys protected as work product where attorney hired to protect witness during antitrust investigation "and any ensuing litigation" (emphasis added)). See also, in the same vein, Horn & Hardart Co. v. Pillsbury Co., 703 F. Supp. 1062, 1072 (SDNY), aff'd, 888 F. 2d. 8, 12 (2d. Cir. 1989) (notes made "with an eye toward litigation" protected). Litigation always has been a possibility regarding my representation of the Foster family; indeed, we prepared papers seeking a protective order as to an early Department of Justice subpoena to Mrs. Foster, which we did not file because accommodations were made.

4. Any suggestion that I am resisting providing relevant, non-privileged information concerning my contacts with government officials is also incorrect. I have been, and am now, prepared to do so. Moreover, the history of my dealings with your office (and Mr. Fiske's office) regarding your and his investigations has been one of exceptional cooperation.

Sincerely,

James Hamilton

JH/slm

5016100.1

FOIA #56806 (URTS 16304) DocId: 70105002 Page 193

MEMORANDUM

TO: File

FROM: Brett Kavanaugh FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

RE: Meeting with Hamilton

DATE: October 21, 1995

I here catalogue for posterity some of the comments, including the many preposterous ones, made by Jim Hamilton in yesterday's meeting.

* "You would be hard-pressed to find someone who has been more cooperative with an investigation" **but** "The family only answered the questions that they were asked" and "Lisa's main concern from Day 1 was to keep records confidential."

* "The family wants a detailed report and wants it now."

* "I will let you see the documents I have from Foster's office, with one condition." [The unstated condition, of course, is that Ken and only Ken look at the diary -- an implicit attack on my integrity and credibility.]

* "Lisa is concerned about leaks from this Office."

* "I want an overall arrangement to deal with these subpoena issues. . . . I'm talking about a deal."

[redacted]

* "Litigation was a possibility even as early as July 21, but even if it was [sic] not a possibility, I still think my post-death conversations are protected by the work product privilege."

* "I hope we do not have to go to litigation, but if we do, I'll say what I've got to say." [the not-too-veiled threat so as to back us down]

* "You don't want to fight Lisa."

* "In the days after the death, I was either investigating or communicating thoughts or trying to get someone to do something." [the underlined portion should give everyone some pause]

* "I anticipated litigation in a future fight over evidence. . . . I'm in litigation [FOIA] right now with the Wall Street Journal over the note." [query whether these are bootstraps]

* "All you are trying to do is substantiate a conclusion you reached 6 months ago."

* "You should have done the search of the park 6 months ago."

* "Our interests are largely congruent."

* "You are not investigating a crime with respect to the death." [Note that this is truly preposterous because it means that an apparent suicide could never be investigated by a law enforcement investigatory body because there would be no crime to investigate.]

[redacted]

* "I think that the children told Lisa about A Few Good Men after the interview. It might have been before, but I think it was after. And she has become convinced that it is true."

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA #56806 (URTS 16304) DocId: 70105002 Page 195

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

FOIA #56806 (URTS 16304) DocId: 70105002 Page 204

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

FOIA #56806 (URTS 16304) DocId: 70105002 Page 205

LEVEL 2 - 4 OF 47 STORIES

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June 15, 1993, Tuesday, Final Edition

SECTION: FIRST SECTION; PAGE A11

LENGTH: 1252 words

HEADLINE: After 87 Days, Tortuous Selection Process Came Down to Karma

SERIES: Occasional

BYLINE: Ann Devroy, Ruth Marcus, Washington Post Staff Writers

BODY:

When President Clinton phoned Judge Ruth Bader Ginsburg just after 11:30 p.m. Sunday night to offer her a seat on the U.S. Supreme Court, he joked that the selection process "bore some resemblance" to the cliffhanger, triple-overtime NBA championship series game that had just concluded.

For 87 days, it looked a little like that -- the score tight, the crowd boisterous and the players coming on and off the court with dizzying speed: Cuomo, Riley, Babbitt, Breyer, Ginsburg.

White House officials maintained in briefings yesterday that Ginsburg was on their list of top possibilities since Justice Byron R. White announced his resignation on March 19. But they also described an unusual process driven by a president who kept changing his mind or having it changed for him, who threw names into the mix as the days went by, whose criteria seemed to change as the candidate changed and who finally made a decision based on personal karma.

The process began the day after White resigned, giving Clinton the unusual gift of at least two months to choose a nominee who could be confirmed by August and ready for duty the first Monday in October, when the court's annual sessions begin.

Presidents Ronald Reagan and George Bush made a total of eight Supreme Court nominations in less than half the time it took Clinton to make one. There was little time for public discussion of their merits, or Social Security tax-paying status, before their nominations.

The duration of the Clinton process sets a modern record. The public nature of its scenes -- one nominee's lunch menu described to the press, a variety of tentative and real offers described and explained -- had a "Perils of Pauline" quality.

Officials said that on that March day when it began, they handed Clinton an unusually large list, 50 names.

Proudly displaying their handiwork, the officials said they enlisted some 75 outside, volunteer lawyers to prepare lengthy, analytic biographies on some 42 of the candidates, relying on hundreds of scholarly articles and searches of newspapers. They said Clinton's original instruction was to go not for a judicial type but a "public person," someone "with vast public experience."

The vision was of the 1954 Warren Court, where a former governor joined forces with former senators and attorneys general in the landmark Brown vs. Board of Education ruling that ended public school segregation.

The first such possibility was New York Gov. Mario M. Cuomo, the name Clinton had uttered during the campaign when asked what kind of justice he might appoint. He became the example of another Clinton requirement, someone with a "big heart," with demonstrated concern for human beings and not just judicial precedents.

In early April, the president asked Cuomo if he would agree to a more intensive vetting that could lead to his nomination. The response: no thanks. Richard W. Riley, Clinton's education secretary and the former governor of South Carolina, also told the White House he was not interested. By last Tuesday, the third "public person," Interior Secretary Bruce Babbitt, was off the list not by his choice but by the White House's.

Babbitt, said one senior official, "had become problematical": he was such a popular Interior secretary that western members of Congress and environmentalists were besieging the administration to keep him in place.

Administration officials cited Democratic politics in the Babbitt decision: Clinton needs the West to be reelected and Babbitt is popular in the West. "As the president moved away from Babbitt" at midweek, they said, he moved toward federal appeals court Judge Stephen G. Breyer of Boston, and told his staff at midweek to take another look at Ginsburg and some other candidates as a backup.

Breyer, with the public backing of liberal senators and conservatives, looked to be the problem-free answer at the end of the week. Awarded the "centrist" label that Clinton craved, Breyer seemed to have as many Republican backers as Democratic ones. Senate Minority Leader Robert J. Dole (R-Kan.) sang his praises. For a president who had suffered missteps and foulups, a major goal was just to "get this right," according to a senior official.

Officials said yesterday that Breyer's failure to pay Social Security taxes for household help was not "disqualifying." Its public emergence over the weekend, they said, was not a "real" factor in Clinton's decision to pass over the judge, who had been summoned to a Friday White House lunch with Clinton from his hospital bed (he had been hit by a car while riding his bike).

But it left Breyer, officials said, without one of his major selling points -- a problem-free confirmation. That he had neither the "big heart" qualification nor the "public person" qualification was, officials said, not a problem. "Judge Breyer did not lose the nomination," a senior official said yesterday, "Judge Ginsburg won it."

While the White House assessed the potential trouble on Saturday, White House Counsel Bernard Nussbaum arranged a meeting with Ginsburg. The night before, Friday evening after a dinner party, Clinton had told his top aides that it probably would not be Babbitt and they should crank up the process full-scale on Ginsburg.

Some aides said before the Ginsburg-Clinton meeting that she was not the kind of person he would likely warm to. She can seem remote and bookish, associates say, and they envisioned, terror-stricken, the specter of Clinton feeling

comfortable with neither Breyer nor Ginsburg and having to turn to someone else.

White House officials described the emotional connection between Clinton and Ginsburg as the key final ingredient that got her the job. Clinton's 90-minute Sunday meeting with her, they said, was "quite moving" to the president. When Clinton put her "life story with her career," they said, he was enchanted. He found her, they said, "a workhorse, not a showhorse," "prone to self-effacement but offering real strength of character." The meeting, said another official, was "the turning point and what tipped the balance."

No recent president has cited such an emotional standard and aides to former presidents Reagan and Bush, asked about it, were nonplused. One aide to each former president said their bosses had interviewed their candidates, but it had been essentially pro forma. "What's the difference how they get along," asked one senior Reagan aide. "The law precludes them ever speaking again on judicial subjects. Their first substantive conversation about the court will be their last."

The next-to-final act on the Ginsburg front occurred Sunday, after her session with Clinton, when an administration team arrived at her Watergate apartment. The team included White House Counsel Nussbaum, his deputy, Vincent Foster, associate counsel Ronald Klain, deputy communications director Ricki Seidman and James Hamilton, a Washington lawyer who directed the team of outside legal vetters, arrived to prepare her for Monday's events and go over her background one more time.

When a reporter phoned the apartment seeking Ginsburg Sunday afternoon, Nussbaum answered her phone.

Ginsburg was warned to stay awake late, and did. Hours later, after the NBA's Game 3 between the Chicago Bulls and the Phoenix Suns, Clinton picked up his phone in the White House kitchen to call Ginsburg and offer her the job. When the Ginsburg call was over, the other two front-runners, Breyer and Babbitt, got their presidential calls of regret.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 5 OF 47 STORIES

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June 12, 1993, Saturday, Final Edition

SECTION: FIRST SECTION; PAGE A3

LENGTH: 723 words

HEADLINE: Clinton, Breyer Talk;
No Decision Made;
Announcement on Filling Supreme Court Vacancy Is 'Possible' Today, Senior Officials Say

SERIES: Occasional

BYLINE: Ruth Marcus, Washington Post Staff Writer

BODY:
President Clinton interviewed Supreme Court candidate Stephen G. Breyer for nearly two hours yesterday but did not offer him the job and has not made a final decision, the White House said.

Sources familiar with the meeting said they believed it went well, but during the day yesterday, senior officials downgraded the chances of an announcement today from "likely but not definite" to merely "possible."

Clinton "thought he [Breyer] was impressive. He's a very highly intelligent guy and Clinton always appreciates that," one senior official said.

"Every indication is it's likely to be him, but I haven't heard it from the president so I don't trust it," another official said.

Breyer, chief judge of the 1st U.S. Circuit Court of Appeals in Boston, arrived here by Metroliner at midday after spending the night in New York. He is still recovering from injuries suffered in a bicycle accident last week and left the hospital only Thursday.

The 54-year-old judge met Clinton for the first time over lunch -- Breyer had consomme and crab cakes, Clinton seafood chowder and linguini -- in the private dining room off the Oval Office.

After the lunch, which lasted from about 1:25 until 3:10, Breyer met with White House counsel Bernard Nussbaum, who once argued a case before him. Breyer and his wife, Joanna, a clinical psychologist at the Dana Farber Cancer Institute, remained in Washington last night at a friend's house.

Breyer's only competition, White House sources said, is Interior Secretary Bruce Babbitt. Officials said Babbitt fits Clinton's criteria of a nominee with broad public experience and a "big heart," and he has known the president for years.

But Clinton is worried about the political implications of losing him at the Interior Department. "He kept seeing that little blue-and-red map from 1992," one official said, referring to the network tallies of Clinton's wins in the

West. There have also been some rumblings on Capitol Hill about whether Babbitt would be an "activist" judge.

Breyer, on the other hand, while not known to Clinton personally, is a well-respected judge, named to the bench by President Jimmy Carter in 1980, who has a reputation as a consensus-builder on the appeals court, something that aides have said Clinton is looking for in a Supreme Court nominee.

Breyer would be the first Jewish justice on the court since the resignation of Justice Abe Fortas in 1969.

He also appears assured of sailing through the Senate. Yesterday, Senate Minority Leader Robert J. Dole (R-Kan.) praised Breyer's qualifications and said he thought he could be confirmed easily and swiftly.

"It ought to be something we could do rather quickly," Dole said, probably before Congress goes on its month-long summer recess Aug. 6.

"I've indicated -- I hope it doesn't hurt him -- I think he'd be good," Dole said at a news conference.

He said Breyer's stature as a circuit court judge would be a "good plus" and added that, while he did not know Breyer well when he was on the staff of the Senate Judiciary Committee, he found him to be "knowledgeable, very capable."

Having a sponsor like Sen. Edward M. Kennedy (D-Mass.) would also help, Dole said, noting that the sponsorship of Sen. John C. Danforth (R-Mo.) for Justice Clarence Thomas and former senator Warren B. Rudman (R-N.H.) for Justice David H. Souter helped ease confirmations.

After meeting with Breyer, Clinton gathered his senior aides on the issue -- Nussbaum, White House Chief of Staff Thomas F. "Mack" McLarty, personnel director Bruce Lindsey, congressional liaison Howard Paster, associate counsel Ronald Klain and deputy communications director Ricki Seidman -- to discuss the decision. Breyer was interviewed Thursday by White House officials while still in his hospital room in Boston.

They were Klain, Seidman, deputy White House counsel Vincent Foster and Washington lawyer James Hamilton, who headed the team that conducted background checks for nominees during the transition.

In Texas for a bill-signing ceremony yesterday, Babbitt was asked if environmentalists clamoring to keep him at Interior had killed his appointment.

"Well, it is kind of interesting," he said, according to the Associated Press. "You know, I can handle my enemies. But I have a hard time fending off my friends this time around."

GRAPHIC: PHOTO, JUDGE BREYER ARRIVES AT WHITE HOUSE FOR ALMOST-TWO-HOUR TALK WITH THE PRESIDENT. JAMES A. PARCELL

LANGUAGE: ENGLISH

The Washington Post, June 12, 1993

LOAD-DATE: October 14, 1993

LEVEL 2 - 6 OF 47 STORIES

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June 7, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A17; IN THE LOOP; THE FEDERAL PAGE

LENGTH: 926 words

HEADLINE: Nussbaum Sized Up for the Blindfold

SERIES: Occasional

BYLINE: Al Kamen, Washington Post Staff Writer

BODY:

The mood at the White House last week could best be described as beyond grim in the wake of the Lani Guinier debacle. Some wags resorted to gallows humor, noting that it seemed only fitting that Guinier's fall occurred the same day 14-year-old Geoff Hooper won the National Spelling Bee with the word k-a-m-i-k-a-z-e.

Meanwhile, amid rumors that more shakeups are inevitable, some sources are pointing to White House counsel Bernard Nussbaum as one who would most likely take the hit, citing a string of former Justice Department choices: Zoe E. Baird, Kimba Wood and now Guinier.

Speculation on a replacement includes, among many possibilities, Washington lawyer Jim Hamilton, who worked on the transition and vetted many candidates who later got jobs, but who had the great luck of recusing himself from Justice Department matters because of a conflict of interest.

Another possibility is Washington attorney W. Harrison Wellford, executive associate director of the Office of Management and Budget in the Carter administration, and well-regarded by the Clintonites for his help on transition matters. Former Reagan White House counsel Fred Fielding is not under consideration, sources say.

But a senior White House official insists Clinton would never fire Nussbaum, no matter what. Moreover, another official said Nussbaum had nothing to do with the selection or vetting of Baird. Secretary of State Warren Christopher was Baird's godfather and the vetting was handled by Washington lawyer Lanny Davis.

Nevertheless, critics say that Nussbaum was slow to appreciate the political land mines in Baird's situation.

And this on the White House real estate watch: Communications director-turned-senior adviser George Stephanopoulos may lose his fireplace to his soon-to-be-named successor, Mark Gearan, but he ends up nearer the president, moving into the small office off the Oval Office now used by scheduler Nancy Hernreich. Hernreich, in this game of dominoes, moves into presidential aide Andrew Friendly's office. New presidential counselor David R. Gergen gets a new space being created near the office of Chief of Staff Thomas F. "Mack" McLarty, and deputy chief of staff Roy Neel is likely to get the office Gearan is vacating.

The Washington Post, June 7, 1993

Cardinal Defects From Immigration List

The administration, becoming almost legendary for its ability to infuriate its friends and help its enemies, is having trouble handling its correspondence on matters both great and small.

Cardinal Bernard Law of Boston, appointed head of the Commission on Immigration Reform late last year by President George Bush, had been interested in staying in the job. The nine-member commission was set up under the Immigration Act of 1990 to review the law's effect on immigration and advise Congress on policy questions. Law's appointment lapsed when Bush left.

Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.) both wanted Law to be reappointed by Clinton. Kennedy and Simpson started in January, writing to then-attorney general-designate Baird. When her nomination went up in flames, the senators say, they wrote Bruce Lindsey and then Howard Paster and then Attorney General Janet Reno. They are still waiting for a reply.

But like so many others seeking work with the administration, Law didn't want to wait any longer. He wrote Clinton a letter last month saying he has better things to do. Kennedy and Simpson are said to be not at all happy with this.

Browner Finds It's Lonely at the Top

Amid the piles of paper around White House personnel boss Lindsey's desk are the prospective nominations of a number of folks to senior jobs at the Environmental Protection Agency, where administrator Carol M. Browner is finding herself in the running for the "Home Alone" award of the month.

So far, Browner has but three senior deputies in place, and is missing assistant administrators for the key policy jobs on air, water, toxics and international matters. Browner's picks have been on Lindsey's desk for weeks awaiting White House clearance, which apparently is contingent upon geographic diversity and their shade of green.

Any day now, we hear.

On the other hand, the administration must be doing something right, White House types say, since -- to date -- they have surpassed both the Reagan and Bush administrations in terms of the number of people confirmed to top positions.

The White House says that as of June 1, the Senate had confirmed 151 Clintonites to senior jobs, while Reagan on June 1, 1981, could count only 140 confirmed people and eight years later, Bush had a paltry 97.

Moving In and Moving On

The Washington Post, June 7, 1993

More Hill types are migrating to administration jobs. . . . Jon Haber, former chief of staff for Sen. Dianne Feinstein (D-Calif.) and before that an aide to Sen. Patrick J. Leahy (D-Vt.), has taken the post of special counsel to Ruth Harkin, president of the Overseas Private Investment Corp.

Moving on. . . . Washington attorney Arthur J. Rothkopf, former deputy secretary of transportation, has been appointed acting president of his alma mater, Lafayette College in Easton, Pa.

Recently made official. . . . Janice R. Lachance has been named director of communications at the Office of Personnel Management. Lachance is the chief legislative and political strategist as well as director of public relations for the American Federation of Government Employees.

And let's not forget former Oklahoma congressman Jim Jones, most recently head of the American Stock Exchange, who was named ambassador to Mexico.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 10 OF 47 STORIES

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The Washington Times

March 17, 1993, Wednesday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 945 words

HEADLINE: Ruff must clear 'Nannygate' on path to Justice

BYLINE: Jerry Seper; THE WASHINGTON TIMES

BODY:

A political battle is brewing between members of the Senate Judiciary Committee and the White House over the expected nomination by President Clinton of Washington lawyer Charles F.C. Ruff as deputy attorney general.

Democrats and Republicans, fearful of charges from women's groups of a double standard, have told the White House it will be difficult to support the nomination because of Mr. Ruff's failure to pay taxes on domestic help in his home, Justice Department sources said.

Mr. Ruff, a Watergate prosecutor, has admitted he did not pay the required Social Security taxes and has been assessed $3,300 in back taxes and penalties.

A similar situation was responsible in part for the withdrawal of Connecticut lawyer Zoe Baird as Mr. Clinton's first choice for attorney general. She admitted during confirmation hearings that she hired two illegal immigrants and did not pay taxes on them.

The second choice for attorney general, New York federal Judge Kimba M. Wood, withdrew from consideration after it was learned that she had hired an illegal alien, although the hiring was not against the law when she did it. Judge Wood had paid the required taxes but was dropped by the White House after political advisers said the public would not understand the difference, the sources said.

Other bipartisan concerns center on Mr. Ruff's involvement in the case of Inslaw Inc., a Washington computer firm that has been in a bitter contract dispute with the Justice Department since 1982. The firm claims - and two courts have agreed - that high-ranking department officials conspired to steal a $10 million computer program.

Mr. Ruff has represented some of the department principals in the Inslaw case and on two occasions refused the House Judiciary Committee access to a witness for a deposition. His actions as an attorney for department officials named in the case flies in the face of calls by some Senate Judiciary Committee members for a new Inslaw investigation, the sources said.

Some Republicans, the sources said, are upset that Mr. Ruff arranged for law professor Anita Hill to take a polygraph test in an attempt to confirm sexual harassment allegations she made during confirmation hearings for

Supreme Court Justice Clarence Thomas.

The test was conducted in Mr. Ruff's office. Senate Judiciary Committee Chairman Joseph R. Biden Jr., Delaware Democrat, refused to accept the test results because the committee could not vouch for the credentials of the examiner and because the panel had "nothing to do" with ordering the test.

The Thomas hearings and subsequent allegations mushroomed into a national debate, much of it focusing on the conduct of Judiciary Committee members.

Mr. Biden, according to the sources, called the White House this week to tell Mr. Clinton a Ruff nomination would be opposed by some panel members. But he was told the Clinton administration looks forward to Mr. Ruff's confirmation, the sources said.

A high-ranking Justice Department official who asked not to be named said first lady Hillary Rodham Clinton and former Watergate prosecutor James Hamilton, who served as counsel to the Clinton transition, are the key forces behind the proposed Ruff nomination.

Mr. Hamilton, who reportedly is in line for a key Justice Department job, worked with Mr. Ruff during the Watergate inquiry. Mrs. Clinton worked for the impeachment inquiry staff of the House Judiciary Committee, which investigated and returned articles of impeachment against President Nixon for his role in Watergate.

"There's no doubt the White House in general and Mrs. Clinton in particular want Ruff in the No. 2 spot at the Justice Department," an official said. "They have made that very clear to the committee and to Mr. Biden."

A challenge of a Ruff nomination would contrast sharply with the Judiciary Committee hearings last week for Attorney General Janet Reno. A panel member described those hearings as a "virtual love fest." No hard questions were asked.

White House spokeswoman Dee Dee Myers declined comment yesterday. Senate Judiciary Committee spokesman Larry Spinelli said he had no information about a pending nomination.

But committee sources said Mr. Ruff's name had been sent to the panel and that a formal announcement would be made soon.

Mr. Ruff declined yesterday to confirm or deny that he is in the running for deputy attorney general.

"I just don't chat about things until and if they happen," he said, adding that if committee members or others are concerned about his past legal dealings, "they'll just have to come to grips with those concerns on their own."

Mr. Ruff, 53, served as U.S. attorney in the District from 1979 to 1982 and was responsible for the prosecution of several members of Congress during the Abscam bribery investigation.

As a Justice Department lawyer, he successfully prosecuted former United Mine Workers President W.A. "Tony" Boyle for illegal campaign contributions.

His term as a special prosecutor in the Watergate hearings came from 1975 to 1977. In 1976 he cleared President Ford of allegations of GOP campaign finance improprieties.

In private practice, Mr. Ruff represented Sen. John Glenn, Ohio Democrat, in the "Keating Five" investigation; Sen. Charles S. Robb, Virginia Democrat, in the recent grand jury wiretapping probe; and Exxon Corp. in the government's criminal investigation of the Exxon Valdez oil spill.

* Frank J. Murray contributed to this report.

LANGUAGE: ENGLISH

LEVEL 2 - 11 OF 47 STORIES

Copyright 1993 The Washington Post
The Washington Post

February 17, 1993, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A17; THE FEDERAL PAGE; THE NEW REGIME

LENGTH: 861 words

HEADLINE: DNC Peppered With Democrats of All Flavors

SERIES: Occasional

BYLINE: Al Kamen

BODY:

David Wilhelm, chairman of the Democratic National Committee, has filled most of the key posts at the DNC with an ideological smorgasbord that includes veterans of the Democratic Leadership Council, Jesse Jackson's National Rainbow Coalition and women's political organizations.

The new outreach coordinator, Minyon Moore, and assistant coordinator, Heather Booth, come from the liberal wing of the party. Moore was deputy political director of the Rainbow Coalition. Booth was field director of Sen. Carol Moseley-Braun's campaign, and before that a leader in the Coalition for Democratic Values and Citizen Action. Catherine Moore, who handled press for the centrist Democratic Leadership Council (DLC), is director of media affairs and press secretary. Martha Phipps, who had been executive assistant to Wilhelm during the campaign and projects director at the DLC, is deputy chief of staff.

Two women active in the National Women's Political Caucus have key posts: Ertharin Cousin, a national trainer for the caucus and state director of government relations for AT&T, is director of research. Anita Perez Ferguson, vice president of the women's caucus, is director of training.

Carol Willis, of Arkansas, who was field director of the Clinton-Gore campaign, is director of voter registration, and Simon Rosenberg, who was campaign communications director for state operations, is director of policy.

Maybe They Meant the Next Inaugural

The administration, which once predicted up to 200 top appointments by Inauguration Day, is still inching along with scarcely three dozen names sent to the Senate for confirmation. Reasons for delay apparently include: the goal of diversity by ethnicity, race and, most importantly, gender, as well as FBI background checks and caution after the Zoe E. Baird-Kimba M. Wood fiascoes.

Preliminary vetting by Clinton transition aides should not be a problem; Washington lawyer James Hamilton is said to have had about 100 lawyers from various firms working on the process, using a list of questions to assess candidates' fitness.

Committed, but Not Yet to Paper

The State Department failed to send up the names of a dozen senior people that Secretary of State Warren M. Christopher said weeks ago he intended to nominate. Christopher has yet to announce his second batch of assistant secretary-designates, although Harvard vice president John Shattuck is said to be a likely pick for the human rights slot and Wendy Sherman, a former aide to Sen. Barbara A. Mikulski (D-Md.), is in line to run legislative affairs.

Over at the Defense Department, James P. "Jock" Covey, the early front-runner for assistant secretary for regional security affairs, has slipped behind the pack. Covey's nomination last summer for assistant secretary of state for South Asia had been left dangling because of questions raised about his involvement in U.S. policy toward Iraqi leader Saddam Hussein before the Persian Gulf War.

Secretary of Defense Les Aspin and policy undersecretary Frank Wisner have been told by the White House that there are not enough women in senior policy positions and they are looking to fill that job with a woman, eying, among others, two women who are senior Foreign Service officers, one in Paris and the other in Africa.

Aspin has been looking at several female candidates for service secretary jobs -- there has never been a female service secretary -- but has political obligations to work out. Former Maryland representative Beverly B. Byron, thought a strong contender for Navy secretary, may be fading. Washington attorney John Holum is a strong contender for that job, but former Mississippi governor Ray Mabus, an old Friend of Bill, is making a run for it. Meanwhile, Sheila Widnall, an associate provost at the Massachusetts Institute of Technology, appears to be the top contender for Air Force. Former Air Force undersecretary Antonia Chayes is being considered as interim director of the Arms Control and Disarmament Agency.

The long-awaited report on the Tailhook controvery will not be released, Pentagon spokesman Bob Hall said yesterday, until a new Navy secretary is on the job.

Labor Stands Up for Secretary Reich

Down in Florida, Labor Secretary Robert B. Reich wowed the union faithful at the AFL-CIO convention and received a standing ovation after what AFL-CIO president Lane Kirkland said was a "long, dry spell" of Republicans at the department. Traveling with him were Tom Glynn, a Brown University vice president who is expected to be confirmed as deputy secretary, and Roger Hickey, formerly with the Economic Policy Institute, who is the unofficial assistant secretary for public affairs.

Doctor-Fee Adviser May Fill Health Post

Philip R. Lee, chairman of the Physician Payment Review Commission, which advises Congress, is likely to be named assistant secretary for health in the Department of Health and Human Services. Lee held a similar job at the old Department of Health, Education and Welfare in the Johnson administration. He formerly was director of the Institute for Health Policy Studies at the University of California at San Francisco.

LANGUAGE: ENGLISH

LEVEL 2 - 12 OF 47 STORIES

Copyright 1993 News World Communications, Inc.
The Washington Times

February 7, 1993, Sunday, Final Edition

SECTION: Part A; NATION; INSIDE POLITICS; Pg. A4

LENGTH: 1425 words

BODY:

EVANGELICALS GIRD

Troubled by the end of the abortion "gag rule" and the thought of homosexuals in the military, conservative religious leaders have concluded the new administration is hopelessly wayward.

Richard Cizik, a policy analyst for the National Association of Evangelicals, for instance, told the Los Angeles Times it was time to shift attention from Washington to state and local elections:

"The whole conservative evangelical movement has become localized. It's a tactical change. . . . Mao was right: For the capital to fall, you have to control the countryside. We lost sight of that fact."

The Rev. Louis Sheldon of the Traditional Values Coalition added: "Our wake-up call has come. We've had a swift kick in the pants. We've been laying back on our laurels for 12 years, and it's going to be a rude awakening."

THE POLITICS OF WEIRD

Speaker Willie Brown of the California Assembly has suggested a constitutional amendment to force legislators to serve out their terms. He wants them to stop leaving for big-bucks jobs or higher office - because the state is too cash-strapped to finance the current run of special elections.

Democrat Joel Hyatt, the legal services entrepreneur - you have his word for it - has "already raised $562,000" toward a 1994 Senate race for the seat currently held by his father-in-law, Sen. Howard Metzenbaum, Ohio Democrat, who has not said publicly whether he will run again.

There is also the politics of the kitchen. Look out, White House chef. Scripps Howard News Service says a beef industry newsletter reports that President Clinton's favorite food is "beef tenders marinated in bottled Italian dressing."

WEEK'S QUOTES

Senate Minority Leader Bob Dole: "I think he [Mr. Clinton] failed to recognize, not having military service, what a furor this [lifting the military ban on homosexuals] would set off."

Lloyd Bentsen, 71, talking to his staff in Treasury's famed "Cash Room": "Considering the importance of the job of secretary of Treasury, I know you

would have expected someone with a little more maturity."

Sen. Jesse Helms, North Carolina Republican, told the Boston Globe, "What is under way here is the government stamp of approval on homosexuals."

THUNDER ON THE LEFT

Irwin Knoll of the Progressive magazine remarked on PBS about the new president's first weeks: "He's displayed political timidity and moral cowardice. . . . It's deplorable."

Sen. Patrick Daniel Moynihan on the report that Mr. Clinton regards Social Security as "on the table": "It's a death wish, and let's get it out of the way and forget it right now."

Sen. Patrick J. Leahy, Vermont Democrat and Agriculture Committee chairman, told the Los Angeles Times, "I had a lot of consultation on [nominating an] agriculture secretary, but only after I complained that I wasn't being consulted."

WONDER ON THE RIGHT

Republican William Bennett told the Fox channel: "There's a perception growing in Washington, on the Hill, that this guy [Mr. Clinton] can be pushed a little bit, even pushed a lot."

On PBS Pat Buchanan observed that Mr. Clinton's "going to pull a razor across his throat if he takes and tries to introduce the cultural war [homosexuals] into the U.S. Marine Corps, into West Point and into a military culture and ethos, which doesn't believe in that."

GOP pollster Glen Bolger told the Richmond Times Dispatch that Hillary Rodman Clinton's health care assignment is a "lose-lose situation": "Either she does a good job and outshines him, or she does a bad job and it's going to be mighty hard for him to fire her."

A WIDOW EMERGES

In a Senate campaign that sank one woman, another emerged. As Democrat Lynn Yeakel went down to defeat last year by Sen. Arlen Specter, Teresa Heinz, widow of the late GOP Sen. John Heinz, became a political force.

Mrs. Heinz's endorsement of Mr. Specter was considered critical to his victory, and by the end of the campaign there seemed to be considerable evidence that she had turned into a popular political figure in her own right.

Recently, she said she would run for her husband's old seat against Sen. Harris Wofford in 1994 if the state is "unserved . . . or wrongly served," the Pittsburgh Post-Gazette reported.

TAKING CULTURE BACK

Pat Buchanan, who is back on CNN's "Crossfire" every other week and has a book coming out in the spring, told PBS he didn't have any plans for a presidential bid in 1996, "but I haven't ruled it out."

On the GOP: "I think we all can be Republicans. . . . We cannot give up traditional values and our traditional social beliefs and I put right to life and family values right there.

"I think it's a good thing that Rich Bond is going up to Harvard to go to graduate school . . .

"Ours ought to be a right-to-life party. . . . If we walk away and say, 'Well, we're no longer right-to-life,' there'll be a third party in America. And I think the tent is surely big enough to embrace what I think is one of the best movements in the country."

WOO HEADS FIELD

A front-runner emerged last week from the gaggle of 52 candidates vying to be mayor of America's second-largest city.

A poll published by the Los Angeles Times showed that Los Angeles Councilman Michael Woo is well ahead of the field and the remainder were still trying to fight their way out of political obscurity.

Mr. Woo, 41, son of Chinese immigrants, is establishing broad support in multi-ethnic Los Angeles, garnering more support from blacks than Councilman Nate Holden, the best known black candidate, according to the poll.

The winner of the April 20 primary will face the second-place candidate in a June runoff for the office held by retiring Mayor Tom Bradley for the last 20 years.

FRESH COUNSEL

Sen. Dave Durenberger has hired well-known Washington criminal lawyer Thomas Green to handle his defense against possible criminal charges by federal prosecutors.

The Minnesota Republican is reported to be the subject of a federal grand jury investigation concerning government reimbursement for his Minneapolis condo.

Mr. Green replaces James Hamilton, who has a conflict as a result of being under consideration for a Justice Department post. This will probably further delay the two-year-old investigation, said the Minneapolis Star Tribune.

The three-term Republican, who was "denounced" by the Senate in 1990 for ethical violations, also faces civil allegations that he raped a Minnesota woman 29 years ago and fathered her child.

PACKWOOD PUNTS AGAIN

Sen. Bob Packwood, the Oregon Republican who has apologized for sexual harassment of 10 employees or associates, expressed regret once again - this time for suggesting a colleague's offense was greater than his own.

Under attack for not revealing the sexual harassment charges before his re-election in the 1992 election, Mr. Packwood has indicated his case was

similar to that of Sen. Mark Hatfield, another Oregon Republican.

Mr. Hatfield was probed by the Senate ethics committee for failing to report gifts he had received. Mr. Packwood asked why the press didn't get on Mr. Hatfield's case for not revealing the charges prior to the 1990 election.

Turns out the Hatfield case developed after his re-election. So Mr. Packwood told Mr. Hatfield he "will not again use this example." A Hatfield aide said the apology was accepted.

Meantime, the Senate Ethics Committee expanded it's investigation of Mr. Packwood "to include allegations he and some of his staff members attempted to intimidate women who have accused him of sexual misconduct."

The panel also adopted a rule that would prevent Mr. Packwood from using information about the sexual histories of his accusers to discredit them before the Ethics Committee.

PUNDIT LENO

NBC's Jay Leno on the White House phones not working: "Sure, if you just told 50 million people they're not going to get their tax cut or their Social Security, you'd take your phone off the hook too."

****BOX

YOUR TAX DOLLARS AT WORK?

Congressional appropriations in 1992 included $3.4 million for an Army National Guard armory at Fort Harrison, Mont., according to Citizens Against Government Waste. The funding was not requested by the president, the group said.

GRAPHIC: Photo, Pat Buchanan on the GOP: "Ours ought to be a right-to-life party." ; Box, YOUR TAX DOLLARS AT WORK? ; Chart, TODAY'S TALKING HEADS

LANGUAGE: ENGLISH

LEVEL 2 - 13 OF 47 STORIES

Copyright 1993 The Washington Post
The Washington Post

January 18, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A27; THE FEDERAL PAGE ; TRANSITION

LENGTH: 638 words

HEADLINE: Bush Angers Organized Labor by Naming Meat Company Official to Job-Safety Panel

SERIES: Occasional

BYLINE: Al Kamen; Frank Swoboda

BODY:

With the final hours ticking down on his administration, President Bush has managed to anger organized labor one more time.

The president last week reconstituted the 12-member National Advisory Committee on Occupational Safety and Health -- an advisory group on workplace health and safety issues that hasn't met in four years. Its last meeting was June 29, 1988. The new appointments for one- and two-year terms are effective Jan. 11.

But that isn't the real problem as far as labor is concerned.

What got to labor was the appointment to the committee of Pamalyn Kay Norton, chief legal officer of the ConAgra Red Meat Cos., which is involved in litigation with the Labor Department over Occupational Safety and Health Administration charges.

"Ms. Norton's appointment to the NACOSH . . . makes a mockery of the ethical guidelines established by the incoming Clinton administration," according to a statement from the Food and Allied Service Trades (FAST) Department of the AFL-CIO, which often speaks for union employees in the meatpacking industry. FAST called Norton's appointment a "clear conflict of interest."

For her part, Norton seems quite excited about the appointment. In a statement released by ConAgra, she said her mission will be to help OSHA "enhance the safety of workers in the workplace without creating a non-productive bureaucratic burden for employers."

An OSHA spokesman said yesterday that he had no idea whether the possibility of a conflict of interest was considered in Norton's appointment. "It's not necessarily bad that someone is appointed who has had enforcement experience with OSHA," he said.

Organized labor may have the last laugh, however. Frank Mirer, the health and safety director of the United Auto Workers union, is considered a leading candidate to be the assistant secretary of labor in charge of OSHA in the Clinton administration.

Contenders for Energy, Justice Jobs

Is there an important job in the Energy Department for Bill Burton, the Austin, Tex., lawyer who was the Clinton-Gore campaign spokesman on energy issues? Maybe, according to one well-placed source, but Burton reportedly has an unlikely rival for a policy-making position: Daniel Yergin, the historian and author, whose book about the oil industry, "The Prize," was made into the mini-series broadcast last week by PBS.

Over at the Justice Department, D.C. Corporation Counsel John Payton is emerging as a strong contender for the No. 2 spot, along with transition counsel and Washington lawyer James Hamilton.

Hitting the Ground Crawling at EPA?

Carol M. Browner, Clinton's choice for administrator of the Environmental Protection Agency, must know everything there is to know about EPA. Other than a lunch with outgoing Administrator William K. Reilly, she still hasn't come around for any briefings, according to sources. Also, questions continue about how much independence she will enjoy. At least one person sounded out for a top-level staff job was contacted not by Browner, but by the office of Vice President-elect Gore.

Once a Congressman, Always a . . . ?

It's not unusual for members of Congress to recommend friends, allies and staff for jobs in the new administration. The congressional relations office of the transition has received scores of such pleas. But among the pile, a recent query by former representative Carl C. Perkins (D-Ky.) stood out. Perkins, who did not seek reelection, gave "his highest recommendation" to an aide from a House Education and Labor subcommittee. The Jan. 7 letter, written on official stationery of the subcommittee on employment opportunities, was signed "Carl C. Perkins, Chairman." Perkins's letter prompted this comment from an transition aide, "What a goofball. This guy was out of office on 1/4/93. I guess he forgot."

GRAPHIC: PHOTO, CAROL M. BROWNER

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 14 OF 47 STORIES

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January 6, 1993, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A15; THE FEDERAL PAGE; TRANSITION

LENGTH: 847 words

HEADLINE: The Pursuit of a Daunting Energy Job

SERIES: Occasional

BYLINE: Al Kamen, Thomas W. Lippman, Steven Mufson, David S. Broder

BODY:

Now is the time for all good Democrats to come to the aid of their increasingly desperate, job-seeking friends.

Sen. John Glenn (D-Ohio), for example, has called and written transition personnel boss Richard Riley on behalf of ex-representative Thomas A. Luken (D-Ohio), who is circulating his re'sume' in a bid to succeed Leo Duffy in one of the most daunting posts in Washington: assistant energy secretary for environmental restoration and waste management.

The job involves a multibillion-dollar challenge: cleaning up the radioactive and toxic waste at the Energy Department's nuclear weapons plants. Energy has projected that it will take 30 years and cost more than $ 100 billion to complete the task. Luken became interested in the subject because the uranium processing plant at Fernald, Ohio, is in his former district and the department agreed to pay more than $ 70 million in damages to nearby residents.

Various watchdog groups are concerned about Luken because he has no technical or scientific expertise.

Still, Glenn spoke with and then wrote Riley on Dec. 22, calling Luken highly qualified, and asked Riley to "give him every consideration."

On the other hand, Rep. Norman D. Dicks (D-Wash.) is backing another candidate, transition team member Dan Silver. Silver was chief adviser to former Washington governor Booth Gardner (D) on issues related to the Energy Department's mammoth plutonium processing plant at Hanford, Wash. Watchdog groups also oppose Silver because of positions he took on environmental issues while he had the Hanford assignment.

Brain Trust for an Appointee

Washington lawyer Jamie S. Gorelick, a longtime FOZ (Friend of Zoe's), has put together a legal brain trust to assist Attorney General-designate Zoe E. Baird at her confirmation hearings before the Senate Judiciary Committee, chaired by Joseph R. Biden Jr. (D-Del.).

The group includes two former Biden chief counsels, Mark Gitenstein and Ron Klain, former staff director Jeff Peck, and Duke Law School Prof. Walter Dellinger, veterans of bitter fights over judicial nominations in the late 1980s who now find themselves working for, not against, committee confirmation.

That group should be able to figure out what Biden and company are likely to ask Baird. If not, Justice transition team leader and Georgetown Law School Prof. Peter Edelman will be on hand, along with Washington lawyer Carol Lee, transition aide Nancy McFadden, former Carter Justice Department officials Terry Adamson and Michael Cardozo and Los Angeles lawyer Kim Wardlaw.

Meanwhile, at Justice . . .

Transition sources say leading contenders for the deputy and associate jobs -- the No. 2 and 3 jobs -- are Edelman, Gorelick, transition counsel James Hamilton and New York lawyer Bernard Nussbaum, who is working with Edelman on the transition team. Richard Stearns, a Clinton friend from Oxford days, former federal prosecutor and now Massachusetts judge, is a contender for the associate job, along with Denver District Attorney Norm Early. Sources see Stearns and Early as bringing the prosecutorial experience that Baird does not have.

An Emphasis on Looks in Key Jobs?

Democratic press secretaries on the Hill have been besieged with requests by transition officials for suggestions on candidates to fill key jobs as spokesmen for government agencies. Some of those contacted are upset by the transition's quest for anyone but white males. They feel President-elect Clinton's pledge to have a government that "looks like America" may be placing too much emphasis on "looks."

Wright Says She'll Stay in Arkansas

Betsey Wright, longtime Clinton confidant, former chief of staff and head of "public outreach" during the transition, says she is not coming to Washington to work in the administration. Another transition official, Washington lawyer Tom Donilon, is a good bet to end up at the State Department as law firm colleague Warren M. Christopher's right-hand man, transition officials say, except for one problem: Donilon, a venerable 37, worked in the Carter White House and knows Washington well -- assets that Clinton may feel are more needed in the White House.

Padding Out the PAD Slots

Office of Management and Budget Director-designate Leon E. Panetta may be bringing some people from his House Budget Committee to OMB, including four who have been helping him prepare for his confirmation hearings: chief of staff John Angell, budget priorities office deputy director Richard Kogan, chief

economist Joseph Minarik -- perhaps to fill the long vacant job of associate director for economics -- and chief counsel Martha Foley.

Sources say Robert Greenstein, head of the Center for Budget and Policy Priorities, may get the powerful program associate director (PAD) job for health and human services issues, while Ray Scheppach, a deputy to OMB deputy director-designate Alice M. Rivlin when she headed the Congressional Budget Office and now executive director of the National Governors Association, is another possibility for a PAD slot.

GRAPHIC: PHOTO, THOMAS A. LUKEN.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 15 OF 47 STORIES

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The Washington Post

January 5, 1993, Tuesday, Final Edition

SECTION: FIRST SECTION; PAGE A7

LENGTH: 1099 words

HEADLINE: Background Checks Spur FBI Complaint;
Time Inadequate, Transition Team Told

SERIES: Occasional

BYLINE: Bob Woodward, Washington Post Staff Writer

BODY:
The FBI has complained to the Clinton transition team it has not been given enough time to conduct complete background investigations on some of President-elect Clinton's Cabinet selections.

The transition team wants the investigations accelerated to get the administration running as soon as possible after the Jan. 20 inauguration.

Although FBI written policy states that the agency should have 30 calendar days for the investigation of presidential appointees requiring Senate confirmation, investigations have been shortened to 15 days for the transition. But sources said the Clinton transition has shortened the period further, giving the FBI only six to 12 days on some key investigations.

For example, on Dec. 23, the FBI sent out a request to its field offices and special inquiry unit for an expedited "level one background investigation" on Ronald H. Brown, the Democratic Party chairman selected by Clinton to be commerce secretary. The deadline for completion was set for yesterday.

Because of weekends and the Christmas and New Year's holidays, the FBI had five working days for the Brown investigation. A "level one" investigation for a Cabinet appointee requires examination of the candidate's entire adult life and usually means agents will conduct interviews with at least 25 to 35 persons familiar with a nominee's past.

Sources said that James A. Bourke, FBI chief of the special inquiry unit that handles White House and other high-level investigations, complained about the short deadline to James Hamilton, the Clinton transition counsel for nominations and confirmations.

One source said that the numerous questions raised by Brown's past lobbying and business ventures would keep a dozen FBI agents busy for a month if all the questions were to be answered fully. But sources said Hamilton said the deadline was inflexible because the Senate Commerce Committee planned to begin confirmation hearings Wednesday. Hamilton yesterday declined to comment. An FBI spokesman said the bureau's objection "was not a pound-the-table complaint, but we just expressed some concerns."

A source close to Brown said that he is cooperating fully with the FBI inquiry and has answered all questions about his background posed by agents during two sessions that totaled five hours. The sessions included detailed questions based on a highly critical report on political party chairmen by the Center for Public Integrity, the source said.

In perhaps the most rushed case, the FBI was given six days that included the three-day New Year's weekend to investigate House Armed Services Committee Chairman Les Aspin (D-Wis.), Clinton's pick for defense secretary.

An aide to Aspin said that the FBI interview with Aspin took less than 90 minutes and was conducted New Year's Eve in the back seat of a car driven by an Aspin aide speeding to National Airport. The aide said the procedure seemed rushed, but he noted that Aspin, who has served in Congress since 1971, is a known quantity.

According to a Clinton source: "Les Aspin had every clearance possible back when he worked in the Pentagon [in the 1960s] and his career and life have been an open book since then. This is not a hard investigation." Though as committee chairman Aspin has had access to some of the military's most highly classified material, legislators are not normally given FBI background investigations. Two officials said this would be his first formal FBI check since 1966 to 1968, when he served in the Pentagon as an Army captain.

Howard Paster, who is heading the confirmations for the transition team and is reportedly slated to head the White House congressional liaison operation, said yesterday that he understood that "the FBI was upset because they would have to put extra manpower [on the investigations] and that some people would have to work over the weekends. I was told there was no problem that could not be solved with the extra manpower and hours. We have not asked for anything less than complete and thorough investigations, and there is no attempt to short-circuit the process."

Tron Brekke, the head of the FBI civil rights and special inquiries section, yesterday disputed Paster's assertion. "We were not upset," Brekke said.

Brekke said that there has been "total cooperation" between the FBI and the Clinton transition team on the background investigations, and in "one or two cases" the Clinton transition team has extended deadlines at the FBI's request.

He said that the FBI has the highest standard for these investigations. "Every issue brought to our attention has to be addressed" before any investigation is considered complete, Brekke said.

No one contacted on the Clinton transition team yesterday was willing to explain the often long delays between the announcement of an appointee and the transition's request for an investigation.

For example, Clinton announced his intention to nominate Brown as secretary of commerce on Dec. 12, which was 11 days before the transition team requested the investigation.

The FBI's Brekke said: "You're asking the wrong person. . . . It's a fair question. We don't have standing to ask it. The bottom line is we take what we're given. We don't question why things were done that we can't have any

impact on."

One Clinton transition official attributed delays in part to the holidays and in part to the time it took to get the designees to be fingerprinted and to fill out a required questionnaire.

The FBI is sensitive about the quality and thoroughness of these investigations because of criticism it received after former labor secretary Raymond Donovan was indicted on charges relating to activities that the FBI might have known about before Donovan took office in 1981. Donovan was acquitted.

The FBI policy says background interviews should be conducted in person, although it allows telephone interviews "under exceptional circumstances." FBI policy also states that White House nominees "require the most comprehensive investigation to assure that if derogatory information exists, it is developed fully and resolved whenever possible."

A dozen areas of inquiry are specified in FBI policy, including "personal and business credit issues. . . any details of applicant's personal life that could be used to coerce the applicant. . . details of any psychological counseling. . . Prescription drug, alcohol abuse, or illegal drug use [and] 'Lifestyle' issues that could compromise the nominee's ability to fulfill his/her responsibilities."

Researcher David Greenberg contributed to this report.

GRAPHIC: ILLUSTRATION, EXCERPT FROM FBI MEMO (DATA FROM THIS GRAPHIC WAS NOT AVAILABLE.), TWP

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 16 OF 47 STORIES

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January 4, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A19

LENGTH: 877 words

HEADLINE: Jockeying for Sub-Cabinet Posts Intensifies

SERIES: Occasional

BYLINE: Al Kamen, Ann Devroy

BODY:

Now that President-elect Clinton has chosen his Cabinet, jockeying for the "real" jobs -- at the assistant secretary and deputy levels -- is reaching new heights, or lows, depending on one's point of view.

A Senate aide, who is not among the job-seekers, recently observed: "It's cannibalism out there," as thousands of long aging Democrats vie for the senior policy positions throughout the government.

Meanwhile, the choice for the coveted job of solicitor general -- the government's advocate at the Supreme Court -- is likely to be made fairly soon, transition sources say, given the new administration's interest in putting its stamp quickly on cases already before the high court.

The list of candidates seems to have expanded of late, Washington sources say, with the inclusion of veteran New York litigator and First Amendment expert Floyd Abrams and another prominent New York lawyer, Conrad K. Harper, who recently ran the New York City bar association. American Bar Association president Talbot D'Alemberte of Florida also is a contender. Harvard Law School Prof. Laurence H. Tribe, Duke Law School Prof. Walter Dellinger, Washington attorney Joel Klein and D.C. federal appeals Judge Ruth Bader Ginsburg also are being eyed for the job.

Then there are all those White House jobs, hundreds of them, with a dozen or so generally thought to be very plum. One lawyer working on the transition and believed to have an inside track on the White House counsel's job is Washington attorney James Hamilton, a legal counsel to the transition who has been in charge of vetting of potential nominees.

But another source, asked about Hamilton, said, "One thing I can tell you is that the White House counsel is going to wear a dress to work every day."

The senior White House jobs -- including chief of staff and national security adviser -- have gone to white men, and most likely communications director and congressional liaison will too.

That will increase pressure on Clinton to search for minorities and women in many of the remaining key jobs to make his White House, like his Cabinet, look "more like America," the phrase often employed by Clinton to describe the makeup of his administration.

Washington attorney Jamie S. Gorelick, on Hilton Head Island, S.C., last week with the Clintons and a close friend of attorney general-designate Zoe E. Baird, is being mentioned as a candidate for a number of senior jobs, including White House counsel, general counsel at the Department of Defense, or a deputy or associate attorney general.

Just Another Day at the Beach Does this guy ever take a break?

At the Renaissance Weekend on Hilton Head Island, Clinton shook hands with the thousand or so invitees going into the Hyatt Hotel ballroom for dinner on Wednesday evening.

After dinner, he attended a reception for the oldest and newest members of the 12-year-old gathering at a little bar called Hemingway's, in an open area off the corridor from the ballroom.

The president-elect was spotted there holding forth for several hours on serious policy issues, shaking every hand and talking with small groups of people. A few hundred people were there for the opening, but the numbers dwindled to about 15 or 20 by the end. "Everybody else got tired and went to bed," one participant said. Clinton was there well past 1 a.m.

But by 7 a.m. Thursday, Clinton was jogging on the beach.

Wirth May Be Offered Post at State

Outgoing Sen. Timothy E. Wirth (D-Colo.), having lost what once appeared a sure bet to be secretary of energy, may not be out of the Clinton administration picture. There is talk in Washington that Wirth may be offered another job, perhaps at the State Department as assistant secretary for oceans and international environmental and scientific affairs -- not a traditionally high-profile job but something that, in the Clinton administration, could be an important post. But such a job may not be inducement enough to keep Wirth from going to the private sector.

Looking Out for Chicago's Daley

Transition sources say Clinton also will be looking hard to find a senior job for a Democratic heavy hitter, Chicago bank president William Daley, who was rejected for the job of secretary of transportation. There are still a substantial number of important banking-related and other jobs to be passed out. For someone who patterns himself after John F. Kennedy, stiffing a Chicagoan named Daley -- William is the brother of Mayor Richard M. Daley and son of the late Kennedy stalwart Mayor Richard J. Daley -- does not bode well for 1996.

Transiting Out

Meanwhile, former White House aide David Carney, who left there to be the political field director of President Bush's reelection campaign, will become chief political operative of the National Republican Senatorial Committee headed by Sen. Phil Gramm (R-Tex.).

David Bates, who traveled the byways of Iowa and New Hampshire with Bush in 1979 on Bush's first run for the presidency and again in 1988 and 1992, is returning to his home state of Texas. Bates, who was an assistant commerce secretary and Cabinet secretary at the White House, is moving to San Antonio, where he will be vice president and general counsel to a biomedical company.

GRAPHIC: PHOTO, ZOE E. BAIRD.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 17 OF 47 STORIES

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December 28, 1992, Monday, Final Edition

SECTION: STYLE; PAGE D1

LENGTH: 1980 words

HEADLINE: A Weekend With Bill & Friends;
Hilton Head's New Year's Tradition: Name Tags, Networking and Talk, Talk, Talk

SERIES: Occasional

BYLINE: David Maraniss, Washington Post Staff Writer

BODY:

Perhaps the best way to describe the gathering known as Renaissance Weekend that will be held on the South Carolina resort island of Hilton Head this week is to say that it is a Bill Clinton kind of thing. An extended weekend devoted entirely to schmoozing, to being serious here and sentimental there; to choosing up sides and topics and talking your heart out in a marathon gabfest of panel discussions, and listening, ever so earnestly; nodding and smiling, relaxed in bluejeans, wearing a big ol' name tag with your first name in GIANT letters dwarfing your probably famous surname, all equals here; a dawn-to-midnight exercise in empathy and enlightenment with hundreds of close friends, some old, some new; holding hands at the end and praying and singing together, and then keeping that new age extended family network going over the months apart with midnight faxes and telephone calls... .

Bill Clinton, who's expected to arrive in Hilton Head today, was born for this even more than he was born to run for president of the United States. His whole life, in essence, has been one nonstop Renaissance Weekend. Was there any doubt that the president-elect and his wife, Hillary, and 12-year-old daughter, Chelsea, would head down to Hilton Head even with all the important decisions looming over name tag BILL between now and the 20th of January? "Are you coming this year?" one Renaissance Weekend regular inquired of the busiest man in the nation a few weeks ago. "That's a given," said Clinton.

The only surprising thing is that Clinton didn't invent this gig, because if it didn't exist, he would have had to.

The creator and founding father of Renaissance Weekend is a fellow named Phil Lader, a South Carolina businessman and academician who now serves as president of Bond University, the only private university in Australia. As Lader tells the story, it all began 12 years ago when "some dear friends, the Trasks," hosted a dinner party for Lader and his wife, Linda, right after they were married. Lader was then president of the Sea Pines resort on Hilton Head and always eager to employ his major-league networking talents. "After all the guests had left," Lader recalled, "we settled by the fire and reflected on how important friendships are to our lives and how all of us meet many interesting people, but in social settings or through business, and wouldn't it be great if we could have a very informal gathering of innovative people that we'd met but didn't get a chance to truly know."

" 'What are you doing for New Year's this year?' " Lader recalled his friend John Trask asking him. "And I lamented that New Year's was such a lost holiday, that it should be more a time of reflection and renewal. So then it came to us: Why not have a party this year as we just described? A gathering of some people we knew well and others we would like to meet."

It had to be a full family affair, they decided, and it would be important not only to have children there but older guests as well, wise and experienced members of the generation before theirs who could season them with life's lessons. Their invitation list would be set by three criteria, Lader said: "One, people who have demonstrated leadership on a regional or national scale; two, that they have a renaissance spirit with broad-ranging intellectual interests; and three, that they would enjoy a highly personal, informal tradition."

And so in 1981, Renaissance Weekend was born. Lader did all the inviting, at first drawing on old college and school friends and people he had come to know in his line of work, but then playing the network game year by year to develop the gathering into what he called "a group of highly gifted and accomplished people from different walks of life who learn from each other in the interest of personal and national renewal."

From a somewhat regional affair involving 60 families at its creation, it has blossomed into a peculiar national cultural phenomenon: Like a restaurant or nightclub that suddenly becomes hot, Renaissance Weekend is now the place to be, with several hundred coming this week and hundreds more clamoring to break through the waiting list. To handle the gabbing throng this year, Lader had to move the events from his old resort at Sea Pines to the Hilton Head Hyatt. The informal agenda has grown into something resembling the annual meeting of a far-flung trade group: There will be 200 panel discussions running eight at a time from morning to night for four days, offering a range of choices that one participant, the humorist Art Buchwald, complained created "Panel Envy."

For those of you couch potatoes vaguely curious about how networking works, listen for a moment to Lader describing the evolution of a guest list:

"David Gergen came the first year when he was director of communications in the Reagan White House. Now he's at U.S. News. He and I were on the board of Duke University, that's why I invited him. Also Diane Sawyer came, she was a close family friend of my wife. And Stan Smith comes every year: He was a touring tennis pro based on Hilton Head. Lamar Alexander came a half-dozen times. He had a vacation house next door to mine on Hilton Head. Larry Pressler, the senator -- he and I were classmates in law school. I was Wendell Wilkie's dorm counselor at Harvard, that's how he got on the list.

"Jack Marin, the basketball player, was a classmate of mine at Duke. Michael Porter, the competition guru at Harvard, he's a close friend of many longtime participants. Justice [Harry] Blackmun comes -- his daughter's husband was a law clerk for the same federal appeals judge I clerked for. We got to be friends and I met her father through them. Now the whole family comes. Jim Hamilton, the deputy Watergate prosecutor working on the Clinton transition, he comes every year. He and John Trask were at Davidson College together. Art Buchwald was recommended by Jim Hamilton; they got to know each other in a men's exercise class at the YMCA. Sam Ervin, the son of the famous Sam, he's chief judge of the 4th Circuit, part of that same Davidson-Duke circle of friends. Andy Tobias, the writer, is a close personal friend, we were at Harvard together."

And so it goes, circles intersecting circles. Lader was at Oxford the year before Clinton arrived. He was a close friend of the South Carolina governor's, Richard Riley, who was a close friend of Clinton's (and is now a key transition official and slated to be Clinton's secretary of education). Clinton got the invite and started attending Renaissance Weekend in 1984. He's been a devotee ever since, one of six governors and ex-governors who regularly attend.

The whole weekend is billed as nonpartisan, off the record and noncommercial -- which it is to one degree or another. One year a guest was caught trying to interest fellow weekenders in his investment firm, and he was politely and quietly disinvited. But in politics, where making friends is the coin of the realm, Renaissance Weekend is a cash bonanza for the Clintons of the world.

"You build your Rolodex. You network," said Sam Tenenbaum, an industrialist and Democratic activist from Columbia, S.C. "You talk, you listen, you laugh. But intellectual curiosity is the common denominator. And there is an intensity there on the personal level that is unmatched other than in your very personal life. These are not dry policy discussions, you are sharing intimate experiences with people you might not yet know very well."

Lader not only invites the guests, he thinks up the discussion topics and assigns the panelists. Phyllis George, a former Miss America, once expounded on "Something That's Been Bugging Me Lately" on a panel that also included Justice Blackmun and Gov. Clinton. From Richard Celeste, the former Ohio governor, came confessions of "What I Wish My Parents Had Told Me," while Hamilton Jordan reflected on "The Toughest Decision I've Ever Made," evangelist Leighton Ford talked about "Building an Inner Life," polling consultant Harrison Hickman bantered with Susan Porter Rose, chief of staff to Barbara Bush, on "A Thousand Points of Light?" and Hillary Clinton held forth with a panel whose theme was "If These Were My Last Remarks... ."

For anyone curious about what bugged Clinton -- or Phyllis George for that matter -- alas, this account must disappoint. Renaissance Weekend guests, though certainly no more leakproof than most folks, seem to come away from the event with a haze of memories and emotions: There is so much talk that it all runs together after a while like a humongous four-day conference call. Many guests, reflecting on Clinton's presence, remember images more than words: how he would roam from discussion to discussion and take a spot at the side of the room, leaning casually against the wall; how he would seem to know everyone, not just from their name tags, but remember what they did and what they were interested in. "He hugs you," said Max Heller, the former mayor of Greenville. "He hugs you not only physically, but with a whole attitude."

At the weekend after the 1988 election, Clinton talked about the mistakes Democratic candidate Michael Dukakis made and what could be done to avoid them next time. And last year he talked about charting an uncertain future, which was his presidential campaign. From his post down under, Lader has found great pleasure crafting a theme for Clinton this year. It is highly unlikely that guests will forget the details of whatever the president-elect chooses to utter, though they fear he will be less forthcoming than usual. "I'll be honest with you, I'm not sure this will be the best one because of all the hoopla about Clinton," said Tenenbaum. "The way it's been in the past you can be open and unguarded, but I'm not sure a president-elect can be unguarded."

Only the most emotional or awe-inspiring moments tend to linger, such as when South Carolinian Lee Atwater described how he learned he had a brain tumor by hearing it on television, or when Adm. Elmo Zumwalt, former chief of naval operations, wiped away tears as he described the fatal effects of the defoliant Agent Orange on his own son, or when a Fortune 500 chief executive spilled his tormented story of expelling his son from the house after he refused to kick a drug habit. During a panel on Roe v. Wade, the most incredible scene was in the audience: There sat Justice Blackmun, engrossed by the discussion, furiously scribbling notes. (By the way, they make up two name tags for Blackmun, one that says JUSTICE and the other HARRY. Invariably he wears HARRY).

Although they congregate in Hilton Head only four days each year, the regulars at Renaissance Weekend have become more than same-time-next-year friends. Many groups hold smaller Renaissance gatherings in their home cities. And they are constantly reconnecting with the group through Lader, who even in Australia serves as an extraordinary nexus. Every day he hears from at least four members of the group, either by letter, telephone or fax. One day last week, Bill Nelson, the congressman and astronaut, was faxing in his vacation plans while Millard Fuller, president of Habitat for Humanity, was calling on the other line. Renaissance Weekend is not a conference or a convention or a think tank, Lader said. It is an extended family. Just how extended becomes obvious when Lader tells a story about his daughter.

"A few years ago, my elderly aunt, who was living with us, was dying of cancer," Lader said. "I took my eldest daughter aside and tried to tell her that Aunt Eleanor was going to die. 'Daddy, I know that,' she said. 'But Daddy, everybody is going to die someday. Daddy, you're going to die someday. But will you do me one thing before you die?' And I said, 'What's that, honey?' And she said, 'Teach me how to run Renaissance.' "

GRAPHIC: PHOTO, TIM DOMINICK

LANGUAGE: ENGLISH

LEVEL 2 - 19 OF 47 STORIES

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December 17, 1992, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A21; THE FEDERAL PAGE

LENGTH: 815 words

HEADLINE: Talking to Those Who Have Been There

SERIES: Occasional

BYLINE: Al Kamen, Ann Devroy, David S. Broder

BODY:

Even before President-elect Clinton announced his choice of chief of staff, his transition aides were sorting out how to structure the new White House. Part of the process was going to the source -- six sources actually -- Republicans who have served successfully and less successfully as chiefs of staff for presidents Ford, Reagan and Bush.

Transition honcho Vernon E. Jordan Jr. arranged meetings last week between a group of transition aides, some of whom are likely to have senior posts in the new White House, and most of the men who have run the White House operation the last 12 years. One group included four considered successful, Howard H. Baker Jr. and Kenneth M. Duberstein -- brought in by President Ronald Reagan in his second term after the ill-fated tenure of Donald T. Regan -- and Donald Rumsfeld and current Defense Secretary Richard B. Cheney, who served President Gerald R. Ford.

All had Washington experience and virtual public invisibility while they held the chief of staff post.

Separately, Jordan's group met with John H. Sununu, who Bush retired after three years and who is considered by many to be the least successful, and Samuel K. Skinner, the second Bush chief whose brief tenure was filled with chaos, clashes with the Bush campaign apparatus and a half-year of indecision at the White House until he was replaced by James A. Baker III.

One source said the sessions consisted of extensive nitty-gritty talks about both the big picture and a lot of details. Questions included: Who should chair the new economic council when Clinton cannot? (The Treasury secretary.) Which adviser will head the council? (The vice president.) How should the congressional operation, the communications operation and the policy advice operations be structured? All that blended with what one aide called "a lot of do's and don'ts."

Jordan would not say when Clinton will actually name White House aides or how Thomas F. "Mack" McLarty, the new chief, will fit into the process and assess the advice himself. "Just be cool," was his only comment on the who's and when's.

But Jordan did say that McLarty, the new chief, should not be compared to any prior chiefs. Irked that some have compared McLarty, a close Clinton friend

and business executive with no Washington experience, to Hamilton Jordan, President Jimmy Carter's chief of staff, Jordan said, "There is no, no, no comparison. It's like comparing an apple and an orange. You do him a disservice."

Some of those attending the meeting were Washington transition deputy directors Mark Gearan and Alexis Herman, along with Washington attorney and White House transition adviser Harrison Wellford and Roy Neel, chief of staff to Vice President-elect Gore.

The consensus afterwards was that Clinton needed someone who was "an honest broker, not a deputy president with his finger in every policy pie, not someone appearing on all the talk shows," said one participant. The model chief? Cheney. Clinton's chief should be "all the things that Dick Cheney was when he was there," the source said. "He was the perfect model."

Vetting Prospective Officials

If you're Doonesbury's Joanie Caucus, waiting anxiously for word on a job in the Clinton administration, here's who you want on the other end of the line when the phone rings: Washington lawyer James Hamilton. Hamilton is running the Clinton transition vetting operation -- an internal equivalent of an FBI check. A former assistant counsel on the Senate Watergate Committee, Hamilton has a staff of "probably more than 20 people," one source said, and is the "penultimate stage before it goes to Bill and Hillary."

Ways and Means Changes

Moves on the Hill . . . Rob Leonard, chief counsel and staff director of the House Ways and Means Committee for the last six years, is leaving to go into private law practice. Succeeding him will be Janice A. Mays, now chief tax counsel on the committee. Staff member Don Longano will move up to take Mays's place.

Whither Conservatism?

William Kristol, Vice President Quayle's brainy chief of staff, is taking on an assignment that may challenge even his mental powers: figuring out the future of conservatism.

The Lynde and Harry Bradley Foundation of Milwaukee, which funds many conservative projects, announced that Kristol will direct the "Bradley Project on the '90s," aimed at evaluating the "intellectual and institutional assets available" to those "interested in economic growth, political freedom and traditional values."

In plainer language, said a Kristol associate, his job for the next six to nine months is to "study the future of the conservative movement" after its 12-year lease on the White House has expired. Kristol will be joined in a

small office adjacent to the American Enterprise Institute by Jay Lefkowitz, now President Bush's director of Cabinet affairs.

GRAPHIC: PHOTO, THOMAS S. MCLARTY.

LANGUAGE: ENGLISH

LEVEL 2 - 23 OF 47 STORIES

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November 25, 1992, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 3; National Desk

LENGTH: 1672 words

HEADLINE: Lobbyists on Clinton's Team: Potential for Conflict Endures

BYLINE: By JASON DePARLE with STEPHEN LABATON, Special to The New York Times

DATELINE: WASHINGTON, Nov. 24

BODY:

The top officials of Bill Clinton's Presidential transition team are lawyers and lobbyists whose collective client lists and board memberships include virtually every American industry and many foreign companies and governments.

The clients of these officials' firms sell things as diverse as Kermit the Frog and the uranium used in nuclear power plants. The clients drill oil, build cars and run banks. They sell cigarettes, fighter jets, spy satellites and wine. Many of these clients have important matters pending before Federal agencies and Congress, which is precisely why they turned to Washington lawyers.

For a President-elect who came to Washington pledging to "limit the influence of lobbyists," these business connections have created tension. On the one hand, Mr. Clinton has introduced new ethics rules, which he says will, in the most forceful way ever, prevent transition staff members from influencing areas of government that could affect their private financial interests or those of their clients.

On the other hand, the staff has interpreted those rules in a way that has resulted in the disqualification of only one transition aide from a single discussion among the hundreds now taking place about appointments to the new Government. Transition officials say there are no other financial conflicts involved as a handful of prominent business lawyers helps staff the Government that will then regulate their clients. But that contention has been challenged by some legal scholars and public interest groups.

The transition team has also refused to make public the financial-disclosure forms it announced with some fanfare two weeks ago. To do so, aides said, would unfairly violate the privacy of transition officials, who are mostly unpaid and serving in a temporary capacity. In withholding the information, team members said they are only following past practice.

An examination of the top officials' business connections, drawn from filings with the Securities and Exchange Commission and other public documents, offers new details on their extensive business connections and those of their law firms.

Vernon E. Jordan, the transition chairman, earns at least $442,000 a year in fees on the boards of 11 corporate giants, including Union Carbide, American Express, Xerox and RJR Nabisco. Mr. Jordan also holds about $911,000 worth of

stock in these companies, not counting stock options, and will qualify, upon retirement, for pensions from them worth more than $200,000. His law firm, Akin Gump Hauer & Feld, represents at least seven of the corporations, and as a senior partner he shares the firm's profits.

The transition director, Warren M. Christopher, is the senior partner in one of the nation's largest law firms, O'Melveny & Myers, and he has led it during a decade in which it added an array of leading Asian industries to its client base. These include Mitsui, Sumitomo Trust and Banking, Japan Airlines, and Hyundai. During the campaign, Mr. Clinton made a point of criticizing American lobbyists who work for foreign interests.

In addition, Mr. Christopher earned at least $73,000 last year from sitting on the boards of the Lockheed Corporation and the Southern California Edison Company, and his firm represents both corporations.

On Leave From Firms

Both officials, like others involved in the transition, have said they are on leave from their firms and boards and will not be consulting clients while helping staff the Government. But spokesmen for the transition and the officials would not say whether they will relinquish their board fees during the transition, and both are expected to resume their business relationships after the inauguration. Transition rules bar members for six months from lobbying Government agencies they helped staff.

The practice of high-powered lawyers' alternating between lobbying and service in government has been going on in Republican and Democratic administrations for years. But during the campaign, Mr. Clinton promised to be different and break with the Washington revolving-door tradition.

Mr. Clinton and his aides have said his new ethics rules fulfill the pledge. Among them is a provision that disqualifies officials from "involvement in any transition matter" that conflicts or even "appears to conflict" with their business interests or those of clients.

But the transition team says the rules do not bar Mr. Christopher from participating in discussions about the military, even though he sits on the board of the Lockheed Corporation, a major military contractor. They do not stop him from weighing in about Asian trade policy, despite his firm's Asian practice. Similarly, they do not prevent Mr. Jordan from discussing health policy, even though he sits on the board of RJR Nabisco, which manufactures cigarettes. The same for Mickey Kantor, another board member, whose firm has done work for Philip Morris and other tobacco interests.

In several interviews, George Stephanopoulos, Mr. Clinton's spokesman, said the connection in these cases between the officials' advice and ability to profit was too diffuse to pose a conflict. He stressed that the officials were on leave from their firms and boards, so there was no "concurrent representation" of business and government. And he repeated Mr. Clinton's insistence that the President-elect, not his advisers, will make the final staffing decisions.

"There's got to be a certain amount of trust in the process," he said.

But Mr. Stephanopoulos also highlighted the tension that arises when a President-elect wants strict ethics rules but also wants prominent lawyer-lobbyists for advisers. Under more stringent interpretation, he said, "It would be almost impossible to be a successful lawyer in a prominent firm and to participate in any way."

He added, "We just don't think that's a reasonable interpretation."

The rules, which do not have the force of law, can be enforced only by the transition team itself. Mr. Stephanopoulos said the financial-disclosure forms, and the potential for conflicts, are to be reviewed by James Hamilton, who was appointed the transition's general counsel today. Mr. Hamilton is a partner in the Washington law firm of Swidler & Berlin, which has lobbied on behalf of clients including the Pharmaceutical Manufacturers Association and the American Gas Association.

Some leading public interest groups, like Common Cause, have praised the Clinton team for its ethical concerns. Some transition experts argue that without the presence of experienced figures like Mr. Jordan and Mr. Christopher with established Washington connections, the Clinton team would have trouble getting things done. And the Clinton team has stressed its desire for diversity, noting that the transition staff includes professors, businessmen, government officials, women and members of racial minorities.

But some critics, including Ralph Nader, have argued that the selection of lobbyists and lawyers to head the effort indicates a narrow view of potential talent. "Cesar Chavez isn't getting any calls," he said, referring to the leader of the farm workers' movement.

Mr. Stephanopoulos said the rules only disqualify officials when the decisions they help make could have a direct impact on their finances or those of their clients. By clients, he said he means personal ones, not those of the firms more generally.

The one official to disqualify himself is Thomas McLarty, a member of the transition board and an old friend of Mr. Clinton. Mr. McLarty has said he will not discuss savings-and-loans issues because he has an interest in one that is now in a dispute with regulators. But the rules do not prohibit Mr. McLarty from participating in discussions of energy policy and appointments, even though he is chairman of Arkla Inc., a company that produces natural gas.

But these interpretations are bringing rumblings of discontent. Charles Lewis, director of the Center for Public Integrity, a Washington research group, said it was "ludicrous" to contend there were no conflicts, for instance, between the officials' work for tobacco companies and their ability to advise on health appointments.

"If that's not a conflict, I don't know what is," he said.

Mr. Kantor is a partner in Manatt Phelps Phillips & Kantor, which has done work for the governments of Cyprus and Jamaica and a wide array of health care, real estate and transportation corporations.

Mr. Kantor's dual roles as a campaign worker and a lobbyist drew fire a few weeks before the election when it was disclosed that he had conducted a policy

briefing for a number of clients and potential clients, including General Electric, Bell Atlantic and U S West. In addition to announcing Mr. Clinton's views, critics said, Mr. Kantor was attempting to market his access.

When asked about this criticism, he responded that the briefing was routine, not unlike the kind he has given to public interest groups, and that it included discussions of general tax increases on the wealthy, "hardly something very comfortable for these folks."

Samuel R. Berger, the transition's foreign policy director, has for many years presided over an international trade practice at Hogan & Hartson, a law firm whose clients have included the governments of Poland, Czechoslovakia, the Bahamas, Ontario, Japan and the trading arm of China.

It has also worked for a foreign corporation, Toshiba, which turned to the Washington lawyers to head off possible sanctions and penalties after revelations that it had illegally sold restricted military technology to the Soviet Union. The lobbying ultimately worked, although Mr. Berger said he did not participate in it.

He said he did not see a conflict between his private work as a lawyer and his role as an adviser to the Government in formation. "I certainly would not work on anything that I had personally been involved in," he said, adding that during the campaign, he walked out of any meeting having to do with trade issues.

GRAPHIC: Table: "A Well-Connected Team"

Corporate board memberships for Vernon E. Jordan and Warren M. Christopher, who are heading President-elect Bill Clinton's transition team. Figures are from 1992 corporate reports and do not include stock options or other compensation. Directors' fees are estimated annual minimums.

*Companies represented by Mr. Jordan's law firm, Adin, Gump, Hauer & Feld.

**Companies represented by Mr. Christopher's law firm, O'Melveny & Myers.

VERNON JORDAN, Transition Chairman:

		Date elected	Director's fees	Stock holdings	Pension
	AMERICAN EXPRESS	1977	$48,000	$38,404	$30,000
*	BANKERS TRUST NEW YORK	1972	$53,381	$281,424	$20,000
*	CORNING	1983	$25,600	$252,778	None
*	DOW J0NES & COMPANY	1982	$31,800	$5,672	$11,500
	JC PENNEY	1973	$48,000	$18,258	$24,000
	REVLON GROUP Private company; does not report information				
*	RJR NABISCO HOLDINGS	1989	$50,000	$53,561	$50,000
*	RYDER SYSTEM	1989	$40,600	$12,625	$21,500
	SARA LEE	1989	$52,500	$79,149	None

*	UNION CARBIDE	1987	$41,000	$18,879	$26,000
*	XEROX	1974	$51,000	$149,663	$25,500
	TOTALS		$441,881	$910,413	$208,500

WARREN CHRISTOPHER, Transition Director:

		Date elected	Director's fees	Stock holdings	Pension
**	LOCKHEED	1987	$34,000	$76,800	$20,000
**	SOUTHERN CALIFORNIA EDISON COMPANY	1981+	$39,000	$63,175	$30,000
	TOTALS	$73,000	$139,975	50,000	

+Mr. Christopher also served on the board from 1971 to 1977

LANGUAGE: ENGLISH

LOAD-DATE: November 25, 1992

LEVEL 2 - 24 OF 47 STORIES

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The Washington Post

November 25, 1992, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A15; THE FEDERAL PAGE

LENGTH: 912 words

HEADLINE: Making Contact at the Team Level

SERIES: Occasional

BYLINE: Al Kamen, Barton Gellman

BODY:
Sounding like Ronald Reagan in negotiations with the Kremlin, the mood yesterday was "trust, but verify," said one Clinton transition official, as the Democratic team made its first substantive contacts with the outgoing administration."If Bush's commitment to facilitate the transition is true, let's see what we get," the Clintonian added.

National security transition director Samuel R. "Sandy" Berger, the only formally announced cluster head, got off to a fast start. Berger has divided his cluster into seven agency teams, one each for the State and Defense departments, National Security Council, U.S. Information Agency, Agency for International Development, Central Intelligence Agency, and Arms Control and Disarmament Agency.

Six of the seven scheduled their initial contacts with Bush agency counterparts yesterday or today. No meeting has been set at the National Security Council, because Clinton had not signed off on Berger's recommendation that Georgetown University professor Madeleine Albright head the NSC transition team. But Berger has been in contact with national security adviser Brent Scowcroft for weeks.

"They're really going to go into each of these agencies and excavate for pie-in-your-face issues . . . that need to be addressed by the president-elect and the [departmental] secretary within the first 90 days," said one transition official.

Each team is expected to produce, before Christmas, a single 40- to 60-page memo divided into eight chapters: an overview; description of "major programs, FY '93 budget authority and FTE [full time equivalent] employment level"; "ongoing and imminent policy, regulatory and program issues requiring high-level attention within . . . 90 days"; highest-priority positions to fill; budget and procurement issues; legislation due to expire and current legislative initiatives; observations and areas of concern; and background materials.

Clinton has not yet announced his national security transition cluster lineup, but names continue to leak.

John G. "Jack" Keliher, staff director of the House intelligence committee, and George J. Tenet, his Senate counterpart, are said to be heading up the intelligence transition team.

Alice C. Maroni (that's MAH-roe-nee, not Ma-ROE-nee), a budget expert on the House Armed Services Committee, joins Jeffrey H. Smith's Pentagon team, and Brian Atwood's team at State will include former ambassadors George Moose and James R. Cheek.

Jennone Walker, guest scholar at the Woodrow Wilson International Center for Scholars, is also believed headed for State's transition team. Walker directed the theater military policy office at State during the Reagan administration, and was on the policy planning staff under President Carter.

Howard Law School professor Goler T. Butcher is a likely pick for the team reviewing the much-troubled Agency for International Development.

Rose Gottemoeller, a strategic analyst for the Rand Corp., is expected to head the Arms Control and Disarmament Agency team.

Heading Up the Clusters

The Clinton transition operation also is expected to announce today the heads of nine "cluster groups" of people who will review government agencies for the new administration.

The original plan called for 10 broad cluster groups in Washington, sources said, including one focused on the White House operation. The latter now will be handled as an informal cluster out of Little Rock.

Cluster leaders will include Federal National Mortgage Association vice chairman Franklin Delano Raines for the economic cluster. He is a former partner at Lazard Freres, the investment bank, and former associate director of the Office of Management and Budget.

Gus Speth, head of President Jimmy Carter's Council on Environmental Quality and outgoing head of the World Resources Institute, will head for the natural resources and environmental cluster.

Astronaut Sally Ride, the first U.S. woman in space, will head a technology group and Washington attorney Thomas S. Williamson Jr. will co-chair a justice cluster with Georgetown law professor Peter Edelman.

Counsel of Four

The Clinton team in Little Rock also announced yesterday that four lawyers have been appointed to serve as the transition's legal counsel. They are James Hamilton, John M. "Jack" Quinn and Mary Anne Sullivan of Washington and James M. Lyons of Denver.

Cautionary Note to Futures Agency

The Washington Post, November 25, 1992

Senate Agriculture Committee Chairman Patrick J. Leahy (D-Vt.) is warning Wendy Gramm, outgoing chairman of the Commodity Futures Trading Commission, not to fill several new senior staff positions before Clinton takes office.

Leahy, whose committee overseas the CFTC, told Gramm in a recent letter that it "would be a mistake" to fill the positions, which were created by a recent staff reorganization.

Outgoing Democratic commissioner Fowler C. West, who will head the North American Securities Administrators Association, wrote Gramm on Monday, urging her to hold off as a way of "adhering to the spirit of a 'smooth transition,' as the president pledged after the election."

CFTC spokesman Joseph Duggan said the year-long reorganization is "not something dreamed up after the election." Gramm has not filled the new jobs, he said, but there is no effort to politicize the agency.

A proposed new senior policy post that is of particular concern to the Democrats "is not going to go to someone who is now a Republican appointee," he said.

GRAPHIC: ILLUSTRATION, MADELEINE ALBRIGHT.; PHOTO

LANGUAGE: ENGLISH

LEVEL 2 - 25 OF 47 STORIES

Copyright 1992 News World Communications, Inc.
The Washington Times

November 25, 1992, Wednesday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 1151 words

HEADLINE: Bentsen called to Little Rock ;
Senator may get Treasury post

BYLINE: Frank J. Murray; THE WASHINGTON TIMES

DATELINE: LITTLE ROCK, ARK.

BODY:

LITTLE ROCK, Ark. - Texas Sen. Lloyd Bentsen emerged as front-runner in the Treasury secretary sweepstakes yesterday during an unannounced closed-door session with President-elect Bill Clinton.

Mr. Clinton, who met with two other possible Cabinet contenders in meetings that aides tried to keep secret, also announced a Dec. 14-15 economic summit in Washington to put "meat on the bones" and make good on expectations for budget proposals due to Congress by Feb. 1.

Mr. Bentsen's visit with Mr. Clinton was the first known to involve a Cabinet contender with the president-elect. Last week, Mr. Clinton's top talent scout interviewed Mr. Bentsen, chairman of the the Senate Finance Committee and the Democratic vice presidential nominee in 1988.

"This does not rule him in or out, one way or the other," Clinton press secretary Dee Dee Myers said in confirming reports that the influential senator was at the Arkansas Governor's Mansion, arriving there unseen by reporters who accompanied Mr. Clinton to a ceremony at his daughter's school.

After Mr. Bentsen departed, Mr. Clinton met in similar secrecy with outgoing Sen. Tim Wirth of Colorado, who may be a candidate for energy secretary, and Robert Rubin of the Goldman Sachs investment banking firm.

Miss Myers, who stuck to her practice of confirming private meetings only after reporters learn of them, said they were held "to discuss a broad range of issues relating to the transition and the new administration."

Mr. Wirth, 53, who has shown intense interest in issues involving management of energy, natural resources and land management, is quitting the Senate in January after one term. He is chairman of the Senate subcommittee on energy, conservation and regulation. He also served 12 years in the House.

With the transition pace quickening, former Arizona Gov. Bruce Babbitt, who has been mentioned for jobs ranging from White House chief of staff to secretary of either the Interior or Energy department, checked into a Little Rock hotel and was expected to meet with Mr. Clinton, the Associated Press reported.

The Washington Times, November 25, 1992

As economic news continued to improve, Clinton aides walked a political tightrope, trying to portray next month's summit as vital and relevant to the Clinton economic plan without acknowledging that Mr. Clinton might have lacked the information about the linchpin issue on the presidential campaign trail.

"Not at all, but the economy is fluid - it changes all the time - and we want to get an up-to-the-minute assessment," communications director George Stephanopoulos said when asked if Mr. Clinton confronted new economic realities after Election Day.

"We'll continue these meetings even after the package goes to Congress," said Mickey Kantor, Clinton-Gore campaign chairman, who was named conference coordinator.

When asked if the economy had not been discussed to death, Mr. Kantor said, "We hope to discuss it to life."

"He's not talking about renegotiating his campaign promises," Miss Myers said of the economic meeting being organized by Mahlon Martin, former director of the Arkansas Department of Finance and Administration.

More than 1,000 people have written or called in requests to attend the economic conference, which is expected to be held at the Arkansas State House and limited to slightly more than 100 people with no elected officials.

Asked if Mrs. Clinton will participate in the policy-shaping session, Mr. Stephanopoulos said, "I wouldn't rule it out."

Yesterday, Mrs. Clinton drove her own car and went separately to watch Chelsea, 12, inducted into her school's Beta Club, an honor society recognizing scholastic merit.

Mr. Bentsen's visit was managed under secrecy tight enough that some in the senator's Washington office did not know of it until it was in progress. Once it leaked out, aides conceded that Cabinet jobs would be discussed but would not confirm a specific offer to Mr. Bentsen.

Texas Gov. Ann Richards already called Mr. Clinton "to warn that the GOP may take Bentsen's seat if he resigns, due to a lack of strong [Democratic] candidates," the Political Hotline reported Friday.

A Treasury Department secretary is expected to be the first Cabinet official named by Mr. Clinton, perhaps next week, as a way to underscore action on his campaign promise of economic relief.

Mr. Bentsen confirmed his name came up as a candidate during a meeting in his Senate office with transition director Warren Christopher last week.

"Yes, it did, and I told them I was not seeking any post and that I'm happy where I am," Mr. Bentsen said then in a statement taken by some to rule himself out. Yesterday, an aide to the senator said that was a mistaken interpretation.

"He definitely hasn't ruled it out and he's not seeking it either," said Bentsen spokesman Seth Goldman, who added that the senator's vigor belies his age of 71.

Mr. Bentsen has been in the Senate since 1970, when he defeated then-Rep. George Bush for the job. He served three terms in the House from 1949 to 1955.

Between those two congressional tenures, he owned Lincoln Consolidated, a financial holdings institution in Texas.

Until yesterday, Mr. Clinton and his aides insisted the president-elect did not personally interview any Cabinet candidates. Now they are saying he has not made any Cabinet decisions.

During his vice presidential search, Mr. Clinton said he wanted to keep personal interviews to an absolute minimum so he could avoid making those not selected appear as losers.

On other issues:

* Mr. Stephanopoulos predicted a return to the use of fetal tissue in research programs when Mr. Clinton takes office, noting that Mr. Clinton had been supportive of vetoed legislation to provide fetal tissue.

* The transition appointed as counsel James Hamilton of Swidler & Berlin in Washington to oversee legal aspects of the confirmation process; James M. Lyons, a Denver corporate lawyer, to supervise legal work at the Little Rock office; John M. Quinn of Washington's Arnold & Porter law firm to oversee legal affairs at the Washington office; and Mary Anne Sullivan of Washington's Hogan & Hartson to deal with issues of ethics, conflicts of interest and disclosure forms.

Mr. Clinton planned to name the leaders today of 10 transition "clusters," teams that will define issues and staffing needs at the 14 Cabinet agencies and other agencies with Cabinet rank.

The Arkansas governor will make a "courtesy call" on former President Reagan on Friday, during a weekend trip to California.

The Clintons, who will spend Thanksgiving Day in Little Rock, will take the rest of the holiday weekend relaxing in Santa Barbara.

GRAPHIC: Photo (color), Short list: Sen. Lloyd Bentsen is a front-runner for Treasury secretary., By AP ; Photo, Clinton transition team member Mickey Kantor discusses plans for an economic summit at a news conference., By AP

LANGUAGE: ENGLISH

LEVEL 2 - 26 OF 47 STORIES

The Associated Press

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November 24, 1992, Tuesday, AM cycle

SECTION: Domestic News

LENGTH: 363 words

HEADLINE: Clinton Names Four Lawyers To Transition

BYLINE: By TERENCE HUNT, AP White House Correspondent

DATELINE: LITTLE ROCK, Ark.

BODY:
President-elect Clinton appointed four attorneys as counsel for his transition Tuesday and prepared to name "cluster groups" to review operations of government departments and agencies.

The attorneys are James Hamilton, Jack Quinn and Mary Anne Sullivan, all partners in Washington law firms, and James M. Lyons, a partner in a Denver law firm.

On Wednesday, Clinton's office is to announce the "cluster groups" that will go into departments and agencies to audit their operations and personnel procedures and recommend changes to the president-elect.

In the foreign policy area, sources close to the transition, who declined to be identified by name, said that J. Brian Atwood would lead the State Department cluster, Jeff Smith would lead the Pentagon cluster, George Tennant would lead the intelligence cluster, and Madeline Albright would lead the National Security Council cluster.

Atwood, now head of the National Democratic Institute, was assistant secretary of state for legislative affairs in the Carter administration. Smith, a Washington attorney, served as an attorney on the Senate Armed Services Committee.

Tennant is chief of staff of the Senate intelligence committee, and Albright is director of the Center for National Policy, a Democratic foreign-policy think tank.

In addition, Rose Gottmuller, a strategic analyst for the Rand Corp., is to lead the Arms Control and Disarmament Agency cluster, and Goller T. Butcher, a member of the board of directors of the Howard University Law School, is to head the Agency for International Development cluster, said the sources, who spoke on condition of anonymity.

On the transition counsel team, Hamilton will oversee legal aspects of the nomination and confirmation of officials. Hamilton is a former assistant Watergate prosecutor and oversaw a congressional investigation of the theft of

President Carter's debate briefing papers during the 1980 election.

Lyons will work in Little Rock, overseeing legal work there.

Quinn will oversee legal work at the transition's Washington headquarters, and Sullivan will oversee the transition's ethics and conflict-of-interest rule and disclosure forms.

LANGUAGE: ENGLISH

LEVEL 2 - 36 OF 47 STORIES

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January 17, 1991, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A7

LENGTH: 1270 words

HEADLINE: Exoneration Urged for Senators As 'Keating Five' Hearings End

SERIES: Occasional

BYLINE: Helen Dewar, Washington Post Staff Writer

BODY:
The Senate ethics committee yesterday concluded two months of emotional, contentious hearings on the propriety of five senators' dealings with savings and loan executive Charles H. Keating Jr. as defense attorneys urged full exoneration of the senators, saying they did no wrong.

In a biting response to committee special counsel Robert S. Bennett, lawyers for Sens. Alan Cranston (D-Calif.), Dennis DeConcini (D-Ariz.) and Donald W. Reigle Jr. (D-Mich.) challenged Bennett's assertion Tuesday that there is substantial evidence to conclude that those three senators acted improperly.

To varying degrees, they also accused Bennett of undue prosecutorial zeal and stacking the case against the three senators.

By contrast, attorneys for Sens. John Glenn (D-Ohio) and John McCain (R-Ariz.), whom Bennett did not appear to fault for any ethical violations, pleaded with the panel to consider their cases separately from those of the others.

Bennett stood his ground in an impassioned final plea to the committee to reject the argument made by Cranston, DeConcini and their defenders in the Senate that their conduct was no different than that of most other lawmakers.

"I feel in a ridiculous position," Bennett said. "I'm here saying, hey guys, everyone doesn't do it. . . . If everybody does do what we've done here, then that means this place doesn't have an infection that can be cured. It means you're terminal."

Courts do not accept that argument when it is made by "some of the more unfortunate of our society," Bennett continued. "Why should it be a defense for the most fortunate . . . the most privileged in our society?" he asked.

In response to the senators' arguments that they were only helping a constituent when they came to Keating's aid, Bennett said the "ultimate constituent disservice" would be for the committee to tell the American people that the Senate does not have ethical standards that cover a case such as this.

The committee is expected to begin closed-door deliberations on the fate of the "Keating Five" on Jan. 30, after studying final briefs from the lawyers. Panel members have indicated one or more of the senators probably will be

recommended for discipline by the Senate, which could include expulsion or, more likely, censure of some kind.

At issue is whether any or all of the senators were influenced by $ 1.3 million that Keating raised for their campaigns and causes when they intervened with thrift regulators on behalf of his Lincoln Savings and Loan Association before it was declared insolvent and seized by the government in 1989 at a cost of $ 2 billion to the taxpayers.

Committee Chairman Howell T. Heflin (D-Ala.) and Vice Chairman Warren B. Rudman (R-N.H.) went out of their way yesterday to assert that none of the five could be blamed for the savings and loan scandal. "The common public perception that these five senators, by meeting with the regulators, cost the taxpayers $ 2 billion is simply not accurate," said Rudman. But they gave few other clues to how they will vote in the case.

Most prominently in dispute as the hearings ended was whether the senators should be judged only by their conduct or whether they also could be disciplined for an appearance of wrongdoing that might reflect adversely on the Senate as a whole.

DeConcini, the only senator to plead personally for exoneration, took issue with Bennett's argument that the Senate has such an appearance standard and that the five senators should be judged under it. "You are being asked to approve a new standard and apply it retroactively, which would be grossly unfair," DeConcini argued.

Shaking with anger, DeConcini said he intervened with the regulators to save the jobs of 2,000 Arizonans employed by Lincoln's parent corporation, American Continental, and not to help Keating. "I resent the fact that I have to tell this committee and the American people that I intervened for 2,000 Arizonans and not for Charles Keating," he said.

In his argument Tuesday, Bennett had suggested links between Keating's fund-raising and actions taken by DeConcini on Keating's behalf and said DeConcini ignored several "red flags" about Keating's honesty that gave pause to other senators.

"I did not violate my public trust here. What I did was expected of me. It is expected of me to stand up for Arizonans," DeConcini said. "I know where the line is; I know what you can do and what you can't do, and I acted properly," he added.

To judge senators by appearances alone, if no actual misconduct is found, would be to "reduce ethics to a public relations exercise," said James Hamilton, DeConcini's attorney.

In his final argument, Bennett had ridiculed the notion that senators have not been judged in the past and cannot be judged now for an appearance of wrongdoing.

To deny that the Senate requires an appearance of propriety for its members is to impose a "double standard" under which senators would be exempt from rules applicable to all other government employees. "Gentlemen," he said, "that is unacceptable."

William W. Taylor III, Cranston's attorney, suggested that Cranston was being pursued as a "scapegoat" for the savings and loan scandal as he nears the end of a long career in the Senate and begins a battle against prostate cancer, for which he is currently being treated at a hospital in California.

"Now, in the twilight of his career, Alan Cranston must face the accusation . . . that he became Charles Keating's marionette and single-handedly changed the course of decisions at the Federal Home Loan Bank Board. Members of the committee, that is preposterous," said Taylor.

Taylor argued that the facts indicate Cranston did nothing wrong but added: "When you're looking for scapegoats, facts are the last thing you want to hear about."

Bennett had said there were at least four occasions on which Cranston solicited funds from Keating for voter registration groups he created "knowing full well Charles Keating recently had asked for his assistance" on behalf of Lincoln.

Thomas C. Green, attorney for Riegle, defended Riegle's actions as proper and consistent with Senate ethics rules, arguing that the Michigan senator had less contact with regulators than any of the other senators and never asked anyone to do anything for Keating.

Green also sharply protested Bennett's suggestion that Riegle may not have been telling the truth during his testimony when he repeatedly denied remembering contacts with Keating and others and said he had no role in setting up a key meeting between regulators and the senators in March 1987.

Glenn's attorney, Charles F.C. Ruff, said Glenn was seeking to be judged by the "toughest standards you can devise for yourselves, your colleagues and him" and that Glenn did not believe that "we can use the system as an excuse" for any individual senator's misconduct, a reference to suggestions that the Senate's campaign financing system is to blame for any transgressions.

Glenn, who sat through nearly all of two days of final arguments, told reporters after Ruff's presentation that he expects to be exonerated.

John M. Dowd, McCain's lawyer, said McCain repeatedly refused to go along with what he regarded as improper requests from Keating and others and did nothing else wrong in the case. "He has been judged not by his conduct but by the conduct of others," said Dowd. "He is entitled to a straight, crisp, clear answer . . . without regard to the conduct of others or partisan considerations." McCain, who also has said he expects to be cleared of any wrongdoing, is the only Republican in the group.

GRAPHIC: PHOTO, ROBERT S. BENNETT, COMMITTEE SPECIAL COUNSEL, ARGUES IN THE CASE OF SENATORS ACCUSED OF IMPROPERLY AIDING S&L EXECUTIVE. DAYNA SMITH

LANGUAGE: ENGLISH

LEVEL 2 - 37 OF 47 STORIES

The Associated Press

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January 16, 1991, Wednesday, AM cycle

SECTION: Washington Dateline

LENGTH: 911 words

HEADLINE: Defense Lawyers Argue that Senators Are Innocent

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
The Senate Ethics Committee on Wednesday concluded two months of contentious hearings on the Keating Five after listening to declarations of innocence on behalf of each senator.

Two panel members and one defense lawyer have indicated they expect some aspect of the case to reach the full Senate, a development that would occur only if punishment was recommended against at least one senator.

Neither the lawyers nor committee members have predicted the outcome for all five senators. Chairman Howell Heflin, D-Ala., said deliberations would begin Jan. 30.

Lawyers for the five, each of whom assisted political donor Charles H. Keating Jr. and his Lincoln Savings and Loan, said their clients acted properly at all times.

Sen. Dennis DeConcini, D-Ariz., defended himself, the only one of the five senators to do so.

"I know what you can do and what you can't do. And I acted properly," he told the committee in an emotional statement.

In their closing arguments, the defense lawyers said their clients respected Senate rules - avoiding even the appearance of impropriety.

"There will always be skeptics. There will always be cynics" who believe public officials "are in some fashion corrupted," said Charles Ruff, attorney for Sen. John Glenn, D-Ohio.

But Ruff argued that Glenn acted properly and asked the committee to judge him "by the sternest ethical standard you can apply."

Committee member Trent Lott, R-Miss., said earlier this month that he would be amazed if at least one case didn't reach the floor - although he declined to name anyone.

The Associated Press, January 16, 1991

DeConcini lawyer James Hamilton said that while he feels there's no justification for a recommendation against his client, DeConcini was preparing for a floor fight over the conduct of special counsel Robert S. Bennett.

DeConcini, Hamilton said, will contend Bennett has conducted himself as a prosecutor rather than as an independent fact-finder. Bennett denies the allegation.

Committee member Jesse Helms, R-N.C., defended Bennett and told Hamilton, "We'll see you on the floor of the Senate."

The committee could recommend that the Senate expel or censure a member or remove him from any position of leadership.

In addition to DeConcini and Glenn, the senators under investigation are John McCain, R-Ariz.; Donald W. Riegle Jr., D-Mich.; and Alan Cranston, D-Calif.

The five intervened with thrift regulators for Keating's Lincoln Savings and Loan. The hearings began in mid-November to determine whether the assistance was linked to the $$1.3 million Keating and associates raised for the five lawmakers' campaigns and political causes.

Bennett, in a harsh rebuttal to the five senators, said "a couple of senators, to avoid personal accountability, have raised the 'everybody does it' defense," - a reference to intervention for constituents. DeConcini and Cranston have raised such a defense.

"I feel I'm in a ridiculous position," he said. "I'm in here saying everybody doesn't do it. I'm in here kind of defending the United States Senate.

"And if everybody does do what was done here, then that means this place doesn't have an infection that can be cured, it means that you're terminal," Bennett said.

Cranston lawyer William Taylor III said he was amazed that the Californian, who has said he will not run for re-election when his term expires in 1992, would be attacked near the end of his long career.

"Now in the twilight of his career, Alan Cranston must face the accusation, either expressed or implied,that he became Charles Keating's marionette and single-handedly changed the course of decisions of the Federal Home Loan Bank Board," Taylor said. "That ... is preposterous."

McCain's lawyer, John Dowd, reminded the committee that his client refused to negotiate with regulators on behalf of Keating - a rebuff that ended the friendship between the two.

"John McCain's conduct was an act of principle and an act of honesty and what we expect from our public officials," Dowd said.

Ruff, meanwhile, described Glenn's role in meetings with regulators.

"Yes, he was aggressive. Yes, he was blunt. But he was fair, he treated the regulators with respect, he sought to get the answers to his one question: was there any basis for believing Lincoln was being treated unfairly," Ruff said.

Riegle attorney Thomas Green attacked the testimony of James Grogan, Keating's former lobbyist, who testified that Riegle played a major role in arranging a meeting between senators and regulators April 2, 1987. Riegle denied setting up the session.

The meeting arrangements were made at a time Keating was collecting money for a Riegle fund-raiser, for which the S&L owner was host on March 23, 1987.

Green said Grogan, who was compelled to testify under a grant of limited immunity, kept changing his testimony about Riegle's role every time his memory was refreshed by documents.

Riegle also criticized Bennett's Tuesday summation when the counsel called Riegle's credibility into question because the senator frequently could not recall key events in the case.

Bennett, Green said, cited 18 incidents of Riegle's failure to recall, and added: "What he failed to tell you is that most of those incidents had nothing to do with Sen. Riegle."

Hamilton argued it was "perfectly legitimate constituent service" for DeConcini to assist Keating, whose main business operation was in Phoenix.

DeConcini's actions were "no different from the conduct of many senators," Hamilton said.

LANGUAGE: ENGLISH

LEVEL 2 - 38 OF 47 STORIES

The Associated Press

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January 16, 1991, Wednesday, PM cycle

SECTION: Washington Dateline

LENGTH: 988 words

HEADLINE: Keating Five Lawyers Plead for Exoneration as Hearings Near End

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Arizona Sen. Dennis DeConcini pleaded for exoneration from the Senate Ethics Committee today as lawyers for the Keating Five wound up two months of hearings into the help the lawmakers provided savings and loan owner Charles H. Keating Jr.

"I know where the line is; I know what you can do and what you can't do," DeConcini said. "And I acted properly."

DeConcini, delivering an impassioned plea in his own defense, was the only one of the five senators under investigation to speak during time set aside for closing arguments by defense lawyers.

Lawyers for each of the senators insisted on their clients' innocence as the committee prepared to bring down the curtain on two months of televised testimony and begin private deliberations toward a decision in the case of each and possible punishment.

DeConcini insisted his actions with federal regulators were taken not because Keating was a contributor to his campaign but because Keating's parent company employed 2,000 people in Arizona.

"I did not violate my public trust here," DeConcini said. "What I did was expected of me. It is expected of me to stand up for Arizonans."

DeConcini's lawyer, James Hamilton, accused the panel's special counsel, Robert S. Bennett, of trying to establish a new standard of conduct based on the appearance of a conflict of interest. It would be a standard, he said, stricter than anything the Senate has adopted.

William Taylor III, attorney for California Sen. Alan Cranston, complained that Cranston was being unfairly accused of impropriety as he nears the end of his public career. Cranston, who has said he will not run for re-election in 1992, is in California receiving treatment for prostate cancer.

"Now in the twilight of his career, Alan Cranston must face the accusation ... that he became Charles Keating's marionette and singlehandedly changed the

course of decisions at the Federal Home Loan Bank Board," Taylor said. "Members of the committee, that is preposterous."

Three of the five senators under investigation were in the hearing room for their final arguments: DeConcini, and Sens. John Glenn, D-Ohio, and Donald Riegle, D-Mich.

Today's arguments were the culmination of two months of public, televised hearings and more than a year of committee investigation into allegations the senators improperly intervened with federal regulators on behalf of Keating, a savings and loan owner who was a major financial contributor to their campaigns.

John Dowd, attorney for Arizona Republican Sen. John McCain, defended McCain's actions as proper and principled in his dealings on behalf of Keating and his Lincoln Savings and Loan.

"When Charlie Keating asked him to negotiate for Lincoln Savings and Loan, John McCain said 'No'," Dowd told the ethics panel.

"He is entitled to a straight, crisp, clear answer from all of you," Dowd said. "Senator McCain is entitled to an individual judgment without regard to the conduct of others or partisan considerations."

Charles Ruff, attorney for Glenn, said Glenn had followed the highest ethical standards and that nothing in eight weeks of testimony indicated otherwise.

"Senator Glenn doesn't want to skate by here," Ruff said. "He wants you to test him by the toughest ethical standards you can devise for yourself, your colleagues and him. And he meets that standard."

Tom Green, attorney for Riegle, defended Riegle's actions as proper and noted he was the only one of the five senators who attended just one - and not two - meetings with federal regulators on behalf of Keating.

"Senator Riegle had less contact with the regulators than any other senator in the case," Green said. "Senator Riegle never asked anyone to do anything or not do anything for Lincoln."

Committee special counsel Robert S. Bennett on Tuesday presented the case against three of the five senators.

Bennett said he found no impropriety on the part of Glenn and McCain. Bennett had recommended they be dropped from the case before the hearings began two months ago, but the committee decided to keep them a part of the public inquiry - prompting complaints from McCain and Republicans that there were partisan motives.

Bennett focused his case on the remaining three: - Riegle, who is now chairman of the Senate Banking Committee; Arizona Sen. Dennis DeConcini; and California Sen. Alan Cranston - and said the panel's decision will determine Americans' respect for the Senate.

"You are holding in your collective hands the political heart and soul of this country," Bennett told the three Democrats and three Republicans on the

ethics panel. "Whatever decision you make ... the American people are either going to have more or less respect for this institution."

The five are under investigation for their actions on behalf of Keating, who contributed or raised $$1.3 million for their campaigns and related causes while he was seeking their help with federal regulators for his troubled Lincoln Savings and Loan in Irvine, Calif.

Lincoln's subsequent failure is expected to cost taxpayers about $$2 billion to cover insured deposits.

Bennett repeatedly questioned the credibility of Riegle's testimony to the committee, in which the senator maintained he remembered little or nothing about key meetings.

Bennett said evidence contradicted Riegle's contention that he did not know contributions would be provided when he visited Keating's Arizona headquarters in March 1987, a month before the senators held critical meetings with federal S&L regulators.

Bennett said evidence suggests DeConcini tried to negotiate on behalf of Lincoln in the meeting with regulators. He cited memos by DeConcini's banking aide that stated Keating's proposed negotiating position.

Cranston, he said, solicited or accepted large contributions from Keating at least four times while "knowing full well Mr. Keating recently had requested or received the senators' assistance for Lincoln."

LANGUAGE: ENGLISH

LEVEL 2 - 39 OF 47 STORIES

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January 16, 1991, Wednesday, Late Edition - Final

SECTION: Section A; Page 18; Column 4; National Desk

LENGTH: 1376 words

HEADLINE: Panel Is Asked to Punish 3 Senators

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 15

BODY:
Declaring to the Senate Ethics Committee that the "political heart and soul of this country" was at stake, the panel's special counsel made an impassioned case today that three Senators should be punished for their dealings with the savings and loan executive Charles H. Keating Jr.

In his closing arguments at the longest public hearings into the conduct of members of Congress, the counsel, Robert S. Bennett, portrayed Senators Alan Cranston and Dennis DeConcini as crass politicians who had done favors for Mr. Keating's savings and loan association because he was a big contributor to their political efforts.

And several times he bluntly suggested that Senator Donald W. Riegle Jr. had perjured himself before the committee, which he characterized as the lawmaker's most striking impropriety.

Mr. Bennett depicted the two other Senators in the case, John McCain and John Glenn, as admirably breaking off their ties with Mr. Keating when it became clear that his own conduct was in doubt.

The counsel had been instructed by the panel to set out no conclusions about how the members should act. But he left no doubt that he believed Senators Cranston, DeConcini and Riegle should be punished and that Senators McCain and Glenn should be cleared.

Options for the Committee

Besides clearing any of the lawmakers, the panel could vote to send them letters of reprimand criticizing their behavior. Or it could take the more serious step of recommending that the full Senate vote to condemn the Senators' actions. It could also advise the Senate to expel any of the members, but that is considered the least likely outcome.

On the eve of a possible war in the Persian Gulf, Mr. Bennett appealed to the committee not to lose sight of the case's significance. "We're talking about ethics when our nation could be at war, literally, in a matter of hours," he declared late this afternoon.

Reciting the possiblility of war, a recession and other troubles facing the nation, Mr. Bennett looked directly at members of the panel and said: "In

comparison to these crises, some may say that ethics is unimportant. But I say to you: To accept this conclusion would be a terrible mistake, because with an economy in trouble and war hanging over our heads, it is all the more important that the American people have confidence in you and your ability to judge your peers and reach an honorable and definite decision."

Peppering his summation with highlights of 25 days of testimony, Mr. Bennett outlined his case that three Senators violated clear standards of conduct in intervening with Federal regulators on behalf of Mr. Keating. Mr. Bennett rejected earlier arguments from the five Senators that they had violated no specific rules because there were none that addressed such actions as contacting Federal regulators on behalf of Mr. Keating's failing Lincoln Savings and Loan Association of Irvine, Calif.

Keating Facing Charges

The counsel argued, for instance, that Senator McCain, an Arizona Republican, and Senator Glenn, an Ohio Democrat, followed appropriate standards in knowing when to cut off contacts. "Mr. Keating called Mr. McCain a wimp," Mr. Bennett said, because he did not follow "the Keating agenda to get the bank board off his back."

Lincoln was seized by the Federal Government in 1989 at a loss of more than $2 billion to taxpayers. Mr. Keating is facing fraud charges in California. He or his associates had donated a total of $1.3 million to the five Senators or their causes.

Since the hearing's opening on Nov. 15, the five Senators or their lawyers repeatedly argued that they were treating Mr. Keating as they would have any other constituent, and they denied they were rewarding him for his contributions.

Closing arguments for the five Senators are scheduled before the committee on Wednesday. Then the panel of three Republicans and three Democrats will deliberate in closed session, possibly for several days, on the fate of their peers.

Mr. Glenn was the only of the five Senators who sat in the cavernous Senate Hart Office Building's hearing room to hear Mr. Bennett, and he stayed mostly to hear the summation of his involvment.

In a calm, measured voice, Mr. Bennett offered example after example of how the Senators acted behind the scenes to help Mr. Keating. He said the case of Mr. Cranston, a California Democrat, stood out because of the striking relationship between donations from Mr. Keating and efforts by the Senator to help him.

Contributions and Requests

"This pattern of coupling large contributions from Mr. Keating with requests for action was repeated on four occasions," Mr. Bennett said. Even after he learned that the regulators were recommending that the Justice Department investigate Lincoln for criminal misconduct, the counsel asserted, Mr. Cranston personally contacted Federal regulators at least 12 times on behalf of Lincoln.

Mr. Bennett said that Mr. DeConcini, an Arizona Democrat, also pressed regulators to help Lincoln long after he was told of the criminal referral. He described how Mr. DeConcini took a leading role in advocating Lincoln's case in two meetings between the Senators and Federal regulators in April 1987.

The counsel suggested that Mr. DeConcini "ignored all the red flags" in continuing to help Lincoln.

And in his most pointed comments about Mr. Riegle, a Michigan Democrat, Mr. Bennett strongly suggested that the lawmaker perjured himself before the committee more than once. He cited other witnesses who contradicted Mr. Riegle's testimony that he had no role in arranging the first meeting with regulators, and who also disputed his contention that meetings with Mr. Keating during a trip to Phoenix had anything to do with raising money.

"If you were to determine that Senator Riegle was not honest with you, was intentionally not honest with you," he told the committee, "then I think this committee has to act on that." Mr. Bennett made clear that he was as troubled with the Senator's performance before the committee as he was with his dealings with Mr. Keating.

Facing Responsibility

While he told committee members that he knew of the pressures they faced in judging their fellow Senators, he implored them to step up to their responsibility.

"A case like this breaks the rhythm of the Senate," he said. "You're really uncomfortable with this, as you should be."

Still, Mr. Bennett reminded the lawmakers: "You are holding in your collective hands the heart, the political heart and soul of this country. And whatever decision you make, this institution is going to be stronger or weaker."

Urging them to think about the American public, not just their fellow Senators, Mr. Bennett said: "These are your friends, you know each others families, you legislate with each other, you need each other, you raise funds for each other, you help each other in their campaigns." He went on to remind them that after they act, "The American people are going to either have more or less respect for this institution."

Bitter Exchange Between Lawyers

As evidence of what may lie ahead as the committee deliberates, Mr. Bennett earlier today engaged in a bitter, personal exchange with James Hamilton, Mr. DeConcini's lawyer. Mr. Hamilton sought to introduce affidavits from two former United States Attorneys who questioned whether Mr. Bennett was acting too much like a prosecutor.

The committee voted not to accept the documents, saying they were not germane to the case. Once that happened, Mr. Hamilton told the panel, "If this matter goes to the floor, Mr. Bennett's conduct is going to be an issue."

Mr. Bennett angrily shot back that "the not-so-subtle threat to this committee is an outrage." He told committee members: "You should be offended

by it. Senator DeConcini is simply trying to burn the messenger, to discredit me, and it will not work. I will not be intimidated by such obvious tactics."

Senator Jesse Helms, a North Carlina Republican, and one of the panel members defended Mr. Bennett, said to Mr. Hamilton: "Special counsel Bennett will not be a villain in this piece. If you want to take it to the floor and you can, we'll see you on the floor of the United States Senate."

GRAPHIC: Photo: Robert S. Bennett, special counsel to the Senate Ethics Committee, calling yesterday for the punishment of three accused Senators. (Lisa Berg for The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE: January 16, 1991

LEVEL 2 - 40 OF 47 STORIES

The Associated Press

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January 15, 1991, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 708 words

HEADLINE: DeConcini's Lawyer Clashes with Ethics Counsel

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini's lawyer and the Senate Ethics Committee's special counsel argued bitterly Tuesday over whether the counsel was acting as a prosecutor in the Keating Five hearings.

The clash between defense lawyer James Hamilton and special counsel Robert S. Bennett erupted as the committee neared completion of its two-month-old hearings on the conduct of DeConcini and four Senate colleagues.

"If this matter goes to the (Senate) floor as to Senator DeConcini, and I must say I think it should not, it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "It will be vigorously contested. Vigorously."

Bennett told the committee, "Senator DeConcini and his counsel would like me to be a flower girl distributing the flowers at a wedding in equal shares to each senator without regard to the other. I won't do that."

The committee is trying to determine whether the senators intervened with thrift regulators on behalf of S&L owner Charles H. Keating Jr. because he raised $$1.3 million for their campaigns and causes.

Bennett, before the hearings began Nov. 15, proposed to the committee that the investigation be intensified against Sens. DeConcini, D-Ariz., Alan Cranston, D-Calif. and Donald W. Riegle Jr., D-Mich.; and that the case be dropped against Sens. John McCain, R-Ariz. and John Glenn, D-Ohio.

Bennett's conclusions were learned from congressional sources but his pre-hearing report has not been made public. The committee, rather than accept the recommendations, ordered the current fact-finding hearings.

Bennett's role is to advise the committee on the evidence. The panel of three Republicans and three Democrats will then deliberate and decide whether to recommend any punishment to the full Senate.

Cases that go to the Senate floor usually include a recommended censure or, in extreme cases, expulsion. The committee also could issue a milder rebuke by letter or decide to clear any or all the senators of misconduct.

The controversy over Bennett's role goes back to DeConcini's opening statement to the committee in November. The senator accused Bennett of trying to win another trophy for his wall by convincing the committee the senators acted unethically.

Tuesday's argument began when Hamilton tried to introduce affidavits critical of Bennett's conduct from two former U.S. attorneys: William B. Gray, U.S. attorney for Vermont from 1977-81, and James Robinson, who served the eastern district of Michigan from 1977-80.

Hamilton acknowledged that DeConcini's purpose was to make a record for appeal to the full Senate should the committee decide to recommend punishment for his client. Neither affidavit was admitted.

"I think the not-so-subtle threat to this committee is an outrage," Bennett responded.

"I think it's clear that Senator DeConcini is simply trying to burn the messenger, to discredit me. It will not work. I'm not going to be intimidated by such obvious tactics which I think are so inconsistent with the dignity of this body and which are designed to shift attention from his own conduct."

Committee Vice Chairman Warren Rudman, R-N.H., told Hamilton that Bennett's conduct, "however you may view it, is not an issue that is going to affect this committee in the decision that is before us."

Sen. Jesse Helms, R-N.C., then rose to Bennett's defense.

"I think it's time to point out that special counsel Bennett is not the villain in this piece," Helms said. "He has not been charged with anything and in my judgment he has conducted himself well."

Helms said some Americans thought "this committee was somehow going to whitewash all of this, that it was going to be the buddy-buddy system."

Helms said that would not happen, and added that "Bob Bennett will not be without his defenders" if the case goes to the Senate floor.

In testimony Tuesday, the committee was told that Cranston did not profit politically from his fund-raising efforts for voter registration groups.

Cruz Reynoso, a former California Supreme Court justice, testified that Cranston was the man who opened doors for the fund-raising efforts just after his successful 1986 re-election.

Cranston solicited and received $$850,000 from Keating for three voter registration groups.

LANGUAGE: ENGLISH

LEVEL 2 - 41 OF 47 STORIES

The Associated Press

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January 15, 1991, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 993 words

HEADLINE: Counsel Sharp Against Three of Keating Five

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
The Senate Ethics Committee's special counsel took a tough stance Tuesday against three of the Keating Five senators in his wind-up summation of the evidence.

The counsel, Robert S. Bennett, said evidence submitted in two months of hearings suggested possible impropriety in the behavior of Sens. Alan Cranston, D-Calif., Dennis DeConcini, D-Ariz., and Donald W. Riegle Jr., D-Mich.

But he said Sens. John Glenn, D-Ohio, and John McCain, R-Ariz. exhibited a willingness to follow the Senate's ethical standards.

Bennett, accused by DeConcini's lawyer of acting like a prosecutor, was under committee orders to avoid stating conclusions in his summation. But he made pointed remarks about all five senators.

Lawyers for the five, who intervened with regulators on behalf of S&L operator Charles Keating Jr. and his now-failed Lincoln Savings & Loan, will sum up on Wednesday.

Bennett:

-Questioned Riegle's credibility, citing his failure to recall many of the key events in the case despite strong evidence showing the senator's involvement in those events.

-Said evidence indicates Glenn and McCain followed commonly recognized Senate standards of conduct.

-Contended that "The evidence is clear Sen. DeConcini was prepared to and did represent Lincoln's position in the April (1987) meetings with regulators. By his own testimony, Sen. DeConcini agreed he would raise" negotiating points for Keating.

-Said actions by Cranston on four occasions were linked to the senator's solicitation of Keating for campaign funds. The solicitations were made with Cranston "knowing full well Mr. Keating recently had requested or received the

senator's assistance for Lincoln."

Keating gave $$1.3 million to the campaigns or causes of the five senators.

"Notwithstanding all of the problems in the world today, this case has somehow captured the American people,," Bennett said. "Whatever decision you make ... the American people are either going to have more or less respect for this institution."

Bennett was critical of Riegle's admittedly faulty memory about his role in assisting Keating while the businessman was conducting a fund-raising drive for the senator in 1987.

Bennett was critical of Riegle's admittedly faulty memory about his role in assisting Keating while the businessman was conducting a fund-raising drive for the senator in 1987.

Unlike the other four senators, Riegle testified he had no recollection of meetings with Keating, his lobbyist, his accountant and other senators about problems of Lincoln.

Yet, Bennett said, the committeee has copies of calendars showing the meetings took place, and the testimony, under a grant of limited immunity, of Keating's lobbyist.

"If you were to determine Sen. Riegle was not honest with you and intentionally was not honest with you, then I think this committee has to act on that," Bennett said.

Bennett said "the evidence is simply overwhelming" that Riegle visited Keating's Phoenix headquarters in March 1987 had a fund-raising purpose - something that Riegle denied.

At the time, Bennett said, Keating "was marshalling tens of thousands of dollars" for Riegle's re-election campaign.

The counsel said the evidence showed McCain had "grave reservation" about attending a meeting with former chief thrift regulator Edwin J. Gray in April 1987.

McCain, Bennett said, was "bothered about going to a meeting with Gray that involved negotiations on Mr. Keating's behalf."

Bennett said that both McCain and Glenn stopped contacting regulators on behalf of Keating's Lincoln Savings and Loan after they learned from regulators that criminal referrals would be made to the Justice Department. That occurred on an April 9, 1987 meeting between four regulators and the five senators under investigation.

"Sen. Glenn testified it is wrong to negotiate special deals for special people," Bennett said. "Standards are being applied."

Earlier, DeConcini's lawyer and Bennett argued bitterly Tuesday over whether the counsel was acting as a prosecutor in the Keating Five hearings.

The clash between defense lawyer James Hamilton and Bennett erupted as the committee neared completion of its two-month-old hearings on the conduct of DeConcini and four Senate colleagues.

"If this matter goes to the (Senate) floor as to Senator DeConcini, and I must say I think it should not, it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "It will be vigorously contested. Vigorously."

Bennett told the committee, "Senator DeConcini and his counsel would like me to be a flower girl distributing the flowers at a wedding in equal shares to each senator without regard to the other. I won't do that."

The committee is trying to determine whether the senators intervened with thrift regulators on behalf of S&L owner Charles H. Keating Jr. because he raised $$1.3 million for their campaigns and causes.

Bennett, before the hearings began Nov. 15, proposed to the committee that the investigation be intensified against DeConcini, Cranston and Riegle and dropped against McCain and Glenn.

Bennett's conclusions were learned from congressional sources but his pre-hearing report has not been made public. The committee, rather than accept the recommendations, ordered the current fact-finding hearings.

Bennett's role is to advise the committee on the evidence. The panel of three Republicans and three Democrats will then deliberate and decide whether to recommend any punishment to the full Senate.

Cases that go to the Senate floor usually include a recommended censure or, in extreme cases, expulsion. The committee also could issue a milder rebuke by letter or decide to clear any or all the senators of misconduct.

The controversy over Bennett's role goes back to DeConcini's opening statement to the committee in November. The senator accused Bennett of trying to win another trophy for his wall by convincing the committee the senators acted unethically.

LANGUAGE: ENGLISH

LEVEL 2 - 42 OF 47 STORIES

The Associated Press

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January 15, 1991, Tuesday, PM cycle

SECTION: Washington Dateline

LENGTH: 668 words

HEADLINE: Defense Attorneys Hope Up to Wrap Up Cases This Week

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini's attorney clashed sharply today with the Senate Ethics Committee's special counsel Robert S. Bennett, accusing him of improperly behaving as a prosecutor in the Keating Five case.

Bennett denounced the charge as an "outrage" and an attempt to intimidate him.

"I think it's clear Senator DeConcini is simply trying to burn the messenger, to discredit me," Bennett said. "It will not work. I will do my job honestly. I'm not going to be intimidated."

The argument erupted as the committee concluded testimony from final witnesses on behalf of one of the five senators under investigation in the Keating case, Sen. Alan Cranston, D-Calif., and began reading final affidavits and other documents into the record.

James Hamilton, attorney for DeConcini, D-Ariz., attempted to introduce two affidavits from outside attorneys that he said concerned Bennett's conduct. He said DeConcini, who was not present in the hearing room, feels strongly that Bennett's conduct is an issue and that he exceeded his assigned role and had begun acting as if he were a prosecutor.

"If this matter goes to the floor ... it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "Senator DeConcini, in effect, is making a record for appeal on what he feels will be a relevant issue on the floor of the Senate."

Sen. Warren Rudman, R-N.H., who was presiding over the committee, ruled the affidavits were irrelevant and would not be admitted. He said Bennett's conduct "is not an issue that's going to affect this committee in the decision that's before us."

Sen. Jesse Helms, R-N.C., rushed to Bennett's defense, saying "he has conducted himself well."

"We'll see you on the floor of the United States Senate," Helms said, adding that Bennett "will not be without his defenders."

Earlier, Rep. Don Edwards, D-Calif., a 28-year veteran of the House, testified today as a character witness for Cranston, a Democrat and one of five senators under investigation for intervening with regulators on behalf of savings-and-loan owner Charles H. Keating Jr.

Also testifying as a witness for Cranston was former California Supreme Court Justice Cruz Reynoso, a professor at the UCLA law school.

The committee was meeting today for what its members hoped would begin the last two days of public hearings, two months after the televised public inquiry began.

Rep. Trent Lott, R-Miss., a committee member, complained last week that the hearings have run on far too long. Another member, Sen. David Pryor, D-Ark., said he was having trouble concentrating on testimony about minor details at a time when all concerns were focused on the potential for war in the Middle East.

Once the hearings end, the three Republicans and three Democrats on the ethics panel will begin deliberating whether the five senators acted improperly in aiding Keating, a major campaign contributor.

The panel also will decide whether to recommend punishment for any of the five. Lott said last week he would be "absolutely amazed" if the case against at least one of the five senators does not reach the Senate floor.

Edwards, chairman of the House subcommittee on civil and constitutional rights, said he had known Cranston for nearly 60 years and called him "a totally honest man."

He said Cranston had been interested in efforts to encourage voter registration since the late 1940s and 1950s and had worked to register California voters. National voter-registration campaigns associated with Cranston received some $$850,000 in contributions from Keating and his associates at a time when Keating was helping the senators' help with federal regulators.

Reynoso said Cranston had a "rather extraordinary" commitment to voter registration. He called that a "fundamental issue" but one that provided little benefit to Cranston politically or personally.

Other senators under investigation are Sen. John McCain of Arizona, the only Republican; and Democrats John Glenn of Ohio and Donald Riegle of Michigan.

LANGUAGE: ENGLISH

LEVEL 2 - 43 OF 47 STORIES

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January 11, 1991, Friday, Late Edition - Final

SECTION: Section A; Page 16; Column 1; National Desk

LENGTH: 793 words

HEADLINE: Ex-Aide Says Her Memo to Keating Used 'Bit of Hyperbole' on Regulators

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 10

BODY:

A former lobbyist for Charles H. Keating Jr. testified today that she had used "a bit of hyperbole" to get his attention when she wrote in a memorandum that his efforts to pressure Federal regulators were working.

The former lobbyist, Margery Waxman, told the Senate Ethics Committee that her urgent tone was intended to prove to Mr. Keating that she was "as tough and aggressive" as another one of his lawyers, who later replaced her as a leading counsel to Mr. Keating's troubled Lincoln Savings and Loan Association.

Of the thousands of documents in the case of five Senators under investigation for their links to Mr. Keating, Ms. Waxman's memorandum has stood out for its blunt language about efforts to pressure the bank board.

"You have the board right where you want them," Ms. Waxman wrote Mr. Keating on May 10, 1988, 10 days before Lincoln won a major regulatory dispute. The memorandum raised questions as to whether Mr. Keating's efforts to enlist the help of the Senators were instrumental in influencing Federal regulators on Lincoln's behalf.

Denies Link to Senators

But Ms. Waxman told the ethics panel today that her reference to "pressure" did not mean the five Senators under investigation. "It does not refer to any congressman or senator," she said. "There is no political pressure."

Referring to M. Danny Wall, who headed the Federal Home Loan Bank Board at the time, the memorandum went on to say, "As you know, I have put pressure on Wall to work toward meeting your demands and he has so instructed his staff."

The board took the unusual step 10 days later of transferring regulatory authority over the troubled Lincoln from the San Francisco office to the Washington headquarters. Mr. Keating had complained that the regulators in San Francisco were treating him unfairly.

Ms. Waxman said that pressure was a poor choice of words, and one that lawyers use "for their clients" when they want to appear that they are being aggressive. The letter, she said, "is a lot stronger in tone than I would normally write." She said she sought in the letter to convince Mr. Keating that he should not break off negotiations with the bank board.

The ethics panel completed its questioning today of Senator Dennis DeConcini of Arizona, the last Senator to appear. The other Senators who are facing allegations that they improperly intervened with Federal regulators on behalf of Lincoln because Mr. Keating contributed to their campaigns or causes are Alan Cranston of California, Donald W. Riegle Jr. of Michigan, John Glenn of Ohio and John McCain of Arizona. All but Mr. McCain are Democrats.

Mr. DeConcini's testimony was marked by clashes between the Senator and his lawyer and lawyers for the Ethics Committee and Mr. McCain.

After Mr. DeConcini suggested that Mr. McCain was getting more favorable treatment from the panel, Mr. McCain's lawyer, John Dowd, asserted: "What are you saying, Senator DeConcini? Are you trying to get even with Senator McCain?"

"I'm not trying to get even with him at all," Mr. DeConcini said.

Earlier today, Mr. Dowd complained that Mr. DeConcini had received material from a former aide to Mr. Keating that was potentially damaging to his client, but that Mr. DeConcini had failed to give Mr. McCain the material.

An Appeal to Ethics Panel

At one point, James Hamilton, Mr. DeConcini's lawyer, appealed to the committee to stop the questioning of his client. "We've gone on way too long, Mr. Chairman," he said, "and it's time to stop it. We're scraping the bottom of the barrel."

Mr. DeConcini lashed out at Edwin J. Gray, who preceded Mr. Wall as head of the bank board, for waiting two years to speak out against the five Senators. Mr. DeConcini said Mr. Gray sought to blame the Senators once the seriousness of the savings and loan crisis became clear.

"Now he had to shift the blame," Mr. DeConcini said, "and what does he do? He tries to shift the blame to five distinguished Senators.

"All of a sudden," the Senator said mockingly, Mr. Gray was "incensed about this terrible, naughty conduct of Senators."

Griffin B. Bell, Attorney General under President Carter, testified today on Mr. DeConcini's behalf, saying he was not intimately familiar with the case but that in reviewing a transcript of a meeting where Mr. DeConcini was accused of pressuring regulators, "I didn't see anything untoward."

Mr. Bell also reminded the six-member panel that the Keating case was not a clearcut case of impropriety. "You aren't dealing with an automobile accident," said Mr. Bell, a director of the Ethics Resource Center, a private nonprofit group that studies ethical issues in business and government. "You're dealing with something much more complicated."

GRAPHIC: Photo: Former Attorney General Griffin Bell, who is to be called today as a defense witness before the Senate Ethics Committee. (The New York Times)

LANGUAGE: ENGLISH

LEVEL 2 - 44 OF 47 STORIES

The Associated Press

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January 10, 1991, Thursday, PM cycle

SECTION: Washington Dateline

LENGTH: 917 words

HEADLINE: DeConcini Says He Didn't Cross Ethical Line

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Arizona Sen. Dennis DeConicini said today his chief accuser in the Keating Five case tried to shift blame for the savings and loan scandals away from himself and onto the so-called Keating Five senators.

DeConcini told the Senate Ethics Committee that Edwin J. Gray, former head of the Federal Home Loan Bank Board, had done an inadequate job of handling S&L failures even before the crisis in the industry.

He said Gray then tried to shift blame to the senators by complaining in public that they had put undue pressure on him, two years after the senators met with Gray and other regulators on behalf of Charles H. Keating Jr.'s Lincoln Savings and Loan.

"Now he has to shift the blame, and what does he do, he tries to shift the blame to five distinquished senators," DeConcini said.

Gray has been the chief accuser of the senators, who are under investigation for allegations they improperly intervened with regulators on behalf of Keating, a major financial contributor. Gray has testified that DeConcini led efforts to negotiate a deal with regulators on behalf of Lincoln.

DeConcini's questioning was interrupted so the committee could question Griffin Bell, former attorney general in the Carter administration, who appeared as a witness for the Arizona Democrat.

Bell, also a former federal appeals judge, said he reviewed notes of the April 9, 1987, meeting the five senators held with federal regulators and found nothin improper in the senators' actions. He said they reacted properly when told the regulators were recommending criminial investigation of Lincoln, and faulted the regulators for not telling them sooner.

"I not only didn't find any impropriety, I thought it was very proper that when the discovered these people had referred this to the Justice Department, they began to end the meeting and get out," Bell said.

The Associated Press, January 10, 1991

DeConcini, testifying for a second day in his own defense in the Keating Five case, acknowledged that he called California authorities to urge they permit sale of Lincoln just days before federal regulators seized the California-based thrift insitution.

But he clashed with committee special counsel Robert S. Bennett, accusing him of relying on hearsay accounts of his contact.

"It's just absurd, Mr. Chairman," DeConcini protested to committee chairman Howell Heflin, D-Ala., who overruled the objections.

DeConcini said he was trying to avoid a government takeover of Keating's Lincoln Savings and Loan and wanted to see if the state regulators planned to try to block a sale of the California-based Lincoln.

DeConcini said he made the calls after the top federal regulator, M. Danny Wall, suggested there were "other players" involved in the decision. He said he recalled Wall mentioning California regulators.

DeConcini made the call in April 1989, before the government seized Lincoln on April 14. Federal regulators had rejected Keating's bid to sell Lincoln, ruling that the proposed buyers were actually Keating-associated insiders.

DeConcini, D-Ariz., faced a second day of questioning before the Senate Ethics Committee today after insisting Wednesday that his conduct was activist but ethical.

Bennett's deliberate questioning of DeConini sparked complaints from members of the ethics panel and defense attorneys that he was moving too slowly and focusing on minor events.

"We've gone on way too long, Mr. Chairman, and it's time to stop it," said James Hamilton, DeConcini's attorney. "We're scraping the bottom of the barrel."

"I know where the line is and I did not cross it," DeConcini maintained. "I'm very satisfied I violated no rule, no spirit of any rule."

DeConcini is the fourth and final member of the so-called Keating Five senators to undergo public examination in the ethics panel's investigation into whether the lawmakers acted improperly on behalf of Keating.

Keating, whose Lincoln Savings and Loan collapsed at a cost to taxpayers of more than $$2 billion, raised or contributed $$1.3 million to the campaigns and related political causes of the five senators.

The fifth senator, California Democrat Alan Cranston, has been excused from public questioning because he is undergoing treatment for prostate cancer.

In his initial testimony, DeConcini denied a key allegation leveled against him: that he sought to negotiate a deal with federal regulators on behalf of Keating, a Phoenix financier.

Gray testified that DeConcini tried to broker such a deal to win a waiver of a rule limiting Lincoln's ability to make risky speculative investments.

But DeConcini said that in a meeting on April 2, 1987, with Gray and three other senators, he never got to that issue because Gray insisted he knew nothing about Lincoln.

"Mr. Gray refused to talk to us about Lincoln," DeConcini said. "We didn't get around to anything of substance."

DeConcini contended Gray knew more than he acknowledged about Lincoln and that it "makes my blood boil" that Gray withheld information.

He denied a contention by his Arizona colleague, Republican Sen. John McCain, that the two had an agreement to limit the agenda of the meeting with Gray.

DeConcini also disputed suggestions by Gray and others that he or someone in his office spread the word that no staff aides were allowed in the meeting.

He said he thought he had McCain's authorization to use his name in issuing a written invitation to Sen. Donald Riegle, D-Mich., to attend a second meeting with regulators. McCain said he did not authorize his name to be used.

GRAPHIC: LaserPhoto WX8

LANGUAGE: ENGLISH

LEVEL 2 - 45 OF 47 STORIES

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January 10, 1991, Thursday, Late Edition - Final

SECTION: Section D; Page 22; Column 5; National Desk

LENGTH: 817 words

HEADLINE: DeConcini Is Adamant On His Help for Keating

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 9

BODY:

Senator Dennis DeConcini told the Senate Ethics Committee today that his intervention with Federal regulators on behalf of Charles H. Keating Jr. was "not only a right but an obligation."

The Arizona Democrat said he and four other Senators should not be judged by how their conduct might be publicly perceived.

Mr. DeConcini sharply took issue with the "appearance standard," which the committee's special counsel, Robert S. Bennett, said the panel should apply in deciding whether the five Senators did favors for Mr. Keating's Lincoln Savings and Loan Association in return for political donations. Under that standard, Mr. Bennett said, lawmakers should be judged as to whether their conduct would appear to be improper to a reasonable, well-informed person.

"You cannot afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest," Mr. DeConcini said. "You have to have the courage to stand up to the Government when they're wrong, and you have to have the courage to tell the constituent if you think the Government is right."

Denies Bid to Set Up a Deal

Mr. DeConcini acknowledged that he was particularly vocal during two meetings in his office in April 1987 with the Senators now under investigation and Federal regulators. But he disputed regulators' testimony that he sought to negotiate a deal in which they would withdraw a Federal regulation that would limit Lincoln's ability to make speculative investments.

"I know where the line is," Mr. DeConcini said, "and I did not cross it. This was not negotiating, and I think it's very clear."

Mr. DeConcini was the last of the five Senators to appear before the Ethics Committee over allegations that they improperly intervened with regulators on behalf of the troubled Lincoln because Mr. Keating was a major contributor to their campaigns or causes. Lincoln was seized by the Federal Government in 1989.

The other Senators under investigation are Alan Cranston of California, Donald W. Riegle Jr. of Michigan, John Glenn of Ohio and John McCain of Arizona. Mr. McCain is the only Republican.

Senator Howell Heflin, an Alabama Democrat who is chairman of the panel, announced that he expected the proceedings to end next Wednesday with closing arguments from Mr. Bennett and the Senators' lawyers. After that, the committee will deliberate over whether any of the five Senators violated Senate rules and whether they should be punished.

Throughout a day of answering questions from his lawyer, James Hamilton, and Mr. Bennett, Mr. DeConcini was far less combative than when he appeared before the committee in November to deliver an opening statement.

Rankled at Being Pressed

But at times he was clearly rankled by Mr. Bennett's repeatedly asking whether he traded favors for contributions, to the point of complaining that "questions are being asked as a prosecutor."

Mr. DeConcini, a former county prosecutor, insisted he had helped Lincoln because Mr. Keating's corporate headquarters was in Phoenix and the businessman complained that regulators were treating the savings and loan harshly. Even though Mr. Keating was on the DeConcini campaign's finance board, the Senator said contributions had nothing to do with his efforts.

"I am an activist and I do intervene," he said.

Appealing to the five Southerners on the six-member ethics panel, Mr. DeConcini likened his efforts on behalf of Mr. Keating and other constituents to Southerners who took a leading role in the civil rights struggle by intervening in segregation cases.

Citing another example of his dedication to Arizonans, Mr. DeConcini said he had performed constituent service for a onetime opponent, former Representative Sam Steiger, a Republican who he said was "mean and hateful" to him in during the campaign of 1976, when Mr. DeConcini was first elected to the Senate.

In the Lincoln case, Mr. DeConcini said he called Edwin J. Gray, then head of the Federal Home Loan Bank Board, to ask him to meet with the Senators at the first of two pivotal meetings in April 1987. The Senator said Mr. Keating had asked him to arrange the meeting.

Mr. DeConcini said he called Mr. Gray only after Mr. Riegle told him it would be a "good idea." Mr. Riegle, who is now chairman of the Senate Banking Committee, told the ethics panel this week that he had no recollection of the conversation but did not dispute that it took place. Mr. DeConcini also denied testimony that he suggested that the other Senators not bring their aides to the meetings.

Reflecting a growing impatience among some of his colleagues on the ethics panel about the length of the hearings, which began Nov. 15, Senator David Pryor, Democrat of Arkansas, complained near the close of today's session: "I'll be honest with you. I can't concentrate any longer. My mind is somewhere else at this point."

LANGUAGE: ENGLISH

LEVEL 2 - 46 OF 47 STORIES

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January 10, 1991, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A5

LENGTH: 884 words

HEADLINE: DeConcini: Appearance of Impropriety Should Not Bar Constituent Aid

SERIES: Occasional

BYLINE: Helen Dewar, Washington Post Staff Writer

BODY:
Sen. Dennis DeConcini (D-Ariz.) told the Senate ethics committee yesterday that lawmakers should not have to worry about an appearance of impropriety if it keeps them from helping home-state "special interests" that have been wronged by government.

"You can't afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest in their state, [such as] some agricultural interest in their state, that is not getting a fair shake," DeConcini said in response to questions about his ethical standards.

A key question before the ethics panel is whether to consider appearances as well as actual conduct in weighing the cases of five senators who intervened with federal regulators on behalf of savings and loan executive Charles H. Keating Jr. Keating raised more than $ 1.3 million for their campaigns and causes during the period in which he was seeking their help.

Keating's Lincoln Savings and Loan was located in California, but Keating lived in Arizona, where Lincoln's now-bankrupt parent corporation, American Continental, was headquartered. Keating raised $ 31,000 for DeConcini's 1982 campaign and $ 48,000 for his 1988 reelection campaign. The S&L executive also served on DeConcini's campaign finance committee in 1988.

In addition to DeConcini, the senators under investigation by the committee are Alan Cranston (D-Calif.), John Glenn (D-Ohio), John McCain (R-Ariz.) and Donald W. Riegle Jr. (D-Mich.). The committee is hearing final testimony by the senators and is expected to wind up two months of hearings in the case next week.

Robert S. Bennett, the committee's special counsel in the case, has argued that an appearance of wrongdoing undermines public confidence in the Senate's integrity and may constitute a violation of its ethical standards. Apparently relying on both conduct and appearance standards, Bennett recommended last year that the committee proceed with probes of Cranston, DeConcini and Riegle but take no further action against McCain and Glenn.

But the committee has not indicated how broadly it interprets the standards, and some of the five senators, including Riegle in testimony earlier this week, have said lawmakers should not be disciplined for improper appearances if their conduct was proper.

In testimony that is expected to continue today, DeConcini repeatedly denied any improper conduct, including his intervention on Keating's behalf.

"I know where the line is, and I don't cross it," he said, saying the line is drawn at such things as taking gifts in exchange for legislative favors or threatening or taking retaliatory action.

"But I am an activist and I do intervene. . . . I believe the government is wrong sometimes, and we [Congress] are the last resort" for constituents who have a grievance against their government, he said. A lawmaker must "have the courage to stand up to government when it is wrong and to tell a constituent when you think it is right," he added.

One of the key points at issue in DeConcini's case is whether he attempted to negotiate a deal on Lincoln's behalf at two meetings that the senators held with thrift regulators in his office in April 1987. Some of the regulators said he had proposed a deal in which the regulators would ease up on investment restrictions in exchange for Lincoln's agreement to make more home mortgage loans and described the atmosphere of the meeting as intimidating.

DeConcini denied attempting to negotiate a deal for Lincoln, saying the senators were in no position to do so because they did not even know what the regulators' position was.

Even if he had chosen to negotiate on Lincoln's behalf, it would not have been improper, DeConcini asserted. "I know of no rules that you can't negotiate on behalf of a constituent . . . but this was no negotiation," he said.

When his attorney, James Hamilton, asked whether anything occurred that would have been intimidating to the regulators, DeConcini replied, "Of course not." Several of the regulators, including Edwin J. Gray, former chairman of the Federal Home Loan Bank Board, described the atmosphere of the meetings as intimidating.

In sometimes testy responses to questions from Bennett, DeConcini referred to him as the "special prosecutor," as he did when he presented his opening statement to the panel in November.

Disagreeing with his colleagues on some key points, DeConcini suggested that Riegle played more of a role in laying the groundwork for the first meeting with regulators than he portrayed in testimony Monday. After Keating suggested that he contact Gray about setting up a meeting with senators, DeConcini said he asked Riegle for his view and quoted Riegle as saying he thought it was a "good idea." Riegle has denied any role in setting up the first meeting, which he did not attend. He attended the second meeting a week later.

Although McCain indicated he had reservations about the meeting, DeConcini said he got just the opposite impression. In opening questions about his social relations with Keating in Arizona, Hamilton also asked DeConcini if he had ever taken trips with Keating, a reference to trips taken by McCain and his family on Keating's corporate airplanes. No, DeConcini responded, he had taken no such trips.

LANGUAGE: ENGLISH

LEVEL 2 - 47 OF 47 STORIES

The Associated Press

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January 9, 1991, Wednesday, AM cycle

SECTION: Washington Dateline

LENGTH: 780 words

HEADLINE: DeConcini Denies Negotiating On Keating's Behalf

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini said Wednesday he did not negotiate with thrift regulators on behalf of Charles H. Keating Jr. when the political donor's S&L was in serious trouble.

"I know where the line is and I did not cross it," the Arizona Democrat told Senate Ethics Committee hearings investigating his conduct and that of four Senate colleagues.

Contradicting testimony of several regulators, DeConcini said he never attempted to strike a deal for Keating's thrift that would have withdrawn a rule limiting speculative investments.

Keating's Lincoln Savings and Loan, which specialized in such investments was seized by the government at a potential bailout cost of more than $$2 billion.

"I'm very satisfied I violated no rule, no spirit of any rule," the Democratic senator said under questioning from his attorney, James Hamilton.

DeConcini was the last senator to testify in his own defense in the committee investigation of the five senators, who received $$1.3 million from Keating and associates for their campaigns and causes.

The panel wants to know whether there was a connection between the money and the intervention - a link all the senators vigorously denied.

In addition to DeConcini, D-Ariz., who received $$48,000 from Keating and associates, the other senators under investigation are: John McCain, R-Ariz.; John Glenn, D-Ohio; Alan Cranston, D-Calif. and Donald W. Riegle Jr., D-Mich.

The hearings, which began Nov. 15, are scheduled to end next Wednesday with closing arguments, committee Chairman Howell Heflin, D-Ala., announced.

DeConcini on Wednesday not only defended his own conduct, but renewed an accusation that committee special counsel Robert S. Bennett was acting as a prosecutor.

Continuing an attack that he leveled at the beginning of the hearings, DeConcini said "questions are being asked as a prosecutor. I've been in that seat before," said the senator, who was once a county prosecutor in Arizona.

DeConcini said he only intervened for Keating to ensure fair treatment for a constituent, since the businessman's corporate headquarters was in Phoenix. Keating complained that regulators were prejudiced against Lincoln.

The senator said he has repeated similar service for many constituents, contributors and non-contributors alike, because "I'm an activist" and "I think the government does make a lot of mistakes. We are the place to go to, the members of Congress."

"You cannot afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest in their state," DeConcini said, referring to instances where intervention may appear wrong in other parts of the country.

DeConcini said he called the top thrift regular, Edwin J. Gray, to meet with senators about Lincoln on April 2, 1987.

The senator said Keating had called him to request such a meeting.

But DeConcini said he told Keating: "I was not really the guy to put together a meeting. He said he had other senators (to arrange the meeting) and would get back to me," DeConcini said.

DeConcini said he called Gray only after conferring with Riegle, who said a meeting would be a "good idea." Riegle was then a member and is now chairman of the Senate Banking Committee.

A former Keating lobbyist said it was Riegle who conceived of the session, but the senator has denied it. Riegle said he does not recall talking to DeConcini about the meeting but accepts DeConcini's version of the conversation.

Gray testified that at the April 2 meeting, DeConcini tried to negotiate a deal for Lincoln that included withdrawal of the risky investment rule. All the senators except Riegle attended the meeting.

A week later, all five senators met with four regulators and learned that criminal referrals would be made against Lincoln.

"We were not in position to offer a settlement agreement," DeConcini said. "We were not in position to negotiate. We didn't know what their (the regulators) position was."

Bennett asked DeConcini why he didn't confront Keating with the serious allegations against Lincoln made by the regulators.

"I was under some very strong directions," DeConcini responded. "I felt that the information that the bank board regulators had given us, not only as to criminality, was somewhat sensitive and maybe confidential."

Asked by Hamilton if it would have been proper to negotiate for a constituent, DeConcini said, "I know of no rule that you can't negotiate on

behalf of a constituent.

There are some limits of what you can do. You can't retaliate (against an agency), you can't threaten and you can't accept gifts."

But he added, "This was not negotiating and I think it's very clear."

LANGUAGE: ENGLISH

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WASHINGTON, D.C. 20006-1882

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WASHINGTON, D.C. 20006-1885

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, NW
Suite 490 North
Washington, DC 20004

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BY MESSENGER

GARY A. WINTERS
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WASHINGTON, D. C. 20006-1882

JOHN D BATES
DEPUTY INDEPENDENT COUNSEL
OFFICE OF THE INDEPENDENT COUNSEL
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WASHINGTON DC 20004

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LIEBERMAN, EVELYN

Lieberman file

Bath 12/7/95

- may have copy of transcript + testimony

BK do not need to produce

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[redacted]

FN #	Description
44	Kyle 302, 4/14/94
194	Park Service Letter, 5/4/95 @ 1
218	Supra n. ?
221	Kyle 302, 4/14/94
225	FBI Lab Report, 2/21/95, @ 2

On FN 271, I have inserted a document with the date 5/10/94 instead of 5/11/94, as it is marked in the footnote. I did this because the document with the date 5/10/94 matches the description in the text. Also, I could not find a document with the date 5/11/94 identified with Thomasson.

MEMORANDUM

TO: File

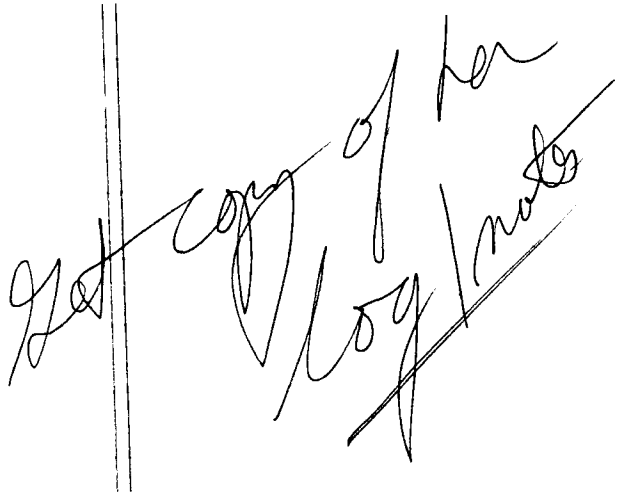
FROM: Brett Kavanaugh

RE: Conversation with Dr. Blackbourne

DATE: May 1, 1997

I talked today with Dr. Blackbourne, and asked him whether he agreed with a statement in our report that urination and secretion of seminal fluid can occur upon death. He said he agreed with that statement.

This goes in the appropriate footnote on this issue.



Office of the Independent Counsel

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Washington, DC 20004
(202) 514-8688
Fax (202) 514-8802

✓ 15 USC 681

✓ Dec. 21, 1993 New York Times re: Foster's Documents

✓ Jan. 13, 1994 New York Times re: request for Independent Counsel

- 28 CFR 603.1 (a) ⇒ order appointing Fiske

✓ Is the 3rd Edition of Practical Homicide Investigation from 1996

Yes! Jim

-

104 52 52 52 10 200

LINDSEY'S NOTES

FN#		Description
5	O	Federal News Service
~~8-10~~	✓	~~Summary by Clinger, 8/12/94~~
13	O	Leenars and Berman Texts
~~25~~	✓	~~OIC Investigators Memo, 3/1/96~~
~~38-39~~	✓	~~Investigators 302, 4/29/94 @1~~
44	✓	Kyle 302, 4/14/94 @ 3 ⟹ [more than 1 on that date]
~~67~~	✓	~~302 9/11/95 @ 2-3 (Beyer's Assistant ??)~~ [Burgess]
81	O	OIC Investigators Memo, 6/22/95 @ 2
~~128~~	✓	~~OIC Investigators Memo (Lee)~~
135	O	FBI Lab Report, 7/9/96 @ 1
~~143~~	✓	~~Attorney 302, 6/16/94 @ 1~~ [Castellito]
149-150	O	OIC Investigators Memo, 3/2/95 @ 4
~~153~~	✓	~~OIC Investigators Memo (Lee)~~
~~154~~	✓	~~OIC Investigators Memo, 3/1/96~~
~~160~~	✓	~~OIC Investigators Memo (Lee)~~
~~166~~	✓	~~Commonwealth of Virginia, Division of Forensic Science, Certificate of Analysis, Case No. 93-353, 7/26/93 (Huynh)~~ Tab 5
~~170~~	✓	~~Pathologists Report, @1~~ end of Tab 3

ASK BRETT FOR HIGHLIGHTED DOCS WHEN YOURE ALMOST FINISHED WITH PROJECT.

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349

FN#		Description
5		Federal News Service
8-10	✓	Summary by Clinger, 8/12/94
13		Leenars and Berman Texts
25	✓	OIC Investigators Memo, 3/1/96
38-39	✓	Investigators 302, 4/29/94 @1
44	✓	Kyle 302, 4/14/94 @ 3 ⟹ [more than 1 on that date]
67	✓	302 9/11/95 @ 2-3 (Beyer's Assistant ??) [Burgess]
81		OIC Investigators Memo, 6/22/95 @ 2
128	✓	OIC Investigators Memo (Lee)
135		FBI Lab Report, 7/9/96 @ 1
143	✓	Attorney 302, 6/16/94 @ 1 [Castellito]
149-150		OIC Investigators Memo, 3/2/95 @ 4
153	✓	OIC Investigators Memo (Lee)
154	✓	OIC Investigators Memo, 3/1/96
160	✓	OIC Investigators Memo (Lee)
166	✓	Commonwealth of Virginia, Division of Forensic Science, Certificate of Analysis, Case No. 93-353, 7/26/93 (Huynh) Tab 5
170	✓	Pathologists Report, @1 end of Tab 3

FN# ~~1 2 5 5+~~

5	FEDERAL NEWS SERVICE
8-10	SUMMARY REPORT BY CLINGER 8/12/94
13	LEENARS + BERMAN TEXTS
25	OIC INVESTIGATORS MEMO 3/1/96
~~30~~	~~FERRIS 302 4/18/94 @ 2~~
~~38 39~~	~~FORNSHILL 302, 4/29/94 @ 4~~
	OIC INVESTIGATORS 302, 4/29/94 @ 1
44	KYLE 4/14/94 @ 3 (???)
~~45~~	~~FORNSHILL 11/11/95 GJ @ 99~~
~~[illegible]~~	~~ROLLA 2/9/95 @ 28-29~~
67	302 9/11/95 @ 2-3 (??) (BEYER'S ASSISTANT?)
81	OIC INVESTIGATORS MEMO 6/22/95 @ 2
128	OIC INVESTIGATORS MEMO (LEE)
135	FBI LAB REPORT 7/9/96 @ 1
143	ATTORNEY 302, 6/16/94 @ 1
149-150	~~FBI LAB~~ OIC INVESTIGATORS MEMO 3/2/95 @ 4
153	OIC INVESTIGATORS MEMORANDUM (LEE)
154	OIC INVESTIGATORS MEMO 3/1/96
160	OIC INVEST. MEMO (LEE)
166	COM. OF VA, DIV. OF FORENSIC SCIENCE CERT. OF ANALYSIS CASE No. 93-353 7/26/97 (HUYNH)
170	PATHOLOGIST'S REPORT AT 1

NO DOCS

FN# 6 14 15 18 22 26 27 42 43 48 78 152 199 200 206-7

302 9/11/95 @ 2-3 DR. BEVERS ASSISTANT

[illegible]

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7/9/96 at 1
5/9/94 at 12

130 243 493
491-92

FOIA #56806 (URTS 16304) DocId: 70105008 Page 11

181 Pathologist Rept at 2 & 3
182 " " at 1
183 " " at 3
184 " " at 4
185 Gonzalez OIC, 1/10/95 56-57

IT'S AT THE END OF TAB 3 IN FISKE'S REPORT

5 Week Beginning May

April 1997

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May 1997

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4	5	6	7	8	9	10
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18	19	20	21	22	23	24
25	26	27	28	29	30	31

June 1997

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MONDAY, MAY 5 125	TUESDAY, MAY 6 126	WEDNESDAY, MAY 7 127
7	**7**	**7**
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45 Cathy or Lisa Kmp
8	**8**	**8** •
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	**9**	**9**
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	**10**	**10**
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	**11**	**11**
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	**12**	**12**
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	**1**	**1**
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	**2**	**2**
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	**3**	**3**
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	**4** Lindsay	**4**
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	**5**	**5**
5:15	5:15	5:15
5:30	5:30 •	5:30
5:45	5:45	5:45 LISA
6	**6**	**6** •
6:15	6:15 Dawn	6:15 Pam Kim
6:30	6:30	6:30 •
6:45	6:45	6:45
7	**7**	**7**
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

8:30 As late as 8:30 29.00

uly 1997

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August 1997

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September 1997

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21	22	23	24	25	26	27
28	29	30				

Week Ending May 11

HURSDAY, MAY 8	128	FRIDAY, MAY 9	129	SATURDAY, MAY 10	130
		7		7	
15		7:15		7:15	
30		7:30		7:30	
45		7:45 • Lisa Krup		7:45	
		8		8	
15		8:15		8:15	
:30		8:30		8:30	
:45 Evaluate where we are.		8:45		8:45	
		9		9	
:15		9:15		9:15	
:30 • Lisa Krup.		9:30		9:30	
:45		9:45		9:45	
0		10		10	
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5		5		SUNDAY, MAY 11	131
5:15		5:15			
5:30		5:30			
5:45 Lindsay •	Lisa •	5:45			
6	Kim	6			
6:15		6:15			
6:30		6:30			
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7:15		7:15			
7:30 Ac. late		7:30			
7:45 / as possible		7:45			

FOIA #56806 (URTS 16304) DocId: 70105008 Page 14

Screened by NARA (RD-F) 07-19-2018 FOIA #56806 (URTS 16304) DOCID: 70105010

LYONS, JIM

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Page Denied

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Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: _____

TO: James M. Lyons

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

This facsimile is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile by mail.

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****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	7451
CONNECTION TEL	83036239222
CONNECTION ID	
START TIME	07/17 19:06
USAGE TIME	05'08
PAGES	7
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 10, 1995

James M. Lyons
1200 17th Street, Suite 300
Denver, Colorado 80202

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Lyons:

I have received your letter of June 30, 1995. In this letter, I will respond to specific points you made; in so doing, I hope to cool the somewhat overheated rhetoric contained in your letter.

[redacted]

Third, we understand that two prior federal criminal investigations have concluded that Mr. Foster's death was a suicide. However, we were given jurisdiction to investigate Mr. Foster's death, and we consider it our obligation to do so. This Office's investigation of the Foster death has been ongoing for several months now, and therefore it is at best odd for you to suggest that the investigation was timed to coincide with the July 20 anniversary of Mr. Foster's death.

We do well appreciate, however, that each investigation of Mr. Foster's death causes continuing anxiety and pain for Mr. Foster's friends and family. We have tried therefore to complete our task as expeditiously as possible and in a fashion that causes the least possible disruption to Mr. Foster's family and friends. On the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

other hand, however, it serves the interest of no one -- least of all, Mr. Foster's family and friends -- for us to compromise on the principle of thoroughness that animates all of our investigations. We believe it especially important in this most sensitive and delicate investigation to be as thorough as possible.

Finally, we cannot agree to the conditions you have imposed for a voluntary interview. It is our usual practice (consistent with Department of Justice practice) not to provide copies of 302's to witnesses. In this case, therefore, we must respectfully decline your request for a copy of the 302 of your prior interview. We do believe it necessary to interview you, however.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9548

July 17, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Via Facsimile

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W., Suite 490-N
Washington, D.C. 20004

[redacted]

Dear Mr. Kavanaugh:

Reference is made to my letter to you dated July 13, 1995. On Friday, July 14, after you received my letter by fax, I received a voicemail message from you indicating that your office would reconsider its position regarding my 302. I have not yet heard back from you. Accordingly, please contact me immediately.

Very truly yours,

James M. Lyons

JML:dm

ROTHGERBER, APPEL, POWERS & JOHNSON

SUITE 3000
ONE TABOR CENTER
1200 SEVENTEENTH STREET
DENVER, COLORADO 80202-5839
TELEPHONE (303) 623-9000
FAX (303) 623-9222

318 NORTH TEJON
COLORADO SPRINGS, COLORADO 80903
TELEPHONE (719) 386-1800
FAX (719) 386-1819

SUITE 240
ONE PIONEER CENTER
2424 PIONEER AVENUE
CHEYENNE, WYOMING 82001
TELEPHONE (307) 638-8284
FAX (307) 638-8289

SUITE 310
DESERET BOOK BUILDING
40 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111
TELEPHONE (801) 328-1801
FAX (801) 328-1829

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IRA C. ROTHGERBER (1874-1954)
WALTER M. APPEL (1879-1961)
IRA C. ROTHGERBER, JR. (1913-1985)

*NOT ADMITTED IN COLORADO

TELECOPIER TRANSMITTAL SHEET

108

To: BRETT KAVANAUGH Fax No. 202 514-8802

From: Jim Lyons

Re:

Date: 7/17/95 Client No. 1960-102

ADDITIONAL REMARKS:

We are transmitting 2 pages (including this page). If you have any problems receiving this fax, please contact our Services Department at (303) 623-9000, extension 321.

Thank you.

The information contained in this facsimile message and/or the document transmitted is privileged work product or otherwise confidential and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any examination, use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original to us at the above address by mail. Thank you.

FOIA #56806 (URTS 16304) DocId: 70105010 Page 17

JUL-17-1995 16:34 FROM RAPSJ TO 12025148802 P.01

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*** ACTIVITY REPORT ***
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RECEPTION OK

TX/RX NO.	7450
CONNECTION TEL	303 623 9222
CONNECTION ID	
START TIME	07/17 17:32
USAGE TIME	01'00
PAGES	2
RESULT	OK

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 23, 1995

James M. Lyons, Esq.
Rothgerber, Appel, Powers & Johnson
1200 17th Street
Suite 3000
Denver, Colorado 80202

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Lyons:

As I stated to you on the telephone, this Office also would like to interview you. You have stated that you are "not inclined" to submit to a voluntary interview, but that you plan to consult further with counsel about this matter. Please advise me as soon as possible whether you will agree to a voluntary interview.

Thank you for your cooperation. Please do not hesitate to contact me at (202) 514-8778 if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

Attachment

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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SENDER'S COPY

1 SENDER'S FEDERAL EXPRESS ACCOUNT NUMBER: 1761-3023-7
Date: 6-23-95

From (Your Name) Please Print: Brett M. Kavanaugh
Your Phone Number (Very Important): (202-514-8088
Company: INDEPENDENT COUNSEL MGS&C
Department/Floor No.:
Street Address: 1001 PENN AVE NW STE 490-NORTH
City: WASHINGTON
State: DC
ZIP Required: 20004

2 To (Recipient's Name) Please Print: James M. Lyons, Esq.
Recipient's Phone Number (Very Imp: (303) 623-900(
Company: Rothgerber, Appel, Powers & Johnson #300(
Department/Floor No.:
Exact Street Address (We Cannot Deliver to P.O. Boxes or P.O. Zip Codes.): 1200 17th Street
City: Denver
State: CO
ZIP Required: 80202

YOUR INTERNAL BILLING REFERENCE INFORMATION (optional) (First 24 characters will appear on invoice.)

H IF HOLD AT FEDEX LOCATION, Print FEDEX Address Here
Street Address:
City:
State:
ZIP Required:

3 PAYMENT 1 [X] Bill Sender 2 [ ] Bill Recipient's FedEx Acct. No. 3 [ ] Bill 3rd Party FedEx Acct. No. 4 [ ] Bill Credit Card
5 [ ] Cash/Check Acct./Credit Card No. Exp. Date

4 SERVICES (Check only one box)

Priority Overnight (Delivery by next business morning†)
11 [ ] OTHER PACKAGING
16 [ ] FEDEX LETTER*
12 [ ] FEDEX PAK*
13 [ ] FEDEX BOX
14 [ ] FEDEX TUBE

Standard Overnight (Delivery by next business afternoon. No Saturday delivery†)
51 [ ] OTHER PACKAGING
56 [ ] FEDEX LETTER*
52 [ ] FEDEX PAK*
53 [ ] FEDEX BOX
54 [ ] FEDEX TUBE

Economy Two-Day (Delivery by second business day †)
30 [ ] ECONOMY*
* Economy Letter Rate not available. Minimum charge: One pound Economy rate.

Government Overnight (Restricted for authorized users only)
46 [X] GOV'T LETTER
41 [ ] GOV'T PACKAGE

Freight Service (for packages over 150 lbs.)
70 [ ] OVERNIGHT FREIGHT** (Confirmed reservation required)
80 [ ] TWO-DAY FREIGHT**
†Delivery commitment may be later in some areas.
*Declared Value Limit $500.
**Call for delivery schedule.

5 DELIVERY AND SPECIAL HANDLING (Check services required)

Weekday Service
1 [ ] HOLD AT FEDEX LOCATION WEEKDAY (Fill in Section H)
2 [X] DELIVER WEEKDAY

Saturday Service
31 [ ] HOLD AT FEDEX LOCATION SATURDAY (Fill in Section H)
3 [ ] DELIVER SATURDAY (Extra charge) (Not available to all locations)
9 [ ] SATURDAY PICK-UP (Extra charge)

Special Handling
4 [ ] DANGEROUS GOODS (Extra charge)
6 [ ] DRY ICE Dangerous Goods Shipper's Declaration not required
Dry Ice, 9, UN 1845, ____ X ____ kg, 904 III
[ ] DESCRIPTION
12 [ ] HOLIDAY DELIVERY (If offered) (Extra charge)

6

PACKAGES	WEIGHT In Pounds Only	YOUR DECLARED VALUE (See right)
1	1 lb.	$100
Total	Total	Total

DIM SHIPMENT (Chargeable Weight) [ ] ____ lbs.
L x W x H

Received At
1 [ ] Regular Stop 3 [ ] Drop Box
2 [ ] On-Call Stop 4 [ ] B.S.C. 5 [ ] Station

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Release Signature:

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Declared Value Cha
Other 1
Other 2
Total Charges

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PART #145412 WCSI
FORMAT #160
160

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 23, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

James M. Lyons, Esq.
Rothgerber, Appel, Powers & Johnson
1200 17th Street
Suite 3000
Denver, Colorado 80202

Dear Mr. Lyons:

[redacted]

As I stated to you on the telephone, this Office also would like to interview you. You have stated that you are "not inclined" to submit to a voluntary interview, but that you plan to consult further with counsel about this matter. Please advise me as soon as possible whether you will agree to a voluntary interview.

Thank you for your cooperation. Please do not hesitate to contact me at (202) 514-8778 if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

Attachment

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 23, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

James M. Lyons, Esq.
Rothgerber, Appel, Powers & Johnson
1200 17th Street
Suite 3000
Denver, Colorado 80202

Dear Mr. Lyons:

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Thank you for your cooperation. Please do not hesitate to contact me at (202) 514-8778 if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

Attachment

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

Memorandum **Office of the Independent Counsel**

To : BRETT KAVANAUGH Date 3/10/95
ASSOCIATE INDEPENDENT COUNSEL

From : [redacted]

FOIA(b)(7) - (C)

Subject: INTERVIEW OF JAMES M. LYONS

On 3/9/95, I received the attached letter from Agent [redacted] The letter is a request from JIM LYONS to receive a copy of his 302 which reported the results of an interview of LYONS conducted by [redacted] on 5/12/95. LYONS' request is made pursuant to the release of FBI 302s to the National Archives. LYONS has also made a request that a clarification be made regarding comments related to ethical concerns FOSTER may have had in handling certain matters within the White House Counsel's Office.

In view of the request made by LYONS, I felt this matter needed to be brought to your attention. It is suggested that the office forward a letter to LYONS with a copycount to [redacted] advising him that [redacted] is no longer assigned to the Office of the Independent Counsel. The Office of the Independent Counsel needs to make a determination regarding advising LYONS that we will not provide him with a copy of the 302 and that we might consider a reinterview of LYONS to clarify any points from his previous interview. No further action will be taken by the investigative staff and we can discuss further if deemed necessary.

2 - OIC, WDC
1 - KAVANAUGH
1 - GILLIS

DMG:sla
(2)

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

February 16, 1995

FOIA(b)(7) - (C)

Supervisory Special Agent
Federal Bureau of Investigation
10th Street and Pennsylvania Avenue N.W.
Washington, D.C. 20535

Re: Vincent W. Foster, Jr. (deceased)

Dear

Recently I have had occasion to review a partial transcript of the interview which I gave you in Washington, D.C. on May 12, 1994, regarding the suicide of Vincent W. Foster, Jr. In this connection, the partial transcript (FD-302) has apparently been made public and is generally available through the Archives of the United States. Under the circumstances, I respectfully request that an entire and complete transcription of my interview be furnished to me as soon as possible.

In reviewing the partial transcript, I note a matter which deserves some clarification. On page 4, a statement is made as follows:

> "Foster believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and work load reasons."

This statement, in the context made, particularly on pages 4 and 5, is, of course, not a quotation or attributed to me as such, nor was the interview recorded. Nevertheless, in the interests of clarification, you should understand that it was and is my recollection that Mr. Foster did express his professional concerns arising from the difficult circumstances under which work was expected to be performed by the Office of White House Counsel, especially with staff significantly less than that of the previous Administration. The Rules of Professional Conduct for attorneys require that attorneys provide competent representation, including the thoroughness, separation and diligence reasonably necessary under the circumstances. See, for example, Rules 1.1 and 1.3 of

the Model Rules of Professional Conduct of the American Bar Association. Indeed, these Rules of Professional Conduct or ethics clearly direct that "a lawyer's workload should be controlled so that each matter can be handled adequately". Comment, Rule 1.3, ABA Model Rules. It was in this context and sense that I recall Mr. Foster expressed his concerns to me. I do not believe that Mr. Foster meant to express or imply any other concerns of ethics related to the Office of White House Counsel. Frankly, I do not believe that I used the word "ethics" at all, but if I did it was in this context of professional responsibilities.

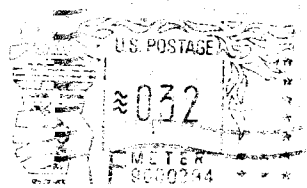
I would appreciate your acknowledging this clarification and including it in the transcript of my interview. At such time as I have an opportunity to review the entire and complete transcript, I will bring to your attention any other matters which I deem noteworthy.

Sincerely,

James M. Lyons

JML:kw

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202



FOIA(b)(7) - (C)

38377

[redacted]
Supervisory Special Agent
Federal Bureau of Investigation
10th Street and Pennsylvania Avenue N.W.
Washington, D.C. 20535

Lyons

6/20/95
called + left message

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

June 30, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W.
Washington, D.C. 20004

Dear Mr. Kavanaugh:

[redacted]

I remain unwilling to provide a "voluntary interview" unless (1) you first provide me a copy of the Form 302 (summary of interview) from my previous interview by Special Agent [redacted] on May 12, 1994, and (2) specifically set forth in writing what additional areas of inquiry you now wish to pursue. If these

FOIA(b)(7) - (C)

conditions are not acceptable to you, I respectfully decline your request for an interview.

Furthermore, I cannot help but note that your interest in the circumstances of Mr. Foster's suicide comes after a thorough investigation and unequivocal conclusion reached by your predecessor, Mr. Fiske. The interest of your office in his suicide also seems timed to coincide with the second anniversary of Mr. Foster's passing. Under these circumstances, I am skeptical of any real need for further information from me but will respond as set forth herein.

Very truly yours,

James M. Lyons

JML:dm

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W.
Washington, D.C. 20004

20004-2502 05

FOIA #56806 (URTS 16304) DocId: 70105010 Page 55

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 10, 1995

James M. Lyons
1200 17th Street, Suite 300
Denver, Colorado 80202

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Lyons:

I have received your letter of June 30, 1995. In this letter, I will respond to specific points you made; in so doing, I hope to cool the somewhat overheated rhetoric contained in your letter.

[redacted]

Third, we understand that two prior federal criminal investigations have concluded that Mr. Foster's death was a suicide. However, we were given jurisdiction to investigate Mr. Foster's death, and we consider it our obligation to do so. This Office's investigation of the Foster death has been ongoing for several months now, and therefore it is at best odd for you to suggest that the investigation was timed to coincide with the July 20 anniversary of Mr. Foster's death.

We do well appreciate, however, that each investigation of Mr. Foster's death causes continuing anxiety and pain for Mr. Foster's friends and family. We have tried therefore to complete our task as expeditiously as possible and in a fashion that causes the least possible disruption to Mr. Foster's family and friends. On the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

other hand, however, it serves the interest of no one -- least of all, Mr. Foster's family and friends -- for us to compromise on the principle of thoroughness that animates all of our investigations. We believe it especially important in this most sensitive and delicate investigation to be as thorough as possible.

Finally, we cannot agree to the conditions you have imposed for a voluntary interview. It is our usual practice (consistent with Department of Justice practice) not to provide copies of 302's to witnesses. In this case, therefore, we must respectfully decline your request for a copy of the 302 of your prior interview. We do believe it necessary to interview you, however.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

June 30, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W.
Washington, D.C. 20004

Dear Mr. Kavanaugh:

[redacted]

I remain unwilling to provide a "voluntary interview" unless (1) you first provide me a copy of the Form 302 (summary of interview) from my previous interview by Special Agent Alexis Suggs on May 12, 1994, and (2) specifically set forth in writing what additional areas of inquiry you now wish to pursue. If these

conditions are not acceptable to you, I respectfully decline your request for an interview.

Furthermore, I cannot help but note that your interest in the circumstances of Mr. Foster's suicide comes after a thorough investigation and unequivocal conclusion reached by your predecessor, Mr. Fiske. The interest of your office in his suicide also seems timed to coincide with the second anniversary of Mr. Foster's passing. Under these circumstances, I am skeptical of any real need for further information from me but will respond as set forth herein.

Very truly yours,

James M. Lyons

JML:dm

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 10, 1995

James M. Lyons
1200 17th Street, Suite 300
Denver, Colorado 80202

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Lyons:

I have received your letter of June 30, 1995. In this letter, I will respond to specific points you made; in so doing, I hope to cool the somewhat overheated rhetoric contained in your letter.

[redacted]

We do well appreciate, however, that each investigation of Mr. Foster's death causes continuing anxiety and pain for Mr. Foster's friends and family. We have tried therefore to complete our task as expeditiously as possible and in a fashion that causes the least possible disruption to Mr. Foster's family and friends. On the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

other hand, however, it serves the interest of no one -- least of all, Mr. Foster's family and friends -- for us to compromise on the principle of thoroughness that animates all of our investigations. We believe it especially important in this most sensitive and delicate investigation to be as thorough as possible.

Finally, we cannot agree to the conditions you have imposed for a voluntary interview. It is our usual practice (consistent with Department of Justice practice) not to provide copies of 302's to witnesses. In this case, therefore, we must respectfully decline your request for a copy of the 302 of your prior interview. We do believe it necessary to interview you, however.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

July 13, 1995

Via Facsimile and U.S. Mail

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W., Suite 490-N
Washington, D.C. 20004

[redacted]

Dear Mr. Kavanaugh:

[redacted]

Frankly, I see no purpose to be served by addressing your claims of propriety and sensitivity for Mr. Foster's family and friends. However, I am skeptical that your investigation into his suicide is motivated by "principles of thoroughness" in the face of two prior federal criminal investigations which even you concede concluded that his death was, in fact, a suicide.

With respect to the 302 of my prior interview with the FBI, you apparently are unaware that substantial portions of this 302 were apparently provided by the FBI to Congress sometime last year. My 302 was then apparently deposited on public file at the Archives of the United States, where it was obtained by a reporter and used as the basis for a news story (see attached). This prompted a letter of clarification from me to [redacted] (attached) to which I never received any response.

FOIA(b)(7) - (C)

Whether consistent with "usual practice of the Department of Justice" or not, my 302 in substantial part has been furnished to third parties and placed in the public domain. Under the circumstances, I cannot appreciate or understand your reluctance to

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furnish the entire 302 to me prior to any voluntary interview or grand jury appearance. I request you reconsider your position and promptly furnish the entire 302. If you remain unwilling to do so, please advise me immediately so that I can bring this matter to the attention of the United States District Court in an appropriate and timely manner.

Very truly yours,

James M. Lyons

JML:dm

Depositions, Interviews Hint at Foster's Worries

Ethics May Have Troubled White House Lawyer

By Susan Schmidt
Washington Post Staff Writer

In the weeks before his suicide, Vincent Foster believed that the White House counsel's office was doing work it shouldn't be doing, his friend James Lyons told the FBI last May. "Foster believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and workload reasons," said the FBI's summary of the Lyons interview.

That interview may partly explain why independent counsel Kenneth W. Starr still wants to look into Foster's death, the subject of lengthy inquiries by his predecessor and a Senate committee. Every official inquiry into the deputy White House counsel's death has concluded he killed himself, but the question of what troubled him so deeply lingers on.

Buried within thousands of pages of depositions and FBI interviews of Clinton administration officials made public by Congress this month are a few hints, like the comments from Lyons, that Foster might have been worried about the ethics of some work handled by the counsel's office. Those suggestions, coupled with unresolved issues surrounding the administration's handling of Foster's office files after his death, pose continuing questions for Starr as he conducts an investigation of the multifaceted Whitewater matter.

In addition to Foster's death, an aspect of Starr's probe that recently has come to light is an examination of Bill Clinton's gubernatorial campaigns in Arkansas from the 1980s through 1990 and allegations that Clinton campaign workers gave thousands of dollars in cash to black ministers with the understanding workers to make room for Clinton cronies, even going so far as calling the FBI in to investigate the employees.

All the investigations to date have said concern over the travel office matter was a chief cause of Foster's anxiety. The Justice Department was preparing to make its report on this affair, and Foster, fearing that there would be congressional hearings, had begun discussions with Lyons and other lawyers about serving as his personal attorney.

Foster also was working on personal legal matters for the president and Hillary Rodham Clinton, including placing their assets in a blind trust, selling off their half-interest in the Whitewater Development Co. and filing three years of delinquent tax returns for the Arkansas land development company.

The Senate documents show that the independent counsel's office has tried to learn whether Foster was worried about handling Whitewater matters or about fielding several private offers that came to the Clintons offering property for a presidential retreat, as Mrs. Clinton said in his deposition he wasn't sure was appropriate.

Starr has now secured the cooperation of Hubbell, the former associate attorney general, in his investigation.

Last month, Hubbell pleaded guilty to fraud and tax charges in connection with overbilling at the Rose Law Firm, where he, Foster and Hillary Clinton were partners. As part of his plea, Hubbell agreed to cooperate with Starr's investigation.

One key question that Hubbell may be able to answer is whether Foster knew about the Resolution Trust Corp.'s 21-page request for a [illegible] of Madison [illegible] dence that Whitewater matters played any role.

But wild conspiracy theories suggesting that Foster was murdered or his body was moved have abounded since the suicide.

Starr said he will review Fiske's findings and render his own "independent judgment" on Foster's death. In recent weeks, his office has called police and rescue officials before a grand jury in what some lawyers familiar with the proceedings say appears to be an effort to sift all contradictory accounts and put the conspiracy theories to rest.

Some congressional Republicans complained that Fiske did not fully explore the question of whether Foster might have been aware of Whitewater issues then simmering outside public view. Could he have learned what the Justice Department was doing on Madison through Hubbell, they ask, or from his own boss, then-White House counsel Bernard Nussbaum?

A top RTC official testified last summer that in March 1993—two months into the new administration—he briefed then-Deputy Treasury Secretary Roger C. Altman about the Clintons' being named in the Madison criminal investigation. Altman testified he didn't recall that briefing, but White House documents turned over to the Senate show that he immediately had clippings on Madison faxed to Nussbaum. Nussbaum testified that he did not recall getting the materials or being told by Altman about the Madison probe.

Foster completed work on the Whitewater tax returns in June. Madison appeared on his screen in another way around this time, when his office got letters from Arkansas two senators questioning the RTC's [illegible] of former Madison insider

FOIA #36805 URL: 15304 Date: 4/10/2019

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JML 2499

The Washington Post Thursday, January 19, 1995

ministers with the understanding they would endorse Clinton and get out the vote. White House senior adviser Bruce Lindsey has defended the practice, calling the cash payments "traditional, legal and publicly reported."

The document archive on Foster released this month by the Senate Banking Committee is in part a collection of impressions about his final days. It is clearly a portrait of a proud man and careful lawyer who followed Clinton from Little Rock to the White House and was soon humiliated by bad press and his own missteps.

Although his family and many White House co-workers recognized Foster was becoming deeply anxious over his work in Washington, his best friend, Webster L. Hubbell, and Clinton both said in interviews with investigators that they did not realize Foster was under so much stress in his job.

In the months before his death, Foster and others in the White House counsel's office had been accused of trying to gin up charges against seven longtime travel office

Trust Corp.'s 21-page request for a criminal investigation of Madison Guaranty Savings & Loan that languished for months at the Justice Department. The referral outlined a suspected check-kiting scheme, naming both Clintons as potential witnesses and suggesting the 1984 Clinton campaign committee be investigated.

Starr is looking into whether the criminal referral was properly handled within the Justice Department and in the Little Rock office of U.S. Attorney Paula Casey, a former Clinton campaign volunteer who ultimately declined to pursue it, and whether the White House in any way interfered with its handling.

Last June, it seemed that the questions surrounding Foster's death would be put to rest when Starr's predecessor, special counsel Robert B. Fiske Jr., concluded his investigation with a report that said Foster took his own life because he was deeply depressed over his work in Washington, particularly about criticism he and his colleagues were getting over the firing of travel office employees. Fiske found no evi-

two senators questioning the RTC's treatment of former Madison insider Seth Ward. In early July, Foster told Nussbaum he would have to recuse himself from handling those congressional inquiries. Ward was Hubbell's father-in-law, he said, and Rose had done work for the RTC.

Hubbell told the FBI last spring that he stopped by to see Foster in his office the day before Foster died.

"When asked if there may be any issues associated with working on Whitewater tax returns, Hubbell answered that he was not sure—Vince never mentioned this as a point of stress," said the FBI summary.

Work on Whitewater's finances was something Foster did have in common with his friend Jim Lyons, who handled Whitewater issues for Clinton when they arose during the campaign. Lyons, a Denver attorney, had spent a lot of time in Little Rock. He and Foster became friendly and talked often after Foster joined the White House staff.

Lyons told the FBI he believed the travel office matter, not Whitewater, was the main source of Foster's concern.

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FOIA #56806 (URTS 16304) DocId: 70105010 Page 68

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Foster called him the week before his death, Lyons told the FBI, and asked if Lyons could be available to come to Washington "on short notice." Lyons said he could. He told the FBI that Foster was anticipating further investigation on the Travelgate issue and he was considering asking Lyons to be his personal attorney."

Foster and his wife got away that weekend to the Eastern Shore with the Hubbells and another couple, the Cardozos. Michael Cardozo, an investment banker, recently has overseen Clinton's legal defense fund.

When he returned home that Sunday night, Foster called Lyons. Lyons said Foster told him he had had a great weekend, though Lisa Foster told the U.S. Park Police the weekend "had not gone particularly well."

Lyons agreed to travel to Washington and meet with Foster for dinner Wednesday.

On Monday, the evening before his death, Foster got a call at home from the president, who asked Foster to return to the White House and join him for a movie with Hubbell and another of Clinton's close Arkansas friends, presidential adviser Bruce Lindsey.

Foster said no. He was home early for a change, and he desperately needed time away from the pressure cooker of the White House.

Instead of joining his old friends that Monday night, Foster agreed to Clinton's request for a meeting on Wednesday, two days later, to discuss "operational problems" in the White House, Clinton said in a deposition given to Fiske last June.

In his interview, Clinton was asked whether anyone questioned whether it was appropriate for Foster to be working on personal matters for the Clintons. Clinton said no one had [illegible]

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THE WASHINGTON POST MONDAY, JANUARY 30, 1995

Whitewater Probe Includes Variety of Principals, Issues

Independent counsel Kenneth W. Starr has been given a broad mandate to look into financial matters concerning President Clinton, an investigation that was prompted by Clinton's investment in the Whitewater Development Corp. while he was governor of Arkansas.

Two grand juries—one in Washington and one in Little Rock—are taking testimony.

The investigation was initially undertaken by Robert B. Fiske Jr., a special prosecutor named by Attorney General Janet Reno because the [illegible]

- Whether Madison and other financial institutions in Arkansas made improper loans or contributions to Clinton's gubernatorial campaigns. Payments made by the Clinton campaigns are also being scrutinized.
- The relationship of Madison to the Rose Law Firm, in which Hillary Clinton was a partner.
- Other financial institutions, loans and transactions involving Clinton and other Arkansas politicians, including current Gov. Jim Guy Tucker (D).
- Whether there were any attempts by the White House to [illegible]

JML 2501

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ters for the Clintons. Clinton said no one had. Clinton said, if not, that he was not even sure he was ever told Foster was working on the Whitewater tax returns.

Clinton said he was aware that Foster was evaluating offers of property from various people for a presidential retreat.

Said Clinton: "When I came up here, there were any number of people who thought they ought to—various communities in the state ought to have presidential retreats of some kind, and there were all these ideas. And I wasn't sure any of it was appropriate. So he was asked to just collect and evaluate the proposals. . . . I just wanted to make sure that we had lodged them in a place and that if we turned them down we could say that it was an appropriate thing to do, legally appropriate, given my position as president."

by Attorney General Janet Reno to revive the independent counsel law had lapsed. When the law was reinstated, a three-judge panel replaced Fiske with Starr.

Among the areas of investigation:

- The Whitewater investment itself that Clinton and his wife, Hillary Rodham Clinton, made with James B. McDougal and his then-wife, Susan. McDougal was the owner of Madison Guaranty Savings & Loan, a now-defunct institution that was regulated by the state of Arkansas.

- Whether there were improper attempts by the White House to impede regulators or the Justice Department in pursuing Madison Guaranty and its failure.

- The legality of certain contacts between White House and Treasury Department officials in 1993 and 1994 concerning the investigation of Madison.

- The 1993 suicide of White House deputy counsel Vincent Foster and the handling of documents in Foster's office that related to the Whitewater corporation.

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JML 2502

FOIA #56806 (URTS 16304) DocId: 70105010 Page 70

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9848

February 16, 1995

FOIA(b)(7) - (C)

Supervisory Special Agent
Federal Bureau of Investigation
10th Street and Pennsylvania Avenue N.W.
Washington, D.C. 20535

Re: Vincent W. Foster, Jr. (deceased)

Dear

Recently I have had occasion to review a partial transcript of the interview which I gave you in Washington, D.C. on May 12, 1994, regarding the suicide of Vincent W. Foster, Jr. In this connection, the partial transcript (FD-302) has apparently been made public and is generally available through the Archives of the United States. Under the circumstances, I respectfully request that an entire and complete transcription of my interview be furnished to me as soon as possible.

In reviewing the partial transcript, I note a matter which deserves some clarification. On page 4, a statement is made as follows:

> "Foster believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and work load reasons."

This statement, in the context made, particularly on pages 4 and 5, is, of course, not a quotation or attributed to me as such, nor was the interview recorded. Nevertheless, in the interests of clarification, you should understand that it was and is my recollection that Mr. Foster did express his professional concerns arising from the difficult circumstances under which work was expected to be performed by the Office of White House Counsel, especially with staff significantly less than that of the previous Administration. The Rules of Professional Conduct for attorneys require that attorneys provide competent representation, including the thoroughness, separation and diligence reasonably necessary under the circumstances. See, for example, Rules 1.1 and 1.3 of

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FOIA(b)(7) - (C)

the Model Rules of Professional Conduct of the American Bar Association. Indeed, these Rules of Professional Conduct or ethics clearly direct that "a lawyer's workload should be controlled so that each matter can be handled adequately". Comment, Rule 1.3, ABA Model Rules. It was in this context and sense that I recall Mr. Foster expressed his concerns to me. I do not believe that Mr. Foster meant to express or imply any other concerns of ethics related to the Office of White House Counsel. Frankly, I do not believe that I used the word "ethics" at all, but if I did it was in this context of professional responsibilities.

I would appreciate your acknowledging this clarification and including it in the transcript of my interview. At such time as I have an opportunity to review the entire and complete transcript, I will bring to your attention any other matters which I deem noteworthy.

Sincerely,

James M. Lyons

JML:kw

bcc: Hal Haddon
David Kendall

07/13/1995 10:24 RNP&J 202 622 0222 P.09

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

July 13, 1995

Via Facsimile and U.S. Mail

Brett M. Kavanaugh
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Ave. N.W., Suite 490-N
Washington, D.C. 20004

Re: Subpoena to testify dated July 10, 1995

Dear Mr. Kavanaugh:

[redacted]

Frankly, I see no purpose to be served by addressing your claims of propriety and sensitivity for Mr. Foster's family and friends. However, I am skeptical that your investigation into his suicide is motivated by "principles of thoroughness" in the face of two prior federal criminal investigations which even you concede concluded that his death was, in fact, a suicide.

With respect to the 302 of my prior interview with the FBI, you apparently are unaware that substantial portions of this 302 were apparently provided by the FBI to Congress sometime last year. My 302 was then apparently deposited on public file at the Archives of the United States, where it was obtained by a reporter and used as the basis for a news story (see attached). This prompted a letter of clarification from me to [redacted] (attached) to which I never received any response.

FOIA(b)(7) - (C)

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Very truly yours,

James M. Lyons

JML:dm

Depositions, Interviews Hint at Foster's Worries

Ethics May Have Troubled White House Lawyer

By Susan Schmidt
Washington Post Staff Writer

In the weeks before his suicide, Vincent Foster believed that the White House counsel's office was doing work it shouldn't be doing, his friend James Lyons told the FBI last May. "Foster believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and workload reasons," said the FBI's summary of the Lyons interview.

That interview may partly explain why independent counsel Kenneth W. Starr still wants to look into Foster's death, the subject of lengthy inquiries by his predecessor and a Senate committee. Every official inquiry into the deputy White House counsel's death has concluded he killed himself, but the question of what troubled him so deeply lingers on.

Buried within thousands of pages of depositions and FBI interviews of Clinton administration officials made public by Congress this month are a few hints, like the comments from Lyons, that Foster might have been worried about the ethics of some work handled by the counsel's office. Those suggestions, coupled with unresolved issues surrounding the administration's handling of Foster's office files after his death, pose continuing questions for Starr as he conducts an investigation of the multifaceted Whitewater matter.

In addition to Foster's death, an aspect of Starr's probe that recently has come to light is an examination of Bill Clinton's gubernatorial campaigns in Arkansas from the 1980s through 1990 and allegations that Clinton campaign workers gave thousands of dollars in cash to black ministers with the understanding they would endorse Clinton and get workers to make room for Clinton cronies, even going so far as calling the FBI in to investigate the employees.

All the investigations to date have said concern over the travel office matter was a chief cause of Foster's anxiety. The Justice Department was preparing to make its report on the affair, and Foster, fearing that there would be congressional hearings, had begun discussions with Lyons and other lawyers about serving as his personal attorney.

Foster also was working on personal legal matters for the president and Hillary Rodham Clinton, including placing their assets in a blind trust, selling off their half-interest in the Whitewater Development Co. and filing three years of delinquent tax returns for the Arkansas land development company.

The Senate documents show that the independent counsel's office has tried to learn whether Foster was worried about handling Whitewater matters or about fielding several private offers that came to the Clintons offering property for a presidential retreat, an idea Clinton said in his deposition he wasn't sure was appropriate.

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One key question that Hubbell may be able to answer is whether Foster knew about the Resolution Trust Corp.'s 21-page request for a criminal investigation of Madison dence that Whitewater matters played any role.

But wild conspiracy theories suggesting that Foster was murdered or his body was moved have abounded since the suicide.

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Foster completed work on the Whitewater tax returns in June. Madison appeared on his screen in another way around this time, when his office got letters from Arkansas two senators questioning the RTC's dealings of former Madison insider

The Washington Post Monday, January 30, 1995

JML 2469

FOIA#50806 URTS 16304 Doc Id: 70105010 Page 75

ministers with the understanding they would endorse Clinton and get out the vote. White House senior adviser Bruce Lindsey has defended the practice, calling the cash payments "traditional, legal and publicly reported."

The document archive on Foster released this month by the Senate Banking Committee is in part a collection of impressions about his final days. It is clearly a portrait of a proud man and careful lawyer who followed Clinton from Little Rock to the White House and was soon humiliated by bad press and his own missteps.

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THE WASHINGTON POST MONDAY, JANUARY 30, 1995

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In his interview, Clinton was asked whether anyone questioned whether it was appropriate for Foster to be working on personal matters for the Clintons. Clinton said no one had. Clinton said, in fact, that he

Whitewater Probe Includes Variety of Principals, Issues

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- The relationship of Madison to the Rose Law Firm, in which Hillary Clinton was a partner.
- Other financial institutions, loans and transactions involving Clinton and other Arkansas politicians, including current Gov. Jim Guy Tucker (D).
- Whether there were any attempts by the White House to

FOIA #96866 COURTESY COPY Page 17

JML 2501

ters for the Clintons. Clinton said no one had. Clinton said, if fact, that he was not even sure he was ever told Foster was working on the Whitewater tax returns.

Clinton said he was aware that Foster was evaluating offers of property from various people for a presidential retreat.

Said Clinton: "When I came up here, there were any number of people who thought they ought to—various communities in the state ought to have presidential retreats of some kind, and there were all these ideas. And I wasn't sure any of it was appropriate. So he was asked to just collect and evaluate the proposals. . . . I just wanted to make sure that we had lodged them in a place and that if we turned them down we could say that it was an appropriate thing to do, legally appropriate, given my position as president."

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- The 1993 suicide of White House deputy counsel Vincent Foster and the handling of documents in Foster's office that related to the Whitewater corporation.

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JML 2502

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

FOIA(b)(7) - (C)

February 16, 1995

Supervisory Special Agent
Federal Bureau of Investigation
10th Street and Pennsylvania Avenue N.W.
Washington, D.C. 20535

Re: Vincent W. Foster, Jr. (deceased)

Dear

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In reviewing the partial transcript, I note a matter which deserves some clarification. On page 4, a statement is made as follows:

> "Foster believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and work load reasons."

This statement, in the context made, particularly on pages 4 and 5, is, of course, not a quotation or attributed to me as such, nor was the interview recorded. Nevertheless, in the interests of clarification, you should understand that it was and is my recollection that Mr. Foster did express his professional concerns arising from the difficult circumstances under which work was expected to be performed by the Office of White House Counsel, especially with staff significantly less than that of the previous Administration. The Rules of Professional Conduct for attorneys require that attorneys provide competent representation, including the thoroughness, separation and diligence reasonably necessary under the circumstances. See, for example, Rules 1.1 and 1.3 of

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[redacted]
Supervisory Special Agent
Federal Bureau of Investigation
February 16, 1995
Page 2

the Model Rules of Professional Conduct of the American Bar Association. Indeed, these Rules of Professional Conduct or ethics clearly direct that "a lawyer's workload should be controlled so that each matter can be handled adequately". Comment, Rule 1.3, ABA Model Rules. It was in this context and sense that I recall Mr. Foster expressed his concerns to me. I do not believe that Mr. Foster meant to express or imply any other concerns of ethics related to the Office of White House Counsel. Frankly, I do not believe that I used the word "ethics" at all, but if I did it was in this context of professional responsibilities.

I would appreciate your acknowledging this clarification and including it in the transcript of my interview. At such time as I have an opportunity to review the entire and complete transcript, I will bring to your attention any other matters which I deem noteworthy.

Sincerely,

/s/

James M. Lyons

JML:kw

bcc: Hal Haddon
David Kendall

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RECENT COURT OF APPEALS

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: The Honorable Susan Webber Wright, Judge

Company Name: United States District Court for the Eastern District of Arkansas

Fax Number: 501-324-6576 Telephone Number: 501-324-5422

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

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Date: October 25, 1996

TO: David E. Kendall, Esq.

Company Name: Williams & Connolly

Fax Number: 202-434-5029 or 5061 Telephone Number: 202-434-5145

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

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TO: David E. Kendall, Esq.

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Fax Number: 202-434-5029 or 5061 Telephone Number: 202-434-5145

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FOIA # none (URTS 16303) DocId: 70105012 Page 7

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Date: October 25, 1996

TO: Andrew Frey, Esq. and Gary Winters, Esq.

Company Name: Mayer, Brown & Platt

Fax Number: 202-861-0473 Telephone Number: 202-778-0602 (Frey) ~~202-778-0193~~ (Winters)

FROM: Kenneth W. Starr, Independent Counsel

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FedEx Billing Co

448 1000 63728671 304

1 From

Date 12/27/96 Sender's FedEx Account Number 1761-3023-7

Sender's Name Brett Kavanaugh Phone (202)-514-8688

Company INDEPENDENT COUNSEL MGS&L

Address 1001 PENN AVE NW STE 490-NORTH

City WASHINGTON State DC Zip 2 0 0 0 4

2 Your Internal Billing Reference Information

3 To

Recipient's Name Mr. Michael Gans, Clerk Phone ( )

Company US Court of Appeals for the Eighth Circuit

Address US Court and Custom House, 114 Market Street

(To HOLD at FedEx location, print FedEx address here)

City St. Louis State Missouri Zip 63101

For HOLD at FedEx Location check here

1 ☐ Hold Weekday (Not available with FedEx First Overnight) 31 ☐ Hold Saturday (Not available at all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

For Saturday Delivery check here

3 ☐

4 Service Delivery commitment may be later in some areas

1 [X] FedEx Priority Overnight 5 ☐ FedEx Standard Overnight 3 ☐ FedEx 2D

4 ☐ FedEx Govt. Overnight

7 ☐ FedEx Overnight Freight 8 ☐ FedEx 2Day Freight

(For packages over 150 pounds. Call for delivery schedule.)

6 ☐ FedEx First Overnight (Earliest next business morning delivery to select locations)

5 Packaging

6 [X] FedEx Letter* 2 ☐ FedEx Pak* 3 ☐ FedEx Box 4 ☐ FedEx Tube 1 ☐ Othe

Declared value limit $500

6 Special Handling

Does this shipment contain dangerous goods?

4 ☐ Yes (Shipper's Declaration required) ☐ Yes (Shipper's Declaration not required)

6 ☐ Dry Ice (Dry Ice, 9, UN 1845, ___ kg) (Dangerous Goods Shipper's Declaration not required)

CA ☐ Cargo Aircraft

7 Payment

Bill to: 1 [X] Sender 2 ☐ Recipient 3 ☐ Third Party 4 ☐ Credit Card 5 ☐

(Enter FedEx account no. or Credit Card no. below)

FedEx Account No.

Credit Card No. Exp. Date

Total Packages	Total Weight	Total Declared Value*	Total Cha
		$ .00	$

* When declaring a value higher than $100 per package, you pay an additional charge. See SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY section for further information.

Credit Card

8 Release Signature

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims

232

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Rev. 8/96 • PART

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FOIA # none (URTS 16303) DocId: 70105012 Page 171

FedEx USA Airbill

Tracking Number 9335475424

Sender's Copy

460 1000 63728671 6047M

1 From (please print)

Date 12/18/96 Sender's FedEx Account Number 1761-3023-7

Sender's Name Brett Kavanaugh Phone (202-514-8688)

Dept./Floor/Suite/Room

Company INDEPENDENT COUNSEL MGS&L

Address 1001 PENN AVE NW STE 490-NORTH

City WASHINGTON State DC Zip 2 0 0 0 4

2 Your Internal Billing Reference Information (Optional) (First 24 characters will appear on invoice)

3 To (please print)

Recipient's Name Michael Gans, Clerk Phone ( )

Dept./Floor/Suite/Room

Company US Court of Appeals for the Eighth Circuit

Address US Court and Custom House, 1114 Market Street

(To "HOLD" at FedEx location, print FedEx address here) (We Cannot Deliver to P.O. Boxes or P.O. Zip Codes)

City St. Louis State MISSouri 63101

For HOLD at FedEx Location check here

☐ Hold Weekday (Not available with FedEx First Overnight)

☐ Hold Saturday (Not available at all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

For Saturday Delivery check here

☐ (Extra Charge. Not available to all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

4 Service (Delivery commitment may be later in some areas)

☒ FedEx Priority Overnight (Next business morning) ☐ FedEx Standard Overnight (Next business afternoon) ☐ FedEx 2Day* (Second business day)

☐ FedEx Govt. Overnight (Authorized user only) ☐ _____

☐ FedEx Overnight Freight ☐ FedEx 2Day Freight

(For packages over 150 pounds. Call for delivery schedule.)

☐ NEW FedEx First Overnight (Earliest next business morning delivery to select locations) Higher rates apply

*FedEx Letter Rate not available. Minimum charge: One pound FedEx 2Day rate

5 Packaging

☒ FedEx Letter* ☐ FedEx Pak* ☐ FedEx Box ☐ FedEx Tube ☐ Other Packaging

Declared value limit $500

6 Special Handling

Does this shipment contain dangerous goods?

☐ Yes (As per attached Shipper's Declaration) ☐ Yes (Shipper's Declaration not required)

☐ Dry Ice Dry Ice, 9, UN 1845 III _____ x _____ kg 904 (Dangerous Goods Shipper's Declaration not required)

CA ☐ Cargo Aircraft Only

7 Payment

Bill to: ☒ Sender (Account no. in Section 1 will be billed) ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

(Enter FedEx account no. or Credit Card no. below)

FedEx Account No. _____

Credit Card No. _____ Exp. Date _____

Total Packages	Total Weight	Total Declared Value*	Total Charges
		$ .00	$

*When declaring a value higher than $100 per package, you pay an additional charge. See **SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY** section for further information.

8 Release Signature

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims

232

Service Conditions, Declared Value, and Limit of Liability – By using this Airbill, you agree to the service conditions in our current Service Guide or U.S. Government Service Guide. Both are available on request. See back of Sender's Copy of this airbill for information and additional terms. We will not be responsible for any claim in excess of $100 per package whether the result of loss, damage, or delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your actual loss in a timely manner. Your right to recover from us for any loss includes intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage, whether direct, incidental, consequential, or special, and is limited to the greater of $100 or the declared value but cannot exceed actual documented loss. The maximum declared value for any FedEx Letter and FedEx Pak is $500. Federal Express may, upon your request, and with some limitations, refund all transportation charges paid.

See the FedEx Service Guide for further details.

Questions?
Call 1·800·Go·FedEx (1-800-463-3339)

The World On Time

FORM ID NO 0200

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Sender's Copy

464 1000 63728671 6047M

From (please print)

Date 12/9/96 Sender's FedEx Account Number 1761-3023-7

Sender's Name Brett Kavanaugh Phone (202-514-8688)

Dept./Floor/Suite/Room

Company INDEPENDENT COUNSEL MGSEL

Address 1001 PENN AVE NW STE 490-NORTH

WASHINGTON State DC ZIP 2 0 0 0 4

Your Internal Billing Reference Information (Optional) (First 24 characters will appear on invoice)

To (please print)

Recipient's Name James McCormack, Clerk Phone ( )

Dept./Floor/Suite/Room

Company US District Court, Eastern District of Arkansas

Address US Courthouse, 600 West Capitol Ave., Room 402

(We Cannot Deliver to P.O. Boxes or P.O. ZIP Codes.)

Little Rock State AR ZIP 72201

For at FedEx Location check here

☐ Hold Weekday (Not available with FedEx First Overnight)

☐ Hold Saturday (Not available at all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

For Saturday Delivery check here

☐ (Extra Charge. Not available to all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

4 Service (Delivery commitment may be later in some areas)

☒ FedEx Priority Overnight (Next business morning)

☐ FedEx Standard Overnight (Next business afternoon)

☐ FedEx 2Day* (Second business day)

☐ FedEx Govt. Overnight (Authorized user only)

☐ _____

☐ FedEx Overnight Freight

☐ FedEx 2Day Freight

(For packages over 150 pounds. Call for delivery schedule.)

☐ NEW FedEx First Overnight (Earliest next business morning delivery to select locations. Higher rates apply)

*FedEx Letter Rate not available. Minimum charge: One pound FedEx 2Day rate

5 Packaging

☒ FedEx Letter* ☐ FedEx Pak* ☐ FedEx Box ☐ FedEx Tube ☐ Other Packaging

Declared value limit $500

6 Special Handling

Does this shipment contain dangerous goods?

☐ Yes (Shipper's Declaration) ☐ Yes (Shipper's Declaration not required)

☐ Dry Ice Dry Ice, 9, UN 1845 (Dangerous Goods Shipper's Declaration not required)

CA ☐ Cargo Aircraft Only

7 Payment

Bill to: ☒ Sender (Account No. in Section 1 will be billed) ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

(Enter FedEx Acct. No. or Credit Card No. below)

FedEx Account No. _____

Credit Card No. _____ Exp. Date _____

Total Packages	Total Weight	Total Declared Value*	Total Charges
		$ 00	$

*When declaring a value higher than $100, you pay an additional charge. See SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY in the FedEx Service Guide.

8 Release Signature

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any related claims.

232

Conditions, Declared Value, and Limit of Liability – By using this Airbill you agree to the terms in our current Service Guide or U.S. Government Service Guide. Both are available on request. See back of Sender's Copy of this airbill for information and additional terms. We will not be responsible for any claim in excess of $100 per package whether the result of damage, loss, delay, nondelivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your actual loss in a timely manner. Your right to recover from us for any loss, including intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of $100 or the declared value unless you have requested and paid for additional coverage. The maximum declared value for any FedEx Letter and FedEx Pak is $500. Federal Express may, upon your request, deal with some but not all claims, retaining the minimum charges paid.

Questions? Call 1-800-Go-FedEx (1-800-463-3339)

The World On Time

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FedEx *USA Airbill*

Tracking Number 933547551 6

Sender's Copy

469 1000 63728671 6047M

1 From (please print)

Date 12/5/96 Sender's FedEx Account Number 1761-3023-7

Sender's Name Brett Kavanaugh Phone (202-514-8688

Dept./Floor/Suite/Room

Company INDEPENDENT COUNSEL MGS&L

Address 1001 PENN AVE NW STE 490-NORTH

City WASHINGTON State DC Zip 2 0 0 0 4

2 Your Internal Billing Reference Information
(Optional) (First 24 characters will appear on invoice)

3 To (please print)

Recipient's Name Ms. Dana McWay, Chief Deputy Clerk Phone)

Dept./Floor/Suite/Room

Company US Court of Appeals for the Eighth Circuit

Address Unites States Court and Custom House, 1114 Market St.
(To "HOLD" at FedEx location, print FedEx address here) (We Cannot Deliver to P.O. Boxes or P.O. Zip Codes)

City St. Louis State MO Zip 63101

For HOLD at FedEx Location check here

☐ **Hold Weekday** (Not available with FedEx First Overnight)
☐ **Hold Saturday** (Not available at all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

For Saturday Delivery check here

☐ (Extra Charge. Not available to all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

4 Service Delivery commitment may be later in some areas

☒ FedEx Priority Overnight (Next business morning)
☐ FedEx Standard Overnight (Next business afternoon)
☐ FedEx 2Day* (Second business day)
☐ FedEx Govt. Overnight (Authorized user only)
☐ _____
☐ FedEx Overnight Freight
☐ FedEx 2Day Freight
(For packages over 150 pounds. Call for delivery schedule.)

☐ NEW FedEx First Overnight (Earliest next business morning delivery to select locations) (Higher rate applies)

*FedEx Letter Rate not available. Minimum charge: One pound FedEx 2Day rate.

5 Packaging

☒ FedEx Letter* ☐ FedEx Pak* ☐ FedEx Box ☐ FedEx Tube ☐ Other Packaging

Declared value limit $500

6 Special Handling

Does this shipment contain dangerous goods?
☐ Yes (As per attached Shipper's Declaration) ☐ Yes (Shipper's Declaration not required)
☐ Dry Ice Dry Ice, 9, UN 1845 III _____ x _____ kg 904 (Dangerous Goods Shipper's Declaration not required)
CA ☐ Cargo Aircraft Only

7 Payment

Bill to: ☒ Sender (Account no. in section 1 will be billed) ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check
(Enter FedEx account no. or Credit Card no. below)

FedEx Account No. _____

Credit Card No. _____ Exp. Date _____

Total Packages	Total Weight	Total Declared Value*	Total Charges
		$ .00	$

*When declaring a value higher than $100 per package, you pay an additional charge. See **SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY** section for further information.

8 Release Signature

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims.

232

Service Conditions, Declared Value, and Limit of Liability – By using this Airbill, you agree to the service conditions in our current Service Guide or U.S. Government Service Guide. Both are available on request. See back of Sender's Copy of this airbill for information and additional terms. We will not be responsible for any claim in excess of $100 per package whether the result of loss, damage, or delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your actual loss in a timely manner. Your right to recover from us for any loss includes intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage, whether direct, incidental, consequential, or special, and is limited to the greater of $100 or the declared value but cannot exceed actual documented loss. The maximum declared value for any FedEx Letter and FedEx Pak is $500. Federal Express may, upon your request, and with some limitations, refund all transportation charges paid.

See the FedEx Service Guide for further details.

Questions?
Call 1·800·Go·FedEx (1-800-463-3339)

The World On Time

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: The Honorable Susan Webber Wright, Judge

Company Name: United States District Court for the Eastern District of Arkansas

Fax Number: 501-324-6576 Telephone Number: 501-324-5422

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

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*** TX REPORT ***
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TX/RX NO	3341
CONNECTION TEL	85013246576
SUBADDRESS	
CONNECTION ID	
ST. TIME	10/25 16:23
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PGS.	2
RESULT	OK

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: The Honorable Susan Webber Wright, Judge

Company Name: United States District Court for the Eastern District of Arkansas

Fax Number: 501-324-6576 Telephone Number: 501-324-5422

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: David E. Kendall, Esq.

Company Name: Williams & Connolly

Fax Number: 202-434-5029 or 5061 Telephone Number: 202-434-5145

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

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*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	3342
CONNECTION TEL	94345029
SUBADDRESS	
CONNECTION ID	
ST. TIME	10/25 16:33
USAGE T	01'36
PGS.	2
RESULT	OK

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: David E. Kendall, Esq.

Company Name: Williams & Connolly

Fax Number: 202-434-5029 or 5061 Telephone Number: 202-434-5145

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message:

FOIA # none (URTS 16303) DocId: 70105012 Page 229

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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: Andrew Frey, Esq. and Gary Winters, Esq.

Company Name: Mayer, Brown & Platt

Fax Number: 202-861-0473 Telephone Number: 202-778-0602 (Frey) ~~202-778-0193~~ (Winters)

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: The attached fax transmission is HIGHLY CONFIDENTIAL.

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*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3343
CONNECTION TEL	98610473
SUBADDRESS	
CONNECTION ID	
ST. TIME	10/25 16:35
USAGE T	00'40
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 25, 1996

TO: Andrew Frey, Esq. and Gary Winters, Esq.

Company Name: Mayer, Brown & Platt

Fax Number: 202-861-0473 Telephone Number: 202-778-0602 (Frey) ~~202-778-0193~~ (Winters)

FROM: Kenneth W. Starr, Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: The attached fax transmission is HIGHLY CONFIDENTIAL.

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FIRST CLASS FIRST CLASS FIRST CLASS FIRST CLASS FIRST CLASS

YER, BROWN & PLATT
PENNSYLVANIA AVENUE, N.W.
SHINGTON, D.C. 20006-1882

RECEIVED
1998 SEP 15 P 5:32
OFFICE OF
INDEPENDENT COUNSEL

FOIA # none (URTS 16303) DocId: 70105012 Page 252

VIA MESSENGER

First Class Mail

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

VIA MESSENGER

CLASS CLASS CLASS CLASS

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**********FAX COVER TRANSMITTAL SHEET**********

OFFICE OF THE INDEPENDENT COUNSEL
TWO FINANCIAL CENTRE, SUITE 134
10825 FINANCIAL CENTRE PARKWAY
LITTLE ROCK, ARKANSAS 72211

MAIN NUMBER : (501) 221-8700 FAX NUMBER : (501) 221-8707

To: Brett KAVANAUGH DATE: 9/16/96

FAX NUMBER: 202-514-8802 TEL: X 8778

FROM: Leah Graham NO. OF PAGES: 2
(Including Cover Page)

TEL: (501) 221-8746

REMARKS:

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Court Sealed
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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MARGOLIS re: agt + change

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McLarty, Mack

[redacted]

ZUCKERMAN, SPAEDER, GOLDSTEIN, TAYLOR & KOLKER
ATTORNEYS AT LAW
1201 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-2638
(202) 778-1800
TELECOPIER
(202) 822-8106

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MIAMI, FLORIDA 33131
(305) 579-0110

100 EAST PRATT STREET
BALTIMORE, MARYLAND 21202
(410) 332-0444

101 EAST KENNEDY BOULEVARD
TAMPA, FLORIDA 33602
(813) 221-1010

1114 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036
(212) 479-6500

ROGER E. ZUCKERMAN
MARK W. FOSTER
ROGER C. SPAEDER
BRUCE GOLDSTEIN
WILLIAM W. TAYLOR III
PETER R. KOLKER
ARTHUR K. MASON
STEPHEN H. GLICKMAN
RONALD B. RAVIKOFF
MICHAEL R. SMITH
HERBERT BETTER*
MICHAEL S. PASANO
ANTHONY THOMPSON
NELSON C. COHEN
STEVEN M. SALKY
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CHRISTYNO L. HAYES*
WHITNEY FOX*
REBECA SANCHEZ-ROIG*
KELLY S. AUSTIN
LOREN E. BENDALL

*NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER
(202) 778-1810

April 24, 1995

BY HAND

Mark Tuohey
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: Thomas F. McLarty, III

Dear Mark:

We are writing with regard to the subpoena served upon Mr. McLarty on April 13, 1995 for

We understand that your office has provided the Office of White House Counsel with certain guidelines regarding compliance with this subpoena. Mr. McLarty has followed those guidelines in responding to the subpoena.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please call me or Leslie Berger at 778-1848 if you have any questions or if we can be of further assistance to you in connection with your investigation.

Sincerely,

Bill

William W. Taylor, III

WWT/mb
Enclosure

d:\attorney\lmb\5704\tuohey.ltr

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE

WASHINGTON

April 24, 1995

BY HAND

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mark:

[redacted]

Please feel free to call if you have any questions.

Sincerely yours,

David B. Fein
Associate Counsel to the
President

Enclosures

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

March 18, 1996

BY FACSIMILE

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Leslie M. Berger
Zuckerman, Spaeder, Goldstein, Taylor & Kolker
1201 Connecticut Avenue, N.W.
Washington, D.C. 20036-2638

Dear Ms. Berger:

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 3-18-96

TO: Leslie Berger

Company Name: _____

Fax Number: 822-8106 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

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****
*** TX REPORT ***
****

TRANSMISSION OK

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SUBADDRESS	
CONNECTION ID	
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USAGE T	00'31
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 3-18-96

TO: Leslie Berger

Company Name: _____

Fax Number: 822-8106 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

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Neuwirth, Stephen

CRAVATH, SWAINE & MOORE

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

TELEPHONE: (212) 474-1000
FACSIMILE: (212) 474-3700

33 KING WILLIAM STREET
LONDON EC4R 9DU ENGLAND
TELEPHONE: 44-171-606-1421
FACSIMILE: 44-171-860-1150

SUITE 2609, ASIA PACIFIC FINANCE TOWER
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3 GARDEN ROAD, CENTRAL
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TELEPHONE: 852-2509-7200
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WRITER'S DIRECT DIAL NUMBER

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SANDRA C. GOLDSTEIN
PAUL MICHALSKI
THOMAS G. RAFFERTY
MICHAEL S. GOLDMAN

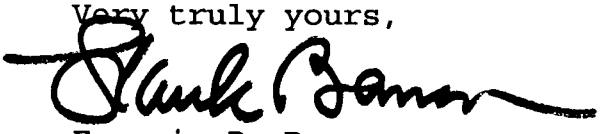
February 14, 1995

Dear Mr. Kavanaugh:

Confirming our telephone conversation yesterday evening, February 21 is not a convenient date for the appearance of our client, Stephen Neuwirth. You have undertaken to get back to me with a date in the week of February 26, which I understand will be either Tuesday, February 28, or Thursday, March 2. We will have no objection (subject to possible scheduling conflicts) if you wish to propose some later time. I do have a commitment to be in a deposition for the entire day on Thursday, March 9.

Thank you again for your consideration.

Very truly yours,



Francis P. Barron

Brett Kavanaugh, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

17NS

Frank Barron
Cravath
Atty
212-474-1506

-talked to Bob Mazur
-counseling Steve
-better if Steve has separate counsel from Bernie
-Wachtell, Lipton

-call you back tomorrow
-flexible

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Page Denied

NUSSBAUM re: conversation w/ ~~Thomas~~ Thomases

1p denied
b3 GJ

14

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07-18-2018 FOIA #56806
(URTS 16304) DOCID:
70105020

WITHDRAWAL NOTICE

RG: 449
Box: 00005 Folder: 0001 Document: 1
Series: IC Starr/Ray, Kavanaugh files, FRC box 142

Copies: 1 Pages: 1

ACCESS RESTRICTED (b)(3) Grand Jury

The item identified below has been withdrawn from this file:

Folder Title: Nussbaum re: conversation w' Thomases
Document Date:
Document Type: Transcript
From:
To:

Subject: Grand jury transcript page

In the review of this file this item was removed because access to it is restricted. Restrictions on records in the National Archives are stated in general and specific record group restriction statements which are available for examination.

NND: 37747
Withdrawn: 01-04-2005 by: David Paynter

RETRIEVAL #: 37747 00005 0001 1

Screened by NARA (RD-F) 07-18-2018 FOIA #56806 (URTS 16304) DOCID: 70105022

PATTERSON, LARRY

AFFIDAVIT

State of Arkansas)
County of Pulaski)

On this day comes before me, a Notary Public, authorized to administer oaths, in and for the County of Pulaski, State of Arkansas, Larry Patterson, to me well known, who being first duly sworn, says, upon oath:

I received a telephone call from Roger Perry on the 20th day of July, 1993. Roger was working security detail at the Arkansas Governor's mansion at Little Rock. He advised me that a lady known to both of us as Helen Dickey had telephonically contacted him and advised him that Vincent Foster, well known to both of us because of his relationship with Hillary Clinton and his being an adviser to Governor Bill Clinton had gotten off work and had gone out to his car in the parking lot and had shot himself in the head. I do not recall the exact time of this telephone call but am fairly certain it was some time before 6:00 p.m on that date.

Dickey was employed as a baby-sitter by Governor and Hillary Clinton while in Arkansas and at the time of the call she was working at the White House in Washington, D.C.

I have been asked, under oath, whether Bill Clinton ever had extramarital affairs while he was Governor of Arkansas. I have replied that I knew Jennifer Flowers, who has said she had an affair with Governor Clinton. I took him, on occasions to the Quapaw Towers, where she lived, and where he would meet with her. I have taken him to see other females with whom he had personal relationships, including one he met during the night at Chelsea Clinton's schoolyard. I worked with Danny Ferguson, another trooper who was working security detail at the Governor's Mansion. Danny told me that he had talked with a young lady named Paula Jones during a meeting at the Excelsior Hotel in Little Rock. He told me he had taken her up to a room in that Hotel after having been asked to by then Governor Bill Clinton. On one occasion I was with Governor Clinton when we met Paula Jones in the rotunda at the State Capitol. The Governor referred to her as Paula as they hugged. Danny has also told me that he talked with Paula at a restaurant in Little Rock in the summer of 1994. At that time, Paula told Danny that she had learned she had been mentioned in a magazine article about Bill Clinton. He told her then, according to his conversation with me, that he would testify in her behalf if she did file suit against Clinton. I have read Danny's answer to her suit and see that he admitted taking Paula up to Clinton's room on that occasion. That agrees with what I know about that situation.

Larry Patterson, Affiant

Subscribed and sworn to before me this the 28th day of March, 1995.

Notary Public

My Commission Expires: September 24, 2003

JUDITH K. WASHBURN NOTARY PUBLIC SEPT. 24 2003 PULASKI COUNTY, ARK.

PLAINTIFF'S EXHIBIT 48

FOIA #56806 (URTS 16304) DocId: 70105022 Page 2

10/10/95 11:51 8501 221 8707 INDEP COUNSEL 006

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FOIA(b)(7) - (D)

FOIA(b)(7) - (D)

This is to certify that on the 20th day of July, 1993, I received a telephone/call from

advised me that he had just received a telephone call from one who was employed at the White House and that she had advised him that Vincent Foster, known to both and me, had gone to his car on the parking lot and had shot himself in the head.

I do not recall the exact time of the call but I place it as being during the rush hour at the White House and assumed there must be many witnesses to the event. advised me that was quite upset as if the event had happened shortly before her call to him. I estimate the time as being no later than six o'clock, Central Standard Time.

advised me that he had telephonically contacted who had relayed the message to

3-24-95
Date

Sworn & subscribed to:
Kathy L. Thornton Notary
Pulaski Co. exp 5-9-99

PLAINTIFF'S EXHIBIT 4c

10/10/95 11:51 ☎501 221 8707 INDEP COUNSEL 007

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[redacted]

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 14, 1995

Thomas R. Dyson
1341 G Street, N.W.
Suite 510
Washington, D.C. 20005

Dear Mr. Dyson:

As we discussed on the telephone, attached is a grand jury subpoena calling for certain documents in the possession, custody, or control of your client Betsy Pond. The subpoena has a return date of January 8, 1996.

Documents previously produced to the Office of Independent Counsel or to Mr. Fiske's office need not be reproduced, but please identify the previous production dates. Please note instruction 2(h) of the rider regarding any documents that have not been produced to the Office of Independent Counsel or to Mr. Fiske's office and that are no longer in the possession, custody, or control of your client.

In order to ensure that our records are complete, please list all pager numbers and telephone numbers -- work, home, cellular, car, or other -- that could have been used from July 20, 1993, through July 27, 1993, either to reach your client or from which your client could have placed calls. In addition, please list all personal and official calling card numbers (as well as the relevant telephone company for each card number) that your client possessed or could have used during that period of time.

Finally, please inform this Office whether your client is a party to a joint defense agreement and, if so, the date of and parties to the agreement.

Thank you for your cooperation and for agreeing to accept service by facsimile. Please contact me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 12-14-95

TO: Tom Dyson

Company Name: _____

Fax Number: 783-5061 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: _____

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0379
CONNECTION TEL	97835061
SUBADDRESS	
CONNECTION ID	
ST. TIME	12/14 18:04
USAGE T	02'13
PGS.	7
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 12-14-95

TO: Tom Dyson

Company Name: _____

Fax Number: 783-5061 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: _____

FOIA #56806 (URTS 16304) DocId: 70105026 Page 9

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 3, 1996

Thomas R. Dyson
1341 G Street, N.W.
Suite 510
Washington, D.C. 20005

Dear Mr. Dyson:

The purpose of this letter is to confirm in writing that your client Betsy Pond possesses no documents responsive to the December 7, 1995, subpoena or information responsive to the December 14, 1995, cover letter that she has not already provided to this Office. Please advise me as soon as possible if my understanding is incorrect.

Thank you very much for your cooperation.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 7-3-96

TO: Tom Dyson

Company Name: _____

Fax Number: 783-5061 Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2331
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SUBADDRESS	
CONNECTION ID	
ST. TIME	07/03 19:40
USAGE T	00'39
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 7-3-96

TO: Tom Dyson

Company Name: _____

Fax Number: 783-5061 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

FD-498 (Rev. 6-24-87)

POLYGRAPH REPORT

DATE OF REPORT	DATE OF EXAMINATION	BUREAU FILE NUMBER	FIELD FILE NUMBER
5/31/95	5/31/95	29D-OIC-LR-35063	

FIELD OFFICE OR AGENCY REQUESTING EXAMINATION
Office of Independent Counsel

AUTHORIZING OFFICIAL	DATE AUTHORIZED
OIC	

EXAMINEE NAME (LAST, FIRST, MIDDLE)
POND, BETSY LOU

CASE TITLE
MC#106;
MOZART

REFERENCES

CASE SYNOPSIS/EXAMINER CONCLUSION

Ms. Betsy Lou Pond is an employee of the White House Counsel's Office. She has appeared with her attorney at the FBI Polygraph Unit, 409 7th St., NW, Washington, D.C. for the purpose of undergoing a polygraph examination regarding her activities immediately after the death of Vincent Foster on July 20, 1993. At the beginning of this interview Ms. Pond was provided an FD-395 (Interrogation, Advice of Rights) which she appeared to read, stated that she understood and thereafter signed. She was then provided an FD-328 (Consent to Interview With Polygraph) which she appeared to read, stated that she understood and thereafter signed.

Ms. Pond was then informed that the interview would be recorded by notes. She was then interviewed and provided the following information:

1. JKM: Please tell me your name.

   BP: Betsy Pond

2. JKM: Are you aware this interview and polygraph test will cover the investigation surrounding the death of Vincent Foster?

   BP: Yes

EXAMINER NAME: James K. Murphy JKM

FOIA#56806 (URTS 16304) DocId: 70105026 Page 13

3. JKM: Are you appearing here voluntarily?

BP: Yes

4. JKM: You've been advised of your rights and have an attorney available to you today?

BP: Yes

5. JKM: You have been interviewed by FBI Agents on two occasions regarding your activities and knowledge of the death of Vincent Foster.

BP: At least two occasions. Also I was interviewed by the Park Police and I testified before a federal grand jury.

6. JKM: Please tell me what your job was on July 20, 1993.

BP: I was working in the Counsel's Office. I worked for Bernie Nussbaum as an office manager.

7. JKM: Briefly describe for me your recollections of the events at the WHCO that day before Vince Foster's death.

BP: The day was a real zoo, very chaotic. I was in charge of coordinating guests for Judge Freeh's nomination. The nomination was scheduled for 9:30 am but actually occurred 10:30 or 11:00 am. Around noon Vince came out of his office and said he wanted a cheeseburger for lunch.

I went to get it with Linda Tripp. Vince ate lunch and then left. He told me on the way out he'd be back.

That's the last time I saw him. That was about 1:00pm.

8. JKM: When did you first learn of Vince Foster's death and from whom?

BP: The next morning around 5:00 am. My answering machine was blinking, one message was from Nussbaum, one from Linda Tripp. I called the White House operator. She said we tried to call you last night to tell you about Vince Foster's accident. I asked to be patched through to Linda Tripp. I was and she gave me the details because she had gotten the information from Deb Coyle. I told Linda to sleep in and I'd go to the office.

9. JKM: Before you went to the White House on July 21, 1993 please tell me the name of everyone you spoke to.

BP: White House operator, Linda Tripp, Tom Castleton and John Carey.

10. JKM: What time did you arrive at the WHCO?

BP: Around 7:00 am on July 21, 1993

11. JKM: Was anyone else there?

BP: No

12. JKM: Did you go into Foster's office when you arrived at the WHCO?

BP: Yes

13. JKM: Why?

BP: Because the security system is located in Vince's office. The secure box is behind his door.

14. JKM: Had you ever done that before?

BP: Yes. Also I would secure it in the evening as I was usually last to leave. If the button was outside of his office I probably would not have gone in. It was spooky, it was eerie in his office.

15. JKM: Can you turn the alarm system off from any other location besides Foster's office?

BP: No

16. JKM: Did anyone instruct you or suggest to you that you should go into Foster's office that morning?

BP: No

17. JKM: What did you do while in Foster's office besides turn off the alarm?

BP: I turned off the alarm. He had papers lying out on a table in front of his office. I pushed them together and turned them over. I didn't know if the press would be coming in. I went to his desk looked around to see if there was anything on the desk that should be turned over. I don't know why, I opened it up. Maybe I was thinking if there was anything out maybe it should be put in the draw.

I remember thinking "I shouldn't be in here, just get out"

18. JKM: Were you also looking for a suicide note?

BP: No. I can't remember that anything like that was on my mind. Vince was a meticulous man, I saw the paper on his desk and thought how horrified he'd be if people were in his office and saw a mess. I was looking to protect his privacy.

19. JKM: Did you remove anything from Vince Foster's office that morning?

BP: No

20. JKM: Who was the next person to arrive at the WHCO and at what time?

BP: Steve Neuwirth. About 7:30 am I think.

21. JKM: In between the time you arrived and when Neuwirth arrived did you have a telephone conversation with anyone?

BP: Yes, I called Bernie. I called two of my girlfriends, Kathy Duvall and Gail Massot to console me. I can't remember which I called first. Kathy Duvall is retired, she used to work at Steptoe and Johnson. We worked together at William's and Connolly thirty years ago. She lives in Annapolis. Her telephone is 410-721-4936.

Gail Massot lives in Arlington. She's the head of the language department at Georgetown Day School. Gail later told me that during this call she remembers me telling her I had been in Vince's office and decided I shouldn't have been in there and left.

Gail's phone number is 703-920-0901 or 0910 or 0109.

22. JKM: What did Mr. Nussbaum tell you to do.

BP: Don't let anyone go into Vince's office. We talked a little bit about how horrible it was. He said he'd been up late and would be in a little bit later.

23. JKM: Did you tell Mr. Nussbaum you had been in Foster's office?

BP: I don't know if I did, but he would have known I would have to go in order to access the alarm system.

24. JKM: Did you have any discussion that morning with Mr. Nussbaum about a suicide note?

BP: No

25. JKM: Did anyone tell you or ask you or encourage you in anyone way to search Foster's office that morning for anything?

BP: No

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

26. JKM:

BP:

[redacted]

27. JKM: Why would anybody say that?

BP: I can only tell you that it's a way for getting back at me by Linda Tripp. Linda Tripp was fired from the White House. If this was the truth why wouldn't she have told Fiske? Why would she wait a year? I can only believe it's malicious.

She had tried to get rid of me. Tripp was systematically trying to turn Bernie against everyone in the office so she could get control. She tried to destroy the credibility of everyone in the Counsel's Office. She was very good at it. She's a pathological liar. When I challenged her on various statements she referred to herself as "The Queen of Bull Shit."

28. JKM: Did anyone suggest to you that you should tell the investigators that you were just straightening up while in Foster's office and that was all you were doing?

BP: No

29. JKM: You've had a lot of time to think about the whole thing, has anything new come into your mind?

BP: I didn't remember I had opened Vince's draw until my attorney had told me that after he checked the notes from my first interview. He went over the notes from Cliff Sloan and the first Park Police interview. He pointed out that I initially said I looked in Vince's draw so during the next interview I mentioned it.

I have regrets about reading Fiske's report when I saw the lies by Linda Tripp about me.

Tripp took credit for things I did.

The inconsistencies and untruths bothered me, but I decided in the grand scheme of things they weren't important.

30. JKM: Let's talk about the suicide note that was found. What are your thoughts on that.

BP: There was no suicide note. My understanding was what was found was a list of things bothering Vince. His wife Lisa had told him to write the list. I don't remember how I heard this.

31. JKM: Before July 26 had you ever seen it?

BP: No. But either Tuesday or Wednesday afterwards (Foster's death) I was in Bernie's office and saw a large yellow piece of paper on his conference table. From a distance it looked like it had things taped on it. I remember looking over at it and saying that's probably a note. I didn't read it. I saw it from a distance and knew Bernie had left it there. I did not look at it.

32. JKM: Do you know how the note got into Vince Foster's bag?

BP: I always thought Vince put it there. I was told by someone that Steve Neuwirth was packing up Vince's personal belongings. I was told he picked up his briefcase and some pieces of paper came out. Neuwirth saw writing and "went nuts," paged Bernie and had him come to Vince's office.

This is all hearsay.

At the conclusion of this interview Ms. Pond was then afforded a polygraph examination consisting of the following relevant questions?

1. Did anyone direct you to search Vince Foster's office the morning after his death? Answer-No

2. Did you remove anything from Vince Foster's office on July 21, 1993? Answer-No

3. Do you know if any documents were removed from Vince Foster's office before the official search? Answer-No

4. To your knowledge was that note first found on July 26? Answer-Yes

5. Do you have any knowledge of any other suicide note being found? Answer-No

6. Did you tell anyone you searched Vince Foster's office for a suicide note? Answer-No

It is the opinion of this examiner Ms. Pond was not deceptive when responding to these questions during the polygraph examination.

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PRESIDENT'S TRANSMITT-GRAND JURY [illegible]

Office of the Independent Counsel

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Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

July 18, 1995

FOR IMMEDIATE RELEASE

The following statement was issued by Independent Counsel Kenneth W. Starr today from his office in Little Rock, Arkansas:

The statement of Mark D. Fabiani on behalf of the White House is wrong. The Office of the Independent Counsel has not and will not disclose matters occurring before the grand jury to anyone. In response to a joint request made by counsel for both the Chairman and Ranking Member of the Senate Banking Committee well in advance of the hearing, the Office of the Independent Counsel agreed to provide Mr. Foster's briefcase for inspection and use in the course of the Committee's investigation. The briefcase was provided last night to a representative acting on behalf of the entire Committee. The briefcase is neither a matter occurring before the grand jury nor investigative work product created by this or Mr. Fiske's office. In circumstances where such pre-existing material cannot be obtained from any other source and where disclosure of it would not hinder or impede our investigation, it is not inappropriate to disclose such material to the Committee upon its joint, bipartisan request.

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WASHINGTON, D. C. 20005
(202) 434-5000
FAX (202) 434-5029

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

VINCENT J. FULLER
RAYMOND W. BERGAN
JEREMIAH C. COLLINS
ROBERT L. WEINBERG
DAVID POVICH
STEVEN M. UMIN
JOHN W. VARDAMAN
PAUL MARTIN WOLFF
J. ALAN GALBRAITH
JOHN G. KESTER
WILLIAM E. McDANIELS
BRENDAN V. SULLIVAN, JR.
AUBREY M. DANIEL, III
RICHARD M. COOPER
GERALD A. FEFFER
ROBERT P. WATKINS
JERRY L. SHULMAN
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LEWIS H. FERGUSON, III
ROBERT B. BARNETT
DAVID E. KENDALL
GREGORY B. CRAIG
JOHN J. BUCKLEY, JR.
TERRENCE O'DONNELL
DOUGLAS R. MARVIN
JOHN K. VILLA
BARRY S. SIMON
KEVIN T. BAINE
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FREDERICK WHITTEN PETERS
JAMES A. BRUTON, III
PETER J. KAHN
LON S. BABBY
MICHAEL S. SUNDERMEYER
JAMES T. FULLER, III
DAVID D. AUFHAUSER
BRUCE R. GENDERSON
CAROLYN H. WILLIAMS
F. LANE HEARD III
STEVEN R. KUNEY
GERSON A. ZWEIFACH
PAUL MOGIN
HOWARD W. GUTMAN
NANCY F. LESSER
RICHARD S. HOFFMAN
STEVEN A. STEINBACH
MARK S. LEVINSTEIN
MARY G. CLARK
DANIEL F. KATZ
NICOLE K. SELIGMAN
ROBERT M. KRASNE
KATHLEEN L. BEGGS
WILLIAM R. MURRAY, JR.
EVA PETKO ESBER
STEPHEN D. RABER
JOHN D. CLINE
DAVID C. KIERNAN
LON E. MUSSLEWHITE
ROBIN E. JACOBSOHN
CHARLES A. SWEET

July 11, 1995

VIA HAND DELIVERY

~~CONFIDENTIAL~~

Honorable Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Judge Starr:

Thank you for your letter dated July 6, 1995, which Judge Mikva and I have carefully considered. We are sensitive both to the needs of your investigation and to what you have properly described in your letter as "the dignity of the Office of the Presidency . . . [,] the demands upon the Chief Executive's schedule and the privileges appurtenant to his Office."

We appreciate the approach your office has taken, and we believe that we have on our part extended unprecedented cooperation to your investigation in providing documents, waiving privileges, furnishing information, and making available the President and the First Lady on multiple occasions for sworn testimony. Our clients have sought to accommodate your investigation's scheduling concerns, as expressed by Messrs.

Tuohey, Ewing, Lerner, and Bates at our meeting on June 23, 1995, by making themselves available during the week of July 18, as you requested. To facilitate your investigation, we also suggested that the President and Mrs. Clinton be examined on that occasion with regard to follow-up questions you might have from the so-called "Washington phase" of this matter. We will continue to work with you to assure that this investigation may be completed as fairly and speedily as possible.

We remain of the view, however, as expressed in my June 29 letter to Mr. Tuohey, that the procedures we have mutually agreed upon for the first two interviews, with both your office and Mr. Fiske's, continue to be a satisfactory and appropriate accommodation of, on the one hand, the institutional interests of the Presidency, and, on the other, your need for my clients' sworn testimony.

At my June 23 meeting with Mr. Tuohey et al., I explained the significant practical prejudice that would result from changing these procedures midway in the investigation, and we perceive no justification for doing so even after our lengthy discussions at that meeting.

It is true that there appear to be three occasions on which a President or an ex-President has given videotaped testimony for a court proceeding (in the Fromme, Poindexter, and Kidd/Lingold cases). These cases are plainly distinguishable

from the present situation because they involved criminal trials, with a specific liberty interest of a particular defendant at stake and with attendant constitutional guarantees of confrontation, compulsory process, and due process. Nor is the fact that President Carter might once have given videotaped testimony for the grand jury in the Vesco matter persuasive precedent, if in fact he did. That circumstance would have been very different from this one. Here, the proposed testimony is not an isolated event, different rules have applied from the start, and a change in procedure would be deeply prejudicial.

In any event, quite different rules apply to grand jury proceedings. The evidentiary rules of a criminal trial do not, for example, apply in a grand jury setting, and a grand jury may consider even hearsay evidence. Costello v. United States, 350 U.S. 359 (1956). By following the mutually agreed upon procedures for the first two interviews, the grand jury will have the benefit of the President's sworn testimony on questions you deem relevant. Moreover, as in the past interviews, you and your colleagues who are present will have a full opportunity to observe demeanor and responsiveness and to make such credibility judgments as you deem appropriate.

We sincerely believe that the procedures we have followed for the first two interviews continue to be an appropriate reconciliation of our respective interests.

[redacted]

Sincerely,

David E. Kendall

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Draft Letter to Senator D'Amato

I write in response to your request for the transcripts of the sworn testimony given by President Clinton and Mrs. Clinton to Independent Counsel Robert B. Fiske, Jr., on June 12, 1994.

Last summer, Mr. Fiske submitted to the Senate those portions of the transcripts that concerned the death of Vincent Foster.

As you know, there is a longstanding tradition, rooted in principles of executive privilege, that federal prosecutors do not provide Congress records pertaining to matters then under investigation. "[T]he policy of the Executive Branch throughout our Nation's history has generally been to decline to provide committees of Congress with access to, or copies of, open law enforcement files except in extraordinary circumstances. This policy with respect to Executive Branch investigations was first expressed by President Washington and has been reaffirmed by or on behalf of most of our Presidents, including Presidents Jefferson, Jackson, Lincoln, Theodore Roosevelt, Franklin Roosevelt, and Eisenhower." Office of Legal Counsel of the United States Department of Justice, Response to Congressional Requests for Information Regarding Decisions Made under the Independent Counsel Act, 10 U.S. Op. Off. Legal Counsel 68, at 7 (1986). That policy "is grounded primarily on the need to protect the government's ability to prosecute fully and fairly." Ibid. It is our understanding that the Department of Justice and the Congress have consistently adhered to this policy, even with respect to investigatory records that are not subject to Rule 6(e).

In accord with this policy, I must decline to disclose the transcripts. I appreciate and welcome the views of you and your staff on this issue. Thank you for your consideration.

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
Suite 490N
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
telephone (202) 514-8688
facsimile (202) 514-8802

TO: Professor Sam Dash

Company Name:

Fax Number: 202- 662-9444

Message:

SENDER: Brett Kavanaugh

Number of Pages: 2 **(including this cover sheet)**

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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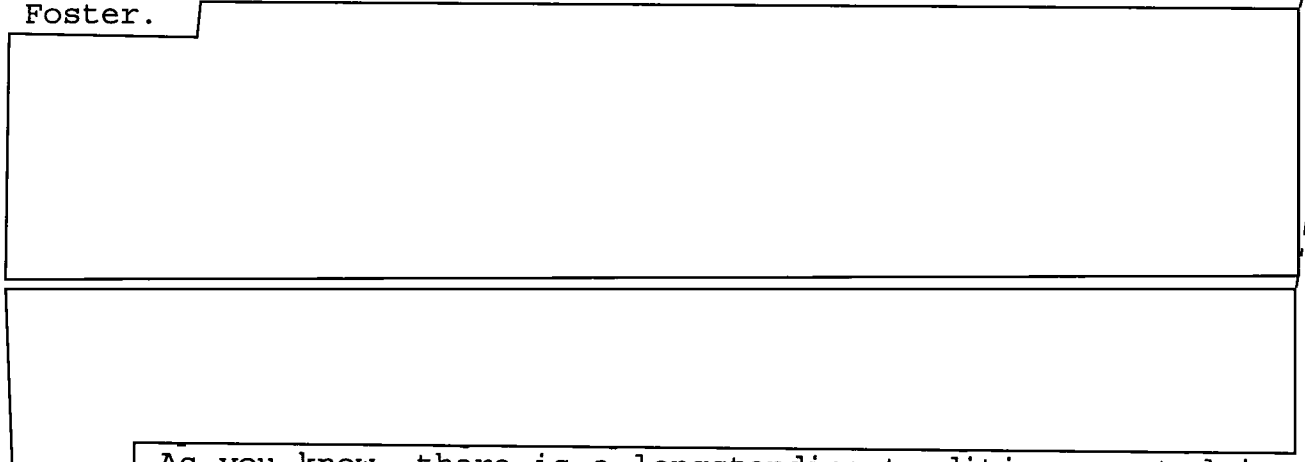

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John,
As this is an important/delicate letter, please feel free to edit heavily + rewrite. Brett

Draft Letter to Senator D'Amato

This Office has carefully considered your request for the transcripts of the sworn testimony given by President Clinton and Mrs. Clinton to Independent Counsel Robert B. Fiske, Jr., on June 12, 1994. Last summer, as you know, Mr. Fiske submitted to the Senate those portions of the transcripts that concerned the death of Vincent Foster.

[redacted]

As you know, there is a longstanding tradition, rooted in principles of executive privilege, that federal prosecutors will not give Congress investigatory records pertaining to matters then under investigation. Indeed, "the policy of the Executive Branch throughout our Nation's history has generally been to decline to provide committees of Congress with access to, or copies, of law enforcement files except in extraordinary circumstances. This policy with respect to Executive Branch investigations was first expressed by President Washington and has been reaffirmed by or on behalf of most of our Presidents." Office of Legal Counsel of the United States Department of Justice, Response to Congressional Requests for Information Regarding Decisions Made under the Independent Counsel Act, 10 U.S. Op. Off. Legal Counsel 68, __ (1986). That policy "is grounded primarily on the need to protect the government's ability to prosecute fully and fairly." Ibid.

It is true that the reasons for nondisclosure of investigatory files lose some of their force once an investigation has been closed without further prosecution. Id. at __. As I have stated, however, the matters discussed [redacted] under investigation by this Office. Therefore, I must decline to disclose those transcripts to you at this time.

I very much welcome the views of you and your staff on this issue. Thank you for your consideration.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

John,
As this is an important/delicate letter, please feel free to edit heavily + rewrite. Brett

Draft Letter to Senator D'Amato

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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in view of appearances before the grand jury

question whether

as yet

As you know, there is a longstanding tradition, rooted in principles of executive privilege, that federal prosecutors ~~will~~ do not provide ~~not give~~ Congress ~~investigatory~~ records pertaining to matters then under investigation. Indeed, "the policy of the Executive Branch throughout our Nation's history has generally been to decline to provide committees of Congress with access to, or copies of, law enforcement files except in extraordinary circumstances. This policy with respect to Executive Branch investigations was first expressed by President Washington and has been reaffirmed by or on behalf of most of our Presidents." Office of Legal Counsel of the United States Department of Justice, Response to Congressional Requests for Information Regarding Decisions Made under the Independent Counsel Act, 10 U.S. Op. Off. Legal Counsel 68, __ (1986). That policy "is grounded primarily on the need to protect the government's ability to prosecute fully and fairly." Ibid.

??

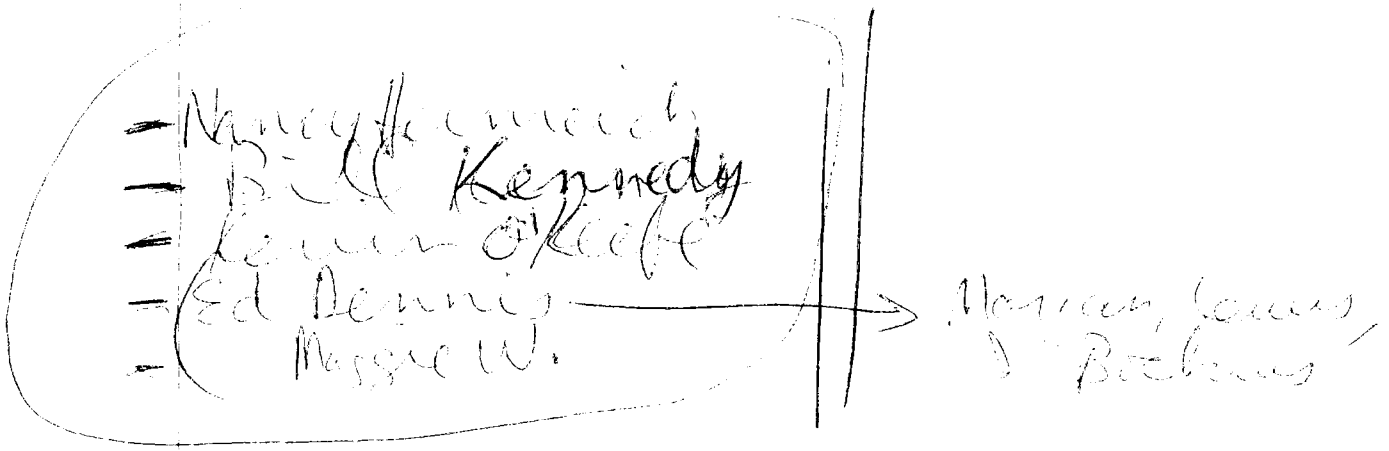
It is true that the reasons for nondisclosure of investigatory files lose some of their force once an investigation has been closed without further prosecution. Id. at __. As I have stated, however, the matters discussed in the undisclosed portions of the testimony of the President and Mrs. Clinton are matters currently under investigation by this Office. Therefore, I must decline to disclose those transcripts to you at this time.

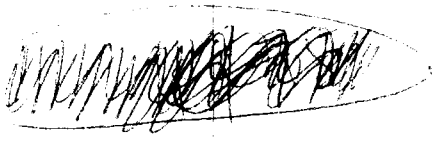
I ~~very much~~ appreciate and welcome the views of you and your staff on this issue. Thank you for your consideration.

Accordingly, I am unable to provide the requested testimony.

It is our understanding that the Department of Justice and the Congress have consistently adhered to this policy, even in respect to investigatory records that are not subject to Rule 6(e).

FOIA #56806 (URTS 16304) DocId: 70105028 Page 11


Kennedy



1986

Sam + MT

- communicate to Congress w/ / t Pres statement that ongoing investigations + in addition we have 6(e) concerns
- Congress can file civil action to enforce subpoena

may be easier way for Congress to subpoena KWS

* OLC opinion

* 302's

* statement on Foster death

TELL MARK TO CALL FISKE

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	4346
CONNECTION TEL	96629444
CONNECTION ID	
START TIME	01/26 17:15
USAGE TIME	09'08
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TELECOPY COVER SHEET

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Company Name: Georgetown University

Fax Number: 662-9444

Message:

SENDER: Brett Kavanaugh

Number of Pages: 11 (including this cover sheet)

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

MEMORANDUM

TO: Ken Starr, Bill Duffey, Mark Tuohey, John Bates, Sam Dash

FROM: Brett Kavanaugh

DATE: January 25, 1995

RE: Application of Rule 6(e) to Sworn Statements of the President and the First Lady

Per Ken's request, I have preliminarily examined the question whether the sworn statements of the President and the First Lady are covered by Rule 6(e)'s secrecy requirements.[1] In anticipation of our meeting Friday, I thought a brief written outline of the issue, as well as my views on it, might be helpful. This memorandum is not intended to be an exhaustive or final legal analysis. (Attached to this memorandum is a letter from Williams & Connolly on the issue.)

1. Some factual background: First, Mark Stein informed me that there was no oral or written agreement between the President (and First Lady) and the Fiske team reached before the testimony on June 12, 1994, with respect to whether the Fiske team would consider the transcripts 6(e) material. Someone should double-check this point with Bob Fiske and perhaps Williams & Connolly as well. Second, [redacted] Third, the Fiske team gave Congress the 302's relevant to the Foster death issue and to the White House-Treasury contacts issue after the Fiske team had concluded its investigation into those matters. Fourth, the Fiske team gave Congress those portions of the President's transcript and the First Lady's transcript that dealt with the Foster death issue, but it did not produce those portions dealing with the White House-Treasury contacts issue (or the Foster documents issue). The Fiske team thus treated [redacted] parts of the transcripts as equivalent to 302's.

2. Despite noises from the Hill, I do not see why Congress would want to obtain the transcripts at this point. We are pursuing active, ongoing investigations into both the Foster documents issue and the White House-Treasury contacts issue; and as Congress well knows, the standard practice of the Department of Justice is not to give Congress documents pertaining to

[1] Rule 6(e) states in relevant part: "A[n] attorney for the government . . . shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules."

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an open investigation. Congress can override that practice, but it almost never does, according to the Department of Justice.[2] We need to emphasize this point to Congress, which I am not sure we have done yet. In short, even if we consider the transcripts equivalent to 302's (as Congress wishes) rather than equivalent to grand jury transcripts (as Williams & Connolly wishes), we should not yet give the transcripts to Congress because they relate to an open (albeit in part "reopened") investigation.

To be sure, the Fiske team gave Congress the 302's it had gathered in connection with the contacts and Foster death issues, but that alone should not constitute a waiver of our ability -- consistent with the traditional practice of the Department of Justice -- to keep our records secret until these reopened investigations are complete.

3. Once we complete our investigations into the contacts issue and the Foster issues, we must decide whether to turn over 302's on completed individual investigations or wait until we conclude the entire investigation. That will be a tricky issue with Congress, and one we should discuss at some length before final resolution is reached. (Keep in mind that we have no legal authority to prevent Congress from obtaining these 302's.) In any event, if we decide not to turn over any 302's before the end of the entire investigation, it logically must follow that we should not voluntarily turn over the transcripts of the President's testimony and the First Lady's testimony before the end of the entire investigation.

4. If and when: (1) we give 302's to Congress; or (2) Congress subpoenas the President's transcript and/or the First Lady's transcript from us, the question whether the transcripts are protected by Rule 6(e) will be squarely presented.

In considering the broad question of what are "matters occurring before the grand jury" for purposes of Rule 6(e), it is useful to consider the two kinds of grand jury subpoenas. With respect to a subpoena duces tecum, it would seem that the information in the subpoena itself and the documents returned pursuant to the subpoena should be considered matters occurring before the grand jury. (To my surprise, some courts have held that the documents returned pursuant to a subpoena are not matters occurring before the grand jury. See U.S. Department of Justice, Federal Grand Jury Practice pp. 159-160 (1993).) With respect to a subpoena ad testificandum, it similarly would seem that the information in the subpoena itself and any testimony before the grand jury should be considered matters occurring before the grand jury. And, indeed, that is what the courts have held. See id. at p. 158.

What about transcripts or reports of interviews that are conducted outside the presence of the grand jury (and that by definition therefore are not compelled by grand jury subpoena)? The

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[2] Mary Hardenriker, 514-2419, who is Counsel to the Assistant Attorney General for the Criminal Division (JoAnn Harris).

question seems to answer itself: An interview conducted outside the presence of the grand jury is not a matter occurring before the grand jury. See In re Grand Jury Matter (Catania), 682 F.2d 61, 64 (3rd Cir. 1982) ("information developed by the FBI, although perhaps developed with an eye toward ultimate use in a grand jury proceeding, exists apart from and was developed independently of grand jury processes"); see also Andaya v. United States, 815 F.2d 1373 (10th Cir. 1987) ("there is a clear distinction between a memorandum of the testimony given by a witness before the grand jury and a memorandum of what that person told an investigator outside the grand jury room").

[redacted]

In the analogous situation where documents obtained independently of the grand jury's subpoena power are later given to the grand jury, courts do not consider the documents to be covered by Rule 6(e). See U.S. Department of Justice, Federal Grand Jury Practice pp. 158-159 (1993) ("Rule 6(e) usually does not govern the disclosure of documents obtained by means independent of the grand jury. This is true even when such documents later have been examined by the grand jury, or made grand jury exhibits, so long as disclosure of the documents does not reveal that they were exhibits."). That approach seems faithful to the language of the Rule. As applied to transcripts of witness interviews, therefore, the grand jury transcript of the reading of the transcript or report of prior testimony should be covered by Rule 6(e), but the original transcript or report of the prior testimony should not be covered by Rule 6(e).[3]

There is, however, at least one circuit case stating that Rule 6(e) applies in cases where a person's statement outside of the grand jury is later read to the grand jury. In a Third Circuit case, In re Grand Jury Matter, 697 F.2d 511 (1982), the court held (without any analysis) that "[n]o meaningful distinction can be drawn between [grand jury] transcripts and witness interviews conducted outside the grand jury's presence but presented to it. Thus, Rule 6(e)(2) governs the disclosure of the witness interviews."[4]

I doubt that many courts today would reach that conclusion. Courts now pay much closer attention to the precise language of rules and statutes than they previously did. See e.g., Central Bank of Denver v. First Interstate Bank, 114 S. Ct. 1439, 1449 (1994). Under the plain language approach to the interpretation of statutes and rules, it is difficult to understand how a witness interview that occurs outside the grand jury (and is not therefore compelled by a grand jury

[3] If the Rule were otherwise, it could be easily manipulated. A document obtained without subpoena, or a transcript or report of an interview that occurred outside the grand jury, could be transformed magically into a matter occurring before the grand jury simply by reading the document or transcript or report to the grand jury.

[4] It may be relevant to note that court's predilections: "Were we writing on a clean slate, we might well hold that disclosure of any matter generated in connection with a grand jury proceeding is governed by Rule 6(e)(2)." Id. at 512.

subpoena) can be considered a matter occurring before the grand jury -- regardless of what subsequently happens before the grand jury. The language of the Rule is not sufficiently elastic to cover testimony not compelled by the grand jury and not given before the grand jury. As I stated above, therefore, the most natural reading of Rule 6(e) as applied to transcripts or reports of non-grand-jury witness interviews is that: (1) the grand jury transcript of the reading of the transcript or report of prior testimony is covered by Rule 6(e); but (2) the original transcript or report of the prior testimony is not covered by Rule 6(e). Reasonable minds certainly can differ on this point, however, so we should discuss this at some length on Friday.[5]

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Perhaps there could be some kind of argument based on the "dignity of the Presidency" and/or separation of powers. This argument seems weak, however, given the deeply rooted history and tradition of this country's jurisprudence that the President is not above the law. Why should the President be different from anyone else for purposes of responding to a grand jury subpoena ad testificandum? Once in the grand jury room, the President might claim executive privilege if asked about certain communications, but that seems a different issue altogether. Cf. also United States v. Nixon, 418 U.S. 683, 709, 713 (1974) ("To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or the defense. . . . We conclude that when the

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[5] The Criminal Division's manual Federal Grand Jury Practice states that "statements obtained from witnesses who have been subpoenaed to appear before the grand jury ordinarily should be treated the same as grand jury testimony." P. 167. Beale and Bryson state, however, that "a statement made by a witness outside the grand jury context is not a matter occurring before the grand jury, even if the statement is identical to the witness's grand jury testimony." Grand Jury Law and Practice § 7.06, at p. 26. I agree with Beale & Bryson: A grand jury subpoena by law cannot be used to compel an interview outside the presence of the grand jury, so a witness' testimony given outside the grand jury after issuance of a grand jury subpoena is not compelled by the grand jury, much less a matter "occurring before the grand jury." In any event, this issue is not relevant here because no grand jury subpoena was ever issued to the Clintons.

ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice.").

Even were there a Presidential exception to the definition of "matters occurring before the grand jury," that exception likely would not apply to the First Lady. Indeed, I see far less justification for the First Lady to obtain an implied exception to 6(e) than I do for Cabinet Secretaries, for example.

Recommendations for Action

2. We should inform Congress as soon as possible that the portions of the transcripts they have requested relate to open, active investigations and that, at this point, we are relying on that rationale as the basis for non-disclosure.

3. We should decide whether, after individual investigations (the Foster documents investigation, for example) have concluded, we will produce 302's to Congress.

BK Copy

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

MEMORANDUM

TO: Ken Starr, Bill Duffey, Mark Tuohey, John Bates, Sam Dash

FROM: Brett Kavanaugh

DATE: January 25, 1995

RE: Application of Rule 6(e) to Sworn Statements of the President and the First Lady

Per Ken's request, I have preliminarily examined the question whether the sworn statements of the President and the First Lady are covered by Rule 6(e)'s secrecy requirements.[1] In anticipation of our meeting Friday, I thought a brief written outline of the issue, as well as my views on it, might be helpful. This memorandum is not intended to be an exhaustive or final legal analysis. (Attached to this memorandum is a letter from Williams & Connolly on the issue.)

1. Some factual background: First, Mark Stein informed me that there was no oral or written agreement between the President (and First Lady) and the Fiske team reached before the testimony on June 12, 1994, with respect to whether the Fiske team would consider the transcripts 6(e) material. Someone should double-check this point with Bob Fiske and perhaps Williams & Connolly as well. Second, [redacted] Third, the Fiske team gave Congress the 302's relevant to the Foster death issue and to the White House-Treasury contacts issue after the Fiske team had concluded its investigation into those matters. Fourth, the Fiske team gave Congress those portions of the President's transcript and the First Lady's transcript that dealt with the Foster death issue, but it did not produce those portions dealing with the White House-Treasury contacts issue (or the Foster documents issue). The Fiske team thus treated [redacted] parts of the transcripts as equivalent to 302's.

2. Despite noises from the Hill, I do not see why Congress would want to obtain the transcripts at this point. We are pursuing active, ongoing investigations into both the Foster documents issue and the White House-Treasury contacts issue; and as Congress well knows, the standard practice of the Department of Justice is not to give Congress documents pertaining to

[1] Rule 6(e) states in relevant part: "A[n] attorney for the government . . . shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules."

FOIA #56806 (URTS 16304) DocId: 70105028 Page 21

an open investigation. Congress can override that practice, but it almost never does, according to the Department of Justice.[2] We need to emphasize this point to Congress, which I am not sure we have done yet. In short, even if we consider the transcripts equivalent to 302's (as Congress wishes) rather than equivalent to grand jury transcripts (as Williams & Connolly wishes), we should not yet give the transcripts to Congress because they relate to an open (albeit in part "reopened") investigation.

To be sure, the Fiske team gave Congress the 302's it had gathered in connection with the contacts and Foster death issues, but that alone should not constitute a waiver of our ability -- consistent with the traditional practice of the Department of Justice -- to keep our records secret until these reopened investigations are complete.

3. Once we complete our investigations into the contacts issue and the Foster issues, we must decide whether to turn over 302's on completed individual investigations or wait until we conclude the entire investigation. That will be a tricky issue with Congress, and one we should discuss at some length before final resolution is reached. (Keep in mind that we have no legal authority to prevent Congress from obtaining these 302's.) In any event, if we decide not to turn over any 302's before the end of the entire investigation, it logically must follow that we should not voluntarily turn over the transcripts of the President's testimony and the First Lady's testimony before the end of the entire investigation.

4. If and when: (1) we give 302's to Congress; or (2) Congress subpoenas the President's transcript and/or the First Lady's transcript from us, the question whether the transcripts are protected by Rule 6(e) will be squarely presented.

In considering the broad question of what are "matters occurring before the grand jury" for purposes of Rule 6(e), it is useful to consider the two kinds of grand jury subpoenas. With respect to a subpoena duces tecum, it would seem that the information in the subpoena itself and the documents returned pursuant to the subpoena should be considered matters occurring before the grand jury. (To my surprise, some courts have held that the documents returned pursuant to a subpoena are not matters occurring before the grand jury. See U.S. Department of Justice, Federal Grand Jury Practice pp. 159-160 (1993).) With respect to a subpoena ad testificandum, it similarly would seem that the information in the subpoena itself and any testimony before the grand jury should be considered matters occurring before the grand jury. And, indeed, that is what the courts have held. See id. at p. 158.

What about transcripts or reports of interviews that are conducted outside the presence of the grand jury (and that by definition therefore are not compelled by grand jury subpoena)? The

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[2] Mary Hardenriker, 514-2419, who is Counsel to the Assistant Attorney General for the Criminal Division (JoAnn Harris).

question seems to answer itself: An interview conducted outside the presence of the grand jury is not a matter occurring before the grand jury. See In re Grand Jury Matter (Catania), 682 F.2d 61, 64 (3rd Cir. 1982) ("information developed by the FBI, although perhaps developed with an eye toward ultimate use in a grand jury proceeding, exists apart from and was developed independently of grand jury processes"); see also Andaya v. United States, 815 F.2d 1373 (10th Cir. 1987) ("there is a clear distinction between a memorandum of the testimony given by a witness before the grand jury and a memorandum of what that person told an investigator outside the grand jury room").

[redacted]

In the analogous situation where documents obtained independently of the grand jury's subpoena power are later given to the grand jury, courts do not consider the documents to be covered by Rule 6(e). See U.S. Department of Justice, Federal Grand Jury Practice pp. 158-159 (1993) ("Rule 6(e) usually does not govern the disclosure of documents obtained by means independent of the grand jury. This is true even when such documents later have been examined by the grand jury, or made grand jury exhibits, so long as disclosure of the documents does not reveal that they were exhibits."). That approach seems faithful to the language of the Rule. As applied to transcripts of witness interviews, therefore, the grand jury transcript of the reading of the transcript or report of prior testimony should be covered by Rule 6(e), but the original transcript or report of the prior testimony should not be covered by Rule 6(e).[3]

There is, however, at least one circuit case stating that Rule 6(e) applies in cases where a person's statement outside of the grand jury is later read to the grand jury. In a Third Circuit case, In re Grand Jury Matter, 697 F.2d 511 (1982), the court held (without any analysis) that "[n]o meaningful distinction can be drawn between [grand jury] transcripts and witness interviews conducted outside the grand jury's presence but presented to it. Thus, Rule 6(e)(2) governs the disclosure of the witness interviews."[4]

I doubt that many courts today would reach that conclusion. Courts now pay much closer attention to the precise language of rules and statutes than they previously did. See e.g., Central Bank of Denver v. First Interstate Bank, 114 S. Ct. 1439, 1449 (1994). Under the plain language approach to the interpretation of statutes and rules, it is difficult to understand how a witness interview that occurs outside the grand jury (and is not therefore compelled by a grand jury

[3] If the Rule were otherwise, it could be easily manipulated. A document obtained without subpoena, or a transcript or report of an interview that occurred outside the grand jury, could be transformed magically into a matter occurring before the grand jury simply by reading the document or transcript or report to the grand jury.

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subpoena) can be considered a matter occurring before the grand jury -- regardless of what subsequently happens before the grand jury. The language of the Rule is not sufficiently elastic to cover testimony not compelled by the grand jury and not given before the grand jury. As I stated above, therefore, the most natural reading of Rule 6(e) as applied to transcripts or reports of non-grand-jury witness interviews is that: (1) the grand jury transcript of the reading of the transcript or report of prior testimony is covered by Rule 6(e); but (2) the original transcript or report of the prior testimony is not covered by Rule 6(e). Reasonable minds certainly can differ on this point, however, so we should discuss this at some length on Friday.[5]

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Recommendations for Action

[redacted]

2. We should inform Congress as soon as possible that the portions of the transcripts they have requested relate to open, active investigations and that, at this point, we are relying on that rationale as the basis for non-disclosure.

3. We should decide whether, after individual investigations (the Foster documents investigation, for example) have concluded, we will produce 302's to Congress.

[redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) 434-5145

October 11, 1994

~~CONFIDENTIAL~~

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

By Hand

Dear Judge Starr:

Judge Mikva and I thought it prudent to follow up with a formal request my September 30 conversation with Mark Stein. I told Mr. Stein I understood there had been a recent Congressional request for your office to alter its position with regard to the confidentiality of the transcripts of the sworn testimony given by the President and Mrs. Clinton to the Independent Counsel on June 12, 1994.

Shortly before the House and Senate Banking Committee hearings on certain Whitewater matters last July, there was a request for Congressional access to these transcripts which was identical to the present request.

[redacted]

The Independent Counsel inquired what the legal position of the President and Mrs. Clinton was with respect to the release of these transcripts. At a meeting with Mr. Stein on July 25, 1994, Lloyd N. Cutler, Esq., White House Counsel, Joel I. Klein, Deputy White House Counsel, and I informed Mr. Stein of the Clintons' position and laid out the constitutional, legal, and policy reasons why such disclosure was inappropriate. The Clintons had cooperated fully with the Independent Counsel's requests for information, voluntarily appearing to give sworn testimony and answering all questions, without any claim of privilege of any kind. This testimony was responsive to the questions of the Independent Counsel [redacted] While the Clintons have emphasized their willingness to provide information to Congress in appropriate ways, [redacted]

Subsequent to our meeting on July 25, 1994, Mr. Stein telephoned me to state that the Independent Counsel had determined, quite correctly, I believe, that it would be inappropriate to disclose the transcripts to Congress. The hearings then proceeded in both the Senate and the House. -

As I told Mr. Stein in our recent telephone conversation, I do not believe any events have occurred which should cause your office to alter its previous decision. Should it consider doing so, I respectfully request the right to be heard, as we were last July, with respect to the relevant constitutional, legal, and policy considerations.

It is not my purpose here to set forth in detail these considerations, but I think it appropriate to sketch very briefly some of the relevant precedents. Serious constitutional questions are presented whenever the Congress seeks to compel or secure testimony from the President or from executive officials.

It is well settled that Presidential communications are presumptively privileged. Nixon v. Sirica, 487 F.2d 700, 713 (D.C. Cir. 1973). Although the President's executive privilege may, under certain circumstances, be outweighed by the grand jury's "right to every man's evidence," id. at 712, an attempt by Congress to obtain Presidential communications presents serious separation of powers issues. In Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 726 (D.C. Cir. 1974), the United States Court of Appeals for the District of Columbia rejected a Congressional committee's attempt to obtain production of tape recordings of conversations between the President and his aides holding that:

> the need for the tapes premised solely on an asserted power to investigate and inform cannot

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

> justify enforcement of the Committee's subpoena . . . There is a clear difference between Congress's legislative tasks and the responsibility of a grand jury, or any institution engaged in like functions.

Id. Because the Congressional request for the President's and First Lady's testimony is similarly premised upon a general and unparticularized need to "investigate and inform," the Congress is not entitled to these materials.

Moreover, Rule 6(e), of the Federal Rules of Criminal Procedure, That rule prohibits, of course, the public disclosure of "matters occurring before the grand jury," except pursuant to court order. The rule against disclosure is so well established that most reported cases do not involve the revelation of grand jury testimony but rather concern exhibits or expert reports prepared for the use of the grand jury. Acknowledging the "'necessarily broad' scope of Rule 6(e)," Senate of the Commonwealth of Puerto Rico v. United States Department of Justice, 823 F.2d 574, 584 (D.C. Cir. 1987), the United States Court of Appeals for the District of Columbia ruled that, for purposes of an FOIA request, "the touchstone is whether disclosure would 'tend to reveal some secret aspect of the grand jury's investigation', such matters as '"the identities of witnesses or jurors, the substance of testimony . . . and the like,"'" id. at 582. The United States Court of Appeals for the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Third Circuit has similarly held that Rule 6(e) prohibits disclosure of witness interviews conducted outside the grand jury's presence for the purpose of presentation to the grand jury: "No meaningful distinction can be drawn between transcripts and witness interviews conducted outside the grand jury's presence but presented to it." In re Grand Jury Matter, 697 F.2d 511, 512 (3rd Cir. 1982).

[redacted]

Sincerely,

David E. Kendall

cc: Mark Stein, Esq.

* Archives issue → Archives / legal capacity

Mtg. → 1/23

* reports before hearings ?? 1 report at conc

* turn over 302's ?? → NO

* Dudley here today ?

* no objection w/ interference

* ask Trachey re: Smalty

---

* D'Amato received + reviewed Fiske analysis — what D'Amato is referring to?

done orally by Steinmetz to staff

(1) see what is written — letter

(2) schedule Dash for time this week

(3) Howard Manell

coding + cutoff

wkd mmg. — LR come back Thursday → FAX to Dash

- cases

for KWS

* right now, we have ongoing investigations into both (A) Foster docs (B) WH-Treasury contacts so shouldn't release anything related to those investigations

* after we are done, Turkey said we are not releasing anything - 302's, depositions, G-J, until the final report is produced ⇒ IF TRUE, NO PRODUCTION UNTIL END

* once done, we have precedent on our side although a rather weak plain language argument

MEMORANDUM

TO: Mark Tuohey

FROM: Brett Kavanaugh

DATE: December 12, 1994

RE: Rule 6(e)'s Application to Sworn Statements of President and First Lady

I have examined the 6(e) issue that is likely to arise with Senators D'Amato and Sarbanes -- namely, whether we would have good legal arguments to make in response to a congressional subpoena for the non-grand jury sworn statements of the President and First Lady. While I expect to discuss this issue orally with you, I thought a brief written outline of my views might be helpful.

First, if I were a judge, I would rule against us on the issue; more important, I think we would lose before the Supreme Court. (Given the variety of federal district judges and appellate panels, it is impossible to predict possible results in those fora.) As you well know, the Supreme Court pays inordinate attention these days to the precise language of statutes and rules. That would bode ill for us: It is quite hard to understand how a witness interview that occurs outside the grand jury can plausibly be considered a "matter occurring before the grand jury." And lest you think the Supreme Court could never be that simplistic in its analysis, I can cite from last year alone several very important statutory cases where the Court performed similarly simplistic analysis.

Despite that problem if the issue ever went to Court, you can make a decent argument to the Senators that we believe Rule 6(e) prohibits disclosure in light of the prevailing law that "where a witness gives a statement in lieu of a grand jury appearance, it has been held that the statement falls within the reach of Rule 6(e)." Beale & Bryson, Grand Jury Law and Practice § 7.06, p. 26 (1986). That treatise (the relevant portion is attached and highlighted) cites two cases in support of that proposition. The first is a Third Circuit case, In re Grand Jury Matter, 697 F.2d 511 (3rd Cir. 1982). In that case, the court held (without any serious analysis, however) that "[n]o meaningful distinction can be drawn between transcripts and witness interviews conducted outside the grand jury's presence but presented to it. Thus, Rule 6(e)(2) governs the disclosure of the witness interviews." A second case, In re Special 1975 Grand Jury, 662 F.2d 1232 (7th Cir. 1981), stated that a transcript of a witness interview that was later read to the grand jury was "too grand jury related" and thus was protected under Rule 6(e).

memorialize various + sundry thoughts in memo to KWS
cc: Mark T
Bill Duffey
Sam Dash

share draft w/ Sam
Dash ⇒ important
↳ sees light of day

finalize it so reflects internal

* commission some outreach research ⇒
  = William French Smith
  - OLC
  - Bork / Wechsler

identify several people to consult with
↓
venerable
gray-haired eminences

* Abe Goldstein
* Paul Freund
neutral principles

* us to schedule a time for informal
* Michael Cherkasky - City Club [5 at desk]

(1)

KWS, AA mtg. Fri 12-16 2:00 pm

① congressional access to Pres. statements

② reimbursement of FBI
- Barrett, Dubbey
- final answer from AO + GAO
- Bureau assumes responsibility for fixed costs
- problem for FBI is that invest. is centered in inconvenient location [unlike past OIC's]
- FBI is faced w/ variable cost problem travel, per diem

Ⓐ gather together all material
- Dubby memo is principal thing
- OLC advice

Ⓑ talk to Jack Barrett for his thinking

Ⓒ go to AO - Mel Bryson first
Bob Burchfield - GC

Ⓓ GAO w/ Mark Tuohey

Ⓔ prelim w/ oversight committee
* Govt. Reform Committee Chair + Ranking Member - gives KWS cover

Ⓕ one of us be designated hitter to keep Steve Irons informed + then Ed ___ of material developments including unexpected delay

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(2)

KWS - happy to accommodate FBI if reasonably possible to do so
A) precedent
B) historical practice
C) how much of a budget buster

- start w/ Larry Potts - on day to day, go to Mr. Esposito

President's transcripts

- formal legal memorandum that is objective re: what the law is
- strengths + non-strengths of competing positions
- informed by conversations w/ Hill
  - Chertoff ⇒ their understanding of legal authority
- preliminary meeting w/ interested persons on Capitol Hill to hear them out ⇒ nothing in file at that stage

⇓

"informing myself w/ respect to the law"

* REPORT BACK BY JAN. 10 w/ REVIEW → show them there is life here → set up mtg.
- talk to W+C after meet w/ Hill

FOIA #56806 (URTS 16304) DocId: 70105028 Page 36

(3)

* Stein chronology on events

Copy of Portion Produced to Senate

OFFICE OF THE INDEPENDENT COUNSEL

TESTIMONY OF

HILLARY RODHAM CLINTON

Sunday, June 12, 1994

Washington, D. C.

CONFIDENTIAL

Testimony of

HILLARY RODHAM CLINTON

before the Independent Counsel, held at The White House, Washington, D. C., beginning at 3:55 p.m., when were present on behalf of the respective parties:

FOR THE INDEPENDENT COUNSEL: ROBERT B. FISKE, JR., ESQ.
Independent Counsel

RODERICK C. LANKLER, ESQ.
Associate Counsel

FOR HILLARY RODHAM CLINTON: LLOYD N. CUTLER, ESQ.
Counsel to the President

DAVID E. KENDALL, ESQ.
Williams & Connolly
Washington, D. C.

Court Reporter: Elizabeth A. Eastman

Deposition Services, Inc.
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Washington, D.C. 20037
FOIA #56806 (URTS 16304) DocId: 70105028 Page 38

PROCEEDINGS

WHEREUPON,

HILLARY RODHAM CLINTON

having been called for examination by the Independent Counsel, and having been first duly sworn by the notary, was examined and testified as follows:

EXAMINATION BY THE INDEPENDENT COUNSEL

BY MR. FISKE:

Q Mrs. Clinton, we've had some conversations with Mr. Kendall before we started and I think you probably understand this. What we are trying to do today is cover the so-called Washington aspects of what we have been doing, which are essentially events relating to the death of Vincent Foster, events that occurred in the White House after his death, and any subject of contacts between the White House and the Treasury officials.

There obviously are a lot of questions about what went on or didn't go on in Arkansas that we will want to talk to you about later. But those are not on the program for today.

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A All right.

MR. FISKE: I think maybe it would be useful to start the way we did with the President and ask the two lawyers to identify themselves.

MR. KENDALL: David E. Kendall of the firm of

Williams and Connolly, and I represent Mrs. Clinton in her personal capacity.

MR. CUTLER: I am Lloyd N. Cutler, Counsel to the President, and I am here representing the First Lady in her official capacity.

BY MR. FISKE:

Q Mrs. Clinton, Mr. Kendall was here representing the President, and I take it that have discussed with Mr. Kendall and with your husband the fact that he is representing both of you?

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A Yes, we have.

Q And you are comfortable with that?

A Yes, I am.

Q Fine. Let me start by showing you two documents which we have marked as Exhibits 1 and 2, which are subpoenas that were served on the White House in March and May of this year, calling for on the one hand documents relating to contacts between the White House and Treasury, and, in the second subpoena, documents relating to Vincent Foster.

We have not served personal subpoenas on you or the President, but Mr. Kendall has explained to us that your personal files have been searched and that any personal documents that you have that would be responsive to those two subpoenas have, in fact, been produced. Is that correct?

A Yes, that is correct.

Q We would like to start by talking about Mr. Foster. I take it you knew him for a long time?

A Yes, I have.

Q You worked together with him at the Rose Law Firm?

A Yes.

Q In terms of the lawyers that you worked with at the Rose Law Firm, how would you place Mr. Foster in terms of the frequency with which you were associated with him, as opposed to other lawyers?

A Oh, I was probably associated with him among the three or four most frequent associations with respect to work that I did with other lawyers during my time at the Rose Law Firm.

Q Okay. And you were personal friends as well?

A Yes, we were.

Q Did you have the kind of personal relationship where he would from time to time discuss confidential personal matters with you?

A Very rarely. That was not something that he did with me at least, and I don't believe very often with anyone.

Q During the time before your husband became President, had Mr. Foster done any personal work for you or your husband?

A Yes.

Q What type of work?

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A Well, he in many respects was kind of an ongoing counselor to us in many matters, and I don't know that I can point to any specific instances. But at least on one occasion I believe he was an attorney of record for me many years ago arising out of some action taken by Legal Service Corporation, and we needed to enter an appearance. I'm vague about it, but I think that occurred probably in the late 1970s, if I recall.

But on many other occasions he would be the person that I would go to for advice of a legal or quasi-legal nature. He was someone that both my husband and I turned to for advice and counsel. It was a continuing relationship of that nature, but I can't really pull out any specific instances. But I certainly relied on his advice on many occasions.

Q Would it be fair to say that you and your husband included the Fosters in your close circle of friends?

A Yes, it would.

Q Did you have any role in his selection as Deputy White House Counsel?

A Well, I certainly thought it was a good idea.

Q Other than expressing that opinion?

A I don't know that it really was much of an opinion needed. My husband thought very highly of Vince and wanted him to come to Washington, and I think decided that would be

CONFIDENTIAL

the appropriate role, which I certainly thought was a good idea.

Q Did you have any conversations with Mr. Foster yourself about that prospective appointment?

A I'm sure I did. But I don't recall anything specifically, other than urging him to do it if he thought it was a good idea for him.

Q Did he express to you any reluctance about coming to Washington and taking this job offer?

A Not to me. The nature of our conversations were very positive about what he saw as a great professional challenge. That's all I recall.

Q Had you heard at the time from anyone else that he had any concern about leaving Arkansas and coming to Washington?

A No. No one told me that, that I remember.

Q Could you just tell me, in the best of your memory, during this period of time in the two or three years before you all came to Washington, how frequently did you see Mr. and Mrs. Foster socially?

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A Socially?

Q Yes.

A Let's see. From like around, what, 1989 or '90?

Q Yes.

A We saw them on a regular basis, but I wouldn't say

a frequent basis, partly because 1990 was an election year for my husband. And then by, you know, late '91 he was in the campaign. We didn't have much time to socialize with anybody. In fact, it was one of the things that we used to regret and we would laugh about with the Fosters when we did see them that, you know, we just didn't have time to have fun any more or to go to our friends' houses for dinner and do the things that we used to be able to do much more frequently.

So, toward the time leading up to my husband being President, our social activities with everyone, including the Fosters, was much less than, you know, it had been in previous years probably.

Q From the period of time that you all came up to Washington and your husband became President in January of '93, right through the time of Mr. Foster's death, how frequently did you see him?

A Well, when I went over to the West Wing office, I would sometimes see him several times a day or sometimes not at all. It was a -- there was no regular planned meetings. So, it was a very random kind of series of contacts.

Socially, we tried to have all of the people from Arkansas over for movies or for dinners. And we would always invite Vince, because he was up here for the first five or six months without his family. Toward the end of that time

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his daughter came and then Lisa came. But we always tried to invite him, as we did with the Hubbells and the others.

So, you know, I couldn't tell you exactly how many times, but, you know, a number of times, but particularly in the sort of Friday night gathering of friends and people, and we would try to mix it up with some of the new people we were meeting. But we always invited him.

Q And did you work with him on White House business?

A Only in a couple of instances. We were sued over the Federal Advisory Commission Act, or something like that, FACA. And I think -- and Vince was one of the lawyers involved in that, along with Steve Neuwirth and others in the counsel's office. So, occasionally I would talk to him if he would have questions about that. He did some work for the health care group on medical malpractice, and I think I had at least one meeting with him about that.

Those were the two main reasons why I met with him in a professional way.

And then he was the person in the counsel's office assigned to coordinate with our outside lawyers and accountants on the blind trust. So, I had several meetings with him about that.

Q Was he doing any personal work for you or the President other than the blind trust?

A Not that I'm aware of, no. Oh, wait. The only

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thing I would add to that is I think he also did some personal advising, or at least was in some way involved in the tax returns when they were being finalized for '93, but that was part of the blind trust work, as I recall.

Q Your own tax returns?

A Yes.

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Q Was he doing work, to your knowledge, with respect to the filing of the Whitewater tax returns?

A Not that I know of, no.

MR. CUTLER: This is while in the White House?

MR. FISKE: Pardon me?

MR. CUTLER: While in the White House?

MR. FISKE: Yes.

MRS. CLINTON: Not that I know of.

BY MR. FISKE:

Q When was the last time that you talked to Mr. Foster?

A You know, I've thought about that a lot because I don't recall it. I don't think I talked with him for a week before we left for Asia, and I did not talk to him all the time I was gone, and I left July 5th or 6th, as I remember. And then I got back to Arkansas on July 20th.

And I just don't have any memory of -- I never thought it would be the last time I ever saw him or talked to him. And I don't have any memory of when that was. But I

don't think it was for about a month before his death.

Q So, as you sit there, you can't sort of bring back the last conversation you had with him?

A No. I know that I had a conversation with him in mid-June, because there were a bunch of people up here from Arkansas and my husband was out of town, and he and Lisa called to see if I would go to dinner with them. And I talked to both of them, as I remember. But I couldn't do it.

And I'm sure I saw him in and around the office after that, after that mid-June phone call. I remember it was mid-June, because it was around Father's Day because that's one of the reasons they were all gathered together and were going to be doing some things together.

But I just don't have any specific memory of when the last time I saw him or talked to him after that, and I've tried to remember it, because I would like to remember it, but I can't.

Q Again, talking about the time from January '93 right up through July, did he ever express to you during that period of time any concern about anything that was troubling him, either in his job here at the White House or in his personal life?

A No. I mean, he like everybody would say things about, you know, how tough this was, and how different it was, and how stressful it was. And I would, you know,

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express the same feelings. I think we were all amazed at some of what we found when we got here.

But he never confided in me. He never told me -- I didn't know until after he died that he took the Wall Street Journal editorial seriously. If I had known that, I would have, you know, said something funny or dismissive in some way. But he never said that to me.

So, I don't have any specific memory of any conversation that went beyond the, you know, general blowing off steam about, I can't believe this place, or can you get over this, or stuff like that.

Q Let me just ask you about a few specific things just to be sure. Did he ever express any concern to you about anything having to do with sort of nominations that didn't work out?

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A No, not to me.

Q How about anything related to problems connected with the travel office situation?

A Not that I recall, no.

Q Did you ever hear from any source that back then he had given consideration to resigning from his job?

A No. I have heard since his death from people who say that they thought he might have considered that, but he never said anything to me about it.

Q So, the last time you talked to him, whenever that

was, if you can sort of go back to that time in your mind, how would you assess sort of his attitude towards what he was doing and life in general?

A Well, you know, the last specific conversation I can recall is this phone conversation which was either Friday or Saturday before Father's Day, whenever that was. I guess it was like mid-June, because Father's Day is next week and that is like June 19th. So, I guess it was probably around that time.

And, you know, I mean, there was nothing. He said, well, why don't you come out to dinner with us and, you know, you need to be with us. We've got a lot of friends up here. Let's just have a good time and, you know, I was saying, you know, I just couldn't do it because I had too much else to do. And that's all. That's all I remember from all of June.

Q Did he ever express during this time, that is January through July, any concern to you about anything relating in any way to his personal life?

A No. And I have a distinct memory, I don't know when it was, of him celebrating Laura's birthday and bringing her to one of our Friday night movies. And I remember seeing them walk in together. He had his arm around her and they looked so happy. And it was shortly before Lisa was getting there and shortly before, I think, Vincent was getting out of school. And he seemed very -- you know, he seemed very happy

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that finally he was going to have his family back.

And I think it had been hard on him, you know, being an involuntary bachelor for all those months. At least, that's the way he and his daughter were talking when I saw them.

Q Did he ever express any concern to you about anything relating to any potential legal problems that you or the President might have relating to Whitewater?

A No. We never talked about that. That was -- that was something that I can't ever recall having any conversation with him about after we got here. He had handled the sale right before we left because, as I recall, somebody else was going to do it and couldn't, and he did it. But that's the only conversation, and that was before we moved here, that I can remember with him about Whitewater.

Q Did he express any concern to you during this period about any legal problem that he thought you or the President might have?

A No. No, I mean, other than this lawsuit that we were, you know, fighting over this FACA statute.

Q I meant personal.

A No.

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OFFICE OF THE INDEPENDENT COUNSEL

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TESTIMONY OF	Sunday, June 12, 1994
PRESIDENT WILLIAM J. CLINTON	Washington, D. C.

Testimony of

PRESIDENT WILLIAM J. CLINTON

before the Independent Counsel, held at The White House, Washington, D. C., beginning at 2:05 p.m., when were present on behalf of the respective parties:

FOR THE INDEPENDENT COUNSEL:	ROBERT B. FISKE, JR., ESQ. Independent Counsel
	RODERICK C. LANKLER, ESQ. Associate Counsel
FOR THE PRESIDENT:	LLOYD N. CUTLER, ESQ. Counsel to the President
	DAVID E. KENDALL, ESQ. Williams & Connolly Washington, D. C.

OIC 000463

Court Reporter: Elizabeth A. Eastman

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be

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PROCEEDINGS

WHEREUPON,

PRESIDENT WILLIAM J. CLINTON

having been called for examination by the Independent Counsel, and having been first duly sworn by the notary, was examined and testified as follows:

EXAMINATION BY THE INDEPENDENT COUNSEL

BY MR. FISKE:

Q You are the President of the United States?

A Yes.

Q I would just like to make a few opening comments, matters that I have discussed with Mr. Kendall. The questions that we are going to be asking you today relate to the Washington phase of our investigation, essentially relating to the death of Vincent Foster, events in the White House following his death, and questions relating to the contacts between people in the White House and Treasury.

There will be a time, sometime later, when we will also want to ask you questions about the events that we are investigating in Arkansas, but we are not going to go into those today.

MR. FISKE: Could I just start by asking the two other lawyers here to identify themselves?

MR. KENDALL: Certainly. I am David E. Kendall of the firm of Williams and Connolly.

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MR. FISKE: Could you state in what capacity you are here, Mr. Kendall?

MR. KENDALL: I represent the President personally.

MR. CUTLER: I am Lloyd N. Cutler, Counsel to the President, and I am here representing the President in his capacity as President.

BY MR. FISKE:

Q I understand, Mr. President, that Mr. Kendall is also acting as counsel for Mrs. Clinton?

A That's right.

Q And I take it that you have discussed that with him and with her, and you are perfectly comfortable with that joint representation?

A We have and we are.

Q I would like to start by showing you two documents which we have marked as Exhibits 1 and 2. I hope you don't mind that we have simply used the abbreviation WJC.

A Okay.

Q Those are subpoenas which were served on March 4th and May 4th of this year respectively on the White House, requesting documents generally relating to contact between the White House and the Treasury in Exhibit 1, and documents relating to Vince Foster in Exhibit 2.

Have you seen those subpoenas before?

A I have not personally seen them, but I am aware

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that they came to the White House.

Q I discussed with Mr. Kendall, before we came here today, whether in connection with those subpoenas there had been a request made to you to provide whatever personal documents you might have that would be responsive to those subpoenas. Was there such a request?

A There was.

Q And have any documents that you personally had that are responsive to those subpoenas been produced?

A I believe you got two documents. One was a letter from Roger Altman to me explaining why he decided to step down as the RTC -- acting head of the RTC. The other was a memorandum from a law school classmate of mine in New Jersey, Bob Raymar, generally describing how he thought we ought to handle the Whitewater investigations.

Q The role of the White House Counsel?

A That's correct.

Q We have both of those documents. I would like to start, Mr. President, by asking you some questions about Vincent Foster. We know that you and Mr. Foster go back a long way, back to kindergarten, as I understand it.

A Yes. I lived with my grandparents until I was four and they had a house behind where Mr. Foster's family lived in Hope. So, I knew him from the time I was three or four years old.

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Q And we are not going to take you right through every year since then, but I would like to go back to the period of time for just a few years before you became President in early 1993, that is, go back to say 1990, and just in that period of time ask you some general questions.

First of all, I ask as to the extent to which during that period of time you and Mrs. Clinton had social contact with Mr. Foster and his wife?

A By our standards, because we didn't go out much, we had a lot of social contacts with him. We were frequent guests in their home. That was mostly our social contact. We would go over there and we would swim around the pool or have dinner with them. Once in a while we would go out. I would say not more than once a year, maybe twice a year, but we didn't go out much.

Q Did you consider them in your close circle of friends?

A Yes, I did.

Q What professional contact did you have with Mr. Foster in those years, let's say 1990 up to 1993?

A I'm not sure I recall in that timeframe. Of course, Hillary worked with Vince. They were in the same division of the law firm and they worked very closely together for the period that she was in the Rose Law Firm.

It seems to me that from time to time Vince may

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have advised me on things that related to my work as Governor, but I honestly don't remember whether they occurred within that frame. If you have something specific in mind, I could respond to that.

Q I will be happy to extend the frame back a little bit if there is something in your mind that you are thinking of.

A I'm trying to remember whether he worked on things that Hillary also worked on, or whether he ever advised -- I think from time to time he advised me on matters relating to my performance as Governor that required outside counsel. I'm not sure, but I don't remember them specifically. Nothing related to the savings and loan business or anything like that, but other things like maybe public utility controversies or something. I'd have to go back and look at my records.

But I seem to remember that he did do one or two things like that during the pendency of my governorship.

Q Were those matters that Mrs. Clinton also worked on?

A Well, let's see. She worked on the Little Rock school desegregation case which affected -- which the state was also involved in. I'm not sure that Vince worked on that. And then it seems to me they both may have done some work on the Grand Gulf nuclear power case. I think that's

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right. I don't recall that I remember anything else.

Q This is work they were doing for the State of Arkansas, or for you as Governor?

A I'm not sure. I'd have to go back and look at my records. But essentially in the 12 years I was Governor, he may have done a couple of things like that. Now, the Rose Law Firm had, independent of Vince, had done various things with state government for years, before my becoming Governor. But I don't remember anything else specifically.

Q We are not going to go into those at this time. I just am really more interested at the moment in Mr. Foster personally. Did Mr. Foster --

A If you would like, I could go back and try to refresh my memory as to these things or do some research on it. I just don't remember the specifics. It's nothing I thought about in trying to get ready for this.

Q I'll discuss that with Mr. Kendall.

A Okay.

Q During this period, let's take it five years back from January 1993, did Mr. Foster do any personal work for you, not in your capacity as Governor but just for you or Mrs. Clinton, sort of Clinton family work?

A I don't believe so, unless -- I don't believe so.

Q I take it you obviously were responsible for his eventual selection as Deputy White House Counsel?

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A That's right.

Q Mrs. Clinton, I assume, played a role in that as well?

A She didn't -- she certainly didn't object to it. But I was surprised frankly that he was willing to come to Washington. He seemed so happy doing what he was doing and it seemed to fit him so well. But when I learned that he was willing to come, I wanted him here because of his legal ability and his judgment, and because he was cool under fire. He tended to have a calming influence on people around him and he tended to engender an awful lot of respect. So, I did want him here.

Q Did you have conversations with him personally about that?

A Yes, I did, and I offered him the job.

Q I think maybe you have anticipated one of the questions, but was this something where he needed a little selling to come, or was it something that you could tell he really wanted to do from the beginning? Was he at all reluctant to come?

A I don't recall that he was by the time I talked to him. I think he had to -- he wanted to make sure that it was okay with his family. I mean, he had -- my recollection of our conversation was that he personally wanted to do it, but he wanted to make sure it was okay with his family and that

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it was appropriate with the firm and all, that he could do all the professional things he needed to do.

Q Was there a reason that he wasn't selected as the White House Counsel?

A Yes.

Q What was that?

A There were two reasons. One is we thought that we ought to have someone who had had more experience in and around Washington. And the second was, we thought that given the enormous scrutiny and, to some of us, occasional prejudice that the national press corps had shown against our state, it would be better if someone who was such a good friend of mine were not the White House Counsel.

Q Did Mr. Foster ever express to you a desire to be the White House Counsel?

A Never. Never. As a matter of fact, he thoroughly agreed with my decision.

Q During the period from January '93 right through July 20, while you were President and he was Deputy White House Counsel, how frequently did you have contact with him?

A Not often, and usually I would say the largest number of times I saw him were on social occasions when he would be at the White House after working hours for something.

Q How frequently was that?

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A Once, twice a month, I would say. And then perhaps I saw him a time or two a month, unless we were working on something specific.

Q Was he during this period of time working on any matters for you personally?

A Yes. I believe that he was trying to handle the transition of our assets into a blind trust. I think that's all he was doing.

Q Were you aware that he was also doing some work in connection with the preparation and filing of the tax returns for Whitewater for '90, '91, and '92?

A I don't recall that I was aware of that, no.

Q Was there any work that he was doing for you in connection with some property where you and Mrs. Clinton might have wanted to build a home? Does that ring any bells?

A Yes. But I don't know that he did any work beyond his collecting proposals. When I came up here, there were any number of people who thought they ought to -- various communities in the state ought to have Presidential retreats of some kind, and there were all these ideas. And I wasn't sure any of it was appropriate.

So, he was asked to just collect and evaluate the proposals. We never did anything with any of them.

Q So, is it your best recollection then that the only work that he was doing for you that was personal in nature

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was this business of trying to put your assets into a blind trust?

A Uh-huh. And I later learned what you said about the Whitewater thing.

Q When did you first learn that?

A I don't know, because I was aware that -- this kind of gets back to the other inquiry you want. But I was aware that we were trying to make sure that the tax returns were appropriately filed. I'm just not sure I knew Vince had anything to do with that.

Q Okay.

A I could have known it, too. I'm just not sure.

Q Okay. Did anyone ever raise any question at that time whether it was appropriate for Mr. Foster to be working on any of those matters while he was White House counsel?

A No.

Q Or Deputy White House Counsel?

A No.

Q Did you have any concern about that yourself?

A No, because I knew that we were simply -- with regard to the blind trust, I thought that was part of my responsibility as President, to just get my things in a blind trust, and I think he was just overseeing that.

With regard to the proposals for a Presidential retreat, I never took the whole idea very seriously. And I

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just wanted to make sure that we had lodged them in a place, and that if we turned them down we could say that it was an appropriate thing to do, legally appropriate, given my position as President.

So, I didn't think either one of those things was out of the way.

Q Going now to the period of time, let's say starting in May, late spring, the first of May through the middle of July --

MR. CUTLER: Of 1993?

BY MR. FISKE:

Q Of '93, yes. How frequently did you see Mr. Foster then?

A Late spring to when?

Q That would make it two or three months before his death.

A I would say no more than two or three times a month.

Q And were these on the social occasions that you mentioned?

A Either that or he would come into the office for some occasion that was in the course of something the legal counsel's office was working on.

Q Did you have an occasion during those situations to talk to him at any length about anything to do with his

personal situation?

A No, not at length.

Q Well, let me ask you, right up to let's say July 19th, the day before his death, right up to then had he ever expressed any concern to you personally about anything that was bothering him about his job or anything in his personal life?

A The answer to your specific question is no. I wouldn't characterize it that way.

Q Well, is there some way that I could have put that that would --

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A Yes.

Q -- have produced a better answer?

A No. Well, yes.

Q A more complete answer, I mean?

A I knew that he felt badly that he had been personally criticized in the Wall Street Journal, and I knew that he -- even though he thought it was unfair and inaccurate. And I knew that he was a perfectionist who was concerned at the bad publicity the Administration had gotten over two or three issues relating to the organization of the White House.

Q What were those issues?

A Well, specifically I know the travel office issue. And that he was concerned that these problems were not

serving me well and were undermining my -- or at least not undermining, but interfering with my ability to do my job as well as possible.

But I have to tell you, sir, that didn't surprise me. I mean, he was a serious man and a perfectionist. So, he didn't like to see things go wrong in the office on the one hand. And, on the other, he had, as far as I know, never been subject to any sort of criticism about his professional work or his judgment before the Journal editorial page issues.

Q Other than the Wall Street Journal and the concern about the travel office, was there anything else specific that you heard was concerning him?

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A No.

Q When you say you learned this, did you learn this from him or did you learn this indirectly through someone else?

A Well, with regard to the Journal, I didn't have to learn it from anybody. I knew him well enough to know when I read the editorial it would bother him. So, I asked about that.

Q Asked him?

A No, I didn't ask him. I can't remember. I may have asked Mr. Nussbaum or somebody. But, you know, this was just in passing. I didn't spend a lot of time on it.

I had -- I presume you are going to ask about this, but I did have a conversation with him the night before his death.

Q Yes, I will get to that. That's why up to now we are just up to the 19th.

A Uh-huh. But in that conversation, I referred in the briefest manner to the whole question of operational problems in the White House. So, when we get to that, we can talk about that.

Q We'll get there in just a minute. Was there anything else that you heard, right up to that phone conversation on the 19th, that --

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A No.

Q -- might be disturbing him?

A No.

Q Had you ever heard that he was thinking of resigning his job?

A No.

Q Had you ever --

A Not that I recall.

Q Okay. Had you ever heard that he expressed concern about some of the unfairness of life in Washington?

A Not that I recall. But there was a lot of that kind of concern around that time. I don't recall anything specific though from him.

Q Did you ever hear that he had been concerned in any way about anything relating to his personal life?

A No.

Q Had you heard from him or anyone else that he was depressed?

A No. Not depressed. Now, again leading up to the day --

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Q Right.

A -- when I talked to him, I knew that he had been concerned about these things that I mentioned earlier. But I wouldn't use the word "depressed".

Q Okay. Let me ask you now about the telephone conversation on the 19th. I understand, at least from press reports, that you initiated that call?

A Yes, I called him. I called him because I hadn't seen him in a while and I had talked that day to Mr. Hubbell who told me that the Hubbells and the Fosters and another couple had spent the weekend in Maryland and had a very good time. It was a time of high stress for the counsel's office because of the White House travel office matter and other things. And he said that he thought Vince had had a great time and that it had been good for them to get away from the grind of the office and had been a very good weekend.

And so, I hadn't seen Vince in a while and I hadn't had a chance to talk to him in a few weeks. So, I decided I

would call and invite him to the movie that night. So, that's what prompted the call. I called him and asked him if he wanted to come and watch the movie.

Q That was "In The Line Of Fire"?

A Uh-huh.

Q And you were watching that in the White House?

A Uh-huh, in the theater here.

Q Who else was there?

A I think there was just a couple of us. I think Mr. Hubbell was there. I think Mr. Lindsey was there. I'm not sure if anybody else was there.

Q Where did you reach Mr. Foster?

A I got him at home.

Q How long did you talk?

A Ten, 15 minutes.

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Q Can you give us the conversation, to the best of your memory?

A Yes. When I called him, I thought he might still be at work but it was in the evening. I don't remember exactly what time it was, but it was already night. But he said -- first I asked him if he wanted to come to the movie. And he said that he would like to, but that he was already home with Lisa and he didn't think he should leave and come back to the White House. I understood that.

And then I asked him, you know, if he had a good

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time over the weekend, and he said they had a great time.

Then I told him that I wanted to talk to him about some matters relating to the White House and I wanted to ask his advice on some organizational issues, but that I could not see him the next day because we had the announcement of Mr. Freeh, the FBI Director, and several other things on my schedule, and could we please meet on Wednesday. And he said, yes, I've got some time on Wednesday and I'll see you then.

And that was it. That's basically what we talked about.

Q And how did he seem to you?

A Well, he didn't seem unduly distressed. I mean, Vince Foster was a very low-key guy. And when you talk to him on the phone, I mean it was not that different from any other conversation I ever had with him.

Q When you hung up the phone, did you have any cause for concern about --

A None. None. As a matter of fact, I was just pleased that I was going to be seeing him Wednesday because I hadn't seen him in a while. I mean, whole weeks would go by and I wouldn't see him and I missed that. So, I wanted to see him.

Q Was that the last time you talked to him?

A Yes, it was.

Q At any time from him, or from anyone else directly or indirectly, did you ever hear that he was concerned in any way about anything relating to Whitewater, Madison Guaranty Savings & Loan?

A No.

Q Did you ever hear, directly or indirectly from him or anyone else, that he had any concern about any matters relating to any legal problems that you and Mrs. Clinton might or might not be facing?

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A No.

Q Just one last question about this phone call. Did you place this phone call to him because you had heard from other people that he was sort of down and you thought he might need a little cheering up?

A No, because I knew he had been under a lot of stress, as all the members of the counsel's office were, trying to deal with this travel office issue and other things that were going on, just general burden of work. But, in fact, I had heard from Mr. Hubbell that they had had a very good weekend and that he seemed much more relaxed and that it was a good thing for him to have a chance to get away with his wife and with two other couples who were friends of his.

So, I called him just because I genuinely missed him and I wanted to talk with him. I wanted to see how he was doing, but I also wanted to ask his advice on some

things.

Q Did you see him on the 20th?

A Yes. I believe I saw him in the Rose Garden. I think when we named Mr. Freeh, he was in the back of the Rose Garden watching the ceremony. And that's the last time I ever saw him.

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

MEMORANDUM

TO: Ken Starr, Bill Duffey, Mark Tuohey, John Bates, Sam Dash

FROM: Brett Kavanaugh

DATE: January 25, 1995

RE: Application of Rule 6(e) to Sworn Statements of the President and the First Lady

Per Ken's request, I have preliminarily examined the question whether the sworn statements of the President and the First Lady are covered by Rule 6(e)'s secrecy requirements.[1] In anticipation of our meeting Friday, I thought a brief written outline of the issue, as well as my views on it, might be helpful. This memorandum is not intended to be an exhaustive or final legal analysis. (Attached to this memorandum is a letter from Williams & Connolly on the issue.)

1. Some factual background: First, Mark Stein informed me that there was no oral or written agreement between the President (and First Lady) and the Fiske team reached before the testimony on June 12, 1994, with respect to whether the Fiske team would consider the transcripts 6(e) material. Someone should double-check this point with Bob Fiske and perhaps Williams & Connolly as well. Second, [redacted] Third, the Fiske team gave Congress the 302's relevant to the Foster death issue and to the White House-Treasury contacts issue after the Fiske team had concluded its investigation into those matters. Fourth, the Fiske team gave Congress those portions of the President's transcript and the First Lady's transcript that dealt with the Foster death issue, but it did not produce those portions dealing with the White House-Treasury contacts issue (or the Foster documents issue). The Fiske team thus treated [redacted] parts of the transcripts as equivalent to 302's.

2. Despite noises from the Hill, I do not see why Congress would want to obtain the transcripts at this point. We are pursuing active, ongoing investigations into both the Foster documents issue and the White House-Treasury contacts issue; and as Congress well knows, the standard practice of the Department of Justice is not to give Congress documents pertaining to

[1] Rule 6(e) states in relevant part: "A[n] attorney for the government . . . shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules."

FOIA #56806 (URTS 16304) DocId: 70105028 Page 73

an open investigation. Congress can override that practice, but it almost never does, according to the Department of Justice.[2] We need to emphasize this point to Congress, which I am not sure we have done yet. In short, even if we consider the transcripts equivalent to 302's (as Congress wishes) rather than equivalent to grand jury transcripts (as Williams & Connolly wishes), we should not yet give the transcripts to Congress because they relate to an open (albeit in part "reopened") investigation.

To be sure, the Fiske team gave Congress the 302's it had gathered in connection with the contacts and Foster death issues, but that alone should not constitute a waiver of our ability -- consistent with the traditional practice of the Department of Justice -- to keep our records secret until these reopened investigations are complete.

3. Once we complete our investigations into the contacts issue and the Foster issues, we must decide whether to turn over 302's on completed individual investigations or wait until we conclude the entire investigation. That will be a tricky issue with Congress, and one we should discuss at some length before final resolution is reached. (Keep in mind that we have no legal authority to prevent Congress from obtaining these 302's.) In any event, if we decide not to turn over any 302's before the end of the entire investigation, it logically must follow that we should not voluntarily turn over the transcripts of the President's testimony and the First Lady's testimony before the end of the entire investigation.

4. If and when: (1) we give 302's to Congress; or (2) Congress subpoenas the President's transcript and/or the First Lady's transcript from us, the question whether the transcripts are protected by Rule 6(e) will be squarely presented.

In considering the broad question of what are "matters occurring before the grand jury" for purposes of Rule 6(e), it is useful to consider the two kinds of grand jury subpoenas. With respect to a subpoena duces tecum, it would seem that the information in the subpoena itself and the documents returned pursuant to the subpoena should be considered matters occurring before the grand jury. (To my surprise, some courts have held that the documents returned pursuant to a subpoena are not matters occurring before the grand jury. See U.S. Department of Justice, Federal Grand Jury Practice pp. 159-160 (1993).) With respect to a subpoena ad testificandum, it similarly would seem that the information in the subpoena itself and any testimony before the grand jury should be considered matters occurring before the grand jury. And, indeed, that is what the courts have held. See id. at p. 158.

What about transcripts or reports of interviews that are conducted outside the presence of the grand jury (and that by definition therefore are not compelled by grand jury subpoena)? The

[2] Mary Hardenriker, 514-2419, who is Counsel to the Assistant Attorney General for the Criminal Division (JoAnn Harris).

question seems to answer itself: An interview conducted outside the presence of the grand jury is not a matter occurring before the grand jury. See In re Grand Jury Matter (Catania), 682 F.2d 61, 64 (3rd Cir. 1982) ("information developed by the FBI, although perhaps developed with an eye toward ultimate use in a grand jury proceeding, exists apart from and was developed independently of grand jury processes"); see also Andaya v. United States, 815 F.2d 1373 (10th Cir. 1987) ("there is a clear distinction between a memorandum of the testimony given by a witness before the grand jury and a memorandum of what that person told an investigator outside the grand jury room").

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In the analogous situation where documents obtained independently of the grand jury's subpoena power are later given to the grand jury, courts do not consider the documents to be covered by Rule 6(e). See U.S. Department of Justice, Federal Grand Jury Practice pp. 158-159 (1993) ("Rule 6(e) usually does not govern the disclosure of documents obtained by means independent of the grand jury. This is true even when such documents later have been examined by the grand jury, or made grand jury exhibits, so long as disclosure of the documents does not reveal that they were exhibits."). That approach seems faithful to the language of the Rule. As applied to transcripts of witness interviews, therefore, the grand jury transcript of the reading of the transcript or report of prior testimony should be covered by Rule 6(e), but the original transcript or report of the prior testimony should not be covered by Rule 6(e).[3]

There is, however, at least one circuit case stating that Rule 6(e) applies in cases where a person's statement outside of the grand jury is later read to the grand jury. In a Third Circuit case, In re Grand Jury Matter, 697 F.2d 511 (1982), the court held (without any analysis) that "[n]o meaningful distinction can be drawn between [grand jury] transcripts and witness interviews conducted outside the grand jury's presence but presented to it. Thus, Rule 6(e)(2) governs the disclosure of the witness interviews."[4]

I doubt that many courts today would reach that conclusion. Courts now pay much closer attention to the precise language of rules and statutes than they previously did. See e.g., Central Bank of Denver v. First Interstate Bank, 114 S. Ct. 1439, 1449 (1994). Under the plain language approach to the interpretation of statutes and rules, it is difficult to understand how a witness interview that occurs outside the grand jury (and is not therefore compelled by a grand jury

[3] If the Rule were otherwise, it could be easily manipulated. A document obtained without subpoena, or a transcript or report of an interview that occurred outside the grand jury, could be transformed magically into a matter occurring before the grand jury simply by reading the document or transcript or report to the grand jury.

[4] It may be relevant to note that court's predilections: "Were we writing on a clean slate, we might well hold that disclosure of any matter generated in connection with a grand jury proceeding is governed by Rule 6(e)(2)." Id. at 512.

subpoena) can be considered a matter occurring before the grand jury -- regardless of what subsequently happens before the grand jury. The language of the Rule is not sufficiently elastic to cover testimony not compelled by the grand jury and not given before the grand jury. As I stated above, therefore, the most natural reading of Rule 6(e) as applied to transcripts or reports of non-grand-jury witness interviews is that: (1) the grand jury transcript of the reading of the transcript or report of prior testimony is covered by Rule 6(e); but (2) the original transcript or report of the prior testimony is not covered by Rule 6(e). Reasonable minds certainly can differ on this point, however, so we should discuss this at some length on Friday.[5]

5. One other possible argument in favor of non-disclosure of the transcripts is as follows: An implicit exception to Rule 6(e) should apply when the President is involved given the time demands of the President, the security demands with respect to the President, etc. Under this approach, a President's statement outside the grand jury context could be considered the equivalent of grand jury testimony. I find the argument unpersuasive. First, there is no plausible argument that this interpretation is necessary to save the President's time so that he can work on important issues (unlike in the Paula Jones suit, for example). The President would spend almost as much time on a sworn statement as he would on a grand jury appearance. And the security issue seems especially dubious. The President jogs by the Federal Courthouse, so it would be rather strange to say that security issues prevent the President from appearing before the grand jury inside the courthouse.

Perhaps there could be some kind of argument based on the "dignity of the Presidency" and/or separation of powers. This argument seems weak, however, given the deeply rooted history and tradition of this country's jurisprudence that the President is not above the law. Why should the President be different from anyone else for purposes of responding to a grand jury subpoena ad testificandum? Once in the grand jury room, the President might claim executive privilege if asked about certain communications, but that seems a different issue altogether. Cf. also United States v. Nixon, 418 U.S. 683, 709, 713 (1974) ("To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or the defense. . . . We conclude that when the

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ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice.").

Even were there a Presidential exception to the definition of "matters occurring before the grand jury," that exception likely would not apply to the First Lady. Indeed, I see far less justification for the First Lady to obtain an implied exception to 6(e) than I do for Cabinet Secretaries, for example.

Recommendations for Action

2. We should inform Congress as soon as possible that the portions of the transcripts they have requested relate to open, active investigations and that, at this point, we are relying on that rationale as the basis for non-disclosure.

3. We should decide whether, after individual investigations (the Foster documents investigation, for example) have concluded, we will produce 302's to Congress.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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October 11, 1994

~~CONFIDENTIAL~~

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

By Hand

Dear Judge Starr:

Judge Mikva and I thought it prudent to follow up with a formal request my September 30 conversation with Mark Stein. I told Mr. Stein I understood there had been a recent Congressional request for your office to alter its position with regard to the confidentiality of the transcripts of the sworn testimony given by the President and Mrs. Clinton to the Independent Counsel on June 12, 1994.

Shortly before the House and Senate Banking Committee hearings on certain Whitewater matters last July, there was a request for Congressional access to these transcripts which was identical to the present request.

[redacted]

The Independent Counsel inquired what the legal position of the President and Mrs. Clinton was with respect to the release of these transcripts. At a meeting with Mr. Stein on July 25, 1994, Lloyd N. Cutler, Esq., White House Counsel, Joel I. Klein, Deputy White House Counsel, and I informed Mr. Stein of the Clintons' position and laid out the constitutional, legal, and policy reasons why such disclosure was inappropriate. The Clintons had cooperated fully with the Independent Counsel's requests for information, voluntarily appearing to give sworn testimony and answering all questions, without any claim of privilege of any kind. This testimony was responsive to the questions of the Independent Counsel [redacted] While the Clintons have emphasized their willingness to provide information to Congress in appropriate ways, [redacted]

Subsequent to our meeting on July 25, 1994, Mr. Stein telephoned me to state that the Independent Counsel had determined, quite correctly, I believe, that it would be inappropriate to disclose the transcripts to Congress. The hearings then proceeded in both the Senate and the House.

As I told Mr. Stein in our recent telephone conversation, I do not believe any events have occurred which should cause your office to alter its previous decision. Should it consider doing so, I respectfully request the right to be heard, as we were last July, with respect to the relevant constitutional, legal, and policy considerations.

It is not my purpose here to set forth in detail these considerations, but I think it appropriate to sketch very briefly some of the relevant precedents. Serious constitutional questions are presented whenever the Congress seeks to compel or secure testimony from the President or from executive officials.

It is well settled that Presidential communications are presumptively privileged. Nixon v. Sirica, 487 F.2d 700, 713 (D.C. Cir. 1973). Although the President's executive privilege may, under certain circumstances, be outweighed by the grand jury's "right to every man's evidence," id. at 712, an attempt by Congress to obtain Presidential communications presents serious separation of powers issues. In Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 726 (D.C. Cir. 1974), the United States Court of Appeals for the District of Columbia rejected a Congressional committee's attempt to obtain production of tape recordings of conversations between the President and his aides holding that:

> the need for the tapes premised solely on an asserted power to investigate and inform cannot

> justify enforcement of the Committee's subpoena . . . There is a clear difference between Congress's legislative tasks and the responsibility of a grand jury, or any institution engaged in like functions.

Id. Because the Congressional request for the President's and First Lady's testimony is similarly premised upon a general and unparticularized need to "investigate and inform," the Congress is not entitled to these materials.

Moreover, Rule 6(e), of the Federal Rules of Criminal Procedure, That rule prohibits, of course, the public disclosure of "matters occurring before the grand jury," except pursuant to court order. The rule against disclosure is so well established that most reported cases do not involve the revelation of grand jury testimony but rather concern exhibits or expert reports prepared for the use of the grand jury. Acknowledging the "'necessarily broad' scope of Rule 6(e)," Senate of the Commonwealth of Puerto Rico v. United States Department of Justice, 823 F.2d 574, 584 (D.C. Cir. 1987), the United States Court of Appeals for the District of Columbia ruled that, for purposes of an FOIA request, "the touchstone is whether disclosure would 'tend to reveal some secret aspect of the grand jury's investigation', such matters as '"the identities of witnesses or jurors, the substance of testimony . . . and the like,"'" id. at 582. The United States Court of Appeals for the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Third Circuit has similarly held that Rule 6(e) prohibits disclosure of witness interviews conducted outside the grand jury's presence for the purpose of presentation to the grand jury: "No meaningful distinction can be drawn between transcripts and witness interviews conducted outside the grand jury's presence but presented to it." In re Grand Jury Matter, 697 F.2d 511, 512 (3rd Cir. 1982).

[redacted]

Sincerely,

David E. Kendall

David E. Kendall

cc: Mark Stein, Esq.

Griffin Conversation 2/27

Gorham Tripp Pond ✱
↓ next week

- cannot release the transcript
- cannot release any portion of transcript
- transcript could be disclosed

✱ HAVE MARK CONFIRM W/ SHERBOURNE + KENDALL THAT THEY DID NOT GET TRANSCRIPT COPIES

- get out Senate resolution, depositions, + [redacted] document requests
- they need to know some time in March

Radek

Wed + Friday
will check + see

→ Radek [redacted] Wed. 10:00

- Not special treatment
- want to put our position in writing → call + send letter
- if D'Amato decides to do nothing, then no letter
- transcript

(1)

Bob Giuffra 2/24

- they would like to [redacted]
  do something satisfactory opinion
- file a motion on 6(e)
- not seeking

- 40 Op. A G 45 (1941)
  p. 51 opinion

- Mike Davidson
- public interest standard

(1) it is President's choice regarding whether he wants to be subjected to multiple depositions

(2) public interest in full information

(3) whether privilege has been **waived** by Cutler

⇒ they fully appreciate concerns

(*) Pres. has been treated differently

(2)

- Morrison v. Olsen sticky issues

- BG: subpoena is an option
- AD »
- BG: subpoena is diversion

1 possible solution is
(A) distinguishing Wash phase from Ark phase

- emission doing this on rolling basis
- Congress completed its airing of WH-Treasury contacts issue
- certain documents treated as highly restricted

(2) are they seeking WH-Treasury contacts only?

⇒ we would want Foster document part as well

MONDAY ⇒ get in touch
- message for KWS: avoid sideshow

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(1) CONVERSATION W/ STEIN ON 12-22

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

W+C

- no agreement beforehand + no discussion

[redacted]

- turned over portions dealing w/ death
- decided [based on a Watergate opinion] that you should consult w/ W+C

[redacted]

- decided not to turn over
- October: call from W+C

[not turning over anything, so why turn over]

⇓

keep in mind that can't turn this over if turn over

preparing notes

↳ docs used in preparation for summer hearings — all w/ counsel's office document

(2)

- want you to GJ

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	4345
CONNECTION TEL	9 1 501 221 8707
CONNECTION ID	OIC LR
START TIME	01/26 17:06
USAGE TIME	06'42
PAGES	11
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
Suite 490N
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
telephone (202) 514-8688
facsimile (202) 514-8802

TO: Bill Duffey

Company Name: _____

Fax Number: _____

Message:

SENDER: Brett Kavanaugh

Number of Pages: 11 (including this cover sheet)

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

MEMORANDUM

TO: Ken Starr, Bill Duffey, Mark Tuohey, John Bates, Sam Dash

FROM: Brett Kavanaugh

DATE: January 25, 1995

RE: Application of Rule 6(e) to Sworn Statements of the President and the First Lady

Per Ken's request, I have preliminarily examined the question whether the sworn statements of the President and the First Lady are covered by Rule 6(e)'s secrecy requirements.[1] In anticipation of our meeting Friday, I thought a brief written outline of the issue, as well as my views on it, might be helpful. This memorandum is not intended to be an exhaustive or final legal analysis. (Attached to this memorandum is a letter from Williams & Connolly on the issue.)

1. Some factual background: First, Mark Stein informed me that there was no oral or written agreement between the President (and First Lady) and the Fiske team reached before the testimony on June 12, 1994, with respect to whether the Fiske team would consider the transcripts 6(e) material. Someone should double-check this point with Bob Fiske and perhaps Williams & Connolly as well. Second, [redacted]. Third, the Fiske team gave Congress the 302's relevant to the Foster death issue and to the White House-Treasury contacts issue after the Fiske team had concluded its investigation into those matters. Fourth, the Fiske team gave Congress those portions of the President's transcript and the First Lady's transcript that dealt with the Foster death issue, but it did not produce those portions dealing with the White House-Treasury contacts issue (or the Foster documents issue). The Fiske team thus treated [redacted] parts of the transcripts as equivalent to 302's.

2. Despite noises from the Hill, I do not see why Congress would want to obtain the transcripts at this point. We are pursuing active, ongoing investigations into both the Foster documents issue and the White House-Treasury contacts issue; and as Congress well knows, the standard practice of the Department of Justice is not to give Congress documents pertaining to

[1] Rule 6(e) states in relevant part: "A[n] attorney for the government . . . shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules."

FOIA #56806 (URTS 16304) DocId: 70105028 Page 90

an open investigation. Congress can override that practice, but it almost never does, according to the Department of Justice.[2] We need to emphasize this point to Congress, which I am not sure we have done yet. In short, even if we consider the transcripts equivalent to 302's (as Congress wishes) rather than equivalent to grand jury transcripts (as Williams & Connolly wishes), we should not yet give the transcripts to Congress because they relate to an open (albeit in part "reopened") investigation.

To be sure, the Fiske team gave Congress the 302's it had gathered in connection with the contacts and Foster death issues, but that alone should not constitute a waiver of our ability -- consistent with the traditional practice of the Department of Justice -- to keep our records secret until these reopened investigations are complete.

3. Once we complete our investigations into the contacts issue and the Foster issues, we must decide whether to turn over 302's on completed individual investigations or wait until we conclude the entire investigation. That will be a tricky issue with Congress, and one we should discuss at some length before final resolution is reached. (Keep in mind that we have no legal authority to prevent Congress from obtaining these 302's.) In any event, if we decide not to turn over any 302's before the end of the entire investigation, it logically must follow that we should not voluntarily turn over the transcripts of the President's testimony and the First Lady's testimony before the end of the entire investigation.

4. If and when: (1) we give 302's to Congress; or (2) Congress subpoenas the President's transcript and/or the First Lady's transcript from us, the question whether the transcripts are protected by Rule 6(e) will be squarely presented.

In considering the broad question of what are "matters occurring before the grand jury" for purposes of Rule 6(e), it is useful to consider the two kinds of grand jury subpoenas. With respect to a subpoena duces tecum, it would seem that the information in the subpoena itself and the documents returned pursuant to the subpoena should be considered matters occurring before the grand jury. (To my surprise, some courts have held that the documents returned pursuant to a subpoena are not matters occurring before the grand jury. See U.S. Department of Justice, Federal Grand Jury Practice pp. 159-160 (1993).) With respect to a subpoena ad testificandum, it similarly would seem that the information in the subpoena itself and any testimony before the grand jury should be considered matters occurring before the grand jury. And, indeed, that is what the courts have held. See id. at p. 158.

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FOIA #56806 (URTS 16304) DocId: 70105028 Page 91

question seems to answer itself: An interview conducted outside the presence of the grand jury is not a matter occurring before the grand jury. See In re Grand Jury Matter (Catania), 682 F.2d 61, 64 (3rd Cir. 1982) ("information developed by the FBI, although perhaps developed with an eye toward ultimate use in a grand jury proceeding, exists apart from and was developed independently of grand jury processes"); see also Ahdaya v. United States, 815 F.2d 1373 (10th Cir. 1987) ("there is a clear distinction between a memorandum of the testimony given by a witness before the grand jury and a memorandum of what that person told an investigator outside the grand jury room").

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In the analogous situation where documents obtained independently of the grand jury's subpoena power are later given to the grand jury, courts do not consider the documents to be covered by Rule 6(e). See U.S. Department of Justice, Federal Grand Jury Practice pp. 158-159 (1993) ("Rule 6(e) usually does not govern the disclosure of documents obtained by means independent of the grand jury. This is true even when such documents later have been examined by the grand jury, or made grand jury exhibits, so long as disclosure of the documents does not reveal that they were exhibits."). That approach seems faithful to the language of the Rule. As applied to transcripts of witness interviews, therefore, the grand jury transcript of the reading of the transcript or report of prior testimony should be covered by Rule 6(e), but the original transcript or report of the prior testimony should not be covered by Rule 6(e).[3]

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subpoena) can be considered a matter occurring before the grand jury -- regardless of what subsequently happens before the grand jury. The language of the Rule is not sufficiently elastic to cover testimony not compelled by the grand jury and not given before the grand jury. As I stated above, therefore, the most natural reading of Rule 6(e) as applied to transcripts or reports of non-grand-jury witness interviews is that: (1) the grand jury transcript of the reading of the transcript or report of prior testimony is covered by Rule 6(e); but (2) the original transcript or report of the prior testimony is not covered by Rule 6(e). Reasonable minds certainly can differ on this point, however, so we should discuss this at some length on Friday.[5]

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Recommendations for Action

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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October 11, 1994

CONFIDENTIAL

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
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By Hand

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Subsequent to our meeting on July 25, 1994, Mr. Stein telephoned me to state that the Independent Counsel had determined, quite correctly, I believe, that it would be inappropriate to disclose the transcripts to Congress. The hearings then proceeded in both the Senate and the House.

As I told Mr. Stein in our recent telephone conversation, I do not believe any events have occurred which should cause your office to alter its previous decision. Should it consider doing so, I respectfully request the right to be heard, as we were last July, with respect to the relevant constitutional, legal, and policy considerations.

It is not my purpose here to set forth in detail these considerations, but I think it appropriate to sketch very briefly some of the relevant precedents. Serious constitutional questions are presented whenever the Congress seeks to compel or secure testimony from the President or from executive officials.

It is well settled that Presidential communications are presumptively privileged. Nixon v. Sirica, 487 F.2d 700, 713 (D.C. Cir. 1973). Although the President's executive privilege may, under certain circumstances, be outweighed by the grand jury's "right to every man's evidence," id. at 712, an attempt by Congress to obtain Presidential communications presents serious separation of powers issues. In Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 726 (D.C. Cir. 1974), the United States Court of Appeals for the District of Columbia rejected a Congressional committee's attempt to obtain production of tape recordings of conversations between the President and his aides holding that:

> the need for the tapes premised solely on an asserted power to investigate and inform cannot

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> justify enforcement of the Committee's subpoena . . . There is a clear difference between Congress's legislative tasks and the responsibility of a grand jury, or any institution engaged in like functions.

Id. Because the Congressional request for the President's and First Lady's testimony is similarly premised upon a general and unparticularized need to "investigate and inform," the Congress is not entitled to these materials.

Moreover, Rule 6(e), of the Federal Rules of Criminal Procedure, That rule prohibits, of course, the public disclosure of "matters occurring before the grand jury," except pursuant to court order. The rule against disclosure is so well established that most reported cases do not involve the revelation of grand jury testimony but rather concern exhibits or expert reports prepared for the use of the grand jury. Acknowledging the "'necessarily broad' scope of Rule 6(e)," Senate of the Commonwealth of Puerto Rico v. United States Department of Justice, 823 F.2d 574, 584 (D.C. Cir. 1987), the United States Court of Appeals for the District of Columbia ruled that, for purposes of an FOIA request, "the touchstone is whether disclosure would 'tend to reveal some secret aspect of the grand jury's investigation', such matters as '"the identities of witnesses or jurors, the substance of testimony . . . and the like,"'" id. at 582. The United States Court of Appeals for the

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Third Circuit has similarly held that Rule 6(e) prohibits disclosure of witness interviews conducted outside the grand jury's presence for the purpose of presentation to the grand jury: "No meaningful distinction can be drawn between transcripts and witness interviews conducted outside the grand jury's presence but presented to it." In re Grand Jury Matter, 697 F.2d 511, 512 (3rd Cir. 1982).

[redacted]

Sincerely,

David E. Kendall

David E. Kendall

cc: Mark Stein, Esq.

Renovation file

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105030

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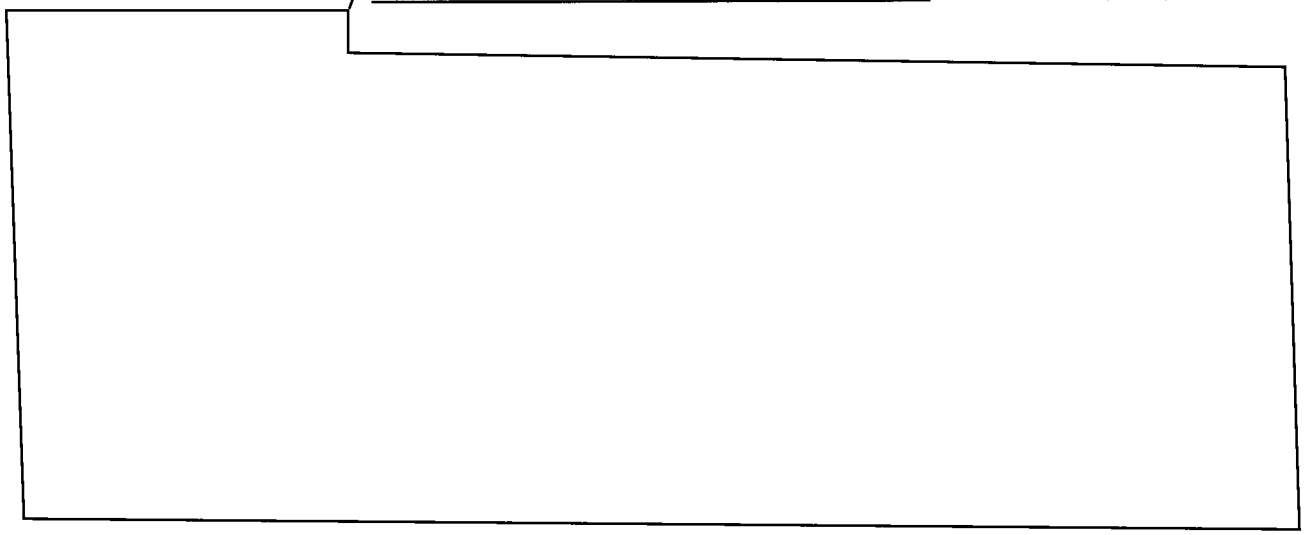
STATEMENTS ON RENOVATION FILE 3/31/96



CHESTON NOTES (7/7):

Decide CL pers'l files to Dl's lwyrs. --
tax + invest, fin'l

BN or CS or ?
Call MW. Finished search. Sent VF 2
[illegible]. Want CL pers'l files out of here
too. (defined as fin'l;tax;investmt

She comes. fairly soon. They look in drawers w/
[illegible] etc. Most in draw lt side.
Review. Mostly MW, bad back. Put in box.

Castleton & MW carry over to residence. } 20 min. at 5:30.
[illegible] in outer office
asked to help carry

Files outside -- which forgot about -- incl
some pers'l VF.

Sent over 1 file re renovation of residence. Returned a few days later. SN told BN came back }
not pers'l file.

* * *

Lock office. Go to funeral next day.

MW or SN told file came back.

Ck w/ DK wh on inventory --

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Maybe said to MW -- no -- stays.
But related renovation file
may've gone.

DK --
1) wh. returned
2) wh. have on list file renovation

SN or MW told BN a file re: WH residence came back next wk.

Wkend in Maine

SHERBURNE NOTES (undated):

Call MW -- finished search
got Foster file take Clinton personal.

Open drawer -- mostly together
told MW to look around

Remember sent over file concerning residence renovation.
* Steve or someone told BN came back.
20 minutes.

Spend weekend in Maine

SENATE DEPOSITION, 7/13/95 (pp. 406-412):

Q In the files, did you check to see whether commingled in particular files were official documents?

A We sent over -- we did check to see whether we were sending over personal records as opposed to White House counsel records. And we made an effort to send over solely personal records. And actually, one record was sent over and returned.

Q Which record was that?

A A record with respect to the residence, a residence file.

Q Who returned it?

A I think Ms. Williams returned it.

Q When did she return it?

A Sometime thereafter.

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Q When thereafter?

A Within a matter of days.

Q Before the documents went to Williams & Connolly?

A I don't know. I don't remember at this point.

Q But you're quite sure that Ms. Williams returned the document?

A No, I'm not quite sure Ms. Williams returned the document. I believe Ms. Williams returned the document. A residence file was returned. There was a file that was returned because we were making an effort to send over solely personal documents which had been used -- yes -- which were in the White House counsel's office because there was an official purpose.

That purpose was now over. Vince Foster was dead. We weren't going to be using those files now so we sent over the personal records to the Clintons and their personal attorneys.

Q Did Ms. Williams tell you who had made the decision to return that document?

A No.

Q Did she say anything about how she came to return it?

A It's just some statement, merely that this concerns the residence. It's not really a private file, although the Clintons live in the residence --

MR. PEDOWITZ: Can we take a break for a minute?

MR. CHERTOFF: Can I hear the answer to the question?

THE WITNESS: And consequently the documents should remain in the White House counsel's office.

BY MR. CHERTOFF:

Q Can you remember any other discussion with Ms. Williams concerning this occasion when she returned the document?

MR. PEDOWITZ: I really would like to talk to my client for a moment and he'll answer the question.

(Witness conferred with counsel.)

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BY MR. CHERTOFF:

Q You've had an opportunity to consult with counsel?

A Yes.

MR. CHERTOFF: Can I get the last question read back?

(The reporter read the record as requested.)

THE WITNESS: As I indicated in my testimony, look back at the record, I'm not certain I even had this discussion with Ms. Williams. I'm not positive. It's either Ms. Williams or Mr. Neuwirth I had a discussion with.

I remember a discussion with regard that a residence file, a file concerning the residence should remain in our office rather than be sent over as part of the Clinton personal files to the Clintons and their new personal attorneys. And I had the discussion either with Ms. Williams or with Mr. Neuwirth. It was one of them. That's what I remember.

BY MR. CHERTOFF:

Q This conversation occurred after the documents had been taken out on the 22nd; correct?

A Yes.

Q And it's very hard to confuse Mr. Neuwirth and Ms. Williams physically, isn't it?

A Of course, but they're both -- they're both involved in the subject matter. The reason Mr. Neuwirth is involved in the subject matter is because Mr. Neuwirth was working on matters concerning the residence. He had been working with Mr. Foster concerning matters of the residence and he was working with Ms. Williams who was involved in matters concerning the residence. And one of them said that file should remain in the White House counsel's office.

Q Who brought the file --

A So why is that so strange, that it's hard to confuse Mr. Neuwirth and -- Ms. Williams and Mr. Neuwirth?

Q Who brought the file back?

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A That I don't remember. Either Ms. Williams or Mr. Neuwirth, even though they're quite distinct, one of them brought the file back.

Q Where did they bring it back from?

A I don't know because I wasn't there when the file was brought back, and I'm not sure it was brought back from the residence or from Ms. Williams's office where this file was. It was a residence file, and we made a determination that it was not a personal file that we should send to the Clintons' personal lawyers.

That's all that happened here. We came across a residence file which was returned to Mr. Foster's office for Mr. Neuwirth to work on in the future, just like Mr. Foster had worked on residence matters with Ms. Williams and Mr. Neuwirth.

Q It was originally a Foster file; right?

A I'm not positive it was in his office. It was either in his office or Ms. Williams's office but it was a matter he worked on.

Q But it originated in Mr. Foster's office?

A I'm not 100 percent positive of that. It may have originated in Mr. Foster's office and gone out and was returned or it may have been in Ms. Williams' office and was put into Mr. Foster's office, but it was a residence file. There was a discussion as to whether this is a personal file that should go to the Clintons and their new personal attorneys and it was determined that it was not a personal file. It was a file that should stay in the White House counsel's office so we could continue to work on that matter.

SENATE HEARING, 8/9/95 (pp. 185-187):

Sen. Bond. And, in fact, after those files did go over to the residence, they must have been reviewed because one file was returned, was it not?

Mr. Nussbaum. What I remember about that Senator, is that at some point a file was returned, but not necessarily from the residence. I am not positive at this point where the file was returned from. It could have been from the residence, or it could have been from Maggie's office, perhaps.

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Sen. Bond. But you think Ms. Williams returned it?

Mr. Nussbaum. I think Ms. Williams returned it or was involved in the return in some fashion. It was file that had to do with the decorators or the ushers or something, something to do with decorating the White House, which was sort of an official thing. And that file came back. I am not positive if it was one of the files that we sent out. I just don't know. I just don't remember at this point.

Sen. Bond. So the file just came back to you out of thin air?

Mr. Nussbaum. Well, somebody -- my best memory is Steve [Neuwirth], who was working on these issues with Foster -- somebody at that point told me that a file had been returned or a file had come back with respect to this issue. That's what I remember about it.

Sen. Bond. Was it your understanding that that file had been in Mr. Foster's office, had left, and was coming back?

Mr. Nussbaum. My memory today is vague on that, on that subject. I just -- I just don't remember. I remember a file came back, and it could have been a file from Mr. Foster's office. I don't say it couldn't have been. It was a file with respect to the residence, with respect to the decoration of the residence.

Sen. Bond. But you do know that the files did go to the Clinton residence?

Mr. Nussbaum. That's correct.

Sen. Bond. If that file had been one of those that had gone up there, obviously somebody had to take some action to send it back.

Mr. Nussbaum. Well, somebody made a judgment, yes, Senator.

Sen. Bond. Somebody made a judgment to send it back.

Mr. Nussbaum. Absolutely. And somebody must have looked at it, made a judgment. If it was that -- I don't know if it was that -- but if it was that, somebody looked at it and made a judgment that this is not a personal file and

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sent it back.

Now, you know, Senator, there has been a lot of talk about this. You know, I understand that no one, at least the President and the First Lady, did not review files at the residence. Let me say to you, Senator, as far as I am concerned, it would have been totally proper for the President or the First Lady, if they wished, to review their personal files. I find nothing wrong or suspicious about that.

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Maggie Williams

OIC INTERVIEW, 10/28/94, p. 16-17, 37-38:

Q Did you find anything else to add to the stack?

A That's all I remember. I don't know if I picked up the file or if I asked him about the file. I asked about the renovation file. I asked Bernie about it, the house, the private quarters renovation file.

Q What did you ask him?

A I said, either, "Is that file in here with the personal ones?" or whatever.

Q And what did he say?

A He said, "That belongs to the office, the counsel's office. That's something that we're working on." But I thought since it was, you know, in their house, but, you know -- so I was just trying to think of stuff that was happening.

* * *

Q Was there a time that you returned a document or documents to the counsel's office or to Bernie Nussbaum, indicating that they didn't belong with the personal papers?

A I don't remember that, but I wouldn't have done that on my own, I think.

Q Do you remember somebody telling you to do that?

A No. I'm just trying to think how I would decide that it wasn't -- shouldn't have been in -- I don't remember returning anything to Bernie. I do remember the discussion about a renovation file.

Q Now, you indicated that occurred on July 22nd?

A Yeah. Right.

Q Was that renovation file already in the pile to be transferred or did you see the renovation file?

A No. I remember asking about it. I don't remember necessarily seeing it in the pile. I didn't look through the pile that was there FOIA(b)(7)(D) the only thing that I can remember, in terms of specifically,

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you know, a file that was marked, you know, that I would remember it, would be the one I picked up, the tax related file. I remember that they said "President," whatever. Everything else I didn't even pay any attention to.

Q You don't recall anything else about a document being returned to the counsel's office by you?

A I don't recall. A document?

Q Or a file.

A I don't recall.

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SENATE DEPOSITION, 7/7/95:

Q And did you say, Bernie, I found something marked "taxes"; what should I do with it?

A I put it on the stack of files. I put it on the stack of files.

Q And then what happened?

A I may -- I remember having a discussion with him about the renovation files. And I said should I take the renovation files, and he said no, that has to do with the White House counsel's office. So I remember that was the only discussion, and then I remember either leaving to get a box or leaving because I took a few more calls.
. . .

SHERBURNE NOTES (undated):

MW asked abt Renovation file ----> asked Bernie
if XXX personal. BN said No,
that is a working file.

SHERBURNE NOTES (undated):

Renovation. Couldn't take seriously b/c
No public funds. Kaki had
decorator's temperament. VF got
overly serious. Well on way to being
resolved at time of death.

WJC & HRC want to decorate
Usher trying to please
Decorator from Ark w/ unlimited
budget

If cover one, need one or two
extras in case grape juice

interviewed by FBI about issue
b/c of note -- exchanged
mat'l w/ Neuwirth

CHESTON NOTES (7/15):

ushers/renov -- SN more involved aft VF death.
MW involved bef.
Hard time worrying about -- pillows, no public $,
Kaki's decorator temperament. VF viewed
overly seriously.

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Well on way to being resolved bef. 7/20.
surfaced again >
VF note.
that unlim'd time & $,
+ usher - Gary - wanted to plse ---> lack [illegible] 2.
+ need xtras. ---> costs

Id'd renov file for BN. Said part of
ongoing work in office.
VF wldve shown her renov. docs. She had copies
some docs.
Dont recall having VF file on renov. or giving
SN file.

Dont recall disc'g file in VF office
aft note.
Talked lot w/ SN re issue. XXXXX
rev'd docs w/ him. Cldve given some
docs

Senate Hearing, 7/26/95, at 219-220

Sen. Dodd. At any point in your conversation with Nussbaum or at any point that day, was there any indication from Mr. Nussbaum that those files included anything but personal files? Very specifically, did the words Whitewater, travel office specifically come up where you were instructed by Mr. Nussbaum to include those files or move those files? Did those words or that discussion at any point occur in your conversation with Mr. Nussbaum regarding the handling of these personal papers?

Ms. Williams. No, it did not. Neither the word "Whitewater" or "travel office files." I do recall, however, that I, I think I asked Mr. Nussbaum -- because the only other thing that was, I guess, quasi-personal that I knew Vince was working on was the renovations of the White House -- and I believe that I asked him specifically about that file, and he had said it was an office file and not a personal one. That's all I remember in terms of conversation.

Steve Neuwirth

FD-302, 5/13/94

Neuwirth said that he has no knowledge of how any documents were removed from Vincent Foster's office with the exception of one file regarding the "White House ushers and White House renovation" matter that was assigned to him from Vincent Foster after Foster's death.

CHESTON NOTES (7/11):

Ushers/renov -- wkg on @ time death. Given file
by BN or MW the following wk. think after Mon. > 1st Lady
or MW asked if SN ld take over proj.
Had till doc prod. -- As was. Yellow env w/ file fldr,
+ papers inside + outside fldr. Was VF's file on renov
+ ushers. Dont recall from 22nd review.

Office Public Integrity -- shown a doc from file. Q re
[illegible] line in note.

Given file aft told he picking up wk. -- by
MW and/or BN. If got from MW, wldve
told BN been asked to do it.
Disc'd w/ BN HRC & MW had asked SN
to pick up some subst wk VF had been doing.

VF, MW + SN v close wkig relat. Wldntve surp'd
if she had a VF file. VF ldve left
file w/MW to look at. MW was very
involved w/ -- pt person on renovation.

* * *

No wk on ushers/renov till got file --
knew 0 about it. XXX MW was
involved in renov. process/press
decisions aft. SN took over proj.
Docs in file show MW @ earlier mtgs when issue
came up.

Didnt rec any other files from VF office.

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SHERBURNE NOTES (undated):

Matter of renovation of WH and ushers office working on [illegible] VF at time he died. Matter given to Neuwirth by BN or MW.

Best guess got it > day note found.

Yellow envelope. File folder inside.
Documents inside and outside
of file folder.
Never disturbed the integrity of this file.
Never got anything else told came from
VF office.

Roy Neel/SN interviewed by PIS at DOJ.
Showed doc from file to investigators.

Either BN or MW told SN being assigned.
BN said First Lady & Maggie wanted Neuwirth to
pick up work.

MW, Neuwirth, VF had very close relationship
MW was person Neuwirth consulted with
Would not have been abnormal for Maggie
to have had file.

Understood MW was point person
handled in residence by usher's
office

* * *

Never worked on it b/4 got renovation
file. MW Heavily on relations w/ press,
how explained > SN got
involved. Could tell MW
involved < SN took over from
documents in file.

Never received any other file from VF
office.

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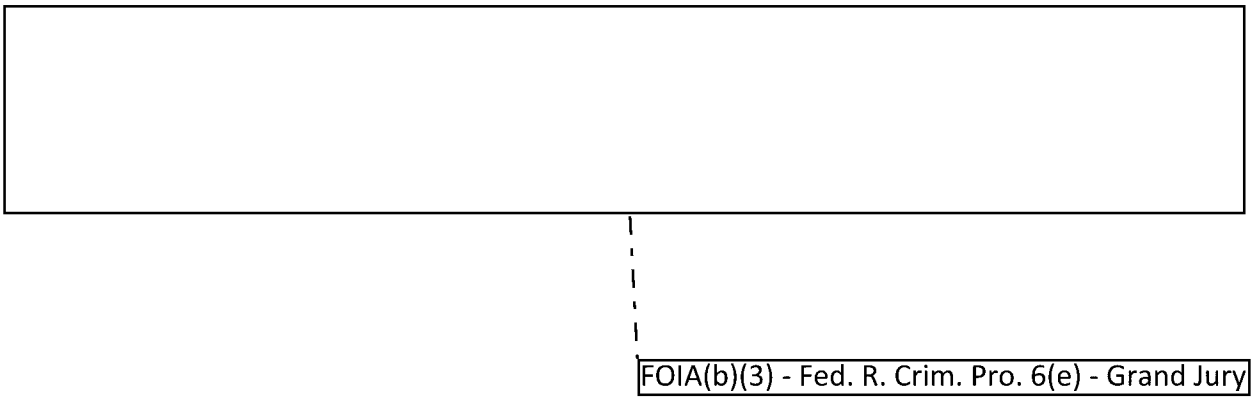
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Memorandum **Office of the Independent Counsel**

To : DIC John Bates Date 4/3/96

From : CI Coy Copeland

Subject: UPS Shipping Number
NY 134-658

On 4/3/96, ANTHONY ADKINSON, Manager, Loss Prevention Department, United Parcel Service (UPS), Louisville, Kentucky, telephone 404-828-6938, telephonically advised UPS Shipping Number NY 134-658 is assigned to the National Counsel for Jewish Women, 53 West 23RD Street, Sixth Floor, New York City, NY 10010.

ADKINSON further advised there is no way UPS can look at one of the company's billing labels and determine to whom a particular package was shipped. This label is printed by the shipper to provide UPS with the billing identity of the shipper and to identify this particular package in the shippers records.

ADKINSON explained the third line of this particular label " G ID# HC" was printed by the shipper and only has meaning to the shipper for internal control.

ADKINSON further explained that the National Counsel for Jewish Women is what UPS classifies as a "Manifest Shipper" due to the large volume of packages shipped daily.

A "Manifest Shipper" provides UPS a computer generated manifest each day listing all of the packages shipped on that day. This manifest lists the shippers control number (in this case HC), the first three digits of the addressees zip code and the total weight of the package. This is all of the information that UPS needs to bill the shipper on a weekly basis. The package being shipped will have a complete address for delivery but there is no record of any kind maintained by UPS showing this delivery address.

ADKINSON assumed the shipper would have records to identify the person or company the shipper has designated "HC" plus a complete address.

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THE WHITE HOUSE

WASHINGTON

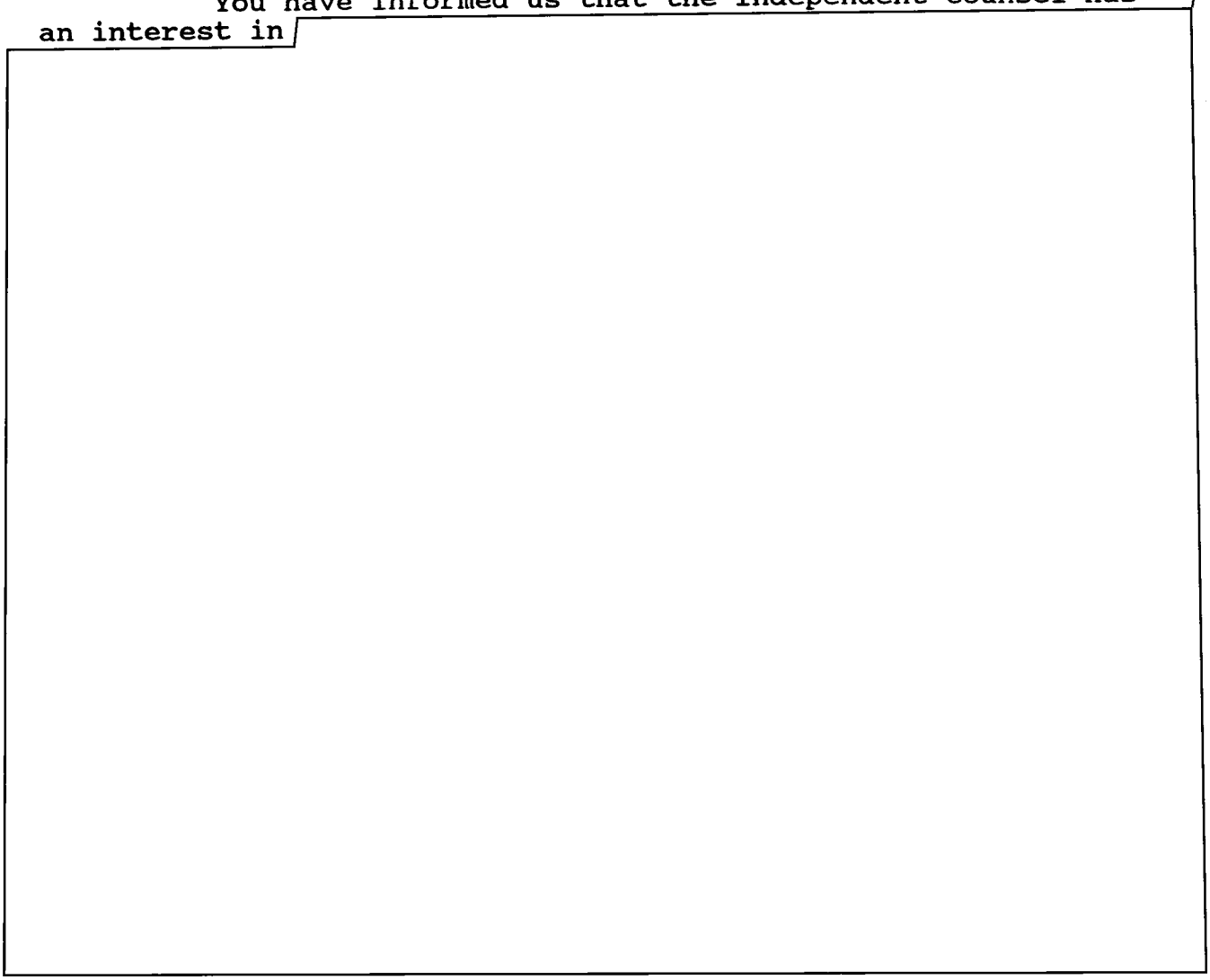
April 3, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

You have informed us that the Independent Counsel has an interest in



As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury.

Please feel free to call me if you have any questions.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosures

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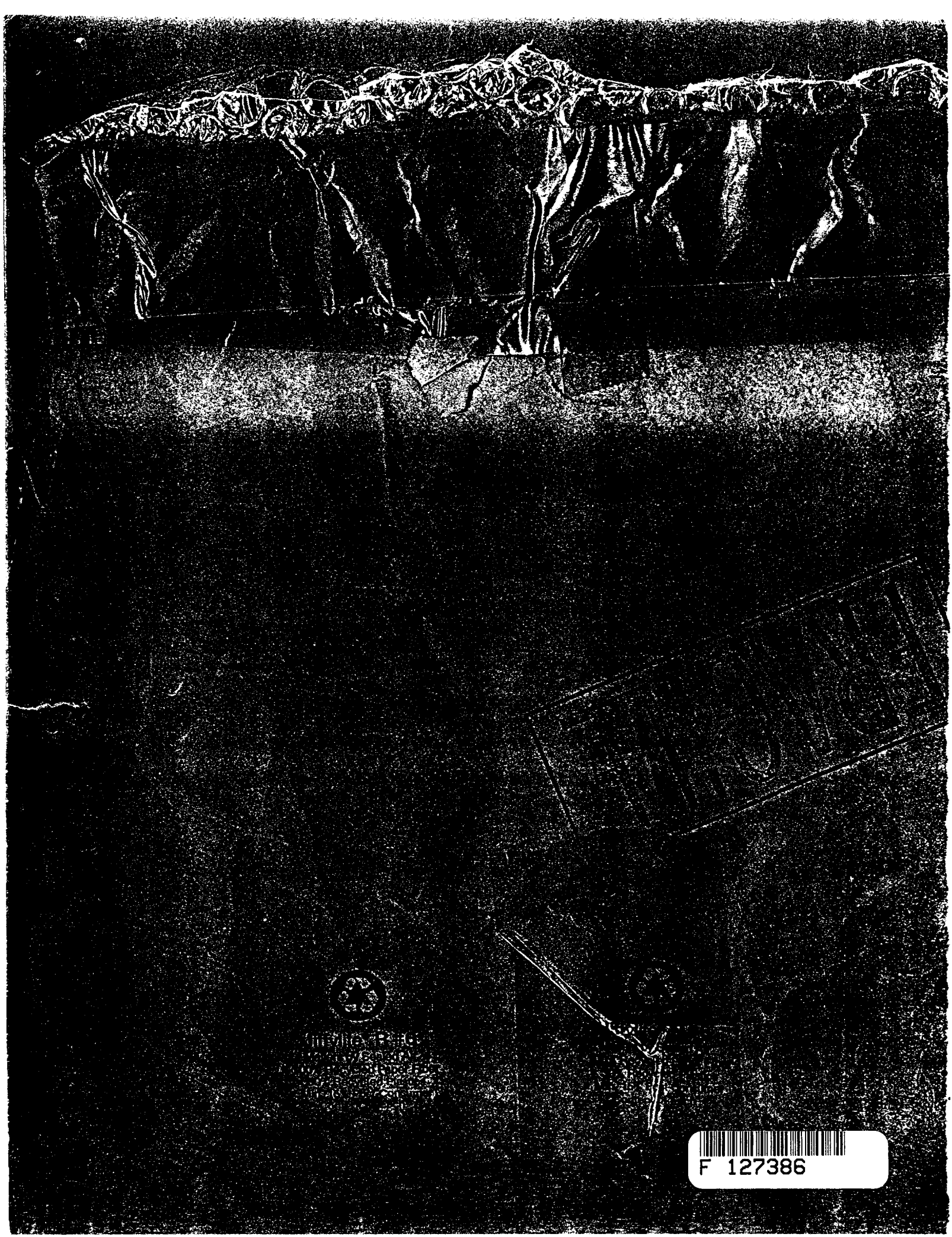
UPS SHIPPER NO.
NY 134-658
ID# HC
F 127385



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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 8, 1996

Ellen R. Joseph, Esq.
Kaye, Scholer, Fierman,
Hays & Handler, LLP
425 Park Avenue
New York, NY 10022-3598

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Via Facsimile: (212) 836-7156

Dear Ms. Joseph:

This will confirm our conversation this morning in which you advised that

Thank you again for your cooperation.

Sincerely,

KENNETH W. STARR
Independent Counsel

By: Steven M. Colloton
Steven M. Colloton
Associate Counsel

enclosure

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

RETURN OF SERVICE (1)

	DATE	PLACE
RECEIVED BY SERVER	5/8/96	Washington, DC.
SERVED	5/8/96	Washington DC via fax to New York (Fed Exl)

SERVED ON (PRINT NAME)

ELLEN R. JOSEPH, ESQ.

SERVED BY (PRINT NAME)	TITLE
NELLE MALLON RUSSELL	STAFF ASSISTANT

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER (2)

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on May 8, 1996 (Date) Nelle Mallon Russell (Signature of Server)

Washington, D.C. (Address of Server)

ADDITIONAL INFORMATION

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

(2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: May 8, 1996

TO: Ellen R. Joseph, Esq.

Company Name: Kaye, Scholer, Fierman, Hays & Handler, LLP

Fax Number: 212-836-7156 Telephone Number: 212-836-8450

FROM: Steven M. Colloton, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

CONFIDENTIALITY NOTE

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: May 8, 1996

TO: Ellen R. Joseph, Esq.

Company Name: Kaye, Scholer, Fierman, Hays & Handler, LLP

Fax Number: 212-836-7156 Telephone Number: 212-836-8450

FROM: Steven M. Colloton, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP
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425 PARK AVENUE
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WRITER'S DIRECT DIAL NUMBER
(212) 836-8450

April 17, 1996

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Special Agent James T. Clemente
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Avenue
Washington, D.C. 20004

Re: [redacted]

Dear Mr. Clemente:

Pursuant to our conversation today, this will confirm that [redacted]

Sincerely,

Ellen R. Joseph

ERJ:ak

cc: [redacted]

MEMORANDUM

TO: John Bates
Steve Colloton

FROM: Brett Kavanaugh

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

RE: Renovation File

DATE: January 21, 1996

Given the discovery of the Rose billing records in the residence in August 1995 by Carolyn Huber, we have new reason to suspect that not all "Clinton personal" documents that were in Vince Foster's office on July 20, 1993, made it to Williams & Connolly on July 27, 1993.

There are two basic issues: (1) were any documents (including Clinton personal documents) removed from Foster's office prior to the Nussbaum search on July 22, 1993; and (2) were any of the Clinton personal documents that were in Foster's office during the search on July 22, 1993, not provided to Williams & Connolly on July 27, 1993.

On the latter issue, we have testimony from Tom Castleton suggesting that the First Lady may have planned to review those documents. One obvious possibility, therefore, is that the First Lady or someone else did review the Foster documents while they were in the residence from July 22, 1993, to July 27, 1993, and removed some of the documents. (That itself would not have been a crime.) Another possibility is that Maggie Williams examined and removed some of the documents in her office or the First Lady's office on July 22, 1993, after she had taken them from Foster's office and before she and Castleton had taken them to the residence.

A relevant mystery [redacted] the Senate hearings is whether Foster's "renovation" file was "returned" to Bernie Nussbaum and/or Steve Neuwirth after it apparently was taken from Foster's office by Maggie Williams on July 22, 1993. If so, that would seem to prove that someone reviewed the documents again after they had been taken from Foster's office. The testimony on the renovation file issue is confusing and/or incomplete, however. Maggie Williams has no recollection at all about it; Nussbaum is very confused and does not appear to be certain of his answers; and [redacted]

The renovation file has become much more interesting to me in recent days for three reasons: (1) Steve C. correctly pointed out some troubling inconsistencies in Nussbaum's Senate testimony on the issue; (2) the discovery of the billing records with Foster's handwriting on them lends new credence to the theory that someone reviewed the Foster documents in the residence in July 1993; and (3) the interview notes provided to me by Sheila Cheston on January 19, 1996,

reveal a fair degree of interest in that file on the part of the Counsel's office. Indeed, Sheila volunteered to me that she "never really figured out the renovation file issue."

In light of all of this, it seems to me that we may want soon to question Neuwirth on the issue. Neuwirth may have more information on it -- and he has shown a willingness to tell the truth (despite an apparent unwillingness to accept the implications of his testimony).

FOIA #56806 (URTS 16304) DocId: 70105030 Page 90

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Screened By: NARA (RD-F) Date: 07-16-2018 DOCID: 70105032

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

Stephen Randall Neuwirth, Associate Counsel to the President, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW in the presence of his attorney, Lawrence B. Pedowitz. Also present during this interview were Associate Special Counsels Carl Stich and Mark Stein. Mr. Neuwirth was advised as to the official identities of the interviewing attorneys and agents present and of the nature of the interview. He then provided the following information:

Prior to his coming to work at The White House in February, 1993 he had been an associate in the New York City Law Firm of Wachtell, Lipton, Rosen, and Katz where his attorney, Lawrence Pedowitz and Bernard Nussbaum are currently employed. Shortly after Bernard Nussbaum was appointed to the position of Counsel to the President, he (Nussbaum) asked Neuwirth to be Associate Counsel to the President.

He first met Vincent Foster in January, 1993, during the transition period following Bill Clinton's election as President. In characterizing his relationship with Foster he said that he had never seen Foster outside of an office environment and did not consider himself to have known Foster personally. He liked Vincent Foster and admired him as a very good lawyer, and enjoyed working with him. He said that while he did not notice any physical changes or changes in Foster's demeanor prior to his death and while he did not think that Foster was depressed or suffering any extraordinary weight loss, he did think that Foster was under stress and trouble. He explained that Foster seemed troubled mainly because of work-related issues such as, congressional and news media criticism of The White House travel office matter and several Wall Street Journal editorials that were critical of Foster as well as two of his friends, Webb Hubbell and Bill Kennedy. He said that Foster's death came as a total shock to him.

Neuwirth said that in his job as Associate Counsel to the President during 1993, he reported to both Bernard Nussbaum and Vincent Foster and was a "generalist" handling a wide range

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Investigation on 5/13/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by H. ALEXIS SUGGS FOIA(b)(7) - (C) Date dictated 5/13/94

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of matters coming to the Counsel's office. As examples, he said that early on in the Clinton Administration he handled a number of lawsuits against The White House and/or President Clinton such as the suit to open the records of White House health care planning session. He described the environment of the Counsel office as being busy, small, and informal with daily morning staff meetings that served to bring all of the Counsel employees up-to-date.

Neuwirth said that he was aware that Foster handled personal matters for the President from time to time. As examples, he said that he can recall Foster handling financial disclosure forms for the President and working to establish a blind trust for both the President and Hillary Clinton. He said, however, that he knew little about these issues and cannot recall anytime when Foster voiced concern about such matters. Neuwirth further advised that he had only a slight awareness of the Whitewater matter and never had anything to do with Whitewater matters, although he does recall the issue surfacing during the 1992 Presidential campaign.

He saw Vincent Foster for the last time on the morning of July 20, 1993 in Bernard Nussbaum's office. Foster, at that time, had asked him to see Jody Greenstone on a matter of White House business, the specifics of which he can not now recall. He telephoned Foster later that day and was told that he was out. He went home late that afternoon without ever hearing from Foster again. During the late evening hours of July 20, 1993 but before midnight, he received a telephone call from Bernard Nussbaum advising him of Foster's death. Nussbaum gave him no instructions and made no requests of him during that conversation. Neuwirth said he believes Nussbaum was phoning him from The White House but he is not certain. Neuwirth said that he does not recall notifying or talking to any other White House personnel that evening and he did not leave his house that evening after being contacted by Nussbaum. He arrived at work on July 21 at approximately 7:30 am and went to the Nussbaum/Foster suite on the 2nd floor of the west wing. He recalls that Betsy Pond, Special Assistant to Nussbaum, was either at her desk or in Foster's office when he arrived. He recalls telling her that it would be better if she were not in Foster's office. He also recalled looking briefly into Foster's office and finding that it looked characteristically neat. He said that he cannot recall observing anything out of the ordinary regarding the appearance of Foster's office. He learned shortly thereafter that Betsy

Pond had "straightened some things" in Foster's office prior to his arrival. He said that he had no reason to believe, however, that Pond had removed anything from Foster's office. Bernard Nussbaum arrived later that morning and Neuwirth recalled learning that the U.S. Park Police had made it known that they wanted to come to The White House (Foster's office) as part of their Foster investigation. He said that he was aware that some brief meetings had taken place that morning involving discussions centering on how the Park Police would be allowed access. He was not a part of these meetings at that point and time. He does recall, however, being part of a discussion centering on the need to seal Foster's office for investigative reasons. He also recalls telephoning a United States Secret Service (USSS) official asking that they send someone to seal Foster's door. A uniformed USSS employee was posted on the Foster office door shortly thereafter and later that evening a lock was installed on the door. During the late morning hours of July 21, Bill Clinton came to the Counsel suite and spoke to the employees there about Vince Foster and his death. Many people came to the Counsel suite throughout the day of July 21. He remembers that the President met with the entire White House staff in the Old Executive Office Building later on July 21 to brief them on Foster's death.

From this point forward in the interview, the majority of Neuwirth's answers to questions began with or included phrases such as: "I can't remember; I have no clear recollection of; I seem to have a sense that; It is possible that; and I cannot be positive, but...". He said that his recollection of events that took place in The White House on July 21 and July 22 are "muddled in (his) mind". He further qualified his answers to questions regarding events of these two days by saying that he could not always recall on what day specific events occurred or where they occurred within The White House.

Neuwirth said that prior to the USSS Uniform Officer being posted in front of Foster's door, there may have been "one or two instances" where people went in and out of Foster's office. For example, he recalled Bernard Nussbaum taking a photograph out of Foster's office and he also recalled Nussbaum sitting on a couch in Foster's office, possibly making a telephone call. He cannot recall, however, anyone going into Foster's office after the USSS officer was posted in front of his door. Neuwirth said that he learned at a later time, although he does not know exactly when, that Bernard Nussbaum, "Maggie"

Williams, and Patsy Thomasson had been in Foster's office during the late evening hours of July 20. He said that Bernard Nussbaum had told him that Maggie Williams was sitting on Vince Foster's couch. He said that he also seems to recall Bernard Nussbaum telling him that nothing was taken out of Foster's office on July 20, although he cannot recall where or when Nussbaum told him this. He has no information indicating that any other individuals were in Foster's office on the evening of July 20 following his death.

Neuwirth said that during the late morning of July 21, he recalls that there was a meeting on the first floor or ground floor of the west wing wherein Park Police Officers briefed a number of White House staffers on their findings regarding the Foster death to that point. He recalled both Bernard Nussbaum and Bill Kennedy leaving the Counsel suite and going down to this meeting.

Regarding the existence of a "suicide note", Neuwirth said that he has heard nothing about such a note wherein Foster said he was committing suicide and/or said why he was committing suicide and he was no personal knowledge of the existence of any such note.

Neuwirth was asked about any knowledge he might have regarding trash being removed from and/or replaced into Vincent Foster's office following his death. He said that he can recall hearing "something about his trash" although he cannot recall when or from whom he heard it. He thinks he heard that Foster's trash was removed from his office by someone on July 20, 1993, taken to Mac McLarty's office, and then brought back to Foster's office at a later time. He does not recall Cliff Sloan's name being mentioned regarding this "trash" incident.

There were several brief meetings held on July 21 and July 22, 1993 wherein concerns were voiced that Vincent Foster's office contained privileged, perhaps classified, and personal material that should be safeguarded to preserve executive privilege. These conversations were spurred by a U.S. Park Police request to conduct investigation in Vincent Foster's office. Neuwirth said that he was present at only one such meeting that took place in the "Chief of Staff's office". He said that also present at this meeting were "Bill Burton, Bruce Lindsey, Bernard Nussbaum, Mac McLarty, and Jack Quinn, Counsel to the Vice President. At one time during this meeting there

were also discussions in the Vice President's office with Jack Quinn in that the Vice President was not at The White House on that day.

At the meeting in the Chief of Staff's office the attendees had similar views regarding Foster's papers being covered by executive privilege although a "range of methods" was discussed regarding means of accommodating the Park Police's desire to "search" Foster's office. There was a general consensus that the fact that Vince Foster was Deputy Counsel to the President, by definition of the position, made a strong argument for considering his office documents privileged. He said that he can recall no mention of potential embarrassment or potential political damage that could come about if certain documents from Foster's office were disclosed. He recalls a general consensus that the Park Police request had to somehow be accommodated but that allowing a traditional search would violate executive privilege. He recalls hearing from Bernard Nussbaum on either July 21 or July 22 that Hillary Clinton was concerned about such access being granted to Foster's office.

Neuwirth said that he also recalls being present at another such meeting in Bernard Nussbaum's office on possibly July 21. He recalls that a Mr. Margolis of the Department of Justice was present at this meeting and strongly advocated that Department of Justice attorneys should be present during any "search" of Foster's office and should be allowed to view documents wherein executive privilege was to be asserted. He recalled representatives of the Park Police being present but he cannot recall many details regarding their input. He does recall Bernard Nussbaum, at one point, talking to Philip Heyman of the Department of Justice, by telephone, about proposed methodology governing the search. It is his understanding that an agreement was reached that day wherein Bernard Nussbaum would go through the documents found in Foster's office with law enforcement and Department of Justice personnel present and he (Nussbaum) would describe items he saw to those present without them seeing. Bernard Nussbaum was to decide which items would fall under executive privilege as he went through the items found. It is Neuwirth's recollection that Bernard Nussbaum was to be in total control under this agreement. Neuwirth later characterized the July 22 inventory/search of Vincent Foster's office as "that exercise".

Neuwirth said that he recalls having conversations with

Betsy Pond, Linda Tripp, Deborah Gorham, and other support employees of The White House Counsel's office regarding proposed interviews of these employees by the Park Police. He recalls telling them to "tell the truth and not worry" because such interviews are to be expected in this type of an investigation. He also recalls "sitting in" on "a couple" of these interviews, although the only one he can recall specifically is Deborah Gorham. He can also not recall on which day these interviews took place.

On July 22, the search of Foster's office took place with numerous people in attendance. Neuwirth said that while he cannot recall their names, he recalls two Park Police investigators, two FBI special agents, and two USSS special agents being present. He also recalls the following individuals being present: Bernard Nussbaum, Cliff Sloan, Bill Burton, David Margolis and Roger Adams of the Department of Justice, and Michael Spafford, representing the Foster family. Bernard Nussbaum was seated behind Foster's desk with Neuwirth, Sloan and Burton standing near the desk. David Margolis was sitting directly in front of the desk and closest to it. Once everyone was in the office Margolis reiterated his previously stated views as to the Department of Justice being allowed to review any documents found during this procedure wherein executive privilege was to be claimed. There was a verbal exchange between Margolis and Nussbaum at that point although Neuwirth said that he cannot recall any of the exact words that either spoke. The "exercise" began with the understanding that it was to be done Nussbaum's way. Some of the documents in the room were thereafter described by Nussbaum with some specificity while others were broadly characterized or described only by categories such as "White House project" or "work papers."

During the 7/22 procedure in Foster's office, Neuwirth was not standing in a location where he could view the documents that Nussbaum was describing. He said that he does not recall taking any notes during this process but does distinctly recall Cliff Sloan taking many notes. When asked what part he had in these proceedings, Neuwirth said that he cannot recall any particulars but "it is possible at some point during the exercise I could have said something to Bernie" in the way of advice regarding certain documents. Neuwirth cannot recall where in Foster's office the search started but he has "a sense" that all items in the office had been characterized by the time the proceedings were finished.

Regarding the methodology of the July 22 proceedings in Foster's office, work files were often left where they were found such as in file cabinets or drawers, after they were verbally characterized by Nussbaum and without the attendees having seen them. Neuwirth says that he can recall that the documents were divided into piles but he cannot recall how each pile was designated. One pile was documents that were deemed to be personal items of Vincent Foster. The items in this pile were given to Mr. Spafford, representing the Foster family, at the end of the proceedings. Neuwirth said that he believes he recalls another pile in which items were placed after investigators had expressed an interest in reviewing them. He does not recall any search of a file cabinet near Deborah Gorham's desk nor does he recall any search of a safe in Bernard Nussbaum's office. He also does not recall any discussion of this cabinet or this safe.

At this point in the interview, Associate Special Counsel Carl Stich showed Steve Neuwirth and his attorney the briefcase that is believed to have been Vincent Foster's that was in his office at the time of the July 22 search. Neuwirth said that he was unable to state whether this was the briefcase he had seen in Foster's office or not. He further stated that he is not sure if he was in Foster's office on July 22 when the contents of Foster's briefcase were removed and described. It is his "understanding" that "something" was taken out of the briefcase during the search. He said that it was sitting on the floor behind Foster's desk but that he has no recollection of the briefcase or specifically its interior, being shown to those present. He cannot recall if Foster's office was locked at the conclusion of the July 22 search when everyone departed.

Neuwirth said that while he can recall no specific "after search" meetings to discuss what was found during the July 22 proceedings, Bernard Nussbaum said that a complete inventory of Foster's office should be done. Nussbaum said that this inventory, to be done by Neuwirth, could wait until July 26, the Monday after the Foster funeral.

Neuwirth said that he and numerous other White House staffers went to Arkansas on July 23 to attend the Foster funeral. He said that they arrived back in Washington very late on July 23 and that he did not go to the office on Saturday or Sunday.

Neuwirth was asked if he was aware of anyone being in

Foster's office during the late evening hours of July 20 following his death. He said that as of July 22, "he had become aware" that Bernard Nussbaum, Cliff Sloan, "Maggie" Williams had been in Foster's office on July 21. He was told that Nussbaum and Sloan were also in Foster's office on July 22 following the search "going through files" to further categorize the files located. He also became aware that Maggie Williams was in Foster's office on July 22. The significance of Williams' presence in Foster's office did not become apparent to him until July 23. During the flight back to Washington, D.C. from Little Rock on July 23, Bob Barnett, an attorney with the law firm of Williams and Connolly, told him that "certain files" from Foster's office were to be "given to (him) by Maggie Williams". Neuwirth was not told and does not know what these "certain files" concerned but it was his understanding that Bob Barnett was the "local" Washington, D.C. attorney representing Bill and Hillary Clinton. He does not know when documents were removed from Foster's office, who removed them, how they got to Maggie Williams, or how they got to Barnett. He has heard, however, since that date, other White House staffers mention certain files in the possession of the Williams and Connolly law firm.

Neuwirth said that on July 26, 1993, he returned to work and went to the Nussbaum/Foster suite at mid morning where he found the door to Foster's office locked. He said that either Bernard Nussbaum or Deborah Gorham had a key and opened the door for him. He began the inventory requested by Nussbaum, by making a list of files by subject. In order to do this, he briefly reviewed each file to ensure that nothing had been inadvertently misfiled. He took a lunch break and returned that afternoon to continue the inventory. He was placing various personal items, such as family photographs, etc., into a box when he saw Foster's briefcase on the floor. He picked up the briefcase and was about to put it into the box with other personal items when several pieces of torn yellow paper fell out: He looked inside, found other torn pieces of yellow paper along with pens, rubberbands, and a small pad of yellow post-it notes at the bottom of the briefcase. He noted handwriting on the torn pieces of yellow paper and decided to piece them together. He went to Bernard Nussbaum's office where there was a table that could be used for this purpose. Upon assembling the pieces he saw what "looked like Vince's handwriting". He immediately asked that Bernard Nussbaum be electronically paged. Nussbaum came in shortly thereafter and saw the note reassembled on the table. Nussbaum telephonically contacted Mac McLarty who was in Chicago at the

time with President Clinton and advised him of what they had found. Shortly thereafter Neuwirth recommended to Nussbaum that appropriate law enforcement authorities be notified as to what they had found. In several discussions that took place that afternoon, it became obvious that with the President and McLarty being in Chicago with a schedule that would not allow them time to discuss this matter, notification of law enforcement would have to wait. Among those present in these discussions with Nussbaum and Neuwirth were Bill Burton, and Mac McLarty, by telephone. A decision was reached that they should also wait until the Foster family could be notified of this find before law enforcement was made aware. Neuwirth watched Nussbaum make a handwritten transcription of the message found on the assembled torn pieces. The transcription and the pieces were then placed in Nussbaum's desk.

Neuwirth said that once he found these torn pieces of paper, his inventory of the Foster office was stopped. He advised, however, that earlier during the day, Deborah Gorham had helped him with some parts of his review and inventory. She had helped him review what was contained on Foster's computer. They found "a very small number of documents that were clearly work related" on the computer. In response to a specific question, Neuwirth said that no poem was found on the computer.

Once Bernard Nussbaum had made a transcript of the torn note, he instructed Neuwirth to look into several legal issues that could pertain to the disclosure/non-disclosure of this note such as, obstruction of justice, executive privilege, etc. These were issues that Nussbaum said had to be considered and discussed before making the note available to law enforcement. Neuwirth said that he'd looked into these issues and later again recommended to Nussbaum that the note be given to law enforcement authorities.

Neuwirth said that he has no knowledge of how any documents were removed from Vincent Foster's office with the exception of one file regarding the "White House ushers and White House renovation" matter that was reassigned to him from Vincent Foster after Foster's death.

The following descriptive data was obtained through observation and interview regarding Neuwirth:

Name: Stephen Randall Neuwirth

Employment:	Associate Counsel to the President, The White House Washington, D.C.
Home Address:	2801 New Mexico Avenue, Apt. 612 Washington, D.C.
Telephone Numbers:	202-456-7903 (work) 202-338-7354 (residence)
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Height:	6'1"
Weight:	175 lbs.
Build:	Slender
Hair:	Brown (receding and curly)
Attorney:	Lawrence B. Pedowitz 51 West 52nd Street New York, NY
Telephone Number:	212-403-1000

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/6/94

On June 2, 1994 a conference call was held between STEPHEN NEUWIRTH, his attorney LAWRENCE B. PEDOWITZ of the law firm WACHTELL, LIPTON, ROSEN and KATZ, CARL STICH of the Office of the Independent Counsel in Washington, D.C. and Special Agent H. ALEXIS SUGGS. The purpose of the conference call was to discuss NEUWIRTH's previous discussions with the Office of Professional Responsibility with regard to the Travel Office matter. All callers were familiar with the nature and purpose of the interview and the identities of all individuals. NEUWIRTH provided the following information during the call:

With regard to what statements VINCE FOSTER, Jr. may have made to NEUWIRTH with regard to the Travel Office matter, NEUWIRTH said that at the present time he did not recall anything specific that he himself had said on that subject. In addition, he had no recollection of FOSTER having said anything specific on the topic other than the item in his note that "the FBI lied" in their report regarding the Travel Office matter. NEUWIRTH said that when he read that allegation as part of the published text of the entire note, he did not know what FOSTER had meant by it. He added that these events occurred a long time ago and he has no present recollection of specifics.

In an attempt to refresh NEUWIRTH's memory, CARL STICH read the following portion of the report to him, "According to STEVE NEUWIRTH, another Associate Counsel, FOSTER was generally disappointed with The White House report. FOSTER thought KENNEDY's version of events and his conversations with the FBI should have been adopted as definitive. FOSTER was also concerned that the conclusions contained in The White House report could cause people to question the motives of well intentioned people and lead to calls for unwarranted investigation."

Asked to comment on the above opinions which were attributed to him, NEUWIRTH said that he spoke with the OPR investigators several months ago and at that time, the subject of the questioning involved events which had happened even more

(telephonically)

Investigation on 6/2/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/6/94

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months previous to that. NEUWIRTH remembered that FOSTER was not happy that BILL KENNEDY had been criticized in the report that implicated several people in The White House, but NEUWIRTH was unable to recall specifically his conclusions that the report "could cause people to question the motives of well intentioned people and lead to calls for unwarranted investigation." He does recall that there was some concern about congressional investigation regarding the Travel Office matter. NEUWIRTH did not recall particular conversations on this matter. He said that he was just aware generally that there were discussions and concerns about congressional hearings on the topic. He said it was "conceivable I might have said something like that".

NEUWIRTH said that at the time he was interviewed by the OPR investigators, he had the sense that his words were being restated and he is not sure how the OPR investigators put his responses down in their notes. He said that FOSTER had characterized the report as unfair and NEUWIRTH can not himself now characterize that with greater specificity. He recalls that engaging outside counsel was being discussed but he cannot recall any details of those discussions. With regard to the first sentence of the portion of the report read to him, namely, that "according to STEVE NEUWIRTH another Associate Counsel, FOSTER was generally disappointed with The White House report", NEUWIRTH said that that sentence was accurate. With regard to the second sentence namely, "FOSTER thought KENNEDY's version of events and his conversations with the FBI should have been adopted as definitive", NEUWIRTH characterized it as sounding a bit too stark for something that he would have said, and cited it as an example of the OPR investigators restating opinions he expressed to them in a slightly different way than he had meant them. With regard to the third sentence, namely, "FOSTER was also concerned that the conclusions contained in The White House report could cause people to question the motives of well intentioned people and lead to calls for unwarranted investigations", NEUWIRTH said that he was not in a position to say that he did not say that, but again, it sounded too stark for him to believe that he had said it.

NEUWIRTH said that the travel report ended up choosing to adopt the FBI's version of early contacts between The White House and the FBI with regard to the Travel Office but that NEUWIRTH himself was never in a position to know the details of why FOSTER was so disappointed in that fact.

Finally, NEUWIRTH said that he had no reason to believe that the statement in FOSTER's list saying that "the FBI lied" had to do with anything other than the Travel Office. On the other hand, NEUWIRTH is unable to confirm that it was, in fact, the Travel Office report that FOSTER was referring to, although NEUWIRTH was not aware of any other report that he could have been referring to.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/94

BERNARD W. NUSSBAUM was interviewed on May 13, 1994 at the Office of the Independent Counsel in Washington, D.C. Also present with MR. NUSSBAUM were attorneys ROBERT B. MAZUR and LAWRENCE B. PEDOWITZ, both of the law firm WACHTEL, LIPTON, ROSEN & KATZ. Attorneys MARK STEIN and CARL STICH represented the Office of the Independent Counsel. After being advised of the identities of the interviewing agents and the nature and purpose of the interview, NUSSBAUM provided the following information:

NUSSBAUM advised that generally speaking the organizational structure of the Counsel's office was himself at the top of the pyramid as Counsel to the President, VINCE FOSTER, JR. as Deputy Counsel under him, and then there were a number of associates such as BETH NOLAN, STEVE NEUWIRTH, CLIFF SLOAN, WILLIAM KENNEDY, CHERYL MILLS and possibly some others he couldn't recall. Under the associates were Assistant Counsels KAY WAYLAND (phonetic), NEIL EGGLESTON, and others he couldn't remember. There were only a few Assistant Counsels. NUSSBAUM advised that he ran it like a law firm. VINCE FOSTER and NUSSBAUM were the Senior Partners. The associates and assistants were the "plodders." They met as a group every morning and assignments were made by NUSSBAUM, sometimes in consultation with FOSTER and the associates themselves. NUSSBAUM would divide work up according to who had expertise to handle particular matters. There were, in addition, two national security staff members, ALAN KRESCO and NEIL WOLAND, who were private attorneys working on counter-intelligence matters. There were also JACK QUINN and TODD CAMPBELL from the Vice-President's office, who sometimes worked with the Counsel's office.

NUSSBAUM advised that DAVID CRAIG LIVINGSTONE worked for WILLIAM KENNEDY, Chief Security Officer in the White House. KENNEDY himself reported to NUSSBAUM and FOSTER directly. NUSSBAUM advised that he did not directly supervise LIVINGSTONE.

NUSSBAUM explained that FOSTER had issues, not people, assigned to him. His issues were primarily those having to do with the First Family, such as the setting up of the Blind Trust,

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the First Family's financial disclosure statements and others. FOSTER was given the First Family issues as a natural result of his knowing the First Family so well. Those issues were related to the Presidency but were also effecting the First Family on a personal level. There was no impropriety in this at all. Nothing FOSTER ever did for the First Family that he knew about was completely personal, even when he handled matters related to personal investments.

NUSSBAUM advised his knowledge of Whitewater has evolved. He was aware that FOSTER had worked on the sale of President and MRS. CLINTON's interest in Whitewater to MCDOUGAL for a nominal amount, and the filing of overdue Whitewater tax returns. NUSSBAUM and FOSTER did not discuss these matters then or later. There was no need to do so since Whitewater was not an important issue at that time. FOSTER was comfortable handling these and other First Family matters and NUSSBAUM was happy that he should do so because that was a set of responsibilities he didn't have to worry about. Whitewater did not get "on the screen" until December, 1993.

NUSSBAUM said that files relating to the First Family personally were turned over to the CLINTON's personal attorney after the death of FOSTER, not because there had been any impropriety occurring, but because they didn't need to be maintained at the White House anymore since those matters were effectively resolved. For instance, the Blind Trust was completed. There was also a heightened sensitivity that wherever possible, personal matters involving the CLINTONS should be handled by their personal attorneys as opposed to White House Counsel. Prior to his death, FOSTER had been working with ROBERT BARNETT, CLINTON's personal attorney, and STEVE NEUWIRTH in order to work towards turning all matters over to BARNETT and transferring them out of the White House Counsel's office.

NUSSBAUM explained that it is difficult to describe to someone who has not been through it how very, very busy they all were. A tax return for the President was considered a relatively minor thing. FOSTER himself never expressed any dismay about any issue that he was working on, whether it was Whitewater or any other personal matters for the First Family. The Travel Office was different. FOSTER did express dismay about that.

Asked how files were organized, NUSSBAUM explained that when you walk into the White House after inauguration, what you find is a building very much like a completely empty law office; there are no files, there are no people, but the phones are starting to ring. They had to create the Office of Counsel from scratch, with a very limited budget with which to do so. He explained that the White House budget is always artificially low for political reasons. There is an outmoded telephone system and it was some time before they finally started getting organized. Right away, they had to do judicial appointments, had to handle the Travel Office problem and various other subject matter files. NUSSBAUM remembers that there was a "too high" by secretary DEBORAH GORHAM's desk which held FOSTER's files. Those and the files in his office were the only places NUSSBAUM knew FOSTER to keep his papers. NUSSBAUM himself used the one in the back of the reception area. In addition, FOSTER had access to the two safes in NUSSBAUM's office. One was not used much at all and the other one had an FBI report on the [redacted] in it. FOIA(b)(7) - (C) KENNEDY kept most of the security materials in safes in his office area. NUSSBAUM did not know whether FOSTER stored anything in KENNEDY's safes or not. NUSSBAUM could not recall anything in particular, such as personal First Family business, that FOSTER was storing in the safe in his (NUSSBAUM's) office.

When asked what type of work FOSTER would automatically handle, NUSSBAUM replied that it evolved over time. In the beginning, he handled First Family matters and dealt with HILLARY RODHAM CLINTON a great deal. He worked on setting up the White House Counsel's office and in dealing with Secret Service. NUSSBAUM himself would deal with the President. Asked why he himself got the position of General Counsel and not FOSTER, NUSSBAUM speculated that people perceived he had a broader experience, he was older, he had "played on a bigger stage for a longer period." FOSTER had never been out of Little Rock and also FOSTER did not seem anxious for the job.

NUSSBAUM advised that he and FOSTER met in December of 1992, that FOSTER was actually hired as Deputy Counsel before he himself was appointed to be Counsel to the President. NUSSBAUM described their relationship as a very good one and explained that they became quite close. In describing FOSTER, NUSSBAUM said that he was a remarkable person. He urged the interviewing individuals to read the commencement speech that FOSTER made at his law school graduation in May of 1993 to catch the essence of

the man. He said FOSTER was highly intelligent, had a strong sense of integrity, was a very hard worker, was not very politically oriented, but a very good lawyer. He characterized him as very strong; like the "Rock of Gibraltar."

The last few weeks before his death, however, FOSTER was noticeably down and blue about the Travel Office situation. The White House had fired a number of people and FOSTER and KENNEDY had been trying to do the right thing in calling the FBI. The press proceeded to be highly critical. The White House received an enormous amount of criticism for what had gone on and that bothered FOSTER a great deal. In May, 1993, JOHN PODESTA and TODD STEARN did a management review report which was critical of the Travel Office handling and on July 2, 1993, White House Chief of Staff MACK MCLARTY and Congressman LEON PANETTA issued a formal reprimand to KENNEDY, DAVID WATKINS, KATHERINE CORNELIUS and a fourth individual NUSSBAUM could not recall. NUSSBAUM said it was not fair because as circumstances fell out, nobody should have been reprimanded. VINCE FOSTER himself was depressed at the unfairness, at the press and at the White House in general. He feared there would be calls for numerous subsequent DOJ and Congressional investigations looking into every action and reaction they had done. NUSSBAUM knew that FOSTER was concerned about all the things that he wrote in the note that was subsequently found on July 26, 1993 which had been torn up in his briefcase. FOSTER was concerned that the White House have proper representation and wanted outside law firms to be hired in order to help the Counsel's office deal with some of these matters.

NUSSBAUM said that especially the last two weeks before he died, FOSTER's tone of voice changed and he just was not functioning the way he normally did. FOSTER "wasn't participating." Normally, NUSSBAUM could depend on him to take the initiative on things and follow through with energy and active judgment. NUSSBAUM said, "I needed him and he just wasn't there." It had been a very busy and difficult month with the nomination process for RUTH BADER-GINZBURG; the firing of former Director of the FBI, WILLIAM SESSIONS, and the subsequent search for a successor; then preparing LOUIS FREEH for nomination. NUSSBAUM said it was a very frustrating time. At the end of June, NUSSBAUM needed FOSTER to be functioning in top form and he appeared to be failing. FOSTER was withdrawing and not taking the initiative with topics and work responsibilities.

FOSTER appeared afraid that outside influences were going to try to hurt the First Lady and the President. NUSSBAUM told him to take time off because he just wasn't functioning well. FOSTER kept blaming himself for things that were going wrong. NUSSBAUM was of the opinion that he was not just concerned for his own reputation for integrity, but he also had begun to question his ability to protect the First Lady and the President.

NUSSBAUM speculated that people FOSTER may have considered confidantes would have been KENNEDY, MARSHA SCOTT, WEBB HUBBELL and LISA FOSTER.

FOSTER was not used to editorials about him in The Wall Street Journal. NUSSBAUM believes he was the last person at the White House on July 20, 1993 to talk to FOSTER.

Asked to proceed through his recollections of the day July 20, 1993, NUSSBAUM began that that was the day that LOUIS FREEH was announced to be the future Director of the FBI. It was a very hectic morning. NUSSBAUM was not sure whether there had been a 9:00 a.m. staff meeting that morning. He remembers FOSTER as having been very quiet that morning. He asked him if he had had a nice weekend, knowing he had gone away. FOSTER merely said "yes." FREEH and his family came to NUSSBAUM's office where they were re-introduced to FOSTER. Then they all went out into the Rose Garden.

NUSSBAUM was in a very happy, upbeat mood because the nomination process for LOUIS FREEH had gone very well and the ceremony in the Rose Garden had been very positive. The FBI Director was thought by many to be the single most important appointment of all appointments they had done and early returns indicated that public reaction was wonderful. NUSSBAUM felt like it was all coming together. NUSSBAUM recalled that he himself sat in the front row during the ceremony. VINCE FOSTER had been standing off to the side. He believes they walked back to the Counsel's office together. NUSSBAUM went into his office and turned on the television which was showing both the BADER-GINZBURG hearings that were starting that day and the Rose Garden ceremony for FREEH. Both events showed "successes." GINZBURG sounded wonderful and NUSSBAUM was very proud sitting there watching the television, flipping back and forth between the two events. His secretary, BETSY POND, remarked that he was acting

like he had just won a big trial and that's indeed the way he felt.

FOSTER came into the office and asked "what are you watching?" and he remarked to FOSTER that "it's two home runs, FOSTER. Right over the fence." FOSTER replied, "Oh, yeah. I guess you're right" and gave a small, little smile. NUSSBAUM advised that to this day he does not believe that FOSTER intended to commit suicide at that moment. He does not think that FOSTER was telling him goodbye. NUSSBAUM believes FOSTER went out and an overwhelming depression, chemical in nature, took over and he killed himself.

When NUSSBAUM returned from having lunch, he was looking for FOSTER because he wanted to chat with him. He asked for FOSTER every hour or so and finally convinced himself that he had gone home. NUSSBAUM really wanted to talk with him just to talk with him, not about any particular issue, and so he had FOSTER paged late in the day. He didn't get any response and so he went home. They were all planning on leaving early that day. NUSSBAUM went to dinner with friends and approximately 8:30 or 9:00 p.m., he was called by MARK GEARAN who gave him the news of FOSTER's death. NUSSBAUM was stunned and very upset.

NUSSBAUM told his wife what had occurred and left her at the restaurant. He believes he took a cab to the White House. He found everybody on the ground level, first floor, in the -- residence. They were waiting for the President who was, at that time, appearing on the LARRY KING show. NUSSBAUM saw MARK GEARAN there. He does not recall seeing KENNEDY or LIVINGSTONE. He somehow was aware that LIVINGSTONE had come back to the White House after awhile after having identified FOSTER's body. MAGGIE WILLIAMS was there. HILLARY CLINTON was in Arkansas at the time. There were many people there that NUSSBAUM could not recall. The President came down after a while and he and MACK MCLARTY were going to go to the FOSTERS' residence. NUSSBAUM chose not to go to the FOSTERS' residence that evening. Instead, he went to his office.

NUSSBAUM does not recall anybody mentioning any kind of note. It occurred to him that it would be a good idea to look for a note. At approximately 10:00 p.m., he went up to his office, entered FOSTER's office and saw PATSY THOMASSON sitting at FOSTER's desk. MAGGIE WILLIAMS was sitting on the couch

crying. NUSSBAUM stood by FOSTER's desk and looked at the top of the desk. THOMASSON opened a few drawers. They were looking at surfaces. They were looking for something noticeable; not a briefcase and not into anything very deeply. MAGGIE WILLIAMS was "a basketcase." She was not looking for anything.

NUSSBAUM estimates that he was there approximately ten minutes and all three individuals left at the same time. They did not take anything with them. They had not found anything which, on its face, helped to explain FOSTER's death.

NUSSBAUM explained that nobody considered FOSTER's office a crime scene and they never gave any thought to securing FOSTER's office. NUSSBAUM himself was there in his own office that evening for approximately one and one-half hours alone. At one point he saw SYLVIA MATHEWS - not in the Counsel's suite itself, but at the threshold. He thinks he may have also seen GENE SPERLING. SYLVIA suggested getting the trash from the office. Later, somebody, NUSSBAUM could not remember who, brought the trash over to NUSSBAUM when he was standing downstairs. He told them to just leave it in ROY NEEL's office which was nearby. NUSSBAUM advised that he does not remember seeing HOWARD PASTER.

NUSSBAUM spent the time at the White House that night making telephone calls in his office. He was calling people on his staff, not wanting them to get the sad news over the television or radio. His door was open and when he left, he locked up the entire suite, setting the alarm before he left. He went downstairs where there was a gathering of people near NEEL's office. The meeting was not a meeting of substance; people were grieving.

NUSSBAUM advised that at the time there was no conversation or consideration about needing working documents from FOSTER's office which should be removed at that time. NUSSBAUM left the White House and went home.

With regard to personal pieces of mail that FOSTER may have mailed in the days just before his death, FOSTER's secretary, GORHAM, told him that FOSTER had mailed at least one piece of mail to his mother in Arkansas shortly before his death. He learned later that it was just "family stuff." He didn't

recall whether he found out about this on July 21st, 22nd, or later.

NUSSBAUM reiterated that on the night of the 20th, he has a vague recollection of seeing CRAIG LIVINGSTONE, but he could be wrong. He knows that LIVINGSTONE had come back to the White House after identifying FOSTER's body. NUSSBAUM doesn't know of any instructions that were given to LIVINGSTONE. If any were given, it would have been BILL KENNEDY who would have done so.

With regard to events on July 21, 1993, NUSSBAUM got a telephone call from LISA FOSTER at approximately 7:00 a.m. She was calm. She was looking for some explanation as to why this would have occurred and she asked NUSSBAUM, "did you fire VINCE yesterday?" The answer, of course, was no, he had not.

NUSSBAUM arrived at the office and went into his own office. He recalls that it was a difficult and very tricky day, with an enormous number of things going on. The press calls to find out what had happened and what was going to happen were constant. Many people did not know yet about FOSTER's death. It was a sad thing and there was no reason to believe there was a connection to anything going on at the White House at that time. Whitewater was unknown. There had been a newspaper article about it a year before during the campaign, but it was not a current issue. FOSTER was depressed about the Travel Office situation. NUSSBAUM admitted to feeling a little bit guilty, thinking that if he had hired outside attorneys as FOSTER had wanted, perhaps it would have made FOSTER feel better and his death would not have occurred.

Shortly after NUSSBAUM arrived at his office, BETSY POND admitted that she had gone into FOSTER's office and straightened papers "to make it neat." She acted as though she were generally in shock. NUSSBAUM told her to stay out of FOSTER's office. There was a staff meeting which was more like a wake than a staff meeting. NUSSBAUM recalls talking to CLIFF SLOAN and STEVEN NEUWIRTH about sealing the office. They brought the subject up. NUSSBAUM thought at the time, why not? He realized that no matter what he did, it would be second guessed. It was too late to actually seal the office. Why seal it at all? It was not a crime scene. But then he considered, what's the right thing to do and decided to seal it. Nobody asked him to do

it. They called the Secret Service, a guard was put on the door and then at approximately 10:00 p.m., a lock was put on. The following day, he received two keys; one for the Secret Service and another one for himself. He does not recall if DEBORAH GORHAM received a key or not.

Sometime between 9:00 and 10:00 a.m., there was a meeting at DAVID WATKINS' office with the Park Police there. NUSSBAUM took KENNEDY with him. STEPHANOPOULOS was there, perhaps the Secret Service and perhaps BILL BURTON. At the meeting, the Park Police briefed the group as to what had happened so far regarding FOSTER's death. The Park Police said at that time that they wanted to interview people and take a look at FOSTER's office. Meanwhile, the President came up to the Counsel's office and further efforts were made to notify the entire White House staff of what had happened.

At one point during the President's visit to the Counsel's office, NUSSBAUM said he told the Secret Service person standing there (there was no lock on the door at that time), that he was going into FOSTER's office to get a photograph. The photograph he got was the famous kindergarten picture of the President and MCLARTY. The President stayed in NUSSBAUM's office for a little while. It was a very emotional visit. Later, there was a meeting at 2:00 p.m. in the auditorium. MCLARTY, NUSSBAUM and the President spoke to the staff with hastily prepared notes which captured the grief of the moment.

NUSSBAUM advised that it finally became clear to him and others that this death was going to be a very big deal and that they needed to get somebody to coordinate the whole investigation so that it was done right and so that it would only be done once. NUSSBAUM explained that he had the sense that multiple agencies were coming at the White House and something had to be done to put somebody in charge. NUSSBAUM spoke to BURTON about the problems, but he himself was calling the shots. NUSSBAUM decided to call either JANET RENO or PHIL HEYMAN. They agreed to take the lead and to coordinate the investigation but not to take over from the Park Police.

NUSSBAUM had a meeting that afternoon (July 21, 1993) with DAVID MARGOLIS and ROGER ADAMS from Department of Justice to discuss the matter. NUSSBAUM believes the Park Police were there also. Everybody was very cooperative and sympathetic. They

wanted to interview people regarding FOSTER's state of mind and look at the office to see if there was a note - a suicide note, a blackmail note, something which would explain why FOSTER had taken his life. They were looking to see if anything there confirmed that he committed suicide. Nobody disputed what they were looking for. Everybody understood that they were looking for something which was relatively self-explanatory on its face.

It was late in the afternoon and everybody agreed to do the actual search the following day. They had yet to give notice to the staff that they would be interviewed and let them know that White House Counsel would be present. There were no objections to this. Everybody agreed and everybody agreed that it should be all done the next morning.

With regard to the discussions on July 21 and July 22, 1993 with MARGOLIS and ADAMS, it was understood that the things to be found in FOSTER's office pertained to very sensitive matters. It was like a working lawyer's office. There were lists of nominees. NUSSBAUM did not know all that was in there, but there was "a queasiness" about letting people just walk into the office and read what was there. NUSSBAUM advised that nobody asked for unfettered access to the office, nor did they ask for a specific procedure. There were no fights between the parties. There was a good faith effort to decide how to handle the situation.

With regard to the agreement on July 21, 1993, NUSSBAUM does not remember agreeing to show documents to individuals from the Department of Justice. There were levels of issues, NUSSBAUM explained: clearance issues; privilege issues, both attorney-client privilege and executive privilege. These were unclear things.

On the other hand, NUSSBAUM did not want to say that nobody could go into the office and look at things. That would have made the Department of Justice unhappy and it also would not have looked good. NUSSBAUM believes that he thought up a "brilliant compromise." NUSSBAUM himself would conduct the search in MARGOLIS' and ADAMS' presence.

He discussed the procedure with SLOAN, NEUWIRTH, BURTON and MCLARTY, JACK QUINN and probably BRUCE LINDSEY. These were all people who wanted to do the right thing but were uneasy about

access. People were preoccupied with their grief. Whitewater never came up as a topic of concern. Nobody checked with HILLARY CLINTON or the President on the issue to NUSSBAUM's knowledge. Nobody intimated that there was anything explosive in FOSTER's office which would be found during a search and should be shielded from law enforcement seeing it. From approximately May 1993 on forward to the time of his death, FOSTER told NUSSBAUM everything that he was working on. NUSSBAUM believes he would have known if there was any explosive issue that FOSTER had been working on.

NUSSBAUM advised that he does not remember speaking to HEYMAN. At some point, he said MARGOLIS had him talk to HEYMAN on the phone. He does not recall HEYMAN saying anything about "making a mistake" or threatening to pull Department of Justice people out of the procedure. He also does not recall telling HEYMAN that he would call him back. He also does not recall suggesting physically obstructing portions of the document but at the same time showing it to Department of Justice individuals. NUSSBAUM concluded that he knew Department of Justice individuals were not happy but felt that it was an adequate compromise that they had reached.

Describing the atmosphere on the day that the search took place, NUSSBAUM said there was not a lot of resistance to how things were being conducted. Occasionally, he showed them something and he created three piles of materials, saying with one of them "you might want to take a look at this." NUSSBAUM stressed that nobody ever asked to see anything that NUSSBAUM said they could not see. The point of the procedure was to identify what items were in the office in the presence of law enforcement. It was not intended to foreclose anybody's ability to look at anything. It was intended to foreclose their ability to be the first to look at it. The three piles were identified as follows: the first was documents that they specifically asked to see. It was a couple of inches thick and it had such things as telephone logs and calendars. SLOAN took custody of these. The second one was made up of FOSTER's personal documents. It was fairly large, perhaps filled a box. The third was White House documents, many of which stayed in the drawers that they were originally located in.

The whole point of the thing was to satisfy everybody that there was no note; no obvious reason explaining FOSTER's

death. NUSSBAUM said he had a vague recollection; he sort of remembers maybe MARGOLIS said something about "why don't you just mail us results?" He speculated that such a remark would have had a kidding edge to it. NUSSBAUM denied saying at any time that they were just doing it "for show." (A brief discussion between NUSSBAUM and interviewing agents followed concerning the difference between the phrase "to show" and "for show" and the possibility that perhaps MARGOLIS had misheard a comment NUSSBAUM made.)

NUSSBAUM stated that it was not clear that the Department of Justice and Park Police were really unhappy. Certainly, if they had had their choice, they would have looked at everything personally.

With regard to whether or not there were black binders located in FOSTER's office, NUSSBAUM replied "yes." The binders held a list of people who might be nominees for highly qualified positions, such as the Supreme Court. These binders were considered highly confidential. NUSSBAUM said he had a set of them in his office also.

With regard to FOSTER's briefcase, NUSSBAUM said that when he emptied it during the search, he was standing at FOSTER's desk. He pulled out the contents and found them to be files concerning the Travel Office, FOSTER's notebook and a copy of the Management Review Report on the Travel Office matter. These items stayed in the Counsel's office. NUSSBAUM put the briefcase against the back wall behind the desk. He felt, perhaps glanced into it, but felt that it was empty. He does not remember picking it up; he doesn't remember seeing anything inside it. It is his belief that the torn up note was in there then, he just didn't see it. The pieces of note being there is "not inconsistent" with what he remembers.

In all, after the search was conducted, a box was given to CLINTON's personal attorney (FNU) SPAFFORD, and a redwell for SLOAN filled with items that law enforcement authorities wished to see at a later date. NUSSBAUM determined that the CLINTONS' personal files, such as tax return and investment information, should be transferred to the CLINTONS' personal attorney. He called MAGGIE WILLIAMS and told her to come get CLINTON's personal files. This was at approximately 5:00 p.m. on July 22, 1993. These items were located in the cabinet on the left side

of the room and he said to her "you take those." He pulled them out and boxed them. TOM CASTLETON helped MAGGIE WILLIAMS carry the items to the residence portion of the White House on July 22, 1993. No other documents were put into that box thereafter. The box included the "famous Whitewater file" and was later picked up by BARNETT on July 27, 1993. To NUSSBAUM's knowledge, there were no other CLINTON personal files left in FOSTER's office as of that time.

The purpose of NEUWIRTH's inventory on July 26, 1993 was to identify what other documents were in FOSTER's office that needed to be worked on so they could be distributed to appropriate individuals for continuing action. NUSSBAUM took the Travel Office materials to his own office. He gave Usher and Residence and Redecoration Contributor issues to STEVE NEUWIRTH. BETH NOLAN received Ethics issues at a slightly later date. CLIFF SLOAN received Constitution, Legal and Privilege issues to work on. Other matters remained in FOSTER's office later to be boxed up and the boxes just sat there.

The evening of July 22, 1993, FOSTER's office was locked up at the close of the day. On Friday, most everybody was at the funeral in Little Rock and as far as NUSSBAUM knows, there was nobody in on the weekend.

On Monday, July 26, 1993, NUSSBAUM doesn't remember who opened the office. It was open when he got there in the morning. NUSSBAUM advised that the point of the inventory he asked NEUWIRTH to do was to determine what papers remained in FOSTER's office. Neither the search on July 22, 1993, nor the inventory on July 26, 1993, had been done primarily for law enforcement purposes and he stressed that even though MARGOLIS and HEYMAN subsequently appeared to be very angry about how things had been conducted, the fact remains that nobody from the Department of Justice ever asked for anything, either at the time of the search or subsequently that they have not seen. Even after the torn up note was found, there were no requests for the item. NUSSBAUM also does not remember anybody asking about looking into any areas outside of FOSTER's office. NUSSBAUM himself checked the only safe that was ever used in his own office to see if FOSTER had placed anything in the safe that would be relevant. He did not find anything. He forgot about the filing cabinet outside of his office and in front of DEBORAH GORHAM's desk and so did not search that.

NUSSBAUM speculated with regard to the torn up note that LISA FOSTER probably has the best theory as to where that came from. She had told VINCE FOSTER to write down what was bothering him. He is the kind of person who makes lists. He thinks that the torn up note had been written a week or so prior to his death and then torn up and thrown in the briefcase. NUSSBAUM was aware that FOSTER had consulted a lawyer approximately a week before his death (he understood that lawyer to be JIM HAMILTON) regarding possible upcoming hearings on the Travel Office matter.

On the afternoon of July 26, 1993, NUSSBAUM remembers walking into his office and NEUWIRTH was piecing together a note. He remembers doing three things then. He went to MACK MCLARTY's office, forgetting he was in Chicago, and so instead told BILL BURTON of the note. Secondly, he went into HILLARY CLINTON's office. She was there and he told her "we found something." HILLARY got up and the two of them went into NUSSBAUM's office and looked at the note. He recalled her saying "I cannot deal with this. . . . Do whatever is right." She was shocked by the whole thing and said essentially "you deal with it" and she turned around and walked out. Thirdly, he reached MCLARTY and GERGEN in Chicago. He described the contents of the note. He did not talk to President CLINTON. He called JIM HAMILTON and HAMILTON told NUSSBAUM that LISA FOSTER was coming to Washington, D.C. the next day. He then decided that they would turn over the note to law enforcement but not until the President and LISA FOSTER had seen it first. NUSSBAUM did not want them to see it for the first time on the news. NUSSBAUM said that if the note had been found on July 22, 1993, it would have been turned over to law enforcement right away, but that was not the case as of July 26, 1993 and it seemed prudent to wait the extra day.

NUSSBAUM explained that he copied the text of the note onto another piece of paper and stuck it, along with the pieces of paper into an envelope and put it in the safe. He does not remember if he told DEBORAH GORHAM not to touch it or not to read it. It was a letter-sized envelope, holding a single piece of paper with the transcription on it separate from the pieces of torn up note. He had decided not to try to tape the note pieces together. He does not remember handling it again until July 27, 1993 when he pulled it out to show to LISA and JIM HAMILTON. He does not think anybody else saw it. He said he may have put it

in a drawer instead of the safe and he gave LISA FOSTER a transcription of the note, but not the pieces of note itself.

NUSSBAUM does not remember if NEUWIRTH had the briefcase with him when he came into his office. He does not think anything else was in the briefcase but he did not look into it.

NUSSBAUM noted that President CLINTON did not want to deal with the note either. NUSSBAUM called either JANET RENO or PHIL HEYMAN before even talking with President CLINTON. JANET RENO was irritated but then calmed down quickly. They both came over to the White House. PHIL HEYMAN called the Park Police to come pick up the note. When asked if he recalls the note at one point dropping and scattering, NUSSBAUM did not recall such a happening.

With regard to a complaint by COLLIER regarding the course of the investigation and the treatment of the Park Police, NUSSBAUM retorted that after the note had been found, everybody was afraid that they would be criticized for not having found the note during the inventory. NUSSBAUM knew there had been a conversation between COLLIER and someone and subsequently JANET RENO initiated a couple of investigations. PHIL HEYMAN now is touchy as to appearances and doesn't want anybody from the White House to sit in on any interviews.

On either July 21st or July 22, 1993, NUSSBAUM could not recall which date, he remembers that MARGOLIS and ADAMS were kept waiting for a fairly substantial period of time. He explains that this was because NUSSBAUM was having to do "a million things," including speaking to MCLARTY about what they were doing and why they were doing it. MCLARTY was keeping in touch with the President as a matter of course. He does not know if the President or HILLARY were consulted as to what was going to be done with the investigation and with FOSTER's office. He knows he himself did not talk to either of those individuals. NUSSBAUM also stated that no one attempted to stop him from conducting things the way he was doing it.

NUSSBAUM was shown a production of materials from BARNETT, former personal attorney to the CLINTONS, that was allegedly papers from FOSTER's office. NUSSBAUM could not remember specific documents but thought that those were, indeed,

the documents that were given to SPAFFORD at the time of the search. The further he proceeded into the production, the more sure he was that those were, indeed, the documents; especially when he began to find tax returns at the bottom of the pile.

With regard to the rumors of an affair between HILLARY CLINTON and FOSTER, he said that he was aware that there were rumors and that he and FOSTER had talked about smears on their character. In his opinion, there was no substance to the rumors; certainly not during the time period that they worked together at the White House.

NUSSBAUM provided the following personal information:

Name:	Bernard W. Nussbaum
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)
SSAN:	
Residence Address:	575 Park Avenue New York, New York (212) 751-9232
	21 Brite Avenue Scarsdale, New York (914) 723-8315
Business Address:	Wachtell, Lipton, Rosen & Katz 51 West 52nd Street New York, New York 10019-6618 (212) 403-1000
Position (as of 7/20/93):	Counsel to the President

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/12/94

BERNARD W. NUSSBAUM former White House Counsel appeared at the Office of the Independent Counsel in Washington, D.C. for a second "non-6(e)" interview regarding the death of VINCE FOSTER, Jr. and the handling of FOSTER's papers the evening of July 21 and other related events. NUSSBAUM appeared with attorney PETER L. ZIMROTH of ARNOLD & PORTER, 399 Park Avenue, New York, New York 10012-4690, telephone (212) 715-1010; and LAWRENCE B. PEDOWITZ of WACHTELL, LIPTON, ROSEN & KATZ, 51 West 52nd Street, New York, New York 10019-6618, telephone (212) 403-1000. Also present during the interview representing the Office of the Independent Counsel were attorneys CARL STICH, MARK STEIN and BETH GOLDEN.

NUSSBAUM advised that he had a close working relationship with VINCE FOSTER, Jr. He recalls that FOSTER was very depressed during the last weeks of his life and was not functioning well during that time period. NUSSBAUM said that he knew FOSTER was doing quasi personal functions for the First Family. He placed a great deal of trust in FOSTER to handle those matters for the First Family because of his personal closeness to them. He used the term quasi personal because there was always an official link to the Presidency. Two prime examples were the completion of tax forms and creation of a blind trust for the First Family's assets.

NUSSBAUM explained that at the time of FOSTER's death, these things were virtually completed (the deadline for the blind trust was August 1). Nobody else in The White House and, specifically, the Counsel's office in The White House could do these things. More and more they had been turned over to WILLIAMS & CONNOLY to attend to and after FOSTER's death, this process accelerated. NUSSBAUM wanted to get everything that could be referred to WILLIAMS & CONNOLY (specifically BOB BARNETT) turned over to them completely.

NUSSBAUM said that he does not remember who asked that there be an inventory of FOSTER's office but he recalled that the U.S. Park Police were there on July 21, 1993 to discuss the

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matter. That morning Major ROBERT HINES and Police Chief ROBERT LANGSTON of the U.S. Park Police were at a meeting/briefing (NUSSBAUM characterized it both ways) and mentioned that they would be sending people over to conduct some investigation. NUSSBAUM does not think that they requested an inventory of the office at that meeting, but it occurred to NUSSBAUM that coordination was going to be needed otherwise there would be waves of investigators from various agencies wanting to come over to The White House to conduct investigations. He therefore called Department of Justice to act as that coordinator. NUSSBAUM recalls a meeting late in the afternoon of July 21 with DAVID MARGOLIS and ROGER ADAMS of the Department of Justice, and several people from the Park Police being there. He does not remember if the Park Police took an active role in that meeting.

NUSSBAUM said that he was having to balance a number of factors with regard to allowing an inventory of FOSTER's office. Certainly the request to examine FOSTER's office for a suicide note or some other item which would be prima facia evidence of why he died was a legitimate request. There was never a consideration that the purpose of the search was to identify everything that FOSTER was working on. There were issues of national security. There were sensitive appointments and other sensitive matters, including matters which may have been covered by executive privilege. The question for NUSSBAUM, as he saw it, was how to satisfy DOJ's fundamental need to satisfy themselves that there was nothing that would, on the face of it, provide a reason for FOSTER's death, and on the other hand, to protect those White House issues that needed to be protected from disclosure. It was not an all or nothing matter. NUSSBAUM sought a compromise. The way he saw this unfolding was that he would seal the office until they would all go in together and NUSSBAUM himself, in the presence of law enforcement officials would look through things in the office. They could observe and briefly hear what was in FOSTER's office and see that nothing was being hidden from them.

On July 21, NUSSBAUM told MARGOLIS and ADAMS about the procedure he wished to use. He describes their reaction as understanding what needed to be done and that they went along with it. He does not remember them expressing any serious disagreement with the procedure as he had outlined it to him and he advised that they never threatened to leave The White House if they were not allowed to view documents themselves. NUSSBAUM said that in addition, at the end of it they seemed to be

satisfied. He noted that the two men seemed a little "fidgety" at the beginning of this inventory but by the time it was over, they seemed fine.

With regard to NUSSBAUM's conversation with PHILIP HEYMANN, then Deputy Attorney General, NUSSBAUM does not remember HEYMANN ever objecting seriously to the procedure that NUSSBAUM planned to use during the inventory. The only conversation that NUSSBAUM remembered with HEYMANN after the inventory was the evening of the inventory, July 22, 1993. NUSSBAUM recalls that HEYMANN called NUSSBAUM at home and the salient point from the conversation that NUSSBAUM recalls was the suggestion by HEYMANN that contents of FOSTER's office remain untouched and NUSSBAUM told HEYMANN that he could not do that. HEYMANN did not express objection to NUSSBAUM's refusal to do that.

NUSSBAUM said he has only a vague recollection of there being a telephone call with HEYMANN during the time that MARGOLIS and ADAMS were at The White House on July 22. NUSSBAUM, in addition, did not recall telling HEYMANN that he had to talk to some people about this and promising to call HEYMANN back.

NUSSBAUM was adamant that if HEYMANN had said that he would pull his people out if NUSSBAUM conducted the search the way he planned to, NUSSBAUM would have adhered to HEYMANN's wishes-not through a sense of obligation, but because "he just would have". NUSSBAUM opined that people are remembering events in hindsight and it is changing how they are remembering their feelings at the time. What he remembers from the atmosphere of the inventory itself was that it was an unusual thing for them all to be doing. They were not expressing enthusiasm or disgruntlement, and at the end of the inventory they acted satisfied, not displeased, at the way things had been handled.

NUSSBAUM felt he had chosen a procedure which showed them that nothing was going to be destroyed, and if they wanted files they could ask for them. Everything was available to them. It was, however, available through the appropriate people. He wanted them to have to go to CLINTON's lawyer for First Family personal papers and to FOSTER's lawyer for FOSTER's personal papers and to himself for White House Counsel related material. Nobody was even thinking of Whitewater at the time. It was for the foregoing reasons primarily that during the inventory NUSSBAUM generically identified files without going into specific explanation as to their content.

NUSSBAUM advised that he felt he was making reasonable, intelligent decisions and that no real objection was being fielded against those decisions. If they had been dissatisfied with what had gone on, they could have come back to The White House Counsel's office or to The White House after the inventory and complain or ask to see documents. The fact of the matter is they did not. Even after the note was found on July 26 which enumerated certain issues that FOSTER had been upset about nobody made specific requests to see files that corresponded to those issues. NUSSBAUM opined that for people to come forward now, after the fact, and protest so loudly is "nonsense".

NUSSBAUM advised that the process of how to do the inventory and how to handle the matter of FOSTER's papers was an evolutionary process. He said the moment that they started to see items in FOSTER's office, such as the log, NUSSBAUM decided to set those things aside to be given to FOSTER's lawyer. There was no agreement set in stone beforehand as to how to handle specific items. NUSSBAUM has a general recollection of discussing with MARGOLIS their looking together at a document but has no specific recollection of their conversation. NUSSBAUM said he does remember that he was worried that if anybody saw a document he would, in effect, waive any privilege that existed in the document. He reiterated that he does not remember reaching an agreement of any sort at the end of the meeting on July 21.

In response to a question as to whether or not he discussed what procedures to use for the inventory with anybody else at The White House, NUSSBAUM said, "yes", that there was a meeting on July 22, as the Department of Justice individuals MARGOLIS and ADAMS were arriving. At that meeting was MACK MCLARTY, WILLIAM BURTON, JACK QUINN, STEPHEN NEUWIRTH, possibly ROY NEEL, and NUSSBAUM himself. It lasted approximately a half an hour. He realizes that MARGOLIS and ADAMS were kept waiting for a total of approximately four hours partly because NUSSBAUM was at meetings unrelated to the inventory. NUSSBAUM said BURTON probably called him to attend the meeting.

NUSSBAUM recalled that QUINN thought that they should not let anybody into FOSTER's office at all, but should do the inventory themselves first. NUSSBAUM responded to him that you can not do that with law enforcement individuals. You have to let them see what you are doing. There were no specific issues that they were trying to cover up. It was a turf consideration relating to access to a White House office.

NUSSBAUM said that he did not talk to the President or HILLARY RODHAM CLINTON during this time. Nobody told NUSSBAUM they had talked to the President and NUSSBAUM got the impression that somebody had spoken with the First Lady and that she just wanted it done the right way. NUSSBAUM speculated that perhaps BILL BURTON had spoken with her. He advised that she was not "calling the shots". NUSSBAUM said he himself was making the decisions and there was no cover up of anything.

With regard to FOSTER's briefcase which was looked at during the inventory on July 22, and supposedly emptied, NUSSBAUM said that he remembers he had been looking into drawers and into files sitting at FOSTER's desk during the inventory, and he remembers reaching back and down for FOSTER's briefcase. He pulled it next to him on the floor and reached in and pulled the files out, glancing down as he did so. As he glanced down he does not remember seeing scraps of paper. He then looked at what he had pulled from the briefcase. He remembers they were Travel Office files. He did not replace the files in the briefcase but put the briefcase back against the wall. He remembers feeling that the briefcase was empty of files and he might have said, "It's empty".

After the inventory, he was selecting files for distribution to various parties who would be handling the matters. He went back into FOSTER's office. He told NEUWIRTH to do a listing of all the contents in the office so that he could divvy up matters to different people. Either he himself or he asked CLIFF SLOAN to call MAGGIE WILLIAMS into the office to take files pertaining to the First Family matters. Both WILLIAMS and NUSSBAUM looked at the files and packed them up in a box. TOM CASTLETON was called in to take them over to the residence White House area. They were sent to CLINTON attorney BOB BARNET of WILLIAMS & CONNOLY on July 26, 1993. This was done for two reasons: 1. The Counsel's office was not going to do any more work on these matters and 2. NUSSBAUM described himself as "action oriented" he wanted to just do it. It was his personality. It was his idea. Nobody told him to do it. He also wanted them to be somebody else's "hassle". NUSSBAUM advised that he never heard of any files being moved to any intermediate location but admitted that it could be possible.

With regard to events on July 26 and 27, 1993 when STEPHEN NEUWIRTH found the torn up note in the bottom of VINCE FOSTER's briefcase, NUSSBAUM explained his reaction was that this

was the sort of thing that they had been looking for during the search. As soon as he found it he went to see Chief of Staff MACK MCLARTY then remembered that he was out of town. He remembered getting HILLARY CLINTON and showing her the note. She looked down at it and reacted in a way that told him that it was a very emotional issue for her and she said to him something like "you do what you think is right." He then made efforts to reach MCLARTY and MARK GEARAN. NUSSBAUM said that WILLIAM BURTON was working with him regarding these efforts. BURTON wanted to research issues of whether or not they even had to turn it over to anybody. NUSSBAUM had already decided that they were going to turn it over but he felt strongly that 1) LISA FOSTER must see it first, so he called her attorney HAMILTON and was told that she was, in fact, flying in at 2:00 pm the following day and could come to The White House for a 3:00 appointment to see the note and 2) NUSSBAUM felt the President should have the option to see it before it was handed over, and he was also due back the following day. No one ever suggested not turning the note over to law enforcement authorities.

On July 27, 1993, the President had a very heavy schedule in the morning and so NUSSBAUM was not able to show him the note in the morning. He showed LISA the note at approximately 3:00 in the afternoon. He contacted either Attorney General JANET RENO or Deputy Attorney General PHILIP HEYMANN. He determined that RENO had an appointment at 6 or 7 pm that evening with (he believes) Chief of Staff MCLARTY at The White House and NUSSBAUM determined he would give it to her at that time. He said he saw the President at approximately 6 pm. The President had already heard about the note and did not want to see it. Shortly thereafter, JANET RENO arrived at The White House for her appointment. PHILIP HEYMANN was with her. She refused to take the note and said to give it to the Park Police. A call was made to the Park Police and they all "sat around" and waited until the Park Police came and took custody of the note.

NUSSBAUM advised that VINCE FOSTER's office was locked in between the time of the inventory on July 22, 1993 and when the note was found on July 26, 1993. NUSSBAUM said that he himself and the Secret Service were the only people that had a key to the office. He is fairly certain that DEBORAH GORHAM did not have a key. He knew nothing of her having a key taped to the underside of her desk. He advised that FOSTER's office was kept locked over the weekend and only TOM CASTLETON was there when people were down in Little Rock for the funeral the Friday before

that weekend.

With regard to events on July 20, 1993, NUSSBAUM was asked what his purpose of going to The White House was. He responded, "to make calls". He had been at the a restaurant having dinner when he was contacted by The White House and told of FOSTER's death. He was FOSTER's boss. He was also counsel to the President. There was no question but what he had to go to The White House. There were several reasons for this. He knew that they would be dealing with law enforcement officials. There would be various tasks in connection with the death of a member of his staff and there was also an element of grief. Friends gather when such an occurrence happens. NUSSBAUM advised that when he first arrived at The White House, he went to the residence area. He saw the President after The Larry King Show. The President and MACK MCLARTY went to the FOSTER residence. NUSSBAUM said he didn't want to go there. Instead he decided to go to his office. On the way to his office, he thought that perhaps FOSTER had left a note in his office indicating either why he had committed suicide or some other reason for his death, and he decided to take a look.

When he arrived in the Counsel suite, FOSTER's office was already open and PATSY THOMASSON was there. He did not see her downstairs at any time during the evening. THOMASSON and MAGGIE WILLIAMS were both in FOSTER's office. THOMASSON was behind FOSTER's death looking for a note and WILLIAMS was sitting on the couch weeping. He does not recall her having any materials on her lap or beside her.

NUSSBAUM estimated that he arrived in his office approximately 15 minutes after The Larry King Show ended but said that 10:40 pm sounded right. When he got there THOMASSON said that they (meaning THOMASSON and WILLIAMS) had just arrived in FOSTER's office. They only stayed about five minutes and they all left the office together. He advised that nobody had anything in their hands when they left FOSTER's office. THOMASSON and WILLIAMS immediately exited the Counsel's suite. NUSSBAUM himself stayed there and sat at his own desk and made telephone calls to his staff and other individuals notifying them of FOSTER's death. He does not recall seeing anybody else come into the Counsel's suite nor did he observe WILLIAMS or THOMASSON come into the suite again. He advised that he could see anybody going into FOSTER's office from his vantage point. He also, however, admitted that when he was making the telephone calls he

was very focused on his telephone calls and it is possible that he could have failed to observe someone passing his doorway.

Some time during the evening he remembers being down in NEEL's office and thinks it may have been after he had locked up the Counsel suite on his way out of The White House. NUSSBAUM advised that he is sure that he set the alarm in FOSTER's office before he left that night. He was familiar with the procedure. He does not recall any uniformed Secret Service individual there at any time during the evening. He believes that he left about midnight. He remembers calling BETH NOLAN, CHERYL MILLS and CLIFF SLOAN. He made no long distance calls that he could recall. He may have possibly gone into MAGGIE WILLIAMS office but was not sure and he knows that he did not go into HILLARY RODHAM CLINTON's office that evening.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/6/94

On 4/19/94, DEBORAH L. GORHAM appeared for a previously arranged appointment at the Office of the Independent Counsel to be interviewed . Also present were her attorney, DAVID E. MILLS of DOW, LOHNES & ALBERTSON, 1255 23rd Street N.W., Washington D.C. 20037 where GORHAM is employed as a legal secretary; and attorneys for the Independent Counsel, RODERICK LANKLER, CARL STICH, and MARK STEIN. Having advised GORHAM and her attorney of the identities of the interviewing agent and Independent Counsel attorneys, GORHAM provided a portion of the following information. A subsequent appointment was needed to cover additional topics and was conducted by SSA H. ALEXIS SUGGS and RODERICK LANKLER, Esq. on 4/26/94 at the offices of DOW, LOHNES & ALBERTSON. DAVID E. MILLS was also present at that meeting. Over the course of both interviews, GORHAM provided the following information:

GORHAM advised that she held the position of Executive Assistant to Deputy Counsel to the President from March 8, 1993 until November 17, 1993. From March 8th until July 20, 1993 VINCENT FOSTER JR. was her immediate boss. She was referred to the position through her professional acquaintance with FOSTER'S sister SHEILA ANTHONY, who was an attorney with the firm of DOW, LOHNES & ALBERTSON and recommended GORHAM apply for the job as FOSTER'S secretary at the White House.

During a one week vacation that GORHAM took from April 4-10,1993 FOSTER used a temporary Department of Justice (DOJ) secretary named "HELEN" (LNU). Other than that, GORHAM was the only secretary that FOSTER used. She described the relationship between herself and FOSTER as a "one on one team", cordial, professional, but not personally close, meaning they did not normally exchange personal information about one another. Most of their contact took place at her desk, rather than in his office. The only personal type task she remembers doing for FOSTER was ordering flowers for his wife on their wedding anniversary.

GORHAM described FOSTER as very private and reserved.

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vestigation on 4/19+26/94 at Washington, D.C. File # 29D-LR-35063

by H. Alexis Suggs Date dictated 4/22+5/2/94

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She viewed him as reserved, not depressed or unhappy. He could enjoy a joke with others in the office, but was a very hard worker and would ask people to "keep it down" if their talking disturbed him. The only time he seemed to be more agitated than usual was when he was under time pressures. He had a very long fuse, so it was relatively rare for him to show agitation. The Friday before his death, as he was preparing to go away for the weekend, he needed a long distance beeper to take with him and he and GORHAM had a misunderstanding that he needed it right away. He showed agitation at that time, but did not lose his temper. Even with hindsight, GORHAM did not see anything in FOSTER's behavior which would indicate a distressed state of mind. She recalled BETSY POND and LINDA TRIPP saying to her that FOSTER did not seem to be concentrating the morning of his death.

GORHAM never saw him lose his temper. She saw him angry once, in response to the Wall Street Journal article, "Who is Vince Foster?" He did not seem to understand that that kind of thing would happen. You could see that the allegation, veiled or otherwise, that there was a cabal of Rose Law Firm people troubled him. He just wanted to stay in the shadows and do his work. An attack on his character was the most hurtful thing to him because his reputation was the most important thing to him next to his family. He also resented the fact that the article misquoted his office, saying that he refused to provide a photograph. What really happened was that GORHAM, on FOSTER's instructions, told the Wall Street Journal that he preferred not to provide a photograph. He had a conversation about it with FRANCIS SOBOL (phonetic) which GORHAM "tuned out", merely remembering that FOSTER sounded upset, though not overly emotional, about it.

GORHAM said that FOSTER demanded perfection of himself and others. And at times his ethical standards appeared to be higher than the staff in the office. For example, an individual went on vacation leaving his/her plant with FOSTER or the Counsel's office to care for while they were gone. FOSTER insisted that the plant be returned to them immediately upon their return, seriously brushing aside joking remarks that he should not be so quick to return the plant because it looked so good in his office. Also, all discussions with other Associate Counsels or DOJ personnel were conducted behind closed doors in his office so they would have the utmost privacy.

FOSTER worked very hard and very long hours. He was

usually at his desk already settled when GORHAM arrived to work and was there late into the evening. GORHAM advised that, rather than just having "a lot on his plate" all the time, he had a "service for eight" going on.

As an example of the toll his workload took, FOSTER had been voted Outstanding Lawyer of 1993 by the Arkansas Bar Association in late June 1993. It was to be awarded to him personally at an awards ceremony sometime mid to late June 1993. FOSTER was scheduled to go and appeared to be looking forward to it. The morning he was to have left for Little Rock for the ceremony, he told GORHAM he just did not see how he could go because he "was just too busy to leave". He was in the middle of the nomination process for RUTH BADER-GINZBERG for the U.S. Supreme Court. Late in the morning he sent faxes to individuals in Little Rock notifying people he would not be able to attend. GORHAM does not know if he called anybody personally, but she herself called a couple individuals to notify them. She could not recall their names. FOSTER followed the cancellation with four letters explaining and apologizing for his non-attendance. GORHAM said he seemed very torn and disappointed.

GORHAM does not know if NUSSBAUM was aware of FOSTER's having to cancel his attendance at this ceremony. Sometime after that he had wanted to get away with LISA for a day or two and he could not make it because NUSSBAUM left town instead.

The Thursday before his death, FOSTER and GORHAM were alone in his office. He asked her, "How are you doing?" in a casual way and she answered, "Some days were fine--how are you doing?" He answered using the illusion of trying to build a building that people keep knocking down-- you rebuild it and they keep trying to knock it down. GORHAM asked him during this conversation, "Do you ever feel like you're in 'spiritual deficit'?" FOSTER responded, "Yes, I know what you mean." She told him about the services at St. John's Episcopal Church across from the White House through Lafayette Park during lunch hours and he said that maybe he would go. He did not say it as though he were dismissing her suggestion, but rather as though he might be considering doing it. GORHAM advised that he was Episcopalian by upbringing, but he attended the Catholic Church with his wife and children since his marriage.

GORHAM advised that it was not unusual for FOSTER to have long closed door sessions with people. The longest she

could remember was about one and a half hours.

Events of 7/19/93

GORHAM reflected that Monday, the day before his death, FOSTER had what she called a major and uncharacteristic "lull" in his work pace. Normally, she would see him have periods of a couple hours where there would be a lull, but this lasted all day and he spent it going through his papers and drawers and taking care of a lot of unfinished business he had not been able to get to. He was doing a lot of straightening and cleaning.

The previous Tuesday, Wednesday, and Thursday he had generated a lot of personal "thank you" letters and several memos. Monday, however, he started looking through the stuff in his drawers, looking calm and staying quieter than usual and spending more time than usual alone with the door to his office closed.

The rest of the office was busy that day with the appointment of LOUIS FREEH to be Director of the FBI. FOSTER was not involved with that. He had been involved with the RUTH BADER-GINZBERG nomination. The FREEH nomination was NUSSBAUM's responsibility.

FOSTER left the office twice during the day-- once to the "bank" (which meant the Credit Union). The other absence was without explanation, which was very uncommon, because he usually told her where he was going. GORHAM could not recall how long he was gone or what time of day it was. He also left much earlier at the end of the day than normal. He left before GORHAM did, without any explanation. He did not seem stressed, just simply left.

Also that Monday, MARSHA SCOTT visited FOSTER. She often visited him, but usually they were relatively brief, open-door visits, frequently with other visitors from Arkansas in tow. GORHAM does not know if their long, closed door visit the day before his death was business or personal, what was discussed, and did not notice what SCOTT's demeanor was when she left.

Also that day, FOSTER placed three items of personal mail in the out-going mail tray in the Counsel's Office. GORHAM checked to make sure they were sealed and had postage on them.

It was common for FOSTER to mail bills this way, but unusual for him to mail personal letters. GORHAM recalled that all were in plain white envelopes which FOSTER had hand addressed. One was in a plain white large business (4" x 9 1/2 ") envelope, was rather thick and had two stamps on it and was addressed to FOSTER's mother in Arkansas. The second was in a plain white small business (3 1/2" x 5 1/2") envelope and GORHAM recalls nothing about the addressee except the words "Insurance Company". The third piece was also in a small white business envelope and was hand addressed, but GORHAM cannot recollect who the addressee was. She feels certain, however, that it was not to his wife or any member of his immediate family. She believes that she cannot recall the addressee because they had no significance to her. None of the envelopes had any commercial printing on them, nor did they have any see-through windows in them. GORHAM advised that she told NUSSBAUM about the letters on either Wednesday or Thursday following FOSTER's death. He made a comment that he should let someone know about them. NEUWIRTH was present. Other than that GORHAM does not recall any other discussion about the envelopes.

There is no system for logging mail either in the Counsel's office or anywhere in the White House that GORHAM is aware of. They were put in the out-going mail on July 19, picked up some time during the day. GORHAM could not recall which mail courier picked them up.

GORHAM does not recall making any reservations for any lunches or dinners for FOSTER in the week or so prior to his death, nor does she recall FOSTER mentioning any date that he had with anybody. Two weeks before his death he had lunch with WALTER PINKUS, a journalist with the Washington Post. MRS. PINKUS is from Arkansas and the two are personal friends with FOSTER.

GORHAM advised that FOSTER spent the majority of his time in his office when he was not attending meetings. He attended a lot of meetings when he was working on the Health Care Malpractice Reform, but that was over. GORHAM does not recall what he was working on during the last few weeks prior to his death. He had two or three issues he was handling and was dictating a lot of letters to personal friends, catching up on answering congratulatory letters. GORHAM advised that he would dictate about 15 letters and two memos on each tape and he was giving her about one per day.

GORHAM advised that she observed HILLARY RODHAM CLINTON visit FOSTER in his office approximately four times during the period she worked for FOSTER. He was called into her office approximately three times, including the night she interviewed for the job. GORHAM was unaware of any rumors that FOSTER and MRS. CLINTON were romantically involved.

GORHAM advised that cheeseburgers were FOSTER's favorite food and he always removed the onions from them.

GORHAM feels that LISA FOSTER was VINCE FOSTER's most important confidante and that it is important that she be interviewed. She called three times in the one and a half weeks prior to FOSTER's death, and each time she asked how he was doing. She would ask GORHAM, "How's he doing?". GORHAM would always just give an upbeat "Fine." and then LISA would ask, "Is he available?" and/or "What's he doing?" VINCE's son, VINCENT JR. telephoned a week before his father's death and asked, "How's he doing today?" It was clear from the calls that the family had a general concern about FOSTER, but GORHAM explained that she felt it inappropriate to offer anything more than a superficial answer to their questions, inasmuch as offering a more insightful answer would be inappropriately personal within the context of her role as executive assistant and his as supervising attorney.

GORHAM spoke with LISA FOSTER twice since VINCE's death. LISA asked her if she noticed anything the morning of his death. She had not. They also spoke around Thanksgiving time about a possibility that GORHAM would be in Little Rock for the holidays and might possibly visit. As it turned out, she did not.

FOSTER had not ever made any statements or comments to GORHAM indicating despondency and she had not noticed any physical changes in FOSTER from the time she started as his secretary to his death.

Events of July 20, 1993

On July 20, 1993 GORHAM advised that she arrived to work between 7:30-8:00am. FOSTER arrived about 8:50am, which was a little later than usual. He had coffee and a muffin and attended a routine 9:00am meeting with NUSSBAUM and other Associate Counsel. She does not recall how long the meeting--lasted. He went back to his office at its conclusion. GORHAM

could not recall if he was alone or not. At 10:30 he grabbed his jacket, slung it over his shoulder and walked out saying, "I'll be back." He returned about 11:30. GORHAM did not recall whether or not he attended the Rose Garden ceremony for Judge LOUIS FREEH. She advised that most of the time he told her where he was going when he left the office, but about a quarter of the time he did not.

Soon after he returned--about 11:40-11:50, GORHAM entered his office and told him she was going out and did he need anything. He answered, "No--I believe I have everything." He appeared relaxed and normal.

FOSTER was gone when she returned about 1:20-1:30pm. He had left a couple letters and a memo for her to type. She does not recall who the letters were to or to what, specifically, the memo pertained. She also does not recall what was on his itinerary for the afternoon. POND told her that he had had his lunch, left M&Ms for everybody, and left with his jacket slung over one shoulder, saying, "I'll be back."

GORHAM spent the afternoon typing the letters and memo. FOSTER had been dictating a lot of personal letters on his own letterhead to Arkansas friends, thanking them for their support and congratulations. There were also some form responses to people who were asking for referrals and other frequently seen requests.

People who called for FOSTER that afternoon of July 20, 1993 were told he was "out of the office". BILL KENNEDY asked for him. MAGGIE WILLIAMS asked for him. GORHAM could not recall the times.

GORHAM does not know why BRANT BUCK called FOSTER on 7/20/94. She does not know GORDON RATHER and does not know why he called FOSTER on 7/20/94. And she knows JIM LYONS, but does not know why he called on 7/20/94.

FOSTER had never left in the middle of the day before. GORHAM does not know of anybody paging FOSTER during the afternoon, until 6:30pm, when POND said she paged him (POND told GORHAM this later).

GORHAM left the office at 5:45pm. She was called at 11:30pm by LINDA TRIPP, who notified her of FOSTER's death.

TRIPP told GORHAM that DEBORAH COYLE had called TRIPP. TRIPP said that FOSTER may have killed himself. GORHAM wondered rhetorically what could have been so bad that he would have done such a thing. TRIPP had no opinion. They spoke about the conversation GORHAM had had with FOSTER the Thursday before his death about being in "spiritual deficit". GORHAM later mentioned to her husband that FOSTER had opened up a little. GORHAM and TRIPP did not speculate or mention the possible existence of a suicide note. GORHAM did not know if FOSTER would be the type likely to leave a note. NUSSBAUM called GORHAM about midnight, wanting to make sure GORHAM had been notified.

Events of July 21, 1993

The next day GORHAM got to work between 8:30 - 9:00am. POND was at her desk and said she had arrived shortly before. STEVE NEUWIRTH was at the doorway of FOSTER's office. GORHAM does not know when NEUWIRTH got there, but he looked freshly dressed and groomed as normal for the morning. He was in charge of FOSTER's office and he was keeping everybody out of it.

NUSSBAUM's door was closed. The door to FOSTER'S office was open. GORHAM looked into FOSTER's office. She couldn't see much because the lights were not on and things were backlit from a window with a dim exposure, but what she did see looked normal and unchanged. She could not see if anything had been moved and could not observe from her vantage point if there were any gaps in shelves. From what she could see, the office did not look any emptier that it had the day before. NEUWIRTH told her not to go in the office and she did not. Nobody else mentioned having been in the office except POND.

She spent the morning taking telephone messages. She and POND talked. POND told her she had gone into FOSTER's office to turn off the security alarm and, not wanting his office to look messy, started to tidy the papers on FOSTER's coffee table. POND told GORHAM she suddenly realized that she should not touch anything and left. GORHAM advised that she realized that there was later misunderstanding about what POND had touched. She stressed that POND told her that she only straightened papers on the coffee table, and never touched anything on FOSTER's desk or anything else in his office. GORHAM said that Wall Street Journals and other papers she could not recall were on the coffee table.

Shortly after she'd arrived GORHAM went down to the canteen to get some coffee and breakfast. When she returned POND and NEUWIRTH were there. There was a 9:00am meeting in NUSSBAUM's office with all the Associates (8-10 of them) and it was short. There was also a short meeting in NUSSBAUM's office of NEUWIRTH, SLOAN, and intermittently, CHERYL MILLS, who was working on flight arrangements for the funeral.

BILL KENNEDY, and CRAIG LIVINGSTONE dropped by. LIVINGSTONE was dressed more casually than he normally did, wearing khaki trousers and a blue shirt without a tie. He looked emotionally upset. She thinks she remembers POND saying that he had identified FOSTER's body the night before and did not get much sleep. He was not dressed in clothes he would normally have worn to work. GORHAM does not recall seeing any boxes or binders carried around and did not hear anybody talking about such a thing.

The door to FOSTER's office was secured by a female Secret Service guard who arrived maybe 10:30-11:00am. NUSSBAUM, NEUWIRTH, and KENNEDY spoke of securing the office. SLOAN may have also been in on that discussion. A bolt was put on the door by the time she left the office for the day, so there was no guard any longer. There were two keys to the bolt- NUSSBAUM had one and he gave GORHAM the other one. She taped her key to the underside of her desk and told POND it was there in case they needed it in her absence.

GORHAM advised that she was not involved in the arrangements being made to inventory the contents of FOSTER's office and does not know who was involved in the negotiations and the event. She was never asked where things were, except NEUWIRTH asked her about what was located in the general files located in front of her desk. Nobody asked about the safes. She knows nothing about a tablet from FOSTER's desk being taken during the inventory, then returned to Nussbaum or any efforts to find any tablet. She left the office about 7:00pm that evening.

Events of July 22, 1993

GORHAM advised that her memory of July 22 is very vague. The only salient points she remembers are items related to funeral logistics-- who would be going and travel arrangements and the like. WEBB HUBBELL was there in casual attire and did some of the planning.

During the inventory on July 22nd GORHAM was in the outer office at her desk. She recalls that people began to arrive and things seemed disorganized. There were lots of people in and out of NUSSBAUM's office and lots of slamming of doors. She did not hear any arguments or heated negotiations of any sort. Nobody asked her any questions or asked her for assistance. Nor did anybody ask anything about, or do anything about, looking into the safes or the files in front of her desk. It struck GORHAM as odd that nobody ever asked her where things were in FOSTER's office.

Normal Location of Papers in FOSTER's office

The lateral file cabinet to the left of Foster's desk: Papers in the right hand top drawer were the President's and HILLARY CLINTON's personal legal and financial records in "drop pin flex folders". GORHAM advised that she helped maintain those files. They included tax returns.

Below the top drawer was visitor information related to Washington D.C.. GORHAM could not recall what was in the bottom drawer.

Other top drawers in the lateral files against the wall were folders on individuals. There was one for the Associate Attorney General WEBB HUBBELL, which included press releases about his confirmation. In another folder there were also some papers regarding FOSTER's father's estate.

The lateral file cabinet to the right of Foster's desk: the top right drawer closer to the window contained files on specific individuals--i.e. MAC McLARTY, HAROLD ICKES, and others she could not recall. The left top file held personal press clippings and a "junk" drawer. The lower right drawer was maintained by FOSTER and was kept locked by FOSTER himself. It contained confidential documents he said he would file things in as appropriate. She assumed it was out of his desire for privacy. It did not contain classified documents. The two or three documents she knows were in there were not White House documents. One related to "transition matters". Other than that, she does not know what was in that drawer as she was told not to touch it.

The desk drawers:

The three narrow ones on the left held desk supplies; the middle one held personal items, such as receipts and his checkbook; the right top held more desk supplies; the lower right had folders with information concerning the sale and purchase of a personal car, the Rose Law Firm, and others she could not identify.

The cabinet up above the lateral files on the left of Foster's desk held two pewter candlestick holders.

GORHAM advised that she does not recall seeing anything in FOSTER's office regarding "MADISON" (understood to mean MADISON GUARANTY SAVINGS AND LOAN). There was a very thin, pressboard folder on WHITEWATER kept to the left of the desk in the upper righthand drawer where the President's personal files were kept. She advised that she never did any work on either WHITEWATER or MADISON.

She does not recall any black binders anywhere in FOSTER's office. There were some pictures of family. There were no firearms, either for decorative display or otherwise that she ever saw.

Files outside FOSTER's office were located just in front of GORHAM's desk. They included general information files covering nonsensitive subjects.

Information Concerning the Safes

There are no safes in FOSTER's office. The only two safes are in NUSSBAUM's office, each located in a lower inset cabinet. GORHAM had the combinations to both safes and she was the only one in the office to have them. She believes only the safekeeper and CYNTHIA MCMANUS (a temporary duty employee from Department of Justice) also had the combinations. GORHAM advised that she does not know what was inside the lefthand safe because she never opened it.

The righthand safe was used by FOSTER and NUSSBAUM for highly confidential and sensitive items such as those relating to national security. There were some FBI reports. There were no items relating to CLINTON or WHITEWATER. GORHAM prepared an item by item inventory of the contents of the safe (which was stored in the hard drive of her computer). FOSTER would give things to GORHAM for her to put into the safe (as opposed to having her open the safe and his insisting on putting the items in himself).

On occasion, he would ask her to open the safe and he would remove two books on national security procedures. Two examples of items kept there are a copy of the War Powers Act, and procedures to follow in case of a critical Bosnian crisis. FOSTER and NUSSBAUM were both designated to be privy to national security information. GORHAM was authorized to receive it.

After FOSTER's death, GORHAM was never asked to open the safe in order to search it for anything FOSTER may have placed there relevant to his death, then or at any other time. The first of September was the last time she opened the safe. She does not know if the combinations have been changed, but she would presume they were after she left.

GORHAM does not know if there was any other place that FOSTER kept his materials. She also does not know how much material he brought with him from Arkansas. The only items she knows of which were removed from his office prior to the inventory following his death were on two significant occasions. The first was in May or June when he asked her to get two boxes, which were subsequently loaded with transition materials which were taken out of his office (she does not know where they were taken). The second was the day before his death, when he seemed to be sort of "cleaning house" and routing various things off to other places.

Events on July 23

July 23, 1993 was taken up entirely by attending FOSTER's funeral in Little Rock. POND, TRIPP, and GORHAM met at the office at about 7:00am, left at 7:20am together for the shuttle to Air Force One, which was flying everyone to Little Rock. President CLINTON was on the flight. HILLARY CLINTON was out of town and GORHAM had not seen her for some time. GORHAM did not see her on the flight and does not know if she was on it. She saw her, however, at the funeral. There was not a lot of chit-chat and speculation about FOSTER's death that she heard. They returned in the evening.

Events of July 26, 1993

GORHAM did not work the weekend. On Monday, the 26th, later in the morning, NEUWIRTH was in FOSTER's office, beginning the task of making an inventory of what remained in the office.

She does not know who told him to do it.

GORHAM advised that she went into FOSTER'S office to ask NEUWIRTH if he needed assistance. She observed him get up from the desk to come around it and as he did so, trip slightly over FOSTER's briefcase, which was propped against the desk just to the right of the chair area as one is sitting at the desk. FOSTER usually carried it to and from work, not always.

Thinking it best to get the briefcase out of the way, she walked to the left side of the desk, reached down with her left hand and picked up the briefcase. It spread open as she lifted it, she glanced down and transferred it to her right hand, closing it in the same movement, carried it over to near the door and propped it there on the floor. As she had glanced down into the briefcase, she caught sight of "something yellow" which she took to be yellow Post-It notes she knew FOSTER to like to have with him, a dark gold file folder (the type that is open on three sides, but not the pale vanilla file folders common in the Counsel's office), and, in a different section in the briefcase, a single white sheet of paper. She could not see and does not recall seeing any writing on either the folder or the piece of paper. She did not remark to anybody about this, because she did not attach any significance to it. She moved the briefcase again about an hour later and put it against the wall behind FOSTER's desk.

It was after that that NEUWIRTH came out of the office with the briefcase, looking hurried, harried, and upset. He went straight into NUSSBAUM's office. He came right out again asking where NUSSBAUM was and saying abruptly, "beep him". NUSSBAUM rushed in about ten minutes later, went into his office with NEUWIRTH and closed the door. NUSSBAUM came right out again and ran out the door in the direction of the Men's Room-- which is also the direction of the Women's Room, HILLARY CLINTON's Office, and MAGGIE WILLIAMS Office, or the Domestic Policy Office with CAROL RASCO (phonetic) and BOB RUBIN. He looked emotionally upset.

Meanwhile, NEUWIRTH came out and asked POND to page BILL BURTON. GORHAM said she has maybe a vague memory of seeing HILLARY CLINTON arrive. One or two days later POND told her a note of some sort had been found in the briefcase. At the time nobody was saying anything to the executive assistants.

With regard to the torn up note, to this day GORHAM has avoided acquainting herself with its contents. It is a way of insulating herself from emotional distress. Her only knowledge of its contents stems from NEIL EGGLESTON asking her if FOSTER had ever discussed the issue of the FBI having lied to the Attorney General about anything. He asked her that when he thought the FBI was going to be conducting interviews on the allegation, which GORHAM understood was one of the items in the torn note FOSTER wrote. She was never interviewed on the matter by the FBI or anybody else.

Additionally, GORHAM stated that she never saw any lists FOSTER had written of things that troubled him. He kept "To Do" lists, which had business items listed separately from personal items. Her reaction to the torn-up note was that FOSTER was, "not a tear-up type of guy. He was a pitch and toss guy." Things for the burn bag he would lay in the bottom of the bag. Other things he wanted to throw away he would crumple up and toss into the waste basket.

Following FOSTER's death and the discovery of the items in the briefcase, GORHAM said that NUSSBAUM asked her to open the safe in his office on possibly 4-6 occasions. He had given her an envelope (very thin) some time after July 26 and told her not to look at it, but to place it in the front of the safe. It was never recorded onto the inventory, but it was kept in the safe. GORHAM advised that NUSSBAUM asked for the envelope 3-4 times during the two weeks following FOSTER's death. At the end of the second week, NUSSBAUM told her to get the envelope and bring it to him as he was meeting with JAMES HAMILTON and LISA FOSTER in VINCE FOSTER's office. GORHAM saw him pass the envelope to LISA as she closed the door and it was never returned to her to replace in the safe. She has no idea what was in the envelope, but said it had the weight and thickness of a single sheet of Xerox paper.

Also a couple days after the discovery of the items in the briefcase NUSSBAUM called GORHAM into his office and "grilled" her about what she'd seen in the briefcase. It was like being cross-examined by a prosecuting attorney. GORHAM advised that she is very certain about seeing the folder and the piece of paper that was in the briefcase. She stated that she has no idea who, when, or how the pieces of note came to be in the briefcase, and in fact, did not recognize them as pieces of

torn paper at the time.

To her knowledge, NUSSBAUM and she had the only keys to the bolt on the door. She never "lost" her key, but NUSSBAUM may have misplaced his. He asked to use GORHAM's key sometime during the three days following the day the note pieces were found in the briefcase. She does not know if he was missing his key or asked her for hers merely for convenience sake.

At about 2:00pm on either Tuesday or Wednesday (July 27th or 28th), GORHAM and NUSSBAUM were in FOSTER's office. GORHAM opened the top center drawer right under the center top of FOSTER's desk and saw a life insurance policy for $700,000, several personal checks from people to FOSTER (for small amounts) which he had not yet cashed or deposited, his personal stationery, and other miscellaneous items. GORHAM was surprised at seeing the insurance policy and asked NUSSBAUM, "Didn't they look in this drawer?" He said, "No--what's in there?"

Some time during the week following the finding of the items in the briefcase when NEUWIRTH was still inventorying FOSTER's office, GORHAM was in FOSTER's office with NEUWIRTH when MAGGIE WILLIAMS came in. They went to the top far right drawer where the Presidential files are kept. GORHAM noted that the "drop sheet" that she prepared and always kept in the front of the drawer which lists the contents of the drawer was not in place. It was odd that it was missing. MAGGIE WILLIAMS took what she wanted from the drawer. It was packed up in two boxes with the help of TOM CASTLETON. There was no list or index created of what was taken. A man GORHAM did not recognize carried them out and GORHAM does not know where they were taken. A record of the drop sheet was on the hard drive of GORHAM's computer. She told NEUWIRTH it was there. When GORHAM left the Office of Counsel to the President her stand-alone computer together with its hard drive were moved to the Old Executive Office Building to the office of CHERYL MILLS. Back-up tapes and all her back-up diskettes were given to BILL KENNEDY.

GORHAM provided the following personal information:

Name: DEBORAH L. GORHAM
DOB: FOIA(b)(6)
POB:
SS#: FOIA(b)(7) - (C)
Address: 2309 Toddsbury Place, Reston, VA 22091

Telephone #: (703) 758-9496 (res); (202) 857-2694
Current Position: Legal Secretary, DOW, LOHNES & ALBERTSON, 1255 23rd Street NW, Washington D.C.
Position as of 7/20/93: Executive Assistant to the Deputy Counsel to the President, held from 3/18/93 - 11/17/93.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

SUSAN P. THOMASES, Attorney, WILLKIE, FARR, and GALLAGHER, 100 East 53rd Street, New York, NY faxed the attached two pages to the Office of the Independent Counsel, Washington, D.C.

The first page of the fax identifies the second page as a "page out of my appointment section of my Filofax for July 20 and 21, 1993". The second page of the fax from THOMASES indicates that she was in Washington, D.C. on July 21, 1993 but not July 20, 1993.

THOMASES has explained that the notation on the July 21st entry in the upper left hand corner of the page indicating "D.C." was her method of recording days she was actually in Washington, D.C. For the date of July 20, 1993 there is no such notation, and she therefore knows that she was not in Washington, D.C. on that date.

The information depicted on this calendar is consistent with THOMASES interview by the FBI on June 14, 1994.

Investigation on 7/12/94 at Washington, D.C. File # 29D-LR-35063 SUBA 286

by SA WILLIAM T. GUYTON Date dictated 7/13/94

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FAX TRANSMISSION

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Date: July 12, 1994 Time: | Total number of pages (including this page): 2

Fax No. (with country and area code): (202) 514-8802
Telephone No. (with country and area code): (202) 514-8688

City: Washington State: D.C. Country:
Please include Client/Matter No. below:

FROM: Susan P. Thomases | Room No.: 844 Ext.: 8275

TO: Bill Guyton

As promised, attached is the page out of my appointment section of my Filofax for July 20 and 21, 1993.

Confidentiality Note:
The information contained in this facsimile ("fax") transmission is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity to which it is addressed. The information may be protected by attorney/client privilege, work product immunity, or other legal rules. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that any retention, dissemination, disclosure, distribution, copying, or other use of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone in order to arrange for the destruction of the fax or its return to us at our expense. THANK YOU.

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19 Monday

[illegible] Edgell

[illegible] Carlyle

9 am. Chris Meagher

[illegible] Bill

Ferri Wilkey Grayson - Bill

11:30-8:30 AHP

2-5 Zahnor

.05 To Dan

[illegible] Bill

21 Wednesday

Billings

[illegible] Brandon NYC

= 0.5

Memorandum

[illegible]

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

Sergeant PETER W. MARKLAND, U.S. Park Police (USPP), District 2, Glen Echo, telephone number (301) 492-6293, was interviewed at the Office of the Independent Counsel, Washington, D.C. MARK STEIN, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted in this interview. Sergeant MARKLAND was advised of the identities of the interviewing agent and the OIC Counsel and of the purpose of the interview. Sergeant MARKLAND provided the following information:

He was asked about his handwritten notes (copy attached) taken during the USPP investigation of the death of VINCENT W. FOSTER, JR. on July 20, 1993. The notes indicate that CRAIG LIVINGSTONE, White House security, "responded to Fairfax Hosp. - ID body." The notations continue, "came down stairs (Bruce Abbott observed) with box (records?)."

MARKLAND said there were additional notations in his notes regarding CRAIG LIVINGSTONE. He reviewed copies of his notes and located a notation stating, "LIVINGSTONE said he was not in office today" (copy attached).

MARKLAND said that BRUCE ABBOTT, Uniformed Division, U.S. Secret Service, was on the desk at the West Executive Avenue entrance to the West Wing of the White House. ABBOTT approached MARKLAND as he apparently remembered him (MARKLAND) from his previous employment at the White House. ABBOTT told MARKLAND that LIVINGSTONE came down from the second floor of the White House West Wing with a box. MARKLAND could not remember the exact time he received this information from ABBOTT but said it was about 10:00 a.m. on July 21, 1993. He said it was at the same time that the Chief of the USPP and Major HINES had walked down the hall as they were talking with BERNARD NUSSBAUM, Chief White House Counsel. At the time, MARKLAND was not sure if this information was a big deal or not. He said he mentioned the information provided by ABBOTT to his Captain, CHARLES HUME.

Sometime between 1:00 p.m. and 1:30 p.m., LIVINGSTONE came up to MARKLAND and introduced himself to MARKLAND. MARKLAND

Investigation on 7/11/94 at Washington, D.C. File # 29D-LR-35063 SUBA -285

by SA William T. Guyton WTG:deg Date dictated 7/11/94

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recalled this being somewhere in the West Wing on the ground floor. He said LIVINGSTONE gave him his card as he knew MARKLAND was involved in the FOSTER death investigation. LIVINGSTONE volunteered that he was at the FOSTER house the previous night and said he was available if there was anything he could do to help. At this time, MARKLAND asked LIVINGSTONE about carrying the box from the West Wing and whether or not he was in FOSTER's White House office. MARKLAND could not recall the exact words to his question, nor could he remember any of the words used by LIVINGSTONE to answer the question. MARKLAND said it was clear from the exchange that LIVINGSTONE had not been in FOSTER's office and had not taken anything from FOSTER's office. MARKLAND told LIVINGSTONE something along the lines that he had been seen coming from the second floor carrying a box. LIVINGSTONE replied along the lines (but not his words) that it was some kind of routine stuff. Livingstone didn't deny coming from the second floor. LIVINGSTONE specifically said he had not been in FOSTER's office. MARKLAND was asked if LIVINGSTONE said anything affirmative regarding the box question. MARKLAND's answer was that it was clear in his mind after the exchange that LIVINGSTONE agreed with having come down with a box. He was asked if he followed up on LIVINGSTONE's routine comment. MARKLAND answered yes, but said he could not recall the specifics. He said LIVINGSTONE did answer in the affirmative in some way. He didn't remain silent. He did say something. It was clear from LIVINGSTONE's answer that it had nothing to do with FOSTER's office.

MARKLAND had not asked ABBOTT or LIVINGSTONE about the time of the incident other than to understand that it had been "earlier that morning."

MARKLAND said LIVINGSTONE had said something to say he was carrying a box. LIVINGSTONE had not been adversarial in the exchange. LIVINGSTONE in no way denied carrying something down from the second floor.

MARKLAND had no further conversations with LIVINGSTONE about this matter. He received subsequent phone calls from LIVINGSTONE regarding FOSTER's property being returned to the family and/or thank you comments from LIVINGSTONE regarding the handling of this property or other aspects of the investigation.

MARKLAND was asked if he contacted ABBOTT again regarding this matter and he answered no. He said ABBOTT did not say that LIVINGSTONE was with somebody else. He said ABBOTT didn't mention anyone else, or he would have put that person's name in his notes. LIVINGSTONE himself did not mention anyone else being with him on that morning. MARKLAND said LIVINGSTONE reacted to the news that he had been seen carrying a box from the second floor with "no surprise or apprehension." LIVINGSTONE's name did not come up otherwise during the course of the USPP investigation. LIVINGSTONE had nothing to do with other meetings concerning this investigation.

FAMILY'S ATTORNEY

JAMES HAMILTON

472-7826

363-3020

WEBB HUBBELL

514-9500

When body can be released?

Craig (Counsel) / WH Security

LIVINGSTONE - responsible to Fairfax Hosp. - Is Body Come down stairs ada. (Bruce Haight) observed with bow. (records?)

Catherine Gallagher Notified for Webb Hubbell @ 1300 hrs.

~~Next body can be~~ released

Mr. Wussham.
1310 – left office
the Sheriff's Office

Tried to page @ 1430
No response

Mr (Wussham) left office
@ 1430 hours of 1900.

No unusual behavior.

Betsy Todd.

Deborah Gotham.

~~1000~~ INTERVIEW
+ 0830

LIVINGSTONE SAID HE WAS
NOT IN OFFICE TODAY

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/11/94

Sergeant PETER W. MARKLAND, U.S. Park Police (USPP), District 2, Glen Echo, telephone number (301) 492-6293, was interviewed on the telephone as a follow-up to his interview of June 9, 1994. Sergeant MARKLAND provided the following information:

He was asked about his handwritten notes (copy attached) taken during the USPP investigation of the death of VINCENT W. FOSTER, JR. on July 20, 1993. The notes indicate that CRAIG LIVINGSTONE, White House Security, "responded to Fairfax Hosp. - ID body." The notations continue, "came down stairs (Bruce Abbott observed) with box (records?)."

MARKLAND identified BRUCE ABBOTT as a Uniformed Division U.S. Secret Service "guy" who had been posted at the desk in the White House. MARKLAND said ABBOTT told him "on the side" he had observed LIVINGSTONE with a box as indicated in MARKLAND's handwritten notes.

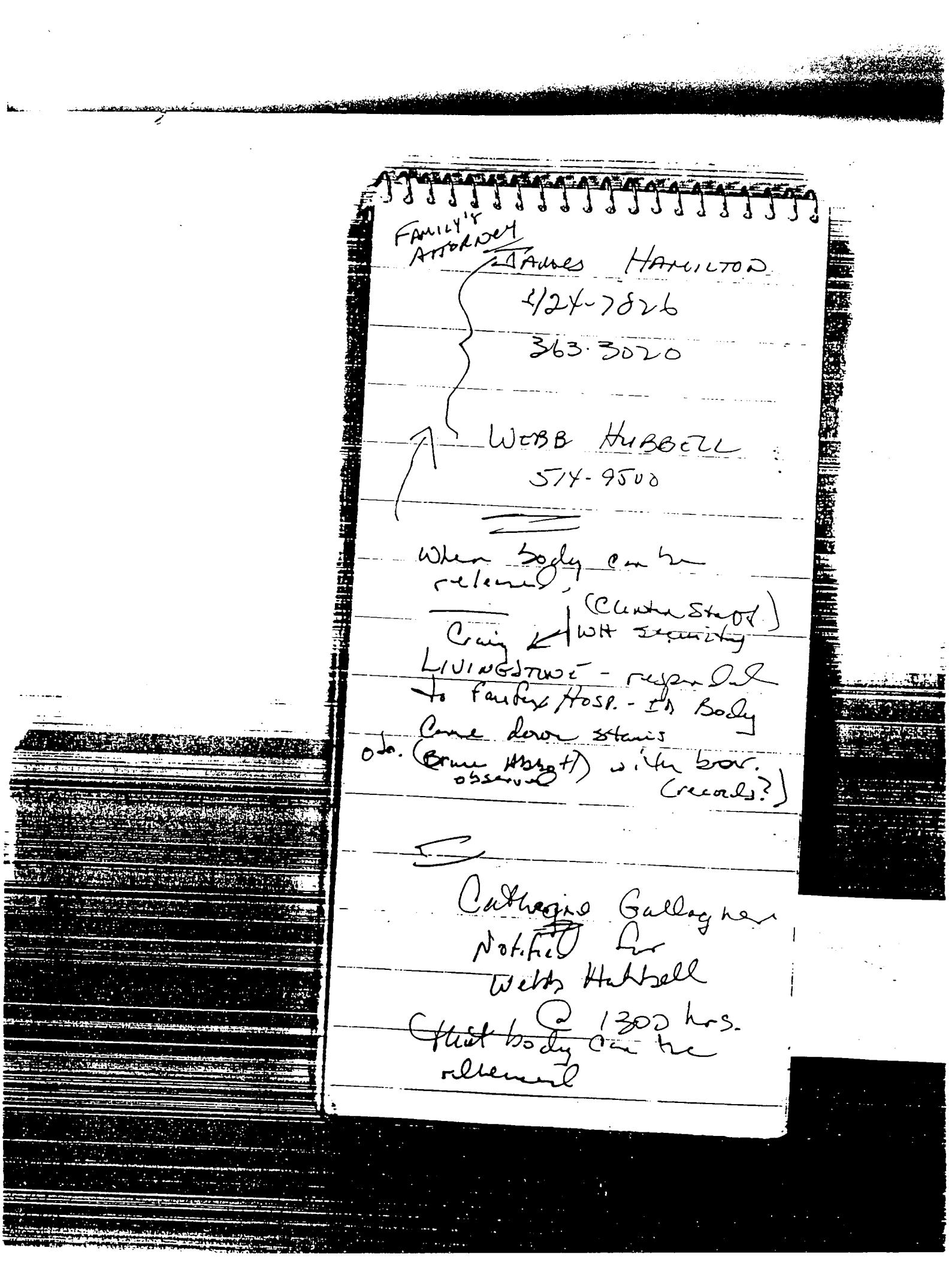
MARKLAND said he later asked LIVINGSTONE about this. LIVINGSTONE told him he had not gone into VINCENT FOSTER's office but had taken records. LIVINGSTONE said he had come from the second floor of the West Wing of the White House with a box. LIVINGSTONE had done this "early" on the morning of July 21, 1993. When asked if he could further pinpoint the time, MARKLAND replied he could not except to say that it occurred sometime before the USPP got to the White House that day. MARKLAND said the information provided by LIVINGSTONE seemed "inconsequential" at the time and he did not pursue it further. MARKLAND said he did not get the feeling that LIVINGSTONE was someone any one would have confided in. He felt LIVINGSTONE was "on the level."

(telephonically)

Investigation on 7/8/94 at Washington, D.C. File # 29D-LR-35063 SUBA-280

by SA William T. Guyton WTG:deg Date dictated 7/11/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



FAMILY'S ATTORNEY
JAMES HAMILTON
424-7826
363-3020

WEBB HUBBELL
514-9500

When body can be released?

Craig ← WH security (Clinton Staff)
LIVINGSTONE - respond to Fairfax Hosp. - Ed Body Come down stairs
ofc. (Bruce Hastings observed) with bror. (records?)

Catherine Gallagher
Notified for
Webb Hubbell
@ 1300 hrs.
that body can be
released

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/24/94

30175401.wec

Sergeant ALBERT JEZ, Investigator, U.S. Park Police (USPP), Internal Affairs Office, Annocostia Operations Facility, Washington, D.C. (telephone number 690-5050) was advised of the identity of Special Agent WILLIAM E. COLOMBELL of the FBI. Sergeant JEZ provided the following information regarding his handling of Freedom of Information Act (FOIA) requests received by the USPP concerning the death investigation of VINCENT FOSTER.

The only USPP records relating to the VINCENT FOSTER death investigation that he provided to Mr. BERNARD NUSSBAUM, White House Legal Counsel Office, related to a number of FOIA requests received by the USPP beginning in August of 1993.

By cover letter dated 9/3/93 (attachment #1), Mr. NUSSBAUM was provided with four pages of records previously provided to the USPP by the White House described as follows: FOSTER's personal calendar (two pages); FOSTER's phone log (one page), and a note left by FOSTER (one page). The USPP cover letter explained that the above documents were considered White House documents. The USPP requested White House recommendations as to the releasability under FOIA of these specific documents.

By letter dated 11/8/93 (attachment #2), Mr. NUSSBAUM responded, stating that in the opinion of The White House Legal Counsel Office, the above four pages of records should not be disclosed. Mr. NUSSBAUM's letter also included legal justifications under FOIA for withholding release of such documents.

The USPP sent a second letter to The White House Legal Counsel Office dated 12/13/93 (attachment #3), adding that this second letter also related to USPP efforts to respond to these pending FOIA requests. Sergeant JEZ stated that this letter was sent after consultation between Sergeant JEZ and Ms. PEGGY IRVING, FOIA Section, Department of Justice (DOJ). Additional USPP FOSTER death report documents were sent to The White House as enclosures to this second letter, including three pages from the USPP investigative report (marked as items 36, 50 and 52) and

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Investigation on 6/24/94 at Washington, D.C. File # 29D-LR-35063 SUB A - 272

by SSA WILLIAM E. COLOMBELL WEC Date dictated 6/24/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

a U.S. Secret Service log of persons entering Mr. FOSTER's office on 7/21/93 (marked as item 87).

Items 36, 50 and 52 are not White House documents but rather the written result of USPP investigative efforts. Items 50 and 52 reflect the USPP follow-up investigation generated from a review of the FOSTER phone log. Items 36 reflects USPP investigation generated from a review of U.S. Secret Service log of persons entering FOSTER's office on 7/21/93. It was the USPP position, after consultation with the FOIA section of the DOJ, that these items, although not White House documents, related to the previously described White House documents and thus White House views and legal opinion were necessary prior to any release under FOIA.

To his knowledge, Mr. NUSSBAUM, White House Legal Counsel's office, never did send a response back to the USPP letter dated 12/13/93.

With the appointment of Mr. ROBERT FISKE as Independent Counsel in Whitewater related matters, all pending FOIA requests re the FOSTER death investigation were denied based on exemption 7A (pending investigation).

The decision to send the above portions of the USPP report to The White House was based on recommendations to his department made by Ms. PEGGY IRVING, FOIPA, DOJ.

Normally, if he has legal issues to resolve re handling of FOIA requests, he checks with the Solicitor's Office for the U.S. Department of Interior (Attorneys RICK ROBBINS or RANDY MYERS). In this case, he was told by his superior, Commander HINES, to work with Department of Justice, FOIA section re all FOIA requests received by USPP relating to FOSTER's death. It was his understanding that this decision was based on a letter, dated August 20, 1994 from Ms. PEGGY IRVING, Department of Justice, (attachment #4) citing the need for coordination and consultation between the various federal entities that had received FOIA requests re FOSTER's death.

He had also discussed with Ms. IRVING, those portions of the USPP FOSTER death report dealing with interviews of White House staff persons and assistants, specifically the issue of referring those parts of the report to The White House Legal Counsel Office for their input prior to any FOIA release. It was

his understanding that the Department of Justice, FOIA section would handle this matter and that prior to any release, the Department of Justice would make those portions of the report (interviews of White House staff) available to The White House Legal Counsel's Office for its legal opinion regarding release of this material under FOIA. He has no knowledge whether the FOIA section, Department of Justice, subsequently provided these portions of the USPP report to The White House or not.

Sergeant JEZ concluded by stating that in early April, 1994, he was contacted by Mr. RICHARD ROBBINS, an attorney with the Solicitor's Office, Department of Interior, adding that ROBBINS instructed him to make a copy of both the unredacted and redacted portions of the USPP FOSTER investigation dealing with interview of White House staffers and assistants. Sergeant JEZ assumed that Mr. ROBBINS wanted to review those sections of the report to ensure that FOIA exemptions and exceptions were properly applied. On April 7, 1994, he provided Mr. ROBBINS with both clear and redacted copies of those portions of the report dealing with interviews of all White House staffers and assistants (attachment #5).

Sergeant JEZ stated that the above information represents the totality of his knowledge concerning who was provided portions of the USPP FOSTER death investigation by the FOIA unit of the USPP.

#1

United States Department of the Interior

NATIONAL PARK SERVICE
Headquarters, United States Park Police
1100 Ohio Drive, S. W.
Washington, D. C. 20242
DRAFT

IN REPLY REFER TO:
P36(NCR-FOIA)

TAKE PRIDE IN AMERICA

9/3

9/10/93

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

While processing a Freedom of Information Act (FOIA) request from Mr. William Neuman, received on August 11, 1993, the United States Park Police located four documents containing information furnished by White House Staff. We request your review of the documents, making any deletions or recommendations regarding withholding a document in entirety. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you have made. If there should be any other justification for withholding this information from public disclosure, please provide supporting documentation.

We have enclosed the following:

1. a copy of Mr. Neuman's FOIA request;
2. copies of the documents you provided us;

If you should have any questions concerning this referral, please contact Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures
bcc:
USPP FOIA Surname
Cmdr., OIS
Cmdr., IAU

FOIA file 93-026

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony 4:00pm Bacsey Wright BD 1317 F, Suite 600	2 9:00am Staff 7:30pm Chevy Chase CC	3
4 7:30pm Ice Cream Social	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevans-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich - Susan 12:15pm Pincus-Hay Adams	10
11	12 8:00am Sr. Staff 9:00am Staff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hrg Begins 9:00am Staff	21 9:00am Staff	22 9:00am Staff 1:15pm Sharon lunch	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

7/8/1993

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony	2 9:00am Staff 7:30pm Chevy Chase CC	3
4	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevens-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich 12:15pm Pincus 5:00pm Interns	10
11	12 8:00am Sr. Staff 9:00am Staff 10:45am Mtg w/ Watkins re staff 12:00pm Beth & Cliff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hearing 9:00am Staff	21 9:00am Staff	22 9:00am Staff 10:00am Judicial Selection 1:15pm Sharon lunch (4)	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff 8:00pm Mrs. Simpsons & Hemreich BDay	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

7/20/1993

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
		Brant Buck	501 377 0310	
1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter; if she cannot reach you, she will go ahead and call
		Gordon Rather	501 371 0808	personal matter (secy did not know specifics)
3:35 PM		Maggie	7194	has an answer to one of our questions
5:10 PM		Mrs. Foster		

WH. 7/30/93

I made mistakes from ignorance, inexperience and overwork

I did not knowingly violate any law or standard of conduct

No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was not intent to benefit any individual or special group.

The FBI lied in their report to the AG

The press is covering up the illegal benefits they received from the travel staff

The GOP has lied and misrepresented to knowledge and role and covered up a press investigation

The Ushers Office plotted to have excessive costs incurred, taking advantage of take and ret

The public will never believe the innocence of the Clintons and their legal staff

The WSJ editors lie without conscience

I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.

T. #2

THE WHITE HOUSE

WASHINGTON

November 8, 1993

Robert H. Hines, Major
Commander, Office of Inspectional Services
United States Department of the Interior
National Park Service
Headquarters, United States Park Police
1100 Ohio Drive, S.W.
Washington, D.C. 20242

Re: FOIA Request of William Neumann Dated August 11, 1993

Dear Major Hines:

You have asked for our opinion regarding the above-referenced request, under the Freedom of Information Act, for documents previously forwarded to the National Park Service by the White House Counsel's Office. We have reviewed these documents, and, for the reasons stated below, have concluded that such documents should not be disclosed.

First, the documents requested are not "agency records" subject to the FOIA. See 5 U.S.C. § 552(a)(4)(B). The Office of the President, including the President's immediate personal staff and units in the Executive Office whose sole function is to advise and assist the President, does not constitute an "agency" for the purposes of FOIA. See, e.g., Kissinger v. Reporters Committee, 445 U.S. 136, 156 (1980); National Security Archive v. Archivist of the United States, 909 F.2d 541, 545 (D.C. Cir. 1990) (Counsel's Office exempt from FOIA). Although the documents requested were forwarded to the Park Service, they remain White House documents not subject to the provisions of the FOIA. See, e.g., Goland v. CIA, 607 F.2d 339, 347 (D.C. Cir. 1978), vacated in part on other grounds, 607 F.2d 367 (D.C. Cir. 1979), cert. denied, 445 U.S. 927 (1980) (Congress' retention of control over documents turned over to agency).

Second, the requested documents do not qualify as "agency records" since they were primarily personal documents prepared for the convenience of an employee and were not distributed. See, e.g., Bureau of National Affairs v. U.S. Dep't of Justice, 742 F.2d 1484, 1485-96 (D.C. Cir. 1984) (personal diary, appointment calendars, phone logs not "agency records.")

Third, even assuming arguendo that these White House documents are "agency records", they are exempt from disclosure both under FOIA's exemption 6 (the privacy exemption) and exemption 7(c) (the privacy exemption in the context of a law enforcement

investigation). See 5 U.S.C. § 552(b)(6) & (b)(7)(c). Disclosure of these documents would violate the privacy rights of a former White House employee and his family, and would not serve any significant public interest. As the D.C. Circuit has cautioned, "[T]he legitimate and substantial privacy interests of individuals . . . cannot be overridden by general public curiosity." Fund for Constitutional Government v. National Archives and Records Service, 656 F.2d 856, 866 (D.C. Cir. 1981).

The privacy provisions of FOIA exemptions 6 and 7(c) apply fully to Mr. Foster's handwritten note. As has been publicly stated, the Foster family has requested that the handwritten version of the note not be released. That the note is handwritten only confirms the significant privacy interest in that note. Moreover, any public interest in release of the handwritten note is minimized because the complete contents of the note have been previously released and widely reported. See, e.g., New York Times Co. v. NASA, 920 F.2d 1002, 1004 (D.C. Cir. 1990) (en banc) (finding, under exemption 6, personal information in tape recording of astronauts' last conversation where transcript already published).

As you have requested, enclosed please find the copies of the documents you provided for our consideration. We appreciate your cooperation with this matter.

Sincerely,

Bernard W. Nussbaum
Counsel to the President

Att. #3

United States Department of the Interior

NATIONAL PARK SERVICE
HEADQUARTERS, UNITED STATES PARK POLICE
1100 Ohio Drive, S.W.
Washington, D.C. 20242

IN REPLY REFER TO:
P36(NCR-PPIA)

DEC 13 1993

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

We have determined that it is necessary we refer to you the enclosed documents marked #36, #50, #52 and #87. These documents were determined to be responsive to Mr. William Neuman's Freedom of Information Act (FOIA) request.

Document #87 titled, "Communication Record", was initially referred to the United States Secret Service (USSS). The USSS has determined that this document should be referred to the White House, Mr. Bernard Nussbaum, Counsel to the President, 1600 Pennsylvania ave., N.W., Washington, D.C. 20500 regarding a public disclosure determination.

Document #36 contains information, bracketed in red, directly related to document #87. Documents #50 and #52 contain information, bracketed in red, directly related to a document we previously referred to you on September 3, 1993.

We request you review the entire document #87 and the information on documents #36, #50 and #52 that is bracketed in red, making any deletions or recommendations regarding the public disclosure of these documents and information. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you make. If there should be other justification for withholding this information from public disclosure, please provide documentation regarding this.

We have enclosed the following:

1. A copy of Vincent Foster's phone log that was previously referred to you on September 3, 1993;
2. A copy of your response regarding the September 3, 1993, referral;
3. A copy of Mr. Neuman's FOIA request;
4. A copy of documents #36, #50, #52 and #87 that we request you review;

If you should have any questions concerning this referral, please contact me on 202-619-7350 or Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures

bcc:
USPP IAU FOIA Surname
USPP IAU FOIA File

AFJEZ:aj:12-10-93:WP51\FINUS.326

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
		Brant Buck	501 377 0310	
1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter she cannot reach you, she will go abc and call
		Gordon Rather	501 371 0808	personal matter (secy did not k w specifics)
3:35 PM		Maggie	7194	has an answer to one of our questio
5:10 PM		Mrs. Foster		

7F50

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 NAME OF UNIT WHERE INCIDENT OCCURRED	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police	07	29	93	-93-	-30,502

3 INCIDENT
Investigation

5 RECLASSIFICATION OF INCIDENT

RESULTS OF INVESTIGATION

On Friday, July 30th, Detective [redacted] and I responded to the Executive Office Building (EOB) Room 128 to meet with [redacted]. The purpose of the meeting was to examine the telephone message log of Vincent Foster during the month of July and in particular to attempt to determine if he had gotten a call just prior to his departure on July 20, 1993. We learned that the phone logs were just a message log of calls he received when he was absent or unable to take the call. The administrative assistants would type time, person's name, phone number, and messages if one was left. The log was no assistance in determining if anyone had called him just prior to 1300 hours on July 20, 1993, if the call had been put through. There was one notation of interest on July 19, 1993. A [redacted] had called at 1047 hours and left his phone number [redacted]. There were no messages. Prior to 1300 hours on July 20, he had received several phone messages. Some of the messages were from his staff. There were two calls made from Arkansas from the same person and one call from Colorado. Attempts will be made to contact these people and see if either reached Vincent prior to 1300 hours.

[redacted] requested if any information about the phone logs is contemplated being released, [redacted] would like to have the counsel's office notified at the White House prior to any release. I told [redacted] that I would put his request in my report. This caused [redacted] some concern because [redacted] didn't want special or unusual attention drawn to his request.

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES / NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

States Park Police

WHEN DID IT OCCUR? MO. 07 DAY 20 YR 93 4 YEAR 93 CASE/INCIDENT NUMBER -30501

INCIDENT
Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

July 20,, 1993 Phone Log

[redacted]

The phone message log indicated [redacted] called for Foster at 10:55 a.m. and left only his phone number 501-377-0310. The log indicated he called again at 11:11 a.m. and left the same phone number.

On August 2, I called [redacted]'s office and spoke to his secretary, [redacted]. [redacted] was on vacation. She said [redacted] did get a return call from Foster on July 19th, but [redacted] had stepped away from his desk. Foster returned the call to Buck at 11:17 a.m. central time (12:17 a.m. eastern time). [redacted] had a brief conversation with Foster that was characterized as normal, nothing unusual. Brant [redacted].

[redacted]

The phone message log indicated a call from [redacted] at 11:11 a.m. with only a phone number left, [redacted] Lyons is from the [redacted] I contacted [redacted] by telephone on August 2nd. He had known Foster since the late 1980's. He met him through Hillary Rodham Clinton and the Rose Law Firm. They had worked together on the Campaign. [redacted] was going to be in Washington on Wednesday, July 21st. He had called and spoken with Foster Sunday July 18th between 8:00-9:00 p.m. eastern time and they had agreed to meet for dinner Wednesday.

[redacted] had told Foster he would call him and let him know when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993.

[redacted]

The phone message log indicated that a [redacted] called Foster at 2:14 p.m. and left his phone number, [redacted] and a message was noted by the administrative assistant "personal matter (secy did not know specifics)"

ARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	16 INVESTIGATOR	BADGE/ID	DATE	18 SUPERVISOR

#36

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 ITEM AREA: United States Park Police

3 WHEN DID IT OCCUR? MO 07 DAY 20 YR 93

4 YEAR 93 CASE INCIDENT NUMBER 30501

5 NATURE OF INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT

ITEM | 7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the [redacted]. The following people were also present during this meeting: [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted] Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. [The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1334 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.]

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted] with [redacted] near [redacted] side and [redacted] at the end of the desk.

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			

13 STATUS: ☐ OPEN ☐ CLOSED

COMMUNICATION RECORD

#87

Log of Persons entering Mr. Foster's office.

Wednesday July 21st 1993

11:16A MR Nussbaum Removed a small Red plastic (Off. Mixon)

4:24P Cliff Sloan, to replace a bag of trash previously taken from Mr. Foster's Trash Can (Off. Cheney)

8:02P Kevin Pebbins, Kenneth Blair, to Place the lock on the door to Foster's office. (Sgt Flynn)

10:32P Lock installed, Door Secured by Flynn

Thursday July 22nd 1993

1:15P MR Nussbaum Steve Neuwirth, Cliff Sloan, Bill Burton, Michael Spafford David Margolis, Peter Adams, Capt Alonzo Hemp, Pete MacKland, Sgt Sabitt Dennis Condon, Revi Investigator Dan Flynn.

2:49P Disconnected Security door, Key given to Mr Nussbaum by Flynn.

All #4

U. S. Department of Justice

Washington, D.C. 20530

August 20, 1993

HAND-DELIVERED

MEMORANDUM

TO: Major Robert Hines
U.S. Park Police
Department of Interior

FROM: Margaret Ann Irving
Associate Director
Office of Information and Privacy

SUBJECT: Freedom of Information Act Requests for U.S. Park Police Report Regarding Death of Deputy White House Counsel Vincent Foster

The Office of Information and Privacy, acting on behalf of the Deputy Attorney General, has received several requests for access to various records regarding the death of Vincent Foster. The enclosed report which was provided to the Deputy Attorney General by your agency is among the responsive documents. In an effort to provide a consistent response to all requesters, we are directing the report to you for consultation prior to making our final responses.

Accordingly, please provide us with any comments or recommendations you may have as to the sensitivity of this report. As you are aware, certain material in this report originated with the Bureau of Alcohol, Tobacco and Firearms; you may wish to consult with it regarding its information prior to making your response to this Office. Also contained in your report are documents that originated with the FBI. Such documents are duplicative of records which we are directing to the FBI for its review. We will apprise you of the FBI's disclosure recommendations as soon as such review is completed.

Please return the document, along with your comments, to me at the following address:

U.S. Department of Justice
Office of Information and Privacy
Room 7238
Washington, D.C. 20530
Attention: Ms. Irving

Lastly, I understand that your Office has also received FOIA requests directly. To ensure consistent responses, we ask that you consult and coordinate with this Office prior to any response to the requesters. If you have any questions regarding this matter, please call Charlene Wright or me at 514-4251.

Enclosure

ATT #5

Material delivered to K. Myers or K Robbins office on 4/7 pursuant to a phone call from K. Myers.

Clean copies of WH employee interviews 4/7
#29, 30, 31, 32, 33, 34
36, 37, 43, 45, 46

Redacted copies 4/7
of 29, 30, 31, 32, 33
34, 36, 37, 43, 45, 46

4/7

FYI
Bracketed material on document #36 was forwarded to WH.
I have provided #50+52 which were forwarded to WH.
We have not received a return.

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
d States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

5 INCIDENT — 6 RECLASSIFICATION OF INCIDENT

th Investigation

7 RESULTS OF INVESTIGATION

7/21/93: Bernard Nussbaum

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A Condon, S/A Salter, Captain Hume, and Detective Markland responded to the West Wing and spoke with Mr. Nussbaum to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. Mr. Nussbaum is Chief Counsel to the President. S/A Salter and Det. Markland obtained the following information from Mr. Nussbaum as a result of that meeting:

-Mr. Nussbaum had determined that Mr. Foster had left his office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. Mr. Nussbaum tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, Mr. Nussbaum left and proceeded to his domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to him, Mr. Nussbaum responded back to the White House where he went through Mr. Foster's office with Patsy Thomassen and Maggie Williams. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on his desk. This search lasted from 2200 to 2400 hours. Mr. Nussbaum stated that no documents were removed from the office.

-Mr. Nussbaum stated that he learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on his desk top "to make it neat".

-At approximately 0900 hours Mr. Nussbaum again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-Mr. Nussbaum requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

29

RRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED — CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			P. Hume Markland					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tes Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2
DENT vestigation	6 RECLASSIFICATION OF INCIDENT				

ULTS OF INVESTIGATION

On Thursday, August 22, 1993, Detective Pete Markland and I responded to the White house to meet with Special Agents Scott Salter and Dennis Condon of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent Condon interviewed Ms. Betsy L. Pond; Staff Assistant to Bernard Nussbaum, Chief Counsel for the White House. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were Clifford Sloan; associate counsel to Nussbaum, and Paul Imbordino; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. Clifford Sloan took notes throughout the interview. During the interview Bernard Nussbaum burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. Ms. Pond got in to work at around 0900 hours on Tuesday, July 20th. Usually there is a staff meeting of the counsel's office from 0900 to 0945 hours each morning that Vincent Foster would attend. She assumed he was at the staff meeting as she didn't see him when she arrived at work. She first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

She doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She recalled there were M & M's on the tray with the food because Linda wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". Ms. Pond recalled that she and Linda were in the office when he left. She wasn't sure if Tom was in the office or not. Tom Castleton is a young college graduate working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight lost. She was unaware of him taking any medication or seeing any doctors. I asked here would she be surprised if I found out he was seeing a psychiatrist. She said yes. She was not aware of any depression problems. She had no information whether he owned any weapons.

30

ANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
ES O	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

TATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hume					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
tes Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

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vestigation

6 RECLASSIFICATION OF INCIDENT

LTS OF INVESTIGATION

Ms. Pond said she left work at approximately 1845-1850 hours on Tuesday; but, before she left at around 1820 or so, Maggie Williams (Mrs. Clinton's Chief of Staff) called for Vincent. She paged Vincent and left the White House number for him to call. She recalled no other phone messages for Vincent.

She learned about Vincent's death from messages on her home answering machine around 0500-0600 hours on Wednesday, July 21. She came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when she arrived at work. She believed that Tom Castleton or Bernard Nussbaum were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. She went into his office and "squashed" the papers together that were on his desk. She realized that she shouldn't have touched the papers as soon as she did it but probably did it out of habit.

When I questioned her if she had been told how to respond to our questions, she stated that Clifford Sloan (who was present during our interview) and Steve Neuwirth, both associate counselors, had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

31

RANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

TATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

PORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Cpt. Charles Hume #852		8/4/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR?	MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3 -	3 0 5 0 2

d States Park Police

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h Investigation

6 RECLASSIFICATION OF INCIDENT

ULTS OF INVESTIGATION

Interview: Deborah Gorham

Deborah Gorham is the Executive Assistant that was assigned to Vincent W. Foster. Her desk is located in the common area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying this common office space are Betsy Pond (Executive Assistant to Mr. Nussbaum), Linda Tripp (Executive Assistant), Tom Castleton (Staff Assistant), and Marlene McDonald (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. Markland (USPP), S/A Salter (FBI), and Assistant White House Counsel Steven Neuwirth.

Ms. Gorham stated that she did not know Mr. Foster before she was hired on March 8, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

Ms. Gorham recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when Mr. Neuwirth asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for Mrs. Foster. Ms. Gorham did not see this as a real problem or place any significance on it.

32

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED	CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED					
14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
07	20	93	93	- 30502

d States Park Police

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th Investigation

6 RECLASSIFICATION OF INCIDENT

SULTS OF INVESTIGATION

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. Hume), Det. Markland and S/A Salter were asked to remain and were ushered into Mr. Nussbaum's office by Mr. Neuwirth. Ms. Gorham was brought in and she stated that she had just remembered some conversations that she thought were important to our investigation. Within the last two weeks Ms. Gorham had received calls from Mr. Foster's eldest son and Mrs. Foster inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

33

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

4 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR?	MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 3 0 5 0 2

States Park Police

6 RECLASSIFICATION OF INCIDENT

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Investigation

LTS OF INVESTIGATION

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective Markland and Special Agent Salter on 7/22/93. The information provided by these two individuals was brief.

Tom Castleton (Staff Assistant) @ 1000 hours:

Mr. Castleton stated that he worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although he could not place the time. Mr. Castleton was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to Mr. Castleton to be "In his own world", focused, disturbed.

Linda Tripp (Executive Assistant) @ 1150 hours:

Ms. Tripp stated that she began her workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to her, however, she had no personal dealings with him on that day.

Ms. Tripp makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for herself how long she may expect them to be away from the office. Ms. Tripp was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

34

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED	CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED		
14 REPORTING OFFICER BADGE/ID DATE	15 INVESTIGATOR BADGE/ID DATE	16 SUPERVISOR BADGE/ID DATE	
	D. H. Markland #330		

* U S GPO 1992-0-625-524/41193

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tates Park Police	07	20	93	93	- 30502

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT:

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the Chief Counsel, Bernard Nussbaum. The following people were also present during this meeting: William Burton, Deputy Chief of Staff for the President, Clifford Sloan and Steven Neuwirth; Associate Legal Counselors, Michael L. Spafford; Attorney representing the Foster family, Captain Charles Hume and Detective Pete Markland; U.S. Park Police, Special Agents Scott Salter and Dennis Condon; Federal Bureau of Investigation, David Margolis, Deputy Assistant Attorney General Criminal Division; and Roger Adams; Department of Justice Attorney, Paul Imbordino and Donald Flynn; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector Dennis Martin of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. Bernard Nussbaum took a seat at Foster's desk, He was surrounded by his two associates, Sloan and Neuwirth, with Burton near his side and Spafford at the end of the desk.

-36

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hume					
			Cpt. Charles Hume #852		8/4/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

ates Park Police

3 WHEN DID IT OCCUR? MO 07 DAY 20 YR 93 4 YEAR 93 CASE/INCIDENT NUMBER -3052

DENT
vestigation

6 RECLASSIFICATION OF INCIDENT

ULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process Bill Burton left the office on at least two occasions and returned. Bernard Nussbaum did the actual review of the documents in a very hurried and casual fashion. There was some conversation between Nussbaum and Margolis as what constituted privileged communication. Nussbaum carried his interpretation of what was considered privileged to the extreme; one example was when he picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. Nussbaum would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, he decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective Markland or Margolis would ask him to place a certain note or document in a pile for possible police examination. At one point, Nussbaum pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. He put them on the desk and went through them. He then locked in the valise/briefcase again, but did not take anything out of it. A little later he moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind him and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent Scott Salter got up to stretch and Clifford Sloan challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that Nussbaum had separated out were left in the office with the exception of the pile containing what Mr. Nussbaum determined to be personal papers of Foster. It was agreed between Margolis and Nussbaum that the family lawyer could take those papers and after getting approval from Mrs. Foster the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. Margolis cautioned Nussbaum and his staff not to remove anything from the office. Nussbaum stated he could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and Nussbaum was given the key after we cleared the office on Thursday at 1449 hours.

37

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED ☐ CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Cpt. Charles Hume	#852	8/4/93			

• U.S. GPO: 1992-0-625-524 41193

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 LOCATION	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
Ft. Marcy	07	20	93	93	0305 02

5 INCIDENT
Death Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with Mr. Bernard Nussbaum in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, Mr. Phillip Heymann, as well as Asst. Chief of Staff Bill Burton, also Mr. Gergen and Mr. McLarty.

Mr. Nussbaum had before him on the table small pieces of yellow lined note paper which he was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. Mr. Nussbaum read the contents of the notes to the undersigned of which I took notes. He then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to Mr. Nussbaum, on Monday 7-26-93 he directed one of his assistants, Mr. Steven Neuwirth enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, he found the torn pieces of a hand written page. The scraps were dumped out and then, taken to Mr. Nussbaum's Office where they were assembled and Mr. Nussbaum was notified. Mr. Nussbaum then went through notification procedure, to Bill Burton, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was Mr. Jim Hamilton, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to Mr. Bill Burton 202-456-6798 Mr. Steven Neuwirth will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE OF PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[illegible]	2407	7-27-93	Capt. C.L. Hume	823	8/2/93

USGPO 1992-0-625-524/41153

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
0 7	2 0	9 3	9 3	- 3 0 5 0 2

2 United States Park Police

5 INCIDENT
Death Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

Interview: Steven Neuwirth

Steven Neuwirth is an Assistant White House Counsel and the person reported to have found the note presumably written by Vincent W. Foster that was turned over to Detective L. J. Megby on 7/27/93. The note had been discovered by Mr. Neuwirth during the packaging of Mr. Foster's personal effects on 7/26/93. On 7/29/93 at approximately 1130 hours, Steven Neuwirth was interviewed in Bernard Nussbaum's office by Detective Peter W. Markland and Captain Charles Hume. Mr. Nussbaum was also present and became a subject of the interview.

The following questions were posed to the two gentlemen regarding the note in question:

How could this note have avoided detection during the search of Mr. Foster's office by Mr. Nussbaum and other members of the White House Counsel's office in our presence on 7/22/93?

If the note was found on 7/26/93 why were the police not notified of it's existence until approximately 8:00 P.M. on 7/27/93?

Mr. Nussbaum stated it was his recollection that he removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of him. He then went through the materials. He inferred that because of this he had missed the small scraps of yellow paper that obviously remained in the bottom of the briefcase. I informed Mr. Nussbaum that I was seated on the small couch directly across from and facing him and that I had a clear view of the briefcase when he removed it's contents, also that after the contents were removed I could see that he spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. Mr. Nussbaum did not recall doing what I described. Captain Hume stated that he observed that Mr. Nussbaum handled the briefcase a third time when he slid it back towards the wall behind him in order to access the desk's file drawer. Mr. Nussbaum agreed with Captain Hume's recollection of sliding the case to the rear.

Mr. Nussbaum then related that the following people were contacted to view the document before a determination could be made to disclose it to the U. S. Park Police:

Bill Burton (Deputy Chief of Staff)
Thomas F. McLarty (Chief of Staff)
Lisa Foster (wife of Vincent Foster)
Phillip Heymann (Deputy Attorney General)
Janet Reno (Attorney General)

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED — CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 AGENCY CASE NUMBER	MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
	07	20	93	93	-305 02

2 Ited States Park Police

5 INCIDENT
Death Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

President Clinton was made aware of the existence of the document. Only Mr. Neuwirth and Mr. Nussbaum handled the document.

Mr. Neuwirth then related his recollection of the discovery of the document. He stated that he was in the process of gathering and packaging Mr. Foster's personal affects for delivery to the family when he turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with Mr. Foster's daughter, Laura. When he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. He then retrieved a number of other similar scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where he assembled the document which was, ultimately, turned over to Detective Megby.

Mr. Nussbaum was asked if he could clarify two entries on the handwritten note. "HRC" refers to the first lady; "KAKI" refers to an interior decorator employed by Mrs. Clinton.

Mr. Nussbaum stated that there were only "three or four" work related documents on Mr. Foster's computer.

Inquiries were made regarding the phone logs kept at the office. Mr. Neuwirth stated that they had been assembled and that they will review them and contact us.

The interview concluded at approximately 1230 hours.

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
				,	94			

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
07	20	93	93	- 3050 2

States Park Police

6 RECLASSIFICATION OF INCIDENT

Investigation

TS OF INVESTIGATION

7/21/93: [redacted]

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A [redacted] S/A [redacted] Captain [redacted] and Detective [redacted] responded to the West Wing and spoke with [redacted] to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. [redacted]. S/A [redacted] and Det [redacted] obtained the following information from [redacted] as a result of that meeting:

[redacted] had determined that Mr. Foster had left [redacted] office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. [redacted] tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, [redacted] left and proceeded to [redacted] domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to [redacted] responded back to the White House where [redacted] went through Mr. Foster's office with [redacted] and [redacted]. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on [redacted] desk. This search lasted from 2200 to 2400 hours. [redacted] stated that no documents were removed from the office.

[redacted] stated that [redacted] learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on [redacted] desk top "to make it neat".

-At approximately 0900 hours [redacted] again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-[redacted] requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

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9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

OFFICER BADGE/ID DATE | 15 INVESTIGATOR BADGE/ID DATE | 16 SUPERVISOR BADGE/ID DATE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

Park Police

DATE WHEN DID IT OCCUR: MO. 07 DAY 20 YR. 93 4 YEAR 93 CASE/INCIDENT NUMBER -30-50

RECLASSIFICATION OF INCIDENT

tigation

OF INVESTIGATION

On Thursday, August 22, 1993, Detective [redacted] and I responded to the White house to meet with Special Agents [redacted] and [redacted] of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent [redacted] interviewed [redacted], [redacted] House. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were [redacted]; [redacted] and [redacted]; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. [redacted] took notes throughout the interview. During the interview [redacted] burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. [redacted] got in to work at around 0900 hours on Tuesday, July 20th. Usually there is a staff meeting of the counsel's office from 0900 to 0945 hours each morning that Vincent Foster would attend. [redacted] assumed he was at the staff meeting as [redacted] didn't see him when [redacted] arrived at work. [redacted] first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

[redacted] doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation [redacted] had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. [redacted] and [redacted]went to the cafeteria and ordered his lunch. [redacted] recalled there were M & M's on the tray with the food because [redacted] wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". [redacted] recalled that [redacted] and [redacted] were in the office when he left. [redacted] wasn't sure if [redacted] was in the office or not. [redacted] is a [redacted] working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks [redacted] did not notice any changes, either physically or emotionally. [redacted] noticed no weight lost. [redacted] was unaware of him taking any medication or seeing any doctors. I asked [redacted] would [redacted] be surprised if I found out he was seeing a psychiatrist. [redacted] said yes. [redacted] was not aware of any depression problems. [redacted] had no information whether he owned any weapons.

-3030-

7(S)	9 ☐ CLOTHES ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGE

13 ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[redacted]					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
	0 7	2 0	9 3	1 9 9 3	- 3 0 5 0

Park Police

6 RECLASSIFICATION OF INCIDENT

tigation

7 INVESTIGATION

[redacted] said [redacted] left work at approximately 1345-1850 hours on Tuesday; but, before [redacted] left at around 1320 or so, [redacted] ([redacted]f) called for Vincent. [redacted] paged Vincent and left the White House number for him to call. [redacted] recalled no other phone messages for Vincent.

[redacted] learned about Vincent's death from messages on [redacted] home answering machine around 0500-0600 hours on Wednesday, July 21. [redacted] came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when [redacted] arrived at work. [redacted] believed that [redacted]n or [redacted] were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. [redacted] went into his office and "squashed" the papers together that were on his desk. [redacted] realized that [redacted] shouldn't have touched the papers as soon as [redacted] did it but probably did it out of habit.

When I questioned [redacted] if [redacted] had been told how to respond to our questions, [redacted] stated that [redacted]an (who was present during our interview) and [redacted]h, both [redacted], had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

3/31

9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGE

☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

17 REPORTING OFFICER	BADGE/ID	DATE	INVESTIGATOR	DATE	18 SUPERVISOR	BADGE/ID	DATE
			[redacted]	2/1/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

3 WHEN DID IT OCCUR	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	07	20	93	93	-30501

d States Park Police

5 RECLASSIFICATION OF INCIDENT

ENT
h Investigation

ULTS OF INVESTIGATION

Interview: [redacted]

[redacted] Deborah Gorham is the [redacted] Each is located in the corridor area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying this common office space are [redacted] (Executive Assistant to Mr. Nussbaum), [redacted] (Executive Assistant), [redacted] (Staff Assistant), and [redacted] (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. [redacted] (USPP), S/A Salter (FBI), and [redacted] (White House Counsel).

[redacted] stated that she did not know Mr. Foster before she was hired on March 5, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

[redacted] recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when [redacted] asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, [redacted] had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. [redacted] on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for [redacted]. [redacted] did not see this as a real problem or place any significance on it.

32
32

7 GRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	LATENTS PHOTOS			PAGE 1 OF 2 PAGE

STATUS: OPEN SUSPENDED CLOSED BY: ARREST EXCEPTION UNFOUNDED

14 OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

Park Police

tigation

STIGATION

WHEN DID IT OCCUR	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 1 3 0 5 0 2

6 RECLASSIFICATION OF INCIDENT

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. [redacted]), Det. [redacted] and S/A [redacted] were asked to remain and were ushered into Mr. Nussbaum's office by [redacted]. [redacted] was brought in and [redacted] stated that [redacted] had just remembered some conversations that [redacted] thought were important to our investigation. Within the last two weeks [redacted] had received calls from [redacted] and [redacted] inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

3333

	8	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

TUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

RTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

• U.S. GPO: 1992-0-625-524/41153

[redacted] Police	DAY OF WEEK DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
		0 7	2 0	9 3	9 3	- 3 0 5 1 0 1
Investigation	6 RECLASSIFICATION OF INCIDENT					
INVESTIGATION						

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective [redacted] and Special Agent [redacted] on 7/22/93. The information provided by these two individuals was brief.

[redacted] (Retail Assistant) @ 1000 hours:

[redacted] stated that [redacted] worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although [redacted] could not place the time. [redacted] was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to [redacted] to be "In his own world", focused, disturbed.

[redacted] (Executive Assistant) @ 1150 hours:

[redacted] stated that [redacted] began [redacted] workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to [redacted], however, [redacted] had no personal dealings with him on that day.

[redacted] makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for [redacted] how long [redacted] may expect them to be away from the office. [redacted] was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED		11 INVESTIGATOR NOTIFIED		12 PAGE 1 OF 1 PAGES	
S: ☐ OPEN	☐ SUSPENDED	CLOSED BY: ☐ ARREST	☐ EXCEPTION	☐ UNFOUNDED			
NG OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID DATE
			Det. [redacted] 7-23-93				

* U.S. GPO:1992 O 625 524/411

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police	0 7	2 0	9 3	9 3 -	3 0 5 0 1 -

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the [redacted] The following people were also present during this meeting: [redacted] the President, [redacted]; [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted], with [redacted] near his side and [redacted] at the end of the desk.

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8 ARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

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SUPI :ORD 1 JUVENILE CASE

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93	93 -	3050

States Park Police

6 INCIDENT
Investigation

7 RESULTS OF INVESTIGATION

On Thursday, July 2 ollowing persons met in the office c determine if he left a suicide not information that might have led him to take his own life. The very limited examination of the documents and notes were done by the [redacted]. The following people were also present during this meeting: [redacted] the President, [redacted]; [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

A

2, all 13 of us entered the office [redacted] took a seat at Foster's desk, [redacted], with [redacted] the end of the desk.

Red Material referred to WH

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ARRANT(S)
☐ YES
☐ NO

11 INVESTIGATOR NOTIFIED

12

PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

	3 WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
tates Park Police		0 7	2 0	9 3	1 9 9 3	- 3 0 5 0
CIDENT nvestigation	6 RECLASSIFICATION OF INCIDENT					

ESULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process [redacted] left the office on at least two occasions and returned. [redacted] did the actual review of the documents in a very hurried and casual fashion. There was some conversation between [redacted] and [redacted] as what constituted privileged communication. [redacted] carried [redacted] interpretation of what was considered privileged to the extreme; one example was when [redacted] picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. [redacted] would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, [redacted] decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective [redacted] or [redacted] would ask [redacted] to place a certain note or document in a pile for possible police examination. At one point, [redacted] pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. [redacted] put them on the desk and went through them. [redacted] then looked in the valise/briefcase again, but did not take anything out of it. A little later [redacted] moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind [redacted] and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent [redacted] got up to stretch and [redacted] challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that [redacted] had separated out were left in the office with the exception of the pile containing what [redacted] determined to be personal papers of Foster. It was agreed between [redacted] and [redacted] that the family lawyer could take those papers and after getting approval from [redacted] the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. [redacted] cautioned [redacted] and [redacted] staff not to remove anything from the office. [redacted] stated [redacted] could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and [redacted] was given the key after we cleared the office on Thursday at 1449 hours.

3737

ANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
S	☐ LATENTS. ☐ PHOTOS			PAGE 2 OF 2 PAGES

ATUS: ☐ OPEN ☐ SUSPENDED ☐ CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

RTING OFFICER BADGE/ID DATE 15 INVESTIGATOR BADGE/ID DATE 16 SUPERVISOR BADGE/ID

SUPPLEMENTAL CRIMINAL INCIDENT REPORT

	WHEN DID IT OCCUR: MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
L. Marcy	0 7	2	9 3	9 3	0 3 0 5 9
1 Investigation	6 RECLASSIFICATION OF INCIDENT				

S OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with [redacted] in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, [redacted], as well as [redacted], also [redacted] and [redacted].

[redacted] had before [redacted] on the table small pieces of yellow lined note paper which [redacted] was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. [redacted] read the contents of the notes to the undersigned of which I took notes. [redacted] then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to [redacted], on Monday 7-26-93 [redacted] directed one of [redacted] assistants, [redacted] enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, [redacted] found the torn pieces of a hand written page. The scraps were dumped out and then taken to Mr. Nussbaum's Office where they were assembled and [redacted] was notified. [redacted] then went through notification procedure, to [redacted], to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was [redacted], the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to [redacted] will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

NT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE OF PAGES

☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

TING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[redacted]			[redacted]		7/21

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

tates Park Police

WHEN DID IT OCCUR? MO 07 DAY 20 YR 93 4 YEAR 1993 CASE/INCIDENT NUMBER 1310-51012

CASE

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vestigation

6 RECLASSIFICATION OF INCIDENT

NVESTIGATION

Interview: [redacted]

[redacted] is an [redacted] and the
erson reported to have found the note presumably written by
ncent W. Foster that was turned over to Detective [redacted]
7/27/93. The note had been discovered by [redacted] during
e packaging of Mr. Foster's personal effects on 7/26/93.
7/29/93 at approximately 1130 hours, [redacted] was
terviewed in Bernard Nussbaum's office by Detective [redacted]
and Captain [redacted]. [redacted] was also
esent and became a subject of the interview.

e following questions were posed to the two [redacted] regarding
e note in question:
How could this note have avoided detection during the search
Mr. Foster's office by Mr. Nussbaum and other members of
e White House Counsel's office in our presence on 7/22/93?
If the note was found on 7/26/93 why were the police not
tified of it's existence until approximately 8:00 P.M. on
27/93?

[redacted] stated it was [redacted] recollection that [redacted] removed
erials from the briefcase, which remained on the floor, and
ced them on the desk in front of [redacted] then went through
materials. [redacted] inferred that because of this [redacted] had missed
small scraps of yellow paper that obviously remained in
bottom of the briefcase. I informed [redacted] that I
seated on the small couch directly across from and facing
and that I had a clear view of the briefcase when [redacted] removed
s contents, also that after the contents were removed I could
that [redacted] spread open the briefcase and visually inspected
as if to confirm that it was, indeed, empty. [redacted]
not recall doing what I described. Captain [redacted] stated
[redacted] observed that Mr. [redacted] handled the briefcase a third
e when [redacted] slid it back towards the wall behind [redacted] in order
ccess the desk's file drawer. [redacted] agreed with
ain [redacted] recollection of sliding the case to the rear.

[redacted] then related that the following people were
acted to view the document before a determination could
ade to disclose it to the U. S. Park Police:

[redacted] (Deputy Chief of Staff)
[redacted] (Chief of Staff)
[redacted] (wife of Vincent Foster)
[redacted] (Deputy Attorney General)
Janet Reno (Attorney General)

45 45

LATENTS PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGES

☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ADDEND DATE | 15 INVESTIGATOR | ADDEND/ID

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/16/94

Captain CHARLES W. HUME, United States Park Police (USPP) was reinterviewed at the Annocostia Operations Facility, Washington, D.C. for the purpose of verifying the fact that all investigative notes taken by USPP officials during the course of the VINCENT FOSTER death investigation had been submitted to Office of the Independent Counsel. Captain HUME provided the following information to include copies of the below cited investigative notes:

Captain HUME advised that based on a prior request by Special Agent (SA) LAWRENCE J. MONROE he had thoroughly reviewed all investigative notes in his possession and personally contacted all USPP officials who were involved in the death investigation to determine if any investigative notes were still outstanding. Based on this review, Captain HUME furnished a series of investigative notes which, in his opinion, might not have been included in the initial submission of investigative notes to the Office of the Independent Counsel. Captain HUME stated that he feels confident that with the submission of these notes, that all available investigative notes have been made available to the Office of the Independent Counsel and further stated that the original notes will be maintained in the official case folder.

A review of the above cited investigative notes by SA LAWRENCE J. MONROE reflect miscellaneous notes by Captain HUME, Investigator JOHN ROLLA, Officer CHRIS HODAKEVIC and Detective JOSEPH MEGBY. These notes were reviewed by SA MONROE and contain no information not already in the possession of investigative personnel.

Investigation on 6/14/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SA WILLIAM T. GUYTON
SSA LAWRENCE J. MONROE Date dictated 6/16/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

Possible call at home to Anthony on 12th - 15th 6:53 pm conversion To Foster Home -

It tarnished.

July 15th 1993

Phone call w. JCR

Beck Anthony - concerning

Attorney Foster

S Horton ~~Foster~~ Bowman -

501 - 663 - 8905 -

Husband Lee Bowman -

Approx. 3 weeks prior

Vincent Foster made statement

To Beck Anthony

to the effect - I have

spent a Lifetime building

my Reputation and I am

in the Process of loosing

JCR

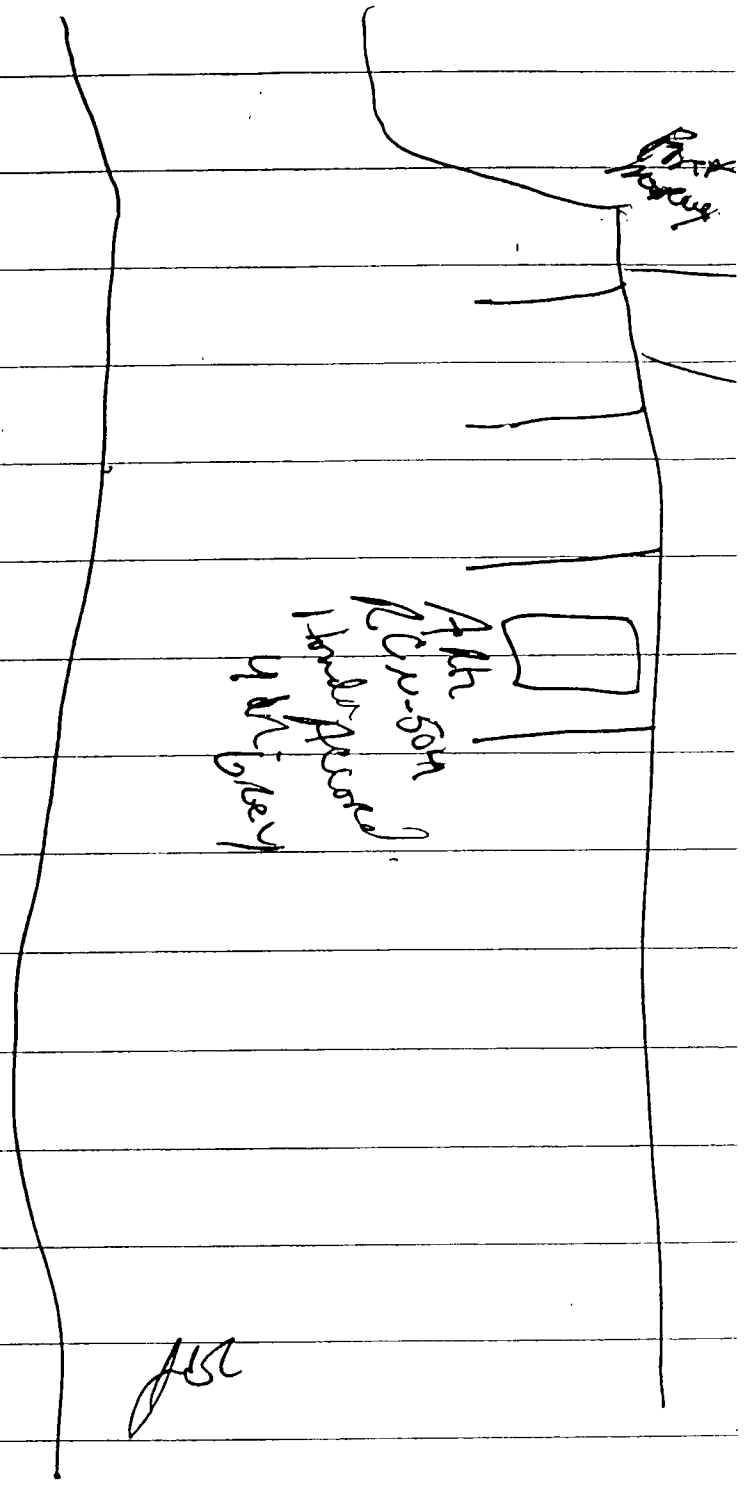
Cor. Fireston
07/20/93 1815 hrs

Rad Body 93-3052
Ft. MRCX
Death Bw.

Warm Sunny day

E203n Va. 95
300E 4 dr.
Blue
Parked at Gate
with Right turn
signal on

JCL



jcl

Ark - 10-93 -

RCN-504

Grey Honda Accord.

4 Dr -

Vanderbilt University

Sticker on Rear

windshield -

Parking sticker 3036

for Vanderbilt University

Suit Coat & Tie - Front

passenger seat -

White & Green Bag in

Back -

jcl

Vincent Foster, Jr.

5414 Stonewall Rd.

Little Rock, Ark

72207

89 Honda. 4 dr

Grey

Lt weight

395-4366

202-337-8103

3027 [illegible] St.

NW.

Paul Wathen.

333-0299

Personal Friend

1552 24th St.

Off Tipton

703-578-2852

pw

Case # 30502 @ 1804

HAUT, DONALD ~ 1940 on scene

FAIRFAX CO M.E.

764-4640 DR. BIER

McLEAN VFD ~~#~~ M1

TRANSPORT TO FAIRFAX HOSP.

FAIRFAX CO. ENGINE 1

5-31-94

Capt. Hume,

Another page of notes w/ names of medics first on scene was given to INV. ROLLS OR INV. BRAUN on date of incident.

Chris Horlacher

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 SYSTEM AREA	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
GWMP Ft. Marcy	07	20	93	93	0305

5 NATURE OF INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT:

ITEM

7 RESULTS OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with Mr. Bernard Nussbaum in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, Mr. Phillip Herman, as well as Asst. Chief of Staff Bill Burton, also Mr. Gerrighan and Mr. MacClarity.

Mr. Nussbaum had before him on the table small pieces of yellow lined note paper which he was assmbling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. Mr. Nussbaum read the contents of the notes to the undersigned of which I took notes. He then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to Mr. Nussbaum, on Monday 7-26-93 he directed one of his assistants, Mr. Steven Neuwirthto enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, he found the torn pieces of a hand written page. The scraps were dumped out and then taken to Mr. Nussbaum's Office where they were assembled and Mr. Nussbaum was notified. Mr. Nussbaum then went through notification procedure, to Bill Burton, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours todays date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was Mr. Jim Hamilton, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to Mr. Bill Burton 202-456-6798 Mr. Steven Neuwirth will be avaiable for an interview on 7-28-93. Also handwriting samples will be made available.

Cleared at 2200.

Det. Magby's original report was retyped for continuation

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER / BADGE/ID / DATE	15 INVESTIGATOR / BADGE/ID / DATE	16 SUPERVISOR / BADGE/ID / DATE
	Det. J. Magby 0397 7-27-93	

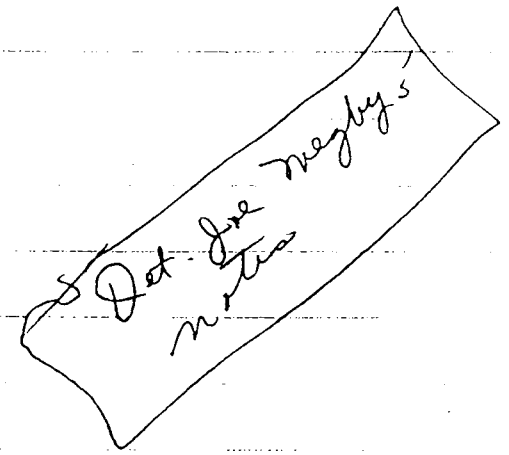
★U.S.GPO:1991-0-297-862/45147

The public will never believe the innocence of the Clintons and their legal staff

The WSJ editors lie without consequence.

I was not meant for the job of public spotlight in Washington.

Here using people is considered a sport.



Capt Hume—
This is my
Copy of the Note.
JUSTICE Also has
a Copy.
Jol

cwh
7-28-93

I made mistakes from ignorance, inexperience and over work.

I did not knowingly violate any law or standard of conduct.

No one in the WhiteHouse, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group.

The FBI lied in their report to the AG

The press is covering up the illegal benefits they received from the travel staff

The DOJ has lied and misrepresented its knowledge and role and covered up a poor investigation.

The ushers office plotted to have expense costs incurred, taking advantage of Park and HRC

CwH

9/23/93 12:55 P.M.

Ref. Foster Case

→ Judy Doody ←

ANY DETAILS

DO NOT → Release ANY INFORMATION

time got to Park — 5:00 P.M.

Noticed Gray Honda - close to Path

U.S. Today

Reporter has a copy of police report

Doug Farquhar

CW*

Things to Do ON Foster ~~Report~~ Case

- ~~Call Boyd Anthony ref Mary~~
- ~~Call Brent Buck & Jim Tyson ref. store~~
  ~~Cobb to Foster or Tippit~~
- ~~Call Dr. Watkins ref. PM~~
- ~~Contact with Sloan ref. gun~~
- gun registration in D.C.
- ? — Ck. probate records in Arkansas ref. guns
- ~~Call drug store~~
- ~~Call Pat Hynes~~

Per Pat Hynes
Chief Forensic Person @ Lab
Rick Fontarski
301-413-5227

[redacted] Examiner @ ATF Lab.
[redacted] (Carlo — Rosati) X-05

Upper clothing [redacted].

MEMORANDUM OF CALL — Previous editions usable

TO: Cpt. Hume / Det. P. Markland

☑ YOU WERE CALLED BY — ☐ YOU WERE VISITED BY —

Don Flynn

OF (Organization) Secret Service

☑ PLEASE PHONE ▶ (202) 456-2443 ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

cwk

RECEIVED BY	DATE	TIME
TJ	7/28	1313

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S. G.P.O. 1991 281-781/40011

MEMORANDUM OF CALL — Previous editions usable

TO: Cpt. Hume

☑ YOU WERE CALLED BY — ☐ YOU WERE VISITED BY —

Bryan

OF (Organization) ATF cwk

☐ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Will be Faxing Your Info. in a few minutes

RECEIVED BY	DATE	TIME
TJ	7/29	1420

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S. G.P.O. 1991 281-781/40011

MEMORANDUM OF CALL — Previous editions usable

TO: Capt Hume

☑ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

Scott Salter

OF (Organization)
FBI

☒ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

(202) 252-7137

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Ref: Mr. Foster

cwh

RECEIVED BY	DATE	TIME
Helen C. Cheek	7/28/93	1515

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
☆U.S.G.P.O. 1991 281-781/40011 Prescribed by GSA
FPMR (41 CFR) 101–11.6

MEMORANDUM OF CALL — Previous editions usable

TO: Cpt. Hume

☒ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

David Margolis

OF (Organization)

☒ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

514-4945

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

cwh

RECEIVED BY	DATE	TIME
MS	7/29/93	1652

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
☆U.S.G.P.O. 1991 281-781/40011 Prescribed by GSA
FPMR (41 CFR) 101–11.6

MEMORANDUM
OF CALL

Previous editions usable

TO: Cpt. Hume

☒ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

John Donna

OF (Organization) FBI

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

(202) 252-7844

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

cwH

RECEIVED BY TS | DATE 7/26 | TIME 1257

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101—11.6

☆U.S. G.P.O. 1991 281-781/40011

~~11:45~~ 11:15 A.M

MEMORANDUM
OF CALL

Previous editions usable

TO: Mark Lino

☐ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

Room 128-EOB

OF (Organization) CIA FBI

☒ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

Mark Sloan

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Paul + Don
456-2443
395-4420
Dennis Martin
456-7414
White House
cwH

RECEIVED BY | DATE 7/29 | TIME 1945

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101—11.6

☆U.S. G.P.O. 1991 281-781/40011

MEMORANDUM OF CALL

Previous editions usable

TO: Cpt. Hume

☒ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

David Margolis

OF (Organization)

☒ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☒ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

CWH

RECEIVED BY	DATE	TIME
MS	7/26/93	1410

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101—11.6

☆U.S. G.P.O. 1991 281-781/40011

MEMORANDUM OF CALL

Previous editions usal

TO: Capt. Hume

☑ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

Bill Miller

OF (Organization)

Wash. Post

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

(202) 334-6568

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Ref: Lincoln

CWH

RECEIVED BY	DATE	TIME
Tim	7-21	1815

63-110 NSN 7540-00-634-4018 **STANDARD FORM 63** (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101—11.6

★ U.S. GPO: 1990 — 262-080

Dave Maggles

12:30 P.M.

7/23/93

Family Lawyer

→ Jim [redacted] Hamilton

CWH

MEMORANDUM OF CALL Previous editions usable

TO: CAPT. HUME

☒ YOU WERE CALLED BY– ☐ YOU WERE VISITED BY–

MR. KENNEDY

OF (Organization)

WHITE HOUSE

☒ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

456-6229

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

RE: TOSTON'S CWH

VEHICLES

? Gun collector ?

(Courtesy phone)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

RALPH PISANI was interviewed at Fort Marcy Park, Virginia regarding the response of the Fairfax County Fire and Rescue Department to the death of VINCENT W. FOSTER, JR. on July 20, 1993. PISANI is assigned to Fire Station One, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After being apprised of the purpose of the interview, PISANI thereafter provided the following information:

Upon arriving at the Fort Marcy Park parking area, on July 20, 1993, PISANI saw one vehicle that was believed to be FOSTER's. This vehicle was parked nose-in within a parking space. The vehicle bore Arkansas license plates and was further described to be a compact four-door sedan that was a light color.

PISANI also recalled a light colored vehicle located at the entrance. This vehicle was unoccupied.

Upon departing their vehicles at Fort Marcy Park, members of the Fairfax County Fire and Rescue Department were split into two groups. PISANI was in a group with RICHARD ARTHUR and JENNIFER WACHA. PISANI's group walked on the lower path toward the stream at Pimmit Run, in search of FOSTER's body. In the course of traveling down the lower path, PISANI's group saw a couple in the woods that was further described to be made up of one male and one female, with both individuals being white. After being informed that FOSTER's body had been located by the crew traveling on the upper trail, PISANI's group returned to the parking area. While back at the parking area, PISANI's group was met by the medic crew. PISANI's group and the medic crew traveled to the location of the decedent's body with a U.S. Park Police (USPP) officer. Individuals returning to the scene were GEORGE GONZALEZ, TODD HALL, RICK ARTHUR, Lieutenant BILL BIANCHI, and JENNIFER WACHA.

While walking down the lower trail toward Pimmit Run, PISANI was aware that JAY IACONE had spotted a couple off of the lower trail on the left. Upon arriving at the end of the trail, GONZALEZ called on the radio advising that the decedent's body

---

Investigation on 4/27/94 at Forty Marcy Park, VA File # 29D-LR-35063 SUB A-231

by SAS DANA M. GILLIS
RUSSELL T. BRANSFORD DMG:sla Date dictated 5/1/94

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had been located on the upper trail.

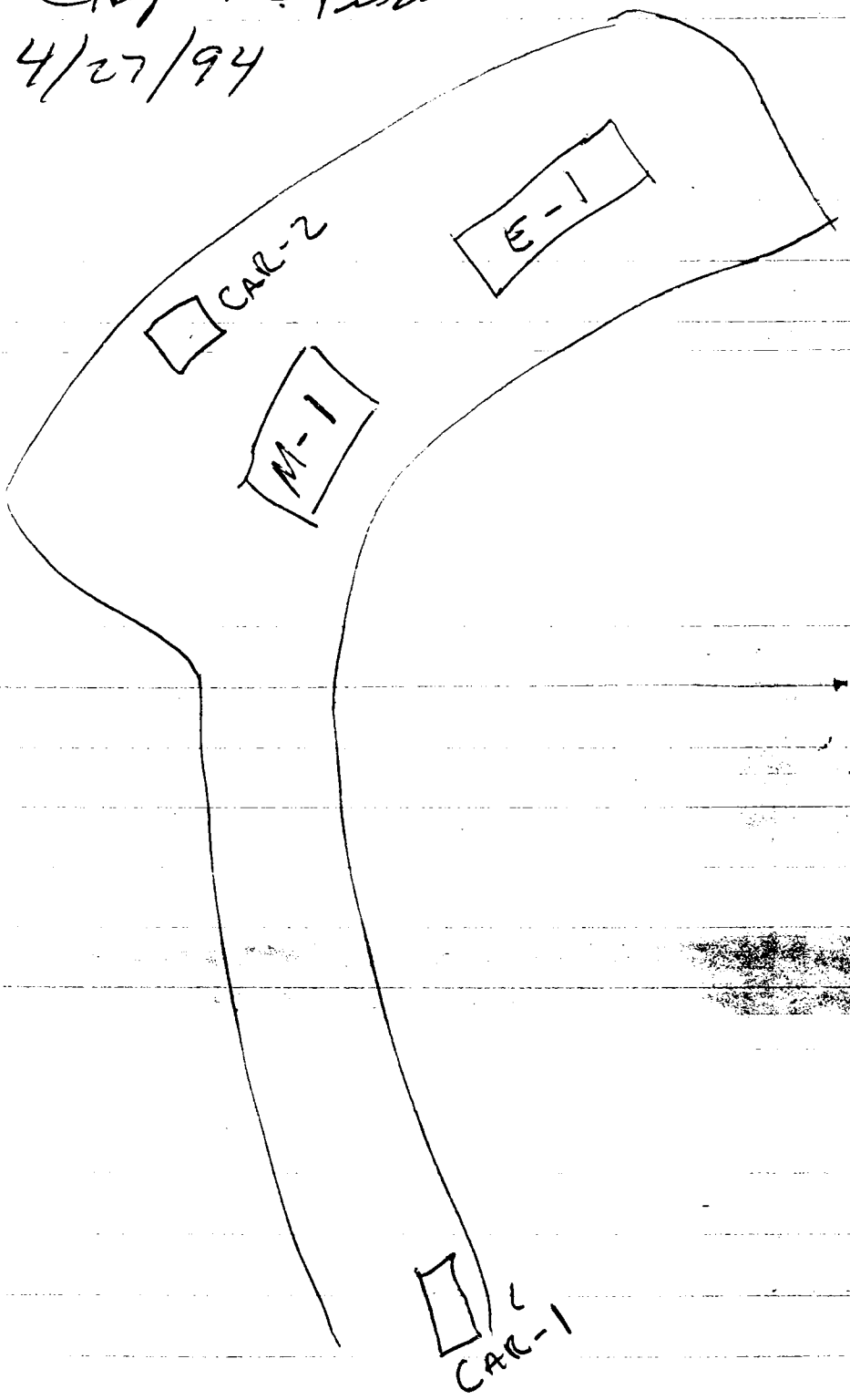
Upon arriving at FOSTER's body, PISANI was aware that the area surrounding the body was overgrown with shrubs and other vegetation. PISANI made that recollection in view of the current appearance of the site which contained no vegetation.

Upon arriving at the location of the body, PISANI recalls seeing one USPP officer already at the body. FOSTER had a gun in his right hand according to RICK ARTHUR. PISANI never saw the gun. PISANI was located in a position where he was looking over the left side of the body and was able to see blood on FOSTER's right shoulder. PISANI did not recall seeing any blood on FOSTER's face. PISANI further noted that he did not approach closer than ten feet to the body. PISANI did not see anyone touch the body while he was at the scene. PISANI did not recall seeing any eyeglasses at the scene that may have belonged to FOSTER nor did he see any trash or wine bottles located at the scene. During PISANI's cursory glance at the body, he did not see FOSTER's back. PISANI did not recall seeing any blood located around the body.

PISANI was shown a series of photographs that were taken at the death scene by USPP officers. PISANI did not recall, upon viewing these photographs, any blood being on FOSTER's face. He did recall seeing yellow tape in the area marking a police crime scene. It should be noted that photographs taken by USPP personnel show the police tape located in the vicinity of the cannon at the death scene.

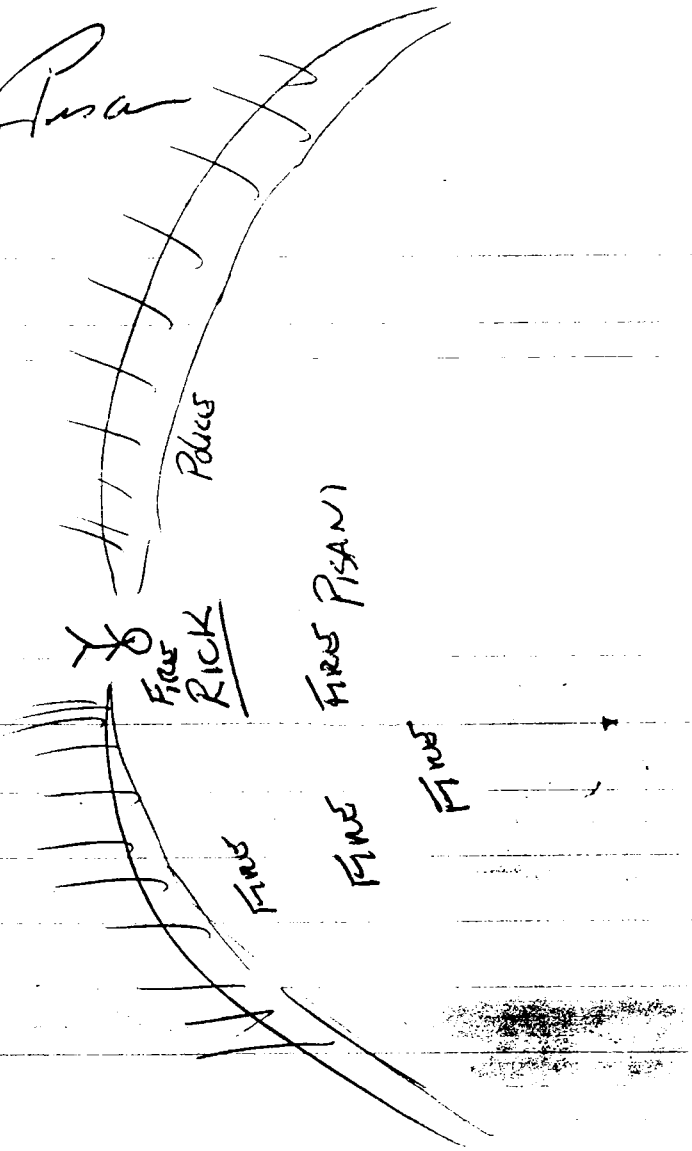
In the course of the interview, interviewing agents requested that PISANI draw representations of the Fort Marcy parking area as well as a representation of FOSTER's body at Fort Marcy Park. Attached are two drawings; one represents Fort Marcy Park and its entrance on July 20, 1993 and the second drawing represents the location of FOSTER's body at the death scene as recalled by PISANI on July 20, 1993. Both drawings were done on April 27, 1994. It should be noted that the vehicle denoted car two on PISANI's map, is the car believed by PISANI to have belonged to VINCENT FOSTER. The two drawings are attached and made a part of the record hereto.

20th July 1993 THIS IS WHAT I SAW WHEN WE ENTERED FORT MARCY PARK THAT DAY. Ralph M. Russo
4/27/94



20TH July 1993 This is what I Ralph Pisani saw that day at Fort Marcy Park the day of Vincent Foster's death.

4/27/94 Ralph M. Pisani



FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

ANDREW MAKUCH was interviewed at Fort Marcy Park, Virginia, regarding his participation in the response of the Fairfax County Fire and Rescue Department to the death of VINCENT W. FOSTER, JR. on July 20, 1993. MAKUCH is assigned to Fire Station One, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After being informed of the purpose of the interview, MAKUCH furnished the following information:

MAKUCH was assigned to Truck One on July 20, 1993. In responding to the emergency call at Fort Marcy Park, MAKUCH and members assigned to Truck One were dispatched to Fort Marcy Park to assist in the recovery of FOSTER's body. Upon arriving at the Fort Marcy Park parking area, MAKUCH described the car he identified as FOSTER's to be parked in a parking space front end first. The car was parked either in front of the pathway that served as the entrance to the park or it was parked one space to the right of the pathway entrance. MAKUCH recalls a United States Park Police (USPP) vehicle parked to the side of FOSTER's car at the left rear; or the USPP car was blocking FOSTER's vehicle. MAKUCH recalls FOSTER's car as being silver or gray in color, further describing it as being a light hue. The car was believed to have been a compact vehicle. MAKUCH did not recall what contents may have been contained within FOSTER's vehicle, adding that he was not paying close attention to the interior of the car.

MAKUCH was accompanied to Fort Marcy Park, as well as from the parking area to the body, by his Fire Lieutenant, WILLIAM BIANCHI, and the driver of the unit, VICTORIA JACOBS. MAKUCH, BIANCHI, and JACOBS walked up toward the body from the parking area located at Fort Marcy Park. MAKUCH and the rest of his team met the stretcher containing FOSTER's body on what was described to be the upper pathway of Fort Marcy Park. The point at which MAKUCH and his vehicle members met FOSTER's body on the stretcher was approximately 150 feet from the parking area. The stretcher was headed back in the direction of the parking lot. When the stretcher was met by MAKUCH and his group, it was manned by COREY ASHFORD and ROGER HARRISON. MAKUCH noted that the body

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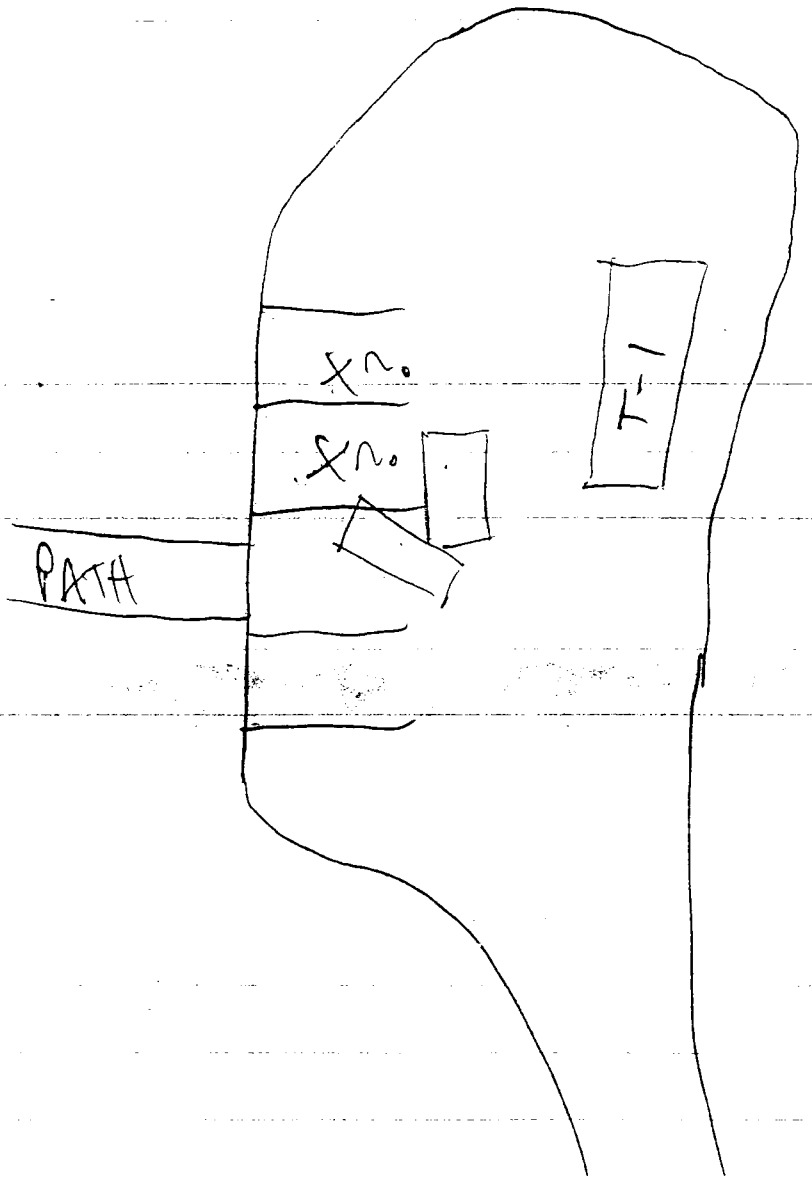
bag was never opened in his presence. MAKUCH also noted that he did not go to the actual location where the body was found.

MAKUCH had no further information related to events surrounding the Fairfax County Fire and Rescue Department response to the death of FOSTER.

FORT MARCY PARK APRIL 27, 1994

Andrew Makuch, Jr.

To the best of my knowledge on July 20, 1993 I believe that this sketch reflects how the vehicles were parked at FORT MARCY. I cannot recall which particular parking space MR. Fosters car was in.



FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

TODD STACEY HALL was interviewed at Fort Marcy Park, Virginia, regarding events surrounding the Fairfax County Fire and Rescue Department response to the death of Vincent W. Foster, Jr. on July 20, 1993. HALL is assigned to Fire Station One, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After being informed of the purpose of the interview, HALL provided the following information:

Upon arriving at the location of FOSTER's body, HALL noted that FOSTER's head was pointing in a forward position. The head was not leaning to the right, nor was the head leaning to the left side of FOSTER's body. HALL did not move FOSTER's head. HALL checked for a pulse on the left side of the decedent's neck. As he checked for a pulse, HALL was standing in the area of FOSTER's right shoulder and right side of the head, leaning across the body in order to check the pulse on the left side. FOSTER was described to have a grayish color and the body was further described to be cold to the touch.

During HALL's examination of the body, he noted that the decedent had a gun in his right hand and that the hand was located close to the body. Some of the gun was covered by the decedent's right leg. HALL initially sighted the gun in FOSTER's right hand from the position in which he checked for a pulse. HALL's statement regarding the victim's body being cold to the touch was determined during HALL's attempt to check for a pulse.

HALL noted that the first person to arrive at FOSTER's body was a United States Park Police (USPP) officer. HALL was the second individual to arrive at the body. After HALL arrived at the body, the police officer walked away for a short period of time. Prior to the officer leaving the body, HALL stated to the officer that he thought it was a suicide. HALL was unable to determine whether or not FOSTER was stiff as a result of rigor mortis. The Park Police officer did not touch FOSTER's body. He pointed out the body for HALL and began to walk away. Upon initially inspecting the body, HALL sighted blood on the right collar area of the decedent's shirt.

Investigation on 4/27/94 at Ft. Marcy Park, VA File # 29D-LR-35063 SUB A-229

by SA Dana M. Gillis DMG:deg Date dictated 5/1/94
SA Russell T. Bransford RTB

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

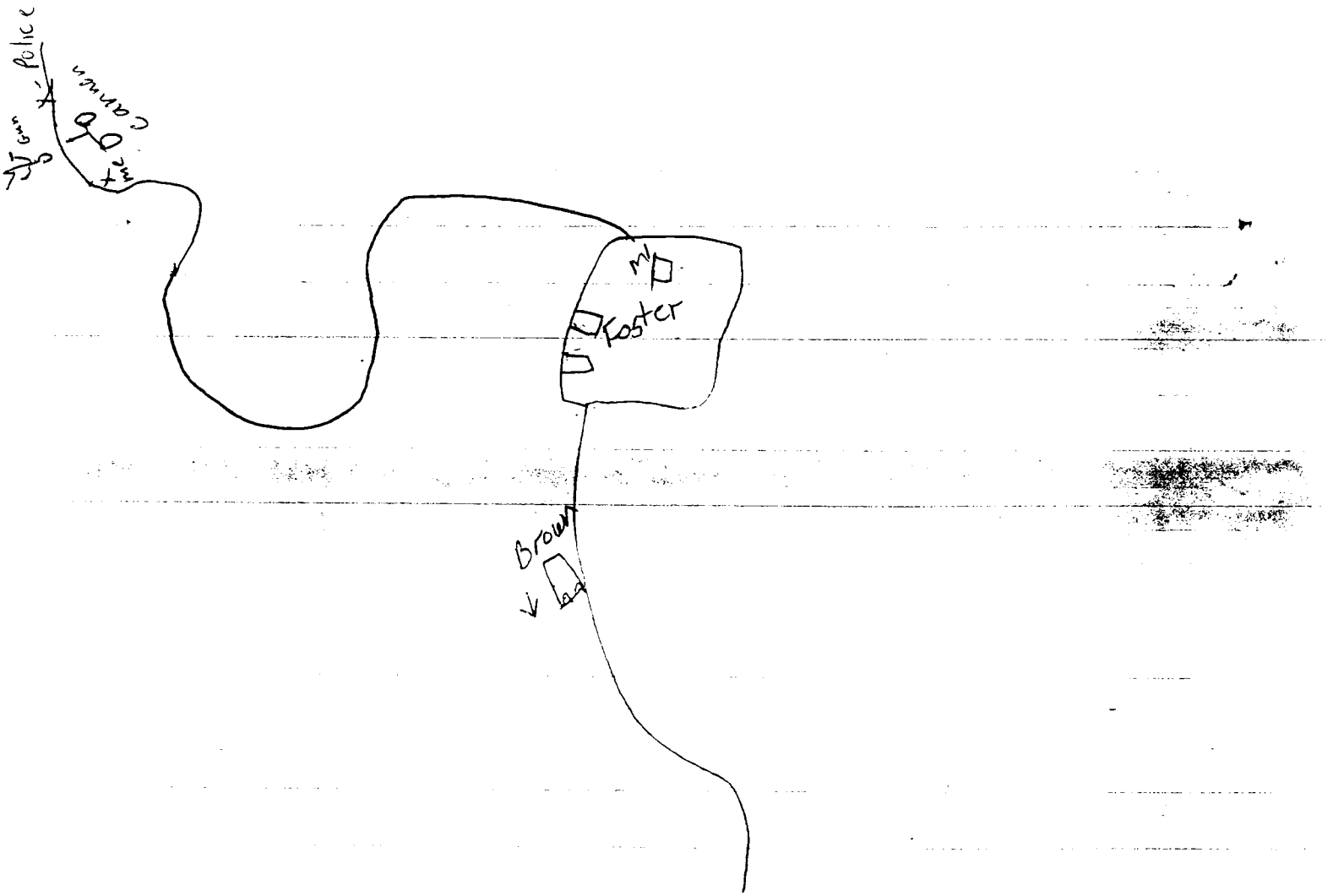
Todd Hall
4-27-94

Fort Marcy Park

To whom it may concern

This map represents, to the best of my recollection on the day of 7-20-93

Todd S. Hall



FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

CAPTAIN CHARLES HUME, United States Park Police (USPP), 1100 Ohio Drive, S.W., Washington, D.C. 20242, made available a copy of Public Law 94-458-Oct. 7, 1976, 94th Congress, a copy of which is attached. This particular piece of legislation can be found in the most current edition of the U.S. Code in Title 16 USCA's 1a-6. This particular section of the U.S. Code sets forth both the authority and jurisdiction of the USPP to conduct criminal investigations for crimes committed on United States park property.

Investigation on 6/1/94 at Washington, D.C. File # 29D-LR-35063 SUB A-208

by SSA William E. Colombell WEC:deg Date dictated 6/1/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

Public Law 94-458
94th Congress

An Act

To amend the Act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

Oct. 7, 1976
[S. 3430]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows:

National Park System. Administration: authority clarification.

(1) In subsection (e), after "within an area of the national park system," insert ", as long as such activity does not jeopardize or unduly interfere with the primary natural or historic resource of the area involved,".

(2) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

Regulations.

"(h) promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided*, That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;

U.S. Park Police, meals and lodging.

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior.".

SEC. 2. Such Act of August 18, 1970, is further amended by adding the following new sections:

"SEC. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

Employees, traveling expenses.

"'SEC. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States.'.

Legislative jurisdiction. relinquishment.

"SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative juris-

diction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: *Provided*, That prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

Proposed agreement, submittal to congressional committees.

"SEC. 7. Notwithstanding subsection 5901(a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to $400 annually.

Uniform allowance.

"SEC. 8. The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document.

Investigation and study.

Reports to Speaker of the House and President of the Senate.

Annual listing, transmittal to Speaker of the House and President of the Senate.

Printing as House document.

"SEC. 9. Section 3 of the Act of August 21, 1935 (49 Stat. 666, 667; 16 U.S.C. 461, 463), is amended to read as follows:

"'SEC. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations and institutions. The members of such board shall receive no salary

National Park System Advisory Board. Establishment.

but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

"'(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.'. Termination. 5 USC app. I.

"SEC. 10. (a) The arrest authority relating to the National Park Service is hereby amended in the following respects:

"(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed; Repeal.

"(2) The first paragraph of that portion designated 'GENERAL EXPENSES—FOREST SERVICE' of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words 'and national park service', 'and national parks', and 'or national parks';

"(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed; and Repeal.

"(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n-5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed. Repeal.

"(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may— Law and order, officers or employees to maintain.

"(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

"(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

"(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

"(c) The Secretary of the Interior is hereby authorized to—

"(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

Cooperation.

"(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision; and

"(3) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

"(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

Law enforcement officer.

"(d)(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

5 USC 8101.

"(2) For purposes of the tort claim provisions of title 28, United States Code, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

"(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section be deemed a civil service employee of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

"(e) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.

"SEC. 11. Section 101(a) of title I of Public Law 89-655 (80 Stat. 915; 16 U.S.C. 470a), is amended by adding thereto a new paragraph to read as follows:

"'(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.'.

Program, transmittal to congressional committees.

"SEC. 12. (a) Not later than January 15 of each calendar year, the Secretary of the Interior shall transmit to the Committees on Interior and Insular Affairs a detailed program for the development of facili-

ties, structures, or buildings for each unit of the National Park System consistent with the general management plans required in subsection (b) of this section.

"(b) General management plans for the development of each unit of the National Park System, including the areas within the national capital region, shall be prepared by the Director of the National Park Service and transmitted to the Committees on Interior and Insular Affairs. Such plans shall include:

General management plans, transmittal to congressional committees.

"(1) the facilities which the Director finds necessary to accommodate the health, safety, and recreation needs of the visiting public, including such facilities as he may deem appropriate to provide in accordance with the provisions of the Act of October 9, 1965 (79 Stat. 969);

"(2) the location and estimated cost of all such facilities; and

"(3) the projected need for any additional facilities required for such unit.

"(c) The Secretary of the Interior shall hereafter transmit to the Committees on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of $100,000 or more, or exceeding five years in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated. The Act of July 14, 1956 (70 Stat. 543) is hereby repealed.".

Concession leases and contracts, proposed awards, transmittal to congressional committees.

Repeal.

Approved October 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No.94-1569 accompanying H.R. 11887 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1190 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 17, considered and passed Senate.

Sept. 21, considered and passed House, amended, in lieu of H.R. 11887.

Sept. 23, Senate agreed to House amendment.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/23/94

Sylvia M. Mathews, Special Assistant to the Assistant to the President for Economic Policy, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW in the presence of her attorney, Michael B. Waitzkin. Ms. Mathews was advised as to the official identities of the interviewing agents and the nature of the interview. She then provided the following information:

During 1992, she worked for the Clinton/Gore Presidential campaign committee in Little Rock, Arkansas. During that time, she worked with Gene Sperling with whom she had previously worked during the Mondale for President campaign. This led to her current employment. Both she and Sperling have worked at The White House since January, 1993 for Robert Rubin, the Assistant to the President for Economic Policy.

Her office is on the 2nd floor of the west wing of The White House on the same hallway as a suite of offices that during 1993 was occupied by Bernard Nussbaum and Vincent Foster. She first met Foster in February, 1993 and "barely knew him", never met any members of his family, and for the most part only saw him in the hallway where they exchanged greetings. She said that she therefore does not feel qualified to comment on any possible changes relative to Foster's demeanor or his psychological or physical condition prior to his death.

On July 20, 1993, shortly after 9:00 pm she was in a room near The White House library where Bill Clinton was being interviewed by Larry King for a live Cable News Network television program. She was in this room, watching the ongoing interview on a television monitor, because she and Gene Sperling had previously compiled briefing material for the President to prepare him for his live television interview. They were therefore nearby if needed. She does not recall specifically who told her about Vincent Foster's death, but she recalls overhearing parts of a conversation between several senior White House staffers in a hallway outside the room in which she was watching the monitor. She learned of Foster's death shortly

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Investigation on 5/20/94 at Washington, D.C. File # 29D-LR-35063 SUB A - 198

by WILLIAM T. GUYTON KV FOIA(b)(7) - (C) Date dictated 5/20/94

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before the end of the President's television interview, was saddened, and wanted to do something to help.

Believing that Foster's death would bring about many telephone calls to The White House staff, she volunteered to go to Mac McLarty's office on the first floor of the west wing to assist with answering incoming calls. She thinks that she arrived McLarty's office at approximately 10:00 pm. Shortly after she arrived at McLarty's empty office, several White House staffers began arriving there. She recalled that one of the first to arrive was Bill Burton. She then made a "quick trip" to her office on the 2nd floor, picked up some of her pending work that she could do while answering phones, and return to McLarty's office. When she returneded she noted that Bill Burton was in McLarty's office making telephone calls. After approximately 30-45 minutes, she overheard Burton's part of a telephone call that she believes was with the United States Park Police. She heard Burton say that no suicide note had yet been found and the thought came to her that the trash from Foster's office should be obtained and searched for such a note before it was destroyed. After Burton finished his telephone call, she mentioned her idea to him in the presence of Dee Dee Myers and David Dreyer, a Deputy to Mark Gearan. She asked if she should go upstairs and attempt to retrieve the trash. All three staffers indicated that her idea was sound and indicated that she should go. She said that while there were no specific instructions, there was no mention of "burn bag" trash and it was her understanding that she was to obtain Foster's regular trash. As she left McLarty's suite of offices, she encountered two GSA cleaning ladies and asked them if the trash had already been picked up on the 2nd floor. They said it had been and indicated that it was still in the large collection bags in the hallway of the 2nd floor. She went upstairs with one or both of the GSA cleaning employees where they showed her the three large bags of consolidated trash in the hallway next to the elevator. Each of these three large bags contained numerous smaller clear plastic bags with trash from the various offices on the 2nd floor.

As she began going through the individual plastic trash bags within the large collection bags, she noted one bag containing "at least one document" with a White House interoffice mail address label containing Vincent Foster's name inside the bag. She retrieved this bag which was approximately 1/3 full of papers, a wooden coffee stirrer, and some wrappers and returned to Mac McLarty's office with it.

She said she recalls seeing Bill Burton and some other staffers whom she cannot recall. She told them that she had what she believed to be Vincent Foster's trash and asked if she should go through it. She was told "yes" by Burton and began going through it "one item at a time" on the floor in Mac McLarty's outer office. As she was doing so, it occurred to her that she should make an inventory of her findings. She made a handwritten "inventory" on a piece of 5 by 7 lined paper. Ms. Mathews gave this document, a copy of which is incorporated hereinafter, to the interviewing agents. Upon completing her review she returned all items to the bag and told Bill Burton and other staffers present what she had found to include "a handful" of Vincent Foster's credit card receipts. She stated that they had no response that she can recall, except to suggest that the bag should be placed in Roy Neel's office for safe keeping and so that it would not be in McLarty's office where it might serve as a reminder of his friend Foster's recent death. She went to Roy Neel's unoccupied office and left the bag of trash on the floor and returned to answering phones in Mac McLarty's office.

Shortly thereafter, she thought of the burn bag trash that could have been picked up in Vincent Foster's office. As before, she received concurrence from staffers present and contacted a U.S. Secret Service officer at a nearby post inquiring as to how the burn bag could be obtained. A telephone call was made and shortly thereafter a "commingled burn bag" that was said to contain burn bag trash from the 2nd floor was brought to Mac McLarty's office by a Secret Service employee. She began removing items from the burn bag and stopped abruptly realizing how sensitive these documents were. She began to feel nervous about reviewing these documents and asked Gene Sperling, who had been in and out of McLarty's office that evening if he believed it was proper for her to be reviewing this material. Sperling agreed with her that she should not be reviewing these documents. At that point, she returned the items that she had previously removed to the burn bag. She then asked Bernard Nussbaum, who had come to Mac McLarty's office, what should be done with the burn bag. Nussbaum told her that there was not a burn bag in Vincent Foster's office and therefore there was no reason to keep this burn bag trash. It was her understanding that Nussbaum was telling her that Vincent Foster did not keep a burn bag in his office and did not use one. She contacted a Secret Service officer who picked up the burn bag and took it away.

At no time during the evening of July 20 or the early

morning hours of July 21, 1993, did she go into the Nussbaum/Foster suite. Further, she did not see any White House staffers or anyone else, other than the GSA cleaning ladies, on the 2nd floor of the west wing. She also did not see anyone in the Nussbaum/Foster suite of offices. Although she cannot be sure, she believes that the door to the Nussbaum/Foster suite was closed when she was on the 2nd floor. In an answer to a specific question, she said that she does not recall seeing Patsy Thomasson, Margaret "Maggie" Williams, Martha Scott, or Craig Livingston on the evening of July 20 or the early morning of July 21, 1993. She saw Bernard Nussbaum in Mac McLarty's office but did not see him on the 2nd floor of the west wing. She left The White House and went home at approximately 1:30 am.

On the morning of July 21, 1993, shortly after she arrived at work, she telephoned Roy Neel's office and left a message for him advising that the bag of trash on the floor of his office was trash that she believed had been removed from Vincent Foster's office. She advised that Neel never returned her call.

About "a week or ten days" after Vincent Foster's death, she began typing a chronology of the events of 7/20-21/93 into her office computer. The press of business precluded her from ever completing this chronology. She made this partial chronology available to the interviewing agents. Ms. Mathews stated that she had never advised any White House staffers as to her preparation of the partial chronology or an "inventory" of the items she found in the plastic bag that evening until May, 1994 when she made a copy of the "inventory" and partial chronology available to White House staffers to assist in their response to a subpoena from the Office of the Special Counsel.

Ms. Mathews stated that the only other discussion regarding the Foster trash that she can recall, occurred during August, 1993, when she was asked to come to Mark Gearan's office where she recalls seeing Cliff Sloan and Dee Dee Myers also present. They asked her to explain how she had obtained the bag of trash that she thought to be Foster's trash on the evening of July 20, 1993. She did so. They did not ask for and she did not think to offer the handwritten inventory of the bag's contents that she had previously prepared.

Ms. Mathews said that she knows of no other information that she could provide that could possibly be helpful with this

investigation.

The following descriptive data was obtained through observation and interview:

Name:	Sylvia M. Mathews
Sex:	Female
Race:	Caucasian
Date of Birth:	[redacted] FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Height:	5'7"
Weight:	131 lbs.
Hair:	Brown (4 inches past shoulders)
Eyes:	Blue
Social Security Account Number:	[redacted]
Employment:	Special Assistant to the Assistant to the President for Economic Policy, The White House, Washington, D.C.
Telephone Number:	202-456-2174
Address:	2114 N Street, NW (Apt 15) Washington, D.C. 20037
Home Telephone:	202-296-8173
Education:	Holds degrees from Harvard and Oxford
Her Attorney:	Michael "Buz" Waitzkin, Nussbaum and Wald 1, Circle, Washington D.C.
Telephone Number:	202-833-8900

- President's schedule
- Note about the "NW" article and the Columbia article
- Memo on change in summer clerk assign.
- Dee's Press Briefing
- Congress Daily
- Pres Trip Book
- WH Bulletin
- News Sum

- many credit card receipts

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

Richard M. Arthur was interviewed at Fort Marcy Park regarding the Fairfax County Fire and Rescue Department response to the death of Vincent W. Foster, Jr. on July 20, 1993. Arthur is assigned to Fire Station One, 1455 Laughlin Avenue, Mclean, Virginia, telephone number (703) 356-6671. After being apprised of the purpose of the interview, Arthur furnished the following information:

In the course of responding to the 911 Emergency dispatch related to the death of Vincent Foster, Jr., Arthur noted that prior to arriving at Fort Marcy Park, he noticed an accident on the George Washington Parkway. Upon entering the parking area of Fort Marcy Park, Arthur saw a parked car which he believed belonged to Foster. In the park Arthur was placed in a search team with Ralph Pisani, Jennifer Wacha and himself.

The vehicle described to be Foster's, contained a suit jacket on the driver's side, front seat as well as a neck tie. Foster's vehicle is described to have been light colored in either a cream or tan hue. The car was further described to be a four-door sedan. Arthur recalls that he had heard the car bore Arkansas license plates but does not remember where he heard this. A second car in the parking lot was described to be either gray or silver and was noted to be a small car. At the entrance to Fort Marcy Park, there was a red car with hazard lights blinking. This vehicle had departed Fort Marcy prior to the departure of Arthur and his unit. Arthur could not recall whether this vehicle was occupied or not.

In the initial search of Fort Marcy Park, Arthur's group took the lower pathway down to the streambed near the George Washington (GW) Parkway. The GW Parkway crosses this area, known as Pimmit Run. During the course of the search on the lower path, Arthur noted that his crew spotted a couple in the woods to the left of the trail, as his group continued toward the lower portion of the trail. It was noted that "clothes were flying" as the couple realized they had been seen. Upon returning to the parking area after viewing Foster's body, Arthur

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Investigation on 4/29/94 at Fort Marcy Park, VA File # 29D-LR-35063 SUB A -171

by SAs DANA M. GILLIS/dmg
RUSSELL T. BRANSFORD Date dictated 5/1/94

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advised a uniformed, female Park Police officer, that the couple was in the woods. Arthur subsequently directed the aforementioned officer to the couple.

After being informed that a body had been located, Arthur's group returned to the parking area to drop off equipment. Arthur's group then headed up to Foster's body, led by Todd Hall. It was not recalled whether George Gonzalez, part of the team that located the body, returned to the site.

Upon the arrival at the site of Foster's body, Arthur remembers being told that the victim was dead. Arthur recalls the decedent lying on the ground with his mouth open, noting that flies were moving in and out of the mouth. Foster had a gun located under his right hand, which was partially tucked under the decedent's right leg. Arthur did not believe the gun was a revolver. While observing the body, Arthur stood on the right side near the head, approximately 2-3 feet away from Foster's right hand. Arthur noted that Foster was obviously dead. He did not check for a pulse, assuming that either George Gonzalez or Todd Hall had previously done so.

According to Arthur, there was grass grown on the top of the hill upon which Foster's body rested. He also recalled leaves at the bottom of the hill noting that they were dead leaves as opposed to living vegetation. Arthur did not recall if there was any vegetation or growth around the body.

At one point in inspecting Foster's body, Arthur saw what appeared to be a gun that he thought was a 9-millimeter pistol. This gun was further described to have a straight barrel and, to the best of his memory, he recalls the handle on the weapon being square in shape. The gun was brown and black in color. Arthur noted that Foster's thumb may have been near the trigger of the weapon. Arthur's knowledge of guns includes reading gun magazines and training in the military regarding weapons. He advised that he knows the difference between a pistol and a revolver although he is definitely not an expert on guns and does not consider himself to be an expert in the area of forensics.

Upon arriving at the body, Arthur recalls the head being straight up and down. He did not touch or move Foster while at the death scene nor was he aware of anyone else doing so. He further noted that no one touched or moved Foster while

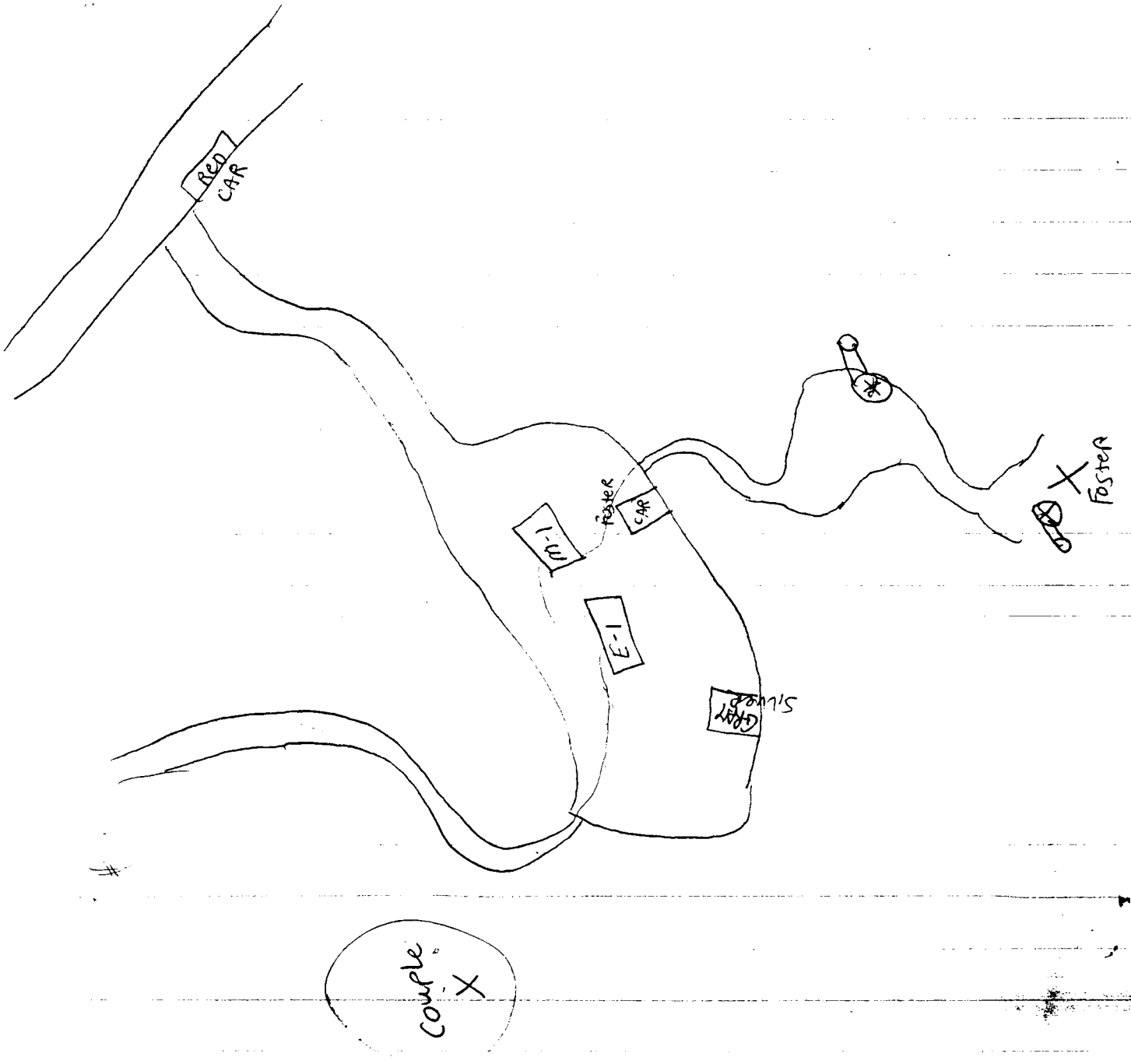
he (Arthur) was at the death scene. Arthur recalls seeing blood on the decedent's right shoulder. He believed that he saw a wound on the right side of Foster's neck near the jaw line. He was of the impression that this wound was caused by a small caliber gun shot and was struck by his recollection that the weapon in Foster's hand was a high caliber weapon. Arthur could not say for certain whether the mark he had seen on Foster's neck was definitely a wound.

Arthur was shown a series of photographs taken by United States Park Police personnel during the course of the death scene investigation. From one of the photos, Arthur did remember seeing vegetation around the body. He did not recall seeing the blood running from Foster's nose and mouth as depicted in the photographs. He did, in fact, say that the blood on Foster's shirt was as he remembered it. After viewing a photograph that depicted a gun located in Foster's right hand, Arthur was of the opinion that if the weapon was in fact a revolver, the cylinder quite possibly could have been covered up. Arthur's assessment was based on the placement of the barrel in relation to Foster's body, as well as the placement of the gun in Foster's hand as depicted by the photograph. Arthur did not see any indication that Foster was moved to the park from a different location.

Arthur advised that he conducted a preliminary investigation into the death of Foster based on the narrative produced by George Gonzalez. Gonzalez's narrative stated that the decedent, Foster, had committed suicide. Arthur noted that he did not trust Gonzalez's judgement and it was this distrust of Gonzalez that prompted his investigation into Foster's death. As part of his investigation, he contacted the George Washington Parkway Management Facility where the 911 emergency phone call was made. Arthur dialed the number of a telephone located at the facility to try to determine the veracity of the initial account of how The Fairfax County Fire and Rescue Department was contacted regarding the death.

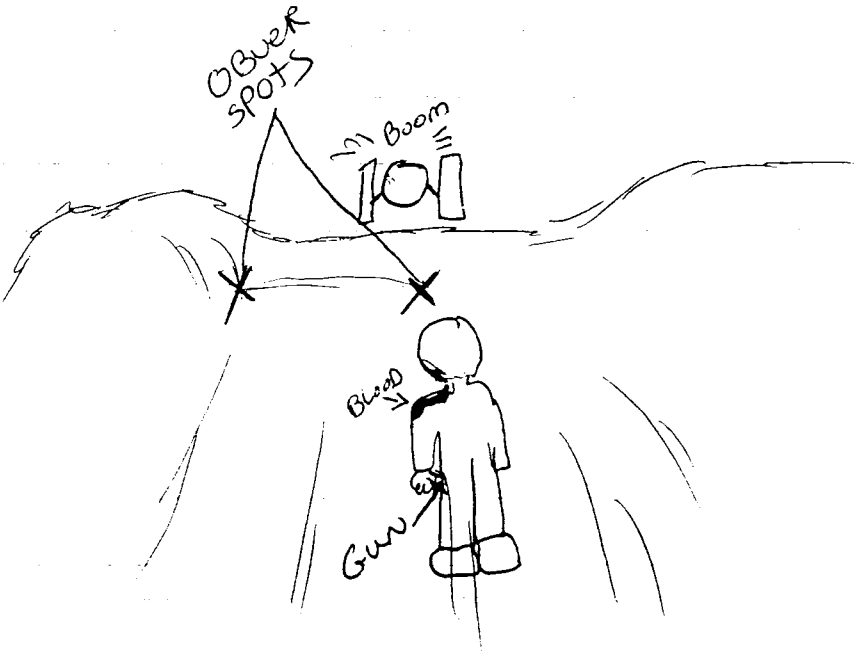
In addition to answering questions regarding the Fairfax County Fire and Rescue Department response to the death of Vincent Foster at Fort Marcy Park, Arthur was asked to draw a representation of the Park to the best of his recollection on July 20, 1993. This representation was to include the location of any vehicles Arthur recalled as well as a representation of Foster's body, its location in relation to the cannon at the

death scene and any other information that might be of help in the Independent Counsel's investigation. Attached and made a part of the record hereto, are two drawings as produced by Arthur.



I RICHARD ARTHUR STATE
THAT THIS IS WAS I SAW ON
JULY 20 1993 THE DAY OF FOSTERS DEATH

4/27/93 RA



I Richard Arthur state
~~that~~ this is what I saw
on the day of Fosters Death
July 20, 1993

4/27/94

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/18/94

FOIA(b)(6)
FOIA(b)(7) - (C)

WILLIAM JOSEPH BIANCHI was interviewed about his recollection of events which occurred on July 20, 1993 in Fort Marcy Park, Virginia in relation to the death of VINCENT W. FOSTER, Jr. BIANCHI, who was born on [redacted] is employed by the Fairfax County Fire and Rescue Department (FCFRD), Fairfax County, Virginia, as a Fire Lieutenant and is assigned to FCFRD Fire Station 1, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After BIANCHI was advised of the official identities of the interviewing agents and the nature of the interview, he provided the following information:

BIANCHI had never been to Fort Marcy Park prior to his response there in relation to the death of VINCENT W. FOSTER, Jr. on July 20, 1993. He has not returned to Fort Marcy Park from that date until the date of this interview.

On July 20, 1993, BIANCHI was officer-in-charge of the crew of FCFRD unit Truck 1 when it was dispatched to Fort Marcy Park to assist the crew of Ambulance 1 in transporting the body of a decedent. VICTORIA JACOBS was the driver of Truck 1 on that date and ANDY MAKUCH was the other member of the crew. Upon the arrival of Truck 1 at the Fort Marcy Park parking area, BIANCHI did not observe any people in the parking lot. JACOBS had driven Truck 1 to the park in a non-emergency status and had arrived at the park several minutes after Ambulance 1. ROGER HARRISON and COREY ASHFORD, who were the crew members of Ambulance 1, had already gone up into the woods.

Prior to leaving the firehouse to go to the park, BIANCHI had spoken with TODD HALL and RICK ARTHUR, who are other FCFRD employees assigned to Fire Station 1. HALL and ARTHUR had responded to the initial call to Fort Marcy Park earlier in the day during which a decedent had been found. BIANCHI learned from HALL and ARTHUR that the decedent had suffered a gunshot wound. During this same time period, someone at the firehouse, whose identity BIANCHI does not recall, told BIANCHI that the decedent was a White House employee. BIANCHI recalls that he also received

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one or two calls from the Fairfax County Public Safety Communications Center, also known as the Emergency Operations Center, advising him that the patient at Fort Marcy Park was associated with the White House.

BIANCHI observed a small car, possibly the size of a Chrysler Corporation K-car, parked in the Fort Marcy Park lot but BIANCHI did not note the make of the car. The car was parked straight within a parking space with its hood facing the curb, and the car displayed Arkansas registration plates. BIANCHI further observed that the left front door of the car was open.

After BIANCHI walked uphill along a trail to the site of FOSTER's body, he discovered that the body had already been placed into a body bag. There were several people, whom BIANCHI assumed to be police officers, on the scene. He recalls that there were one or two male officers and one female officer in the area of the body. BIANCHI does not believe these individuals were in uniform but he is only guessing at this point.

BIANCHI observed a pool of blood on the ground next to the body bag. BIANCHI also described this pool to the interviewers as a stain where it appeared that blood had soaked into the ground. At that time, BIANCHI assumed the location of the stain had been the location of FOSTER's head prior to FOSTER's body being placed into the body bag. BIANCHI estimates the size of this stain as approximately ten (10) inches in diameter.

BIANCHI did not observe any blood on the uniform of ASHFORD while they were together at the park.

During the course of the interview, BIANCHI was asked by the interviewers to show the route he had taken from the parking lot to the location where the body had been found. BIANCHI was able to lead the interviewers to a clearing near where the body had been found, but BIANCHI was unable to identify with certainty which of two trails had been the exact location of the body. BIANCHI considered it more likely that FOSTER's body had been found on a trail which was directly in front of a cannon in the clearing.

BIANCHI recalls that FOSTER'S body was found on a trail which had a slope of approximately forty-five degrees. BIANCHI believes that FOSTER's head was on the uphill portion of the

slope. Since the body bag was already closed, BIANCHI bases his belief about the position of FOSTER's body inside the bag on the way the weight inside the body bag was distributed. BIANCHI helped to lift the body bag onto a gurney, and he was assisted in this effort by ASHFORD and probably one other person whose identity he does not recall. The gurney bearing FOSTER's body was then rolled and carried down a trail to the ambulance in the parking lot.

BIANCHI did not observe any eyeglasses, paper, bottles or other litter on the ground in the vicinity of FOSTER's body.

At no time did BIANCHI observe any portion of FOSTER's body other than when BIANCHI placed an identification tag on FOSTER's large toe just before the body was loaded onto the ambulance. At no time did BIANCHI observe the condition of FOSTER's shirt, face or torso.

After BIANCHI returned to the firehouse from the call at the park, he told fellow FCFRD employee JAY IACONE that IACONE had been correct about the decedent being a White House official.

During the course of the interview, BIANCHI was asked to show the interviewers the route he had followed inside the park on July 20, 1993. BIANCHI also was asked to draw a handwritten sketch of the Fort Marcy Park parking lot as it had appeared on that date. BIANCHI's sketch of the parking lot depicts a small, light-colored vehicle with Arkansas registration plates parked on the left side of the parking area. Also depicted are the locations of FCFRD units Ambulance 1 and Truck 1, as well as the positions of two other vehicles which BIANCHI believes may have been police vehicles. BIANCHI was not asked to draw a sketch of the area where FOSTER's body had been found because BIANCHI was unable to recall with certainty the location of that site.

BIANCHI also was asked to review a typed narrative report relating to the FOSTER incident which had been typed on the FCFRD reporting system. BIANCHI identified the narrative as having been prepared by himself, and he wrote his initials and the date of the interview on a copy of the narrative report.

Copies of BIANCHI's sketch of the parking lot, signed and dated by BIANCHI, as well as the FCFRD narrative report are attached to and incorporated into this report of interview.

NARRATIVE REPORT

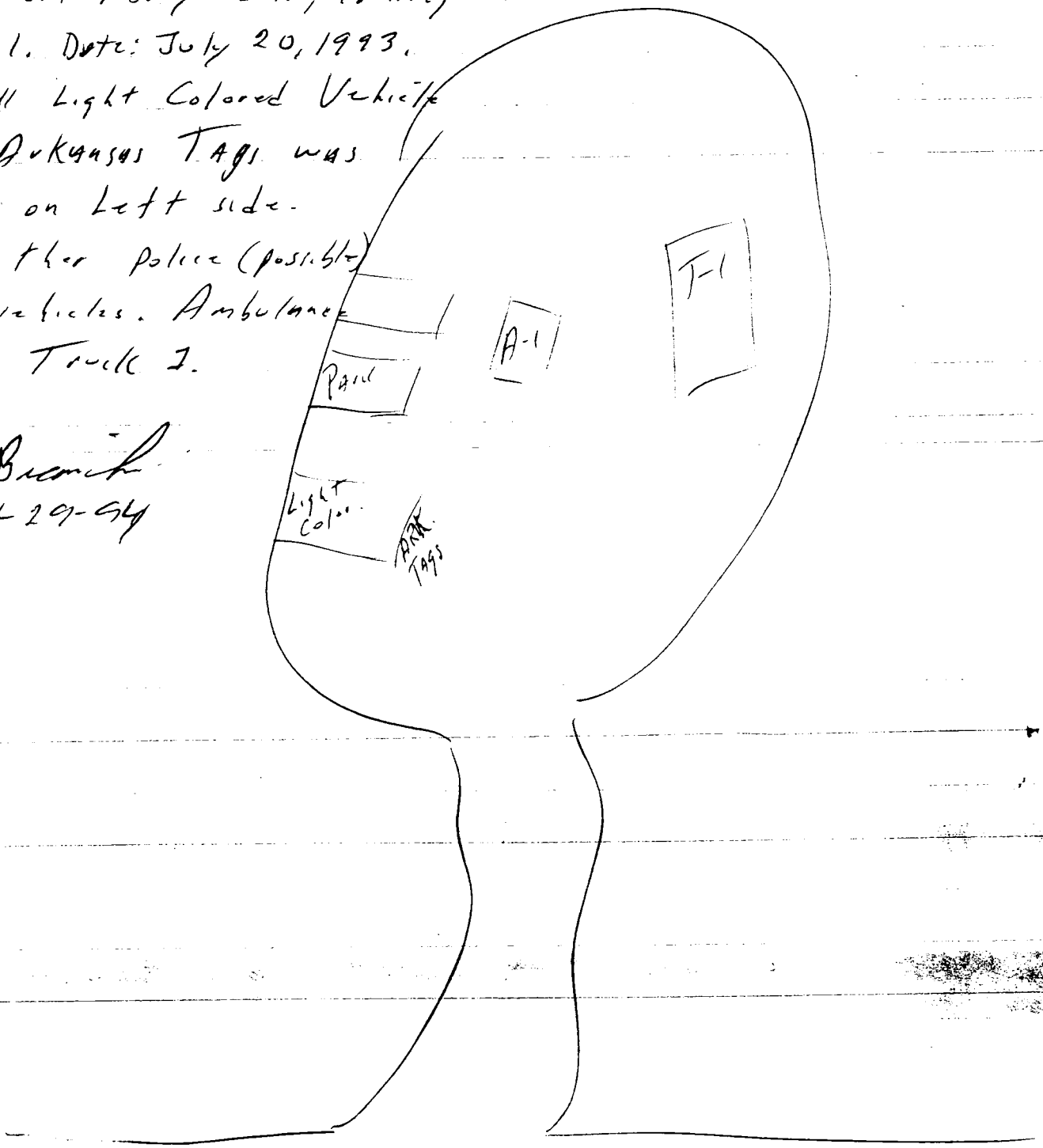
CIDENT # 932011315 UNIT T01F SUPP [illegible] SITF 90 DATE 07/20/93

SISTED AMBULANCE ONE ON A CODE 4 TRANSPORT. BODY WAS SEVERAL HUNDRED YARDS
CK IN THE WOODS. AMBULANCE CREW HAD BODY IN BODY BAG AND ZIPPED UP AT THE
ME OF OUR ARRIVAL.

MJB.
4-29-94.

This is what I saw to the best of my recollection of Fort Marcy Park, Parking Lot when I Arrived on Truck 1. Date: July 20, 1993.
A Small Light Colored Vehicle with Arkansas Tags was Parked on Left side.
Two other police (possible) type vehicles. Ambulance one & Truck 1.

N Branch
4-29-94



FD-302 (Rev 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

COREY ASHFORD was interviewed at Fort Marcy Park regarding the Fairfax County Fire and Rescue Department response to the death of Vincent W. Foster, Jr. on July 20, 1993. ASHFORD is currently assigned to Fire Station One, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After being apprised of the purpose of the interview, ASHFORD thereafter provided the following information:

Upon entering Fort Marcy Park, ASHFORD recalls seeing a vehicle believed to be a Honda Civic, that was possibly dark red in color. It was either a 1986 or a 1988 model. This vehicle was believed to be FOSTER's car. In the back window of the vehicle was a hanger with a jacket on it. ASHFORD glanced at the car for approximately 30 seconds. He learned back at the fire station that the car belonged to FOSTER. He gleaned this information in overhearing a conversation between JAY IACONE and other fire station personnel to include GEORGE GONZALEZ, RICK ARTHUR, and TODD HALL. The discussion centered around producing a detailed report regarding the response to the FOSTER death scene, since the decedent worked at The White House. ASHFORD recalls that The White House was brought up in the course of the conversation.

ASHFORD and ROGER HARRISON had been dispatched to Fort Marcy Park on July 20, 1993, to pick up the body of VINCENT FOSTER. ASHFORD did not recall receiving any assistance from U.S. Park Police personnel in placing FOSTER's body into a body bag. ASHFORD was also unable to recall the name of the doctor at Fairfax Hospital, who pronounced FOSTER dead. ASHFORD did not recall seeing any blood on the ground at the location of FOSTER's body.

Upon arriving in the parking area of Fort Marcy Park, ASHFORD recalls seeing several vehicles. In addition to FOSTER's vehicle, ASHFORD recalled a black Cadillac and a number of Park Police vehicles. At least one of the Park Police vehicles was an unmarked, white, Ford Crown Victoria.

Investigation on 4/27/94 at Ft. Marcy Park, VA File # 29D-LR-35063 SUBA 161

by SA Dana M. Gillis DMG
SA Russell T. Bransford RTB DMG:deg Date dictated 5/1/94

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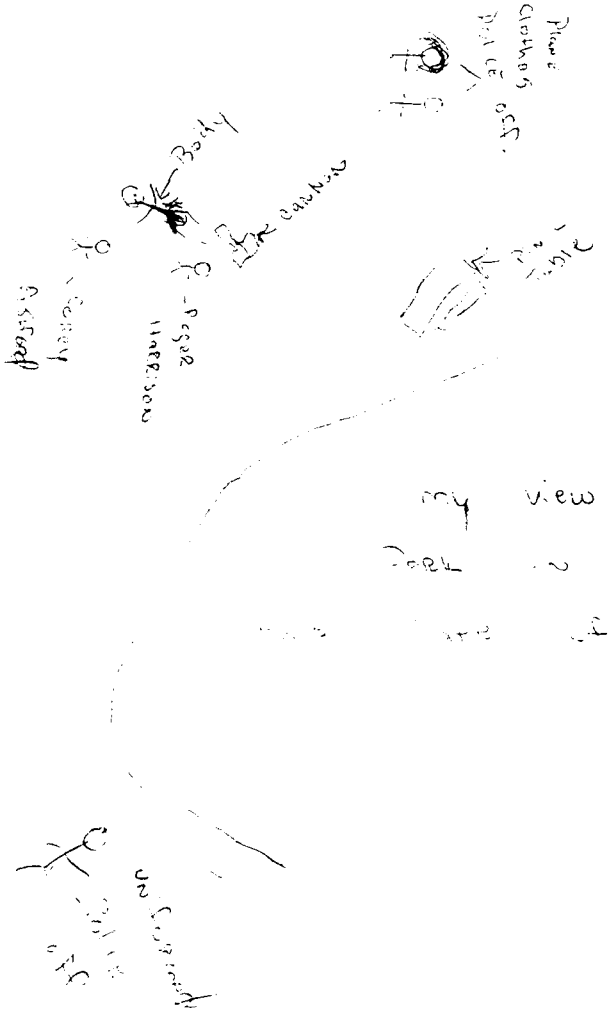
In addition to describing events related to the death of VINCENT FOSTER, ASHFORD was asked by interviewing agents to draw a representation of Fort Marcy Park as he recalled it on July 20, 1993, to include the parking area and the location of FOSTER's body. This representation was produced pursuant to the interview on April 27, 1994 and is attached and made a part of the record hereto. Also attached is a copy of ASHFORD's electronic data narrative regarding the July 20, 1993 dispatch to Fort Marcy Park.

Ft. Marcy Park



This Picture Represents my view of the INC. at Ft. Marcy Park on 7-20-03 Taken on my Dashboard

INCIDENT RT

IDENT # 93201483 UNIT A01 BUFF 01 D I SITF FIA DATE 07/20/93

I TRANSPORTED BODY TO FAIRFAX MORGUE

CC

ASMF 1/20/93

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/17/94

FOIA(b)(6)
FOIA(b)(7) - (C)

GEORGE O. GONZALEZ was interviewed about his recollection of events which occurred on July 20, 1993 in Fort Marcy Park, Virginia in relation to the death of VINCENT W. FOSTER, Jr. GONZALEZ, who was born on [redacted] is employed by the Fairfax County Fire and Rescue Department (FCFRD), Fairfax County, Virginia, as a Sergeant and is assigned to FCFRD Fire Station 1, 1455 Laughlin Avenue, McLean, Virginia, telephone number (703) 356-6671. After GONZALEZ was advised of the official identities of the interviewing agents and the nature of the interview, he provided the following information:

Prior to his response to Fort Marcy Park on July 20, 1993, GONZALEZ had only been to this park several years before. GONZALEZ was unfamiliar with the locations of any cannon in the park.

On July 20, 1993, GONZALEZ was assigned to FCFRD unit Medic 1 when it was dispatched to Fort Marcy Park. As Medic 1 was driving southbound on the George Washington Memorial Parkway (GWMP) in the direction of the park, GONZALEZ observed a black Lincoln automobile bearing diplomatic registration plates stopped on the right roadside of southbound GWMP. The Lincoln was stopped near a stone barrier which serves as a guardrail, and the hood on the Lincoln was raised.

Medic 1 was accompanied on the call at the park by another FCFRD unit, Engine 1. Engine 1 was driven across the median strip of the GWMP at the entrance to Fort Marcy Park and was used to block traffic on northbound GWMP so that Medic 1 could safely cross over the median as well. Engine 1 entered the parking lot first followed by Medic 1. Both units were then parked in column formation approximately two thirds of the way into the lot.

As Medic 1 drove into the entrance road to the Fort Marcy Park parking area, GONZALEZ observed a silver-blue Mercedes automobile parked on the right side of the entrance road facing toward the parking lot. The Mercedes was parked on the entrance

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road approximately one hundred to two hundred feet into the park from the GWMP and the four-way flashers on the Mercedes had been activated.

Once the FCFRD units were in the parking lot, GONZALEZ observed a white automobile, possibly a Nissan, which displayed Maryland registration plates and which was backed into a parking space on the north side of the lot so that the rear of the car faced the curb. GONZALEZ did not observe the contents of the white automobile. GONZALEZ also observed a second car parked in the lot. This second automobile was parked in approximately the fourth or fifth parking space in the lot from the entrance to the lot. This automobile was parked within a single parking space with its hood facing the curb. GONZALEZ clearly recalls that this automobile was dark-colored and was either charcoal grey or brown in color.

A United States Park Police (USPP) officer arrived in the parking lot just seconds after the arrival of the FCFRD units. The FCFRD personnel on the scene decided to divide the available personnel and the advanced life support equipment so that the area could be searched more quickly for the patient. The crew of Engine 1 and RICK ARTHUR, who was assigned to Medic 1, went down a trail leading to the right from the end of the parking lot. GONZALEZ and TODD HALL, who was also assigned to Medic 1, were accompanied by an officer from USPP whose name GONZALEZ recalls as FORNSHIL (phonetic). GONZALEZ's group followed a trail which led uphill from the parking lot.

The status of the patient was unknown at that time so there was a sense of urgency. It was not known to the personnel on the scene whether the patient was located uphill or downhill from the parking lot. Locating the patient was the first priority, followed by the need to attempt to resuscitate the patient once he could be located. The main cue being looked for by the FCFRD personnel was a cannon since the patient's proximity to a cannon had been mentioned when the call was dispatched.

As GONZALEZ was working his way uphill and conducting a search for the patient in an area approximately halfway between two cannons in the park, HALL and the USPP officer shouted to him that they had found a body. GONZALEZ rushed ahead and joined HALL and the USPP officer on a slope in front of the second of the two cannons. GONZALEZ observed a body, later identified as that of FOSTER, nearly at the top of the slope. GONZALEZ

observed a path down the slope which was in line with FOSTER's body.

GONZALEZ had a portable radio with him which he used to call the Fairfax County Public Safety Communications Center and advise the dispatcher that a body had been found and the patient was already deceased. GONZALEZ also asked the dispatcher to notify the other group of FCFRD personnel that the patient's body had been found. GONZALEZ and HALL subsequently encountered the other group of FCFRD personnel in the parking lot and directed them uphill to the location of the body.

GONZALEZ currently recalls that almost the entire slope where FOSTER's body had been found was green and there was much more ground cover on it on July 20, 1993 than on the date of this interview.

When GONZALEZ approached to examine FOSTER's body, he observed flies on almost every orifice of FOSTER's face. FOSTER's body was lying in a supine position with the head on the uphill portion of the slope. FOSTER's mouth was open and his eyes were partially open. GONZALEZ observed blood coming out of the right side of FOSTER's mouth in what GONZALEZ now describes as a streak of blood. FOSTER's neck was intact and no puncture wounds or trauma were evident. GONZALEZ did not observe a great deal of blood on FOSTER's face, and the blood which was visible was dark and appeared to have been dry for awhile.

GONZALEZ does not now recall whether he saw HALL check FOSTER's pulse.

GONZALEZ knelt by FOSTER on FOSTER's right side to examine the scene. Both of FOSTER's hands were at his side. GONZALEZ observed a handgun in FOSTER's right hand, but he could only see the cylinder of the gun. GONZALEZ did not see much blood under FOSTER's head but he did not lift the head. FOSTER's head was facing straight forward. GONZALEZ observed blood on the right shoulder of FOSTER's unbuttoned white shirt.

GONZALEZ observed lividity in FOSTER's fingertips. Since FOSTER's clothes were not removed or displaced, GONZALEZ does not know if lividity was visible in FOSTER's legs, back or feet. Based on his previous experience with dead bodies, GONZALEZ estimated that FOSTER had been dead from two to four hours. GONZALEZ did not move any of FOSTER's limbs so he cannot

comment on whether rigor mortis was present in FOSTER's body. GONZALEZ did not observe the posterior portion of FOSTER's body or the lower portion of FOSTER's neck. GONZALEZ does not recall seeing anyone examine the posterior portion of FOSTER's body.

GONZALEZ does not recall making any observations as to whether or not FOSTER's clothes appeared to have slid up on his body.

At this point in the interview, GONZALEZ was asked to review a narrative report relating to the FOSTER incident which had been typed on the FCFRD reporting system. GONZALEZ identified the narrative as having been prepared by him. GONZALEZ was then asked about the entry in his report where he wrote that the patient was assessed visually, lividity had set in, and there was pooling of blood in the patient's extremities. GONZALEZ responded that his notation about pooling of blood in the extremities only referred to FOSTER's arms and hands.

GONZALEZ did not observe any eyeglasses, paper, bottles or other litter on the ground in the vicinity of FOSTER's body.

As GONZALEZ prepared to leave the area of FOSTER's body, another USPP officer came to that location. This second USPP officer was a white male in his early thirties, had black hair, and was in uniform. Based on remarks made by this officer, GONZALEZ formed the impression that this officer was newly assigned to an investigative unit. USPP Officer FORNSHIL (phonetic) was still at the location of the body.

GONZALEZ and HALL left the location of FOSTER's body together. GONZALEZ does not recall whether anyone else left with them.

When GONZALEZ returned to the park's parking lot, he learned that both of the civilian cars parked there were locked. The Mercedes automobile was still parked in the entrance road to the park.

During the course of the interview, GONZALEZ was asked to show the interviewers the route he had followed inside the park on July 20, 1993. GONZALEZ was also asked to draw handwritten sketches of the Fort Marcy Park parking area and the area around FOSTER's body as these locations had appeared on that date.

GONZALEZ's sketch of the parking lot depicts the locations of Medic 1, Engine 1, a white car displaying Maryland registration plates, a USPP vehicle, and a four door Honda displaying Arkansas registration plates. This sketch further depicts a light blue Mercedes on the entrance road to Fort Marcy Park as well as the position on the GWMP of a black Lincoln Town Car displaying diplomatic registration plates. GONZALES further wrote on this sketch that there was an Oriental driver standing outside the Lincoln, whose hood was up.

GONZALEZ's sketch of the area around FOSTER's body depicts the location of the body from a side view as well as the positions of GONZALEZ, HALL and USPP Officer FORNSHIL (phonetic) as they conducted their initial examination of the scene.

GONZALES signed and dated his sketches of the parking lot and the area around FOSTER's body. He also signed and dated each page of the four page narrative report he had prepared on the FCFRD reporting system.

Copies of the two sketches and the four page narrative report are attached to and incorporated into this report of interview.

EMS INCIDENT R. RT

CIDENT # 932011315 UNIT A01 SUPP 01 FDDX 0146 SUBCT 470104 AMP 0331
ATE 07/30/93 DAY 3 SHIFT A FFROP 935 MFROP 98 VEH # 6273 MILES 012
CATION 0 GEORGE WASHINGTON MEM PW APT # RESPST 2 DISPST 1
USE PROBLEM 77 SITUATION 901 VEH ACTION TAKEN F.....
RV EMP # 47395 DIC EMP # 47252 AID EMP # 47532 OTH EMP #
EFORT BY EMP # 47252 VOL/STATION 00 SP STUDY SP STUDY
DATE OPER

UNIT TIMES

ISPATCH 18:03:08 ENROUTE 18:03:54 ONSCENE 18:10:16 ENRHOSP 00:00:00
THOSP 00:00:00 NEWSTAT 18:37:15

PATIENT INFORMATION

T LAST NAME FOSTER FIRST VINCENT MI
T ADDRESS UNK APT #
ITY UNK STATE AR ZIP CODE
GE 048 RACE W SEX M CAUSE PROBLEM 77 SITUATION 901 RESPST 2
ID GIVEN A9 SCORE CASE SEVERITY 5 OUTCOME 1
RTHOSP 43 DESTINATION 43 COMM 9 QUALITY 9 FSCC DIR PT REFUSAL .
P 000 000 PUL 000 RES 00 CX B EKG-F EKG-H ..

UPIL 9 COLOR 7 TEMP 9 MOIST 9 PREAID RESUS SPECTX
R LAST NAME PT HX #

ACT01	AMT	EMP #	EFT	ACT02	AMT	EMP #	EFT
03				04			
05				06			
07				08			
09				10			
11				12			
13				14			
15				16			
17				18			
19				20			

@ 4-27-94 12:30pm WE

NARRATIVE REPORT

INCIDENT # 932011315 UNIT H01 SUPP # 1 SITE 901 DATE 07/20/93

E REC. A CALL FOR A POSS. DOA IN THE PARK OFF GW PKWY. WHILE IN ROUTE AS W
GOT ONTO GW PKWY WE SAW A CAR ON THE SIDE OF THE ROAD THAT APPEARED TOBE
LK LINC. TWNCAR WHICH HAD WRECKED INTO THE TREES. MINOR AUTO DAMAGE. DRIVER
OOKED OK AND WAS WALKING AROUND. AS WE ENTERED THE PARK (FORT MARCY) WE
ASSED A LIGHT BLUE MERCEDES W/IT HAZARDS ON. NO OCCUPANT IN VEH. WENT FURTH
R UP IN TO THE PARK AND SAW TWO OTHER VEH. BRWN HONDA.AR TAGS. AND A WHITE
ISSAN W/MD TAGS. NO OTHER PEOPLE IN THE AREA. WE SPLIT OUR CREWS ONE WENT
N THE NORTH TRAIL AND THE OTHER ON THE SOUTH TRAIL. SGT. GONZALEZ AND TECH
ALL ALONG W/PARK PD FORSHON WENT UP THE NORTH TRAIL IN SEARCH OF A BODY. WE
AME ACROSS THE FIRST CANNON. I SEARCHED AROUND THIS AREA AND FOUND NOTHING.
E SEARCHED FURTHER TO THE NEXT CANNON

S. Scott Bom
4-27-94 12:30pm WE

NARRATIVE PT

CIDENT # 932011315 UNIT H01 SUPP .. 2 SITF 901 DATE 07/20/93

O FOUND A DEAD MALE W/SUIT PANTS. AND DRESS SHIRT. NO TIE OR COAT. LAYING PINE FEET FIRST DOWN THE HILL. THE FIRST PERSON TO REACH HIM WAS THE TECH OD HALL AND PARK PD. I FOLLOWED SECONDS BEHIND THEM. I THEN ADVISED FX. PS OF THE SITUATION. WE LEFT PARK PD WITH THE VICTIM AND RETURNED OUR EQUIP OUR UNIT. IN DISCUSSION W/PD HE ASKED HOW MANY CARS WERE OUT IN THE PARK G LOT I SAID 3. 1 AT THE ENTRANCE AND 2 IN THE PARKING LOT. WE ARRIVED BAC AT OUR UNIT AND ASSISTED PD. WHILE IN THE PARKING LOT WE LOOKED FOR VEH. W HE INFO. TO RELATE TO THE PT. ONE VEH. STOOD OUT. THE HONDA. WHICH HAD THE MAINING PARTS TO HIS SUIT. HIS COAT AND TIE. PT ASSESSED VISUALLY LIVIDITY D SET IN. POOLING OF BLOOD IN THE EXTREMITIES. PT HAD BEEN DEAD APPROX. 2 HRS. PT HAD A WEAPON IN HIS RIGHTHAND

Sgt. Leroy A Bom
4-27-94 12:34 we

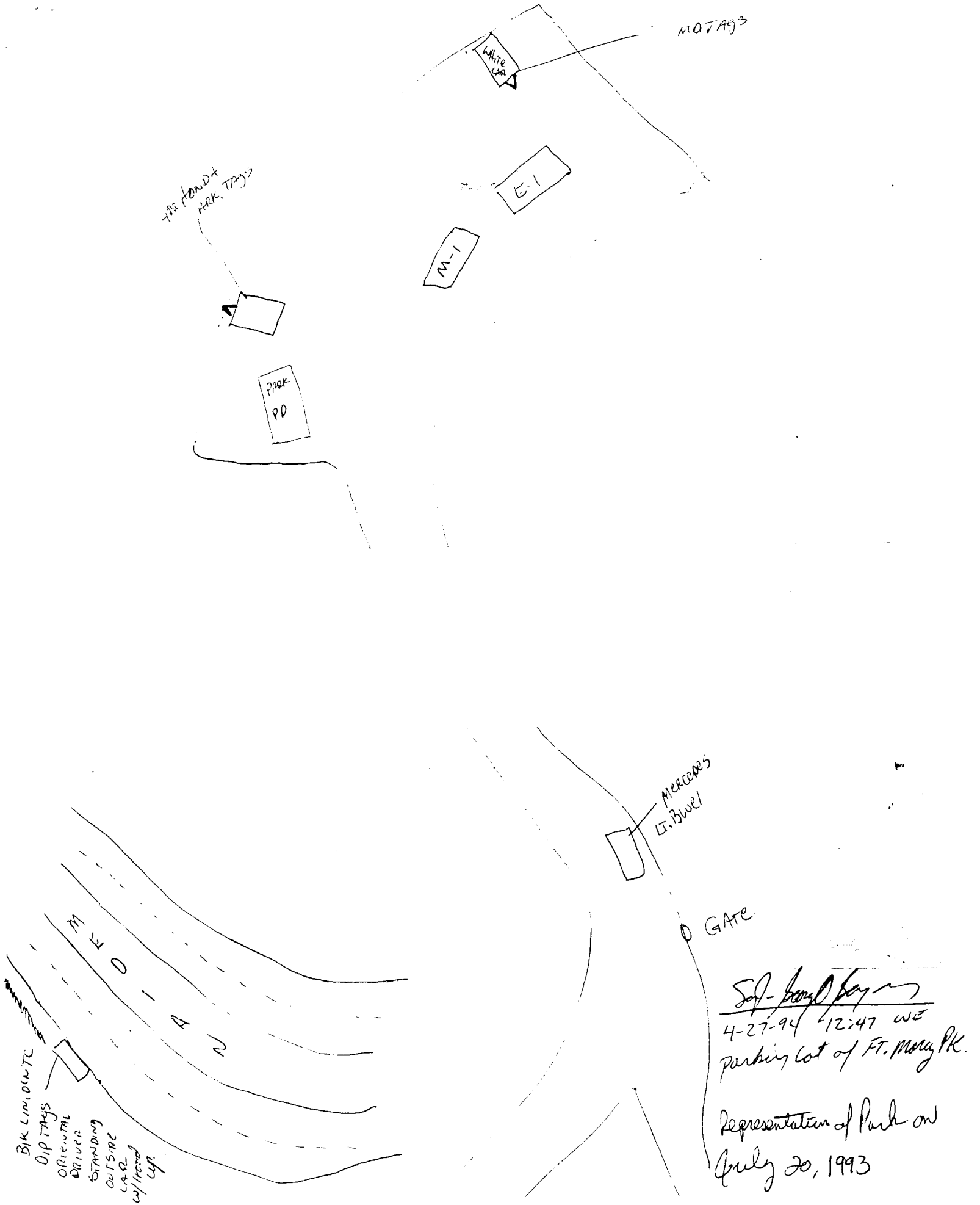
NARRATIVE REPORT

CIDENT # 932011315 UNIT H01 SUPP [illegible] 3 SITE 501 DATE 07/20/93

RK PD DID NOT NEED ANY OTHER SERVICES.

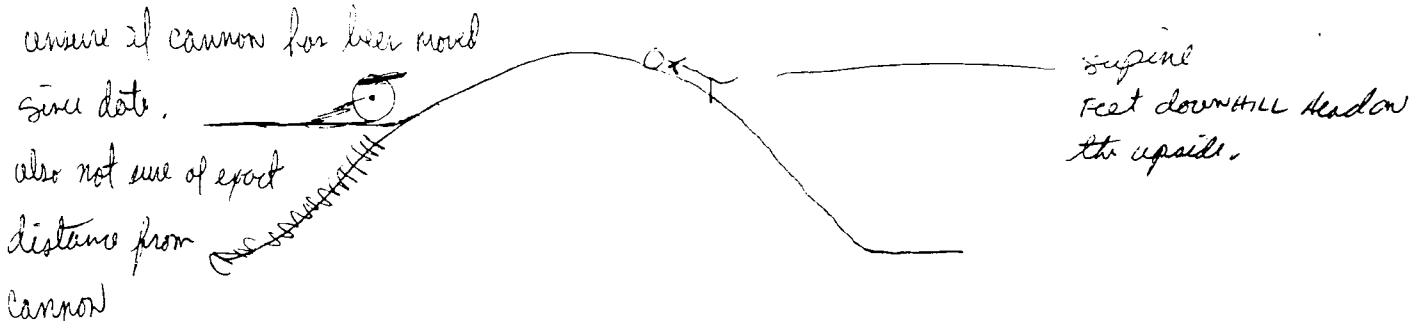
[illegible]

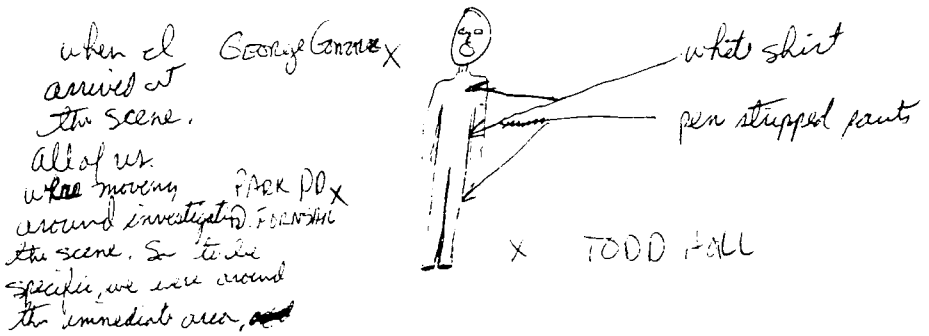
4-27-94 1234 hrs



Self-portrait
4-27-94 12:47 WE
parking lot of Ft. Mason Pk.

Representation of Park on
July 20, 1993





Sgt. George Gonzales
4-27-94 12:51 we
Representatives of Park on
July 20, 1993

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

Dennis Stephen Martin, Inspector, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania NW. Inspector Martin was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for twenty years and his office is located at 1310 L Street NW, Washington, D.C. His office telephone numbers are 202-435-7575 and 202-435-7209. He is currently assigned as the Uniform Division Commander of USSS Professional Responsibility and Internal Affairs Investigations.

At the time of Vincent Foster's death on July 20, 1993, he was the Deputy Commander of the USSS White House branch and as such was the commanding officer of all Uniform Division employees working within The White House compound. In that capacity, his responsibility was to oversee and coordinate access and control of physical security for The White House. He came to work on the morning of July 20, 1993, at approximately 7:30 am and left work that day at approximately 5:30 pm after a busy but otherwise uneventful day. At approximately 8-9:00 pm, he received a phone call from Lieutenant David Wultz at the USSS White House Control Center advising him that the United States Park Police had just notified him that a body, believed to be that of Vincent Foster, had been found dead at Fort Marcy Park of an apparent suicide. Inspector Martin said that he made the appropriate notifications within the USSS chain of command and also decided to notify Craig Livingstone, a non law enforcement White House staffer who, at that time, held the title of White House Security Coordinator. He said that he decided to notify Craig Livingstone because he believed that notification of the hierarchy of The White House staff was appropriate and he thought it possible that The White House staff would want to decide who should identify the body. He said that when he contacted Livingstone at his (Livingstone's) residence, he seemed quite shocked and upset but said that he would contact the Park Police and that he would go to either the hospital or the morgue to identify the body. Inspector Martin

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said that it is his understanding that Livingstone did identify the body that night.

On July 21, 1993, Inspector Martin arrived at work at approximately 6:30 am and shortly thereafter met with USSS Assistant Special Agent in Charge (ASAC) Paul Imbordino. It was decided that Inspector Martin would meet and escort U.S. Park Police (USPP) investigators and FBI agents who were expected at The White House shortly to conduct an investigation regarding Foster's death. Inspector Martin said that at approximately 8:00 am USPP Chief Langston and a Deputy Chief (name unrecalled) arrived at The White House saying that they had an appointment with David Watkins whom Martin knew to be a White House staffer for whom Craig Livingstone worked. Inspector Martin said that he escorted the Chief and Deputy Chief to a suite of offices on the ground floor of The White House west wing that was occupied by Watkins and Patsy Thomasson.

At approximately 8:30-8:45 am a USPP Captain (name unrecalled) and Detective Pete Markland of the USPP arrived about the same time that Chief Langston and the Deputy Chief were leaving The White House compound. Inspector Martin said that these four men spoke briefly outside the building and then the Chief and Deputy Chief departed The White House grounds. Shortly thereafter, two Special Agents of the FBI, Scott Salter and another (name unrecalled) arrived. Inspector Martin escorted them to The White House west wing where they briefly met with Bernard Nussbaum. Inspector Martin said that he cannot recall if he escorted the four law enforcement officers to Nussbaum's office or if Nussbaum came down to the ground floor to talk to them. He advised, however, that the conversation was regarding arrangements for the law enforcement officers to be allowed access to Vincent Foster's 2nd floor office. Nussbaum said that he wanted to check with other members of The White House legal counsel staff and the First Family before any access to Vincent Foster's office was allowed. The four investigators and Inspector Martin waited on a couch located on the ground floor of The White House west wing for approximately 2 hours and then moved to Inspector Martin's office where they waited several more hours into the afternoon. Martin said that during the time in his office, several telephone calls were made by the investigators to FBIHQ and USPPHQ. Martin said that he was not privy to these conversations but was able to discern that the investigators were most unhappy about being kept waiting but could not seem to gain appropriate authority to search Foster's

office.

Inspector Martin said that he went home that evening at approximately 5:30 to 6:00 pm after ASAC Paul Imbordino invited the investigators to continue their wait with him. Martin said that it is his understanding that the investigators went back to the west wing of The White House where they again met with Nussbaum. He said that although he was not present during the meeting, it is his understanding that the investigators were not allowed to see Foster's office that day but agreed to return the next day to conduct the search of that office.

Inspector Martin said that while the investigators were waiting with him, at approximately 11:00 am, a decision was made to begin posting a series of USSS Uniform Division officers outside Vincent Foster's door to secure it for investigation. These shifts went on for the remainder of July 21, 1993 and a locksmith was called in to place a lock on Vincent Foster's door that evening. Inspector Martin said that he was advised that the Uniform Division officers were removed from this newly established post at approximately 8:00 pm that evening when the door was secured with a lock.

Inspector Martin was asked if he recalls USSS Uniformed Officer Bruce Abbott relating any observations regarding Craig Livingstone and another man. Inspector Martin said that he does so recall that at approximately 8-9:00 am on July 21, 1993 as he was escorting USPP officers either in or out of the west wing, Officer Abbott approached. He said that Abbott spoke to him in a low confidential voice relating to him that earlier that morning (approximately 6:30 - 7:00 am) he had seen Craig Livingstone and another man (identity unknown) on the ground floor of The White House west wing having just gotten off the elevator or having just come down the staircase from the upper floors of the west wing. Abbott said that he saw these two men carrying a briefcase and some boxes and that he was relating this information to Inspector Martin because he thought it was unusual that these men were in the west wing at that hour removing items before an investigation of the Foster death to be conducted. Inspector Martin said that he does not recall if he related this information to anyone else or not. He said that he is certain that the Park Police officers were present at the time he was told this but he can not be sure if they overheard any or all of this information at that time.

Inspector Martin was asked to explain the USSS Standard Operating Procedure for picking up and disposing of "burn bag" trash from the west wing. He said that this type of trash is picked up daily from west wing offices during the midnight shift by a USSS Uniform Division employee. He said that it is then taken to Room. 096 in the basement of the Old Executive Office Building (known as the Macerating Room) where it is shredded and then burned by GSA employees who have appropriate security clearances. Inspector Martin was asked to explain the standard operating procedure for picking up regular non burn bag trash from the west wing. He said that this type of trash is also picked up on a daily basis during the midnight shift but is picked up by GSA cleaning employees who are escorted by USSS Uniform Division officers. This trash is then taken to the same room in the Old Executive Office Building and from there thrown away in a dumpster behind the Old Executive Office Building. Inspector Martin said that, in his opinion, it is highly improbable that a specific bag of trash from a specific waste basket could be identified and retrieved the next day after it had been picked up by the GSA employees and combined with all other trash picked up on a given day. He also said that he does not recall hearing about any White House staffer asking to retrieve trash from Vince Foster's waste basket that had been previously picked up.

Inspector Martin was shown a copy of a one page document captioned "On-line Activity Report" dated 7/21/93, that had been previously obtained by the Federal Bureau of Investigation. Inspector Martin said that this is a log showing the activation and deactivation of an alarm on the Nussbaum/Foster suite on the 2nd floor of the west wing of The White House for the period 7/20/93 - 7/21/93. Inspector Martin explained the columns on this log reading left to right: date of activity; time of activity; the zone of this activity (number 561, west wing, 2nd floor, room 208-Nussbaum's office). The next column shows the entrant or operator's name and the last column shows the event, that is the alarm either being activated or deactivated or tested. Inspector Martin explained that an entry on this log reading "secure alarm" either means that the alarm for the Nussbaum/Foster suite had been intentionally set (activated) or that the alarm had been tripped or set off. He explained that an entry in the event column reading "access set" means that the alarm for this suite had been deactivated thus allowing people access to the suite. He said that an entry reading "access alarm" has the very same meaning as "access set".

He explained that an entry reading "secure reset" is a check of the alarm system to make sure that the alarm is on. He explained that this is done periodically, remotely, and electronically by the USSS White House Control Center. Inspector Martin was asked to explain his understanding of entries on this log. He said that according to the log, at 8:03 am on 7/20/93, the alarm had been tripped and deactivated. He said that the operator's name on the log which reads "Castle" is probably the same as later entries that same day on the log reading "Castleton". He said that according to the log, the alarm remained in a deactivated mode the remainder of the day of 7/20/93. At 8:04 pm on 7/20/93, the alarm was put in secure mode or activated by "Castleton". At 10:42 pm on 7/20/93, the alarm was tripped when USSS Officer O'Neill went into the suite. It remained deactivated until 11:41 pm when O'Neil activated it again. One minute later at 11:42 pm, the USSS Control Center electronically checked the alarm status and found that it was in secure mode (activated).

REPORT DATE: 07/21/93 11:33

ON-LINE ACTIVITY REPORT

PAGE NO. 1

SELECTION PARAMETERS:

STARTING DATE AND TIME: 07/20/93 00:01

EVENT PRIORITY: ALL EVENTS

EVENT CLASS: INTRUSION DETECTION EVENTS

OTHER CRITERIA: SELECTED ZONE: 561

DATE	TIME	NO.	ZONE DESCRIPTION	ENTRANT/OPERATOR NAME	EVENT
07/20/93	08:01	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CASTLE	SECURE ALARM
07/20/93	08:03	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	ACCESS SET
07/20/93	20:04	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CASTLETON	ACCESS ALARM
07/20/93	20:04	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CASTLETON	SECURE ALARM
07/20/93	21:14	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	SECURE RESET
07/20/93	22:42	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	ONEILL	SECURE ALARM
07/20/93	22:42	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	ACCESS SET
07/20/93	23:41	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	ONEIL	ACCESS ALARM
07/20/93	23:41	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	ONEILL	SECURE ALARM
07/20/93	23:42	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	SECURE RESET
07/21/93	07:01	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	PONN	SECURE ALARM
07/21/93	07:01	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	ACCESS SET
07/21/93	11:20	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CC TEST	SECURE ALARM
07/21/93	11:20	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CONTROL CENTER 1	ACCESS RESET
07/21/93	11:20	561	NW 2ND FL RM. 208 - KAUSSBAUM'S OFFICE	CC TEST	ACCESS ALARM

7-21-93

Insp. Martin,

Per your request.

Jeff Redburn

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/28/94

Cynthia M. Monaco, Special Assistant to the Deputy Attorney General, U.S. Department of Justice (DOJ), appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 2:00 p.m. for interview. Ms. Monaco was advised of the identity of the interviewing agents and of the purpose of the interview. Ms. Monaco provided the following information:

She has been employed as Special Assistant to the Deputy Attorney General, DOJ, since May 3, 1993. As such, she was employed as Special Assistant to Phillip Heyman, Deputy Attorney General, DOJ, at the time of his resignation from the DOJ. Heyman announced his resignation from the DOJ on January 21, 1994 and his last day at the Department was February 14, 1994. On or about February 11, 1994, Monaco participated in a meeting with Heyman and others to assist him with various administrative details relative to his resignation. As part of this meeting, it was decided to set forth a chronology of the events involving DOJ personnel during the time period surrounding the death of Vincent Foster. In addition to Heyman and Monaco, those present at this meeting were DOJ employees Roger Adams (Counsel - DOJ), David Margolis (Associate Deputy Attorney General), Pat Binninger (a Confidential Assistant to the Deputy Attorney General) and possibly Rod Rosenstein (now a Special Assistant to the Assistant Attorney General - Criminal Matters and formerly a line attorney in the DOJ Criminal Division - Public Integrity).

Ms. Monaco provided six pages of yellow-lined, handwritten notes produced at the February 11, 1994 meeting concerning the chronology surrounding Foster's death. Monaco noted that it had been intended that these notes be typed, but that Heyman had left the Department prior to this being done and she has since not seen the need to do this.

A transcription of the chronology as provided by Ms. Monaco is as follows:

NOTE: Clarifications and/or corrections and sources of

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the recollections as provided by Ms. Monaco during the interview are provided in parenthesis in the transcription. There were no parenthetical notes in Ms. Monaco's original draft of the chronology.):

TUES July 20th

Announcement of Freeh. Foster left W.H. and shot himself - Tues. night he is found around 9:00 p.m.

WED July 21st

- Roger Adams is selected by AG and DAG to go to Foster's office. He is told to stand by and Park Police would search. (Adams)

- Adams raised concern over his prior detail to the White House. DAG says call AG. (Adams)

2 p.m. RA calls JR tells her he was in WH counsel's office. (JR = Janet Reno)

- Janet Reno beeps Phil at Marriot where he is panel moderator to ask Adams question.

3 p.m. - Adams is called into DAG's office. Dave got instructions from Phil on doc handling.

5 p.m. - DM, RA and investigators make an agreement that they will go into Vince's office. After agreement is signed sealed etc. Neuwirth reopens agreement. (DM = Margolis)

DM glance at first page title of file (Margolis)

for "anything to do w/ his violent death" this (Margolis)

RA - understood that nothing would happen until they were there to see it. (Adams)

PH worry (Thurs 22 erased after this notation)

Thurs 22 - agreement is DM/RA will be at 10

Originally we responded to the WH on Wednesday morning

21st Park police are not allowed in the office of Vince Foster

Roger Adams

Thurs 10 am We arrive at 10. (Margolis or Adams)
- Cops go off to do interviews
- Bernie has new plan he will look at docs
- David called DAG bec he now knows that new plan not cleared.
- DM calls Phil & hands phone to DAG (DAG reference here should be "Nussbaum")

David remembers that decision was we'd push Bernie to wall to change his mind but would let Bernie ultimately make the call.

DAVID said "Mail us results" BN - I know it's for show

Cindy saw Phil in conf room b/n 10:30-11. (Monaco)

You are messing this up (Quote from Heyman to Nussbaum on telephone in conference room/not in Heyman's office. Monaco overheard Heyman side of this conversation.)

said he'd call David & Roger back here - won't make a big deal about

BN said he'd call back
DAG but didn't (Heyman)

told DM/RA to stay in lobby - not to leave when DM went out for a cig. BN panicked came running after DM.

At 12:45 - told DM/RA (Get lunch and will do search at 1:00 p.m.)

At some point, DM said after meeting if this were IBM I'd have subpoenaed. BN said - if this were IBM - smart lawyer would have removed them - privilege would have attached. (Margolis)

DM told Bernie that he'd make a detailed inventory

DAG called BN on night of 22nd
- reamed him out
- do you have anything to hide? (Heyman - angry he hadn't been consulted)

July 26 -

Tues July 27

5:15 - Phil is summoned out of AGAC to go to WH (Heyman) (AGAC = AG Advisory Committee)

DAG rides over w/AG (Heyman)

Bernie has note - AG says turn it over and she left. (Heyman) (AG had engagement = why she left)

Phil wanted to leave but BN asked him to stay since he was there so long already. (Heyman)

Thurs 28th - FBI is called in. (On note)

Thurs 29

Collier calls 8:45 (Collier is Chief of Staff for Interior Secretary Babbit)

comes over 9 a.m. (Meeting with Collier was only time during entire tenure that Heyman turned on his red light - meaning he should not be disturbed)

Two complaints
1) WH - is treating his personnel unprofess bursting into interviews

2) mismatch (Refers to authority or power; U.S. Park Police vs. White House)

wanted to take his people out of the investigation

DAG called Bernie, Gergen, etc. tells them he wanted a

conference call to all of them (Heyman said to assemble everyone who was present the night before in connection with the Foster note. Monaco recalled this included Dee Dee Myers, and possibly McLarty and Stephanopoulos, among others) (Conference call = speakerphone at White House) (Margolis, Adams and Monaco with Heyman)

told them at 10:37 (Phone logs?)
we think 11:03

Nancy McFadden notes that N McF.
DM told FBI

Monaco noted that this last referrence in the chronology referred to an occasion when Nancy McFadden, who worked for Webb Hubbell, came into Margolis' office while Monaco was present to express concern over the phrase "obstruction of justice" being used by the FBI in their investigation following the discovery of the Foster note. Monaco said that Heyman and Rod Rosenstein were also present at the time in Margolis' office. McFadden requested that "someone straighten this out," referring to the "obstruction of justice" terminology. McFadden said the situation was way out of hand. It was Monaco's understanding that Hubbell had asked McFadden to come down to discuss this matter. Monaco remembers that Margolis did not say a word. Margolis was asked by Heyman to call the FBI.

When asked if she could add any other detail regarding the chronology, Ms. Monaco said she remembered Deputy Attorney General Heyman returning from the White House to the DOJ at about 10:00 p.m. on the night of July 27, 1993. This was the evening that the White House turned the Foster note over to investigators. Monaco said that she, Heyman, Rod Rosenstein and Gary Katzmann (Associate Deputy Attorney General) discussed the finding of the Foster note. Monaco remembered Heyman saying how wonderful it was to watch the Attorney General handle the situation at the White House that evening. The Attorney General had reacted to the news of the note being located by saying that the White House should call the U.S. Park Police and give the note to them. Heyman commented on how upright the Attorney General was and what a pleasure it was to work with her. Monaco said Heyman did not express an opinion concerning the events of

that evening other than this. She noted that he was extremely tired and exhausted.

In addition to the handwritten chronology, Ms. Monaco also provided a three-page transcription (attached) from a "journal" which Monaco herself maintains. She said most of the information contained in these journal pages is second and third hand. It consists of notes she kept and dictated late at night, her intention being to create a "great journal" of her experiences. She said no one had seen these journal pages prior to them being turned over during this interview. She asked that if these journal entries were ever to be released in the future, that she have an opportunity to clarify certain inaccuracies such as incorrect dates and run-together material. As an example of necessary changes, she cited the third paragraph on the first page that reads "The Attorney General made"... and clarified this should read "The Attorney General's Office made..."

Monaco said she remembers speaking with Vincent Foster on perhaps one or two occasions. These occasions would have been telephone calls from Foster concerning the nomination of Jo Ann Harris. Monaco said Foster was business-like and limited the call, or calls, to an inquiry concerning the progress of an announcement on Harris.

Monaco said she could provide no other information of value. She has searched her files for other handwritten notes but has located nothing else.

The following description of Monaco was obtained through observation and interview:

Name:	Cynthia M. "Cindy" Monaco
Title:	Special Assistant to the Deputy Attorney General
Race:	White
Sex:	Female
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Business Address:	Room 4208, DOJ
Work Telephone:	(202) 514-3844

The nomination. Bromwich screw up.

*** Back Chronology ***

On Tuesday July 20, the White House announced the pick in the Rose Garden of the new FBI Director. Phil, the Attorney General, and Dave Margolis were there. On Tuesday afternoon, Vince Foster left the White House and killed himself. He shot himself in the head in a park.

On Wednesday July 21, the White House realized that someone would have to come and take a look at the records in Vince Foster's office as part of a preliminary inquiry to rule out -- for suicide. Phil Heymann and Janet Reno decided that Roger Adams would go. Roger suggested that maybe there was a problem because he had worked at the White House for several months.

During this period of time, the Attorney General made a big deal about getting a hold of Phil while he was speaking at the Marriot while he was speaking at a Youth Violence Symposium. In any event, it was decided that Dave Margolis and Roger Adams would go over to the White House. David and Roger did go over. I believe it was on Wednesday briefly just to put a yellow tape on the door with the Park Police in the regular course of business. They determined at that time that they would come back and search the office the next day.

Thursday, July 22, 1993

The next day was a disaster. I first realized there was a problem when I saw Phil Heymann on the phone with Bernie Nussbaum. I walked into the conference room and sat down. This was probably about 10:30 or 11 in the morning when he should have been in the Crime Bill pre-meeting in room 4118. Phil was on the phone with Bernie Nussbaum and he said: "You are messing this up very badly. I think you are making a terrible mistake." And what I took it to mean, in the context of the general conversation was that Bernie had refused to let David and Roger take a look at the documents.

I later heard from David that in fact what had happened was that Bernie looked at the documents and told him that a privilege was asserted or was not asserted. This was in contrast to what Phil and Bernie had decided the day before. Only I and Phil were present.

Phil and Bernie seemed to be in agreement on the entire thing but probably were not. Phil later suggested at the end of that day when David returned -- this was when CBS News was calling regularly that the fact . . . . He [David] was very angry that he had been made to cool his heels in the Executive Office Building for hours before they were called at something like

quarter to one and told they would have fifteen minutes to get a bite to eat in the cafeteria before they actually went over to seacrh Vince's office. He was very irritated with that. And then when he got to Vince's office, he just sat there and Bernie Nussbaum picked up each document and looked at it while over his shoulder stood Steve and Cliff Sloan. And each of them regularly whispered in Bernie's ear as to whether or not he should assert some privilege or work product or executive or attorney-client priviledge. David was particularly galled when one agent stood up to stretch and Cliff Sloan said: "You're not trying to look over his shoulder are you?" David keeps repeating this story and I think he was very, very insulted that Cliff would make that accusation against one of his agents. I think the agent's name was Scott.

When David came back that evening, Dean St. Dennis was looking for a status report. Dean had sort of promised the press that morning that there would be a status report. He had gone too far.

Phil had pretty clearly explained to Dean, in my presence, that morning what he had wanted Dean to say to the press namely that it was just a routine inquiry. He may not have used the word " inquiry. He wasn' so clear on inquiry versus investigation but that it was just a routine questioning of circumstances into his death and that this would be handled like any other inquiry. I think that Dean was just way to specific with the press and said things like: "We are looking at the motive for the suicide and we a looking at the 1 in 100 chance that it could have been murder." I think that was very irritating for Phil Heymann to read in the papers the next morning.

In any event. Carl Stern returned that Monday and tried to set things straight. He had a meeting with Phil first thing in the morning when Phil laid the whole thing out. But that's getting ahead of ourselves.

That Friday there were articles back and forth on Vince Foster being despondent. On Monday, there were articles about the President, who I think had spoken to him. On Tuesday, the Attorney General and Phil Heymann were very quickly summoned to the White House. They were summoned . .. I specifically remember that Phil was summoned at about 5:15 and I don't know how much time it took for the Attorney General to convey that message but I know we went and got him out of the Advisiory Committee Meeting which he was at from about 4:30 to 5:00 and told that he had to come back immediately and go to the White House. He did come back immediately and he did go to the White House. He was there until about 10:00 at night. When I had sent him a burrito. He told Gary Katzmann, Rod and me of what had happened.

Vince Foster's Death. Last night there was the news that Rita Braver was onto the Judge Freeh story. Also the news about Doris Meissner. This morning the Department of Commerce person Tom

Collier came in and said that he wanted to pull the Park Police out of it. Phil had a meeting. Phil spoke with me, David, and Roger and in the presence of David, Roger and me called over to the White House in the morning and told them he wanted a "vigorous investigation" and that the Park Police would do it with the FBI.

He met with Peter Edelman and Eldie and is worried that he is part of a discussion group that is going nowhere,

Second Monday.

Phil Heymann told the Attoney Genral, actually told Webb Hubbell that he was furious about the White House's refusal to approve his staff. He added that the only people on his staff who were approved were Shay Bilchik and someone who works for Shay. Drew Days was so moved that he went out and bought Phil a sanswich and the two of them has lunch in Phil's office. The rest of the day packed wall to wall with meetings. I continue to be astonished at the amount of information Phil Heymann can absorb. He agrees that he is upposed to have lunch with some journalists at some point.

I had dinner with Phil last night at Kramer books. Yesterday, we had dinner with Bill Geller at AV Ristorante and Bill Geller spent a lot of time complaining about the AG -- that there is a perception about her that her mind is already made up and he complained a lot about Gail Hoffman.

August 6
Mary Jo White rushed in the documents on the Nosair case. That's the killing of Kahane. I left it on Phil's chair. Phil Baridon prepared some notes at the very last minute for the AG's speech. Nancy McFadden, it turns out had not needed a formal report. At yesterday's news conference, Nancy McFadden who was standing in the back of the room talking to Cliff Sloan ordered me to be quiet and to leave the room immediately after the press conference and said she was justtelling that to people because there was press in the room. It was way out of line. She had no business being there nor did she have any business taking notes for whom we wonder.

They put a good spin on the question of why it was that the the DOJ was in at the beginning and then out in the middle then in again at the end of the investigation. The explanation whcih is a bit of a gloss but is close to true is that the DOJ was in at the beginning because it was a question of why a high federal official was murdered or died by his own hand but that when it became clear that it was a suicide they withdrew but then after there was concern over the handling of the note by Foster which was found torn up in a suitcase, the Department of Justice again reentered the investigation.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Roger C. Adams, Counsel to the Deputy Attorney General, appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 11:15 a.m. for interview. Mr. Adams was advised of the identity of the interviewing agents and that the interview was in connection with the events associated with the inventory of Vincent Foster's White House office after Foster's death on July 20, 1993. The agents were also assisted in this interview by Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr. Mr. Adams provided the following information:

Adams said he had some notes regarding this issue that he would be referring to during the interview. Those notes were subsequently provided to the interviewers. Adams first heard of Vincent Foster's death on the morning of July 21, 1993 on the radio. Later that morning, following a staff meeting in the Deputy's office which ended around 10:15 a.m., Phillip Heyman, the Deputy Attorney General, pulled him aside and asked him to be on standby to meet with the U.S. Park Police regarding a search of Vincent Foster's White House office. He was told that he would be tasked with determining privilege issues, both executive and attorney-client, for documents found in the Foster office.

Adams advised that he had been on detail assignment to the White House Counsel office during the period February 1, 1993 through April 25, 1993. His office was located in the old Executive Office Building, where most White House Associate Counsel offices are located (other than those of Nussbaum and Foster). Adams' job on this detail was to assist in the vetting process with ethics review for White House nominees. Adams was familiar with financial disclosure matters and government conflict of interest rules. He was interviewed by Webb Hubbell for this position. He reported directly to Bill Kennedy and Beth Nolan of the White House staff. He was not involved with Vincent Foster while on this detail.

Adams advised that to the best of his knowledge he had seen or met Vincent Foster on three occasions. The first occasion was on February 1, 1993, his first day on the job to the

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Investigation on 4/11/94 at Washington, D.C. File # 29D-LR-35063 SUB A 16

by SA H. Alexis Suggs HAS
SA William T. Guyton Date dictated 4/11/94

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detail to the White House Counsel office. He saw Foster in passing sometime between 1:00 and 2:00 p.m., and introduced himself to Foster. He noted Foster's reaction was that of someone meeting a career employee. Foster looked up and was startled and vacant and a bit hesitant to say hello; it was not a warm meeting. The second occasion was at a birthday party for White House Counsel Nussbaum in Nussbaum's office. He saw Vincent Foster across the room at this party. However, Foster didn't make an effort to say hello to Adams on this occasion. Foster did not mix with guests and "work the room" like Nussbaum did. The third occasion was not actually a meeting but merely being in Foster's presence. It occurred at the end of his detail to the White House at a gathering for taking photographs. He explained that he and others assigned to the detail to the White House were with Nussbaum, Kennedy and others for a photo session of five to ten minutes in Nussbaum's office. Even though Foster's office is adjacent to Nussbaum's, Foster did not come out of his office to thank the group, but rather continued his work in his office, thus verifying to Adams stories of Foster's intense nature.

Adams mentioned this detail assignment to the White House to Heyman when he asked him to participate in the Foster office search. They agreed that it probably didn't constitute a conflict of interest; however, it was perhaps a perception problem. Heyman said that he would check with the Attorney General. At approximately 2:00 p.m., Adams received a phone call from the Attorney General regarding a proposed meeting for Adams with Charles Hume from the U.S. Park Police at the White House for the search of Foster's office. Adams again explained the perception problem to the Attorney General, as he wasn't sure that the Attorney General and Heyman had had a chance to speak concerning this situation. The Attorney General advised that she would talk with Heyman. Adams was subsequently advised that it would be okay to go to the White House and that David Margolis, a career employee of the Department of Justice (DOJ), would also attend. Adams noted that it was typical DOJ practice to have more than one individual go to meetings on significant issues and he did not think otherwise in this case.

Adams advised that he understood the purpose of DOJ representation at the search was to determine privilege of documents, both attorney-client and Presidential. It was believed the White House would accept DOJ opinion regarding this

privilege over that of the U.S. Park Police. Adams did not know if the White House had requested DOJ assistance or if DOJ had taken the initiative to participate. Generally speaking, Heyman was sending one of his people, Adams did not question his motivation.

Wednesday Meeting, 7/21/93 at Nussbaum's Office:

At approximately 4:30-5:00 p.m., Margolis and Adams met in Nussbaum's office with the following individuals: Detective Pete Markland and Charles W. Hume, U.S. Park Police; FBI Special Agents Scott M. Salter and John K. Danna; Assistant Special Agent In Charge (ASAIC) Donald A. Flynn, U.S. Secret Service; Cliff Sloan, Steven Neuwirth and Bernie Nussbaum, White House Counsel's office. The main purpose of this meeting was to set the ground rules for the search of Vincent Foster's office. The search would be conducted to locate any material or items which would help determine if Foster's death was a homicide or a suicide, i.e., a suicide note. It was agreed that because of the lateness of the day, the actual search would not be conducted until the next morning, Thursday, July 22, 1993.

The procedure agreed to was that Margolis and Adams would look at each document. Adams noted that there was an extremely clear understanding that he and Margolis would review the documents. He said he knew this because at one point Neuwirth said that Nussbaum would look at the documents and decide and Nussbaum responded, "No, no. The Department of Justice will look." Also, Margolis had clearly said "this is what we're going to do" referring to the earlier comment that they would review each document. Earlier in Heyman's office, Margolis had discussed this process with Heyman.

A U.S. Secret Service agent had been posted at the door of the Foster office and it was agreed that to relieve this individual, a special lock would be placed on the door. Only one key would be available for this lock.

Also at this meeting, Nussbaum mentioned that on Tuesday evening, July 20, 1993, he did a quick search of the top of the desk in Foster's office, looking for a suicide note. He also indicated that other people had "straightened up the top of the desk" the morning of July 21, 1993. Nussbaum said that he did not take anything out of the office. He added he saw a

maintenance employee take a wastebasket out of the office and had ordered him to return this trash which was then placed back into the office in a plastic bag.

It was agreed that they would meet the following morning at 10:00 a.m. to conduct the search of Foster's office.

Adams and Margolis left the White House after the July 21st meeting and returned to DOJ where Margolis briefed Heyman regarding the results of this July 21, 1993 meeting. Margolis and Adams also chatted with others in Margolis' office regarding the procedure agreed to. These individuals included Rod Rosenstein and Cyndi Monaco. All were satisfied with the procedure as established.

10:00 a.m. Meeting with Nussbaum, July 22, 1993:

Upon arriving in Nussbaum's office on July 22, 1993 at approximately 10:00 a.m., Nussbaum announced to Margolis and Adams that he (Nussbaum) changed his mind regarding the procedures to be followed for the search. Neuwirth may also have been present for this change of plans announcement. Nussbaum said that he would look at the documents found in Foster's office and determine their relevancy. Adams and Margolis argued with Nussbaum regarding the change and said that under the new procedure we will look very bad and that the change was a huge mistake. The original process had been established to insure that objective people would determine privileged documents. Margolis and Adams had a reputation of not talking with the press and for this reason had been selected for this assignment. Nussbaum listened to the arguments. Margolis then said he was going to call Heyman, and did so. He then handed the phone to Nussbaum, who did more listening than talking during his conversation with Heyman. Adams later learned that Heyman had told Nussbaum that he was making a mistake. Margolis had indicated that it was a White House mistake and would look bad for them versus a Department of Justice problem. At the end of the Nussbaum conversation with Heyman, Nussbaum indicated that he would get back to Heyman. Adams and Margolis were asked to wait.

Margolis, being a smoker, spent much of the time waiting with Adams outside and in the lobby. Nussbaum came down at one point during the delay and said they should be sure not to leave. Margolis and Adams also received word that they could

leave for lunch and did so to the Old Executive Office Building cafeteria. Thereafter, Nussbaum called them into his office. Adams noted that he felt the arguments were getting through to Nussbaum and that he appeared to be listening. The delay lasted approximately two to two and a half hours. Adams speculated that part of the delay was consultation with Neuwirth, but that part of it could also have been with the President and/or First Lady. He didn't know of anyone else who would keep the White House Counsel waiting for such a long period of time.

Search of Vincent Foster's Office, July 22, 1993:

The search of Vincent Foster's office actually began at 2:00 or 2:15 p.m., July 22, 1993, and lasted for an hour or an hour and ten minutes. The search was conducted by Nussbaum picking up items or folders and announcing that "this is privileged" or that it was something that Foster was working on with other White House counsel. Adams did not remember Nussbaum distinguishing between attorney-client and Presidential privilege.

The briefcase found in the office was described by Adams as being old and brown. It was down behind Foster's desk and a question arose whether Foster carried it back and forth to work or not. Nobody seemed to know the answer to this question. Nussbaum pulled several documents from the briefcase but the other participants in the search never got to actually see that the briefcase was empty. Adams did remember that nothing was put back into the briefcase. He also remembered seeing what appeared to be an airline ticket envelope being found in the briefcase. He believed that most of the items found were personal in nature and given to Foster's family attorney.

At this point in the interview, Adams was shown a diagram (attached) of Foster's White House office and asked to locate on it where the various members of the search team were located during the search. He said that he and Margolis were seated directly in front of the desk and to their left was FBI Special Agent Scott Salter. Nussbaum sat in Foster's desk chair behind the desk, flanked on the left by Neuwirth and that Sloan floated around back and forth behind the desk. Another individual by the name of Roy Neal (phonetic) from the Rose Law Firm and assigned with the White House Chief of Staff (McLarty)

office to deal with property/security of the Foster office. Neal spoke with Nussbaum on one or two occasions during the search and came in and out of the office on several occasions. The Foster family attorney was also "floating." Adams could not remember the whereabouts of the other participants in the search.

Nussbaum searched the desk, credenza and bookcase. Adams could not say if everything had been pulled out of the various drawers and compartments. Nussbaum was in total control of the search. When asked about this, Adams replied "the judge has ruled." He explained that this was not his first meeting with Nussbaum and that he understood Nussbaum to be aggressive, peppy and a fast talker.

Toward the end of the meeting, someone asked that the computer be turned on. This request was denied by Nussbaum on the grounds that privileged documents could be seen and secondly that he didn't think Foster used the computer very much and therefore wasn't going to turn it on.

Adams also remembers thinking at the time that there were various drawers in tables in the office which hadn't been looked in but he didn't think he would be effective by asking for a search of these drawers at that point in the meeting. Adams clarified that in looking for a note regarding Vincent Foster's death, they would be looking for anything that would shed light on the matter, to include scandal or threat information. It was an unspoken assumption that Nussbaum would show the Department of Justice people and investigators anything related to Foster's death. Adams said that he was not sure he would have recognized the names Madison or Whitewater at the time of the search.

Adams indicated that approximately four to five boxes of material were located during the search. They were divided into piles consisting of counsel work, which would have to be "divvied up" among other White House Counsel attorneys and personal papers of Vincent Foster, which would be given to the Foster family attorney (consisted of less than one box), and that very little, if anything, was given to the U.S. Park Police. Adams did not personally review any of the documents.

No other locations outside Vincent Foster's office were searched. The plastic bag of trash replaced into Foster's office was looked at by Nussbaum, but Adams doesn't remember if anything

was taken out of this bag. Adams does not remember any phone or mail logs being located. With respect to incoming and outgoing mail, he said that Nussbaum reviewed documents on top of the desk at the beginning of the search and would have included any such items at that time.

Adams described the demeanor of the U.S. Park Police and FBI as "not happy." They didn't say anything to Nussbaum, but had indicated to him that they didn't like the delay in the search. They were taking their lead from Margolis. Adams said that at one point during the search, FBI Special Agent Salter stood up to stretch and was told or asked by Sloan that "you're not looking at documents, are you?" Salter said that he was not. Asked if this was done in a humorous way, Adams replied that at the time, it was not taken as humor.

Heyman was advised by Margolis of the procedure actually followed in the search. Heyman was not surprised. He had left it that Nussbaum would call him back; however, Adams believed that Nussbaum had not done this. Nussbaum not calling had irritated Heyman, but not surprised him.

Other Information:

On Wednesday, July 28, 1993, at a 1:00 p.m. birthday reception for Adams, Adams remembers Margolis calling him aside to tell him about the finding of a note from Foster in the briefcase. Margolis had a transcription of the note which was ultimately given to Floyd Clarke at the FBI.

At this point in the interview, Adams provided a copy of his notes concerning a meeting with Tom Collier, Chief of Staff for the U.S. Department of Interior's Secretary Babbit on July 29, 1993. These notes detail Collier's concern with the U.S. Park Police investigation of the Foster suicide and White House involvement with same. These notes are attached to this 302.

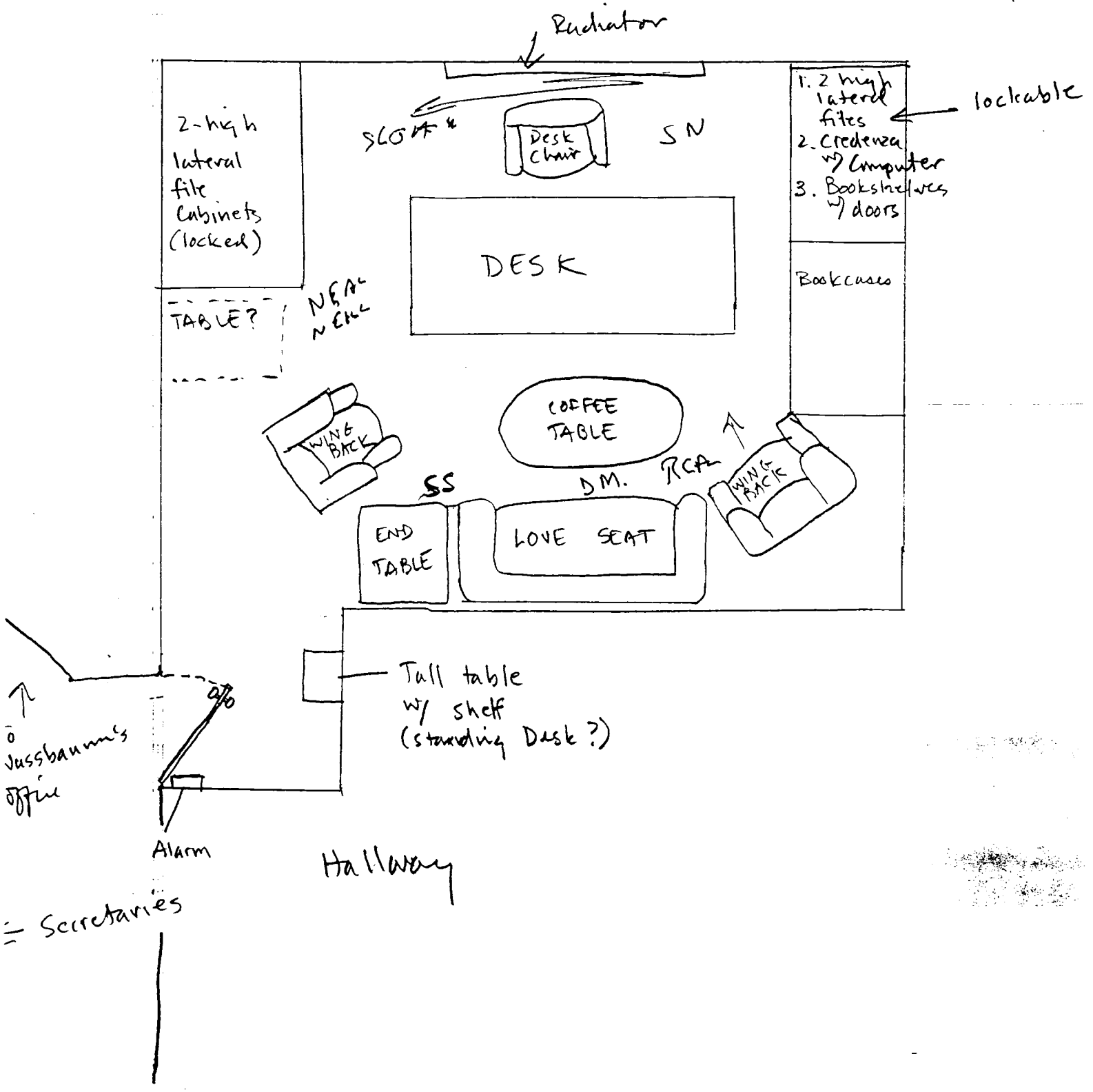
Adams also noted that Heyman had asked him for a list of what the White House Counsel had done which he or the DOJ didn't like. This list was requested about July 29, 1993, shortly after the meeting with Collier. Copies were given to Heyman and Margolis and Adams kept one for himself. A copy of these notes is also attached to this 302.

The first paragraph of the notes concerning the July 29, 1993 meeting with Collier describe a meeting held July 21, 1993. Collier did not attend this meeting but was aware of it and was concerned that Rose Law Firm alumni would be primarily interested in protecting Vincent Foster's reputation. They could possibly do this at the expense of the U.S. Park Police and therefore Collier was standing up for his investigators. The White House may have suspected leaks from the U.S. Park Police.

Margolis did not walk out of the search of Foster's office was that they wanted to get as much information as possible. They had been selected by Heyman for this job because of their reputation for being circumspect and not leaking items to the press and "being an individual who would do what I was told."

The following description of Adams was obtained through observation and interview:

Name:	Roger C. Adams
Title:	Counsel to the Deputy Attorney General
Race:	White
Sex:	Male
DOB:	FOIA(b)(6) FOIA(b)(7)-(C)
POB:	
SSAN:	
Address:	9016 Admiral Vernon Terrace Alexandria, Virginia 22309
Phone:	(202) 514-2707 (work) (703) 780-7266 (home)
Employment:	On Detail Assignment from the Criminal Division since May 6, 1993. Total employment at Department of Justice - 22 years.


Radiator
2-high lateral file cabinets (locked)
SLOAN
Desk Chair
SN
1. 2 high lateral files
2. Credenza w/ Computer
3. Bookshelves w/ doors
lockable
DESK
Bookcases
TABLE?
NEAL
WING BACK
COFFEE TABLE
SS
DM.
RCA
WING BACK
END TABLE
LOVE SEAT
Tall table w/ shelf (standing Desk?)
to Jussbaum's office
Alarm
Hallway
= Secretaries

Meeting with Tom Collier, (208-7351) Chief of Staff for Secretary Babbitt 7/29/93 DM and RCA

Told us of a meeting on Wednesday, July 21 at about 11:00 A.M. to discuss how the investigation would be handled. Present were

David Watkins
Bill Kennedy
Webb Hubbell
James Hamilton
Bernie Nussbaum
Charles Hume, Park Police and probably Pete Markland (a Park Police Detective)

George Stephenopolous, who went in and out and said have the Park Police handle it as it would any other investigation.

This was the first indication David and I had of this meeting

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Next topic was DM and RCA told Collier of the Wednesday meeting where we went over the ground rules for the search the next day

Told Collier of the Meeting between DM, RCA and Nussbaum on Thursday morning at which Bernie said he would examine the documents himself and we would not see them. Told him how we argued with Bernie that that was not a good idea, big mistake, Nussbaum made us wait while he considered the question, and at after 1:00 conducted the search with him and his staff only actually seeing the documents.

Collier called the White House (probably yesterday 7/28

Received calls back from Roy Neill, McClarty's Deputy and BILL Burton (a Rose law firm alumni who may have been present during the office search representing the Chief of Staff's Office. These calls were defensive in tone, said the investigation by the Park Police was done routinely and if a screw up in the investigation it was by the Park Police. It was probably at this point we discussed the brief case. We told Collier there was no way Nussbaum would have let the Park Police see it. "We'd have had to get it by force."

Recommendations by Collier

1. Take investigation away from Park Police and give it to FBI. Park Police can't handle this in his opinion both because they can't handle the high level WH people (then who could) and because they are capable of doing a stabbing in a Nat'l Park but not a case like this (Valid concern???) He said we have a window here to do something before the press forces us to do it with inevitable stories about the investigation being botched up because the note

wasn't found.

2. If we don't do the preceding, do not allow the White House to continue to call this a routine suicide investigation.

3. White House better get its act together to deal with adverse press/public reaction.

His underlying thoughts are that this investigation was controlled by Rose law firm persons who had as their first concern protecting the name and memory of Foster. That is the way the press will play it over the next few weeks. Naturally, this will make the Park Police look bad. He also ,mentioned that Secretary Babbitt, said to have great political instincts, believes WH Counsel will be in real trouble over this whole investigation and is likely on the way out.

Note found is being pieced together by Park Police lab. Collier has a "suspicion" which he said was not backed by evidence that it may have beeen torn by someone other than Foster.

In the late afternoon of Wednesday, July 21, we met in the office of White House Counsel Bernard Nussbaum with Mr. Nussbaum, Steve Neuwirth and Cliff Sloan of his staff, and representatives of the FBI and Park Police to go over the ground rules for a search of Mr. Foster's office. All agreed that because of the hour the search would not begin until the next day. At that point the Secret Service had stationed an agent by the door to Mr. Foster's office and a Secret Service agent who was at the meeting announced that a special lock would be placed on the door and that he personally would hold the key to secure it overnight. However, Mr. Nussbaum stated that he had already conducted a quick search of the "top of the desk" the previous evening to see if he could find a note. Moreover, other persons in the Counsel's office had entered the office during early morning business hours. Specifically, Mr. Nussbaum had allowed a secretary to enter the office to "straighten up" the top of the desk, and cleaning personnel had entered to empty a waste basket. Mr. Nussbaum or someone else in the Counsel's Office noticed the basket being removed and had retrieved the contents. They were in a plastic bag in the office.

At the Wednesday meeting there was agreement that the Justice Department attorneys would look at each document or at least each file to determine if it contained privileged material, in which case it would not be examined by the Park Police or FBI. We would not read the documents or make notes, but merely examine them long enough to determine if they were covered by the attorney-client privilege or possibly executive privilege. As an example of the clarity of this agreement, Mr. Neuwirth at one point, apparently trying to summarize it, said that "Bernie would look at each document and determine privilege. If he determined no privilege, it could be shown to the law enforcement officers." He was immediately corrected and Mr. Nussbaum agreed that the Justice Department representatives would see the documents to determine privilege. The next morning, however, Mr. Nussbaum had changed his mind and said he would look at the documents and decide privilege issues himself. The Justice Department attorneys pointed out that that was inconsistent with the previous day's agreement and would cause problems. We stated that the Counsel's Office would be better off to allow the Department attorneys to decide or at least help decide, privilege issues, because that would allow the White House to say that the issue was considered independently. Moreover, we stated that we had been asked to undertake this particular assignment at the White House in part because we had reputations of not talking to the press or "leaking." Mr. Nussbaum did not immediately begin the search but waited for about two and one half hours -- during which time he said he was considering whether to allow us to see the documents -- before deciding that only he and Associate Counsels Neuwirth and Sloan would see the documents.

During the search, Messrs. Nussbaum, Neuwirth, and Sloan stayed behind Mr. Foster's desk and examined documents pulled from the desk, nearby credenzas, and a briefcase. No other persons actually saw the documents. At one point during the search, Mr.

Sloan stated to an FBI agent who was standing: "You're not standing to get a look at the documents are you?" The agent indicated he was not, but sat down. In the particular setting, the remark was (to put it charitably) extremely offensive.

During the search, documents were removed from a briefcase. As with documents taken from the desk and credenzas, Mr. Nussbaum glanced at them quickly and made comments such as "these are privileged, they're things we're working on in the office," or "this has to do with something he was working on for the President," or "this is personal." We were not able to see the briefcase to see exactly what was in it. By the same token, we could not see the drawers to see if all material had been accounted for in them.

We asked to have the computer in Mr. Foster's office turned on. Mr. Nussbaum said he did not know how to do so and, in any event, he would not do so in our presence in case there were privileged documents on the computer. He said he would have a staff member examine the contents of the computer after we left. (Press reports in morning newspapers of that day had stated, without attribution, that no suicide note had been found on his computer.)

The Washington Post subsequently reported on Friday, July 23, that the search by Mr. Nussbaum had been "under the supervision" of Justice Department lawyers. It is extremely likely that the White House provided this characterization of the search.

I am not sure of the exact days involved, but there was a delay of almost 24 hours between the time a note was found torn up in the bottom of the brief case and notification of the Department.

On approximately July 28, 1993, we were informed by Thomas Collier, Chief of Staff to Secretary of the Interior Bruce Babbitt, that he had called the office of David Gergen at the White House to express concern over White House lack of cooperation with the Park Police investigation. He ultimately spoke to two persons, a Mr. Burton, and Roy [Neal] or [Neill], both of whom took a very aggressive tone and stated that any foul-up in the investigation was the fault of the Park Police, not the White House.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/11/94

David Margolis appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 1:30 p.m. for interview. Mr. Margolis was advised of the identity of the interviewing agents and that the purpose of the interview was to discuss his involvement in the search of Vincent Foster's White House office on July 22, 1993 and events surrounding that search. In addition to the interviewing agents, Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr., also assisted with the interview. Mr. Margolis provided the following information:

He is presently Associate Deputy Attorney General, United States Department of Justice (DOJ), Washington, D.C. He learned of Vincent Foster's death the day after the apparent suicide from newspaper articles. He did not personally know Vincent Foster.

On the afternoon of Wednesday, July 21, 1993, while he was attending a meeting in the DOJ Executive Offices, he was interrupted with the message that the Deputy Attorney General, Phillip Heyman, his direct boss, wanted to talk with him. He was thereafter advised by Heyman that he and Roger Adams would be going over to the White House to participate in a search of Vincent Foster's office. This search would be limited to a search for a possible suicide note. Originally, it had been planned that Adams would go by himself but in view of the fact that Adams had been detailed to the White House office concerning ethics matters in the past, it was decided that someone else from the DOJ should also attend. Margolis had also had previous dealings with the White House. They were to meet with Bernard Nussbaum, White House Counsel. It was understood that the U.S. Park Police would conduct the investigation. Margolis asked that the FBI be included, as he was familiar with their resources and abilities. Heyman checked with the U.S. Park Police concerning this recommendation and they indicated that working with the FBI was done routinely anyway and that this would be no problem. Heyman had talked with Nussbaum and had worked out a procedure for the search so that White House Presidential documents could be protected. The plan, as explained, included that Adams and

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Investigation on 4/8+11/94 at Washington, D.C. File # 29D-LR-35063 SUBA - 75

by SA H. Alexis Suggs HAS
SA William T. Guyton Date dictated 4/8+11/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

Margolis would look at the first page of each document to make a determination as to its relevancy. Margolis was not sure if Heyman and Nussbaum had agreed to this.

Meeting with Nussbaum on the Afternoon of July 21, 1993:

Once at the White House, this plan was presented to Nussbaum and after some discussion, Nussbaum accepted it. However, a White House staff member, Steven Neuwirth, raised the issue that the DOJ representatives and agents should just sit there. The original discussion concerning the procedure had included privacy issues of the first couple, Presidential papers, and even executive privilege. Nussbaum, who was the boss, agreed to the original plan despite Neuwirth's recommendation. Margolis therefore "blew off" Neuwirth's suggestion. Margolis had been annoyed by it. All parties agreed that it was getting too late to start the search for that day, and therefore the search would be done the following day. Margolis and Adams had arrived at the White House at approximately 4:30 p.m., July 21, 1993, for these preliminary discussions. They stayed approximately 45 minutes, leaving at approximately 6:30 or 6:45 p.m. The time difference being travel and waiting time.

Those present for these discussions on July 21, 1993 included Charlie Hume and Pete Markland from the U.S. Park Police; Scott Salter and one other agent, perhaps Dennis Condon, from the FBI; Nussbaum and Neuwirth from the White House and Adams and Margolis. The negotiations ended with the understanding that Adams and Margolis would look at the first page of the documents. Neither the U.S. Park Police nor the FBI would have to be present for this procedure and could use their time conducting other interviews.

It was also agreed during the July 21, 1993 meeting that a lock would be placed on the door to Vincent Foster's office. Therefore, an officer from the U.S. Secret Service would no longer have to be posted outside this office.

Margolis was asked whether it was discussed who had been in and out of the Foster office. He said that it had not been mentioned who had been in the office since the death, except that Nussbaum had said that he had been in there. He (Margolis) was not told that either Patsy Thomasson or Betsy Pond had been

in the office. There was no discussion of a search at a location other than Vincent Foster's office.

Margolis noted that if this case had involved IBM, he would have insisted on looking at everything. But given the sensitivity of Presidential documents and First Family privacy and the fact that the Foster office was not a crime scene, and Nussbaum and the White House were not suspects, he agreed to the search as planned. He didn't expect a suicide note to be hidden elsewhere.

Upon returning to the Department of Justice, Margolis advised Heyman of the meeting. This had been Margolis' first exposure to Nussbaum and he described him as being peripatetic.

Meeting with Nussbaum on Morning of July 22, 1993:

Upon arrival at the White House at approximately 10:00 a.m., July 22, 1993, Nussbaum told Margolis there had been a change of plan for the search of Vincent Foster's White House office. Nussbaum explained that Margolis and the officers would come in and Nussbaum, with his associates, would do the search. Margolis recognized this as a complete change of plan, no question about it.

Margolis remembered telling Nussbaum that if this case had involved IBM or Xerox, he would be back with a subpoena for all of the documents. Nussbaum noted that this was the White House and that if this was IBM or Xerox, they would have smart lawyers and the documents would be gone before you get there.

When asked about Nussbaum's comment, Margolis noted a newspaper account of Nussbaum as having a "tin ear for appearances." He would say the wrong thing to the wrong person at the wrong time.

Margolis asked Nussbaum if Deputy Attorney General Heyman had agreed to this change. Nussbaum answered something like "not exactly." Immediately thereafter, Margolis called Heyman and advised him that he didn't want to be a party to the search if conducted under the changed procedure. He said that the new procedure would be no different than if he (Margolis) returned to his office and had Nussbaum mail him the results of

the search. His being there didn't add anything, and it was a change in decision that Nussbaum couldn't articulate a reason for. Nussbaum was not present during this telephone conversation between Margolis and Heyman.

Heyman and Margolis agreed that Margolis would argue for the original plan and that Heyman would also call Nussbaum. Margolis would threaten to leave if the original plan was not followed. Margolis explained that if there could be no agreement, he had two choices: (1) walk away, or (2) conduct the search under his (Nussbaum's) terms. Number 2 was the bottom-line choice if no agreement could be reached, as at least the search would get done. Timing-wise and thoroughness-wise, Margolis had no confidence that Nussbaum would get it done. If he just walked away, Nussbaum would perhaps respond in two weeks or so. Heyman had exploded like Margolis did when he learned of the proposed change in plan. Heyman called Nussbaum. Margolis was not in the room when they talked. He had stepped out.

The bottom line explained to Nussbaum was that it was a huge mistake to change the plan and have only White House people review the documents. It was explained to Nussbaum that it would be his (Nussbaum's) mistake and not DOJ's. Margolis told Nussbaum that he would have to accept responsibility.

During the negotiations, Nussbaum was vacillating with both Margolis and Heyman. At one point, Nussbaum indicated that he and his people would have to caucus regarding the matter. Margolis indicated that along the way, he bluffed that he would go back to his office and Nussbaum should call him. He believed this made an impact on Nussbaum.

Margolis and Adams waited two hours while Nussbaum considered the matter. The stalemate ended at approximately 1:30 p.m. From 1:30 until 2:00 p.m., Margolis and Adams had lunch. Since there was no smoking in the building, Margolis went outside at one point with Adams. He noted that Nussbaum panicked when he came to look for them and explained that he thought that they had left. It was indicated that at 2:00 p.m. the search would be conducted and that Margolis and Adams would watch with the agents. Margolis told Nussbaum that this adjusted plan wasn't going to work and that he was going back to his office. In reply, Nussbaum said, "I know this is more for show, but I really think you should be here."

Search of Vincent Foster's White House Office, July 22, 1993:

The search of Foster's office was attended by Adams and Margolis from the Department of Justice; Scott Salter and Dennis Condon from the FBI; Charlie Hume and other U.S. Park Police personnel name(s) not recalled; a U.S. Secret Service person that had only a security interest in the matter; and Nussbaum, Sloan, Neuwirth, Burton and Neill (?), and a young associate from Attorney Hamilton's office by the name of Spafford. Margolis indicated that Spafford was a non-person until the end of the search at which time he was identified as being from Hamilton's law firm.

At this point in the interview, Margolis was shown a diagram (attached to this FD-302) of Foster's White House office and was asked to note the seating arrangement during the search on the diagram and he did so. He noted that the wing-backed chairs in the diagram would have been closer to the desk than indicated. This diagram indicates that Nussbaum was seated at Vince Foster's chair behind the desk flanked by Neuwirth and Sloan and that Margolis was sitting in the wing-backed chair to the left of the desk and Roger Adams in the wing-backed chair to the right of the desk. The FBI agents were seated on the loveseat in front of the desk but to the rear of the wing-backed chairs. Spafford and Burton were standing on the periphery and the U.S. Park Police were in the back of the room or perhaps even in the hallway. Burton was in and out of the room as was an individual by the name of Neill.

The search commenced at 2:00 p.m. and the following procedures followed: Nussbaum picked up things in Foster's office and assigned them to the following categories - Presidential documents; First Family personal records; Vincent Foster personal papers; and items given to law enforcement, such as calendars. There was also a category described as junk by Margolis which was shown to DOJ and the agents. These included such things as law books and other items not relative to the case.

Items on the bookcase were reviewed for relevancy.

Also, Margolis recalled computer documentation becoming a topic of discussion. Nussbaum was asked to turn the computer on but declined, saying that Foster was not computer literate.

Nussbaum agreed to do a review of the computer later and was adamant that it be done this way as there was no way to filter the computer information at this time.

During the search, Sloan and Neuwirth were continually whispering in Nussbaum's ear. Margolis described it as a "Wall Street discovery procedure." He noted it was driving the agents crazy, as they felt that if there was whispering, there was something to hide. It was being viewed as an adversary proceeding.

At one point during the search, FBI agent Scott Salter stood up to stretch and Cliff Sloan asked if he was not trying to read the documents. Later, Margolis remarked to Sloan as he was peering over Nussbaum's shoulder was he (Sloan) trying to read over Nussbaum's shoulder and Sloan, being a "nervous Nelly" stammered in response and then said, "of course I am."

Margolis advised that the briefcase in which the torn up note was eventually found in pieces several days later was out in plain view during the search. During a natural progression of the search, Nussbaum took items from the briefcase and, at one point, indicated that it was empty. However, he did not show the group that it was empty, but simply put the briefcase back against the wall.

Margolis noted that in Nussbaum's paranoia, he would perhaps miss something at that time. Nussbaum was guarded and less than open. There should be no false illusion about that. At the time, Margolis assumed the reason for this was to protect the First Family and the privacy of documents. However, after the note was found, he reached a different conclusion.

When asked if there had been discussion regarding documents going beyond a suicide note, Margolis answered that yes, it had been discussed that judgment would be needed. And with the change of rules for the search, that they would be looking not for just a note, but for something "irregular." Something which would shed light on why Foster would commit suicide, like a compromising photograph or blackmail letter, etc.

There were reams of paper, both handwritten and typed, in Foster's office. They were divided by Nussbaum into three piles - the real personal were given to Spafford, a huge pile of

Presidential documents and First Family papers kept, and other items, such as calendars, termed by Margolis as "worthless," given to investigators. Margolis suggested that the Presidential documents and First Family papers be kept by Nussbaum for now and then inventoried. Nussbaum said he would consider this. Margolis also noted that a question occurred to him of whether White House Counsel should be working on Presidential personal matters. However, he was not at the White House at that time to consider this question.

The amount of documentation given to the investigators amounted to about two or three inches of piled papers. The personal Foster documents amounted to less than a box and the Presidential and First Family documents amounted to the equivalent of about ten Xerox-type boxes full. Margolis could not remember the breakdown between Presidential and First Family documentation. Foster's pictures remained on the wall. Margolis' assumption is that if there was something that cast a reason for the suicide, Nussbaum would have told those present.

When asked about Nussbaum's statement that he would admit the search was primarily for show, Margolis replied that he took it as a true statement. When it later appeared in news accounts that the search had been conducted "under the supervision of" the Department of Justice, etc., Margolis told Carl Stern, DOJ Public Affairs, to get the word out that the search had been "in the presence of" the DOJ, rather than under their supervision. Margolis said he had had the feeling of being used, but didn't know how at the time. When asked if anyone in the party had objected to the procedure followed, Margolis said that he was viewed by the investigators as the point man on the procedure. He also viewed the FBI as backup to the U.S. Park Police who actually had the investigation.

Margolis noted that during the search on two or three occasions he told Nussbaum to look at documentation more closely in making his determination as to which pile he would place the paper. He also noted the existence of telephone logs. When asked about a search of trash, Margolis said that Nussbaum had ordered a bag of trash brought back to Foster's office and Nussbaum went through this bag during the search. Margolis did not remember any incoming or outgoing mail being present.

At the end of the search, they simply walked out of the office. Margolis accompanied Spafford to his car along with the agents who helped him with his box of material.

Later, Margolis was contacted by Hamilton who advised that Nussbaum had made a mistake by giving him some Presidential or personal documentation. Margolis noted that he called Nussbaum on only one occasion after this search and it had not been related to the Foster matter, but rather in connection with an Attorney General nominee.

When Margolis returned to his office following the search, he told Heyman what had transpired and Heyman was just as displeased as Margolis was with how the search had been conducted. It was Margolis' understanding that Heyman had asked Nussbaum for a call back when Heyman suggested that the original plan be adhered to. Heyman was annoyed that he had not received a call back. It was his (Heyman's) intention that when and if Nussbaum called back not agreeing to the original plan, that he would tell "the tall lady" (the Attorney General) and have her call the President, knowing that Nussbaum was scared to death of the Attorney General.

A week to ten days following the search of Foster's office, Heyman called Margolis from the White House and advised that they had found a note in Foster's briefcase "all torn up." The U.S. Park Police took possession of this note. Margolis called FBI Assistant Director Larry Potts and requested that an obstruction of justice case be opened and instructed that the FBI not show any unwarranted courtesy in this matter. Later during the investigation, Heyman asked about the obstruction of justice phraseology, apparently upon being questioned on this by Nancy McFadden, an individual who had worked for the Clinton campaign. Margolis did not answer Heyman regarding this in the presence of McFadden, as he viewed it as a possible investigative technique that would lose its advantage if discussed in her presence.

Margolis was asked about any involvement by Webb Hubbell in this matter. Margolis answered that the day after the note was found, Hubbell came down very shook up and wanted to see the note. When shown Margolis' copy of the note, he (Hubbell) said it was not in Vincent's handwriting. This matter was resolved when it was learned that the transcription that Margolis had had been written by Neuwirth from the original torn note.

One other important area noted by Margolis, and he could not remember if it was after or before the note was found, concerned Collier, Chief of Staff for the Department of the Interior, coming to see Phil Heyman and Roger Adams. Collier was making a complaint concerning the White House treating the U.S. Park Police like dirt and "bullying" them. Collier viewed this as unfair and was on the verge of a pull-out because of White House Counsel behavior. Heyman said that he would talk to those guys and ultimately contacted Gergen and Nussbaum and read the "riot act" to them. Neill and Burton, White House Staff, reacted to these allegations by saying that they "had done everything right" and anything wrong was the fault of the U.S. Park Police. Margolis explained the problem as a cavalier attitude and partially a New York attitude. He advised that Adams took notes regarding the Collier visit with Heyman and Adams.

Mention was also made of an indented writing analysis conducted on a pad of paper found in Vincent Foster's office. It was a letter to Nussbaum and determined to be a White House privileged communication. This documentation was turned over by the FBI to Margolis to handle. He, in turn, sent it to Nussbaum. He did not break the seal on the document and doesn't know what was on it.

Margolis said that during the search the name "Madison" would have been a signal to him but not "Whitewater."

Before Heyman left the Department of Justice, he, Adams and Margolis dictated notes to Cynthia Monaco at the Department regarding a chronology of events concerning this matter. Since Heyman left the Department on February 14th, it was done prior to this time. Margolis knows that she has these notes, but does not believe that she has transcribed them, but could be contacted for a copy of them.

Margolis speculated that one of his hypothesis was that the suicide note had been found prior to the search of Foster's office but that he just doesn't know.

Margolis also speculated that during his two hour wait to begin the search of Foster's office, that Nussbaum had been on the phone to the First Lady regarding the procedure to be followed. Margolis said there was no question they didn't trust

any of us. We were "career humps." Heyman had selected Margolis and Adams in particular because they were career personnel.

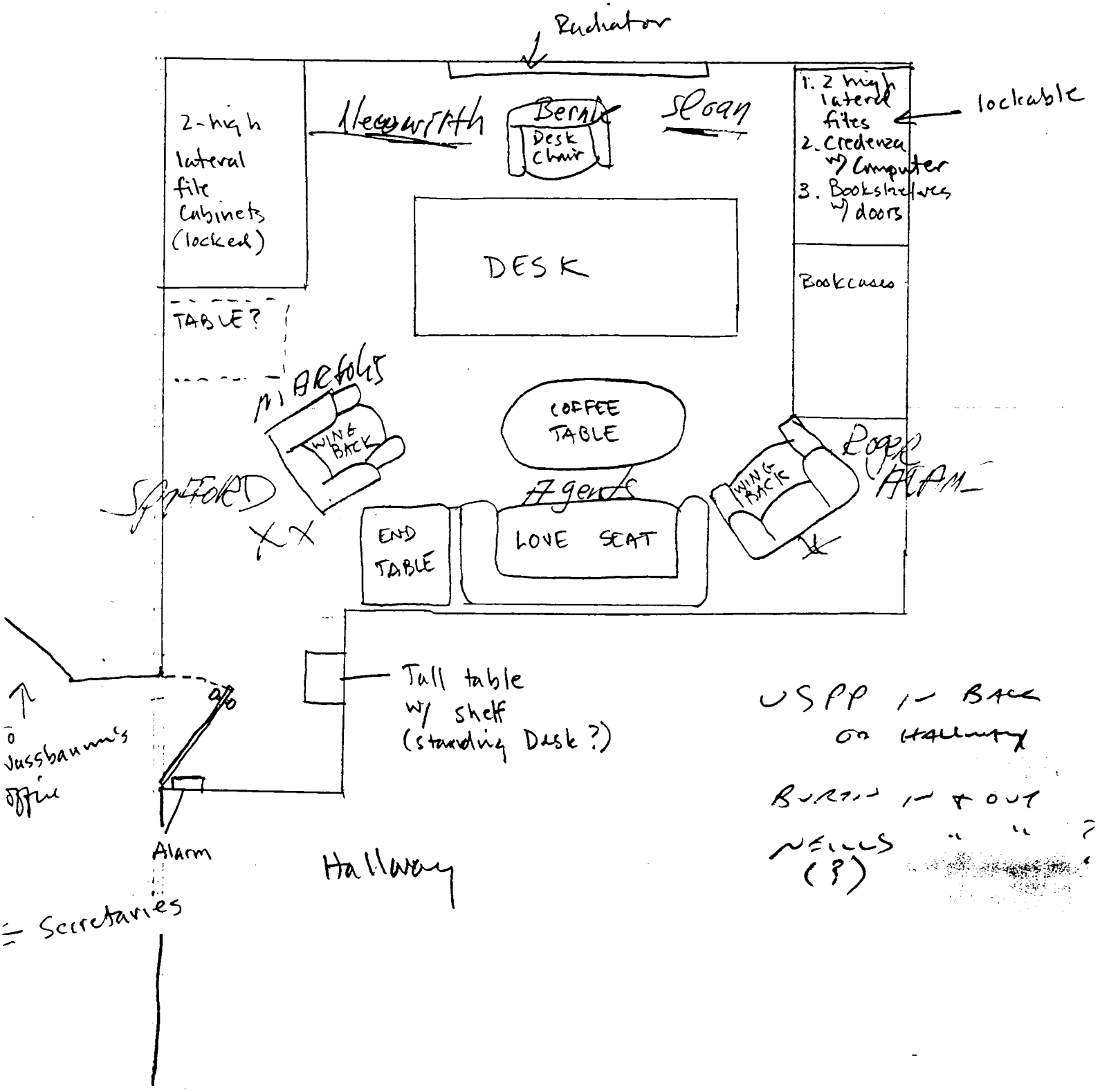
Margolis noted that Foster's sister, Sheila Anthony, is an Assistant Attorney General for Legislative Affairs at the U.S. Department of Justice.

The following description of Margolis was obtained through observation and interview:

Name:	David Margolis
Title:	Associate Deputy Attorney General U.S. Department of Justice
Sex:	Male
Race:	White
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Address:	2029 Wethersfield Court Reston, Virginia 22091
Phone:	(202) 514-4945 (work) (703) 264-0483 (home)
Employment:	A government employee for 29 years.

On April 11, 1994, Margolis telephoned SA William T. Guyton to be sure he had mentioned what Heyman had done after being contacted by Collier. He said Heyman had called Gergen and Nussbaum. Margolis had the "sense" that Heyman was put on the speaker phone and others at the White House were in the room during this phone conversation. Cindy Monaco may have been there.

Also on April 11, 1994, Margolis provided the attached notes/"hostile" questions prepared for the Deputy's press conference in connection with the Foster suicide. No proposed answers to these questions were prepared by Margolis. Margolis will provide a videotape or transcript of this press conference through Carl Stern if it is still available. Margolis kept no other notes regarding the search of Foster's office.


Radiator
2-high lateral file Cabinets (locked)
Hegwirth
Bernd
Desk Chair
Sloan
1. 2 high lateral files
2. Credenza w/ Computer
3. Bookshelves w/ doors
lockable
DESK
Bookcases
TABLE?
Agents
WING BACK
COFFEE TABLE
WING BACK
END TABLE
LOVE SEAT
Tall table w/ shelf (standing Desk?)
Jussbaum's office
Alarm
Hallway
= Secretaries
USPP in Back on Hallway
Burns in + out
Wells " " ?
(?)

FOR . . . Deputy's Press . nference on
Bill you may wish to get a tape of the press conference

Date: Tuesday, August 10, 1993 11:05 am
From: OPD01(MARGOLIS)
Subject: FOSTER NOTE

AS TO THE ASSERTIONS IN THE NOTE,OPR IS LOOKING AT THE SENTENCE DEALING WITH THE FBI AS PART OF ITS BROADER INQUIRY INTO THE FBI CONTACTS WITH THE WHITE HOUSE IN ACCORDANCE WITH THE A.G. LETTER TO CHAIRMAN BROOKS. AS TO THE REMAINING ASSERTIONS THE PUBLIC INTEGRITY SECTION OF THE CRIMINAL DIVISION IS LOOKING AT THEM AS PART OF ITS MANDATE TO REVIEW ALL TRAVEL OFFICE MATTERS.WHILE THE INQUIRY INTO THE ASSERTIONS IS NOT TOTALLY COMPLETE, I CAN SAY THAT NOTHING IN THE NOTES HAS CAUSED THE PUBLIC INTEGRITY SECTION TO CONCLUDE THAT FURTHER INVESTIGATION IS WARRANTED. A FEW LOOSE ENDS DO NEED TO BE TIED DOWN-

THE FBI JOINED THE PARK POLICE IN THE INITIAL STAGES OF THE INQUIRY INTO FOSTER'S DEATH BECAUSE OF HIS STATUS AS A FEDERAL OFFICIAL [ASSASSINATION STATUTES]AS IT BECAME APPARENT THAT THIS WAS A SUICIDE THE FBI GRADUALLY ASSUMED A SECONDARY ROLE TO THE PARK POLICE. THE BUREAU REENTERED THE INQUIRY AT OUR REQUEST TO EXAMINE THE HANDLING OF THE NOTE

For The Dep't's Press Conference

Date: Saturday, August 7, 1993 4:12 pm
From: OPD01(MARGOLIS)
Subject: VINCE FOSTER MOOT COURT MEDIA QUESTIONS

1-HOW CAN YOU EXPLAIN WHY YOUR VETERAN PROSECUTORS,ACCOMPANIED BY FBI,SECRET SERVICE,AND PARK POLICE REPRESENTATIVES, WHO SUPERVISED THE SEARCH OF FOSTER'S OFFICE FOR A SUICIDE NOTE [PER W.H. STATEMENT]- SPECIFICALLY THE SEARCH OF HIS BRIEFCASE- FOUND NOTHING- AND YET A FEW DAYS LATER A STAFFER WHO WAS SIMPLY PACKING THE BRIEFCASE FOR RETURN TO THE FAMILY NOT ONLY WAS ABLE TO FIND SCRAPS OF PAPER IN THIS BRIEFCASE BUT ALSO HAVE THE INTUITION TO PIECE THEM TOGETHER RATHER THAN THROWING THEM AWAY?

2-YOU CLAIM YOUR PEOPLE DID NOT SUPERVISE THE SEARCH-THAT THEY WERE MERELY PRESENT DURING THE SEARCH BY W.H.COUNSEL. WHY DIDN'T MR.NUSSBAUM FIND THE NOTES?WHAT SENSE DOES THIS PROCEDURE MAKE? WHO WAS RUNNING THIS INVESTIGATION-THE DOJ OR THE WHITE HOUSE? WHY DIDN'T YOU PUT YOUR CIGAR STORE INDIANS TO WORK BACK AT THE OFFICE DURING THE SEARCH AND SIMPLY LET BERNIE NUSSBAUM REPORT THE RESULTS OF HIS SEARCH TO YOU? WHAT PURPOSE DID THE MERE PRESENCE OF YOUR PEOPLE SERVE?

3-YOU CLAIM THAT YOU DID NOT APPROVE OF THIS PROCEDURE-DOES'NT THIS PROVE THAT YOU PEOPLE HAVE LEARNED NOTHING FROM TRAVELGATE? YOU ARE STILL ALLOWING THE WHITE HOUSE TO DICTATE THE TERMS OF YOUR INVESTIGATIONS AT LEAST WHEN THE WHITE HOUSE HAS INTERESTS TO PROTECT. IS THIS THE SEPARATION OF POLITICS FROM JUSTICE THAT JANET RENO BRAGS ABOUT? OR HAVE YOU BROUGHT ED MEESE BACK? 4- HAS THE FBI INVESTIGATION FIRMLY ESTABLISHED THAT THIS NOTE WAS NOT TAMPERED WITH AFTER FOSTER'S DEATH- AND THAT IT WAS NOT REMOVED FROM THE BRIEFCASE BEFORE YOUR SEARCH AND SUBSEQUENTLY REPLCACED?

4-HAS THE INVESTIGATION RULED OUT THE POSSIBILITY THAT MR.FOSTER WAS SUFFERING FROM AIDS?

5-WHAT ARE YOU GOING TO DO ABOUT THE ALLEAGATIONS IN THE NOTE?

~~MARV JOE WILL DELAY ACTION ON THE VISUALLY CHALLENGED GENTLEMAN UNTIL WED.~~ TALK TO ME ABOUT MY CONVERSATION WITH JIM HAMILTON ON FRIDAY NITE

The second portion deals with a other case —
The world Trade Center Bombing —

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/5/94

Donald A. Flynn, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service, (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. ASAC Flynn was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for 12 years and is currently in charge of USSS agent liaison with the Uniform Division of USSS concerning security matters at The White House. He has been in his current position for approximately two and one half years and was so employed at the time of Vincent Foster, Jr.'s death on July 20, 1993. His office is located in the Old Executive Office Building, Room 150 and his telephone number is 202-456-2443.

On the evening of July 20, 1993, he was contacted at his residence and informed of Vincent Foster's apparent suicide. On the morning of July 21, he was on duty at The White House when he was telephonically contacted by the USSS Director's Office at approximately 10-10:30 am. Linda Tripp, a Special Assistant to White House Counsel, Bernard Nussbaum, had contacted the USSS Director's Office on behalf of Mr. Nussbaum requesting that USSS provide appropriate means to secure Vincent Foster's office. ASAC Flynn proceeded immediately to Bernard Nussbaum's office where he spoke with Ms. Tripp and Mr. Nussbaum and was told that an investigation would shortly be underway regarding Mr. Foster's death and that he should "seal this office". ASAC Flynn looked into Foster's office, saw no one and positioned himself at a point in the Counsel reception area that allowed him a view of the entrances of both Nussbaum and Foster's offices. He thereafter telephonically requested sufficient uniformed USSS personnel to establish an hour-by-hour watch on Mr. Foster's office door. He assumed that these watch shifts would continue indefinitely until USSS was advised that they were no longer necessary. USSS Officer, Michelle Macon, took over this newly established guard post at approximately 11 am and ASAC Flynn left the area. Prior to leaving, however, he explained to Macon and

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instructed her to explain to subsequent officers relieving her that it would be necessary for them to make note of anyone entering Foster's office and to ascertain why they were so entering. ASAC Flynn was shown a copy of a handwritten document captioned "log of persons entering Mr. Foster's office" with entries for July 21, 1993 and July 22, 1993. He advised that this is a copy of the handwritten log that he kept with entries given to him by various USSS employees who were on duty at the entrance to Foster's office. ASAC Flynn stated that other than this temporary log, USSS also has, for years, maintained an on-going log showing access to the Presidential Counsel suite of offices before and after normal working hours. Since the door to the Presidential Counsel suite is alarmed and monitored by a 24-hour a day USSS center, the first person entering this space in the early morning and the last person leaving this space in the late evening are required to check in with the USSS monitoring center. ASAC Flynn stated that USSS Inspector, Dennis Martin, could make available copies of this alarm log for pertinent dates.

ASAC Flynn said that shortly after positioning a uniformed USSS officer outside Foster's door, he briefed the USSS Director on requests made of USSS and actions taken to that point. During that conversation he was advised that USSS and Department of Justice (DOJ) officials had discussed the possibility of putting a lock on Foster's door to seal it for investigation.

At approximately 1:00 pm Captain Hume and Detective Pete Markland of the United States Park Police and Special Agent (SA) Scott Salter and SA John Danna of the Federal Bureau of Investigation (FBI) came to USSS Inspector Dennis Martin's office. They had come to The White House for the purpose of searching Foster's office but apparently did not believe that they, at that time, had proper authorization to conduct the search. A lengthy series of telephone calls ensued to Park Police and FBI officials seeking this authority and at approximately 4:30-5:00 pm two DOJ attorneys, David Margolis and Roger Adams, arrived at the west wing lobby of The White House to join this group. ASAC Flynn escorted the four Law Enforcement Officials and two DOJ attorneys to the office of Bernard Nussbaum at approximately 5 pm where they met Mr. Nussbaum, Cliff Sloan, Steve Neuwirth and James Hamilton who was identified as the Foster family's attorney. ASAC Flynn noted that a USSS uniformed officer was on duty outside the door to Foster's office when they

arrived.

Once the group was inside Mr. Nussbaum's office, a meeting took place that involved considerable conversation as to how and when a search/inventory of Foster's office would take place in an attempt to find any indication as to why Foster may have committed suicide. During this meeting Mr. Nussbaum said that he, Maggie Williams and Patsy Thomasson had been in Foster's office during the evening of July 20, following his death. He also mentioned that he (Nussbaum) and his secretary, Betsy Pond had been in Foster's office during the morning hours of July 21. After considerable conversation regarding a potential search for a "suicide note" in Foster's office, Flynn recalled a telephone call being made to Phil Heyman at the Department of Justice. During this telephone call the DOJ and Nussbaum apparently agreed that a search of Foster's office would take place on July 22. Mr. Nussbaum also said to the group that a lock was to be placed on Foster's office following the July 21 meeting. The meeting then broke up with the attendees agreeing to meet in Nussbaum's office the next afternoon to conduct the search/inventory.

ASAC Flynn stated that when the meeting was over he began making telephone calls to arrange to have a lock placed on Foster's door. During these conversations he learned that USSS Technical employees Roger Kammerdiner and John Wills had at approximately 4-5:00 pm come by Foster's office to survey the door for the purpose of determining what type of lock would best secure it. USSS Security Specialist, Kevin Robbins and a USSS contract employee, Kenneth Blair arrived at Foster's office at approximately 8 pm where they met with ASAC Flynn and began installing the lock. ASAC Flynn dismissed the USSS uniformed officer from the Foster post at approximately 8 pm. The lock installation and door alterations were accomplished by approximately 10:30 pm at which time ASAC Flynn and all USSS personnel departed the 2nd floor of The White House west wing. ASAC Flynn advised that the lock that was placed on Foster's door was property of the USSS and was a unique lock in that it had only one master key and one copy rather than being a series key lock. ASAC Flynn explained that most locks that are placed on doors have a series key and that anyone having a copy within the series, which is relatively easy to obtain, could open the lock. When ASAC Flynn and the other USSS personnel departed the 2nd floor that night, Flynn had the master key and only copy to the lock in his possession.

At approximately 1 pm on July 22, 1993, a group of men met in the office of Bernard Nussbaum, as previously agreed, for the purpose of searching/inventorying Foster's office. ASAC Flynn described the group as: Mr. Nussbaum, Steve Neuwirth, Cliff Sloan, and Bill Burton, all members of The White House staff; Michael Spafford, an attorney representing the Foster family; David Margolis and Roger Adams, DOJ attorneys; Captain Charles Hume and Detective Pete Markland, U.S. Park Police; SAs Scott Salter and Dennis Condon, FBI; and ASAC Paul Imbordino and himself (Flynn). At approximately 1:15 pm Flynn unlocked the door to Foster's office and the group entered. Bernard Nussbaum sat at Foster's desk with Burton, Neuwirth and Sloan all behind Foster's desk. The remainder of the group either sat or stood in front of Foster's desk. Nussbaum then proceeded to go through Foster's desk, his brief case, and papers on the top of his desk and various papers and binders in a filing cabinet and book shelves. In the process of going through these documents, Nussbaum was placing them in 3 stacks: personal items, items of privileged information relating to President and Mrs. Clinton, and White House related papers. Throughout this process Nussbaum generally decided which stack each document went in to, but from time to time Burton, Neuwirth, or Sloan would look at a document and whisper advice to Nussbaum. At no time were the law enforcement officials or DOJ attorneys present allowed to peruse the documents. There seemed to be a general understanding that the purpose of this search was to hopefully find a suicide note or other items that would indicate why Foster may have committed suicide. The sorted items were placed in cardboard boxes with the items in the "personal" stack given to Michael Spafford for the Foster family. At the conclusion of this meeting, Mr. Nussbaum advised ASAC Flynn that there was no further need to secure the Foster office. He asked for and was given the keys to Foster's office. At 2:49 pm the search of Foster's office ended and everyone exited the Foster office. ASAC Flynn stated that while he does not recall anything specific being said during or after the meeting, regarding the method of the search, the Park Police Law Enforcement personnel present appeared surprised and displeased at the way the search had been conducted and that they were not given any material located during the search.

ASAC Flynn stated that he did not know Foster prior to his death and that he has not been in the Foster office since the "search" ended on July 22, 1993. He further stated that to the best of his knowledge, the USSS has not been asked to further secure Foster or Nussbaum's offices since July 22, 1993.

ASAC Flynn was specifically asked if there was a safe or safe-type cabinet in Foster's office. He stated that he does not recall seeing one and does not believe that there was a safe in the office.

COMMUNICATION RECC

Subject:

Name:

Location:

Company:

Address:

Phone:

Log of Persons entering MR Foster's Office

Date	Time	Comments
		Wednesday July 21ST 1993
	11:10A	MR Nussbaum Received a small P E W photo (Ofc. Mecum)
	6:34P	Cliff Sloan, To Replace a bag of Trash previously Taken from Mr. Foster's Trash Can (Ofc. Chenery)
	8:02P	Kevin Robbins, Kenneth Blaze, To Place the Lock on the door to Foster's Offices. (Sgt Flynn)
	10:32P	Lock Installed, Door Secured by Flynn
		Thursday July 22nd 1993
	1:15P	MR Nussbaum, Steve Neuwirth, Cliff Sloan, Bill Burton, michael Sheffield, David Margolis, Roger Adams, Capt Charles Hume, Pete MacKland, Scott Salter, Dennis Gordon, Paul Imbordino, Dan Flynn.
	2:49P	Discontinued Security on door, Keys given to Mr. Nussbaum by Flynn.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/28/94

On February 23, 1994, FBI Special Agent Dana M. Gillis requested that David Bobzien, County Attorney, Fairfax County, Virginia, provide the Office of the Independent Counsel with a copy of electronic traffic generated in the course of response to the death site of Vincent Foster, Jr. by the Fairfax County Emergency Medical Service (EMS). Attached is a copy of the February 25, 1994 letter of response by Bobzien with corresponding attachments. Bobzien's letter and attachments are attached and made a part of the record hereto.

It should be noted that a document titled Fairfax County, Virginia memorandum dated February 24, 1994 to David Bobzien from Chief Deputy Mark S. Wheatley regarding personnel responding to the Foster death call contained the name James Sutton as part of the crew of Truck One. It should be noted that Victoria Abbott Jacobs was the driver of Truck One, rather than James Sutton. Jacobs was interviewed regarding her participation in the dispatch call regarding Vincent Foster, on March 11, 1994. Also contained in the report are extended narratives generated by individuals responding to the dispatch to Fort Marcy Park on July 20, 1993. Bobzien also provided a handwritten index to the electronic reports. The index contained an explanation of the abbreviations utilized in the generation of electronic transmission information.

Also attached is one copy of a document titled Fairfax County Public Safety Communications Center, Fairfax, Virginia, March 9, 1994, event number 932011315. This document is a transcript of the 911 telephone call received by the Fairfax County Public Safety Communications Center on July 20, 1993. This transcript details the incoming telephone call regarding Vincent Foster, Jr. A second document related to the March 9th communication is subtitled Fire and Rescue Department Event History Header Record. This document is an outline detailing the events related to the 911 telephone call regarding Foster.

Sub A

Investigation on 2/23/94 at Falls Church, Virginia File # 29D-LR-35063 ~~Sub A~~

-37

by SA Dana M. Gillis DMG Date dictated 3/28/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

FAIRFAX COUNTY
VIRGINIA

OFFICE OF THE COUNTY ATTORNEY
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064

Telephone: 324-2421 *Fax: 324-3938*

February 25, 1994

Special Agent Dana Gillis
Federal Bureau of Investigation
7799 Leesburg Pike
Suite 200, South Tower
Falls Church, Virginia 22043

Dear SA Gillis:

In response to your verbal request of February 23, 1994, enclosed are the following:

1. A list of the eleven Fairfax County firefighters and paramedics who responded to the scene at which Vincent Foster's body was discovered; and,

2. The computer traffic (with keys to translation) that was generated by that event.

You should be aware that the Fairfax County Police are in possession of a tape recording of the E-911 telephone call that alerted police to the location of the body. We have instructed the custodian of the tape to preserve it as evidence.

Should you wish to interview other Fire and Rescue employees or to obtain custody of the E-911 tape, please let me know and I will make the necessary arrangements.

If we can assist the Bureau in any other way during your investigation, please do not hesitate to call.

Sincerely,

David P. Bobzien
County Attorney

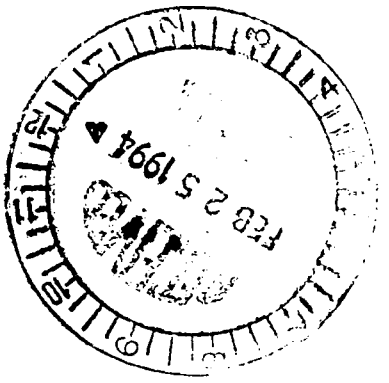
DPB/nmo.591

cc: William J. Leidinger
County Executive

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

February 24, 1994



TO: David P. Bobzien
County Attorney

FROM: Chief Deputy Mark S. Wheatley
Office of the Fire Chief

SUBJECT: Unit Personnel

The following units are listed with the respective personnel and employee numbers who responded to Incident #932011315 (initial call) and Incident #932011483 (body transport):

#932011315

Engine 1	Ralph Pisani, 47518 James Iacone, 47253 Jennifer Wacha, 47729
Medic 1	Todd Hall, 47395 George Gonzalez, 47252 Richard Arthur, 47552

#932011483

Truck 1	James Sutton, 49702 William Bianchi, 49369 Andrew Makuch, 47194
Ambulance 1	Roger Harrison, 49571 Corey Ashford, 47581

GAG/evb

FAIRFAX COUNTY FIRE AND RESCUE DEPARTMENT
ONLINE FIRES INCIDENT REPORT
DECODING GUIDE
Version 1.40
March 1993

Following is a list of field abbreviations and codes used by the Fairfax County Fire and Rescue Department for purposes of data input for the OnLine FIRES Incident Reporting System. Fields on the incident report that are blank contain no information. Should you need additional assistance in understanding an incident report, please contact the Systems Management Section at 246-3992.

FIELD ABBREVIATIONS

1ST MAT IG	=	First Material Ignited
ACT	=	Actions Performed and Medications Given
AGE	=	Age
AID EMP #	=	Employee Number of Additional Person Assigned to Unit
AID GIVEN	=	Aid Given
AMT	=	Amount of Medication Given or Number of Attempts
APT #	=	Apartment Number
AREA OF ORIG	=	Area of Origin of the Fire
AT HOSP	=	Time Logged for Vehicle Arrival at Hospital
BP	=	Blood Pressure (Systolic/Diastolic)
CAD	=	Computer Aided Dispatch System
CASE SEVERITY	=	Severity of Patient's Condition
CAUSE (PROBLEM)	=	Cause of the Fire or Medical Situation
CEXP	=	Number of Civilians Exposed during a Hazardous Material Incident
CHEM	=	Name of the Chemical Involved
CI	=	Civilians Injured
CITY	=	Patient's City
CK	=	Civilians Killed
CLS	=	United Nations Hazard Class Number
COLOR	=	Skin Color or Appearance
COMM	=	Mode of Communications
COMPLEX	=	Complex or Development Type
COND	=	Condition of Fire on Arrival
CRES	=	Civilians Rescued
CTRHOSP	=	Control Hospital for Primary Communications
CX	=	Level of Consciousness
DATE	=	Calendar Date
DAY	=	Day of Week
DESTINATION	=	Transport Destination
DISP OF INC	=	Disposition of Incident
DISPATCH	=	Time of Dispatch
DR LAST NAME	=	Control Physician's Last Name
DRV	=	Driver Employee Number
EFT	=	Effect of the Action or Medication Given
EKG-F	=	Field Electrocardiogram (Pre-hospital)
EKG-H	=	Hospital Electrocardiogram

FIELD ABBREVIATIONS (Continued)

PREAID	=	Pre-Arrival Aid
PROP	=	Property Use as Defined in the Fixed Property Manual
PSCC	=	Public Safety Communications Center
PSCC DIR	=	PSCC Directed Pre-Arrival Aid
PT REFUSAL	=	Patient Refused Services
PT ADDRESS	=	Patient's Address
PT HX #	=	Patient's Hospital History Number
PT LAST NAME	=	Patient's Last Name
PUL	=	Pulse (Heartbeats per Minute)
PUPIL	=	Condition of Pupils (Eyes)
QUALITY	=	Quality of Communications
RACE	=	Race
REF	=	Reference Material Used
REL FACTOR	=	Hazardous Material Release Factor
REPORT BY	=	Employee Number of Person Completing the Report
RES	=	Respirations (per Minute)
RESPST	=	Response Status
RESUS	=	Resuscitation (Respiratory or Cardiac)
SCORE	=	Cram, Apgar or Burn Score
SERIAL #	=	Serial Number of the Product Involved
SEX	=	Sex of Patient
SHIFT	=	Shift on Duty
SITUATION	=	Situation Found at the Incident
SM SPREAD	=	Extent of Smoke Spread
SP STUDY	=	Special Study Codes
SPECTX	=	Special Transport Used
STATE	=	State Abbreviation for the License Plate
SUBCT	=	Subcensus Tract Number
SUPP	=	Supplement Number
TAG #	=	License Plate Number
TEL	=	Telephone Number
TEMP	=	Patient's Skin or Core Temperature
TYPE CON	=	Type of Building Construction
TYPE	=	Smoke Detector or Fire Protection System Type
UN	=	United Nations Number (from USDOT Guidebook)
UNIT ACTIONS	=	Unit Actions Performed
UNIT	=	Unit Number
VEH #	=	Vehicle Number
VEH ACTION TAKEN	=	Vehicle Actions Performed
VEH#2	=	Vehicle Number of the Second Vehicle
VIN	=	Vehicle Identification Number
VOL/STATION	=	Volunteers in the Station at the Time
YEAR	=	Year of Manufacture of the Appliance, Vehicle or Equipment
ZIP CODE	=	Patient's Zip Code

FAIRFAX COUNTY FIRE AND RESCUE DEPARTMENT VERSION 1.40
ONLINE FIRES INCIDENT REPORT
DECODING GUIDE

SUPPRESSION CODES FOR ALL INCIDENT REPORTS / SELECTED FIELDS

DAY: Day of the Week

1 = Sunday	2 = Monday	3 = Tuesday	4 = Wednesday
5 = Thursday	6 = Friday	7 = Saturday	

SITUATION: Situation

11 Structure fire - included are fires in a structure whether or not there was damage to the structure itself, e.g. food on the stove. Ignition must have occurred. If ignition did not occur, report as Code 25.
12 Fire in a mobile property being used as a structure (mobile home, motor home, camper, etc.).
13 Fire in a mobile property while inside a structure.
14 Vehicle fire outside a structure.
15 Brush fire.
16 Dumpster fire, other outside trash fire.
17 Outside spill/leak with fire.
19 Explosion with fire (if no fire, use Code 24).
24 Explosive detonation, no fire.
25 Overheated object (furnace motor, blower, toaster, etc.).
29 Overpressure, relief valve activation, no fire.
32 EMS Incident.
33 EMS Incident requiring forcible entry other than extrication. Use this code on lock-ins.
34 Search and Rescue - non fire related.
35 People trapped, caught, buried - use on vehicle accidents with entrapment, rescue from above/below grade, elevator rescue, etc.
36 Drowning, potential drowning, ice rescue.
37 Electrocution.
39 Other rescue.
41 Flammable spill/leak - no fire. If fire involved use Code 17.
42 Chemical spill/leak - no fire. If fire involved use Code 17.
43 Radioactive condition.
44 Power line down, arcing, or other electrical incident not involving fire, electrocution, or lightning strike.
46 Vehicle accident, railroad incident, helicopter standby related to an incident, plane crash, hazardous incident involving a vehicle, boat.
47 Explosives incident - no fire or detonation. If fire or detonation occurred, use Codes 19 or 24.
48 Attempted burning, illegal action - incendiary device failed to function.
49 Hazardous condition - other.
51 Person in distress - locked out, needing a ring removed, needing assistance back to bed.
52 Water problem - excluding flood from natural disaster (Code 82).
55 Provided police with assistance.
56 Unauthorized burning of trash/debris.
57 Transfer to other Fire Station or Fire Dept. standby, non-incident related (see below for explanation).
59 Service call - other.

UNIT ACTIONS TAKEN (Continued)

36 Transport to medical facility
37 Forced entry
38 Gained entry (slim jim, open window, etc.)
39 Performed technical rescue operation(s) (rope rescue, shoring, removal from trench/building collapse, etc.)
40 Contained spill, controlled leak
41 Removed hazard
42 Identified or analyzed hazardous materials
43 Evacuated area
44 Established safe area, control zone
45 Monitor/sample for hazardous materials
46 Performed decontamination of persons/equipment
47 Decontamination of occupancy/area, clean-up of haz mat
48 Provided technical assistance to the incident commander
49 Established landing zone
50 Provided scene lighting
51 Assisted invalid(s)
52 Stand by at fire station (transfer)
53 Stand by at incident scene, stand by in staging
54 Removed water, hazards associated with water
55 Restored sprinkler or protection system
56 Restored/reset alarm system
57 Assisted animal
58 Investigated fire alarm activation
59 Provided breathing air supply
61 Crowd control
62 Traffic control
63 Notified other agencies or utility companies
64 Provided public, owner, or media with information
65 Established command post, incident commander
66 Performed administrative duties at command post
67 Sector command, position in incident command system
71 Investigated situation
72 Responding unit cancelled enroute, placed in service
73 Shut down alarm system
74 Provided technical/logistical assistance to police
81 Referred to private enterprise (electrician, plumber)
82 Secured property
91 Issued Notice of Violation (code enforcement)
92 Referred to proper authority
97 Haz Mat investigation, materials non-hazardous
98 No action taken
99 Other unit action not listed
00 Unit action unknown

EMS CODES FOR INCIDENT REPORTS / SELECTED FIELDS

MPROP: Mobile Property

1. PASSENGER ROAD TRANSPORT VEHICLES

Motor vehicles such as automobiles, buses, or mobile homes used primarily for transporting or housing people.
Included are abandoned vehicles.

11. Automobile.
    Included are taxicabs, limousines, race cars, and ambulances.
12. Bus, trackless trolley.
    Included are school buses.
13. All terrain vehicles.
    Included are motorcycles, golf carts, snowmobiles, dune buggies, and mopeds.
14. Motor home.
    A mobile unit containing its own motive power.
    A portable structure built or placed on a chassis and designed to be pulled by a vehicle.
15. Travel trailer.
    A portable structure built or placed on a chassis and designed to be pulled by a vehicle.
16. Camping trailer.
    A collapsible portable structure built on a chassis and designed to be pulled by a vehicle.
17. Mobile home, mobile building.
    A structure built on a chassis and designed to be pulled by a vehicle to a semi-permanent site. Included are mobile classrooms, mobile banks, mobile office buildings, whether on wheels, off their wheels on jacks, or on a foundation.
19. Passenger Road Transport Vehicles not classified above.
10. Passenger Road Transport Vehicles; insufficient information available to classify further.

2. FREIGHT ROAD TRANSPORT VEHICLES

Vehicles primarily for transporting goods.
Included are abandoned vehicles.
Excluded are materials handling equipment (63).

21. General use trucks over 97 KG (one ton) net weight.
    Included are solid chassis trucks, mail trucks, dump trucks, and fire apparatus.
22. General use small trucks, 97 KG (one ton), net weight or less. Included are pickups, wagons, and non-motorized hauling rigs.

WATER TRANSPORT VESSELS (Continued)

47. Non-self-propelled vessel.
    All vessels without their own motive-power.
    Included are towed petroleum balloons, barges, and other towed or towable vessels.
    Excluded are sailboats (49).
48. Commercial fishing vessel.
    Included are vessels on inland, coastal, and ocean waters, and operation of oyster beds, fish hatcheries, and factory vessels.
    Excluded are fish hatcheries themselves (specific property use 665).
49. Water Transport Vessels not classified above.
40. Water Transport Vessels; insufficient information available to classify further.

5. AIR TRANSPORT VEHICLES

Transport by air of passengers and freight, whether by regular services or by private charter.

51. Personal, business, utility aircraft under 5670 KG (12,500 lb) gross weight.
52. Personal, business, utility aircraft 5670 KG (12,500 lb) gross weight and over.
53. Commercial transport aircraft, reciprocating engine powered, fixed wing.
54. Commercial transport aircraft, jet and other turbine powered, fixed wing.
55. Nonmilitary helicopters, vertical take-off aircraft.
56. Combat-type military aircraft (attack bombers, fighters, reconnaissance).
58. Nonmilitary ground effect machines (hovercraft).
59. Air Transport Vehicles not classified above.
50. Air Transport Vehicles; insufficient information available to classify further.

6. HEAVY INDUSTRIAL AND AGRICULTURAL EQUIPMENT

61. Earth moving equipment.
    Included are bulldozers, shovels, graders, scrapers, trenchers, and plows.
62. Construction equipment.
    Included are water drilling equipment, pile drivers, tunneling equipment, air compressors, and the like.
63. Materials handling equipment.
    Included are fork lifts, industrial tow motors, loaders, and stackers.
64. Crane.

RESPST: Response Status

0 EMERGENCY RESPONSE, EMERGENCY TRANSPORT
1 EMERGENCY RESPONSE, NON-EMERGENCY TRANSPORT
2 EMERGENCY RESPONSE, NO TRANSPORT
3 NON-EMERGENCY RESPONSE, EMERGENCY TRANSPORT
4 NON-EMERGENCY RESPONSE, NON-EMERGENCY TRANSPORT
5 NON-EMERGENCY RESPONSE, NO TRANSPORT
6 NO RESPONSE, EMERGENCY TRANSPORT
7 NO RESPONSE, NON-EMERGENCY TRANSPORT
8 NO RESPONSE, NO TRANSPORT

DISPST: Dispatch Status

1 Dispatched into reporting unit's first due area as a normal response.

2 Dispatched into reporting unit's first due area because first due unit was already committed to another incident.

3 Dispatched out of reporting unit's first due area as a supplement unit.

4 Dispatched out of reporting unit's first due area because first due unit was unavailable.

5 Dispatched out of reporting unit's first due area because reporting unit was closest.

6 N/A (Explain in detail in the narrative.)

CAUSE PROBLEM: Cause of Patient's Problem

NO CAUSE
NO APPARENT OR CLEAR CAUSE (USE IN NO SIGNIFICANT CONDITIONS) 00

VEHICLE RELATED
AIRCRAFT, N.O.S. 01
BICYCLE, N.O.S. 02
BOAT/SHIP/WATERCRAFT, N.O.S. 03
BUS/LARGE TRUCK, STRUCK BY 04
BUS/LARGE TRUCK, OPERATOR/RIDER 05

ACCIDENTAL (Continued)

GUNSHOT/FIREARM 40
HALLUCINOGENICS, PSYCHOTROPICS 41
HEAT/HIGH TEMPERATURES 42
HEROIN (NARCOTICS) 43
HYPOTHERMIA 29
LACERATION/CUT 44
MARIJUANA (Use DRUGS, N.O.S.) 32
MEDICATIONS (PRESCRIBED), N.O.S. 45
NARCOTICS, ANALGESICS, ANTIPYRETICS 43
OBJECT, IMPALED BY/INSERTED 46
OTHER, ENVIRONMENTAL/NATURAL, N.O.S. 35
OTHER, ACCIDENTAL, N.O.S. 47
OVEREXERTION/STRENUOUS ACTIVITY 48
PCP (HALLUCINOGENICS) 41
PESTICIDES/FERTILIZERS 49
PETROLEUM BASED SUBSTANCE/PRODUCT 50
PLANTS 51
POISONING/OVERDOSE, N.O.S. 52
PRESSURE CHANGES 53
RADIATION, EXPOSURE/CONTAMINATION 54
SMOKE/FUMES, FIRE RELATED 55
STIMULANTS 28
STING/BITE, ANIMAL/SNAKE/INSECT 25
STRESS/ANXIETY 56
STRUCK BY OBJECT 57
SUBSTANCE/PRODUCT/MATERIAL, N.O.S. 58
SUFFOCATION/STRANGULATION, N.O.S. 59
TRAVEL/MOTION 60
VACCINE 45
WEATHER/SEVERE PHENOMENA (LIGHTNING, HAIL, EARTHQUAKE, ETC.) 61

MEDICAL / SURGICAL CARE / PROCEDURES

DIALYSIS/PERFUSION 65
DISEASE/ILLNESS/INFECTION 66
INJECTION/CATHETERIZATION 67
INSTRUMENT/EQUIPMENT FAILURE 68
LACERATION/PUNCTURE/INCISION 69
MEDICAL/SURGICAL,N.O.S 70
OBSTETRICAL/PREGNANCY 71
REACTION TO ADMINISTERED MEDICATION 45

ILLNESS, DISEASE, OR SYSTEMIC DISORDER

010 Fever
011 Diabetes
012 Cancer involving multiple areas of the body
013 Allergic reaction
014 Seizures/seizure disorder
015 Seizure apparent febrile
016 Altered mental status (Includes combativeness, disoriented, dizziness, etc)
017 Unconscious (Loss of consciousness > 2 min.)
018 Syncope (Loss of consciousness < 2 min.)
019 Heat related problem
020 Cold related problem
021 General malaise/sickness (includes flu-like symptoms)
022 Blood disorder/electrolyte imbalance not otherwise specified
023 High Blood pressure
024 Psychological or emotional disorder
025 Newborn Infant Care (For Code 3 Transport, use 913)
026 Overdose, N.O.S.

HEAD

*** Scalp/Brain/CNS ***

100 Abrasion, Laceration, Incision or External Bleeding
101 Amputation/Avulsion (Includes decapitation)
102 Headache or pain - not otherwise specified
103 Burn (includes chemical), frost bite, freezing
104 Puncture/Penetration
105 Impaled Object
106 Contusion or Internal Bleeding (Includes possible concussion)
107 Neurogenic Shock
108 Fracture or Dislocation, suspected or obvious
109 Sprain or strain

*** Disease/Infection/Disorder ***

110 CVA, TIA
120 Parkinson's disease
121 Cancer/tumor
014 Seizure/seizure disorder
015 Seizure apparent febrile
016 Altered mental status (Includes combativeness, disoriented, dizziness, etc)
017 Unconscious (Loss of consciousness > 2 min.)
018 Syncope (Loss of consciousness < 2 min.)
024 Psychological or emotional disorder
122 Other - not otherwise specified

*** Mouth/Jaw ***
- 170 Abrasion, Laceration, Incision or External Bleeding
- 171 Avulsion/Amputation (includes teeth)
- 172 Ache or pain
- 173 Burn (includes chemical)
- 174 Puncture/Penetration
- 175 Impaled object/Obstruction (includes foreign body, tongue, or choking)
- 176 Contusion or Internal Bleeding
- 177 Fracture or Dislocation, suspected or obvious
- 178 Sprain or strain, cramps, spasms (includes local seizure)
- 179 Disease, infection or disorder not otherwise listed
- 180 Cancer/tumor
- 181 Other - Not otherwise specified

NECK AREA
*** Cervical Spine (Cord and Vertebrae) ***
- 200 Abrasion, Laceration, Incision or External
- 201 Bleeding
- 202 Ache or pain
- 203 Burn (includes chemical)
- 204 Puncture/Penetration
- 205 Impaled Object
- 206 Contusion or Internal Bleeding
- 207 Fracture
- 208 Sprain or strain, cramps, spasms
- 209 Disease, infection or disorder not otherwise listed
- 210 Cancer/tumor
- 211 Meningitis
- 212 Other - not otherwise specified

*** Trachea and Larynx ***
- 220 Abrasion, Laceration, Incision or External Bleeding
- 221 Burn (includes chemical)
- 222 Puncture/Penetration (includes subcutaneous emphysema)
- 223 Impaled object/Foreign body (includes choking)
- 224 Internal Bleeding
- 225 Disease, infection or disorder not otherwise listed
- 226 Cancer/tumor
- 227 Epiglottitis
- 228 Croup
- 229 Laryngitis
- 230 Other - not otherwise specified

*** Chest Cage ***

290 Abrasion, Laceration, Incision or External Bleeding
291 Avulsion
292 Ache or pain not otherwise specified
293 Burn (includes chemical)
294 Puncture/Penetration
295 Impaled Object
296 Contusion or Internal Bleeding
297 Fracture or Dislocation, suspected or obvious
298 Sprain or strain, cramps, spasms
299 Disease, infection or disorder not otherwise listed
300 Cancer/tumor
301 Costralchondralitis (apparent)
302 Other - Not otherwise specified

ABDOMEN/INTERNAL ORGANS

400 Abrasion, Laceration, Incision or External Bleeding
401 Avulsion (includes Evisceration)
402 Ache or pain not otherwise specified
403 Burns (includes chemical)
404 Puncture/Penetration
405 Impaled object/Foreign body
406 Contusion or Internal Bleeding
407 GI Bleed (ulcer)
408 Sprain or strain, cramps, spasms
409 Disease, infection or disorder not otherwise listed
410 Cancer/tumor
411 Nausea/vomiting/diarrhea - unknown origin
412 Appendicitis (apparent)
413 Liver disorder (Includes Hepatitis)
414 Gallbladder disfunction (includes stones)
415 Pancreatitis
416 Kidney disfunction (includes stones)
420 Other - not otherwise specified

PELVIS/GENITOURINARY

500 Abrasion, Laceration, Incision or External Bleeding
501 Ache or pain not otherwise specified
502 Burn (includes chemical)
503 Puncture/Penetration
504 Impaled object/Foreign body
506 Contusion or Internal Bleeding
507 Fracture or Dislocation, suspected or obvious
508 Disease, infection or disorder not otherwise listed
509 Cancer/tumor
510 Ectopic pregnancy (apparent)
511 Venereal disease (apparent)

*** Arms ***
- 700 Abrasion, Laceration, Incision or External Bleeding
- 701 Amputation/Avulsion
- 702 Ache or pain
- 703 Burn (includes chemical), frost bite, freezing
- 704 Puncture/Penetration
- 705 Impaled Object
- 706 Contusion or Internal Bleeding
- 707 Fracture or Dislocation, suspected or obvious
- 708 Sprain or strain, cramps, spasms
- 710 Disease, infection or disorder not otherwise listed
- 711 Cancer/tumor
- 720 Other - Not otherwise specified

*** Wrist/Hands ***
- 750 Abrasion, Laceration, Incision or External Bleeding
- 751 Amputation/Avulsion
- 752 Ache or pain
- 753 Burn (includes chemical), frost bite, freezing
- 754 Puncture/Penetration
- 755 Impaled Object
- 756 Contusion or Internal Bleeding
- 757 Fracture or Dislocation, suspected or obvious
- 758 Sprain or strain, cramps, spasms
- 760 Disease, infection or disorder not otherwise listed
- 761 Cancer/tumor
- 770 Other - not otherwise specified

*** Back/Buttocks ***
- 800 Abrasion, Laceration, Incision or External Bleeding
- 801 Avulsion
- 802 Ache or pain
- 803 Burn (includes chemical)
- 804 Puncture/Penetration
- 805 Impaled object/Foreign body
- 806 Contusion or Internal Bleeding
- 807 Fracture or Dislocation, suspected or obvious Spinal Fracture (apparent)
- 808 Sprain or strain, cramps, spasms
- 810 Disease, infection or disorder not otherwise listed
- 811 Cancer/tumor
- 820 Other - not otherwise specified

DOA: NO RESUSCITATION EFFORTS
- 900 DOA, non-trauma related (specify in narrative)
- 901 DOA, trauma related (specify in narrative)
- 902 DOA, multiple casualty, triaged as no resuscitation

VEH ACTION TAKEN (Continued)

H ASSISTED ON NON-EMS OPERATIONS, FIREGROUND ACTIVITIES
I ASSISTED ON NON-EMS OPERATIONS, HAZMAT INCIDENT
J ASSISTED ON NON-EMS OPERATIONS, CAVE IN INCIDENT
K ASSISTED ON SEARCH AND RESCUE
L ASSISTED ON NON-EMS OPERATIONS, OTHER
M SET UP AID STATION
N PICKED UP AND/OR TRANSPORTED EQUIPMENT AND/OR PERSONNEL
O ASSISTED PATIENT, PUBLIC SERVICE, HELPED INTO BED OR CAR
P TREATED AND/OR ASSISTED ON EMS OPERATION
Q TRANSPORTED PATIENT TO A MEDICAL FACILITY
R TRANSPORT TERMINATED DUE TO ACCIDENT OR BREAKDOWN
S ASSISTED ED/RECEIVING FACILITY
T STAFFED/ASSISTED, INCIDENT COMMAND STAFF
U STAFFED/ASSISTED, ANOTHER UNIT
V PERFORMED LIGHT RESCUE
W FILLED IN STATION
X TRAFFIC/CROWD CONTROL

EMS INCIDENT REPORTS - PATIENT INFORMATION SELECTED FIELDS

RACE: Race

- W White
- B Black
- O Other
- U Unknown

SEX: Sex

- M Male
- F Female
- U Unknown

AID GIVEN: Aid Given

- A Assessment/Vital Signs
- B Oropharyngeal/Nasopharyngeal Airway, or Attempted
- C Esophageal Airway, or Attempted
- D Endotracheal/Nasotracheal Intubation, or Attempted
- E Oxygen
- F Ventilation
- G Airway Management-Suction, Heimlich Maneuver, Foreign Body Removed
- H Cricothyroidotomy
- I Needle Chest Decompression
- J Blood Sugar Test
- K IV(s), or attempted
- L Bloods Drawn
- M Administer Medications
- N EKG Monitoring
- O CPR
- P Defibrillation/Cardiovert
- Q Electrical Pacing
- R Precordial Thump
- S Mast, Inflated
- T Irrigation/Flush
- U Burn Treatment
- V Controlled Bleeding
- W Dressed/Bandaged
- X Extrication/Short Board/KED
- Y Spinal Immobilization
- Z Cervical Immobilization

CTRHOSP: Control Hospital
DESTINATION: Destination

ACCESS OF RESTON	01
ACCESS OF FAIRFAX	15
ALEXANDRIA CCU	02
ALEXANDRIA ED	03
ALEXANDRIA ICU	04
ALEXANDRIA OB	05
ALEXANDRIA OTHER	06
ANDREWS AIR FORCE BASE	07
ARLINGTON CCU	08
ARLINGTON ED	09
ARLINGTON ICU	10
ARLINGTON OTHER	11
BETHESDA NAVAL	12
CHILDRENS	13
DEWITT ARMY	19
FAIR OAKS CCU	20
FAIR OAKS ED	21
FAIR OAKS ICU	22
FAIR OAKS OTHER	23
FAIRFAX CCU	24
FAIRFAX ED/TRAUMA	25
FAIRFAX ICU	26
FAIRFAX MORGUE	14
FAIRFAX NEONATAL	27
FAIRFAX OB	28
FAIRFAX OTHER	29
GEORGE WASHINGTON	30
GEORGETOWN	31
JEFFERSON	32
LANDING ZONE	33
LOUDOUN	34
MEDICAL CLINIC	35
MEDSTAR	36
MENTAL HEALTH	37
MEDICAL EXAMINERS OFFICE	15
MT. VERNON ED	38
MT. VERNON CCU	39
MT. VERNON ICU	40
MT. VERNON HYPERBARIC	41
MT. VERNON OTHER	42

PSCC DIR: PSCC Directed Pre-Arrival Treatment

0 CPR instructions
1 Rescue breathing instructions
2 Heimlich maneuver
3 Hemorrhage control
4 Other first aid procedure

PT REFUSAL: Patient Refused Services

1 PATIENT REFUSED ALL SERVICE
2 PATIENT ASSESSED, REFUSED TREATMENT AND/OR TRANSPORT
3 PATIENT ASSESSED AND TREATED, REFUSED TRANSPORT
4 PARENT/GUARDIAN REFUSED ALL SERVICE
5 PATIENT ASSESSED, PARENT/GUARDIAN REFUSED TREATMENT AND/OR TRANSPORT
6 PATIENT ASSESSED AND TREATED, PARENT/GUARDIAN REFUSED TRANSPORT
7 APPROPRIATE REFUSAL BY PATIENT, PARENT OR GUARDIAN

CX: Level of Consciousness

1 CONSCIOUS AND ALERT
2 COMBATIVE
3 HYSTERICAL
4 CONSCIOUS, CONFUSED, DISORIENTED, OR INAPPROPRIATE RESPONSE
5 UNCONSCIOUS BUT RESPONDS TO VERBAL STIMULI
6 UNCONSCIOUS BUT RESPONDS TO PAINFUL STIMULI
7 UNCONSCIOUS AND UNRESPONSIVE
8 CLINICALLY DEAD, NO VITAL SIGNS

EKG-F: Field Electrocardiogram

NORMAL SINUS RHYTHM 01
PACED RHYTHM, NORMAL 02
SINUS ARRHYTHMIA 03
SINUS TACHYCARDIA 04
PREMATURE ATRIAL CONTRACTION 05
WANDERING PACEMAKER 06
SINOATRIAL ARREST/BLOCK 07
PREMATURE AV JUNCTIONAL CONTRACTION 08
ATRIAL FLUTTER 09
ATRIAL FIBRILLATION 10

TEMP: Patient's Temperature

1 NORMAL
2 WARM, TO THE TOUCH
3 HOT, TO THE TOUCH
4 HYPERTHERMIC, ABOVE 104° F
5 COOL, TO THE TOUCH
6 HYPOTHERMIC, BELOW 95° F
9 NOT TAKEN

MOIST: Skin Moisture

1 Normal
2 Dry, corresponds to ambient conditions
3 Dry, does not correspond to ambient conditions
4 Moist, corresponds to ambient conditions
5 Moist, does not correspond to ambient conditions
9 Not taken

PRE-AID: Pre-Arrival Aid

0 No pre-arrival CPR performed
1 Medical personnel, apparently effective
2 Citizen, apparently effective
3 Public safety personnel, apparently effective
4 Medical personnel, apparently ineffective or inappropriate
5 Citizen, apparently ineffective or inappropriate
6 Public safety personnel, apparently ineffective or inappropriate

RESUS: Resusitation

1 RESPIRATORY ARREST, SUCCESSFUL
2 RESPIRATORY ARREST, UNSUCCESSFUL
3 WITNESSED CARDIAC ARREST, SUCCESSFUL
4 WITNESSED CARDIAC ARREST, UNSUCCESSFUL
5 CARDIAC ARREST N.O.S., SUCCESSFUL
6 CARDIAC ARREST N.O.S., UNSUCCESSFUL

(N.O.S. means Not Otherwise Stated)

CODE	MEDICATIONS	AMOUNT
20	ATROPINE, IV	MG
22	BRETYLIUM, IV	MG
23	BENADRYL, IM	MG
24	BENADRYL, IV	MG
25	CALCIUM CHLORIDE, IV	GM
28	DEXTROSE 50%, IV	GM
29	DEXTROSE 5% & WATER, IV	CC/MIN
30	DOPAMINE, IV	MCG/KG/MIN
31	EPINEPHRINE 1:1,000, ET	MG
32	EPINEPHRINE 1:1,000, IV	MG
33	EPINEPHRINE 1:1,000, SQ	MG
34	EPINEPHRINE 1:10,000, ET	MG
35	EPINEPHRINE 1:10,000, IV	MG
36	GLUCAGON, IM	MG
37	HEXADROL, IV	MG
38	IPECAC, PO	CC
39	ISUPREL, IV	MCG/KG/MIN
40	LACTATED RINGERS, IV	CC/MIN
41	LASIX, IV	MG
43	LIDOCAINE BOLUS, ET	MG
44	LIDOCAINE BOLUS, IM	MG
45	LIDOCAINE BOLUS, IV	MG
48	MORPHINE, IM	MG
49	MORPHINE, IV	MG
50	NARCAN, ET	MG
51	NARCAN, IM	MG
52	NARCAN, IV	MG
53	NITROGLYCERINE, TOPICAL	INCHES
54	NITROSTAT, SL or SPRAY	MG
73	NITROUS OXIDE	MIN
72	OXYGEN	LITERS/MIN
55	PITOCIN, IV	UNIT
56	PROCARDIA, ORAL	MG
57	PROCAINAMIDE BOLUS, IV	MG
58	PROCAINAMIDE INFUSION, IV	MG/MIN
59	SALINE .9%, IV	CC/MIN
60	SODIUM BICARBONATE, IV	mEq
61	SODIUM NITRITE, IV	AMPULE
62	SODIUM THIOSULFATE, IV	GM
63	TERBUTALINE, NEBULIZER	MG
64	TERBUTALINE, SQ	MG

FIRE AND RESCUE DEPARTMENT
EVENT HISTORY
HEADER RECORD

EVENT NUMBER:932011313

POLICE EVENT #	EVENT DATE	911 CALL TIME	ENTRY TIME	DISPATCH TIME	ENROUTE TIME	ONSCENE TIME	CLOSE TIME	CLOSE DATE
	07/20/93	18:02:18	18:02:26	18:03:07	18:03:43	18:09:08	18:40:43	07/20/93

LOCATION	LOCATION: CROSS REF	DISPATCH GROUP	CALLER NAME	CALLER ADDRESS
0 GEORGE WASHINGTON MEM PW	-- TURKEY RUN NATL PARK	F2	NATIONAL PARK SERVI	

CALLER PHONE	CALLER APT #	SUBCENSUS	FIRE BOX	MAP GRID	INITIAL EVENT	ACTUAL EVENT	EVENT DESCRIPTION	RECOMMEND PRIORITY	DISPATCH PRIORITY	DISPOSITION OF EVENT
347-8572		470104	0148	0221	ALS	ALS	ALS EMERGENCY	1	1	

ENTRY TERMINAL	ENTRY OPERATOR	DISPATCH TERMINAL	DISPATCH OPERATOR	ADVISED EVENT	CATCHUP EVENT	PREMISE HISTORY	CONTACT CALLER	LOCATION OF INTEREST	CALLER ADVICE	EVENT CANCEL	EVENT CLOSED
CT11	008114	FD01	008168			Y	Y				X

FIRE AND RESCUE DEPARTMENT
EVENT HISTORY
SEGMENT RECORDS

EVENT NUMBER-932011315

COMMAND TIME	NOT ENTRY	COMMAND CODE	TEXT
18:02:26		ENTRY	WHERE 123 RUNS INTO GW FW.3/4 MILE SOUT
18:02:26		ENTRY	H OF THAT.FORT MARCY???.THERE'S SUPPOSE
18:02:26		ENTRY	D TO BE A DEAD BODY LYING NEAR THE LAST
18:02:26		ENTRY	CANNON GUN IN THE PARK .THIRD PARTY.UN
18:02:26		ENTRY	K IF THIS PERSON IS DEAD OR NOT
18:02:33		UNREC	M01
18:02:41		SUPP	NAME: ADDR: PHON: TEXT: TRYING TO N
18:02:41		SUPP	OTIFY US PARK PD AS WELL.THEY ARE NOT A
18:02:41		SUPP	NSWERING PHONE
18:03:03		MCOM	E01 M01
18:03:05		DF	E01 , CH1
18:03:05		DF	M01 , CH1
18:03:28		SUPP	NAME: ADDR: PHON: TEXT: US PARK PD
18:03:28		SUPP	IS RESPONDING
18:03:40	*	ENRTE	(070007) E01
18:03:54	*	ENRTE	(076273) M01
18:07:38	*	ONSCNE	(070007) E01
18:10:16	*	ONSCNE	(076273) M01
18:36:46	*	MISC	(076273) M01 , OBVIOUS 10-21.SUICIDE W/
18:36:46	*	MISC	GUN
18:37:02	*	AOR	(070007) E01 @ 01 11
18:37:18	*	AOR	(076273) M01 @ 01 11
18:40:43		CLOSE	(008134)

NARRATIVE REPORT

INCIDENT # 930211483 UNIT ACT SUPP SEC 1 SUPP FILE DATE 07/20/93

RE TRANSPORTED BODY TO FAIRFAX HOSPICE

SUPPRESSION I. .ENT REPORT

INCIDENT # 93201:315 UNIT E01 SUPP 01 PBOX 0148 SUBST 47010? MAP 0221
DATE 07/20/93 DAY 3 SHIFT A VEH # 0007 MILES TO INCIDENT 007
LOCATION 0 GEORGE WASHINGTON MEM PW APT #
SITUATION 70 UNIT ACTIONS A 30 B 30 C 71 D 96 E
DRV 47518 OIC 47253 FF 47729 FF FF FF FF
REPORT BY 47253 VEH2# DRV FF FF
VOL/STATION SP STUDY SP STUDY
UPDATE BY

UNIT TIMES

DISPATCH 18:03:08 ENROUTE 18:03:45 ONSCENE 18:09:38 ENRHOSP 00:00:00
ATHOSP 00:00:00 NEWSTAT 18:37:02

NARRATIVE FORT

INCIDENT # 932011315 UNIT E01 SUFF SEQ 1 SITF 99 DATE 07/30/93

REPORTED ALS EMERGENCY AT FORT MARCY PARK. EXACT LOCATION UNKNOWN. UPON AR-

RIVAL, SPLIT ENGINE AND MEDIC CREW TO PERFORM GROUND SEARCH FOR VICTIM AT

THE REPORTED LOCATION. MEDIC 1'S CREW FOUND THE VICTIM. OBVIOUS DOA. NO

FURTHER SERVICE FROM ENGINE COMPANY 1.

EMS INCIDENT REPORT

INCIDENT # 9810011313 UNIT 801 SUPP 01 PROX 0148 SUBCT [illegible] PHP 0111
DATE 07/30/98 DAY 3 SHIFT 4 PROP 936 APROP 98 VEH # 6273 MILES 012
LOCATION 0 GEORGE WASHINGTON MEM PW APT # RESPST 2 DISPST 1
CAUSE PROBLEM 77 SITUATION 901 VEH ACTION TAKEN F.....
DRV EMP # 47395 DIC EMP # 47252 AID EMP # 47532 OTH EMP #
REPORT BY EMP # 47252 VOL/STATION 00 SP STUDY SP STUDY
UPDATE OPER

UNIT TIMES

DISPATCH 18:03:08 ENROUTE 18:03:54 ONSCENE 18:10:16 ENRHOSP 00:00:00
ATHOSP 00:00:00 NEWSTAT 18:37:15

PATIENT INFORMATION

PT LAST NAME FOSTER FIRST VINCENT MI
PT ADDRESS UNK APT #
CITY UNK STATE AR ZIP CODE
AGE 048 RACE W SEX M CAUSE PROBLEM 77 SITUATION 901 RESPST 2
AID GIVEN A9 SCORE CASE SEVERITY 5 OUTCOME 1
ORTHOSP 43 DESTINATION 43 COMM 9 QUALITY 9 FSCC DIR PT REFUSAL .
BP 000 000 PUL 000 RES 00 CX 8 EKG-F EKG-H ..

PUPIL 9 COLOR 7 TEMP 9 MOIST 9 PREAID RESUS SPECTX
DR LAST NAME PT HX #

ACT01	AMT	EMP #	EFT	ACT02	AMT	EMP #	EFT
03				04			
05				06			
07				08			
09				10			
11				12			
13				14			
15				16			
17				18			
19				20			

NARRATI EPORT

INCIDENT # 932011315 UNIT M01 SUPP SEQ 1 SITF 901 DATE 07/20/93

WE REC. A CALL FOR A POSS. DOA IN THE PARK OFF GW PKWY. WHILE IN ROUTE AS W E GOT ONTO GW PKWY WE SAW A CAR ON THE SIDE OF THE ROAD THAT APPEARED TOBE BLK LINC. TWNCAR WHICH HAD WRECKED INTO THE TREES. MINOR AUTO DAMAGE. DRIVER LOOKED OK AND WAS WALKING AROUND. AS WE ENTERED THE PARK (FORT NARCY) WE PASSED A LIGHT BLUE MERCEDES W/IT HAZARDS ON. NO OCCUPANT IN VEH. WENT FURTH ER UP IN TO THE PARK AND SAW TWO OTHER VEH. BRWN HONDA.AR TAGS. AND A WHITE NISSAN W/MD TAGS. NO OTHER PEOPLE IN THE AREA. WE SPLIT OUR CREWS ONE WENT ON THE NORTH TRAIL AND THE OTHER ON THE SOUTH TRAIL. SGT. GONZALEZ AND TECH HALL ALONG W/PARK PD FORSHON WENT UP THE NORTH TRAIL IN SEARCH OF A BODY. WE CAME ACROSS THE FIRST CANNON. I SEARCHED AROUND THIS AREA AND FOUND NOTHING. WE SEARCHED FURTHER TO THE NEXT CANNON

NARRATIV :PORT

INCIDENT # 932011315 UNIT M01 SUPP SEQ 2 SITF 901 DATE 07/20/93

MO FOUND A DEAD MALE W/SUIT PANTS, AND DRESS SHIRT, NO TIE OR COAT LAYING SUPINE FEET FIRST DOWN THE HILL. THE FIRST PERSON TO REACH HIM WAS THE TECH TODD HALL AND PARK PD. I FOLLOWED SECONDS BEHIND THEM. I THEN ADVISED FX, PS CC OF THE SITUATION. WE LEFT PARK PD WITH THE VICTIM AND RETURNED OUR EQUIP TO OUR UNIT. IN DISCUSSION W/PD HE ASKED HOW MANY CARS WERE OUT IN THE PARK ING LOT I SAID 3, 1 AT THE ENTRANCE AND 2 IN THE PARKING LOT. WE ARRIVED BAC K AT OUR UNIT AND ASSISTED PD. WHILE IN THE PARKING LOT WE LOOKED FOR VEH. W SOME INFO. TO RELATE TO THE PT. ONE VEH. STOOD OUT. THE HONDA, WHICH HAD THE REMAINING PARTS TO HIS SUIT, HIS COAT AND TIE. PT ASSESSED VISUALLY LIVIDITY HAD SET IN, POOLING OF BLOOD IN THE EXTREMITIES. PT HAD BEEN DEAD APPROX. 2 -4 HRS. PT HAD A WEAPON IN HIS RIGHTHAND

NARRATIVE REPORT

INCIDENT # 932011315 UNIT #01 SUPP SEQ 3 SITE #01 DATE 07/20/93

PARK PD DID NOT NEED ANY OTHER SERVICES.

SUPPRESSION I ENT REPORT

INCIDENT # 932011315 UNIT TO1F SUPP 01 FBOX 0148 SUBCT A/0104 MAP 0221
DATE 07/20/93 DAY 3 SHIFT A VEH # 7079 MILES TO INCIDENT 007
LOCATION 0 GEORGE WASHINGTON MEM PW APT #
SITUATION 99 UNIT ACTIONS A 34 B C D E
DRV 49702 OIC 49369 FF 47194 FF FF FF FF
REPORT BY 49369 VEH2# DRV FF FF
VOL/STATION SP STUDY SP STUDY
UPDATE BY

UNIT TIMES

DISPATCH 00:00:00 ENROUTE 00:00:00 ONSCENE 00:00:00 ENRHOSP 00:00:00
ATHOSP 00:00:00 NEWSTAT 00:00:00

NARRATIVE REPORT

INCIDENT # 932011315 UNIT T01F SUPP SEQ 1 SITF 90 DATE 07/20/93

ASSISTED AMBULANCE ONE ON A CODE 4 TRANSPORT. BODY WAS SEVERAL HUNDRED YARDS BACK IN THE WOODS. AMBULANCE CREW HAD BODY IN BODY BAG AND ZIPPED UP AT THE TIME OF OUR ARRIVAL.

FIRE AND RESCUE DEPARTMENT
EVENT HISTORY
HEADER RECORD

EVENT NUMBER: 932011483

POLICE EVENT #	EVENT DATE	911 CALL TIME	ENTRY TIME	DISPATCH TIME	ENROUTE TIME	ONSCENE TIME	CLOSE TIME	CLOSE DATE
	07/20/93	19:45:13	19:45:17	19:45:37	19:47:31	20:02:25	21:18:39	07/20/93

LOCATION	LOCATION: CROSS REF	DISPATCH GROUP	CALLER NAME	CALLER ADDRESS
0 GEORGE WASHINGTON MEM PW	-- TURKEY RUN NATL PARK	F2	US PARK	

CALLER PHONE	CALLER APT #	SUBCENSUS	FIRE BOX	MAP GRID	INITIAL EVENT	ACTUAL EVENT	EVENT DESCRIPTION	RECOMMEND PRIORITY	DISPATCH PRIORITY	DISPOSITION OF EVENT
		470104	0148	0221	CODE4	CODE4	CODE 4 TRANSPORT	3	3	

ENTRY TERMINAL	ENTRY OPERATOR	DISPATCH TERMINAL	DISPATCH OPERATOR	ADVISED EVENT	CATCHUP EVENT	PREMISE HISTORY	CONTACT CALLER	LOCATION OF INTEREST	CALLER ADVICE	EVENT CANCEL	EVENT CLOSED
F001	007764	F001	007764			X	Y				X

FIRE AND RESCUE DEPARTMENT
EVENT HISTORY
SEGMENT RECORDS

EVENT NUMBER=932011483

COMMAND TIME	MDT ENTRY	COMMAND CODE	TEXT
19:45:17		ENTRY	US PARK REQUESTING TRANSPORT OF THE BOD
19:45:17		ENTRY	Y
19:45:31		UNREC	A01
19:45:37		DP	A01 , CH1
19:47:32	*	ENRTE	(070004) A01
19:53:37		BACKER	T01P
20:02:25	*	ONSCNE	(077079) T01P
20:08:33		UTIMEX	A01 ENROUTE TO ONSCENE
20:08:45		UTIMER	A01
20:16:27		ONSCNE	A01
20:17:26	*	TRANS	(070004) A01 25
20:17:29		TRANS	(008134) A01 25
20:17:47	*	TRANS	(070004) A01 25
20:21:27	*	AOR	(077079) T01P @ 01 11
20:30:55	*	ATHOSP	(070004) A01
20:59:28	*	AOR	(070004) A01 @ 18 11
21:18:39		CLOSE	(007682)

EMS INCID. REPORT

INCIDENT # 8810114483 UNIT #01 SUFF 01 FOX 0106 SUBDT 870104 RMP 0001
DATE 07/12/88 DAY S SHIFT A PPROP 105 MPROP 85 VEH # 1104 MILES 010
LOCATION 0 GEORGE WASHINGTON MEM PW APT # RESPST 4 DISPST 1
CAUSE PROBLEM 26 SITUATION 914 EMS ACTION TAKEN 9
DRV EMP # 49571 DIC EMP # 47581 AID EMP # OTH EMP #
REPORT BY EMP # 47581 VOL/STATION 00 EP STUDY EP STUDY
UPDATE OPER

UNIT TIMES

DISPATCH 19:45:37 ENROUTE 19:47:32 ONSCENE 00:00:00 ENRHOSP 20:17:47
ARTHOSP 20:30:55 NEWSTAT 20:59:28

PATIENT INFORMATION

PT LAST NAME VINCENT FIRST FOSTER MI
PT ADDRESS UNK APT #
CITY UNK STATE UK ZIP CODE
AGE 035 RACE W SEX M CAUSE PROBLEM 26 SITUATION 914 RESPST 4
AID GIVEN 9 SCORE CASE SEVERITY 5 OUTCOME 1
ARTHOSP 30 DESTINATION 14 COMM 5 QUALITY 1 PSOC DIR PT REFUSAL
EP PUL RES CX 6 EKG-F EKG-M

PUPIL 9 COLOR 9 TEMP 9 MOIST 9 PREAID RESUS SPECTX
DR LAST NAME PT HX #

ACT01	AMT	EMP #	EFT	ACT02	AMT	EMP #	EFT
03				04			
05				06			
07				08			
09				10			
11				12			
13				14			
15				16			
17				18			
19				20			

Fairfax County Public Safety Communications Center
Fairfax, Virginia
March 9, 1994

Event # 932011315

The following is a transcript of a 9-1-1 telephone call received in the Fairfax County Public Safety Communications Center at 17:59.59 hours on July 20, 1993. The dispatcher is Marianne White, at Calltaker Position 11, and the caller is unknown. There is also on this recording a question directed to Dispatcher Christopher Fox by Marianne White. Christopher Fox's response was recorded on the accompanying transcript. The call ended at 18:04.01 hours.

Dispatcher: Fairfax County 9-1-1. Do you have an emergency?

Caller: Yes ma'am, there's ah, guy that come up to at ah, Turkey Run Park. And reported that there was a dead body at Fort Marcy.

Dispatcher: At where?

Caller: At Fort Marcy Park.

Dispatcher: Where's that?

Caller: That's on GWP Parkway.

Dispatcher: You saw this person?

Caller: Yes ma'am he left outta there, he was in a contractor van.

Dispatcher: He was what?

Caller: He left out in a contractor's van. A white van. And he said it was ah, he just left him down there and ah.

Dispatcher: Okay, where exactly is this dead body supposed to be?

Caller: Supposed to be up there at Fort Marcy at the, where the cannon at.

Dispatcher: Is this a U.S. Park?

Caller: U.S. Park Police. I mean U.S. Park ah, service.

Dispatcher: Okay, hold on a minute.

Dispatcher: Are you getting the dead body? (This question was directed to Christopher Fox).

Dispatcher: Okay, sir.

Caller: Yes ma'am.

Dispatcher: For some weird reason they're not answering, so if you could tell me exactly where this is it would help.

Caller: Ah, its ah, know where 123 runs into the George Washington Memorial Parkway.

Dispatcher: Where ah, hold on a minute, 123 runs into GW Parkway.

Caller: Yes ma'am.

Dispatcher: Okay.

Caller: Okay, ah, its ah, one mile south about three quarters of a mile south and ah, there's a fort there called ah, Fort Marcy. On the Parkway. There's ah, have ah, ah, this is, is a body, this guy told me was a body laying up there by the last cannon.

Dispatcher: Last what?

Caller: Huh?

Dispatcher: There's a body laying near what?

Caller: There's, there's a man laying up there by the last cannon gun.

Dispatcher: Near the, near the last what? I can't understand a word your saying.

Caller: The last cannon gun.

Dispatcher: Cannon.

Caller: Yes, they have cannons up there. Those big guns.

Dispatcher: Oh, okay.

Caller: Uh, huh, at Fort Marcy.

Dispatcher: Okay, you're sure he's dead?

Caller: Huh?

Dispatcher: You're sure he's dead?

Caller: That's what this guy said, ah, ah, I'm taking his word, you know.

Dispatcher: Okay, I'll get a hold of them and I'll send the ambulance, okay?

Caller: Okay.

Dispatcher: Alright.

Park: United States Park (Unintelligible).

Dispatcher: Hi, could you. This is Fairfax County. Can you respond with our ambulance to Fort Marcy Park. Near the last cannon gun there's supposed to be a dead body.

Park: Okay.

Dispatcher: Okay.

Park: Alright.

Dispatcher: Thank you.

Park. Your welcome.

This statement has been typed as recorded by Lorie Unthank on March 9, 1994.

Fairfax County Public Safety Communications Center
Fairfax, Virginia
March 9, 1994

Transferred Call: U.S. Park

The following is a transcript of a 9-1-1 telephone call received in the Fairfax County Public Safety Communications Center at 18:00.29 hours on July 20, 1993. The dispatcher is Christopher Fox, at Calltaker Position 02, and the caller is unknown. There is also on this recording a response to a question from Dispatcher Marianne White. Marianne White's question was recorded on the accompanying transcript. The call ended at 18:01.19 hours.

Dispatcher:	Fairfax County Police and Fire what's your emergency?
Caller:	Ah, there's a car that is crashed ah, on the GW Parkway just past the 123 ah, ramp headed ah, into town.
Dispatcher:	Is anyone injured sir?
Caller:	Ah, it doesn't look like it. Someone's standing beside him but boy its ah, the car is crinkled.
Dispatcher:	Okay, hold on, I'm gonna transfer you to the U.S. Park Police. They handle that area, we don't.
Caller:	Okay.
Dispatcher:	Should I be? (In response to question from Marianne White)
Park:	Park Police. (Call transferred - unintelligible)

This statement has been typed as recorded by Lorie Unthank on March 9, 1994.

EVENT [illegible] 932011315

POLICE EVENT NO.	EVENT DATE	911 CALL TIME	ENTRY TIME	DISPATCH TIME	ENROUTE TIME	ONSCENE TIME	CLOSE TIME
	07/20/93	18:02:18	18:02:26	18:03:07	18:03:45	18:09:58	18:40:43

CLOSE DATE	INCIDENT LOCATION	SUBCENSUS	FIRE BOX	MAP GRID
07/20/93	0 GEORGE WASHINGTON MEM PW	470104	0148	0221

DISPATCH GROUP	LOCATION: CROSS REFERENCE	INITIAL EVENT	ACTUAL EVENT
F2	-- TURKEY RUN NATL PARK	ALS	ALS

CALLER NAME	CALLER ADDRESS	CALLER PHONE	CALLER APT NO
NATIONAL PARK SERVI		847-9872	

EVENT DESCRIPTION	RECOMMEND PRIOTITY	DISPATCH PRIORITY	DISPOSITION OF EVENT	ENTRY TERMINAL	ENTRY OPERATOR
ALS EMERGENCY	1	1		CT11	008114

DISPATCH TERMINAL	DISPATCH OPERATOR	ADVISED EVENT	CATCHUP EVENT	PREMISE HISTORY	CONTACT CALLER	LOCATION OF INTEREST	CALLER ADVICE
FD01	008168			X	Y		

EVENT CANCEL	EVENT CLOSED
	X

EVENT*NUMBER: 00011013

COMMAND TIME	PDT ENTRY	COMMAND CODE	TEXT
18:02:26		ENTRY	WHERE 123 RUNS INTO GW PW,3/4 MILE SOUT
19:45:17		ENTRY	H OF THAT.FORT MARCY???,THERE'S SUPPOSE
19:45:17		ENTRY	D TO BE A DEAD BODY LYING NEAR THE LAST
19:45:17		ENTRY	CANNON GUN IN THE PARK .THIRD PARTY,UN
19:45:17		ENTRY	K IF THIS PERSON IS DEAD OR NOT
18:02:33		UNREC	M01
18:02:41		SUPP	NAME: ADDR: PHON: TEXT: TRYING TO N
19:45:37		OP	OTIFY US PARK PD AS WELL,THEY ARE NOT A
19:45:37		OP	NSWERING PHONE
18:03:05		MCOM	E01 M01
18:03:08		OP	E01 , CH1
18:03:08		OP	M01 , CH1
18:03:28		SUPP	NAME: ADDR: PHON: TEXT: US PARK PD
20:08:33		UTIMEX	IS RESPONDING
18:03:45	*	ENRTE	(070007) E01
18:03:54	*	ENRTE	(076273) M01
18:09:58	*	ONSCNE	(070007) E01
18:10:16	*	ONSCNE	(076273) M01
18:36:46	*	MISC	(076273) M01 , OBVIOUS 10-61,SUICIDE W/
20:17:47	*	TRANS	GUN
18:37:02	*	AOR	(070007) E01 @ 01 11
18:37:18	*	AOR	(076273) M01 @ 01 11
18:40:43		CLOSE	(008134)

EVENT NUMBER: 932011483

POLICE EVENT NO.	EVENT DATE	911 CALL TIME	ENTRY TIME	DISPATCH TIME	ENROUTE TIME	ONSCENE TIME	CLOSE TIME
	07/20/93	19:45:13	19:45:17	19:45:37	19:47:31	20:02:25	21:18:39

CLOSE DATE	INCIDENT LOCATION	SUBCENSUS	FIRE BOX	MAP GRID
07/20/93	0 GEORGE WASHINGTON MEM PW	470104	0148	0221

DISPATCH GROUP	LOCATION: CROSS REFERENCE	INITIAL EVENT	ACTUAL EVENT
F2	-- TURKEY RUN NATL PARK	CODE4	CODE4

CALLER NAME	CALLER ADDRESS	CALLER PHONE	CALLER APT NO
US PARK			

	EVENT DESCRIPTION	RECOMMEND PRIOTITY	DISPATCH PRIORITY	DISPOSITION OF EVENT	ENTRY TERMINAL	ENTRY OPERATOR
CODE 4	TRANSPORT	3	3		FD01	007764

DISPATCH TERMINAL	DISPATCH OPERATOR	ADVISED EVENT	CATCHUP EVENT	PREMISE HISTORY	CONTACT CALLER	LOCATION OF INTEREST	CALLER ADVICE
FD01	007764			X	Y		

EVENT CANCEL	EVENT CLOSED
	X

EVENT NUMBER: 93201143

EVENT*NUMBER*=*93201143

COMMAND TIME	MDT ENTRY	COMMAND CODE	TEXT
19:45:17		ENTRY	US PARK REQUESTING TRANSPORT OF THE BOO
19:45:17		ENTRY	Y
19:45:31		UNREC	A01
19:45:37		DP	A01 , CH1
19:47:32	*	ENRTE	(070004) A01
19:53:37		BACKER	T01P
20:02:25	*	ONSCNE	(077079) T01P
20:08:33		UTIMEX	A01 ENROUTE TO ONSCENE
20:08:45		UTIMER	A01
20:16:27		ONSCNE	A01
20:17:26	*	TRANS	(070004) A01 25
20:17:29		TRANS	(008134) A01 25
20:17:47	*	TRANS	(070004) A01 25
20:21:27	*	AOR	(077079) T01P @ 01 11
20:30:55	*	ATHOSP	(070004) A01
20:59:28	*	AOR	(070004) A01 @ 18 11
21:18:39		CLOSE	(007682)

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/21/94

On 3/16/94 RICHARD M. ARTHUR, Emergency Medical Service Technician, Fairfax Fire and Rescue Department, appeared at the Office of Special Counsel with his attorney, GERARD TREANOR, Esq, of CACHERIS & TREANOR, 1100 Connecticut Avenue N.W., Suite 730, Washington D.C., telephone (202) 775-8700. After being advised of the indentity of the interviewing agent and introduced to attorney MARK STEIN of the Independant Counsel, ARTHUR provided the following information:

Through his attorney, ARTHUR explained his reason for wanting to be represented by counsel, which was essentially that his employer had issued strict orders that he was not to discuss the case without having been subpoened, and that conflicted with his anticipated being interviewed by the FBI, as he had heard other co-workers had. His mother had a friend who knows MR. TREANOR so it seemed a prudent thing to engage counsel. This having been explained, STEIN excused himself and the interview continued with writer, ARTHUR, and TREANOR present.

ARTHUR advised that he has been with the Fairfax Fire & Rescue Department for five years-- the first year as a firefighter, the last four as a paramedic. Prior to that he was a volunteer fireman for three years riding with an ambulance and on emergency calls on fire trucks. He has completed one and one-half years of a two year paramedics program at Northern Virginia Community College (NOVA) and a paramedic program program taught by George Washington University which was a four month fulltime program.

ARTHUR has responded to countless number of suicide scenes, estimating about 3 per month. At least 15-20 have been by means of gunshots. He advised that some such gunshot related scenes are extremely messy and sometimes there is virtually no blood at all.

ARTHUR advised that Fire Department policy with regard to arrival upon the scene of a dispatched call that involves a body requires feeling for a pulse, checking for breathing, and

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Investigation on 3/16/94 at Washington, D.C. File # 29D-LR-35063 SUB A - 32

by SSA H. Alexis Suggs Date dictated 3/18/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

hooking up emergency electrocardiological equipment to check for heartbeat, but that the judgement of the responding EMTs can override the necessity of doing any of these things if the body is obviously dead. If, in the judgement of the responding EMTs, it might be a crime scene, they are to try not to touch anything and call the police. With regard to the press, they are not supposed to talk with the press unless they receive permission to do so. ARTHUR advised that he always refers press persons to police personnel on the scene and does not engage in conversation.

ARTHUR advised that he was one of the individuals who responded to the call to Fort Marcy Park on the George Washington (GW) Parkway on the day the body of what was later identified as VINCENT FOSTER JR. was discovered on July 20, 1993. He is comfortable that all proper Fire and Rescue procedures were followed on that day.

With regard to the press, ARTHUR advised that he has had no contact with anyone from the press. In fact, he was told by his superiors at Fairfax Fire and Rescue that they were not allowed to talk to anybody whatsoever about the incident, except to confirm what was in their log book--namely, the time they were dispatched, the time they called in that they were available for the next call (called "put in service"), the incident number, and the address. ARTHUR said that he was aware that SERGEANT GEORGE GONZALES, who responded with his to the scene, admitted to having had spoken with the NY Post.

ARTHUR advised that the original dispatch was to respond to a call that a body had been found near a cannon in Fort Marcy Park on the GW Parkway. TODD HALL drove and SGT GONZALES, the ranking official in the response team, and ARTHUR accompanied him. A fire engine preceded them. As they entered the park there was an automobile (believed to be red) with it's hazard lights flashing. Once into the parking area, there was nobody to meet them to show them where the body was, so they split up into two groups to search down two separate paths leading off the parking lot.

ARTHUR and an unidentified individual from the fire engine took the righthand path (as one is facing the Potomac River) and found no body, but did come upon a couple apparently interrupted during a private moment, because ARTHUR said they

called a warning and saw "clothes flying". They did not approach the couple to identify them, but quickly returned to the parking area. ARTHUR estimated that from where the couple was they could have heard a shot, but would not have been able to observe anything in or heard voices from the vicinity of where FOSTER was found.

As ARTHUR returned to the parking area, GONZALES and HALL were running back also from the lefthand path and yelled that they had found the body. ARTHUR went down the path to take a look. He located FOSTER's body somewhat off the path, located such that if you were just walking the path you could miss it. Police were following ARTHUR to the scene. In ARTHUR's judgement, FOSTER was obviously dead and so he did not check for a pulse. He noted that the body was lying perfectly straight--like it was "ready for a coffin". A gun was lying on the ground under his right hand, with the barrel partially under FOSTER's thigh. He remembers the gun as being an automatic weapon of approximately .45 caliber. He noted what appeared to be a small caliber bullet hole in FOSTER's neck on the right side just under the jaw line about half way between the ear and the tip of the chin. He did not note anything else he thought might be a bullet hole. He did not touch the body and remained at a distance of two to four feet from it. He did not observe anybody touch the body. He did not observe anybody move the gun. As he left to return to the parking area, the U.S. Park Police were roping off the scene.

Once back in the parking area, the U.S. Park Police took all the EMT's names. He observed them gaining access to a cream colored car with a suit jacket and tie in it, looking for identification of some sort. ARTHUR was on the scene approximately 30-40 minutes.

ARTHUR does not recall seeing any footprints or disturbed earth around FOSTER's body. The deceased's clothes were not disheveled, the hill area was clean and there was nothing that struck him as unusual, except for the following things, which make him doubt that it was a suicide: the straight attitude of the body, the apparent caliber of the gun appeared bigger that the hole he thought he had observed just under the jawline, and that he remembered the barrel of the gun as being under FOSTER's thigh (possibly half-way). It also struck him as odd that the person who called authorities did not remain there

to show them where the body was. ARTHUR advised that, having taken an interest in the case, he looked in the log to find out where the call came in from. Noting that it had come from a pay phone outside of U.S. Park Headquarters, he made some inquiries and determined on his own that there was no reason why the person making the call could not have gone into Park Headquarters and reported the finding in person.

In addition, CORY ASHFORD was one of the individuals (ROGER HARRISON of Station 12 was the other) who placed FOSTER's body in the body bag for removal from the scene and in doing so, handled FOSTER's head. ASHFORD told ARTHUR later that FOSTER's head was intact and he had not observed any exit wound. ARTHUR speculated that from the size of the gun he thought he had seen, there would have been an exit wound.

ARTHUR advised that there have not been a lot of discussions about this among the co-workers at the firehouse.

ARTHUR advised that TODD HALL also questioned whether or not it was a suicide.

ARTHUR drew a rough map of the park area which is attached to this document.

ARTHUR provided the following personal information about himself:

NAME: RICHARD M. ARTHUR
DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SS#:
Address: 6109 Havener House Way, Apartment #3E
Centerville, VA 22020
Telephone: (703) 803-8781 (home), (703) 356-6671 (Firestation)

Drawn by Richard Arthur, EMT
3/16/94
HJS

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/14/94

MRS. MILDRED C. ALSTON, Special Assistant to the First Lady in the Office of White House Personal Correspondence, was interviewed by SSAs H. Alexis Suggs and William T. Guyton on 3/11/94 at the law offices of JANUS, SCHUELKE & WECHSLER, 1728 Massachusetts Ave, N.W. Washington D.C.. Also present during the interview was HENRY F. SCHUELKE, III, attorney for ALSTON. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, ALSTON provided the following information:

ALSTON advised that she is currently First Lady HILLARY RODHAM CLINTON's Special Assistant and she has held that position since February 1, 1993. She met MRS. CLINTON in December 1988 when ALSTON interviewed at ROSE LAW FIRM (RLF) in Little Rock, Arkansas for the position of Secretary for MRS. CLINTON. She was offered that position, accepted it in January 1989 and held that position until she began her current one in Washington D.C.

ALSTON characterized her relationship with the First Lady as primarily professional, although she has been invited to several social occasions attended by the family. ALSTON advised that she does not consider herself a close personal friend, but her professional relationship is very congenial. During her employment at RLF she was the only secretary assigned to MRS. CLINTON and did not work for any other attorney at the firm except isolated tasks for other attorneys if their secretaries were not available and she was able to assist them with limited tasks.

With regard to the procedures for file storage and destruction, as ALSTON understood the process, files were sent to remote storage in a location away from RLF where two women maintained them. ALSTON herself has never been to the location. After some period of time, the ladies at the remote location would generate a query which would be routed through the secretaries to the attorneys asking them if any of their files in remote storage could be identified for destruction in order to make room in the storage facility.

Investigation on 3/11/94 at Washington D.C. File # 29D-LR-35063 SUB A-28

by SSA H. ALEXIS SUGGS
SSA WILLIAM T. GUYTON Date dictated 3/14/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

The query would come in the form of photocopies of the lists of files posted on the outside of every box of files sent to remote storage, so that each attorney could designate specific files for retention or destruction. ALSTON did not keep any kind of tickler system for file destruction and never initiated, either automatically or upon MRS. CLINTON's request, any file destruction. During the entire term of her employment with RLF since January 1989 until January 1993 ALSTON never handled or knew of any instruction from MRS. CLINTON for the destruction of any file, particularly any file relating to WHITEWATER, the MCDOUGALS, MADISON GUARANTY SAVINGS AND LOAN, or any files of matters handled by VINCENT FOSTER JR.. The only orders regarding file disposition which ALSTON handled for MRS. CLINTON were orders to send files to remote storage for retention. In the normal course of business, ALSTON would have been the proper and only conduit through which MRS. CLINTON would communicate her order for destruction to the remote storage personnel. Only attorneys could order a file destruction order.

ALSTON also never handled any request from any other attorney in the firm for files to be destroyed, nor did she ever hear of any unusual destruction activity occurring which involved files which, even in hindsight, were of interest in light of the current inquiry involving the business dealings surrounding WHITEWATER, the MCDOUGALS, and MADISON GUARANTY SAVINGS AND LOAN and other matters which might be related.

ALSTON also functioned full time as MRS. CLINTON's secretary after MRS. CLINTON moved her residence to the Governor's Mansion. She handled MRS. CLINTON's calendar and all aspects of her schedule and travel arrangements. As a highly sought after speaker, MRS. CLINTON spent a lot of time out of the office. During MRS. CLINTON's time as the Governor's First Lady, at no time was ALSTON aware of any files taken to or from the Governor's mansion for destruction or for remote storage. During that time she handled nothing for VINCENT FOSTER and saw nothing relating to either the MCDOUGALS or MADISON GUARANTY SAVINGS AND LOAN. Occasionally (frequency un-recalled) ALSTON received an envelope by mail which had two pieces of paper, one possibly a deposit slip and the other possibly a description of what the deposit was for. ALSTON was unable to recall what dollar amounts were reflected on these papers or anything more specific about them. She advised that she date stamped the items and gave them

to MRS. CLINTON. MRS. CLINTON would usually give them back to her for filing in MRS. CLINTON's active personal files.

Soon after ALSTON arrived at RLF in January 1989, the firm purchased a shredder. Secretaries would hold items of a sensitive nature that were appropriate for shredding and a courier would pick them up at the end of the day. She herself never saw the shredder and never did any shredding herself. An alternate method was to deposit materials in a padlocked-wooden box with a chute in the copy room, which maintenance man BOB BOUCHER would collect and shred. It is her understanding that the only files shredded were old and clearly not needed any more.

ALSTON was shown a facsimile of a memorandum (attached to this FD 302 and incorporated herein by reference), the format of which she did not recognize. She had no direct knowledge of the information on it, but identified Mary Russell as the person in charge of the mail room and supervisor of the couriers and of in-coming and out-going mail. The date of the memorandum predated ALSTON's employ at RLF. She verified the handwriting on the form as MRS. CLINTON's.

With regard to two other facsimiles (attached to this FD 302 and incorporated herein by reference), each showing four (4) handwritten entries for Madison Guaranty S & L, bracketed with a single "D" each (everything but the bracket lines and the "D" letters appearing identical), ALSTON did not recognize any of the handwriting and was not able to identify what these documents or the forms were. She explained, however, that the remote storage personnel were in the process of converting to a new system, whereby files sent to remote storage in boxes were removed from the boxes and assigned an identifying number by the personnel at remote storage. She agreed that the facsimile might have a connection to this process.

ALSTON advised that there was a system of assigning file clerks on a rotating basis to assist secretaries with filing and other clerical tasks, but she handled most of MRS. CLINTON's things herself. No other person at RLF worked as special assistant or secretary for MRS. CLINTON.

Before ALSTON left RLF in order to come to her new position in Washington D.C., all of MRS. CLINTON's active-legal files were re-assigned to other attorneys. Other non-active legal

files were indexed and sent to remote storage. ALSTON indexed and re-assigned MRS. CLINTON's miscellaneous personal files to a MS. AMY STEWART (phonetic). They were physically moved to STEWART's 11 work area. Such personal files would include those involving WHITEWATER matters, since that was a personal file.

Finally, ALSTON advised that she never saw anything destroyed in order to hide it or dispose of it because it might cause a problem, and she never heard rumors of any person in the firm doing so. She has not seen any inappropriate or questionable activities of any sort either at RLF or in her position in Washington D.C. Her opinion of MRS. CLINTON is that she is completely honest and is of the highest integrity.

ALSTON provided the following additional personal information:

Full name: MILDRED C. ALSTON, aka "Millie Alston"
DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SS#:
Address: 3100 Shiloh Road, Hempstead, Maryland 21024-1625
Telephone: (410) 374-4231 (residence)
(202) 456-2957 (work-office)
(202) 456-6634 (work-her private line)
Title: Special Assistant to the First Lady
Office of the White House Personal Correspondence

C- P' review + discuss w/me

MEMORANDUM

TO: (mrs clinton

FROM: Mary Russell

DATE: July 21, 1988

Please review the attached list of your closed files. We are now in the process of microfilming and destroying all files unless you specifically request certain files remain intact. All files that are to be kept in their original form need to be marked with "K." There are many files that could be destroyed without being microfilmed. This would save time and money. Please mark "D" beside each of these files.

If you have any questions, please call me. We need your list back no later than August 9.

Iso - would like pencil on dated ped list all those es + the m their ept in

I want list all matters ver destroyed

C- I have marked with D, K & M (for microfil.) + marked some files I want pulled + returned to me.

There are, however, so many duplicate listings I can't tell what's being described.

Can you review list ~~bef~~ over next week + mark apparent duplicates + note any file # kept 2/ marking. Then discuss w/ Mary Russell.

RIC 000007H

REDACTED

A8734	.1	Madison Guaranty S+L	: Babcock	D
	.2	" " "	: Leland Option	
	.3	" " "	: I.D.C.	
	.4	" " "	: (Matters 1, 2, 3 + 4)	98262

REDACTED

REDACTED

34 .1. Madison Guaranty S+L : Babcock
.2. " " " : Ward Option
.3. " " " : I.D.C.
4 " " " : Matters 1, 2, 3 + 4 98262

REDACTED

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/12/94

W. NEIL EGGLESTON, Associate Counsel to the President, the White House, telephone number (202) 456-7901, provided interviewing Agents with a transmittal letter dated January 5, 1994, confirming compliance with an earlier request for handwritten notes taken by WILLIAM KENNEDY. KENNEDY is also an Associate Counsel to the President, the White House. KENNEDY's notes reflect results of a telephonic contact with RANDY COLEMAN, Attorney, Little Rock, Arkansas, on August 18, 1993. Both EGGLESTON's letter and KENNEDY's notes are attached and made a part of the record hereto.

290-LR-35063 SUBA-

Investigation on 1/5/94 at Washington, D.C. File # ~~86A-LR-34847~~

by FOIA(b)(7) - (C) SA DANA M. GILLIS DMG:dg Date dictated 1/12/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

THE WHITE HOUSE

WASHINGTON

January 5, 1994

BY HAND

Dana M. Gillis
Special Agent
Federal Bureau of Investigation
1900 Half Street, S.W.
Washington, D.C. 20535

Dear Special Agent Gillis:

Pursuant to your oral request, I am enclosing three pages of handwritten notes taken by William Kennedy.

Very truly yours,

W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

Randy Coleman 501-374-1107 8/19/

→ David Hale SBIC — Capital Mgmt Services,

Investigation → 2 weeks ago
FBI seized records - 2 wks ago

Nature of investigation — Property of bonds made past few years

Inquired re: are loans transactions that related to Madison County

All records liquidation of SBIC →
Both of loans were assigned up

Whitewater Development Corp.: Not stepping w/ David Hale

Transactions: Battelboro
Castle Grande Woods

Indictment of Intent Indictment

Total loans from SBIC SBIC
Salvage situation created w/in Madison

Any loan packaged Bond loans with David Hale ~~knowledge~~ knowledge

Madison Bank

US Atty's office → press in right. not hit on the end of the line

501-374-110

① David Hale — SBIC

② Investigation: Whitewater & Related Savings & Loan Transactions

③ Governor Tucker

Heidi Fleiss → Prostitution Leads to Tax Petition

Corollary:

President - Governor Tucker

David Hale → Criminal Allegations ~~Re~~ Not Been Indicted

Fed: US Attorney

SBIC:
Regulators:

→ Resigned Two Weeks Ago

* Acting for Arkansas

easy source of $ for politicians — easy $ for people

— Oviatt Hole: Violation of 18 USC 371
+ Regulatory fraud
+ Regulatory function
+ 10 year statute / 5 on others 504

Records: Meetings taken place between principals involved

'83/84 Time frame

Box Some Notetaking with Rodrian

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/12/94

BETH NOLAN, Associate Counsel to the President, the White House, Washington, D.C. (WDC), telephone number 202-456-7901, was interviewed in the presence of JAMES HAMILTON, of the law firm SWIDLER & BERLIN, 3000 K. Street, N.W., WDC, telephone number 202-363-3020. After being apprised of the nature of the interview and the identities of the interviewing Agents, NOLAN thereafter provided the following information:

Sometime around August 19, 1993, WILLIAM KENNEDY, of the White House Counsel's Office, informed NOLAN that he had been contacted by RANDY COLEMAN an attorney from Little Rock, Arkansas. KENNEDY contacted NOLAN, to discuss COLEMAN's contact. NOLAN believes KENNEDY contacted her based on her capacity as the alternate ethics counsel for the White House. COLEMAN was the attorney for DAVID HALE, a municipal judge about to be indicted on charges related to mismanagement of a Small Business Investment Company (SBIC) in Little Rock. KENNEDY was seeking advice from NOLAN on how to respond to COLEMAN's request for a meeting between the two of them. COLEMAN intimated that information possessed by his client, might be of interest to the White House.

NOLAN was informed by KENNEDY that COLEMAN requested a meeting regarding KENNEDY's "client," meaning the President. KENNEDY expressed a lack of desire to grant COLEMAN's request. KENNEDY did not know the specifics of what COLEMAN wanted to discuss. In the course of the discussion between NOLAN and KENNEDY, it was decided that NOLAN would sit in as a witness, on KENNEDY's return telephone call to COLEMAN. It was also decided that KENNEDY would inform COLEMAN that there would be no meeting between them and a request would be made for COLEMAN to disclose whatever information he possessed.

In the course of the telephone call from KENNEDY to COLEMAN, KENNEDY requested COLEMAN provide his information telephonically as there would by no meeting between the two.

ORIG to LR

Investigation on 1/5/94 at Washington, D.C. File # 29D-LR-35063 SUBA-14 ~~86A-LR-34847~~

FOIA(b)(7) - (C)

by SA DANA M. GILLIS DMG:dg Date dictated 1/12/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

COLEMAN advised that he represented DAVID HALE. Two weeks prior to the present contact, the FBI seized records related to an SBIC owned by HALE.

COLEMAN hinted that KENNEDY's "client" the President, had been mentioned regarding loan transactions related to MADISON GUARANTY of Little Rock, and WHITEWATER DEVELOPMENT CORPORATION. After discussing the indictment of HALE and the criminal statute under which HALE would be charged, the contact between KENNEDY and COLEMAN concluded.

NOLAN provided a copy of notes she transcribed during the conference telephone call between KENNEDY and COLEMAN, which are attached and made a part of the record hereto.

8-19-93
2:35

← Randy Coleman → Phone call w/ Bill Kennedy + Beth Nolan

Notes from phone call:

BK → BN on

BK → No mtg. s/b held - very little we can do

RC: → Little bit awkward → multiple pending parties →
run the traps + see what's everybody's thinking
I represent David Hale - SBIC - Capital Mgt. Services
2 weeks ago FBI swooped down + seized records. Invest
involves propriety of loans made by SBIC.

↓

"Quite diligently" -- I am informed there are some
loan transactions that relate to Madison Guaranty →
Your G's name has popped up → both of 'em
Whitewater Develop. Corp.

"They are not stopping at us, I can guarantee you that"

South Carp.?
Kessler?
Western District? - Jim Guy Tucker

Talking about an initial indictment 9/21

Take out loans from this SBIC taken to salvage some
situations that existed w/ Madison for these entities
These are not kosher loans.

OK "You mean Madison may have parked bad loans w/ David?"

RC "Yeap. You bet" . . . . The Madison deal is coming
back to life.

WIBOWYCTTM,

BK was David the sole owner of this outfit?

RC Yup. . . . A lot of politicians came through here

for a lot of dam loans. It was a sort of easy money....

BK: WIBONYCTM, what do you anticipate Davids going to be charged w/,

RC 18 USC § 371 → regulatory fraud

They have got records.
They're going to know about what's taking place.
Just trying to touch base w/ as many folks as possible.

BK: I appreciate the heads-up.
I would have thought the statute would have run on loans that old

RC: They got a 10 year on some, and a 5 on others.

BK: Let me summarize. Madison was in, sometime/
Bottom line David's outfit had some loans packed, some of em involved things. Tucker was in a some of em may have involved whitewater

RC: Just wanted to let you know if you hear anything up your way, let me know.

BK: Not a split-source arrangement w/ Madison - Hale?

RC No.

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105034

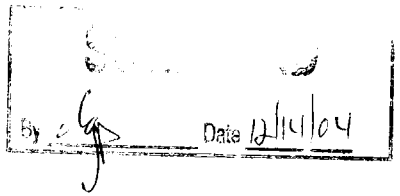
JOHN Rolla

[redacted]

Rolla

Box 142

5 p open



John Rolla

July 20

- took Polaroid camera kit
  - had camera kit
    - Polaroid
      - may have been part of DD pack
      - new pack
    - 35 mm
- Went to Body
  - Sgt Edwards
    - polaroids given to Rolla

Did
- took 8 or so
- Simaello took 35 mm

- no note / no keys / no wallet — search before Rolla

before transport
- paper turned off — removed
- belt removed

- Signs
  - 95° heat
  - arm flaccid
  - blood moist on face

2 hr
- not much rigor
- blood starting to congeal

- when body rolled, still flaccid

→ Parking Lot

— Rolla —

- found coat & wlt Id ~~under~~ in wallet - inside breast pocket
- money receipt

— Work on Body — livedity — moved left arm to see stiffness
- pale, flaccid
- may not be dead that long
- not much rigor

~~Rolled Body~~

~~when Dr. Hunt got to scene~~

could see livedity

—

—

— puddle of blood of head about size of hands; starting to congeal

— saw [blood] of head

— reached behind head + felt soft wound — felt mushy

— no other movement

— Hunt arrives

— body rolled by Rolla

— blood rolls out of mouth

— shirt gets bloody when putting in body bag

(Receipt for)

- #300 – day or two before not ~~that~~ that day

#282 left

– Rolla flipped truck switch

– books
– college stuff
– ~~H.~~ mail – cards & letters

Post Death Scene

(pers prop)

– Evid – put in locker
– wallet
– ring
– pager
– tie & jacket
– WH cred.

CB – signed over cred. to USSS

other – turned over to WH – (see 4311)

FOIA #56806 (URTS 16304) DocId: 70105034 Page 6

Chris Hollcraft

— VF Car

- looking for keys to get in
CB
JR

- she recalls car locked

— Rolla - moving body to look for wallet etc. — more blood released

— Med Examiner

Haupt - asked Rolla whether bullet in body

- Rolla showed exit wound

- called Gavin or Hamilton re: WH personnel

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105036

ROSE LAW FIRM

Phone Calls from The Rose Law Firm to White House Numbers
July 1993

Date	Time	Duration	Phone Call to:
07/01/93	**9:05 AM**	**4:12 min.**	**(202) 456-6611 (Foster's office line) from (501) 375-9131**
07/01/93	**10:54 AM**	**7:00 min.**	**(202) 456-6611 from (501) 375-9131**
07/02/93	1:52 PM	1:36 min.	(202) 456-6279 from (501) 375-4427
07/02/93	2:17 PM	0:30 min.	(202) 456-2144 from (501) 375-9131
07/02/93	2:18 PM	14:54 min.	(202) 456-2144 from (501) 375-9131
07/02/93	**2:18 PM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**
07/02/93	2:19 PM	0:30 min.	(202) 456-6635 from (501) 375-9131
07/02/93	3:23 PM	6:18 min.	(202) 456-6635 from (501) 375-9131
07/02/93	5:44 PM	0:36 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/06/93	1:38 PM	0:30 min.	(202) 456-2144 from (501) 375-9131
07/07/93	**3:35 PM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**
07/08/93	3:50 PM	1:12 min.	(202) 456-2146 from (501) 375-4427
07/12/93	**9:53 AM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**
07/13/93	**8:33 AM**	**1:18 min.**	**(202) 456-6611 from (501) 375-9131**
07/14/93	10:01 AM	23:06 min.	(202) 456-6635 from (501) 375-9131
07/14/93	4:44 PM	1:12 min.	(202) 456-7900 **(Sloan, Mills and Cerda's line)** from (501) 375-9131

FOIA #56806 (URTS 16304) DocId: 70105036 Page 2

Date	Time	Duration	Phone Call to:
07/15/93	10:23 AM	7:06 min.	(202) 456-2144 from (501) 375-9131
07/15/93	10:49 AM	0:54 min.	(202) 456-6635 from (501) 375-9131
07/15/93	**2:03 PM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**
07/15/93	3:31 PM	0:30 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/15/93	**4:44 PM**	**3:24 min.**	**(202) 456-6611 from (501) 375-9131**
07/15/93	5:00 PM	19:24 min.	(202) 456-2144 from (501) 375-9131
07/16/93	7:25 AM	1:30 min.	(202) 456-2144 from (501) 375-9131
07/16/93	**10:46 AM**	**5:00 min.**	**(202) 456-6611 from (501) 375-9131**
07/16/93	2:17 PM	0:48 min.	(202) 456-2144 from (501) 375-9131
07/19/93	**9:33 AM**	**0:48 min.**	**(202) 456-6611 from (501) 375-9131**
07/19/93	**9:39 AM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**
07/19/93	9:40 AM	1:30 min.	(202) 456-6279 from (501) 375-4427
07/19/93	11:17 AM	1:24 min.	(202) 456-6635 from (501) 375-4427
07/19/93	11:21 AM	2:00 min.	(202) 456-6279 from (501) 375-4427
07/19/93	1:05 PM	5:42 min.	(202) 456-2144 from (501) 375-9131
07/21/93	8:19 AM	1:00 min.	(202) 456-1121 from (501) 375-4427
07/20/93	9:46 AM	2:00 min.	(202) 456-6635 from (501) 375-9131
07/20/93	**9:54 AM**	**0:30 min.**	**(202) 456-6611 from (501) 375-9131**

FOIA #56806 (URTS 16304) DocId: 70105036 Page 3

Date	Time	Duration	Phone Call to:
07/20/93	**10:45 AM**	**3:54 min.**	**(202) 456-6611 from (501) 375-9131**
07/20/93	**11:27 AM**	**0:36 min.**	**(202) 456-6611 from (501) 375-9131**
07/20/93	4:06 PM	3:24 min.	(202) 456-2720 from (501) 375-9131
07/21/93	8:21 AM	2:18 min.	(202) 456-1121 from (501) 375-4427
07/21/93	9:43 AM	4:54 min.	(202) 456-2328 from (501) 375-9131
07/21/93	9:44 AM	1:00 min.	(202) 456-6635 from (501) 375-9131
07/21/93	**9:47 AM**	**1:18 min.**	**(202) 456-6611 from (501) 375-9131**
07/21/93	9:51 AM	2:42 min.	(202) 456-6703 from (501) 375-8421
07/21/93	10:09 AM	5:12 min.	(202) 456-2668 from (501) 375-9131
07/21/93	10:20 AM	5:12 min.	(202) 456-2668 from (501) 375-9131
07/21/93	12:39 PM	0:54 min.	(202) 456-2144 from (501) 375-9131
07/21/93	2:15 PM	0:30 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/21/93	3:07 PM	8:30 min.	(202) 456-2328 from (501) 375-9131
07/21/93	3:31 PM	0:36 min.	(202) 456-2328 from (501) 375-9131
07/21/93	4:35 PM	0:30 min.	(202) 456-6634 from (501) 375-9131
07/22/93	10:07 AM	2:18 min.	(202) 456-2668 from (501) 375-9131
07/22/93	10:28 AM	14:12 min.	(202) 456-2144 from (501) 375-9131
07/22/93	10:44 AM	5:54 min.	(202) 456-2328 from (501) 375-9131

FOIA #56806 (URTS 16304) DocId: 70105036 Page 4

Date	Time	Duration	Phone Call to:
07/22/93	12:21 PM	19:36 min.	(202) 456-6634 from (501) 375-9131
07/22/93	1:12 PM	3:48 min.	(202) 456-2957 from (501) 375-9131
07/26/93	2:34 PM	1:12 min.	(202) 456-2146 from (501) 375-4427
07/26/93	3:37 PM	7:48 min.	(202) 456-2144 from (501) 375-9131
07/26/93	5:29 PM	1:18 min.	(202) 456-1655 from (501) 375-4427
07/26/93	6:09 PM	1:00 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/27/93	2:25 PM	0:54 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/27/93	3:13 PM	0:30 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/27/93	**5:28 PM**	**1:00 min.**	**(202) 456-6611 from (501) 375-9131**
07/28/93	9:53 AM	0:30 min.	(202) 456-6229 **(Kennedy and Nolan's line)** from (501) 375-9131
07/28/93	3:24 PM	10:18 min.	(202) 456-2144 from (501) 375-9131
07/28/93	3:53 PM	0:30 min.	(202) 456-6635 from (501) 375-9131
07/28/93	4:09 PM	0:30 min.	(202) 456-6635 from (501) 375-9131
07/28/93	5:17 PM	0:30 min.	(202) 456-6635 from (501) 375-9131
07/29/93	12:59 PM	2:06 min.	(202) 456-6635 from (501) 375-9131
07/29/93	3:04 PM	12:24 min.	(202) 456-2929 from (501) 375-9131

Date	Time	Duration	Phone Call to:
07/29/93	3:18 PM	2:00 min.	(202) 456-1414 **(President Clinton's Office number)** from (501) 375-9131
07/29/93	4:04 PM	0:30 min.	(202) 456-2144 from (501) 375-9131
07/30/93	1:56 PM	3:42 min.	(202) 456-6635 from (501) 375-9131
07/30/93	2:05 PM	0:54 min.	(202) 456-2144 from (501) 375-9131

FOIA #56806 (URTS 16304) DocId: 70105036 Page 6

THE ROBERTS LAW FIRM, P.A., Little Rock—Continued

of Pulaski County, 1991-1992. Special Judge, Sixth Division Circuit Court, 1992. *Member:* Pulaski County and Arkansas (Member, Workers Compensation Section, 1990-1992) Bar Associations.

ROBINSON, STALEY & MARSHALL

A PROFESSIONAL ASSOCIATION
28TH FLOOR, FIRST COMMERCIAL BUILDING
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General Civil and Trial Practice. Corporate, Commercial, Insurance, Banking, Savings and Loan, Bankruptcy, Antitrust, Real Estate, Workers Compensation, Taxation, Estate Planning, Probate, Hospital and Health Care, Labor and Employment and Transportation Law. Practices before all State and Federal Courts and Agencies.

ROBERT LAFAYETTE ROBINSON, JR., born Newport, Arkansas, July 12, 1942; admitted to bar, 1967, Arkansas. *Education:* Hendrix College (B.A., 1964); Vanderbilt University (LL.B., 1967). Phi Alpha Delta; Blue Key. *Member:* Pulaski County, Arkansas and American (Member, Litigation Section) Bar Associations; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America; Defense Research Institute. [1st Lt., JAGC, Arkansas Army National Guard, 1967-1974]. ***CONCENTRATION:*** Civil Trial Practice.

THOMAS B. STALEY, born Fort Worth, Texas, December 15, 1949; admitted to bar, 1975, Arkansas. *Education:* University of Arkansas (B.A., with honors, 1972; J.D., with honors, 1975). Phi Beta Kappa. Associate Editor, Arkansas Law Review, 1973-1975. *Member:* Pulaski County, Arkansas (Member, House of Delegates, 1982-1986; Chairman, Anti-Trust and Trade Regulation Law Section, 1988—) and American (Member, Antitrust Law Section) Bar Associations; Transportation Lawyers Association; The Association of Trial Lawyers of America. ***CONCENTRATION:*** Antitrust Law; Commercial Litigation; Transportation Law.

WILLIAM T. MARSHALL, born Dallas, Texas, May 13, 1950; admitted to bar, 1981, Arkansas. *Education:* University of Arkansas (B.S., with honors, 1973; M.B.A., with honors, 1975; J.D., with honors, 1981). Beta Gamma Sigma; Omicron Delta Kappa. Staff, University of Arkansas Law Journal, 1980-1981. Certified Public Accountant, Arkansas, 1979. Member, Hospital Affiliates International Inc., 1975-1979. *Member:* Arkansas (Member, Sections on: Taxation Law; Health Law) and American (Member, Section on Corporation, Banking and Business Law; Forum on Health Law) Bar Associations; American Institute of Certified Public Accountants; American Association of Attorney-Certified Public Accountants; American Society of Hospital Attorneys; National Health Lawyers Association. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Corporate Law; Banking Law; Health Care Law; Taxation Law; Real Property Law.

SCOTTY MCPHEETERS SHIVELY, born Memphis, Tennessee; admitted to bar, 1981, Arkansas. *Education:* Southeast Missouri State College (B.S., with honors, 1977); University of Arkansas at Little Rock (J.D., with high honors, 1980). Phi Alpha Delta. Associate Editor, University of Arkansas at Little Rock Law Journal, 1979-1980. Member, Federal Practice Committee for the Eastern District of Arkansas. *Member:* Pulaski County (Member, Board of Directors, 1991), Arkansas (Chairman, Labor Law Section, 1990; Member, Health Law Section) and American (Member, Employment and Labor Relations Law Section; Member, Health Law Section) Bar Associations; National Health Lawyer Association. Fellow, Arkansas Bar Foundation. ***CONCENTRATION:*** Labor and Employment Law; Health Care Law; Commercial Litigation.

WM. DAVID DUKE, born Texarkana, Arkansas, August 10, 1954; admitted to bar, 1979, Arkansas. *Education:* University of Central Arkansas (B.S., 1976); University of Arkansas (J.D., 1979). Phi Delta Phi. Research Editor, Arkansas Law Review, 1978-1979. *Member:* Pulaski County, Arkansas and American (Member, Litigation Section) Bar Association; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America. ***CONCENTRATION:*** Commercial Law; Bankruptcy Law; Litigation.

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PATRICIA STANLEY LUPPEN, born Little Rock, Arkansas, February 8, 1952; admitted to bar, 1981, Arkansas. *Education:* Memphis State University (B.S., 1973); University of Arkansas at Little Rock (J.D., with honors, 1981). Phi Kappa Phi; Kappa Delta Pi. Executive Editor, UALR Law Journal, 1981; Survey-Labor Law, 4 UALR Law Journal 221, 1981. *Member:* Pulaski County, Arkansas (Member, Labor Law Section) and American (Member, Employment and Labor Relations Law Section) Bar Associations. ***CONCENTRATION:*** Labor Law; Employment Law.

LOUIS W. LIGHT, born Little Rock, Arkansas, February 2, 1958; admitted to bar, 1989, Arkansass. *Education:* University of Arkansas at Fayetteville (B.A., 1980); George Mason University School of Law (J.D., 1989). Legislative Aide, U.S. Senator David H. Pryor, Washington, D.C. 1980-1989. Judicial Clerk, Honorable J. Smith Henley, Senior Circuit Judge for the Eighth Circuit Court of Appeals. *Member:* Pulaski County (Member, Workers' Compensation Law Section, 1989-1990) Arkansas and American Bar Associations. ***CONCENTRATION:*** Workers Compensation Law; Litigation.

REPRESENTATIVE CLIENTS: *Financial:* First Commercial Bank, N.A.; Union National Bank of Arkansas, Little Rock; First Exchange Bank; One Bank; Stephen Enterprises, Inc.; Powell & Satterfield. *Real Estate:* McKinney & Company Realtors, d/b/a Coldwell Bankers; Coldwell Banker Residential Affiliates. *Insurance:* American General Cos.; Alexsis; Connecticut National Life; American Western Life; Fireman's Fund Ins. Cos. *Retail:* Wal-Mart Stores, Inc.; International Multifoods; Dolgencorp, Inc.; Unisys Corporation; Overhead Door Company. *Transportation:* Harold Ives Trucking Co.; Emerson Transportation; Wells Fargo Armored Service Corp.; *Manufacturer:* Ford New Holland, Inc.; Robertson-Ceco Corp. *Industrial:* A.K. Industrial Contractors, Inc.; Duncan Industries Parking Control Systems; Kaiser Aluminum; Riceland Foods, Inc.; Environmental Equipment & Supplies, Inc.; Ladish Co., Inc. *Hospital and Healthcare:* Southwest Hospital in Little Rock; Vesta Health Systems, Inc.; Pine Bluff Nursing Home; Stone County Medical Center; Harris Hospital; North Arkansas Life Care Center; Randolph County Medical Center; Crawford Memorial Hospital; White River Medical Center; Wadley Regional Medical Center; Health Management Associates, Inc.

ROSE LAW FIRM

1993

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REVISERS OF THE ARKANSAS LAW DIGEST FOR THIS DIRECTORY

General Practice. Trials. Antitrust, Banking, Bankruptcy, Corporation, Employment Discrimination, Environmental, Insurance, Labor, Municipal Bond, Public Utility, Securities and Taxation Law.

FIRM PROFILE: Rose Law Firm, a Professional Association, traces its origin from the partnership formed November 1, 1820, before Arkansas statehood by Chester Ashley (1791-1848), later a U.S. Senator, and Robert Crittenden (1797-1834), Arkansas' first Territorial Secretary. "Rose" first appeared in the firm's name in 1865 when U.M. Rose (1834-1913) joined George C. Watkins (1815-1872), an early Chief Justice of the Arkansas Supreme Court and previous partner of Ashley. Rose was a founder of the American Bar Association and was elected its president in 1900. Today, the firm provides a broad range of legal services to its individual and corporate clients engaged nationally and internationally in a variety of industries; including consumer products, retailing, forestry, transportation, computer services, insurance, investment banking, poultry and other food products, and financial services. Members of the firm are active in professional organizations and are frequent lecturers in continuing legal education programs. Six of the firm's former members served on the Arkansas Supreme Court, three as Chief Justice. Six members, two of whom are now active in the firm, have served as President of the Arkansas Bar Association. Present members of the firm have also served as Arkansas Supreme Court Chief Justice, United States Bankruptcy Judge, Presidentof the National Conference of Commissioners on Uniform State Laws, Chair of the Board of the National Legal Services Corporation, Mayor of Little Rock, President of the Little Rock School Board, Delegate to the Arkansas Constitutional Convention of 1970, Arkansas State Representative, and are active in numerous civic and public agencies.

PHILLIP CARROLL, born Fort Smith, Arkansas, August 1, 1925; admitted to bar, 1950, Arkansas. *Education:* public schools, Fort Smith; University of Arkansas (LL.B., 1950). Delta Theta Phi. National Conference of Commissioners on Uniform State Laws (Arkansas Commissioner, 1970; Chairman, Executive Committee, 1983-1985; President, 1985-1987). *Member:* Pulaski County (President, 1967-1968; Recipient, Outstanding Lawyer Award, 1981), Arkansas (Secretary, 1959-1961; President, 1980-1981; R

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cipient, Outstanding Lawyer Award, 1989) and American Bar Associations; Overton Inn of Court (President, 1989-1991). Fellow: American College of Trial Lawyers (State Chairman, 1990—); American Bar Foundation (Member, Arkansas Supreme Court Committee on Jury Instructions - Civil, 1964—). [Captain, U.S. Army, 1943-1945; 1950-1952]. ***CONCENTRATION:*** Civil Litigation; Products Liability Law; Communications Law.

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HERBERT C. RULE, III, born Little Rock, Arkansas, November 21, 1937; admitted to bar, 1964, Arkansas. *Education:* Yale University (B.A., 1959); University of Arkansas (LL.B., 1964). Member, Arkansas House of Representatives, 1967-1970. Editor, Arkansas Law Review, 1964. Member, Little Rock School Board, 1978-1983. *Member:* Pulaski County, Arkansas and American Bar Associations. [Lt., U.S.M.C., 1959-1961]. ***CONCENTRATION:*** Commercial Litigation; Public Utility Law; Environmental Law.

VINCENT FOSTER, JR., born Hope, Arkansas, January 15, 1945; admitted to bar, 1971, Arkansas. *Education:* Davidson College (A.B., 1967); Vanderbilt University and University of Arkansas (J.D., with high honors, 1971). Omicron Delta Kappa. Managing Editor, Arkansas Law Review, 1970. Recipient, Outstanding Lawyer Award, Pulaski County Bar Association, 1990. *Member:* Pulaski County (President, 1981-1982), Arkansas (Member, House of Delegates, 1973-1976; 1990—; Chairman, Executive Council, 1987-1988) and American Bar Associations; Overton Inn of Court; American Board of Trial Advocates (Associate). Fellow, American College of Trial Lawyers. ***CONCENTRATION:*** Commercial Litigation; Securities Litigation; Professional Liability Litigation.

W. WILSON JONES, born Little Rock, Arkansas, November 19, 1945; admitted to bar, 1971, Arkansas. *Education:* Tulane University and University of Arkansas (B.S.B.A., with honors, 1967); Southern Methodist University (J.D. cum laude, 1970). Order of the Coif; Phi Delta Phi. Member, Barristers. Associate Editor, Southwestern Law Journal, 1969-1970. *Member:* Pulaski County, Arkansas and American Bar Associations. Fellow, American College of Trust and Estate Counsel. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Taxation Law; Corporate Law; Estate Planning and Probate Law.

WEBSTER L. HUBBELL, born Little Rock, Arkansas, January 18, 1948; admitted to bar, 1973, Arkansas. *Education:* University of Arkansas (B.S.E.E., 1970; J.D., with Honors, 1973). Managing Editor, Arkansas Law Review, 1973. Chief Justice, Arkansas Supreme Court, 1984. Member, Board of Directors, 1978-1984 and Mayor, 1979-1981, City of Little Rock. *Member:* Pulaski County, Arkansas (Member: Executive Council, 1978-1981; House of Delegates, 1976-1978) and American Bar Associations. ***CONCENTRATION:*** Commercial Law; Securities Law; Professional Liability Litigation.

ALLEN W. BIRD, II, born Crossett, Arkansas, March 21, 1943; admitted to bar, 1968, Arkansas; 1970, U.S. Supreme Court; 1972, U.S. Court of Military Appeals. *Education:* Florida State University (B.A., 1965); University of Arkansas (J.D., 1968); New York University (LL.M., 1975). *Member:* Pulaski County, Arkansas (Chairman, Creditor's Rights Committee, 1978-1980; Member, House of Delegates, 1979-1982) and American Bar Associations. Fellow, American Bankruptcy College. [LCDR, USNR, active duty, 1968-1974]. ***CONCENTRATION:*** Commercial Litigation; Bankruptcy Law; Banking Law.

WILLIAM E. BISHOP, born Cincinnati, Ohio, September 18, 1948; admitted to bar, 1973, Tennessee; 1976, Arkansas. *Education:* University of Arkansas (B.S.P.A., 1970); Vanderbilt University (J.D., 1973); New York University (LL.M., in Taxation, 1974). *Member:* Pulaski County, Arkansas, Tennessee and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Taxation Law; Corporate Law; Employee Benefits Law.

(This Listing Continued)

HILLARY RODHAM CLINTON, born Chicago, Illinois, October 26, 1947; admitted to bar, 1973, Arkansas. *Education:* Wellesley College (B.A., 1969); Yale University (J.D., 1973). Assistant Professor of Law: University of Arkansas School of Law, Fayetteville, Arkansas, 1974-1976; University of Arkansas School of Law, Little Rock, Arkansas, 1979-1980. Counsel, Impeachment Inquiry Staff, House Judiciary Committee, 1974. Member, Board of Directors and Chair, 1978-1981, Legal Services Corporation. Chair, Board of Directors, Childrens Defense Fund, 1986—. *Member:* Pulaski County, Arkansas and American (Chair, Commission on Women in the Profession, 1987-1991) Bar Associations; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America. Fellow, American Bar Foundation. ***CONCENTRATION:*** Commercial Litigation; Intellectual Property Law.

C. BRANTLY BUCK, born Little Rock, Arkansas, July 7, 1950; admitted to bar, 1976, Arkansas. *Education:* Davidson College (A.B., 1972); University of Arkansas (J.D., with high honors, 1976). Managing Editor, Arkansas Law Review, 1976. Member, Editorial Board, Arkansas Probate Law Handbook, 1991—. *Member:* Pulaski County, Arkansas and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Taxation Law; Corporate Law; Estate Planning and Probate Law.

TIM BOE, born New Orleans, Louisiana, October 30, 1948; admitted to bar, 1974, Arkansas; 1977, Tennessee. *Education:* University of Arkansas (B.A., 1970; J.D., 1973); Southern Methodist University (LL.M., Labor Law, 1976). Omicron Delta Kappa. Author: "Handling the Title VII Case: Practical Tips for the Employer," Copyright 1979, published by Management Labor Relations, Inc., 1980. Contributor, "Employment Discrimination Law," 2 ed., Supp., 1983—. City Attorney, Pine Bluff, Arkansas, 1974-1975. Secretary, 1982-1985 and Chairman, 1985-1989, Arkansas Supreme Court Board of Legal Specialization. *Member:* Pulaski County, Arkansas (Secretary, 1978-1979 and Chairman, 1980-1981, Labor Law Section; Member, House of Delegates, 1979-1982; Recipient, Golden Gavel Award, 1982; Chairman, Specialization and Advertising Committee, 1980-1988), Tennessee (Member, Labor Law Section) and American (Member, Committee on Equal Employment Law, Labor Law Section, 1974—) Bar Associations; Arkansas Trial Lawyers Association; Arkansas Association of Defense Counsel; Defense Research and Trial Lawyers Association (Member, Committee on Employment Law, 1982—); The Association of Trial Lawyers of America. [Lt. U. S. Army, 1972-1973]. ***CONCENTRATION:*** Labor Law; Employment Discrimination Law.

M. JANE DICKEY, born Pine Bluff, Arkansas, June 26, 1948; admitted to bar, 1977, Arkansas and Oklahoma. *Education:* Centenary College of Louisiana and University of Arkansas (B.S.E., 1971); University of Oklahoma (J.D., 1977). Order of the Coif; Phi Delta Phi. Article and Book Review Editor, Oklahoma Law Review, 1976. Chairman, Bond Attorneys' Workshop, 1990. *Member:* Pulaski County, Arkansas, Oklahoma and American Bar Associations; National Association of Bond Lawyers (Member, Board of Directors, 1989—; Secretary, 1990-1991; President-Elect, 1991-1992). ***CONCENTRATION:*** Public Finance Law.

WILLIAM H. KENNEDY, III, born Pine Bluff, Arkansas, March 29, 1951; admitted to bar, 1976, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1973); University of Virginia (J.D., 1976). Counsel, U.S. Senate Committee on Appropriations, 1977. Chief Legislative Assistant, U.S. Senator Kaneaster Hodges, Jr., 1978. *Member:* Pulaski County, Arkansas and American Bar Associations. ***CONCENTRATION:*** Corporate Financing Law; Securities Regulation Law; Banking Law.

KENNETH ROBERT SHEMIN, born Little Rock, Arkansas, July 3, 1952; admitted to bar, 1978, Arkansas. *Education:* Tulane University of Louisiana and Memphis State University (B.S., magna cum laude, 1974); Memphis State University (J.D., 1978). Omicron Delta Kappa; Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America. ***CONCENTRATION:*** Commercial Law; Securities Litigation; Sports Law.

RONALD M. CLARK, born Little Rock, Arkansas, October 29, 1954; admitted to bar, 1980, Arkansas. *Education:* University of Arkansas (B.S.B.A., with high honors, 1977; J.D., with honors, 1980). Phi Delta Phi. Associate Editor, Arkansas Law Review, 1979-1980. Certified Public Accountant, Arkansas, 1980. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accoun-

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ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION, Little Rock—Continued

tants; American Institute of Certified Public Accountants. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Taxation Law; Corporate Law; Estate Planning Law; Probate Law.

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CHARLES W. BAKER, born Boonville, Missouri, November 29, 1940; admitted to bar, 1965, Missouri; 1968, Arkansas. *Education:* University of Missouri (B.A., 1962; J.D., 1965). U.S. Bankruptcy Judge, Eastern and Western Districts of Arkansas, 1973-1984. *Member:* Pulaski County, Arkansas and American Bar Associations; National Conference of Bankruptcy Judges; American Bankruptcy Institute. ***CONCENTRATION:*** Commercial Litigation; Bankruptcy Law; Public Utility Law.

DAVID L. WILLIAMS, born Warren, Arkansas, October 12, 1952; admitted to bar, 1978, Arkansas; 1980, District of Columbia. *Education:* University of Arkansas (B.A., with high honors, 1974); Georgetown University Law Center (J.D., 1978). Co-authored with Charles R. Work and Lawrence I. Richman, "Toward a Fairer System of Justice: The Impact of Technology on Prosecutorial Discretion," 12 Criminal Law Bulletin 289, 1976. Assistant Arkansas Attorney General, 1978-1981. Deputy Arkansas Attorney General, 1982-1983. *Member:* Pulaski County, Arkansas (Member, House of Delegates, 1985-1988) and American Bar Associations. ***CONCENTRATION:*** Tort; Products Liability Law; Commercial Litigation.

JACKSON FARROW JR., born Greenville, South Carolina, November 25, 1952; admitted to bar, 1981, Arkansas. *Education:* Davidson College (B.A., 1975); University of Arkansas (M.S., in Accounting, 1980; J.D., with high honors, 1981). Phi Alpha Delta. Editor-in-Chief, Arkansas Law Review, 1980-1981. Certified Public Accountant, Arkansas, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accountants; American Institute of Certified Public Accountants. [Capt., U.S. Army Reserve, active duty, 1976-1978]. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Taxation Law; Corporate Law; Estate Planning and Probate Law.

LES R. BALEDGE, born Harrison, Arkansas, June 29, 1957; admitted to bar, 1982, Arkansas. *Education:* North Arkansas Community College (A.S., 1977); Westminster College (B.A., 1979); University of Arkansas at Fayettville (J.D., 1981). Editorial Board, Arkansas Law Review, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; National Association of Bond Lawyers. ***CONCENTRATION:*** Public Finance Law; Securities Regulation Law; Corporate Law.

JAMES HUNTER BIRCH, born Malvern, Arkansas, August 30, 1957; admitted to bar, 1982, Arkansas. *Education:* University of Arkansas at Fayetteville (B.A., 1979; J.D., with high honors, 1982). *Member:* Pulaski County, Arkansas and American Bar Associations. ***CONCENTRATION:*** Commercial Litigation; Labor Law; Employment and Discrimination Law.

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RICHARD N. MASSEY, born Fort Smith, Arkansas, March 16, 1956; admitted to bar, 1984, Arkansas. *Education:* Baylor University; University of Central Arkansas (B.A., with honors, 1981); University of Arkansas (J.D., with high honors, 1984). *Member:* Pulaski County, Arkansas and American Bar Associations. ***LANGUAGES:*** German. ***CONCENTRATION:*** Corporate Law; Securities Regulation Law; Business Law.

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JOHN T. HARDIN, born Stuttgart, Germany, July 6, 1950; admitted to bar, 1980, Oklahoma; 1989, Arkansas. *Education:* Purdue University (B.S., 1972); University of Arkansas (J.D., with high honors, 1980). Articles Editor, 1978-1979 and Editor-in-Chief, 1979-1980, Arkansas Law Review. Author: "Conversion of a Non-Exempt Property to Exempt On the Eve of Bankruptcy in Arkansas," 10 UALR L.J. 719, 1988. Co-Author: "Farm Products Financing Filing Service," Warren, Gorham & Lamont, Inc., 1990. Adjunct Professor, Business Law, University of Arkansas at Little Rock. *Member:* Pulaski County, Arkansas, Oklahoma and American Bar Associations. [Lt., U.S. Navy, active duty, 1972-1977]. ***CONCENTRATION:*** Corporate Law; Creditors Rights Law; Business Law.

STEPHEN N. JOINER, born Lepanto, Arkansas, October 5, 1957; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas (B.S.M.E., 1980; J.D., with high honors, 1986). Member, Editorial Board, University of Arkansas at Little Rock Law Journal, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations. ***CONCENTRATION:*** Public Utility and Energy Law; Commercial Transactions; Bankruptcy.

JAMES M. GARY, born Jonesboro, Arkansas, June 27, 1954; admitted to bar, 1980, Arkansas. *Education:* Ouachita Baptist University (B.A., 1977); University of Arkansas (J.D., 1980). Phi Alpha Delta; Blue Key. *Member:* Pulaski County, Arkansas (Member, House of Delegates, 1989-1990; Labor Law Section; Workers Compensation Section; Federal Legislation and Procedures Committee, 1987—; Uniform Laws Committee, 1987—) and American (Member, Labor and Employment Law Section) Bar Associations. ***CONCENTRATION:*** Labor Law; Employment Discrimination Law; Workers Compensation Law.

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J. GASTON WILLIAMSON, born Monticello, Arkansas, January 22, 1914; admitted to bar, 1935, Arkansas; 1946, New York. *Education:* public schools, Monticello; University of Arkansas (B.A., 1934); University of Arkansas and University of Oxford, England (B.A., Juris., 1937; B. Litt. Juris., 1938). *Member:* Pulaski County, Arkansas (President, 1968-1969) and American Bar Associations; American College of Trust and Estate Counsel. [Lt. Col., U.S. Army, 1941-1946]. ***CONCENTRATION:*** Taxation Law; Corporate Law; Estate Planning Law; Probate Law.

SARAH HOOD TEED, born Lewisville, Arkansas, December 15, 1960; admitted to bar, 1986, Arkansas. *Education:* Louisiana State University (B.S., 1983); University of Arkansas at Little Rock (J.D., 1986); University of Florida (LL.M., Taxation, 1988). Member, Editorial Board, University of Arkansas at Little Rock Law Journal, 1984-1985. *Member:* Pulaski County, Arkansas and American Bar Associations.

JAMES H. DRUFF, born Uitgeest, The Netherlands, September 24, 1950; admitted to bar, 1987, Arkansas. *Education:* Randolph Macon College; College of William and Mary (B.A., with high honors, 1971); University of California at Berkeley (Ph.D., 1979); Boalt Hall School of Law, University of California (J.D., 1986). Phi Beta Kappa. Associate Editor, California Law Review, 1985-1986. Law Clerk, U.S. District Chief Judge G. Thomas Eisele, Eastern District of Arkansas, 1986-1987. *Member:* Pulaski County, Arkansas and American Bar Associations. ***LANGUAGES:*** Dutch.

GORDON M. WILBOURN, born Conway, Arkansas, February 14, 1961; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas

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(B.S.B.A., 1983; J.D., 1987); Southern Methodist University (M.B.A., 1984). Phi Alpha Delta. Certified Public Accountant, Arkansas, 1986. *Member:* Pulaski County, Arkansas and American Bar Associations; National Association of Bond Lawyers.

JESS ASKEW, III, born Little Rock, Arkansas, December 1, 1959; admitted to bar, 1986, Arkansas. *Education:* Harvard University (A.B., cum laude, 1982); Hastings College of the Law, University of California (J.D., magna cum laude, 1986). Order of the Coif. Member, Thurston Society, Member, 1985 and Senior Review Editor, 1986, Hastings Constitutional Law Quarterly. Law Clerk, U.S. Circuit Judge Richard S. Arnold, U.S. Court of Appeals for the Eighth Circuit, 1986-1988. *Member:* Pulaski County, Arkansas and American Bar Associations.

AMY LEE STEWART, born Miami, Florida, September 22, 1959; admitted to bar, 1987, Georgia and Massachusetts; 1988, Arkansas. *Education:* Wellesley College (B.A., with honors, 1981); New York University (J.D., 1986). Law Clerk, U.S. District Chief Judge G. Thomas Eisele, Eastern District of Arkansas, 1986-1988. *Member:* Pulaski County, Arkansas, Massachusetts and American Bar Associations.

DAVID A. SMITH, born Lake Village, Arkansas, August 2, 1958; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas at Fayetteville (B.S.B.A., 1980); University of Arkansas at Little Rock (J.D., 1987); New York University (LL.M. in Taxation, 1988). Survey/Comments Editor, University of Arkansas at Little Rock Law Journal, 1986. Certified Public Accountant, Arkansas, 1983. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Society of Certified Public Accountants; American Institute of Certified Public Accountants.

T. CRAIG JONES, born Abilene, Texas, August 9, 1962; admitted to bar, 1988, Arkansas. *Education:* Howard Payne University (B.S., 1984; B.G.S., 1985); University of Arkansas (J.D., with honors, 1988). Phi Alpha Delta. Managing Editor, Arkansas Law Review, 1987-1988. *Member:* Pulaski County, Arkansas and American Bar Associations.

J. SCOTT SCHALLHORN, born Stuttgart, Arkansas, September 12, 1963; admitted to bar, 1988, Arkansas. *Education:* Hendrix College (B.A., 1985); University of Arkansas at Little Rock (J.D., 1988). *Member:* Pulaski County, Arkansas and American Bar Associations.

BRIAN ROSENTHAL, born Carthage, Missouri, September 25, 1961; admitted to bar, 1987, Texas; 1989, Arkansas. *Education:* University of Arkansas (B.S.B.A., with high honors, 1984); University of Missouri (J.D., cum laude, 1987). Beta Gamma Sigma; Beta Alpha Psi; Phi Kappa Phi. Member: Order of the Coif; Order of the Barristers. Journal Editor, 1986-1987, Missouri Law Review. Certified Public Accountant, Missouri, 1984. *Member:* Pulaski County, Arkansas and American Bar Associations; State Bar of Texas.

STEVEN D. DURAND, born Alexandria, Louisiana, November 3, 1964; admitted to bar, 1989, Arkansas. *Education:* Henderson State University (B.S.B.A., with high honors, 1986); University of Arkansas (J.D., with high honors, 1989). Gamma Beta Phi; Alpha Chi; Phi Alpha Delta. Member, Editorial Board, Arkansas Law Review, 1988-1989. *Member:* Pulaski County, Arkansas and American Bar Associations.

JEFFREY J. GEARHART, born Fayetteville, Arkansas, September 23, 1964; admitted to bar, 1989, Arkansas. *Education:* University of Arkansas (B.S.B.A., 1986; J.D., with high honors, 1989). Beta Alpha Psi; Phi Alpha Delta. Member, Editorial Board, 1988, and Student Writings Editor, 1989, Arkansas Law Review. *Member:* Pulaski County, Arkansas and American Bar Associations.

JAMES L. HARRIS, born Harrison, Arkansas, July 17, 1962; admitted to bar, 1990, Arkansas. *Education:* University of Arkansas (B.S.B.A., high honors, 1985; J.D., high honors, 1988); University of Florida (LL.M., Taxation, honors, 1989). Beta Alpha Psi; Phi Delta Theta. Recipient, Craig Stern Award for Outstanding Achievement in Taxation and Estate Planning. James J. Freeland Tax Scholar. Member, Editorial Board, Arkansas Law Review, 1988. Certified Public Accountant, Arkansas, 1985. *Member:* Pulaski County, Arkansas and American Bar Associations; American Institute of Certified Public Accountants; Arkansas State Society of Certified Public Accountants.

MARK ALAN PEOPLES, born Chisledon, England, August 22, 1958; admitted to bar, 1990, Arkansas. *Education:* University of Arkansas at Little Rock (B.B.A., magna cum laude, 1986; J.D., with honors, 1989). Associate Editor, University of Arkansas at Little Rock Law Journal, 1989. *Member:* Pulaski County, Arkansas (Member, Section on Labor and Employment Law) and American (Member, Labor Law Section, Committee on Equal Employment Opportunity, 1990—; Litigation Section, Committee on Federal Procedure, 1990—) Bar Associations.

(This Listing Continued)

PATRICIA J. HERITAGE, born Kansas City, Missouri, August 2, 1958; admitted to bar, 1990, Arkansas. *Education:* Northeast Missouri State University (B.S., summa cum laude, 1978); University of Arkansas at Little Rock (J.D., with honors, 1989). Assistant Case Notes Editor, 1988 and Managing Editor, 1989, University of Arkansas at Little Rock Law Journal. *Member:* Pulaski County, Arkansas and American (Member, Labor Law Section, Committee on State Labor Law Developments) Bar Associations.

SAMMIE P. STRANGE, JR., born Little Rock, Arkansas, February 21, 1963; admitted to bar, 1990, Arkansas. *Education:* Ouachita Baptist University; University of Arkansas at Little Rock (B.S., 1985; J.D., with honors, 1989). Member, 1988-1990 and Assistant Notes and Articles Editor, 1989, University of Arkansas at Little Rock Law Journal. *Member:* Pulaski County, Arkansas and American Bar Associations.

CLAY H. DAVIS, born Hope, Arkansas, May 15, 1964; admitted to bar, 1990, Arkansas. *Education:* Hendrix College (B.A., 1986); University of Arkansas (J.D., 1989); University of Florida (LL.M., Taxation, 1990). *Member:* Pulaski County, Arkansas and American Bar Associations.

JOHN ADDISON BRYANT, born Pine Bluff, Arkansas, February 26, 1959; admitted to bar, 1990, Arkansas. *Education:* University of Arkansas (B.S.B.A., 1981; J.D., with honors, 1990). *Member:* Pulaski County, Arkansas and American Bar Associations.

FRANKLIN M. FAUST, born Coral Gables, Florida, September 5, 1965; admitted to bar, 1990, Arkansas. *Education:* University of Arkansas (B.S.B.A., 1987; J.D., with honors, 1990). Member, Editorial Board, Arkansas Law Review, 1989-1990. *Member:* Pulaski County, Arkansas and American Bar Associations.

ROBERT CRAIG HANNAH, born Harrison, Arkansas, September 25, 1964; admitted to bar, 1990, Arkansas. *Education:* University of Arkansas (B.A., 1986; J.D., with honors, 1990). Phi Alpha Delta. Member, Golden Key Honor Society. Member, Editorial Board, Arkansas Law Review, 1989-1990. *Member:* Pulaski County, Arkansas and American Bar Associations.

BRYANT K. CRANFORD, born Memphis, Tennessee, August 25, 1964; admitted to bar, 1991, Arkansas. *Education:* University of Arkansas (B.S.A., with honors, 1986; J.D., with honors, 1990); University of Florida (LL.M., Taxation, 1991). Research Editor, University of Arkansas Law Review, 1990. Certified Public Accountant, Arkansas, 1987. *Member:* Pulaski County, Arkansas and American Bar Associations.

LISA C. FERRELL, born North Little Rock, Arkansas, July 16, 1963; admitted to bar, 1990, Arkansas. *Education:* Smith College (B.A., 1985); Institut Universitaire De Hautes Etudes Internationales, Switzerland; Harvard Law School (J.D., 1990). Rotary International Scholar. Deputy Prosecuting Attorney, Pulaski County, 1990-1991. *Member:* Pulaski County, Arkansas and American Bar Associations. ***LANGUAGES:*** French.

STEPHEN E. SNIDER, born Camden, Arkansas, November 21, 1963; admitted to bar, 1991, Arkansas. *Education:* Ouachita Baptist University (B.A., 1986); University of Arkansas (M.B.A., 1989; J.D., with honors, 1991). Member, University of Arkansas Law Review, 1990-1991. *Member:* Pulaski County, Arkansas and American Bar Associations.

GERALD J. CROCHET, born Houma, Louisiana, October 8, 1963; admitted to bar, 1992, Arkansas. *Education:* University of Southwestern Louisiana (B.S.B.A., cum laude, 1987); University of Arkansas at Little Rock (J.D., 1991). *Member:* Pulaski, Arkansas and American Bar Associations.

Member: State Capital Law Firm Group; Lex Mundi.

REPRESENTATIVE CLIENTS: Acxiom Corporation; Aluminum Company of America; Arkansas Association of Bank Holding Companies; Arkansas Freightways Corp.; Arkansas Poulty Federation; Arkansas-Oklahoma Gas Corp.; Beverly Enterprises; Bridgestone/Firestone, Inc.; Cannon Express, Inc.; The Equitable Life Assurance Society of The United States; Fairfield Communities, Inc.; Federal Deposit Insurance Corp.; General American Transportation Co.; General Electric Co.; General Motors Corp.; Georgia-Pacific Corp.; John Hancock Mutual Life Insurance Co.; Harp's Food Stores, Inc.; Harvest Foods, Inc.; International Paper Co.; The Kemper Insurance Group; Massachusetts Mutual Life Insurance Co.; MCI Telecommunications Corp.; Minnesota Mining and Manufacturing Co.; New York Life Insurance Co.; PaineWebber Incorporated; Panhandle Eastern Corp.; Pel-Freeze, Inc.;The Prudential Insurance Company of America; J.A. Riggs Tractor Co.; The Winthrop Rockefeller Foundation; Stephens Inc.; Systematics Information Services, Inc.; TCBY Enter-

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ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION, Little Rock—Continued

prises, Inc.; Tramell Crow Companies; Tyson Foods, Inc.; USX Corp.; Wal-Mart Stores, Inc.; WEHCO Media, Inc.; Worthen Banking Corporation.

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WILLIAM F. SHERMAN, born Little Rock, Arkansas, September 12, 1937; admitted to bar, 1964, Arkansas; 1970, U.S. Supreme Court; 1985, U.S. Tax Court; U.S. Court of Military Appeals; U.S. Army Court of Military Review. *Education:* University of Arkansas (B.A., 1960); University of Virginia (LL.B., 1964). Omicron Delta Kappa; Phi Alpha Delta. Assistant U.S. Attorney, Eastern District of Arkansas, 1966-1969. Arkansas Securities Commissioner, 1969-1971. Delegate, Arkansas Constitutional Convention, 1978-1979. Member, Arkansas House of Representatives, 1975-1984. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Trial Lawyers Association. Fellow, Arkansas Bar Foundation. [2nd Lt., U.S. Army, 1960-1961; Brigadier General, ARNG, JAGC, 1987-1990; Special Assistant to The Judge Advocate General, Army, 1987-1990]

REPRESENTATIVE CLIENT: Better Business Bureau of Arkansas.
A List of Representative Clients will be furnished upon request.

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General Civil Practice. Business, Corporation, Real Estate and Litigation.

ROBERT SHULTS, born Pine Bluff, Arkansas, October 25, 1925; admitted to bar, 1953, Arkansas. *Education:* Louisiana State University (B.S., 1950); Harvard University (LL.B., 1953). University of Arkansas (Honorary LL.D., 1981). Editor, Harvard Law Review, 1952-1953. Member, 1970-1979 and Chairman, 1976-1978, Board of Trustees, University of Arkansas. *Member:* Pulaski County (President, 1971-1972), Arkansas (Chairman, Executive Committee, 1968-1969) and American Bar Associations; American Judicature Society. Fellow, American Bar Foundation.

J. THOMAS RAY, born Baton Rouge, Louisiana, May 28, 1951; admitted to bar, 1976, Arkansas. *Education:* Louisiana State University (B.S., summa cum laude, 1973); Tulane University of Louisiana (J.D., 1976). Member and Associate Editor, Tulane Law Review, 1975-1976. Law Clerk to Chief Judge G. Thomas Eisele, U.S. District Court, Eastern District of Arkansas, 1976-1978. President, Arkansas Bar Foundation, 1991-1992. *Member:* Pulaski County, Arkansas (President, Young Lawyers Section, 1986-1987; Member: House of Delgates, 1986-1990, Executive Council, 1990-1992) and American Bar Associations.

H. BAKER KURRUS, born Pine Bluff, Arkansas, June 16, 1954; admitted to bar, 1979, Texas; 1980, Arkansas. *Education:* University of Arkansas (B.A., 1976); Harvard University (J.D., 1979). Phi Beta Kappa; Blue Key. *Member:* Pulaski County, Arkansas and American Bar Associations.

STEVEN T. SHULTS, born Boston, Massachusetts, December 31, 1951; admitted to bar, 1978, Arkansas; 1982, Colorado. *Education:* Yale University (B.A., cum laude, 1974); Harvard University (J.D., cum laude, 1978). Law Clerk to Chief Judge G. Thomas Eisele, U.S. District Court, Eastern District of Arkansas, 1979-1981. *Member:* Pulaski County, Arkansas and American Bar Associations.

REPRESENTATIVE CLIENTS: AGL Corp.; Arkansas Waste Disposal Co.; Crum & Forster Corp.; Daniel International Corp.; Edward D. Jones & Co.; First National Bank of Stuttgart; Fina Oil and Chemical Co.; George W. Donaghey Foundation; Georgia-Pacific Corp.; Homestead Aviation, Inc.; Jet

(This Listing Continued)

Stream Plastics; Leader Federal Bank for Savings; Little Rock Diagnostic Clinic; McCaw Cellular Communications, Inc.; Radiology Consultants of Little Rock, P.A.; SCA Services of Arkansas, Inc.; Sound-Craft Systems, Inc.; Winrock Farms, Inc.; Winrock Development Co.; Winrock Enterprises, Inc.; University Plaza Shopping Center; Univest Financial Group, Inc.; Waste Management Co.

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HAROLD H. SIMPSON, born Danville, Kentucky, April 10, 1949; admitted to bar, 1974, Arkansas; 1984, U.S. Supreme Court. *Education:* Vanderbilt University (B.A., 1971; J.D., 1974). Co-Author: "A Critical Analysis of The Arkansas Death With Dignity Act," 1 University of Arkansas at Little Rock Law Journal 473, 1978. Author: "Organ Donation: Understanding the Law," Nursing Life, 1985; Contributing Author: Springhouse Corporation's Books, "Practices," 1984 and "Nurse's Legal Handbook," 1985. Lecturer, Health Law, University of Arkansas at Little Rock School of Law, 1981, 1983 and 1985—. Graduate School of Health Services Administration, 1981, 1983 and 1985-1991. Speaker, "Advance Directives in Medicine," sponsored by the Society for Health and Human Values, 1985 and Third and Fourth Annual Conferences on Financing Health Care Facilities and Projects, sponsored by Executive Enterprises, 1986 and "Current Issues in Organ Procurement and Transplantation," sponsored by the University of Arkansas for Medical Sciences, 1986. Co-Founder, Health Law Institute, 1977—. Charter Member, Health Law Committee, 1982— and Chairman, Prepaid Legal Services Committee, 1980-1983, Arkansas Bar Association. Charter Member, Forum Committee on Health Law, Law Practice Management Section, American Bar Association, 1976—. *Member:* National Health Lawyers Association; American Academy of Hospital Attorneys. ***CONCENTRATION:*** Health Care Law; Hospital Law.

GREGORY B. GRAHAM, born Hot Springs, Arkansas, August 19, 1947; admitted to bar, 1972, Arkansas; 1974, Texas. *Education:* University of Arkansas (B.S.B.A., in accounting, 1970; J.D., 1972); Southern Methodist University (LL.M., taxation, 1973). Beta Alpha Psi. Chairman, Probate and Trust Law Section, 1984-1986, Chairman, Corporation System Editorial Board, 1987-1988, Chairman, Corporations Filing Committee, 1989-1990, Chairman, Corporate Law Committee, 1991-1992, and Chairman, Business Law Committee, 1992-1993, Arkansas Bar Association. Member: Business Law Section, Exempt Organizations Committee, Section of Taxation, Section of Real Property, Probate and Trust Law, Section of Labor and Employment Law, American Bar Association. *Member:* State Bar of Texas; National Association of Bond Lawyers. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization). ***CONCENTRATION:*** Business Law; Employee Benefits; Exempt Organizations.

HEARTSILL RAGON, III, born Fort Smith, Arkansas, May 4, 1956; admitted to bar, 1982, Arkansas. *Education:* Washington & Lee University (B.A., 1978); University of Arkansas at Fayetteville (J.D., 1982). Phi Alpha Delta. Member, University of Arkansas National Moot Court Team. Co-Author: "Resale of Restricted Securities: What's an Insider to Do?," 12 Arkansas Lawyer, April 1989; Author: "Caveat Venditor - How a Business Sale can Become a Nightmare," Arkansas Business, June 1989; Contributing Author: "An Overview of the 1987 Arkansas Business Corporation Act," 10 UALR Law Journal 431; Co-Author: "Resort Property Owner's Guidebook." Member: Business Law Section, American Bar Association. Member: Business Law Section and Investments Section, Arkansas Bar Association. *Member:* American Resort Development Association. ***CONCENTRATION:*** Acquistion and Disposition of Businesses; Corporate Governance; Resort and Real Property Development.

DAVID G. PAUL, born Texarkana, Texas, January 13, 1958; admitted to bar, 1984, Arkansas. *Education:* University of Arkansas at Little Rock (B.A., magna cum laude, 1981; J.D., 1984). Managing Editor, University of Arkansas at Little Rock Law Journal, 1984. Author: "The Law of Construction Bonds in Arkansas: A Review," 9 University of Arkansas at Little Rock Law Journal 333, No. 2, 1987; Casenote, 5 University of Arkansas at Little Rock Law Journal 569, No. 4, 1982. Law Clerk, Associate

(This Listing Continued)

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Interstate Commerce Commission Practitioners; The Association of Trial Lawyers of America.

WILLIAM T. MARSHALL, born Dallas, Texas, May 13, 1950; admitted to bar, 1981, Arkansas. *Education:* University of Arkansas (B.S., with honors, 1973; M.B.A., with honors, 1975; J.D., with honors, 1981). Beta Gamma Sigma; Omicron Delta Kappa. Staff, University of Arkansas Law Journal, 1980-1981. Certified Public Accountant, Arkansas, 1979. Member, Hospital Affiliates International Inc., 1975-1979. *Member:* Arkansas (Member, Sections on: Taxation Law; Health Law) and American (Member, Section on Corporation, Banking and Business Law; Forum on Health Law) Bar Associations; American Institute of Certified Public Accountants; American Association of Attorney-Certified Public Accountants; American Society of Hospital Attorneys; National Health Lawyers Association. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

SCOTTY MCPHEETERS SHIVELY, born Memphis, Tennessee; admitted to bar, 1981, Arkansas. *Education:* Southeast Missouri State College (B.S., with honors, 1977); University of Arkansas at Little Rock (J.D., with high honors, 1980). Phi Alpha Delta. Associate Editor, University of Arkansas at Little Rock Law Journal, 1979-1980. Member, Federal Practice Committee for the Eastern District of Arkansas. *Member:* Pulaski County, Arkansas (Chairman-Elect, Labor Law Section, 1989-1990; Member, Health Law Section, Committee on Lawyer Referral Service) and American (Member, Employment and Labor Relations Law Section; Member, Individual Rights and Responsibilities in the Workplace Subcommittee) Bar Associations. Fellow, Arkansas Bar Foundation.

WM. DAVID DUKE, born Texarkana, Arkansas, August 10, 1954; admitted to bar, 1979, Arkansas. *Education:* University of Central Arkansas (B.S., 1976); University of Arkansas (J.D., 1979). Phi Delta Phi. Research Editor, Arkansas Law Review, 1978-1979. *Member:* Arkansas and American (Member, Litigation Section) Bar Association; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America.

STEPHEN P. CARTER, born Lawton, Oklahoma, March 16, 1960; admitted to bar, 1985, Arkansas and U.S. Court of Appeals, Eighth Circuit. *Education:* Harding University (B.B.A., 1982); University of Arkansas at Little Rock School of Law (J.D., 1984). Certified Public Accountant, Arkansas, 1988. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Trial Lawyers Association.

REPRESENTATIVE CLIENTS: *Financial:* Home Savings Association; Union National Bank; Stephen Enterprises, Inc. *Real Estate:* McKinney & Company Realtors, d/b/a Coldwell Bankers; The Harrell Thompson Companies, Inc. *Insurance:* Union Life Insurance Co.; American General Cos.; Alexsis; Chicago Title Insurance Co.; Connecticut National Life; American Western Life. *Retail:* Wal-Mart Stores, Inc.; International Multifoods; Dolgencorp, Inc.; Overhead Door Company; FoxMeyer Drug Co. *Transportation:* Harold Ives Trucking Co.; B.J. McAdams, Inc.; Wells Fargo Armored Service Corp. *Industrial:* A.K. Industrial Contractors, Inc.; Duncan Industries; Parking Control Systems; Environmental Equipment & Supplies, Inc.; Ladish Co., Inc. *Hospital and Healthcare:* Southwest Hospital in Little Rock; Safecare Healthcare Services, Inc.; Pine Bluff Nursing Home; Stone County Medical Center; Harris Hospital; North Arkansas Life Care Center; Dallas County Hospital; Randolph County Medical Center; Crawford Memorial Hospital; Buffalo Island Community Hospital; Sherwood Hospital; Healthcare Management Co.; Oakdale Nursing Home.

1990

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PHILLIP CARROLL, born Fort Smith, Arkansas, August 1, 1925; admitted to bar, 1950, Arkansas. *Education:* public schools, Fort Smith; University of Arkansas (LL.B., 1950). Delta Theta Phi. National Conference of Commissioners on Uniform State Laws (Arkansas Commissioner, 1970—; Chairman, Executive Committee, 1983-1985; President, 1985-1987). *Member:* Pulaski County (President, 1967-1968), Arkansas (Secretary, 1959-1961; President, 1980-1981; Recipient, Outstanding Lawyer Award, 1989) and American Bar Associations; Overton Inn of Court (President, 1989—). Fellow: American College of Trial Lawyers; American Bar Foundation. [Captain, U.S. Army, 1943-1945; 1950-1952]

W. DANE CLAY, born Fort Smith, Arkansas, February 1, 1928; admitted to bar, 1951, Arkansas. *Education:* Fort Smith Junior College; University of Arkansas (LL.B., 1951). Phi Alpha Delta; Omicron Delta Kappa. Editor-in-Chief, Arkansas Law Review, 1951. *Member:* Pulaski County, Arkansas and American Bar Associations. [Captain, U.S.A.F., 1952-1953]

GEORGE E. CAMPBELL, born Piggott, Arkansas, September 23, 1932; admitted to bar, 1955, Arkansas. *Education:* University of Arkansas (J.D., 1955). Phi Alpha Delta; Omicron Delta Kappa. Associate Editor, Arkansas Law Review, 1954-1955. Delegate, Arkansas Constitutional Convention, 1969-1970. Member, 1976—and Chairman, 1980-1982, 1988—, Arkansas Educational Television Commission. Chairman, Pulaski County Law Library Board, 1980—. *Member:* Pulaski County, Arkansas and American Bar Associations; National Association of Bond Lawyers; American Law Institute. [Cdr., U.S.N.R., active duty, 1955-1959]

HERBERT C. RULE, III, born Little Rock, Arkansas, November 21, 1937; admitted to bar, 1964, Arkansas. *Education:* Yale University (B.A., 1959); University of Arkansas (LL.B., 1964). Member, Arkansas House of Representatives, 1967-1970. Editor, Arkansas Law Review, 1964. Member, Little Rock School Board, 1978-1983. *Member:* Pulaski County, Arkansas and American Bar Associations. [Lt., U.S.M.C., 1959-1961]

VINCENT FOSTER, JR., born Hope, Arkansas, January 15, 1945; admitted to bar, 1971, Arkansas. *Education:* Davidson College (A.B., 1967); Vanderbilt University and University of Arkansas (J.D., with high honors, 1971). Omicron Delta Kappa. Managing Editor, Arkansas Law Review, 1970. *Member:* Pulaski County (President, 1981-1982), Arkansas (Member, House of Delegates, 1973-1976; Chairman, Executive Council, 1987-1988) and American Bar Associations; American Board of Trial Advocates (Associate). Fellow, American College of Trial Lawyers.

W. WILSON JONES, born Little Rock, Arkansas, November 19, 1945; admitted to bar, 1971, Arkansas. *Education:* Tulane University and University of Arkansas (B.S.B.A., with honors, 1967); Southern Methodist University (J.D. cum laude, 1970). Order of the Coif; Phi Delta Phi. Member, Barristers. Associate Editor, Southwestern Law Journal, 1969-1970. *Member:* Pulaski County, Arkansas and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

WEBSTER L. HUBBELL, born Little Rock, Arkansas, January 18, 1948; admitted to bar, 1973, Arkansas. *Education:* University of Arkansas (B.S.E.E., 1970; J.D., with Honors, 1973). Managing Editor, Arkansas Law Review, 1973. Chief Justice, Arkansas Supreme Court, 1984. Member, Board of Directors, 1978-1984 and Mayor, 1979-1981, City of Little Rock. *Member:* Pulaski County, Arkansas (Member: Executive Council, 1978-1981; House of Delegates, 1976-1978) and American Bar Associations.

ALLEN W. BIRD, II, born Crossett, Arkansas, March 21, 1943; admitted to bar, 1968, Arkansas; 1970, U.S. Supreme Court; 1972, U.S. Court of Military Appeals. *Education:* Florida State University (B.A., 1965); University of Arkansas (J.D., 1968); New York University (LL.M., 1975). *Member:* Pulaski County, Arkansas (Chairman, Creditor's Rights Committee, 1978-1980; Member, House of Delegates, 1979-1982) and American Bar Associations. [LCDR, USNR, active duty, 1968-1974]

WILLIAM E. BISHOP, born Cincinnati, Ohio, September 18, 1948; admitted to bar, 1973, Tennessee; 1976, Arkansas. *Education:* University of Arkansas (B.S.P.A., 1970); Vanderbilt University (J.D., 1973); New York University (LL.M., in Taxation, 1974). *Member:* Pulaski County, Arkansas, Tennessee and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

(This Card Continued)

For significance of Fields of Law in biographical sketches, see Explanatory Notes on inside cover.

ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION, Little Rock—Continued

HILLARY RODHAM CLINTON, born Chicago, Illinois, October 26, 1947; admitted to bar, 1973, Arkansas. *Education:* Wellesley College (B.A., 1969); Yale University (J.D., 1973). Assistant Professor of Law: University of Arkansas School of Law, Fayetteville, Arkansas, 1974-1976; University of Arkansas School of Law, Little Rock, Arkansas, 1979-1980. Counsel, Impeachment Inquiry Staff, House Judiciary Committee, 1974. Member, Board of Directors and Chair, 1978-1981, Legal Services Corporation. Chair, Childrens Defense Fund, 1986—. *Member:* Pulaski County, Arkansas and American (Chair, Commission on Women in the Profession, 1987—) Bar Associations; American Law Institute.

C. BRANTLY BUCK, born Little Rock, Arkansas, July 7, 1950; admitted to bar, 1976, Arkansas. *Education:* Davidson College (A.B., 1972); University of Arkansas (J.D., with high honors, 1976). Managing Editor, Arkansas Law Review, 1976. *Member:* Pulaski County, Arkansas and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

TIM BOE, born New Orleans, Louisiana, October 30, 1948; admitted to bar, 1974, Arkansas; 1977, Tennessee. *Education:* University of Arkansas (B.A., 1970; J.D., 1973); Southern Methodist University (LL.M., Labor Law, 1976). Omicron Delta Kappa. Author: "Handling the Title VII Case: Practical Tips for the Employer," Copyright 1979, published by Management Labor Relations, Inc., 1980. Contributer, "Employment Discrimination Law," 2 ed., Supp., 1983—. City Attorney, Pine Bluff, Arkansas, 1974-1975. Secretary, 1982-1985 and Chairman, 1985-1989, Arkansas Supreme Court Board of Legal Specialization. *Member:* Pulaski County, Arkansas (Secretary, 1978-1979 and Chairman, 1980-1981, Labor Law Section; Member, House of Delegates, 1979-1982; Recipient, Golden Gavel Award, 1982; Chairman, Specialization and Advertising Committee, 1980-1988), Tennessee (Member, Labor Law Section) and American (Member, Committee on Equal Employment Law, Labor Law Section, 1974—) Bar Associations; Arkansas Trial Lawyers Association; Arkansas Association of Defense Counsel; Defense Research and Trial Lawyers Association (Member, Committee on Employment Law, 1982—); The Association of Trial Lawyers of America. [Lt. U. S. Army, 1972-1973]

M. JANE DICKEY, born Pine Bluff, Arkansas, June 26, 1948; admitted to bar, 1977, Arkansas and Oklahoma. *Education:* Centenary College of Louisiana and University of Arkansas (B.S.E., 1971); University of Oklahoma (J.D., 1977). Order of the Coif; Phi Delta Phi. Article and Book Review Editor, Oklahoma Law Review, 1975-1977. *Member:* Pulaski County, Arkansas, Oklahoma and American Bar Associations; National Association of Bond Lawyers (Member, Executive Committee, Bond Attorneys' Workshop, 1988—).

WILLIAM H. KENNEDY, III, born Pine Bluff, Arkansas, March 29, 1951; admitted to bar, 1976, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1973); University of Virginia (J.D., 1976). Counsel, U.S. Senate Committee on Appropriations, 1977. Chief Legislative Assistant, U.S. Senator Kaneaster Hodges, Jr., 1978. *Member:* Pulaski County, Arkansas and American Bar Associations.

KENNETH ROBERT SHEMIN, born Little Rock, Arkansas, July 3, 1952; admitted to bar, 1978, Arkansas. *Education:* Tulane University of Louisiana and Memphis State University (B.S., magna cum laude, 1974); Memphis State University (J.D., 1978). Omicron Delta Kappa; Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America.

RONALD M. CLARK, born Little Rock, Arkansas, October 29, 1954; admitted to bar, 1980, Arkansas. *Education:* University of Arkansas (B.S.B.A., with high honors, 1977; J.D., with honors, 1980). Phi Delta Phi. Associate Editor, Arkansas Law Review, 1979-1980. Certified Public Accountant, Arkansas, 1980. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accountants; American Institute of Certified Public Accountants. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

GARLAND J. GARRETT, born Greenville, Mississippi, May 14, 1955; admitted to bar, 1980, Arkansas. *Education:* Millsaps College (B.A., cum laude, 1977); Southern Methodist University (J.D., 1980). Editor, Journal of Air Law and Commerce, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

JERRY C. JONES, born Mountain Home, Arkansas, March 7, 1956; admitted to bar, 1980, Arkansas. *Education:* University of Arkansas (B.S.P.A., with honors, 1977; J.D., 1980). Blue Key; Omicron Delta Kappa; Beta Sigma Gamma; Phi Delta Phi. Research Editor, Arkansas Law Review, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

THOMAS P. THRASH, born Oklahoma City, Oklahoma, May 21, 1955; admitted to bar, 1980, Arkansas. *Education:* Ouachita Baptist University (B.A., 1977); University of Arkansas (J.D., with honors, 1980). Phi Alpha Delta. Comments Editor, Arkansas Law Review, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

CHARLES W. BAKER, born Boonville, Missouri, November 29, 1940; admitted to bar, 1965, Missouri; 1968, Arkansas. *Education:* University of Missouri (B.A., 1962; J.D., 1965). U.S. Bankruptcy Judge, Eastern and Western Districts of Arkansas, 1973-1984. *Member:* Pulaski County, Arkansas and American Bar Associations; National Conference of Bankruptcy Judges.

DAVID L. WILLIAMS, born Warren, Arkansas, October 12, 1952; admitted to bar, 1978, Arkansas; 1980, District of Columbia. *Education:* University of Arkansas (B.A., with high honors, 1974); Georgetown University Law Center (J.D., 1978). Co-authored with Charles R. Work and Lawrence I. Richman, "Toward a Fairer System of Justice: The Impact of Technology on Prosecutorial Discretion," 12 Criminal Law Bulletin 289, 1976. Assistant Arkansas Attorney General, 1978-1981. Deputy Arkansas Attorney General, 1982-1983. *Member:* Pulaski County, Arkansas (Member, House of Delegates, 1985-1988) and American Bar Associations.

JACKSON FARROW JR., born Greenville, South Carolina, November 25, 1952; admitted to bar, 1981, Arkansas. *Education:* Davidson College (B.A., 1975); University of Arkansas (M.S., in Accounting, 1980; J.D., with high honors, 1981). Phi Alpha Delta. Editor-in-Chief, Arkansas Law Review, 1980-1981. Certified Public Accountant, Arkansas, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accountants; American Institute of Certified Public Accountants. [Capt., U.S. Army Reserve, active duty, 1976-1978]. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

LES R. BALEDGE, born Harrison, Arkansas, June 29, 1957; admitted to bar, 1982, Arkansas. *Education:* North Arkansas Community College (A.S., 1977); Westminster College (B.A., 1979); University of Arkansas at Fayettville (J.D., 1981). Editorial Board, Arkansas Law Review, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; National Association of Bond Lawyers.

JAMES HUNTER BIRCH, born Malvern, Arkansas, August 30, 1957; admitted to bar, 1982, Arkansas. *Education:* University of Arkansas at Fayetteville (B.A., 1979; J.D., with high honors, 1982). *Member:* Pulaski County, Arkansas and American Bar Associations.

R. DAVIS THOMAS, JR., born Wynne, Arkansas, January 18, 1956; admitted to bar, 1982, Arkansas. *Education:* Davidson College (B.A., 1978); University of Arkansas (J.D., 1982). Editorial Board, Arkansas Law Review, 1982. *Member:* Pulaski County, Arkansas and American Bar Associations.

KEVIN R. BURNS, born Waltham, Massachusetts, October 9, 1955; admitted to bar, 1982, Arkansas and Georgia. *Education:* Georgia Institute of Technology (B.I.E., 1977); University of Arkansas (J.D., 1982). Phi Alpha Delta. Comments Editor, Arkan-

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For significance of Fields of Law in biographical sketches, see Explanatory Notes on inside cover.

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sas Law Review, 1981-1982. *Member:* Pulaski County, Arkansas and American Bar Associations; State Bar of Georgia.

RICHARD T. DONOVAN, born Claremore, Oklahoma, May 4, 1957; admitted to bar, 1983, Arkansas. *Education:* University of Arkansas at Fayetteville (B.A., 1979; J.D., with honors, 1983). *Member:* Pulaski County, Arkansas and American Bar Associations.

RICHARD N. MASSEY, born Fort Smith, Arkansas, March 16, 1956; admitted to bar, 1984, Arkansas. *Education:* Baylor University; University of Central Arkansas (B.A., with honors, 1981); University of Arkansas (J.D., with high honors, 1984). *Member:* Pulaski County, Arkansas and American Bar Associations.

GARY N. SPEED, born Dallas, Texas, February 8, 1956; admitted to bar, 1983, Arkansas. *Education:* Hendrix College (B.A., 1979); University of Arkansas-Fayetteville (J.D., with honors, 1983). Managing Editor, Arkansas Law Review, 1983. Certified Public Accountant, Arkansas, 1986. Law Clerk, U.S. District Judge William R. Overton, Eastern District of Arkansas, 1983-1984. *Member:* Pulaski County, Arkansas and American Bar Association.

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J. GASTON WILLIAMSON, born Monticello, Arkansas, January 22, 1914; admitted to bar, 1935, Arkansas; 1946, New York. *Education:* public schools, Monticello; University of Arkansas (B.A., 1934); University of Arkansas and University of Oxford, England (B.A., Juris., 1937; B. Litt., Juris., 1938). *Member:* Pulaski County, Arkansas (President, 1968-1969) and American Bar Associations; American College of Probate Counsel. [Lt. Col., U.S. Army, 1941-1946]

SARAH HOOD TEED, born Lewisville, Arkansas, December 15, 1960; admitted to bar, 1986, Arkansas. *Education:* Louisiana State University (B.S., 1983); University of Arkansas at Little Rock (J.D., 1986); University of Florida (LL.M., Taxation, 1988). Member, Editorial Board, University of Arkansas at Little Rock Law Journal, 1984-1985. *Member:* Pulaski County, Arkansas and American Bar Associations.

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THOMAS C. VAUGHAN, JR., born Morrilton, Arkansas, November 23, 1960; admitted to bar, 1986, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1983; J.D., with honors, 1986); University of Florida (LL.M., Taxation, 1987). Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations.

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JAY F. SHELL, born Arkadelphia, Arkansas, April 5, 1960; admitted to bar, 1987, Arkansas. *Education:* Ouachita Baptist University (B.A., 1982); University of Arkansas (J.D., with honors, 1987). Delta Theta Phi. Business Manager, Arkansas Law Review, 1986-1987. *Member:* Pulaski County, Arkansas and American Bar Associations.

GORDON M. WILBOURN, born Conway, Arkansas, February 14, 1961; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas (B.S.B.A., 1983; J.D., 1987); Southern Methodist University (M.B.A., 1984). Phi Alpha Delta. Certified Public Accountant, Arkansas, 1986. *Member:* Pulaski County, Arkansas and American Bar Associations; National Association of Bond Lawyers.

JESS ASKEW, III, born Little Rock, Arkansas, December 1, 1959; admitted to bar, 1986, Arkansas. *Education:* Harvard University (A.B., cum laude, 1982); Hastings College of the Law, University of California (J.D., magna cum laude, 1986). Order of the Coif. Member, Thurston Society, Member, 1985 and Senior Review Editor, 1986, Hastings Constitutional Law Quarterly. Law Clerk, U.S. Circuit Judge Richard S. Arnold, U.S. Court of Appeals for the Eighth Circuit, 1986-1988. *Member:* Pulaski County, Arkansas and American Bar Associations.

AMY LEE STEWART, born Miami, Florida, September 22, 1959; admitted to bar, 1987, Georgia and Massachusetts; 1988, Arkansas. *Education:* Wellesley College (B.A., with honors, 1981); New York University (J.D., 1986). Law Clerk, U.S. District Chief Judge G. Thomas Eisele, Eastern District of Arkansas, 1986-1988. *Member:* Pulaski County, Arkansas, Massachusetts and American Bar Associations.

DAVID A. SMITH, born Lake Village, Arkansas, August 2, 1958; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas at Fayetteville (B.S.B.A., 1980); University of Arkansas at Little Rock (J.D., 1987); New York University (LL.M. in Taxation, 1988). Survey/Comments Editor, University of Arkansas at Little Rock Law Journal, 1986. Certified Public Accountant, Arkansas, 1983. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Society of Certified Public Accountants; American Institute of Certified Public Accountants.

T. CRAIG JONES, born Abilene, Texas, August 9, 1962; admitted to bar, 1988, Arkansas. *Education:* Howard Payne University (B.S., 1984; B.G.S., 1985); University of Arkansas (J.D., with honors, 1988). Phi Alpha Delta. Managing Editor, Arkansas Law Review, 1987-1988. *Member:* Pulaski County, Arkansas and American Bar Associations.

J. SCOTT SCHALLHORN, born Stuttgart, Arkansas, September 12, 1963; admitted to bar, 1988, Arkansas. *Education:* Hendrix College (B.A., 1985); University of Arkansas at Little Rock (J.D., 1988). *Member:* Pulaski County, Arkansas and American Bar Associations.

MICHAEL D. BOOKER, born Jonesboro, Arkansas, July 26, 1958; admitted to bar, 1988, Wisconsin and Arkansas. *Education:* Arkansas State University (B.A., 1980; M.A., 1981); University of Wisconsin-Madison (J.D., 1988). Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations.

JOHN T. HARDIN, born Stuttgart, Germany, July 6, 1950; admitted to bar, 1980, Oklahoma; 1989, Arkansas. *Education:* Purdue University (B.S., 1972); University of Arkansas (J.D., with high honors, 1980). Articles Editor, 1978-1979 and Editor-in-Chief, 1979-1980, Arkansas Law Review. Co-Author with Kershin: "Congress Takes Exception to the Farm Products Exception of the UCC: Retro Activity in Preemption," 36 Kan. L.Rev. 1, 1988; "Congress Takes Exception to the Farm Products Exception of the UCC: Centralized and Presale Notification Systems Under Section 1324 of the Food Security Act of 1986," 36 Kan. L.Rev. 386, 1988. Author: "Conversion of a Non-Exempt Property to Exempt On the Eve of Bankruptcy in Arkansas," 10 UALR L.J. 719, 1988. Co-Author: "Farm Products Financing Filing Service," Warren, Gorham & Lamont, Inc., 1989. *Member:* Pulaski County, Arkansas, Oklahoma and American Bar Associations. [Lt., U.S. Navy, active duty, 1972-1977]

BRIAN ROSENTHAL, born Carthage, Missouri, September 25, 1961; admitted to bar, 1987, Texas; 1989, Arkansas. *Education:* University of Arkansas (B.S.B.A., with high honors, 1984); University of Missouri (J.D., cum laude, 1987). Beta Gamma Sigma; Beta Alpha Psi; Phi Kappa Phi; Phi Alpha Delta. Member: Order

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ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION, Little Rock—Continued

of the Coif; Order of the Barristers. Member, 1985-1987 and Journal Editor, 1986-1987, Missouri Law Review. Certified Public Accountant, Missouri, 1984. *Member:* Dallas, Pulaski County, Arkansas and American Bar Associations; State Bar of Texas; American Institute of Certified Public Accountants.

STEVEN D. DURAND, born Alexandria, Louisiana, November 3, 1964; admitted to bar, 1989, Arkansas. *Education:* Henderson State University (B.S., 1986); University of Arkansas (J.D., with high honors, 1989). Gamma Beta Phi; Alpha Chi; Phi Alpha Delta. Member, Editorial Board, Arkansas Law Review, 1988-1989. *Member:* Pulaski County, Arkansas and American Bar Associations.

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REPRESENTATIVE CLIENTS: Acxiom Corporation; Arkansas Freightways Corp.; Arkansas Gazette Co.; Arkansas-Oklahoma Gas Corp.; Aluminum Company of America; Association of Arkansas Banking Holding Companies; Beverly Enterprises; Cannon Express, Inc.; Chrysler Corp.; Connecticut General Life Insurance Co.; The Equitable Life Assurance Society of The United States; Fairfield Communities, Inc.; Federal Deposit Insurance Corp.; The Firestone Tire and Rubber Co.; General American Transportation Co.; General Electric Co.; General Motors Corp.; John Hancock Mutual Life Insurance Co.; Harp's Food Stores, Inc.; International Paper Co.; The Kemper Insurance Group; Massachusetts Mutual Life Insurance Co.; MCI Telecommunications Corp.; Minnesota Mining and Manufacturing Co.; National Food Processors Assn.; New York Life Insurance Co.; The Prudential Insurance Company of America; Prudential Bache Securities, Inc.; J.A. Riggs Tractor Co.; The Winthrop Rockefeller Foundation; Shearson Lehman Hutton Inc.; Stephens Inc.; Systematics, Inc.; Texas Eastern Transmission Corp.; Tramell Crow Companies; USX Corp.; Wal-Mart Stores, Inc.; WEHCO Media, Inc.; Worthen Banking Corporation.

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J. THOMAS RAY, born Baton Rouge, Louisiana, May 28, 1951; admitted to bar, 1976, Arkansas. *Education:* Louisiana State University (B.S., summa cum laude, 1973); Tulane University of Louisiana (J.D., 1976). Member and Associate Editor, Tulane Law Review, 1975-1976. Law Clerk to Chief Judge G. Thomas Eisele, U.S. District Court, Eastern District of Arkansas, 1976-1978. *Member:* Pulaski County, Arkansas (President, Young Lawyers Section, 1986-1987) and American Bar Associations.

H. BAKER KURRUS, born Pine Bluff, Arkansas, June 16, 1954; admitted to bar, 1979, Texas; 1980, Arkansas. *Education:* University of Arkansas (B.A., 1976); Harvard University (J.D., 1979). Phi Beta Kappa; Blue Key. *Member:* Pulaski County, Arkansas and American Bar Associations; State Bar of Texas.

STEVEN T. SHULTS, born Boston, Massachusetts, December 31, 1951; admitted to bar, 1978, Arkansas; 1982, Colorado. *Education:* Yale University (B.A., cum laude, 1974); Harvard University (J.D., cum laude, 1978). Law Clerk to Chief Judge G. Thomas Eisele, U.S. District Court, Eastern District of Arkansas, 1979-1981. *Member:* Pulaski County, Arkansas and American Bar Associations.

REPRESENTATIVE CLIENTS: Arkansas Waste Disposal Company; Burton-Eisele Clinic; Choctaw, Inc.; Daniel International Corp.; Edward D. Jones & Co.; George W. Donaghey Foundation; Georgia-Pacific Corp.; Homestead Aviation, Inc.; Jet Stream Plastics; Little Rock Diagnostic Clinic; Little Rock Yacht Club, Inc.; Powell & Satterfield, Inc.; Radiology Consultants of Little Rock, P.A.; River Ridge Corp.; SCA Services of Arkansas, Inc.; Sound-Craft Systems, Inc.; Jack Tyler Engineering Co.; Winrock Farms, Inc.; Winrock Development Company; Winrock Enterprises, Inc.; University Plaza Shopping Center; Waste Management Company.

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RANDY COLEMAN, born Searcy, Arkansas, May 19, 1945; admitted to bar, 1970, Arkansas; 1974, U.S. Supreme Court. *Education:* University of Arkansas (B.S.B.A., 1967; J.D., 1970). Omicron Delta Kappa. Member, University of Arkansas Law Review, 1969-1970. *Member:* Pulaski County and Arkansas (Member: Lawyer Referral Committee, 1981-1985; Creditor's Rights Committee, 1981-1982; House of Delegates, 1981-1984; Statute Revision Committee, 1985-1986; Arkansas Business Corporation Act Committee, 1986-1987) Bar Associations; The Association of Trial Lawyers of America. [Capt., USAF, 1970-1974]. *Commercial, Construction and Bankruptcy.*

MICHAEL RAINWATER, born Little Rock, Arkansas, October 17, 1951; admitted to bar, 1979, Arkansas; 1986, U.S. Supreme Court. *Education:* Louisiana Tech University (B.S.B.A., 1972); South Texas College of Law (J.D., 1979). Phi Alpha Delta (Vice Justice, 1977-1978). Author: "Practical Guidelines for Discipline and Dismissal of a Municipal Employee," Current Municipal Problems, Callahan & Co., Winter 1986, pp. 307-16. Instructor: State and Local Government Law, University of Arkansas at Little Rock Law School, 1985. Corporate Planning Analyst, Texas Eastern Corporation, Houston, Texas, 1972-1978. Deputy Prosecuting Attorney, Sixth Judicial District, Pulaski County, Arkansas, 1979-1980. *Member:* Pulaski County (Board Member, 1987—), Arkansas and American (Member, Sections on: Urban, State and Local Government Law; Litigation) Bar Associations. *Commercial, Governmental and Bankruptcy Litigation.*

JAMES A. NEAL, born Gurdon, Arkansas, August 21, 1938; admitted to bar, 1971, Arkansas and U.S. District Court, Eastern District of Arkansas; 1976, U.S. Court of Appeals, Eighth Circuit and U.S. Supreme Court. *Education:* Henderson State University (B.S., 1962); University of Arkansas at Fayetteville (J.D., 1971). Delta Theta Phi. Assistant Attorney General, State of Arkansas, 1971-1972. Chief Deputy Prosecuting Attorney, Sixth Judicial District of Arkansas, 1973-1974. [U.S. Army, 1962-1967; U.S.

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W. DANE CLAY, born Fort Smith, Arkansas, February 1, 1928; admitted to bar, 1951, Arkansas. *Education:* Fort Smith Junior College; University of Arkansas (LL.B., 1951). Phi Alpha Delta; Omicron Delta Kappa. Editor-in-Chief, Arkansas Law Review, 1951. *Member:* Pulaski County, Arkansas and American Bar Associations. [Captain, U.S.A.F., 1952-1953]

C. JOSEPH GIROIR, JR., born Pine Bluff, Arkansas, February 13, 1939; admitted to bar, 1962, Arkansas. *Education:* University of Arkansas (B.A., 1961; LL.B., 1963); Georgetown University (LL.M., 1965). *Member:* Pulaski County, Arkansas and American Bar Associations.

GEORGE E. CAMPBELL, born Piggott, Arkansas, September 23, 1932; admitted to bar, 1955, Arkansas. *Education:* University of Arkansas (J.D., 1955). Phi Alpha Delta; Omicron Delta Kappa. Associate Editor, Arkansas Law Review, 1954-1955. Delegate, Arkansas Constitutional Convention, 1969-1970. Member, 1976—and Chairman, 1980-1982, Arkansas Educational Television Commission. Chairman, Pulaski County Law Library Board, 1980—. *Member:* Pulaski County, Arkansas and American Bar Associations; American Law Institute. [Cdr., U.S.N.R., active duty, 1955-1959]

HERBERT C. RULE, III, born Little Rock, Arkansas, November 21, 1937; admitted to bar, 1964, Arkansas. *Education:* Yale University (B.A., 1959); University of Arkansas (LL.B., 1964). Member; Arkansas House of Representatives, 1967-1970. Editor, Arkansas Law Review, 1964. Member, Little Rock School Board, 1978-1983. *Member:* Pulaski County, Arkansas and American Bar Associations. [Lt., U.S.M.C., 1959-1961]

STANLEY E. PRICE, born Sallisaw, Oklahoma, February 3, 1921; admitted to bar, 1949, Arkansas. *Education:* University of Arkansas (LL.B., 1949). Delta Theta Phi. *Member:* Pulaski County, Arkansas and American Bar Associations.

H. WATT GREGORY, III, born Pine Bluff, Arkansas, January 16, 1942; admitted to bar, 1966, Arkansas. *Education:* Vanderbilt University (B.A., 1963); University of Arkansas (LL.B., 1966). *Member:* Pulaski County, Arkansas and American Bar Associations.

VINCENT FOSTER, JR., born Hope, Arkansas, January 15, 1945; admitted to bar, 1971, Arkansas. *Education:* Davidson College (A.B., 1967); Vanderbilt University and University of Arkansas (J.D., with high honors, 1971). Omicron Delta Kappa. Managing Editor, Arkansas Law Review, 1970. *Member:* Pulaski County (President, 1981-1982), Arkansas (Member, House of Delegates, 1973-1976; Chairman, Executive Council, 1987—) and American Bar Associations. Fellow, American College of Trial Lawyers.

W. WILSON JONES, born Little Rock, Arkansas, November 19, 1945; admitted to bar, 1971, Arkansas. *Education:* Tulane University and University of Arkansas (B.S.B.A., with honors, 1967); Southern Methodist University (J.D. cum laude, 1970). Order of the Coif; Phi Delta Phi. Member, Barristers. Associate Editor, Southwestern Law Journal, 1969-1970. *Member:* Pulaski County, Arkansas and American Bar Associations. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

WEBSTER L. HUBBELL, born Little Rock, Arkansas, January 18, 1948; admitted to bar, 1973, Arkansas. *Education:* University of Arkansas (B.S.E.E., 1970; J.D., with Honors, 1973). Managing Editor, Arkansas Law Review, 1973. Chief Justice, Arkansas Supreme Court, 1984. Member, Board of Directors, 1978-1984 and Mayor, 1979-1981, City of Little Rock. *Member:* Pulaski County, Arkansas (Member: Executive Council, 1978-1981; House of Delegates, 1976-1978) and American Bar Associations.

ALLEN W. BIRD, II, born Crossett, Arkansas, March 21, 1943; admitted to bar, 1968, Arkansas; 1970, U.S. Supreme Court; 1972, U.S. Court of Military Appeals. *Education:* Florida State University (B.A., 1965); University of Arkansas (J.D., 1968); New York University (LL.M., 1975). *Member:* Pulaski County, Arkansas (Chairman, Creditor's Rights Committee, 1978-1980; Member, House of Delegates, 1979-1982) and American Bar Associations. [LCDR, USNR, active duty, 1968-1974]

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TIM BOE, born New Orleans, Louisiana, October 30, 1948; admitted to bar, 1974, Arkansas; 1977, Tennessee. *Education:* University of Arkansas (B.A., 1970; J.D., 1973); Southern Methodist University (LL.M., Labor Law, 1976). Omicron Delta Kappa. Author: "Handling the Title VII Case: Practical Tips for the Employer," Copyright 1979, published by Management Labor Relations, Inc., 1980. Contributer, "Employment Discrimination Law," 2 ed., Supp., 1983—. City Attorney, Pine Bluff, Arkansas, 1974-1975. Secretary, 1982-1985 and Chairman, 1985—, Arkansas Supreme Court Board of Legal Specialization. *Member:* Pulaski County, Arkansas (Secretary, 1978-1979 and Chairman, 1980-1981, Labor Law Section; Member, House of Delegates, 1979-1982; Recipient, Golden Gavel Award, 1982; Chairman, Specialization and Advertising Committee, 1980—), Tennessee (Member, Labor Law Section) and American (Member, Committee on Equal Employment Law, Labor Law Section, 1974—) Bar Associations; Arkansas Trial Lawyers Association; Arkansas Association of Defense Counsel; Defense Research and Trial Lawyers Association (Member, Committee on Employment Law, 1982—); The Association of Trial Lawyers of America. [Lt. U. S. Army, 1972-1973]

M. JANE DICKEY, born Pine Bluff, Arkansas, June 26, 1948; admitted to bar, 1977, Arkansas and Oklahoma. *Education:* Centenary College of Louisiana and University of Arkansas (B.S.E., 1971); University of Oklahoma (J.D., 1977). Order of the Coif; Phi Delta Phi. Article and Book Review Editor, Oklahoma Law Review, 1975-1977. *Member:* Pulaski County, Arkansas, Oklahoma and American Bar Associations.

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For significance of Fields of Law in biographical sketches, see Explanatory Notes on inside cover.

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ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION, Little Rock—Continued

WILLIAM H. KENNEDY, III, born Pine Bluff, Arkansas, March 29, 1951; admitted to bar, 1976, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1973); University of Virginia (J.D., 1976). Counsel, U.S. Senate Committee on Appropriations, 1977. Chief Legislative Assistant, U.S. Senator Kaneaster Hodges, Jr., 1978. *Member:* Pulaski County, Arkansas and American Bar Associations.

KENNETH ROBERT SHEMIN, born Little Rock, Arkansas, July 3, 1952; admitted to bar, 1978, Arkansas. *Education:* Tulane University of Louisiana and Memphis State University (B.S., magna cum laude, 1974); Memphis State University (J.D., 1978). Omicron Delta Kappa; Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas Trial Lawyers Association; The Association of Trial Lawyers of America.

DAVID A. KNIGHT, born Little Rock, Arkansas, August 15, 1949; admitted to bar, 1978, Arkansas. *Education:* Hendrix College (B.A., 1971); University of Oklahoma (M.P.A., 1975); University of Arkansas (J.D., with high honors, 1978). Editor-in-Chief, Arkansas Law Review, 1977-1978. Law Clerk, Circuit Judge J. Smith Henley, U.S. Court of Appeals, 8th Circuit, 1978-1979. Attorney, Office of the General Counsel. Securities and Exchange Commission, 1979-1981. Adjunct Professor, University of Arkansas at Little Rock School of Law, 1981—. *Member:* Pulaski County, Arkansas and American Bar Associations. [1st Lt., U.S. Air Force, 1971-1975]

RONALD M. CLARK, born Little Rock, Arkansas, October 29, 1954; admitted to bar, 1980, Arkansas. *Education:* University of Arkansas (B.S.B.A., with high honors, 1977; J.D., with honors, 1980). Phi Delta Phi. Associate Editor, Arkansas Law Review, 1979-1980. Certified Public Accountant, Arkansas, 1980. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accountants; American Institute of Certified Public Accountants. (Board Certified Tax Specialist, Arkansas Board of Legal Specialization)

GARLAND J. GARRETT, born Greenville, Mississippi, May 14, 1955; admitted to bar, 1980, Arkansas. *Education:* Millsaps College (B.A., cum laude, 1977); Southern Methodist University (J.D., 1980). Editor, Journal of Air Law and Commerce, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

JERRY C. JONES, born Mountain Home, Arkansas, March 7, 1956; admitted to bar, 1980, Arkansas. *Education:* University of Arkansas (B.S.P.A., with honors, 1977; J.D., 1980). Blue Key; Omicron Delta Kappa; Beta Sigma Gamma; Phi Delta Phi. Research Editor, Arkansas Law Review, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

THOMAS P. THRASH, born Oklahoma City, Oklahoma, May 21, 1955; admitted to bar, 1980, Arkansas. *Education:* Ouachita Baptist University (B.A., 1977); University of Arkansas (J.D., with honors, 1980). Phi Alpha Delta. Comments Editor, Arkansas Law Review, 1979-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

CHARLES W. BAKER, born Boonville, Missouri, November 29, 1940; admitted to bar, 1965, Missouri; 1968, Arkansas. *Education:* University of Missouri (B.A., 1962; J.D., 1965). U.S. Bankruptcy Judge, Eastern and Western Districts of Arkansas, 1973-1984. *Member:* Pulaski County, Arkansas and American Bar Associations; National Conference of Bankruptcy Judges.

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COUNSEL

J. GASTON WILLIAMSON, born Monticello, Arkansas, January 22, 1914; admitted to bar, 1935, Arkansas; 1946, New York. *Education:* public schools, Monticello; University of Arkansas (B.A., 1934); University of Arkansas and University of Oxford, England (B.A., Juris., 1937; B. Litt., Juris., 1938). *Member:* Pulaski County, Arkansas (President, 1968-1969) and American Bar Associations; American College of Probate Counsel. [Lt. Col., U.S. Army, 1941-1946]

JAMES HUNTER BIRCH, born Malvern, Arkansas, August 30, 1957; admitted to bar, 1982, Arkansas. *Education:* University of Arkansas at Fayetteville (B.A., 1979; J.D., with high honors, 1982). *Member:* Pulaski County, Arkansas and American Bar Associations.

R. DAVIS THOMAS, JR., born Wynne, Arkansas, January 18, 1956; admitted to bar, 1982, Arkansas. *Education:* Davidson College (B.A., 1978); University of Arkansas (J.D., 1982). Editorial Board, Arkansas Law Review, 1982. *Member:* Pulaski County, Arkansas and American Bar Associations.

CATHERINE C. LASSITER, born Ft. Rucker, Alabama, December 12, 1952; admitted to bar, 1978, Arkansas. *Education:* Southwestern at Memphis; University of Arkansas at Little Rock (B.A., with honors, 1974; J.D., with honors, 1978). Phi Alpha Delta. Member, Associate Editor, University of Arkansas at Little Rock Law Journal, 1975-1978. Law Clerk, U.S. District Judge Elsijane T. Roy, 1980-1983. Assistant Arkansas Attorney General, 1978-1980. *Member:* Pulaski County, Arkansas and American Bar Associations.

RICHARD T. DONOVAN, born Claremore, Oklahoma, May 4, 1957; admitted to bar, 1983, Arkansas. *Education:* University of Arkansas at Fayetteville (B.A., 1979; J.D., with honors, 1983). *Member:* Pulaski County, Arkansas and American Bar Associations.

MICHAEL R. JOHNS, born Kansas City, Missouri, May 31, 1958; admitted to bar, 1983, Arkansas. *Education:* University of Arkansas at Fayetteville (B.S.B.A., 1980); Southern Methodist University (J.D., 1983). Certified Public Accountant, Arkansas, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; Arkansas State Society of Certified Public Accountants; American Institute of Certified Public Accountants.

(This Card Continued)

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RICHARD N. MASSEY, born Fort Smith, Arkansas, March 16, 1956; admitted to bar, 1984, Arkansas. *Education:* Baylor University; University of Central Arkansas (B.A., with honors, 1981); University of Arkansas (J.D., with high honors, 1984). *Member:* Pulaski County, Arkansas and American Bar Associations.

GARY N. SPEED, born Dallas, Texas, February 8, 1956; admitted to bar, 1983, Arkansas. *Education:* Hendrix College (B.A., 1979); University of Arkansas-Fayetteville (J.D., with honors, 1983). Managing Editor, Arkansas Law Review, 1983. Certified Public Accountant, Arkansas, 1986. Law Clerk, U.S. District Judge, William R. Overton, Eastern District of Arkansas, 1983-1984. *Member:* Pulaski County, Arkansas and American Bar Association.

KEVIN R. BURNS, born Waltham, Massachusetts, October 9, 1955; admitted to bar, 1982, Arkansas and Georgia. *Education:* Georgia Institute of Technology (B.I.E., 1977); University of Arkansas (J.D., 1982). Phi Alpha Delta. Comments Editor, Arkansas Law Review, 1981-1982. *Member:* Pulaski County, Arkansas and American Bar Associations; State Bar of Georgia.

MICHAEL F. LAX, born Hot Springs, Arkansas, June 13, 1958; admitted to bar, 1983, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1980; J.D., with honors, 1983). Omicron Delta Kappa; Beta Alpha Psi. Member, Arkansas Law Review, 1983. Certified Public Accountant, Arkansas, 1981. *Member:* Pulaski County, Arkansas and American Bar Associations; American Institute of Certified Public Accountants; Arkansas State Society of Certified Public Accountants.

ROBERT J. VIGUET, JR., born Fort Smith, Arkansas, May 7, 1958; admitted to bar, 1985, Arkansas. *Education:* Georgia Institute of Technology (B.E.S., with honors, 1980); University of Texas (J.D., with honors, 1985). Phi Eta Sigma; Tau Beta Pi; Phi Delta Phi. Managing Editor, The Review of Litigation, 1984-1985. *Member:* Pulaski County, Arkansas and American Bar Associations.

THOMAS A. MARS, born White Plains, New York, December 13, 1957; admitted to bar, 1986, Arkansas. *Education:* Arkansas State University (B.A., 1979); University of Arkansas (J.D., with high honors, 1985). Phi Alpha Delta. Editor in Chief, Arkansas Law Review, 1985. Law Clerk to Judge Monroe G. McKay, U.S. Court of Appeals, Tenth Circuit, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations.

MARIE ELIZABETH GOFF, born Sewanee, Tennessee, October 17, 1960; admitted to bar, 1986, Arkansas. *Education:* Universiy of Arkansas at Fayetteville (B.S.E., with honors, 1981; J.D., with high honors, 1986). Member, Editorial Board, University of Arkansas Law Review, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations.

SARAH C. HOOD, born Lewisville, Arkansas, December 15, 1960; admitted to bar, 1986, Arkansas. *Education:* Louisiana State University (B.S., 1983); University of Arkansas at Little Rock (J.D., 1986). Member, Editorial Board, University of Arkansas at Little Rock Law Journal, 1984-1985. *Member:* Pulaski County, Arkansas and American Bar Associations.

MICHAEL B. JOHNSON, born Fayetteville, Arkansas, December 5, 1954; admitted to bar, 1986, Arkansas. *Education:* University of Arkansas at Fayetteville (B.S.E.E., 1978; J.D., with high honors, J.D., 1986). Executive Editor, Arkansas Law Review, 1985-1986. Registered Professional Engineer, Arkansas, 1983—. *Member:* Pulaski County, Arkansas and American Bar Associations.

STEPHEN N. JOINER, born Lepanto, Arkansas, October 5, 1957; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas (B.S.M.E., 1980; J.D., with high honors, 1986). Member, Editorial Board, University of Arkansas at Little Rock Law Journal, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations; American Society of Mechanical Engineers.

MICHAEL BENNETT, born Helena, Arkansas, July 8, 1954; admitted to bar, 1984, Texas; 1985, Arkansas. *Education:* University of Arkansas (B.A., 1979; J.D., with honors, 1984). Phi Alpha Delta. Editor-in-Chief, Arkansas Law Review, 1983-1984. *Member:* Pulaski County, Dallas, Arkansas and American Bar Associations; State Bar of Texas.

CASSADY V. BREWER, born Fayetteville, Arkansas, January 26, 1961; admitted to bar, 1986, Arkansas. *Education:* Vanderbilt University (B.S., 1983); University of Arkansas (J.D., with high honors, 1986); New York University (LL.M., Taxation, 1987). Editor-in-Chief, Arkansas Law Review, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations.

THOMAS C. VAUGHAN, JR., born Morrilton, Arkansas, November 23, 1960; admitted to bar, 1986, Arkansas. *Education:* University of Arkansas (B.S.B.A., with honors, 1983; J.D., with honors, 1986); University of Florida (LL.M., Taxation, 1987). Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations.

JAMES H. DRUFF, born Uitgeest, The Netherlands, September 24, 1950; admitted to bar, 1987, Arkansas. *Education:* Randolph Macon College; College of William and Mary (B.A., with high honors, 1971). University of California at Berkeley (Ph.D., 1979); Boalt Hall School of Law, University of California (J.D., 1986). Phi Beta Kappa. Associate Editor. California Law Review, 1985-1986. *Member:* Pulaski County, Arkansas and American Bar Associations.

ELANA L. CUNNINGHAM, born Paragould, Arkansas, August 10, 1962; admitted to bar, 1987, Arkansas. *Education:* Arkansas State University (B.S., 1984); University of Arkansas (J.D., with honors, 1987). Phi Alpha Delta. Member, Editorial Board, Arkansas Law Review, 1986-1987. *Member:* Pulaski County, Arkansas and American Bar Associations.

JAY F. SHELL, born Arkadelphia, Arkansas, April 5, 1960; admitted to bar, 1987, Arkansas. *Education:* Ouachita Baptist University (B.A., 1982); University of Arkansas (J.D., with honors, 1987). Delta Theta Phi. Business Manager, Arkansas Law Review, 1986-1987. *Member:* Pulaski County, Arkansas and American Bar Associations.

GORDON M. WILBOURN, born Conway, Arkansas, February 14, 1961; admitted to bar, 1987, Arkansas. *Education:* University of Arkansas (B.S.B.A., 1983; J.D., 1987); Southern Methodist University (M.B.A., 1984). Phi Alpha Delta. *Member:* Pulaski County, Arkansas and American Bar Associations.

REPRESENTATIVE CLIENTS: Arkansas Gazette Co.; Arkansas-Oklahoma Gas Corp.; Arkansas Poultry Federation; Aluminum Company of America; BEI Electronics, Inc.; Beverly Enterprises; CCX Network, Inc.; Coca-Cola Bottling Company of Arkansas; M.M. Cohn Co.; Connecticut General Life Insurance Co.; The Equitable Life Assurance Society of The United States; Environmental Systems Co.; Fairfield Communities, Inc.; Federal Savings and Loan Insurance Corp.; The Firestone Tire and Rubber Co.; General Electric Co.; General Motors Corp.; Getty Refining and Marketing Co.; John Hancock Mutual Life Insurance Co.; E.F. Hutton & Co.; The Kemper Insurance Group; Massachusetts Mutual Life Insurance Co.; Minnesota Mining and Manufacturing Co.; National Food Processors Assn.; New York Life Insurance Co.; Penn Mutual Life Insurance Co.; The Pillsbury Co.; The Prudential Insurance Company of America; J.A. Riggs Tractor Co.; The Winthrop Rockefeller Foundation; Stephens Inc.; Systematics, Inc.; Texas Eastern Transmission Corp.; Tyson Foods, Inc.; U.S. Steel Corp.; Western Union Telegraph Co.; WEHCO Media, Inc.; Worthen Bank & Trust Co., N.A.; Worthen Banking Corporation.

REVISERS OF THE ARKANSAS LAW DIGEST FOR THIS DIRECTORY

SHULTS, RAY & KURRUS

1600 WORTHEN BANK BUILDING
LITTLE ROCK, ARKANSAS 72201
Telephone: 501-375-2301

General Civil Practice. Business, Corporation, Real Estate, Litigation and Taxation Law.

ROBERT SHULTS, born Pine Bluff, Arkansas, October 25, 1925; admitted to bar, 1953, Arkansas. *Education:* Louisiana State University (B.S., 1950); Harvard University (LL.B., 1953). University of Arkansas (Honorary LL.D., 1981). Editor, Harvard Law Review, 1952-1953. Member, 1970-1979 and Chairman, 1976-1978, Board of Trustees, University of Arkansas. *Member:* Pulaski County (President, 1971-1972), Arkansas (Chairman, Executive

(This Card Continued)

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ROSE LAW FIRM
A PROFESSIONAL ASSOCIATION
ATTORNEYS
120 EAST FOURTH STREET
LITTLE ROCK, ARKANSAS 72201-2893
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1834-1913

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ALLEN W. BIRD II
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C. BRANTLY BUCK
TIM BOE
M. JANE DICKEY
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RONALD M. CLARK
GARLAND J. GARRETT
JERRY C. JONES
THOMAS P. THRASH
CHARLES W. BAKER
DAVID L. WILLIAMS
JACKSON FARROW JR.
LES R. BALEDGE
JIM HUNTER BIRCH
KEVIN R. BURNS
RICHARD T. DONOVAN
RICHARD N. MASSEY
GARY N. SPEED
JOHN T. HARDIN
STEPHEN N. JOINER
JAMES M. GARY

JAMES H. DRUFF
GORDON M. WILBOURN
AMY LEE STEWART
DAVID A. SMITH
BRIAN ROSENTHAL
J. SCOTT SCHALLHORN
STEVEN D. DURAND
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MARK ALAN PEOPLES
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RANDALL L. BYNUM
JOHN P. FLETCHER
GOODLOE M. PARTEE
MARTI S. TOENNIES
MICHAEL N. SHANNON
KALA S. ROGERS

J. GASTON WILLIAMSON
JOHN A. DAVIS, III
OF COUNSEL

January 31, 1995

WRITER'S DIRECT DIAL NO.

VIA HAND-DELIVERY

Ms. Amy St. Eve
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Ms. St. Eve:

Please find enclosed as RIC-093527 through RIC-093550, a copy of the closed client file list prepared by Vince Foster and his secretary upon his departure in January of 1993. This list as been redacted to eliminate all information other than client names. Also enclosed as RIC-093551 through RIC-093571 is a copy of the list prepared by Vince Foster and his secretary of his personal files. This list is being produced in unredacted format. According to Mr. Foster's secretary, all the files on the personal list were taken by Mr. Foster upon his departure, other than those files contained in boxes 4 and 5 which relate to the administration of his father's estate. These file remained with the firm because the firm was the attorney for that case.

Also enclosed as RIC-093526 is a copy of the piece of paper in the draft file list which indicates the "Clinton" files taken by Mr. Foster upon his departure. This document has been redacted on the instructions of David Kendall.

Finally, we are preparing a list of clients from Mr. Foster's old closed file list. As soon as that is prepared, I will forward that list to you for review.

Very truly yours,

Ronald M. Clark

RMC:km
Enclosures

RTT02C31.WP5

VINCENT FOSTER, JR.
CLOSED FILES
JANUARY 25, 1993

BOX 1

ACI MANAGEMENT, INC./SPECTRUM

ACXIOM/BSA HEWLETT-PACKARD

ACXIOM CORPORATION,

ACXIOM

ACXIOM,

ARKANSAS LONG RANGE PLANNING

AETNA INSURANCE CO.,

ARKANSAS LEGAL SERVICES

ARTHUR MURRAY INTERNATIONAL, INC.

RL102BF8.WPS
020193

J.W. BALDREDGE/(VOCALS)

BEVERLY ENTERPRISES GENERAL

CARTER V. CARTER

STEVE CLARK/

COUNTRY CLUB OF LITTLE ROCK

DEMOCRATIC PARTY/ENGLISH

RLL02BF8.WPS
020193

LOUISE EIFLING

F

RLL02BF8.WPS
020193

BOX 2

EL DORADO NEWS TIMES

JAMES W. DANIEL V. EMMERSON

ROBERT EUBANKS

ROBERT AND ALICE EUBANKS

ALICE AND ROBERT EUBANKS, JR.

LITA KATHLEEN ENGLAND

PHIL ELKINS

ENSCO

FSLIC/GUARANTY

AUDITORS RESPONSE

AUDIT AND REPORT

ACCOUNT NUMBERS

RLL02BF8.WPS
020193

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ASSIGNMENTS

BANK BOARD RESOLUTIONS

CALENDAR

CONTRACT COUNSEL

SKELTON CORRESPONDENCE

LIST OF FILES

LOAN SCHEDULES

LOCAL COUNSEL SUB-CONTRACTORS

MEMORANDUM

PENDING ISSUE - OGC

APPLICABLE STATUTES AND REGULATIONS

FSLIC/O&D

VF'S NOTES

MISCELLANEOUS

TOLLING AGREEMENT

THIRD PARTY CLAIMS

DIRECTORS AND OFFICERS RESEARCH

CORRESPONDENCE

INVESTIGATION BARRETT TRANSFERS

INVESTIGATION CHRONOLOGY

INVESTIGATION DOCUMENTS

INVESTIGATIVE REPORT

COMMERCIAL LOAN PORTFOLIO

INVESTIGATION

FSLIC/GUARANTY

STATEMENTS ACCRUED

GENERAL CORRESPONDENCE VOL. 4

SUBCONTRACT COUNSEL CERTIFICATE

SOLICITATION LETTER FORMS

BILLING SCHEDULE

SUMMARY

WORK FILE 1990

PENDING PAYMENTS

BOX 3

FSLIC/GUARANTY

- CONTRACTS
- PROPOSAL
- EXTRA WORK COPIES
- INFORMATION
- INTERIM REPRESENTATION CERTIFICATE
- TRANSFER OF FSLIC TO FDIC
- MISCELLANEOUS
- CONTRACTS

FIRST VARIABLE LIFE INS. CO.

LISA KAY FOSTER

LISA SMITH FOSTER

VINCENT AND ELIZABETH FOSTER/TRESPASS

- BACKGROUND INFORMATION
- CORRESPONDENCE
- DRAFTS
- RESEARCH
- CORRESPONDENCE
- PHOTOGRAPHS
- PLEADINGS
- SURVEY

RLL02BF8.WP5
020193

A. JOHN GRILLO II/BASHAM

RUBY GRAYSON

ESTATE OF BARRET HAMILTON

DR. TOM HEJNA

HOT SPRINGS BOARD OF REALTORS

M

HUSSMAN,

ESTATE OF WALTER E. HUSSMAN

GALE HUSSMAN ARNOLD V. WALTER E. HUSSMAN, JR., ET AL.

KSSN

LEISURE ARTS/

LEISURE ARTS/VERONIS

RLL02BF8.WPS
020193

LINCOLN HEIRS/

FRANK LYON CO.

FRANK LYON CO./AGRI PRODUCTS CO. V. SEALAND CORP.

FRANK LYON CO.

FRANK LYON CO.

FRANK LYON, JR.,

FRANK LYON/

FRANK LYON REAL ESTATE

RLL02BF8.WP5
020193

BOX 4

METROPOLITAN LIFE INSURANCE CO.

MISCELLANEOUS

NATIONAL OLD LINE INSURANCE

NFC MARKETING, INC.

QUICK SERVE VENDING CO., INC.

RPM/

RHEEM MFG. CO.

RHEEM/

RHEEM/SAND SPRINGS SITE

RLL02BF8.WP5
020193

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ROCKEFELLER V. ROCKEFELLER

SINGER SEWING CO. FINANCING

SOUTHWEST CAFES, INC.

STEPHENS INC.,

STEPHENS INC.

SUBARU SOUTH, INC./SUBARU OF AMERICA, INC.

DAN SUDA,

RLL02BF8.WP5
020193

BOX 5

TEXARKANA NEWSPAPERS, INC.

TEXARKANA GAZETTE/

TEXAS OPEN MEETING ACT TEXAS OPEN RECORDS ACT

TYSON FOODS, INC.

TYSON FOODS, INC.

TYSON FOODS, INC.

TYSON

MARGIE VICKERS

WALTHOUR-FLAKE CO., INC.

WALTHOUR-FLAKE CO., INC.

ROXANNE WILSON MEMORIAL SCHOLARSHIP FUND

WORTHEN BANK & TRUST CO.

WORTHEN BANK & TRUST CO. -

WORTHEN/

WORTHEN-

WRIGHT, LINDSEY AND JENNINGS,

RLL02BF8.WP5
020193

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MARLIN ROBERTSON

RL102BF8.WP5
020193

RIC-093539

BOX 6

ATLA - COMMERCIAL LITIGATION DIVISION

AMERICAN BAR ASSOC. - COMMITTEE ON THE LIAISON WITH THE JUDICIARY

AMERICAN BAR ASSOC. - FORUM ON FRANCHISING

AR ASSOC. OF DEFENSE COUNSEL - MISC.

AR ASSOC. OF DEFENSE COUNSEL - LEGISLATIVE COMMITTEE

ABA - CORRESPONDENCE

CLE SEMINAR - 06/23/92

ABA - CHARLES CARPENTER MEMORIAL AWARD

ABA - EXECUTIVE COUNCIL, 1992-1993

ABA - EXECUTIVE COUNCIL, MEETING 10/24/92

ABA - EXECUTIVE COUNCIL, MEETING 08/22/92

ABA - EXECUTIVE COUNCIL, MEETING 05/02/92

ABA - EXECUTIVE COUNCIL, MEETING 01/16/93

ABA - HOUSE OF DELEGATES

ABA - HOUSE OF DELEGATES, MEETING 11/07/92

ABA - HOUSE OF DELEGATES, MEETING 10/02/92

ABA - HOUSE OF DELEGATES, MEETING 01/18/92

ABA - HOUSE OF DELEGATES, MEETING 10/12/91

ABA - HOUSE OF DELEGATES, SPECIAL MEETING 11/03/90

ABA - HOUSE OF DELEGATES, MEETING 06/13/92

ABA - HOUSE OF DELEGATES, MEETING 01/16/93

ABA - JUDICIAL ARTICLE TASK FORCE

ABA - JUDICIAL COUNCIL LIAISON COMMITTEE

ABA - JUDICIAL COUNCIL LIAISON COMMITTEE, 1991-92

ABA - JEFFERSON CO. BAR SPEECH MATERIALS

ABA - J&LR, CONFERENCE CALL

ABA - J&LR, CORRESPONDENCE VO. I-VII

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BOX 7

J&LR - UNIFORM CUSTODIAL TRUST ACT

J&LR - UNIFORM STATUTORY RULE AGAINST PERPETUITIES ACT

J&LR - UNIFORM STATUS OF CHILDREN OF ASSISTED CONCEPTION ACT

J&LR - UNIFORM RESIDENTIAL LANDLORD TENANT ACT

J&LR - UNIFORM HEALTH-CARE INFO ACT

J&LR - REPEAL OF THE BULK SALES LAW

J&LR - UNIFORM LTD. PARTNERSHIP ACT W/1985 AMENDMENTS

J&LR - PROPERTY EXEMPTIONS BILL

J&LR - WORKERS' COMPENSATION LAW BILL

J&LR - AMENDMENT TO SEC 28-65-311

J&LR - AMENDMENT TO DISCLAIMER LAW

J&LR - INTERPRETER PRIVILEGE ACT

J&LR - ONE YEAR SEPARATION DIVORCE BILL

J&LR - WRITS OF EXECUTION (ITEM 14)

J&LR - JUDICIAL ARTICLE

J&LR - UCC ARTICLE 4(A)

J&LR - REPORT OF UNIFORM LAW COMMITTEE

ABA - LEGISLATIVE POLICY COMMITTEE, VOL. I-III

ABA - LEGISLATION COMMITTEE

ABA - LEGISLATIVE PROCEDURE REVIEW COMMITTEE

ABA - LEGISLATIVE OVERSIGHT COMMITTEE

ABA - LEGISLATIVE LOBBYIST SEARCH

ABA - LEGISLATION COMMITTEE, 1992 CORRESPONDENCE

ABA - MISCELLANEOUS

ABA - MOOT COURT ANNUAL MANAGEMENT

ABA - NITA

ABA - PRESIDENT-ELECT

AR BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE

ABA - TASK FORCE ON COMMITTEES

ABA - TAX ISSUES

ABA - UNIFORM LAWS COMMITTEE

IOLTA - '92 IOLTA GRANTS APPLICATIONS

IOLTA - MISCELLANEOUS

IOLTA - CORRESPONDENCE, VOL. I

BOX 8

IOLTA - MINUTES

IOLTA - RETREAT, 09/12-13/92

IOLTA - SEARCH COMMITTEE

IOLTA - 1991 GRANTS APPLICATIONS

IOLTA - TRUST ACCOUNT REVENUE SUMMARY

PULASKI CTY BAR ASSOCIATION - 1992 AWARD NOMINEES

PULASKI CTY BAR ASSOCIATION - MISC. CORRESPONDENCE

PULASKI CTY BAR ASSOCIATION - LONG RANGE PLANNING

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1991

ARKANSAS BAR FOUNDATION - BOARD OF DIRECTORS

ARKANSAS BAR FOUNDATION - MISC. CORRESPONDENCE

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1989-1990

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1988-1989

ARKANSAS BAR FOUNDATION - TRUST COMMITTEE

NOTEBOOK - "A GUIDE FOR COMMITTEE & SECTION CHAIRS"

J&LR - NOTEBOOK, 1990-1991

LONG DISTANCE PHONE SLIPS

NOTEBOOK - LEGAL SERVICES OF ARKANSAS

NOTEBOOK - 8TH CIRCUIT RICO DECISIONS

NOTEBOOK - GENERAL AMERICAN/COSGROVE

NOTEBOOK - AMI/MARSHALL

NOTEBOOK - MARLOW-MENOR

BOX 9

RLF - THE AMERICAN LAWYER

RLF - ANNOUNCEMENTS, PRESS RELEASES & PICTURES

RLF - ASSOCIATION COMPENSATION

RLF - CAROL ARNOLD'S CASES TO BE ASSIGNED

RLF - ARBITRATION GENERAL

RLF - ALAS CLAIMS MANAGEMENT SURVEY

RLF - CERTIFICATION OF SPECIALISTS IN CIVIL TRIAL LAW & CRIMINAL LAW

RLF - COMMUNICATIONS PROGRAM

RLF - MARKETING COMMITTEE/CRANFORD JOHNSON

RLF - COMPENSATION SYSTEM

RLF - 1989 COMPENSATION

RLF - ATTORNEY BILLING

RLF - COST WRITE-OFF POLICY

RLF - DIRECTORY OF LITIGATIONS ATTYS.

RLF - FEE CREDITS

RLF - INTEROFFICE CORRESPONDENCE

RLF - FIRM HISTORY

RLF - INTERVIEW SCHEDULE

RLF - LEX MUNDI

RLF - LITIGATION SECTION MEMOS

RLF - LITIGATION LABOR SECTION

RLF - MARKETING COMMITTEE/ACTIVITY SURVEY RESULTS

RLF - MARKETING COMMITTEE/ANNOUNCEMENTS

RLF - MARKETING COMMITTEE/ARTS CENTER

RLF - MARKETING COMMITTEE/ARTS ORGANIZATIONS MEMBERSHIPS

RLF - MARKETING COMMITTEE/BROCHURES

RLF - MARKETING COMMITTEE/BUDGET

RLF - MARKETING COMMITTEE/CHRISTMAS CARDS

RLF - MARKETING COMMITTEE/GENERAL

RLF - MARKETING COMMITTEE/MINUTES

RLF - MARKETING COMMITTEE/MARKETING PLAN

RLF - MARKETING COMMITTEE/MISC. ARTICLES

RLF - MARKETING COMMITTEE/MISC. CORRESPONDENCE

RLF - MARKETING COMMITTEE/NEWS LETTERS

RLF - MARKETING COMMITTEE/FIRM OPEN HOUSE

RLF - MARKETING COMMITTEE/OPEN HOUSE

RLF - MARKETING COMMITTEE/TOP 125 CLIENT LIST

RLF - MARKETING

RLF - MARKETING COMMITTEE/"GRIDIRON" '92

RLF - MARTINDALE HUBBELL

RLF - MARS FIRM

RLF - MISCELLANEOUS

RLF - MISC. ARTICLE

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BOX 10

RLF - NEW CLIENT MASTER FORMS, 1988-1989

RLF - NEW CLIENT MASTER FORMS, 1990-1991

RLF - NEW CLIENT MASTER FORMS

RLF - PARALEGAL

RLF - PRACTICE MANAGEMENT

RLF - PRESS RELEASE

RLF - RECRUITMENT MISCELLANEOUS

STATE CAPITOL LAW FIRM NETWORK - CHICAGO MTG 06/26/89

STATE CAPITOL LAW FIRM GROUP - PROGRAM COMMITTEE

STATE CAPITOL LAW FIRM GROUP - MTG 10/04-06/91

SCLFG - TERM LIMITS

STATE CAPITOL LAW FIRM GROUP - LIST OF MEMBER FIRMS

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1992

STATE CAPITOL LAW FIRM GROUP - MTG DALLAS, 01/26-28/90

STATE CAPITOL LAW FIRM GROUP - MTG 02/01-02/92

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1990

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1991

STATE CAPITOL LAW FIRM GROUP - STATE UPDATE REPORTS

MISC. PROFESSIONAL

RLF - WESTLAW

NOTEBOOK - SCLFG/DIRECTORY OF MEMBER FIRMS, '92

NOTEBOOK - SCLFG/GEORGIA MTG, 1991

NOTEBOOK - RHEEM/EPA PHASE I, DRAFT

REDROPE - RHEEM RESEARCH & DOCUMENTS

REDROPE - GUARANTY LOCAL COUNSEL

MEDIA LAW HANDBOOK (NOTEBOOK IN INDIVIDUAL BOX)

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BOX 11

MEDIA LAW HANDBOOK (3 NOTEBOOKS IN INDIVIDUAL BOXES)

WANG WORKBOOK

ALLIANCE FS&L ASSOC. - HISTORIES & CURRENT STATUS REPORTS

ATTORNEY FILE LISTS

LORAINE'S WANG MANUAL

VF TIMESHEETS - 08/01/92-09/30/92

VF TIMESHEETS - 05/01/92-07/27/92

VF TIMESHEETS - 03/01/92-04/30/92

VF RESEARCH - FRAUD

VF RESEARCH - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

VF RESEARCH - LEGAL WRITING

VF RESEARCH - LIBEL RESEARCH

VF RESEARCH - AIA DOCUMENTS

VF RESEARCH - AR CORPORATION LAW SYSTEM

VF RESEARCH - ARBITRATION

VF RESEARCH - BUSINESS FRANCHISE GUIDE & JOURNAL

VF RESEARCH - CIVIL PROCEDURES

VF RESEARCH - CONSTRUCTION LITIGATION

VF RESEARCH - DISCOVERY

VF RESEARCH - DEALER TERMINATION

VF RESEARCH - DELAY DAMAGES

VF RESEARCH - DISSENTING STOCKHOLDER

VF RESEARCH - DIVORCE

VF RESEARCH - EMPLOYMENT ISSUES

VF RESEARCH - ENVIRONMENTAL ISSUES

VF RESEARCH - FAILURE TO REVEAL PRIOR LITIGATION HISTORY

VF RESEARCH - FRANCHISE LAW

VF RESEARCH - FRANCHISE LEGAL DIGEST

VF RESEARCH - FRANCHISE TERMINATION

VF RESEARCH - INDEMNITY

VF RESEARCH - JURY INSTRUCTIONS

VF RESEARCH - LAWYER'S RESPONSES TO AUDITORS

VF RESEARCH - LIMITATIONS

VF RESEARCH - PUNITIVE DAMAGES

VF RESEARCH - REAL ESTATE

VF RESEARCH - REMOVAL

VF RESEARCH - RICO

VF RESEARCH - RULE 11

VF RESEARCH - SECURITIES LAW

VF RESEARCH - SENIOR CITIZEN HANDBOOK

VF RESEARCH - SERVICE

VF RESEARCH - SETTLEMENT

VF RESEARCH - STOCKHOLDERS SUITS

VF RESEARCH - USURY

VF RESEARCH - WRONGFUL TERMINATIONS

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VWF PERSONAL ACTIVE FILES

BOX 1

* Foster Children Trusts
* Laura Foster
* Brugh Foster
* Vincent Foster, III
* Grandchildren's Trust

FOIA #56806 (URTS 16304) DocId: 70105036 Page 44 RIC-093551

BOX 2

* 1991 Business Expenses
* 1992 Business Expenses
* 1992 Income Tax
* 1992 Medical Expenses
* 1993 Income Tax
* 1993 Business Expenses
* 1993 Bills
* 1992 Bills
* Investments/Stephens 1987
* Personal Loans
* Financial Statements
* Personal Investments - Misc.
* Profit Sharing
* Insurance Policy
* Life Insurance

FOIA #56806 (URTS 16304) DocId: 70105036 Page 45 RIC-093552

BOX 3

* IRA
* Royalty Interests
* 5414 Stonewall
* 1991 Income Tax Return
* Charles Schwab Investments
* Louisiana Investors Ltd. Partnership
* Atchley Family
* Sharon Foster Bowman
* Alice Mae Foster - Estate Planning
* Investments - N.W. National Gas Co.

FOIA #56806 (URTS 16304) DocId: 70105036 Page 46 RIC-093553

BOX 4

* Estate of Vincent W. Foster, Sr.

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BOX 5

* Estate of Vincent W. Foster, Sr.

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BOX 6

* American Board of Trial Advocates
* American College of Trial Lawyers
* American Inns of Court
* Association of Trial Lawyers of America
* Continuing Legal Education
* Correspondence - Miscellaneous
* Diners Club

FOIA #56806 (URTS 16304) DocId: 70105036 Page 49 RIC-093556

BOX 7

* Highway 4 Property
* Highway 7 Property
* Insurance - Blue Cross/Blue Shield
* Judges
* Medical
* Miscellaneous
* Miscellany
* New Client Credit
* Newspaper Articles
* Private Banking
* Real Estate
* Resume

FOIA #56806 (URTS 16304) DocId: 70105036 Page 50 RIC-093557

BOX 8

* Services
* John Sloan, Jr.
* Social Security
* 5414 Stonewall
* Budget
* Telephone Bills
* Profitable Investing
* Personal - General
* Associates
* RLF 1991 Y/E Matters
* 1990 Year End
* Firm Business - Bonuses & Salaries
* Firm Meetings & Business - FY 1987

FOIA #56806 (URTS 16304) DocId: 70105036 Page 51 RIC-093558

VWF PERSONAL INACTIVE FILES

BOX 9

* Awards - Unframed
* Bills
* Booster Addition - Hope
* Business Expenses
* Compensation
* Desk Calendar - '90
* Democratic National Committee
* First Federal S&L
* FYE 01/31/92
* VF, Sr. - General
* Investments - Miscellaneous
* Investments - Phillips
* Investments - Rose & Co.
* Investments - Third Street Corp.
* Investments - Stephens Inc.
* IRS Representative Number

FOIA #56806 (URTS 16304) DocId: 70105036 Page 52 RIC-093559

BOX 10

* Midlife Investors
* James H. McKenzie
* National Board of Trial Advocacy
* Onebank
* Personal - General
* Rose Bldg. Ltd. Partnership
* INCOME TAX BACKUP
* WESTIN PREMIER

BOX 10 LC'S FILES

* 1992 FOSTER FAMILY MEDICAL FILES
* 1992 TCU PARENTS WEEKEND
* 1993 VANDERBILT PARENTS WEEKEND
* 1993 SEC TOURNAMENT
* MICHIGAN INFORMATION
* TRAVEL - ABA PREFERRED RATES
* ABA PRESIDENCY CAMPAIGN INFORMATION
* WIRE TRANSFER CODES

FOIA #56806 (URTS 16304) DocId: 70105036 Page 53 RIC-093560

BOX 11

* Arkansas Repertory Theatre
* Estate of Ric Braden
* Democratic National Committee
* Sheffield Nelson
* Estate of Princess W. Wyatt

RIC-093561
FOIA #56806 (URTS 16304) DocId: 70105036 Page 54

BOX 12 (RIGHT HAND DESK DRAWER)

* UNUSED AIRLINE TICKET FROM MUSKOGEEN TO LITTLE ROCK
* TRAVEL HONORS PROGRAM
* LISA FOSTER FREQUENT FLYER CARDS
* TRAVEL
* MID-WEST FREQUENT FLYER
* AMERICAN EXPRESS MEMBERSHIP MILES
* DINERS CLUB
* CONTINENTAL FREQUENT FLYER
* AMERICAN FREQUENT FLYER
* DELTA FREQUENT FLYER
* HILTON HOTEL HONORS PROGRAM
* MARRIOTT AWARDS
* MID-WEST EXPRESS FREQUENT FLYER
* NORTHWEST AIRLINES FREQUENT FLYER
* SOUTHWEST AIRLINES FREQUENT FLYER
* TWA FREQUENT FLYER
* UNITED MILEAGE PLUS
* USAIR FREQUENT FLYER
* WESTIN PREMIER
* BILLING FORMAT
* SUMMER ASSOCIATE PROGRAM
* STRUCTURED SETTLEMENTS
* RICO RESEARCH
* LEXIS
* RESEARCH EVIDENCE

FOIA #56806 (URTS 16304) DocId: 70105036 Page 55 RIC-093562

* FIDELITY BOND RESEARCH
* STRICT LIABILITY RESEARCH
* CIVIL PROCEDURE RESEARCH
* BUSINESS TORTS RESEARCH
* ANTI-TRUST RESEARCH

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RIC-093563

BOX 13

* BRIEFS

RIC-093564
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BOX 14

* CREDENZA - BOTTOM RIGHT CABINET

RIC-093565
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BOX 15

* CREDENZA - BOTTOM RIGHT CABINET

RIC-093566
FOIA #56806 (URTS 16304) DocId: 70105036 Page 59

BOX 16

* CREDENZA - TOP RIGHT AND MIDDLE DRAWER

RIC-093567
FOIA #56806 (URTS 16304) DocId: 70105036 Page 60

BOX 17

* CREDENZA - SNACK DRAWER

RIC-093568
FOIA #56806 (URTS 16304) DocId: 70105036 Page 61

BOX 18

* TOP OF CREDENZA

RIC-093569
FOIA #56806 (URTS 16304) DocId: 70105036 Page 62

BOXES 19-22 - TOP HALL CABINETS

* LAW REVIEWS

LAW JOURNALS

ARKANSAS STATUTES

MISC., NOTEBOOKS

RIC-093570
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BOX 23

* UNDER CREDENZA

RIC-093571
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Clinton

* **Whitewater Development**

FOIA #56806 (URTS 16304) DocId: 70105036 Page 65 RIC-093526

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House of Representatives

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INDEPENDENT

MAJORITY—(202) 225–5074
MINORITY—(202) 225–5051

September 20, 1995

Mr. John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, NW, #490-N
Washington, DC 20004

Dear Mr. Bates:

This is a follow-up to my letter to you dated September 14. In that letter, I endeavored to provide directly, or through reference to other individuals, articles, and reports, all of the information in my possession on the death of White House Deputy Counsel Vincent Foster. At this time I would like to supplement that letter.

I would like to call to your attention a report prepared by two private investigators, Vincent Scalice and Fred Santucci, on behalf of the Western Journalism Center. This report includes, inter alia, that the gun had "likely been staged" or placed in Foster's hand after death. I am enclosing a copy of that report for your use.

Second, I want to specifically bring to your attention the controversy about whether all the photographs taken in connection to this matter have been produced, and recommend that this issue be carefully reviewed.

Further, I am enclosing another set of articles which I believe originate from the Internet, and particularly point out that individuals identified as forensics experts are quoted as disputing the official findings. I recommend those people be interviewed.

Finally, I respectfully reiterate that because of the high profile of this case, I and many of my House colleagues strongly desire to see the Office of Special Counsel and Grand Jury conduct the broadest possible investigation, with all theories being given consideration.

Again, thank you for allowing me to provide this information and suggestions. Please be assured of any cooperation I can provide to your office.

Sincerely,

Steven Schiff
Vice Chairman

Enclosure

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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MAJORITY—(202) 225–5074
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September 15, 1995

John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, N.W., #490-N
Washington, D.C. 20004

Dear Mr. Bates:

Thank you for taking time to discuss with me your ongoing investigation into the death of White House Deputy Counsel Vincent Foster. While I understand your inability to discuss this investigation in detail, I do appreciate your willingness to discuss our concerns about lingering questions regarding Mr. Foster's death.

As we discussed, I am enclosing a list of potential witnesses and unanswered questions that have come to my attention. Undoubtedly, this list includes many names already known to you because I have tried to be as exhaustive as possible. Also enclosed are several recent articles I found on the Internet concerning the death of Vincent Foster, which I recommend you review for additional witnesses and/or issues.

In view of the case's high profile, a number of theories alternate to the official reports have arisen. I believe that those who proffer such theories should be interviewed to determine if they have any evidence or names of witnesses relevant to this case. Any conclusions the grand jury draws will be criticized unless the grand jury has the opportunity to hear from everyone. I therefore suggest that you interview the two reporters, Ambrose Evans-Pritchard and Christopher Ruddy, who have written extensively on Foster conspiracy theories. In addition, you may want to review materials being circulated by the Western Journalism Center and Reed Irvine at Accuracy in Media.

Again, thank you for your attention to this matter. If I can be of any assistance to your office, please do not hesitate to contact me.

Sincerely,

Steven Schiff
Vice Chairman

Enclosures

FOIA(b)(7) - (C)

ENCLOSURE

Potential Witnesses

Co-Workers
President Clinton
Hillary Clinton
Margaret Williams, Chief of Staff, Mrs. Clinton
Thomas "Mack" McLarty, Ex Chief of Staff
Roy Neel, Former Deputy Chief of Staff
John Podesta, Assistant to President
George Stephanopoulos, Asst. to President
Bruce Lindsey, Assistant to President
Ricki Seidman, Assistant to President
Marsha Scott, Deputy Assistant
Charles Burton, Deputy Assistant
Bernard Nussbaum, Former General Counsel
Linda Tripp, Nussbaum's Executive Assistant
Stephen Neuwirth, Associate Counsel
Clifford Sloan, Associate Counsel
William Kennedy, Associate Counsel
Craig Livingstone, Asst. To General Counsel
Beth Nolan, Associate Counsel
Deborah Gorham, Foster's Executive Assistant
Thomas Castleton, Counsel Office Employee

Friends/Family
Elizabeth Foster, Wife
Vincent, Laura, and John Foster, Children
Sheila Anthony, Sister
Beryl Anthony, Brother-in-law
Sharon Bowman, Sister --identified Foster's gun
Webster Hubbell, Assistant AG/close friend

Law Enforcement/ Medical Personnel
Officer Cheryl Brann, Park Police Investigator
[redacted]
Officer John Rolla, Park Police Investigator at the scene
[redacted]
Todd Stacey Hall, Fairfax County EMS Technician--first medical personnel at scene
George Gonzales, Fairfax County EMS Technician--first medical personnel at scene
Richard Arthur, Fairfax County EMS Technician
Richard Pisani, Fairfax County EMS Technician
Dr. Donald R. Holt, Fairfax County Medical Examiner at the scene
Dr. Julian Orenstein, Emergency Room Physician who officially pronounced Foster dead
Dr. James Beyer, Deputy Chief Medical Examiner for Northern Virginia District--performed autopsy

FOIA(b)(7) - (C)

Miscellaneous

Dr. Larry Watkins-- Foster Family physician in Little Rock--prescribed anti-depressants for Foster
James Lyons--Attorney Foster contacted about representing him in possible Travel Office hearings
Confidential Witness "CW"--first person to find Foster's body.
Helen Dickey, White House aide
[redacted] Arkansas State Trooper
Ambrose Evans-Pritchard, Reporter
Christopher Ruddy, Reporter
Western Journalism Center
Reed Irvine, Accuracy in Media

Outstanding Questions

1. Identity of blond hair found on Mr. Foster's body
2. Identity of carpet fibers found on Mr. Foster's body.
3. Location of spent bullet, bone fragments and blood.
4. Lack of soil found on Mr. Foster's shoes.
5. Correct location of Mr. Foster's body.
6. Did the White House staff have an apartment to use as a "safe house?"
7. Reports regarding plants around Mr. Foster's body.
8. Why was gun still in Mr. Foster's hand?
9. Was it possible for Mr. Foster to have a handgun in his possession at the White House without detection?
10. Was there any other signs of trauma to Mr. Foster's body other than the gun wound?
11. What was the number of vehicles at Fort Marcy Park at the time Mr. Foster's body was found?
12. Was a brief case found in Mr. Foster's car?
13. Would Mr. Foster have had knowledge of Fort Marcy Park before the day of his death?
14. Did Fort Marcy Park have an entrance which would have allowed persons access to Mr. Foster's body out of the view of the general public?
15. Was Foster working for the National Security Agency and was he blackmailed by the Israelis over a secret Swiss bank account?
16. Were their Foster connections to reports of cocaine trafficing through the Mena Airport in Arkansas?
17. Foster's ties to a "massive stock manipulation swindle with the Stephens family."

-- Begin Forwarded Message -----
Date: Sat, 9 Sep 1995 06:42:38 -0700
From: mikeb@mlode.com
Reply-To: usa-forever@webcom.com
To: undisclosed-recipients:;@mail.webcom.com

>From smtp Sat Sep 9 06:39 PST 1995 remote from mlode
Received: from mlode.com by mlode.mlode.com, Sat 9 Sep 95 06:39 PST
Date: Sat, 9 Sep 95 06:39 PST
From: mikeb@mlode.com
To: usa-forever@webcom.webcom.com
Subject: Re: Fostergate: 64 questions
Content-Length: 14576
Content-Type: text
X-Mailer: AIR Mail 3.X (SPRY, Inc.)

---- Begin Included Message ---->
From: bbog@expressway.com (Bobbie Bogue)
To: mikeb@mlode.com
Subject: Re: Fostergate: 64 questions
Date: Fri, 08 Sep 1995 23:44:29 GMT

Mike,

this is a sample of a message found in a newsgroup ..the name ofthe
group is belos. Thought you'd like this one ...!
;-)

In alt.politics.usa, cardin@slip.net (Richard Clark) wrote:

>----------

>There follows a list of suspicious events, observations, and circumstances,
>taken from the 2,726 pages of the 1994 Senate Hearings and Report
>Volumes that cover the death of Vince Foster. To find out how
>you can receive a 160 page synopsis of this material, put together by
>Stanford and MIT grad Hugh Sprunt, call Bell Jean Printing at
>(301) 864-6882. Pay only for shipping, fax, and copying costs.

>1. No fingerprints on the gun.
>2. No proof that it was his gun.

> 3. Suspicious people seen in and around victim's car just before the body was found.
> 4. Eyewitnesses saw the victim's briefcase in his car, yet the briefcase later vanished. So did the files index in his office.
> 5. All 35mm film of crime scene was either "overexposed" or it vanished.
> 6. Most of the Polaroid photos of the crime scene vanished.
> 7. "Independent" investigator Fiske was forced to concede that the victim's head had been moved---after death had taken place and before his body was photographed.
> 8. Car keys were not found with victim at crime scene, nor were they to be found in his car, yet the conclusion immediately arrived at was suicide! (Does this make any sense whatsoever?)
> 9. The first non-official to see the body said their was no gun in sight: so did the first official to see the body.
> 10. No blood splatter found. (High velocity .38 bullets through the mouth and head leave splatter!)
> 11. No bone fragments were found at the scene, yet part of the victim's skull was missing, according to the Fiske report.
> 12. X-rays vanished with no explanation. (Was it to conceal the fact that Foster had other head injuries besides that of a single bullet?)
> 13. Dr. Beyer, the examining physician, has a history of mistaking homicide for suicide. In some instances he stated X-rays had been taken; in other instances he stated they had not. Why the inconsistency?
> 14. According to some reports, Foster's head wound not consistent with a high velocity .38 caliber bullet. Dr. Haut's statement to the FBI was that the exit hole was very small. In contradiction, the Fiske report says Dr. Haut's observation was that the exit-hole was very large.
> 15. No fingerprints were found on the torn-up "suicide" note, but a palm print was. How can you tear up a piece of paper without leaving any fingerprints on it, even when the paper is 'receptive' enough to take a very clear palm print?! (No determination was made that it was Foster's palm print.)
> 16. A wound was seen on Foster's neck by paramedics. One described it as a bullet hole.
> 17. Dr.Haut & paramedics said they viewed the body in a location that is 200 feet from the site officially described.
> 18. The cannon near where some witnesses say the body was found has been removed from the park.
> 19. In his report, one paramedic listed the death as a homicide.
> 20. Numerous hairs and carpet fibers covered Foster's clothing. But his car was never checked to see if any of the same fibers could be found on the driver's seat, as surely there would have been found, had he actually driven himself to Fort Marcy Park.

>21. Whereabouts of victim in hours before death remains a mystery.
>22. The list of items in his "suicide note" could simply have been some
> reflection of his plans to resign his White House position, which his
> wife said he was seriously thinking of doing.
>23. Only two bullets in the gun. No matching bullets were to be found in his
> home or car.
>24. The victim planned to give his visiting sister a tour of the White
> House the next day.
>25. The victim's friend and attorney, Jim Lyons, was coming from
> Colorado to meet with him the next day.
>26. Foster had a full lunch before leaving to (supposedly) kill himself. He
> was jovial, and told his staff he would be back later in the day.
>27. In spite of an exhaustive search, no bullet was ever found which matched
> the cartridge in the revolver that was reportedly found at the scene.
>28. The attitude of the body was not consistent with suicide. It was laid
> out straight, with arms neatly at his side.
>29. No one heard the shot. Few people in the surrounding area were even
> asked. The closest house, which was under construction at the time,
> was only 400 ft. away.
>30. The FBI was kept out of the initial investigation.
>31. The lead investigator assigned to go to the body site was performing
> his first homicide investigation.
>32. Victim's appointment book was never found.
>33. Victim had been making "overnight" trips to Switzerland (go one day,
> come back the next) which his wife didn't know about. Indications
> are that he had a Swiss bank account which had been mysteriously
> emptied of $2.7 million a week before he died. His last planned trip
> to Switzerland had, for reasons unknown, been canceled
>34. Foster had, until coming to Washington, been employed as a
> $300,000 a year lawyer. His house in Washington was not especially
> impressive. Yet in the last weeks before his death he had a
chronically
> overdrawn checking account!
>35. Police were prevented from searching the victim's home and office.
>36. Victim's widow was not interviewed for ten days after the death.
> Apparently she was shown a gun, silver in color, that was identified
> as the weapon used. She said it looked like the "silver-colored
revolver"
> she had previously seen at home. The ABC photo very clearly shows
> a black gun in Foster's hand.
>37. No proof that gun found with victim fired the fatal shot.
>38. Photos and reports in the possession of the Park Police and FBI are
> being kept from public view. (Just like the Zapruder film in 1963.)
>39. The Fiske Report contains numerous factual errors regarding time and
> geography at crime scene. It reports a large pool of blood under
Foster's

> head, even though no one who was at the site made any such report.
> In fact some of those who viewed the body, including Dr. Haut and
> Corey Ashford, specifically stated to the FBI that there was no blood
> on the ground. (Ashford is one of the medical technicians who helped
> pick Foster's body up, to remove it from the scene.)
>40. One vehicle seen at park by police and rescue eyewitnesses is ignored
> in the official record of the case.
>41. Park Police concluded their investigation before they sent the gun
> for testing to see if it could fire.
>42. Death was ruled a suicide before the investigators viewed the body.
>43. The crime scene was never totally secured. There are access roads
> near the body site, in the opposite direction from the parking lot
> where Foster's car was found. Access to the body from these roads
> was never blocked off in any way.
>44. No damage whatsoever to victim's teeth from the recoil of a .38,
> allegedly placed in his mouth. This pistol has a rather substantial
steel
> aiming device mounted at the top of the end of the 4-inch barrel.
>45. Wildly conflicting testimony re: the time at which the victim was
identified.
>46. There is no evidence to support the Fiske report that the victim had
> lost weight. The only evidence is that he had gained weight.
>47. Conflicting testimony as to when the White House was told of the
> death---from as early as 6:00 PM, according to the initial report from
> Chelsea's nanny, to the official time of 8:30 PM.
>48. The phone number of a Secret Service officer was found in the
> notebook of Park Police investigator Rolla. Immediately following this
> entry was the address and phone number of Vince Foster. When
> asked about this during his deposition, the record shows that Rolla got
> nervous and flustered.
>49. Eyewitness testimony is in disagreement as to whether victim's car
> was initially found locked. Some say it was locked. But the car keys
> were "found" much later, at the morgue, in a front pocket that had
> already been searched at the scene. How then was Foster's car opened
> up?!
>50. Because of interference with prosecutor Rodriguez' inquiry into this
> case, he resigned in protest.
>51. Marsha Scott met with Foster, her friend of 20 years, in an unusual 1-2
> hour closed-door meeting the day before he died. After Foster died, the
> only thing Ms. Scott said she could remember discussing, from her
> long meeting, was that Foster had a good weekend. (!)
>52. The ABC News photo published showing Foster's hand with the gun is
> not consistent with eyewitness accounts of the scene.
>53. The victim's office, a secondary crime scene, was immediately
> cleansed of evidence and documents by Clinton administration officials.
>54. The victim's personal effects including his pager were returned to the

> White House within 24 hours---before they could be analyzed by the police.

>58. Certain White House personnel, whose names are (for reasons unknown) not in the official record, were prepared to break into Park Police Officer Rolla's desk drawer to obtain a key to the evidence locker where Foster's possessions were being kept. (See p. 91 of Hugh Sprunt's report.)

>59. The neighborhood around the crime scene at Ft. Marcy Park was not canvassed by police, to see if anyone had heard a shot, until two weeks after the shooting took place.

>60. Several police officers in Arkansas, two of them on duty at the Governor's mansion, have given sworn depositions that they were told of Foster's death, by phone, at 6:00 PM EST. But this would be _before_ police and rescue workers arrived at Ft. Marcy Park! One of these officers immediately informed the governor's wife---more than an hour before White House personnel say they found out about Foster's death.

>61. It is unclear when and where the victims car keys were actually found. One rescue worker says they were found on the way to the morgue. Another says they were found at the morgue.

>62. Police and rescue workers have been forbidden to discuss the case.

>63. No mention has ever been made as to whether there were powder burns inside of Foster's mouth and whether they were consistent with the bullet and spent shell found in the gun at the scene.

>64. Shortly before his death, Foster asked his executive assistant put two, inch-thick ring binders, from the National Security Agency, into Bernie Nussbaum's safe. However, Foster did not have the security clearance necessary for possession of such binders. When Foster's assistant revealed, under oath, in an interview by Senate Banking Committee investigators, that she had placed these binders in the safe after Foster gave them to her with this request, no follow-up questions were asked, and no mention was made of any of this in the public hearings which followed. Why not?

>65. The gun found at Ft. Marcy Park was composed of parts from "two different guns" and the serial numbers had been ground off both parts!

>66. Lisa Foster was given more than $250,000 just prior to her husband's death. It was channeled to her via Vince Foster's sister who works at the Department of Justice. Why was Lisa given this money? Was it hush money?

>67. Web Hubbell, in his testimony to the recent Whitewater hearings, when describing his actions FOLLOWING notification of Foster's death is reported to have said, "We searched for Vince Foster's gun in his house". Could Web Hubbell have taken the silver-colored gun from Foster's house, so that the FBI could later show Lisa Foster the

> "suicide weapon"?

The sixty-four thousand dollar question:
How could the first Independant Prosecutor, Robert Fiske, have possibly missed _all_ of the preceeding 64 points? How could a truly independent and objective investigator honestly and totally miss all this?! And if he missed it on purpose, what was he trying to hide, why was he hiding it, and for whom was he hiding it?

The foregoing list of suspicious events, observations, questions and circumstances was taken, almost entirely, from the 2,726 pages of the 1994 Senate Hearings and Report Volumes (8 of them) that cover the death of Vince Foster. To find out how you can receive a 165 page synopsis of this material, put together by Hugh Sprunt, direct your inquiry Bill Jean Printing, (301) 864-6882 or contact HSprunt@aol.com. Sprunt has an MBA and JD from Stanford, as well as a BS and an MS from MIT. He is the lead author of a two-volume, 1750 page tax reference work. His words have been published in the NYT, the Washington Times, the WSJ, and Forbes Magazine. He also happens to have been the person to find his grandfather, minutes after the elderly gentleman had blown his brains out with a .38 revolver (the barrel of which had been placed in the mouth). So he knows, personally and vividly, what such a scene looks like. (And also knows that from all descriptions of the Foster death site, no HV .38 caliber bullet through the mouth & head could have possibly taken place at this location.)

I've read Sprunt's 165-page booklet from cover to cover and have highlighted and tagged every section referred to in this list. All but two or three of the items on the list can be found both in Sprunt's booklet as well as in the Senate Hearings Report just mentioned. The two or three others can be found in Jim Norman's Fostergate article, which was carefully checked by the staff at Forbes, the staff at Media Bypass, and the staff at the Jerusalem Post, where (i.e. the last two places mentioned) the article was finally published.

Richard Clark

- End Included Message --- >

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WASHINGTON POST ACCUSED OF FABRICATING FRONT PAGE STORY

To Whom Does it owe its Allegiance?

Editorial

On July 4, the Washington Post ran a front page story dismissing questions about the death of Vince Foster as fantasies of right-wing conspiracists.

In the process, Susan Schmidt advanced a conspiracy theory of her own: that "conservative multimillionaire" (can you get more evil?) Richard Scaife is behind several of these conspiracy theorists.

But Ambrose Evans-Pritchard of the London Telegraph, who was one of the targets of Susan Schmidt's hit piece, has shown that she went so far as to use active disinformation to dismiss the credibility of the Vince Foster investigative reports.

In the July 9 issue of The Sunday Telegraph, he responds thusly to Susan Schmidt's piece:

"Last week's article in The Post insinuated that The Sunday Telegraph had fabricated a story about clandestine trips to Switzerland by Vince Foster [described in the May 29 issue of the

Washington Weekly]. The Author, Susan Schmidt, The Post's full-time reporter on Whitewater, said sources 'with access to Foster's American Express receipts say they show no purchase of airline tickets to Switzerland.'

But when confronted, she admitted that her sources did not in fact have access to information (which The Sunday Telegraph did have) about the two flights Mr. Foster made to Geneva in 1991 and 1992. Furthermore, she had no credit-card numbers and did not know which of Mr. Foster's American Express cards may have been involved. Nor did she have any records from the airlines. 'These records are closely guarded,' she said, by way of explanation.

The only information she had, it turns out, referred to a single purchase in July 1993 conducted through the White House travel office. We would surmise that her 'sources' (plural) are in the Clinton White House."

"Is the newspaper that broke Watergate now, intentionally or not, aiding and abetting a cover-up a generation later?"

Had The Washington Post had a record of honest reporting, it might have been able to recover from this example of dishonest journalism by firing Susan Schmidt. But this is only the latest in a string of fabrications, omissions and outright propaganda spread by this "newspaper."

All newspapers and magazines, including the Washington Weekly, make honest mistakes from time to time. But few reporters find it necessary to use outright fabrications and lies to make a point. In fact, Ambrose Evans Pritchard seems to have a very good case for a libel suit against the Washington Post. Deliberate lies are highly prosecutable.

The former Soviet newspaper "Pravda" existed to control the information that was available to the public, and to provide spin on events that could turn into a scandal for the government. Can anyone say that The Washington Post is any different in that regard? What has our political system come to, when the mainstream news media is trying to protect the president from scandal?

The story by Susan Schmidt follows a modus operandi that has been chronicled by the Washington Weekly over the last year. Whenever damaging allegations are raised against the president, a mainstream reporter attacks the credibility and motives of either

the person bringing the charges or the reporter bringing the news. Subsequently, all other mainstream reporters can go on talk shows and TV and say that "I believe those charges have been thoroughly discredited."

Past examples of this insidious tactic include Harper's Magazine's attack on Jeff Gerth, author of the first stories on Whitewater, Time Magazine's attack on Terry Reed, author of the first detailed account of the Mena scandal, CNN's attack on the same Terry Reed, Newsweek's attack on Paula Corbin Jones and The Wall Street Journal's attack on Cris Ruddy, investigative reporter on the death of Vince Foster.

Next in line to receive this treatment is State Trooper L.D. Brown. He has now gone public with his allegations that Clinton took drug money. That means that the only option left to silence him is to discredit him. Which reporter is going to accuse him of being a child molester, of having escaped from a mental institution, or discredit him as a "right winger?" Watch the entrance to the White House for clues.

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November 3, 1995

John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, N.W., #490-N
Washington, D.C. 20004

Dear Mr. Bates:

During a recent meeting with Accuracy in Media's Chairman Reed Irvine, I invited Mr. Irvine to submit to me a list of the most serious, unresolved questions in his view relating to the death of White House aide Vincent Foster. As you probably know, Mr. Irvine has been a leader among those individuals and groups raising questions about the investigation into Mr. Foster's death. I am providing you a copy of his letter and I would encourage your office is address each question specifically in any report released on this matter.

I have appreciated your cooperation in hearing my concerns.

Sincerely,

Steven Schiff

Steven Schiff
Vice Chairman

Enclosure

ACCURACY IN MEDIA, INC.

Reed Irvine
Chairman of the Board

4455 Connecticut Avenue, N.W. • Suite 330 • Washington, D.C. 20008

Phone: (202) 364-4401 • Fax: (202) 364-4098

November 3, 1995

The Honorable Steven H. Schiff
U.S. House of Representatives
2404 Rayburn Building
Washington, DC 20515-3101

Dear Steve:

As you requested at the conclusion of our meeting on October 18, I am submitting a list of steps which should be taken to help find the answers to the many important questions that have not been satisfactorily answered concerning the death of Vincent W. Foster, Jr.

1. **Exhume Foster's body and have a proper autopsy conducted by qualified medical examiners of unquestioned integrity with no previous involvement in the case.**

Why: Any finding based on the autopsy conducted by Dr. James Beyer is suspect. His lying about the X-rays has aroused suspicion that nothing less than a new autopsy can allay. Even if the X-rays Beyer said he took and then denied taking were found, it would still be necessary to check to see if there was a wound on the right side of Foster's neck as reported by emergency medical technician Richard Arthur and as observed by Miquel Rodriguez in one of the enhanced crime scene photos he had made. Beyer's record in the Tim Easley and Tommy Burkett cases in which he overlooked injuries not consistent with his findings of suicide does not inspire confidence.

2. **Try to determine the nature of the "bind" that Dr. Robert Hedaya says Foster's sister, Sheila Anthony, told him on July 15 her brother was in.** This must have involved knowledge of or involvement in something far more serious than Travelgate to have led Foster to kill himself or someone else to kill him. Start by calling Sheila Anthony and Marcia Scott before the grand jury. Foster had a lengthy conversation with Scott the day before he died, but she claimed she couldn't remember what they talked about. A likely story!

3. **Obtain the times of the following phone calls: (1) All calls from the White House to the governor's mansion in Arkansas on July 20, 1993 after 5:00 p.m. eastern time. (2) All calls made to and from the Air Force plane carrying Mrs. Clinton from California to Little Rock. (3) All calls made to and from Mrs. Clinton's mother's home on July 20 after Mrs. Clinton arrived there. (4) The call made from Fort Marcy Park to Lt. Danny Walter of the Presidential Protection Division of the Secret Service at 202-395-4366. (5) All other Park Police calls to the Secret Service on the afternoon and night of July 20 and all calls made by U.S. Park Police Lt. Patrick Gavin.**

Why: David Watkins testified before Sen. D'Amato's committee that at 10:30 p.m. on July 20, 1993, the Park Police had been in touch with the Secret Service about Foster's death "for some five hours." Helen Dickey reportedly called the governor's mansion in Little Rock to report Foster's death as early as 5:30 p.m. and no later than 8:00 p.m. eastern time. If that call was made before 6:10 p.m.

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it was before the police found the body. If it was made before 6:30 p.m., it was before the body had been identified. If it was made before 8:00 p.m., it was before the White House says it was notified.

4. Try to ascertain Foster's whereabouts on the afternoon of July 20 by (a) trying to determine the origin of the carpet fibers and blond hair on Foster's clothing, (b) checking the rumors that a house or apartment was rented to some of the senior administration officials from Arkansas, including Foster, or made available to them by the Secret Service for their private use, and (c) locating his pocket address book and whatever he used to keep track of his appointments.

Why: The records and testimony so far made public do not show that any effort was made to check out any of these possible clues. There is no mention of anything like a daytimer, desk calendar or address book being recovered. There was a rumor that Foster's body was moved from a "safe house" that caused a dip in the stock market, but the Fiske report did not include this among the ten questions it tried to answer. The failure of the Fiske investigation to deal with the carpet and other fibers, the blond hair and the semen the FBI lab found in Foster's shorts is one of its greatest weaknesses.

5. Find out what the NSA binders that Foster had his secretary put in the office safe contained, why Foster had them and what became of them.

Why: Persons who held Foster's position in previous administrations have told me the only justification for Foster having such material would be if he were working on something like a reorganization of the intelligence agencies. Deborah Gorham's description of Foster's work suggests no reason for him to have NSA documents.

6. Investigate the investigators to determine the following: (a) Who made the decision to leave the investigation to the Park Police? (b) Do the Park Police handwritten notes of their interviews with witnesses who saw men behaving suspiciously in the Fort Marcy parking lot shortly before Foster's body was found conform to their misleading typed reports of these interviews? (c) Do the FBI handwritten notes of their interviews with Patrick Knowlton conform to the false statement in their typed report that Knowlton would not be able to identify the man he saw behaving suspiciously in the Fort Marcy parking lot 75 minutes before Foster's body was found? (d) Why have witnesses with no incentive to lie, such as Patrick Knowlton, been subjected to inappropriate treatment while those whose statements are suspect have been treated very gently? (e) Was the spoilage of all 35 mm. crime scene photos and the loss of most of the back-up Polaroids purely accidental? (f) Can the technicians who assisted Dr. Beyer with the autopsy cast any light on whether or not X-rays were taken and why Beyer lied to explain why none existed?

Why: It is imperative that we find out if what have been interpreted as blunders in the previous investigations are innocent mistakes or deliberate efforts to conceal and deceive.

Sincerely yours,

Reed Irvine
Chairman

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October 10, 1995

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John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, N.W., #490-N
Washington, D.C. 20004

Dear Mr. Bates:

I am enclosing for your review materials relevant to your investigation into the death of White House aide Vincent Foster. In addition to materials obtained from the Internet, the enclosed packet includes a letter I received from Gary W. Aldrich, a former FBI Special Agent assigned to conduct background checks on members of the White House staff. According to Mr. Aldrich, he conducted the background check on Mr. Foster and has material he believes to be relevant to your investigation.

As always, thank you for your cooperation. I appreciate your thorough review of the facts surrounding this serious matter.

Sincerely,

Steven Schiff
Vice Chairman

Enclosures

September 18, 1995

The Honorable Steven H. Schiff
United States House of Representatives
2404 Rayburn HOB
Washington, D.C. 20515

Dear Congressman Schiff,

In the September 16, 1995 issue of the Washington Times there was an article that says you are looking into some of the issues related to the death of Vince Foster.

My name is Gary Aldrich, and I have enclosed a business card and a copy of my resume. I have retired from the FBI after 25 years as a Special Agent. I was honored to have an assignment in the White House from July 4, 1990 to June 2, 1995. My primary mission was to investigate the White House staff with respect to character issues so as to permit permanent access to the complex and a clearance to access national security data. This process, which is identical to the process that screens presidential appointments confirmed by the U.S. Senate, and our own FBI employees is called the Special Inquiry, or SPIN.

I have been somewhat surprised that I and my FBI agent partner Dennis, who is still working at the White House have never been interviewed in any formal way with regard to Foster's death, or any other aspect of the White House operation. But since I have retired I thought it prudent and fair to alert you and your staff to the following:

I was the case agent assigned to interview Vince Foster about his character so that he could obtain access to the White House and to Top Secret and above data. The investigation was to serve three purposes: 1. Establish that Foster was suitable for federal employment. 2. That Foster was not a security risk to others, the White House Complex, or to himself, and 3. that Foster could be allowed access to the Nation's most critical and secret data.

I believe that I have substantive information that would assist in your inquiry, and I am willing to meet with you at your earliest convenience. Good luck in your endeavor.

Yours truly,

Gary W. Aldrich
12604 Heritage Farm Lane
Herndon, Va. 22071
(703) 391-7692

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Consultant

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GARY W. ALDRICH
Investigator - Writer

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October 18, 1995

John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, N.W., #490-N
Washington, D.C. 20004

Dear Mr. Bates:

I am enclosing for your review material relevant to your investigation into the death of White House aide Vincent Foster. This material was recently sent to me by Joseph Farah, Executive Director of the Western Journalism Center.

Thanks again for your cooperation. I appreciate your thorough review of the facts surrounding this serious matter.

Sincerely,

Steven Schiff
Vice Chairman

Enclosures

WJC Western Journalism Center

October 11, 1995

Rep. Steven H. Schiff
U.S. House of Representatives
2404 Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Rep. Schiff:

With respect to your review of documents in the death of Vincent W. Foster, I am sending you a collection of reports my organization has prepared on this matter.

The Western Journalism Center is the only national news organization supporting a full-time investigation of Foster's suspicious death. Please keep us abreast of your progress and let us know if we can be of help.

Sincerely,

Joseph Farah
Executive Director

JF:cg

enclosures

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EOIA #56806 (URTSI6304) Doc # 7010038 Page 28

INDEPENDENT REPORT

in RE:

The Death of Vincent W. Foster, Jr.

Prepared for: Western Journalism Center
April 27, 1995

By: Vincent J. Scalice Associates
Forensic Control Systems

Report Prepared by
Vincent Scalice, S.C.S.A.
Forensic Control Systems
107 Cedarview Avenue
Staten Island, NY 10306

for

Western Journalism Center
P.O. Box 2450
Fair Oaks, CA 95628

RE: Confidential Investigation
Crime Scene Reconstruction
Vincent W. Foster Jr. (Deceased)

Case No. 2014/95

At your request, a Confidential Investigation was carried out by this office in regard to the circumstances involved in the death of Deputy White House Counsel, Vincent W. Foster Jr., whose body was reported to have been found within the confines of Fort Marcy Park, Fairfax County, Virginia, during the early evening hours of Tuesday, July 20, 1993. The following is a detailed report of the results of our investigation.

CRIME SCENE RECONSTRUCTION SEQUENCE

On Saturday, March 4, 1995, at approximately 2:00 p.m., our operatives, Vincent J. Scalice, S.C.S.A., Forensic Consultant, Richard Saferstein, PhD., Criminalist, and Fred Santucci, Forensic Photographer, arrived at the parking lot of Fort Marcy Park and commenced this investigation.

Soil and surface conditions were dry. Temperature was measured at 41 degrees fahrenheit.

The operatives took the path which would have been closest to Mr. Foster's car, and entered the main clearing of the earthen fort. The operatives examined the ridge, or berm, immediately to the left as they entered the clearing. Approximately midway along the berm, the operatives noted the metal-concrete anchor which secured the "first cannon." This cannon has been removed from the park recently.

Approximately 50 feet past the first cannon site the operatives noted a curve shaped hollow and a path going down the embankment. This site has been identified in the Ruddy report as the true location of the body's discovery on July 20, 1993. This location herein will be noted as the cannon No. 1 area.

The operatives proceeded directly across the clearing, taking the most direct path to the second cannon site. The site is hidden

from the main clearing, and is approximately 200 feet from cannon area No. 1.

The operatives reviewed the second cannon site, including the berm the second cannon overlooks, where the Park Police claim Foster's body was discovered. This site is referred to herein as "the second cannon site."

The operatives also noted homes along Chain Bridge Road which could be seen from the second cannon site.

The operatives then proceeded along an easterly trail which runs parallel to Chain Bridge Road to the park's rear entrance. The operatives noted that the entrance is for both cars and pedestrians, and identified the compound for the Ambassador of Saudi Arabia, as well as the compound's security camera that views the park's rear entrance.

The operatives then returned to the parking lot and met with a stand-in for Mr. Foster, identified herein as the model. The model is the same approximate weight and height as Mr. Foster.

The model put on a clean pair of dress shoes at the reported location of Mr. Foster's car. He then took the nearest path and proceeded to the second cannon site. He walked along the side of the path, avoiding walking on the freshly laid gravel path that begins at the lot and leads up to the entrance of the main clearing.

The model took the most direct route to the second cannon site. From the time he left the lot until he arrived at the second cannon site, the model was videotaped by Mr. Santucci.

The model thereupon removed the dress shoes, which were examined, bagged and noted by Dr. Saferstein. The model put on a fresh pair of shoes, dress socks, suit pants, and a white dress shirt.

The model then walked several paces down the second cannon site, and sat down on a root stem which forms a natural seat, as identified in the Fiske report. In a reclined position, the model's head laid approximately 10 feet directly in front of the second cannon's barrel. This is consistent with the Fiske report.

While seated the model was asked to place both hands around an imaginary gun placed in his mouth, and simulate firing the weapon.

During this time Mr. Santucci continued taking videotape, as well as 35mm photographs. Mr. Scalice took numerous Polaroids of the scene.

The model was asked to straighten out his legs and arms as he reclined on the path, as consistent with eyewitness descriptions

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of how the body was found. Mr. Scalice had the model place his right hand and arm in a position closely resembling the polaroid that was released by ABC News. Similar Polaroid photographs were taken by Mr. Scalice for comparison purposes.

The operatives proceeded down the berm approximately 13 feet from where the body was reported to have been found to the point at which Foster's eyeglasses were said to have landed after being thrown from his body. Photographs were taken at this location.

The operatives noted that from the crest of the berm's hollow, the berm falls at an angle of approximately 25 to 30 degrees for several feet until it reaches the first section of the root stem. At that point, the berm falls away sharply at approximately a 45-degree angle. The abrupt drop in the slope takes place almost at the mid-section of the model's body, causing the body to appear curved around the slope, or bowed outward.

The model's upper body was then lifted up to examine the back of the head and the body was also allowed to slip for three to four inches on the incline, as noted by eyewitnesses. The body was then picked up fully. The model thereupon removed his clothing and shoes. The items were bagged and removed by Dr. Saferstein for further analysis.

Dr. Saferstein also examined soil conditions at the second cannon site.

The operatives then proceeded to the cannon No. 1 site and examined and compared the ABC News copy of the polaroid photo with conditions at this area. It was noted that at this location the body would have lain on a more gentle slope of approximately 25 degrees.

As a result of closer inspection of this site coupled with a detailed examination and comparison of the ABC photograph, obvious similarities were noted in regard to the plant life and vegetation throughout this area. Several leaves of a particular type which matched those contained in the photograph were found to be present at this location. Several of those leaves were collected, bagged and removed for further analysis and possible identification.

The operatives then returned to the second cannon site and thoroughly searched this area for similar type leaves. No matching leaves were found at this location.

The operatives returned to the parking lot at approximately 5:00 p.m., ending their reconstruction project.

In addition to the aforementioned crime scene reconstruction project, a detailed examination and evaluation was carried out in regard to the Fiske Report, as well as all attachments, including

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F.B.I. laboratory and interview reports, U.S. Park Police reports, autopsy reports and Senate Banking committee testimony.

The following is a report of the findings and conclusions in regard to our investigation into this matter.

GENERAL FINDINGS

1. Movement of the Body

A high probability exists that Foster's body was transported to Fort Marcy Park from an outside location due to the following:

According to the Fiske report, Foster's shoes had not one trace of coherent soil on them or on his clothing although the 197 pound Foster had allegedly walked over 700 feet to the second cannon site. Although the heavy summer foliage may have covered much of the ground soil, other areas would have been traversed with exposed soil.

For example, a laboratory test conducted on one (1) pair of shoes (15017, worn by model) and walked simply several paces in the vicinity of the second cannon, revealed "significant quantities of soil in combination with vermiculite (mica) on both heels."

The shoes and clothing worn by the model at the park were closely examined and analyzed. Both shoes and clothing were found to contain soil mixed with mica.

These facts would be highly consistent with the fact that Foster did not walk to the spot where he was found, but was more likely transported to this location by other means.

Our laboratory analysis on a pair of shoes (65548) that had been walked from the parking lot to the second cannon site disclosed evidence of grass stains. It should be noted that the walk was carried out in winter weather (March). Had Foster walked this route on July 20, 1993, there would have been a greater likelihood of grass staining. The F.B.I. report omits any mention of grass staining whatsoever.

Officials claim that Foster's body was found on a path lying at the second site. If this were true, especially on a warm summer day, soil and other debris should have adhered to his clothing and shoes. The Fiske report indicates no traces of coherent soil whatsoever.

The position of Foster's body as described in numerous reports is completely unnatural with a suicide of this type. In agreement with the Fiske report the only likely scenario would be that

Foster was in a sitting position. In this position, however, it is not logical to expect that his arms and legs would have fallen

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into a neat and orderly position. It is more likely that his arms would extend outwards at an angle to the body as a result of the discharge. The neat arrangement of his arms close to the body, coupled with the overall arrangement of the body itself, is not consistent with suicide.

The lack of extravated blood on the front of the body is inconsistent with death by intra-oral gunshot, which raises the likelihood that Foster's heart had already cessated and that death would have been caused by other means. Dr. Donald Haut, the Medical Examiner present at the scene when the body was rolled over, said there was little blood behind the body on the ground. This is consistent with the small amount of blood that had emanated from the entrance wound.

Haut said that blood had matted or congealed on the back of the head. This is an indication that the exit wound may have been covered if the body was moved.

Had Foster fired the weapon while in the sitting position and the bullet followed the trajectory described in the autopsy, exiting from the back of the top of the head, blood splattered brain tissue and other matter should have been visible above the head, on the surrounding ground or vegetation. No witnesses identified such matter as described and the lead police investigator saw none.

The inconsistent blood tracks and stain on Foster's right cheek, as mentioned in the F.B.I. report, cannot simply be explained by the fact that an emergency worker may have touched the head, for example, while checking the carotid artery. This further supports the theory that the body may have been transported.

2. Location of the Body's Discovery

The forensic evidence does not support the police and Fiske conclusion that Foster's body was found on the path directly in front of the second cannon site. This pathway has clearly been a dirt path edged by root stems. These root stems appear worn as a result of having been exposed for many years. A Gannett news report, published shortly after Foster's death, reported the path to be a dirt one.

Shoes and clothing worn by the model at the second cannon site were closely examined and analyzed. Dress shoes (15017) were found to contain significant quantities of soil mixed with mica. The pants were also found to contain soil mixed with mica.

Had Foster's body been lying at the second cannon site, especially on a warm summer day, soil and other debris should

have adhered to his clothing and shoes. The Fiske report indicates no traces of coherent soil whatsoever.

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The second cannon site is not consistent with the heavy and dense foliage said to have been found all around the body. It is not consistent with description of the scenes polaroids, including the ABC News photograph.

The Fiske report notes heavy vegetation below the body extending to the location of Foster's eyeglasses, approximately 13 feet away. This also is not consistent with the barren area below the body at the second cannon site.

The cannon No. 1 site is consistent with the description of heavy foliage. It is consistent with the ABC News polaroid.

The ABC News Polaroid clearly shows evidence of a certain type of leaf, which has been found to be common to the cannon No. 1 area. This leaf has subsequently been positively identified as a species known as **Magnolia acuminata.** As a result of a careful examination and inspection carried out over a wide area in the vicinity of cannon No. 2, it was conclusively established that no leaves of this type were observed in or about this location.

The second cannon site has a slope whose angle of descent drops considerably to a point almost exactly where Foster's mid-section would have been. On the slope the model's body displayed a curved, or bowed appearance, with the abdomen clearly protruding. No mention of this characteristic position was noted in any of the eyewitness statements. The angle of the slope at the first cannon site is less pronounced and would not have resulted in any unusual or curved position of the body.

SPECIFIC FINDINGS

1. The Fiske report states that mica particles found on Foster's shoes and clothing, in the absence of soil, supports the conclusion that Foster had walked through the park. This conclusion is not logical due to the fact that shoes and clothing used in our reconstruction contained a mix of both soil and mica, as noted in our laboratory tests.

Our laboratory analysis of vegetation from the park also revealed "significant quantities of vermiculite (mica) and the absence of soil constituents." Therefore, mica particles found on Foster's clothing supports the conclusion that his body was lying on dense foliage and vegetation only. This fact is also consistent with the probability that his body had likely been transported to the scene.

The aforementioned conclusions are further supported by the F.B.I. report which notes mica being found not only on his shoes, but also on his shirt, pants, belt and socks.

2. Had Foster fired the gun at the second cannon site, it is conceivable that the shot would not have been heard by any of the

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neighbors who reside in homes across the road. The barrel's position in the mouth may have produced a muffling effect, and traffic noise could have possibly further diminished the sound of the shot.

3. Had Foster fired the gun while in a sitting position at the second cannon site, the bullet, if it did exit the back of the rear of the head, could conceivably have cleared the berm behind him. However, after exiting the head, it is reasonable to expect that the velocity could have diminished considerably, thereby causing the spent projectile to fall closer to the body. Behind the body and above the crest of the berm is an open clearing area. On the other side of the clearing is a small berm, creating a natural barrier for the fired projectile. Failure to recover the spent bullet is consistent with the fact that the gun may have been fired at another location.

4. An important focus of this investigation should be placed on the park's rear entrance, as a possible means or method of transporting the body to the scene.

5. Carpet-type fibers of various colors which were found on almost all of Foster's clothing was clearly indicative of the fact that his body probably was in contact with one or more carpets at some point in time prior to his death. It is therefore logical to assume that such contact would have taken place at some other location prior to his being found in the park. This type of trace or transfer evidence should be considered highly significant as it would provide an indication of Foster's possible whereabouts or movements prior to him being found in the park. This evidence raises the possibility that his body may have been in a prone position, that his clothing may have been searched while in a prone position, and/or his body may have been transported while in contact with some type of carpeting.

It should be noted that nowhere in the reports is any mention made of any search or vacuuming in Foster's car for trace evidence. No carpet fibers were recovered from the interior of Foster's vehicle or the trunk area. The recovery of such evidence might have established whether or not Foster had in fact driven to the parking lot, or was transported in the trunk.

6. Foster's eyeglasses were reported to have been recovered approximately 13 feet below his body on the berm. The Fiske report notes that since the gunpowder was found on the glasses it meant that they must have been thrown from his head or shirt pocket after the gunshot. It is inconceivable for the glasses to have been thrown or bounced through foliage to the location where they were found. This would seem more likely an indication that the crime scene was tampered with.

7. According to the Fiske pathology panel, "Mr. Foster's index fingers were in the vicinity of the (front) cylinder gap, when

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the weapon was fired." This conclusively demonstrates that neither his right nor left hand was on the hand grip when it was fired. This evidence is inconsistent with suicide.

In most cases of suicide, the gun does not remain in the victim's hand.[1] In addition to the unusual gunpowder soot found on the index fingers, we found disturbing the proximity of the right hand and arm to the right leg, the unusual deep position of the thumb in the trigger guard, the position of the gun barrel tucked under the right leg, the lack of any visible blood on the gun, the failure of the family to positively identify the gun's ownership and the failure to recover the fired projectile. These facts are all supporting evidence that a high probability exists that the positioning of the gun in the hand was staged.

CONCLUSIONS

All cases of suspicious death should be treated as homicides, until proven otherwise. Due to the circumstances involved in this case, the opinion has been formed that homicide has not been ruled out.

As a result of our investigation and reconstruction in regard to this case, we have concluded contrary to the conclusions arrived at in the Fiske report: the overwhelming evidence does not support the conclusion that Vincent W. Foster Jr. committed suicide in Fort Marcy Park.

Therefore, wholly separate from the issue of suicide or homicide is the obvious problem of the body's transport to the park.

Still another serious issue concerns the location of the body's discovery in Fort Marcy Park. Based upon the evidence made available and examined, it is more likely that the official location of the second site is not the actual site of the body's discovery. Evidence also indicates that the first cannon site is more consistent with the actual location of the body's discovery.

Signed:

Vincent J. Scalice, S.C.S.A.
Forensic Consultant
Crime Scene Analyst

Fred D. Santucci
Forensic Photographer
Crime Scene Expert

[1] Mr. Scalice and Mr. Santucci, in their combined experience of fifty years of investigating homicides, have never seen a weapon or gun positioned in a suicide's hand in such an orderly fashion.

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LABORATORY ANALYSIS

Conducted by Richard Saferstein, PhD.

RE: Vincent Foster

The following articles were subjected to microscopic and mineralogical analysis:

1. One pair of red shoes (serial #15017). These shoes were removed from subject on 3/4/95 who was lying in cannon #2 area in Fort Marcy Park;

2. One pair of brown shoes (serial #12177). These shoes were removed from subject who walked from parking lot to cannon #2 location on 3/4/95 in Fort Marcy Park;

3. One pair of dark brown shoes (serial #65548).

4. Soil samples from cannon #1 and cannon #2 sites collected 3/4/95 in Fort Marcy Park;

5. White dress shirt removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park;

6. Socks removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park;

7. Pants removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park; and

8. Leaves recovered from cannon #1 area in Fort Marcy Park.

Conclusions:

1. Soil samples from both cannon sites are similar. Soils are characteristic of potting or planting soil. Soils contain a mixture of mica (vermiculite), peat, and organic soil (top soil).

2. Examination of red shoes (15017) shows significant quantities of soil in combination with vermiculite on both heels. Soil is consistent with potting or planting soils recovered from both cannon sites.

3. Examination of brown shoes (12177) shows small quantity of peat and organic soil in combination with vermiculite.

4. Examination of dark brown shoes (65548) shows small quantity of soil in combination with vermiculite. These shoes also show evidence of grass stains.

5. The white shirt was negative for soil constituents including vermiculite.

6. The socks were positive for flakes of vermiculite.

7. The pants were positive for peat and organic soil mixed with vermiculite. Vegetation was also present on pants.

8. Examination of leaves recovered from cannon #1 area shows significant quantities of vermiculite particles and the absence of soil constituents.

Fred D. Santucci
Forensic Photographer

Forensic Control Systems

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Staten Island, NY 10306
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Fax: (718) 979-3261

EXPERIENCE:

1979-Present
- Forensic Consultant and Legal Photographer, extensive background in Law Enforcement Photography, specialization in Color Processing and Crime Scene Examination, with emphasis on Latent Print Recovery.

NEW YORK CITY POLICE DEPARTMENT, New York, NY

1970-1979 Senior Forensic Photographer, Criminal Laboratory Section

- Duties included sole responsibility and supervision of Color Photography involving all types of Physical Trace Evidence, including the development and photography of Evidential Material for Court Presentation.
- Senior Photographer and coordinator specializing in Color, Black & White, Infra-red, Ultra-violet, Macro and Micro photography assigned to the New York City Criminal Laboratory. Have been responsible for Investigation and Laboratory Analysis on such cases as: F.A.L.N., Rap Brown, Phillips, Wells Fargo, 44 Caliber (Son of Sam), and many others.
- Qualified as an expert witness in numerous cases involving all aspects of Forensic Photography and Latent Fingerprint Development.

1969-1970 Narcotic Investigator, Bronx, NY

1961-1969 Crime Scene Photographer, responsible for photography of crime scenes and collection of physical evidence in connection with same.

1952-1961 Police Officer, assigned to routine patrol duties, 44th Precinct, Bronx, NY.

EDUCATION:

New York University, Two years towards a baccalaureate degree.
New York Police Department, Criminal Investigation and Crime Scene Examination Courses.
Kodak Corporation, Law Enforcement Photographic Techniques, Rochester, NY, Diploma.
Leica School, Advanced Laboratory Techniques, Certification.
Federal Bureau of Investigation, Washington, D.C., Advanced Laboratory and Photographic Processing Certification.

RICHARD SAFERSTEIN, Ph.D.
20 Forrest Court
Mt. Laurel, New Jersey 08054

Chief Forensic Scientist for the State of New Jersey
Department of Law and Public Safety
New Jersey State Police
1970-1991

Technical Director of one of the largest forensic science laboratories in the United States, conducting over 35,000 case analyses per year and employing a staff of over 90 professional scientists.

Areas of expertise encompass toxicology, pharmacology and analyses of alcohol and drugs of abuse. I have been accepted and testified as an expert witness over 650 times in nearly 125 courts on a variety of forensic science issues which include: breath and blood testing for alcohol content, the pharmacological effects of alcohol, detection and identification of drugs in biological fluids, arson-related analyses, and the forensic examination of blood, semen, hair, paint, fiber, and glass evidence.

Certified by the State of New Jersey as qualified and competent to conduct chemical breath analyses in the operation of the Breathalyzer.

ACADEMIC TRAINING

Ph.D. Organic Chemistry, City University of New York - 1970
M.S. Organic Chemistry, City College of New York - 1966
B.S. Chemistry, City College of New York - 1963

ACADEMIC POSITIONS

Instructor of Forensic Science, Trenton State College, 1972 - Present
Instructor of Forensic Science, University of Delaware, 1985 - Present
Instructor of Forensic Science , Law School of Widener University,1991-Present
Asst. Adjunct Professor of Science, Ocean County College, 1972-1991

PROFESSIONAL AFFILIATIONS

American Academy of Forensic Sciences - Promoted to Fellow, 1977.
American Chemical Society
American Microchemical Society
Canadian Society of Forensic Scientists
Chromatography Forum of Delaware Valley

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TEACHING EXPERIENCE:

- Lecturer for New York City Police Academy, New York University Law School, Brooklyn Law School, NYCPD Detective Division, District Attorney's office, U.S. Coast Guard and various law enforcement, security and professional organizations. Topics include: Crime Scene Examination and Reconstruction, Collection and Preservation of Physical Trace Evidence, Latent Fingerprint Identification, Examination of Questioned Documents, Crime Scene Photography, Forensic Techniques and Courtroom Procedures Re: Direct and Cross Examination of Expert Witnesses.
- Faculty Member: Homicide Investigation and Robbery Investigation training courses for NYCPD Detective Division.

EDUCATION:

City College of New York - Police Science & Administration, Criminalistics
U.S. Marine Corps Institute - Criminal Investigation
New York Institute of Criminology - Criminal Investigation; Forensic Science; Questioned Document Examination; Firearms and Ballistics; Tool Marks; Microscopic Analysis; Photography
Bureau of Criminal Identification (NYCPD) - Fingerprint Identification
Photographic Unit(NYCPD) - Crime Scene Examination;Latent Fingerprint Photography
Federal Bureau of Investigation Law Enforcement Officers Training School - Advanced Latent Fingerprint School
Additional Education includes: Various Symposiums, Courses and Conferences (Law Enforcement; Crime Scene Examination; Criminal Investigation; Security Management and Forensic Science) at *N.Y.U. Post Graduate Medical School, Police Academy, Project SEARCH Symposia, International Association for Identification, Evidence Photographers International Council, Northeastern Association of Forensic Scientists, National Forensic Center* and *American Board of Forensic Examiners*

ADDITIONAL EXPERIENCE:

Former Security Director for two major department stores

- Managed operations and investigations involving property theft (internal & external), illegal kickbacks, violations of policy and fiscal violations.
- Security management and loss prevention consultant for various retail, industrial and business organizations.
- Author, articles and publications pertaining to Forensic Investigations, Criminalistics, Crime Scene Examination and Fingerprint Identification. Guest appearances on local and national television.

ADDITIONAL QUALIFICATIONS:

Fellow:	American Board of Forensic Examiners
Chairman:	Executive Board of Scientific and Technical Advisors - American Board of Forensic Examiners (1994)
Sgt. at Arms:	New York State Division, International Association for Identification (1993-1994)
Vice President:	Tri-State Local Photographers (1992-1993)
Member:	Committee on Forensic Sciences, American Society for Testing Materials (1993-1994)

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Vincent J. Scalice

Forensic Consultant • Criminalist

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EXPERIENCE:

1977-Present **FORENSIC CONTROL SYSTEMS**

Executive Director

- Over thirty-five years experience in forensic investigation and consultation including crime scene examination and reconstruction involving the evaluation and analysis of physical trace evidence.
- Specialties include the development and identification of Latent Fingerprints, Palm Prints and Footprints. Examination of Questioned Documents and the examination of Firearms, Tool Marks and Footwear Impressions.
- Investigation, pre-trial consultation and qualified expert testimony in criminal and civil cases.
- *Board Certified:*
  S.C.S.A. - Certified Senior Crime Scene Analyst [I.A.I.]
  C.F.E. - Certified Forensic Examiner [A.B.F.E.]
  C.P.L.E. - Certified Latent Print Examiner [I.A.I.]
  C.Q.D.E. - Certified Questioned Document Examiner [A.B.F.E.]
- *Licenses:* Licensed and bonded private investigator, State of New York

1977-1978 **U.S. HOUSE OF REPRESENTATIVES**

Consultant Member for Select Committee on Assassinations

- Worked closely with the Federal Bureau of Investigation concerning deaths of President John F. Kennedy and the Reverend Doctor Martin Luther King. Findings, opinions and conclusions rendered during Public Hearings.

1956-1977 **NEW YORK CITY POLICE DEPARTMENT**

Detective - First Grade
Coordinator-in-Charge of Latent Fingerprint Unit
Instructor, New York City Police Academy

- Direct supervision of twenty-five employees, formulation of policies and assignment of case loads.
- Senior Project Coordinator for major research and development program which resulted in the first utilization of optical correlation techniques in Fingerprint I.D.
- Instrumental in the introduction and application of Polaroid Photography in law enforcement in NYCPD. Assisted in the design and modification of the Polaroid CU5 Evidence camera for instant photography of Latent Prints and Physical Evidence at crime scenes.
- Formulated and conducted crime scene examination courses for the entire Detective Division of the NYCPD.
- Assisted Internal Affairs Division in investigations relative to integrity and internal security within the Department.
- Supervised Department's Disaster Squad (all major terrorist bombing incidents, airline, rail and sea disasters).
- Worked closely with the Federal Bureau of Investigation, United States Customs, Treasury Department, Food and Drug Administration, Federal Narcotics Bureau, Department of Hospitals, Interpol, and Scotland Yard.
- Cited 15 times for Excellent and Meritorious police duty.

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PROFESSIONAL AFFILIATIONS:

American Board of Forensic Examiners
International Association for Identification
New York State Division of the International Association for Identification
New Jersey State Division of the International Association for Identification
Connecticut State Division of the International Association for Identification
California State Division of the International Association for Identification
New Jersey State Identification Association
Northeastern Association of Forensic Scientists
National Forensic Center
American Society for Testing Materials [ASTM]
Society of Professional Investigators
Evidence Photographers International Council
National Association of Criminal Defense Lawyers
New York State Association of Criminal Defense Lawyers
New York City Detective Endowment Association
Superior Officers Association Retired (NYCPD)
Retired Detectives of the City of New York

Forensic Science Society of England
International Association for Identification
Mid-Atlantic Association of Forensic Scientists
National Safety Council
New York Microscopical Society
Northeastern Association of Forensic Scientists

PAST POSITIONS

Analytical Toxicologist
Shell Chemical Company
Princeton, New Jersey
1969-1970

Group leader assigned to perform residue analyses on animal tissues and organs. My duties encompassed the development and implementation of laboratory procedures designed to measure the uptake of pesticides of livestock.

Forensic Chemist
U.S. Treasury Department
Alcohol, Tobacco, and Firearms Laboratory
New York, New York
1964-1969

Responsible for the analysis of drug and alcoholic beverage preparation. Testified on numerous occasions as an expert witness in Federal and State courts on alcohol and drug chemistry.

PROFESSIONAL EDUCATIONAL COURSES

Poison 91: Fundamentals and Analytical Considerations - Sponsored by the American Association for Clinical Chemistry, 1991

Workplace Drug Testing Workshop - Sponsored by the American Association for Clinical Chemistry, 1990

The Drunk Driving Case: From Municipal Court to Supreme Court - New Jersey Institute for Continuing Legal Education, 1989

The Drinking Driver: Medical and Legal Issues of Blood Alcohol Testing - conducted by American Association for Clinical Chemistry, 1985

Forensic Toxicology Workshop - conducted by the American Academy of Forensic Sciences Toxicology Section, 1983

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HONORS

Award of Merit- American Academy of Forensic Sciences
Member of the Editorial Board of the Journal of Forensic Sciences (1984-1994)
Member of the Editorial Board of the Microchemical Journal
Member of the Editorial Board of the Journal of Analytical and Applied Pyrolysis (1980-1984)

DIRECTORY LISTINGS

Who's Who in the East
American Men and Women of Science
Directory of Speakers - American Chemical Society
Dictionary of International Biography

BOOKS PUBLISHED

"Criminalistics - An Introduction to Forensic Science," (Fifth Edition). Prentice-Hall, Englewood Cliffs N.J., 1995.

"Forensic Science Handbook," Prentice-Hall, Englewood Cliffs, N.J., 1982.

"Forensic Science Handbook - Volume II," Prentice-Hall, Englewood Cliffs, NJ, 1988.

"Forensic Science Handbook - Volume III," Prentice-Hall, Englewood Cliffs, NJ, 1993.

"Laboratory Manual for Criminalistics," Prentice-Hall, Englewood Cliffs, N.J., 1990.

PAPERS AND ARTICLES PUBLISHED

1. "The Reaction of Halogen-Containing Lewis Acids with Esters" - 1970 (Doctoral Dissertation).

2. "Examination of Automobile Paints by Laser Beam Emission Spectroscopy," Journal of the Association of Official Analytical Chemists, vol. 56 (1973), 1227.

3. "Identification of Drugs by Chemical Ionization Mass Spectroscopy," Journal of the Association of Official Analytical Chemists, vol. 56 (1973), 1234.

4. "Identification of Heroin and its Diluents by Chemical Ionization Mass Spectroscopy," Analytical Chemistry, vol. 46 (1974), 296.

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5. "Identification of Drugs by Chemical Ionization Mass Spectroscopy," Journal of Forensic Sciences, vol. 19 (1974), 463.

6. "An Introductory Forensic Science Course in a Law Enforcement Program," in Forensic Science. American Chemical Society (1975), 22-27.

7. "Isobutane Chemical Ionization Mass Spectrographic Examination of Explosives," Journal of the Association of Analytical Chemists, vol. 58 (1975), 734.

8. "Pyrolysis Mass Spectrometry - A New Forensic Science Technique," Journal of Forensic Sciences, vol. 22 (1977), 748.

9. "The Forensic Identification of Heroin," Journal of Forensic Sciences, vol. 23 (1978), 44.

10. "Drug Detection in Urine by Chemical Ionization Mass Spectrometry," Journal of Forensic Sciences, vol. 23 (1978), 29.

11. "Routine Separation and Identification of Drugs of Abuse by GC/IR," American Laboratory, vol. 10 (1978), 125.

12. "Drug Detection in Urine by Chemical Ionization Mass Spectrometry - II," Journal of Analytical Toxicology, vol 2 (1978), 245.

13. "Chemical Ionization Mass Spectrometry of Morphine Derivatives," Journal of Forensic Sciences, vol. 24 (1979), 925.

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MAJORITY—(202) 225–5074
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September 20, 1995

Mr. John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, NW, #490-N
Washington, DC 20004

Dear Mr. Bates:

This is a follow-up to my letter to you dated September 14. In that letter, I endeavored to provide directly, or through reference to other individuals, articles, and reports, all of the information in my possession on the death of White House Deputy Counsel Vincent Foster. At this time I would like to supplement that letter.

I would like to call to your attention a report prepared by two private investigators, Vincent Scalice and Fred Santucci, on behalf of the Western Journalism Center. This report includes, inter alia, that the gun had "likely been staged" or placed in Foster's hand after death. I am enclosing a copy of that report for your use.

Second, I want to specifically bring to your attention the controversy about whether all the photographs taken in connection to this matter have been produced, and recommend that this issue be carefully reviewed.

Further, I am enclosing another set of articles which I believe originate from the Internet, and particularly point out that individuals identified as forensics experts are quoted as disputing the official findings. I recommend those people be interviewed.

Finally, I respectfully reiterate that because of the high profile of this case, I and many of my House colleagues strongly desire to see the Office of Special Counsel and Grand Jury conduct the broadest possible investigation, with all theories being given consideration.

Again, thank you for allowing me to provide this information and suggestions. Please be assured of any cooperation I can provide to your office.

Sincerely,

Steven Schiff
Vice Chairman

Enclosure

INDEPENDENT REPORT

in RE:

The Death of Vincent W. Foster, Jr.

Prepared for: Western Journalism Center
April 27, 1995

By: Vincent J. Scalice Associates
Forensic Control Systems

Report Prepared by
Vincent Scalice, S.C.S.A.
Forensic Control Systems
107 Cedarview Avenue
Staten Island, NY 10306

for

Western Journalism Center
P.O. Box 2450
Fair Oaks, CA 95628

RE: Confidential Investigation
Crime Scene Reconstruction
Vincent W. Foster Jr. (Deceased)

Case No. 2014/95

At your request, a Confidential Investigation was carried out by this office in regard to the circumstances involved in the death of Deputy White House Counsel, Vincent W. Foster Jr., whose body was reported to have been found within the confines of Fort Marcy Park, Fairfax County, Virginia, during the early evening hours of Tuesday, July 20, 1993. The following is a detailed report of the results of our investigation.

CRIME SCENE RECONSTRUCTION SEQUENCE

On Saturday, March 4, 1995, at approximately 2:00 p.m., our operatives, Vincent J. Scalice, S.C.S.A., Forensic Consultant, Richard Saferstein, PhD., Criminalist, and Fred Santucci, Forensic Photographer, arrived at the parking lot of Fort Marcy Park and commenced this investigation.

Soil and surface conditions were dry. Temperature was measured at 41 degrees fahrenheit.

The operatives took the path which would have been closest to Mr. Foster's car, and entered the main clearing of the earthen fort. The operatives examined the ridge, or berm, immediately to the left as they entered the clearing. Approximately midway along the berm, the operatives noted the metal-concrete anchor which secured the "first cannon." This cannon has been removed from the park recently.

Approximately 50 feet past the first cannon site the operatives noted a curve shaped hollow and a path going down the embankment. This site has been identified in the Ruddy report as the true location of the body's discovery on July 20, 1993. This location herein will be noted as the cannon No. 1 area.

The operatives proceeded directly across the clearing, taking the most direct path to the second cannon site. The site is hidden

from the main clearing, and is approximately 200 feet from cannon area No. 1.

The operatives reviewed the second cannon site, including the berm the second cannon overlooks, where the Park Police claim Foster's body was discovered. This site is referred to herein as "the second cannon site."

The operatives also noted homes along Chain Bridge Road which could be seen from the second cannon site.

The operatives then proceeded along an easterly trail which runs parallel to Chain Bridge Road to the park's rear entrance. The operatives noted that the entrance is for both cars and pedestrians, and identified the compound for the Ambassador of Saudi Arabia, as well as the compound's security camera that views the park's rear entrance.

The operatives then returned to the parking lot and met with a stand-in for Mr. Foster, identified herein as the model. The model is the same approximate weight and height as Mr. Foster.

The model put on a clean pair of dress shoes at the reported location of Mr. Foster's car. He then took the nearest path and proceeded to the second cannon site. He walked along the side of the path, avoiding walking on the freshly laid gravel path that begins at the lot and leads up to the entrance of the main clearing.

The model took the most direct route to the second cannon site. From the time he left the lot until he arrived at the second cannon site, the model was videotaped by Mr. Santucci.

The model thereupon removed the dress shoes, which were examined, bagged and noted by Dr. Saferstein. The model put on a fresh pair of shoes, dress socks, suit pants, and a white dress shirt.

The model then walked several paces down the second cannon site, and sat down on a root stem which forms a natural seat, as identified in the Fiske report. In a reclined position, the model's head laid approximately 10 feet directly in front of the second cannon's barrel. This is consistent with the Fiske report.

While seated the model was asked to place both hands around an imaginary gun placed in his mouth, and simulate firing the weapon.

During this time Mr. Santucci continued taking videotape, as well as 35mm photographs. Mr. Scalice took numerous Polaroids of the scene.

The model was asked to straighten out his legs and arms as he reclined on the path, as consistent with eyewitness descriptions

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of how the body was found. Mr. Scalice had the model place his right hand and arm in a position closely resembling the polaroid that was released by ABC News. Similar Polaroid photographs were taken by Mr. Scalice for comparison purposes.

The operatives proceeded down the berm approximately 13 feet from where the body was reported to have been found to the point at which Foster's eyeglasses were said to have landed after being thrown from his body. Photographs were taken at this location.

The operatives noted that from the crest of the berm's hollow, the berm falls at an angle of approximately 25 to 30 degrees for several feet until it reaches the first section of the root stem. At that point, the berm falls away sharply at approximately a 45-degree angle. The abrupt drop in the slope takes place almost at the mid-section of the model's body, causing the body to appear curved around the slope, or bowed outward.

The model's upper body was then lifted up to examine the back of the head and the body was also allowed to slip for three to four inches on the incline, as noted by eyewitnesses. The body was then picked up fully. The model thereupon removed his clothing and shoes. The items were bagged and removed by Dr. Saferstein for further analysis.

Dr. Saferstein also examined soil conditions at the second cannon site.

The operatives then proceeded to the cannon No. 1 site and examined and compared the ABC News copy of the polaroid photo with conditions at this area. It was noted that at this location the body would have lain on a more gentle slope of approximately 25 degrees.

As a result of closer inspection of this site coupled with a detailed examination and comparison of the ABC photograph, obvious similarities were noted in regard to the plant life and vegetation throughout this area. Several leaves of a particular type which matched those contained in the photograph were found to be present at this location. Several of those leaves were collected, bagged and removed for further analysis and possible identification.

The operatives then returned to the second cannon site and thoroughly searched this area for similar type leaves. No matching leaves were found at this location.

The operatives returned to the parking lot at approximately 5:00 p.m., ending their reconstruction project.

In addition to the aforementioned crime scene reconstruction project, a detailed examination and evaluation was carried out in regard to the Fiske Report, as well as all attachments, including

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F.B.I. laboratory and interview reports, U.S. Park Police reports, autopsy reports and Senate Banking committee testimony.

The following is a report of the findings and conclusions in regard to our investigation into this matter.

GENERAL FINDINGS

1. Movement of the Body

A high probability exists that Foster's body was transported to Fort Marcy Park from an outside location due to the following:

According to the Fiske report, Foster's shoes had not one trace of coherent soil on them or on his clothing although the 197 pound Foster had allegedly walked over 700 feet to the second cannon site. Although the heavy summer foliage may have covered much of the ground soil, other areas would have been traversed with exposed soil.

For example, a laboratory test conducted on one (1) pair of shoes (15017, worn by model) and walked simply several paces in the vicinity of the second cannon, revealed "significant quantities of soil in combination with vermiculite (mica) on both heels."

The shoes and clothing worn by the model at the park were closely examined and analyzed. Both shoes and clothing were found to contain soil mixed with mica.

These facts would be highly consistent with the fact that Foster did not walk to the spot where he was found, but was more likely transported to this location by other means.

Our laboratory analysis on a pair of shoes (65548) that had been walked from the parking lot to the second cannon site disclosed evidence of grass stains. It should be noted that the walk was carried out in winter weather (March). Had Foster walked this route on July 20, 1993, there would have been a greater likelihood of grass staining. The F.B.I. report omits any mention of grass staining whatsoever.

Officials claim that Foster's body was found on a path lying at the second site. If this were true, especially on a warm summer day, soil and other debris should have adhered to his clothing and shoes. The Fiske report indicates no traces of coherent soil whatsoever.

The position of Foster's body as described in numerous reports is completely unnatural with a suicide of this type. In agreement with the Fiske report the only likely scenario would be that

Foster was in a sitting position. In this position, however, it is not logical to expect that his arms and legs would have fallen

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into a neat and orderly position. It is more likely that his arms would extend outwards at an angle to the body as a result of the discharge. The neat arrangement of his arms close to the body, coupled with the overall arrangement of the body itself, is not consistent with suicide.

The lack of extravated blood on the front of the body is inconsistent with death by intra-oral gunshot, which raises the likelihood that Foster's heart had already cessated and that death would have been caused by other means. Dr. Donald Haut, the Medical Examiner present at the scene when the body was rolled over, said there was little blood behind the body on the ground. This is consistent with the small amount of blood that had emanated from the entrance wound.

Haut said that blood had matted or congealed on the back of the head. This is an indication that the exit wound may have been covered if the body was moved.

Had Foster fired the weapon while in the sitting position and the bullet followed the trajectory described in the autopsy, exiting from the back of the top of the head, blood splattered brain tissue and other matter should have been visible above the head, on the surrounding ground or vegetation. No witnesses identified such matter as described and the lead police investigator saw none.

The inconsistent blood tracks and stain on Foster's right cheek, as mentioned in the F.B.I. report, cannot simply be explained by the fact that an emergency worker may have touched the head, for example, while checking the carotid artery. This further supports the theory that the body may have been transported.

2. Location of the Body's Discovery

The forensic evidence does not support the police and Fiske conclusion that Foster's body was found on the path directly in front of the second cannon site. This pathway has clearly been a dirt path edged by root stems. These root stems appear worn as a result of having been exposed for many years. A Gannett news report, published shortly after Foster's death, reported the path to be a dirt one.

Shoes and clothing worn by the model at the second cannon site were closely examined and analyzed. Dress shoes (15017) were found to contain significant quantities of soil mixed with mica. The pants were also found to contain soil mixed with mica.

Had Foster's body been lying at the second cannon site, especially on a warm summer day, soil and other debris should

have adhered to his clothing and shoes. The Fiske report indicates no traces of coherent soil whatsoever.

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The second cannon site is not consistent with the heavy and dense foliage said to have been found all around the body. It is not consistent with description of the scenes polaroids, including the ABC News photograph.

The Fiske report notes heavy vegetation below the body extending to the location of Foster's eyeglasses, approximately 13 feet away. This also is not consistent with the barren area below the body at the second cannon site.

The cannon No. 1 site is consistent with the description of heavy foliage. It is consistent with the ABC News polaroid.

The ABC News Polaroid clearly shows evidence of a certain type of leaf, which has been found to be common to the cannon No. 1 area. This leaf has subsequently been positively identified as a species known as **Magnolia acuminata.** As a result of a careful examination and inspection carried out over a wide area in the vicinity of cannon No. 2, it was conclusively established that no leaves of this type were observed in or about this location.

The second cannon site has a slope whose angle of descent drops considerably to a point almost exactly where Foster's mid-section would have been. On the slope the model's body displayed a curved, or bowed appearance, with the abdomen clearly protruding. No mention of this characteristic position was noted in any of the eyewitness statements. The angle of the slope at the first cannon site is less pronounced and would not have resulted in any unusual or curved position of the body.

SPECIFIC FINDINGS

1. The Fiske report states that mica particles found on Foster's shoes and clothing, in the absence of soil, supports the conclusion that Foster had walked through the park. This conclusion is not logical due to the fact that shoes and clothing used in our reconstruction contained a mix of both soil and mica, as noted in our laboratory tests.

Our laboratory analysis of vegetation from the park also revealed "significant quantities of vermiculite (mica) and the absence of soil constituents." Therefore, mica particles found on Foster's clothing supports the conclusion that his body was lying on dense foliage and vegetation only. This fact is also consistent with the probability that his body had likely been transported to the scene.

The aforementioned conclusions are further supported by the F.B.I. report which notes mica being found not only on his shoes, but also on his shirt, pants, belt and socks.

2. Had Foster fired the gun at the second cannon site, it is conceivable that the shot would not have been heard by any of the

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neighbors who reside in homes across the road. The barrel's position in the mouth may have produced a muffling effect, and traffic noise could have possibly further diminished the sound of the shot.

3. Had Foster fired the gun while in a sitting position at the second cannon site, the bullet, if it did exit the back of the rear of the head, could conceivably have cleared the berm behind him. However, after exiting the head, it is reasonable to expect that the velocity could have diminished considerably, thereby causing the spent projectile to fall closer to the body. Behind the body and above the crest of the berm is an open clearing area. On the other side of the clearing is a small berm, creating a natural barrier for the fired projectile. Failure to recover the spent bullet is consistent with the fact that the gun may have been fired at another location.

4. An important focus of this investigation should be placed on the park's rear entrance, as a possible means or method of transporting the body to the scene.

5. Carpet-type fibers of various colors which were found on almost all of Foster's clothing was clearly indicative of the fact that his body probably was in contact with one or more carpets at some point in time prior to his death. It is therefore logical to assume that such contact would have taken place at some other location prior to his being found in the park. This type of trace or transfer evidence should be considered highly significant as it would provide an indication of Foster's possible whereabouts or movements prior to him being found in the park. This evidence raises the possibility that his body may have been in a prone position, that his clothing may have been searched while in a prone position, and/or his body may have been transported while in contact with some type of carpeting.

It should be noted that nowhere in the reports is any mention made of any search or vacuuming in Foster's car for trace evidence. No carpet fibers were recovered from the interior of Foster's vehicle or the trunk area. The recovery of such evidence might have established whether or not Foster had in fact driven to the parking lot, or was transported in the trunk.

6. Foster's eyeglasses were reported to have been recovered approximately 13 feet below his body on the berm. The Fiske report notes that since the gunpowder was found on the glasses it meant that they must have been thrown from his head or shirt pocket after the gunshot. It is inconceivable for the glasses to have been thrown or bounced through foliage to the location where they were found. This would seem more likely an indication that the crime scene was tampered with.

7. According to the Fiske pathology panel, "Mr. Foster's index fingers were in the vicinity of the (front) cylinder gap, when

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the weapon was fired." This conclusively demonstrates that neither his right nor left hand was on the hand grip when it was fired. This evidence is inconsistent with suicide.

In most cases of suicide, the gun does not remain in the victim's hand.[1] In addition to the unusual gunpowder soot found on the index fingers, we found disturbing the proximity of the right hand and arm to the right leg, the unusual deep position of the thumb in the trigger guard, the position of the gun barrel tucked under the right leg, the lack of any visible blood on the gun, the failure of the family to positively identify the gun's ownership and the failure to recover the fired projectile. These facts are all supporting evidence that a high probability exists that the positioning of the gun in the hand was staged.

CONCLUSIONS

All cases of suspicious death should be treated as homicides, until proven otherwise. Due to the circumstances involved in this case, the opinion has been formed that homicide has not been ruled out.

As a result of our investigation and reconstruction in regard to this case, we have concluded contrary to the conclusions arrived at in the Fiske report: the overwhelming evidence does not support the conclusion that Vincent W. Foster Jr. committed suicide in Fort Marcy Park.

Therefore, wholly separate from the issue of suicide or homicide is the obvious problem of the body's transport to the park.

Still another serious issue concerns the location of the body's discovery in Fort Marcy Park. Based upon the evidence made available and examined, it is more likely that the official location of the second site is not the actual site of the body's discovery. Evidence also indicates that the first cannon site is more consistent with the actual location of the body's discovery.

Signed:

Vincent J. Scalice, S.C.S.A.
Forensic Consultant
Crime Scene Analyst

Fred D. Santucci
Forensic Photographer
Crime Scene Expert

[1] Mr. Scalice and Mr. Santucci, in their combined experience of fifty years of investigating homicides, have never seen a weapon or gun positioned in a suicide's hand in such an orderly fashion.

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LABORATORY ANALYSIS

Conducted by Richard Saferstein, PhD.

RE: Vincent Foster

The following articles were subjected to microscopic and mineralogical analysis:

1. One pair of red shoes (serial #15017). These shoes were removed from subject on 3/4/95 who was lying in cannon #2 area in Fort Marcy Park;

2. One pair of brown shoes (serial #12177). These shoes were removed from subject who walked from parking lot to cannon #2 location on 3/4/95 in Fort Marcy Park;

3. One pair of dark brown shoes (serial #65548).

4. Soil samples from cannon #1 and cannon #2 sites collected 3/4/95 in Fort Marcy Park;

5. White dress shirt removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park;

6. Socks removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park;

7. Pants removed from subject lying in cannon #2 site on 3/4/95 in Fort Marcy Park; and

8. Leaves recovered from cannon #1 area in Fort Marcy Park.

Conclusions:

1. Soil samples from both cannon sites are similar. Soils are characteristic of potting or planting soil. Soils contain a mixture of mica (vermiculite), peat, and organic soil (top soil).

2. Examination of red shoes (15017) shows significant quantities of soil in combination with vermiculite on both heels. Soil is consistent with potting or planting soils recovered from both cannon sites.

3. Examination of brown shoes (12177) shows small quantity of peat and organic soil in combination with vermiculite.

4. Examination of dark brown shoes (65548) shows small quantity of soil in combination with vermiculite. These shoes also show evidence of grass stains.

5. The white shirt was negative for soil constituents including vermiculite.

6. The socks were positive for flakes of vermiculite.

7. The pants were positive for peat and organic soil mixed with vermiculite. Vegetation was also present on pants.

8. Examination of leaves recovered from cannon #1 area shows significant quantities of vermiculite particles and the absence of soil constituents.

Fred D. Santucci
Forensic Photographer

Forensic Control Systems

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Staten Island, NY 10306
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EXPERIENCE:

1979-Present
- Forensic Consultant and Legal Photographer, extensive background in Law Enforcement Photography, specialization in Color Processing and Crime Scene Examination, with emphasis on Latent Print Recovery.

NEW YORK CITY POLICE DEPARTMENT, New York, NY

1970-1979 Senior Forensic Photographer, Criminal Laboratory Section

- Duties included sole responsibility and supervision of Color Photography involving all types of Physical Trace Evidence, including the development and photography of Evidential Material for Court Presentation.
- Senior Photographer and coordinator specializing in Color, Black & White, Infra-red, Ultra-violet, Macro and Micro photography assigned to the New York City Criminal Laboratory. Have been responsible for Investigation and Laboratory Analysis on such cases as: F.A.L.N., Rap Brown, Phillips, Wells Fargo, 44 Caliber (Son of Sam), and many others.
- Qualified as an expert witness in numerous cases involving all aspects of Forensic Photography and Latent Fingerprint Development.

1969-1970 Narcotic Investigator, Bronx, NY

1961-1969 Crime Scene Photographer, responsible for photography of crime scenes and collection of physical evidence in connection with same.

1952-1961 Police Officer, assigned to routine patrol duties, 44th Precinct, Bronx, NY.

EDUCATION:

New York University, Two years towards a baccalaureate degree.
New York Police Department, Criminal Investigation and Crime Scene Examination Courses.
Kodak Corporation, Law Enforcement Photographic Techniques, Rochester, NY, Diploma.
Leica School, Advanced Laboratory Techniques, Certification.
Federal Bureau of Investigation, Washington, D.C., Advanced Laboratory and Photographic Processing Certification.

RICHARD SAFERSTEIN, Ph.D.
20 Forrest Court
Mt. Laurel, New Jersey 08054

Chief Forensic Scientist for the State of New Jersey
Department of Law and Public Safety
New Jersey State Police
1970-1991

Technical Director of one of the largest forensic science laboratories in the United States, conducting over 35,000 case analyses per year and employing a staff of over 90 professional scientists.

Areas of expertise encompass toxicology, pharmacology and analyses of alcohol and drugs of abuse. I have been accepted and testified as an expert witness over 650 times in nearly 125 courts on a variety of forensic science issues which include: breath and blood testing for alcohol content, the pharmacological effects of alcohol, detection and identification of drugs in biological fluids, arson-related analyses, and the forensic examination of blood, semen, hair, paint, fiber, and glass evidence.

Certified by the State of New Jersey as qualified and competent to conduct chemical breath analyses in the operation of the Breathalyzer.

ACADEMIC TRAINING

Ph.D. Organic Chemistry, City University of New York - 1970
M.S. Organic Chemistry, City College of New York - 1966
B.S. Chemistry, City College of New York - 1963

ACADEMIC POSITIONS

Instructor of Forensic Science, Trenton State College, 1972 - Present
Instructor of Forensic Science, University of Delaware, 1985 - Present
Instructor of Forensic Science , Law School of Widener University,1991-Present
Asst. Adjunct Professor of Science, Ocean County College, 1972-1991

PROFESSIONAL AFFILIATIONS

American Academy of Forensic Sciences - Promoted to Fellow, 1977.
American Chemical Society
American Microchemical Society
Canadian Society of Forensic Scientists
Chromatography Forum of Delaware Valley

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TEACHING EXPERIENCE:

- Lecturer for New York City Police Academy, New York University Law School, Brooklyn Law School, NYCPD Detective Division, District Attorney's office, U.S. Coast Guard and various law enforcement, security and professional organizations. Topics include: Crime Scene Examination and Reconstruction, Collection and Preservation of Physical Trace Evidence, Latent Fingerprint Identification, Examination of Questioned Documents, Crime Scene Photography, Forensic Techniques and Courtroom Procedures Re: Direct and Cross Examination of Expert Witnesses.
- Faculty Member: Homicide Investigation and Robbery Investigation training courses for NYCPD Detective Division.

EDUCATION:

City College of New York - Police Science & Administration, Criminalistics
U.S. Marine Corps Institute - Criminal Investigation
New York Institute of Criminology - Criminal Investigation; Forensic Science; Questioned Document Examination; Firearms and Ballistics; Tool Marks; Microscopic Analysis; Photography
Bureau of Criminal Identification (NYCPD) - Fingerprint Identification
Photographic Unit(NYCPD) - Crime Scene Examination;Latent Fingerprint Photography
Federal Bureau of Investigation Law Enforcement Officers Training School - Advanced Latent Fingerprint School
Additional Education includes: Various Symposiums, Courses and Conferences (Law Enforcement; Crime Scene Examination; Criminal Investigation; Security Management and Forensic Science) at ***N.Y.U. Post Graduate Medical School, Police Academy, Project SEARCH Symposia, International Association for Identification, Evidence Photographers International Council, Northeastern Association of Forensic Scientists, National Forensic Center*** and ***American Board of Forensic Examiners***

ADDITIONAL EXPERIENCE:

Former Security Director for two major department stores

- Managed operations and investigations involving property theft (internal & external), illegal kickbacks, violations of policy and fiscal violations.
- Security management and loss prevention consultant for various retail, industrial and business organizations.
- Author, articles and publications pertaining to Forensic Investigations, Criminalistics, Crime Scene Examination and Fingerprint Identification. Guest appearances on local and national television.

ADDITIONAL QUALIFICATIONS:

Fellow:	American Board of Forensic Examiners
Chairman:	Executive Board of Scientific and Technical Advisors - American Board of Forensic Examiners (1994)
Sgt. at Arms:	New York State Division, International Association for Identification (1993-1994)
Vice President:	Tri-State Local Photographers (1992-1993)
Member:	Committee on Forensic Sciences, American Society for Testing Materials (1993-1994)

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Vincent J. Scalice

Forensic Consultant • Criminalist

Forensic Control Systems

107 Cedarview Avenue
Staten Island, NY 10306
Tel: (718) 979-0339
Fax: (718) 979-3261

EXPERIENCE:

1977-Present **FORENSIC CONTROL SYSTEMS**

Executive Director

- Over thirty-five years experience in forensic investigation and consultation including crime scene examination and reconstruction involving the evaluation and analysis of physical trace evidence.
- Specialties include the development and identification of Latent Fingerprints, Palm Prints and Footprints. Examination of Questioned Documents and the examination of Firearms, Tool Marks and Footwear Impressions.
- Investigation, pre-trial consultation and qualified expert testimony in criminal and civil cases.
- *Board Certified:*
  S.C.S.A. - Certified Senior Crime Scene Analyst [I.A.I.]
  C.F.E. - Certified Forensic Examiner [A.B.F.E.]
  C.P.L.E. - Certified Latent Print Examiner [I.A.I.]
  C.Q.D.E. - Certified Questioned Document Examiner [A.B.F.E.]
- *Licenses:* Licensed and bonded private investigator, State of New York

1977-1978 **U.S. HOUSE OF REPRESENTATIVES**

Consultant Member for Select Committee on Assassinations

- Worked closely with the Federal Bureau of Investigation concerning deaths of President John F. Kennedy and the Reverend Doctor Martin Luther King. Findings, opinions and conclusions rendered during Public Hearings.

1956-1977 **NEW YORK CITY POLICE DEPARTMENT**

Detective - First Grade
Coordinator-in-Charge of Latent Fingerprint Unit
Instructor, New York City Police Academy

- Direct supervision of twenty-five employees, formulation of policies and assignment of case loads.
- Senior Project Coordinator for major research and development program which resulted in the first utilization of optical correlation techniques in Fingerprint I.D.
- Instrumental in the introduction and application of Polaroid Photography in law enforcement in NYCPD. Assisted in the design and modification of the Polaroid CU5 Evidence camera for instant photography of Latent Prints and Physical Evidence at crime scenes.
- Formulated and conducted crime scene examination courses for the entire Detective Division of the NYCPD.
- Assisted Internal Affairs Division in investigations relative to integrity and internal security within the Department.
- Supervised Department's Disaster Squad (all major terrorist bombing incidents, airline, rail and sea disasters).
- Worked closely with the Federal Bureau of Investigation, United States Customs, Treasury Department, Food and Drug Administration, Federal Narcotics Bureau, Department of Hospitals, Interpol, and Scotland Yard.
- Cited 15 times for Excellent and Meritorious police duty.

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PROFESSIONAL AFFILIATIONS:

American Board of Forensic Examiners
International Association for Identification
New York State Division of the International Association for Identification
New Jersey State Division of the International Association for Identification
Connecticut State Division of the International Association for Identification
California State Division of the International Association for Identification
New Jersey State Identification Association
Northeastern Association of Forensic Scientists
National Forensic Center
American Society for Testing Materials [ASTM]
Society of Professional Investigators
Evidence Photographers International Council
National Association of Criminal Defense Lawyers
New York State Association of Criminal Defense Lawyers
New York City Detective Endowment Association
Superior Officers Association Retired (NYCPD)
Retired Detectives of the City of New York

Forensic Science Society of England
International Association for Identification
Mid-Atlantic Association of Forensic Scientists
National Safety Council
New York Microscopical Society
Northeastern Association of Forensic Scientists

PAST POSITIONS

Analytical Toxicologist
Shell Chemical Company
Princeton, New Jersey
1969-1970

Group leader assigned to perform residue analyses on animal tissues and organs. My duties encompassed the development and implementation of laboratory procedures designed to measure the uptake of pesticides of livestock.

Forensic Chemist
U.S. Treasury Department
Alcohol, Tobacco, and Firearms Laboratory
New York, New York
1964-1969

Responsible for the analysis of drug and alcoholic beverage preparation. Testified on numerous occasions as an expert witness in Federal and State courts on alcohol and drug chemistry.

PROFESSIONAL EDUCATIONAL COURSES

Poison 91: Fundamentals and Analytical Considerations - Sponsored by the American Association for Clinical Chemistry, 1991

Workplace Drug Testing Workshop - Sponsored by the American Association for Clinical Chemistry, 1990

The Drunk Driving Case: From Municipal Court to Supreme Court - New Jersey Institute for Continuing Legal Education, 1989

The Drinking Driver: Medical and Legal Issues of Blood Alcohol Testing - conducted by American Association for Clinical Chemistry, 1985

Forensic Toxicology Workshop - conducted by the American Academy of Forensic Sciences Toxicology Section, 1983

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HONORS

Award of Merit- American Academy of Forensic Sciences
Member of the Editorial Board of the Journal of Forensic Sciences (1984-1994)
Member of the Editorial Board of the Microchemical Journal
Member of the Editorial Board of the Journal of Analytical and Applied Pyrolysis (1980-1984)

DIRECTORY LISTINGS

Who's Who in the East
American Men and Women of Science
Directory of Speakers - American Chemical Society
Dictionary of International Biography

BOOKS PUBLISHED

"Criminalistics - An Introduction to Forensic Science," (Fifth Edition). Prentice-Hall, Englewood Cliffs N.J., 1995.

"Forensic Science Handbook," Prentice-Hall, Englewood Cliffs, N.J., 1982.

"Forensic Science Handbook - Volume II," Prentice-Hall, Englewood Cliffs, NJ, 1988.

"Forensic Science Handbook - Volume III," Prentice-Hall, Englewood Cliffs, NJ, 1993.

"Laboratory Manual for Criminalistics," Prentice-Hall, Englewood Cliffs, N.J., 1990.

PAPERS AND ARTICLES PUBLISHED

1. "The Reaction of Halogen-Containing Lewis Acids with Esters" - 1970 (Doctoral Dissertation).

2. "Examination of Automobile Paints by Laser Beam Emission Spectroscopy," Journal of the Association of Official Analytical Chemists, vol. 56 (1973), 1227.

3. "Identification of Drugs by Chemical Ionization Mass Spectroscopy," Journal of the Association of Official Analytical Chemists, vol. 56 (1973), 1234.

4. "Identification of Heroin and its Diluents by Chemical Ionization Mass Spectroscopy, " Analytical Chemistry, vol. 46 (1974), 296.

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5. "Identification of Drugs by Chemical Ionization Mass Spectroscopy," Journal of Forensic Sciences, vol. 19 (1974), 463.

6. "An Introductory Forensic Science Course in a Law Enforcement Program," in Forensic Science. American Chemical Society (1975), 22-27.

7. "Isobutane Chemical Ionization Mass Spectrographic Examination of Explosives," Journal of the Association of Analytical Chemists, vol. 58 (1975), 734.

8. "Pyrolysis Mass Spectrometry - A New Forensic Science Technique," Journal of Forensic Sciences, vol. 22 (1977), 748.

9. "The Forensic Identification of Heroin," Journal of Forensic Sciences, vol. 23 (1978), 44.

10. "Drug Detection in Urine by Chemical Ionization Mass Spectrometry,"Journal of Forensic Sciences, vol. 23 (1978), 29.

11. "Routine Separation and Identification of Drugs of Abuse by GC/IR," American Laboratory, vol. 10 (1978), 125.

12. "Drug Detection in Urine by Chemical Ionization Mass Spectrometry - II," Journal of Analytical Toxicology, vol 2 (1978), 245.

13. "Chemical Ionization Mass Spectrometry of Morphine Derivatives," Journal of Forensic Sciences, vol. 24 (1979), 925.

14. "Criminalistics - A Look Back at the 70's; A Look Ahead to the 80's," Journal of Forensic Sciences, vol. 24 (1979), 925.

15. "Forensic Applications of Mass Spectrometry," in Forensic Science Handbook (edited by R. Saferstein), Prentice-Hall, Englewood Cliffs, N.J. (1982), 92-138.

16. "Applications of Dynamic Headspace Analysis to Laboratory and Field Arson Investigation," Journal of Forensic Sciences, vol. 27 (1982), 484.

17. "Forensic Science," Analytical Chemistry, vol. 55 (1983), 19R.

18. "Forensic Science," - Winds of Change," in Chemistry and Crime. (edited by Samuel Gerber) American Chemical Society, Washington, D.C. (1983), 39- 43.

19. "Forensic Aspects of Analytical Pyrolysis," in Pyrolysis and GC in Polymer Analysis (edited by S.A. Liebman and E.J. Levy), Marcel Dekker, New York (1985), 339-71.

20. "Forensic Science," Analytical Chemistry, vol. 57 (1985), 175R.

21. "Forensic Science: A Strategy for Teaching Science in a Liberal Arts Curriculum," in Forensic Science, 2nd Ed., (edited by Geoffrey Davies), American Chemical Society, Washington, D.C., 1986, 51-65.

22. "Forensic Analytical Pyrolysis ," in Proceedings of the International Symposium on the Analysis and Identification of Polymers, U.S. Government Printing Office, Washington, D.C., (1986), 9-20.

23. "Experimental Evidence of Ac0-7 Neighboring Group Participation," Tetrahedron, vol. 43 (1987), 5089.

24. "Forensic Science," Analytical Chemistry, vol. 59 (1987), 162R.

25. "Dual Column Pyrolysis Gas Chromatography," Crime Laboratory Digest, vol. 15 (1988), 39.

26. "Forensic Science," Analytical Chemistry, vol. 61 (1989), 95R.

27. "The Scientific Explanation of Intoxication and The Use of the Breathalyzer," in The Drunk Driving Case: From Municipal Court To Supreme Court, New Jersey Institute for Continuing Legal Education, New Brunswick, N.J., (1989), 163-86.

28. "Forensic Science," Analytical Chemistry, vol. 63 (1991), 148R.

29. "DNA Fingerprinting," Chem Matters, vol. 9, no. 3 (1991), 10.

30. "Mouth Alcohol, Denture Adhesives and Breath - Alcohol Testing,"Drunk Driving Liquor Liability Reporter, Vol. 6, no. 2 (1992), 24.

31. "Forensic Science," Analytical Chemistry, vol. 65 (1993), 293R.

32. "The Theory and Operation of the Breathalyzer," in DWI:1994, Handling the Drunk Driving Case in New Jersey, New Jersey Institute for Continuing Legal Education, New Brunswick, N.J., (1994), 407-20.

Virtually all broadcast media and the New York Times, Washington Post and other mainstream "newspapers of record" are focusing obsessively on the Tonya Harding skater-mugging case. There's a reason: The suspicious death of White House Counsel Vincent Foster is cracking wide open.

Friday's (28 Jan.) New York Post headlined the story and ran it on two pages. The Post placed the word "Suicide" in quotes in the headline.

Among the discrepancies in the story pointed out by the Post were:

* Foster's body was found neatly arranged on an embankment, "laid out as if for a casket."

* The .38 revolver alleged to be the suicide weapon was IN FOSTER'S HAND, BESIDE THE BODY. Veteran homicide investigators were quoted in the article saying they had never seen a .38 weapon remain properly in the hand of the victim in cases like this. In most cases, the veteran detectives said such weapons were projected several feet away from the victim.

* Post-mortem lividity had set in in the hand holding the gun, including the fingers. This was unusual, because of the position of the body.

* Almost NO BLOOD was evident on or under the body, despite a large exit wound in the back of Foster's head, revealed by the autopsy by a Northern Virginia pathologist named Gonzalez.

  But EMT personnel who responded to the site and "bagged" Foster's body reported NO EXIT WOUND AT ALL.

* NO BULLET HAS BEEN RECOVERED. Independent homicide investigators conclude from the position of the body that it is virtually certain Foster "shot himself" while lying on the ground. In that case, the bullet would then be IN THE GROUND, UNDER THE BODY. No bullet was found. As a result, the police officially concluded that Foster shot himself while standing up, fell backwards in a ramrod-straight posture, arms along his sides, with the gun pointing downward beside his leg. The bullet, they conclude, exited the back of Foster's head through the large exit wound unnoticed by the technicians (but present after Dr. Gonzalez Northern Virginia autopsy). The bullet then flew off into the woods, where it is beyond recovery, according to the Park Police.

* Foster left no suicide note to his family.

* Foster is alleged by the White House to have left a "suicide note" discovered by White House Counsel Nussbaum and/or Press Advisor David Gergen. The "suicide note" consists of 27 pieces of torn paper, which, when pieced together, reveal a list of topics and/or contemporaneous notes of a meeting or phone conversation.

* At least one piece of the White House "suicide note" is missing.

* At least 3 hours of Foster's time are missing, from 1 p.m. July 20, 1993 to 5 p.m. July 20, 1993 when his body was reported in the park.

Conclusions by veteran homicide investigators consulted by the New York Post

Speculations and Questions

President Clinton's pronouncements on July 21, 1993 that "We'll never know why Vince Foster died" ring a little hollow and sound rather disingenuous in this light.

Clinton was very slow to admit he had a half-hour telephone conversation with Foster the evening before Foster's death.

Foster's involvement with the J.P. Stevens banking family, Madison Guarantee Trust, and Whitewater Development in Arkansas raise suspicions of a MOTIVE for removing him. Especially if he was talking about resigning and returning to Arkansas. At the time of Foster's death, investigative journalists were already talking with State Troopers and others about serious allegations against Clinton, made by the President's former Oxford roommate. All of the financial institutions and "development" companies involved in the Clinton/Foster/J.P. Stevens orbit eventually collapsed after massive looting.

The role of Raymond "Buddy" Young, Arkansas State Police Captain under Clinton and "Security Director" for the Governor needs to be scrutinized. Young has ties to Oliver North and others through the Contra arms and drug-smuggling center of Mena, Arkansas. Young also "personally" handled delicate matters for Clinton while he was governor -- and sent threatening notes to one of the Troopers who started talking about Clinton's affairs and connections.

Young is now a Regional Director of FEMA in Texas.

WHO WAS HE ON JULY 20, 1993?

More text is available

Date: 29 Jan 94 04:31:07 GMT

Text by Clark.Matthews@f939.n107.z1.FIDONET.ORG

Used by permission

The Physical Evidence

There has been a lot of talk about the condition of Vince Foster's body. There are several different reports, but they generally fit into two categories: The "man in the van"'s observations and the Park Police's findings with the autopsy and lab reports.

The mysterious "man in the van" found the body first and reported it two park workers who called the police at 6pm. This is what he reports seeing (as told to G. Gordon Liddy):

* There was no sign of any gun.

The Park Police and FBI found:

* There was a small bullet-entry wound in his mouth.
* There was a large exit wound in the back of his head.
* There was very little bleeding.
* Blood was pooled in his legs.
* The body was on an incline, with the head above the legs.
* No skull fragments were found.
* There was a gun in his hand. (a .38 caliber Colt revolver with one empty shell casing and one complete bullet. There were two serial numbers on the gun, indicating that it was made from parts of two different guns, both sold in 1913.)
* There was no trace of blood on the gun.
* There was one fingerprint on the gun.
* No bullet matching the gun was found. (Despite an extensive search with metal detectors which found 12 bullets from Vincent's gun.)
* No trace of alcohol in the blood.
* Trace amounts of valium in the blood.
* Numerous gunpowder particles were found on the body that matched the Remington cartridge found in the gun.
* Small amounts of gunpowder residue which did not come from the Colt were also found on the body. (The FBI speculates that the clothing was contaminated in a Park Police evidence room.)
* His clothes were neat (no sign of a struggle).
* No X-rays were taken at the autopsy, as the machine was broken, according to Fiske's report, though a Park Police Officer stated that a pathologist told him "the X-rays showed only one bullet black and no fragments left within the head."
* There were semen stains in his underwear. (Alan Bock in the California Register)
* There were blond hairs on his clothing, including his T-shirt. (Alan Bock in the California Register)
* FBI lab report indicated that at least Foster's head had been moved after the shot was fired. (FBI report, page 45)

Send updates to:

crow@cs.dartmouth.edu

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FBI LINKS ANOTHER DEATH WITH FOSTER

NEW FBI PROBE LINKS WITH FOSTER DEATH CASE
THE TRIBUNE REVIEW
BY CHRIS RUDDY

The FBI is stepping up a civil rights investigation into the death of a young Virginia man whose case has been linked with the death of Vincent W Foster Jr., the deputy White House Counsel who died of a supposed suicide. Tommy Burkett, 21, who attended Marymount College in Virginia, was found dead in a bedroom of his parent's Herdon, Va., home three years ago. The death was ruled a suicide at the time, but that ruling may be challenged as a result of an FBI investigation. A Washington, D.C. law-enforcement official indicated widespread skepticism among FBI officials as to the Foster findings. The official suggested theBurkett case may be a vital first step toward reopening the Foster case. The cases have parallels. Both men died of gunshot wounds through the mouth. Perhaps more significantly, in both death investigations pathologist James Beyer was a key figure. Dr. Beyer, 76, is the longtime deputy chief medical examiner for northern Virginia. It was he who conducted the autopsyof Vincent Foster's body after it was found in Arlington's Fort Marcy Park on July 20, 1993. A number of forensic experts have taken exception to the findings in the Foster case; similar questions have been raised concerning Beyer's findings in the Burkett case. Such doubts have prompted the elder Burketts to publish their own newsletter. A recent issue contained an article titled "Dr. Beyer's Contradictory and Deceptive Testimony in the Vincent Foster Case and in the Tommy Burkett Case." In a diagram therein, the Burketts notethat Beyer ruled their son's death consistent with suicide. They point out, however, that the ruling of suicide in the Foster case relied on two factors totally absent in the case of their son's similar death. During the Senate hearings probing the Foster death, the Burketts write, Beyer said key factors pointing to suicide were powder burns in the mouth and an absense of trauma to the jaw. But according to a second autopsy on Tommy Burkett's body, neither of these factors was present; no powder burns were found in the mouth of their son, and his jaw was broken. The Burkett's dissatisfaction with Beyer's findings had led to their hiring of an outside pathologist, Dr. Erick Mitchell, to perform the second autopsy. Mitchell, former chief medical examiner of Syracuse, N.Y., noted in his own autopsy report that the youn man's lungs have never been dissected, contradicting a notation of Beyer's that the procedure had been performed. Mitchell also confirmed the parent's observations that there was damage to the body other than thatnormally associated with self- inflicted gunshots to the mouth. When the senior Burkett found his son's body, he saw "a disfigured and bloody" ear even though the bullet exited from the back of the head. He also saw that the jaw was "obviously broken."

This led the parents to believe their son had been beaten before the fatal shot, and they were incredulous that Beyer's report did not contain this information. Dr. Beyer, in a telephone interview, stated: The only comment I have is that the autopsy findings in the Burkett case was a

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official autopsy report. "If that's what they say, it's their findings, not mine." The FBI's involvement in the case is not focused on the cause of death per se but, rather on the civil rights aspect. "We opened thje Burkett case at the directive of the Department of Justice," said Susan Lloyd, a spokeswoman for the FBI's Metropolitan D.C. field office. She said the FBI is trying to determine "whether or not Tommy Burkett's civil rights were violated. Lloyd noted, however, that civil rightsinvestigations and homicide investigations can "Overlap" and said the FBI is committed to determining whether "all proper investigative techniques were accorded to the death." The FBI's involvement in the case may represent an abrupt turn of events.

CONTD FROM NOTE ONE- Robert M. Bryant, special agent in charge of the Metropolitan D.C. office, took the highly unusual step of distancing the agency from the matter in a letter published in the Chantilly VA Times in October 1993, stating "The FBI is not, and has never been involved in any review of this matter..." a premise contradicted by the Burketts, who say FBI agents met with them in early fall 1993. According to the Burketts, agents met with them on several occasion after that, and in the past two months the FBI has significantly widened its probe. Just over a week ago, FBI agents spent several hours reviewing the scene of their son's death. The Burketts were distressed that the Fairfax police had spent only a half-hour on the scene without taking fingerprints or even retrieving the fatal bullet from a wall. The Burketts have kept the bedroom just as it was at the time of the death, with blood splatters and stains intact. The Burkett's allegations have been the subject of a number of new articles and the couple has appeared on the television series "Unsolved Mysteries." They charge that Fairfax County official as well as Beyer engaged in a coverup of the circumstances of their son's death. An especially serious charge they make is that records of two "911" calls their son made on the day of his death were tampered with or destroyed. Such charges were disputed on "Unsolved Mysteries" by Maj. Arthur Mabry a spokesman for the Fairfax County Police. He maintained that "the gun was processed, an autopsy was conducted, photos were taken, a thorough and acceptable crime scene (investigation) was conducted." Warren Carmichael, director of public information for the Fairfax County police, scoffed at the notion that the police and the medical examiner engaged in a coverup. He said police conducted "a totally appropriate investigation" adding that the medical examiner came to swilar findings "totally" independnet of the police." Carmichael said police have no plans to reopen the Burkett case, but the door is still open "if new information is provided." In the Foster case, Beyer's findings were supported by a four-member independent pathology team working for special prosecutor Robert Fiske. The team concluded that, based on Beyer's notations "there was no other trauma indentified that would suggest a circumstance other than suicide." The Burketts remain skeptical about Beyer's findings in both cases pointing to the pathologist's record in still another supposed suicide case in the state, that of Timothy Bailey in 1989. According to the medical examiner's certificate, which was based on Beyer's autopsy report, the 17 year-old Bailey had crashed himself in the chest." His family, however had noted [illegible]

... San Diego, Calif. described the cut at the time as a "classical defense wound suffered while trying to avoid a knife." In 1993, four years after Beyer's autopsy report, Easley's girlfriend admitted that she killed the youth. As for the Fiske report, its conclusions continue to disturb officials of the FBI. They are bothered by such things as the fact that Fiske, for inexplicable reasons, did not avail himself of a grand jury, nor did he take the simple expedient of putting witnesses under oath. They also cannot understand why given all the inconsisitencies surrounding Foster's death. Fiske refused to exhume the body and put such doubts to rest. The new independent counsel, Kenneth Starr is reviewing Fiskes investigatin of the Foster matter.

end of story.

DAILY TELEGRAPH (LONDON), 8.5.95

PRESIDENT'S AIDE IN WHITEWATER TARGET

By Hugh Davies in Washington

A WHITE House lawyer, Bruce Lindsey, 46, President Clinton's most trusted aide, has been told that he is in imminent danger of being indicted over the Whitewater affair.

He has been told that he is a "target" of Kenneth Starr, the Whitewater prosecutor, as well as of grand juries investigating his actions during Mr Clinton's 1990 campaign for the governorship of Arkansas.

A friend of the President for 25 years, he is an enigmatic figure, always at the elbow of Mr Clinton, offering advice.

His behind-the-scenes role has earned him the nickname of "The Consigliori", the underworld term for a Mafia don's closest counsellor. His influence at the White House is said to be second only to that of Hillary Clinton.

White House sources said Mr Lindsey would not be asked to resign and he would vigorously defend himself. Democratic adviser Mr Ted Van Dyk was quoted as saying that a "nightmare scenario" was building up. Party members feared the scandal would spill over into the 1996 election, affecting Mr Clinton's campaign.

Adding to the panic at the White House is the spectre of new Whitewater hearings in the Senate next month. These will focus on the death of Vincent Foster, another White House lawyer, said by US Park Police to have shot himself in July, 1993.

But independent crime-scene experts concluded that he was probably murdered.

Documents, possibly relating to Whitewater, were removed from his office hours after his death.

Republican Senator Alphonse D'Amato, chairman of the Senate Banking Committee, said questions at his hearings would include: Who took the papers? Where did they go? Were any destroyed?

Mr Lindsey is the highest-ranking administration official to be ensnared in the inquiry into a land deal by Mr Clinton and his wife.

WHITE HOUSE AIDE WAS MURDERED, SAY EXPERTS

"SUNDAY TELEGRAPH" (LONDON), 30.4.95

By Ambrose Evans-Pritchard in Washington

VINCENT FOSTER, the deputy White House counsel, was probably murdered and his body carried into a park as part of a staged suicide, according to a team of independent crime-scene experts employed to investigate the death.

The private report is being taken extremely seriously by the official investigation of special counsel Kenneth Starr, according to sources close to the inquiry.

Foster was an intimate friend of Bill and Hillary Clinton and handled their personal financial affairs at the White House. The US Park Police concluded that he shot himself in the mouth on July 20, 1993. Two subsequent inquiries endorsed the suicide verdict, but Starr has reopened the investigation and has called witnesses for the first time before a federal grand jury.

At a press conference on Thursday one of the experts, retired New York Police detective Vincent Scalice, said that in almost 30 years of police work he could not recall "ever running across a situation where we found a body in a case of suicide that was so neatly arranged, with the gun so conveniently positioned in the hand in such a straight, orderly fashion.".

The report said that the lack of blood on the front of the body was "inconsistent" with death by a gun shot through the mouth, raising the likelihood that Foster's heart had stopped *before* the gun was fired.

The report was commissioned by the Western Journalism Center, a California group that supports investigative journalism.

The experts said that Foster was supposed to have walked 700ft through a park, yet there was no soil or grass on his shoes. There was also no blood spatter on the vegetation and ground. In addition the experts asked why the houses near the park were not canvassed in accordance with normal procedure.

The report adds to the growing sense in Washington that there has been a huge cover-up -- but one that is starting to unravel.

FROM THE SUNDAY TELEGRAPH (LONDON), 15 JAN. 1995

WHITE HOUSE SUICIDE - WAS THE BODY MOVED?

BY AMBROSE EVANS-PRITCHARD IN WASHINGTON

THE SCOPE of the inquiry into the mysterious death of the top White House aide Vincent Foster has suddenly been broadened, casting doubt on the original verdict of suicide.

It has now emerged that Kenneth Starr, the independent counsel investigating the Whitewater affair, which concerns alleged shady business deals linked to President Clinton and his wife, summoned several police officers before a Grand Jury late last week.

During the meeting he took the unusual step of reading them the statutory definition of perjury. The officers were grilled on the precise circumstances surrounding the discovery of Foster's body in a Virginia park in July 1993.

The cause of death of Foster, an intimate friend of the Clintons, had been considered settled by most observers in Washington. An inquiry by Robert Fiske, the former independent counsel who was later replaced by a panel of judges, endorsed the police conclusion that Foster shot himself in the mouth. He attributed the suicide to depression unrelated to the Whitewater property dealings of the Clintons.

However, Mr Fiske did not convene a Grand Jury for that part of his investigation. This was considered strange by many legal experts. The rescue workers and park police who found the body did not testify under oath, and Mr Fiske essentially confined himself to a review of their report rather than conducting a full-scale probe of his own.

The grand jury questioning last week, which took place in secret, appeared to focus on the precise location of Foster's body in the park. One of the police officers was overheard reassuring a grand juror in the lobby that he would bring a map to assist testimony the next day.

The seemingly minor issue of where the body was found could turn out to be of critical importance. A journalist for the "Pittsburgh Tribune-Review", Chris Ruddy, has been fighting a lone crusade for several months seeking to establish that the Park Police misreported the location of the body.

Ruddy is convinced that it is the key to exposing a cover-up that allegedly involves the police, the White House, and even elements of the FBI.

If Ruddy is right, it suggests a political scandal of colossal proportions.

On Thursday, an article by Ruddy in the "Tribune-Review" alleged sloppiness in the Fiske investigation and argued that key witnesses may have given false testimony.

His latest revelation is that Dr Donald Haut, the Virginia medical examiner who viewed the scene of the crime on the night of Foster's death, said the body was 10 to 20 yards past an old civil war cannon, the first cannon in the park.

This is in direct contradiction to the Fiske Report, which said that the body was at the foot of a second cannon atop inside the park. The testimony of Dr Haut, who said he was never questioned by the Fiske

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was in tangled undergrowth near by [illegible] manner.

The Ruddy article was republished as a full page advertisement in the 'Washington Times' on Friday, paid for by a conservative media watchdog in California called the Western Journalism Center. Both Ruddy and the Center are already being sued for libel by the Park Police, who insist that their report was accurate.

Questions about Foster's death have been a staple of radio talk shows across America. According to extensive interviews conducted by 'The Sunday Telegraph', suspicions are also shared by some members of the Foster family and parts of the FBI.

Senator Lauch Faircloth, a Republican member of the Banking Committee that held brief hearings into Foster's death last July, has also raised doubts about the suicide verdict.

From bigxc@prairienet.orgFri Aug 4 20:38:54 1995
Date: Wed, 2 Aug 95 23:25:30 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 73

Conspiracy Nation -- Vol. 5 Num. 73

("Quid coniuratio est?")

EXPLOSIVE NEW FACTS REVEALED IN MYSTERIOUS DEATH OF FOSTER
[The *Spotlight*, 08/07/95]

[...continued...]

TOM VALENTINE:
In other words the United States was spying on banks around the world to track people's money?

JAMES NORMAN:
Actually, it was an allied government effort, which also included Israel. It was originally designed as an anti-terrorist effort. The program was nicknamed "Follow the Money."

Senior people from the Reagan years who were involved in designing and crafting this program have confirmed that there was such a program underway and that massive amounts of data were collected. However, because of the highly sensitive security nature of this, they can't say quite how it was done, but we have figured out that one of the companies involved in implementing the software system (and probably the hardware) was a company in Little Rock that went by the name of Systematics.

TOM VALENTINE:
Was the Inslaw company's computer software called PROMIS involved anywhere in this? (The owners of Inslaw claim that during the Reagan administration the Justice Department reneged on a contract with them, stole the software and used it and sold it to foreign governments. -- Ed.)

JAMES NORMAN:
Yes. It started out looking like a little cloud on the horizon, but it's turned out that the uses to which this PROMIS software has been put would boggle the mind. It's a very powerful system that was initially designed for tracking legal cases, but it was also designed to be customized so that you could adjust it to track all kinds of things. It's been used in tracking nuclear submarines, intelligence data and banking transactions.

It was in 1982 -- right about the time that this "Follow the Money" program was launched -- that Inslaw came up with its proprietary enhancement (PROMIS) of what had, until then, been public domain software that had been developed by the government with taxpayer dollars. The government's funding for the program had run out, but Inslaw [illegible]

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software. It was those enhancements that the government took since the government was so desperate for a software to implement this "Follow the Money" program in particular since it required massive amounts of tracking.

I think what was involved here was an effort to get all of the world's megabanks to standardize their data in a way that would be easily analyzed by the National Security Agency (NSA). Now the NSA is the signals intelligence arm of the government. It's the computer spy agency, really, and highly secretive.

Systematics in Little Rock was one of a number of companies that got involved in installing, selling, supporting, customizing and managing this software and bank data center operations. Actually, it appears that there was a cluster of such companies.

Systematics was started by Jackson Stephens, the investment banker, who has been heavily involved in bond trading in Arkansas. It grew rapidly in the 1970s as it took out more domestic business. In 1982, as the government was looking for a company to help out with this "Follow the Money" program, Systematics took on a big role in that and its business boomed even more.

Then when Bill Clinton came to the White House and Foster and Hubbell came along with him, Systematics' overseas business blossomed along with it and they started getting contracts from a number of foreign banks.

TOM VALENTINE:
Was Vince Foster in the NSA?

JAMES NORMAN:
When you say "in" the NSA, it's hard to say. The way it's been described to me is that he was an interface person between the NSA and Systematics. The way I see it, is that Vince Foster at the Rose Law Firm was a very quiet but a very bright guy. He was one of Jackson Stephens' trusted "deal guys" at the law firm. He was a litigator, but more than that he was a business lawyer.

In that role he would have been in charge of supervising contracts, setting up accounts, high-level marketing and smoothing all of the lumps that would naturally go on between [a company he represented] and a government it was involved in contracts with.

Foster never showed up as an employee of Systematics. He never billed Systematics for any time. You won't find his name cropping up on any Systematics documents, although we've been told by good sources that he was involved with Systematics, although the company denies it. There's an absolute solid wall of denials about this. Somebody's lying.

TOM VALENTINE:
Was Webb Hubbell ever retained by Systematics?

JAMES NORMAN:
They did retain Hubbell and Hillary Clinton. In 1978 Jackson Stephens ended up being the front man for a group of Arab backers of BCCI, which at the

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Bankshares, a major Washington-based bank holding company. It was one of the few banks that was then able to own banks over state lines. Stephens came in and bought a big chunk of that bank and wanted to take it over.

One of the things he wanted to do, according to the SEC lawsuit that blocked the takeover, was to bring in Systematics to do all of the data processing for that bank. In that case, Hubbell and Hillary Clinton ended up representing Systematics in some of the filings that they made in that case.

The reason this is significant is that, I've been told, the first work that Systematics was doing for the government really was shuffling covert money, managing the covert funds moving around in secret government covert operations accounts.

This was no small job. It took a significant amount of computer power because they were moving money around from one account to another, setting up new accounts, phony companies, etc. It was a major task and Systematics was in an ideal position to do that because its business was to outsource the data processing function in a number of small banks, mainly in the Midwest, the West Coast and Texas.

Systematics would go to these small banks and say, "You can't keep up with the technology. Why don't you just let us take your computers and your people and provide all of that processing. You don't have to worry about it." That may be a prudent thing for a small bank to do, but when it would do that, it would give up a tremendous amount of control over the guts of your bank and what this allowed to happen was the creation, essentially, of a cyberbank for the covert funds.

What we've been told -- and Systematics will adamantly deny this -- is that at the end of every day there would be a direct bank-to-bank balancing transaction of funds. We are told that imbedded in these day-end transactions would be information codes -- compressed data that would convey the information about these coded accounts. The banks that were involved themselves might not even know this was going on. However, we are told that this is how all of this money got moved around.

If you think about it, there had to be maybe hundreds of billions of dollars moving around during the 1970s and 1980s in these covert arms-and-drugs transactions. Nobody has adequately explained where that money came from or where it went. It certainly never went through Congress. It certainly was never appropriated and didn't show up in government budgets. It was not just "black" money but "black black" money that even the congressional oversight people didn't know was sloshing around out there.

TOM VALENTINE:
Has the *Washington Post*, for example, reported any of this?

JAMES NORMAN:
On July 4 the *Washington Post* published an article pooh-poohing what they called all of the "conspiracy theories" about the Foster death. What is interesting, though, is the shift that's going on at the *Post*. Prior to that article, the *Post* was utterly dismissive of any of these things. The tone in this most recent article moves to a more neutral position. I think you are

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gradually going to see more of the major media moving to get on board this freight train before they get run over by it. The cover-up is unraveling.

TOM VALENTINE:
So Vince Foster was investigated as a possible spy for Israel?

JAMES NORMAN:
That's what makes him a very key figure. He was a double agent in a sense. He was overseeing a massive intelligence effort for our country which conceivably gave him access to very high level intelligence. You have to realize that the keys to the kingdom these days are in computer encryption, codes, systems. That's what loses and wins wars these days. You can listen to the other guy's traffic.

By the nature of what Systematics was doing and what we believe was some relationship between Systematics and E-Systems which is one of the NSA's primary black operations subcontractors, it's conceivable that Foster could have had very high level code and encryption information. The problem is that he died before investigators could figure out what did or did not get out the door.

I've been told that perhaps because of Foster's long-time involvement with intelligence matters for the Rose Law Firm that when he went to the White House he was probably a key interface person between the White House and the intelligence community, which, I think, perhaps explains why there was such a frenzy of activity after he died. That's why they held the Park Police and the FBI at bay while they rifled through his papers trying to figure out what was "national security" and what wasn't. That explains so much about why this thing has been covered up.

TOM VALENTINE:
The American people have been led to believe that Foster was just another nice-guy lawyer who came to town with Bill and Hillary.

JAMES NORMAN:
Wrong. Here's the problem: the media tries so hard to be responsible and not get carried away and to not impugn the government unnecessarily and the government is able to play that like a violin and squelch any story that questions the government's position. It's hard to get any story like that into print because the standards of proof have to be so high. I'm thoroughly ashamed and embarrassed at the performance of the American major media and it makes you wonder why.

TOM VALENTINE:
Why would Israel have paid Vince Foster anything?

JAMES NORMAN:
Well, I don't think it's any secret that both Israel and the United States have been spying on one another for a long time. As close as the relationship is between the U.S. and Israel, there are some things we don't want to tell them and vice versa, and particularly during the Bush administration the relationship soured. Israel is a foreign country and their interests are not

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always congruent to ours. Who knows?

We know Foster was under investigation for espionage. We don't know what he gave Israel. We know that there was $2.73 million in his Swiss bank account -- the funds that came from Israel. He had other Swiss bank accounts as well that were receiving funds from U.S. interests. His periodic one-day trips to Geneva are problematic in and among themselves.

TOM VALENTINE:
You discovered some other interesting things.

JAMES NORMAN:
This other matter is very troubling to me. It's another bombshell. Foster's was not the only Swiss bank of a high-level U.S. political figure that's been raided and deleted this way in the past year and a half. The Fifth Column has gone into and cleaned out probably a couple of hundred coded Swiss bank accounts belonging to high-level U.S. political figures -- the biggest names going -- in both parties. The take, we've been told -- is over $2 billion, going on $3 billion.

TOM VALENTINE:
Will the Fifth Column ever go public?

JAMES NORMAN:
I don't know. I think that probably the way the intelligence community works that the name will get changed, it will be shuffled around and you'll never find it.

TOM VALENTINE:
This is the kind of thing that I know bothers you as a journalist.

JAMES NORMAN:
The issues here are so immense that they've just got to be discussed in some way. The persuasiveness of the cover stories by the government is so disturbing. Under the cover of national security the government is allowed to lie to the public and lie, cheat and steal if they have to to protect national security. The more that you look at the Foster case the more you realize that this is an authorized cover story.

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Aperi os tuum, decerne quod justum est, et judica inopem et
pauperem. -- Liber Proverbiorum XXXI: 8-9

Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgWed Aug 2 20:59:44 1995
Date: Wed, 2 Aug 95 01:00:53 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 72

Conspiracy Nation -- Vol. 5 Num. 72

("Quid coniuratio est?")

EXPLOSIVE NEW FACTS REVEALED IN MYSTERIOUS DEATH OF FOSTER

[The *Spotlight*, 08/07/95]

Since the strange death of top White House aide and close, long-time Clinton family confidant Vince Foster, The *Spotlight* has been inundated with a wide variety of rumors, theories and other allegations regarding the circumstances of Foster's demise however it occurred -- whether by suicide or murder.

The *Spotlight* has never issued any formal editorial opinion regarding the matter, one way or another, although this newspaper has printed a number of stories over the past several years which have touched on Foster's death and its possible connection to a number of widely-publicized, high-level scandals including BCCI, Iraq-gate, Mena-Iran-contra and Inslaw, all of which have been, in turn, linked to one another and to both Reagan-Bush and the Clinton administrations.

On July 14 an explosive new theory relating to the mystery surrounding Foster's death was outlined on the nightly broadcast of The *Spotlight's* call-in talk forum, *Radio Free America*, with host Tom Valentine.

The guest was James Norman, a senior editor with *Forbes* magazine. Norman has been looking into the Foster affair for some time. (*Forbes* has not published Norman's work, nor is it expected to do so in the near future.)

At the time of Norman's appearance on RFA he was identified by name and as the senior editor of a well-known publication. Since Norman's appearance on RFA, however, his association with *Forbes* has been mentioned over the Internet.

A transcript of Norman's interview follows...

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TOM VALENTINE:
Your story is rather controversial. What are we going to learn?

JAMES NORMAN:
This has been the most amazing, frightening story I've ever worked on in my career. It's so hard to believe that it's taken a long time to get the facts checked and to understand it. The bottom line is that at the time he died, Vince Foster was under investigation for espionage.

TOM VALENTINE:
Who was Foster spying for?

JAMES NORMAN:
There's ample suspicion -- and this is never proven, although there's substantial evidence -- it is known that at the time he died, July 20, 1993, he was under investigation for suspicion of espionage involving the state of Israel.

There was a group within the CIA and the intelligence community -- a computer intelligence group that had been given the authorization to hack their way into foreign intelligence data bases. This is something I think that is routinely done.

This group had hacked its way into a data base of Israel's intelligence service, the Mossad, and found Vince Foster's name there, which surprised them. From there they were actually able to track money back to a bank in Switzerland.

These hackers are a small group of government people and they actually have a name. They are known as the Fifth Column. If you call up the CIA and ask them about it, of course, they won't tell you anything. However, if you talk to enough people in the intelligence community you will learn that yes, the group does exist. Yes, they do this type of thing and yes, they are armed with Cray super-computers.

These are probably the best and brightest computer hackers in the world and they are working for the U.S. government and they bust their way into computers.

In the case of Vince Foster they found money going to his account at this bank in Switzerland, a small bank right on the Italian border. It's called the Banca Della Svizzera Italiana.

TOM VALENTINE:
Sherman Skolnick, the investigator from Chicago, has been a guest on this show and he came across much of this same information, so it seems as though what you are saying is confirmation. And you are a well-known editor with a prominent publication. This is interesting.

JAMES NORMAN:
We put a lot of effort into this investigation. The story was so unbelievable. Now when you are dealing with sources in the intelligence community, you never quite know who you are talking to [in terms of their credibility or motivation in leaking information -- Ed.], so it took an extra amount of effort in checking this out. And lo and behold, the story corroborates on many points from a wide variety of credible and knowledgeable people.

TOM VALENTINE:
In short, U.S. government hackers broke into the Israeli Mossad's database and ran across Foster's name.

JAMES NORMAN:
Then they hacked their way into the Swiss bank computers and

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corroborated that yes, it was Vince Foster's account, and they were able to withdraw enough information from the Swiss bank's computer database so that they were able to mimic a withdrawal transaction.

What happened was this. On July 1, 1993 Foster bought a round-trip ticket to Geneva at the White House travel office, which he put on his American Express Card. This was reported by Ambrose Evans-Pritchard in the *London Sunday Telegraph* on May 21. (See The *Spotlight*, July 3. -- Ed.)

I think what happened was that when the CIA people saw that he was making these one-day trips to Geneva, which he had been doing periodically, they decided to withdraw the money from Foster's Swiss bank account at that time. I think Foster probably called up the bank to tell them he was on his way and the bank told him: "Mr. Foster, you've already withdrawn your money," and that's when it hit him that something very strange was going on. He learned that the money had actually been withdrawn and deposited into the U.S. Treasury.

According to my sources, that's when he became so mysteriously and acutely depressed and couldn't sleep and his sister tried to set him up with a psychiatrist. Instead, he hired a lawyer and apparently made some discreet inquiries around the White House and somebody told him: "Vince, you're under investigation for espionage."

This set off a chain of circumstances. There was a supposedly coincidental meeting on the Eastern Shore of Maryland before Foster's death. According to the report by Robert Fiske, the original special counsel on the Whitewater affair and Foster's death, Foster and his wife made a trip to the Eastern Shore, supposedly for rest and relaxation. By coincidence, supposedly, the Fosters met Webb Hubbell and his wife there.

At the time, Hubbell was technically the number three person at the Justice Department, but I think it's well understood that he was actually running things there and was essentially the nation's top legal official.

He and Foster both came out of the Rose Law Firm in Little Rock and both were involved in a number of cases, representing a lot of the same clients.

This meeting between Foster and Hubbell has been characterized in both the Fiske report and in the Senate hearings on Whitewater as a "rest and relaxation" type affair. I don't think so.

I've been told by multiple sources that this meeting was under surveillance and that it was a heavy-duty damage control session held at the estate of a fellow by the name of Michael Cardozo, who heads Clinton's legal defense fund. He's the son of a major Democratic Party fund-raiser, Nathan Landau.

There may have been other White House officials at that meeting. What we have been told is that there was great concern about who knew what and who the money could ultimately be traced to. What we do know is that two days later Vince Foster was dead.

I am not in the business of speculating whether he committed suicide or whether he was killed. I'll leave that to others. I am also not speculating as to who might have killed him, except to say that there was a [illegible]

and there's a reason why a bunch of different people wanted him dead.

TOM VALENTINE:
With Foster dead, would the heat be off a lot of other people?

JAMES NORMAN:
You might think of it that way.

TOM VALENTINE:
Was Hubbell's name found in any of these computer files where Foster's name appeared?

JAMES NORMAN:
I don't know anything about that. I wasn't investigating that. Both Hubbell and Foster, we've been told, by multiple credible intelligence sources, were both involved as behind-the-scenes persons on behalf of the National Security Agency for a massive international bank spying effort that this country has carried on for more than a decade now.

[...to be continued...]

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Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgSun Aug 20 06:24:39 1995
Date: Fri, 18 Aug 95 21:43:32 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 82

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("Quid coniuratio est?")

Having been forwarded a message, purported to have originally been written by James Norman, author of "Fostergate", I decided to go directly to Sherman Skolnick and see what he had to say.

Here, first of all, is what is *purportedly* a message written to "Mike" by James Norman which "Mike" then forwarded to me:

> Subject: gierum denies all - Jim Norman
>
> Mike: I don't think there are any depositions. Gierum denied there were. He claims Sherman took some offhanded joke out of context and turned it into a conspiracy. I just don't have the time myself to persue this track. If you do, I guess you've got to go back to Sherman and make him produce something real.
>
> Good Luck. Cheers, Jim N.

To which "Mike" adds:

> Well, Brian, unless you can get something more out of Sherman, we have a dead end and a blast to Sherman's credibility. Pretty ugly the way it stands, isn't it?
>
> Regards,
>
> Mike

"Mike" then sent the following, containing a message *purportedly* written by Orlin Grabbe.

"Mike" begins

> I've got the Andreuccetti stuff.
>
> I emailed Grabbe and asked him his advice on pursuing the RTC bank fund link to Arkansas that Sherman claims Gierum told him about. His response:
>
>> About the RTC, I don't know. I have too many good leads to follow to worry about that part of it. It is possible that someone supplied Skolnick with disinformation, for which the basic structure of the story was true, but the names were changed to create a diversion and confusion, and hence debunk the whole thesis.

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For a story like the one you are pursuing, you need to get *specific* wire transfer information of amounts from institution to institution. (Good luck in getting any cooperation from the banks in question.)

Right now I am focusing on a *single* wire transfer, which is going to blow this whole thing wide open. And that is the $286,000 from vince's sister to her sister-in-law. Think about it.

-Orlin

I spoke by phone with Mr. Skolnick on August 18, 1995. Note that in what follows I neither necessarily agree nor disagree with either all or parts of statements made by Mr. Skolnick. Persons mentioned are invited to send rebuttals, of reasonable length, for probable distribution.

- Brian Francis Redman, Editor-in-Chief

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CONSPIRACY NATION:
To me, you had voiced suspicions as to, why is Jim Norman so intent on getting you to release some of your sources.

SHERMAN SKOLNICK:
All right. Well first of all, let's deal with the purported e-mail that you saw, where somebody claims that they're relating something that Norman said: that he interviewed a key witness in the Whitewater matter -- a key witness as far as *I'm* concerned -- John E. Gierum. And Gierum, according to the e-mail, says that the whole thing was "an offhand joke".

That's ridiculous. Because my declaration, the declaration of the other witness who was once a client of Gierum as a lawyer, Joseph Andreuccetti (1). Our declaration, under the penalty of perjury, is in the federal court record. Gierum was served a copy, and from January '94 on, when it came up in court, he never disputed it.

Now, supposedly -- if we understand that Norman questioned him; if that's what happened, that Gierum made such a statement -- he isn't telling the truth! In other words, that it was "an offhand joke"? Like hell it was.

CONSPIRACY NATION:
All right. And according to this supposed message from Jim Norman to this person, he supposedly says, "I guess you've got to go back to Sherman and make him produce something real." And that goes back to this thing of...

SHERMAN SKOLNICK:
In other words, I can produce the thing where his confession is referred to in the court record, where he was served a copy of it. And our declaration, me and the other witness, Andreuccetti, is in the record. I've said that all along to anybody that inquires.

Now as to the other question, about my sources; the U.S. Supreme Court has ruled that when a journalist or a news organization or

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an editor of a news service or newspaper promises confidentiality to a source, that that is a *binding* *contract*. And were that to be violated, the source -- if he is *named* actually in the news story -- can sue for damages that may result, if he loses his job as a reprisal, and so on.

That was a U.S. Supreme Court decision.

And I not only abide by that decision, but further than that: every good investigative journalist never divulges his sources, because it's like burning down a bridge! You don't do that. I mean, I've been at this since 1958. Do I have sources in key places in the government over a period of more than 3 decades? Of course; the answer is, "yes". Will I identify who they are? No. And I don't care how much some so-called "establishment" reporter pushes and shoves me, questioning my credibility, I still won't reveal my sources. *And*, neither will Jim Norman!

But what happens is, the mass media looks down their nose at people like me. And, in other words, they can demand *my* sources, but I can't demand theirs. So, I mean, because he's a paid journalist and I'm an unpaid journalist and I head up a not-for-profit group, does that mean that I'm therefore considered a nobody, that my credibility immediately is zero? I hope that isn't true. I mean, I've got a long track record of judges and others who've gone to prison, been put to the wall, each one of whom called me a liar! And one of 'em just got out of jail, that called me a liar.

CONSPIRACY NATION:
All right. But you had, before, suggested that Norman might actually be some kind of spy (2).

SHERMAN SKOLNICK:
Well I now know approximately where his story comes from. And he probably has reasonably good sources. But I have a question in my mind -- and if Norman says something to the contrary, why I would stand corrected -- but I don't believe that Norman has a background as an investigative journalist. He certainly, so far as I know, is not a known quantity in espionage stories. And his story about "Fostergate" appears to be an espionage-type story.

There are known writers in the espionage field. (Because they know retired "spooks" and stuff like that.) But I don't think Norman is one of them.

[...to be continued...]

----------<< Notes >>----------

(1) The transcript of my interview of Joseph Andreuccetti is available online: (1) telnet prairienet.org (2) logon as "visitor" (3) go citcom (4) look for "Andreuccetti Affair" under sub menu "Whitewater".

Here is a relevant portion of that interview:

CONSPIRACY NATION: One final question: John E. Gierum was your attorney, right?
JOSEPH ANDREUCCETTI: At one time, he was my bankruptcy attorney.
CONSPIRACY NATION: Okay. Any comments you've got on Gierum?
JOSEPH ANDREUCCETTI: Today I know that Gierum, first of all, is a Jesuit. Second of all, he (I don't know if Skolnick told you) is a senior [illegible] for the U.S. Small Business

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Administration] loans. He's a crony of Hillary [Rodham Clinton]. We know that. And he admits that the money [$58 million] was secretly wired to Arkansas!

SHERMAN SKOLNICK: *And* that the White House is trying to frame *him* for it!

JOSEPH ANDREUCCETTI: And the White House tried to frame him for that.

CONSPIRACY NATION: And, but when you say he is a Jesuit, you mean he's a *priest*!? Or he's connected with them?

JOSEPH ANDREUCCETTI: Well... He [Skolnick] can explain better...

SHERMAN SKOLNICK: There were three lawyers that were practicing together: R. Barton Kalish (who was his lawyer), Forrest Ingram, and the third guy is John E. Gierum. But the group has split up.

Gierum is now with a group of lawyers in Park Ridge who represent international bankers. And Gierum has got his office inside there.

And it was outside that office, that he got into [Andreuccetti's] Jeep and sat and talked about his problem, with us: that they are framing him (this was January '94), and that he was worried that they were gonna send him to jail. (And you heard the little interview we did: where he said the law, and the facts, cannot protect him, because it's a set-up.)

JOSEPH ANDREUCCETTI: And he also said, he was very concerned, "They're gonna send me to jail,"...

CONSPIRACY NATION: You were a witness to that, though?

JOSEPH ANDREUCCETTI: Oh yeah.

..."One of them is connected to my little five-year-old daughter," and it was all kinds of concern. I mean, he was like a man that was ready, just about, to be shot!

CONSPIRACY NATION: And you believed his confession.

JOSEPH ANDREUCCETTI: Absolutely! You can look a man in the face, [and tell] whether he's lying or telling the truth. You can see it in the eyes. He was a man practically in despair at the time.

[2] Skolnick had previously wondered aloud about why was Norman so insistent that Skolnick let loose with some of his sensitive information. For the record, there is no solid information that Mr. Norman is any type of spy nor is such meant to be implied by me. The question (above) is purely speculative.

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Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from [illegible]

FOIA #56806 (URTS 16304) DocId: 70105038 Page 88

From bigxc@prairienet.orgSun Aug 20 06:01:56 1995
Date: Sat, 19 Aug 95 15:54:43 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 83

Conspiracy Nation -- Vol. 5 Num. 83

("Quid coniuratio est?")

I spoke by phone with Mr. Skolnick on August 18, 1995. Note that in what follows I neither necessarily agree nor disagree with either all or parts of statements made by Mr. Skolnick. Persons mentioned are invited to send rebuttals, of reasonable length, for probable distribution.

-- Brian Francis Redman, Editor-in-Chief

+ +

[...continued...]

-|- The "Vacuum Pump" and the "Faucet" -|-

CONSPIRACY NATION:
Yeah, another one of my readers suggested that that's the weak link in all this, is that [James] Norman is a financial and business writer.

SHERMAN SKOLNICK:
Well let me tell ya what happened in the beginning, from the circumstances, that he went around questioning everybody. And then it did not appear that his publication, *Forbes* magazine, was gonna publish anything.

We put him in the category of a "vacuum pump". That is, on behalf of certain un-named principals, he was trying to "pick our brains". And establishment journalists act as purported spies all along: they show up, they question you, they lead you to believe that it's going on the air -- it is *not* going on the air. A transcript of their notes is then shared with the FBI, the NSA, the CIA. I know a lot about that.

CONSPIRACY NATION:
Yeah, in fact that rings true, that, down in Arkansas, there have been "journalists" doing videos of people who were witnesses or whatever in a lot of the stuff that's goin' on there. And I've been hearing that these videos never get marketed but that the people on them who volunteer to go "public" wind up in trouble over what they say.

SHERMAN SKOLNICK:
Let me just give you an example. I've already confronted a long-time radio broadcast journalist here in Chicago, Alan Bickley.

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And in 1970, when I had worldwide publicity on a story, a lawsuit I brought regarding the National Archives covering up documents they had which related to a plot against JFK, two-and-a-half weeks *before* Dallas, he interviewed me -- apparently not to go on the air -- and then he sort of off-handed admitted to me that he was in Dealey Plaza at the time of the assassination. And to disarm me from any questions said, "Well yeah, the CIA tried to recruit me, Skolnick." I said, "Oh really."

But then what I found out is, that thereafter -- and *prior* to that time -- Alan Bickley used to interview "peaceniks". You know, get all kinds of personal and biographical information from them, interview them on tape, and it never went on the air!

So then I ran into a courier for a service for "spooks" -- espionage. And he says that (the "spooks'" courier), told me how they transcribe these things, called "out-takes". Out-takes are film, tape, and notes that do not go on the air.

And Alan Bickley, from what I found out, specialized in out-takes. That is, he was a journalist-spy! (At least it seemed to me.) Because he interviewed a lot of peaceniks and people like me, not for the purpose of ever going on the air with any of it, but a transcript or copy of his notes, or tapes, would then end up with the FBI or the CIA.

The station that, I believe he still works for, [is] WBBM-AM radio in Chicago. An FBI official once ran the station. The place is loaded with FBI types, purporting to be technicians, etc., running the radio station, which is in Chicago.

But the point is, therefore when I ran into Norman, he seemed to be more of the same. He seemed to be more like Alan Bickley.

CONSPIRACY NATION:
Yeah, okay, and when he's purportedly complaining that he can't get you to produce what he purportedly calls "something real", in other words, there's a possibility that he may not be all he seems to be.

SHERMAN SKOLNICK:
All right, in the early 1970s, Carl Bernstein (he by-lined a story about Watergate with Bob Woodward) wrote a piece... I think it was in *Rolling Stone*, that somewhere between 200 and 400 mass media types are actually spies!

CONSPIRACY NATION:
Yeah. In fact, I think I've got that. I think I had xeroxed that article (3).

SHERMAN SKOLNICK:
I got in trouble with the media, prior to that story, by identifying who they were in Chicago. I was called a liar all the way around. Then when Bernstein's story came out, nobody apologized to me.

I got taken off the air in the early 70s. I had been a media hero prior to *that* time. I used to be able to hold a press conference on my lawn at the drop of a hat. But because I did a forbidden thing, which [illegible] the local media

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were assets of CIA, FBI, and NSA, I got blanked out, as if I ceased to exist.

And Norman acted in that pattern. If it's not true about him, all I can say is he acted in that pattern.

Then, he did a very mysterious thing: on Internet, in signed articles, either with his initials or actually signed by him, James Norman, he then attacked his employer, *Forbes* magazine, and mentioned that there was a conflict of interest (4); that one of the bosses of *Forbes* magazine, Caspar Weinberger, the former secretary of defense, who was listed as "publisher emeritus" (that's like a title where he's... You know what "emeritus" means.)

CONSPIRACY NATION:
"Semi-retired" but involved.

SHERMAN SKOLNICK:
But the point is, he hinted at things that were already in my story ["Foster, Bush, Weinberger -- And Pollard" by Sherman H. Skolnick; see CN 5.49] and which Norman knew about. Namely, that Weinberger and [George] Bush were involved with Vincent W. Foster, Jr., the White House aide; that before he got into the White House, Foster was an NSA official, and with the help of Weinberger and Bush had released nuclear secrets to Pollard, who gave 'em to Israel for money.

But the strange thing is that, so far as I know, Norman has not been fired. Although I think the rationale behind that is, he may be threatening his boss with what is known in law as a "retaliatory discharge" case. That is, if you get fired because you did something that's good for the public, you can sue your employer. So it may be they figured out it will cost them more to defend such a lawsuit than to fire him.

So he continues to put stories on Internet condemning his employer (5). He continues, apparently, to work as the senior editor. And he puts these stories that are not published in *Forbes* on the Internet, or *Media Bypass* magazine, about what he calls "Fostergate". And he updates some of these stories from time to time, according to signed items by him on Internet.

So, I mean, is he a possible questionable quantity? It may well be.

He seems to be a nice fellow, in discussions on the phone.

CONSPIRACY NATION:
All right. And moving along to this person, Orlin Grabbe...

SHERMAN SKOLNICK:
All right. As to him, he was formerly a professor at the Wharton School of Business. (Which is supposed to be a distinguished business school.) He purports to be the director of a conservative think tank, called the Cato Institute. And he purports to be an expert on bank encryption -- satellites. And he puts... As of now, I think he's put 18 different stories on Internet, under his by-line -- that relate to my story, by the way! -- and are very i[illegible]

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He apparently is what is known in the trade as a "faucet", which is a leaking apparatus on behalf of some faction that opposes some other faction in espionage. (In the espionage agencies they have different factions.) But [he seems to be] a front for a leaking faction.

[...to be continued...]

----------<< Notes >>----------

(3) "The CIA And The Media" by Carl Bernstein. *Rolling Stone* magazine, October 20, 1977.

(4) I, personally, have never seen the alleged articles that Skolnick mentions. If anyone has copies of same (i.e., besides "Fostergate", which I already have a copy of), please send them to me at bigxc@prairienet.org

(5) Again, I have not seen such stories as Skolnick mentions. If anyone has copy/copies, please e-mail them to me.

I encourage distribution of "Conspiracy Nation."

For information on how to receive the new Conspiracy Nation Newsletter, send an e-mail message to bigxc@prairienet.org

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If you would like "Conspiracy Nation" sent to your e-mail address, send a message in the form "subscribe conspire My Name" to listproc@prairienet.org -- To cancel, send a message in the form "unsubscribe conspire" to listproc@prairienet.org

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Want to know more about Whitewater, Oklahoma City bombing, etc? (1) telnet prairienet.org (2) logon as "visitor" (3) go citcom

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Aperi os tuum muto, et causis omnium filiorum qui pertranseunt. Aperi os tuum, decerne quod justum est, et judica inopem et pauperem. -- Liber Proverbiorum XXXI: 8-9

Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgMon Aug 21 20:27:17 1995
Date: Mon, 21 Aug 95 15:12:45 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 84

Conspiracy Nation -- Vol. 5 Num. 84

("Quid coniuratio est?")

I spoke by phone with Mr. Skolnick on August 18, 1995. Note that in what follows I neither necessarily agree nor disagree with either all or parts of statements made by Mr. Skolnick. Persons mentioned are invited to send rebuttals, of reasonable length, for probable distribution.

-- Brian Francis Redman, Editor-in-Chief

+ +

{...continued...}

CONSPIRACY NATION:
All right, let me read to you this purported e-mail message that was forwarded to me. I don't know absolutely that this is by Orlin Grabbe, but it's purported to be, and I believe it is:

> About the RTC [Resolution Trust Corporation], I don't know. I have too many good leads to follow to worry about that part of it. It is possible that someone supplied Skolnick with disinformation, for which the basic structure of the story was true but the names were changed to create a diversion and confusion.

SHERMAN SKOLNICK:
What is he talking about?

CONSPIRACY NATION:
I think he's talking about that RTC transfer of the contingency fund.

SHERMAN SKOLNICK:
Well that's... His contention that it's mis-information is ridiculous! Why? I think I already told you.

Joseph Andreuccetti [is] a former client of John E. Gierum. And Andreuccetti has a major claim against the $58.4 million RTC contingency fund in Chicago. In the presence of his former client, Andreuccetti (and myself), John E. Gierum, in January '94, confessed that the Clinton White House was trying to frame him on the transfer [6]. And that he had previously also admitted to me that he's a close crony of the Rodham family from Park Ridge [Illinois], where he has his office. He grew up with Hillary's brother. He went to law school with him.

It couldn't be dis-information [illegible] to the source

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that was *in* *charge* of the 50-some-odd million dollar contingency fund. Therefore, I don't know what Mr. Grabbe is talking about, that he thinks I changed the names or am a victim of dis-information. I dealt directly with the one that was in charge of it!

CONSPIRACY NATION:
Yeah. And as a matter of fact, Sarah McClendon confirms a lot of what you've been sayin'. In a recent issue of *Relevance*, which is a newsletter, the editor says that he has talked with Sarah McClendon, and she -- I don't have the exact quote at hand -- but she says, roughly, "...bank fraud, to the tune of $46-60 million dollars, in Arkansas." (7). Which supports what you've been sayin' all along.

SHERMAN SKOLNICK:
Right. And what about the thing, that's in the court record, not disputed, by the top [...tape runs out...]

As you know, September 20th, '94, I got over an hour-and-a-half interview, in the presence of Andreuccetti, with the spokesperson for the acting chief of the Criminal Investigation Division of IRS, Lynette Redmer. And she *volunteered* about the $50 million and the transfer of the money and the RTC and all that. And she brought up things, from her own knowledge, that involved Whitewater. She's the one that brought it up, okay? (She's a top IRS official.)

And her interview with me (or confession -- whatever you want to call it) is a matter of court record ever since! It's never been disputed by her or by the IRS or by anybody (8).

And because of that confession of an IRS official, as you know, I filed a petition, in the federal court, that a top Justice Department official flew into Chicago and threatened me outside the door of the courtroom! That's still pending too.

And the magistrate, judge, that was inside [the courtroom], that just *heard*, relating to this, is a witness. Because her deputy clerk says that "We hear everything that's happening outside. Move away from the door."

I was threatened by a Justice Department official, right outside the door, about the very thing that you're asking me about.

CONSPIRACY NATION:
Yeah, okay. And Grabbe purportedly goes on to add that he's "focusing on a single wire transfer, which is going to blow this whole thing wide open. And that is the $286,000 from Vince's sister to her sister-in-law." Which I think he wrote about in part 18.

SHERMAN SKOLNICK:
Yeah, I read it.

We know a related detail. According to Grabbe's story and other routine sources, Sheila Foster Anthony, the sister of the late White House deputy counsel Vincent Foster, Jr., she heads up the legislative affairs department of the Justice Department, that handles the process of

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attorneys, and U.S. marshalls.

And the magistrate over here in Chicago, outside whose door a Justice Department official threatened me earlier this year, is now a pending appointment to be promoted as a U.S. district judge, which is a lifetime appointment. And her appointment has been held up. And among the reasons is my complaint about that she allowed me to be threatened (outside her door) about the 50 million dollars by a Justice Department official that, by what he said, was threatening to have me jailed! To silence me!

So there's a connection, right between the magistrate, Joan Lefkow, whose appointment to the district court bench has been held up.

We sent copies of all this to the chairman of the Senate Judiciary Committee, Orrin Hatch. And he wrote me back that it's being considered.

And so the ratification of her appointment is being held up by the Senate Judiciary Committee. And the direct connection there: the one that is in the nominating/selection process of federal district judges is Foster's sister, the very one that you are mentioning here, Sheila Foster Anthony, who, according to Grabbe, transferred to Foster's widow, Lisa, $286,000. And Grabbe's implying that there was something secret about it, or that it might have been illicit money-laundering funds.

[...to be continued...]

---------- << Notes >> ----------

(6) The RTC contingency fund, approximately $58.4 million, was allegedly secretly and illegally transferred to Arkansas to be used to cover up the alleged embezzlement of a bank down there.

(7) "Now in her eighties, McClendon, the grand dame of the Washington press corps told your editor in mid-May that there were sixteen sealed indictments sitting in the Arkansas District Court, three of which indict Hillary Rodham Clinton with bank fraud to the tune of $47-60 million, obstruction of justice, and possibly perjury." *Relevance* newsletter, June/July 1995. Call 1-800-626-8944 to subscribe.

(8) Excerpts from "Second Amended Verified Complaint", case No. 92 C 7048, United States District Court, Northern District of Illinois, Eastern Division:

> 2. That on September 20, 1994, Sherman H. Skolnick and Andreuccetti went to the 14th floor of the building at 230 South Dearborn Street, Chicago, Illinois, Internal Revenue Service, Criminal Investigation Division. Skolnick said he is a journalist and wishes to speak with the Chief or acting Chief of C.I.D.
>
> 2A. A woman came to a door, said she speaks for the Chief, later identifying herself as Lynette Redmer, and ushered Skolnick and Andreuccetti to a conference room.
>
> [...]
>
> 10. She [Redmer] used words and statements to show she had inside knowledge of Joe's [Andreuccetti's] problem. She referred to a 54 or more million dollar fund parked by Resolution Trust Corporation [illegible] International,

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part of the details of Joe's [Andreuccetti's] pieces of litigation. Turning to Joe, she said, "Well your claim against the fund is mostly 32 million dollar punitive damage claim from your DuPage matter," which Joe [Andreuccetti] disputes. She said, "The transfer (secretly) of 50 million to Little Rock, that was Whitewater, right?" Skolnick confirmed that is correct. "They only needed 47 (million) down there, what happened to the 3 million difference?" Confirming that she knew from inside details that the President and First Lady are accused by some in R.T.C. of being implicated in the embezzlement of 47 million dollars missing from Madison Guaranty Savings & Loan of Little Rock. "Do you know exactly where in a secret trust they have the 50 million in Little Rock?" she said to Skolnick, who said "The 3 million difference is for so-called 'transportation' expense, that is, street tax." She was aware that John E. Gierum was implicated in said transfer and was a close crony of First Lady Hillary.

[...]

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Brian Francis Redman bigxc@prairienet.org "The Big C"

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MAJORITY—(202) 225-5074
MINORITY—(202) 225-5051

September 15, 1995

John Bates
Office of the Special Counsel
1001 Pennsylvania Avenue, N.W., #490-N
Washington, D.C. 20004

Dear Mr. Bates:

Thank you for taking time to discuss with me your ongoing investigation into the death of White House Deputy Counsel Vincent Foster. While I understand your inability to discuss this investigation in detail, I do appreciate your willingness to discuss our concerns about lingering questions regarding Mr. Foster's death.

As we discussed, I am enclosing a list of potential witnesses and unanswered questions that have come to my attention. Undoubtedly, this list includes many names already known to you because I have tried to be as exhaustive as possible. Also enclosed are several recent articles I found on the Internet concerning the death of Vincent Foster, which I recommend you review for additional witnesses and/or issues.

In view of the case's high profile, a number of theories alternate to the official reports have arisen. I believe that those who proffer such theories should be interviewed to determine if they have any evidence or names of witnesses relevant to this case. Any conclusions the grand jury draws will be criticized unless the grand jury has the opportunity to hear from everyone. I therefore suggest that you interview the two reporters, Ambrose Evans-Pritchard and Christopher Ruddy, who have written extensively on Foster conspiracy theories. In addition, you may want to review materials being circulated by the Western Journalism Center and Reed Irvine at Accuracy in Media.

Again, thank you for your attention to this matter. If I can be of any assistance to your office, please do not hesitate to contact me.

Sincerely,

Steven Schiff
Vice Chairman

Enclosures

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ENCLOSURE

Potential Witnesses

Co-Workers
President Clinton
Hillary Clinton
Margaret Williams, Chief of Staff, Mrs. Clinton
Thomas "Mack" McLarty, Ex Chief of Staff
Roy Neel, Former Deputy Chief of Staff
John Podesta, Assistant to President
George Stephanopoulos, Asst. to President
Bruce Lindsey, Assistant to President
Ricki Seidman, Assistant to President
Marsha Scott, Deputy Assistant
Charles Burton, Deputy Assistant
Bernard Nussbaum, Former General Counsel
Linda Tripp, Nussbaum's Executive Assistant
Stephen Neuwirth, Associate Counsel
Clifford Sloan, Associate Counsel
William Kennedy, Associate Counsel
Craig Livingstone, Asst. To General Counsel
Beth Nolan, Associate Counsel
Deborah Gorham, Foster's Executive Assistant
Thomas Castleton, Counsel Office Employee

Friends/Family
Elizabeth Foster, Wife
Vincent, Laura, and John Foster, Children
Sheila Anthony, Sister
Beryl Anthony, Brother-in-law
Sharon Bowman, Sister --identified Foster's gun
Webster Hubbell, Assistant AG/close friend

FOIA(b)(7) - (C)

Law Enforcement/ Medical Personnel
Officer Cheryl Brann, Park Police Investigator

[redacted]

Officer John Rolla, Park Police Investigator at the scene

[redacted]

Todd Stacey Hall, Fairfax County EMS Technician--first medical personnel at scene
George Gonzales, Fairfax County EMS Technician--first medical personnel at scene
Richard Arthur, Fairfax County EMS Technician
Richard Pisani, Fairfax County EMS Technician
Dr. Donald R. Holt, Fairfax County Medical Examiner at the scene
Dr. Julian Orenstein, Emergency Room Physician who officially pronounced Foster dead
Dr. James Beyer, Deputy Chief Medical Examiner for Northern Virginia District--performed autopsy

Miscellaneous

Dr. Larry Watkins-- Foster Family physician in Little Rock--prescribed anti-depressants for Foster
James Lyons--Attorney Foster contacted about representing him in possible Travel Office hearings
Confidential Witness "CW"--first person to find Foster's body.
Helen Dickey, White House aide
[redacted] Arkansas State Trooper
Ambrose Evans-Pritchard, Reporter
Christopher Ruddy, Reporter
Western Journalism Center
Reed Irvine, Accuracy in Media

FOIA(b)(7) - (C)

Outstanding Questions

1. Identity of blond hair found on Mr. Foster's body
2. Identity of carpet fibers found on Mr. Foster's body.
3. Location of spent bullet, bone fragments and blood.
4. Lack of soil found on Mr. Foster's shoes.
5. Correct location of Mr. Foster's body.
6. Did the White House staff have an apartment to use as a "safe house?"
7. Reports regarding plants around Mr. Foster's body.
8. Why was gun still in Mr. Foster's hand?
9. Was it possible for Mr. Foster to have a handgun in his possession at the White House without detection?
10. Was there any other signs of trauma to Mr. Foster's body other than the gun wound?
11. What was the number of vehicles at Fort Marcy Park at the time Mr. Foster's body was found?
12. Was a brief case found in Mr. Foster's car?
13. Would Mr. Foster have had knowledge of Fort Marcy Park before the day of his death?
14. Did Fort Marcy Park have an entrance which would have allowed persons access to Mr. Foster's body out of the view of the general public?
15. Was Foster working for the National Security Agency and was he blackmailed by the Israelis over a secret Swiss bank account?
16. Were their Foster connections to reports of cocaine trafficing through the Mena Airport in Arkansas?
17. Foster's ties to a "massive stock manipulation swindle with the Stephens family."

<---- Begin Forwarded Message ---->
Date: Sat, 9 Sep 1995 06:42:38 -0700
From: mikeb@mlode.com
Reply-To: usa-forever@webcom.com
To: undisclosed-recipients:;@mail.webcom.com

>From smtp Sat Sep 9 06:39 PST 1995 remote from mlode
Received: from mlode.com by mlode.mlode.com; Sat, 9 Sep 95 06:39 PST
Date: Sat, 9 Sep 95 06:39 PST
From: mikeb@mlode.com
To: usa-forever@webcom.webcom.com
Subject: Re: Fostergate: 64 questions
Content-Length: 14576
Content-Type: text
X-Mailer: AIR Mail 3.X (SPRY, Inc.)

<---- Begin Included Message ---->
From: bbog@expressway.com (Bobbie Bogue)
To: mikeb@mlode.com
Subject: Re: Fostergate: 64 questions
Date: Fri, 08 Sep 1995 23:44:29 GMT

Mike,

this is a sample of a message found in a newsgroup ..the name ofthe
group is belos. Thought you'd like this one ...!
;-)

In alt.politics.usa, cardin@slip.net (Richard Clark) wrote:

>----------

>There follows a list of suspicious events, observations, and circumstances,
>taken from the 2,726 pages of the 1994 Senate Hearings and Report
>Volumes that cover the death of Vince Foster. To find out how
>you can receive a 160 page synopsis of this material, put together by
>Stanford and MIT grad Hugh Sprunt, call Bell Jean Printing at
>(301) 864-6882. Pay only for shipping, tax, and copying costs.

>1. No fingerprints on the gun.
>2. No proof that it was his gun.

>3. Suspicious people seen in and around victim's car just before the
> body was found.
>4. Eyewitnesses saw the victim's briefcase in his car, yet the briefcase
> later vanished. So did the files index in his office.
>5. All 35mm film of crime scene was either "overexposed" or it
> vanished.
>6. Most of the Polaroid photos of the crime scene vanished.
>7. "Independent" investigator Fiske was forced to concede that the
> victim's head had been moved--after death had taken place and
> before his body was photographed.
>8. Car keys were not found with victim at crime scene, nor were they
> to be found in his car, yet the conclusion immediately arrived at
> . . was suicide! (Does this make any sense whatsoever?)
>9. The first non-official to see the body said their was no gun in sight;
> so did the first official to see the body.
>10. No blood splatter found. (High velocity .38 bullets through the mouth
> and head leave splatter!)
>11. No bone fragments were found at the scene, yet part of the victim's
> skull was missing, according to the Fiske report.
>12. X-rays vanished with no explanation. (Was it to conceal the fact that
> Foster had other head injuries besides that of a single bullet?)
>13. Dr. Beyer, the examining physician, has a history of mistaking
> homicide for suicide. In some instances he stated X-rays had been taken;
> in other instances he stated they had not. Why the inconsistency?
>14. According to some reports, Foster's head wound not consistent with a
> high velocity .38 caliber bullet. Dr. Haut's statement to the FBI was
> that the exit hole was very small. In contradiction, the Fiske
> report says Dr. Haut's observation was that the exit-hole was very
large.
>15. No fingerprints were found on the torn-up "suicide" note, but a palm
> print was. How can you tear up a piece of paper without leaving any
> fingerprints on it, even when the paper is 'receptive' enough to take a
very
> clear palm print?! (No determination was made that it was Foster's palm
> print.)
>16. A wound was seen on Foster's neck by paramedics. One described it as a
> bullet hole.
>17. Dr.Haut & paramedics said they viewed the body in a location that is
> 200 feet from the site officially described.
>18. The cannon near where some witnesses say the body was found has
> been removed from the park.
>19. In his report, one paramedic listed the death as a homicide.
>20. Numerous hairs and carpet fibers covered Foster's clothing. But his
> car was never checked to see if any of the same fibers could be found
> on the driver's seat, as surely there would have been found, had he
> actually driven himself to Fort Marcy Park.

>21. Whereabouts of victim in hours before death remains a mystery.
>22. The list of items in his "suicide note" could simply have been some
> reflection of his plans to resign his White House position, which his
> wife said he was seriously thinking of doing.
>23. Only two bullets in the gun. No matching bullets were to be found in his
> home or car.
>24. The victim planned to give his visiting sister a tour of the White
> House the next day.
>25. The victim's friend and attorney, Jim Lyons, was coming from
> Colorado to meet with him the next day.
>26. Foster had a full lunch before leaving to (supposedly) kill himself. He
> was jovial, and told his staff he would be back later in the day.
>27. In spite of an exhaustive search, no bullet was ever found which matched
> the cartridge in the revolver that was reportedly found at the scene.
>28. The attitude of the body was not consistent with suicide. It was laid
> out straight, with arms neatly at his side.
>29. No one heard the shot. Few people in the surrounding area were even
> asked. The closest house, which was under construction at the time,
> was only 400 ft. away.
>30. The FBI was kept out of the initial investigation.
>31. The lead investigator assigned to go to the body site was performing
> his first homicide investigation.
>32. Victim's appointment book was never found.
>33. Victim had been making _overnight_ trips to Switzerland (go one day,
> come back the next) which his wife didn't know about. Indications
> are that he had a Swiss bank account which had been mysteriously
> emptied of $2.7 million a week before he died. His last planned trip
> to Switzerland had, for reasons unknown, been canceled.
>34. Foster had, until coming to Washington, been employed as a
> $300,000 a year lawyer. His house in Washington was not especially
> impressive. Yet in the last weeks before his death he had a
chronically
> overdrawn checking account!
>35. Police were prevented from searching the victim's home and office.
>36. Victim's widow was not interviewed for ten days after the death.
> Apparently she was shown a gun, silver in color, that was identified
> as the weapon used. She said it looked like the "silver-colored
revolver"
> she had previously seen at home. The ABC photo very clearly shows
> a black gun in Foster's hand.
>37. No proof that gun found with victim fired the fatal shot.
>38. Photos and reports in the possession of the Park Police and FBI are
> being kept from public view. (Just like the Zapruder film in 1963.)
>39. The Fiske Report contains numerous factual errors regarding time and
> geography at crime scene. It reports a large pool of blood under
Foster's

> head, even though no one who was at the site made any such report.
> In fact some of those who viewed the body, including Dr. Haut and
> Corey Ashford, specifically stated to the FBI that there was no blood
> on the ground. (Ashford is one of the medical technicians who helped
> pick Foster's body up, to remove it from the scene.)
>40. One vehicle seen at park by police and rescue eyewitnesses is ignored
> in the official record of the case.
>41. Park Police concluded their investigation before they sent the gun
> for testing to see if it could fire.
>42. Death was ruled a suicide before the investigators viewed the body.
>43. The crime scene was never totally secured. (There are access roads
> near the body site, in the opposite direction from the parking lot
> where Foster's car was found. Access to the body, from these roads,
> was never blocked off in any way.
>44. No damage whatsoever to victim's teeth from the recoil of a .38,
> allegedly placed in his mouth. This pistol has a rather substantial
steel
> aiming device mounted at the top of the end of the 4-inch barrel.
>45. Wildly conflicting testimony re: the time at which the victim was
identified.
>46. There is no evidence to support the Fiske report that the victim had
> lost weight. The only evidence is that he had _gained_ weight.
>47. Conflicting testimony as to when the White House was told of the
> death---from as early as 6:00 PM, according to the initial report from
> Chelsea's nanny, to the official time of 8:30 PM.
>48. The phone number of a Secret Service officer was found in the
> notebook of Park Police investigator Rolla. Immediately following this
> entry was the address and phone number of Vince Foster. When
> asked about this during his deposition, the record shows that Rolla got
> nervous and flustered
>49. Eyewitness testimony is in disagreement as to whether victim's car
> was initially found locked. Some say it was locked. But the car keys
> were "found" much later, at the morgue, in a front pocket that had
> already been searched at the scene. How then was Foster's car opened
> up?!
>50. Because of interference with prosecutor Rodriguez' inquiry into this
> case, he resigned in protest.
>51. Marsha Scott met with Foster, her friend of 20 years, in an unusual 1-2
> hour closed-door meeting the day before he died. After Foster died, the
> _only_ thing Ms. Scott said she could remember discussing, from her
> long meeting, was that Foster had a good weekend. (!)
>52. The ABC News photo published showing Foster's hand with the gun is
> not consistent with eyewitness accounts of the scene.
>53. The victim's office, a secondary crime scene, was immediately
> cleansed of evidence and documents by Clinton administration officials.
>54. The victim's personal effects including his pager were returned to the

> White House within 24 hours---before they could be analyzed by the
> police.
>55. Certain White House personnel, whose names are (for reasons
> unknown) not in the official record, were prepared to break into
> Park Police Officer Rolla's desk drawer to obtain a key to the evidence
> locker where Foster's possessions were being kept. (See p. 91 of Hugh
> Sprunt's report.)
>56. The neighborhood around the crime scene at Ft. Marcy Park was not
> canvassed by police, to see if anyone had heard a shot, until two
> weeks
> after the shooting took place.
>57. Several police officers in Arkansas, two of them on duty at the
Governor's
> mansion, have given sworn depositions that they were told of Foster's
> death, by phone, at 6:00 PM EST. But this would be _before_ police and
> rescue workers arrived at Ft. Marcy Park! One of these officers
> immediately informed the governor's wife---more than an hour before
> White House personnel say they found out about Foster's death.
>58. It is unclear when and where the victims car keys were actually found.
> One rescue worker says they were found on the way to the morgue.
> Another says they were found at the morgue.
>59. Police and rescue workers have been forbidden to discuss the case.
>60. No mention has ever been made as to whether there were powder
> burns inside of Foster's mouth and whether they were consistent with
> the bullet and spent shell found in the gun at the scene.
>61. Shortly before his death, Foster asked his executive assistant put
> two, inch-thick ring binders, from the National Security Agency,
> into Bernie Nussbaum's safe. However, Foster did not have the
> security clearance necessary for possession of such binders. When
> Foster's assistant revealed, under oath, in an interview by Senate
> Banking Committee investigators, that she had placed these binders
> in the safe after Foster gave them to her with this request, no
> follow-up questions were asked, and no mention was made of any of
> this in the public hearings which followed. Why not?
>62. The gun found at Ft. Marcy Park was composed of parts from *two
> different guns* and the serial numbers had been ground off both
> parts!
>63. Lisa Foster was given more than $250,000 just prior to her
> husband's death. It was channeled to her via Vince Foster's sister
> who works at the Department of Justice. Why was Lisa given this
> money? Was it hush money?
>64. Web Hubbell, in his testimony to the recent Whitewater hearings,
> when describing his actions FOLLOWING notification of Foster's
> death is reported to have said, "We searched for Vince Foster's gun
> in his house". Could Web Hubbell have taken the silver-colored gun
> from Foster's house, so that the FBI could later show Lisa Foster the

> "suicide weapon"?
>
>The sixty-four thousand dollar question:
>How could the first Independant Prosecutor, Robert Fiske, have possibly
>missed _all_ of the preceeding 64 points? How could a truly
>independent and objective investigator honestly and totally miss all
>this?! And if he missed it on purpose, what was he trying to hide, why
>was he hiding it, and for whom was he hiding it?

>The foregoing list of suspicious events, observations, questions and
>circumstances was taken, almost entirely, from the 2,726 pages of the
>1994 Senate Hearings and Report Volumes (3 of them) that cover the
>death of Vince Foster. To find out how you can receive a 165 page
>synopsis of this material, put together by Hugh Sprunt, direct your
>inquiry Bill Jean Printing, (301) 864-6882 or contact
>HSprunt@aol.com. Sprunt has an MBA and JD from Stanford, as well
>as a BS and an MS from MIT. He is the lead author of a two-volume,
>750 page tax reference work. His words have been published in the
>NYT, the Washington Times, the WSJ, and Forbes Magazine. He also
>happens to have been the person to find his grandfather, minutes after
>the elderly gentleman had blown his brains out with a .38 revolver (the
>barrel of which had been placed in the mouth). So he knows,
>personally and vividly, what such a scene looks like. (And also knows
>that from all descriptions of the Foster death site, no HV .38 caliber
>bullet through the mouth & head could have possibly taken place at this
>location.)

>I've read Sprunt's 165-page booklet from cover to cover and have
>highlighted and tagged every section referred to in this list. All but
>two or three of the items on the list can be found both in Sprunt's
>booklet as well as in the Senate Hearings Report just mentioned. The
>two or three others can be found in Jim Norman's Fostergate article,
>which was carefully checked by the staff at Forbes, the staff at Media
>Bypass, and the staff at the Jerusalem Post, where (i.e. the last two
>places mentioned) the article was finally published.

>Richard Clark

<---- End Included Message ---->

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Resent-to: mudrhudd@zynet.com, "Montie L> Dickey" <mdickey@xmission.com>
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WASHINGTON POST ACCUSED OF FABRICATING FRONT PAGE STORY

To Whom Does it owe its Allegiance?

Editorial

On July 4, the Washington Post ran a front page story dismissing questions about the death of Vince Foster as fantasies of right-wing conspiracists.

In the process, Susan Schmidt advanced a conspiracy theory of her own: that "conservative multimillionaire" (can you get more evil?) Richard Scaife is behind several of these conspiracy theorists.

But Ambrose Evans-Pritchard of the London Telegraph, who was one of the targets of Susan Schmidt's hit piece, has shown that she went so far as to use active disinformation to dismiss the credibility of the Vince Foster investigative reports.

In the July 9 issue of The Sunday Telegraph, he responds thusly to Susan Schmidt's piece:

"Last week's article in The Post insinuated that The Sunday Telegraph had fabricated a story about clandestine trips to Switzerland by Vince Foster [described in the May 29 issue of the

Washington Weekly]. The Author, Susan Schmidt, The Post's full-time reporter on Whitewater, said sources 'with access to Foster's American Express receipts say they show no purchase of airline tickets to Switzerland.'

But when confronted, she admitted that her sources did not in fact have access to information (which The Sunday Telegraph did have) about the two flights Mr. Foster made to Geneva in 1991 and 1992. Furthermore, she had no credit-card numbers and did not know which of Mr. Foster's American Express cards may have been involved. Nor did she have any records from the airlines. 'These records are closely guarded,' she said, by way of explanation.

The only information she had, it turns out, referred to a single purchase in July 1993 conducted through the White House travel office. We would surmise that her 'sources' (plural) are in the Clinton White House."

"Is the newspaper that broke Watergate now, intentionally or not, aiding and abetting a cover-up a generation later?"

Had The Washington Post had a record of honest reporting, it might have been able to recover from this example of dishonest journalism by firing Susan Schmidt. But this is only the latest in a string of fabrications, omissions and outright propaganda spread by this "newspaper."

All newspapers and magazines, including the Washington Weekly, make honest mistakes from time to time. But few reporters find it necessary to use outright fabrications and lies to make a point. In fact, Ambrose Evans Pritchard seems to have a very good case for a libel suit against the Washington Post. Deliberate lies are highly prosecutable.

The former Soviet newspaper "Pravda" existed to control the information that was available to the public, and to provide spin on events that could turn into a scandal for the government. Can anyone say that The Washington Post is any different in that regard? What has our political system come to, when the mainstream news media is trying to protect the president from scandal?

The story by Susan Schmidt follows a modus operandi that has been chronicled by the Washington Weekly over the last year. Whenever damaging allegations are raised against the president, a mainstream reporter attacks the credibility and motives of either

the person bringing the charges or the reporter bringing the news. Subsequently, all other mainstream reporters can go on talk shows and TV and say that "I believe those charges have been thoroughly discredited."

Past examples of this insidious tactic include Harper's Magazine's attack on Jeff Gerth, author of the first stories on Whitewater, Time Magazine's attack on Terry Reed, author of the first detailed account of the Mena scandal, CNN's attack on the same Terry Reed, Newsweek's attack on Paula Corbin Jones and The Wall Street Journal's attack on Cris Ruddy, investigative reporter on the death of Vince Foster.

Next in line to receive this treatment is State Trooper L.D. Brown. He has now gone public with his allegations that Clinton took drug money. That means that the only option left to silence him is to discredit him. Which reporter is going to accuse him of being a child molester, of having escaped from a mental institution, or discredit him as a "right winger?" Watch the entrance to the White House for clues.

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NEWSWEEK MOUNTS COUNTEROFFENSIVE AGAINST 'FOSTERGATE'

Editorial

Newsweek magazine, allegedly on instructions from the White House, is mounting a counteroffensive against charges that Vince Foster had ties to the National Security Agency.

As usual, the counteroffensive is not based on a refutation of hard evidence, such as the Starr testimony of Foster aide Deborah Gorham, or Foster's travel itinerary to Switzerland. (Susan Schmidt tried that in the Washington Post and failed miserably.) Instead, the counteroffensive is targeted at those who have reported the evidence.

Michael Isikoff, a long time White House defender, is calling people who have written about Foster and appears to be attempting to concoct discrediting "interviews."

Isikoff is writing for the 43 percent who voted for Clinton and tries to reassure them that nothing untoward has ever happened in his administration. But the remaining 57 percent wish to hear the evidence, the testimony, and the allegations and decide for themselves whom they want to believe. The media should report the news, not control it. It does not serve the truth to fire, threaten, discredit and harass the messengers who are only trying to do their job as they know it, whether they are on a hot or a cold trail.

Of course, in attacking Isikoff's piece before it has appeared, one runs the risk of being discredited if it should turn out to be serious journalism. Knowing Newsweek and Isikoff, however, that risk should be minimal.

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FOSTER "SUICIDE"

Virtually all the major media and the New York Times, Washington Post and other mainstream "newspapers of record" are focusing obsessively on the Tonya Harding skater-mugging case. There's a reason: The suspicious death of White House Counsel Vincent Foster is cracking wide open.

Today's (28 Jan.) New York Post headlined the story and ran it on two pages. The Post placed the word "Suicide" in quotes in the headline.

Among the discrepancies in the story pointed out by the Post were:

* Foster's body was found neatly arranged on an embankment, "laid out as if for a casket."

* The .38 revolver alleged to be the suicide weapon was IN FOSTER'S HAND, BESIDE THE BODY. Veteran homicide investigators were quoted in the article saying they had never seen a .38 weapon remain properly in the hand of the victim in cases like this. In most cases, the veteran detectives said such weapons were projected several feet away from the victim.

* Post-mortem lividity had set in in the hand holding the gun, including the fingers. This was unusual, because of the position of the body.

* Almost NO BLOOD was evident on or under the body, despite a large exit wound in the back of Foster's head, revealed by the autopsy by a Northern Virginia pathologist named Gonzalez.

  But EMT personnel who responded to the site and "bagged" Foster's body reported NO EXIT WOUND AT ALL.

* NO BULLET HAS BEEN RECOVERED. Independent homicide investigators conclude from the position of the body that it is virtually certain Foster "shot himself" while lying on the ground. In that case, the bullet would then be IN THE GROUND, UNDER THE BODY. No bullet was found. As a result, the police officially concluded that Foster shot himself while standing up, fell backwards in a rigid straight posture, arms along his sides, with the gun pointing downward beside his leg. The bullet, they conclude, exited the back of Foster's head through the large exit wound unnoticed by the technicians (but present after Dr. Gonzalez Northern Virginia autopsy). The bullet then flew off into the woods, where it is beyond recovery, according to the Park Police.

* Foster left no suicide note to his family.

* Foster is alleged by the White House to have left a "suicide note" discovered by White House Counsel Nussbaum and/or Press Advisor David Gergen. The "suicide note" consists of 27 pieces of torn paper, which, when pieced together, reveal a list of topics and/or contemporaneous notes of a meeting or phone conversation.

* At least one piece of the White House "suicide note" is missing.

* At least 3 hours of Foster's time are missing, from 1 p.m. July 20, 1993 to 5 p.m. July 20, 1993, when his body was reported in the park.

Conclusion by veteran homicide investigators consulted by the New York Post

FOIA #56806 (URTS 16304) DocId: 70105038 Page 110

Speculations and Questions

President Clinton's pronouncement on July 21, 1993 that "We'll never know why Vince Foster died" rang a little hollow and sound rather disingenuous in this light.

Clinton was very slow to admit he had a half-hour telephone conversation with Foster the evening before Foster's death.

Foster's involvement with the J.P. Stevens banking family, Madison Guarantee Trust, and Whitewater Development in Arkansas raise suspicions of a MOTIVE for removing him. Especially if he was talking about resigning and returning to Arkansas. At the time of Foster's death, investigative journalists were already talking with State Troopers and others about serious allegations against Clinton, made by the President's former Oxford roommate. All of the financial institutions and "development" companies involved in the Clinton/Foster/J.P. Stevens orbit eventually collapsed after massive looting.

The role of Raymond "Buddy" Young, Arkansas State Police Captain under Clinton and "Security Director" for the Governor needs to be scrutinized. Young has ties to Oliver North and others through the Contra-arms and drug-smuggling center of Mena, Arkansas. Young also "personally" handled delicate matters for Clinton while he was governor [illegible] and sent threatening notes to one of the Troopers who started talking about Clinton's affairs and connections.

Young is now a Regional Director of FEMA in Texas.

WHERE WAS HE ON JULY 20, 1993?

More text is available

Date: 28 Jan 94 04:[illegible] EST

Text by Clark.Matt@news1500.n107.z1.FIDONET.ORG

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The Physical Evidence

There has been a lot of talk about the condition of Vince Foster's body. There are several different reports, but they generally fit into two categories: The "man in the van"'s observations and the Park Police's findings with the autopsy and lab reports.

The mysterious "man in the van" found the body first and reported it two park workers who called the police at 6pm. This is what he reports seeing (as told to G. Gordon Liddy):

* There was no sign of any gun.

The Park Police and FBI found:

* There was a small bullet-entry wound in his mouth.
* There was a large exit wound in the back of his head.
* There was very little bleeding.
* Blood was pooled in his legs.
* The body was on an incline, with the head above the legs.
* No skull fragments were found.
* There was a gun in his hand. (A .38 caliber Colt revolver with one empty shell casing and one complete bullet. There were two serial numbers on the gun, indicating that it was made from parts of two different guns, both sold in 1913.)
* There was no trace of blood on the gun.
* There was one fingerprint on the gun.
* No bullet matching the gun was found. (Despite an extensive search with metal detectors which found 12 bullets from modern guns)
* No trace of alcohol in the blood.
* Trace amounts of valium in the blood.
* Numerous gunpowder particles were found on the body that matched the Remington cartridge found in the gun.
* Small amounts of gunpowder residue which did not come from the Colt were also found on the body. (The FBI speculates that the clothing was contaminated in a Park Police evidence room.)
* His clothes were neat (no sign of a struggle).
* No X-rays were taken at the autopsy, as the machine was broken, according to Fiske's report, though a Park Police Officer stated that a pathologist told him "the X-rays showed only one bullet track and no fragments left within the head."
* There were semen stains in his underwear. (Alan Bock in the California Register)
* There were blond hairs on his clothing, including his T-shirt. (Alan Bock in the California Register)
* FBI lab report indicated that at least Foster's head had been moved after the shot was fired. (FBI report, page 45)

Send updates to:

crow@cs.dartmouth.edu

FBI LINKS FOSTER DEATH TO [illegible]

NEW FBI PROBE LINKS WITH FOSTER DEATH CASE
THE TRIBUNE REVIEW
BY CHRIS KUBLY

The FBI is stepping up a civil rights investigation into the death of a young Virginia man whose case has been linked with the death of Vincent W Foster Jr., the deputy White House Counsel who died of a supposed suicide. Tommy Burkett, 21, who attended Marymount College in Virginia, was found dead in a bedroom of his parent's Herdon, Va., home three years ago. The death was ruled a suicide at the time, but that ruling may be challenged as a result of an FBI investigation. A Washington, D.C. law-enforcement official indicated widespread skepticism among FBI officials as to the Foster findings. The official suggested theBurkett case may be a vital first step toward reopening the Foster case. The cases have parallels. Both men died of gunshot wounds through the mouth. Perhaps more significantly, in both death investigations pathologist James Beyer was a key figure. Dr. Beyer, 76, is the longtime deputy chief medical examiner for northern Virginia. It was he who conducted the autopsyof Vincent Foster's body after it was found in Arlington's Fort Marcy Park on July 20, 1993. A number of forensic experts have taken exception to the findings in the Foster case; similar questions have been raised concerning Beyer's findings in the Burkett case. Such doubts have prompted the elder Burketts to publish their own newsletter. A recent issue contained an article titled "Dr. Beyer's Contradictory and Deceptive Testimony in the Vincent Foster Case and in the Tommy Burkett Case." In a chronicle therein, the Burketts notethat Beyer ruled their son's death consistent with suicide. They point out, however, that the ruling of suicide in the Foster case relied on two factors totally absent in the case of their son's similar death. During the Senate hearings probing the Foster death, the Burketts write, Beyer said key factors pointing to suicide were powder burns in the mouth and an absense of trauma to the jaw. But according to a second autopsy on Tommy Burkett's body, neither of these factors was present; no poweder burns were found in the mouth of their son, and his jaw was broken. The Burkett's dissatisfaction with Beyer's findings had led to their hiring of an outside pathologist, Dr. Erick Mitchell, to perform the second autopsy. Mitchell, former chief medical examiner of Syracuse, N.Y., noted in his own autopsy report that the young man's lungs have never been dissected, contradicting a notation of Beyer's that the procedure had been performed. Mitchell also confirmed the parent's observations that there was damage to the body other than that normally associated with self- inflicted gunshot's to the mouth. When the senior Burkett found his son's body, he saw "a disfigured and bloody" ear even though the bullet exited from the back of the head. He also saw that the jaw was "obviously broken."

This led the parents to believe their son had been beaten before the fatal shot, and they were incredulous that Beyer's report did not contain this information. Dr. Beyer, in a telephone interview, blamed the discrepancy between his findings in the autopsy findings in the Burkett case was a

FOIA #56806 (URTS 16304) DocId: 70105038 Page 113

[illegible] autopsy report. "If that's what they say, it's their findings, not mine." The FBI's involvement in the case is not focused on the cause of death per se but, rather on the civil rights aspect. "We opened the Burkett case at the directive of the Department of Justice," said Susan Lloyd, a spokeswoman for the FBI's Metropolitan D.C. field office. She said the FBI is trying to determine "whether or not Tommy Burkett's civil rights were violated. Lloyd noted, however, that civil rights investigations and homicide investigations can "overlap" and said the FBI is committed to determining whether "all proper investigative techniques were accorded to the death." The FBI's involvement in the case may represent an abrupt turn of events.

CONTD FROM NOTE ONE- Robert M. Bryant, special agent in charge of the Metropolitan D.C. office, took the highly unusual step of distancing the agency from the matter in a letter published in the Chantilly VA Times in October 1993, stating "The FBI is not, and has never been involved in any review of this matter..." a premise contradicted by the Burketts, who say FBI agents met with them in early fall 1993. According to the Burketts, agents met with them on several occasion after that, and in the past two months the FBI has significantly widened its probe. Just over a week ago, FBI agents spent several hours reviewing the scene of their son's death. The Burketts were distressed that the Fairfax police had spent only a half-hour at the scene without taking fingerprints or even retrieving the fatal bullet from a wall. The Burketts have kept the bedroom just as it was at the time of the death, with blood splatters and stains intact. The Burkett's allegations have been the subject of a number of new articles and the couple has appeared on the television series "Unsolved Mysteries." They charge that Fairfax County official as well as Beyer engaged in a coverup of the circumstances of their son's death. An especially serious charge they make is that records of two "911" calls their son made on the day of his death were tampered with or destroyed. Such charges were disputed on "Unsolved Mysteries" by Maj. Arthur Mabry a spokesman for the Fairfax County Police. He maintained that "The gun was processed, an autopsy was conducted, photos were taken, a thorough and acceptable crime scene (investigation) was conducted." Warren Carmichael, director of public information for the Fairfax County police, scoffed at the notion that the police and the medical examiner engaged in a coverup. He said police conducted "a totally appropriate investigation" adding that the medical examiner came to smiliar findings "totally" independnet of the police." Carmichael said police have no plans to reopen the Burkett case, but the door is still open "if new information is provided." In the Foster case, Beyer's findings were supported by a four-member independent pathology team working for special prosecutor Robert Fiske. The team concluded that, based on Beyer's notations "there was no other trauma indentified that would suggest a circumstance other than suicide." The Burketts remain skeptical about Beyer's findings in both cases pointing to the pathologist's record in still another supposed suicide case in the state, that of Tim[illegible]y in 1989. According to the medical examiner's certificate, which was based on Beyer's autopsy report, the [illegible] had crashed himself in the chest." His family however has noted a cut

for San Diego, Foley describes the cut at the time as a "classical defense wound suffered while trying to avoid a knife." In 1993, four years after Beyer's autopsy report, Easley's girlfriend admitted that she killed the youth. As for the Fiske report, its conclusions continue to disturb officials of the FBI. They are bothered by such things as the fact that Fiske, for inexplicable reasons, did not avail himself of a grand jury, nor did he take the simple expedient of putting witnesses under oath. They also cannot understand why given all the inconsistencies surrounding Foster's death. Fiske refused to exhume the body and put such doubts to rest. The new independent counsel, Kenneth Starr is reviewing Fiskes investigatin of the Foster matter.

end of story.

"DAILY TELEGRAPH" (LONDON), 8.5.96

PRESIDENT'S AIDE IN WHITEWATER TARGET

By Hugh Davies in Washington

A WHITE House lawyer, Bruce Lindsey, 46, President Clinton's most trusted aide, has been told that he is in imminent danger of being indicted over the Whitewater affair.

He has been told that he is a "target" of Kenneth Starr, the Whitewater prosecutor, as well as of grand juries investigating his actions during Mr Clinton's 1990 campaign for the governorship of Arkansas.

A friend of the President for 25 years, he is an enigmatic figure, always at the elbow of Mr Clinton, offering advice.

His behind-the-scenes role has earned him the nickname of "The Consigliori", the underworld term for a Mafia don's closest counsellor. His influence at the White House is said to be second only to that of Hillary Clinton.

White House sources said Mr Lindsey would not be asked to resign and he would vigorously defend himself. Democratic adviser Mr Ted Van Dyk was quoted as saying that a "nightmare scenario" was building up. Party members feared the scandal would spill over into the 1996 election, affecting Mr Clinton's campaign.

Adding to the panic at the White House is the spectre of new Whitewater hearings in the Senate next month. These will focus on the death of Vincent Foster, another White House lawyer, said by US Park Police to have shot himself in July, 1993.

But independent crime-scene experts concluded that he was probably murdered.

Documents, possibly relating to Whitewater, were removed from his office hours after his death.

Republican Senator Alphonse D'Amato, chairman of the Senate Banking Committee, said questions at his hearings would include: Who took the papers? Where did they go? Were any destroyed?

Mr Lindsey is the highest-ranking administration official to be ensnared in the inquiry into a land deal by Mr Clinton and his wife.

WHITE HOUSE AIDE WAS MURDERED, SAY EXPERTS

'SUNDAY TELEGRAPH' (LONDON), Jul.4.96

By Ambrose Evans-Pritchard in Washington

VINCENT FOSTER, the deputy White House counsel, was probably murdered and his body carried into a park as part of a staged suicide, according to a team of independent crime-scene experts employed to investigate the death.

The private report is being taken extremely seriously by the official investigation of special counsel Kenneth Starr, according to sources close to the inquiry.

Foster was an intimate friend of Bill and Hillary Clinton and handled their personal financial affairs at the White House. The US Park Police concluded that he shot himself in the mouth on July 20, 1993. Two subsequent inquiries endorsed the suicide verdict, but Starr has reopened the investigation and has called witnesses for the first time before a federal grand jury.

At a press conference on Thursday one of the experts, retired New York Police detective Vincent Scalice, said that in almost 30 years of police work he could not recall "ever running across a situation where we found a body in a case of suicide that was so neatly arranged, with the gun so conveniently positioned in the hand in such a straight, orderly fashion.".

The report said that the lack of blood in the front of the body was "inconsistent" with death by a gun shot through the mouth, raising the likelihood that Foster's heart had stopped before the gun was fired.

The report was commissioned by the Western Journalism Center, a California group that supports investigative journalism.

The experts said that Foster was supposed to have walked 700ft through a park, yet there was no soil or grass on his shoes. There was also no blood spatter on the vegetation and ground. In addition the experts asked why the houses near the park were not canvassed in accordance with normal procedure.

The report adds to the growing sense in Washington that there has been a huge cover-up -- but one that is starting to unravel.

FOIA #56806 (URTS 16304) DocId: 70105038 Page 117

FROM THE SUNDAY TELEGRAPH (LONDON), 15 JAN. 1995

WHITE HOUSE SUICIDE - WAS THE BODY MOVED?

BY ANDREW EVANS PRITCHARD IN WASHINGTON

THE SCOPE of the inquiry into the mysterious death of the top White House aide Vincent Foster has suddenly been broadened, casting doubt on the original verdict of suicide.

It has now emerged that Kenneth Starr, the independent counsel investigating the Whitewater affair, which concerns alleged shady business deals linked to President Clinton and his wife, summoned several police officers before a Grand Jury late last week.

During the meeting he took the unusual step of reading them the statutory definition of perjury. The officers were grilled on the precise circumstances surrounding the discovery of Foster's body in a Virginia park in July 1993.

The cause of death of Foster, an intimate friend of the Clintons, had been considered settled by most observers in Washington. An inquiry by Robert Fiske, the former independent counsel who was later replaced by a panel of judges, endorsed the police conclusion that Foster shot himself in the mouth. He attributed the suicide to depression unrelated to the Whitewater property dealings of the Clintons.

However, Mr Fiske did not convene a Grand Jury for that part of his investigation. This was considered strange by many legal experts. The medical worker and park police who found the body did not testify under oath, and Mr Fiske essentially confined himself to a review of their report rather than conducting a full-scale probe of his own.

The grand jury questioning last week, which took place in secret, appeared to focus on the precise location of Foster's body in the park. One of the police officers was overheard reassuring a grand juror in the lobby that he would bring a map to assist testimony the next day.

The seemingly minor issue of where the body was found could turn out to be of critical importance. A journalist for the "Pittsburgh Tribune-Review", Chris Ruddy, has been fighting a lone crusade for several months seeking to establish that the Park Police misreported the location of the body.

Ruddy is convinced that it is the key to exposing a cover-up that allegedly involves the police, the White House, and even elements of the FBI.

If Ruddy is right, it suggests a political scandal of colossal proportions.

On Thursday, an article by Ruddy in the "Tribune-Review" alleged sloppiness in the Fiske investigation and argued that key witnesses may have given false testimony.

His latest revelation is that Dr Donald Haut, the Virginia medical examiner who viewed the scene of the crime on the night of Foster's death, said the body was 10 to 20 yards past an old civil war cannon, the first cannon in the park.

This is in direct contradiction to the Fiske Report, which said that the body was at the foot of a second cannon deep within the park. The testimony of Dr Haut, who said he was never questioned by the Fiske

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was in tangled circumstances [illegible] in that manner.

The Ruddy article was republished as a full page advertisement in the 'Washington Times' on Friday, paid for by a conservative media watchdog in California called the Western Journalism Center. Both Ruddy and the Center are already being sued for libel by the Park Police, who insist that their report was accurate.

Questions about Foster's death have been a staple of radio talk shows across America. According to extensive interviews conducted by 'The Sunday Telegraph', suspicions are also shared by some members of the Foster family and parts of the FBI.

Senator Lauch Faircloth, a Republican member of the Banking Committee that held brief hearings into Foster's death last July, has also raised doubts about the suicide verdict.

From bigxc@prairienet.orgFri Aug 4 20:38:54 1995
Date: Wed, 2 Aug 95 23:25:30 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 73

Conspiracy Nation -- Vol. 5 Num. 73

("Quid coniuratio est?")

EXPLOSIVE NEW FACTS REVEALED IN MYSTERIOUS DEATH OF FOSTER

[The *Spotlight*, 08/07/95]

[...continued...]

TOM VALENTINE:
In other words the United States was spying on banks around the world to track people's money?

JAMES NORMAN:
Actually, it was an allied government effort, which also included Israel. It was originally designed as an anti-terrorist effort. The program was nicknamed "Follow the Money."

Senior people from the Reagan years who were involved in designing and crafting this program have confirmed that there was such a program underway and that massive amounts of data were collected. However, because of the highly sensitive security nature of this, they can't say quite how it was done, but we have figured out that one of the companies involved in implementing the software system (and probably the hardware) was a company in Little Rock that went by the name of Systematics.

TOM VALENTINE:
Was the Inslaw company's computer software called PROMIS involved anywhere in this? (The owners of Inslaw claim that during the Reagan administration the Justice Department reneged on a contract with them, stole the software and used it and sold it to foreign governments. -- Ed.)

JAMES NORMAN:
Yes. It started out looking like a little cloud on the horizon, but it's turned out that the uses to which this PROMIS software has been put would boggle the mind. It's a very powerful system that was initially designed for tracking legal cases, but it was also designed to be customized so that you could adjust it to track all kinds of things. It's been used in tracking nuclear submarines, intelligence data and banking transactions.

It was in 1982 -- right about the time that this "Follow the Money" program was launched -- that Inslaw came up with its proprietary enhancement (PROMIS) of what had, until then, been public domain software that had been developed by the government with taxpayer dollars. The government's funding for the program had run out, but Inslaw came in and re-wrote and enhanced the

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software. It was those enhancements that the government took since the government was so desperate for a software to implement this "Follow the Money" program in particular since it required massive amounts of tracking.

I think what was involved here was an effort to get all of the world's megabanks to standardize their data in a way that would be easily analyzed by the National Security Agency (NSA). Now the NSA is the signals intelligence arm of the government. It's the computer spy agency, really, and highly secretive.

Systematics in Little Rock was one of a number of companies that got involved in installing, selling, supporting, customizing and managing this software and bank data center operations. Actually, it appears that there was a cluster of such companies.

Systematics was started by Jackson Stephens, the investment banker, who has been heavily involved in bond trading in Arkansas. It grew rapidly in the 1970s as it took out more domestic business. In 1982, as the government was looking for a company to help out with this "Follow the Money" program, Systematics took on a big role in that and its business boomed even more.

Then when Bill Clinton came to the White House and Foster and Hubbell came along with him, Systematics' overseas business blossomed along with it and they started getting contracts from a number of foreign banks.

TOM VALENTINE:
Was Vince Foster in the NSA?

JAMES NORMAN:
When you say "in" the NSA, it's hard to say. The way it's been described to me is that he was an interface person between the NSA and Systematics. The way I see it, is that Vince Foster at the Rose Law Firm was a very quiet but a very bright guy. He was one of Jackson Stephens' trusted "deal guys" at the law firm. He was a litigator, but more than that he was a business lawyer.

In that role he would have been in charge of supervising contracts, setting up accounts, high-level marketing and smoothing all of the lumps that would naturally go on between [a company he represented] and a government it was involved in contracts with.

Foster never showed up as an employee of Systematics. He never billed Systematics for any time. You won't find his name cropping up on any Systematics documents, although we've been told by good sources that he was involved with Systematics, although the company denies it. There's an absolute solid wall of denials about this. Somebody's lying.

TOM VALENTINE:
Was Webb Hubbell ever retained by Systematics?

JAMES NORMAN:
They did retain Hubbell and Hillary Clinton. In 1978 Jackson Stephens ended up being the front man for a group of Arab backers of BCCI, which at the [illegible]

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Bankshares, a major Washington based bank holding company. It was one of the few banks that was then able to own banks over state lines. Stephens came in and bought a big chunk of that bank and wanted to take it over.

One of the things he wanted to do, according to the SEC lawsuit that blocked the takeover, was to bring in Systematics to do all of the data processing for that bank. In that case, Hubbell and Hillary Clinton ended up representing Systematics in some of the filings that they made in that case.

The reason this is significant is that, I've been told, the first work that Systematics was doing for the government really was shuffling covert money, managing the covert funds moving around in secret government covert operations accounts.

This was no small job. It took a significant amount of computer power because they were moving money around from one account to another, setting up new accounts, phony companies, etc. It was a major task and Systematics was in an ideal position to do that because its business was to outsource the data processing function in a number of small banks, mainly in the Midwest, the West Coast and Texas.

Systematics would go to these small banks and say, "You can't keep up with the technology. Why don't you just let us take your computers and your people and provide all of that processing. You don't have to worry about it." That may be a prudent thing for a small bank to do, but when it would do that, it would give up a tremendous amount of control over the guts of your bank and what this allowed to happen was the creation, essentially, of a cyberbank for the covert funds.

What we've been told -- and Systematics will adamantly deny this -- is that at the end of every day there would be a direct bank-to-bank balancing transaction of funds. We are told that imbedded in these day-end transactions would be information codes -- compressed data that would convey the information about these coded accounts. The banks that were involved themselves might not even know this was going on. However, we are told that this is how all of this money got moved around.

If you think about it, there had to be maybe hundreds of billions of dollars moving around during the 1970s and 1980s in these covert arms-and-drugs transactions. Nobody has adequately explained where that money came from or where it went. It certainly never went through Congress. It certainly was never appropriated and didn't show up in government budgets. It was not just "black" money but "black black" money that even the congressional oversight people didn't know was sloshing around out there.

TOM VALENTINE:
Has the *Washington Post*, for example, reported any of this?

JAMES NORMAN:
On July 4 the *Washington Post* published an article pooh-poohing what they called all of the "conspiracy theories" about the Foster death. What is interesting, though, is the shift that's going on at the *Post*. Prior to that article, the *Post* was utterly dismissive of any of these things. The tone in this most recent article moves [illegible]

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gradually going to see more of the major media moving to get on board this freight train before they get run over by it. The cover-up is unraveling.

TOM VALENTINE:
So Vince Foster was investigated as a possible spy for Israel?

JAMES NORMAN:
That's what makes him a very key figure. He was a double agent in a sense. He was overseeing a massive intelligence effort for our country which conceivably gave him access to very high level intelligence. You have to realize that the keys to the kingdom these days are in computer encryption, codes, systems. That's what loses and wins wars these days. You can listen to the other guy's traffic.

By the nature of what Systematics was doing and what we believe was some relationship between Systematics and E-Systems which is one of the NSA's primary black operations subcontractors, it's conceivable that Foster could have had very high level code and encryption information. The problem is that he died before investigators could figure out what did or did not get out the door.

I've been told that perhaps because of Foster's long-time involvement with intelligence matters for the Rose Law Firm that when he went to the White House he was probably a key interface person between the White House and the intelligence community, which, I think, perhaps explains why there was such a frenzy of activity after he died. That's why they held the Park Police and the FBI at bay while they rifled through his papers trying to figure out what was "national security" and what wasn't. That explains so much about why this thing has been covered up.

TOM VALENTINE:
The American people have been led to believe that Foster was just another nice-guy lawyer who came to town with Bill and Hillary.

JAMES NORMAN:
Wrong. Here's the problem: the media tries so hard to be responsible and not get carried away and to not impugn the government unnecessarily and the government is able to play that like a violin and squelch any story that questions the government's position. It's hard to get any story like that into print because the standards of proof have to be so high. I'm thoroughly ashamed and embarrassed at the performance of the American major media and it makes you wonder why.

TOM VALENTINE:
Why would Israel have paid Vince Foster anything?

JAMES NORMAN:
Well, I don't think it's any secret that both Israel and the United States have been spying on one another for a long time. As close as the relationship is between the U.S. and Israel, there are some things we don't want to tell them and vice versa, and particularly during the Bush administration the relationship soured. Israel is a foreign country and their concerns are not

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always congruent to ours. Who knows?

We know Foster was under investigation for espionage. We don't know what he gave Israel. We know that there was $2.73 million in his Swiss bank account -- the funds that came from Israel. He had other Swiss bank accounts as well that were receiving funds from U.S. interests. His periodic one-day trips to Geneva are problematic in and among themselves.

TOM VALENTINE:
You discovered some other interesting things.

JAMES NORMAN:
This other matter is very troubling to me. It's another bombshell. Foster's was not the only Swiss bank of a high-level U.S. political figure that's been raided and deleted this way in the past year and a half. The Fifth Column has gone into and cleaned out probably a couple of hundred coded Swiss bank accounts belonging to high-level U.S. political figures -- the biggest names going -- in both parties. The take, we've been told -- is over $2 billion, going on $3 billion.

TOM VALENTINE:
Will the Fifth Column ever go public?

JAMES NORMAN:
I don't know. I think that probably the way the intelligence community works that the name will get changed, it will be shuffled around and you'll never find it.

TOM VALENTINE:
This is the kind of thing that I know bothers you as a journalist.

JAMES NORMAN:
The issues here are so immense that they've just got to be discussed in some way. The persuasiveness of the cover stories by the government is so disturbing. Under the cover of national security the government is allowed to lie to the public and lie, cheat and steal if they have to to protect national security. The more that you look at the Foster case the more you realize that this is an authorized cover story.

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form "unsubscribe conspire" to listproc@prairienet.org

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Aperi os tuum muto, et causis omnium filiorum qui pertranseunt.
Aperi os tuum, decerne quod justum est, et judica inopem et
pauperem. -- Liber Proverbiorum XXXI: 8-9

Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgWed Aug 2 20:59:44 1995
Date: Wed, 2 Aug 95 01:00:53 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 72

Conspiracy Nation -- Vol. 5 Num. 72

("Quid coniuratio est?")

EXPLOSIVE NEW FACTS REVEALED IN MYSTERIOUS DEATH OF FOSTER
[The *Spotlight*, 08/07/95]

Since the strange death of top White House aide and close, long-time Clinton family confidant Vince Foster, The *Spotlight* has been inundated with a wide variety of rumors, theories and other allegations regarding the circumstances of Foster's demise however it occurred -- whether by suicide or murder.

The *Spotlight* has never issued any formal editorial opinion regarding the matter, one way or another, although this newspaper has printed a number of stories over the past several years which have touched on Foster's death and its possible connection to a number of widely-publicized, high-level scandals including BCCI, Iraq-gate, Mena-Iran-contra and Inslaw, all of which have been, in turn, linked to one another and to both Reagan-Bush and the Clinton administrations.

On July 14 an explosive new theory relating to the mystery surrounding Foster's death was outlined on the nightly broadcast of The *Spotlight's* call-in talk forum, *Radio Free America*, with host Tom Valentine.

The guest was James Norman, a senior editor with *Forbes* magazine. Norman has been looking into the Foster affair for some time. (*Forbes* has not published Norman's work, nor is it expected to do so in the near future.)

At the time of Norman's appearance on RFA he was identified by name and as the senior editor of a well-known publication. Since Norman's appearance on RFA, however, his association with *Forbes* has been mentioned over the Internet.

A transcript of Norman's interview follows...

+ +

TOM VALENTINE:
Your story is rather controversial. What are we going to learn?

JAMES NORMAN:
This has been the most amazing, frightening story I've ever worked on in my career. It's so hard to believe that it's taken a long time to get the facts checked and to understand it. The bottom line is that at the time he died, Vince Foster was under investigation for espionage.

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TOM VALENTINE:
Who was Foster spying for?

JAMES NORMAN:
There's ample suspicion -- and this is never proven, although there's substantial evidence -- it is known that at the time he died, July 20, 1993, he was under investigation for suspicion of espionage involving the state of Israel.

There was a group within the CIA and the intelligence community -- a computer intelligence group that had been given the authorization to hack their way into foreign intelligence data bases. This is something I think that is routinely done.

This group had hacked its way into a data base of Israel's intelligence service, the Mossad, and found Vince Foster's name there, which surprised them. From there they were actually able to track money back to a bank in Switzerland.

These hackers are a small group of government people and they actually have a name. They are known as the Fifth Column. If you call up the CIA and ask them about it, of course, they won't tell you anything. However, if you talk to enough people in the intelligence community you will learn that yes, the group does exist. Yes, they do this type of thing and yes, they are armed with Cray super-computers.

These are probably the best and brightest computer hackers in the world and they are working for the U.S. government and they bust their way into computers.

In the case of Vince Foster they found money going to his account at this bank in Switzerland, a small bank right on the Italian border. It's called the Banca Della Svizzera Italiana.

TOM VALENTINE:
Sherman Skolnick, the investigator from Chicago, has been a guest on this show and he came across much of this same information, so it seems as though what you are saying is confirmation. And you are a well-known editor with a prominent publication. This is interesting.

JAMES NORMAN:
We put a lot of effort into this investigation. The story was so unbelievable. Now when you are dealing with sources in the intelligence community, you never quite know who you are talking to [in terms of their credibility or motivation in leaking information -- Ed.], so it took an extra amount of effort in checking this out. And lo and behold, the story corroborates on many points from a wide variety of credible and knowledgeable people.

TOM VALENTINE:
In short, U.S. government hackers broke into the Israeli Mossad's database and ran across Foster's name.

JAMES NORMAN:
Then they hacked their way into the Swiss bank computers and

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corroborated that yes, it was Vince Foster's account, and they were able to withdraw enough information from the Swiss bank's computer database so that they were able to mimic a withdrawal transaction.

What happened was this. On July 1, 1993 Foster bought a round-trip ticket to Geneva at the White House travel office, which he put on his American Express Card. This was reported by Ambrose Evans-Pritchard in the *London Sunday Telegraph* on May 21. (See The *Spotlight*, July 3. -- Ed.)

I think what happened was that when the CIA people saw that he was making these one-day trips to Geneva, which he had been doing periodically, they decided to withdraw the money from Foster's Swiss bank account at that time. I think Foster probably called up the bank to tell them he was on his way and the bank told him: "Mr. Foster, you've already withdrawn your money," and that's when it hit him that something very strange was going on. He learned that the money had actually been withdrawn and deposited into the U.S. Treasury.

According to my sources, that's when he became so mysteriously and acutely depressed and couldn't sleep and his sister tried to set him up with a psychiatrist. Instead, he hired a lawyer and apparently made some discreet inquiries around the White House and somebody told him: "Vince, you're under investigation for espionage."

This set off a chain of circumstances. There was a supposedly coincidental meeting on the Eastern Shore of Maryland before Foster's death. According to the report by Robert Fiske, the original special counsel on the Whitewater affair and Foster's death, Foster and his wife made a trip to the Eastern Shore, supposedly for rest and relaxation. By coincidence, supposedly, the Fosters met Webb Hubbell and his wife there.

At the time, Hubbell was technically the number three person at the Justice Department, but I think it's well understood that he was actually running things there and was essentially the nation's top legal official.

He and Foster both came out of the Rose Law Firm in Little Rock and both were involved in a number of cases, representing a lot of the same clients.

This meeting between Foster and Hubbell has been characterized in both the Fiske report and in the Senate hearings on Whitewater as a "rest and relaxation" type affair. I don't think so.

I've been told by multiple sources that this meeting was under surveillance and that it was a heavy-duty damage control session held at the estate of a fellow by the name of Michael Cardozo, who heads Clinton's legal defense fund. He's the son of a major Democratic Party fund-raiser, Nathan Landau.

There may have been other White House officials at that meeting. What we have been told is that there was great concern about who knew what and who the money could ultimately be traced to. What we do know is that two days later Vince Foster was dead.

I am not in the business of speculating whether he committed suicide or whether he was killed. I'll leave that to others. I am also not speculating as to who might have killed him, except to say that there was a [illegible] to be very depressed

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and there's a reason why a bunch of different people wanted him dead.

TOM VALENTINE:
With Foster dead, would the heat be off a lot of other people?

JAMES NORMAN:
You might think of it that way.

TOM VALENTINE:
Was Hubbell's name found in any of these computer files where Foster's name appeared?

JAMES NORMAN:
I don't know anything about that. I wasn't investigating that. Both Hubbell and Foster, we've been told, by multiple credible intelligence sources, were both involved as behind-the-scenes persons on behalf of the National Security Agency for a massive international bank spying effort that this country has carried on for more than a decade now.

[...to be continued...]

+ +

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Aperi os tuum muto, et causis omnium filiorum qui pertranseunt. Aperi os tuum, decerne quod justum est, et judica inopem et pauperem. -- Liber Proverbiorum XXXI: 8-9

Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgSun Aug 20 06:24:39 1995
Date: Fri, 18 Aug 95 21:43:32 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 82

Conspiracy Nation -- Vol. 5 Num. 82

("Quid coniuratio est?")

Having been forwarded a message, purported to have originally been written by James Norman, author of "Fostergate", I decided to go directly to Sherman Skolnick and see what he had to say.

Here, first of all, is what is *purportedly* a message written to "Mike" by James Norman which "Mike" then forwarded to me:

> Subject: gierum denies all - Jim Norman
>
> Mike: I don't think there are any depositions. Gierum denied there were. He claims Sherman took some offhanded joke out of context and turned it into a conspiracy. I just don't have the time myself to persue this track. If you do, I guess you've got to go back to Sherman and make him produce something real.
>
> Good Luck. Cheers, Jim N.

To which "Mike" adds:

> Well, Brian, unless you can get something more out of Sherman, we have a dead end and a blast to Sherman's credibility. Pretty ugly the way it stands, isn't it?
>
> Regards,
>
> Mike

"Mike" then sent the following, containing a message *purportedly* written by Orlin Grabbe.

"Mike" begins

> I've got the Andreuccetti stuff.
>
> I emailed Grabbe and asked him his advice on pursuing the RTC bank fund link to Arkansas that Sherman claims Gierum told him about. His response:
>
>> About the RTC, I don't know. I have too many good leads to follow to worry about that part of it. It is possible that someone supplied Skolnick with disinformation, for which the basic structure of the story was true, but the names were changed to create a diversion and confusion, and hence debunk the whole thesis.

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For a story like the one you are pursuing, you need to get *specific* wire transfer information of amounts from institution to institution. (Good luck in getting any cooperation from the banks in question.)

Right now I am focusing on a *single* wire transfer, which is going to blow this whole thing wide open. And that is the $286,000 from vince's sister to her sister-in-law. Think about it.

-Orlin

I spoke by phone with Mr. Skolnick on August 18, 1995. Note that in what follows I neither necessarily agree nor disagree with either all or parts of statements made by Mr. Skolnick. Persons mentioned are invited to send rebuttals, of reasonable length, for probable distribution.

- Brian Francis Redman, Editor-in-Chief

+ +

CONSPIRACY NATION:
To me, you had voiced suspicions as to, why is Jim Norman so intent on getting you to release some of your sources.

SHERMAN SKOLNICK:
All right. Well first of all, let's deal with the purported e-mail that you saw, where somebody claims that they're relating something that Norman said: that he interviewed a key witness in the Whitewater matter -- a key witness as far as *I'm* concerned -- John E. Gierum. And Gierum, according to the e-mail, says that the whole thing was "an offhand joke".

That's ridiculous. Because my declaration, the declaration of the other witness who was once a client of Gierum as a lawyer, Joseph Andreuccetti [1]. Our declaration, under the penalty of perjury, is in the federal court record. Gierum was served a copy, and from January '94 on, when it came up in court, he never disputed it.

Now, supposedly -- if we understand that Norman questioned him; if that's what happened, that Gierum made such a statement -- he isn't telling the truth! In other words, that it was "an offhand joke"? Like hell it was.

CONSPIRACY NATION:
All right. And according to this supposed message from Jim Norman to this person, he supposedly says, "I guess you've got to go back to Sherman and make him produce something real." And that goes back to this thing of...

SHERMAN SKOLNICK:
In other words, I can produce the thing where his confession is referred to in the court record, where he was served a copy of it. And our declaration, me and the other witness, Andreuccetti, is in the record. I've said that all along to anybody that inquires.

Now as to the other question, about my sources: the U.S. Supreme Court has ruled that when a journalist [illegible] organization [illegible]

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an editor of a news service or newspaper promises confidentiality to a source, that that is a *binding* *contract*. And were that to be violated, the source -- if he is *named* actually in the news story -- can sue for damages that may result, if he loses his job as a reprisal, and so on.

That was a U.S. Supreme Court decision.

And I not only abide by that decision, but further than that: every good investigative journalist never divulges his sources, because it's like burning down a bridge! You don't do that. I mean, I've been at this since 1958. Do I have sources in key places in the government over a period of more than 3 decades? Of course; the answer is, "yes". Will I identify who they are? No. And I don't care how much some so-called "establishment" reporter pushes and shoves me, questioning my credibility, I still won't reveal my sources. *And*, neither will Jim Norman!

But what happens is, the mass media looks down their nose at people like me. And, in other words, they can demand *my* sources, but I can't demand theirs. So, I mean, because he's a paid journalist and I'm an unpaid journalist and I head up a not-for-profit group, does that mean that I'm therefore considered a nobody, that my credibility immediately is zero? I hope that isn't true. I mean, I've got a long track record of judges and others who've gone to prison, been put to the wall, each one of whom called me a liar! And one of 'em just got out of jail, that called me a liar.

CONSPIRACY NATION:
All right. But you had, before, suggested that Norman might actually be some kind of spy (2).

SHERMAN SKOLNICK:
Well I now know approximately where his story comes from. And he probably has reasonably good sources. But I have a question in my mind -- and if Norman says something to the contrary, why I would stand corrected -- but I don't believe that Norman has a background as an investigative journalist. He certainly, so far as I know, is not a known quantity in espionage stories. And his story about "Fostergate" appears to be an espionage-type story.

There are known writers in the espionage field. (Because they know retired "spooks" and stuff like that.) But I don't think Norman is one of them.

[...to be continued...]

----------<< Notes >>----------

(1) The transcript of my interview of Joseph Andreuccetti is available online: (1) telnet prairienet.org (2) logon as "visitor" (3) go citcom (4) look for "Andreuccetti Affair" under sub menu "Whitewater".

Here is a relevant portion of that interview:

CONSPIRACY NATION: One final question: John E. Gierum was your attorney, right?
JOSEPH ANDREUCCETTI: At one time, he was my bankruptcy attorney.
CONSPIRACY NATION: Okay. Any comments you've got on Gierum?
JOSEPH ANDREUCCETTI: Today I know that Gierum, first of all, is a Jesuit. Second of all, he (I don't know if Skolnick told you) is a senior litigator for the SBA (Small Business

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Administration] loans. He's a crony of Hillary [Rodham Clinton]. We know that. And he admits that the money [$58 million] was secretly wired to Arkansas!

SHERMAN SKOLNICK: *And* that the White House is trying to frame *him* for it!

JOSEPH ANDREUCCETTI: And the White House tried to frame him for that.

CONSPIRACY NATION: And, but when you say he is a Jesuit, you mean he's a *priest*!? Or he's connected with them?

JOSEPH ANDREUCCETTI: Well... He [Skolnick] can explain better...

SHERMAN SKOLNICK: There were three lawyers that were practicing together: R. Barton Kalish (who was his lawyer), Forrest Ingram, and the third guy is John E. Gierum. But the group has split up.

Gierum is now with a group of lawyers in Park Ridge who represent international bankers. And Gierum has got his office inside there.

And it was outside that office, that he got into [Andreuccetti's] Jeep and sat and talked about his problem, with us: that they are framing him (this was January '94), and that he was worried that they were gonna send him to jail. (And you heard the little interview we did: where he said the law, and the facts, cannot protect him, because it's a set-up.)

JOSEPH ANDREUCCETTI: And he also said, he was very concerned, "They're gonna send me to jail,"...

CONSPIRACY NATION: You were a witness to that, though?

JOSEPH ANDREUCCETTI: Oh yeah.

..."One of them is connected to my little five-year-old daughter," and it was all kinds of concern. I mean, he was like a man that was ready, just about, to be shot!

CONSPIRACY NATION: And you believed his confession.

JOSEPH ANDREUCCETTI: Absolutely! You can look a man in the face, [and tell] whether he's lying or telling the truth. You can see it in the eyes. He was a man practically in despair at the time.

[2] Skolnick had previously wondered aloud about why was Norman so insistent that Skolnick let loose with some of his sensitive information. For the record, there is no solid information that Mr. Norman is any type of spy nor is such meant to be implied by me. The question (above) is purely speculative.

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Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from [illegible]

FOIA #56806 (URTS 16304) DocId: 70105038 Page 133

From bigxc@prairienet.orgSun Aug 20 06:01:56 1995
Date: Sat, 19 Aug 95 15:54:43 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 83

Conspiracy Nation -- Vol. 5 Num. 83

("Quid coniuratio est?")

I spoke by phone with Mr. Skolnick on August 18, 1995. Note that in what follows I neither necessarily agree nor disagree with either all or parts of statements made by Mr. Skolnick. Persons mentioned are invited to send rebuttals, of reasonable length, for probable distribution.

-- Brian Francis Redman, Editor-in-Chief

+ +

[...continued...]

-|- The "Vacuum Pump" and the "Faucet" -|-

CONSPIRACY NATION:
Yeah, another one of my readers suggested that that's the weak link in all this, is that [James] Norman is a financial and business writer.

SHERMAN SKOLNICK:
Well let me tell ya what happened in the beginning, from the circumstances, that he went around questioning everybody. And then it did not appear that his publication, *Forbes* magazine, was gonna publish anything.

We put him in the category of a "vacuum pump". That is, on behalf of certain un-named principals, he was trying to "pick our brains". And establishment journalists act as purported spies all along: they show up, they question you, they lead you to believe that it's going on the air -- it is *not* going on the air. A transcript of their notes is then shared with the FBI, the NSA, the CIA. I know a lot about that.

CONSPIRACY NATION:
Yeah, in fact that rings true, that, down in Arkansas, there have been "journalists" doing videos of people who were witnesses or whatever in a lot of the stuff that's goin' on there. And I've been hearing that these videos never get marketed but that the people on them who volunteer to go "public" wind up in trouble over what they say.

SHERMAN SKOLNICK:
Let me just give you an example. I've already confronted a long-time radio broadcast [illegible]

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And in 1970, when I had worldwide publicity on a story, a lawsuit I brought regarding the National Archives covering up documents they had which related to a plot against JFK, two-and-a-half weeks *before* Dallas, he interviewed me -- apparently not to go on the air -- and then he sort of off-handed admitted to me that he was in Dealey Plaza at the time of the assassination. And to disarm me from any questions said, "Well yeah, the CIA tried to recruit me, Skolnick." I said, "Oh really."

But then what I found out is, that thereafter -- and *prior* to that time -- Alan Bickley used to interview "peaceniks". You know, get all kinds of personal and biographical information from them, interview them on tape, and it never went on the air!

So then I ran into a courier for a service for "spooks" -- espionage. And he says that (the "spooks'" courier), told me how they transcribe these things, called "out-takes". Out-takes are film, tape, and notes that do not go on the air.

And Alan Bickley, from what I found out, specialized in out-takes. That is, he was a journalist-spy! (At least it seemed to me.) Because he interviewed a lot of peaceniks and people like me, not for the purpose of ever going on the air with any of it, but a transcript or copy of his notes, or tapes, would then end up with the FBI or the CIA.

The station that, I believe he still works for, [is] WBBM-AM radio in Chicago. An FBI official once ran the station. The place is loaded with FBI types, purporting to be technicians, etc., running the radio station, which is in Chicago.

But the point is, therefore when I ran into Norman, he seemed to be more of the same. He seemed to be more like Alan Bickley.

CONSPIRACY NATION:
Yeah, okay, and when he's purportedly complaining that he can't get you to produce what he purportedly calls "something real", in other words, there's a possibility that he may not be all he seems to be.

SHERMAN SKOLNICK:
All right, in the early 1970s, Carl Bernstein (he by-lined a story about Watergate with Bob Woodward) wrote a piece... I think it was in *Rolling Stone*, that somewhere between 200 and 400 mass media types are actually spies!

CONSPIRACY NATION:
Yeah. In fact, I think I've got that. I think I had xeroxed that article [3].

SHERMAN SKOLNICK:
I got in trouble with the media, prior to that story, by identifying who they were in Chicago. I was called a liar all the way around. Then when Bernstein's story came out, nobody apologized to me.

I got taken off the air in the early 70s. I had been a media hero prior to *that* time. I used to be able to hold a press conference on my lawn at the drop of a hat. But because I did a forbidden thing, which

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were assets of CIA, FBI, and NSA, I got blanked out, as if I ceased to exist.

And Norman acted in that pattern. If it's not true about him, all I can say is he acted in that pattern.

Then, he did a very mysterious thing: on Internet, in signed articles, either with his initials or actually signed by him, James Norman, he then attacked his employer, *Forbes* magazine, and mentioned that there was a conflict of interest (4); that one of the bosses of *Forbes* magazine, Caspar Weinberger, the former secretary of defense, who was listed as "publisher emeritus" (that's like a title where he's... You know what "emeritus" means.)

CONSPIRACY NATION:
"Semi-retired" but involved.

SHERMAN SKOLNICK:
But the point is, he hinted at things that were already in my story ["Foster, Bush, Weinberger -- And Pollard" by Sherman H. Skolnick; see CM 5.49] and which Norman knew about. Namely, that Weinberger and [George] Bush were involved with Vincent W. Foster, Jr., the White House aide; that before he got into the White House, Foster was an NSA official, and with the help of Weinberger and Bush had released nuclear secrets to Pollard, who gave 'em to Israel for money.

But the strange thing is that, so far as I know, Norman has not been fired. Although I think the rationale behind that is, he may be threatening his boss with what is known in law as a "retaliatory discharge" case. That is, if you get fired because you did something that's good for the public, you can sue your employer. So it may be they figured out it will cost them more to defend such a lawsuit than to fire him.

So he continues to put stories on Internet condemning his employer (5). He continues, apparently, to work as the senior editor. And he puts these stories that are not published in *Forbes* on the Internet, or *Media Bypass* magazine, about what he calls "Fostergate". And he updates some of these stories from time to time, according to signed items by him on Internet.

So, I mean, is he a possible questionable quantity? It may well be.

He seems to be a nice fellow, in discussions on the phone.

CONSPIRACY NATION:
All right. And moving along to this person, Orlin Grabbe...

SHERMAN SKOLNICK:
All right. As to him, he was formerly a professor at the Wharton School of Business. (Which is supposed to be a distinguished business school.) He purports to be the director of a conservative think tank, called the Cato Institute. And he purports to be an expert on bank encryption -- satellites. And he puts... As of now, I think he's put 18 different stories on Internet, under his by-line -- that relate to my story, by the way! -- and are very [illegible]

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He apparently is what is known in the trade as a "faucet", which is a leaking apparatus on behalf of some faction that opposes some other faction in espionage. (In the espionage agencies they have different factions.) But [he seems to be] a front for a leaking faction.

[...to be continued...]

----------<< Notes >>----------

(3) "The CIA And The Media" by Carl Bernstein. *Rolling Stone* magazine, October 20, 1977.

(4) I, personally, have never seen the alleged articles that Skolnick mentions. If anyone has copies of same (i.e., besides "Fostergate", which I already have a copy of), please send them to me at bigxc@prairienet.org

(5) Again, I have not seen such stories as Skolnick mentions. If anyone has copy/copies, please e-mail them to me.

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Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

From bigxc@prairienet.orgMon Aug 21 20:27:17 1995
Date: Mon, 21 Aug 95 15:12:45 CDT
From: Brian Redman <bigxc@prairienet.org>
To: Multiple recipients of list <conspire@prairienet.org>
Subject: Conspiracy Nation -- Vol. 5 Num. 84

Conspiracy Nation -- Vol. 5 Num. 84

("Quid coniuratio est?")

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-- Brian Francis Redman, Editor-in-Chief

+ +

[...continued...]

CONSPIRACY NATION:
All right, let me read to you this purported e-mail message that was forwarded to me. I don't know absolutely that this is by Orlin Grabbe, but it's purported to be, and I believe it is:

> About the RTC [Resolution Trust Corporation], I don't know. I have too many good leads to follow to worry about that part of it. It is possible that someone supplied Skolnick with disinformation, for which the basic structure of the story was true but the names were changed to create a diversion and confusion.

SHERMAN SKOLNICK:
What is he talking about?

CONSPIRACY NATION:
I think he's talking about that RTC transfer of the contingency fund.

SHERMAN SKOLNICK:
Well that's... His contention that it's mis-information is ridiculous! Why? I think I already told you.

Joseph Andreuccetti [is] a former client of John E. Gierum. And Andreuccetti has a major claim against the $58.4 million RTC contingency fund in Chicago. In the presence of his former client, Andreuccetti (and myself), John E. Gierum, in January '94, confessed that the Clinton White House was trying to frame him on the transfer [6]. And that he had previously also admitted to me that he's a close crony of the Rodham family from Park Ridge [Illinois], where he has his office. He grew up with Hillary's brother. He went to law school with him.

It couldn't be dis-information, [illegible]

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that was *in* *charge* of the 50-some-odd million dollar contingency fund. Therefore, I don't know what Mr. Grabbe is talking about, that he thinks I changed the names or am a victim of dis-information. I dealt directly with the one that was in charge of it!

CONSPIRACY NATION:
Yeah. And as a matter of fact, Sarah McClendon confirms a lot of what you've been sayin'. In a recent issue of *Relevance*, which is a newsletter, the editor says that he has talked with Sarah McClendon, and she -- I don't have the exact quote at hand -- but she says, roughly, "...bank fraud, to the tune of $46-60 million dollars, in Arkansas." (7). Which supports what you've been sayin' all along.

SHERMAN SKOLNICK:
Right. And what about the thing, that's in the court record, not disputed, by the top [...tape runs out...]

As you know, September 20th, '94, I got over an hour-and-a-half interview, in the presence of Andreuccetti, with the spokesperson for the acting chief of the Criminal Investigation Division of IRS, Lynette Redmer. And she *volunteered* about the $50 million and the transfer of the money and the RTC and all that. And she brought up things, from her own knowledge, that involved Whitewater. She's the one that brought it up, okay? (She's a top IRS official.)

And her interview with me (or confession -- whatever you want to call it) is a matter of court record ever since! It's never been disputed by her or by the IRS or by anybody (8).

And because of that confession of an IRS official, as you know, I filed a petition, in the federal court, that a top Justice Department official flew into Chicago and threatened me outside the door of the courtroom! That's still pending too.

And the magistrate, judge, that was inside [the courtroom], that just *heard*, relating to this, is a witness. Because her deputy clerk says that "We hear everything that's happening outside. Move away from the door."

I was threatened by a Justice Department official, right outside the door, about the very thing that you're asking me about.

CONSPIRACY NATION:
Yeah, okay. And Grabbe purportedly goes on to add that he's "focusing on a single wire transfer, which is going to blow this whole thing wide open. And that is the $286,000 from Vince's sister to her sister-in-law." Which I think he wrote about in part 18.

SHERMAN SKOLNICK:
Yeah, I read it.

We know a related detail. According to Grabbe's story and other routine sources, Sheila Foster Anthony, the sister of the late White House deputy counsel Vincent Foster, Jr., she heads up the legislative affairs department of the Justice Department, that handles the process [illegible]

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attorneys, and U.S. marshalls.

And the magistrate over here in Chicago, outside whose door a Justice Department official threatened me earlier this year, is now a pending appointment to be promoted as a U.S. district judge, which is a lifetime appointment. And her appointment has been held up. And among the reasons is my complaint about that she allowed me to be threatened (outside her door) about the 50 million dollars by a Justice Department official that, by what he said, was threatening to have me jailed! To silence me!

So there's a connection, right between the magistrate, Joan Lefkow, whose appointment to the district court bench has been held up.

We sent copies of all this to the chairman of the Senate Judiciary Committee, Orrin Hatch. And he wrote me back that it's being considered.

And so the ratification of her appointment is being held up by the Senate Judiciary Committee. And the direct connection there: the one that is in the nominating/selection process of federal district judges is Foster's sister, the very one that you are mentioning here, Sheila Foster Anthony, who, according to Grabbe, transferred to Foster's widow, Lisa, $286,000. And Grabbe's implying that there was something secret about it, or that it might have been illicit money-laundering funds.

[...to be continued...]

----------<< Notes >>----------

(6) The RTC contingency fund, approximately $58.4 million, was allegedly secretly and illegally transferred to Arkansas to be used to cover up the alleged embezzlement of a bank down there.

(7) "Now in her eighties, McClendon, the grand dame of the Washington press corps told your editor in mid-May that there were sixteen sealed indictments sitting in the Arkansas District Court, three of which indict Hillary Rodham Clinton with bank fraud to the tune of $47-60 million, obstruction of justice, and possibly perjury." *Relevance* newsletter, June/July 1995. Call 1-800-626-8944 to subscribe.

(8) Excerpts from "Second Amended Verified Complaint", case No. 92 C 7048, United States District Court, Northern District of Illinois, Eastern Division:

> 2. That on September 20, 1994, Sherman H. Skolnick and Andreuccetti went to the 14th floor of the building at 230 South Dearborn Street, Chicago, Illinois, Internal Revenue Service, Criminal Investigation Division. Skolnick said he is a journalist and wishes to speak with the Chief or acting Chief of C.I.D.
>
> 2A. A woman came to a door, said she speaks for the Chief, later identifying herself as Lynette Redmer, and ushered Skolnick and Andreuccetti to a conference room.
>
> [...]
>
> 10. She [Redmer] used words and statements to show she had inside knowledge of Joe's [Andreuccetti's] problem. She referred to a 54 or more million dollar fund parked by Resolution Trust Corporation [illegible]

FOIA #56806 (URTS 16304) DocId: 70105038 Page 140

part of the details of Joe's [Andreuccetti's] pieces of litigation. Turning to Joe, she said, "Well your claim against the fund is mostly 32 million dollar punitive damage claim from your DuPage matter," which Joe [Andreuccetti] disputes. She said, "The transfer (secretly) of 50 million to Little Rock, that was Whitewater, right?" Skolnick confirmed that is correct. "They only needed 47 (million) down there, what happened to the 3 million difference?" Confirming that she knew from inside details that the President and First Lady are accused by some in R.T.C. of being implicated in the embezzlement of 47 million dollars missing from Madison Guaranty Savings & Loan of Little Rock. "Do you know exactly where in a secret trust they have the 50 million in Little Rock?" she said to Skolnick, who said "The 3 million difference is for so-called 'transportation' expense, that is, street tax." She was aware that John E. Gierum was implicated in said transfer and was a close crony of First Lady Hillary.

[...]

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Brian Francis Redman bigxc@prairienet.org "The Big C"

Coming to you from Illinois -- "The Land of Skolnick"

Attorney Client Privilege

[redacted]

Screened By: NARA (RD-F) Date: 07-18-2018 DOCID: 70105040

Memorandum

RAJEEV DUGGAL

(1) Priv is N/A

(2) If is applicable Did they keep it confid a ~~stranger~~ Party have BoP to show ~~no~~ efforts to keep from gen disclosure.

(3) Assumes this is type of comm protected by A-C privilege

(4) Argue A-C don't ~~apply~~ ~~to this~~ satisfy elements of A-C priv.

MEMORANDUM

TO: John Bates
Alex Azar

FROM: Rajeev Duggal

DATE: February 6, 1995

RE: Executive Branch Attorney-Client Privilege

Issue

You have requested research regarding whether or not the attorney-client privilege can be asserted by the White House Counsel and the Office of the President against the Office of the Independent Counsel thereby prohibiting the disclosure of communications between the White House Counsel and officials of the Office of the President. The communications at issue took place during hearing, interview, and grand jury preparation sessions conducted by the White House Counsel for officials of the Office of the President.

The specific issues involved are 1) whether or not an attorney-client privilege exists for communications between a government attorney and a government official each acting in his official capacity; 2) whether or not disclosure of communications by one arm of the Executive Branch to another would waive the attorney-client privilege as to parties outside the Executive Branch; 3) whether or not the privilege can be asserted by one arm of the Executive Branch as to another arm of the Executive Branch.

Discussion

1. Existence of Privilege in Governmental Context

The attorney-client privilege is generally recognized as applicable to communications where officials of a government agency[1] are "clients" and agency attorneys are "attorneys." See, e.g., National Labor Relations Board v. Sears, Roebuck & Co., 421 U.S. 132, 154 (1975) (related work-product privilege is applicable to government attorneys in litigation; FOIA

[1] The Freedom of Information Act defines "agency" as "any executive department, military department, Government Corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency." 5 U.S.C. § 552(f).

case); Coastal States Gas Corp. v. Department of Energy, 617 F.2d 854, 863 (D.C. Cir. 1980) (government needs same assurances of confidentiality as private parties; FOIA case); Mead Data Central, Inc. v. United States Dep't of Air Force, 566 F.2d 242, 252 (D.C. Cir. 1977) (attorney-client privilege protected communications between Air Force and its attorneys; FOIA case); SEC v. World Wide Coin Invs., Ltd., 92 F.R.D. 65, 67 (N.D. Ga. 1981) (privilege applicable to communications between SEC staff and SEC counsel); United States v. American Tel. & Tel. Co., 86 F.R.D. 603, 621 (D.D.C. 1979) (privilege for government analogous to that for corporations); Confidentiality of the Attorney General's Communications in Counseling the President, 1982 WL 170711, at *11 (O.L.C. 1982) (communication between President and Attorney General protected by attorney-client privilege; FOIA case).

In order for a communication to be protected by the attorney-client privilege, it must be shown that (1) the asserted holder of the privilege is or sought to become a client; (2) the person to whom the communication was made (a) is a member of the bar of a court, or his subordinate and (b) in connection with this communication is acting as a lawyer; (3) the communication relates to a fact of which the attorney was informed (a) by his client (b) without the presence of strangers (c) for the purpose of securing primarily either (i) an opinion of law or (ii) legal services or (iii) assistance in some legal proceeding, and (d) not for the purpose of committing a crime or tort; and (4) the privilege has been (a) claimed and (b) not waived by the client. Colton v. United States, 306 F.2d 633, 637 (2d Cir. 1962), cert. denied, 371 U.S. 951 (1963); RTC v. Diamond, 137 F.R.D. 634, 642 (S.D.N.Y. 1991).

The privilege is limited to communications that are confidential. Mead Data Central, 566 F.2d at 253. As such, the communication must be expressly intended to be confidential and a showing of intention of secrecy must be made. Coastal States Gas Corp., 617 F.2d at 863 (agency failed to demonstrate that confidentiality was expected and efforts were made to keep the confidential material protected from general disclosure); Hearn v. Rhay, 68 F.R.D. 574, 579 (E.D. Wa. 1975). The presence of third persons, therefore, would vitiate the privilege. Hearn, 68 F.R.D. at 579.

Regarding existence of the privilege in the governmental context, most of the cases above arise in the context of FOIA requests. As such, it is arguable that governmental assertions of the attorney-client privilege are limited to the FOIA context and that no privilege exists for the government in other contexts, such as inter-governmental disputes. FOIA generally provides for disclosure of information to the public upon request. 5 U.S.C. § 552. However, information may be withheld in nine specific categories. Id. § 552(b)(1)-(9). Exemption 5 statutorily adopts the common law attorney-client privilege for individuals and corporate entities and allows for its use by government agencies responding to FOIA requests. Id. § 552(b)(5). On its face, Exemption 5 does not allow a government agency to use the attorney-client privilege in other than the FOIA context. And it is unclear whether or not an independent common law attorney-client privilege exists for the government. See Kerr v. United States District Court, 511 F.2d 192, 197-78 (9th Cir. 1975) (Exemption 5 not intended to create evidentiary privileges for civil discovery), aff'd, 426 U.S. 394 (1976); Denny v. Carey, 78 F.R.D. 370, 373 (E.D. Pa. 1978) (FOIA exemption does not create independent

evidentiary privilege)[2]. Thus, in-spite of the general trend, it can be argued that no attorney-client privilege exists for governmental entities outside the FOIA context.[3]

2. Waiver of Privilege

Although confidentiality is required for retention of the privilege, a government agency does not waive the privilege when a privileged communication is disclosed to other agencies provided that the agencies have a "commonality of interest." FDIC v. Ernst & Whinney, 137 F.R.D. 14, 16 (E.D. Tenn. 1991) (transfer of criminal referrals from FDIC to U.S. Attorney's Office and state and federal bank regulatory agencies did not waive privilege because identity of interest existed). Stated differently, where the client is a governmental entity, the privilege extends to communications between attorneys and all agents or employees of the agency who are authorized to act or speak for the agency in relation to the subject matter of the communication. Coastal States Gas Corp., 617 F.2d at 863 (privilege not defeated by limited circulation beyond agency attorney and client to those who need to know them); Mead Data Central, 566 F.2d at 253 (fact that communication was circulated among more than one employee of the Air Force does not necessarily destroy the privilege); Confidentiality of the Attorney General's Communications in Counseling the President, 1982 WL 170711, at *11 (O.L.C. 1982) (no waiver from disclosure of communications between President and Attorney General to those within the operative circle of officials at the Office of the President and Department of Justice). In such situations, an agency would likely disclose a communication with an understanding of confidentiality by the recipient. See United States v. Exxon, 87 F.R.D. 624, 637 (D.D.C. 1980). Thus, the privilege would not be waived by disclosure of communications within the Executive Branch provided that a commonality of interest exists with the recipient.

This result is consistent with the Supreme Court's expansive approach to the attorney-client privilege for corporate entities in Upjohn Co. v. United States, 449 U.S. 383 (1981). In Upjohn, the Court adopted the view that an attorney's communications with all employees, rather than just with upper-level officials, of the corporation fall within the privilege. Id. It follows then that communication of privileged information throughout the entity is protected and does not result in waiver of the privilege. Thus, if the corporate entity is analogized to the Executive Branch, communication of information throughout the Executive Branch should

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[2] In Mead Data Central, 566 F.2d at 252, one of the leading cases, the court was careful to state that it was "under exemption five" that the attorney-client privilege was being extended to communications between an agency and its attorneys.

[3] Some state legislatures have mandated this approach. See, e.g., Ark. Stat. Ann. § 28-1001, Rule 502(d)(2) (1979) (attorney-client privilege does not protect communication between public officer or agency and government lawyers); Me. Rev. Stat. Ann. tit. 16, Rule 502(d)(6) (same); 5B N.D. Cent. Code § 268 (same).

also be protected and not result in waiver.[4]

3. Intra-Executive Branch Assertion of Privilege

The cases above arise in the context of the Executive Branch asserting the attorney-client privilege as to private parties (i.e. in FOIA requests, civil discovery, etc.). It is unclear, though, whether or not the privilege can be asserted by one arm of the Executive Branch as to another. The context most frequently addressed is assertion of the privilege by the Executive Branch as to the Legislative Branch. In this context, the Office of Legal Counsel has expressed the opinion that the attorney-client privilege has not been recognized as providing a separate basis for resisting congressional demands for information. Response to Congressional Requests for Information Regarding Decisions Made Under the Independent Counsel Act, 1986 WL 213239, at *9 (O.L.C. 1986). Rather, in such context, the attorney-client privilege is subsumed by the constitutional considerations that shape the executive privilege. Id. Thus, an assertion of privilege by the Executive Branch as to the Legislative Branch must be analyzed as an assertion of the executive privilege. Id.

It follows, as a lesser inference, from the OLC opinion that an arm of the Executive Branch may also not assert the attorney-client privilege as to another arm of the Executive Branch. See id. The issue then becomes whether or not an arm of the Executive Branch may assert the executive privilege as to another arm of the Executive Branch.

Generally, the executive privilege protects confidential Executive Branch communications. United States v. Nixon, 418 U.S. 683 (1974). The privilege, in order to be meaningful, extends beyond the President personally to communications between officials surrounding the President made in furtherance of advising the President. General Accounting Office--Authority to Obtain Information in Possession of the Executive branch--Constitutional Law--President--Confidential Communications--Appointments, 1978 WL 15328, at *1-2 (O.L.C. 1978).[5] Thus, the communications at issue could fall within the executive privilege even though the President was not personally involved. See id.

There are no opinions discussing whether or not the executive privilege may be asserted by one arm of the Executive Branch as to another. However, the President does have the power, related to the executive privilege, to control the flow of information within the Executive Branch. All information within the possession of the Executive Branch agencies are within the control of the President as the head of the Executive Branch. Inter-

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[4] However, as discussed above, in the government entity context communications are only protected and not waived if there is a "commonality of interest" between agencies.

[5] See also Applicability of Executive Privilege to the Recommendations of Independent Agencies Regarding Presidential Approval or Veto of Legislation, 1986 WL 213252, at *2 (O.L.C. 1986) (executive privilege also extends to independent agencies).

Departmental Disclosure of Information Submitted Under the Shipping Act of 1984, 1985 WL 185388, at *4 (O.L.C. 1985). The President has the duty to ensure that information within the Executive Branch is protected from outside disclosure that would, in his judgment, adversely affect the public interest. Id. This power to control the flow of information to sources outside the Executive Branch carries with it the power to control the flow of information within the Executive Branch. Id. at *5 (antitrust division can refuse to transmit information to other agencies); see also, e.g., Exec. Order No. 9784, 11 Fed. Reg. 10909 (1946) (providing guidelines for the transfer of records between agencies). This power may be delegated by the President to individual officials within the Executive Branch. Id. Thus, the White House Counsel, if delegated this power in an executive order, could in the public interest refuse to transmit certain information to other arms of the Executive Branch. See id.

Conclusion

The attorney-client privilege is available for government attorneys and their agency clients. The privilege may not be waived by intra-Executive Branch communication provided that there is a commonality of interest or other similar need for such transmission of information. However, it is not clear that the attorney-client privilege can be asserted by one arm of the Executive Branch as to another. The authority seems to suggest that the attorney-client privilege is not applicable within the government and rather that the executive privilege applies.

With regard to intra-Executive Branch assertions of the executive privilege, it is unclear whether or not the privilege is available. However, it is clear that the President has the power to control the flow of information within the Executive Branch. Thus, it seems that the only established means of preventing the type of disclosure at issue here would be for the President to order that the communications between the White House Counsel and officials of the Office of the President not be disclosed to the Office of the Independent Counsel.

In order to obtain access to the communications at issue it should be argued that 1) the attorney-client privilege exists, even as to private parties, only within the FOIA context; 2) even if the privilege exists outside the FOIA context, the required elements were not satisfied; 3) even if the privilege exists for general use by the government as to private parties, the attorney-client privilege is not available in inter-branch disputes and thus is certainly not available in intra-Executive Branch disputes; 4) the executive privilege is only available in inter-branch disputes and not in intra-Executive Branch disputes; 5) any privilege that exists will not be waived by disclosure to the Office of the Independent Counsel; and 6) only the President may order that the communication not be disclosed to the Office of the Independent

Counsel as part of his power to control the flow of information within the Executive Branch.[6]

If you have any questions, please let me know.

[6] Further research regarding this issue in the context of a request by the grand jury for information regarding the communications between the White House Counsel and officials of the Office of the President will be undertaken. The specific issue addressed will be whether or not the attorney-client privilege or executive privilege can be asserted by the Executive Branch as to a request for information by the Judicial Branch via a grand jury.

MEMORANDUM

TO: John Bates
Alex Azar

FROM: Rajeev Duggal

DATE: February 9, 1995

RE: Summary of Cases re Executive Branch Attorney-Client Privilege

Below are summaries of major opinions cited in my previous memo thet were not also summarized in the Fiske memo.

1. Coastal States Gas Corp. v. Department of Energy, 617 F.2d 854 (D.C. Cir. 1980).

DOE field auditors auditing a firm requested interpretation of regulations from DOE regional counsel. The counsel prepared memoranda for the field auditors. Coastal States Gas Corporation made a FOIA request for the memoranda.

DOE argued that the memoranda fall within FOIA Exemption 5, which protects materials that would be protected under the attorney-client privilege, and thus are not required to be disclosed.

The court stated that the attorney-client privilege is the oldest of the evidentiary privileges and encourages clients to be open and honest with their attorneys. Further that inviolability of the privilege is essential to protection of the client's legal rights and to the proper functioning of the adversary process.

However, the court stated that the privilege is narrowly construed and protects only those disclosures necessary to obtain informed legal advice that might not have been given without the privilege. The court found no purpose that would be served by applying the attorney-client privilege in this case.

The court held that while an agency can be a "client" and an agency lawyer an "attorney" within the meaning of the attorney-client privilege, this was not such a case. Id. at 863. The court reasoned that there was no "counselling" that was intended to protect the agency. Id. Rather there were just facts regarding the audit of a third party communicated by the auditor to the counsel and a neutral, objective analysis of regulations in response. Id. The court found this to be analogous to question and answer guidelines that might be found in an agency manual. Id.

As an independent basis for denial of the privilege, the court also found that DOE did not demonstrate confidentiality at the time of the communication and its maintenance since that time. Id. "The burden is on the agency to demonstrate that confidentiality was expected in the handling of these documents, and that it was reasonably careful to keep this confidential information protected from general disclosure." Id. The court reasoned that the evidence showed "no attempt whatsoever" to protect the memoranda within the agency. Id. This because the agency didn't know who had access to the documents and because it circulated copies of the memoranda to area offices. Id.

As a related point, the court held that the test for whether such circulation constituted a waiver of the privilege was whether the agency could demonstrate that the documents were circulated no further than among those members who are authorized to speak or act for the organization in relation to the subject matter of the communication. Id.

On the facts, the court held that the DOE did not establish that anyone had an expectation of confidentiality as to the communications, and thus, there was no attorney-client privilege protection.

2. Mead Data Central, Inc. v. United States Dep't of Air Force, 566 F.2d 242, 252 (D.C. Cir. 1977).

The communications at issue were 1) a legal opinion from one section of the Air Force JAG to another; 2) a legal opinion prepared by the Air Force JAG; and 3) a memorandum from the assistant general counsel of the Department of Defense to the Air Force JAG. Mead Data Central filed a FOIA request for these documents, and the Air Force asserted the attorney-client privilege under Exemption 5.

As a threshold matter, the court stated that there "is no reason why [the attorney-client privilege] should not be extended to an agency's communications with its attorneys under exemption five." Id. at 252.

After holding the privilege applicable, the court found that the Air Force had demonstrated that the information in the documents was communicated "to or by an attorney as part of a professional relationship in order to provide the Air Force with advice on the legal ramifications of its actions." Id. at 253. Although this satisfied most of the requirements for the privilege, the court stated that the Air Force also had to show that the information was confidential and that it was not later shared with third parties. Id. But the court also stated that if the client is an organization, the privilege extends to all those authorized to speak for the organization in relation to the subject matter of the communication. Id. Thus, confidentiality would not be destroyed just because the information was circulated to more than one person within the Air Force. Id.

With regard to two of the documents (nos. 1 and 3 above), the court held that the Air

Force only provided the subject, source, and recipient of the information and had not demonstrated that the information was kept confidential. Id. at 254-55. As such, the case was remanded for such a showing.

With regard to the last document (no. 2 above), the court held that the information was not kept confidential. Id. at 255. This because the document set forth information regarding the background of and negotiations with a third party. And since this information was known by that party, there could be no confidentiality and no attorney-client privilege. Id.

3. SEC v. World Wide Coin Invs., Ltd., 92 F.R.D. 65 (N.D. Ga. 1981).

Plaintiff sought discovery of 1) an SEC staff memorandum recommending an enforcement action and 2) oral communications between an SEC staff member and SEC counsel.

The court held that the memorandum from Commission attorneys to staff members was of the type intended to be protected by the attorney-client privilege and was not discoverable. Id. at 66. The court also found that the substance of the oral communications was protected. Id.

4. United States v. American Tel. & Tel. Co., 86 F.R.D. 603 (D.D.C. 1979).

Judge Greene established procedural and substantive guidelines for discovery.

In the comments to guidelines 9, 10, and 11, which relate to the attorney-client privilege, the opinion stated that the attorney-client privilege should be applied to the government as it is applied to corporations because the situations are analogous. Id. at 621.

In guideline 8, the court held that in the case of the government, the "client" in the attorney-client privilege is "the department or agency that employed the attorney." Id. at 616. In addition, "[t]he privilege also applies when an attorney provides legal advice or assistance to another agency if the advice or assistance is on a basis that is confidential among the clients and relates to a matter in which the agencies have a substantial identity of interest." Id.

In the comments to guideline 8, the opinion stated that no cases were found dealing with the identity of the client in respect to the government but that Judge Greene viewed the government as divisible and as a cluster of clients. Id. at 617. Thus, in some situations the government would not be a single client. Id. "For example, if the Justice Department and the enforcement bureau of FCC took opposite positions before the FCC, it would be absurd to say that their exchange of briefs involved an attorney-client communication." Id. The court

held that the" client" is an attorney's own agency and other agencies with a substantial identity of legal interest. Id.

5. RTC v. Diamond, 137 F.R.D. 634 (S.D.N.Y. 1991).

The RTC claimed attorney-client privilege in withholding documents for which discovery was requested.

The court held that a government agency could invoke the attorney-client privilege for confidential communications to and from their in-house or outside counsel just as a private party could invoke the privilege. Id. at 643. As such, an agency must also satisfy all the elements of the privilege. Id.

The elements required are that (1) the asserted holder of the privilege is or sought to become a client; (2) the person to whom the communication was made (a) is a member of the bar of a court, or his subordinate and (b) in connection with this communication is acting as a lawyer; (3) the communication relates to a fact of which the attorney was informed (a) by his client (b) without the presence of strangers (c) for the purpose of securing primarily either (i) an opinion of law or (ii) legal services or (iii) assistance in some legal proceeding, and (d) not for the purpose of committing a crime or tort; and (4) the privilege has been (a) claimed and (b) not waived by the client. Id. In addition, the court stated that information does not become privileged merely because it is forwarded to or routed through the counsel's office. Id.

On the facts, the court found that the RTC had not provided enough information from which to determine whether or not 1) the communications related to the subject matter upon which legal advice was sought; 2) the communications merely contained information that happened to be addressed to or by counsel; and 3) the communications were made without the presence of strangers. Id. Thus, the court remanded the case for further presentation.

6. Kerr v. United States District Court, 511 F.2d 192 (9th Cir. 1975), aff'd, 426 U.S. 394 (1976).

Prisoners requested production of documents from California Adult Authority Department in civil rights action. California asserted the attorney-client privilege under FOIA to prevent disclosure.

The court held that FOIA was inapplicable because this was a state agency and alternatively because FOIA was not intended to create evidentiary privileges in civil discovery. Id. at 197. Rather, FOIA only permits withholding of information from the public generally. Id. Thus, the information had to be disclosed.

7. Denny v. Carey, 78 F.R.D. 370, 373 (E.D. Pa. 1978).

Bank brought action to compel discovery of report from the Board of Governors of the Federal Reserve System. The court stated that just because the report would have been exempt from disclosure under FOIA did not mean that it was exempt from disclosure in this instance. Id. at 373. This because FOIA does not create any independent evidentiary privileges. Id.

8. FDIC v. Ernst & Whinney, 137 F.R.D. 14 (E.D. Tenn. 1991).

Criminal reports and referrals were prepared by the FDIC in consultation with its attorneys. The reports and referrals were transmitted to the U.S. Attorney's office and certain state and federal bank regulatory agencies. Ernst & Whinney made a motion to compel production and the FDIC asserted the attorney-client privilege.

The court held that the documents were clearly covered by the attorney-client privilege. Id. at 16. The primary issue was whether or not the privilege was waived by transmission to other agencies.

The court held that the privilege was not waived because the documents were transferred to other agencies that had an "absolute commonality of interest" with the FDIC. Id. The court reasoned that deciding otherwise would have a chilling effect on communication between agencies. Id. Thus, there was no waiver from transmission to the U.S. Attorney's office and state and federal bank regulatory agencies.

9. United States v. Exxon, 87 F.R.D. 624 (D.D.C. 1980).

DOE asserted the attorney-client privilege in response to a discovery request from Exxon Corp. The court stated that in order to properly invoke the privilege, DOE must prepare a "Vaughn-like" index of the communications setting forth 1) the source of the information; 2) whether the communication occurred in confidence; and 3) whether the source was a lawyer working as an attorney for DOE. Id. at 637.

Further, the court stated that wide dissemination within an agency does not indicate a likelihood that a communication was not confidential because there could have been dissemination upon an understanding of confidentiality. Id.

Thus, DOE was required to prepare an index in order to properly invoke the privilege.

10. Response to Congressional Requests for Information Regarding Decisions Made Under the Independent Counsel Act, 1986 WL 213239 (O.L.C. 1986)

Congress requested that the Attorney General disclose information regarding the appointment of an independent counsel. With regard to whether or not the attorney-client privilege protected this information, the OLC stated that

> [a]lthough the attorney-client privilege may be invoked by the government in litigation and under the Freedom of Information Act separate from any "deliberative process" privilege, it is not necessarily considered to be distinct from the executive privilege in any dispute between the executive and legislative branches. The interests implicated under common law by the attorney-client privilege generally are subsumed by the constitutional considerations that shape executive privilege, and therefore it is not usually considered to constitute a separate basis for resisting congressional demands for information. As this office has previously noted, for the purpose of responding to congressional requests, communications between the Attorney General, his staff, and other Executive Branch "clients" that might otherwise fall within the common law attorney-client privilege should be analyzed in the same fashion as any other intra-Executive Branch communications.

Id. at *9 (footnotes omitted).

As such, the President would assert the executive rather than the attorney-client privilege in response to a congressional request. The OLC stated that this involves an evaluation of the Executive Branch's interest in keeping the information private versus the Congress' need for obtaining the information. Id. at *18. The OLC determined that the Executive Branch's need to preserve its position as the sole entity that enforces criminal laws would weigh strongly in favor of non-disclosure. Id. at *20. The OLC also stated that under the Reagan Memorandum, the decision to invoke the privilege as to a congressional request is the President's to make, based on recommendations from the concerned department head, the Attorney General, and the Counsel to the President. Id.

11. General Accounting Office--Authority to Obtain Information in Possession of the Executive branch--Constitutional Law--President--Confidential Communications--Appointments, 1978 WL 15328 (O.L.C. 1978).

GAO requested information from the Chairman of the Counsel of Economic Advisors. The OLC determined that GAO did not have the authority to obtain the information sought.

The OLC found that the information sought was used to advise the President, that GAO is part of the Legislative Branch, and thus that the executive privilege could be invoked. Id. at *1. In addition, the OLC stated that the privilege extends beyond the President to communications between those around him. Id. As such, it found that even though some of the communications were between the CEA and the DOE, they could be protected by the executive privilege. Id. at *2. The OLC then balanced the competing interests and determined that the information did not need to be disclosed. Id. at *4.

12. Inter-Departmental Disclosure of Information Submitted Under the Shipping Act of 1984, 1985 WL 185388 (O.L.C. 1985).

The Shipping Act of 1984 required certain information to be filed with the Federal Maritime Commission. The Act prohibited disclosure of such information to the public. The issue addressed was whether or not the Commission could disclose this information to other agencies within the Executive Branch.

The OLC held that in the absence of specific legislative intent by Congress to prevent such inter-departmental disclosure, it would be allowed because of "the general presumption that information obtained by one federal government agency may be freely shared among federal government agencies." Id. at *1.

The OLC explored the Shipping Act and the analogous Clayton Act to determine congressional intent and determined that there was no specific intent to prohibit such inter-departmental disclosure. Id. at *4. The OLC, therefore, found that the information could be shared stating that

> the President's authority to control the flow of information within and without the Executive Branch carries with it the power to limit distribution of such information within the Executive Branch. Thus, unless and until revised by higher authority, we have no doubt about the validity and enforceability of the present policy of the Antitrust Division of this department to refuse to transmit certain information gathered by it beyond this Department. We believe the Commission is free, as a matter of law, to adopt a policy of providing the information at issue here to other federal departments and agencies that have a need for it in connection with carrying out their official responsibilities.

Id. at *5.

13. Exec. Order No. 9784, 11 Fed. Reg. 10909 (1946).

Executive order issued in 1946 stating that nonconfidential records could not be transferred between agencies without approval of the Director of the Bureau of the Budget. The Director may allow the transfer if it is in the public interest to do so.

MEMORANDUM

When can a federal governmental agency assert an attorney-client privilege when materials are sought by the Special Counsel appointed by the U.S. Attorney General?

There are no cases which specifically address this issue, but it is unlikely that an attorney-client privilege can be invoked successfully by a federal department or agency when documents or information is sought by a special counsel appointed by the Attorney General.

As a general proposition, a duly appointed special attorney or special counsel stands in the shoes of the Attorney General of the United States and has the same power to conduct any kind of legal proceeding, civil or criminal, that the Attorney General is authorized to conduct. 28 U.S.C. § 515 (West 1993). The Attorney General has exclusive authority to conduct all litigation in which the United States is a party or has an interest except when Congress has expressly directed otherwise. 28 U.S.C. § 516 (West 1993); see **FDIC v. Cherry, Bekaert & Holland**, 131 F.R.D. 596, 599 (M.D. Fla. 1990) (FDIC's attorney is the Justice Department for purposes of bank misconduct investigations; FDIC & Justice "working toward a common goal, prosecution of violation of the banking laws, with an identity of interests"); compare **FDIC v. Irwin**, 727 F. Supp. 1073, 1074 (N.D. Tex 1989)(in context of settlement of civil lawsuit, Attorney General has wide plenary authority, but FDIC could sue and be sued under 12 U.S.C. § 1819 without control by Attorney General), *aff'd*, 916 F.2d 1051 (5th Cir. 1990).

In general, then, the Attorney General is the chief lawyer for his client, the United States and any departments or agencies of the United States. See **Stiftung v. Zeiss**, 40 F.R.D. 318, 325 (D.D.C. 1966) (Attorney General, acting through Justice Department, carries the burden of litigation for U.S. and its agencies). It is the Attorney General, or his special counsel, who ultimately decides whether to invoke or waive any evidentiary privilege that might apply to federal departments or agencies. Several federal cases have held that the Department of Justice may assert either an executive/governmental or attorney-client privilege to protect the disclosure of intra-departmental or inter-agency communications to non-governmental, private litigants. See **Stiftung**, 40 F.R.D. at 324 (executive privilege could be invoked by Attorney General concerning intra-governmental documents reflecting advisory opinions, recommendations and deliberations in suit against corporate litigants); **FDIC v. Ernst & Whinney**, 137 F.R.D. 14, 16 (E.D. Tenn. 1991) (attorney-client privilege applied to documents prepared by FDIC "for use in consultation with the FDIC's attorneys, who are, in these kind of matters, the United States Attorneys" when requested by accounting co. defendant who was sued by FDIC for audit irregularities of failed bank); **Cherry, Bekaert**, 131 F.R.D. at 599 (since FDIC is statutorily required to report violations of criminal laws to Justice Department, U.S. Attorney acts as FDIC's attorney and may claim attorney-client privilege against private defendants concerning bank closure).

These cases simply assume that the common law attorney-client privilege, coupled with

the wording of Rejected Rule 503 of the Federal Rules of Evidence, applies to governmental agencies and public officers. The wording of Rejected Rule 503(a)(1) certainly supports assertion of an attorney-client privilege by governmental agencies. It reads:

> (a) Definitions. As used in this rule:
> (1) A "client" is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from him.

Various federal cases have recognized some of the "entities" to which the privilege may belong, including the State Department, Air Force, IRS, Department of Energy, Home Loan Bank Board, and FDIC. See **C. Wright & K. Graham, Federal Practice & Procedure** § 5475, at 131-32 (1986) (collecting cases).

Frequently the facts in these cases show a pattern in which the information was collected by one agency for possible or actual future transmission to the Justice Department for either criminal investigation or civil litigation. In these instances, courts have found a commonality of interests between the various governmental agencies on one side with private litigants on the other side. No case has held that the interests of the Justice Department are opposed to those of another government agency in the context of evidentiary privileges. It would seem incongruous to claim that an attorney-client privilege protected communications within a governmental agency from its own chief legal advisor, the Attorney General, or his special delegate.

Further, it would be poor public policy to hold that governmental agencies have any legal right to withhold relevant information from their chief legal advisor and the chief law enforcement officer of the United States. Such an attitude would turn government agencies into private, powerful legal fiefdoms, largely immune from outside investigation or accountability since so much intra-agency communication might be categorized as legal advice. It would transform the attorney-client privilege into a shield concealing unlawful activity by federal officials behind a veil of confidentiality, secure from investigation by the chief law enforcement officer of this nation.

On the other hand, not all communications between a federal agency's counsel and its employees are confidential communications that seek legal services. There is no privilege when the communications are directed primarily toward:

1) "business goals" of the agency;
see **McCaugherty v. Sifferman**, 132 F.R.D. 234, 238 (N.D. Cal. 1990) ("the court should sustain an assertion of privilege only when there is a clear evidentiary predicate for concluding that each communication in question was made primarily for the purpose of generating legal advice. No privilege can attach to any communication as to which a business purpose would have served

as a sufficient cause");

2) "political advice";
see **Republican Party of North Carolina v. Martin**, 136 F.R.D. 421, 426 (E.D. N.C. 1991);

3) matters which are required by statute or regulation to be made and whose confidentiality are not clearly preserved by the statutory or regulatory scheme;
see **McCaugherty**, 132 F.R.D. at 238.

There are no reported cases in which a "public officer" has successfully asserted an attorney-client privilege when the public entity itself was willing to waive the privilege. There are three possible scenarios in which the issue might arise:

1) the public officer has consulted an attorney for personal legal advice relating to his official duties;
see e.g. **Hearn v. Rhay**, 68 F.R.D. 574, 578-79 (E.D. Wash. 1975)(prison officials sued for civil rights violations were stripped of official immunity, thus any legal communications with governmental attorneys in the presence of other persons, even other prison officials, or contained in files to which others had access waived asserted privilege);

2) a predecessor public officer wishes to assert a privilege that his successor is willing to waive;
see e.g. **Commodity Futures Trading Comm'n v. Weintraub**, 471 U.S. 343 (1985) (in the context of corporations, attorney-client privilege may be waived by present management at time privilege asserted rather than former management at time communications were made; trustee of a corporation in bankruptcy has the power to waive the corporation's privilege with respect to prebankruptcy communications); or

3) the present public officer wishes to assert the attorney-client privilege concerning his communications when the public entity itself wishes to waive that privilege;
see **Weintraub**, 471 U.S. at 348 (corporate managers "must exercise the privilege in a manner consistent with their fiduciary duty to act in the best interests of the corporation and not of themselves as individuals").

In all three scenarios, the interests of the individual public official fall when balanced against the rights of society and the best interests of the entity, public or private.

Because privileges are in derogation of the truth, the policy of the attorney-client privilege is to protect confidential attorney-client relationships only to the extent that the injury the relationship would suffer from disclosure is greater than the benefit to be gained thereby.

8 **Wigmore, Wigmore's Evidence** § 2285, at 527 (McNaughton rev. ed. 1961). While it is frequently noted that governmental agencies, employees, and their lawyers must communicate freely with each other to best serve the public interest and public entity without fear of disclosure to third-party, private interests, this rationale does not apply to disclosure to the Justice Department, a sister agency. It is unlikely that communications between a departmental or agency attorney and the employees within that agency will be chilled to any significant degree by the possibility that the Attorney General or his designate might some day require disclosure of some communications in the context of a federal criminal investigation. See **Nixon**, 418 U.S. at 711.

In sum, if a government officer or agency wishes to invoke an attorney-client privilege concerning communications between the agency's counsel and employees of the federal agency when a Special Counsel, appointed by the Attorney General, asserts and demonstrates a need for those materials in a criminal proceeding or investigation, the privilege is most likely to fall. See, **United States v. Nixon**, 418 U.S. 683, 711-13 (1974) (noting that a generalized claim of Presidential privilege falls to the demands for fair administration of criminal justice; "[w]ithout access to specific facts a criminal prosecution may be totally frustrated. The President's broad interest in confidentiality of communications will not be vitiated by disclosure of a limited number of conversations preliminarily shown to have some bearing on the pending criminal cases").

NOTES
ATTORNEY-CLIENT PRIVILEGE IN CONTEXT OF GOVERNMENTAL AGENCIES

Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343 (1985)

trustee of a corporation in bankruptcy has the power to waive the corporation's attorney-client privilege with respect to prebankruptcy communications

--corporations speak only through agents; privilege can only be waived by persons;
--in context of corporations, privilege is waived by management--officers and directors--at time privilege is asserted rather than at time of communications
--managers "must exercise the privilege in a manner consistent with their fiduciary duty to act in the best interests of the corporation and not of themselves as individuals." p. 348
--analyzes the federal interests that could be impaired by either waiver or assertion of privilege
--would a particular holding (here that bankruptcy trustee holds privilege and can waive it) have a chilling effect upon attorney-client communications? (not here, no greater than it would in solvent corporation in which management could waive privilege)

Upjohn Co. v. United States, 449 U.S. 383 (1980)

subject matter test applied to attorney-client privilege in context of corporation; communications made by employees to corporate counsel investigating illegal payments to foreign officials were privileged when I.R.S. sought interview notes/questionnaires, etc.

--"privilege exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." p. 390

--"the privilege only protects disclosure of communications; it does not protect disclosure of the underlying facts by those who communicated with the attorney." p. 395

--"the recognition of a privilege based on a confidential relationship ... should be determined on a case-by-case basis." p. 396 (quoting **Trammell**, 445 U.S. at 47)

--Burger's concurrence (attempting to set a general, global standard): "a communication is privileged at least when, as here, an employee or former employee speaks at the direction of the management with an attorney regarding conduct or proposed conduct within the scope of employment. The attorney must be one authorized by the management to inquire into the subject and must be seeking information to assist counsel in performing any of the following functions: (a) evaluating whether the employee's conduct has bound or will bind the corporation; (b) assessing the legal consequences, if

any, of that conduct; or (c) formulating appropriate legal responses to actions that have been or may be taken by others with regard to that conduct." p. 403

United States v. Nixon, 418 U.S. 683 (1974)

The Nixon tapes case. A generalized claim of Presidential privilege may fall to the specific, specialized need for evidence in a pending criminal trial and the fundamental demands of due process.

—Ct. first rejects Nixon's argument that the dispute was an "intra-branch" one between a subordinate and superior officer of the Executive Branch & hence not subject to judicial resolution. p. 692. Attorney General, not President, has "the power to conduct the criminal litigation of the United States Government. ... Acting pursuant to those statutes, the Attorney General has delegated the authority to represent the United States in these particular matters to a Special Prosecutor with unique authority and tenure. The regulation gives the Special Prosecutor explicit power to contest the invocation of executive privilege in the process of seeking evidence deemed relevant to the performance of these specially delegated duties." p. 695.

--balances presumptive Presidential privilege against demands for fair administration of criminal justice. "we cannot conclude that advisors will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution." p. 711. "Without access to specific facts a criminal prosecution may be totally frustrated. The President's broad interest in confidentiality of communications will not be vitiated by disclosure of a limited number of conversations preliminarily shown to have some bearing on the pending criminal cases." p. 713.

F.D.I.C. v. Ernst & Whinney, 137 F.R.D. 14 (E.D. Tenn. 1991)

Criminal reports and referrals from FDIC were privileged from discovery by defendant being sued by FDIC for audit irregularities of failed bank.

--these documents were of type covered by attorney-client privilege. "These documents were prepared by the FDIC for use in consultation with the FDIC's attorneys, who are, in these kinds of matters, the United States Attorneys. ... It is undisputed that all of the reports at issue were furnished by the FDIC not only to the United State's Attorney's Office, but also to other state and federal bank regulatory agencies." p. 16.

--next issue: was privilege waived by: 1) furnishing some of them to other regulatory agencies; or 2) inadvertently furnishing some to defendant during discovery process?
--re 1) FDIC furnished documents "only to other agencies which had an absolute commonality of interest with the FDIC in dealing with potential criminal acts which occurred at these banks." p. 16 therefore, no waiver here: "If the FDIC was discouraged

from having open communications with these other agencies relative to these alleged criminal actions because of a fear of waiver of its attorney-client privilege, the effect of such discouragement would be widespread." p. 16

--no waiver by informing bank officers of FDIC findings re criminal referrals--these are "facts" not privileged communications--the facts themselves are discoverable. p. 17

--re inadvertent disclosure: factors to consider: p. 17
1) reasonableness of precautions taken to prevent inadvertent disclosure;
2) number of inadvertent disclosures;
3) extent of disclosure;
4) any delay and measures taken to rectify disclosures;
5) whether the overriding interest of justice would or would not be served by relieving a party of its error.

--after analyzing specific facts, no waiver here.

FDIC v. Irwin, 727 F.Supp. 1073 (N.D. Tex. 1989)

FDIC sued directors of failed bank for breach of fiduciary duty. They settled but 3rd party plaintiffs sued U.S. alleging wrongdoing by Comptroller in closing the bank. U.S. claims that FDIC couldn't settle suit with bank directors without its permission. Court holds FDIC could.

--U.S. claimed it had sole authority to settle litigation under 28 U.S.C. §§ 516 & 519. These statutes specifically say that an agency may conduct its own litigation if expressly "authorized by law" and 12 U.S.C. § 1819 specifically states that FDIC has power "to sue and be sued"

Republican Party of North Carolina v. Martin, 136 F.R.D. 421 (E.D.N.C. 1991)

Constitutional challenge by Repub. Party to North Carolina's method of electing superior court judges. Plaintiffs wanted to depose Gov. Martin & requested production of documents. Gov. claimed work product privilege, executive privilege, and attorney-client privilege.

--sets out general rule of applicability: "The privilege applies only if
(1) the asserted holder of the privilege is or sought to become a client;
(2) the person to whom the communication was made
(a) is a member of the bar of a court, or his subordinate; and
(b) in connection with this communication is acting as a lawyer;
(3) the communication relates to a fact of which the attorney was informed
(a) by his client
(b) without the presence of strangers

(c) for the purpose of securing primarily either
(i) an opinion on law or
(ii) legal services or
(iii) assistance in some legal proceeding, and not
(d) for the purpose of committing a crime or tort; and
(4) the privilege has been
(a) claimed and
(b) not waived by the client." p. 425-26

--courts strictly construe the privilege and proponent has burden to prove elements. 426.

--here, most of the communications were <u>from</u> attorney to client & did not have effect of revealing any confidential communications from Gov. to atty.

--court looks "to the services which the attorney has been employed to provide and determine if those services would reasonably be expected to entail the publication of the client's communication." p. 427

If the final product, e.g. memorandum, opinion letter, etc., was intended to be published (or shared with others), then the underlying data and all preliminary drafts and copies of other documents whose content was necessary to preparation of the published document, will also lose the privilege. p. 427.

Ct. holds that all but one document not privileged "because they involve attorney-client communications which: (a) occurred incident to a request for, or the rendition of, political, not legal advice; and/or (b) do not arguably reveal Governor Martin's confidential communications; and/or (c) could not reasonably have been expected to remain confidential." p. 427.

--e.g. many are cover letters which do not include facts which could reveal confidential client communications; many are drafts of letters and speeches intended to be made public; many are memoranda prepared by counsel which do not reveal confidential communications and others are factual recitation of case law without specific application to factual setting

--lengthy discussion of application of work product doctrine as well--which is largely upheld

Buford v. Holladay, 133 F.R.D. 487 (S.D. Miss. 1990)

Terminated state employees sued under civil rights statute & sought discovery of legal advice & opinions from Mississippi Attorney General's Office re right to terminate permanent employees of Dept. of Economic Development ("DED") under legislatively mandated reorganization of department. Privilege upheld; ditto work product privilege.

--"to the extent that the attorney has obtained information from non-client third parties, the attorney-client privilege does not apply, and information which an attorney secures from a third party while acting on behalf of his client is not shielded from disclosure by the privilege." p. 491.

--the existence of a statute which requires Attorney General to furnish advice to governmental agencies does not preclude application of attorney-client privilege when the agency does indeed seek legal advice. p. 491. cites **Thill Securities Corp. v. New York Stock Exchange**, 57 F.R.D. 133, 138-39 (E.D. Wis. 1972) (noting that, where communications are confidential and related to obtaining legal advice, attorney-client relationship may exist between two governmental agencies).

--re argument that issuance of a public opinion waived attorney-client privilege: "The mere fact that the end product of an attorney-client relationship is a document that becomes part of the public record does not per se waive the privilege as to all communications that occurred prior to the publication of the document." p. 492.

--re "deliberative process privilege" (or governmental privilege): "this Court is persuaded that the particularity with which statutory privileges have been provided for certain types of governmental information militates against the finding of a broad, generalized privilege for all governmental deliberation." p. 494

--"the deliberative process privilege has traditionally been applied only to communications relating to policy formulations at the highest levels of the federal executive branch." p. 494.

McCaugherty v. Sifferman, 132 F.R.D. 234 (N.D. Cal. 1990)

FDIC, as manager of FSLIC Resolution Fund, invoked both attorney-client privileged and work product doctrine to oppose production of documents to plaintiff buyers of bank. Communications were between lawyers hired by FDIC and FADA (subsidiary of FSLIC to manage & advise re failed S & L's).

--much of the communication was directed toward "business goals" not generating legal advice; "the court should sustain an assertion of privilege only when there is a clear evidentiary predicate for concluding that each communication in question was made primarily for the purpose of generating legal advice. No privileged can attach to any communication as to which a business purpose would have served as a sufficient cause." p. 238.

--"Similarly, privilege cannot attach to any communication that was compelled by statute or regulation and whose confidentiality was not clearly preserved by the statutory or regulatory scheme." p. 238.

--FSB argues that b/c FSLIC exercised such statutory control & power over FSB in the transaction, the legal egos of Farmers, FSB, and FSLIC were merged for purposes of attorney-client privilege communications. p. 240. Court rejects b/c while valid in theory, not "based on real world conduct." 1) FSLIC didn't take clear steps to tell FSB that FSLIC was the holder of the privilege & therefore should consider FSLIC attorneys as its own & to keep all communications confidential; 2) FSB had its own attorney who gave legal advice re transaction; 3) FSLIC attorneys explicitly disclaimed representation of anyone other than FSLIC & FADA.

Court orders production of all communications b/t Farmers & FSB that were shared with FSLIC, FADA & their counsel.

"Since the attorney-client privilege over a corporation belongs to the inanimate entity and not to individual directors or officers, control over privilege should pass with control of the corporation, regardless of whether or not the new corporate officials were privy to the communications in issue." p. 245.

"A party who invokes the attorney-client privilege also must provide to the opposing party the following information for each document or communication not disclosed, to the extent that providing this information will not destroy the privilege:

(1) the name and job title or capacity of the author(s) or originator(s); and

(2) the name and job title or capacity of every person who received the document or a copy of it, or who was present when the communication was made or who overheard it; and

(3) the relationship between the author(s)/originator(s) and each person who received the document or a copy of it or who was present when the communication was made or who overheard it; and

(4) whether the primary purpose of the document or communication was to seek or provide legal advice or services; and

(5) the date of the document or communication; and

(6) the subject matter(s) address in the document or communication; and

(7) whether the document or communication was transmitted in confidence; and

(8) a brief statement as to why, under the law, the document or communication is protected by the attorney-client privilege. p. 248.

FDIC v. Cherry, Bekaert & Holland, 131 F.R.D. 596 (M.D. Fla. 1990)

In suite by FDIC against defendants concerning bank closure, FDIC asserts attorney-client privilege re criminal referrals sent to Justice Department, loan "write-ups," post-closing reports, and witness statements taken by FDIC.

FDIC is statutorily required to report violations of criminal laws to Justice Department. "In reporting such suspected violations, the court [in **Wausau v. Federal Dep. Ins. Corp.**, ___ F.R.D. __ (E.D. Tenn. April 22, 1986)] held, the U.S. Attorney acted as the FDIC's lawyer. .. The court viewed the FDIC and the Justice Department as working toward a common goal, prosecution of violation of the banking laws, with an identity of interests." p. 599.

--"The undersigned concludes that the FDIC's attorney is the Justice Department and its U.S. Attorneys with regard to investigations of bank misconduct and for the referral of suspected criminal violations for prosecution . . ." p. 599

--loan write-ups also protected by attorney-client privilege; "The writeups appear to be communications made in confidence by FDIC investigators to their counsel for the purpose of seeking legal advice concerning possible lawsuits." p. 601

--witness statements taken by an FDIC agent protected by work product privilege b/c they were taken in for a case closely related to present one

Clavir v. United States, 84 F.R.D. 612 (S.D.N.Y.)

Attorney plaintiffs suc U.S. for illegal surveillance by F.B.I. Dept. of Justice had memos re interviews with FBI agents as part of Justice's investigation of FBI unauthorized investigation techniques. Plaintiffs want these memos produced and Justice agreed but FBI agents asserted their own work-product, statutory and attorney-client privileges. Court rejects privilege argument.

re atty-client privilege: "there was no attorney-client relationship between the investigators and the agents being interviewed. If anything, the relationship was much closer to that between a prosecuting attorney and a prospective grand jury witness. Indeed, these interviews were carried out in close connection with a grand jury investigation . . ." p. 614.

Hearn v. Rhay, 68 F.r.D. 574 (E.D. Wash. 1975)

Inmate civil rights suit. Plaintiff wants production of documents containing legal advice to prison officers by state attorney general. He gets them because any attorney-client privilege waived by defendants' good faith defense.

--court notes that federal courts have uniformly held that attorney-client privilege can arise with respect to attorneys representing a state. Here prison officials are clients of Washington State Attorney General & privilege can be asserted if applicable. p. 579

--in determining who was the client--the prison officials in their individual capacity or the Washington State Dept. of Social and Health Services? Here it was the individual defendants since the civil rights suit was premised on theory that they were stripped of their official immunity. p. 579

--therefore, any communications from attorney General to them which were shared by these specific officials with others are no longer privileged. p. 580 (collecting cases)

public policy discussion re would assertion of privilege in this context be harmful? Yep. "In an ordinary case the obstruction [caused by assertion of atty-client privilege] is not likely to be great for attorney-client privileges are usually incidental to the lawsuit, notwithstanding their possible relevance, and other means of proof are normally available. In this case, however, the content of defendant's [sic] communications with their attorney is inextricably merged with the elements of plaintiff's case and defendants' affirmative defense. These communications are not incidental to the case; they inhere in the controversy itself, and to deny access to them would preclude the court from a fair and just determination of the issues. To allow assertion of the privilege in this manner would pervert its essential purpose and transform it into a potential too for concealment of unconstitutional conduct behind a veil of confidentiality." p. 582.

Stiftung v. Zeiss, 40 F.R.D. 318 (D.D.C. 1966)

executive privilege may be asserted by Government (Dept. of Justice) concerning intra-departmental memoranda and inter-departmental communications containing opinions, recommendations and deliberations pertaining to decisions Justice Department was required to make about litigation. Here, Justice had been involved in prior lawsuit concerning trademarks of contestants. Government had produced 4,500 documents, claimed privilege on 49.

--executive privilege "obtains with respect to intra-governmental documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated." p. 324.

--"The Attorney General is charged with the duty of rendering all legal services essential to the operations of the Executive Branch. [noting 5 U.S.C. §§ 291, 306] He also carries the burden of litigation to which the United States or any of its agencies is a party. [noting 28 U.S.C. § 507(b); Exec. Order No. 6166, § 5 (1933), reprinted at 5 U.S.C. §§ 157, 159 (1964)] These responsibilities are discharged through the Department of Justice, and the Department's legal business embraces the requirements and activities of various governmental agencies. It is evidence that the Department, to

function adequately, must depend heavily upon candid exchanges of ideas, not only among its own staff, but also, particularly because of the institutional nature of its decisions, with other agencies whose interests are involved." p. 325.

--"And while no clear separation can be made between the United States as a client-litigant and the Department as its legal representative, government, no less than the citizen, needs open but protected channels for the kind of plain talk that is essential to the quality of its functioning." p. 325.

--concerning executive privilege: "The privilege belongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual consideration by that officer." p. 326 [here it was invoked by the Attorney General in a lengthy affidavit]

STATUTES

28 U.S.C. § 510 Delegation of authority

Attorney General may delegate any function of Attorney General to any other officer, employee or agency of Dept. of Justice.

--statute relating to appointment of special U.S. Attorneys is a grant of authority to A.G., not a limitation; does not limit delegation authority of A.G. **U.S. v. Giacolone**, 408 F. Supp. 251 (D.C. Mich. 1975)

Atty Gen. may delegate his authority to special prosecutors; **U.S. v. Morrison**, 531 F.2d 1089 (1st Cir. 1976), *cert. denied*, 429 U.S. 837 (19__).; **In re Sealed Case**, 829 F.2d 50 (D.C. Cir. 1987), *cert. denied*, 484 U.S. 1027 (19__).

28 U.S.C. § 512 Attorney General to advise heads of executive departments

Head of an executive department may require opinion of A.G. on questions of law arising in department.

28 U.S.C. § 514 Legal services on pending claims in departments and agencies

When head of an executive department/agency is of the opinion that the interests of the U.S. require the services of counsel on the examination of any witness concerning any claim, or on the legal investigation of any claim, pending in the department of agency, he shall notify A.G. & give all relevant info & A.G. shall provide the service.

28 U.S.C. § 515 Authority for legal proceedings; commission, oath and salary for special attorneys.

(a) A.G. or any officer of Justice Dept. or any special attorney appointed under law, may, when specifically directed by A.G., conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which U.S. attorneys are authorized by law to conduct.

--this provision should be liberally construed because it was adopted for the protection of the United States. **In re Patriarca**, 396 F.Supp. 859 (D.C.R.I. 1975)

--A. G. has authority to make broad grants of authority to special attorneys; not limited to appointing them for a limited or specific purpose, but must have some description of type of case; can't be a "roving" commissioner. **U.S. v. Di Girlomo**, 393 F.Supp. 997 (D.C. Mo. 1975), *aff'd* 520 F.2d 372 (19__), *cert. denied*, 423 U.S. 1033 (19__).

28 U.S.C. § 516 Conduct of litigation reserved to Dept. of Justice

Except as otherwise authorized by law, the conduct of litigation in which the U.S., an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Dept. of Justice, under A.G.'s direction.

re Representation of U.S. by private counsel in litigation against persons committing bank fraud crimes, see 12 U.S.C. § 4243.

A.G. is chief legal officer of U.S. and absent express congressional directive to contrary, is vested with plenary power over all litigation in which U.S. or U.S. agency is a party, but b/c authority is so broad, it must be narrowly construed. F.D.I.C. has authority to sue & be sued without approval by A.G. **FDIC v. Irwin**, 727 F.Supp. 1073 (N.D. Tex. 1989), *aff'd*, 916 F.2d 1051 (5th Cir. 1990).

Any congressional limitations upon authority must be express, can't be inferred. **U.S. v. Tonry**, 433 F.Supp. 620 (D.C. La. 1977).

28 U.S.C. § 517 Interest of United States in pending suits

Solicitor General, or any officer of Dept. of Justice, may be sent into any district in U.S. to attend to the interests of the U.S. in a suit pending in a U.S. or state court or to attend to any other interest of the U.S.

TREATISES

C. Wright & K. Graham, Federal Practice & Procedure (1986)

§ 5475 Lawyer-Client Privilege -- "Public Officer"; Public Entity

--little case development but most courts have assumed that governments can claim the benefits of attorney-client privilege p. 125

factors that militate against a privilege for governmental entities:

1. since government has such extensive coercive power, gov. lawyers have little need for a privilege to encourage their "clients" to talk;
2. many gov. workers are, or could be, placed under a statutory duty to disclose info. they have learned in their official capacity (e.g. Freedom of Information Act, Open Records Act);
3. power to suppress evidence of communications between government employees is inconsistent with open government of a democracy;
4. costs of governmental privilege very high b/c of the large number of lawyers and government employees who have knowledge of relevant facts in so many lawsuits;
5. the governmental or state's secrets privilege protects the important items.

factors that support a privilege for governmental entities:

1. the governmental or state's secret privilege is not designed to deal with attorney confidentiality;
2. existing framework of attorney-client privilege better developed to deal with area than is an expansion of governmental privilege;
3. temporary (?) suppression of info because of contingencies of litigation not in same class as total denial of info to citizens re operations of their government;
4. large corporations probably don't need an evidentiary privilege to make their employees talk to them, either, yet they have a privilege;
5. since government is frequently only counterweight to large corporations, it's not fair to make them litigate with one hand tied behind their backs.

Does the inclusion of term "public officer" in definition of client mean that the individual employee can claim a privilege even when the agency/entity itself is prepared to waive it? Or permit the former incumbent to assert it when the present incumbent wants to waive it? p. 130

Cases have recognized some of the "entities" to which a privilege may belong--State Department, Air Force, IRS, Dept. of Energy, Home Loan Bank Board. pp. 131-32.

"Matters become considerably more complicated when the 'lawyer' for the agency is another 'public entity' or 'public officer' with obligations which may conflict with that of the supposed 'client.' For example, lawyers employed by the Department of Justice investigating the conduct of agents of the Federal Bureau of Investigation, an agency that is at least nominally a part of the Justice Department, were held to have no attorney-client relationship with the agents." pp. 132-33. **Clavir v. United States**, 84 F.R.D. 612, 614 (S.D.N.Y. 1979)

Difficulties of sorting out when government lawyer is rendering "professional legal services" as opposed to "business" advice concerning the business of the agency or "political" advice.

Courts have held that a corporate attorney who is investigating facts acts as a lawyer, not a detective, but at least one case has held this is not true when a government lawyer engages in investigative activity for a municipal employer. **Diamond v. City of Mobile**, 86 F.R.D. 324 (D.C. Ala. 1978)

Note, *The Applicability and Scope of the Attorney-Client Privilege in the Executive Branch of the Federal Government*, 62 **B.U.L.Rev.** 1003 (1982)

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SCOTT, MARSHA

Scott file

Stuart Pierson 12/11

- odd question
- "extraordinary" thing to ask
  - → NO RESPONSE
- reasonable limitation
  brothers, sisters
- what docs are in possession, custody, or control?
  - → WH production
- narrow space of time
- take reasonable approach
  - personal letter
    - ↓
      every doc you have seen in past 2 years

DAVIS WRIGHT TREMAINE
LAW OFFICES

1155 CONNECTICUT AVENUE NW • SUITE 700 • WASHINGTON, D.C. 20036-4306
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FAX (202) 508-6699

FACSIMILE TRANSMISSION

February 21, 1995

NUMBER OF PAGES (including cover) 3

TO Mark H. Tuohey and Brett Kavanaugh

FROM Stuart F. Pierson

FAX OR TELECOPY NUMBER 514-8802

REFERENCE NUMBER 38035-1

The information contained in this facsimile message may be confidential or legally privileged information. It is intended only for the addressee. If you received it in error, then any distribution, reading, copying or use of this communication is strictly prohibited. Please notify us immediately by telephone and return the original communication to us at the above address by mail. You will be reimbursed for your reasonable expenses. Thank you.

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STUART F. PIERSON
(202) 508-6623

February 21, 1995

Via Facsimile - (202) 514-8802

Mark H. Tuohey III, Esq.
Deputy Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Brett Kavanaugh, Esq.
Assistant Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: Marsha Scott

Dear Messrs. Tuohey and Kavanaugh:

Reference is made to

Reference is further made to our later telephonc conversation concerning

This is to advise that

However, in the course of ascertaining that some of the materials we examined generally refer to Vincent Foster.

I am advised that the Office of White House Counsel will consider providing such materials to you upon your informal request.

If you should have any questions concerning this matter, do not hesitate to contact me.

Very truly yours,

Stuart F. Pierson

SFP:KGH
cc: Jane C. Sherburne, Esq.

Screened by NARA (RD-F) Date: 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105044

SPAFFORD, MICHAEL

~~CONFIDENTIAL~~ MEMORANDUM

[redacted]

TO: James Hamilton

FROM: Michael L. Spafford

DATE: July 23, 1993

RE: Vincent Foster

On Thursday, July 22, 1993, I was present when the White House office of Vincent Foster, Deputy Counsel to the President, was unsealed. At the request of the White House Counsel Bernard Nussbaum, I attended as attorney for the family of Mr. Foster. Also in attendance were Mr. Nussbaum, Cliff Sloan and Steve Neworth of the White House Counsel's office; Bill Burton from the office of the Chief of Staff Mack McLarty; David Margolis (514-4945) and a Mr. Adams from the Department of Justice (Criminal Division); Peter W. Markland (690-5050) and another gentleman from the United States Park Police; two gentlemen from the FBI; and, Mr. Flynn and another gentlemen from the Secret Service. Mr. Margolis took the lead for the investigators.

According to Steve Neworth, Mr. Nussbaum entered the office Tuesday night sometime after 10 pm and made a cursory review of the office, looking for a suicide note. None was found; nothing was removed. A guard then was posted by the Secret Service and the office was sealed. No one subsequently entered the office until today, at approximately 1:15 pm, when (in the presence of the aforementioned officials) Mr. Nussbaum unsealed the office.

Mr. Foster's office had a couch, two end tables, several chairs, a book shelf, a desk and two credenzas. A computer sat

on one credenza; a tv was on top of the book shelf, which extended over the credenza. There were several papers piled on his desk in orderly fashion, many of which were stacked in what appeared to be an out box.[1/] Also on the desk were his glasses, a dictaphone (no tape was inside), and a paper weight. In addition, a briefcase was on the floor next to his desk against the wall; the briefcase held several files, some notepads, and a notebook. Per Mr. Nussbaum, Mr. Foster was not the type to carry his briefcase with him wherever he went. His trash had been retrieved and was in a plastic bag on one credenza; also the "burn bag" had not been removed and was on the floor next to his desk.

In order to protect the attorney-client privilege and other privileges and confidences of the President, the following procedure was agreed upon: Mr. Nussbaum reviewed each document and described for the group the general contents of the document (e.g., internal correspondence about White House issues; legal memos re health care, etc.). No one other than Messrs. Nussbaum, Sloan, Neworth and Burton were allowed to inspect the documents. The documents generally were separated into three groups: personal matters, documents of potential interest to the investigators, and matters of no apparent interest. No suicide note was found.

Documents of potential interest to the investigators included (but were not limited to) calendars, lists of recent telephone calls, xeroxed copies of editorials and newspaper

---

[1/] Included in the box was a folder entitled "insurance".

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articles (to the extent they were critical of Mr. Foster); some handwritten notes of names of persons who did not work at the White House; some other handwritten notes unrelated to White House matters; and phone messages. Mr. Margolis asked Mr. Nussbaum to review these materials so that they could discuss the manner in which his investigators could review them. He also asked that Mr. Nussbaum review the other documents (except the personal documents) and Mr. Foster's computer, and report to Margolis any threats or unusual items that may appear in their contents. It was agreed that Mr. Nussbaum would undertake such a review and would discuss with Mr. Margolis any issues that may arise.

The personal papers and belongings that had been segregated were gathered and placed in a large box in full view of all present.[2/] After some discussion, it was agree by all present that I would remove the materials to our office; that Jim Hamilton and I would review the materials; and that we would call Mr. Margolis tomorrow to discuss any issues that arose as a result of our review and the manner of inspection by the investigators. I then took custody of the materials and brought them back to Swidler & Berlin.

In discussions with Mr. Margolis, he made it clear that the Government would get a grand jury subpoena for the materials if

---

2/ Among his personal files, the investigators noted the following items they would like to review: a folder marked "insurance"; a map of metropolitan Washington, D.C.; handwritten notes; a black binder labelled "Foster Notebook"; credit union slips and other receipts; tax returns.

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necessary,[3/] but suggested that cooperation might be preferable. I responded that I didn't see any impediments to cooperation; but I noted that, without reviewing the documents, it was difficult to make that judgment at this time. I also stated that, due to the stressful and trying circumstances, we had not had an opportunity to discuss the issue with our clients. I stated that our goal was to cooperate with him to the greatest extent possible while at the same time protecting the legitimate privacy interests of the family.

In Mr. Foster's office, Mr. Margolis or one the investigators stated that "the vast majority" of suicides leave behind a note. The fact that none has been found, per Margolis, raises the issue of foul play. Per Margolis, the gun was assembled from two 1913? colt pistols, which they have been unable to trace due to their age. He stated that the investigators wanted to talk to the family about ownership of the gun (e.g., family heirloom?). The full autopsy report is not expected for two weeks. Preliminary indications were that he died of a gunshot wound fired at close distance; all consistent with a suicide.

Attached hereto is an inventory of the personal materials removed from Mr. Foster's office pursuant to agreement with the

---

3/ He felt he had clear legal grounds for a subpoena since it was a crime on federal property and, if foul play were involved, he would have jurisdiction to investigate as a possible assassination.

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Department of Justice and White House Counsel. Also attached are my notes taken during the meeting held in Mr. Foster's office when Mr. Nussbaum reviewed the contents of his office.

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* CAUSE OF DEATH ⇒ upset

Follow-Up

* NOBODY ASKED

* why not come forth + tell what he knew
  - to Marcalis
  - to Park Police

* in pers diary anything bothering Foster - 2 entries election night // inauguration

* ~~family~~ life insurance policy? old policy? why then?

* did Foster's insurance pay all in case of suicide?

* restate whole Sloan incident?

* stopped talking mates after everyone left

* did he know VWF?

* ~~was there~~

Dated: July 22, 1993

INVENTORY OF PERSONAL MATERIALS
REMOVED FROM THE WHITE HOUSE OFFICE OF VINCENT FOSTER
PURSUANT TO AGREEMENT WITH REPRESENTATIVES OF
DOJ AND THE WHITE HOUSE COUNSEL

The following is an inventory of the personal materials taken from the White House office of Vincent Foster. To the extent that handwriting (h/w/) appears on the materials, I have attempted to identify it.

1) Manila folder entitled "Insurance"

● 3/1/93 letter to Vince and Elizabeth Foster from Cindi Thessing, Personal Account Development Agent of Ramsey Krug Farrell & Lensing insurance and bonding agents re new policy (apparently property & casualty). [P.O.Box 251510, Little Rock, Ark., 72225; (501) 664-7705];

● 1/9/92 appraisal of diamond ring and gold mirror box chain [redacted]; signed by Harold McLelland of Hobby's, 5815 Kavanaugh, Little Rock, Ark; FOIA(b)(6)

● Schedule of items covered by 8/6/92 Chubb "Masterpiece Itemized Articles" policy; listed agent Marsh & McClennan/Little Rock; nos. 1 & 5 of itemized schedule are highlighted in yellow, with h/w *; h/w at top says: "* will need appraisals dated within past two years"; paper torn; h/w at bottom left says "18,600"; h/w on back says "cancel Chubb effective January 15th 1993", other h/w refers to "Bill", "Forest Hignes", "Laura", and sets forth calculations apparently relating to premiums on Chubb policy;

● Chubb envelope postmarked 1/29/93; h/w on back of envelope; enclosed is a "Statement and Bill" from Chubb dated 2/1/93, with a "return section" (e.g., payment stub) and the envelope provided (apparently he never paid the bill);

● Chubb envelope postmarked 2/26/93; enclosed is a "Coverage Update", dated 1/15/93, which states "Your policy has been cancelled pro rata."

● Two page CNA Account Statement for Universal Security Deluxe Policy (Policy # US 101960908); policy period 1/15/93 to 1/15/94; lists payment schedule; first two of several listed installments are highlighted; h/w at lower right appears to list check # with minimum payment amount and date; first page is missing the payment stub;

● 2/23/93 letter to Vince and Elizabeth from customer service unit of ISO Commercial Risk Services Inc., 6220 SW 29th

Street, Topeka, Kan (913) 273-5742, re information about house to be insured;

- an empty plastic bag;

- a brown and green CNA folder that contained:
  --6/1/93 letter to Vince and Elizabeth from Cindi Thessing of Ramsey Krug, etc., with attachment; letter refers to enclosed endorsement requesting "several" changes in CNA Universal Security personal insurance; h/w on top says "folder"; enclosed endorsement lists changes in policy, including change of address, additional "contents" coverage on rental in DC (3027 Cambridge Place, N.W.), increase in coverage for Arkansas house and change in status of Arkansas house to tenant occupied;
  --coverage summary of the property & casualty policy issued by CNA (same policy # and period as noted above); appears to be standard policy;
  --a copy of CNA's Universal Security Policy, Deluxe, with form endorsements and other information;
  --a CNA pamphlet;

2) "Metropolitan Washington/Baltimore Area Map" published by Relocation Counseling Center;

3) Black notebook entitled "Foster Notebook"; computer-generated chart listing names (in alphabetical order), company, work phone, fax, home phone, address and notes (e.g., title); h/w on some pages; toward end, post-it with h/w name Larry Wadkens; over 100 pages; appears to be a client listing from his old law firm;

4) loose papers:
  --Federal Credit Union ATM slip dated 6/17/93: w/drw $100; ck'ing balance 10342.91; transfer of 3000 from ck'ing to savings; balance 7342.91;
  --two post-its with h/w re a rental in Georgetown, a name and tel #, and note that he can be reached at 686-6768;
  --2/14/93 Amex receipt lunch at Ebbitt Grill;
  --3/4/93 Amex receipt for Cactus Cantina dinner;
  --2/27/93 Amex receipt (can't read name of vender)
  --2/4/93 Amex receipt for the Palm (h/w on back - appears to be Trade Asoc, Roseanne, Brown, Carol Kiernan")
  --2/28/93 Amex receipt for dinner at J. Paul's
  --2/13/93 Amex receipt for dinner at Iron Gate
  --2/12/93 Amex receipt for dinner at Sam & Harry's
  --5/19/93 receipt from the Frame Shop in Alexandria; sold to Laura Foster
  --piece of paper with h/w names ("Trudy Felder, Naomi Nover, Deborah (debra) Butler, Lockesburg")

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~~PRIVILEGED AND CONFIDENTIAL~~

--h/w notes on White House stationary ("Sally Herman, Chevy Chase, 301/718/6815, sit down @ 6:15, Deborah Ashford")

--White House envelope; empty; h/w on front addressed to VF, marked Personal, from what appears to be "Jim Bail..." (maybe Bailey)

--an adding machine tape listing several numbers; h/w note says "checks I mailed 1/19/93";

--March PEPCO bill, pay stub missing

--pkt of Schwab "remittance documents", some used, with h/w notes of dates of transactions and amounts

--Report to shareholders and dividend statement re Northwest Natural Gas stock, in envelope postmarked 2/23/93, stamped received 3/1/93

--an invitation to opening of Laura Gosch gallery, postmarked 2/25/93, rec'd 3/1/93

5) a pair of brown glasses (bifocals) in a brown case;

6) check stubs for check nos. 101 thru 125;

7) deposit slips and envelopes for a Schwab account;

8) file marked "Personal & Confidential 1993 Personal Photos"; several copies of a picture of VF (appears to be official photo) and several pictures of VF with President, McLarty, Nussbaum and others;

9) file marked "Personal & Confidential 1993 Rose Building Limited Partnership"; an assignment of his interest in Rose Building Partnership to that Partnership; signed 4/1/93;

10) file entitled "Clinton Memos" with two memos, both from the President (one has an article att'd with stamp President has seen"). dated 4/19 & 2/3 **[probably atty-client privilege; need to tell B. Nussbaum and return]**;

11) file entitled "Lease Agreement 1993 5414 Stonewall"; signed original lease agreement dated 6/9/93 and two copies on house in Little Rock; allows subletting with permission; h/w notation added says permission shall not be unreasonably withheld;

12) file entitled "VWF Personnel Folder" includes:

- 3 personnel forms, including designation of beneficiary (wife 100%), dated 1/15 (appears that he may have gotten a term life insurance policy through the gov't at this time)

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- FERS booklet; notice re new leave and earnings statement; FEHB booklet; Federal civilian employee booklet;

13) file entitled "VWF Form 278" includes two memos:

- 3/19/93 memo from Frank Sobol to VF re SF-278 form (discussion of avoiding appearance of conflicts re Merck stock and Rose firm);

- 2/24/93 memo from VF to Sobol and Beth.Nolan responding to Sobol memo

14) file entitled "Personal & Confidential 3027 Cambridge Place NW", includes:

- h/w notes on paper entitled Vincent Foster Jr. (h/w #'s and "Crestar Bank # Z163805")

- brochure for Georgetown

- Dent Place Assoc newsletter

- 5/28/93 invoice from James J. Madden

- 3/31/93 letter to "Fosters" from Charles F. Eason, 540 N Street SW, with executed copy of lease dated 3/5/93

- copy of letter to Eason, check for deposit, a lease signed by Vincent and Lisa.

- 2/24/93 letter from Eason to VF enclosing proposed lease; h/w notations on letter and lease;

- another copy of 3/5/93 executed lease

- employment eligibility verification form I-9 for Loretta Sears dated 4/1/93; yellow post-it on front with h/w "household employee, personal and confidential"

- torn form for "Maintenance Fund Contribution"

- form leases faxed from Rose firm

- form leases from Rose firm retyped;

15) file entitled "Personal & Confidential Moving Expenses", includes statement from Hertz for rental from 3/17 to 4/8, National Airport;

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16) file entitled "VF 1992 tax returns" with h/w "estate", includes:

- copy of h/w letter on personal stationary to Harlin Camp, Lafayette Co. Collector re mineral interest tax; att'd is copy of check and two page statement of taxes due

- copy of bill from Michael Turner, CPA, Hope, Ark., (777-6811) for "1992 fiduciary income tax return", dated 4/9/93; h/w note "forward to W Wilson Jones Rose Law firm"

- copy of 3/31 letter to Turner and Jones on personal letterhead re estate of his father

- two invoices dated 4/15 from L Cotton Thomas & Company, CPAs, 620 West Third, Little Rock

- two copies of one pg letter from Jones on Rose letterhead to Mike Schaufele of L Cotton Thomas dated 3/25 re Foster Grandchildren Trust

- two copies of 3/25 two pg letter to Mike Turner re federal and state income tax returns from Jones on Rose letterhead

- a grey folder entitled Michael Turner CPA; yellow post-it with h/w note "Vincent Foster Sr. estate personal & conf"; includes 1992 tax returns on estate of father;

17) folder entitled "personal & confidential mineral interests", includes

- American Exploration Co statement

- documents relating to mineral interests in land apparently conveyed under father's will;

18) file entitled " Personal & Confidential Financial Statement-1991 1040", includes:

- Draft 12/31/92 "personal financial statement of VF, Jr."; two copies, three pgs; second copy has h/w notes (appears to be prior draft)

- 1991 1040; pink post-it with h/w "this is the only one here";

19) file entitled "TWA Airlines", includes TWA frequent flier info; last statement dated 2/20;

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20) file entitled "Northwest Airlines", includes frequent flier info

- 6/14/93 letter informing NW of change of address and asking for update;

21) file entitled "Mid-west Express", includes freq flier info and same 6/14 letter;

22) file entitled "United Airlines", includes freq flier info and same 6/14 letter;

23) file entitled "Delta", includes freq flier info and same 6/14 letter;

24) file entitled "Lisa-Frequent Flyer", includes freq flier info;

25) file entitled "US Air", includes frequent flier information;

26) file entitled "VWF, III Resume & Bio", includes five copies of son's resume;

27) file entitled "Personal & Confidential Laura Foster", includes memo to VF from Mark Schulhof re summer internship at State Dept for daughter, dated 4/13;

28) file entitled "Personal & Confidential WH Federal Credit Union", includes

- NCUA brochure
- withdrawal/deposit slips dated 3/19, 3/23, 3/29, 3/17, 3/17
- WH Federal Credit Union ATM brochure
- WH Fed CU account stmt for period 1/93 to 3/31[1/]
- Direct deposit sign-up form dated 3/17 for WH Fed CU
- Rules & regs and terms & conditions for WH Fed CU;

29) file entitled "Personal & Confidential Truck", includes two copies of a form entitled "Statement of Consideration Paid; Odometer Disclosure Statement For A Vehicle Subject to Registration"; for 1984 Ford; signed by VF on 6/15; states that odometer reads 23900; fax from Richard OBrien, 2204 N Spruce,

---

1/ VF's soc sec # is 429-80-1132.

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Little Rock; listed sales price of 3250; faxed from Crews Muni & Synd on 6/15;

30) paper weight with initials engraved;

31) 12 framed pictures of
--two newspaper cartoons
--VF & wife with Clintons (in taxes)
--VF with Reno
--VF & wife with President in oval ofc (color)
--VF & wife with President in oval ofc (b&w, signed by President)
--VF & wife at ocean (7/26/92
--old b&w of a child (@ ≈10)
--son? (color)
--daughter
--VF & daughter
--VF & wife? (color) at a gala

SWIDLER & BERLIN
CHARTERED

MICHAEL L. SPAFFORD
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7521

June 21, 1995

HAND DELIVERED

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Special Agent Dana Gillis
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Dear Mr. Gillis:

[redacted]

Sincerely,

Michael L. Spafford

Copy for (w/o enclosures): Brett Kavanaugh, Esq.

6040386.1

3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

FOIA #56806 (URTS 16304) DocId: 70105044 Page 15

SWIDLER
&
BERLIN
CHARTERED

3000 K STREET, N.W.
SUITE 300
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Brett Kavanaugh, Esq.
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA #56806 (URTS 16304) DocId: 70105044 Page 16

SWIDLER & BERLIN
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MICHAEL L. SPAFFORD
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June 21, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA #56806 (URTS 16304) DocId: 70105044 Page 17

~~CONFIDENTIAL~~ MEMORANDUM

TO: James Hamilton

FROM: Michael L. Spafford

DATE: July 23, 1993

RE: Vincent Foster

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FOIA #56806 (URTS 16304) DocId: 70105044 Page 20

necessary,[3/] but suggested that cooperation might be preferable. I responded that I didn't see any impediments to cooperation; but I noted that, without reviewing the documents, it was difficult to make that judgment at this time. I also stated that, due to the stressful and trying circumstances, we had not had an opportunity to discuss the issue with our clients. I stated that our goal was to cooperate with him to the greatest extent possible while at the same time protecting the legitimate privacy interests of the family.

In Mr. Foster's office, Mr. Margolis or one the investigators stated that "the vast majority" of suicides leave behind a note. The fact that none has been found, per Margolis, raises the issue of foul play. Per Margolis, the gun was assembled from two 1913? colt pistols, which they have been unable to trace due to their age. He stated that the investigators wanted to talk to the family about ownership of the gun (e.g., family heirloom?). The full autopsy report is not expected for two weeks. Preliminary indications were that he died of a gunshot wound fired at close distance; all consistent with a suicide.

Attached hereto is an inventory of the personal materials removed from Mr. Foster's office pursuant to agreement with the

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[3/] He felt he had clear legal grounds for a subpoena since it was a crime on federal property and, if foul play were involved, he would have jurisdiction to investigate as a possible assassination.

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Department of Justice and White House Counsel. Also attached are my notes taken during the meeting held in Mr. Foster's office when Mr. Nussbaum reviewed the contents of his office.

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Dated: July 22, 1993

INVENTORY OF PERSONAL MATERIALS
REMOVED FROM THE WHITE HOUSE OFFICE OF VINCENT FOSTER
PURSUANT TO AGREEMENT WITH REPRESENTATIVES OF
DOJ AND THE WHITE HOUSE COUNSEL

The following is an inventory of the personal materials taken from the White House office of Vincent Foster. To the extent that handwriting (h/w/) appears on the materials, I have attempted to identify it.

1) Manila folder entitled "Insurance"

- 3/1/93 letter to Vince and Elizabeth Foster from Cindi Thessing, Personal Account Development Agent of Ramsey Krug Farrell & Lensing insurance and bonding agents re new policy (apparently property & casualty). [P.O.Box 251510, Little Rock, Ark., 72225; (501) 664-7705]; FOIA(b)(6)

- 1/9/92 appraisal of diamond ring and gold mirror box chain [redacted]; signed by Harold McLelland of Hobby's, 5815 Kavanaugh, Little Rock, Ark;

- Schedule of items covered by 8/6/92 Chubb "Masterpiece Itemized Articles" policy; listed agent Marsh & McClennan/Little Rock; nos. 1 & 5 of itemized schedule are highlighted in yellow, with h/w *; h/w at top says: "* will need appraisals dated within past two years"; paper torn; h/w at bottom left says "18,600"; h/w on back says "cancel Chubb effective January 15th 1993", other h/w refers to "Bill", "Forest Hignes", "Laura", and sets forth calculations apparently relating to premiums on Chubb policy;

- Chubb envelope postmarked 1/29/93; h/w on back of envelope; enclosed is a "Statement and Bill" from Chubb dated 2/1/93, with a "return section" (e.g., payment stub) and the envelope provided (apparently he never paid the bill);

- Chubb envelope postmarked 2/26/93; enclosed is a "Coverage Update", dated 1/15/93, which states "Your policy has been cancelled pro rata."

- Two page CNA Account Statement for Universal Security Deluxe Policy (Policy # US 101960908); policy period 1/15/93 to 1/15/94; lists payment schedule; first two of several listed installments are highlighted; h/w at lower right appears to list check # with minimum payment amount and date; first page is missing the payment stub;

- 2/23/93 letter to Vince and Elizabeth from customer service unit of ISO Commercial Risk Services Inc., 6220 SW 29th

~~PRIVILEGED AND CONFIDENTIAL~~

Street, Topeka, Kan (913) 273-5742, re information about house to be insured;

- an empty plastic bag;

- a brown and green CNA folder that contained:
  --6/1/93 letter to Vince and Elizabeth from Cindi Thessing of Ramsey Krug, etc., with attachment; letter refers to enclosed endorsement requesting "several" changes in CNA Universal Security personal insurance; h/w on top says "folder"; enclosed endorsement lists changes in policy, including change of address, additional "contents" coverage on rental in DC (3027 Cambridge Place, N.W.), increase in coverage for Arkansas house and change in status of Arkansas house to tenant occupied;
  --coverage summary of the property & casualty policy issued by CNA (same policy # and period as noted above); appears to be standard policy;
  --a copy of CNA's Universal Security Policy, Deluxe, with form endorsements and other information;
  --a CNA pamphlet;

2) "Metropolitan Washington/Baltimore Area Map" published by Relocation Counseling Center;

3) Black notebook entitled "Foster Notebook"; computer-generated chart listing names (in alphabetical order), company, work phone, fax, home phone, address and notes (e.g., title); h/w on some pages; toward end, post-it with h/w name Larry Wadkens; over 100 pages; appears to be a client listing from his old law firm;

4) loose papers:
  --Federal Credit Union ATM slip dated 6/17/93: w/drw $100; ck'ing balance 10342.91; transfer of 3000 from ck'ing to savings; balance 7342.91;
  --two post-its with h/w re a rental in Georgetown, a name and tel #, and note that he can be reached at 686-6768;
  --2/14/93 Amex receipt lunch at Ebbitt Grill;
  --3/4/93 Amex receipt for Cactus Cantina dinner;
  --2/27/93 Amex receipt (can't read name of vender)
  --2/4/93 Amex receipt for the Palm (h/w on back - appears to be Trade Asoc, Roseanne, Brown, Carol Kiernan")
  --2/28/93 Amex receipt for dinner at J. Paul's
  --2/13/93 Amex receipt for dinner at Iron Gate
  --2/12/93 Amex receipt for dinner at Sam & Harry's
  --5/19/93 receipt from the Frame Shop in Alexandria; sold to Laura Foster
  --piece of paper with h/w names ("Trudy Felder, Naomi Nover, Deborah (debra) Butler, Lockesburg")

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~~PRIVILEGED AND CONFIDENTIAL~~

--h/w notes on White House stationary ("Sally Herman, Chevy Chase, 301/718/6815, sit down @ 6:15, Deborah Ashford")

--White House envelope; empty; h/w on front addressed to VF, marked Personal, from what appears to be "Jim Bail..." (maybe Bailey)

--an adding machine tape listing several numbers; h/w note says "checks I mailed 1/19/93";

--March PEPCO bill, pay stub missing

--pkt of Schwab "remittance documents", some used, with h/w notes of dates of transactions and amounts

--Report to shareholders and dividend statement re Northwest Natural Gas stock, in envelope postmarked 2/23/93, stamped received 3/1/93

--an invitation to opening of Laura Gosch gallery, postmarked 2/25/93, rec'd 3/1/93

5) a pair of brown glasses (bifocals) in a brown case;

6) check stubs for check nos. 101 thru 125;

7) deposit slips and envelopes for a Schwab account;

8) file marked "Personal & Confidential 1993 Personal Photos"; several copies of a picture of VF (appears to be official photo) and several pictures of VF with President, McLarty, Nussbaum and others;

9) file marked "Personal & Confidential 1993 Rose Building Limited Partnership"; an assignment of his interest in Rose Building Partnership to that Partnership; signed 4/1/93;

10) file entitled "Clinton Memos" with two memos, both from the President (one has an article att'd with stamp President has seen"). dated 4/19 & 2/3 **[probably atty-client privilege; need to tell B. Nussbaum and return]**;

11) file entitled "Lease Agreement 1993 5414 Stonewall"; signed original lease agreement dated 6/9/93 and two copies on house in Little Rock; allows subletting with permission; h/w notation added says permission shall not be unreasonably withheld;

12) file entitled "VWF Personnel Folder" includes:

- 3 personnel forms, including designation of beneficiary (wife 100%), dated 1/15 (appears that he may have gotten a term life insurance policy through the gov't at this time)

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- FERS booklet; notice re new leave and earnings statement; FEHB booklet; Federal civilian employee booklet;

13) file entitled "VWF Form 278" includes two memos:

- 3/19/93 memo from Frank Sobol to VF re SF-278 form (discussion of avoiding appearance of conflicts re Merck stock and Rose firm);

- 2/24/93 memo from VF to Sobol and Beth.Nolan responding to Sobol memo

14) file entitled "Personal & Confidential 3027 Cambridge Place NW", includes:

- h/w notes on paper entitled Vincent Foster Jr. (h/w #'s and "Crestar Bank # Z163805")

- brochure for Georgetown

- Dent Place Assoc newsletter

- 5/28/93 invoice from James J. Madden

- 3/31/93 letter to "Fosters" from Charles F. Eason, 540 N Street SW, with executed copy of lease dated 3/5/93

- copy of letter to Eason, check for deposit, a lease signed by Vincent and Lisa.

- 2/24/93 letter from Eason to VF enclosing proposed lease; h/w notations on letter and lease;

- another copy of 3/5/93 executed lease

- employment eligibility verification form I-9 for Loretta Sears dated 4/1/93; yellow post-it on front with h/w "household employee, personal and confidential"

- torn form for "Maintenance Fund Contribution"

- form leases faxed from Rose firm

- form leases from Rose firm retyped;

15) file entitled "Personal & Confidential Moving Expenses", includes statement from Hertz for rental from 3/17 to 4/8, National Airport;

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16) file entitled "VF 1992 tax returns" with h/w "estate", includes:

- copy of h/w letter on personal stationary to Harlin Camp, Lafayette Co. Collector re mineral interest tax; att'd is copy of check and two page statement of taxes due

- copy of bill from Michael Turner, CPA, Hope, Ark., (777-6811) for "1992 fiduciary income tax return", dated 4/9/93; h/w note "forward to W Wilson Jones Rose Law firm"

- copy of 3/31 letter to Turner and Jones on personal letterhead re estate of his father

- two invoices dated 4/15 from L Cotton Thomas & Company, CPAs, 620 West Third, Little Rock

- two copies of one pg letter from Jones on Rose letterhead to Mike Schaufele of L Cotton Thomas dated 3/25 re Foster Grandchildren Trust

- two copies of 3/25 two pg letter to Mike Turner re federal and state income tax returns from Jones on Rose letterhead

- a grey folder entitled Michael Turner CPA; yellow post-it with h/w note "Vincent Foster Sr. estate personal & conf"; includes 1992 tax returns on estate of father;

17) folder entitled "personal & confidential mineral interests", includes

- American Exploration Co statement

- documents relating to mineral interests in land apparently conveyed under father's will;

18) file entitled " Personal & Confidential Financial Statement-1991 1040", includes:

- Draft 12/31/92 "personal financial statement of VF, Jr."; two copies, three pgs; second copy has h/w notes (appears to be prior draft)

- 1991 1040; pink post-it with h/w "this is the only one here";

19) file entitled "TWA Airlines", includes TWA frequent flier info; last statement dated 2/20;

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20) file entitled "Northwest Airlines", includes frequent flier info

- 6/14/93 letter informing NW of change of address and asking for update;

21) file entitled "Mid-west Express", includes freq flier info and same 6/14 letter;

22) file entitled "United Airlines", includes freq flier info and same 6/14 letter;

23) file entitled "Delta", includes freq flier info and same 6/14 letter;

24) file entitled "Lisa-Frequent Flyer", includes freq flier info;

25) file entitled "US Air", includes frequent flier information;

26) file entitled "VWF, III Resume & Bio", includes five copies of son's resume;

27) file entitled "Personal & Confidential Laura Foster", includes memo to VF from Mark Schulhof re summer internship at State Dept for daughter, dated 4/13;

28) file entitled "Personal & Confidential WH Federal Credit Union", includes

- NCUA brochure
- withdrawal/deposit slips dated 3/19, 3/23, 3/29, 3/17, 3/17
- WH Federal Credit Union ATM brochure
- WH Fed CU account stmt for period 1/93 to 3/31[1/]
- Direct deposit sign-up form dated 3/17 for WH Fed CU
- Rules & regs and terms & conditions for WH Fed CU;

29) file entitled "Personal & Confidential Truck", includes two copies of a form entitled "Statement of Consideration Paid; Odometer Disclosure Statement For A Vehicle Subject to Registration"; for 1984 Ford; signed by VF on 6/15; states that odometer reads 23900; fax from Richard OBrien, 2204 N Spruce,

---

1/ VF's soc sec # is 429-80-1132.

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Little Rock; listed sales price of 3250; faxed from Crews Muni & Synd on 6/15;

30) paper weight with initials engraved;

31) 12 framed pictures of
--two newspaper cartoons
--VF & wife with Clintons (in taxes)
--VF with Reno
--VF & wife with President in oval ofc (color)
--VF & wife with President in oval ofc (b&w, signed by President)
--VF & wife at ocean (7/26/92
--old b&w of a child (@ ~10)
--son? (color)
--daughter
--VF & daughter
--VF & wife? (color) at a gala

~~Justice~~

Margolies
Adam > DOJ
2 Park Service
2 Secret Service (Flynn)
2 FBI

GC

BN
Cliff Sloan
~~Stewart~~
Steve Neuwirth
Bill Burton (Richards)

BN gave description:

1) Top of Desk: White Hs News Report
video tape of 6/9/93 speech
W# calendar (xerox)
law b/ks
~~computer~~/secured phone user manual
Dir for secured phone
telephone dir)
~~campaign~~ brochures
→ list of t/c (7/20) ← Margolies
documents relating to First Family (Trust, etc.)
note to Vince re legal research re health care
correspondence re Georgetown Law Center
→ editorials ← Margolies wanted to know if critical
articles on health care
internal correspondence re d/c duties
letter re d/c duties
memo re summer duties
in folder entitled insurance → P&C ins; motor vehicle ins. ←
letters re Pres.
note re confirm. process
job applicant

his glasses on desk

M: subst? anyone say will ~~bear~~ hit you over head

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corresp re travel
cont'ing education
letters re Pres; WH matters
reprint from lawyer
judicial opin health care case
Ofc of Gov't Ethics pamphlet
internal memos from other counsel
letter to Biden
letter re WH social events
notes on pad
magazines
copies of WH correspondence
health malpractice reform
requests for speech
memo from VP
budget for GC
memo from WH w/ draft correspondence
phone log — ✓ 5/14
letter from Nat'l Archives re docs
memo re DC taxes -- memo from B Gray
→ name on page ←
green folder with lists of issues wk'd on

---

2) R top drawer (on right as seated)
→ — a map of metro Wash ←
— notes on issues wk'd on in GC ofc
— pad with notes on WH issues

another white pad of notes on WH issues (eg, use of military plane, cabinet retreat, ~~EE~~ volunteers, etc)

yellow pad of notes re transition

→ a dictaphone ← M: have someone listen to it; very soon
no tape

briefcase ← || Q: did he carry briefcase all the time?

BN: no; used as file folder

(3)

blue file of memos
copies of newspaper art(s) not @ him
1/8 letter for Hillary
fw note

notebook of notes of meetings, GC issues

May calendar ← M: look at

memo on expenditures, gifts
memo(s) on GC issues

mentioned Kennedy

letter to Reno from Dole
copies of newspaper art(s) (nothing pers to VF)

note pad w/ HW notes re GC issues
WH travel etc right rule
standards of ethical conduct

log of correspondence receipts for travel

unopened letter to VF from law firm (included resume)

newspaper art @ VF (1kg)
Atl Const (picture of staff when announced)
1/3 articles, Post art on opt(s)

memo on Clinton Pres library
memo re gifts (ethics)
correspondence re transition
memos re WH functions, inaugural
doc(s) & legal op(s) (OLC)

HW list of people from Lantsins

(4) 3 of 3 drawer

memo re potential applicant

M: look ← phone messages: 1/25, 1/26, 1/22, 1/27
Mtn to sci/
non-D// HCs

stationery
HW note from staff

h/w list of people who worked with & addresses
box of WH cards

2 of 3 on R = file drawer

left drawers

pls rev → list of phone #s in WH
file slips from Feb ←
paper clips; scotch tape

* checks
* mtg book
blank envelopes
h/w note on ethics
bills for utilities, hse
invitation
Charles Schwab recds

anyone in PC? any MD(s)? → * "Foster Notebook" — phone dir of people from Ar
notes & corresp re WH matters
inter-im phone dir
magazines
lists of WH employees

notebook WH log
Reagan & Bush GC memos

2 File drawer on R — work — contains files ← M: look at

Trash bag from that day: picked up 2 a day

envelope
credit union slip ← M: show balance yes
receipts ← M: he clearly waived this; abandonment
ofc memos
wh bulletins
~~bulletin~~ Pres schedule
h/w notes re pers ←

PBI: Can they look through trash?
h/w notes re work

Credenza: on R

matters re first family
mostly files re GC matters
notebooks on prospective nominees
supplies
candlesticks
notebook re jud nominations
notebk re St Justice
magazines
copy of Forward to bk & on Kennedy
Fed Rules of Civ Pro
BK on Mkt Liberalism

3/18 letter re posters of Pres.
card from friend

Credenza on L (w/ computer)

→ files
- mostly wk related

Mr. separate → Some pers files. tax returns, trip fliers, moving exps, lease

only Q is battle w/ counsel? don't give to counsel

files on official business

notebook re prop in Ark ←

bk sp Wash DC

---

bk shelf =

books

TV

notebook on jud selection process

→ pictures

notebks on GC issues

O/2 to give to family pictures & memorabilia

healthcare task force files

speeches

articles

draft legislation

note pds re health care

M= what @ computer? Please review

End tables = blks, etc

Burn bag: picked up every day

H/W notes re GC issues
all w/k related

FBI – most people leave notes

Igrm put together from 2
MI – gunshot wd / close distance
autopsy rpt – 2 wks

Want to discuss pcw effects?
criminal prop

Department of Justice
Washington, D.C. 20530

514-4945

David Margolis
~~Chief~~
Organized Crime & Racketeering Section
Criminal Division
Phone: 202-633-3516

690-5050
(202) ~~426-6680~~

PETER W. MARKLAND
United States Park Police

HEADQUARTERS
1100 OHIO DRIVE, S.W.
WASHINGTON, D.C. 20242

SWIDLER & BERLIN, CHARTERED
3000 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20007-5116
(202) 424-7500 (main#), 701131 (telex#)
(202) 424-7643 (telecopier/fax#) - 3rd Floor
(202) 424-7645 (telecopier/fax#) - 4th Floor

TELECOPIER/FAX TRANSMITTAL

TODAY'S DATE 14 June '95 TIME _____

TRANSMITTAL TO

INDIVIDUAL Mark H. Tuohey, III, Esq.

COMPANY NAME Office of Independent Counsel

DIRECT PHONE# 202/514 - 8688

FAX/TELECOPIER# 514 - 8802

TOTAL# OF PAGES 3 (including cover page)

TRANSMITTAL FROM

INDIVIDUAL Jim Hamilton

DIRECT PHONE# 424 - 7826

ATTORNEY CODE# 150 BILLING CODE# 8821.01

ADDITIONAL MESSAGE (If any)

Copy to
Brett
then file

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

June 14, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

VIA FACSIMILE

Mark H. Tuohey, III, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Dear Mark:

This will confirm our conversation of today where you agreed that,

Sincerely,

James Hamilton

JH/sd

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

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JH/sd

5014654.1

****
*** ACTIVITY REPORT ***
****

RECEPTION OK

TX/RX NO.	6838
CONNECTION TEL	202 424 7643
CONNECTION ID	
START TIME	06/14 12:51
USAGE TIME	01'52
PAGES	3
RESULT	OK

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

June 14, 1995

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3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

FOIA #56806 (URTS 16304) DocId: 70105044 Page 43

SWIDLER & BERLIN
CHARTERED

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DIRECT DIAL
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3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 301131 ■ FACSIMILE (202)424-7643

FOIA #56806 (URTS 16304) Docid: 70105044 Page 44

[redacted]

~~Justice~~

Margolies
Adam > DOJ
2 Park Service
2 Secret Service (Flynn)
2 FBI

GC

BN
Cliff Sloan
~~[redacted]~~
Steve Neuwirth
Bill Burton (Richards)

BN gave description:

1) Top of Desk: White Hs News Report
video tape of 6/9/93 speech
W# calendar (xerox)
law b/ks
~~computer~~/secured phone user manual
Dir for secured phone
telephone dir)
~~campaign~~ brochures
→ list of t/c (7/20) ← Margolies
documents relating to First Family (Trust, etc.)
note to Vince @ legal research re health care
correspondence re Georgetown Law Center
→ editorials ← Margolies wanted to know if critical
articles on health care
internal correspondence re o/c duties
letter re o/c duties
memo re summer duties
in folder entitled issues → P&C ins; motor vehicle ins. ←
letters re Pres,
note re confirm. process
job applicant

his glasses on desk

M: subst? anyone say will hit you over head

corresp re travel
cont'ing education
letters re Pres; WH matters
reprint from lawyer
judicial op'n health care case
Ofc of Gov't Ethics pamphlet
internal memos from other counsel
letter to Biden
letter re WH social events
notes on pad
magazines
copies of WH correspondence
health malpractice reform
requests for speech
memo from VP
budget for GC
memo from WH w/ draft correspondence
phone log — ✓ 5/14
letter from Nat'l Archives re docs
memo re DC taxes -- memo from B Gray
→ name on page ←
green folder with lists of issues wk'd on

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2) Rtop drawer (or left as seated)
→ — a map of metro Wash ←
— notes on issues wk'd on in GC ofc
— pad with notes on WH issues

FOIA #56806 (URTS 16304) DocId: 70105044 Page 46

another white pad of notes on WH issues (eg, use of military plane, cabinet retreat, ~~Ex~~ volunteers, etc)

yellow pad of notes re transition

→ a dictaphone ← M: have someone listen to it; very soon
no tape

briefcase ← || Q: did he carry briefcase all the time?
BN: no; used as file folder

(3)

blue file of memos
2 pcs of newspaper art(s) not @ him
1/8 letter for Hillary
tw note

notebook of notes of meetings, GC issues
May calendar ← M: look at

mentioned Kennedy

memo on expenditures, gifts
memo(s) on GC issues

log of correspondence
receipts for travel

letter to Reno from Dole
copies of newspaper art(s) (nothing pers to VF)

notebook pad w/ WH notes re GC issues
WH travel etc right rule
standards of ethical conduct

unopened letter to VF from law firm (included resume)

newspaper art re VF (1pg)
Atl Const (picture of staff when announced)
1/3 articles, Post art on opt(s)

memo on Clinton Pres library
memo re gifts (ethics)
correspondence re transition
memos re WH functions, management
doc(s) & legal op(s) (OLC)

WH list of people from Lantsins

(4) 3 d/3 drawer

memo re potential applicant

M: look ← phone messages: 1/25, 1/26, 1/22, 1/27
if time to sit
non-d/ H/Cs

stationery
h/w note from staff

h/w list of people who w/d w/ & addresses
box of WH cards

2573 on R = file drawers

left drawers

pls rev → list of phone #s in W/H
h/c slips from Feb ←
paper clips; scotch tape

* checks
* mtg book
blank envelopes
h/w note on ethics
bills for utilities, hse
invitation
Charles Schwab recds

anyone in PC? any INDs? → * "Foster Notebook" — phone dir of people from Ar
notes & corresp re W/H matters
inter-im phone dir
magazines
lists of W/H employees

internal WH log
Reagan & Bush GC memos

2 File drawer on R — contains files ~~&~~ work ← Mr look at

trash bag from that day : picked up 2 a day

envelope
credit union slip ←
receipts ←
ofc memos
WH bulletins
~~bulletins~~ Pres schedule
h/w notes re pers ←

Mr: show balance
yes
Mr: he clearly waived this; abandonment

FBI: Can they look through trash?
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matters re first family
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copy of Forward to bk Ron Kennedy
Fed Rules of Civ Pro
BK on Mkt Liberalism

3/18 letter re posters of Pres.
card from friend

Credenza on L (w/ computer)

→ files
- mostly WH related

Mr. separate → Some pers files. tax returns trip fldr moving stps lease

only Q is battle w/ counsel? don't give to counsel

files on official business

notebook re prop in Ark ←

bk sp Wash DC

bk shelf =

books

TV

notebook on jud selection process

→ pictures

notebks on GC issues

O/S to give to family pictures & memorabilia

healthcare task force files

speeches

articles

draft legislation

note pds re health care

M= what@ computer? Pleas review

End tables = bks, etc

Burn bag: picked up every day

H/W notes re GC issues
all w/k related

FBI – most people leave notes

Igrm put together from 2
MZ – gunshot wd / close distance
autopsy rpt – 2 wks

Want to discuss pew effects?
crim on $ ld prop

Department of Justice
Washington, D.C. 20530

514-4945

David Margolis
~~Chief,~~
Organized Crime & Racketeering Section

Criminal Division
Phone: 202-633-3516

690-5050
(202) ~~426-6680~~

PETER W. MARKLAND
United States Park Police

HEADQUARTERS
1100 OHIO DRIVE, S.W.
WASHINGTON, D.C. 20242

Sam Dash Letters

Screened By: NARA (RD-F) Date: 07-18-2018 DOCID: 70105046

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 2-6-97

TO: Sam Dash

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Office of the Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message: We are starting to receive letters in response to this letter to the editor. What would you like OIC to do with the letters? The two pieces of mail we received today are included in this fax.

CONFIDENTIALITY NOTE

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a:\faxform.nmr

Kenneth Starr

Seven reasons why Whitewater Prosecutor Kenneth Starr is not independent and should step down:

1) While working as independent prosecutor, he made a $1,750 campaign donation to President Clinton's political foes in the presidential campaign.

2) Mr. Starr remains in private legal practice. Between August 1994 and August 1994, he was paid $1.14 million by his firm. He represents several major tobacco companies who are accused of suppressing information about nicotine addiction and are sworn opponents of the Clinton Administration's attempt to regulate the tobacco industry.

3) Mr. Starr represented the International Paper Company, at the time he was appointed. International Paper sold land to the Whitewater Development Company. Robert Fiske, Mr. Starr's predecessor, was removed in 1994 after 10 GOP congressmen assailed Mr. Fiske for representing International Paper in the past.

4) Mr. Starr has represented the state of Wisconsin in a challenge to its GOP-backed school voucher program. His fee was paid in part by the ultra-conservative Bradley Foundation of Pennsylvania, which helps finance the highly partisan, right-wing American Spectator.

5) Before Mr. Starr was appointed independent prosecutor, the conservative organ The Washington Times headlined Mr. Starr as "Friend of Court is Foe of Clinton."

6) Mr. Starr has investigated an agency, the Resolution Trust Corporation, that was suing his law firm for $1 million for allegedly aiding a tax scam conducted by a failed S&L in Denver. His firm paid out $325,000 in a settlement. An ethics expert called Starr's conduct in the case a "conflict both palpable and unacceptable."

7) The *Arkansas Times* estimates Mr. Starr, the Congress and the RTC had spent about $31 million of our tax dollars in their Whitewater investigations as of March 1996 and that Mr. Starr was increasing the national debt at $1 million a month, for a grand total of $40 million at the end of 1996. Who is going to call an end to this unfettered partisan stalking of the president and First Lady?

Sam Dash, the ex-Watergate prosecutor and $3,200-a-week ethics adviser to Mr. Starr, was quoted as saying there is "no relationship between Whitewater and any of the major scandals in our time that have required the appointment of an independent counsel."

What you can do is write Sam Dash and insist that he call for the resignation of Mr. Starr. Write him at Office of the Independent Counsel, 1001 Pennsylvania Avenue NW, Suite 490-North, Washington, D.C. 20004. The fax is 202-514-8802

Rev. Andrew J. Weaver
Kailua, Hawaii

JANE T McGEHEE

January 31, 1997

Dear Mr. Dash,

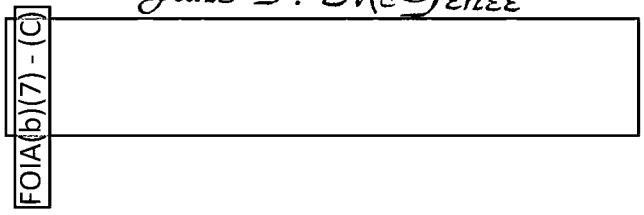
I am writing to express my protest of the grotesquely expensive witch hunt Mr. Kenneth Starr is pursuing. There is no statute of conflict of interest we find it appalling anyone could condone such an expedition.

Our tax dollars (millions) could perhaps be put to better use i.e. feeding the poor, improving education or dealing with our out dated infrastructure. We as simple taxpayers are doomed to foot this ridiculous bill for a mans vendetta against the President.

We & I am calling for Mr. Starrs resignation immediately as I am disgusted.

Sincerely,
Jane M. McGehee

Jane T. McGehee



February 3, 97

Honorable Sam Nash,

Kenneth Starr is so sickening - he reminds me of the most vicious slanderer, back biter trouble maker - why do we have to put up with him - Spend Money for this !!!! President Clinton is doing a good job under the most dreadful of strain I've ever heard of. Starr is like a bulldog, someone needs to give him a boost by the seat of the pants and throw him O H I O to where - I don't call him Mr to get that title a person has to be a gentleman and he is far from being anything like an gentleman - Why do the Liberals think this Money he is spending? Sick Sick -

elderly, poor, street people misfortunate people need help and helpless ones. Starr is sick people ~~and~~ nothing — is doing nothing to help the situation in the U.S. let alone the Misfortunates in other Countries.

Starr needs to sit down and read what God says in the Good book. He is for Self and no one else to satisfy his desire to ruin Some one elses life, not just One — but many lives — The papers have wasted space on him can long we don't like the Little Rock paper D. Gazette licence to write on Starr.

Starr really needs a good dose of the same thing Pres. Kennedy is to our President and his family — DOWN WITH STARR —

make Starr quit using
money that is not his
why that this can't be done?
Take him out & shoot
I have 2 brothers in the Army
give the money to research or
whatever it will do good,

Sincerely,

Willie M. Hogan

FOIA(b)(7) - (C)

I'm fed up with Stairs
(Climbing in many
Places.)

I'm fed up with Stairs
period!! Get him
Fired!! Fire!!

DATE: 1-31-97

ARKANSAS TIMES

PAGE: 7

Kenneth Starr

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What you can do is write Sam Dash and insist that he call for the resignation of Mr. Starr. Write him at Office of the Independent Counsel, 1001 Pennsylvania Avenue NW, Suite 490-North, Washington, D.C. 20004. The fax is 202-514-8802

Rev. Andrew J. Weaver
Kailua, Hawaii

RECEIVED
98 FEB -5 P 3:15
OFFICE OF
INDEPENDENT COUNSEL

Ms. Dawn Dash
Office of The Independent Council
1001 Pennsylvania Ave NW - Suite 490 N
Washington, D.C.
20004

Jane T. McGehee

FOIA(b)(7) - (C)

JANE T McGEHEE

January 31, 1997

Dear Mr. Dash,

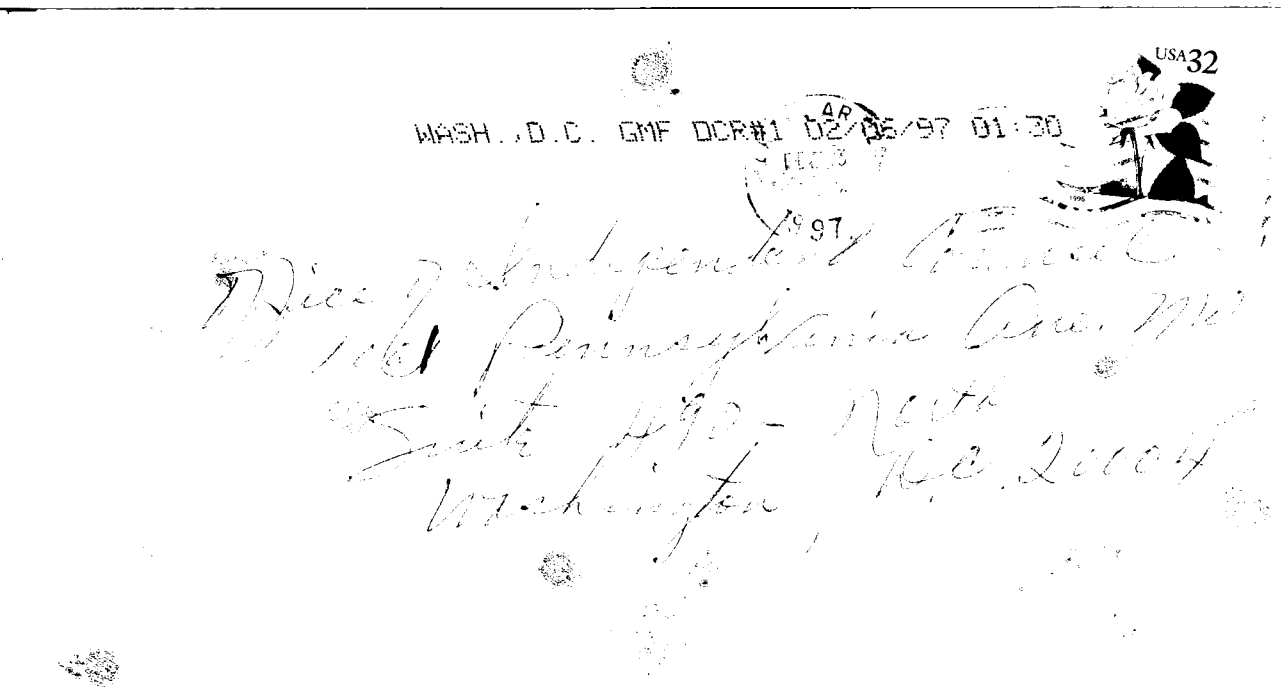
I am writing to lend my protest of the outrageously expensive watch Kenneth Starr is pursuing. There is no statute of limitations that would condone such an expenditure.

Our tax dollars (millions) could perhaps be put to better use i.e. feeding the poor, improving education or dealing with our old and infrastructure. We as simple taxpayers are doomed to foot this ridiculous bill for a man who tells a lie to the President.

Like so I am calling for Mr. Starr's resignation immediately as I am disgusted.

Sincerely,

Jane McGehee



Vice President Albert Gore
1600 Pennsylvania Ave. NW
Suite 450 - North
Washington, D.C. 20004

February 3, 97

Honorable Sam Kirk,
Kenneth Starr is a
sickening - he reminds me
of the most Vilious slanderer,
Liar, Cutter trouble maker
- Why do we have to put up
with him Spend Money for this ????
President Clinton is doing it
and pin under the most
dreadful strain & Pressure
ever heard of. Starr is
like a bulldog, nemore
ing the seat of the pants
and throat - him C.I.T. &
Where - I don't call him Mr
I see that title a person has
to be a Gentleman and he
is far from being anything
like a Gentleman. I thought
we Elected this Morning he
is spending? Sick sick -

elderly, poor, sick of people misfortunate people need help and Star to helpless, doing nothing — is situation in the U.S. let alone the Misfortunate in other Countries.

Star needs to right chain in the God back, it else to nothing one line thing his time life, not just one — but many lives — the space wasted space within us clam like the fifth duck paper D. Stanzite [illegible] Star, Star really needs a good [illegible] to do Same thing the [illegible] holiday — to our President and

Down with STAR —

make Starr quit having
money that is not his.
Why has this land allotted
to him not been sold
& the proceeds deposited
to his credit? Give him the money &
Steer clear of trouble.

Sincerely,

Wm. M. Hare

FOIA(b)(7) - (C)

Her head up with Stars
Circling around many
Places.)

Her head up with Stars
Circling around her hair
Like a Tiara!!

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105048

THOMAS [redacted]

WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

July 7, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

[redacted]

Very truly yours,

Benito Romano

Enclosure

cc: Susan P. Thomases, Esq.

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

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WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

January 16, 1996

BY FEDERAL EXPRESS

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh, Esq.
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Re: Production of Documents

Dear Brett:

[redacted]

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted]

Very truly yours,

Benito Romano

Enclosure

cc: Susan P. Thomases, Esq.

65038

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 26, 1996

Benito Romano
Willkie, Farr & Gallagher
One Citicorp Center
New York, NY 10022

Dear Mr. Romano:

Thank you for making arrangements so that we can ask your client Susan Thomases a couple of very brief follow-up questions. Please contact me if you have any questions.

Sincerely yours,

Brett Kavanaugh

Brett M. Kavanaugh
Associate Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 11-26-96

TO: Benito Romano

Company Name: _____

Fax Number: 212-821-8111 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

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a:\faxform.nmr

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 10, 1996

Benito Romano, Esq.
Willkie Farr & Gallagher
153 East 53rd Street
New York, NY 10022-4677

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: Susan P. Thomases

Dear Mr. Romano:

Earlier this year, you and Mr. Levander advised me that Susan Thomases had ceased actively practicing law due to her medical condition. You advised that certain people at Willkie Farr & Gallagher were aware that she was winding down her legal practice.

[redacted]

Thank you for your cooperation.

Sincerely,

KENNETH W. STARR
Independent Counsel

By: Steven M. Colloton
Steven M. Colloton
Associate Counsel

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Date 9/10/96

From (Your Name) Please Print: Steven M. Colloton

Your Phone Number (Very Important): (202-514-8688

Company: INDEPENDENT COUNSEL MGS&L

Department/Floor No.:

Street Address: 1001 PENN AVE NW STE 490-NORTH

City: WASHINGTON State: DC ZIP Required: 2 0 0 0 4

To (Recipient's Name) Please Print: Benito Romano, Esq.

Recipient's Phone Number (Very Important): (212) XXX-8000

Company: Willkie Farr & Gallagher

Department/Floor No.: Room 551

Exact Street Address (We Cannot Deliver to P.O. Boxes or P.O. Zip Codes.): 153 East 53rd Street

City: New York, State: New York ZIP Required: 10022-4677

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14 [ ] FEDEX TUBE	54 [ ] FEDEX TUBE
Economy Two-Day (Delivery by second business day †)	**Government Overnight** (Restricted for authorized users only)
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	41 [ ] GOV'T PACKAGE

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6 [ ] DRY ICE Dangerous Goods Shipper's Declaration not required
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[ ] DESCRIPTION
12 [ ] HOLIDAY DELIVERY (If offered) (Extra charge)

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(1)

Thomases

Benito Romano

12/15/95

11:00 a.m.

[redacted]

- if we can't tell, we produce it
- redacting only those that we feel comfortable ⇒ level of certainty

BR will

- mark-it-up + show it
- firm may need ⇒
- content ⇒ subject matter

[redacted]

send you that to you

⊛ ~~tone~~ surprising

→ next year

over-react ⇒ delighted to turn them over

(2)

- Susan's **secretaries**
- done a lot to reconstruct where she was and what she was doing
- subject ⇒

A
- represent respected member of bar
- Am D asking
- tension between defense function + prosecutorial function

BK

WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

July 7, 1995

Brett M. Kavanaugh, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

ed. R. Crim. Pro. 6(e) Grand Jury

Dear Brett:

[redacted]

Very truly yours,

Benito Romano

Enclosure

cc: Susan P. Thomases, Esq.

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

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BK

WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

July 11, 1995

BY FEDERAL EXPRESS

Brett M. Kavanaugh, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

[redacted]

Very truly yours,

Benito Romano

Enclosure

cc: Susan P. Thomases, Esq.

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

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BK

WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

December 11, 1995

BY FACSIMILE & U.S. MAIL

Brett M. Kavanaugh, Esq
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mr. Kavanaugh:

We have received your fax of December 9, 1995 and will

With respect to the other issues and requests set forth in your letter, we will be preparing a separate response to address them.

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

Thank you for your understanding of these matters.

Very truly yours,

Benito Romano

Enclosure

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 22, 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

BY FACSIMILE

Benito Romano, Esq.
Willkie Farr & Gallagher
One Citicorp Center
New York, NY 10022

Dear Mr. Romano:

Pursuant to our telephone discussion yesterday,

Thank you for your cooperation. Please do not hesitate to contact me at (202) 514-8778 if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

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****

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WILLKIE FARR & GALLAGHER

Benito Romano

New York
Washington, DC
London
Paris

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

December 11, 1995

BY FACSIMILE & U.S. MAIL

Brett M. Kavanaugh, Esq
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mr. Kavanaugh:

We have received your fax of December 9, 1995 and will

With respect to the other issues and requests set forth in your letter, we will be preparing a separate response to address them.

One Citicorp Center
153 East 53rd Street
New York, NY 10022-4677

212 821 8000
Fax: 212 821 8111
Direct: 212 821 8258

Thank you for your understanding of these matters.

Very truly yours,

Benito Romano

Enclosure

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

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Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 15, 1995

David H. Williams
350 Gans Street
217 West Second Building
Little Rock, Arkansas 72201

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Williams:

As we discussed on the telephone, attached is

Documents previously produced to the Office of Independent Counsel or to Mr. Fiske's office need not be reproduced, but please identify the previous production dates. Please note instruction 2(h) of the rider regarding any documents that have not been produced to the Office of Independent Counsel or to Mr. Fiske's office and that are no longer in the possession, custody, or control of your client.

Thank you for your cooperation and for agreeing to accept service by facsimile. Please contact me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 12-15-95

TO: David Williams

Company Name: _____

Fax Number: 501-376-9347 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: Per our conversation.

_____

_____

_____

_____

_____

_____

CONFIDENTIALITY NOTE

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a:\faxform.nmr

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0387
CONNECTION TEL	85013769347
SUBADDRESS	
CONNECTION ID	
ST. TIME	12/15 11:57
USAGE T	02'54
PGS.	7
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 12-15-95

TO: David Williams

Company Name: _____

Fax Number: 501-376-9347 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: Per our conversation.

THE WHITE HOUSE
WASHINGTON

July 10, 1995

BY FAX

Brett Kavanaugh, Esq.
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

Please call me at (202) 456-5092 if you have any questions.

Sincerely,

Miriam Nemetz

Miriam R. Nemetz
Associate Counsel to the President

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 6/20/95

TO: DAVID WILLIAMS

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: BRETT KAVANAUGH

Number of Pages: 2 (including this cover sheet)

Message: _____

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c:\faxform rdb

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	6946
CONNECTION TEL	85013769347
CONNECTION ID	
START TIME	06/20 15:05
USAGE TIME	01'16
PAGES	2
RESULT	OK

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302s - (FOIA + CONGRESS)

DELETION CODES

A. Information which is properly classified pursuant to Executive Order, the disclosure of which could reasonably be expected to cause damage to the national security or the conduct of the Government's international relations.

B. Information, the disclosure of which would tend to reveal the identity of an informant.

C. Information obtained from a foreign government or international organization where there is an agreement or understanding that the information received will be treated confidentially.

D. Information protected under the Grand Jury Secrecy provision -- Rule 6(e) of the Federal Rules of Criminal Procedure.

E. Information, the disclosure of which would tend to identify a source of information, where confidentiality is expressed or implied.

F. Administratively designated FBI file numbers, which represent individuals or matters which are not the subject of this file.

G. Information, the disclosure of which would tend to jeopardize an ongoing investigation.

H. Information, the disclosure of which would tend to compromise the effectiveness of an investigative method or technique.

I. Information, the disclosure of which would divulge opinions, recommendations, and advice generated in the decision-making process of the Government.

J. Information, the disclosure of which is prohibited by Federal statute (with citation to the appropriate statue).

K. Information protected under the attorney-client privilege.

L. Information or material protected under the attorney work product privilege.

M. Information which is not relevant to the matters at issue in this administrative matter.

N. Information originating with another Government agency which must be referred to that agency for review. The use of this code does not waive any applicable codes which may be applied by the originating agency.

O. Other, as specified.

P. Information, the disclosure of which would be an unwarranted invasion of the personal privacy of an individual not party to this administrative matter.

AA

John,
In thinking some more, I have become agitated by this issue. Could you read this over? Thx.
BK

MEMORANDUM

TO: All OIC Attorneys
Professor Dash

FROM: Brett Kavanaugh

DATE: March 28, 1995

RE: 302's -- FOIA and Congress

In recent weeks, witnesses in several investigations in Washington have become increasingly concerned that their 302's will be available to the public under FOIA; or if not, will be turned over to Congress by this Office. It is my view that our answers to these questions will affect (and have already affected) the willingness of witnesses to be fully forthcoming. (One witness all but said as much.) For that reason, it is imperative that we adopt a consistent and coherent policy on these issues. For now, I will simply outline the basic issues; a lengthier analysis and perhaps a team discussion likely will be necessary in the near future.

1. FOIA Exemption 7(d) exempts from disclosure records that "could reasonably be expected to disclose the identity of a confidential source" or "information furnished by a confidential source." The Supreme Court interpreted that provision in Department of Justice v. Landano, 113 S. Ct. 2014 (1993) (9-0). Quoting the legislative history, the Court stated that Exemption 7(d) applies if the source "provided information under an express assurance of confidentiality or in circumstances from which such an assurance could reasonably be inferred." Id. at 2019. The Court then considered the circumstances under which an assurance of confidentiality could reasonably be inferred. First, the Court stated that an assurance of confidentiality could be inferred even in situations where the witness or the government anticipated or could have anticipated that Brady and applicable procedural rules such as the Jencks Act might ultimately require disclosure of the information. Id. at 2020. The Court reasoned that "an exemption so limited that it covered only sources who reasonably could expect total anonymity would be, as a practical matter, no exemption at all." Id. The Court stated, therefore, that a confidential source is one who "furnished information with the understanding that the FBI would not divulge the communication except to the extent the Bureau thought necessary for law enforcement purposes." Id.

The Court then considered the Government's argument that an assurance of confidentiality is inherently implicit whenever a source cooperates with the FBI in a criminal investigation -- a position that would render virtually all 302's automatically exempt from FOIA disclosure. The Court did not go as far as the Government wished; the Court stated: "[W]e have determined that

→ Why don't we just put that at the intro for every new 302?" witness X spoke to us under an express assurance that the info. would only be divulged to the extent FBI or OIC deem necessary for law enforcement purposes.

it is unreasonable to infer that all FBI criminal investigative sources are confidential, [but] we expect that the Government can often point to more narrowly defined circumstances that will support the inference. . . . We agree that the character of the crime at issue may be relevant to determining whether a source cooperated with the FBI with an implied assurance of confidentiality. So too may the source's relation to the crime." Id. at 2023. The Court did not spell out this standard in much detail, however.

In an investigation of this nature and magnitude, I think we can make good arguments with respect to a large percentage of our sources that those sources "furnished information with the understanding that the FBI would not divulge the communication except to the extent the Bureau thought necessary for law enforcement purposes." Id. at 2020. We have especially strong arguments with respect to information provided by someone "on the inside" who may face reprisals of one form or another if their information becomes public. See Landano, 113 S. Ct. at 2023 (listing such examples).[1]

2. Upon request, we obviously should produce to Congress any 302's from closed investigations that we would be required to disclose under FOIA. But what about 302's from closed investigations that would not be disclosed under FOIA? That is an extremely delicate issue, one of great importance to many witnesses. (In that regard, I note that numerous witnesses have expressed extreme displeasure at the fact that their 302's on the Foster death are now publicly available at the Archives and have become the subject of press articles.)

While we will have to consider many issues in resolving this important question (for example, standard DOJ practice, executive privilege, etc.), my initial position is that we should treat 302's that are not subject to disclosure under FOIA as sacred unless Congress decides to investigate our investigation under 28 U.S.C. §595(a)(1), as opposed to investigating the underlying facts. ~~Assuming that Congress is investigating only the underlying facts,~~ I fear that a policy of producing those 302's that would not be disclosed under FOIA will hinder and impede our continuing investigation and cause harm to future investigations. Under such a policy, I would expect that witnesses will be quite weary if, as often will be the case, they know that the information they provide might someday be disseminated to Congress and the public.

In short, Congress has every right to investigate the same subjects we are investigating, but it is not clear to me that Congress has any right to piggy-back on our investigation by using interviews that have been conducted in circumstances where the witnesses reasonably expected confidentiality.

---

[1] I have explored this issue and plan to explore it in more detail with the FOIA liaison at DOJ, Peggy Irving.

general principles

- will not

- routinely turn over 302's to Congress
  → protective order

- don't withhold from Congress something you would turn over to FOIA
  = closed

- clarify whether asking for confidentiality
- ask whether want confidentiality

- explicit assurance of confidentiality would be better than nothing

- doesn't come up that often
- rare that

- historical practice of 302's
- GAO doing studies + audits

NO PENDING

redactions

- red tape

- ⊛ 6(e) can be interpreted very broadly
  - → non-6(e) material ⇒ no work product, deliberative material turned over in closed cases
  - → executive privilege
    - ↓
    - open ⇒ immediate fear of thwarting investigation
    - chilling effect for future prosecutors

- line is wavy
- congressional subpoena
- work out accommodation

rationale

- former at beginning ⇒ that helps

Dingell

- Andrea Symington
- Monique
- JoJo

Meeting

① 302's –
when turned over?
why?

② difference between investigation of investigation and investigation of events

③ chilling effect blurs distinction between open + closed !!

- Congress is going to be seeking our 302's because they are not going to be holding

Foster documents

* confidential source
* open v. closed

ACCOMMODATIONS

- closed hearings
- identities only to certain members

+accommodation

↘ Main Justice

Vicki Sloan

dispute

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VERVEER, MELANNE

WILLKIE FARR & GALLAGHER

Theodore Case Whitehouse

Washington, DC
New York
London
Paris

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

21 December 1995

BY FACSIMILE AND
FIRST CLASS MAIL

Brett M. Kavanaugh, Esq.
Associate Counsel
Office of the Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Re: [redacted]

Dear Mr. Kavanaugh:

This letter is sent to memorialize our agreement to postpone the deadline for [redacted]

Mrs. Verveer and I appreciate your consideration.

Sincerely,

Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036-3384
202 328 8000

Telex: RCA 229800
WU 89-2762
Fax: 202 887 8979

WILLKIE FARR & GALLAGHER

Three Lafayette Centre
Suite 600
1155 21st Street, N.W.
Washington, D.C. 20036-3384

FAX TRANSMISSION

Date: December 21, 1995
Time: 5:24 pm
Total No. of Pages: 2
(including this page)

Client/Matter Number: 99985/0016

Attorney Number: 5989

Fax Number (with country and area code): **202/514-8802**
Telephone Number (with country and area code): 202/514-8688

City: State: Country:

Please return fax confirmation to: Theodore C. Whitehouse

FROM: Theodore C. Whitehouse | Ext. 4746

TO: Brett Kavanaugh, Esq.

RE: Attached

IMPORTANT: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the postal service. THANK YOU.

ATTENTION FAX OPERATOR

If any problem: Call (202) 328-8000 Extension 4870 or 4854

Fax transmissions may be sent to: (202) 887-8979

WILLKIE FARR & GALLAGHER

Theodore Case Whitehouse Washington, DC
New York
London
Paris

21 December 1995

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

BY FACSIMILE AND
FIRST CLASS MAIL

Brett M. Kavanaugh, Esq.
Associate Counsel
Office of the Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Re: [redacted]

Dear Mr. Kavanaugh:

This letter is sent to memorialize our agreement to postpone the deadline for [redacted]

Mrs. Verveer and I appreciate your consideration.

Sincerely,

Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036-3384
202 328 8000

Telex: RCA 229800
WU 89-2762
Fax: 202 887 8979

FOIA #56806 (URTS 16304) DocId: 70105054 Page 4

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105056

DR. LARRY WATKINS

[redacted]

FOSTER, Vincent W., Jr.

PROGRESS NOTES

8/2/93 I talked for about 10-15 minutes, maybe longer, with Captain Charles Hume, Washington, D.C. Park Police, who is charge of the investigation into Mr. Foster's suicide. Phone number is 202-690-5054. I basically discussed what's in the chart. LSW/as

rec'd 5/16/94
from Dr. Larry Watkins
by SA H. Owens bsg

Vince Foster
7-19-93 Rx Desyrel 50mgm #30
Sig: i to iii @ HS.
c 5 refills LSW/lgm
Pharmacy #(202) 337-4100

7/21/93 Pt committed suicide on 7/20/93 LSW

7/21/93 I talked to Vince on 7/19/93, at which time he complained of anorexia and insomnia. He had no GI symptoms. We discussed the possibility of taking Axid or Zantac to help with any ulcer symptoms as he was under a lot of stress. He was concerned about the criticism they were getting and the long hours he was working at the White House. He did feel that he had some mild depression. I started him on Desyrel, 50 mg. He was to start with one at bedtime and move up to three. He was to call me in about ten days to let me know how he was doing. I received word at about 10:20 p.m. on 7/20/93 that he had committed suicide.
LSW/as

LARRY S. WATKINS, M.D.
INTERNAL MEDICINE
DOCTORS BUILDING 500 S. UNIVERSITY SUITE 402
LITTLE ROCK, ARKANSAS 72205
TELEPHONE 661-9740

FOIA(b)(6)

FOSTER, Vincent W. Jr. 12-31-92

PP: 47 year old white male from Little Rock

CC: Several problems

HPI: Patient has been having recurrent tendonitis of his right elbow probably related to weight lifting. Feldene does help him when he needs it.

He has been having cervical spine discomfort and seems like tension makes that worse. He has fair amount of popping in his neck also.

He has been having some insomnia over the past month or two.

He has fairly strong family history of hypothyroidism with both sisters of being hypothyroid.

SH: Grew up in Hope and went to Davidson College, one year of college at Vanderbilt and then two at Fayetteville. He has been practicing at the Rose Law Firm for 20 years. He has been in Little Rock for 21 years. He has been married for 24 years. His wife, Lisa, is 47 years old [redacted] Otherwise, in good health. They have three children. Vincent is 20 and junior at TCU, Laura is a sophomore at Vanderbilt. Bruce is 17 and junior at Catholic High School. Three of them live together and get along fine. He works 45 to 50 hours per week primarily doing litigation work. He walks on stair master 20 minutes daily, jogs some on weekends. They do some traveling.

PROGRESS NOTES

Examination is unremarkable. We are doing routine tests. I am going to give him some Restoril and some Feldene. I will see him back in one week.

MEDICATIONS: Feldene 20 mg. daily prn
Restoril 30 mg. hs prn

LSW/ph

12-31-92 Fluogen 0.5cc Im (L) Dltr

FOSTER, VINCENT W., JR.

UNDERLINE Indicates Negative or Normal Findings. A **CIRCLE** Indicates Positive or Abnormal Findings.

PAST HISTORY: Dec. 31, 1992 Referred: WH

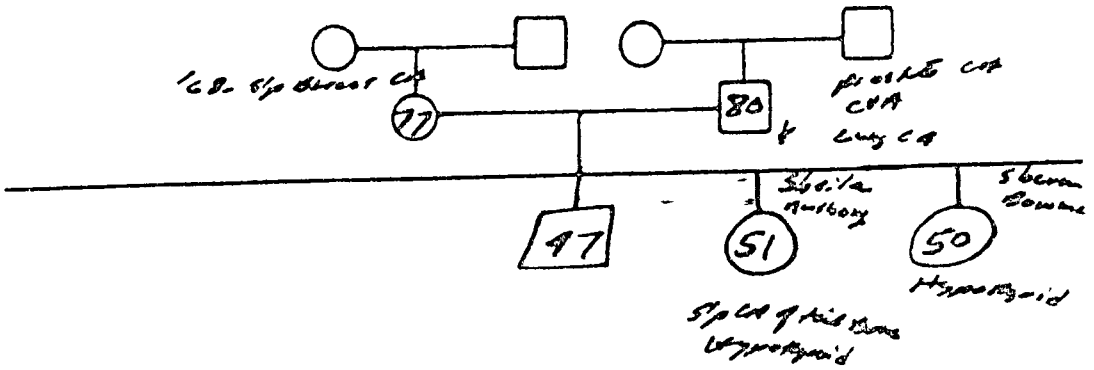
(a) **Illnesses:** Rheumatic fever, renal disease, heart disease, liver disease, jaundice, pneumonia, tuberculosis, diabetes mellitus, hypertension, cancer, thyroid disease, peptic ulcer disease, strokes.

(b) **Operations:** '52- T & A
'54- Append
'77- Plastic Face (MVA)
'79- SQ Lipoma

(c) **Drug Hypersensitivities, Asthma, Allergic Rhinitis**

FAMILY HISTORY:

Diabetes
Hypertension or Stroke
Cancer
Tuberculosis
Heart Disease



SYSTEMS REVIEW:

(a) **Constitutional:** Appetite, change in weight, fever, energy
Nl mother

(b) **Skin, Hair and Nails:** Itching, rash, alopecia

(c) **Head:** Headache, dizziness

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(Past History Continued)

(d) **Ear:** Pain, hearing difficulty, discharge, tinnitus
sec

(e) **Eyes:** Vision, glasses, diplopia, blurred, contacts

(f) **Throat:** Hoarseness, sore throats

(g) **Teeth:** Dentures, caries, recent dental work

(h) **Breasts:** Lumps, discharge, masses

Last mammogram _____

(i) **Cardiorespiratory:**

Smoker, nonsmoker, exsmoker 0/c '87 (date stopped)
Smoked 1 pk./wk. (~~packs per day~~) 21 years
Last chest x-ray 5-0 (date)
Chest pain, cough, sputum, dyspnea, wheeze, hemotysis, orthopnea, PND, edema, claudication

(j) ~~Gastrointestinal~~: Dyspepsia, heartburn, nausea, vomiting, eructation, flatulence, dysphagia, abdominal pain, hematemesis, bowel movement _____ per day/week, change in bowel habits, melena, hematochezia, diarrhea, constipation.
WNL

(k) **Urinary Tract:** Dysuria, hematuria, stone, ~~nocturia~~ x1, frequency, hesitancy, dribbling, size of stream, stress incontinence, syphillis, gonorrhea
ok. WNL

FOIA #56806 (URTS 16304) DocId: 70105056 Page 6

(l) **Genital System:**

Male: Discharge, sore, erection ability, libido

Female: LMP _____ , menstrual trouble, date PAP smear _____

Menarche _____, menopause _____, G _____ P _____ A _____ SB _____

Hot flashes, spotting, dryness of vagina

MP's Freq. _____ duration _____
Flow _____ clotted blood (yes / no)

Birth Control _____

Hormones _____ Bone Density Scan (yes / no)

Calcium _____ Latest: _____

(m) **Skeletal:** Pain, stiffness, joint swelling, range of motion

WNL

(n) **Neuropsychiatric:** Convulsions, syncope, nervousness, memory loss, irritability, depression, difficulty sleeping

WNL

(o) **Drugs currently used:** 5

Alcohol: 1-2 glasses a week

FOIA #56806 (URTS 16304) DocId: 70105056 Page 7

PHYSICAL EXAMINATION

(a) **General Description:**

(b) **Vital Signs:** Pulse _____ Reg. (yes/No) Resp. _____ Temp. 98.4

Height 6 3 3/4"

Weight 194

BLOOD PRESSURE:	Right Arm	Left Arm
Lying	124/82	68
Standing	130/90	76

(c) **Skin:** Cyanosis, ecchymosis, rash, hair, nails

(d) **Lymph Nodes:** Cervical, supraclavicular, axillary, inguinal

(e) **Head:** Trauma, defects

(f) **Eyes:** Pupils (reaction to light, reaction to accommodation) EOM, Lens, discs, vessels, arterioler narrowing, arcus cornea, hemorrhages, exudates

(g) **Ears:** TM's, canals, hearing

(h) **Nose:** Mucosa, septum, polyps

(i) **Mouth and Pharynx:** Mucosa, lips, throat, tonsils, palate

(j) **Teeth and Gums:** Caries, missing teeth, pyorrhea, false teeth, edentulous

FOIA #56806 (URTS 16304) DocId: 70105056 Page 8

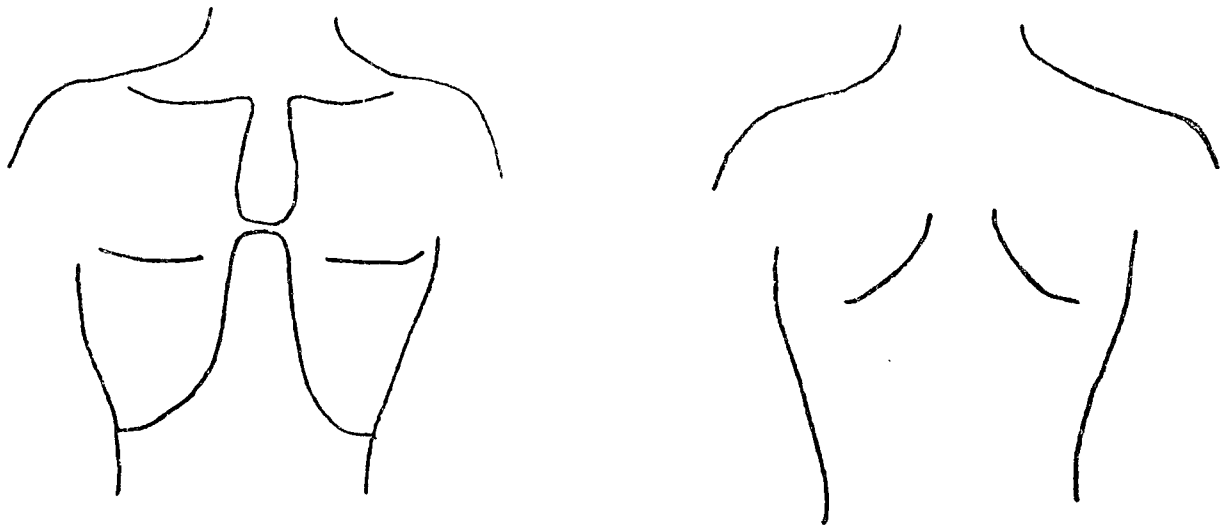
(Physical Examination Continued)

(k) **Neck:** Mobility, scars, masses, thyroid

(l) **Breasts: Male:** Gynecomastia

Female: Masses, nipples, galactorrhea, discharge

(m) **Chest:** Use of accessory muscles (yes/no), vocal fremitus, percussion, breath sounds, rales (fine, medium or coarse), wheezes (high-pitched or low-pitched), rubs



(n) **Cardiovascular:**

Apical Impulse (Lying) Where:_____ cms from MSL in _____ ICS

Auscultation:
S_1
S_2
Splitting of S_2
Gallop (S_3 or S_4)
Murmur(s)

Click intermittent

Other: Thrill(s)
Rub(s)
Heave - RV, LV
Neck Vein Distension

FOIA #56806 (URTS 16304) DocId: 70105056 Page 9

Peripheral Pulses:_____ (O = Absent, 1+ = diminished, 2+ = Average, 3+ = Bounding, B = Bruit)

	Carotid	Radial	Femoral	D. Pedis	Post. Tibial
R	2+	2+	2+	2+	2+
L					

(o) **Abdomen:**

Contour:

Scars:

Masses:

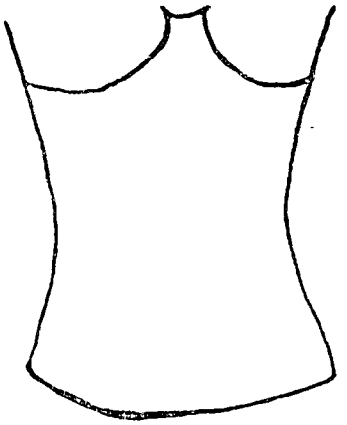
Tenderness:

Percussion size of liver: MCL _____ cms

MSL _____ cms

Spleen:

Hernia:



(p) **Genitalia:**

Male: Scrotum, testes, cord, epididymis, penis, discharge

Female: Labia, introitus, urethra, perineum, vagina, atrophic vaginitus, cervix, uterus, tubes, ovaries, adnexal masses, discharge, cystocele, rectocele, PAP SMEAR (done/not done)

(q) **Rectal and Prostate:** Hemorrhoids, masses, tenderness, prostate size, prostate tenderness, prostate mass, stool color, guaiac

(r) **Extremities:** Clubbing, edema, joints, varicose veins, Heberden's nodes

(s) **Mental Status:** Orientation, consciousness, appearance and dress, intelligence

(t) **Neurologic:** Reflexes: O = Absent 1+ = Slight 2+ = Average
3+ = Brisk 4+ = Sustained Clonus

	Plantar	Hoff	BR	Biceps	Triceps	Abd.	Crem.	Knee	Ankle
R	flexor		2+	2+	2+			2+	2+
L									

The remainder of the Neurologic Exam done **ONLY IF** there are Neurologic Symptoms or Abnormal Reflexes.

FOIA #56806 (URTS 16304) DocId: 70105056 Page 10

A. **Higher Mental Function:** (See Mental Status Exam)

B. **Cranial Nerves:** II-XII intact

C. **Motor Function:**

General: Muscle tone, muscle power, fasciculations, muscle wasting, involuntary movements, asterixis

Cerebellum: Rapid alternating movements, nose-finger, heel-knee, rebound, Romberg

Gait: Normal/Abnormal

D. **Sensory Function:** Pin, touch, toe position, vibratory

PROCTOSIGMOIDOSCOPY

Hemorrhoids (lg., med., sm.) (int.) / ext.)

Anoscopy _____

Sigmoidoscopy to 12 cm

IMPRESSION:

LARRY S. WATKINS, M.D.

FOIA #56806 (URTS 16304) DocId: 70105056 Page 11

FOSTER, Vincent W., Jr. PROGRESS NOTES

9/18/90 BP 130/82. His examination and laboratory studies are basically normal. He had a treadmill stress test by Dr. Drew Kumpuris, I don't have the report back, but evidently it was normal. I feel that his discomfort is probably related to his hiatal hernia. I will see him back in approximately two years for another complete exam as needed.

MEDICATIONS: None LSW/dc

9-18-90 Stool Guaiac Neg x 3

9-23-91 TC. c/o "killer cold". Pt started Septra DS 2 days ago & took last pill today & req. more. Rx for Septra DS ÷ bid x 8 more days Starks

11-27-91 Flu vac. A Sone DM (D) deltoid Lg

12/30/91 to call; arrange for echo at OV [illegible] Rx mvp

12-11-92 TC- Pt unavailable to talk because he's on an important teleconferance call. Info rec'd from his secretary. Pt has hoarseness, cough producing yellow sputum, congestion. Refill approved on Septra DS #20 ÷ PO BID, Entex LA #20 ÷ PO BID prn c ÷ refill, Robitussin AC 4oz ÷-÷÷ tsp PO q 4-6° prn cough c ÷ refill. DSP

FOIA #56806 (URTS 16304) DocId: 70105056 Page 12

INTERNAL MEDICINE
DOCTORS BUILDING 500 S. UNIVERSITY SUITE 402
LITTLE ROCK, ARKANSAS 72205
TELEPHONE 661-9740

FOIA(b)(6)

FOSTER, Vincent W. Jr. 8/21/90

PP: 45 Year old white male from Littl Rock.

CC: Left chest pain.

HPI: Patient has noticed occasional tightness in his left chest, usually associated with emotion and stress. Not really related to exertion. He smoked about a pack per week for 21 years, stopped smoking in 1987. No history of cough, sputum production, shortness of breath, wheezing, hemoptysis, orthopnea, PND, pedal edema nor claudication. He jogs with no chest discomfort.

He has known hiatal hernia. No dyspepsia, heartburn, nausea, vomiting, excessive eructation, flatulence or dysphagia. He has a bowel movement twice aday with no change in his bowel habits. No melena, hematochezia, diarrhea or constipation.

He has been taking some Minoxidil, or using it on his scalp, ointment irregularly.

SH: He grew up in Hope. He went to college at Davidson, North Carolina for four years, Nashville, Tennessee for one year of law school. He went to Fayetteville for two years of law school. He has been in Little Rock for 19 years. He has been married for 22 years. His wife, Lisa, is 45 years old and in good health. [redacted] They have three children. Vincent is 18 and will be a freshman at TCU. Laura is 17 will be a senior at St. Marys. Brugh is 14 and will be a freshman at Catholic High. Basically the four of them live together now and get along fine. He works 45 to 50 hours a week. He is an attorney doing primary litigation work with the Rose Firm. He tries to jog 1½ to 2 miles, two to three times per week, more so when the weather is not as hot. They travel some. He enjoys reading.

LSW/dc

PROGRESS NOTES

8/21/90 His examination is unremarkable. We are doing our routine tests plus a treadmill stress test by Dr. Kumpuris. I will see him back in one week.

MEDICATIONS: None LSW/dc

FOSTER, VINCENT W., JR.

UNDERLINE Indicates Negative or Normal Findings. A CIRCLE Indicates Positive or Abnormal Findings.

PAST HISTORY: 8-21-90 Referred: N/A

(a) **Illnesses:** Rheumatic fever, renal disease, heart disease, liver disease, pneumonia, jaundice, tuberculosis, diabetes mellitus, hypertension, cancer, thyroid disease, peptic ulcer disease, strokes.

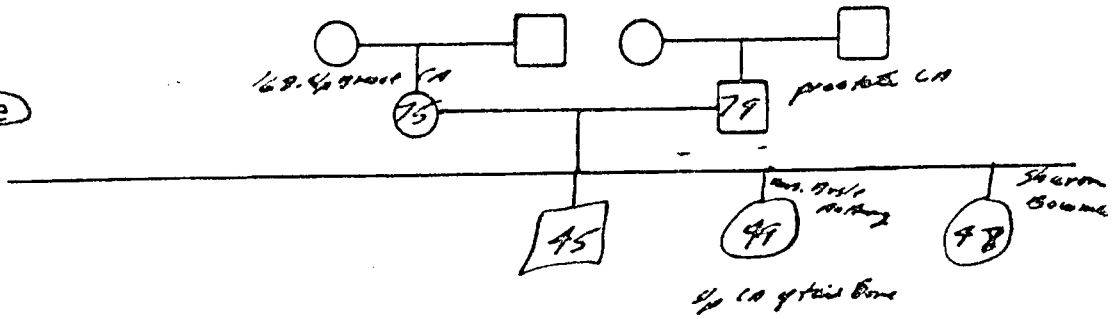
(b) **Hospitalizations:**

(c) **Operations:** '52 - T & A
'54 - Appendectomy
'77 - Plastic Face (Bilateral)
'79 - SP Lipomas

(d) **Drug Hypersensitivities,** Asthma, Allergic Rhinitis

FAMILY HISTORY:

Diabetes
Hypertension or Stroke
Cancer
Tuberculosis
Heart Disease



SYSTEMS REVIEW:

(a) **Constitutional:** Appetite, change in weight, fever, energy

(b) **Skin, Hair and Nails:** Itching, rash, alopecia

(c) **Head:** Headache, dizziness

FOIA #56806 (URTS 16304) DocId: 70105056 Page 14

(Past History Continued)

(d) Ear: Pain, hearing difficulty, discharge, tinnitus

(e) Eyes: Vision, glasses, diplopia, blurred, contacts

(f) Throat: Hoarseness, sore throats

(g) Teeth: Dentures, caries, recent dental work

(h) Breasts: Lumps, discharge, masses

Last mammogram _____

(i) Cardiorespiratory:

Smoker, nonsmoker, exsmoker _____ (date stopped)
Smoked _____ (packs per day) _____ years
Last chest x-ray _____ date
Chest pain, cough, sputum, dyspnea, wheeze, hemotysis, orthopnea, PND, edema, claudication

(j) Gastrointestinal: Dyspepsia, heartburn, flatulence, eructation, nausea, vomiting, dysphagia, abdominal pain, hematemesis, bowel movement _____ per day/week, change in bowel habits, melena, hematochezia, diarrhea, constipation.

(k) Urinary Tract: Dysuria, hematuria, stone, nocturia, frequency, hesitancy, dribbling, size of stream, stress incontinence, syphillis, gonorrhea

FOIA #56806 (URTS 16304) DocId: 70105056 Page 15

(l) **Genital System:**

Male: Discharge, sore, erection ability, libido

Female: LMP _____, menstrual trouble, date PAP smear _____

Menarche _____, menopause _____, G _____ P _____ A _____ SB _____

Hot flashes, spotting, dryness of vagina

MP's freq. _____ duration _____
flow _____ clotted blood (yes/no)

Birth Control _____

Hormones _____

Calcium _____

(m) **Skeletal:** Pain, stiffness, joint swelling, range of motion

(n) **Neuropsychiatric:** Convulsions, syncope, nervousness, memory loss, irritability, depression, difficulty sleeping

(o) **Drugs currently used:** 5

Alcohol: 2 drinks or wine/d.

COMMENTS:

FOIA #56806 (URTS 16304) DocId: 70105056 Page 16

PHYSICAL EXAMINATION

(a) **General Description:**

(b) Vital Signs: Pulse 76 Reg. (Yes) No) Resp. 16 Temp. 98.

BLOOD PRESSURE: Right Arm Left Arm Height 6'4"

Lying 140/90 _____ Weight 207½

Standing 140/90 80 _____

(c) **Skin:** Cyanosis, ecchymosis, rash, hair, nails

(d) **Lymph Nodes:** Cervical, supraclavicular, axillary, inguinal

(e) **Head:** Trauma, defects

(f) **Eyes:** Pupils (reaction to light, reaction to accommodation) EOM, Lens, discs, vessels, arteriolar narrowing, arcus cornea, hemorrhages, exudates

(g) **Ears:** TM's, canals, hearing

(h) **Nose:** Mucosa, septum, polyps

(i) **Mouth and Pharynx:** Mucosa, lips, throat, tonsils, palate

(j) **Teeth and Gums:** Caries, missing teeth, pyorrhea, false teeth, edentulous

FOIA #56806 (URTS 16304) DocId: 70105056 Page 17

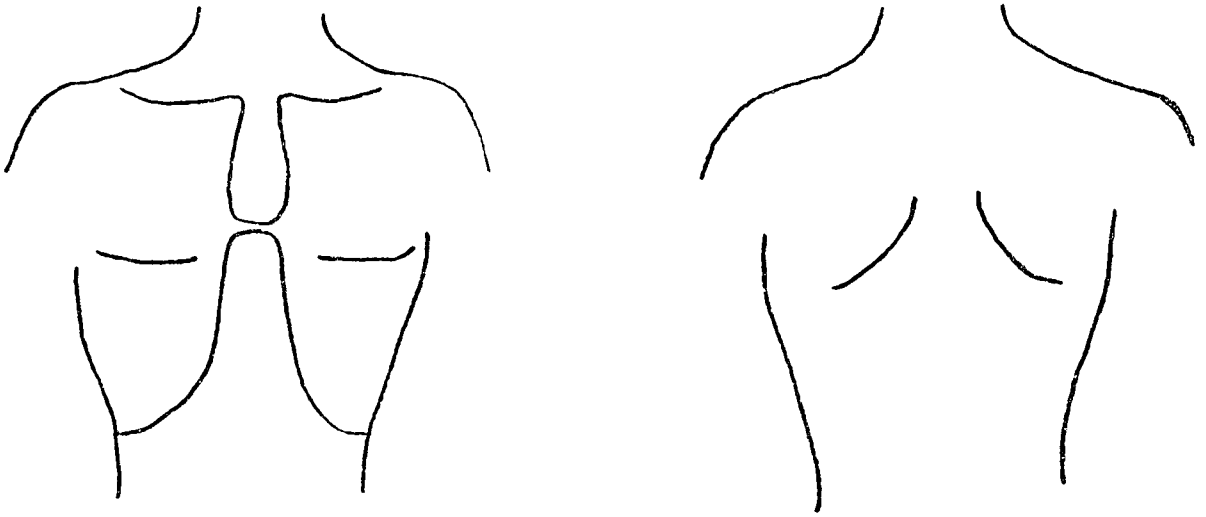
(Physical Examination Continued)

(k) **Neck:** Mobility, scars, masses, thyroid

(l) **Breasts:** **Male:** Gynecomastia

Female: Masses, nipples, galactorrhea, discharge

(m) **Chest:** Use of accessory muscles, (yes/no), vocal fremitus, percussion, breath sounds, rales (fine, medium or coarse), wheezes (high pitched or low-pitched), rubs



(n) **Cardiovascular:**

Apical Impulse (Lying) Where: _____ cms from MSL in _____ ICS

Auscultation:

~~S_1~~

S_2

Splitting of S_2

Gallop (S_3 or S_4)

Murmur(s)

Click Intermittent click

Other: Thrill(s)

Rub(s)

~~Heave — RV~~, LV

Neck Vein Distension

FOIA #56806 (URTS 16304) DocId: 70105056 Page 18

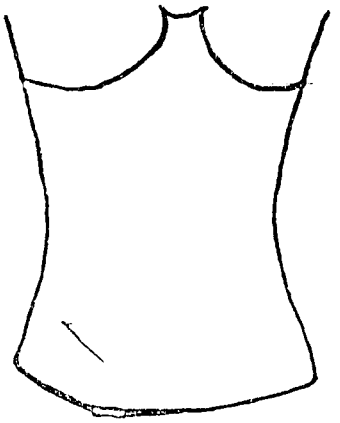
Peripheral Pulses: _____ (0 =Absent, 1+ = diminished, 2+ = Average, 3+ Bounding, B = Bruit)

	Carotid	Radial	Fermoral	D.Pedis	Post.Tibial
R	2+	2+	2+	2+	2+
L	2+	2+	2+	2+	2+

(o) **Abdomen:**

Contour:
Scars:
Masses:
Tenderness:
Percussion size of liver: MCL_____cms
MSL_____cms

Spleen:
Hernia:



(p) **Genitalia:**

Male: Scrotum,testes,cord,epididymis,penis,discharge

Female: Labia, introitus, urethra, perineum, vagina, atrophic vaginitis, cervix, uterus, tubes, ovaries, adnexal masses, discharge, cystocele, rectocele, PAP SMEAR (done/not done)

(q) **Rectal and Prostate:** Hemorrhoids,masses,tenderness,prostate size,prostate tenderness, prostate mass,stool color,guaiac

(r) **Extremities:** Clubbing,~~edema,joints~~,varicose veins, Heberden's nodes

(s) **Mental Status:** Orientation,consciousness,appearance and dress,intelligence

(t) **Neurologic:** Reflexes: 0 = Absent 1+ = Slight 2+ = Average
3+ = Brisk 4+ = Sustained Clonus

	Plantar	Hoff	BR	Biceps	Triceps	Abd.	Crem.	Knee	Ankle
R	flexor		2+	2+	2+			2+	2+
L									

The remainder of the Neurologic Exam done **ONLY IF** there are Neurologic Symptoms or Abnormal Reflexes

FOIA #56806 (URTS 16304) DocId: 70105056 Page 19

A **Higher Mental Function** (See Mental Status Exam)

B **Cranial Nerves**
II - XII Intact

C **Motor Function**

General: Muscle tone, muscle power, fasciculations, muscle wasting, involuntary movements, asterixis

Cerebellum: Rapid alternating movements, nose-finger, heel-knee, rebound, Romberg

Gait: (Normal) / Abnormal

D **Sensory Function:** Pin, touch, toe position, vibratory

PROCTOSIGMOIDOSCOPY

Hemorrhoids (lg., med., (sm.) (int.) / ext.)

Anoscopy _____

Sigmoidoscopy negative 15 cm.

IMPRESSION:

LARRY S. WATKINS, M.D.

FOIA #56806 (URTS 16304) DocId: 70105056 Page 20

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 01/01/93 TIME 0332

** CLINICAL LABORATORY **
** P A T I E N T C H A R T R E P O R T **
LAB ID - LSW 14786 FASTING

PATIENT 01285617 195618 FOSTER,VINCENT,MR 47Y MALE OTHER
LOCATION PRL-SPEC ADMITTED 12/31/92 1125
PHYSICIAN 0145 WATKINS,LARRY S. M.D. DISCHARGED

	NORMALS	UNITS	12/31/92	01/01/93
** CHEMISTRY PROFILES *				
TOTL PROTN	6.1-8.0	G/DL	7.2	
ALBUMIN	3.5-4.8	G/DL	4.0	
CALCIUM	8.7-10.7	MG/DL	10.3	
PHOSPHORUS	2.4-4.9	MG/DL	2.8	
URIC ACID	2.6-9.2	MG/DL	4.7	
CREATININE	.5-1.2	MG/DL	1.2	
D.BILIRUBN	0-.4	MG/DL	0.2	
T.BILIRUBN	.3-1.2	MG/DL	0.9	
BUN	6-22	MG/DL	15	
GLUCOSE	70-110	MG/DL	103	
** ELECTROLYTES **				
SODIUM	135-153	MEQ/L	141	
POTASSIUM	3.5-5.3	MEQ/L	4.3	
CHLORIDE	98-106	MEQ/L	100	
CO-2	23-33	MEQ/L	34**H	
** ENZYMES **				
ALK PHOS	37-107	IU/L	46	
CPK	61-224	IU/L	51**L	
LDH	94-172	IU/L	123	
SGOT	12-45	IU/L	26	
SGPT	7-40	IU/L	20	
** SPECIAL CHEMISTRY **				
CHOLESTERO	100-240	MG/DL	220	
TRIGLYCER	0-250	MG/DL	128	
HDL CHOL	29-83	MG/DL		

48 > 21.9%
AVE-RISK

**L INDICATES BELOW NORMAL RANGE **T INDICATES WITHIN THERAPEUTIC RANGE
**H INDICATES ABOVE NORMAL RANGE **X INDICATES ABOVE THERAPEUTIC RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

V

FOIA #56806 (URTS 16304) DocId: 70105056 Page 21

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 12/31/92 TIME 0246

** CLINICAL LABORATORY **
** P A T I E N T C H A R T R E P O R T **
LAB ID - LSA 14785 FASTING

PATIENT 01295617 195813 FOSTER,VINCENT,MR 47Y MALE CIFEX
LOCATION PRL-SPEC ADMITTED 12/31/92 1125
PHYSICIAN 0149 WATKINS,LARRY S. M.D. DISCHARGED

	NORMALS	UNITS	12/31/92
** HEMATOLOGY **			
HEMOGLOBIN	12.5-16.5	GM%	16.5**H
HEMATOCRIT	38-55	%	49.6
WBC	4.5-11.0	K/CMM	4.4**L
SEGS		%	54.3
LYMPHS		%	33.3
MONOS		%	9.7
EOS		%	1.6
BASO		%	0.8
RBC COUNT	3.90-5.90	M/CMM	5.42
MCV	80-100	FL	87.6
MCH	28-35	PG	30.4
MCHC	29-37	%	34.6
RDW	0-16		12.0
PLATELET C	150-400	K/CMM	195

**L INDICATES BELOW NORMAL RANGE
**H INDICATES ABOVE NORMAL RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

FOIA #56806 (URTS 16304) DocId: 70105056 Page 22

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 01/04/93 TIME 0244

** CLINICAL LABORATORY **
** P A T I E N T C H A R T R E P O R T **
LAB ID - LSW 14786 FASTING

PATIENT 01295617 195613 FOSTER,VINCENT,MR 47Y MALE OTHER
LOCATION PRL-SPEC ADMITTED 12/31/92 1125
PHYSICIAN 0145 WATKINS,LARRY S. M.D. DISCHARGED

	NORMALS	UNITS	01/02/93	01/04/93
** THYROID STUDIES **				
T4	4.4-12.5	UG%	8.0	(12/31/92) 8.4
T3	.6-4.5	UIU/ML		(12/31/92) 0.89
** RADIOIMMUNOASSAY **				
ALPHA-FETOPROTEIN	0-4.0	NG/ML		

*L INDICATES BELOW NORMAL RANGE **T INDICATES WITHIN THERAPEUTIC RANGE
*H INDICATES ABOVE NORMAL RANGE **X INDICATES ABOVE THERAPEUTIC RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

* FOSTER,VINCENT,MR SECTION 6 PART 1-01
PROFESSIONAL NUC MED SERVICES RENDERED BY RADIOLOGY ASSOC. PA N.T. HARRIS, M.D.

FOIA #56806 (URTS 16304) DocId: 70105056 Page 23

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 08/22/90 TIME 0240

** CLINICAL LABORATORY **
* * P A T I E N T C H A R T R E P O R T * *

PATIENT 0C925041 179002 FOSTER,VINCENT W 14788 45Y MALE OTHER
LOCATION PRL-SPEC ADMITTED 08/21/90 1509
PHYSICIAN 0145 WATKINS,LARRY STERLING M.D. DISCHARGED

	NORMALS	UNITS	08/21/90	08/22/90
** CHEMISTRY PROFILES *				
T.PROTEIN	6.1-8.0	G/DL		7.2
ALBUMIN	3.5-4.8	G/DL		4.1
CALCIUM	8.7-10.7	MG/DL		9.2
PHOSPHORUS	2.6-4.9	MG/DL		2.8
URIC ACID	2.5-9.2	MG/DL		4.5
CREATININE	.5-1.2	MG/DL		1.1
D.BILIRUBN	0-.4	MG/DL		0.2
T.BILIRUBN	.3-1.2	MG/DL		0.5
BUN	6-22	MG/DL		11
GLUCOSE	70-108	MG/DL		92
** ELECTROLYTES **				
SODIUM	135-153	MEQ/L		140
POTASSIUM	3.5-5.3	MEQ/L		4.3
CHLORIDE	98-106	MEQ/L		100
CO-2	23-33	MEQ/L		27
** ENZYMES **				
ALK PHOS	37-107	IL/L		44
CPK	61-224	IL/L		59**L
LDH	94-172	IU/L		129
SGOT	12-45	IL/L		30
SGPT	7-40	IL/L		32
** SPECIAL CHEMISTRY **				
CHOLESTEOL	100-240	MG/DL		218
TRIGLYCER	0-250	MG/DL		135
HDL CHOL	29-83	MG/DL	(08/21/90) 51.4	

3½ pp

Chol/H = 23.5%

Mg.

**L INDICATES BELOW NORMAL RANGE **T INDICATES WITHIN THERAPEUTIC RANG
**H INDICATES ABOVE NORMAL RANGE **X INDICATES ABOVE THERAPEUTIC RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

** FOSTER,VINCENT W SECTION 2 PART 1-01

FOIA #56806 (URTS 16304) DocId: 70105056 Page 24

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 08/21/90 TIME 0234

** CLINICAL LABORATORY **
* * P A T I E N T C H A R T R E P O R T * *

PATIENT 0092504I 179002 FOSTER,VINCENT W 14789 45Y MALE OTHER
LOCATION PRL-SPEC ADMITTED 08/21/90 1509
PHYSICIAN 0145 WATKINS,LARRY STERLING M.D. DISCHARGED

	NORMALS	UNITS	08/21/90
** HEMATOLOGY **			
HEMOGLOBIN	12.5-16.3	GM%	16.7**H
HEMATOCRIT	36-55		47.4
WBC	4.5-10.0	K/CMM	5.3
LYMPHS			31.5
MONOS			3.8
GRANS			64.7
RBC	3.90-5.90	M/CMM	5.28
MCV	80-100	FL	89.8
MCH	23-35	PG	31.6
MCHC	29-37	%	35.2
RDW	0-16		11.6
PLATELETS	150-400	K/CMM	236

3½"pp

**L INDICATES BELOW NORMAL RANGE
**H INDICATES ABOVE NORMAL RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

FOIA #56806 (URTS 16304) DocId: 70105056 Page 25

PHYSICIAN'S REFERENCE LAB, LTD
LITTLE ROCK, ARKANSAS

DATE 08/22/90 TIME 0240

** CLINICAL LABORATORY **
** P A T I E N T C H A R T R E P O R T **

PATIENT 3092504-1 179202 FOSTER,VINCENT W (4788 45Y MALE OTHER
LOCATION PRL-SPEC ADMITTED 08/21/90 1505
PHYSICIAN 0145 WATKINS,LARRY STERLING M.D. DISCHARGED

	NORMALS	UNITS	08/22/90
** THYROID STUDIES **			
T4	5.0-13.0	UG%	7.7

3½ pp

**L INDICATES BELOW NORMAL RANGE **T INDICATES WITHIN THERAPEUTIC RANGE
**H INDICATES ABOVE NORMAL RANGE **X INDICATES ABOVE-THERAPEUTIC RANGE
TESTS WITH * PERFORMED AT PRL, OTHERS PERFORMED AT SVIMC

** FOSTER,VINCENT W SECTION 6 PART 1-C1
PROFESSIONAL NUC MED SERVICES RENDERED BY RADIOLOGY ASSOC. PA W.T. HARRIS, M.D.

FOIA #56806 (URTS 16304) DocId: 70105056 Page 26

PATIENT'S NAME Foster, Vincent W. DATE 3/31/92

CHART # 14755

ROUTINE URINALYSIS			✓ VOIDED / CATH. / MID.S
COLOR Light	yellow	MICRO CENT/NPF	
SP. GRAV.	1.010	WBC	—
PH	7.0	RBC	—
ALBUMIN	—	CASTS	—
SUGAR	—	CRYSTALS	1-3
ACETONE	—	EPITH. CELLS	—
OCCULT BLOOD	—	AMORPHOUS	—
		BACTERIA	—
		MUCUS	—

PATIENT'S NAME Foster, Vince DATE 12-31-52

CHART # _____

ROUTINE URINALYSIS			✓ VOIDED / CATH. / MID.S
COLOR	AMBER	MICRO CENT/NPF	
SP. GRAV.	1.015	WBC	—
PH	6.5	RBC	—
ALBUMIN	—	CASTS	—
SUGAR	—	CRYSTALS	OCC
ACETONE	—	EPITH. CELLS	OCC
OCCULT BLOOD	—	AMORPHOUS	—
		BACTERIA 1+	—
		MUCUS	—

JAMES W. CAMPBELL, M.D.
W. TURNER HARRIS, M.D., F.A.C.R.
W. DUCOTE HAYNES, M.D., F.A.C.R.
JERRY C. HOLTON, M.D., F.A.C.R.
H. HOWARD COCKRILL, JR., M.D., F.A.C.R.
ALVAH J. NELSON, III, M.D., F.A.C.R.
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MICHAEL L. TALBERT, M.D.
DAVID W. WEISS, M.D.

December 31, 1992
DATE

• Dr. Larry S. Watkins

X-RAY NO.
239968

X-RAY REPORT

PATIENT'S NAME FOSTER, Vincent

DOCTORS BUILDING IMAGING CENTER

CERVICAL SPINE: Routine views show the cervical vertebrae to be in good alignment and intact. Some mild spurring and lipping changes are noted in the lower cervical area anteriorly. The intervertebral foramen are adequate. No cervical ribs are demonstrated. Some mild degenerative changes are seen in the apophyseal joints in the lower cervical area.

IMPRESSION: Some mild degenerative changes in the lower cervical spine as described.

James W. Campbell, M.D.

rb

FOIA #56806 (URTS 16304) DocId: 70105056 Page 28

LARRY S. WATKINS, M.D.
INTERNAL MEDICINE
Name Foster, Vincent W.
No. 14786 Date 12-31-92

Normal chest x-ray. Normal sized heart. No significant change from previous chest x-ray.
LSW/as

LARRY S. WATKINS, M.D.

INTERNAL MEDICINE

Name Foster, Vincent W.

No 14786 Date 8-21-90

Normal chest x-ray. Normal sized heart. PA film shot quiet light. No significant change from previous chest X-ray. LSW/dc

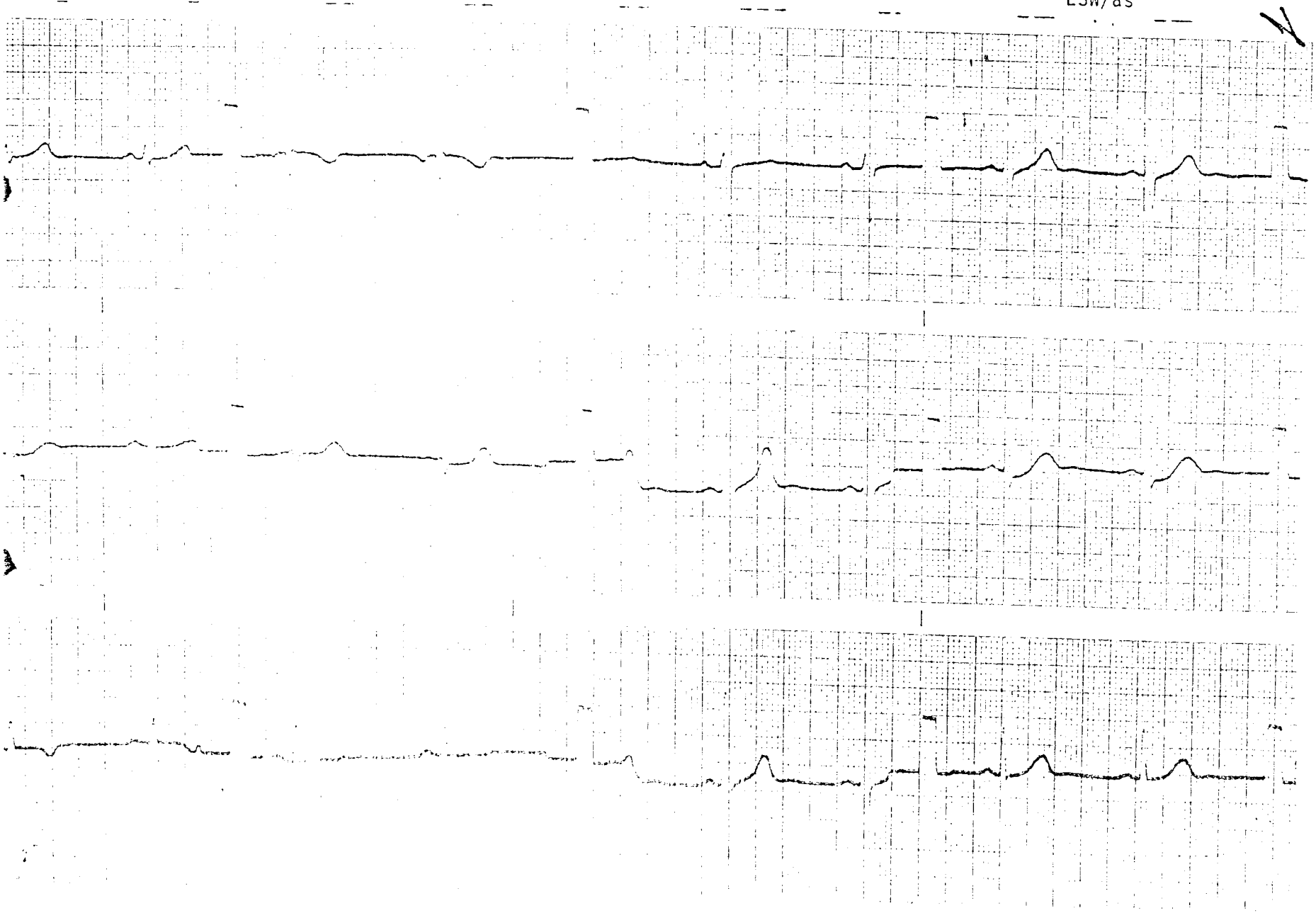
FOIA #56806 (URTS 16304) DocId: 70105056 Page 30

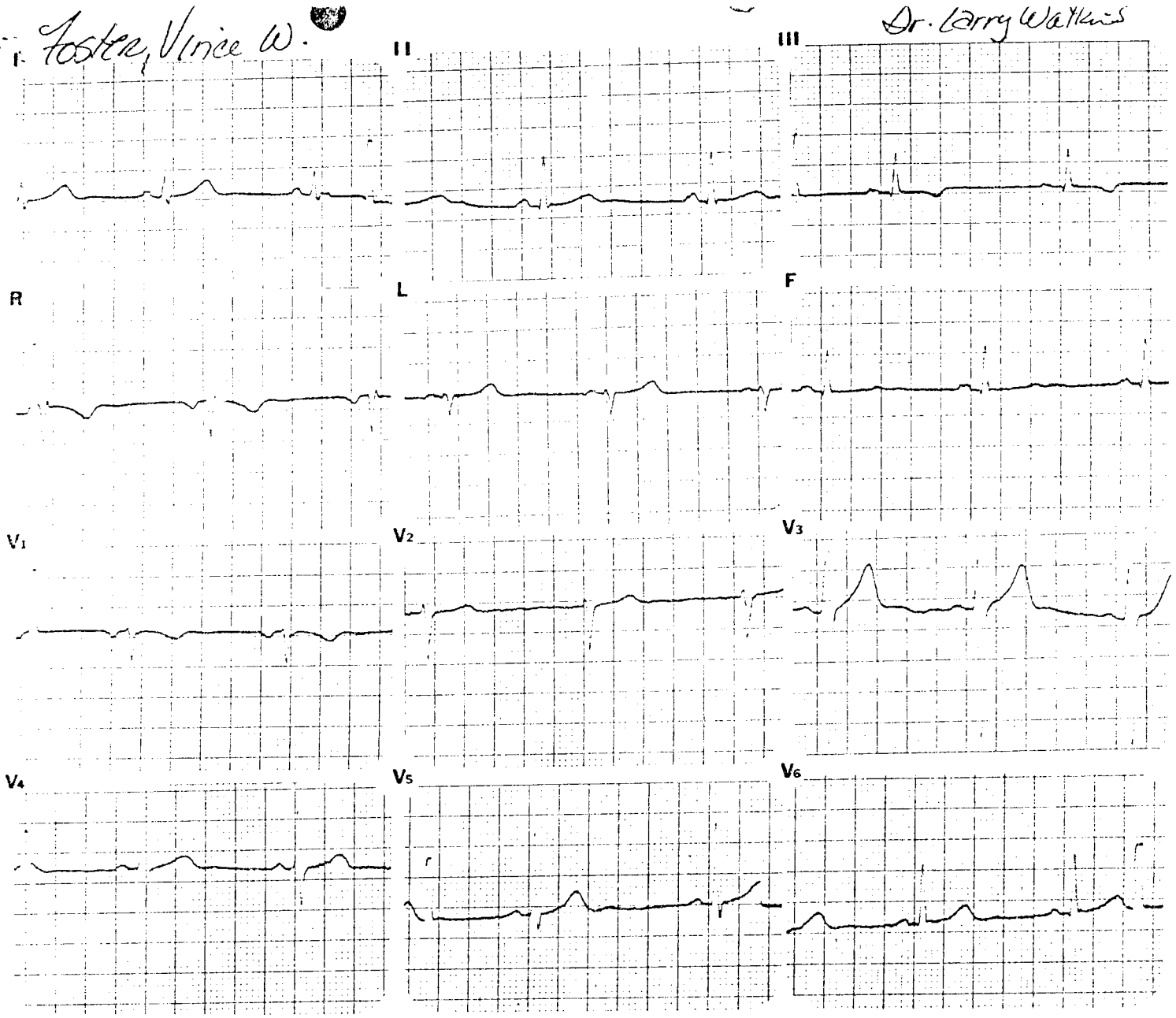
ER
COMPUTER SIGNAL
(X) (SCALE)
(Y) CALL ACCEPTED (BROKEN)
(Z) CALL REJECTED

NAME FOSTER, VINCENT W.
ID 14786
DATE 12-31-92
TECHNICIAN
PHYSICIAN C.S. WATKINS M.D.

ADDITIONAL INFORMATION

Normal EKG. Normal sinus rhythm. He has minimal non-specific ST-T wave changes. Mild repolarization variant. Borderline IVCD. No significant change from previous EKG.
LSW/as





8-21-90

V4 - 1/2 voltage

Normal EKG. Normal sinus rhythm. Mild repolarization. Borderline IVCD. Minimum nonspecific ST and T wave changes. No significant change from previous EKG.

LSW/dc

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105058

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 1, 1995

Edward S.G. Dennis, Jr.
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103-6993

Dear Mr. Dennis:

We have received your letter of July 24, in which you have joined the Senate Special Committee's request that we provide the Committee with the results of the polygraph examination administered to Ms. Williams on September 16, 1994. We have given your request considerable thought, but respectfully must decline it.

We will not disclose to the Congress any investigative work product from this active and ongoing investigation. We must abide by the strictures of grand jury secrecy contained in Federal Rule of Criminal Procedure 6(e). In addition, our position that we will not disclose to the Congress any investigative work product from an open investigation represents sound policy that is deeply rooted in the history and tradition of this Nation. See generally Memorandum for Oliver B. Revell Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. Off. Legal Counsel, at 5 (March 24, 1989) ("the policy and practice of the executive branch throughout our Nation's history has been to decline, except in extraordinary circumstances, to provide committees of Congress with access to, or copies of, open law enforcement files. No President, to our knowledge, has departed from this position affirming the confidentiality and privileged nature of open law enforcement files"). Because of your previous positions in the Department of Justice, we know that you are familiar with this policy.

Our policy on these issues is not based on whether the requested information is exculpatory or incriminating, but rather is made in accordance with long-standing Department of Justice policy to protect the internal work of this Office. Therefore, Ms. Williams' waiver of her confidentiality does not alter our decision.

We also must respect the privacy of individuals. In this regard, it is quite important to note that we find no logical distinction between disclosure to Congress of the results of a polygraph examination that shows no deception and disclosure to Congress of the results of a polygraph examination that shows deception. Rather than disclosing all polygraph results upon request of Congress -- including those that show deception -- we believe the appropriate course is not to disclose any results at all.

In sum, we respectfully decline your request to disclose the results of the polygraph examination of Ms. Williams to the Senate Special Committee. Thank you for your cooperation. Please do not hesitate to contact me if you have any questions.

Respectfully yours,

Kenneth W. Starr
Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: August 1, 1995

TO: Edward S. G. Dennis, Jr.

Company Name: Morgan, Lewis & Bockius

Fax Number: 215-963-5299 Telephone Number: 215-963-5725

FROM: Judge Kenneth W. Starr

Number of Pages: 3 (including this cover sheet)

Message:

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*** ACTIVITY REPORT ***
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USAGE TIME	01'41
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RESULT	OK

1 copy for me; 1 for Dana

Thx.

BK

FD-498 (Rev. 6-24-87)

POLYGRAPH REPORT

DATE OF REPORT	DATE OF EXAMINATION	BUREAU FILE NUMBER	FIELD FILE NUMBER
9/16/94	9/16/94	29D-LR-35063	

FIELD OFFICE OR AGENCY REQUESTING EXAMINATION
Office of Independent Counsel

AUTHORIZING OFFICIAL	DATE AUTHORIZED
Independent Counsel	9/16/94

EXAMINEE NAME (LAST, FIRST, MIDDLE)
WILLIAMS, MARGARET ANN

CASE TITLE

MC #106;
MOZART

REFERENCES
OO: LR

CASE SYNOPSIS/EXAMINER CONCLUSION

On 9/16/94, Ms. Margaret Ann Williams appeared with her attorney Mr. Ed Dennis (215) 963-5722, at the polygraph testing facility, 409 7th St., NW, Washington, D.C. 20535 for the purpose of undergoing an examination regarding her activities after the death of Vince Foster on 7/20/93. At the beginning of the interview Ms. Williams was provided an FD-395 (Interrogation, Advice of Rights) which she appeared to read, stated that she understood and thereafter signed. She was then provided an FD-328 (Consent to Interview with Polygraph) which she appeared to read, stated that she understood, agreed to go forward with the interview and polygraph test and thereafter signed this form.

Ms. Williams then provided the following information:

Sometime around 8:00 o'clock on the evening of 7/20/93 she received a phone call at her apartment from the First Lady. Mrs. Clinton, who was calling from Little Rock, told her to sit down and then broke the news that Vince Foster was dead. Ms. Williams stated that she didn't do much talking as she was shocked and the phone conversation was very brief. She stated that the sole purpose of the call was to notify her of the death and that the First Lady did not give her any instructions, assignments or tasks. Ms. Williams continued that shortly after this conversation with the First Lady she called her assistant and friend Evelyn Lieberman who came over to her apartment. Ms. Williams stated that she called Lieberman because she was upset and needed to be with someone. After arriving at her apartment the two of them left together in Lieberman's car for the White

EXAMINER NAME:
SSA James K. Murphy JKM

House. Ms. Williams could not remember if someone had called her to the White House or if she and Lieberman decided on their own that they should go.

Upon arrival at the White House at about 9:0 p.m. Lieberman parked her car in the West parking lot and she, Williams, found a uniformed Secret Service officer to open the First Lady's Office for her.

Ms. Williams stated that upon entering the office she left Lieberman at the desk of the secretary to the First Lady to answer calls and to also try and contact Lisa Caputo the First Lady's Press Secretary who was with Mrs. Clinton in Little Rock. Ms. Williams stated that she needed to find out if there was a statement by the President or First Lady.

She continued that after leaving Lieberman at the secretary's desk she went to the office of Mark Gearan, the White House Director of Communication where she obtained the press release regarding Vince Foster's death. Ms. Williams recalled returning to the First Lady's Office where she gave Lieberman the press release so she could inform Lisa Caputo of its contents when she finally made contact with her. She stated that she then went into her own office and after a minute or two came out and looked down the hallway and observed the door to the office of the General Counsel open and light coming out. Ms. Williams went down to the office and saw that the light was from Vince Foster's office. She stated that she entered the office and observed Patsy Thomason, Assistant Director of Administration, at Foster's desk. Her eyes were red, and she was crying and clearly upset. Ms. Williams stated that she, Williams, sat on a couch in Foster's office and at one point Thomason, who was looking around Foster's desk said "It would give Lisa some comfort if we found a note". Ms. Williams stated that she found out later that the Lisa mentioned by Patsy Thomason was Vince Foster's wife, Lisa Foster.

Ms. Williams stated that while she was sitting on the couch crying, and while Patsy Thomason was sitting behind Foster's desk Bernie Nussbaum entered the office. Nussbaum paced back and forth in front of the desk, scratched his head and mumbled some words. There was no real discussion between the three of them and she, Williams, left the office after about five minutes, possibly with Nussbaum. Ms. Williams recalled that Patsy Thomason stayed in the office after they departed.

She stated that she believes she went to Mark Gearan's office and then back to the First Lady's office where she met with Evelyn Lieberman and the two of them then departed the White House together. Ms. Williams stated that she arrived back at her apartment located at 1730 New Hampshire Avenue, NW, WDC at about 11:15 p.m. Shortly thereafter she received another phone call from Mrs. Clinton. During this conversation Mrs. Clinton wanted to know if any information had been developed concerning Vince

Foster's death and if anybody knew what had actually occurred. She stated that she had no more information for the First Lady and the phone conversation was very brief.

Ms. Williams stated that she was very upset and did not want to be alone that evening so she went over to Evelyn Lieberman's house and spent the night on a couch. Ms. Williams recalled arriving late for work the next day, 7/21/93. She stated that several days later, on the Thursday before Vince Foster's funeral, Bernie Nussbaum called her while she was at the Old Executive Office Building (OEOB) and said he had some of Vince Foster's files which pertained to the Clinton's and wanted her to pick them up and take then to Bob Barnett, the attorney representing the President and Mrs. Clinton. She stated that she couldn't go directly to meet with Nussbaum but some time later that day went to his office. Nussbaum told her to take a look around Vince Foster's office and see if she saw any files pertaining to the Clintons. Ms. Williams recalled finding files which were of a personal nature dealing with Chelsea, others marked "Blind Trust" and others dealing with the President's income tax. Ms. Williams gathered the files together and placed them in a card board box. She obtained the assistance of a White House Intern and had him take the box to a closet located on the third floor of the residence where it was left. Ms. Williams stated that the following Tuesday Bob Barnett came to the White House and told her that he needed to have the files brought to his law office. Ms. Williams continued that Barnett sent an associate to the White House shortly thereafter and she turned the box of files over to him.

Ms. Williams stated that neither on the evening of Vince Foster's death or during the early morning hours of 7/21/93 did she remove any files or documents from the Office of the General Counsel. She stated that she did not observe anyone removing files from Vince Foster's office, that she did not direct anyone to remove anything from his office nor does she have any knowledge that anything was removed.

Ms. Williams stated that she does know Craig Livingston. She described him as a White House employee who handles security matters such as clearances and passes. Ms. Williams stated she does not have regular contact with Livingston. She stated that she has never discussed with him removing any documents from the offices of the General Counsel or Vince Foster.

Ms. Williams was then afforded a polygraph examination consisting of the following relevant questions:

SERIES I

1. Did you remove any documents from the office of Vince Foster during the evening after his death? Answer-No

2. Did you remove any documents from the Chief Counsel's suite during the night or early morning hours after Vince Foster's death? Answer-No

SERIES II

1. During the evening and morning hours after Vince Foster's death did you direct anyone to remove documents from the 2nd floor of the West Wing? Answer-No

2. At the time of Foster's death last July did you discuss removing documents from the West Wing with Craig Livingston? Answer-No

It is the opinion of this examiner that Ms. Williams was truthful when responding to the above listed questions. These results were confirmed during an independent review by the FBI Laboratory.

2000 One Logan Square
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215-963-5000
Fax: 215-963-5299

Morgan, Lewis
& Bockius LLP
COUNSELORS AT LAW

Edward S.G. Dennis, Jr.
215-963-5722
202-467-7048

May 1, 1996

via TELEFAX

Honorable Kenneth Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Re: Margaret A. Williams

Dear Judge Starr:

As you no doubt know, over the past few days it has been widely reported that the fingerprints of the First Lady were found on the Rose Law Firm billing records which are a focus of your investigation and of the hearings being held by the Senate Whitewater Committee. These articles have relied on sources close to your investigation.

I understand that the fingerprints of our client, Margaret A. Williams, were not found on the billing records. With the exception of an article in yesterday's Washington Times, which I have not yet seen, the articles reporting on this matter has failed to include the fact that Ms. Williams' fingerprints are not on the billing records. Indeed, the articles generally have left the impression that Ms. Williams may have handled the records. For instance, the current issue of Newsweek, which broke this story, states that you are "intensifying" your inquiry, and then reports that Ms. Williams was recently "recalled by a grand jury for further questioning about the records." The April 29, 1996 edition of the Washington Post reported that your office "asked for the fingerprint analysis in an attempt to determine where the records were, why it took so long to find them and whether there are grounds to bring obstruction of justice charges against anyone for failing to produce them."

I do not write to make accusations, or to criticize you or your office for these unfortunate news leaks. Rather, I write to request that you take responsible action now that the leaks have occurred. A spokeswoman for your office has been quoted as stating that your

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FD-498 (Rev. 6-24-87)

POLYGRAPH REPORT

DATE OF REPORT	DATE OF EXAMINATION	BUREAU FILE NUMBER	FIELD FILE NUMBER
9/16/94	9/16/94	29D-LR-35063	- -

FIELD OFFICE OR AGENCY REQUESTING EXAMINATION
Office of Independent Counsel

AUTHORIZING OFFICIAL	DATE AUTHORIZED
Independent Counsel	9/16/94

EXAMINEE NAME (LAST, FIRST, MIDDLE)
WILLIAMS, MARGARET ANN

CASE TITLE

MC #106;
MOZART

REFERENCES
OO: LR

CASE SYNOPSIS/EXAMINER CONCLUSION

On 9/16/94, Ms. Margaret Ann Williams appeared with her attorney Mr. Ed Dennis (215) 963-5722, at the polygraph testing facility, 409 7th St., NW, Washington, D.C. 20535 for the purpose of undergoing an examination regarding her activities after the death of Vince Foster on 7/20/93. At the beginning of the interview Ms. Williams was provided an FD-395 (Interrogation, Advice of Rights) which she appeared to read, stated that she understood and thereafter signed. She was then provided an FD-328 (Consent to Interview with Polygraph) which she appeared to read, stated that she understood, agreed to go forward with the interview and polygraph test and thereafter signed this form.

Ms. Williams then provided the following information:

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EXAMINER NAME:
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Ms. Williams stated that upon entering the office she left Lieberman at the desk of the secretary to the First Lady to answer calls and to also try and contact Lisa Caputo the First Lady's Press Secretary who was with Mrs. Clinton in Little Rock. Ms. Williams stated that she needed to find out if there was a statement by the President or First Lady.

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She stated that she believes she went to Mark Gearan's office and then back to the First Lady's office where she met with Evelyn Lieberman and the two of them then departed the White House together. Ms. Williams stated that she arrived back at her apartment located at 1730 New Hampshire Avenue, NW, WDC at about 11:15 p.m. Shortly thereafter she received another phone call from Mrs. Clinton. During this conversation Mrs. Clinton wanted to know if any information had been developed concerning Vince

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Ms. Williams stated that neither on the evening of Vince Foster's death or during the early morning hours of 7/21/93 did she remove any files or documents from the Office of the General Counsel. She stated that she did not observe anyone removing files from Vince Foster's office, that she did not direct anyone to remove anything from his office nor does she have any knowledge that anything was removed.

Ms. Williams stated that she does know Craig Livingston. She described him as a White House employee who handles security matters such as clearances and passes. Ms. Williams stated she does not have regular contact with Livingston. She stated that she has never discussed with him removing any documents from the offices of the General Counsel or Vince Foster.

Ms. Williams was then afforded a polygraph examination consisting of the following relevant questions:

SERIES I

1. Did you remove any documents from the office of Vince Foster during the evening after his death?
   Answer-No

2. Did you remove any documents from the Chief Counsel's suite during the night or early morning hours after Vince Foster's death? Answer-No

SERIES II

1. During the evening and morning hours after Vince Foster's death did you direct anyone to remove documents from the 2nd floor of the West Wing? Answer-No

2. At the time of Foster's death last July did you discuss removing documents from the West Wing with Craig Livingston? Answer-No

It is the opinion of this examiner that Ms. Williams was truthful when responding to the above listed questions. These results were confirmed during an independent review by the FBI Laboratory.

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July 24, 1995

VIA FACSIMILE AND FIRST-CLASS MAIL

Kenneth W. Starr, Esquire
Office of the Independent Counsel
Two Financial Centre
Suite 134
10825 Financial Centre Parkway
Little Rock, AR 72211

Dear Judge Starr:

On behalf of my client, Margaret Williams, I join in the request of the Senate Special Committee on Whitewater Development Corporation and Related Issues that you release the results of the F.B.I. poligraph administered to Ms. Williams on September 16, 1994 to test the truthfulness her unequivical denial that she removed any files or documents from the office of Vince Foster on the night of his death. I am in receipt of your denial of that request, but to the extent your decision was influenced by considerations of confidentiality, Ms. Williams waives her right of confidentiality in favor of full public disclosure.

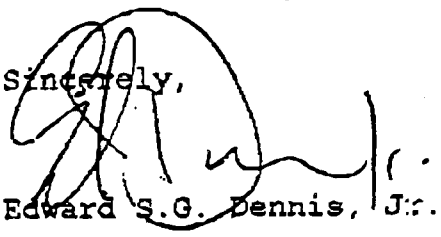
As you know, we have been fully cooperative with your office in its investigation. We have been interviewed, deposed, interrogated, probed and questioned in every conceivable manner without complaint. Your staff has been very professional and upright in their dealings with us. However, at the end of the day, Ms. Williams is less concerned about confidentiality than she is concerned about the confidence of the American people in the basic integrety and decency of the institution of the Presidency. The role of your very important office as an independent arbiter on issues that will have a direct bearing on whether that confidence is justified, places a unique responsibility on your office to publish its findings at the earliest occasion consistent with your statutory mandate. I have urged you to do so, and I renew that request. But the release of the poligraph results would serve both the interests of my client, that she not be judged in the court of public opinion with less than full disclosure and on a partial record; and it would also serve the interests of public to know that the evidence, when weighted with impartiality, justifies their

FOIA #56806 (URTS 16304) DocId: 70105058 Page 16

confidence in the basic integrety of those who serve the President and the First Lady.

I trust you will consider this in your deliberation on this request.

Sincerely,



Edward S.G. Dennis, Jr.

07/25/95 15:32 [illegible] COUNSEL 003

FOIA #56806 (URTS 16304) DocId: 70105058 Page 17

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Foster 302s (Vol. 1)

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Screened By: NARA (RD-F) Date: 07-18-2018 DOCID: 70105060

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/19/94

Bruce E. Abbott, Officer, Uniform Division, United States Secret Service (USSS), was interviewed at the Office of the Special Counsel, 1001 Pennsylvania Ave, NW. Officer Abbott was informed as to the identity of the interviewing agent and informed of the nature of the interview. He then provided the following information:

His office is located at 1310 L Street, NW, Washington, D.C., and his telephone number is 202-395-2020. He has been employed by USSS for 13 years and has been assigned to The White House compound for the last nine years. He is usually assigned at one of three guard posts in the west wing of The White House, including post E-1, the ground level side entrance to the west wing which is most often used by White House staffers to enter or leave the west wing.

Officer Abbott stated that he was not assigned to work in the west wing on July 20, 1993, the day of Vincent Foster's death. He first learned of Foster's death via the news on his car radio as he was driving to work in the early morning hours of July 21. Abbott said that he did not know Vincent Foster either professionally or personally but that he did know him to be a White House staffer whose office was located on the 2nd floor of the west wing and he visually recognized Foster when he saw him on the compound.

Officer Abbott advised that he worked the 6:30 am - 3:00 pm shift on July 21, 1993 on post E-1 which allows entry to the west wing off of West Executive Avenue inside The White House compound. Abbott advised that he was aware that Vincent Foster's office was directly above post E-1 where he was to be that day and since he had just learned of Foster's death, he arrived at work with a heightened sense of awareness and expecting a potentially eventful day on post E-1. He said that he learned in late morning that a temporary USSS post had been established just outside Foster's office door but he was not sent to that post. Abbott said that, for the most part, his tour of duty on post E-1 was ordinary and routine. He said that during his July 21 tour

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of duty he observed White House staffers come and go through the E-1 entrance although he, for the most part, cannot recall specifics regarding these individuals. He said that he recalls seeing Bernard Nussbaum, Maggie Williams, and Patsy Thommasson arrive that morning through E-1 but that he could not recall at what time each of them arrived. He said that he believed that Bernard Nussbaum arrived at about 8:30.

Officer Abbott advised that there was one thing that he considered to be unusual and out of the ordinary. He explained that at approximately 6:45-6:50 am, shortly after he assumed his post, he heard the elevator door open behind him. He said that since post E-1 is on the ground floor, this elevator was coming down from either the 1st or 2nd floor of The White House west wing. He was also aware that it opens just outside Vincent Foster's door on the 2nd floor. When he heard the door open he turned to see Craig Livingstone, a Presidential staff appointee, and another man, whom he did not recognize, stepping from the elevator. Abbott said that the man with Livingstone was carrying a cardboard box with its top open. Several dark colored (perhaps black) looseleaf ring-type binders were visible inside the box. Livingstone was carrying a dark (perhaps brown) satchel-type leather briefcase. Abbott described the briefcase as being the type that lawyers routinely carry that does not open like a suitcase but rather opens from the top between two built-in leather handles.

Abbott advised that there were several things about this incident that caused him to take particular note. He explained that Craig Livingstone was a Special Assistant to Bernard Nussbaum in charge of White House staff security matters. He therefore felt it was quite possible that the two men were coming from Nussbaum's (perhaps Foster's) second floor office. He said that he felt it was also unusual for Livingstone to be in the west wing at that early time of day since his (Livingstone's) office was located in the Old Executive Office Building and not in The White House. He said it was also unusual to see Livingstone dressed in only pants and shirt, as he was on that day, since he always wore a suit and tie to work. He added that the man with Livingstone, carrying the box, was also dressed in only a shirt and pants. Lastly, he said that while some White House staffers routinely arrive early for work, few arrive before 6:30 am, and it was obvious that these two men had gone to the west wing earlier that morning, since they were now clearly leaving rather than arriving. He said the two men walked past

him and exited through entrance E-1 without comment. He was not able to see them past that point or to see if they entered a car.

Officer Abbott said that later on July 21, he advised USSS Inspector Dennis Martin as to what he had seen relative to Livingstone, the man with him, and what they were carrying out. He said that he gave this information to Inspector Martin thinking it might be helpful, since he knew Martin was serving as USSS liaison to the U.S. Park Police's and the FBI's investigation into Foster's death. Abbott said he does not recall telling anyone else about this.

Abbott said that he saw nothing else during his tour of duty that day that he considered to be out of the ordinary. Abbott described the man with Craig Livingstone as follows: Sex-male, race-caucasian, age-25 to 30 years, height-approximately 5'10", build-slender to medium, clothing-shirt and pants, name-unknown (Abbott stated that he had never seen this man before).

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/23/94

BRUCE E. ABBOTT, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. This was a follow-up interview conducted at the request of Associate Special Counsel MARK STEIN. Present, and directing questions to Officer ABBOTT was Associate Special Counsel STEIN. Officer ABBOTT, prior to answering any questions, was advised as to the official identity of the interviewing attorney and of the agent present. He also was informed of the nature of this interview by Mr. STEIN. He then provided the following information:

He has been employed by USSS for thirteen years and has been assigned to The White House compound for the last nine years. He currently works different USSS posts within The White House west wing according to USSS personnel needs. He explained that posts within the west wing and in the USSS White House Control Center has historically been assigned by seniority and are currently assigned by seniority and merit. One of the posts where he is often assigned is E-1, the ground level side entrance to the west wing which is most often used by White House staffers to enter or leave the west wing.

On July 21, 1993, he was assigned to post E-1, working the 6:30 am - 3:00 pm shift. He had learned of VINCENT FOSTER's death via a radio news broadcast on his car radio as he was driving to work that morning. Following the USSS "role call" in the Old Executive Office Building at 6:30 am, he reported to post E-1, filling in for another officer who was absent on that day, arriving on post at approximately 6:40-6:45 am. Officer ABBOTT explained that post E-1 is near the west wing elevator and has a view down two ground floor west wing hallways. E-1 is "usually pretty quiet" until approximately 7:00 am when some "secretarial type" White House staffers begin arriving for work.

ABBOTT said he took his post on the morning of July 21 with a "heightened sense of awareness" having just learned of VINCENT FOSTER's death and expecting a potentially eventful day because of a key staffer's alleged suicide.

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"Around 7:00 am" (approximately 6:50-7:15 am) he saw what appeared to him to be an unusual sight. "CRAIG LIVINGSTONE, Director of White House personnel security" and another man whom he had never seen before that morning, got off of the elevator near his post and exited the west wing carrying a briefcase and box(s). He explained that he recognized CRAIG LIVINGSTONE because he had previously seen this individual on The White House compound several times and knew who he was by sight and by title. He said that he also knew LIVINGSTONE, because of his position in "security", was authorized access to the west wing. He heard the motor of the elevator, which is located near his post, running before he saw LIVINGSTONE and the other man exit the elevator. He explained that because the area around E-1 was very quiet at that time he could easily hear the elevator motor running before the elevator stopped and the door opened. He noted that the elevator motor ran for quite some time, longer than it would run for a trip from the first floor to the ground floor. He therefore deduced that the elevator was coming from the second floor where VINCENT FOSTER's office was located. ' CRAIG LIVINGSTONE exited the elevator carrying a "dark color leather" satchel type briefcase that he believes to have been brown. He explained that this type of briefcase opened from its top "like a clam shell" rather than like a suitcase. The man with LIVINGSTONE was carrying one or more cardboard boxes with several dark colored looseleaf ring-type binders in the boxes. These binders were visible in that their edges extended above the top of the open box (s). The binders were stacked vertically in the boxes on their edges one next to the other. Because of his heightened sense of awareness and observation following his having learned of FOSTER's death, and knowing that this elevator opened just outside FOSTER's second floor office, he thought that these two men may have been coming from FOSTER's office, although they did not seem to be acting secretively or suspiciously.

ABBOTT described CRAIG LIVINGSTONE's clothing as being "semi casual" and explained that he was wearing a shirt, perhaps a tie, but no suit jacket. He said that the man with LIVINGSTONE was dressed "more casually" with no suit jacket and no tie. He said that LIVINGSTONE had a "somber" look on his face. When asked by Mr. STEIN if he found LIVINGSTONE's dress to be unusual, he said that he did not in that he had seen LIVINGSTONE dressed similarly on The White House compound on previous occasions. He said that the two men stopped momentarily at the ground floor door then exited. ABBOTT did not see which way they went once they exited the west wing nor did he see if they entered a car

parked nearby.

Responding to questions of Mr. STEIN, ABBOTT said that while he was not "100 percent sure" that the man he saw carrying the briefcase from the west wing was CRAIG LIVINGSTONE, he was "75 to 80 percent sure". He added that he saw this same man, whom he believed to be CRAIG LIVINGSTONE, later that same morning near DAVID WATKINS' office on the ground floor of The White House west wing dressed in the same manner as the man he had seen at approximately 7:00 am that morning. He added that he has no reason to believe that this man was not CRAIG LIVINGSTONE. He said that LIVINGSTONE has a "somewhat distinctive look" with a "large round face" and large build. ABBOTT further advised that he was sure enough that this man was CRAIG LIVINGSTONE to have identified him by name when he (ABBOTT) reported what he had seen to his USSS superior later on the morning of July 21. He explained that he advised USSS Inspector DENNIS MARTIN in a "one-on-one conversation" at approximately 10:00 am of the two men he had observed carrying articles out of The White House. When asked by Mr. STEIN why he advised Inspector MARTIN, ABBOTT said he found this incident to be potentially significant in view of FOSTER's recent death because he believed the articles being carried out of The White House by these two men "could have" or "may have" been from FOSTER's office.

When Mr. ABBOTT was asked by Mr. STEIN to describe the man with CRAIG LIVINGSTONE he said that he was "not particularly focused" on this man because he clearly recognized CRAIG LIVINGSTONE and, knowing LIVINGSTONE's position in "White House Personnel Security", he knew that he (LIVINGSTONE) was authorized access to The White House west wing. He therefore assumed that anyone with LIVINGSTONE on The White House compound was officially authorized to be there. He added that this man's build and attire were somewhat covered by the box(s) he was carrying. ABBOTT provided the following information regarding the man he saw with LIVINGSTONE:

Sex:	Male
Race:	Caucasian
Age:	21-25 years
Hair:	Dark brown or black
Height:	Approximately 6 feet
Build:	Medium
Other Information:	"Young looking" and wore no eyeglasses

Responding to a specific question by Mr. STEIN, ABBOTT said that he did not know who TOM CASTLETON was and that he had never heard the name.

Officer ABBOTT was shown 212 color photographs of male White House staffers previously provided to the Office of the Special Counsel by The White House. Officer ABBOTT carefully looked at each of these photographs and provided the following observations:

He identified a photograph of DAVID CRAIG LIVINGSTONE as being CRAIG LIVINGSTONE and said the man depicted in this photograph is the man he saw carrying a brown leather briefcase out of The White House west wing at approximately 7:00 am on July 21, 1993. Officer ABBOTT, after viewing all of the photographs, was unable to identify any of the men depicted in these photographs as being the man he saw with CRAIG LIVINGSTONE on the morning of 7/21/93 carrying a box or boxes out of The White House west wing.

The following descriptive data regarding Officer ABBOTT was obtained through observation and interview:

Name:	BRUCE EDWARD ABBOTT
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Height:	5'10"
Weight:	185 lbs.
Home address:	5 Griffin Court Fredricksburg, VA 22407
Home telephone number:	703-786-6280
Work telephone number:	202-395-2020

In response to a question from Associate Special Counsel STEIN, Officer ABBOTT said that he wants what he has told Special Counsel personnel during his interviews to be held in confidence.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/20/94

BRUCE E. ABBOTT, Officer, Uniform Division, United States Secret Service (USSS) was re-interviewed at the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Officer ABBOTT was informed of the identity of Special Agent WILLIAM E. COLOMBELL and advised that the purpose of the re-interview was to clarify information that was previously provided by him. Mr. MARK STEIN, an attorney with the Independent Counsel's office was also present and participated in portions of this re-interview.

Officer ABBOTT stated that he feels certain that it was Mr. CRAIG LIVINGSTONE who he observed on the morning of July 21, 1993 exiting from the West Wing elevator, basement level of The White House and passing directly by him at post E-1. He also feels certain that LIVINGSTONE was carrying a satchel type leather briefcase, dark in color. Another unknown white male did exit the elevator with LIVINGSTONE and was carrying some type of a box. Both men exited the basement area of The White House together, in a manner that led him to believe that they were both involved in carrying out a related responsibility or job. He added that he can't recall whether they were conversing and pointed out that it is possible that they just happened to be on the same elevator at the same time and each was about his own business but that was not his impression.

ABBOTT advised that in prior interviews, he believed he stated that it was his impression they had come from the second floor West Wing of The White House. He advised that on reconsideration, he really can't say this and any observation to that affect would have been based only on the fact that as best he recalls the elevator had run for a longer period of time before it reached the basement level, thus suggesting to him that the elevator had come from the second floor.

ABBOTT was informed that in prior interviews he had stated that his observations of LIVINGSTONE in the basement level West Wing occurred "around 7:00 am" (approximately 6:50-7:15 am). He was asked if he could further elaborate concerning the time frame of his observations. He stated that to the best of his

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Investigation on 10/12/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 10/18/94

recollection, his observations of LIVINGSTONE and the second unknown male occurred shortly after he came on duty at station E1; that would have been at approximately 6:45-7:15 am. He went on to state that it is possible that his observations could have been as late as 8:30 am that morning.

ABBOTT stated that to the best of his recollection, the only individual that he spoke to regarding his observations was Inspector DENNIS MARTIN of the U.S. Secret Service, Uniform Division. He feels certain that he did not make his observation known to anyone other than Inspector MARTIN and has no recollection whatsoever of discussing these matters with any member of the U.S. Park Police.

Mr. ABBOTT was asked if, since his prior interviews, there was anyone else he could think of (either USSS personnel or White House staffer) who might have also observed LIVINGSTONE that morning. He could not think of anyone.

At the conclusion of the re-interview, Mr. ABBOTT was shown the briefcase of VINCENT FOSTER and asked if it resembled or was identical to the briefcase being carried by Mr. LIVINGSTONE on the morning of July 21, 1993. He stated that the briefcase shown to him did not resemble the briefcase that was being carried by Mr. LIVINGSTONE.

The re-interview concluded with Mr. ABBOTT being shown a number of photos of male White House interns who were working at The White House as of July 21, 1993 (total of 50 separate photographs). He was asked to review these photographs and was unable to identify any one of them as resembling or being identical to the person he saw with CRAIG LIVINGSTONE.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Roger C. Adams, Counsel to the Deputy Attorney General, appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 11:15 a.m. for interview. Mr. Adams was advised of the identity of the interviewing agents and that the interview was in connection with the events associated with the inventory of Vincent Foster's White House office after Foster's death on July 20, 1993. The agents were also assisted in this interview by Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr. Mr. Adams provided the following information:

Adams said he had some notes regarding this issue that he would be referring to during the interview. Those notes were subsequently provided to the interviewers. Adams first heard of Vincent Foster's death on the morning of July 21, 1993 on the radio. Later that morning, following a staff meeting in the Deputy's office which ended around 10:15 a.m., Phillip Heyman, the Deputy Attorney General, pulled him aside and asked him to be on standby to meet with the U.S. Park Police regarding a search of Vincent Foster's White House office. He was told that he would be tasked with determining privilege issues, both executive and attorney-client, for documents found in the Foster office.

Adams advised that he had been on detail assignment to the White House Counsel office during the period February 1, 1993 through April 25, 1993. His office was located in the old Executive Office Building, where most White House Associate Counsel offices are located (other than those of Nussbaum and Foster). Adams' job on this detail was to assist in the vetting process with ethics review for White House nominees. Adams was familiar with financial disclosure matters and government conflict of interest rules. He was interviewed by Webb Hubbell for this position. He reported directly to Bill Kennedy and Beth Nolan of the White House staff. He was not involved with Vincent Foster while on this detail.

Adams advised that to the best of his knowledge he had seen or met Vincent Foster on three occasions. The first occasion was on February 1, 1993, his first day on the job to the

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estigation on 4/11/94 at Washington, D.C. File # 29D-LR-35063-

by SA H. Alexis Suggs HAS
SA William T. Guyton Date dictated 4/11/94

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detail to the White House Counsel office. He saw Foster in passing sometime between 1:00 and 2:00 p.m., and introduced himself to Foster. He noted Foster's reaction was that of someone meeting a career employee. Foster looked up and was startled and vacant and a bit hesitant to say hello; it was not a warm meeting. The second occasion was at a birthday party for White House Counsel Nussbaum in Nussbaum's office. He saw Vincent Foster across the room at this party. However, Foster didn't make an effort to say hello to Adams on this occasion. Foster did not mix with guests and "work the room" like Nussbaum did. The third occasion was not actually a meeting but merely being in Foster's presence. It occurred at the end of his detail to the White House at a gathering for taking photographs. He explained that he and others assigned to the detail to the White House were with Nussbaum, Kennedy and others for a photo session of five to ten minutes in Nussbaum's office. Even though Foster's office is adjacent to Nussbaum's, Foster did not come out of his office to thank the group, but rather continued his work in his office, thus verifying to Adams stories of Foster's intense nature.

Adams mentioned this detail assignment to the White House to Heyman when he asked him to participate in the Foster office search. They agreed that it probably didn't constitute a conflict of interest; however, it was perhaps a perception problem. Heyman said that he would check with the Attorney General. At approximately 2:00 p.m., Adams received a phone call from the Attorney General regarding a proposed meeting for Adams with Charles Hume from the U.S. Park Police at the White House for the search of Foster's office. Adams again explained the perception problem to the Attorney General, as he wasn't sure that the Attorney General and Heyman had had a chance to speak concerning this situation. The Attorney General advised that she would talk with Heyman. Adams was subsequently advised that it would be okay to go to the White House and that David Margolis, a career employee of the Department of Justice (DOJ), would also attend. Adams noted that it was typical DOJ practice to have more than one individual go to meetings on significant issues and he did not think otherwise in this case.

Adams advised that he understood the purpose of DOJ representation at the search was to determine privilege of documents, both attorney-client and Presidential. It was believed the White House would accept DOJ opinion regarding this

privilege over that of the U.S. Park Police. Adams did not know if the White House had requested DOJ assistance or if DOJ had taken the initiative to participate. Generally speaking, Heyman was sending one of his people, Adams did not question his motivation.

Wednesday Meeting, 7/21/93 at Nussbaum's Office:

At approximately 4:30-5:00 p.m., Margolis and Adams met in Nussbaum's office with the following individuals: Detective Pete Markland and Charles W. Hume, U.S. Park Police; FBI Special Agents Scott M. Salter and John K. Danna; Assistant Special Agent In Charge (ASAIC) Donald A. Flynn, U.S. Secret Service; Cliff Sloan, Steven Neuwirth and Bernie Nussbaum, White House Counsel's office. The main purpose of this meeting was to set the ground rules for the search of Vincent Foster's office. The search would be conducted to locate any material or items which would help determine if Foster's death was a homicide or a suicide, i.e., a suicide note. It was agreed that because of the lateness of the day, the actual search would not be conducted until the next morning, Thursday, July 22, 1993.

The procedure agreed to was that Margolis and Adams would look at each document. Adams noted that there was an extremely clear understanding that he and Margolis would review the documents. He said he knew this because at one point Neuwirth said that Nussbaum would look at the documents and decide and Nussbaum responded, "No, no. The Department of Justice will look." Also, Margolis had clearly said "this is what we're going to do" referring to the earlier comment that they would review each document. Earlier in Heyman's office, Margolis had discussed this process with Heyman.

A U.S. Secret Service agent had been posted at the door of the Foster office and it was agreed that to relieve this individual, a special lock would be placed on the door. Only one key would be available for this lock.

Also at this meeting, Nussbaum mentioned that on Tuesday evening, July 20, 1993, he did a quick search of the top of the desk in Foster's office, looking for a suicide note. He also indicated that other people had "straightened up the top of the desk" the morning of July 21, 1993. Nussbaum said that he did not take anything out of the office. He added he saw a

maintenance employee take a wastebasket out of the office and had ordered him to return this trash which was then placed back into the office in a plastic bag.

It was agreed that they would meet the following morning at 10:00 a.m. to conduct the search of Foster's office.

Adams and Margolis left the White House after the July 21st meeting and returned to DOJ where Margolis briefed Heyman regarding the results of this July 21, 1993 meeting. Margolis and Adams also chatted with others in Margolis' office regarding the procedure agreed to. These individuals included Rod Rosenstein and Cyndi Monaco. All were satisfied with the procedure as established.

10:00 a.m. Meeting with Nussbaum, July 22, 1993:

Upon arriving in Nussbaum's office on July 22, 1993 at approximately 10:00 a.m., Nussbaum announced to Margolis and Adams that he (Nussbaum) changed his mind regarding the procedures to be followed for the search. Neuwirth may also have been present for this change of plans announcement. Nussbaum said that he would look at the documents found in Foster's office and determine their relevancy. Adams and Margolis argued with Nussbaum regarding the change and said that under the new procedure we will look very bad and that the change was a huge mistake. The original process had been established to insure that objective people would determine privileged documents. Margolis and Adams had a reputation of not talking with the press and for this reason had been selected for this assignment. Nussbaum listened to the arguments. Margolis then said he was going to call Heyman, and did so. He then handed the phone to Nussbaum, who did more listening than talking during his conversation with Heyman. Adams later learned that Heyman had told Nussbaum that he was making a mistake. Margolis had indicated that it was a White House mistake and would look bad for them versus a Department of Justice problem. At the end of the Nussbaum conversation with Heyman, Nussbaum indicated that he would get back to Heyman. Adams and Margolis were asked to wait.

Margolis, being a smoker, spent much of the time waiting with Adams outside and in the lobby. Nussbaum came down at one point during the delay and said they should be sure not to leave. Margolis and Adams also received word that they could

leave for lunch and did so to the Old Executive Office Building cafeteria. Thereafter, Nussbaum called them into his office. Adams noted that he felt the arguments were getting through to Nussbaum and that he appeared to be listening. The delay lasted approximately two to two and a half hours. Adams speculated that part of the delay was consultation with Neuwirth, but that part of it could also have been with the President and/or First Lady. He didn't know of anyone else who would keep the White House Counsel waiting for such a long period of time.

Search of Vincent Foster's Office, July 22, 1993:

The search of Vincent Foster's office actually began at 2:00 or 2:15 p.m., July 22, 1993, and lasted for an hour or an hour and ten minutes. The search was conducted by Nussbaum picking up items or folders and announcing that "this is privileged" or that it was something that Foster was working on with other White House counsel. Adams did not remember Nussbaum distinguishing between attorney-client and Presidential privilege.

The briefcase found in the office was described by Adams as being old and brown. It was down behind Foster's desk and a question arose whether Foster carried it back and forth to work or not. Nobody seemed to know the answer to this question. Nussbaum pulled several documents from the briefcase but the other participants in the search never got to actually see that the briefcase was empty. Adams did remember that nothing was put back into the briefcase. He also remembered seeing what appeared to be an airline ticket envelope being found in the briefcase. He believed that most of the items found were personal in nature and given to Foster's family attorney.

At this point in the interview, Adams was shown a diagram (attached) of Foster's White House office and asked to locate on it where the various members of the search team were located during the search. He said that he and Margolis were seated directly in front of the desk and to their left was FBI Special Agent Scott Salter. Nussbaum sat in Foster's desk chair behind the desk, flanked on the left by Neuwirth and that Sloan floated around back and forth behind the desk. Another individual by the name of Roy Neal (phonetic) from the Rose Law Firm and assigned with the White House Chief of Staff (McLarty)

office to deal with property/security of the Foster office. Neal spoke with Nussbaum on one or two occasions during the search and came in and out of the office on several occasions. The Foster family attorney was also "floating." Adams could not remember the whereabouts of the other participants in the search.

Nussbaum searched the desk, credenza and bookcase. Adams could not say if everything had been pulled out of the various drawers and compartments. Nussbaum was in total control of the search. When asked about this, Adams replied "the judge has ruled." He explained that this was not his first meeting with Nussbaum and that he understood Nussbaum to be aggressive, peppy and a fast talker.

Toward the end of the meeting, someone asked that the computer be turned on. This request was denied by Nussbaum on the grounds that privileged documents could be seen and secondly that he didn't think Foster used the computer very much and therefore wasn't going to turn it on.

Adams also remembers thinking at the time that there were various drawers in tables in the office which hadn't been looked in but he didn't think he would be effective by asking for a search of these drawers at that point in the meeting. Adams clarified that in looking for a note regarding Vincent Foster's death, they would be looking for anything that would shed light on the matter, to include scandal or threat information. It was an unspoken assumption that Nussbaum would show the Department of Justice people and investigators anything related to Foster's death. Adams said that he was not sure he would have recognized the names Madison or Whitewater at the time of the search.

Adams indicated that approximately four to five boxes of material were located during the search. They were divided into piles consisting of counsel work, which would have to be "divvied up" among other White House Counsel attorneys and personal papers of Vincent Foster, which would be given to the Foster family attorney (consisted of less than one box), and that very little, if anything, was given to the U.S. Park Police. Adams did not personally review any of the documents.

No other locations outside Vincent Foster's office were searched. The plastic bag of trash replaced into Foster's office was looked at by Nussbaum, but Adams doesn't remember if anything

was taken out of this bag. Adams does not remember any phone or mail logs being located. With respect to incoming and outgoing mail, he said that Nussbaum reviewed documents on top of the desk at the beginning of the search and would have included any such items at that time.

Adams described the demeanor of the U.S. Park Police and FBI as "not happy." They didn't say anything to Nussbaum, but had indicated to him that they didn't like the delay in the search. They were taking their lead from Margolis. Adams said that at one point during the search, FBI Special Agent Salter stood up to stretch and was told or asked by Sloan that "you're not looking at documents, are you?" Salter said that he was not. Asked if this was done in a humorous way, Adams replied that at the time, it was not taken as humor.

Heyman was advised by Margolis of the procedure actually followed in the search. Heyman was not surprised. He had left it that Nussbaum would call him back; however, Adams believed that Nussbaum had not done this. Nussbaum not calling had irritated Heyman, but not surprised him.

Other Information:

On Wednesday, July 28, 1993, at a 1:00 p.m. birthday reception for Adams, Adams remembers Margolis calling him aside to tell him about the finding of a note from Foster in the briefcase. Margolis had a transcription of the note which was ultimately given to Floyd Clarke at the FBI.

At this point in the interview, Adams provided a copy of his notes concerning a meeting with Tom Collier, Chief of Staff for the U.S. Department of Interior's Secretary Babbit on July 29, 1993. These notes detail Collier's concern with the U.S. Park Police investigation of the Foster suicide and White House involvement with same. These notes are attached to this 302.

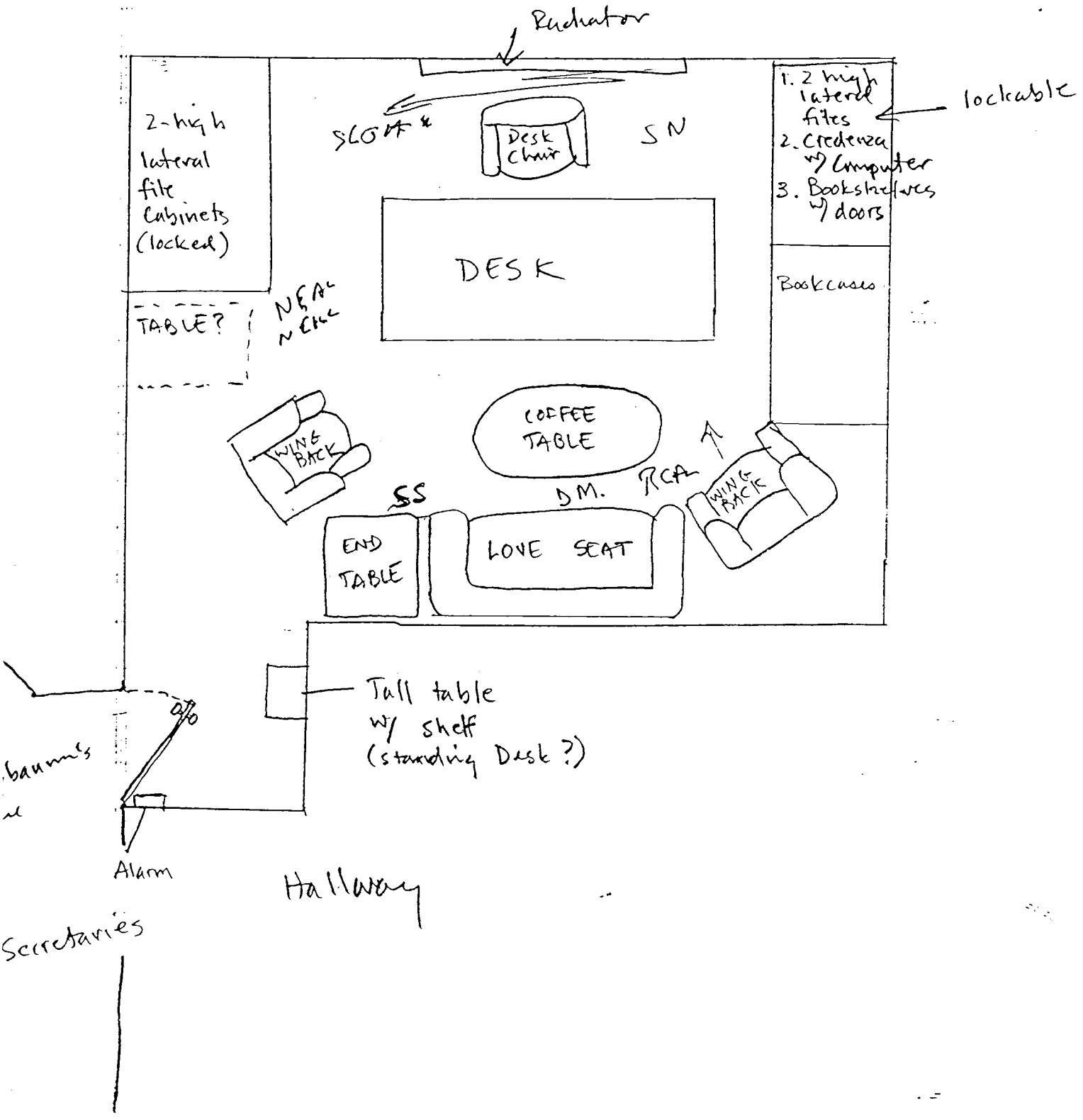
Adams also noted that Heyman had asked him for a list of what the White House Counsel had done which he or the DOJ didn't like. This list was requested about July 29, 1993, shortly after the meeting with Collier. Copies were given to Heyman and Margolis and Adams kept one for himself. A copy of these notes is also attached to this 302.

The first paragraph of the notes concerning the July 29, 1993 meeting with Collier describe a meeting held July 21, 1993. Collier did not attend this meeting but was aware of it and was concerned that Rose Law Firm alumni would be primarily interested in protecting Vincent Foster's reputation. They could possibly do this at the expense of the U.S. Park Police and therefore Collier was standing up for his investigators. The White House may have suspected leaks from the U.S. Park Police.

Margolis did not walk out of the search of Foster's office was that they wanted to get as much information as possible. They had been selected by Heyman for this job because of their reputation for being circumspect and not leaking items to the press and "being an individual who would do what I was told."

The following description of Adams was obtained through observation and interview:

Name:	Roger C. Adams
Title:	Counsel to the Deputy Attorney General
Race:	White
Sex:	Male
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)
SSAN:	
Address:	9016 Admiral Vernon Terrace Alexandria, Virginia 22309
Phone:	(202) 514-2707 (work) (703) 780-7266 (home)
Employment:	On Detail Assignment from the Criminal Division since May 6, 1993. Total employment at Department of Justice - 22 years.


Radiator
2-high lateral file cabinets (locked)
SLOAN
Desk Chair
SN
1. 2 high lateral files
2. Credenza w/ Computer
3. Bookshelves w/ doors
lockable
DESK
Bookcases
TABLE?
WING BACK
COFFEE TABLE
SS
DM.
RCA
WING BACK
END TABLE
LOVE SEAT
Tall table w/ shelf (standing Desk?)
baum's
Alarm
Hallway
Secretaries

Meeting with Tom Collier, (208-7351) Chief of Staff for Secretary Babbitt 7/29/93 DM and RCA

Told us of a meeting on Wednesday, July 21 at about 11:00 A.M. to discuss how the investigation would be handled. Present were

David Watkins
Bill Kennedy
Webb Hubbell
James Hamilton
Bernie Nussbaum
Charles Hume, Park Police and probably Pete Markland (a Park Police Detective)

George Stephenopolous, who went in and out and said have the Park Police handle it as it would any other investigation.

This was the first indication David and I had of this meeting.

Next topic was DM and RCA told Collier of the Wednesday meeting where we went over the ground rules for the search the next day

Told Collier of the Meeting between DM, RCA and Nussbaum on Thursday morning at which Bernie said he would examine the documents himself and we would not see them. Told him how we argued with Bernie that that was not a good idea, big mistake, Nussbaum made us wait while he considered the question, and at after 1:00 conducted the search with him and his staff only actually seeing the documents.

Collier called the White House (probably yesterday 7/28

Received calls back from Roy Neill, McClarty's Deputy and BILL Burton (a Rose law firm alumni who may have been present during the office search representing the Chief of Staff's Office. These calls were defensive in tone, said the investigation by the Park Police was done routinely and if a screw up in the investigation it was by the Park Police. It was probably at this point we discussed the brief case. We told Collier there was no way Nussbaum would have let the Park Police see it. "We'd have had to get it by force."

Recommendations by Collier

1. Take investigation away from Park Police and give it to FBI. Park Police can't handle this in his opinion both because they can't handle the high level WH people (then who could) and because they are capable of doing a stabbing in a Nat'l Park but not a case like this (Valid concern???) He said we have a window here to do something before the press forces us to do it with inevitable stories about the investigation being botched up because the note

wasn't found.

2. If we don't do the preceding, do not allow the White House to continue to call this a routine suicide investigation.

3. White House better get its act together to deal with adverse press/public reaction.

His underlying thoughts are that this investigation was controlled by Rose law firm persons who had as their first concern protecting the name and memory of Foster. That is the way the press will play it over the next few weeks. Naturally, this will make the Park Police look bad. He also ,mentioned that Secretary Babbitt, said to have great political instincts, believes WH Counsel will be in real trouble over this whole investigation and is likely on the way out.

Note found is being pieced together by Park Police lab. Collier has a "suspicion" which he said was not backed by evidence that it may have beeen torn by someone other than Foster.

In the late afternoon of Wednesday, July 21, we met in the office of White House Counsel Bernard Nussbaum with Mr. Nussbaum, Steve Neuwirth and Cliff Sloan of his staff, and representatives of the FBI and Park Police to go over the ground rules for a search of Mr. Foster's office. All agreed that because of the hour the search would not begin until the next day. At that point the Secret Service had stationed an agent by the door to Mr. Foster's office and a Secret Service agent who was at the meeting announced that a special lock would be placed on the door and that he personally would hold the key to secure it overnight. However, Mr. Nussbaum stated that he had already conducted a quick search of the "top of the desk" the previous evening to see if he could find a note. Moreover, other persons in the Counsel's office had entered the office during early morning business hours. Specifically, Mr. Nussbaum had allowed a secretary to enter the office to "straighten up" the top of the desk, and cleaning personnel had entered to empty a waste basket. Mr. Nussbaum or someone else in the Counsel's Office noticed the basket being removed and had retrieved the contents. They were in a plastic bag in the office.

At the Wednesday meeting there was agreement that the Justice Department attorneys would look at each document or at least each file to determine if it contained privileged material, in which case it would not be examined by the Park Police or FBI. We would not read the documents or make notes, but merely examine them long enough to determine if they were covered by the attorney-client privilege or possibly executive privilege. As an example of the clarity of this agreement, Mr. Neuwirth at one point, apparently trying to summarize it, said that "Bernie would look at each document and determine privilege. If he determined no privilege, it could be shown to the law enforcement officers." He was immediately corrected and Mr. Nussbaum agreed that the Justice Department representatives would see the documents to determine privilege. The next morning, however, Mr. Nussbaum had changed his mind and said he would look at the documents and decide privilege issues himself. The Justice Department attorneys pointed out that that was inconsistent with the previous day's agreement and would cause problems. We stated that the Counsel's Office would be better off to allow the Department attorneys to decide or at least help decide, privilege issues, because that would allow the White House to say that the issue was considered independently. Moreover, we stated that we had been asked to undertake this particular assignment at the White House in part because we had reputations of not talking to the press or "leaking." Mr. Nussbaum did not immediately begin the search but waited for about two and one half hours -- during which time he said he was considering whether to allow us to see the documents -- before deciding that only he and Associate Counsels Neuwirth and Sloan would see the documents.

During the search, Messrs. Nussbaum, Neuwirth, and Sloan stayed behind Mr. Foster's desk and examined documents pulled from the desk, nearby credenzas, and a briefcase. No other persons actually saw the documents. At one point during the search, Mr.

Sloan stated to an FBI agent who was standing: "You're not standing to get a look at the documents are you?" The agent indicated he was not, but sat down. In the particular setting, the remark was (to put it charitably) extremely offensive.

During the search, documents were removed from a briefcase. As with documents taken from the desk and credenzas, Mr. Nussbaum glanced at them quickly and made comments such as "these are privileged, they're things we're working on in the office," or "this has to do with something he was working on for the President," or "this is personal." We were not able to see the briefcase to see exactly what was in it. By the same token, we could not see the drawers to see if all material had been accounted for in them.

We asked to have the computer in Mr. Foster's office turned on. Mr. Nussbaum said he did not know how to do so and, in any event, he would not do so in our presence in case there were privileged documents on the computer. He said he would have a staff member examine the contents of the computer after we left. (Press reports in morning newspapers of that day had stated, without attribution, that no suicide note had been found on his computer.)

The Washington Post subsequently reported on Friday, July 23, that the search by Mr. Nussbaum had been "under the supervision" of Justice Department lawyers. It is extremely likely that the White House provided this characterization of the search.

I am not sure of the exact days involved, but there was a delay of almost 24 hours between the time a note was found torn up in the bottom of the brief case and notification of the Department.

On approximately July 28, 1993, we were informed by Thomas Collier, Chief of Staff to Secretary of the Interior Bruce Babbitt, that he had called the office of David Gergen at the White House to express concern over White House lack of cooperation with the Park Police investigation. He ultimately spoke to two persons, a Mr. Burton, and Roy [Neal] or [Neill], both of whom took a very aggressive tone and stated that any foul-up in the investigation was the fault of the Park Police, not the White House.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

ROGER C. ADAMS, Counsel to the Deputy Attorney General, U.S. Department of Justice (DOJ), telephone (202) 514-2707 (work), (703) 780-7266 (home), was interviewed at the Office of the Independent Counsel, Washington, D.C. ADAMS was advised of the identity of the interviewing agent and that the interview was a follow-up to his interview with the Office of Independent Counsel on April 12, 1994. CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted with the interview. ADAMS provided the following information:

In answer to a question regarding whether he and DAVID MARGOLIS, also from the DOJ, went to the White House on July 21, 1993 with a plan for the search of VINCENT FOSTER's White House office, ADAMS replied he was not sure if PHIL HEYMAN, Deputy Attorney General, DOJ, had talked with BERNARD NUSSBAUM, Chief White House Counsel, at that time regarding the search. In any event, there was quickly an agreement that MARGOLIS and ADAMS would look at the documents found in FOSTER's office. There was no real disagreement about that. ADAMS was clear on this because at one point, STEVE NEUWIRTH, Associate White House Counsel, objected to the DOJ looking at the documents and NUSSBAUM and MARGOLIS both indicated by either saying "no, no" or their body language, that in fact MARGOLIS and ADAMS would be allowed to look at the documents. ADAMS said there was no real "hammering out" of the rules for the search at any meeting he attended on July 21, 1993.

ADAMS was asked if there had been any discussion with the U.S. Park Police (USPP) regarding the DOJ facilitating the USPP relationship with the White House. ADAMS answered that facilitate, yes, in a sense, but mostly though, the DOJ was involved so somebody other than the White House Counsel's office could determine the issue of privilege. ADAMS did not know if this had been clearly articulated to the USPP. He said that he, himself, had not done this. ADAMS said he had had a conversation with Attorney General RENO regarding meeting with CAPTAIN HUME of the USPP and conducting the search of FOSTER's office on July 21, 1993. After this conversation, MARGOLIS joined the team and once

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at the White House, it then became clear that the search would not be conducted that night as there was not enough time left and the White House Counsel's office staff was tired.

There were discussions regarding the USPP deferring to the DOJ personnel. As an example, ADAMS said he remembered a ride back to the Department and/or when walking with the USPP and talking with them. He couldn't recall the exact substance, but it must have been regarding the circumstances of the search of FOSTER's office.

ADAMS was asked if the Park Police were active participants in dealing with the White House. ADAMS replied that he remembered MARGOLIS and NUSSBAUM doing the talking. ADAMS said that MARGOLIS probably said something to the investigators to the effect that, "This sounds reasonable to me, what do you guys think?" ADAMS couldn't remember MARGOLIS doing exactly this but said that MARGOLIS would "instinctively" make the investigators feel comfortable by saying this type of thing. ADAMS did recall a statement after the search during the ride back to DOJ with the Park Police, wherein MARGOLIS said, "This is not what we agreed to do."

ADAMS said he knew of only one meeting on July 21, 1993 regarding the procedures for the search. He is "reasonably confident" that everyone in the room during that meeting signed the list for attendance at the meeting. ADAMS had previously provided this list.

On July 22, 1993, NUSSBAUM announced at the search that he, and not the DOJ or investigators, was going to look at the documents. ADAMS cannot recall his exact words, but NUSSBAUM made this clear. MARGOLIS then replied something to the effect that, "BERNIE, you're making a big mistake."

ADAMS was asked if there was a clear understanding with the Park Police that they had to ask for documents to be put in the pile for later review. ADAMS replied that during the search, NUSSBAUM would say things such as, "This is privileged; this is stuff he's (FOSTER) working on for the President; this is something personal; etc. Mostly, NUSSBAUM did not indicate the subject matter of the document. He would, however, occasionally identify something as being an airline ticket, etc. ADAMS did not recall any discussion regarding the need for the Park Police

to speak up regarding the placement of documents in certain piles. He felt there was an understanding that if the Park Police would express an interest in a particular item, that item would be put in the review pile. He did not know if there was an understanding that this pile was subject to further review for privilege. ADAMS did not think that NUSSBAUM was claiming to make an absolute final decision when he called out the placement of any particular document.

ADAMS was asked if he recalled NUSSBAUM refusing any request for document placement. ADAMS answered he did not but that his recollection was not 100%.

ADAMS said that during the search there were plenty of documents the Park Police didn't express an interest in. There were some in which individuals in the room other than NUSSBAUM said would be somehow relevant. There were also some documents that NUSSBAUM deemed relevant. ADAMS said it was probably more along the lines that NUSSBAUM would say, "This is not really relevant, but maybe it is" and then put it in the pile for review.

When asked about the search of the briefcase found in FOSTER's office, ADAMS could not recall whether or not NUSSBAUM actually looked down into the briefcase to be sure it was empty.

ADAMS said it was his understanding that the search of FOSTER's office was more an intention to look at all documents in the office versus a surface scan.

ADAMS said that the term "Whitewater" wouldn't have meant much to him at the time. He would have looked at a Whitewater document at that time more from the standpoint of a blackmail type crime against FOSTER himself, rather than giving it any other meaning.

ADAMS said the USPP was not vociferous in their demands. There was no need for them to be so at the Wednesday (July 21, 1993) meeting, as agreement had been quickly reached. At the search itself on July 22, 1993, the Park Police didn't know about PHIL HEYMAN's contacts with the White House regarding the conduct of the search. It had been agreed that the DOJ would stay for the office search, even under NUSSBAUM's conditions, so that they would get at least a little information rather than

leave and perhaps get nothing.

ADAMS again stated that there was quick agreement that the Park Police would be in the room during the search of FOSTER's office. He did not recall an original understanding that he and MARGOLIS would initially review the documents in FOSTER's office while the Park Police would conduct interviews of White House personnel.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/26/94

ROGER C. ADAMS, Counsel to the Deputy Attorney General, U.S. Department of Justice, telephone number (202) 514-2707 was telephonically contacted as a follow-up to his previous interviews. After being advised of the identity of the interviewing agent and of the purpose of the interview, ADAMS provided the following information:

He was asked if he ever received a copy of the U.S. Park Police report concerning the death of VINCENT FOSTER, JR., Deputy White House Counsel who died July 20, 1993. ADAMS answered that he had never been given a copy of this U.S. Park Police report and, in fact, had never even seen a copy of the report. He said he had not been given copies or seen any photos in connection with the FOSTER death to include autopsy or death scene photos.

ADAMS was asked if he had any contact with The White House concerning the report or the photos and he answered no.

ADAMS suggested that perhaps DAVID MARGOLIS (Associate Deputy Attorney General, U.S. Department of Justice), could provide additional information concerning the Park Police report and/or photos.

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estigation on 7/25/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by SA WILLIAM T. GUYTON Date dictated 7/26/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

Dr. Martin G. Allen, MD, 2121 Wisconsin Avenue, NW, Washington, D.C. (telephone number 333-3833) was telephonically contacted at his office and advised as to the identity of the interviewing agent and informed of the nature of the inquiry. After verifying the identity of the interviewing agent, Dr. Allen agreed to be telephonically interviewed regarding the death of Mr. Vincent Foster. Dr. Allen provided the following information:

Dr. Allen, who is a practicing psychiatrist with offices at 2121 Wisconsin Avenue, NW, Washington, D.C. confirmed the fact that he had previously informed U.S. Park Police (USPP) officials that he did not render any professional services to Mr. Vincent Foster and that Mr. Foster was not scheduled for an appointment with him. He advised that since he does not have a secretarial staff or receptionist and personally handles all appointments, he is convinced that neither Mr. Foster nor any intermediary contacted him for an appointment. He also stated that he had no prior association with Mr. Vincent Foster or any member of his family.

In response to a question regarding how, in his opinion, his name was located in the possession of Mr. Foster after his death, Dr. Allen believes that Dr. Oscar Mann, a Washington, D.C. internist, was the source of this referral. However he was unaware of the identity of the individual who had initially contacted Dr. Mann seeking his assistance for psychiatric services.

Investigation on 5/11/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by Lawrence J. Monroe Date dictated 5/12/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

Robert Brian Almasy, Uniform Division, United States Secret Service (USSS), was interviewed at the Office of the Special Counsel, 1001 Pennsylvania NW. Officer Almasy was informed as to the identity of the interviewing agent and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for almost 10 years and has been assigned to The White House compound that entire time. His regular assignment is to serve as relief for other USSS Uniform Division Officers on posts guarding the two entrances into The White House west wing, post E-1, the ground level post which allows entry off of West Executive Avenue inside The White House compound and post E-4 (west lobby) which allows entry into the west wing from the 1st floor of The White House. He was so employed at the time of Vincent Foster, Jr.'s death on July 20, 1993.

On July 20, he was assigned to work the 2:30 pm - 11:00 pm shift on posts E-1 and E-4. He said that for the most part this was a "normal, routine shift". Officer Almasy said that he first learned of Vincent Foster's death when he received a phone call from USSS Control Center while on post at approximately 10:00 pm. He said that while he cannot recall who telephoned him, he does recall that the Control Center said that they had learned that a White House staffer named Vincent Foster had been found dead (no location given) and was calling him to ask if he knew who Vincent Foster was. He stated that he looked up the name on his list of White House staffers having access to the west wing and found the name Vincent Foster and his title which he gave to the Control Center. He said there was no further discussion or explanation from the Control Center regarding this matter. He said that he did not know Vincent Foster either professionally or personally prior to his death but did know who Vincent Foster was by sight in that he (Foster) often entered or left The White House west wing through entrance E-1.

Officer Almasy stated that during his shift on post E-1

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and E-4 the evening of July 20 he did observe some White House staffers come and go through these two entrances, although he cannot recall any specifics regarding these individuals. He was specifically asked if he recalled seeing Bernard Nussbaum, Maggie Williams, and/or Patsy Thomasson enter or leave the west wing that evening. He reiterated that he simply could not recall specifically whom he saw enter or leave the west wing that evening. He advised that he went off duty and went home at approximately 11:00 pm.

Officer Almasy stated that he also worked the 2:30 - 11:00 pm shift on July 21 and sat on both posts, E-1 and E-4, that evening. He said that during the early evening, approximately 5-5:30 pm, USSS Inspector Dennis Martin came to him on post and said that a temporary post was being established outside Vincent Foster's west wing office. Officer Almasy reported to this new post at approximately 6:30-7:00 pm where he relieved USSS Officer Brent Chenery. Officer Almasy stated that no one entered or placed anything in Vincent Foster's office while he was on duty there. He advised, however, that while he was at this post there were "secretaries" as well as Bernard Nussbaum standing near the door and engaged in conversation. He advised that while he cannot recall many specifics of these conversations, he does recall that they were discussing attending Foster's funeral in Arkansas.

Officer Almasy stated that at approximately 7:45-8:00 pm a USSS Assistant Special Agent in Charge (perhaps Don Flynn), a locksmith, and a USSS Technical Security Division employee arrived at the door for the purpose of installing a lock. Almasy said that he did not see the lock installed because shortly after this group arrived, he was dismissed from this post at approximately 8:00 pm by the Assistant Special Agent in Charge present. Almasy returned to post E-4 in the west wing lobby where he was on duty until 11:00 pm at which time he left and went home.

Officer Almasy advised that his office is located at 1310 L Street NW and his telephone number is 202-395-2020.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/14/94

MARI L. ANDERSON, Staff Assistant in The White House Office of Personnel Security, telephone (202) 456-2345 was interviewed at the Office of the Independent Counsel in Washington, D.C. Also present was SSA WILLIAM T. GUYTON and Independent Counsel attorney MARK STEIN. After being advised of the identity of the interviewing agents and MARK STEIN and the nature and purpose of the interview, ANDERSON provided the following information:

ANDERSON advised that she was the staff assistant working directly under CRAIG LIVINGSTONE in The White House Office of Personnel Security on July 20, 1993. ANDERSON described the Office of White House Personnel Security as an informal office. She said that she was the only paid employee who was not leaving soon. The rest of the people working in the office were either soon to retire or were interns. She described her relationship between herself and CRAIG LIVINGSTONE as definitely one of supervisor to subordinate and said that they did not operate as a team.

ANDERSON advised that on July 21, 1993 she arrived to work at 9:00 am. LIVINGSTONE had been there early in the morning and recalls his telling her that he had been up really late the night before and had to be in really early that morning. She recalled 7 or 8:00 in the morning as his arrival time at The White House. She cannot recall whether it was 7:00 or 8:00 or whether he said "7 or 8:00". ANDERSON advised that she felt very strongly that LIVINGSTONE would have told her if he had gone anywhere but directly to The White House that morning. He would generally explain what he had been doing in order to justify whether or not he was feeling well or wanted to be bothered. She said that he looked terrible that morning and after a while wanted to sit quietly without interruption. It was a normal course of their business relationship that she would "run interference" and so he would explain to her what he had all been doing. He told her that he had been at the FOSTER's residence the previous night, that he had identified the body of VINCE FOSTER, JR. and he did not mention anything about being at the

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FOSTER residence earlier the morning of July 21.

With regard to a memorandum entitled "REPORT FROM CRAIG LIVINGSTONE" dated July 21, 1993, comprised of approximately one and a half pages of typed written paragraphs which purport to chronicle LIVINGTONE's activities on July 20 and 21, ANDERSON knows that she did not type this document. Having been shown a copy of it, she said that it looked familiar but she can not say whether it is familiar to her from having seen it in July of 1993 or from her recent exposure to the memorandum. She went on to explain that she has searched for this document three separate occasions with no success.

The first occasion was in March 1994 when the Office of the Independent Counsel served The White House with a general subpoena for documents. At that time, the Office of Personnel Security was searched for all documents thought to be responsive to the subpoena. She does not recall seeing it at that time. The second incident was at a request by LIVINGSTONE to her personally to search the office for anything that had FOSTER's name on it or related to his death and papers. ANDERSON said that at that time, she went through every file folder, every drawer, every disk and the hard drive in the office searching for anything that fit that description. She said that she did this the week of May 16, 1994. She said that LIVINGSTONE said that he remembered there was a memo that talked about what had happened that day that he had written. It did not ring a bell with her at the time and she never found anything like that. Based on her extensive search of the office for that memo specifically at that time she does not believe that the memo was done anywhere in The White House Office of Personnel Security. The third time that she searched again for the memo was approximately two weeks after the second search (some time the beginning of June 1994.) when LIVINGSTONE again asked her to double check. It was at that time that LIVINGSTONE showed ANDERSON a copy of the memo that was also shown to her by writer. At that time LIVINGSTONE also showed her some handwritten notes that he had.

ANDERSON said that LIVINGSTONE could type but not very well and has only received a computer for his desk within the last month. ANDERSON said that she does not recall LIVINGSTONE saying that he was going to do a chronology that day but she remembers there was general talk about the chronology of what had happened among individuals in the office.

ANDERSON said that she does not recall any movement of materials in the day (and days) after VINCE FOSTER's death. She explained that LIVINGSTONE does not move material for people. She said that he does not consider it his job or the Office of Personnel Security's job to do such tasks. There are also security considerations that he has articulated, in that one can be moving materials that one doesn't know what they are from one area of The White House into another that may not be appropriate for security reasons. She said that there was also a little bit of "pompousness" in his attitude that he won't move boxes. She said that she knew of nobody in The White House that he would not say "no" to if they asked him to move something. And when asked if there was anybody in The White House that he felt so loyal to he would not want to say "no" to, she said that he was particularly loyal in a "corny" sort of fashion to the First Family, implying that the President and First Lady might be exceptions.

ANDERSON advised that she knows of nothing moved the night of July 20 or in the several days thereafter either from The White House or from the Counsel's office. She was not able to speculate whether or not the Counsel's office would have been able to tell LIVINGSTONE to move something but commented that the Counsel's office was the direct supervisory entity of the Office of Personnel Security. With regard to black binders, ANDERSON commented that they are throughout The White House.

ANDERSON said that she does not know where LIVINGSTONE was between his time of arrival at The White House the morning of July 21 (sometime between 7 and 8:00 am) and when she first saw him that morning (sometime between 10 and 11:00 am). She assumed he was somewhere in the Counsel office but he could of been anywhere. She advised that LIVINGSTONE parks on the eclipse right in the very front spot. The Secret Service lets him park there because they like him. She further opined that the morning of July 21, LIVINGSTONE "looked horrid". It was a fairly quiet day and she remembers that he did sit quietly at his desk working on something in the afternoon but she doesn't know what and she couldn't remember when. ANDERSON usually left for the day between 6:30 and 7:00 pm. She could not recall when LIVINGSTONE left that day.

ANDERSON speculated that, from what she observed of LIVINGSTONE and the other subordinates in the Office of Personnel Security, LIVINGSTONE would be likely to task LUIS COLON, LISA

WETZL, and MELISSA EVANTASH, in that order of preference, for small tasks such as typing a memo for him or doing an errand. She advised that COLON was used a lot to run errands and do physical things and that he arrived to work at 9:00 to 9:30 on July 21, 1993 as he usually did.

ANDERSON said that people can only move freely and unescorted between the OEOB and The White House if they have a "hard" pass. She said the only interns she knew of who are present in the early morning hours (prior to 6am) are those who prepare the press clippings and they are restricted to their office space in the OEOB.

During the interview ANDERSON provided the following information about herself:

DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Home Address:	2727 29th Street, NW Apt. 236 Washington, D.C. 20008
Home Phone:	(202) 667-1923
Position:	Staff Assistant, White House Office of Personnel Security

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/18/94

MARI LYNN ANDERSON was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Assistant Counsel BRETT M. KAVANAUGH, OIC, participated in the interview of ANDERSON. After being advised of the official identities of the interviewing agents and the nature of the interview, ANDERSON provided the following information:

After she graduated from the University of Georgia in 1991, ANDERSON went to work in the office of presidential candidate AL GORE in Little Rock, Arkansas. During August 1992, ANDERSON was a volunteer in Mr. GORE's office but did not travel with the campaign. From September 1992 through November 4 or 5, 1992, ANDERSON worked with LAURA SPINING and ROY NEEL of Mr. GORE's staff handling correspondence and archiving of materials.

ANDERSON came to Washington D.C. in November 1992 and began working for the inaugural committee organizing the ceremonies and balls held in conjunction with the inauguration of President BILL CLINTON. ANDERSON was working at the inaugural committee when she was offered a position in the White House Office of Personnel Security (WHOPS) by CRAIG LIVINGSTONE. ANDERSON accepted LIVINGSTONE's offer and she began working at the WHOPS on February 17, 1993. LIVINGSTONE was personally responsible for hiring ANDERSON for her position at the WHOPS.

ANDERSON had met LIVINGSTONE for the first time when she was still in college and was working at the Democratic National Convention in Atlanta, Georgia in 1988. ANDERSON had an internship which enabled her to work at the convention, and she worked with LIVINGSTONE for approximately two weeks at that time. LIVINGSTONE prefers to fill positions on his staff with former interns or other people who have worked for him in the past.

NANCY GEMMELL previously held the staff assistant position which is currently held by ANDERSON. GEMMELL was a career employee at the White House and had been serving there since the administration of President LYNDON JOHNSON. She was

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Investigation on 9/30/94 at Washington, D.C. File # OIC-35063

by SAs WILLIAM E. COLOMBELL and RUSSELL T. BRANSFORD RTB:rtb Date dictated 10/3/94

allowed to remain in her position until she retired from federal service in mid-1993.

On July 21, 1993, ANDERSON arrived for work at approximately 9:00 a.m., and GEMMELL was already at work in the WHOPS office. GEMMELL typically arrived at work by 8:30 a.m. at the latest. Several interns, including LISA WETZL, MELISSA EVANTASH, LUIS COLON, and ANTHONY AOUDE, were also at work in the WHOPS office that day. During a conversation that morning, GEMMELL told ANDERSON that LIVINGSTONE had been at the White House very early that morning or had called into the office very early that morning. GEMMELL asked ANDERSON to tell the interns working in the WHOPS about the suicide of Deputy White House Counsel VINCENT W. FOSTER, Jr. the preceding night, and she instructed ANDERSON to refer all calls about FOSTER's death to other offices at the White House. When GEMMELL told ANDERSON about FOSTER's death, GEMMELL mentioned that LIVINGSTONE had gone out the preceding night to identify FOSTER's body and had been up late.

ANDERSON does not know if GEMMELL saw LIVINGSTONE in the office earlier in the morning of July 21 or if LIVINGSTONE had only called in to the WHOPS office. ANDERSON does not know with certainty what time GEMMELL arrived at the WHOPS office that morning. GEMMELL usually drove to work with her husband BILL, who was employed in the calligraphy section at the White House.

The first time ANDERSON saw LIVINGSTONE on July 21, 1993 was at approximately 10:00 a.m. in the WHOPS office. ANDERSON had not observed LIVINGSTONE when he actually entered the office. ANDERSON recalls LIVINGSTONE saying that he had been at the White House complex at approximately 7:00 a.m. on July 21, 1993. Her recollection of LIVINGSTONE's remark in this regard stems from a conversation they had that same date. ANDERSON believes there is a sixty percent chance that she is correct in recalling that LIVINGSTONE told her that he had been at the White House complex early on July 21, 1993.

During a subsequent conversation that morning, LIVINGSTONE told ANDERSON that he had gone to a hospital to identify FOSTER's body. LIVINGSTONE also mentioned that he had gone to the FOSTER residence in order to deal with an entourage of media people.

Later on July 21, 1993, LIVINGSTONE told ANDERSON that

he wanted her to begin wearing a pager due to the difficulty he had experienced in attempting to locate her the previous evening following the death of FOSTER. LIVINGSTONE said he had wanted ANDERSON to go to the FOSTER residence the night of July 20 to screen off members of the media, but LIVINGSTONE had been unable to contact ANDERSON because she was not at home that evening. LIVINGSTONE did not make any similar statements about having wanted ANDERSON to go to the FOSTER residence the morning of July 21, 1993. ANDERSON's roommate at that time told ANDERSON that LIVINGSTONE had not conveyed any sense of urgency when he called ANDERSON's residence the night of July 20, 1993.

After LIVINGSTONE had retained his attorneys and was attempting to reconstruct his activities on July 21, 1993, he asked ANDERSON if she remembered what he had done that day. ANDERSON told him that she remembered him saying that he had been at the White House at 7:00 that morning. LIVINGSTONE did not attempt to change or correct ANDERSON's recollection since it was apparent to ANDERSON that LIVINGSTONE did not know himself what time he had arrived at work that morning. ANDERSON does not recall what LIVINGSTONE said he had been doing that morning. ANDERSON does not recall LIVINGSTONE saying anything about being at the FOSTER residence that morning, but she does recall LIVINGSTONE mentioning that he had been at the residence the night before, i.e., July 20, 1993.

During July 1993, the WHOPS was organizationally under the purview of Associate White House Counsel WILLIAM H. KENNEDY III. In March 1994, Associate White House Counsel BETH NOLAN was given responsibility for the WHOPS.

ANDERSON believes that LIVINGSTONE first learned of FOSTER's death when he was contacted by officials of the National Park Service. ANDERSON believes it is traditional for the White House security director to be the individual who goes out to positively identify the bodies of high-ranking White House officials who have died.

KENNEDY frequently called the WHOPS to check on the status of matters being handled by WHOPS personnel. These calls were usually of a routine nature because KENNEDY's position required him to be knowledgeable about the status of background investigations being conducted on members of the White House staff. KENNEDY would usually call about problems or issues which arose in the course of a background investigation.

LIVINGSTONE had a habit of calling either KENNEDY or NOLAN and telling them that he needed something from them as soon as possible even when a quick response from them was not really necessary.

When LIVINGSTONE first began looking for his memorandum containing a chronology of his activities on and about July 20, 1993, he had no clue who had typed the memorandum and he did not have a copy of it. Due to the amount of effort being expended to locate the memorandum, ANDERSON sensed that the memorandum was a critical area as was the fact that the memorandum could not be found on a disk or hard drive of a computer.

ANDERSON used to type documents for LIVINGSTONE and she believes she would most likely have been the person who would have typed a chronology memorandum for LIVINGSTONE on July 21, 1993. ANDERSON has heard that the original memorandum was found on a computer in the White House Office of Administration, which is located on the ground floor of the West Wing of the White House.

There was a safe in the office of White House Counsel BERNARD NUSSBAUM which his executive assistant, BETSY POND, was sometimes unable to open. On occasion, LIVINGSTONE or TONY MARCECA, who was detailed from the Department of Defense to the WHOPS, would go over to the White House Counsel's Office suite to open the safe.

LIVINGSTONE lives by himself in a one bedroom condominium in Chevy Chase, Maryland and owns an Acura automobile and a Volvo automobile. He has had social relationships with a number of female members of the White House staff as well as with women from outside the government. LIVINGSTONE used to be very good friends with MICHAEL JONES, who has served as a director in a farming and irrigation program at the United States Department of Agriculture since May or June of 1993. However, LIVINGSTONE declined to serve as best man at JONES's wedding, and LIVINGSTONE and JONES no longer have much contact with each other. SARA HADLEY RUSSELL is a friend of LIVINGSTONE and lives directly next door to him. RUSSELL is a consultant who has had a contract with the Small Business Administration (SBA) and another contract with the United States Olympic Committee in Colorado Springs, Colorado. RUSSELL also worked on the California inaugural ball with an individual named JOHN HOYT.

LIVINGSTONE's telephone number at home formerly was (301) 654-5478. However, LIVINGSTONE told ANDERSON that the press had learned of that number so he had his telephone number changed to a new number which is not known by ANDERSON.

In approximately May or June of 1994, ANDERSON began to have problems with LIVINGSTONE. LIVINGSTONE asked the employees of the WHOPS who had been working there on or about July 20, 1993 to assist him in reconstructing the events of that day. ANDERSON recalls that LIVINGSTONE made this request of the staff shortly after he retained private attorneys to represent him regarding the pending OIC investigation. Specifically, there was friction between ANDERSON and LIVINGSTONE when ANDERSON declined to be interviewed by LIVINGSTONE's attorneys unless her personal attorney could be present during the interview. ANDERSON told LIVINGSTONE that she was not comfortable with a format under which she would be interviewed by attorneys protecting LIVINGSTONE's interests with no one else present to look after ANDERSON's interests.

LIVINGSTONE told ANDERSON that someone had identified him as removing documents from the West Wing, and he said it was very important for him to find out what time he had arrived at work on July 21, 1993. LIVINGSTONE handled the submission of a request to the United States Secret Service for a copy of a computer printout which reflected the time when LIVINGSTONE entered the White House compound on that date.

LISA WETZL may have spoken to LIVINGSTONE's attorneys but ANDERSON is not certain. LIVINGSTONE's attorneys attempted to contact MELISSA EVANTASH, but ANDERSON is not certain if they were successful. ANDERSON was concerned about the attorneys calling EVANTASH because EVANTASH's father had just passed away and there were also problems involving EVANTASH's mother and other people. ANDERSON does not know if the attorneys contacted either LUIS COLON or ANTHONY AOUDE. ANDERSON does not believe any of the staff members of the WHOPS other than she would have refused to speak with LIVINGSTONE's attorneys.

On August 22, 1994, ANDERSON and LIVINGSTONE had a conversation about ANDERSON leaving her employment in the WHOPS. Both ANDERSON and LIVINGSTONE recognized that there had been a tension between them ever since she had declined to speak with his attorneys. When LIVINGSTONE proposed that ANDERSON be prepared to cease her employment at the WHOPS in November 1994,

ANDERSON suggested that the effective date be moved up to October 1, 1994. The day of this interview (September 30, 1994) is ANDERSON's final day working at the WHOPS through mutual agreement between ANDERSON and LIVINGSTONE. ANDERSON has not been discharged and her departure was mutually agreed upon. ANDERSON will continue to work at the White House as a volunteer in another area.

LIVINGSTONE does not usually write memoranda on events which have occurred. ANDERSON has no knowledge of LIVINGSTONE saying that someone else had instructed him to generate the memorandum in which he provided the chronology of his activities on and about July 20, 1993. LIVINGSTONE recalled that he had written the memorandum because of the nature of the incident.

On July 21, 1993, LIVINGSTONE was "wound tight" all day. LIVINGSTONE received a telephone call in the WHOPS office from someone and then left the office. ANDERSON does not know from whom LIVINGSTONE received the telephone call. LIVINGSTONE spent most of that afternoon outside the office. There were several calls that day from the White House Counsel's Office to the WHOPS, but this number of calls was not unusual given the quantity of work shared by the two offices. ANDERSON spoke to NUSSBAUM's assistant, BETSY POND, once that day, and WILLIAM KENNEDY called the WHOPS once or twice. No inquiries, whether by telephone call or fax, came into the WHOPS that day regarding the death of FOSTER.

Approximately two to three weeks after FOSTER's death, LIVINGSTONE and ANDERSON drove out to the Anacostia section of Washington, D.C. to pick up FOSTER's automobile from an impound lot. LIVINGSTONE drove back to the White House in FOSTER's automobile while ANDERSON drove LIVINGSTONE's car.

LIVINGSTONE's parents live in the Maryland suburbs of Washington, D.C., and he has a brother who is employed at the United States Department of Energy in the Washington, D.C. area.

ANDERSON knows of no employees who work in offices near or adjacent to the WHOPS, who arrive at work very early, and who might have been in a position to observe LIVINGSTONE's activities on July 21, 1993. Because the doors to offices in the Old Executive Office Building, including the WHOPS, are usually kept closed, it is generally not possible for passersby in the hallway or staff members in other offices to know with certainty which

WHOPS staff members are in the WHOPS at any given time.

No one coached ANDERSON prior to her interview by OIC investigators. LIVINGSTONE knew that OIC investigators had been attempting to reach ANDERSON because he became aware of telephone messages left for ANDERSON at the WHOPS. After ANDERSON was first interviewed by OIC investigators, LIVINGSTONE asked ANDERSON what had been discussed, but ANDERSON declined to tell LIVINGSTONE anything about her interview. LIVINGSTONE indicated to ANDERSON that he believes he is being made a scapegoat or that someone on the White House staff is out to get him.

When asked for her personal opinion as to whether LIVINGSTONE was involved in the movement of documents on July 21, 1993, ANDERSON responded that she has a gut feeling that LIVINGSTONE may have moved documents.

Nobody with whom ANDERSON is familiar at the White House knows how LIVINGSTONE got his job at the WHOPS. ANDERSON believes that LIVINGSTONE could not get a position with the presidential campaign because he had been blackballed, but ANDERSON does not know who may have been responsible for the blackball. LIVINGSTONE performed some advance work for Vice President GORE, but LIVINGSTONE was not part of the first-line campaign staff.

There were three telephone lines in the WHOPS in July 1993 with the following numbers: (202) 456-2345, (202) 456-2346 and (202) 456-2849. LIVINGSTONE described telephone number (202) 456-2849 as his private line when he provided the number to people, but this number was actually just another number for the WHOPS. LIVINGSTONE had a secure telephone on his desk which he used for many of his calls. LIVINGSTONE had this secure telephone moved to his desk from its former location in the vault. LIVINGSTONE's older model secure telephone has been replaced by a newer model.

EDGAR BUENO was a paralegal who formerly worked with WILLIAM KENNEDY and BETH NOLAN in the White House Counsel's Office. BUENO was primarily a paralegal working for KENNEDY, but he also worked for NOLAN and FOSTER. BUENO is currently a law student at the George Washington University National Law Center in Washington, D.C.

ANDERSON knows of no one who can advise whether LIVINGSTONE was at the Old Executive Office Building early in the morning of July 21, 1993.

ANTHONY MARCECA, who was the individual detailed to the White House from the Department of Defense, arrived at the WHOPS in August 1993 and worked there through February 1994.

When asked to identify any persons who may have helped LIVINGSTONE move boxes on the morning of July 21, 1993 based on either their roles at the White House or their relationships with LIVINGSTONE, ANDERSON furnished the names of LUIS COLON, ANTHONY AOUDE, and TOM CASTLETON.

Based on observation and interview, ANDERSON is described as follows:

Name:	MARI LYNN ANDERSON
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Address:	2727 29th Street, N.W. Apartment 236 Washington, D.C.
Home telephone:	(202) 667-1923

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

BERYL FRANKLIN ANTHONY, JR., former U.S. Representative, Fourth District, Arkansas, was interviewed regarding events surrounding the death of VINCENT W. FOSTER, JR. FOSTER was the former Deputy Counsel to the President, The White House, Washington, D.C. (WDC). ANTHONY was interviewed in the presence of his attorney, JAMES HAMILTON of the law firm of Swidler & Berlin, 3000 K Street, N.W., WDC. Also participating in the interview was Mark Stein, Attorney, Office of the Independent Counsel (OIC). The interview was conducted at the Office of the Independent Counsel, 1001 Pennsylvania Ave., N.W., WDC. After being appraised of the purpose of the interview and the identities of all participants, ANTHONY thereafter provided the following information:

ANTHONY was the brother-in-law of VINCENT W. FOSTER, JR. He is married to SHELIA ANTHONY, FOSTER's sister. FOSTER was described to be a quiet man when it came to the expression of his opinion of issues. FOSTER lived with ANTHONY and his wife, SHELIA, for approximately 90 days upon his arrival in Washington. FOSTER came to Washington as part of the Clinton Administration on January 20, 1993.

FOSTER rarely talked about his work, but did mention to ANTHONY his concern regarding the White House Travel Office affair. Most of the Travel Office related conversation occurred in bits and pieces between FOSTER, ANTHONY, and other individuals. The thrust of FOSTER's discussions regarding the Travel Office, centered around the Federal Bureau of Investigation (FBI) lying in its report to the Attorney General regarding the Travel Office investigation. ANTHONY had no reason to believe that the FBI misrepresented its position to the Department of Justice. FOSTER never relayed to ANTHONY what the FBI lied about.

ANTHONY thought that FOSTER's statement regarding the FBI lying, was an uncharacteristic statement to have been made by FOSTER. The reason ANTHONY specifically recalls this particular assertion is that it was so uncharacteristic of FOSTER that it

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made an impact on ANTHONY. ANTHONY was only cursorily familiar with the White House Travel Office affair. Most of his knowledge was gained through newspaper reports. ANTHONY thought that FOSTER's remarks regarding the Travel Office and the veracity of the FBI's report to the Attorney General might have been in regards to WILLIAM KENNEDY, another member of the White House Counsel's office.

FOSTER's statement regarding the FBI lying, was a contemporaneous statement recalled to have been made prior to the White House issuing its own report of the Travel Office affair. ANTHONY recalls FOSTER making his statement about the FBI on more than one occasion. At no time did ANTHONY ask any follow-up questions with regards to FOSTER's opinion about the FBI.

In addition to the White House Travel Office affair, ANTHONY was aware that FOSTER was troubled by a series of editorials that were written about him in the Wall Street Journal newspaper. ANTHONY was under the impression that the newspaper articles bugged him more than did the Travel Office affair. According to ANTHONY, this appeared to be the case whenever FOSTER made any comments in ANTHONY's presence. FOSTER would frequently discuss the Wall Street Journal articles with SHELIA and with BERYL ANTHONY. FOSTER was of the opinion that the Wall Street Journal articles were written with the intent to ruin the Clinton Administration and furthermore thought that they were written with a sense of willful maliciousness. FOSTER viewed the Wall Street Journal articles as tearing his reputation down in an almost "smirky way." ANTHONY advised FOSTER to forget about the articles. FOSTER was described to have been unable to cope with the criticism of the Washington press corp. FOSTER came from a background of praise and adoration and the criticism was quite foreign to his previous experience.

ANTHONY initiated several conversations with FOSTER to try to get him to put everything back into perspective and not take these articles too seriously. ANTHONY recalls the Wall Street Journal articles occurring at about the same time as the White House began to receive criticism for the nomination of ZOE BAIRD for the position of Attorney General. Also in the press at this time were stories regarding BAIRD, the White House Travel Office and other issues for which the Clinton White House was under a great deal of criticism. FOSTER rationalized these problems to be his fault. It was at about this time that ANTHONY

began to detect depression on the part of FOSTER. SHELIA ANTHONY asked BERYL ANTHONY to talk to FOSTER about this condition. BERYL ANTHONY would try to make contact with FOSTER to console him during this time period. ANTHONY believes that FOSTER was upset regarding the loss of control that he had as part of the political forum in WDC. ANTHONY thought that FOSTER carried too much of the burden for criticism received by the Administration on his (FOSTER's) shoulders. ANTHONY was able to describe FOSTER's condition as depression in that

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BERYL ANTHONY was aware that his wife, SHELIA ANTHONY, encouraged FOSTER to seek professional help for his condition.

ANTHONY found out later that FOSTER had gotten medical advice in Little Rock. ANTHONY recalled that FOSTER's depression occurred sometime after his (FOSTER's) initial 90 day stay with the ANTHONYs. This whole depression episode probably started prior to FOSTER's wife moving to WDC.

FOSTER became increasingly alarmed at the threats made by Republican lawmakers in area newspapers regarding holding hearings on the Travel Office matter. FOSTER felt he needed counsel if hearings did occur. He feared that his role at the White House may become adversarial as a result of the Travel Office matter. On July 12, 1993, BERYL ANTHONY gave FOSTER the names of three attorneys he could utilize in the event Congress held hearings on the Travel Office Affair. ANTHONY did not recall the names of the attorneys.

ANTHONY did not recall FOSTER ever discussing Whitewater or Madison Guaranty.

With regard to knowledge of guns possessed by FOSTER, ANTHONY advised that one Thanksgiving his father-in-law showed him a weapon that belonged to his (FOSTER SENIOR's) father. This occurred approximately 25 years ago. ANTHONY advised that he did not have any weapons in his home.

ANTHONY was aware that LISA FOSTER, FOSTER's spouse knew of a gun in the FOSTER home in Little Rock. LISA FOSTER asked ANTHONY to take possession of the gun. According to ANTHONY, there was no ammunition in the gun he took possession

of. ANTHONY was unable to identify from a USPP photograph the gun located at the death site where FOSTER's body was located. ANTHONY was also shown the gun that was found at the death site and he was unable to identify it as the one belonging to the FOSTER family.

ANTHONY is convinced that press reports and the viciousness of the WDC political establishment was what contributed to FOSTER's death. In ANTHONY's opinion, FOSTER's role as Deputy Counsel to the President caused his demise. ANTHONY provided no further information of investigative value.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/3/94

SHEILA FOSTER ANTHONY was interviewed at the United States Department of Justice, Washington, D.C., where she serves as Assistant Attorney General for Legislative Affairs. JAMES HAMILTON, who is associated with the law firm of Swidler & Berlin, Washington, D.C., and who is representing the FOSTER family, was present during the interview. Also participating in the interview were MARK STEIN and CARL STICH, Associate Counsels with the Office of the Independent Counsel, Washington, D.C. After ANTHONY was advised of the official identities of the interviewing agents and that the interview pertained to the circumstances of the death of her brother, VINCENT W. FOSTER, JR., on July 20, 1993, she furnished the following information:

Among the duties of the Office of the Assistant Attorney General for Legislative Affairs are the clearance of bills before they are forwarded to the Office of Management and Budget and a role in the selection of nominees for positions as United States Attorneys, United States Marshals and Federal Judges. ANTHONY's office also corresponds with Congress and assists in attempting to advance legislation which is regarded as important to members of Congress.

ANTHONY has not been interviewed previously by either the United States Park Police (USPP) or the Federal Bureau of Investigation (FBI) regarding the death of her brother.

ANTHONY has no personal knowledge regarding the gun which was found with the body of VINCENT W. FOSTER, JR. ANTHONY's father, VINCENT W. FOSTER, owned a number of handguns, rifles and shotguns. The elder MR. FOSTER was very ill with cancer approximately two years ago, and he eventually died as a result of the disease in June 1991. Prior to his death, the elder MR. FOSTER had hinted to other family members that he might use a weapon to take his own life. Either VINCENT FOSTER, JR. or ANTHONY's sister, SHARON BOWMAN, or possibly both of them removed the guns owned by the elder MR. FOSTER from his home in Hope, Arkansas. ANTHONY recalls that the guns were removed from the house sometime during the period of March to May 1991, but

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ANTHONY is not certain exactly when this event took place. Both SHARON BOWMAN and VINCENT FOSTER, JR. had told ANTHONY that they were concerned that the elder MR. FOSTER might use one of the guns in the house to take his own life.

SHARON BOWMAN is familiar with guns since she took riflery courses in her youth and has hunted in the past.

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SHEILA ANTHONY was born on [redacted] SHARON FOSTER BOWMAN was born on [redacted] VINCENT W. FOSTER, JR. was born on January 15, 1945. All three siblings grew up in the same household in Hope, Arkansas and were children of the same parents.

VINCENT W. FOSTER, JR. attended Hope Elementary School and Hope High School in Hope, Arkansas. During the summer of 1964, FOSTER resided with ANTHONY in Little Rock, Arkansas, and was employed in a bank there, possibly the Worthen Bank. Following his graduation from high school, FOSTER attended Davidson College in North Carolina and graduated in 1967. FOSTER studied law at the Vanderbilt University Law School for approximately one to one and one-half years, but dropped out to join the National Guard in New Jersey during the Viet Nam war. After he decided to return to the study of law, FOSTER enrolled at the University of Arkansas Law School because the semester structure at the school coincided with the time when he wanted to return to the study of law. Immediately after he graduated from law school, FOSTER went to work for the Rose Law Firm in Little Rock, Arkansas.

During one of his summer vacations from undergraduate school, FOSTER was employed at the Arkansas State Mental Hospital. FOSTER had previously indicated a desire to major in the study of psychology, but ANTHONY now believes that FOSTER's experience at the State Mental Hospital may have changed FOSTER's mind in this regard.

After the elder MR. FOSTER died from his illness, ANTHONY and SHARON BOWMAN went to clean their parents' home in Hope, Arkansas and found one remaining gun in the house. ANTHONY's recollection is unclear at this time, but she believes that the weapon may have been a pistol. ANTHONY has fired rifles in the past but has never shot a handgun. However, ANTHONY does know the difference between a revolver and a semi-automatic

pistol. ANTHONY only recalls seeing a black-colored pistol from among the handguns owned by her late father. This pistol is the gun which ANTHONY and SHARON BOWMAN found while they were clearing their parents' house after the death of the elder MR. FOSTER.

ANTHONY does not know if VINCENT FOSTER, JR. owned any guns. ANTHONY does not recall any discussion about whether the ammunition in her parents' home was removed from the house. FOSTER never spoke with ANTHONY about having a desire to either own or purchase a handgun. ANTHONY does not know if FOSTER had a gun with him in Washington, D.C. FOSTER never discussed guns with ANTHONY, and ANTHONY is not aware of any conversations between FOSTER and her husband, BERYL ANTHONY, about guns.

ANTHONY and BERYL ANTHONY have no handguns in their own home. The ANTHONYS do have hunting rifles in their home, but ANTHONY does not know what kind of ammunition is kept there.

FOSTER came to Washington, D.C. for the inauguration on January 20, 1993. FOSTER stayed with ANTHONY for perhaps two and one-half months until FOSTER and his family moved into a residence on Cambridge Place, N.W., in Washington, D.C. ANTHONY is aware that some repairs and work had to be performed on the house on Cambridge Place before the FOSTER family could move in.

After FOSTER began working as Deputy Counsel to the President, he was working long and hard hours. The issues involved in his work were broad and constant. On a typical day for FOSTER, he would leave home between 7:00 a.m. and 8:00 a.m. and return home between 10:00 p.m. and 11:00 p.m. There were no secretaries working in the White House Counsel's office for the first few weeks of the new Administration, which further contributed to an overwhelming workload for the attorneys in the Counsel's office. FOSTER never discussed specific matters of his work with ANTHONY. ANTHONY and FOSTER would often talk to each other during the day so that they could coordinate the times that they departed work since they were frequently driving to work together. FOSTER would occasionally go out to eat while he was still at work, but when he ate, it was frequently later in the evening, such as between the hours of 8:30 p.m. and 9:00 p.m.

FOSTER was very distressed over the Travel Office matter. ANTHONY recalls that she and FOSTER spoke about the

Travel Office case when they were having dinner together on one occasion. ANTHONY tried to reassure FOSTER and told him he had always exhibited good judgment. FOSTER responded that he had not shown good judgment this time. After the White House report on the Travel Office was issued, FOSTER told ANTHONY that he felt badly for WILLIAM KENNEDY, who was also an attorney in the White House Counsel's office. FOSTER told ANTHONY that KENNEDY was getting more criticism than he deserved.

ANTHONY recalls having two conversations with FOSTER about the Travel Office case. One of these conversations occurred when the issue of the firing of the Travel Office employees first broke in the press. The second conversation occurred when the White House report regarding the Travel Office case was issued. This latter conversation occurred over the telephone at a time when FOSTER was no longer living with ANTHONY. ANTHONY believes that FOSTER's distress at that time was severe. ANTHONY was unable to make FOSTER understand that the treatment of the Travel Office case was par for the course in a very partisan city such as Washington, D.C. ANTHONY does not now recall whether FOSTER was more distressed during the second conversation or not. She does recall that FOSTER was very distraught over a series of articles which had appeared in the Wall Street Journal newspaper regarding FOSTER. ANTHONY now recalls that she told FOSTER that no one who had voted for BILL CLINTON would read the Wall Street Journal anyway. FOSTER did not find ANTHONY's remark to be humorous, and he still appeared to be upset. The only newspaper article which FOSTER and ANTHONY specifically discussed from the Wall Street Journal was an article entitled "Who is Vincent Foster?". ANTHONY recalls that FOSTER was upset over two aspects of this particular article. FOSTER had learned that there had been confusion at the White House regarding the sending of a photograph of FOSTER to the Wall Street Journal to accompany the article. FOSTER complained to ANTHONY that the Communications Office at the White House had not sent the photo of FOSTER to the Wall Street Journal, and that this failure to forward the photograph may have triggered the critical article which appeared in the paper. FOSTER was also upset that the Wall Street Journal article denigrated the Rose Law Firm.

ANTHONY has no knowledge of FOSTER continuing to be affected by Rose Law Firm business once he left the firm. FOSTER

was a "lawyer's lawyer" who never discussed his clients with people outside his firm.

Prior to assuming a post in the Commerce Department after the CLINTON administration took office, ANTHONY had been an attorney with the law firm of DOW, LOHNES & ALBERTSON in Washington, D.C. ANTHONY was employed at this firm for approximately fifteen years, during which time she became acquainted with DEBORAH GORHAM. GORHAM worked at this same law firm for approximately seven years, all of which coincided with ANTHONY's employment there. After FOSTER arrived in Washington, D.C., ANTHONY inquired at her former firm's personnel office in an effort to identify any qualified secretaries who might be leaving the firm. The Personnel Director at the law firm suggested GORHAM's name to ANTHONY. ANTHONY spoke to GORHAM and then gave GORHAM's telephone number to FOSTER. GORHAM was subsequently interviewed by FOSTER, but she turned down his offer of a job because the salary was too low. FOSTER had not known GORHAM prior to her name being furnished to him by ANTHONY. ANTHONY assumed at that time that there was no longer any possibility of GORHAM being hired by FOSTER. However, GORHAM and FOSTER continued to negotiate about the salary which he could offer her, and eventually she was hired as his secretary in the Counsel's office at the White House.

ANTHONY called and spoke to GORHAM last week to ask how she was doing. ANTHONY had not spoken to GORHAM since approximately December 1993. ANTHONY and GORHAM did not speak specifically about FOSTER, but they each spoke about their respective families.

GORHAM has not said anything to ANTHONY about FOSTER being depressed prior to his death. She has not mentioned anything about FOSTER being depressed either directly or indirectly. ANTHONY believes it is possible that GORHAM may have spoken about FOSTER's mental state with his wife, LISA FOSTER. ANTHONY presumes that GORHAM and LISA FOSTER spoke to each other during the summer months of 1993.

In terms of her relationship with FOSTER, ANTHONY was extremely close to him and they spoke to each other often. ANTHONY saw FOSTER daily when he was living with her. ANTHONY spoke to FOSTER two to three times a week after he and his family moved to their home on Cambridge Place in Washington, D.C.

ANTHONY last saw FOSTER in July 1993. On approximately July 2, 1993, FOSTER surprised ANTHONY during a dinner held at his residence by having ANTHONY's daughter attend the dinner. ANTHONY was aware of the dinner in advance, but she was unaware that FOSTER had arranged for ANTHONY's daughter to fly to Washington from Texas in order to be present for ANTHONY's confirmation as Assistant Attorney General. ANTHONY does not recall exactly when this dinner occurred, but she believes it was either in the latter part of June or the first part of July. During this same time frame, ANTHONY and her husband went to supper with LISA and VINCENT FOSTER, JR. and their daughter LAURA at the Cactus Cantina restaurant in Washington, D.C. The FOSTERs had first gone to the ANTHONY residence to have drinks, and they then walked to the restaurant, which was near the ANTHONY residence.

From the time that FOSTER first came to Washington, D.C. until his death, ANTHONY observed several noticeable behavioral and emotional changes in him. One noticeable change during FOSTER's first few months in Washington was that he was tired and seemed to feel a great deal of pressure. During the months just prior to his death, FOSTER told ANTHONY that he was unable to sleep and was waking up every two hours. ANTHONY spoke to FOSTER by telephone on July 16, 1993, which ANTHONY recalls as the last Friday prior to July 20, 1993. ANTHONY noted that FOSTER's voice was different in its tenor, and his voice sounded strained. ANTHONY recalls noticing the strain in FOSTER's voice because it sounded so much like the strain she had heard in her father's voice when he had been distraught during his illness. ANTHONY believes that the phone call that Friday was the first time that she had heard the change in tenor in FOSTER's voice. FOSTER exhibited many characteristics of a depressed person, most noticeable of which was the fact that he had no sense of humor left. This telephone conversation with FOSTER also concerned the seriousness with which he viewed events and circumstances.

In late April 1993, VINCENT and LISA FOSTER took ANTHONY to dinner to help them celebrate their anniversary. ANTHONY encouraged FOSTER to leave Washington, D.C. and go away on weekends. FOSTER had become quite concerned when people in Congress began to speak of holding hearings on the Travel Office case. ANTHONY does not know if FOSTER was taking sleeping pills, and he did not mention doing so to her.

FOSTER had an excellent reputation in Arkansas, and he had received numerous awards there. FOSTER had been inducted into an honorary association of trial lawyers while still in Arkansas. ANTHONY did not discuss with FOSTER why he elected not to go to a ceremony in Arkansas where he was to be honored by the Arkansas Bar Association as "Lawyer of the Year." ANTHONY believes that some event arose which prevented FOSTER from attending the ceremony, but she does not recall the nature of this event.

In terms of coping with problems in his life, FOSTER never seemed to have any difficulties. FOSTER became a partner at the Rose Law Firm in two years and was slated to become President of the Arkansas State Bar. The only problems which FOSTER experienced in his personal life were in regard to his teenage children. ANTHONY was able to commiserate with FOSTER in this regard as she also had teenage children. For the most part, FOSTER enjoyed a "charmed" life. However, he had been very distraught over his father's illness. ANTHONY recalls that FOSTER cried when he called to tell her their father had been diagnosed with cancer. FOSTER picked up ANTHONY at the airport in Arkansas when she flew there following the death of their father. ANTHONY and FOSTER shared stories about growing up with their father, and she now recalls that was perhaps the only time she actually saw FOSTER cry. FOSTER had been very close to his father, and his father's will had been prepared through the Rose Law Firm. Following the death of the elder MR. FOSTER, FOSTER's mother depended very much on FOSTER. ANTHONY is uncertain how FOSTER dealt with this situation since she returned to Washington, D.C. not long after the funeral services for her father. FOSTER did not appear to be acting differently to ANTHONY at that time.

On July 16, 1993, which ANTHONY recalls as the last Friday before July 20, 1993, FOSTER called ANTHONY and wanted to discuss two topics of significance. First, FOSTER told her that he was battling depression for the first time in his life. ANTHONY responded by asking FOSTER to allow her to help him. She offered to contact a doctor for FOSTER. FOSTER then expressed concern that if he were to be seen by a doctor, his security clearance could be jeopardized. ANTHONY attempted to reassure FOSTER by saying that she would determine the parameters for a visit with a doctor prior to actually scheduling an appointment for FOSTER. The second topic which FOSTER brought up with

ANTHONY during this same phone call was to ask ANTHONY to recommend a place on the Eastern Shore of Maryland where he and his wife could go that weekend. ANTHONY told FOSTER that she would check with her husband and call FOSTER back. ANTHONY later called LISA FOSTER and recommended two or three places on the Eastern Shore where the ANTHONYS had previously stayed. ANTHONY also called a friend who had received treatment from a psychiatrist in the past. The friend provided ANTHONY with the name of one psychiatrist. The friend later called ANTHONY back approximately thirty minutes later and furnished ANTHONY with the names of two additional psychiatrists.

ANTHONY called one of the psychiatrists and asked how she could structure a visit to him so that the visit would be unrecorded until FOSTER could decide whether to start a course of treatment. ANTHONY then called FOSTER back that same day and furnished him with the names of the three psychiatrists. She encouraged FOSTER to make an appointment with one of the psychiatrists, but he said that he wanted to think about that course of action over the weekend.

ANTHONY does not believe that she ever spoke to LISA FOSTER about FOSTER's statement that he was battling depression. She remembers speaking with LISA FOSTER about trying to get FOSTER to leave work earlier during the week or to go away on weekends. ANTHONY recalls that LISA FOSTER wanted FOSTER to come home more.

ANTHONY believes that LISA FOSTER came to Washington, D.C. to look for a family house in March 1993. LISA FOSTER continued to travel back and forth between Little Rock, Arkansas and Washington, D.C. in an effort to prepare the house so that it would be ready for her family to move into it. LAURA FOSTER, FOSTER's daughter, came to Washington, D.C. when her school semester was over, which was possibly in April 1993. FOSTER's youngest son was still attending school in Little Rock. The FOSTER family also had a foreign student living with them in Little Rock at that time. LISA FOSTER came to Washington, D.C. permanently in mid to late May 1993.

On July 19, 1993, possibly in the morning, ANTHONY called FOSTER. FOSTER stated that he was feeling good and that the weekend had gone pretty well. FOSTER said that he was not yet ready to see a psychiatrist in Washington, D.C., but he told

ANTHONY that he had called his physician in Little Rock and had gotten a prescription. FOSTER did not tell ANTHONY anything further about the preceding weekend. FOSTER said that going away from the city was such a good idea that he would like to do it more often or possibly every weekend.

To the best of ANTHONY's knowledge, FOSTER was not receiving any type of medical treatment.

FOIA(b)(6)
FOIA(b)(7) - (C)

One of the male first cousins of ANTHONY's mother committed suicide. ANTHONY believes that this cousin was born in approximately 1914 and was in his twenties or thirties when he committed suicide. ANTHONY does not know whether FOSTER was aware of the circumstances of this relative's suicide.

ANTHONY has no knowledge of FOSTER having any financial difficulties, problems with gambling, or any type of extramarital involvement. In terms of identifying a person in whom FOSTER would confide, ANTHONY hopes that FOSTER would have confided in either herself or his wife. FOSTER also had a number of close friends in the Rose Law Firm. However, FOSTER, although known to be a good listener, was a very private person. ANTHONY does not believe that FOSTER was close to either a minister or a priest. FOSTER did not attend church very often after he grew up except for certain family occasions.

At the last dinner which FOSTER shared with ANTHONY, FOSTER confided to her that he was considering resigning from his post at the White House. FOSTER indicated that the job in the White House Counsel's office was not right for him. FOSTER was not specific about what was causing him to consider resignation. Among the reasons that became apparent to ANTHONY were the Travel Office investigation, the stress of his job, and the constant overwork. ANTHONY hoped that FOSTER would choose to resign the position.

In terms of changes in personal appearance, ANTHONY noted that FOSTER's face had become gray and drawn. FOSTER had

been thin when he arrived in Washington but had gained a significant amount of weight while working at the White House. ANTHONY believes that the weight gain may be at least partly attributable to the fact that FOSTER was not eating well and was eating quite a bit of fast food due to the overwork situation. FOSTER began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in January 1993. However, ANTHONY is unable to estimate the amount of weight FOSTER lost in terms of pounds. FOSTER did not mention to ANTHONY any problems with headaches, loss of appetite, indigestion or vomiting.

Religion was not particularly important to FOSTER. He had been raised as a Presbyterian and had attended a Presbyterian college. LISA FOSTER was a Catholic, however, and LISA and the children were raised as Catholics. Therefore, FOSTER would go alone when he attended church.

Among the activities which FOSTER engaged in to relax was reading. FOSTER had a swimming pool in the back yard of his home in Little Rock, and he and the family enjoyed swimming in their pool. FOSTER also enjoyed cooking and traveling, and he took his family on numerous trips. FOSTER did not participate in many sports, but he enjoyed attending his childrens' games and watching them play. ANTHONY did not observe any recent changes in FOSTER's interests or hobbies after he arrived in Washington.

FOSTER typically worked Monday through Saturday each week. On alternating Sundays, either FOSTER or BERNARD NUSSBAUM was on standby duty to be available to deal with matters which arose at the White House Counsel's office.

In terms of describing FOSTER's relationship with his wife, ANTHONY regarded it as warm and real. FOSTER was married to LISA FOSTER for approximately twenty-five years. ANTHONY regarded FOSTER as an excellent father who spent much time with his children. In particular, FOSTER was very conscientious about spending time with each of his children so that they each received individual attention. FOSTER would occasionally take one of the children on a trip with him just so the child could receive this individual attention. FOSTER was very interested in everything that his children did.

In terms of describing FOSTER, ANTHONY believes that he was a man of great integrity and honesty. He also had a dry sense of humor. FOSTER felt very strongly about giving back to the community in which he lived and he was involved in charitable organizations in Little Rock. The only occasion known to ANTHONY when FOSTER ever got into trouble occurred when he was in college and he wrecked a car.

FOSTER was able to blend in at the Rose Law Firm because the firm shared many of his positions on social issues. For example, the Rose Law Firm had taken a stand against racial segregation. FOSTER had worked for a black attorney during one of his summers while attending school. FOSTER had a very strong sense of fair play and he was a very thoughtful person who was always gracious to his family and friends. FOSTER particularly enjoyed hosting friends and social events at his home. FOSTER also counseled both of ANTHONY's children, but only when they came to him first for advice. In all their lives together, ANTHONY and FOSTER never had a cross word, and she knows absolutely nothing bad about FOSTER.

To the best of her knowledge, ANTHONY is not aware of any incidences of FOSTER going to parks in the Washington, D.C. area. FOSTER never mentioned to ANTHONY any visits to Fort Marcy Park in Virginia. Following FOSTER's death, ANTHONY read in the newspaper that FOSTER had driven a Honda automobile to Fort Marcy Park on the date of his death. FOSTER did not have the Honda automobile with him when he lived with ANTHONY initially following his arrival in Washington, D.C. ANTHONY recalls that the Honda was dark in color since she subsequently saw the automobile in front of FOSTER's residence.

ANTHONY is aware of a letter which FOSTER sent to his mother from his office shortly before his death. ANTHONY was with her mother on the day when she opened the letter from FOSTER. The letter from FOSTER concerned oil leases which had been passed on to FOSTER's mother from her late husband's estate. In attempting to recall what was in the envelope, ANTHONY now believes that there was an extremely brief cover letter which had been typewritten, and which contained one to two sentences asking FOSTER's mother to sign the enclosed form and return it to the oil company. The cover letter bore the handwritten signature of FOSTER.

ANTHONY recalls FOSTER as being a person who was more likely to call on the telephone than write a letter.

ANTHONY's mother still resides in Hope, Arkansas. ANTHONY is not aware of any other letters which may have been sent by FOSTER shortly before his death. ANTHONY has no knowledge of whatever insurance policies were maintained by FOSTER, but she assumes that there were such policies.

ANTHONY does not believe that there was a single cause for FOSTER taking his own life. She believes that inquiries by the media, the pressure caused by the Travel Office case, and overwork at the White House were all factors. An additional source of stress may have been FOSTER's realization that he had made a mistake in coming to Washington, D.C., and this realization may have contributed to his decision to end his life. In addition, PHILLIP CARROLL of the Rose Law Firm had been very angry at FOSTER for leaving the firm. CARROLL and FOSTER did not speak to each other for a period of several months after FOSTER left the firm and came to serve the Administration. Eventually, CARROLL and FOSTER mended their relationship and resumed speaking to each other. However, ANTHONY believes that FOSTER may have felt boxed in due to his falling out with CARROLL, and he may have feared that he would have been viewed as a failure if he had returned to the Rose Law Firm after resigning from the CLINTON Administration.

FOSTER personally prepared the speech he delivered as the commencement address at the University of Arkansas Law School in May 1993. ANTHONY recalls that FOSTER discussed the speech with her prior to delivering the address. ANTHONY and other family members attended the commencement ceremony and heard FOSTER's address because they were all in Arkansas to celebrate Mother's Day that weekend. In reflecting on FOSTER's address that weekend, ANTHONY now believes that she heard the same strain in his voice that day that she heard later during the telephone call on July 16, 1993. ANTHONY believes that FOSTER's address was videotaped and that a video tape and transcript of the address may be available through the law school.

ANTHONY knows of no other information which could be of assistance in investigating FOSTER's death.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/20/94

SHIELA FOSTER ANTHONY was telephonically interviewed regarding events occurring subsequent to the death of her brother, VINCENT W. FOSTER, JR., on July 20, 1993. Participating in the interview were JAMES HAMILTON, of the law firm of Swidler & Berlin, Washington, D.C., and MARK STEIN, Associate Counsel with the Office of the Independent Counsel (OIC), Washington, D.C. (WDC). After being apprised of the identities of parties participating in the interview, ANTHONY thereafter furnished the following information:

ANTHONY stayed at the FOSTER residence, 3027 Cambridge Place, NW, WDC, on the evening of July 20, 1993. Present at the FOSTER residence that evening were LISA FOSTER, and her three children. ANTHONY noted that LISA FOSTER and her daughter LAURA, were the first to go to bed that evening. ANTHONY stayed up and talked to LISA FOSTER's son VINCENT, prior to going to bed. Everyone in the home was in bed no later than 1:00 or 2:00 am.

ANTHONY awakened between 7:00 and 7:30 am on July 21, 1993. She did not look out of residence windows and therefore was unaware of any presence by individuals from The White House or from members of the press. At approximately 9:00 am on July 21, BARBARA PRYOR arrived at the FOSTER residence to transport ANTHONY to her (ANTHONY's) residence. Upon leaving the FOSTER residence, ANTHONY did not recall seeing anyone from The White House or members of the press.

ANTHONY does not know CRAIG LIVINGSTONE.

ANTHONY vaguely recalls that someone may have been at the FOSTER home prior to her departure. She did not recall if that was a family member or a close friend of the family.

No further information of investigative value was provided.

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

ANTHONY MICHAEL AOUDE, currently the Assistant to the Director of Communication at George Washington University, telephone number (202) 994-3840 was contacted telephonically. After being advised of the identity of the interviewing agent and the nature and purpose of the interview AOUDE provided the following information:

AOUDE advised that as of July 20, 1993, he was working as an intern in The White House Office of Personnel Security under the direct supervision of CRAIG LIVINGSTONE. He advised that he remembers the events of July 20 and 21, 1993 and recalls that it was LIVINGSTONE who had identified VINCE FOSTER, JR.'s body the night of his death.

AOUDE said that his job entailed various typing projects for LIVINGSTONE. Mostly what he characterized as administrative projects relating to background investigation. He advised that he did not type anything entitled report from CRAIG LIVINGSTONE dated July 21, 1993, which was described as a page and a half of typewritten paragraphs chronicling LIVINGSTONE's activity on July 20 and 21, 1993. He said that he would have remembered typing such a memo and has not done so then or in the intervening months.

AOUDE advised that LIVINGSTONE was the ranking supervisor in the office and everybody reported to him directly. He said that he did not carry any boxes for LIVINGSTONE either in July 1993 or thereafter. He also had not heard of anybody doing so or allegations of such activities until he had read later in the media that there were such allegations.

AOUDE advised that his date of birth is [redacted] and place of birth [redacted]

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FOIA(b)(7) - (C)

(telephonically)

Investigation on 7/7/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/12/94

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/14/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

nvestigation on 2/8/95 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/12/95

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/21/94

Jacqueline G. Arends was interviewed at 283 Russell Senate Office Building, Washington, D.C. She had requested the interview to provide information possibly related to the death of Vincent Foster. After being advised of the identity of the interviewing agents, Ms. Arends provided the following information:

On the day of Vincent Foster's death, July 20, 1994, she was traveling westbound on the George Washington Parkway (GWP) at approximately 5:30 -6:30 p.m. She advised that she lives in McLean, Virginia and travels this route frequently to and from work in Washington, D.C. On several occasions she has stopped at the Fort Marcy Park along the GWP to meet friends. On this particular night, as she was driving by the entrance to Fort Marcy Park, she noticed a well-dressed man out of his car opening the gate to the park. She noted that because it was still light, it was very unusual for the park gate to be closed as the park is usually open until dusk. She didn't think anything further about this incident until learning the following day that Vincent Foster had been found dead earlier that same day in this park. She did not come forward earlier with this information as she believed it to be insignificant. At the urging of her mother, she decided to make her observations known to the FBI at this time.

She described the vehicle being driven by this individual as a light blue 190 Mercedes 4-door sedan. She could not remember seeing the license plate and could remember no other distinguishing characteristics of the vehicle, just that it was not a brand new automobile. She described the man from the car as being "well-dressed." She further described him as a white male, slim, short brown hair, dark suit, aged 30s to early 40s and of average heighth. She did not remember noticing him wearing glasses. He had no other distinguishing characteristics which she could recall. She remembered thinking that this man was probably going to get into trouble opening the gate to the closed park.

Investigation on 3/21/94 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) SA William T. Guyton Date dictated 3/21/94

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She advised that along this portion of the Parkway, she usually travels about 50 miles per hour but also noted that she was in the right lane and in the process of slowing down for an upcoming curve when she noticed the gentleman at the gate. The entrance to the park is on the right side of the GWP. She could not recall any additional information concerning either the man or his car.

Ms. Arends was asked what she knew about the character of Fort Marcy Park. She advised that it was an overlook to the Potomac with a nice view. She was not aware that the park had any particular reputation such as a hangout for homosexual activity, drugs, drinking, lovers' lane, etc. On her visits to this park, she only saw professional people and tourists frequenting the park. She said there was only a very small window of opportunity for other types of activity at the park as it is frequently patrolled by various police agencies. She also noted that it was a radar setup point for the P.D. on the Parkway.

The following description of Arends was obtained through observation and interview:

Name:	Jacqueline G. "Jackie" Arends
Race:	White
Sex:	Female
DOB:	FOIA(b)(6) FOIA(b)(7)-(C)
POB:	
SSAN:	
Address:	718 Ridge Drive McLean, Virginia 22101
Telephone:	(202) 224-5842 (work); (703) 442-9408 (home)
Work Address:	283 Russell Senate Office Bldg. Washington, D.C. 20510
Title:	Legislative Assistant for Foreign Policy and Defense Senator Larry Pressler South Dakota (since August 1993)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/22/95

STEPHANIE SIMONTON ATCHLEY was interviewed in a conference room located at 4301 West Markham, Little Rock, Arkansas, regarding events surrounding the death of VINCENT W. FOSTER, JR., former Deputy Counsel to the President of the United States. FOSTER died on July 20, 1993. After being apprised of the purpose of the interview and the official identities of the interviewing agents, ATCHLEY thereafter provided the following information:

ATCHLEY moved to Little Rock in 1983, where she met FOSTER. ATCHLEY's acquaintance with FOSTER is the result of a business relationship between FOSTER and ATCHLEY's spouse, JERRY ATCHLEY. ATCHLEY recalls spending her first Christmas in Little Rock with the FOSTERs.

ATCHLEY only saw FOSTER a couple of times in the months prior to his (FOSTER's) departure for Washington, D.C. (WDC). ATCHLEY was aware that the FOSTER family was stressed by the separation caused when FOSTER departed for WDC. ATCHLEY surmised that the separation from his family was probably very stressful for FOSTER. LISA FOSTER was not happy with the prospect of moving to WDC.

ATCHLEY was aware that once BILL CLINTON had been elected President, the transition period was stressful on FOSTER. ATCHLEY noted that FOSTER appeared to have been stressed by the time she saw him in WDC, during the period leading up to the Presidential inaugural in January 1993. ATCHLEY saw FOSTER again in May 1993, for lunch during a trip ATCHLEY made to WDC. At that luncheon, FOSTER was distant and cold. He appeared to have been too stressed to have met ATCHLEY for lunch. ATCHLEY was accompanied by ROBBIE THOMAS-KNIGHT, a friend, who was also a psychologist. ROBBIE THOMAS-KNIGHT noted the same behavior in FOSTER, with regard to him appearing to have been stressed. ATCHLEY's luncheon meeting with FOSTER coincided with the time period during which the Travel Office incident surfaced.

According to ATCHLEY, signs of depression in

individuals manifest themselves through irritable behavior; someone suffering from depression would be cold and distant. These attributes would be typical of depression in upper middle class males.

FOSTER had never been known to fail before. He may have been stressed by thoughts of resigning his position in the CLINTON administration and additionally could have been stressed being put in a position where his family was forced to move to WDC.

FOSTER probably struggled with both isolation and depression. In retrospect, ATCHLEY saw minor symptoms characteristic of a mild depression prior to FOSTER departing for WDC.

FOSTER probably thought he had an obligation to follow President CLINTON to Washington as part of the new administration. FOSTER would have felt he had a responsibility to come to WDC to support his friends and acquaintances from Arkansas.

FOSTER needed a great deal of recognition. ATCHLEY considers this to be a factor of increasing pressure on FOSTER. Under stress, FOSTER was the type of person to take on blame for everything. FOSTER never discussed depression with ATCHLEY, although minor signs of depression would show themselves.

Just prior to FOSTER leaving Arkansas for WDC, FOSTER seemed to be opening up more. FOSTER appeared to be more personally available to family and friends. FOSTER, like others of his personality type, would not typically know how cold he appeared to be coming off to others. FOSTER would not acknowledge or apologize to his friends about his depressive episodes.

Prior to FOSTER moving to WDC, ATCHLEY had what she considered to be her only real fight with FOSTER. During the transition period between the BUSH and CLINTON administrations, ATCHLEY telephoned FOSTER to thank him for some wine that he had sent. In the course of the conversation, ATCHLEY launched into a diatribe about a lack of women in the CLINTON cabinet. FOSTER became furious and staunchly defended the President as well as the President's record on women in his cabinet. ATCHLEY thought this was a thin-skinned response and she further described FOSTER

to have been defensive and angry.

In June 1993, ATCHLEY was informed by LISA FOSTER that VINCENT FOSTER found Wall Street Journal articles written about him to be painful in nature. FOSTER was a very private man and not one to seek press coverage. Any recognition sought with regard to the press would have been strictly professional.

ATCHLEY did not find it unusual for FOSTER not to attend the Arkansas Lawyer of the Year Ceremony. Of consideration in his decision would have been whether his appearance may have caused some tension between his responsibilities at the White House and taking time off to accept the award. The job in WDC would have taken precedence over acceptance of the award.

At some point in 1993, SHEILA ANTHONY expressed to ATCHLEY that FOSTER came to ANTHONY looking for psychiatric help. FOSTER did not seek counseling or advice from ATCHLEY.

With regard to anti-depressant medication, ATCHLEY noted that it would take approximately two to four weeks to take effect. Initially, an individual might have an odd feeling upon first taking an anti-depressant. The weird symptoms might be described as "feeling nutty" the first few days.

ATCHLEY was not aware of anyone in the field of psychology doing a psychological profile of FOSTER.

Suicide is not a rational act according to ATCHLEY. It could be a short term psychotic episode with the act of suicide being considered most hurtful. FOSTER's suicide could have been a product of a psychotic depression. ATCHLEY noted that this explanation is only one of many possible reasons for his suicide. ATCHLEY further noted that she was not in an informed position to make, in a medical sense, such an interpretation. Suicide can be an impulsive act. ATCHLEY thinks that FOSTER probably did not leave the White House with the intent to kill himself. His mental state probably deteriorated over the next few hours which in turn may have given him the capacity to commit suicide.

After considering the option of suicide, it might typically take up to an hour before someone could make the decision to take his/her life. Some people will get drunk prior to committing the act. The impulsiveness of suicide would not

have allowed FOSTER to leave a note or communicate with his family prior to taking his life. The goal of suicide is just to stop the emotional pain one feels. ATCHLEY did not think FOSTER would have written down why he decided to end his life.

ATCHLEY may have heard from LISA FOSTER about VINCENT FOSTER's concerns regarding her (LISA FOSTER's) adjustment to WDC. FOIA(b)(7) - (C)

ATCHLEY noted that if FOSTER had been asked to do something improper he would have refused to do it. She does not think anyone could force him to do something like that. He could tolerate imperfections in others but not in himself. With regard to being asked or forced to do something improper, ATCHLEY is not aware of anything FOSTER might have been asked to do or forced to do that may have made him feel that suicide was his only option to get away from the situation. ATCHLEY noted trial attorneys get pushed by clients all the time to do something that is considered to be on the edge ethically.

ATCHLEY felt that the Rose Law Firm (RLF) probably would have taken FOSTER back had he expressed a desire to return to Little Rock. ATCHLEY feels that if FOSTER had come home, he probably would have killed himself in Little Rock, given the thinking on FOSTER's part that he had somehow failed. ATCHLEY was aware of several other individuals that may be able to provide some insight into FOSTER and what was troubling him. ROBBIE THOMAS-KNIGHT, work telephone number 501-374-0708, and her husband DAVID KNIGHT may be in a position to provide further information related to FOSTER. DAVID KNIGHT is a former partner with RLF. He is currently the Chief Counsel for STEPHENS, Inc. (phonetic). WILSON and PEGGY JONES are two other individuals that may be able to provide some insight related to FOSTER. WILSON JONES is a current partner with RLF.

According to ATCHLEY, LISA FOSTER and the FOSTER children are the only ones that appeared to be aware that FOSTER was in deep trouble. According to ATCHLEY, WEBSTER HUBBELL knew that FOSTER was stressed as did DAVID WATKINS. ATCHLEY was of the impression that neither HUBBELL nor WATKINS thought FOSTER would kill himself.

ATCHLEY's only discussions with FOSTER on the issues of death and suicide occurred during the time of the death of

VINCENT W. FOSTER, Sr., FOSTER's father. At the time of VINCENT W. FOSTER, Sr.'s illness and subsequent death, FOSTER, Jr. obtained a copy of ATCHLEY's book which was written on the topic of cancer and behavior patterns of cancer victims. At that time, FOSTER spoke with ATCHLEY and appeared to be sad and upset. FOSTER was worried about his father. After speaking with ATCHLEY, FOSTER appeared to feel enormously better. ATCHLEY was aware that guns had been taken out of the residence of VINCENT W. FOSTER, Sr. in connection with FOSTER, Sr.'s diagnosis of cancer. ATCHLEY thought FOSTER, JR. having a gun would have been very out of character.

ATCHLEY also provided background information with regard to depression. Depression and suicide are noted to run in families through generations. Biological stressors are factors that could trigger depression. ATCHLEY believes that depression could have been a trigger for FOSTER to have committed suicide. She also feels that FOSTER may have been biologically pre-disposed to depression. It might not necessarily take a major event in order to serve as a catalyst for a depressive individual to commit suicide. It could be as simple as not having a good coping mechanism to deal with stress and depression. For example, FOSTER would not let others know what he was going through. A weak point in the character of someone like FOSTER is the trait of perfectionism.

ATCHLEY was telephoned by JACKSON "BUCK" FARROW (phonetic) at approximately midnight on July 20, 1993, and informed that FOSTER had committed suicide. ATCHLEY telephoned THOMAS-KNIGHT as well as ATCHLEY's daughter.

ATCHLEY arrived at the FOSTER residence in WDC at about 11:00 A.M. on July 21, 1993. DONNA KAYE MCLARTY was at the residence upon ATCHLEY's arrival. WEBSTER HUBBELL arrived at the FOSTER residence sometime later, accompanied by his spouse SUZIE HUBBELL. Others at the FOSTER residence on July 21, 1993, were BILL KENNEDY; JOHN SLOAN and his spouse; HARRIET BYNUM; BILL WOODYARD and his spouse. The SLOANs and HARRIET BYNUM came to WDC at approximately 3:00 P.M. or 4:00 P.M. via chartered aircraft on July 21, 1993.

During the course of flying FOSTER's body from WDC to Little Rock, other individuals on the aircraft were JOHN SLOAN, and HARRIET BYNUM. Upon arriving in Little Rock, the FOSTER family stayed with the sister of LISA FOSTER. ATCHLEY recalls

that KAKI HOCKERSMITH may have been at the sister's residence.

ATCHLEY provided her background as follows: She attended Portland State, studying history and pre-law. She eventually received a Bachelors degree in Psychology from Texas Christian University. The majority of ATCHLEY's work concerned studying the behavior of cancer patients. She has written books in this particular area of study as well as led support groups. She has conducted approximately 5,000 hours of group therapy for cancer patients. ATCHLEY holds a PhD from The Fielding Institute, Santa Barbara, California. ATCHLEY has completed two years of post doctorate study in psychology at Harvard University. ATCHLEY currently holds the title of Director of the Behavioral Medicine Program, University of Arkansas for Medical Sciences.

In the course of the interview, interviewing agents displayed to ATCHLEY a note believed to have been authored by FOSTER, that was discovered subsequent to FOSTER's death. ATCHLEY was aware that LISA FOSTER suspected the note referred to issues that were bothering VINCENT FOSTER. ATCHLEY noted that if FOSTER had torn up the note he may not have wanted to discard it in the White House, risking discovery, based on its personal nature.

In the course of the interview, ATCHLEY noted that FOSTER was considered to be a workaholic. ATCHLEY described FOSTER to be a heavy drinker but there was no concern by either herself or other family members or associates that he was an alcoholic. FOSTER would do most of his drinking around eating. ATCHLEY never saw FOSTER act as if he was intoxicated.

STEPHANIE SIMONTON ATCHLEY is described from observation and interview as follows:

Date of Birth:	[redacted]
Place of Birth:	
Race:	Caucasian
Sex:	Female
Social Security Account Number:	[redacted] - FOIA(b)(6) FOIA(b)(7) - (C)
Work Address:	Behavioral Medicine Program 4301 West Markham Slot 543 Little Rock, AR 72205

B

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/6/94

ROGER GEORGE BAILEY, Chief of Security, Saudi Arabian Ambassador's residence, 650 Chain Bridge Road, McLean, Virginia, telephone number (703) 276-7474, was advised of the identities of FBI Agents William E. Colombell and H. Alexis Suggs. He was further advised that the agents were involved in an ongoing investigation concerning the death of Vincent Foster at Fort Marcy Park on July 20, 1993 and wished to interview him for any possible information or assistance he could provide to this investigation.

MR. BAILEY stated that he is in charge of a large security staff that maintains security for the Ambassador, his family and visitors on a 24-hour basis. He stated on July 20, 1993, his records reflect that the Ambassador and his family were not present in the Washington, D.C. area. While security was maintained at the residence, it was not of the heightened level required when the Royal Family is present. MR. BAILEY pointed out that his security force has no jurisdiction or authority regarding Fort Marcy Park. However, the park does represent a security risk because of its higher elevation and proximity to the Saudi Arabian compound, enabling park visitors to have a somewhat unobstructed view of portions of the Saudi Arabian compound. As a general rule, his security officers do not concern themselves with activities in the park. He pointed out that only when it becomes apparent to them that park visitors appear to have an unusual or prolonged interest in the Saudi compound will he send a security officer over to check. These occasions occur infrequently and usually in the late Fall or Winter months when there is very little foliage. BAILEY pointed out that in the Spring and Summer months, because of the thick foliage, his security staff is unable to observe any activity in the park with the exception of possible joggers or runners who use an opening in the park fence that runs along the Chain Bridge Road side of the park. MR. BAILEY provided the agents with a visual overview of security cameras utilized by his force, demonstrating that one camera has a clear view of the opening in the park fence. MR. BAILEY noted that since this fence opening is located directly across Chain Bridge Road from the Saudi

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Investigation on 4/20/94 at McLean, Virginia File # 29D-LR-35063

by SSA William E. Colombell
SA H. Alexis Suggs WEC:deg Date dictated 5/6/94

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Arabian compound, any unusual activities (i.e., three or four individuals congregating near this area) would draw the immediately attention of his security force. MR. BAILEY reviewed his security logs for July 20, 1993, advising that there is no recording of any incident at Fort Marcy Park or any place else on the Saudi Arabian compound on that particular date.

MR. BAILEY explained that because of the way the park is physically laid out and because of the heavy foliage and tree cover, his security forces are unaware of the comings and goings of those visitors to the park using the main entrance and parking lot off of the George Washington Memorial Parkway. He provided a report prepared by Thompkins Building and Contracting at the request of the FBI, setting out the construction projects and activities that were ongoing during the period July 19-21, 1993. This report reflects a large construction complement was working on the parking garage, service quarters and main house during that period and that a number of concrete trucks and other heavy equipment would have been operating all over the general site. MR. BAILEY pointed out that the construction ongoing in July and 1993 and continuing to this date results in considerable background noise. He also pointed out that much of the air traffic for National Airport flights is located directly over the Potomac River and Saudi Arabian compound area. BAILEY noted that when a plane passes overhead, parties conversing on the Saudi compound grounds have to pause in their conversation until such time as the plane passes. MR. BAILEY also noted that almost on a daily basis, yard and garden maintenance work is present, operating lawn mowers and leaf blowers. He also pointed out that there is considerable heavy traffic on Chain Bridge Road, all of which adds to the noise pollution in the area. MR. BAILEY concluded that it would be highly unlikely that his security force would have heard a loud retort or possible gunshot coming from the park area.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/29/94

PAT BALOD, the White House Federal Credit Union (WHFCU), Old Executive Office Building, Washington, D.C. 20500, telephone number (202) 456-2900, was contacted telephonically to elicit further information about an account which had been maintained by VINCENT W. FOSTER, Jr. at WHFCU.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

After being advised of the official identity of the interviewing agent and the nature of the interview, BALOD furnished the following information:

The last two digits of an account number appearing on a WHFCU monthly account statement are numbers used by a company in Minnesota which contracts with WHFCU to process the drafts of WHFCU customers. These last two digits differ from the last two digits used in the WHFCU internal record keeping system for tracking accounts. Therefore, the fact that FOSTER'S account number is reflected as 11533-7-0 on some WHFCU documents and as 1153306 on other WHFCU documents does not indicate that FOSTER had more than one account with WHFCU. FOSTER only had one account with WHFCU and the number which actually represents his account number is 11533.

WHFCU imposes a $1.00 service charge on an account holder for every transaction conducted by the account holder on an automated teller machine (ATM) which is not operated by WHFCU. WHFCU only has one ATM, and it is located at the offices of WHFCU at 17th Street and Pennsylvania Avenue, N.W., Washington, D.C. The fact that the FOSTER account statement for July 1993 reflects one ATM transaction at a location described as "Cathedral 2" is consistent with FOSTER's account being charged $1.00 for conducting one ATM transaction at an ATM which is not operated by WHFCU. WHFCU does not operate an ATM referred to as "Cathedral 2."

(telephonically)

nvestigation on 6/10/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 6/10/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/29/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/9/94

MARK A. BARONDESS, Attorney for the law firm of SANDGROUND, BARONDESS & WEST, P.C., 8000 Towers Crescent Drive, Vienna, Virginia 22182, telephone number (703) 761-4200, arranged an interview with an individual to be known henceforth as SOURCE. BARONDESS helped to coordinate a telephone conference call with SOURCE from the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Washington, D.C. Participating in the telephone interview of SOURCE were MARK STEIN, Associate Counsel, OIC; CARL STICH, Associate Counsel, OIC; DANA M. GILLIS, Special Agent, Federal Bureau of Investigation (FBI); and RUSSELL T. BRANSFORD, Special Agent, FBI. After being apprised of the identities of individuals participating in the telephonic interview, SOURCE thereafter provided the following information:

SOURCE was in The White House Map Room on July 20, 1993 and overheard a conversation that was believed to have been related to the death that day of Deputy White House Counsel, VINCENT W. FOSTER, JR. In the course of the overheard conversation, SOURCE recalls hearing the words "we found a note." The individual making this comment was male. To further describe the area in which the conversation was overheard, SOURCE described the Map Room to have a number of maps in the room and was located in the residence portion of The White House.

Upon entering the Map Room, the SOURCE saw GEORGE STEPHANOPOLOUS, Press Secretary DEE DEE MEYERS, MARK GEARAN, White House Chief of Staff, THOMAS F. (MACK) MCLARTY, and one unidentified individual. SOURCE did not believe that this was a formal meeting. Among other issues brought up in the course of the conversation, one concerned who would inform the President and what would that individual say. SOURCE believed informing the President had to deal with the aforementioned note. SOURCE further described the mood in the meeting to be one of panic. It appeared as if the staff was in disarray. There was a lot of walking back and forth to a room down the hallway. There was a lot of whispering between individuals and hovering together.

(telephonically)

Investigation on 5/5/94 at Washington, D.C. File # 29D-LR-35063

by SA Dana M. Gillis
SA Russell T. Bransford DMG:deg Date dictated 5/9/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

The SOURCE heard the comments related to a note between 9:15 and 9:30 p.m. on July 20, 1993. The SOURCE was the only other individual in the Map Room at the time the comment regarding the note was made.

SOURCE heard that it was decided that MCLARTY and STEPHANOPOULOS would talk to the President. SOURCE believes that the President was then informed. The SOURCE saw MCLARTY and STEPHANOPOULOS re-enter the Map Room with the President at some point. The SOURCE stepped into a hallway after hearing the comment that the note was found. SOURCE further described his/her actions during this time period as walking in and out of the Map Room. SOURCE noted that the entire staff left the Map Room after it was decided that MCLARTY and STEPHANOPOULOS would talk to the President. SOURCE was standing in a doorway to a library in the residence area of The White House when STEPHANOPOULOS and MCLARTY came to talk to the President. SOURCE did not hear what went on in the Map Room once STEPHANOPOULOS, MCLARTY and the President returned to that area. STEPHANOPOULOS and MCLARTY were with the President for a period of approximately 20 minutes to a half hour.

SOURCE may have been told by someone in The White House that FOSTER was dead. It should be noted that upon the President's departure from the Map Room, the SOURCE did not hear anything else.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/23/94

HEATHER M. BECKEL, Executive Assistant in the Office of the President (for GEORGE STEPHANOPOULOS) telephone 202-456-7105 was interviewed at her place of employment at The White House on September 21, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, BECKEL provided the following information:

BECKEL advised that she had left her position in the Press Office and moved with GEORGE STEPHANOPOULOS when he changed jobs from being the Director of the Office of Communications over to the Office of the President. She advised that an individual named STEVE COHEN took her position in the Press Office.

BECKEL advised that she was not at The White House on July 20, 1993 in the evening when it was learned that VINCE FOSTER, JR. had killed himself. She heard of the death on July 21, 1993 watching the early morning news on television at her home. She advised that at that time, she believes she got to work at approximately 6:30 and would have gone directly to the President's suite in the West Wing. She knew who VINCE FOSTER was but did not have a personal relationship with him aside from saying hello. She described the office atmosphere that morning as very quiet. GEORGE STEPHANOPOULOS was already there when she arrived to work. She asked STEPHANOPOULOS what was going on and they talked a little bit about what STEPHANOPOULOS was reading in the newspaper that morning about FOSTER and what was known about him and his death. He did not tell her that he had discussed the matter with anybody else that morning, including CRAIG LIVINGSTONE, but she added that that would have been out of character for him to tell her such a thing if it had happened.

BECKEL advised that she knows who CRAIG LIVINGSTONE is but does not believe that she knew who he was in July 1993. She advised that she does not recall seeing any individual in the West Wing early on July 21, 1993 who was dressed in less formal attire than they normally would have been, or who was carrying a box, or anybody that she did not recognize. She advised that she does not remember specific events or conversations of that

morning-just primarily feelings that she had.

BECKEL said that several months ago, CRAIG LIVINGSTONE asked her about a chronology of events that he had prepared. He thought he remembered that he had given a copy to STEPHANOPOULOS and BECKEL believes that STEPHANOPOULOS had never had it, inasmuch as it was STEPHANOPOULOS' habit to put all documents in his out box with instructions what he wanted done with it. She would pick it up and either follow instructions, or, if no instructions were attached to a document, decide herself what to do with it. HEATHER had never seen a copy of the chronology and so surmises that GEORGE had not either.

BECKEL said that she felt horribly for the FOSTER family over VINCE FOSTER's death and she remembers a general concern for the family, but she does not remember any discussion about sending anybody to the FOSTER residence, nor did she learn after the fact that anybody had been sent to the FOSTER residence.

She advised that there was an intern in the Office of the President at that time, JENNIFER PIERCE, who had been either a sorority sister or friend of LAURA FOSTER. She remembers that this intern was concerned about how to express her condolence and remembers that the girl was wondering whether she should go out to the house or just call or what she should do. BECKEL describes PIERCE as a white female "currently" blonde, fair skinned, blue eyes, approximately 5'5" or 5'6" and very pretty. BECKEL telephonically contacted the interviewing agent after the interview and provided PIERCE's phone number and address: 2603 Cottonwood, Jonesboro, Arkansas, (501) 935-0738.

As part of the interview, BECKEL provided the following personal information:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Position:	Executive Assistant in the Office of the President (for GEORGE STEPHANOPOULOS) since June 1993.
Former Position:	Staff Assistant White House Press Office

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/14/94

Ms. TRACY BECKETT 4907 Van Walbeek Place, Annandale, Virginia, home phone (703) 642-9716, work phone (202) 456-2018 was advised of the identities of Special Agent's WILLIAM E. COLOMBELL and MICHAEL G. NOBLETT. She was informed that the agents wished to speak to her regarding her use of the computer currently located on her desk in The White House Office of Management and Administration, Old Executive Office Building, Room 145. General Counsel CHRISTOPHER D. CERF, Executive Office of the President, was present during the interview of Ms. BECKETT. Ms. BECKETT stated that she has been using the personal computer currently located on her desk since August of 1993. She stated that when The White House Office of Management and Administration moved their offices from the west wing of The White House to the Old Executive Office Building, she took this computer with her. She stated that to her knowledge, no one else has used this computer in the past two to three months other than herself nor has the computer been removed from her office for repairs or for any other reason.

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302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/14/94

ERIN NOELLE BERTOCCI currently an intern at The Office of the Vice President at The White House, telephone (202) 456-9015 was contacted telephonically. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, BERTOCCI provided the following information:

BERTOCCI advised that as of July 20, 1994, she working as an intern in The White House Office of Personnel Security under the direct supervision of CRAIG LIVINGSTONE. In her capacity in that job, she rarely did any typing assignments and she knows that she did not type any "report from CRAIG LIVINGSTONE" dated July 21, 1993 which was a chronology of LIVINGSTONE's activities with regard to VINCE FOSTER, JR.'s death on July 20 and 21, 1993. BERTOCCI advised that based on her knowledge of LIVINGSTONE, she believes that he would have handwritten such a memorandum and handed it to someone to type, probably MARI ANDERSON. She advised that there were only three computers in the office and she herself never saw LIVINGSTONE working at a typewriter keyboard. She suspects that he may have given a handwritten copy of the memo to WILLIAM KENNEDY.

Although BERTOCCI knows that she herself did not do the memo and she has never seen a copy of it, she has a specific recollection of LIVINGSTONE saying that he was going to prepare such a chronology on July 21. She believes that he said this after doing something with regard to FOSTER's car or maybe after a meeting. She recalls that DEE DEE MYERS called and said that they should not be talking to the press and thereafter CRAIG LIVINGSTONE instructed them not to handle any press calls at all.

BERTOCCI advised that she does not believe LIVINGSTONE had been at The White House all night. She has a recollection that LIVINGSTONE had either gotten to bed at 2:00 am or gotten up at 2:00 am in order to identify VINCE FOSTER's body. In any case, he told her that he had gotten to bed very late and had been up really early. She said that he "looked like hell". LIVINGSTONE was not in the office at 8:00 am when BERTOCCI got there. She does not know if he was there at The White House but

(telephonically)

Investigation on 7/8 & 7/12/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/12/94

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she had not seen him yet. She advised that she and LIVINGSTONE have a "blue pass" and believes there is a permanent record kept of all comings and goings of individuals carrying such passes.

She said that she has a vague recollection of LIVINGSTONE "going back" to some place where everybody was gathering. She speculated that it was either to the park or the FOSTER residence or the hospital, she did not know. But she had the sense that he had gone back to this place before he had arrived at the office. The timing possibly 5 or 6 am until about 8:30 am.

Her duties as an intern during July, 1993 pertained primarily to the security tracking system. She did not assist LIVINGSTONE in carrying any documents, papers or boxes out of The White House or out of VINCE FOSTER's office. Moreover, she never heard of anybody assisting LIVINGSTONE or anybody else carrying anything out of The White House or out of VINCE FOSTER's office.

BERTOCCI was subsequently contacted by telephone by writer on July 12, 1994 in order to ask if LIVINGSTONE had talked to her about these matters or otherwise attempted to refresh her recollection. BERTOCCI advised that he had not. In fact, not only had she not talked with CRAIG LIVINGSTONE in recent months, but it would have been natural for him to contact her when she returned to her job as a White House intern and he did not. It appeared to her that he was leaning over backwards not to give the appearance of influencing her at all.

She advised that it seemed unusual to her that LIVINGSTONE had been asked to identify the body and to go back to wherever it was he had gone the following morning. She did not think it was part of his job and was not aware of his knowing VINCE FOSTER that well. But she admitted there were other examples of his being involved in things which surprised her. She commented that CRAIG is quite close to his father and his father might know more specifics as to his activities the morning after FOSTER's death. In addition, she speculated that LIVINGSTONE probably gave the memorandum to BILL KENNEDY and that it was typed in BILL KENNEDY's office. She also suggested that NANCY GEMMEL, a former employee in the office who is now retired, would probably know because she was known to "know everything".

As part of the interview BERTOCCI provided the following personal information:

DOB:
POB:
Home Telephone (D.C):

FOIA(b)(6)
FOIA(b)(7) - (C)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/31/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 1/27/95 at Fairfax, Virginia File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 1/29/95

OIC-302a (Rev. 8-19-94)

ZZD-LR-35063

Continuation of OIC-302 of _____, On 1/27/95, Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

OIC-302a (Rev. 8-19-94)

LR-35063

Continuation of OIC-302 of _____, On 1/27/95, Page 4

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/7/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 2/1/95 at Fairfax, Virginia File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/5/95

D-LR-35063

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/14/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 2/10/95 at Fairfax, VA File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/12/95

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

Kenneth "Bud" Hobert Blair, Vice President and co-owner, Federal Security Systems, was interviewed at the Office of the Special Counsel, 1001 Pennsylvania NW. Mr. Blair was advised as to the identity of the interviewing agent and of the nature of the interview. He then provided the following information:

Federal Security Systems is a locksmithing business and is located at 152A Hillwood Avenue, Falls Church, Virginia 22046, telephone number 703-241-4575. Mr. Blair stated that his home address is 28 South French Street, Alexandria, Virginia 22034 and his home telephone number 703-370-2256.

Mr. Blair stated that approximately 90 percent of his business is with various Federal Government agencies and as such on July 21, 1993, his business had an open purchase agreement with the Technical Security Division of the United States Secret Service (USSS). He advised that this purchase agreement remains in effect today and covers the installation, repair, and "keying" of locks.

On July 21, 1993, Mr. Blair received a telephone call from a USSS Technical Security Division employee, Kevin Robbins, who Mr. Blair knows to be a locksmith employed by Secret Service. He received this phone call at approximately 2-3:00 pm with Robbins advising that USSS needed to have a dead bolt lock installed on a door in the west wing of The White House that evening. Robbins explained that he was uncertain as to when this lock could be installed but it had to be installed that evening. At approximately 5:30 pm, Mr. Blair received another call from Kevin Robbins who asked him to come to The White House at 7:00 pm.

Kenneth Blair said that he arrived at The White House met by Kevin Robbins, and at approximately 8:00 pm, Kevin Robbins escorted him upstairs to the 2nd floor of the west wing where they met two USSS agents. Blair was shown the door on which he was to install the lock and observed that it was closed when he arrived. A USSS agent went with him as he opened the door and

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Investigation on 4/14/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 4/14/94

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took and extension cord into the office to plug in. Kevin Robbins left at that point and Blair assumes that he went home. Blair began his work and finished installation of the lock at approximately 10:30-10:45 pm, at which time he locked the door and was escorted out of The White House.

Mr. Blair advised that the lock that he placed on the door that evening was one of his company locks that he brought with him. He stated, however, that Kevin Robbins provided the key cylinder for the lock and the keys which were all USSS property. He said that there were only two keys to this lock and that one of the two agents present (name unknown) kept the keys in his possession throughout installation of the lock and had them when he (Blair) left that evening.

Mr. Blair stated that although he was working in the entrance to the office, he paid no attention to the office itself and could offer no description as to the interior of the office or the content of the office. He did advise that during the time that he was working on the door he observed no one enter the office nor did he observe anyone place anything in or take anything from the office. He said that he did not know the name of the individual who normally occupied this office but that he surmised a week or two after the installation of the lock that this was probably Vincent Foster's office. He said that he came to this conclusion after hearing numerous television news broadcasts concerning Foster's death. He stated that he had never met or known Vincent Foster.

Mr. Blair made available a copy of his company's invoice regarding installation of the lock on the door that evening.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/28/94

On February 23, 1994, FBI Special Agent Dana M. Gillis requested that David Bobzien, County Attorney, Fairfax County, Virginia, provide the Office of the Independent Counsel with a copy of electronic traffic generated in the course of response to the death site of Vincent Foster, Jr. by the Fairfax County Emergency Medical Service (EMS). Attached is a copy of the February 25, 1994 letter of response by Bobzien with corresponding attachments. Bobzien's letter and attachments are attached and made a part of the record hereto.

It should be noted that a document titled Fairfax County, Virginia memorandum dated February 24, 1994 to David Bobzien from Chief Deputy Mark S. Wheatley regarding personnel responding to the Foster death call contained the name James Sutton as part of the crew of Truck One. It should be noted that Victoria Abbott Jacobs was the driver of Truck One, rather than James Sutton. Jacobs was interviewed regarding her participation in the dispatch call regarding Vincent Foster, on March 11, 1994. Also contained in the report are extended narratives generated by individuals responding to the dispatch to Fort Marcy Park on July 20, 1993. Bobzien also provided a handwritten index to the electronic reports. The index contained an explanation of the abbreviations utilized in the generation of electronic transmission information.

Also attached is one copy of a document titled Fairfax County Public Safety Communications Center, Fairfax, Virginia, March 9, 1994, event number 932011315. This document is a transcript of the 911 telephone call received by the Fairfax County Public Safety Communications Center on July 20, 1993. This transcript details the incoming telephone call regarding Vincent Foster, Jr. A second document related to the March 9th communication is subtitled Fire and Rescue Department Event History Header Record. This document is an outline detailing the events related to the 911 telephone call regarding Foster.

Investigation on 2/23/94 at Falls Church, Virginia File # 29D-LR-35063

by SA Dana M. Gillis Date dictated 3/28/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

SHARON BOWMAN, sister of VINCENT W. FOSTER, JR. was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Ave., N.W., Washington, D.C. (WDC), regarding events that may have contributed to the death of her brother. Participating in the interview were her attorney, JAMES HAMILTON, of the law firm of Swidler & Berlin, 3000 K Street, N.W., WDC and Mark Stein, Attorney, Office of the Independent Counsel (OIC). After being appraised of the purpose of the interview and the identities of all parties participating, BOWMAN thereafter provided the following information:

BOWMAN did not consider herself to be a close confidant of her brother's. She further noted that in the recent past, she had had infrequent contact with her brother. She was not aware of FOSTER's depression until after his death.

BOWMAN was aware that FOSTER's spouse, LISA FOSTER, was concerned about her husband (VINCENT FOSTER). BOWMAN did not know what that concern was about.

BOWMAN arrived in Washington, D.C. on July 20, 1993, the day of FOSTER's death. This trip was BOWMAN's first visit to WDC. After VINCENT FOSTER came to Washington as part of the Clinton Administration, he returned to Little Rock on a couple of occasions. The last time BOWMAN saw FOSTER was in May, 1993 when he returned to Arkansas to deliver a graduation speech at the University of Arkansas Law School. During his stay, FOSTER appeared to be tired which BOWMAN attributed to knowledge of FOSTER working long hours. BOWMAN was aware that FOSTER was under a great deal of stress with his job.

In describing her brother, BOWMAN used the word reticent with regard to his personality. In conversations between BOWMAN and FOSTER there was no talk of what he was working on at the White House.

BOWMAN was aware that FOSTER was working long hours in the White House Counsel's Office. From LISA FOSTER, BOWMAN was

aware that FOSTER was disturbed by the burning of the David Koresh compound in Waco, Texas, and was concerned with "Travelgate." BOWMAN did not recall any reference to the Wall Street Journal articles that she is aware of since FOSTER's death that may have been a contributing factor to his depression.

Regarding the gun that was found at the death scene, BOWMAN was aware that her father owned several guns. These weapons were recalled to be hunting rifles and several pistols. BOWMAN used the term "pistol" in a generic sense for handgun. BOWMAN was aware that VINCENT FOSTER, SR.'s will was written by BERYL ANTHONY's daughter, indicated who the senior FOSTER's gun collection would go to. BOWMAN did not have any strong concern that her father would use one of the guns in his collection to take his own life. VINCENT FOSTER, SR. had made an offhand comment that caused SHELIA ANTHONY, her sister, to acquire the guns from the senior FOSTER's residence.

VINCENT FOSTER, SR. maintained a gun in his bedside table which was known to have been taken from him. This particular gun had previously been identified by BOWMAN. BOWMAN believed that VINCENT FOSTER, JR. took the guns out of her father's house upon her father's death. The afternoon of VINCENT FOSTER SR.'s funeral, SHARON BOWMAN showed one of the guns to her son. At that time the guns were taken by VINCENT FOSTER, JR. BOWMAN recalls that she received two guns. She was aware that one of the guns was a ".22 automatic pistol." BOWMAN thought BERYL ANTHONY may have some of the guns but was unsure. BOWMAN remembers that her father had a gun similar to a revolver that was displayed to her during the course of the interview. She remembered the detailing on the handle of the gun but remembers the handle on the gun she saw to be brown. Upon reflection she could not be sure about the color of the handle. BOWMAN thought her father may have had a gun similar to the gun she was displayed in the course of the interview, in his bedside table.

BOWMAN does not recall FOSTER, SR. having made mention of the weapon that was displayed to her in the course of the interview. BOWMAN admitted that she had never really carefully examined the gun that was thought to have come from her father's night table. BOWMAN was unable to say whether the gun that was displayed to her during the course of the interview belonged to her father.

BOWMAN believes that her son may have been fascinated

by the fact that the gun was a Colt revolver. BOWMAN's son, LEE FOSTER BOWMAN, can be telephonically contacted at telephone number, (212) 412-6859. As far as the color of the handle of the gun being brown in color, BOWMAN believes the earlier reference to the gun having a brownish handle may have come from JOHN SLOAN who showed her a photograph of the gun subsequent to her brother's death.

BOWMAN did not recall if the pistol in her father's bedside table was loaded. BOWMAN was aware that her brother, VINCENT FOSTER, may have gone back to their father's residence at a later time and acquired ammunition for the weapon believed to have come from her father's bedside table. BOWMAN does not have any old ammunition in her possession. BOWMAN was unable to provide any further information of investigative value.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

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LEE FOSTER BOWMAN, nephew of VINCENT FOSTER, JR. was interviewed at his place of employment, Barclay's Bank, 222 Broadway, New York City, New York 10038. He was advised of the identity of the interviewing agent and of the purpose of the interview. BOWMAN provided the following information:

He is the grandson of VINCENT FOSTER Senior who died in 1992, and nephew of VINCENT FOSTER, JR. who died July 20, 1993. When he was 10 to 16 years old (approximately), he used to go with his grandfather to a fishing club located in Millwood, Arkansas and a hunting cabin in Yellowcreek, Arkansas. On these occasions, which numbered about two or three per year, he would shoot some of his grandfather's firearms. His grandfather collected weapons and was a "big sportsman". BOWMAN recalled seeing that his grandfather possessed about 3 pistols/revolvers; about 4 shotguns; and two or three rifles. BOWMAN mostly shot a .22 automatic pistol that looked something like a luger. It had a dark barrel and wooden handle. He also shot a larger caliber revolver that his grandfather kept in a holster. He also shot a rifle and shotgun. BOWMAN said he knew the difference between a pistol and a revolver.

BOWMAN was asked if his uncle, VINCENT FOSTER, JR., ever accompanied him on these trips and he answered, "Maybe once". He could not recall any additional details regarding this.

BOWMAN went duck hunting with his grandfather at the Yellowcreek hunting cabin which was located between Hope, Arkansas and Texarkana. His grandfather taught him safety of the weapons. He remembered his grandfather keeping one of the handguns in a bedside table, one in his truck and one at the hunting lodge. He said when his grandfather died, his uncle inherited the weapons. This included at least a "couple of pistols" and a shotgun.

BOWMAN had no knowledge of his uncle VINCENT FOSTER, JR. bringing any of these weapons to Washington, D.C. from Little

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Investigation on 6/28/94 at New York, New York File # 29D-LR-35063

by SA WILLIAM T. GUYTON Date dictated 6/29/94

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Rock, Arkansas with him when he joined the CLINTON administration.

BOWMAN was shown the .38 caliber colt revolver believed to have been used by VINCENT FOSTER, JR. on July 20, 1993 to kill himself. BOWMAN was asked if he recognized this weapon. BOWMAN said, "The gun does not ring a bell particularly". BOWMAN said the ".38 caliber" nature of the weapon was familiar, but that he didn't remember the black handle and the dark color of the metal. He indicated that he was familiar with the cylinder and barrel portion of this size or caliber of a weapon except for the color of the metal.

BOWMAN was asked if he could think of anyone else who could possibly identify his grandfather's firearms. He answered that probably other members of the hunting and fishing club and friends of his grandfather could do this. When asked to identify these individuals, BOWMAN said that there was a Dr. SYKES who was a dentist in Hope, Arkansas (his son is also a dentist). BOWMAN said he did not know if SYKES was still alive or not but that SHEILA or BERYL ANTHONY or his mother could probably help identify Dr. SYKES whereabouts. BOWMAN also said that his great uncle CHARLIE (last name not recalled) who lives in Yellowcreek, Arkansas may also be helpful. He further identified CHARLIE as being married to his grandfather's sister. BOWMAN also suggested that BERYL ANTHONY could possibly be of additional assistance.

The following description of BOWMAN was obtained through observation and interview:

Name:	LEE FOSTER BOWMAN
Race:	White
Sex:	Male
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Residence:	Number 3 Sheridan Square (7th Avenue and West 4 Street) New York, NY 10014
Telephone:	(212) 366-9613
Present Employment:	Associate-Derivative Sales Person Barclay's Bank 222 Broadway-8th Floor (between Vessey and Fulton

Streets)
New York, NY 10038
Telephone: (212) 412-6859

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/12/94

KEITH O. BOYKIN, Special Assistant to the President and Director of News Analysis since January 1993, telephone (202) 456-7150, was interviewed telephonically. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, BOYKIN provided the following information:

BOYKIN advised that he was made Director of News Analysis in January 1993 and held that position until April 1994 when he was made the Director of Specialty Press. He was Director of the Office of News Analysis in July 1993 when VINCE FOSTER, Jr. committed suicide. He advised that he vaguely remembers FOSTER's death but had no specific recollection of July 20 or July 21, 1993. He advised that he probably worked both days and that he found out about VINCE FOSTER's death at home while watching the news. He wondered how things would be at work when he arrived there. He was handling the distribution of the clippings while LARRY SAMPAS, a volunteer who handled those responsibilities, was gone that week on vacation. BOYKIN estimates that on July 21 it would have been his practice to arrive at The White House between 6:30 and 7:00 am and added that at that time of the morning only two or three people are generally in the West Wing. GEORGE STEPHANOPOULOS being one (who he estimated arrives about 6:30 in the morning every morning) and the people from the News Analysis Department.

BOYKIN advised that interns are used on a regular basis in the News Analysis Department although at times when interns are not available, staff members are used to assemble and distribute the press clippings. In July 1993, BOYKIN thinks there were probably plenty of interns available but if not, the staff members were LARRY SAMPAS (Deputy), KEN CHITESTER (the head of the department) and JULIE OPPENHEIMER (she left White House employment possibly the end of November 1993). He could not recall the names of any of the interns or volunteers working for News Analysis in July of 1993 but said that the current Director KEN CHITESTER probably has information on the identities of those individuals.

(telephonically)

Investigation on 9/1/94 at Washington, DC File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 9/7/94

BOYKIN said that he does not recall any discussion at any Communications Office meetings or during any other conversation on the issue of Press Office presence at the FOSTER residence in the wake of FOSTER's death. He advised that such a thing would have been discussed at their daily meeting and he does not recall hearing of it. He also advised that he did not receive any call from CRAIG LIVINGSTONE in connection with FOSTER's death in any way. The only contact he ever has with CRAIG LIVINGSTONE involves passes for interns.

BOYKIN speculated that on the evening of July 20, 1993, he left The White House at approximately 8:00 pm and reiterated that he doesn't remember anything specific about the day of July 21, 1993. He also does not recall seeing CRAIG LIVINGSTONE anytime during that day.

As part of the interview BOYKIN provided the following personal information:

Date of Birth:
Place of Birth:
Social Security Number:
Position: Special Assistant to the President and Director of Specialty Press (since April 1994); Director of White House News Analysis (January 1993 - April 1994)

FOIA(b)(6)
FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/2/94

On May 18, 1994, C. BRANTLEY BUCK, Partner ROSE LAW FIRM was interviewed at the FBI offices in Little Rock, Arkansas. Also present was his attorney C. MICHAEL BUXTON of the firm VINSON & ELKINS, the Willard Office Building, 1455 Pennsylvania Avenue, NW, Washington, D.C., telephone number 202-639-6613. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, BUCK provided the following information:

BUCK advised that he had known VINCE FOSTER, JR. for approximately 20 years to their connection with the ROSE LAW FIRM in Little Rock, Arkansas. Their contact was on a weekly basis. He characterized their relationship as fairly close, primarily professional, and noted that did not socialize outside the office. The last time he saw VINCE FOSTER was at BILL CLINTON's inauguration.

He described FOSTER as very professional and very intelligent. He was not a very outgoing individual and probably the type to internalize problems and difficulties. They did not have the kind of relationship where FOSTER would have confided problems to BUCK.

BUCK speculated that FOSTER's confidants would have been WEBB HUBBELL, BILL KENNEDY and perhaps JOHN and HELEN SLOAN.

BUCK advised that he didn't know how FOSTER handled stress, but noted that he appeared to cope extremely well with it. It was his impression that FOSTER was very successfully in coping with a terrific amount of stress which BUCK imagined the first year of FOSTER's tenure at The White House would have been.

BUCK was not aware of any problems that FOSTER may have been having such as gambling or financial difficulties or extra-marital affairs. With regard to health matters, he recalled that FOSTER exercised regularly and that physical fitness seemed to be important to him. He used the ROSE LAW FIRM gym facilities on a daily basis. He felt that it certainly would have been a factor

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Investigation on 5/18/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA H. ALEXIS SUGGS FOIA(b)(7) - (C) Date dictated 5/25/94

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in increasing FOSTER's stress if he was not able to work out any longer.

BUCK opined that from a laymen's standpoint and with hindsight, FOSTER appears to have suffered from classic depression. He found out about FOSTER's suicide from CAROLYN HUBER who called him from Washington, D.C. on July 20, 1993 at approximately 11:30 pm D.C. time to notify him of FOSTER's death.

BUCK advised that the reason he called FOSTER on July 20 related to the preparation to the blind trust for President and First Lady CLINTON. BUCK explained that he was preparing the blind trust and coordinating the effort through VINCE FOSTER. He further explained that once the contents of a blind trust are certified by the Office of Government Ethics, there is a 30 day period within which the documents all have to be executed. BUCK had sent documents to Washington, D.C. for President CLINTON to sign. BUCK had in his possession already, documents for HILLARY CLINTON to sign and it was expected that HILLARY CLINTON would be coming through Little Rock and would be available to sign remaining documents on or about July 21. She had been gone for two or three weeks on a trip to Japan. BUCK had many documents for HILLARY CLINTON to sign and a few that the President needed to sign. VINCE FOSTER was supposed to make sure that the President signed the documents and that they were mailed to BUCK in Little Rock.

BUCK had called VINCE FOSTER on July 19 to check on the status of the documents and hadn't been able to reach FOSTER. He called again on the 20th, FOSTER returned his call at 12:17 D.C. time. BUCK called back at approximately 1:00 pm D.C. time. There were no difficulties with the blind trust per say FOSTER had been handling the whole matter completely normally. It was done the only tasks which needed to be completed were ministerial. As it turned out BUCK did not receive the documents from President CLINTON but there was no permanent damage because he evidently did get all the documents executed within the 30 day period.

BUCK advised that he has only spoken to LISA FOSTER on a casually basis, so he does not know her well. He did not know FOSTER to hunt or have an interest in guns but FOSTER didn't seem like the type to hunt or have such an interest. He was surprised when he heard that FOSTER had used a gun since FOSTER seemed to be a very non-violent person. It was, however, a no nonsense

foolproof method of committing suicide and that was consistent with the way FOSTER went about completing tasks.

The only change that BUCK noticed in FOSTER after he became Deputy Counsel was that FOSTER was not normally a very talkative person but he became noticeably less talkative after going to The White House. BUCK said that he would try to joke back and forth a little bit and be met with a stony silence on the phone. He attributed it to the fact that FOSTER was no longer a partner in the firm and he was just not able to "chit-chat" anymore. From early January and February 1992, FOSTER was very businesslike. BUCK advised that this didn't cause any ill feeling between the two and he did not know whether other individuals had experienced or noticed the same thing with FOSTER. He did not have the impression that FOSTER didn't have time to talk with him anymore because he wasn't important. BUCK advised that with regard to the telephone tag they were playing on July 20, he believes that FOSTER would have or should have known why BUCK was calling him that day.

Around the time that the Wall Street Journal articles were appearing about ROSE LAW FIRM partners, BUCK had occasion to be talking business with FOSTER and jokingly ask him if he made the Journal today. FOSTER simply replied, "No, and I hope I never do again". BUCK advised that it seemed like a very normal response. FOSTER was never irate nor very angry. He doesn't recall ever seeing FOSTER lose his temper.

As part of the interview, BUCK provided the following personal information:

Name:	C. BRANTLEY BUCK
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
Social Security No.:	
Position:	Partner, ROSE LAW FIRM Little Rock, Arkansas since 1976

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/18/94

EDGAR DENNIS BUENO was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). Also participating in the interview was OIC Assistant Counsel BRETT M. KAVANAUGH. After being advised of the official identities of the interviewing agents and the nature of the interview, BUENO furnished the following information:

BUENO is currently a first year law student at the George Washington University National Law Center, WDC. He graduated from the University of Chicago in Chicago, Illinois, with an undergraduate degree in political science in June 1992. BUENO then held an unpaid internship at the National Governors Association in WDC. BUENO volunteered to work in the BILL CLINTON presidential campaign in 1992, and he began working at the campaign headquarters at 1317 F Street, N.W., WDC. In late November 1992, BUENO took a paid job in the transition counsel's office at 1120 Vermont Avenue, N.W., WDC, which was the office where vetting was conducted for potential high-level appointees in the incoming CLINTON Administration. The position of transition counsel was held by JIM HAMILTON, and other attorneys in the office included WARREN CHRISTOPHER and GARY GINSBURG. BUENO was asked by GINSBURG to perform tasks such as copying SF-86 forms, which were background questionnaires completed by candidates for appointments, and sending out such forms as these to potential appointees.

Although BERNARD NUSSBAUM was White House Counsel, Deputy White House Counsel VINCENT W. FOSTER, Jr. was also making many decisions during the early days of the CLINTON Administration. During either the last week of January 1993 or the first week of February 1993, GINSBURG and BUENO went to the White House to attempt to determine whether they would be given permanent positions in the Administration once the transition period was over. They met with FOSTER to discuss their interest, and they were both moved into permanent positions. BUENO became a paralegal working directly for Associate White House Counsel WILLIAM H. KENNEDY III. GINSBURG, LIZ FINE and STEVE SILVERMAN

transferred over from the transition office to the White House, where they continued the vetting process for potential appointees. GINSBURG and FINE have left the White House and are currently working at the United States Department of Justice (DOJ). SILVERMAN continues to work at the White House.

Although GINSBURG and FINE worked with the White House Counsel's Office in vetting candidates and processing nominees toward their confirmation hearings, GINSBURG and FINE knew that they did not formally have positions as Associate White House Counsels. BUENO's office was in the Old Executive Office Building (OEOB) so he was never physically located in the offices of the White House Counsel's Office in the West Wing of the White House. FOSTER's office was in the West Wing, and he would typically call BUENO's office in the OEOB to inquire about the status of the appointment process for specific candidates, e.g., to inquire how close the background investigation was to being completed. FOSTER might have also called to ask for the latest statistics on how many positions had been filled in relation to the number of available positions to be filled. BUENO was not familiar with any of the other work being performed by FOSTER.

KENNEDY had not sought a position in the CLINTON Administration but was asked to join. FOSTER's presence in the CLINTON Administration was part of what attracted KENNEDY to join the White House staff. KENNEDY was unable to participate in a large portion of the process for nominating appointees until he became familiar with it. KENNEDY was clearly assigned to get people through the appointment process during the time that BUENO worked for KENNEDY.

BUENO served at the White House from February 1993 through August 1994. After the death of FOSTER on July 20, 1993, BUENO began working for Associate White House Counsel BETH NOLAN.

BUENO first heard of Whitewater during the campaign, but he is not certain of the context in which he heard of it. He recalls that Whitewater was mentioned in connection with a report issued by attorney JIM LYONS.

BUENO did go to work at the White House compound on July 20, 1993. He believes that he arrived at work that day at his usual time, which would have been between 8:00 and 8:30 a.m. BUENO did not see FOSTER during the last ten days to two weeks prior to FOSTER's death.

In previous weeks, whenever BUENO passed FOSTER in a hallway, FOSTER would always greet him or somehow acknowledge BUENO's presence. However, when BUENO last saw FOSTER, which was approximately two weeks before FOSTER's death, FOSTER did not even say hello to BUENO. On that occasion, FOSTER was exiting NOLAN's room when BUENO saw him. Although FOSTER looked at BUENO, he did not greet BUENO, which BUENO thought was very unusual under the circumstances.

BUENO is certain that he did not see FOSTER on July 20, 1993. BUENO does not recall any instances of KENNEDY attempting to reach or speak with FOSTER on July 20, 1993. BUENO left work at the White House that evening sometime between 6:30 and 7:30 p.m.

BUENO did not learn of FOSTER's death until the morning of July 21, 1993 when BUENO was still at home preparing to go to work. On that date at approximately 7:15 a.m., BUENO happened to turn on his television, which was tuned to the "Today" show. BUENO saw a photograph of FOSTER displayed on his television screen but the audio portion of the program was not yet audible on BUENO's television so BUENO could not hear why FOSTER's photograph was being shown. BUENO later switched channels to another station and eventually heard a story about FOSTER's death the preceding night.

BUENO believes that he arrived at work at the White House between 8:00 and 8:30 a.m. on July 21, 1993. When BUENO arrived at his office, MARTHA STANLEY, who was the secretary for both KENNEDY and NOLAN, was the only person in the suite (Room 136 of the OEOB). BUENO and STANLEY sat at STANLEY's desk and spoke with each other until other people began to come into the office. At approximately 9:00 or 9:30 a.m., BUENO learned that there was going to be a White House staff meeting with President CLINTON on the fourth floor of the OEOB. Just prior to the start of this meeting, BUENO observed WEBB HUBBELL, MARSHA SCOTT, and KENNEDY holding hands with each other.

In terms of KENNEDY's actions following the death of FOSTER, BUENO knows that CRAIG LIVINGSTONE and KENNEDY went somewhere, possibly the morgue, to identify FOSTER's body the night of July 20, 1993. BUENO himself had no assignments relating to FOSTER's death.

BUENO has not wanted to immerse himself in the details

of how FOSTER died. He has spoken with another White House staff member, PETER PAPPAS, about the rumors surrounding FOSTER's death, but he has only spoken about the rumors and has not attempted to investigate them or their validity. At the time of BUENO's conversation with PAPPAS, PAPPAS was serving as an Assistant Counsel to the President on a temporary basis, but he is currently working at the United States Department of State. BUENO does not recall hearing of anyone being assigned to handle FOSTER's documents after FOSTER's death.

On July 21, 1993, LIVINGSTONE came to Room 136 in the OEOB looking for KENNEDY. BUENO believes that LIVINGSTONE came to this office between 9:00 and 9:15 a.m. but probably closer to 9:15. LIVINGSTONE's visit occurred sometime before the meeting of the White House staff with President CLINTON. BUENO told LIVINGSTONE that KENNEDY was not in the office yet. During this exchange, LIVINGSTONE was actually in the reception area of the suite, which is the area where STANLEY sits. LIVINGSTONE did not mention what he had done that morning or why he was looking for KENNEDY. LIVINGSTONE told BUENO that he and KENNEDY had driven somewhere the previous night to identify FOSTER's body. BUENO does not recall how LIVINGSTONE was dressed that morning or whether his clothing was unusually rumpled or casual. BUENO does recall that LIVINGSTONE appeared distraught.

BUENO did not have to prepare a chronology of his activities on or about July 20, 1993. He cannot recall if LIVINGSTONE or anyone else mentioned anything about a chronology at that time. BUENO believes LIVINGSTONE may have prepared a chronology but he is not certain of this recollection. BUENO considers it most likely that he heard about the chronology through a conversation, but he cannot recall with whom he may have been speaking. BUENO thinks that he may have heard about the chronology from LIVINGSTONE. BUENO does not know if someone told LIVINGSTONE to prepare the chronology. BUENO believes it is likely that the chronology was prepared in anticipation of inquiries from the press. LIVINGSTONE is the type of person who would have prepared such a document on his own initiative and without being instructed by someone else to do so.

BUENO was present during a conversation on July 22 or July 23, 1993 in which KENNEDY complimented LIVINGSTONE for doing a good job on the night of July 20, 1993. KENNEDY told BUENO that BUENO would have been proud of the way LIVINGSTONE had performed that evening.

BUENO has no knowledge of anyone removing documents from the White House. BUENO was not asked to remove documents or assist LIVINGSTONE in any other way during the time period around July 20, 1993.

While BUENO was employed as KENNEDY's paralegal, one of his tasks was to send forms related to background investigations both to appointees as well as to other agencies such as the Federal Bureau of Investigation and the Internal Revenue Service. BUENO also reviewed the completed forms to ensure that they had been completed correctly. BUENO was also responsible for hand-carrying the completed background investigation reports to the Senate so that these reports could be reviewed by the appropriate senators involved in confirmation hearings for appointees. BUENO received his work assignments from KENNEDY himself. During the course of his work, BUENO would see LIVINGSTONE on a day-to-day basis. BUENO had kept a mailbox in LIVINGSTONE's office downstairs in the OEOB so he had to go to LIVINGSTONE's office to check his mail each day.

If a background investigation on an appointee had been initiated by someone in the transition office, e.g., an early appointee such as NUSSBAUM, then the transition office staff member who moved to an assignment at the White House was still responsible for the completion of that background investigation. For the first month of his tenure as KENNEDY's paralegal, BUENO continued to check on the status of background investigation forms as he had done in the transition office.

BUENO does not know how LIVINGSTONE obtained a job in the White House Office of Personnel Security. Once LIVINGSTONE was hired, BUENO turned over responsibility for background investigations being conducted on White House employees to LIVINGSTONE.

KENNEDY had three safes in his office, and each of the safes had five drawers. The background investigation reports were maintained in green legal size folders and were kept locked in KENNEDY's safes. Only KENNEDY knew the combinations to these safes. BUENO is not aware of any system used to track the exact location of individual background investigation files once they were removed from KENNEDY's safes, e.g., when BUENO brought a file up to Capitol Hill to be reviewed by a senator.

BUENO does not recall LIVINGSTONE mentioning going to

FOSTER's house the night of July 20, 1993 or the morning of July 21, 1993. BUENO does not recall whether LIVINGSTONE was in attendance at the meeting of the White House staff with President CLINTON on July 21, 1993.

BUENO last spoke to LIVINGSTONE and KENNEDY when BUENO completed his employment at the White House on August 15, 1994. BUENO went back to the White House on approximately September 15, 1994 to see KENNEDY but he did not have an opportunity to speak with KENNEDY because KENNEDY was on the telephone.

Based on observation and interview, BUENO is described as follows:

Name:	EDGAR DENNIS BUENO
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7)-(C)
Place of Birth:	
Address:	801 15th Street South Arlington, Virginia 22202
Hone telephone:	(703) 415-1761

)-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/29/94

DALE BRENT BUMPERS, born FOIA(b)(6) FOIA(b)(7) - (C) currently employed as Assistant United States Attorney (AUSA) for the Eastern District of Arkansas, was contacted at his place of employment at the TCBY Building, 5th Floor, was advised of the identity of the interviewing Agent, the purpose of the interview, and the fact that the interview was being conducted at the direction of Independent Counsel ROBERT B. FISKE, JR.

Mr. BUMPERS confirmed that he was employed as AUSA in the Little Rock United States Attorney's Office during 1993. He stated he does not remember if AUSA FLETCHER JACKSON spoke to him in July of 1993 or at any other time about the investigation of DAVID HALE's business, CAPITAL MANAGEMENT SERVICES, being conducted by the Federal Bureau of Investigation (FBI) at that time, nor does he remember if AUSA JACKSON ever mentioned to him that a search warrant was being planned or was about to be executed on HALE's business. BUMPERS said he believes that AUSA JACKSON never spoke to him about the investigation or the search warrant and that he was not aware of either at the time the search warrant was executed.

BUMPERS said he believes that the first time he heard about the search warrant for CAPITAL MANAGEMENT SERVICES was from someone not affiliated with the U.S. Attorney's Office or the FBI, but someone on the street. He declared he cannot remember who talked to him but believes it was at least a week to a month after the suicide of VINCENT FOSTER. This person mentioned a speculation about a possible connection between FOSTER's suicide and the search of CAPITAL MANAGEMENT SERVICES. The remarks were made in passing, and BUMPERS said he could not remember who mentioned this or why the subject came up. He declared he did not speak with anyone in the U.S. Attorney's Office, the FBI, or anyone else about the investigation and search warrant involving DAVID HALE and CAPITAL MANAGEMENT SERVICES prior to July 20, 1993.

L. .igation on 6/24/94 at Little Rock, Arkansas File # 29D-LR-35063-Sub 17

by FOIA(b)(7) - (C) Date dictated 6/24/94

SERIALIZED FILED JUL 1 1994 FBI — LITTLE ROCK

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/17/94

CHARLES WILLIAM "BILL" BURTON, Deputy Assistant to the President and Policy and Staff Director for the Chief of Staff, the White House, Washington, D.C., was interviewed at the Office of the Independent Counsel, Washington, D.C. as scheduled at 10:30 a.m. MR. BURTON was advised of the identity of the interviewing agents and of the purpose of the interview. Assisting with the interview was CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR. Also present during the interview was MR. BURTON's attorney, CHARLES M. CARBERRY, from the law firm JONES, DAY, REAVIS & POGUE. MR. BURTON provided the following information:

He started at the White House officially on May 10, 1993. Prior to that time, he assisted at the White House on a consulting basis since the transition. BURTON grew up in Texarkana, Arkansas and was back in that town from 1976 through 1977. He spent the years 1975 through 1984 in Hope, Arkansas. From 1983 through 1984, he owned a newspaper in Hope. It was during this period of time that he knew VINCE FOSTER's father who was a "city father" in Hope. BURTON said VINCE himself was not much of a public persona in Arkansas. He is not sure when he first met VINCE FOSTER, but it may have been in court. After selling the Hope newspaper, BURTON went to Little Rock and worked for the Associated Press. He then enrolled in law school at the University of Arkansas at Little Rock and during the school year clerked at the Rose Law Firm (RLF). While at RLF, BURTON had a professional relationship with FOSTER. He said he primarily worked with associates who worked with FOSTER while at RLF. During the campaign and extending into the new administration prior to his permanent employment, BURTON assisted with energy policy. White House Chief of Staff MCLARTY had come to the White House out of the energy industry and often turned to BURTON for assistance in this area. BURTON moved to Washington, D.C. during the transition and had been considered for a number of other posts within the administration.

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Following law school graduation, BURTON worked until May 1993 at the JONES DAY law firm in Austin, Texas, handling primarily litigation work. BURTON received a letter from VINCE FOSTER as an endorsement to join the Arkansas Bar Association.

BURTON said he knew President CLINTON since CLINTON had been a candidate for the Attorney General in Arkansas.

BURTON described FOSTER with the following adjectives: best reputation; integrity; ethical; brilliant lawyer who had scored first on the Bar exam; not a real colorful fellow; and someone who had not had his name in the paper except for charitable work.

BURTON said he did not socialize with FOSTER. He could only remember having lunch with him on one occasion during the transition. BURTON never attended the weekly dinners with the Arkansas group in Washington, D.C. after CLINTON became President.

BURTON said he had occasional day-to-day contact with VINCE FOSTER at the White House. He said these occasions totaled no more than six to ten during the period May through July 1993.

At this point, BURTON noted that he sometimes had difficulty in separating what is known today versus what he knew at the time of FOSTER's death.

Asked if he had noticed any changes in VINCE FOSTER just prior to his death, BURTON answered that FOSTER always seemed like a pretty serious fellow, down to business. BURTON's sense was that FOSTER had more concentration and furrowed brow in the weeks prior to his death. BURTON did not recall discussing this with anyone.

BURTON saw FOSTER for the last time two weekends before FOSTER's death. The occasion was a Saturday or Sunday at the White House when both were working. They had come to the White House independently but FOSTER, BURTON and someone else whose name BURTON could not recall, ended up being together and perhaps discussing the Travel Office situation. They were trying to do the right thing and it wasn't coming out that way. FOSTER was concerned about his reputation.

FOSTER had been concerned about how DAVID WATKINS was being treated by the press. BURTON didn't recall FOSTER saying he was concerned about BILL KENNEDY.

When asked if VINCE FOSTER was working on Whitewater-related matters prior to his death, BURTON answered that he didn't know. BURTON knew FOSTER did some personal legal work for the CLINTONS while at RLF. FOSTER would have continued some of this work at the White House, particularly as it related to.. financial disclosure forms, etc.

On the evening of July 20, 1993, just prior to 9:00 p.m., BURTON received a telephone call from DAVID WATKINS, Assistant to the President for Management and Administration. WATKINS was calling the Chief of Staff's office and BURTON was sitting in the reception area when he received the call. WATKINS reported that he had learned from the duty officer of the U.S. Park Police (USPP) that VINCENT FOSTER had died. BURTON said his memory was hazy because of the flurry of activity that followed, but he could recall walking to the residence of the White House where the President and others from the Senior White House Staff were. The President was appearing on the LARRY KING show live that evening from 9:00-10:00 p.m. BURTON pulled MCLARTY out of the room where he was watching the show and informed MCLARTY of FOSTER's death. MCLARTY was visibly affected by this news.

BURTON then went to further confirm the death and circumstances surrounding it. With his newspaper reporter background, he ended up calling several USPP investigators, the hospital, an ambulance company and also BRUCE BABBIT, Secretary for the Interior. He called BABBIT to offer White House help and cooperation in the FOSTER death investigation by the USPP. BABBIT reacted, as others had, by being shocked and was also appreciative and understanding. BURTON remembers he told BABBIT the White House wanted no special treatment from the Park Police. BURTON did not recall the FBI/DOJ involvement being discussed at this point. He termed the call to BABBIT as a "courtesy call."

When asked to describe what he had learned of FOSTER's death at this point, BURTON said he spoke with the lead investigative officer at the scene who described the appearance, wallet and scene of the death as a classic suicide. He said FOSTER's thumb was in the trigger and blood under FOSTER not in the grass nearby the body. He said the thumb being in the

trigger was a classic key indicator to the USPP of suicide. Not many people know that this is how a gun is held to commit this type of suicide. BURTON asked and was told that no note was found, but that FOSTER's car, a Honda, had been found.

Just past 9:30 p.m., BURTON returned to tell MCLARTY that it was clear that it was FOSTER and appeared to be a suicide. It was apparent to BURTON at this point that DEE DEE MYERS, GEORGE STEPHANOPOULOS, MARK GEARAN and others present from the White House had been told of FOSTER's death by MCLARTY. At that point, BILL KENNEDY and CRAIG LIVINGSTONE called to their location indicating they had identified FOSTER's body at the hospital. BURTON said this group was in one of the "colored rooms" on the ground floor of the White House, and at times used the U.S. Secret Service telephone at the station located in that hallway.

BURTON remembered people asking at various times about the presence of a note and the answer always being no. There was no discussion at this point of searching FOSTER's White House office.

MCLARTY asked the President to terminate his interview with LARRY KING. The President, MCLARTY, BURTON and perhaps a Secret Service agent rode from the library of the White House on the elevator to the second floor residence of the President and met in a private room. It was at this point, approximately 10:00 p.m. or shortly thereafter, that MCLARTY formally advised the President that his friend, VINCENT FOSTER, had committed suicide. The President reacted with shock. BURTON described his conversation with Park Police regarding the death scene and thereafter excused himself and returned to the ground floor. MCLARTY and the President stayed in the room.

BURTON could recall no discussions regarding a note or search of FOSTER's office. He recalled the topics being discussed as (1) notification of FOSTER's relatives and friends; and (2) a press statement. BURTON himself handled some of the White House contacts for funeral arrangements and the obtaining of FOSTER's personal effects.

BURTON went back to the Chief of Staff's suite. SYLVIA MATHEWS of the Office of Economic Counsel had volunteered to sit at PATTY's desk in the foyer of MCLARTY's office to answer

telephones. BURTON himself used MCLARTY's office to notify FOSTER's friends and relatives. BURTON noted that he called mutual friends in Hope, Arkansas, of himself and VINCE FOSTER's mother, GEORGE and EFFIE FRASIER. The FRASIERS told MRS. FOSTER (ALICE MAE) in person of her son's death.

At one point, BURTON saw SYLVIA MATHEWS on the floor going through a sack of trash. She had determined on her own, apparently, that FOSTER's office may have been cleaned and had somehow asked for the trash from the cleaning ladies and had been told what she had was from FOSTER's office. BURTON could not recall how she knew, but MATHEWS also reported that the burn bag in FOSTER's office was empty. BURTON's memory was hazy, but he said there was not much trash from FOSTER's office. BURTON said the trash was of "some concern to me." He said he told MATHEWS it was important to keep the trash together. MATHEWS sealed the trash with masking tape and put it in ROY NEAL'S office for safekeeping.

The President and MCLARTY and others from the White House went to see LISA FOSTER at her residence that evening. BURTON stayed at the White House during that time to handle matters from that location. DEE DEE MYERS and MARK GEARAN were working on a press release.

BURTON was asked if he went to FOSTER's office that evening. He answered that he did not recall leaving the first floor of the West Wing. FOSTER's office is on the second floor of the West Wing. BURTON said he went home about somewhere between 2:00 a.m. and 5:00 a.m., probably 4:00 a.m.

BURTON returned to the White House on the morning of July 21, 1993 in time for the 8:00 a.m. Senior Staff Meeting. He said nothing memorable occurred at that meeting. He also said the days are "telescoped." BURTON's normal day at the White House is from 7:00 a.m. to 9:00 or 10:00 in the evening. On the morning of July 21, 1993, BURTON again called BRUCE BABBIT at Interior. BURTON said he now understood from the White House Counsel's office, that the USPP would be officially investigating the FOSTER death. BURTON said there had been some discussion of having the Department of Justice (DOJ) come in to act as facilitator with the White House to avoid the appearance of any coverup during the investigation. BURTON offered that BABBIT should call the Chief of Staff's office at the White House and

let them know of any roadblocks occurring during the investigation. BURTON said he did not recall attending a USPP briefing on the investigation to date on the morning of July 21, 1993.

BURTON had several conversations with the USPP over the next several days. He said it was hard to recall the time and content of any one of these meetings. He also cautioned that during this time period, he was doing other things. BURTON was talking with the family, helping with funeral arrangements, arranging for Air Force One and a plane for FOSTER's body to be sent to Arkansas, working with the Park Police and for a while it seemed like acting as Park Police contact with the White House. This contact duty eventually shifted to the White House Counsel's office. Basically, BURTON was assisting with logistics.

BURTON did not recall a meeting on the afternoon of July 21, 1993 with Park Police and other investigators regarding how VINCENT FOSTER's office would be searched. BURTON did recall talking with MCLARTY and NUSSBAUM about the search. He said MCLARTY ran the Chief of Staff's office as a "broker" in dealing with overlapping responsibilities in the White House. BURTON participated in the decision for the search which had been primarily determined by NUSSBAUM. Concerns voiced were that the search be completely as open as possible and yet preserve the confidentiality and privileges of the Presidency; basically protecting the Presidency. BURTON did not recall who among the group was where on the spectrum of concerns. He did recall that nobody took the position that "let them have at it" with respect to law enforcement entering FOSTER's office without restriction. BURTON knew of discussions in NUSSBAUM's office with the Park Police, etc. BURTON was in MCLARTY's office and remembers a discussion concerning bringing JACK QUINN in for his viewpoint.

DAVID MARGOLIS, DOJ attorney, was the USPP agent with the White House. BURTON recalls that the Park Police thought the terms of the search were almost an overkill. As an example, concerning some of FOSTER's private papers, MARGOLIS raised an issue and the Park Police volunteered that these documents could be taken home by FOSTER's family attorney. The Park Police were there to find out if the death had been a suicide or if there was a note present in the office. The process followed was that NUSSBAUM would describe a folder or document to let the investigators know what it was. BURTON said there weren't half a

dozen times that it came up that anything was of interest to them (law enforcement). He gave an example - telephone logs. BURTON said the USPP got to see everything they wanted to see. BURTON said he was at the search partly as MCLARTY's representative to report back to the Chief of Staff. BURTON did not recall how it came that he would be at the search. BURTON had no knowledge of the President and/or First Lady being consulted regarding issues surrounding the search and he said it seems like he would have known if this had occurred. BURTON knew that MAGGIE WILLIAMS was involved in some conversations, as FOSTER had acted as personal lawyer for the President in the past.

When questioned, BURTON said that he was not aware of any documents being removed from FOSTER's office on the evening of July 20, 1993 and the early morning hours of July 21, 1993. He does not recall any reference or accusations or rumors to such removals.

BURTON said he was at the search of the FOSTER office at the start and conclusion and also there most of the time. He left the room on a couple of occasions to take unrelated phone calls.

BURTON remembers that one of the first items to be searched in FOSTER's office was a briefcase. He said that White House staff consisting of STEVEN NEUWIRTH, CLIFF SLOAN and himself surrounded NUSSBAUM behind the desk with the investigators and attorneys from DOJ in front of the desk. The desk surface was actually reviewed first and then two briefcases. BURTON remembered an accordion-style briefcase and a catalog-style briefcase. He said the pile of personal documents was created from items taken out of the briefcases. BURTON saw no more files in the briefcases and doesn't recall seeing otherwise. He said he had been previously interviewed concerning the search of FOSTER's office and referred the interviewers to this earlier recorded interview as it had occurred closer to the time of the events in question. BURTON did not recall NUSSBAUM looking into the briefcase. BURTON never heard any rumors or discussion concerning the torn up note which was eventually found being returned to FOSTER's office after the search on July 22, 1993. BURTON was asked if FOSTER was the kind of person who ripped stuff up prior to throwing it away. BURTON said he did not know but cited FOSTER as being a careful attorney. BURTON said it was his understanding that the burn bag system in the White House was

primarily for Top Secret and Military Secret material which was to be thrown away.

BURTON was asked to further described his six to ten contacts noted earlier with FOSTER during the course of their dealings from May to July, 1993. BURTON said that FOSTER was always courteous. As an example, FOSTER always called first to arrange an appointment with Chief of Staff MCLARTY. FOSTER would check with BURTON regarding legal issues and status of appointment matters.

BURTON said he could not think of anything else relevant to the investigation.

BURTON was asked if he was aware of anyone from the Park Police or Interior contacting the White House regarding the conduct of the USPP investigation of the death of VINCENT FOSTER. BURTON replied that in an "after the fact manner" TOM COLLIER, Chief of Staff for BRUCE BABBIT, Secretary of Interior, had called him (BURTON). Allegations were made by COLLIER that the White House was mishandling and blocking the investigation. BURTON said he felt these issues were being raised only after bad publicity had surfaced. They were also raised when most of the investigation had been done and the note found. BURTON said he turned COLLIER's complaints over to ROY NEAL. BURTON said his conversation with COLLIER was a "heated" discussion. BURTON said he probably wasn't as polite to COLLIER as he should have been. BURTON said as far as he knew, there were no changes following his discussion with COLLIER, other than it seemed that the DOJ went into "ascendancy as lead agency."

Following a break with his attorney, BURTON returned to the interview with the following two issues, stating that he had conferred with his attorney regarding relevancy of these issues.

BURTON had handled the rings and FOSTER personal affects to include a watch, wallet and beeper. With respect to the beeper, BURTON checked it upon receiving it from investigators and noted that FOSTER's name showed up on the readout, indicating there were no pages on it. He said as follow-up, the White House Communication Agency perhaps could determine whether or not additional paging records are kept. BURTON said that PATSY THOMASSON or DAVID WATKINS or JOEL KLEIN

would be the link with the White House Communication Agency to follow-up on this issue, if necessary.

BURTON also reported that some period of time after the death of FOSTER and the note being located, perhaps in the Fall of 1993, before Whitewater was back in the news, he spoke with JIM BLAIR, an attorney, about a friend of his, SAM HEAUR, who was MCDOUGAL's attorney. MCDOUGAL had acquired CLINTON's Whitewater interest. Shortly before FOSTER died, he was in the process of trying to get corporate records from the CLINTONS. BRUCE LINDSEY and MAGGIE WILLIAMS were contacted by BURTON and the matter was left with WILLIAMS.

BURTON was asked if he knew the attorneys BARNETT and/or KENDALL. BURTON said he had met BARNETT at FOSTER's funeral on the bus ride from Hope to Little Rock.

The following description of BURTON was obtained through observation and interview:

Name:	CHARLES WILLIAM "BILL" BURTON
Title:	Deputy Assistant to the President and Policy and Staff Director for the Chief of Staff
Race:	White
Sex:	Male
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Address:	2239 N. Quincy Street Arlington, Virginia 22207
Telephone:	Residence: (703) 351-0381 Work: (202) 456-6797

Attorney, CHARLES M. CARBERRY, JONES, DAY, REAVIS & POGUE, 599 Lexington Avenue, New York, New York 10022, telephone (212) 326-3939/3920.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/29/94

HARRIET E. BYNUM telephonically contacted the interviewing agent in response to a call placed to BYNUM by the interviewing agent earlier on May 25, 1994. BYNUM is employed as an insurance sales agent by MAZZANTI, BYNUM & ASSOCIATES, 2 Convention Center Place, Suite 102, Convention Center Holiday Inn, Pine Bluff, Arkansas 71601, telephone number (501) 536-8058. BYNUM resides at 315 Martin Street, Pine Bluff, Arkansas, telephone number (501) 534-6334. After being advised of the official identity of the interviewing agent and that the interview pertained to the circumstances of the death of VINCENT W. FOSTER, Jr. on July 20, 1993, BYNUM provided the following information:

BYNUM was the writing agent who sold a universal life insurance policy, policy number L011391790 with a value of $700,000.00, to VINCENT W. FOSTER, Jr. The policy was issued by the North American Company for Life and Health Insurance (NACOLAH), Chicago, Illinois, and the anniversary date on the policy was July 14, 1990.

BYNUM does not recall exactly why NACOLAH documents reflect three different annual premium amounts ($2421.00, $2618.00 and $3857.00) for FOSTER's flexible premium adjustable life insurance policy, but she believes the annual premium rates were increased due to a decline in prevailing interest rates. In order to ensure the ability of NACOLAH to pay the full $700,000.00 in the event of FOSTER's death, NACOLAH had to make assumptions about the rate of return on NACOLAH's investments during the life of FOSTER's policy with NACOLAH. When prevailing interest rates began to decline, NACOLAH had to increase the amount of FOSTER's annual premium because NACOLAH would need to invest more money at the lower than projected rates of interest in order to have enough funds accumulated to pay FOSTER's survivors the full $700,000.00.

BYNUM recalls being contacted by FOSTER when he was notified of the increase in the amount of the annual premium.

(telephonically)

Investigation on 5/25/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/29/94

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BYNUM had previously discussed with FOSTER the possibility of the premium changing from the figure she had originally furnished him, and she simply explained to him about the decline in interest rates at that time.

The annual premium payment is normally due on the anniversary date of the policy each year. In the case of FOSTER's policy, his premium for 1993 was due on July 14, 1993. Bills to remind the policy holder of the upcoming anniversary date are normally sent out by NACOLAH approximately three to four weeks before the due date. When she was asked by the interviewing agent whether June 22, 1993 could have been the date when NACOLAH last sent a bill to FOSTER, BYNUM concurred and noted that date was, in fact, approximately three to four weeks before the due date on FOSTER's policy.

The date June 22, 1993 had been reflected as the last billing date on a NACOLAH document which had been reviewed by the interviewing agent prior to the interview.

On a term insurance policy, the premium must normally be paid within thirty-one days of the due date or the policy is considered lapsed and no benefits are payable. However, in the case of a universal life policy such as the policy purchased by FOSTER, the due date holds less significance. FOSTER had paid $5,021.00 to NACOLAH when he purchased the policy. BYNUM recalls that this $5,021.00 represented money which FOSTER had received from either Massachusetts Mutual Life Insurance Company or The Mutual Life Insurance Company of New York when FOSTER had closed out a policy with one of these two companies. BYNUM had applied $3,857.00 of FOSTER's $5,021.00 to FOSTER's premium payment for the first year, leaving FOSTER substantially in advance of his premium payments due with NACOLAH. As a result of this early payment as well as the return NACOLAH had been able to earn on FOSTER'S premium payments, FOSTER may not have needed to make any premium payment in 1993. FOSTER did not have to make a premium payment in 1993 as long as the interest rates for the returns to NACOLAH from the investment of FOSTER's premiums remained higher than the mortality cost to NACOLAH. In short, FOSTER could have made no premium payments for as long as eighteen to twenty-four months after the premium was due in July 1993, yet the full $700,000.00 face amount of his policy would have been paid upon FOSTER's death.

BYNUM is familiar with the clauses pertaining to suicide in FOSTER's policy since the terms of FOSTER's policy were quite standard. If FOSTER had committed suicide within two years of the anniversary date of his policy, i.e., on or before July 14, 1992, then FOSTER's survivors would only have received the amount of the premiums paid to NACOLAH by FOSTER up to that time. However, since FOSTER died after July 14, 1992, his survivors were entitled to the full $700,000.00 amount of the policy.

BYNUM knew FOSTER for many years, and she traveled to Washington, D.C. following his death on July 20, 1993. BYNUM considered FOSTER a friend, but they had limited contact with each other after FOSTER left Arkansas and went to Washington, D.C. in January 1993. BYNUM considers FOSTER's widow, LISA FOSTER, to be her best friend. BYNUM spoke with LISA FOSTER in Washington, D.C. shortly after FOSTER's death in an effort to assist LISA FOSTER in whatever ways she could, including the filing of a claim with NACOLAH. During her conversations with LISA FOSTER, BYNUM learned that LISA FOSTER had made a premium payment to NACOLAH shortly before FOSTER's death. Based on her previously described knowledge that the prompt payment of FOSTER's insurance premium in July 1993 was not necessary to ensure that NACOLAH would pay off on the policy, BYNUM is quite certain that the payment of the premium by LISA FOSTER on the day before FOSTER's death was strictly coincidental. BYNUM is not certain when LISA FOSTER's premium payment was received by NACOLAH, but she believes it was in relatively close proximity in time to the date of FOSTER's death.

BYNUM knows of no concerns held by anyone at NACOLAH regarding the timing of the payment of the premium on FOSTER's policy. Following FOSTER's death, BYNUM contacted NACOLAH to request prompt processing of the death claim. BYNUM took this action on her own initiative because she knew the difficulties LISA FOSTER was encountering in moving from Washington back to Little Rock.

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OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/22/95

HARRIET EASON BYNUM was interviewed at her place of business, Bynum Investment Services, 415 West 6th Avenue, Suite B, Pine Bluff, Arkansas 71611, telephone number (501) 541-9094. After being advised of the official identity of the interviewing agent and the nature of the interview, BYNUM provided the following information:

BYNUM has known VINCENT W. FOSTER, Jr. since she was approximately fourteen years old. BYNUM grew up in Clarendon, Arkansas, while FOSTER lived in Hope, Arkansas. BYNUM and FOSTER attended Presbyterian churches, and they met at church-related activities during the summers when they were in junior high and high schools. FOSTER was one year older than BYNUM.

BYNUM later had contact with FOSTER during one of the summers between FOSTER's college years. FOSTER lived with a relative in Little Rock during that summer, and BYNUM saw FOSTER often as part of a large group of people who socialized together.

When FOSTER and his wife moved to Fayetteville, Arkansas, for FOSTER to attend law school, BYNUM went up to Fayetteville to see them the first week they were there. BYNUM's husband, F. WILSON BYNUM, also studied law at the University of Arkansas School of Law in Fayetteville but was one semester behind FOSTER. The BYNUMs and FOSTERs have remained the closest of friends since leaving Fayetteville.

The BYNUMs spent election night in November 1992 with the FOSTERs at the FOSTERs' house in Little Rock.

The BYNUMs know President BILL CLINTON and First Lady HILLARY RODHAM CLINTON, but their only social contacts with the CLINTONs have been through the FOSTERs. WILSON BYNUM has worked with HILLARY RODHAM CLINTON on legal matters, but these matters preceded the election of President CLINTON. BYNUM has worked with HILLARY RODHAM CLINTON on social and community issues such as child advocacy.

Investigation on 2/7/95 at Pine Bluff, Arkansas File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 2/13/95

BYNUM did not see FOSTER in the last few months preceding his death on July 20, 1993. The BYNUMs had airplane reservations and tickets to travel to Washington, D.C. (WDC), in October 1993, but these plans were changed due to FOSTER's death.

ROSEMARY CONRAD, who is a friend of both the BYNUMS and the FOSTERs, travelled to WDC during the first two weeks of June 1993 and visited with FOSTER. CONRAD may be able to provide information about FOSTER's behavior on that occasion.

BYNUM did not travel to WDC to visit FOSTER after he moved there following the inauguration of President BILL CLINTON in January 1993. BYNUM probably spoke to FOSTER a couple of times after he went to WDC. On one occasion, FOSTER called BYNUM shortly after the inauguration with a question about life insurance. FOSTER, along with other new White House employees, had recently attended an orientation meeting about benefits available to federal government employees. BYNUM was in the insurance business at that time and she had already sold a life insurance policy to FOSTER. FOSTER called BYNUM to ask her advice about whether the premium on the government life insurance plan was competitively priced. BYNUM obtained the facts on the government plan from FOSTER, and she compared the government plan with other insurance plans available through insurance brokers in Arkansas. BYNUM later recommended to FOSTER that he enroll in the government plan since the government rate was better than BYNUM had been able to find in the private sector. These contacts with FOSTER probably occurred in late January or early February of 1993. BYNUM probably last spoke to FOSTER sometime prior to April 1, 1993.

BYNUM has two children who are very close in age to two of FOSTER's children. One of BYNUM's children is approximately one month older than LAURA FOSTER, while BYNUM's other child is approximately three months older than BRUGH FOSTER.

BYNUM recalls that FOSTER used to have severe mood swings even while he was still living in Little Rock and working at the Rose Law Firm. BYNUM and her husband would occasionally travel to Little Rock from Pine Bluff and spend a weekend with the FOSTERs. For example, on Saturday they might go to a sports event and go out to dinner. The BYNUMs would then spend the night at the FOSTERs' residence rather than drive back to Pine Bluff. BYNUM recalls that FOSTER would sometimes be extremely quiet on Sunday morning, staying mostly to himself. Even if the

BYNUMs and LISA FOSTER became loud or excited, FOSTER would remain quiet and either read the newspaper or study documents from work, especially if he were preparing for a major trial. FOSTER would never be hostile to his guests, and he would not ask them to quiet down, but it was clear to BYNUM that he wanted no part of what was going on in his own house. If the noise and revelry grew too distracting, FOSTER would pick up his things and go into another room without saying anything to his guests.

BYNUM has observed the video tape of FOSTER delivering the commencement address at the University of Arkansas School of Law in May 1993. BYNUM believes that FOSTER's spirit was clearly absent as he delivered the address, but she does not mean this comment in a religious sense. FOSTER's personality was not inside his body as he gave the speech. FOSTER's image on the video tape appeared "ghostly" to BYNUM.

On one occasion, BYNUM watched the video tape of the commencement address with FOSTER's daughter, LAURA FOSTER. LAURA FOSTER commented to BYNUM that the person on the tape was not her father. LAURA FOSTER said that though the person delivering the address looked like her father on the outside, the traits she knew within him were not evident as he made that speech.

BYNUM has viewed photographs of FOSTER taken during the last two months of his life, and she recalls that in these photographs FOSTER had very puffy eyes and a glazed expression on his face.

On July 20, 1993, at approximately 9:00 p.m., WILSON BYNUM answered the telephone at home and was told by the caller, JOHN SLOAN, that FOSTER was dead. WILSON BYNUM hung up the phone and told BYNUM that FOSTER had died. BYNUM was incredulous and asked her husband to repeat what he had just said. WILSON BYNUM repeated that FOSTER had died. There was no mention of how FOSTER had actually died during this conversation. JOHN SLOAN and his wife HELEN did not believe FOSTER had died by suicide, and they called the BYNUMs again approximately forty-five to sixty minutes after the first call to further discuss what had happened to FOSTER.

BYNUM also spoke by telephone with ROSEMARY CONRAD that same night about FOSTER's death. CONRAD had been called by SKIP RUTHERFORD, who notified her of FOSTER's death. During their telephone conversation with each other, neither CONRAD not BYNUM

mentioned suicide. That night BYNUM also arranged plane reservations to WDC aboard United Airlines using the tickets BYNUM had planned to use for the trip to WDC in October 1993.

On July 21, 1993, at approximately 8:00 a.m., WILSON BYNUM received a telephone call from DOUG BUFORD, who said there was room for BYNUM on a private aircraft which would be flying friends of the FOSTER family to WDC. BYNUM called United Airlines back and canceled her earlier reservations. The private airplane left Little Rock around 11:30 a.m. and flew to Fayetteville, Arkansas, to pick up CONRAD and her son. The airplane with BYNUM aboard eventually arrived in WDC around 4:00 that afternoon.

BYNUM knows of no money problems or other personal or family problems which may have led FOSTER to suicide.

FOSTER was right-handed.

BYNUM believes that FOSTER killed himself because of the intense personal criticism to which he had been subjected, particularly by writers of the Wall Street Journal. BYNUM believes FOSTER would have regarded the critical articles as a form of personal character assassination. FOSTER also likely felt intense pressure about his options in terms of resigning his post at the White House Counsel's Office. FOSTER felt there was no way out of his position at the White House, and he felt he could not return to Little Rock even though he could have. FOSTER was such a perfectionist that he would have found it intolerable that he had not been successful in his work in WDC. The pressure on himself may have been mostly or totally self-imposed.

BYNUM's comments about FOSTER's state of mind prior to his death are based solely on her knowledge of FOSTER and are not based on anything he said to her.

BYNUM recalls hearing that a professor from either Georgetown University or George Washington University in WDC called the FOSTER house after FOSTER's death and spoke about Type A personalities. BYNUM recalls being told that suicides among Type A personalities are rare, occurring at a rate of approximately three percent. BYNUM regarded FOSTER as having a Type A personality, i.e., FOSTER was constantly driven and was always striving for success and perfection.

BYNUM is not certain in her own mind how FOSTER was able to commit suicide without leaving a note explaining his actions to his family or without having some sort of final conversation with his children. BYNUM believes that FOSTER felt the personal pressure so intensely that he just blocked out of his mind the likely effects of his death on his wife and children.

Based on observation and interview, BYNUM is described as follows:

Name:	HARRIET EASON BYNUM
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	315 Martin Street Pine Bluff, Arkansas
Home Telephone:	(501) 534-6334.

C

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/1/94

WILLIAM MICHAEL CAHILL was interviewed in a conference room at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. CAHILL is an officer with the United States Secret Service (USSS), Uniform Division, White House Branch. After being advised of the official identities of the interviewing agents and the nature of the interview, CAHILL provided the following information:

CAHILL is currently assigned to the USSS Control Center for the White House Branch, which is where he was assigned on July 20, 1993, the date of the death of White House Deputy Counsel VINCENT W. FOSTER, Jr. CAHILL is assigned to the C Section of the White House Branch, and his normal hours of work are from 2:00 p.m. to 10:00 p.m. CAHILL believes he was assigned to monitor alarms on the alarm board in the USSS Control Center on July 20, 1993.

When an officer of the USSS is assigned to monitor the alarm board at the USSS Control Center, the officer is responsible for receiving telephone calls from persons securing or opening offices within the White House. If the alarm board reflects that an alarm has been tripped in one of the offices in the White House, the officer on the alarm board position is responsible for calling the office in which the alarm has been activated to determine the reason for the alarm being triggered. The officer assigned to the alarm board is also responsible for having an officer of the USSS sent to the site of the alarm to check on the cause of the alarm. The officer who responds to the site of the alarm is, in turn, responsible for radioing the USSS Control Center to confirm that anyone found at the site of the alarm is named on the list of persons authorized to be in the space where the alarm was activated. If no person is still at the site of the alarm, the responding officer is responsible for verifying that the location is secure and radioing the USSS Control Center that nothing was found. If the responding officer finds someone at the site of the alarm who is not on the authorized access list, the officer will detain that person and have that person call the White House staff member on the

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Investigation on 7/27/94 at Washington, D.C. File # 29D-LR-35063

by SAs DANA M. GILLIS and RUSSELL T. BRANSFORD RTB:rtb Date dictated 8/1/94

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authorized access list who authorized entry for this person to verify that such access was authorized by the staff member.

Typically, there are four officers and one sergeant assigned to the USSS Control Center at any given time. CAHILL does not recall with certainty which other officers were assigned with him in the USSS Control Center on July 20, 1993. Based on his knowledge of which officers are assigned to C Section with him, CAHILL believes that USSS Officers MATT DRISCOLL and TIM SCHMIDT were working with him in the USSS Control Center on July 20, 1993. CAHILL believes that the fourth officer assigned to that group could have been either STEVE McCORMACK, TRENT KELTNER or C.B. BROWN.

CAHILL does not recall receiving an alarm call at the suite of the White House Counsel's Office on July 20, 1993. It is very possible that another officer within the USSS Control Center could have received a call from someone at the Counsel's office suite without CAHILL's knowledge.

At this point in the interview, CAHILL was asked to review a single sheet of paper labeled an "on-line activity report" which is a log that reflects intrusion detection events in the office suite of White House Counsel BERNARD NUSSBAUM on July 20 and 21, 1993. After CAHILL reviewed the document, the interview continued.

The log reflects that on July 20, 1993 at 2004 hours (8:04 p.m.), the alarm in the White House Counsel's Office suite, which had been in "access" mode, i.e., employees were free to move about the suite as during the business day, was placed into alarm mode by an individual named CASTLETON. The next entry on the log reflects that, again at 2004 hours, the alarm was placed into secure mode, meaning the alarm was turned on and would signal an intrusion into the office suite. The log reflects the entrant/operator on this event as CASTLETYON, which is likely a misspelling of the name CASTLETON. CAHILL believes that the reason for the alarm being triggered may be that CASTLETON reentered the office suite after the alarm had been turned on or CASTLETON had not yet left the suite when the alarm system was reset.

The log further reflects that on July 20, 1993 at 2114 hours (9:14 p.m.), the alarm in the White House Counsel's Office suite was shown as secure and then reset. CAHILL is unfamiliar

with this particular sequence of events. In his experience, the log should reflect an access event, rather than a secure event, before a reset event. CAHILL cannot account for the fact the log does not reflect an access event between 8:04 p.m. and 9:14 p.m. on July 20, 1993.

CAHILL does not know if the White House Counsel's Office suite currently has a motion detector as part of the alarm system or if it was so equipped on July 20, 1993.

CAHILL has not been into either the White House Counsel's Office suite or the office of First Lady HILLARY RODHAM CLINTON since the CLINTON Administration took office. There is no video camera system set up in either of these two offices. CAHILL is only aware of one video camera location in the White House, and that camera is located in the basement of the mansion.

CAHILL has no knowledge of any documents being taken from FOSTER's office on or about July 20, 1993. CAHILL does not know MARGARET "MAGGIE" WILLIAMS, Chief of Staff for the First Lady.

CAHILL does not know CRAIG LIVINGSTONE, but he knows that LIVINGSTONE is head of White House security and his office may be in Room 84. CAHILL does not have any interaction with LIVINGSTONE, but he recalls seeing a USSS memorandum in which USSS officers are directed not to use LIVINGSTONE's name in their reports. CAHILL has no knowledge of LIVINGSTONE taking any documents out of the west wing of the White House.

Based on observation and interview, CAHILL is described as follows:

Name:	WILLIAM MICHAEL CAHILL
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	8649 Centerton Lane Manassas, Virginia 22111
Home Telephone:	(703) 335-2252
Work Telephone:	(202) 395-4497

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/19/94

PAUL R. CAREY, Special Assistant to the President for Legislative Affairs, the White House, (202) 456-6493, was interviewed at his office at the White House. After being advised of the nature and purpose of the interview and the identity of the interviewing agent, CAREY provided the following information:

CAREY advised that he remembers the night of July 20, 1993, the night that VINCE FOSTER, JR. killed himself. CAREY advised that he did not come into the White House at all.

The following morning, he had responsibilities in connection with being confirmation coach for newly appointed FBI Director, LOUIS FREEH. He was busy with those duties the entire morning of July 21, 1993. He probably arrived to his office in the West Wing between 7:30 and 8:30 a.m. He may have gone over to the West Wing to his boss, HOWARD PASTER's office for a staff meeting at approximately 8:30 a.m., but because of his duties on the Hill later that morning, he is absolutely positive that he would have been wearing his suit and tie. He and LOUIS FREEH met with Senator BIDEN and Senator HATCH. They met in the anteroom of Senate Judiciary Committee at approximately 11:30 a.m.

CAREY advised that the earliest person in the Legislative Affairs Office in the West Wing would probably arrive approximately 7:30 in the morning. He further advised that it is extremely rare for him to ever be in his office earlier than 7:30 in the morning and he goes directly to his office in the East Wing.

As part of the interview, CAREY provided the following personal information:

Name:	Paul R. Carey
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)
SSN:	
Height:	5'11"

estigation on 8/6/94 at Washington, DC File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/9/94

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Weight:

FOIA(b)(6)
FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

On May 17, 1994, JOHN PHILLIP CARROLL, Senior Law Partner, Rose Law Firm, Little Rock, Arkansas appeared at the offices of the FBI together with his attorney C. MICHAEL BUXTON of the law firm VINSON and ELKINS, the Willard Office Building, 1455 Pennsylvania Avenue, NW, Washington, D.C., telephone (202) 639-6571. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, CARROLL provided the following information:

CARROLL advised that he had known VINCE FOSTER, JR. since FOSTER came to the firm approximately 20 years ago. He "bonded with him" and has been close to the family as well. He is the godfather of VINCENT, III, VINCE FOSTER, JR.'s son. Their homes are approximately 3 blocks apart from one another in Little Rock and he considers himself close to the whole family. CARROLL characterized FOSTER as "prince of the world". He noted that FOSTER had graduated from law school first in his class in 1970 or 1971, had been editor of the law review, and was a very, very, fine lawyer. He was smart and he wrote beautifully.

CARROLL said when FOSTER told him he was going to Washington, D.C., it came as a bolt of lightning for him. CARROLL simply was not expecting such a move. FOSTER had announced his candidacy for the Presidency of the Arkansas Bar Association and CARROLL was so disappointed that FOSTER was leaving the firm for Washington, D.C. that he actually commented that he wished former President Bush had won the election because then he wouldn't have lost FOSTER. But CARROLL said he understood that it was like being drafted and that FOSTER couldn't really refuse such an honor.

CARROLL advised that FOSTER's suicide is a complete mystery to him. The commencement address that FOSTER gave in May, 1993 seems to tell so much about FOSTER to people who will listen. FOSTER himself had prosecuted law suits representing insurance companies whose interest it was to prove that a decedent had committed suicide but he was not aware that FOSTER had any particular empathy for people who committed suicide or

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otherwise was involved emotionally with the topic.

In his experience, FOSTER handled stress wonderfully and had no problems tackling difficult problems. He said that FOSTER had good stamina, physically and mentally. He knew FOSTER to work out every day, and described him as strong and good looking.

As far as CARROLL knew, FOSTER's family life was ideal. He had a happy marriage. He was happy with his children, in fact, CARROLL opined that FOSTER had "perfect children".

Asked about possible stress points in FOSTER's life, CARROLL advised that before the election, FOSTER told CARROLL about the rumor that he believed was about to hit the press that he and HILLARY RODHAM CLINTON were having an affair. He advised CARROLL that he was having his telephone number changed and would not be at the office for a couple of days. He seemed shocked and concerned about it. He was making the changes because he did not want to run into the press. He was telling CARROLL in order to give CARROLL and others at the law firm some kind of forewarning as to what was coming. As it turned out, it was not such a public furor as FOSTER expected and he came back within about a week. CARROLL said that he had no knowledge of any extramarital affair between FOSTER and any person, nor did he believe it was possible. He believes that FOSTER was a very moral man and a family man.

CARROLL was not aware that FOSTER had any financial problems. He knew that FOSTER had a good income from the Rose Law Firm. As far as he could remember, FOSTER's father had been moderately well off, so as far as he knew, there should not have been any financial difficulties. He advised that there was no Rose Law Firm subsidy to any country club membership or anything else that he was specifically aware of.

CARROLL knows LISA FOSTER and her children to be of the Catholic religion. VINCE FOSTER himself came to mass with the family only on high holidays, otherwise FOSTER did not attend church.

CARROLL suggested that possible confidants of FOSTER would have included a young architect who is also executor of FOSTER's estate, JOHN SLOAN and his wife HELEN, 4014 South Lookout, Little Rock, Arkansas 72205, work telephone: 501-376-

6681, residence telephone: 501-663-5556; also possibly BILL WOODYARD (with the MITCHELL Law Firm in Little Rock); JERRY ATCHLEY (who owns a radio station and whose wife is a psychiatrist); WEBB HUBBELL; and BILL and HILLARY CLINTON.

The only case that CARROLL was ever aware of that FOSTER was not able to handle well was a case involving a client who was extremely difficult. FOSTER eventually came to CARROLL and said that he simply could not deal with the client. Figuratively speaking, he threw up his hands and asked CARROLL to take it over for him and complete it. CARROLL did so.

FOSTER left Little Rock in January 1992 for the inauguration. CARROLL did not attend the inauguration ceremonies and he did not see VINCE FOSTER until May of 1992 when FOSTER returned to Little Rock for commencement ceremonies of his law school. At that time CARROLL did not observe any change in FOSTER's appearance or any change in his demeanor. CARROLL said that at the commencement ceremony at University of Arkansas Law School, FOSTER gave a splendid delivery with no stress showing during the speech.

Asked about anything he may have heard concerning FOSTER's state of mind, he advised that LISA told him, or perhaps he read it, that FOSTER had spent some time just sitting or lying in a darkened room. He knows no more than that. He advised that WEBB HUBBELL told him that the FOSTERs and the HUBBELLs had gone for a weekend away from Washington, D.C. just before FOSTER died and that they had all had a wonderful time. During that weekend, FOSTER himself seemed quite "chipper".

CARROLL observed that FOSTER never had a defeat. He had handled a case for HILLARY RODHAM CLINTON with regard to her health care task force that the Wall Street Journal was critical of. He also commented that BILL KENNEDY had gotten censured for the Travelgate matter. He read these things in the press and doesn't know anything about these things firsthand.

CARROLL is not aware of any history of suicide or depression in the FOSTER family. He commented that all the members of FOSTER's family are successful. It appears to be an ideal family. FOSTER's father was a successful real estate person and therefore a political force in Arkansas. FOSTER's sister is a successful attorney and his other sister who resides in Arkansas was a beauty queen. FOSTER had not seemed

overwrought over his father's death and he was closer to his father than to his mother.

FOSTER's hobbies included, swimming and gardening. CARROLL never knew anything about FOSTER's having anything to do with guns.

CARROLL thinks that young VINCENT, FOSTER's son, is taking his father's suicide very hard. There is some concern that he is not talking to his mother LISA about it. He knows that DREW is graduating from High School about now and LAURA has transferred colleges. He knows no additional information.

CARROLL advised that he heard of FOSTER's death on July 20, late in the evening. Judge ARNOLD called him about midnight. Somebody (CARROLL does not know who) from Washington, D.C. had called Judge ARNOLD. A little later that night WEBB HUBBELL called him and notified him. On July 21, both CARROLL and his wife flew to Washington, D.C. He discussed the death with HUBBELL and HUBBELL himself communicated no suspicions to him at the time that FOSTER's death was anything but a suicide. During the interview CARROLL provided the following personal information:

Name:	JOHN PHILLIP CARROLL
Date of Birth:	August 1, 1925
Place of Birth:	Fort Smith, Arkansas
Social Security Number:	430-32-7478
Address:	2424 North Fillmore Street Little Rock, Arkansas 72207
Position:	Senior Law Partner Rose Law Firm Little Rock, Arkansas A position he's held for 44 years

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/22/95

JOHN PHILLIP CARROLL, who is also known as PHILLIP CARROLL, was interviewed in a conference room in the offices of the Federal Bureau of Investigation (FBI), 10825 Financial Centre Parkway, Building 2, Suite 200, Little Rock, Arkansas. CARROLL was formerly a senior partner at the Rose Law Firm (RLF) in Little Rock, but he took the status "of counsel" on February 1, 1995. Also present during the interview was DAVID L. WILLIAMS, who is an attorney with RLF and who was representing CARROLL. After being advised of the official identities of the interviewing agents and the nature of the interview, CARROLL provided the following information:

CARROLL first learned of the death of Deputy White House Counsel VINCENT W. FOSTER, Jr. on the night of July 20, 1993, several hours after FOSTER's body was found. CARROLL was at home and had already gone to bed when he received a telephone call from Judge RICHARD ARNOLD, who is a judge on the United States Circuit Court of Appeals for the Eighth Circuit. CARROLL does not recall whether he received the call from Judge ARNOLD before or after midnight. CARROLL thinks he was asleep and was awakened by the ringing of his telephone. Judge ARNOLD advised CARROLL that FOSTER had killed himself in Washington, D.C. (WDC). CARROLL does not recall who notified Judge ARNOLD of FOSTER's death, but he recalls Judge ARNOLD saying that he had learned of the death from someone in WDC. CARROLL knows Judge ARNOLD because CARROLL's wife DIANE was a childhood friend of Judge ARNOLD in Texarkana, Arkansas. Judge ARNOLD later served as administrative secretary to Senator DALE BUMPERS.

WEBB HUBBELL also called CARROLL that same night and confirmed for CARROLL that FOSTER was dead. CARROLL recalls that HUBBELL said that CARROLL should not believe FOSTER died by suicide because that could not have been the case. Neither HUBBELL nor CARROLL could believe that FOSTER had committed suicide. CARROLL does not recall HUBBELL's exact words, but he recalls that HUBBELL said in some way that FOSTER's death could not have been suicide.

On July 21, 1993, CARROLL spoke with a number of people about flying to WDC in response to FOSTER's death. When CARROLL first made plans to go to WDC, he intended to return to Little Rock that same night, i.e., July 21, 1993, by commercial airliner. Instead, CARROLL and his wife flew to WDC aboard a private aircraft owned by Stephens, Incorporated, which had offered the use of the plane and crew to a number of FOSTER's friends. Other people who flew to WDC with the CARROLLs on the Stephens, Incorporated aircraft were JOHN and HELEN SLOAN, HARRIET BYNUM from Pine Bluff, Arkansas, and a woman and her son from Fayetteville, Arkansas. CARROLL does not recall who told him that Stephens, Incorporated was making an airplane available, but he believes he was told by either JESS ASKEW or AMY STEWART, both of whom are attorneys at RLF. CARROLL presumes that WARREN STEPHENS would have been responsible for making the decision to make the airplane available.

The airplane arrived at Dulles Airport outside WDC in mid- to late-afternoon. CARROLL's party was met at the airport by White House official CAROLYN HUBER, who was waiting with a van to transport the party from the airport to the White House. CARROLL has the impression that the route of the van to the White House passed by the park where FOSTER's body had been found. The van arrived at the White House at approximately 4:30 p.m.

In discussing the events of July 1993 with his wife in preparation for the instant interview, CARROLL was reminded by his wife that he called RLF from the White House shortly after his arrival there on July 21, 1993. Telephone records should be able to reflect what time that call was made.

Once at the White House, CARROLL learned that he and his wife had been invited to have dinner and stay there that night. The CARROLLs called to cancel the reservations they had previously made for return flights to Little Rock by commercial airline that night. After spending a period of time at the White House, CARROLL, his wife and other members of their party were driven by van to the FOSTER residence.

CARROLL recalls seeing LISA FOSTER, FOSTER's widow, and BRUGH FOSTER, FOSTER's son, at the house. CARROLL does not recall seeing VINCENT W. FOSTER III at the house. CARROLL and his party were at the FOSTER house for several hours. After HUBBELL came to the FOSTER house, CARROLL and HUBBELL went out into the garden and talked. HUBBELL told CARROLL about the past

weekend when the FOSTERs joined the HUBBELLs on a trip to the coast, and HUBBELL said that FOSTER had appeared cheerful during the trip. HUBBELL said nothing to CARROLL which would indicate HUBBELL suspected foul play was involved in the death of FOSTER. President BILL CLINTON also visited the FOSTER house that night and spoke with everyone there.

Among the people CARROLL recalls seeing at the FOSTER house were BILL WOODYARD, who is a lawyer in Little Rock, and BECKY CARROLL, who is the CARROLLs' daughter and who knew the FOSTERs as she was growing up. CARROLL also saw the ATCHLEYs at the FOSTER house that night. Mrs. ATCHLEY is a psychologist at the medical school in Little Rock and Mr. ATCHLEY runs a radio station in Little Rock. Mrs. ATCHLEY was very supportive to LISA FOSTER that night and made suggestions to her about how to handle the grief. BRUGH FOSTER sat with his arm around his mother. HUBBELL's wife SUSIE visited the FOSTER house, and CARROLL recalls that she came and went. DONNA McLARTY and HARRIET BYNUM were also at the house. Most of the people at the FOSTER house were personal friends of the FOSTERs. Also present was a young lady whose name CARROLL cannot recall but who works on the White House staff and who rode in the van from the White House to the FOSTERs' house. The daughter of this young lady from the White House also works at the White House. CARROLL cannot recall the daughter's name, but he recalls that this mother and daughter used to live next door to the FOSTERs in Little Rock. Perhaps twenty to thirty people were at the FOSTERs' house.

Sometime that evening, CARROLL spoke with JOHN GILL, who had formerly been president of the Arkansas Bar Association. GILL wanted to discuss with CARROLL a plan to have the bar association honor FOSTER's memory in some fashion. GILL wanted to clear this proposal through LISA FOSTER, and he asked CARROLL for his assistance. LISA FOSTER did not like GILL and she was somewhat hostile to this proposal.

CARROLL had no conversation with LISA FOSTER about the events leading up to the death of FOSTER. LISA FOSTER said nothing to CARROLL about the reasons why FOSTER may have taken his life. Since the time of FOSTER's death, LISA FOSTER has been to the CARROLLs' house several times, but the occasion has never been appropriate to discuss FOSTER's death, and LISA FOSTER has never volunteered any information about the death to CARROLL.

CARROLL does not recall any discussion while he was at

the FOSTER house that night of a suicide note or any other note having been found. CARROLL has no recollection of any discussion that night about the note which was later found torn up in the bottom of FOSTER's briefcase. CARROLL may have asked HUBBELL about the existence of a note, but he has no recollection of asking such a question or of receiving such an answer. CARROLL heard no discussion about a search being conducted of FOSTER's office at the White House. CARROLL's only knowledge of such a search being conducted comes from what has appeared in newspapers. CARROLL may have engaged in a discussion about the gun found with FOSTER and about how FOSTER obtained the gun. CARROLL wondered for a long time about the origin of the gun found with FOSTER's body. CARROLL has since read that the gun may have belonged to FOSTER's father.

CARROLL cannot believe he heard any discussion about sealing FOSTER's office. He does not believe that such a subject would have been discussed at that time. The conversations that evening were solicitous and were concerned with being nice to LISA FOSTER.

CARROLL does not recall what time he and his wife left the FOSTER house that night, but it was dark out. There had been food at the house and guests had eaten snacks. BILL WOODYARD had a chauffeur-driven automobile, and he offered use of the car to the CARROLLS. The CARROLLs accepted WOODYARD's hospitality and were driven back to the White House in this automobile, probably arriving at approximately 8:30 or 9:00 p.m. When they arrived at the White House, the CARROLLs were told by one of the ushers that their bags had been moved from their original guest room to the Lincoln bedroom. CARROLL and his wife spent their first hour in the Lincoln bedroom just looking around and appreciating its history.

When the CARROLLS awoke the following morning (July 22, 1993), they ate breakfast at the White House and later visited briefly with President CLINTON. CAROLYN HUBER showed the CARROLLs some of the other rooms in the residence portion of the White House. Later in the day, the CARROLLs were driven to Andrews Air Force Base whence they flew home to Little Rock aboard a military aircraft.

The aircraft on which the CARROLLs flew was one of the two or three presidential aircraft which were flown from WDC to Little Rock that day. Others on the plane included BILL KENNEDY

and his wife; DAVID WATKINS; the ATCHLEYs; and the flight crew, composed of United States Air Force personnel. CARROLL does not know whether HUBBELL was on that airplane. The plane was not full, but there was a "healthy size" group aboard. CARROLL believes his wife spoke with BILL KENNEDY on the plane. CARROLL's conversations with the KENNEDYs were very casual. CARROLL did not overhear or participate in a discussion about a note.

On that same day, the CARROLLs conversed with Mrs. ATCHLEY, who advised them of the problems overcoming feelings of grief after a suicide. Mrs. ATCHLEY spoke with them about what LISA FOSTER would be going through.

CARROLL does not recall any specific details about FOSTER's last weekend, but he remembers that it was generally known at that time that the FOSTERs and HUBBELLs had gone to the Eastern Shore and FOSTER had a good time there.

When FOSTER returned to Arkansas to present the commencement address at the University of Arkansas School of Law, he stopped by the RLF offices to work on some late revisions to his address and he visited with CARROLL. This was the last time CARROLL ever saw FOSTER alive. FOSTER was absolutely normal and cheerful and he spoke about how busy he was. FOSTER did not seem at all suicidal.

CARROLL heard no discussion at FOSTER's funeral about the reasons for FOSTER committing suicide.

At this point in the interview, CARROLL was provided with a typewritten transcript of the torn, handwritten note which had been found in FOSTER's briefcase six days after his death. CARROLL was asked to read the transcript of the note and offer his observations about the remarks in the note. CARROLL then advised the following:

CARROLL has no reason to believe that FOSTER did not write the note. CARROLL had no conversations with FOSTER, either in detail or in passing, about any of the issues mentioned in the note.

FOSTER was very ethical, moral, conscientious and modest. CARROLL cannot believe FOSTER would do anything illegal or unethical. CARROLL never saw FOSTER do anything which he

regarded as unethical or illegal. As a lawyer and as a person, FOSTER was as close to being perfect as CARROLL has seen. CARROLL would have been proud to have FOSTER as his son.

During FOSTER's conversation with CARROLL at RLF when FOSTER was in Arkansas for the commencement address, FOSTER did not express any problems to CARROLL. Sometime after FOSTER left RLF to join the CLINTON administration in January 1993, CARROLL received a letter from FOSTER in which FOSTER wrote of the pressure he was feeling. CARROLL later drew quotes from this letter in an article about FOSTER which CARROLL wrote for the magazine of the Arkansas Bar Association. CARROLL does not now recall when he received that letter from FOSTER, but CARROLL's magazine article may mention that date.

When FOSTER came to CARROLL to tell him that he was leaving RLF to go join the CLINTON administration in WDC, CARROLL said to FOSTER, "Damn, I wish BUSH had won." CARROLL regretted the remark, and he later sent a letter to FOSTER in WDC in which he apologized for responding in that manner to FOSTER's announcement.

When FOSTER told CARROLL he was going to take a job in WDC, it hit CARROLL like a bolt from the blue. CARROLL feels that FOSTER did his patriotic duty in going to join the administration since he had been asked to join by President CLINTON. CARROLL compares FOSTER's situation to being asked to defend the country in time of war, and CARROLL believes that FOSTER could not have put his own career in Little Rock ahead of service to his country. CARROLL had a tremendous admiration for FOSTER, and there was no period of estrangement after FOSTER left RLF. CARROLL does not recall how many weeks in advance that FOSTER came to CARROLL to tell him of FOSTER's imminent departure from RLF. FOSTER announced his departure to CARROLL in a conversation in which FOSTER clearly was not seeking CARROLL's advice and counsel. CARROLL believed that FOSTER's mind was already made up.

FOSTER's announcement of his departure allowed sufficient time for other partners at RLF to smoothly take over FOSTER's cases. The only case which CARROLL personally took over from FOSTER was a libel case involving a television station in Texarkana.

CARROLL is not certain whether FOSTER maintained

contact with anyone else at RLF after his departure from the firm. GEORGE CAMPBELL of RLF may have told CARROLL that he visited FOSTER in WDC. CARROLL does not think he ever called FOSTER at the White House.

CARROLL and FOSTER had both worked in the litigation section of RLF along with HILLARY RODHAM CLINTON, WEBB HUBBELL, JERRY JONES, KEN SCHIEMAN, JESS ASKEW and AMY STEWART. FOSTER was generally closest to Mrs. CLINTON and HUBBELL.

CARROLL has never heard that FOSTER may have wanted to leave his post at the White House.

Several months prior to Christmas of 1993, CARROLL learned of HUBBELL's legal problems relating to his false billings of RLF clients and embezzlement of RLF funds. Some of the people in Little Rock traveled to WDC for a Christmas party. Among these people were JERRY JONES and RON CLARK from RLF, who spoke to HUBBELL in WDC and left a packet of documents with HUBBELL when they left. The packet contained documents relating to HUBBELL's practice of paying off his personal credit cards with RLF checks. At the time of FOSTER's death, CARROLL had no knowledge of HUBBELL's legal difficulties.

CARROLL has no information that FOSTER knew of HUBBELL's embezzlement from RLF and false billings of RLF clients at the time of FOSTER's death. CARROLL did not have any discussions with FOSTER about HUBBELL's embezzlement and false billings.

CARROLL has no recollection of the search warrants which were executed on July 21, 1993, in connection with DAVID HALE.

CARROLL only recalls having three contacts with FOSTER after FOSTER left RLF to join the CLINTON administration. These three contacts were: FOSTER's personal visit with CARROLL at RLF in May 1993 in connection with FOSTER's commencement address; the letter to FOSTER from CARROLL in which CARROLL apologized to FOSTER for his outburst when FOSTER announced his departure from RLF; and the letter to CARROLL from FOSTER in which FOSTER mentioned the pressure he was experiencing in WDC.

CARROLL's daughter, BECKY CARROLL, resides at 3420 38th Street, N.W., Unit E419, WDC 20016, telephone number (202) 244-2163.

Based on observation and interview, CARROLL is described as follows:

Name:	JOHN PHILLIP CARROLL
Sex:	Male
Race:	White
Date of Birth:	August 1, 1925
Place of Birth:	Fort Smith, Arkansas
Social Security Account Number:	430-32-7478
Home Address:	2424 North Fillmore Street Little Rock, Arkansas
Home Telephone:	(501) 663-6025

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/29/95

REBECCA ELIZABETH CARROLL was interviewed in an office at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). After being advised of the official identities of the interviewing agents and the nature of the interview, CARROLL provided the following information:

CARROLL has a private practice as a psychotherapist and maintains an office at 8525 Colesville Road, Suite 1, Silver Spring, Maryland 20910, telephone number (301) 589-4210. CARROLL has completed her course work for her PhD at Howard University and only has to successfully defend her doctoral dissertation in order to receive her degree.

CARROLL has not lived full-time in Little Rock, Arkansas since 1972. She has lived in WDC since 1981.

CARROLL knew former Deputy White House Counsel VINCENT W. FOSTER, Jr. since the time she was a child. She does not recall her age when she first met FOSTER, but it occurred when FOSTER joined the Rose Law Firm (RLF) in Little Rock. CARROLL's father, JOHN PHILLIP CARROLL, was a partner at RLF and seemed to view FOSTER as the son he never had.

CARROLL does not recall with certainty when she last saw FOSTER prior to his death on July 20, 1993, but she believes it was on an occasion when VINCENT W. FOSTER III was visiting his father in WDC during the younger FOSTER's spring break in 1993. CARROLL went with the FOSTERs to a meal at the Cactus Cantina Restaurant in WDC. FOSTER engaged in typical family-type conversation and did not appear any different than when CARROLL had seen him on other occasions.

CARROLL had fewer than ten contacts with FOSTER from the time FOSTER arrived in WDC as a member of the CLINTON administration until his death. A number of these contacts occurred when CARROLL was visiting LISA FOSTER at the FOSTER home and saw FOSTER briefly at the house. CARROLL also encountered

FOSTER on occasion by happenstance when they would both go to the same restaurant for a meal. CARROLL's residence is located very close to the home of one of FOSTER's sisters, SHEILA F. ANTHONY. CARROLL did not see FOSTER at all in the last month of his life.

When CARROLL telephoned the FOSTER residence, she generally spoke with LISA FOSTER because FOSTER was usually busy or at work. CARROLL recalls one telephone conversation she had with LISA FOSTER about FOSTER's condition prior to his death. This telephone conversation occurred at about the time of Father's Day in 1993 (Sunday, June 20). CARROLL called LISA FOSTER for some suggestions on what to get for CARROLL's father as a Father's Day gift. During the course of the conversation, LISA FOSTER mentioned to CARROLL how tired and overworked FOSTER had been. LISA FOSTER said that FOSTER had recently lost weight and had experienced difficulty sleeping. CARROLL did not interpret LISA FOSTER's comments as a request for professional advice and CARROLL did not offer any such advice since she regarded the conversation as personal rather than professional. Because the conversation was personal and CARROLL was in that mode of thinking, she did not associate LISA FOSTER's comments with possible symptoms of depression at that time.

Following FOSTER's death, CARROLL spoke to one of her sisters, who recalled earlier unusual behavior on the part of FOSTER when the FOSTERs still lived in Little Rock. CARROLL's sister related that she had visited at the FOSTERs' house on several occasions and had been taken aback at outbursts by FOSTER directed at his wife. FOSTER had grown angry and shouted at LISA FOSTER even though CARROLL's sister was present at the time. CARROLL's sister recalled such incidents because they seemed so out of character for FOSTER because FOSTER was typically quiet and well-mannered in front of guests.

CARROLL believes such incidents could be consistent with the behavior of someone who was depressed since irritability can frequently be a symptom of depression. CARROLL herself recalls that FOSTER was quiet and moody while he was still living in Arkansas. These observations lead CARROLL to speculate that FOSTER may have been suffering from depression for a period of years before his death. FOSTER's behavior during that period may have been consistent with that of someone suffering from depression because such people have highs and lows which can be affected by events in the normal courses of their lives. Exceptionally high achievers such as FOSTER who suffer

from depression can sometimes continue to function for extended periods of time if they can make it through the lowest emotional points. Suicide is the final resort such people turn to as a way to get away from their pain.

FOSTER never asked CARROLL for her professional assistance, and he never asked her to make a professional referral. No one ever asked CARROLL to make a referral on behalf of FOSTER. CARROLL has no knowledge that FOSTER ever sought or received mental health care. Such matters were simply not discussed at the time CARROLL was still living in Arkansas. Because she did not know FOSTER as a peer, CARROLL has no idea of the identities of people in whom FOSTER would confide because she does not know who would be regarded as FOSTER's closest friends. CARROLL knows of no other professionals in her field who may have been close friends with FOSTER or might be able to offer insights into FOSTER's state of mind.

CARROLL first learned of FOSTER's death when she saw a story about it on the front page of the newspaper on July 21, 1993. CARROLL believes she saw the newspaper story at approximately 7:00 that morning. CARROLL telephoned her parents to tell them what happened but they had already learned of FOSTER's death. CARROLL's parents were still in shock about FOSTER's death, and her father could not believes that FOSTER had taken his own life. CARROLL briefly discussed with her parents their plans to fly to WDC that day.

During that time in 1993, CARROLL had a job on Tuesday nights so she would not have been home on the night of July 20, 1993, until approximately 9:30 p.m. CARROLL was not contacted by anyone about FOSTER's death that night.

CARROLL called LISA FOSTER's house on the morning of July 21, 1993, to offer condolences and she went to the FOSTER residence sometime in the early afternoon that day. CARROLL does not recall whether she arrived at the FOSTER house prior to the arrival there of her parents, but she recalls being told by White House staff that her parents would be picked up at the airport and brought into WDC. CARROLL recalls seeing ROBIN DICKEY, MARSHA SCOTT, and GAIL and BILL KENNEDY at the FOSTER house as well as all three of the FOSTER children. CARROLL attended high school with GAIL KENNEDY, whose maiden name was GAIL GREEN. CARROLL was introduced to a number of other people at the FOSTER house but they were not people she had met before or has seen

since that time. CARROLL only recalls that there was a large number of people there whom she did not know. CARROLL has no specific recollection of any discussion of a note by FOSTER having been found or of any effort being made to find such a note.

CARROLL did not know many of the people at the FOSTER house, including the younger people who were friends of the FOSTER children, because she did not fit into the age groups which were represented there. CARROLL is approximately ten years younger than LISA FOSTER so she does not have many friends from that generation. Similarly, she is older than the FOSTER children and does not have much in common with their friends.

CARROLL has maintained contact with LISA FOSTER and has had a number of conversations with her about FOSTER's death and his condition prior to his death. Based on LISA FOSTER's descriptions of FOSTER as well as information CARROLL has read in the press, she believes FOSTER suffered from depression. CARROLL has no doubt that FOSTER died as the result of suicide and she has no knowledge which would lead her to conclude otherwise.

Based on observation and interview, CARROLL is described as follows:

Name:	REBECCA ELIZABETH CARROLL, also known as BECKY CARROLL
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	3420 38th Street, #E419 Washington, D.C. 20016
Home Telephone:	(202) 244-2163

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/5/94

PAUL CASTELLITTO, Attorney at Law, was contacted at the offices of his firm, SHARP & LANKFORD, 1785 Massachusetts Avenue, N.W., Washington, D.C., telephone number (202) 745-1700. After being advised of the official identities of the interviewing agents, CASTELLITTO provided the following information:

As a result of previous discussions involving WILLIAM H. KENNEDY, III, V. THOMAS LANKFORD, Jr., who is KENNEDY's attorney, and representatives of the Office of the Independent Counsel (OIC) in Washington, D.C., an agreement was reached that KENNEDY would turn over to representatives of OIC a number of articles which were found in a Honda automobile previously operated by Deputy White House Counsel VINCENT W. FOSTER, Jr. The automobile and its contents had been found in Fort Marcy Park, Virginia during an investigation there by the United States Park Police of the circumstances of FOSTER's death on July 20, 1993. The below described articles were still in FOSTER's automobile when it was released to White House staff by USPP personnel. KENNEDY has retained the articles since the automobile was retrieved from the USPP, and he has turned over the articles to his attorney with the knowledge that the articles would be provided to representatives of OIC.

Prior to the arrival of the interviewing agents, CASTELLITTO prepared a memorandum containing a detailed inventory of the articles provided by KENNEDY. Special Agent RUSSELL T. BRANSFORD signed the memorandum and received a copy of the signed original. After the interviewing agents confirmed the accuracy and completeness of the inventory memorandum, CASTELLITTO turned over the items described in the memorandum to the interviewing agents.

A copy of the memorandum describing the items received from CASTELLITTO is attached and incorporated herein.

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SHARP & LANKFORD

M E M O R A N D U M

To: Russell Branford, Associate Independent Counsel
From: Paul Castellitto/PVC
Re: Inventory of Items From Vincent Foster's Automobile
Date: June 16, 1994

♦♦♦

(xi) Firestone folder with service receipt and American Express receipt ($51.40) - Little Rock

(xii) Midas folder w/receipt signed by Laura Foster-5/24/93 - D.C.

(xiii) Ford ESP brochure

(xiv) Russell Honda white envelop containing key ring with car information and Yokohama Limited Warranty brochure

(xv) 2-3"x5" diagrams - cruise control operation and automatic shift lock procedure

(xvi) Sony CD mounting instructions

(xvii) White envelop - "The White House/Washington" - hand addressed in pencil to "Mr. Wm. Kennedy - Eyes Only"- contains Arkansas Vehicle Registration - 1992 Lexus 300 - License TYR646 - Vincent Foster - expiration date 7/31/93 - with attached post-it note "Sorry, I had this in my pocket - [initials]"

Received:

Russell J. Branford, SA, FBI 6/16/94

Name/Title Date

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

THOMAS CASTLETON, Intern, Office of the Counsel to the President, appeared in the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., and hand-delivered a sealed manila envelope measuring approximately 18 inches by 24 inches, addressed to CARL STICH, Associate Independent Counsel. On the outside of this manila was taped a white letter-size envelope addressed also to MR. STICH, with a return address reading "The White House, Washington." MR. STICH was present with Special Agent [redacted] at the time this envelope was delivered. The white envelope was opened by MR. STICH and was found to contain a letter from CLIFFORD M. SLOAN, Associate Counsel to the President, which was dated April 29, 1994. The text of this letter read as follows: "Joel Klein asked me to send you the enclosed material, which were received by The White House from the Department of Justice in August, 1993."

The large manila envelope was opened by MR. STICH in the presence of SA [redacted] Associate Independent Counsel, MARK STEIN, and Associate Independent Counsel, RODERICK LANKLER. The large manila envelope was found to contain a slightly smaller manila envelope with a handwritten inscription reading, "Evidence provided by Chief Counsel to President re Vincent W. Foster - Death." This smaller manila envelope was found to contain the following items: A one-page letter dated August 9, 1993 from DAVID MARGOLIS, Acting Associate Deputy Attorney General, which was addressed to HONORABLE BERNARD W. NUSSBAUM. Nine pages stapled together with a cover sheet captioned, "Federal Bureau of Investigation, United States Department of Justice Laboratory Worksheet" and regarding FBI file number 72-WF-187908. One sheet of white lined paper with handwritten notes in both black and blue ink with "Did not photograph" written in the middle of the page. Two pieces of paper measuring approximately 5 inches by 8 inches with each being captioned, "Photographic work request and evidence receipt." One form captioned, "Evidence receipt" and dated 8/2/93 with an attached smaller, yellow form dated 8/2/93 and captioned, "Evidence acknowledgment." Six pages with gray smudges and coloring containing what appears to be handwritten notations. One page captioned, "Lab number 30802079D" relevant

Investigation on 4/28/94 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 4/29/94

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to "Victim: Foster, Vincent." One piece of paper measuring approximately 3 inches by 4 inches captioned, "Washington Field, DC Lab Number: 30802079DUD." Three white copies and one yellow copy of an FBI Laboratory report dated August 6, 1993, reporting that indented writing had been found by the FBI Laboratory on notebook paper. One plastic envelope containing torn 8 by 11 photographic negatives with envelope bearing post-it note reading, "This packet is confidential trash from special photo (all work on case)." One plastic 8-1/2 by 14 envelope containing fourteen 8-1/2 by 11-1/2 gray, black and white smudged photographs of handwriting. One page xerox copy of handwriting bearing date 8/6/93, with unreadable initials, stapled to typewritten transcript of photographed writing, with handwritten inscription reading, "Received from AD John Hicks on 8/6/93. Reviewed and determined to have no --- to inquiry. Will be delivered to DOJ in sealed envelope." And then the name "Larry A. Potts 8/6/93." One manila clasp-style envelope measuring approximately 8-1/2 by 12 containing three pieces of plastic, each stapled to a piece of white paper with plastic appearing to contain handwritten notations. One empty brown envelope measuring approximately 10 by 11. Three large, black photographic negatives measuring approximately 14 inches by 18 inches. Original and one white copy of FBI Laboratory report dated August 6, 1993, stapled to a large yellow and white paper sealed envelope, with a notation reading "Evidence, do not open. Press firmly."

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/4/94

FOIA(b)(6)
FOIA(b)(7) - (C)

Thomas Edward Castleton (date of birth, SSAN: [redacted], Special Assistant to the Counsel to the President of the United States, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Mr. Castleton was advised as to the identities of the interviewing agents and of the nature of the interview. He then provided the following information:

He has been employed in his current position since June 16, 1993 and was so employed on July 20, 1993, the date of Vincent Foster, Jr.'s death. Mr. Castleton stated that his responsibilities during July, 1993 were primarily to "staff documents". He explained that his duties at that time involved tracking incoming documents and responses to these documents from either Bernard Nussbaum, his immediate superior, or on some occasions from Vincent Foster, Jr. As part of his duties, he was responsible for following up on correspondence that required action and/or an answer and performing liaison contacts throughout The White House to facilitate such answers/actions. He stated that all communications coming through the Counsel to the President's office were logged in and tracked via computer to include the logging and computer listing of the outgoing answer to incoming communications. He advised that the only exception to this was internal memoranda which was not logged or tracked via computer for reasons of expediency.

Mr. Castleton advised that he had only worked in the Counsel's suite approximately four and one half weeks prior to Vincent Foster's death. He therefore did not feel that he knew Vincent Foster well enough to evaluate his personality although he did say that he noticed a gradual change in his demeanor. Castleton explained that Foster seemed more quiet, more withdrawn, less sociable, and generally tired. He said that although he talked with Foster on a daily basis, their conversations were almost entirely about business related matters. He advised however that it was his sense that Foster was frustrated with Washington life and was homesick for Little Rock.

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Castleton advised that he last saw Vincent Foster at approximately 1:00 pm on July 20, 1993. He said that Foster had asked Linda Tripp, another Special Assistant in the Counsel's office to pick up lunch for him and bring it to his office. He then sat at the coffee table in his office, ate his sandwich, then took his briefcase and his suit jacket and left the office saying "I'll be back later". Castleton said that it was his belief that Foster was going to a meeting or an appointment. He said that he assumed this because Foster usually did not take his suit jacket when he was going anywhere else within The White House. He also said that Foster seemed to be in good spirits when he left the office. Mr. Castleton said that primarily because of the lunch hour, he (Castleton) and Linda Tripp were the only two persons in the office at the time Foster departed.

Thomas Castleton stated that he knows of no problems of any sort that Vincent Foster had that would have caused him to take his life. He said that he cannot recall Foster mentioning any physical ailments or pain and the only thing physical he can recall was that he either heard Foster say or heard someone else in the office comment that he was losing weight.

Castleton was asked how he felt about Vincent Foster and responded that he "looked up to him" and that he felt that Foster was a "model lawyer". He explained that Foster was restrained, not impulsive, professional, careful, very bright and reflective, and a man who cared greatly for his family. Castleton said that he recalls meeting Foster's wife on one occasion when Foster brought her into the office and introduced her to the workers in the Nussbaum/Foster suite. He said that while he could "just tell" that Foster's family was important to him, he did not feel that he could offer a substantial opinion regarding Foster's relationship with his wife, having only met her one time.

Thomas Castleton said that he does not recall Foster ever discussing any hobbies or leisure time activities although he does recall that Foster took a "short vacation" about a week before his death.

Mr. Castleton was asked who most often visited Foster in his office. He responded that Webb Hubbell, Cliff Sloan, and Steve Neuwirth were seen in Foster's office on a fairly regular basis. He said that he saw Hillary Clinton in Foster's office approximately four times during the five weeks he was employed

prior to Foster's death. Castleton said that Marcia Scott was probably closer to Vincent Foster than many and visited with him fairly often. He said that while Deborah Gorham, Foster's secretary, appeared more upset than any other employee in the Nussbaum/Foster suite following his death, both Neuwirth and Scott were also visibly shaken by his death.

Mr. Castleton stated that the Counsel to the President suite was a place of intense and, at times, frenetic activity and that the demands of the job had placed great stress on Foster. He was asked to elaborate as to what particular aspects of Foster's job were placing the greatest stress on him. He responded by saying that The White House Travel Office scandal was the "crisis of the month" and that it and its surrounding issues and heavy news media criticism regarding the Travel Office were all very troubling issues to Foster.

On July 20, 1993, Castleton arrived at work at approximately 8:00 am. He said that he recalls leaving that evening at approximately 8:00 pm and did not come back to work until the next morning. Castleton said that approximately 5:30-5:45 am on July 21, he was awakened at his residence by a phone call from Betsy Pond, Executive Assistant to Bernard Nussbaum, who advised him that Foster had been found dead the night before of an apparent suicide. He said that it is his belief that Ms. Pond was phoning him from her residence. Castleton said that he was surprised but not shocked by this news because he was well aware of the heavy workload, stress, and pressures he was dealing with in the Counsel's office and he was also aware that Foster had been dealing with this for months before he (Castleton) arrived. Castleton explained that, at that point in time, Bill Clinton's popularity ratings were very low, there were numerous derogatory articles in national newspapers regarding the administration, and they had not been able to locate Foster by phoning his residence or by electronically paging him the night before. He stated that because of these facts, he was not totally surprised to hear that Foster was dead. He said that he recalled Betsy Pond phoning Foster's residence during the late afternoon of July 20 and he also recalls Foster's wife phoning the Counsel suite that same afternoon trying to locate him. Castleton said that Betsy Pond made no special request of him (Castleton) including coming in early that day during her telephone call. He stated that he arrived at the Counsel's suite at approximtely 8:00 am on July 21.

Thomas Castleton stated that shortly after he arrived at work on July 21, 1993, he began hearing discussion in the office about having the Secret Service "seal Foster's office". He said that at about 10:30 - 11:00 am a Secret Service Uniform Officer was posted outside Foster's door to restrict entry to that office. He said that he heard later during the afternoon of July 21, that Betsy Pond had gone into Foster's office to "straighten up a pile of papers on his desk" shortly after her arrival at work that morning and prior to the Secret Service officer being posted outside Foster's door. He said that he is aware of no one else entering Foster's office on July 21 prior to the Secret Service officer being posted.

Thomas Castleton said that he is aware of black ring type binders that Vincent Foster used for various purposes and kept in his office. He said that while he is not aware of the contents of all of these binders, it is his belief that some contained information on judicial candidates/nominees and some contained information on medical malpractice, issues that Foster was researching.

Castleton said that he was aware that an inventory/search of Foster's office took place during the afternoon of July 22, 1993, but he was not present during that search and can therefore not comment as to what happened.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

THOMAS EDWARD CASTLETON, Special Assistant to the Counsel to the President, voluntarily appeared at the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW, and was interviewed. With Mr. CASTLETON and representing him were attorneys CHRIS TODD and MIRIAM FISHER of the law firm of JOHNSON and GIBBS, Washington, D.C. (202-682-4514). Also present during the interview and directing the majority of questions to Mr. CASTLETON was Associate Special Counsel CARL STICH. Mr. CASTLETON was advised as to the official identity of the interviewing Associate Special Counsel and of the agent present. This was a follow-up interview to a previous interview of Mr. CASTLETON (5/3/94) with this interview being conducted at Mr. CASTLETON's request. Mr. CASTLETON provided the following information:

During the evening hours of a day shortly after VINCENT FOSTER, Jr.'s death, Mr. CASTLETON was working in the NUSSBAUM/FOSTER suite of offices when he was asked to carry a box and other items from the 2nd floor of The White House west wing to the residence portion of The White House. Mr. CASTLETON said that while he cannot be certain of the date or time of day, he remembers that this incident took place after FOSTER's death and before White House staffers went to Arkansas to attend FOSTER's funeral. He said it is quite possible that this took place on July 22, 1993 and while he cannot recall the precise time of day, he does remember that it was getting dark outside.

Mr. CASTLETON said that MARGARET "MAGGIE" WILLIAMS came into the NUSSBAUM/FOSTER suite reception area and asked if someone could help her move a box from HILLARY CLINTON's office to the residence portion of The White House. CASTLETON said that since he was the youngest and most junior staffer in that office at the time, the job fell to him. He accompanied MAGGIE WILLIAMS to HILLARY CLINTON's office on the 2nd floor of The White House west wing where he was shown a box measuring approximately 3 feet long by 2 feet wide by 18 inches deep sitting either on or near a couch. He carried this box and two evening gowns to the residence area of The White House accompanied by MAGGIE WILLIAMS.

Investigation on 6/9/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 6/10/94

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He cannot recall if WILLIAMS carried anything as they walked. MAGGIE WILLIAMS directed him to a room in the residence area that, to CASTLETON, appeared to be used, at that time, primarily as a storage area. CASTLETON explained that this room had little furniture and what furniture was there was unarranged. He said that the room also contained many boxes of what appeared to be CLINTON family memorabilia stacked and placed here and there. MAGGIE WILLIAMS directed him to put the box and the two gowns into a closet in this room which he did.

Mr. CASTLETON said that MAGGIE WILLIAMS or someone else told him later that same day that the box contained personal documents belonging to the CLINTON's that had been held in VINCENT FOSTER's office. CASTLETON does not know exactly what was in the box nor does he recall MAGGIE WILLIAMS or anyone else advising him as to how, by whom, or when the material in the box was moved from FOSTER's office to HILLARY CLINTON's office. CASTLETON advised that he cannot even be certain who told him that the documents belonged to the CLINTON's and had previously been in FOSTER's office.

In response to a question from Associate Special Counsel STICH regarding CASTLETON's knowledge of CHRIS CERF, CASTLETON said that he had met CERF in early 1994 but had not met him or known who he was at the time of FOSTER's death.

Associate Special Counsel STICH displayed copies of 4 documents to CASTLETON asking him if he could identify these documents and/or if he had personally prepared any of these documents. One of the documents was handwritten, 2 appeared to be type-written, and one appeared to be computer/printer generated. CASTLETON said that he had seen all four of these documents before but had only had personal dealings with two of them. He said he believed the document captioned "Volume in Drive A has no label" was a printout of items on file in DEBORAH GORHAM's White House office computer. He said that he believed the handwritten document was possibly prepared by STEPHEN NEUWIRTH although he could not be certain.

Mr. CASTLETON, referring to a document captioned "Office of VINCENT W. FOSTER, JR.", beginning with page 6 and going through page 8 said that this was part of a document he had obtained from DEBORAH GORHAM and used during an "inventory" that he was asked to make of VINCENT FOSTER's office. CASTLETON said that the check marks and handwritten notations on this document

were place there by him. In the presence of the interviewing agent and at the request of Mr. STICH, CASTLETON wrote the following on this document: "From DEBORAH GORHAM document w/TOM CASTLETON handwritten notes."

THOMAS CASTLETON referring to an 8 page typewritten document with the first page captioned "DEBORAH GORHAM's desk" said that he had personally generated this document during the "inventory" that he was asked to perform on items in FOSTER's office and in GORHAM's office area. As he went through desks and cabinets during this "inventory" in FOSTER and GORHAM's work areas, he noted on this document what he found. Everything on this list and on the 3 page list given to him by DEBORAH GORHAM was moved by him to BILL KENNEDY's White House office during November and December 1993 after DEBORAH GORHAM had left her White House employment. In the presence of the interviewing agent and at the request of Mr. STICH, CASTLETON wrote the following on this document: "Generated by TOM CASTLETON."

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/21/94

THOMAS EDWARD CASTLETON was interviewed in a conference room at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Also present during the interview was CASTLETON's attorney, K. CHRIS TODD, of the law firm JOHNSON & GIBBS, 1301 K Street, N.W., Suite 800 East, Washington, D.C., telephone number (202) 682-4500. After being advised of the official identities of the interviewing agents and the nature of the interview, CASTLETON provided the following information:

CASTLETON received his undergraduate from Harvard University in the spring of 1993 and began working at the White House within a matter of a few days. CASTLETON had applied for a position at the White House in April 1993 by sending copies of his resume to a number of White House offices, including the White House Counsel's Office (WHCO). VINCENT W. FOSTER, Jr., Deputy White House Counsel, responded to CASTLETON's application by telephoning CASTLETON and speaking with him for approximately twenty minutes. FOSTER advised CASTLETON that there could be a position opening up shortly in the WHCO, and he encouraged CASTLETON to join the WHCO since the experience would be beneficial, given CASTLETON's intent to return to school to study law.

CASTLETON did not have detailed knowledge of the nature of the work being performed by FOSTER prior to FOSTER's death on July 20, 1993. There were aspects of FOSTER's work, e.g., issues pertaining to staffing and matters involving pro se litigation filed against the President of the United States, which dovetailed with the work being performed by CASTLETON. FOSTER was the person in the WHCO who had been designated to deal with the pro se matters, and he was responsible for reviewing the filings to determine whether they had any merit. If the filings had merit, FOSTER was then responsible for determining if there was a need for the WHCO to respond to the filings or if the matters would be handled more appropriately by referring them to the United States Department of Justice (DOJ) or some other agency of the executive branch. During the period of four to

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Investigation on 9/15/94 at Washington, D.C. File # 29D-LR-35063 - JIM BELL

by SAs WILLIAM E. COLOMBELL and RUSSELL T. BRANSFORD RTB:rtb Date dictated 9/15/94

five weeks in which CASTLETON worked with FOSTER, CASTLETON had no knowledge of any matter which FOSTER would have referred to a private attorney or to an attorney outside the federal government.

The workload of the WHCO was heavy and FOSTER's share of the workload would have been substantial. CASTLETON also knew that FOSTER was involved with matters relating to the regular White House deputies meetings. CASTLETON had no knowledge in July 1993 about the body of work FOSTER was performing as a senior White House official.

On July 20, 1993, one of the members of the WHCO staff went to the White House Mess at FOSTER's request to get his lunch. Approximately five minutes after the staff member had left, FOSTER emerged from his office and asked CASTLETON if the staff member had returned yet. CASTLETON volunteered to go to the White House Mess to check on the status of the meal. FOSTER did not ask CASTLETON to check on the meal, and FOSTER did not give any indication that there was an urgency to his eating the meal. CASTLETON recalls that FOSTER left the WHCO between approximately 12:50 p.m. and 1:40 p.m. on July 20, 1993.

In the late afternoon of July 20, 1993, LISA FOSTER called the WHCO at least twice in an effort to reach FOSTER. CASTLETON believes there were also a number of people inside the White House who were trying to reach FOSTER and who may have attempted to page him, but CASTLETON does not recall the identities of any of these individuals. CASTLETON does not recall whether these other people were employed in the WHCO or just within the White House. CASTLETON did not field any of the calls from people trying to reach FOSTER so he has no firsthand knowledge of the identities of these people. CASTLETON cannot rule out WILLIAM H. KENNEDY III or MARGARET "MAGGIE" WILLIAMS as persons who were trying to contact FOSTER that day, but he does not recall with certainty that either of them was among the people trying to reach FOSTER.

On July 20, 1993, the location of CASTLETON's desk within the WHCO suite was in the back left hand corner of the reception area, which was also known as the front office. Since March 1994, CASTLETON's has been working in room 140 of the Old Executive Office Building (OEOB).

At this point in the interview, CASTLETON was asked to view a set of keys which had been in FOSTER's possession on July 20, 1993. CASTLETON viewed the larger key and stated that this key had a shape which resembles the shape of keys used for many of the locks in the White House compound. CASTLETON was unable to positively identify any of the specific keys or the locks which these keys operate.

CASTLETON does not know if FOSTER had a locking filing cabinet in his office within the WHCO suite. CASTLETON does know that there were locking cabinets located near his own desk in the front office. On July 20, 1993, FOSTER had two filing cabinets which were for his use and were located in the front office on the side of DEBORAH GORHAM's desk furthest from FOSTER's office. The fronts of these filing cabinets faced the entrance to the WHCO suite and were approximately two to three feet inside the threshold to the suite. These cabinets were approximately the same height as the adjacent desk and were probably cabinets with two drawers. CASTLETON did not take note at that time where FOSTER's files were kept in FOSTER's office.

CASTLETON mostly worked with White House Counsel BERNARD NUSSBAUM but also worked indirectly with FOSTER through GORHAM. CASTLETON never observed FOSTER using any file drawers in NUSSBAUM's office. CASTLETON knows of no drawer in NUSSBAUM's office which was used by or set aside exclusively for FOSTER. There was a safe located in NUSSBAUM's office which was used by a number of people in the WHCO, and GORHAM knew the combination for this safe. CASTLETON does not know if FOSTER knew the combination to this safe.

On July 21, 1993, BETSY POND called CASTLETON at his residence between 5:30 a.m. and 6:30 a.m. CASTLETON was living in the Merrifield, Virginia area at that time but he has since moved to Arlington, Virginia. POND told CASTLETON about FOSTER's death and said that she had not wanted CASTLETON to learn about the incident from another source. POND also told CASTLETON that people in the WHCO would have to pull it together. CASTLETON arrived for work at the White House that day at approximately 8:00 a.m. after traveling into the city by Metro subway. At that point in his employment at the White House, CASTLETON had a temporary hard pass which permitted him to enter the White House compound. CASTLETON entered the compound via the northwest gate, where he simply displayed his pass to the United States Secret

Service (USSS) officers on duty and entered.

CASTLETON is familiar with CRAIG LIVINGSTONE, whom he met had met prior to July 20, 1993 through work-related contacts at the White House. CASTLETON did not know LIVINGSTONE prior to becoming employed at the White House, and he does not regard LIVINGSTONE as a close friend.

When CASTLETON entered the WHCO suite the morning of July 21, 1993, LIVINGSTONE was not in the suite. CASTLETON does not know if LIVINGSTONE entered the WHCO suite on July 21, 1993 but he can deduce that, based on the circumstances of FOSTER's death, it is likely that LIVINGSTONE would have come into the WHCO suite that day, probably during the morning. Since LIVINGSTONE was chief of security for the White House and there was a concern about sealing FOSTER's office prior to the arrival of law enforcement authorities, CASTLETON deduces that it is not unlikely that LIVINGSTONE would have come to the WHCO suite on July 21, 1993. However, CASTLETON himself did not observe LIVINGSTONE in the WHCO suite on July 21, 1993.

CASTLETON has no knowledge of any documents being removed from the WHCO suite or, more specifically, from FOSTER's office on July 21, 1993. During the time that CASTLETON was present in the WHCO suite on July 21, 1993, he saw no one go in or out of FOSTER's office. During the first few days immediately after FOSTER's death, once FOSTER's office had been sealed, the only occasion when CASTLETON saw anyone enter FOSTER's office was when officials of the United States Park Police, the Federal Bureau of Investigation, DOJ, and members of the White House security staff entered FOSTER's office and conducted a review of documents with NUSSBAUM and others. CASTLETON saw no one removing or examining documents from the file drawers near GORHAM's desk. CASTLETON did not observe or hear any reports of documents being removed from the safe in NUSSBAUM's office.

To the best of his recollection, CASTLETON did not observe LIVINGSTONE carrying any boxes or briefcases at the White House compound on July 21, 1993. CASTLETON notes for the record that he does not recall seeing LIVINGSTONE under any circumstances on that date. CASTLETON can affirm that he did not assist LIVINGSTONE or anyone else in moving documents from FOSTER's office or the WHCO suite to any other location on July 21, 1993. CASTLETON did not assist or participate in any way in

taking documents or items from the offices of either MAGGIE WILLIAMS or HILLARY RODHAM CLINTON to any other location on July 21, 1993.

CASTLETON has not had any conversations with LIVINGSTONE in the last three or four months. CASTLETON has no knowledge of LIVINGSTONE appearing to be upset or distraught on July 21, 1993. There is nothing CASTLETON can point to in that regard.

At this point in the interview, CASTLETON was asked why his involvement in assisting WILLIAMS in moving a box of documents was not discussed during the initial interview of CASTLETON by OIC investigators. CASTLETON's attorney, Mr. TODD, provided his recollection about how this matter was brought to the attention of OIC investigators. CASTLETON resumed with the interview and furnished the following information:

In CASTLETON's first interview by OIC investigators, the focus of the interview was on identifying any possible motives which may have driven FOSTER to commit suicide. As a result, CASTLETON's involvement in moving the documents did not leap out at him. CASTLETON does not presently recall the circumstances of how the issue of him moving the documents came to light.

CASTLETON does not recall if WILLIAMS asked CASTLETON directly or through an intermediary to assist her in moving the documents. He does not recall if the box of documents was in the office of WILLIAMS or First Lady HILLARY RODHAM CLINTON when he picked it up. If CASTLETON had to guess, he would guess that the box was in the office of HILLARY RODHAM CLINTON. The box was closed but was not taped shut. CASTLETON does not recall if the box had a lid on it or if it was a self-closing box, but he is confident that the box was not the type of box used for copier paper. There were no markings or writing on the box. CASTLETON could not see inside the box, but he recalls that the box weighed between ten and seventeen pounds. When CASTLETON carried the box, he carried it with both his hands and he had two gowns draped over the top of the box. CASTLETON carried these items as he and WILLIAMS went to the residence portion of the White House and rode up in an elevator. CASTLETON and WILLIAMS walked out of the elevator into a hallway where CASTLETON observed two doors, both of which were open. The door to CASTLETON's right opened

into a room which was furnished like a study or library. The other door opened into a storage room in which boxes, pictures and other items were apparently stored in no discernible pattern.

Officers and agents of the USSS did not examine or open the box when CASTLETON brought it into the residence portion of the White House. CASTLETON did not have to display a special pass or sign a log in order to enter the residence portion of the White House. WILLIAMS did not make any remarks to CASTLETON about secrecy in general or about keeping the movement of the documents a secret. One person, whose identity CASTLETON cannot recall, told CASTLETON that the box contained files which involved personal issues pertaining to the CLINTONs. This person did not say to CASTLETON, as has been reported in a Newsweek magazine article, that the files would be reviewed by the CLINTONs' personal attorney. CASTLETON was told by this person that HILLARY RODHAM CLINTON, and possibly President BILL CLINTON, would review the materials and make a determination what had to be done with them. CASTLETON cannot recall the identity of this person, but he is able to eliminate a number of people as having been the person who made this remark to him. The person was not BERNARD NUSSBAUM because he was not present. The person could have been BETSY POND, LINDA TRIPP or possibly MAGGIE WILLIAMS but was probably not DEBORAH GORHAM.

CASTLETON still does not know if the files contained in the box were personal in the sense of being documents such as tax returns or something similar. CASTLETON is not even certain at this time if there was only one box of documents. However, if there was a second box, CASTLETON is confident that such a box was moved at the same time as the other box. If there were a second box, it is possible CASTLETON carried both the boxes or WILLIAMS may have carried one of them. CASTLETON has no impression that there was still a box left behind in the office after he and WILLIAMS left the office and went to the residence portion of the White House. No one else was with CASTLETON and WILLIAMS when they went to the residence.

CASTLETON does not know who removed FOSTER's computer from FOSTER's office after his death.

Of the people who work in LIVINGSTONE's office, CASTLETON is familiar with MARI ANDERSON and LISA WENZL (as spelled by CASTLETON). CASTLETON also recalls an older male

named TONY (Last Name Unknown) (LNU) who had an Italian surname and worked in LIVINGSTONE's office. CASTLETON does not know if TONY (LNU) is still working in LIVINGSTONE's office.

CASTLETON met JOHN CAREY, who was a member of the White House staff, on only one occasion, which may have been CAREY's last day of work at the White House. CAREY came to the WHCO suite to say farewell to a number of people but particularly to BETSY POND, whom he appeared to know well. CAREY is possibly now serving as General Counsel at the Federal Emergency Management Agency (FEMA).

WEBB HUBBELL was a regular visitor to the WHCO suite, primarily due to his position at DOJ as well as his role in the judicial selection process. HUBBELL and FOSTER had a close relationship and appeared to be good friends. CASTLETON does not recall any occasions on which HILLARY RODHAM CLINTON visited FOSTER in the WHCO suite, but he does recall FOSTER visiting her in the First Lady's office.

CASTLETON is aware that FOSTER used black binders to store documents because CASTLETON handled several such black binders in the course of clearing FOSTER's office in November 1993. CASTLETON recalls that most of these binders contained information relating to judicial selections. He has no knowledge regarding the contents of the remaining binders.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/14/94

SA WILLIAM E. COLOMBELL advised CHRISTOPHER D. CERF, General Counsel, Executive Office of the President, White House, Washington, D.C. that the purpose of his visit to The White House was to have FBI laboratory agents search specific computer data banks located in The White House in an effort to retrieve a two-page document prepared by Mr. CRAIG LIVINGSTONE, White House Security Office back on July 21, 1993. General Counsel CERF accompanied the agents and had complete oversight of the agent's activities while they searched computers in The White House Security Office located in the Old Executive Office Building and computers located in the Chief Counsel to the President suite of offices on the west wing of The White House (July 12, 1994). General Counsel CERF also accompanied the agents as they conducted searches of computers located in The White House Office of Management and Administration, Old Executive Office Building (July 13, 1994). The document in question was located in a computer found in The White House Office of Management Administration and a separate report regarding the search of these computers has been prepared by the FBI laboratory.

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vestigation on 7/12-13/94 at Washington, D.C. File # 29D-LR-35063-

by SSA WILLIAM E. COLOMBELL FOIA(b)(7) - (C) Date dictated 7/13/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/21/94

Captain JAMES M. CHARRON, Fairfax County Police Department (FCPD), was contacted at his place of business, the Public Safety Communications Center (PSCC), 3911 Woodburn Road, Annandale, Virginia, telephone number (703) 280-0527, where he serves as Commander for Emergency Operations. After being advised of the official identity of the interviewing agent and the nature of the interview, Captain CHARRON allowed the interviewing agent to listen to two (2) 911 calls which had been placed to the PSCC on July 20, 1993, which was the date of the death of VINCENT W. FOSTER Jr. The calls had been recorded on a MAGNASYNC MOVIOLA Logging Audio Communications Tape which had a capacity of forty (40) tracks for recording calls.

The first call, which was placed at approximately 5:59 p.m., pertained to the finding of a body in Fort Marcy Park, Virginia. The male caller declined to identify himself, and an attempt was made to refer the call to the United States Park Police (USPP) Communications Center after the calltaker, MARIANNE WHITE, determined that the body had apparently been found in a National Park. However, on this call WHITE was unable to transfer the call through to the USPP Communications Center since the call was not answered there. This call was recorded on track 12 of the tape.

The second call, which was placed at approximately 6:00 p.m., pertained to an apparent traffic accident on George Washington National Parkway near Route 123 in Fairfax County, Virginia. This call was successfully transferred by the calltaker, CHRISTOPHER FOX, to the USPP Communications Center after he determined the accident had also occurred in USPP jurisdiction. This call was recorded on track 15 of the tape.

After listening to the two calls, the interviewing agent furnished Captain CHARRON with an original signed letter from RODERICK C. LANKLER, Office of the Independent Counsel, requesting custody of the original forty track tape. Captain CHARRON accepted the letter and produced a letter of receipt prepared by FCPD, which was then signed by Captain CHARRON and

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Investigation on 4/21/94 at Annandale, Virginia File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 4/21/94

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the interviewing agent. Captain CHARRON then turned over custody of the original FCPD MAGNASYNC MOVIOLA forty track tape, labeled tape T-1, to the interviewing agent at 1:18 p.m. The interviewing agent then produced a form FD-597, Receipt for Property Received, which was again signed by both parties and a copy of which was furnished to Captain CHARRON.

The interviewing agent initialed and dated the upper right corner of the face of the box containing the tape as well as the reel of the tape itself.

A copy of the FCPD letter of receipt is attached to this memorandum and is incorporated herein.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Brent J. Chenery, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Officer Chenery was advised as to the identity of the interviewing agent and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for four years, all of which have been at The White House compound. For the past two years, he has been assigned to post "E-4" which is also known as the "west lobby" post on the 1st floor of the west wing of The White House. He was so employed at the time of Vincent Foster Jr.'s death on July 20, 1993. His office is located at 1310 L Street NW and his telephone number is 202-395-2020.

Officer Chenery stated that he did not know Vincent Foster either personally or professionally and had never spoken to him prior to his death. Mr. Chenery stated that he worked the 2:30 pm - 11:00 pm shift at post E-4 on July 20, 1993. He said that this was a "routine, ordinary" day where he was aware of nothing extraordinary happening in the west of The White House. He advised that he does not recall any White House staffers passing through post E-4 that evening entering the west wing of The White House. He stated that he specifically does not recall seeing Bernard Nussbaum, Patsy Thomasson, or Maggie Williams enter or leave The White House through the west lobby entrance that evening. Mr. Chenery explained that it is not unusual to not see few, if any, White House staffers entering or leaving The White House through the west lobby entrance because this entrance is used by visitors with prearranged appointments and by people being brought through The White House on special public tours. White House staffers, therefore, routinely avoid using the west lobby entrance to enter or leave the west wing. Mr. Chenery stated that most White House staffers either enter or leave the west wing of The White House through the "E-1" entrance which is off of West Executive Avenue, thus avoiding any congestion caused by people awaiting appointments or awaiting tours in The White House's west wing lobby. Mr. Chenery reiterated that he noted

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nothing unusual happening at The White House during his shift on July 20.

On July 21, 1993, Officer Chenery reported to post E-4 as usual at approximately 2:30 pm. At approximately 4:30 pm he was ordered to report to a temporarily established post in The White House counsel's suite of offices "to make sure that no one took anything out of Mr. Foster's office". He reported to that location at approximately 5:30 pm where he relieved USSS officer Joe Phillips. He had also been advised that he was to check with Bernard Nussbaum for allowing anybody entrance into Vincent Foster's office.

At 6:34 pm an individual known to Chenery as Cliff Sloan, a White House staffer came to the door of Vincent Foster's office and wanted to enter. Chenery advised him that he could not enter without prior approval. At that point Nussbaum walked out of his office and told Officer Chenery that it was o.k. for Mr. Sloan to go into the office because he only wanted to place a bag of trash back into the office that had been previously removed. Chenery stated that Nussbaum said that this trash could be evidentiary regarding Foster's death. The trash was contained in a clear plastic "zip-top" bag about the size of a football allowing one to easily see the contents. Mr. Chenery stated that the entire time that Sloan was in Foster's office (10-15 seconds) he was with him and was watching the bag. Chenery stated that he opened the door to the office and Sloan took one or two steps into the office and placed the plastic bag against the wall near the door. The only thing Sloan said to him was that "GSA" had picked up this trash the night before. Sloan did not say how he had managed to retrieve the trash or from whom he had obtained it. Mr. Nussbaum never entered the office at this time and Sloan exited the office after placing the bag on the floor. Shortly thereafter, USS Sergeant Callahan came to Foster's office to check on Chenery to see if he needed a break. Chenery told Sergeant Callahan about Nussbaum authorizing Sloan to enter the office to place a trash bag on the floor. Callahan advised that he in turn would tell USSS Assistant Special Agent in Charge, Don Flynn about this. Chenery stated that through observation he could see that the bag contained what appeared to be several wrappers from candy bars and a small amount of what looked like dark brown or black dirt, perhaps from a spilled potted plant or perhaps coffee grounds. Officer Chenery stated that he was relieved from this post at approximately 7-7:15 pm by USSS Officer Robert Almasy and that he (Chenery) went back to his

regularly assigned post (E-4) on the 1st floor. Officer Chenery stated that no one else, other than Sloan, entered Foster's office or tried to enter the office while he was on duty in front of the office door.

Officer Chenery stated that during his tour of duty in front of Foster's office door he did not see any other USSS personnel except those mentioned hereinbefore. He further advised once he returned to post E-4, nothing out of the ordinary happened that night that he observed. He specifically said that he saw no one installing a lock on Foster's door or coming to the door to survey it in preparation of a lock installation. He advised that he has not returned to Vincent Foster's office since the evening July 21, 1993.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/22/94

M. Morgan Cherry, Investigator, M. Morgan Cherry & Associates, Ltd., came to the Office of the Independent Counsel, Washington, D.C. to provide information possibly related to the Whitewater investigation. Cherry asked to be interviewed in the presence of a white male individual who would only identify himself as Mr. Walters (not his true name). Walters described himself as an attorney and business acquaintance of Cherry for years. Walters said he did not wish to be further identified as he is a lobbyist on Capitol Hill. Cherry declined to be interviewed without Mr. Walters present. Cherry provided the following information:

He is a licensed investigator in the State of Virginia and for more than twenty years has performed White Collar Crime investigations throughout the United States. He said that perhaps 5% of his business was in the Washington, D.C. area. His company assists business and non-law enforcement investigators with matters having an interstate nature. He advised his company's network of sources has also provided information which has generally been accurate to Federal law enforcement, such as the FBI and Customs in the past. He named FBI agents [redacted] (while assigned to the Brooklyn/Queens office), [redacted] (WMFO) and [redacted] (now retired - Atlanta) as individuals who could speak to his reliability in the past. FOIA(b)(7) - (C)

Both Cherry and Walters advised they were not looking for anything in return for providing this information. They were not "brokering" for the source of the information or employed as his agents. Their motivation was described as "just to get the story out." Walters further commented that he doesn't want to participate beyond this meeting.

The source's motivation to have Cherry contact law enforcement was to "clean" or "seal" source's record. Cherry explained his introduction to the source. About two weeks ago, an "asset" of Cherry's called and advised Cherry that a long-term friend (the Source) had called him and advised that he was in Broward County Jail (Florida) on a probation violation in

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investigation on 4/21/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton
SA Russell T. Bransford Date dictated 4/22/94

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connection with bad checks. This source also needed to post bond in two other jurisdictions on similar bad check pending matters: a $3,500 check written to a car dealership being prosecuted in Hillsboro County, Florida and a $1,000 bad check matter being prosecuted in Pinellas County, Florida. Appearance dates for these two matters were uncertain. The source's worry was that he would have to do actual time for one or both of these offenses. His situation relative to the probation violation in Broward County was most likely going to result in a house detention deal.

Cherry's asset, who Cherry described as reliable in the past, said that he had trained the source and that whenever the source gets in trouble, the Source calls him (Cherry's asset).

FOIA(b)(6)
FOIA(b)(7) - (C)

FOIA(b)(7) - (C)

FOIA(b)(7) - (C)

Cherry believes [redacted] is not involved in felonies, drugs or violent crimes. Cherry has heard that the source of [redacted] problems is women. As indicated above, [redacted] has talked with someone else about this information. [redacted] has also indicated his phone calls to Cherry may have been monitored.

Cherry provided his business card and other telephone information as follows:

Name:	M. Morgan Cherry
Title:	Investigator
Company:	M. Morgan Cherry & Associates, Ltd.
Address:	Suite 1600, 5203 Leesburg Pike, Falls Church, Virginia 22041
Telephone:	(703) 941-0066 or (800) 800-8593
Fax Number:	(703) 824-7860
Home Telephone:	(703) 972-7249

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/12/94

KENNETH R. CHITESTER, Director Office of News Analysis, (202) 456-5693, was interviewed at the Office of Independent Counsel on September 7, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, CHITESTER provided the following information:

CHITESTER advised that his employment with The White House began in January 1993 when he was Deputy Director of the Office of News Analysis in the Office of Media Affairs, Office of Communications in The White House. He was Deputy Director from January 1993 until April 1994 when he assumed the position of Director for the Office of News Analysis. He explained that the office monitors news media, prepares approximately 40 weekly reports and summaries, and assembles daily newspaper clippings and summaries of newscasts. They also prepare weekly editorial compilations and political cartoon packages and provide on-site news analysis when the President travels. These items are distributed to all the offices throughout The White House. Much of the work in the office is done during the early morning hours as newspapers come out as early as 2:00 am but the bulk of them are delivered to The White House at 4:30 am. It is between that time and 6:00 am that newspaper articles are clipped and assembled. They are delivered to the Printing Office at 6:00 am. The Office of News Analysis is most busy from 4:30 am until the completion of the press clippings. This work is all completed in the Old Executive Office Building.

CHITESTER explained that originally the Office of News Analysis had three staff members, Director KEITH BOYKIN, himself and an Assistant Director, JULIE OPPENHEIMER. LARRY SAMPUS worked the night shift on a volunteer basis for approximately 10 months. He was on the staff during the time frame of VINCE FOSTER's suicide but CHITESTER could not recall whether he was there on July 20 and 21 of 1993 or not. OPPENHEIMER was in charge of scheduling volunteers and interns to assist with the News Analysis chores. She left in approximately December 1993. LARRY SAMPUS left for a brief period (possibly October 1993) and returned several months later to take JULIE's place as the third

staff member.

CHITESTER advised that he has no specific recollection of July 20, 1993. He also has no specific recollections with regard to Wednesday, specifically Wednesday morning, July 21, 1993. During that time period, it was his pattern to arrive at The White House and go directly to the Old Executive Office Building where the Media Affairs Office is located. He generally arrived there between 6:30 and 7:00 in the morning. KEITH BOYKIN arrived somewhat later, usually between 7:00 and 7:30. He advised that JULIE OPPENHEIMER was probably the first to arrive and guessed that at that time she was arriving at approximately 4:30 in the morning. She would work with various interns and volunteers to assemble the press clippings and get them to the print shop at 6:00 am. Generally the first 20 copies are assembled and available for the 7:30 meeting which is held daily at the Communications Office at the West Wing at The White House.

CHITESTER advised that OPPENHEIMER advised him of VINCE FOSTER's death when he arrived to work on Wednesday, July 21, 1993. He does not recall if FOSTER's death was on the news channels or not. He estimated that he would have left the Old Executive Office Building at approximately 7:25 in order to make his way over to the West Wing to the Communications Office meeting at 7:30.

CHITESTER said that he did not know who VINCE FOSTER was. The News Analysis Department has nothing to do with the Counsel's office and he does not recall any discussion of the presence of press at the FOSTER residence on Wednesday morning, July 21, 1993. The only specific recollection he has of July 21 is a staff meeting held at which the President spoke at approximately 12:30 pm. He does not recall hearing of an individual outside the Communications Office helping with press matters. He does not recall anything about the Communications Office sending anybody to assist with handling the press to the FOSTER residence and he does not recall hearing anything concerning CRAIG LIVINGSTONE. He knows who CRAIG LIVINGSTONE is but deals with him only with regard to passes for the volunteers and interns assigned to the News Analysis Office.

CHITESTER advised that although he has no specific recollection of Wednesday, July 21, in July of 1993 his job was monitoring wire services and he was beginning to do some travelling with the President. He therefore did not generally

participate in the distribution of reports and news clippings to The White House proper. He advised that his recollection is that usually two interns per session (there are three sessions per year) and about three dozen volunteers are assigned to the News Analysis Department. The volunteers generally work anywhere from 4 to 40 hours per week and are "groupies" who help monitor the network for White House related information. OPPENHEIMER did all the work coordinating work hours with interns and volunteers. CHITESTER said he is not absolutely sure they had interns at the time of VINCE FOSTER's death and he could not recall any names of them. He did however provide to the interviewing agents some copies of in-house White House memorandum which had names of individuals and looked like a schedule for volunteers.

CHITESTER advised that News Analysis personnel would be distributing press clippings in The White House West Wing as early as 7:00 am. There was a period (he cannot remember when) when they had an abundance of volunteers and were able to get the job done early and be delivering the clippings sometime between 6:30 and 7:00 am.

People distributing the clippings generally carried them in their arms. They were stacks of legal-sized materials stapled together. They do not ever use binders for this. Originals of a five-day summary are kept in black binders but the supply store is downstairs in the Old Executive Office Building. There is no occasion when News Analysis individuals would be carrying a box of empty binders from the West Wing over to the Old Executive Office Building.

The only other individual who is known to be around the West Wing early in the morning is GEORGE STEPHANOPOULOS.

CHITESTER has no memory of contact with CRAIG LIVINGSTONE during that entire week and no specific memory of contact on July 21, 1993 and he added that such contact would be unlikely given his patterns of going directly to the Old Executive Office Building and being focused on monitoring news media.

As part of the interview CHITESTER provided the following personal information:

Name: KENNETH R. CHITESTER
Date of Birth: FOIA(b)(6) FOIA(b)(7) - (C)

Place of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Social Security Number:	
Local Address:	150A North Bedford Street Arlington, VA 22201-1136
Residence Telephone:	703-527-3577
Position:	Director, Office of News Analysis April 1994 - Present
Previous Position:	Deputy Director Office of. News Analysis January 1993 - April 1994

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

FLOYD CLARKE, former Acting Director of the FEDERAL BUREAU OF INVESTIGATION (FBI), was interviewed at his current place of employment, MacANDREWS & FORBES, 1455 Pennsylvania Avenue, N.W., Suite 575, Washington, D.C., telephone (202) 628-2600. After being advised of the official identities of the interviewing agents and the nature of the interview, CLARKE was asked to review an article entitled "EX-CHIEF: POLITICS KEPT FBI OFF FOSTER CASE," which was written under the byline of CHRISTOPHER RUDDY and was printed in the NEW YORK POST newspaper on Thursday, February 3, 1994. CLARKE read the newspaper article, which contained statements by former FBI Director WILLIAM S. SESSIONS about the role of the FBI in the investigation of the death of VINCENT W. FOSTER Jr. CLARKE then provided the following information:

CLARKE was Acting Director of the FBI on July 20, 1993, which was the date of the death of VINCENT W. FOSTER Jr., Deputy Counsel to the President. CLARKE had been appointed Acting Director on July 19, 1993 following the removal from office of the former FBI Director, WILLIAM S. SESSIONS. On July 19, 1993, CLARKE was called over to the UNITED STATES DEPARTMENT OF JUSTICE (DOJ) to meet with Attorney General JANET RENO and Deputy Attorney General PHILLIP HEYMANN, and they advised CLARKE that Director SESSIONS was going to be removed from office at 3:00 p.m. that same day. CLARKE and HEYMANN then went to FBI Headquarters where they were present with Director SESSIONS when he received a telephone call from President BILL CLINTON advising Director SESSIONS of his removal from office. Former Director SESSIONS remained in the FBI Headquarters building that afternoon, and he returned to the building several times later to review documents. However, during these later visits to the building, former Director SESSIONS was kept in an isolated area and he was not allowed to take official FBI documents from the building with him.

During the earlier meeting at DOJ between Attorney General RENO, HEYMANN and CLARKE, a determination was made that JOSEPH R. DAVIS, Assistant Director of the FBI Legal Counsel

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investigation on 4/14/94 at Washington, D.C. File # 29D-LR-35063

by SAs DANA M. GILLIS and RUSSELL T. BRANSFORD RTB:rtb Date dictated 4/18/94

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Division, would act to interface between former Director SESSIONS and the FBI. CLARKE has never discussed the matters surrounding the death of FOSTER with either former Director SESSIONS or DAVIS, and CLARKE has not had any substantive conversations with SESSIONS since SESSIONS was removed from office.

CLARKE recalls receiving a telephone call from either HEYMANN or DAVID MARGOLIS at DOJ and being told by the caller that media inquiries were being received at DOJ about a slowing of the investigation into the circumstances of FOSTER's death. CLARKE then spoke with LARRY A. POTTS, Assistant Director of the Criminal Investigative Division of the FBI, and was advised that the FBI was strictly monitoring the investigation being conducted primarily by the UNITED STATES PARK POLICE (USPP). POTTS further assured CLARKE that there were no encumbrances to the investigation whatsoever.

In his role as Acting Director of the FBI, CLARKE was not aware of any indication of resistance from either DOJ or the White House to the FBI becoming involved in the investigation of FOSTER's death. CLARKE believes that any restraint on the FBI's involvement was imposed by officials of the FBI in an effort to ensure that the FBI would be acting within its lawful authority. During this same time period, CLARKE spoke with ROBERT M. BRYANT, who was then the Special Agent in Charge of the Washington Metropolitan Field Office (WMFO) of the FBI, in whose territory the death of FOSTER was believed to have occurred. BRYANT had spoken earlier with USPP Chief ROBERT E.LANGSTON, and he assured CLARKE that neither WMFO nor USPP were being hindered in their investigations.

CLARKE perceived the role of the FBI in the initial investigation of FOSTER's death to be one of consulting with and supporting USPP, i.e. the FBI was monitoring the USPP investigation and providing assistance as requested. Once a handwritten note believed to have been written by FOSTER was discovered, the role of the FBI became more active as the FBI Laboratory was asked to perform a number of examinations.

CLARKE believes the FBI was not more active initially in the investigation of FOSTER's death because no specific jurisdiction authorizing the involvement of the FBI was apparent.

CLARKE believes there is no merit to the statement by former Director SESSIONS that the FBI's investigative role in the

FOSTER death was compromised. Based on the fact that former Director SESSIONS left office the day before FOSTER's death, CLARKE does not know how former Director SESSIONS can speak knowledgeably about the FBI's role in the FOSTER death investigation.

CLARKE concluded by stating there is no basis in fact for the proposition that either the White House or DOJ exerted influence to keep the FBI from becoming involved in the investigation of FOSTER's death.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/13/94

PAUL CLARKE, Captain United States Air Force was interviewed telephonically at his current duty station at Davis Montahn Air Force Base, Tucson, Arizona, address 612 AIF-INA, 5340 East Gufford Way, Davis Montahn Air Force Base, Tucson, Arizona 85707-4224, telephone (602) 750-3856. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, CLARKE provided the following information:

CLARKE advised that in July 1993, he was Director of Public Affairs for the National Security Counsel and/or Assistant Press Secretary for Foreign Affairs (it was the same position). He did not normally have anything to do with White House affairs per se, but confined himself to the National Security Counsel issues. On the night of July 20, 1993, CLARKE was substituting for his immediate supervisor as Press Office Duty Person for that night. The switchboard of The White House called him at his residence between 9:00 and 11:00 pm to notify him that VINCE FOSTER's body had been found in Fort Marcy Park, Virginia. At the time, CLARKE did not know who VINCE FOSTER was. In response to the notification by the switchboard, CLARKE telephoned Press Secretary DEE DEE MYERS at The White House. She gave him, over the phone, the text of a written statement that could be released to press persons.

PAUL remained at his residence the entire evening, never leaving. He got only a few telephone calls and he guessed that most calls were being taken directly by The White House since so many people were there that night. He has no specific recollection of the night but he does not believe that he was up all night taking telephone calls.

CLARKE explained that Foreign Affairs was his area of responsibility and interest. To his knowledge VINCE FOSTER did not have anything to do with National Security Counsel issues.

Additionally, CLARKE advised that he does not know who CRAIG LIVINGSTONE is. His only recollection of the following day

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(telephonically)

vestigation on 9/9/94 at Washington, DC File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 9/12/94

was a general state of shock that people felt as a result of the death of a colleague. CLARKE also does not remember hearing any rumors about papers being moved or any other irregularities with regard to VINCE FOSTER's office or papers.

As part of the interview CLARKE provided the following personal information:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Residence:	5624 East 18th Street Tucson, Arizona 85711-5104
Residence telephone:	(602) 748-9280
Family telephone number in the San Francisco area:	(415) 457-5528

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/2/94

LORAINE WOLFE CLINE, Secretary at the Rose Law Firm, Little Rock, was interviewed on May 18, 1994 at the FBI offices in Little Rock, Arkansas. Also present during the interview was C. MICHAEL BUXTON, Attorney at Law with VINSON and ELKINS, The Willard Office Building, 1455 Pennsylvania Avenue, NW, Washington, D.C., telephone number (202) 639-6613. After being advised of the nature and purpose of the interview and the identity of the interviewing agents, CLINE provided the following information:

CLINE advised that she had known VINCE FOSTER, JR. since September 2, 1986 when she came to work at the ROSE LAW FIRM as FOSTER's legal secretary. She described FOSTER as a wonderful person and said that she had adored him. She said he was ethical, moral, a good family man and, above all, a perfectionist. She described him as "a prince of a fellow". She added that he was a workaholic but that he nevertheless seemed to have balance in his life. He was active in the bar and in other community activities and in sports. He worked out every morning but was at his desk between 9:00 and 9:30 every morning. He stayed at work typically until 6:30-7:30 at night.

The only time CLINE saw VINCE FOSTER lose his temper was an occasion in 1992 when her computer was not functioning right and he let out a curse word. He later apologized to her although he had not swore at her personally, merely in her presence. He had been under pressure and had to get a brief out and she was having difficulty typing it because of the computer problem.

She further described him as an intense person. He was a perfectionist but not abnormally so. He was moody but that was just his personality. She thought he was reserved and quiet but not depressed. She was surprised to read in the media that he had been depressed. She has no idea why he would have committed suicide. She learned of his suicide when CAROLYN HUBER called her from Washington, D.C. at 10:21 Little Rock time on the evening of July 20, 1994. HUBER characterized the death as a

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Investigation on 5/18/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA H. ALEXIS SUGGS FOIA(b)(7) - (C) Date dictated 5/25/94

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suicide. CLINE said it was very traumatic for her.

CLINE advised that FOSTER always worked very long hours. LISA FOSTER would occasionally call him during the day and CLINE never got any inkling that LISA was trying to find out if FOSTER was alright. She was not aware of any difficulties that they may have been having financial or otherwise.

CLINE advised that there were never any bad rumors about VINCE FOSTER whatsoever. There were rumors about others in the ROSE LAW FIRM, but never about FOSTER. He had a happy marriage and he loved his family very much. He loved to cook, he did some gardening, he liked to swim. She is not aware that he collected anything and based on a visit or two to his home, did not observe any guns in his residence. She noted that he was not the gun type, meaning not an outdoorsman.

With regard to rumors about an extra-marital affair between FOSTER and HILLARY CLINTON, CLINE said that she knew nothing about it until FOSTER himself told her that there were such rumors. He was telling people about it because he wanted his family and her and others at the law firm to hear it before they read about it in the press. She believes that there is absolutely no truth to the rumors.

CLINE saw FOSTER on May 8, 1993, as he gave the commencement address at his old Law School. He acted excited and "up" and looked good. CLINE last saw FOSTER on May 22, 1993 when she travelled to Washington, D.C. for a weekend with other secretaries from the ROSE LAW FIRM. The group had lunch with FOSTER at The White House Monday before they left. At that time, CLINE observed no personality changes in FOSTER but noticed that he had lost some weight. The only conversation she recalls having with him during the lunch at The White House was an exchange where she asked him, "Are you having fun yet?", and he responded, "Well it's an experience. We have one 'gate' after another." She was aware that there had been critical articles in the Wall Street Journal about FOSTER. She knew them to be lies and they did not discuss the article. She observed that FOSTER was not accustomed to being criticized. He wanted to serve his country and give back what society had given to him. It seemed that he was bound to have been hurt and disappointed. She last spoke with him, by telephone, the later part of June. She still did not note any changes in him at all.

CLINE observed that in the secretary/lawyer relationship, he was very good about keeping in touch with her. He would always let her know where he was and when he was going to be back. He was meticulous about keeping an accurate and complete calendar. With regard to how he handled trash, if he didn't need something he would crumple it up and pitch it in the wastebasket. He generally did not tear things up. She knew him to make lists of things--not lists of things that were bothering him, but lists of things to do. In that respect he was very organized.

CLINE advised that she could not picture FOSTER as having a problem which he could not figure out how to solve. She concluded by saying that FOSTER was the very best lawyer at the ROSE LAW FIRM. He had no need of confidants. His closest friends at ROSE LAW FIRM were PHILIP CARROLL, WEBB HUBBELL, and HILLARY CLINTON. Close personal friends would have included, JERRY ACHLEY (PHONETIC), JOHN SLOAN, JUDGE WILSON, and LISA's sister KATHY.

As part of the interview CLINE provided the following personal information:

Name:	LORAINE WOLFE CLINE
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)
Social Security No.:	
Residence/Address:	5212 Stratford Road North Little Rock, AK 72116
Telephone:	501-758-2258
Position:	Legal Secretary at the Rose Law Firm 120 East 4th Street Little Rock, AK
Telephone:	501-377-0372

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/19/94

WILLIAM COBBS, GSA Building Manager for The White House Field Office, Old Executive Office Building, Room 48, telephone (202) 395-3154 was interviewed at his place of work. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, COBBS provided the following information:

COBBS advised that he has held his current position as GSA Building Manager for The White House Field Office since April 1989. He has responsibility for all operations and maintenance services for all the 16 buildings which make up The White House complex. It involves overseeing approximately 220 employees, including all housekeeping, mechanical and moving service employees. Some of the work that their office is responsible for is provided by contract employees and some is done by GSA employees.

COBBS advised that he has a general recollection of the time period on or about July 20, 1993, when VINCE FOSTER, JR. was found dead. He did not know VINCE FOSTER and did not have any direct involvement with the activities of that night or the following day. His only connection with the events surrounding VINCE FOSTER's death was a memo he received dated March 7 from JOEL KLEIN advising them to cease the removal of all wastebasket trash containers effective March 7, 1994.

COBBS advised that he knows CRAIG LIVINGSTONE professionally and deals with his office primarily regarding the update of building passes for GSA employees. He has almost daily contact with CRAIG LIVINGSTONE in that regard. They do not have personal conversations at any time and there have been no special requests from CRAIG LIVINGSTONE. The normal course of their business relationship is that COBBS will need something from LIVINGSTONE's office, not the reverse.

On the subject of who might be present during early morning hours in the West Wing, COBBS advised that the cleaning crew, that works all night, gets off at 6:00 am in the morning.

;tigation on 8/17/94 at Washington, DC File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/19/94

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He speculated that perhaps the Navy Mess personnel were getting ready to serve breakfast. He did not know how early they started and pointed out that their activities would be confined to the basement level of the West Wing where the mess is located. In addition, GSA mechanics, who service the rest of The White House, start their shift at 7:30 am. Some of them start arriving about 7:00 am but they are located over in the Old Executive Office Building and would not be moving over to the west wing until after 7:30 am. The U.S. Secret Service, however, is probably a more important point of contact on this topic since no GSA or contract employee goes anywhere in the West Wing without a Secret Service person being with them.

Secret Service also handles all the locks in the West Wing except those denying access to mechanical space (meaning electrical vaults and such).

In the writer's presence, COBBS examined a log book kept by the Engineer's Shop for July 20 & 21, 1993 and found no entries providing any significant information regarding activities by GSA or contract employees in or around the West Wing. COBBS advised that when safes need to be moved normally a contract moving company is utilized for that purpose. They are also used for moving furniture. Moving furniture is a constant requirement. Nothing of any significant size is ever moved without a written request and subsequent work order through GSA. COBBS has no recollection of any requests for moving filing cabinets, desks, safes or any other large items from, or within the Counsel's office or elsewhere close by in the West Wing on or about July 20-21, 1993. COBBS advised that he will speak with appropriate subordinates and have the records checked for July and August 1993 to see if there were such work orders.

As part of the interview COBBS provided the following personal information:

Date Of Birth:	September 26, 1936
Place Of Birth:	Pamplin, Virginia
Social Security Number:	224-46-8812
Home Address:	101 Essenton Drive Upper Marlboro, Maryland
Home Phone:	(301) 249-1094

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/5/94

TERRI L. COBEY, who resides at Box 58C, Route 427, Nanjemoy, Maryland, 20662 was advised of the identities of FBI Agents Colombell and Gillis and that they wished to ask her some follow-up questions regarding her recollection of events that took place on the Second Floor, West Wing of the White House on July 20, 1993, the night that VINCENT FOSTER died.

MS. COBEY is unable to recall if there were any staffers present in the Chief Counsel's suite of offices when she, the U.S.S.S. Officer and the other cleaning lady (MS. WALTERS) arrived to clean the office. She also could not recall if the U.S. Secret Service Officer had to use his key to open the office for them. Usually, there is no one in the Second Floor, West Wing of the White House late in the evening when they do their cleaning. On this particular night, there were White House staffers present although she is not sure whether they were there when they (the cleaning crew) first arrived or whether they came in shortly thereafter. She recalls that there was a white male (middle age, medium build, dark hair, clean shaven) and at least two women; one was a black female (short in stature, kind of heavy), the second a white female (young, shoulder length hair). She was unable to provide any additional descriptive data regarding these parties.

She and the other cleaning lady picked up the regular trash out of the wastepaper baskets, adding that both of them emptied trash in the secretary's area, with WALTERS emptying the trash in the Chief Counsel's office, and herself emptying trash in the office that belonged to VINCENT FOSTER. She recalled that there was what she described as a light blue tablet or folder in the regular trash basket in MR. FOSTER's office. She removed the plastic trash container, containing the light blue tablet, and placed it with the regular trash on her cart out in the hall.

Shortly thereafter, the white female approached her and asked her if she had taken any trash from FOSTER's office. She was able to retrieve the light blue tablet and gave it to this woman, adding that it was never returned to her to be put back in

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the trash. She explained that she never observed either of these women or the white male actually in MR. FOSTER's office. She did see them enter and exit the doorway to the Chief Counsel's suite of offices.

Later, after she had left the Chief Counsel's suite of offices and returned to the hallway, she observed both the black female and the white female walking on at least two separate occasions back and forth between the Chief Counsel's suite of offices and the First Lady's Office. She clearly remembers the black female going into the First Lady's Office at least two times. She was unable to state whether either of these women were carrying any type of paper or documents or files while they were walking between the two offices. She concluded by stating that she doubts that she would be able to identify these two women or the white male from a spread of photographs.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

Terri L. Cobey was advised as to the official identity of the interviewing agent and as to the nature of the interview. She then provided the following information:

Her address is Box 58C, Route 425, Nanjemoy, Maryland 20662 and her telephone number is 301-743-9271. She said that her telephone number at work is 202-395-3270.

Ms. Cobey advised that she is employed by the General Services Administration (GSA) as a cleaning employee and routinely works the 9:30 pm - 5:45 am shift at The White House. She said that her responsibilities are to clean, dust, vacuum, and remove non-confidential trash from bathrooms and offices located on the 2nd floor of the west wing of The White House.

Ms. Cobey was asked if she recalled working the evening of July 20, 1993. She stated that she could not remember if she worked that evening or not. She said that she recalled learning of Vincent Foster, Jr.'s death but she could not recall when or how she learned of his death. In response to a specific question, she said that she can not recall any male or female staffers entering the suite of offices occupied by Bernard Nussbaum and Vincent Foster on the evening of July 20, 1993. She similarly advised that she can not recall if she cleaned that suite of offices or removed any trash from those offices during her shift on July 20. She also stated in response to a specific question that she does not recall seeing anybody remove anything from those offices on that evening.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Thomas C. Collier, Jr. appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 1:00 p.m. for interview. Mr. Collier was advised of the identity of the interviewing agents and that the purpose of the interview was to discuss his involvement in the U.S. Park Police investigation of the death of Vincent Foster. In addition to the interviewing agents, Roderick C. Lankler and Carl Stich, Assistants to Independent Counsel, Robert B. Fiske, Jr., also assisted with the interview. Also present during the interview was Edward B. Cohen, Special Assistant and Counselor to the Secretary, U.S. Department of Interior. Mr. Collier provided the following information:

He is presently Chief of Staff for Mr. Bruce Babbit, the Secretary for the U.S. Department of the Interior, Washington, D.C. He advised that he would be speaking from recollection, as he had no notes or diaries associated with the Vincent Foster death investigation.

Collier advised, by way of background, that at the time of Vincent Foster's death on July 20, 1993, the Park Service did not have a Director. Therefore, it was not clear among investigators assigned to the matter as to where to go in the Interior Department hierarchy for assistance with problems with White House access to persons or documentation. Collier advised these investigators did not call him at the time the death investigation was initiated.

Collier's involvement began with the public disclosure that a Foster note had been found. Collier first learned about the discovery of the Foster note from the newspaper. The following day, or if it was on a weekend, the following Monday, Collier called the U.S. Park Police Chief (Langston) in charge of the investigation. Langston and two other officers then met with Collier. He asked the Chief if he was concerned with his access to information, and the Chief answered that he was very concerned that he had not had the proper access and was very exercised about the matter. The Chief was embarrassed that they had not

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seen the note during their earlier investigation and had not been allowed to conduct their investigation in an appropriate way.

During the discussion, it became clear to Collier that no one had challenged Bernie Nussbaum, White House Counsel, regarding the manner of the investigation. He asked if the Chief's concerns were regarding previous events or still occurring. The Chief replied he was still having trouble regarding ground rules and access to needed persons and paper. The Chief had been dealing with Nussbaum primarily and understood that the Department of Justice people were also dealing with Nussbaum. It was at this point that Collier decided that he should intervene.

He spoke with Secretary Babbit concerning the situation and it was agreed that Babbit would stay out of it and Collier follow up on the matter.

The following morning, Collier called Mack McLarty. McLarty, in turn, had Bill Burton return the call to Collier within the hour. Collier expressed the following concerns to Burton: (1) the fact that he disagreed with the process in place for U.S. Park Police access to documents; (2) the cooperation the U.S. Park Police were getting concerning ground rules to be followed, etc.; and (3) a concern that the White House people involved in the decision making concerning this case were too close to Foster and as a result, grieving and not making rational decisions. Burton took exception with each of Collier's concerns. Burton advised that he also had worked at the Rose Law Firm and asked if Collier believed he too should be excluded from the matter. Collier said yes.

At this point, Collier again spoke to Secretary Babbit to relay White House reaction to his concerns. This meeting was interrupted by a call from Roy Neal. Collier advised that Roy was "hot," and told Collier that this was "none of his damn business." Neal also said that the White House was not going to deal with Collier on the issue. Collier responded that the U.S. Park Police did report to him and that he had discussed the matter with Secretary Babbit and he felt the matter was very much his business.

Collier thereafter had a telephone conversation and meeting with Phil Heyman, Deputy Attorney General, U.S.

Department of Justice, to express his concerns regarding the Park Police investigation. Collier "found a sympathetic ear" with Heyman. He advised that when he met with Heyman, David Margolis was also present, as were a couple of others, perhaps FBI agents. Heyman said he would handle the concerns expressed by Collier with the White House.

Collier advised he had no prior knowledge of the search procedure which had been used when Vincent Foster's White House office had been searched a day or two after his death. When asked why there had been no objections by the U.S. Park Police, the response Collier had received was that it was the Counsel to the President.

Collier told Heyman that he wanted someone at the White House not close to Vince Foster who could help the U.S. Park Police get appropriate access. That same afternoon or the next morning, David Gergen called Collier and they met. Collier again explained to Gergen that his concern was: (1) access to documents so that the U.S. Park Police could see all the documents they needed; (2) access to all witnesses; and (3) ground rules acceptable to the U.S. Park Police to include no White House Counsel being present during interviews. Access and scheduling had been made difficult to this point in the investigation. Collier explained that he was at least as much concerned with political ramifications as well as legal implications as he was raising these concerns. He wanted to avert a U.S. Park Police scene. Gergen responded favorably to Collier's concerns and said the White House would comply completely. Gergen said "we'll open the Oval Office" if necessary for interviews.

Gergen had agreed with everything Collier suggested to him. Collier said he did not know of another single problem from that point forward with the investigation and that he had been proactive in trying to find out about any further problems. He felt that the conversation Heyman had had with the White House "had taken." Webb Hubbell had had early access issues involvement in this matter but had moved out of the investigation.

For the following three to four days, Collier spoke with Chief Langston on a daily basis concerning the conduct of the investigation. Each time, he received a positive response from the Chief that everything was going well. Collier also

spoke with Gergen on three to five occasions the next few days for follow-up.

When asked if he (Collier) thought the investigation should remain a U.S. Park Police investigation, Collier responded that he recommended it be merged with the DOJ investigation concerning the Foster note, so that just one investigation would be done. He wanted his Park Police to work with the FBI, whom he believed had a little more experience.

With respect to the search of Foster's office, Collier said that he had a fuzzy recollection concerning the distribution of documents to three piles during the search and that he had had a concern that the "personal" documents hadn't been made available to the U.S. Park Police.

Collier said he never discussed the Foster investigation with Nussbaum, even though he had had a lot of dealings with him. He felt they both consciously avoided discussing the issue.

Collier said that he had come to know Vince Foster during the period of time that Secretary Babbit had been a candidate for the U.S. Supreme Court. Foster had been a major player in the vetting process. He had also dealt with Foster on four or five other appointments. He had noted no change in Foster's emotional or mental condition. Foster did not appear to be any more or less intense during the occasions they had dealings. When asked to objectively characterize Foster, Collier stated that Foster was "not gregarious" and at a large meeting concerning a critical issue, Foster had little to say, but that people listened when he spoke, not because of his closeness to the President, but because of the merits of what he had to say. He didn't notice anything unusual about Foster.

When asked if anyone else at Interior had been contacted by Chief Langston concerning frustrations with the investigation, Collier answered that he thought perhaps Assistant Secretary George Frampton may have been in on a discussion concerning Park Police concerns. Collier said he was not sure of this, but the normal course of events would be for the Chief to go to a career employee in charge of the Park Service, then to the Director of the Park Service, which was vacant at the time, and then to Frampton.

Collier did not recall expressing an option that the Park Police would pull out of the Foster investigation. He said that he wouldn't deny having said this either. He did not believe Chief Langston had suggested this.

Collier's follow-up to his intervention in this matter included an assumption on his part that all documents necessary for the investigation, such as those received by Jim Hamilton, attorney for the Foster family and the Presidential Counsel, had been produced, as necessary, to the Park Police investigators. Collier explained that it was not his intention to be another roadblock in the Chief's investigation. He was not concerned with what they were finding or where they were heading, but rather with any access problems they might be having.

When asked about his understanding concerning the search of Foster's office, Collier said that he was told that it was not a homicide investigation, but rather verification of a

him what that meant. His concern was who was making the determination concerning the documents. He left the investigation up to the Chief. He does not recall any discussion regarding the security of Foster's office.

Collier said that it was clear to him in reflection that Burton was grieving and not being rational during their conversation concerning the conduct of the White House in this investigation. Burton had strongly objected to Collier's concerns regarding witness and document access and people at the White House being too close to Foster to make decisions. Burton said that the matter was being handled as it should be and that's the way it would be handled. Conversations with both Burton and Neal had said that the matter was a White House issue and it didn't need Collier's assistance. Collier, in reply, had said that the matter was his business.

The following description of Collier was obtained through observation and interview:

Name:	Thomas C. Collier, Jr.
Title:	Chief of Staff to Secretary Bruce Babbit U.S. Department of Interior
Race:	White
Sex:	Male

DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SSAN:
Home Address: 101 West Cedar Street
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Edward B. Cohen is the Special Assistant and Counselor to the Secretary of Interior, 1849 C Street, N.W., Suite 6120, Washington, D.C. 20240. Telephone: (202) 208-4123.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/17/94

[redacted] FOIA(b)(7) - (C) [redacted] Special Agent in Charge, Minneapolis Division, Federal Bureau of Investigation (FBI), was interviewed at FBI Headquarters, Washington, D.C. (WDC). After being apprised of the identities of the interviewing agents and the purpose of the interview, [redacted] thereafter provided the following information:

[redacted] had no idea why the FBI was not initially involved in the investigation of the death of VINCENT W. FOSTER, JR. FOSTER was the former Deputy Counsel to the President, The White House, [redacted] was unaware of any FBI communications to support assertions made by former FBI Director WILLIAM SESSIONS in an article published in the New York Post. The assertions made by SESSIONS centered around the FBI being kept out of the investigation into Foster's death due to strained relations between the FBI and The White House, based on the FBI investigation into possible fraud against the government on the part of White House Travel Office personnel.

[redacted] noted that [redacted] former Deputy Assistant Director for Investigations, would be someone to talk to who might be in a position to provide information regarding conversations related to the FOSTER death investigation. [redacted] was listed as a second individual that may be able to provide some information regarding the assertions made by former Director SESSIONS. [redacted] could not recall if he had talked to either [redacted] regarding the FBI's role in the FOSTER death investigation.

[redacted] was unable to provide any further information.

Investigation on 4/12/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SA RUSSELL T. BRANSFORD
SA DANA M. GILLIS/dmg/sla Date dictated 5/16/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/20/94

Dennis M. Condon, Special Agent, Federal Bureau of Investigation, appeared at the Office of the Independent Counsel, Washington, D.C., as scheduled at 2:00 p.m. for interview. Agent Condon was advised of the identity of the interviewing agents and of the purpose of the interview. Agent Condon provided the following information:

He was involved in the Vincent Foster death investigation only on July 21st and 22nd, 1993. As of 5:00 p.m. on July 22, 1993, he was on vacation for a period of three weeks, and therefore not involved in the Obstruction of Justice (OOJ) case opened on the turning over of the note found in the office of Vincent Foster.

On July 21, 1993, he and Agent Scott Salter were asked by their supervisor, John Danna, to go to the White House to assist the U.S. Park Police in their investigation of the death of Vincent Foster. Agent Condon did not recall the times associated with his activity on July 21, 1993, but only remembered "sitting around" at the office of U.S. Secret Service Agent Don Flynn. Condon estimates that it was probably late morning or early afternoon when he was asked to go to the White House. Nothing much was accomplished on July 21, 1993 that Condon can remember except that it was agreed that Vincent Foster's office would be sealed and that the Park Police and FBI would come back the following day to conduct interviews and search Foster's office. It was Condon's understanding at that time that the FBI would be observers. He believed the FBI was involved "in case" the Foster death was more than a suicide or otherwise involved something within the jurisdiction of the FBI. Condon believed the case was clearly a U.S. Park Police matter as the death had occurred in a Federal park.

On the morning of Thursday, July 22, 1993, at approximately 9:00 a.m., Condon met at the White House with two Department of Justice (DOJ) attorneys, Dave Margolis and Roger Adams; two U.S. Park Police investigators, Hume and Markland; and

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estigation on 4/20/94 at Washington, D.C. File # 29D-LR-35063--

by SA William T. Guyton FOIA(b)(7) - (C) Date dictated 4/20/94

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U.S. Secret Service Agent, Don Flynn. Again, there was a lot of "waiting around."

With respect to the morning of July 22, 1993, Condon said that several interviews were done with White House secretaries concerning the Foster death. He remembers Foster's office was locked up on July 22, 1993. All of the interviews were done with White House attorneys present. Condon described their involvement in the interviews as passive; they did not ask questions or object to questions being asked.

Sometime on the afternoon of July 22, 1993, the FBI agents, DOJ attorneys, U.S. Park Police and Secret Service walked to Foster's office to conduct a search of that office. At this point in the interview, Condon was shown an FD-302 written by himself and Scott Salter (attached) regarding the search of Vincent Foster's office on July 22, 1993. Condon reviewed this FD-302 and stated that the facts were as stated. He noted in response to a question that in the last paragraph of the FD-302 referring to items which were found or not found during the search, that this paragraph could be clarified by adding that relevant or non-relevant items were identified by Bernard Nussbaum, White House Counsel.

Agent Condon elaborated on the search of Foster's office by saying that Nussbaum sat at Foster's desk with Neuwirth and Sloan, also of the White House, standing behind him, looking over his shoulder. Margolis was sitting in front of the desk with the rest of the group sitting or standing behind Margolis. He remembered Nussbaum reviewing documents and deciding whether they would be put in a pile of Foster's personal papers or Presidential-related papers. Condon also noted that as Nussbaum reviewed the items, he would place them face down in a particular pile. None of the investigators present were permitted to look at anything. Condon remembers thinking "why are we here" and also realizing that they had no search warrant for Foster's office and therefore would be limited by the ground rules set.

At one point during the search, Agent Salter stood to stretch and either Neuwirth or Sloan made the comment to Salter to the effect that, excuse me agent, are you standing because you're trying to look at documents on the desk? Salter responded to the admonition with a comment such as, let's not get carried

away. At the end of the search, the attorney who had made this statement apologized to Salter.

Condon understood that the search of Foster's office was an effort to locate a suicide note or any other indication that Foster had met with foul play or anything else bearing on Foster's death.

Condon said that the search was limited to the Foster office space. No other areas, such as the reception room, were searched. Condon did not recall if there was a computer in Foster's office. He did not recall any safe or the searching of any safe. Condon also said that because of his location in the room and the fact that he was sitting, he wasn't sure if everything was removed from desk drawers or other cabinets or not. This was left up to Nussbaum, who was conducting the search. Condon also remembered some bookcases on the right side of the room and indicated they had been searched by Nussbaum. Condon believed that everything in the Foster office was searched.

Condon said the briefcase found in Foster's office was searched by Nussbaum but that no suicide note had been seen at the time of the search. The details of the briefcase search are in the attached FD-302 previously referred to.

Condon said that the trash in Foster's office had been searched by Nussbaum and Nussbaum may have put something from the trash in one of the piles.

Agent Condon said that he and Salter were taking their cue from the DOJ people during the search. David Margolis was the most vocal of the departmental attorneys. Margolis did question Nussbaum on occasion during the search about the placement of documents in any particular pile. Condon described the exchange between Nussbaum and Margolis as friendly and never being really confrontational. Condon sensed that Margolis was not content with how the search was going. Margolis seemed surprised at the procedure followed and was not entirely happy with it. Condon also had the sense that Margolis had questioned the methodology of the search with Nussbaum.

Condon advised that the pile of personal papers located during the search was given to the Foster family attorney who was

present at the search. Condon could not recall his name, but described him as being in his early 40's. Condon believed that his supervisor, John Danna, would perhaps remember the name.

Condon believed the FBI was involved in this case to assist the U.S. Park Police and not be the lead agency. Assaults and killings of certain government figures are handled by the squad to which Condon is assigned and, therefore, he and Salter were selected to assist the Park Police in this matter.

Condon felt the FBI had been used. He found it insulting that FBI agents had not been allowed to at least review White House level documents. He said that had he seen anything concerning Whitewater and/or Madison, he would not have considered it significant at the time of the search in July, 1993.

Special Agent Condon entered on duty with the FBI on February 21, 1984. He is currently assigned to Squad C-4, a reactive criminal squad. His work telephone number is (202) 252-7876.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/6/93

The undersigned Special Agents (SAs) were present at the West Wing of the White House when an inventory was conducted of the contents of VINCENT FOSTER's office. The following individuals were present during the inventory:

BERNARD NUSSBAUM	The White House
STEVEN NEUWIRTH	The White House
CLIFFORD SLOAN	The White House
CHARLES WILLIAM BURTON	The White House
DONALD FLYNN	U.S. Secret Service
PAUL IMBORDINO	U.S. Secret Service
DAVID MARGOLIS	Department of Justice
ROGER ADAMS	Department of Justice
Captain CHARLES HUME	U.S. Park Police
Detective PETER MARKLAND	U.S. Park Police
SA DENNIS M. CONDON	FBI
SA SCOTT M. SALTER	FBI

The inventory was conducted by BERNARD NUSSBAUM. Only individuals employed by the White House were permitted to look at the items and documents within the office. During the inventory, BERNARD NUSSBAUM removed the contents of a leather, satchel type briefcase which had been on the floor adjacent to the desk. The briefcase was identified as belonging to VINCENT FOSTER. The items which were in the briefcase (papers and files) were removed and reviewed by NUSSBAUM. After those items were reviewed they

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Investigation on 7/22/93 at Washington, D.C. File # WMFO 175B-WF-187743

by SA DENNIS M. CONDON
SA SCOTT M. SALTER:plj Date dictated 8/5/93

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were not placed back in the briefcase but they remained on top of the desk. NUSSBAUM then pick up the briefcase and placed the briefcase against the back wall of the office. At the time, NUSSBAUM placed the briefcase against the back wall it appeared as though the briefcase was empty. At no time did the undersigned agents observed the inside of the briefcase.

Items which were found during the inventory to be strictly personal in nature and not related to VINCENT FOSTER's work at the White House were removed from the office and turned over to an attorney who represented the FOSTER family. No items were found during the inventory which were determined to be relevant to the investigation of FOSTER's death.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/21/94

John David Corum, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Officer Corum was advised as to the identity of the interviewing agent and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for seven years, the last three of which have been at The White House compound. He is normally assigned to USSS guard post E-6 which is located outside the entrance to the Oval Office in The White House. He advised, however, on July 20, the date of Vincent Foster, Jr.'s death, and on the following day July 21, he was assigned to USSS guard post E-1 at the ground floor side entrance to the west wing of The White House. Officer Corum's office is located at 1310 L Street NW and his telephone number is 202-395-2020.

Officer Corum said that he knew Vincent Foster only by his title and the fact that he was the Associate Counsel to the President under Bernard Nussbaum and that he occupied an office on the 2nd floor of The White House's west wing. He said that he did not know Foster personally or professionally but did recognize him visually when he saw him on The White House compound. Officer Corum said that only a few of The White House staffers come and go from the Oval Office. He said that Bernard Nussbaum was a "regular" but that he only saw Vincent Foster enter the Oval Office on three or four occasions.

On July 20, 1993, Officer Corum worked the 2:30 - 11:00 pm shift on post E-1. He said that he could recall nothing unusual or out of the ordinary about that day. He specifically said that although he saw numerous White House staffers come and go through post E-1, he could recall no specifics about these individuals.

On July 21, 1993, Officer Corum, again, worked the 2:30 - 11:00 pm shift on post E-1. He said that like July 20, he could recall nothing unusual or out of the ordinary about his

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investigation on 4/20/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 4/20/94

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tour of duty on post E-1 that day except that there were fewer White House staffers entering and leaving the west wing through E-1. He was specifically asked if he could recall Bernard Nussbaum, Maggie Williams, or Patsy Thomasson entering or leaving the west wing on that day. He advised that he could not.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

DEBORAH L. COYLE, Personal Secretary to the President, was interviewed in a ground floor conference room in the west wing of The White House. Prior to any questions being asked of Mrs. COYLE she was advised as to the official identities of the interviewing agents and of the nature of the interview. She provided the following information:

While her official title is Personal Secretary to the President, she also works for BRUCE LINDSEY, Assistant to the President and Senior Advisor. Prior to assuming her current position at The White House, she was employed at the Rose Law Firm in Little Rock, Arkansas for many years and thereafter worked as Assistant to the Chief of Staff for then Arkansas Governor BILL CLINTON. Following BILL CLINTON's election to the Presidency, she worked on the Presidential Transition Team for MAC MCLARTY. In early 1993, NANCY HERNRAICH, Deputy Assistant to the President for appointments and scheduling, whom she haS known since 1987, asked her if she would like to take the position of Personal Secretary to the President. She agreed and has been so employed since early 1993.

Prior to his death, she had known VINCENT FOSTER since 1986, having met him at the Rose Law Firm. She described their relationship as "business associates and friends". She knew FOSTER's wife and had met various members of his family. While she had never been directly supervised by FOSTER, she recalled working with him and other Rose Law Firm attorneys on numerous large projects. She described FOSTER as being "very much in control and a take charge man". She said that he was "very methodical and organized". She advised that she has no idea why VINCENT FOSTER decided to take his own life and that his doing so came as a complete surprise and shock to her. Mrs. COYLE said that during the first four or five months of 1993 when she, FOSTER, and other Arkansans in the administration were working in Washington before their spouses joined them, they would often go out to dinner on Tuesdays as a group. After their spouses joined them the Arkansan members of the administration and their spouses tried to get together for dinner on a monthly basis. She usually

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Investigation on 6/8/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SA WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 6/8/94

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organized/arranged these dinners at various restaurants in the Washington, D.C. area. The regular attendees at these dinners were: VINCENT FOSTER, WEBB HUBBELL, MARSHA SCOTT, BILL KENNEDY, JOHN EMERSON, NANCY HERNRAICH, and DEBORAH COYLE, although others joined them on some occassions.

Mrs. COYLE last saw VINCENT FOSTER alive on Monday, July 19, 1993. Although she can not recall the circumstances of this meeting, she believes it was a casual contact, perhaps in a hallway. She did recall that the "Arkansas group" had no plans to go to dinner on Tuesday, July 20. She first learned of VINCENT FOSTER's death in a telephone call to her residence on the evening of July 20, 1993. This telephone call came from BRUCE LINDSEY at approximately 10-10:30 pm who advised her that VINCENT FOSTER was dead and "had shot himself". While LINDSEY did not ask her to come to The White House or give her any type of instructions, she asked if there was anything she could do. After a brief conversation, she and LINDSEY agreed that there would probably be a large number of news media telephone calls coming into The White House and there were people who needed to be notified of FOSTER's death. She therefore went to The White House to help accomplish these tasks, arriving at approximately 11:00 pm.

Upon arriving at The White House she entered the west wing and went to her 1st floor office where she encountered BRUCE LINDSEY. While she was at The White House until approximately 2-3:00 am the next morning, time seemed compressed and events seemed to blur and run together. Shortly after arriving at her office, she went upstairs to the 2nd floor suite of NUSSBAUM/FOSTER. From the entrance to the suite she could see that this was "a busy place and it was crowded". She recognized BERNARD NUSSBAUM but can not recall the names of anyone else she saw inside the suite. She said that she did not go into the NUSSBAUM/FOSTER suite once she realized that the people inside were not immediately recognizable to her. She explained that her reason for going to the NUSSBAUM/FOSTER suite was to see if she could offer any help or sympathy to the persons who normally work in that suite of offices whom she knew. She cannot recall having seen anyone in the office who normally worked there except BERNARD NUSSBAUM. She was on the 2nd floor of the west wing for "less than a minute" before she went back to her office. She stayed in her office the remainder of the evening answering incoming telephone calls and making a series of "notification calls" to people in the Washington area and in Arkansas regarding

FOSTER's death. Shortly after she returned to her office from the 2nd floor (perhaps 11:30 - 11:45 pm) BERNARD NUSSBAUM came to her office and she, NUSSBAUM, and LINDSEY talked for approximately 20 minutes. Their conversation centered on FOSTER's state of mind, the tragedy of his death, and any potential "signals" that he may have been giving off that they perhaps missed. Numerous news media calls began coming in at approximately midnight. She also recalls numerous people stopping by her office that evening to include, MARSHA SCOTT, PATSY THOMASSON, and others. She does not recall seeing TIMOTHY KEATING at The White House that evening or during the early morning hours of July 21. She recalled CRAIG LIVINGSTONE coming by her office late on the evening of July 20 (perhaps around midnight). She recalls LIVINGSTONE coming by because they discussed his having gone to the hospital with BILL KENNEDY to identify FOSTER's body and the emotional impact that this experience had had on him. She does not recall them discussing any other matters.

Mrs. COYLE did not go to the FOSTER residence during the evening hours of July 20 or the early morning hours of July 21, 1993. She does recall, however, being aware that numerous White House employees had gone there to express their condolences. She has no knowledge of anyone being at the FOSTER residence during the 5:30-7:30 am time frame on the morning of July 21, 1993 for the purpose of handling news media inquiries.

She has no knowledge of anyone removing any items or documents from VINCENT FOSTER's office on the evening of his death or during the early morning hours of July 21, 1993. No one at The White House has discussed any such thing with her and she can recall no one having told her that they had been in VINCENT FOSTER's office during the late evening hours of July 20, 1993. She further recalls no conversations wherein anyone said that they had been in or near FOSTER's office looking for a suicide note although she does seem to recall people indicating at some point in time, that such a note had not been found. She has not been asked to handle, move, transport or mail any items or documents that she believes came from VINCENT FOSTER's office. Similarly, she has not done so.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/29/94

DEBORAH L. COYLE, Personal Secretary to the President, The White House, Washington, D.C., telephone number (202) 456-2668 was interviewed just outside the West Executive Avenue entrance to the west wing of The White House. The interview was conducted at this outside location as COYLE could not locate any interior White House space which could provide privacy for the interview. COYLE was advised of the identity of the interviewing agents and of the purpose of the interview. This was a follow-up to COYLE's interview on June 8, 1994. COYLE provided the following information:

She was asked to focus on the time she was at The White House on the evening of July 20, 1993 through the early morning hours of July 21, 1993 just after the death of VINCENT FOSTER, JR., Deputy White House Counsel. She had previously advised in an interview conducted June 8, 1994 that she was at The White House from approximately 11:00 pm on the evening of July 20, 1993 until approximately 2:00 or 3:00 am the next morning. COYLE was asked who she saw at The White House during this period of time and she provided the following names in response to this question: BRUCE LINDSEY, BERNARD NUSSBAUM, CHERYL MILLS, KIMBERLY MARTEAU and her husband JOHN EMMERSON, CRAIG LIVINGSTONE, and MARSHA SCOTT. She said there may have been others but those were the names that she could recall at this time.

COYLE was asked to describe the circumstances in which she saw each of these people. She saw LINDSEY in his office on the 1st floor of the west wing of The White House. She had seen NUSSBAUM and MILLS in LINDSEY's office. She had seen MARTEAU and EMMERSON in the hallway outside her office door. She had seen SCOTT also in the hallway.

COYLE advised she had seen LIVINGSTONE when he "put his head in my door". She recalled talking with LIVINGSTONE about his (LIVINGSTONE's) identifying the FOSTER body that evening. She described the discussion with LIVINGSTONE as an "unloading sort of thing" by him with her. She said LIVINGSTONE, on

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Investigation on 7/27/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS
SSA WILLIAM T. GUYTON Date dictated 7/28/94

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occasion, comes to her with such "unloading" discussions. When asked if LIVINGSTONE was an emotional person, she said it would be best to describe him as a "sensitive person". COYLE said her meeting with LIVINGSTONE that evening was some time just after midnight. She did not recall discussing with LIVINGSTONE what else he was doing that night or planned to do either that night or the next day. She had no conversation with him regarding any press involvement by him the next morning at the FOSTER residence. She was asked if she remembered receiving a phone call during the evening or early morning hours of July 20-21, 1993 from WEBSTER HUBBELL concerning White House presence at the FOSTER residence early on July 21, 1993, in connection with press concerns. She answered she did not remember such a contact by HUBBELL.

COYLE was asked what time she arrived at The White House on the morning of July 21, 1993. She said it would have been between 7:30 and 8:00 am. She did not recall seeing CRAIG LIVINGSTONE on the morning of July 21, 1993.

COYLE volunteered at the end of the interview that her encounter with LIVINGSTONE "could have been the next morning" but her recollection was that she had seen him at The White House at about midnight on July 20, 1993.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/25/94

John K. Danna, Supervisory Special Agent, Federal Bureau of Investigation, appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 2:00 pm for interview. Supervisor Danna was advised of the identity of the interviewing agents and the purpose of the interview. Supervisor Danna provided the following information:

He first became involved in the death investigation of Vincent Foster at the request of the U.S. Park Police (USPP) on 7/21/93. A Captain Hume, USPP, called Danna and asked for the FBI's assistance. At approximately 12:30 pm, 7/21/93, Danna and two agents from his squad, Scott Salter and Dennis Condon, arrived at The White House to provide assistance.

They were advised by Captain Hume that David Margolis, an attorney from the U.S. Department of Justice (DOJ), would also be joining them. It was clear that Hume felt his investigation concerning the death of Vincent Foster, was being delayed and that he was being given the run around. Danna's feeling was that things were not going the way Hume wanted it to go and therefore he had called the FBI. Sometime during this initial meeting with Hume, a U.S. Secret Service Agent advised that the Vincent Foster office had been sealed.

At about 3:00 pm, David Margolis and Roger Adams, DOJ attorneys, arrived.

This group then met with Bernard Nussbaum, White House Counsel, in Nussbaum's office. They were advised that the office of Vincent Foster had been sealed until 10:00 am the following day (7/22/93). Items in Foster's office would be "gone over" at that time. The purpose would be to look for a suicide note and to examine documents in Foster's office and segregate any privileged documents between the President and The White House counsel office. It was also agreed at this meeting with Nussbaum, that interviews of White House secretaries would begin on 7/22/93 at approximately 8:30 am.

Investigation on 4/25/94 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) WILLIAM T.GUYTON Date dictated 4/25/94

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Danna described this meeting on 7/21/93 as a preliminary, quick meeting. He said it was clear that Nussbaum was in charge. Margolis was making decisions and talking with Nussbaum on behalf of the DOJ. The procedure agreed to was that Margolis and Adams would review the documents in Foster's office with Nussbaum. Danna could not recall any comment being made at this meeting on who had been in Foster's office prior to its being sealed.

Danna added that a second short meeting between Nussbaum and most of the others occurred immediately after the first meeting, but that Captain Hume and himself stayed out of this second meeting as they had already left Nussbaum's office. Danna said this second meeting was simply Nussbaum asking some of the people who were still in the office to stay a minute.

Danna said the FBI had no predication to be involved in the Foster death investigation other than assisting at the request of the USPP. Based upon this, a preliminary inquiry was opened because of who the person involved was. The USPP was the lead agency.

Danna offered FBI laboratory assistance to Captain Hume. Hume said that the USPP didn't need this assistance, that it was being handled. Danna said that he had offered this assistance because of the good relationship which existed between the USPP and the FBI.

The U.S. Attorney's Office, Eastern District of Virginia, had been advised of the FBI's participation in the investigation. Danna said the AUSA involved was probably AUSA Larry Leiser.

At the time of the Foster investigation, Danna said that the terms Whitewater and Madison were not mentioned.

Danna had no further involvement, apart from 7/21/93, in the Foster investigation or related matters. He was aware of an obstruction of justice case being opened on July 30, 1993 and being supervised by FBIHQ Supervisor, Patrick Foran.

Danna was asked if he was aware of any instance of indented writing being identified in connection with the Foster matter. He replied that it sounds familiar but he could not remember any specifics.

Supervisory Special Agent Danna entered on duty with the FBI as an agent on June 16, 1975; he was first employed by the FBI on January 31, 1972. He is currently serving as the Supervisor of Squad C-4, Washington Metropolitan Field Office. His work telephone number is (202) 252-7844.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/94

On May 12, 1994, Supervisor JOHN K. DANNA, Squad C4, Washington Metropolitan Field Office, telephone (202) 252-7844, was interviewed regarding the FBI's jurisdiction in the VINCENT FOSTER death investigation. FOSTER, Deputy White House Counsel, died July 20, 1993.

DANNA advised that the FBI's jurisdiction in this matter was Title 18, United States Code, Section 1751, Presidential and Presidential Staff Assassination, Kidnapping and Assault (PPSAKA). VINCE FOSTER, as a Presidential staff member, was believed to be covered under this statute.

A preliminary inquiry versus an investigation was opened at the time of FOSTER's death to determine FBI interest in the matter.

If it had been ascertained that FOSTER was killed, the FBI would have conducted a full investigation of the death. The FBI assisted the U.S. Park Police during the period of the "preliminary inquiry" which was opened in the matter long enough to determine that the death of FOSTER was a suicide. DAVID MARGOLIS, U.S. Department of Justice (DOJ) attorney, asked the FBI to stay in the case initially to see if anything else surfaced regarding this death/suicide.

On May 19, 1994, Supervisory Special Agent ANDREAS STEPHENS, Violent Crimes Unit, Criminal Investigative Division, FBI Headquarters, telephone (202) 324-4294, provided FBI manual citations regarding preliminary inquiries and the PPSAKA violation. STEPHENS had been the FBI Headquarters Supervisor at the time of VINCE FOSTER's death on July 20, 1993.

This documentation indicated that a "preliminary inquiry" should be conducted solely to obtain the information necessary to make an informed judgment as to whether an investigation is warranted . . . Once a "reasonable indication" of criminal activity has been developed during a "preliminary inquiry," an investigation may be instituted. When a

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Investigation on 5/12-19/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 5/20/94

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"preliminary inquiry" fails to disclose a "reasonable indication" of criminal activity to justify an investigation, the "preliminary inquiry" should be terminated.

Once it was determined that the FOSTER death was a suicide, the FBI's "preliminary inquiry" was closed. Primary jurisdiction was then properly that of the U.S. Park Police (USPP) since the death had occurred in a U.S. park, Fort Marcy Park, under USPP jurisdiction.

Additional documentation provided by STEPHENS indicated that Title 18, U.S.C., Section 1751, as amended October 6, 1982, makes it a Federal offense to assassinate, kidnap, assault, attempt to kill or kidnap, or conspire to kill or kidnap, certain Presidential and Vice-Presidential staff members. This statute is entitled the "Presidential and Presidential Staff Assassination, Kidnapping and Assault Statute." The Amendment also provided that the government need not prove the subject in such an investigation knew that the victim was protected under this statute.

The amendment of October 6, 1982 extended protection under the statute to an additional thirty Presidential and Vice-Presidential staff members. The documentation provided by STEPHENS indicated that these individuals have titles such as Counselor to the President, Chief of Staff, Assistant to the President (for a particular expertise), and certain Deputies of these officials. It is not practical to identify these protected individuals by name or title, as the list may change periodically in accord with personnel actions of the President or Vice-President. Furthermore, during a change of administration, the number of protected staff members may increase or decrease and their job titles may differ from the previous administration. STEPHENS indicated it was believed that VINCE FOSTER, as Deputy Counsel of the White House, was covered under this statute.

When the FOSTER note was found and turned over to law enforcement (July 26 & 27, 1993, respectively), an FBI Obstruction of Justice (OOJ) case was opened. This matter was supervised by Supervisory Special Agent, PATRICK J. FORAN. The OOJ investigation was predicated upon a request from the U.S. Department of Justice to enter the investigation being conducted by the U.S. Park Police and to focus FBI efforts on the turning over of a note found in the office of VINCENT W. FOSTER, JR. The

note was turned over to law enforcement officials on July 27, 1993, approximately thirty hours after being found. The report of the FBI's OOJ investigation was sent to the DOJ, and no further action was taken as there was no indication of any wrongdoing. White House personnel never had any intention of not turning the FOSTER note over to investigators.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/17/95

JANE MARIE DANNENHAUER was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. After being advised of the official identities of the interviewers and the nature of the interview, DANNENHAUER provided the following information:

DANNENHAUER formerly was employed at the White House for a total of approximately sixteen years. She was first employed in the White House Office of Security (WHOS) from 1972 through 1977 where she served as a staff assistant. DANNENHAUER remained in this post for the first few months of the administration of President JIMMY CARTER before she took a position on Capitol Hill, where she worked in a congressional office from 1977 through 1981. DANNENHAUER rejoined the staff at the WHOS in 1981 as Assistant to the Counsel to the President for Security, and she remained there until March 1, 1993. While she was in this position, DANNENHAUER had four women working for her.

When DANNENHAUER left the White House staff in 1993, she was replaced in her post by CRAIG LIVINGSTONE. Several changes occurred after the administration of President BILL CLINTON took office. The WHOS was renamed the White House Office of Personnel Security (WHOPS). The processing and review of background investigations for presidential appointees were removed from the responsibilities of WHOPS. WHOPS continues to handle typical White House employees, and DANNENHAUER believes WHOPS continues to handle the processing of White House staff below the level of presidential appointees.

DANNENHAUER left her post in 1993 as the result of an involuntary termination. After the election of the Democratic Party candidate in November 1992, DANNENHAUER knew that she would be leaving her post on the White House staff. Positions in DANNENHAUER's office have always been considered political appointments, probably because the office handles the processing of presidential appointees.

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nvestigation on 1/11/95 at Washington, D.C. File # 29D-LR-35063

by SAs DANA M. GILLIS and RUSSELL T. BRANSFORD RTB:rtb Date dictated 1/17/95

When DANNENHAUER served the CARTER administration during its first three months, she trained her replacements. Members of the CARTER administration made changes in some of the WHOS office procedures but also kept some of the existing policies in place.

When the CLINTON administration took office, presidential appointments were no longer within the purview of WHOPS. DANNENHAUER assumes that matters pertaining to presidential appointments were then handled within the White House Counsel's Office (WHCO). WHOPS continued to make requests for background investigations, even for presidential appointees, through the Special Inquiry (SPIN) unit of the Federal Bureau of Investigation (FBI).

WHOPS is physically located in the Old Executive Office Building (OEOB) adjacent to the White House. The WHOS office was formerly in the White House but grew too large for the space available there and was moved to the OEOB. WHOS was already located in the OEOB when DANNENHAUER arrived there in 1972.

During DANNENHAUER's tenure with WHOS and WHOPS, documents were always hand-carried from WHOPS to the WHCO due to the sensitivity of these papers. Documents were taken to the WHCO fairly often, sometimes daily, and only WHOPS personnel who had White House passes would transport them.

During her tenure at WHOS, DANNENHAUER was not aware of anyone other than her assistant or herself seeing the background investigation reports in her office since these reports were regarded as highly sensitive. WHOS had a check-out system for the reports, and a card file was maintained to show who had each of the files at any given time. These files were stored in folders in a Diebold filing device with revolving drawers. DANNENHAUER sealed all these files, and the files were sent to the National Archives sometime prior to January 20, 1993.

DANNENHAUER is not totally familiar with the organizational structure of WHOPS, but she believes White House Counsel BERNARD NUSSBAUM and Deputy White House Counsel VINCENT W. FOSTER, Jr. would have had responsibility over WHOPS. Prior to her departure from the White House staff, DANNENHAUER briefed five attorneys from the incoming White House staff about the operation of WHOPS, but none of these attorneys had responsibility over WHOPS at that time. Among these five

attorneys were BETH NOLAN, CHRISTINE VARNEY and STEPHEN NEUWIRTH. DANNENHAUER again briefed NOLAN later in addition to another female attorney whose name DANNENHAUER does not recall. A decision was made that neither the White House Counsel or the Deputy White House Counsel would have administrative responsibility for WHOPS.

The last person DANNENHAUER spoke to about WHOPS prior to her departure was Associate White House Counsel WILLIAM H. KENNEDY III. DANNENHAUER briefed KENNEDY more than LIVINGSTONE about the operation of WHOPS because LIVINGSTONE had indicated to DANNENHAUER that he was not certain he would be remaining in WHOPS since he was seeking another position on the White House staff. DANNENHAUER made a suggestion about limiting the number of White House passes issued, but she does not know if this suggestion was ever followed.

During the transition period prior to January 20, 1993, attorney JAMES HAMILTON handled contacts between the transition office and the FBI. DANNENHAUER's office at WHOPS remained the point of contact for the security offices of all other agencies within the executive branch.

DANNENHAUER does not know which attorney actually handled the documents pertaining to presidential appointees but it was possibly BRUCE LINDSEY, who headed the presidential personnel office. DANNENHAUER regards it as possible that documents pertaining to presidential appointees were not sent to DANNENHAUER's office following the inauguration because DANNENHAUER was still there and there may have been a feeling that DANNENHAUER could not be trusted since she was a holdover employee from the previous administration. Officials at the White House wanted DANNENHAUER to leave her post at the end of February 1993, but DANNENHAUER asked to remain until March 1, 1993, since that would be an easier date of retirement for her to later recall.

LIVINGSTONE was not at WHOPS on January 20, 1993. During later days and weeks, LIVINGSTONE would come to his office at WHOPS, but he would leave and be out of his office for the remainder of the day. At the end of January 1993 and the beginning of February 1993, LIVINGSTONE began coming to his office but he was not in his office on a steady basis. During this time period, LIVINGSTONE told DANNENHAUER that he was interested in serving as the military assistant in the White

House military office, which was a position usually held by a civilian, making LIVINGSTONE eligible for the post. Because of this desire to leave his post in WHOPS, LIVINGSTONE did not appear to want to devote much time to learning about WHOPS operations or to being trained about the operations of other agencies with whom he would be interacting at WHOPS. DANNENHAUER briefed LIVINGSTONE during her last two weeks on the job at the White House.

NANCY GEMMELL, who had worked with DANNENHAUER for twelve years, was allowed to remain in her position in WHOPS until she reached eligibility for retirement. GEMMELL stayed at WHOPS a final few months until she achieved twenty-five years of service, which made her eligible for retirement. GEMMELL had to remain on the job until May or June of 1993 to reach retirement eligibility, and she retired from her position sometime during the summer months of 1993. Three other holdover employees of WHOS also left after the election in 1992. BETTY MARY CHILDS retired from her position on January 20, 1993, while KAREN JOHNSON found another position outside the White House and left the WHOS staff prior to January 20, 1993. A third employee, LESLIE MERKLE, who is married to attorney PATRICK MERKLE, was a part-time employee who also left the WHOS staff. GEMMELL and DANNENHAUER were the only holdover employees still on the staff of the WHOS (or WHOPS) after January 20, 1993. DANNENHAUER was the only WHOS or WHOPS employee considered a presidential appointee.

LIVINGSTONE did not yet have an official title during the period when DANNENHAUER worked with him on the WHOPS staff. DANNENHAUER does not know if LIVINGSTONE holds the rank of assistant to the president. DANNENHAUER does not think LIVINGSTONE was serving under a presidential appointment while DANNENHAUER was on the WHOPS staff.

DANNENHAUER never met either NUSSBAUM or FOSTER. DANNENHAUER speculates that they saw no need to meet her, perhaps because no presidential appointments were processed through DANNENHAUER's office.

LIVINGSTONE has called DANNENHAUER several times since she retired, and all of these calls have pertained to routine work-related questions such as where to route specific matters. LIVINGSTONE has probably called DANNENHAUER several times since the death of FOSTER on July 20, 1993. LIVINGSTONE placed

possibly a dozen calls to DANNENHAUER during 1993, and the purpose of the calls was usually mundane, e.g., WHOPS received a letter from the Department of Defense and LIVINGSTONE needed to know how to respond to the letter. In none of these calls did LIVINGSTONE tell DANNENHAUER anything about his personal situation, and LIVINGSTONE only asked about routine matters pertaining to the operation of WHOPS. DANNENHAUER has not been contacted by LIVINGSTONE, LIVINGSTONE's attorneys, or any member of the White House staff regarding the death of FOSTER.

DANNENHAUER may have spoken with former Deputy White House Counsel JOHN SCHMITZ in relation to FOSTER's death. Following media accounts referring to a safe in FOSTER's office, SCHMITZ telephoned DANNENHAUER to inquire whether there had been a safe in SCHMITZ's office, which would likely have been the office later occupied by FOSTER. DANNENHAUER did not recall a safe in the Deputy White House Counsel's Office, only file cabinets. There may have been a file safe, i.e., a safe configured like a file cabinet with drawers in it, in the office but DANNENHAUER does not recall ever seeing such an object in the office. Any important documents were kept in a safe in DANNENHAUER's office.

Upon her departure from the White House staff, DANNENHAUER had several concerns about how the WHOPS would be operated once she left. DANNENHAUER was concerned that there was a lack of control over the FBI background investigation reports. DANNENHAUER does not know if the entire WHCO staff had access to these reports or if there were internal controls limiting access. DANNENHAUER was also disturbed that volunteers were brought in to work at WHOPS. When DANNENHAUER ran WHOPS, she only used volunteers to type cards, and she did not allow the volunteers to look at any of the files. Further, all of the volunteers who worked for DANNENHAUER underwent background investigations.

In addition to DANNENHAUER, other holdover officials who had worked at the White House during DANNENHAUER's tenure included TERRY GOOD, who was director of Records Management for the White House, and LEE JOHNSON, who was GOOD's assistant and who had come to the position from the National Archives approximately one year before DANNENHAUER left the White House staff. Another such White House employee was MAUREEN HUDSON, who worked in the correspondence office under SHIRLEY GREEN.

LIVINGSTONE mainly handled the staff of WHOPS.

DANNENHAUER knows very little about LIVINGSTONE's background or personal life. DANNENHAUER believes LIVINGSTONE is from the local area around Washington, D.C., and his mother or parents may live in Chevy Chase. LIVINGSTONE has told DANNENHAUER that he is a friend of President CLINTON.

There were two volunteers working in the WHOPS when DANNENHAUER left: MARI ANDERSON and a white male whose name DANNENHAUER is unable to recall. MARI ANDERSON began as a volunteer but eventually was employed in a paid position. There was also a black male whose name DANNENHAUER does not know who worked in WHOPS, but he was only at WHOPS rarely, coming in and out of the office only as the workload required.

DANNENHAUER will be moving in mid-March 1995 to a new residence in the Timbers Edge condominiums, where her address will be 2468 Timberside Drive, Columbus, Ohio. DANNENHAUER does not yet know what her telephone number will be at her new address but she will call the interviewing agents with that information when it becomes available.

DANNENHAUER knows of no other information which may be of assistance to OIC investigators.

Based on observation and interview, DANNENHAUER is described as follows:

Name:	JANE MARIE DANNENHAUER
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	1600 South Eads Street Apartment 1237 North Arlington, Virginia 22212
Home Telephone:	(703) 521-2482

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/6/94

ROBERT ARTHUR DENNING, Security Officer at the Saudi Arabian Ambassador's residence, 6050 Chain Bridge Road, McLean, Virginia, was advised of the identities of FBI Agents William E. Colombell and H. Alexis Suggs, and was further informed that the FBI was conducting an ongoing investigation into the death of Vincent Foster at Fort Marcy Park on July 20, 1993 and wished to interview him regarding any possible information or assistance he could furnish.

MR. DENNING stated that he was working a day shift on that particular day and would have been present at the Saudi Arabian compound during the hours of 12:00 noon through 6:00 p.m. He stated that he would have spent a significant portion of the day on the security gates adjoining Chain Bridge Road.

MR. DENNING stated that he did not observe any unusual activities, nor did he hear any possible gunshots emanating from For Marcy Park. He pointed out that if such incidents occurred, there would have been a recording made and a log maintained by the security force. MR. DENNING pointed out that on occasion, the security force will hear car and truck backfires that echo off the Potomac River. He also pointed out that for the past year dating back to before July 20, 1993, considerable heavy construction has been ongoing at the Saudi Arabian compound. He said this construction, coupled with traffic noise from Chain Bridge Road and aircraft noise from overhead, makes it difficult to carry on normal conversations. He stated that in his opinion, under the circumstances described above, it would be highly unlikely that he or other security officers would have overheard a loud retort or gunshot from the park. He again noted that if such an occurrence had occurred, it would require a written notation in the security log. He stated that based on conversations he had with his supervisor, MR. BAILEY, no such notations were recorded on that particular date.

MR. DENNING supplied the following background information about himself:

Residence: 12502 Fan Leaf Court
Fairfax, Virginia 22033
Home telephone: (703) 352-5469

Investigation on 4/20/94 at McLean, Virginia File # 29D-LR-35063

SSA William E. Colombell
by SA H. Alexis Suggs WEC:deg Date dictated 5/6/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/3/94

Mr. Barry H. Deutschman, R. Ph, owner of Morgan Pharmacy, 3001 P Street NW, Washington, D.C. 20007, was interviewed at the Morgan Pharmacy. Mr. Deutschman was advised as to the identity of the interviewing agent and informed of the nature of the inquiry. He then provided the following information:

Mr. Deutschman stated that a review of his records reflects that based on a July 1993 telephonic request by a Dr. Larry Watkins, Little Rock, Arkansas, the Morgan Pharmacy filled a prescription for Mr. Vincent Foster. Morgan Pharmacy records according to Mr. Deutschman indicate that the prescription for Mr. Foster was for 30 tablets of DESYREL, generic name Trazodone. A further review of these records reflect that one to three tablets or 50 to 150 milligrams was prescribed to be taken prior to bedtime.

While pharmacy records did not indicate time of the receipt of this prescription request by Dr. Watkins, it was Mr. Deutschman's recollection that the request was received by his pharmacy late morning or early afternoon of July 19, 1993 and that the medication was delivered by one of his employees to the Foster residence later that afternoon and certainly before closing time of 6:00 pm on July 19, 1993. According to Mr. Deutschman available pharmacy records failed to indicate any prior medication being prescribed for Mr. Vincent Foster.

Mr. Deutschman advised that while Mrs. Foster had an account at his pharmacy he had no personal relationship with any members of the Foster family. Mr. Deutschman also advised that he was seriously concerned about the confidentiality of his records and any public release of the above furnished information. He maintained that any future requests specifically obtaining more details regarding this particular prescription would require a subpoena. He however reiterated his prior comment that his records fail to reflect any prior prescribed medication being dispensed at his pharmacy for Mr. Vincent Foster.

Investigation on 4/26/93 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 4/29/93

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/24/94

Robert J. Dillon, Lieutenant, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Lt. Dillon was advised as to the identity of the interviewing agent and of the nature of the interview. He then provided the following information:

He has been employed by USSS for eleven years and is currently assigned to the USSS Foreign Missions Branch. He was, however, in July, 1993, working the "midnight" shift serving as the Deputy Watch Commander overseeing activities of all USSS Uniform Division Officers on The White House compound during that shift. As such, he was the immediate supervisor of the USSS Sergeant in Charge of the USSS White House Control Center.

He first learned of Vincent Foster, Jr.'s death at approximately 9:30 pm, shortly after he came on duty. He did not, at first, recognize Foster's name as being that of a high ranking White House staffer. He had not known Foster.

Lt. Dillon said he does not recall his July 20-21, 1993 shift being particularly busy or eventful for USSS employees on duty that night. He said he does not recall any unusual west wing alarm activity that evening and does not recall anyone requesting access to the Bernard Nussbaum/Vincent Foster suite of offices. He further advised that he does not believe he had occasion to go to the west wing of The White House that night. He said that while there was talk during his shift of the USSS possibly being asked to secure the Nussbaum/Foster suite the next day, nothing was done during his shift in this regard.

Lt. Dillon said that he is familiar with Officer Henry O'Neill and his duties. He is aware that O'Neill escorts a GSA cleaning crew into alarmed areas of The White House west wing and that he (O'Neill) is personally responsible for picking up "burn bag" trash in the west wing during his shift. Lt. Dillon said he does not recall Officer O'Neill advising him that he (O'Neill) had seen White House staffers in the Nussbaum/Foster suite during

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the late evening or early morning hours of July 20-21. He further advised that he does not recall Officer O'Neill telling him that he (O'Neill) had decided that this suite should not be cleaned by the GSA employees during that particular shift and that no trash was picked up in that suite during the "midnight" July 20-21 shift.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 5/8/95

LINDA A. DONAGHY was interviewed in the offices of the Office of the Independent Counsel, (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). After being advised of the official identity of the interviewing agent and the nature of the interview, DONAGHY provided the following information:

DONAGHY currently serves as Deputy General Counsel of the Justice Management Division at the United States Department of Justice (DOJ), where her telephone number is (202) 514-3452.

DONAGHY has worked almost continuously at DOJ since 1971. The only breaks in DONAGHY's service occurred when DONAGHY took time off for the birth of her son and for two brief tours of duty at the White House Counsel's Office (WHCO).

DONAGHY served in the WHCO for periods of time under both the BUSH and CLINTON administrations. During May and June of 1989, DONAGHY served at the White House on the Presidential Ethics Commission. DONAGHY most recently served in the WHCO from approximately February 1, 1993, through May 3, 1993. It is DONAGHY's understanding that MICHAEL CARDOZO and WEBSTER "WEBB" HUBBELL were responsible for some of the staffing decisions regarding DOJ. CARDOZO and HUBBELL contacted DONAGHY's superior at that time, JANIS SPOSATO, and SPOSATO recommended DONAGHY for an assignment as a detailee to the WHCO. DONAGHY went to the WHCO at the same time as another DOJ official, ROGER ADAMS.

Upon her arrival at the WHCO, DONAGHY initially did not have a supervisor or a clear sense of what her duties were. Within a matter of a few days, Associate White House Counsel BETH NOLAN reported for duty at the WHCO. Shortly thereafter, Associate White House Counsel WILLIAM H. KENNEDY III also assumed his duties. The offices used by DONAGHY and her co-workers were located in WHCO offices in room 126 1/2 in the Old Executive Office Building (OEOB).

DONAGHY's duties required her to review copies of the

federal government's Standard Form 278 (SF-278), which is a financial disclosure form filed by nominees and appointees. DONAGHY would review the forms to identify any financial conflicts between the individuals' personal holdings and the positions for which they were being considered. There were very few nominees when DONAGHY began working at the WHCO because the administration was still in its early stages. Once the number of nominees increased and the nominees actually submitted their SF-278s to the WHCO, DONAGHY and her colleagues reviewed the forms and attempted to resolve any conflicts through consultations with the designated agency officials (DAOs) for ethics matters in the agencies where the nominees would be working.

DONAGHY had no role in the nomination process for WEBSTER HUBBELL since, DONAGHY believes, HUBBELL was not even nominated for the post of Associate Attorney General until after DONAGHY had completed her assignment at the WHCO. However, DONAGHY was involved in reviewing the SF-278 forms of most of the nominees for positions at DOJ during her tenure at the WHCO.

As part of her duties and responsibilities at the WHCO, DONAGHY was occasionally asked for legal opinions and legal memoranda regarding ethics issues. DONAGHY usually gave oral legal advice to NOLAN, who may have incorporated the advice into memoranda she later wrote. On occasion, DONAGHY would also receive telephone inquiries from White House employees who were attempting to learn the types of outside activities in which they could engage without violating the new restrictions on sources of outside income.

DONAGHY saw FOSTER very rarely since her office was in the OEOB while FOSTER's office was in the West Wing. DONAGHY recalls that she was introduced to FOSTER during the first few days of her assignment at the WHCO. FOSTER had come to the WHCO offices in the OEOB to meet the new WHCO staff members, and DONAGHY was among the people FOSTER met. DONAGHY later observed FOSTER at a birthday party for White House Counsel BERNARD NUSSBAUM sometime in March 1993.

DONAGHY did not attend the daily meetings of the WHCO associate counsels because the detailees were not invited to do so. There were no regularly scheduled meetings which the WHCO detailees were required to attend, but KENNEDY and NOLAN would occasionally convene meetings of the members of their staff.

DONAGHY had no telephone conversations with FOSTER.

DONAGHY recalls that several other people were detailed from a number of outside agencies to the WHCO staff. JACKIE WASHINGTON arrived at the WHCO late in DONAGHY's tenure there and was still on the WHCO staff when DONAGHY left to return to DOJ. WASHINGTON may have served on the WHCO staff for a year. WASHINGTON had come to the WHCO staff from the Department of Labor, possibly from the office of the solicitor there, and she was back at the Labor Department in January 1994. FRANK SOBOL was a detailee who seemed to have more of a close working relationship with FOSTER. The other detailees whom DONAGHY recalls serving at the WHCO were ADAMS, RICHARD WERKSMAN and PHYLLIS ANDERSON.

ADAMS and DONAGHY joined the WHCO staff on the same day and also left on the same day. ADAMS and DONAGHY went to the WHCO suite in the West Wing shortly before their departure from the WHCO staff to have their pictures taken with NUSSBAUM. ADAMS later related to DONAGHY that FOSTER had been in the WHCO suite while their photographs were being taken, but DONAGHY does not recall seeing FOSTER that day.

DONAGHY regarded FOSTER as being very self-confident, almost to the point of arrogance. However, DONAGHY also believes that FOSTER's confidence could have masked shyness. DONAGHY has no direct knowledge of FOSTER's character or state of mind, but SOBOL told her that FOSTER was extremely conscientious and very much a perfectionist.

Prior to FOSTER's death on July 20, 1993, DONAGHY did not engage in any discussion about FOSTER's mental state. Prior to FOSTER's death, DONAGHY did not hear any remarks regarding FOSTER's mood or state of mind.

DONAGHY had no involvement in the White House Travel Office matter.

On July 21, 1993, DONAGHY was at home preparing to go away on a family trip for several days. At approximately 8:00 or 9:00 a.m., DONAGHY heard a radio report concerning FOSTER's death. DONAGHY did not go to the White House that day, and she was out of town for the next several days. Upon returning to work, DONAGHY discussed FOSTER's death with ADAMS and MARTHA STANLEY, who was secretary to KENNEDY and NOLAN. DONAGHY

probably spoke with STANLEY on the Monday following FOSTER's death.

DONAGHY did not have any knowledge of or involvement in the finding of a note in FOSTER's briefcase .

Two other DOJ employees who were detailed to the WHCO staff were CYNTHIA McMANUS and HELEN JONES. JONES worked in the WHCO suite in the West Wing of the White House. JONES was detailed to the WHCO staff for a shorter period of time than McMANUS. DONAGHY does not recall the length of the period that JONES served on the WHCO staff. JONES currently works in the office of the Deputy Attorney General (DAG) at DOJ.

Among other White House staff members who worked with the WHCO staff were GARY GINSBURG, LIZ FINE and PETER PAPPAS. GINSBURG and FINE were both involved in political vetting of nominees. GINSBURG and FINE left the White House staff and went to work at DOJ, where GINSBURG worked in the Office of Legislative Affairs and FINE worked in the DAG's office. GINSBURG has since left DOJ, and DONAGHY is not certain where he is currently working. DONAGHY believes FINE is currently on maternity leave from the DAG's office. PAPPAS left the White House staff and took a position at the United States Department of State.

Based on observation and interview, DONAGHY is described as follows:

Name:	LINDA A. DONAGHY
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	17100 MacDuff Avenue Olney, Maryland 20832
Home Telephone:	(301) 774-8346

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

CHARLES K. "CHARLIE" DORSEY, Special Agent, Federal Bureau of Investigation, appeared at the Office of the Independent Counsel, Washington, D.C., as scheduled at 1:00 p.m. for interview. DORSEY was advised of the identity of the interviewing agent and of the purpose of the interview. Agent DORSEY provided the following information:

He first became involved in the VINCENT FOSTER matter at the request of his supervisor, JOHN DANNA, when the FBI re-entered the investigation from an Obstruction of Justice (OOJ) standpoint when the FOSTER note was found and revealed to the public on July 27, 1993. DORSEY understood that the purpose of the investigation was to trace the evolution process of the note found by STEVEN NEUWIRTH. DORSEY conducted or assisted with a total of twelve interviews in the OOJ matter. He also initiated the Behaviorial Science Unit, FBI Academy, input into this investigation. He was also involved with the FBI Laboratory Division's aspect.

DORSEY was asked about White House cooperation during the OOJ investigation. He responded that all White House personnel interviewed were totally "forthwith" and did not try to pull rank. He could not recall any evasive conduct by anyone during the investigation. There was no stonewalling by anyone. DORSEY stated that the cooperation of the U.S. Secret Service during this investigation was particularly noteworthy, especially the assistance provided by Agent DON FLYNN.

DORSEY was asked if anyone during the course of the investigation objected to the term "obstruction of justice" being used. He said the only instance he could recall was during the first interview of the investigation. He said that the investigation was initiated with an interview of STEVEN NEUWIRTH, Assistant White House Counsel, who had found the FOSTER note. When NEUWIRTH was advised by the interviewing agents, DORSEY and SCOTT SALTER, that an investigation had been requested by the Department of Justice concerning an obstruction of justice matter pertaining to the FOSTER note, NEUWIRTH responded by questioning

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whether he was a subject and did he need a lawyer. He was told that he was not a subject of the investigation at this point and was being interviewed in the normal course of the investigation. He was the first interview being conducted as he was the individual who had found the FOSTER note. NEUWIRTH thereafter excused himself. The agents then waited for approximately one hour before resuming their interview of NEUWIRTH. It is DORSEY's belief that BERNARD NUSSBAUM, Chief White House Counsel, must have been out of pocket during this time period and that NEUWIRTH was waiting to discuss the interview with him. During the course of the interview, it was obvious that NEUWIRTH was not enjoying the interview. NEUWIRTH said he found the FOSTER note in a briefcase in FOSTER's office as he was packing items from the office. He had turned the briefcase upside down or on its side. NEUWIRTH was surprised to find the FOSTER note in the briefcase.

NEUWIRTH's reaction to the OOJ inquiry was tempered with NUSSBAUM's activities. NUSSBAUM seemed genuine and was the White House point of contact. He was "the guy" to make available whoever, whenever. Everything flowed from NUSSBAUM. He facilitated the White House interviews for the FBI. DORSEY said it was obvious NUSSBAUM ran a tight ship and had his finger in everything.

DORSEY was asked about his interviews of BERNARD NUSSBAUM, MARGARET WILLIAMS, and PATSY THOMASSON. He was asked if these individuals had been questioned during their interviews regarding personally taking anything from VINCENT FOSTER's White House office after his death and also whether they were aware of anyone else who had done so. DORSEY stated that the THOMASSON FD-302 and interview notes reflect that she was asked these questions and answered no to both. DORSEY said he would be surprised if WILLIAMS and NUSSBAUM had not been asked these same questions, but could not specifically recall that the questions had been asked.

DORSEY was asked about the indented writing found on a pad of paper taken from FOSTER's office. He said that on July 30, 1993, at the end of the day, or on August 3, 1993, he and Agent SALTER went to the White House to actually see FOSTER's office. NUSSBAUM opened the office for them and during the course of looking at the office, DORSEY noticed a pad of paper and asked NUSSBAUM if he could have it. DORSEY said "we'll see if this is what he (FOSTER) wrote it (the note) on." NUSSBAUM

agreed and was given a receipt for the pad. DORSEY then turned this pad of blank paper over to the FBI Laboratory's Document Section at the same time as he turned over the FOSTER note. DORSEY understood that some indented writing was located on this pad, but he never saw the pad again or the indented words raised and understood that the pad and results of the examination were sealed. It was DORSEY's understanding that this writing dealt with a trust fund concerning the President's daughter and had been considered privileged information.

FOIA(b)(7) - (C)

DORSEY was asked about information he received concerning the presence of "a second letter," allegedly involving FOSTER's death. This information had been provided to DORSEY through another FBI agent, [redacted] and had been reported in the OOJ report concerning the FOSTER note. DORSEY said that this information had been received from ROGER KAMMERDEINER, a Physical Security Specialist, U.S. Secret Service. DORSEY said it had been determined that there was no second letter. DORSEY also said that he had heard this was not the first time that KAMMERDEINER had embellished a story.

DORSEY stated all investigation conducted regarding the FOSTER matter had been reported in either the U.S. Park Police Report or the FBI's OOJ Report.

SA DORSEY entered on duty with the FBI as a Special Agent on January 4, 1987 and is currently assigned to Squad C-4, a reactive criminal squad, Washington Metropolitan Field Office. His work telephone number is (202) 252-7786.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/4/94

MATTHEW JOHN DRISCOLL, was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, NW, Suite 490 North, Washington, D.C. (WDC). DRISCOLL is an Officer with the United States Secret Service (USSS), Uniformed Division, White House Branch. After being apprised of the identity of the interviewing agent and the purpose of the interview, DRISCOLL thereafter provided the following information:

DRISCOLL is currently assigned to the Control Center and also serves on the USSS Advanced Team. On the evening of July 20, 1993, DRISCOLL was working in the Control Center further described to be working on "the board." From this position DRISCOLL handled telephone and radio traffic into the Control Center. On the evening of July 20, 1993, DRISCOLL remembers working a 3:00 pm to 11:00 pm shift in the Control Center.

DRISCOLL first heard of the death of Deputy White House Counsel VINCENT W. FOSTER, JR. on a commercial radio station. He later heard on a CNN News television broadcast that FOSTER was dead. This broadcast was believed to have occurred between 7:00 and 7:30 pm on July 20, 1993.

DRISCOLL does not recall receiving any special instructions in the Control Center with regard to responding to the death of FOSTER. He recalls no incoming telephone or radio traffic addressing the death of FOSTER. DRISCOLL knew who FOSTER was by name and also knew him through visual recognition. They had no formal relationship.

Regarding alarms within The White House complex, DRISCOLL was aware that upon entering an alarmed area, an individual has approximately 30 seconds after the alarm is set to call the USSS Control Center. Once the individual calls into the Control Center he provides his or her name which is then checked against an access roster maintained within the Control Center. If for some reason the staffer forgot to call the Control Center, a USSS Officer would telephone the office. If no answer was received, an officer was sent to investigate. A violation of the

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aforementioned procedure with regard to the alarms was written up on a security violation form, Secret Service Form 2046. This form was also utilized to record radiation reports, fire, and alarms. The form 2046 is maintained in central files for storage. USSS records are stored in Room 560 of the Old Executive Office Building which is an alarmed area.

DRISCOLL was unaware of any cameras being located within the Counsel's office or within the interior portions of The White House mansion.

DRISCOLL was unaware of any documents being moved from the Counsel's office and more specifically the office of FOSTER on the evening of July 20, 1993. He also had no knowledge of documents being moved from the west wing of The White House on the morning of July 21, 1993. DRISCOLL did hear rumors several days later about documents being removed from FOSTER's office.

DRISCOLL did know the name of MARGARET WILLIAMS, and was aware that she is the Chief of Staff to the First Lady. CRAIG LIVINGSTONE was known to DRISCOLL as The Chief of White House Security. He was aware that this was a political appointment. DRISCOLL had no information regarding LIVINGSTONE or the possibility that LIVINGSTONE may have removed documents from the west wing of The White House on the morning of July 21, 1993.

DRISCOLL was aware that a USSS guard post was eventually established outside FOSTER's office subsequent to his death on July 20, 1993.

DRISCOLL advised that orange grounds passes for The White House complex allow unescorted access to the Old Executive Office Building only. A blue White House compound pass provides unescorted access to both the Old Executive Office Building and to the west wing of The White House. With each pass, White House staffers are given a personal identification number to be utilized upon entry into the White House complex. This PIN number is in effect for a one year period of time. DRISCOLL did note that if a staffer were allowed automobile access within The White House complex on Old Executive Office Drive, there would be no record of the individual being on The White House grounds.

MATTHEW JOHN DRISCOLL is described from observation and

interview as follows:

Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Home Address:	9482 Scarlet Oak Drive Manassas, VA 22110
Home Telephone Number:	703-368-6634
Work Telephone Number:	202-395-2020

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/18/94

CHARLES C. EASLEY, Security Officer for the Executive Office of the President (EOP), was interviewed at his office in the New Executive Office Building, 725 17th St., N.W., Washington, D.C., (202) 395-6206. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, EASLEY provided the following information:

EASLEY advised that he is Security Officer for the "career side" of the White House personnel. He has held this position since October 1, 1986. He advised that part of his job responsibilities is to monitor the safes in all of the White House offices, including keeping records of their combinations. He advised that the Secret Service used to handle the safes, but they started to use a private contractor and that situation was unacceptable. EASLEY picked up the responsibilities for them in the very beginning of the Bush administration.

EASLEY advised that he works for PATSY THOMASSON with MARY BECK and JOHN KRESMEN (phonetic) in his chain of command in between himself and PATSY THOMASSON. He is not in any way associated with the National Security Council. He advised that he holds the combinations for any safe that he has changed the combination of. He advised that this administration has been somewhat remiss about following procedures for the frequency of changing combinations but conceded that the documents held in these safes are not necessarily classified.

EASLEY advised that he has a general recollection of the time period on and about July 20, 1993 when VINCE FOSTER, JR. committed suicide. He did not have any direct involvement in any of the activities surrounding VINCE FOSTER's death, including the disposition of his office or the safes in the General Counsel's office following his death.

EASLEY advised that there used to be three two-door safes in the General Counsel's office. They were all in what was BERNARD NUSSBAUM's office. There has never been a safe in the secretary's areas or in what was VINCE FOSTER's office. One safe

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stigation on 8/6/94 at Washington, DC File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/9/94

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was removed early in the Clinton administration because everybody seemed to be having problems opening it. BERNARD NUSSBAUM had it taken out.

The Facilities Management Officer, JOHN DAWSON, would have had GSA movers remove it from the office. The Facilities Management Officer himself would have a record of any requests to move a safe out of the office.

EASLEY believes that there are two safes in the General Counsel's office currently. He has not changed the combinations on those safes since VINCE FOSTER's death. LLOYD CUTLER wanted to keep everything the same as it was when FOSTER died. Referring to his records, EASLEY advised that the bar code for both safes in CUTLER's office (formerly BERNARD NUSSBAUM's office) reads February 10, 1993 which was the last time the combinations were changed. He does not know when the previous change was, but guesses it was sometime in the beginning of 1985. Such records are destroyed.

EASLEY said he has had telephone calls from the New York Post and the Washington Post, asking him about safes in the General Counsel's office and he has not answered any of their questions. However, after the Washington Post telephone call, there had been numerous meetings with DEE DEE MYERS, PATSY THOMASSON, WILLIAM KENNEDY, DAVID GERGEN, and DAVID WATKINS, starting in March and April 1994 with regard to passes and other security matters relating to passes. None of these discussions had to do with safes or with VINCE FOSTER's office. One of the incidents that caused some stir was when DEE DEE MYERS said that she had access to classified information without having been granted a clearance. Numerous meetings followed her disclosure of that fact.

With regard to the safes in the Counsel's suite, he advised that these are small, two-door safes, but they are not readily movable, weighing approximately 620 pounds. In order to move such a safe you would need a special dolly and it would be a rather major endeavor that would take several people.

EASLEY said that he is acquainted with CRAIG LIVINGSTONE. Approximately two to three months ago, LIVINGSTONE asked EASLEY, "Did I tell you I had taken a box of something out of VINCE FOSTER's office?" EASLEY said, "No, I don't think so, why?" and LIVINGSTONE proceeding to tell him that somebody from

the Park Police or Secret Service had turned him in for taking a box out of VINCE FOSTER's office. Again approximately a month or so ago, LIVINGSTONE again asked EASLEY if he had asked him whether or not he had told him he had taken a box of something out of the office and said that somebody had "finked on" or "ratted on" him.

As an aside EASLEY said that LIVINGSTONE likes to boast about how important he is and likes to get involved in things other than what other security officers have handled. He said that LIVINGSTONE wanted to be head of the White House military office. He also boasts that his mother knows the First family really well. He claims that HILLARY RODHAM CLINTON is "always stopping him" in the hall and asking him how his mother is.

EASLEY advised that most classified information in the White House comes from either the National Security Council or the Situation Room. He further advised that there is no systematic use of polygraph exams at the White House for security or other reasons. Employees are not required to sign anything giving the White House the right to polygraph them.

As part of the interview, EASLEY provided the following personal information:

DOB:	November 23, 1939
POB:	Portageville, Missouri
SSN:	496-40-0743
Address:	4131 Pinewood Terrace Chesapeake Beach, MD 20732
Position:	Executive Office of the President Security Officer since 10/1/86

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/7/94

On June 6, 1994, MARVIN KRISLOV Assistant Counsel and NEIL EGGLESTON Associate Counsel to the President, both individuals from The White House, appeared at the Office of the Independent Counsel and was interviewed by MARK STEIN of the Office of the Independent Counsel and SA H. ALEXIS SUGGS with regard to a production that The White House had made in response to a subpoena. The production that we asked them about was broken into 4 parts.

Part 1 KRISLOV and EGGLESTON identified (a 3-page item which lists cabinets and their contents and is titled on the first page, "Office of VINCE W. FOSTER, JR." with a 6 at the top of the page) as a document which was located in the files moved by TOM CASTLETON from the West Wing to the Old Executive Office Building. CASTLETON advised them that it came from DEBORAH GORHAM's desk and that the handwriting is CASTLETON's. Neither individual had any idea what pages 1-5 would have been.

Part 2 (an 8-page assortment of typed lists, the first page of which is entitled, "DEBORAH GORHAM's desk" contents:) KRISLOV and EGGLESTON recognized as lists compiled by TOM CASTLETON and confirmed that the description of them in JOEL KLEIN's cover letter was in error. KRISLOV said that they will be different from GORHAM's list of files. They were compiled at the time that the boxes were brought to the Old Executive Office Building sometime mid-November when JOEL KLEIN was moving into FOSTER's office. Each list corresponds to a box which held documents. They therefore do not hold any documents that were given to the CLINTON's private attorney.

Part 3 is a hand-written listing of VINCE FOSTER's working files. KRISLOV and EGGLESTON both confirmed that it was handwritten by STEPHEN NEUWIRTH. They believe it was done shortly after VINCE FOSTER's death.

Part 4 of the production is an 11-page handout with what appears to be computer printout listings of directories. KRISLOV and EGGLESTON explained that these were the indexes of

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Investigation on 6/6/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/7/94

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everything that had been in DEBORAH GORHAM's hard drive as of the time it was downloaded onto floppy disks. The floppy's are maintained in MARVIN KRISLOV's office. KRISLOV advised that nothing has been erased from the directories and that the check marks on the list correspond to documents which were printed into hard copies so that people could continue working with them.

At the conclusion of the interview, MARK STEIN advised KRISLOV and EGGLESTON that the Office of the Independent Counsel wanted hard copies of select documents from part 4, disks 4 and 5. KRISLOV and EGGLESTON agreed to produce the requested documents as soon as possible, meaning the next day or so.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

NEIL EGGLESTON, Associate White House Counsel, telephonically contacted the interviewing agent from EGGLESTON's office in the White House, where his telephone number is (202) 456-7901. EGGLESTON placed the call in response to an inquiry from the interviewing agent regarding records of a blood pressure check obtained by VINCENT W. FOSTER, Jr. on July 16, 1993. After being advised of the official identity of the interviewing agent, EGGLESTON provided the following information:

EGGLESTON was assigned to follow up on the matter of the blood pressure check by JOEL KLEIN, Deputy Counsel to the President. EGGLESTON obtained from KLEIN a copy of a document which reflected that FOSTER's blood pressure was checked at the White House Medical Unit on July 16, 1993. Using the document, EGGLESTON went to the Medical Unit in the Old Executive Office Building and displayed the document in an effort to identify its author. DEBBIE BEATTY, a nurse in the Medical Unit, recognized the handwriting on the document as her own.

BEATTY advised EGGLESTON that she had no recollection of measuring FOSTER's blood pressure. She reviewed the records maintained within her office and found no record of FOSTER visiting the office on July 16, 1993 or any other date. BEATTY advised EGGLESTON that each instance of a patient visiting the office is normally recorded in her office's computerized record-keeping system so that the Medical Unit can compile statistics on the number of patients treated. While BEATTY could not provide a specific reason why her office had no record of a visit by FOSTER, she offered one possible explanation. According to BEATTY, her office is frequently visited by White House employees whose physicians have directed them to have their blood pressures measured periodically. These employees usually bring forms provided by their personal physicians, and the Medical Unit staff will normally record the blood pressure readings on these forms, which are them turned over to the personal physicians by their patients. In such instances, no record of the office visit is made by the Medical Unit staff. If a patient comes in for a blood pressure check but does not have a form from the personal

(telephonically)

Investigation on 6/22/94 at Washington, D.C. File # 29D-LR-35063 JIM BELL

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 6/23/94

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physician, then the staff will normally record the reading on a form like the form shown to BEATTY by EGGLESTON. In these instances as well, the Medical Unit would not necessarily generate a record of a patient visit, usually due to the press of time and the number of other patients awaiting treatment.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/94

JEFF L. ELLER, Director for Media Affairs at The White House, work number 202-456-5650, home address 140D Kentucky Avenue, SE, Washington, DC, residence phone 202-544-4662 was interviewed at his office in the Old Executive Office Building Number 170. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, ELLER provided the following information:

ELLER advised that he was at home on the evening of July 20, 1993 when he received a telephone call notifying him of the death of VINCE FOSTER, JR. He said that he came into The White House in response to the call and estimated his time of arrival between 10:00 and 11:00 pm. He first went to MARK GEARAN's office in the west wing. Having learned that the President had already left The White House to go to the FOSTER residence and anticipating that there may be press presence at the residence as well, ELLER had a White House driver and car drive him to the FOSTER residence. ELLER was unaccompanied except for the driver of the vehicle (a log of who signs out cars may provide the exact time of departure and arrival back to The White House if that is necessary.)

ELLER advised that on the way to the FOSTER residence he was in telephonic contact with CRAIG LIVINGSTONE who was in another vehicle. They were both trying to find their way in unfamiliar neighborhoods in order to find FOSTER's residence. They arrived at FOSTER's residence at approximately the same time and parked near one another. ELLER said that he himself was only there about 30 minutes during the time that the President was there. His only focus and reason for being there was to deal with the press in case the press found out that the President was there and converged on the area. He estimated his time at the residence as being approximately 11:00 to 11:30 pm. As soon as the President left ELLER returned to The White House going first go GEARAN's office and then over to his own office in the Old Executive Office Building. He stayed there for a while reading press clippings and went home sometime between 1:00 and 2:00 am on the morning hours of 7/21/93.

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vestigation on 8/2/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/2/94

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ELLER advised that he did not have any conversations that he can recall with CRAIG LIVINGSTONE while at the residence the night of July 20 nor with anybody else. He remembers standing alone. He doesn't remember any conversations with anybody about potential press problems the following day at the FOSTER residence.

ELLER advised that his usual time of arrival at The White House is between 6:45 and 7:00 in the morning. He does not recall specifically what time he arrived on July 21, 1993 but advised that his normal routine was to pick up DAVID DREYER who lives very close to him, drive into The White House, check into his office at the Old Executive Office Building and read press clippings until the 7:30 staff meeting which is held in the West Wing Communications Office. The duration of that 7:30 meeting varies depending upon what is going on in the world and at The White House. It is not uncommon for him to remain in the West Wing Press Office for a little while after and talk with people, so he may have been over in the Press Office around 8:00 that morning. He does not, however, recall any telephone calls from anybody at the FOSTER residence or any telephone calls concerning the issue of the press presence at the FOSTER residence. He also does not recall if that issue was discussed during 7:30 staff meeting.

ELLER advised that he and his staff manages contacts with local and state reporters who do not normally cover The White House everyday. That does not include reporters located in the District of Columbia itself. He advised that assigning somebody to go out to the FOSTER residence to deal with the press was not something he would have been responsible for. He went to the Foster residence the night before only because it needed to be covered and not because it was part of his normal job responsibilities. It also would not be an area of responsibility that he would have carried through to the next day. In any case, he knows that he did not participate in any assignment of that nature, either himself nor did he delegate anyone of his staff to do an errand of that nature. He would have remembered it if he had. He also has no knowledge of anyone else having responsibility for such a task.

ELLER advised that an individual named LARRY SAMPAS handles the overnight shift in the Office of Communications which ends at 7:30 in the morning and supervises the printing and assembly of The White House press clippings that is done during

the overnight shift. They are rarely printed before 7:00 am but occasionally they are. When finished, the stacks of legal sized white colored press clippings are distributed throughout The White House. ELLER does not remember their ever being put in binders and cannot recall their ever being carried around in boxes. It is sometimes a two person job to distribute them. The West Wing receives them first. If two people are doing the distribution at least one has to have a blue pass which allows free access back and forth between The White House and the Old Executive Office Building.

ELLER advised that SAMPAS first started at The White House in January, 1993 as a volunteer who was unpaid. He had to leave for a paying job but returned at a later time. ELLER was not able to recall whether or not SAMPAS was at The White House in July, 1993. ELLER also advised that he does not keep a list of the interns who served in his own office in July, 1993.

ELLER recalls seeing MARK GEARAN, RICKI SIEDMAN, DAVID GERGAN and DEE DEE MYERS the night of July 20, 1993, at The White House. He does not recall seeing MAGGIE WILLIAMS nor PATSY THOMASSON nor SUSAN THOMASES.

ELLER advised that there are approximately three individuals who work for the Presidential Protective Detail (PPD) who bear a reasonable physical resemblence to CRAIG LIVINGSTONE. The PPD office is in W16 in the west wing of The White House and he knows they have a spread of photographs of each individual. ELLER advised that shifts of these individuals change sometime around 6:30 - 7:00 am and there is a good deal of movement of these individuals in the West Wing of The White House and elsewhere at that time. He did not know what other offices in the West Wing or the OEOB normally have activities very early in the morning. The Press Office is generally the most active office at that time of the morning. He said that the Office of Management and Administration (DAVID WATKINS old office) was not generally up and running early in the morning.

As part of the interview, ELLER provided the following personal information:

Name:	JEFF L. ELLER
Position:	Director of Media Affairs at The White House
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)

Place of Birth: FOIA(b)(6) FOIA(b)(7) - (C)
Social Security Number:
Local Address: 140B Kentucky Avenue, SE
Washington, DC
Residence telephone: 202-544-4662

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 11/7/94

JOHN B. EMERSON, Deputy Director of White House personnel, was interviewed at the Office of the Independent Counsel. EMERSON's work telephone number is 202-456-7953. He was told of the identities of the interviewers and nature of the interview.

EMERSON first met VINCENT FOSTER after the presidential inauguration on January 20, 1993. EMERSON had recently moved from California to Washington, DC and was alone. DEB COYLE and BRUCE LINDSEY, EMERSON's superior, would arrange social occasions such as dinners for the new people at The White House, especially those from Arkansas. EMERSON would talk to FOSTER at these events as well as at work. KIMBERLY MARTEAU, EMERSON's wife, also attended these functions when she moved to Washington in late April or early May 1993.

EMERSON said he spoke to VINCE FOSTER on Monday, July 19, 1993 as well as on the day of FOSTER's death, July 20th. EMERSON related that he saw FOSTER on Monday at the regularly scheduled Department Deputy's meeting. FOSTER appeared, in EMERSON's words, "lackluster." EMERSON next saw FOSTER on July 20 at lunch time. EMERSON, whose office at the time was on the first floor of The White House west wing, walked to FOSTER's office on the second floor of the west wing to ask FOSTER a question. FOSTER was eating lunch and, in EMERSON's words, "really looked down." EMERSON commented on that and FOSTER told him about "how tough things were" and about having a fun weekend with his friends, the HUBBELL's, on the Eastern Shore. FOSTER mentioned a recent editorial that appeared in the Wall Street Journal that was critical of him. EMERSON said FOSTER seemed to "shrug it off" and said he realized the importance of getting out of town "to clear your head." EMERSON agreed, asked his question and returned to his office.

That night, at about 10:30 pm, EMERSON received a telephone call at his home from BRUCE LINDSEY. LINDSEY told EMERSON that VINCE FOSTER was dead, and that it appeared to be a suicide. EMERSON hung up the phone and he and his wife, KIMBERLY

MARTEAU, drove to The White House. They wanted to be with people they knew both to receive and provide comfort and consolation. They arrived around 11:00 pm and went to BRUCE LINDSEY's office on the first floor of the west wing. EMERSON recalled seeing DEB COYLE, BRUCE LINDSEY, BILL BURTON, CHERYL MILLS, DANA LAWRENCE and possibly MARK GEARAN. BRUCE LINDSEY made many phone calls to notify people about the death. EMERSON and MARTEAU remained in LINDSEY's office or in the hallway outside it until they exited The White House at about 1:00 am.

EMERSON said he never heard any conversation about FOSTER's office, papers, etc. Most conversation was in shocked and grieving tones. EMERSON pointed out that he stayed on the first floor, while FOSTER's office was on the second floor. EMERSON was not able to see the elevator or stairs to the second floor. Most people at The White House that evening left at about the time EMERSON did.

The next day, July 21, 1993, EMERSON arrived at work shortly before a senior staff meeting at 8:00 am. He noted everyone was depressed and dazed. He doesn't recall many details about that day. Later he recalled, a meeting was called for the entire staff in room 450 of the Old Executive Office Building. President CLINTON, Chief of Staff MCLARTY and Counsel NUSSBAUM spoke.

EMERSON said he was not coached, or told what to say to investigators. He never heard anyone give directions about FOSTER's office, documents or belongings.

Name:	JOHN B. EMERSON
Date of Birth (DOB):	FOIA(b)(6)
Social Security Account Number (SSAN):	FOIA(b)(7) - (C)

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/5/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 5/5/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 5/5/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

Supervisory Special Agent (SSA) [FOIA(b)(7) - (C)] Federal Bureau of Investigation (FBI), was interviewed regarding her recollection of the number of United States Park Police (USPP) investigative reports received by the FBI, related to the investigation into the death of VINCENT W. FOSTER, Jr. After being advised of the identity of the interviewing agent and the nature of the interview, [redacted] thereafter provided the following information:

[redacted] received a copy of the USPP report from Captain CHARLES HUME, USPP, on February 3, 1994. [redacted] provided a copy of that report to Special Prosecutor ROBERT FISKE, Deputy Special Prosecutor RODERICK LANKLER, FBI Special Agent DANA M. GILLIS, and FBI SSA [redacted] still has custody of one copy of the USPP report. Her report is maintained in a locked file cabinet with limited access.

No further information of investigative value was provided.

(telephonically)

nvestigation on 6/8/93 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS/DMG:sla Date dictated 6/9/94

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/1/95

JOE ERRERA, Supervisory Special Agent, FBI Laboratory, DNA unit; (202) 324-4364, was advised of the identity of the interviewing agent and the purpose for the interview. ERRERA provided the following information:

ERRERA examined the underwear of VINCENT W. FOSTER. One of the examinations that ERRERA conducted was for semen. ERRERA stated that this is not a routine exam, and that he was simply attempting to isolate any DNA material that was foreign to the decedent.

ERRERA located a three to four inch semen stain on the inside front of the decedent's underwear. ERRERA also located a small unconfirmed blood smear on the right front of the underwear. ERRERA stated that it is his opinion that the stain is a blood stain, as the stain did not test positive for blood. ERRERA stated that this stain is attributable to through-the-pants seepage, or handling of the body.

The semen stain could have survived laundry, but that is unlikely due to the condition of the underwear. ERRERA stated that the underwear contained an amount of starch, which indicates that the underwear was fresh, as well as the solubility of the stain, which was difficult to isolate from the underwear due to the amount of starch. Additionally, the semen stain would have been more degraded if it had passed through the laundry. ERRERA stated that the stain was consistent with after laundering.

ERRERA stated that the stain was probably due to spontaneous ejaculation resulting from the nature of the wound; the decedent died of a head wound. However, ERRERA stated that the pathologist would need to confirm this.

ERRERA stated that he did not test the underwear for urine, but observed a yellowish stain on the underwear which was consistent with urine.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/26/94

MELISSA FAITH EVANTASH was contacted telephonically at her residence, 407 Conshohocken State Road, Bala Cynwyd, Pennsylvania 19004, telephone number (610) 664-4393. EVANTASH was born on [redacted] and her Social Security Account Number is [redacted] After being advised of the official identity of the interviewing agent and the nature of the interview, EVANTASH provided the following information:

FOIA(b)(6)
FOIA(b)(7) - (C)

EVANTASH was an intern in the Office of Personnel Security at the White House from February 1993 through February 1994. During this same time period, EVANTASH was an undergraduate student at George Washington University (GWU) in Washington, D,C. EVANTASH is currently an undergraduate student at Georgetown University in Washington, D.C. and will begin her senior year of studies in September 1994.

EVANTASH does not recall any specific details about her activities on July 20, 1993, which was the date of the death of Deputy White House Counsel VINCENT W. FOSTER, Jr. EVANTASH worked at the White House on both July 20 and 21, 1993 and she probably arrived there on both these dates at her typical starting time of 9:30 a.m. She does not recall arriving at work earlier than usual on these dates. Although EVANTASH never met FOSTER, she recalls that people who knew FOSTER were very sad once news of his death spread.

EVANTASH performed a variety of tasks at the Office of Personnel Security, including such duties as typing, filing and working on specific projects. EVANTASH typed a large number of memoranda during her work at the White House but she has "no clue" whether she typed or read a memorandum bearing a chronology of the activities of CRAIG LIVINGSTONE on and about July 21, 1993. LIVINGSTONE's requests for typing of memoranda and other documents were typically distributed to various members of the staff at the Office of Personnel Security. Any documents containing information of a more sensitive nature would have been typed by LIVINGSTONE's assistant, MARI ANDERSON.

(telephonically)

Investigation on 7/6/94 at Washington, D.C. File # 29D-LR-35063-Sub 17- Jim Bell

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 7/6/94

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One of EVANTASH's fellow interns, LUIS COLON, is a native of Puerto Rico and he may have already returned there from Washington, D.C. COLON will begin attending law school in Puerto Rico in the fall of 1994.

ANTHONY AOUDE, another fellow intern, is president of a student organization, whose name EVANTASH cannot recall, at GWU in Washington, D.C. EVANTASH believes that AOUDE can be located easily by contacting the office of the registrar at GWU.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/25/94

On March 21, 1994, Supervisory Special Agent (SSA) WILLIAM E. COLOMBELL and Resident Agent (RA), [redacted] FOIA(b)(7) - (C) FEDERAL BUREAU OF INVESTIGATION (FBI), took custody of the below listed items of evidence relating to the U.S. Park Police investigation of the death of VINCENT FOSTER on July 20, 1993.

The list is as follows:

ITEM #	DESCRIPTION
1.	Colt, Army Special, 38 cal. 6 shot, 4", revolver serial #356555 (355055) with paper bag
2.	1 round 38 cal. r-p 38spl HV
3.	1 casing 38 cal. r-p 38spl HV
4.	1 pair eyeglasses
10.	Black colored suit jacket
11.	Blue silk tie
13.	Miscellaneous papers
14.	Key ring marked Cook Jeep sales with keys
16.	White long sleeved shirt
17.	White T-Shirt
18.	White boxer shorts
19.	Blue grey colored pants with black belt
20.	Pair black colored socks
21.	1 pair black colored dress shoes, size 11 Medium

stigation on 3/21/94 at Washington, D.C. File # WMFO 29D-LR-35063

by [redacted] and SSA WILLIAM E. COLOMBELL WEC:jfw Date dictated 3/21/94

OPA OIC Sub 17

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22. Lock seal envelope containing pulled head hairs

23. Washington D.C. map

24. 2 pairs of sunglasses

25. Birthday card

26. Piece of white paper with red writing

27. Box of 4 checkbooks

28. Insurance ID card

29. 1 Sierra Nevada Pale Bock Malt Liquor 12oz.

30. 1 Miller Lite beer 12 oz. (empty)

31. 1 empty pack Marlboro Lights cigarettes

32. 8 oz. bottle of Kaopectate

33. Corkscrew (CLOS DU BOIS)

34. Contents of front ashtray

35. White legal envelope "White House" return, containing pieces of torn note.

36. Vial of whole blood.

37. Brown paper, original around revolver

38. Brown paper on which clothes were dried

39. Negatives of film used at crime scene
Film (photos) taken by Officer SIMONELLO

F

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/1/94

RODGER L. FIRESTONE, Jr. was interviewed in a conference room at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. FIRESTONE is a sergeant with the United States Secret Service (USSS), Uniform Division, White House Branch. After being advised of the official identities of the interviewing agents and the nature of the interview, FIRESTONE provided the following information:

FIRESTONE is currently a supervisor in the K-9 section of the USSS Uniform Division. On July 20, 1993, which was the date of the death of Deputy White House Counsel VINCENT W. FOSTER, Jr., FIRESTONE worked a shift from 2:00 p.m. to 10:00 p.m. in the USSS Control Center.

At the outset of the interview, FIRESTONE was asked to review a single sheet of paper labeled an "on-line activity report" which is a log that reflects intrusion detection events in the office suite of White House Counsel BERNARD NUSSBAUM on July 20 and 21, 1993. After FIRESTONE reviewed the document, the interview continued.

The log reflects that on July 20, 1993 at 2004 hours (8:04 p.m.), the alarm in the White House Counsel's Office suite, which had been in "access" mode, i.e., employees were free to move about the suite as during the business day, was placed into alarm mode by an individual named CASTLETON. FIRESTONE believes that the intrusion alarm for the suite was in access mode just prior to CASTLETON departing the suite. When CASTLETON was preparing to leave the suite, he apparently called the USSS Control Center and told the officer who answered the telephone that he was leaving the suite. FIRESTONE surmises that one of two events probably then occurred: either CASTLETON did not leave the suite immediately or the officer in the USSS Control Center immediately set up (turned on) the alarm for the suite, i.e. immediately after CASTLETON hung up the telephone but before CASTLETON had an opportunity to depart the suite. As a result, when CASTLETON left the suite, the alarm was triggered, sending a

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signal to the USSS Control Center and causing an entry to be generated on the log about the alarm.

Between the hours of 8:04 p.m. and 9:14 p.m. on July 20, 1993, the White House Counsel's Office suite was not protected by the alarm system because the alarm had already been triggered when CASTLETON departed. Since the alarm remained triggered during this seventy (70) minute period, any authorized entries or unauthorized intrusions into the suite during that period would not have been detected by the alarm system.

FIRESTONE has no direct knowledge regarding the actions of the officer monitoring the alarm board at the USSS Control Center on the night of July 20, 1993. However, based on his review of the log and his knowledge of how the USSS Control Center operates, FIRESTONE offered the following description of how events may have transpired in relation to the alarm at 8:04 p.m. on that date:

The officer monitoring the alarm board at the USSS Control Center received the signal that the alarm at the White House Counsel's Office suite had been triggered at 8:04 p.m. Knowing that CASTLETON had just called the USSS Control Center to report that he was about to depart the suite, the monitoring officer assumed the signal reflecting an activated alarm in the suite was a malfunction caused by CASTLETON failing to set up the alarm properly. No USSS officer was sent to the suite because such malfunctions are quite common, with one or more sometimes occurring per shift. Since the USSS officers' shift ended at 10:00 p.m., the officer monitoring the alarm board probably began to check the alarm board at approximately 9:00 p.m. so that he could turn over the board to the officer relieving him without any unresolved matters. At or about 9:14 p.m., the officer monitoring the alarm board observed that the alarm in the White House Counsel's Office suite was still activated from the event at 8:04 p.m. Therefore, at 9:14 p.m. the officer monitoring the alarm board was able to reset the alarm in the suite from his remote location in the USSS Control Center.

The audible alert sound on the alarm board, which is designed to alert the monitoring officer that an alarm has been triggered, may have been silenced inadvertently by the monitoring officer during the course of his work. If the audible alert were silenced, the screen monitored by the officer at the alarm board would have shown the phrase "acknowledged time out."

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/1/94

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The audible alert sound on the alarm board, which is designed to alert the monitoring officer that an alarm has been triggered, may have been silenced inadvertently by the monitoring officer during the course of his work. If the audible alert were silenced, the screen monitored by the officer at the alarm board would have shown the phrase "acknowledged time out."

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/4/94

RODGER L. FIRESTONE, JR. was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, NW, Suite 490 North, Washington, D.C. (WDC). FIRESTONE is a Sergeant with the United States Secret Service (USSS), Uniformed Division, White House Branch. After being advised of the identities of the interviewing agents and the purpose of the interview, FIRESTONE thereafter provided the following information:

On July 20, 1993, FIRESTONE was assigned as the Control Center Supervisor, in the Old Executive Office Building. In this capacity, FIRESTONE oversaw operations of the shift to which he was assigned. The shift was composed of four other USSS officers. These officers were responsible for maintaining White House compound alarms, setting up of protective details, and scheduling. FIRESTONE worked a 2:00 pm to 10:00 pm shift on July 20, 1993, the date of the death of Deputy White House Counsel VINCENT W. FOSTER, JR.

FIRESTONE had no specific recollection regarding any activities related to the death of FOSTER. Control Center personnel may have first become aware of FOSTER's death through the monitoring of network television sets carrying network programming within the Control Center. He could not recall if the announcement of FOSTER's death was part of a network or local television newscast. FIRESTONE recalls receiving no special instructions with regard to the handling of FOSTER's death. According to FIRESTONE there was no official White House notification of FOSTER'S death while he was on duty on the evening of July 20, 1993.

FIRESTONE did not know VINCENT W. FOSTER, JR. Officers working with him in the Control Center may have recognized FOSTER's name. FIRESTONE noted that the USSS Control Center is in a separate building from the Office of the Counsel to the President, the office in which VINCENT FOSTER worked.

According to FIRESTONE, when an individual departs an area containing an alarm, the individual would call into the

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Investigation on 7/20/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS:DMG\sla Date dictated 8/3/94

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Control Center within a two minute time period of the alarm being tripped. If no one calls the Control Center after an alarm indication has been received, a USSS officer would be sent to investigate the location of the alarm. If an unauthorized person was entering the scene or an area is unsecure, a security violation form is filled out (SSF-2046). FIRESTONE had no recollection of an alarm going off on the evening of July 20, 1993. FIRESTONE advised that copies of form SSF-2046 are maintained for past and current years by the USSS. Previous years are maintained in a central filing system.

FIRESTONE was not aware of any cameras being located within the Counsel's office suite at The White House.

FIRESTONE had no knowledge of documents being removed from the Counsel's office suite on the evening of July 20, 1993. His only knowledge of documents possibly being removed from FOSTER's office is from news reports. He had no knowledge of any documents being moved from either FOSTER's office or subsequently being moved from the west wing of The White House on the morning of July 21, 1993.

FIRESTONE did not know MARGARET WILLIAMS, Chief of Staff to the First Lady. CRAIG LIVINGSTONE was somewhat familiar to FIRESTONE. LIVINGSTONE may have had an office in the west wing of The White House.

Subsequent to the death of VINCENT FOSTER, JR., FIRESTONE was aware that a USSS post was set up outside FOSTER's office. Officer PHILLIPS, was one of the Officers assigned to that post.

RODGER L. FIRESTONE, JR. is described from observation in interview as follows:

Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Work Telephone Number:	(202) 395-4342

FIRESTONE does not recall which officer was monitoring the alarm board in the USSS Control Center on the night of July 20, 1993. Although there may be USSS records which reflect the name of the officer assigned to monitor the alarm board that night, these records would only reflect the assignments which were made and not necessarily the assignments actually worked by the officers that night.

FIRESTONE knows of no documents or reports, other than the log shown to him by the interviewing agents, which would have been generated regarding the fact that the alarm system was not functioning to detect intrusions at the White House Counsel's Office suite between 8:04 p.m. and 9:14 p.m. on July 20, 1993.

Based on observation and interview, FIRESTONE is described as follows:

Name:	RODGER L. FIRESTONE, Jr.
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Work Telephone:	(202) 395-4342

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/5/94

Donald A. Flynn, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service, (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. ASAC Flynn was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for 12 years and is currently in charge of USSS agent liaison with the Uniform Division of USSS concerning security matters at The White House. He has been in his current position for approximately two and one half years and was so employed at the time of Vincent Foster, Jr.'s death on July 20, 1993. His office is located in the Old Executive Office Building, Room 150 and his telephone number is 202-456-2443.

On the evening of July 20, 1993, he was contacted at his residence and informed of Vincent Foster's apparent suicide. On the morning of July 21, he was on duty at The White House when he was telephonically contacted by the USSS Director's Office at approximately 10-10:30 am. Linda Tripp, a Special Assistant to White House Counsel, Bernard Nussbaum, had contacted the USSS Director's Office on behalf of Mr. Nussbaum requesting that USSS provide appropriate means to secure Vincent Foster's office. ASAC Flynn proceeded immediately to Bernard Nussbaum's office where he spoke with Ms. Tripp and Mr. Nussbaum and was told that an investigation would shortly be underway regarding Mr. Foster's death and that he should "seal this office". ASAC Flynn looked into Foster's office, saw no one and positioned himself at a point in the Counsel reception area that allowed him a view of the entrances of both Nussbaum and Foster's offices. He thereafter telephonically requested sufficient uniformed USSS personnel to establish an hour-by-hour watch on Mr. Foster's office door. He assumed that these watch shifts would continue indefinitely until USSS was advised that they were no longer necessary. USSS Officer, Michelle Macon, took over this newly established guard post at approximately 11 am and ASAC Flynn left the area. Prior to leaving, however, he explained to Macon and

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instructed her to explain to subsequent officers relieving her that it would be necessary for them to make note of anyone entering Foster's office and to ascertain why they were so entering. ASAC Flynn was shown a copy of a handwritten document captioned "log of persons entering Mr. Foster's office" with entries for July 21, 1993 and July 22, 1993. He advised that this is a copy of the handwritten log that he kept with entries given to him by various USSS employees who were on duty at the entrance to Foster's office. ASAC Flynn stated that other than this temporary log, USSS also has, for years, maintained an on-going log showing access to the Presidential Counsel suite of offices before and after normal working hours. Since the door to the Presidential Counsel suite is alarmed and monitored by a 24-hour a day USSS center, the first person entering this space in the early morning and the last person leaving this space in the late evening are required to check in with the USSS monitoring center. ASAC Flynn stated that USSS Inspector, Dennis Martin, could make available copies of this alarm log for pertinent dates.

ASAC Flynn said that shortly after positioning a uniformed USSS officer outside Foster's door, he briefed the USSS Director on requests made of USSS and actions taken to that point. During that conversation he was advised that USSS and Department of Justice (DOJ) officials had discussed the possibility of putting a lock on Foster's door to seal it for investigation.

At approximately 1:00 pm Captain Hume and Detective Pete Markland of the United States Park Police and Special Agent (SA) Scott Salter and SA John Danna of the Federal Bureau of Investigation (FBI) came to USSS Inspector Dennis Martin's office. They had come to The White House for the purpose of searching Foster's office but apparently did not believe that they, at that time, had proper authorization to conduct the search. A lengthy series of telephone calls ensued to Park Police and FBI officials seeking this authority and at approximately 4:30-5:00 pm two DOJ attorneys, David Margolis and Roger Adams, arrived at the west wing lobby of The White House to join this group. ASAC Flynn escorted the four Law Enforcement Officials and two DOJ attorneys to the office of Bernard Nussbaum at approximately 5 pm where they met Mr. Nussbaum, Cliff Sloan, Steve Neuwirth and James Hamilton who was identified as the Foster family's attorney. ASAC Flynn noted that a USSS uniformed officer was on duty outside the door to Foster's office when they

arrived.

Once the group was inside Mr. Nussbaum's office, a meeting took place that involved considerable conversation as to how and when a search/inventory of Foster's office would take place in an attempt to find any indication as to why Foster may have committed suicide. During this meeting Mr. Nussbaum said that he, Maggie Williams and Patsy Thomasson had been in Foster's office during the evening of July 20, following his death. He also mentioned that he (Nussbaum) and his secretary, Betsy Pond had been in Foster's office during the morning hours of July 21. After considerable conversation regarding a potential search for a "suicide note" in Foster's office, Flynn recalled a telephone call being made to Phil Heyman at the Department of Justice. During this telephone call the DOJ and Nussbaum apparently agreed that a search of Foster's office would take place on July 22. Mr. Nussbaum also said to the group that a lock was to be placed on Foster's office following the July 21 meeting. The meeting then broke up with the attendees agreeing to meet in Nussbaum's office the next afternoon to conduct the search/inventory.

ASAC Flynn stated that when the meeting was over he began making telephone calls to arrange to have a lock placed on Foster's door. During these conversations he learned that USSS Technical employees Roger Kammerdiner and John Wills had at approximately 4-5:00 pm come by Foster's office to survey the door for the purpose of determining what type of lock would best secure it. USSS Security Specialist, Kevin Robbins and a USSS contract employee, Kenneth Blair arrived at Foster's office at approximately 8 pm where they met with ASAC Flynn and began installing the lock. ASAC Flynn dismissed the USSS uniformed officer from the Foster post at approximately 8 pm. The lock installation and door alterations were accomplished by approximately 10:30 pm at which time ASAC Flynn and all USSS personnel departed the 2nd floor of The White House west wing. ASAC Flynn advised that the lock that was placed on Foster's door was property of the USSS and was a unique lock in that it had only one master key and one copy rather than being a series key lock. ASAC Flynn explained that most locks that are placed on doors have a series key and that anyone having a copy within the series, which is relatively easy to obtain, could open the lock. When ASAC Flynn and the other USSS personnel departed the 2nd floor that night, Flynn had the master key and only copy to the lock in his possession.

At approximately 1 pm on July 22, 1993, a group of men met in the office of Bernard Nussbaum, as previously agreed, for the purpose of searching/inventorying Foster's office. ASAC Flynn described the group as: Mr. Nussbaum, Steve Neuwirth, Cliff Sloan, and Bill Burton, all members of The White House staff; Michael Spafford, an attorney representing the Foster family; David Margolis and Roger Adams, DOJ attorneys; Captain Charles Hume and Detective Pete Markland, U.S. Park Police; SAs Scott Salter and Dennis Condon, FBI; and ASAC Paul Imbordino and himself (Flynn). At approximately 1:15 pm Flynn unlocked the door to Foster's office and the group entered. Bernard Nussbaum sat at Foster's desk with Burton, Neuwirth and Sloan all behind Foster's desk. The remainder of the group either sat or stood in front of Foster's desk. Nussbaum then proceeded to go through Foster's desk, his brief case, and papers on the top of his desk and various papers and binders in a filing cabinet and book shelves. In the process of going through these documents, Nussbaum was placing them in 3 stacks: personal items, items of privileged information relating to President and Mrs. Clinton, and White House related papers. Throughout this process Nussbaum generally decided which stack each document went in to, but from time to time Burton, Neuwirth, or Sloan would look at a document and whisper advice to Nussbaum. At no time were the law enforcement officials or DOJ attorneys present allowed to peruse the documents. There seemed to a general understanding that the purpose of this search was to hopefully find a suicide note or other items that would indicate why Foster may have committed suicide. The sorted items were placed in cardboard boxes with the items in the "personal" stack given to Michael Spafford for the Foster family. At the conclusion of this meeting, Mr. Nussbaum advised ASAC Flynn that there was no further need to secure the Foster office. He asked for and was given the keys to Foster's office. At 2:49 pm the search of Foster's office ended and everyone exited the Foster office. ASAC Flynn stated that while he does not recall anything specific being said during or after the meeting, regarding the method of the search, the Park Police Law Enforcement personnel present appeared surprised and displeased at the way the search had been conducted and that they were not given any material located during the search.

ASAC Flynn stated that he did not know Foster prior to his death and that he has not been in the Foster office since the "search" ended on July 22, 1993. He further stated that to the best of his knowledge, the USSS has not been asked to further secure Foster or Nussbaum's offices since July 22, 1993.

ASAC Flynn was specifically asked if there was a safe or safe-type cabinet in Foster's office. He stated that he does not recall seeing one and does not believe that there was a safe in the office.

COMMUNICATION RECC

Subject: Log of Persons entering Mr Foster's Office

Call to / Company / Address / Phone #

Date	Time	Doc	Phone Call	Letter	Meeting	Fax	Other

Wednesday July 21st 1993

11:10A MR Nussbaum Received a small B&W photo (Ofc. Mlecm)

4:34P Cliff Sloan, To Replace a bag of trash previously taken from Mr. Foster's Trash Can (Ofc. Cheney)

8:02P Kevin Robbins, Kenneth Bloom, To Place the Lock on the door to Foster's Office. (Sgt Flynn)

10:32P Lock installed, Door Secured by Flynn

Thursday July 22nd 1993

1:15P MR Nussbaum, Steve Neuwirth, Cliff Sloan, Bill Burton, Michael Stafford, David Margolis, Roger Adams, Capt Charles Hume, Pete MacKland, Scott Sabler, Dennis Condon, Paul Imbordino, Dan Flynn.

2:49P Discontinued Security for day, Keys given to Mr. Nussbaum by Flynn.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/17/94

Donald A. Flynn, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service, (USSS) was contacted in his office. ASAC Flynn, having previously been advised as to the official identity of the interviewing agent and the nature of the interview provided the following information:

At approximately 10:30 pm on the evening of July 21, 1993, USSS Security Specialist, Kevin Robbins and a USSS contract employee, Kenneth Blair completed the installation of a deadbolt lock on the door of Vincent Foster's office. ASAC Flynn had remained throughout the installation process, had supervised same, and was given the only two keys to this lock upon the completion of its installation. Flynn said that he locked the door and that he, Robbins, and Blair all left the suite at approximately 10:30 pm and went home. He said that he does not recall moving the alarm switch in Foster's office into the "secure" position, thus activating the alarm for the Nussbaum/Foster suite, prior to leaving. He further advised that he does not believe that he did place this alarm in an active mode and he does not recall making any telephone calls to the USSS White House Control Center to advise them that he, Robbins and Blair were leaving the suite for the evening. He said that this would explain why a USSS Control Center test on the suite's alarm system at 11:20 pm on July 21 (as reflected on USSS alarm control log) showed the suite's alarm system in an "access" mode.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/8/94

Inspector PATRICK J. FORAN Federal Bureau of Investigation, was interviewed regarding his recollection of the number of United States Park Police (USPP) investigative reports received by the FBI regarding the investigation into the death of VINCENT W. FOSTER, JR. After being advised of the identity of the interviewing agent and the nature of the interview, FORAN thereafter provided the following information:

FORAN recalls reviewing one copy of the USPP report related to the investigation of the death of FOSTER. FORAN did not make any copies of the Park Police report. He was not aware of whether or not anyone else within the FBI made a copy of the Park Police report. After FORAN reviewed the Park Police report, it was then sent to FBI Headquarters investigative files.

FORAN thought that DAVID MARGOLIS, of the United States Department of Justice (DOJ), might be a point of contact regarding the number of copies of the USPP report that was provided to DOJ. Another individual who may be able to provide information regarding the number of USPP reports provided to DOJ might be ROGER ADAMS. ADAMS serves as an assistant to MARGOLIS.

No further information of investigative value was provided.

Investigation on 6/6/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by SA DANA M. GILLIS:DMG/sla Date dictated 6/6/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

ELIZABETH BRADEN FOSTER was interviewed in the offices of her attorney, JAMES HAMILTON, who is associated with the law firm of Swidler & Berlin, 3000 K Street, N.W., Washington, D.C. ELIZABETH FOSTER, who is also known as LISA FOSTER, is the widow of VINCENT W. FOSTER, JR., former Deputy Counsel to the President, who will be referred to as FOSTER in the remainder of this report of interview. Also participating in the interview of LISA FOSTER was RODERICK C. LANKLER, Deputy Counsel, Office of the Independent Counsel, Washington, D.C. After LISA FOSTER was advised of the identities of the interviewing agents and the nature of the interview, she furnished the following information:

LISA FOSTER arrived in Washington, D.C. to set up a permanent residence for her family on June 5, 1993. After her arrival, she and FOSTER went jogging along Rock Creek Parkway in the vicinity of Dumbarton Oaks. FOSTER appeared to LISA FOSTER to be jogging at his normal pace that day. After they finished jogging, LISA FOSTER and FOSTER went to a small neighborhood store, purchased orange juice and bagels, and went home and had breakfast. LISA FOSTER recalls that day as being a day of fun and one of their best days together in recent times.

When LISA FOSTER and FOSTER still lived in Arkansas, FOSTER used to jog approximately three to four times per week. LISA FOSTER also began to play tennis at that time. LISA FOSTER and FOSTER would frequently go to a nearby track where each of them would jog at his or her own pace.

When LISA FOSTER saw FOSTER after she arrived in Washington, D.C., she believed that he appeared awful. She believed that most of the weight which FOSTER had lost by that time had been lost prior to his arrival in Washington, D.C.

On June 8, 1993, LISA FOSTER noticed that FOSTER was emotionally down and was slumped in his chair just as his father had been when his father was ill. LISA FOSTER recalls that FOSTER always was worried and stressed. FOSTER told LISA FOSTER

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that nothing at the White House was going right and he mentioned the example of the ZOE BAIRD nomination.

LISA FOSTER recalls that FOSTER did go jogging on Monday, July 19, 1993 but did not go jogging on July 20, 1993.

FOSTER complained to LISA FOSTER that he was suffering from insomnia, but he did not want to take sleeping pills because he was afraid that he would become addicted to them. FOSTER would get up in the morning and say to LISA FOSTER that he had not slept at all. FOSTER's typical work day began at 8:00 or 8:30 a.m. and continued until 9:30-10:00 p.m.

LISA FOSTER is aware that FOSTER had his blood pressure checked at the White House infirmary on or about July 16, 1993. FOSTER had complained to LISA FOSTER that his heart had been pounding. LISA FOSTER recalls that the blood pressure reading taken on FOSTER on July 16, 1993 did not sound particularly high. FOSTER told her that the White House medical personnel had taken his blood pressure again the same day, approximately ten minutes after the first reading. LISA FOSTER recalls that the initial blood pressure reading was approximately 160/100 and that the later reading was approximately 140/90. After FOSTER related the results of these blood pressure readings to LISA FOSTER, she told him that she would call DR. LARRY WATKINS, their family physician back in Little Rock, Arkansas. LISA FOSTER is not aware of any other time when FOSTER may have gone to have his blood pressure checked. LISA FOSTER is aware that FOSTER's father had suffered a stroke and his mother takes medication for high blood pressure.

LISA FOSTER is not aware of any history of depression within the FOSTER family. No one has ever mentioned such a family history to LISA FOSTER. LISA FOSTER is aware that an aunt of FOSTER had some sort of problem and never got married, but LISA FOSTER is not aware of any more specific information about the nature of this problem.

LISA FOSTER is not aware of FOSTER ever having been treated for depression previously or having had medication for depression prescribed for him.

When asked why she and her son called FOSTER's office at the White House on several occasions to ask about FOSTER's well-being, LISA FOSTER responded that she used to call her

husband when he worked at the Rose Law Firm all the time, especially if she wanted money. VINCENT FOSTER was very quiet, and LISA FOSTER may have called his secretary just to get a better feel for his condition and state of mind. LISA FOSTER believes that her son, VINCENT W. FOSTER, III, may have called BERNARD NUSSBAUM, Counsel to the President, to confirm whether NUSSBAUM would be speaking to a group of legal aides who were working on Capitol Hill. VINCENT W. FOSTER, III was working for Arkansas Senator DALE BUMPERS at the time and was interested in trying to attend such a speech by NUSSBAUM. LISA FOSTER does not specifically recall any other occasions when she may have called FOSTER's office.

When LISA FOSTER was asked whether FOSTER ever experienced anxiety as a component of his depression, she responded by recalling the night that ZOE BAIRD withdrew from consideration to become Attorney General of the United States. LISA FOSTER recalls that FOSTER came to bed at approximately 2:30 a.m. and he was sweating profusely and just sick. FOSTER felt that everyone was criticizing him, even at home. FOSTER did not enjoy being in the public eye. As an indication of FOSTER's anxiety, LISA FOSTER cites the fact that he told her that he didn't have time to do the taxes. LISA FOSTER recalls that he began to start more of his sentences with the phrase "I just can't handle...." While the FOSTER family was still living in Little Rock, if FOSTER became anxious, he would just go out to his swimming pool in the backyard and work by the pool, particularly if there was a trial approaching. FOSTER was very intense. If an upcoming trial involved a major case, then preparation for that trial would be all that FOSTER would do. FOSTER had a one-track mind when he was preparing for or engaged in a trial. Once FOSTER began working at the White House, there were no breaks in his effort and also no successes. FOSTER was used to always winning, and LISA FOSTER does not recall any instances of FOSTER losing before he joined the administration.

FOSTER has had panic attacks in the past and LISA FOSTER thinks that he had one at least five years ago. At that time, FOSTER told LISA FOSTER that his heart was acting up. FOSTER had a heart monitor attached to him for 24 hours but no abnormalities were found. FOSTER also told LISA FOSTER that he was afraid to speak before crowds, and he said that his knees would shake under such circumstances. LISA FOSTER counseled him to work through his anxiety and ignore its effects simply by

anticipating he would feel anxious whenever he spoke before a crowd. LISA FOSTER recalls that when FOSTER spoke before a crowd, he would sweat and turn slightly green in color. LISA FOSTER believes that FOSTER's commencement speech at the University of Arkansas Law School is a very good example of how FOSTER appeared when he was suffering such an anxiety attack. LISA FOSTER recalls that he appeared very stiff while making that address. LISA FOSTER recalls three other occasions when FOSTER appeared to be suffering from some sort of panic attack. On one such occasion, FOSTER called the FOSTER residence in Little Rock and left a recorded message on the answering machine about the need for him to resign from the Little Rock Country Club because of its alleged discriminatory practices. LISA FOSTER recalls that the sound of FOSTER's voice on the tape made her believe that FOSTER had been crying. The other two occasions when FOSTER sounded choked up and tense were when the Branch Davidian complex near Waco, Texas had burned, and the occasion of the issuance of the White House report on the Travel Office affair in which FOSTER was reprimanded.

LISA FOSTER does not recall any incidents in which FOSTER was hospitalized for physical or mental ailments. She recalls that FOSTER once cut his chin and received stitches as an outpatient. She cannot recall any other instances when FOSTER received care at a hospital.

FOSTER was greatly affected by the death of his father, VINCENT FOSTER, SR. FOSTER did not sob when his father died, but he also did not remain unaffected by the death. FOSTER cared for his father during the last few months of his father's life when he was suffering from cancer. LISA FOSTER recalls that she and FOSTER were told by the doctors that FOSTER's father would live approximately six to eighteen months. As soon as the FOSTER family left Arkansas and arrived in Michigan for a vacation, they learned that FOSTER's father was dying. FOSTER attempted to return to Arkansas from Michigan quickly, but he did not arrive home in time to be with his father before his father passed away. After the funeral for FOSTER's father had been held, FOSTER returned to Michigan with the intention of spending spend time with his family. Instead, he used his time with the family in Michigan to write thank you notes to people who had offered condolences to the other members of his family and himself.

LISA FOSTER did have contact with DR. LARRY WATKINS subsequent to FOSTER's death. DR. WATKINS was the first person she called after she learned of her husband's death. She called DR. WATKINS the night of July 20, 1993 and asked him what in the hell happened. She also asked DR. WATKINS, "Could it have been the pill?" DR. WATKINS responded to LISA FOSTER that the pill could not have been the cause of the suicide and he further stated that FOSTER's depression must have been acute. DR. WATKINS is an internist who provided full physical examinations to both LISA FOSTER and FOSTER every two years.

In speaking with DR. WATKINS, LISA FOSTER learned that FOSTER had called DR. WATKINS and told him that he thought he was fighting depression. DR. WATKINS related to LISA FOSTER that he had then called in a prescription for an anti-depressant drug. LISA FOSTER did not know ahead of time that FOSTER was going to call DR. WATKINS, and she did not overhear the conversation between FOSTER and DR. WATKINS.

When LISA FOSTER was asked whether it would have been uncharacteristic of FOSTER to reach out to someone regarding a problem such as depression, she replied that FOSTER would have reached out if he were really scared or were at home rather than at the White House. During one conversation, FOSTER told LISA FOSTER that SHEILA (FOSTER's sister, SHEILA ANTHONY) says sometimes that "it" is chemical. FOSTER did not explain to LISA FOSTER what he was referring to when he talked about "it" or "this thing." LISA FOSTER did not understand what his reference meant when he referred to it as being chemical. LISA FOSTER offered to call a doctor for FOSTER but he said that he would make the call.

FOSTER had a prescription for a sleeping pill called Restoril (phonetic). LISA FOSTER had filled a new prescription for this sleeping pill, but she is now unable to find the pills. LISA FOSTER believes that FOSTER threw the pills away so that she would not be able to consume them once she learned of his death.

Prior to FOSTER's death, SHEILA ANTHONY never mentioned depression to LISA FOSTER in relation to FOSTER.

When asked whether FOSTER had ever approached LISA FOSTER for help in dealing with his problem with depression, LISA FOSTER recalls that he mentioned his depression to her on

approximately July 16, 1993. LISA FOSTER then arranged to go away for the weekend with FOSTER to the Tidewater Inn on the Eastern Shore of Maryland. LISA FOSTER made all the arrangements for the weekend and asked FOSTER to be home by 3:00 p.m. that Friday, which was July 16, 1993. Instead, FOSTER arrived home at approximately 4:00 p.m., and she and FOSTER had to drive through terrible traffic to reach the inn. Because FOSTER appeared to be under stress to her, LISA FOSTER offered to drive. FOSTER agreed to have her drive, but there was no opportunity to pull over and change drivers so FOSTER ended up driving the entire way to the Tidewater Inn.

LISA FOSTER has no knowledge of any available records which might indicate that her husband had previously received psychiatric counseling.

FOSTER did not experience either stress or depression while he was studying in law school. FOSTER never had to study at night because he was able to do his studying during the morning hours prior to class. After rising in the morning and driving LISA FOSTER to her place of employment, FOSTER would return home and study.

FOSTER did not attend his graduation from law school for a number of reasons. FOSTER graduated during the middle of the school year, i.e., in the month of January. Because of the timing of his graduation and because FOSTER had already begun work at the Rose Law Firm in Little Rock, Arkansas, FOSTER would have had to take off time from work in order to attend graduation. Other reasons why the FOSTERS did not attend the graduation were that the trip back to Fayetteville, Arkansas would have involved significant expenses and LISA FOSTER was pregnant at the time. LISA FOSTER recalls that the graduation ceremony was nothing special because it was conducted as part of the same ceremony held for other schools within the University.

LISA FOSTER has many copies of the text of FOSTER's commencement address to the University of Arkansas School of Law. She also has a copy of the videotape of that address by FOSTER. The text of FOSTER's speech is contained in the most recent copy of the University of Arkansas Law Review.

During the last few months of his life, FOSTER was reading such books as The Making of a President, Ross Perot's

book, a book entitled Putting People First, and other books, titles unrecalled, on the subject of ethics. LISA FOSTER is unable to recall the titles of any of the books which FOSTER may have been reading for pleasure just prior to his death.

LISA FOSTER and her family did employ housekeepers in their residences in both Little Rock and Washington. In Little Rock, LISA FOSTER employed a housekeeper for approximately 22 years. In Washington, LISA FOSTER employed a woman named LORETTA SEARS who came to clean the FOSTER residence once a week. SEARS had worked for the tenants who had resided previously in the FOSTER house. LISA FOSTER does not believe that SEARS ever saw FOSTER because he typically left for work prior to her arrival at the house and he always returned home after SEARS had already departed.

When asked whether NUSSBAUM had given her an envelope in his office at the White House, LISA FOSTER responded yes, that he had given her a number of torn pieces of yellow in a white envelope. The envelope was already in the office when LISA FOSTER arrived there. NUSSBAUM showed the contents of the envelope to LISA FOSTER, and he assembled the pieces of yellow paper so that she could read the writing on it. NUSSBAUM had already had a transcript prepared of the content of this note. LISA FOSTER believes that she saw this torn note on the evening of July 26, 1993. When she saw the note, LISA FOSTER recognized the writing as being the handwriting of FOSTER. LISA FOSTER was not allowed to touch the note, and there was no other envelope or note.

LISA FOSTER's attorney, JAMES HAMILTON, interjected at this point in the interview that he had been at the White House when LISA FOSTER examined the note.

LISA FOSTER is not aware of any other note relating to the death of FOSTER.

LISA FOSTER is not aware of any personal or family reason which would account for FOSTER researching medical malpractice issues. First Lady HILLARY RODHAM CLINTON had asked FOSTER to write the malpractice section of the newly proposed health care plan. In addition, one of FOSTER's first legal cases had been a case involving medical malpractice.

LISA FOSTER is not aware of any indication, nor does she suspect, that her husband had become aware of anything illegal or highly damaging to either the CLINTONS or the White House which would have presented him with irreconcilable pressures. LISA FOSTER notes that FOSTER never told her anything about his clients.

FOSTER never expressed any concern to LISA FOSTER about either Whitewater or Madison Guaranty Savings & Loan. LISA FOSTER had never even heard of either of these entities at that point in her life.

When asked to furnish an opinion as to what FOSTER may have been working on that caused him stress or might explain his condition of depression, LISA FOSTER responded that the Travel Office fiasco may have been the source of the stress. She noted that if the Travel Office had been the only difficulty facing FOSTER, it would not have been so bad. At one point, FOSTER called the family together and warned his family that the next six months might be particularly difficult. Toward the end of his life, FOSTER had no sense of joy or elation at work. The Branch Davidian incident near Waco, Texas was also causing him a great deal of stress. LISA FOSTER believes that FOSTER was horrified when the Branch Davidian complex burned. FOSTER believed that everything was his fault. On such issues as the ZOE BAIRD nomination and gays in the military, it seemed that the White House Counsel's Office was not doing a particularly good job, although LISA FOSTER felt that the attorneys themselves were doing good work. FOSTER was extremely fond of NUSSBAUM. If either President CLINTON or NUSSBAUM was being criticized, FOSTER felt that he was also being criticized. FOSTER was very happy about the nominations of JANET RENO as Attorney General of the United States and RUTH BADER GINSBURG as a Supreme Court Justice.

At this point in the interview, HAMILTON interjected that he sat next to Justice GINSBURG when she was first nominated for her position, and he noted that FOSTER was very touched by Justice GINSBURG's speech.

LISA FOSTER stayed home and did not attend the nomination ceremony for Justice GINSBURG.

LISA FOSTER is not aware of what may have been in her husband's office at the White House that led White House staff to

search FOSTER's office immediately after her husband's death. LISA FOSTER also does not know anything about what may have caused NUSSBAUM to conduct an official search of her husband's office in a manner which excluded investigators from law enforcement agencies.

LISA FOSTER is not exactly aware of what role her husband played in the firing of the seven individuals from the White House Travel Office. FOSTER was distressed because he felt that if he had spoken first with WILLIAM KENNEDY, who was also an attorney in the White House Counsel's Office, then the Federal Bureau of Investigation would not have been called into the case. However, no one heeded FOSTER's advice on this matter.

LISA FOSTER is aware that FOSTER was compiling a list of attorneys to represent him regarding the White House Travel Office matter. FOSTER wanted to have an attorney represent him because he did not have time to do his work at the White House and prepare a defense for himself. LISA FOSTER recalls that Senator DOLE had written a letter on July 15, 1993 requesting a Congressional investigation of the Travel Office matter. VINCENT W. FOSTER, III had attended a Senate Judiciary Committee meeting when an investigation of the Travel Office matter was called for but the motion to conduct such an investigation was tabled. VINCENT FOSTER, III told LISA FOSTER about the proposal for Congressional hearings, but she did not think that it was a big deal.

LISA FOSTER does not think that FOSTER contacted any of the attorneys on the list of attorneys which had been furnished to him by BERYL ANTHONY. LISA FOSTER is aware that FOSTER contacted her attorney, JAMES HAMILTON, as well as attorney JAMES LYONS and, although she was not privy to the conversations, she believes that these conversations related to the Travel Office matter.

FOSTER had not kept a diary during the course of his relationship with LISA FOSTER. He used to keep trip logs whenever the family went on vacation. At the end of each day of a trip, FOSTER would write down what the family had done that day while on vacation. However, FOSTER did not keep such notes when he was at home or in relation to his work. LISA FOSTER believes that FOSTER may have begun to keep a diary on election night of

1992 because he believed that from that time period forward would be a period worth remembering.

LISA FOSTER does not believe it would have been uncharacteristic of her husband to maintain such a diary because he was very excited about the formation of the new administration. As an indication of this excitement, she notes that he chose to write about election night, the inauguration, and the nomination of Attorney General JANET RENO.

LISA FOSTER's daughter, LAURA FOSTER, was the primary driver of the Honda automobile which was found at Fort Marcy Park, Virginia on July 20, 1993. The Honda automobile belonged to LAURA FOSTER and also to one of LISA FOSTER's sons. The son and daughter shared the automobile. LAURA FOSTER had used the Honda while she was attending Vanderbilt University and then had driven it to Washington. The Honda automobile was the only car which FOSTER and LAURA FOSTER had with them in Washington until LISA FOSTER arrived with the other family members and with the Lexus automobile owned by their family.

It was not only typical for FOSTER to drive the Honda to work at the White House, it was imperative.

The contents found in the Honda on July 20, 1993, e.g., the cigarette pack, beer cans, and corkscrew, belonged to LISA FOSTER's son. FOSTER himself did not smoke. FOSTER's sons had gone to the beach the weekend preceding July 20, 1993, and the refuse from the weekend was still in the passenger compartment of the Honda when it was searched by police at Fort Marcy Park.

The Honda is no longer in the possession of LISA FOSTER because she sold the car to her brother-in-law, who in turn is leasing the car to her brother in Nashville, Tennessee.

LISA FOSTER describes the color of the Honda as taupe or grayish. She further describes it as a light color.

FOSTER had not made specific plans for the weekend which followed his death. He had spoken with LISA FOSTER about going away for that weekend and about coming home early from work so they could get an early start on the weekend. LISA FOSTER had talked to him about trying to go away every weekend. They had

spoken about trying to go to Pennsylvania the following weekend but had not made any reservations.

There were no domestic problems between LISA FOSTER and FOSTER during the entirety of their twenty-five year relationship.

In terms of people in whom her husband would confide, LISA FOSTER believes that he would have confided in herself and his sister, SHEILA ANTHONY. FOSTER would also be likely to confide in his children, particularly his daughter LAURA. FOSTER would also confide in his son, VINCENT FOSTER, III, and he would have confided in his father if his father were still alive.

On the evening of July 19, 1993, LISA FOSTER cooked dinner at home. When FOSTER returned home from work, he came into the house and smiled at LISA FOSTER while saying that a quarter to eight was not bad. LISA FOSTER responded to him that she was thinking that he would be home at 6:30 or 7:00 p.m. That night, FOSTER received a call from President CLINTON, who invited FOSTER to come to the White House to watch a movie. When FOSTER turned down the invitation from the President, LISA FOSTER was happy. She prepared scallops for all of the family members except for her son BRUGH, who was eating spaghetti.

FOSTER did not mention any conversations from earlier in the day of July 19, 1993 which might have disturbed him.

LISA FOSTER has some knowledge of three letters which were sent out by FOSTER from his office on July 19, 1993. LISA FOSTER is aware of a letter from FOSTER to his mother regarding some leases for mineral rights. LISA FOSTER only saw this letter after FOSTER's death because, as a result of FOSTER's mother signing the letter, LISA FOSTER inherited the mineral rights. LISA FOSTER does not recall exactly how she saw these mineral leases. One of the remaining two letters may have been for payment of a life insurance premium, but LISA FOSTER does not recall whether she or FOSTER mailed this letter.

FOSTER had never spoken to LISA FOSTER about visiting Fort Marcy Park in the past, and she had never heard of the park prior to her husband's death.

LISA FOSTER does not know whether VINCENT FOSTER ever visited Fort Marcy Park prior to the day of his death but she doubts it.

LISA FOSTER has no idea what her husband did after he left the White House on July 20, 1993. She has checked both gas receipts and credit card receipts, but no purchases or other clues have been identified.

LISA FOSTER had no contact, including telephone calls, with her husband after he left their home on the morning of July 20, 1993. LISA FOSTER recalls one unusual event that morning which was that FOSTER asked her what she was going to be doing that day. It was uncommon for FOSTER to ask her about her plans, and it was also memorable to her that he asked because she was unusually busy that day.

LISA FOSTER is not aware of FOSTER returning home after leaving his office at the White House on July 20, 1993. It is her opinion that he did not return home on that date.

LISA FOSTER is not aware of any particular local spots frequented by FOSTER, such as restaurants or bars, which might assist investigators in attempting to trace FOSTER's activities on July 20, 1993. A Washington restaurant, La Tomate, was the only place where FOSTER would eat out during the business day.

On July 20, 1993, LISA FOSTER played tennis at approximately 8:30 a.m. At 11:45 a.m., she attended a meeting relating to multiple sclerosis. Prior to attending the meeting, LISA FOSTER woke her son so that he could drive her to the meeting. DONNA KAY MCLARTY had also invited LISA FOSTER out. LISA FOSTER had been in Washington for approximately six weeks, but she and MCLARTY had not seen each other much, so they agreed to go to a restaurant at the Four Seasons Hotel for lunch. At approximately 3:30 p.m., LISA FOSTER and MCLARTY took a taxi back to FOSTER's house. From there, LISA FOSTER and MCLARTY went to the MCLARTY residence where their respective sons met with each other. At approximately 5:00 p.m., LISA FOSTER returned home and called the White House to speak to her husband. LISA FOSTER thought that it was NANCY HEMREICH's week to be at the office, but she was told by DEBORAH GORHAM that HEMREICH's week would be the following week. GORHAM told LISA FOSTER that FOSTER was unavailable to come to the phone.

When asked whether she had made a remark about FOSTER putting the gun in his mouth, LISA FOSTER replied that when she was notified of his death, someone kept saying that FOSTER had shot himself in the head. LISA FOSTER recalls that she was very concerned about how FOSTER had shot himself because she was trying to imagine what he looked like and wondering whether he had suffered. She further said that she was concerned about whether he had blown his head off.

FOSTER had never spoken with LISA FOSTER before about suicide and he had never attempted suicide before. LISA FOSTER believes that her husband took his life because he was so terribly depressed.

LISA FOSTER has no doubts that her husband took his own life and she had no such doubts on the night of July 20, 1993.

LISA FOSTER was concerned about the autopsy being performed on her husband because she wanted to know his mental state at the time that he died. She also wanted to know if he had taken the sleeping pills or if he had been consuming alcohol or was drunk. She did not have any influence or input into causing the autopsy to be conducted so promptly.

In terms of other drugs which may have been prescribed for FOSTER in the past, LISA FOSTER is aware of the sleeping pill Restoril having been prescribed. She also recalls that an antibiotic was prescribed for FOSTER in approximately December 1992. LISA FOSTER recalls that Feldene was prescribed for treatment of FOSTER's tennis elbow.

LISA FOSTER is aware that her husband took one 50 milligram dose of Trazadone on the evening of July 19, 1993 because she told her husband to take one pill and she watched him take it. She does not know if he took any sleeping pills on that evening. On the morning of July 20, 1993, FOSTER told LISA FOSTER that he did not go out for a jog because it would take him too long to cool off. LISA FOSTER notes that her house has only one bathroom for such a large family. She notes further that, due to her relatively early departure from home on July 20, 1993, there were several family members attempting to use the single bathroom during the same period of time.

FOIA(b)(7) - (C)

At this point in the interview, LISA FOSTER was asked to examine a pair of eyeglasses which had been found in Fort Marcy Park on July 20, 1993. LISA FOSTER held the glasses, examined them, and then stated that the eyeglasses appeared to be those of her husband. LISA FOSTER noted that the tips of the stems of the eyeglasses had bite marks on them, which was an observation consistent with one of her husband's habits. FOSTER had frequently chewed on the tips of his eyeglasses as a nervous habit.

LISA FOSTER then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER examined the revolver, which had also been found at Fort Marcy Park on July 20, 1993, and stated that she believed it may be a gun which she formerly saw in her residence in Little Rock, Arkansas.

LISA FOSTER then examined a photocopy of a handwritten note which has previously been identified as having been written by her late husband. LISA FOSTER believes that the original note was written on or about July 11, 1993. LISA FOSTER is not entirely certain of this date and believes that the note was written sometime during the period between July 4 and July 20, 1993. She believes that the note was written by FOSTER in their Washington residence on a day when there were a number of young people in her house. Her son was working as a Senate aide and there were a number of other aides visiting him on that day. LISA FOSTER invited FOSTER to go with her to the store, but he declined to accompany her. FOSTER was upstairs in bed, alternately trying to sleep and work. LISA FOSTER suggested to FOSTER that he write down everything that "they" did wrong. She suggested to FOSTER that he go on the offensive and not continue to take responsibility for every mistake which was made in the White House. FOSTER agreed with LISA FOSTER's suggestion, and he sat up in bed and appeared energized. FOSTER told LISA FOSTER that he had not resigned yet, and he said that he had already written his opening argument in his defense. LISA FOSTER believes that the torn note which was found was actually FOSTER's opening argument in the event he had to testify before Congress.

Although LISA FOSTER did not view or read the note on the day that FOSTER appeared to be energized by her remarks, she is confident that the comments written in the note were written on that same day. LISA FOSTER knows that FOSTER was upset about the Federal Bureau of Investigation (FBI) being called in regarding the Travel Office matter, but she does not believe that FOSTER believed that the FBI had lied. People know that representatives of the media were getting deals through the White House Travel Office. LISA FOSTER is aware that people knew of these deals, but she herself knew nothing about FOSTER's remarks in the note pertaining to the Republicans or the usher's office. LISA FOSTER believes that FOSTER was concerned about excessive costs being incurred by the usher's office, but FOSTER never discussed these matters with her.

On Tuesday night, July 13, 1993, FOSTER spoke with LISA FOSTER about resigning. LISA FOSTER encouraged him to stay in his position in the White House Counsel's office. She advised him that Congress would take a recess in August 1993. LISA FOSTER then suggested to FOSTER that he should stay in his current post until Christmas of 1993. LISA FOSTER understood clearly that FOSTER was speaking about the Travel Office when he was speaking of his depression and his concerns.

LISA FOSTER is aware of the whereabouts of some ammunition which was kept at the FOSTER residence in Little Rock prior to her husband's death. She recalls finding a number of shotgun shells in the top drawer of her dresser. She also recalls that there were a number of shotgun shells kept in a closet. In searching her house, LISA FOSTER found a number of 20 gauge and 12 gauge shotgun shells, some .22 caliber ammunition, and possibly some small handgun ammunition. LISA FOSTER does not recall seeing any such ammunition at her house in Washington, D.C.

LISA FOSTER believes that she may have seen the handgun which she examined previously during the interview at her residence in Washington. LISA FOSTER recalls that as she was packing her belongings in Little Rock in preparation for coming to Washington, D.C., she found a handgun inside a travel trunk which had been packed by FOSTER prior to his departure for Washington. Specifically, as LISA FOSTER was packing in Little Rock, she came across a silver-colored gun, which she then packed in with her other property. When LISA FOSTER unpacked the gun in

Washington, FOSTER saw the gun and commented on it. LISA FOSTER had not had a prior conversation with FOSTER about bringing a gun to Washington, D.C., but she argued with FOSTER when the gun was unpacked. LISA FOSTER told FOSTER that she did not want any guns in her house in Washington.

LISA FOSTER is not aware of any photographs which may be kept in Arkansas which would depict the guns owned by FOSTER's late father. She is only aware of snapshots of family members going hunting.

LISA FOSTER is not aware of any records from the elder MR. FOSTER's estate which might describe the firearms he had owned. She is aware of a handwritten note from the elder MR. FOSTER regarding the disposition of his property after he passed away. According to this note, all of the elder MR. FOSTER's guns were left to FOSTER and a diamond was left to LISA FOSTER. After the funeral for FOSTER's father, FOSTER went down to his father's house and retrieved the guns. LISA FOSTER believes that there were approximately three to five handguns included in the guns retrieved by her husband. She believes that her husband obtained all of the guns which were left by FOSTER's father.

LISA FOSTER does not know where her husband kept the guns left to him by his father while the FOSTERS were still living in Little Rock.

LISA FOSTER believes that the shotguns from the estate of the elder MR. FOSTER are currently in the possession of her brother-in-law, who is the husband of her sister. SHARON BOWMAN, FOSTER's sister, has one handgun. LISA FOSTER believes that BERYL ANTHONY has one of the handguns from the estate here in Washington, D.C., but she has not asked ANTHONY that specific question.

FOSTER himself did not like guns. FOSTER's father had given guns to LISA FOSTER's sons, which displeased LISA FOSTER. LISA FOSTER also knows that FOSTER kept a gun in a closet in their home in Washington, D.C. LISA FOSTER was aware of the location of one gun inside her residence in Washington and she found that gun still in its usual location on the night of July 20, 1993. The gun which she found on that date was not the silver gun which she had earlier found in the trunk in Little Rock. LISA FOSTER believes that the gun found at Fort Marcy Park

may be the silver gun which she brought up with her other belongings when she permanently moved to Washington. LISA FOSTER does not know with certainty, but she suspects that there were some bullets at the house in Washington, D.C.

Sometime within the last two weeks prior to July 20, 1993, LISA FOSTER told FOSTER to remove the guns from their house in Washington. FOSTER told LISA FOSTER not to remark about the guns in front of the boys. LISA FOSTER believes that she may have told her husband twice during that time to remove the guns, but she never checked to see if the guns had actually been removed.

LISA FOSTER assumes that ammunition was given to her husband in conjunction with his receipt of the guns from his father's gun collection, but she does not know for certain. She never knew FOSTER to buy any ammunition except for shotgun shells when he went hunting.

To the best of LISA FOSTER's knowledge, FOSTER never carried a handgun in his automobile. She never knew FOSTER to carry a gun with him to work. FOSTER parked his automobile in slot 16 on Executive Boulevard West whenever he was at the White House. LISA FOSTER knows that the trunks of vehicles are checked when the vehicles are driven onto the White House grounds. When not in use, the Honda was typically parked on the street adjacent to the FOSTER residence while the FOSTER family's Lexus was -- parked in a space behind their house.

LISA FOSTER believes that the guns which were brought by her family from Little Rock to Washington were transported on the moving van with their other belongings.

LISA FOSTER does not know where her husband might have obtained the two loose bullets which were discovered in the handgun found at Fort Marcy Park.

LISA FOSTER is not aware of any background information regarding her husband's possession of guns which could assist in tracing the gun found in his hand at Fort Marcy Park. SHARON BOWMAN told LISA FOSTER that FOSTER's father kept a gun by his bed while he was still living, and LISA FOSTER believes that that gun may be the same revolver she was shown by the interviewing agents.

FOSTER's father served in the United States Navy during the World War II period and may have been stationed in California.

It is difficult for LISA FOSTER to believe that FOSTER may have come home on July 20, 1993 to get a gun.

LISA FOSTER still remembers her last contact with FOSTER on the morning of July 20, 1993 in their kitchen. She recalls that FOSTER was standing very stiffly in the kitchen prior to departing for work. LISA FOSTER now believes that he may have had the gun with him in his briefcase at that time. FOSTER did not kiss her goodbye before he left for work, but she notes that his not kissing her was not unusual for him. She believes that her son was at home and sleeping until approximately 2:00 p.m. on that afternoon. However, she has not questioned her son about whether he was asleep that afternoon because she has not wanted to expose her children to too many of the circumstances of their father's death.

LISA FOSTER believes that FOSTER was suffering from a major depression which was brought about by working too hard for such a long period of time away from his family. She believes that no one loved his children more than her husband.

FOSTER was unable to attend the ceremony in which the Arkansas Bar Association named him the Lawyer of the Year because he had to go to Boston, Massachusetts that same day to interview Judge STEPHEN BREYER. Judge BREYER was a candidate for a vacancy on the United States Supreme Court, but he was bedridden as a result of a traffic accident.

At this point in the interview, Attorney JAMES HAMILTON interjected that he had traveled to Boston to interview Judge BREYER with FOSTER on that occasion.

LISA FOSTER believes that FOSTER thought he would be able to attend the Arkansas Bar Association ceremony up until the very last minute. Both LISA FOSTER and FOSTER were very upset that they were unable to attend. She believes that his inability to attend the ceremony would have weighed very heavily on FOSTER and would have caused him to feel embarrassed before his peers in Arkansas.

At the conclusion of the interview, HAMILTON, on behalf of LISA FOSTER, again asked that the original handwritten note which had been torn up be turned over to LISA FOSTER at the conclusion of the investigation. HAMILTON also reiterated his request that a photograph of the note not be released by the Office of the Independent Counsel should such a request be received under the Freedom of Information Act.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/20/94

BRIAN FOUCART, former Acting Director of The White House Office of Administration, was interviewed by conference call with his attorney RANDALL TURK (202) 833-5127. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, FOUCART provided the following information:

FOUCART advised that his current position is Special Assistant to the Bureau Chief of Cable Services Bureau in the Federal Communications Commission (FCC). His address and telephone are 2033 M Street, NW, (202) 416-1135.

FOUCART advised that he remembers July 21, 1993, the day after VINCE FOSTER, JR.'s death, only vaguely. He does not remember it as any different than any other day except that there was a pervasive focus on the news of VINCE FOSTER's death. No requests for action came into his department that related to VINCE FOSTER's death that he was aware of, either that day or in the following weeks.

FOUCART advised that any requests for the movement of safes or filing cabinets or any other such items within or out of the Counsel's office would have been initiated on a "Facilities Request Form" which would have had to come across his desk for his signature so that he could authorize payment to GSA for those services. FOUCART advised that The White House would pay GSA to provide such services and therefore the vehicle for getting those tasks done is the work order that is generated in response to a facilities request form. FOUCART said there was no such form to request the movement of a safe or filing cabinet or any other items from VINCE FOSTER's office or from The White House Counsel's office following VINCE FOSTER's death. He advised that the best way to double check his memory would be to check with GSA to see if they had any work orders for such a task.

FOUCART advised that he knows CRAIG LIVINGSTONE and that LIVINGSTONE did not make any requests of any kind of

connection with VINCE FOSTER's death. The only conversation they ever had on the topic of VINCE FOSTER came later in the Summer and occurred in passing at the doorway of the West Wing where FOUCART was standing, having a cigarette. FOUCART commented to LIVINGSTONE that FOSTER's car was taking up two parking spots in the Executive parking area and since spaces were limited, could LIVINGSTONE see if it were possible to have it moved. FOUCART said that he could not remember any other personal conversations between himself and LIVINGSTONE.

As part of the interview, FOUCART provided the following personal information:

Date of Birth:
Place of Birth:
Social Security Number:

FOIA(b)(6)
FOIA(b)(7) - (C)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/7/95

MARY KATHERINE FRIEDRICH was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). FRIEDRICH is currently a personnel assistant (payroll technician) in the Executive Office of the President of the United States (EOP), Office of Administration (OA), Personnel Management Division (PMD), and her office is in the New Executive Office Building (NEOB), 725 17th Street, N.W., WDC, telephone number (202) 395-1143. After being advised of the official identities of the interviewing agents and the nature of the interview, FRIEDRICH provided the following information:

In July 1993, FRIEDRICH served as a security assistant in the PMD security office, which is administratively located within OA and EOP. Her office was physically located in the NEOB. On approximately July 15, 1993, FRIEDRICH was notified that she had been named to fill the position in which she currently serves. FRIEDRICH had to train her replacement in the security office so she was unable to move into her current post until August 1993. The PMD security office performs a number of functions: conducting of pre-employment interviews pertaining to a candidate's suitability; submitting requests for Federal Bureau of Investigation (FBI) name checks; performing drug tests; processing of SF-86 forms, which are standard personnel questionnaires; granting of security clearances; performing monthly security briefings; initiating five-year renewals on background investigations; sending requests for White House passes to the United States Secret Service (USSS); and monitoring of the thirty day rule to ensure that new employees submit all required paperwork necessary to conduct a background investigation within the first thirty days of their employment.

The White House Counsel's Office (WHCO) typically receives the final background investigation reports once they have been completed by the FBI. Staff members of the WHCO then review the reports to identify or resolve any remaining issues. Associate White House Counsel WILLIAM H. KENNEDY III was usually the person who would review these reports and provide

notification of approval of the appointee to FRIEDRICH's office, which would then issue a White House pass to the appointee.

FRIEDRICH's responsibilities required her to have somewhat frequent contact with the WHCO. For example, FRIEDRICH would pass along the completed SF-86 forms to the White House Office of Personnel Security (WHOPS). She would also carry completed forms for Internal Revenue Service (IRS) record checks to the WHCO. Most calls to FRIEDRICH's office from the WHCO were made by EDGAR BUENO.

On the night of July 20, 1993, FRIEDRICH was at home when she learned of the death of Deputy White House Counsel VINCENT W. FOSTER, Jr. She believes she learned of FOSTER's death on a television newscast. FRIEDRICH learned further details about FOSTER's death the following day because it was a major news item. FRIEDRICH was not contacted by anyone from either the White House or the WHCO that night about either FOSTER's death or any related duties or tasks.

FRIEDRICH rarely has occasion to enter the West Wing of the White House, and she has only been in the West Wing perhaps twice in the past few months.

FRIEDRICH is aware through press accounts that BERNARD NUSSBAUM, PATSY THOMASSON and MAGGIE WILLIAMS were at the White House the night of July 20, 1993. FRIEDRICH now knows each of these people but she has not discussed their activities that night with them.

FRIEDRICH has not heard anything about anyone being asked to open safes in the WHCO offices on July 20, 1993.

CHUCK EASLEY was FRIEDRICH's supervisor in July 1993. EASLEY exclusively handled matters relating to safes on the White House compound, and EASLEY would have been the person to have been called to open a safe. FRIEDRICH's office received such calls for assistance in opening a safe on a frequent basis. Staff members of the WHCO, including BETSY POND and FLORENCE CHAMPAGNE, called EASLEY's office several times for assistance in opening safes. DEB GORHAM from the WHCO also called with such a request a couple times.

If someone called EASLEY's office and requested assistance in opening a safe when EASLEY was not in the office,

FRIEDRICH would write a note to EASLEY on a message pad telling him who had called and what the caller had wanted. FRIEDRICH does not recall writing a note to EASLEY that a safe needed to be opened on or about July 20, 1993.

FRIEDRICH does not recall receiving a telephone call to open a safe in the WHCO suite after FOSTER's death. FRIEDRICH is only aware of requests to open safes being made by telephone call. FRIEDRICH is not aware of her office ever receiving any written requests to open a safe. FRIEDRICH does not recall receiving any calls to open safes the week of FOSTER's death. FRIEDRICH does not recall receiving a telephone call, e-mail or any other form of communication to request assistance in opening a safe in the WHCO suite that week.

FRIEDRICH did not keep a detailed calendar in July 1993. Her calendar would typically reflect matters pertaining to personnel issues such as when certain forms pertaining to appointees were submitted. When FRIEDRICH left her former post to take her current position, she left her 1993 calendar with EASLEY so that he could use it as a reference for pending personnel matters. FRIEDRICH would not have recorded on her calendar a call from someone at the WHCO requesting assistance with opening a safe. FRIEDRICH would have left EASLEY a message written on a "while you were out" slip of paper.

When FRIEDRICH leaves a telephone message for EASLEY, it is written on a single slip of paper, i.e., no carbon copy of the message slip is generated. EASLEY discards the message slips after he is through with them.

FRIEDRICH has been telephoned by a female reporter, name not recalled, from the Washington Post newspaper. The reporter said she wanted to get together with FRIEDRICH for about ten minutes to talk about FOSTER. FRIEDRICH told the reporter she had nothing to say to her and eventually hung up the phone after declining to meet with the reporter. FRIEDRICH subsequently reported the reporter's call to FRIEDRICH's supervisor, AL RODRIGUEZ, and to MARY BECK, Director of PMD. FRIEDRICH knows of no other calls or attempts to contact FRIEDRICH by this reporter. There were no repercussions for FRIEDRICH from reporting the call from the reporter to RODRIGUEZ.

FRIEDRICH does not know how the female reporter learned FRIEDRICH's name or decided to call her. It is possible someone

could have looked in a White House telephone book and seen from the listings that FRIEDRICH was working for EASLEY during July 1993.

Prior to the instant interview, FRIEDRICH advised BECK that she was going to be interviewed by OIC staff. BECK told FRIEDRICH that BECK had been interviewed by OIC staff and it had not been a bad experience. BECK did not give FRIEDRICH any instructions about how to respond to questions posed by OIC staff.

FRIEDRICH was the only person working with EASLEY during July 1993, and EASLEY was the sole custodian of the safes. No one else in the White House complex has access to the combinations to safes in the complex. EASLEY has confirmed, when asked by FRIEDRICH, that no one else, including USSS officials, can open safes in the White House compound.

FRIEDRICH has not seen any White House memoranda with instructions about the OIC investigation.

FRIEDRICH has no knowledge about anyone being called to open White House safes on or about July 20, 1993. It is possible that WHOPS could have been called by someone seeking access to a White House safe. CRAIG LIVINGSTONE was director of WHOPS at that time, and he continues to hold that post. Other members of the WHOPS staff at that time were MARI ANDERSON and LISA WETZL, who were both security assistants. NANCY (LAST NAME UNKNOWN) (LNU) also worked in WHOPS in 1993 and she had worked there during the prior administration as well. NANCY LNU no longer works at WHOPS because she retired in either May 1993 or May 1994.

Offices at the White House normally maintain rosters of interns since there are no applicable payroll records because the interns are not paid. These rosters should reflect which interns were working during a given period of time. No interns work in FRIEDRICH's office.

FRIEDRICH had no contact with WHOPS in relation to FOSTER's death. FRIEDRICH has not spoken with anyone at WHOPS about whether anyone at WHOPS was asked to open WHCO safes on or about July 20, 1993.

FRIEDRICH knows of no other information which could be

of assistance to OIC investigators.

In July 1993, FRIEDRICH was living at 12316 Village Square Terrace, Apartment 202, Rockville, Maryland 20852. She is unable to recall what her telephone number was at that time, but she will attempt to retrieve it from her records and provide it to the interviewing agents.

Based on observation and interview, FRIEDRICH is described as follows:

Name:	MARY KATHERINE FRIEDRICH, also known as KATE FRIEDRICH
Sex:	Female
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	3829 Old Baltimore Drive Olney, Maryland 20832
Home Telephone:	(301) 570-4199

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/1/95

Following an interview conducted earlier in the day at the offices of the Office of the Independent Counsel (OIC) in Washington, D.C. (WDC), MARY KATHERINE FRIEDRICH telephonically contacted the interviewing agent and provided the following information:

Upon returning to her office, FRIEDRICH retrieved her calendar for 1993 from her former supervisor, CHUCK EASLEY. FRIEDRICH will retain the calendar until a determination can be made as to the appropriate manner in which the calendar can be reviewed by OIC investigators.

FRIEDRICH has not yet reviewed her records to identify her home telephone number during July 1993. She will furnish this number to the interviewing agent when she is able to find it.

Based on a review of her work calendar and her attendance records, FRIEDRICH believes she was called by a female reporter from the Washington Post newspaper on either February 16 or February 17, 1995. FRIEDRICH does not recall specifically how the reporter referred to FRIEDRICH, e.g., by calling her MARY or KATE. FRIEDRICH typically answers her telephone "Hi, this is KATE FRIEDRICH," so the reporter could have learned from that greeting that FRIEDRICH uses "KATE" as her first name. Only close family members refer to FRIEDRICH as "MARY." FRIEDRICH has used the first name "KATE" for all her adult life.

(telephonically)

Investigation on 2/28/95 at Washington, D.C. File # 29D-OIC-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 3/1/95

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/6/95

MARY KATHERINE FRIEDRICH telephonically contacted the interviewing agent at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. During a previous interview, FRIEDRICH had been asked by OIC staff members to review her records and identify the telephone number at her place of residence in July 1993. FRIEDRICH advised the following:

FRIEDRICH's home telephone number during July 1993 was (301) 984-2339.

(telephonically)

Investigation on 3/3/95 at Washington, D.C. File # 29D-OIC-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 3/6/95

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/15/95

At approximately 3:07 p.m., MARY KATHERINE FRIEDRICH telephonically contacted the investigating agent at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. FRIEDRICH was familiar with the investigating agent from previous contacts, and she provided the following information:

Approximately ten minutes before FRIEDRICH's call to the investigating agent, FRIEDRICH was approached by her former supervisor, CHUCK EASLEY, regarding her 1993 calendar. EASLEY said that the calendar was his property and he asked FRIEDRICH to return the calendar to him. EASLEY explained that he had been under the belief that FRIEDRICH was only borrowing the calendar for a short period of time but, since she might need the calendar for a longer period, he asked FRIEDRICH to return the calendar to him and she complied with his request.

EASLEY maintains all the old calendars from the Office of Security, and FRIEDRICH is confident that EASLEY will take care to preserve and safeguard her 1993 calendar.

(telephonically)

Investigation on 3/13/95 at Washington, D.C. File # 29D-OIC-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 3/15/95

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/31/95

BARBARA L. GAGE, Administrative Manager, Office of the Chief Medical Examiner, Northern Virginia District, 9797 Braddock Road, Suite 100, (703) 764-4640 was advised of the identity of the interviewing agent and the purpose for the interview. GAGE provided the following information:

GAGE recalled numerous problems with the office's x-ray machine in the early summer of 1993. GAGE would call the company regarding the problems when the doctors asked her, or told her of them. GAGE does not specifically recall telephoning the company during this time. However, GAGE identified a handwritten note referencing telephone calls she made to an individual named "KEITH" at the x-ray machine company on 6/8/93 and on 8/5/93.

GAGE stated that the x-ray machine was purchased in May, and delivered to the Northern Virginia Medical Examiner's Office in June 1993.

Subsequent to the interview GAGE provided the date of birth, address, and social security number for JAMES BURGESS, who was formerly employed at the Northern Virginia Medical Examiner's office as a Medical Examiner's Technician, and who assisted Dr. BEYER in the FOSTER autopsy. The following information was provided by GAGE:

Name: JAMES BURGESS
DOB: FOIA(b)(6)
Social Security #: FOIA(b)(7) - (C)
Address: 320 Appomattox Street
Apt. #2B
Hopewell, Virginia 23860

Investigation on 1/27/95 at Fairfax, Virginia File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 1/29/95

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/23/94

JEREMY M. GAINES, Press Assistant The White House Press Office, telephone 202-456-2580 was interviewed at The White House on September 21, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, GAINES provided the following information:

GAINES advised that he was on duty at The White House on the evening of July 20, 1993. He was present because the President was doing the LARRY KING Live Show from The White House and he was assisting with that. He recalls that the program was cut short because of the death of VINCE FOSTER and he recalls sitting in the Press Office when he heard the news. He stayed that evening until approximately 11:00 pm and he was the individual who put out the press release to members of the press regarding the death of VINCE FOSTER. He knew who VINCE FOSTER was but he didn't have a personal relationship with him at all.

GAINES has no specific recollection of the morning of July 21, 1993. His normal arrival time during that time period was between 8-8:30. It was his job to coordinate the setting up of all Presidential activities with regard to the press. He was not involved in any events or discussions concerning VINCE FOSTER that he can recall. In addition he doesn't recall anything regarding the FOSTER residence or press presence or Press Office coverage of that location.

GAINES advised that he knows who CRAIG LIVINGSTONE is and characterized their relationship as merely a business acquaintance. He does not see CRAIG LIVINGSTONE often in the Press Office and he has never heard his name in connection with the death of VINCE FOSTER or activities at the FOSTER residence. Asked if he would recognize CRAIG LIVINGSTONE's voice on the phone, GAINES advised that he probably would, however, GAINES said that after VINCE FOSTER's death, he was not working the phones and does not have any recollection of taking a phone call from CRAIG LIVINGSTONE at any time. He said he believes that CRAIG LIVINGSTONE oversees security issues but does not know what he does on a day-to-day basis.

GAINES further advised that he knows he did not have job duty the morning of 7/21/93. He does not normally attend early Press Office meetings in the upper Press Office. He does attend the lower Press Office meeting somewhat later but has absolutely no recall of any of the meetings following VINCE FOSTER's death or any other discussion related to VINCE FOSTER or his residence.

As part of the interview GAINES provided the following personal information:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Position:	Press Assistant White House Press Office January 1993 to Present

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/11/94

MARK D. GEARAN, Assistant to the President, Communications, The White House, Washington, D.C., was interviewed via telephone conference call while he was traveling with the Presidential party in Bonn, Germany. GEARAN's attorneys, JUSTIN SIMON and JUDY HAMMERSCHMIDT were parties on this conference call, as was MARK STEIN, Assistant to Independent Counsel, ROBERT B. FISKE, JR. After being advised of the identities of the interviewing agent and Counsel from the Office of the Independent Counsel and the purpose of the interview, GEARAN provided the following information:

GEARAN was asked when was the first time he saw a chronology prepared by CRAIG LIVINGSTONE, dated July 21, 1993 regarding events at the time of VINCENT W. FOSTER, JR.'s death on July 20, 1993. GEARAN said he did not recall the first time he saw this chronology. He said it was in a collection of documents that had been compiled during a March 1994 file review. The topics of this review concerned White House documents, Whitewater documents and VINCENT FOSTER related documents. He did not remember seeing the document necessarily at the time of the March file review but this document was in the pile of segregated documents when he had gone back to look through this pile concerning questions on VINCENT FOSTER.

At this point in the discussion, Attorney SIMON interjected that there had been a subpoena to GEARAN regarding Whitewater and FOSTER material. At that time, they had "picked out everything," whether or not it was responsive to the subpoena. Some documentation was actually sent in March of 1994 and some of it kept segregated. The chronology in question was then later found in connection with a request received from Capitol Hill. The chronology document had been kept in GEARAN's file from the March review.

In an effort to further clarify the time period in which he first saw this chronology, GEARAN recalled reviewing documents for in-house committees and remembered observing a copy of the chronology with a handwritten phone extension on the top

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right-hand corner. He said this review was "relatively recently" and he could provide further information regarding the actual timeframe from records he had available back in Washington, D.C. GEARAN said the chronology was found in a pile of VINCENT FOSTER segregated files. He said he maintained the documents, along with some Whitewater-related material, in a credenza behind his desk in his West Wing office of the White House.

GEARAN was asked if he had previously seen the chronology with the handwritten telephone extension in the upper right-hand corner before the time of the review for the in-house committees. He answered he didn't remember specifically seeing the document at the time of the review in March 1994.

GEARAN was asked if he saw a copy of the chronology without the handwritten telephone extension on it at any time. GEARAN answered that he was aware of the chronology at a prior time (before seeing the copy with the handwritten notation). He was not sure of the timeframe, but that it was before seeing the copy with the telephone extension written on it. GEARAN did not know why he had two copies of this same chronology. He did not recall actually receiving the document.

GEARAN said that a telephone extension number on the document was typical for him if someone personally gave the document to him. He could then contact the originator of the document for additional information for press inquiries, etc. However, he cannot specifically recall that this was done in the instance of the chronology. GEARAN could not recall the time it was received, but noted that in July of 1993, the White House was providing information to the press on this matter.

GEARAN was asked if there had been press inquiries at a later time and he answered that there had been "scattered" press inquiries until last week.

GEARAN was asked if he possibly received the chronology at a time later than July 1993. His attorney interjected that he was reluctant to let GEARAN "speculate" and reminded that GEARAN "doesn't remember" the time he received the document.

Attorney SIMON responded to a question regarding the strength of the belief that the chronology was received in July 1993 by saying that the events of the night in the detail

presented in the chronology were only relevant in July 1993. A later period would not have required this detail of information.

GEARAN was asked that based on this did he believe he received the chronology on or about July 21, 1993. GEARAN answered that he didn't "have a hard recollection." He said it was "more logical than not" in that time period for press briefing purposes.

GEARAN was asked if he had requested the document and he answered that he didn't remember asking for it. He was asked if it was typical that he would ask for such chronologies and he said that no, it was not typical; he would request information for guidance but not in the form of a chronology.

GEARAN was asked if he had any information concerning CRAIG LIVINGSTONE going to the VINCENT FOSTER residence on the morning of July 21, 1993. GEARAN answered that "I can't tell you that was." GEARAN was asked if he remembered LIVINGSTONE calling the Communications Office at the White House that morning and he answered "no, I don't recall."

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/2/94

MARK D. GEARAN, Assistant to the President and Deputy Chief of Staff, telephone 456-2140 was interviewed at his office in The White House. Also present were his attorneys JUSTIN SIMON and JUDY HAMMERSCHMIDT of DICKSTEIN SHAPIRO & MORIN Attorneys at Law, 2101 L Street, NW, Washington, D.C. 20037-1526, telephone 202-828-2211. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, GEARAN provided the following information:

GEARAN confirmed he was at The White House on the evening of July 20, 1993 when VINCENT FOSTER, JR. committed suicide in Fort Marcy Park, Virginia. GEARAN advised that he remained at The White House until very late that night dealing with the crisis. He said that he did not recall receiving any call from the FOSTER residence that evening. Specifically he does not recall any call having to do with dealing with press problems either that night or the following morning at the FOSTER residence. He also does not recall any telephone call from WEBB HUBBELL that evening. He knows that earlier in the evening, GEORGE STEPHANOPOULOS spoke to WEBB HUBBELL advising him of FOSTER's death. GEARAN said he was sitting next to STEPHANOPOULOS when that call was made earlier in the evening. The issue of handling the press at the residence was not discussed. The only other conversation that night of possible relevance was a conversation GEARAN believes he may have been having with DAVID WATKINS on the issue of CRAIG LIVINGSTONE accompanying WILLIAM KENNEDY to the hospital to identify FOSTER's body.

GEARAN advised that the morning of July 21, 1993 he would have arrived at his office no later than 7:30 am. He knows he was not present at The White House as early as 6-6:45. It was not an extraordinarily early morning for him. There's a staff meeting every morning at 7:30 and that is why he knows he would not have arrived later than 7:30 am. There is a senior staff meeting held at 8:00 am every morning. People typically at the senior staff meeting include LORRAINE VOLES, ARTHUR JONES, STEVE COHEN, DAVID LEVY and CHAD GRIFFEN.

Investigation on 8/1/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/2/94

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The staff meeting at 7:30 am will typically include RAHN EMANUEL, DAVID DREYER, JEFF ELLER, STEVE COHEN, DAVID LEAVY, LORRAINE VOLES, ARTHUR JONES, BOB BOURSTIN, MICHAEL WALDMAN and KEN CHITESTER. Because of these meetings GEARAN advised that virtually everybody in the press office was at the office usually by 7:30 am. He further advised that the whole issue of dealing with the press at the FOSTER residence has "merged" and he cannot remember whether discussions of the issue date to July 21 or subsequent conversations.

GEARAN said that he does not recall any person, in particular, any female being sent to the FOSTER residence to deal with potential press problems on the morning of July 21, 1993. He said that no authorized spokesperson was sent but he qualified that by saying GEARAN himself would not have been the person to handle that issue. It would have been more likely LORRAINE VOLES or ARTHUR JONES or DEE DEE MYERS.

GEARAN reaffirmed the fact that he does not recall seeing LIVINGSTONE the morning of July 21 and doesn't remember when he first saw LIVINGSTONE after FOSTER's death. He does not recall seeing him on July 20 in the evening at The White House.

GEARAN also advised that he does not recall seeing PATSY THOMASSON, SUSAN THOMASSES or MAGGIE WILLIAMS the evening of July 20 at The White House.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

MARK DANIEL GEARAN, White House Director of Communications, was interviewed in his office at the White House. Present during the interview was GEARAN's attorney, JUSTIN D. SIMON, of the law firm DICKSTEIN, SHAPIRO & MORIN, 2101 L Street, N.W., Washington, D.C. 20037-1526, telephone number (202) 828-2211. Also participating in the interview was MARK STEIN, Associate Independent Counsel, Office of the Independent Counsel, Washington, D.C. After being advised of the official identities of the interviewers and the nature of the interview, GEARAN provided the following information:

On the evening of July 20, 1993, GEARAN was on the ground floor of the White House as President BILL CLINTON was being interviewed on the "Larry King Live" television program on the Cable News Network (CNN). While he was monitoring the President's performance, GEARAN was told by Deputy Chief of Staff BILL BURTON about the death of Deputy White House Counsel VINCENT W. FOSTER, Jr. A number of other people were also on the ground floor of the White House during the broadcast of the President's interview. Among these people were MACK McLARTY, GEORGE STEPHANOPOULOS, DEE DEE MYERS, RICKI SEIDMAN, DAVID DREYER, BRUCE LINDSEY and BERNARD NUSSBAUM of the White House staff. Also present were a number of CNN employees including WENDY WALKER WHITWORTH, who is a producer for CNN, and another CNN producer whose name GEARAN cannot recall. This second producer was in the CNN truck parked outside the White House. Several other CNN employees were also present, including the usual CNN make-up artist, whose name GEARAN also cannot recall.

At some point after he learned of FOSTER's death, GEARAN returned to his office in the west wing of the White House. Among the people who visited GEARAN's office during this period of time that night were MYERS, STEPHANOPOULOS, DREYER, SEIDMAN, LINDSEY and BURTON. GEARAN does not recall seeing MAGGIE WILLIAMS in his office. GEARAN recalls seeing HOWARD PASTER in GEARAN's office but not in the residence portion of the White House. GEARAN believes that PASTER was dressed in casual clothes rather than in business attire.

Investigation on 6/13/94 at Washington, D.C. File # 29D-LR-35063 - Jim Bell

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 6/14/94

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The members of GEARAN's staff were putting together a statement for the President to deliver about the death of FOSTER. DREYER was in GEARAN's office working on the statement and was attempting to include in the statement the few details known at that time. GEARAN did not coordinate the production of this statement with LISA CAPUTO, Press Secretary for the First Lady. GEARAN does not recall giving a copy of this statement to MAGGIE WILLIAMS.

GEARAN does not recall seeing White House Counsel NUSSBAUM in GEARAN's office, only on the ground floor of the residence portion of the White House. GEARAN does not recall seeing NUSSBAUM carrying anything in his hands or arms.

GEARAN does not recall seeing CRAIG LIVINGSTONE on the night of July 20, 1993. GEARAN has infrequent contact with LIVINGSTONE because he only talks with LIVINGSTONE whenever there are security-related matters to discuss. GEARAN knows LIVINGSTONE, however, having met him during the presidential campaign. GEARAN did not ask LIVINGSTONE for a copy of a chronology of LIVINGSTONE's activities on or about July 20, 1993.

GEARAN recalls that the issue arose of the need for someone to view the decedent's body and identify it as that of FOSTER. Either LIVINGSTONE or DAVID WATKINS called GEARAN and raised the issue of positively identifying the body as that of FOSTER. GEARAN was in the basement of the residence at the White House when this issue was raised and McLARTY, STEPHANOPOULOS, and MYERS were also there. GEARAN thought someone should go with White House Associate Counsel BILL KENNEDY to identify the body since performing that task was a lot to ask of KENNEDY, who had been a close friend of FOSTER for a number of years. GEARAN may have spoken with LIVINGSTONE about this issue but he doubts that he would have instructed LIVINGSTONE to accompany KENNEDY to the hospital for the identification.

At this point in the interview, GEARAN was asked to review a copy of the memorandum which had been prepared by LIVINGSTONE as a chronology of his activities on or about July 20, 1993.

GEARAN does not recall leaving MYERS's telephone number at the hospital as a point of contact. GEARAN recalls learning that the body had been positively identified as that of FOSTER, but he does not recall how he acquired this knowledge. GEARAN

also does not recall receiving a telephone call from either LIVINGSTONE or KENNEDY while they were still at the hospital to which FOSTER's body had been taken.

GEARAN does not recall having a conversation with LIVINGSTONE about what LIVINGSTONE should do the morning of July 21, 1993. GEARAN does not recall ordering or suggesting on July 20, 1993 that LIVINGSTONE go to the FOSTER residence the following day to assist in dealing with the media. GEARAN did not learn subsequently that LIVINGSTONE had been at the White House on the evening of July 20, 1993 or early in the morning of July 21, 1993.

GEARAN typically arrives at the White House between 7:00 and 7:30 a.m. each business day.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

MARK DANIEL GEARAN was interviewed telephonically by the investigating agent, who was located at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. GEARAN was interviewed as part of a conference call which included GEARAN's attorney, JUSTIN D. SIMON, who is with the law firm DICKSTEIN, SHAPIRO & MORIN, 2101 L Street, N.W., Washington, D.C. 20037-1526, telephone number (202) 828-2211. After being advised of the official identity of the interviewing agent and the nature of the interview, GEARAN provided the following information:

GEARAN does not recall the manner by which CRAIG LIVINGSTONE furnished to GEARAN a memorandum bearing a chronology of LIVINGSTONE's activities on July 20 and 21, 1993. GEARAN does not recall whether LIVINGSTONE provided him with the chronology memorandum during July 1993 or more recently than that. GEARAN also does not recall reviewing LIVINGSTONE's memorandum.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

SIMON recalls that the documents contained in GEARAN's files were not bound or attached to the file jackets in any way, i.e., all of the documents were loose within the file folders.

GEARAN believes that the LIVINGSTONE memorandum was in his files in March 1994 but he cannot state with certainty when the memorandum was placed into his files. The location of a document in one of GEARAN's files is not necessarily indicative of when the document was filed in relation to other documents in the same file. Documents in his files are not filed chronologically based on when they are received in GEARAN's

(telephonically)

Investigation on 6/22 & 24/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 6/24/94

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office.

Based on previous observation and interview, GEARAN is described as follows:

Name:	MARK DANIEL GEARAN
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	2800 Farm Road Alexandria, Virginia 22302

On June 24, 1994, attorney SIMON telephonically contacted the interviewing agent to clarify a point raised in the earlier interview of his client GEARAN on June 22, 1994. SIMON stated that he has subsequently spoken with fellow attorney JUDITH L. HAMMERSCHMIDT, who also practices at DICKSTEIN, SHAPIRO & MORIN. HAMMERSCHMIDT reminded SIMON that GEARAN's files were securely stored in March 1994 but were not completely reviewed for documents until a later date. SIMON advised the interviewing agent that the reason for his call was to clarify that GEARAN believes that the LIVINGSTONE memorandum was in GEARAN's files in March 1994 but GEARAN cannot state with certainty that the memorandum was in his files at that time because the files were not comprehensively reviewed until later.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/26/94

FOIA(b)(6)
FOIA(b)(7) - (C)

NANCY ANNE GEMMELL was contacted telephonically at her residence, 8119 Gale Street, Annandale, Virginia 22003, telephone number (703) 560-2048. GEMMELL was born on [redacted] in [redacted] GEMMELL was formerly employed in the White House Office of Personnel Security as an executive assistant/administrative assistant. After being advised of the official identity of the interviewing agent and the nature of the interview, GEMMELL provided the following information:

GEMMELL retired from her position at the White House on August 14, 1993. During her period of service in the White House Office of Personnel Security under the CLINTON Administration, GEMMELL's immediate supervisor was CRAIG LIVINGSTONE. LIVINGSTONE's assistant was MARI ANDERSON.

GEMMELL cannot recall with certainty whether she was at work at the White House on July 20 and 21, 1993. One of her aunts passed away in Pennsylvania during the summer of 1993 so it is possible she was out of town on those dates. However, GEMMELL was trying consciously not to miss any work days at that time since she knew her retirement was imminent. GEMMELL is inclined to believe she was at the White House on those dates.

GEMMELL never met Deputy White House Counsel VINCENT W. FOSTER, Jr. during her service at the White House.

GEMMELL was not involved in the preparation of a chronology of the activities of LIVINGSTONE on and about July 21, 1993. To the best of GEMMELL's knowledge, LIVINGSTONE would have prepared such a chronology for himself.

The Office of Personnel Security occupied one room with several desks in it. There was also a vault where sensitive personnel files were stored.

Other than ANTHONY AOUDE, LUIS COLON and STEVE POLLACK, GEMMELL can only recall one other male who worked in the office. TONY (Last Name Unknown) (LNU) was a civilian employee of the

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(telephonically)

estigation on 7/5/94 at Washington, D.C. File # 29D-LR-35063-Sub 17- JIM BELL

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 7/5/94

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Department of Defense who was detailed over to the White House. TONY LNU was a male in his early fifties, and he arrived at the Office of Personnel Security at approximately the same time that GEMMELL departed the office upon her retirement.

When asked who in the office would likely have prepared a document for LIVINGSTONE on short notice, GEMMELL responded that POLLACK was very good at doing things quickly.

AOUDE was an unpaid intern in the Office of Personnel Security.

POLLACK began working in the Office of Personnel Security as an unpaid intern and later returned as a volunteer. GEMMELL knew POLLACK to prepare documents for LIVINGSTONE on a word processor. POLLACK was also employed in an unknown capacity at a pilots association in the Washington, D.C. area.

LISA WETZL started working in the Office of Personnel Security as a volunteer but worked her way up into a paid position. WETZL was brought onto the rolls as a paid employee at approximately the time that GEMMELL was retiring.

GEMMELL's routine was not altered by the death of FOSTER, but MARI ANDERSON told GEMMELL that LIVINGSTONE was very upset about FOSTER's death.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/28/95

TERRY WARREN GOOD was interviewed in a conference room in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). Participating in the interview was OIC Associate Counsel BRETT M. KAVANAUGH. After being advised of the official identities of the interviewers and the nature of the interview, GOOD provided the following information:

GOOD is the Director of the Office of Records Management (ORM) at the White House, and his office is located in Room 80 of the Old Executive Office Building (OEOB), telephone number (202) 456-2240. GOOD came to the White House in January 1969 from his position at the National Archives, and he was part of a group charged with developing plans for the first presidential library. When President RICHARD M. NIXON resigned, GOOD stayed on with the National Archives staff. In 1975, GOOD joined the Central Files operation at the White House, which was later renamed the Office of Records Management. GOOD has been in charge of this office since shortly before the end of President RONALD REAGAN's second term in office.

ORM receives papers and documents when the White House staff no longer has a need for them. Materials are usually sent to ORM in boxes if there is a large quantity of documents. ORM encourages the contributors of documents to enclose an inventory of the contents of these boxes when they are submitted to ORM. Such an inventory would typically consist of a list of the file labels in each box but would not reflect each and every document contained in the file folders inside the box.

Under the Presidential Records Act, members of the White House staff cannot take original documents or even copies thereof with them when they leave government service.

After a document has been sent to the White House and after it is no longer being used by White House staff, the document is forwarded to ORM. Staff members at ORM evaluate the importance of the document, index it, and then optically scan the

document. They then code the document using one or more of the three thousand codes available to denote agencies or subjects mentioned in the document. The document is then filed using the primary subject code, i.e., the code which best reflects the primary subject matter of the document. Letters of response to the document as well as back-up letters and related documents are filed later with the first document as they are received at ORM.

At this point in the interview, GOOD was asked to review a memorandum for the record, dated May 27, 1994, which GOOD had prepared regarding a typewritten chronology and handwritten notes provided to him by CRAIG LIVINGSTONE. GOOD then provided the following information:

GOOD does not normally write a memorandum for the file when documents are received at ORM. LIVINGSTONE came to ORM perhaps one to two months before the date reflected on GOOD's memorandum. LIVINGSTONE asked GOOD to conduct a search for a chronology which LIVINGSTONE had prepared regarding his actions on and about July 20, 1993. LIVINGSTONE told GOOD that he had given copies of the chronology to three or four people. LIVINGSTONE said that he was going to be interviewed and he needed a copy of the chronology in order to prepare for his interview. LIVINGSTONE may have said that he was going to be interviewed by OIC staff.

The staff at ORM was unable to find a copy of LIVINGSTONE's chronology anywhere in their files. GOOD first saw the chronology when it was later brought to him by LIVINGSTONE.

GOOD was familiar with LIVINGSTONE because the ORM office and the office in which LIVINGSTONE works, the White House Office of Personnel Security (WHOPS), are adjacent and share a walk-in vault.

When ORM staff could not find a copy of LIVINGSTONE's chronology, LIVINGSTONE appeared to be worried, concerned and maybe even frightened. LIVINGSTONE told GOOD that someone claimed to have seen LIVINGSTONE leaving the West Wing with a box. GOOD believes LIVINGSTONE also told GOOD that none of the three or four people to whom LIVINGSTONE had furnished copies of the chronology were forthcoming with LIVINGSTONE in terms of producing a copy for LIVINGSTONE. GOOD believes that one of these three or four people told LIVINGSTONE that LIVINGSTONE's attorney would have to contact that person's attorney regarding

the document. GOOD does not know the identity of the person who made that remark to LIVINGSTONE. GOOD does not recall the identities of the three or four people to whom LIVINGSTONE reportedly furnished the chronology. GOOD believes MARK GEARAN's office may have been one place where LIVINGSTONE furnished his chronology. GOOD does not recall any of the names mentioned by LIVINGSTONE in this context.

LIVINGSTONE is in the business of dealing with records and would have an awareness about the propriety of moving records. Based on his limited knowledge of LIVINGSTONE, GOOD believes there is no basis for believing that LIVINGSTONE has done something illegal.

When LIVINGSTONE found a copy of his chronology, he said to GOOD that ORM should have a copy of it. After GOOD received the chronology on behalf of ORM and reviewed it, he also thought it was important for ORM to have the document. GOOD viewed the chronology more as a legal matter than as a historical matter.

GOOD does not know if LIVINGSTONE had been looking for a handwritten or typed version of the chronology when he first approached ORM. GOOD guesses that LIVINGSTONE was looking for the handwritten version but he would not swear to that recollection.

GOOD does not know whether LIVINGSTONE signed and dated the handwritten chronology in GOOD's presence in May 1994 but GOOD does not believe LIVINGSTONE did so.

GOOD has no knowledge of the removal of any documents from the office of Deputy White House Counsel VINCENT W. FOSTER, Jr. prior to the official search of FOSTER's office.

GOOD and his assistant, LÉE JOHNSON, are the ORM officials who go to West Wing offices each morning to pick up mail and documents being routed to ORM. The White House Counsel's Office (WHCO) suite is one of the offices they visit each day. Each West Wing office has a box, called a Federal Records Center (FRC) box, where documents to be picked up by ORM staff are placed. These FRC boxes typically contain pieces of mail while memoranda and larger quantities of documents are usually sent in boxes or cartons to ORM.

The mail in these FRC boxes can be divided into two types: mail which is not worth responding to and mail which requires a response. Mail which requires a response usually is abstracted and routed to the appropriate people. Often, such mail and documents are sent from the WHCO suite in the West Wing through ORM to the WHCO offices in the OEOB.

There is no log kept which would identify which ORM employee went to the West Wing to pick up mail and documents there on a given day. GOOD and JOHNSON are usually the people who perform this task. If GOOD and JOHNSON are both absent from work on the same day, there are two other ORM employees who have blue passes which enable them to enter the West Wing. When GOOD and JOHNSON go to the West Wing offices to pick up documents, they do not dawdle or converse with the employees in the offices other than to exchange greetings.

JOHNSON is a male, 50 years old, 5'10" tall, 145 pounds, thin-boned, wears glasses, has a moustache, and has light brown thinning hair.

If materials sent to ORM are contained in binders, the documents are removed and put into an expansion folder.

GOOD never actually met FOSTER, but he did see him on occasion. FOSTER appeared to be a nice, quiet individual.

GOOD recalls that the door to FOSTER's office was closed in the days after FOSTER's death, but he does not recall if he first noticed the door closed on July 21 or July 22, 1993. GOOD recalls that the door remained closed for some time but he does not recall how long.

After the documents have been picked up from the West Wing offices, the documents which need to be tracked are processed very quickly. The documents which will be filed rather than tracked may be filed the same day they were picked up or may be filed within two or three days. Mail for which no response is necessary will just be filed.

When a document is received at ORM, the date it was received by ORM is entered automatically in the records of the filing system. It is not always apparent from which staff office a document may have been received, but by and large all documents can be traced back to their sources.

At this point in the interview, GOOD referred back to his memorandum of May 27, 1994, and advised the following:

The letters C.F. indicate that the document was considered confidential.

The number 065740 on the document is a computer-generated number issued for that particular document.

The letters JL indicate that the document refers to a Justice or Legal matter since these are the principal subject codes assigned to the document.

The initials EF on the upper left corner of the document reflect the initials of the person who put the document into the computer, in this case EVERLENE FISHER.

The interview of GOOD then resumed, and GOOD provided the following information:

All confidential files are kept in a vault which is shared by ORM and WHOPS. LIVINGSTONE occupies an office which was formerly part of the ORM office space. There are four mechanical filing machines in the vault, two of which belong to ORM and two of which belong to WHOPS.

Confidential documents are not optically scanned because the scanning machine is not sufficiently secure.

ORM hours of operation are typically from 7:30 a.m. to 10:30 or 11:00 at night. The ORM office is also open on Saturdays, usually from 7:00 a.m. to 3:30 p.m. GOOD typically works from 9:00 a.m. to 5:30 or 6:00 p.m. JOHNSON is usually in the ORM offices until 7:00 or 8:00 p.m. at least two nights per week. These hours of operation are the same as the hours worked by ORM staff in 1993.

GOOD had perhaps three to four encounters with LIVINGSTONE over a period of weeks. During the course of these encounters, LIVINGSTONE told GOOD he thought he was being set up by someone. LIVINGSTONE said he just wanted to clear himself and get out of his position at WHOPS. He also spoke about having to retain an attorney and the resultant expense. LIVINGSTONE stated to GOOD that he had not moved the boxes about which he had been interviewed.

LIVINGSTONE did not deal with anyone at ORM other than GOOD and JOHNSON. GOOD has not been contacted by LIVINGSTONE's attorney.

ORM did not receive many documents from FOSTER's office following FOSTER's death. GOOD was not surprised at the dearth of such documents because he would have expected any pending matter assigned to FOSTER to have been reassigned to another WHCO staff member. GOOD would have been surprised if the WHCO had sent many of FOSTER's documents to ORM. GOOD understands that the FOSTER documents are kept in a separate location.

JOHN PODESTA is GOOD's immediate supervisor. PODESTA is Assistant to the President and Staff Secretary.

One copy each of GOOD's memorandum of May 27, 1994, and LIVINGSTONE's typed and handwritten chronologies are attached and incorporated herein.

Based on observation and interview, GOOD is described as follows:

Name:	TERRY WARREN GOOD
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	9336 Limestone Place College Park, Maryland 20740
Home Telephone:	(301) 935-5678

C. F.

065740

IL

May 27, 1994

MEMORANDUM FOR THE RECORD

FROM: TERRY GOOD

RE: REPORT OF CRAIG LIVINGSTON

A000276

Today, Mr. Livingston gave to me a copy of his handwritten notes and a copy of a more formalized typed version of these notes outlining his recollection of events from the evening of July 20 into the early morning hours of July 21, 1993, relating to the death of Vincent Foster.

He dated and signed the handwritten notes 7/23/93. There is no signature nor date on the typed version.

REPORT FROM CRAIG LIVINGSTONE

July 21, 1993 A00027

I arrived home from the White House approximately 9:00 p.m. on Tuesday, July 20, 1993.

As I was walking through my door my phone was ringing. When I answered it a male identified himself as U.S. Secret Service and asked me to stand by for Inspector Dennis Martin.

Inspector Martin identified himself to me. The Inspector informed me that the Park Police had called to inform them that apparently Vincent Foster had committed suicide on GW Parkway at around 6:00 p.m. that evening.

I had just left the Larry King set with POTUS and was concerned that POTUS might learn about this on live TV. I called White House Operator to page Mark Gearan. Gearan told me that they were advised of the issue. I told Gearan that I was going to Fairfax Hospital to identify the body. Gearan instructed me to do so.

I then called Bill Kennedy who said he would meet me at Fairfax Hospital. I did this because Kennedy is a close friend of the Foster Family and I thought it would help them if he said he saw the body.

I left my home and proceeded to Fairfax Hospital. I met Bill Kennedy at approximately 9:30 p.m. at the ER of Fairfax Hospital.

Kennedy and I met with a Fairfax Police Officer at the Hospital. I spoke to the White House to let them know Kennedy and I were at the scene.

While the Fairfax Police Officer attempted to secure permission for us to view the body. I called the Hospital switchboard to see if anyone was making any unusual inquiries about patients. They responded no.

During this time period (9:30 - 9:45 p.m.) phone calls were received/exchanged between Kennedy -- Bernard Nussbaum -- Webster Hubbell from my location. These calls were informational and attempted to determine if the Foster family had been notified, what their location was, etc.

At approximately 9:45 p.m. we were escorted to a viewing room by a Senior Nurse. We stopped at a glass partitioner with a curtain behind it which was opened. At this time Kennedy and I confirmed to the Nurse that the body was Vincent Foster. We returned to a consultation room where upon I called Thomas (Mack) McClarty -- I handed the phone to Kennedy who informed McClarty that Vincent Foster was dead. (Approximately 9:55 p.m.)

I suggested to Mark Gearan that before I leave I give the hospital a contact name for inquiries. He said to give Dee Dee Meyers number. I did this and drove Kennedy to Vincent Foster's home.

We were at the Foster home until approximately 2:00 a.m. At around 1:30 a.m. several vehicles responded to the address. They "sprayed" the block and left at about 1:45 a.m.

On Wednesday, July 21, 1993, I drove by the house at 6:30 a.m. and stayed until 8:00 a.m. There was no press activity.

At 11:00 a.m. on July 21, 1993, I met with:

Bernard Nussbaum
George Stephanopoulos
Webster Hubbell
David Watkins
Bill Kennedy
Robert Langston, Chief, U.S. Park Police
Robert Hines, Commander, U.S. Park Police
Don Flynn, USSS
Arnie Cole, USSS

At this briefing informal discussion took place as to the nature of the investigation. Nussbaum said that the Attorney General's Office would be contacted to oversee investigation. Stephanopoulos restated to the U.S. Park Police to "follow whatever the normal course of investigation is and the White House would assist as required."

Text Cannot key in here

A000273

5 - 6 pm Appx. Time of Death
(according to Commander Robert H. Hines, US Park Police)

6 Citizen (unknown) calls Fairfax Fire/Rescue

6:04 Fairfax Fire/Rescue calls US Park Police
(because it is Park land)

6:15 Park Police arrive at scene

7:40 Medical Examiner arrives on scene

8:00 (Appx.) Body Moved to Fairfax Hospital

9:30 USSS notified by Park Police

9:45 USSS notifies David Watkins

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/7/94

On June 1, 1994, DEBORAH GORHAM former Executive Assistant to VINCE FOSTER, Jr. and currently a legal secretary at the law firm of DOW, LOHNES and ALBERTSON, 1255 23rd Street, NW, Washington, D.C. 20037, telephone 202-857-2865 was interviewed with regard to a production of materials made by The White House that involved files of hers. Also present during the interview was DAVID E. MILLS of the law firm DOW, LOHNES and ALBERTSON. Having been advised of the nature and purpose of the interview and being already acquainted with the interviewing special agent, GORHAM provided the following information:

GORHAM advised that she was not a part of the inventory of FOSTER's office on July 23, 1993, either before or after it took place, and she therefore knows nothing about what materials were placed in what piles. Later the following week, possibly the following Tuesday, BERNARD NUSSBAUM called GORHAM into FOSTER's office and asked her to help NUSSBAUM figure out what was in each drawer. GORHAM advised that two drawers in FOSTER's office had an index list which she was responsible for preparing and maintaining. The location of the first drawer was in the large cabinet to the left as one is sitting at FOSTER's desk in the bottom of the cabinet. It is the top right drawer of the four in that location. GORHAM advised that there should have been a file index list in the very front of the drawer and it was missing. The second drawer that usually has an index list is one containing what GORHAM characterized as slightly sensitive documents pertaining to individuals. For example, MAC MCLARTY and WEBB HUBBELL.

GORHAM said that when she was helping NUSSBAUM go through the file drawers, she read off "1992 1040", the "Arkansas Bar Continuing Legal Education Program", at which point NUSSBAUM told her to stop and he said that he would have MAGGIE WILLIAMS take a look at what was there and take what she wanted. A little later, after GORHAM had gotten NUSSBAUM's lunch and he had eaten it, WILLIAMS came into the office and took two boxes of documents away. GORHAM also recalls that it was at that time that she looked in the middle drawer of FOSTER's desk and found numerous

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Investigation on 6/1/94 at Washington, D.C. File # 29D-LR-35063

by SA H. ALEXIS SUGGS Date dictated 6/6/94

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personal papers including an insurance policy at which time she asked NUSSBAUM if they had looked in that drawer. He said, "No. What's in there?" and she concluded from that that those papers had not been included during the inventory.

With regard to black binders in FOSTER's office, GORHAM said she had a very vague recollection that perhaps there were black binders which contained materials used in preparing the health care report for HILLARY RODHAM CLINTON. She said that an unidentified young lady who said she was working on health care matters came and got the binders. She could not recall if this was before or after FOSTER's death.

GORHAM said that it was more likely that people were refering to black binders holding names and backgrounds of potential appointees to judgeships which the office of RON KLAIN, Associate Counsel, had sent over to the Counsel's office. One binder held Supreme Court candidates or nominees and the other held Circuit Court of Appeals candidates or nominees. GORHAM considered them sensitive in the sense that they held background information on the individuals and the very fact that the individuals names were in the binders was in itself sensitive. But they were not kept under lock and key. She has no idea who else would have an interest in having those binders. She made a set of binders for FOSTER and also for NUSSBAUM. She assumes that RON KLAIN's office kept a set for themselves. She also typed up an index for the front of each binder. She does not remember seeing the binders on or about July 20 and so does not recall whether or not they were in FOSTER's office immediately after his death.

With regard to the production of documents made by The White House, GORHAM noted that she left the West Wing on September 4, 1993 and from then until November (when she left the employ of The White House), any lists that she had been responsible for were not updated by her or to her knowledge. She questioned whether or not there was any kind of an accounting of what documents were added or subtracted from the inventory.

With regard to the first document in the production, comprised of three pages beginning with a page number 6 at the top and titled, "OFFICE OF VINCE W. FOSTER, Jr." and ending on the third page with a notation updated 10/25/93 (tagged "Part 1"), GORHAM said that she recognized this document as a font that she used in order to create the indexes. She did not recognize

the fax information listed across the top of the page except to recognize one of the fax numbers as The White House Counsel's office fax number. She said that pages 1-4 would have listed outer cabinet contents and she does not know what page 5 would have been. GORHAM said that cabinet 1 was the cabinet on the left in FOSTER's office and was the cabinet that held the documents on people that she considered slightly sensitive. Cabinet 2 was the cabinet holding documents relating to the First Family's personal and legal materials. She noted that she has a firm recollection of the first 11 entries but starting with the 12th (which reads CLINTON-Campaign 92' correspondents), she does not have a firm recollection of the following documents being in that particular drawer. In addition she did not recall typing the word "remove" after the documents which have that notation following it.

With regard to the listing under cabinet 3 and cabinet 4, GORHAM does not recall the location of these cabinets but recalled the files were, indeed, kept in the cabinets in FOSTER's office.

The way that GORHAM would use this list which comprises Part 1 would be to insert a "hard return" to generate separate pages to put individual indexes in the front of each file drawer. When she wanted to update the list she would simply delete the "hard returns", update the list, print new pages and use them to replace the old ones. She was unable to tell if the production corresponded to the list as she had last updated it. She noted that the date 10/25/93, was after she had already left the West Wing, and so she suspected that it was updated after she left.

Part 2 of the production is an 8 page collection of typed lists of various lengths. The first one reads "DEBORAH GORHAM's desk contents:" and is followed by 7 items. GORHAM explained that CLIFF SLOAN asked her to listen to all of FOSTER's tapes that she could find and transcribe whether they were garbled or not. She does not know what they were looking for. "VINCE's tapes" were transcriptions of all of the micro-cassette dictation tapes which she could locate. She does not recall what the following three items were. She did not comment on the "travel" file or the "miscellaneous" file and she said that "FOSTER Printed Rolodex" was maintained in a black binder. The 2nd page, entitled "VINCE FOSTER's desk files" were the files located in the large bottom right desk drawer filled with numerous manila folders. She said that she herself did not

create this list and does not know who did.

All of the subsequent lists to the end of part 2 are lists of files which were located in the cabinets in front of DEBORAH GORHAM's desk outside of FOSTER's office. With regard to box number 4 which lists, among other things, the RTC, GORHAM said that these files would have held things that were non-sensitive in nature, perhaps newspaper clippings.

Part 3 of the production is a handwritten list entitled, "Privileged and confidential attorney/client work product VWF-working files-desk-right middle drawer". GORHAM was not able to identify the handwriting, but guessed that possibly it was STEPHEN NEUWIRTH's. It looks like it might be an approximate duplicate to what was in the large bottom right desk drawer but not exactly, citing, as an example, item number 12 - "DEBORAH GORHAM" (her own name), which is not on the typewritten listing in part 2 of the production. She was unable to comment further on what this document may have entailed. This part of the production was 6 pages long.

Part 4 of the production is comprised of 11 pages and appears to be hard copy printouts of directories from floppy disks. At first, GORHAM suggested that the entries for circuit lists and district lists are possibly the indexes which were kept in front of the black binders holding the lists of nominees or candidates received from RON KLAIN's office. She advised that the document called Fayette was a copy of FOSTER's commencement speech that he made at the Arkansas Law School.

The 2nd page is a file called "Medical" and she advised that it was the final Medical report which was sent to HILLARY RODHAM CLINTON. The 3rd directory holds "Budget VWF" and "Budget 1 VWF". GORHAM advised that this was the budget for the Counsel's Office and it was outdated in that FOSTER stopped editing it to update it as of April 1993.

The next two, titled Disk 4 and 5 respectively, begin lists of entries which GORHAM suggested are back-up files to documents which were on the hard drive to her stand-alone computer. She characterized them as various letters memos and itineraries, etc. which GORHAM typed for FOSTER. She recognized most, but not all, titles as her work, noting that she started work on 3/8/93 and left the West Wing on 9/4/93. She also did not recognize documents from 7/19/93 to 9/2/93, and 10/6/93 to

10/25/93.

Disk 6 hold printouts of sub-directories, CLINTON, Health, and Speeches. Disk 7 holds Data (calendars), and PL, which are execution files, never actually used at all. She was not able to identify the significance of any of the check marks by the file titles.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/11/95

HELAINE A. GREENFELD, Civil Rights Division, U.S. Department of Justice (DOJ), was interviewed in a conference room in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC), regarding her knowledge of events surrounding the death of VINCENT FOSTER, JR. FOSTER was the former Deputy Counsel to the President of the United States. After being apprised of the identities of the interviewing agents and the purpose of the interview, GREENFELD thereafter provided the following information:

GREENFELD worked with The White House on the nomination process regarding current Supreme Court Justice RUTH BADER GINSBURG. She graduated from Georgetown University Law School circa 1992. GREENFELD's husband, RICHARD MINTZ (phonetic), worked on the 1992, CLINTON Presidential Election campaign. From February 1993, until June 1993, GREENFELD volunteered in the office of the First Lady of the United States, serving in the correspondence unit. GREENFELD was looking for employment during this time period. GREENFELD departed The White House on June 18, 1993, with June 24, 1993, being her first day at DOJ. Her first assignment at DOJ dealt with the GINSBURG nomination. GREENFELD's work on the nomination required her to work within The White House until August, 1993. A DOJ secretary, MARTHA (LNU) was detailed to The White House along with GREENFELD. This secretary was known to have worked for ANN BINGAMAN, Assistant Attorney General for the Antitrust Division, DOJ.

In preparing for the Judicial Committee's hearings regarding the nomination of Justice GINSBURG, GREENFELD put together the Congressional questionnaire that would be utilized by the Senate Judiciary Committee in its evaluation of nominee GINSBURG. GREENFELD also coordinated meetings related to the nomination and conducted moot hearings in order to prepare nominee GINSBURG for the hearings.

The hearings regarding the nomination of GINSBURG to the Supreme Court commenced on July 20, 1993. The hearings were scheduled to run for four days. GREENFELD may have been at The

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Investigation on 1/5/95 at Washington, D.C. File # 29D-LR-OIC-35063

by SA RUSSELL T. BRANSFORD
SA DANA M. GILLIS DMG:sla Date dictated 1/10/95

White House on July 19, 1993, but does not believe she went to The White House on days that the hearings were scheduled.

In the course of her work at The White House, GREENFELD had no involvement in any issues related to FOSTER's death.

GREENFELD noted that documents were couriered from The White House to Capitol Hill during the entire course of the confirmation process related to GINSBURG. She was specifically aware of two bulk transfers of documents related to the GINSBURG nomination. One transfer of documents consisted of looseleaf binders some time in late June, 1993. The second bulk transfer of documents occurred the night before the Senate Judiciary Committee hearings. This transfer included personal files that GREENFELD would use throughout the course of the hearings.

The binders were described to be large, black, three-ring binders that had clear, plastic identification windows on the spine of the binders. Labels were subsequently prepared to insert into the identification windows. The binders were prepared in the Old Executive Office Building (OEOB). White House messengers were believed to be the individuals handling the transfer of documents from The White House to Capitol Hill. GREENFELD does not recall any occasion where she would have had to call The White House in the course of the GINSBURG hearings.

Two interns assisted GREENFELD in preparing GINSBURG for the hearings. One intern, CARLOS (LNU), was from The White House Counsel's office. SAMANTHA ROSENBERG (PHONETIC) was hired by GREENFELD. ROSENBERG was a student at the University of Maryland Law School. GREENFELD noted that JENNIFER MILLER (phonetic) currently believed to be a student at Stanford University Law School, may know the whereabouts of CARLOS LNU.

GREENFELD has no reason to believe any documents that were assembled by her regarding the GINSBURG nomination were at any time in FOSTER'S office. GREENFELD had no knowledge of what documents may have been in FOSTER's office. GREENFELD noted that FOSTER was involved in the vetting process related to the selection of GINSBURG for a seat on the Supreme Court, prior to her nomination.

GREENFELD learned of the death of Deputy White House Counsel VINCENT W. FOSTER, JR., on the morning of July 21, 1993. GREENFELD had met FOSTER on one occasion, in a line at The White

House mess. She was introduced to FOSTER by a friend of hers from the Counsel's office.

GREENFELD did not go to the FOSTER residence on the night of FOSTER's death nor the day after the death. GREENFELD did not attend FOSTER's funeral.

GREENFELD was aware that CRAIG LIVINGSTONE worked in the area of security, related to The White House. She met LIVINGSTONE through her husband during the course of the CLINTON Presidential campaign. She remembers having to go through LIVINGSTONE in order to get her White House pass for access to White House offices. She has had no other professional contacts with LIVINGSTONE. GREENFELD did not remember having any contact with LIVINGSTONE or needing his services during the week of July 19, 1993, although she does not rule out the possibility of having seen him that week. GREENFELD did not believe LIVINGSTONE would have visited her on Capitol Hill during that week. GREENFELD may have had contact with LIVINGSTONE since the GINSBURG hearings but does not recall that being the case.

GREENFELD's husband, RICHARD MINTZ, is an Assistant to the Secretary of Transportation in the area of public affairs.

No further information of investigative value was provided.

HELAINE A. GREENFELD is described from observation and interview as follows:

Date of Birth:	[redacted]
Place of Birth:	
Race:	White
Sex:	Female
Social Security Account Number:	[redacted] FOIA(b)(6) FOIA(b)(7) - (C)
Residence:	3388 Stuyvesant Place, NW Washington, DC 20015
Residence telephone:	202-537-2942

H

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/14/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 2/10/95 at Alexandria, VA File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/12/95

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/18/94

ROBERT J. HEDAYA, M.D. **(PROTECT IDENTITY)**, 4701 Willard Avenue, Chevy Chase, Maryland (telephone number 301-657-4749), was interviewed at his medical office and advised as to the identity of the interviewing agents and informed of the nature of the inquiry. He then provided the following information:

DR. HEDAYA is a practicing psychiatrist specializing in depression matters and confirmed the fact that he had telephonically informed representatives of the U.S. Park Police that he had not treated MR. VINCENT FOSTER but did provide the following chronology of events relative to MR. FOSTER's death:

HEDAYA advised that on Friday, July 16, 1993, he received a telephonic request from MRS. BARBARA PRYOR, the wife of U.S. SENATOR DAVID PRYOR, Arkansas, if he, DR. HEDAYA, would be available to discuss with a MRS. SHEILA ANTHONY a problem associated with a relative of MRS. ANTHONY who was in "a crisis situation." DR. HEDAYA agreed to this request by MRS. PRYOR and shortly thereafter received a telephone call from MRS. SHEILA ANTHONY who called to his attention that her brother was extremely depressed and in need of psychological counseling. MRS. ANTHONY also informed him at this time that her brother occupied a very sensitive position at the White House and was dealing on a daily basis with Top Secret matters and that his depression was directly related to highly sensitive and confidential matters. It was DR. HEYDAYA's distinct impression that MRS. ANTHONY's brother was in a bind, needed desperately to talk to someone but had grave concerns about discussing these issues with a doctor, believing he could not speak freely since his depression was a direct result of sensitive and confidential issues. It was also DR. HEDAYA's impression in his discussion with MRS. ANTHONY that her brother's depression was a relatively recent event in his life and that MRS. ANTHONY did not mention, nor did he question her, as to what specific Top Secret or Confidential matters were directly causing his depression.

Investigation on 5/17/94 at Chevy Chase, MD File # 29D-LR-35063

FOIA(b)(7) - (C)

by SSA William E. Colombell LJM:deg Date dictated 5/18/94

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Based on the above factors, DR. HEDAYA informed MRS. ANTHONY that he would see her brother "off the record" for one counseling session. DR. HEDAYA characterized "off the record" as meaning no record would be maintained in his office relative to the counseling of MRS. ANTHONY's brother but can't recall whether MRS. ANTHONY or he (DR. HEDAYA) suggested a "off the record" counseling session. DR. HEDAYA advised that although he would have been faced with a difficult counseling session, i.e., providing medical advice when the cause of the depression was in fact confidential or sensitive, he agreed to the counseling session with the hope that at a minimum, he could have provided basic educational therapy regarding the causes of depression and suggested ways to cope with this disease. After MRS. ANTHONY informed DR. HEDAYA of the identity of her brother as MR. VINCENT FOSTER, she informed DR. HEDAYA that MR. FOSTER would be in contact with him that day.

DR. HEDAYA advised that he is positive that MR. FOSTER never contacted his office for an appointment and he had no contact with any member of the FOSTER family or any family associates until he believes the evening of July 21, 1993 when he received on his voice mail a telephonic message from SENATOR DAVID PRYOR informing him that MR. VINCENT FOSTER had apparently taken his life and would he (DR. HEDAYA) contact him relative to [redacted] - He - - - - - FOIA(b)(7) - (C) immediately placed a call to SENATOR PRYOR's office or residence and left a message on SENATOR PRYOR's voice mail that he would be glad to render such services. However, SENATOR PRYOR never re-contacted him and therefore DR. HEDAYA did not provide the requested services. DR. HEDAYA does recall, however, receiving a telephone call from MRS. SHEILA ANTHONY approximately two days after the death of her brother asking him whether or not her brother had ever contacted him for consultation services. Additionally, DR. HEDAYA advised that the last contact he had with any member of the FOSTER family was approximately two to three weeks after the death of VINCENT FOSTER. At that time, MRS. SHEILA ANTHONY, in the company of SENATOR DAVID PRYOR, visited his office to discuss with him general issues pertaining to depression. He advised that there was no specific issues raised as to the exact cause of MR. FOSTER's depression and apparent suicide, but does recall MRS. ANTHONY informing him that "there was something going on in his life" but it was not sinister as being reported in the media.

DR. HEDAYA, who was extremely cooperative and candid during this interview, advised, however, that the information he furnished should be treated in a confidential manner and requested the professional courtesy of being informed if the FBI was going to use his statement in a future interview of either SENATOR PRYOR or his wife-or, for that matter, a re-interview of SHEILA ANTHONY.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

NANCY V. HERNREICH, Deputy Assistant to the President for Appointments and Scheduling, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Ms. HERNREICH was advised as to the official identities of the interviewing agents and of the nature of the interview. She then provided the following information:

She has handled appointments and scheduling for BILL CLINTON since 1985, having first taken this job while CLINTON was Governor of the state of Arkansas. While she was not involved in BILL CLINTON's Presidential campaign, once he was elected to the Presidency, she was asked to come to Washington, D.C. and assume her current position in the CLINTON Administration as of January 20, 1993. When asked to describe her position, she said that she is often regarded as "somewhat of a gate keeper" for BILL CLINTON.

Ms. HERNREICH said that she had known VINCE FOSTER since 1991 but did not know him very well at all while they were in Little Rock. She got to know VINCENT FOSTER much better once the two of them moved to Washington, D.C. to take positions in the Administration. She explained that she was part of a group of "Arkansans" working within the Administration who regularly went to dinner as a group after work on Tuesdays. She said that VINCENT FOSTER was also a member of this group and she would describe their relationship as "friendly but not close". She said that while she can recall seeing no changes in VINCENT FOSTER's physical of psychological presence, she does not feel comfortable making such judgements considering that their relationship was not particularly close. She added that FOSTER had been working very long hours and was "under constant pressure" as many members of the Administration were doing that period. She said that, in retrospect, she can see how the long hours and constant pressure could have bothered him a great deal. She described FOSTER as a "private man who didn't let many people in". She further described him as being "handsome, shy, and an elegant man". She said that FOSTER had a "self deprecating sense of humor" and was at times seen by some people as being

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Investigation on 6/9/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 6/9/94

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"arrogant". She said that he was a strong family man who was very proud of his children and appeared to have loved them very much.

On July 20, 1993, at approximately 11:00 pm, Ms. HERNREICH first learned of VINCENT FOSTER's death via a telephone call at her residence from DEBORAH COYLE, another White House staffer. She said that COYLE was calling her from The White House and that COYLE said that there were "quite a few" people at The White House handling incoming calls and notifying various people of FOSTER's death. HERNREICH said that she asked COYLE if there was anything she could do and then asked if COYLE thought she should come to The White House to help. After being told by COYLE that there was really no need for her to come in, she decided not to go to The White House on that evening. She further advised that she also did not go to the FOSTER residence on the evening of July 20, 1993. She arrived at work the next morning (July 21, 1993) at approximately 7:00-7:30 am and after meeting with her staff, began working on funeral plans and also making various travel arrangements and schedules for the President and White House staffers who were planning to attend FOSTER's funeral in Arkansas.

Mr. HERNREICH advised that she was never asked to handle, transport, store, mail, or move any documents, papers, or items from VINCENT FOSTER's office following his death. Not only was she never asked to do any of these things she never did them. She further advised that she has no knowledge of any other White House staffers or anyone else being asked or doing any such things regarding FOSTER's documents, papers, or items.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/24/94

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PHILIP HEYMANN, former Deputy Attorney General, was interviewed at his office in Georgetown Law School on June 21, 1994. Also present during the interview was ROD C. LANKLER and MARK STEIN, attorneys with the Office of the Independent Counsel, Washington, D.C.

HEYMANN advised that he first learned of VINCE FOSTER, JR's death on Wednesday, July 21, 1993. He recalls having discussions with ROGER ADAMS of his staff explaining to him that he needed somebody to go to The White House to supervise or to take part in the search of documents in FOSTER's office. HEYMANN said that he does not remember why he thought the Department of Justice should be involved. His main thought was that the Park Police might need help with executive privilege related issues. He does not recall that there were any requests from The White House, Attorney General JANET RENO, or the Park Police that the Department of Justice should become involved. He explained that he had chosen ROGER ADAMS to be involved because he felt he was the perfect person for the job. He was discreet and very professional and it would have been no question at all that a media leak or any other indiscretion would have resulted.

ADAMS told HEYMANN at that time that there might be a problem with his performing this assignment because ADAMS had been temporarily assigned to The White House and involved in transition activities earlier that year. HEYMANN told ADAMS to check with the Attorney General to see if there was indeed a problem. HEYMANN said that about 3:00 that afternoon he found out from ADAMS that there was not a problem, so he told ADAMS that he wanted DAVID MARGOLIS (also on HEYMANN's staff) and ADAMS to be the two people from Department of Justice to become involved. He chose these people primarily because they were career Department of Justice professionals. HEYMANN specifically did not want anybody selected who was a political appointee.

There was a general sense that the purpose of their involvement would be that they would see enough of any particular document from FOSTER's office to identify if the document was

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relevant to explaining whether or not FOSTER had committed suicide, and if so, why. HEYMANN said that it was his understanding that the objective of the inventory was to satisfy themselves that FOSTER's death was a suicide and to find anything that would shed light on the reason for it. He does not think that there was a specific discussion on the objective of the inventory. He did not consider the purpose to determine what VINCE FOSTER was working on at the time of his death.

HEYMANN advised that with regard to the afternoon of July 21, 1993, he believed that he had spoken with BERNARD NUSSBAUM, then White House Counsel, but had no specific recollection of the discussion. He remembers that he had an agreement with NUSSBAUM--it could have been made by phone with NUSSBAUM or it could have been his understanding from MARGOLIS and ADAMS who returned from The White House later that afternoon. He remembers chafing at the delays that had occurred during the day--that MARGOLIS and ADAMS had the issue of the inventory to settle and he also remembers waiting for the Park Police to arrive, which they had not. His understanding was that the Department of Justice was to act as a sort of mediator for the Park Police regarding the executive privilege issues because the Park Police would have a lack of familiarity in that area. With regard to FBI involvement, Department of Justice had asked them to be there on July 22. MARGOLIS said that he wanted the FBI there because of the expertise the FBI would bring to the situation and because he had worked with the FBI in previous matters and was comfortable with them.

HEYMANN characterized his primary concern as wanting the right investigative agency to handle the matter so that it wouldn't appear that the investigation was being handled in any irregular fashion. That was why the Park Police was the appropriate lead investigative agency at that time.

Late in the afternoon of July 21, MARGOLIS and ADAMS returned from The White House. MARGOLIS told HEYMANN that they had agreed on a procedure for the search (or inventory), that FOSTER's office had been sealed, and that they had agreed to do the inventory the following day, July 22, 1993. HEYMANN could not recall whether MARGOLIS told him then, or somewhat later, that STEPHEN NEUWIRTH had not agreed that the Department of Justice should be able to look at the documents. MARGOLIS and ADAMS said to NUSSBAUM that it had been agreed that they could look at the documents and they recalled NUSSBAUM saying, "Yes, it

has been agreed."

With regard to the issue of whether or not somebody would put a hand over something on the first page, HEYMANN said that he discussed covering up part of the document (which would have been of a substantive nature) in order to protect the information, but would otherwise enable onlookers to see that a document was what it was purported to be (i.e. a communication from somebody to somebody on an identified topic). He said that nobody was thinking about Whitewater as an issue, and that they probably would not have remembered it as having been an issue from the Presidential campaign.

With regard to events that occurred in the morning of July 22, 1993, at The White House, HEYMANN said that MARGOLIS and ADAMS went to The White House about 10:00 in the morning. HEYMANN said that he got a call from MARGOLIS advising him that NUSSBAUM had changed signals and that they (MARGOLIS and ADAMS) were to see nothing at all, merely be present during the inventory. At that time HEYMANN and MARGOLIS discussed whether or not Department of Justice should withdraw their participation, meaning HEYMANN would pull MARGOLIS and ADAMS out. HEYMANN said that he got NUSSBAUM on the line and told him that it was a total mistake for The White House to have changed the procedure and that he was considering withdrawing DOJ presence from the inventory. He specifically remembers NUSSBAUM saying in response to that, "I have to talk to some people about this" and telling HEYMANN that he would call him back. HEYMANN remembers that his own tone during the conversation was angry. NUSSBAUM did not sound angry but acted sufficiently alarmed at HEYMANN's posture to rethink his decision to change the procedure. The conversation was held at 10:30 in the morning and lasted about 10 minutes.

Explaining his thinking on the matter, HEYMANN said that he knew there was no precedent for this sort of situation. The Department of Justice wanted to scan every document in FOSTER's office. HEYMANN felt it was an intelligent, professional way of doing it, and that was to have two discreet, highly professional career Department of Justice employees look at the documents. He felt that it put the Department of Justice in a compromising position if they were present but not doing anything or actively participating in the inventory. He stated these issues in the strongest of terms to NUSSBAUM. HEYMANN said he had the vague sense that NUSSBAUM was not happy about the

change in the agreement and that NUSSBAUM was not in control.

HEYMANN remembers telling NUSSBAUM during that telephone conversation at 10:30 am that HEYMANN would have to make a decision whether or not to leave Department of Justice individuals there if NUSSBAUM decided to proceed with the altered procedure of not allowing them to look at the documents. He has a clear impression that he had put in abeyance his decision as to whether or not to pull MARGOLIS and ADAMS out, and was waiting for NUSSBAUM to call him back. NUSSBAUM had specifically promised that he would call and then HEYMANN would decide what to do. HEYMANN believes that MARGOLIS remembers something less clear on that topic.

The next thing HEYMANN knew MARGOLIS and ADAMS had returned from The White House to Department of Justice and he remembers feeling a little put out that MARGOLIS and ADAMS had not called him to let him know that the inventory was proceeding without NUSSBAUM having called him. HEYMANN's primary anger, however, was targeted at NUSSBAUM. NUSSBAUM had promised that he would call HEYMANN and HEYMANN describes his feeling as "furious". With regard to MARGOLIS, HEYMANN said that he didn't know why MARGOLIS had gone ahead with the inventory, but he trusted that he had done so in good faith and he didn't verbally criticize him at the time because he doesn't normally "beat on subordinates". HEYMANN advised that the issue of the inventory was not his main issue that he was dealing with on July 22, other things were going on that kept his attention.

MARGOLIS and ADAMS returned somewhere between 5:00 and 6:00 in the evening. What they described to him at that time was a situation that left them feeling misused and manipulated. They described how CLIFFORD SLOAN had told an FBI agent to sit down when he thought he was trying to look at one of the documents. They felt they'd been treated like furniture. HEYMANN told them at the time that he had had a deal with NUSSBAUM and HEYMANN thinks that they said that they thought HEYMANN had talked with NUSSBAUM. HEYMANN did not confront MARGOLIS and ADAMS (meaning asking them why they didn't leave) because he figured it was "spilled milk" and there was nothing to be gained by such a confrontation. HEYMANN called NUSSBAUM about 9:00 that evening and expressed his outrage to NUSSBAUM in the clearest of terms. NUSSBAUM did not deny that he had failed to call HEYMANN as agreed. HEYMANN recalls asking NUSSBAUM, "BERNIE, are you hiding something?" NUSSBAUM answered, "No. I promise you, PHIL,

there's nothing we're hiding."

There was no discussion about redoing the search. HEYMANN was not sure but what The White House was within their rights to do the search the way they had done it. It was stupid, but not illegal, and it was not a situation where HEYMANN would have sent in individuals to stop the inventory from occurring if he had known what was going on at the time. As of July 22, he washed his hands of the matter.

With regard to the procedure actually followed, HEYMANN was told that the individuals from the investigating agencies sat there while NUSSBAUM went through papers and said what category they belong to. For instance, "executive privilege" or "private papers", and sometimes NUSSBAUM gave a minor description. HEYMANN did not remember being told of any description that described in detail what the document was. Some papers were put aside to be given to the CLINTONs' private attorney. HEYMANN did not recall if the Park Police got anything.

HEYMANN and MARGOLIS and ADAMS had nothing further to do with the inventory or the aftermath until the following Tuesday. In the interim days, the Park Police began to feel very manipulated. MARGOLIS may have had some conversations with Captain HUGHS to this effect. MARGOLIS told HEYMANN that the Park Police were not happy but that things were "going o.k." HEYMANN remembers asking "Is this being handled as any other suicide investigation would be handled?" The Park Police answered, "No. But you can't do it the same way when it deals with The White House". It was left at that.

The following Tuesday HEYMANN went to The White House when they were turning over the torn up note that had been found when NEUWIRTH searched FOSTER's briefcase. MARGOLIS and ADAMS remembers NUSSBAUM looking into the briefcase. HEYMANN said that MARGOLIS and ADAMS did not say to him at any point that they found it inconceivable that NUSSBAUM would not have seen the torn up note in the bottom of the briefcase. HEYMANN also has no recollection of any rumors about any other note having been found.

With regard to a conversation with THOMAS COLLIER, Chief of Staff to Secretary of Interior, BRUCE BABBITT. HEYMANN recalls that this conversation took place on Thursday, July 29, 1993. The background for this was as follows. The previous day,

the 28th, HEYMANN had sent the FBI back into the investigation full speed to determine how the note had been found and every aspect of how FOSTER'S papers had been handled. He was extremely angry and was done "messing around" and giving The White House reign to handle the matter. HEYMANN explained that first there was the mess about the procedure for the search, where he had felt abused, and then he discovered that The White House had waited 27 hours before they turned over a note that should have been found during the initial inventory. HEYMANN discussed this decision about re-activating the FBI with MARGOLIS and ADAMS. He did not discuss it with JANET RENO. He also did not discuss it with WEBB HUBBELL, saying that he made a point of never discussing anything having to do with The White House or the selection of cabinet officials with WEBB HUBBELL, simply because the connection to CLINTON was too close.

The conversation on July 29 with TOM COLLIER occurred at approximately 8:25 in the morning and HEYMANN remembers that COLLIER was disturbed. COLLIER said that the Park Police were nearing the point where they were going to pull out of the investigation. Apparently they had not actually been denied anything by The White House, but they felt like they were being treated unprofessionally. The finding of the note after the controvercial inventory, and the delayed turning over of it pushed them over the edge and made them look foolish.

Apparently, WILLIAM BURTON and ROY NEAL had treated COLLIER "shabbily" and "yelled at him". HEYMANN called DAVID GERGEN at approximately 10:37 on July 29 because he knew GERGEN and trusted him. GERGEN was also the only person that HEYMANN felt would see what a mess The White House was creating for themselves in the way they were acting. GERGEN called HEYMANN back at about 11:00 am. HEYMANN recalls that they were on the speaker phone and got the impression that perhaps 8 to 10 people were there. GERGEN was there, as was BURTON and some of the people from The White House Press Office. HEYMANN told them that the Park Police were "in rebellion". He told them that he had tasked the FBI to investigate possible obstruction of justice and that he wanted "no holds barred". He remembers telling them that there was a 50/50 chance that The White House would be able to avoid a major credibility problem as a result of what was going on.

The only other talks with The White House that HEYMANN had subsequent to this was with regard to the timing of the

release of the final report. GERGEN very diffidently asked HEYMANN if it was inappropriate for them to request that they be given 24 hours notice of when the press conference would be held.

HEYMANN advised that he did not know that COLLIER subsequently met with GERGEN. He remembers being told that White House cooperation levels turned around 180 degrees and he remembers Secretary of Interior BABBITT thanking him later.

HEYMANN does not know on what the FBI based their preliminary findings that the death was a suicide.

With regard to how WILLIAM BURTON acted during the speakerphone conversation on July 29, HEYMANN said BURTON's behavior did not constitute obstruction. Things were supposed to go through BURTON, and HEYMANN had ignored him and he was probably irritated for that reason. HEYMANN said that overall he did not suspect obstruction on the part of The White House but he felt there was reason to suspicious that irregularities in the handling of the papers were mounting and that somebody had to do an investigation to see if The White House was purposely hiding something.

HEYMANN was subsequently interviewed by ROD LANKLER and writer by conference call on June 22, 1994 to clear up some items. The purpose was to clarify whether or not MARGOLIS and HEYMANN had an understanding that they would attempt to get NUSSBAUM to agree to the previously agreed procedure to allow MARGOLIS and ROGERS to actually view the documents themselves by bluffing, saying they would leave if they could not do it that way when they actually intended that if NUSSBAUM insisted on the new procedure, they would stay anyway. HEYMANN knows that MARGOLIS remembers that that was the understanding. HEYMANN said that he himself was <u>not</u> at all sure that he would let it go forward, and that he might indeed have pulled ROGERS and MARGOLIS out. HEYMANN remembers saying. "If push comes to shove, I think we should go through with it." It's possible that HEYMANN and MARGOLIS had discussed the matter of whether pulling out would be a bluff or would they actually pull them out.

LANKLER read the text of MARGOLIS' interview and HEYMANN said that he did not remember agreeing that they would bluff-trying to get NUSSBAUM to change his mind, but that they would actually stay in the end. HEYMANN remembers specifically that he was waiting to get NUSSBAUM's call and then he would make

the decision. He said that , in any case, he would not have felt bound by any agreement previously reached during a discussion with MARGOLIS.

With regard to ADAMS' interview and his assertion that there had been a discussion on this issue earlier in HEYMANN's office between HEYMANN and MARGOLIS, HEYMANN said that that recollection is simply incorrect, that there was no agreement between the Department of Justice and The White House that the Department of Justice would stay.

HEYMANN explained that there were two different types of conversation at issue here. One was the one with NUSSBAUM about the relationship between The White House and the Department of Justice. The point was that The White House could not count on Department of Justice staying unless The White House changed back to the original procedure allowing them to look at documents. The other was HEYMANN and MARGOLIS trying to anticipate losing that argument and trying to deal with a hypothetical situation where they had to proceed under circumstances they didn't approve of.

HEYMANN said that he recalls a chronology prepared in rough form by CYNTHIA MONACO and remembers that it resulted in approximately six pages of handwritten notes and was prepared about the same time that HEYMANN did his notes on the matter which would have been in early February, 1994, shortly before HEYMANN left the Department of Justice.

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Telephone Number Harvard Law School: Office Telephone	617-495-3137
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D-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/20/94

PHILIP HEYMAN, former Deputy Attorney General, currently teaching at Harvard Law School, telephone 617-495-3137 was interviewed telephonically by writer on July 20, 1994. Being acquainted with the interviewing agent and the nature and purpose of the interview, HEYMAN provided the following information:

HEYMAN said that he recalls receiving a copy of the U.S. Park Police report on the death of VINCENT FOSTER, JR. in August, 1993. He said that he got his copy from DAVID MARGOLIS who had received it the Friday or Saturday before the press conference, which was held with the Park Police and ROBERT "BEAR" BRYANT of the Washington Metropolitan Field Office of the FBI on Tuesday, August 10, 1993. HEYMAN explained that at that stage there was only one copy in The Department of Justice and that was the one that he and DAVID MARGOLIS shared. HEYMAN said he wanted to read the report over the weekend before the press conference.

HEYMAN advised that the report was not released to the public at the time of the press conference. At the conference they said that any inquiries would have to go through the Department of Justice and they had to have time for their Freedom of Information Act experts to redact from the report that material which was inappropriate for public dissemination. HEYMAN said that that process could take as long as six weeks but he actually has no idea whether the report was ever released.

HEYMAN believes that four copies existed in the Department in all. One was the original that he shared with MARGOLIS, a second was given to the FOIA office at DOJ, a third one was given to DOJ's criminal division with instructions from HEYMAN to follow-up on one of the items found in FOSTER's note found on July 26, 1993 in which he listed things that were bothering him, and the fourth was given to DOJ's OPR office in order to follow-up on another item listed in the same note by FOSTER.

HEYMAN advised that at the time he received the Park Police report, no photographs accompanied the report. Moreover,

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(telephonically)

Investigation on 7/20/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/20/94

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there were no xeroxes of photographs contained in the report or accompanying it.

During a previous interview PHILIP HEYMAN had provided the following personal information:

Date of Birth: FOIA(b)(6)
Place of Birth: FOIA(b)(7) - (C)
Social Security Number:

HEYMAN is currently on the faculty of Harvard Law School where he can be reached at 617-495-3137, fax number 617-495-1110.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 4/12/95

PHILLIP HEYMANN was interviewed in a conference room within the offices of the Office of the Independent Counsel (OIC) located at 1001 Pennsylvania Avenue, NW, Suite 490-North, Washington, D.C. (WDC). HEYMANN was represented in the course of the interview by Attorney ROBERT D. LUSKIN, of the law firm, COMEY, BOYD & LUSKIN, Suite 200, 2828 Pennsylvania Avenue, NW, WDC 20007-3763, telephone number (202) 625-1200. Participating in the interview from OIC-WDC, were Deputy Independent Counsel MARK H. TUOHEY, III and Associate Counsel BRETT M. KAVANAUGH. After being apprised of the purpose of the interview and the identities of all participants, HEYMANN thereafter provided the following information:

As a matter of record, HEYMANN had previously requested that instant interview be audio recorded. TUOHEY noted that the request was denied, at which time HEYMANN requested that his prior request be entered into the official record of the investigation.

It is to be noted that TUOHEY provided HEYMANN with copies of his (HEYMANN's) 302s regarding the investigation related to the death of VINCENT W. FOSTER, JR. FOSTER who died on July 20, 1993, was the former Deputy Counsel to the President of the United States. Upon reviewing the aforementioned 302s, HEYMANN advised that he found no problem with results as reported within the documents.

In the course of the interview, HEYMANN referred to personal handwritten notes that chronicled events related to FOSTER's death. Participants of the interview were provided with a copy of referenced notes and it is to be noted that a copy of those notes are attached and made a part of the record hereto. HEYMANN noted that the notes were written in February 1994, during a meeting with CINDY MONACO, ROGER ADAMS and DAVID MARGOLIS.

Referring to his notes, HEYMANN recalled that on July 20, 1993, he received information regarding FOSTER's death and

that it was a suicide. HEYMANN did not recall being notified of FOSTER's death on July 20th. HEYMANN may have learned of FOSTER's death from newspaper accounts or other news reports. Someone could have told him of FOSTER's death but he does not have a specific recollection of how he learned of the death.

In reviewing an entry dated July 21st, it is noted that in the late morning, HEYMANN talked to ROGER ADAMS. HEYMANN did not recall how the issue of handling documents in FOSTER's office first came up. HEYMANN probably had in mind the notion that Department of Justice (DOJ) individuals should be at the White House during any review of documents in FOSTER's office. The triggering event regarding HEYMANN's thoughts related to document review may have been a telephone call received from White House Counsel BERNARD NUSSBAUM.

HEYMANN had a procedure in mind for review of documents in FOSTER's office which he discussed with NUSSBAUM. HEYMANN recalled that DAVID MARGOLIS, DOJ, had a desire for the FBI to be involved in a review of documents in FOSTER's office. HEYMANN recalls that he and MARGOLIS wanted the FBI involved in the search of FOSTER's office. HEYMANN expressed to CHARLES HUME, United States Park Police (USPP), a desire to have the FBI brought into the investigation related to FOSTER's office. HUME then advised HEYMANN that the FBI was already involved.

HEYMANN recalls his desire that FOSTER's death be handled in the manner that any death on U.S. National Park property would be handled. HEYMANN did not think that USPP had the wherewithal or experience to deal with issues related to executive privilege regarding documents in FOSTER's office. This feeling on the part of HEYMANN was further justification for FBI involvement.

MARGOLIS and ADAMS were the DOJ officials selected to oversee the review of documents in FOSTER's office. The criteria with regard to the selection of MARGOLIS and ADAMS were that HEYMANN wanted to have career personnel who could be trusted to be absolutely discreet in reviewing documents where executive privilege might become an issue; Career DOJ personnel would not undermine the credibility of any investigation conducted related to FOSTER's death. HEYMANN noted that he explained his rationale for sending MARGOLIS and ADAMS to the White House to the Counsel's Office.

HEYMANN was sure that the procedures for the review of documents in FOSTER's office were set up in advance of MARGOLIS and ADAMS going to the White House on July 22, 1993. According to HEYMANN, once any questions regarding the handling of documents in FOSTER's office arose, NUSSBAUM could have telephoned him or HEYMANN could have telephoned NUSSBAUM.

HEYMANN was not sure whether the USPP had telephoned him regarding any problems related to the search of FOSTER's office. HEYMANN noted that MARGOLIS did most of the liaison with USPP. HEYMANN thought it was possible that the USPP could have telephoned MARGOLIS and then MARGOLIS would have telephoned HEYMANN regarding problems related to the search of FOSTER's office. HEYMANN could then have telephoned NUSSBAUM with regard to problems related to the search of the office.

An entry on the attached log for Wednesday, July 21st at 5:00 P.M. regarded information provided by MARGOLIS to HEYMANN, related to FBI Special Agents, USPP officers, DAVID MARGOLIS, ROGER ADAMS and STEVEN NEUWIRTH, all being in NUSSBAUM's office with an agreement to return the next morning to conduct the document review in FOSTER's office. It was noted that USPP Officers were not allowed into the office, which by that time had been secured. Also noted in the July 21st entry, was that the method for the conduct of the search was agreed upon by the parties present and would be utilized in the document review. HEYMANN had no memory of NUSSBAUM objecting to the plan that was agreed upon for the search. According to the attached notes, NUSSBAUM agreed to the terms for the search, NEUWIRTH did not. MARGOLIS advised that the search procedure was a "done deal" and that NUSSBAUM had agreed with the terms. Also listed in the attached note is that HEYMANN was briefed regarding the aforementioned meeting.

HEYMANN had no sense of what the USPP was looking for in FOSTER's office other than the obvious, a suicide note. HEYMANN also was of the belief the the USPP would have been looking for goodbye letters and anything else that may have been clues as to why FOSTER committed suicide. HEYMANN did not suggest to either ADAMS, MARGOLIS, or the USPP what they should be looking for in the course of searching FOSTER's office. He wanted the USPP to be the investigative body and not the Deputy Attorney General of the United States or related entities.

When MARGOLIS and ADAMS returned to DOJ from the search

of FOSTER's office, HEYMANN believes that MARGOLIS and ADAMS told him they were not allowed to look around FOSTER's office during the search, nor was the USPP allowed to inspect the office during the search. HEYMANN thought that the criteria previously agreed upon for the search called for MARGOLIS, ADAMS and the USPP to look at the documents being reviewed and make a determination as to the relevancy of those documents. Disputed documents would be set aside and handled later. The FBI would also be there to participate in the search. HEYMANN noted that NUSSBAUM had agreed to all of the above related to the search, particularly the handling of documents in FOSTER's office.

If HEYMANN had known how things were going to turn out, he would not have sent ADAMS and MARGOLIS over to the White House by themselves. HEYMANN noted to NUSSBAUM that he thought the manner in which the search was conducted was "folly." HEYMANN noted that he would be skeptical about exercising the powers of DOJ with regard to the search of FOSTER's office. On July 21, 1993, HEYMANN was reluctant to have anyone other than the FBI and USPP jointly handle the investigation related to FOSTER's death. ADAMS' and MARGOLIS' role at the White House was strictly supervisory in nature with regard to the search. The purpose of the investigation to this point was to determine whether or not FOSTER's death was a suicide or a homicide. If the White House had said no to the terms agreed upon on July 21, 1993, regarding the search of FOSTER's office, HEYMANN would have disagreed with any decision to change the intended search parameters. The terms of the search related to FOSTER's office had been discussed with NUSSBAUM at approximately 5:00 P.M. on July 21, 1993, by ADAMS and MARGOLIS. On July 21st, in addition to arrangements that were made related to the search of FOSTER's office, a specific time was set for the review of documents within the office for July 22, 1993. HEYMANN believed that the search would take place on that date.

On July 22, 1993, HEYMANN received a telephone call from MARGOLIS advising that plans had changed. MARGOLIS was calling with regard to the search of FOSTER's office. MARGOLIS noted in the course of the telephone call that he had been informed that the White House would be the only entity allowed to physically look at documents in FOSTER's office. HEYMANN recalls being angry, in that he thought the proposed change was a mistake. HEYMANN believed that MARGOLIS was told of the change by NUSSBAUM. In the course of this conversation with MARGOLIS, HEYMANN discussed the folly of the changes. HEYMANN also

discussed with MARGOLIS what MARGOLIS and ADAMS should do at that point. HEYMANN noted that he would not have made a decision during a telephone call with regard to MARGOLIS and ADAMS leaving the search. HEYMANN had a desire to speak with NUSSBAUM on the telephone.

HEYMANN noted that his intentions were to be accessible to MARGOLIS and ADAMS regarding any problems that might arise in the course of searching FOSTER's office. HEYMANN recalls talking to both MARGOLIS and NUSSBAUM on the telephone with regard to the search of FOSTER's office.

HEYMANN recalls the telephone call to NUSSBAUM to be heated in nature. HEYMANN noted that MONACO had walked by the location where HEYMANN was conversing with NUSSBAUM and was thought to have been struck by the seriousness of tone between NUSSBAUM and HEYMANN. HEYMANN told NUSSBAUM that he was making a mistake with regard to changing the search procedures. NUSSBAUM expressed that he would have to talk to some people about this. NUSSBAUM was taken aback that HEYMANN thought the search procedure as agreed to had been changed. After speaking with NUSSBAUM, HEYMANN continued talking to MARGOLIS, describing to MARGOLIS, his (HEYMANN's) conversation with NUSSBAUM. HEYMANN informed MARGOLIS that NUSSBAUM would later get back in touch with him (HEYMANN). HEYMANN, at some later time, spoke with NUSSBAUM, stating that he could not believe that he had been doublecrossed by NUSSBAUM. NUSSBAUM may have apologized without giving any explanation for the change to HEYMANN. HEYMANN asked NUSSBAUM if he had something to hide to which NUSSBAUM replied absolutely nothing.

Also in the course of the telephone call between HEYMANN and MARGOLIS, MARGOLIS advised that he and ADAMS would "hang out" until the dispute over the search procedure had been worked out. At that point, HEYMANN continued about his day and received no further calls from either NUSSBAUM or MARGOLIS. HEYMANN thought he would hear back from NUSSBAUM. Had NUSSBAUM later telephoned HEYMANN, he (HEYMANN) would have then telephoned MARGOLIS and provided him with advice for what should be done.

The July 22nd entry for 1:00 P.M. on the attached set of notes, represents what HEYMANN was told at a later time regarding interactions between NUSSBAUM and MARGOLIS. The 9:00 P.M. entry on the attached set of notes reveals a telephone call between HEYMANN and NUSSBAUM.

HEYMANN remembers both MARGOLIS and ADAMS coming to his office on July 23, 1993. HEYMANN was surprised to hear what took place in the course of the document review in FOSTER's office. He was also surprised that neither MARGOLIS nor ADAMS had telephoned him while all of the disputed activity related to the search took place.

HEYMANN was surprised and angry regarding events related to the document review in FOSTER's office. He wanted to avoid the appearance that DOJ looked like it was providing supervision of an investigative responsibility. HEYMANN had a vague memory that NUSSBAUM contacted him (HEYMANN) regarding a White House statement related to the FOSTER death investigation being a DOJ supervised investigation.

One concern that HEYMANN had concerning the FOSTER death investigation was that ADAMS worked on the CLINTON Presidential Transition Team. HEYMANN noted that the Attorney General (AG) was informed of this fact and that the AG knew ADAMS and MARGOLIS would be going to the White House to participate in the search related to FOSTER's office.

ADAMS and MARGOLIS described NUSSBAUM and CLIFF SLOAN as being upset in the course of the search. NUSSBAUM and SLOAN were afraid that ADAMS and MARGOLIS would leave FOSTER's office rather than participate in the search. MARGOLIS thought that he (MARGOLIS) and ADAMS served as window dressing during the course of the search. MARGOLIS recounted for HEYMANN the now familiar story regarding the FBI Special Agent who was rebuked in the course of the search.

MARGOLIS and ADAMS may have assumed after being informed by NUSSBAUM of changes in procedure, that HEYMANN was in contact with NUSSBAUM and that the decision to continue overseeing the search would be okay. On July 23rd, the FBI "pulled back" from the investigation into FOSTER's death. HEYMANN was not sure why. HEYMANN was not contacted by the FBI regarding treatment of its personnel during the search. HEYMANN noted that he saw "FBI brass" on a regular basis during that time period. He may have casually mentioned to someone the appearance that the FBI had somehow pulled back from the investigation although he could not specifically recall if in fact he had done so.

MARGOLIS and ADAMS plainly thought they were supposed

to stay for the search. HEYMANN was not sure if this was a function of MARGOLIS and ADAMS thinking HEYMANN and NUSSBAUM had changed plans. MARGOLIS and ADAMS were probably under the impression that they were supposed to stay for the search. Someone at the White House may have suggested that NUSSBAUM had talked to HEYMANN regarding a change of plans. As far as HEYMANN was concerned, after the search of FOSTER's office, DOJ was no longer part of the investigation. The USPP was serving as the lead investigative agency. HEYMANN recalls that the USPP was getting all the cooperation that was needed with regard to the investigation.

HEYMANN did not think that MARGOLIS asked for any documents he was not allowed to see. During the course of the search, there was no discussion regarding the computer in FOSTER's office. There was probably no discussion among parties witnessing the search regarding how documents would be handled after the search.

The mechanics of the search dictated that JAMES HAMILTON, of the law firm of Swidler & Berlin, was to get personal documents related to VINCENT FOSTER, should these documents not be relative to the cause of death. Other than the computer, HEYMANN was not aware of any files or other areas that should have been searched.

On July 27, 1993, HEYMANN first learned of a note believed to have been written by FOSTER having been found. At the time, HEYMANN was meeting with the U.S. Attorney's Advisory Committee. HEYMANN got a note in the course of the meeting stating that NUSSBAUM wanted to talk to him. HEYMANN subsequently telephoned NUSSBAUM who had already asked the Attorney General (AG) to come over. NUSSBAUM asked HEYMANN to come to the Counsel's office as well. HEYMANN rode over to the White House with the AG.

Upon arriving at the White House, HEYMANN and the AG went into the office of THOMAS F. "MACK" MCLARTY. MCLARTY at the time was the President's Chief of Staff. In MCLARTY's office were DAVID GERGEN, MCLARTY, BILL BURTON, and after their arrival, NUSSBAUM entered the office. NUSSBAUM then pulled out an envelope with pieces of a torn up note. NUSSBAUM had made a photocopy of the note. NUSSBAUM explained that in the recent handling of a briefcase in FOSTER's office, a note was found. NUSSBAUM advised that the note had been found on a previous date.

NUSSBAUM and the White House staff asked what should be done with the note. The AG responded that the note should be turned over to the USPP immediately. The AG also asked why the note had not been turned over when it was initially found 24 hours ago. NUSSBAUM replied that they wanted to inform both the President and LISA FOSTER of the note. After issuing the order that the note should be immediately turned over to the USPP, the AG departed the meeting.

HEYMANN contacted MARGOLIS and requested MARGOLIS have the USPP come to the White House to collect the note. After completing his telephone call with MARGOLIS, GERGEN asked HEYMANN to speak with him. Everyone else departed the room.

Representatives of the USPP then came to the White House. The White House was in no hurry to meet with the USPP. The USPP officers had no prior involvement with the FOSTER investigation. HEYMANN met the officers at the White House and tried to make them feel comfortable. At a later time, NUSSBAUM and other staffers gathered. NUSSBAUM assembled the note and asked the USPP officers to write down what the note said. HEYMANN encouraged the USPP officers to ask any questions they might have. HEYMANN noted that the officers asked no questions.

After the note was collected by the USPP officers, HEYMANN rode back to DOJ with the aforementioned officers.

On July 28, 1993, HEYMANN requested that the FBI conduct an obstruction of justice investigation. HEYMANN was of the belief that the White House found the note on the day, and in the manner in which was represented previously to HEYMANN. The purpose of the FBI investigation was to ensure that nothing untoward had taken place.

In making his request for an FBI investigation, HEYMANN noted that he wanted an "aggressive" FBI investigation related to possible obstruction of justice. The FBI later reported back that there was no evidence of obstruction of justice on the part of White House officials. HEYMANN was of the belief that there was no attempt to obstruct justice with regard to the FOSTER death, but felt that the White House Counsel's Office was very clumsy in its handling of the note related to FOSTER's death.

During the course of the search of FOSTER's office on July 22, 1993, NUSSBAUM looked into the interior of a briefcase

that was in the office, noting he saw nothing. Both ADAMS and MARGOLIS saw that NUSSBAUM had inspected a briefcase in FOSTER's office on that date. HEYMANN did have a concern based upon this information that a note was not found in the briefcase during the July 22nd, search.

HEYMANN thought that if either MARGOLIS or ADAMS had seen the interior of the briefcase they would have recalled doing so. It would have been a strong indication of obstruction of justice if they had seen the briefcase and it was empty during the July 22nd, search.

On July 29, 1993, THOMAS COLLIER, United States Department of Interior, telephoned HEYMANN and shortly thereafter visited HEYMANN for approximately 45 minutes. In the course of the visit, COLLIER noted that the USPP officers involved in the FOSTER death investigation were being "shabbily" treated by the White House. HEYMANN and COLLIER also discussed the possibility of the USPP pulling out of the investigation. COLLIER contacted the White House and was treated brusquely and impatiently by Deputy White House Counsel, ROY NEEL and BILL BURTON. After the discussion with HEYMANN, COLLIER was passed to MARGOLIS and ADAMS. By this time, GERGEN had become the White House point of contact with regard to the FOSTER death investigation. HEYMANN telephoned GERGEN to express his dismay at treatment of USPP officers. HEYMANN expressed to GERGEN that it would be a disaster if the USPP pulled out based on shabby treatment and a lack of cooperation from the White House. HEYMANN further indicated to GERGEN that the FBI would be allowed to conduct interviews of the White House staffers without the presence of attorneys from the White House Counsel's office. Approximately 90 minutes later, in a conference telephone call between HEYMANN, GERGEN, BURTON, MARK GEARAN, and other individuals from the White House, GERGEN promised cooperation on the part of the White House in the USPP investigation into the death of FOSTER. In the course of the conversation, HEYMANN expressed his displeasure with the actions of White House personnel. BURTON argued with HEYMANN and HEYMANN remembers that the rest of the staffers remained silent.

USPP officers later informed HEYMANN that previous problems with the White House had turned themselves around. HEYMANN was later thanked by Interior Department Secretary BRUCE BABBIT for his intervention in this matter.

On July 27, 1993, HEYMANN had in his possession, a copy of handwritten transcription of the FOSTER note. MARGOLIS displayed the note to WEBSTER HUBBELL. HUBBELL was taken aback because he knew the handwriting was not FOSTER's. The transcription may have been done by the USPP.

HEYMANN has only discussed issues related to the search of FOSTER's office with ADAMS, MARGOLIS and CYNTHIA MONACO. He did not discuss the search of FOSTER's office with White House Counsel LLOYD CUTLER as CUTLER had requested. CUTLER was the successor to NUSSBAUM as White House Counselor.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

On May 30, 1994, Special Agents William E. Colombell and Lawrence Monroe met with Robert Langston, Chief, U.S. Park Police (USPP), and Robert H. Hines, Major, USPP, at Park Police Headquarters, 1100 Ohio Drive, S.W.,Washington, D.C. 20242. SA Colombell inquired if Chief Langston could provide a list of those individuals and/or agencies who were given a copy of the USPP investigative report regarding the death of White House counsel Vincent Foster. Chief Langston advised that the original report is maintained in the USPP criminal investigative file.

Three copies of the report are also maintained by his department. One with USPP FOIPA Section, one with Major Robert Hines, Commander Criminal Investigative Branch and a copy that Chief Langston maintains in his office.

In addition, USPP has provided copies of the report to the below-listed individuals and/or federal agencies:

1 - Dept. of Justice - Mr. Margolis
1 - Dept. of Justice FOIPA Section
1 - Dept. of Justice Office of Professional Responsibility
1 - FBI - Criminal Investigative Division (OPR Investigation)
1 - SA Jane Erickson, FBIHQ (subsequently given to Mr. Rod Lankler, Office of Independent Counsel)

Chief Langston advised that his department did not provide copies of the report to the White House or to the Secretary of the Interior.

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estigation on 3/30/94 at Washington, D.C. File # 29D-LR-35063

by SA William E. Colombell
SA Lawrence Monroe Date dictated 4/3/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/94

Major ROBERT HINES, United States Park Police (USPP) Headquarters, 1100 Ohio Drive, SW, Washington, D.C. (WDC), was telephonically interviewed regarding the disposition of photographs taken at the death scene of VINCENT W. FOSTER, JR., Fort Marcy Park, Virginia, on July 20, 1993. After being apprised of the identity of the interviewing Agent and the purpose of the interview, HINES thereafter provided the following information:

HINES was aware that death scene photographs were provided to the Federal Bureau of Investigation (FBI) along with a copy of the USPP Death Investigation report. In gathering information regarding the distribution of the Park Police report related to the death of FOSTER, HINES contacted Captain CHARLES HUME of the USPP. HUME did not recall photographs going to any other agencies and was not aware of any photographs going to The White House. HINES did not believe that the death scene photographs had gone to The White House. According to HINES, any information regarding the FOSTER death would have been distributed to The White House in coordination with the U.S. Department of Justice (DOJ). HINES was unaware of how any of the photographs could have been leaked to the news media.

HINES provided no further information of investigative value.

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nvestigation on 7/25/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by SA DANA M. GILLIS Date dictated 8/3/94

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/1/95

ROBERT HINES, Major, U.S. Park Police was contacted at the U.S. Park Police headquarters, 1100 Ohio Drive Southwest, (202) 619-7350. HINES was advised of the identity of the interviewing agent and the purpose for the interview. HINES provided the following information:

The following U.S. Park Police documents would be contained in an original investigative file:

Supplemental reports (10-344)
Criminal incident report (30-343)
Mobil crime lab reports and supplements
Impound forms
Custody property records
Evidence property control of receipts
Original notes
Radio run cards
Communications tape for that day
Photographs
Laboratory reports

HINES was advised that the Office of the Independent Counsel would subpoena the above documents to ensure that copies of all the documents and photographs, as well as the evidence from the scene, are currently in the possession of the Independent Counsel. HINES was advised that there is a concern at the Independent Counsel's office regarding the number of photographs, and whether or not all of the photographs in this case have been provided to the Independent Counsel's office.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

HINES assured the investigating agent of U.S. Park Police cooperation in this matter.

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/1/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 1/20/95 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 1/29/95

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/19/94

James Ernest Hobbs, Sergeant, Uniform Division, United States Secret Service (USSS), was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Sergeant Hobbs was advised as to the official identity of the interviewing agent and the nature of the interview. He then provided the following information:

He has been employed by USSS for 22 years and is currently employed as a Shift Duty Sergeant in the USSS White House Control Center which is located in the Old Executive Office Building next to the west wing of The White House. He currently works the 10:00 pm - 6:00 am shift as he did in July, 1993 at the time of Vincent Foster's death. As the Shift Duty Sergeant, he is the immediate supervisor of Uniform USSS officers working in the Control Center on the 10:00 pm - 6:00 am shift, overseeing security within The White House including operation of alarms and access to secure areas.

On July 20, 1993, he came to work at 10:00 pm and went home the next morning (7/21/93) at 6:00 am when his shift was done. At the beginning of his shift (approximately 10:00 pm on 7/20/93), he was advised by the USSS Watch Commander, Captain Roland Beatty that a White House staffer named Vincent Foster had committed suicide earlier that day. Sergeant Hobbs said that his immediate superior on that particular day was Lieutenant Robert Dillon. Hobbs had not known Foster.

Sergeant Hobbs said that he does not recall his July 20-21, 1993 shift being particularly busy or eventful in the USSS Control Center. He said that he does not recall any unusual alarm activity on that evening. He specifically said that he does not recall any unusual alarm or access activity during that particular shift involving the Bernard Nussbaum/Vincent Foster suite of offices. He recalls no request from anyone asking for access to that suite.

Sergeant Hobbs said that he knows Officer Henry O'Neill and is aware that O'Neill worked the "midnight" shift escorting

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Investigation on 5/17/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 5/18/94

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GSA cleaning personnel into alarmed areas of The White House west wing. Hobbs said that he does not recall Officer O'Neill reporting anyone being in the Nussbaum/Foster suite during the late evening hours of July 20, 1993. He also does not recall Officer O'Neill reporting that the Nussbaum/Foster suite was not cleaned and that trash from that suite was not picked up on July 20.

Sergeant Hobbs was shown an alarm/access log showing activity in the Nussbaum/Foster suite on July 20 and July 21, 1993. He said that he was unable to explain the meaning of various entries on this log using the word "reset". He also said that he does not know how often USSS Control Center tests are conducted on the various alarmed areas in the west wing.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/14/95

LOUIS HUPP, Latent Fingerprint Examiner, FBI Identification Division, Latent Fingerprint Section, advised that the latent fingerprint recovered on the note written by VINCENT W. FOSTER, is a latent print of the outside area of a palm. The latent print is located entirely on one of the ripped pieces of paper; the print could have been made before or after the note was ripped up.

HUPP stated that all of the latent prints in this case are sufficient enough to make a positive identification to a known set of prints. Latent prints in this case are from FOSTER's vehicle or items from FOSTER's vehicle, one latent finger print from inside of the grip on the revolver which was in FOSTER's hand, and the latent palm print on one of the sections of the ripped up note.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/21/94

WEBB HUBBELL, former Deputy Assistant Attorney General, appeared at the Office of the Independent Counsel with his attorney JOHN W. NIELDS, JR. of the law firm HOWREY & SIMON, 1299 Pennsylvania Avenue, NW, Washington, D.C., (202) 383-6639. Present representing the Office of the Independent Counsel were MARK STEIN and BETH GOLDEN. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, HUBBELL provided the following information:

HUBBELL advised that he is acquainted with CRAIG LIVINGSTONE having seen him several times at the Old Executive Office Building on The White House grounds. He also said that WILLIAM KENNEDY would refer people to him including HUBBELL himself if they needed to get White House passes for any reason. He does not recall any other dealings that he had with LIVINGSTONE.

HUBBELL said he remembers talking with LIVINGSTONE the night of July 20, 1993 at the FOSTER residence. HUBBELL was making a lot of telephone calls that evening and they were having a problem getting enough telephones. There was only one telephone available for use in the FOSTER kitchen. MAC MCLARTY had his cellular telephone with him which he was using. HUBBELL said that the battery on his phone was weakening and therefore he was using the telephone in LIVINGSTONE's car. It was the type of cellular phone which could plug into the lighter. He recalls calling JIM HAMILTON and a lot of individuals were calling from Arkansas. HUBBELL advised that LIVINGSTONE was showing him how to use the phone and stayed with him in the car while he made telephone calls.

HUBBELL advised that there had been a concern that the press was going to show up at the FOSTER residence the following morning. When asked to explain who was concerned, he responded the "collective we". He recalled KENNEDY suggesting that LIVINGSTONE could help if the press became a problem. As it turned out, only one reporter showed and HUBBELL said he does not know if LIVINGSTONE helped with the press that following morning

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Investigation on 7/18/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/20/94

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or not. He recalls a discussion on the night of July 20 about LIVINGSTONE going to the residence on the morning of July 21. He had this conversation, he believed, with MCLARTY or DAVID WATKINS. HUBBELL said that he himself raised the subject to the FOSTER family and then discussed it with MCLARTY or WATKINS. He recalls that the response he received was "we'll get somebody". HUBBELL took the initiative of making calls to The White House to pass this message on. He made the call either from LIVINGSTONE's car phone or the kitchen phone. If he made the call from the car phone, LIVINGSTONE would probably have overheard it there.

He cannot recall specifically who he talked with on this matter at The White House but he believes it was probably MARK GEARAN. It was not DEE DEE MYERS or RICKI SEIDMAN.

HUBBELL said that to the best of his memory, there was somebody there between 7:00 and 8:00 am the morning of 7/21. The best he can recall, when he and his wife showed up at the FOSTER residence early that morning, there was a woman standing by the sidewalk just outside the FOSTER gate. He had never seen before at The White House and did not recognize her. He has a vague recollection of asking "can I help you" and her responding, "I'm (she gave her name) from The White House". If asked to speculate, he guessed that she may have been with the Communications Office. He described her as having brown hair, being of medium of height, perhaps 5'5" or 5'6" and young, meaning under 30. His memory of her is very unclear.

With regard to what time the HUBBELL's arrived at the FOSTER residence on the morning of 7/21, HUBBELL said that they called LISA FOSTER before going over and believes that it may have been closer to 8:00 than 7:00 because where he comes from in Arkansas you generally did not even call people until after 8:00 in the morning and he knew that everyone had been up very late the night before (as he had, not getting home until about 2:00 am on the morning of July 21, 1993) and that LISA FOSTER had been given a sleeping pill. From that he guesses that he would have arrived there closer to 8 am. When he arrived with his wife SUSAN HUBBELL, he does not recall seeing any press people. He was surprised at this. HUBBELL said that he remained at the FOSTER residence for the entire day except for a brief period in the afternoon when he went to The White House for a meeting with the Park Police.

HUBBELL said that LISA FOSTER and her children were at

the residence and he thinks there was some other female (possibly a relative) who had spent the night with LISA but he could not recall who it was.

He has no recollection of seeing CRAIG LIVINGSTONE at the FOSTER residence, either parked outside of it or standing outside of it or in the residence the morning of July 21, 1993. He has no information about LIVINGSTONE's having been there. HUBBELL explained that he could have been there but he has no affirmative memory of it. He does not remember one way or the other whether KENNEDY, LIVINGSTONE and HUBBELL himself had talked about LIVINGSTONE being there that morning. He said that the statement that they had discussed it in a prior interview was incorrect.

He went on to explain that the previous evening, July 20, LIVINGSTONE stayed outside the residence. HUBBELL said that he remembers KENNEDY and HUBBELL himself discussing whether or not LIVINGSTONE should be there and conceded that maybe it had been in LIVINGSTONE's presence.

Returning to the subject of the morning of the 21. HUBBELL said that SHEILA ANTHONY came over later in the morning and MARSHA SCOTT came even later than that when it was time to pick HUBBELL up to take him to The White House for the meeting with the Park Police. He advised that nobody from The White House was there at the house that morning.

HUBBELL said that parking on the street in front of the FOSTER residence was not a problem at all in the morning when they arrived. It had been the night before. It was very crowded and they had had to park around the corner but the following morning there were plenty of spaces. He does not recall seeing any car with any individual sitting in it at or near the FOSTER residence. SUSAN HUBBELL parked their car on the street near the residence.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/13/94

Webster Lee Hubbell appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 2:00 p.m. for interview. Mr. Hubbell was advised of the identity of the interviewing agents and that the purpose of the interview was to discuss his personal knowledge of Vincent Foster, his weekend at the shore with the Vincent Fosters on the weekend just prior to Vincent Foster's death, and his knowledge regarding a meeting on July 21, 1993 with the U.S. Park Police concerning their investigation of Foster's death. In addition to the interview agents, Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr., also assisted with the interview. Also present during the interview was John Nieldes, attorney for Hubbell. Mr. Hubbell provided the following information:

Personal Knowledge of Vincent Foster:

He had known Vincent Foster for about 20 years, having worked with him at the Rose Law Firm in Little Rock, Arkansas. He explained that Foster started at this firm in January, 1971, and that he (Hubbell) started work there in May of 1973. He said that Foster was a graduate of the Arkansas Law School.

After coming to Washington, D.C. with the President in January, 1993, he said he spoke with Foster on a daily basis, at least concerning business matters. He advised that when Foster first came to Washington, he stayed with his (Foster's) sister, Sheila Anthony. Hubbell's wife came to Washington in March of 1993 and Foster's family joined him permanently in June of 1993. Foster's wife had rented temporary quarters in Washington in March or April, but continued to reside in Little Rock. The Foster children came to Washington in May or June of 1993.

Hubbell described his relationship with Foster as being "best friends."

The last time Hubbell saw Foster was the Monday before Foster died (7/19/93). He saw Foster in Foster's office and can't remember the business matter discussed, if any, but does

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remember discussing the previous weekend the Foster and Hubbell families had spent together.

Hubbell described Foster in the following terms: reserved; not loud, held everything inside; loved his children more than anything, very close to them; had no weaknesses; very smart; quiet; meticulous in his work; spent time gathering facts before drawing conclusions; frustrated with White House Travel Office issues - attention in the media, unhappy with the FBI and internal report on the Travel Office matter; someone who worked until 10:00 to 11:00 p.m. each night and also on Saturdays and Sundays; hadn't gotten away from his White House work. When asked if he had observed any noticeable behavioral or emotional changes in Vincent Foster prior to his death, Hubbell said that in hindsight, he realized that the no time off from work was wearing on us all. Hubbell described a "once a week" dinner or "Arkansas night" frequently attended by Foster. Others who would often join the group included Deb Coyle (phonetic), Bruce Lindsey, Marsha Scott, John Emerson, Sheila and Burl Anthony and other out-of-town friends. Hubbell said Foster was a great friend, but not the life of the party. He did not notice Foster acting differently in the days or weeks before his death.

Hubbell said that Foster would cope with problems in his life, both professionally and personally, by relaxing by the pool, reading and jogging, although he had done the latter less since coming to D.C. and was not able to relax by a pool at all. His reading included everything such as novels, history, newspapers, etc.

Hubbell said that he was not aware of any problems or difficulties Foster was experiencing prior to his death. He said Foster never talked about money concerns and had successfully rented his house in Little Rock and that this was not a concern for him. When asked if there may be any stress associated with working on Whitewater tax returns, Hubbell answered that he was not sure - Vince never mentioned this as a point of stress. He said Foster felt responsible for the Travel Office matter and didn't like the criticism being received on this issue.

When asked if Vincent Foster had an individual in his life in whom he could confide, Hubbell replied that Foster wasn't the type of person to say let's go for an hour or two and unload, but rather during five minute breaks in business discussions, he

would confide in Hubbell concerning matters on his mind. In addition to Hubbell, Hubbell believed Foster confided with his wife, Lisa, and his sister, Sheila Anthony, but he really wasn't someone to often do this.

Hubbell never remembered statements by Foster such as "I can't stand it anymore" or "I'd be better off dead" or other similar statements.

Hubbell answered no to all questions concerning any noticeable changes in Foster's personal appearance, physical ailments, headaches, loss of appetite or any kind of stomach trouble. He said, however, that both he and Foster had confided in each other about sleep difficulties. Foster had said on occasion that he had been up all night or didn't sleep well the previous night or that he had awakened in the middle of the night. Hubbell said that Foster had lost approximately 10-15 pounds prior to his death. At the time, Hubbell associated Foster's weight loss with work and the fact that they were eating lunch at the desk or not eating regularly. He and Foster had discussed that the new administration had walked into an "empty office." They compared it to a law office where "the clients were ready and you have nothing." Newspaper accounts concerning the previous administration's removal of office items was termed by Hubbell as accurate.

Hubbell said that he was not aware that Foster was experiencing any type of stress. Foster never talked to Hubbell about missing the comfort zone of the Rose Law Firm where they had worked for more than 20 years. They just never talked about it one way or the other. Rather, Foster talked about being on this great adventure in Washington, D.C. Hubbell said he and Foster were very close to the President and First Lady and discussed with each other, prior to coming to Washington, that I'll go if you go. Hubbell believed that Foster thought that the option of going back to Little Rock or the Rose Law Firm would have been an acknowledgement of failure. This was during the time of the Travel Office situation. Hubbell said if you really want to understand Foster, to look at his recent speech at the University of Arkansas. He believed Foster wrote the speech after someone else had worked on it. Foster rewrote the speech himself on the plane.

Hubbell described Foster's reputation as being "impeccable." He said Foster could have run for President of the Bar Association in Little Rock and nobody would have run against him. Foster was an anchor, a rock, in the White House Counsel office. Everybody felt they could go to him for advice. As examples, Foster assisted/counseled George Stephanopoulos, the Domestic Policy Council, the lawsuit against the Healthcare Advisory Group and the Department of Justice.

Hubbell did not believe that Foster himself relied upon religion. Lisa Foster is Catholic and their children were raised Catholic. Hubbell believes Foster attended church at times with his family.

When asked if he had noticed any changes in interests or hobbies by Foster prior to his death, Hubbell replied that Foster continued to relax by reading. He had no knowledge of Foster having any firearms. He said he was not a hunter and only rarely participated in Arkansas duck hunt trips, if at all. Hubbell was very surprised to learn that Foster had any guns. "It just wasn't in his (Foster's) personality."

Hubbell described Foster's relationship with his wife as good. As with most people, there had perhaps been some stress adjusting to their new world; however, this was helped as Lisa became closer to other White House wives, to include Hubbell's. There may also have been some stress associated with Foster not being home often. Hubbell believed Lisa Foster was in favor of moving to Washington, D.C. with her husband. Again, as with anyone, perhaps with some reservations. However, they were all excited about joining the President.

Weekend of 7/17-18/93:

Hubbell was asked about the weekend before Foster's death. He explained that he and his wife were supposed to go to dinner with the Fosters on Friday evening, but that Foster had called him (Hubbell) in Miami and said that he and his wife were planning to go to the Eastern Shore.

Hubbell explained that both he and Foster knew Mike Cardoza, who had been Deputy White House Counsel in the Carter administration. During the transition, Cardoza had been asked by Zoe Baird for his help with personnel issues. Cardoza ended up

spending four months at the Department of Justice with Hubbell prior to Janet Reno being in place as Attorney General. Foster had met Cardoza in this same transition period. Cardoza's wife, Harolyn, was originally from the Washington, D.C. area and both families relied upon her and Mike for advice about household matters such as what plumber to call or otherwise how to get things done for the family. Hubbell and the Cardozas left Saturday morning for the Cardozas' house near Easton, Maryland. Hubbell told them that Vincent Foster and his wife were "somewhere close" and let's invite them over. They called the Fosters and found that they were, in fact, only 15 minutes away. The Fosters came over for dinner. The families spent a good relaxing evening together. It was arranged that both Mrs. Hubble and Mrs. Foster would receive a tennis lesson from nationally famous tennis instructor Nick Boliterri (phonetic), a friend of Harolyn's father, Nate Landow, a developer in the Washington, D.C./Baltimore area. Both Boliterri and Landow also spent the weekend with the Hubbells and Cardozas at the Cardozas' house. Following their Saturday get together, Vincent Foster and his wife went back to the hotel and Foster went on a long jog. During their association on both Saturday and Sunday, Foster spent his time reading the paper, boating, hitting some golf balls and being introduced to eating fresh crab. They talked about how their lifestyles had changed and how they needed to have a life outside of work. Foster talked about taking June/July off when he was employed at the Rose Law Firm to visit his house in Michigan and how he missed doing that. They had agreed to not talk about work-related matters. Hubbell said both he and Foster were concerned about each other but that the weekend was very relaxing. The Monday before he died, Foster said he was making arrangements to take the next weekend off similar to the one they had just spent to get away from Washington, D.C.

Other Comments Regarding Foster and Events Surrounding the Day of Death:

Hubbell was asked about comments by anyone concerning Vincent Foster and his well being in the days before his death. Hubbell said he could not recall any specifics, but that Foster had been working too hard and some of his friends were worried about Foster being under too much stress. Hubbell said it is hard to read your name in the paper so often.

Hubbell said he was notified of Foster's death while at dinner with his family and Marsha Scott on the evening of July 20, 1993. George Stephanopoulos called him and asked him to get to a phone where he could talk. Stephanopoulos told him that Foster had been found dead and indicated that it was thought it might be a suicide. At first, Hubbell believed Stephanopoulos was referring to young Vince Foster, Foster's son. Hubbell told his wife and Marsha that they had to leave dinner and the kids were left in the restaurant to finish their dinner.

Hubbell said that Bill Kennedy had gone to identify the body and that Foster's car and White House pass had been found. Hubbell said he wanted to be at the Foster residence when the U.S. Park Police came to tell Foster's wife, Lisa. Hubbell lives on McComb Street, near Sheila Anthony, Foster's sister. On this particular night, Foster's other sister, Sharon Bowman, a Little Rock housewife, happened to be visiting at Sheila Anthony's home. Hubbell knew he had to go to Sheila's home and also find her husband, Beryl. Hubbell and his wife, Susie, went to the Foster residence.

Foster was asked about what kind of car Foster was driving while in Washington. Hubbell said that he believed it was a Honda or similar car that was used on a regular basis by Foster. He said this car was Foster's daughter Laura's car and that Foster had left his car, an older model Olds Toronado, in Little Rock. Hubbell was asked if he knew how Foster had brought his gun up to the D.C. area from Arkansas. Hubbell said he did not know when Foster brought the gun to Washington. He was aware that Foster was concerned with the crime rate in the D.C. area. Hubbell did not know that Foster even had a gun until the night of Foster's death. He said Lisa Foster believed that Vince had two guns and maybe more. Foster had been given these guns when his father died. On the night of Foster's death, they found only one gun at the Foster residence and no ammunition.

Foster had talked with friends about being upset. Foster felt that people were being unfairly criticized. Hubbell gave as an example that Bill Kennedy had been reprimanded by an internal report concerning the Travel Office and that Foster viewed this as a "bum rap." Hubbell said that everyone at the Foster residence that evening was trying to make logic out of the death, trying to pinpoint some event, but that they could not do so.

When the U.S. Park Police advised Lisa Foster of her husband's death, Lisa responded by screaming, "It can't be true, it can't be true."

Hubbell said he had no knowledge of any prior history of clinical depression for Vincent Foster or anyone in the Foster family.

Foster's mother still resides in Hope, Arkansas and Hubbell was aware that Vince talked with her frequently on the telephone. Foster did not return to Arkansas on a regular basis since coming to Washington. Hubbell was asked to recall the times Foster may have returned to Arkansas. He said for Mr. Rodham's funeral, perhaps at Easter time, and for the University of Arkansas graduation commencement speech, were probably Foster's only times back to Arkansas.

Hubbell was asked if he had received any letters or other correspondence from Foster immediately preceding or just following Foster's death. He answered no.

Individuals present at the Foster residence on the night of Foster's death included the following: Bruce Lindsey; Bill Kennedy; Marsha Scott; David Watkins and his wife (Watkins was Operations for the White House); Mack McLarty and his wife, Donna; Senator Pryor; Burl Anthony; Foster's daughter, Laura; and then later the two boys were located and on one of the nights, President Clinton. Hubbell noted that Mrs. Clinton was out of town at the time, maybe in Arkansas. Hubbell identified Foster's children as son Vincent, age 22-23; daughter Laura, age 21; and son Brugh, 17-18.

Hubbell was not aware of any particular projects on which Marsha Scott was working, other than that she was working on Clinton work. Hubbell also knew that Foster was setting up a blind trust for the Clintons with the help of outside counsel. Brantley Buck, of the Rose Law Firm, was working on this project with Vince.

Hubbell said that the hours immediately after Foster's death were busy with making arrangements for the funeral and family and friend notifications. On the night of Foster's death, he left Foster's residence sometime after midnight, perhaps even as late as two or three in the morning.

Meeting with U.S. Park Police 7/21/93:

On the evening of July 20th or early morning of July 21st, Hubbell can't remember which, he was notified of a meeting at the White House where the U.S. Park Police would provide a report concerning the circumstances of Foster's death. Hubbell remembers possibly getting a ride to the White House after stopping that morning at the Foster residence. The meeting with the Park Police was held in David Watkins' office early on the morning of July 21, 1993. He said Watkins' office is on the ground floor of the West Wing of the White House. He could remember that the meeting was attended by David Watkins, two U.S. Park Police investigators, Bill Kennedy, and perhaps George Stephanopoulos and Bernie Nussbaum. The Park Police provided a report of what they had found. The Park Police wanted to know who the point person would be at the White House during the investigation. Hubbell's memory was that initially this individual was identified to be David Watkins. Hubbell said that no White House instructions were given to the U.S. Park Police concerning the conduct of their investigation at that meeting. Hubbell said he was at the meeting as a representative of the Foster family. He wanted to obtain information regarding the suicide that he could relay back to the family.

It was at this time that Jim Hamilton was hired as the Foster family attorney. Hubbell told Lisa she would need an attorney to assist with details regarding transfer of the body back to Arkansas, the autopsy and someone who knew the Washington, D.C. climate. Vince Foster knew Jim Hamilton and had great regard for him.

When asked about the search of Foster's office, Hubbell replied that someone might have mentioned it. Hubbell himself may have asked Nussbaum if there had been a note. Hubbell could not recall other discussions regarding a search for a suicide note. He also did not visit the Foster office himself. Hubbell had been told that Foster's office had been locked. Hubbell remembered calling Bill Burton regarding the question of locking the door.

Hubbell said he did not find out about the note until after he got back from the Foster funeral. When he was shown the note by David Margolis of the Department of Justice, his first reaction was that it was not in Foster's handwriting. However,

he later learned that this was simply a transcription of the original note which had been torn. He eventually saw the torn note and agreed that it was Foster's handwriting. Hubbell said that the contents of the note were "not atypical" of Foster. He said it was common for Foster to prepare "to do" and other lists. Hubbell understood that Lisa Foster had told her husband to make a list of the things that were bothering him. He also said that Foster had called for medication and had some psychiatrists' names.

Hubbell was asked who else should be talked to concerning this investigation. His immediate reply was that was assuming investigators "ought to be talking to anybody." Hubbell then said that he was not aware of any information out there to draw any other conclusion other than what has already been done.

Hubbell described Hillary Clinton's relationship with Vince Foster as being close friends. He said Hillary, Vince and I were very, very close. He also described Mrs. Clinton and Foster as co-workers. They had had a fifteen year close working relationship at the Rose Law Firm. He said there was no truth to reported rumors of anything more than this.

At the conclusion of the interview, Hubbell's attorney wanted to bring up two items. The first, some information provided to Hubbell from the son of a writer in Fayetteville, Arkansas. This individual, Sean Harrison, had provided Hubbell with information that Foster may have been murdered by a Navy hit squad. Prior to his death, Foster had been furnished information regarding unexplained suicides of two Arkansas military men. This information was provided for the record.

Secondly, Nieldes wanted Hubbell to comment regarding his (Hubbell's) earlier comments at the time of Foster's death that it may not have been a suicide. Hubbell explained that that comment was only an immediate reaction. He now believed that Foster's death was a suicide and had no doubt that it had been done at Fort Marcy Park, even though he (Hubbell) has never been there.

The following description of Hubbell was obtained through observation and interview:

Name:	Webster ("Webb") Lee Hubbell
Race:	White
Sex:	Male
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)
SSAN:	
Current Address:	3843 McComb Street, N.W. Washington, D.C. 20016
Temporary Office Space:	1125 19th Street, N.W. Washington, D.C.
Telephone:	(202) 363-0743 (home) (202) 429-1780 (work)

On April 14, 1994, John Nieldes telephonically contacted attorney Carl Stich with the following information:

Hubbell would like to add that he now recalls that there was an issue shortly after Vince Foster's death that Vince had sent a package to his mother shortly before his death, perhaps the Monday before. The package contained some legal materials related to a family trust or something like that. There was no personal letter included, so far as Hubbell knows. This information came to Hubbell from Foster's sister, Sheila Anthony.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/7/94

WEBSTER LEE HUBBELL, former Associate Attorney General, U.S. Department of Justice (DOJ), telephone (202) 363-0743 (home), (202) 429-1780 (work), was interviewed at the Office of the Independent Counsel, Washington, D.C. MR. HUBBELL was advised of the identity of the interviewing agent and of the purpose of the interview. This was a follow-up interview to his interview by the FBI and the Office of Independent Counsel on April 13, 1994. CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted with the interview. Also present during the interview was JOHN NIELDES, attorney for HUBBELL. MR. HUBBELL provided the following information:

His first recollection of VINCENT FOSTER discussing the White House Travel Office matter with him was right after his (HUBBELL's) confirmation hearing in mid-May, 1993. HUBBELL recalled that the hearing was on a Wednesday and that on a Thursday or Friday night dinner after this, FOSTER told him that the Travel Office situation "looks like a mess." FOSTER indicated to HUBBELL that this was another matter starting to hit. FOSTER expressed a concern regarding whether the White House had acted properly in contacting the FBI. The issue was whether BILL KENNEDY, Associate Counsel to the President, should have called the FBI directly. FOSTER's reaction was that he didn't know what had been wrong with this. KENNEDY dealt with the FBI on a daily basis regarding nominations and it seemed reasonable he would contact the FBI with a new issue asking who it should be referred to. FOSTER didn't see anything wrong with this and discussed what the future White House policy should be as the White House was being criticized. FOSTER was upset, but not terribly so, about the criticism.

FOSTER's concern over the Travel Office matter "got worse." FOSTER expressed concern to HUBBELL that he shouldn't have handed the matter off. FOSTER wanted to take responsibility. He was not happy that the FBI report had criticized KENNEDY.

Investigation on 6/7/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/7/94

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The White House report on the Travel Office had censured BILL KENNEDY. FOSTER was very upset about this. FOSTER felt that KENNEDY was being made a "scapegoat." FOSTER had asked KENNEDY to handle the matter and felt personal responsibility.

HUBBELL was asked if he believed KENNEDY pressured the FBI. HUBBELL replied that this statement was in the FBI report but that it was hard to recall when he had first heard this. FOSTER had told HUBBELL that KENNEDY wouldn't have done this. FOSTER didn't believe that KENNEDY had pressured anybody or had threatened IRS involvement.

HUBBELL was asked about FOSTER's statement that the FBI had lied. HUBBELL answered that "lied" is "not a word that VINCE used."

HUBBELL was asked if he had noticed any change in FOSTER concerning the Travel Office matter. HUBBELL replied that FOSTER continued to be upset, focused on the matter and concerned that Congress was talking about holding hearings on the issue. FOSTER expressed concern that people should be hired to represent the White House. HUBBELL explained it was not that FOSTER had done anything wrong, but that he was just focused on the matter. HUBBELL said he would not describe FOSTER's reaction as anger, as he never saw FOSTER "blow up." FOSTER was "upset" that the Travel Office matter couldn't be put to bed or die and be over with. Newspaper articles, particularly the Wall Street Journal, were continuing over this issue. There were calls for files and Congressional hearings.

HUBBELL said he thought that FOSTER was overreacting to this. HUBBELL advised FOSTER to get outside counsel if that was what was needed. FOSTER was trying to get BERNARD NUSSBAUM, White House Counsel, to hire outside counsel.

FOSTER was never concerned for his personal exposure on the issue. He wanted the outside lawyer to give the matter a "fresh look."

When asked if FOSTER had hired an attorney personally, HUBBELL said that he knew FOSTER had talked with JIM LYONS and JIM HAMILTON regarding representation. HUBBELL believes he found out about this afterwards. HUBBELL said he did not know why--

FOSTER would personally need an attorney. HUBBELL said it was hard to remember when you first knew about some of these things.

FOSTER had talked to HUBBELL about wanting to get outside counsel for the White House Counsel's office.

HUBBELL was questioned again about FOSTER's statement that the FBI had lied to the Attorney General. HUBBELL said that FOSTER was probably referring to the FBI report on the Travel Office with that statement. HUBBELL could not recall or think of anything else FOSTER may have been referring to.

HUBBELL was asked if he knew the name CRAIG LIVINGSTONE. HUBBELL replied that "the name sounds familiar." When LIVINGSTONE was further described as a White House employee, HUBBELL asked if he was a heavyset guy and then said he could recall LIVINGSTONE. HUBBELL saw LIVINGSTONE at FOSTER's residence on the evening of July 20, 1993. LIVINGSTONE worked for BILL KENNEDY. LIVINGSTONE may have gone to identify FOSTER's body with KENNEDY but HUBBELL said he didn't know that. HUBBELL recalled sitting in LIVINGSTONE's car, using his car phone. LIVINGSTONE also came to FOSTER's residence on the morning of July 21, 1993 to assist with press control. He may also have helped on the evening of July 20, 1993 at the residence with press control. HUBBELL said that White House communications people had also been called for someone to be at the FOSTER residence on the morning of July 21, 1993. HUBBELL could not recall exactly who he talked to about this; it may have been MCLARTY, BILL BURTON, DAVID WATKINS and he could not recall if MARK GEARAN was there yet or not. HUBBELL said that either he or BILL KENNEDY would have asked LIVINGSTONE "can you be here in the morning?" referring to the FOSTER residence. HUBBELL said he could not recall anything further, other than he thought there had been some press at the FOSTER residence on the morning of July 21, 1993. He cannot remember White House presence. HUBBELL is not sure if White House personnel showed up. He can just remember the issue being discussed.

HUBBELL said he would like to correct the date on which JIM HAMILTON had been hired from what he said in his previous interview. He now remembered a call being made to HAMILTON on the evening of July 20, 1993. HUBBELL believed he previously stated that HAMILTON had been contacted the following day (July 21, 1993).

HUBBELL was asked if there was anything about the Travel Office matter that was similar to anything which FOSTER had experienced in the past and, therefore, caused him so much concern. HUBBELL replied that you "can't make logic out of an illogical act." FOSTER had become focused on the Travel Office issue and blown it out of proportion. HUBBELL had told FOSTER that you have the Travel Office matter and I have Waco. HUBBELL believes that FOSTER would have told him if he had done anything wrong in connection with the Travel Office situation. FOSTER always wanted a secondary role and wanted to avoid the spotlight.

302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/21/94

SUZANNA WARD HUBBELL, wife of former Associate Deputy Attorney General WEBB HUBBELL, appeared at the Office of the Independent Counsel with her and WEBB's attorney JOHN W. NIELDS, JR. Howrey & Simon, 1299 Pennsylvania Avenue, NW, 202-383-6639. Also present representing the Office of the Independent Counsel was Attorney MARK STEIN. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, HUBBELL provided the following information:

HUBBELL advised that she and her husband, WEBB, went together to the FOSTER residence both the night of 7/20/93 and the morning 7/21/93. Mrs. HUBBELL advised that she drove because Mr. HUBBELL does not drive. They went to the residence on both occasions because they were the FOSTER's closest friends and it was unthinkable not to be there.

To the best of HUBBELL's recollection, they had gotten home at approximately 2:00 am on 7/21/93 and slept heavily-being very tired. Mrs. HUBBELL called the FOSTER residence at approximately 8:00 am the following morning. To the best of her recollection, SHEILA ANTHONY, who had spent the night at the FOSTER residence, answered the phone and said that LISA and the rest of the household was still asleep.

Mrs. HUBBELL said that she and her husband got up and got dressed and got to the FOSTER residence at approximately 9:00 am. She parked the car fairly close to the residence. She does not recall exactly where, but said that she usually parks around the corner. She does not recall one way or the other if any member of the press was there. She also does not recall anybody else at or near the residence. In particular she does not recall one way or the other whether or not there was a young woman in front of the residence. HUBBELL advised that when they arrived at the residence, the only people there were SHEILA ANTHONY, LISA FOSTER and the FOSTER children. She said that EILEEN WATKINS and DONNA MCLARTY arrived later in the morning. She does not recall anyone there from The White House or anybody acting in a security capacity that she was aware of. She remembers seeing MARSHA

Investigation on 7/20/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/21/94

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SCOTT sometime that day but she does not recall when.

She does not know CRAIG LIVINGSTONE. She has never heard his name and positively does not know who he is.

Date of Birth:
Place of Birth:
Social Security
Account Number:

FOIA(b)(6)
FOIA(b)(7) - (C)

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/11/94

Carolyn J. Huber was interviewed at the office of her attorney, Henry F. Schuelke, III, 1728 Massachusetts Avenue, N.W. Washington, D.C. In addition to the interviewing agents, attorney Schuelke was present at this interview. Ms. Huber was advised that the interview was in connection with allegations concerning the shredding of documents at the Rose Law Firm (RLF) in Little Rock, Arkansas. After being advised of this and of the identity of the interviewing agents and she provided the following information:

She was first employed by the RLF from April 1976 through December 31, 1978 as a secretary to Law Firm Associate Allen Bird and Law Firm Partner Hebert Rule. From January 1979 through January 15, 1981 she was Mansion Administrator at the Arkansas State Governor's Mansion. Thereafter, she served as Office Manager at RLF from January 17, 1981 through January 31, 1993. Her duties as Office Manager included all personnel work with regard to the clerical staff, the day-to-day matters in connection with the building, and the approval of office procurements. On February 1, 1993 she assumed the duties of Special Assistant to the President at the White House.

When questioned regarding the process used to maintain, and, as necessary, shred documents at the RLF, Ms. Huber advised that because of space concerns, inactive files were transferred from the main offices of RLF to a remote storage area on Cantrell Road. This space was a warehouse owned by Capital Properties. When it was determined by RLF attorneys that files were no longer needed at the main office, files were transferred to this remote storage area. At this location two file clerks had custody of these records. They were Ricki Stacy and Ann Walker. She believed Ms. Stacy had been employed at RLF for a period of about nine years and Ms. Walker, who was primarily in charge of the microfilming of records, for four or five years. Periodically a list was created by one of these two individuals and sent to Mary Russell at RLF who in turn provided the list to each attorney for a determination of whether the files being held in storage should be (1) destroyed, (2) microfilmed, or (3) kept. She did not

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believe there was a fourth option for the attorneys to elect to personally keep the files or documents. This list created by the file clerks at Cantrell Road was often a copy of a list originally prepared when the files were boxed from the main RLF office location and sent to storage. This original list was created by RLF secretaries. Ms. Huber believes these listings by the secretary and the file clerks at the remote location are kept forever. In addition documentation concerning every file was made on a card system. She was not sure if this system has been computerized yet or not. Again, these cards were maintained indefinitely. She added that lawyers "can't throw anything away".

When questioned about the files of Mrs. Hillary Clinton during the 1992 Presidential campaign, Ms. Huber advised that these files stayed at RLF. Mrs. Clinton's office was maintained intact during the campaign year. Ms. Huber does not know who took over Mrs. Clinton's files when Mr. Clinton was elected President and the Clinton's moved to Washington.

Ms. Huber could provide no information concerning documents transferred from the governor's mansion back to RLF or any other location for destruction. She understood there were mail runs between the governor's mansion and RLF, but was not aware of any file destruction transfer while an employee of RLF.

When shown a copy of a memorandum to Mrs. Clinton from Mary Russell dated July 21, 1988, Ms. Huber indicated that the "C" written on this document referred to a Cheryl Park. It is Ms. Huber's understanding that Park only stayed at RLF one year (1988). She believes Park now lives in Conway, Arkansas and if it becomes necessary, she could find her telephone number, but believes that it would be available from directory assistance. She also advised that the additional writing on this memorandum was that of Mrs. Hillary Clinton. The "address to line" was in Mary Russell's handwriting. With respect to the attached listing of four Madison Guaranty Savings and Loan files, Ms. Huber said that she did not recognize this listing. She said the listing for files to be reviewed for disposition was usually a typed list. Again, often a xerox list of the original file contents prepared by the attorney's secretary.

When Ms. Huber left RLF they were trying to set up a numbering system on the computer regarding files sent to storage.

She is not sure if this has been done yet or not. She advised that as files were sent to storage, they were taken from the boxes in which they were received and shelved according to a predetermined numbering system. Any files still in boxes while in storage were only held in this condition because they had not yet been filed.

Business files of RLF were kept by the attorneys versus specific files related to clients were maintained in the office filing system as well as sent to storage at Cantrell Road.

By way of background Ms. Huber provided the following recollections concerning file disposition at RLF. In 1976 files were maintained at the original office space on Third Street and also at an off-site location. In approximately June 1981 the firm moved to a Fourth Street location and at that time hired a person to take care of the files. At this time the files were filed in a room in the basement of the building as well as a Third Street storage location and also in 1981 and 1983 in the Spring building. The Cantrell Road location for in-active file storage was rented approximately eight years ago. The person hired in 1981-82 to maintain RLF files was Patti Piedscalski. She is no longer with RLF, her duties were assumed in 1982-83 by Mary Russell who was first hired as a part-time employee and then as a full-time employee to maintain the files. In the mid 1980s files no longer needed by the firm were sold to the dump for the value of the paper, and then later BFI, a waste disposal company, picked up these records and destroyed them via a truck shredder. In approximately 1990, RLF purchased a shredder which was capable of small volume shredding of documents. Bob Boucher was in charge of picking up these documents for destruction. Finally, she added that there were locked boxes available for extremely sensitive material that was picked up on a daily basis by Boucher. He was the only one allowed to pick up this material.

Ms. Huber has no first hand knowledge regarding the shredding of documents concerning Madison Guaranty Savings and Loan, Whitewater, James or Susan McDougal, or Vince or Lisa Foster. She noted no change in volume for destruction of records during the campaign year or any change with respect to the volume of mail exchanged with the governor's mansion.

In her opinion there has been no coverup at RLF with respect to any abnormal file destruction. Any files destroyed

were done so during the normal course of business for space considerations as these files were no longer needed. She commented the attorney's at the firm wouldn't even know how to run the shredder or, in fact, may not have known where it was located.

The following description of Huber was obtained through observation and interview:

Name: Carolyn J. Huber
Race: White
Sex: Female
DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SSAN:
Washington
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Apt. 323 North
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Telephone: (703) 418-0897 (HOME): (202) 456-2957 (WORK)

Attorney: Henry F. Schuelke, III
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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/20/94

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RICHARD HUFF, of the U.S. Department of Justice (DOJ), Office of Information and Privacy, telephone number 202-514-4233, was interviewed regarding his knowledge related to the dissemination of the United States Park Police (USPP) report concerning the death investigation related to VINCENT W. FOSTER, JR. After being advised of the identity of the interviewing agent and the purpose of the interview, HUFF thereafter provided the following information:

HUFF advised that the DOJ Office of Information and Privacy did not disclose the Park Police report to The White House nor did other divisions within DOJ disclose the USPP report to The White House.

HUFF was aware that the DOJ Office of Information and Privacy was in the process of responding to Freedom of Information Act requests related to the USPP report regarding FOSTER's death, circa September - November, 1993. HUFF believes that the USPP may have shared part of the report with The White House in order to determine what could be disseminated pursuant to FOIA requests at DOJ. HUFF recalls the USPP informing DOJ of disclosing to The White House, information from the FOSTER report in order to comply with incoming FOIA requests.

No further information of investigative value was provided.

(telephonically)

Investigation on 6/20/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS Date dictated 6/20/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

CAPTAIN CHARLES HUME, United States Park Police (USPP), 1100 Ohio Drive, S.W., Washington, D.C. 20242, made available a copy of Public Law 94-458-Oct. 7, 1976, 94th Congress, a copy of which is attached. This particular piece of legislation can be found in the most current edition of the U.S. Code in Title 16 USCA's 1a-6. This particular section of the U.S. Code sets forth both the authority and jurisdiction of the USPP to conduct criminal investigations for crimes committed on United States park property.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/94

Captain Charles W. Hume, Assistant Commander, Criminal Investigations Branch, U.S. Park Police, appeared at the Office of the Independent Counsel, Washington, D.C., as scheduled at 1:00 p.m. for interview. Capt. Hume was advised of the identity of the interviewing agents and that the purpose of the interview was to discuss his involvement in the U.S. Park Police investigation of the death of Vincent Foster on July 20, 1993, particularly with respect to the search of Foster's office and events surrounding that search. In addition to the interviewing agents, Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr., also assisted with the interview. Capt. Hume provided the following information:

Capt. Hume advised that he was not at the Vincent Foster death scene investigation on the afternoon and evening of July 20, 1993. He understood he had been paged that evening but he did not receive the page. His first involvement in the Vincent Foster death investigation was at 6:30 a.m. (approximately) on the morning of July 21, 1993. The previous night's shift commander, a lieutenant whose name Hume could not recall, had been in charge of the Foster investigation to that point. Capt. Hume assumed control on the morning of July 21, 1993. Hume and Detective Pete Markland went to the White House. Markland had set up an appointment to visit the White House for them. Capt. Hume himself decided to go with Markland to establish liaison with the White House and later with the Chief of the Park Police. He told Markland to do what was standard in these types of investigations - such things as bullet recovery, autopsy and the need to get into Foster's office to look for a suicide note. At about 10:00 a.m., July 21, 1993, Hume told Markland to have Foster's office sealed.

Hume noted that at approximately 11:00 or 11:15 a.m., he made an official request for the sealing of Foster's office to the U.S. Secret Service, perhaps Inspector Martin after arriving at the West Wing of the White House. He later found out that Nussbaum had had the office sealed by approximately 10:00 a.m.

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tigation on 4/15/94 at Washington, D.C. File # 29D-LR-35063

by SSA William E. Colombell WEC
SA William T. Guyton Date dictated 4/15/94

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Upon arriving at the White House at about 10:00 a.m., he and Markland unexpectedly saw Chief Langston and Major Hines (Office of Special Services, U.S. Park Police) at the gate. He explained that they (Langston and Hines) had a different mission. They were talking with George Stephanopoulos there and then went to do a briefing with Stephanopoulos and others from the White House. Markland and Hume were put on hold in the West Wing. They waited there with Inspector Martin from the U.S. Secret Service.

Hume said that as they waited, he received several pages and telephone calls to include several inquiries from the Eastern District of Virginia Assistant United States Attorney, wanting to be briefed on the case. This AUSA wanted to be involved as he was concerned about the political angle and media inquiries on the matter. He was finally referred to Phil Heyman at the U.S. Department of Justice (DOJ).

Prior to lunchtime, Langston and Hines returned from their briefing with senior White House officials. Hines spoke with Hume to let him know what was going on. He told Hume he would get into Foster's office, but he would have to wait for the FBI. After Langston and Hines left, and still before lunch, Nussbaum and Maggie Williams stopped to see Hume and Markland in the West Wing. Hume described Nussbaum as being in overdrive or high gear all the time. Nussbaum asked, "Where are the DOJ guys?" And there was an exchange as to who should call DOJ. Nussbaum finally told the Park Police that they should call the DOJ. Earlier, Hume had called the FBI field office. After lunch, at about 1:00 p.m., Hume and Markland met with Inspector Martin in the Executive Office Building. Don Flynn from the U.S. Secret Service was also possibly there. Hume advised his Chief and Major Hines that he had still not been in the Foster office and at that point, the Major advised Hume that he (Hines) was going to call the Attorney General, Janet Reno. Hume later learned that the Chief had spoken with Reno. FBI Agents Scott Salter and Dennis Condon also joined Hume and Markland at the Executive Office Building. Hume also talked with Phil Heyman, Deputy Attorney General, at least twice. Heyman briefed Hume on what was going to happen. Two career DOJ attorneys would be sent over. Hume later learned that these attorneys were David Margolis and Roger Adams. It was clear to him that the investigation would follow DOJ ground rules. Heyman went on to tell him that Margolis and Adams would go into the office, look

at the documents, and if there was no national security interest, the documents would be shown to the Park Police. Heyman told Hume to handle this investigation like a normal case. At about 4:00 or 5:00 p.m. in the afternoon, Hume learned from Heyman that he would not see the documents and Hume wondered "what was the point of all of this?" Heyman was more clear on a second call to Hume, apparently getting his game plan together with the Attorney General. The actual mechanics in the search were given in the second call. It became clear that Margolis would lead the DOJ team and decide if there was law enforcement interest.

Hume and Markland and two U.S. Secret Service Agents, including Paul Imbordino and maybe Don Flynn, went to the West Wing of the White House to the White House Counsel offices. Hume let Markland take lead for the Park Police and Scott Salter took the FBI lead and went into Bernie Nussbaum's office with the two DOJ attorneys. Agent Condon and Hume were not in on this meeting. He could not recall if the Secret Service Agent(s) went into the Nussbaum office or not.

While talking with the U.S. Secret Service employee on duty at the door to Vince Foster's office which had been sealed, Hume got the impression that anybody that was anybody would go into Foster's office if they wanted to.

When Markland came out of the meeting, he still did not seem to know when the search of the office would occur. Markland also reported that Nussbaum had been in Foster's office for approximately two hours on the night before.

At about 6:00 p.m., all agreed to meet the next morning at about 8:00 a.m. to conduct interviews with the secretaries. Again, it was not clear when the search would be conducted. Hume believed that Margolis and Adams were also not sure of the plan at this point.

Cliff Sloan asked Hume and Markland to return to their office and secure the personal affects of Vincent Foster so that they could be returned that evening by the President to Foster's widow. John Rolla had put these affects in a "bus station type locker" at the U.S. Park Police the night before and had to be contacted for access to this locker. Markland and Hume returned to the White House in time to meet a 7:00 p.m. deadline for giving this property to Sloan. Sloan signed for Foster's

affects. Hume remembered these items included a ring and wallet and its contents which the Park Police had photocopied. He believed Foster's pager and White House pass had been turned over to White House officials by the Shift Commander on the evening of July 20, 1993. Hume also recalled finding the names of three psychiatrists in Foster's wallet.

Hume was also told that the White House wanted the autopsy hurried up and Dr. Byers (phonetic) was called and Hume's recollection is the autopsy was performed on July 22, 1993, a day or two before it had actually been scheduled. Throughout the actual investigation, Hume said it was clear, "I was doing what DOJ wanted me to do."

At 8:00 a.m. on July 22, 1993, Hume and Markland met with Agents Salter and Condon and U.S. Secret Service Agents Flynn and Imbordino. Margolis and Adams were not yet there. After some down time, interviews of secretaries at the White House began. Either Sloan or Neuwirth were present for all interviews. Hume remembers one interview where Nussbaum burst into the room during the interview, asked if everything was okay in a very agitated way, and then left.

Margolis and Adams joined Hume after lunch.

Hume said the actual search of Foster's office was documented in the Park Police Report and that he had not refreshed his memory by looking at that report recently. His recollection was that the search began at approximately 1:00 p.m. and lasted until 3:00 p.m. He considered it a waste of time. At the search, and not before, he found out that Nussbaum only would look at the documents and not Margolis and/or Adams. Hume remembered Nussbaum finding a newspaper article and citing some kind of privilege and being questioned on this decision by Margolis. The article remained in the privilege pile of papers. Hume said at this point, most present in the room were beaten into the ground. It was a case of what we wanted to do versus what we were actually going to do. Margolis had said that if this was a normal case, we would have all the documents and Nussbaum answered, "Not if I'm the family attorney. I'd have all the stuff in my office." Nussbaum said that it was a suicide investigation and not a criminal investigation. It was clear Nussbaum wasn't going to let Margolis change his mind in this exchange.

Present at the search were two U.S. Secret Service Agents, Flynn and Imbordino; two FBI Agents, Salter and Condon; two DOJ attorneys, Margolis and Adams; two U.S. Park Police investigators, Hume and Markland; and five others - Spafford, a family attorney from Hamilton's law firm; Bill Burton; Neuwirth and Sloan and Nussbaum from the White House.

Hume said he saw nothing during the search. He was not familiar with the terms Whitewater and Madison at the time of the search.

Hume said Nussbaum created a pile of papers for the investigators to look at. It was the smallest pile and it was not reviewed during or immediately after the search. Hume also recalls a notebook being picked up by Nussbaum and Nussbaum mentioning it was something about a development. Hume remembered getting the impression it was something to do with a land, housing or real estate development, but did not remember the term Whitewater. Other notebooks on health care issues were also located during the search. Salter, Margolis and Adams had front row seats and Markland was in a position to see under the desk. At this point, Hume was given a diagram (attached) of the Foster office and indicated on this diagram exactly where everyone was sitting. Hume noted that Burton left the Foster office once or twice during the search. He didn't remember any other interruptions, except Burton leaving. Folding chairs had been brought in to accommodate the crowd.

At one point during the search, Sloan insulted FBI Agent Salter by questioning him on trying to "sneak a peak at the papers" being reviewed. Nussbaum tried to mediate the exchange, but it was clear Sloan had been serious. Salter responded in a polite and appropriate way to Sloan's charges. Hume said that all of us felt the search was a waste of time at this point. He also had vibes that he did not like Neuwirth.

Hume remembered a search of the briefcase in Foster's office. It had been next to the desk and ultimately put back against the wall. Hume recalled that it was a Wall Street lawyer type case and all leather. He particularly remembered that Nussbaum "went into" the briefcase three times. Hume delineated these occasions as the first time being when Nussbaum pulled a file of papers from the briefcase, the second time being when he looked down into the briefcase later during the search, and the

third time being when Nussbaum reached down to put it against the wall. Hume was of the opinion that if there had been a note in the briefcase the day of the search, Nussbaum would have seen it. Again, Hume said Nussbaum was always in motion/hyper.

The search ended at 3:00 p.m. with a discussion concerning the turning over of personal material found to the family attorney, Spafford. Margolis had suggested that this personal documentation be given to Spafford and law enforcement could get it from him.

Hume could not recall trash being searched during the search of Foster's office. He remembered it had been brought back into the office, but could not remember if this was during the search or before or after it began. They did not search the computer and were advised that this information would be looked at later. He was told by Nussbaum that they would get back to them regarding any information found. He was later advised that there had been nothing on the computer. Hume said that he was not aware of any safe or search of any safe. He also said the search had been limited to Vincent Foster's office.

On July 23, 1994, Hume and another detective (Markland was off that day) returned to the White House, based on a call from Cliff Sloan. There had been a Washington Post article regarding the U.S. Park Police not seeing any White House documents. Sloan gave Hume some yellow phone slips dating back to January, 1993, as well as telephone logs containing date and time and messages. Sloan called to Nussbaum to clear the release of this material. Hume also recalled some calls from July 20, 1993 on the telephone log. He said these would be in the Park Police report.

Two or three days after the Foster note was found and this fact made public, Hume and Markland returned to the White House to interview Nussbaum and Neuwirth regarding how the note had been found. They agreed the two obvious questions to be answered were why had the note been kept so long and why didn't Nussbaum see the note the day of the search? Nussbaum questioned the three motions remembrance of Hume concerning the briefcase. Nussbaum said he couldn't recall this and he particularly took exception with Hume remembering that he (Nussbaum) had looked back into the briefcase. Neuwirth said that he was making an inventory of Foster's property and using the briefcase to pack

diplomas and pictures, when he turned the briefcase on its side and saw the torn paper which turned out to be the note.

The note was picked up by Joe Megby, U.S. Park Police, who had duty on the night it was found, sealed and given to Hume. The note was eventually given to the FBI as part of its obstruction of justice case.

Hume noted that when the Park Police looked at Foster's personal affects at Hamilton's office, there was an opportunity there to only see what they wanted us to see.

The lead received in the case regarding two bullets being purchased by Foster had been left up to Markland and Hume had not been involved in this issue.

At the conclusion of the interview, Hume discussed afterthoughts concerning the Foster investigation.

Hume said that on the day of his death, Foster had attended the swearing in or nomination of the FBI Director, had eaten lunch in his office and returned some phone calls.

He said that he had never been allowed to interview the youngest son of Vincent Foster regarding any recollection the son may have had concerning his father returning to his home on July 20, 1993, just prior to his death.

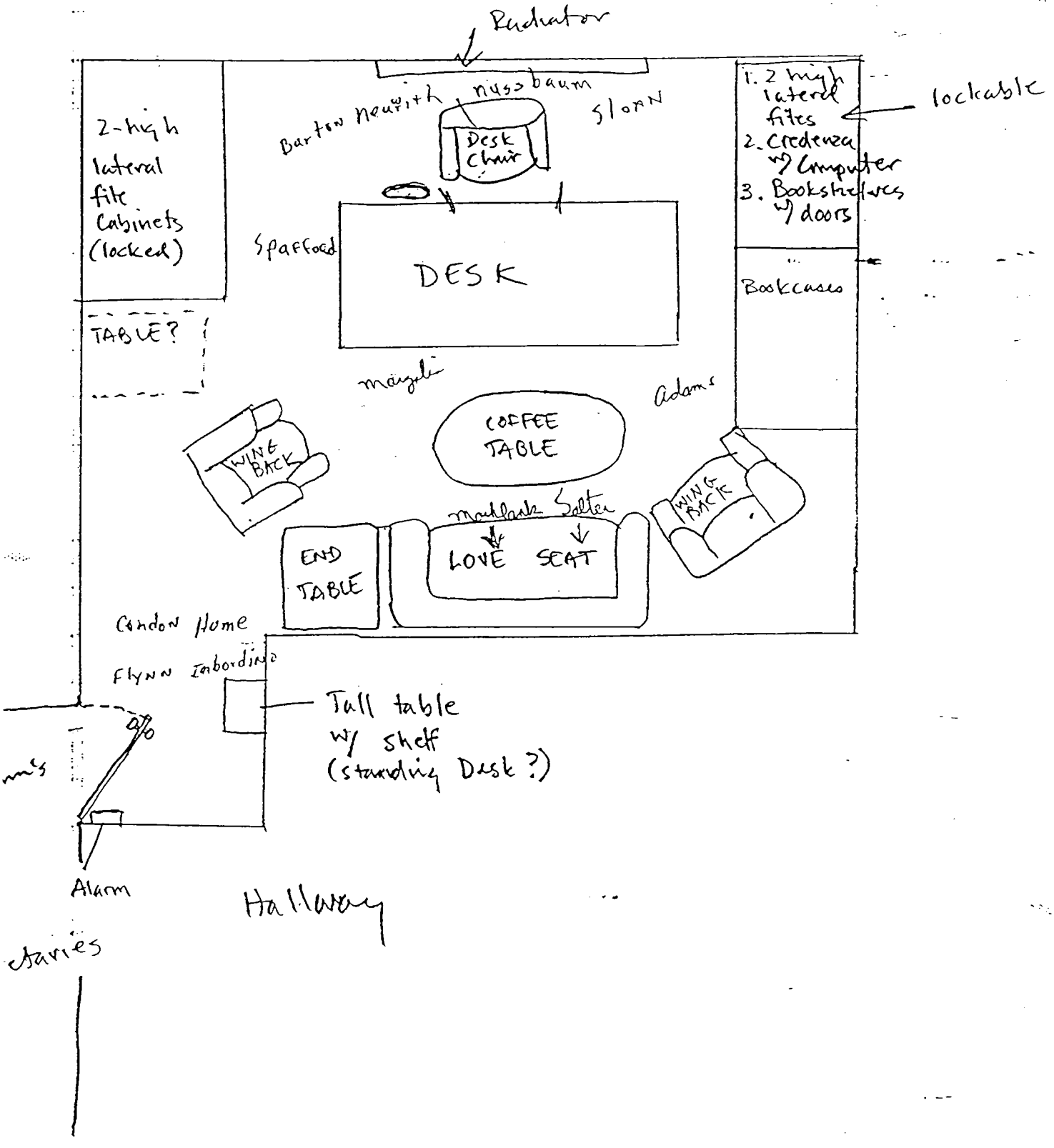
Hume also indicated that the Park Police interview with Lisa Foster seemed to be "rehearsed." Hume also commented that he wished the following questions had been asked of Mrs. Foster: (1) Why did she make the comment "did he put the gun in his mouth?" when she was informed of Foster's death? (2) Why did she and her son call the White House office on different occasions asking the question "How is he (Foster) today?" (3) Were there any domestic problems? (4) Had Foster talked about suicide before, or had he attempted suicide before? Hume said that Jim Hamilton, Beryl Anthony and another Sloan, not Cliff Sloan, were present during the interview of Lisa Foster. Hume identified the Sloan at the Lisa Foster interview as being an architect from Arkansas who was executor of the Foster will.

Hume is satisfied that the Foster death was a suicide and did occur at Fort Marcy Park based upon the U.S. Park Police investigation.

Hume theorized that Foster had talked with Jim Lyons on the day of his death and Lyons had given him some kind of depressing news that tipped the scale of balance for Foster. It was just one more thing from the list of things Foster had put on his note that troubled him.

The following description of Hume was obtained through observation and interview:

Name:	Charles W. Hume
Title:	Assistant Commander, Criminal Investigations Branch, U.S. Park Police
Race:	White
Sex:	Male
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Residence:	7857 Bethany Lane (P.O. Box 1734) La Plata, MD 20646
Phone:	(202) 690-5054 (work) (301) 934-2192 (home)


Radiator
2-high lateral file Cabinets (locked)
Barton Nemwith
Nussbaum
Sloan
Desk Chair
Spafford
DESK
1. 2 high lateral files
2. Credenza w/ Computer
3. Bookshelves w/ doors
lockable
Bookcases
TABLE?
maizie
Adams
COFFEE TABLE
WING BACK
WING BACK
matlock
Salter
END TABLE
LOVE SEAT
Condon Home
Flynn Inbording
Tall table w/ shelf (standing Desk?)
Alarm
Hallway

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/3/94

Captain CHARLES W. HUME, Assistant Commander, Criminal Investigations Branch, U.S. Park Police (USPP), telephone (202) 690-5054 was interviewed at the Office of the Independent Counsel, Washington, D.C. Captain HUME was advised of the identity of the interviewing agent and of the purpose of the interview. CARL STICH, Assistant to Independent Counsel ROBERT B. FISKE, JR. assisted with the interview. Captain HUME provided the following information:

On the morning of July 21, 1993, he did not expect to see U.S. Park Police Chief LANGSTON or Major HINES at The White House. He saw them coming out of the west wing. Detective PETE MARKLAND and DENNIS MARTIN from the U.S. Secret Service were with HUME at the time of this meeting. LANGSTON spoke primarily with MARTIN and HINES with HUME. HINES didn't mention the Department of Justice (DOJ) to HUME but indicated that the FBI would "mediate" in the FOSTER investigation. HINES did not explain why the FBI would be involved. HUME formed no impression regarding what HINES was thinking about this involvement. HUME had no objection to the FBI involvement. HUME himself called the FBI after HINES mentioned that they would assist. Later in the morning of 7/21, BERNARD NUSSBAUM, White House Counsel and an individual HUME has later identified as MAGGIE WILLIAMS also met with HUME and the others asking if DOJ was there.

HUME understood that the purpose of the search of VINCENT FOSTER's office was to look for a) a suicide note or b) anything damaging that would make a person "go over the edge". They were looking for something that would make a person get up from his office at about 1:00 in the afternoon and commit suicide and/or why this time of day.

HUME was asked what he would have done if NUSSBAUM had granted him unlimited access to FOSTER's office. HUME answered that he would have preferred looking through FOSTER's office himself with Detective MARKLAND. He perhaps would have asked NUSSBAUM to send in one of his associates to be present during the search. He would have asked NUSSBAUM's associate about the

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significance of items located. He would have been looking for something "apparent" versus a full analysis of the FOSTER office records. As an example, the binders in the office dealing with health care would have been left alone. HUME would have viewed these as strictly White House business. It would not have piqued his interest. He would have to have located something obvious. The briefcase would have been looked at. FOSTER came to work with the briefcase in the morning with it and therefore it would have been of interest to HUME. If he had found anything suspicious, he would have called in his identification people to assist with the evidence handling.

HUME said he had not done a search of an attorney's office in the past. He would have had no problem with either SLOAN or NEUWIRTH being in the office at the time of the search.

HUME has reviewed or supervised cases involving national security documents. He cited a previous death investigation as an example of this.

HUME said there was no established protocol regarding a USPP death investigation versus a case involving protected classified documents. He said the conduct of the investigation depended upon the aggressiveness and tenacity of the detective involved. It was an individual thing. With respect to the FOSTER investigation itself he said, "We were in a new area".

HUME was comfortable with the DOJ handling the ground rules for the FOSTER investigation. He could say very clearly that DOJ was calling the shots. The USPP were "working for" DOJ. In some senses we (the USPP) were out of our league in dealing with The White House. HUME commented that he was "amazed" that DAVID MARGOLIS, DOJ attorney, could not, at his level, look at the documents in FOSTER's office during the search. HUME said he was still concerned about this.

LARRY LEISER was the Assistant United States Attorney who was calling HUME early on in the FOSTER investigation for updated information.

After lunch on 7/21/93, HUME had a telephone discussion with PHIL HEYMAN who was the number two man at the DOJ. HEYMAN had called HUME following Chief LANGSTON's call to JANET RENO. HEYMAN made it clear to HUME that he was the number two man at Justice and that HUME could call him with any problems during the

FOSTER investigation. During this first call, HEYMAN said he would be sending two career employees from DOJ to assist. The game plan or names of these employees were not provided to HUME during this first call although HEYMAN may have mentioned MARGOLIS name. HUME said this was a very busy time and that this phone call simply served as an introduction by HEYMAN. A second phone call with HEYMAN occurred at about 5:00 on the afternoon of July 21. During this call HEYMAN identified the DOJ employees who would be assisting as DAVID MARGOLIS and ROGER ADAMS. HEYMAN also made it clear what would take place during the search of FOSTER's office. At least MARGOLIS would look at the documents; set aside national security or White House business related items; and anything of interest to law enforcement would be shown to the Park Police. HEYMAN made it clear that HUME wouldn't see anything during the initial inspection. HUME did still believe that MARGOLIS would see all of the items.

HUME did not attend a meeting that was held that afternoon (7/21/93) in NUSSBAUM's office. When Detective MARKLAND came out of this meeting and was questioned by HUME, MARKLAND did not have answers to many of HUME's questions. HUME believes MARKLAND went back in for some clarifications. It was HUME's feeling that MARKLAND had been "overwhelmed" and "put in the background" during the meeting. HUME never understood why ADAMS and MARGOLIS did not return on July 22 until after lunch. HUME said they must have understood the game plan from their meeting with NUSSBAUM. No 1-2-3 game plan was articulated to HUME by anyone. It was clear to HUME they would be looking for a suicide note.

HUME was asked if the search procedure was acceptable to HINES. HUME responded that he dealt more and more with Chief LANGSTON on the FOSTER issue and answered LANGSTON did "not really think so". LANGSTON had been clear with HUME on the fact that the Park Police were having trouble doing their job.

HUME and Detective RAYFIELD met with COLLIER (Chief of Staff) at Interior on July 30, 1993. HUME described the meeting as "no big deal". It was simply and articulation of some Park Police concerns regarding the investigation.

Only after the search of FOSTER's office began on July 22, 1993, did HUME realize that MARGOLIS had had a discussion with NUSSBAUM regarding a change of procedure for the search. Nobody had consulted with HUME. HUME believed that MARGOLIS was

surprised that the privilege issue was "carried to the nth degree" by NUSSBAUM but otherwise MARGOLIS did not appear to be surprised by the procedure followed. It was clear that NUSSBAUM was number one and MARGOLIS number two during the search.

It was made clear that investigators would not see any documents from FOSTER's office the day of the search. The personal FOSTER documents were sent with the family attorney, SPAFFORD. The Park Police had indicated their interest in FOSTER's phone calls on the day of his death. During the search itself, NUSSBAUM located items where he said, "The police may be interested in this." There was also some dialogue during the search between NUSSBAUM and MARGOLIS. HUME never "called" NUSSBAUM on the choice of pile for documents located. HUME did not remember any challenge of any significance by anyone to NUSSBAUM's placement of the documents. HUME felt he didn't have the "privilege" to ask to see something. The Park Police had been "intimidated" pretty good to this point. As an example, HUME mentioned that he had seen a post-it note by the telephone in FOSTER's office but didn't feel comfortable in picking it up and looking at it. HUME felt that the search of the office on July 22 had been a "charade". NUSSBAUM made the call on everything first. MARGOLIS would turn to MARKLAND at times and ask about law enforcement interest. HUME did not recall NUSSBAUM refusing to put any documents in the review pile if an interest was expressed or if there was an indication that it may have been relevant. HUME understood that a pile of documents was set aside during the search that would be available for Park Police review at a later time. It was not clear when this would be or why immediate review had been denied.

HUME was asked if he believed the Park Police had been allowed to see all items set aside for their review. He answered that after the Washington Post article, CLIFF SLOAN called and was "different". SLOAN then made telephone logs and phone messages available. HUME was surprised the USPP were not just given the logs, messages and FOSTER calendar. SLOAN called NUSSBAUM every time the Park Police wanted to take a copy of something. HUME described it as "like pulling jaw teeth".

HUME was asked if he any contact with The White House between the day of the search (July 22, 1993) and July 30, 1993, the day he and RAYFIELD picked up the phone logs. HUME answered that he and MARGOLIS kept in touch frequently during the investigation but that he did not talk to The White House.

NUSSBAUM was not talking to the Park Police; The White House was not talking to the Park Police. The Park Police were dealing strictly with the DOJ. HUME did not recall any discussions with MARGOLIS regarding seeing documents.

HUME was asked his sense of whether The White House engaged in any obstruction of the USPP investigation of the FOSTER death. HUME answered that it was more the case of The White House controlling or running the investigation versus an obstruction. HUME said if they had taken something from FOSTER's office or had concocted a story regarding the suicide note, he would have viewed this as an obstruction. He described what they did as "arrogant", "damage control", or "a bunch of people who didn't know what they were doing". HUME thought that The White House or NUSSBAUM made decisions first as a sort of damage control and then they called the DOJ and the DOJ in turn called the Park Police. As an example, HUME cited the necessity for a second phone call from HEYMAN regarding the details or procedure of the search and who would be assisting. It was apparent to HUME that HEYMAN was getting instructions.

It was obvious to HUME that the search could be a situation where the Park Police saw what they (The White House) wanted us to see. HUME said that eventually they did get to see everything they thought was obvious to see. The Park Police were looking for the truth. In the discussion regarding the privilege issue, NUSSBAUM thought it was important to protect his client. HUME believes NUSSBAUM took this too far. As an example, HUME would have distinguished in the case of financial matters the difference between attorney involvement and a financial investment of FOSTER himself, and handled the situation accordingly.

HUME was asked if investigators ever considered a second look at any documents found in FOSTER's office. HUME answered that this was not an issue. The Park Police were doing what the DOJ wanted them to do. The USPP were doing what MARGOLIS told them to do. DOJ never gave them permission to ask for things. The Park Police were resigned to being "scapegoats" if there was going to be one.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/16/94

Captain CHARLES W. HUME, United States Park Police (USPP) was reinterviewed at the Annocostia Operations Facility, Washington, D.C. for the purpose of verifying the fact that all investigative notes taken by USPP officials during the course of the VINCENT FOSTER death investigation had been submitted to Office of the Independent Counsel. Captain HUME provided the following information to include copies of the below cited investigative notes:

Captain HUME advised that based on a prior request by Special Agent (SA) LAWRENCE J. MONROE he had thoroughly reviewed all investigative notes in his possession and personally contacted all USPP officials who were involved in the death investigation to determine if any investigative notes were still outstanding. Based on this review, Captain HUME furnished a series of investigative notes which, in his opinion, might not have been included in the initial submission of investigative notes to the Office of the Independent Counsel. Captain HUME stated that he feels confident that with the submission of these notes, that all available investigative notes have been made available to the Office of the Independent Counsel and further stated that the original notes will be maintained in the official case folder.

A review of the above cited investigative notes by SA LAWRENCE J. MONROE reflect miscellaneous notes by Captain HUME, Investigator JOHN ROLLA, Officer CHRIS HODAKEVIC and Detective JOSEPH MEGBY. These notes were reviewed by SA MONROE and contain no information not already in the possession of investigative personnel.

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/1/95

Captain CHARLES HUME, Detective, JOHN ROLLA, and Identification Technician LARRY ROMANS, were contacted at the U.S. Park Police office in Annocostia. All of the individuals were advised of the identity of the investigating agent.

The original U.S. Park Police file of the VINCENT W. FOSTER death investigation is in HUME's possession, including original detectives notes and original copies of tapes of radio calls and 911 calls in the case.

HUME advised that all U.S. Park Police Identification Technicians have gray hard case briefcases for their equipment; including cameras, fingerprint equipment, and miscellaneous items that they would use at a crime scene. ROMANS confirmed this, and escorted the investigating agent into the Identification Technician area, which was located next to the detective's squad area in the Annacostia office. Gray hard case briefcases were observed next to each technicians' desk. Identification Technician SIMONELLO, who was the only U.S. Park Police Identification Technician on scene at the FOSTER death scene, also had a gray hard case briefcase next to his desk, in addition to several other briefcases of different sizes and colors.

HUME and ROMANS provided a tour of the Park Police Detective area, Identification Technician area, Evidence storage room, and Photography room, which is also used as their Evidence Drying room. The following observations were made: the evidence and photo/drying room are located immediately adjacent to each other, off of a small utility area that is used for storage of various cleaning supplies and equipment. The U.S. Park Police have no drying room for wet evidence items. Several items of clothing were observed drying in the photo room. The evidence and photo/drying rooms are adjacent to the Identification Technician area, which is adjacent to the Detective squad area. The rear exit to the parking lot from the Detective's squad area leads directly past the outside lead exhaust for the U.S. Park Police indoor range. (Several barrels of lead waste were observed next to the lead exhaust.) Also noted on the outside of

the building next to the rear exit was a large vent for the range.

Detective ROLLA made numerous statements regarding the death of FOSTER. ROLLA is convinced that FOSTER committed suicide. ROLLA stated that he has obtained no other evidence or information to the contrary. ROLLA expressed his frustration regarding the on-going investigation.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

HUME also requested that if a critique is prepared which identifies particular discrepancies or lack of investigation by the Park Police, that he be provided with a copy. HUME expressed concern at preventing the same mistakes from happening again. HUME stated that he realizes that his detectives could have done a more thorough job of documenting the death scene. HUME stated that all death scenes should be investigated as a homicide until proven otherwise. HUME did not think that his detectives worked the FOSTER death scene in that manner, since it seemed to be an apparent suicide.

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/7/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 1/31/95 at Washington, D.C. File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/5/95

D-LR-35063

by FOIA(b)(7) - (C) A handwritten receipt for the above items were signed and Captain C. W. HUME.

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105062

WITNESS ACCESS TO GRAND JURY TRANSCRIPTS

DOW, LOHNES & ALBERTSON

ATTORNEYS AT LAW

1255 TWENTY-THIRD STREET

WASHINGTON, D. C. 20037

TELEPHONE (202) 857-2500

FACSIMILE (202) 857-2900

CABLE "DOWLA"

TELEX 425546

DAVID E. MILLS

DIRECT DIAL NO.

857-2609

June 23, 1995

BY FACSIMILE

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh, Esquire
Associate Independent Counsel
Office of the Independent Counsel
Suite 490-North
1001 Pennsylvania Avenue, N.W.
Washington, D.C.

Re: Whitewater Investigation

Dear Mr. Kavanaugh:

As you know, I have requested on behalf of [redacted] a copy of [redacted] testimony before the grand jury [redacted]. I expect that [redacted] will be named in the Final Report to be issued by the Independent Counsel's Office in connection with the second phase of the above investigation, as [redacted] in the first phase. I also expect that [redacted] will testify in connection with the Senate's Special Committee to Investigate Whitewater Development Corporation and Related Matters, on the same matters about which [redacted] testified before the grand jury. I am sure your Office appreciates the importance to any witness of having the opportunity to review prior sworn statements before testifying under oath on the same subject before a different governmental body.

As you explained, your Office has denied [redacted] request for [redacted] own grand jury testimony (and will deny other witnesses' requests) because (1) your investigation is not complete, and (2) you wish to avoid any appearance that the Independent Counsel's Office is assisting witnesses in preparation for Senate hearings. We disagree on the applicability of In Re Sealed Motion, 880 F.2d 1367 (D.C. Cir. 1989), which you contend does not apply because [redacted] does not seek [redacted] transcript in connection with a "judicial proceeding." It is my position that both the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

issuance of a Final Report by the Independent Counsel and the hearings in the Senate are "judicial proceedings" as that term is broadly defined.

In any event, I believe [redacted] has a general right to a copy of [redacted] own testimony, and, as a matter of due process, [redacted] should not be placed in a position where [redacted] will be examined under oath by the government on the same subject twice without any opportunity to review [redacted] prior testimony. This is true notwithstanding the fact that [redacted] is neither a subject nor a target of the grand jury investigation. Frankly, I do not understand the rationale for refusing to release to [redacted] a copy of [redacted] own testimony, even while your investigation is on-going. If [redacted] had any desire to disclose [redacted] testimony, [redacted] would be free to do so at any time regardless of whether [redacted] had a copy of the transcript.

Please consider [redacted] request for a copy of [redacted] testimony to be continuing in nature, so that, in the event the Independent Counsel determines that its investigation is complete, that a Final Report will be issued, or that grand jury transcripts will be released for any other reason, I will be immediately notified and provided a copy of [redacted] transcript.

I appreciate your courtesy and timely attention to this matter.

Sincerely,

David E. Mills

DEM/igh

Screened by NARA (RD-F) 07-16-2018 FOIA #56806 (URTS 16304) DOCID: 70105064

WRIGHT, BETSY

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 1, 1996

BY FACSIMILE

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Alan Cohen
O'Melveny & Myers
Citicorp Center
153 E. 53rd St., 54th Floor
New York, NY 10022-4611
FAX: 212-326-2061

Dear Mr. Cohen:

We do not have records of any response

that were sent at that time.

We appreciate your attention to this matter. Please do not hesitate to call me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

January 5, 1996

Alan Cohen
O'Melveny & Myers
555 13th Street, N.W.
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Cohen:

As we discussed on the telephone, attached is

Documents previously produced to the Office of Independent Counsel or to Mr. Fiske's office need not be reproduced, but please identify the previous production dates. Please note instruction 2(h) of the rider regarding any documents that have not been produced to the Office of Independent Counsel or to Mr. Fiske's office and that are no longer in the possession, custody, or control of your client.

Thank you for your cooperation and for agreeing to accept service by facsimile. Please contact me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Page Denied

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Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

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TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 1-5-96

TO: Alan Cohen

Company Name: _____

Fax Number: 383-5414 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 10 (including this cover sheet)

Message: 2 letters - per conversation

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a:\faxform.nmr

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0545
CONNECTION TEL	93835414
SUBADDRESS	
CONNECTION ID	
ST. TIME	01/05 15:26
USAGE T	03'01
PGS.	10
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
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OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 7-1-96

TO: Alan Cohen

Company Name: O'Melveny & Myers

Fax Number: _____ Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 13 (including this cover sheet)

Message: _____

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2272
CONNECTION TEL	82123262061
SUBADDRESS	
CONNECTION ID	
ST. TIME	07/01 09:39
USAGE T	03'39
PGS.	13
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 7-1-96

TO: Alan Cohen

Company Name: O'Melveny & Myers

Fax Number: _____ Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 13 (including this cover sheet)

Message: _____

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

January 5, 1996

Alan Cohen
O'Melveny & Myers
555 13th Street, N.W.
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

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Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0545
CONNECTION TEL	93835414
SUBADDRESS	
CONNECTION ID	
ST. TIME	01/05 15:26
USAGE T	03'01
PGS.	10
RESULT	OK

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Date: 1-5-96

TO: Alan Cohen

Company Name: _____

Fax Number: 383-5414 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 10 (including this cover sheet)

Message: 2 letters - per conversation

U.S. Department of Justice
Office of the Independent Counsel

Two Financial Centre *501-221-8700*
10825 Financial Centre Parkway
Suite 134
Little Rock, Arkansas 72211

B-

THX FOR YOUR HELP

ON THIS.

BOBBY MARTIN

FOIA #56806 (URTS 16304) DocId: 70105064 Page 24

AGREEMENT

With respect to the meeting of Betsey Wright ("Client") and her attorney, Alan M. Cohen, Esq., with the Office of the Independent Counsel, Kenneth W. Starr, and representatives of the Federal Bureau of Investigation to be held at the Office of the Independent Counsel in Washington, D.C. on July 26 and July 28, 1995 ("the meeting"), the following understandings exist:

(1) Should any prosecution be brought against Client by this Office, the Government will not offer in evidence in its case-in-chief, or in connection with any sentencing proceeding for the purpose of determining an appropriate sentence, any statements made by Client at the meeting, except in a prosecution for false statements, obstruction of justice or perjury.

(2) Notwithstanding item (1) above: (a) the Government may use information derived directly or indirectly from the meeting for the purpose of obtaining leads to other evidence, which evidence may be used in any prosecution of Client by the Government; and (b) the Government may use statements made by Client at the meeting and all evidence obtained directly or indirectly therefrom for the purpose of cross-examination should Client testify, or to rebut any evidence offered by or on behalf of Client in connection with the trial and/or sentencing, should any prosecution of Client be undertaken.

(3) Statements made by Client at the meeting shall not in any way be deemed, construed, or argued to constitute a waiver of Client's privilege against self-incrimination with respect to any matters raised at the meeting or at any time in the future.

(4) This Agreement is limited to the statements made by Client at the meeting and does not apply to any oral, written or recorded statements made by Client at any other time. No understandings, promises, agreements and/or conditions have been entered into with respect to the meeting other than those set forth in this Agreement and none will be entered into unless in writing and signed by all parties.

Dated: Washington, D.C.

July 26, 1995

KENNETH W. STARR
Independent Counsel

Betsey Wright
BETSEY WRIGHT

Mark H. Tuohey by Brett M. Kavanaugh
By: Mark H. Tuohey III
Deputy Independent Counsel

Alan M. Cohen
ALAN M. COHEN, Esq.

WITNESS

July 16, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
9:58 AM		Betsy Wright	662 3723	
10:10 AM		Laura	647 2492	thank you but not enough people to come over
11:06 AM		Bill Woodyard	501 688 8835	
12:50 PM	completed	Sheila		
5:00 PM		Walter Pincus	334 7429	re Jocelyn Elders

Foster 302s (Vol. 2)

[redacted]

Screened By: NARA (RD-F) Date: 07-20-2018 DOCID: 70105070

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/1/94

Paul B. Imbordino, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service, (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue N.W. ASAC Imbordino was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for 22 years and is currently in charge of USSS agent liaison with the Uniform Division of USSS at The White House. His office is located in the Old Executive Office Building, room 150 and his telephone number is 202-456-2443. He has been in his current position for approximately one year and was so employed at the time of Vincent Foster, Jr.'s death on July 20, 1993.

ASAC Imbordino was shown a diagram of offices located on the 2nd floor of the west wing of The White House. This diagram is dated 1/25/93 and was obtained from the United States Park Police. Individual offices on this diagram are labeled with the names of their 1993 occupants including names such as, "Bernie Nussbaum, Vince Foster, Maggie Williams, the First Lady", and others. Mr. Imbordino stated that this diagram is an accurate representation of the location and occupancy of second floor offices at the time of Foster's death. Mr. Imbordino was asked to refer to this diagram and explain USSS standard operating procedures and staffing regarding the uniformed guard force located in the west wing area of The White House at the time of Vincent Foster's death.

Mr. Imbordino stated that it was not in 1993 and is not now USSS policy to have uniformed officers stationed on the 2nd floor of the west wing. He said that the nearest regularly scheduled USSS guard post to what was then Vincent Foster's office is located on the 1st floor of the west wing and is called the "west lobby post". This is the nearest access entrance to the 2nd floor and is used by some White House staffers but is mostly used by individuals having appointments to meet with people on the 2nd floor of the west wing. The next nearest guard post to what was Vincent Foster's office is located on the ground

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floor, one level below the west lobby post and is referred to as "Post E-1". E-1 is a "sit-down" desk post that allows entrance into the west wing from West Executive Avenue. This post is staffed 24 hours per day while the "west lobby post" is staffed from 6 am to 10 pm daily. Mr. Imbordino stated that once an individual is cleared through either of these posts and goes to the 2nd floor of the west wing, that individual is no longer tracked or monitored by USSS. He reiterated that there are no guard posts on the 2nd floor of the White House's west wing. Both posts (E-1 and west lobby) are staffed by one uniformed USSS officer with relief officers available to allow for lunch and other breaks. Post E-1, a 24-hour post, has three shifts per day, while the west lobby post has two shifts per day. Since both of these posts are inside The White House compound, a secure area, staff persons and guests reaching either of these posts have been pre-cleared by White House perimeter guard posts when they reach either the E-1 or west lobby entrances. Individuals, therefore, need only show appropriate White House credentials and/or temporary passes to enter the 2nd floor area through either of these posts. ASAC Imbordino does not believe that logs are routinely kept at either of these posts.

Mr. Imbordino stated that, to the best of his knowledge, no USSS personnel were on the 2nd floor of the west wing the entire day of July 20, 1993. He stated, however, that on July 21, 1993, Mr. Nussbaum or a member of his staff contacted the Director of USSS at approximately 10-10:30 am requesting assistance in securing Vincent Foster's office. This message was relayed to the Presidential Protective Division of USSS and was in turn relayed to The White House Security Coordinator of USSS, ASAC Don Flynn. A decision was made to post a uniformed USSS officer at the entrance to the "Counsel reception" area located in the southwest corner of the west wing's 2nd floor, the only entrance to the suite of offices occupied by Mr. Foster and Mr. Nussbaum. ASAC Flynn, himself, established this post almost immediately and had a uniformed officer on duty at that location by approximately 11-11:30 am on July 21. A meeting was held in Mr. Nussbaum's office later that day, attended by Mr. Nussbaum, USSS personnel, and US Park Police personnel. It was decided that it was necessary to place a lock on Mr. Foster's office to further secure it for investigation. USSS personnel were brought in to place a lock on the Foster office door that evening and at approximately 10-10:30 pm the work was finished, the door was locked and all USSS personnel departed the 2nd floor with ASAC Flynn having the only key to the lock. No uniformed USSS officer

or any other USSS personnel remained on duty on the 2nd floor past approximately 10:30 pm on July 21. ASAC Imbordino said that, to the best of his knowledge, USSS was not asked to post any guards or further secure any other area of the 2nd floor after that time. Mr. Imbordino said that he does not know of any log that was kept regarding the comings and goings of individuals in the area of Vincent Foster's office following his death.

Mr. Imbordino stated that there are no surveillance cameras, motion detectors, or other security devices employed by the USSS on the 2nd floor of the west wing. He advised, however, that the door to the reception area of The White House Counsel suite of offices is alarmed and that it had been so alarmed for quite some time prior to Foster's death. There are other offices on the 2nd floor (but not all) that are similarly alarmed. These alarms are monitored at the USSS Uniform Control Center located in the Old Executive Office Building next door to The White House.

On July 22 at approximately 1:00 pm, ASAC Don Flynn opened the lock of the door of the Foster office for a group of individuals, including law enforcement personnel and Mr. Nussbaum who went into the office to search it. Following this search, ASAC Flynn gave the only key to the Foster door lock to Mr. Nussbaum on July 22. Mr. Imbordino stated that while he does not know for sure what prompted Flynn to give this key to Nussbaum, he assumes that there was a consensus opinion that there was no further reason to secure Foster's office. Mr. Imbordino states that he knows of nothing the United States Secret Service was asked to do during the period July 22 through July 31 regarding the 2nd floor of the west wing. He stated that to the best of his knowledge, no additional officers were posted on the 2nd floor and no additional locks were placed on other doors.

Mr. Imbordino volunteered that he did not know Vincent Foster prior to his death and does not believe that he would have recognized him had he seen him on or near The White House compound. Mr. Imbordino also volunteered that individuals who work on the 2nd floor of the west wing of The White House have designated secured parking spaces located on West Executive Avenue, within The White House compound area.

ASAC Imbordino was asked to provide a list of all USSS uniformed officers who were assigned to post E-1 and the west lobby post during the period July 20 through July 31, 1993. He

was also asked to designate to which of these two posts the listed uniformed officers were assigned during that period. Mr. Imbordino was further asked to identify and make available the following USSS personnel for interview regarding this matter: ASAC Don Flynn, Roger Kammerdiner, Jospeh Phillips, James Young, (FNU) Wills-technical employee, and Roger (LNU)-technical employee.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/22/94

Paul B. Imbordino, Assistant Special Agent in Charge, (ASAC), White House Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. ASAC Imbordino was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

His office is located in The Old Executive Office Building, Room 150 and the telephone number is 202-456-2443. In his current capacity with USSS, he is responsible for USSS agent liaison with the Uniform Division of USSS at The White House.

On July 20, 1993, at approximately 9-10:00 pm, he received a telephone call at his residence from USSS Inspector Dennis Martin, who is in charge of the Uniform Division USSS officers at The White House, advising him that he (Martin) had just been informed by the U.S. Park Police that a White House staff member by the name of Vincent Foster, Jr. had been found dead in a Washington area park of an apparent suicide. Imbordino said that Martin went on to tell him the name of the park and said the Park Police had indicated there were very good reasons to believe that this was a suicide. Imbordino stated that he thereafter telephonically advised USSS ASAC Don Flynn, who is in charge of White House Security, of the Foster information as it had been related to him by Martin. Imbordino said that it is his understanding that the USSS Deputy Assistant Director to whom he and Flynn answer, was notified that evening. He advised that, to the best of his knowledge, the USSS took no further action regarding this matter on the evening of July 20.

ASAC Imbordino stated that on July 21, 1993, he went to USSS Headquarters at 1800 G Street NW where he met with Deputy Assistant Director Griffin at approximately 9-10:00 am. He there learned that the Chief of the U.S. Park Police would be coming to The White House later that day to begin an investigation regarding the Foster death. It is Imbordino's understanding that a meeting took place later that afternoon at The White House that involved USSS and U.S. Park Police personnel regarding a proposed

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search of Vincent Foster's White House west wing office. Imbordino said that he was not present during this meeting. He said that in the late afternoon of July 21 or July 22 (not certain of date) U.S. Park Police Officers and FBI Special Agents interviewed some "secretaries" who worked near Foster's office. ASAC Imbordino said that both he and ASAC Flynn were in the area of these interviews when they took place. He explained that they were both present during these interviews solely for USSS liaison/facilitation reasons. ASAC Imbordino said that during the late evening hours of July 21, Vincent Foster's office door was secured with a new lock and that he and ASAC Flynn went home with Flynn having the only keys to the lock.

During the morning hours of July 22, 1993, Imbordino was advised by ASAC Don Flynn that he had learned that law enforcement personnel investigating the Foster death would search Vincent Foster's office that afternoon. Both he and ASAC Flynn were present when this inventory/search began at approximately 1-1:30 pm and ended at 2:30-3:00 pm. At approximately 1-1:30 pm, ASAC Flynn unlocked the door to Vincent Foster's office and the following individuals entered and were present during the inventory/search: Bernard Nussbaum, Steve Neuwirth, Cliff Sloan, Bill Burton, all of whom were members of The White House staff; David Margolis and Roger Adams, who are attorneys at the Department of Justice; Captain Charles Hume and Pete Markland of the U.S. Park Police; Special Agents Scott Salter and Dennis Condon of the FBI; and an Attorney representing the Foster family (name unrecalled); Paul Imbordino and Don Flynn. ASAC Imbordino said that it was his understanding that the purpose for this inventory/search was to try to find a suicide note or anything bearing on Vincent Foster's death. Imbordino said that he and Flynn sat in the back of the group near the door. He recalls looking around the office, which was very crowded with this many persons present. He recalls few details but he saw several photographs of Foster and his family members as well as photographs of President Bill Clinton. ASAC Imbordino said that during the inventory/search he was paged two or three times regarding other USSS work matters and therefore was in and out of Vincent Foster's office several times.

ASAC Imbordino said that at the beginning of the inventory/search, Nussbaum positioned himself in Vincent Foster's desk chair behind the desk with White House Attorneys Steve Neuwirth, Cliff Sloan and Bill Burton standing behind him. He said that from time to time during the search one or more of

these three men would, after viewing a particular document, whisper into Nussbaum's ear. He said that the methodology of the inventory involved Nussbaum going through documents and papers found in various receptacles (Foster's desk, cabinets and book shelves) throughout Foster's office. Nussbaum and the three White House Attorneys behind him would view each document and then place each face down on Foster's desk in a series of piles. Imbordino said that it is his recollection that these piles were representative of categories such as Presidential documents, Foster personal matters, etc. Imbordino was asked if anyone present questioned this methodology. He said that it was clear that "Nussbaum was absolutely running the show". He said no, that he assumes the primary reason that no one questioned the methodology was that all present were keenly aware that they were in the office of the counsel to the President and that Nussbaum was in charge of proceedings in that office.

ASAC Imbordino said that he cannot recall any law enforcement personnel or Department of Justice people present during this process ever being allowed to see any of the documents. He said that at one point, during this process, White House Attorney Cliff Sloan asked FBI Special Agent Scott Salter, who had been standing throughout the inventory/search, if he was standing to try to see the documents that were being reviewed. Imbordino says that he recalls Special Agent Salter's reply indicating that Sloan was perhaps "getting carried away". He then recalls David Margolis saying something to the effect that "we're all on the same team here, lighten up!" Imbordino said that while nothing was said in this regard, he had the feeling that Margolis was the informal and unofficial spokesman for the Government Law Enforcement employees present. Imbordino was specifically asked if he recalled Bernard Nussbaum searching a briefcase (allegedly Foster's) located in the office. He stated that he does not recall any briefcase being searched. In response to another question, ASAC Imbordino said that he recalls a computer being in Vincent Foster's office but he does not recall it ever being turned on or utilized in any way during this search.

Toward the end of this process Imbordino once again left the office and this time returned with cardboard boxes that were to be used to contain the piles of documents. ASAC Imbordino advised however that he cannot recall seeing anyone leave Vincent Foster's office with any documents or any boxes. He said that he and ASAC Don Flynn escorted the Law Enforcement

and Department of Justice people out of The White House after the group left Vincent Foster's office. He said that he cannot recall any comments about the methodology of the search. He said however that the process he observed would be much more accurately described as a "inventory" then a traditional Law Enforcement search.

FD-302 (Rev. 3-10-82)

d see next 6/28

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/18/94

Paul D. Imbordino, Assistant Special Agent in Charge (ASAC), United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. ASAC Imbordino, having previously been advised as to the identity of the interviewing agent and the nature of the interview, provided the following information regarding Hillary Clinton's whereabouts during July, 1993 and the status of an alarm on the White House west wing offices of Hillary Clinton during that period:

Mrs. Clinton departed Washington, D.C. in mid-July, 1993 enroute to various scheduled locations, including Hawaii and Los Angeles, California. After a stopover in Hawaii with President Clinton and their daughter, she proceeded to Los Angeles. Upon learning of the death of Vincent Foster, Jr., she proceeded to Little Rock, Arkansas where she again met with the President and remained in Arkansas for the Foster funeral. USSS records indicate that she did not return to Washington, D.C. during this entire period but did return to Washington following the Foster funeral late on July 23, 1993.

The first USSS alarm/access log records regarding The White House west wing offices of Hillary Clinton begin on July 22, 1993. USSS records indicate no alarm log activity prior to that date. ASAC Imbordino explained that prior to January, 1993, The White House west wing offices currently occupied by Hillary Clinton were not alarmed. In February, 1993, following the inauguration of Bill Clinton, Hillary Clinton's White House staff made a request of USSS to place an alarm on the Hillary Clinton office suite. The USSS installed this alarm in March, 1993 but was unable to activate it until July 22, 1993. ASAC Imbordino explained that the installation, maintenance, and monitoring of White House alarms is the responsibility of the USSS. However, the actual wiring of the alarms and thus their initial activation is the responsibility of the local telephone company and, per standard operating procedure, The White House contact and coordination with the phone company is the responsibility of White House staffers. For reasons unknown to USSS the telephone

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Investigation on 5/17/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Jr. Date dictated 5/18/94

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company was not contacted by Hillary Clinton's staff to facilitate wiring and activation of the alarm on her office suite until July, 1993. When wiring was completed by the telephone company, the USSS activated the alarm on July 22, 1993.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

PAUL B. IMBORDINO, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service (USSS) came to the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW and made available two documents that had previously been requested by the investigating agent on behalf of the Office of the Special Counsel. These two documents are described as follows: a one page document captioned "Alarm log for Mr. WATKINS' office" showing USSS alarm log activity for The White House west wing office of DAVID WATKINS and PATSY THOMASSON for the period July 20-21, 1993. Some of the numerous entries on this document show, among other things: THOMASSON entering the office at 7:16 am on July 20; leaving the office at 7:10 pm on July 20 with the office door alarm being reset; THOMASSON re-entering the office at 10:48 pm; and then leaving the office shortly after midnight (12:12) am on July 21, 1993 with the door alarm being reset.

The second document made available by ASAC IMBORDINO consists of 92 pages showing various individuals entering and/or exiting a gate to The White House compound onto West Executive Avenue (USSS guard post B4). This log gives the date, time, name of entrant, entrant's White House badge number, and whether entering or exiting. ASAC IMBORDINO provided the following information regarding limitations of this document. When a White House staffer-badge holder enters or exits The White House compound through this gate in a vehicle, no USSS computer entry is generated and therefore no entry would appear on this log--only staffers who either enter or exit The White House compound through this gate by means of walking would generate an entry on this log. IMBORDINO further advised, however, that individual staffers walking into or out of the compound through this gate do not always generate an entry on this log. He explained that if a staffer is very well known by USSS personnel on the gate, the officers may well simply wave him through without generating an entry. Also, when traffic is extremely heavy at this gate, walking staffers often need only show their badge to be waved through, again not generating an entry on this log. IMBORDINO further advised that this is an old system which is in the

Investigation on 6/8/94 at Washington, D.C. File # 29D-LR-35063 SUB A

FOIA(b)(7) - (C)

by [redacted], JR. Date dictated 6/10/94

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process of being updated and therefore is "down" for repairs from time to time. During such "down" times, no entries are generated on this log.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

PAUL B. IMBORDINO, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service (USSS) came to the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW and made available two documents that had been previously requested by the investigating agent on behalf of the Office of the Special Counsel. These two documents are described as follows: "a USSS gate log" showing various individuals entering and/or exiting a gate to The White House compound onto West Executive Avenue from Pennsylvania Avenue (USSS guard post A-1). The second document is a six-page "USSS gate log" showing various individuals entering and/or exiting a gate to The White House compound onto East Executive Avenue (USSS guard post A-5). Each of these logs give the date, time, name of entrant, entrance White House badge number, and whether entering or exiting.

Mr. IMBORDINO, commenting on another request made previously by the Office of the Special Counsel regarding a similar log for the "North side gate" allowing access onto The White House compound from Pennsylvania Avenue, advised that no USSS entry/exit log is kept at that gate. He explained that the North side gate is most often used by members of the news media and is seldom used by White House staffers.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/94

ASAC PAUL IMBORDINO, United States Secret Service (USSS), assigned to The White House, Washington, D.C. (WDC), contacted the Office of the Independent Counsel (OIC) regarding several OIC requests for information related to White House compound security measures. After being apprised of the identity of the interviewing Agent, IMBORDINO thereafter provided the following information:

According to IMBORDINO, the Movement Log for USSS post F1, adjacent to the library at The White House, was released by the Secret Service to The White House. USSS Standard Operating Procedure dictates that the log for the F1 post as well as logs concerning appointments are turned over to The White House every 30 days for disposition. The F1 post is located adjacent to the elevator leading from the basement level of The White House to the residence quarters. Guests of the First Family who utilize the elevator are routinely listed on the Movement Log before accessing the elevator.

IMBORDINO caused a review to be made of security violation records for The White House compound. No security violations were noted for July 20 or July 21, 1993 regarding the Executive Mansion or White House compound.

ASAC IMBORDINO noted that as per prior agreement, photographs of USSS personnel will be provided by the Secret Service. Photographs of White House staff and friends of the President must be acquired from The White House. IMBORDINO reiterated this request based on a previous request of the Office of the Independent Counsel to locate a photograph of SUSAN THOMASSES.

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/29/94

PAUL B. IMBORDINO, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. ASAC IMBORDINO was familiar with the interviewing agents from prior interviews. He was informed that the nature of this interview was to secure additional information regarding his activities and knowledge of events that took place at The White House in the early morning hours of July 21, 1993.

IMBORDINO stated that he arrived at The White House on July 21, 1993 at approximately 7:30/8:00 am. He went briefly to his office in Room 150 of the Old Executive Office Building and then proceeded to USSS Headquarters on 1800 G Street, NW. While there, he spoke to Deputy Assistant Director RICHARD GRIFFIN of the USSS regarding FOSTER's suicide. He stated that to the best of his recollection, he then went back to The White House to assist Secret Service Agent DON FLYNN, The White House Security Coordinator. Primarily, he was assisting FLYNN in meeting and accompanying Park Police detectives and the Chief of the Park Police who were expected to arrive at The White House that morning for meetings with DAVID WATKINS. IMBORDINO has no recollection of seeing CRAIG LIVINGSTONE at The White House when he first arrived at approximately 7:30 am.

IMBORDINO was unable to recall, from his own independent recollection, the names of any USSS Officers observed by him at The White House complex following his arrival at work on 7/21/93. He pointed out that the USSS uses two rooms in The White House complex for roll call briefings which are held for USSS officers at the beginning of each shift. The larger roll call room is located in the basement of the Old Executive Office Building near the USSS Command Center. A smaller roll call room, used primarily by USSS officers who conduct White House tours, is located in the east wing of The White House.

IMBORDINO was informed by SA COLOMBELL that sometime between 6:30 am and 9:30 am on July 21, 1993, one of the Uniformed Secret Service guards had reported to a Secret Service

superior, Inspector DENNIS MARTIN, his observation of CRAIG LIVINGSTONE and a second white male carrying a briefcase and a large box from the elevator coming down from the 2nd floor of the west wing. Agent IMBORDINO was specifically asked whether he had become aware of this report during the morning hours of July 21, 1993 and also whether he had in any way discussed this report with any other individuals, including CRAIG LIVINGSTONE. Agent IMBORDINO stated that he was not aware of this information back on July 21, 1993 and thus could not have had any conversation with anyone including CRAIG LIVINGSTONE regarding the nature of these observations.

Agent IMBORDINO stated that because of his responsibilities at The White House, he still has occasional contacts with CRAIG LIVINGSTONE. However, during these contacts he has never engaged in conversation nor has Mr. LIVINGSTONE ever made any remarks to him regarding the ongoing Independent Counsel investigation or aspects of the investigation that may pertain to Mr. LIVINGSTONE.

At the conclusion of the interview, the assistance of Agent IMBORDINO was requested in securing the names of all Secret Service Officers, including agents, who were on duty and present at The White House during the hours of 6:00 am to 9:00 am on July 21, 1993 and the obtaining of copies of all alarm logs for offices in The White House that have alarms for the period beginning 8:00 pm, July 20, 1993 through 8:00 am, July 21, 1993. Assistance was also requested in identifying keys that were found on FOSTER's body the day of his death and photo copies of these keys with the markings and numbers appearing thereon were provided to Agent IMBORDINO.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/18/94

PAUL IMBORDINO, Special Agent with the United States Secret Service assigned to the White House was interviewed by phone. He was familiar with the interviewing agent based on prior investigative interviews conducted by SA COLOMBELL. MR. IMBORDINO advised that he was unable to find any record indicating that the pager found on VINCENT FOSTER's body was turned over by the US Park Police to Secret Service representatives on the night of FOSTER's death. He stated that as best he can determine, the pager was never given to the United States Secret Service. MR. IMBORDINO did confirm that on the night of FOSTER's death, specifically at appproximatley 1:20 a.m. on July 21, 1993, a representative of the Secret Service did take possession of FOSTER's White House identification, but not the pager.

(telephonically)

nvestigation on 10/13/94 at Washington, D.C. File # 29-LR-35063

by WILLIAM E. COLOMBELL Date dictated 10/18/94

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/22/95

PAUL B. IMBORDINO, Assistant Special Agent in Charge (ASAC), White House Division, United States Secret Service (USSS) provided to the Office of the Independent Counsel the attached access control log. The attached log represents the arming and disarming of the alarm within the Counsel's Office suite, located in the west wing of the White House. A search of USSS records reveals the White House Counsel's Office suite alarm was activated on September 24, 1993, for the first time since the last deactivation on July 21, 1993. IMBORDINO did not provide any explanation for the gap in alarm activity from July 21, 1993, through September 24, 1993. The aforementioned alarm activity report is attached and made a part of the record hereto.

Investigation on 3/16/95 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS DMG:sla Date dictated 3/20/95

09/24/93	12:14	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	MIG	GROUP		TAMPER RESET
09/24/93	12:14	562	CAEANNA DRESSING ROOM DOOR	MIG	GROUP		SECURE SET
09/24/93	12:14		ANNUNCIATOR NO. 10				ANNUN INOPERATIVE
09/24/93	12:14		ANNUNCIATOR NO. 10				ANNUNCIATOR NORMAL
09/24/93	12:14	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	TSD			SECURE ALARM
09/24/93	12:14	563	ANDREW FRIENDLY'S OFFICE	TSD			SECURE ALARM
09/24/93	12:15	563	ANDREW FRIENDLY'S OFFICE	MIG	GROUP		ACCESS SET
09/24/93	12:15	564	WW 015-018 ADMIN OFC-WATKINS	TSD			SECURE ALARM
09/24/93	12:15	564	WW 015-018 ADMIN OFC-WATKINS	MIG	GROUP		ACCESS SET
09/24/93	12:15	565	1ST FLOOR WEST WING VP'S OFFICE	TSD			SECURE ALARM
09/24/93	12:15	565	1ST FLOOR WEST WING VP'S OFFICE	MIG	GROUP		ACCESS SET
09/24/93	12:15	566	WW 1ST FL NSC ADVISORS OFFICE-LAKE	TSD			SECURE ALARM
09/24/93	12:15	566	WW 1ST FL NSC ADVISORS OFFICE-LAKE	MIG	GROUP		ACCESS SET
09/24/93	12:15	574	WW 025-029 PODESTA/HALE	TSD			SECURE ALARM
09/24/93	12:15	574	WW 025-029 PODESTA/HALE	MIG	GROUP		ACCESS SET
09/24/93	12:16	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	TSD			ACCESS ALARM
09/24/93	12:16	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	MIG	GROUP		ACCESS RESET
09/24/93	12:16			MIG	GROUP		OPERATOR LOG OFF
09/24/93	12:16			CONTROL	CENTER	1	OPERATOR LOG ON
09/24/93	12:16	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	CONTROL	CENTER	1	SECURE SET
09/24/93	12:17	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	TSD			ACCESS ALARM
09/24/93	12:17	561	WW 2ND FL RM. 208 - NAUSSBAUM'S OFFICE	CONTROL	CENTER	1	ACCESS RESET
09/24/93	12:40			CONTROL	CENTER	1	ACKNOWLEDGE TIMEOUT
09/24/93	12:40	780	RM 506 - UD OFFICES	EMERICK			SECURE ALARM
09/24/93	12:40	780	RM 506 - UD OFFICES	CONTROL	CENTER	1	ACCESS SET

J

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/24/94

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Sergeant ALBERT JEZ, Investigator, U.S. Park Police (USPP), Internal Affairs Office, Annocostia Operations Facility, Washington, D.C. (telephone number 690-5050) was advised of the identity of Special Agent WILLIAM E. COLOMBELL of the FBI. Sergeant JEZ provided the following information regarding his handling of Freedom of Information Act (FOIA) requests received by the USPP concerning the death investigation of VINCENT FOSTER.

The only USPP records relating to the VINCENT FOSTER death investigation that he provided to Mr. BERNARD NUSSBAUM, White House Legal Counsel Office, related to a number of FOIA requests received by the USPP beginning in August of 1993.

By cover letter dated 9/3/93 (attachment #1), Mr. NUSSBAUM was provided with four pages of records previously provided to the USPP by the White House described as follows: FOSTER's personal calendar (two pages); FOSTER's phone log (one page), and a note left by FOSTER (one page). The USPP cover letter explained that the above documents were considered White House documents. The USPP requested White House recommendations as to the releasability under FOIA of these specific documents.

By letter dated 11/8/93 (attachment #2), Mr. NUSSBAUM responded, stating that in the opinion of The White House Legal Counsel Office, the above four pages of records should not be disclosed. Mr. NUSSBAUM's letter also included legal justifications under FOIA for withholding release of such documents.

The USPP sent a second letter to The White House Legal Counsel Office dated 12/13/93 (attachment #3), adding that this second letter also related to USPP efforts to respond to these pending FOIA requests. Sergeant JEZ stated that this letter was sent after consultation between Sergeant JEZ and Ms. PEGGY IRVING, FOIA Section, Department of Justice (DOJ). Additional USPP FOSTER death report documents were sent to The White House as enclosures to this second letter, including three pages from the USPP investigative report (marked as items 36, 50 and 52) and

Investigation on 6/24/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL WEC Date dictated 6/24/94

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a U.S. Secret Service log of persons entering Mr. FOSTER's office on 7/21/93 (marked as item 87).

Items 36, 50 and 52 are not White House documents but rather the written result of USPP investigative efforts. Items 50 and 52 reflect the USPP follow-up investigation generated from a review of the FOSTER phone log. Items 36 reflects USPP investigation generated from a review of U.S. Secret Service log of persons entering FOSTER's office on 7/21/93. It was the USPP position, after consultation with the FOIA section of the DOJ, that these items, although not White House documents, related to the previously described White House documents and thus White House views and legal opinion were necessary prior to any release under FOIA.

To his knowledge, Mr. NUSSBAUM, White House Legal Counsel's office, never did send a response back to the USPP letter dated 12/13/93.

With the appointment of Mr. ROBERT FISKE as Independent Counsel in Whitewater related matters, all pending FOIA requests re the FOSTER death investigation were denied based on exemption 7A (pending investigation).

The decision to send the above portions of the USPP report to The White House was based on recommendations to his department made by Ms. PEGGY IRVING, FOIPA, DOJ.

Normally, if he has legal issues to resolve re handling of FOIA requests, he checks with the Solicitor's Office for the U.S. Department of Interior (Attorneys RICK ROBBINS or RANDY MYERS). In this case, he was told by his superior, Commander HINES, to work with Department of Justice, FOIA section re all FOIA requests received by USPP relating to FOSTER's death. It was his understanding that this decision was based on a letter, dated August 20, 1994 from Ms. PEGGY IRVING, Department of Justice, (attachment #4) citing the need for coordination and consultation between the various federal entities that had received FOIA requests re FOSTER's death.

He had also discussed with Ms. IRVING, those portions of the USPP FOSTER death report dealing with interviews of White House staff persons and assistants, specifically the issue of referring those parts of the report to The White House Legal Counsel Office for their input prior to any FOIA release. It was

his understanding that the Department of Justice, FOIA section would handle this matter and that prior to any release, the Department of Justice would make those portions of the report (interviews of White House staff) available to The White House Legal Counsel's Office for its legal opinion regarding release of this material under FOIA. He has no knowledge whether the FOIA section, Department of Justice, subsequently provided these portions of the USPP report to The White House or not.

Sergeant JEZ concluded by stating that in early April, 1994, he was contacted by Mr. RICHARD ROBBINS, an attorney with the Solicitor's Office, Department of Interior, adding that ROBBINS instructed him to make a copy of both the unredacted and redacted portions of the USPP FOSTER investigation dealing with interview of White House staffers and assistants. Sergeant JEZ assumed that Mr. ROBBINS wanted to review those sections of the report to ensure that FOIA exemptions and exceptions were properly applied. On April 7, 1994, he provided Mr. ROBBINS with both clear and redacted copies of those portions of the report dealing with interviews of all White House staffers and assistants (attachment #5).

Sergeant JEZ stated that the above information represents the totality of his knowledge concerning who was provided portions of the USPP FOSTER death investigation by the FOIA unit of the USPP.

9# #2

United States Department of the Interior

NATIONAL PARK SERVICE
Headquarters, United States Park Police
1100 Ohio Drive, S. W.
Washington, D. C. 20242
DRAFT

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
P36(NCR-FOIA)

R Hines 9/3
Neuman, FF
9/3
OSP 9/10/93

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

While processing a Freedom of Information Act (FOIA) request from Mr. William Neuman, received on August 11, 1993, the United States Park Police located four documents containing information furnished by White House Staff. We request your review of the documents, making any deletions or recommendations regarding withholding a document in entirety. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you have made. If there should be any other justification for withholding this information from public disclosure, please provide supporting documentation.

We have enclosed the following:

1. a copy of Mr. Neuman's FOIA request;
2. copies of the documents you provided us;

If you should have any questions concerning this referral, please contact Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures
bcc:
USPP FOIA Surname
Cmdr., OIS
Cmdr., IAU

FOIA file 93-026

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony 4:00pm Bacsey Wright BD 1317 F, Suite 600	2 9:00am Staff 7:30pm Chevy Chase CC	3
4 7:30pm Ice Cream Social	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevans-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich - Sloan 12:15pm Pincus-Hay Adams	10
11	12 8:00am Sr. Staff 9:00am Staff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hrg Begins 9:00am Staff	21 9:00am Staff	22 9:00am Staff 1:15pm Sharon lunch	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

7/8/1993

July 1993

Vincent W. Foster

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 9:00am Staff 1:15pm Askew, Anthony	2 9:00am Staff 7:30pm Chevy Chase CC	3
4	5 Holiday	6 8:00am Sr. Staff 4:00pm Deputies	7 8:00am Sr. Staff 9:00am Staff	8 8:00am Sr. Staff 9:00am Staff 11:00am School Mtg 2:00-2:45pm Lisa Nevans-HOPE STAR	9 8:00am Sr. Staff 9:00am Staff 11:00am Gary Aldrich 12:15pm Pincus 5:00pm Interns	10
11	12 8:00am Sr. Staff 9:00am Staff 10:45am Mtg w/ Watkins re staff 12:00pm Beth & Cliff 4:00pm Deputies	13 9:00am Staff	14 9:00am Staff	15 9:00am Staff	16 9:00am Staff 4:00pm Deputies	17
18	19 NAFTA Brief Due Meinhold Brief Due 9:00am Staff 4:00pm Deputies	20 Ginsburg Hearing 9:00am Staff	21 9:00am Staff	22 9:00am Staff 10:00am Judicial Selection 1:15pm Sharon lunch (4)	23 9:00am Staff 4:00pm Deputies	24
25	26 9:00am Staff 4:00pm Deputies	27 9:00am Staff 8:00pm Mrs. Simpsons & Hernreich BDay	28 9:00am Staff	29 9:00am Staff	30 9:00am Staff 4:00pm Deputies 7:30pm Edleman Party 3208 Newark 662-3506	31

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

7/20/1993

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
		Brant Buck	501 377 0310	
1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter; if she cannot reach you, she will go ahead and call
		Gordon Rather	501 371 0808	personal matter (secy did not know specifics)
3:35 PM		Maggie	7194	has an answer to one of our questions
5:10 PM		Mrs. Foster		

WH. 7/30/93

I made mistakes from ignorance, inexperience and overwork

I did not knowingly violate any ~~law~~ standard of conduct

No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was not intent to benefit any individual or special group

The FBI lied in their report to the IG

The press is covering up the illegal benefits they received from the travel staff

The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation

The Ushers Office plotted to have excessive costs incurred, taking advantage of Kake and HRC

The public will never believe the innocence of the Clintons and their loyal staff

The WSJ editors lie without consequence

I was not meant for the glare or the spotlight of public life in Washington. Here ruining people is considered sport.

Att. #2

THE WHITE HOUSE

WASHINGTON

11/8/93

November 8, 1993

Robert H. Hines, Major
Commander, Office of Inspectional Services
United States Department of the Interior
National Park Service
Headquarters, United States Park Police
1100 Ohio Drive, S.W.
Washington, D.C. 20242

Re: FOIA Request of William Neumann Dated August 11, 1993

Dear Major Hines:

You have asked for our opinion regarding the above-referenced request, under the Freedom of Information Act, for documents previously forwarded to the National Park Service by the White House Counsel's Office. We have reviewed these documents, and, for the reasons stated below, have concluded that such documents should not be disclosed.

First, the documents requested are not "agency records" subject to the FOIA. See 5 U.S.C. § 552(a)(4)(B). The Office of the President, including the President's immediate personal staff and units in the Executive Office whose sole function is to advise and assist the President, does not constitute an "agency" for the purposes of FOIA. See, e.g., Kissinger v. Reporters Committee, 445 U.S. 136, 156 (1980); National Security Archive v. Archivist of the United States, 909 F.2d 541, 545 (D.C. Cir. 1990) (Counsel's Office exempt from FOIA). Although the documents requested were forwarded to the Park Service, they remain White House documents not subject to the provisions of the FOIA. See, e.g., Goland v. CIA, 607 F.2d 339, 347 (D.C. Cir. 1978), vacated in part on other grounds, 607 F.2d 367 (D.C. Cir. 1979), cert. denied, 445 U.S. 927 (1980) (Congress' retention of control over documents turned over to agency).

Second, the requested documents do not qualify as "agency records" since they were primarily personal documents prepared for the convenience of an employee and were not distributed. See, e.g., Bureau of National Affairs v. U.S. Dep't of Justice, 742 F.2d 1484, 1485-96 (D.C. Cir. 1984) (personal diary, appointment calendars, phone logs not "agency records.")

Third, even assuming arguendo that these White House documents are "agency records", they are exempt from disclosure both under FOIA's exemption 6 (the privacy exemption) and exemption 7(c) (the privacy exemption in the context of a law enforcement

investigation). See 5 U.S.C. § 552(b)(6) & (b)(7)(c). Disclosure of these documents would violate the privacy rights of a former White House employee and his family, and would not serve any significant public interest. As the D.C. Circuit has cautioned, "[T]he legitimate and substantial privacy interests of individuals . . . cannot be overridden by general public curiosity." Fund for Constitutional Government v. National Archives and Records Service, 656 F.2d 856, 866 (D.C. Cir. 1981).

The privacy provisions of FOIA exemptions 6 and 7(c) apply fully to Mr. Foster's handwritten note. As has been publicly stated, the Foster family has requested that the handwritten version of the note not be released. That the note is handwritten only confirms the significant privacy interest in that note. Moreover, any public interest in release of the handwritten note is minimized because the complete contents of the note have been previously released and widely reported. See, e.g., New York Times Co. v. NASA, 920 F.2d 1002, 1004 (D.C. Cir. 1990) (en banc) (finding, under exemption 6, personal information in tape recording of astronauts' last conversation where transcript already published).

As you have requested, enclosed please find the copies of the documents you provided for our consideration. We appreciate your cooperation with this matter.

Sincerely,

Bernard W. Nussbaum
Counsel to the President

Att. #3

United States Department of the Interior

NATIONAL PARK SERVICE
HEADQUARTERS, UNITED STATES PARK POLICE
1100 Ohio Drive, S.W.
Washington, D.C. 20242

IN REPLY REFER TO:
P36(NCR-PPIA)

DEC 13 1993

Mr. Bernard Nussbaum
Chief Counsel to the President
West Wing, 2nd Floor
White House
Washington, D.C. 20500

Dear Mr. Nussbaum:

We have determined that it is necessary we refer to you the enclosed documents marked #36, #50, #52 and #87. These documents were determined to be responsive to Mr. William Neuman's Freedom of Information Act (FOIA) request.

Document #87 titled, "Communication Record", was initially referred to the United States Secret Service (USSS). The USSS has determined that this document should be referred to the White House, Mr. Bernard Nussbaum, Counsel to the President, 1600 Pennsylvania ave., N.W., Washington, D.C. 20500 regarding a public disclosure determination.

Document #36 contains information, bracketed in red, directly related to document #87. Documents #50 and #52 contain information, bracketed in red, directly related to a document we previously referred to you on September 3, 1993.

We request you review the entire document #87 and the information on documents #36, #50 and #52 that is bracketed in red, making any deletions or recommendations regarding the public disclosure of these documents and information. We ask that the documents be returned to us. Please cite the FOIA exemptions regarding deletions or withholding recommendations you make. If there should be other justification for withholding this information from public disclosure, please provide documentation regarding this.

We have enclosed the following:

1. A copy of Vincent Foster's phone log that was previously referred to you on September 3, 1993;
2. A copy of your response regarding the September 3, 1993, referral;
3. A copy of Mr. Neuman's FOIA request;
4. A copy of documents #36, #50, #52 and #87 that we request you review;

If you should have any questions concerning this referral, please contact me on 202-619-7350 or Sergeant Albert Jez on 202-690-5103.

Sincerely,

Robert H. Hines, Major
Commander, Office of Inspectional Services

Enclosures

bcc:
USPP IAU FOIA Surname
USPP IAU FOIA File

AFJEZ:aj:12-10-93:WP51\FINUS.326

July 20, 1993

TIME IN	NOTES/RESOLUTION	NAME/AGENCY	PHONE NO.	MESSAGE
10:55 AM		Brant Buck	501 377 0310	
11:01 AM		Bill Kennedy		
11:11 AM		Maggie Williams	7194	
		Cheryl Mills	7112, 7900	
		Jim Lyons	303 623 9000	
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1:40 PM		Bill Kennedy	2144	
1:40 PM		Steven Neuwirth	7903	
2:14 PM		Cheryl Mills	7122, 7900	needs to call Justice on a new matter she cannot reach you, she will go ahe and call
		Gordon Rather	501 371 0808	personal matter (secy did not k w specifics)
3:35 PM		Maggie	7194	has an answer to one of our questio
5:10 PM		Mrs. Foster		

FF50

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE D

2 AGENCY	3 MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police	07	2	09	3	93-30512

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

On Friday, July 30th, Detective [redacted] and I responded to the Executive Office Building (EOB) Room 128 to meet with [redacted] The purpose of the meeting was to examine the telephone message log of Vincent Foster during the month of July and in particular to attempt to determine if he had gotten a call just prior to his departure on July 20, 1993. We learned that the phone logs were just a message log of calls he received when he was absent or unable to take the call. The administrative assistants would type time, person's name, phone number, and messages if one was left. The log was no assistance in determining if anyone had called him just prior to 1300 hours on July 20, 1993, if the call had been put through. There was one notation of interest on July 19, 1993. A [redacted] had called at 1047 hours and left his phone number [redacted] There were no messages. Prior to 1300 hours on July 20, he had received several phone messages. Some of the messages were from his staff. There were two calls made from Arkansas from the same person and one call from Colorado. Attempts will be made to contact these people and see if either reached Vincent prior to 1300 hours.

[redacted] requested if any information about the phone logs is contemplated being released, [redacted] would like to have the counsel's office notified at the White House prior to any release. I told [redacted] that I would put his request in my report. This caused [redacted] some concern because [redacted] didn't want special or unusual attention drawn to his request.

8 GRANT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER | BADGE NO. | DATE | INVESTIGATOR | BADGE NO. | DATE | SUPERVISOR | BADGE NO. | DATE

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR	MO.	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
States Park Police		07	20	93	93	-30501

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

July 20,, 1993 Phone Log

[redacted]

The phone message log indicated [redacted] called for Foster at 10:55 a.m. and left only his phone number 501-377-0310. The log indicated he called again at 11:11 a.m. and left the same phone number.

On August 2, I called [redacted] office and spoke to his secretary, [redacted]. [redacted] was on vacation. She said [redacted] did get a return call from Foster on July 19th, but [redacted] had stepped away from his desk. Foster returned the call to Buck at 11:17 a.m. central time (12:17 a.m. eastern time). [redacted] had a brief conversation with Foster that was characterized as normal, nothing unusual. Brant [redacted].

[redacted]

The phone message log indicated a call from [redacted] at 11:11 a.m. with only a phone number left, [redacted] Lyons is from the [redacted] I contacted [redacted] by telephone on August 2nd. He had known Foster since the late 1980's. He met him through Hillary Rodham Clinton and the Rose Law Firm. They had worked together on the Campaign. [redacted] was going to be in Washington on Wednesday, July 21st. He had called and spoken with Foster Sunday July 18th between 8:00-9:00 p.m. eastern time and they had agreed to meet for dinner Wednesday.

[redacted] had told Foster he would call him and let him know when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993.

[redacted]

The phone message log indicated that a [redacted] called Foster at 2:14 p.m. and left his phone number, [redacted] and a message was noted by the administrative assistant "personal matter (secy did not know specifics)"

SUSPECT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	16 INVESTIGATOR	BADGE/ID	DATE	18 SUPERVISOR	BADGE/ID	DATE

#36

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 ITEM AREA: United States Park Police

3 WHEN DID IT OCCUR: MO 07 DAY 20 YR 93

4 YEAR: 93

5 CASE INCIDENT NUMBER: - 30501 -

6 NATURE OF INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT:

ITEM | 7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the [redacted]. The following people were also present during this meeting: [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted] Department of Justice Attorney, [redacted] U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1334 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted] with [redacted] near [redacted] side and [redacted] at the end of the desk.

8 WARRANT(S) ☐ YES ☐ NO | 9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED ☐ CLOSED EX: ☐

COMMUNICATION RECORD

#87

Log of Persons entering Mr Frank's office

Wednesday July 21st 1993

11:16A	Mr Nussbaum Received a small P.C. at photo (Off. Mirkin)
4:24P	Cliff Sloan, to replace a bag of trash previously taken from Mr. Foster's Trash Can (Off. Chaney)
8:02P	Kevin Robbins, Kenneth Blair, to Place the Lock on the door to Foster's Office. (1st Floor)
10:32P	Lock installed, Door Secured by Flynn

Thursday July 22nd 1993

1:15P	Mr Nussbaum, Steve Neuwirth, Cliff Sloan, Bill Burton, Michael Spafford, David Margolis, Roger Adams, Capt Alonzo Hemo, Pete MacKland, Sect Sabler, Dennis Condon, Prof Inventories. Don Flynn.
2:49P	Dismantled Security door, Keys given to Mr Nussbaum by Flynn.

ATT #4

U. S. Department of Justice

Washington, D.C. 20530

August 20, 1993

HAND-DELIVERED

MEMORANDUM

TO: Major Robert Hines
U.S. Park Police
Department of Interior

FROM: Margaret Ann Irving
Associate Director
Office of Information and Privacy

SUBJECT: Freedom of Information Act Requests for
U.S. Park Police Report Regarding Death
of Deputy White House Counsel Vincent Foster

The Office of Information and Privacy, acting on behalf of the Deputy Attorney General, has received several requests for access to various records regarding the death of Vincent Foster. The enclosed report which was provided to the Deputy Attorney General by your agency is among the responsive documents. In an effort to provide a consistent response to all requesters, we are directing the report to you for consultation prior to making our final responses.

Accordingly, please provide us with any comments or recommendations you may have as to the sensitivity of this report. As you are aware, certain material in this report originated with the Bureau of Alcohol, Tobacco and Firearms; you may wish to consult with it regarding its information prior to making your response to this Office. Also contained in your report are documents that originated with the FBI. Such documents are duplicative of records which we are directing to the FBI for its review. We will apprise you of the FBI's disclosure recommendations as soon as such review is completed.

Please return the document, along with your comments, to me at the following address:

U.S. Department of Justice
Office of Information and Privacy
Room 7238
Washington, D.C. 20530
Attention: Ms. Irving

Lastly, I understand that your Office has also received FOIA requests directly. To ensure consistent responses, we ask that you consult and coordinate with this Office prior to any response to the requesters. If you have any questions regarding this matter, please call Charlene Wright or me at 514-4251.

Enclosure

ATT #5

Material delivered to R. Myers or R. Robbins office on 4/7 pursuant to a phone call from R. Myers.

Clean copies of WH employee interviews 4/7
#29, 30, 31, 32, 33, 34
36, 37, 43, 45, 46

Redacted copies 4/7
of 29, 30, 31, 32, 33
34, 36, 37, 43, 45, 46

4/7

FYI
Bracketed material on document #36 was forwarded to WH.
I have provided #50+52 which were forwarded to WH.
We have not received a return.

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
d States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

DENT — 6 RECLASSIFICATION OF INCIDENT

rh Investigation

ULTS OF INVESTIGATION

7/21/93: Bernard Nussbaum

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A Condon, S/A Salter, Captain Hume, and Detective Markland responded to the West Wing and spoke with Mr. Nussbaum to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. Mr. Nussbaum is Chief Counsel to the President. S/A Salter and Det. Markland obtained the following information from Mr. Nussbaum as a result of that meeting:

-Mr. Nussbaum had determined that Mr. Foster had left his office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. Mr. Nussbaum tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, Mr. Nussbaum left and proceeded to his domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to him, Mr. Nussbaum responded back to the White House where he went through Mr. Foster's office with Patsy Thomassen and Maggie Williams. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on his desk. This search lasted from 2200 to 2400 hours. Mr. Nussbaum stated that no documents were removed from the office.

-Mr. Nussbaum stated that he learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on his desk top "to make it neat".

-At approximately 0900 hours Mr. Nussbaum again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-Mr. Nussbaum requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

29

ANT(S) / ES /)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES

ATUS: ☐ OPEN ☐ SUSPENDED — CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Peter W. Markland					

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tes Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2
DENT vestigation	6 RECLASSIFICATION OF INCIDENT				

ULTS OF INVESTIGATION

On Thursday, August 22, 1993, Detective Pete Markland and I responded to the White house to meet with Special Agents Scott Salter and Dennis Condon of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent Condon interviewed Ms. Betsy L. Pond; Staff Assistant to Bernard Nussbaum, Chief Counsel for the White House. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were Clifford Sloan; associate counsel to Nussbaum, and Paul Imbordino; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. Clifford Sloan took notes throughout the interview. During the interview Bernard Nussbaum burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. Ms. Pond got in to work at around 0900 hours on Tuesday, July 20th. Usually here is a staff meeting of the counsel's office from 0900 to 0945 ours each morning that Vincent Foster would attend. She assumed he was at the staff meeting as she didn't see him when she arrived at work. She first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

She doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She recalled there were M & M's on the tray with the food because Linda wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". Ms. Pond recalled that she and Linda were in the office when he left. She wasn't sure if Tom was in the office or not. Tom Castleton is a young college graduate working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight lost. She was unaware of him taking any medication or seeing any doctors. I asked here would she be surprised if I found out he was seeing a psychiatrist. She said es. She was not aware of any depression problems. She had no nformation whether he owned any weapons.

30

NT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 2 PAGES

TUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

TING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hume Capt. Charles Hume #852		9/4/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
tes Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

ENT
vestigation

6 RECLASSIFICATION OF INCIDENT

ULTS OF INVESTIGATION

Ms. Pond said she left work at approximately 1845-1850 hours on Tuesday; but, before she left at around 1820 or so, Maggie Williams (Mrs. Clinton's Chief of Staff) called for Vincent. She paged Vincent and left the White House number for him to call. She recalled no other phone messages for Vincent.

She learned about Vincent's death from messages on her home answering machine around 0500-0600 hours on Wednesday, July 21. She came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when she arrived at work. She believed that Tom Castleton or Bernard Nussbaum were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. She went into his office and "squashed" the papers together that were on his desk. She realized that she shouldn't have touched the papers as soon as she did it but probably did it out of habit.

When I questioned her if she had been told how to respond to our questions, she stated that Clifford Sloan (who was present during our interview) and Steve Neuwirth, both associate counselors, had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

31

ANT.	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 2 OF 2 PAGES

TUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

RTING OFFICER BADGE/ID DATE	15 INVESTIGATOR BADGE/ID DATE	16 SUPERVISOR BADGE/ID DATE
	Capt. Charles Hume #852 8/4/93	

* U.S. GPO 1987 [illegible]

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR?	MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 3 0 5 0 2

d States Park Police

5 RECLASSIFICATION OF INCIDENT

DENT
h Investigation

SULTS OF INVESTIGATION

Interview: Deborah Gorham

Deborah Gorham is the Executive Assistant that was assigned to Vincent W. Foster. Her desk is located in the common area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying this common office space are Betsy Pond (Executive Assistant to Mr. Nussbaum), Linda Tripp (Executive Assistant), Tom Castleton (Staff Assistant), and Marlene McDonald (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. Markland (USPP), S/A Salter (FBI), and Assistant White House Counsel Steven Neuwirth.

Ms. Gorham stated that she did not know Mr. Foster before she was hired on March 8, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

Ms. Gorham recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when Mr. Neuwirth asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for Mrs. Foster. Ms. Gorham did not see this as a real problem or place any significance on it.

32

ARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[signature]					

• U.S. GPO: 1992-0-625-624/41193

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR?	MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 3 0 5 0 2

d States Park Police

5 RECLASSIFICATION OF INCIDENT

ch Investigation

SULTS OF INVESTIGATION

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. Hume), Det. Markland and S/A Salter were asked to remain and were ushered into Mr. Nussbaum's office by Mr. Neuwirth. Ms. Gorham was brought in and she stated that she had just remembered some conversations that she thought were important to our investigation. Within the last two weeks Ms. Gorham had received calls from Mr. Foster's eldest son and Mrs. Foster inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

33

RRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
] YES] NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

EPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Peter W. Markland					

• U.S. GPO 1992-0-625-624 41163

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 WHEN DID IT OCCUR?	MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
	07	20	93	93	- 30502

States Park Police

6 RECLASSIFICATION OF INCIDENT

ENT
Investigation

LTS OF INVESTIGATION

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective Markland and Special Agent Salter on 7/22/93. The information provided by these two individuals was brief.

Tom Castleton (Staff Assistant) @ 1000 hours:

Mr. Castleton stated that he worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although he could not place the time. Mr. Castleton was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to Mr. Castleton to be "In his own world", focused, disturbed.

Linda Tripp (Executive Assistant) @ 1150 hours:

Ms. Tripp stated that she began her workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to her, however, she had no personal dealings with him on that day.

Ms. Tripp makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for herself how long she may expect them to be away from the office. Ms. Tripp was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

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(AR. .S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Det. P.W. Markland	#330	8-5-93			

* U.S. GPO 1982-0-625 524 41163

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
tates Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

5 NATURE OF INCIDENT
nvestigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the Chief Counsel, Bernard Nussbaum. The following people were also present during this meeting: William Burton, Deputy Chief of Staff for the President, Clifford Sloan and Steven Neuwirth; Associate Legal Counselors, Michael L. Spafford; Attorney representing the Foster family, Captain Charles Hume and Detective Pete Markland; U.S. Park Police, Special Agents Scott Salter and Dennis Condon; Federal Bureau of Investigation, David Margolis, Deputy Assistant Attorney General Criminal Division; and Roger Adams; Department of Justice Attorney, Paul Imbordino and Donald Flynn; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector Dennis Martin of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. Bernard Nussbaum took a seat at Foster's desk, He was surrounded by his two associates, Sloan and Neuwirth, with Burton near his side and Spafford at the end of the desk.

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RAN...	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
ES O	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

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ORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hume Cpt. Charles Hume #852		8/4/93			

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
ates Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0 2

IDENT
nvestigation

6 RECLASSIFICATION OF INCIDENT

SULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process Bill Burton left the office on at least two occasions and returned. Bernard Nussbaum did the actual review of the documents in a very hurried and casual fashion. There was some conversation between Nussbaum and Margolis as what constituted privileged communication. Nussbaum carried his interpretation of what was considered privileged to the extreme; one example was when he picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. Nussbaum would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, he decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective Markland or Margolis would ask him to place a certain note or document in a pile for possible police examination. At one point, Nussbaum pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. He put them on the desk and went through them. He then looked in the valise/briefcase again, but did not take anything out of it. A little later he moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind him and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent Scott Salter got up to stretch and Clifford Sloan challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that Nussbaum had separated out were left in the office with the exception of the pile containing what Mr. Nussbaum determined to be personal papers of Foster. It was agreed between Margolis and Nussbaum that the family lawyer could take those papers and after getting approval from Mrs. Foster the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. Margolis cautioned Nussbaum and his staff not to remove anything from the office. Nussbaum stated he could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and Nussbaum was given the key after we cleared the office on Thursday at 1449 hours.

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AR. .S]	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Cpt. Charles Hume	#852	8/4/93			

* U.S. GPO 1992-0-625-524 41193

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
Ft. Marcy	07	20	93	93	030502

5 INCIDENT
Death Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with Mr. Bernard Nussbaum in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, Mr. Phillip Heymann, as well as Asst. Chief of Staff Bill Burton, also Mr. Gergen and Mr. McLarty.

Mr. Nussbaum had before him on the table small pieces of yellow lined note paper which he was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. Mr. Nussbaum read the contents of the notes to the undersigned of which I took notes. He then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to Mr. Nussbaum, on Monday 7-26-93 he directed one of his assistants, Mr. Steven Neuwirth enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, he found the torn pieces of a hand written page. The scraps were dumped out and then taken to Mr. Nussbaum's Office where they were assembled and Mr. Nussbaum was notified. Mr. Nussbaum then went through notification procedure, to Bill Burton, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was Mr. Jim Hamilton, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to Mr. Bill Burton 202-456-6798 Mr. Steven Neuwirth will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

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AN / S /)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE OF PAGES

ATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

ORTING OFFICER BADGE/ID DATE	15 INVESTIGATOR BADGE/ID DATE	16 SUPERVISOR BADGE/ID DATE
	[signature] 343 7-27-93	Capt. C.L. Hume 823 8/2/93

U.S. GPO 1992-0-622-624/1153

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 3 0 5 0 2

ted States Park Police

5 INCIDENT
ath Investigation

6 RECLASSIFICATION OF INCIDENT

7 RESULTS OF INVESTIGATION

Interview: Steven Neuwirth

Steven Neuwirth is an Assistant White House Counsel and the person reported to have found the note presumably written by Vincent W. Foster that was turned over to Detective L. J. Megby on 7/27/93. The note had been discovered by Mr. Neuwirth during the packaging of Mr. Foster's personal effects on 7/26/93. On 7/29/93 at approximately 1130 hours, Steven Neuwirth was interviewed in Bernard Nussbaum's office by Detective Peter W. Markland and Captain Charles Hume. Mr. Nussbaum was also present and became a subject of the interview.

The following questions were posed to the two gentlemen regarding the note in question:

How could this note have avoided detection during the search of Mr. Foster's office by Mr. Nussbaum and other members of the White House Counsel's office in our presence on 7/22/93?

If the note was found on 7/26/93 why were the police not notified of it's existence until approximately 8:00 P.M. on 7/27/93?

Mr. Nussbaum stated it was his recollection that he removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of him. He then went through the materials. He inferred that because of this he had missed the small scraps of yellow paper that obviously remained in the bottom of the briefcase. I informed Mr. Nussbaum that I was seated on the small couch directly across from and facing him and that I had a clear view of the briefcase when he removed it's contents, also that after the contents were removed I could see that he spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. Mr. Nussbaum did not recall doing what I described. Captain Hume stated that he observed that Mr. Nussbaum handled the briefcase a third time when he slid it back towards the wall behind him in order to access the desk's file drawer. Mr. Nussbaum agreed with Captain Hume's recollection of sliding the case to the rear.

Mr. Nussbaum then related that the following people were contacted to view the document before a determination could be made to disclose it to the U. S. Park Police:

Bill Burton (Deputy Chief of Staff)
Thomas F. McLarty (Chief of Staff)
Lisa Foster (wife of Vincent Foster)
Phillip Heymann (Deputy Attorney General)
Janet Reno (Attorney General)

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WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

3 STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

4 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

2 AGENCY (OCA)	MO	DAY	YR.	4 YEAR	CASE INCIDENT NUMBER
United States Park Police	07	20	93	93	-305002

5 INCIDENT: Death Investigation

6 RECLASSIFICATION OF INCIDENT:

7 RESULTS OF INVESTIGATION

President Clinton was made aware of the existence of the document. Only Mr. Neuwirth and Mr. Nussbaum handled the document.

Mr. Neuwirth then related his recollection of the discovery of the document. He stated that he was in the process of gathering and packaging Mr. Foster's personal affects for delivery to the family when he turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with Mr. Foster's daughter, Laura. When he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. He then retrieved a number of other similar scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where he assembled the document which was, ultimately, turned over to Detective Megby.

Mr. Nussbaum was asked if he could clarify two entries on the handwritten note. "HRC" refers to the first lady; "KAKI" refers to an interior decorator employed by Mrs. Clinton.

Mr. Nussbaum stated that there were only "three or four" work related documents on Mr. Foster's computer.

Inquiries were made regarding the phone logs kept at the office. Mr. Neuwirth stated that they had been assembled and that they will review them and contact us.

The interview concluded at approximately 1230 hours.

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8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE ☐

3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
07	20	93	1993	- 3050 2

tates Park Police

5 RECLASSIFICATION OF INCIDENT

Investigation

TS OF INVESTIGATION

7/21/93: [redacted]

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A [redacted] S/A [redacted] Captain [redacted] and Detective [redacted] responded to the West Wing and spoke with [redacted] to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. [redacted]. S/A [redacted] and Det [redacted] obtained the following information from [redacted] as a result of that meeting:

[redacted] had determined that Mr. Foster had left [redacted] office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. [redacted] tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, [redacted] left and proceeded to [redacted] domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to [redacted] responded back to the White House where [redacted] went through Mr. Foster's office with [redacted] and [redacted]. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on [redacted] desk. This search lasted from 2200 to 2400 hours. [redacted] stated that no documents were removed from the office.

[redacted] stated that [redacted] learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on [redacted] desk top "to make it neat".

-At approximately 0900 hours [redacted] again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-[redacted] requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

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9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES

☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

3 JUVENILE CASE

Park Police

5 WHEN DID IT OCCUR	6 MO	DAY	HR.	7 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	0 9	3 9 3	- 3 0 5 0

8 RECLASSIFICATION OF INCIDENT

tigation

OF INVESTIGATION

On Thursday, August 22, 1993, Detective [redacted] and I responded to the White house to meet with Special Agents [redacted] and [redacted] of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent [redacted] interviewed [redacted], [redacted]. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were [redacted]; [redacted] and [redacted]; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. [redacted] took notes throughout the interview. During the interview [redacted] burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. [redacted] got in to work at around 0900 hours on Tuesday, July 20th. Usually t[redacted]e is a staff meeting of the counsel's office from 0900 to 0945 h[redacted]rs each morning that Vincent Foster would attend. [redacted] assumed he was at the staff meeting as [redacted] didn't see him when [redacted] arrived at work. [redacted] first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

[redacted] doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation [redacted] had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. [redacted] and [redacted]ent to the cafeteria and ordered his lunch. [redacted] recalled there were M & M's on the tray with the food because [redacted]wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". [redacted] recalled that [redacted] and [redacted] were in the office when he left. [redacted] wasn't sure if [redacted] was in the office or not. [redacted] is a [redacted] working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks [redacted] did not notice any changes, either physically or emotionally. [redacted] noticed no weight lost. [redacted] was unaware of him taking any medication or seeing any doctors. I asked [redacted] would [redacted] be surprised if I found out he was seeing a psychiatrist. [redacted] said [redacted]. [redacted] was not aware of any depression problems. [redacted] had no [redacted]ormation whether he owned any weapons.

3030

9	CLATENTS PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
				PAGE 1 OF 2 PAGE

CLOSED BY: ☐ OPEN ☐ SUSPENDED ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

13 OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[redacted]		8/4/93			

* U.S.G.P.O. [illegible]

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

4 JUVENILE CASE

Park Police

5 WHEN DID IT OCCUR: MO 07 DAY 20 YR 93 | 6 YEAR 93 | CASE INCIDENT NUMBER -305 01

igation

6 RECLASSIFICATION OF INCIDENT

INVESTIGATION

[redacted] said [redacted] left work at approximately 1845-1850 hours on Tuesday; but, before [redacted] left at around 1820 or so, [redacted] ([redacted]) called for Vincent. [redacted] paged Vincent and left the White House number for him to call. [redacted] recalled no other phone messages for Vincent.

[redacted] learned about Vincent's death from messages on [redacted] home answering machine around 0500-0600 hours on Wednesday, July 21. [redacted] came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when [redacted] arrived at work. [redacted] believed that [redacted] or [redacted] were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. [redacted] went into his office and "squashed" the papers together that were on his desk. [redacted] realized that [redacted] shouldn't have touched the papers as soon as [redacted] did it but probably did it out of habit.

When I questioned [redacted] if [redacted] had been told how to respond to our questions, [redacted] stated that [redacted] (who was present during our interview) and [redacted], both [redacted], had c ed them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

3/4/91

9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 2 OF 2 PAGE

☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

OFFICER BADGE/ID DATE | INVESTIGATOR [redacted] DATE | 16 SUPERVISOR BADGE/ID DATE

Cpt. [redacted] 8/4/93

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

3 WHEN DID IT OCCUR	MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
	0 7	2 0	9 3	9 3	- 1 3 0 5 0 1

d States Park Police

6 RECLASSIFICATION OF INCIDENT

ENT
h Investigation

ULTS OF INVESTIGATION

Interview: [redacted]

[redacted] Deborah Gorham is the [redacted] who was employed in the correspondence [redacted]. [redacted] desk is located in the corridor area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying offices in the same office space are Betty Pond (Executive Assistant to Mr. Nussbaum), [redacted] (Executive Assistant), [redacted] (Staff Assistant), and [redacted] (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. [redacted] (USPP), S/A Salter (FBI), and [redacted] (Assistant White House Counsel).

[redacted] stated that she did not know Mr. Foster before she was hired on March 5, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

[redacted] recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when [redacted] asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, [redacted] had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mr. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for [redacted]. [redacted] did not see this as a real problem or place any significance on it.

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32

ANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
S	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGE

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RTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. [redacted]), Det. [redacted] and S/A [redacted] were asked to remain and were ushered into Mr. Nussbaum's office by [redacted]. [redacted] was brought in and [redacted] stated that [redacted] had just remembered some conversations that [redacted] thought were important to our investigation. Within the last two weeks [redacted] had received calls from [redacted] and [redacted] inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

Investigation continues.

3337

	WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
...tes Park Police		07	20	93	93	- 30501
	6 RECLASSIFICATION OF INCIDENT					
...vestigation						
INVESTIGATION						

Office Personnel Interviews

The following two people were interviewed at the West Wing of the White House by Detective [redacted] and Special Agent [redacted] on 7/22/93. The information provided by these two individuals was brief.

[redacted] (Staff Assistant) @ 1000 hours:

[redacted] stated that [redacted] worked on 7/20/93 and remembers that Mr. Foster ate lunch at the office, although [redacted] could not place the time. [redacted] was present when Mr. Foster left the office after eating lunch and said "So Long". Mr. Foster did not respond and seemed to [redacted] to be "In his own world", focused, disturbed.

[redacted] @ 1150 hours:

[redacted] stated that [redacted] began [redacted] workday on 7/20/93 at 0800 hours. Mr. Foster's demeanor seemed normal to [redacted], however, [redacted] had no personal dealings with him on that day.

[redacted] makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for [redacted] how long [redacted] may expect them to be away from the office. [redacted] was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc... out of the office.

Investigation continues.

34/34

	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12 PAGE 1 OF 1 PAGES	
☐ OPEN	☐ SUSPENDED	CLOSED BY: ☐ ARREST	☐ EXCEPTION	☐ UNFOUNDED	
14 OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE
				16 SUPERVISOR	BADGE/ID
			Det. [redacted] 8-5-93		DATE

* U.S. GPO: 1992 O - 325 524 (411)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

2 AGENCY	3 WHEN DID IT OCCUR	MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
States Park Police		0 7	2 0	9 3	9 3 • -	3 0 5 0 1 -

5 INCIDENT: Investigation

6 RECLASSIFICATION OF INCIDENT:

7 RESULTS OF INVESTIGATION

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life.The very limited examination of the documents and notes were done by the [redacted] The following people were also present during this meeting: [redacted] the President, [redacted]; [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted] and [redacted]; Federal Bureau of Investigation, [redacted], Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. [redacted] took a seat at Foster's desk, [redacted] was surrounded by [redacted], with [redacted] near [redacted] side and [redacted] at the end of the desk.

34

8 GRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES / NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGES

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:ORD 1 JUVENILE CASE

YR	2 YEAR	CASE INCIDENT NUMBER
9 3	9 3 • -	3 0 5 0

States Park Police

INCIDENT
Investigation

7 RESULTS OF INVESTIGATION

On Thursday, July 2 ollowing persons met in the office c determine if he left a suicide not information that might have led him to take his own life. The very limited examination of the documents and notes were done by the [redacted]. The following people were also present during this meeting: [redacted] the President, [redacted]; [redacted]; Attorney representing the Foster family, Captain [redacted] and Detective [redacted]; U.S. Park Police, Special Agents [redacted]; Federal Bureau of Investigation, [redacted]s, Deputy Assistant Attorney General Criminal Division; and [redacted]; Department of Justice Attorney, [redacted] and [redacted]; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector [redacted] of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. [The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.]

A 2, all 13 of us entered the office [redacted] took a seat at Foster's desk, [redacted], with [redacted] the end of the desk.

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RRANT(S)
YES
NO

11 INVESTIGATOR NOTIFIED

12

PAGE 1 OF 2 PAGES

STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

PORTING OFFICER BADGE/ID DATE | 15 INVESTIGA[redacted] 16 SUPERVISOR

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

	3 WHEN DID IT OCCUR? MO	DAY	YR	4 YEAR	CASE/INCIDENT NUMBER
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Investigation

6 RECLASSIFICATION OF INCIDENT

ESULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provide by the U.S. Secret Service. During the process [redacted] left the office on at least two occasions and returned. [redacted] did the actual review of the documents in a very hurried and casual fashion. There was some conversation between [redacted] and [redacted] as what constituted privileged communication. [redacted] carried [redacted] interpretation of what was considered privileged to the extreme; one example was when [redacted] picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. [redacted] would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, [redacted] decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective [redacted] or [redacted] would ask [redacted] to place a certain note or document in a pile for possible police examination. At one point, [redacted] pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. [redacted] put them on the desk and went through them. [redacted] then looked in the valise/briefcase again, but did not take anything out of it. A little later [redacted] moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind [redacted] and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we allowed to examine any documents. At one point Special Agent [redacted] got up to stretch and [redacted] challenged him and asked him if he was standing up in an attempt to get a look at the documents.

The documents that [redacted] had separated out were left in the office with the exception of the pile containing what [redacted] determined to be personal papers of Foster. It was agreed between [redacted] and [redacted] that the family lawyer could take those papers and after getting approval from [redacted] the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. [redacted] cautioned [redacted] and [redacted] staff not to remove anything from the office. [redacted] stated [redacted] could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and [redacted] was given the key after we cleared the office on Thursday at 1449 hours.

3737

NT(S)	9 ☐ LATENTS ☐ PHOTOS	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12

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SUPPLEMENTAL CRIMINAL INCIDENT REPORT

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S OF INVESTIGATION

On 7-27-93 at approx. 2115 hours I met with ~~Mr. Bernard Nussbaum~~ in the Chief of Staff's Office in the West Wing of the White House. Also present were a representative from Department of Justice, ~~Mr. Phillip Heyman~~, as well as ~~Asst. Chief of Staff Bill Burton~~, also ~~Mr. Gergen~~ and ~~Mr. Neuwirth~~.

~~Mr. Nussbaum~~ had before ~~him~~ on the table small pieces of yellow lined note paper which ~~he~~ was assembling into a whole page. The assembled pieces revealed a note, identified to be in the handwriting of the deceased Vincent Foster. ~~Mr. Nussbaum~~ read the contents of the notes to the undersigned of which I took notes. ~~He~~ then placed the pieces back into a white legal White House envelope and handed them over to me. The notes appeared to be on 3 hole yellow lined paper of approx. 2/3 page length.

According to ~~Mr. Nussbaum~~, on Monday 7-26-93 ~~he~~ directed one of ~~his~~ assistants, ~~Mr. Steven Neuwirth~~ enter Mr. Foster's Office and take a detailed inventory of the files and material in there. In a brief case, known to be in the office and thought to be empty, ~~he~~ found the torn pieces of a hand written page. The scraps were dumped out and then taken to Mr. Nussbaum's Office where they were assembled and ~~Mr. Nussbaum~~ was notified. ~~Mr. Nussbaum~~ then went through notification procedure, to ~~Bill Burton~~, to the Chief of Staff, and finally to the President today 7-27-93 at about 1700 hours when he returned to Washington, D.C. and at about 1800 hours today's date to the family of Mr. Foster when they returned to the city.

Also present outside the meeting, but who did speak to me about the notes was ~~Mr. Jim Hamilton~~, the attorney for the Foster Family. They are very concerned about the confidential nature of the note and other news leaks attributed to the U.S. Park Police.

According to ~~Mr. Bill Burton 202-456-6703~~ ~~Mr. Steven Neuwirth~~ will be available for an interview on 7-28-93. Also handwriting samples will be available.

Cleared at 2200.

4343

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SUPPLEMENTAL CRIMINAL INCIDENT RECORD — JUVENILE CASE

States Park Police — WHEN DID IT OCCUR: MO 07 DAY 20 YR 93 — 4 YEAR — CASE/INCIDENT NUMBER 1931-1310-5012

AT Investigation — 6 RECLASSIFICATION OF INCIDENT

15 OF INVESTIGATION

Interview: [redacted]

[redacted] is an [redacted] and the person reported to have found the note presumably written by Vincent W. Foster that was turned over to Detective [redacted] on 7/27/93. The note had been discovered by [redacted] during the packaging of Mr. Foster's personal effects on 7/26/93. On 7/29/93 at approximately 1130 hours, [redacted] was interviewed in Bernard Nussbaum's office by Detective [redacted] and Captain [redacted]. [redacted] was also present and became a subject of the interview.

The following questions were posed to the two [redacted] regarding the note in question:

How could this note have avoided detection during the search of Mr. Foster's office by Mr. Nussbaum and other members of the White House Counsel's office in our presence on 7/22/93?

If the note was found on 7/26/93 why were the police not notified of it's existence until approximately 8:00 P.M. on 7/27/93?

[redacted] stated it was [redacted] recollection that [redacted] removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of [redacted] then went through the materials. [redacted] inferred that because of this [redacted] had missed the small scraps of yellow paper that obviously remained in the bottom of the briefcase. I informed [redacted] that I was seated on the small couch directly across from and facing [redacted] and that I had a clear view of the briefcase when [redacted] removed it's contents, also that after the contents were removed I could see that [redacted] spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. [redacted] did not recall doing what I described. Captain [redacted] stated that [redacted] observed that Mr. [redacted] handled the briefcase a third time when [redacted] slid it back towards the wall behind [redacted] in order to access the desk's file drawer. [redacted] agreed with Captain [redacted] recollection of sliding the case to the rear.

Mr. [redacted] then related that the following people were contacted to view the document before a determination could be made to disclose it to the U. S. Park Police:

[redacted] (Deputy Chief of Staff)
[redacted] (Chief of Staff)
[redacted] (wife of Vincent Foster)
[redacted] (Deputy [redacted])
Janet Reno (Attorney General)

45 45

9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 2 PAGES

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OFFICER BADGE/ID DATE | 15 INVESTIGATOR BADGE/ID

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CASE

,ted States Park Police

3 WHEN DID IT OCCUR: MO 07 DAY 20 YR 93 4 YEAR 93 CASE INCIDENT NUMBER 30502

INCIDENT
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6 RECLASSIFICATION OF INCIDENT

RESULTS OF INVESTIGATION

President Clinton was made aware of the existence of the document. Only [redacted]h and [redacted] handled the document.

[redacted] then related [redacted] recollection of the discovery of the document. [redacted] stated that [redacted] was in the process of gathering and packaging Mr. Foster's personal affects for delivery to the family when [redacted] turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with [redacted] When he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. [redacted] then retrieved a number of other similar scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where [redacted] assembled the document which was, ultimately, turned over to Detective [redacted]

[redacted] was asked if [redacted] could clarify two entries on the handwritten note. "HRC" refers to the first lady; "KAKI" refers to an interior decorator employed by Mrs. Clinton.

[redacted] stated that there were only "three or four" work related documents on Mr. Foster's computer.

Inquiries were made regarding the phone logs kept at the office. [redacted]n stated that they had been assembled and that they will review them and contact us.

The interview concluded at approximately 1230 hours.

7(S) 9 ☐ LATENTS ☐ PHOTOS 10 ID TECH NOTIFIED 11 INVESTIGATOR NOTIFIED 12 PAGE 2 OF 2 PAGES

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1 JUVENILE CASE C

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CASE INCIDENT NUMBER

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) RESULTS OF INVESTIGATION

On Friday, July 30th, Detective [redacted] and I responded to the Executive Office Building (EOB) Room 128 to meet with [redacted]. The purpose of the meeting was to examine the telephone message log of Vincent Foster during the month of July and in particular to attempt to determine if he had gotten a call just prior to his departure on July 20, 1993. We learned that the phone logs were just a message log of calls he received when he was absent or unable to take the call. The administrative assistants would type time, person's name, phone number, and messages if one was left. The log was no assistance in determining if anyone had called him just prior to 1300 hours on July 20, 1993, if the call had been put through. There was one notation of interest on July 19, 1993. A [redacted] had called at 1047 hours and left his phone number [redacted]. There were no messages. Prior to 1300 hours on July 20, he had received several phone messages. Some of the messages were from his staff. There were two calls made from Arkansas from the same person and one call from Colorado. Attempts will be made to contact these people and see if either reached Vincent prior to 1300 hours.

[redacted] requested if any information about the phone logs is contemplated being released, [redacted] would like to have the counsel's office notified at the White House prior to any release. I told [redacted] that I would put his request in my report. This caused [redacted] some concern because [redacted] didn't want special or unusual attention drawn to his request.

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RRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
YES NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 1 PAGES

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JUVENILE CASE

EAR	CASE/INCIDENT NUMBER
93	-30501

July 20,, 1993 [Phone Log]

[redacted]

The phone message log indicated [redacted] called for Foster at 10:55 a.m. and left only his phone number [redacted]. The log indicated he called again at 11:11 a.m. and left the same phone number.

On August 2, I called [redacted]s office and spoke to his secretary, [redacted]. [redacted] was on vacation. She said [redacted] did get a return call from Foster on July 19th, but [redacted] had stepped away from his desk. Foster returned the call to Buck at 11:17 a.m. central time (12:17 a.m. eastern time). [redacted] had a brief conversation with Foster that was characterized as normal, nothing unusual. [redacted]

[redacted]

The phone message log indicated a call from [redacted] at 11:11 a.m. with only a phone number left, [redacted]. [redacted] is from the [redacted] I contacted [redacted] by telephone on August 2nd. He had known Foster since the late 1980's. He met him through Hillary Rodham Clinton and the Rose Law Firm. They had worked together on the Campaign. [redacted] was going to be in Washington on Wednesday, July 21st. He had called and spoken with Foster Sunday July 18th between 8:00-9:00 p.m. eastern time and they had agreed to meet for dinner Wednesday.

[redacted] had told Foster he would call him and let him know when he would leave Denver and arrive in Washington. This is the reason for the phone message on the morning of July 20, 1993.

[redacted]

The phone message log indicated that a [redacted] called Foster at 2:14 p.m. and left his phone number, [redacted], and a message was noted by the administrative assistant "personal matter (secy did not know specifics)"

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T(S) | 9 ☐ LATENTS ☐ PHOTOS | 10 ID TECH NOTIFIED | 11 INVESTIGATOR NOTIFIED | 12 PAGE 1 OF 2 PAGES

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NG OFFICER | BADGE/ID | DATE | 16 INVESTIGATOR [redacted] | BADGE/ID | DATE | 18 SUPERVISOR | BADGE/ID

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/13/94

Special Agent WILLIAM E. COLOMBELL of the Federal Bureau of Investigation telephonically contacted Identification Technician, WAYNE JOHNSON at his place of employment, the U.S. Park Police (USPP), Anacostia Operation Facility, Washington, D.C. 20224. Agent COLOMBELL informed Officer JOHNSON that he needed to ask some clarifying questions regarding the manner in which the Medical Examiner's Office and USPP officers handled evidentiary items of clothing removed from the body of VINCENT FOSTER.

Officer JOHNSON stated that he, along with other USPP officers, was present on July 21, 1993, at 10:00 a.m., when the Fairfax Medical Examiner's Office performed an autopsy on the body of VINCENT FOSTER. Officer JOHNSON stated that he specifically took custody of all items of clothing removed from the body of VINCENT FOSTER. Officer JOHNSON stated that in preparation for the autopsy, all items of clothing, including a dress shirt, t-shirt, boxer shorts, pants, belt, shoes and socks, were removed by personnel at the Medical Examiner's Office and placed in a pile on an adjoining table or gurney. He stated that these individual items of clothing were not segregated and packaged separately at that time. He stated that following the autopsy, all of the items of clothing, collectively, were taken by him to the USPP Anacostia Operations Facility. JOHNSON stated that upon arrival at the USPP facility, he took the items of clothing into the rear lab area and spread each item of clothing out on paper for drying purposes.

Officer JOHNSON stated that it is his understanding that the items of clothing were left to dry for several days and that he was not involved in the later wrapping or packaging of these items of clothing. JOHNSON stated that because of the way the items of clothing were removed from the body and placed collectively in a pile and in the manner in which they were transported back to the USPP, evidentiary items such as hair, carpet fibers, etc., could easily have been transferred from one item of clothing to another item of clothing.

(telephonically)

nvestigation on 6/10/94 at Washington, D.C. File # 29D-LR-35063

by SSA William E. Colombell WEC:deg Date dictated 6/10/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/4/94

ARTHUR LEWIS JONES, Deputy Press Secretary at The White House, work telephone 202-456-6639 was interviewed at his office in The White House. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, JONES provided the following information:

JONES advised that on July 20, 1993, he was holding the same position at The White House Communications Office that he currently holds and he was at home the entire evening. He received a telephone call at approximately 12:30 am on July 21, 1993, from JEFF ELLER who was calling him from his office at The White House to ask JONES if he was the Duty Officer for The White House Press Office that night. JONES answered that he was not, and asked what the problem was. It was at that time that ELLER notified him that VINCE FOSTER, JR. had been found dead earlier that evening.

The Press Office Duty Agent for the week of July 19-24, 1993 was DON STEINBERG, whose daytime position was Press Liaison for the National Security Counsel (NSC). JONES later found out that DON STEINBERG had been unable to carry out the duty responsibilities on the night of 7/20 and it had been delegated to his assistant, PAUL CLARK, also with the NSC. JONES advised that the position of Duty Officer was rotated among JEFF ELLER, LORRAINE VOLES, DON STEINBERG and himself. STEINBERG is still with the NSC but is no longer press liaison. He is currently the director of the African desk and his phone number is 395-3391.

PAUL CLARK has left The White House and JONES does not know his current position. JONES described CLARK as a white male, 5'9" to 10" in height, a rugged build, muscular in a "squat sort of way". He advised that CRAIG LIVINGSTONE is larger in the sense that he is heavier and taller. Both men are fair complected but CLARK has the kind of skin that does not tan whereas CRAIG LIVINGSTONE does. He said that mistaking one for the other would be "a stretch".

JONES advised that he did not go into The White House

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estigation on 8/3/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 8/3/94

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or to the FOSTER residence or anywhere else the night of July 20, 1993. The following morning, JONES advised he probably arrived at The White House approximately 7:30 in the morning. He does not recall who else was there but advised that since there is a 7:30 am staff meeting, most of the Communications Office people were probably there. Everybody was feeling very down and misty because of the FOSTER death. Many people did not hear of the death until they arrived to work at The White House and some people heard it on the radio on their way to work.

He advised that the Communications Office begins daily operations earlier than any other office in The White House. In July 1993 "pool calls" (meaning press pool gatherings) for the morning job of accompanying the President on his jogging route used to assemble around 6:15 in the morning. There was very little activity anywhere else in the West Wing and the only people in the Old Executive Office Building at that time would have been the people who were assembling the press clippings. To his knowledge, there is no movement of supplies or other activity normally at that time in the morning.

On the issue of a press representative being at the FOSTER residence, JONES recalls ELLER having a discussion with him which is a blur now to him. He knows that the President went to the residence that night and JEFF went also. The press pool always accompanies the President wherever he goes, either because they take them with him or they follow. JONES recalls (but he doesn't know where he learned this) that there was some press people out at the FOSTER residence July 20 in the evening and they were holding "at bay".

The following morning JONES was not involved in any issue of how to handle press coverage at the FOSTER residence. He would have remembered it if he had been responsible for telling somebody to go out there. He recalls nothing of that nature and doesn't recall any discussion of it. JONES said that GEORGE STEPHANOPOULOS, MARK GEARAN, DEE DEE MYERS or LORRAINE VOLES may have been the individual who might have handled any issue about sending someone from the Communications Office out to the FOSTER residence.

He learned later in the morning that somebody was sent to the FOSTER residence. He does not recall who he heard that from but he heard about it second hand that somebody had been out there and it had been very quiet. His sense is that it was early

in the morning, perhaps 8:30 am and possibly earlier. He has no idea whether it was a male or female but opined that it was most likely to have been a guy. He has no memory whatsoever of any involvement of CRAIG LIVINGSTONE in any of these affairs or activities and he does not recall seeing CRAIG LIVINGSTONE that morning at The White House.

JONES advised that some time during the morning of July 21, a fellow Communications Office individual told him that their spouse had telephoned them and told them that a neighbor of theirs who is, by coincidence, a reporter had told them that they had noticed activity on their street and that something was going on at the FOSTER residence.

JONES advised that several weeks ago (some time in July 1994) LLOYD CUTLER's secretary telephoned him and inquired who had been Duty Agent from the Press Office the night of VINCE FOSTER's death. JONES does not know why the inquiry was being made. He further explained that the National Security Counsel is an entity within The White House that deals with all matters of a non-domestic nature. He advised that their Staff Director is NANCY SODERBERG, telephone 456-2224.

JONES advised that he is familiar with CRAIG LIVINGSTONE and characterized him physically as a remarkable person not likely to be confused with others. There are no "look-alikes" that he could think of. He subsequently called the writer after the appointment and said that he had just spoken with an individual who looked quite a bit like CRAIG LIVINGSTONE and identified that individual as PAUL CAREY with the Congressional Affairs Office at The White House, telephone 456-6493.

JONES advised that the current head of what is left of CLINTON's campaign committee in Little Rock, Arkansas, a woman by the name of SUSIE WHITACRE was visiting The White House the evening of July 20, 1993. She stayed in the residence portion of The White House that night and he assisted her with getting in touch with people who would make sure that she was present for the Larry King Show. He does not know whether she watched it live or on a monitor. He does not know anything about her activities that evening, but it was unusual for her to be in town and she was, indeed, at The White House that night. He does not know if she has any relevant information to provide to us. Her telephone number in Little Rock, Arkansas is (501) 372-5500.

JONES provided the following personal information as part of the interview:

Current Position:	Deputy Press Secretary
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Residence:	4531 Warren Street, NW Washington, DC
Home Telephone:	202-244-7680

K

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Roger N. Kammerdeiner II, Physical Security Specialist, Technical Security Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania NW. Mr Kammerdeiner was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for 2 years at The White House compound and was so employed on July 20, 1993 at the time of Vincent Foster, Jr.'s death. In his job he is responsible for seeing that locks, alarms, videos, and various countermeasures concerning fire prevention, etc. are in good working order within The White House compound.

On July 21, 1993, at approximately 4:30-5:00 pm he was sent to the office of Vincent Foster on the 2nd floor in the west wing of The White House to do a survey to determine what type of lock would be necessary to secure Vincent Foster's office door. Another USSS Physical Security Specialist, John Wills, went with him.

Upon arriving at the office of Vincent Foster they observed a USSS uniformed officer, whose name he does not recall, standing in front of the office door. They identified themselves to the uniformed officer as USSS employees, conducted a quick observation of the inside and outside of Vincent Foster's office door and departed the area. Mr. Kammerdeiner stated that they were near Vincent Foster's door for only approximately 2-3 minutes. John Wills then telephonically contacted a USSS locksmith, Kevin Robbins, to report their observations and discuss the type of lock required to secure the door.

Mr. Kammerdeiner stated that he took no further action regarding this matter and left work at approximately 5:00 pm that afternoon. He volunteered that while he was near Vincent Foster's office he did not observe anyone go in or come out of that office. Mr. Kammerdeiner stated that during the brief look he made into Foster's office, it appeared to him to be very neat

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Investigation on 4/11/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SAS WILLIAM T. GUYTON [redacted] JR. Date dictated 4/11/94

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and orderly with a small stack of papers on the desk. He stated that he could not recall anything else regarding the inside of the office other than it seemed neat and orderly. He advised that he had never seen this office prior to this date during the period of time that it was occupied by Vincent Foster but he had seen this office on one occasion during the Bush Administration and thought that it looked neater and cleaner on July 21, 1993 than the previous time he had seen it.

Mr. Kammerdeiner stated that he knew who Vincent Foster was, by title, but did not know him personally or professionally. He stated that he, therefore, does not feel qualified to comment on Foster's demeanor or his personality.

Mr. Kammerdeiner said that the suite of offices occupied by Mr. Nussbaum and Mr. Foster had a "day-night" alarm switch that was deactivated by the first person entering the office in the morning and activated by the last person leaving the office in the evening. He stated that he believed this alarm to be functional at the time of Vincent Foster's death and that this alarm is monitored by a USSS control center when activated.

Mr. Kammerdeiner stated that his office is located at 1709 New York Avenue on the 6th floor and his telephone number is 202-395-6074.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

TIMOTHY J. KEATING, Special Assistant to the President for Legislative Affairs, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Ave., NW. Mr. KEATING was advised as to the official identities of the interviewing agents and the nature of the interview. He then provided the following information:

He came to Washington, D.C. in 1985 to take a job with the House of Representatives. From 1985 to 1992, he held various staff positions within the House of Representatives and in December, 1992 was Assistant Manager of the House Democratic Cloak Room at the time of BILL CLINTON's election to the Presidency. Although he did not work on the BILL CLINTON Presidential Campaign, he had known HOWARD PASTER, who for a time was in charge of legislative affairs in the CLINTON White House. After BILL CLINTON's election, HOWARD PASTER asked him if he would come to work on the CLINTON Administration "Confirmation Team" during the period of transition from the BUSH Administration to the CLINTON Administration. He accepted and began working at The White House in December, 1992.

Mr. KEATING first met VINCENT FOSTER, JR. in late January, 1993 at a meeting of senior White House staffers. He described his relationship with Mr. FOSTER as being "professional" and he advised that he did not know FOSTER personally. He said that he dealt with FOSTER only on "a handful of matters" but that he saw FOSTER on almost a daily basis since they both had offices on the 2nd floor of The White House west wing. He described FOSTER as being "very professional and a strong individual". He said that he was "very shocked" to learn of FOSTER's death, not only because he admired and respected FOSTER but also because FOSTER seemed "so together and on top of his game". KEATING said that one "doesn't think of someone like that taking his own life". He added that he has no idea, nor can he offer speculation as to FOSTER's reasons for taking his life. He said that he last saw VINCENT FOSTER on July 19, 1993 on the 2nd floor of the White House west wing. He added, however, he believes this was a casual encounter although he can not recall

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Investigation on 6/9/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 6/9/94

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the circumstances of the meeting.

Mr. KEATING advised that he left Washington, D.C. on July 20, 1994 at approximately 1:00 pm enroute to Scranton Pennsylvania to be with his mother the next day while she underwent surgery. KEATING said that he recalled watching the Cable News Network (CNN) on television on the night of July 20, 1993. He explained that he remembers this because BILL CLINTON was interviewed live that night on CNN and perhaps an hour or so after the interview CNN carried the story announcing VINCENT FOSTER's "apparent suicide." That was his first knowledge of FOSTER's death and he received no phone calls or messages from The White House during the entire day and night of July 20, 1993. He advised that after his mother's surgery on July 21, he telephoned The White House for messages at "mid-afternoon". Although he recalls some talk with White House staffers by phone regarding FOSTER's death, he was not asked to promptly return to The White House nor was he given any instructions regarding the VINCENT FOSTER matter.

Mr. KEATING said that he returned to Washington, D.C. late on the evening of July 22, 1993 and returned to work at The White House on the morning of July 23. In response to a direct question, he advised that he was never asked to carry, transport, move, store, mail, or take control of any documents, papers, or items from VINCENT FOSTER's office. He added that not only was he never asked to do such a thing, he never did so. He further advised that he knows of no White House staffers or anyone else who was asked or did such things.

The following descriptive data was obtain through observation and interview:

Name:	TIMOTHY J. KEATING
Sex:	Male
Race:	Caucasian
Date of Birth:	[redacted]
Place of Birth:	
Height:	5'6"
Weight:	195 lbs.
Social Security Account Number:	[redacted] FOIA(b)(6) FOIA(b)(7) - (C)
Eyes:	Blue
Hair:	Brown (short business cut)
Education:	B.S. Degree (Political

	Science) University of Scranton
Build:	Stocky to heavy
Home Address:	3770 B. Madison Lane Falls Church, VA 22041
Office Address:	West Wing (2nd floor) The White House
Office Telephone No.:	202-456-2230

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/9/94

WILLIAM H. KENNEDY, Associate Counsel to the President, was interviewed at the Office of the Independent Counsel, Washington, D.C. as scheduled at 1:00 p.m. MR. KENNEDY was advised of the identity of the interviewing agents and of the purpose of the interview. Assisting with the interview was CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR. Also present during the interview were MR. KENNEDY's attorneys, V. THOMAS LANKFORD, JR. and PAUL V. CASTELLITTO, from the law firm Sharp & Lankford. MR. KENNEDY provided the following information:

He first met VINCENT FOSTER in 1976 while employed immediately after graduation for a period of four months at the Rose Law Firm (RLF), Little Rock, Arkansas. During that four-month period, he worked some with FOSTER. KENNEDY then worked in Washington, D.C. on the staff of Senator JOHN McCLELLAN from 1977 through 1978 and thereafter rejoined the RLF. KENNEDY worked extensively with FOSTER upon his return to RLF. KENNEDY described FOSTER as his mentor and they were best friends. KENNEDY said VINCENT FOSTER was probably the prime reason he (KENNEDY) was in Washington, D.C.

KENNEDY said he worked with VINCENT FOSTER on a daily basis after coming to the White House in February, 1993.

KENNEDY last saw VINCENT FOSTER at a staff meeting in the White House at 9:00 a.m., July 20, 1993. KENNEDY said this meeting was not memorable except he remembered talking with FOSTER after the staff meeting regarding jogging and asking him about his wife and perhaps children. He said FOSTER was working on an analysis of tort reform implications of the health care plan (malpractice, etc.) and also Travel Office matters, primarily dealing with press reports. KENNEDY said he didn't know on a daily basis all that FOSTER was working on. He said he and FOSTER exchanged missed calls about three times on the morning of July 20, 1993, but never caught up with each other. FOSTER had initially called KENNEDY. KENNEDY did not know what FOSTER was calling him about, other than the possible

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explanations that it could have concerned managing the clearance process for Presidential nominees or status reports on White House pass issues. He said he and FOSTER mostly talked about nominations. FOSTER could also have been calling about lunch.

KENNEDY answered yes when asked if he and FOSTER were social friends. He said they did not see all that much of each other while in Arkansas, as he (KENNEDY) was single at the time versus FOSTER was married. He described his relationship with FOSTER as being close.

KENNEDY described FOSTER as a person you could trust and respect. He was an individual who, if you obtained his approval, it meant something. FOSTER was a real force at RLF. FOSTER was a private, closed-mouth individual. He was calm, measured, hardly ever got excited. FOSTER was good on his feet; a good trial lawyer. He generally had the respect of everyone in RLF. When asked if FOSTER had any weaknesses, KENNEDY said that FOSTER was difficult to get close to. He would not open up, which was "off-putting" to some people.

KENNEDY was asked if FOSTER's departure from RLF created any problems. KENNEDY answered yes. RLF was a partnership of 55-60 partners and FOSTER, WEBB HUBBELL and HILLARY CLINTON were thought of as the senior litigators of the firm. KENNEDY said the Litigation Section of RLF "took a hit" with the departure of these three individuals. There was a perception among clients that RLF was not as strong and lacked experience after these three left for Washington, D.C. KENNEDY believed that PHILLIP CARROLL, another RLF partner and mentor of FOSTER, was disappointed when FOSTER left RLF, but would not describe it as a "falling out." It was a feeling of the loss of a powerful part of the firm. KENNEDY did not believe the circumstances under which FOSTER left the firm would have made it difficult for FOSTER to come back. Normal politics in RLF and feelings of abandonment were there but it didn't rise to the level where FOSTER thought he couldn't go back. KENNEDY noted, however, that he did not recall in conversations with FOSTER that he (FOSTER) wanted to go back.

KENNEDY was asked if he observed any noticeable behavioral or emotional changes in FOSTER. KENNEDY said yes, he had noticed immediately upon arriving in Washington, D.C. that FOSTER had lost weight and seemed exhausted. He became more

fretful and was not quite as calm and measured as in RLF. FOSTER seemed to be under stress and pressure. KENNEDY believed FOSTER had come to Washington, D.C. in late November or December. It was a surprise to KENNEDY that FOSTER had left Arkansas. KENNEDY came to Washington on February 10, 1993. KENNEDY said the pace and demands of the White House are astounding. He said the pressures weighed on everyone. They were constantly being asked questions they hadn't seen before, with no rule book available. FOSTER was not able to operate as he had at RLF. KENNEDY believed the increase in stress for FOSTER was a cumulative thing.

KENNEDY did not believe FOSTER's stress to be entirely related to his job. KENNEDY said FOSTER's wife, LISA, was a "burden" to FOSTER. She was a demanding, insecure woman and during the move to Washington, D.C., "she wore VINCE out." Her contact was constant. She needed a lot of "reassurance and stroking." He remembers FOSTER's comments that LISA was "chewing on him" and FOSTER saying "you can imagine what I'm going through." FOSTER's White House job was all-consuming. There wasn't room for much else. KENNEDY said the words demanding and insecure describing LISA FOSTER were his (KENNEDY's) words. He further described LISA FOSTER as "high maintenance." She was married to someone who did not easily give, someone not outgoing, not a warm person, while being an individual that needed reassurance about her relationship.

KENNEDY was questioned regarding whether FOSTER had concern for the personal affairs of the First Family. KENNEDY answered no, that FOSTER's concerns were White House job related only. Exceptions KENNEDY could think of were that FOSTER had a pattern with the CLINTONS for years of doing personal things for them and assisting them as needed such as with tax returns. KENNEDY did not view Whitewater or Madison matters as being White House related. FOSTER also "interfaced" with the ushers; however, KENNEDY regarded that as White House job related. As an example, FOSTER assisted MRS. CLINTON with the office decorator.

KENNEDY said that FOSTER never discussed Whitewater or Madison with him. KENNEDY did not know FOSTER had anything to do with Whitewater until after Foster's death and it was reported in the press.

KENNEDY said that FOSTER coped with problems in his life by internalizing them. KENNEDY said FOSTER's hobbies included "puttering in the kitchen," family activities, visiting in Hot Springs, Arkansas and tennis. KENNEDY noted that FOSTER loved his children.

KENNEDY did not think FOSTER had any immediate financial problems and was not a gambler. He said that like others who had moved to Washington, D.C. from Arkansas, they had housing expense increases and in FOSTER's case, also children in college.

KENNEDY said he "had no indication" of extra-marital relationships of FOSTER. KENNEDY said the rumors regarding FOSTER and MRS. CLINTON had kicked around in Arkansas for years. Their origin was probably political enemies. It was no secret that VINCE FOSTER, WEBB HUBBELL and HILLARY CLINTON were good friends. FOSTER "hated" the rumors regarding himself and MRS. CLINTON. KENNEDY remembered a 1992 campaign comment FOSTER made that he (FOSTER) was considering not talking to the press because of these rumors. KENNEDY said MRS. FOSTER had to have heard these rumors.

KENNEDY said that FOSTER really had no one in his life in whom he would confide completely. KENNEDY listed FOSTER's closest confidants as HILLARY CLINTON, WEBB HUBBELL, LISA FOSTER, PHILLIP CARROLL, a partner at RLF and mentor of FOSTER, and other friends - BILL WOODYARD and WALTER HUSSMAN.

KENNEDY cannot recall VINCENT FOSTER ever making statements such as "I can't stand it anymore" or "I'd be better off dead." KENNEDY did recall FOSTER making one comment to him in the second week of June saying "he (FOSTER) was thinking about finding a job with less pressure." Another job in the administration with not as much strain. KENNEDY noted this was an amazing comment for FOSTER to have made to anyone. In hindsight, KENNEDY realizes that FOSTER was trying to tell him he needed help. Unfortunately, KENNEDY did not understand at the time and told FOSTER that he was invaluable in his present position. KENNEDY was unaware of FOSTER making similar statements to anyone else. KENNEDY said this was during the time period of the Travel Office matter and that the "Who is Vince Foster?" article in the Wall Street Journal was upsetting to FOSTER. Even though the assertions in the article were

ludicrous, FOSTER realized that Arkansas people read the Wall Street Journal and being trashed in the Wall Street Journal meant being trashed in Arkansas. FOSTER lived his life to maintain his reputation.

KENNEDY was asked if he was aware if FOSTER was experiencing any symptoms related to depression, such as changes in personal appearance, sleep difficulties, physical ailments, headaches, loss of appetite, indigestion or the like. KENNEDY replied that he knew FOSTER had lost weight but was unaware of any of the other symptoms. He said FOSTER was drawn and frowned and was working too many hours. FOSTER was working on the run and he was working under stress, as most in the White House were. At the time, it didn't surprise KENNEDY that FOSTER was losing weight. You could see someone beaten down, but those seeing it also were beaten down. Asked if he was aware if FOSTER had seen a physician, KENNEDY answered he could only recall FOSTER seeing a dentist on one occasion.

KENNEDY said FOSTER's reputation in Arkansas was excellent. The main reason KENNEDY was surprised FOSTER had gone to Washington with the President was that KENNEDY had seen FOSTER posturing himself for the position of President of the Arkansas Bar Association. KENNEDY expected FOSTER to run in 1993. KENNEDY said FOSTER was active in the Arkansas Repertory Theatre and fundraising projects, etc. FOSTER was extremely well thought of in the Arkansas community. KENNEDY felt FOSTER's reputation in Washington was becoming what it had been in Arkansas.

KENNEDY was asked about FOSTER cancelling his appearance to accept an award from the Arkansas Bar Association the day before the award was to be presented. KENNEDY said he had asked FOSTER about this and had received the reply that FOSTER had "too much to do." At the time, this explanation made sense to KENNEDY.

KENNEDY did not see any changes in FOSTER's desire to be around other people. However, FOSTER's work kept him pinned in place a lot of the time.

KENNEDY described FOSTER as not being a very religious person. FOSTER's religion was not manifested outwardly.

KENNEDY described the White House routine for FOSTER as arriving at the White House about 8:00 a.m., attending a staff meeting at 9:00 a.m. and the day being filled with meetings or spent in his office. FOSTER would stay at the White House on many occasions until 10:00 or 11:00 p.m. On April 15, 1993, KENNEDY's family came to Washington and KENNEDY began the pattern of leaving the White House at about 7:00 p.m. with take-home work in his briefcase. When asked if FOSTER would leave the White House at mid-day, KENNEDY said that he and FOSTER would sometimes have lunch outside the complex with people from Arkansas, but that that was a rarity. Most of the time was spent in the White House. Lunch was taken at the White House mess or at a local nearby restaurant.

On the day of VINCENT FOSTER's death, KENNEDY got home at about 7:15-7:20 p.m. He received a telephone call between 8:15 and 8:30 p.m. from CRAIG LIVINGSTONE, Director of White House Personnel Security. LIVINGSTONE worked for KENNEDY at that time. LIVINGSTONE had gotten a call from "an inspector" that FOSTER was dead. KENNEDY said he was "stunned" at the news. LIVINGSTONE had been advised of the FOSTER death by law enforcement because of his title and job responsibility. KENNEDY said he didn't believe the news and told LIVINGSTONE he needed confirmation. LIVINGSTONE called back to say he had confirmed the death and reported that the death was thought to be a suicide in a park. The body was enroute to a hospital (name not recalled by KENNEDY). KENNEDY said that he (KENNEDY) had to go to the hospital. KENNEDY did not notify anyone else at the time. Shortly after his arrival at the hospital, LIVINGSTONE also arrived. They confirmed with a policeman on duty at the hospital that the FOSTER body was there and that the matter involved the U.S. Park Police. Hospital officials finally allowed LIVINGSTONE and KENNEDY to view the body and they confirmed that it was VINCENT FOSTER. KENNEDY tried to notify MCLARTY but couldn't get through to him at first but finally was successful in reaching him at the White House. MCLARTY had already been informed of the death. KENNEDY also believes that he made a telephone call to his boss, BERNARD NUSSBAUM. NUSSBAUM told him he was going to the FOSTER house and KENNEDY decided to go also. KENNEDY said that he was trying to convey that he was very upset on the night of FOSTER's death.

KENNEDY and LIVINGSTONE went to KENNEDY's residence to get KENNEDY's wife and the three of them drove to FOSTER's residence. KENNEDY put the time at midnight or later. He said there was mass confusion and everybody was upset at the FOSTER residence. He and the others stayed for approximately two hours. NUSSBAUM had just left when KENNEDY arrived but the President was still there. Others KENNEDY could recall as being present were GERGIN and VERNON JORDAN. KENNEDY recalled that the President had asked him to come back to the White House but he was non-committal and ultimately did not accept the President's invitation. KENNEDY described himself as a "mess" and returned home with his wife.

KENNEDY said he did not know anything regarding the events of the evening of July 20, 1993 regarding VINCENT FOSTER's office other than what he had read in the newspaper. He knew nothing regarding anything being removed from the FOSTER office.

On July 21, 1993, KENNEDY believes he arrived at work at about 9:00 a.m. KENNEDY was told by NUSSBAUM that there was going to be a briefing by the U.S. Park Police regarding what they had found. Because of KENNEDY's great disbelief and astonishment, he insisted that he be at this briefing and was allowed to attend. KENNEDY recalls those in attendance as being NUSSBAUM, WEBB HUBBELL, two U.S. Park Police officers and other White House personnel whom he could not recall. He said the meeting was held in DAVID WATKINS' office. He thought perhaps WATKINS and maybe ROY NEAL also attended. He said PATSY THOMASSON and BILL BURTON were not there. The U.S. Park Police presented a chronology of the FOSTER death:

FOSTER's body was found at Fort Marcy Park; an anonymous telephone call reported finding the body; the police found the body and FOSTER's car; FOSTER was not wearing a coat; his wallet and White House pass were found; a gun and powder burns existed and all indications were that the death was a suicide. There was no discussion which KENNEDY could recall concerning a suicide note at this time.

NUSSBAUM told KENNEDY he should not be part of the investigation as NUSSBAUM believed that KENNEDY was too close to FOSTER. After the morning briefing on July 21, 1993 by U.S. Park Police, KENNEDY had nothing to do with the FOSTER death investigation per agreement with NUSSBAUM.

KENNEDY could only recall discussing what had occurred at staff meetings in a general manner, with no specific details. He had no discussion with NUSSBAUM regarding what NUSSBAUM found in FOSTER's office. NUSSBAUM told KENNEDY after the FOSTER note was found about the note. NUSSBAUM described the circumstances under which the note was found and showed KENNEDY a copy in NUSSBAUM's handwriting. KENNEDY said that NUSSBAUM was doing this as a courtesy to him after showing the note to MRS. FOSTER and the President and before its location had been made known to the public. KENNEDY remembers discussing the note with NUSSBAUM and NUSSBAUM saying "isn't it sad." They talked about the FBI reference and realized it would lead to a later investigation. NUSSBAUM turned the note over to the U.S. Park Police.

KENNEDY said there was no discussion at the FOSTER residence on the evening of July 20, 1993 regarding a suicide note or the search of VINCENT FOSTER's office. KENNEDY had heard some discussion before the July 21, 1993 meeting regarding sealing FOSTER's office. He had heard no discussion regarding a tasking of anyone for the removal of FOSTER's office contents. He remembered a discussion at one or two staff meetings regarding what had been done with FOSTER's office.

KENNEDY was asked for his opinion regarding how the search of VINCENT FOSTER's office had been conducted. KENNEDY said he thought at the time what NUSSBAUM had done was proper. It was a unique circumstance with no guidebook available. Because of national security and executive privilege issues, NUSSBAUM had to do what he did.

KENNEDY was asked if he knew whether or not FOSTER was aware of the search warrant issued in Arkansas regarding DAVID HALE. KENNEDY said he did not know if FOSTER knew but that it was his opinion that FOSTER did not know. KENNEDY was not aware of the search warrant at the time.

KENNEDY was asked if he was aware of any discussion regarding the torn up FOSTER note. KENNEDY said he was not in FOSTER's office at the time of the search. It was his understanding NUSSBAUM had missed the pieces of the note during the search. STEPHEN NEUWIRTH hasn't discussed the note or finding it with KENNEDY.

KENNEDY was asked to suggest other individuals who should be talked to concerning the FOSTER investigation. KENNEDY named the following individuals: LISA FOSTER; at least the two older FOSTER children who are now adults; BERNARD NUSSBAUM, who spent more time with FOSTER than KENNEDY did; WEBB HUBBELL; MACK MCLARTY; BRUCE LINDSEY; and when questioned, added the name HILLARY CLINTON. When asked why he did not originally list MRS. CLINTON, KENNEDY said he had omitted her name because of the demands on her time at the time of FOSTER's death. She did not have a great deal of contact with FOSTER at that time.

KENNEDY said he knew of a phone call between FOSTER and BRANT BUCK. BUCK was the primary draftsman for a blind trust for the President and First Lady. FOSTER had acted as the go between by being the carrier of information to BUCK. BETH NOLAN was also assisting with this matter. BUCK has told KENNEDY that he called FOSTER because he wanted FOSTER to "bug" the President to sign transmittal documents for the trust.

KENNEDY said he did not know the purpose or content of JIM LYONS' call to FOSTER.

KENNEDY was asked about FOSTER's view of KENNEDY's involvement in the Travel Office matter. KENNEDY said that FOSTER was very upset that KENNEDY got reprimanded. FOSTER had been heavily involved and felt strongly regarding the FBI leaks in this case. FOSTER came to the conclusion that he couldn't trust anyone in Washington, D.C. He was worried about KENNEDY's emotional health.

KENNEDY was asked to characterize three individuals at the White House. In response, KENNEDY said that STEPHEN NEUWIRTH worked with VINCENT FOSTER on health care task force litigation. NEUWIRTH came to the White House with NUSSBAUM. He believes FOSTER met NEUWIRTH during the transition but did not know him before that time. VINCE FOSTER knew PATSY THOMASSON from Arkansas. They were friends but not close. They worked together in the White House. MARSHA SCOTT was a former Arkansian in that she had moved from Arkansas to California prior to coming to Washington. KENNEDY believes FOSTER knew her before the campaign. Her father was the famous football player, CLYDE SCOTT. KENNEDY said SCOTT and FOSTER were good friends; part of the Tuesday night dinner group.

When asked if he could add anything else, KENNEDY said that it was his belief that VINCENT FOSTER killed himself. He said that even in Arkansas, FOSTER was "close to the vest" and FOSTER was "fighting his demons back then." Arkansas allowed FOSTER time to deal with things on a measured basis. At the White House, this concept was "out the window." FOSTER was forced to "fire from the hip" on things he "didn't have a clue about."

At the prompting of his attorney, TOM LANKFORD, KENNEDY also added the following concerning files in FOSTER's office. About the time JOEL KLEIN came to the White House as Deputy Counsel, probably in November 1993, TOM CASTLETON brought boxes full of documents from FOSTER's office into KENNEDY's office. KLEIN was moving in and had directed CASTLETON to bring the fifteen boxes to KENNEDY. These boxes sat in KENNEDY's office until approximately two weeks ago with inventories on each of the boxes. In addition, a red file with an inventory was also there, as well as a tax return for the FOSTER family trust. KENNEDY remembers trying to reach NUSSBAUM that day in November 1993. KENNEDY talked to NUSSBAUM and he (NUSSBAUM) said he told CASTLETON to bring the boxes over. KENNEDY also reported that backup disks and tapes from DEBORAH GORHAM, FOSTER's secretary, had been put into the red file folder. KENNEDY said that he personally has never reviewed the files in these boxes. Approximately three weeks ago, an individual by the name of MARVIN CRISLOFF (phonetic) inquired about the boxes. Two weeks ago, CHRIS CERF, an attorney, came and looked at the boxes and arranged for them to be picked up. It is KENNEDY's understanding that they are now locked up somewhere, but he does not know where they have been taken. KENNEDY asked CRISLOFF and CERF if a memorandum should be created by TOM CASTLETON concerning the movement of these boxes, and it was. KENNEDY does not know what the memo says. KENNEDY said that during the period he had the boxes in his office, his office door would be locked at night. KENNEDY said that the inventory for the boxes which had been in his office had been prepared, as far as he knew, at the time the documents were put in the boxes. Ongoing paperwork in FOSTER's office at the time of his death had been parceled out. As an example, STEVE NEUWIRTH got the tort reform health care issues. KENNEDY himself didn't get any of the paperwork from FOSTER's office.

FOIA(b)(7) - (C)

KENNEDY did not know for a fact of any safes used by VINCENT FOSTER. KENNEDY was sure there was no safe in FOSTER's office.

As a final note, KENNEDY said that it had been difficult for him to stand on the sidelines during the FOSTER death investigation. As an effort to help the FOSTER family, he retrieved FOSTER's car from the U.S. Park Police approximately one and one-half to two months after FOSTER's death. LIVINGSTONE got the car and it was parked on West Executive Avenue by the White House for about two weeks. Thereafter, it was moved for a two-month period of time to the New Executive Office Building basement, while a dialogue continued with LISA FOSTER regarding the final disposition of the car. It was agreed that the car would be sold to MRS. FOSTER's brother. When the brother and his wife came to Washington to pick up the car, KENNEDY retrieved miscellaneous items from the vehicle. He described the car as being "trashed" with family junk such as M&Ms, plastic cups, class notes, CD player, shoes, Ray Ban sunglasses, books, etc.

KENNEDY said he threw most of these items away but still has some items in his possession.

The following description of KENNEDY was obtained through observation and interview:

Name:	William H. Kennedy
Title:	Associate Counsel to the President (since 2/10/93)
Race:	White
Sex:	Male
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Residence:	3207 Alabama Avenue Alexandria, Virginia 22305
Residence Phone Number:	(703) 684-8772
Work Phone Number:	(202) 456-6229

Attorneys V. THOMAS LANKFORD, JR. and PAUL V. CASTELLITTO, Sharp & Lankford, 1785 Massachusetts Avenue, N.W., Washington, D.C. 20036, telephone (202) 745-1700.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

WILLIAM H. "BILL" KENNEDY, Associate Counsel to the President, The White House, Washington, D.C., telephone (202) 456-6229, was interviewed at the Office of the Independent Counsel, Washington, D.C. KENNEDY was advised of the identity of the interviewing agent and of the purpose of the interview. This was a follow-up interview to KENNEDY's original interview with the Office of Independent Counsel on May 9, 1994. CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted with the interview. Also present during the interview were V. THOMAS LANKFORD, JR. and PAUL V. CASTELLITTO, attorneys for KENNEDY from the law firm SHARP & LANKFORD, 1785 Massachusetts Avenue, N.W., Washington, D.C. 20036, telephone (202) 745-1700. KENNEDY provided the following information:

KENNEDY was asked about FOSTER's comments in the note found after his death concerning the FBI lying in its report to the Attorney General. KENNEDY said the first time FOSTER spoke to him about the FBI report on the Travel Office was the day before the first news story ran in the Washington Post. FOSTER called KENNEDY when he learned that the Post had leaked information from the FBI. The information concerned KENNEDY threatening the FBI. FOSTER was asking KENNEDY if this really happened. FOSTER knew of inaccuracies from his own personal knowledge. KENNEDY said timeframes for his discussions with FOSTER were "elusive" at this point in time. They had agreed that the press was "way off base." KENNEDY said he was surprised to see the word "lie" in FOSTER's note. He said he and FOSTER had discussed the issue in terms of differences in interpretation versus a lie. KENNEDY doesn't think the FBI lied, but just remembered things differently. FOSTER was upset by what was coming out of the FBI. The inaccuracies, the factual and opinions expressed didn't agree with FOSTER's view of what had happened. KENNEDY was asked if FOSTER ever used the term "lied" in describing any matters. KENNEDY said he never recalled FOSTER calling someone a liar.

Investigation on 6/9/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/9/94

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There was at least one meeting in which FOSTER was with KENNEDY and the FBI concerning the Travel Office matter. KENNEDY explained that he had been visited by "two different sets" of FBI agents. Initially, KENNEDY had been looking for advice from the FBI on the Travel Office situation. It was a complex issue and weak allegations had surfaced which could not be ignored. KENNEDY was looking for FBI advice in the terms that it was a problem which the White House did not know how to deal with. KENNEDY had dealt with the FBI daily, five or six times per day, and therefore felt comfortable in calling to ask who at the FBI he should talk to concerning this matter. The first set of agents who responded referred the matter to others in the FBI. During this second meeting with FBI agents, FOSTER "popped in." KENNEDY was in the process of meeting with the agents in his office and "getting them up to speed" on the problem. The allegation concerning these meetings which surfaced later concerned the "huge orchestration going on" by the White House. The issue concerned a leak which appeared in the paper that the White House had arranged for KATHERINE CORNELIUS to be interviewed by the FBI. KENNEDY said in fact the FBI requested this interview versus the version reported. Both KENNEDY and FOSTER agreed that the reported version was not as they had remembered. KENNEDY said this was perhaps the only meeting which FOSTER attended in person with the FBI on the issue. FOSTER, however, had several other conversations on the telephone with the FBI concerning its predication, etc., for being in on the Travel Office investigation. FOSTER had also spent an entire Saturday meeting with the audit team from Peat Marwick concerning the issue. KENNEDY added that despite this disagreement on opinion concerning the facts regarding CORNELIUS that the FBI had acted in a professional manner and had done a "bang up job." However, KENNEDY to this day believes the FBI report on the Travel Office matter is self-serving and has some inaccuracies. He said he felt the FBI may feel the same concerning his position. FOSTER believed KENNEDY's version of things.

KENNEDY was asked if FOSTER may have been referring to anything else when he said the FBI lied. KENNEDY answered that in his mind, it was all related to the Travel Office. FOSTER believed KENNEDY's version versus the FBI version concerning threats to the FBI about bringing IRS into the matter, etc.

FOSTER felt that if KENNEDY had been reprimanded on the Travel Office issue, that he (FOSTER) should also be. FOSTER was worried about KENNEDY. He felt that KENNEDY had been treated unfairly and FOSTER was sorry that KENNEDY had been singled out. Nevertheless, KENNEDY was of the opinion that they should "drive on."

KENNEDY was asked if he ever heard FOSTER say that there were very few people in Washington, D.C. whom you could trust. KENNEDY answered "yes."

FOSTER had mentioned to KENNEDY that he was thinking about asking for a lower pressure job at the White House. FOSTER never said he couldn't do this; that would have been out of character for him.

KENNEDY said that CRAIG LIVINGSTONE was not at the White House on the evening of July 20, 1993, as far as he knew. LIVINGSTONE, after identifying FOSTER's body at the hospital, had gone with KENNEDY in KENNEDY's car to the FOSTER residence that evening and stayed for quite a long time. Thereafter, LIVINGSTONE and KENNEDY left the FOSTER residence to go home. LIVINGSTONE and KENNEDY talked about the press being at FOSTER's residence the night of July 20, 1993. KENNEDY had asked LIVINGSTONE to get a police car to the neighborhood to keep the press and gawkers from being "obtrusive." LIVINGSTONE made calls to do that. KENNEDY could not recall a specific conversation with LIVINGSTONE regarding LIVINGSTONE returning to the FOSTER residence in the early morning of July 21, 1993. It is reasonable to believe that LIVINGSTONE had done this as this is the type of thing he had done in handling a lot of White House events.

KENNEDY was shown a copy of a document captioned "Report from CRAIG LIVINGSTONE," dated July 21, 1993. KENNEDY said he thought this was what LIVINGSTONE had prepared a "couple of days" after FOSTER's death. LIVINGSTONE had given KENNEDY a copy, but KENNEDY does not have it now. KENNEDY explained that for all of 1993 and two months into 1994, he did not have a secretary. His job was paper intensive and he himself would come to the office on weekends to do his own filing. It was all he could do to keep the paperwork moving. KENNEDY described it as a nightmare. He said the LIVINGSTONE document was either "tossed" or "misfiled." KENNEDY does not know why LIVINGSTONE prepared

the document. He thinks LIVINGSTONE had said he did it to help regarding press inquiries on the FOSTER death. KENNEDY did not remember receiving it from LIVINGSTONE the day following FOSTER's death. KENNEDY's attention was directed to the third paragraph on page 2 of this memorandum stating that on Wednesday, July 21, 1993, LIVINGSTONE drove by the house (FOSTER's residence) at 6:30 a.m. and stayed until 8:00 a.m. KENNEDY said that he had no independent knowledge of this fact. KENNEDY said the only conclusion he could draw would be that LIVINGSTONE was concerned about the press being intrusive at the FOSTER residence.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/94

On 4/12/94, David E. Kendall, Attorney at the law firm of Williams and Connolly, 725 Twelfth Street NW, Washington, D.C., in his capacity of personal attorney for Bill and Hillary Clinton, telephoned writer and offered to make available certain materials made public by the Clintons through a press briefing given by Kendall on 4/12/94. His offer was unsolicited by the Office of the Independent Counsel.

The materials were uncovered by Kendall as a result of Mrs. Hillary Clinton's instructions to review certain records from 1979 and revealed the underpayment of taxes, which the Clintons voluntarily paid, with appropriate penalties.

Writer picked up copies of documents on 4/14/94 which were purported to be by Kendall's cover letter dated 4/13/94:

1) Statement from Kendall to the press concerning the documents.

2) A collection of historical data concerning payment of back taxes by other Presidents.

3) Certain REFCO trading records.

4) Certain CLAYTON trading records.

5) Certain PEAVEY trading records.

6) Certain ACLI trading records.

The materials were offered to writer in anticipation that, like other tax related materials made public by the Clintons through Kendall and previously requested by the Office of the Independent Counsel, Mr. Fiske would also be desiring copies of this most recent release.

Investigation on 4/12/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 4/14/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/13/94

DAVID KENDALL of the law firm Williams & Connolly, 725 12th Street, N.W., Washington, D.C. (WDC), telephone number (202) 434-5145 was interviewed along with ROBERT BARNETT also of the law firm of Williams & Connolly. KENDALL and BARNETT were interviewed in the presence of Julie L. Ferguson, of the law firm of Williams & Connolly. Participating in the interview was Carl Stich, Attorney, Office of the Independent Counsel, WDC. After being appraised of the purpose of the interview and the identities of all participants, KENDALL and BARNETT thereafter provided the following information:

BARNETT was initially summoned to the White House by the First Lady's Chief of Staff, MARGARET (Maggie) WILLIAMS. BARNETT was informed that a file box was to be picked up from the White House. BARNETT travelled to the White House to pick up the box which was sealed upon his acquisition. BARNETT opened the box, inspected its contents and resealed it in the residential area of the White House. BARNETT contacted PETER BARLOW the Comptroller of the law firm of Williams & Connolly to pick up the box.

The aforementioned box, was picked up from the White House on a date recalled to be July 27, 1993. The date of July 27 is based upon a review of tab receipts reviewed in the course of preparing for the initial document production during January, 1994.

After the death of VINCENT W. FOSTER, JR., former Deputy Counsel, The White House, BARNETT was to become lead counsel in handling the personal affairs of the President. BRANTLEY BUCK was known to be handling the overall legal affairs for President Clinton. FOSTER was described by BARNETT to be a "point man" inside the White House regarding the personal affairs of the President and the First Family. BARNETT did not discuss with MAGGIE WILLIAMS where the files came from that were in the box picked up on July 27. BARNETT was of the personal impression that the files came from FOSTER's office based on his earlier review.

Investigation on 5/6/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SA DANA M. GILLIS:DMG:sla Date dictated 8/27/94

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BARNETT believes that matters within the files were best handled outside the White House. BARNETT wanted to know immediately what was within the files in order to get a handle on the information. Subsequently, the documents were indexed, sealed and preserved by Williams & Connolly.

Back at Williams & Connolly, BARNETT reviewed copies of the documents that were picked up from the White House. BARNETT does not recall any formal requests regarding work to be done based on the contents of the files maintained in the box. BARNETT's goal was to make sure that "no balls were dropped" and there was a sense of continuity with regard to the President's personal legal affairs. PETER BARLOW arrived at the firm of Williams & Connolly and delivered the box to BARNETT's office.

While at the White House, BARNETT received a green file folder from a secretary who informed him it was personal information related to the President. The file contained amendment pages related to financial disclosures for the President done by BRANTLEY BUCK. The papers were routed to the President and the First Lady for signature; the file was in transit at the time of FOSTER's death.

DENISE ZEDLAR of Williams & Connolly was responsible for indexing the papers removed from FOSTER's office. ZEDLAR did the indexing within her private office at the firm of Williams & Connolly.

Once indexed, the documents were eventually placed in a separate, locked drawer at the law firm. Nothing was taken out of the files or placed in the files once they had been indexed. The documents were Bates stamped during the process of production pursuant to the December, 1993 subpoena.

A Washington Post story dated October 21, 1993 regarding RTC criminal referrals was the catalyst of discussions at the firm of Williams & Connolly regarding DAVID KENDALL replacing BARNETT as the President's personal attorney. KENDALL took control of the Clinton affairs circa November/December, 1993 when he began to be briefed on the case. KENDALL did not recall much being in the files at that time. He did recall seeing one Whitewater file in the documents possessed by Williams & Connolly.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

No other information of investigative value was provided.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

30186402.wtg

DAVID E. KENDALL, Attorney at Law, WILLIAMS and CONNOLLY, 725 12th Street, NW, Washington, D.C. 20005, telephone number (202) 434-5145 was contacted at his law offices. KENDALL was advised of the identity of the interviewing agent and of the purpose of the interview. Also present were JULIE L. FERGUSON, attorney and DENISE ZDELAR, clerical assistant, both of WILLIAMS and CONNOLLY. MARK STEIN, assistant to Independent Counsel, ROBERT B. FISKE, Jr. assisted with the interview and record review. KENDALL provided the following information:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 6/28/94 at Washington, D.C. File # 29D-LR-35063

by SA WILLIAM T. GUYTON Date dictated 6/29/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

The documents were returned, intact and in the order received, to Ms. FERGUSON.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/11/94

Joel I. Klein, Deputy Counsel, the White House (WH), was interviewed at the offices of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC), in the presence of Cheryl D. Mills, Associate Counsel, The White House, Marvin Krislov, Assistant Counsel The White House, Mark Stein, Office of the Independent Counsel, Carl Stich, Office of the Independent Counsel and Special Agent DANA M. GILLIS, Federal Bureau of Investigation (FBI). Klein thereafter provided the following information:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 03/08/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS:sla Date dictated 03/08/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/19/94

30139401.dmg

JOEL IRWIN KLEIN, Deputy Counsel to the President, The White House, was interviewed at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC). Participating in the interview was MARK STEIN, Attorney for the OIC. After being apprised of the identities of all parties participating, and the purpose of the interview, KLEIN thereafter provided the following information:

KLEIN began working at The White House on December 1, 1993. KLEIN first worked on the CLINTON Presidential Election Campaign performing unspecified legal taskings. KLEIN had met CLINTON several times at Renaissance weekends down at Hilton Head Island, South Carolina. During the CLINTON Presidential Campaign, KLEIN headed one of several vetting teams. KLEIN also played a role in researching nominees to fill a Supreme Court vacancy. Prior to his arrival at The White House, KLEIN was a partner in the appellate law practice of KLEIN, FARR, SMITH and FARLINGTON.

KLEIN recalled that former Deputy Counsel to the President, VINCENT W. FOSTER, JR., killed himself during the nomination process surrounding current Supreme Court Justice, RUTH BADER GINSBURG.

In November, 1993, KLEIN was selected to serve as the Deputy Counsel to the President. He noted that his precise role as Deputy Counsel has not been clearly defined. KLEIN recalls having several discussions with White House Counsel BERNARD NUSSBAUM regarding executive power issues prior to his (KLEIN's) selection as Deputy Counsel. KLEIN had seen FOSTER during briefings on Supreme Court nominees to fill the seat vacated by Justice BYRON WHITE. KLEIN was not at The White House on July 20, 1993, the date of FOSTER's death. He played no role in going through documents in FOSTER's office subsequent to his death. KLEIN recalls meeting FOSTER approximately three to four times before his death.

KLEIN has had several conversations with members of The

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White House Counsel's office regarding the death of FOSTER. KLEIN recalls speaking to BERNARD NUSSBAUM, White House Counsel; CLARISSA CERDA and CHERYL MILLS, both of the Counsel's office.

KLEIN was not aware of meetings between White House and Treasury officials on September 29, 1993, or October 14, 1993 until February 25, 1994, when he first became aware of the September and October meetings between White House and Treasury Department officials.

KLEIN's first awareness of the Resolution Trust Corporation (RTC) investigation into Madison Guaranty Savings and Loan was in late January or early February, 1994. His awareness is based on discussions in the Counsel's office regarding the statute of limitations related to civil suits filed against Madison Guaranty.

Circa mid-December, 1993, KLEIN was placed on a response team related to an article in American Spectator magazine. KLEIN subsequently began an assignment working on a response team regarding the Whitewater inquiry. KLEIN later worked on documents from FOSTER's office that had been placed in the custody of DAVID KENDALL. KENDALL is the personal attorney for the President, and works for the Law Firm of Williams and Connolly, WDC. With regard to the decision that was finally made to turn documents over to federal investigators circa December, 1993, KLEIN participated in discussions with NUSSBAUM and NEIL EGGLESTON. EGGLESTON also works in the Counsel's office. KLEIN's advice was that the documents be turned over to the U.S. Department of Justice (DOJ). He was involved in a discussion process with both the President and the First Lady. KLEIN told the CLINTONs that the FOSTER documents should be turned over to DOJ. This would reduce the clamor for an independent counsel. Others in The White House thought failure to disclose might cause The White House to be "nickled and dimed to death." KLEIN subsequently received the FOSTER file.

In January, 1994, discussions began to take place regarding whether or not a special counsel should be appointed. At this time KLEIN began to look at relationships between the special counsel and legislation regarding an independent counsel that was pending on Capitol Hill. A response team was formed made up of HAROLD ICKES, BRUCE LINDSEY, NUSSBAUM, and EGGLESTON to respond to Whitewater related issues. After the special counsel was called for, KLEIN returned to the task of looking at

judicial and executive power issues.

NUSSBAUM had spoken to KLEIN regarding the recusal issue centering around ROGER ALTMAN. ALTMAN is Deputy Treasury Secretary and was serving, for a time, as the Chief Executive Officer (CEO) of the RTC. ALTMAN had expressed his concern that he recuse himself regarding any matters related to Madison Guaranty while acting in the capacity as CEO of the RTC. KLEIN was aware that ALTMAN came over to The White House and had discussions regarding his recusal. KLEIN was aware that ALTMAN was still thinking about recusal. NUSSBAUM was upset with ELLEN KULKA, Counsel, RTC. KLEIN believed it was clear that NUSSBAUM was against KULKA "running the show." NUSSBAUM described KULKA to be aggressive and lacking judgement. KLEIN believed NUSSBAUM was of the opinion that KULKA would be "unfair." KLEIN recalls discussions of ALTMAN's recusal had been held during the daily 9:00 am meeting of the Counsel's office staff.

BETH NOLAN had raised at a morning staff meeting, that she had received a call from DENNIS FOREMAN, the Ethics Officer at the Treasury Department. NOLAN was going to discuss legal issues regarding recusal. No further discussion ensued. NOLAN's conversation with the Counsel's office staff was held subsequent to the February 2, 1994 meeting between Treasury Department officials and White House staff.

Regarding the February 2, 1994 meeting where recusal was discussed, KLEIN felt that The White House should not be involved in the recusal discussions in that, the recusal of ALTMAN for issues related to Madison Guaranty was not a White House issue.

KLEIN expressed the opinion that The White House could not be viewed as having had a role in the selection process of the Special Prosecutor.

KLEIN took no steps to find out what happened at the February 2nd meeting between Treasury Department officials and White House staff. It was clear to KLEIN that the February 2nd meeting was confidential and should not be discussed. He believes that DAVID GERGEN may have been informed of the meeting.

Between February 2, 1994 and February 24, 1994, KLEIN had no conversations with Treasury Department officials regarding Madison Guaranty Savings and Loan or Whitewater Development

Corporation. KLEIN was not aware of the contact between The White House and Treasury. He was not involved in the preparation of ALTMAN's testimony before the Senate Banking Committee.

On the day of ALTMAN's testimony, KLEIN was aware that NUSSBAUM was unavailable in Mexico. KLEIN became concerned regarding the recusal issue during ALTMAN's testimony on February 24, 1994, before the Banking Committee.

On March 25, 1994, CLIFF SLOAN visited KLEIN. SLOAN was concerned that he had knowledge of additional contacts between Treasury officials and The White House. This information was released to the media on March 25th, regarding ALTMAN's recusal concerning issues related to Madison Guaranty.

On February 25, 1994, KLEIN thinks he may have had conversations with people in The White House related to the Treasury Department White House meetings. KLEIN was not aware of how JAY STEPHENS was hired by the RTC.

At this point KLEIN began to become more concerned regarding the Treasury Department/White House staff meetings. KLEIN entered discussions with GEORGE STEPHANOPOULOS, asking STEPHANOPOULOS the status of his comments regarding JAY STEPHENS. STEPHANOPOULOS did not ask anyone if STEPHENS could be released.

On February 25, 1994, KLEIN held a discussion with BRUCE LINDSEY. KLEIN advised that NUSSBAUM had told him that ALTMAN was going to recuse himself regarding issues related to Madison Guaranty. KLEIN became concerned regarding the recusal issue and how it would play out. He could not understand why JEAN HANSON, General Counsel, The Treasury Department, didn't correct ALTMAN at the Oversight Hearing.

Tuesday and Wednesday KLEIN was in meetings in JOHN PODESTA's office regarding the recusal issue. Others in the office were TODD STERN and PODESTA. PODESTA led the meetings.

KLEIN was involved in producing a firewall memo regarding press inquiries related to the October 14th Treasury Department/White House staff meeting. KLEIN was involved in trying to get information regarding the October 14th meeting. ALTMAN was going to go back and testify before the Senate Banking Committee regarding the recusal issue. KLEIN spoke to Communications Director MARK GEARAN regarding the October 14th

meeting. KLEIN was of the belief that the October 14th meeting covered how to handle press inquiries. KLEIN was not aware that on February 2, 1994, ALTMAN had informed White House officials that he was going to recuse himself from matters related to Madison Guaranty in his capacity as Acting Head of the RTC.

In way of background, KLEIN advised that Renaissance weekend was started by PHIL LADER. The purpose of the weekend was to go down to Hilton Head Island, South Carolina, for discussions at the end of the year on a variety of topics. From 1979 to 1992 the event grew in stature. The CLINTONs began to attend Renaissance weekends back in 1985. The weekend is made up of panels on politics, the future of the two-party system, etc.

KLEIN viewed documents from the Thursday before the subpoena date in March of 1994. KLEIN was aware that the Office of Government Ethics was to evaluate the propriety of Treasury/White House meetings.

With regard to ALTMAN's testimony before the Senate Banking Committee, questions arose regarding the appropriateness of BERNIE NUSSBAUM working on Whitewater issues. A determination was in order as to what should The White House Counsel's office handle and what should CLINTON's personal attorney KENDALL handle. The question regarding the appropriateness of NUSSBAUM being connected to Whitewater matters may have been a reporter's question. According to KLEIN, BETH NOLAN was putting a paper together regarding those issues.

On March 5, 1994, PAUL TOBACK, wanted to know who ALTMAN had an appointment with on February 2, 1994. HANSON had a 1:20 appointment with MAGGIE WILLIAMS and a 5:00 pm meeting with Mac, believed to be MACK MCLARTY.

The following information regarding JOEL KLEIN was obtained from observation and interview:

Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Home Address:	5044 Millwood Lane, NW, WDC 20016
Telephone Number:	202-686-1275
Work Telephone Number:	202-456-6611

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/6/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 5/5/94 at Washington, D.C. File # 29D-LR-35063

by H. Alexis Suggs Date dictated 5/6/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/24/94

JOEL E. KLEINMAN, M.D., Ph.D., met with the staff of the Office of the Independent Counsel (OIC) in the offices of the OIC, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Dr. KLEINMAN is Deputy Chief, Clinical Brain Disorders Branch and Chief, Neuropathology Section Intramural Research Program, National Institute of Mental Health, Saint Elizabeths Hospital, Washington, D.C. At the invitation of JAMES L. LUKE, M.D., who has been consulting with the OIC staff investigating the death of VINCENT W. FOSTER, Jr., Dr. KLEINMAN provided a briefing to the OIC staff members about the nature and symptoms of clinical depression. He also stressed the importance of identifying such factors as a family history of depression or suicide in order to assess the likelihood of a patient suffering depression or committing suicide.

A copy of Dr. KLEINMAN's curriculum vitae is attached and incorporated into this report of interview.

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FL-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

Mr. Patrick J. Knowlton, 2424 Pennsylvania Avenue, NW, Washington, D.C. (Apt 810, telephone number 296-3989/703-923-4596) was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, Washington, D.C. Mr. Knowlton was advised as to the identity of the interviewing agents and informed of the nature of the inquiry. He then provided the following information.

Mr. Knowlton advised that on July 20, 1993, he terminated work on a construction site in Chevy Chase, Maryland and travelled North on the George Washington Memorial Parkway enroute to his residence in Sperryville, Virginia. He stated that at approximately 4:15 pm while approaching Fort Marcy Park he had to urinate and entered Fort Marcy Park in order to relieve himself. He indicated that he was somewhat familiar with Fort Marcy Park since in, 1991, he had toured this particular park in the company of his girlfriend. He stated that upon entering the parking area, he immediately noticed an unoccupied vehicle parked front end in facing the park in one of the first parking slots on the left-hand side. He identified this particular vehicle as a 1988-1990 brown or rusty brown in color Honda with Arkansas plates. He stated that he could not remember whether this vehicle was a two door or four door sedan and outside of the letter H predominantly displayed on the trunk of the vehicle could furnish no other identifying information regarding this vehicle. Mr. Knowlton, however, was positive that this vehicle had Arkansas plates since the Arkansas designation is easily identifiable.

Mr. Knowlton further indicated that a second vehicle, located approximately three spaces past the above mentioned Honda, was observed backed into a parking space in the immediate area of a path leading to the northern section of the park. This vehicle was described by Mr. Knowlton as a Japanese make vehicle, metallic blue in color, with Virginia license plates and in his opinion was considerable newer than the previously described Honda. Knowlton described the occupant of this vehicle as a male in his late twenties, probably Mexican or Cuban, with dark

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complexion, dark brown or black curly hair worn short, 5'10" to 5'11" in height. Knowlton stated that he specifically remembers this individual since when he, Knowlton, departed his vehicle, this male exited his vehicle and was closely watching him as he proceeded into the park to urinate. He further mentioned that this male was staring at him making him, Mr. Knowlton, feel extremely nervous and uneasy. He could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future.

Mr. Knowlton continued by stating that he proceeded into the park for approximately 200 feet where he relieved himself to the right of a trail. He then returned to his vehicle, which was a rental vehicle from Thrifty Rental, and once again observed the occupant of the second vehicle now inside the vehicle with the driver's window slightly down continuing to stare at him. Mr. Knowlton stated, however, that upon returning to the parking lot, he walked behind the brown Honda and peered inside the vehicle where he observed a dark-blue jacket draped over the driver's seat. He further stated that he observed in this Honda a leather briefcase or leather folder on the passenger side seat. He specifically recalls that this particular briefcase or folder was darker than the interior of the vehicle which, according to his recollection, was beige or light in color. Knowlton further added that he specifically remembers being surprised that anyone would leave a briefcase or folder on the front seat of an unattended vehicle. He could furnish no other descriptive data regarding this vehicle or for that matter the contents located within the vehicle.

Knowlton advised that, in his opinion, he was in the Fort Marcy Park no more than five minutes and remembers exiting Fort Marcy Park at approximately 4:30 pm and proceeding North on the George Washington Memorial Parkway. He stated he specifically remembers the time being 4:30 pm since the rental vehicle he was driving had a relatively large clock on the dash board. He advised that upon exiting Fort Marcy Park he did view in the right hand lane of the North bound George Washington Parkway a Ford passenger van which was slowing down and possibly could have made a right hand turn into Fort Marcy Park. Mr. Knowlton was unable to furnish any description of the occupant of this van nor any other identifying data regarding this vehicle.

Mr. Knowlton was shown a series of photographs depicting Mr. Vincent Foster's four door Honda, Arkansas license

plates RCN-504. After closely scrutinizing the photographs he stated that while he was positive this vehicle had Arkansas license plates, as depicted in the photographs, it was his opinion that this vehicle was either brown or rust brown in color and appeared to be an older vehicle than the photographs he was exhibited. In fact, Mr. Knowlton stated that after viewing television reports the evening of July 20, 1993 in which Mr. Foster was identified as a White House lawyer, he remembered thinking to himself that due to the age of this vehicle it was not, in his opinion, a vehicle typically driven by a lawyer. Based on these observations, he called the U.S. Park Police around midnight on July 20, 1993 and within the next day or two telephonically provided his observations to a U.S. Park Police Officer.

Mr. Knowlton reiterated his description of this Honda as a 1988-1990 Honda sedan with Arkansas plates but could furnish no information relative to whether it was a two or four door vehicle nor furnish any additional information relative to any distinguishing marks, dents, or external stickers on the vehicle. Additionally, he advised that with the exception of the two vehicles previously identified and the occupant of the metallic blue vehicle, he did not observe any other vehicles or individuals in Fort Marcy Park and denied hearing any unusual noises or sounds.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/12/94

Mr. Patrick J. Knowlton, 2424 Pennsylvania Avenue, NW, Washington, D.C. (Apt 810, telephone number 296-3989/703-923-4596) was reinterviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, Washington, D.C. Mr. Knowlton was advised as to the identity of the interviewing agent and specifically informed of the nature of the inquiry. He then provided the following information:

Mr. Knowlton was informed that in light of additional information being obtained by interviewing agent relative to the description of Mr. Vincent Foster's 1989 Honda Accord, that it was necessary to reinterview him relative to his observations at Fort Marcy Park, Virginia on July 20, 1993. Mr. Knowlton maintained that, to the best of his recollection, the observations previously furnished to interviewing agents on April 15, 1994 were still consistent with his observations of the two vehicles he observed at approximately 4:15 pm on July 20, 1993 at Fort Marcy Park.

In an attempt to further clarify Mr. Knowlton's observations on that day, he was informed that the official note taker for the U.S. Park Police in describing Mr. Foster's four door Honda, Arkansas license plates RCN-504, notes that the vehicle examined at the Fort Marcy parking lot on July 20, 1993, was "gray/brown" in color. Mr. Knowlton was also advised that the second USPP officer to arrive at the death scene also described Mr. Vincent Foster's vehicle as, "a gray/brown Nissan four door with Arkansas registration RCN-504 parked in the 4th space from the front of the parking lot." Additionally Mr. Knowlton was informed that a witness who was in the Fort Marcy parking lot at approximately 5:45 pm on July 20, 1993, described what eventually turned out to be Mr. Foster's Honda vehicle as a "Japanese model, brown in color." In addition to furnishing this background information to Mr. Knowlton, he was also exhibited a 35mm photograph (partially underexposed) which was taken by Officer Peter Simonello, USPP at the Fort Marcy parking lot on July 20, 1993. The photograph of Mr. Foster's Honda when viewed next to a light colored USPP vehicle appears extremely dark in

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color.

After being informed of the above cited information to include viewing the 35mm photograph, Mr. Knowlton still believes that the vehicle he observed during the period of time he was in Fort Marcy Park on July 20, 1993 was brown in color and still believes looked "older" than Mr. Foster's 1989 four door Honda Accord. In a further effort to clarify this situation, Mr. Knowlton in the company of the interviewing agents physically viewed a series of automobile color panels at the FBI laboratory, Hoover Building, Washington, D.C. During this review of automobile panels, he identified panels numbered 3499 and 3500 as closely approximating the color of the vehicle he observed at Fort Marcy Park. During this review of color panels as well as a brochure of Honda vehicles stated that he definitely believes that the vehicle he observed was a four door Honda Accord. The vehicle in his opinion, appeared to be shorter in length or more compact than the photographs of Mr. Foster's 1989 Honda and further believed that the color of the vehicle had a flat finish and was not glossy or clear coated as represented in the photographs of Mr. Foster's 1989 Honda. However, Knowlton did indicate that while he still believes the vehicle had an Arkansas license plate, he doesn't recall that the plate he observed had as many letters preceeding the numbers as depicted on the Arkansas plate on Mr. Foster's 1989 Honda.

Mr. Knowlton reiterated his previous observations, that this vehicle was unoccupied and was parked front end in facing the park in one of the first parking slots on the left hand side of the Fort Marcy parking lot. He reemphasized the fact that, in his opinion, this vehicle had an Arkansas plate and that he observed a dark blue jacket draped over the driver's seat of this vehicle. Mr. Knowlton stated that all other information furnished by him to interviewing agents on 4/15/94 were consistent with his recollection of what he personally observed during the period of time he was at Fort Marcy Park on July 20, 1993.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/7/94

On June 6, 1994, MARVIN KRISLOV Assistant Counsel and NEIL EGGLESTON Associate Counsel to the President, both individuals from The White House, appeared at the Office of the Independent Counsel and was interviewed by MARK STEIN of the Office of the Independent Counsel and SA H. ALEXIS SUGGS with regard to a production that The White House had made in response to a subpoena. The production that we asked them about was broken into 4 parts.

Part 1 KRISLOV and EGGLESTON identified (a 3-page item which lists cabinets and their contents and is titled on the first page, "Office of VINCE W. FOSTER, JR." with a 6 at the top of the page) as a document which was located in the files moved by TOM CASTLETON from the West Wing to the Old Executive Office Building. CASTLETON advised them that it came from DEBORAH GORHAM's desk and that the handwriting is CASTLETON's. Neither individual had any idea what pages 1-5 would have been.

Part 2 (an 8-page assortment of typed lists, the first page of which is entitled, "DEBORAH GORHAM's desk" contents:) KRISLOV and EGGLESTON recognized as lists compiled by TOM CASTLETON and confirmed that the description of them in JOEL KLEIN's cover letter was in error. KRISLOV said that they will be different from GORHAM's list of files. They were compiled at the time that the boxes were brought to the Old Executive Office Building sometime mid-November when JOEL KLEIN was moving into FOSTER's office. Each list corresponds to a box which held documents. They therefore do not hold any documents that were given to the CLINTON's private attorney.

Part 3 is a hand-written listing of VINCE FOSTER's working files. KRISLOV and EGGLESTON both confirmed that it was handwritten by STEPHEN NEUWIRTH. They believe it was done shortly after VINCE FOSTER's death.

Part 4 of the production is an 11-page handout with what appears to be computer printout listings of directories. KRISLOV and EGGLESTON explained that these were the indexes of

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Investigation on 6/6/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/7/94

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everything that had been in DEBORAH GORHAM's hard drive as of the time it was downloaded onto floppy disks. The floppy's are maintained in MARVIN KRISLOV's office. KRISLOV advised that nothing has been erased from the directories and that the check marks on the list correspond to documents which were printed into hard copies so that people could continue working with them.

At the conclusion of the interview, MARK STEIN advised KRISLOV and EGGLESTON that the Office of the Independent Counsel wanted hard copies of select documents from part 4, disks 4 and 5. KRISLOV and EGGLESTON agreed to produce the requested documents as soon as possible, meaning the next day or so.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/5/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

nvestigation on 5/5&6/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 5/5&6/94

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(Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/9/94

The below recorded interview and information contained therein was provided by an individual who made himself available to investigators for the Office of the Independent Counsel on the condition that his identity remain confidential. His name and other information that would identify him have been removed.

voluntarily accompanied SSAs and to Fort Marcy Park, Fairfax County, Virginia, as a follow-up to the interview conducted by the above-noted agents with on April 14, 1994 at his residence.

In the presence of interviewing agents, demonstrated his specific activities upon his arrival and departure from Fort Marcy Park on July 20, 1993. Specifically his included pointing out to interviewing agents the route he took after exiting his vehicle in the Fort Marcy parking lot; the route he traversed to the second cannon location in the park as well as pointing out the location he was positioned when he first observed the body. In this regard, he also identified the location of the body he observed and the position he assumed when viewing the body. Additionally, he identified the route he traversed back to his vehicle in the Fort Marcy parking lot.

then accompanied interviewing agents to the Turkey Run Maintenance Yard, where he pointed out the location of two U.S. Park Service employees whom he notified as to the disposition and location of the dead body at Fort Marcy Park.

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vestigation on 4/15/94 at Fairfax County, VA File # 29D-LR-35063 OIC Sub 17-12

OIC 000248

Date dictated 4/20/94

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2 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/21/94

The below recorded interview and information contained therein was provided by an individual who made himself available to investigators for the Office of the Independent Counsel on the condition that his identity remain confidential. His name and other information that would identify him have been removed.

was interviewed at length and provided specific details related to his discovering the body of Vincent Foster at Fort Marcy Park on July 20, 1993 (results set forth in separate FD-302). In responding to why he did not come forward at the time, also provided the following additional information:

He stated that in early August, 1993, after there had been considerable news coverage in the media concerning the unknown driver of the white van, he contacted a woman friend of his whom he described as an attorney who works at the Department of Justice. He informed her that he was the person who had discovered the body of Vince Foster and asked her if he were breaking any laws by not coming forward. She informed him that she would look into the matter and call him back. She called him back the next day, advising him that he was not violating any laws by not coming forward. As best he recalls, he asked her what she felt he should do. She advised him to "stay quiet because there's nothing you can do to change things now."

adamantly refused to provide the identity of this woman, stating that she was a very good friend and he did not want to get her involved or to cause her any problem.

CONFIDENTIAL

vestigation on 4/14/94 at File # 29D-LR-35063 OIP Sub 17-12

OIC 000165

Date dictated 4/20/94

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OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/14/95

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 2/10/95 at Falls Church, VA File # 29D-LR-35063

by FOIA(b)(7) - (C) Date dictated 2/12/95

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

On May 30, 1994, Special Agents William E. Colombell and Lawrence Monroe met with Robert Langston, Chief, U.S. Park Police (USPP), and Robert H. Hines, Major, USPP, at Park Police Headquarters, 1100 Ohio Drive, S.W.,Washington, D.C. 20242. SA Colombell inquired if Chief Langston could provide a list of those individuals and/or agencies who were given a copy of the USPP investigative report regarding the death of White House counsel Vincent Foster. Chief Langston advised that the original report is maintained in the USPP criminal investigative file.

Three copies of the report are also maintained by his department. One with USPP FOIPA Section, one with Major Robert Hines, Commander Criminal Investigative Branch and a copy that Chief Langston maintains in his office.

In addition, USPP has provided copies of the report to the below-listed individuals and/or federal agencies:

1 - Dept. of Justice - Mr. Margolis
1 - Dept. of Justice FOIPA Section
1 - Dept. of Justice Office of Professional Responsibility
1 - FBI - Criminal Investigative Division (OPR Investigation)
1 - SA Jane Erickson, FBIHQ (subsequently given to Mr. Rod Lankler, Office of Independent Counsel)

Chief Langston advised that his department did not provide copies of the report to the White House or to the Secretary of the Interior.

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vestigation on 3/30/94 at Washington, D.C. File # 29D-LR-35063

by SA William E. Colombell
SA Lawrence Monroe Date dictated 4/3/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/29/94

Chief Robert E. Langston, United States Park Police (USPP) in the company of Major Robert Hines, USPP, were interviewed at the USPP headquarters, Washington, D.C. and advised as to the identity of the interviewing agents and informed of the nature of the inquiry. Chief Langston and Major Hines then provided the following information:

In light of the fact that Mr. Vincent Foster's body was discovered on federal property, specifically Fort Marcy National Park, Fairfax County, Virginia, both Chief Langston and Major Hines were informed that the focus of this interview was to determine the jurisdictional authority of USPP in criminal matters and specifically policy, procedures or current Memorandums Of Understanding (MOU) outlining the jurisdictional authority and investigative coordination with the FBI regarding violations of federal law. Additionally both Chief Langston and Major Hines were asked to relate their comments and observations of the meeting they attended at The White House the morning of July 21, 1993.

In regards to the jurisdiction issue, Chief Langston advised that based on long established procedures the USPP have historically had primary investigative jurisdiction for crimes committed on federal parks under the control of the U.S. Park Service. Notwithstanding this jurisdictional authority, exceptions to this authority have developed over the years to include, for example, a "long standing practice" that the Washington, D.C. Metropolitan Police Department (MPD) is the lead agency for all death investigations which occur on U.S. Park property located within the confines of the District of Columbia. Local police jurisdiction, however, does not extend to U.S. Park property located in Virginia or Maryland in which jurisdictions, USPP retains primary investigative authority.

In regards to FBI-USPP jurisdictional authority and coordination and specifically the circumstances of the Vincent Foster death matter, Langston advised that there exists a clear understanding between the FBI and the USPP that unless the

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Investigation on 5/17/94 at Washington, D.C. File # 29D-LR-35063

by LAWRENCE J. MONROE
WILLIAM COLOMBELL Date dictated 5/18/94

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provisions of the Assassination Statute are operative, which statute designates the FBI as lead investigative agency, the USPP functions as the lead investigative agency for all other crimes committed on National Park property. Since, according to Chief Langston, all preliminary investigation reflected suicide as the cause of Mr. Foster's death, the provisions of the Assassination Statute were not applicable and, the USPP maintained primary investigative authority. Langston further stated, however, that in the Vincent Foster case as in other cases, he did inform FBI authorities of this matter and advised FBI authorities that he could be seeking FBI investigative assistance.

In regards to contact with White House officials regarding the death of Vincent Foster, Major Hines advised that he was telephonically informed by Lieutenant Pat Gavin, Shift Commander USPP the evening of 7/20/93 of the preliminary facts and circumstances of the death of Vincent Foster with the suggestion that Major Hines contact Mr. Bill Burton, White House staff, relative to this matter. Mr. Hines subsequently telephonically contacted Mr. Burton and during their discussion advised that USPP officials would be available to brief White House officials regarding their preliminary investigative findings. Mr. Burton accepted this invitation resulting in Major Hines in the company of Chief Langston briefing selected White House officials the morning of July 21, 1993.

According to both of their recollections, this briefing took place in Mr. David Watkins' office in The White House and in addition to Mr. Watkins included, Mr.'s Webster Hubbell, Bernie Nussbaum, William Kennedy, Craig Livingston, George Stephanopoulos, Bill Burton and James Hamilton. Major Hines informed this group of officials that USPP preliminary investigation indicated that Mr. Foster committed suicide at Fort Marcy Park but emphasized to these officials that according to standard USPP procedures, all death investigations are handled as potential homicides, advising these officials that a search of Vincent Foster's office would be critical to their investigation. To the best of Major Hines recollection, Mr. Nussbaum stated words to the effect that "all you'll find are lawyer things." Mr. Nussbaum also stated that this investigation should be coordinated through the Office of the Attorney General and was followed by a comment by Mr. Stephanopoulos that the investigation should be handled in a routine manner according to USPP procedures. To the best of their recollection, no other individual present at this briefing made any comment or posed any

questions and it was their collective opinion that based on Nussbaum's directive, that the FBI would join the USPP in the search of Mr. Foster's office. Immediately after the conclusion of this meeting, Mr. Nussbaum informed Chief Langston and Major Hines that he would immediately "post" Mr. Foster's office and in turn was advised by either Chief Langston or Hines that they would contact the FBI to ensure that FBI representatives were present during the search of Mr. Foster's office. According to both Chief Langston and Major Hines, it was their definite impression that Nussbaum's comment about "posting" Mr. Foster's office implied that the office would be physically secured and entry denied to all White House personnel. Both left The White House believing that no one had previously entered Mr. Foster's office since the death notification and that the search of Mr. Foster's office would take place on 7/21/93.

After leaving The White House, Chief Langston advised that he telephonically informed FBI Special Agent in Charge (SAC) Robert Bryant, Washington Metropolitan Field Office (WMFO) of the facts and circumstances surrounding the death of Vincent Foster and the request that FBI representatives be at The White House for the search of Mr. Foster's office. He also informed Mr. Bryant that he might be requesting, in the future, additional FBI investigative assistance. He further related that late the evening of 7/21 he discovered to his surprise that the search of Vincent Foster's office was not conducted and was subsequently informed on 7/22 by Captain Charles Hume (USPP) of the manner in which Mr. Nussbaum coordinated the search of Mr. Foster's office on 7/22. According to both Chief Langston and Major Hines, these factors when coupled with the fact that White House officials were not being cooperative in the release of Mr. Foster's telephone logs served as the basis for Captain Charles Hume personally contacting Mr. Tom Collier, Chief of Staff to the Secretary of the Interior for his assistance in securing White House cooperation in their investigative pursuits.

Both Langston and Hines were specifically questioned as to any additional details they could recall from their 7/21/93 meeting at The White House. They both advised that the only thing they found to be unusual was the presence of Mr. Jim Hamilton since he was representing the Foster family and had no official position in the administration. It was also their collective opinion that with the exception of Mr. Nussbaum who took a strict business approach at the meeting the other individuals present exhibited genuine grief and sorrow over

Mr.Foster's death. Both Langston and Hines were adamant in their belief that under no circumstances did White House officials present at this meeting attempt to direct or influence their investigation or exclude the FBI from rendering investigative assistance.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/13/94

ROBERT E. LANGSTON, Chief of Police, United States Park Police (USPP), and Major ROBERT HINES, USPP, were interviewed at USPP Headquarters, 1100 Ohio Drive, Washington, D.C. (WDC), regarding the USPP investigation into death of VINCENT W. FOSTER, JR. FOSTER was the former Deputy Counsel to the President, who died on July 20, 1993. After being appraised of the purpose of the interview and the identities of the interviewing agents, LANGSTON and HINES thereafter provided the following information:

HINES was aware that a box had been taken out of FOSTER's office in the Counsel's office suite, the White House, that was given to JAMES HAMILTON. HAMILTON is an attorney of the law firm of Swidler & Berlin, 3000 K Street, N.W., WDC. Prior to the box being provided to HAMILTON, HINES recalls viewing the contents of that box about a week after they had been turned over to HAMILTON. HINES was aware of a bag of trash that was also taken out of FOSTER's office on the evening of July 20. HINES recalled this to have been a document burn bag. He did not know what the contents of that bag were. HINES did not know about any other boxes that were taken out of FOSTER's office. He did not know when the box was taken out of FOSTER's office.

LANGSTON was shown a copy of a newspaper article from the New York Times in which comments were attributed to him regarding the USPP investigation into FOSTER's death. On page 2 of the article the reference to a box that was moved from FOSTER's office could possibly have been about the burn bag that was removed from the office. LANGSTON advised that he responded to a reporter's question regarding articles being removed from FOSTER's office based on information that he had on hand at the time he answered the question. LANGSTON recalls information that the USPP had knowledge of materials being removed from FOSTER's office the night of July 20, 1993. LANGSTON did not recall the basis of that information. He had no recollection of where the information came from regarding the materials that were removed from FOSTER's office. Neither LANGSTON nor HINES had a recollection of a box being removed from FOSTER's office on the evening of July 20, 1993. HINES believed the material that

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Investigation on 6/28/94 at Washington, DC File # 29D-LR-35063

by SAS RUSSELL T. BRANSFORD
DANA M. GILLIS:DMG:sla Date dictated 8/27/94

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LANGSTON referred to in the article was actually the trash that was in the burn bag that was removed from the office.

The USPP had a concern that FOSTER's office was not sealed on the night of July 20, 1993. The concern of the Park Police was that materials could be removed from the office prior to a search and inventory of that space being conducted.

LANGSTON and HINES provided no further information of investigative value.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/11/94

DAVID C. LEAVY, Press Assistant (for MARGARET "DEE DEE" MYERS) at The White House, telephone 202-456-2673 was interviewed at The Office of the Independent Counsel. Also present and representing the Office of the Independent Counsel was attorney MARK STEIN. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, LEAVY provided the following information:

LEAVY advised that his position as Press Assistant to Press Secretary DEE DEE MYERS is similar to an "information traffic top". Many of the telephone calls coming in to the press office are handled by LEAVY and he also deals with many problems related to press issues. LEAVY advised that he knows CRAIG LIVINGSTONE and sees him once or twice a month and has dealt with him on a significant level approximately six times since the CLINTONs took office.

LEAVY advised that on the evening of July 20, 1993, he recalled that they had made preparations for The Larry King Live Show and had spent the day preparing President CLINTON for his appearance on the show. LEAVY himself did not stay for the broadcast but went home and watched The Larry King Live Show there.

A co-worker named JEREMY GAINES telephoned him later that evening to let him know of the death of VINCE FOSTER, JR. The only information GAINES told him about on the telephone the night of July 20, 1993 was that DAVID DREYER was working on a press statement regarding FOSTER's death and that everybody was very upset.

LEAVY did not go into The White House at all that evening and he had no recollection of discussing the issue of press presence at the FOSTER residence either that evening or after with GAINES or any other individual except by telephone the following morning with CRAIG LIVINGSTONE. LEAVY did not know whether or not there had been a pool of news people available to try to accompany the President out to the FOSTER residence that

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night. LEAVY explained that there is usually a pool of news people (they call themselves the "death watch") that hovers near the President so they do not miss anything. This has been a custom ever since the attempted assassination of President RONALD REAGAN at the Hilton Hotel in Washington, D.C. They generally disband if it is known that President CLINTON will not be going out again that evening. LEAVY believes that the pool would probably have been let go on the evening of July 20, 1993 as the President was not expected to go out again after the Larry King Show.

On the morning of July 21, 1993, LEAVY recalled that he made a point of getting to the office very early. He arrived at approximately 7:00 am and was the first to get there. As people arrived and the news spread about FOSTER's death, everybody was shocked and very saddened. At approximately 7:30 they held, as usual, the Communications Office staff meeting. He recalls there being some concern about "hounding" at the FOSTER residence but he doesn't recall anymore specifics. He does not recall hearing about anybody in the Press Office other than himself receiving telephone calls from anybody outside The White House regarding press at the FOSTER residence.

He recalls two separate telephone conversations with CRAIG LIVINGSTONE that morning. He believes that the first conversation came when CRAIG LIVINGSTONE called into the Press Office to LEAVY's private line approximately two hours after LEAVY had arrived to work (which would put the time at approximately 9:00). LIVINGSTONE said he was calling from the FOSTER residence and said there was alot of media interest at the house and it was becoming a problem. He asked what should be done. LEAVY does not recall what he answered, but guessed that he would have had to check with DEE DEE MYERS about what to do. LEAVY said he seemed to recall that LIVINGSTONE called a second time later that morning, at least an hour later and probably closer to two hours later, at which time LIVINGSTONE said that the press interest had died down and nothing was going on. LEAVY felt that it was very unlikely that the first call came in between 8:00 and 8:30 but he said he couldn't rule it out. He thought the second call came in at approximately 11:30. The only other person answering phones that morning who may have taken other calls was an individual named HEATHER BECKEL (currently working for GEORGE STEPHANOPOULOS). LEAVY said there were no interns working in the Press Office at that time.

LEAVY said that he was positive about at least the first call from CRAIG LIVINGSTONE and fairly positive there was a second call and that there was at least one hour, but probably closer to two hours, between the calls he received. It was LEAVY's understanding that LIVINGSTONE was calling from a cellular phone into LEAVY's direct line. He is not sure of that recollection, however, and said that LIVINGSTONE may have been using "Signal", which would mean that LIVINGSTONE himself just called the main White House line and "Signal" directed the call into his private line.

LEAVY had no recollection of seeing LIVINGSTONE at any time in the morning on July 21. He remembers thinking that it was strange that LIVINGSTONE was out at the FOSTER residence and he thought it was even odder that he had been involved in identifying FOSTER's body the night before. LEAVY said that LIVINGSTONE is not a person who was known to help with things at the Press Office. LEAVY advised that he first saw CRAIG LIVINGSTONE at the staff meeting for all White House personnel that was held with the President and MACK MCLARTY at approximately 12 noon possibly shortly thereafter in the Old Executive Office Building.

LEAVY advised that he has not spoken with CRAIG LIVINGSTONE about any of these issues. LEAVY realizes that LIVINGSTONE seems to be at the center of something that's going on. He figured it was because LIVINGSTONE was the point of contact for all law enforcement officials contacting The White House. LEAVY was under the impression that LIVINGSTONE got the initial call to The White House about FOSTER's death and that it was LIVINGSTONE that called WILLIAM KENNEDY for them to make a positive identification of FOSTER's body.

After being shown the chronology prepared by LIVINGSTONE, LEAVY said that he is positive he has never seen the document. He advised that LIVINGSTONE asked him for a copy of it a couple months ago and he did not have a copy in his file. LEAVY is sure that he has never seen it and had never received the document.

LEAVY said that although LIVINGSTONE is not from Arkansas, he associates LIVINGSTONE with that group of individuals.

During the interview LEAVY provided the following personal information:

DOB:
POB:
SSAN:

FOIA(b)(6)
FOIA(b)(7) - (C)

REPORT OF INTERVIEW

Interview of: Anonymous WITNESS

Interviewed by: G. Gordon LIDDY

Date of Interview: 22 March 1994

Transcribed: 27 March 1994

WITNESS had previously contacted LIDDY and interview was conducted at WITNESS' home by appointment , commencing 1744 hours. LIDDY's notes were taken at kitchen table on a spiral ring pad provided by WITNESS.

At request of LIDDY, WITNESS identified himself but exacted a promise that LIDDY would never identify him.

WITNESS advised that between 1730 and 1745 hours of 20 July 1993 he was proceeding northwest in his white utility van along the George Washington memorial Parkway in Virginia on his way home from work. There was a traffic jam and traffic was barely moving. The outside temperature was approximately 100 degrees Fahrenheit and he felt an urgent need to urinate. He pulled off the parkway at the entrance to Fort Marcy Park and proceeded to the parking lot. There were two automobiles parked in the lot when he arrived.

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The first of the two cars was parked on the left, near the end, in the second or third parking place from the end. It was a small, two door, Japanese make sedan, either light blue or light tan in color. At the other end of the parking spaces, at about the second space from the end, to his right, was a white colored Honda two door sedan with a blue colored interior. WITNESS parked his van approximately in the middle of the lot between the two automobiles already there.

WITNESS stated that he left his van and began walking, looking for someplace to urinate where there would be no one around to see him. At this point, LIDDY advised witness that he, LIDDY, had never been to Ft. Marcy Park and requested WITNESS to draw a map thereof so that LIDDY could follow WITNESS' narration. WITNESS complied, drawing the map on a separate sheet of the spiral pad, which map LIDDY retained. WITNESS lightly traced the route he walked in pencil on the map he had drawn.

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WITNESS advised further that he walked into the woods to urinate and noticed something in the bushes to his left. He walked over to it, thinking it at first to be trash. When he got to within ten feet of what had attracted his attention, WITNESS states that he recognized the object as a body. At that point, WITNESS said that he thought the person might be asleep. He started to walk away, but then, noticed that the face was swollen, so he moved in close, stepping to where his foot was within three feet of the man's head and looked straight down into his face to see if that was the case. He found the body of a white male dressed in what he described as an

pensive suit, jacket missing. The trousers were of gray color, the shoes black. WITNESS states that he stood over the body for several minutes, observing it.

According to WITNESS the body was lying on its back on a "12/12" or 45 degree angle slope, head uphill, body straight, feet together, hands at its sides, palms open and angled upwards. WITNESS held his own hands out and demonstrated how the hands of the body were positioned.

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WITNESS states that at the bottom of the slope the brush was "trampled" as if someone had been walking back and forth at that t. At the top of the slope, behind the man-made revetment of which the slope was a part, was an old cannon, one of at least two in the park. WITNESS marked the spot on the map he had drawn, then drew another diagram showing a cross section of the revetment and the position of the body on the forward slope thereof as he found it.

WITNESS advised further that the body was bloating in the heat. There were traces of blood around the nostrils and mouth and flies were crawling over those areas of the body. The eyes were only partially closed and were already glazed. On the body's right shoulder were light purple colored stains of what appeared to be vomitus induced by death. WITNESS said he took the stains to be from what he described as a bottle of "wine cooler" which was lying o his right a couple of feet away. The body looked as if it had slid down the slope a bit before coming to rest.

At this point, LIDDY asked witness if he had seen the published photograph of what purported to be Mr. Foster's hand with its thumb in the trigger guard of a handgun. WITNESS stated that he had not seen such a photograph and appeared surprised, stating that he had observed both the hands of the body and that neither held a gun. He stated that, in his opinion, had a shot been fired, it would have been heard by the guards across the road at the home of a "rich Saudi Arabian" which building he had observed from near the cannon.

LIDDY pressed witness, asking whether he was sure there was no firearm in evidence. WITNESS was emphatic, stating that he had spent several minutes observing the body closely and there was absolutely no firearm there. LIDDY then picked up from the table a wristwatch with a metal band and inserted his thumb through the band in the manner LIDDY recalled seeing the thumb in the published photograph and asked WITNESS again was he sure he saw no handgun in association with the body in the manner LIDDY demonstrated. WITNESS stated that he was absolutely positive that there was no firearm with the body in that or any other fashion.

WITNESS then picked up what appeared to LIDDY to be a rubber utility glove, light purple in color, and said that that was the color of the stain on the shoulder of the body.

~~CONFIDENTIAL~~

WITNESS states that he then walked back to his van to drive to a telephone to call the police to report the body. Again, WITNESS

traced his line of walk, this time back to his van. He pointed out that his walk took him to a position near and above the Honda automobile and, as he walked past it, he looked inside. He observed a suitcoat which matched in color the trousers on the body he had found. The coat was light gray, appearing to be thrown, not neatly folded, over the back of the seat on the passenger's side. The coat was barely over the top of the seat-back.

WITNESS thinks he saw a briefcase on the passenger's side on the floor, although he is not certain. He stated that he is certain, however, that there was a "Four pack" of "wine cooler" in there. WITNESS stated that he observed the interior of the Honda from approximately eight feet above and twenty-five feet laterally in distance.

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WITNESS re-entered his van, then drove to park headquarters. There he saw two males dressed in what appeared to him to be park service uniforms. They were leaning against the tailgate of a truck. One was about fifty years old and black, the other was white and about thirty to thirty-five years old. From the driver's seat of his van, he waved to them to come over. The white man came over to the driver's side of the van. WITNESS asked for access to a telephone. The park service employee asked him what for?

WITNESS told the employee about his finding of a body and its location, using the cannon as a reference mark. The employee said that he knew exactly what he was talking about and which cannon to

look for. WITNESS asked, "Do you mind making the call?" The em employee replied, "Not at all." and left. WITNESS says he then left the park, "praying that they wouldn't get his license plate number." LIDDY asked him why and WITNESS replied, "Because I don't want to end up like that guy I found." He stated that fear was why he had exacted LIDDY's promise not to reveal his identity. He stated that LIDDY had his permission to reveal everything he had told him except his identity. He stated that he decided to come forward to this extent because the stories that he has been reading about the body and its discovery are "not right." WITNESS stated that he chose to disclose his story through LIDDY because he was certain that LIDDY would never "give him up."

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

On April 6, 1994, a package was received at the offices of the Independent Counsel, 1001 Pennsylvania Ave, N.W., Suite 490 North, Washington, D.C. (WDC), from G. GORDON LIDDY. The package contained a transmittal letter and a document titled Report of Interview. The report, written by LIDDY, contained results of an interview between LIDDY and an anonymous witness. The witness is alleged to have been the individual who discovered the body of VINCENT FOSTER, JR., former Deputy Counsel, The White House. A copy of LIDDY's letter and the report of interview are attached and made a part of the record hereto.

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G. GORDON LIDDY

9112 RIVERSIDE DRIVE
ORT WASHINGTON, MARYLAND 20744

7909 JOSHUA TREE LANE
SCOTTSDALE, ARIZONA 85250

pril 5, 1994

oderick C. Lanklar, Esq.
ffice of the Independent Counsel
)01 Pennsylvania Avenue, N.W.
ashington, DC 20004

ear Mr. Lanklar:

enclose my report of interview, dated 27 March 1994, of a man who
aims to have found the corpse of the late Vincent Foster. The report
interview is self-explanatory.

eport contains details about the scene and the interior of Mr.
's automobile that I, for one, have never seen published. You
available to you all of the information from the various
thorities summoned to the scene. If there has occurred no policing of
e area (in the military sense) from the time the individual I inter-
ewed claims he discovered the body until the time others arrived on the
ene, the details, particularly concerning the "wine cooler", etc., may
sist you in determining whether this individual did, in fact, come
on Mr. Foster's body.

am available to you or any of your special agents for interview. I
ll tell you anything other than the identity of the individual, unless
d until he should release me from my promise not to identify him.

urs sincerely,

J. Gordon Liddy

Gordon Liddy

L:ja
cl.

CONFIDENTIAL

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/13/94

Mr. G. Gordon Liddy was interviewed at his place of employment, radio station WJFK, 10800 Main Street, Fairfax, Virginia. He was advised of the identities of FBI Agents William E. Colombell and Lawrence J. Monroe and that they wished to interview him regarding an ongoing FBI investigation into the death of Vincent Foster. The agents confirmed receipt by the Office of the Independent Counsel of Mr. Liddy's letter dated April 5, 1994, including a six-page interview report of information provided to Liddy by an anonymous witness who claimed to have been the first to have discovered the body of Vincent Foster at Fort Marcy Park on July 20, 1993.

At the outset, Mr. Liddy stated that this six-page report, along with a two-page report (copy provided by Liddy) of the interview of a Fairfax County Fire Department employee named Cory Ashford, conducted on March 4, 1994 by Congressional staffers, would soon be publicly released to subscribers of his regular newsletter.

Mr. Liddy agreed that he would make no comment about the specifics of this current interview with the FBI, except to acknowledge on his radio show that the FBI had contacted him and that he had agreed to keep the specifics of that contact confidential.

Mr. Liddy then stated that he would assist the FBI in any manner he could, but had given the anonymous witness his assurances that he would not reveal his identity and could not go back on this promise. He did agree to recontact the party as soon as possible and provide him with the names and telephone numbers of the interview agents and attempt to persuade him that it was in his best interest to call and identify himself and cooperate fully with the FBI. He provided the following phone numbers where he could be reached, office (703) 691-1900, home (301) 567-3080, car phone (301) 518-2539. It was understood that if the witness did come forward, any future FBI interview or evaluation concerning his credibility would be directly with the

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Investigation on 4/12/94 at Fairfax, Virginia File # 29D-LR-35063

by SSA William E. Colombell
SSA Lawrence J. Monroe Date dictated 4/13/94

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FBI and that Mr. Liddy would not be involved. Mr. Liddy then provided the following additional information concerning the manner in which he first came in touch with this witness and other specifics that would assist the FBI in evaluating the witness' credibility.

Liddy advised that on March 22, 1994, he was telephonically contacted at his radio station in Fairfax City, Virginia by a male caller who identified himself as the individual in the "white van" who observed the body of Vincent Foster at Fort Marcy Park on July 20, 1993. Pursuant to this telephone call, Mr. Liddy drove to the caller's residence, which according to Liddy was "not far" from the radio station where he interviewed the caller in depth regarding his observations of July 20, 1993.

Liddy stated that in order to protect the identity of the caller, he maintained no notes of his discussion and due to the press of business commitments, he did not transcribe his account of this interview until March 27, 1994. In order to refresh his recollection, Mr. Liddy during this interview referred to a six-page report of the March 22 interview which he, Liddy, had previously mailed to Mr. Roderick Lankler with a cover letter on April 5, 1994.

Mr. Liddy advised that in addition to the information contained in the referenced interview report, he is convinced that this individual he interviewed on March 22 is legitimate; that he was in Fort Marcy Park the evening of July 20, 1993; did, in fact, observe the dead body of Vincent Foster and did report this sighting to two Park Service employees that same evening. According to Liddy, this anonymous witness expressed to him a fear of some type of retaliation if his identity is surfaced, based primarily on observations that neither of Mr. Foster's hands held a gun at the time and location of his sighting by this witness. This particular observation, according to Liddy, is contrary to the media reports and for whatever reason has instilled in this anonymous witness a strongly expressed fear for his life.

In an effort to ascertain the reliability of this anonymous witness, Mr. Liddy voluntarily described him as a white/male; mid-40s; 5 foot, 9 inches; stocky or beefy build, normal hair length, predominantly grey; clean shaven with a

square or rugged face configuration; wearing eyeglasses with silver metallic frames. He was further described as possessing a Virginia accent, possibly from Southwest Virginia or the Roanoke, Virginia area and as "having lived a tough life." Liddy could not furnish any specific details regarding this witness' attire, believing he was wearing, at the time of his interview, "typical work clothes," not further described and an inexpensive wrist watch with a metal band. He was further described by Liddy as a "hard working family man," most likely employed in the construction business and residing in an extremely modest house.

During the interview on March 22, 1994, Liddy also met a white female, age 35-40 with brunette hair, believed to be the witness' wife or a female companion. Liddy did report observing a white van at this anonymous witness' residence which he described as a "basic service type van, probably engaged in the construction business." He could not recall any additional details or state of registration. It was Mr. Liddy's opinion that this anonymous witness was a "typical low-waged laborer," who on a daily basis terminates his employment at 4:00 p.m. and regularly drives past Fort Marcy Park either to his residence or place of employment.

In response to questions posed regarding the purpose of the anonymous witness' presence in Fort Marcy Park on July 20, 1993, Liddy stated that witness informed him that he stopped at Fort Marcy Park to urinate. This biological requirement, combined with the suffocating heat and traffic snarls on the George Washington Parkway, according to Liddy, was the sole reason for witness' presence at Fort Marcy Park on July 20, 1993. Furthermore, Liddy advised that the anonymous witness informed him on March 22, 1994, that the reason he was supplying his observations to Liddy was that he had considered either Rush Limbaugh, the syndicated newscaster and commentator, or Mr. Liddy and felt that he, Liddy, "wouldn't give him up."

In a further effort to determine the specific reasons for this witness' insistence on anonymity, Liddy reiterated that while it might appear irrational, the fact that this witness insists that the Foster body was devoid of any weapon and that the initial media reports either ignored or downplayed the existence of the "white van," has led this witness to believe

there is some "government conspiracy" to cover up the actual cause of Mr. Foster's death.

In regard to follow-up questions regarding the specifics of his March 22, 1994 interview with this witness, Liddy stated that the witness actually provided him a sketch of Fort Marcy Park, outlining his route to the second cannon embankment where he discovered the body and his exit route to his vehicle in the Fort Marcy parking lot. Although this sketch was not available at this time since it was being duplicated for inclusion in Mr. Liddy's newsletter, Liddy stated that he personally visited Fort Marcy Park to verify the sketch provided by this particular witness. In this regard, Mr. Liddy supplied three polaroid photographs he took, depicting the apparent residence of the Saudi Ambassador to the United Nations and two photographs depicting the sight where Mr. Foster's body was retrieved. He reiterated the witness' insistence that the body was lying at a 45 degree angle, eyes slightly glazed and face swollen. Liddy believes however, that the witness' observation of Mr. Foster's body was confined to a view "looking down at the body" but did state that the witness believed he had ample time to determine that the palms of the victim's hands were open and raised upward and that neither hand contained a weapon.

Furthermore, Liddy advised that according to this witness, he then returned to the parking area by a separate route and at the far end of the lot he observed a White Honda from an elevation of approximately eight feet and a distance of 20 feet. In this vehicle, he observed a suit jacket (unfolded) on the rear seat and a four-pack of wine coolers. According to Liddy, this witness thought that a briefcase was also situated on the floor of the front seat of the passenger side. According to Liddy, this witness then departed Fort Marcy Park, enroute to a public telephone which he knew was located in the general vicinity of Fort Marcy. Upon reaching this location, witness advised that he reported his findings to uniformed U.S. Park Service employees with the request that they notify police authorities.

Mr. Liddy reiterated his interest in assisting the FBI investigation in this matter; maintained that the initial contact with this witness was unsolicited and agreed to recontact this witness and solicit witness' cooperation in submitting to an FBI interview.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/13/94

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Furthermore, Liddy advised that according to this witness, that after returning to the general vicinity of the Fort Marcy parking area, he observed from an elevation of approximately eight feet and a distance of about twenty feet a Honda vehicle which contained a suit jacket on the rear seat (unfolded) and a four-pack of wine cooler. According to Liddy, this witness thought that a briefcase was also situated on the floor of the front seat of the passenger side. According to Liddy, this witness then departed Fort Marcy Park, enroute to a public telephone which he knew was located in the general vicinity of Fort Marcy. Upon reaching this location, witness advised that he reported his findings to uniformed U.S. Park Service employees with the request that they notify police authorities.

Mr. Liddy reiterated his interest in assisting the FBI investigation in this matter; maintained that the initial contact with this witness was unsolicited and agreed to recontact this witness and solicit witness' cooperation in submitting to an FBI interview.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/29/94

BRUCE ROBERT LINDSEY, Assistant to the President and Senior Advisor, was interviewed at his White House office on June 22, 1994, also present was MARK STEIN of the Office of the Independent Counsel. Having been advised of the identity of the interviewing agent and the nature and purpose of the interview, LINDSEY provided the following information:

LINDSEY advised that he is a partner in WRIGHT, LINDSEY and JENNINGS, attorneys at law in Little Rock, Arkansas. He advised that he practiced law in Little Rock at the same time that VINCE FOSTER was a partner practicing with the Rose Law Firm in Little Rock. WATKINS explained that the Rose Law Firm represented WRIGHT, LINDSEY and JENNINGS as corporate counsel and VINCE FOSTER, JR. acted as the attorney who handled those matters and it was primarily through that conduit that LINDSEY and FOSTER dealt with one another. In addition, in 1992, LINDSEY was the legal counsel to the Democratic Party (he has known the CLINTONs for years) and he sometimes would consult FOSTER on legal matters relevant to that position LINDSEY was holding at the time.

After beginning their respective terms at The White House, they saw one another fairly frequently, and since they were both married but living the life of bachelors (since both their families had remained in Little Rock), there were nights when they would eat dinner together. In addition, the two of them belonged to the informal Tuesday night group of Arkansans who tried to get together on a weekly basis to have dinner together and they also attended the Friday night movie nights with the CLINTONs in The White House residence theater. LINDSEY estimated that during the six month period that he and FOSTER worked at The White House at the same time, they socialized together separately about a half dozen times. They did not have the kind of close friendship that gave rise to close confidences or philosophical discussions. LINDSEY said that FOSTER was a fairly regular attendee at the informal group meetings on Tuesday and Friday night and said that he and FOSTER were friends but not close friends. They had superficial things in common. They were both from Arkansas; they had similar families who were still in

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Arkansas and they would talk about what their life was like. LINDSEY estimated that FOSTER's level of anxiety and loneliness in connection with what he was experiencing as about comparable to what LINDSEY was experiencing and did not consider it to be inordinate.

The only time that LINDSEY recalls an incident where FOSTER seemed inordinately upset about something was the day that The Wall Street Journal published an article on either FOSTER himself or the Rose Law Firm that showed no picture of him in the usual box where The Wall Street Journal likes to put a sketch of the individual being discussed. The criticism that appeared in that article painted a shady, if not unethical, image of FOSTER and FOSTER found it extremely irritating. FOSTER had initially refused to send them a photograph but then did so but not in time for it to appear with the article. LINDSEY recalls FOSTER saying to him, "The damn thing is that I sent them a picture". LINDSEY said that by his way of thinking, it was not that big of a deal, but it appeared that FOSTER had no sense of resilience or sense of humor on the matter. The article implied that FOSTER and The White House was willing to play "fast and loose" with the rules.

LINDSEY said that he knew FOSTER had lost some weight, but that he did not attribute it to anything of significance. He noted that he himself had lost 25 pounds since coming to work at The White House. He remembers one night shortly before FOSTER's death when HUBBELL, the President and himself were going to watch a movie at The White House and the President called FOSTER to invite him to come. Foster declined saying that his wife LISA was already ready for bed. His refusal to come to the movie did not seem significant. He remembers discussing FOSTER with WEBB HUBBELL and could only recall the sense that FOSTER needed a good weekend to rest.

At the initial meeting regarding the Travel Office, VINCE FOSTER was most defensive about WILLIAM KENNEDY's participation in the matter. FOSTER was very unhappy that KENNEDY was reprimanded with regard to the Travel Office matter. LINDSEY said that MACK MCLARTY, JOHN PODESTA, VINCE FOSTER, MARK GEARAN and possibly LEON PANETTA and BERNARD NUSSBAUM were at that meeting. The purpose of the meeting was to develop a strategy prior to the press release of the Travel Office report. FOSTER was angry about the letters of reprimand. KENNEDY was also very unhappy and LINDSEY said he thought he remembered that KENNEDY was feeling as though perhaps he should resign. LINDSEY

thought that he remembered FOSTER's opinion being that if one person in the Counsel's Office received a reprimand then they should all receive letters of reprimand because they were all equally responsible and accountable for what occurred.

LINDSEY could not remember anything else that FOSTER found disturbing. LINDSEY does not recall FOSTER being upset about Whitewater or Madison Guaranty Savings & Loan issues. He did not recall ever having a conversation with FOSTER about Whitewater or Madison and he does not recall anybody talking about ever having a conversation with FOSTER in which he was known to have been upset about Whitewater or Madison.

The only way that Whitewater surfaced in any way was the issue of evaluation and disclosure of the Whitewater stocks after they had been sold on the President's disclosure forms. LINDSEY said that FOSTER did not discuss the issue with him. He just knew that it was a matter that was handled around the end of May when the disclosure forms for the First Family were due.

LINDSEY advised that he has no idea why FOSTER may have killed himself. The most important things to FOSTER were his family, especially LAURA, his daughter.

LINDSEY advised that he was notified of FOSTER's death by WILLIAM BURTON. LINDSEY was in his office at The White House at the time because the President was doing the Larry King Show. BILL BURTON stuck his head in the door and said that someone with VINCE FOSTER's White House tag and FOSTER's vehicle had been shot. Later in the evening LINDSEY heard that it was an apparent suicide. LINDSEY advised that he stayed at his desk and in his office area for most of the evening. Many individuals were coming and going. At some point he went to The White House residence. Towards the end of the Larry King Show, he saw GEAREN, RICKI SIDEN, RANDY GROMWALD and PAUL SEGALA (individuals who were helping with the taping). He walked over to that area with MAC MCLARTY. He does not know if GEORGE STEPHANOPOULOS was there and he does not remember seeing DEE DEE MYERS.

LINDSEY advised that during that evening of July 20, 1993 he did not hear any conversation about anybody having found a note that might shed light on why FOSTER might have committed suicide, nor did he hear any conversation about anybody looking for a note. He also did not hear any conversation about anybody going into VINCE FOSTER's office. After the Larry King Show was

completed, the President and MAC MCLARTY went to the FOSTER residence.

With regard to activity in and around the room known as "the map room", LINDSEY advised that the President never came into the map room and to his knowledge, they never shut the door of it and never talked about any note while the door was shut.

LINDSEY speculated that no one thing pushed VINCE FOSTER "over the edge". In a conversation between himself and WEBB HUBBELL, HUBBELL remarked, "If you lined up 20 people in a row in order of their likelihood of committing suicide, VINCE FOSTER would be last in line". LINDSEY agrees with this.

After the President left for the FOSTER residence, LINDSEY returned to his office. He decided to go home sometime between 1:00 and 2:00 am. He does not think that he saw either PATSY THOMASSON or MAGGIE WILLIAMS at The White House that night.

With regard to CRAIG LIVINGSTONE, LINDSEY advised that LIVINGSTONE had called him because of The White House pass having been found. LINDSEY recommended that KENNEDY accompany LIVINGSTONE to identify the body. He advised that he never physically saw CRAIG LIVINGSTONE at The White House that night but must have spoken to him on the phone. He does not recall who called whom. LINDSEY does not recall anything about a written memo that CRAIG LIVINGSTONE produced which chronicles his (LIVINGSTONE's) activities on July 20 and 21, 1993. He had a vague recollection, however, of LIVINGSTONE telling him on the morning of July 21 that LIVINGSTONE had earlier that morning gone to the FOSTER residence to help deal with the press should it be necessary.

LINDSEY said he never heard of any documents being removed from FOSTER's office nor did he ever talk to THOMASSON or NUSSBAUM about it. He also did not talk to them or hear about a note being found.

With regard to the inventory, LINDSEY said that NUSSBAUM was concerned about the issues of executive privilege. He recalled that BURTON, LINDSEY and NUSSBAUM discussed that issue on the afternoon of July 21 while individuals from the Department of Justice were waiting for them. The end result that LINDSEY remembers was that NUSSBAUM would use his best judgement as to what the Department of Justice people would see and what

they would not. They did not want to be too free in the access they allowed, but on the other hand did not want to be too rigid. By the end of the meeting, LINDSEY said that he was still not sure what decision was going to be made on the matter. He said he had a brief conversation with NUSSBAUM after the inventory had been conducted and NUSSBAUM told him that things had "gone smoothly".

During the interview LINDSEY provided the following personal information about himself:

DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Position:	Assistant to the President and Senior Advisor, January 20, 1993 to the present
Address:	3515 Hill Road, Apt. #2 Little Rock, Arkansas 72205
White House telephone number:	456-2668

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 11/14/94

Inspector JAMES LINGERFELT, Information Services Division of the Metropolitan D.C. Police Department, 300 Indiana Avenue, Washington, D.C. 20001, work phone 202-727-4138, was informed of Agent COLOMBELL's identity and that Agent COLOMBELL was part of the investigative staff of the Office of the Independent Counsel, Whitewater matters. Inspector LINGERFELT was also informed that Agent COLOMBELL was attempting to determine if Metropolitan Police units were dispatched to the residence of VINCENT FOSTER, 3027 Cambridge Place, Georgetown, Washington, D.C. on July 20-21, 1993, the evening of VINCE FOSTER's death.

Inspector LINGERFELT stated that based on a review of "radio run records", contained in the computer assisted dispatch system (CAD), he was unable to locate any record reflecting that Metropolitan Police units were dispatched to the above Cambridge Place address. He was unable to find any records confirming that a telephone call was received by the police communications center asking for assistance at 3027 Cambridge Place. He was also unable to locate any record confirming that police cars were dispatched to that address over Metropolitan Police radio channels. He concluded by stating that there could have been a radio communication overheard by other officers that originated from a car to car transmission or a radio transmission from the District Two Watch Commander's office to one of the District Two vehicles.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/18/94

David Craig Livingstone, Director of White House Personnel Security, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW in the presence of his attorney, Paige E. Reffe. Also present during this interview was Associate Special Counsel Carl Stitch. Mr. Livingstone was advised as to the official identities of the interviewing agents and Mr. Stitch and of the nature of the interview. He then provided the following information:

He has held his present position at The White House since February, 1993. He first met Vincent Foster, Jr. when he (Livingstone) came to work at The White House and he therefore knew Foster for only five months prior to his death. His contacts with Foster were sporadic and brief. He seldom had occasion to talk with Foster and when he did their relationship was professional rather than social. He noticed no change, either emotional or physical, in Foster during the time he knew him before his death. He described Foster as professional, soft spoken, intelligent and controlled. He last saw Foster in a White House west wing hallway on July 20, 1993, the day of his death. They exchanged greetings as they passed.

In July, 1993 his (Livingstone) office was, as it is now, in the Old Executive Office Building. Bill Kennedy was his immediate superior at that time with Kennedy reporting directly to Vincent Foster. He recalls that period as being an extremely busy time with people in The White House being under considerable stress. In that regard, approximately one week prior to Foster's death, he (Livingstone) went to Foster expressing concern about the welfare of Bill Kennedy in that he was working very long hours, was under pressure, and seemed tired. Foster said to him "he's going to be fine and we're all going to be o.k.". Prior to Foster saying this, Livingstone had related to him comments by Bill Kennedy concerning their large workload, the stress of the job, and their need for more employees.

Craig Livingstone said that he can recall nothing unusual or significant about July 19, 1993. He said that July

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Investigation on 5/12/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SAs WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 5/17/94

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20, however, was a very eventful and, in some ways, tragic day that he remembers well. He explained that members of The White House staff had been very busy with events leading up to the President naming Louis Freeh to be the new FBI Director on that day and with plans for the President to appear on the Cable News Network, Larry King Show that night starting at 9:00 pm. Livingstone had arrived at The White House early that morning and left at approximately 8:15 pm after watching the CNN crew prepare The White House library for the President's interview with Larry King.

He arrived home at approximately 9:00 pm and received an electronic page as he was about to enter his residence. He contacted the indicated telephone number and spoke with United States Secret Service (USSS) Inspector Dennis Martin, who told him "I have bad news-Vincent Foster has apparently killed himself." Livingstone said that he believes Martin told him that he had been advised of the death by the United States Park Police (USPP) and was advising Livingstone because of his position as Director of White House personnel security. Inspector Martin said that he had also notified another White House staffer, David Watkins.

After his conversation with Martin he noticed that it was approximately 9:05 - 9:10 pm, and realized that the President was, at that time, involved with his live television interview. Livingstone, not wanting Bill Clinton to be advised of the death of his friend Foster while on live television, immediately tried to contact Mark Gearan at The White House. Gearan said that he was aware of Foster's death and that he was with the President and would advise him when the opportunity presented itself. He (Livingstone) offered his assistance and offered to go to Fairfax Hospital where Inspector Martin had told him the body was to be taken. Gearan said that another White House staffer, Bill Burton was going to the hospital to identify the body. Later in their conversation, however, Gearan requested that Livingstone proceed to the hospital to identify the body. Before this conversation was over, Livingstone had also spoken with White House Chief of Staff Mac McLarty. McLarty was also aware of the death prior to Livingstone's call but neither he nor Gearan advised how they had learned of Foster's death. Livingstone said that he, at that point, thought of notifying his superior, Bill Kennedy and remembered that Kennedy was a family friend of Foster's. When he notified Kennedy he "seemed genuinely shocked and grief stricken". Kennedy insisted on going to the hospital with

Livingstone. They agreed to meet there at 10:00 pm.

Once arriving at the hospital, it took approximately 30-40 minutes before they were allowed to see and identify Foster's body. During that period, Livingstone met with a police officer at the hospital and recommended that any news media calls coming to the hospital regarding Foster's death should be referred to The White House press office. He (Livingstone) contacted USSS Inspector Martin asking that he call the USPP to get authority for he and Kennedy to view the body for identification. Also during their wait, Livingstone and Kennedy made several calls to The White House where they talked with Mac McLarty, Bernard Nussbaum, Mark Gearan, and Dee Dee Myers. By that time they had seen the body and confirmed that it was indeed Foster. They were therefore able to advise those at The White House of their identification. They were told that Webb Hubbell had gone to the Foster residence and was with Mrs. Foster. During one of these conversations, at approximately 10:45 - 11:00 pm, Bernard Nussbaum asked him if a note had been found at the death scene. He advised Nussbaum that the police officer they had conferred with had said no note had been found.

He and Bill Kennedy left the hospital in his car and went to Kennedy's home. Once there, they met with Mrs. Kennedy and all went to the Foster's residence in Bill Kennedy's family car arriving at approximately midnight. Upon arrival, they saw Webb Hubbell, David Watkins, and others on the sidewalk in front of the Foster's residence engaged in conversation. Part of this conversation concerned the fact that a suicide note had yet to be found. He does not recall anybody mentioning that they or any other White House staffers had been in Foster's office that evening after learning of his death. There were many people at the Foster's residence that night, including President Clinton. Livingstone, having assisted with news media matters during the 1992 Presidential campaign, had during conversations at the Foster residence, offered to help with anticipated news media inquiries the next day.

He left the Foster residence at approximately 2:00 am, went to the Kennedy residence, got his car, and drove Bill Kennedy back to the hospital where Kennedy picked up his car he had left there earlier. Livingstone then went home arriving at approximately 2:30 am on July 21 and went to bed.

He awakened at approximately 5:00 am and drove to the

Foster residence arriving at approximately 5:30 as had been agreed during his discussion with White House staffers the night before. By coming there early he hoped to assure that any members of the media who were present gave appropriate understanding and consideration to the Foster family. He said that there were only "a few press types" there and that he left the Foster residence at approximately 7-7:30 am to go to The White House. He does not believe any member of the Foster family or any of their friends saw him at the Foster residence between the hours of 5:30 and 7:30 am. He also said that he cannot recall the names of any individual reporters at the scene that morning and can also not recall the names of any news media organizations represented there.

Upon arriving at The White House at 7-7:30 am, he either went to his office or to the Nussbaum/Foster suite of offices. He explained that his memory was not clear on this point but that he recalled going to the counsel suite at one point during the morning and seeing Betsy Pond and Linda Tripp there when he arrived. He said that he did not go into Vincent Foster's office that morning nor did he go into Maggie Williams office that morning. He went on to say that he has never been in Maggie Williams office.

At this point of the interview, Mr. Livingstone was specifically asked if he and/or another man with him carried a briefcase and a box out of the west wing of The White House on the morning of July 21, 1993 at approximately 6:30 - 6:45 am. He said that he "may have" removed something that morning. He then said that he does recall moving boxes "around that time period" and he "may have moved something that morning" but he "does not remember moving any boxes or a briefcase out of the west wing that morning". When advised that his statements appeared to be somewhat contradictory and not a direct answer to the question, Livingstone said that he was having trouble remembering exactly what he did that morning. He went on to say that he recalled talking to Bill Kennedy and Bernard Nussbaum on the evening of July 20, 1993 about the need to seal Foster's office but that he does not recall anyone asking him to remove anything from that office. He said he did not go into The White House Counsel's suite on 7/21/93 "with the specific intent of taking stuff out." When asked exactly what offices he went into on the morning of July 21, he said that he went to the "press office" and then went to the counsel office. Livingstone never said that he did not take or assist in taking boxes and a briefcase out of the west

wing during the early morning hours of July 21. Rather, he reiterated that he could not remember having done this. When told that information in the possession of the Special Counsel's investigative staff indicated that he was seen removing a box and briefcase that morning, he offered that there are others employed at The White House who look like him.

The following descriptive data was obtained through observation and interview:

Name:	David Craig Livingstone
Employment:	Director of White House Personnel Security, The White House, Washington, D.C.
Residence:	6717 Hillandale Road Chevy Chase, Maryland
Social Security Account Number:	FOIA(b)(6) FOIA(b)(7) - (C)
Date of Birth:	
Place of Birth:	
Height:	5 feet, 11 inches
Weight:	250 pounds
Hair:	Brown
Eyes:	Blue
Telephone Number:	301-654-5478 (home) 202-456-2343 (work)
Attorney:	Paige E. Reffe The Law Firm of Cutler and Stanfield 700 14th Street NW Washington, D.C. 202-624-8400

)-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

DAVID CRAIG LIVINGSTONE, Security, The White House, Washington, D.C., telephone (202) 456-2345 (work) and (301) 654-5478 (home) was interviewed in Office of the Independent Counsel, Washington, D.C. MARK STEIN Assistant to Independent Counsel ROBERT B. FISKE, JR. assisted with the interview. Also present during the interview was DAVID S. COHEN, attorney for LIVINGSTONE from the law firm MILLER, CASSIDY, LARROCA and LEWIN, 2555 M Street, NW, Washington, D.C. 20037, telephone (202) 833-6503. Mr. LIVINGSTONE was advised of the identity of the interviewing agent and Mr. STEIN and of the purpose of the interview. LIVINGSTONE provided the following information:

He has spoken several times with Inspector DENNIS MARTIN, Uniform Division, U.S. Secret Service (USSS), formerly assigned to The White House, Washington, D.C., about various officers of the Uniform Division. LIVINGSTONE stated he would discuss their attitude and/or "something they said" with MARTIN. LIVINGSTONE said it was his job to receive and handle complaints regarding White House staff who may have been "out of line" in their dealings with the Uniform Division of the USSS and vice versa report any instances of any discourteous or inappropriate conduct by Uniform Division personnel in dealing with White House staff. When a complaint was made against a White House staffer, LIVINGSTONE would take appropriate action. He assumed Inspector MARTIN did the same when an indescretion of one of the Uniform Division officers was reported to him. LIVINGSTONE stated he was trying to encourage and support an "amicable" relationship between The White House staff and the Uniform Division of the USSS. LIVINGSTONE would work with Inspector MARTIN on these situations. As an example of the type of problems he would deal with, LIVINGSTONE cited the situation early in the administration where MACK MCLARTY, the Chief of Staff at The White House was having "gate problems" wherein he was being delayed at the gate by Secret Service personnel for screening purposes. LIVINGSTONE at the time met with MARTIN to advise him that search of MCLARTY's car etc. was not necessary as he was Chief of Staff at The White House. LIVINGSTONE advised that as a result of his contact the situation was rectified.

Investigation on 7/12/94 at Washington, D.C. File # 29D-LR-35063

by SA WILLIAM T. GUYTON Date dictated 7/12/94

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At this point in the interview, LIVINGSTONE was shown ten pictures of Uniform Division USSS personnel in an effort to identify any individuals that may have been involved previously with LIVINGSTONE in a dispute or grievance. The original photographs shown to LIVINGSTONE were provided by USSS agent TOM FARRELL, telephone (202) 456-2443. FARRELL has requested that these original photographs be returned to him at The White House. As a record of the photographs shown xerox copies of these photographs are attached to this FD-302. The first copy of the photographs depicts the condition in which the photographs were shown to LIVINGSTONE with the names of the individuals deleted. The second copy of the ten photographs depict the photographs with the names of the individuals.

The photographs were spread on the table in front of LIVINGSTONE and his attorney in the order shown on the xerox copy. LIVINGSTONE, after reviewing each photograph noted that he was familiar with the individuals shown as numbers five and nine and possibly ten, but LIVINGSTONE was not positive about number ten. These three individuals were JOHN S. SKYLES (number five), JOHN D. CORUM (number nine) and BRUCE E. ABBOTT (number ten).

LIVINGSTONE said he didn't know any of their names. LIVINGSTONE also said he had "no trouble with any" of these individuals. He said what he remembered about number five (JOHN SKYLES) was that he may have had a complaint with a White House staffer. He also remembered that this individual worked at the west gate of The White House. He said he recognized number nine (JOHN CORUM) as being someone who had done "rotation" and he had "seen him around". He said he could not remember where he had seen number ten (BRUCE ABBOTT) and may be confusing him with someone else. LIVINGSTONE had no other information or comments regarding any of the individuals shown.

In an effort to assist him with his recall of events in July, 1993, LIVINGSTONE stated he has asked the USSS to check their entry records for his comings and goings at the time of VINCENT FOSTER's death. LIVINGSTONE's attorney advised it was his understanding that the FBI had these entry records.

At this point in the interview, MARK STEIN began his questioning of LIVINGSTONE.

LIVINGSTONE did not remember who he asked to type his chronology dated July 21, 1993 (captioned "REPORT FROM CRAIG

LIVINGSTONE"). He said there were possibilities in and out of his office at The White House. He said it was most likely the report had been done in The White House complex. LIVINGSTONE said he was "fairly sure" he had asked someone's secretary to type the document. He was sure he didn't ask someone senior to assist him with this typing.

LIVINGSTONE was asked to identify potential people or places where the chronology could have been typed, and he answered as follows:

Old Executive Office Building

Counsel's office room 136 (2 secretaries)

LIVINGSTONE's office room 84 (2 or 3 staff and 2 or 3 interns) LIVINGSTONE advised these names have previously been supplied to the Office of the Independent Counsel

DAVID WATKINS office located in the basement of the west wing of The White House--now HAROLD ICKES office. LIVINGSTONE said this was a possibility but not likely

West Wing of The White House

Counsel's office 2nd floor of the west wing (assistants in the reception area)
Communications office (2 or 3 assistants)

LIVINGSTONE was asked who he had asked to do computer reviews in an effort to find the chronology. LIVINGSTONE advised he had requested STEVEN WAUBDY (extension 6229) room 136 OEOB and his staff MARI ANDERSON and LISA WETZEL. He said his office had gotten new computers two or three months ago but that ANDERSON had told him that all information from the previous machines had been downloaded to the new equipment. When asked why they had gotten new equipment, he said they had gotten "better equipment". LIVINGSTONE has also asked BETSY POND to review her computer files and had hoped to ask LINDA TRIPP to do the same but has not yet gotten in contact with her. In the communications office he has asked DAVE LEVY (DEE DEE MYERS assistant) and CHAD GRIFFIN (GEARAN's assistant) to look for the document.

LIVINGSTONE said that he himself is not computer literate and that he has "never produced" a computer document during his tenure at The White House.

LIVINGSTONE said he was "running around" on July 21, 1993 and that's the reason he can't remember who typed the document for him. He is sure that he hand wrote the document and gave it to someone to be typed. He said it would have been done sometime after the morning meeting with U.S. Park Police (USPP) Chief LANGSTON and before the end of the day on July 21, 1993. He said based on his notes in the chronology, the meeting with LANGSTON occurred at 11 am but that it may have been earlier.

LIVINGSTONE was asked if he remembered a hallway contact on July 21, 1993 with the USPP and/or a Sergeant MARKLAND from the Park Police. He first answered no to this question and then remembered talking to someone from the Park Police regarding a question concerning carrying a box of documents from FOSTER's office. He remembered being asked this but then didn't hear any more about it. At the time he "laughed it off", thought it was "ridiculous" and "absurd". He said he had made it clear to the questioner that the question was "absurd" but had clearly answered "no" regarding carrying a box from The White House. LIVINGSTONE said he didn't take the question seriously at the time.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

JAMES M. LYONS, ROTHGERBER APPEL POWERS and JOHNSON, Attorneys at Law, 1200 17th Street, Denver, Colorado, telephone 303-623-9000 was interviewed telephonically on June 27, 1994. Having been advised of the identity of the interviewing agent from a previous interview with the same agent on May 12, 1994 and being advised of the nature and purpose of the telephonic interview, LYONS provided the following information:

Asked whether he had ever discussed Whitewater or Madison Guaranty Savings and Loan with VINCENT FOSTER, Jr.'s, LYONS said that he was sure that they had discussed Whitewater at some time. He explained that he had prepared a report (known as the LYONS report) concerning Whitewater during the Presidential campaign. That was the time period when he remembered some discussion with FOSTER about Whitewater although he had no specific recollection of specific conversation. He advised that the last time they spoke about it was in the context of FOSTER's preparing corporate tax returns which included statements on the Whitewater properties. Nothing was ever discussed about Madison Guaranty Savings and Loan.

FOSTER wanted to wrap and conclude the CLINTONs' interest in Whitewater Development Corporation and there were loose ends to attend to with regard to JAMES MCDOUGAL because he had the physical records pertaining to the company. It was not, however, a burning issue or one that presented the possibility of a scandal as evidenced by the fact that FOSTER took approximately six months to get around to tying up these administrative matters and getting to MCDOUGAL for his signature on the tax return.

LYONS advised that he had no discussions whatsoever with VINCE FOSTER about Whitewater after approximately March, 1993, because that marked the end of the first quarter of 1993 when the forms were due. LYONS further advised that he never had any discussion with VINCE FOSTER indicating that FOSTER was concerned about Whitewater or that he was concerned that there was any other scandal related to Whitewater that he needed to keep a lid on or otherwise protect the CLINTONs from.

(telephonically)

.vestigation on 6/27/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/28/94

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1410

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/23/94

On May 12, 1994, JAMES M. LYONS, 4880 South Fairfax Street, Littleton, Colorado 80121, telephone (303) 721-9813, was interviewed in Washington, D.C. where he had come for a business trip. LYONS advised that he is an attorney with the law firm of ROSSBERGER, APPEL, POWERS, and JOHNSON, 1 Tabor Center, Suite 3000, 1200 17th Street, Denver, Colorado 80202, telephone (303) 623-9000. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, LYONS provided the following information:

LYONS advised that he met FOSTER sometime in 1987 through HILLARY RODHAM CLINTON and then Governor CLINTON. At the time FOSTER was Senior Litigator with the Rose Law Firm in Little Rock, Arkansas. LYONS' own background was that from July 1992 to November 1992, he was Counsel to the CLINTON-GORE Presidential Transition Planning Foundation; and from November 1992 to February 1993, LYONS worked for WARREN CHRISTOPHER, who was Counsel to the Office of the President elect. LYONS explained that there were two or three attorneys working in a legal function for CHRISTOPHER and he was one of those. At the time FOSTER was winding up his legal practice in preparation for coming to Washington, D.C.

LYONS characterized his relationship with FOSTER as primarily a personal one although they worked together frequently on various legal matters. LYONS had had occasion to be in Little Rock on a temporary basis, although for many weeks at a time and he came to be quite good friends with FOSTER and the FOSTER family. They had much in common, they were the same age, they were both attorneys, they both had children, and shared a lot of interests and concerns. They enjoyed each other's company very much.

LYONS advised that he travels to Washington, D.C. quite frequently and saw FOSTER every few weeks. He had noticed that FOSTER had had a weight loss after he came to Washington. He characterized FOSTER as a very hard worker and LYONS believed that it was stress induced weight loss. He noted that FOSTER did

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not normally carry a lot of weight and so any small loss was relatively noticeable.

LYONS said that it seemed that the press had been particularly vicious in their attacks on the members of the Rose Law Firm individually. The Wall Street Journal, in particular, had begun a series of articles, first criticizing WEBB HUBBELL and then FOSTER himself, particularly with regard to the Health Care Task Force. The task force was sued on the issue of whether or not their proceedings should operate openly or behind closed doors. FOSTER won a victory for the Task Force (and by association, for HILLARY RODHAM CLINTON) on that matter and the Wall Street Journal accused him of "sharp tactics". LYONS advised that that allegation really bothered FOSTER.

FOSTER called the LYONS Wednesday or Thursday the week before his death. LYONS returned his call and FOSTER asked him if LYONS would be available to come to Washington on short notice. LYONS asked FOSTER, "what does short notice mean? Do you need me to come today?" FOSTER said, "No. I just needed to know you could come on short notice." FOSTER was evidentially anticipating a legal attack in connection with the Travelgate scandal.

FOSTER again called LYONS the Sunday night before his death after FOSTER and his wife LISA had returned from their weekend. FOSTER told LYONS about the weekend. He said he had had a great a weekend and agreed that he ought to do it more often. They confirmed that LYONS was coming to Washington, D.C. the following Wednesday, July 21, 1993.

LYONS was coming to D.C. for other business also, but one of the primary reasons for coming was to meet with FOSTER with regard to representing FOSTER as a personal attorney on Travelgate matters. LYONS advised that FOSTER was anticipating further investigation on the Travelgate issue and he was considering asking LYONS to be his personal attorney. LYONS advised that he had read Chief of Staff, MAC MCLARTY's report on the Travelgate matter and felt that the report pretty well put the matter to rest. FOSTER didn't think so and he told LYONS that, "I'd like you to take a look at it." For this reason LYONS read the report again in order to give FOSTER his perspective on it. LYONS said that he felt it possible that FOSTER knew he needed a perspective other than his own, but it was unclear whether that was just his professional common sense or whether he

sensed he was losing perspective himself

LYONS felt that FOSTER believed that the allegation that BILL KENNEDY acted inappropriately when he called DOJ or the FBI directly when he first uncovered and feared financial improprieties in The White House Travel Office was unfair. There was a question whether KENNEDY should have gone through a different chain-of-command. There was a question whether the FBI agents, allegedly sensitive to the argument that they had made a mistake in responding to KENNEDY's call, had reason to mischaracterize the nature of their initial meetings at The White House. LYONS advised that the Department of Justice has also interviewed him with regard to possible OPR infractions. Essentially, the FBI Special Agent's account of those initial conversations differs from KENNEDY's account and when FOSTER had a choice between believing his friend or believing the FBI, he believed KENNEDY. That is what LYONS believes lies at the core of the notation in FOSTER's list of things that were bothering him where he says that the FBI lied.

FOSTER was clearly distressed about the "Travelgate" matter. He felt that he and KENNEDY had become, essentially, witnesses with regard to Travelgate and that The White House would need counsel to deal with the matter who weren't in that category. He felt strongly that The White House should hire outside counsel to be handling the Travelgate matter for this reason. He also believed that he would be needing a personal attorney to represent him in the matter.

After FOSTER's death, LYONS found out that FOSTER had also talked to JAMES HAMILTON, an attorney in Georgetown, Washington, D.C. who also represented his family and also to SUSAN THOMASES of the New York firm WILKEY, FARR and GALLAGHER (phonetic) as possible attorneys to represent him in the Travelgate matter.

LYONS advised that during the telephone conversation on Sunday, July 18, 1993, they confirmed that LYONS was coming to Washington, D.C. on the following Wednesday and they would get together. It was anticipated that they would leave The White House and discuss the matter of private representation and also have dinner together. LYONS had insisted on not doing the interview in The White House. He called FOSTER again on July 20 late in the morning. He was simply calling to confirm when he was coming in and final arrangements for meeting. He thinks he

possibly saw FOSTER on CNN, during the report of The Rose Garden Ceremony of appointing LOUIS FREEH to be Director of the FBI, but he is not certain. FOSTER was not available to take his call.

BRUCE LINDSEY's office called him later that night about 7:00 pm Denver time (9:00 pm D.C. time) to tell him of FOSTER's apparent suicide. LYONS said that he was terribly shocked at the news of FOSTER's death but has subsequently come to terms with the fact that it seems to be in the nature of the disease of depression that these things sometimes happen, very quickly and without much warning. LYONS' wife is a psychiatric nurse and they have discussed depression a good deal as a result of FOSTER's death. He is currently of the opinion that FOSTER probably suffered from chronic untreated depression.

LYONS observed that the West Wing of The White House was an absolutely terrible place to work, with a great deal of intense pressure and public criticism. FOSTER was accustomed to being in control. He was the most well respected litigator in his firm in Little Rock. By contrast, in Washington, D.C. he was being pounded away at every day and was coping with an environment where he lacked control.

FOSTER believed that private sector attorneys should be handling many of the matters they were handling, both for ethical and workload reasons. The CLINTON Administration had called for a 25 percent cut. Under the BUSH Administration the Counsel's office had 18 to 20 lawyers at its peak and when CLINTON took office there were only 6 or 7. There were many discussions about the composition and the character of the associates in the Counsel's office and everybody was spread incredibly thin.

LYONS was not aware of any matter which caused FOSTER to be working very closely with PATSY THOMASSON or MAGGIE WILLIAMS.

It is LYONS' opinion that FOSTER had a very strong and very stable marriage with LISA FOSTER. He does not know who FOSTER may have regarded as a confidant but he would guess that it was LISA FOSTER. LYONS further advised that rumors of an affair between FOSTER and HILLARY CLINTON had no basis in fact. He speculated that the rumors were fueled by the fact that they traveled together as attorneys must sometimes. FOSTER never discussed the rumors with LYONS. There did not appear to be a need to do so because they both understood that such tawdry

rumors were just an unfortunate effect of professionals, men and women, working and traveling together.

LYONS also could not provide any information with regard to the handling of FOSTER's papers in his office following his death.

In closing, LYONS said that he never saw any indication whatsoever of "unbalance" in FOSTER. They had spent a lot of time together in Little Rock and had much in common. They shared similar wedding anniversaries and had talked about going together on a joint trip to celebrate those anniversaries. LYONS had seen no evidence of depression or psychiatric imbalance. He described FOSTER as very self-possessed and concluded that FOSTER had apparently been so good at appearing to cope with life that nobody noticed that he was ill.

As part of the interview, LYONS provided the following personal information:

Name:	JAMES M. LYONS
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security No.:	
Residence/Address:	4880 South Fairfax Street Littleton, Colorado 80121
Residence Telephone:	303-721-9813
Position:	Attorney at Law ROSSBERGER, APPEL, POWERS AND JOHNSON One Tabor Center, Suite 3000 1200 17th Street Denver Colorado 303-623-9000

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

30186402.HAS

JAMES M. LYONS, Attorney at Law, 1200 17th Street, Suite 3000, Denver, Colorado was telephonically contacted by writer in order to clarify some issues regarding the so-called LYONS report which appeared in the production of documents made by The White House. Being acquainted with the identity of the interviewing agent, LYONS provided the following information:

The purpose of the interview was to clarify the nature of three documents which had been found in VINCE FOSTER's office which are identical to exhibits number 10, 10A and 10B produced by The White House to the Office of the Independent Counsel on June 12, 1994. These three exhibits were described in detail by the writer to LYONS telephonically. LYONS advised that exhibit 10 (dek 004327) and 10A (dek 004329) comprised what is commonly known as "the LYONS report" as released to the public. Missing from what is in the current possession of the OIC from this report are two pages of sheets with financial data on them. One page is a balance sheet and the other is a statement of relative contributions. These missing sheets are in the possession of OIC but can be found in exhibit 10B (the first and third page of that exhibit with the three pages of financial data).

LYONS explained that exhibit 10B (dek 004332) is not a draft. It is a longer and more detailed version of the published LYONS report. It was issued the same day as the shorter version. It has more information in it than the LYONS report. For example, it talks about a $9,000 contribution made by the CLINTONs to Whitewater which CLINTON characterized as an interest payment. LYONS could not find supporting documentation for that characterization but he advised that the actual characterization of the money did not matter inasmuch as the aim of the report was simply to determine the total monies contributed. It also has an additional page (the second page of exhibit 10B's 3 page exhibit of financial data).

LYONS advised that he produced the longer report to include those items that did not have to be released to the public.

(telephonically)

Investigation on 6/29/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/29/94

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LYONS advised that VINCE FOSTER, Jr. asked for and got both the shorter published LYONS report and the longer unpublished report in order to help him have the information he needed in order to file the CLINTONs' tax returns for Whitewater for '89, '90 and '91. VINCE never asked for or was given drafts of the LYONS report.

LYONS advised that there were a series of drafts which had been produced for the Office of the Independent Counsel based on subpoenas delivered to DONALD KAY and LYONS himself back in February, 1994. He advised that he was aware of one of the draft reports having been leaked to the press some time within the last month. He has no idea how or who leaked the draft to the press.

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 8/24/94

JAMES LAWRENCE MACDONALD, JR., Director of Information Systems and Technology for the Office of Administration of the Executive Office of the President was interviewed in his office in the New Executive Office Building. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, MACDONALD provided the following information:

MACDONALD advised that he has worked at The White House since August of 1991 and was then Assistant Information Resource Management Director. He was Co-Director at the Department as of July 1993 and has held the current position as Director since September 1993.

MACDONALD advised that he remembers hearing of VINCE FOSTER, JR.'s death. He did not know him and had no direct personal or professional involvement in the events surrounding FOSTER's death at the time that it occurred, except that on July 21, 1993, the day after VINCE FOSTER's death, MACDONALD called BRUCE OVERTON in the Office of Administration Counsel's Office and suggested that a back-up should be made of anything on VINCE FOSTER's computer if he had one. MACDONALD believes that OVERTON called The White House Counsel to make such an offer but MACDONALD's office never got a return call asking them to do anything. This was not unusual.

Months later, at the request of The White House Counsel's office in May or early June of 1994, current White House Counsel LLOYD CUTLER's office called the Office of Administration General Counsel CHRIS CERF, phone number 395-6963, in order to request that a study be conducted of any and all aspects of VINCE FOSTER's use or access to computers.

MACDONALD explained that he was an auditor for years and so he tackled the task with a great deal of thoroughness and experience. He tracked every single personal computer (hereinafter PC) that VINCE FOSTER may have had access to in order to track every computer he may have used and where those computers ended up. He determined that there was no E-mail

activity on the computer in VINCE FOSTER's office and, in fact, there were unopened messages on the computer indicating that FOSTER, in fact, never used his computer.

MACDONALD advised that as a general rule, if computers need to be moved, MACDONALD's department does the work. It happens occasionally that people move their own computers although they should not. MACDONALD's office periodically does physical audits of what equipment is located where and who is using it. This is done on an annual basis as a courtesy to The White House. There are six computers in The White House Counsel's office.

MACDONALD advised that Help Desk activity (the problem resolution tracking system referred to as CZAR) showed that in October 1993, DEBORAH GORHAM called the Help Desk and asked that someone come by and make back-up tapes from the hard drive in her computer. An individual in MACDONALD's office named PAULA SHERRY completed the service request and reported in her notes that GORHAM had mentioned that the PC hard drive she was making tapes of had been utilized for VINCE FOSTER's work.

The only "anomaly" that MACDONALD observed in the course of his study of VINCE FOSTER's use of electronic data was a disruption in accounting for the chain of custody of the machine in his office. He explained that in the final weeks of the BUSH Administration, all the hard drives in the Counsel's office had been removed from the machines in order to turn them over to the FBI in connection with a criminal investigation that they were conducting. At that time a fresh hard drive was inserted into all computers and a log of custody was begun. The log for the machine in VINCE FOSTER's office shows that in February 1993 there was a request to MACDONALD's office to install E-mail onto VINCE FOSTER's personal computer. MACDONALD recalls that his service person found the computer buried with paper, obviously not in constant use and connected the E-mail. There is no electronic record of VINCE FOSTER ever using his E-mail or his computer.

There then occurred what MACDONALD characterized loosely as a break in custody when the PC was found later on the floor outside TOM CASTELTON's office in the Old Executive Office Building. The machine was not being used and the break in custody arises from the fact that there is no record of who disconnected the machine from FOSTER's office and moved into the

Old Executive Office Building. MACDONALD speculated that it could have been done by one of the contractors used by his office who for some reason neglected to do the paperwork showing the service. MACDONALD said that this breakdown of the system bothered him a little bit, but he conceded that it frequently happens. He advised that it would have been possible to tamper with the machine during this period. Someone could have switched hard drives. It would also be very easy to erase all data on the hard drive and there would be no way to know that had happened. He said that TOM CASTELTON eventually inherited that machine some time in November 1993, and that the hard drive broke a couple months later (possibly January) and was scrapped.

Everything that MACDONALD picked up in the course of his study indicates that DEBORAH GORHAM did all of VINCE FOSTER's work on her computer in the Counsel's office. In November of 1993, GORHAM was evidently leaving government employ and, according to appropriate procedures, cassettes were made of all the work on her computer. Two sets were made. One was for DEBORAH GORHAM herself. The White House kept the other set. MACDONALD verified that both tapes representing The White House's copies are still being maintained in a locked cabinet. MACDONALD further advised that just a couple of months ago, The White House Counsel asked for hard copies of the taped backup which produced hard copies of all the directories. Subsequent to that certain letters were requested from those directories. As far as MACDONALD knows, the hard drive that DEBORAH GORHAM used to do VINCE FOSTER's work is still in place in the Counsel's office. Any files in existence on the hard drive which had been deleted are currently still there but are being written over as the hard drive is used.

MACDONALD advised that he saw nothing in the course of doing his study that indicated any activity showing unusual requests for deleting documents or retrieving deleted documents or any other kind of activity that might be the least bit irregular. There are also no other relevant Help Desk records.

MACDONALD advised that should the Office of the Independent Counsel wish to get a copy of the study that he conducted for LLOYD CUTLER's office, he said that it could be described as a white binder of service activities created by the Office of Administration for The White House Counsel regarding computer equipment used by VINCE FOSTER and associated counsel in the 2nd floor of the West Wing. It was created approximately May

or June 1994. MACDONALD further advised that it is a compilation of service records. There is no explanatory summary that accompanies those documents. Requests for the contents of the white binder should be made to the Office of Administration General Counsel, CHRIS CERF.

MACDONALD advised that he knows CRAIG LIVINGSTONE professionally and has had only limited contact with him on the subject of building passes.

As part of the interview MACDONALD provided the following personal information:

Name:	JAMES LAWRENCE MACDONALD
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Home Address:	10262 Eagle Nest Court Fairfax, Virginia
Residence Telephone:	703-239-1540
Work Telephone:	202-395-7323
Position:	Director of Information Systems and Technology for The Office of Administration of The Executive Office of The President

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/6/94

MARLENE A. MACDONALD, Staff Assistant for the Counsel to the President, (see below for address and telephone information) was interviewed at the Office of Independent Counsel in Washington D.C. where she arrived for a prearranged appointment. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, MACDONALD provided the following information:

MACDONALD was a volunteer in the Office of the Counsel to the President beginning the third week in June 1993. She worked in the office space with the BERNARD NUSSBAUM, VINCE FOSTER JR, Executive Assistants BETSY POND, LINDA TRIPP, and DEBORAH GORHAM, and Special Assistant TOM CASTLETON. As of July 20, 1993 she was volunteering her time on Mondays, Wednesdays, and Fridays doing some drafting and typing of letters for NUSSBAUM (never for FOSTER), answering phones, and occasionally some minor task, such as photocopying, for FOSTER. GORHAM did everything for FOSTER.

MACDONALD only knew FOSTER for a month, and explained that he never warmed up to her. She advised that he never acknowledged her presence, much less was friendly or warm. In his defense, she said that he did not appear to be a very outgoing person even with other people. But she was nonetheless hurt and insulted by his behavior towards her. The stories she heard about FOSTER after his death did not comport with the man she had known.

She also remarked that he appeared extremely skinny to her. POND and TRIPP commented that he had lost weight. MACDONALD could not understand it, because he ate a lot of cheeseburgers and liked M&Ms. MACDONALD believed that you have to order onions on the cheeseburgers in the White House mess if you want them. She did not know if FOSTER liked them or not.

The Friday before his death, FOSTER left early because he was going away for the weekend. He was asked where he was going, and he answered, "Wherever my wife takes me." MACDONALD

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got the impression that he had wanted to work that Saturday, but that his wife had insisted they go away.

Because of her work schedule, MACDONALD was not at work on Tuesday, July 20, 1993. At 8:00am on the morning of 7/21/93, POND called her and notified her of FOSTER's death. POND asked her to come in early to help with the phone calls, so MACDONALD arrived at work at 9:00am. GORHAM, CASTLETON, POND, and TRIPP were there. The door to the entire suite was closed, as was the door to FOSTER's office. The entire day's events are fuzzy. She recalled that FOSTER's office was sealed later in the morning. President CLINTON came by. A Secret Service guard (in a suit, not a uniform) who was guarding the door to FOSTER's office pumped her for information about what she knew about what might have happened. She said she did not know anything, but was alarmed by his questions and complained to a secretary in an adjoining office named Pan Ronet (phonetic).

Because of the unusual situation, MACDONALD worked Thursday that week. She does not remember anybody going into FOSTER's office, except on Thursday, when NUSSBAUM went in with nine other men. It struck her as "crazy" for all those men to be crammed in such a small office. She does not recall anything having been moved in FOSTER's office on Wednesday, the 21st except POND said she'd straightened some papers out of habit.

On Friday, July 23, 1993 CASTLETON and MACDONALD were the only two in the office, the rest having gone to FOSTER's funeral in Little Rock. A secretary from Correspondence (a "career person" who had been at the White House for years) sat in with them and helped them with phone calls. FOSTER's office remained closed and she did not see anybody go into it.

On Monday, July 26, 1993, approximately 8-8:30pm she recalls that NUSSBAUM, NEUWIRTH, and CLIFF SLOAN were in NUSSBAUM's office. MACDONALD and TRIPP were the only support staff still there. The atmosphere was tense. One could tell that they had something--the air was tense. At one point they wanted to use the typewriter, which was in TRIPP's desk area, and she said to them "So there's no record on the computer?!" MACDONALD advised that in her opinion, TRIPP was not joking with them. After that, they had her type it on her computer. MACDONALD does not know what it was, maybe a press release. She advised that it was not the text of the torn up note they'd found in the briefcase.

Finally, MACDONNALD does not know what FOSTER was working on when he died. She also does not recall seeing MARSHA SCOTT anytime in the office right before or following his death.

MACDONALD provided the following personal information about herself:

Name: MARLENE A. MACDONALD
DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SS#:
Address: 1255 New Hampshire Avenue N.W., #308, Washington D.C. 20036
Telephone: (202) 785-4401 Home, (202) 456-2632 Work

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/12/94

Michelle DeAnne Macon, Officer, Uniform Division (Special Operations section), United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Officer Macon was advised as to the identities of the interviewing agents and informed of the nature of the interview. She then provided the following information:

She has been employed by USSS for four and one half years and is currently responsible for leading both public and congressional tours through portions of The White House. She was performing the same duties on July 20, 1993 at the time of Vincent Foster, Jr.'s death. Her office is located at 1310 L Street NW, and her telephone number is 202-395-4418.

On July 20, 1993, she worked the 6:30 am - 2:30 pm shift at The White House giving tours. She stated that she can recall nothing unusual or out of the ordinary about July 20 except that they were very busy with tours on that day, since that is the peak tourist season in Washington, D.C. and at The White House.

On July 21, 1993, Officer Macon reported to work at approximately 6:15 am at which time she, watching a television news announcement just prior to USSS role call, became aware of Vincent Foster, Jr.'s death on July 20. She went to her regularly assigned post and began giving tours at approximately 7:30 am that day. At approximately 10:00 am that morning, she was approached by USSS Inspector Dennis Martin and another USSS official, perhaps Assistant Special Agent in Charge Paul Imbordino. They advised her that an investigation would shortly be underway concerning Foster's death and that a USSS post was being established outside Vincent Foster's office door. She was to be the first USSS uniform officer placed on that post. She and the two men immediately began walking towards the west wing of The White House while they continued to advise her regarding instructions. She was told that she was to see to it that no one went into Foster's office and that nothing was taken out of or put into Foster's office. It was her understanding that if a

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high ranking White House official insisted on going into Foster's office, she was to advise him that this was not allowed but was to also allow entry and to make a note of it. She assumed the new post outside Vincent Foster's door at approximately 10:10-10:15 am. She noted that she had never been to Vincent Foster's office before that time and has not been there since July 21, 1993.

Upon assuming this post Officer Macon made sure that the door to Foster's office was closed and stood in front of it. She was permanently relieved from this post at approximately 12 noon by USSS Officer Robert Popic. Officer Macon stated that shortly after she took her post, Bernard Nussbaum, Counsel to the President, approached the door to the office and told her he wished to go in. She advised him that no one was allowed in Foster's office at which time he told her that he understood that but that he simply wanted to get a photograph from the office to show to the President. Officer Macon opened the door and allowed Nussbaum in and went inside with him. She advised that Nussbaum was only inside Vincent Foster's office a matter of seconds in that he walked directly to the photograph as if he had seen it before and knew exactly where it was. She stated that while she cannot recall the exact location of the photograph, she believes that it was an unframed photograph measuring approximately five inches by seven inches that was sitting on either the bookshelf, table, or desk in the office. She observed Nussbaum pick up the photograph and turn and leave the office. She stated that Nussbaum did not bring anything into the office, did not leave anything in the office, and did not take anything else from the office other than the one photograph. After a brief time, both he and Officer Macon exited the office with her closing the door behind them. Nussbaum then went into his office and she reassumed her stance in front of Foster's door. Officer Macon stated that she believed that one of the secretary's in the reception area could probably tell that she felt uncomfortable with Nussbaum entering the office in that it was counter to the orders that she had been given. She advised that this secretary (name unknown) told her that the photograph taken by Nussbaum was a photograph of President Clinton and Vincent Foster when they were children. She advised that she had briefly seen the photograph and that it was of a group of people (possibly six-eight) that appeared to be perhaps school-age boys.

Officer Macon advised that shortly after Nussbaum obtained the photograph and went into his office the President of

The United States, Bill Clinton, entered the reception area outside Nussbaum and Foster's office. She stated that President Clinton made "small talk" with the secretary's present in the room and then went into Bernard Nussbaum's office and stayed approximately 5 to 10 minutes. She stated that she was aware that there were other people in Nussbaum's office with he and the President but she could not identify these people and can not recall any of the conversation that took place in the office. She said that at no time while the President was in the Nussbaum/Foster suite of offices did the President, Nussbaum, nor anyone else go into Foster's office.

Officer Macon said that after the President had been in Nussbaum's office approximately 5-10 minutes he left and shortly thereafter all of the employees in the Nussbaum/Foster suite of offices also left to go to what she understood was a hastily called White House staff meeting. She said that she overheard Mr. Nussbaum's secretary saying that he was going to a meeting on The White House west wing first floor although no further details were given.

Once relieved from this post in front of Vincent Foster's door, she returned to her regular duties of giving White House tours and ended her shift that day at 2:30 pm and went home.

Michelle Macon stated that she never knew Vincent Foster, Jr. either personally or professionally and to the best of her knowledge had never seen nor spoken to him prior to his death.

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"MAIL CLERKS"

4/29/94

On 2/28/94, writer, SSA H. Alexis Suggs, conducted inquiries at the White House regarding the mail pick-ups from VINCE FOSTER JR's office in the White House Counsel's Office in the West Wing of the White House. MANUEL ANTHONY MENDOZA, Manager, Customer Services, United States Postal Service Mail Section, and JAMES M. REAGAN, Assistant Superintendent, White House Mail Section (both individuals are U.S. Postal employees detailed to the White House) provided procedural information and a partial physical tour of the facilities.

On or about July 20, 1993 couriers, also called mail clerks, made their rounds of the Offices in the West Wing every 1 hour and 45 minutes. They used carts which separated internal White House mail from regular mail going to addresses outside the White House. The pace of their pickups is not condusive to scrutiny of individual pieces of mail. External mail is jumbled into huge baskets which, at the Mail Section in the Old Executive Office Building, are again sorted into White House return addresses (processed for franking and subsequent mailing) and personal pieces of mail which are already stamped. The latter are quickly separated and placed into the regular mail as a courtesy to employees.

The process and volume of mail is such that unless the individual couriers would happen to remember seeing FOSTER's mail at the time of pick-up and have occassion to remember it because of his later death, individual pieces of personal mail which FOSTER mailed prior to his death are untraceable.

The following White House Mail Clerks were interviewed on 4/28/94 at the Old Executive Office Building, White House Mail Section, The White House, Washington D.C. 20500-0049 by SSA H. Alexis Suggs and were unable to provide any information regarding three items of personal mail allegedly placed in VINCE FOSTER JR's outgoing mail in the Office of Cousel for the White House on July 19 or 20, 1993:

Name	Position and Work Schedule/Shift
ROBERT L. WILBON DOB POB SS# FOIA(b)(6) FOIA(b)(7) - (C)	Supervisor, West Wing Messenger Service, 11AM - 8PM shift M-F
JACKIE D. LAWSON	Mail Clerk, 7:30AM - 4PM shift M-F

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HELEN N. STUDGEON — Lead Mail Clerk, 11AM - 7:30PM M-F

DOB
POB
SS#

FOIA(b)(6)
FOIA(b)(7) - (C)

BARBARA E. SWANN — Mail Clerk, 10:30AM - 7PM, M-F

DOB
POB
SS#

ROBERT A. THOMAS — Lead Mail Clerk, 12:30PM - 9:30PM

DOB
POB
SS#

The above individuals comprise all of the mail couriers who service FOSTER'S office. No unusual activity was noted and none could provide any positive information regarding FOSTER himself.

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/18/94

MR. ANTHONY (TONY) MARCECA was advised of the identity of the interviewing agents and further informed that the agents wished to speak to him regarding his responsibilities and association with MR. CRAIG LIVINGSTONE, when he, MARCECA, worked for LIVINGSTONE in the office of White House security in 1993.

MARCECA stated that he first met CRAIG LIVINGSTONE in 1984 when both of them worked on the campaign of SENATOR GARY HART. Their supervisor at that time was a woman named CARLA REAM (phonetic). MS. REAM is also a very close friend of the current first family, in particular, MRS. CLINTON. It is his understanding that MR. LIVINGSTONE became acquainted with the CLINTON's and involved in the CLINTON campaign because of his prior association with MS. REAM.

In November of 1992 following CLINTON's election to the Presidency, LIVINGSTONE called him, informing him that PRESIDENT CLINTON wanted LIVINGSTONE to be his Director of White House security. LIVINGSTONE asked him to assist, informing him that he would have the White House send a letter to the U.S. Army asking, that he, MARCECA, be detailed over to the White House. Initially, the U.S. Army refused this request and MARCECA, since he was very interested in assisting LIVINGSTONE, independently decided to take extended annual leave for a period of six to eight weeks. During this time, he reported to the White House without pay, under the direction of MR. LIVINGSTONE and assisted him in security matters, primarily the review of applications for people seeking employment in the new administration. In March of 1993, White House presidential assistant BILL KENNEDY again wrote to the U.S. Army asking that he, MARCECA, be detailed over to the White House and the U.S. Army agreed to this second request.

MARCECA began to report full-time in this new position in early August of 1993, noting that at the time of VINCENT FOSTER's death, July 20, 1993, he was not on board. His job consisted primarily of reviewing background investigations for applicants who were applying for lower level staff positions. Review of background investigations for high-level political

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Investigation on 10/06/94 at Ft. Meade, Maryland File # 29-LR-35063

SA WILLIAM E COLOMBELL

by SA RUSSELL BRANSFORD Date dictated 10/18/94

appointees was handled by a MR. BUENO (phonetic) who worked on the staff of presidential assistant BILL KENNEDY. MR. MARCECA pointed out that he is a handwriting expert, having taken numerous courses in this field while employed with the U.S. Army, CID. He noted that as part of his review of background applications, he would attempt to uncover possible problems with applicants based on an analysis of handwriting samples that were often available, adding that he would advise MR. LIVINGSTONE of the results of his analysis for whatever action or follow up MR. LIVINGSTONE deemed appropriate. He continued in this role till February 15, 1994, the date that the special detail concluded. He stated that MR. LIVINGSTONE tried to have the detail extended but the U.S. Army refused.

MR. MARCECA stated that he considers MR. LIVINGSTONE one of his closest friends. He stated that within a couple of weeks of FOSTER's death, he had occasion to talk to MR. LIVINGSTONE. He recalled LIVINGSTONE telling him how he was asked to assist presidential assistant BILL KENNEDY in identifying the body. He also recalled asking LIVINGSTONE about what the scene looked like, stating that LIVINGSTONE choked up, remarking it was the first time he had to identify a body and he found it difficult to talk about it. MARCECA stated that it was his impression that LIVINGSTONE had gone out to Ft. Marcy Park and had identified the body at the park. MARCECA stated it was during this conversation that he attempted to console MR. LIVINGSTONE telling him that he should have called him, MARCECA, for help and advice. He remembers LIVINGSTONE asking him what he, MARCECA, would have done and he responded that it would have been best to call the FBI. MARCECA stated that LIVINGSTONE shrugged his shoulders and had no further comment regarding the matter.

MARCECA stated the only other conversations or information that he was aware of concerning the FOSTER death investigation and the events of July 20, and 21, 1993, involved a conversation he had with BETSY POND, one of the secretarial support persons who worked in Chief Counsel NUSSBAUM's office. In December of 1993, he had given MS. POND a ride out to a local shopping center during which time she had remarked that she had been at the Chief Counsel's office when VINCE FOSTER left around 1:00 p.m. on the afternoon of July 20, 1993. POND remarked to him that when leaving, FOSTER seemed to be "OK." POND also related to him how she was present at the Chief Counsel's office later that evening when PRESIDENT CLINTON came up. The

PRESIDENT gave her a hug and attempted to comfort her. POND also remarked that after everyone had left, she went into VINCE FOSTER's office and just sat there for a few minutes in a chair and cried by herself.

MARCECA stated that it was his understanding, based on his conversations with LIVINGSTONE, that LIVINGSTONE also was involved in having the body taken back to Arkansas for burial and played some role in providing security regarding the funeral services in Little Rock, Arkansas. MARCECA was asked specifically whether LIVINGSTONE had ever mentioned going to the FOSTER home on July 20-21, 1993, to control or run interference regarding the media and ensure that the FOSTER family was protected. He stated that LIVINGSTONE never commented on those matters to him. MARCECA was also specifically asked whether LIVINGSTONE had ever talked to him regarding his activities or responsibilities on the morning of July 21, 1993. MR. MARCECA replied that LIVINGSTONE never specifically mentioned any activities or responsibilities other than to say that he had been asked by PRESIDENT CLINTON to assist and help with funeral arrangements. MARCECA was also asked whether LIVINGSTONE had ever made any remarks regarding allegations that records relating to FOSTER's work had been removed from FOSTER's office the night of his death. MARCECA stated that LIVINGSTONE never made any comment regarding such allegations or records. At the conclusion of the interview, the following background information was obtained.

Name, ANTHONY "TONY" MARCECA
Address 522 Camelot Court, Odenton, Maryland 21113
DOB [redacted]
Home phone 410-674-5126, work phone 301-677-3928
Employment - Acting Special Agent in Charge, U.S. Army, CID office, Ft. Meade, Maryland, Building 2812.

FOIA(b)(6)
FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/11/94

David Margolis appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 1:30 p.m. for interview. Mr. Margolis was advised of the identity of the interviewing agents and that the purpose of the interview was to discuss his involvement in the search of Vincent Foster's White House office on July 22, 1993 and events surrounding that search. In addition to the interviewing agents, Carl Stich, Assistant to Independent Counsel, Robert B. Fiske, Jr., also assisted with the interview. Mr. Margolis provided the following information:

He is presently Associate Deputy Attorney General, United States Department of Justice (DOJ), Washington, D.C. He learned of Vincent Foster's death the day after the apparent suicide from newspaper articles. He did not personally know Vincent Foster.

On the afternoon of Wednesday, July 21, 1993, while he was attending a meeting in the DOJ Executive Offices, he was interrupted with the message that the Deputy Attorney General, Phillip Heyman, his direct boss, wanted to talk with him. He was thereafter advised by Heyman that he and Roger Adams would be going over to the White House to participate in a search of Vincent Foster's office. This search would be limited to a search for a possible suicide note. Originally, it had been planned that Adams would go by himself but in view of the fact that Adams had been detailed to the White House office concerning ethics matters in the past, it was decided that someone else from the DOJ should also attend. Margolis had also had previous dealings with the White House. They were to meet with Bernard Nussbaum, White House Counsel. It was understood that the U.S. Park Police would conduct the investigation. Margolis asked that the FBI be included, as he was familiar with their resources and abilities. Heyman checked with the U.S. Park Police concerning this recommendation and they indicated that working with the FBI was done routinely anyway and that this would be no problem. Heyman had talked with Nussbaum and had worked out a procedure for the search so that White House Presidential documents could be protected. The plan, as explained, included that Adams and

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vestigation on 4/8+11/94 at Washington, D.C. File # 29D-LR-35063-

by SA H. Alexis Suggs HAS
SA William T. Guyton Date dictated 4/8+11/94

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Margolis would look at the first page of each document to make a determination as to its relevancy. Margolis was not sure if Heyman and Nussbaum had agreed to this.

Meeting with Nussbaum on the Afternoon of July 21, 1993:

Once at the White House, this plan was presented to Nussbaum and after some discussion, Nussbaum accepted it. However, a White House staff member, Steven Neuwirth, raised the issue that the DOJ representatives and agents should just sit there. The original discussion concerning the procedure had included privacy issues of the first couple, Presidential papers, and even executive privilege. Nussbaum, who was the boss, agreed to the original plan despite Neuwirth's recommendation. Margolis therefore "blew off" Neuwirth's suggestion. Margolis had been annoyed by it. All parties agreed that it was getting too late to start the search for that day, and therefore the search would be done the following day. Margolis and Adams had arrived at the White House at approximately 4:30 p.m., July 21, 1993, for these preliminary discussions. They stayed approximately 45 minutes, leaving at approximately 6:30 or 6:45 p.m. The time difference being travel and waiting time.

Those present for these discussions on July 21, 1993 included Charlie Hume and Pete Markland from the U.S. Park Police; Scott Salter and one other agent, perhaps Dennis Condon, from the FBI; Nussbaum and Neuwirth from the White House and Adams and Margolis. The negotiations ended with the understanding that Adams and Margolis would look at the first page of the documents. Neither the U.S. Park Police nor the FBI would have to be present for this procedure and could use their time conducting other interviews.

It was also agreed during the July 21, 1993 meeting that a lock would be placed on the door to Vincent Foster's office. Therefore, an officer from the U.S. Secret Service would no longer have to be posted outside this office.

Margolis was asked whether it was discussed who had been in and out of the Foster office. He said that it had not been mentioned who had been in the office since the death, except that Nussbaum had said that he had been in there. He (Margolis) was not told that either Patsy Thomasson or Betsy Pond had been

in the office. There was no discussion of a search at a location other than Vincent Foster's office.

Margolis noted that if this case had involved IBM, he would have insisted on looking at everything. But given the sensitivity of Presidential documents and First Family privacy and the fact that the Foster office was not a crime scene, and Nussbaum and the White House were not suspects, he agreed to the search as planned. He didn't expect a suicide note to be hidden elsewhere.

Upon returning to the Department of Justice, Margolis advised Heyman of the meeting. This had been Margolis' first exposure to Nussbaum and he described him as being peripatetic.

Meeting with Nussbaum on Morning of July 22, 1993:

Upon arrival at the White House at approximately 10:00 a.m., July 22, 1993, Nussbaum told Margolis there had been a change of plan for the search of Vincent Foster's White House office. Nussbaum explained that Margolis and the officers would come in and Nussbaum, with his associates, would do the search. Margolis recognized this as a complete change of plan, no question about it.

Margolis remembered telling Nussbaum that if this case had involved IBM or Xerox, he would be back with a subpoena for all of the documents. Nussbaum noted that this was the White House and that if this was IBM or Xerox, they would have smart lawyers and the documents would be gone before you get there.

When asked about Nussbaum's comment, Margolis noted a newspaper account of Nussbaum as having a "tin ear for appearances." He would say the wrong thing to the wrong person at the wrong time.

Margolis asked Nussbaum if Deputy Attorney General Heyman had agreed to this change. Nussbaum answered something like "not exactly." Immediately thereafter, Margolis called Heyman and advised him that he didn't want to be a party to the search if conducted under the changed procedure. He said that the new procedure would be no different than if he (Margolis) returned to his office and had Nussbaum mail him the results of

the search. His being there didn't add anything, and it was a change in decision that Nussbaum couldn't articulate a reason for. Nussbaum was not present during this telephone conversation between Margolis and Heyman.

Heyman and Margolis agreed that Margolis would argue for the original plan and that Heyman would also call Nussbaum. Margolis would threaten to leave if the original plan was not followed. Margolis explained that if there could be no agreement, he had two choices: (1) walk away, or (2) conduct the search under his (Nussbaum's) terms. Number 2 was the bottom-line choice if no agreement could be reached, as at least the search would get done. Timing-wise and thoroughness-wise, Margolis had no confidence that Nussbaum would get it done. If he just walked away, Nussbaum would perhaps respond in two weeks or so. Heyman had exploded like Margolis did when he learned of the proposed change in plan. Heyman called Nussbaum. Margolis was not in the room when they talked. He had stepped out.

The bottom line explained to Nussbaum was that it was a huge mistake to change the plan and have only White House people review the documents. It was explained to Nussbaum that it would be his (Nussbaum's) mistake and not DOJ's. Margolis told Nussbaum that he would have to accept responsibility.

During the negotiations, Nussbaum was vacillating with both Margolis and Heyman. At one point, Nussbaum indicated that he and his people would have to caucus regarding the matter. Margolis indicated that along the way, he bluffed that he would go back to his office and Nussbaum should call him. He believed this made an impact on Nussbaum.

Margolis and Adams waited two hours while Nussbaum considered the matter. The stalemate ended at approximately 1:30 p.m. From 1:30 until 2:00 p.m., Margolis and Adams had lunch. Since there was no smoking in the building, Margolis went outside at one point with Adams. He noted that Nussbaum panicked when he came to look for them and explained that he thought that they had left. It was indicated that at 2:00 p.m. the search would be conducted and that Margolis and Adams would watch with the agents. Margolis told Nussbaum that this adjusted plan wasn't going to work and that he was going back to his office. In reply, Nussbaum said, "I know this is more for show, but I really think you should be here."

Search of Vincent Foster's White House Office, July 22, 1993:

The search of Foster's office was attended by Adams and Margolis from the Department of Justice; Scott Salter and Dennis Condon from the FBI; Charlie Hume and other U.S. Park Police personnel name(s) not recalled; a U.S. Secret Service person that had only a security interest in the matter; and Nussbaum, Sloan, Neuwirth, Burton and Neill (?), and a young associate from Attorney Hamilton's office by the name of Spafford. Margolis indicated that Spafford was a non-person until the end of the search at which time he was identified as being from Hamilton's law firm.

At this point in the interview, Margolis was shown a diagram (attached to this FD-302) of Foster's White House office and was asked to note the seating arrangement during the search on the diagram and he did so. He noted that the wing-backed chairs in the diagram would have been closer to the desk than indicated. This diagram indicates that Nussbaum was seated at Vince Foster's chair behind the desk flanked by Neuwirth and Sloan and that Margolis was sitting in the wing-backed chair to the left of the desk and Roger Adams in the wing-backed chair to the right of the desk. The FBI agents were seated on the loveseat in front of the desk but to the rear of the wing-backed chairs. Spafford and Burton were standing on the periphery and the U.S. Park Police were in the back of the room or perhaps even in the hallway. Burton was in and out of the room as was an individual by the name of Neill.

The search commenced at 2:00 p.m. and the following procedures followed: Nussbaum picked up things in Foster's office and assigned them to the following categories - Presidential documents; First Family personal records; Vincent Foster personal papers; and items given to law enforcement, such as calendars. There was also a category described as junk by Margolis which was shown to DOJ and the agents. These included such things as law books and other items not relative to the case.

Items on the bookcase were reviewed for relevancy.

Also, Margolis recalled computer documentation becoming a topic of discussion. Nussbaum was asked to turn the computer on but declined, saying that Foster was not computer literate.

Nussbaum agreed to do a review of the computer later and was adamant that it be done this way as there was no way to filter the computer information at this time.

During the search, Sloan and Neuwirth were continually whispering in Nussbaum's ear. Margolis described it as a "Wall Street discovery procedure." He noted it was driving the agents crazy, as they felt that if there was whispering, there was something to hide. It was being viewed as an adversary proceeding.

At one point during the search, FBI agent Scott Salter stood up to stretch and Cliff Sloan asked if he was not trying to read the documents. Later, Margolis remarked to Sloan as he was peering over Nussbaum's shoulder was he (Sloan) trying to read over Nussbaum's shoulder and Sloan, being a "nervous Nelly" stammered in response and then said, "of course I am."

Margolis advised that the briefcase in which the torn up note was eventually found in pieces several days later was out in plain view during the search. During a natural progression of the search, Nussbaum took items from the briefcase and, at one point, indicated that it was empty. However, he did not show the group that it was empty, but simply put the briefcase back against the wall.

Margolis noted that in Nussbaum's paranoia, he would perhaps miss something at that time. Nussbaum was guarded and less than open. There should be no false illusion about that. At the time, Margolis assumed the reason for this was to protect the First Family and the privacy of documents. However, after the note was found, he reached a different conclusion.

When asked if there had been discussion regarding documents going beyond a suicide note, Margolis answered that yes, it had been discussed that judgment would be needed. And with the change of rules for the search, that they would be looking not for just a note, but for something "irregular." Something which would shed light on why Foster would commit suicide, like a compromising photograph or blackmail letter, etc.

There were reams of paper, both handwritten and typed, in Foster's office. They were divided by Nussbaum into three piles - the real personal were given to Spafford, a huge pile of

Presidential documents and First Family papers kept, and other items, such as calendars, termed by Margolis as "worthless," given to investigators. Margolis suggested that the Presidential documents and First Family papers be kept by Nussbaum for now and then inventoried. Nussbaum said he would consider this. Margolis also noted that a question occurred to him of whether White House Counsel should be working on Presidential personal matters. However, he was not at the White House at that time to consider this question.

The amount of documentation given to the investigators amounted to about two or three inches of piled papers. The personal Foster documents amounted to less than a box and the Presidential and First Family documents amounted to the equivalent of about ten Xerox-type boxes full. Margolis could not remember the breakdown between Presidential and First Family documentation. Foster's pictures remained on the wall. Margolis' assumption is that if there was something that cast a reason for the suicide, Nussbaum would have told those present.

When asked about Nussbaum's statement that he would admit the search was primarily for show, Margolis replied that he took it as a true statement. When it later appeared in news accounts that the search had been conducted "under the supervision of" the Department of Justice, etc., Margolis told Carl Stern, DOJ Public Affairs, to get the word out that the search had been "in the presence of" the DOJ, rather than under their supervision. Margolis said he had had the feeling of being used, but didn't know how at the time. When asked if anyone in the party had objected to the procedure followed, Margolis said that he was viewed by the investigators as the point man on the procedure. He also viewed the FBI as backup to the U.S. Park Police who actually had the investigation.

Margolis noted that during the search on two or three occasions he told Nussbaum to look at documentation more closely in making his determination as to which pile he would place the paper. He also noted the existence of telephone logs. When asked about a search of trash, Margolis said that Nussbaum had ordered a bag of trash brought back to Foster's office and Nussbaum went through this bag during the search. Margolis did not remember any incoming or outgoing mail being present.

At the end of the search, they simply walked out of the office. Margolis accompanied Spafford to his car along with the agents who helped him with his box of material.

Later, Margolis was contacted by Hamilton who advised that Nussbaum had made a mistake by giving him some Presidential or personal documentation. Margolis noted that he called Nussbaum on only one occasion after this search and it had not been related to the Foster matter, but rather in connection with an Attorney General nominee.

When Margolis returned to his office following the search, he told Heyman what had transpired and Heyman was just as displeased as Margolis was with how the search had been conducted. It was Margolis' understanding that Heyman had asked Nussbaum for a call back when Heyman suggested that the original plan be adhered to. Heyman was annoyed that he had not received a call back. It was his (Heyman's) intention that when and if Nussbaum called back not agreeing to the original plan, that he would tell "the tall lady" (the Attorney General) and have her call the President, knowing that Nussbaum was scared to death of the Attorney General.

A week to ten days following the search of Foster's office, Heyman called Margolis from the White House and advised that they had found a note in Foster's briefcase "all torn up." The U.S. Park Police took possession of this note. Margolis called FBI Assistant Director Larry Potts and requested that an obstruction of justice case be opened and instructed that the FBI not show any unwarranted courtesy in this matter. Later during the investigation, Heyman asked about the obstruction of justice phraseology, apparently upon being questioned on this by Nancy McFadden, an individual who had worked for the Clinton campaign. Margolis did not answer Heyman regarding this in the presence of McFadden, as he viewed it as a possible investigative technique that would lose its advantage if discussed in her presence.

Margolis was asked about any involvement by Webb Hubbell in this matter. Margolis answered that the day after the note was found, Hubbell came down very shook up and wanted to see the note. When shown Margolis' copy of the note, he (Hubbell) said it was not in Vincent's handwriting. This matter was resolved when it was learned that the transcription that Margolis had had been written by Neuwirth from the original torn note.

One other important area noted by Margolis, and he could not remember if it was after or before the note was found, concerned Collier, Chief of Staff for the Department of the Interior, coming to see Phil Heyman and Roger Adams. Collier was making a complaint concerning the White House treating the U.S. Park Police like dirt and "bullying" them. Collier viewed this as unfair and was on the verge of a pull-out because of White House Counsel behavior. Heyman said that he would talk to those guys and ultimately contacted Gergen and Nussbaum and read the "riot act" to them. Neill and Burton, White House Staff, reacted to these allegations by saying that they "had done everything right" and anything wrong was the fault of the U.S. Park Police. Margolis explained the problem as a cavalier attitude and partially a New York attitude. He advised that Adams took notes regarding the Collier visit with Heyman and Adams.

Mention was also made of an indented writing analysis conducted on a pad of paper found in Vincent Foster's office. It was a letter to Nussbaum and determined to be a White House privileged communication. This documentation was turned over by the FBI to Margolis to handle. He, in turn, sent it to Nussbaum. He did not break the seal on the document and doesn't know what was on it.

Margolis said that during the search the name "Madison" would have been a signal to him but not "Whitewater."

Before Heyman left the Department of Justice, he, Adams and Margolis dictated notes to Cynthia Monaco at the Department regarding a chronology of events concerning this matter. Since Heyman left the Department on February 14th, it was done prior to this time. Margolis knows that she has these notes, but does not believe that she has transcribed them, but could be contacted for a copy of them.

Margolis speculated that one of his hypothesis was that the suicide note had been found prior to the search of Foster's office but that he just doesn't know.

Margolis also speculated that during his two hour wait to begin the search of Foster's office, that Nussbaum had been on the phone to the First Lady regarding the procedure to be followed. Margolis said there was no question they didn't trust

any of us. We were "career humps." Heyman had selected Margolis and Adams in particular because they were career personnel.

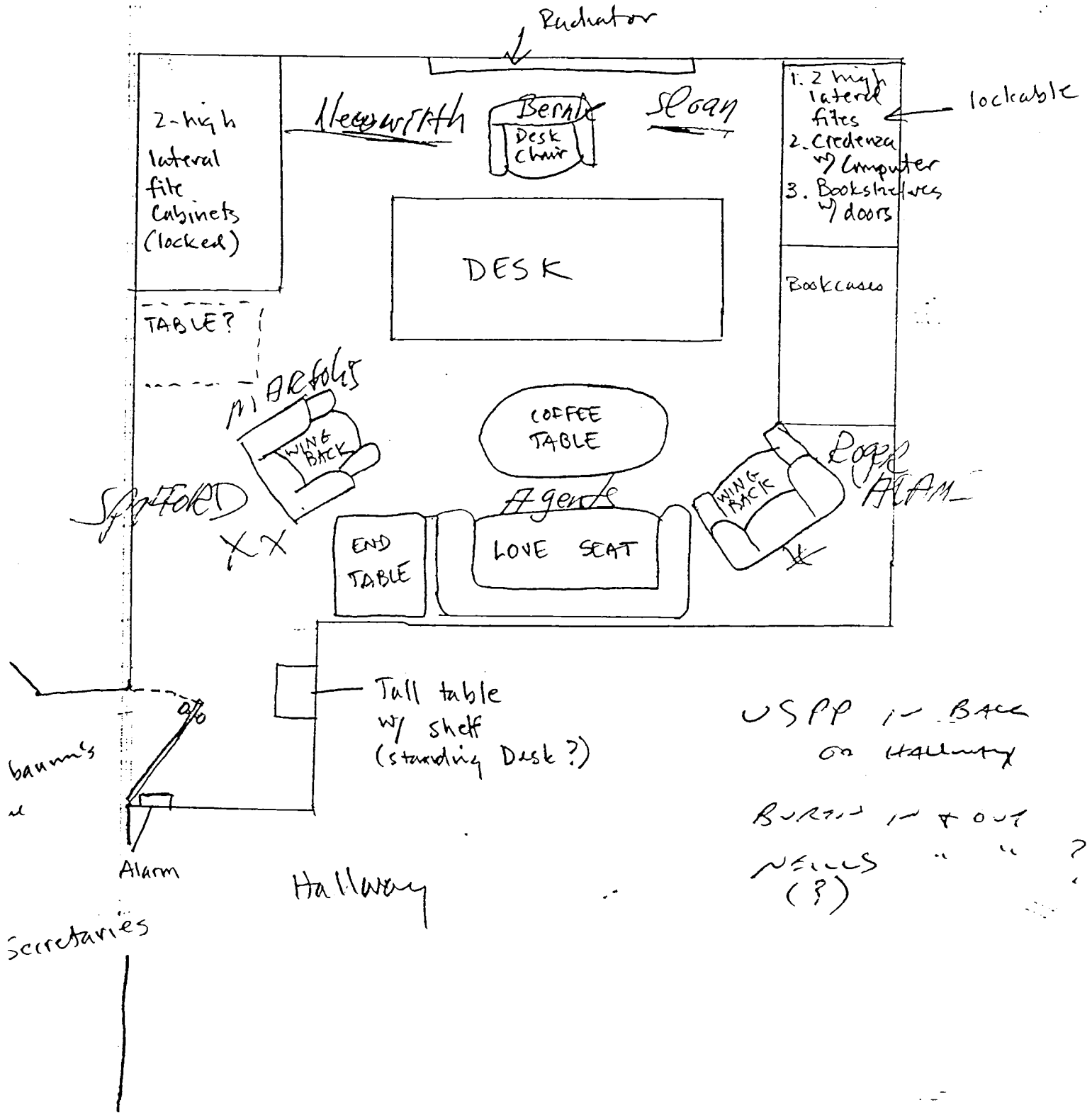
Margolis noted that Foster's sister, Sheila Anthony, is an Assistant Attorney General for Legislative Affairs at the U.S. Department of Justice.

The following description of Margolis was obtained through observation and interview:

Name:	David Margolis
Title:	Associate Deputy Attorney General U.S. Department of Justice
Sex:	Male
Race:	White
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Address:	2029 Wethersfield Court Reston, Virginia 22091
Phone:	(202) 514-4945 (work) (703) 264-0483 (home)
Employment:	A government employee for 29 years.

On April 11, 1994, Margolis telephoned SA William T. Guyton to be sure he had mentioned what Heyman had done after being contacted by Collier. He said Heyman had called Gergen and Nussbaum. Margolis had the "sense" that Heyman was put on the speaker phone and others at the White House were in the room during this phone conversation. Cindy Monaco may have been there.

Also on April 11, 1994, Margolis provided the attached notes/"hostile" questions prepared for the Deputy's press conference in connection with the Foster suicide. No proposed answers to these questions were prepared by Margolis. Margolis will provide a videotape or transcript of this press conference through Carl Stern if it is still available. Margolis kept no other notes regarding the search of Foster's office.


Radiator
2-high lateral file Cabinets (locked)
Hegwirth
Bernie
Desk Chair
Sloan
1. 2 high lateral files
2. Credenza w/ Computer
3. Bookshelves w/ doors
lockable
DESK
Bookcases
TABLE?
COFFEE TABLE
WING BACK
WING BACK
END TABLE
LOVE SEAT
Agenda
Tall table w/ shelf (standing Desk?)
USPP in Back on Hallway
Burns in + out
Alarm
Hallway
Secretaries
(?)

For The Deputy's Press Conference on
Bill you may wish to get a tape of the press conference

Date: Tuesday, August 10, 1993 11:05 am
From: OPD01(MARGOLIS)
Subject: FOSTER NOTE

AS TO THE ASSERTIONS IN THE NOTE,OPR IS LOOKING AT THE SENTENCE DEALING WITH THE FBI AS PART OF ITS BROADER INQUIRY INTO THE FBI CONTACTS WITH THE WHITE HOUSE IN ACCORDANCE WITH THE A.G. LETTER TO CHAIRMAN BROOKS. AS TO THE REMAINING ASSERTIONS THE PUBLIC INTEGRITY SECTION OF THE CRIMINAL DIVISION IS LOOKING AT THEM AS PART OF ITS MANDATE TO REVIEW ALL TRAVEL OFFICE MATTERS.WHILE THE INQUIRY INTO THE ASSERTIONS IS NOT TOTALLY COMPLETE, I CAN SAY THAT NOTHING IN THE NOTES HAS CAUSED THE PUBLIC INTEGRITY SECTION TO CONCLUDE THAT FURTHER INVESTIGATION IS WARRANTED. A FEW LOOSE ENDS DO NEED TO BE TIED DOWN-

THE FBI JOINED THE PARK POLICE IN THE INITIAL STAGES OF THE INQUIRY INTO FOSTER'S DEATH BECAUSE OF HIS STATUS AS A FEDERAL OFFICIAL [ASSASSINATION STATUTES]AS IT BECAME APPARENT THAT THIS WAS A SUICIDE THE FBI GRADUALLY ASSUMED A SECONDARY ROLE TO THE PARK POLICE. THE BUREAU REENTERED THE INQUIRY AT OUR REQUEST TO EXAMINE THE HANDLING OF THE NOTE

FOR The Deputy's Press Conference

Date: Saturday, August 7, 1993 4:12 pm
From: OPD01(MARGOLIS)
Subject: VINCE FOSTER MOOT COURT MEDIA QUESTIONS

1-HOW CAN YOU EXPLAIN WHY YOUR VETERAN PROSECUTORS,ACCOMPANIED BY FBI,SECRET SERVICE,AND PARK POLICE REPRESENTATIVES, WHO SUPERVISED THE SEARCH OF FOSTER'S OFFICE FOR A SUICIDE NOTE [PER W.H. STATEMENT]- SPECIFICALLY THE SEARCH OF HIS BRIEFCASE- FOUND NOTHING- AND YET A FEW DAYS LATER A STAFFER WHO WAS SIMPLY PACKING THE BRIEFCASE FOR RETURN TO THE FAMILY NOT ONLY WAS ABLE TO FIND SCRAPS OF PAPER IN THIS BRIEFCASE BUT ALSO HAVE THE INTUITION TO PIECE THEM TOGETHER RATHER THAN THROWING THEM AWAY?

2-YOU CLAIM YOUR PEOPLE DID NOT SUPERVISE THE SEARCH-THAT THEY WERE MERELY PRESENT DURING THE SEARCH BY W.H.COUNSEL. WHY DIDN'T MR.NUSSBAUM FIND THE NOTES?WHAT SENSE DOES THIS PROCEDURE MAKE? WHO WAS RUNNING THIS INVESTIGATION-THE DOJ OR THE WHITE HOUSE? WHY DIDN'T YOU PUT YOUR CIGAR STORE INDIANS TO WORK BACK AT THE OFFICE DURING THE SEARCH AND SIMPLY LET BERNIE NUSSBAUM REPORT THE RESULTS OF HIS SEARCH TO YOU? WHAT PURPOSE DID THE MERE PRESENCE OF YOUR PEOPLE SERVE?

3-YOU CLAIM THAT YOU DID NOT APPROVE OF THIS PROCEDURE-DOES'NT THIS PROVE THAT YOU PEOPLE HAVE LEARNED NOTHING FROM TRAVELGATE? YOU ARE STILL ALLOWING THE WHITE HOUSE TO DICTATE THE TERMS OF YOUR INVESTIGATIONS AT LEAST WHEN THE WHITE HOUSE HAS INTERESTS TO PROTECT. IS THIS THE SEPARATION OF POLITICS FROM JUSTICE THAT JANET RENO BRAGS ABOUT? OR HAVE YOU BROUGHT ED MEESE BACK? 4- HAS THE FBI INVESTIGATION FIRMLY ESTABLISHED THAT THIS NOTE WAS NOT TAMPERED WITH AFTER FOSTER'S DEATH- AND THAT IT WAS NOT REMOVED FROM THE BRIEFCASE BEFORE YOUR SEARCH AND SUBSEQUENTLY REPLCACED?

4-HAS THE INVESTIGATION RULED OUT THE POSSIBILITY THAT MR.FOSTER WAS SUFFERING FROM AIDS?

5-WHAT ARE YOU GOING TO DO ABOUT THE ALLEAGATIONS IN THE NOTE?

~~MARV JOE WILL DELAY ACTION ON THE VISUALLY CHALLENGED GENTLEMAN UNTIL WED.~~ TALK TO ME ABOUT MY CONVERSATION WITH JIM HAMILTON ON FRIDAY NITE

The second portion deals with a other case —
The word Trade & the Bombing —

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

DAVID MARGOLIS, Associate Deputy Attorney General, U.S. Department of Justice (DOJ), telephone (202) 514-4945 (work), (703) 264-0483 (home), was interviewed at the Office of the Independent Counsel, Washington, D.C. MARGOLIS was advised of the identity of the interviewing agent and of the purpose of the interview, which was a follow-up to his original interview with the Office of the Independent Counsel on April 11, 1994. CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted in this interview. MARGOLIS provided the following information:

In connection with the search of VINCENT FOSTER's office on July 22, 1993, following FOSTER's death, MARGOLIS and ROGER ADAMS represented the DOJ during the U.S. Park Police (USPP) investigation. When asked what understanding the Park Police may have had concerning the procedure for the search of FOSTER's office, MARGOLIS answered that the original plan was that he and ROGER ADAMS would look at the first page of any documents located in FOSTER's office. It was MARGOLIS' sense that BERNARD NUSSBAUM, Chief Counsel at the White House, and PHIL HEYMAN of the DOJ, had discussed this procedure. When MARGOLIS met with NUSSBAUM, there was an "unequivocal" agreement that this procedure would be followed. MARGOLIS could not recall if Captain CHARLES HUME, USPP, was in on this original meeting with NUSSBAUM or not. MARGOLIS said that the room where they met was small and there were people in the hallway. MARGOLIS was not sure if HUME was one of these individuals or not.

MARGOLIS understood his function at the White House to be two roles: (a) solidify the agreement with NUSSBAUM for the search and thereafter he and ROGER ADAMS look at documents located in FOSTER's office for privilege concerns, and (b) speaking on behalf of the Attorney General of the United States.

MARGOLIS felt there was a clear understanding with Captain HUME and the USPP that the Park Police would defer to the DOJ. MARGOLIS said that the Captain was glad that DOJ was there and wanted DOJ involvement. It was MARGOLIS' understanding that

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nvestigation on 6/8/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/9/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

HUME had talked with PHIL HEYMAN regarding the DOJ participation. NUSSBAUM may also have been making this request.

The USPP looked to MARGOLIS for guidance. MARGOLIS described the first meeting on July 21, 1993 with NUSSBAUM as going as "smooth as glass." The next day, the USPP were caught by surprise. NUSSBAUM announced new rules for the search of FOSTER's office too late for anyone to object. It was a fait accompli.

The original procedure agreed to was that the USPP would spend the morning of July 22, 1993 conducting interviews of White House personnel and, at the same time, ADAMS and MARGOLIS would review FOSTER documents with NUSSBAUM. MARGOLIS believed this "pre-review" was okay with law enforcement. MARGOLIS said that he himself tossed and turned the night before the search regarding his involvement with making "calls" of privilege. The ground rules agreed to were that he would look at the "first page or so" of documents to determine privilege and relevance. MARGOLIS was concerned with the problem of "buried" relevant information within those documents.

MARGOLIS said it was not much of an oversimplification to say that during the search of VINCE FOSTER's office, they were looking for a "smoking gun." He elaborated by saying they were looking for pictures or a suicide note or anything else that would help explain FOSTER's death.

One of NUSSBAUM's errors in judgment concerning the search was that NUSSBAUM considered the investigators "gumshoes" who would be trampling through every detail of First Family records found in FOSTER's office. MARGOLIS said that this was not the case. They were not there for a full analysis of documents in FOSTER's office. They were "evidence casting" for the reason for FOSTER's death, like a note regarding a planned meeting he had for Fort Marcy Park on July 20, 1993, or something of this nature.

The USPP reaction to the change in procedure for the search of July 22, 1993 was one of puzzlement and an attitude of let's get it done.

MARGOLIS speculated there may have been someone else calling the shots for NUSSBAUM. He made this comment in explaining NUSSBAUM's change of plans for the search.

At either 1:30 p.m. or 2:00 p.m. on July 22, 1993, MARGOLIS could not remember the exact time, he was advised by NUSSBAUM that we have a "slight change" in ground rules for the search. At that point, the search was to begin at 2:00 p.m. MARGOLIS was not sure if the Park Police had been kept advised with a current status report of this change or not.

At the start of the search, NUSSBAUM announced that "I (NUSSBAUM) will look at the documents and decide if privilege exists, either Presidential or lawyer/client, in connection with personal documents or other stuff you can look at." Concerning the latter category, NUSSBAUM did locate such items. As an example, MARGOLIS cited a calendar. As an example of an overreaction to the privilege issue, MARGOLIS again mentioned NUSSBAUM locating a newspaper article and placing it in a privilege pile, saying that from looking at this article, investigators could tell an "executive agenda" and, therefore, this article should be placed in the privilege pile. The privilege issue was given a "very stringent test" by NUSSBAUM. Essentially, four piles of documents resulted: (a) Presidential material; (b) CLINTON family documents; (c) HAMILTON stuff (FOSTER personal documentation); and (d) total innocuous documents or a "you can see this" pile.

MARGOLIS was asked if there was an occasion where investigators would express an interest in documents after NUSSBAUM described the papers. MARGOLIS answered that this worked both ways. Sometimes the Park Police would express an interest and sometimes NUSSBAUM would say that an item located was something that may be relevant. MARGOLIS recalled telling NUSSBAUM "a couple of times" to read more of the document. MARGOLIS explained his concern as being one where he thought NUSSBAUM would miss some information because he was being too careless or too much in a hurry. MARGOLIS described this as "being BERNIE." MARGOLIS said "cops being cops" were suspicious of NUSSBAUM's motives from the "get go." MARGOLIS said they did not articulate these concerns, other than through their body language and groans at some of NUSSBAUM's jokes.

Following the search of FOSTER's office, MARGOLIS was worried that NUSSBAUM had "played him for a fool" as part of a "coverup." MARGOLIS spoke with HEYMAN regarding this and HEYMAN called NUSSBAUM. NUSSBAUM answered this charge with something like, "PHIL, how could you ask that?"

MARGOLIS could not remember an instance where the Park Police asked for an item during the search that they didn't get. There may have been some items that could have gone to JIM HAMILTON for a decision which they had expressed in, but MARGOLIS understood investigators later reviewed documents in HAMILTON's possession.

MARGOLIS recalled NUSSBAUM searching FOSTER's briefcase on July 22, 1993. He said NUSSBAUM was in a position to see if it was empty. MARGOLIS was satisfied through NUSSBAUM's "motions" and "eyes" and his (NUSSBAUM's) decision to discard it, that the briefcase was empty. He said to miss a torn up note in the briefcase, at best, was humiliating. MARGOLIS recalled NUSSBAUM looking into the briefcase and holding it up for the group as empty "in BERNIE style."

MARGOLIS said that at the time of the search, he "would like to think" that the mention of Whitewater or Madison would have "triggered me." MARGOLIS doesn't recall seeing or hearing any statements regarding Whitewater or Madison during the search on July 22, 1993. He explained his familiarity with Madison as being his involvement with a previous USA declination concerning Madison.

MARGOLIS was asked how many copies of the USPP report of the FOSTER death investigation were received by the DOJ. MARGOLIS answered that the DOJ received one, maybe two, copies of the report. There would have been one for MARGOLIS and one for the Deputy, PHIL HEYMAN. He said copies could have been reproduced at his or HEYMAN's direction. He believes he authorized copies for the FBI and DOJ Office of Professional Responsibility. MARGOLIS believed he gave a copy to the FBI, although the FBI may have also received a copy directly from the Park Police. MARGOLIS said that ADAMS or special assistants at DOJ would have used existing copies of the report. MARGOLIS said the Department does not have a system to sign for such items or numbered copies. MARGOLIS also recalled that prior to the press conference on the FOSTER investigation, that CARL STERN had

wanted to give out copies of this report at the press conference. MARGOLIS was able to prevail upon him to not do so.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/2/95

DAVID MARGOLIS (DOB: FOIA(b)(6) FOIA(b)(7) - (C)) Associate Deputy Attorney General, U.S. Department of Justice (DOJ), (202) 514-4945, was interviewed at the Office of the Independent Counsel - Whitewater, in the presence of Deputy Independent Counsel MARK TUOHEY, Associate Independent Counsel BRETT KAVANAUGH and JOHN BATES. This interview is a supplement to two previous interviews conducted on 4/11/94 and 6/8/94, and was conducted to review his recollection of events concerning the search of VINCENT W. FOSTER's office at the White House subsequent to FOSTER's death in July of 1993. MARGOLIS was advised of the identities of all the individuals present in the interview.

MARGOLIS provided the following additional information:

MARGOLIS was treated poorly by the White House Counsel's Office during the search of FOSTER's office. MARGOLIS told NUSSBAUM that he was making a mistake, but NUSSBAUM would not listen to him. NUSSBAUM may have been "just doing what he was told to do."

MARGOLIS did not personally know VINCENT FOSTER, and only learned of his death through the newspapers on the following day.

PHIL HEYMAN directed MARGOLIS and ADAMS to coordinate the details of the office search with NUSSBAUM. Capt. HUME from the U.S. Park Police was going to be present for the search. MARGOLIS requested that the FBI also become involved in the search.

There was an agreement reached on July 21 with NUSSBAUM regarding the procedure to search the office. MARGOLIS and ADAMS, in conjunction with members of the White House Counsel's Office would make decisions regarding the relevance of each document to the death investigation. Privileged documents would be culled out by MARGOLIS, ADAMS, and members of the White House Counsel, specifically NUSSBAUM. The next day, which was to be the day of the search, NUSSBAUM unilaterally changed the

procedure for the search. NUSSBAUM stated that he personally would review each document to determine any privilege. This review would be done in the presence of MARGOLIS and ADAMS. MARGOLIS was of the opinion that NEUWIRTH may be partly responsible for the switch in plans. MARGOLIS recalled that NEUWIRTH told them that "BERNIE will review the documents in your presence." This surprised MARGOLIS, because NEUWIRTH was present when the original procedure was agreed upon. MARGOLIS suspected that privacy issues and a lack of trust of MARGOLIS and ADAMS prompted the switch in procedures.

MARGOLIS stated that there was no tension or rivalry between the FBI and the Park Police. It appeared as though it was their usual practice to work together during these types of cases.

MARGOLIS stated that there was never any misunderstanding or lack of knowledge regarding the original procedures for the search. The procedures were unilaterally changed. NUSSBAUM and NEUWIRTH specifically used the phrase "there's been a change in plans."

MARGOLIS telephoned PHIL HEYMANN on July 22 from the White House to inform him of the change. HEYMANN was just as mad and frustrated as MARGOLIS. HEYMANN wanted MARGOLIS to argue for the original agreement. They considered walking out of the situation, but MARGOLIS believes the final decision was to go forward with the search even if he was unable to convince NUSSBAUM to go back to the original plan. MARGOLIS was not confident that NUSSBAUM would complete the search in a timely fashion if they were to leave. However, HEYMANN had a different impression. HEYMANN expected a telephone call from NUSSBAUM if MARGOLIS was unable to convince him to return to the original agreement. HEYMANN wanted to talk with NUSSBAUM prior to the search.

Due to NUSSBAUM's attitude, demeanor, and mannerisms, MARGOLIS thinks that he was ordered to change the original agreement. NUSSBAUM was very uncomfortable, and seemed to be impressed by MARGOLIS advising him that he was making a big mistake.

There was approximately a two hour delay prior to the start of the search on July 22. NUSSBAUM was considering all of the issues. The agents and officers were involved in interviews

of White House personnel; the information they were learning indicated that FOSTER's death was a suicide. FOSTER seemed to have a mental health problem. As a result, the FBI was taking a back seat to the Park Police.

ROGER ADAMS was of the opinion that the two hour delay was caused by NUSSBAUM attempting to contact the First Lady.

At approximately 2:00 p.m., NUSSBAUM reached a final decision and announced that he would be reviewing the documents in the presence of MARGOLIS and ADAMS. MARGOLIS threatened to leave. NUSSBAUM told him that the whole procedure was "just for show", but it was important for appearances that MARGOLIS and ADAMS stay. MARGOLIS had the impression that NUSSBAUM "knew he was jerking us around," but that they needed them to be present.

NUSSBAUM would not have contacted HUBBELL at DOJ. He would have been sensitive to any White House-DOJ contact. Additionally, HUBBELL would have had no authority; this was clearly HEYMANN's responsibility.

MARGOLIS was shown a previously drawn sketch of FOSTER's office depicting the locations of all the individuals in the room at the time of the search. MARGOLIS identified the sketch and stated that it was accurate.

NUSSBAUM conducted a nonmethodical, careless search of FOSTER's documents. NUSSBAUM would determine the nature of the document and state that the document was a "sensitive issue", "irrelevant", or that the item was something FOSTER was working on for the White House or the First Family. Some items NUSSBAUM labeled as VINCE's personal items", he gave to an individual named SPAFFORD, who was an attorney with a law firm representing LISA FOSTER.

NUSSBAUM first started searching the papers on top of FOSTER's desk, then to the desk drawers, and next he went through the bookcases along the walls. MARGOLIS had the impression that NUSSBAUM went through all of the drawers and cabinets.

MARGOLIS stated that the Park Police and FBI had no access to items not specifically given to them by NUSSBAUM. The ground rules for the search had been established; everyone understood that items that were identified as "privileged" by NUSSBAUM, for whatever reason, were not going to be given to the

investigators, whether they asked for them or not. MARGOLIS would occasionally ask NUSSBAUM look closer at a particular document, and not to be so hasty in keeping it from the investigators. Very few items were offered to them, and only a few of those items were requested by the investigators. They were specifically looking for a suicide note, but they would have taken anything that would help establish FOSTER's state of mind.

MARGOLIS was shown FOSTER's briefcase. MARGOLIS was unable to positively identify the briefcase, but stated that it looked similar to the one that was in FOSTER's office and was searched by NUSSBAUM. MARGOLIS recalled FOSTER's briefcase as appearing "stiffer". The briefcase was sitting upright on the floor immediately adjacent to FOSTER's desk. MARGOLIS did not pay particular attention to the appearance of the briefcase.

During the search, NUSSBAUM picked up the briefcase. It was full of files and papers. NUSSBAUM went through each file and document, identified what category it belonged in, and set it on one of the piles. NUSSBAUM opened and reopened the briefcase to take items out and appeared to look in the briefcase each time. At a point, the briefcase appeared to be empty. NUSSBAUM looked inside the briefcase, closed it, and held it up indicating it was empty, and then set it on the floor. MARGOLIS thought the briefcase was empty; he was satisfied that NUSSBAUM had determined that nothing else was in the briefcase. However, MARGOLIS was unable to look into the briefcase.

Subsequently, MARGOLIS learned that NEUWIRTH had discovered the note while packing up the briefcase with FOSTER's other belongings. MARGOLIS was very surprised. He knew NUSSBAUM had searched the briefcase in their presence, unless there was another briefcase or NUSSBAUM had missed it or concealed it. MARGOLIS wanted the Park Police to take custody of the note immediately, and began making the necessary arrangements.

HEYMANN went to the White House and stayed there until the note was released to the Park Police. The Attorney General personally directed NUSSBAUM to turn over the note. NUSSBAUM still wanted to discuss the situation, and the disposition of the note. NUSSBAUM did not seem to grasp the seriousness of the situation; the note was clearly evidence, and definitely important to the Park Police investigation.

MARGOLIS is convinced that if the note had been in the

briefcase on that first day, NUSSBAUM would have found it.

The following morning after the note was released to the Park Police, HEYMANN provided MARGOLIS with a handwritten reconstruction of the note. MARGOLIS showed it to HUBBELL, who gasped when he saw it; the reconstruction was not in FOSTER's handwriting. MARGOLIS explained to HUBBELL that it was not the actual note, just a handwritten reconstruction. HUBBELL was very "shaken"; it was apparent to MARGOLIS that HUBBELL was previously unaware of the contents of the note.

MARGOLIS subsequently contacted LARRY POTTS at the FBI to initiate an obstruction of justice case regarding the circumstances of the handling of the note. Supervisory Special Agent PAT FORAN coordinated the investigation. FORAN directed agents from the Washington Field Office to do the interviews. MARGOLIS reviewed the report of the investigation. The case had a very narrow focus, but MARGOLIS was satisfied. They were unable to prove obstruction in the handling of the note.

MARGOLIS had some concerns regarding reports in the press about the obstruction investigation; it appeared as though the FBI had undertaken an investigation of the White House.

MARGOLIS suspects NUSSBAUM of not providing the note when it was first found. One of the White House secretaries who entered FOSTER's office may have located the note. MARGOLIS does not believe the note was in the briefcase during the initial search.

MARGOLIS is very confident that NUSSBAUM looked at all the files and documents in FOSTER's office, but not very confident that NUSSBAUM looked at each document in terms of its relevance to the suicide investigation. MARGOLIS expressed his concern and frustration at the possibility that other relevant items were withheld from investigators; items that would have provided insight into FOSTER's state of mind.

MARGOLIS stated that he has had no additional conversations with the White House Counsel's Office regarding this matter. MARGOLIS could only recall one other unrelated conversation with NUSSBAUM regarding a background investigation.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/94

Sgt. Peter W. Markland, U.S. Park Police, appeared at the Office of the Independent Counsel, Washington, D.C., as scheduled at 5:30 p.m. for interview. Sgt. Markland was advised of the identity of the interviewing agents and that the interview was in connection with the search of Vincent Foster's White House office on July 22, 1993 and other events in connection with this search and the investigation by the U.S. Park Police of Foster's death on July 20, 1993. The agents were also assisted in this interview by Carl Stich and Mark Stein, Assistants to Independent Counsel, Robert B. Fiske, Jr. Sgt. Markland provided the following information:

He was not at the death scene of Vincent Foster in Fort Marcy Park on July 20, 1993. He found out about the Foster death and being assigned to the case when he reported for duty at 6:00 a.m. on July 21, 1993. He was a detective at the time. That morning, he thought that he would be going to the office of Vincent Foster at the White House to search for any possible note or anything else that would confirm a suicide or not. He would be going to the Foster office with Capt. Charles Hume, who had decided to go to assist in dealing with ranking officials at the White House.

Upon arriving at the White House at about 8:00 a.m., Markland found that U.S. Park Police Chief Langston and Major Hines, Park Police Public Information Officer, were already at the White House speaking with Bernie Nussbaum, White House Counsel. He noted that Hume and himself did not talk at this time with Nussbaum and were not even introduced to him out of courtesy. It was obvious he and Hume were cut out. The Chief had all Park Police reports done to that point in time in his hand while meeting with Nussbaum.

Markland had been under the impression that the Foster office had been sealed immediately after Foster's death. However, he determined that the investigators working the night before hadn't made this request.

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vestigation on 4/14/94 at Washington, D.C. File # 29D-LR-35063-

RTB

by SA Russell T. Bransford
SA William T. Guyton Date dictated 4/15/94

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Even though arrangements had been made to go through the office before Hume and Markland went to the White House, they never made it beyond the first floor on July 21, 1993. The bottom line was they waited all day. Individuals they had met at the South End of West Executive Avenue upon arriving at the White House included a U.S. Secret Service Uniform Division Inspector, two other U.S. Secret Service Agents and FBI Agents Scott Salter and Dennis Condon.

When they finally had a chance to speak to Nussbaum, at about 11:00 a.m. in the lobby of the Old Executive Office Building, they were asked by him what they were doing there and when it was explained that their purpose was to search Foster's office, they were told by Nussbaum that they should make this request to Attorney General Janet Reno. Markland said apparently Nussbaum had already told this to the U.S. Park Police or the FBI. It became obvious that they would see only whatever Nussbaum wanted them to see and that would be it. Markland described the situation as ridiculous. The Park Police were there to investigate a death but they had no control. They were not privy to any information regarding what was going on. He said they complained among themselves (Hume, Markland, U.S. Secret Service Agents and FBI Agents). They were not looking to Chief Langston for direction.

Nussbaum said he had asked that Foster's office be sealed. Markland noted that he didn't believe Nussbaum. It was his feeling that the Park Police and others were there to do "whatever Nussbaum wanted us to do." He understood that Nussbaum and others had gone through the Foster office before it had been sealed.

The U.S. Park Police Major assigned to this matter was Major Holmes of Criminal Investigations. The situation concerning the White House attitide was conveyed to Major Holmes through Capt. Hume. Major Holmes never came down to the White House on July 21, 1993. Markland did not see the U.S. Department of Justice (DOJ) attorneys until the next day. Capt. Hume had been making telephonic contact with DOJ while they waited. Markland was provided no other information regarding meetings and left the White House on July 21, 1993 at about 3:00 p.m.

Markland obtained U.S. Secret Service records regarding alarms for Foster's office.

On July 22, 1993, at approximately 10:00 a.m., Markland and Hume met with David Margolis and Roger Adams of DOJ, Don Flynn and Paul Imbordino of the U.S. Secret Service, and Scott Salter and Dennis Condon of the FBI at the West Wing entrance to the White House. Markland noted that all times could be verified by referring to the Park Police report.

Again, there was a wait of an hour or so while there was discussion between DOJ and Nussbaum regarding how the search of Foster's office would be handled. Margolis had said in front of Nussbaum that this would be handled as a normal investigation. Markland's reaction to that was that it was ridiculous and absurd. If it had been a normal investigation, Markland said that "everything would have been boxed up in my car yesterday." In addition to those individuals previously mentioned, Steve Neuwirth and Cliff Sloan, as well as a Foster family attorney by the name of Spafford, were present in Foster's office during the search. The U.S. Secret Service Agents were at the door.

Approximately one-half hour into the search, FBI Agent Scott Salter stood to stretch. Markland noted that he is very tall. Somebody in the room accused him of "peeking." He said this was a serious comment and not meant to be humorous. He said that Salter "got mad" at the reaction. Markland said he got tired during the search of Nussbaum looking through things; that this could have been done by mail. He said Nussbaum just picked up documents and said "you don't need to see this." The other White House people stood near Nussbaum and whispered in his ears.

When asked if anyone in the room had objected to the procedure being followed, Markland answered no. He said that would be like stating the obvious. He felt that it was not the Park Police place to do so, that DOJ was there.

The search was conducted with Nussbaum sitting at Foster's desk, flanked by Neuwirth and Sloan and perhaps Spafford, with Adams, Margolis, Markland and Salter sitting left to right in front of the desk.

The terms of the search had been decided by Margolis with Nussbaum and perhaps Neuwirth prior to the actual search.

Markland said any Whitewater or Madison documents wouldn't have meant anything to him at the time of the search.

Markland watched carefully while Nussbaum went through everything. He did not believe there were any areas in the Foster office not searched. There were no areas outside the Foster office included in the search.. In addition to the desk, bookcase and shelves and other cabinets searched, Nussbaum also searched an old briefcase. This briefcase had been at the right side of the desk and Nussbaum pulled papers from it. Markland noted that Nussbaum carefully looked into the briefcase and that anything in there he would have seen. He tilted it from side to side. Markland did not believe anyone else in the room saw that the briefcase was empty but Nussbaum had indicated that that was all there was and returned the briefcase to the side of the desk. Later during the investigation, after the Foster note had been found, Markland questioned both Nussbaum and Neuwirth regarding the search of the briefcase. Neuwirth told them that he hadn't seen the scraps of paper. When Nussbaum was questioned, he just said "That's what happened."

During his exchange with Nussbaum on the briefcase, Markland asked Nussbaum "how could you not see yellow paper." Nussbaum's reply was "well, I didn't." Markland felt that this was impossible. He said the briefcase being empty or not was obvious.

Markland said the search took from one to two hours. Nussbaum divided the documents into personal papers which were given to the Foster attorney and papers to be kept by the White House. The Park Police and other investigators got nothing that day. Markland estimated that the White House kept approximately two Xerox-type boxes of documents and the private attorney got approximately one-half Xerox-type box of papers.

Markland said that they knew he was agitated during the search as he was looking pretty mean. Markland said that even before the search, it was obvious papers had been gone through as four people, besides Nussbaum, had been in the Foster office the previous day or the night of the death. Additional individuals recalled doing this included Patsy Thomasson and Betsy Pond. Markland also made note that their "real quick" search for a suicide note had lasted for two hours.

Markland noted there had been a search of the trash in Foster's office, but recalled that the housekeeper had taken the trash out and the trash was brought back in during the time of the search. He said that the individual looking for the trash at the time of the search was out and back with a bag of trash in less than two minutes. Markland was skeptical that the trash had been taken out of a "sealed office" in the first place.

Markland said his follow-up conversation with Nussbaum regarding the briefcase was probably sometime during Park Police interviews of the White House secretaries. He said these interviews with the secretaries were private, but it was obvious that people were told what they could tell the Park Police. During the interviews, there was no thinking and reflecting. It was "like they had studied for a test." Interviews were always with White House Counsel, such as Cliff Sloan and others present. During one interview, Markland recalled that Nussbaum burst into the room to check on things. It was obvious to Markland that those being interviewed knew what to say and said it. Any additional questions asked were not responded to.

Markland was asked to describe Bernie Nussbaum and provided the following descriptors: arrogant; obnoxious; pushy little guy; clear he was in charge of everything; New York character; made point of saying how close he had been to Vince Foster and what a great guy Foster was, yet did not seem overcome with emotion over Foster's death.

Markland said it was his feeling that Nussbaum was not helping the Park Police determine Foster's state of mind. It seemed nobody was allowed to tell them. Rather, the Park Police were told there was no problem; that Foster handled pressure well.

A change to this occurred when Neuwirth brought Betsy Pond to Markland and said she had something she remembered. This is the first the Park Police were told about Foster's depression.

Markland was asked to review handwritten Park Police notes regarding their investigation and indicate whose notes they were. While doing this, Markland made some comments. He said the Park Police had received a lot of "nut calls" during the investigation. All of these were filtered through the detectives in charge, but no summary of these had been produced.

With regard to an allegation received on two bullets being purchased, Markland said that a follow-up had been done with Mike Hedges of the Washington Times and that Hedges had received a phone call or heard of this, but that the source of the information had not been identified.

Markland said that no information had been developed during the investigation regarding Foster mailing letters on the morning of his death.

Markland said that during the investigation, the Park Police tried to account for the hours between Foster's death and the time he left his office. However, they were never able to narrow this down.

Markland was asked about Lisa Foster saying that the Foster note had been prepared a week or so before Foster's death. Markland said she was able to do this because the content of the note were items she and her husband had discussed during the time period approximately a week to a week and a half before his death.

Markland said the keys found on Foster were identified as house and car keys. Markland also reported he had personally searched the trunk of Foster's car and had found nothing of a compromising nature, such as evidence of an affair or any homosexual activity. He found nothing at all to assist in the investigation. It was mostly college stuff from Foster's daughter.

Markland was asked to characterize Fort Marcy Park. He said that people went there for the view and history. When questioned about homosexual activity in the park, he said that was true of every park and that there had been some arrests at Fort Marcy. He said that wherever there were secluded areas in parks, there were arrests. He said that Turkey Run and Columbia Island (D.C.) were bigger spots for homosexual activity. He noted that Fort Marcy had no restrooms and, therefore, not a big homosexual area. Markland said that the U.S. Park Police patrol Fort Marcy Park in both marked cars and with plain clothes on the paths. There is another entrance to Fort Marcy Park off Route 123. Markland said that radar units from the U.S. Park Police and the County also sit at the entrance to the park and he

believes FOIA(b)(7) - (E) patrols in the park. He said he had uncovered nothing during the Park Police investigation from these law enforcement agencies to assist in the Foster suicide investigation or concerning incidents at the park on July 20, 1993.

In summary, Markland said that he felt he had been "stonewalled" during the Park Police investigation of Foster's death. Markland is convinced that there was no note in the briefcase in Foster's office on the day of the search or that if there was, Nussbaum knew about it. He said if the note had been in there, Nussbaum couldn't have missed it. His theory is that the note was found by someone, ripped up, and then later given to the Park Police.

Markland is satisfied that the Foster death was a suicide that had been done at Fort Marcy Park.

The following description of Markland was obtained through observation and interview:

Name:	Peter W. Markland
Title:	Sergeant, U.S. Park Police Currently detailed to a criminal violent task force. Returning in one week to permanent assignment at Glen Echo Station. At time of Foster's death, he was a detective in the Criminal Investigative Division, Major Crime Section, U.S. Park Police.
Sex:	Male
Race:	White
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Home Address:	8702 Pinnacle Rock Court Lorton, Virginia 22079
Business Address:	1100 Ohio Drive, S.W. Washington, D.C. 20242
Telephone Number:	(202) 619-7105 (work) (703) 690-3021 (home)

Employment Information: Promoted to Sergeant, U.S. Park Police in August, 1993. Employed by U.S. Park Police since 1978. White House Executive Protection Service (now U.S. Secret Service Uniformed Division) 1976-1978.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/94

Sergeant PETER W. MARKLAND, U.S. Park Police (USPP) District Two, Glen Echo, telephone (202) 619-7105 or (301) 492-6293 (work) or (703) 690-3021 (home) was interviewed at the Office of the Independent Counsel, Washington, D.C. Sergeant MARKLAND was advised of the identity of the interviewing agent and of the purpose of the interview. CARL STICH Assistant to Independent Counsel ROBERT B. FISKE, JR. assisted in this interview. Sergeant MARKLAND provided the following information:

He was asked his understanding regarding the procedure to be followed during the search of VINCE FOSTER's White House office on July 22 following FOSTER's death on July 20. MARKLAND responded that it was more like watching what was going on more than anything else. He was under the impression he couldn't do anything without the U.S. Department of Justice (DOJ). MARKLAND believed that his captain, CHARLES HUME, and BERNARD NUSSBAUM (Chief White House Counsel) had "worked out" the details of the search. He understood that he should "sit down" and "shut up". He was told several times by DAVID MARGOLIS from the DOJ to treat the investigation as a "normal investigation". MARKLAND said it wasn't. MARGOLIS did not consult with the Park Police regarding what they wanted. The Park Police wanted to search FOSTER's office and the way it turned out, they might as well have "mailed" the information. MARKLAND did say that he felt MARGOLIS understood the law enforcement interest. Everything needed didn't have to be spelled out as MARGOLIS was an intelligent, experienced individual. MARGOLIS understood what "unusual" items the Park Police were looking for. As an example MARKLAND cited any indication of bad medical news.

MARKLAND was asked if during the search, he came across a tax file would he pass over it quickly, glance at it for any indications of the suicide or relevant information, or thoroughly analyze the document. MARKLAND replied that he would take it to the second step of looking over the item for unusual notations or markings. He wouldn't, or even feel qualified to, analyze the document.

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MARKLAND's understanding was that MARGOLIS and NUSSBAUM had agreed on the first day (7/21/93) that MARGOLIS would review the documentation in FOSTER's office for privilege issues. MARKLAND understood, because of the security question issue, that MARGOLIS would review the items located in FOSTER's office first versus law enforcement looking at the documentation initially. MARKLAND said that on July 21 the Park Police were "out of everything" except getting the word that they would start the next day. On July 21 NUSSBAUM did most of the talking assuring the Park Police and others of his cooperation and commenting on what a great guy VINCE FOSTER had been. MARKLAND could not recall if Captain HUME was in the meeting with NUSSBAUM on July 21 or not. MARKLAND did not recall ending the meeting and then going back in, but he said he may have done this.

MARKLAND was asked if he understood he would be physically present during the first screening of documents. He said he knew the Park Police would be in there for the whole thing.

MARKLAND first found out about the change of procedure for the search of FOSTER's office at the search itself on July 22, 1993. NUSSBAUM sat down at FOSTER's desk to do the search and announced the procedure he would follow. MARKLAND knew that NUSSBAUM and MARGOLIS had had discussions regarding the search. MARKLAND also knew that MARGOLIS didn't agree with NUSSBAUM on some points and had fought NUSSBAUM on the points of disagreement. MARKLAND knew that MARGOLIS was retreating from looking at the documents.

MARKLAND was asked if it had been made clear by NUSSBAUM or anyone that the Park Police would have to speak up to see or set aside any documentation found in FOSTER's office. He answered no. NUSSBAUM made comments during the search while he was looking at documents such as, this is none of your business, this is private, this doesn't matter. MARKLAND said it was clear that the Park Police and other investigators present weren't going to review anything there. The things excluded by NUSSBAUM had to do with Presidential issues, etc.

MARKLAND was asked if he could think of anything which he wanted to see that he couldn't see and he answered no. MARKLAND said, "Who knows what we were going to see out of the review pile anyway". MARKLAND understood that even though FOSTER's office had been secured by the U.S. Secret Service that

NUSSBAUM could go in and out of the office anyway. When asked how he knew this, he said that either a U.S. Secret Service agent or NUSSBAUM had told him that NUSSBAUM could go into the office. He believed it was probably NUSSBAUM himself who had told him this. MARKLAND recalled asking to see the trash during the course of the search and that somebody got up at that point and brought a bag of trash in for review. It was during this exchange that NUSSBAUM possibly mentioned that the FOSTER office had been posted but that he (NUSSBAUM) could go in.

MARKLAND was asked regarding the search of the briefcase in FOSTER's office. MARKLAND remembered NUSSBAUM looking into the briefcase twice. NUSSBAUM looked quite satisfied that there was nothing in the briefcase. MARKLAND had a "clear shot" through the opening in FOSTER's desk as NUSSBAUM was pulling documents from the briefcase. MARKLAND was asked that during the review of FOSTER personal documents, one week after the search, did he have any reason to believe that the documentation provided by FOSTER's attorney was not complete. MARKLAND answered, "No". He added, "only in that he didn't like how the whole thing went". MARKLAND was asked how this review of documents at HAMILTON's law firm came about. MARKLAND answered that they had a specific time to go over to the attorney's office but that he didn't think he had set that meeting up and cannot further recall how it had been arranged.

MARKLAND was asked if there had been any discussion among the non-White House group to terminate the search process and get a search warrant or subpoena for documents in FOSTER's office. MARKLAND answered, "No". MARKLAND said he kept telling MARGOLIS, and believed that the feeling was mutual among those involved, that the search was "ridiculous" and a "farce". MARKLAND understood that everything was to be worked out between MARGOLIS and NUSSBAUM. MARKLAND again mentioned that he was told to treat this investigation like any other investigation. After hearing this several times, he had had it and said that if it had been like any other investigation, the documents "would have been in my truck yesterday".

FAMILY'S ATTORNEY

JAMES HAMILTON

424-7826

363-3020

WEBB HUBBELL

574-9500

When body can be released,

Craig (Clinton Stroup) with Security

LIVINGSTONE - respond to Fairfax Hosp. - Is Body Come down stairs

Ofc. (Bruce Haight) with bar. observed (records?)

Cathleen Gallagher

Notified for

Webb Hubbell

@ 1300 hrs.

that body can be released

Mr. Wasshausen.

1310 — left office
the Branch Office

Tried to page @ 1830
No response

He (Wasshausen) left office
@ 1830 Hours of 1900.

No unusual behavior.

Betsy Ford.

Deborah Gorham.

~~Todd~~ INTERVIEW
+ 0830

LIVINGSTONE SAID HE WAS
NOT IN OFFICE TODAY

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/11/94

Sergeant PETER W. MARKLAND, U.S. Park Police (USPP), District 2, Glen Echo, telephone number (301) 492-6293, was interviewed on the telephone as a follow-up to his interview of June 9, 1994. Sergeant MARKLAND provided the following information:

He was asked about his handwritten notes (copy attached) taken during the USPP investigation of the death of VINCENT W. FOSTER, JR. on July 20, 1993. The notes indicate that CRAIG LIVINGSTONE, White House Security, "responded to Fairfax Hosp. - ID body." The notations continue, "came down stairs (Bruce Abbott observed) with box (records?)."

MARKLAND identified BRUCE ABBOTT as a Uniformed Division U.S. Secret Service "guy" who had been posted at the desk in the White House. MARKLAND said ABBOTT told him "on the side" he had observed LIVINGSTONE with a box as indicated in MARKLAND's handwritten notes.

MARKLAND said he later asked LIVINGSTONE about this. LIVINGSTONE told him he had not gone into VINCENT FOSTER's office but had taken records. LIVINGSTONE said he had come from the second floor of the West Wing of the White House with a box. LIVINGSTONE had done this "early" on the morning of July 21, 1993. When asked if he could further pinpoint the time, MARKLAND replied he could not except to say that it occurred sometime before the USPP got to the White House that day. MARKLAND said the information provided by LIVINGSTONE seemed "inconsequential" at the time and he did not pursue it further. MARKLAND said he did not get the feeling that LIVINGSTONE was someone any one would have confided in. He felt LIVINGSTONE was "on the level."

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FAMILY'S ATTORNEY

James Hamilton

414-7826

363-3020

Webb Hubbell

514-9500

When body can be released,

Craig ← WH security (Clinton Staff)

Livingstone - respond to Fairfax Hosp. - to Body Come down stairs

to. (Bruce Hobgood) observed with bar. (records?)

Catherine Gallagher

Notified for

Webb Hubbell

@ 1300 hrs.

~~that body can be~~

released

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

Sergeant PETER W. MARKLAND, U.S. Park Police (USPP), District 2, Glen Echo, telephone number (301) 492-6293, was interviewed at the Office of the Independent Counsel, Washington, D.C. MARK STEIN, Assistant to Independent Counsel, ROBERT B. FISKE, JR., assisted in this interview. Sergeant MARKLAND was advised of the identities of the interviewing agent and the OIC Counsel and of the purpose of the interview. Sergeant MARKLAND provided the following information:

He was asked about his handwritten notes (copy attached) taken during the USPP investigation of the death of VINCENT W. FOSTER, JR. on July 20, 1993. The notes indicate that CRAIG LIVINGSTONE, White House security, "responded to Fairfax Hosp. - ID body." The notations continue, "came down stairs (Bruce Abbott observed) with box (records?)."

MARKLAND said there were additional notations in his notes regarding CRAIG LIVINGSTONE. He reviewed copies of his notes and located a notation stating, "LIVINGSTONE said he was not in office today" (copy attached).

MARKLAND said that BRUCE ABBOTT, Uniformed Division, U.S. Secret Service, was on the desk at the West Executive Avenue entrance to the West Wing of the White House. ABBOTT approached MARKLAND as he apparently remembered him (MARKLAND) from his previous employment at the White House. ABBOTT told MARKLAND that LIVINGSTONE came down from the second floor of the White House West Wing with a box. MARKLAND could not remember the exact time he received this information from ABBOTT but said it was about 10:00 a.m. on July 21, 1993. He said it was at the same time that the Chief of the USPP and Major HINES had walked down the hall as they were talking with BERNARD NUSSBAUM, Chief White House Counsel. At the time, MARKLAND was not sure if this information was a big deal or not. He said he mentioned the information provided by ABBOTT to his Captain, CHARLES HUME.

Sometime between 1:00 p.m. and 1:30 p.m., LIVINGSTONE came up to MARKLAND and introduced himself to MARKLAND. MARKLAND

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tigation on 7/11/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton/WTG:deg Date dictated 7/11/94

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recalled this being somewhere in the West Wing on the ground floor. He said LIVINGSTONE gave him his card as he knew MARKLAND was involved in the FOSTER death investigation. LIVINGSTONE volunteered that he was at the FOSTER house the previous night and said he was available if there was anything he could do to help. At this time, MARKLAND asked LIVINGSTONE about carrying the box from the West Wing and whether or not he was in FOSTER's White House office. MARKLAND could not recall the exact words to his question, nor could he remember any of the words used by LIVINGSTONE to answer the question. MARKLAND said it was clear from the exchange that LIVINGSTONE had not been in FOSTER's office and had not taken anything from FOSTER's office. MARKLAND told LIVINGSTONE something along the lines that he had been seen coming from the second floor carrying a box. LIVINGSTONE replied along the lines (but not his words) that it was some kind of routine stuff. Livingstone didn't deny coming from the second floor. LIVINGSTONE specifically said he had not been in FOSTER's office. MARKLAND was asked if LIVINGSTONE said anything affirmative regarding the box question. MARKLAND"s answer was that it was clear in his mind after the exchange that LIVINGSTONE agreed with having come down with a box. He was asked if he followed up on LIVINGSTONE's routine comment. MARKLAND answered yes, but said he could not recall the specifics. He said LIVINGSTONE did answer in the affirmative in some way. He didn't remain silent. He did say something. It was clear from LIVINGSTONE's answer that it had nothing to do with FOSTER's office.

MARKLAND had not asked ABBOTT or LIVINGSTONE about the time of the incident other than to understand that it had been "earlier that morning."

MARKLAND said LIVINGSTONE had said something to say he was carrying a box. LIVINGSTONE had not been adversarial in the exchange. LIVINGSTONE in no way denied carrying something down from the second floor.

MARKLAND had no further conversations with LIVINGSTONE about this matter. He received subsequent phone calls from LIVINGSTONE regarding FOSTER's property being returned to the family and/or thank you comments from LIVINGSTONE regarding the handling of this property or other aspects of the investigation.

MARKLAND was asked if he contacted ABBOTT again regarding this matter and he answered no. He said ABBOTT did not say that LIVINGSTONE was with somebody else. He said ABBOTT didn't mention anyone else, or he would have put that person's name in his notes. LIVINGSTONE himself did not mention anyone else being with him on that morning. MARKLAND said LIVINGSTONE reacted to the news that he had been seen carrying a box from the second floor with "no surprise or apprehension." LIVINGSTONE's name did not come up otherwise during the course of the USPP investigation. LIVINGSTONE had nothing to do with other meetings concerning this investigation.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 11/7/94

KIMBERLY MARTEAU was interviewed at the Office of the Independent Counsel. She is employed as the Director of Public Liaison, United States Information Agency (USIA), 301 4th Street, S.W., Washington, DC. Her work telephone is 202-619-4355. MARTEAU is married to JOHN B. EMERSON, Deputy Director of White House personnel.

MARTEAU said she met VINCENT FOSTER through her husband, and saw FOSTER at occasional social events and dinners. She first met him during a visit to Washington in February, 1993, and then again after she moved to Washington in late April, 1993. She saw FOSTER about three weeks before FOSTER's death during a brunch at MARTEAU's house. They sat next to each other but did not engage in deep or intimate conversation. She noted FOSTER always appeared reserved and "sober."

On the evening of VINCE FOSTER's death, July 20, 1993, MARTEAU and her husband received a telephone call from BRUCE LINDSEY, EMERSON's superior. During this call, at about 10 pm, they were told of FOSTER's death. EMERSON and MARTEAU decided to go to The White House to be near friends and give and receive consolation. They did this on their own initiative, and were not directed to do so. They parked on West Executive Drive and went to BRUCE LINDSEY's office, remaining there, or in the hallway directly outside it until about 1:00 am. She noted EMERSON used his building pass and MARTEAU "had to be called in" for access to The White House. She recalls only seeing DEB COYLE, CHERYL MILLS, RICKI SEIDMAN, BILL BURTON, DANA LAWRENCE and BRUCE LINDSEY. Other people were present but MARTEAU was not familiar with them. She doesn't recall anyone saying anything about FOSTER'S office or property.

MARTEAU has not received any instructions on answering investigator's questions.

Name:	KIMBERLY MARTEAU
Date of Birth (DOB):	FOIA(b)(6)
Social Security Account Number (SSAN):	FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/17/94

Dennis Stephen Martin, Inspector, Uniform Division, United States Secret Service (USSS) was contacted in his office. Inspector Martin, having been previously advised as to the official identity of the interviewing agent and nature of the interview, provided the following information:

Inspector Martin was shown a copy of a one-page document captioned "On-line activity report" dated 7/21/93, showing the activation and deactivation of an alarm on the Nussbaum/Foster suite on the 2nd floor of the west wing of The White House for the period 7/20/93-7/21/93. Inspector Martin said that when a door giving access to an alarmed area of The White House is opened an audible alarm sounds in the USSS White House Control Center, a light on a wall board flashes and a computer starts automatically entering data onto the "On-line activity report". The data that is automatically entered and printed by the computer includes: date, time, USSS zone number, location (e.g. west wing, 2nd floor, room 208), a description of the area (e.g. "Nussbaum's office"), and the event (e.g. "access alarm"). This sequence alerts the personnel on duty in the USSS Control Center who then wait a short time for the person who has "set off" the alarm to telephone the Control Center to identify themselves as required by standard operating procedure. Once the parties name is obtained, it is manually typed in by the USSS employee answering the phone and then becomes a permanent part of the log. Martin explained that should a telephone call not be received in a short amount of time, a USSS uniformed officer is dispatched to the scene to investigate.

In response to specific questions, Inspector Martin said that once an entry is made onto the "On-line activity report" either automatically by the computer when an alarm is "set off" or manually by a USSS employee, it can not be deleted or erased from the log. Similarly, USSS employees are not able to prevent an "event" from being entered on the log because the computer software is designed in such a way as to make automatic entries, as previously explained, when the alarm is "set" or "tripped". Further, if a USSS employee were asked by a White

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House staffer or employee to prevent an entry being made on the log or to attempt to delete an entry from the log, this would be seen as very suspicious and highly irregular. Such a request would surely be reported "up the chain of command" within the USSS. Inspector Martin said that he is aware of no such requests ever being made of the USSS.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

Dennis Stephen Martin, Inspector, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania NW. Inspector Martin was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for twenty years and his office is located at 1310 L Street NW, Washington, D.C. His office telephone numbers are 202-435-7575 and 202-435-7209. He is currently assigned as the Uniform Division Commander of USSS Professional Responsibility and Internal Affairs Investigations.

At the time of Vincent Foster's death on July 20, 1993, he was the Deputy Commander of the USSS White House branch and as such was the commanding officer of all Uniform Division employees working within The White House compound. In that capacity, his responsibility was to oversee and coordinate access and control of physical security for The White House. He came to work on the morning of July 20, 1993, at approximately 7:30 am and left work that day at approximately 5:30 pm after a busy but otherwise uneventful day. At approximately 8-9:00 pm, he received a phone call from Lieutenant David Wultz at the USSS White House Control Center advising him that the United States Park Police had just notified him that a body, believed to be that of Vincent Foster, had been found dead at Fort Marcy Park of an apparent suicide. Inspector Martin said that he made the appropriate notifications within the USSS chain of command and also decided to notify Craig Livingstone, a non law enforcement White House staffer who, at that time, held the title of White House Security Coordinator. He said that he decided to notify Craig Livingstone because he believed that notification of the hierarchy of The White House staff was appropriate and he thought it possible that The White House staff would want to decide who should identify the body. He said that when he contacted Livingstone at his (Livingstone's) residence, he seemed quite shocked and upset but said that he would contact the Park Police and that he would go to either the hospital or the morgue to identify the body. Inspector Martin

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said that it is his understanding that Livingstone did identify the body that night.

On July 21, 1993, Inspector Martin arrived at work at approximately 6:30 am and shortly thereafter met with USSS Assistant Special Agent in Charge (ASAC) Paul Imbordino. It was decided that Inspector Martin would meet and escort U.S. Park Police (USPP) investigators and FBI agents who were expected at The White House shortly to conduct an investigation regarding Foster's death. Inspector Martin said that at approximately 8:00 am USPP Chief Langston and a Deputy Chief (name unrecalled) arrived at The White House saying that they had an appointment with David Watkins whom Martin knew to be a White House staffer for whom Craig Livingstone worked. Inspector Martin said that he escorted the Chief and Deputy Chief to a suite of offices on the ground floor of The White House west wing that was occupied by Watkins and his superior, Patsy Thomasson.

At approximately 8:30-8:45 am a USPP Captain (name unrecalled) and Detective Pete Markland of the USPP arrived about the same time that Chief Langston and the Deputy Chief were leaving The White House compound. Inspector Martin said that these four men spoke briefly outside the building and then the Chief and Deputy Chief departed The White House grounds. Shortly thereafter, two Special Agents of the FBI, Scott Salter and another (name unrecalled) arrived. Inspector Martin escorted them to The White House west wing where they briefly met with Bernard Nussbaum. Inspector Martin said that he cannot recall if he escorted the four law enforcement officers to Nussbaum's office or if Nussbaum came down to the ground floor to talk to them. He advised, however, that the conversation was regarding arrangements for the law enforcement officers to be allowed access to Vincent Foster's 2nd floor office. Nussbaum said that he wanted to check with other members of The White House legal counsel staff and the First Family before any access to Vincent Foster's office was allowed. The four investigators and Inspector Martin waited on a couch located on the ground floor of The White House west wing for approximately 2 hours and then moved to Inspector Martin's office where they waited several more hours into the afternoon. Martin said that during the time in his office, several telephone calls were made by the investigators to FBIHQ and USPPHQ. Martin said that he was not privy to these conversations but was able to discern that the investigators were most unhappy about being kept waiting but could not seem to gain appropriate authority to search Foster's

office.

Inspector Martin said that he went home that evening at approximately 5:30 to 6:00 pm after ASAC Paul Imbordino invited the investigators to continue their wait with him. Martin said that it is his understanding that the investigators went back to the west wing of The White House where they again met with Nussbaum. He said that although he was not present during the meeting, it is his understanding that the investigators were not allowed to see Foster's office that day but agreed to return the next day to conduct the search of that office.

Inspector Martin said that while the investigators were waiting with him, at approximately 11:00 am, a decision was made to begin posting a series of USSS Uniform Division officers outside Vincent Foster's door to secure it for investigation. These shifts went on for the remainder of July 21, 1993 and a locksmith was called in to place a lock on Vincent Foster's door that evening. Inspector Martin said that he was advised that the Uniform Division officers were removed from this newly established post at approximately 8:00 pm that evening when the door was secured with a lock.

Inspector Martin was asked if he recalls USSS Uniformed Officer Bruce Abbott relating any observations regarding Craig Livingstone and another man. Inspector Martin said that he does so recall that at approximately 8-9:00 am on July 21, 1993 as he was escorting USPP officers either in or out of the west wing, Officer Abbott approached. He said that Abbott spoke to him in a low confidential voice relating to him that earlier that morning (approximately 6:30 - 7:00 am) he had seen Craig Livingstone and another man (identity unknown) on the ground floor of The White House west wing having just gotten off the elevator or having just come down the staircase from the upper floors of the west wing. Abbott said that he saw these two men carrying a briefcase and some boxes and that he was relating this information to Inspector Martin because he thought it was unusual that these men were in the west wing at that hour removing items before an investigation of the Foster death to be conducted. Inspector Martin said that he does not recall if he related this information to anyone else or not. He said that he is certain that the Park Police officers were present at the time he was told this but he can not be sure if they overheard any or all of this information at that time.

Inspector Martin was asked to explain the USSS Standard Operating Procedure for picking up and disposing of "burn bag" trash from the west wing. He said that this type of trash is picked up daily from west wing offices during the midnight shift by a USSS Uniform Division employee. He said that it is then taken to Room. 096 in the basement of the Old Executive Office Building (known as the Macerating Room) where it is shredded and then burned by GSA employees who have appropriate security clearances. Inspector Martin was asked to explain the standard operating procedure for picking up regular non burn bag trash from the west wing. He said that this type of trash is also picked up on a daily basis during the midnight shift but is picked up by GSA cleaning employees who are escorted by USSS Uniform Division officers. This trash is then taken to the same room in the Old Executive Office Building and from there thrown away in a dumpster behind the Old Executive Office Building. Inspector Martin said that, in his opinion, it is highly improbable that a specific bag of trash from a specific waste basket could be identified and retrieved the next day after it had been picked up by the GSA employees and combined with all other trash picked up on a given day. He also said that he does not recall hearing about any White House staffer asking to retrieve trash from Vince Foster's waste basket that had been previously picked up.

Inspector Martin was shown a copy of a one page document captioned "On-line Activity Report" dated 7/21/93, that had been previously obtained by the Federal Bureau of Investigation. Inspector Martin said that this is a log showing the activation and deactivation of an alarm on the Nussbaum/Foster suite on the 2nd floor of the west wing of The White House for the period 7/20/93 - 7/21/93. Inspector Martin explained the columns on this log reading left to right: date of activity; time of activity; the zone of this activity (number 561, west wing, 2nd floor, room 208-Nussbaum's office). The next column shows the entrant or operator's name and the last column shows the event, that is the alarm either being activated or deactivated or tested. Inspector Martin explained that an entry on this log reading "secure alarm" either means that the alarm for the Nussbaum/Foster suite had been intentionally set (activated) or that the alarm had been tripped or set off. He explained that an entry in the event column reading "access set" means that the alarm for this suite had been deactivated thus allowing people access to the suite. He said that an entry reading "access alarm" has the very same meaning as "access set".

He explained that an entry reading "secure reset" is a check of the alarm system to make sure that the alarm is on. He explained that this is done periodically, remotely, and electronically by the USSS White House Control Center. Inspector Martin was asked to explain his understanding of entries on this log. He said that according to the log, at 8:03 am on 7/20/93, the alarm had been tripped and deactivated. He said that the operator's name on the log which reads "Castle" is probably the same as later entries that same day on the log reading "Castleton". He said that according to the log, the alarm remained in a deactivated mode the remainder of the day of 7/20/93. At 8:04 pm on 7/20/93, the alarm was put in secure mode or activated by "Castleton". At 10:42 pm on 7/20/93, the alarm was tripped when USSS Officer O'Neill went into the suite. It remained deactivated until 11:41 pm when O'Neil activated it again. One minute later at 11:42 pm, the USSS Control Center electronically checked the alarm status and found that it was in secure mode (activated).

302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

DENNIS STEPHEN MARTIN, Inspector, Uniform Division, United States Secret Service (USSS), telephone numbers (202) 435-7575 or 435-7209 was advised of the identity of the interviewing agent and the purpose of the interview. MARTIN provided the following information:

MARTIN was asked if CRAIG LIVINGSTONE, White House Security, had filed any grievances against any Uniform Division USSS employees with MARTIN. MARTIN answered, "Not on behalf of himself" (LIVINGSTONE). MARTIN said that LIVINGSTONE's duties included keeping security and the staff "on an even keel". MARTIN could remember no grievance being filed formally by LIVINGSTONE. MARTIN could recall LIVINGSTONE coming to him on only one occasion concerning a minor problem with a Uniform Division employee, Lieutenant LAURIE RICH. This minor incident involved some comments made by RICH while LIVINGSTONE was touring a group on the south grounds of The White House. LIVINGSTONE asked that MARTIN have RICH "chill out". MARTIN said there was no documentation regarding this incident and viewed it as very minor.

MARTIN said that on occasion LIVINGSTONE would be "out working the crowd" on the grounds of The White House. He was viewed as a CLINTON appointee playing a security role. The Uniform Division of USSS viewed LIVINGSTONE as being "on our side". They felt that LIVINGSTONE would be "responsive to any of our problems". MARTIN said he could not think of one person "who would finger LIVINGSTONE".

MARTIN said that last Sunday night at about 6:30 pm (July 10, 1994) LIVINGSTONE called him. When MARTIN returned the call to LIVINGSTONE, LIVINGSTONE asked MARTIN if he had legal counsel. MARTIN responded by saying that he no longer worked at The White House and would not discuss investigations with LIVINGSTONE. At that point in the telephone conversation he made "small talk" with LIVINGSTONE. He said eventually LIVINGSTONE got around to asking if MARTIN knew of any Uniform Division USSS officers who had a vendetta or a run in with LIVINGSTONE.

(telephonically)

vestigation on 7/12/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM T. GUYTON Date dictated 7/12/94

LIVINGSTONE advised MARTIN that he believed some officer was "fingering me" coming out of the west wing. MARTIN said he kept the discussion "general" with LIVINGSTONE and advised him that he didn't remember having a problem with him personally and told him he would not comment on any others. MARTIN referred LIVINGSTONE to Deputy Chief DAN JENKINS who, in turn, referred LIVINGSTONE to the USSS Legal Counsel. MARTIN also advised his immediate supervisor of the call from LIVINGSTONE. MARTIN believed that LIVINGSTONE wanted him to name BRUCE ABBOTT but he did not do so. MARTIN said that during his (MARTIN's) tenure at The White House, ABBOTT normally worked at the Control Center. In July of 1993 he was working "out of shift" to be at the post in the west wing of The White House. ABBOTT had only limited contact with LIVINGSTONE.

MARTIN said the attorney representing LIVINGSTONE, who had been identified to him as White House Legal Counsel, was RANDY or ROB TURK.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/8/94

DENNIS STEPHEN MARTIN, Inspector, Uniform Division, United States Secret Service (USSS), was reinterviewed at the Office of the Independent Counsel in Washington, D.C. At the outset, Inspector MARTIN was advised of the identities of the interviewing agents and the nature of the interview, specifically to seek clarification of certain issues that may not have previously been covered. MARTIN stated that in July of 1993 he was serving as the USSS Deputy Branch Commander responsible for all Uniform Division employees working within the White House compound. He stated that in this capacity he had established a regular working relationship with Mr. CRAIG LIVINGSTONE whose title was Director of White House Security. Any problems having to do with White House access, passes, parking or misunderstandings between USSS uniformed personnel and White House staffers would come to his attention and he and Mr. LIVINGSTONE would resolve such matters. It was because of this close working association with LIVINGSTONE that he, upon learning of FOSTER's death, on the night of July 20, 1993, telephoned for LIVINGSTONE and informed him of the tragedy. He stated that to his knowledge LIVINGSTONE was the only White House staff person that he called adding that he didn't reach him directly but left a message and LIVINGSTONE later called him back at home on his car phone.

Inspector MARTIN stated that he arrived at the White House on the morning of July 21, 1993 at approximately 6:30 a.m. and went directly to his office located on the fourth floor of the Old Executive Office Building (OEOB). To the best of his recollection, USSS Agent PAUL IMBORDINO was either up at MARTIN's office on the fourth floor or arrived shortly thereafter. IMBORDINO's office is on the 1st floor of the OEOB and LIVINGSTONE's office in on the ground floor, OEOB. IMBORDINO asked him if MARTIN would assist in meeting some Park Police Officers that would be arriving early that morning to conduct follow-up investigation. MARTIN stated that after meeting briefly with IMBORDINO, he went to the West Executive entrance gate to await the arrival of U.S. Park Police Officers MARKLAND and HUME. While he was there, he was surprised to see Chief

LANGSTON of the Park Police and his top assistant, Major HINES, arrive at the gate. He estimated their arrival at sometime between 7:00 and 7:30 a.m. He stated that he assisted them in parking in the secured lot between the White House and the OEOB, an area normally reserved for White House staffers. He escorted LANGSTON and HINES to DAVID WATKINS' office in the White House, stating that Chief LANGSTON, who he had previously known, informed him that he had an appointment with DAVID WATKINS to brief him regarding the FOSTER matter. Inspector MARTIN stated that he cannot be sure of the exact arrival time of Chief LANGSTON since he did not follow the normal procedures for logging a guest in since he was familiar with Chief LANGSTON. Inspector MARTIN stated that he then returned to the West Executive entrance gate and awaited the arrival of the other two Park Police Officers stating that to the best of his recollection they arrived sometime around 7:30 a.m. He escorted them to the West Basement area and waited there with them in the vicinity of Post E-1. He stated it was during this time, which he estimates was between 7:30 and 8:00 a.m., that he saw CRAIG LIVINGSTONE going by. He can't recall how LIVINGSTONE was dressed or whether he might have been carrying anything or whether he was in the company of any other individuals. He reiterated that as best as he recalls he saw LIVINGSTONE between 7:30 and 8:00 a.m., adding that it would not have been earlier but could possibly have been later in the morning.

MARTIN was asked if there were any other USSS or White House employees that would normally be in the West Basement of the White House near Post E-1 early in the morning. He responded by stating that as a general rule there are very few people in at that time in the morning, adding that the only other USSS employees that he could think of would have been the agents and uniformed officers that would have been staffing Post W-16, located down the hall from Post E-1.

MARTIN reiterated that it was in the time frame of 7:30 to 8:30 a.m. when USSS uniformed officer BRUCE E. ABBOTT approached him and mentioned that he had observed LIVINGSTONE and another man at approximately 6:30 a.m. carrying some boxes and a briefcase. MARTIN further stated that because of his position, it was logical for ABBOTT to have passed this information on to him. He was not sure whether ABBOTT had reported these observations to anyone else in the Secret Service but to his knowledge he had not. MARTIN stated that he was not sure whether he, MARTIN, had passed this information on to

the U.S. Park Police , explaining that he may have told MARKLAND or MARKLAND may have overheard ABBOTT speaking to him.

MARTIN was unable to recall whether he passed this information on to anyone else in the USSS, adding that he may have mentioned it to USSS Agent PAUL IMBORDINO but he can't be sure. He knows for certain that he did not mention the information provided by ABBOTT to CRAIG LIVINGSTONE and at no point later in the day did LIVINGSTONE ever bring it up or attempt to discuss it with him. He stated that he was unaware of any problems or conflicts between Officer ABBOTT and CRAIG LIVINGSTONE and could suggest no reason why Officer ABBOTT would have made up such a story, explaining that ABBOTT realizes that providing false information would result in his immediate termination from the USSS.

MARTIN stated that approximately two months ago, on a weekend, LIVINGSTONE did have him paged through the White House and he called LIVINGSTONE back at his residence. LIVINGSTONE asked him over the phone if he, MARTIN, was represented by an attorney and then remarked that someone in the Secret Service had reported observing LIVINGSTONE taking "stuff" out of FOSTER's office and he, LIVINGSTONE, wanted to know the name of the officer who filed such a report. LIVINGSTONE went on the say that he wanted MARTIN to talk to LIVINGSTONE's attorney regarding the matter. MARTIN stated that as a result of this conversation, he, MARTIN, felt that LIVINGSTONE might have suspected him of making the report. MARTIN advised that he told LIVINGSTONE that he and/or his attorney would have to go through the USSS legal counsel before MARTIN could be interviewed or discuss the matter. MARTIN stated that nothing else ever developed from this phone call and he has never been interviewed by an attorney representing LIVINGSTONE.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/8/94

JOSEPH A. MASONIS, Deputy Special Agent in Charge, Technical Security Division, United States Secret Service (USSS) was interviewed at the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Also present during the interview was WILLIE J. CHEATHAM, Branch Chief, Physical Security Branch, Technical Security Division, USSS and Associate Special Counsel MARK STEIN. MESSERS, MASONIS and CHEATHAM were advised as to the official identities of the interviewing agent and Mr. STEIN. They were also advised of the nature of the interview. They then provided the following information:

Deputy Special Agent in Charge (DSAC) MASONIS advised that he has been with USSS 22 years and his current telephone number is 202-395-5330. Officer CHEATHAM advised that he has been with USSS for 12 years and his current telephone number is 202-395-9226.

DSAC MASONIS and Officer CHEATHAM were each given copies of a document captioned "On-line activity report" which shows USSS alarm log activity for the BERNARD NUSSBAUM/VINCENT FOSTER White House suite of offices for the period of July 20, 1993 through July 21, 1993. They were asked to explain the various entries on this log. DSAC MASONIS said that on 7/20/93 at 8:03 am, someone opened the alarmed door to the NUSSBAUM/FOSTER suite. At that time the computer in the USSS White House Control Center printed out the date, time, location "NUSSBAUM's office", and the event occurring "secure alarm". He explained that "secure alarm" meant that a door that had been intentionally alarmed had been opened thus activating the alarm in the USSS Control Center. Per standard operating procedure the Control Center waited and moments later the entrant "CASTLE" (White House staffer THOMAS CASTLETON) telephoned the USSS Control Center identifying himself as the entrant. After verifying that CASTLETON was on the USSS access list for that suite, the Officer in the Control Center pressed a button which caused the phrase "control center" to be printed and the event "access set" to be printed. These two entries meant that the USSS Control Center was allowing access to that area. At 8:04 pm

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on July 20, 1993, the log shows that "CASTLETON" moved the alarm switch in the suite. DSAC MASONIS said that the entry reading "access alarm" means that someone is accessing the alarm system from that point or, in other words, is moving the alarm switch from one position to another. He said that the alarm log also shows that when CASTLETON moved the alarm switch from one position to another to place it in a secure mode, he had the door to the suite closed. DSAC MASONIS said that he was able to tell this because the system once again showed that the alarm had been tripped, "secure alarm" at 8:04 pm. He said that it can be logically assumed that this entry "secure alarm" was caused by CASTLETON opening the suite door to exit the suite for the evening.

The next entry on the log at 9:14 pm could not be explained by either DSAC MASONIS or Officer CHEATHAM. They explained that, according to the log, the alarm for the suite's door should have been sounding in the USSS Control Center from 8:04 pm until 9:14 pm when the USSS Control Center pressed a button causing "secure reset", the reactivation of the door's alarm. Both men said that they could offer no explanation why it apparently took one hour and ten minutes to reset the alarm on the suite door to a secure mode.

DSAC MASONIS said that the log showed USSS Officer O'NEILL entering the suite at 10:42 pm and securing the suite at 11:41 pm. DSAC MASONIS said that O'NEILL, like CASTLETON, moved the suite's alarm switch while the door was closed, thus setting off the alarm at 11:41 when he exited the suite. That explains the USSS Control Center pressing "secure reset" at 11:42. The system and the suite was secure, showing no entrance or exit between 11:42 pm on July 20, 1993 and 7:01 am on July 21, 1993. At that time "POND" entered the suite and deactivated the alarm. Neither DSAC MASONIS nor Officer CHEATHAM were able to explain the reason for the log entry at 11:20 am on July 21, 1993 which reads "Control Center test". Both men advised that the system was checked from time to time by the USSS and also by the telephone company to ensure that it was working properly.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/23/94

Sylvia M. Mathews, Special Assistant to the Assistant to the President for Economic Policy, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW in the presence of her attorney, Michael B. Waitzkin. Ms. Mathews was advised as to the official identities of the interviewing agents and the nature of the interview. She then provided the following information:

During 1992, she worked for the Clinton/Gore Presidential campaign committee in Little Rock, Arkansas. During that time, she worked with Gene Sperling with whom she had previously worked during the Mondale for President campaign. This led to her current employment. Both she and Sperling have worked at The White House since January, 1993 for Robert Rubin, the Assistant to the President for Economic Policy.

Her office is on the 2nd floor of the west wing of The White House on the same hallway as a suite of offices that during 1993 was occupied by Bernard Nussbaum and Vincent Foster. She first met Foster in February, 1993 and "barely knew him", never met any members of his family, and for the most part only saw him in the hallway where they exchanged greetings. She said that she therefore does not feel qualified to comment on any possible changes relative to Foster's demeanor or his psychological or physical condition prior to his death.

On July 20, 1993, shortly after 9:00 pm she was in a room near The White House library where Bill Clinton was being interviewed by Larry King for a live Cable News Network television program. She was in this room, watching the ongoing interview on a television monitor, because she and Gene Sperling had previously compiled briefing material for the President to prepare him for his live television interview. They were therefore nearby if needed. She does not recall specifically who told her about Vincent Foster's death, but she recalls overhearing parts of a conversation between several senior White House staffers in a hallway outside the room in which she was watching the monitor. She learned of Foster's death shortly

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Investigation on 5/20/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 5/20/94

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before the end of the President's television interview, was saddened, and wanted to do something to help.

Believing that Foster's death would bring about many telephone calls to The White House staff, she volunteered to go to Mac McLarty's office on the first floor of the west wing to assist with answering incoming calls. She thinks that she arrived McLarty's office at approximately 10:00 pm. Shortly after she arrived at McLarty's empty office, several White House staffers began arriving there. She recalled that one of the first to arrive was Bill Burton. She then made a "quick trip" to her office on the 2nd floor, picked up some of her pending work that she could do while answering phones, and return to McLarty's office. When she returneded she noted that Bill Burton was in McLarty's office making telephone calls. After approximately 30-45 minutes, she overheard Burton's part of a telephone call that she believes was with the United States Park Police. She heard Burton say that no suicide note had yet been found and the thought came to her that the trash from Foster's office should be obtained and searched for such a note before it was destroyed. After Burton finished his telephone call, she mentioned her idea to him in the presence of Dee Dee Myers and David Dreyer, a Deputy to Mark Gearan. She asked if she should go upstairs and attempt to retrieve the trash. All three staffers indicated that her idea was sound and indicated that she should go. She said that while there were no specific instructions, there was no mention of "burn bag" trash and it was her understanding that she was to obtain Foster's regular trash. As she left McLarty's suite of offices, she encountered two GSA cleaning ladies and asked them if the trash had already been picked up on the 2nd floor. They said it had been and indicated that it was still in the large collection bags in the hallway of the 2nd floor. She went upstairs with one or both of the GSA cleaning employees where they showed her the three large bags of consolidated trash in the hallway next to the elevator. Each of these three large bags contained numerous smaller clear plastic bags with trash from the various offices on the 2nd floor.

As she began going through the individual plastic trash bags within the large collection bags, she noted one bag containing "at least one document" with a White House interoffice mail address label containing Vincent Foster's name inside the bag. She retrieved this bag which was approximately 1/3 full of papers, a wooden coffee stirrer, and some wrappers and returned to Mac McLarty's office with it.

She said she recalls seeing Bill Burton and some other staffers whom she cannot recall. She told them that she had what she believed to be Vincent Foster's trash and asked if she should go through it. She was told "yes" by Burton and began going through it "one item at a time" on the floor in Mac McLarty's outer office. As she was doing so, it occurred to her that she should make an inventory of her findings. She made a handwritten "inventory" on a piece of 5 by 7 lined paper. Ms. Mathews gave this document, a copy of which is incorporated hereinafter to the interviewing agents. Upon completing her review she returned all items to the bag and told Bill Burton and other staffers present what she had found to include "a handful" of Vincent Foster's credit card receipts. She stated that they had no response that she can recall, except to suggest that the bag should be placed in Roy Neel's office for safe keeping and so that it would not be in McLarty's office where it might serve as a reminder of his friend Foster's recent death. She went to Roy Neel's unoccupied office and left the bag of trash on the floor and returned to answering phones in Mac McLarty's office.

Shortly thereafter, she thought of the burn bag trash that could have been picked up in Vincent Foster's office. As before, she received concurrence from staffers present and contacted a U.S. Secret Service officer at a nearby post inquiring as to how the burn bag could be obtained. A telephone call was made and shortly thereafter a "commingled burn bag" that was said to contain burn bag trash from the 2nd floor was brought to Mac McLarty's office by a Secret Service employee. She began removing items from the burn bag and stopped abruptly realizing how sensitive these documents were. She began to feel nervous about reviewing these documents and asked Gene Sperling, who had been in and out of McLarty's office that evening if he believed it was proper for her to be reviewing this material. Sperling agreed with her that she should not be reviewing these documents. At that point, she returned the items that she had previously removed to the burn bag. She then asked Bernard Nussbaum, who had come to Mac McLarty's office, what should be done with the burn bag. Nussbaum told her that there was not a burn bag in Vincent Foster's office and therefore there was no reason to keep this burn bag trash. It was her understanding that Nussbaum was telling her that Vincent Foster did not keep a burn bag in his office and did not use one. She contacted a Secret Service officer who picked up the burn bag and took it away.

At no time during the evening of July 20 or the early

morning hours of July 21, 1993, did she go into the Nussbaum/Foster suite. Further, she did not see any White House staffers or anyone else, other than the GSA cleaning ladies, on the 2nd floor of the west wing. She also did not see anyone in the Nussbaum/Foster suite of offices. Although she cannot be sure, she believes that the door to the Nussbaum/Foster suite was closed when she was on the 2nd floor. In an answer to a specific question, she said that she does not recall seeing Patsy Thomasson, Margaret "Maggie" Williams, Martha Scott, or Craig Livingston on the evening of July 20 or the early morning of July 21, 1993. She saw Bernard Nussbaum in Mac McLarty's office but did not see him on the 2nd floor of the west wing. She left The White House and went home at approximately 1:30 am.

On the morning of July 21, 1993, shortly after she arrived at work, she telephoned Roy Neel's office and left a message for him advising that the bag of trash on the floor of his office was trash that she believed had been removed from Vincent Foster's office. She advised that Neel never returned her call.

About "a week or ten days" after Vincent Foster's death, she began typing a chronology of the events of 7/20-21/93 into her office computer. The press of business precluded her from ever completing this chronology. She made this partial chronology available to the interviewing agents. Ms. Mathews stated that she had never advised any White House staffers as to her preparation of the partial chronology or an "inventory" of the items she found in the plastic bag that evening until May, 1994 when she made a copy of the "inventory" and partial chronology available to White House staffers to assist in their response to a subpoena from the Office of the Special Counsel.

Ms. Mathews stated that the only other discussion regarding the Foster trash that she can recall, occurred during August, 1993, when she was asked to come to Mark Gearan's office where she recalls seeing Cliff Sloan and Dee Dee Myers also present. They asked her to explain how she had obtained the bag of trash that she thought to be Foster's trash on the evening of July 20, 1993. She did so. They did not ask for and she did not think to offer the handwritten inventory of the bag's contents that she had previously prepared.

Ms. Mathews said that she knows of no other information that she could provide that could possibly be helpful with this

investigation.

The following descriptive data was obtained through observation and interview:

Name:	Sylvia M. Mathews
Sex:	Female
Race:	Caucasian
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Height:	5'7"
Weight:	131 lbs.
Hair:	Brown (4 inches past shoulders)
Eyes:	Blue
Social Security Account Number:	
Employment:	Special Assistant to the Assistant to the President for Economic Policy, The White House, Washington, D.C.
Telephone Number:	202-456-2174
Address:	2114 N Street, NW (Apt 15) Washington, D.C. 20037
Home Telephone:	202-296-8173
Education:	Holds degrees from Harvard and Oxford
Her Attorney:	Michael "Buz" Waitzkin, Nussbaum and Wald 1, Circle, Washington D.C.
Telephone Number:	202-833-8900

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/24/94

WILLIAM E. MAY, SR. was interviewed in the vicinity of the residence of former Deputy White House Counsel VINCENT W. FOSTER, JR., 3027 Cambridge Place, NW, Washington, DC (WDC). MAY delivers The Washington Post, newspaper to residents in the vicinity of the former FOSTER home.

According to MAY, VINCENT FOSTER lived in the residence located at 3027 Cambridge Place, NW, for approximately one month. MAY had only met FOSTER on one occasion.

MAY delivers newspapers between the hours of 6:00 am and 6:15 am to Cambridge Place residences. MAY delivered a newspaper to FOSTER's residence on the morning of July 21, 1993. In the course of delivering newspapers that morning, MAY did not recall seeing any television cameras or reporters in the vicinity of the FOSTER residence. MAY believes it takes him approximately eight to ten minutes to deliver newspapers in the vicinity of his Cambridge Place route.

MAY did not become aware of FOSTER's death until the following weekend. MAY did not recall seeing any press in the vicinity of the residence during his delivery time throughout the remainder of that week. MAY did not see anyone on Cambridge Place the morning of July 21. MAY did note that there were a number of cars lining the street but does not recall seeing any vehicle being occupied. MAY did not see anyone in front of the FOSTER residence on the morning of the 21st.

MAY was aware that the FOSTER residence was located at 3027 Cambridge Place, NW, and was able to point out that residence to the interviewing agent.

MAY recalls seeing a light on in the front window of the FOSTER residence on the ground floor, on the morning of July 21. He did not recall seeing any other lights on in the residence. MAY did note that it was daylight by the time of delivery. MAY appeared to be quite sure that he would have remembered if he had seen reporters or any other individual on

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Investigation on 8/05/94 at Washington, DC File # 29D-LR-35063

by SA DANA M. GILLIS:DMG:sla Date dictated 8/24/94

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the street that morning.

WILLIAM E. MAY, SR., is described from observation and interview as follows:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Sex:	Male
Race:	Black
Address:	6856 Farragut Street Hyattsville, MD 20780
Telephone Number:	301-386-3927
Employment:	Paper carrier-Washington Post
Length of Service:	23 years

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/14/94

Ms. KELLI RACHAEL MCCLURE 6516 Alopex Road, Waldorf, Maryland, work number (202) 456-2014, home number (301) 843-9224 was advised of the identities of Special Agent's WILLIAM E. COLOMBELL and [redacted] and informed that they wished to interview her for possible information that would assist in tracing the source of a particular White House document. At the outset, it was agreed that Mr. CHRISTOPHER D. CERF, General Counsel for the Executive Office of the President would be present during the interview. Ms. MCCLURE provided the following information:

In 1986, she began employment with the Executive Office of the President, Office of Administration. In May of 1993, she was assigned over to The White House Management and Administration office, working for Mr. DAVID WATKINS. Her new office was located in the west wing of The White House.

Ms. MCCLURE stated that she recalls typing a document for CRAIG LIVINGSTONE back in July of 1993, specifically the day after VINCE FOSTER committed suicide (7/21/93). She did not use her own personal computer in typing the document but for some reason, used the computer at the desk of an employee named TRISHA NORTHCUTT. She feels certain that this same personal computer is currently being used by TRACY BECKETT who currently works with her in The White House Office of Administration and Management, Room 145, Old Executive Office Building.

At this point in the interview, Ms. MCCLURE was shown a copy of the two-page memo that was provided to the Office of the Independent Counsel bu Mr. CRAIG LIVINGSTONE and after reviewing it, identified it, without question, as the document that she had typed for him back on July 21, 1993.

Ms. MCCLURE stated that some time around lunch, Mr. LIVINGSTONE came into her office and asked her if she could, as soon as possible, type up a rough draft memo for him. She recalls specifically that it was precisely at the time that President CLINTON was talking to the entire White House staff

regarding the tragic death of VINCE FOSTER. As she recalls, just about everyone in The White House and Old Executive Office Building had gone over to hear the President's comments. She had been asked to remain in The White House Administration and Management Office to answer the phones. LIVINGSTONE had stopped by her office and asked her to type a handwritten rough draft since he did not have anyone in his office since they'd all gone over to hear President CLINTON.

MCCLURE stated that LIVINGSTONE had remarked that he had been asked to prepare this document and that he needed it typed as soon as possible. To the best of her recollection, he did not make any comment as to who had instructed him to prepare the document. She typed the document quickly and gave him the original without any copies and also returned the written rough draft to him. She can not recall if he later made any changes, deletions, corrections, or additions but to the best of her recollection, he did not and she had no further contact with this document. As best she recalls, the rough draft he gave her had not been edited, reviewed or written on by a third party. She stated that until being interviewed by Agent COLOMBELL, she has never had any inquiries from anyone, including Mr. LIVINGSTONE, regarding her preparation of this document. Within the recent past, (last two months), no one has spoken to her or inquired or made efforts to locate this document. Mr. LIVINGSTONE has not, to her knowledge, spoken to anyone else in her office and she was unaware of any efforts by him to find the person who had typed this document. MCCLURE concluded by stating that to her knowledge, no one other than TRACY BECKETT has been using or working on that particular computer in the past two months.

Upon conclusion of the interview, agents of the FBI Lab, searched the computer in question and successfully located and removed from the computer memory bank, an exact copy of the document in question which matched word for word the document that had been provided to the Office of the Independent Counsel by Mr. LIVINGSTONE's attorney. FBI lab personnel will prepare a separate report relating to the specific type of search that was conducted.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/20/94

STEPHEN G. MCCORMACK was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC) regarding his knowledge of events surrounding the death of VINCENT W. FOSTER, JR., on July 20, 1993. After being apprised of the identity of the interviewing Agent and the purpose of the interview, MCCORMACK thereafter provided the following information:

MCCORMACK is an officer with the United States Uniformed Secret Service, serving as a Senior Alternate in The White House Secret Service Control Center. The Control Center is located in the Old Executive Office Building. MCCORMACK also serves as Senior Alternate in a Secret Service Surveillance Vehicle assigned to The White House. MCCORMACK's primary function in his capacity as a Senior Alternate in the Control Center is that of Administrative Clerk. As Administrative Clerk for the Control Center, MCCORMACK is responsible for typing memos related to incidents occurring within The White House and Old Executive Office Building compound. This paperwork specifically includes information related to security violations within the compound. MCCORMACK had no recollection of any paperwork completed that night related to FOSTER's office or The White House Counsel's office suite. MCCORMACK believes that he was on duty in the Control Center between the hours of 2 pm and 10 pm on the evening of July 20, 1993.

MCCORMACK believes he learned of FOSTER's death while watching the evening news. He could not say with conviction whether he recalls learning of the death on the evening of July 20 or July 21 while on duty at The White House Operations Center. This information was gathered from what MCCORMACK believed to be a local television newscast.

MCCORMACK advised that he had never met VINCENT FOSTER.

With regard to alarm procedures utilized by the Secret Service, MCCORMACK advised that if an alarm were to be set off within The White House, an audible signal would go off in the

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stigation on 7/20/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS:DMG/sla Date dictated 7/20/94

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Control Center. The Control Center would allow one minute to receive a telephonic response from the space in which the alarm was set off before a Secret Service Officer would telephonically contact that location. If no response is received, Standard Operating Procedure (SOP) dictates that the Secret Service would send someone to that location to physically determine the cause of the alarm. Results surrounding the alarm and any actions taken by the Secret Service would be recorded on a Form 2046 which is utilized to record security violations within The White House. Security violations forms are maintained in the Control Center of the Secret Service Operations Center at The White House.

MCCORMACK did not know what type of alarm system was in the Counsel's office suite and specifically in FOSTER's office. MCCORMACK did know that there were no television cameras or monitors located within the suite that were maintained by the Secret Service.

The name of MAGGIE WILLIAMS was unfamiliar to MCCORMACK. He noted that he had never even heard the name at all. MCCORMACK had no knowledge of WILLIAMS being associated with documents being removed from FOSTER's office on July 20, 1993.

MCCORMACK had heard rumors that documents had been removed from FOSTER's office. The rumors were produced by fellow Secret Service officers who were talking among themselves a week or so after FOSTER's death. The rumors by those officers were nothing more than that, in that none of the officers involved with the rumors specifically saw anything come out of FOSTER's office or the Counsel's office suite on the night of the death.

MCCORMACK had met CRAIG LIVINGSTONE a couple of times during out of town White House trips. He was aware that LIVINGSTONE is the head of White House security. MCCORMACK had no knowledge of LIVINGSTONE having custody of documents on the morning of July 21. He was unaware of whether or not LIVINGSTONE may have taken documents from the west wing of The White House on the morning of July 21.

STEPHEN G. MCCORMACK is described from observation and interview as follows:

Date of Birth: FOIA(b)(6) FOIA(b)(7) - (C)

Place of Birth:	
Social Security Account Number:	FOIA(b)(6) FOIA(b)(7) - (C)
Race:	White
Sex:	Male
Address:	16221 Bradford Road Culpepper, VA 22701
Telephone Number:	703-825-1668
Work Telephone Number:	202-395-2020

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/22/94

ROBERTA K. MCINERNEY was contacted at her office at the Department of the Treasury, room 2025, 1500 Pennsylvania Ave., N.W. Washington, D.C. 20220. Her telephone number is 202-622-1988. MCINERNEY was told of the identities of the interviewers and the nature of the interview. Also present during the interview, at MCINERNEY's request, was KENNETH R. SCHMALZBACH, Assistant General Counsel.

MCINERNEY is a Deputy Assistant General Counsel (Banking and Finance) at the Department of Treasury. She stated that she routinely talks to CAROLYN LIEBERMAN, General Counsel's Office for the Office of Thrift Supervision (OTS), on issues of mutual concern. She didn't recall speaking to LIEBERMAN about Madison Guaranty Savings and Loan (MGSL) or a Freedom Of Information (FOIA) request filed by Congressman JIM LEACH. She stated that she was interested in the legal issues raised by his request and related matters she read about in newspapers, but was never assigned to do any work on the matter. She did not recall talking to JEAN HANSEN, Treasury Department General Counsel about this matter.

Name:	ROBERTA K. MCINERNEY
Date of Birth (DOB):	FOIA(b)(6)
Social Security Account Number (SSAN):	FOIA(b)(7) - (C)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/20/94

KATHLEEN M. MCKIERNEN, Press Assistant to The White House Press Office, was interviewed at The White House on September 16, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, MCKIERNEN provided the following information:

MCKIERNEN advised that she has held the position of Press Assistant since January of 1993. She works directly with JEREMY GAINES, CHAD GRIFFIN and DAVID SELDIN (no longer at The White House). All of them function as coordinators to assist the Press Corp who are there at The White House in a lower press office.

MCKIERNEN advised that she has a vague recollection of the day following the death of VINCE FOSTER, JR. She believes she saw the news in the newspaper on her way in to work. She does not recall events of that morning. She did not know who VINCE FOSTER was although his name was familiar.

MCKIERNEN remembers the topic of press coverage at the FOSTER residence being discussed that day (July 21, 1993) among individuals working in the lower press office, but is pretty certain that no one from the Press Office was sent. She merely remembers there being some concern about the press converging on the FOSTER residence. She does not recall who specifically expressed those concerns. It was a general discussion that she has no specific recollection of.

MCKIERNEN advised that she "sort of recalls" that somebody from The White House (not the Press Office itself) had been out at the FOSTER residence, but she could not recall if the time frame was the night of FOSTER's death or the following morning. She had the feeling that something was done but it didn't involve herself, GAINES, GRIFFIN or SELDIN. She seems to remember something about the street on which FOSTER lived being blocked off or something like that.

MCKIERNEN advised that she knows CRAIG LIVINGSTONE and

that she associates his name with possibly having been somebody who would have been at the FOSTER residence. She advised that LIVINGSTONE does some "advance" [work]. She said that on a couple of occasions when she worked Sundays LIVINGSTONE functioned as the staff link between the President and the Press Office. Usually an advance person does that function and she advised that CRAIG LIVINGSTONE fills in sometimes. His name sounded familiar to her in connection with her vague recollection that somebody may have been out at the FOSTER residence the morning of July 21. She was unable to be more specific.

Asked her opinion as to who may have been sent to the residence, she said that it was possibly LIVINGSTONE, possibly Secret Service or possibly press advance people such as DAVID NESLIN, KARE MCGUIRE and others. She advised that the person in charge of advance people are ISABEL TAPIA or ANNE EDWARDS.

MCKIERNEN advised that she did not take any telephone calls from CRAIG LIVINGSTONE the morning of July 21, 1993. She may have heard from somebody in the Press Office that press was not a problem but she knows that there was no follow-up that affected her or the individual she was working with. As part of the interview, MCKIERNEN provided the following personal information:

Name:	KATHLEEN M. MCKIERNEN
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Residence:	3852 Calvert Street, NW Washington, D.C. 20007
Work Phone:	202-456-2580
Residence Phone:	202-337-1126
Position:	Press Assistant, White House of Communications, Press Office since January 1993

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/27/94

[redacted]

THOMAS F. "MACK" MCLARTY, Chief of Staff for President BILL CLINTON, was interviewed in a conference room at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Present during the interview were MCLARTY's attorneys, WILLIAM TAYLOR and LESLIE M. BERGER, from the law firm of Zuckerman, Stader, Goldstein, Taylor & Kolker, 1201 Connecticut Avenue, N.W., Washington, D.C. (WDC) 20036, telephone number (202) 778-1848. Participating in the interview were attorneys MARK STEIN and CARL STICH, Associate Counsels, OIC, WDC. After being advised of the official identities of the interviewers and the purpose of the interview, MCLARTY thereafter provided the following information:

MCLARTY and VINCENT W. FOSTER, JR. were from the same home town and attended church together as children. FOSTER was a year older than MCLARTY. They both attended the same Junior High and High School. MCLARTY did not have much contact with FOSTER after they went to college. FOSTER attended Davidson College in North Carolina, while MCLARTY attended the University of Arkansas. After graduating from Davidson College, FOSTER then went on to law school; MCLARTY went into his family's business.

Once MCLARTY and FOSTER returned to the Little Rock area, their friendship continued. MCLARTY noted that he and FOSTER had children that were the same age. During the last five years, their relationship became much closer. The relationship between MCLARTY and FOSTER was described at this point to have been a renewed friendship. There was no professional relationship between MCLARTY and FOSTER prior to President CLINTON's campaign and election.

While in Little Rock, MCLARTY had no previous indication that FOSTER was under stress or was suffering from depression. MCLARTY did note that upon renewal of their friendship, FOSTER was more reserved than he previously recalled. FOSTER was characterized as being a devoted husband and father.

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Upon arriving in WDC, MCLARTY describes FOSTER to be a good and trusting friend. He had some interface with FOSTER based upon FOSTER's role as Deputy White House Counsel. Most of MCLARTY's dealings with the White House Counsel's office were with White House Counsel BERNARD NUSSBAUM. MCLARTY did note that he would see FOSTER a couple of times per week.

MCLARTY does not recall specific matters on which he touched base with FOSTER. MCLARTY did consult FOSTER on the Travel Office matter before it broke in the press. During this consultation, FOSTER urged a more deliberate course of action in dealing with employees of the Travel Office. It was FOSTER who recommended that the accounting firm of PEAT-MARWICK conduct an auditing review of the Travel Office. MCLARTY noted that both himself and LEON PANETTA, Budget Director, asked JOHN PODESTA to head the review of events surrounding the Travel Office matter. MCLARTY did not have many dealings with FOSTER regarding PODESTA's pending report.

In the course of conducting the internal White House probe into the Travel Office matter, MCLARTY summoned a number of White House officials to his office to discuss the affair. MCLARTY recalls that WILLIAM (BILL) KENNEDY appeared to have much more involvement than any other White House staffer in this matter. He did not feel that FOSTER was at the center of the controversy surrounding the Travel Office. MCLARTY did not recall any specific comments made by FOSTER regarding stress he was feeling related to the Travel Office matter.

During the transition between President CLINTON's election and taking the oath of office in January of 1993, a number of proposals were received from individuals offering a second home for the President. A couple of referrals were made to MCLARTY that were subsequently discussed with FOSTER. This is one of the matters that MCLARTY was aware of that FOSTER was working on, on behalf of the President. MCLARTY is now aware that there was a file in FOSTER's office that was related to Whitewater. MCLARTY was not aware of this particular file on the date of FOSTER's death, July 20, 1993. MCLARTY was not aware of FOSTER working on Whitewater until it became somewhat public and an internal White House meeting was held in December, 1993, to discuss the issue. Other than handling proposals for a second home for the President, MCLARTY was not aware of any personal matters of the President that FOSTER was working on prior to

December, 1993. After FOSTER's death, MCLARTY became aware that FOSTER was doing personal work for the CLINTONS. MCLARTY currently believes that FOSTER was working on tax returns with regards to the Whitewater Development for the CLINTONS. MCLARTY understands that the Whitewater file is limited in size and scope. He believes that a report done by Colorado attorney, JIM LYONS, was part of the Whitewater file.

MCLARTY had no discussions of any length or substance regarding deep feelings of stress and frustration on the part of FOSTER. FOSTER did let MCLARTY know of his frustration with the slowness of getting things accomplished within the Federal bureaucracy and the large volume of work. MCLARTY noted the only concern expressed by FOSTER regarding the Travel Office episode was that FOSTER wished he had provided better counsel. MCLARTY was aware that FOSTER was bothered by a series of Wall Street Journal articles pertaining to him (FOSTER). MCLARTY did not note anything out of the ordinary with regard to FOSTER and, in hindsight, feels that FOSTER's feelings at the time were understandable.

No one conversation with FOSTER sticks out in MCLARTY's mind with regard to the issues of stress and depression. While in Washington, MCLARTY did not see FOSTER that frequently. They did not have any sort of regular breakfast or dinner meetings where they could compare notes. There was not much social interaction between MCLARTY's family and the FOSTERs in either Little Rock or WDC. MCLARTY was not aware that there was a group of Arkansans working at the White House who went out to dinner every now and then.

MCLARTY was unaware that FOSTER was considering the possibility of resigning his position as Deputy Counsel to the President. Other than reports subsequent to FOSTER's death, MCLARTY did not recall anyone expressing to him a desire by FOSTER to resign. A factor of concern for FOSTER was a call for Congressional Hearings regarding the Travel Office matter. MCLARTY did not recall a letter that was allegedly written by Senator DOLE requesting Congressional Hearings. MCLARTY was aware of FOSTER's concern regarding increased scrutiny related to the Travel Office matter.

According to MCLARTY, there was no formal meeting among White House personnel to discuss factors that may have caused

FOSTER to take his own life. He is positive that informal discussions were held amongst White House staffers related to FOSTER's death. To date, there have been no insights gleaned from others as to why FOSTER committed suicide. MCLARTY did not feel it was productive to dwell on whatever those reasons were. He can think of no specific reason that would have let someone make the decision to take their own life.

At some point, MCLARTY observed a personality change within FOSTER. He noticed, on occasion, that FOSTER was more reserved than previously remembered. Although there was a personality change, MCLARTY did not recall any marked features of that change.

MCLARTY last saw FOSTER on July 20, 1993, the date of his death. FOSTER met LOUIS FREEH on July 19, 1993, prior to FREEH's being nominated as the new Director of the FBI. MCLARTY recalls a personal exchange with FOSTER after 3:00 p.m. on July 19, 1993. MCLARTY approached FOSTER for small talk. He does not recall if he made any telephone calls to FOSTER on the 19th or the 20th.

On July 20, 1993, MCLARTY met with BILL BURTON of the White House staff sometime after 8:00 p.m. This meeting occurred at the White House during the taping of an interview with talk show host, LARRY KING. WENDY WALKER, KING's Executive Producer, and a couple of other guests to include KING's first wife, SHARON, were part of a group invited to watch the taping of the show at the White House. DAVID DREIER, White House Communications; RICKI TIEGERT; GEORGE STEPHANOPOULOS, DEE DEE MYERS and MARK GEARAN were in an adjacent room watching the show on a monitor. After taping of the interview, MCLARTY's intention was to return home. BURTON headed to his office with the intent of going home.

Sometime after 9:00 p.m. on July 20, 1993, BILL BURTON reported that he had been called by DAVID WATKINS, Head of Management and Administration, The White House. WATKINS informed BURTON that a person, believed to be FOSTER, had been found dead. BURTON did not recall where the body was located. MCLARTY may have asked what he (BURTON) planned to do next. BURTON returned to MCLARTY's office to monitor the situation. MCLARTY talked to others about how best to notify the family as well as HILLARY CLINTON and the President, who was in the middle of a live

television interview. HILLARY CLINTON was in Little Rock. MCLARTY recalls that she may have been in Little Rock regarding her father's illness. MCLARTY believes that he may have instructed that Deputy Attorney General WEBB HUBBELL be contacted and told because he thought HUBBELL might have insight regarding FOSTER.

During this time period, STEPHANOPOULOS and GEARAN began to sense that something was amiss. STEPHANOPOULOS, GEARAN and MCLARTY had a discussion to determine how best to inform HILLARY CLINTON and the President. MCLARTY did not recall people walking back and forth in the area, or in other rooms adjacent to the hallway. When HUBBELL was informed, MCLARTY remembers HUBBELL to have been shocked. HUBBELL had no particular insight regarding why FOSTER might have taken his life. MCLARTY thought HUBBELL may have had knowledge as to where FOSTER had gone that day. HUBBELL was asked to travel to the FOSTER home to be with LISA FOSTER.

MCLARTY then decided to call HILLARY CLINTON in Little Rock. MCLARTY also talked to WENDY WALKER to try to find out what could be done to inform the President, given that he was in the middle of a live interview. MCLARTY believed WALKER was approached after the conversation ensued between himself, STEPHANOPOULOS and GEARAN.

MCLARTY, GEARAN and STEPHANOPOULOS decided amongst-themselves not to interrupt the interview between KING and the President until FOSTER's identity could be confirmed. MCLARTY did talk to HILLARY CLINTON in Little Rock. MCLARTY did not recall any discussions regarding a search of FOSTER's office or discussions of a suicide note with GEARAN or STEPHANOPOULOS. In the contact with HILLARY CLINTON, MCLARTY noted that there was no positive identification of FOSTER at that time. HILLARY CLINTON was shocked and stunned and could not believe that FOSTER had taken his life. MCLARTY described the conversation to be short in duration.

MCLARTY believes HILLARY CLINTON may have been called a second time, but could not recall with certainty. MCLARTY recalls no statements from HILLARY CLINTON regarding possible reasons for FOSTER to have taken his life.

MCLARTY did talk to the CLINTONS in general on the night of the death, after visiting the FOSTER residence. Others at the residence while MCLARTY was there included MICKEY KANTOR, VERNON JORDAN and DAVID GERGEN. Conversation at the FOSTER residence centered around memories of FOSTER. MCLARTY did not recall exact comments regarding why FOSTER might have committed suicide.

MCLARTY talked with WENDY WALKER, a producer for the LARRY KING Show, after his telephone conversation with HILLARY CLINTON. During his conversation with WALKER, they were trying to determine what steps could be taken in order to inform the President of FOSTER's death with the least amount of disruption to the airing of the LARRY KING Show. The major concern for MCLARTY at this time, was having a viewer place a call to the show and inform the President, on air, of FOSTER's death. BILL BURTON later provided MCLARTY with additional information that led him to believe that FOSTER was dead. BURTON informed MCLARTY that BILL KENNEDY probably identified FOSTER's body.

MCLARTY talked to WALKER in that she was probably aware that something was going on. MCLARTY noted that WALKER was cooperative throughout the course of the evening. At this point, MCLARTY noted that the President had agreed to continue his interview on the LARRY KING Show for an extra thirty minutes. MCLARTY indicated to STEPHANOPOULOS that they had to keep the President from staying that extra thirty minutes. During a break in the telecast, MCLARTY informed KING that the extended interview could not take place.

MCLARTY and the President departed the library of the White House where the interview was being conducted. In a hallway on the way to the residence area of the White House, MCLARTY informed the President that he had a serious matter to discuss with him. At that point, MCLARTY and the President go to the second floor of the residence and sit down in one of the bedrooms. The President was then informed of FOSTER's death. MCLARTY believes that by this point, FOSTER's identity had been confirmed. The President's reaction was described as being grieved. MCLARTY recalls the President saying, "Oh, no." After informing the President of FOSTER's death, MCLARTY's focus turned toward taking the President to the FOSTER residence. The President was told that Deputy Attorney General WEBB HUBBELL was at the FOSTER residence to inform the family. MCLARTY now had to

determine how best to transport the President to the FOSTERS' residence without causing a big commotion. During this time period, the President telephoned HILLARY CLINTON.

In the ensuing minutes, MCLARTY contacted the Secret Service about how best to accomplish the transport of the President to the FOSTER residence. It was decided by the Secret Service to take one car and one van. MCLARTY and the President got into the van and proceeded to the residence.

MCLARTY had no recollection of discussions with any White House staff while at the FOSTER residence.

While at the FOSTER home, MCLARTY recalls the following individuals to be there: SHEILA ANTHONY, SHARON BOWMAN, SENATOR DAVID PRYOR, DAVID WATKINS' wife, EILEEN, and a number of other Arkansas types. MCLARTY was at the FOSTER residence with the President for approximately one hour. LISA FOSTER, who was sitting on a couch, was described by MCLARTY to be devastated. MCLARTY did not recall seeing any U.S. Park Police personnel while he was at the FOSTER home. While at the FOSTER residence, MCLARTY recalls talking to BURTON who was at the White House. BURTON was at MCLARTY's office at the time and MCLARTY noted that BERNIE NUSSBAUM was in his (NUSSBAUM's) office.

After dealing with getting the President to the FOSTER residence, the next issue of concern for MCLARTY became proper notification of the press. MCLARTY did not recall LISA FOSTER asking about a suicide note during his stay at the residence. MCLARTY recalls going outside to talk to SHEILA ANTHONY to express a sense of loss, as well as to discuss FOSTER's feelings of frustration at the White House.

MCLARTY talked to DAVID GERGEN regarding press notification. A major concern for MCLARTY was to insure that FOSTER's mother had been informed back in Hope, Arkansas. MCLARTY recalls that both sisters may have told him that FOSTER's mother had not been informed of the death. It was MCLARTY who had informed both SHEILA ANTHONY and SHARON BOWMAN of the need to disclose the death of their brother to the press. MCLARTY recalls that BILL BURTON may have called Hope, Arkansas to contact FOSTER's mother. DAVID GERGEN and GEORGE STEPHANOPOULOS, through MARK GEARAN, released information regarding the FOSTER death.

MCLARTY did not specifically recall who he talked to at the FOSTER home but believes he could have talked to BILL BURTON. He did not recall focusing in on a suicide note the night of FOSTER's death. Further, up until leaving FOSTER's home, MCLARTY did not recall any discussions regarding a suicide note.

Back at the White House, MCLARTY and GEARAN had a discussion. MCLARTY was aware that NUSSBAUM and GEARAN could handle whatever came up at the White House. VERNON JORDAN and GERGEN may have ridden back to the White House with the President and MCLARTY. He does not recall the President asking about a suicide note.

Back at the White House, a discussion was held in the residence kitchen among KANTOR, STEPHANOPOULOS, JORDAN, GERGEN and the President. The discussion centered around remembrances of FOSTER in a positive light. MCLARTY did not recall a note being discussed during this conversation. MCLARTY asked GERGEN if the press release had been done appropriately. GERGEN told MCLARTY that matters regarding FOSTER's office were being properly handled. GERGEN and MCLARTY talked to GEARAN regarding how things were in the office. He did not recall specifics. MCLARTY cannot recall if FOSTER's office had been sealed. There was no recollection on MCLARTY's part regarding a note during the conversations back at the White House. He does not recall meeting anyone else that night at the White House. MCLARTY did not recall either PATSY THOMASSON or MAGGIE WILLIAMS going into FOSTER's office.

DAVID WATKINS could have informed MCLARTY of activities related to FOSTER's office. According to MCLARTY, SYLVIA MATHEWS, who works for the National Economic Council, may have been associated with recovering trash that had been removed from FOSTER's office. That trash was then believed to have been taken by MATHEWS and secured in ROY NEEL's office. NEEL, at the time, was the Deputy Chief of Staff for the White House.

MCLARTY was not aware of others who might have met in his office that evening. BURTON would have been coordinating activities from MCLARTY's office. MCLARTY described his office suite as having an administrative area with two to three desks. NEEL's office was located on one side of the suite and MCLARTY's office was located on the other.

MCLARTY had no concern that after informing WALKER that CNN would break the story regarding FOSTER's death. He did not suggest to her that the story not be put out. When talking to WALKER, MCLARTY stressed that the death had not been confirmed and their discussion primarily centered around the dilemma regarding altering the KING/CLINTON interview.

On July 21, 1993, MCLARTY did not recall any specific meetings related to FOSTER's death. The only meeting that in any way discussed the FOSTER death was a staff meeting with all White House staffers plus the President's public statement on the FOSTER death. He does not recall a note coming up in either of those conversations. MCLARTY may have learned the next day that trash from FOSTER's office had been recovered.

At some point, MCLARTY became aware that no suicide note was found. He does not recall how he learned this. MCLARTY does not recall when he would have learned that FOSTER's office was searched on July 22, 1993. Based on the context of the search, MCLARTY was of the impression that it was properly conducted. MCLARTY is not sure when he learned that THOMASSON and WILLIAMS had been in FOSTER's office. MCLARTY believes that NUSSBAUM was in the office with him. SYLVIA MATHEWS could have been in the office regarding the recovery of the trash bags from FOSTER's office. MCLARTY did recall a general meeting with NUSSBAUM regarding responsibilities related to cooperation with legal authorities in connection with the FOSTER death. MCLARTY was aware that the United States Park Police (USPP) was involved in the investigation.

MCLARTY did not discuss with the CLINTONS whether or not documents in FOSTER's office may have some interest to them. MCLARTY may have known when the search of FOSTER's office was to have taken place, but could not specifically recall. MCLARTY did not discuss Whitewater documents or anything related to the disposition of same during this period of time. MCLARTY was aware that contacts had been made with the proper authorities regarding the search of FOSTER's office. MCLARTY is aware that meetings took place with TOM COLLIER from the U.S. Department of Interior and other authorities regarding the search/inventory of FOSTER's office. He was aware that there was some sort of disagreement but did not know specifics. He was also aware that the disagreement concerned cooperation between agencies involved in the search. MCLARTY did not learn specifics regarding the

procedure of the document inventory. There was no mention of a note being found in the course of the review of documents in FOSTER's office. MCLARTY recalls meeting on either Wednesday or Thursday after FOSTER's death, about how the search/inventory was to take place. He has no recollection of meetings regarding changes in the inventory procedure on July 22, 1993. MCLARTY learned of safes in the Counsel's office from press accounts. He was not aware of the status of FOSTER's office with regard to safes.

On the Monday after the funeral, MCLARTY was traveling with the President. Late in the afternoon, NUSSBAUM related that scraps of paper had been located in a briefcase in FOSTER's office. MCLARTY had no recollection that the briefcase had been previously searched. NUSSBAUM advised that STEVEN NEUWIRTH of the Counsel's office had located the note. NUSSBAUM related to MCLARTY what the contents of the list were. The contents did not have a solution with regard to why FOSTER killed himself. It was also not signed and appeared to be composed of unsubstantiated allegations. MCLARTY informed NUSSBAUM that the President must be informed regarding the list. NUSSBAUM's concern was legal in nature and centered on privacy issues that had to be addressed. They were also concerned with the reaction of HILLARY CLINTON in that issues involving the decorating of the White House and perceived animosity between the White House Usher's office and HILLARY CLINTON were listed on the note. NUSSBAUM's concern throughout the review of documents in FOSTER's office revolved around executive and attorney/client privileges. He was of the opinion that the President should be informed first of the contents of this list. He does not recall conversations regarding turning the note over to the USPP. MCLARTY was aware that HILLARY CLINTON and the President were both close to FOSTER and this weighed heavily in deciding to inform them of the list that was found.

MCLARTY held a second conversation with NUSSBAUM where he felt appropriate issues had been raised. There was an understanding that there were legal issues to be evaluated. On July 26, 1993, the President was in Chicago when the note was located. The President was not told that the note was found until he returned to Washington. MCLARTY believes NUSSBAUM may have been the individual to inform Attorney JAMES HAMILTON of the note. HAMILTON was, at the time, representing LISA FOSTER. On Tuesday, a decision was made that NUSSBAUM had to inform LISA

FOSTER of the note and that she was arriving in Washington that day. LISA FOSTER actually came to the White House and the note was discussed in NUSSBAUM's office. She was informed the note would have to be provided to the proper investigative authorities. MCLARTY does not recall if he actually saw LISA FOSTER being shown the note. MCLARTY does not recall LISA FOSTER making any comments regarding the content of the list. It was determined that the list would be turned over to the Justice Department for further action. The President was informed and MCLARTY believes the President told LISA FOSTER that a transcript was available. The discussion was not lengthy. MCLARTY recalled no other comments regarding what was to be done with the note.

A meeting scheduled for early evening with the Attorney General concerned when the note was to be provided. Attorney General JANET RENO and Deputy Attorney General PHILLIP HEYMANN, as well as DAVID GERGEN were present during this meeting. RENO wanted the note turned over properly to the United States Park Police. The meeting concluded. RENO may have asked questions as to why the note had not been previously turned over.

According to MCLARTY, at some point, two members of the USPP came to his office to receive the note. NUSSBAUM explained to the two Park Police officers how the note was found and how the note had been put together. MCLARTY recalls NUSSBAUM, GERGEN and himself being interviewed by Park Police regarding the circumstances related to the note. MCLARTY had no knowledge of any other notes in the White House related to the death of FOSTER.

MCLARTY talked to BURTON to refresh his memories regarding events surrounding FOSTER's death and the search of his office prior to meeting with officials of the OIC. He had no discussions with others at the White House as to why the note was not found the night of FOSTER's death.

There was no reason to believe that there was any intimate relationship between FOSTER and HILLARY CLINTON. MCLARTY made this assumption based on his knowledge of both individuals.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

THOMAS F. "MACK" McLARTY, Chief of Staff for President BILL CLINTON, was interviewed in a conference room at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Present during the interview were McLARTY's attorneys, BILL TAYLOR and LESLIE M. BERGER, of the law firm of ZUCKERMAN, SPAEDER, GOLDSTEIN, TAYLOR & KOLKER, 1201 Connecticut Avenue, N.W., Washington, D.C. 20036, telephone number (202) 778-1848. Also participating in the interview were attorneys MARK STEIN and CARL STICH, Associate Independent Counsels, OIC, Washington, D.C. After being advised of the official identities of the interviewers and the nature of the interview, McLARTY provided the following information:

McLARTY first became aware of the issues surrounding Madison Guaranty Savings and Loan (MGSL) and the Whitewater Development Corporation (Whitewater) when the Special Counsel, ROBERT B. FISKE, Jr., was appointed. MCLARTY was aware of these entities prior to FISKE's appointment, but the appointment of FISKE highlighted or cemented in McLARTY's mind the fact that there was an investigation underway.

Prior to serving as President CLINTON's Chief of Staff, McLARTY had served as Chief Executive Officer (CEO) of Arkla, which is a Fortune 500 company. McLARTY was not part of the CLINTON campaign team, and he only visited the CLINTON campaign headquarters once.

McLARTY has known President CLINTON since they attended kindergarten together in Hope, Arkansas. McLARTY and President CLINTON are good friends and share a respect for each other, but McLARTY does not regard their relationship as close, personal or intimate.

McLARTY's own political history includes service as an Arkansas state representative at the age of 23 as well as later service as treasurer for the Arkansas gubernatorial campaign of current United States Senator DAVID PRYOR and the first Arkansas gubernatorial campaign of BILL CLINTON.

Investigation on 5/2/94 at Washington, D.C. File # 29D-LR-35063

by SAs DANA M. GILLIS and RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/6/94

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During the 1992 presidential campaign, once BILL CLINTON had been nominated as the Democratic candidate, McLARTY attended three or four meetings with the CLINTON campaign staff and provided a business viewpoint on various issues. McLARTY was also semi-active in corporate fund-raising for the campaign, and he met with business people from outside Arkansas who came to Arkansas to learn about CLINTON's attitudes toward business. McLARTY joined the transition board approximately four weeks before the election of President CLINTON. The transition board, whose function was to prepare for a CLINTON Administration in the event candidate CLINTON won the election, only met once prior to the election. However, the board then met on the day after the election and President-elect CLINTON asked McLARTY to serve in the CLINTON Administration.

McLARTY was quite surprised to be offered a position as Chief of Staff in the CLINTON White House since his main experience had been as CEO of Arkla. McLARTY and WARREN CHRISTOPHER, currently the Secretary of State, were particularly involved in the process for selecting Cabinet secretaries.

McLARTY was remotely aware of the MGSL and Whitewater issues during the campaign through press accounts. His reading of these accounts was casual because he was engaged in pursuing his business responsibilities at the time.

McLARTY does not recall engaging in any specific conversations regarding the investigation of MGSL by the Resolution Trust Corporation (RTC) but there could have been such a conversation. McLARTY was very involved in concentrating on the North American Free Trade Agreement (NAFTA) and the Vancouver summit meeting at that time. McLARTY was not aware of any meetings at the White House in late September 1993 or early October 1993 concerning criminal referrals by the RTC. He does not believe he knew of the meeting held at the White House on or about September 29, 1993 at the time it occurred. McLARTY now knows that Department of the Treasury General Counsel JEAN HANSON met with BERNARD NUSSBAUM, Counsel to the President, at that meeting. MCLARTY may have learned of this meeting between HANSON and NUSSBAUM after this and other meetings became issues in the media.

McLARTY believes he learned of the meeting between HANSON and NUSSBAUM sometime after February 24, 1994, which was when ROGER ALTMAN, Acting CEO of the RTC, testified before the

Senate Banking Committee.

As Chief of Staff, McLARTY is responsible for managing the White House and supporting the President. McLARTY also performs an outreach function and has become more of a public figure in reaching out to various constituencies. McLARTY's job is shaped by the personality and the wishes of the President. Another of McLARTY's responsibilities is to furnish information to the President in a timely manner. McLARTY also has frequent contact with the three main councils at the White House, the National Security Council, the National Economic Council and the Domestic Policy Council, and he provides counsel to the President on domestic policy issues. McLARTY conducts liaison with members of Congress, and he uses the Cabinet secretaries as his points of contact with other agencies of the executive branch.

Because of his background, McLARTY tends to be more of a common sense type of counselor who provides a "reality check" to the President.

Prior to the appointment of the Independent Counsel, the Whitewater issue had been handled primarily by the White House Counsel's Office and by Senior Advisor BRUCE LINDSEY. Just after January 1, 1994, HAROLD ICKES joined the White House staff as Deputy Chief of Staff. As President CLINTON and McLARTY were preparing to leave Washington for a trip, McLARTY asked ICKES to take over primary responsibility for dealing with Whitewater-related issues.

Staff secretary JOHN PODESTA handles the daily flow of information to the President. Currently, Special Counsel LLOYD CUTLER and Deputy Counsel to the President JOEL KLEIN have direct responsibility for handling matters relating to Whitewater. Since approximately March 1, 1994, ICKES and CUTLER have been asked to report any information about Whitewater to McLARTY on a daily basis. These reports usually consist of information about potential press stories and the appropriate responses to these stories. PODESTA, Director of Communications MARK GEARAN, and Counselor DAVID R. GERGEN may also be involved in reporting to McLARTY and preparing responses to the media.

Mr. PAT GRIFFIN, who is responsible for legislative affairs, may become involved in these reports to McLARTY if there are issues involving Congress.

McLARTY does not recall the RTC criminal referrals being brought to his attention in September 1993, and he does not recall any specific meetings about the RTC referrals at that time. He would have to review his notes to determine whether he attended any meetings with President CLINTON or First Lady HILLARY RODHAM CLINTON during the fall of 1993 in which the referrals might have been discussed.

The allegations by Arkansas state troopers about former Governor CLINTON's conduct came to light just before the Christmas holiday in December 1993. There were a number of other significant issues with which McLARTY was involved at that time, such as NAFTA and the need to replace ROY NEEL and HOWARD PASTER on the White House staff. There were no meetings during that period which raised Whitewater to a level where decisions had to be made or where there was any need for follow-up of the issue on an ongoing basis.

McLARTY is certain there had been discussions regarding the RTC, MGSL and Whitewater prior to the appointment of Independent Counsel FISKE. The CLINTONs had already turned over material sought by the United States Department of Justice (DOJ). All of the requested material had been turned over and there had been full compliance with the DOJ request although there was a minor issue raised over the timeliness of the response. The DOJ officials reviewing the CLINTON documents were career employees. A Republican from Illinois and a higher-ranking DOJ official with a reputation for thoroughness and objectivity were overseeing the review of the CLINTON documents.

McLARTY was aware of a DOJ investigation in January 1994. He had not examined the facts of the Whitewater issue in a broad way and he was not conscious of the status of the civil case relating to Whitewater. McLARTY may have been remotely aware of this civil case but he does not currently recall. He may have been generally aware of the actions of Senator ALFONSE D'AMATO regarding the issue of the impending expiration of the civil statute of limitations. McLARTY did not have any discussions with President CLINTON regarding the statute of limitations issue.

McLARTY believed that the Whitewater issue was being discharged and handled in the appropriate way during this time period because DOJ was involved in the investigation. In addition, NUSSBAUM was handling the matter at the White House and

keeping McLARTY apprised.

McLARTY had no knowledge of a meeting between White House and Treasury officials on October 14, 1993 until ALTMAN testified about this meeting on February 24, 1994.

ALTMAN had been active in the CLINTON presidential campaign and had made presentations regarding the CLINTON economic plan on behalf of candidate CLINTON. Approximately sixty days before the presidential election, ALTMAN and economic advisor ROBERT RUBIN spoke at a business conference in Chicago, Illinois. ALTMAN's name came up later as a candidate to become Deputy Secretary of the Treasury when discussions were being held about Cabinet posts. President CLINTON had known ALTMAN for a number of years but had not known him well.

McLARTY had relatively regular contact with ALTMAN during the course of normal meetings. McLARTY's contacts with the Department of the Treasury were primarily through Secretary of the Treasury LLOYD BENTSEN. ALTMAN became an articulate spokesman for the Administration concerning the CLINTON economic plan and engaged in discussions with LEON PANETTA, Director of the Office of Management and Budget. Secretary BENTSEN was receptive to the idea of ALTMAN, assisted by RICKI SEIDMAN, leading the Administration's effort on behalf of the CLINTON economic plan. McLARTY had no role in the selection of ALTMAN as Acting CEO of RTC, and he was not in any meetings where the appointments at RTC were discussed.

McLARTY believes that after the appointment of Independent Counsel FISKE, ALTMAN called McLARTY about the RTC matter. McLARTY does not specifically recall this telephone call, but he believes that he would have referred such a call to ICKES. McLARTY believes this to be so because ICKES was handling issues pertaining to Whitewater, MGSL and the RTC at the time.

McLARTY believes there is a high likelihood, although he does not recall specifically, that the meeting was requested by ALTMAN and that ICKES set up the meeting on February 2, 1994. McLARTY was invited to the meeting and was aware of the general subject matter, but he was not briefed on the meeting in advance and he did not learn any specifics. He did know that the discussion was on RTC and MGSL matters. McLARTY probably knew then, though he is now uncertain whether he actually knew, that RTC was investigating MGSL at that time. ICKES may have asked to

use McLARTY's office for the meeting. McLARTY was not attending the meeting because he was at a meeting involving President CLINTON and members of Congress in the Cabinet Room. He does not believe he was still in his office when the meeting began. It happens quite often that meetings are held in McLARTY's office without McLARTY being personally present. McLARTY remembers that the meeting was scheduled for late in the afternoon at approximately 5:00 or 6:00 p.m. No one who had attended the meeting was still in McLARTY's office when he returned there. McLARTY may have received a briefing about the meeting in passing.

McLARTY had not remembered receiving a telephone call from ALTMAN after this meeting until McLARTY was reminded of it by a reference to the call in a letter from ALTMAN to Senator DONALD RIEGLE. McLARTY received the call from ALTMAN sometime in early February 1994, possibly several days after the meeting had occurred. The call was short, and ALTMAN told McLARTY that he was attempting to do everything in a proper manner. McLARTY recalls that ALTMAN had been deliberating about whether to recuse himself at that time. McLARTY appreciated ALTMAN's dilemma and he expressed a sympathetic view to ALTMAN during the call but provided no opinion about what ALTMAN should do. McLARTY did not discuss the content of the meeting with ALTMAN during this call. McLARTY did not interpret the call from ALTMAN as a matter of ALTMAN asking for advice.

Specific discussion of ALTMAN recusing himself from any RTC decisions pertaining to MGSL may have occurred prior to the meeting in February, but McLARTY does not recall specifically. McLARTY understood at that time that RTC was still investigating MGSL. MCLARTY did not have a sufficient level of detail in his understanding of the RTC investigation to know that the RTC investigation was a civil case at that time. McLARTY does not recall any distinction being made between recusal from the RTC civil investigation versus the criminal investigation.

McLARTY does not recall discussing ALTMAN's consideration of the recusal issue with anyone in the White House including President CLINTON.

McLARTY did not have conversations with ALTMAN, anyone at RTC or anyone at the White House about the recusal issue between the time of ALTMAN's call to him and ALTMAN's testimony before the Senate Banking Committee. There could have been some

discussion in White House staff meetings about ALTMAN's testimony and how potential questions from senators would be handled.

McLARTY does not believe he was aware that ALTMAN had decided to recuse himself and had changed his mind from his previous view. McLARTY did not watch ALTMAN's testimony before the Senate Banking Committee or receive a transcript of the testimony.

McLARTY has been involved in meetings in which the Treasury contacts were discussed. McLARTY may have been aware of these contacts perhaps one to two days before the controversy over the contacts received attention in the press. McLARTY became aware of the contacts in a retrospective way. If he had known about the contacts earlier, he would have referred the matter over to ICKES and NUSSBAUM. He does not recall assigning anyone to be the point person on this issue. McLARTY recalls general discussion about the meeting between ALTMAN and White House officials on February 2, 1994, and this discussion probably was with ICKES and NUSSBAUM. The meeting on February 2, 1994 was an informational meeting since the information had already been publicly disseminated. ALTMAN had received an opinion prior to attending the meeting that his attendance at such a meeting would not be improper.

McLARTY does not recall ICKES or NUSSBAUM telling him that recusal had been discussed at the meeting on February 2, 1994. McLARTY does recall there had been some discussion as to whether ALTMAN's testimony before the Senate committee had been complete and accurate.

McLARTY does not recall specific discussions about the meetings which had occurred in the fall of 1993. There may have been general discussions about the meetings during that time. Obviously, ALTMAN's testimony raised some questions at the White House because it had to be amended several times through correspondence with the Senate. McLARTY is not aware of anyone at the White House calling ALTMAN regarding the issue of ALTMAN amending his testimony before the Senate committee.

McLARTY has no recollection of discussing ALTMAN's Senate testimony with either the President or the First Lady. One discussion McLARTY did have with President CLINTON was about determining the appropriate posture for a response to inquiries. McLARTY believes ICKES and NUSSBAUM would have briefed the

President and told him that nothing improper had occurred. McLARTY does not recall being present at that meeting. The President held the opinion that it would have been better if the meetings had not occurred but that nothing improper had occurred.

McLARTY has never met JAY STEPHENS and he was not initially aware of the fact when STEPHENS was hired by the RTC to investigate the MGSL matter. McLARTY has never had a detailed discussion with anyone at the White House about the hiring of STEPHENS by the RTC. McLARTY was not part of any White House effort to contact Treasury officials about removing STEPHENS from his position at the RTC. McLARTY was not aware of a telephone call from advisor GEORGE STEPHANOPOULOS to either ALTMAN or JOSH STEINER at Treasury prior to the call being made. McLARTY has since spoken to STEPHANOPOULOS, who said that he made the call because he was angry but he has since regretted making the call. McLARTY believes that STEPHANOPOULOS called STEINER. McLARTY does not know, other than through press accounts, whether STEPHANOPOULOS spoke to the President about the hiring of STEPHENS. McLARTY believes that STEPHANOPOULOS may have acted in a rash manner when he called STEINER but not with any ill intent.

McLARTY believes he may have had a conversation in passing with the President about the STEPHANOPOULOS call to the Treasury official. McLARTY recalls believing that STEPHANOPOULOS should not have called STEINER but it was understandable why he did so. He also recalls that the matter was receiving serious attention in the press so it was decided that LLOYD CUTLER would handle the issue since that appeared to be the most appropriate response.

STEPHANOPOULOS has been able to remain on the White House staff despite the call to STEINER because he underscored that he had acted in a hasty manner. NUSSBAUM, in contrast, had become involved in handling issues which had become controversial and were hurting the agenda of the Administration. NUSSBAUM had said he had attended the meeting with Treasury officials and he continued to say it had been proper to have done so.

McLARTY does not recall how he learned of ALTMAN's recusal, and he did not discuss ALTMAN's recusal with the President. McLARTY did not become aware of a letter of apology sent by ALTMAN to the President until after McLARTY received a copy of the letter. McLARTY does not recall discussing the letter with the President or anyone else. McLARTY sent a note

back to ALTMAN in which he acknowledged that ALTMAN's position was difficult and ALTMAN was trying to handle the situation appropriately. McLARTY wrote that this response was "vintage ALTMAN." McLARTY believed that ALTMAN's note to the President was appropriate and demonstrated that ALTMAN was attempting to deal with a difficult situation in a constructive manner.

McLARTY recalls an occasion in the Oval Office at the White House at which the President expressed amusement and concern about the hiring of STEPHENS by the RTC. McLARTY does not recall when this occasion in the Oval Office occurred. McLARTY recalls the President's mood as being one of concern, frustration and amusement. The appointment of STEPHENS to such a position with the RTC did not seem logical to McLARTY. McLARTY recalls that senior advisor BRUCE LINDSEY was already in the Oval Office prior to McLARTY's arrival there. LINDSEY was preparing to leave the Oval Office as McLARTY was coming in. McLARTY now believes that LINDSEY remained in the Oval Office while McLARTY discussed the hiring of STEPHENS with the President. The President did not ask for any action to be taken in regard to the hiring of STEPHENS.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/30/95

CYNTHIA HOWARD McMANUS was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. After being advised of the official identities of the interviewing agents and the nature of the interview, McMANUS provided the following information:

McMANUS currently serves as a program support specialist with the United States Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C., telephone number (202) 307-5911. McMANUS's immediate superior is SHELDON C. "SHAY" BILCHIK.

McMANUS has been in government service for twenty-eight years and has worked for a number of those years at either DOJ or at the White House. In 1978, during the administration of President JIMMY CARTER, McMANUS worked for MICHAEL CARDOZO for one year when he was an associate counsel and the number three person in the White House Counsel's Office (WHCO). McMANUS later worked in the office of the White House chief of staff when EDWIN MEESE held that post. When MEESE left the White House staff to become attorney general, McMANUS remained at the White House. In June 1988, McMANUS went to work at DOJ in the office of the deputy attorney general, where she remained until 1993.

On January 22, 1993, McMANUS began serving as executive assistant and office manager in the WHCO in the administration of President BILL CLINTON. McMANUS was asked to come to work in the WHCO by CARDOZO. CARDOZO had most recently served on the CLINTON transition team, and he was serving as liaison between the White House and DOJ while the administration vetted candidates for the post of attorney general. White House Counsel BERNARD NUSSBAUM met with CARDOZO and asked CARDOZO to suggest the name of someone who could come in and set up the operation of the WHCO. CARDOZO recommended McMANUS to NUSSBAUM, who asked CARDOZO to offer the post in the WHCO to McMANUS.

McMANUS met NUSSBAUM for the first time when she reported for work at the WHCO. Her responsibilities included setting up of the WHCO office, cleaning up what had been left by the previous occupants, overseeing the installation of computers and office equipment, and maintaining NUSSBAUM's work schedule and personal calendar. McMANUS worked mostly with NUSSBAUM, and she had little interaction with Deputy White House Counsel VINCENT W. FOSTER, Jr. NUSSBAUM was very warm and congenial to McMANUS and the other employees in the WHCO. McMANUS observed that FOSTER also seemed to relate well with NUSSBAUM and the other WHCO employees. However, while FOSTER and McMANUS treated each other in a professional manner, McMANUS felt that FOSTER seemed distant and cool toward her. One manifestation of this distance was that FOSTER did not want McMANUS to come into his office. McMANUS complied with FOSTER's request even though her desk in the reception area of the WHCO suite was immediately outside and closest to FOSTER's office. McMANUS does not know the reason for FOSTER's coolness toward her, but she believes FOSTER may have acted differently around her because McMANUS is African-American.

McMANUS came to the WHCO with the understanding that she would only set up the office and not remain there to oversee its operation. McMANUS had originally agreed to remain at the WHCO for thirty days, and she was anxious to leave once the attorney general and deputy attorney general were named. However, NUSSBAUM asked McMANUS to remain until the office could become fully functioning, and McMANUS agreed to do so. McMANUS agreed to remain until the end of July 1993, but she ended up actually leaving in May 1993.

In approximately April 1993, McMANUS contacted the White House security officer, whose name she cannot recall, and asked him for his assistance in opening the WHCO safes because they were locked shut and no one in the WHCO knew the combinations. The safes had been emptied by members of the previous administration and then locked shut, but no record of the safes' combinations had been left for the incoming administration. The security officer and his staff removed the locks from these safes, installed new locks on the safes, and provided the new combinations to McMANUS. The removal of the locks was made more difficult by the old age and poor condition of the safes. The entire process of replacing the old locks on the safes in the WHCO suite with new locks took about a week.

McMANUS recalls that there were three two-drawer safes in NUSSBAUM's office when she left the WHCO. As of that time, none of the safes had been assigned for the exclusive use of any particular individuals. The safes were located under a stand-up desk, and McMANUS believes there was some type of covering over the fronts of the safes so they would not be visible to visitors to NUSSBAUM's office.

Because McMANUS did not go into FOSTER's office, she does not recall whether there were any safes in that office. The safes in NUSSBAUM's office were empty from the time McMANUS began working in the WHCO until sometime in April 1993. At that time, NUSSBAUM, who had not used any of the safes previously, used one safe to store the background investigation report on Attorney General Janet RENO. Although NUSSBAUM put this file into the safe, he still did not lock the safe.

When McMANUS left the White House in the first or second week of May 1993 to return to DOJ, DEBORAH GORHAM and BETSY POND were the only two people on the WHCO administrative staff.

In May 1993, as McMANUS was preparing to leave the WHCO, GORHAM asked McMANUS about several matters about which GORHAM would need to be knowledgeable. GORHAM asked for the combinations to the WHCO safes, explaining that FOSTER might have some work for First Lady HILLARY RODHAM CLINTON which may need to be stored securely. McMANUS knows no further details about the nature of the work being done by FOSTER because McMANUS does not know what matters were being worked on by FOSTER. GORHAM came to McMANUS with her question about the safe combinations because GORHAM had previously worked in the private sector and she wanted to be certain she correctly followed government procedures.

Later in the instant interview, McMANUS clarified her earlier remark by stating GORHAM told McMANUS she needed to know the safe combinations in case FOSTER worked on something which needed to be stored securely. While McMANUS was still working in the WHCO suite, she observed that First Lady CLINTON was coming to see FOSTER fairly often. McMANUS has no reason to believe that FOSTER was working on anything for First Lady CLINTON.

After McMANUS left the White House, she called back to the WHCO and spoke to both POND and GORHAM of the WHCO staff. The purpose of McMANUS's call was to ensure that POND and GORHAM

had taken the appropriate steps which should be taken whenever a staff member in a sensitive office leaves the staff. These steps included, in this instance, changing the combinations on the safes, changing the locks on the WHCO doors and changing the access list at the United States Secret Service (USSS) Control Center to reflect the names of only those current members of the WHCO staff who were authorized to be in the WHCO suite.

Approximately one year after McMANUS had left the WHCO staff and returned to DOJ, she received a call at her DOJ office from a White House telephone operator. The operator said she was calling on behalf of President CLINTON and was attempting to locate White House Special Counsel LLOYD CUTLER. McMANUS responded that she no longer worked at the White House and had no idea how to reach CUTLER. The operator was apologetic and explained that she had thought it strange to be calling McMANUS at a DOJ telephone number. The operator related that McMANUS's name was still reflected on a White House list as a point of contact for the WHCO staff.

McMANUS has not received any telephone calls asking for assistance in opening a safe in the WHCO suite. She has not been called or otherwise contacted by any member of the media.

During the early morning hours of July 21, 1993, McMANUS learned of FOSTER's death when she was called at home by another White House employee, ROSLYN MILLER. McMANUS was asleep when she received the call from MILLER, and she estimates that she received the call sometime between 12:00 midnight and 3:00 a.m. MILLER told McMANUS that FOSTER had committed suicide, and she said that she was calling McMANUS in the middle of the night because she did not want McMANUS to learn of FOSTER's death from the media. MILLER had learned of FOSTER's death when she was telephoned and told about it by CAROL RASCO. MILLER was also calling McMANUS with flight information for MILLER's upcoming trip since McMANUS had agreed to assist MILLER in getting to and from the airport.

MILLER works for CAROL RASCO, who is assistant to the president for domestic policy, and both RASCO and MILLER are from Arkansas. McMANUS met MILLER when McMANUS was serving on the staff of the WHCO, which is on the same floor as the offices of RASCO and MILLER. McMANUS has remained in touch with MILLER since returning to DOJ and she regards MILLER as a friend. Both McMANUS and MILLER worked long hours at the White House, rarely

leaving before 10:00 p.m. each night.

McMANUS used to see NUSSBAUM and FOSTER first thing in the morning almost every day. McMANUS typically arrived at the WHCO suite each day at approximately 7:00 a.m., which was the same time when FOSTER and usually NUSSBAUM would arrive there.

McMANUS was involved with drafting responses to five hundred to eight hundred congratulatory letters which had been received by NUSSBAUM after he was named White House Counsel. Because of the number of acknowledgements which needed to be written, McMANUS created a log to keep track of the letters of thanks she sent out. There were two temporary people who came to the WHCO staff to assist McMANUS on this project of responding to NUSSBAUM's congratulatory letters and other correspondence. These women, SHERRY FLOWER and HELEN JONES, were both DOJ employees who were detailed to the WHCO staff solely for that assignment, and they were only at the White House for a few weeks. They arrived at the White House in March 1993 but departed prior to McMANUS's departure from the WHCO staff. FLOWER left the White House first, in either March or April 1993, and she is now working in the office of the attorney general. JONES left in April 1993 and she now works in the deputy attorney general's office. ELLEN BURKE, who is also a DOJ employee, was detailed to the WHCO staff for approximately one month during McMANUS's tenure, and her primary duty was to answer telephones. BURKE was a young intern and she was only on the WHCO staff for two to three weeks. She left, possibly earlier than planned, because she did not get along well with POND. BURKE can be reached at DOJ, telephone number (202) 514-3872.

McMANUS knows of no log being kept for incoming mail received at the WHCO suite. Each of the members of the WHCO staff had an individual mailbox, and the staff member was responsible for picking up his or her mail from the mailbox, i.e., mail was not delivered to the staff member's desk. McMANUS did not see any documents which were sent to FOSTER. McMANUS did not see or touch any of the mail sent to FOSTER since it was delivered to his mailbox rather than to her. At no time did McMANUS observe any documents which contained references to Whitewater or Madison Guaranty Savings and Loan.

McMANUS is not aware of any real or perceived conflicts between herself and any other member of the White House staff.

McMANUS was not assigned to the White House on either July 20 or 21, 1993, and she did not go to the White House on either date. McMANUS has not been back to the White House since the end of her temporary assignment there in May 1993.

During her period of assignment at the White House, McMANUS knew CRAIG LIVINGSTONE, who had replaced JANE DANNENHAUER. When DANNENHAUER left White House employment, the amount of her former salary was divided into three parts, meaning that three positions were funded to handle the workload formerly handled just by DANNENHAUER. Most of McMANUS's contacts with LIVINGSTONE occurred just after Attorney General JANET RENO had been named to her post and there was a transition period in which new people were being appointed to the attorney general's staff. During this period, LIVINGSTONE came to the WHCO suite and introduced himself to McMANUS. LIVINGSTONE remarked to McMANUS he was not interested in remaining in his position at the White House Office of Personnel Security, but McMANUS does not now recall what post LIVINGSTONE expressed interest in filling. McMANUS has not spoken with LIVINGSTONE since she left the White House. McMANUS has not received any business-related calls from the White House or the WHCO staff since her departure.

When McMANUS left the WHCO, the only person to whom she had given the safe combinations was GORHAM. Although NUSSBAUM and FOSTER were authorized to know the combinations based on their official positions, McMANUS had not given them the combinations because there had been no apparent need to do so.

Based on observation and interview, McMANUS is described as follows:

Name:	CYNTHIA HOWARD McMANUS
Sex:	Female
Race:	Black
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Home Address:	4103 Churchman Way Woodbridge, Virginia 22192
Home Telephone:	(703) 590-7588

D-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

The below-listed individuals met on March 30, 1994 at the George Washington National Park Headquarters, located off the George Washington Memorial Parkway, Fairfax County, Virginia.

The purpose of the meeting was to discuss/resolve issues relating to the FBI request to conduct a crime scene investigation at Fort Marcy National Park. Of major concern to park authorities was the extent of digging and ground disturbance that would be necessary. These issues were resolved to the satisfaction of U.S. Park Service authorities, including the National Park Service archeologists that were present.

Monday, April 4, 1994, weather permitting, was set as a target date, with the understanding that no digging or excavation would be conducted without the presence and oversight of National Park Service archeologists.

Name	Title	Agency	Phone Number
Audrey Calhoun	Asst. Supt.	NPS-GWMP	703-285-2600
Bart Truesdell	Chief Ranger	NPS-GWMP	703-285-2600
Bob Sonderman	Senior Staff	NPS	202-619-7280
	Archeologist		301-344-3523
Greg Howland	Cult. Res. Mgr.	NPS-GWMP	703-285-2598
Pete Simonello	ID Tech USPP	USPP	202-690-5192
E. Lee Davis	Act. Supt. WMP	NPS	202-285-2600
James E. Corby	Special Agent	FBI	202-324-4341
Charles W. Hume	Capt. USPP-CIB	USPP	202-690-5054
Richard A. Crum	Special Agent	FBI	202-324-4479
William E. Colombell	Special Agent	FBI	202-514-8688
Lawrence Monroe	Special Agent	FBI	202-514-8688

NOTE: "NPS" is National Park Service
"GWMP" is George Washington Memorial Park
"USPP" is United States Park Police

igation on 3/30/94 at George Washington Park File # 29D-LR-35063

SA William E. Colombell

by SA Lawrence Monroe Date dictated 3/31/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/28/94

Cynthia M. Monaco, Special Assistant to the Deputy Attorney General, U.S. Department of Justice (DOJ), appeared at the Office of the Independent Counsel, Washington, D.C. as scheduled at 2:00 p.m. for interview. Ms. Monaco was advised of the identity of the interviewing agents and of the purpose of the interview. Ms. Monaco provided the following information:

She has been employed as Special Assistant to the Deputy Attorney General, DOJ, since May 3, 1993. As such, she was employed as Special Assistant to Phillip Heyman, Deputy Attorney General, DOJ, at the time of his resignation from the DOJ. Heyman announced his resignation from the DOJ on January 21, 1994 and his last day at the Department was February 14, 1994. On or about February 11, 1994, Monaco participated in a meeting with Heyman and others to assist him with various administrative details relative to his resignation. As part of this meeting, it was decided to set forth a chronology of the events involving DOJ personnel during the time period surrounding the death of Vincent Foster. In addition to Heyman and Monaco, those present at this meeting were DOJ employees Roger Adams (Counsel - DOJ), David Margolis (Associate Deputy Attorney General), Pat Binninger (a Confidential Assistant to the Deputy Attorney General) and possibly Rod Rosenstein (now a Special Assistant to the Assistant Attorney General - Criminal Matters and formerly a line attorney in the DOJ Criminal Division - Public Integrity).

Ms. Monaco provided six pages of yellow-lined, handwritten notes produced at the February 11, 1994 meeting concerning the chronology surrounding Foster's death. Monaco noted that it had been intended that these notes be typed, but that Heyman had left the Department prior to this being done and she has since not seen the need to do this.

A transcription of the chronology as provided by Ms. Monaco is as follows:

NOTE: Clarifications and/or corrections and sources of

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stigation on 4/26/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton FOIA(b)(7) - (C) Date dictated 4/28/94

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the recollections as provided by Ms. Monaco during the interview are provided in parenthesis in the transcription. There were no parenthetical notes in Ms. Monaco's original draft of the chronology.):

TUES July 20th

Announcement of Freeh. Foster left W.H. and shot himself - Tues. night he is found around 9:00 p.m.

WED July 21st

- Roger Adams is selected by AG and DAG to go to Foster's office. He is told to stand by and Park Police would search. (Adams)

- Adams raised concern over his prior detail to the White House. DAG says call AG. (Adams)

2 p.m. RA calls JR tells her he was in WH counsel's office. (JR = Janet Reno)

- Janet Reno beeps Phil at Marriot where he is panel moderator to ask Adams question.

3 p.m. - Adams is called into DAG's office. Dave got instructions from Phil on doc handling.

5 p.m. - DM, RA and investigators make an agreement that they will go into Vince's office. After agreement is signed sealed etc. Neuwirth reopens agreement. (DM = Margolis)

DM glance at first page title of file (Margolis)

for "anything to do w/ his violent death" this (Margolis)

RA - understood that nothing would happen until they were there to see it. (Adams)

PH worry (Thurs 22 erased after this notation)

Thurs 22 - agreement is DM/RA will be at 10

Originally we responded to the WH on Wednesday morning

21st Park police are not allowed in the office of Vince Foster

Roger Adams

Thurs 10 am We arrive at 10. (Margolis or Adams)
- Cops go off to do interviews
- Bernie has new plan he will look at docs
- David called DAG bec he now knows that new plan not cleared.
- DM calls Phil & hands phone to DAG (DAG reference here should be "Nussbaum")

David remembers that decision was we'd push Bernie to wall to change his mind but would let Bernie ultimately make the call.

DAVID said "Mail us results" BN - I know it's for show

Cindy saw Phil in conf room b/n 10:30-11. (Monaco)

You are messing this up (Quote from Heyman to Nussbaum on telephone in conference room/not in Heyman's office. Monaco overheard Heyman side of this conversation.)

said he'd call David & Roger back here - won't make a big deal about

BN said he'd call back
DAG but didn't (Heyman)

told DM/RA to stay in lobby - not to leave when DM went out for a cig. BN panicked came running after DM.

At 12:45 - told DM/RA (Get lunch and will do search at 1:00 p.m.)

At some point, DM said after meeting if this were IBM I'd have subpoenaed. BN said - if this were IBM - smart lawyer would have removed them - privilege would have attached. (Margolis)

DM told Bernie that he'd make a detailed inventory

DAG called BN on night of 22nd
- reamed him out
- do you have anything to hide? (Heyman - angry he hadn't been consulted)

July 26 -

Tues July 27

5:15 - Phil is summoned out of AGAC to go to WH (Heyman) (AGAC = AG Advisory Committee)

DAG rides over w/AG (Heyman)

Bernie has note - AG says turn it over and she left. (Heyman) (AG had engagement = why she left)

Phil wanted to leave but BN asked him to stay since he was there so long already. (Heyman)

Thurs 28th - FBI is called in. (On note)

Thurs 29

Collier calls 8:45 (Collier is Chief of Staff for Interior Secretary Babbit)

comes over 9 a.m. (Meeting with Collier was only time during entire tenure that Heyman turned on his red light - meaning he should not be disturbed)

Two complaints
1) WH - is treating his personnel unprofess bursting into interviews

2) mismatch (Refers to authority or power; U.S. Park Police vs. White House)

wanted to take his people out of the investigation

DAG called Bernie, Gergen, etc. tells them he wanted a

conference call to all of them (Heyman said to assemble everyone who was present the night before in connection with the Foster note. Monaco recalled this included Dee Dee Myers, and possibly McLarty and Stephanopoulos, among others) (Conference call = speakerphone at White House) (Margolis, Adams and Monaco with Heyman)

told them at 10:37 (Phone logs?)
we think 11:03

Nancy McFadden notes that N McF.
DM told FBI

Monaco noted that this last referrence in the chronology referred to an occasion when Nancy McFadden, who worked for Webb Hubbell, came into Margolis' office while Monaco was present to express concern over the phrase "obstruction of justice" being used by the FBI in their investigation following the discovery of the Foster note. Monaco said that Heyman and Rod Rosenstein were also present at the time in Margolis' office. McFadden requested that "someone straighten this out," referring to the "obstruction of justice" terminology. McFadden said the situation was way out of hand. It was Monaco's understanding that Hubbell had asked McFadden to come down to discuss this matter. Monaco remembers that Margolis did not say a word. Margolis was asked by Heyman to call the FBI.

When asked if she could add any other detail regarding the chronology, Ms. Monaco said she remembered Deputy Attorney General Heyman returning from the White House to the DOJ at about 10:00 p.m. on the night of July 27, 1993. This was the evening that the White House turned the Foster note over to investigators. Monaco said that she, Heyman, Rod Rosenstein and Gary Katzmann (Associate Deputy Attorney General) discussed the finding of the Foster note. Monaco remembered Heyman saying how wonderful it was to watch the Attorney General handle the situation at the White House that evening. The Attorney General had reacted to the news of the note being located by saying that the White House should call the U.S. Park Police and give the note to them. Heyman commented on how upright the Attorney General was and what a pleasure it was to work with her. Monaco said Heyman did not express an opinion concerning the events of

that evening other than this. She noted that he was extremely tired and exhausted.

In addition to the handwritten chronology, Ms. Monaco also provided a three-page transcription (attached) from a "journal" which Monaco herself maintains. She said most of the information contained in these journal pages is second and third hand. It consists of notes she kept and dictated late at night, her intention being to create a "great journal" of her experiences. She said no one had seen these journal pages prior to them being turned over during this interview. She asked that if these journal entries were ever to be released in the future, that she have an opportunity to clarify certain inaccuracies such as incorrect dates and run-together material. As an example of necessary changes, she cited the third paragraph on the first page that reads "The Attorney General made"... and clarified this should read "The Attorney General's Office made..."

Monaco said she remembers speaking with Vincent Foster on perhaps one or two occasions. These occasions would have been telephone calls from Foster concerning the nomination of Jo Ann Harris. Monaco said Foster was business-like and limited the call, or calls, to an inquiry concerning the progress of an announcement on Harris.

Monaco said she could provide no other information of value. She has searched her files for other handwritten notes but has located nothing else.

The following description of Monaco was obtained through observation and interview:

Name:	Cynthia M. "Cindy" Monaco
Title:	Special Assistant to the Deputy Attorney General
Race:	White
Sex:	Female
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Business Address:	Room 4208, DOJ
Work Telephone:	(202) 514-3844

The nomination. Bromwich screw up.

*** Back Chronology ***

On Tuesday July 20, the White House announced the pick in the Rose Garden of the new FBI Director. Phil, the Attorney General, and Dave Margolis were there. On Tuesday afternoon, Vince Foster left the White House and killed himself. He shot himself in the head in a park.

On Wednesday July 21, the White House realized that someone would have to come and take a look at the records in Vince Foster's office as part of a preliminary inquiry to rule out -- for suicide. Phil Heymann and Janet Reno decided that Roger Adams would go. Roger suggested that maybe there was a problem because he had worked at the White House for several months.

During this period of time, the Attorney General made a big deal about getting a hold of Phil while he was speaking at the Marriot while he was speaking at a Youth Violence Symposium. In any event, it was decided that Dave Margolis and Roger Adams would go over to the White House. David and Roger did go over. I believe it was on Wednesday briefly just to put a yellow tape on the door with the Park Police in the regular course of business. They determined at that time that they would come back and search the office the next day.

Thursday, July 22, 1993

The next day was a disaster. I first realized there was a problem when I saw Phil Heymann on the phone with Bernie Nussbaum. I walked into the conference room and sat down. This was probably about 10:30 or 11 in the morning when he should have been in the Crime Bill pre-meeting in room 4118. Phil was on the phone with Bernie Nussbaum and he said: "You are messing this up very badly. I think you are making a terrible mistake." And what I took it to mean, in the context of the general conversation was that Bernie had refused to let David and Roger take a look at the documents.

I later heard from David that in fact what had happened was that Bernie looked at the documents and told him that a privilege was asserted or was not asserted. This was in contrast to what Phil and Bernie had decided the day before. Only I and Phil were present.

Phil and Bernie seemed to be in agreement on the entire thing but probably were not. Phil later suggested at the end of that day when David returned -- this was when CBS News was calling regularly that the fact . . . . He [David] was very angry that he had been made to cool his heels in the Executive Office Building for hours before they were called at something like

quarter to one and told they would have fifteen minutes to get a bite to eat in the cafeteria before they actually went over to seacrh Vince's office. He was very irritated with that. And then when he got to Vince's office, he just sat there and Bernie Nussbaum picked up each document and looked at it while over his shoulder stood Steve and Cliff Sloan. And each of them regularly whispered in Bernie's ear as to whether or not he should assert some privilege or work product or executive or attorney-client priviledge. David was particularly galled when one agent stood up to stretch and Cliff Sloan said: "You're not trying to look over his shoulder are you?" David keeps repeating this story and I think he was very, very insulted that Cliff would make that accusation against one of his agents. I think the agent's name was Scott.

When David came back that evening, Dean St. Dennis was looking for a status report. Dean had sort of promised the press that morning that there would be a status report. He had gone too far.

Phil had pretty clearly explained to Dean, in my presence, that morning what he had wanted Dean to say to the press namely that it was just a routine inquiry. He may not have used the word " inquiry. He wasn' so clear on inquiry versus investigation but that it was just a routine questioning of circumstances into his death and that this would be handled like any other inquiry. I think that Dean was just way to specific with the press and said things like: "We are looking at the motive for the suicide and we a looking at the 1 in 100 chance that it could have been murder." I think that was very irritating for Phil Heymann to read in the papers the next morning.

In any event. Carl Stern returned that Monday and tried to set things straight. He had a meeting with Phil first thing in the morning when Phil laid the whole thing out. But that's getting ahead of ourselves.

That Friday there were articles back and forth on Vince Foster being despondent. On Monday, there were articles about the President, who I think had spoken to him. On Tuesday, the Attorney General and Phil Heymann were very quickly summoned to the White House. They were summoned . .. I specifically remember that Phil was summoned at about 5:15 and I don't know how much time it took for the Attorney General to convey that message but I know we went and got him out of the Advisiory Committee Meeting which he was at from about 4:30 to 5:00 and told that he had to come back immediately and go to the White House. He did come back immediately and he did go to the White House. He was there until about 10:00 at night. When I had sent him a burrito. He told Gary Katzmann, Rod and me of what had happened.

Vince Foster's Death. Last night there was the news that Rita Braver was onto the Judge Freeh story. Also the news about Doris Meissner. This morning the Department of Commerce person Tom

Collier came in and said that he wanted to pull the Park Police out of it. Phil had a meeting. Phil spoke with me, David, and Roger and in the presence of David, Roger and me called over to the White House in the morning and told them he wanted a "vigorous investigation" and that the Park Police would do it with the FBI.

He met with Peter Edelman and Eldie and is worried that he is part of a discussion group that is going nowhere,

Second Monday.

Phil Heymann told the Attoney Genral, actually told Webb Hubbell that he was furious about the White House's refusal to approve his staff. He added that the only people on his staff who were approved were Shay Bilchik and someone who works for Shay. Drew Days was so moved that he went out and bought Phil a sanswich and the two of them has lunch in Phil's office. The rest of the day packed wall to wall with meetings. I continue to be astonished at the amount of information Phil Heymann can absorb. He agrees that he is upposed to have lunch with some journalists at some point.

I had dinner with Phil last night at Kramer books. Yesterday, we had dinner with Bill Geller at AV Ristorante and Bill Geller spent a lot of time complaining about the AG -- that there is a perception about her that her mind is already made up and he complained a lot about Gail Hoffman.

August 6
Mary Jo White rushed in the documents on the Nosair case. That's the killing of Kahane. I left it on Phil's chair. Phil Baridon prepared some notes at the very last minute for the AG's speech. Nancy McFadden, it turns out had not needed a formal report. At yesterday's news conference, Nancy McFadden who was standing in the back of the room talking to Cliff Sloan ordered me to be quiet and to leave the room immediately after the press conference and said she was justtelling that to people because there was press in the room. It was way out of line. She had no business being there nor did she have any business taking notes for whom we wonder.

They put a good spin on the question of why it was that the the DOJ was in at the beginning and then out in the middle then in again at the end of the investigation. The explanation whcih is a bit of a gloss but is close to true is that the DOJ was in at the beginning because it was a question of why a high federal official was murdered or died by his own hand but that when it became clear that it was a suicide they withdrew but then after there was concern over the handling of the note by Foster which was found torn up in a suitcase, the Department of Justice again reentered the investigation.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 5/16/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/16/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

MARGARET JANE ("DEE DEE") MYERS was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Ave., N.W., Washington, D.C. (WDC), regarding her knowledge of events occurring at the White House on the evening of July 20,. 1993, subsequent to the death of VINCENT W. FOSTER, JR. FOSTER was the former Deputy Counsel to the President of the United States. Participating in the interview was attorney, Peter J. Romatowski of the law firm of Crowell & Moring, 1001 Pennsylvania Ave., N.W., WDC, telephone number (202) 624-2745. After being appraised of the purpose of the interview and the identities of all parties participating, MYERS thereafter provided the following information:

On the evening of July 20, 1993, MYERS was in the White House on the ground floor of the residence watching an interview of President Clinton being conducted by Larry King. Other members of the White House staff were with her. MARK GEARAN of the White House Communications Office informed her during the interview, sometime during the first half of the one hour show, that VINCENT FOSTER had committed suicide. GEARAN informed MYERS of this event down the hall from the room in which they had previously been monitoring the telecast of the Larry King Show. MYERS noted that the interview took place in the library of the White House and that the monitoring room was across from the library. MYERS recalled the following individuals being in the monitoring room during the taping of the Larry King show: GENE SPURLING (phonetic), MANDY GRUNWALD and MARK BEGALA.

After being informed by GEARAN of FOSTER's death, people began coming up to MYERS to try to get the status regarding the disposition of FOSTER's body and its identification as well as information regarding the procedure through which the family was to be notified of the death. Through GEARAN, MYERS learned that FOSTER had taken his life, but had no further information. At that point in time, GEARAN was awaiting a positive identification of FOSTER's body. MYERS telephoned JEFF ELLER, Director of Media Affairs regarding the death. This was the only telephone call MYERS remembers making from the White

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House. According to MYERS, ELLER was the press duty officer on the evening of July 20, 1993. Sometime after making the telephone call to ELLER, MYERS went to MACK MCLARTY's office with BILL BURTON.

At this point in time, MYERS was concerned that some caller would talk to the President while he was on the air and inform him of FOSTER's death. MYERS then spoke to WENDY WALKER the producer of the Larry King Show about what could be done regarding the possibility of a caller to the show informing the President of FOSTER's death. WALKER and MYERS then went to the production van which was located outside the White House mansion to screen incoming telephone calls.

MYERS was aware that at the end of the Larry King show, the President and MACK MCLARTY, the President's Chief of Staff, went to the upstairs residence area of the White House. After the taping of the Larry King show, MYERS and BURTON went back to MCLARTY's office to contact the United States Park Police (USPP) regarding the procedures relating to the investigation of FOSTER's death. MYERS recalls making a conference call to the wire services regarding the White House statement related to the death of FOSTER.

According to MYERS, there were meetings on the evening of the 20th, after being informed of FOSTER's death. These meetings were not formal in nature but described to be a shifting cluster of individuals. MYERS did not recall going to any gathering that could be defined as a meeting. MYERS noted that White House Counsel, BERNARD NUSSBAUM, came into BURTON's office at some point. NUSSBAUM had looked in FOSTER's office and had not found any sort of note left by FOSTER. MYERS did not recall any statements being made on the night of July 20 that a note had been found regarding FOSTER's death. MYERS did not go to the FOSTER residence on the evening of July 20.

MYERS did not recall talking to CRAIG LIVINGSTONE on the evening of FOSTER's death. She was aware that WILLIAM KENNEDY of the White House Counsel's office and CRAIG LIVINGSTONE had gone to visually identify FOSTER's body at the hospital. DAVID WATKINS of the Office of Management and Administration went to the FOSTER residence to be there when the family was notified by USPP officers of FOSTER's death. MYERS had no recollection of any face to face contact with CRAIG LIVINGSTONE on the evening of July 20, 1993.

MYERS was displayed a copy of a chronology authored by LIVINGSTONE regarding his actions on the evening of July 20, 1993. MYERS did not recall when she first saw this document.

MYERS advised that she may have contacted LIVINGSTONE the day after FOSTER's death or a couple of days after his death to try to reconstruct events for the purpose of briefing the press. MYERS noted that past practice dictates that LIVINGSTONE would have given to her in person information regarding issues that would have been of interest to the press. LIVINGSTONE would have given both oral and written documentation depending upon the likelihood of future of press inquiries. MYERS had no specific recollection regarding the contents of LIVINGSTONE's chronology. MYERS also had no recollection of LIVINGSTONE being at the FOSTER residence on the morning of July 21, 1993, other than as set forth in the chronology that was displayed to her in the course of the interview.

MYERS did not go to the FOSTER residence on the morning of July 21, 1993.

No further information of investigative value was provided.

MARGARET JANE ("DEE DEE") MYERS is described from observation and interview as follows:

DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
Race:	White
Sex:	Female
SSN:	

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/94

MARGARET "DEE DEE" MYERS, Deputy Assistant to the President and Press Secretary, was interviewed at her offices in The White House on 7/27/94. Also present were her attorney PETER J. ROMATOWSKI and KAREN DEAKINS of CROWELL & MORING Attorneys at Law, 1001 Pennsylvania Avenue, NW, Washington, D.C., telephone (202) 624-2745. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, MYERS provided the following information:

MYERS confirmed that she was at The White House on the evening of July 20, 1993 when the news broke that VINCENT FOSTER, JR. had committed suicide. She advised that she was there the entire evening until approximately 2:00 am on the morning of July 21, 1993. Asked if she could recall a telephone call to The White House from WEBB HUBBELL anytime during the evening on July 20, she responded that she herself did not take such a call but she recalls that possibly GEORGE STEPHANOPOULOS had called WEBB HUBBELL from the basement of the residence in The White House in order to tell WEBB what had happened. That was the only telephonic contact involving WEBB HUBBELL on the evening of July 20 that she could recall.

Asked if she recalls any involvement by the Press Office on the evening of July 20, she said she thinks she recalls that JEFF ELLER from her staff came into The White House that evening and then went out to the FOSTER residence. She believes that ELLER volunteered to do so. He is the Director of Media Affairs. She believes that this occurred after the President left The White House to go to the residence. She also advised it would not be unusual for ELLER to have followed-up with the suggestion that somebody go to the FOSTER residence the following morning in order to handle press inquiries. She does not know that that happened, but it would not be unusual for ELLER to have arranged for that. Two other individuals who would have had the authority to designate somebody to go out to the residence aside from herself would be, MARK GEARAN, and LORRAINE VOLES, who at the time was Deputy Press Secretary (she is currently Special Assistant to Vice President GORE). MYERS advised that she does

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Investigation on 7/27/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM T. GUYTON
SSA H. ALEXIS SUGGS Date dictated 7/28/94

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not remember if anybody from the Press Office was sent to the FOSTER residence on the morning of July 21, 1993. She also advised that it would be unusual for anybody to have gone to the residence to help handle the press without letting the Press Office know.

MYERS advised that she probably arrived at her office in The White House at about 7:00 in the morning on July 21, 1993. She does not recall if anybody was already in the office when she arrived. Asked if she recalls anything with regard to a telephone call to the Press Office in the early morning time frame from the FOSTER residence, specifically from CRAIG LIVINGSTONE, saying there was no press there and did they want to send anybody else out, MYERS said that the scenario "sounds kind of familiar". She advised that she has no specific memory of a telephone call coming in and she has no memory of meeting with LIVINGSTONE but she knows that somehow they were aware that there was no press problem at the FOSTER residence and she has a vague memory of having a conversation with LIVINGSTONE at some time in her office in The White House during which she "sort of remembers" that LIVINGSTONE went by the residence on the way in to The White House. She was not able to be anymore specific than that.

MYERS advised that LIVINGSTONE would not normally augment the Press Office staff by way of helping them with their duties, but this situation on the night of VINCE FOSTER's death and the days following was not normal. She explained that CRAIG would often step forward to assist the Press Office, for example, giving them a heads up when he became aware of something that might become an issue for the press. He understood how Press Office activities worked and how the press worked having handled such matters during CLINTON's presedential campaign. He was sensitive to their needs and assisted occassionaly.

MYERS advised that there was no activity generating from the Press Office in the early morning hours (after 6am) of July 21, 193 which called for the movement of binders or other materials of a substantial nature to some other office in The White House or to the Old Executive Office Building.

Shown a list of White House Communications Office (Press Office) active employees as of July 17, 1995, MYERS identified the following individuals as not being likely candidates to have been sent out to the FOSTER residence to deal

with the press: LAVORA BARNES, PAT COGOELL, AMANDA CRUMLEY, CAROLYN CURIEL, JULIA MOFFETT, ALYSON MUSCATINE, JULIE OPPENHEIMER, KIM TILLEY, LORRAINE BOLES, ANN WALKER, and NANCY WARD.

Females from the same office who are possible candidates to have been sent to the FOSTER residence if that had been done were: ANN EDWARDS, KIM HOPPER, KATHLENE MCKIERMAN, LISA MORTMAN, KATHLEEN NEUGOLD, VICKI RIVAS VAZQUEZ, JESSAMYN SARMIENTO, MARIA MERCEDES TIO, and ELIZABETH BOWYER. MYER further advised that EDWARDS, MCKIERMAN, and HOPPER are the most likely to have been sent out if anyone was and advised that HOPPER currently works for KATHLENE BROWNS' campaign for Governor of California and can be reached by contacting CLINT REILLY in California at 415-673-6873.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/12/94

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No further information of investigative value was provided.

MARGARET JANE ("DEE DEE") MYERS is described from observation and interview as follows:

DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
Race:	White
Sex:	Female
SSN:	

N

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/25/94

ROY M. NEEL, who served as Assistant to the President and Deputy Chief of Staff, The White House, Washington, D.C., from May 1993 through December 31, 1993, was interviewed at the Office of the Independent Counsel, Washington, D.C. MR. NEEL was advised of the identity of the interviewing agents and of the purpose of the interview. Assisting with the interview was CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR. MR. NEEL provided the following information:

He is currently President and CEO of the U.S. Telephone Association, 1401 H Street, N.W., Washington, D.C. 20005, telephone (202) 326-7244. Prior to this employment, he had been in government service for 17 years. He had served with Vice President ALBERT GORE during GORE's senate years. From the time of the inauguration on January 20, 1993 through about May 1, 1993, NEEL served as Assistant to the President and Chief of Staff to the Vice President. NEEL advised that he left government service so that he could spend more time on other personal matters.

NEEL first met VINCENT FOSTER during the transition in Little Rock. On January 14 or 15, 1993, he was with FOSTER at the Governor's Mansion during an introduction of the White House staff. At that time, he discussed their mutual interest in Vanderbilt. NEEL said there was an overall euphoria among those in attendance, as they were about to build the White House. NEEL described FOSTER as private, circumspect, reserved and as an individual who radiated a kind of strength. He was not superficial and was quiet about his work. FOSTER was not a "backslapping" type of individual. NEEL described himself as a "colleague" of FOSTER while serving with the Vice President. NEEL noted that FOSTER had stature at the White House that exceeded that of other deputies and at least equalled that of an Assistant to the President. FOSTER was not viewed simply as NUSSBAUM's deputy. NEEL noted that in addition to being close to the President and First Lady, that FOSTER quickly earned this stature. While with the Vice President, NEEL said he did not have a lot of dealings with FOSTER. NEEL noted that JACK QUINN,

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Investigation on 5/25/94 at Washington, D.C. File # 29D-LR-35063

FOIA(b)(7) - (C)

by SA William T. Guyton WTG:deg Date dictated 5/25/94

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who also worked for the Vice President, worked with FOSTER more than he did, particularly regarding ethics issues.

On May 5 or 6, 1993, NEEL assumed his new role as Assistant to the President and Deputy Chief of Staff to MACK MCLARTY. NEEL wore "both hats," working for the President and Vice-President through the end of June 1993. NEEL said his duties included convening morning staff meetings for the Assistants to the President. FOSTER would often represent BERNARD NUSSBAUM, Chief Counsel for the White House, at these meetings. NEEL's other dealings with FOSTER included ethics issues, such as gifts to the President, and the President's family. FOSTER would assess the propriety of such issues. NEEL said he saw less of FOSTER in the weeks just prior to FOSTER's death. NEEL cannot attribute this to anything other than the fact that they were working on unrelated issues. NEEL's other associations with FOSTER included seeing him two or three times in the White House mess and discussing Arkansas/Vanderbilt basketball games. He described FOSTER as being quite a basketball fan.

NEEL saw VINCE FOSTER for the last time on the afternoon of July 19, 1993. The occasion was a meeting of the Deputy Chief of Staff concerning either rules which affected White House contact with agencies or ethics rules. NEEL said the first issue concerned how the White House contacts agencies. To that point in time, the White House staff had been "a little loose" in their contacts, and this situation needed a "fix." The issue rose out of the Travel Office matter. FOSTER was asked for a report on how the White House staff was being informed on the issue. When called upon, FOSTER had nothing to say and referred the question to CLIFF SLOAN. FOSTER was quiet throughout the meeting. He had previously been an active participant on this issue and attending meetings on the issue, but had not been to meetings on the topic since approximately mid-June. Morale issues were also discussed in an attempt to find ways for the White House staff to enjoy themselves more. This attempt to "knit the staff together" had appealed to FOSTER in the beginning but FOSTER had lost interest.

NEEL was informed of FOSTER's death at approximately 8:00 p.m. on the evening of July 20, 1993 when BILL BURTON, Executive Assistant to MCLARTY, called his residence. BURTON advised that the police had just found FOSTER's body and it

appeared he had shot himself. BURTON said he would call back later. BURTON did not ask NEEL to do anything during the call. NEEL did not do anything as a result of the call. It occurred to him to call MCLARTY but he did not do so as MCLARTY was either at home or on his way to the FOSTER home.

BURTON told NEEL during the initial call or later that someone had taken the trash out of VINCENT FOSTER's office and put it in NEEL's office so that nothing would happen to it. NEEL was advised that it would be picked up the following morning. NEEL explained that the trash had been left in his office because he was the Deputy Chief of Staff at the White House. Nothing else was said about the trash, other than it was possibly taken out of the trash can in Foster's office or the slight chance it had been retrieved from cleaning personnel. NEEL did not feel that the latter would have been the case because of the early hour - 8:00 or 8:30 p.m. - involved.

When NEEL arrived at his office the following morning (July 21, 1993), he found an opaque plastic bag of trash which had been tied up in the middle of his desk. NEEL said his particular office had not been locked, but the outer office to the suite had been locked. He did not have a safe in his office.

NEEL described the morning of July 21, 1993 at the White House as "hushed" and with the expected pall over it. He said a typical 7:30 - 9:00 a.m. period at the White House on any given day is full of bustle, jocular comments, catching up and other loud conversation. There was none of that on the morning of July 21, 1993. People were huddled in hallways and offices, sharing their grief.

Any conversations NEEL had regarding FOSTER's death were of a "personal nature." They were sharing disbelief about FOSTER's death with others. There was no discussion of a suicide note or anything else related to the death. NEEL did not attend a U.S. Park Police briefing on their investigation to date that morning and did not attend any other meetings concerning the FOSTER investigation with one exception. At a senior staff meeting, MCLARTY confirmed what had happened and discussed matters related to the family. NEEL did not take notes during the episode and avoided keeping a diary throughout his White House career. NUSSBAUM also spoke on July 21, 1993 regarding the investigation, indicating that no one knows why this happened.

NEEL noted that he remembered "big things" and "benchmarks" regarding the FOSTER death. NEEL does not remember specific dates and times. The tone at the time at the White House was severe concern for the FOSTER family and a shared sense of tragedy. NEEL did not learn of any aggravation associated with the investigation process and/or dealings with the White House for several days.

On July 22, 1993, NEEL was not involved in the search of VINCENT FOSTER's office. NEEL stated that he did not enter FOSTER's office the entire time he was at the White House. NEEL said he was not involved in procedural discussions regarding the search of FOSTER's office. He did not even know that the search had been done until later.

NEEL did not attend the FOSTER funeral in Arkansas.

NEEL said that he was not aware of conversations between the White House Counsel's office and the U.S. Park Police or what was done in FOSTER's office.

NEEL's first point of concern that the FOSTER death and subsequent investigation was more than working through a personal tragedy of a staff member occurred with his reading of press accounts concerning comments appearing to be made by the U.S. Park Police regarding lack of White House cooperation. The newspaper articles contained leaks which seemed to NEEL to be inappropriate. It appeared to NEEL that once the U.S. Park Police came under criticism, there appeared to be "ass covering" by the U.S. Park Police going up to the Interior Chief of Staff, TOM COLLIER. It seemed there was "laying off blame to the White House." At that point, NEEL was not familiar and did not know of the White House actions to date. He was concerned with the Park Police and Interior "pointing a finger" at the White House. NEEL said he did not do anything right away after reading such articles. Within perhaps a day of the articles appearing, he had a telephone conversation with TOM COLLIER at Interior, the gist of which was to ask COLLIER if the White House was doing anything or not doing anything which was the basis of the stories in the newspapers. COLLIER discounted the newspaper articles and said that the Park Police investigation was ongoing. NEEL described the conversation with COLLIER as "perfunctory." NEEL simply wanted to find out what the stories were about. COLLIER was not a personal friend, but NEEL wanted to know if he had any idea

where the stories were coming from. COLLIER was defensive at that point, but the conversation simply ended with NEEL saying "let us know if there is anything the White House should be doing or know about." The newspaper articles were quoting sources as saying that the White House was standing in the way of the FOSTER investigation and the U.S. Park Police were not doing their job in a professional way. NEEL had called COLLIER on his own initiative. He was aware that BURTON had had a conversation with COLLIER, but was not sure of the timing of his call versus BURTON's. NEEL said BURTON's conversation with COLLIER would not have stimulated his call to COLLIER. NEEL said he would never have called an official at the U.S. Park Police, as that would have been irregular and been misunderstood. The attitude at the White House was that agencies were working for the President. NEEL said COLLIER was not held in particular high regard at the White House and there may have been some tension between him and BURTON. NEEL's motivation for his call to COLLIER was to insure that there was not a "disconnect."

The various involvements at the time concerned MARK GEARAN and DEE DEE MYERS on the communications aspect; the legal issues aspect assumed by NUSSBAUM; and occasional ad hoc meetings. NEEL explained that during this time at the White House, anyone could conduct a meeting, with a "small m," at any time. It was a "brainstorming" process.

At some point after the torn-up FOSTER note was found, NUSSBAUM informed NEEL that the note had been turned over to proper officials. NUSSBAUM commented to NEEL that the note was "obviously a note that VINCE had not intended anyone to read" because it had been torn up into little pieces.

The only note issue in which NEEL was involved was the comment concerning the ushers. This comment was that "The ushers office plotted to have excessive costs incurred, taking advantage of Kaki and HRC." Before the note was made public, NEEL convened a meeting of the White House ushers staff to tell them about this comment in the note. NEEL assured them at that time that the language FOSTER had used did not reflect the senior White House staff view of the ushers' performance. NEEL became the self-appointed stability between the ushers office and the White House, except as to issues pertaining to the First Lady and her staff. NEEL advised the ushers to come to him with future issues. FOSTER had reviewed the ushers' performance and there

had been a disagreement regarding expenses of the designer Kaki Hockersmith. Afterwards, it had been determined there had been a misunderstanding. The money for redecoration of the White House comes from a foundation fund and eyebrows had been raised because an Arkansas designer had been employed. NEEL described the ushers staff, which totalled six to eight people, as house managers who run the White House and may oversee such things as the cooks and gardeners. NEEL's concern in meeting with the usher staff was that they "didn't go off the deep end" when the note was made public. The comment in FOSTER's note had to be taken in context. The ushers are not official appointments by an incoming administration but do serve at the pleasure of the President.

Once the FOSTER note was revealed, "it was a mess." The sense of speculation was uncontrollable and there was frustration that there was no way to get matters under control. A press frenzy was underway. The "inventory of concerns" contained in FOSTER's note grew like "gremlins" and created "centers of controversy." The White House was saying that the note issues were the observations of a disturbed man and not the views of the White House, but the White House felt vulnerable and helpless. NEEL said it was his impression that NUSSBAUM had turned the torn-up note over to authorities within hours of finding it. He did not know that NUSSBAUM kept it for a time.

Up until the time of the location of the FOSTER note, the tension with the U.S. Park Police was an "inside thing" and "not a dogfight." The tension was associated with the nature of the event. After the FOSTER note was located, it became a question of how to get the issue "behind us." The White House was involved in many things at the time to include a budget fight. The discovery of the note came on the heels of the "Travel Office fiasco" and involved some of the same people. NEEL digressed to say that you have to understand the "bunker mentality" at the White House magnifies every emotion that pops up. NEEL said he had experienced nothing similar since Viet Nam. Individuals become not even certain of what has been done or not and seem to do nothing right. To that point, NEEL had assumed that NUSSBAUM was managing with the U.S. Park Police. NEEL's contact with COLLIER at Interior had been spontaneous. NEEL did not talk to COLLIER other than in that one telephone conversation concerning issues related to the FOSTER incident. There was no

other follow-up on COLLIER's part with NEEL. No follow-up calls from COLLIER or Interior were referred to NEEL.

When describing the atmosphere at the White House, NEEL said that until DAVID GERGEN joined the White House staff on Memorial Day of 1993, no one was there who had worked at the White House. To that point, FOSTER was one of those individuals on the White House staff who had exuded self-confidence. He was a solid guy. FOSTER was one of those individuals that if you were in a fight, you would want him to be on your team. NEEL said that NUSSBAUM was the reverse case. NUSSBAUM did not demonstrate competence in Washington terms and had been tainted by the handling of the Travel Office. In many White House issues, "anyone can play" but in legal matters, interest was directed to the Counsel's office. NEEL described the Travel Office matter as a "scape goat thing" for Counsel. The Travel Office situation had been an aggravation for FOSTER. FOSTER had not expected to work on such matters. He was not pleased to work on the firings. The Travel Office was a minor action which had been blown into a major political problem for the White House.

When asked, NEEL said he was not aware of the removal of any documents from FOSTER's office. He had not heard any speculation regarding a suicide note being found earlier than the discovery of the torn-up note. NEEL said he had never questioned the condition in which the note was found. NEEL thought that the FOSTER note represented "random musings" by FOSTER of "things that piss me off." NEEL speculated that FOSTER had prepared this list in a place where he couldn't throw it away and as a result had torn it up and put it in his briefcase. NEEL said that a lot of people empathized with what FOSTER said in the note. It is hard to understand how deeply hurt FOSTER was by the Wall Street Journal articles. Others in Washington can ignore this. FOSTER could not. Being from Arkansas, the articles had been deeply hurtful to FOSTER and had been a challenge to his reputation.

The following description of NEEL was obtained through observation and interview:

Name:	ROY M. NEEL
Race:	White
Sex:	Male
DOB:	FOIA(b)(6)
POB:	FOIA(b)(7) - (C)

SSAN:	FOIA(b)(6) FOIA(b)(7) - (C)
Residence:	3307 North Hampton Street, N.W. Washington, D.C. 20015
Telephone:	(202) 686-9129
White House Titles:	Assistant to the President and Deputy Chief of Staff (5/1/93 thru 12/31/93) Assistant to the President and Chief of Staff to the Vice President (1/20/93 thru 5/1/93)
Current Employment:	President and Chief Executive Officer, U.S. Telephone Association 1401 H Street, N.W. Washington, D.C. 20005
Telephone:	(202) 326-7244

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

On May 10 and 11, 1994, SAs COLOMBELL and MONROE conducted a neighborhood investigation in the vicinity of 3027 Cambridge Place, Georgetown, Washington, D.C., the former residence of VINCENT FOSTER and family. The primary focus of the investigation was to determine if MR. FOSTER, on the afternoon of July 20, 1993, returned to his residence after having left his White House office at approximately 1:00 p.m. Neighbors, as set forth below, were interviewed and no one was able to provide information indicating that MR. FOSTER returned to this residence on the afternoon of July 20, 1993 between the hours of 1:00 and 5:30 p.m.

MR. RICK STAVROS, 3029A Cambridge Place - Georgetown University student who advised that he did see MRS. FOSTER on July 20, 1993 at approximately 5:30-6:00 p.m., stating that she was out front watering flowers and spoke to him briefly about the difference in lifestyle and people in Arkansas and Washington, D.C. He did not see MR. FOSTER that day.

MR. JAMES INGRAM, 3036 Cambridge Place - Did see MRS. FOSTER on July 20, 1993 at approximately 6:00 p.m. on the sidewalk in front of her residence; as best he recalls, she was leaving to pick up one of her daughters and was obviously unaware of the tragedy that had occurred. Did not see MR. FOSTER that day.

DEAN BROWN, 3030 Cambridge Place - Was acquainted with both MR. and MRS. FOSTER, stating that he only would see him on the weekends. He stated that he did see MRS. FOSTER on July 20, 1993 in the late afternoon but did not see MR. FOSTER on that day.

MS. TINA NUCKOLS, 3035B Cambridge Place - Unable to provide information; was not living in the neighborhood on the date in question.

/estigation on 5/11&12/94 at Washington, D.C. File # 29D-LR-35063

by SSA William E. Colombell
SSA Lawrence J. Monroe WEC:deg Date dictated 5/16/94

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MRS. SIDNEY BROOKS, 3032 Cambridge Place - Stated that she was familiar with both of the FOSTERS and on occasion did play tennis with MRS. FOSTER. Stated that she works out of her residence and is generally familiar with neighbors coming and going on Cambridge Place during the day. She stated that MR. FOSTER did not, to her knowledge, return to his residence on the afternoon of July 20, 1993. To the best of her recollection, she did see MRS. FOSTER in the late afternoon at approximately 5:30 p.m. and spoke briefly with her. She stated that in several conversations with MRS. FOSTER, prior to her husband's death, MRS. FOSTER informed her that her husband had been under significant stress and pressure because of his White House employment.

In addition to the above neighbors, efforts were made to contact and interview residents of the below-listed addresses with negative results (no one was home):

3023, 3033, 3033A, 3031, 3031A, 3025, 3025A, 3029 and 3029A Cambridge Place.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/16/94

SA Colombell conducted a neighborhood investigation in the vicinity of 3027 Cambridge Place, Georgetown, Washington, D.C. in an effort to determine if their was media presence in the neighborhood on the morning of July 21, 1993 between the hours of 6:00 and 8:30 a.m. and also to determine if MR. CRAIG LIVINGSTONE was present in the vicinity of or outside the FOSTER residence during that time period.

MRS. SIDNEY BROOKS, 3032 Cambridge Place, telephone number, (202) 337-2890, advised that to her knowledge there was no media presence on Cambridge Place in the early morning hours prior to 8:30 a.m. MRS. BROOKS added that one of the neighbors, MRS. WENDY WHITWORTH who is employed by CNN had remarked about CNN media presence the prior evening and may be in position to advise whether or not there was media coverage on the early morning of July 21, 1993.

MARLYNN WORSELDINE, 3040 Cambridge Place, telephone number, (202) 342-3853, stated that she got up about 6:30 a.m. and went out to get the paper between 6:30 and 7:00 a.m. and did not see any media presence or anyone else on the street. Later in the morning, there was a media presence with at least two camera crews on foot, walking down the sidewalks shooting background shots. On July 22, 1993, there was a reporter who came around door to door asking for background information or any other information regarding MR. FOSTER.

MRS. SHELIA TOBIN, 3015 Cambridge Place South, telephone number, (202) 965-8962, was unable to provide any information regarding possible media presence or any other individuals in the neighborhood in the early morning hours between 6:00 and 8:30 a.m. She went out of the house for the first time at approximately 10:30 a.m. and at that time there was media activity on the street. She stated that neighbors DOUG HORN, who resides at 3024 and MR. MANTHEY, who resides at 3019 getup early and may be able to provide information.

MR. STEVE HACHTEN, 3033 Cambridge Place South,

Investigation on 8/4-5/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 8/5/94

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telephone number, (202) 342-1280, advised that he recalls a significant U.S. Secret Service presence at the FOSTER residence on the evening of MR. FOSTER's death. He stated that the next morning, he got up at the usual time, 6:00 a.m., and went out to get the paper sometime between 7:00 and 7:30 a.m. He stated that he did not see anyone on the street, either media, camera trucks or reporters with the exception of what appeared to be a black government limousine which was parked at the west end of Cambridge Place with the driver sitting inside. He was unable to say whether the limousine was there to provide service to the FOSTER family or not, adding that limos of that type are frequently seen in the neighborhood. He left for work at approximately 7:45 a.m. and did not see any media or camera trucks or anyone else on the street at that time. Because of the commotion the night before, and out of curiosity, he recalled that he did check the street out very carefully that morning to see if there was a Secret Service or media presence.

MR. DAVID GILL, 3042 Cambridge Place South, advised that he was unable to help and could furnish no information relative to the presence of media or anyone else on the street between the hours of 6:00 and 8:30 a.m.

MR. JIM WALLACE, 3029 Cambridge Place South, telephone number, (202) 338-8889, advised that he recalled the night of VINCE FOSTER's death, stating that he resides next to the FOSTER's and had heard MRS. FOSTER scream, apparently when advised by the police of her husband's tragic death. The next morning, he left his home at approximately 7:30 a.m. and feels fairly certain that the street was perfectly quiet with no media presence or Secret Service presence. He stated that if they was someone on the street at that time in the morning, he would have noticed, given the quiet, secluded type of street.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

On June 7, 1994, BETH NOLAN, Associate Counsel at The White House, was interviewed at the Office of the Independent Counsel. Also present was her attorney RANDALL J. TURK, of MILLER, CASSIDY, LARROCA and LEWIN, 2555 M Street, NW, Washington, D.C., telephone 202-833-5127. Present, and representing the Office of the Independent Counsel, was CARL STICH. After being advised of the nature and purpose of the interview and the identities of the interviewing agent, NOLAN provided the following information:

NOLAN is currently on leave from the faculty of George Washington Law School. She was at the Department of Justice in the Office of Legal Counsel from 1981-1985 and she has been teaching at George Washington Law School since 1985. She graduated from Georgetown Law School. She was contacted by The White House because they needed somebody who had expertise in Government Ethics. She had done some work on the vetting teams during the transition and several people at Justice recommended her to The White House. BERNARD NUSSBAUM contacted her and she first met VINCE FOSTER, JR. the Saturday after the inauguration. It was he who interviewed her for the job she holds.

Asked what she could remember about FOSTER's feelings about the Travel Office matter, NOLAN said that it has been so long that she cannot recall any specific discussions with FOSTER. She advised that FOSTER believed that WILLIAM KENNEDY had not (as the report implied) threatened the FBI, meaning, had not threatened to "sic the IRS" on The White House Travel Office if the FBI didn't respond to the matter. She recalls a newspaper article on the matter and she recalls that FOSTER believed KENNEDY's version of events rather than the FBI's. FOSTER believed that the statement in the newspaper article with regard to siccing the IRS on anybody was inaccurate but she doesn't recall any specific comments that he made verbatim. She also did not recall FOSTER saying that "the FBI lied" about anything.

Asked what her relationship was with FOSTER, NOLAN explained that he was "the Deputy" and regarded as a high-ranking

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Investigation on 6/7/94 at Washington, D.C. File # 29D-LR-35063

by SA H. ALEXIS SUGGS Date dictated 6/9/94

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person for that reason. She saw him during daily staff meetings but had no other daily contact with him per se. She was the Alternate Designated Ethics Official for The White House and so she had periodic dealings with FOSTER on those matters. She worked with him on some matters having to do with the blind trust for the First Family's assets and also with regard to the Travel Office matter. She had no direct contact with BRANT BUCK of the Rose Law Firm in Little Rock, Arkansas.

NOLAN said that with regard to matters that FOSTER was handling for the First Family she had a general understanding that FOSTER was handling matters pertaining to the First Family White House residence, their financial disclosure forms and the setting up of the blind trust. With regard to the financial disclosure forms there was an issue of HILLARY RODHAM CLINTON's ownership of health care stock and having to determine whether or not she was subject to conflict of interest laws and whether or not they applied generally. As it turned out it was not a legal problem and they never uncovered any scandalous or potentially explosive issues with regard to that or the financial disclosure statement generally. She said Whitewater was only peripherally noted because she needed to verify that they no longer owned the company. She does not recall any concern about the matter on Foster's part. NOLAN said that she had not even heard about Madison Guaranty at the time.

She considered herself close to VINCE FOSTER in a professional sense only. She worked on the Presidential Financial Disclosure statements, which were due May 14, 1993. She had worked on ethics issues with regard to the Travel Office report with FOSTER until it was "taken out of our hands" by the Government Accounting Office (GAO) Audit and the Department of Justice OPR investigation on the matter. In addition, there were all sorts of minor issues that she dealt with FOSTER on regarding people disqualifying themselves or needing waivers for various things. She explained that anything that was not routine she would refer to FOSTER. She described the dynamics of when that would happen as like a law firm would operate--the Associate Counsel had access to NUSSBAUM and FOSTER when they needed it but were generally empowered to operate on a routine basis on their own.

NOLAN said that it was a very difficult time and that nobody was accustomed to the spotlight and nobody was accustomed to not succeeding in their endeavors. This was a period when

nobody on The White House staff had adjusted to the kinds of work and criticism and frustration that they were experiencing in their jobs. She knew that FOSTER was upset about KENNEDY and the Travel Office matter but explained that, "We were all upset. It was a rough six months".

NOLAN seemed to recall that soon after July 4, 1993, NUSSBAUM went on vacation and she had a few more conversations about The White House Travel Office report with FOSTER than she might have otherwise had. She remembered that he was most upset about KENNEDY having been reprimanded. She said that when she heard that FOSTER had used the term "lied" his use of the word did not strike her as notable. With regard to the statement, "the FBI lied" NOLAN said that she assumed that it pertained to the Travel Office but she doesn't know that for a fact.

Asked to give her opinion of The White House Management report on the Travel Office matter, NOLAN said that she didn't know what the facts were and cannot remember the details. STICH read to her the portion of the OPR report on the Travel Office matter that pertained to her observations to the OPR investigators. She said that it was not inconsistent with her recollection although she doesn't have a specific memory of having said any of that except she does remember FOSTER's feeling that it would have been easier if he had been reprimanded also. NOLAN said that FOSTER was upset, but did not seem to be inordinately upset about the Travel Office or any other matter. She realizes with hindsight that he must have been upset about something. She does not consider herself a confidant or close enough to have been privy to what was bothering him on a very private level. She had normal contact with him and a good working relationship.

She last saw FOSTER in the Rose Garden ceremony celebrating LOUIS FREEH's appointment as Director of the FBI. Her observation of him at that time was that perhaps his mood had lifted a little in the last couple of days of his life and she bases that on some joking around that had occurred during the previous Friday staff meeting. She saw him Monday, July 19, 1993 for just a few minutes and he did not seem distracted and handled the exchange normally. She said that she did not recall anybody ever remarking about FOSTER holding up or not holding up, and she did not herself notice that there had been any weight loss.

With regard to the torn up note that was found in

FOSTER's briefcase after his death, that is the only note that NOLAN is aware and she is not aware of any other having been found. She never heard anything about documents having been removed from FOSTER's office before the inventory of the office.

With regard to the staff meeting that was held following FOSTER's death, she said that somebody said that they should secure the office and there was the discussion regarding who they should call to get that done. There was general agreement that it should be done, but the question was whether they should contact RON NOBLE who was the U.S. Treasury Department contact for the Counsel's office (the connection being that the Secret Service in under U.S. Treasury) or whether MAC MCLARTY should handle it.

Other individuals whom NOLAN speculated might have been considered confidants of FOSTER's included everybody in "the Arkansas group" especially those individuals from the Rose Law Firm--WEBB HUBBELL, WILLIAM KENNEDY and HILLARY RODHAM CLINTON. NOLAN said that she didn't know about the personal lives of these individuals including VINCE FOSTER. Asked if she thought he had a confidant, she said, "I don't know that he had one".

She learned of FOSTER's death when NUSSBAUM telephoned her at her home at approximately 11:00 pm on July 20, 1993. She stayed at home that evening and did not go to The White House at all.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/29/94

Henry Peter O'Neill, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW on 4/28/94. Officer O'Neill was advised as to the identities of the interviewing agents and informed of the nature of the interview. He was again interviewed by SA McElhaney on 5/1/94 with Attorney Mark Stein present. He provided the following information:

He has been employed by USSS for 17 years. His office is located at 1310 L Street, NW Washington, D.C. and his office telephone number is 202-395-2020. His home telephone number is 301-262-0095. For the last three years he has been assigned as an escort officer on the 10:30 pm - 7:00 am shift with his primary responsibilities being the escorting of GSA cleaning crews into alarmed office areas of the west wing of The White House. He is also personally responsible for picking up "burn bags" from west wing offices. He explained that, sensitive and/or classified waste paper material is to be placed in special bags rather than the regular trash receptacles in offices. During his shifts, he is also responsible for responding to alarms, escorting authorized persons into their offices when they forget a key, and security patrol to ensure that classified material is not left inappropriately secured or unattended.

Officer O'Neill was asked to explain the USSS standard operating procedure regarding the pick up and handling of regular and "burn bag" trash from west wing offices. He said that both regular trash and burn bag trash are picked up from every office in the west wing every night with regular trash and burn bag trash being placed in separate large pick-up bags. These trash receptacles are then taken to a specially designated secure room in the Old Executive Office Building and the burn bag trash is destroyed by the USSS approximately three times a week. He said that every office in the west wing is routinely vacuumed, dusted and receives trash pick up on a daily basis. He said that regular trash pick ups are handled by the GSA cleaning crews in his presence from individual trash baskets that are routinely lined with a clear plastic bag. He said that at the time of pick

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up the plastic bag and its entire contents are thrown into a 50 gallon bag that is carried from room to room by the cleaning crew. When asked, he said that, in his opinion, it would be almost impossible for anyone to identify the regular trash from a particular waste basket or office and to retrieve it after it had been picked up and combined with all other trash picked up on a given day. He explained that the clear plastic bags in the regular trash cans are not marked or designated in any way to show from which office they came. He said that he seldom, if ever, found any burn bag trash in Foster's office to be picked up.

Officer O'Neill advised that he first learned of Vincent Foster's death shortly after 11:00 pm on July 20, 1993. He said that prior to his learning of Foster's death, he had not known Foster either professionally or personally and could only recall having seen him one time, shortly after President Bill Clinton's inauguration. Officer O'Neill said that on July 20, 1993, at approximately 10:40 - 11:00 pm he had just unlocked the door to the suite of offices occupied by Bernard Nussbaum and Vincent Foster. He said that he stepped into the office with the GSA cleaning crew, turned on the light, and deactivated the alarm when he became aware that there were other people entering the office behind him. He said that he turned to see a man that he recognized as Bernard Nussbaum, another man whom he did not recognize, Margaret "Maggie" Williams, of Hillary Clinton's staff, and another woman whom he thinks was Patsy Thomasson. Officer O'Neill said that it was highly unusual to see White House staffers entering an office at that hour of the night and that he "just sensed" that something was wrong because they all seemed "on edge". He and the cleaning crew stepped out of the suite into the hall and he asked the man who was a part of this group "what seems to be the problem"? He said that this man introduced himself as a White House staffer in charge of legislative affairs and indicated that his office was just down the hall on the 2nd floor of the west wing. O'Neill said that he has since looked at White House staff photographs and now knows that this man was Howard Paster. This man then advised Officer O'Neill "something terrible has happened-Vince Foster has taken his own life." This man, Nussbaum, and the two women went into Nussbaum's office. O'Neill said that he has not seen Paster since that time. Shortly after this encounter, the second woman (not Maggie Williams) introduced herself to him. He said that, while he is not entirely certain, he believes that she said her name was Patsy Thomasson. She also told him Maggie Williams'

name and that Williams was a staffer for Hillary Clinton.

The GSA cleaning crew with O'Neill that night consisted of two women, Terri Cobey, who usually cleans the second floor restrooms, and Diane Walters, who usually cleans the second floor offices. Officer O'Neill said that it is USSS standard operating procedure for escort officers such as himself and cleaning crews to stop what they are doing and immediately leave an office when White House staffers come into the office as if for work. He said that therefore, he and the GSA cleaning crew went down the hallway when Bernard Nussbaum, the other man, and the two women entered the suite. He advised however, that after learning that Vincent Foster had been found dead and deeming this situation to be extremely unusual, he reentered the suite.

Officer O'Neill said that when he reentered the suite, (approximately five to ten minutes after the group first arrived and entered Nussbaum's office) he saw a third woman sitting behind Vincent Foster's desk in a chair going through papers on his desk as if she were looking for something. He said that this woman was alone in Vincent Foster's office when he saw her. He advised that he did not recognize this woman and added that it was not Maggie Williams nor was it the woman he had met and thought to be Patsy Thomasson. He described this third woman as follows:

Sex:	Female
Race:	Caucasian
Height:	Approximately 5'6" - 5'8"
Build:	Slender to medium
Hair:	Dark brown/black
Complexion:	Light
Age:	Mid 40's

Officer O'Neill advised that having just learned of Vincent Foster's death and then seeing this third woman in his office, whom he had not previously seen, he assumed that this woman could be Vincent Foster's wife. He therefore decided that the correct course of action was for him to again leave the suite. He did so and advised the GSA cleaning crew in the hall that they were not to vacuum, dust, nor were they to pick up any trash in that suite of offices that evening. He stated that there was no trash, regular or burn bag, picked up in the Bernard Nussbaum, Vincent Foster suite of offices on the evening of 7/20 or the morning of 7/21, 1993 during his shift. Officer O'Neill

said that at this point and with his permission, the two GSA cleaning ladies left the area of Foster's office and continued on their regular rounds elsewhere on the second floor without him.

Officer O'Neill said that he saw the woman that he believed to be Patsy Thomasson come and go from the suite several times. At one point, about 30 minutes after he saw the woman behind Foster's desk, while he was standing in the hallway outside the entrance to the suite, he observed Patsy Thomasson and Maggie Williams walking out of the suite and turn toward the office of the First Lady next door to the suite. He said that while Patsy Thomasson's hands were empty, Maggie Williams was carrying a significant quantity of "office stuff". Officer O'Neill said that she "had her arms full" of papers, folders, perhaps accordion files, and other office related paper products. He advised that he watched Maggie Williams walk into her (Williams) office with these items. He then saw her exit her office almost immediately with nothing in her hands and re-enter the Counsel suite. Patsy Thomasson did not go into Williams' office with her but went elsewhere down the hall.

Officer O'Neill advised that after perhaps forty to forty five minutes, but less than one hour, he observed Bernard Nussbaum, Maggie Williams, and the woman he thought to be Patsy Thomasson exit the suite. Bernard Nussbaum went down the staircase. He said that at that point the woman he thinks to have been Patsy Thomasson asked him to lock up the suite which he did. He then rode down on the elevator with her and Maggie Williams to the ground level and watched them exit the west wing.

Officer O'Neill was asked what other activity he observed on the part of the man who identified himself as being in charge of legislative affairs. He said that after he met this man in the hallway he cannot recall seeing him again that evening. He described this individual as follows: sex, male; race, caucasian; height, approximately 5'8"; weight, approximately 165 lbs.; hair, brown-short with receding hair line; dress, business suit. He stated that this man was wearing glasses with brown plastic frames and was approximately 40-45 years of age.

Officer O'Neill said that after he accompanied Maggie Williams and Patsy Thomasson to the ground floor on the elevator, he then went back upstairs to the first floor continuing with his security patrol functions. It was then, at approximately

1:00 am, that he noticed that a meeting was going on in Mack McLarty's office. He could not identify any of those in attendance. He was standing in the hallway outside Mclarty's office when he was contacted via radio, by the USSS Control Center instructing him to bring all of the west wing burn bag trash that had been picked up that evening to McLarty's office. He said that he was not asked if any of this trash had come from Foster's or Nussbaum's offices and he did not volunteer that it had not. He said that he gave the burn bag trash to a caucasian woman at McLarty's office who was approximately 25-30 years old and attractive. He had not seen her before and does not know her name. He said that she returned the bag to him about 30 minutes later without comment. He said that he assumed that this woman was an employee of McLarty rather than a member of either Vince Foster or Bernard Nussbaum's staff.

O'Neill was continuing his security patrol rounds and at approximately 1:45 - 2:00 am, on the ground floor of the west wing, when he again saw the woman that he had previously seen sitting behind Vince Foster's desk in his office. He said that he saw this woman standing in the doorway of an office suite that is now occupied by Harold Ickes but was then occupied by David Watkins and another staffer. He said that he remembers this because he had not seen this woman when she entered the Nussbaum/Foster suite but had first seen her seated behind Foster's desk and that she was now standing in the doorway to an office two levels below Foster's office. He said that seeing her there he no longer believed it possible that she was Foster's wife but now thought she was probably an assistant of Watkins or the other occupant of that suite. He said that this woman was crying and appeared to be looking for someone up and down the hallway and it was at that time that he said to her "they're all upstairs in Mr. McLarty's office". He recalls her then getting on the elevator and going upstairs.

Officer O'Neill said that per standard operating procedure of USSS, he, at 5:00 am, assumed post "E-10" on the first floor of the west wing. He stated that he did not return to the Nussbaum/Foster suite of offices that evening and did not go there the next day on his shift because it was locked. He said that he therefore is not aware of anyone else who may have gone to that suite or other offices on the second floor after 5:00 am. He said that the only way he would have known if anybody had gone to the second floor during the early morning hours of July 21, 1993, would have been if a particular

individual or the USSS Control Center had asked him to escort them there. He stated that this did not happen.

Officer O'Neill described the woman he met that night whose name he believes is Patsy Thomasson as follows:

Sex:	Female
Race:	Caucasian
Age:	40-45 years
Height:	5'5" - 5'6"
Build:	Slender to medium
Hair:	Brown with some gray (neatly arranged)
Complexion:	Medium with somewhat blemished appearance

He described Margaret Williams as follows:

Sex:	Female
Race:	Black
Complexion:	Tan
Height:	5'7" (approximately)
Build:	Large
Age:	40's
Wears glasses	

Officer O'Neill said that he made no written report of the forgoing observations but that he does recall verbally advising the USSS Lieutenant on duty in the USSS Control Center (name unrecalled) as to what and who he had seen.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

HENRY P. O'NEILL, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. This was a follow-up interview conducted at the request of Assistant Special Counsel RODERICK D. LANKLER and Associate Special Counsel MARK STEIN. Present, and directing questions to Officer O'NEILL were Assistant Special Counsel LANKLER, Associate Special Counsel STEIN, and Associate Special Counsel CARL STICH. Officer O'NEILL, prior to answering any questions, was advised as to the official identities of the interviewing attorneys and of the agents present. He also was informed of the nature of the interview by Mr. LANKLER. He then provided the following information:

For the last three years he has been assigned as an escort officer on the 10:30 pm - 7:00 am shift with his primary responsibilities being the escorting of GSA cleaning crews into alarmed office areas of the west wing of The White House. He is also personally responsible for picking up "burn bags" containing sensitive and/or classified waste paper material from west wing offices.

On July 20, 1993, at approximately 10:45 pm, he had just unlocked the door to the suite of offices occupied by BERNARD NUSSBAUM and VINCENT FOSTER. He stepped into the suite with the GSA cleaning crew, turned on the lights, and deactivated the alarm for the suite by throwing a switch located in the VINCENT FOSTER office. Prior to entering the suite, he had, per USSS standard operating procedure, notified the USSS White House Control Center, via two-way radio, that he was about to enter the suite and deactivate the alarm. He recalls one of the GSA cleaning crew reaching for a trash bag in the reception area and the other cleaning crew member standing nearby shortly after they entered. It was at that point that he turned to see a man whom he recognized as BERNARD NUSSBAUM walking into his (NUSSBAUM) office. He then also heard other voices coming from within NUSSBAUM's office and it therefore "seemed as if there were some other persons" in NUSSBAUM's office, although he cannot recall

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actually seeing other persons at that time. In response to a specific question from Mr. STEIN, O'NEILL said he does not remember seeing PATSY THOMASSON and/or "MAGGIE" WILLIAMS entering the NUSSBAUM/FOSTER suite at that time. He and the cleaning crew exited the suite into the hall, per standard operating procedure. O'NEILL explained that any time he and/or his cleaning crew is in an area and White House staffers enter, they are to exit the area.

Upon entering the hallway the GSA cleaning crew went elsewhere to continue their duties. O'NEILL then saw a man, whom he recognized as a White House staffer and now knows to be HOWARD PASTER, in the hallway "just outside" the NUSSBAUM/FOSTER suite. O'NEILL walked to the end of the hallway away from the NUSSBAUM/FOSTER suite thinking that it was highly unusual to see White House staffers on the second floor of the west wing at that hour of the night and that something abnormal was going on. He also noted that HOWARD PASTER seemed "nervous and anxious". He again saw PASTER in the hall and asked him "what seems to be the problem?" PASTER introduced himself as an Assistant to the President in charge of legislative affairs and said that "something terrible" had happened--VINCENT FOSTER "took his life".

About the same time that he was talking to PASTER, O'NEILL saw a woman standing in the entrance to the NUSSBAUM/FOSTER suite. "Within minutes" after he spoke to PASTER, this woman introduced herself to him (O'NEILL) in the hallway as PATSY THOMASSON. Shortly thereafter, O'NEILL decided to report what he had seen and heard regarding FOSTER's death to his USSS Watch Commander. He rode down the elevator to the ground floor with PATSY THOMASSON. About the time that he was making his call to his watch commander, he recalls THOMASSON mentioning to either him or the USSS Uniform Officer at the ground floor west wing entrance that the NUSSBAUM/FOSTER suite should be kept locked. O'NEILL later went back up to the 2nd floor to see if the individuals had departed from the NUSSBAUM/FOSTER suite. He walked into the suite and into the doorway of VINCENT FOSTER's office. At that point, he saw a woman sitting behind VINCENT FOSTER's desk "looking at something on the desk". He said that he had never seen this woman before but that he was "100 percent sure this woman was not PATSY THOMASSON". In response to a specific question from Mr. LANKLER, he said that he was also certain that this woman was not LISA CAPUTO. O'NEILL described the woman that he saw behind FOSTER's

desk as follows: race-caucasian; sex-female; build-slender; age-35 to 45 years; hair-black (short and straight); complexion-light; characteristics-"matronly/homely looking". When asked about this woman's clothing, O'NEILL first said that she was wearing a red dress and later during the interview he said that he believed she was wearing a dark blue dress.

O'NEILL said that he did not see PATSY THOMASSON in FOSTER's office on the evening of July 20, 1993. When asked to describe PATSY THOMASSON he provided the following information: race-caucasian; sex-female; height-approximately 5'6"; build-medium; hair-light color with dark highlights and graying; complexion-somewhat blemished with "acne" appearance; age-45 to 46 years. When asked about her attire, O'NEILL said that he believed that THOMASSON was wearing a light color, perhaps white, "sack style" dress. He said that she had a definite accent and that it was perhaps an "eastern" accent.

Officer O'NEILL advised that after seeing the woman behind the desk, he immediately exited the NUSSBAUM/FOSTER suite and returned to the hallway but "stayed in the area" on the 2nd floor. A short time later, he observed BERNARD NUSSBAUM exit the suite and go down the stairs. He said that he can not recall if NUSSBAUM had anything in his hands or not. A short time later, he saw "two women come out". He identified the two women as PATSY THOMASSON and "MAGGIE" WILLIAMS. This was the first time he had seen MAGGIE WILLIAMS that night. MAGGIE WILLIAMS was "carrying something cumbersome--possibly files or folders--cradled in her two arms". The stack was approximately one or two "phone books" high. PATSY THOMASSON was carrying nothing. O'NEILL said that he was approximately 15 feet away from the door way when THOMASSON and WILLIAMS exited the suite. He heard MAGGIE WILLIAMS say to PATSY THOMASSON that she was going to "put these things away in my office". He then saw MAGGIE WILLIAMS go down the hall and enter her office while PATSY THOMASSON waited in the hallway. He watched MAGGIE WILLIAMS unlock her office door, enter, then come out "a few seconds later" and relocked the door. In response to a specific question from Mr. STEIN, O'NEILL said the two women did not appear to be acting suspiciously or secretively. He recalls the door to HILLARY CLINTON's office as being closed and locked. O'NEILL advised that he believed he recalls that PATSY THOMASSON told him who MAGGIE WILLIAMS was while she (THOMASSON) was waiting in the hallway for WILLIAMS. O'NEILL was asked to describe MAGGIE WILLIAMS and provided the following information: race-black; sex-female; age-mid 30's to

40; build-heavy. He believes that PATSY THOMASSON told him that MAGGIE WILLIAMS was the "First Lady's secretary".

Shortly after MAGGIE WILLIAMS came out of her office and rejoined PATSY THOMASSON, THOMASSON directed him (O'NEILL) to "lock-up" the NUSSBAUM/FOSTER suite. O'NEILL did so and reset the alarm for the suite's door. He said that he can not recall what PATSY THOMASSON and MAGGIE WILLIAMS did at that point and that he does not recall seeing BERNARD NUSSBAUM, PATSY THOMASSON, or MAGGIE WILLIAMS again that evening.

A short time thereafter, O'NEILL was continuing his rounds on the ground floor of The White House west wing when he again saw the woman whom he had previously seen sitting in a chair behind FOSTER's desk. He saw this woman in the doorway to DAVID WATKINS' office. O'NEILL said that she "seemed to have been crying and looked lonely". O'NEILL had, at approximately 12:30 - 12:45 am noted that people had been in MAC MCLARTY's office on the 1st floor of the west wing. He noted this because the door to MCLARTY's office had been opened, the light had been on, and he heard voices coming from within MCLARTY's office although he can not specifically recall seeing people going in and out. Since the woman he saw standing in WATKINS office door seemed so sad and "a little lost" he told her "they are all up in MCLARTY's office". She nodded to him, walked down the hall and got on the elevator to go upstairs. He did not see that woman again that evening and does not recall having seen her since.

At approximately 12:45 am O'NEILL received a radio call from the USSS Control Center directing him to take his "burn bag" trash to MCLARTY's office. He did so and a "young secretary" met him at the door to MCLARTY's office, said "thank you very much" and took the bag. O'NEILL left that area and did not return until he received another radio call somewhat later that evening directing him to pick up the burn bag at that office.

In response to specific questions from Associate Special Counsel Stein regarding trash being picked up in the NUSSBAUM/FOSTER suite on the evening of July 20, 1993, O'NEILL said he believes the trash was not picked up in VINCENT FOSTER's office that night. He said that while he cannot recall telling the cleaners not to take the trash out of the suite that night. He did not see the cleaners in VINCENT FOSTER's office that night. He said that he also recalls telling the two cleaning employees, after he locked the suite at approximately 11:45 pm,

that they were not to clean the NUSSBAUM/FOSTER suite that night. In response to another question, O'NEILL said that he does not think that FOSTER used a "burn bag" in his office.

Officer O'NEILL said that he does not recall seeing CRAIG LIVINGSTONE at The White House during the late evening hours of July 20 or the early morning hours of July 21, 1993. He also said that he saw no one carrying boxes out of The White House.

In response to questions from Associate Special Counsel STEIN and Assistant Special Counsel LANKLER, O'NEILL said that he wants what he has told Special Counsel personnel during his interviews to be held in confidence. He said that he does not want anything he has said to be made known to The White House staff. O'NEILL said however, that he does understand that he could potentially be called as a witness if criminal prosecution was pursued in this matter.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/12/94

HENRY P. O'NEILL, Officer, Uniform Division, United States Secret Service (USSS) voluntarily contacted Special Agent (SA) [redacted] by telephone at the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. O'NEILL, knowing the official identity of [redacted] volunteered the following information:

Subsequent to his having been interviewed in the Office of the Special Counsel on June 8, 1994, he had obtained and reviewed some photographs of individuals. O'NEILL said that while he is still not certain as to the identity of the woman he said he saw sitting in a chair behind VINCENT FOSTER's desk during the late evening hours of July 20, 1993, he now believes that it is possible that PATSY THOMASSON was the woman sitting behind the desk. He reiterated that he is not certain of this but a photograph he saw that was identified to him as being PATSY THOMASSON seems to resemble the woman sitting behind the desk. O'NEILL went on to advise that he had seen another photograph of an individual that he believed to be SUSAN THOMASES. O'NEILL said that this woman shown in the photograph of SUSAN THOMASES may have been the woman he saw in the 2nd floor west wing hallway during the late evening hours of July 20, 1993 who introduced herself to him.

O'NEILL was told that plans are currently underway to have him return to the Office of the Special Counsel at a later date to view photographs currently being sought by an Associate Special Counsel. He was told that his thoughts regarding the photographs he had personally obtained and reviewed could be discussed when he came to the Special Counsel's office to view other photographs.

Investigation on 6/9/94 at Washington, D.C. (telephonically) File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 6/9/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/16/94

HENRY P. O'NEILL, Officer, Uniform Division, United States Secret Service (USSS), was interviewed in Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. This was a follow-up interview conducted at the request of Associate Special Counsel MARK STEIN for the principal purpose of displaying photographs to Officer O'NEILL and asking him to attempt to identify any individuals depicted in these photographs whom he recalls seeing in the west wing of The White House during the late evening hours of July 20 or early morning hours of July 21, 1993. Officer O'NEILL was shown 318 color photographs of White House staffers previously provided to the Office of the Special Counsel by The White House. Officer O'NEILL having been previously advised as to the official identity of the interviewing agent and the nature of the interview, looked at each of these photographs and provided the following observations:

He had previously seen "quite a few of the women" depicted in these photographs in The White House and/or on The White House compound grounds since the January 1993 inauguration of BILL CLINTON. He recognized some of the women pictured as being employed in The White House's Old Executive Office Building and the New Executive Office Building. However, he recognized only four of the individuals depicted in the 318 photographs as individuals he recalled seeing in The White House west wing on the evening of July 20 and/or early morning hours of July 21, 1993.

Officer O'NEILL identified a photograph of BERNARD NUSSBAUM as being BERNARD NUSSBAUM and said that this is the man he saw in the NUSSBAUM/FOSTER suite during the late evening hours of July 20, 1993. Officer O'NEILL also identified a photograph of HOWARD PASTER as being HOWARD PASTER and said that this is the individual he observed in the hallway on the 2nd floor of the west wing of The White House near the NUSSBAUM/FOSTER suite during the late evening hours of July 20, 1993. Officer O'NEILL further identified a photograph of MARGARET WILLIAMS as being "MAGGIE" WILLIAMS and also being the woman he saw exiting the

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NUSSBAUM/FOSTER suite during the late evening hours of July 20, 1993 with folder/file material in her arms. He said this is a photograph of the woman he saw carry this material into "MAGGIE" WILLIAMS office on July 20. Lastly, Officer O'NEILL identified a photograph of SYLVIA MATHEWS as being the woman in the west wing, first floor, office of MAC MACLARTY to whom he gave the "burn bag" material he had taken from various west wing offices during the late evening hours of July 20, 1993. He said that he did not know the name of the woman depicted in this photograph and also did not know the name of the woman to whom he gave the burn bag on July 20, but they are one in the same.

Officer O'NEILL was unable to identify any of the women depicted in these photographs as being PATSY THOMASSON. He was also unable to identify any of the women depicted in these photographs as being the woman he saw sitting in a chair behind VINCENT FOSTER's desk during the late evening hours of July 20. O'NEILL volunteered, as he had in a previous discussion with Special Agent (SA) [redacted] that while he is still not certain as to the identity of the woman he saw sitting in a chair behind VINCENT FOSTER's desk, he believes "it is possible" that PATSY THOMASSON was that woman.

FOIA(b)(7) - (C)

O'NEILL further volunteered that he saw a woman in The White House on July 15, 1994 who was identified to him as being SUSAN THOMASES. O'NEILL said, as he had in a previous conversation with SA [redacted] that he believes it is possible that SUSAN THOMASES, is the woman he saw in the second floor hallway of the west wing on July 20, 1993 who introduced herself to him.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/2/94 & 7/22/94

HENRY P. O'NEILL, Officer, Uniformed Division, United States Secret Service (USSS), was interviewed in the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W. At the outset, Officer O'NEILL was informed that the purpose of this follow-up interview was an attempt by the investigative staff of the Independent Counsel's office to clarify, resolve and finalize questions and issues that have arisen as a result of the information he provided during prior interviews. In addition to FBI Agent COLOMBELL, Attorneys MARK STEIN and BETH GOLDEN with the Independent Counsel's staff also participated in the interview.

By way of background information, Officer O'NEILL stated that he has been with the USSS Uniformed Division since January of 1977. Following Training Academy, he was assigned to The White House where he worked on different outside or exterior security posts until early 1980. Beginning in early 1980 or 1981, he was selected as a tour officer, conducting tours within The White House. He remained in that position until 1984 at which time he volunteered for night shift. The night assignment accommodated his need to be home during the day to assist in watching his children since his wife had gone back to work. Initially he was assigned to security posts at the Executive Office Building. Beginning in August of 1991 and for the past three years, he has worked in The White House-west wing, manning one of four different security positions that are posted during the 10:30 p.m. to 7:00 a.m. night shift.

On July 20, 1993, he reported to work and attended roll call at approximately 10:30 p.m. in the basement of the East Wing of The White House. There was no mention of VINCE FOSTER's death that evening at roll call. His principal responsibility during the shift was to escort a GSA cleaning crew responsible for cleaning the West Wing of The White House. During the course of the evening, he is responsible for keeping an eye on the cleaning crew. In addition, he is required to be physically present with them whenever they are working in an alarmed area of the West Wing. As the cleaning crew goes about their business, he is

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estigation on 7/20&26/94 at Washington, D.C.& Hyattsville, MD File # 29D-LR-35063

by SSA William E. Colombell WEC:deg Date dictated 7/21/94 & 8/1/94

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personally responsible for picking up "burn bags" containing confidential matters from West Wing offices. His first stop on July 20, 1993 were the offices of the Chief Counsel for the President, on the second floor, West Wing of The White House. He stated that he arrived there at approximately 10:40 p.m. and as he approached the office, he radioed to the USSS Control Office of his intentions to enter the Chief Counsel's suite of offices. He utilized his key to open the office, adding that as he stepped into the outer area which would be where the secretaries sit, the office was dark, to include the secretaries' area, Mr. NUSSBAUM's office and Mr. FOSTER's office, both of which are off to the right as you enter.

No one was in the Chief Counsel's suite of offices when he entered. He immediately turned to his right, walking into VINCE FOSTER's office, explaining that he had to go behind the door to FOSTER's office in order to turn off a toggle switch that is connected to the office alarm. After doing this, he returned to the area where the secretaries have their desks, adding that to the best of his recollection, at this point in time he was standing in the middle of the room where the secretaries sit with his back towards the main entrance to the Chief Counsel's suite of offices. The cleaning ladies who were previously identified as TERRI COBEY and DIANE WALTERS, had followed him into the Chief Counsel's suite of offices and were preparing to start cleaning in the area where the secretaries sit.

He was still standing in the area where the secretaries are situated with his back still partially to the main entrance when he saw out of the corner of his eye Mr. BERNARD NUSSBAUM walking into his office. He overhead conversation and clearly recalls that there were at least two other people with Mr. NUSSBAUM and that they entered his office with him. The only individual he was able to identify at this time was Mr. NUSSBAUM, but believes that there were two women present.

U.S. Secret Service (USSS) policy is for the uniformed guards and cleaning persons to immediately exit the office when staff are present. O'NEILL followed this policy and he and the cleaning ladies immediately exited the Chief Counsel's suite of offices. He initially stood out in the hallway, then walked down the end of the hallway towards the First Lady's office, adding that he did walk around the corner and for a matter of several seconds was out of view of the entry door to the Chief Counsel's

suite of offices. He then walked back, retracing his steps towards the Chief Counsel's suite of offices at which time he saw a man standing in the hallway in close proximity to the entrance to the Chief Counsel's office. He recognized this man as being a member of the Presidential staff but could not recall his name. They greeted one another and as best he recalls, he, O'NEILL, inquired if there was something wrong. The man in the hallway identified himself as the President's Legislative Affairs Chief, and remarked with words to the effect that "something terrible has happened. VINCE FOSTER has killed himself." As best he recalls, this individual, who he later identified from a photograph he saw in The White House as Mr. HOWARD PASTER, then remained in the hallway near the Chief Counsel's suite of offices; O'NEILL is unable to state whether PASTER actually entered into the Chief Counsel's office space.

Within a very short time period, less than a minute, he observed a woman standing in the hallway or doorway to the Chief Counsel's suite. He was unable to state whether Mr. PASTER or this unknown woman were the same parties who were present with Mr. NUSSBAUM earlier when he first unlocked the Chief Counsel's office.

O'NEILL stated that during prior interviews, he had this woman and a White House staff person known to him as PATSY THOMASSON confused. He stated that he now believes that this woman in the hallway could be SUSAN THOMASSES. As he approached her, the woman he believes could be SUSAN THOMASSES introduced herself and wanted to know if he or the Secret Service would do something about locking up FOSTER's office. This woman was wearing White House staff identification. He responded that he would take care of it. He then accompanied this woman on the elevator to the ground level. He believes the USSS officer on duty at post E1, ground level, was Officer JIM SHEA and this woman, believed to be SUSAN THOMASSES, also spoke to Officer SHEA about securing FOSTER's office. As best he recalls it would have been approximately 11:00 pm when he and this woman reached the ground floor, post E1.

O'NEILL stated that at this point he assumed his regular duties of patrol and security. As best he recalls, using the phone at post E1, he called the Watch Commander and informed him about VINCE FOSTER's death. He stated that as best he recalls, the Watch Commander was already aware of the situation.

He then returned to the first floor, post E6, located outside of the Oval Office. He spoke briefly with the officer at post E6 and informed him of Mr. FOSTER's death. He stated that he didn't see any of The White House staff in this area but that several of the lights were on in staff offices on the first floor, including the Chief of Staff's office. At approximately 11:15, he returned to the 2nd floor, west wing of The White House and again walked into the Chief Counsel suite of offices. His purpose in returning was to see if everyone had left so he could secure the office. There was no one in the secretary's area. He stated that he can't recall if there was anyone in Mr. NUSSBAUM's office. He stated that he began to walk into FOSTER's office for the purpose of locking it up when he noticed that there was a woman sitting behind Mr. FOSTER's desk, reviewing or looking at something on the top of the desk. At the time, he thought it might have been Mrs. Foster and without making any comment or introducing himself, he immediately withdrew from the doorway to FOSTER's office and to the Chief Counsel suite of offices. He was of the opinion that the woman sitting behind FOSTER's desk was totally unaware of his presence in the doorway. He estimated that it was approximately 11:15 pm when he left the Chief Counsel's suite of offices for the second time.

O'NEILL stated that initially he was unable to identify this woman but now feels fairly certain that she is identical to PATSY THOMASSON, a White House staff person. He stated that back in July of 1993, he did not make any effort to identify these people. After having been interviewed by the Independent Counsel's office, he did review photographs available to him of all White House staffers and now feels fairly certain that it was PATSY THOMASSON who he observed behind FOSTER's desk that evening.

O'NEILL stated that after leaving the Chief Counsel's suite of offices, he can't recall where he went but he did not remain close to or in view of the entrance to the Chief Counsel's suite of offices. He returned to that area approximately 10 or 15 minutes later (approximately 11:30 pm) and was standing in the hall near the entrance to the First Lady's office when he observed Mr. NUSSBAUM exit the Chief Counsel suite and leave the second floor. He can't say for sure, but he believes Mr. NUSSBAUM took the stairway down. As Mr. NUSSBAUM was leaving, the same woman that he saw earlier in the evening, who he now believes may be SUSAN THOMASSES, was standing in the area, either

in the hallway or by the entrance way to the Chief Counsel's office. Mr. NUSSBAUM, in leaving, passed by her but, to the best of his recollection, he did not observe or overhear conversation between them. This woman again inquired of him regarding locking up the doors to FOSTER's office and he again responded that he would take care of it.

At this point in time, a woman who he recognized as MAGGIE WILLIAMS, a regular White House staffer, walked out of the Chief Counsel's office space into the hall. O'NEILL was unable to say whether WILLIAMS was coming from NUSSBAUM's office or FOSTER's office. Ms. WILLIAMS was carrying some files and folders in her arms. He estimates that the files and folders in her arms were three to five inches in height. As best he recalls, MAGGIE WILLIAMS remarked to the other woman words to the effect that she was just going to put these in her office and then walked past him and the doorway to the First Lady's office, stopping at the doorway to her own office. Once she passed by him in the hall, the other woman, believed to be SUSAN THOMASSES, informed O'NEILL that the other woman was Ms. MAGGIE WILLIAMS, the First Lady's personal assistant. O'NEILL stated that he was familiar with MAGGIE WILLIAMS, having seen her in The White House in the past. WILLIAMS paused at the doorway to her office, using her key to open the office door. She proceeded inside and came back into the hallway, almost immediately, empty handed. To the best of his recollection while he was in the process of alarming and locking the door to the Chief Counsel's suite, MAGGIE WILLIAMS and the other woman went towards the elevators. After securing the Chief Counsel's suite of offices, he proceeded down to the ground level near post E1. Initially he thought that he rode the elevators down with Ms. WILLIAMS and the other lady but in reviewing this matter in his mind, he's not sure whether he did or not. He estimated that it was about midnight when both women took the elevator down to the ground floor.

O'NEILL stated that as best he recalls, he remained on the ground floor, in the vicinity of post E1 for the next 30-45 minutes. He stated that during this time, he observed PATSY THOMASSON standing in the doorway to DAVID WATKINS office. She appeared visibly upset and distraught and he walked over to her, volunteering that he believed there were other people up in the Chief of Staff's office on the first floor. As best he recalls, she got on the elevator and went up to that location.

O'NEILL stated that some time later, but within the next hour, he was directed to go to the Chief of Staff's office by his supervisor and hand over all "burn trash" that he had collected that evening. He gave the "burn trash" to a woman at the Chief of Staff's office who he has previously identified as SYLVIA MATHEWS. Within in a half hour, he was instructed to go back to the Chief of Staff's office and retrieve the bag of "burn trash". O'NEILL pointed out that the trash he delivered to the Chief of Staff's office did not contain any burn trash from the Chief Counsel's suite of offices, including VINCE FOSTER's office. As best he recalls, no one inquired whether "burn trash" had been picked up at VINCE FOSTER's office and he did not volunteer that it had not.

O'NEILL stated that he is not sure who Mr. CRAIG LIVINGSTONE is and would not have readily recognized him had he been at The White House on the evening of July 20, 1993. He stated that until he was approached by the investigators from the Independent Counsel's office in late April 1994, he had never been asked any questions or discussed his observations and conversations on the night of July 20-21, 1993 with anyone. He stated that he wasn't quite sure of the significance of these observations and was not about to volunteer it to anyone.

In concluding, O'NEILL stated that he realizes that he was incorrect in his original identification of the woman he saw standing in the doorway when MARGARET WILLIAMS was observed carrying out the documents. O'NEILL originally thought that the woman standing in the doorway was PATSY THOMASSON, and he was unable to identify the woman seated behind FOSTER's desk. Shortly after being interviewed by this office on June 8, he reviewed photographs available to him at The White House. One of the photographs he saw was that of PATSY THOMASSON. Upon seeing that photograph, he realized that the woman seated behind the desk was PATSY THOMASSON, and that the woman he saw in the doorway when MARGARET WILLIAMS carried out the documents was someone else.

O'NEILL is less certain of his identification of the woman he saw in the doorway, but believes her to be SUSAN THOMASES. He states that he bases this possible identification on the fact that on or about July 8 or 9, 1994, he was reviewing a newspaper article in The White House press office and noticed the name SUSAN THOMASSES, recalling at that moment that the name

(SUSAN THOMASSES) appeared identical to the name of the woman who introduced herself on July 20, 1993, or the second floor west wing of The White House. O'NEILL went on to state that on or about the evening of July 14, 1994, he was on duty in the ground floor of The White House residence when he observed the President and First Lady in the company of a woman who looked similar to the woman he had seen on the second floor west wing of The White House on July 20, 1993. He added that the President and First Lady were viewing the newly released movie ("Wolf") and this woman was one of their guests. O'NEILL stated that later that evening he checked with one of the ushers in The White House ushers office (believes it was JOHN LNU) and learned that the name SUSAN THOMASSES was on the log for guests who were in The White House that evening.

Following the conclusion of this interview, Special Agent WILLIAM E. COLOMBELL and Independent Counsel Attorney MARK STEIN requested Mr. O'NEILL to view two separate photo spreads. The first photo spread included the photograph of PATSY L. THOMASSON. Mr. O'NEILL was asked whether he recognized any of the women as someone he saw on the second floor of the west wing on the night of July 20. Mr. O'NEILL picked the photograph of PATSY L. THOMASSON, stating this was the woman seated behind FOSTER's desk.

The second photo spread included the photograph of EVELYN LIEBERMANN. Mr. O'NEILL was asked whether he recognized any of the women as someone he saw on the second floor of the west wing on the night of July 20. O'NEILL was unable to pick out any photos from this spread as a person he saw that evening. However, O'NEILL did state that the photo of EVELYN LIBERMANN looked similar to the woman who was with and left with MAGGIE WILLIAMS on the evening of 7/20/93.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/16/94

HENRY P. O'NEILL, Officer, Uniformed Division, United States Secret Service (USSS), was contacted by SA COLOMBELL at the FBI Office in Landover, Maryland. Officer O'NEILL was shown a copy of a seven-page FD-302 reflecting his prior interview by the Independent Counsel staff on July 20 and 26, 1994. MR. O'NEILL was asked to read the FD-302 to see if there were any mistakes or corrections and he did so. Officer O'NEILL signed and initialed and dated the 302 (all seven-pages) stating that it was an accurate representation of the events and persons that he observed on the second floor, West Wing of the White House on the evening of July 20, 1993.

Officer O'NEILL was asked to clarify one point, specifically whether to his knowledge, the cleaning women that were with him that night removed and "regular" trash from the Chief Counsel's suite of offices. O'NEILL was unable to state whether the cleaning women had removed any "regular" trash but he again confirmed that he did not remove any "burn trash" from the Chief Counsel's suite of offices, including VINCE FOSTER's office.

O'NEILL was asked if it was possible that he might have observed MAGGIE WILLIAMS and the other woman on the second floor, West Wing of the White House later that week, specifically on the evening of July 21 or 22, 1993. He responded by stating that he worked every night that week and would have had the same responsibilities, that is accompanying the cleaning women and picking up the "burn trash." He stated that he is certain that he was not mistaken with regard to the evening in question. It had to be July 20, 1993, the evening of VINCE FOSTER's death because he specifically remembers the conversation that he had with MR. HOWARD PASTER and MR. PASTER's comments that something terrible had happened and that VINCE FOSTER had taken his own life.

Officer O'NEILL was shown a photo spread (five photos) included in which was a photograph of SUSAN P. THOMASES. O'NEILL looked at all five photographs and picked out the photograph of

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Investigation on 8/9/94 at Landover, MD File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 8/9/94

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SUSAN P. THOMASES. He stated that although he is not positive, he feels fairly certain that THOMASES is the woman who was with and left with MAGGIE WILLIAMS from the second floor, West Wing of the White House on July 20, 1993.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/20/94

JULIE A. OPPENHEIMER, former Assistant Director of News Analysis at The White House, was interviewed telephonically at her home in Chicago, Illinois. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, OPPENHEIMER provided the following information:

OPPENHEIMER advised that in July 1993 her position at The White House was Assistant Director of News Analysis, which is part of the Office of Communications. Their offices are located in the Old Executive Office Building (OEOB). She worked with KEITH BOYKIN, KEN CHITESTER, LARRY SAMPUS and numerous volunteers and some interns.

Her main activity in the early morning hours at the start of her day was directing and coordinating the preparation of press clippings for printing and distribution within The White House. Volunteers and interns, if they had any, would do the bulk of the work under her supervision.

OPPENHEIMER has only a vague recollection of the day VINCE FOSTER killed himself on July 20, 1993 and the following time period. She advised that during that time she would generally arrive to her office in the Old Executive Office Building between 4:30 and 6:00 am. She believes that the morning of July 21 she either read about VINCE FOSTER's death on "the wire" or heard it from KEN CHITESTER as soon as she arrived.

She advised that she did not recall that they had any interns working for them in July 1993, but suggested we attempt to contact volunteers VIRGINIA (JENNY) LINDAHL, DAVID DINAN, and JOHN HOPMAN. OPPENHEIMER believes that LINDAHL is still at The White House. She advised that DINAN is not at The White House anymore and she believes he is living near Philadelphia and HOPMAN is not at The White House anymore but may live in Washington, D.C.

OPPENHEIMER says she has no recollection of going to the West Wing or any place else in The White House on July 21,

1993. She does not recall whether she herself was assisting with the distributing of the clippings at that time. She said she probably did not do so.

With regard to CRAIG LIVINGSTONE, she knows who he is and does not recall seeing him. She said that she rarely saw him in the morning in any case. He was sometimes there when interns needed somebody to accompany them on their rounds on the weekends. She does not recall any involvement of LIVINGSTONE with any activities or events with regard to VINCE FOSTER.

OPPENHEIMER also said she never heard any rumors which verified stories that she read in the press having to do with FOSTER's death or the handling of his papers thereafter. The only specific memory she has of July 21 is the staff meeting held in the Old Executive Office Building where President CLINTON said a few words about FOSTER's death. She estimated the time of that meeting as 3:30 in the afternoon.

As part of the interview, OPPENHEIMER provided the following information:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Home Address:	2430 Lakeview Chicago, Illinois 60614
Home Telephone:	(312) 477-1199
Position in July, 1993:	Assistant Director of News Analysis (similar to a Staff Assistant position)

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

MR. HOWARD G. PASTER was interviewed at his office, 901 31st Street, N.W., Washington, D.C. 20007, telephone (202) 333-7400. MR. PASTER was advised of the identities of Special Agents WILLIAM E. COLOMBELL and WILLIAM T. GUYTON and informed that they wished to speak with him regarding any knowledge he may have concerning an ongoing investigation into the death of Vincent Foster on July 20, 1993.

MR. PASTER stated that on July 20, 1993, he was serving as Assistant to the President/Director for Legislative Affairs, adding that his office was located in the West Wing, second floor of the White House. PASTER stated that he did not know VINCE FOSTER well, pointing out that he had not been a part of the CLINTON campaign team and to the best of his recollection had first met FOSTER the day before Thanksgiving, 1992. He stated that to the best of his recollection, he has never met MRS. FOSTER. PASTER stated that on a professional level, he had worked together with MR. FOSTER regarding some of the Administration's Supreme Court nominations and on other issues involving the Department of Justice and/or judicial matters. He stated that he really has no idea why MR. FOSTER took his life. He surmised that the intense media attention, much of it negative and in his opinion much of it not true, especially the Wall Street Journal article that prominently mentioned FOSTER, may have taken its toll. He also felt there was a lot of truth in the thoughts expressed by FOSTER about life in Washington, D.C. in the torn up piece of paper that was later found at the White House. PASTER pointed out that on December 22, 1993, he walked away from his job as the President's Director for Legislative Affairs, stating that while it was a job that he had dreamed about and aspired to and had wanted more than anything else in his life, the actual job just wore him down and he needed more time for his wife and children.

PASTER stated that as best he recalls, he went to work on July 20, 1993 at the normal time and attended the daily 8:00 a.m. meeting in the Roosevelt Room with all senior staff. He stated that BERNIE NUSSBAUM ordinarily would represent the White

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Investigation on 5/13/94 at Washington, D.C. File # 29D-LR-35063

SSA William E. Colombell
by SA William T. Guyton WEC:deg Date dictated 5/16/94

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House Counsel's office, adding that FOSTER would frequently be there in NUSSBAUM's absence but he was unable to recall whether FOSTER attended the 8:00 a.m. meeting on that particular day. PASTER stated that he really has no recollection of whether he saw VINCE FOSTER during the day. He stated that that evening, he had left his White House office and returned to his residence. He was called by GEORGE STEPHANOPOULOS at approximately 9:00 p.m., informed of VINCE FOSTER's death, and instructed to return to the White House. He stated that to the best of his recollection, he got to the White House around 10:00 p.m. He stated that he really wasn't quite sure why he was there since he had no specific assignment or instructions, and basically just milled about and extended his sympathy and condolences to a number of people who were part of the Arkansas group that knew FOSTER far better than he did. PASTER stated that to the best of his recollection, he remained in the White House from approximately 10:00 p.m. until 12:30-1:00 a.m. the next morning. He stated that during that time, he milled about, spending some time in the basement of the White House residence commiserating with other staffers. He stated that he also spent some of this time in MARK GEARAN's office as well as in his own office on the second floor of the West Wing.

PASTER stated that he does recall one conversation about what should be done with any "garbage" in MR. FOSTER's office. He stated that to the best of his recollection, a White House staffer named SYLVIA MATTHEWS, who worked for BOB RUBEN, brought this point up and there was some discussion as to what should be done. He recalls discussing this issue with MARK GEARAN and, to the best of his knowledge, the issue was later mentioned to MACK MCLARTY. To his knowledge, one of those two gentlemen gave instructions to insure that the garbage be saved. PASTER stated that he was unaware whether this so-called garbage or trash from FOSTER's office had already been removed from his office, or whether it was still there. He was unable to comment as to who eventually had the specific responsibility to insure that the garbage or trash remained in the office.

PASTER stated that as best he recalls, BERNIE NUSSBAUM was present on the second floor, West Wing, at different times during the evening along with PATSY THOMASSON. He stated that NANCY HEMREICH, Personal Assistant to President CLINTON may also have been there along with DEBBIE COYLE, a White House staffer who worked for BRUCE LINDSEY. PASTER was asked specifically if

he recalled CRAIG LIVINGSTONE being present at the White House West Wing, stating that he really couldn't recall whether he was or not. PASTER stated that quite possibly, in July of 1993, he may not have been acquainted with CRAIG LIVINGSTONE. MR. PASTER was also asked if MAGGIE WILLIAMS was present, responding that he really couldn't say one way or another since he has no specific recollection of her being there.

PASTER stated that to some degree he felt awkward being at the White House on the evening of July 20, 1993 since he was not part of the Arkansas group. He had no specific purpose for being there. He does recall BERNIE NUSSBAUM at one point in the evening trying to reach BILL KENNEDY on the phone, instructing KENNEDY that he wanted him to go to the hospital to make a positive identification of FOSTER's body. He also recalled a conversation in MARK GEARAN's office among several people regarding what should be done to inform the press, specifically recalling that before that was done, someone had to get to VINCE FOSTER's mother down in Arkansas to insure that she did not learn of these tragic events through the media. MR. PASTER stated that as best he recalls, he spent the majority of his time that night in MARK GEARAN's office. He stated that he has no recollection of having gone into the White House Counsel's space on the second floor of the West Wing, specifically the outer office, MR. NUSSBAUM's office or MR. FOSTER's office. He stated that he was unable to state whether anyone else had gone into the White House Counsel's office or specifically into VINCE FOSTER's office. MR. PASTER stated that he has no recollection of anyone either removing or being observed moving about the second floor of the West Wing with either records or files or documents, nor did he see anyone coming into or leaving the White House Counsel's office with any type of documents. MR. PASTER concluded by stating that during the time that he was in the West Wing, second floor, evening of July 20, 1993, things were very confusing, sad and tragic, especially for those friends of VINCE FOSTER who came to Washington with him from Arkansas. PASTER reiterated that he was present at the White House on July 20, 1993 for no specific reason or assignment and spent most of the evening trying to console those work associates who knew FOSTER far better than he did.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

Dr. Stefan A. Pasternack, MD, 2121 Wisconsin Avenue, Washington, D.C. (telephone number 965-9426) was telephonically contacted by interviewing agent and informed of the nature of the telephone contact. After confirming the identity of the interviewing agent, Dr. Pasternack agreed to furnish the following information relative to any past association with Vincent Foster.

Dr. Pasternack, who is a practicing psychiatrist and psychoanalyst, confirmed the fact that he had previously informed United States Park Police (USPP) officials that he had no prior professional association with Vincent Foster. Dr. Pasternack advised that he neither treated nor had a scheduled appointment with Vincent Foster and had no prior association with Mr. Foster or any member of the Foster family. He further related that since he does not have an appointment secretary he personally schedules all patient consultation sessions and therefore is positive that Mr. Vincent Foster was never scheduled for a counseling session with him.

In response to a question as to how, in his opinion, his name would have been found in Mr. Foster's personal possession after his death on July 20, 1993, Dr. Pasternack believes that a Washington, D.C. internist, Dr. Oscar Mann was responsible for the psychiatric counseling referral. Dr. Pasternack, however, was unaware of the identity of the individual who initially contacted Dr. Mann seeking psychiatric referral.

Investigation on 5/11/94 at Washington, D.C. (telephonically) File # 29D-LR-35063

by Lawrence J. Monroe Date dictated 5/12/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/94

FOIA(b)(6)
FOIA(b)(7) - (C)

RICHARD M. PENCE, JR., born [redacted] in [redacted] residing at 11406 Shenandoah Valley Drive, Little Rock, Arkansas, telephone (501) 225-9713, was contacted at his place of employment, the United States Attorney's Office, 425 West Capitol, 5th Floor. Mr. PENCE was advised of the identity of the interviewing Agents and of the purpose of the interview. Information provided by Mr. PENCE, in part and in substance, is as follows:

Mr. PENCE stated that he is currently the Chief of the Civil Section of the United States Attorney's Office for the Eastern District of Arkansas. He was acting as interim head of the United States Attorney's Office during July 1993. He recalled that Assistant United States Attorney (AUSA) FLETCHER JACKSON informed him about a search warrant which was to be executed during July 1993. This search warrant was to be executed at the Office of CAPITAL MANAGEMENT SERVICES, INC., which was under the direction of DAVID HALE.

He said that he was made aware of the search warrant, about one or two days before the warrant was to be executed, due to his position as acting head of the United States Attorney's Office. After having been told about the search warrant, he spoke with no one else about it until he heard from AUSA JACKSON that the search had gone smoothly. He said he could not remember the exact date of the execution of the search warrant but recalled that it occurred on the same day or within one or two days of the death of VINCENT FOSTER.

He stated he received no inquiries from anyone prior to the execution of the search warrant and mentioned that there were no news reports immediately after the search was conducted. He sid that he knows of no one else in the United States Attorney's Office who knew about the search warrant prior to its execution, aside from AUSA JACKSON and JACKSON's secretary. He said that he knows of no one at the U.S. Department of Justice in Washington, D.C., who was aware of the search warrant prior to its execution.

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He speculated that, if anyone in Washington may have suspected that a search warrant might be planned for CAPITAL MANAGEMENT SERVICES, INC., it would have been someone in the SMALL BUSINESS ADMINISTRATION (SBA) offices there. He was unable to provide details to support his speculation aside from his belief that the SBA would have known about the fact that the FBI was investigating CAPITAL MANAGEMENT SERVICES, INC., based on SBA's referral of alleged fraudulent activities involving that corporation.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/8/94

Joseph H. Phillips, Officer, Uniform Division, United Secret Service (USSS), was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue N.W. Officer Phillips was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for almost 18 years and has been assigned to The White House Special Operations Branch of the USSS Uniform Division for approximately 10 years. His regular assignment is to clear tourist and some visitors through a White House gate for the public White House tour. He also travels periodically with the President providing security. He was employed in his current capacity at the time of Vincent Foster, Jr.'s death on July 20, 1993.

Although he cannot be certain, he believes that he first learned of Foster's death either on the evening of July 20 or the morning of July 21 via the television/radio news. At approximately 6:30 am on July 21, 1993, he reported to his regularly assigned post at The White House tour gate. At approximately 1:00 pm that afternoon he was ordered to relieve another USSS Uniformed Officer at a temporarily established post in front of Vincent Foster's office door. He was told (cannot recall by whom) not to allow entry into Foster's office without authority from USSS Inspector Dennis Martin or higher ranking USSS personnel. Phillips assumed this post and relieved USSS officer Robert Popic.

Phillips manned this newly assigned post for approximately one hour until he was relieved for a break by Officer James Young. He and Officer Young thereafter, alternated on this post approximately every one to one and one half hours until Phillips was permanently relieved from this post and went home at approximately 6-6:30 pm. Officer Phillips stated that he cannot recall exactly who permanently relieved him that evening. Phillips stated that he was not assigned to this temporary post the next day (July 21) and has not been assigned to any post in

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Investigation on 4/7/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SAS WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 4/7/94

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the west wing of The White House since the evening of July 21, 1993. Phillips advised that while he was on this post, he did not observe anyone take anything from or put anything into Foster's office.

Officer Phillips advised that at what may have been approximately 5-5:30 pm July 21, upon returning to the post outside Foster's door after having been relieved by Officer Young, he observed a group of men escorted by USSS Inspection Martin and Assistant Special Agent in Charge (ASAC) Don Flynn enter the Counsel reception area and move toward Foster's door. He stated that he was advised by either Inspector Martin or ASAC Flynn to allow this group into Foster's office in that they had proper authority. He stated that the group, then, went into Foster's office, stayed a very brief time, turned and walked into Bernard Nussbaum's office where they stayed for a longer period of time and talked. Officer Phillips stated that he did not make a list of names of this group and did not check their identification since he was advised by appropriate USSS authority that they had been cleared. He stated that he cannot recall their names and can not recall any more detail about their being in Foster's office except that they were in the office for a very short time. He stated that he believes this group included a couple of Park Police investigators, one or two FBI agents, a couple of men whom he was told were Department of Justice attorneys and he believed Mr. Nussbaum. He stated that he did not overhear any conversations of this group. He further advised that no one else entered or tried to enter Foster's office while he was at his post.

Officer Phillips advised that while he had been relieved by Officer Young and was on a break at the west wing "lobby post" downstairs from Foster's office, he observed two USSS Technical employees getting off the elevator in the west wing lobby having come from upstairs where Foster's office is located. He stated that while he did know they had been to Foster's office, he assumed that they were perhaps putting a lock on Foster's door since he had heard from other USSS employees that a lock might be placed on the door that night. Phillips said that he cannot recall the identities of these two individuals, although he believes that one of them may have the last name "Wills". He advised that when he returned to the post outside Foster's door no new lock had been installed on the door and no new lock was installed on the door prior to his departing that evening.

Officer Phillips was specifically asked if he recalled anyone taking trash from or putting trash in Foster's office or the trash can in Foster's office. He advised that this did not happen while he was on duty outside the door to Foster's office. He volunteered, however, that there is a daily record kept of what uniform officer picks up the "burn bag" from the west wing offices on a daily basis. Officer Phillips explained that the "burn bag" contains classified and sensitive material that is destroyed by burning. He stated that while he has never had this particular duty, it is his understanding that this is done on a daily basis in the late evening. He volunteered that Inspector Dennis Martin could possibly provide a list of the employees who had performed this task on or around the time of Mr. Foster's death.

Officer Phillips stated that although he knew who Vincent Foster was, by title, he did not know him either professionally or personally and had never talked to him prior to his death. Officer Phillips stated that he could contribute nothing regarding Foster's state of mind, his demeanor, or his degree of association with the President or Mrs. Clinton prior to his death.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/20/94

STUART B. PIPER, telephone (703) 941-0882, provided the following information to the Office of the Independent Counsel, Washington, D.C.:

He had previously worked as a Schedule C employee at the Inter-Governmental Affairs Office of the General Services Administration from April 1991 through January 20, 1993. He is presently doing consulting work in government relations projects and looking for full-time employment.

On Wednesday, April 20, 1994, sometime between 6:00 and 9:30 p.m., PIPER met an individual named TOM (Last Name Unknown) (LNU) at Champions Sports Bar in Tysons Corner, Virginia. PIPER said this sports bar is now known as The Sports Page. TOM LNU operates a father and son towing business known as T. & T. Towing, Incorporated, telephone (703) 795-9659, associated with McLean Service Center, Chain Bridge Road, McLean, Virginia, telephone (703) 356-7730. PIPER had met TOM LNU on only this one occasion and said TOM LNU probably doesn't know him. PIPER doesn't want to be identified to TOM LNU. PIPER described TOM LNU as being 43-44 years of age, a Viet Nam veteran and former employee of the San Francisco Police Force. PIPER said an individual by the name of LISA COFFMAN, telephone 225-9026, of the Government Operations Sub-Committee, called TOM LNU earlier in the week and TOM denied having any knowledge concerning what PIPER was about to report.

During their time together at the Sports Bar on April 20th, TOM LNU and PIPER started to talk about "strange situations" that had happened to each other. TOM LNU related a story to PIPER concerning the towing of a vehicle to the FBI Headquarters garage from Ft. Marcy Park on the evening and/or early morning hours of July 20-21, 1993. VINCENT FOSTER, Deputy White House Counsel, The White House, Washington,D.C. was found dead in Fort Marcy Park on July 20, 1993.

TOM LNU said he had received a call from the U.S. Park Police (USPP) sometime after midnight to tow a car from Ft. Marcy

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(telephonically)

Investigation on 6/17/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/20/94

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Park. Enroute to the job, TOM LNU saw many police vehicles, both marked and unmarked, from multiple jurisdictions, traveling up and down George Washington Parkway. When he arrived at Ft. Marcy Park, the scene was lit up with lights, the vehicle doors open, and "lots of pictures were being taken." TOM LNU's son, also named TOM, was not with his father, but had received a phone call while his father was enroute to the scene, asking the whereabouts and arrival time of the tow truck.

TOM LNU further described the vehicle as having a window missing on the front driver's side, blood on the dashboard and a small bag in the foot area of the passenger side with blood on it. TOM LNU was asked to move the vehicle without moving the wheels and therefore avoid placing additional mileage on it. He used a flatbed truck to transport the car. He was assisted by what was described as a "gloved" officer who did not want him to touch the vehicle as he was putting it in gear, so as to preserve any fingerprints in the interior of the vehicle. TOM LNU said he was supervised during this operation by various police officers. He had a police escort, front and behind, to the 14th Street Bridge enroute to FBI Headquarters. He also had someone in the tow truck with him. They took the car down the down ramp of the FBI Headquarter's garage. TOM LNU related that he had never been paid for this tow job. He said in the past he had done a lot of towing for government agencies to include work associated with federal fleet cars, airport exchanges and running out of gas situations.

PIPER said he had no additional information concerning what TOM LNU had told him. He knew of no reason why TOM LNU would "spin a story." PIPER had thought about coming forward earlier with this story, but had not done so. PIPER has told a "couple of friends" about this.

The following description of PIPER was obtained through interview:

Name:	Stuart B. Piper
Residence:	4501-D Hazeltine Court (a condominium) Alexandria, Virginia 22312
Telephone:	(703) 941-0882
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/11/94

Betsy L. Pond, Executive Assistant, Office of the Counsel to the President, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW in the presence of her attorney, Thomas R. Dyson. Ms. Pond was advised as to the official identities of the interviewing agents and of the nature of the interview. She then provided the following information:

At the time of Vincent Foster, Jr.'s death in July, 1993 she had known Foster for approximately four months. She stated that at that time she was the Executive Assistant to Bernard Nussbaum, the Counsel to the President, and as such sat in a desk just outside Nussbaum's and Foster's offices. She said that she had daily contact with Foster but that this contact consisted of an "office relationship" that was friendly but limited to exchanges of greetings and pleasantries. She explained that while she worked in the same office suite as Foster she can recall doing no work for Foster in that Deborah Gorham was his Executive Assistant. She said that she can not recall observing any changes in Foster's behavior or physical appearance prior to his death. She described the Office of the Counsel to the President at that time as being a "pressure cooker environment" with Foster and every other employee within that office being under considerable stress. She said however, that she cannot recall Foster ever commenting on this stress. She described Foster as a "reserved and quiet man-a gentleman", whom she liked.

Betsy Pond said that the last time she saw Vincent Foster was at approximately 1:00 pm on July 20, 1993, when he departed the Counsel suite after having had lunch in his office.

Ms. Pond was asked to recall the atmosphere and events of the Counsel suite on July 19, 1993. She said that she has no specific recollections concerning that day except that everyone in the office was very busy and involved in proceedings regarding the upcoming announcement of Louis Freeh to be the new Director of the FBI and Ruth Bader Ginzberg, who had been nominated to the U.S. Supreme Court and was to begin confirmation hearings the

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next day. She said that she was therefore very preoccupied with work on July 19 and can not even be sure if Vincent Foster was at work on that day.

According to Ms. Pond, July 20, 1993 was another busy day for the employees of the Presidential Counsel. She said that she arrived at work at approximately 8:30 am and she recalls the remainder of the morning being very busy, even somewhat harried, with related press coverage and many official visitors coming to The White House for the Louis Freeh announcement in the Rose Garden. After the Freeh announcement, Vincent Foster asked Betsy Pond and Linda Tripp, another employee in the Counsel suite, to bring him lunch from The White House mess. Ms. Pond stated that she and Linda Tripp left Foster, went to The White House mess and placed his order for a hamburger, french fries, and a drink, and then went "for a cigarette" while his lunch order was being prepared. Ms. Pond stated that while she cannot recall how long they were gone, she does recall Tom Castleton, another employee of the Counsel's office, coming to check on them, saying that Foster had sent him to find them and see what was taking so long. After they returned, Foster sat on a sofa in his office and ate his lunch at a coffee table while reading.

Betsy Pond stated that after Vincent Foster finished his lunch, he took his suit jacket and left the office saying "I'll be back". She said that she can not recall if he was carrying a briefcase or not. Ms. Pond said that while she was not aware of specifics regarding Vincent Foster's schedule, she did not think he had any outside appointments on that day. She heard nothing from Foster the remainder of the afternoon. At approximately 6-6:30 pm, Margaret "Maggie" Williams, Hillary Clinton's Chief of Staff, telephoned for Foster. When advised that Foster was not in his office, she asked that he be electronically paged. Betsy Pond contacted The White House operator, asking that Foster be paged, and asking that he phone Maggie Williams' office telephone number. Pond said that to the best of her recollection, Maggie Williams did not call back and she (Pond) does not know if Foster ever returned her call. Ms. Pond stated that she left The White House for her residence at approximately 6:45 pm on July 20. She said that she went to the grocery that night and got home at approximately 8:30 pm. She said that being very tired, she turned the ringer off on her telephone and went to bed early. She said that she did not return to The White House until the next morning.

Ms. Pond awakened at approximately 5:00 am on July 21, 1993 to get ready for work. Shortly thereafter she checked her answering machine and discovered two messages that had been recorded while she slept. The first of these messages was from The White House operator and had come in at 1:20 am advising her that Bernard Nussbaum was trying to reach her. The second message was from Linda Tripp, came in at approximately 1:30 am, and indicated "I need to talk to you, please call me." Ms. Pond said that she sensed something was wrong and immediately called The White House operator asking to be "patched through" to Linda Tripp's home telephone number. It was at that point that The White House operator advised her of Vincent Foster's death. Betsy Pond was then connected telephonically with Linda Tripp who confirmed that Vincent Foster was indeed dead. Ms. Pond said that The White House operator had told her that Bernard Nussbaum had been at The White House late the night before (July 20). When later questioned about this statement, both she and her attorney said that that was not what she meant to say. Ms. Pond, at that point, amended this statement to indicate that The White House operator had said that Bernard Nussbaum had been up late, rather than at The White House late, the night before. Ms. Pond said that while she was getting ready for work, she noticed that the Vincent Foster death was even being reported on the early morning television news. At that point she felt it appropriate to notify her young co-worker, Tom Castleton, who was the newest of the employees in The White House Counsel's office. She said that she also telephonically notified John Carey, a long time attorney friend of hers and a White House staffer, whom she knew had been meeting with Vincent Foster on work related matters.

At approximately 7:00 am on July 21, Betsy Pond arrived at The White House west wing. She proceeded to the Counsel suite, opened the door, deactivated the alarm switch, and telephonically notified the U.S. Secret Service Control Center that she had placed the alarm in its access mode. When asked what telephone she used to contact the Secret Service Control Center, she paused and said that she could not be certain, but she may have used the telephone in Vincent Foster's office, since the alarm deactivation switch for the entire suite is in his office. She said that she had often, in the past, used his phone for this purpose. Betsy Pond said that it is her belief that Foster had two phones in his office, one near his desk and one near his door and the alarm switch. She said that, while she cannot recall the next sequence of events with certainty, she believes that she then spotted papers on Foster's coffee table in

a state of uncharacteristic disarray. She said that she "straightened these papers" and placed them "into a neat stack" on his coffee table. She said that while she cannot, with certainty, explain why she did this she believes that it was a "reflex response" and nothing more. She said that she did not read any of these papers while she was straightening them and, in fact, can not describe them other than to say that they were "long papers-legal size". She said that, in retrospect, these documents may have been "The White House clips" of daily news articles that do come on legal size paper. She said that she was in Foster's office no more than a minute or two.

After exiting Foster's office, Ms. Pond believes that she then went to her desk and telephoned Bernard Nussbaum. She said that she believed she made this telephone call at approximately 7:05 am. She said that she made this call in that she knew that Nussbaum had been attempting to get in touch with her the night before and she simply wanted to let him know that she was at work and had "opened the office" and to ascertain if he had any specific instructions. During this conversation Nussbaum advised her "Don't let anybody in Vincent Foster's office". She therefore, after this conversation ended, closed the door to Foster's office. She said that she recalls noticing nothing unusual about the appearance of Foster's office that morning. She said that she further recalled seeing no one in the 2nd floor hallway of the west wing at 7:00 am when she arrived and she similarly recalls not seeing any White House staffers in the area of the ground floor west wing entrance that she used to enter that morning.

Betsy Pond said that the 2nd person to arrive at the Counsel's office on the morning of July 21 was Steve Neuwirth, who arrived at approximately 7:30 am. They chatted briefly and he then went briefly into Nussbaum's office. Linda Tripp arrived shortly thereafter and was advised by Pond to not go into Vincent Foster's office. Pond says that she does not believe either Neuwirth or Tripp went into Foster's office that day. She said that after President Bill Clinton came to the Counsel's office late that morning, she saw Bernard Nussbaum go into Foster's office. She said that at that time a Secret Service Officer had been posted outside Foster's door and she recalls Nussbaum telling him that he was entering the office to obtain a photograph that she recalled being on Foster's bookshelf. Pond said that she recalls no one else taking anything out of or placing anything in Vincent Foster's office on that day or the

next day. She further advised that she does not recall any White House staffer, including Bernard Nussbaum, ever talking about being in Vincent Foster's office during the evening hours following his death on July 20.

In response to a specific question, Ms. Pond said that she has a vague recollection of Vincent Foster sending some personal mail that required postage (rather than franked envelopes) on July 19 or 20, 1993. She said that she recalls this because Deborah Gorham, Foster's Executive Assistant, asked her if she thought these envelopes (number of envelopes unrecalled) would each require one or two stamps. Ms. Pond advised that she can not recall to whom any of these envelopes were addressed.

Ms. Pond said that she has no personal knowledge of and has heard of no White House staffers discussing any efforts to impede or obstruct this investigation or the prior Foster investigation by the U.S. Park Police.

The following information regarding Betsy L. Pond was obtained through observation and interview:

Sex:	Female
Race:	Caucasian
Date of birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of birth:	
Social Security Account Number:	
Employment:	Executive Assistant, Office of the Counsel to the President, The White House, Washington, D.C.
Attorney:	Thomas R. Dyson 1341 G Street NW Suite 510 Washington, D.C. 20005
Telephone Number:	202-393-6091

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/11/94

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vestigation on 5/10/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by H. Alexis Suggs FOIA(b)(7) - (C) Date dictated 5/10/94

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Ms. Pond said that she has no personal knowledge of and has heard of no White House staffers discussing any efforts to impede or obstruct this investigation or the prior Foster investigation by the U.S. Park Police.

The following information regarding Betsy L. Pond was obtained through observation and interview:

Sex:	Female
Race:	Caucasian
Date of birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of birth:	
Social Security Account Number:	
Employment:	Executive Assistant, Office of the Counsel to the President, The White House, Washington, D.C.
Attorney:	Thomas R. Dyson 1341 G Street NW Suite 510 Washington, D.C. 20005
Telephone Number:	202-393-6091

FORM 10-344a
(7/83)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CAS

2 SYSTEM AREA	3 WHEN DID IT OCCUR? MO	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
United States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0

5 NATURE OF INCIDENT	6 RECLASSIFICATION OF INCIDENT
Death Investigation	

ITEM | 7 RESULTS OF INVESTIGATION

Pond

On Thursday, August 22, 1993, Detective Pete Markland and I responded to the White house to meet with Special Agents Scott Salter and Dennis Condon of the FBI to conduct interviews. The purpose of the interviews were to reconstruct the final hours of Vincent Foster's life.

Myself and Special Agent Condon interviewed Ms. Betsy L. Pond; Staff Assistant to Bernard Nussbaum, Chief Counsel for the White House. The interview took place in an office that was unoccupied for the day. Present in the room during the entire interview were Clifford Sloan; associate counsel to Nussbaum, and Paul Imbordino; assistant Special Agent in Charge, Office of Protective Operation, U.S. Secret Service. Clifford Sloan took notes throughout the interview. During the interview Bernard Nussbaum burst into the room and demanded "is everything all right?"

We started the interview at approximately 0900 hours. Ms. Pond got in to work at around 0900 hours on Tuesday, July 20th. Usually there is a staff meeting of the counsel's office from 0900 to 0945 hours each morning that Vincent Foster would attend. She assumed he was at the staff meeting as she didn't see him when she arrived at work. She first recalled seeing him outside in the Rose Garden. The President was nominating Judge Freeh at the ceremony as the new director of the FBI.

She doesn't recall Vincent Foster having any visitors on Tuesday. The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She recalled there were M & M's on the tray with the food because Linda wanted them. He sat on his sofa and ate lunch in his office.

At around 1300 hours he came out of the office and stated "I'll be back, there are M & M's left in my office". Ms. Pond recalled that she and Linda were in the office when he left. She wasn't sure if Tom was in the office or not. Tom Castleton is a young college graduate working in the office. There was nothing unusual about his emotional state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight lost. She was unaware of him taking any medication or seeing any doctors. I asked here would she be surprised if I found out he was seeing a psychiatrist. She said yes. She was not aware of any depression problems. She had no information whether he owned any weapons.

8 WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 1 OF 2 PAGE

13 STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			Charles W. Hulme					

Form 10-344a
(3/85)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

1 JUVENILE CAS

2 SYSTEM AREA	3 WHEN DID IT OCCUR? MO.	DAY	YR.	4 YEAR	CASE/INCIDENT NUMBER
United States Park Police	0 7	2 0	9 3	9 3	- 3 0 5 0

5 NATURE OF INCIDENT	6 RECLASSIFICATION OF INCIDENT
Death Investigation	

ITEM | 7 RESULTS OF INVESTIGATION

Ms. Pond said she left work at approximately 1845-1850 hours on Tuesday; but, before she left at around 1820 or so, Maggie Williams (Mrs. Clinton's Chief of Staff) called for Vincent. She paged Vincent and left the White House number for him to call. She recalled no other phone messages for Vincent.

She learned about Vincent's death from messages on her home answering machine around 0500-0600 hours on Wednesday, July 21. She came into work at 0700 hours and was the first person in. The door to Vincent's office was closed when she arrived at work. She believed that Tom Castleton or Bernard Nussbaum were the last persons out of the complex on Tuesday and one of them would have closed the door to Vincent's office. She went into his office and "squashed" the papers together that were on his desk. She realized that she shouldn't have touched the papers as soon as she did it but probably did it out of habit.

When I questioned her if she had been told how to respond to our questions, she stated that Clifford Sloan (who was present during our interview) and Steve Neuwirth, both associate counselors, had called them all together on Wednesday evening and told them they would be questioned by the police and for them to tell the truth.

WARRANT(S)	9	10 ID TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGE

13 STATUS: ☐ OPEN ☐ SUSPENDED	CLOSED BY: ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED				
14 REPORTING OFFICER BADGE/ID DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID DATE
	Cpt. Charles Hume #852		8/4/93		

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/26/94

The below listed law enforcement officials were contacted by SA WILLIAM E. COLOMBELL in an effort to determine if the assistance of the District of Columbia Police Department was requested or provided in any manner in connection with the investigation into the FOSTER suicide that occurred on July 20, 1993. Specific inquiry was made as to whether the District of Columbia Police Department conducted any spot checks or surveillance either independently or at the request of other federal law enforcement agencies in the vicinity of the FOSTER residence, 3027 Cambridge Place, Georgetown, Washington, D.C. on July 20 and 21, 1993. Law enforcement officials listed below confirmed that no such investigative assistance was provided by the District of Columbia Police Department:

Special Agent PAUL IMBORDINO, U.S. Secret Service, Washington, D.C.; Captain CHARLES HUME, U.S. Park Police, Washington, D.C.; Sergeant CHERYL BRAUN, U.S. Park Police, Washington, D.C.; Captain BARRY MALKIN, District of Columbia Police, Second District Station (responsible for the Georgetown area); Lieutenant RALPH NEAL, District of Columbia Police Department, Second District Station, Washington, D.C.

Investigation on 9/26/94 at Washington, D.C. File # 29D-LR-35063

by SA WILLIAM E. COLOMBELL Date dictated 9/26/94

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

STEVEN A. POLLOCK, currently Conference Coordinator of The White House Conference on Small Businesses, telephone (202) 724-0891 was interviewed telephonically by writer. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, POLLOCK provided the following information:

POLLICK advised that in July 1993, he was employed in The White House Office of Personnel Security under the direct supervision of CRAIG LIVINGSTONE. He said that he worked for LIVINGSTONE periodically throughout the summer and was full time until Memorial Day of 1993. He then shifted to just one day a week which was Fridays. He maintained that schedule until late Fall when he moved to The White House Conference on Small Business.

He explained that as part of his job in the Office of Personnel Security he did do some typing but he didn't do any typing of a chronology of LIVINGSTONE's activities on July 20 and 21, 1993. He said he would have remembered such a memorandum because of its unique nature and because of the remarkable events of those days.

He advised that his normal activities in the office included doing background checks and administrative functions with regard to White House passes and other miscellaneous administrative matters. He did some minor memos in this connection. He did not assist nor did he ever hear of anybody assisting CRAIG LIVINGSTONE carrying boxes from one area of The White House to the other and specifically from VINCE FOSTER's office or from the west wing at any time.

POLLOCK advised that his DOB is [redacted] and POB is [redacted]

FOIA(b)(6)
FOIA(b)(7) - (C)

(telephonically)

igation on 7/7/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 7/12/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

[redacted]

Robert Mark Popik, Officer, Uniform Division (Special Operations Section), United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Officer Popik was advised as to the identity of the interviewing agent and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS for eight years, the last six of which have been at The White House compound. He is currently responsible for leading congressionally requested special tours through portions of The White House. He was performing these same duties at the time of Vincent Foster, Jr.'s death on July 20, 1993. His office is located at 1310 L Street NW and his telephone number is 202-395-4418.

On July 20, 1993 he worked the 6:30 am - 3:00 pm shift at The White House. He said that he could recall nothing unusual or out of the ordinary about that day except that they were very busy with tours in that it is the peak tourist season in Washington, D.C. and at The White House. He described this as a routine, ordinary day.

On July 21, 1993, Officer Popik was on his way to work shortly before 6:30 am listening to the news on his car radio when he first learned of Vincent Foster's death. Upon arriving at work, he went to his regularly assigned post and began giving tours. At approximately 10:00 am that morning, he was approached by USSS Inspector Dennis Martin and a USSS sergeant who advised him that a temporary guard post was to be established outside Vincent Foster's office door and that he and several other USSS uniform officers would be placed on that post. He assumed this post at approximately 12:00 noon relieving Officer Michelle Macon who had been the first uniform officer on that post. The instructions related to him by Inspector Martin were that he was to stand in front of this door with it closed and if anyone wanted to enter the office he was to get their name and take note of the time that they entered and the time that they left. Officer Popik stated that he was on this post for approximately

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one and one half hours and while he was standing this post no one entered Vincent Foster's office or attempted to enter the office. He said that while he was on this post he made "small talk" with the secretaries located in the reception area outside Bernard Nussbaum and Vincent Foster's offices. He advised however, that none of this discussion centered on or related to Mr. Foster or his death.

Officer Popik stated that approximately 1:30 pm he was relieved from this post by USSS Officer Joe Phillips. Popik said that he returned to his normal tour duties and has never been to that office on the 2nd floor of The White House west wing since July 21, 1993.

Officer Popik stated that he knew Vincent Foster by title and was able to recognize who he was when he saw him within The White House compound. He advised however that he did not know Foster either personally or professionally well enough to feel comfortable commenting on his personality or demeanor.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 5/8/95

SYDNEY FRANCES PROBST was interviewed in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. (WDC). After being advised of the official identity of the interviewing agent and the nature of the interview, PROBST furnished the following information:

PROBST has known VINCENT W. FOSTER, Jr. for approximately forty years. PROBST regards SHEILA ANTHONY, FOSTER's sister, as her best friend. ANTHONY and PROBST have known each other since they were fourteen or fifteen years old, and they attended college together at the University of Arkansas. While PROBST knew FOSTER through ANTHONY, she did not have close contact with FOSTER because PROBST and ANTHONY were seven years older than FOSTER. This seven year difference in ages had less significance as PROBST and FOSTER grew older, and PROBST grew to know FOSTER better when they were adults. However, PROBST has always been much closer to ANTHONY, and much of what she knows about FOSTER was learned from ANTHONY. PROBST has known LISA FOSTER since she and FOSTER were married.

PROBST does not recall if she saw FOSTER when he first moved to WDC in 1993 and was living with ANTHONY. PROBST did not socialize with FOSTER, but she may have occasionally seen FOSTER at gatherings on Capitol Hill or at gatherings of people from Arkansas. PROBST cannot recall with certainty that she actually saw FOSTER at any of these functions. PROBST recalls that she last saw FOSTER at a luncheon on Capitol Hill for the Arkansas congressional delegation approximately one or two weeks before FOSTER's death. PROBST and ANTHONY greeted each other at this luncheon, and FOSTER appeared fine to PROBST. PROBST does not recall having any other encounters or telephone calls with FOSTER after he arrived in WDC in 1993.

PROBST was not a participant in any regular gatherings of Arkansans for dinner on Tuesday nights, and she has no knowledge of such gatherings.

Investigation on 5/4/95 at Washington, D.C. File # 29D-OIC-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/4/95

PROBST has no personal knowledge of the factors which may have led to FOSTER's suicide. PROBST has been told by ANTHONY that FOSTER was absolutely worn out from working eighteen hours a day.

PROBST has lived in WDC for the last fourteen years and she did not maintain any type of continuing contact with VINCENT or LISA FOSTER during that time period.

On the morning of July 21, 1993, PROBST learned of FOSTER's death when she received a telephone call at her home from DOUG FROST. FROST had previously worked for former Representative BERYL ANTHONY, who is the husband of SHEILA ANTHONY. FROST's call to PROBST awoke her. PROBST believes FROST told her that FOSTER had committed suicide. After receiving the call from FROST, PROBST hung up and immediately called the ANTHONY residence. The ANTHONYs' telephone line was busy, and PROBST quickly dressed herself and went to the ANTHONYs' residence. Upon PROBST's arrival there, she discovered that SHEILA ANTHONY was already gone, but BERYL ANTHONY and a few people were still at home. PROBST does not recall who else was at the ANTHONY house, but she recalls that the house was not crowded. PROBST offered to help out in terms of arranging for food to be brought in or in making any other arrangements which needed to be made as a result of FOSTER's death. PROBST took responsibility for answering the ANTHONYs' telephone because PROBST knew the ANTHONYs well enough to know with whom they would want to speak and who should not be put through to them. PROBST remained at the ANTHONYs house most of the day but went to her own home briefly before returning to the ANTHONYs' house that evening. At no time did PROBST go to the FOSTERs' house in WDC.

On the Thursday following FOSTER's death, PROBST flew to Little Rock for FOSTER's funeral. PROBST flew aboard a small private plane which may have belonged to TRUMAN ARNOLD. Also on the plane with PROBST were FOSTER's sister, SHARON BOWMAN, and BOWMAN's daughter MARY. There were two other passengers on the airplane but PROBST does not recall their identities.

PROBST did not participate in or overhear any conversation about the subject of FOSTER having left a note or of such a note having been found.

Prior to FOSTER's move to WDC in 1993, PROBST probably

last saw FOSTER in the summer of 1992 on the night of a run-off election for the congressional seat of Representative BERYL ANTHONY. PROBST, FOSTER and one of FOSTER's sons were together with other people at the home of PAT and SCOTTY GILES (phonetic) in El Dorado, Arkansas, to watch the election returns. PROBST recalls that FOSTER "seemed fine" that night.

PROBST does not recall observing any indications of depression in FOSTER, but she notes that she rarely saw him. FOSTER had been moody for as long as PROBST knew him, but she does not recall observing any change in his personality or behavior in her limited contacts with him. FOIA(b)(6) FOIA(b)(7) - (C) PROBST was not around FOSTER enough to have observed any symptoms of depression in him.

PROBST is convinced that FOSTER died from suicide caused by clinical depression. PROBST's conclusion is based on secondhand information from ANTHONY and not from any personal observations of FOSTER by PROBST. PROBST was told by ANTHONY that FOSTER had called her and asked for recommendations for a psychiatrist he could see. PROBST was told by ANTHONY that ANTHONY gave FOSTER the names of two or three psychiatrists, but that FOSTER seemed reluctant to contact the psychiatrists because he was concerned such contacts could affect his security clearance.

PROBST believes the source of FOSTER's depression was that he was overworked, tired, and deeply affected by what he perceived to be criticism of himself in the press, particularly in the Wall Street Journal. PROBST believes that, due to his successful background in a different type of environment such as Little Rock, FOSTER was unable to simply ignore such criticism and proceed with his work.

Based on observation and interview, PROBST is described as follows:

Name:	SYDNEY FRANCES PROBST
Sex:	Female
Race:	White
Date of Birth:	
Place of Birth:	

Social Security Account Number:	FOIA(b)(6) FOIA(b)(7)-(C)
Residence:	1832 Belmont Road, N.W. Washington, D.C. 20009
Home Telephone:	(202) 667-3920
Occupation:	Assistant to the President Interstate Gas Pipeline Association 555 13th Street, N.W., Suite 300 Washington, D.C.
Work Telephone:	(202) 626-3202

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 11/7/94

Mrs. BARBARA PRYOR, wife of Senator RICHARD PRYOR of Arkansas, was advised of the identity of Special Agent WILLIAM E. COLOMBELL. She was also informed that Agent COLOMBELL wished to interview her regarding the circumstances surrounding her visit to the FOSTER residence on the morning of July 21, 1993.

Mrs. PRYOR advised that in July of 1993, she and her husband lived in close proximity to the FOSTER home, specifically on 19th Street off of Dupont Circle. She and the FOSTER's, as well as SHIELA ANTHONY, VINCENT FOSTER's sister, have been friends for many years. Her purpose in going to the FOSTER residence was to give SHIELA ANTHONY a ride home, pointing out that Ms. ANTHONY had spent the night at the FOSTER residence. Mrs. PRYOR arrived at the FOSTER residence sometime between 8:00 and 8:30 am. She parked her car on Cambridge Place in close proximity to the FOSTER home. She recalled that while parking, she accidentally tapped an expensive sports car, either a Porsche or a Jaguar parked on the street, setting off a car alarm. The street was very quiet and she observed no one on the street or sitting in any parked cars nearby. She was specifically asked if there was any media presence in the area and she responded not to her recollection. SHIELA ANTHONY answered the door and let her in. She remembers thinking that maybe she came to early. It appeared to her that everyone was still asleep and that she had awakened Ms. ANTHONY. To the best of her recollection, Ms. ANTHONY was still wearing the same dress that she had on the prior evening when close family friends had gathered at the residence to comfort the family. Shortly after entering the FOSTER residence, the car alarm ceased and she assumed that whoever owned the car must have gone outside and turned it off.

Mrs. PRYOR stated that she recalls making coffee and staying a short time, (approximately 15 to 20 minutes) and then driving SHIELA ANTHONY home. She feels certain that she and Ms. ANTHONY left the FOSTER residence no later than 9:00 am. She can't be sure, but believes that while she was there the HUBBELLs arrived. During the 15 to 20 minute visit, she has no recollection of either SHIELA ANTHONY or Mrs. FOSTER making any

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(telephonically)

Investigation on 11/2/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 11/4/94

comments about the presence of media, White House staffers or the Secret Service outside the residence on the morning of July 21, 1993. Mrs. PRYOR concluded by providing the following background information concerning herself:

Address:	2113 O Street, NW Unit A Washington, DC
Home Phone:	(202) 293-3336

Q

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/25/94

JOHN MICHAEL QUINN, who is also known as JACK QUINN, was interviewed in his office in the Old Executive Office Building on the grounds of the White House, Washington, D.C. QUINN serves as both Assistant to the President and Chief of Staff and Counselor to the Vice President. Present during the interview of QUINN was DONALD SIMON, who is QUINN's friend as well as an attorney. Associate Counsel MARK J. STEIN of the Office of the Independent Counsel, Washington, D.C., also participated in the interview. After being advised of the official identities of the interviewing agents and the nature of the interview, QUINN furnished the following information:

QUINN's primary role is to manage the staff of the Office of the Vice President. The staff is rather large and includes people assigned to both the Executive Office of the President as well as staff assigned to the Vice President in his role as the President of the United States Senate. Based on an earlier decision of President BILL CLINTON, the position of Chief of Staff to the Vice President is also considered part of the staff of the President. As a result, QUINN attends the daily meetings for senior staff held at the White House at 8:00 a.m. each morning.

QUINN met Vice President ALBERT GORE when QUINN was an attorney in private practice and Mr. GORE was a Member of the United States House of Representatives. While in the private practice of law, QUINN worked on matters which fell under the purview of the House Energy and Commerce Committee. In 1987 and 1988, QUINN assisted Mr. GORE in his campaign for the Democratic nomination for president. Then-Senator GORE asked QUINN to help him prepare for the debates with then-Vice President DAN QUAYLE. Following the election in 1992, QUINN served as counsel to the CLINTON transition team along with several attorneys from Little Rock, Arkansas. Once the CLINTON Administration took office, QUINN assumed the duties of Counsel to the Vice President and Deputy Chief of Staff to the Vice President. ROY NEEL was then the Chief of Staff for the Vice President.

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QUINN worked with Deputy White House Counsel VINCENT W. FOSTER, Jr. during the early part of the CLINTON Administration when QUINN was serving as Counsel to the Vice President. In that position, QUINN attended the daily morning meetings of the White House Counsel's Office staff. QUINN attended these meetings from January 20, 1993 through early May 1993, and these meetings usually lasted approximately forty-five minutes each. QUINN did not work on any projects with FOSTER, and he only saw or had contact with FOSTER during the meetings with the staff of the White House Counsel's Office.

QUINN never discussed the subject of Whitewater with FOSTER. FOSTER was a man of unusual discretion, and he was not given to discussing his work with other people.

QUINN does not recall whether he was at work at the White House on July 20, 1993, which was the date of FOSTER's death. QUINN is certain that he was not at the White House when he learned of FOSTER's death. He has a strong sense that he was at home when he learned of FOSTER's death, but he is not certain whether he acquired this knowledge the night of July 20, 1993 or the morning of July 21, 1993. QUINN has a vague recollection that he may have learned of FOSTER's death through either a radio or television report the morning of July 21, 1993.

No one ever told QUINN that members of the White House staff went into FOSTER's office the night of July 20, 1993. QUINN does not have any information to suggest that anything was removed from FOSTER's office that night.

On the morning of July 22, 1993, which was the day on which the inspection of documents in FOSTER's office was conducted, QUINN was made aware that White House Counsel BERNARD NUSSBAUM planned to allow a search of FOSTER's office by officials of the National Park Service. QUINN does not recall whether NUSSBAUM was planning to allow the search of FOSTER's office or whether NUSSBAUM would be present during the search. QUINN was told about NUSSBAUM's plans regarding the search either by White House Chief of Staff THOMAS "MACK" McLARTY or by a member of McLARTY's staff. QUINN does not recall whether he first spoke to McLARTY or whether one of McLARTY's aides said that McLARTY wanted to speak with QUINN.

During a conversation the morning of the search of FOSTER's office, McLARTY expressed his confidence in QUINN's

legal judgment and he asked QUINN to provide a second opinion about the advisability of NUSSBAUM's plan for the search of the office. McLARTY did not himself express any opinion about the advisability of the search. QUINN does not recall the exact words used by McLARTY, but McLARTY wanted QUINN to take a second look at the question of how the search should be conducted. QUINN's conversation with McLARTY occurred face-to-face in the west wing of the White House. QUINN is rather confident that McLARTY did not mention anything about the specific procedure to be used for the search. QUINN further understood McLARTY wanted him to speak with NUSSBAUM about the plan for the search. QUINN does not believe he had spoken with NUSSBAUM or heard about the investigation being conducted by the United States Park Police (USPP) prior to his meeting with McLARTY.

QUINN met with NUSSBAUM later the same day in the Vice President's office, which is adjacent to McLARTY's office. The Vice President was not present during this meeting. QUINN's meeting with NUSSBAUM was impromptu and QUINN does not recall how the meeting was organized. This meeting may have occurred shortly after QUINN's meeting with McLARTY. People in attendance at the meeting included QUINN, NUSSBAUM, possibly STEVE NEUWIRTH of the White House Counsel's Office, a representative of McLARTY's office (definitely not McLARTY but possibly Deputy Chief of Staff BILL BURTON), and, QUINN believes, at least one other person. If QUINN were asked to speculate about the identity of this other person, he would name senior advisor BRUCE LINDSEY as most likely to have been this person. QUINN cannot state with certainty that this unidentified person was present for the entire meeting since he has a vague recollection of this person coming and going during the meeting.

At the outset of the meeting, NUSSBAUM said that the investigating authorities wanted to conduct a search of FOSTER's office and he wanted to allow this search to occur. QUINN objected strenuously and repeatedly to this proposal. QUINN believed NUSSBAUM and the USPP agents would be the first people to enter FOSTER's office and would be conducting searches of files and documents. QUINN argued that the Counsel to the Office of the President had an obligation in regard to the papers in FOSTER's office, especially those papers which were either privileged or were highly classified and had relevance to issues of national security. QUINN wanted to protect the traditional presidential privilege and avoid any improper exposure of classified matters. QUINN felt it was quite likely that FOSTER

would have had documents in his office which would fall under the presidential privilege. He felt that NUSSBAUM's client, i.e., the President of the United States, should have an opportunity to contest efforts by anyone outside the White House staff to review privileged documents. NUSSBAUM felt quite passionately that he could not conduct an initial review of the documents since to do so would be unacceptable to the USPP investigators. Based on NUSSBAUM's statement, QUINN assumed NUSSBAUM had already spoken with USPP investigators and had been told of USPP concerns.. QUINN does not recall NUSSBAUM saying that representatives of the United States Department of Justice (DOJ) would be present during the search.

The discussion between QUINN and NUSSBAUM went back and forth for approximately fifteen to twenty minutes, which was the duration of the entire meeting. QUINN has a vivid memory of the other people at the meeting remaining quiet during the discussion between QUINN and NUSSBAUM. QUINN and NUSSBAUM were in essential disagreement about a lawyer's best judgment in representing a client. QUINN continues to feel that the principle that a lawyer's first duty is to his or her client required an examination of the issues of privilege and national security. QUINN's memory of what NUSSBAUM said about the expectations of the USPP investigators is not clear.

At the end of this meeting, NUSSBAUM said that QUINN's concern was misplaced because the first visual examination of each document in FOSTER's office would be conducted by NUSSBAUM. QUINN cannot now say whether NUSSBAUM's position at the end of the meeting was the same as it had been at the start of the meeting or whether it evolved to that view. QUINN believes that NUSSBAUM's position evolved during the meeting to the plan in which NUSSBAUM would initially examine each document. QUINN expressed bafflement that NUSSBAUM believed that the investigators would not object to the procedure proposed by NUSSBAUM. QUINN was unclear whether NUSSBAUM had already made a commitment to the investigators about how the document search would be conducted. The meeting held in the Vice President's office was in close proximity in time to a meeting between NUSSBAUM and USPP officials.

QUINN does not recall any of the dialogue from the meeting in the Vice President's office. QUINN's clear impression is that NUSSBAUM, not QUINN, would make the final decision and the question would not be put to a vote of lawyers. QUINN came

away from the meeting with the impression that NUSSBAUM had not been swayed to QUINN's point of view.

QUINN does not recall whether at the beginning of the meeting NUSSBAUM had a plan to conduct an initial solitary review of the documents. QUINN does not believe the discussion ever got to such a level of specificity that an inventory of the documents was discussed. QUINN does not recall discussing how long it would take to conduct the search if NUSSBAUM personally reviewed each document.

QUINN has no knowledge of anything having been taken out of FOSTER's office at that time. For all intents and purposes, NUSSBAUM's search was to be the first search of FOSTER's office.

QUINN does not recall reporting the outcome of the meeting back to McLARTY. QUINN regards this recollection as surprising to himself because the meeting had ended with QUINN and NUSSBAUM still disagreeing about how the search should be conducted. QUINN probably relied on the aide of McLARTY who had attended the meeting, possibly BILL BURTON, to relate the content of the meeting back to McLARTY. QUINN did mention the discussion to TODD CAMPBELL, who had replaced QUINN as Counsel to the Vice President. QUINN felt that CAMPBELL should have knowledge of the meeting because CAMPBELL was at a level where he interfaced with the White House Counsel's Office.

QUINN and NUSSBAUM had debated their views strongly and expressed their professional differences.

Neither President CLINTON nor First Lady HILLARY RODHAM CLINTON had any input into how the search of FOSTER's office was conducted. QUINN has not had any conversation with Vice President GORE about the search of FOSTER's office. QUINN had not had any conversations with anyone about the meeting in the Vice President's office in July 1993 until QUINN was contacted by Associate Independent Counsel STEIN approximately forty-eight hours prior to this interview.

QUINN does not think that he and NUSSBAUM had any conversations about the conduct of the search after it had occurred. QUINN learned about the procedures used in the search of documents through subsequent newspaper accounts. QUINN has not spoken to anyone at DOJ about the search of FOSTER's office.

QUINN was not involved in the decision to move documents from FOSTER's office to the offices of the CLINTONs' private attorney. QUINN did not have any involvement with the torn handwritten note which was found in FOSTER's briefcase. QUINN does not have any information that anyone in the CLINTON Administration had any involvement with the torn note prior to its discovery on July 26, 1993. QUINN does not have any information about the possible existence of any other notes having been written by FOSTER.

Based on observation and interview, QUINN is described as follows:

Name:	JOHN MICHAEL QUINN
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Residence:	2708 Abilene Drive Chevy Chase, Maryland 20815
Office Telephone:	(202) 456-6605

R

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/2/94

On May 17, 1994, GORDON S. RATHER, JR. Attorney at Law, WRIGHT, LINDSEY & JENNINGS, 200 West Capitol Avenue Suite 2200, Worthen Bank Building, Little Rock, Arkansas, was interviewed at his law offices. Having been advised of the nature and purpose of the interview and the identity of the interviewing agents, RATHER provided the following information:

RATHER advised that he understood that he was being contacted because he had telephoned VINCE FOSTER, JR. on July 20, 1993, the day of FOSTER's death. RATHER advised that he had known FOSTER since they had taken the Arkansas bar exam together and since FOSTER joined the ROSE LAW FIRM, about 20 years. They had met during a bar review course. Later, FOSTER was a speaker for the bar review course organizers because he had received the top grade in the Arkansas bar exam the year he took it. In subsequent years, FOSTER became a familiar legal contact. They worked on cases together, both on the same and opposing sides. They were both responsible for recruiting new lawyers into their respective law firms and therefore they were in contact every so often to speak about prospective applicants, what entry level salaries were reasonable and other recruitment matters. Socially speaking, they would run into one another occasionally at social gatherings because Little Rock is a small community. RATHER therefore characterized his relationship with FOSTER as a combination of both professional and personal friendship. They were not, however, close personal friends. They would see one another several times a year.

RATHER described FOSTER as "a true gentleman". He was a gracious winner and a gracious loser. He was very impressive both physically and intellectually, well spoken, thoughtful and careful about what he said--a very bright person. RATHER never knew FOSTER to get emotional. But he was a feeling person and cited as an example, FOSTER's having sent RATHER a very touching sympathy card in 1992 when RATHER's son died.

RATHER described FOSTER as always looking fit, healthy and "nicely turned out". No personal problems were ever

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Investigation on 5/17/94 at Little Rock, Arkansas File # 29D-LR-35063

by SA H. ALEXIS SUGGS
SA FOIA(b)(7) - (C) Date dictated 5/24/94

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discussed between the two men and they didn't have the kind of relationship where RATHER and FOSTER would have had philosophical discussions of any depth.

RATHER explained that he is very active in the American Board of Trial Advocates (ABOTA). ABOTA is a professional organization of approximately 4,000 attorneys. In order to qualify for membership one must have completed 20 civil jury trials and joining is by invitation only. It is the only organization (other than bar organizations) that has both plaintiff and defense attorneys in the same organization. FOSTER was a member of the Arkansas Chapter of ABOTA but resigned when he went to Washington, D.C. to join The White House staff in order to avoid any kind of appearance of impropriety.

On March 2, 1993, RATHER and two colleagues from ABOTA, DON SHULTZ, then National President of the organization and STEWART GROSSMAN, a plaintiff's trial lawyer from Miami, Florida, met with VINCE FOSTER at 11:00 am in the West Wing of The White House. Their meeting lasted from 30-45 minutes and the purpose of it was to encourage The White House to fill vacancies on the Federal Bench. RATHER explained that as an organization, ABOTA is dedicated to the preservation of the right to civil jury trial in this country. The organization was attempting to influence President CLINTON to fill those vacancies. Not to fill them with any particular people, but to fill them. RATHER explained that about 120 Federal District Court benches are vacant currently. The largest number of vacancies is at the Federal Trial Court level. Vacancies affect peoples' access to the courts for civil jury trials. ABOTA does not lobby for any particular list of perspective nominees. The three men were visiting FOSTER to encourage him to encourage the President to fill the vacancies.

At the March 2 meeting, FOSTER made neither promises nor assurances to the three men on behlaf of ABOTA. He was aware of the problem of the vacancies on the bench and FOSTER introduced them to RON KLAIN, a White House staffer who was coordinating the effort to fill the Federal Judicial vacancies. That was the last time that RATHER saw FOSTER. After the three men left the Old Executive Office Building after talking with RON KLAIN for a short time, RATHER recalled one of the men turning to him and saying, "This is one of the most unforgettable days in my life and VINCE FOSTER is one of the most impressive men I've ever met".

RATHER advised that he does not recall speaking with FOSTER again, but knows he must have to get RON KLAIN's mailing address. RATHER called FOSTER on July 20 out of sheer coincidence. FOSTER was not expecting his call and RATHER called in order to speak with him about ABOTA business. It was just fateful that it was that day that FOSTER committed suicide. He was impressed with the fact that the same day, possibly within an hour of his call, someone from FOSTER's office called him back and asked if it were an urgent matter or if it was all right if FOSTER returned his call the following day.

RATHER heard the news of FOSTER's death by reading it in the newspaper on July 21, 1993. He said that FOSTER was one of the most unlikely candidates for suicide he can imagine. He commented that an article in the newspaper that appeared not to long after FOSTER's death on the topic of executive suicide, was somewhat helpful to him in understanding why it may have happened.

RATHER said it was his theory that if FOSTER had not gone to Washington, D.C. he would be alive today. FOSTER had always succeeded and had never failed at anything. In Washington, D.C., no matter what he did, people were critical of it and perhaps that it was something that he just couldn't deal with.

RATHER was never aware of any rumors concerning a romantic liaison between FOSTER and HILLARY RODHAM CLINTON. RATHER said, however, that his wife told him that there were such rumors circulating.

As part of the interview GORDON RATHER provided the following personal information about himself:

Name: GORDON S. RATHER, JR.
DOB: FOIA(b)(6) FOIA(b)(7) - (C)
POB:
Social Security No.:
Position: Attorney at Law
WRIGHT, LINDSEY and JENNINGS
2200 Worthen Bank Building
200 West Capitol Avenue
Little Rock, Arkansas 72201-3699
Telephone (501) 371-0808

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/25/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

RTB

Investigation on 5/25/94 at Washington, D.C. File # 29D-LR-35063-Sub 17-OIC 114

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/25/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

investigation on 6/7/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 6/7/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/25/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

vestigation on 5/25/94 at Washington, D.C. File # 29D-LR-35063 - JIM BELL

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/25/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/7/94

A review was conducted of three logs which had been furnished to the Office of the Independent Counsel (OIC), Washington, D.C., by PAUL B. IMBORDINO, Assistant Special Agent in Charge, White House Division, United States Secret Service (USSS), Washington, D.C. The first log, which was provided to the OIC on June 8, 1994, is a ninety-two page document which reflects the identities of persons entering and exiting a gate to the White House compound from West Executive Avenue. This gate is designated USSS post B4. The log covers the period July 19, 1993 through July 22, 1993. In the course of providing this log to the OIC, IMBORDINO advised that the log would not reflect all persons entering or leaving through this gate. IMBORDINO noted that holders of White House passes who are in vehicles when they enter the White House compound through this gate would not be reflected on the log. Further, holders of White House passes who were known to the USSS officer on duty or who were entering during a period of heavy pedestrian traffic into and out of the White House would also not necessarily be reflected in the log.

The other two logs, which were furnished by IMBORDINO on June 28, 1994, are also USSS gate logs which reflect the identities of person entering and exiting the White House compound. One of the logs reflects activity at a gate on West Executive Avenue from Pennsylvania Avenue, N.W., which is the gate designated USSS post A1. The second such log reflects activity at a gate into the White House compound from East Executive Avenue, which is the gate designated USSS post A5. Each of these logs covers the period of July 20, 1993 through July 21, 1993.

The review of these logs was conducted in the offices of the OIC, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. The purpose of the review was to record the entries and exits of persons whose names or activities have significance for the OIC investigation. It is noted that the names of VINCENT W. FOSTER, Jr. and a number of other high-ranking White House officials did not appear in these logs. The review yielded the following information:

Investigation on 8/25/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 8/30/94

JULY 19, 1993

5:34:02 a.m., BRUCE E. ABBOTT, badge # 34BD77, enters via post B4.

5:41:09 a.m., TERRI L. COBEY, badge # 34A6F0, exits via post B4.

5:41:12 a.m., DIANN WALTERS, badge # 34BFB8, exits via post B4.

6:44:40 a.m., JAMES J. SHEA, badge # 34AB92, exits via post B4.

6:46:55 a.m., PAUL CLARKE, badge # 34C9BB, enters via post B4.

6:51:47 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, enters via post B4.

6:55:45 a.m., KENNETH R. CHITESTER, badge # 34CC64, enters via post B4.

7:11:40 a.m., LORRAINE A. VOLES, badge # 34BBEE, enters via post B4.

7:43:58 a.m., DAWN A. ALEXANDER, badge # 34D02D, enters via post B4.

8:02:09 a.m., LINDA R. TRIPP, badge # 34A5F1, enters via post B4.

8:09:06 a.m., STEPHEN J. WILL, badge # 34A9DD, enters via post B4.

8:39:05 a.m., DEBORAH L. GORHAM, badge # 34CA01, enters via post B4.

8:43:20 a.m., JOHN P. CAREY III, badge # 34BE03, enters via post B4.

8:48:18 a.m., D. CRAIG LIVINGSTONE, badge # 34BF12, enters via post B4.

JULY 19, 1993 (Continued)

9:37:14 a.m., BETSY L. POND, badge # 34C604, enters via post B4.

11:26:29 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, exits via post B4.

2:39:22 p.m., TODD D. STERN, badge # 34D15E, enters via post B4.

2:49:22 p.m., BRUCE E. ABBOTT, badge # 34BD77, exits via post B4.

3:49:21 p.m., LINDA R. TRIPP, badge # 34A5F1, enters via post B4.

4:40:36 p.m., STEPHEN J. WILL, badge # 34A9DD, exits via post B4.

5:33:27 p.m., NANCY A. GEMMELL, badge # 34BDA2, exits via post B4.

6:18:46 p.m. BETSY L. POND, badge # 34C604, exits via post B4.

6:27:45 p.m., DEBORAH L. GORHAM, badge # 34CA01, exits via post B4.

6:56:08 p.m., LORRAINE A. VOLES, badge # 34BBEE, exits via post B4.

6:57:15 p.m., D. CRAIG LIVINGSTONE, badge # 34BF12, exits via post B4.

7:00:51 p.m., STEPHEN B. SILVERMAN, badge # 34D169, exits via post B4.

7:11:20 p.m., JOHN P. CAREY III, badge # 34BE03, exits via post B4.

7:15:41 p.m., DENNIS S. MARTIN, badge # 34A620, exits via post B4.

JULY 19, 1993 (Continued)

7:16:38 p.m., KENNETH R. CHITESTER, badge # 34CC64, exits via post B4.

7:29:23 p.m., WILLIAM H. KENNEDY III, badge # 34CC26, exits via post B4.

8:30:11 p.m., SYLVIA MATHEWS, badge # 34C169, exits via post B4.

9:09:07 p.m., DIANN WALTERS, badge # 34BFB8, enters via post B4.

10:11:09 p.m., LINDA R. TRIPP, badge # 34A5F1, exits via post B4.

10:44:51 p.m., PAUL CLARKE, badge # 34C9BB, exits via post B4.

JULY 20, 1993

5:42:45 a.m., DIANN WALTERS, badge # 34BFB8, exits via post B4.

6:50:44 a.m., JOHN P. CAREY III, badge # 34BE03, enters via post B4.

6:54:53 a.m., KENNETH R. CHITESTER, badge # 34CC64, enters via post B4.

6:57:11 a.m., PAUL CLARKE, badge # 34C9BB, enters via post B4.

7:24:51 a.m., STEPHEN B. SILVERMAN, badge # 34D169, enters via post B4.

7:52:14 a.m., BERNARD W. NUSSBAUM, badge # 34EOD5, enters via post B4.

7:53:35 a.m., JOHN P. CAREY III, badge # 34BE03, exits via post B4.

JULY 20,1993 (Continued)

7:54:42 a.m., DAWN A. ALEXANDER, badge # 34DO2D, enters via post B4.

7:56:21 a.m., STEPHEN J. WILL, badge # 34A9DD, enters via post B4.

8:04:24 a.m., DEBORAH L. GORHAM, badge # 34CA01, enters via post B4.

8:25:35 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, enters via post B4.

8:30:55 a.m., D. CRAIG LIVINGSTONE, badge # 34BF12, enters via post B4.

8:41:33 a.m., JOHN P. CAREY III, badge # 34BE03, enters via post B4.

8:45:16 a.m., MARGARET A. WILLIAMS, badge # 34BFE0, enters via post B4.

9:21:10 a.m., WEBB L. HUBBELL, badge # B0135D, enters via post B4.

9:36:28 a.m., WEBB L. HUBBELL, badge # B0135D, exits via post B4.

9:36:43 a.m., CAROL H. RASCO, badge # 34B559, enters via post B4.

11:15:34 a.m., STEPHEN R. NEUWIRTH, badge # 34B4E6, exits via post B4.

11:15:36 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, exits via post B4.

11:49:44 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, enters via post B4.

11:49:48 a.m., STEPHEN R. NEUWIRTH, badge # 34B4E6, enters via post B4.

JULY 20,1993 (Continued)

1:32:34 p.m., JAMES CARVILLE, badge #34CA10, enters via post B4.

1:42:47 p.m., TIMOTHY J. KEATING, badge # 34CO12, exits via post B4.

5:05:43 p.m., STEPHEN J. WILL, badge # 34A9DD, exits via post B4.

5:28:14 p.m., DEBORAH L. GORHAM, badge # 34CA01, exits via post B4.

5:34:08 p.m., NANCY A. GEMMELL, badge # 34BDA2, exits via post B4.

6:36:46 p.m., WILLIAM H. KENNEDY III, badge # 34CC26, exits via post B4.

6:52:24 p.m., JOHN P. CAREY III, badge # 34BE03, exits via post B4.

7:05:37 p.m., KENNETH R. CHITESTER, badge # 34CC64, exits via post B4.

7:07:44 p.m., DAVID C. LEAVY, badge # 34BBD8, exits via post B4.

7:09:39 p.m., PAUL CLARKE, badge # 34C9BB, exits via post B4.

8:30:57 p.m., ERIN N. BERTOCCI, badge # 34E5C2, exits via post B4.

8:31:01 p.m. and 8:31:03 p.m., D. CRAIG LIVINGSTONE, badge # 34BF12, exits via post B4.

8:36:02 p.m., KATHLEEN M. MCKIERNAN, badge # 34DO3A, exits via post B4.

9:08:43 p.m., DIANN WALTERS, badge # 34BFB8, enters via post B4.

JULY 20, 1993 (Continued)

10:49:16 P.M., PATSY L. THOMASSON, badge # 34BEFB, enters via post A5.

JULY 21, 1993

12:10:05 a.m., A. VICTORIA RIVAS-VAZQUEZ, badge # 34E174, exits via post A5.

12:36:12 a.m., MARSHA SCOTT, badge # 34C000, enters via post B4.

12:36:19 a.m., MICHAEL KANTOR, badge # 34B1D4, enters via post B4.

5:29:52 a.m., BRUCE E. ABBOTT, badge # 34BD77, enters via post B4.

5:41:19 a.m., DIANN WALTERS, badge # 34BFB8, exits via post B4.

6:11:16 a.m., CAROLYN J. HUBER, badge # 34BD(?)(badge # is partially obscured), enters via post A1.

6:18:43 a.m., DAWN A. ALEXANDER, badge # 34DO2D, enters via post B4.

6:44:03 a.m., JAMES J. SHEA, badge # 34AB92, exits via post B4.

6:52:29 a.m., BETSY L. POND, badge # 34C606, enters via post B4.

6:53:14 a.m., PAUL CLARKE, badge # 34C9BB, enters via post B4.

6:57:17 a.m., KENNETH R. CHITESTER, badge # 343CC64, enters via post B4.

7:23:02 a.m., PATSY L. THOMASSON, badge # 34BEFB, enters via post A5.

JULY 21, 1993 (Continued)

7:24:59 a.m., JOHN P. CAREY III, badge # 34BEO3, enters via post A1.

7:34:38 a.m., PAUL R. CAREY, badge # 34BEDC, enters via post A1.

7:35:52 a.m., STEPHEN B. SILVERMAN, badge # 34D169, enters via post B4.

7:51:18 a.m., PAUL E. BEGALA, badge # 34CO36, enters via post B4.

7:55:31 a.m., BRIAN L. FOUCART, badge # 34D587, enters via post A5.

7:57:44 a.m., STEPHEN J. WILL, badge # 34A9DD, enters via post B4.

7:58:01 a.m., DEBORAH L. GORHAM, badge # 34CA01, enters via post B4.

8:06:13 a.m., D. CRAIG LIVINGSTONE, badge # 34BF12, enters via post B4.

8:23:03 a.m., MARI L. ANDERSON, badge # 34A206, enters via post A5.

8:24:13 a.m., WILLIAM H. KENNEDY III, badge # 34CC26, enters via post B4.

8:32:03 a.m., ELLEN S. SEIDMAN, badge # 34CA00, enters via post B4.

8:41:26 a.m., BERNARD W. NUSSBAUM, badge # 34EOD5, enters via post B4.

2:50:07 p.m., BRUCE E. ABBOTT, badge # 34BD77, exits via post B4.

2:51:11 p.m., SUSAN P. THOMASES, badge # 34AC64, enters via post B4.

JULY 21, 1993 (Continued)

4:50:04 p.m., WILLIAM H. KENNEDY III, badge # 34CC26, exits via post B4.

5:35:28 p.m., NANCY A. GEMMELL, badge # 34BDA2, exits via post B4.

5:48:33 p.m., STEPHEN J. WILL, badge # 34A9DD, exits via post B4.

6:10:12 p.m., JOHN P. CAREY III, badge # 34BE03, exits via post B4.

6:23:21 p.m., D. CRAIG LIVINGSTONE, badge # 34BF12, exits via post B4.

7:04:07 p.m., LORRAINE A. VOLES, badge # 34BBEE, exits via post B4.

7:19:30 p.m., KENNETH R. CHITESTER, badge # 34CC64, exits via post B4.

7:50:42 p.m., ELLEN S. SEIDMAN, badge # 34CA00, exits via post B4.

7:50:45 p.m., HEATHER L. ROSS, badge # 34BFEC, exits via post B4.

8:04:13 p.m., MARGARET J. MYERS, badge # 34CD7C, exits via post B4.

8:10:39 p.m., PAUL CLARKE, badge # 34C9BB, exits via post B4.

8:13:37 p.m., DEBORAH L. GORHAM, badge # 34CA01, exits via post B4.

8:19:59 p.m., SYLVIA M. MATHEWS, badge # 34C169, exits via post B4.

8:59:16 p.m., BETSY L. POND, badge # 34C604, exits via post B4.

JULY 21, 1993 (Continued)

9:11:44 p.m., SUSAN P. THOMASES, badge # 34AC64, exits via post B4.

9:15:41 p.m., DIANN WALTERS, badge # 34BFB8, enters via post B4.

9:51:26 p.m., JAMES J. SHEA, badge # 34AB92, enters via post B4.

JULY 22, 1993

5:41:03 a.m., DIANN WALTERS, badge # 34BFB8, exits via post B4.

6:41:10 a.m., PAUL CLARKE, badge # 34C9BB, enters via post B4.

6:43:05 a.m., JAMES J. SHEA, badge # 34AB92, exits via post B4.

6:53:55 a.m., KENNETH R. CHITESTER, badge # 34CC64, enters via post B4.

7:43:05 a.m., BERNARD W. NUSSBAUM, badge # 34EOD5, enters via post B4.

7:55:33 a.m., DAWN A. ALEXANDER, badge # 34DO2D, enters via post B4.

7:56:29 a.m., STEPHEN B. SILVERMAN, badge # 34D169, enters via post B4.

7:59:29 a.m., JOHN P. CAREY III, badge # 34BE03, enters via post B4.

8:10:18 a.m., MARGARET A. WILLIAMS, badge # 34BFEO, enters via post B4.

8:11:46 a.m., DEBORAH L. GORHAM, badge # 34CA01, enters via post B4.

JULY 22, 1993 (Continued)

8:27:26 a.m., BETSY L. POND, badge # 34C604, enters via post B4.

8:27:27 a.m., STEPHEN J. WILL, badge # 34A9DD, enters via post B4.

8:35:51 a.m., ELLEN S. SEIDMAN, badge # 34CA00, enters via post B4.

8:36:05 a.m., HEATHER L. ROSS, badge # 34BFEC, enters via post B4.

8:51:51 a.m., PATSY L. THOMASSON, badge # 34BEFB, enters via post B4.

9:16:54 a.m., D. CRAIG LIVINGSTONE, badge # 34BF12, enters via post B4.

9:20:50 a.m., PAUL CLARKE, badge # 34C9BB, exits via post B4.

11:37:19 a.m., LINDA R. TRIPP, badge # 34A5F1, enters via post B4.

2:24:29 p.m., BRUCE E. ABBOTT, badge # 34BD77, exits via post B4.

4:00:24 p.m., PAUL CLARKE, badge # 34C9BB, enters via post B4.

5:21:59 p.m., D. CRAIG LIVINGSTONE, badge # 34BF12, exits via post B4.

5:22:17 p.m., STEPHEN J. WILL, badge # 34A9DD, exits via post B4.

6:28:06 p.m., STEPHEN B. SILVERMAN, badge # 34D169, exits via post B4.

6:39:43 p.m., STEPHEN B. SILVERMAN, badge # 34D169, enters via post B4.

JULY 22, 1993 (Continued)

6:44:34 p.m., JOHN P. CAREY III, badge # 34BE03, exits via post B4.

7:23:24 p.m., ELLEN S. SEIDMAN, badge # 34CA00, exits via post B4.

7:26:56 p.m., KENNETH R. CHITESTER, badge # 34CC64, exits via post B4.

8:10:17 p.m., LINDA R. TRIPP, badge # 34A5F1, exits via post B4.

8:17:12 p.m., BETSY L. POND, badge # 34C604, exits via post B4.

8:17:15 p.m., DEBORAH L. GORHAM, badge # 34CA01, exits via post B4.

8:43:45 p.m., STEPHEN B. SILVERMAN, badge # 34D169, exits via post B4.

9:08:09 p.m., PAUL CLARKE, badge # 34C9BB, exits via post B4.

9:09:36 p.m., DIANN WALTERS, badge # 34BFB8, enters via post B4.

10:30:37 p.m., DAVID C. LEAVY, badge # 34BBD8, exits via post B4.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/13/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 5/11/94 at Washington, D.C. File # 29D-LR-35063-Sub 17-OIC 115

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 5/13/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/20/94

A review of documents was conducted in a conference room in the offices of SWIDLER & BERLIN, 3000 K Street, N.W., Washington, D.C. The review was conducted through the assistance of attorney JAMES HAMILTON, who represents LISA FOSTER, the widow of VINCENT W. FOSTER, JR.

Eleven file folders containing documents were reviewed. The folders and their contents are described as follows:

1) Folder labeled
VWF PERSONAL & CONFIDENTIAL 1993
3027 Cambridge Place, N.W.
Contains:
Copy of lease (original signatures of lessors) 3/5/93.
13-1/2 months, 3/15/93 - 4/30/93
Rent: 3/15/93-3/31/93 $ 900.00
4/93 $1,800.00
5/93-4/94 $1,900.00/mo.
Security Deposit: $1,900.00 (received)
Lessors: Charles F. & Eleanor B. Eason
540 N Street, S.W.
WDC 20024

INS Employment Eligibility Verification (Form I-9)
Loretta Sears
206 14 St., N.E., WDC 20002
VA driver's license [redacted] expired 5/16/93
Signed and dated by Lisa B. Foster 4/1/93

FOIA(b)(6)
FOIA(b)(7) - (C)

Faxed standard lease form from Rose Law Firm
Faxed on 3/3/93; not filled in.

Two other lease forms (standard) not filled in.

Investigation on 4/13/94 at Washington, D.C. File # 29D-LR-35063 - Sub 17-OIC

by SA Russell T. Bransford Date dictated 4/19/94

Handwritten notation on sheet of
Vincent Foster Jr. notepad paper:
Creststar (sic) Bank
[redacted]

Map of Georgetown.

Dent Place Association, Inc. newsletter

Job invoice #13968 from:
James J. Madden, Inc.
904 Philadelphia Avenue
P.O. Box 8247
Silver Spring, MD 20907
(301) 587-1710
Signed by Laura Foster

2) Folder labeled VWF Personal & Confidential 1993
Moving Expenses
Empty.

3) Folder labeled Vincent Foster, Jr. - Personal
Investments - Northwest National Gas Company
Contents:
Miscellaneous documents re Northwest National Gas Company (NNGC), e.g. envelopes, dividend reinvestment and stock purchase plan.

Client Statement, Jan. 1 - March 31, 1989
Shearson, Lehman, Hutton
Vincent Foster CF
John Currie Sloan Jr.
VARUGTMA
5414 Stonewall
Little Rock, AR 72207
Acct. [redacted] FOIA(b)(6) FOIA(b)(7) - (C)
Tax id
Account value: $686.91 (bonds)

Statements for NNGC dividend reinvestment and stock purchase plan (1987-1989).
Also, statements from 1981-86.

4) Folder labeled Vincent Foster, Jr. - Personal
Northwest Natural Gas

Statements, 8/15/89-11/16/92

5) Folder labeled Insurance Policy

Contents:
Miscellaneous papers
Loan statement (posted 10/17/85)
Massachusetts Mutual Life Insurance Co.
Springfield, Massachusetts 01111
Insured's name: Vincent Foster Jr.
Policy #: [redacted]
Old balance: 3197.32
Cash loan: 1653.17
New balance: 4850.49

FOIA(b)(6)
FOIA(b)(7) - (C)

Massachusetts Mutual notice of payment due
Life insurance on VWF
Policy #[redacted]
12 months, beginning 10/1/85
Premium due: $1198.00

American Bar Endowment bill
750 North Lake Shore Drive
Chicago, Illinois 60611
Telephone: 1-800-621-8981
$200,000 coverage on VWF $528.00
$25,000 coverage on spouse $ 37.60
Premium 6/1/92-12/1/92 $565.60
Certificate holder ID #[redacted]

North American Company for Life and Health Ins.
(NACOLAH) bill
P.O. Box 466
Chicago, Illinois 60690
Insured: VWF
Policy #: [redacted]
Payment due 7/14/92 for 12 mos.
Premium: $3857.00

Bill, Chubb Company for
Pacific Indemnity Company
Policy # 100941 77-01 (car insurance)

6) Folder labeled 1993 Income Tax
Personal and Confidential 1993
Miscellaneous papers

Check stub from University of Arkansas Controller's Office
Check #00712393, 5/21/93
Date: 5/9/93
Gross: $810.93
Handwritten notation: reimburse TVL expenses to Fayetteville for commencement address.

Paystub from Rose Law Firm
VWF SSAN: 429-80-1132

Receipt from Charles Schwab & Co. FOIA(b)(6)
4/7/93, Account # [redacted] FOIA(b)(7) - (C)
$43,559.18
Handwritten notation: buyout of Rose Building

7) Folder labeled VWF Personal & Confidential 1993
Mineral Interests

Miscellaneous papers

VWF, Foster's father, died testate 6/29/91, residing and domiciled in Hempstead County, Arkansas

8) Folder labeled White House Mess VWF

Assorted receipts up to and including 6/30/93. All other receipts also from 1993. Meals, food charges.

9) Folder labeled VWF Personal Information (crossed out)
Handwritten:
Loose Papers LF 1/13/93
Assorted receipts
Cactus Cantina, 3/4/93 at 2203 $77.45

10) Folder labeled To be copied
Lisa Foster - Tax
Receipts
Charge card statements
Memo to VWF from Loraine Cline, dated 1/15/93, re profit sharing loan.
Principal: $21,815.67.
Interest due: $409.04.

11) Folder labeled Insurance
Auto and homeowners insurance documents.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/29/94

A review of documents associated with VINCENT W. FOSTER JR. was conducted at the law offices of SWIDLER & BERLIN, 3000 K Street, N.W., Washington, D.C. CHARLOTTE BARRETT from the law firm remained in the Justice Room as the documents were reviewed. Information obtained from the documents included the following:

A White House Medical Unit form, dated 7/16/93, reflected that VINCENT FOSTER, date of birth 1/15/45, Social Security Account Number 429-80-1132, had his blood pressure checked on that date.

The Arkansas Democrat Gazette newspaper from 4/9/93 showed a photograph of FOSTER appearing to meet President BILL CLINTON and First Lady HILLARY RODHAM CLINTON at the airport in Little Rock, Arkansas on or about that date. The caption to the photograph indicated that the CLINTONS were in Arkansas for the funeral of the First Lady's father, Mr. RODHAM.

In a file labeled "To be copied file" was a letter from LORRAINE CLINE, who was FOSTER'S secretary. The letter was dated 6/21/93 and was addressed to the LION OIL COMPANY in Jackson, Mississippi. In the letter, CLINE informed LION OIL COMPANY that FOSTER had dropped the "Jr." from his name.

In an unmarked manila legal-size envelope were the following:

1) Check number 8427, signed by FOSTER, dated 7/11/91, drawn in the amount of $390.00 and made payable to PHILADELPHIA LIFE. The check was drawn on the WORTHEN BANK, Little Rock, Arkansas, account number 3731 968 3, and the back of the check indicated it had been cashed. No insurance account number or other notation was observed on the face of the check.

2) Notice of payment due, dated 7/2/88, pertaining to MASSACHUSETTS MUTUAL policy number 9 071 542 on the life of VINCENT W. FOSTER Jr. The annual disability premium was reflected as $325.38 as was the net amount due.

Investigation on 4/22/94 at Washington, D.C. File # 29D-LR-35063-Sub17-OIC

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 4/29/94

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3) Notice of payment due, dated 10/1/88, pertaining to MASSACHUSETTS MUTUAL policy number 6 616 097 on the life of FOSTER. The annual premium was reflected as $1526.00 as was the net amount due. There was a notice at the bottom of the form which reflected that the premium had increased in accordance with the schedule of renewal premiums for this term policy.

4) AMERICAN BAR ENDOWMENT (ABE) record of coverage from 12/1/86 to 6/1/87 regarding term life insurance for FOSTER. The form reflected coverage of $200,000 on FOSTER with a semiannual premium of $288.00 and coverage of $25,000 on FOSTER's spouse with a semiannual premium of $26.00. A separate ABE personal security report, dated 10/31/82, reflected the same amounts of coverage with slightly smaller premiums.

5) A MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY exchange request, dated 10/1/82, reflected an exchange of policy number 6 356 364 for a new Adjustable Premium Term Life Insurance policy having a new policy number, which was not shown. The exchange request was signed by ELIZABETH BRADEN FOSTER, and an accompanying letter reflected LISA FOSTER as the owner of the policy. LISA FOSTER was also reflected as the trustee under the VINCENT W. FOSTER Jr. Insurance Trust.

FOIA(b)(6)
FOIA(b)(7) - (C)

6) A Universal Life Annual Report for ELIZABETH B. FOSTER, policy number [redacted] dated 7/18/86, from PHILADELPHIA LIFE INSURANCE COMPANY, 500 North Akard, Dallas, Texas 75221-2699. The year covered by the report was 7/18/90-7/17/91, the policy value as of 7/17/91 was $2418.68, and the death benefit was $50,000.

7) Notice of payment due, dated 1/11/84, for coverage for twelve months, from MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY on the life of FOSTER. The policy number was 5 048 668, the life insurance premium was $632.00, the dividend paid was $152.23, and the amount due was $479.77. The amount of coverage was not reflected.

8) Letter from MUTUAL LIFE INSURANCE COMPANY OF NEW YORK, P.O. Box 4830, Syracuse, New York 13221, telephone (318) 424-4472. The letter cited an enclosed check for dividend proceeds of $183.75 pertaining to policy number 945 89 62 on the life of FOSTER. The transaction date was 6/20/85.

9) Notice of payment due, dated 10/1/90, from MASSACHUSETTS MUTUAL regarding policy number 6 616 097. The annual premium was reflected as $1798.00.

10) Statement from NORTH AMERICAN COMPANY FOR LIFE AND HEALTH INSURANCE, dated 7/21/91, regarding flexible premium adjustable life plan policy number [redacted] with the beneficiary reflected as the VINCENT W. FOSTER Jr. Trust. The specified amount of the policy was $700,000.00 and the premium of $5021.00, due on 12/14/90, was paid.

FOIA(b)(6)
FOIA(b)(7) - (C)

A blue folder, labeled "VINCENT FOSTER, JR. PERSONEL (sic), ONEBANK," contained the following:

1) A bank statement, dated 3/31/90, from ONE NATIONAL BANK, 120 Main Street, North Little Rock, Arkansas, telephone (501) 370-4400. The account holder was reflected as the VINCENT FOSTER Insurance Trust with VINCENT FOSTER JR. as the Trustee. The account number was [redacted], the taxpayer ID number was [redacted] and the balance was $4132.28 as of 12/31/89.

2) A newspaper article from THE DAILY RECORD newspaper, dated Friday, 6/18/93, page 15, regarding the fact that FOSTER had been named Outstanding Lawyer by the ARKANSAS BAR ASSOCIATION. The article noted that Foster could not attend the ceremony honoring him as Outstanding Lawyer because he was interviewing potential Supreme Court Justices in Washington, D.C.

A manila folder, legal size, labeled "VINCENT FOSTER, JR.-PERSONAL 1990 INCOME TAX BACKUP," containing the following:

1) A debit slip, dated 2/1/90, for a safe deposit box at the WORTHEN BANK, Little Rock, Arkansas, in the amount of $15.00. The safe deposit box number was 1729, the account number was [redacted] and the main

office number was reflected as 4616.

2) A renewal notice, dated 9/15/90, for rental of a safe deposit box at FIRST FEDERAL OF ARKANSAS. The rent of $25.00 was due on 10/1/90, and the box was described as number 164, 3 x 10.

3) Check number 7332, dated 3/7/90, in the amount of $500.00, drawn on FOSTER's account at the WORTHEN BANK, account number [redacted]. Check was made payable to CLINTON RE-ELECTION CAMPAIGN.

FOIA(b)(6)
FOIA(b)(7) - (C)

INCORPORATED regarding FOSTER's Individual Retirement Account, account number [redacted] reflected an account value of $1250.37 as of 12/31/90.

A manila folder, legal-size, labeled "Insurance," contained a 1993 Pulaski County, Arkansas Personal Property Assessment notice for FOSTER. The notice reflected that FOSTER owned the following vehicles:

1989 Honda Accord sedan/coupe DX
1992 Lexus ES300 sedan
1985 Oldsmobile Toronado coupe
1984 Ford Styleside CV F150 2 1/2 pickup truck

A manila folder, legal-size, labeled "VINCENT FOSTER-PERSONAL 1991 INCOME TAX-TAXES" had the word "BACKUP" written by hand on it in red ink. The folder contained a MASSACHUSETTS MUTUAL cover letter for check number 440694, dated 7/2/91, in the amount of $56.41, payable to FOSTER. The check was issued in regard to policy number 009 071 542. The check was described as a share in the annual distribution of dividends to MASSACHUSETTS MUTUAL policyholders.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/20/94

A. (ANA) VICTORIA RIVAS-VASQUEZ, Assistant Press Secretary, The White House Press Office was interviewed at The White House on September 16, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, RIVAS-VASQUEZ provided the following information:

RIVAS-VASQUEZ advised that she has been Assistant Press Secretary since February 1993. Her job is coordinating television coverage and her office is Room 174 of the Old Executive Office Building. Her office mate and fellow Assistant Press Secretary DAWN ALEXANDER.

RIVAS-VASQUEZ remembers the day VINCE FOSTER, JR. killed himself, July 20, 1993, because she was the one who coordinated and was present for the Larry King Show that the President did in The White House. They found out at approximately 9:30 pm that VINCE FOSTER, JR. had been found dead. She herself did not know VINCE FOSTER but was familiar with the name. The show ended at 10:00 pm and after that it was part of RIVAS-VASQUEZ's job to stay there until all of the media people had torn down their equipment and left The White House. After that, she went to MARK GEARAN and DEE DEE MYERS office (the upper Press Office) to help them answer telephones. She mostly recorded the names of those people calling in and took messages so that they could be called back. She estimates that she got home that night at approximately midnight.

RIVAS-VASQUEZ estimated that she got to work the following morning between 7:00 and 7:30 am, going directly to her office in the Old Executive Office Building. She does not recall if she went over to the West Wing at all the morning of July 21, 1993. She also was not absolutely sure of her time of arrival at work. She said that she remembers spending most of the morning on July 21, sitting at her desk with headphones on responding to numerous requests coming in from television networks asking if they were going to release anymore information or special features about VINCE FOSTER or his death.

She advised that she knows CRAIG LIVINGSTONE but would probably not recognize his voice on the telephone. She did not recall seeing CRAIG LIVINGSTONE any time on July 21, 1993 because her only specific memory of the entire day is the meeting where President CLINTON, "MAC" MCLARTY and BERNARD NUSSBAUM held a big staff meeting in the Old Executive Office Building. The only kind of coming together to express mutual grief and sadness and talk about the event that she recalls of that day was that staff meeting.

RIVAS-VASQUEZ advised that she did not hear any discussion of the issue of press coverage at the FOSTER residence, either the evening of July 20 at The White House or any time the following day. She also did not hear, after the fact, that anybody had gone to the residence to help deal with press. She advised that she did attend the daily press office staff meeting at that time (she could not recall what time that meeting was held that morning), but has no recollection of what was discussed.

As part of the interview, RIVAS-VASQUEZ provided the following personal information:

Name:	A. (ANA) VICTORIA RIVAS-VASQUEZ
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Address:	2111 Wisconsin Avenue, NW Apt. 317 Washington, D.C. 20007
Home Telephone:	202-333-6340
Position:	Assistant Press Secretary White House Press Office

)-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/19/94

Kevin M. Robbins, Physical Security Specialist, Technical Security Division, United States Secret Service (USSS) was interviewed at the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Mr. Robbins was advised as to the official identities of the interviewing agents and of the nature of the interview. He then provided the following information:

He has been employed by the U.S. Secret Service for approximately 6 years all of which time has been at The White House compound. Mr. Robbins is a master locksmith and is responsible for installation and maintenance of locks, alarms, and video surveillance cameras within The White House compound. He advised that he was so employed on July 20, 1993, the date of Vincent Foster, Jr.'s death. Mr. Robbins said that he worked the 9:00 am through 5:30 pm shift on July 20 and, from his perspective, this was an routine, normal day. He stated that he can recall nothing out of the ordinary that he observed that day while at work and that he went home at approximately 5:30 pm.

On July 21, 1993, he was not at work, but on annual leave when he received a telephone call from The White House telling him that he would need to come to The White House to perform an "escort" for a lock installation. He advised that he was aware of Vincent Foster, Jr.'s death at this point but was not advised that the lock installation was to be on Vincent Foster's door. He stated that he telephonically contacted Kenneth "Buddy" Blair of Federal Security Systems, a contract employee of USSS, advising Blair that he needed to come to The White House to install a lock that evening.

Mr. Robbins advised that he arrived at The White House where he met with Buddy Blair and proceeded to the 2nd floor of The White House west wing. He stated that Blair had brought with him a lock to be installed on the door and that he (Robbins) had brought a "key core" and two specially prepared U.S. Secret Service keys to match the "key core". When they arrived on the 2nd floor they were greeted by Assistant Special Agents in Charge Paul Imbordino and Donald Flynn at the entrance to the suite of

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Investigation on 4/19/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by SSAs WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 4/19/94

offices occupied by Bernard Nussbaum and Vincent Foster. As they stepped into the office suite he observed a USSS uniform officer standing in front of Foster's office door. The lock installation was begun at approximately 8:00 pm and all work was completed at approximately 10:00 pm. At that point the door was locked and the two keys were given to Assistant Special Agent in Charge Flynn. Robbins and Blair then left The White House.

Mr. Robbins advised that while the lock installation was underway, he observed Bernard Nussbaum and one of the secretaries (name unknown) in the reception area outside Foster's door. He advised however that neither of these individuals nor anyone else entered Foster's office while the lock installation was underway. Robbins said that although he did have occasion to look inside Vincent Foster's office during the installation, he can recall nothing of any particular note about the office, its furnishings, or its contents.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/23/94

Leslie Rutherford, 5810 Bent Twig Road, Mclain, Virginia (703-528-0168) was interviewed at her residence in the presence of her mother Mrs. Sally Rutherford and both advised as to the identity of the interviewing agents and informed of the nature of the inquiry. Leslie Rutherford then provided the following information.

Ms. Leslie Rutherford, who is presently an 18 year old student attending Dennison College, Ohio advised that at approximately 3:00 pm on July 19, 1993, she was walking in the northeast portion of Fort Marcy Park gaining entry to the park at a spot where the tennis courts of the Dogwood subdivision border on Fort Marcy Park. She related that it was an extremely hot and humid day and noticed at a distance of approximately 10 to 15 feet a white male walking by himself in a direction leading from the George Washington Memorial Parkway into the northeast section of the park. She stated what caught her attention was that this white male, in spite of the heat, was dressed in a dark suit, white shirt and a red neck tie.

Ms. Rutherford further described this white male as being in his early 40's, dark hair, approximately 180 lbs. and slightly over 6 foot in height. According to Ms. Rutherford, this white male had no facial hair nor was he wearing eyeglasses. She further stated that when she noticed this white male, he immediately looked away from her and therefore she could furnish no additional details relative to his facial characteristics. In a further attempt to determine the height of this white male, it was Ms. Rutherford's opinion that he was slightly over 6 foot tall but did not approach 6 foot 4 inches in height.

Ms. Rutherford stated that she had viewed various newspaper articles in which Vincent Foster's picture appeared but stated that she could not make any determination from these newspaper photographs as to whether or not the individual she saw at Fort Marcy Park was, in fact, Vincent Foster. Ms. Rutherford was also exhibited photographs of Mr. Foster but she was unable to make any determination as to whether these photographs

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Investigation on 5/17/94 at Mclain, Virginia File # 29D-LR-35063

by LAWRENCE J. MONROE
WILLIAM COLOMBELL Date dictated 5/19/94

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resembled the white male she saw at the park on July 19, 1993.

Ms. Rutherford further advised that her viewing of this white male at Fort Marcy Park was extremely limited, advising also that she did not view any vehicles at Fort Marcy Park on that day and could furnish no additional identifying information regarding her observations.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/20/94

Scott M. Salter, Special Agent, Federal Bureau of Investigation, appeared at the Office of the Independent Counsel, Washington, D.C., as scheduled at 2:00 p.m. for interview. Salter was advised of the identity of the interviewing agents and of the purpose of the interview. Agent Salter provided the following information:

He first became involved in the Vincent Foster death investigation on Wednesday, July 21, 1993. He was advised by his supervisor, John K. Danna, that a call had been received from the U.S. Park Police for assistance with this Foster investigation.

Salter advised he proceeded to the White House and then waited for a considerable time in the Old Executive Office Building. Present with him were Supervisor Danna, FBI Special Agent Dennis Condon, two U.S. Park Police investigators and one U.S. Secret Service agent.

At about 4:00 p.m. or later that afternoon, Salter and these individuals proceeded to Bernard Nussbaum's office. Salter noted that David Margolis and Roger Adams from the Department of Justice were also present during this discussion in Nussbaum's office. It was clear that Margolis was the point man for the Department of Justice. Salter described the scene as being disorganized. He said arrangements were made to come back on the following day, July 22, 1993, to conduct a search of Vincent Foster's White House office and to interview some White House employees. The question of who would search the office was discussed, with indications being that the White House would do the search and the rest of the non-White House people would watch because of a White House concern regarding privileged documents. Discussion was held regarding the possibility that the investigators would get to look at some of the Foster documentation. It seemed as if a lot of the procedure to be followed had been worked out already with the fine points to be worked out the next day when they came back for the search. It was agreed that Foster's office should be secured and that U.S. Secret Service Agent Don Flynn would hold the only key to the

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estigation on 4/19/94 at Washington, D.C. File # 29D-LR-35063-

by SA William T. Guyton / SA FOIA(b)(7) - (C) Date dictated 4/20/94

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Foster office. The U.S. Secret Service technical people were in the process of putting a lock on the Foster office door during the meeting.

The purpose of the search was to confirm a suicide or point to anything else regarding the death of Vincent Foster.

Nussbaum advised the group that the Foster office had not been previously secured. Nussbaum said that he had been in the office, but hadn't seen a note.

This meeting on July 21, 1993 adjourned around 5:00 p.m. or a little after, after agreeing to meet the following morning at approximately 9:00 a.m.

In a huddle following the formal meeting, it was agreed that the interviews the following day with White House personnel would be conducted with one FBI Agent and one U.S. Park Police investigator present. They did not know at that time that White House Counsel would be present during these interviews. Margolis indicated that the FBI and Park Police would have access to the Foster office. Margolis said that he would deal with the White House and would get them the proper access. Margolis said he had the horsepower from Attorney General Janet Reno, if necessary. Deputy Attorney General Phillip Heyman's name was also mentioned by Margolis.

On July 22, 1993, at approximately 9:00 a.m., the following individuals assembled in the West Wing of the White House: Salter, Dennis Condon, Charles Hume, Pete Markland, David Margolis (and maybe Roger Adams), Don Flynn and Paul Imbordino. This group sat around for hours waiting for decisions to be made. Margolis had told the others to wait while he was dealing with Nussbaum regarding the ground rules.

Finally, at about 2:00 or 2:30 p.m., the agents and Park Police investigators were allowed to interview a couple of secretaries. These secretaries were some of the last people to see Vincent Foster alive on July 20, 1993. It was at the point of these interviews that Salter and the others were told by Margolis that White House attorneys would sit in on the interviews. Margolis' only explanation was that "that's the way it is." Salter and Hume did their interviews in the presence of Cliff Sloan and Condon and Markland did their interviews in the

presence of Steven Neuwirth. Salter said he understood that the purpose of White House Counsel being there during the interviews was to take notes. They scribbled down virtually every question and answer. Salter was shown a copy of an FD-302 (attached) he had done concerning the search of Vincent Foster's office on July 22, 1993. This FD-302 was part of a report Salter had written dated August 9, 1993 concerning the Obstruction of Justice (OOJ) investigation conducted by the FBI. Salter said that an FD-302 was prepared on the search of Foster's office after Foster's note had been found and the OOJ case opened. Salter said the facts contained in this FD-302 were complete, with the exception that another individual by the name of Spafford had been present during the search. He understood Spafford to be an attorney with Jim Hamilton's law firm, the family attorneys for the Fosters. Salter added that it was apparent during the search that Nussbaum was running the show. Others present from the White House were whispering to Nussbaum during the search. Neuwirth and Sloan were scribbling notes to Nussbaum during the search. During the search, Nussbaum sat at Vincent Foster's desk, flanked by Neuwirth on his right and Sloan on his left. Also on the right was Burton. Margolis sat immediately in front of the desk and immediately behind him, from left to right looking out from the desk was Salter (standing), Markland and Hume (sitting on a couch), and Dennis Condon (sitting in a chair). Spafford was to Condon's left. Imbordino and Flynn from the U.S. Secret Service were standing in the background.

Salter commented that the search did not go as he would have wanted it to go.

At one point during the search, Sloan said to Salter who was standing, "Excuse me agent, you're not standing there so you can see what Nussbaum is looking at, are you?" Salter commented something to the effect that Sloan was getting carried away. Salter said he felt like he was being treated as "the enemy."

Nussbaum mediated the exchange by saying, "Yes, yes, of course we're all here to find out the truth. We're not adversaries." Salter said, "but clearly that was the mood."

Nussbaum led the review of items during the search. The FBI, DOJ, Park Police and Secret Service present were shut out of everything. They only became aware of the procedure for

the search when they got into the office.

Nussbaum divided documents located in Foster's office into three piles: Foster's work for the President - work papers not relevant to the death investigation; second, Foster's personal papers - health insurance for the family, etc.; and a third pile of "maybe relevant." Salter only recalled a calendar and schedule for Foster being put into this third pile. Salter said all items reviewed by Nussbaum were looked at and then placed face down on their respective piles. The non-White House people present did not personally see any of the documentation.

The trash in Foster's office was also searched but nothing pertinent located. Salter believed that there was a bag of trash which had been previously removed and then returned to Foster's office and there was a can of confidential trash also in the room.

The computer in Foster's office was not searched.

During the course of the search, Margolis may have asked about why things wouldn't be relevant. It was plain, during the search, that the item had to relate to a suicide or those present wouldn't see it. The bottom line was that the FBI, DOJ, Park Police and Secret Service didn't see anything that day.

When Salter told Margolis that he felt they had been shut out, Margolis said that the ground rules for the search had been changed by Nussbaum once they were in the room. Salter described Nussbaum as a forceful personality; a person who would indicate "that's the way it's going to be."

Referring back to the previously prepared FD-302 concerning the search of Foster's office, Salter said that the last paragraph of this FD-302 referring to items which were found during the inventory could be clarified by indicating that items were found or not found by Nussbaum only, as others in the room were not allowed to look at the documentation.

Salter said that at the time of the search in July, 1993, the terms Whitewater and Madison would not have been significant to him. It was articulated that the search was being conducted for a suicide note, evidence of unusual death, an extortion letter, or any other indications or reasons for

Foster's suicide and/or his being under duress.

The search was conducted only in Foster's office. Salter does not recall a safe. He estimated the documentation located in Foster's office consisted of one xerox-type box of work-related material which was placed on Foster's desk, two similar boxes of White House related material found in the cabinets, and less than a box of personal material given to the family attorney.

The information found in the briefcase was all determined to be work-related. This briefcase was originally on the right, next to the desk, and then put back against the wall. Salter was of the opinion that the briefcase had been emptied by Nussbaum during the search and that Burton and Nussbaum would have seen that it was empty. Salter again noted that Nussbaum runs at a high rate of speed, but that the briefcase had no pockets or zippers and it would have been clear that it was empty or not. Salter was not allowed to see for himself that the briefcase was empty. This briefcase was given to Hamilton's office courier by Salter for return to the family.

Salter added that when he and Special Agent Charles K. Dorsey returned to the White House to see Bernard Nussbaum to pick up Foster's briefcase, Nussbaum took Dorsey into Foster's office. Dorsey saw two or three pads of yellow lined paper in the office and asked Nussbaum if he could have those pads. Nussbaum agreed. These pads were then sent to the FBI laboratory for the purpose of raising indented writing from the pads which may be the writing contained on Foster's note. It was determined by the laboratory that there was indented writing on one of the pads but that the writing did not correspond to Foster's note. At this point, FBI Headquarters Supervisor, Patrick J. Foran, became involved and it was obvious to Salter and Dorsey that the material found on the pad was of a sensitive nature. They were told by Foran that the material was not relevant to their OOJ case and no further information was provided to either Salter or Dorsey concerning this writing, other than the laboratory report which was included in the FBI's OOJ report.

Salter said the FBI had been involved in the Foster death investigation at the time of Foster's death for only a day or two and then was out of the investigation. The FBI re-entered the investigation from an OOJ standpoint when the Foster note was

found and revealed to the public on July 27, 1993. Salter said he received better White House cooperation during this second phase of the investigation.

SA Salter entered on duty with the FBI on January 9, 1989 and is currently assigned to Squad C-4, a reactive criminal squad. His work telephone number is (202) 252-7137.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/6/93

The undersigned Special Agents (SAs) were present at the West Wing of the White House when an inventory was conducted of the contents of VINCENT FOSTER's office. The following individuals were present during the inventory:

BERNARD NUSSBAUM	The White House
STEVEN NEUWIRTH	The White House
CLIFFORD SLOAN	The White House
CHARLES WILLIAM BURTON	The White House
DONALD FLYNN	U.S. Secret Service
PAUL IMBORDINO	U.S. Secret Service
DAVID MARGOLIS	Department of Justice
ROGER ADAMS	Department of Justice
Captain CHARLES HUME	U.S. Park Police
Detective PETER MARKLAND	U.S. Park Police
SA DENNIS M. CONDON	FBI
SA SCOTT M. SALTER	FBI

The inventory was conducted by BERNARD NUSSBAUM. Only individuals employed by the White House were permitted to look at the items and documents within the office. During the inventory, BERNARD NUSSBAUM removed the contents of a leather, satchel type briefcase which had been on the floor adjacent to the desk. The briefcase was identified as belonging to VINCENT FOSTER. The items which were in the briefcase (papers and files) were removed and reviewed by NUSSBAUM. After those items were reviewed they

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Investigation on 7/22/93 at Washington, D.C. File # WMFO 175B-WF-187743

by SA DENNIS M. CONDON
SA SCOTT M. SALTER:plj Date dictated 8/5/93

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were not placed back in the briefcase but they remained on top of the desk. NUSSBAUM then pick up the briefcase and placed the briefcase against the back wall of the office. At the time, NUSSBAUM placed the briefcase against the back wall it appeared as though the briefcase was empty. At no time did the undersigned agents observed the inside of the briefcase.

Items which were found during the inventory to be strictly personal in nature and not related to VINCENT FOSTER's work at the White House were removed from the office and turned over to an attorney who represented the FOSTER family. No items were found during the inventory which were determined to be relevant to the investigation of FOSTER's death.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/94

TIMOTHY A. SCHMIDT was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC), regarding his knowledge of events surrounding the death of VINCENT W. FOSTER, JR., on July 20, 1993. After being apprised of the identity of the interviewing Agent and the purpose of the interview, SCHMIDT thereafter provided the following information:

SCHMIDT is an Officer with the United States Uniformed Secret Service (USSS), currently assigned to the USSS Control Center in the Old Executive Office Building (OEOB). In this capacity, SCHMIDT handles radio dispatches, and monitors alarms throughout The White House complex. SCHMIDT also controls incident paperwork. He was manning the Control Center switchboard on July 20, 1993, and also monitored incoming radio traffic. SCHMIDT's shift on the evening of July 20 was from 2:00 pm until 10:30 pm.

Sometime during the evening of July 20, 1993, SCHMIDT received a telephone call from a White House operator who said she had a telephone call for the President. The caller turned out to be CRAIG LIVINGSTONE. LIVINGSTONE was patched through to White House Chief of Staff, MACK MCLARTY, who was with the President. SCHMIDT did not talk directly to LIVINGSTONE that evening. The telephone call came in between 9:00 and 9:20 pm on July 20. SCHMIDT was not informed until July 21, 1993, that FOSTER had died. It was then that SCHMIDT figured out the telephone call during the previous evening for the President was related to the death of FOSTER.

SCHMIDT did not know FOSTER.

SCHMIDT did know LIVINGSTONE by name and title, noting that he was probably with White House security. SCHMIDT later remembered that LIVINGSTONE might have been the head of White House security.

SCHMIDT was not working alone at the console in the

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USSS Control Center. He could not recall who might have worked with him that evening. SCHMIDT noted that any alarms regarding secure areas being breached would have to be silenced by Control Center personnel.

According to SCHMIDT, the alarm procedure required that when a staffer exited an alarmed area, he/she was to call the Operations Center with his/her name, activate the alarm, and close the door. If someone were required to return to an alarmed area, they technically were to telephone the Control Center to inform appropriate USSS personnel. SCHMIDT was of the impression that most people did follow the proper procedure. A grace period of two minutes was allowed once an office was entered before the USSS would make a telephone call to inquire about the status of an area alarm. If no answer were received when that area was telephoned, a USSS Officer was sent to the site of the breached alarm to investigate.

SCHMIDT was unaware of any cameras being located in the vicinity of the Counsel's office suite, and he was also of the opinion that there were no cameras in a position to monitor the office of the First Lady and its respective suite.

SCHMIDT had heard on July 21, 1993, that documents had been removed from the office of VINCENT FOSTER. The documents were later described to have been trash. SCHMIDT had heard that the USSS was trying to obtain all confidential trash that was removed from the Counsel's office suite that evening. This information came from a USSS officer whom SCHMIDT could not remember. He was unaware if individuals associated with the search for the confidential trash ever found what they were looking for.

SCHMIDT had heard the name of MAGGIE WILLIAMS but did not know who she was. He had no knowledge of WILLIAMS ever removing documents from the FOSTER office suite. He had no knowledge of LIVINGSTONE removing documents from the West Wing of The White House on July 21, 1993.

TIMOTHY A. SCHMIDT was described from observation and interview as follows.

Date of Birth:
Place of Birth:
SSAN:

FOIA(b)(6)
FOIA(b)(7) - (C)

Home Address:	17421 Soper Street Poolesville, MD 20837
Telephone Number:	301-972-8065
Work Telephone Number:	202-395-2020

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/24/94

MARSHA SCOTT, Deputy Assistant to the President and former Director of Correspondence was interviewed at her attorney's office on May 12, 1994. SCOTT advised that she has recently changed positions and is now Deputy Assistant to the President in a undetermined public liaison capacity. Also present was her attorney STUART F. PIERSON of the law firm DAVIS, WRIGHT and TREMAINE, 701 Pennsylvania Avenue, NW, Suite 600, Washington, D.C. 20004-2608, telephone (202) 508-6623. After being advised of the identities of the interviewing agents and the nature and purpose of the interview, SCOTT provided the following information:

SCOTT advised that she met VINCENT FOSTER, JR. in approximately 1967 when she was about 20 years old. They were merely acquaintances in the interim years, sharing the same friends and moving to the same social circles in Arkansas. They became friends after the inauguration of President CLINTON. They have never been romantically involved with one another

SCOTT characterized her relationship with FOSTER as a personal friendship. She explained that she used to "pop my head in" every day or every other day to see FOSTER. She said that FOSTER had a serious facade but a good sense of humor; was very smart and very meticulous in the way he did things. She advised that he always put friendship and loyalty, ethics and his family before everything. She also said he was very patriotic.

SCOTT does not know why FOSTER would have committed suicide. She saw some signs that he was depressed but did not know that he was in such a serious crisis. In explaining what she meant by seeing signs of depression, SCOTT advised that everyone was depressed. Their whole circle of friends from Arkansas who had come to The White House were overworked and under constant pressure and constant scrutiny by the press and others in the Washington environment. They were "down".

SCOTT advised that in the beginning, shortly after the inauguration, The White House staffers from Arkansas would meet for dinner, sometimes several times a week. But as the workload

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Investigation on 5/12/94 at Washington, D.C. File # 29D-LR-35063

by SA WILLIAM T. GUYTON
SA H. ALEXIS SUGGS Date dictated 5/19/94

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for everybody increased, they met only once a week for dinner, generally Tuesday evenings.

SCOTT advised that on Monday, July 19, 1993, she stopped in to see FOSTER for a period of time in the afternoon. She wanted to ask him how the weekend had gone, knowing he had gone off for the weekend with his family. In retrospect she realizes that he acted different, but at the time she did not sense it. She explained that always before when she walked into the room, FOSTER would give her a hug and tell her some kind of little joke, but on this occasion he seemed preoccupied and a little quieter. There were no huge indicators, however, that there was something seriously wrong.

During that visit SCOTT advised that she did most of the talking and she does not remember what topics they talked about. She estimated that the visit lasted between 20 and 30 minutes but it could have been longer. She does not remember why she left and she does not recall that the visit was any different than any other time she visited him. She advised that she was uncomfortable talking about some of the private thoughts FOSTER shared with her. She said she believed FOSTER had painted himself into a box with no windows. But she got the sense during the July 19th meeting that he had come to some sort of decision and was, if anything, somehow relaxed as a result.

SCOTT is of the opinion that FOSTER committed suicide for personal reasons but commented that he didn't separate work from personal matters. He had talked about "wanting out". He talked about "wanting rest". He commented that he was "eternally tired". But on the Monday before his death, he was smiling and it struck her that he seemed to have figured out that he needed rest. It is SCOTT's theory that he had come to some sort of acceptance of something (what that was, she was not sure of) and expected that he was going to feel better soon. She thought it was related to his having taken the weekend off and realizing that he needed to do that sort of thing more often. But this was conjecture on her part.

In describing FOSTER, SCOTT advised that he was not an "open" person. He would not offer information and she took that to mean that he was an extremely private person. It was not his habit to "dump" or unwind by talking about problems. He did not say anything indicating anything was upsetting him. Asked about whether or not she could recall a conversation on Air Force One

in route to VINCE FOSTER's funeral, SCOTT advised that she does not recall telling anybody about any topic that was bothering FOSTER. Asked who was on the flight with her, SCOTT could not recall who was on the plane. She believes she remembers seeing VINCE's secretary, DEBORAH GORHAM and perhaps GALE KENNEDY but she doesn't remember any other specifics.

SCOTT advised that Foster was especially worried about the negative impact that staff cuts were going to have on The White House overall and especially on the counsel's office. In fact, the very last words that he spoke to her were "the staff cuts are killing us". He was a perfectionist who wanted to do things right and staff cuts were affecting his ability to see that happen. SCOTT advised that the reactive mode that everybody was in all the time at The White House prevented the kind of care and thoughtfulness that FOSTER liked to bring to his work product.

SCOTT advised she was not aware of any personal matters which were disturbing him. His family arrived, she believes, the first week of June and it seemed to her that it was good for him to have his family there but it caused extra effort and he had to pay more attention to budgeting his time. This was a common topic among all of the folks up from Arkansas. FOSTER more than others, would sometimes miss the Tuesday dinner gatherings because of work-related responsibilities. FOSTER would not generally speak about things that were bothering him at these gatherings.

The evening of Tuesday, July 20, 1993, SCOTT advised that she was having dinner with WEBB and SUSAN HUBBELL and their children at a restaurant, the Lebanese Taverna. JANET SCHAUFELE, an intern at The White House, was also with them. WEBB HUBBELL's beeper kept going off and, as was his habit, he ignored it until about the third beep. It was the Justice Command Center calling to notify him of VINCE FOSTER's death. They left the restaurant right away and as they were walking to the elevator, WEBB HUBBELL was obviously very shaken. They did not know what the facts were. They thought perhaps it was VINCE's son who had been found. They had been told that the car had been found. They decided to go to WEBB HUBBELL's home so that he could get his Justice telephone book. When they arrived at their home, he realized he did not have his house keys and so while Mrs. HUBBELL and SCOTT attempted to get into the house, WEBB HUBBELL began making telephone calls from a neighbor's home.

HUBBELL told SCOTT that BILL KENNEDY (an especially good friend of FOSTER's) was on his way to view the body in order to confirm that it was indeed VINCE FOSTER, JR. VINCE FOSTER's sister, SHEILA ANTHONY lived right across the street from the HUBBELL's and even though VINCE FOSTER's death had not yet been actually been confirmed, SCOTT and the HUBBELLs went over to SHEILA ANTHONY's residence. FOSTER's other sister, SHARON BOWMAN, was also there visiting from Arkansas. SCOTT told the two sisters and niece what had occurred.

SCOTT was unable to say who was notified in what order among The White House staff. She believes that the U.S. Park Police had called CRAIG LIVINGSTONE. KENNEDY and LIVINGSTONE viewed the body and confirmed the identification.

SCOTT and the HUBBELLs went from the ANTHONY's to the FOSTER residence. They arrived as DAVID and EILEEN WATKINS and separately, the U.S. Park Police were arriving. It was very crowded in the FOSTER's small entryway. As everybody was coming in the entryway SCOTT looked up and saw LISA FOSTER coming down the stairs and LAURA FOSTER coming in from the kitchen wondering what was going on. She recalls LISA FOSTER saying something like "What's going on?" She recalls the U.S. Park Officer going up to her and notifying her that her husband had been found dead. LISA FOSTER cried out and sank down to a sitting position on the stairs. LAURA FOSTER began to scream at that point. A female officer went up to LISA FOSTER and SCOTT could not hear what was being said to her. Other people began to pay attention to LAURA, who appeared to be going into shock. People helped LISA upstairs and SCOTT remembers hearing her screaming. SCOTT herself recalls asking somebody how VINCE FOSTER had died.

After that, SCOTT and SUSAN HUBBELL went back to the ANTHONY's to see if BERLE ANTHONY had arrived home. They were having difficulty contacting him. Then they went back to the FOSTER residence. SCOTT telephoned SENATOR and BARBARA PRYOR, a close friend of SHEILA ANTHONY's. SCOTT recalls two doctors arriving. SENATOR PRYOR's doctor, Dr. ALEX CHESTER and second doctor (identity unknown). Many people came and went at the FOSTER residence, including JOHN and PEGGY RICHARDSON with whom MARSHA SCOTT was living at the time.

SCOTT left the FOSTER residence and went to The White House some time after midnight with MICKEY CANTER, the U.S. Trade Representative. She said she went there "to see how BILL

[President CLINTON] was doing." SCOTT remembers seeing DAVID GERGEN, MACK MCLARTY, VERNON JORDAN, ROBIN DICKEY (whose daughter HELEN babysits CHELSEY CLINTON) and others. SCOTT cannot recall if she saw PATSY THOMASSON or BILL BURTON. SCOTT does not recall anything being said about a note or about searching VINCE FOSTER's office for a note. WEBB HUBBELL thought it was very important to seal FOSTER's office and he commented to that effect to SCOTT the evening of the 20th at the FOSTER residence.

SCOTT also talked with PATSY THOMASSON but she does not recall whether it was the night of the 20th or the next day. She found out later that PATSY THOMASSON and MAGGIE WILLIAMS went into FOSTER's office and that MAGGIE had been crying. SCOTT does not know how she knows that. She learned about it later. SCOTT advised that everybody was very upset. She explained that FOSTER had an "inclusive style", meaning he would draw people in to him and what he was doing. People loved him. She commented that HILLARY CLINTON was his best friend and that HILLARY, MAGGIE WILLIAMS and FOSTER worked together.

SCOTT advised that when she got to The White House the night of July 20, 1993, she went directly to see President BILL CLINTON. She was there at The White House only a couple hours staying in the kitchen of the residence area. She then went home.

SCOTT advised that the people who were around that night, BILL BURTON, MACK MCLARTY, GERGEN, HUBBELL, PATSY THOMASSON, DAVID WATKINS and others who were all concerned with basically two things. First, were they doing the right thing to ensure the integrity of the moment? Who should handle things, the Attorney General or BERNIE NUSSBAUM? And secondly, they were coping with intense grief. Each person was struggling with a personal sense of loss that this had happened to a friend and colleague. Each person within their own sphere of influence was trying to do the right thing to handle the situation, even if it was just notifying people within their staff. SCOTT advised that her piece in the puzzle was notifying as many families as she could. She explained that if errors were made it was because people didn't know what to do.

She advised that she did not know FOSTER to be a terribly religious person but knew that he attended church with his family. SCOTT advised that LISA and VINCE FOSTER knew each other very well and although they had experienced a strain in

connection with the split of their household when VINCE came to Washington, D.C., she felt they had a basically good marriage. She herself never saw any inkling of marital infidelity on FOSTER's part, not with HILLARY CLINTON or any other person.

SCOTT guessed that FOSTER may have considered WEBB HUBBELL and herself to be confidantes. She does not feel that he would have considered HILLARY a confidante inasmuch as it is difficult to confide in somebody when you're actually working for them, which is an adjustment that they all had to make with BILL and HILLARY CLINTON.

With regard to the note discovered on July 26 in FOSTER's handwriting, SCOTT advised that she did not know about it from personal knowledge. She knew FOSTER to be a good lawyer and a good political adviser and she would not have thought that he would ever have written anything like that down. She was surprised to hear of the list that was supposedly written by him. Her reaction was that FOSTER was so methodical, he simply would not have left it lying around, not even the pieces of it. SCOTT advised that it never occurred to her to wonder who tore the note up or who would have put it in the briefcase. She figured that he tore it up and put it in the briefcase in order to take it out later and discard the pieces.

Asked what she thought FOSTER would have meant regarding the FBI lying in their report to Department of Justice (one of the items on the list that she later read about in the news media), she explained that FOSTER felt that the dealings with the FBI and BILL KENNEDY had not been accurately reported. She explained that FOSTER was like mentor to BILL KENNEDY.

SCOTT provided the following personal information:

Name:	MARSHA SCOTT
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Address:	5711 Nebraska Avenue, NW Washington, D.C.
Home Telephone:	202-966-9514
Position as of 7/20/93:	Deputy Assistant to the President and Director of Correspondence

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/9/94

MARSHA SCOTT was interviewed on June 9, 1994 at the office of her attorney, STUART F. PIERSON, of DAVIS, WRIGHT, TREMAINE, 701 Pennsylvania Avenue, NW, Suite 600, Washington, D.C. 20004, telephone 202-508-6623. Present during the interview, aside from SCOTT, was her attorney STEWART PIERSON and MARK STEIN of the Office of the Independent Counsel. Being acquainted with the identity of the interviewing agent and the nature and purpose of the interview, SCOTT provided the following information:

SCOTT advised that in July 1993, her office was in the Old Executive Office Building and that she came to The White House on a daily basis to conduct business. She frequently went over to say "hi" to VINCE FOSTER, Jr. and normally she did it in the afternoon because mornings were very busy for her. She recalls that on July 19, 1993, she visited FOSTER but did not recall what time of day it was. It was most likely early afternoon but she is not sure. She would also frequently visit BILL CLINTON, NANCY HERNRAICH and others, sometimes even HILLARY CLINTON. But she doesn't remember if she saw any other individual on July 19.

She recalls FOSTER that day sitting behind his desk and the most notable thing about it was that he did not get up and greet her as he normally did. She said that when she entered the office usually he would stand up, she would kiss him on the cheek, get a hug and joke with him. She recalled that on July 19, he didn't get up and although she did not attach significance to it at the time, with hindsight, she realizes that that was something different. She said that she had a sense of detachment from him but it was nothing that caused her antenna to go up. She does not recall whether the door was opened or closed but explained that meetings in his office were private even if the door was open because of the physical configuration of the office. SCOTT explained that she stopped by because she wanted to ask him how he enjoyed the weekend. She knew that he had had a good weekend from having talked to somebody else (she couldn't recall who and wanted to ask him if he had had as much fun as

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others said that they had had. She commented that she is friends with the CARDOZOs and WEBB and SUSIE HUBBELL also with LISA and FOSTER children.

SCOTT explained that with regard to her recollection or lack of recollection as to the meeting that took place between her and FOSTER, she said that she hoped everybody would understand that that was an incredibly painful time and her way of dealing with matters such as that is to block it out. She remembers impressions, she does not remember specific conversations.

The overwhelming memory for her of FOSTER's death and the days before and after is that she was truly shocked. She believed that he committed suicide. In fact, she believed that was so from the time she talked with the Park Police on July 20, 1993. One of the reasons why she was so shocked that he would commit suicide is that FOSTER believed in the power of words and he loved being a lawyer and she along with others just couldn't believe that he would have taken his own life without having reached out to his friends.

She said that during the meeting on July 19, he did not appear distracted or otherwise distressed. She explained that FOSTER could be very focused when he was involved in something and she knew that she had interrupted his train of thought when she entered the room but he didn't give her an indication that she had come at a bad time, otherwise, she would have left. They did not, however, have a heart-to-heart talk. SCOTT said that FOSTER did not have heart-to-heart talks in his office or ever by her standards. FOSTER was mysterious and that made him intriguing.

SCOTT said it varied how often she would see FOSTER. It was sporadic depending upon what was going on at The White House, but she saw him frequently. She noticed changes in everybody from the Arkansas group. She said that everybody over time, during the six months, got tighter and tenser, with "the men getting skinner and the women getting fatter". She said that she personally didn't notice his weight loss. She put together a collection of photographs for LISA FOSTER after FOSTER's death and it was LISA who pointed out to her that FOSTER had lost weight. Most of her conversations with LISA FOSTER since July 1993 have been comprised of LISA's questioning as to why this could have happened and what could have triggered it.

With regard to the last thing that SCOTT heard him say, that is, "the staffing cuts are killing us", the context for that statement was that SCOTT asked FOSTER, "If I talk to him (meaning President CLINTON) before you do, what do you want me to tell him?" FOSTER's response was, "The staff cuts are killing us." SCOTT further explained that everybody serves at the pleasure of the President and by custom when the administrations change, anybody can be asked to stay or might be asked to leave.

With regard to the Travel Office matter, SCOTT advised that she does not recall specific conversations. She recalls knowing that FOSTER was particularly upset about the reprimand of BILL KENNEDY. He felt that BILL was "taking a fall" for something he hadn't done. She knows that she and VINCE talked about it, but she doesn't recall the conversation now. She also did not discuss the matter with LISA FOSTER. She said she doesn't remember ever talking about work items with LISA FOSTER and explained that she does not consider it appropriate and so keeps her conversation general. She also had the impression that FOSTER himself did not talk about work with LISA.

SCOTT advised that she has the sense that FOSTER had reached a personal dead end. It is her opinion that he would have reached it whether or not he had come to Washington, D.C. She opined that FOSTER lacked the ability to see options and on July 20, he felt that he had no other option but to commit suicide. His view of his responsibilities was very serious. He was accustomed to succeeding and to being able to affect closure in his work tasks. The White House involved work made up of endless loops without any resolution.

With regard to articles in The Wall Street Journal, she said that VINCE was shocked when the article on him appeared in the paper. They had wanted a picture of him and characterized their not getting it as stonewalling on The White House's part. That struck all of them in the Arkansas group as "dumb". She felt that FOSTER thought that the press was being absolutely ruthless. It seemed to him a personal, mean and vicious attack at a time when he was working extremely hard. FOSTER (and others in the Arkansas group) felt that they (meaning the press and possibly specifically The Wall Street Journal) would stay at it until they "took somebody out"--until they drove a wedge to separate the President from his Arkansas friends. In saying that FOSTER was upset, SCOTT does not know if he was angry upset (because she never saw him angry) but she knew that it weighed

heavily on him and he was very offended.

SCOTT does not know if she and FOSTER discussed ZOE BAIRD or not. FOSTER did not feel as though The White House got credit for anything, but that The White House took a lot of criticism no matter what. She knows nothing about Whitewater or Madison Guaranty and nothing was ever discussed between her and FOSTER about these matters.

On the night of July 20, 1993, she went from LISA FOSTER's residence to the HUBBELL's residence back to the FOSTER's residence and then to The White House. There was so much moving back and forth because they were checking on children and notifying various people. She said she arrived at The White House sometime between 11:00 and 1:00 am and that we could check the logs if we needed to know specifically. She assumes that such things are monitored and a record is kept, but does not know this for a fact. She said that she parked in the West Wing parking area, went to The White House lobby and through the corridor under the Oval office and under the Rose Garden to the residence area. She said that BILL CLINTON had lost a best friend and explained that where she comes from when there is a death like that you gather in order to give support. It was important that they be there because HILLARY CLINTON was out of town and CHELSEY was not there, so people went to give BILL support.

She heard voices in the kitchen and knew that that was where everybody was. She remembers seeing MAC MCLARTY, DAVID GERGEN, VERNON JORDAN, The President and MICKEY CANTOR, HELEN DICKEY (a young girl who "babysits" CHELSEA) and her mother were also there. She doesn't remember if she saw BERNARD NUSSBAUM, MAGGIE WILLIAMS, or PATSY THOMASSON that night. She remarked that DAVID WATKINS office used to be there on the basement level and she may have seen PATSY THOMASSON there that night, she doesn't remember.

She said that she was probably crying on and off, but that she does not remember a guard seeing her and directing her to go someplace. She went no place in The White House other than through the residence to the kitchen area. She does not recall going anywhere near MAC MCLARTY's office until the following day and she does not remember how she left The White House that night.

With regard to what was talked about in the kitchen that evening, she remembers DAVID GERGEN talking about who should make the announcement of FOSTER's death and what kind of political tone should be taken. It was decided that MAC MCLARTY should make the announcement. Nobody suggested that there was any link to Whitewater. She said that people questioned whether or not it was a suicide because they couldn't believe that FOSTER would have committed suicide.

They discussed whether or not a note had been found. There was no note that anybody had found. They had asked Park Police and the Park Police had not found any note. There was probably a discussion as to whether or not FOSTER's office was searched for a note. WEBB HUBBELL maintained all along that the integrity of FOSTER's office should be protected. He said this to MARSHA and to everybody else who would listen. But SCOTT was not aware of whether or not the office was being sealed that very night. The first time she heard about any kind of note was the torn up note that STEPHEN NEUWIRTH found later in the briefcase. She heard about this later. She was not aware of anybody having been in FOSTER's office that night. She was not aware of anybody taking things out of FOSTER's office that night and she does not recall what she was wearing that night.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/28/94

RICKI L. SEIDMAN, Assistant to the President, Director of Scheduling and Advance, The White House, Washington, D.C., telephone number (202) 456-2823 was interviewed at the Office of the Independent Counsel, Washington, D.C. SEIDMAN was advised of the identity of the interviewing agents and of the purpose of the interview. Also present during the interview was DAVID OVERLOCK STEWART, Attorney for SEIDMAN from the law firm ROPES and GRAY, 1001 Pennsylvania Avenue, NW, Suite 1200 South, Washington, D.C. 20004, telephone (202) 626-3900. SEIDMAN provided the following information:

From January 1993 through May or June 1993, she served as Deputy Assistant to the President and Deputy Director of Communications. From July 1993 through September 1993 her title was Assistant to the President, Counselor to the Chief of Staff (MCLARTY). She has held her present position as Assistant to the President, Director of Scheduling and Advance since November 1993. SEIDMAN had worked in the 88' DUKAKIS campaign and worked in the CLINTON campaign as manager of the "war room" handling "quick response". She received her law degree from the University of Georgia and previous employment included serving as Chief Investigator for the Senate Labor and Human Resources Committee and as Legal Director at the People for the American Way. SEIDMAN met the CLINTONs very briefly while at People for the American Way when she was active in education issues. She had met the CLINTONs through a college associate of theirs.

SEIDMAN first met VINCENT FOSTER during the transition. She was serving as Deputy Director of Communications out of offices in Little Rock, Arkansas. She recalled being with FOSTER at several meetings but did not recall the subject matter other than that it probably concerned the financial aspects of candidates being considered for the Administration.

VINCENT FOSTER handled the "official aspects" of the First Family's financial disclosures and tax returns. FOSTER interpreted ethics laws and government standards with respect to these matters. SEIDMAN'S association with FOSTER concerned a

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stigation on 6/23/94 at Washington, D.C. File # 29D-LR-35063

by SA H. ALEXIS SUGGS
SA WILLIAM T. GUYTON Date dictated 6/23/94

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"broad range of things" but primarily concerned the "vetting" of nominees such as for the Supreme Court and the Attorney General positions. After the financial disclosures were completed by candidates, SEIDMAN would look at them and "predict" what the press focus would be. She worked with BETH NOLAN in the Counsel's office on such matters. She worked with FOSTER on the CLINTON disclosures. She doesn't remember anything being "very memorable" other than two issues. There was an investment in Mid-Life Investments of approximately $5,000 dollars each by VINCE FOSTER, HILLARY CLINTON and WEBB HUBBELL in the early 80's which had been "never closed down" and was a source of discussion. Secondly, she became involved in accusations concerning shorted health positions taken by HILLARY CLINTON in connection with Value Partners. SEIDMAN said there was nothing to either problem and nothing ever happened on either. She had meetings with FOSTER on these and other issues "as necessary".

SEIDMAN was asked about FOSTER's involvement with Whitewater. She said the only Whitewater issue she could recall was in April, 1993 in connection with the CLINTONs tax returns. The tax returns show that the CLINTONs had divested themselves of their interest in Whitewater. SEIDMAN's involvement was from a "communications perspective". The Whitewater issue had surfaced during the campaign, interest had then ended, and it was believed the tax returns would bring the Whitewater issue into the "public domain again". SEIDMAN said there was discussion regarding the "soundest way" to seek closure to the issue. The options considered were (1) declare a loss; (2) declare an even split; and (3) declare the CLINTONs received a $1000 dollar gain. SEIDMAN said she and FOSTER were discussing these options. She remembered attending meetings at WILLIAMS and CONNOLY on the issue. She was asked if WILLIAMS and CONNOLY were the CLINTONs attorneys at the time, and she answered she "didn't know the answer to that". She remembered the meetings as being "very dry and accountantish". She stated that FOSTER's involvement with Whitewater was a "totally routine issue". SEIDMAN knew FOSTER very well in a professional way and would often "cry on his shoulder". FOSTER was not a very emotional person, but SEIDMAN could tell if something was upsetting to him. She said Whitewater was not upsetting for FOSTER to any "visible degree". SEIDMAN had no knowledge that Whitewater was upsetting to FOSTER. SEIDMAN said Whitewater records were confused and not in the CLINTONs' possession and they had insufficient documentation from an IRS or "public scrutiny" perspective. Therefore, decisions were made "erring on the side of being excruciatingly honest".

SEIDMAN was shown a memorandum dated April 12, 1993 addressed to "RICKI" from "ANN" and was asked to explain this document. SEIDMAN said ANN was ANN WALKER who was Director of Research at The White House. She said it was a new administration which had no historical record of how to do "these things" referring to the three issues cited in the memorandum concerning tax filing, charitable contributions and Whitewater coverage. SEIDMAN said these were issues "we wanted to answer". The CLINTONs had made significant contributions to charity and the research concerned the history of a First Family doing this. SEIDMAN described the research as "routine" and not "unusual". She said they were looking at what questions might be raised. She did not consider it a large matter and was not a developing matter where FOSTER's interest kept expanding.

SEIDMAN noted no additional agitation with respect to VINCE FOSTER closer to the time of his death. She said FOSTER had been "agitated" by the Travel Office matter. FOSTER's concern was that people were "not sufficiently focused" to make sure that the Travel Office matter ended and did not continue to "dog the President". SEIDMAN recalled a major conversation with FOSTER on the Travel Office matter wherein he was emphatic that someone should handle this situation. He thought it was something that was "falling between the cracks." It became SEIDMAN's job to pass on or indicate his interest in addressing the matter. He did not articulate who, in particular, was not giving the Travel Office sufficient attention, but SEIDMAN theorized that it might be Counsel's office or White House senior leadership. In her opinion, FOSTER wasn't worried about a "dark underside" to the issue. FOSTER was concerned for further exposure of BILL KENNEDY of The White House Counsel's office and the matter continuing to be embarrassing to the CLINTONs. SEIDMAN said her attention at this time had been also focused on organizing a "boiler room operation" to pass the President's economic plan.

After the Travel Office report came out, SEIDMAN had a conversation with FOSTER wherein he expressed to her that he thought the report had been "unduly harsh" on BILL KENNEDY. FOSTER had thought that people working for the government were not making themselves public figures in this way. SEIDMAN explained that FOSTER was "a very sophisticated thinker" and he became like a "guppy plopped into a goldfish bowl". Her view was that FOSTER was overreacting to the Travel Office matter. Her discussion with FOSTER involved pointing out that the "reason the

report had been done this way" would preclude a later broad congressional inquiry into the matter. There had been "no real malevolence", but rather mistakes made relative to the Travel Office firings. SEIDMAN added that FOSTER had been involved in the decision to bring an outside accounting firm in to review the matter. SEIDMAN believed VINCE FOSTER had committed suicide. FOSTER had become depressed. She could not comment on the causes of FOSTER's depression but knew that he was not happy with how Washington, D.C. worked and the way the CLINTONs were treated. SEIDMAN said that FOSTER was not upset by Whitewater. FOSTER never said anything to her about Whitewater. FOSTER's comment in the note that was found after his death concerning the FBI lying in their report to the Attorney General was probably made in relation to BILL KENNEDY. She said FOSTER "lacked perspective" on the issue.

SEIDMAN was shown a New York Times editorial dated Monday, April 5, 1993 entitled "At last, a Team for Justice" and asked to comment on this article. SEIDMAN said the issue involved when FOSTER referred this article to her and designated a copy for ANN WALKER was regarding the WEBB HUBBELL confirmation. HUBBELL had been the Chief Author of the Arkansas Ethics Statute. SEIDMAN had not been involved in the campaign at the time of the issue cited in the article being raised. The issue concerned exempting Governor CLINTON from coverage of a provision requiring the disclosure of potential conflicts of interest. SEIDMAN said this exemption had caused criticism. She said the "actual truth" was that the Governor had been "held to a higher standard" than contained in the Ethics Statute. The issue had been "totally miscast as a negative". SEIDMAN said the April 5 editorial was simply a matter of opinion. She said she had been involved in HUBBELL and the Attorney General's confirmation. SEIDMAN felt that the press was being unfair and the concern was they didn't want this to cloud HUBBELL's nomination. SEIDMAN said, in fact, this did not become an issue during the confirmation. She said that the higher standard to which the Governor was held was something that was verifiable but she did not have any additional information on it at this time. ANN WALKER had been included on the copycount for the article as WALKER was Research Director. WALKER was supervised by SEIDMAN.

On the evening of July 20, 1993, SEIDMAN was in The White House residence watching the President as he appeared live on the LARRY KING program. During the course of this broadcast, GEORGE STEPHANOPOULOS and DEE DEE MYERS were called out of the

room where they were viewing the program. SEIDMAN then went out to see "what was up". She was told that VINCE FOSTER had been found dead and then immediately afterward notified that it was thought to be a suicide. SEIDMAN described the situation as "totally tragic" and everyone's reaction as being "personal emotion". SEIDMAN said MACK MCLARTY had known VINCE FOSTER since they were 5 years old. Everyone present had a "great personal affection" for FOSTER. She said it was a tragedy, it was horrible, it was disbelief. No one had any inkling and everyone was "totally shocked".

SEIDMAN remained at The White House that evening, primarily to "hold off reporter phone calls". She said the President came out of the LARRY KING program at about 10:00 pm. All were in the downstairs of the residence and the President went upstairs to the residence and then went to LISA FOSTER's house. The others, including herself, went to MARK GEARAN's office. SEIDMAN said phone calls were made to notify others and discussion was held regarding when and how the news of FOSTER's death should be released. There was a period until about 11:30 pm where this news could not be released. SEIDMAN did not recall why.

SEIDMAN did not have a clear recollection of her movements that night. She remembered running into SYLVIA MATHEWS and GENE SPERLING that night. She remembered this because they had retrieved FOSTER's trash from his office. SYLVIA MATHEWS took the trash into the Deputy Chiefs of Staff's office (ROY NEAL). This office was part of the suite with the Chief of Staff MCLARTY, and therefore the door to this office had been open. SEIDMAN became involved in this "after the fact" that night discussing this with them. She was asked about her knowledge of burn bag material and answered that this was collected separately, but that she did not remember anything about the burn bag. She said everyone was "literally in shock".

SEIDMAN was asked if she had been asked by anyone to move documents from VINCENT FOSTER's office or secure FOSTER's office. She answered no.

SEIDMAN said that she "remembered vaguely" and thought that she took BERNARD NUSSBAUM home from The White House that night. She remembers he said he was going back upstairs to be sure the door to the Counsel's office had been locked and alarmed. She said they both left The White House some time

around 12:30 or 1:00 am.

SEIDMAN spent the evening of July 20 at The White House in MARK GEARAN's office. She was also in the area near the Chief of Staff's office.

SEIDMAN had no firsthand knowledge regarding any discussions concerning documents from FOSTER's office or removal of any documents from FOSTER's office.

She did not recall calling people into The White House that night. She remembered the following people being at The White House that evening: MARK GEARAN, GEORGE STEPHANOPOULOS, DEE DEE MYERS, MAGGIE WILLIAMS, BERNARD NUSSBAUM, SYLVIA MATHEWS, MACK MCLARTY, and the President.

SEIDMAN was asked to characterize NUSSBAUM on the evening of July 20, 1993. SEIDMAN answered that NUSSBAUM was "crying, very upset, very emotionally attached to 'FOSTER". She said FOSTER's death had come as a total shock. She remembers NUSSBAUM recalling his last conversation with FOSTER. She said it had something to do with FOSTER coming into NUSSBAUM's office while NUSSBAUM was watching t.v.

SEIDMAN was asked if she had had any discussion with anyone else concerning her interview with the Office of the Independent Counsel. She answered no. She said she could not recall anything else which may be helpful concerning this matter.

The following description of SEIDMAN was obtained through observation and interview:

Name:	RICKI L. SEIDMAN
Present Position:	Assistant to the President, Director of Scheduling and Advance, The White House Washington, D.C. telephone (202) 456-2823

Present Office Space:	Ground floor of the west wing in July of 1993. In July of 1993 office space was first floor of the west wing)
Race:	White
Sex:	Female
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSAN:	
Residence:	2812 Connecticut Avenue Apt.1 Washington, D.C. 20008
Telephone Number:	(202) 319-7729
Attorney:	DAVID OVERLOCK STEWART The law firm of ROPES & GRAY 1001 Pennsylvania Avenue, NW Suite 1200 South Washington, D.C. 20004 Tel (202) 626-3900 Fax (202) 626-3961

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/23/94

DAVID SELDIN, Press Assistant at The White House Press Office from January 1993 through February 1994, was interviewed by telephone at his current place of employment working on the campaign for GLENN DENNING for Governor in Maryland, telephone (301) 277-5582. After being advised of the identity of the interviewing agent and the nature and purpose of the interview SELDIN provided the following information:

SELDIN advised that he found out about VINCE FOSTER, Jr.'s death on the morning of July 21, 1993 when he read it in the morning newspaper. He arrived at The White House Press Office approximately 7:30 to 8:00 am. He does not recall seeing CRAIG LIVINGSTONE anytime that morning. He also does not recall CRAIG LIVINGSTONE being anywhere around the Press Office that day.

SELDIN advised that he has a vague recollection that there was a question whether or not there was a need to send somebody from the Press Office out to the VINCE FOSTER residence, but he does not recall if somebody was ever sent. He speculated that either LORRAINE VOLES or DEE DEE MYERS, possibly DAVID LEVY or JEREMY GAINES might be able to provide information. He also speculated that perhaps "an advance person" may have been sent. He said that occasionally CRAIG LIVINGSTONE did advance type work. It usually was when there was some issue of security access to events where there was a security concern.

SELDIN advised that he has spoken with CRAIG LIVINGSTONE's attorney about his recall of the events.

As part of the interview SELDIN provided the following personal information:

Date of Birth:
Place of Birth:
Social Security Number: FOIA(b)(6) FOIA(b)(7) - (C)
Address: 1722 19th Street, NW Washington, D.C.

(telephonically)

Investigation on 9/20/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 9/22/94

	Apt. 802
Residence Phone:	202-667-4843
Position:	Press Assistant at The White House January 1993 - February 1994
Current Position:	Press Secretary for GLENN DENNING for Governor campaign Maryland

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/21/94

James J. Shea, Jr., Master Patrol Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Officer Shea was advised as to the identities of the interviewing agents and of the nature of the interview. He then provided the following information:

His office address is 1310 L Street, NW and he can be reached at telephone number 202-395-2020. He has been employed by the USSS for 22 years and at The White House compound for the last 11 years. As of the time of Vincent Foster, Jr.'s death (July 20, 1993), he was regularly assigned to USSS post "E-1" which allows entry into the ground floor of The White House west wing off of West Executive Avenue.

Officer Shea stated that he did not know Vincent Foster either personally or professionally and can only recall seeing him once, just after President Clinton's inauguration. Shea stated that on July 20, 1993, he was assigned to work the 10:30 pm - 7:00 am shift on post E-1. He explained that this shift actually began at 10:30 pm on 7/19/93 and ended at 7:00 am on 7/20/93. He came back on duty at post E-1 at approximately 10:45 pm on the evening of 7/20/93 and was on duty at post E-1 until approximately 7:00 am the next day, 7/21/93. Officer Shea stated that he recalls learning that Vincent Foster had been found dead, however he does not recall by which means or exactly when he learned this.

Officer Shea stated that he recalls seeing a secretary whose name he cannot remember, and a small group of other women by his post during the late evening hours of July 20. He said that he overheard several of these women crying and discussing Foster's suicide. He stated that while he cannot recall the specifics of their conversation, he believes he learned that one of the women was Vincent Foster's secretary. He said that he recalls seeing that woman and some other secretarial employees leaving the west wing of The White House through post E-1 at approximately 12 midnight on the evening of July 20. Officer

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Investigation on 4/21/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by WILLIAM T. GUYTON FOIA(b)(7) - (C) Date dictated 4/21/94

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Shea, while recounting this information and other points that he made during the interview, often said that he was having considerable trouble recalling dates, times, and other specific details regarding his observations of events that happened on July 20 and July 21, 1993. For example, he was asked if he recalled seeing Bernard Nussbaum, Maggie Williams, and/or Patsy Thomasson either enter or exit the west wing through post E-1 on July 20 or July 21 during his shift. He stated that while he can recall seeing each of these individuals enter and leave The White House on several occasions he cannot be sure if he saw any of them specifically on July 20 or July 21.

Officer Shea stated that he does not know a White House staff member by the name of Craig Livingstone and therefore could not say if Mr. Livingstone entered or exited The White House during his shifts of July 20 or July 21. He advised that while he believes he has heard of Mr. Livingstone, he does not know who he is. Officer Shea advised that he can not recall if any staffer brought a non-staff member into The White House west wing during the early morning of July 20 or July 21.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/19/94

James J. Shea, Jr., Master Patrol Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Officer Shea, having been previously advised as to the identity of the interviewing agent and the nature of the interview provided the following information:

He came on duty at post E-1 at approximately 10:45 pm on the evening of 7/20/93 and was on duty at post E-1 until approximately 7:00 am the next day, 7/21/93. Officer Shea stated that he is acquainted with USSS Officer Henry O'Neill, who also works the "midnight" shift in The White House west wing. He said that he is aware that O'Neill's duties include escorting a GSA cleaning crew into various alarmed areas of the west wing where they clean and pick up non-confidential trash on a daily basis. He said that he is also aware that O'Neill's duties include his personally picking up the "burn bag" trash from each west wing office. He said that he recalled that O'Neill routinely starts his nightly rounds on the second floor of the west wing and then proceeds to the first floor following the cleaning of all second floor offices. He said that both he and O'Neill had their "lunch break" at approximately 1:00 am during their shift and that he and O'Neill would, from time to time, have lunch and/or get together to talk during their break. Shea said however, that he can not recall if he and O'Neill talked during his 7/20-21/93 shift. In response to a specific question, he said that he does not recall O'Neill talking to him about seeing White House staffers in the Nussbaum/Foster 2nd floor suite or him (O'Neill) deciding to not pick up the trash in that suite or have it cleaned on July 20, 1993.

Officer Shea stated that there is a couch located in the hallway near his USSS west wing ground floor post E-1 desk. He recalls a small group of women sitting on or standing near that couch during the late evening hours of July 20, 1993 discussing Vincent Foster's death. While he does not know the identity of any of the three women he recalls seeing there, he does recall that one of them was a black female, one of them was

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a white middle-aged female and the third was a white female who was younger than the other. He could not offer any better description of these three women. He said however, that he recalled seeing the younger of the two white females go down the hallway and enter an office on the ground floor of the west wing. While he does not know who occupied that office, he is certain that it is a suite of offices occupied by White House staffers who handle "administrative matters" for the Clinton administration.

Officer Shea advised that he could offer no further information that he thought would assist in this investigation.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

Previous efforts to interview MRS. ANNETTE SHELBY, 3025 Cambridge Place, Washington, D.C., telephone number (202) 965-3236, were unsuccessful. MRS. SHELBY and her husband, U.S. Senator RICHARD SHELBY were the FOSTERS' next door neighbors in July of 1993.

On May 31, 1994, Senator SHELBY's office contacted Special Agent COLOMBELL, informing him that MRS. SHELBY was on vacation and could be reached at her residence telephone in Alabama. MRS. SHELBY was contacted and agreed to a telephone interview, at which time she provided the following information:

MRS. SHELBY stated that she is not well acquainted with the FOSTERS, adding that she may have spoken to MRS. FOSTER on a few occasions in passing but to the best of her recollection, has never been in the FOSTER residence. She stated that as best she recalls, she never met VINCENT FOSTER. She pointed out that she is a Professor in the Business School at Georgetown University and in the Spring and early Summer of 1993, she was away from the Washington, D.C. area for several months in connection with her employment. She was unable to provide any information as to whether MR. FOSTER may have returned to his residence on the afternoon of July 20, 1993. She stated that on that particular evening, she and her husband did hear someone scream, adding that she later learned that it was MRS. FOSTER who screamed upon being informed by the police that her husband had been found dead. MRS. SHELBY stated that it was not until the next day that she learned of FOSTER's death, adding that she did go over to the residence and offer her help and as best she recalls, she did bring some food to the family. MRS. SHELBY stated that as best she recalls, the FOSTER family left the Washington, D.C. area fairly quickly after MR. FOSTER's death. She stated that on one occasion, she did try to call MRS. FOSTER to console her and offer her assistance in any manner. She stated that she never did speak to MRS. FOSTER because at the time, the family was not accepting telephone calls.

(telephonically)

Investigation on 5/31/94 at Washington, D.C. File # 29D-LR-35063

by SSA William E. Colombell WEC:deg Date dictated 6/1/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/20/94

On June 9, 1994, Senator RICHARD C. SHELBY, United States Senator, Washington, D.C., telephonically contacted Special Agent WILLIAM E. COLOMBELL at the Office of Independent Counsel, Washington, D.C. Special Agent COLOMBELL had previously attempted to reach Senator SHELBY at his office.

Special Agent COLOMBELL informed Senator SHELBY that the Office of Independent Counsel had received information regarding a story circulating on Capitol Hill to the effect that Senator SHELBY had encountered President CLINTON on the sidewalk in front of the VINCE FOSTER residence, Cambridge Place, Georgetown, Washington, D.C. on the evening of July 21, 1993, the evening following VINCE FOSTER's death. The President was reportedly without any U.S. Secret Service protection and remarked to Senator SHELBY that he had stopped by to chat with the Senator.

Senator SHELBY was asked if he could comment on or clarify this rumor and stated that he had no problem doing so. Because of his busy schedule, Senator SHELBY provided the following information telephonically. He stated that on the evening of July 21, 1993, at approximately 6:00 p.m., he and his wife visited VINCE FOSTER's sister, SHEILA ANTHONY and her husband at their residence in Washington, D.C. to pay their condolences. He stated that he returned to his residence which is next door to the FOSTER residence on Cambridge Place at approximately 7:30 p.m. Senator SHELBY stated that while attempting to park, he was approached by U.S. Secret Service personnel who instructed him that he would have to park down the street from his residence. Senator SHELBY stated that at approximately 8:30 p.m., he responded to a knock on his front door and found President CLINTON standing there, by himself, without any visible Secret Service protection. Senator SHELBY pointed out that he was already aware of extensive Secret Service presence in the neighborhood because of his 7:30 p.m. encounter.

(telephonically)

Investigation on 6/9/94 at Washington, D.C. File # 29D-LR-35063

by SSA William E. Colombell WEC:deg Date dictated 6/9/94

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Senator SHELBY stated that he invited the President in and that he and President CLINTON sat and chatted for approximately one hour on a number of topics, including the tragic death of VINCE FOSTER and other unrelated items.

Senator SHELBY advised that after approximately one hour, a female White House staffer came to his front door asking to see the President and at that time the President left. Senator SHELBY stated that he could not state whether President CLINTON had been at or returned to the FOSTER residence on that evening, adding that he assumed he had.

Special Agent COLOMBELL informed Senator SHELBY that the Independent Counsel is also investigating the reasons why VINCE FOSTER might have committed suicide, specifically if there was any relationship to his suicide and any involvement with Whitewater matters. Senator SHELBY was asked if he had any information relative to Mr. FOSTER's state of mind. Senator SHELBY responded that he did not have such information, concluding that he would not be qualified to comment regarding the reasons that might have triggered the tragic death of VINCENT FOSTER.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

STEPHEN B. SILVERMAN, Special Assistant to the President for Cabinet Affairs, was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Mr. SILVERMAN was advised as to the official identities of the interviewing agents and the nature of the interview. He then provided the following information:

Prior to his coming to work at The White House in January, 1993, he had been employed as an attorney in New York City. He joined the CLINTON Presidential election campaign and worked in Little Rock, Arkansas. He later worked as AL GORE's Deputy Press Secretary throughout the remainder of the campaign. After BILL CLINTON's election as President, he (SILVERMAN) moved to Washington, D.C. where he, as part of a small group of volunteers, worked as a "vetting team" reviewing the qualifications and backgrounds of potential Presidential appointees. He first met VINCENT FOSTER, JR. in Washington in January, 1993, shortly after BILL CLINTON's inauguration while he (SILVERMAN) continued to work on the "vetting team". He did not have very much interaction with FOSTER and "hardly knew him at all". He said that although he attended several large meetings where FOSTER was present, most of his contacts with FOSTER were limited to them passing one another in a hallway and exchanging greetings. He said that he recalled last seeing VINCENT FOSTER at a large meeting of White House staff "Deputies" on July 19, 1993. He did not recall the topic of this meeting nor did he recall talking with FOSTER at this meeting.

In early February, 1993, he was appointed to his current position and was subsequently designated Deputy Secretary to the Cabinet by his immediate superior, CHRISTINE VARNEY who is the Secretary to the Cabinet. He then moved into his current office space, Room 111 1/2, Old Executive Office Building.

Mr. SILVERMAN said that he arrived at work on July 20, 1993 at approximately 7:30-8:30 am and while he cannot recall what time he left The White House that night he did recall that he did not stay late. Mr. SILVERMAN said that July 20, 1993 was

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not a particularly eventful day for him at work. He recalls watching television with his wife that evening at their home prior to going to bed. He said that he recalls this because he remembers watching President BILL CLINTON being interviewed by LARRY KING on the Cable News Network that evening. He said that he was awakened on July 21, 1993 by a telephone call at approximately 7:00 am. GARY GINSBURG, a White House co-worker and friend with whom he had previously worked on the "vetting team" telephoned him to advise him of VINCENT FOSTER, JR.'s apparent suicide. SILVERMAN said that this was the first he had heard of this and he was "totally shocked". He said that he was given no instructions by GINSBURG and no requests were made of him during this telephone call. He said that he arrived at work on July 21 at approximately 8:25 am and began his regular duties. SILVERMAN said that he was not at The White House nor was he at the FOSTER residence during the late evening hours of July 20, 1993 or during the early morning hours of July 21, 1993. He said that no one asked him to remove any documents from The White House during that time frame and he did not remove any items or documents from The White House during that period. He further advised that he knows of no one having done so or being asked to do so. Mr. SILVERMAN said that he knew of no additional information that he could provide that could possibly help with this investigation.

The following descriptive data was obtained through observation and interview:

Name:	STEPHEN B. SILVERMAN
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Address:	2012 Wyoming Avenue Apt. 601 Washington, D.C.
Home Telephone:	202-797-8809
Work Telephone:	202-456-2572
Height:	5'10 1/2"
Weight:	210 lbs.
Hair:	Brown
Eyes:	Brown
Education:	Cornell University-BA Degree Northwestern University-JD Degree

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/94

Evidence Officer PETER SIMONELLO, U.S. Park Police (USPP) was contacted at the USPP Laboratory facilities in Annocostia Park, Washington, D.C. Special Agent WILLIAM E. COLOMBELL informed Officer SIMONELLO that the FBI Lab had completed the majority of its physical examination of evidence provided to the lab by the USPP. Officer SIMONELLO was also informed that there were two issues that Special Agent COLOMBELL wished to discuss with him.

Investigation on 6/1/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 6/1/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/1/94

OFFICER PETER SIMONELLO, Evidence Officer, U.S. Park Police (USPP), 1100 Ohio Drive, S.W., Washington, D.C. 20242, advised Special Agents WILLIAM E. COLOMBELL and WILLIAM T. GUYTON that he had reviewed Evidence Control files regarding the VINCENT FOSTER death investigation and was able to locate only one handwriting sample containing the known handwriting of VINCENT FOSTER. He stated that this known handwriting sample of FOSTER was provided to the USPP on July 28, 1993 by the FOSTER family attorney, JAMES HAMILTON. OFFICER SIMONELLO advised that the known handwriting sample consisted of a letter signed by VINCENT W. FOSTER, addressed to the American Exploration Company, dated June 18, 1993.

OFFICER SIMONELLO stated that on July 29, 1993, in his presence, SGT. LARRY LOCKHART, Handwriting Expert, U.S. Capitol Police, examined the above known handwriting sample of VINCENT FOSTER with the questioned document (torn note found in FOSTER's briefcase). SGT. LOCKHART concluded that the known and questioned documents were completed by the same writer, specifically, MR. VINCENT W. FOSTER, JR.

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/21/94

John S. Skyles, Officer, Uniform Division, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW. Officer Skyles was advised as to the identity of the interviewing agent and of the nature of the interview. He then provided the following information:

His office is located at 1310 L Street NW and his telephone number is 202-395-2020. He has been employed by USSS for 19 years, the last 6 of which have been at The White House compound. He is normally assigned to USSS guard post "E-4" (west lobby) which is located at the first floor front entrance to the west wing of The White House. He was so employed on July 20, 1993, the day of Vincent Foster, Jr.'s death.

Officer Skyles stated that he first learned of Vincent Foster's death through a late evening television news broadcast on July 20, 1993. He stated that he had not known Vincent Foster either professionally or personally but that he knew Foster to be a White House staffer, knew his title, and easily recognized him when he saw him on The White House compound. He explained that he easily recognized Foster because he had seen him enter and exit The White House west wing on numerous occasions when he (Skyles) was on duty.

On July 20, 1993, Officer Skyles worked the 6:30 am through 3:00 pm shift at post E-4. He described this as a rather routine day about which he could recall noticing nothing out of the ordinary. He advised that numerous White House staffers came and went through post E-4 on July 20 but that he could recall few specifics about these individuals. He advised, however, when he learned of Vincent Foster's death late on the evening of July 20, he remembered that he had seen Foster leaving the west wing of The White House through entrance E-4 earlier that day. Skyles said that he was approximately two thirds of the way through his shift on July 20 when he saw Foster leaving The White House. He said that while he cannot recall exactly when he saw Foster, he does distinctly recall that it was "about lunchtime". He said

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Investigation on 4/20/94 at Washington, D.C. File # 29D-LR-35063 SUB A

by FOIA(b)(7) - (C) Date dictated 4/21/94

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that as Foster walked pass the guard desk at entrance E-4 he (Skyles) asked Foster, "How are you doing sir"? He said that Foster replied, "Hello-fine" and nodded his head to Skyles with what Skyles remembers as a "half smile". Officer Skyles said that he remembers this encounter in detail because when he heard that Foster had died via suicide he distinctly recalled that Foster did not appear to be at all depressed or preoccupied as he walked by. He said that he was therefore quite surprised to hear that Foster had committed suicide. Officer Skyles said, to the best of his recollection, that Foster was wearing a gray suit when he saw him on July 20. He said that he could not recall if Foster was wearing his suit jacket or not and that he does not recall Foster carrying anything in his hands such as a briefcase. Officer Skyles stated that this was the last time that he saw Vincent Foster.

Officer Skyles said that he worked the 6:30 am to 3:00 pm shift on post E-4 on July 21, 1993. He said that this was a rather routine, ordinary shift except that he overheard parts of several conversations between White House staff members that day about Vincent Foster's death, their grief, and their disbelief that he could be dead. He said that he can not recall, however, any specifics as to who was engaged in these conversations or exactly what was being said.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 2/28/95

FOIA(b)(6)
FOIA(b)(7) - (C)

JEANNE LYNNE SLADE (DOB: [redacted], was reinterviewed at the Office of the Independent Counsel - Whitewater. SLADE was interviewed in the presence of Associate Independent Counsel BRETT KAVANAUGH. SLADE was advised of the identities of the interviewing agent and attorney. SLADE confirmed that her home and work telephone numbers and addresses are the same as from her previous interview. Additionally, SLADE provided the following contact telephone number for a temporary residence where she will be staying while her home is being built; (703) 506-9435.

SLADE was previously interviewed on April 11, 1994. SLADE stated that she had three previous contacts with FBI agents regarding this case; once on the phone then twice at her office. Additionally, SLADE stated that she was contacted by the U.S. Park Police the week after the incident.

SLADE confirmed all of the statements in her previous interview, with the following additions:

SLADE stated that she left work at approximately 5:15 pm - 5:30 p.m. SLADE recalled that she was to be at a swimming meet at 6:00 p.m.

SLADE stated that she has a clock located on the dashboard of her car, which she looked at constantly during her drive from work because she did not want to be late for the swim meet.

SLADE stated that she believes that her car broke down near the entrance to Fort Marcy Park at approximately 5:30 p.m. - 5:45 p.m.

SLADE stated that she was driving a dark blue Mercedes 300E with a camel interior. SLADE's vehicle would not accelerate; she coasted into the entrance area of the park.

SLADE was shown an aerial photograph of the Fort Marcy Park area. SLADE identified her exact location; where the

vehicle coasted to a stop inside of the park. SLADE pointed to a spot on the photograph just past a grass median area on the right side of the Fort Marcy Park road.

SLADE stated that there was a second car which was parked inside the entrance area. SLADE described this car as a newer model, white, four door, medium sized car. SLADE had no further descriptive information regarding this vehicle. SLADE walked past the vehicle and observed the driver. SLADE described the driver as a white male, early 40's, dark hair, medium build, and moderately attractive. SLADE walked down the road to the Fort Marcy parking area looking for a phone. SLADE stated that she did not walk all the way into the parking lot. SLADE observed a trail at the beginning of the lot on the left. SLADE could not locate a telephone, and subsequently turned and walked back to her vehicle. While she was in the parking lot, SLADE observed two cars parked near the trail entrance at the beginning of the parking lot. One of the vehicles was described as a goldish/tan/bronze, medium size car; the other vehicle was described as a dark, blue, older car. SLADE stated there were possibly a few more vehicles further in the lot, however, she can not be sure. SLADE stated that she did not see the license plates on either of these two vehicles. SLADE thinks that both of the vehicles were pulled front end first into their parking spots. SLADE did not see any police or emergency vehicles in the parking lot. SLADE was shown a photograph of the rear of VINCENT W. FOSTER's vehicle. SLADE stated that the car in the photo looks like one of the cars she observed in the Fort Marcy parking lot; the vehicle appears to be the same size and type of car. However, SLADE stated that she can not be positive.

As SLADE was walking back towards her vehicle, the individual she had initially passed in the white car asked her if she wanted a ride anywhere. SLADE declined the offer.

SLADE made sure her car was locked, and then walked up the George Washington Parkway to an Exxon station located at the intersection of Chain Bridge Road. SLADE telephoned her husband from the Exxon station.

SLADE does not have any recollection of seeing a white van anywhere near the Fort Marcy Park area.

SLADE clearly recalls hearing emergency vehicles (sirens) as she was walking towards the Exxon station. SLADE

stated that she heard the sirens approximately half way to the Exxon station.

SLADE's husband came and picked her up from the Exxon station and subsequently called a towing service from his restaurant to retrieve SLADE's vehicle. However, due to the U.S. Park Police presence at the park, the towing service could not get her car until the following day.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/15/94

Mrs. Jeanne Lynne Slade was interviewed at her place of employment, American College of Emergency Physicians, 900 17th Street, N.W., Suite 1250, Washington, D.C. 20006. She was advised of the identity of FBI Agent William E. Colombell and informed that he wished to speak to her concerning an ongoing investigation into the death of Vincent Foster on July 20, 1993. Mrs. Slade advised that several days after the events of July 20, 1993, she was contacted by telephone by an individual who identified himself as a Park Police Officer; adding that she answered his questions and provided whatever information she had.

Mrs. Slade advised that on the day in question, she left her office at approximately 5:15 p.m. and took her usual route home, proceeding North on the George Washington Parkway. She advised that as she approached Fort Marcy Park, the gas pedal "stopped working" and her car would not accelerate. She stated that she started to coast, coasting as far as she could and ending up approximately 50-60 feet into the entrance ramp leading into Fort Marcy Park. She stated that she was driving her 1987 Mercedes 300E, color dark blue. She advised that she put the emergency flashers on and started walking towards the Fort Marcy parking lot, hoping that there would be a phone located in that area. She stated that another car, occupied by a white male, was also parked off to the right on the entrance ramp leading into the Fort Marcy parking lot. She advised that she had to walk by this vehicle as she approached the parking lot and noticed that the occupant appeared to be looking at some papers or possibly a map.

Mrs. Slade advised that as she walked past this individual, he started his car and then pulled up next to her, adding that they had still not reached the parking lot area. She said this individual inquired if she needed a ride and she declined; she stated that he asked a second time if he could help or give her a ride and she again remarked no, that she was just trying to find a telephone. As best she recalls, this individual proceeded up into the parking lot, turned around, and then drove off in the direction of the GW Parkway. She described the

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individual who offered to give her a ride as a white male, dark hair, thick, well-groomed, summer-type shirt on, possibly plaid color, age 38-42, medium build. She described his vehicle as a late model vehicle, 4-door, color white, possibly a Honda. She was unable to recall any other details.

Mrs. Slade stated that she is quite sure that it was somewhere in the vicinity of 5:45-6:15 p.m. when her car broke down and she pulled into Fort Marcy Park. Mrs. Slade advised that she approached the front area of the parking lot and was unable to locate a phone; she recalls some type of park sign that appeared next to the entrance to a trail leading up into the park. Mrs. Slade advised that at least two cars were in the parking lot and that they were both parked fairly close to one another, not necessarily side by side but within a few spaces of one another. Her recollection was that these cars were parked more or less in front of her as she walked into the lot and were situated in the beginning of the lot, not towards the back of the lot. She stated that she was unable to comment as to whether there were any additional cars located towards the rear of the lot. She stated that she was quite sure that there was no one present in the cars, nor did she observe anyone else in the parking lot area. The only thing that she can recall about these two cars was that one was dark blue and the second was light gray or silver in color. Mrs. Slade stated that she saw no one else, nor did she see any other cars coming into or out of the lot. Mrs. Slade advised that she then walked back to the George Washington Parkway shoulder and proceeded to walk North on the Parkway to the McLean/Chain Bridge exit, where she sought assistance at an Exxon station located on Chain Bridge Road.

Mrs. Slade stated that she did not see any vehicle resembling a white van in the vicinity of the Fort Marcy parking area. She also stated that she did not hear any loud noises or possible gunshots while she was in the Fort Marcy parking lot area.

Mrs. Slade advised that as she was walking North on the GW Parkway, another white male stopped to assist her and she refused. She also recalled that while walking North, she observed several emergency vehicles with sirens sounding heading South on the GW Parkway. Mrs. Slade concluded the interview by providing the following background information:

Full Name: Mrs. Jeanne Lynne Slade

Residence: 1142 Randolph Road
McLean, Virginia 22101

Home Telephone: (703) 761-3037
Office Phone: (202) 728-0610
DOB: FOIA(b)(6)
FOIA(b)(7) - (C)

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/21/94

JONATHAN SLEVIN of the Intelligent Vehicle Highway Society of America (IVHSA) 400 Virginia Avenue, SW, Suite 800, WDC, telephone number 202-484-2893, was telephonically interviewed regarding a visit he made to the residence of GEORGE O. GONZALEZ, JR. on July 17, 1994. GONZALEZ, of the Fairfax County Virginia Emergency Medical Service (EMS) resides at 2007 Storm Drive, Falls Church, Virginia. After being apprised of the purpose of the interview and the identity of the interviewing Agent, SLEVIN thereafter provided the following information:

SLEVIN advised that he was asked by a friend, who is a newspaper reporter, to deliver a copy of a report written by the reporter to GONZALEZ at his residence. SLEVIN arrived at the GONZALEZ residence and met with MARIANNE GONZALEZ and GEORGE GONZALEZ, SR. SLEVIN informed MARIANNE GONZALEZ and her father-in-law that he had a friend who was releasing a report that suggested GONZALEZ, Jr. changed the location of the body of VINCENT FOSTER, JR. in his testimony to the Office of the Independent Counsel (OIC). SLEVIN advised MARIANNE GONZALEZ and her father-in-law that New York Post reporter CHRIS RUDDY suggested that if GONZALEZ was not telling the truth, other people would tell the truth in upcoming congressional hearings. According to SLEVIN, RUDDY wanted to get across that some people who testify on Capitol Hill based on inconsistencies are in danger of perjuring themselves in a congressional hearing. SLEVIN was only delivering on behalf of RUDDY, well intentioned advice.

When SLEVIN was initially asked by RUDDY to deliver a copy of the report and the aforementioned advice, he additionally declined. SLEVIN finally relented and approached GONZALEZ as a favor to his friend RUDDY. SLEVIN was aware that RUDDY had been pursuing events surrounding the death of VINCENT W. FOSTER, JR. SLEVIN emphatically denied that any threat was made against GONZALEZ' life.

In the course of the interview, SLEVIN was asked if he was recording the conversation between the interviewing Agent and

(telephonically)

Investigation on 7/18/94 at Washington, D.C. File # 29D-LR-35063

by SA DANA M. GILLIS:DMG/sla Date dictated 7/20/94

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himself, to which he replied he was not. SLEVIN asked the interviewing Agent if their conversation was being recorded at which time the interviewing Agent replied that no electronic recording was being made of their conversation.

SLEVIN advised that he serves currently as the Director of Communications for the Intelligent Vehicle Highway Society of America, commonly known as IVHS America.

On July 18, 1994, SLEVIN was contacted by CATHY SIMMONS, Public Information Officer, for The Fairfax County, Virginia Fire and Rescue Service. The phone call took place some time late on the morning of July 18. SLEVIN did not provide SIMMONS with any information and informed her that his dealings were with GONZALEZ only.

SLEVIN noted that while he was at the GONZALEZ residence on July 17, his photograph was taken by an unknown individual from the GONZALEZ home. SLEVIN went to the GONZALEZ residence on two occasions on July 17. He first visited the home at 4:30 pm and returned to the residence at 6:30 or 7:00 pm.

The following descriptive information regarding JONATHAN SLEVIN was obtained in the course of the interview and was provided by SLEVIN as follows:

Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Employment:	IVHS America 400 Virginia Ave., SW Suite 800 Washington, D.C. 20024
Telephone Number:	202-484-2893

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/5/94

CLIFFORD M. SLOAN was interviewed in a conference room at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Also present during the interview were SLOAN's attorneys, PETER J. ROMATOWSKI and STEVE BYERS, of the law firm of CROWELL & MORING, 1001 Pennsylvania Avenue, Washington, D.C. 20004-2595, telephone number (202) 624-2745. Participating in the interview from the OIC were Associate Counsels MARK STEIN and CARL STICH. After being advised of the official identity of the interviewing agent and the nature of the interview, SLOAN provided the following information:

SLOAN was interviewed for his current position as Associate White House Counsel in April 1993. SLOAN was interviewed for the position by White House Counsel BERNARD NUSSBAUM and Deputy White House Counsel VINCENT W. FOSTER, Jr., and he began working at the White House at the end of May 1993. SLOAN's official starting date in the White House Counsel's Office was June 14, 1993.

WALTER DELLINGER had previously functioned as the expert on constitutional law within the White House Counsel's Office until he left to take a position in the United States Department of Justice (DOJ). People at the White House suggested to SLOAN that he make inquiries about replacing DELLINGER. SLOAN had previous experience working for a Chicago law firm, BROWN & PLATT, handling appellate matters. SLOAN had also served for a period of time in the Office of the Solicitor General handling issues pertaining to the separation of powers. Prior to that time, SLOAN worked for Independent Counsel LAWRENCE E. WALSH in the investigation of the Iran-Contra matter from January 1987 to December 1988. SLOAN has also clerked for Supreme Court Justice JOHN PAUL STEVENS.

SLOAN's first assignment in the White House Counsel's Office was to serve in a liaison function regarding the White House Travel Office investigation.

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estigation on 4/5/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD RTB:rtb Date dictated 4/11/94

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SLOAN was slightly aware of Whitewater as an issue in early 1992. SLOAN did not become more aware of Madison Guaranty Savings and Loan (MGSL) until he read a letter from Arkansas Senator DALE BUMPERS dated either March 31 or April 1, 1993. SLOAN recalls that Senator BUMPERS had complained about overly aggressive enforcement actions by the Resolution Trust Corporation (RTC). SLOAN recalls drafting a bland or "vanilla" response to Senator BUMPERS. SLOAN spoke to Deputy White House Counsel JOEL KLEIN last week and saw a letter, dated July 1993, from NUSSBAUM to Senator BUMPERS. Until he saw the letter, SLOAN had not associated the letter from Senator BUMPERS and the response from NUSSBAUM as both being related to MGSL.

During September 1993, SLOAN was working at the White House on matters related to the siege involving the Branch Davidians in a complex near Waco, Texas. Two reviews were being conducted regarding the activities of federal law enforcement agencies during the incident near Waco. The reviews were being conducted by two distinct groups, one at the Department of the Treasury (Treasury) and one at DOJ. SLOAN did not have any contact with Treasury, but he had rather frequent liaison contacts with the DOJ investigators as they sought to interview people at the White House in order to prepare their report on the Waco incident. On approximately September 28, 1993, NUSSBAUM told SLOAN that several Treasury investigators would be conducting interviews at the White House.

On September 29, 1993, a meeting was held at the White House regarding the issuance of the Treasury report on the Waco incident. The meeting was attended by RONALD NOBLE, Assistant Secretary for Enforcement at Treasury; JOSH STEINER, Special Assistant at Treasury; JACK DeVORE, Press Secretary to Treasury Secretary LLOYD BENTSEN; JEAN HANSON, General Counsel at Treasury; NUSSBAUM; and SLOAN. As SLOAN was leaving the Waco meeting, he observed NUSSBAUM and HANSON off to the side talking in NUSSBAUM's office. SLOAN waited outside as they conversed. After a wait of less than five minutes, NUSSBAUM called SLOAN into his office and said that he wanted SLOAN to hear something. HANSON then stated that there might be eight or nine criminal referrals forthcoming which would probably be a source of media interest because President BILL CLINTON and First Lady HILLARY RODHAM CLINTON were mentioned in the referrals. The CLINTONs were mentioned as witnesses or potential witnesses, and the CLINTON gubernatorial campaign of 1984 was mentioned as a subject or possible subject.

When asked by the interviewers whether HANSON actually used the word "subject," SLOAN replied that he only has an impression that HANSON used the word "subject," and he is not certain that she actually used the word. SLOAN stated that his impression may have been influenced by subsequent telephone conversations.

SLOAN then went on to advise the interviewers the following:

During the meeting in NUSSBAUM's office, HANSON said that ROGER ALTMAN may have sent some materials to NUSSBAUM regarding this matter. NUSSBAUM responded that he did not recall receiving them.

SLOAN did not form an impression whether or not HANSON had actually read the referrals. SLOAN has subsequently found notes which refer to several telephone calls which were made by HANSON to SLOAN.

During the meeting on September 29, 1993, HANSON did not mention how she had become aware of the referrals. SLOAN's notes from September 30, 1993 indicate that HANSON had learned of the referrals from BILL ROELLE of the RTC.

After HANSON departed NUSSBAUM's office on September 29, 1993, SLOAN remained and spoke with NUSSBAUM about the Waco matter. NUSSBAUM said that he was going to pass on the information he had received from HANSON to BRUCE LINDSEY. Before HANSON had left the meeting, NUSSBAUM told her to call SLOAN if something came up. SLOAN believes he was called into the meeting with NUSSBAUM and HANSON because NUSSBAUM's general style was to have someone else from the staff with him during meetings. SLOAN does recall that HANSON said that there had been referrals. There was no discussion about HANSON attempting to find out more details about the referrals or following up on anything. The only part of the conversation which related to any type of follow-up occurred when NUSSBAUM said that he had not received the materials from ALTMAN. This comment suggested the need to determine what had happened to the materials from ALTMAN. SLOAN left the meeting with no specific assignment other than to act as a point of contact for HANSON.

On March 11, 1994, which was the day after the date for compliance with the subpoenas which had been issued through the

OIC, SLOAN was in his basement going through notes which had been stored there as the basement was being finished. SLOAN found notes which were responsive to the subpoenas and which he had neglected to turn in. SLOAN found these notes stored in a black binder. SLOAN brought the notes in to his office at 8:30 and showed them to JOEL KLEIN. SLOAN's discovery of a portion of a phone bill was part of another issue and occurred at another time.

On September 30, 1993, HANSON called SLOAN and advised him that she had been wrong when she had mentioned ALTMAN sending materials to NUSSBAUM. HANSON stated that ALTMAN had not sent any such information to NUSSBAUM. HANSON mentioned to SLOAN an article written by JEFF GERTH which had been published in the New York Times in March 1992.

At this point in the interview, SLOAN began reading from his original notes regarding the call from HANSON.

SLOAN believes that SUE SCHMIDT, a reporter for the Washington Post, was alleging at that time that vital information relating to the referrals was suppressed. SLOAN has no recollection that HANSON had actually spoken with SCHMIDT. SLOAN does not have an independent recollection whether HANSON was speaking for herself or was simply relating what SCHMIDT had said to her. SLOAN was in his office when he received this telephone call from HANSON. HANSON and SLOAN had missed each other a number of times when they returned calls to each other. Due to the proximity in time, SLOAN inferred that HANSON's calls to him pertained to the issue of the criminal referrals. SLOAN wanted fellow Associate White House Counsel NEIL EGGLESTON to participate in a conference call with HANSON, and EGGLESTON did participate in at least one of the calls between HANSON and SLOAN. EGGLESTON had prior law enforcement experience and normally would have been more involved in these matters while SLOAN would deal with constitutional issues.

During June and July 1993, SLOAN had been in contact with HANSON to coordinate a simultaneous investigation of the White House Travel Office by the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS).

SLOAN asked EGGLESTON if it was all right for him to have conversations with anyone from Treasury about the forthcoming referrals. EGGLESTON advised SLOAN that he thought

such contact would be all right. The contacts appeared to be appropriate in the context of SLOAN's official responsibilities since there might be press inquiries about the referrals. Further, the referrals were not a matter before a grand jury. EGGLESTON and SLOAN looked at the RTC statute and found no statutory or regulatory prohibition against such contacts. Furthermore, SLOAN thought that HANSON, as Treasury General Counsel, would know of any legal considerations which would prohibit such contacts. Both EGGLESTON and SLOAN conducted legal research about the propriety of the contacts, but they did not separate their analysis of the statutes from their analysis of the regulations. SLOAN told NUSSBAUM of the results of their legal research and NUSSBAUM agreed with their analysis. The possibility of press inquiries made the ability to respond to these queries an official responsibility of the White House Counsel's Office. LINDSEY and Director of Communications MARK GEARAN had come to NUSSBAUM and told him they were already receiving press inquiries, especially from JEFF GERTH.

HANSON was calling SLOAN regarding specific press inquiries. SLOAN cannot tell whether HANSON was calling with independent knowledge or was passing along what she had learned from SUE SCHMIDT.

SLOAN told NUSSBAUM about HANSON's call, and NUSSBAUM told SLOAN to brief LINDSEY about it. SLOAN does not recall how he conveyed to NUSSBAUM the information from the call from HANSON. SLOAN's largest impression is that HANSON's call related to press inquiries.

SLOAN spoke to LINDSEY several times. On at least one of these occasions, EGGLESTON was with SLOAN. SLOAN tried to relate to LINDSEY the substance of the calls from HANSON. LINDSEY was fairly knowledgeable about the press inquiries, the details of the issues, and the names of the reporters covering the story. After the first call from HANSON, EGGLESTON was "in the loop," either from participating in the conversation or from being briefed by SLOAN. LINDSEY did not tell SLOAN that he would do anything.

At this point in the interview, SLOAN reviewed one of his original notes from October 7, 1993.

At that time, SLOAN and HANSON had been placing and returning calls to each other in unsuccessful efforts to reach

each other. On one particular call, EGGLESTON was on a telephone extension as SLOAN spoke with HANSON. SLOAN recalls HANSON saying that one of the RTC investigators had thrown SUE SCHMIDT out of the investigator's home. HANSON did not name the RTC investigator to SLOAN. HANSON then mentioned four questions which had been asked by SCHMIDT rather than GERTH. SLOAN does not know how HANSON came up with these four questions, but he had the impression that these questions came up through the RTC Public Affairs Office. The first question concerned International Paper Realty. SLOAN later learned from LINDSEY that in October 1986 International Paper sold a piece of property which became part of the Whitewater development. The second question concerned SETH WARD, who was the father-in-law of Associate Attorney General WEBSTER HUBBELL. The third question pertained to knowledge that three senior partners in the Rose Law Firm were angry at a fourth individual because he made too much money. The fourth question was whether VINCENT W. FOSTER, Jr. was involved in any of these issues. SLOAN learned that some reporter had interviewed JIM McDOUGAL the day before.

SUE SCHMIDT had spoken to STEVE KATSANOS, a Public Affairs official at the RTC. An RTC Early Bird noted that the Washington Post and the Associated Press were pursuing undisclosed links between the members of the Rose Law Firm. SLOAN read that there were alleged to be conflicts of interest involving the Rose Law Firm, and internal RTC sources suggested that multiple referrals to the Justice Department linked the Rose Law Firm to matters under investigation.

SLOAN's notation regarding "no contempt" was a reference to gays in the military and a possible contempt citation being issued to the Secretary of Defense.

Regarding the conversation with HANSON on September 30, 1993, SLOAN has no recollection of what information was being sought by the press. It is possible that some of this information was not coming from someone in the Public Affairs Office.

SLOAN believes that HANSON's reason for making the calls to SLOAN was that they were made in the context of press inquiries. SLOAN was not asked to do anything with the information about the referrals other than relate the information to EGGLESTON, NUSSBAUM and LINDSEY. LINDSEY was generally familiar with the subject.

LINDSEY was surprised at the existence of the Early Bird. He thought it was crazy for the RTC to collect rumors and leaks and then spend money printing them in an RTC publication.

SLOAN does not recall anything pertinent happening between October 7, 1993 and October 14, 1993.

HANSON called SLOAN on October 14, 1993 or the day before. A meeting was scheduled between Treasury and White House press people. SLOAN mentioned the meeting to NUSSBAUM but NUSSBAUM and EGGLESTON already knew about it. NUSSBAUM invited SLOAN to come along and attend the meeting. Because this meeting occurred during a time of transition when responsibility for different issues was being divided between SLOAN and EGGLESTON, both of them attended the meeting. Neither of them regarded the meeting as something important. Ordinarily, NUSSBAUM and one staff member would have attended a meeting of this type. SLOAN did not question at that time why he was invited to attend such a meeting when it was supposed to relate to press inquiries. It was not unusual for press matters to have legal overtones.

The meeting held on October 14, 1993 was attended by NUSSBAUM, EGGLESTON, SLOAN, LINDSEY and GEARAN from the White House and by HANSON, JOSH STEINER and JACK DeVORE from Treasury. DeVORE mentioned that he had been receiving a number of calls from people in the media. JEFF GERTH's name may have come up during DeVORE's presentation. DeVORE mentioned the reporters' questions and his responses to them. DeVORE said that reporters had asked whether there had been any unusual handling of the referrals, such as the referrals being sent to Washington, D.C. and held there. DEVORE said that the referrals had been handled in accordance with the normal process. DeVORE stated that GERTH had drawn an incorrect and adverse conclusion about how such referrals are processed. DeVORE said he wanted to clarify GERTH'S misconception. NUSSBAUM asked DeVORE how he would normally pass on information to GERTH and DeVORE explained his usual practice. SLOAN has a vague recollection that DeVORE was just about to leave. In reference to the RTC Early Bird, LINDSEY said it was a crazy idea for a government agency to circulate leaks and rumors.

At some point in the meeting, NUSSBAUM said he had heard something and he had heard about it from "you," looking in the direction of HANSON. HANSON appeared to nod in response. SLOAN does not know to what topic NUSSBAUM may have been

referring. STEINER mentioned that the information about the referrals was public information which was being released in response to public inquiries.

NUSSBAUM raised the question of whether it was proper to comment on the referrals. SLOAN does not recall LINDSEY raising this same question, but LINDSEY may have participated in such a discussion.

SLOAN did not regard it as odd that the White House held such a meeting regarding this particular RTC investigation because press inquiries had been coming to the White House.

After this meeting on October 14, 1993, SLOAN really had nothing else to do with the referral issue. In late December 1993 or January 1994, SLOAN and others in the Counsel's Office were called upon to perform specific legal tasks regarding these matters. SLOAN and others were attempting to correct misstatements in the press so that an accurate record would exist for internal use within the White House. EGGLESTON was assigned matters relating to Whitewater while SLOAN was assigned to handle questions about matters relating to FOSTER's office.

SLOAN and EGGLESTON prepared a memorandum to LINDSEY which was dated October 7, 1993. Because LINDSEY was so busy, LINDSEY's secretary had asked SLOAN to prepare a memo explaining why a meeting was being requested with LINDSEY. This occasion was the only time SLOAN was ever asked to prepare such a memorandum. SLOAN's written reason for requesting to schedule a meeting with LINDSEY was to discuss the call made to SLOAN by HANSON that day.

NUSSBAUM and EGGLESTON were working quite a bit on the Whitewater issue. When DONALD MACKAY was first proposed as a candidate for Special Counsel to investigate the Whitewater matter, SLOAN performed background work to demonstrate that internal politics in DOJ had not led to consideration of MACKAY for the position.

Some time between December 25, 1993 and January 1, 1994, possibly on December 30, 1993, SLOAN received a telephone call at home from TOM CASTLETON, an intern at the White House. CASTLETON related that GENE LUDWIG, Comptroller of the Currency, had called the White House and wanted to speak to either NUSSBAUM or SLOAN regarding MGSL. NUSSBAUM was out of town at the time.

SLOAN thought that EGGLESTON should handle this inquiry since it fell under EGGLESTON's purview. However, CASTLETON told SLOAN that LUDWIG had asked for SLOAN by name. LUDWIG also related to CASTLETON that he was calling from the Renaissance Weekend event in South Carolina, which President CLINTON was also attending. President CLINTON had asked about MGSL, and LUDWIG wanted to get the information so he could properly respond to the President. SLOAN does not know how LUDWIG obtained SLOAN's name. After speaking with CASTLETON, SLOAN called EGGLESTON, and they concluded that they should call JOEL KLEIN, who was also attending Renaissance Weekend. When they contacted KLEIN, he told them that no further conversation with the President about MGSL had occurred and the matter had been handled in an appropriate manner.

SLOAN did not attend a meeting held at the White House on February 2, 1994, but he saw HANSON and ROGER ALTMAN going into the meeting. KLEIN later made incidental comments to SLOAN that the subject of recusal had been discussed at the meeting. Since KLEIN had not attended the meeting either, he did not know any details of the meeting, and his comments were just passing references. Recusal was a hot issue at the time because one of the Republican senators wanted RICKI R. TIGERT, head of the Federal Deposit Insurance Corporation (FDIC), to recuse herself from matters relating to MGSL. This senator eventually extracted a pledge from TIGERT that she would recuse herself. SLOAN recalls that KLEIN was uncertain about the content of the conversation relating to ALTMAN's recusal and could only speculate about the content of the discussion. Both KLEIN and SLOAN had reputations for having strong senses of caution. SLOAN took KLEIN's comments as having been made in the context of his concern about the meeting. SLOAN did not express concern about it to KLEIN. KLEIN thought the White House should take an extremely cautious and conservative view toward handling the whole issue of recusal.

BETH NOLAN, the person responsible for ethics issues in the White House, was in contact with someone at Treasury at that time. SLOAN believes he recalls a conversation between NUSSBAUM and NOLAN at the end of a meeting, but he did not hear any details of the conversation between NUSSBAUM and NOLAN.

SLOAN did not participate in preparing ALTMAN for his testimony before the Senate. SLOAN does not know of anyone at the White House who prepared ALTMAN for his testimony. EGGLESTON

was looking forward to ALTMAN's testimony. At White House staff meetings, EGGLESTON would mention having had conversations with staffers from Capitol Hill. JOHN PODESTA and NUSSBAUM were also dealing with Whitewater matters. No particular issues regarding Whitewater were being discussed at that time. SLOAN did not watch the hearings on a Thursday when ALTMAN testified. On Thursday afternoon, KLEIN said that EGGLESTON had attended the hearings and thought they went fairly well. SLOAN thought ALTMAN had mentioned the meeting on February 2, 1994 in his testimony.

On Friday, the day after ALTMAN's testimony before the Senate Banking Committee, the New York Times gave a lot of attention to the meeting of February 2, 1994 in its account of ALTMAN's testimony. At a meeting of the White House Counsel's staff immediately following the senior staff meeting, KLEIN said there was some concern about the New York Times story and there might be a White House statement coming out. EGGLESTON related anecdotes about ALTMAN's testimony. SLOAN was concerned that the White House statement might be inaccurate if it only mentioned the meeting on February 2, 1994. SLOAN told KLEIN it was important to make the White House statement accurate. SLOAN suggested to KLEIN that he speak with LINDSEY to ensure the statement's accuracy since LINDSEY was familiar with the autumn meetings between the White House and Treasury officials. On Friday afternoon, SLOAN called KLEIN, who advised that he was all right and did not need SLOAN'S assistance. LINDSEY later ran into SLOAN and told him it had been a good point about ensuring that the number of meetings mentioned in the statement was accurate. SLOAN was present when NUSSBAUM called KLEIN from Mexico. SLOAN had the feeling KLEIN would mention JAY STEPHENS to NUSSBAUM during this call. KLEIN went into NUSSBAUM's office, spoke to NUSSBAUM on the telephone, and then came back out and briefed SLOAN on the substance of the call. NUSSBAUM was then transferred to the telephone of Deputy Chief of Staff HAROLD ICKES. SLOAN recalls that KLEIN was going to update NUSSBAUM over the weekend but nothing occurred which required such an updating.

On Monday, February 28, 1994, NUSSBAUM was scheduled to be back at the White House. KLEIN called SLOAN and asked him to go out to lunch. KLEIN and SLOAN went out and KLEIN said he had just learned that the meeting had not been set up by NUSSBAUM but had possibly been set up by ICKES or by the office of White House Chief of Staff THOMAS "MACK" McLARTY. KLEIN was also concerned by ALTMAN's testimony that the recusal issue had not been brought

up at the meeting. At that time, neither SLOAN nor KLEIN had seen the transcript of ALTMAN's testimony yet. The upshot of this conversation was that KLEIN would have EGGLESTON review the transcript and evaluate the accuracy of ALTMAN's testimony. KLEIN told SLOAN that he already assigned that task to EGGLESTON. KLEIN later paged SLOAN and told him that EGGLESTON had reviewed the transcript and that EGGLESTON, NUSSBAUM and KLEIN would get together. KLEIN said that BETH NOLAN would stand in for SLOAN. When KLEIN and SLOAN met that evening, KLEIN said that the transcript had reflected that ALTMAN had requested the meeting. Within the White House, there was concern about the appearance of NUSSBAUM setting up such a meeting, particularly since he had not set it up. KLEIN and SLOAN reviewed a long passage of the transcript regarding procedures, looking line by line for a reference to recusal. KLEIN said PODESTA had been brought into the discussion and wanted to sleep on it. SLOAN said he hoped there had not been a question which should have elicited a discussion of previous meetings. SLOAN took a copy of the transcript home and reviewed it. In reviewing the transcript, SLOAN read where Senator CHRISTOPHER BOND had asked ALTMAN how the White House had learned of the RTC referrals. ALTMAN testified that no one from his agency, i.e., the RTC, had advised the White House.

On Tuesday, SLOAN went to NUSSBAUM and said there were questions about ALTMAN'S responses in terms of the White House meetings involving HANSON. SLOAN saw KLEIN shortly thereafter and told him he had talked to NUSSBAUM. That afternoon, PODESTA, NUSSBAUM, EGGLESTON and SLOAN met. NUSSBAUM left briefly and returned with LINDSEY, who stayed for the meeting. SLOAN explained to the group what had occurred in the meetings on September 29, 1993 and October 14, 1993 as well as the telephone calls which had occurred between those two meetings. NUSSBAUM and LINDSEY remembered the terms used in the meetings differently. LINDSEY did not recall the CLINTONs being mentioned as witnesses. NUSSBAUM did not remember the CLINTON campaign being mentioned as a co-conspirator and he thought a different term had been used. The participants in the meeting went over the transcript in detail. PODESTA was going to call ALTMAN and bring the discrepancies in ALTMAN's testimony to his attention. The discrepancies centered around the recusal issue and the prior meetings between the White House and Treasury officials. PODESTA thought the issue of the Treasury-White House meetings needed to be brought up clearly. The recusal point could be part of the discussion about procedures. Later that day, SLOAN heard from

KLEIN that PODESTA had called ALTMAN. SLOAN heard that ALTMAN interrupted PODESTA and said that he had not known about the prior meetings.

SLOAN has never had much contact with ALTMAN. SLOAN has had no contact with either HANSON or ALTMAN since ALTMAN testified before the Senate Banking Committee. SLOAN has had no conversation at the White House or anywhere about JAY STEPHENS or removing STEPHENS from his post with the RTC. SLOAN has not had any conversation with either ICKES or GEORGE STEPHANOPOULOS about removing STEPHENS from his post at RTC. On Friday, KLEIN told SLOAN there would be a big story in the media over the weekend. On Saturday, SLOAN read in the Washington Post about a call made by STEPHANOPOULOS regarding the hiring of STEPHENS by the RTC. The following week, SLOAN spoke with KLEIN and learned that McLARTY was not conducting an internal inquiry and that there was a sense in the press that the White House was putting STEPHANOPOULOS out to dry.

Based on observation and interview, SLOAN is described as follows:

Name:	CLIFFORD M. SLOAN
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/11/94

CLIFFORD M. "CLIFF" SLOAN, Associate Counsel to the President, was interviewed at the office of the Independent Counsel, Washington, D.C. as scheduled at 9:15 a.m. MR. SLOAN was advised of the identity of the interviewing agents and of the purpose of the interview. Assisting with the interview was CARL STICH, Assistant to Independent Counsel, ROBERT B. FISKE, JR. Also present during the interview were MR. SLOAN's attorneys, PETER J. ROMATOWSKI and STEVE BYERS from the law firm CROWELL & MORING. MR. SLOAN provided the following information:

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Working from the index of the documents produced, this documentation was reviewed during the course of the interview in a cursory way. SLOAN indicated that he had maintained the originals of this documentation in a two-drawer file cabinet in his office. Some of the material produced had been kept segregated.

SLOAN said in addition to the documents provided, he would later make available a copy of a draft of questions and answers which he had in his possession that had been prepared to assist with press inquiries on the FOSTER note.

SLOAN joined the White House Staff in May or June of 1993. For the six to eight weeks prior to VINCENT FOSTER's death, he dealt with FOSTER on a daily basis. SLOAN didn't know FOSTER well, as in the sense of a close friend, but described him as a colleague. SLOAN was normally assigned his work by BERNARD

I ation on 5/11/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton / SSA William E. Colombell WTG:deg Date dictated 5/11/94

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NUSSBAUM, Chief White House Counsel, but on occasion FOSTER would assign work to him.

SLOAN described FOSTER with the following adjectives: reserved; carried himself with great dignity; supportive; decent guy; and a careful lawyer.

SLOAN could not recall having any conversations with FOSTER regarding non-work related matters.

When asked if he could identify individuals who may have confided with FOSTER, SLOAN named MARSHA SCOTT and then added the name BILL KENNEDY. As an example of SCOTT's rapport with FOSTER, SLOAN cited a conversation he had with SCOTT on Air Force One while enroute to FOSTER's funeral. SCOTT told SLOAN she had talked with FOSTER the day before he died for a long time. FOSTER had told her that he was going to get some rest. SCOTT believed that FOSTER had times like that in Arkansas. SCOTT reported this conversation with FOSTER to SLOAN during the course of discussion while on the plane.

SLOAN was asked to describe the NUSSBAUM/FOSTER relationship. SLOAN said they got along very well; it was a close relationship. They were very different people. NUSSBAUM was outgoing and talkative and FOSTER reserved and chose his words carefully. FOSTER was always deferential to NUSSBAUM. There was never any question as to who was in charge in the counsel's office. It was clearly NUSSBAUM. FOSTER was very concerned to keep NUSSBAUM advised on issues. They were very open with each other.

SLOAN was asked if he had observed any noticeable changes in FOSTER. SLOAN said he had noticed increased stress in FOSTER as a result of the Travel Office report. In addition, other items appearing in the press such as those concerning Supreme Court nominees were also stress provoking for FOSTER. FOSTER had a conversation with SLOAN wherein FOSTER revealed his thoughts that the counsel's office and White House were not prepared for further onslaught by the Republicans and press. FOSTER suggested the hiring of outside counsel to represent the White House. FOSTER also discussed an alternative of hiring of someone else on the counsel's staff to focus on matters under attack. FOSTER felt that the White House was overwhelmed and outmanned.

SLOAN did not notice any weight loss by FOSTER. SLOAN described FOSTER's appearance the week before his death as being more reserved and laconic. SLOAN said that FOSTER took a day off the week before his death and also came in late one day. SLOAN did not view this as out of the ordinary at the time, as others were also taking time off. For example, NUSSBAUM had recently come back from a week off. SLOAN also recalled that NUSSBAUM had encouraged FOSTER to take time off.

As an example of how FOSTER's condition was manifested, SLOAN cited a night about a week before FOSTER's death when it looked like the "JOCELYN ELDER thing" was going to erupt. SLOAN found NUSSBAUM and FOSTER together when SLOAN went to them to discuss the Travel Office matter. FOSTER said "They're way ahead of us." It was another example of a "huge new problem" confronting them. BILL KENNEDY's name came up during the conversation. NUSSBAUM said that KENNEDY was okay. FOSTER said that KENNEDY was not okay, referring to how he (KENNEDY) was doing emotionally.

SLOAN was asked if FOSTER was involved with non-White House related matters and whether this was a source of concern for FOSTER. SLOAN could not remember the issue coming up concerning the propriety of White House counsel working on personal matters for the CLINTONS. SLOAN said that it was reported in the newspaper that FOSTER himself was looking into securing private counsel regarding the Travel Office matter.

FOSTER had conversations with JIM HAMILTON regarding the White House retaining HAMILTON to represent the White House during the Congressional investigation of the Travel Office issue. NUSSBAUM had concerns regarding the hiring of outside counsel. NUSSBAUM advised that HAMILTON just represent FOSTER. It was unclear whether HAMILTON represented the White House or FOSTER. HAMILTON has notes of his conversation with FOSTER but SLOAN has not seen these notes. HAMILTON discussed his conversations with FOSTER with SLOAN in September or October, 1993, at the time the First Lady and others in the White House were becoming a focus in the Travel Office inquiry. There was a question if the President and First Lady were interviewed, who would be their counsel.

SLOAN was asked if he knew if FOSTER was working on Whitewater at the time of his death. SLOAN answered no. SLOAN

was asked if FOSTER was working on CLINTON personal/family legal matters. SLOAN answered FOSTER would have been working on personal official matters such as residence issues; in a sense personal but job related. When asked if others were also working on such matters, SLOAN said his "impressions" were that STEVE NEUWIRTH did work for HILLARY CLINTON, CLINTON's Task Force litigation, and that BETH NOLAN did financial disclosure type matters. FOSTER was working with outside lawyers such as BOB BARNETT, but SLOAN had no knowledge of this. SLOAN was asked if he had learned of any projects FOSTER was working on for the CLINTONS prior to the inauguration. SLOAN answered in a general way but that he was not personally extensively involved with the matters. In December, 1992, FOSTER had worked on the closing out of the President's and First Lady's involvement with Whitewater.

SLOAN saw VINCENT FOSTER for the last time on the morning of July 20, 1993 at the nomination ceremony for the Director of the FBI. He said he and FOSTER were standing together at the ceremony and FOSTER had made the comment to him about how old is he, referring to Director Freeh. SLOAN also walked back to the White House with FOSTER. He asked FOSTER the question, "So what d'ya think?" FOSTER only mumbled an answer. A second question by SLOAN received no response from FOSTER. FOSTER's quiet way was not arrogant but rather FOSTER wasn't expressive and kept to himself. SLOAN had no further contact with FOSTER on July 20, 1993. The rest of July 20, 1993 was a normal work day for SLOAN. He was involved in arranging a confirmation hearing for FBI Director Freeh.

SLOAN was asked if he knew what FOSTER was working on July 19 or 20, 1993. SLOAN answered no.

SLOAN went to bed on the evening of July 20, 1993 at 11:00 p.m. or earlier. After retiring for the night, he received a call from NUSSBAUM. He believed NUSSBAUM was calling from the White House. NUSSBAUM told SLOAN that "I have terrible news for you - VINCE FOSTER killed himself." NUSSBAUM described that FOSTER had driven his car to a park and shot himself. NUSSBAUM didn't want SLOAN to hear this from someone else. NUSSBAUM made no requests of SLOAN. SLOAN did not do anything or make any notifications as a result of this call. SLOAN had a "fitful" night and slept very little thereafter.

Wednesday, July 21, 1993 was an overwhelmingly sad, painful time for everyone at the White House. SLOAN went to NUSSBAUM's office at about 9:00 a.m. that day. Others drifted in to include STEVE NEUWIRTH, BILL KENNEDY, BETH NOLAN, etc. Two issues came up while in NUSSBAUM's office. One, the question of sealing VINCENT FOSTER's door and two, the presence of the U.S. Park Police who wanted in FOSTER's office. The discussion concerning sealing the door was that NEUWIRTH and SLOAN thought that a guard and lock should be put on FOSTER's office. Others wondered if it was necessary and would "look strange." SLOAN explained the phrase "look strange" as being a question of whether this change of securing the office now versus not having done so previously would cause concern. Also, a guard outside the FOSTER door may be perceived as an overreaction or alarmist measure. SLOAN viewed securing the office as being the prudent, lawyerly thing to do to freeze the situation. SLOAN did not recall NUSSBAUM or BETSY POND saying they had been in the office the night before. There was no discussion of the FOSTER note. The purpose of the review of documents in FOSTER's office the following day was discussed, but only in general. SLOAN did not remember what he knew at the time regarding anyone being in and out of FOSTER's office.

At some point during the day on Wednesday, SLOAN learned of a cleaning lady having a bag of trash from FOSTER's office. SLOAN intercepted this employee and stored the bag of trash in ROY NEAL's office. After the afternoon meeting on July 21, 1993 with U.S. Park Police and others, probably about 6:00 or 6:30 p.m., SLOAN put this trash in FOSTER's office. SLOAN had learned about the trash from NUSSBAUM.

The second issue discussed in NUSSBAUM's office that morning regarding the U.S. Park Police presence and their desire to enter the FOSTER office concerned a discussion of how to deal with their request. NUSSBAUM wanted to check with PHIL HEYMAN at the Department of Justice (DOJ) regarding DOJ and FBI involvement in the case. There was also some discussion of Interior Department involvement versus DOJ. HEYMAN was NUSSBAUM's primary contact at DOJ. SLOAN did not remember if he was in the room when NUSSBAUM made his call to HEYMAN. He does not remember hearing NUSSBAUM's side of the conversation. HEYMAN wanted to send over DOJ lawyers and FBI agents. SLOAN did not recall the preference of the counsel's office, except that it seemed odd to him (SLOAN) that the U.S. Park Police were involved. NUSSBAUM

also wanted to see how Interior viewed the matter. NUSSBAUM wanted to talk to high levels at the Interior Department, rather than with the U.S. Park Police. SLOAN doesn't know if NUSSBAUM did this or not.

During this meeting in NUSSBAUM's office, NUSSBAUM and BILL KENNEDY perhaps, left to attend a U.S. Park Police briefing regarding FOSTER's death.

People were in NUSSBAUM's office most of July 21, 1993. SLOAN described this office as a "mourning room."

NUSSBAUM made no specific assignments to anyone that SLOAN was aware of. SLOAN did not recall any interest being expressed in the weapon which FOSTER had used or the autopsy which was to be performed that day.

The reservations regarding the U.S. Park Police search of FOSTER's office concerned: (1) who was making the law enforcement decisions; and (2) privileged documents and White House layers of confidentiality. It was NUSSBAUM's feeling not to let investigators rummage through the office, as it could be a violation of the lawyer's responsibility.

On July 22, 1993, NUSSBAUM was in discussion with others in the White House. SLOAN was not present. SLOAN continued to return to his office to handle other business throughout the day.

Late in the morning of July 21, 1993, WEBB HUBBELL came into NUSSBAUM's office. Also the President and MACK MCLARTY came into the office. NUSSBAUM took a picture of the President and FOSTER from FOSTER's office. SLOAN again emphasized the grief and shock that everyone was feeling.

About noon on July 21, 1993, the entire White House staff was assembled in the Old Executive Office Building. The President, NUSSBAUM and MCLARTY addressed everyone. RICKIE SIDEMAN was busy getting background information on FOSTER and MARK GEARAN was preparing for a press briefing.

On Wednesday afternoon, July 21, 1993, a meeting was set up with DOJ lawyers and the FBI. The meeting took place in NUSSBAUM's office. A list of those in attendance was provided by

SLOAN. Those present included: Detective PETE MARKLAND, U.S. Park Police; SA SCOTT M. SALTER, FBI; ASAIC DONALD A. FLYNN, U.S. Secret Service; DAVID MARGOLIS, DOJ; ROGER ADAMS, DOJ; CHARLES W. HUME, U.S. Park Police; and JOHN K. DANNA, FBI. In addition, SLOAN said that White House people not listed included NUSSBAUM, maybe STEVE NEUWIRTH and SLOAN himself. SLOAN could not recall any pre-meeting or meetings prior to this Wednesday afternoon meeting. SLOAN described the meeting as give and take. Discussions concerned the trash, a photo, the posting of the office and the interviews of the secretaries the next morning. There was "not a lot" of discussion regarding how the search of FOSTER's office was to be done. SLOAN had no remembrance of discussion concerning DOJ or FBI review. SLOAN said there could have been different impressions people would have from the discussions regarding what and how things were to be done the following day.

The discussions with PHIL HEYMAN resulted in DAVID MARGOLIS and ROGER ADAMS from DOJ and the FBI assigned to be there. SLOAN also recalled discussing FOSTER's personal affects. BURTON wanted FOSTER's wallet, rings, etc. for the President to take to MRS. FOSTER that evening. SLOAN asked the Park Police if this was possible and they said they would try and, in fact, did secure these items for delivery to the White House at about 7:30 p.m. After the meeting, SLOAN took the trash from ROY NEAL's office to FOSTER's office. SLOAN doesn't remember how NEAL got the trash, except from the cleaning lady. He could not remember whether the bag of trash was sealed or not and whether the bag was transparent or not.

Later that same evening (July 21, 1993), NUSSBAUM told NEUWIRTH and SLOAN to "prepare" the White House secretaries for their next day interviews. By "prepare," SLOAN said the secretaries were instructed to answer forthrightly regarding routine questions on VINCE FOSTER. They also asked the secretaries what they recalled. SLOAN said the only consequential item surfaced was the family calling with concern for FOSTER. SLOAN viewed this preparation as informing the secretaries. He doesn't recall telling them not to volunteer information. He said this preparation seemed totally normal to him to facilitate the investigation. He said the preparation time was quick and the secretaries had been assembled in a group and included BETSY POND, LINDA TRIPP and DEBORAH GORHAM.

The lock was being installed on FOSTER's office door as SLOAN left for the day. He understood that the key was given to the U.S. Secret Service.

The morning of July 22, 1993 was basically consumed with the interviews of the secretaries. SLOAN remembered coming to NUSSBAUM's office. CHERYL MILLS and WALTER DILLINGER joined in a conversation regarding FOSTER. CHERYL MILLS remembered reading a New York Times article about the gun being found in FOSTER's right hand and questioning whether he was left handed. The discussion was inconclusive that day. A subsequent conversation with JIM HAMILTON two weeks later, which NUSSBAUM asked SLOAN to have, indicated a newspaper article reported the question of whether FOSTER was left or right handed had been resolved to the satisfaction of the U.S. Park Police. During the conversation, it was discussed that BILL KENNEDY knew VINCENT FOSTER best.

The U.S. Park Police and FBI then arrived and NEUWIRTH and SLOAN split up to assist or attend the secretary interviews. SLOAN was at POND's interview and NEUWIRTH at GORHAM's. SLOAN said it had been decided by NUSSBAUM that he and NEUWIRTH would be present for the interviews. SLOAN could not recall any reaction by law enforcement to this procedure. It surfaced as an issue later. The assumption was suicide and there was little discussion otherwise. At one point during the POND interview, NUSSBAUM burst in the room. SLOAN said this was NUSSBAUM's way of welcoming and asking "do you need anything?" SLOAN said it was a remarkable distortion of what happened and an unfair characterization to label this interruption as anything more than this. He said he may be basing this on his prior exposure to NUSSBAUM versus a perception by those who really did not know NUSSBAUM. SLOAN said there was no White House intimidation in dealings with law enforcement. It was entirely professional and a mutual respect situation.

SLOAN also was present at LINDA TRIPP's interview.

SLOAN recalled that after GORHAM's interview, NEUWIRTH told SLOAN that GORHAM had failed to mention anything regarding the family calling the White House to check on FOSTER's condition. SLOAN suggested a follow-up with GORHAM by the U.S. Park Police and FBI. At this point, the interviews of the secretaries were completed.

Attention now focused on the issue of going into FOSTER's office. NUSSBAUM had been tied up in meetings during the morning. Some of these meetings may have concerned the procedure of the FOSTER office search. SLOAN could only recall that one of these meetings was with the Chief of Staff. Meanwhile, the U.S. Park Police, a member of JIM HAMILTON's law firm, the FBI and DOJ were waiting. MARGOLIS from the DOJ was in charge of this group. SLOAN was occupied doing JOCELYN ELDERS' work. NUSSBAUM said going into the office that he would briefly describe the documents. NUSSBAUM or SLOAN told MARGOLIS of the procedure. MARGOLIS then called HEYMAN and expressed concern regarding the procedure. SLOAN talked for a time with HEYMAN and then referred HEYMAN to NUSSBAUM. NUSSBAUM and HEYMAN discussed the procedure to be followed for the search. It was eventually decided how the search would proceed, but SLOAN doesn't remember anything but the bottom line. The important thing to SLOAN was that the process was moving forward. SLOAN said he had no idea whether the search of FOSTER's office was the only subject or not discussed by NUSSBAUM in the various meetings of that morning. SLOAN said the FOSTER funeral and press inquiries and other related matters were also occupying people's time. The First Lady was in Arkansas at the time of FOSTER's death. SLOAN did not know if NUSSBAUM was consulting with her or the President.

(At this point in the interview, a ten or fifteen minute break was taken.)

SLOAN tried to keep the Park Police, FBI and DOJ posted regarding the status of the search. At 1:00 or 1:15 p.m., NUSSBAUM said "let's do it (the search) at 2:00 p.m." SLOAN said the discussion on who would see what documents was not done in his presence. NUSSBAUM thought it was a good idea to have others in FOSTER's office as he reviewed the documents. He considered the extremes of letting investigators rummage through the office versus nobody in the office at all. NUSSBAUM felt the latter would be criticized more than the procedure actually followed. They felt it was a "reasonable balance." The purpose of the search was to locate a suicide or extortion note. SLOAN said that at the time he had no firm view one way or the other regarding how the search should be conducted. His perspective was that he was not making the decision. His view of this procedure today is that to the extent it has provoked controversy, it is regrettable. SLOAN is not sure of optimal alternatives. He believes each option has its different pros and

cons. The issue of privilege is viewed by SLOAN as not being unreasonable.

SLOAN doesn't recall MARGOLIS saying how the search should be done. SLOAN said the criteria used would be to let investigators see anything related to suicide or extortion. NUSSBAUM would be reviewing and describing documents located in FOSTER's office. If law enforcement said a document was of interest, it would be put in a separate (middle) pile for later consideration. FOSTER personal papers and work-related papers would be put in two other piles. Law enforcement never asked to see anything to the best of SLOAN's recollection. NEUWIRTH and SLOAN were moving around during the search. BURTON was in and out of the office. NEAL was not there. Sometimes NUSSBAUM would turn over documents he had reviewed and sometimes not. MARGOLIS had commented on HEYMAN's concerns, but SLOAN believed NUSSBAUM and HEYMAN were handling these concerns. Nobody said anything nor did any body language convey to SLOAN that anybody had any inappropriate concerns.

SLOAN remembered the incident with FBI Agent SALTER standing. SLOAN said NEUWIRTH whispered to him that SALTER was looking at documents and to SLOAN it seemed he was. SLOAN said to SALTER, "You're not standing up to look at documents, are you?" SALTER answered, "Let's not get carried away." NUSSBAUM interjected that "You can stand up." In retrospect, SLOAN believes his comment was dumb and he apologized at the time for making it. Thereafter, the search became lighter because of people joking about other's actions in the later part of the search, also trying to "see" documents.

The actual search consisted of a search of the desktop and drawers, side drawers and files, trash, and briefcase. NUSSBAUM would pull out a drawer and describe its contents. SLOAN made notes from NUSSBAUM's description. He did not intend this list to be exhaustive.

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SLOAN could not specifically recall any black binders being located during the search. He said that notebooks were present in FOSTER's office.

The trash bag brought back to FOSTER's office by SLOAN on July 21, 1993 was searched by NUSSBAUM. SLOAN did not recall if they looked in the trash can itself in the office or not. He did not recall searching a burn bag in FOSTER's office, but thinks that it was searched. With respect to the trash/burn bag, SLOAN was called to MARK GEARAN's office to explain the trash situation. SLOAN repeated that he had gotten the trash from ROY NEAL's office and put it back in FOSTER's office. SYLVIA MATTHEWS, Special Assistant to ROBERT RUBEN, Director of the Economic Counsel, with offices on the second floor of the White House with possibly GENE SPERLING, Deputy to BOB RUBEN, had gone to look for FOSTER's burn bag the evening of July 20, 1993. It had been mixed with others but they had located torn up credit card slips with VINCENT FOSTER's name on them, etc. and mentioned this to NUSSBAUM. MATTHEWS was summoned to GEARAN's office to explain this. MATTHEWS said she had retrieved the burn bag from wherever burn bags go. SLOAN speculated that there may have been more than one burn bag or a burn bag from another office. He just didn't know. SLOAN never heard of a burn bag returned to FOSTER's office. This meeting in GEARAN's office occurred in early August, a few days after the FOSTER note was found and a story surfaced regarding something taken out of FOSTER's office. SLOAN described it as a misunderstanding. SLOAN described the burn bag as having red and white stripes.

SLOAN was shown the briefcase believed taken from FOSTER's office. SLOAN didn't remember the briefcase. He remembered that the briefcase in FOSTER's office was flexible like the one shown to him, but did not remember the color. He thought it was more brown, rather than black. SLOAN had a "hazy" recollection of the original location of the briefcase in FOSTER's office. SLOAN said NUSSBAUM took files and papers out of the briefcase and put the briefcase down. SLOAN did not recall what NUSSBAUM said or did with the briefcase. SLOAN remembers thinking the thought that the briefcase was empty, but not sure why he felt this way. The list he prepared regarding the search doesn't specify what was taken from the briefcase. SLOAN interjected that there had been some confusion about there being more than one briefcase and asked if the briefcase he was shown was the one from FOSTER's office.

A lot of the material in the file cabinets remained in the file cabinets. A foot-high pile of documents not identified as FOSTER personal or investigator interest resulted from the

search. This pile would be the work-related or privileged documents located during the search. A small redwell file was produced for documents being produced for investigators. This included two July calendars, one July call sheet, a photo of the handwritten note and possibly the phone log notebook. The third pile, approximately a xerox-type box full of material consisted of FOSTER personal items. MIKE SPAFFORD took these items. SLOAN recalled that other things, such as pictures, were also taken and it was more than SPAFFORD could carry.

When the search was over, the pile put aside for consideration later was given to SLOAN as it was late in the day and the FOSTER funeral was the next day. SLOAN locked this pile in a two-drawer file cabinet in his office. Investigators took nothing the day of the search. Investigators returned on Friday, July 30, 1993 to view some telephone messages, etc. SLOAN is not sure who initiated their visit. He said the FOSTER note had been found. Newspaper articles had discussed the search and may have prompted the return visit. SLOAN said it has always been the intention that this pile was going to be something to be addressed.

After the search, the keys to FOSTER's office were given to NUSSBAUM. NUSSBAUM went into FOSTER's office after the others left on the day of the search, July 22, 1993. SLOAN said NUSSBAUM was looking at some of the documents in the office. SLOAN heard subsequently that White House related documents were disbursed to others in the White House but he doesn't know specifics. SLOAN could not recall getting any of these documents himself. NEUWIRTH probably did, but no one else was recalled by SLOAN. SLOAN could not recall whether the FOSTER office was locked thereafter or not. He said there was no particular reason to lock this door as the suite of offices had a lock on it.

SLOAN was asked about NEUWIRTH discovering the FOSTER note on July 26, 1993. SLOAN only knew about the note being found after the fact. He first heard about its location Tuesday evening, after it was given to the U.S. Park Police. It was SLOAN's understanding that NEUWIRTH was going to index files in FOSTER's office and that pieces of the note "fluttered out" of the briefcase as NEUWIRTH was handling it. NUSSBAUM helped NEUWIRTH piece the note together. SLOAN had no information regarding the note in the briefcase at the time of the search. In passing, DEBORAH GORHAM has said that she saw yellow stickies

in the briefcase. NEUWIRTH has described to SLOAN how the note was found. Regarding the origin of the note, SLOAN only knows what he has learned afterwards, i.e., that MRS. FOSTER had told VINCE to write things down. Asked if he thought the note had been put in the briefcase after the search, SLOAN said he had no information suggesting anyone had any knowledge of this.

NUSSBAUM gave his handwritten version of the note to SLOAN. SLOAN produced a typed copy of the note from this version and believes he gave the handwritten note back to NUSSBAUM.

When questioned about searching a safe, SLOAN replied that the safe in NUSSBAUM's office contained VINCENT FOSTER's war powers file. SLOAN knew of no other information belonging to FOSTER in the safe.

SLOAN had no information concerning any other FOSTER note. He had no information concerning a discussion regarding another note.

SLOAN did not return to the White House on the evening FOSTER died (July 20, 1993). NUSSBAUM, THOMASSON and WILLIAMS described things and SLOAN believed were the only people in FOSTER's office that night. BETSY POND was in FOSTER's office the next morning (July 21, 1993) to "straighten papers." THOMASSON had been beeped by DAVID WATKINS to return to the White House. WILLIAMS had been beeped by someone whom SLOAN could not recall to return to the White House. WILLIAMS saw HOWARD PASTER in bluejeans that night at the White House. SLOAN described the scene as a place that was grief stricken and shocked.

In December, 1993, SLOAN got the details from MAGGIE WILLIAMS concerning various "CLINTON personal documents" given to her by NUSSBAUM or NEUWIRTH. WILLIAMS received the documents Thursday after the search (July 22, 1993) or the following Monday (July 26, 1993). WILLIAMS locked these documents in a closet at the White House residence. The following Tuesday (July 27, 1993), the documents were delivered to WILLIAMS & CONNOLLY for indexing. The quantity of documents was a half-drawer or box full. WILLIAMS carried the box with a legal intern from the office.

At Attorney ROMATOWSKI's prompting, SLOAN recalled that a couple of weeks before FOSTER's death on July 20, 1993, perhaps

Friday, July 9, 1993, SLOAN saw FOSTER carrying a box or two to his car. FOSTER told SLOAN they were "things from the transition."

SLOAN was again questioned regarding the procedure followed in the search of FOSTER's office. He defended the procedure as being necessary to protect privileged documents. He said "not even a flash" of privileged documents would be acceptable. The purpose of the search was described as "educational" and to give the investigators a "sense of the office and its contents."

SLOAN was asked if he had attended any social events with FOSTER. The only time SLOAN could recall was a party in June, 1993 for BILL KENNEDY.

The following description of SLOAN was obtained through observation and interview:

Name:	Clifford M. "Cliff" Sloan
Title:	Associate Counsel to the President
Race:	White
Sex:	Male
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POB:	
SSAN:	
Residence:	4506 Chase Avenue Bethesda, Maryland 20814
Telephone:	Home: (301) 907-0964 Work: (202) 456-7900/6788

Attorneys PETER J. ROMATOWSKI and STEVE BYERS, CROWELL & MORING, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004-2595, telephone (202) 624-2745.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

CLIFFORD "CLIFF" M. SLOAN, Associate Counsel to the President, The White House, Washington, D.C., telephone (202) 456-7900/6788 was interviewed at the Office of the Independent Counsel (OIC), Washington, D.C., as a follow-up to his previous interview of May 11, 1994. Assisting with the interview was MARK STEIN, Assistant to Independent Counsel, ROBERT B. FISKE, JR. Also present during the interview were Mr. SLOAN's attorneys, PETER J. ROMATOWSKI, STEVE BYERS, and KAREN DEAKINS from the law firm Crowell & Moring, 1001 Pennsylvania Avenue, N.W., Washington, D.C., telephone (202) 624-2745. Having been advised of the identities of the interviewing agent and OIC Counsel and of the purpose of the interview, Mr. SLOAN provided the following information:

When asked if everybody left after the review of documents in VINCE FOSTER's office on the afternoon of July 22, 1993, SLOAN answered that BERNARD NUSSBAUM, Chief White House Counsel, STEVE NEUWIRTH, Associate Counsel to the President, and himself (SLOAN), stayed "for a few minutes." SLOAN said there was a pile of personal FOSTER files which went to the FOSTER family attorney, SPAFFORD. SPAFFORD filled a box and then "couldn't fit any more in the box." SPAFFORD was "loaded up with stuff and left." SLOAN said that his notes of the file review in FOSTER's office, which had previously been furnished to the OIC, had a line at the end concerning a direction given to him about getting MAGGIE WILLIAMS, etc. SLOAN said the note would jog his recollection but he doesn't recall anything beyond that. He said the fact that he wrote it down means that he was at least partially responsible for the follow through with WILLIAMS. However, it later came to his attention that he didn't have to do this. He personally didn't separate the personal materials on July 22, 1993 or at any other time. SLOAN was taking notes from what NUSSBAUM was saying versus what he (SLOAN) actually saw during the record review in FOSTER's office.

SLOAN was asked if he could recall other conversations regarding the document transfer to the law firm of Williams & Connolly. SLOAN answered, "No, not that I recall." SLOAN said

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stigation on 7/7/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 7/8/94

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he knew of the transfer of documents sometime in August 1993. He said he learned of this during a discussion with BOB BARNETT. His discussion with BARNETT was in connection with research for a column that William Saphire was writing. SLOAN previously furnished the OIC with his notes of his conversations with BARNETT.

After being reminded by his attorney, PETER ROMATOWSKI, SLOAN said that he also remembered NUSSBAUM sitting at FOSTER's desk after the search looking at the documents. NUSSBAUM asked if there was an obligation for them to preserve or retain the documents. SLOAN answered that it would be "a good idea to do so." NUSSBAUM was interested in the legal requirement or basis for doing this. At some point during the discussion, NEUWIRTH came in and joined them and advised that the documents should be retained because of the "Presidential Records Act," SLOAN said that NUSSBAUM was going through the files and sorting them in the context of "what to do with certain things in the office."

SLOAN was asked if he could recall any other conversations. He said he remembered at one point NUSSBAUM, while in FOSTER's office, was on the telephone with SUSAN THOMASES and relating the procedure which had been followed during the search of FOSTER's office. SLOAN said that he left during the conversation. When asked why NUSSBAUM would call THOMASES, SLOAN answered that she was someone NUSSBAUM talked to.

SLOAN was asked about NUSSBAUM's reasoning for transferring the FOSTER documents to Williams & Connolly. SLOAN answered that he later heard NUSSBAUM discuss that he (NUSSBAUM) "had done the reasonable thing." Work-related materials from FOSTER's office had been given to others in the White House to handle and personal papers of the FOSTER family and the CLINTONs given to the appropriate attorneys. SLOAN learned of this at the time the White House was making public statements regarding the handling of documents probably in December 1993.

SLOAN was asked if he was involved in a review of FOSTER documents in December 1993. SLOAN answered that in December 1993 or early January 1994, he was working with JOEL KLEIN to prepare for press inquiries regarding the matter. SLOAN talked with MAGGIE WILLIAMS and said at that time he "learned more than I knew." He said the conversations included discussions regarding the night of July 20, 1993 and what had

happened with the FOSTER files which had gone to Williams & Connolly. SLOAN was asked if WILLIAMS had told him that documents had been transferred to Williams & Connolly. SLOAN answered that in his discussions with WILLIAMS, they were trying to establish the timing of the transfer of documents and that WILLIAMS had been unclear. The transfer was either Thursday, July 22, 1993 or possibly Monday, July 26, 1993. SLOAN said it was most likely the Thursday date.

WILLIAMS had told SLOAN that she got a call from NUSSBAUM to "come get the documents before PHIL HEYMANN changes his mind." When asked when WILLIAMS got this call from NUSSBAUM, SLOAN answered that he didn't recall. He said his "sense" was that it was after the review of documents in FOSTER's office on July 22, 1993.

WILLIAMS came with an intern to pick up the FOSTER documents and then locked this box of documents in a closet at the White House residence. SLOAN said there are notes regarding this which have previously been furnished to the OIC. BARNETT was called and Williams & Connolly came and picked the records up at the White House. WILLIAMS, in trying to "peg" the times, may have talked with BARNETT on the plane to the FOSTER funeral. WILLIAMS did not remember when Williams & Connolly picked up the FOSTER files. The time of the pickup by Williams & Connolly may have been at 4:00 p.m. on the following Tuesday (July 27, 1993).

SLOAN was asked if the documents transferred included any blind trust file. SLOAN said there were documents sent by BRANT BUCK, Federal Express, which were trust documents that were "time sensitive." He said the obtaining of this documentation was discussed before the search of the FOSTER office on July 22, 1993, but the actual "obtaining of the documents did not occur before the review."

The only instances known to SLOAN of anyone going into FOSTER's White House office after it had been sealed were the occasions where (1) NUSSBAUM removed a picture from FOSTER's office and (2) SLOAN put the trash back into the office.

SLOAN was asked if WILLIAMS was involved in obtaining the blind trust documents or taking anything out of FOSTER's office. SLOAN answered that he had "no knowledge of that."

SLOAN was asked if the blind trust documents were actually in the office and SLOAN answered that he had a "vague sense of NUSSBAUM saying he had found the documents."

SLOAN was asked if any documents were given to Williams & Connolly after July 27, 1993. SLOAN answered, "No, unless there is something to the contrary in my notes."

SLOAN was asked if he had any other information regarding the transfer of documents. SLOAN answered that he tried to identify the intern involved in the movement of the documents but "wasn't successful."

SLOAN was then asked about his involvement in conversations in the White House leading to the search of VINCENT FOSTER's office. SLOAN said that he was involved in discussions regarding the "process" to be followed but that he had no other conversations except for discussions with NUSSBAUM and NEUWIRTH. SLOAN didn't recall any discussions from July 21, 1993, the day before the search. On July 22, 1993, he remembered talking with NUSSBAUM and then later with NEUWIRTH. He was not sure exactly when. He did recall an anecdote which NEUWIRTH had relayed to him. This concerned a meeting in which JACK QUINN had said that counsel "screwed up." It was QUINN's opinion that counsel should have done an inventory of the documents in FOSTER's office before letting anyone into the office. SLOAN did not know when this discussion occurred.

SLOAN was also aware of NUSSBAUM's discussion with PHIL HEYMANN at the Department of Justice (DOJ). SLOAN said he "put the conversation together" as NUSSBAUM coming back from meetings regarding the search and explaining to him (SLOAN) the planned procedure. SLOAN remembered DAVID MARGOLIS, a DOJ attorney, on the phone with PHIL HEYMANN at one point. MARGOLIS said to SLOAN that HEYMANN has concerns regarding the procedure. SLOAN referred HEYMANN to NUSSBAUM and "somehow it was resolved."

SLOAN was asked if he had any information regarding NUSSBAUM owing a call to HEYMANN regarding how the search would be conducted. SLOAN answered "no."

SLOAN was asked if there had been a change in procedure for the search. SLOAN answered that he didn't remember how it had been left on July 21st, but felt that it had been "ambiguous" and "not clearly spelled out." "People walked away with a different sense" because of what "wasn't spelled out." SLOAN could not recall any specific discussion on July 21st regarding a clear procedure to be followed. SLOAN had a "vague sense" that there were "unresolved questions." SLOAN said it was "not clear in NUSSBAUM's mind." The procedure for the search "wasn't set at the end of the day on July 21st."

SLOAN was asked if he could recall any discussions on the morning of July 22, 1993 with NUSSBAUM or NEUWIRTH regarding the search and SLOAN answered "not that I recall." He answered in this way for both discussions with NUSSBAUM and NEUWIRTH together or separately. SLOAN said he was "not materially involved in the discussions." SLOAN could remember NUSSBAUM commenting to him "in fragmentary ways."

NUSSBAUM was having meetings on other White House matters during the July 21st and 22nd timeframe. SLOAN didn't have a "clear sense" of how much of NUSSBAUM's time had been focused during this time period on the procedure to be followed for the search of FOSTER's office.

SLOAN was asked if he could recall any other discussions and he said he could only remember the NEUWIRTH comment by JACK QUINN. He remembered this only because of the anecdote which had been recalled by NEUWIRTH.

SLOAN was asked if he had ever heard NUSSBAUM state that the First Lady was concerned about the procedure to be followed for the search of FOSTER's office. SLOAN answered that he could not recall this. He remembered that either before or after the search, there was discussion that the CLINTONs were "clients" and that you "don't turn every file in a lawyer's office" over to investigators and waive attorney-client privilege. SLOAN could not recall a specific comment regarding this. SLOAN was asked if anyone talked with the First Lady and he answered "not that I know of."

At this point in the interview, SLOAN and his attorneys were told that there were no more questions. They asked to have a brief consultation in the hallway concerning the possibility of bringing up another matter. After a half-minute or so, SLOAN and the three attorneys returned indicating they had no more information. Attorney ROMATOWSKI said that his recollection regarding another issue had been erroneous.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Investigation on 6/27/94 at Little Rock, Arkansas File # 29D-LR-35063 Sub 17

by SA FOIA(b)(7) - (C) Date dictated 7/5/94

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/25/94

MICHAEL LLOYD SPAFFORD, Partner, Swidler & Berlin, 3000 K Street, N.W., Washington, D.C. 20007, was interviewed via the telephone. MR. SPAFFORD was interviewed on the telephone in view of the fact that he is currently involved in a protracted trial in West Virginia and was not available for an in-person interview. MR. SPAFFORD was advised of the identity of the interviewing agent and of the purpose of the interview. MR. SPAFFORD provided the following information:

He had never met VINCENT FOSTER, Deputy Counsel at the White House. His involvement with the FOSTER family and associated death investigation was limited to the search of VINCENT FOSTER's White House office on the afternoon of July 22, 1993. SPAFFORD explained that JIM HAMILTON, another partner at the Swidler & Berlin law firm, represented the FOSTER family and was unable to be at the search of FOSTER's office on that day. SPAFFORD substituted for him.

SPAFFORD said he "showed up" at the White House on the morning of July 22, 1993 at about 11:00 a.m. and "sat around a lot." He met DAVID MARGOLIS, U.S. Department of Justice (DOJ) attorney, who was also waiting. It was SPAFFORD's understanding that BERNARD NUSSBAUM, White House Counsel, was taking care of issues with the President. SPAFFORD said he did not know this for a fact but made this assumption. NUSSBAUM met with SPAFFORD and asked him to wait. MARGOLIS was "in and out." SPAFFORD said he waited for some time as he was offered lunch during the period of his wait.

When the search of FOSTER's office finally commenced, SPAFFORD said that the following individuals were present: MARGOLIS, an FBI agent whose name SPAFFORD could not recall, two U.S. Park Police investigators - one with the last name of MARKLAND, one U.S. Secret Service agent who SPAFFORD could not identify, and several White House personnel to include NUSSBAUM, one of his aides, and someone believed to be from the Chief of Staff's office by the name of BILL, again SPAFFORD could not recall his last name. SPAFFORD had been asked by his partner,

(telephonically)

stigation on 5/24/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 5/25/94

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JIM HAMILTON, to be at the search to represent MRS. FOSTER.

NUSSBAUM and MARGOLIS took the lead in the search. NUSSBAUM identified the privilege issue which would have to be addressed. Procedures were agreed to and the search proceeded. It was agreed that NUSSBAUM would look through the documents in FOSTER's office and describe them to the assembled group. The documents would be placed into three piles: (1) personal affects of FOSTER; (2) clearly privileged documents; (3) miscellaneous documents. With respect to the pile of privileged affects, it was SPAFFORD's understanding that MARGOLIS would call JIM HAMILTON later regarding the review of these documents. SPAFFORD said no one was trying to impede the investigation but his law firm wanted to consult with their client (MRS. FOSTER) before investigators reviewed the documents from this pile. It was SPAFFORD's understanding the pile of miscellaneous documents would be discussed later by MARGOLIS and NUSSBAUM. However, SPAFFORD does not know what happened with respect to these documents.

The search itself was very systematic. SPAFFORD recalled the desk being searched first, followed by the drawers, credenza, computer and one or two briefcases. The computer was not actually searched on the afternoon of July 22, 1993, but rather became an issue between MARGOLIS and NUSSBAUM who agreed to pursue the computer at a later time. SPAFFORD could not recall if there was one or two briefcases in FOSTER's office. He distinctly remembered one and thought the second may have been a "transfile" rather than a briefcase. Both of these items were on the floor behind FOSTER's desk. SPAFFORD could not recall where the documents from the briefcase(s) and/or transfile were placed. As NUSSBAUM reviewed the documentation in FOSTER's office, he would make comments such as "this is privileged and relates to the President;" something personal such as "frequent flyer things," etc. NUSSBAUM discussed "types" of things. Investigators were not shown the documents. SPAFFORD doesn't recall a specific request by the investigators to see any documents.

It was SPAFFORD's understanding that there had been a discussion between NUSSBAUM and MARGOLIS prior to the actual search of FOSTER's office. They had agreed to search the office for a suicide note or anything else in the office which might help further explain FOSTER's death. SPAFFORD believed NUSSBAUM

and MARGOLIS would discuss a further search of FOSTER's office "after this."

At one point during the search, SPAFFORD said one of the investigators stood up and an aide to NUSSBAUM said "Hey, he's trying to look at the documents." It was SPAFFORD's understanding that the aide had said this to protect the privilege of the documents. NUSSBAUM replied to the comment by saying "Let's not get carried away ... Let's do what we agreed and not get confrontational." SPAFFORD observed that NUSSBAUM handled that situation and the search fairly well under difficult circumstances. He explained that White House personnel present were emotionally upset by FOSTER's death.

SPAFFORD said that to his knowledge, no areas outside of FOSTER's office were searched. No safe of any kind was searched in his presence. SPAFFORD did recall a "big, clear, plastic bag" of trash being searched. He recalled a discussion of the trash bag which they had "gotten back" but doesn't remember the source. SPAFFORD did not recall anything concerning FOSTER's burn bag. He said he was not sure he knew the difference between trash and a burn bag.

At the conclusion of the search, SPAFFORD packed one "transfile" box with FOSTER's personal documents. The box was not sealed but was closed by overlapping the flaps on the top of the box. SPAFFORD took this box back to his law offices and inventoried its contents that night. The box was then placed in a locked office and kept until it was turned over to MRS. FOSTER. SPAFFORD could not recall when these items were given to MRS. FOSTER. He said the inventory of the box was available at his law firm, but he would have to discuss its release with JIM HAMILTON at a later date if the Office of Independent Counsel would like to review this listing. SPAFFORD said a second box of items and documents from FOSTER's office was also given to his law firm, perhaps on the following Monday. This second box contained pictures, miscellaneous papers, perhaps an umbrella and other items from FOSTER's office bookshelves. SPAFFORD does not believe that this second box was inventoried. There was a total of two boxes of personal items from FOSTER's office which SPAFFORD was aware of. SPAFFORD said these boxes had been "looked through" by two U.S. Park Police (USPP) investigators. MARGOLIS had called the law firm and made arrangements for this review subsequent to the search of FOSTER's office. SPAFFORD-

believes that these USPP investigators interviewed MRS. FOSTER on this occasion also, but he (SPAFFORD) was not personally involved.

When asked to give his perception of how investigators viewed the search of FOSTER's office, SPAFFORD replied that "investigators like to be in charge" and he said they "were not thrilled." The investigators would have preferred "to fish through it all." SPAFFORD said that MARGOLIS, however, understood the privilege issue and that NUSSBAUM did a good job of explaining his concerns. Again, SPAFFORD said it was his belief that MARGOLIS and NUSSBAUM had had a discussion up front concerning the privilege concerns. MARGOLIS understood that, but was also firm that there was an investigation to be conducted and investigators needed to see all "relevant" documentation. NUSSBAUM came up with a "mechanism to balance" everyone's concerns. SPAFFORD again reminded that White House Counsel personnel were emotionally upset at this time over the death of FOSTER. He said secretaries in the office were openly crying.

The following description of SPAFFORD was obtained through interview:

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Title:	Partner, Swidler & Berlin 3000 K Street, N.W. Washington, D.C. 20007
Race:	White
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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/30/95

EUGENE BENTON SPERLING, who is generally known as GENE SPERLING, was interviewed in a conference room in the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. Participating in the interview was OIC Assistant Counsel BRETT M. KAVANAUGH. After being advised of the official identities of the interviewers and the nature of the interview, SPERLING provided the following information:

SPERLING currently serves as Deputy Assistant to the President for Economic Policy at the White House, where his telephone number is (202) 456-2620. ROBERT RUBIN, head of the National Economic Council, serves as Assistant to the President and is SPERLING's immediate superior. SPERLING was hired for the presidential campaign of BILL CLINTON on June 4, 1992. SPERLING served the CLINTON campaign as economic policy director during the general election campaign, and, following the election of President CLINTON, SPERLING served as deputy economic transition director under ROBERT REICH.

SPERLING had no contact with former Deputy White House Counsel VINCENT W. FOSTER, Jr. until after the election of President CLINTON when they both came to Washington, D.C. to assist in the transition. SPERLING first met FOSTER when they both participated in a ceremony in Little Rock, Arkansas, in January 1993 in which appointees to a number of high level posts in the CLINTON administration were introduced to the media.

SPERLING's office is located in the West Wing of the White House, and he shares his office with BILL GALSTON. Their office, which is located on the second floor, is located almost directly across the hall from the office of MAGGIE WILLIAMS, Chief of Staff for First Lady HILLARY RODHAM CLINTON.

SPERLING's office is also located in the vicinity of the White House Counsel's Office (WHCO) suite, where FOSTER formerly had his office. Because of the proximity of their offices, SPERLING would encounter FOSTER once or twice a day in

passing. SPERLING basically only encountered FOSTER in the halls and had little contact with him. When FOSTER and SPERLING spoke, their conversations were not particularly lengthy or deep. In one typical conversation recalled by SPERLING, FOSTER remarked to SPERLING that he had liked comments which had been attributed to SPERLING in the press.

SPERLING formerly worked in New York for Governor MARIO CUOMO and others, and he was familiar with the treatment accorded by the Wall Street Journal (WSJ) to politicians whose views differed from those of the WSJ editorial staff. SPERLING knew that people in public office had a tendency to take too seriously any criticisms leveled at them by the WSJ. When the WSJ published an editorial entitled "Who Is Vincent Foster?", SPERLING approached FOSTER and jokingly asked him the same question. FOSTER seemed to take SPERLING's jibe reasonably well and commented that SPERLING had received better press than FOSTER lately.

SPERLING regards FOSTER as a big, lanky person who kept an even keel and who seemed to be gentle and nice. SPERLING was able to form this impression of FOSTER even though he and FOSTER only exchanged small talk.

SPERLING read an article, possibly written by JEFF GERTH in the New York Times, about Whitewater or Madison Guaranty Savings and Loan (MGSL) at some point during the campaign. SPERLING has no knowledge that FOSTER worked on either Whitewater or MGSL issues. SPERLING does not know whether the terms "Whitewater" or "Madison Guaranty Savings and Loan" had any meaning to him on July 20, 1993.

SPERLING is able to recall the day of July 20, 1993 rather clearly because that was the day when Judge LOUIS J. FREEH was named by President CLINTON to be the new Director of the Federal Bureau of Investigation (FBI). SPERLING regards HOWARD SHAPIRO, now serving on Director FREEH's staff, as his best friend, and SPERLING knew both SHAPIRO and Judge FREEH when they previously worked in New York. SPERLING had been monitoring the process in which Judge FREEH and others were considered for the position of Director of the FBI, and SPERLING was hoping that Judge FREEH would be named to the post. Prior to the Rose Garden ceremony at which President CLINTON named Judge FREEH to be FBI Director, SPERLING went to the WHCO suite to see SHAPIRO and to greet other people who had come to the White House for the

ceremony. White House Counsel BERNARD NUSSBAUM commented what a great day it was, how the weather was beautiful and what a fine appointment Judge FREEH represented. SPERLING observed FOSTER standing in the WHCO suite looking on and, in retrospect, FOSTER did not appear as emotional or jovial as the other people in the suite. SPERLING was not struck by FOSTER's appearance at that time, only after FOSTER's death, when SPERLING reflected on the last times he had seen FOSTER. SPERLING remained in the WHCO suite for a short time and departed as Attorney General JANET RENO was entering.

On the night of July 20, 1993, President CLINTON was interviewed live at the White House by LARRY KING on the "Larry King Live" television program. One of SPERLING's responsibilities is to brief President CLINTON on current economic issues before the president appears on such programs. There was no organized briefing time prior to the start of the show, but GEORGE STEPHANOPOULOS asked SPERLING to fire off for the president what would be the two most likely economic questions to be asked during the course of the program. This prebriefing took place prior to the broadcast as the president was being made up, and it consisted of SPERLING and other briefers posing questions to President CLINTON while STEPHANOPOULOS monitored the president's responses.

Once the program began, SPERLING went into another room where a large screen television had been set up so the White House staff could watch the program live. Other people in this viewing room with SPERLING included STEPHANOPOULOS, THOMAS F. "MACK" McLARTY, DAVID DREYER, RICKI SEIDMAN, DEE DEE MYERS and MARK GEARAN. SPERLING recalls that Senator BARBARA BOXER's daughter and a female companion may also have been in the viewing room. SPERLING cannot recall the name of Senator BOXER's daughter, but he recalls that she later married a brother of First Lady HILLARY RODHAM CLINTON.

PAUL BEGALA was present for the prebriefing of President CLINTON, but SPERLING cannot recall if BEGALA remained in the viewing room during the broadcast.

Approximately twenty to thirty minutes after the start of the show and while the staff members were watching the live broadcast, McLARTY and STEPHANOPOULOS were called out of the room by someone whose identity SPERLING does not recall. A short time later, DREYER left the viewing room and went out into the

adjacent hallway. Shortly thereafter, SPERLING went out into the hallway and approached DREYER to ask him some work-related question. DREYER said that he was unable to focus and asked SPERLING if he knew what had happened. When SPERLING responded that he did not, DREYER advised him that FOSTER had committed suicide.

SPERLING then observed that a couple of things were going on. McLARTY and STEPHANOPOULOS were telephoning people to notify them of FOSTER's death, and they were also attempting to find some means to cancel an extension of "Larry King Live" to which President CLINTON had agreed. McLARTY and STEPHANOPOULOS wanted the show to end quickly so that they could promptly notify President CLINTON of FOSTER's death. They were also attempting to figure out how to notify FOSTER's widow, LISA FOSTER, and to determine who should go to her house. The focus at that time was on how to tell people about FOSTER's death.

SPERLING has distinct knowledge about how the trash from FOSTER's office was handled that night. When the "Larry King Live" program ended at 10:00 p.m., all the staff members in the vicinity of the broadcast cleared out of the area and went back to the West Wing. In light of the situation, SPERLING wanted to help out in whatever way he could so he went upstairs in the West Wing for a little while. During the course of the evening, SPERLING wandered around the West Wing and probably went up and down the stairs a few times. On one of his trips to the second floor of the West Wing, SPERLING observed that the doors to the WHCO suite appeared to be open and the cleaning people were going into various rooms. It occurred to SPERLING that perhaps FOSTER's office should be left uncleaned that night, but he did not voice this view because he thought to himself that since the events in question were occurring inside the White House, people there would know the appropriate way to handle such matters.

At some point in the evening, probably between 10:00 p.m. and 12:00 midnight, SPERLING and SYLVIA MATHEWS were manning the telephones in McLARTY's office. At that time, MATHEWS was a Special Assistant to ROBERT RUBIN, but she is now RUBIN's staff director. MATHEWS mentioned to SPERLING that she thought the burn bags had been removed from the offices in the WHCO suite, and she said that she thought FOSTER's family would be upset because of the possibility that anything FOSTER may have written about the reasons for his suicide and then discarded

might be lost. MATHEWS's comment reminded SPERLING that he had had a similar thought earlier but had not taken action on it. SPERLING agreed with MATHEWS that it would be advisable to locate FOSTER's trash, and MATHEWS went around the West Wing and spoke to the custodial staff in an effort to identify which trash bags may have been removed from FOSTER's office. MATHEWS was told by the custodial staff that the burn bags had been collected and put into larger bags. MATHEWS eventually obtained from the custodial staff two large bags containing a number of smaller plastic bags of trash.

When SPERLING returned to McLARTY's office, MATHEWS had some of the contents of one of these two bags on the office floor. SPERLING felt a little uncomfortable looking at someone else's confidential trash. MATHEWS believed she had retrieved the correct trash, i.e., the trash from FOSTER's office, but she found nothing relevant to FOSTER's death in the trash. MATHEWS placed any papers believed to have come from FOSTER's office in a neat stack.

NUSSBAUM came by the office, and he was still very upset and unable to focus on anything. BILL BURTON was also in the office at some point. NUSSBAUM expressed some concern that the documents being examined could include materials which may have come from the confidential trash in his office or from the office of First Lady CLINTON. However, NUSSBAUM did not instruct SPERLING or MATHEWS to stop what was being done before he left the office.

SPERLING had originally hired MATHEWS and she had served as his deputy during the CLINTON presidential campaign. SPERLING was still uncomfortable with MATHEWS continuing to review the confidential trash. As MATHEWS finished with the first large bag and prepared to open the second bag of trash, SPERLING told her not to continue. MATHEWS appeared startled, like a deer caught in an automobile's headlights, and she asked SPERLING if she was doing something wrong. SPERLING told MATHEWS that he had no idea whether what they were doing was wrong, and he tried to imagine what course of action his father, an attorney, would advise. SPERLING concluded that his father would not look at the trash, and he directed MATHEWS to stop the examination of the trash.

SPERLING picked up the unopened bag, MATHEWS gathered the documents from the first bag, and they put all of these

materials into ROY NEEL's office and locked the door as they left. SPERLING believes the second bag was secured shut in some manner, but he is unable to recall whether it was stapled shut or secured in some other way. SPERLING's belief that the second bag was sealed is based on the fact that he had an opportunity to tell MATHEWS not to open the bag before she did so. SPERLING does not know what happened to either the documents or the bags after that night.

In response to an inquiry about specifically which bags and documents were put into NEEL's office, SPERLING stated that MATHEWS brought in the small pile of papers which she had flattened out during the course of her examination. SPERLING has a general recollection, of which he is fifty percent certain, that the first bag opened by MATHEWS was also placed into NEEL's office.

In SPERLING's office, his regular trash is discarded into trash cans lined with clear plastic bags. SPERLING does not recall if the bags being reviewed by MATHEWS that night were clear plastic or not. SPERLING simply has no recollection of the color of those bags. SPERLING is not entirely sure if MATHEWS was certain that each of the documents she separated out specifically pertained to FOSTER or just that she thought the document could have a connection to FOSTER's office.

Members of the White House staff "felt bad" that McLARTY had to keep a stiff upper lip and continue to perform his duties despite having known FOSTER for a long time. For example, McLARTY had to make decisions about matters such as whether or not to clear President CLINTON's schedule for the following day once the president knew of FOSTER's death.

SPERLING does not think he has spoken with MATHEWS about the burn bags since that night. In fact, SPERLING recalls that he has not spoken with MATHEWS herself, but he has spoken with her attorney. SPERLING and MATHEWS have discussed the thought of speaking to each other about the events of that night, but they sought advice from others and were told not to talk with each other. MATHEWS has told SPERLING that she considered writing down on July 21, 1993 her recollections of the preceding night but she did not do so.

SPERLING learned of the subsequent discovery of a torn note in FOSTER's briefcase from reading the newspapers. SPERLING

recalls that people on the White House staff were upset that press accounts of the note's discovery were critical of the manner in which the White House staff had handled the matter. Staff members felt there had been valid concerns about wanting to first notify President CLINTON, who was out of town at the time, and LISA FOSTER about the discovery of the note before information about the existence of the note was released to the public.

SPERLING does not believe that he entered the WHCO suite the night of July 20, 1993. SPERLING holds this belief because he recalls that FOSTER's office was not boarded up as he might have expected. SPERLING only recalls seeing the custodial staff enter the WHCO suite but he is not one hundred percent certain that he did not see anyone else enter the suite that night.

SPERLING does not recall engaging in any discussion with NUSSBAUM that night about entering FOSTER's office. SPERLING recalls NUSSBAUM remarking that it had been such a good day that FOSTER's death did not make any sense. SPERLING did not view FOSTER's suicide as strange since SPERLING recalled that the incidence of suicide increases during such happy times as holiday seasons.

SPERLING recalls directing MATHEWS to clear actions with NUSSBAUM before initiating them, e.g., trying to locate the burn bags. However, NUSSBAUM was not focused, and SPERLING does not believe there was any real resolution as to whether NUSSBAUM approved these actions. Based on MATHEWS's startled response to SPERLING when he told her to cease examining the confidential trash and her obvious concern about not wanting to do anything with even the appearance of impropriety, SPERLING concluded that MATHEWS had not been told by NUSSBAUM or anyone else to stop looking at the trash.

SPERLING did see MAGGIE WILLIAMS on the second floor of the West Wing the night of July 20, 1993. WILLIAMS was in the hallway outside her office, and she was crying and having an emotional hug with someone whose identity SPERLING cannot recall. SPERLING cannot recall if this person with WILLIAMS was a male or a female, but he believes this person was someone who had come up to the second floor just to talk to WILLIAMS. SPERLING may have offered his condolences to WILLIAMS while they were on the second floor, but they did not engage in conversation. WILLIAMS

appeared very upset and she was sobbing. SPERLING does not recall observing WILLIAMS carrying anything in her arms since she was engaged in embracing someone. SPERLING does not recall seeing WILLIAMS on any other occasion that night.

Later that night, there was a conversation in STEPHANOPOULOS's office about canceling President CLINTON's schedule for the following day. At various times, this office has been the office of STEPHANOPOULOS, DAVID GERGEN and DEE DEE MYERS. There was discussion about designating a spokesperson to respond to inquiries relating to FOSTER's death. President and First Lady CLINTON opposed this idea because they believed FOSTER's death was a personal tragedy which would not attract significant media attention. HOWARD PASTER strongly favored designating one person to respond to inquiries and he argued that people in opposition to the idea did not understand Washington, D.C., and the way Washington thrives on gossip.

SPERLING does not recall observing PATSY THOMASSON that night. It is possible that he saw her but he does not recall doing so.

SPERLING recalls hearing general gossip that no note had been found and that FOSTER's death was inexplicable. There seemed to be a sense among people SPERLING spoke to early on that no note had been found but SPERLING is not certain how this sense developed, though perhaps it was because no note had been found next to FOSTER's body. SPERLING does not recall anyone specifically telling him that no note had been found. It was just an impression he formed.

SPERLING does not recall observing DEBORAH COYLE on July 20, 1993, but he cannot be certain because he recognizes COYLE's name but cannot picture what she looks like. SPERLING does not recall seeing SUSAN THOMASES that night, e.g., when the staff members were watching President CLINTON on the "Larry King Live" program. When asked whether he observed anyone else that night who was not on the White House staff, SPERLING again mentioned the daughter of Senator BOXER. SPERLING knows CHERYL MILLS but he is not certain about whether or not he saw MILLS that night. At approximately 11:30 p.m. that night, a number of people came into the White House, but SPERLING does not recall the identities of these people. People were milling around, hanging out near BRUCE LINDSEY's office, and many were wearing casual clothes. SPERLING knows EVELYN LIEBERMAN, and he does not

recall seeing her that night.

SPERLING recalls that other people came in while he was hanging around LINDSEY's office. LINDSEY appeared to be very upset, and SPERLING recalls LINDSEY remaining mostly at his desk in his office. There were discussions about going to the FOSTER house, and McLARTY and HUBBELL were people regarded as likely to go there. SPERLING himself did not go to the FOSTER house either that night or anytime since then. In discussions about how to respond to media interest in FOSTER's death, HOWARD PASTER was very vocal in saying he wanted more of a strategy developed for responses to the media.

On July 20, 1993, SPERLING personally notified two people of FOSTER's death. Between 10:00 and 10:30 p.m., SPERLING telephoned ROBERT RUBIN at the Jefferson Hotel where RUBIN was living and notified him. At a time which SPERLING does not recall, McLARTY asked SPERLING to bring RICKI SEIDMAN to McLARTY so that he could tell her of FOSTER's death. When SPERLING approached SEIDMAN and asked her to accompany him, SEIDMAN refused to move until SPERLING told her what was going on so SPERLING had to break the news to her.

SPERLING does not recall any discussions about anything embarrassing or damaging in FOSTER's office. He does not recall NUSSBAUM talking about FOSTER's office being sealed. Although it is possible SPERLING mentioned the subject of sealing FOSTER's office to someone since the thought did occur to SPERLING that night, he does not recall having any such conversation.

SPERLING did not observe anyone in First Lady CLINTON's office. He believes the doors to the office were closed as they usually were at that time of the evening.

When asked by the interviewers what had been discussed in terms of talk about what may have been in FOSTER's office as well as the need to seal FOSTER's office, SPERLING stated that he had formed a general impression that there had been some sort of minimal effort made relating to FOSTER's office. SPERLING does not recall any specific conversations about these subjects. SPERLING cannot now distinguish what he knew the night of July 20, 1993 versus what he may have learned four days later, perhaps from press accounts. SPERLING has no knowledge that anything other than the trash was removed from FOSTER's office either that night or the following morning.

SPERLING has not spoken with either BERNARD NUSSBAUM or MAGGIE WILLIAMS about who had access to FOSTER's office that night.

SPERLING knows the name CRAIG LIVINGSTONE but he is not certain he would recognize LIVINGSTONE the person.

SPERLING left the White House between 12:30 and 2:00 a.m. on July 21, 1993. He believes he was alone when he left but he may have been with SYLVIA MATHEWS.

SPERLING currently arrives at his office each day at 7:00 a.m., but he formerly arrived somewhat later. SPERLING does not recall what time he arrived for work on July 21, 1993, but it was probably around 7:50 a.m. He has no recollection of coming in for work extremely early that day. SPERLING recalls that the doors to the WHCO suite were closed when he walked past them on the way to his office.

SPERLING was not involved in any discussions about the procedure to be employed in the review of the documents in FOSTER's office. SPERLING did not engage in conversations at that time or since then about how the review of documents was conducted.

SPERLING believes he read in the newspapers about the torn FOSTER note being found. SPERLING teased STEVEN NEUWIRTH about his notoriety after SPERLING learned that NEUWIRTH had found the note. NEUWIRTH said that it was notoriety he could do without. SPERLING does not recall having any other conversations with NEUWIRTH regarding the note other than one in which he teased NEUWIRTH about why it took six days to discover the note. SPERLING does not recall having any informed conversation with anyone abut the circumstances surrounding the discovery of the note, just chatting with other people. SPERLING recalls that he was interested in the subject of the note at that time, but he only recalls speaking with other people whose knowledge of the situation came from reading the newspapers rather than through direct involvement or knowledge.

SPERLING believes there was a very moving White House staff meeting in Room 450 in which President CLINTON addressed the staff in the aftermath of FOSTER's death.

Based on observation and interview, SPERLING is

described as follows:

Name:	EUGENE BENTON SPERLING, also known as GENE SPERLING
Sex:	Male
Race:	White
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Account Number:	
Home Address:	1325 18th Street, N.W., Apartment 609 Washington, D.C.
Home Telephone:	(202) 659-5844

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/30/95

EUGENE BENTON SPERLING, who is generally known as GENE SPERLING, was contacted telephonically at his office in the White House, telephone number (202) 456-2620. SPERLING was familiar with the interviewing agent from an earlier interview of SPERLING which had been conducted at the Office of the Independent Counsel (OIC), Washington, D.C., on December 20, 1994. The interviewing agent placed the call to SPERLING from the OIC offices, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. After being advised of the nature of the interview, SPERLING provided the following information:

SPERLING recalls that the examination of confidential trash which occurred in the White House on July 20, 1993, was conducted in the office suite of Chief of Staff THOMAS F. "MACK" McLARTY. Specifically, the examination of the trash was conducted by SYLVIA MATHEWS on the floor of the reception area in McLARTY's suite. While she was examining the trash, MATHEWS was on the floor of the reception area just to the right of the doorway leading into the suite and immediately inside this doorway. SPERLING recalls that there were two chairs with their backs to the wall just inside and to the right of this doorway, and the examination occurred on the floor directly in front of these chairs.

The suite of the chief of staff has a doorway which leads into the reception area from a hallway. This reception-area is where the secretaries and executive assistants are located. From the doorway, McLARTY's office is located to the right of the reception area and can be entered through a doorway from the reception area. The office of the deputy chief of staff is located to the left of the reception area and can also be entered through a doorway from the reception area.

SPERLING is not certain about the disposition of the papers which MATHEWS segregated from the other confidential trash during the course of her examination. SPERLING is certain that, once the examination of the trash was ended, both bags of confidential trash were put on the floor of the office of the

deputy chief of staff. ROY NEEL was the deputy chief of staff at that time. SPERLING is less certain that the segregated papers were also put on the floor near the bags. SPERLING is not suggesting that the papers were not put on the floor in NEEL's office, but his recollection regarding these papers is less clear than his recollection regarding the confidential trash bags. Once the items were placed on the floor of NEEL's office, the door to NEEL's office was pulled shut and locked.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/27/94

GEORGE STEPHANOPOULOS, Staff Assistant to The White House Chief of Staff was interviewed at the law offices of Brand & Lowell, 923 15th Street, NW, Washington, D.C. 20005, telephone 202-662-9700 in the presence of his attorney, STANLEY M. BRAND. After being advised of the identities of the interviewing agents and the nature and purpose of the interview, STEPHANOPOULOS provided the following information:

STEPHANOPOULOS confirmed that he was at The White House the night of VINCE FOSTER's death and said that he left that evening at approximately 11:00 although he does not have a clear recollection of the time. He recalls one telephone conversation with WEBB HUBBELL during which he advised HUBBELL of VINCE FOSTER, JR.'s death. STEPHANOPOULOS does not recall any subsequent telephone conversation with WEBB HUBBELL or with any other individual who was calling him from the FOSTER residence and discussing any issue of press coverage at the FOSTER residence and the advisability of assisting the family with that potential problem. The only press related issue that STEPHANOPOULOS recalls dealing with that evening was going over a press statement on the FOSTER death that had been written by DAVID DREYER of the Office of Communications.

STEPHANOPOULOS advised that he did not handle or know of any arrangements for having someone at the FOSTER residence to deal with the press, either the evening of FOSTER's death or the following morning. He advised that Press Secretary DEE DEE MYERS would have handled such arrangements and if MYERS had not handled the issue, he does not know who would have handled it if the President was not planning to visit the residence.

With regard to his recollection of the early morning hours of July 21, 1993, the day after FOSTER's death, STEPHANOPOULOS advised that he probably arrived to work at his usual time, which was about 6:30 am. He read the newspapers and advised that he must have read articles about VINCE FOSTER although he has no specific recollection of doing so. He does not have any recollection of seeing any individual early that

morning between the hours of approximately 6:30 and 8:00 am. He does not recall what time he went down to the basement level to get coffee at the Navy Mess but advised that he generally does so between 7:30 and 8:30, sometimes before the staff meeting at 8:00 and sometimes after it. He has no recollection of seeing anybody carrying a briefcase but advised that that would have been such a common thing to see that it would not have made any impact on his memory.

He advised that he knows CRAIG LIVINGSTONE and has no recollection whether or not LIVINGSTONE stopped in to see him between the time of STEPHANOPOULOS' arrival to The White House at approximately 6:30 am and 8:30 when activities began to occur. He said that in the last two years he has probably received about a half dozen visits from CRAIG LIVINGSTONE, all brief and business related. The only incident he recalled enough to describe involved a reporter from Pittsburgh who was doing a story on CRAIG LIVINGSTONE because LIVINGSTONE is from Pittsburgh. He spoke to the reporter briefly on LIVINGSTONE's behalf.

STEPHANOPOULOS also did not recall any specific conversation with his Executive Assistant, HEATHER BECKEL, on the morning of July 21, 1993. He had a vague recollection that there was a meeting in DAVID WATKINS' office with an entity that could have been the Park Police later in the morning, but has no other recollections of that morning.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/8/94

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Mr. Charles J. Stough was interviewed at the Turkey Run Maintenance Facilities, U.S. Park Services, Fairfax County, Virginia. Mr. Stough was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information.

Mr. Stough advised that for the past seven years he has been employed as a tree worker for the U.S. Park Service, Washington, D.C., and presently resides at 9938 Forest View Place, Gaithersburg, Maryland (telephone number 301-963-5934). Mr. Stough's supervisor is Mr. Mark White, who can be located on 703-285-2701.

Mr. Stough advised that to the best of his recollection on July 20, 1993, he completed his work day with the U.S. Park Service in the late afternoon and joined a fellow U.S. Park Service employee, Mr. Francis Swann in a "moonlighting" job trimming trees at a private residence in Northern Virginia. He maintained that after completing this after-job activity at approximately 5:00 p.m. on July 20th, he and Mr. Swann purchased a six-pack of beer at a convenience store and drove to the Turkey Run Maintenance Center in order for him to secure his private vehicle.

Mr. Stough further advised that since there was unusually heavy traffic on this particular evening, Mr. Swann parked his vehicle in the Turkey Run Maintenance parking area, directly opposite a public telephone and both proceeded to consume two or three beers apiece. According to Mr. Stough, sometime between 5:30 and 6:00 p.m., a white van entered the parking area and the occupant of the van engaged him in conversation while he, Mr. Stough, was walking from Mr. Swann's vehicle to his own vehicle. Mr. Stough stated that the driver of this white van specifically asked him if he would call the Park Police, further informing Mr. Stough that he had seen a body at Fort Marcy Park and that it looked like this man had been shot and that he looked dead. He further added that he strongly believed that the occupant of this van informed him that the body

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of this individual was behind the second cannon at Fort Marcy Park. After receiving this notification from the occupant of the white van, Mr. Stough called Mr. Swann over and believes that the occupant of the white van repeated the same information to Mr. Swann. He recalls asking Mr. Swann if he had the telephone number to report information regarding the dead body to the U.S. Park Police.

Mr. Stough further commented that while he could not recall the exact words spoken by the occupant of the white van, he was fairly certain that he mentioned a "body by the second cannon." He advised that he did not ask any questions of the occupant of the white van which immediately departed the parking lot after furnishing this notification to himself and Mr. Swann.

Mr. Stough specifically remembers that after the van departed the area, Mr. Swann utilized the payphone located to the right of the entrance to the Turkey Run Maintenance Park to call the U.S. Park Police and to inform them of the information they received from the occupant of this van. He stated that he could not recall the exact words used by Mr. Swann in notifying the U.S. Park Police authorities and that immediately after concluding this telephone call, both he and Swann left the area in separate vehicles, returning to their residences.

In an effort to further clarify the above information supplied by Mr. Stough, he stated that he was intimately familiar with Fort Marcy Park, since his work with the Park Service required him to often trim trees in that particular park. As such, he stated he knew the exact location of the second or top cannon in Fort Marcy Park which, in his opinion, gave more credibility to the occupant in the van when he reported the disposition of the dead body. Mr. Stough also advised that he was never interviewed by U.S. Park Police officials regarding this particular incident, nor did he volunteer any information to the U.S. Park Police when it became public information that the dead body in Fort Marcy Park on July 20th was, in fact, a White House official. According to Mr. Stough, his silence regarding this issue was justified since he was informed by Mr. Swann a few days after the July 20, 1993 discovery of the body that he (Swann) had provided detailed information to the U.S. Park Police regarding this matter. Stough further related that in his opinion, the failure of Mr. Swann to identify himself when notifying the U.S. Park Police of the information related by the

occupant of the van was generally a hesitancy to get involved with police authorities, as well as to a minor concern that they were drinking beer in a U.S. Park Service facility. Mr. Stough further maintained that, with the exception of brief discussions with Mr. Swann shortly after the discovery of Mr. Foster's body, he has had no other discussions with fellow workers regarding this issue, nor has he been contacted by the media regarding this particular incident. Furthermore, Mr. Stough vehemently denied that he was in Fort Marcy Park on July 20, 1993, to include a denial that he discovered the body of Mr. Foster.

Mr. Stough furnished the following descriptive data regarding the above cited van, as well as a description of the occupant:

Vehicle: Late model (early to mid-1980's), white service van, possibly a Chevrolet. Service van believed to have been engaged in heating/cooling or air conditioning business, with a possibility that heating and plumbing materials such as valves or old air conditioners were located in the van. On the driver's side of the van was blue and red lettering, with a possibility of a 703 prefix also on the driver's panel side of the door. The vehicle had two doors in the rear and vehicle appeared to have been well-used with some dents and scrapes.

Occupant:

Race/Sex: White male

Age: Late 40s (45-48)

Weight/Body: 210-215 lbs., stocky build

Height: 5'7"-5'8"

Hair: Light brown, worn short, not over the ears

Face:	No facial hair, rounded face, slightly chubby, possibility of black-rimmed eyeglasses
Speech:	No noticeable accent
Dress:	Standard service company, white in color, with collared shirt. Believed to have company name or wearer's name on breast pocket.

In addition to the above information, Mr. Stough stated that the occupant of the van appeared slightly nervous but composed and did not demonstrate any outward manifestations of being gay. He further maintained that, with the exception of Mr. Swann, there were no other individuals in the parking area the evening of July 20, 1993, who would be in a position to provide further description of this van or the occupant. Mr. Stough concluded by stating that he felt fairly confident that he would be able to recognize in the future the occupant of the above-described white van.

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/22/94

(STOUGH)

Mr. was recontacted

for the purpose of soliciting his cooperation in physically viewing a confidential witness who had previously provided detailed information to interviewing agents relative to the sighting of a dead body at Fort Marcy Park on 7/20/93 and who reportedly informed two U.S. Park Service employees of this sighting the evening of 7/20/94. was informed that this individual had requested and was granted confidential witness status by the Office of the Independent Counsel.

physically viewed the confidential witness who was in the passenger seat of an automobile in the company of from a distance of approximately 7 to 10 feet. Mr. then informed that this individual "could have been" the person who was driving a white van the evening of 7/20/93 and reported to him the sighting and location of a dead body at Fort Marcy Park. stated that the individual he viewed this date possessed similar characteristics to the July 20, 1993 incident, specifically the eyeglasses and the color, style and length of the individuals hair.

Subsequently, the confidential witness advised that since a year had almost elapsed since he reported the location of Mr. FOSTER's body, he could not positively identify as the white male Park Service employee he notified on July 20, 1993.

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stigation on 6/21/94 at Fairfax, County, Virginia File # 29D-LR-35063

OIC 000425

by Date dictated 6/22/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/8/94

A physical surveillance was conducted of the parking lot at the headquarters building for the George Washington Memorial Parkway (GWMP), which is located on GWMP just east of the Turkey Run Recreation Area. The surveillance revealed the presence of a bulletin board and two pay telephones for use by the public on the southwest corner of the GWMP Headquarters parking lot. The telephone number for the telephone furthest to the north was (703) 821-9809, and the telephone number for the other telephone was (703) 847-9872

A review of records which had been provided by the Fairfax County Fire and Rescue Department (FCFRD) revealed that the person who called in the initial 911 call to FCFRD about the discovery of the body of VINCENT W. FOSTER, Jr. in Fort Marcy Park, Virginia on July 20, 1993 placed the call from a telephone with telephone number (703) 847-9872.

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/6/94

Mr. Francis Elbert Swann was interviewed at his place of employment, U.S. National Park Service Maintenance Yard, located off the George Washington Memorial Parkway, Alexandria, Virginia. At the outset, he was advised of the identities of Special Agents William E. Colombell and Lawrence Monroe and further informed that they wished to interview him concerning an ongoing investigation relating to the death of Vincent Foster at Fort Marcy Park on July 20, 1993.

Mr. Swann stated that he has been employed by the National Park Service since June of 1966. He stated that on July 20, 1993, he was assigned to work in the South end of the George Washington Memorial Parkway in the vicinity of Mt. Vernon, driving a street cleaning truck. Mr. Swann stated that he returned to the National Airport Maintenance Yard at approximately 3:00 p.m. and met up with a fellow employee, Chuck Stough, explaining that he had lined up a side job to cut down a tree at a private residence in McLean, Virginia, and that Chuck was going to assist him. Mr. Swann stated that he and Stough drove directly from the National Airport Maintenance Yard to the private home site in Swann's truck. Mr. Swann was unable to provide the address for this private home, but stated that if need be, he could point it out to the agents. They finished up the tree cutting job at approximately 5:00-5:15 p.m. and then stopped to pick up a six-pack of Budweiser at a 7-11 located on Chain Bridge Road in McLean. He then drove to the Turkey Run Maintenance Yard off the GW Parkway (Stough had his car parked there) and parked in the front parking lot back towards the pine trees that are located to your left as you drive into the maintenance yard. Mr. Swann stated that they both had three beers and were getting ready to leave the yard when a white male in a white Chevy van pulled into the maintenance yard off of the GW Parkway. He estimated the time to be approximately 5:45 p.m. The van pulled up to where he and Chuck were sitting. At the time, both he and Chuck were still in their park service uniforms. Mr. Swann advised that the van driver asked if they worked for the park service and they responded in the affirmative. The van driver then stated words to the effect that

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Investigation on 3/30/94 at Alexandria, Virginia File # 29D-LR-35063

by SA William E. Colombell
SA Lawrence Monroe Date dictated 3/31/94

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

"there is a body down at Fort Marcy up by the cannon and could they call the police." Mr. Swann further added that as best he recalls, the driver of the van also remarked that he had been walking through Fort Marcy Park and saw "this body that apparently looked like it was dead."

Mr. Swann advised that using a pay phone located in the parking lot area, he called the police on 911 and believes he reached the Fairfax County Police, informing them of the information provided by the van driver. As best he recalls, the operator told him that Fort Marcy was Federal park jurisdiction and that he should also call the U.S. Park Police. Mr. Swann advised that he then called the Park Police using the same public telephone, adding that the Park Police number was located on a outside bulletin board next to the phone. He advised that he called the Park Police within a few minutes after hanging up with the Fairfax County Police.

Mr. Swann stated that he provided the same information to the Park Police, adding that he did not give his name because he did not want to get involved. He stated that he wanted to be sure that if someone needed help, they received it, but he didn't want to be answering all kinds of questions and wasn't sure whether the whole thing was just made up or a joke. Mr. Swann stated that after he talked to the Park Police, he and Stough left the Turkey Run Maintenance area and he proceeded directly home.

Mr. Swann stated that when leaving, he noticed that there were a few park rangers still at the maintenance yard, but neither he nor Chuck said anything to the rangers. As best he recalls, upon arriving home, he discussed the matter with his wife, stating that by that time, he believes it was already on the news.

Mr. Swann stated that the driver of the van was at the Turkey Run Maintenance parking lot no more than 30 seconds. He never got out of the truck and when he drove out he went North on the George Washington Parkway. He stated that he and Stough did not press the individual for more information. As best he recalls, as soon as the van left, he and Stough discussed the situation briefly and then he proceeded to the pay phone to call the authorities. He was unable to recall the exact conversation that he had with the Fairfax Police and Park Police authorities,

adding that he tried to give them every bit of information provided by the van driver.

Mr. Swann described the driver of the van as follows: white male, age approximately 45-50, dark or black hair with a receding hairline, speckled with gray, approximately 200-210 pounds, chubby, height - approximately 5'9"-5'10" (difficult to estimate because the driver never got out of the van), rounded face, clean-shaven, wearing a short-sleeved shirt with collar, color - light blue with possible vertical stripes (definitely a working-type shirt rather than a dress shirt), no noticeable accent. Mr. Swann stated that only he and Chuck saw or spoke to this individual. He stated that he has not seen the van or the individual since, adding that he probably could identify him if he saw him again. Mr. Swann stated that it was his impression that the man was just trying to help. He did not appear to be in an agitated or nervous state.

Swann described the van as a 1987 or 88 Chevy or GMC, three-quarter ton, possibly bearing Virginia tags, windowless doors in rear, possibly a sliding door on passenger side with blue writing on side, possibly some type of advertising. Swann further stated that it could have been a plumber's van, since he saw through the driver side window what appeared to be pipes in the rear of the van.

At the conclusion of the interview, Mr. Swann was specifically asked if he or his friend Chuck had been at Fort Marcy Park that day and found the body but failed to report it, fearing reprisal from park authorities either because of their moonlighting activities or because they were drinking on park property. Mr. Swann answered without any hesitation that he had not been at Fort Marcy Park that day or for some time, and stated that he was not in any manner involved in the discovery of Mr. Foster's body.

Mr. Swann provided the following background information about himself:

Full name:	Francis Elbert Swann
Date of Birth:	[redacted] FOIA(b)(6) FOIA(b)(7) - (C)
Wife:	Rose
Address:	6201 Dower Village Lane Mellwood, Upper Marlboro, MD
Home Phone Number:	(301) 599-0384
Work Phone Number:	(703) 419-6409

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

SUSAN P. THOMASES, Attorney, WILLKIE, FARR, and GALLAGHER, 100 East 53rd Street, New York, NY faxed the attached two pages to the Office of the Independent Counsel, Washington, D.C.

The first page of the fax identifies the second page as a "page out of my appointment section of my Filofax for July 20 and 21, 1993". The second page of the fax from THOMASES indicates that she was in Washington, D.C. on July 21, 1993 but not July 20, 1993.

THOMASES has explained that the notation on the July 21st entry in the upper left hand corner of the page indicating "D.C." was her method of recording days she was actually in Washington, D.C. For the date of July 20, 1993 there is no such notation, and she therefore knows that she was not in Washington, D.C. on that date.

The information depicted on this calendar is consistent with THOMASES interview by the FBI on June 14, 1994.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/94

SUSAN P. THOMASES was contacted by telephone in her New York office, telephone number 212-821-8275. She was advised of the identity of Agent COLOMBELL and that this was a follow-up call relating to her prior interview by the FBI on 6/14/94. Ms. THOMASES was informed that in an effort to finish up our investigation, she was being requested to visit the Independent Counsel office in Washington, D.C. for the purpose of being deposed under oath regarding her activities and whereabouts on the night of July 20/21, 1993. She stated that she would have her attorney, BENITO ROMANO, telephone MARK STEIN as soon as possible to set up a date. During the discussion, it appeared that Wednesday, August 10, would probably be a suitable date that would fit into her schedule.

In addition, Ms. THOMASES was asked whether or not she currently or in the past had been in possession of a White House staff pass. She stated that she did have her own White House staff pass when she was part of the transition and may have still been in possession of The White House staff pass in July of 1993. To the best of her recollection, she believes she gave it back prior to that time, probably some time in April or May of 1993. To the best of her recollection, when she did return it, it was given to Mr. CRAIG LIVINGSTONE, The Director of White House Security. She stated that Mr. LIVINGSTONE should have an exact record of when The White House pass was returned. She also stated that The White House should have an official photograph of her that was taken in connection with her having a White House staff pass.

(telephonically)

Investigation on 8/2/94 at New York, New York File # 29D-LR-35063

by SSA WILLIAM E. COLOMBELL Date dictated 8/2/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/16/94

SUSAN P. THOMASES, was contacted by telephone at the law firm of WILLKIE, FARR, and GALLAGHER, 153 East 53rd Street, New York, New York where she is employed as an attorney and a partner. After being advised as to the official identity of the interviewing agent and the nature of the interview, Ms. THOMASES provided the following information:

She resides at 929 Park Avenue, New York, New York, has a non-published home telephone number, but can be reached by telephone at her New York office through 212-821-8275. She works the majority of her time in New York City but with her firm having had an office in Washington, D.C. since 1981, she routinely comes to Washington on Wednesdays and returns to New York on Thursday evenings. She is the managing partner of her firm's Washington, D.C. office.

She first met VINCENT FOSTER, JR. in Arkansas during 1976 through her friends BILL and HILLARY CLINTON. She served with HILLARY CLINTON on the Children's Defense Board and has known both HILLARY and BILL CLINTON for approximately 20 years. She regarded VINCENT FOSTER as a friend although she only saw him approximately once or twice a year during the period 1976 through 1991, when she would visit the CLINTONs and/or come to Arkansas on business.

In July, 1991, she moved to Arkansas to begin working full time on BILL CLINTON's Presidential campaign. During the entire campaign, she was in charge of daily scheduling for CLINTON and for campaign events. She continued this work on a part-time basis throughout the transition period from the BUSH administration to the CLINTON administration handling scheduling matters for the newly elected President. Toward the end of the transition period in December, 1992, she returned to her law practice in New York and Washington. Since she had met many volunteers during the CLINTON campaign who took positions with the new administration, she often visited with them during her weekly trips to her Washington, D.C. office. She therefore during the campaign, transition, and the first six months of the

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CLINTON administration, got to know VINCENT FOSTER fairly well.

She last saw VINCENT FOSTER on Wednesday or Thursday before his death. She believes that they had lunch together with some other people in Washington. She recalls him mentioning he planed to take a weekend trip to the eastern shore of Maryland. She noted no change in his demeanor or physical appearance but was aware that he was working very hard and was under considerable pressure. His death came as a complete shock to her and she can offer no reason or speculation as to why he may have taken his life.

SUSAN THOMASES was not in Washington on July 20, 1993, the date of VINCENT FOSTER, JR.'s death. She checked her personal 1993 calendar to verify this. She said that she cannot recall the last time that she was at The White House prior to FOSTER's death. She learned of his "suicide" via a telephone call from either HILLARY CLINTON or BERNARD NUSSBAUM. She cannot recall which one of them first told her about FOSTER's death because she talked to both of them by phone on the night of his death. She was at her residence in New York when she received these telephone calls. Although she cannot recall exactly when she spoke to HILLARY CLINTON and BERNARD NUSSBAUM that evening, she does recall that it was after dark. The next day, Wednesday, July 21, 1993, she went to her Washington, D.C. office as previously scheduled. Although she cannot recall she believes that she went to The White House on July 21 or July 22 to express her condolences to those there whom she knew. She did not go to the FOSTER funeral in Arkansas. She did not go to VINCENT FOSTER's office on July 21 or July 22 and cannot recall the last time she was in his office although it was quite some time before his death.

Ms. THOMASES continues to regard HILLARY and BILL CLINTON as friends and visits with them from time to time when she is in Washington.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/29/94

SUSAN P. THOMASES, accompanied by her attorney, BENITO ROMANO, was interviewed under oath by Independent Counsel Attorney MARK STEIN. Special Agent WILLIAM E. COLOMBELL was present during this interview.

In the course of the interview, Mrs. THOMASES made available copies of the following documents:

1. An itinerary/invoice, #0025769, dated July 15, 1993 reflecting Amtrak reservation for July 20, 1993 for travel from Penn Station New York to Philadelphia, train 113 departing at 12 noon and arriving at 1:11 pm and return travel from Philadelphia to New York Penn Station on train 222 leaving at 6:35 pm and arriving at 8:00 pm.

2. A passenger receipt dated July 15, 1993 for Amtrak Metroliner travel between New York and Philadelphia and return, July 20, 1993.

3. Receipt #694803, marked "Vital" for ground transportation from East 53rd Street to Penn Station; pick-up time 11:15 am, date illegible but interviewee states it was July 20, 1993.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/11/94

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Investigation on 5/6/94 at Washington, D.C. File # 29D-LR-35063

by H. Alexis Suggs Date dictated 5/10/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/29/94

A trip was made from the former VINCENT FOSTER, JR. residence in Georgetown, 3027 Cambridge Place, to The White House, Washington, D.C. The travel time of 7:45 am on a week day morning was selected to approximate the time of this trip in that the travel day in question was a weekday morning (July 21, 1993) and had occurred some time between 7:30 am and approximately 8:00 am. The actual travel time experienced on the morning of July 29, 1994 was determined to be nine minutes. The following route was taken.

7:45 am (Departure)	Leave 3027 Cambridge Place Georgetown (via bucar) Right onto 30th Street Left onto M Street Bare right onto Pennsylvania Ave. Right onto 19th Street Left onto E Street Left onto West Executive Ave.
7:54 am (Arrival)	At West Executive Avenue and State

nvestigation on 7/29/94 at Washington, D.C. File # 29D-LR-35063

by SSA WILLIAM T. GUYTON Date dictated 7/29/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/19/94

On 4/12/94 LINDA R. TRIPP, Executive Assistant to the Counsel to the President, The White House, (202) 456-2681, appeared at the Office of the Independent Counsel, Washington D.C. for a pre-scheduled interview. She was accompanied by her attorney, SANDRA WILKINSON, of the law firm of PAUL HASTINGS, JANOFSKY & WALKER, 1299 Pennsylvania Avenue, N.W., Washington D.C., (202) 508-9593. After being advised of the identities of the interviewing agents and introduced to attorneys for the Independent Counsel, RODERICK C. LANKLER and CARL STICH, who were also present, TRIPP provided the following information:

TRIPP advised that her job was Executive Assistant to BERNARD NUSSBAUM. She has had the same title since April 1993 and was previously in the White House Chief of Staff's office during the Bush Administration. She is one of only two individuals still employed at the White House from the Bush Administration.

TRIPP worked in the same physical area where NUSSBAUM and VINCENT FOSTER JR. and their Executive Assistants were located. TRIPP and BETSY POND worked for Mr. NUSSBAUM but had daily contact with FOSTER and would take messages and otherwise assist FOSTER's Executive Assistant, DEBORAH GORHAM, when necessary.

TRIPP met FOSTER right after PRESIDENT CLINTON's inauguration. She would occasionally take phone messages for him. Her contact with him was "daily and continual" as the physical area of the offices and the Executive Assistant's desks is relatively small. She characterized her relationship with FOSTER as warm and professional. She believes she was the last person in the office to see him alive and that was in the early afternoon of July 20, 1994.

TRIPP characterized FOSTER as a wonderful, warm, kind person who was respectful to all people. He was reserved and very private, with a soft-spoken distinct Arkansas accent. He maintained very fond relationships with NUSSBAUM, HILLARY

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CLINTON, MARSHA SCOTT, and his family. He had extremely professional and cordial relationships with GORHAM, DEBORAH COYLE (phonetic), and BRUCE LINDSEY. TRIPP opined that he may have considered WEBB HUBBELL and HILLARY CLINTON to be personal confidantes. Nobody outside of the Arkansas "group" would be considered a confidante.

FOSTER did not appear to TRIPP to have any weaknesses, including not being too "thin skinned". The work environment in the whole office was always at "mach speed" and FOSTER was an intensely serious and extremely focused person. In retrospect, TRIPP recalled that when she first met FOSTER he was more relaxed, had a twinkle in his eyes. She advised that for the first few weeks she did not notice any change, but then she noticed that his pants were cinched, reflecting a weight loss, that his normal characteristics seemed exaggerated--meaning he was more quiet, more gentle, more subdued and reserved. She was not aware of him taking any medication or having a doctor.

FOSTER worked very long hours. He was at work, and appeared to be well settled in, by the time TRIPP arrived to work every morning at 8:00AM and would frequently stay until 8:00PM and even later. His family did not join him in Washington right away because one child did not graduate from High School until June 1993 so he was "free" to work long hours. But his children loomed large in his life and they were frequently visiting the White House and calling their father at work.

TRIPP advised that she never saw an incident where he did not handle stress well. She heard that he lost his temper on one occasion over the Travelgate matter. As TRIPP understood the matter, FOSTER wanted to take the "fall" instead of NUSSBAUM, and was overheard to say, "This is my blame. Let me take it."

TRIPP advised that FOSTER's relationship with HILLARY CLINTON was very friendly. They had the freedom to walk back and forth between one another's office and did so-- not daily, not even weekly, but it was not unusual. HILLARY CLINTON was equally friendly with others.

Some time in the days preceding FOSTER's death, TRIPP asked GORHAM, "What's wrong with Vince?" GORHAM responded with one word, "government". There was no further elaboration. Within a week of his death, possibly the day before it, GORHAM told TRIPP that FOSTER approached GORHAM and, with an

uncharacteristic and intense sincerity, asked her, "How are you doing?" A brief conversation ensued and, although TRIPP did not recall who said the words first, she remembered GORHAM telling her that during that conversation both VINCE and GORHAM said they felt "spiritually empty". GORHAM and FOSTER were not personally close and even their professional relationship, while very cordial, was not particularly "close". (For example, FOSTER would record dictation, then give the tapes to GORHAM-- they did not physically work together such as might occur if he dictated to her personally.) It is partly for that reason that this exchange between GORHAM and FOSTER was sufficiently unusual that GORHAM commented on it to TRIPP. TRIPP speculated that maybe that was a brief window into FOSTER and maybe he was "reaching out". TRIPP noted that FOSTER had received a great deal of undeserved bad press and that maybe the timing of the conversation had something to do with that.

TRIPP did not observe FOSTER to be a religious person, but thought he probably was of a background and social milieu that included church attendance.

The Friday before the first of July, FOSTER observed TRIPP packing up preparing to be gone from her job for several weeks vacation and asked her what was up. She told him her plans and suggested to him that he could use a break too. He said, "That would be nice." But the only vacation she knew him to take was the weekend shortly before his death there were last minute plans for him and his wife, LISA FOSTER, to spend a weekend with the CARDOZAS (phonetic) and the HUBBELLs. After the weekend, he merely said it was a "very nice weekend" in response to TRIPP's casual question.

On the day of July 20, 1994 her focus was on NUSSBAUM, who, along with herself and POND, were totally engaged in the ceremony appointing LOUIS FREEH the new Director of the Federal Bureau of Investigation (FBI), which took place in the Rose Garden late in the morning. FOSTER was not involved in that, and TRIPP does not recall what he was doing during the morning hours. He attended the Rose Garden ceremony, but instead of sitting in the audience which would have been a normal pattern, he stood on the periphery, on the sidewalk which connects the wings of the White House. It is only with the benefit of hindsight that TRIPP can say that he seemed "distracted and a little down".

GORHAM left the office shortly after noon, so TRIPP was

covering for her for FOSTER, who was still in his office. FOSTER came out of his office and looked at the cafeteria menu, choosing a hamburger. TRIPP left him with TOM CASTLETON while she went to get his lunch. She dumped a whole handful of M&M candies on his tray as a pleasantry. When she returned CASTLETON was gone. FOSTER asked her what took her so long and said he had sent CASTLETON to go find her. TRIPP was surprised that FOSTER would send CASTELTON to look for her because she had not been gone very long. FOSTER seemed in a rush. He sat at his couch, eating and reading the newspaper. He removed the onions from his hamburger, which struck TRIPP as odd in retrospect. She couldn't understand why he would do that if he was planning to commit suicide. It did not make sense to her that he might be worried about his breath if that were the case. TRIPP does not know if FOSTER likes or dislikes onions. She had never ordered lunch for him before and made a mental note of his preference at the time in case she ever ordered lunch for him again.

Shortly after she left him eating and reading the newspaper FOSTER came out of his office with his jacket on and empty-handed. He said, "There are lot's of M&Ms left in there. I'll be back." There was nothing unusual about his demeanor and he did not seem distressed. TRIPP advised that it was FOSTER's habit to carry his briefcase with him when he traveled to and from work. When he left the office at shortly after 1:00PM he did not have anything with him. TRIPP did not know where he was going and it was not appropriate for her to ask him. He did not have any appointments noted on his office calendars or that anybody knew about.

Some time during the afternoon NUSSBAUM casually asked where FOSTER was, and POND, GORHAM, and TRIPP discussed whether or not they should page him and decided against it. TRIPP does not know if NUSSBAUM paged FOSTER. TRIPP left at 5:30 PM. COYLE, the President's secretary, called TRIPP at approximately midnight to notify her about FOSTER's apparent suicide. TRIPP called GORHAM and notified her, and left a message on POND's telephone answering machine in an attempt to notify her. She did not speak to anyone else that night. She arrived the next day at her usual time, approximately 8:00 AM.

She advised that sometime soon after the death, GORHAM told TRIPP that the morning of his death, much earlier than his leaving, FOSTER had placed three pieces of personal correspondence in the outgoing mail. The pieces were definitely

personal, FOSTER having addressed them by hand and used stamps instead of officially franked envelopes. This was sufficiently unusual that GORHAM noted it, and told TRIPP who two of the items were addressed to. TRIPP was unable to recall one of the items, but said the other was to FOSTER's mother. TRIPP does not know if GORHAM knows who the third piece was addressed to. Pieces of mail are not logged. The couriers who pick up the mail are BOBBY, JACKY, and Helen (all phonetic and last names unknown). TRIPP never mentioned these letters to the Park Police. She does not believe GORHAM or anybody else has either, although TRIPP urged GORHAM to report them to the Park Police. TRIPP is not aware of any discussion with NUSSBAUM about the letters or any other internal discussion of them.

TRIPP advised that the following individuals worked in close proximity to FOSTER: Herself, POND, GORHAM, NUSSBAUM, CASTLETON (an intern), and MARLENE MACDONALD (an unpaid volunteer).

TRIPP never saw a gun in FOSTER's office or in his possession. He never talked about guns or mentioned owning one. TRIPP advised that she could not picture a more non-violent person. He may have had an interest in history, judging from books in his office. TRIPP does not know if he had any hobbies. There is a collage of photographs showing him and Lisa in a boat, which might indicate some kind of interest.

Two things occurred which were out of the ordinary on July 19, 1993, the day before FOSTER died. MARSHA SCOTT, Deputy Assistant to the President and Director of Presidential Correspondence, came to see FOSTER for a closed-door session which lasted over an hour, possibly as long as two hours. This was highly unusual, both her coming to see him and anybody taking up that much time with FOSTER. TRIPP advised that SCOTT went to school with President CLINTON and she is part of the group of "core" Arkansans who go to dinner every Tuesday night. She has no direct knowledge of whether or not SCOTT has attended the "Renaissance weekend" at Hilton Head with the CLINTONS or whether SCOTT's and PRESIDENT CLINTON's name has been linked romantically. TRIPP advised that she was very uncomfortable discussing SCOTT due to their professional relationship and the fact that SCOTT appears to wield influence that belies her official position.

TRIPP does not know what SCOTT and FOSTER discussed,

but has a clear recollection of the meeting because she feared at the time that it might have something to do with her professionally. She does not know if it was a scheduled meeting. SCOTT did not make any effort to see NUSSBAUM before meeting with FOSTER.

The second thing that happened that day which was unusual was that he went home early-- about 7 o'clockish in the evening-- when NUSSBAUM, CASTLETON, TRIPP were frenetically completing final preparations for the next morning's appointment of FBI Director FREEH in the Rose Garden. It seemed a little odd that he would leave when everybody else, including NUSSBAUM, was so busy. Then added to that was that about thirty minutes after he left, the White House operator called for him, saying the President was trying to reach him. When NUSSBAUM heard about this he said, "Good, he can use the support."

TRIPP spoke to FOSTER as he left, asking him if he had thought about inviting his children to the Rose Garden ceremony the next day. FOSTER had a non-committal answer. He had his briefcase with him as he left. TRIPP advised that he customarily carried it to and from work.

TRIPP advised that there are two safes in NUSSBAUM's office at the White House and that GORHAM was the only person who was physically able to open the one on the right as you entered the office. To the best of Tripp's knowledge, the one on the left was not used. TRIPP does not recall any discussion regarding the safes on July 22, 1993 (the day FOSTER's office was inventoried), or on any other day following FOSTER's death. The first reference that TRIPP heard concerning a safe was in the press and it was that PATSY THOMASSON said they should open the safe. THOMASSON was not a usual visitor to the office and she was very surprised when she heard that THOMASSON had been in the office shortly after FOSTER's death.

TRIPP advised that the photo that NUSSBAUM took from FOSTER's office was a small black and white photograph of Miss Mary's preschool class, showing FOSTER, BILL CLINTON, and others as four-year-olds. TRIPP had the photo, which had been given to her by NUSSBAUM to get it copied to give to LISA FOSTER, VINCE FOSTER's widow.

With regard to trash from FOSTER's office, TRIPP advised that at some point on July 21, 1993, somebody mentioned

the possible existence of a burn bag. TRIPP does not think FOSTER had one in his office. But he did have a trash receptacle and TRIPP believes that trash from it was retrieved.

TRIPP advised that she is not aware of the cabinets in front of GORHAM's desk, known to have FOSTER's materials in them, ever to have been searched or looked into. Everybody had access to them. TRIPP does not know if they were locked, and was of the opinion that they were "housekeeping" type materials. TRIPP never saw or heard of FOSTER giving any dictation or other secretarial work to any person other than GORHAM.

TRIPP was present when STEVEN NEUWIRTH found the torn up yellow piece of paper that was discovered in FOSTER's briefcase. She advised that NEUWIRTH came out of FOSTER's office white-faced and shocked looking. He asked where NUSSBAUM was, and when TRIPP told him where he was, he said, "Page him." From the way he was acting, she asked if he had found something, and he answered, "Yes." GORHAM had told TRIPP that the briefcase was "empty except for those yellow stickies on the bottom."

The morning of July 21, 1993, TRIPP arrived to work at 7:00 AM. POND was already there and had been in FOSTER's office. Everybody, including herself, was extremely upset. TRIPP could not remember anybody who was not weeping to some degree at some point. People from all over stopped in. TRIPP recalls MARSHA SCOTT, MAGGIE WILLIAMS, BRUCE LINDSEY, BILL KENNEDY, WEBB HUBBELL-- all those in the Tuesday night Arkansas "group". She had to take a cab home that evening because she left so late. They were told to remain at work in case anybody had a question.

At some point the day of July 21, 1993 TRIPP suggested to NUSSBAUM that they needed a Secret Service officer to guard FOSTER's office. She advised that she thinks GORHAM and NUSSBAUM were in FOSTER's office together that day. She did not remember anything being moved. Mostly she remembers the door to the office being closed. After it was inventoried by a large group of people including NUSSBAUM, NEUWIRTH, and DAVID SLOAN (date not recalled) the door was kept locked and nobody tried to access the office. TRIPP did not know who had the key to it. It seemed that the door stayed closed and locked for months.

At one point (exact day not recalled) HILLARY CLINTON went into FOSTER's office, stood just inside the doorway gazing around without touching anything for a little while, then turned

around and left.

A Staff Meeting was called and held in the 4th floor of the Old Executive Office Building. Everybody was there. PRESIDENT CLINTON made remarks. The White House Associates were called in to a meeting. TRIPP does not know what transpired at the meeting. Non-Associate staff were told that there would be an Associate sitting in on their Park Police interview when it occurred. TRIPP had CLIFF SLOAN sitting in on hers when it occurred. That is the only other time she was interviewed on this matter.

TRIPP provided the following personal information about herself:

Name: LINDA R. TRIPP
DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SS#:
Address: 6258 Cricket Pass, Columbia, MD 21044
Telephone Numbers: (410) 964-1896, (301) 621-6225
Position: Executive Assistant to the Counsel to the President

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 10/18/94

SA WILLIAM E. COLOMBELL reviewed the U.S. Park Police evidence and custody logs for all physical evidence in possession of the U.S. Park Policy relating to the VINCENT FOSTER death investigation.

Evidence control receipts and logs confirmed that item 12, described as a White House identification and photo of VINCENT FOSTER, was turned over by OFFICER CHERYL BRAUN to the U.S. Secret Service on July 21, 1993 at 1:20 a.m.

The evidence control receipts and logs for personal items removed from FOSTER's body confirms that the below listed items were all turned over to White House representative CLIFFORD SLOAN by U.S. Park Police OFFICER PETER MARKLAND on 7/21/93 at 7:35 p.m. with a notation, "return to family."

Item 5 - Brown leather wallet & contents
Item 6 - Seiko watch
Item 7 - Motorola Bravo Pager, Cap Code 052943
Item 8 - Silver Ring
Item 9 - Gold Ring

(telephonically)

Investigation on 10/13/94 at Washington, D.C. File # 29-LR-35063

by WILLIAM E. COLOMBELL Date dictated 10/18/94

USSS
interviews:

April 25, 1994

29D-LR-35063
IRM
1

The following United States Secret Service (USSS), Uniform Division, Officers were interviewed, on the date indicated, at the Office of the Special Counsel, 1001 Pennsylvania Avenue, NW by Special Agent [redacted] Steven Tyner, III, April 22, 1994; Ronald Lee Craig, Jr., April 25, 1994; John Scott Cassetta, April 25, 1994.

FOIA(b)(7) - (C)

Each of these three officers advised that they were assigned to work the 10:30 pm - 7:00 am shift on USSS White House compound gate post B-4 on July 20-21, 1993, which allows access to West Executive Avenue within The White House compound by either vehicle or walking. Each of these officers said that they did not know Vincent Foster, Jr. professionaly or personally and believed that they did not learn of his death until late morning or early afternoon of July 21, 1993. They each similarly advised that they did not know Bernard Nussbaum, Patsy Thomasson, Maggie Williams, nor Craig Livingstone and cannot specifically recall if any of these individuals passed through gate B-4 during the late evening hours of July 20, 1993 or early morning hours of July 21, 1993. They each advised that it would be unusual for a White House staffer with appropriate White House access credentials, to attempt to bring a visitor on The White House compound during late night or early morning hours. They each advised that they do not recall any such occurrence during their shift of July 20 - July 21, 1993.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/17/95

CHRISTINE A. VARNEY was interviewed within the offices of the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC). VARNEY was accompanied to the interview by her attorney, LYN UTRECHT, of the law firm of Oldaker, Ryan & Leonard, 818 Connecticut Avenue, NW, Suite 1100, WDC, telephone number 202-728-1010. After being apprised of the identities of the interviewing agents and that the purpose of the interview was to discuss events surrounding the death of VINCENT W. FOSTER, JR., former Deputy Counsel to the President of the United States, VARNEY thereafter provided the following information:

VARNEY served as the Chief Counsel to the Presidential campaign of then candidate, BILL CLINTON. Upon CLINTON's election as President of the United States, she was named General Counsel for the inauguration. After CLINTON's inauguration as President, VARNEY was appointed Cabinet Secretary for the administration. VARNEY has held the aforementioned positions based upon her expertise in the field of election law.

Prior to her interview by the OIC, WDC, VARNEY reviewed her calendar related to the time period surrounding July 20, 1993. The aforementioned review revealed that VARNEY was in her office on that day. During the time period in question, VARNEY was involved in dealing with floods in the mid-western portion of the United States.

VARNEY recalls meeting FOSTER in Little Rock during the fall, 1992. They met after the Presidential election in November, 1992. VARNEY had no role in FOSTER being selected to serve in The White House Counsel's office. Subsequent to the inauguration of President CLINTON, VARNEY and FOSTER had weekly business and social contact. VARNEY described herself to have been an acquaintance of the FOSTERs.

FOSTER would seek VARNEY's advice with regard to leftover/ongoing election issues related to the 1992 Presidential campaign and election. VARNEY had no conversations or

discussions with FOSTER regarding a blind trust related to the President and Mrs. CLINTON. VARNEY has no recollection of any interaction between herself and FOSTER on July 20, 1993. VARNEY had no recollection of the last time she saw FOSTER.

VARNEY first learned of FOSTER's death from a newspaper story on July 21, 1993. VARNEY was alerted to the newspaper story by her husband.

VARNEY arrived at her office between the hours of 7:30 and 8:00 am on July 21, 1993. She believes that the door to the Counsel's office suite was closed upon her arrival. Her office is located on the second floor, northside of the west wing of The White House.

VARNEY had an awareness of discussions regarding how the Park Police investigation was being conducted related to FOSTER's death. No one sought her counsel either formally or informally regarding the search of FOSTER's office. VARNEY was not present during the search of the office and did not attend FOSTER's funeral. VARNEY's only awareness of the search of FOSTER's office with particular regard to procedures utilized in the course of the search was from media/newspaper reports.

VARNEY believes that she was informed that STEPHEN NEUWIRTH of the White House Counsel's office was the individual who found the note believed to have been written by FOSTER. VARNEY was aware that the note was found by NEUWIRTH while he was packing up FOSTER's office. VARNEY does not recall who told her that the note had been found. She has no knowledge of any additional notes relating to FOSTER having been found.

VARNEY departed The White House between 7:00 p.m. and 8:00 p.m. on July 20, 1993. She did not return to The White House that evening. VARNEY was aware that Larry King was going to broadcast a program from The White House on the evening of the 20th. She may have prepared a briefing paper related to potential issues the President could be questioned about in the course of the interview. VARNEY's paper concerned floods in the mid-west.

VARNEY has known CRAIG LIVINGSTONE since the 1988, Democratic Presidential nominating convention. She was also aware that LIVINGSTONE did advance work related to the CLINTON Presidential campaign and the inauguration. LIVINGSTONE is known

to be currently involved in the area of personnel security at The White House.

VARNEY has no recollection of seeing LIVINGSTONE on either July 20 or July 21, 1993.

VARNEY's only conversation with LIVINGSTONE related to the investigation currently being conducted by the Office of the Independent Counsel concerned LIVINGSTONE seeking advice for counsel. LIVINGSTONE came to VARNEY and asked for recommendations for attorneys to represent him on the issue of moving boxes from The White House. These boxes were in some way related to FOSTER. She did not recall when this conversation took place. LIVINGSTONE emphatically denied to VARNEY ever moving any boxes from The White House related to FOSTER. VARNEY described LIVINGSTONE to be upset regarding his situation. VARNEY just provided LIVINGSTONE with names and does not know if he ever contacted anyone on the list. LIVINGSTONE informed VARNEY that he did go to the hospital on the night of FOSTER's death to identify the body. VARNEY had no recollection of hearing information regarding LIVINGSTONE going to the FOSTER residence on the morning of July 21, 1993. VARNEY did not go to the FOSTER residence subsequent to FOSTER's death.

VARNEY's only knowledge regarding Whitewater stems from her recollection of a December 1992 discussion in Little Rock, regarding the dissolution of the CLINTONs' Whitewater investment and other unrecalled issues.

VARNEY had no reason to believe that Whitewater or Madison Guaranty Savings and Loan were reasons as to why FOSTER may have taken his own life.

No other information of investigative value was provided.

CHRISTINE A. VARNEY is described from observation and interview as follows:

Date of Birth:	[redacted]
Place of Birth:	
Race:	White
Sex:	Female
Social Security Account Number:	[redacted] FOIA(b)(6) FOIA(b)(7) - (C)

Residential address:	3515 Macomb Street, NW Washington, DC 20016
Residential telephone #:	202-363-7854
Title:	Commissioner, Federal Trade Commission
Work address:	Federal Trade Commission Pennsylvania Avenue, NW & 6th Street Washington, DC
Work telephone #:	202-326-2171

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/19/94

LORRAINE A. VOLES, Director of Communications for the Vice President, work telephone (202) 456-7035, was interviewed at her office at the White House. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, VOLES provided the following information:

VOLES advised that at the time that VINCE FOSTER, JR. killed himself on July 20, 1993, VOLES was Deputy Press Secretary in the Office of Communications. At the time of FOSTER's death, she was covering the RUTH BADER GINSBURG confirmation hearing, so everyday she reported directly to Capitol Hill to work. She started those duties of July 19 or 20 and believes from looking at her calendar that she was doing that Monday through Thursday of the week that FOSTER killed himself. She did not go into the White House at all and was not involved in any way in the events at the White House during that period.

On July 21, 1993, her calendar shows that she had to be in Room 234 at 9:00 a.m. She does not recall the press office calling her at all. She has a vague memory of a conversation with RICHARD STRAUSS about some radio program information related to the BADER GINSBURG hearings and in passing he made a comment about everybody being "out of it because of VINCE FOSTER."

VOLES advised that she received a call on the issue of press coverage at the FOSTER residence from CRAIG LIVINGSTONE's attorney approximately two to three weeks ago. She knew nothing about the matter. She did not assign anybody to go out there. That is the type of thing that she would have done in the course of her responsibilities of managing the lower press office had she been at the White House at the time, but she was not. She advised that in her absence either DEE DEE MYERS or ARTHUR JONES of the Press Office would have been the ones to send somebody to the FOSTER residence.

The only women in the office at that time included NANCY WARD (Office Manager), KATHY MCKIERNAN and VOLES herself. She advised that if someone was sent, they would not have sent an

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intern. The only other remote possibilities would be VICKY RIVAS VAZQUEZ or DAWN ALEXANDER.

Asked to speculate what other entity might have sent somebody out to the FOSTER residence the morning of July 21 to handle press, she thought maybe DAVID WATKINS' old office (The Office of Management and Administration) or maybe the Secret Service. She said if it had been a Press Office person, they would have discussed it at the Press Office meeting.

VOLES advised that she had not heard about CRAIG LIVINGSTONE's activities on July 20 and 21 until his lawyer contacted her. She does not know of any business CRAIG LIVINGSTONE or anybody would have had in the White House early on the morning of July 21, 1993. She said someone in the Press Office would have known if any intern of theirs had been borrowed to help move boxes.

VOLES advised that her personal impression of CRAIG LIVINGSTONE is that "he has watched too many episodes of Cagney & Lacey," intimating that he tended to enjoy intrigue and get wrapped up in "cloak & dagger stuff." In addition, on a couple occasions, he told her about problems that individuals were getting into and she felt it was indiscrete and inappropriate for him to have told her. For that reason she avoids contact with him except what is unavoidable.

As part of the interview, VOLES provided the following personal information:

Name:	Lorraine A. Voles
Current Position:	Director of Communications for the Vice President
Position as of July 20, 1993:	Deputy Press Secretary for the President
DOB:	FOIA(b)(6) FOIA(b)(7) - (C)
POB:	
SSN:	
Address:	5311 42nd street, N.W. Washington, D.C. 20015
Residence Phone:	(202) 362-1419
Work Phone:	(202) 456-7035

W

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/15/94

ANN FAIRFAX WALKER, Special Assistant to the President and Director of Communications research, The White House, Washington, D.C. was interviewed at the Office of the Independent Counsel, Washington, D.C. Ms. WALKER was advised of the identity of the interviewing agent and of the purpose of the interview. MARK STEIN Assistant to Independent Counsel ROBERT B. FISKE, JR. assisted in this interview. Ms. WALKER provided the following information:

She has been in her present position at The White House since January 20, 1993. She previously worked since March of 1992 in the CLINTON campaign. She was press secretary in Washington, D.C. during the primaries and worked during the transition at the Governor's Mansion in Arkansas. Her present job is basically research to find public record information.

WALKER was asked about her interaction with VINCENT FOSTER, former White House Deputy Counsel who died on July 20, 1993. She described her interaction as "a little bit". When FOSTER wanted research done, and RICKI SEIDMAN (Deputy Assistant to the President and Deputy Director of Communications) was out, he would come to her. Basically what FOSTER wanted researched was tax information such as what BUSH and QUAYLE had reported as deductions on their tax returns.

WALKER was shown a copy of a memorandum addressed to "RICKI" dated April 12, 1993. She said this memorandum was informing SEIDMAN about FOSTER's request. WALKER explained that SEIDMAN had wanted an outline of the information which she had provided to FOSTER during her (SEIDMAN's) absence. In addition to the tax info, FOSTER also wanted information on Whitewater and how it had been reported during the CLINTON Presidential campaign. WALKER said the word "project" in the memorandum referred to FOSTER's call for information concerning the three items listed on the memorandum. Those items were 1) How the media "handled" President Bush's income tax filing in 1989; 2) Whether Bush itemized charitable contributions and deductions and did the media scrutinize these line items; and 3) The White Water

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Development Project coverage during the campaign. FOSTER requested all of this information in the same phone call to WALKER. WALKER was able to provide information to FOSTER on each of these questions. She met with him on or about April 5, 1993 concerning her research. When WALKER met with FOSTER he provided her with a New York Times article from Monday April 5, 1993 captioned "At Last, a Team for Justice" concerning some Arkansas ethics legislation. FOSTER wanted to know while CLINTON was governor how this had been reported and what had been said about WEBB HUBBELL's role.

WALKER said that SEIDMAN and FOSTER discussed the White Water coverage during the campaign further as FOSTER wanted more information. WALKER's comment in the memorandum concerning "excluding the White Water clips--per your instruction" was made because SEIDMAN already had this information.

The reference to REAGAN and CARTER was an answer to FOSTER's request for more information. WALKER said SEIDMAN was clearly looking for something without saying what it was she was looking for. WALKER had done a "couple" of media searches regarding Whitewater or taxes for FOSTER. She described this research as being routine, but said that SEIDMAN had been "agitated" about it. WALKER was not sure why. WALKER said it was unusual to get a request from VINCE FOSTER or the Counsel's office herself but that maybe SEIDMAN got this type of request on other occasions. During this two or three week period in April, 1993, WALKER had done other research on Whitewater such as locating other New York Times articles for FOSTER. She had also been asked to research the Whitewater coverage during the campaign and to determine who had spoken on the record on the campaign concerning Whitewater.

FOSTER's phone call to WALKER was the first request she had gotten to research Whitewater. She pointed to the fact on the memorandum of April 12, 1993, that she had not spelled Whitewater correctly. She said the request came "out of the blue" and she didn't know why she was being asked for the information. WALKER was not sure if some of the requests were coming from GEORGE STEPHANOPOULOS or that she was just providing copies of her memorandums to him.

With respect to SEIDMAN being agitated, WALKER further explained that she (WALKER) needed to know what she was looking for and felt as though she was "shooting in the dark". No one

else had expressed a concern to her regarding this research project. FOSTER himself had been "perfectly calm" about the request. WALKER could not remember any questions that FOSTER asked her about this research.

WALKER was asked if she had told anyone else about her research for FOSTER. She answered that in February or March of 1994 she had told JOHN PODESTA while he was doing some other research concerning Whitewater. She said no one else at The White House had been told other than through her memorandums to SEIDMAN with copies to STEPHANOPOULOS. WALKER had given STEPHANOPOULOS her research on who said what during the campaign on Whitewater. She is not sure if she did this memorandum to STEPHANOPOULOS with a copy to FOSTER or to FOSTER with a copy to STEPHANOPOULOS. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury WALKER said she would review her records upon returning to The White House and get back to the Office of the Independent Counsel with any additional information that she located.

The following description of WALKER was obtained through observation and interview:

Name:	ANN FAIRFAX WALKER
Title:	Special Assistant to the President and Director of Communications Research, Office of Research, Office of Communications.
Sex:	Female
Race:	Black
SSAN:	FOIA(b)(6) FOIA(b)(7) - (C)
DOB:	
POB:	
Address:	9101 Crosby Road Silver Spring, Maryland 20910
Telephone Number:	(301) 589-8542 (home) (202) 456-7845 (work)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/2/94

Diann Walters, who resides at Number 40 Chesapeake Street Apt. 304, Washington, D.C., was contacted and advised as to the identity of the interviewing agent and the nature of the interview. She then provided the following information:

She is employed by the General Services Administration (GSA) as a "cleaning lady". She works the 9:30 pm - 5:45 am shift at The White House. Her duties are to vacuum, dust, clean, and remove non-confidential trash from offices on the 2nd floor in the west wing of The White House. Her telephone number at work is 202-395-3270 and her home telephone number is 202-563-5471.

In July, 1993, as now, she was working the 9:30 pm - 5:45 am shift. She recalls learning of Vincent Foster, Jr.'s death during the late evening hours of July 20, 1993, although she can not recall by which means she learned of his death. She remembers working that particular night because she learned of his death and because she was subsequently advised that she was not to remove any trash from or clean the suite of offices that included Foster's office. She stated, however, that she can not recall who so advised her. Ms. Walters was asked if she recalls seeing any White House staffers in the Bernard Nussbaum/Vincent Foster suite of offices that night. She stated that she does not recall seeing anyone in that office and does not recall seeing anyone enter or leave that suite of offices. In response to a specific question, she further said that she similarly does not recall seeing anyone carrying anything out of the Nussbaum/Foster suite of offices on July 20, 1993.

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/24/94

DIANN WALTERS was interviewed at her residence, 40 Chesapeake Street, S.E., Apt. 304, Washington, DC (WDC), regarding her knowledge of events occurring at The White House on the evening of July 20, 1993, as they related to the death of former Deputy White House Counsel, VINCENT W. FOSTER, JR. After being apprised of the purpose of the interview and the identity of the interviewing agents, WALTERS thereafter provided the following information:

On the evening of July 20, 1993, WALTERS, assigned to The White House as a member of the cleaning staff, was working in her usual capacity in removing trash from offices located in the West Wing of The White House. WALTERS and a second cleaning woman by the name of TERRI COBEY were escorted to the 2nd floor of the West Wing to pull trash from offices located in the Counsel's office suite. In the course of pulling trash from offices located within the Counsel's office suite, WALTERS noticed a white female going through trash that had been pulled at some point from the offices in that suite by both WALTERS and COBEY. WALTERS was in the Counsel's office suite when she observed this female going through the trash.

The white female who was searching through the trash that had been pulled from the Counsel's office suite is further described to have been of small frame, approximately 5'6" in height, with shoulder length hair. WALTERS believed her first encounter with this woman was on July 20, 1993. She could not recall if the unknown white female wore any type of identification badge.

WALTERS did not remember if the assigned Uniformed United States Secret Service (USSS) Officer escort had to utilize keys to gain access to the Counsel's office suite. WALTERS and COBEY were escorted into the Counsel's office suite by HANK O'NEILL, of the USSS. On the 2nd floor of the West Wing, WALTERS cleaned the Office of the First Lady and the Counsel's office suite. With regard to O'NEILL, WALTERS recalled that he was just substituting that night for USSS Officer RIDGE (phonetic). RIDGE

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is described to be a white male who usually serves as an escort for WALTERS and COBEY while on the 2nd floor of the West Wing.

According to WALTERS, "lock-ups" are done at approximately 10:45 pm each evening. Lock-ups are described to be secure office areas requiring a USSS escort. The lock-up known as the Counsel's office suite was probably cleaned at approximately 10:45 pm on the evening of July 20, 1993.

When trash is picked up from offices within the West Wing, WALTERS noted that the trash is put into two separate bags. Trash or garbage is put into a large brown paper bag. Paper refuse goes into clear plastic bags.

As the white female previously described by WALTERS looked through the trash, WALTERS did not see the white female touch any of the trash nor did she observe the white female taking anything out of the trash. WALTERS could not recall whether or not the white female may have gone through trash in the hallway leading up to the Counsel's office suite.

As the evening progressed, WALTERS recalls that Officer O'NEILL may have said something about not pulling any more trash from offices in the Counsel's office suite. It is possible that the trash had already been pulled from the suite by the time O'NEILL made his decision.

WALTERS can not remember if anyone was in the First Lady's office when trash was pulled from that location. She is of the opinion that the First Lady's office door was locked and that Officer O'NEILL had to provide access to that office.

WALTERS did not recall whether or not anyone else was walking around the second floor of the west wing on the evening of July 20. She does not recall if the white female took anything out of the Counsel's office suite.

WALTERS has been employed for approximately 3 years as a cleaning woman at The White House.

No further information of investigative value was provided.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/20/94

NANCY L. WARD, Press Office Manager, White House Press Office, was interviewed at The White House on September 16, 1994. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, WARD provided the following information:

WARD advised that she has been Press Office Manager since January 1993. Her duties include a wide range of responsibilities, including the training and supervision of 10-12 interns and other staff assistants in the Press Office. She makes sure that phone calls, mail and other office correspondence are routed efficiently and otherwise acts as an Administrative Coordinator for the Press Office activities.

WARD said she knew nothing of VINCE FOSTER, JR.'s death until she arrived at work on July 21, 1993. She did not know FOSTER at the time, although his name was familiar

WARD advised that she has no knowledge of anybody from the Press Office either going themselves or sending anybody on behalf of the Press Office to go out to the FOSTER residence to help deal with press coverage there. She added, however, that she probably would not have known of such a decision because her professional focus is within the lower Press Office in The White House and does not include activities outside The White House. She suggested that such a decision to send somebody to the FOSTER residence would have been made by either ARTHUR JONES or LORRAINE VOLES.

WARD advised that she knows who CRAIG LIVINGSTONE is but does not know his title. She does not recall any contact with him early in the morning on July 21, 1993 either by telephone via an outside call or seeing him anywhere in the upper or lower Press Office in The White House.

As part of the interview, WARD provided the following personal information:

OIC-302a (Rev. 8-19-94)

'D-LR-35063

Continuation of OIC-302 of NANCY L. WARD, On 9/16/94, Page 2

Name:	NANCY L. WARD
Date of Birth:	FOIA(b)(6)
Place of Birth:	FOIA(b)(7) - (C)
Social Security Number:	
Address:	2020 F Street, NW Apt. 921 Washington, D.C. 20006
Residence Phone:	202-296-7772
Position:	Press Office Manager The White House since January, 1993

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 8/24/94

GWENDOLYN NANCY WEAVER, Deputy Assistant Director of the Office of Administration for Information Management, The White House, a position she has held since June 1, 1993 was interviewed at her office in the New Executive Office Building. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, WEAVER provided the following information:

WEAVER advised that the responsibilities of her office include management and oversight of all the libraries and the computing services for The White House complex. It includes the Data Center, a Network Services Group, Customer Support Desk (which includes a Help Desk, Programming, and Training) and Records Management. They also handle Systems Integration and Information Security.

WEAVER has no specific recollection of the day VINCE FOSTER, JR. committed suicide. She remembers the general time period of it having happened. Neither she personally nor her office were directly involved in the events surrounding VINCE FOSTER's death, including the disposition of his office and the inventory of his papers, at the time of his death. She did not know if there had been any requests to move equipment following VINCE FOSTER's death but advised that JAMES MCDONALD, an individual in her office, would know the answer to that question.

She explained that, as a practical matter, even though users are not supposed to move their own equipment, the reality is that equipment does get moved without her office finding out about it. All requests for moving equipment should be done through her office's Help Desk. WEAVER also said that she doubts that anybody in the Counsel's office knew enough about computers to do any of their own work. She also advised that the Counsel's office had E-mail but was not on a local area network (LAN) as of July 20, 1994. That means, in essence, that the movement of information from the Counsel's office or to the Counsel's office could not have been conducted by computer but would have, by necessity, had to be transmitted physically by "hard copy"

(paper) or floppy disk.

WEAVER advised that she knows CRAIG LIVINGSTONE but has only had very brief conversations with him on the subject of building passes.

As part of the interview WEAVER provided the following information:

Name:	GWENDOLYN NANCY WEAVER
Date of Birth:	FOIA(b)(6) FOIA(b)(7) - (C)
Place of Birth:	
Social Security Number:	
Home Address:	1961 Columbia Pike #44 Arlington, Virginia
Telephone:	703-486-0837 (unpublished)
Position:	Deputy Assistant Director of the Office of Administration for Information Management

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/20/94

THOMAS S. WEDERTZ, age 42, tow truck driver for T. & T. Towing, Incorporated, telephone (703) 795-9659, was telephonically contacted. WEDERTZ was advised as to the identity of the interviewing agent and that the purpose of the interview was in connection with information which had been received regarding his towing of a car from Ft. Marcy Park on the evening of July 20, 1993 and/or early morning hours of July 21, 1993. On July 20, 1993, VINCENT FOSTER, Deputy White House Counsel, The White House, Washington, D.C., had been found dead in Ft. Marcy Park.

When asked if he had towed a vehicle from Ft. Marcy Park to the FBI Headquarter's garage on July 20-21, 1993, WEDERTZ answered that he was "not aware of anything like that." He said he had no idea why this information would come up.

WEDERTZ was reminded to be truthful regarding the question being asked and he said that he was being truthful. He said he had been called by "some lady" last week from Capitol Hill with a similar question and had denied having any information with her as well. He could not further identify this person or the purpose of her call. He said he had nothing to hide, but did not tow any vehicle from Ft. Marcy Park on July 20-21, 1993.

(telephonically)

Investigation on 6/20/94 at Washington, D.C. File # 29D-LR-35063

by SA William T. Guyton WTG:deg Date dictated 6/20/94

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FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/13/94

LISA WETZL, Intern employed at The White House Office of Personnel Security, telephone (202) 456-2345 was interviewed telephonically. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, WETZL provided the following information:

WETZL said that she was working in the same position she currently holds in The White House Office of Personnel Security on July 20, 1993 and has specific recollections of the events of that date because it was made remarkable by VINCE FOSTER's death. She advised that as of July 20, 1993 she was only an intern, not a permanent employee as she is now and she was only typing minor memoranda for the Office of Personnel Security. She did not type any kind of memo from CRAIG LIVINGSTONE that was dated July 21, 1993 titled, "Report from CRAIG LIVINGSTONE" and purporting to be a chronology of his activities on July 20 and 21, 1993. She does not recall ever seeing such a document and did not type anything like it then or since that time. She feels sure that she would have remembered such a memo.

WETZL advised that the only thing she has typed for CRAIG LIVINGSTONE that remotely relates to this matter was a project wherein she typed the results of the Office of the Independent Counsel's interview of LIVINGSTONE from notes he had made of the interview. WETZL speculated that the memorandum chronicling his activities on July 21 was either typed by LIVINGSTONE himself or given to MARI ANDERSON and not to any of the interns.

WETZL explained that her job as of July 20 related to maintaining security files. She made up files, she sent off requests for FBI background information. She never assisted CRAIG LIVINGSTONE carrying boxes out of The White House or heard of anybody doing so.

As part of her interview, WETZL provided the following personal information:

(telephonically)

Investigation on 7/7/94 at Washington, D.C. File # 29D-LR-35063

by SA H. ALEXIS SUGGS Date dictated 7/12/94

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DOB:
POB:

FOIA(b)(6)
FOIA(b)(7) - (C)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/21/94

MARGARET A. WILLIAMS, Chief of Staff for the First Lady, The White House, was interviewed at the Office of the Independent Counsel (OIC), 1001 Pennsylvania Avenue, NW, Washington, D.C. (WDC). WILLIAMS was accompanied to the interview by her attorney, ED DENNIS. Participating in the interview were attorneys MARK STEIN and CARL STICH, both of the OIC. After being apprised of the identities of those participating, and the purpose of the interview, WILLIAMS thereafter provided the following information:

Since arriving in WDC as members of the CLINTON administration, WILLIAMS and former Deputy Counsel to the President VINCENT W. FOSTER, JR., maintained a fair amount of contact until his death on July 20, 1993. WILLIAMS had a fair amount of interaction with FOSTER on issues related to health care, based upon HILLARY RODHAM CLINTON's (HRC) status in heading the health care task force for The White House. In connection with the health care task force, FOSTER provided counsel regarding HRC's classification as a private citizen as opposed to being a federal employee. This issue was of significant importance regarding whether or not health care task force meetings should be open to the public. WILLIAMS' role with regard to the health care task force and her interaction with The White House Counsel's Office was that of a facilitator.

WILLIAMS and FOSTER also had contact regarding renovations at The White House. In a note that was believed to be written by FOSTER, discovered subsequent to his death, an issue was raised regarding a dispute between The White House Usher's Office and the Office of HRC. The dispute concerned renovations to The White House and whether or not estimates provided by the Usher's Office for work related to the renovation were in line with estimates provided by KAKI HOCKERSMITH the decorator chosen by HRC for the project. Estimates provided by GARY WALTERS, Senior White House Usher, were higher than estimates provided by HOCKERSMITH. WILLIAMS was aware that these disputes arose because the decorator was not aware of other costs involved in the renovation. WILLIAMS noted that special care had

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Investigation on 5/25/94 at Washington, D.C. File # 29D-LR-35063

by SA RUSSELL T. BRANSFORD
SA DANA M. GILLIS:DMG:sla Date dictated 6/2/94

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to be taken with regard to removal of wallpaper in the residence, and when covering furniture at The White House. Duplicates also had to be re-upholstered for use in emergency situations. Overtime payments for work that could only be done in the absence of the President, which was usually on weekends, were also not figured into estimates generated by HOCKERSMITH. WILLIAMS noted that HOCKERSMITH did not quite understand how the estimates did not match up and that she did not understand that duplicate copies be manufactured of any piece of furniture that was renovated.

WILLIAMS also discussed with FOSTER, the replacement of appointees to The White House Historical Society. Specifically, WILLIAMS and FOSTER discussed the time frame through which the replacement of the former appointees could be handled.

In May of 1993, MAGGIE WILLIAMS attended a meeting with GARY WALTERS, HOCKERSMITH and FOSTER related to The White House renovation cost estimates. The purpose of the meeting was to determine the cause of the differences between the Usher's Office estimates for White House renovation and estimates generated by HOCKERSMITH. Also discussed during the meeting was the lack of communication between all parties concerned. It was determined that there was a lack of knowledge regarding issues related to the renovation on the part of White House staff. FOSTER was of the impression that White House staffers should have previously known about the renovations associated with The White House and all associated costs.

WILLIAMS recalls seeing the line in FOSTER's note expressing FOSTER's belief that the Usher's Office was engaged in a plot to "take advantage of HRC." WILLIAMS admitted that she was surprised to see FOSTER's thinking regarding the Usher's Office issue as related to The White House renovation. WILLIAMS had no prior indication that FOSTER had harbored the feeling that there was a conspiracy by the Usher's Office to discredit HRC. This revelation was surprising to WILLIAMS in that FOSTER was thought to have had a good perspective regarding issues related to The White House.

On occasion, WILLIAMS was known to walk into FOSTER's office and FOSTER was known to walk into WILLIAMS' office. FOSTER had a knack for calming WILLIAMS down on sensitive issues. WILLIAMS was unaware of any change in FOSTER's demeanor. At one point WILLIAMS did note that she told FOSTER he needed a

vacation, but WILLIAMS noted that her comment was general in nature. WILLIAMS further noted that FOSTER was the individual who was always busy keeping everyone else's spirits up. In retrospect, WILLIAMS now thinks that FOSTER was working too hard.

WILLIAMS' discussions with FOSTER surrounding The White House Travel Office affair were defined in terms of a pending internal White House review. The White House review of the Travel Office matter was to be coordinated by JOHN PODESTA, Assistant to the President. FOSTER hinted to WILLIAMS that HRC might possibly be interviewed in the course of The White House review.

Of issues that were of concern to FOSTER, WILLIAMS does not recall having any conversations with him related to articles written in the Wall Street Journal. She does not recall FOSTER's opinions changing over time.

On July 19, 1993, the day before FOSTER died, WILLIAMS was aware that FOSTER was working on a blind trust related to the CLINTONs. FOSTER called WILLIAMS and questioned her related to stocks belonging to CHELSEA CLINTON. FOSTER contacted WILLIAMS because he felt HRC could answer questions related to the stock issue. At the time, HRC was traveling from Hawaii to Little Rock. WILLIAMS was aware that the deadline related to the blind trust was quickly approaching.

WILLIAMS tried to telephonically contact FOSTER on the morning of July 20, 1993. WILLIAMS' attempts to contact FOSTER were negative. WILLIAMS tried again on July 20, later in the day.

At The White House, FOSTER and HRC had occasional contact. Their conversations were friendly in nature. According to WILLIAMS, there was no basis for the rumors regarding a relationship between FOSTER and HRC.

WILLIAMS learned about FOSTER's death after receiving a telephone call from HRC. HRC was on an airplane headed to Little Rock. HRC wanted to find out if WILLIAMS was at home, after which she hung up the phone and re-telephoned WILLIAMS. At this point, WILLIAMS was informed by HRC that FOSTER was dead. HRC may have said that FOSTER killed himself. According to WILLIAMS, the conversation was short in duration and HRC made no requests of WILLIAMS at this time.

After receiving the telephone call from HRC, WILLIAMS called her staff assistant, EVELYN LIEBERMAN. LIEBERMAN came to WILLIAMS' house to pick her up, at which time they both traveled to The White House. WILLIAMS felt like she needed to be at The White House with her group. WILLIAMS recalls that she went to The White House on impulse. WILLIAMS may have been paged during this time frame but does not recall returning the page. (WILLIAMS believes the first page she received was at approximately 8:00 pm.)

One concern that caused WILLIAMS to travel to The White House on the evening of July 20, was her concern for HRC's schedule related to July 21, 1993.

Upon arriving at The White House, WILLIAMS got a key to HRC's office and placed EVELYN at the secretary's desk to answer incoming telephone calls. A guard opened the door to HRC's office. A call was then placed to LISA CAPUTO, Press Secretary for HRC.

WILLIAMS then travelled to MARK GEARAN's office. Prior to arriving at GEARAN's office WILLIAMS remembers seeing cleaning people out near an elevator. WILLIAMS recalls that the door to the Counsel's Office suite was open.

Upon arriving at GEARAN's office, WILLIAMS recalls seeing MARK GEARAN, DEE DEE MYERS, and HOWARD PASTER. She believes PASTER may have been dressed in blue jeans at the time.

(WILLIAMS noted that she had been aware that LARRY KING was taping a show at The White House on the evening of July 20, 1993.)

While in GEARAN's office, WILLIAMS sat down and started crying. GEARAN provided her with a draft of the statement to be released by The White House. People in The White House were very emotional at this time. WILLIAMS was aware that other people were in the office as well. WILLIAMS departed GEARAN's office and returned to HRC's office space. She provided the statement given to her by GEARAN, to LIEBERMAN which was subsequently passed on to LISA CAPUTO.

Upon returning to HRC's office, WILLIAMS saw cleaning people standing in the doorway to the Counsel's Office suite. She remembers that the door to the office was definitely open.

WILLIAMS then entered the suite noticing that a light was on in FOSTER's office. She then entered FOSTER's office and saw PATSY THOMASSON sitting at FOSTER's desk. She was surprised to see someone sitting behind the desk in that FOSTER hardly sat at his desk. THOMASSON made some comment that WILLIAMS could not recall. WILLIAMS sat down on a couch that was located in the office and recalls looking at a photograph. WILLIAMS recalls THOMASSON saying "If we found the note, it would give LISA some comfort." LISA as referred to by THOMASSON, was FOSTER's wife. This was WILLIAMS recollection as to why she had a sense that THOMASSON was looking for a note.

WILLIAMS described her relationship to THOMASSON as being a good professional relationship. WILLIAMS and THOMASSON did not socialize together outside The White House. At some point while WILLIAMS was in FOSTER's office, BERNARD NUSSBAUM, White House Counsel, walked into the office. WILLIAMS recalls NUSSBAUM to have scratched his head and paced back and forth while in the office. WILLIAMS eventually got up and departed the office. After leaving FOSTER's office, WILLIAMS went back down to GEARAN's office. It is possible that NUSSBAUM could have departed FOSTER's office and walked down to GEARAN's office as well. Upon departing FOSTER's office, WILLIAMS stated that she "didn't carry anything after leaving FOSTER's office." Her response was negative to departing FOSTER's office with either notepads or folders.

WILLIAMS did not see NUSSBAUM remove anything from FOSTER's office. She only recalls going into FOSTER's office once on the night of July 20. WILLIAMS was at The White House for approximately 30 minutes on the evening of FOSTER's death. She did not recall seeing anyone who did not belong in the Counsel's Office suite. WILLIAMS advised that her deputy, may be someone who could provide additional information surrounding events that took place at The White House on July 20.

WILLIAMS once again spoke to HRC after returning to her home. HRC asked WILLIAMS if there was any reason why FOSTER may have killed himself. During the first call to HRC, it appeared that HRC was trying to comfort WILLIAMS. During a second telephone call HRC appeared to be a bit more vulnerable. HRC wondered if WILLIAMS being in WDC helped her (WILLIAMS') state of mind. The conversation between HRC and WILLIAMS was of short duration. WILLIAMS doesn't recall speaking to anyone else at The White House on July 20.

WILLIAMS did recall hearing, possibly from the media, that no note was found related to FOSTER's death. This may have been stated by the President.

WILLIAMS believes she may have attended a meeting where a conversation was held between White House Chief of Staff, MACK MCLARTY and NUSSBAUM regarding a search of FOSTER's office by investigators. General issues were raised regarding how to treat executive privilege issues. WILLIAMS was aware that NUSSBAUM was to be in FOSTER's office during the course of the search. NUSSBAUM talked to WILLIAMS to assure that the personal files of President CLINTON were sent to the law firm of WILLIAMS and CONNOLLY. WILLIAMS saw a file marked income tax that was added to the gathered documents. HRC called and advised that WILLIAMS should contact CAROLYN HUBER. HUBER called regarding storage space for the documents until they could be picked up by WILLIAMS and CONNOLLY. TOM CASTLETON helped WILLIAMS move the boxes to the designated location. WILLIAMS did not notice a Whitewater file in any of the papers she handled.

WILLIAMS recalls that personal documents of the President were turned over to BOB BARNETT of the firm of WILLIAMS and CONNOLLY.

WILLIAMS recalls that a note was found containing writing on pieces of paper located at the bottom of a briefcase in FOSTER's office. WILLIAMS talked to STEVEN NEUWIRTH of the Counsel's Office regarding the line in the note related to KAKI HOCKERSMITH. WILLIAMS believed that questions and answers related to the Travel Office were based on the GEARAN press briefing.

WILLIAMS had had no conversations with FOSTER regarding Whitewater.

No further information of investigative value was provided.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/94

On May 16, 1994, Dr. LARRY S. WATKINS, Doctor's Building, Suite 402, 500 South University, Little Rock, Arkansas was interviewed at his professional offices. After being advised of the identity of the interviewing agents and the nature and purpose of the interview, Dr. WATKINS provided the following information:

WATKINS advised that he had known VINCE FOSTER, Jr. since they went to college together and been FOSTER's personal physician since November 1979. They engaged in some social activities together, they were members of the same country club in Little Rock, and he also treats FOSTER's mother, his wife LISA FOSTER, his two older children and his sister who lives in Little Rock. Since he sees various members of the family fairly frequently, some of the information provided during the interview came from them rather than directly from FOSTER.

WATKINS advised that FOSTER had no significant history of illnesses or hospitalizations. Asked if he had known FOSTER to suffer from any kind of depression before, WATKINS advised that he had not, although in the later part of November and December 1992, after the election, FOSTER went through a period of increased stress which he discussed with WATKINS at that time. He understood from LISA that FOSTER considered himself very good friends with BILL and HILLARY CLINTON and he had not yet been asked to take a position in the new administration. He was quite concerned about this and was experiencing some insomnia. On December 31, 1992, Dr. WATKINS' records reflect that he prescribed Restoril, a mild sleeping pill that is out of a person's system in approximately 6 hours. WATKINS advised that the problem was not persistent and he heard from LISA that things got better after FOSTER received the appointment as Deputy Counsel.

WATKINS advised that the move to Washington, D.C. had been very stressful for the family. LISA FOSTER and their daughter LAURA did not want to go to Washington, D.C. but they were willing to do so. They did not sell their home, but were

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going to rent it in anticipation of returning to Little Rock at some future date. At the time, their son DREW was in private Catholic School, their son VINCENT, Jr. was attending Texas Christian University (TCU) and LAURA was at Vanderbilt. FOSTER's father had set up a trust fund to assist with VINCE, Jr.'s and DREW's college costs but not LAURA's. All together WATKINS estimated that FOSTER was handling about $40,000 in educational costs alone every year.

Another matter which WATKINS advised was probably a source of stress at the time in their lives was the scandal over members of CLINTON's staff being members of the Little Rock Country Club, which had no Black members. The four members of his staff who were members there agreed to drop their membership, but WATKINS said that there was a rumor that FOSTER had not been in favor of that decision. The reason was essentially that the family planned to return to Little Rock and the Country Club membership was important to their lives. All of their friends belonged to the club and LISA and the children used it frequently. In addition, the joining fee is $25,000 which is forfeited when you give up your membership. WATKINS advised that whereas WEBB HUBBELL, BILL KENNEDY and the CLINTONS could afford to walk away from a $25,000 investment, FOSTER's family could not. In closed circles in Little Rock, there was a rumor that FOSTER had not wanted to drop out but that he had to go along with it. WATKINS does not believe that the Rose Law Firm picked up any part of that $25,000 joining fee.

The last time that Dr. WATKINS talked to FOSTER was when FOSTER called him sometime mid-day between 10:00 am and 2:00 pm on July 19, 1993. It was very unusual, in fact unprecedented, for FOSTER to call the doctor directly. Usually patients, including FOSTER, would pass messages and get what they needed through a nurse for efficiency's sake. This time, however, FOSTER insisted on speaking with WATKINS. He complained of loss of appetite and insomnia; he wasn't eating well and when WATKINS asked him if he was depressed, he said yes. WATKINS recalled that FOSTER sounded a little tired. They discussed depression and FOSTER knew that he was being prescribed an anti-depressant.

WATKINS prescribed Desyrel, 50 milligram tablets, which he knew to be the generic drug Trazodone, a tricyclic anti-depressant. He chose Desyrel because it does not have side effects and is helpful for insomnia. WATKINS knew that it took 10 days to two weeks to take effect but helps with insomnia,

sometimes the very first day. He felt it was very important for FOSTER to start sleeping better and thought that if he got some rest that he would feel a lot better. He did not think that FOSTER was significantly depressed nor had Foster given the impression that he was "in crisis". From what FOSTER told him, FOSTER's condition sounded mild and situational. WATKINS advised that he was only a little bit alarmed in that FOSTER had insisted on talking to him directly instead of discussing things through his nurse.

After FOSTER's death, WATKINS spoke with a psychiatrist and asked him whether any suicides had been linked to Desyrel and was told they had not. WATKINS advised he was particularly glad, in retrospect, that he had not prescribed Prozac, inasmuch as Prozac has been associated with some suicides. He advised that he did not even ask FOSTER if he had thought about suicide or was having any suicidal ideation because the symptoms that FOSTER was describing were not severe enough to cause WATKINS to think that he might be in that state. WATKINS handles depression all the time among his patients. He said that it is a very, very common thing. He had told FOSTER to let him know how he was doing and was not particularly concerned about follow-up because he knew that either FOSTER would get back to him or WATKINS would find out through LISA how FOSTER was doing because his contact with the family was fairly frequent. He was aware that LISA and VINCE FOSTER had discussed the Desyrel. He did not know whether he had told LISA beforehand that he had called Dr. WATKINS and discussed depression but he knew that LISA knew about it after the fact and they had discussed it.

WATKINS advised that he never prescribed beta blockers for FOSTER to help him with stress, which he would do for some attorneys during litigation or other high stress periods to calm them down. He also advised that FOSTER never showed any indication of having problems with drugs or alcohol (one to two glasses of wine per day).

FOSTER's weight in 1987 was 200 pounds. As of August 1990 he was 207 pounds. His weight on December 31, 1992 was 194 pounds and WATKINS had made a note that he was on a diet and exercising.

WATKINS described FOSTER's personality as quiet, and passive, with a good sense of humor and a dry wit--someone who laughed a lot. FOSTER was not one to come to WATKINS with stress

related problems.

WATKINS speculated and observed that FOSTER had done well in law school and was the "golden boy" of the Rose Law Firm and had, therefore, never had to deal with criticism before in his life on any significant scale. He had never been in a position where he had to deal with attacks to his character or integrity or where he had to cope with sustained levels of criticism. It could be, therefore, that unbeknownst to him, he was a person who lacked the ability to weather that sort of criticism and therefore found the Washington environment much more stressful than he ordinarily would have.

WATKINS does not know whether FOSTER was left handed or right handed, but it appears from his handwriting that he was right handed. His eyes were not good. He needed glasses for most activities, however, he did not jog with them on.

On July 20, 1993, WATKINS got a call late in the evening from LISA FOSTER, who notified him of FOSTER's death. Dr. WATKINS said that he was very surprised at the suicide, but as soon as he got the call he knew that it was because FOSTER had committed suicide and he knew it because of FOSTER's describing himself as depressed during the previous day's telephone call. LISA said during that conversation that FOSTER had taken one tablet of Desyrel the night of the 19th.

Lisa told him they had gone away and had a nice weekend on July 17-18, and WATKINS thought they were planning on going away again the following weekend and he believes that LISA told him that FOSTER had actually begun jogging again either the 19th or the 20th, but he's not sure of that recollection. He had the distinct impression however, that things were looking up and that LISA was taken completely by surprise by this.

WATKINS advised that he is unaware of any history of depression or suicide in any other member of the family. Since FOSTER's death, LAURA has had a transfer from Vanderbilt University to Fayetteville in order to be closer to home. She has had a good year, relatively speaking.

FOIA(b)(6)
FOIA(b)(7) - (C)

FOSTER's mother dealt with the death of her husband, FOSTER's father, as well as to be expected and in a healthy fashion, but that she is

having serious difficulty dealing with FOSTER's death.

FOIA(b)(6)
FOIA(b)(7) - (C)

Shortly after FOSTER's death, there was an article in the Arkansas Democrat Gazette entitled, "Executive Suicide". He said that the description of the disease or phenomenon in the article fit FOSTER very closely.

As part of the interview and in response to a subpoena for documents presented to him at the beginning of the interview, WATKINS provided two identical copies of FOSTER's medical records from WATKINS' file.

Also as part of the interview, WATKINS provided the following personal information:

Name:	Dr. LARRY S. WATKINS
Date of Birth:	
Place of Birth:	
Social Security No:	
Position:	Internist for the FOSTER family since November, 1979

FD-302 (Rev. 3-10-82)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/27/94

W. DAVID WATKINS appeared at the Office of the Independent Counsel in Washington, D.C. for a pre-arranged interview on June 22, 1994. Also present during the interview was MARK STEIN, an attorney for the Office of the Independent Counsel. After being advised of the identity of the interviewing agent and the nature and purpose of the interview, WATKINS provided the following information:

WATKINS advised that he had been acquainted with VINCENT FOSTER, JR. since both of them were young teenagers in Little Rock, Arkansas. They did not regularly socialize while living in Little Rock but periodically they saw one another because the social circles in that town are fairly small. WATKINS said that he did not consider himself a close confidant of FOSTER's. He had never heard anything about FOSTER experiencing periods of depression or being despondent while living in Little Rock.

While at their positions at The White House, WATKINS said that he had periodic contact with FOSTER, most of which occurred during the handling of the Travel Office matter which had begun the week of May 13, 14 and 15, 1993. WATKINS said that when improprieties came to the attention of himself, HARRY THOMASON and CATHERINE CORNELIUS, WATKINS said, "Let us call VINCE FOSTER". He said to call FOSTER because he knew him best and it was appropriate since FOSTER was the Deputy Counsel. On Wednesday of that week, FOSTER, WILLIAM KENNEDY, THOMASON, CORNELIUS and WATKINS met to decide how to go about investigating what came to be known as the Travel Office matter. They kicked around ideas on how to go about it, but no final decision was made. It was at that meeting that FOSTER assigned the matter to KENNEDY to handle.

On Thursday, the following day, FOSTER, PATSY THOMASSON and WATKINS briefed MAC MCLARTY, Chief of Staff. MCLARTY already knew about the problem. It was decided that PETE MARWICK (an outside accounting firm) was selected to prepare a report on the Travel Office for The White House.

Investigation on 6/22/94 at Washington, D.C. File # 29D-LR-35063

by SSA H. ALEXIS SUGGS Date dictated 6/27/94

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The following day, Friday, WATKINS had to be out of town but he was receiving reports approximately every two hours from his assistant, PATSY THOMASSON, who would call him. WATKINS talked with FOSTER by phone and they discussed the Travel Office matter. The main problem was that the Travel Office was "a bad operation from a documentation view point". WATKINS said it was a management decision, not a legal one, whether or not to fire employees from the Travel Office. During that telephone conversation FOSTER told WATKINS, "HILLARY would like to talk with you about it". WATKINS advised that neither FOSTER nor KENNEDY were involved in the decision to fire the employees. It was WATKINS' decision to fire them.

The following Saturday the FBI had a meeting after PETE MARWICK had finished his examination of the Travel Office operations. WATKINS said, to his knowledge, nobody thought The White House Counsel's office had done anything wrong. There was a meeting prior to the press conference on Wednesday to settle what talking points would be covered during the press conference.

Adverse press regarding the Travel Office started Wednesday afternoon right after the press briefing. WATKINS advised that he must have talked with FOSTER around that time because both men were at a meeting on Friday but he does not remember specific conversations with FOSTER. He recalls talking with FOSTER the following week as FOSTER was headed for a meeting with JOHN PODESTA on Capitol Hill regarding the Travel Office. He does not recall FOSTER expressing an opinion about whether The White House should or should not do an internal review. FOSTER's posture was that The White House should not be so defensive about the Travel Office matter because The White House was acting legally and the matter was being handled properly. WATKINS said that FOSTER did not appear to be uncharacteristically depressed about the matter.

WATKINS advised that he has no idea what FOSTER meant by his comment in his note, "The FBI lied". He did not himself read the FBI's interim report and thought it came way after The White House's internal report on the matter. WATKINS participated as a witness in The White House internal review on the matter and he talked with FOSTER about PODESTA's position.

WATKINS never spoke with FOSTER about the Wall Street Journal articles, either on the Travel Office or any other matters. They did speak some about the conclusions of the

internal report on the Travel Office matter. WATKINS also spoke to LEON PANETTA and MCLARTY about the effect of WATKINS himself getting a reprimand. FOSTER's wife LISA had told WATKINS' wife (they were tennis buddies) that FOSTER himself was expecting a reprimand also.

WATKINS advised there was no internal hostility about the report. He frankly didn't agree with parts of the report but he did not get a sense that there was a rift within The White House staff, nor was there much talk about it among White House staffers. WATKINS advised that FOSTER didn't talk much in any case about anything. WATKINS was much more emotional overall than FOSTER. WATKINS never heard directly or indirectly that FOSTER was distressed about it, or about anything else for that matter.

WATKINS saw FOSTER at 11:00 am on Monday, July 19, 1993 as FOSTER was entering The White House. FOSTER stopped WATKINS as they were passing one another to pass on regards to WATKINS from PAM SHRIVER whom he had recently met. FOSTER's demeanor was cheerful.

WATKINS was at a movie with his wife on the evening of July 20, 1993 when he was beeped. The Secret Service told him that, "Mr. FOSTER has shot himself". WATKINS advised that he was notified because it was White House protocol that he be the first person notified when anything happens like this. He said that two officers from the Park Police were going to notify the family and WATKINS asked them to meet him at WATKINS' house so they could go over to the FOSTER residence together. Meanwhile, WATKINS said he wanted to make sure that there was a positive identification before notifying LISA FOSTER for obvious reasons. WATKINS called MAC MCLARTY and he also contacted or was contacted by (he could not recall exactly how this happened) CRAIG LIVINGSTONE and told him to make arrangements to go with KENNEDY to view the body. WATKINS himself went with the officers to the FOSTER residence. LAURA FOSTER answered the door and LISA FOSTER was coming down the stairs. WATKINS does not recall any question asked or answered about where on his body FOSTER had been shot. SHEILA and WEBB HUBBELL arrived at the residence shortly thereafter.

President CLINTON arrived at the FOSTER residence approximately 10:30 pm. MAC MCLARTY was with him. WATKINS and MCLARTY were talking about whether or not a note had been left.

WATKINS called his assistant, PATSY THOMASSON, to both notify her of FOSTER's death and ask her to go to FOSTER's office in The White House West Wing to look for a note. WATKINS guessed that she telephoned him back while he was still at the FOSTER residence, approximately an hour later, and notified him that there was no note found. She told him at that time that MAGGIE WILLIAMS and BERNARD NUSSBAUM had also been there in FOSTER's office. WATKINS said that he never heard about a note having been found or any documents having been removed from FOSTER's office that night. He first heard about the existence of a note approximately a week later when STEPHEN NEUWIRTH discovered a torn up note in FOSTER's briefcase.

WATKINS said that he felt very bad about the fact that THOMASSON was caught up in a web of innuendos and suspicions as a result of her having been in FOSTER's office that night, since it was he who had asked her to go there specifically to look for a note.

WATKINS does not remember anything about seeing CRAIG LIVINGSTONE at The White House that night and he also does not remember seeing any written memo about LIVINGSTONE's activities on or about July 21, 1993.

During the interview WATKINS provided the following personal information about himself:

DOB: FOIA(b)(6)
POB: FOIA(b)(7) - (C)
SSAN:
Position: Assistant to the President for Management and Administration from January 20, 1993 to June 30, 1994

OIC-302 (Rev. 8-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 02/28/95

ALAN WOODS, Maintenance Superintendent, Virginia Department of Transportation, Merrifield Headquarters (703) 207-7321. WOODS was advised of the identity of the interviewing agent and the purpose for the interview. WOODS then provided the following information:

WOODS is responsible for all maintenance done by the Virginia Department of Transportation on Chain Bridge Road on the eastern side of Ft. Marcy Park. WOODS was responsible for that area in 1993. WOODS stated that he is familiar with the area.

WOODS stated that he checked his records, as previously requested by the investigating agent, and could locate no record of any maintenance crews from the Virginia Department of Transportation working on Chain Bridge Road on 7/20/93 or 7/21/93. WOODS stated that there were no maintenance crews working on Chain Bridge Road from 7/16 till 7/30/93. There was a mowing crew on the road prior to 7/20/93, in the early part of the month. Additionally, WOODS stated that there was a ditching crew working on the road at the George Washington Parkway on 7/16/93.

WOODS stated that the only other agency that would provide any type of maintenance on that part of the road would be the National Park Service.

XYZ

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/13/94

Jimmy Keith Young, Officer, Uniformed Division, Special Operations Section, United States Secret Service (USSS) was interviewed in the Office of the Special Counsel, 1001 Pennsylvania Avenue NW. Mr. Young was advised as to the identities of the interviewing agents and informed of the nature of the interview. He then provided the following information:

He has been employed by USSS since July 1989. He has been employed by USSS at The White House compound for the past 3 years and was so employed on July 20, 1993, at the time of Vincent Foster, Jr.'s death. His office is located at 1310 L Street NW and his telephone number is 202-395-4418.

As an employee of the Special Operations Section his primary responsibility is to lead tours through certain portions of The White House. He was performing those duties on July 20, 1993, when he worked the 6:30 am - 2:00 pm shift. Officer Young described that day as being very routine except for the fact that he and his fellow tour leaders were very busy since July is the peak tourist season in Washington, D.C. and at The White House. He stated that he was not aware of anything out of the ordinary that happened at The White House on that day. He stated that he could not recall exactly when he first learned of Vincent Foster's death, but he does recall that he heard of Foster's death on either the television or radio news. Officer Young said that he never knew Vincent Foster, never met him, nor had they ever talked prior to Foster's death. He stated that he, therefore, does not feel qualified to comment as to Foster's personality or demeanor.

Officer Young advised that he also worked the 6:30 am - 2:00 pm shift on July 21, 1993. He began his regular, routine work that morning and at approximately 8:10 am his supervisor told him and several other uniform officers that a temporary post was being established outside Vincent Foster's office door. Young stated that he was told that he was to serve as a relief officer for other officers who would be assigned specific shifts at this temporary post. He said that his instructions were that

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency;

no one was to enter that office without the USSS uniform officer notifying the watch commander and obtaining permission for entry. He was also told that a log would be kept. He said that he, his supervisor, and several uniform officers proceeded to the second floor of The White House west wing in the mid-morning hours (exact time unrecalled). He said that while he cannot recall the exact time of day, he does recall relieving USSS Officer Joe Phillips for a period of approximately 20-25 minutes. He stated that once Phillips returned, he (Young) was relieved and that he served no further at this particular post, but returned to his regular duties.

During the 20-25 minutes that Officer Young was standing in front of the office door he was approached by Bernard Nussbaum who introduced himself and then asked him "Who are you going to let in and who are you not going to let into this office?". Young repeated his orders, as he understood them, to Mr. Nussbaum and told him that certain USSS personnel were allowed in but that he (Young) would need to get permission from the USSS Watch Commander for anyone else to enter. Young stated that it was his impression that Bernard Nussbaum was not attempting to enter Vincent Foster's office, at that time, but was "testing" him to see if he understood and could articulate his duties. Officer Young stated that no one entered Vincent Foster's office while he was standing on this post and, other than Mr. Nussbaum, no one even approached the door. Young said that other than the 20-25 minutes that he stood on this post, he has never again been in the suite of offices that, at that time, was occupied by Bernard Nussbaum and Vincent Foster.

Screened By: NARA (RD-F) Date: 07-24-2018 DOCID: 70105092

Fiske Report on Foster

Report of the Independent Counsel In Re Vincent W. Foster, Jr.

Washington, D.C.
June 30, 1994

Robert B. Fiske, Jr.
Independent Counsel

Roderick C. Lankler
Deputy Independent Counsel

Mark J. Stein
Carl J. Stich, Jr.
Associate Independent Counsel

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REPORT ON THE DEATH OF VINCENT W. FOSTER, JR.

INTRODUCTION

In the early evening of July 20, 1993, the body of Deputy White House Counsel Vincent W. Foster, Jr. was found in Fort Marcy Park in Fairfax County, Virginia. The United States Park Police ("Park Police") investigated the death and concluded that it was a suicide.

Since that time, questions have been raised concerning the circumstances of Foster's death, specifically:

1) Were the Park Police correct that Foster committed suicide, or was he murdered?;

2) If the death was a suicide, did it occur in Fort Marcy Park or had the body been moved?; and

3) If Foster committed suicide, was it motivated in any way by concerns Foster may have had about legal issues related to the Clintons' involvement with the Whitewater Development Company, Inc. ("Whitewater"), Madison Guaranty Savings & Loan ("Madison Guaranty"), or Capital Management Services, Inc. ("CMS")?

As a result of speculation about a possible link between Foster's death and issues related to Whitewater, Madison Guaranty, and CMS, the Office of the Independent Counsel ("this Office") conducted a thorough investigation into each of the questions listed above.

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THE INVESTIGATION

Roderick C. Lankler directed the Independent Counsel's investigation into Foster's death. For eight of his thirteen years in the Manhattan District Attorney's Office, Mr. Lankler served in the Homicide Bureau, investigating and prosecuting murder cases. He was assisted in this investigation by Associate Counsels Mark Stein and Carl Stich. Russell Hardin, Jr., also an Associate Counsel, reviewed and analyzed the evidence compiled during this investigation. Mr. Hardin is a former Assistant District Attorney in Houston, Texas who has also investigated and tried numerous homicide cases.

The Federal Bureau of Investigation ("FBI") provided substantial and invaluable support in this investigation. The FBI assigned seven experienced agents to the Independent Counsel's Washington Office, all of whom have worked exclusively with this Office for approximately the last four months. Assistance was also provided by representatives of the FBI's National Center for the Analysis of Violent Crime. In addition, experts in the FBI Laboratory performed a thorough analysis of the available evidence.

In the course of the investigation, this Office interviewed approximately 125 people. Those interviewed included numerous close friends and relatives of Foster, who provided insight into Foster's activities and state of mind during the weeks

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prior to his death.* This Office also interviewed numerous people who worked with and for Foster in the White House, including President William Jefferson Clinton; First Lady Hillary Rodham Clinton; Chief of Staff Thomas McLarty; Assistants to the President Bruce Lindsey, John Podesta, Ricki Seidman and George Stephanopoulos; Deputy Assistants to the President Charles ("Bill") Burton, and Marsha Scott; former Deputy Chief of Staff Roy Neel; Mrs. Clinton's Chief of Staff Margaret Williams; former General Counsel Bernard Nussbaum; Associate Counsels William Kennedy, Stephen Neuwirth, Beth Nolan and Clifford Sloan; Foster's Executive Assistant Deborah Gorham, and other staff who worked in the White House Counsel's offices. In addition, we contacted and interviewed everyone whom our investigation revealed may have spoken or attempted to speak with Foster in the days prior to his death, including Foster's close friend, former Associate Attorney General Webster Hubbell.

Everyone known to have been in Fort Marcy Park on the afternoon or evening of July 20, 1993, also was questioned. This includes: a confidential witness who first found the body; the members of the Fairfax County Fire and Rescue Department who responded to the Park; the Park Police investigators, officers and technicians who conducted the investigation in the Park; the Fairfax County Medical Examiner; and others who were in or near the

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* hat Mr. Foster's wife, Elizabeth "Lisa" Foster
n, and other close family members were extren
erative with this Office under obviously diffi

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Park on that day for reasons unconnected with Foster's death. The Medical Examiner who conducted the autopsy was also interviewed.

In addition to conducting interviews, this Office examined documentary and photographic evidence, including documents obtained by the Park Police at the time of Foster's death from his wallet and his car; documents removed from Foster's office at the White House and turned over to either the Clintons' private attorney or the Foster family attorney; photographs of Foster's body taken by the Park Police in Fort Marcy Park; the Northern Virginia District Medical Examiner's autopsy report; and photographs taken during the autopsy. This Office also reviewed White House documents that were worked on by Foster, found in his office, or which otherwise related to Foster.

Experienced FBI Laboratory Technicians in Washington D.C. ("the FBI Lab") performed extensive analyses of the physical evidence identified during the investigation. Among the tests conducted by the FBI Lab were: an examination of the gun that the Park Police found in Foster's hand; a chemical and physical comparison of gunpowder and lead residue on Foster's clothing with that found in the gun; an analysis of photographs taken by the Park Police for patterns of bloodstaining, gunpowder residue and the presence or absence of physical marks on Foster's clothing and body; a toxicological analysis of a blood sample obtained during the autopsy and a comparison of that blood sample with blood on Foster's clothing; a DNA comparison of Foster's blood with DNA found near the muzzle of the gun; an analysis of mineral deposits

on the clothing; a fingerprint analysis; and a handwriting analysis of a torn-up note discovered in Foster's briefcase.*

A four-member panel of experienced and respected forensic pathologists ("Pathologist Panel") reviewed the results of the investigation. The members of this panel are:

> Dr. Charles S. Hirsch - Chief Medical Examiner for the City of New York and Chairman of the Department of Forensic Medicine at New York University Medical School;
>
> Dr. James L. Luke - Forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy; Project Director, Department of Environmental and Toxicologic Pathology, Armed Forces Institute of Pathology, Washington D.C.; Clinical Professor of Pathology at Georgetown and George Washington Universities;**
>
> Dr. Donald T. Reay - Chief Medical Examiner for King County, Seattle, Washington since 1975; Professor of Pathology at the University of Washington;
>
> Dr. Charles J. Stahl - Distinguished Scientist and Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C.

Following their review of the evidence, the Pathologist Panel issued a report summarizing their analysis and conclusions ("Pathologist Report").***

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* Attached as Exhibit 1 are reports issued by the FBI Lab. These include two general reports dated May 9, 1994 ("Lab Report") and June 13, 1994 ("Supplemental [illegible] Report") (the Supplemental Lab Report was issued as a result of [illegible] this Office to the Lab following receipt of th[illegible]; two reports on the FBI Lab's fingerprint ana[illegible] 94 and June 9, 1994; and a report on the FBI La[illegible]sis dated June 17, 1994.

** Dr. Luke assisted this O[illegible] investigation.

*** The curriculum vitae for each pathologist is attached as Exhibit 2. The Pathologist Report is attached as Exhibit 3.

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This Office was also assisted by Dr. Joel E. Kleinman, M.D., Ph.D., a respected psychiatrist. Dr. Kleinman is the Deputy Chief of the Clinical Brain Disorders Branch and Chief of the Neuropathology Section at the Intramural Research Program, National Institute of Mental Health, Saint Elizabeth's Hospital, Washington D.C. He is also a Clinical Professor in the Department of Psychiatry and Behavioral Sciences and Department of Neurology, George Washington University School of Medicine.*

SUMMARY OF CONCLUSIONS

On the afternoon of July 20, 1993, in Fort Marcy Park, Fairfax County, Virginia, Vincent W. Foster, Jr. committed suicide by firing a bullet from a .38 caliber revolver into his mouth. As discussed below, the evidence overwhelmingly supports this conclusion, and there is no evidence to the contrary. This conclusion is endorsed by all participants in the investigation, including each member of the Pathologist Panel.

We found no evidence that issues involving Whitewater, Madison Guaranty, CMS or other personal legal matters of the President or Mrs. Clinton were a factor in Foster's suicide. While Foster did confide to family and friends in the weeks prior to his death that certain matters were troubling him, we have learned of no instance in which Whitewater, Madison Guaranty, CMS, or other possible legal matters of the Clintons were mentioned. Moreover,

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* The curriculum vitae for Dr. Klei [illegible] Exhibit 4.

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in the spring and summer of 1993, Whitewater and Madison Guaranty related matters were not issues of concern either within the White House or in the press.

FACTS

A. Background

Vincent W. Foster, Jr. was born on January 15, 1945, in Hope, Arkansas, where he attended the same kindergarten class as President Clinton and White House Chief of Staff Thomas McLarty. After graduating from Hope High School in 1963, Foster attended Davidson College in Davidson, North Carolina, where he earned a bachelor's degree in 1967. In 1968, Foster married Elizabeth ("Lisa") Braden, with whom he had three children: Vincent, age 22; Laura, age 21; and John, age 18. In 1971, he received his law degree from the University of Arkansas School of Law in Fayetteville, Arkansas, where he ranked first in his class. He subsequently received the highest score on the Arkansas Bar exam. In 1971, Foster joined the Rose Law Firm and, in 1973, he was made a partner. Among his partners at the firm were Hillary Rodham Clinton, Webster Hubbell and William Kennedy.

Foster remained at the firm until January 1993, when he moved to Washington, D.C., to assume the position of Deputy White House Counsel. At about the same time, Kennedy joined the Counsel's Office and Hubbell became Associate Attorney General. Foster's office at the White House was located on the second floor of the West Wing where he shared a suite with White House General

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Counsel Bernard Nussbaum. A few weeks after arriving he hired Deborah Gorham as his Executive Assistant.

When Foster first arrived in Washington he lived with his sister, Sheila, and her husband, Beryl Anthony. Foster's wife and children remained in Arkansas so that his son John could complete his school year. In March 1993, Foster rented a house and in early June he was joined in Washington by his wife and children.

Friends and associates who knew Foster well, uniformly described him as a man of honesty and integrity, respected for his intelligence and judgment. His professional reputation was of paramount importance to him, particularly among colleagues in Arkansas. Foster was characterized as quiet, reserved, and one who rarely showed anger or emotion. Although difficult to get close to, he could be relied upon as a trusted confidante. Colleagues within the White House described him as a calming influence during stressful periods.

Foster's family and friends said that Foster did not experience any extended period of depression prior to the spring of 1993. Although he experienced some brief episodes of depression and anxiety, these appeared to be resolved without treatment. From time to time Foster experienced what his wife described as anxiety or panic attacks, marked by heavy sweating and a strained voice. In late 1992, he told his physician in Little Rock, Dr. Larry Watkins, that he was feeling depressed and anxious. At least two of Foster's close relatives have suffered from periods of depression.

B. Foster's State Of Mind During The Weeks Prior To Suicide

Foster's position at the White House generally demanded that he work from between 7:30-8:30 in the morning until 9:30 or later at night, either six or seven days per week. He took no vacation or weekends off until the weekend immediately prior to his death. The demands of the Counsel's office were severe, and Bernard Nussbaum heavily relied upon Foster to assist him in accomplishing a wide range of tasks. Friends and associates recall that in the last two to three months prior to his death, he showed signs of stress and had virtually no time to relax in the ways that he had in Arkansas.

In the last six to eight weeks of his life those close to Foster observed that he appeared exhausted much of the time, his face drawn and grey. He confided to some that he was having difficulty sleeping, and on certain mornings commented that he had not slept at all.* Although no one noticed a loss of appetite, it was obvious to many that he had lost weight. In the last few weeks of his life Foster seemed uncharacteristically fretful, and more quiet and subdued than usual. Family members noted that he had lost his sense of humor and appeared distracted. Lisa Foster described him as constantly worried and under stress.

Bernard Nussbaum noted a marked decrease in Foster's productivity in the weeks prior to his death. During his first few months in Washington, Foster actively involved himself in most of

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* Foster had a prescription for sleeping pills but did not want to take them for fear of becomi

FOIA # none (URTS 16305) DocId: 70105092 Page 13

the important matters within the Counsel's office. Nussbaum came to rely on him to accomplish matters quickly and with sound judgment. During the particularly busy period of late June and July, however, Foster was virtually uninvolved. For example, Nussbaum noted that Foster uncharacteristically provided little assistance in the selection of a new FBI Director, a task that Nussbaum considered one of the most important he faced during his time in Washington. Nussbaum repeatedly suggested to Foster during this period that he should take some time off, but Foster was reluctant. Deborah Gorham, his Executive Assistant, confirmed that Foster's productivity dropped significantly in the last few weeks of his life. Lisa Foster said that Foster received no joy from his work during that time.

Some family members have stated that Foster appeared depressed in the weeks prior to his death. Although it is impossible to determine precisely what triggered this depression, certain matters were cited repeatedly by those interviewed during this investigation.

1. The Travel Office matter

Those close to Foster have stated that the single greatest source of his distress was the criticism he and others within the Counsel's Office received following the firing of seven employees from the White House Travel Office.

The Travel Office controversy began in mid-May 1993, when allegations surfaced that the White House Travel Office was being mismanaged and that employees within that Office may have either

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embezzled funds or received kickbacks. Foster gave Associate Counsel William Kennedy responsibility for handling the matter. In consultation with Foster and others within the White House, Kennedy took two steps: he hired an outside accounting firm to audit the books of the Travel Office, and he contacted the FBI to discuss the possibility of initiating a criminal investigation. On May 19, 1993, following a preliminary report by the accounting firm, the White House decided to fire seven employees in the Travel Office.

In the days that followed, the White House was harshly criticized for its handling of the matter. Some reports charged that the White House pressured the FBI to open an investigation in order to justify the firings. In late May 1993, the FBI conducted an internal review of the meetings between FBI agents and White House personnel, and on June 1, submitted a report on the matter to the Attorney General. Included in the report were statements attributed to William Kennedy, some of which Kennedy denied making. The White House announced in late May that it would conduct an internal review of the Travel Office matter. In connection with that review, the White House requested and received a copy of the FBI's report to the Attorney General. On July 2, 1993, the White House released an internal report that reprimanded Kennedy and others for their handling of the matter. There was some discussion within the White House about reprimanding Foster, but this did not occur.

By many accounts, Foster was deeply disturbed by the reprimand of Kennedy and what he viewed as a distortion of the

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facts by the press. Lisa Foster believed that the Travel Office matter was the greatest cause of Foster's stress and anxiety in the weeks prior to his death. She recalled that Foster had a bout of "anxiety" at around the time that the White House reprimand was issued. Foster was angry and distressed that, in his view, Kennedy had been unjustly criticized. He told co-workers that he believed that the FBI's report to the Attorney General had mischaracterized what had occurred in meetings with Kennedy. He told family members that the FBI had lied about the meetings, and that the Counsel's Office had been set up by the FBI in this matter.*

Foster was concerned that the White House report would lead to unwarranted investigations of well-intentioned actions. He felt responsible for Kennedy's situation because he had assigned Kennedy to the matter. He was heard to raise his voice uncharacteristically in insisting that Nussbaum allow Foster to take the blame instead of Kennedy.

It is clear from Foster's conversations with others in the White House that the reaction to the Travel Office firings had a profound effect upon him. He told Webster Hubbell, a close friend who at that time was serving as the Associate Attorney General, that no laws or rules had been broken but that in Washington you

---

* At the time of the appointment of the Independent Counsel on January 20, 1994, the Office of Professional Responsibility ("OPR") in the Department of Justice had already begun an inquiry into the conduct of the FBI in co avel Office matter. As a result, this Office this Office would not investigate whether th made false statements in its report to the Att nly whether Foster's belief that the FBI had ole in his suicide.

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are assumed to have done something wrong even if you have not. He further told Hubbell that he thought the matter would never end. Foster told Kennedy in connection with the Travel Office matter that there were very few people one could trust in Washington.

Foster's sister, Sheila Anthony, observed that immediately after the White House issued its Travel Office report, Foster's distress became severe. He told his sister, as well as his wife, Lisa, and friend, Kennedy, that he was considering resigning from his position. Both Sheila Anthony and Lisa Foster believed that the personal humiliation he would have felt had he returned to Arkansas under those circumstances prevented him from resigning.

According to Nussbaum, Foster became increasingly obsessed with the Travel Office matter in the weeks before his death. Foster repeatedly urged Nussbaum to hire outside counsel to represent the General Counsel's Office in connection with the issues related to the Travel Office firings.* Nussbaum felt that Foster was overreacting and tried unsuccessfully to allay his concerns.

The extent to which Foster was disturbed by Travel Office issues is reflected in a torn note found in his briefcase by Stephen Neuwirth on July 26, 1993, six days after Foster's death. Lisa Foster has identified the handwriting in the note as Foster's,

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* In fact, in early July 1993, Foster consulted James Lyons, an attorney located in Denver, Colorado, about the likelihood of Congressional hearings into the Travel Office firings and Foster's concern that his role in the Trav[illegible]t affect his objectivity in advising the Clint[illegible]oster, after reviewing the White House repor[illegible] conflict of interest.

Note 4

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and a handwriting analysis performed by the FBI Lab confirms that identification. Lisa Foster believes that the note was written by Foster on or about July 11, 1993. On that day, she had encouraged him to write down everything that was disturbing him. She also encouraged him to go on the offensive and not take responsibility for every mistake. Later that day, Foster told his wife that he had written the opening argument for his defense - an apparent reference to his expected testimony should Congress hold hearings on the Travel Office matter.

There are ten separate entries in the torn up note found in Foster's briefcase. Five of them appear to relate to the Travel Office matter:

> I made mistakes from ignorance, inexperience and overwork;
>
> I did not knowingly violate any law or standard of conduct.
>
> No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group.
>
> The FBI lied in their report to the AG.
>
> The press is covering up the illegal benefits they received from the travel staff.*

2. The Wall Street Journal editorials

According to people close to Foster, he was also distressed by editorials written about him in the Wall Street Journal ("the Journal"). Of particular concern was a June 17,

* The full text of the note i: 5.

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1993, editorial entitled "Who Is Vincent Foster?" The editorial criticized the Clinton White House for "carelessness about following the law," using as an example the Journal's efforts to obtain a photograph of Foster. According to the editorial, someone within the White House Counsel's Office responded that, "Mr. Foster sees no reason why he should supply the Journal with a photo." The Journal thereafter filed a request for the photograph under the Freedom of Information Act but, according to the editorial, did not receive a response within the ten-day period set forth in the Act. The editorial states:

> No doubt Mr. Foster and company consider us mischievous (at best). . . . Does the law mean one thing for critics and another for friends? Will we in the end have to go to court to get a reply, or will even that work? Does it take a $50,000-a day fine to get this mule's attention? . . . Who ensures that this administration follows the law, or explains why not? A good question. While Constitutional law may not have been the big part of the Rose firm's practice, it seems to us that a good man for the job would be deputy counsel Foster.

One week later, on June 24, 1993, the Journal ran another editorial entitled "Vincent Foster's Victory", which focused on a decision by the United States Court of Appeals for the District of Columbia that Hillary Rodham Clinton was the functional equivalent of a federal employee and, therefore, the Health Care Task Force she headed need not meet in public pursuant to the Federal Advisory Committee Act ("FACA"). The editorial states:

> As for Iran-Contra, we suspect that Vincent Foster and Ollie North might hit it off. After all, we're supposed to believe that the health task force "officially" disbanded on

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> May 30, and so FACA's requirements are moot. That is, we're supposed to believe that Mrs. Clinton and her associates will never ever hold off-the-books meetings with "non-government" advisers to get the reform plan finished.

Foster was unaccustomed to such criticism. He was distraught over these editorials, and told others that they were mean-spirited and factually baseless. He believed the Journal would continue attacking him and others within the Administration until someone from Arkansas was forced out of the White House. He noted to his sister Sheila and to Kennedy that his friends and colleagues in Arkansas read the Journal, and voiced his concern that the editorials would damage his reputation. Foster told Sheila's husband, Beryl Anthony, that he had spent a lifetime building his reputation and that it was now being tarnished. Sheila Anthony tried without success to make Foster understand that this was "par for the course" in Washington politics. Colleagues at the White House made similar comments and attempted to joke with Foster about the editorials, but Foster found no humor in them.

On July 19, 1993, the Journal ran another editorial that mentioned Foster. That editorial was critical of the speed at which the Administration was moving to replace FBI Director William Sessions, and compared it to the Administration's handling of the Travel Office matter. The editorial noted that Foster was involved in the Travel Office matter, and stated that, "The mores on display from the Rose alumni are far from confidence-building."*

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* The June 17, June 24 and July 19 Journal editorials are attached as Exhibit 6.

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Foster's views about the importance of reputation are reflected in his commencement address to The University of Arkansas Law School at Fayetteville, Arkansas, on May 8, 1993. Many of those interviewed referred to the speech as a source of insight into Foster's attitudes. On the topic of reputation Foster told his audience:

> The reputation you develop for intellectual and ethical integrity will be your greatest asset or your worst enemy. . . . Treat every pleading, every brief, every contract, every letter, every daily task as if your career will be judged on it. . . . I cannot make this point to you too strongly. There is no victory, no advantage, no fee, no favor which is worth even a blemish on your reputation for intellect and integrity. Nothing travels faster than an accusation that another lawyer's word is no good. . . . Dents to the reputation in the legal profession are irreparable. . . .*

Sheila Anthony recalls that during his address Foster's voice was unnaturally strained and tense, reminiscent of their father's voice when he was distraught during the period before his death in 1991.

Foster's distress about adverse publicity is plainly reflected in the torn note found in his briefcase. In reference to the Journal editorials, he wrote that "The WSJ editors lie without consequence." He concluded the note by stating, "I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport."**

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* The full text of the address is attached as Exhibit 7.

** Foster also exhibited di m received by the Administration regarding mat involved. For example, he was actively involvec a nominee for United States Attorney General at Zoe Baird

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C. **The Role of Whitewater**

During his time as White House Deputy Counsel, Foster continued to handle some personal legal matters for the President and Mrs. Clinton, as he had while a member of the Rose Law Firm. Among those matters was Foster's role in arranging for the Clintons' accounting firm to prepare Whitewater tax returns for the years 1990-92. We have reviewed all of the Whitewater-related documents from Mr. Foster's files that were delivered to the Clinton's personal attorney after his death. However, Rule 6(e) of the Federal Rules of Criminal Procedure precludes us from disclosing the content of these documents since they were obtained by grand jury subpoena.

Those who worked in the White House during the first half of 1993 all stated that Whitewater was not an issue of any significance within the White House during that period. The issue had received virtually no attention in the press since the spring of 1992, during the Presidential campaign. As one person put it, Whitewater issues were "not on the screen" at that time. It was not until October 1993, three months after Foster's death, when it was disclosed that the Resolution Trust Corporation had issued

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withdrew from consideration, Foster had what was described as an anxiety attack. He went to bed at ;weating profusely, and became sick. He told he felt that everyone was criticizing him. Be : Foster blamed himself for the failed nominati that he had let down the President.

Note 12

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criminal referrals involving Madison Guaranty and Whitewater, that the matter again received prominent public attention.

Each of Foster's co-workers, friends and family whom we questioned was explicitly asked whether Foster had ever mentioned Whitewater or Madison Guaranty related matters as a cause of concern or distress.* According to each of these people, Foster had never expressed any concern about these matters.

Questions have also been raised regarding whether a warrant authorizing the FBI to search the premises of CMS played a role in Foster's suicide. The search warrant was issued by the Federal District Court in Little Rock, Arkansas, on the afternoon of July 20, 1993, the date of Foster's death. However, the search warrant was not made public until it was executed, on July 21, after Foster's death. We have investigated to determine whether Foster learned of the search warrant prior to his death and have found no evidence that he did. In fact, only a limited number of individuals in the Little Rock U.S. Attorney's Office, the Little Rock FBI Office and the Court had any knowledge of the warrant prior to its execution.

Obviously, the fact that Foster never expressed a concern about Whitewater or Madison to anyone does not mean that he did not, in fact, have such a concern. Thus, we cannot conclusively rule out such a concern as a possible contributing factor to his depression. What we can conclude is that there is no evidence that

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* These questions were asked u /here a false statement would be prosecutable u States Code, Section 1001.

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he did have such a concern against a background in which Whitewater/Madison issues were neither a matter of expressed concern in the White House, nor the subject of media attention.*

D. Foster's Activities From July 12 - July 18, 1993

Early in the week of July 12, Foster expressed concern to Beryl Anthony about the possibility of Congressional hearings on the Travel Office matter and asked Anthony to recommend an attorney. Mr. Anthony delivered a list of attorneys to him later that week. At about the same time, Foster spoke to James Lyons by telephone and told Lyons that the Travel Office matter was escalating and asked him to come to Washington as soon as possible. They arranged to meet the following week, on July 21, when Lyons was planning to be in Washington on other business. On July 13, Foster again expressed his concern about upcoming Congressional hearings regarding the Travel Office and told his wife that he was thinking about resigning.

Deborah Gorham, Foster's Executive Assistant, stated that Foster did little work during the week of July 12, and instead concentrated on "cleaning-up" matters that he had not been able to get to for some time, such as dictating thank-you and congratulatory notes. Gorham rarely had personal conversations with Foster, but on Thursday, July 15, he told her that he was

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* In addition to completing tax ret... Foster also participated in creating a blind ...tons, completing their personal 1992 income ta... lling their financial disclosure requirements. ... that these matters were a contributing cause ...

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frustrated because well-intentioned people were trying to build something and others just kept knocking it down. Gorham asked Foster if he ever felt that he was in "spiritual default." He said that he did, and Gorham recommended a church located near the White House.

Lisa Foster recalls that during that same week, Foster told her that his heart had been "pounding". Records reflect that on Friday, July 16, he went to the White House medical unit to have his blood pressure taken, which was recorded as 132/84. On the same day, Foster called his sister, Sheila, and told her that he was battling depression for the first time in his life and did not know what to do about it. Sheila Anthony described Foster's voice as tight and strained. She asked him to let her contact a psychiatrist and set up an appointment for him. Foster told her that he was hesitant to see a psychiatrist because it could jeopardize his White House security clearance. Sheila Anthony said that she would discuss this concern with the psychiatrist before making any appointment.

Sheila Anthony contacted a psychiatrist in the Washington area who was recommended by a friend. That doctor agreed to see Foster one time on an "off-the-record" basis. Sheila Anthony then called Foster and provided him with the names and telephone numbers of three psychiatrists, including the one she had spoken to, and encouraged him to call right away. He said that he wanted to think about it over the weekend.

Telephone records reflect that in the early afternoon of July 16, Foster made two calls to one of the psychiatrists recommended by his sister. At 12:41 p.m. and again at 1:24 p.m., Foster called the psychiatrist from the telephone in his office, and charged the calls to his home telephone. Each call lasted one minute or less.* The psychiatrist called by Foster often uses an answering machine during the lunch hour when no one is in the office. It is possible that Foster reached the answering machine and did not leave a message. Neither the psychiatrist that Foster attempted to reach nor the other psychiatrists recommended by Sheila Anthony ever spoke with Foster. The list of psychiatrists was found on a piece of paper in Foster's wallet following his death.

During the same telephone call in which Foster told Sheila Anthony that he was depressed, he asked her to recommend a place he and his wife could go to relax for the weekend. She called Lisa Foster with two or three possibilities, and Lisa Foster made arrangements for them to go to an inn on Maryland's Eastern Shore. Before they left, Foster told his wife that he was depressed, and she could tell that he was still under great stress while they were driving through Maryland.

Coincidentally, Webster Hubbell and his wife were also on the Eastern Shore of Maryland for the weekend staying with friends, Michael and Harolyn Cardoza, who also knew the Fosters. On

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* Calls of less than one minute are [illegible] a telephone bill as one minute in length.

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Saturday, July 17, the Cardozas invited the Fosters to their home, and the group spent Saturday evening and Sunday together. Hubbell described it as a relaxing weekend during which Foster jogged, went boating, hit some golf balls, read the newspaper, and ate fresh crab for the first time. Foster and Hubbell spoke about the need to change their lifestyles and spend more time away from work. Foster mentioned that he missed spending time during June and July at his house in Michigan, as he had while at the Rose Law Firm.

Somewhat in contrast to Hubbell's perception of the weekend, Lisa Foster stated that the weekend did not go particularly well for Foster. When Foster returned on Sunday evening, July 18, he spoke to Lyons by telephone. They discussed the Travel Office matter for approximately thirty minutes and confirmed that they would meet in Washington to further discuss it on July 21.

E. Foster's Activities On July 19

Gorham observed that Foster spent much of the day on Monday, July 19, going through paperwork on his desk and in his desk drawers, dictating letters and taking care of unfinished business. She described Foster's day as one of "straightening and cleaning." Gorham recalled that he spent much of the day with his door closed.

Gorham recalls that at one point Foster came out of his office and placed three envelopes in the out-box on her desk. The envelopes had already been addressed, stamped and sealed by Foster, which was unusual. She looked at the envelopes to make sure they

had postage and recalls that one was addressed to Foster's mother in Hope, Arkansas, and another was addressed to an insurance company. She cannot recall how the third envelope was addressed. Sheila Anthony was with their mother when she received correspondence from Foster a day or two after his death. The letter contained oil leases which had been left to Foster's mother after his father died in 1991. Foster wrote a very brief typewritten cover letter providing instructions to his mother regarding the leases. Lisa Foster believes that the correspondence sent to the insurance company and the third envelope mailed by Foster were bill payments that she had asked Foster to make.

Hubbell stopped by Foster's office on July 19, and Foster told him that the weekend had been good for him and that he and Lisa were planning to go away the following weekend. Lisa Foster recalls that she and Foster had spoken about going away the following weekend but that no plans had been made. Foster also told Sheila Anthony during a telephone conversation on July 19 that the weekend had gone well, and he contemplated getting away more often. He also said that he was not yet ready to contact a psychiatrist.

On the same date, Foster contacted Dr. Larry Watkins, his physician in Arkansas. He told Watkins that he was under a great deal of stress and was depressed, that he had a loss of appetite and was losing weight. Watkins prescribed an anti-depressant drug called Desyrel, which has the generic name trazadone. Watkins stated that he had never before prescribed an anti-depressant for

Foster. A pharmacy in Washington filled the prescription for 30 tablets, in a dosage of 50 milligrams per tablet, and had the tablets delivered to Foster's home in the late afternoon on July 19.* Lisa Foster saw Foster take one tablet during that evening.

Foster left work earlier than usual that day and arrived home around 7:45 p.m. During the evening Foster received a call from President Clinton. The President had heard that Foster was feeling down about the Travel Office matter and called to invite Foster to watch a movie with him and others at the White House. Foster declined the invitation. After chatting about Foster's weekend in Maryland, the President told him that he wanted Foster's advice on possible White House organizational changes. They agreed to meet on Wednesday, July 21. The President did not perceive during this conversation that Foster was downcast or depressed.

F. <u>Foster's Activities On July 20</u>

Lisa Foster recalls that Foster left for work at about 8:00 a.m. She saw him for the last time standing "stiffly" in the kitchen before he left for work. As usual, Foster drove to work in their 1989 light grey Honda Accord which still bore Arkansas license plates. On the way to the White House, he dropped his son, Vincent, at a Metro station and his daughter, Laura, at work. Soon after Foster arrived at the White House, he [illegible] the regular

Note 16

* The pharmacy had no record of any prior prescriptions for Foster.

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9:00 a.m. Counsel's Office staff meeting.* Following the meeting, Foster went to the White House Rose Garden to attend the ceremony announcing the selection of Louis Freeh as Director of the FBI. Foster then returned to his office.

Later that morning, Foster walked into Nussbaum's office, where Nussbaum was watching television coverage of two events: the Freeh nomination and Ruth Bader Ginsburg's Supreme Court confirmation hearings. Nussbaum was exuberant about both nominations. He said to Foster, "We hit two home runs today." Foster seemed distracted and his response was markedly understated.

At approximately 12:00 noon, Foster asked Linda Tripp, an Executive Assistant to Nussbaum, to get him lunch from the cafeteria. A short time after Tripp went to the cafeteria, Thomas Castleton, an employee in the Counsel's Office, arrived at the cafeteria and told Tripp that Foster had sent him to find out what was taking so long. Tripp delivered Foster's lunch and added some M & M's to the tray. Foster sat on the couch in his office and ate his lunch while reading the newspaper. At about 1:00 p.m., he came out of his office holding his suit jacket, without a briefcase. He told Tripp that there were still some M & M's on the tray if she wanted them. He said, "I'll be back," and then left.

Foster did not return to the White House. A number of people tried unsuccessfully to reach him by telephone. C. Brantley Buck, Foster's former partner at the Rose Law Firm, called to

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* Nothing of significance to t[illegible] of this Report occurred during that meeting.

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discuss finalizing work that Buck had been doing to set up a blind trust for the Clintons. Foster, who was acting as Buck's contact point at the White House, was supposed to have the Clintons sign some documents to complete the process. Buck stated that there was nothing about the blind trust that would have provided a source of concern to Foster, nor did Foster ever express any such concern.

James Lyons called to finalize plans for his meeting with Foster, scheduled for the following day. Gordon Rather, an attorney from Little Rock, called to discuss a routine matter regarding the American Board of Trial Advocates. A number of people within the White House also tried to reach Foster to discuss ongoing White House projects with which Foster was involved.

We have been unable to determine where Foster went following his departure from the Counsel's Office at about 1:00 p.m. We have also been unable to determine with certainty when Foster entered Fort Marcy Park. One motorist traveling on the George Washington Memorial Parkway saw a Japanese-made car driven by a white male swerve from the left lane of the Parkway into Fort Marcy Park some time between 2:45 and 3:00 p.m. on the afternoon of July 20. When interviewed shortly after Foster's death, the motorist told the Park Police that he recalled that the license plate on the car was from either Arkansas or Ohio. When he was recently shown pictures of Foster's car, the motorist stated that he did not believe that it was the car he saw on July 20 because

the license plate he saw identified the State in the lower right hand corner of the plate.*

Another man stated that he drove into Fort Marcy Park between 4:15 and 4:30 p.m. He observed two cars in the parking lot of the Park at that time. He described one as a brown Japanese-made car with an Arkansas license plate. When shown photographs of Foster's car, he stated that the car he saw appeared darker in color and more compact. He stated that nobody was in the car, but there was a man's suit jacket folded over the passenger seat of the car. He recalls that the car was parked in one of the first spaces on the left side of the lot, which is where the Park Police found Foster's car following his death. The Park Police also found Foster's suit jacket draped over the front passenger seat of his car.

G. Discovery Of Foster's Body

1. Fort Marcy Park

Fort Marcy Park is located adjacent to the northbound lanes of the George Washington Memorial Parkway in Fairfax County, Virginia. The only vehicular entrance is from the Parkway, although there is a small opening in the fence on the Chain Bridge Road side of the park for use by pedestrians. A short drive from the Parkway entrance, there is a parking lot. Several foot trails lead from the lot. The original Fort Marcy was one of a ring of fortifications constructed during the Civil War to defend

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* In recent years only the State of Montana has a license plate that identifies [illegible]er right corner.

Washington against Confederate attack. It is now a National Park. One path from the parking lot leads up to two cannons dating from the Civil War.

No one interviewed during this investigation had ever heard Foster mention the Park, or knew of Foster ever visiting the Park prior to the date of his death.

2. Observations by Confidential Witness

Foster's body was discovered in Fort Marcy Park at approximately 5:45 p.m. on July 20 by a man who has requested that his identity remain confidential. As a result, this individual will be referred to only as a confidential witness ("CW").*

On the afternoon of July 20, at approximately 5:30-5:45 p.m., CW was driving north on the George Washington Memorial Parkway in heavy traffic when he turned into Fort Marcy Park to urinate. When he arrived, he observed two cars in the parking lot. He described the first as a compact Japanese-made car of a light color (he is not sure of the exact color) parked in the second or third space on the left as one enters the lot.** The other he described as a white Honda Accord parked near the rear of the lot. CW had visited the Park many times and was familiar with its layout.

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* CW initially provided this information to G. Gordon Liddy, who hosts a radio call-in program broadcast from the Washington, D.C. area. Mr. Liddy subseq ...s Office and arranged for this Office to meet ...fter receiving assurances that we would respec ...nfidentiality.

** This is approximately the ... Police located Foster's car.

Note 1920

CW followed a path off the parking lot for approximately 200 yards until he reached the second cannon, which faces a raised berm that runs along the original Fort's perimeter. CW walked just over the berm, stopping at a point about 15-20 feet to the right of the cannon.* He noticed to his left what he first thought was a pile of trash located on the slope just over the berm in front of the cannon. He went over to look, and realized that it was a body. He stood at the top of the berm, just above the head of the body. The body appeared to be a man dressed in a white dress shirt, "expensive" trousers, and black dress shoes. CW stated that the man's head was either straight up or slightly tilted to the right, his arms were straight down at his sides. CW further stated that he believed the man's palms were facing upward. He did not see a gun in the man's hands but said it was difficult to see his hands because of the dense foliage in the area where the body was lying. CW acknowledges that, because of his position at the top of the berm and the heavy foliage, there could have been a gun in the man's hand that he did not see.

CW saw what appeared to be dried blood on the man's lips and nostrils. He also noticed a purple stain, which he believed to be a mixture of wine stains and vomit on the right upper shoulder and chest of his shirt. CW stated that he never touched the body.

After briefly viewing the body, CW returned to his vehicle and drove to Parkway Headquarters about two miles north of Fort

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* CW stated that he walked to this spot because he saw two cars in the lot and wan[illegible] assured that he would have privacy.

Marcy Park, where he hoped to find a telephone. When he pulled into the parking lot he saw two uniformed park maintenance employees. CW provided the employees with the location of the body and drove off. He did not leave his name and the maintenance workers did not observe his license plate.*

3. Observations of the U.S. Park Police and Fairfax County personnel

Computer records and audio recordings establish that at 5:59 p.m., using a public telephone, one of the Park maintenance workers dialed "911" to report the information provided by CW. He was advised by the Fairfax County Police dispatcher that because the body was found in the Park, the Park Police was the appropriate authority to respond. At 6:02 p.m., the maintenance worker reached the Park Police dispatcher and reported the information received from CW.

Following receipt of these calls, the Fairfax County Fire and Rescue Department dispatched Emergency Medical Services ("EMS") personnel to the Park, and the Park Police dispatched officers and investigators. At 6:09 p.m., a medical unit and an engine unit from Fairfax County EMS arrived at the Park. At approximately the

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* In order to test the veracity of the information provided by CW, this Office performed a detailed analysis of that information. CW provided details that have never become public, and that could only have been known by the [illegible] who discovered Foster's body. These details include specifi[illegible]he appearance and location of the body, the de[illegible]n of the cars in the parking lot, the physica[illegible] park maintenance workers, and the short conve[illegible]em.

same time Officer Kevin Fornshill of the Park Police arrived. They split up to look for the body.

Fornshill was first to arrive at the body. His description of its location is identical to that reported by CW. Fornshill observed the body from the top of the berm as had CW and reported that Foster's head was near the top of the berm directly in front of the second cannon.

Representatives from this Office and the FBI have gone to this site numerous times. The berm on which Foster was found is located approximately ten feet in front of the cannon. There is a short incline on the inside of the berm facing the cannon. From the top of the berm, the ground falls away to form the outside embankment of the Fort. Foster was found on the outside of the berm, toward the top of the embankment. The embankment is about twenty to twenty-five feet in length, sloping at about a 45 degree angle.

Fornshill described Foster's body as lying straight up with his head slightly tilted to the right. From his position at the top of the berm, Fornshill could not see a gun, but noted that the natural foliage around Foster's body blocked his view of Foster's hands. Even after the EMS personnel arrived and stated that Foster had a gun in his right hand, Fornshill still could not see it from the top of the berm.

The first EMS personnel to arrive at the body were Todd Stacey Hall and George Gonzalez. Each of them moved next to the body and saw a gun in Foster's right hand, partially concealed

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beneath the hand and right leg. Hall checked for a pulse against the left side of Foster's neck and found none. Hall states that he did not move Foster's head during this time.

Shortly thereafter an additional group of EMS personnel and Park Police officers arrived at the body. Polaroid and 35 mm photographs were taken of the body and the surrounding area. The 35 mm photographs were underexposed and of little value, despite the FBI Lab's effort to enhance their quality. The Polaroid photographs, however, clearly depict the condition of Foster's body shortly after the arrival of the Park Police. The photographs show blood stains on Foster's face and on the right shoulder of his shirt. The staining on his shirt covered the top of his shoulder from his neck to his upper arm. The photographs of his face show two lines of blood, one running from the right corner of his mouth to below the right ear, and the other from the right nostril toward the temple above the right ear. The photographs also show a larger area of blood staining Foster's right cheek and jaw, forming what is described in the FBI Lab Report as a "contact stain." Lab Report at 9.*

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* Two members of Fairfax County EMS, George Gonzalez and Richard Arthur, have expressed doubts about whether Foster's death was the result of a suicide. In [illegible] se doubts were caused by observations of what t [illegible] llet wounds on Foster's face. Gonzalez believe [illegible] e in the upper right portion of Foster's fore [illegible] ved he saw a bullet wound in the right side c [illegible] se wounds did not exist. The autopsy result [illegible] taken at the scene, and the observations ma [illegible] investigators conclusively show that there wer[illegible]

FOIA # none (URTS 16305) DocId: 70105092 Page 37

At approximately 6:35 p.m., Park Police Investigators arrived at the body. Park Police Investigator John Rolla observed that some of the blood on Foster's face was still wet when he arrived, but was starting to dry. He touched Foster's body and noted that it was still relatively warm (which could have been a result, in part, of the ninety degree heat that day) and there were no signs of rigor mortis.* Foster's clothes were neat and there was no sign of any struggle. Foster was wearing his White House paging device, which had been turned off. A pair of eyeglasses, identified by Lisa Foster as belonging to her husband, were found about thirteen feet below Foster's body at the bottom of the berm.

Park Police Technician Peter Simonello was responsible for removing the gun still held in Foster's right hand. He noted that the knuckle of Foster's right thumb was trapped between the front surface of the trigger and the inside of the trigger guard of the gun. Simonello stated that Foster's hand was flexible, but that he had to half cock the weapon in order to remove his thumb. After removing the gun, Simonello observed a deep impression on Foster's thumb where the trigger had been located. He further saw powder residue on Foster's thumb and along the edge of Foster's right index finger. Photographs taken at the scene and at the autopsy show this powder residue, and a photograph taken at the autopsy shows the mark on Foster's thumb. The gun, a .38 caliber Colt

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* As stated in the Pathe available information is insufficient to de ime of death during that afternoon. Pathologi

FOIA # none (URTS 16305) DocId: 70105092 Page 38

revolver, was found to contain one unexpended cartridge and one cartridge case from which a bullet had been fired.

While one group of Park Police officials continued to examine Foster's body, others conducted an inspection of the cars in or near the parking lot. When the Park Police and EMS personnel first arrived, they observed three cars within the Park. The first was a blue Mercedes flashing its hazard lights, located just inside the entrance to the Park. This car belonged to a woman who had pulled into the Park late in the afternoon when her car had begun to malfunction. She immediately left the Park on foot and a tow truck arrived to pick up the car at approximately 7:00 p.m.

The second car, a white Nissan Stanza parked near the rear of the parking lot, belonged to another woman who drove to the Park with a friend at approximately 5:00 p.m.* They were still in the Park when located by the Park Police a short way down a path leading south from the parking lot. Neither individual heard a gunshot while in the Park or observed anything unusual.

The third car, a grey 1989 Honda Accord with Arkansas license plates, was parked in one of the first spaces on the left near the entrance of the parking lot. The car was registered to Vincent Foster. Park Police Investigators observed a suit jacket that matched the pants worn by Foster, neatly folded over the passenger seat of the car. In the jacket was Foster's White House identification. The keys to the car were located in Foster's pants

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* CW accurately described the location and description of this car.

pocket. The car was impounded and searched, but nothing significant to the investigation was found.* Foster's wallet was in his suit jacket and contained $292, credit cards, and miscellaneous papers, including the list of three psychiatrists provided by Sheila Anthony four days earlier.

At approximately 7:40 p.m., Dr. Donald Haut, the Fairfax County Medical Examiner, arrived at the scene to examine the body. At that point Foster's body was rolled over and those present observed a large pool of blood located on the ground where Foster's head had been. Haut observed a large exit wound in the back of the skull.

Following this examination, additional personnel from Fairfax County Fire & Rescue were dispatched to the scene to transport Foster's body to the morgue. At approximately 8:45 p.m., Corey Ashford and Roger Harrison lifted Foster's body under the arms and placed him into a body bag. The body was wheeled out of the Park on a stretcher and transported to Fairfax Hospital where it was briefly examined by Dr. Julian Orenstein, the physician on duty in the hospital's emergency room, who officially pronounced Foster dead. The body was taken to the morgue, where it was later identified by William Kennedy and Craig Livingstone, a Special Assistant to the White House Counsel.

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* The presence in the car of beer cans, an empty pack of cigarettes, and a cork screw was [illegible] trip to the beach taken by Foster's sons during the

FOIA # none (URTS 16305) DocId: 70105092 Page 40

H. The Autopsy

At 10:00 a.m. on July 21, 1993, Dr. James C. Beyer, the Deputy Chief Medical Examiner for the Northern Virginia District, conducted the autopsy on Foster. The autopsy found a contact bullet wound entering the soft palate inside the mouth. A microscopic examination noted extensive gunpowder residue on the soft palate. According to the autopsy report and information subsequently provided by Dr. Beyer, the bullet entered the cranial cavity, significantly damaged the left side of the brainstem and the left cerebral hemisphere of the brain, and exited from the center of the back of the head. The autopsy found no other trauma to Foster's body and found his teeth unbroken. Dr. Beyer found gunpowder-like residue on the lateral portion of both index fingers, with a greater concentration on the right index finger. No alcohol or drugs were found in Foster's blood, although a later analysis by the FBI Lab revealed trace amounts of trazadone, attributable to the anti-depressant prescribed by Dr. Watkins. Photographs taken during the autopsy, as well as microscopic slides of Foster's soft palate and other tissues, were obtained from Dr. Beyer by this Office and reviewed by the Pathologist Panel.* Dr. Beyer certified the death as a suicide.**

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* The office
Foster's autopsy, a
noperable at the time of
rays were taken.

** The complete
ttached as Exhibit 8.

Note
27-28

I. The Gun

The Park Police submitted the gun found in Foster's hand to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for testing. ATF identified the gun as a .38 caliber Colt revolver. The gun contained two different serial numbers, indicating that it was assembled with parts from two different guns. The only available records indicate that guns bearing those serial numbers were purchased in 1913.

When shown the gun, Foster's sister, Sharon Bowman, identified it as appearing very similar to the one their father had kept in his bedside table, specifically recalling the pattern on the grip. When her father fell ill with cancer in 1991, Bowman moved this gun and others in her father's collection into a closet within her father's house. In 1991, shortly after her father's death, Bowman showed Foster where she had put the guns and Foster removed them from the house.

Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington. Foster had packed a trunk prior to going to Washington but did not take the trunk with him. When Lisa Foster "repacked" the trunk for her own move to Washington in June, she saw the gun and brought it with the rest of her belongings.* Lisa Foster felt uncomfortable having a gun in their house, and twice asked Foster to remove it. On the night of Foster's death, she found a gun,

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* Foster's children did not recognize the gun as one they had seen in their home.

different in appearance from the gun that she had brought with her from Little Rock, in the closet of her house in Washington. She did not recall seeing any ammunition in their house in Washington. In recent weeks, she found some ammunition at her home in Arkansas, but none of it was .38 caliber.

J. The Park Police Investigation

1. Investigative jurisdiction

Because Foster's death occurred in a National Park, the Park Police, as part of the Department of the Interior, had jurisdiction to conduct the investigation. Park Police Chief Robert E. Langston stated that the Park Police have historically had primary investigative jurisdiction for crimes or possible crimes committed within federal parks.

The FBI would have had primary investigative jurisdiction if the circumstances fell within the Presidential and Presidential Staff Assassination statute, Title 18, United States Code, Section 1751. That statute makes it a federal crime to, among other things, kill the President, Vice-President, or a specified number of persons appointed by the President or Vice-President. The statute further provides that violations shall be investigated by the FBI.* Based on a preliminary inquiry by the FBI which failed

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* 18 U.S.C. Section 1751 covers "any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President. . . ." Title 3, United States Code, Section 105(a)(2)(A) provides that the Presi[illegible]nty-five employees at a specified rate of p[illegible]eliminary investigation by the FBI provided [illegible] criminal activity, the FBI did not determine [illegible]overed by this statute.

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to indicate any criminal activity, the FBI's inquiry into this matter was closed. At the request of this Office, the FBI reentered this investigation in February 1994.

2. Summary of Park Police investigation

In the weeks following Foster's death, the Park Police conducted a number of interviews with family members, White House staff, and others; reviewed documents obtained from the White House and from Foster's personal belongings; and took other investigative steps including fingerprint analyses and an unsuccessful search in Fort Marcy Park for the bullet fired from the gun. The Park Police concluded that Foster's death was a suicide from a self-inflicted gunshot wound to the mouth.

TESTS CONDUCTED BY FBI LABORATORY

In March 1994, this Office obtained from the Park Police and the Medical Examiner's Office all available physical evidence collected in connection with the investigation of Foster's death, and provided it to the FBI Lab for analysis. This evidence included the gun and the ammunition it contained, Foster's clothing and eyeglasses, items found in Foster's car, photographs taken at the scene of the death and during the autopsy, Foster's hair and blood samples obtained during the autopsy, the autopsy report, and relevant portions of the Park Police Report on Foster's death. The FBI Lab performed extensive analyses, as summarized below.

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A. Firearm Analysis

The FBI Lab test-fired the revolver found in Foster's hand ("Foster's gun") and found that it was operable. This kind of firearm can be fired by either cocking the hammer and then pulling the trigger (single action) or by simply pulling the trigger (double action).* The cartridge case, a .38 caliber special cartridge case manufactured by Remington was analyzed and found to have been fired inside Foster's gun. The unexpended cartridge was also .38 caliber manufactured by Remington, and bore the same stamp as the expended cartridge.

The FBI Lab found that when Foster's gun is fired, it releases gunshot residue from the muzzle of the gun and from the cylinder gap. As a result, powder and lead residue can be found on objects in close proximity to the gun when fired. An analysis of the photographs taken at the autopsy reveal gunshot residue on the side of Foster's right forefinger and the web area of Foster's right hand. The FBI Lab found this consistent with that vented by Foster's gun when ammunition of the type found in its cylinder is fired with the palm of the right hand positioned near the front of the cylinder or near the muzzle.

The trigger of Foster's gun will automatically rebound when released after firing. On one of the autopsy photographs, there is a visible mark on the inside of Foster's right thumb. The FBI Lab found that this mark is consistent with a mark produced by

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* The latter method requires a muc [illegible] he trigger.

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Foster's gun when "this portion of the right thumb is wedged between the front of the trigger and the inside of the front of the trigger guard of [Foster's gun] when the trigger rebounds (moves forward)." This mark is also consistent with the position of Foster's thumb in the trigger guard as depicted in the Park Police photographs. Lab Report, at 7.

B. Chemical Analysis

Ball shaped gunpowder was found in scrapings from Foster's shirt and undershirt. The FBI Lab found this gunpowder to be physically and chemically similar to the powder found in the empty cartridge case in the gun. In addition, chemical testing of Foster's shirt resulted in a positive reaction for the presence of lead residue. The presence of the residues found on Foster's shirt is consistent with the blast from the cylinder of Foster's gun when fired using ammunition of the kind found within that gun.

The FBI Lab further found one piece of ball powder on the eyeglasses recovered from the bottom of the berm, approximately thirteen feet below where Foster was found. This powder is physically and chemically similar to the gunpowder found in the cartridge case removed from Foster's gun. These facts are consistent with the eyeglasses being positioned near the gun when fired (such as on Foster's face or in his shirt pocket). One obvious scenario is that the eyeglasses were dislodged by the sudden backward movement of Foster's head when the gun was fired, after which the glasses bounced down the hill.

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The FBI Lab detected one flattened ball-shaped gunpowder particle in scrapings from Foster's shoes and socks, and one disk-shaped particle on the paper that Foster's clothes were placed on at the Park Police Laboratory. The FBI Lab found that these particles did not originate from the fired cartridge in Foster's gun. These particles are believed to be the result of contamination some time after the clothing was removed from Foster's body.* The FBI Lab concluded that these particles "are not likely associated with this investigation." Supplemental Lab Report, at 3.

C. Blood Analysis

The FBI Lab conducted tests on the blood sample obtained during Foster's autopsy. The tests revealed small concentrations of trazadone, diazepam and nordiazepam. Trazadone is the anti-depressant prescribed by Dr. Watkins and taken by Foster on the evening of July 19. Diazepam is commonly known as valium, and nordiazepam is a metabolite of valium.** The concentrations of these drugs were below generally recognized therapeutic levels.

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* Although the Park Police laboratory does take precautions to avoid contamination of evidence, it is a small facility which was conducting a number of unrelate[d] [exa]minations in July 1993. Foster's clothes were laid out to [dry] on the floor of a "photo lab room" adjacent to t[he] [exam]ination area. This room is regularly used by [those] working on investigations and is equipped wi[th] [fire]arms. It is possible that the clothes were contaminat[ed].

Note 32, 33

** Lisa Foster stated that [they] had their home in Washington, but she was not awa[re] [of] any.

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Foster's blood type was found to be consistent with the blood found on his shirt and undershirt. A visual examination and limited chemical testing of the gun by the FBI Lab did not reveal the presence of any blood. Additional chemical testing was avoided so that the gun could be preserved for subsequent fingerprint and DNA testing. Subsequent testing did detect DNA near the muzzle of the gun which could have been derived from blood or saliva.

D. Analysis of Bloodstaining Patterns

The FBI Lab conducted an analysis of the bloodstaining on Foster's face and clothing as depicted in the photographs taken at the scene. The photographs show Foster's face pointing straight up - his head not tipped to either side. This position is inconsistent with the blood patterns on Foster's face and shirt. The blood on the right shoulder of Foster's shirt "consists of saturating stains typical of having been caused by a flow of blood onto or soaking into the fabric." Lab Report, at 9. The blood on Foster's right cheek and jaw is a "contact stain . . . typical of having been caused by a blotting action, such as would happen if a blood-soaked object was brought in contact with the side of his face and taken away, leaving the observed pattern behind." Lab Report, at 9.

The FBI Lab concluded that the pattern of the blood on Foster's face and on Foster's shoulder is consistent with Foster's face having come into contact with the shoulder of his shirt at some point. Because Foster's head is not in contact with his shoulder in the photographs, the FBI Lab Report concludes that

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Foster's head "moved or was moved after being in contact with the shoulder." Lab Report, at 9. The Pathologist Panel endorsed this conclusion, stating that "a rightward tilt of his face was changed to a forward orientation by one of the early observers before the scene photographs were taken." Pathologist Report, ¶ 7.

The FBI Lab also found extensive bloodstaining on Foster's shirt and undershirt, covering a vastly greater amount of his shirt than that depicted in the photographs taken at the scene. This staining is attributable to the movement of the body from the scene, which typically results in additional staining of the deceased's clothing.

E. DNA Analysis

The FBI Lab performed a DNA analysis on material obtained from an area within 5 cm from the muzzle portion of the gun barrel. This DNA was compared to the DNA in Foster's blood, and the FBI Lab found it to be the same type. This DNA type is shared among approximately 6 percent of Caucasians. This material is derived from a cellular material, likely blood or saliva.

F. Fingerprint Analysis

The FBI Lab removed the grips from the handle of Foster's gun for testing. There were no fingerprints found on the outside of the grips or any other exposed portion of the gun. One print

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was located on the inner surface of one of the gun's grips. The FBI Lab determined that this was not Foster's print.*

G. Handwriting Analysis

Lisa Foster provided a document that she knew to have been handwritten by her husband, and personal checks that she knew had been signed by him. The FBI Lab compared the handwriting to that on the torn note found in Foster's briefcase on July 26, 1993, and determined that the torn note was written by Foster.

H. Other Analyses

1. The FBI Lab examined the pair of prescription eyeglasses found at the bottom of the berm and compared them to Foster's optical prescriptions provided to this Office by Lisa Foster. The FBI Lab found that the prescriptions were consistent with the determined prescription of the eyeglasses found on the berm. Marks on the earpieces of the eyeglasses were found to be consistent with biting. Lisa Foster stated that Foster had a habit of biting the earpieces of his glasses.

2. The FBI Lab determined that Foster's clothing contained head hairs dissimilar from his own, and carpet type fibers of various colors.

3. When Foster's clothing was examined by the FBI Lab, it "did not contain any coherent soil." Lab Report, at 12.

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* The ability to recover prints varies due to a number of factors including the texture of the tested object and characteristics of the person who came in c[illegible]t. Latent prints can be destroyed by exposur[illegible]s, such as heat.

FOIA # none (URTS 16305) DocId: 70105092 Page 50

However, the FBI Lab found small particles of mica on much of Foster's clothing, including his shoes. This mica is consistent with the soil found in the area where Foster's body was found.

I. Search For Additional Evidence In Fort Marcy Park

On April 4, 1994, sixteen individuals from the FBI Lab went to Fort Marcy Park to conduct a search in the area where Foster's body was found.* The purpose of the search was to attempt to find a bullet, bone fragments from Foster's skull, the presence of blood in the soil beneath the location of Foster's body when found, and any other evidence relevant to Foster's death.

In an attempt to locate a bullet, FBI Lab personnel surveyed and marked out a grid in what the FBI Lab determined was the most likely area for the bullet to have landed after passing through Foster's skull. This area was systematically searched using metal detectors. Twelve modern-day bullets were collected during the search and returned to the FBI Lab for analysis. The FBI Lab has determined that none of the bullets found were fired from Foster's gun.**

The area immediately beneath where Foster's body was found was searched by digging and hand sifting the soil and other debris.

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* Also present were representatives from the National Park Service and a representative from the Smithsonian Institution.

** In addit number of cartridges and shell casings were fc ined that none of these items was fired in Fo Civil War artifacts were also found during th ammunition, nails, horseshoes, a military butt(jects. These items were turned over to the Na An index of these items is attached as Exh.

Note 35,36

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FBI Lab personnel excavated to a depth of approximately eighteen inches, searching the soil through various screening methods. No bone fragments or bullets were found.

ANALYSIS

A. Analysis And Conclusions Of Forensic Pathology Panel

Four experts in the field of forensic pathology reviewed and analyzed the evidence obtained during the course of this investigation. Each member of the Pathologist Panel was provided unrestricted access to the FBI Lab Reports; the reports of all interviews conducted during the course of the investigation; the report issued by the Park Police following its investigation; the autopsy report; all photographs taken at the scene of Foster's death and during the autopsy; and microscopic slides containing portions of Foster's soft palate obtained during the autopsy. In addition, the Pathologist Panel discussed the evidence with members of this Office, the FBI investigating agents, and FBI Lab personnel. Two members of the Panel met with the Medical Examiner, Dr. Beyer.

After reviewing and analyzing the evidence, the Pathologist Panel issued a report stating its conclusions and summarizing the bases for its conclusions. The Panel concluded the following:

> 1) The bullet wound to Foster's head and brain caused his death;

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2) The bullet traveled through the soft palate, entered the cranial cavity, significantly damaged the left side of the brainstem and the left cerebral hemisphere of the brain and exited from the center of the back of the head;

3) The wound caused instantaneous complete incapacitation, followed by clinical death within a matter of minutes;

4) The wound was self-inflicted, resulting from Foster placing the barrel of the gun into his mouth and firing it; and

5) Foster shot himself where he was found in Fort Marcy Park.

The Pathologist Report states that these conclusions were arrived at separately and independently by each member of the Panel.

1. Basis for conclusion that death was a suicide

The Pathologist Panel found the evidence in this case "typical and characteristic of such findings in deaths due to intentional self-inflicted intraoral gunshot wounds." Pathologist Report, ¶ 1. Physical evidence examined by the Pathologist Panel establishes that the gun was fired while in Foster's mouth. Microscopic slides taken during Foster's autopsy reveal a large quantity of gunpowder residue on the soft palate, indicating "that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger." Pathologist Report, ¶ 1.

The Panel also relied on the FBI Lab's finding that the DNA in Foster's blood sample was the same type as DNA found near the muzzle of the gun. This indicates that cellular material from Foster's body likely came into contact with the barrel of the gun.

Logically, this material is either blood or saliva from Foster's mouth.

The condition of Foster's body indicates that Foster voluntarily placed the gun in his mouth. The evidence is inconsistent with someone having forced the gun into his mouth. No broken teeth or other trauma to Foster's body were discovered during the autopsy, and there was no sign of a struggle. It is highly unlikely that someone could have forced a gun into the mouth of a man of Foster's size (six feet, four and one-half inches in height and 197 pounds in weight) without a struggle that would have resulted in Foster sustaining some other detectable injury. Nor was there any evidence that he was incapacitated by drug or alcohol.

The physical evidence also demonstrates that Foster himself pulled the trigger. An autopsy photograph depicts a mark on Foster's right thumb consistent with the recoil of the trigger after firing. Based on the existence of this mark and Park Police scene photographs showing the position of the gun, the Pathologist Panel concluded that after Foster fired the gun, his "right thumb was trapped and compressed between the trigger and the front of the trigger guard." Pathologist Report, ¶ 8.

Moreover, the photographs reveal and the autopsy confirms that there was gunpowder on the portion of Foster's right index finger facing his thumb and in the web area between the index finger and the thumb. Dr. Beyer, the Medical Examiner, also noted a lesser amount of gunpowder on Foster's left index finger. The

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gap between the cylinder and the frame of the gun is the logical source for this gunpowder because the muzzle of the gun was in Foster's mouth when it was fired. As a result, the Pathologist Panel concluded "that Mr. Foster's index fingers were in the vicinity of the cylinder gap when the weapon was fired." Pathologist Report ¶ 8.

Finally, the Panel was provided with summaries of interviews with Foster's family and friends during which they described Foster's depressed state prior to his death. The Pathologist Report notes that information that Foster took an anti-depressant prior to his death is corroborated by the finding of a trace amount of trazadone, an anti-depressant, identified in Foster's blood.

2. Basis for conclusion that death occurred in Fort Marcy Park

The Panel concluded that the condition of Foster's body and clothing at the time he was found precludes his having been moved to Fort Marcy Park from another location following his death. The photographs taken of the body in Fort Marcy Park show modest amounts of blood on his face and clothing. The blood visible on his clothing was limited to a small area on the right shoulder of his shirt, which is consistent with Foster having committed suicide where the body was found. The Panel determined that "[s]ubstantially greater contamination of skin surfaces and clothing by spilled and/or smeared blood would have been unavoidable, had the body been transported postmortem to the place

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where it was found." Pathologist Report, ¶ 3. The extensive blood loss that occurred after Foster's body was moved from the park confirms that finding.

Foster's body was positioned on a steep slope, with his head near the top of the berm and his legs extended down the hill. As a result, when his heart stopped beating, gravity permitted the settling of blood into the lower portions of his body rather than out of the wound in his head. Once the body was laid flat in the body bag for transportation to the morgue, substantial blood loss did occur. Foster's shirt and undershirt were completely saturated with blood when removed from his body before the autopsy. His face and head were also contaminated with additional amounts of blood, as shown in pre-autopsy photographs. Had the body been moved to Fort Marcy Park after his death, the Park Police would have found Foster's body and clothing far more bloodied than they were at the scene.

B. Analysis Of Issues Raised On Circumstances Of Foster's Death

A number of issues have been raised regarding the circumstances of Foster's death. Many of these question the Park Police conclusion that Foster committed suicide in Fort Marcy Park. In this section of the Report we will address those issues. Although it is not possible to provide a definitive response to each of the questions or theories posed, none present circumstances inconsistent with the conclusion that Foster committed suicide in Fort Marcy Park.

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1. Why wasn't there more blood on and around Foster's body?

When the Park Police and EMS personnel found Foster's body in Fort Marcy Park, relatively little blood was visible. However, members of the Park Police who were present when Foster's body was rolled over observed a fairly large pool of blood on the ground where his head had been and further noted that the upper portion of the back of Foster's shirt was blood-soaked. The Pathologists' Report provides further explanation for the limited amount of blood observed at the scene:

> [A]ny relative lack of extravasated blood can be readily explained by the position of the body on the steeply inclined slope, with blood settling postmortem to the dependent portions of the body, i.e., below the level of the head wounds and by the prompt cessation of cardiovascular activity incident to the bullet wound injury of the brainstem.

Pathologist Report, ¶ 6.

After Foster's body was placed into the body bag and his body laid flat, some of the blood that had settled in the lower part of his body then flowed out, causing significant additional bloodstaining on his clothes and face.

2. Why were Foster's hands found lying neatly at his side?

The final position of Foster's body is explained by his likely position when he fired the gun. The Pathologist Report concludes that Foster was seated at the time he pulled the trigger.* If Foster were lying down, it is likely that the bullet

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* This c[illegible] buttressed by the observation of a root pattern at t[illegible] r's death which forms a natural seat a few fe[illegible] the berm.

Note 37

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would have been recovered in the soil beneath his head. If Foster was standing up, "he would not have ended up in the orderly position in which he was found." Pathologist Report, ¶ 6.

If Foster were seated, however, the position of the body was as would be expected following the loss of all motor function caused by bullet-generated trauma to the brainstem. The Pathologist Report concluded that "[a]fter firing the weapon, because of the sloped terrain, he would have fallen backward, with his arms falling to their respective sides by gravity, aided on the right by the weight of the revolver affixed to his thumb." Pathologist Report, ¶ 6.

3. Why was the gun still in Foster's hand?

After firing, the trigger of Foster's gun rebounds forward. Based on an analysis of scene photographs and an autopsy photograph showing a mark on Foster's right thumb, the Pathologist Panel and FBI ballistic experts concluded that Foster's thumb was "trapped and compressed" between the trigger and the trigger guard of the gun. Pathologist Report, ¶ 8. This conclusion is corroborated by the statement of Park Police Technician Peter Simonello who removed the gun from Foster's hand. He stated that Foster's knuckle initially prevented him from removing the gun from Foster's hand. As a result, Simonello half cocked the gun causing the trigger to be pulled back. Only then could Simonello remove the gun.

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4. Why was there no blood on the gun?

The FBI Lab could reach no definitive conclusion on whether there was any blood on the gun. The source of the DNA material found on the muzzle of the gun is derived from human cellular material, which could be blood. However, even a determination that there was no blood on the gun would have little significance. The Pathologist Panel found that "[t]he absence of visible blood on the revolver is not inconsistent with the self-inflicted bullet wound [he] sustained. Visual or chemical identification of blood on the weapon in gunshot wound suicides is a common but by no means universal finding." Pathologist Report, ¶ 2.

5. Why did no one hear the shot?

It is impossible to determine conclusively that no one heard the shot. Given the location and circumstances of his death, however, it would not be surprising if the shot went unheard. The Park has few visitors, particularly on a weekday afternoon. It is entirely possible that there was no one else in the Park at the time that Foster fired the shot.

The closest building to the Park is the official Saudi Arabian Ambassador's residence located across Chain Bridge Road, a few hundred yards away from the spot that Foster shot himself. Interviews of the security guards at the Saudi Arabian residence and observations made by the FBI reveal that there were sources of noise which could have muffled the sound of a gunshot. First, Chain Bridge Road has a fairly steady stream of traffic in the

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afternoon. Second, records obtained through the security guards at the Saudi residence show that construction work involving large vehicles and heavy machinery was occurring at the residence on the date of Foster's death. In addition, the sound of the shot would have been further muffled by Foster shooting the gun inside his mouth and by the Park's dense summer foliage.

6. Why was no bullet found?

The FBI Lab's search for the bullet focused on the most likely area for the bullet to have come to rest based upon certain assumptions of Foster's position when the gun was fired. Given the available information, however, it is impossible to determine where the bullet landed. For example, there is no information on the precise angle of Foster's head when the gun was fired. It is also impossible to predict to what degree the speed or trajectory of the bullet might have changed upon passing through his skull. It would have been enormously time-consuming, costly, and in all likelihood unproductive, to have searched the entire Park for the bullet.

7. Why was no dirt found on Foster's shoes?

The FBI Lab did find mica particles on Foster's shoes and socks. These mica particles are consistent with the mica that is found at Fort Marcy Park. It was approximately 90 degrees Fahrenheit and dry on the day that Foster died. Foliage leading up to and around Foster's body was dense. As a result, it is unlikely that there was a great deal of exposed moist soil in the Park that would have soiled Foster's shoes.

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8. Why were there no powder burns inside Foster's mouth?

The Pathologist Panel was able to examine microscopic sections of Foster's soft palate obtained during the autopsy. These sections reveal large quantities of gunpowder indicating that the muzzle of the gun was inside Foster's mouth when he pulled the trigger. The Panel did not observe any burns caused by the muzzle blast, but added that such burns would not necessarily be expected under these circumstances.

9. Why was there no gunpowder on Foster's face?

The question of whether there was gunpowder on Foster's face remains unresolved. The scene and autopsy photographs show scattered "stippled material" on Foster's face. This material was not examined during the autopsy. It is uncertain whether this "stippled material" represents "gunpowder residue, blood spatter, or some other foreign material. . . ." Pathologist Report ¶ 8.

10. Why didn't CW see a gun in Foster's hand?

CW has stated that he viewed Foster's body from the top of the berm. He did not move down the berm to view the body from the side. CW has further stated that the natural foliage in the area made it difficult to see Foster's hands. In addition to the foliage, photographs taken at the scene show that Foster's right hand and leg obscured a large portion of the gun.

Observations of Park Police officers who also viewed the body from the top of the berm confirm that it was difficult to see the gun from that position. Officer Kevin Fornshill stated that he

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was unable to see a gun in Foster's hand while viewing the body from the top of the berm due to the dense vegetation around Foster's body. He stated that he could not see the gun even when it was specifically referred to by a medic from Fairfax County EMS, who was positioned next to the body. Similarly, Ralph Pisani, a technician with Fairfax County EMS, was positioned about fifteen feet from the body at the top of the berm when he asked a colleague where the gun was. Even after he was told that the gun was in Foster's right hand, he was unable to see it from his position.

CONCLUSION

This Report does not purport to provide definitive answers to all questions surrounding Vincent Foster's death. Obviously, it is impossible to completely understand how or why he came to the point at which he decided to take his own life.

The overwhelming weight of the evidence compels the conclusion, however, that Vincent Foster committed suicide in Fort Marcy Park on July 20, 1993. Although the contributing factors to his depressed state can never be precisely determined, there is no evidence that any issues related to Whitewater, Madison Guaranty or CMS played any part in his suicide.

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7-1 (Rev. 2-21-91)

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: May 9, 1994

To: ADIC, Washington Metropolitan Field Office

FBI File No. 29D-LR-35063

Lab No. 40324038 S/D QV ZG WK UD WP AL QW ZT VY ZZ AR
4033007 S/D QV ZG WK UD WP AL VY ZZ AR
40405047 S QV RU
40413029 S QV
40414002 S/D QV QW WP AL
40422001 S QV QW

Reference: Communication dated 3/29/94

Your No. 29D-LR-35063

Re: MOZARK
MAJOR CASE #106
OO: Little Rock

Specimens received: March 24, 1994

Specimens personally delivered by SSA William Colombell on March 24, 1994 (Laboratory Number 40324038 S/D QV ZG WK UD WP AL QW ZT VY ZZ AR):

Q1	Cartridge (2)
Q2	Cartridge case (3)
Q3	Eyeglasses (4)
Q4	Jacket (10)
Q4A	Handkerchief (10)
Q5	Tie (11)
Q6A-Q6F	Miscellaneous papers (13)
Q7-Q7D	Key ring and keys (14)

(over)

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FOIA # none (URTS 16305) DocId: 70105094 Page 3

Q8	Shirt (16)
Q9	T-shirt (17)
Q10	Shorts (18)
Q11	Pants (19)
Q11A	Belt (19)
Q12-Q13	Socks (20)
Q14-Q15	Shoes (21)
Q16	Map (23)
Q17-Q18	Two pairs of glasses (24)
Q19	Birthday card (25)
Q20	Piece of paper (26)
Q21	Box of checkbooks (27)
Q22	Card (28)
Q23	Bottle (29)
Q24	Can (30)
Q25	Pack of cigarettes (31)
Q26	Bottle of Kaopectate (32)
Q27	Corkscrew (33)
Q28	Miscellaneous items from ashtray (34)
Q29	Torn note and envelope resubmitted from Laboratory Number 30730011 D/S UD UJ (Q1) (35)
Q30	Brown paper from around K1 barrel, white filter paper and white wrapping paper (37)
Q31-Q31C	Paper on which clothes were dried (38)
Q32	Negatives (39)

FOIA # none (URTS 16305) DocId: 70105094 Page 4

K1 .38 Special caliber Colt revolver, Serial Number 355055 (1)

K2 Known head hair pulled from VINCENT FOSTER (22)

K3 Known blood sample from VINCENT FOSTER (36)

Specimens personally delivered by SSA William Colombell on March 30, 1994 (Laboratory Number 40330007 S/D QV ZG WK UD WP AL QW VY ZZ AR):

ALSO SUBMITTED:

Initial Mobile Crime Lab Report of scene of death (Tab 46)

Evidence Control Receipt for weapon, one casing, and one round (Tab 47)

Department of Treasury, ATF National Tracing Center, Report of Firearms Tracing, both serial number (Tab 48)

Metropolitan Police Department certificate of No Record of Firearms Registration for Weapon (Tab 49)

Photo of weapon shown to Foster's sister and John Sloan's correspondence reference same (Tab 50)

U.S. Park Police letter request ATF to perform forensic testing on evidence from the Foster Case, and result of tests from ATF (Tab 51)

Evidence Control Receipt listing Foster's personal property found at the scene (Tab 52)

Mobile Crime Lab Report on police action attending the autopsy (Tab 53)

Mobile Crime Lab Report on processing Foster's vehicle (Tab 54)

Mobile Crime Lab Report on the efforts to locate the spent bullet (Tab 55)

Mobile Crime Lab Report on processing the weapon for latent fingerprints (Tab 56)

Mobile Crime Lab Report on the "Foster Note" and the U.S. Capitol Police report of their examination of the "Foster Note" (Tab 57)

Mobile Crime Lab Reports reference the note and copies of the FBI's report on the examination of the note for their investigation into possible obstruction of justice (Tab 58)

Evidence control receipt of "Foster Note" (Tab 63)

Report of Autopsy and Toxicologist's Report on Foster (Tab 66)

Copies of personal papers found in Foster's wallet (Tab 67)

Specimens personally delivered by SSA James Corby on April 5, 1994 (Laboratory Number 40405047 S QV RU):

Q33	Bullet (1)
Q34	Bullet (2)
Q35-Q40	Six cartridge cases (3)
Q41-Q42	Two bullets (4)
Q43	Cartridge case (5)
Q44	Bullet (6)
Q45	Cartridge case (7)
Q46	Bullet (8)
Q47	Bullet (9)
Q48	Bullet (10)
Q49	Bullet (11)
Q50-Q51	Two bullets (12)
Q52-Q53	Two cartridge cases (13)
Q54-Q55	Two cartridge cases (14)

Q56-Q57 Two shotshell casings (14)

Q58 Bullet (14)

Q59 Miscellaneous items found at crime scene

Specimens personally delivered by Jim Bell on April 12, 1994 (Laboratory Number 40413029 S QV):

ALSO SUBMITTED:

Report and notes of Carol Rosati, ATF Firearms Identification Examiner

Disk with photos taken by Carlo Rosati, ATF Firearms Identification Examiner

Specimens personally delivered by SSA William Colombell on April 13, 1994 (Laboratory Number 40414002 S/D QV QW WP AL):

Q60-Q72 Thirteen autopsy photographs of VINCENT FOSTER

Q73-Q86 Copies of fourteen death scene photographs of VINCENT FOSTER

ALSO SUBMITTED:

Roll of film taken at crime scene by Dr. Luke

Specimens delivered by Dr. James Luke on April 21, 1994 (Laboratory Number 40422001 S QV QW):

Q87 Copy of photo of Items 1, 2. 3

Q88-Q92 Copies of five polaroids taken at scene by Sgt. Edwards

Q93-Q100 Copies of eight polaroids taken at scene by Officer Simonello

Q101-Q113 Copies of thirteen polaroids taken during autopsy by Dr. Beyer

Q114-Q127 Fourteen 35mm photos taken during autopsy by Dr. Beyer

Result of examination:

FIREARMS:

Specimen Q2 is a .38 Special caliber cartridge case of Remington manufacture which was identified as having been fired in the K1 revolver. Several pieces of ball smokeless powder were removed from the Q2 cartridge case in the Laboratory.

Specimen Q1 is a .38 Special caliber cartridge of Remington manufacture which is loaded with a round-nosed lead bullet. The Q1 cartridge and the Q2 cartridge case are similar in caliber type and manufacturer and bear similar "R-P .38 Spl HV" headstamps. The bullet was removed from the Q1 cartridge in the Laboratory.

The K1 revolver functioned normally when test fired in the Laboratory. The trigger pulls (single action and double action) were normal for the K1 revolver.

One piece of ball smokeless powder was removed from the Q3 glasses in the Laboratory. This piece of ball smokeless powder could have been deposited on the Q3 glasses from the cylinder blast or muzzle blast of the K1 revolver when fired. Ball smokeless powder was also removed from the Q30 paper in the Laboratory.

When the Q8 shirt was received in the Laboratory, the resultant color reaction for a positive reaction for the sodium rhodizonate test was apparent. This reaction was positive for vaporized lead and very fine particulate lead; it was noted on the front of the Q8 shirt. This type of reaction is consistent with the type of reaction expected when a firearm is discharged in close proximity to this portion of the shirt. It is consistent with muzzle blast or cylinder blast from a revolver like the K1 revolver using ammunition like specimens Q1 and Q2.

Subsequent chemical processing of the Q8 shirt in the Laboratory revealed lead residues in a small area near the sixth button from the collar on the front of the Q8 shirt. This reaction could have been caused by contact with a source of lead residues. Lead residues were also detected on the underside of the edge of the collar on the left side of the Q8 shirt. This small area of lead residues could have been caused by the discharge of a firearm consistent with the positive reaction noted above when the Q8 shirt was received in the Laboratory.

FOIA # none (URTS 16305) DocId: 70105094 Page 8

Apparent gunshot residue (smoke) was noted in the Q60, Q112, Q125, Q126 and Q127 photographs on the side of the right forefinger and web area of the victim's right hand. These residues are consistent with the disposition of smoke from muzzle blast or cylinder blast when the K1 revolver is fired using ammunition like that represented by specimens Q1 and Q2 when this area of the right hand is positioned near the front of the cylinder or to the side of and near the muzzle.

The mark on the inside of the right thumb which is visible in the Q60 photograph is consistent with a mark produced by the trigger of the K1 revolver when this portion of the right thumb is wedged between the front of the trigger and the inside of the front of the trigger guard of the K1 revolver when the trigger rebounds (moves forward). The trigger of the K1 revolver automatically rebounds when released after firing (single or double action) or whenever the trigger is released after it is moved to the rear. This mark is consistent with the position of the right thumb of the victim in the trigger guard of the revolver in the Q77, Q79 and Q97 photographs.

The position of the victims hand in the Q77, Q79 and Q97 photographs relative to the revolver and the apparent deposition of gunshot residue (smoke) visible in the Q60, Q112, Q125, Q126 and Q127 photographs is consistent with, but not limited to, the following position of the right hand during firing: Pulling the trigger of the K1 revolver with the right thumb, single or double action, or having the right thumb inside the trigger guard with the web area and side of the right forefinger near the front of the cylinder.

Based on differences in caliber, bullet type and/or the rifling impressions present in these bullets, specimens Q33, Q34, Q41, Q42, Q44, Q47, Q48, Q49, Q51 and Q58 can be eliminated as having been fired from the K1 revolver or they are dissimilar to the type of bullet loaded into the Q1 cartridge.

Specimens Q35 through Q40, Q43, Q45 and Q52 through Q57 are dissimilar to the type of ammunition components represented by specimens Q1 and Q2 and those commonly fired in the K1 revolver.

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METALLURGY:

Based on metallurgical examinations, the Q46 and Q50 bullets, if exposed to the ambient environment from which they were recovered for the duration of their deformed life, were exposed for a period of time significantly exceeding nine months.

CHEMICAL ANALYSES:

The K3 blood contains trazodone, diazepam and nordiazapam at 0.06 micrograms per milliliter (ug/ml), 0.01 ug/ml and 0.04 ug/ml, respectively. The concentration of these drugs is below recognized therapeutic levels.

No drugs were identified in the K2 hair. Inasmuch as this laboratory has limited knowledge of drugs other than cocaine and morphine in hair, no conclusions should be drawn from the fact that the drugs found in the blood were not found in the hair.

Ball-shaped gunpowder was identified on the Q3 eyeglasses and the Q30 paper and in the scrapings from Q8, Q9 and Q31. This gunpowder is physically and chemically similar to the gunpowder identified in the Q2 cartridge case. One flattened ball-shaped gunpowder particle and one perforated disk-shaped gunpowder particle physically different from the gunpowder identified in the Q2 cartridge case was identified in the scrapings from Q12-Q15, and Q31B, respectively. The flattened ball-shaped gunpowder particle from the Q12 through Q15 scrapings is not consistent with having originated from a fired cartridge.

No ball-shaped gunpowder was identified on the tissue samples from the inside of FOSTER'S mouth, when examined at the Office of the Medical Examiner for Northern Virginia.

BLOODSTAIN PATTERN EXAMINATIONS:

Specimens Q8 through Q10, Q12 through Q15 and Q60 through Q127 as well as the ALSO SUBMITTED documentation was examined in an effort to determine any information of value through a study of the bloodstain patterns present. It is to be noted that a study of the above evidence alone cannot substitute for an in-person examination of the original/unaltered incident scene. The following observations were made:

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Photographs of the victim at the incident scene depict apparent blood stains on his face and the right shoulder of his dress shirt. The staining on the shirt covers the top of the shoulder from the neck to the top of the arm and consists of saturating stains typical of having been caused by a flow of blood onto or soaking into the fabric. The stains on his face take the form of two drain tracks and one larger contact stain. Contact bloodstaining occurs when an object bearing wet blood comes in contact with an unstained object, leaving blood on the latter. The drain tracks extend from the right corner of the victim's mouth back toward and below the right ear and from the right nostril over the right cheek toward the temple area and above the right ear. The victim's body is depicted at the scene in a supine position with his face looking generally straight up, and the head not turned to either side. While the exact positioning of the victim's head relative to the ground and the contour of the ground itself are not known, the draining tracks suggest his head was tipped back slightly when the draining of blood occurred.

The contact stain on the right cheek and jaw of the victim is typical of having been caused by a blotting action, such as would happen if a blood-soaked object was brought in contact with the side of his face and taken away, leaving the observed pattern behind. The closest blood-bearing object which could have caused this staining is the right shoulder of the victim's shirt. The quantity, configuration and distribution of the blood on the shirt and the right cheek and jaw of the victim are consistent with the jaw being in contact with the shoulder of the shirt at some time. The available photographs depict the victim's head not in contact with the shirt and therefore indicate that the head moved or was moved after being in contact with the shoulder. The specific manner of this movement is not known.

An examination of the clothing of the victim disclosed extensive bloodstaining over the Q8 shirt and Q9 T-shirt which is inconsistent with that observed at the scene on specimen Q8. It should be noted, however, that during the normal course of such scene investigations, movement of the victim at or from the scene by investigative or medical personnel may result in stain patterns not specifically relevant to reconstruction of the original events surrounding the incident. Photographs taken before and after such actions often display apparent inconsistencies when attempts are made to relate the stain patterns to the incident itself.

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SEROLOGICAL ANALYSES:

Grouping tests conducted on the K3 blood sample and the human blood identified on the below-listed specimens disclosed the following:

K3	"PGM 2-2+, Hp 2, Gc 1F1S"
Q8	"PGM 2-2+"
Q9	"PGM 2-2+, Hp 2, Gc 1F1S"

Attempts to further characterize Q8 were inconclusive. Human blood, too limited in amount for conclusive grouping purposes, was identified on Q11A. Blood, too limited in amount for conclusive origin determination, was identified on Q15. A preliminary chemical test for the presence of blood was positive on a stain of human origin on Q10; however, the presence of blood could not be confirmed. A preliminary chemical test for the presence of blood was positive on stains on Q4A and Q11; however, the presence of blood could not be confirmed due to a limited amount of stain. No blood was identified on Q3, Q4, Q5, Q12 through Q14, Q30 or K1.

Semen was identified on Q10. No semen was identified on Q4, Q4A, Q5, Q8, Q9 or Q11.

DNA ANALYSIS:

DNA DQ alpha types as listed were detected for the following specimens:

Specimens	DNA DQ alpha Type
K3 (FOSTER)	2,4
K1 (Muzzle portion of barrel)	2,4
Q6F (envelope flap)	
Q6F (stamp)	3,4

Based on the DNA DQ alpha results, the source of K3 is included as a potential contributor to the DNA detected in specimen K1. The estimated percentage of selecting an unrelated individual at random from the population having DQ alpha type 2,4 as detected in specimens K3 and K1, is approximately 6 percent of Caucasians, 8 percent of Blacks and 8 percent of Hispanics.

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Based on the DNA DQ alpha results, the source of K3 is excluded as a potential contributor to the DNA detected on specimens Q6F.

There was insufficient DNA for DNA DQ alpha analysis on specimens Q3, Q6E, Q23, Q24 and Q29.

No DNA examinations were conducted on specimens Q6A through Q6D and Q30.

HAIRS AND FIBERS:

Blonde to light brown head hairs of Caucasian origin which are dissimilar to the head hairs in the K2 known head hair sample from Vincent Foster were found in the debris removed from the Q9 T-Shirt, the Q11 through Q11A pants and belt and the Q12 through Q15 socks and shoes. These hairs have been mounted on glass microscope slides and will be preserved for possible future comparisons.

No other hairs which were dissimilar to the known hairs of the deceased and which were suitable for significant comparison purposes were found in the debris from specimens Q4, Q5, Q8 through Q15 or Q31 through Q31C.

Carpet type fibers of various colors were found in the debris from specimens Q4, Q5, Q8, Q10 through Q15, Q31B and Q31C. These colors include white, tan, gray, blue, red and green. These fibers will also be preserved for possible future comparisons. It was also noted that a number of red/dark pink wool fibers were found in the debris from specimens Q9, Q12 through Q15, Q31A and Q31C. The sources of these wool and carpet fibers or their possible significance is unknown to the Laboratory.

No apparent damage, i.e. cuts, tears abraded areas or missing buttons, was noted on the Q4, Q5 or Q8 through Q15 clothing items.

OPTICAL EXAMINATIONS:

The wire frame, dark lens glasses, specimen Q17, are non-prescription Ray-Ban sunglasses. There are subtle indentations on the earpieces, an indication of chewing/biting.

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The frames and nosepad appear bent, likely due to damage rather than an intentional adjustment. Due to the type of glasses and the nature of their condition, no physical or visual characteristics of the wearer can be determined.

The second pair of glasses, Sanford Hutton frames, specimen Q18, has tinted prescription lenses:

Right eye	-300 sph +150 x 123 degrees (-150 sph -150 cyl x 33 degrees)
Left eye	-325 or -350 sph +50 x 90 degrees (-275 or -300 sph - 50 cyl x 180 degrees)

The pupillary distance (PD) is 73mm. The lenses are compound, the wearer is nearsighted and has an astigmatism in both eyes. The rose colored lenses were originally grey. The color change is due to sun exposure. Subtle indentations on the earpieces indicate chewing/biting.

The pair of glasses, specimen Q3, has prescription lenses:

Right eye	-125 sph -125 x 20 degrees (-250 sph +125 cyl x 110 degrees)
Left eye	-275 sph - 50 x 175 degrees (-325 sph +50 cyl x 85 degrees)

The PD is 71 mm. The wearer is nearsighted and has an astigmatism in both eyes. Subtle indentations on the earpieces indicate chewing/biting. Also, the earpieces on the Q3 glasses move very easily.

Given the large PD and the prescription of the lenses, the two prescription glasses, specimens Q18 and Q3, could have been worn by the same individual. The small numerical differences regarding the lenses are not significant and could be the result of analytical error when examining the patient, medications taken by the patient concurrent with their examination, analytical error when preparing the lenses or any combination thereof.

MINEROLOGY:

The clothing and the paper on which the clothes were dried, specimens Q4, Q5, Q8 through Q15 and Q31, respectively, did not contain coherent soil. However, a few, small particles of mica were observed in the debris from the clothes the

victim was wearing when he was found by law enforcement authorities, specimens Q8 through Q15, and the drying paper, specimen Q31. The presence of a few, small particles of mica on these specimens is reasonable given the micaceous soil found at the crime scene. Debris recovered from the victim's jacket and tie, specimens Q4 and Q5, found in the victim's car, did not contain like mica.

DOCUMENT:

Indented writing in the wording "VU Parking Ticket" was observed on the back of the Q6b "Ty Tippet" business card.

No other indented writing was observed on specimens Q6, Q16, Q19 through Q22, Q28, and Q29.

PHOTOGRAPHIC:

The 35mm color negatives (Q32) were examined to locate frames for photographic enhancement. The selected frames (5, 6, 7, 8, 9, 10, 17, 18) were printed using Kodak Ultra print paper to produce maximum image detail. Due to the negatives having been underexposed during the photographic process, limited detail could be extracted from each of the selected frames.

KEY EXAMINATIONS:

Specimen Q7 consists of a key ring containing four keys, a plastic tab and a metal tag with the inscription:

THANK YOU
COOK JEEP SALES
Little Rock, Ark.
Ph 374-4848

Examination of the four keys determined they are consistent with the type of keys utilized in door and cabinet locks.

The Q7A key bears the inscription. "U.S. PROPERTY DO NOT DUPLICATE" and has Medeco type cuts. Such cuts indicate that this key was intended for use in high security locks.

The Q7B key is of the type utilized in double bitted cam locks which are used for cabinet drawers, vending machines, lock boxes, etc.

The Q7C and the Q7D keys are conventionally cut keys which are utilized in standard door locks.

FINGERPRINT:

You will be separately advised concerning the results of the requested latent fingerprint examinations.

ADMINISTRATIVE/DISPOSITION:

RFLP DNA examinations are continuing on specimens K3 and Q10 and will take several weeks to complete. You will be advised of the results of those examinations as soon as they are completed.

The photographs produced during the above-mentioned photographic examinations of specimen Q32 and specimen Q32 were returned to SSA Larry Monroe on May 9, 1994.

Specimens Q60 through Q72, Q73 through Q86 and the negatives, photographs and slides produced from the ALSO SUBMITTED film from Laboratory Number 40414002 S QV QW WP AL and specimens Q101 through Q127 were returned to SSA Colombell on May 3, 1994. You will be separately advised concerning the disposition of the remaining submitted specimens.

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FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: June 13, 1994

To: ADIC, Washington Metropolitan Field Office

FBI File No. 29D-LR-35063

Lab No. 40525002 S QV WP ZG VY ZZ

Reference: Also submitted communication received May 25, 1994

Your No. 29D-LR-35063

Re: MOZARK
MAJOR CASE #106

OO: Little Rock

Specimens received: May 25, 1994

Specimens personally delivered by SSA Larry Monroe on May 25, 1994:

ALSO SUBMITTED:

Note regarding issues being posed to obtain clarification or observations in regard to May 9, 1994 Laboratory Report

Result of examination:

Reference is made to the FBI Laboratory report dated May 9, 1994, submitted in connection with this case.

(over)

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FIREARMS:

Issue No. 1 in the ALSO SUBMITTED note relates to the positive color reaction for vaporized lead and fine particulate lead which was noted on the front of the Q8 shirt when it was received in the Laboratory. As noted in the referenced report, the presence of these gunshot residues (vaporized lead and fine particulate lead) is consistent with firing a firearm in close proximity to this portion of the Q8 shirt. Further, it was noted that the presence of these gunshot residues was consistent with the muzzle blast or cylinder blast which was noted when the K1 revolver was fired using ammunition like that represented by specimens Q1 and Q2. It cannot be concluded that the K1 revolver produced these gunshot residues; however, they are consistent with the cylinder blast or the muzzle blast which would be produced if the K1 revolver was fired in close proximity to the front of the Q8 shirt.

Issue No. 2 in the ALSO SUBMITTED note related to the finding of one piece of ball smokeless powder on the Q3 glasses when examined in the Laboratory. No determination can be made as to the position of the Q3 glasses at the time of death. It is noted, however, that ball smokeless powder can be deposited down range from the muzzle of a firearm when fired (muzzle blast) and to the sides of the front of the cylinder (cylinder blast) when a revolver is fired. It is noted in the referenced report that this piece of ball powder could have been deposited on the Q3 glasses from the cylinder blast or muzzle blast of the K1 revolver when fired. Also, in the referenced report, it was noted that the earpieces on the Q3 glasses move very easily.

CHEMICAL ANALYSES:

It was previously reported that no ball-shaped gunpowder was identified on the tissue samples from the inside of FOSTER'S mouth, when examined at the Office of the Medical Examiner for Northern Virginia. Inasmuch as these tissue samples were prepared in a way which is not conducive to retaining unconsumed gunpowder particles, these findings are not unexpected. Also, unconsumed gunpowder particles are different from residue of gunpowder. The FBI Laboratory findings are not inconsistent with the Pathologists' Report relating to a suicide finding in which the muzzle of the firearm was in FOSTER'S mouth.

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To determine if a person could have been shot by a particular firearm, the gunpowder from a fired cartridge case can be compared with gunpowder from a victim. It was previously reported that ball-shaped gunpowder was identified on the Q3 eyeglasses and in the scrapings from Q8, Q9, Q30 and Q31. This gunpowder is physically and chemically similar to the gunpowder identified in the Q2 cartridge case. One flattened ball-shaped gunpowder particle and one perforated disk-shaped gunpowder particle physically different from the gunpowder identified in the Q2 cartridge case was identified in the scrapings from Q12 through Q15, and Q31B, respectively. The flattened ball-shaped gunpowder particle from the Q12 through Q15 scrapings is not consistent with having originated from a fired cartridge. The significance of these findings is that approximately 20 gunpowder particles from Q3, Q8, Q9, Q30 and Q31, which are consistent with being deposited from the muzzle/cylinder blast of the K1 revolver when fired, matched the gunpowder from the Q2 cartridge case and that only two particles did not match and that one of the two was not consistent with having originated from a fired cartridge. Also, the one which was consistent with coming from a fired cartridge was found on a piece of paper used to dry FOSTER'S clothes. The source of these two particles is unknown; however, they are not likely associated with this investigation.

SEROLOGICAL ANALYSES:

The following information is provided regarding the processing of the specimen K1 .38 Special caliber Colt revolver, Serial Number 355055, for the presence of blood on April 22, 1994 in the FBI Laboratory:

A visual examination of K1 did not reveal the presence of any stains consistent with blood on the exterior surfaces of the weapon. The presence or absence of saliva on a specimen such as K1 cannot be determined by a visual examination.

The entire surface area of K1 was not subjected to chemical testing for the presence of blood or saliva inasmuch as K1 was to be subsequently processed in the FBI Laboratory for the presence of latent fingerprints and DNA. A general swabbing of the entire surface of K1 for the presence of blood or saliva could remove and/or destroy latent fingerprints and/or DNA. Therefore, only limited areas on the outer and inner surfaces of the barrel were selected and subjected to chemical testing for the presence of blood with negative results.

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It is also pointed out that the inability to detect blood or saliva on a specimen such as K1, does not preclude subsequent DNA testing.

Specimen K1 appeared to have been previously processed for latent fingerprints prior to receipt by the FBI Laboratory. It should be noted that the processing of K1 for latent fingerprints prior to receipt by the FBI Laboratory could have removed, degraded and/or obscured any blood that may have been initially present to the extent that subsequent visual examination and chemical testing for the presence of blood by the FBI Laboratory would yield negative results.

DNA ANALYSES:

The following information is provided regarding the examination of item K1 for the presence of DNA by DQ alpha analysis.

Item K1 was examined for the presence of human DNA. The exterior circumference of the barrel was swabbed from the bore area to a distance of 5 cm extending from the muzzle end. Human DNA was extracted from the swab and type as DQ alpha type 2, 4. This is consistent with the DQ alpha type of the victim FOSTER.

Human DNA is contained within almost cells within the human body. These cells can be carried in many body fluids such as blood, saliva, urine or semen (in males). DNA from cells contained in the blood of an individual would be the same as DNA taken from cells contained in that individual's saliva. The DNA analysis conducted on item K1 is specific for human DNA. This test cannot determine if the source of the DNA was blood or saliva.

MINERALOGY:

Mica was recovered from the individual specimens Q8 through Q10. Specimens Q11 and Q11a, pants and belt, respectively, were packaged together. Mica was observed on the pants prior to scraping them. Both specimens were scraped together given that they were packaged together. Mica was also observed in the collective scraping of these specimens. Specimens Q12 through Q15, shoes and socks, were packaged together. Hence, these specimens were scraped together and the collective debris examined. Mica was observed in the collective debris.

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Specimens Q4 and Q5, jacket and tie, were packaged together and scraped accordingly. No mica was observed in the collective debris.

Specimens Q31 through Q31c, the paper on which the clothes were dried, were packaged together. Accordingly, observed mica in the debris cannot be attributed to a specific specimen.

ADMINISTRATIVE:

The response to the issues in the ALSO SUBMITTED note relating to the fingerprint examination (Issue No. 6) and the death scene search (Issue No. 7) will be reported separately.

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FBI (Rev. 2-21-91)

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: ADIC, WMFO

Date: May 9, 1994

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Specimens received March 24, 1994

Your No. 29D-LR-35063

Re: MOZARK;
MAJOR CASE 106

Specimens received: April 15, 1994 in Latent Fingerprint Section

Specimens:

Q2, cartridge case
Q3, eyeglasses (processed prior to receipt)
Q6, miscellaneous papers
Q7, key ring
Q16, map
Q17 and Q18, two pairs of glasses
Q19, card
Q20, piece of paper
Q21, box of checkbooks
Q22, card
Q23, bottle
Q24, can
Q25, pack of cigarettes
Q26, bottle of Kaopectate

(Continued on next page)

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ADIC, WMFO May 9, 1994

Continuation of specimens:

Q27, corkscrew
Q28, miscellaneous items from ashtray
K1, .38 caliber Colt Revolver, bearing serial number 355055
(processed prior to receipt)

The results of the other requested forensic examinations and the disposition of the specimens will be furnished in a separate report.

The specimens were examined and eight latent fingerprints and one latent palm print of value were present or developed on the underside of a pistol grip removed from K1, a business card, two envelopes and a greeting card, parts of Q6.

Seven latent fingerprints are not the fingerprints of VINCENT WALKER FOSTER, JR., FBI #740702RA9. The remaining latent fingerprint (side area) was compared with the available fingerprints of FOSTER, but no identification was effected. Clearly and completely recorded inked impressions of the side areas of the fingers and palm prints are necessary for conclusive comparisons.

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FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: June 9, 1994

To: ADIC, WMFO

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Communication and list of issues raised by the Independent Counsel dated May 26, 1994

Your No. 29D-LR-35063

Re: MOZARK;
MAJOR CASE 106;
FAG-SBA; FIF

Specimens received: May 31, 1994 in Latent Fingerprint Section

Specimens:

Q131, fingerprint card of VINCENT W. FOSTER, JR.

The results of the other requested forensic examinations and the disposition of the specimen will be furnished in a separate report.

Nine latent fingerprints previously reported in the captioned case are not the fingerprints of FOSTER. The remaining latent fingerprint (side area) was compared with the available fingerprints of FOSTER, but no identification was effected. Clearly and completely recorded inked impressions of the side areas of the fingers and palm prints are necessary for conclusive comparisons.

(Continued on next page)

1 - Little Rock

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ADIC, WMFO June 9, 1994

The following statement is in response to the supplemental request of the Independent Counsel for commentary as to why FOSTER's prints were not found on the weapon:

After I received K1, pistol, I examined it for latent prints by visual examination, laser, cyanoacrylate, laser dye, and appropriate fingerprint powders. No latent prints were detected on the exterior surface of the weapon. Upon removing the grips from the weapon, one latent fingerprint was visible on the underside of the right pistol grip, approximately two inches from the base of the grip.

Generally, the determining factors in leaving latent prints are having a transferable substance, i.e., sweat, sebaceous oil or other substance on the fingers, and having a surface that is receptive to receiving the substance that forms the latent prints. A clean, smooth, flat surface is most receptive for transfer of any substance from the fingers. Some reasons for the lack of these substances are an individual who does not perspire readily, or an individual who wipes or cleans the hands before touching an item, thus removing any substance from the fingers.

Certain atmospheric conditions that an item is subjected to before discovery of that item, such as outside heat, rain, snow, etc., could destroy any latent prints on that item. In addition if an item is not protected from excessive handling or friction, latent prints could also be destroyed, thereby causing no latent prints to be detected or developed.

Please call Specialist L. G. HUPP, (202) 324-6937, if you have any questions concerning the result of the latent print examination.

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FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: June 17, 1994

To: ADIC, Washington Metropolitan Field Office

FBI File No. 29D-LR-35063

Lab No. 40602045 S/D QV UD
40617025 D UD

Reference: Communications dated June 1, 1994 and June 16, 1994

Your No. 29D-LR-35063

Re: MOZARK;
MAJOR CASE #106
OO: LITTLE ROCK

Specimens received: June 2, 1994

Specimens received under cover of communication dated June 1, 1994 (40602045 D UD)

K5 One photocopied sheet of paper bearing the known handwriting of VINCENT FOSTER

RESUBMISSION OF Q1 (30730011 D UD) AND K4 (40525017 D UD)

Specimens received under cover of communication dated June 16, 1994 (40617025 D UD)

K6 Handwriting sample bearing the purported known writing of VINCENT FOSTER

Results of examination:

It was determined that the handwriting on the previously submitted note designated Q29 in Laboratory report dated May 9, 1994 (Lab #40324038 S/D QV ZG WK UD WP AL QW ZT VY ZZ and AR) was written by VINCENT FOSTER, whose known writings

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are designated K4 (previously submitted and assigned Lab #40525017 S/D QV ZG UD and VY), K5 (previously submitted and assigned Lab #40602045 S/D QV UD) and K6 (assigned Lab #40617025 D UD).

K5 and K6 are returned herewith. The disposition of Q29 and K4 will be reported separately. Appropriate photographs have been made.

FOIA # none (URTS 16305) DocId: 70105094 Page 27

CURRICULUM VITAE

Personal Data:

Name: Charles S. Hirsch, M.D.

Birth: March 30, 1937 Chicago, Illinois

Address: (Home)
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New York, N.Y. 10021
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(Office)
Office of Chief Medical Examiner
520 First Avenue
New York, N.Y. 10016
(212) 447-2034

Marital Status: Married, 1 Child

Undergraduate Education:

University of Illinois, Urbana, 1954-58, B.S. (with High Distinction)

Medical Education and Post Graduate Training

Medical School: University of Illinois College of Medicine, Chicago 1958-62 (Alpha Omega Alpha).

Internship: Rotating Intern, University Hospitals of Cleveland, 1962-1963

Residency: Anatomic Pathology, Institute of Pathology, Case Western Reserve University, Cleveland, 1963-65.

Fellowships: Neuropathology: Central Anatomic Laboratory, Department of Mental Hygiene at the Office of the Chief Medical Examiner, Baltimore, Maryland, 1965-66.

Forensic Pathology: Office of the Chief Medical Examiner, Baltimore, Maryland, 1966-67.

Military Service:

U.S. Air Force Medical Corps, 1967-69, honorably discharged (USAF Commendation Award, 1969).

Certifications:

National Board of Medical Examiners, Parts, I, II, III.
American Board of Pathology in Anatomic Pathology (May 1968) and Forensic Pathology (May 1969)

Licensure:

State of Ohio, 1963.
State of New York, 1984.

Current Positions:

Chief Medical Examiner, City of New York (1989-)
Professor and Chairman, Department of Forensic Medicine and Professor of Pathology, New York University Medical School (1989 -)
Adjunct Professor of Pathology, Cornell University Medical College (1989-).

Former Positions:

Associate Pathologist and Deputy Coroner, Cuyahoga County Coroner's Office, Cleveland, Ohio (1969-79).
Associate Professor of Forensic Pathology, Case Western Reserve University School of Medicine, Cleveland, Ohio (1976-79), Assistant Professor of Forensic Pathology (1971-76), Instructor in Forensic Pathology (1969-71).
Director of Forensic Pathology, Hamilton County Coroner's Office, Cincinnati, Ohio (1979-1985).
Professor of Pathology, University of Cincinnati College of Medicine, (1979-1985)
Chief Medical Examiner, Suffolk County, New York (1985-1988).
Professor of Forensic Pathology, SUNY Medical School at Stony Brook, New York (1985-88).

Medical Societies and Organizations:

American Society of Clinical Pathologists
College of American Pathologists
American Academy of Forensic Sciences
National Association of Medical Examiners
Alpha Omega Alpha
American Medical Association
New York State Medical Society

Other Professional Activities:

American Society of Clinical Pathologists:
Council on Forensic Pathology (1975-1980) (1985-87).
Program Committee (1983-87).
Planning and Scope Committee (1983-86).
Director or Codirector of workshops regularly presented at national meetings since 1975.
Prelector, Forty-seventh Annual Anatomic Pathology Slide Seminar (1981).
College of American Pathologists:
Committee on Forensic Pathology, (1969-1985, Chairman 1980-1984).
National Autopsy Data Bank Committee (1982-84).
Committee on Alcohol and Traffic Safety (Chairman, 1983).
Director and participant in numerous seminars presented at national and regional meetings since 1970.
President, Cleveland Society of Pathologists (1975-1976).

Board of Editors, American Journal of Clinical Pathology (1976-1982).
Board of Editors, American Journal of Forensic Medicine and Pathology (1980-1992).
Board of Editors, Pathologist (1981-1985).
Board of Editors, Human Pathology (1988-).
Board of Editors, Journal of Forensic Sciences (1993-).

The American Board of Pathology:
Forensic Pathology Examination Committee (1974-1980).
Trustee Designate (1980-).
Trustee (1981-1992).
Secretary (1988).
Vice President (1989-1990).
President (1991).
Elected Life Trustee, 1993
Recipient of "The Golden Apple," University of Cincinnati Medical School (1980).
Commencement Speaker, University of Cincinnati Medical School (1983).

Recipient of the CCE Commissioner's Medal of the American Society of Clinical Pathologists, 1989

Fellow, New York Academy of Medicine (1989-)
Board of Trustees (1991-)

Publications:

1. Hirsch, C.S., Adelson, L.: Absence of Carboxyhemoglobin in Flash Fire Victims, JAMA 210: 2279-80, 1969.

2. Hirsch, C.S.: The Format of the Medicolegal Autopsy Protocol. Am. J. Clin. Pathol. 55:407-409, 1971.

3. Hirsch, C.S., Martin, D.L.: Unexpected Death in Young Epileptics. Neurology 21:682-690, 1971.

4. Hirsch, C.S.: Dermatopathology of Narcotic Addiction. Human Pathol. 3: 37-53, 1972.

5. Hirsch, C.S., Adelson, L.: Acute Fatal Intranasal Narcotism. Human Pathol. 3:71-73, 1972.

6. Hirsch, C.S., Rushforth, N.B., Ford, A.B., Adelson, L.: Homicide and Suicide in a Metropolitan County: I Long-Term Trends. JAMA 223: 900-905, 1973.

7. Hirsch, C.S., Adelson, L.: Ethanol in Sequestered Hematomas. Am. J. Clin. Pathol. 59: 429-433, 1973.

8. Levine, L.H., Hirsch, C.S., White, L.W.: Quinine Cardiotoxicity, A Mechanism for Sudden Death in Narcotic Addicts. J. Forensic Sci. 18:167-172, 1973.

9. Adelson, L., Hirsch, C.S.: Sudden and Unexpected Death from Natural Causes in Adults. Spitz, W.U., Fischer, R.S. (eds.): Medicolegal Investigation of Death. Springfield, Charles C. Thomas, 1973, pp. 85-115.

10. Hirsch, C.S., Valentour, J.C., Adelson, L., Sunshine, I: Unexpected Ethanol in Drug Intoxicated Persons. Postgraduate Medicine 54: 53-57, 1973.

11. Hirsch, C.S., Chang, A.H., Hoffman, G.L.: Sudden and Unexpected Death in Hemoglobin S C Disease. J. Forensic Sci. 19:43-47, 1974.

12. Rushforth, N.B., Hirsch, C.S., Ford, A.B., Adelson, L.: Accidental Firearm Fatalities in a Metropolitan County. Am. J. Epidemiol. 100: 499-505, 1974.

13. Hirsch, C.S.: The Confusing Crash. ASCP Forensic Pathology Check Sample, No. FP-79, 1975.

14. Moritz, A.R., Morris, R.C., Hirsch, C.S.: Handbook of Legal Medicine, ed. 4, C.V. Mosby Co., Saint Louis, 1975.

15. Hirsch, C.S., Kaufman,B.: Contrecoup Skull Fractures. J. Neurosurg. 42:530-534, 1975.

16. Hirsch, C.S., Roessman, U.: Arterial Dysplasia with Ruptured Basilar Artery Aneurysm. Human Pathol. 6: 749-758, 1975.

17. Hirsch, C.S., Adelson, L.: The Naked Skeleton. ASCP Forensic Pathology Check Sample, No. FP-85, 1976.

18. Hirsch, C.S., Adelson, L.: A Suicidal Gunshot Wound of the Back. J. Forensic Sci 21 659-666, 1976.

19. Hirsch, C.S.: Autopsy in a Medical-Legal Case. Practical Reviews in Pathology, Vol. 1, No. 12, 1976.

20. Hirsch, C.S.: Head Injury. Workshop syllabus prepared for the American Society of Clinical Pathologists, 1977.

21. Hirsch, C.S.: Sudden, Unexpected Death. Practical Reviews in Pathology, Vol. 2, No 1, 1977.

22. Hirsch, C.S.: The Dismembered Mummy. ASCP Forensic Pathology Check Sample, No. FP-91, 1977.

23. Adelson, L., Hirsch, C.S.: Physical Agents in Causation of Injury and Disease. In Anderson WAD and Kissane J.M.: Pathology, ed. 7, pp. 199-236, C.V. Mosby Co., Saint Louis, 1977.

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26. Adelson, L., Hirsch, C.S., and Schroeder, O.J.,Jr.: Fetal Homicide Victims of Maternally Sustained Violence. The Law-Medicine Center, Case Western Reserve University, Cleveland, Ohio, 1977.

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28. Fisher, R.S. and Petty, C.S. (eds): Forensic Pathology. A Handbook for Pathologists. Washington, D.C., U.S. Government Printing Office (Stock Number 027-000-0054-1), 1977.

    A) Francisco, J.T. and Hirsch, C.S.: Sudden Infant Death Syndrome (Crib Death), pp. 83-86.

    B) The Forensic Pathology Committee, College of American Pathologists: Rape, pp. 92-99.

    C) Lukash, L.I. and Hirsch, C.S.: The neck, pp. 119-122.

    D) Eckert, W.G. and Hirsch, C.S.: Drowning, pp. 129-132.

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    F) Hirsch, C.S.: Drug Deaths by Injection, pp. 168-171.

29. Adelson, L., Faust, J.L., Hirsch, C.S., Schroeder, O.C., and Scott, D.B.: Medicine, Dentistry and Law: A Partnership for Criminal Justice: Identification of the Murder Victim. The Law-Medicine Center, Case Western Reserve University, Cleveland, Ohio, 1977.

30. Hirsch, C.S. and Adelson, L.: The Case of the Telltale Bone Fragment: Little Things Mean a Lot. ASCP Forensic Pathology Check Sample, N. FP-96, 1978.

31. Hirsch, C.S. (Editor and Committee Chairman): Forensic Pathology Professional Self-Assessment Program, Series III. American Society of Clinical Pathologists, Chicago, Illinois, 1979.

32. Ford, A.B., Rushforth, N.B., Rushforth, N., Hirsch, C.S., and Adelson, L.: Violent death in a Metropolitan County: II. Changing Patterns in Suicides (1959-1974). Am. J. Public Health 69:459-464, 1979.

33. Hirsch, C.S., Morris, R.C., and Moritz, A.R.: Handbook of Legal Medicine, ed. 5, C.V. Mosby Company, Saint Louis, 1979.

34. Zumwalt, R.E. and Hirsch, C.S.: Evaluation of Fatal Child Abuse. Workshop syllabus prepared for the American Society of Clinical Pathologists, 1979.

35. Hirsch, C.S. and Thompson, R.D.: The Prolapsing Mitral Valve Syndrome: A Case of Sudden, Unexpected Death. ASCP Forensic Pathology Check Sample, No. FP-106, 1979.

36. Curran, W.J., McGarry, A.L., and Petty, C.S. (eds.): Modern Legal Medicine, Psychiatry and Forensic Sciences, F.A. Davis Company, Philadelphia, Pennsylvania, 1980.

    A) Hirsch, C.S.: Chapter 6, Medicolegal Autopsy: Practical Perspectives, pp. 129-138.

    B) Hirsch, C.S.: Chapter 49. The Role of the Pathologist in Chemically Induced Death Cases, pp. 1119-1131.

37. Hirsch, C.S. and Dix, J.D.: The Homicide that Wasn't. ASCP Forensic Pathology Check Sample, No. FP-108, 1980.

38. Cebelin, M.S., Hirsch, C.S.: Human Stress Cardiomyopathy. Human Pathol. 11: 123-132, 1980.

39. Tomashefski, J.F., Jr., Hirsch, C.S.: P The Pulmonary Vascular Lesions of Intravenous Drug Abuse. Human Pathol. 11: 133-145, 1980.

40. Dawson, S.L., Hirsch, C.S.: Lucas, F.V., Sebek, B.A.: The Contrecoup Phenomenon. Human Pathol. 11:155-156, 1980.

41. Zumwalt, R.E., Hirsch, C.S.: Subtle Fatal Child Abuse. Human Pathol. 11: 167-174, 1980.

42. Tomashefski, J.F., Jr., Hirsch, C.S., Jolly, P.N.: Microcrystalline Cellulose Pulmonary Embolism and Granulomatosis. Arch. Pathol. Lab. Med. 105:89-93, 1981.

43. Hirsch, C.S., Dawson, S.L., Zumwalt, R.E.: Bathtub Submersion: Is it Drowning? ASCP Forensic Pathology Check Sample, No. FP 81-2 (FP-115), 1981.

44. Zumwalt, R.E., Hirsch, C.S., Parrott, C.L., van der Bel-Kahn, J.: Sudden Death in Familial Endocardial Fibroelastosis. ASCP Forensic Pathology Check Sample, No. FP 82-1 (FP-120), 1982.

45. Parrott, C.L., Hirsch, C.S., Zumwalt, R.E., Roberts, S.M.,: Fatal Acetaminophen-induced Liver Injury. ASCP Forensic Pathology Check Sample, No. FP 82-2. (FP-121), 1982.

46. Petty, C.S., Davis, J.H., and Hirsch, C.S.: Scientific Death Investigation: Proceedings of the Forty-seventh Annual Anatomic pathology Slide Seminar of the American Society of Clinical Pathologists. ASCP Press, Chicago, 1983.

47. Tornheim, P.A., Liwnicz, B.H., Hirsch, C.S., et. al.: Acute Responses to Blunt Head Trauma: Experimental Model and Gross Pathology, J. Neurosurg. 59: 431-438, 1983.

48. Stone, K.M., Zumwalt, R.E., Staneck, J.L., Hirsch, C.S.: Fatal Toxic Shock Syndrome. ASCP Forensic Pathology Check Sample, No. FP 83-5 (FP-130), 1983.

49. Hirsch, C.S.: Forensic Pathology and the Autopsy. Arch. Pathol. Lab. Med. 108: 484-89, 1984.

50. Hirsch, C.S.: Talking to the Family After an Autopsy. Arch. Pathol. Lab. Med. 108: 513-14, 1984.

51. Zumwalt, R.E., Hirsch, C.S.: Death During Hospital Restraint. ASCP Forensic Pathology Check Sample, No. FP 84-3 (FP-134), 1984.

52. Walter,.E. Hirsch, C.S., and Zumwalt, R.E.: Never Say Never: Negligible Carboxyhemoglobin in the Victim of a Smoldering Mattress Fire. Am. J. Forensic Med. Pathol. 5: 239-244, 1984.

53. Stewart, R.V., Zumwalt, R.E., Hirsch, C.S., and Kaplan, L.: Postmortem Diagnosis of Myocardial Disease by Enzyme Analysis of Pericardial Fluid. Am. J. Clin. Pathol. 82: 411-417, 1984.

54. Hirsch, C.S. and Zumwalt, R.E.: Injuries Caused by Physical Agents. In Kissane, J.M. (ed.): Anderson's Pathology, ed. 8, pp. 113-146, C.V. Mosby Co., Saint Louis, 1984.

55. Angermeier, P., Zumwalt, R.E., Hirsch, C.S.: No Anatomic Cause of Death. ASCP Forensic Pathology Check Sample, No. FP 85-4 (FP-141), 1985.

56. Richardson, J.K. and Hirsch, C.S.: Sudden Unexpected Death due to "Pineal Apoplexy." Am. J. Forensic Med. Pathol. 7: 64-68, 1986.

57. Hirsch, C.S. and Zumwalt, R.E.: The "Empty Heart" Sign. Am. J. Forensic Med. Pathol. 7: 112-114, 1986.

58. Zumwalt, R.E. and Hirsch, C.S.: Medicolegal Interpretation of Gunshot Wounds. Am. J. Emerg. Med. 5, 133-139, 1987.

59. Wright, W.K. and Hirsch, C.S.: The Physician Assistant as Forensic Investigator. J. Forensic Sci. 32: 1059-1061, 1987.

60. Zumwalt, R.E. and Hirsch, C.S.: Pathology of Fatal Child Abuse and Neglect. In Helfer, R.E. and Kempe, R.S.: The Battered Child, ed. 4, pp. 247-285, University of Chicago Press, Chicago, Ill., 1987.

61. Huser, C.J. and Hirsch, C.S.: Homicidal Commotio Cordis. ASCP Forensic Pathology Check Sample, No. FP 87-6 (FP-155), 1987.

62. Huser, C.J. and Hirsch, C.S.: Sudden Cardiac Death Caused by Hypertension Independent of Coronary Atherosclerosis. ASCP Forensic Pathology Check Sample, No. FP 88-6, 1988.

63. Adams, V.I. and Hirsch, C.S.: Venous Air Embolism from Head and Neck Wounds. Arch. Pathol. Lab. Med.: 113, 498-502, 1989.

64. Hirsch, C.S. Lester Adelson, M.D., A Tribute. Am. J. Forensic med. Pathol. 10: 261-263, 1989.

65. Barnard, J.J. and Hirsch, C.S.: Which Came First, the Rupture or the Impact? ASCP Forensic Pathology Check Sample, No. FP 89-5 (FP-166), 1989.

66. Hirsch, C.S. and Zumwalt, R.E.: Injuries Caused by Physical Agents. In Kissane, J.M. (ed.): Anderson's Pathology, ed. 9, pp. 111-145, 1989.

67. Hirsch, C.S. Anniversary Discourse: The Office of the Chief Medical Examiner. Bull. N.Y. Acad. Med. 65: 821-827, 1989.

68. Hirsch, C.S. Craniocerebral Trauma, in Froede, R.C., ed. Handbook of Forensic Pathology, Northfield, Illinois, College of American Pathologists, 1990, pp. 182-190.

69. Marzuk, P.M., Tardiff, K., and Hirsch, C.S.: The epidemiology of murder-suicide. JAMA 267: 3179-3183, 1992.

70. Hirsch, C.S. and Adams, V.I.: Sudden and Unexpected Death from Natural Causes in Adults. Spitz, W.U. Spitz and Fisher's Medicolegal Investigation of Death, Ed. 3. Charles C. Thomas, Springfield, Illinois, pp. 137-174, 1993.

71. Adams, VI and Hirsch, CS. Trauma and Disease. Spitz,WU. Spitz and Fisher's Medicolegal Investigation of Death, Ed 3. Charles C. Thomas, Springfield, Illinois, pp. 175-198, 1993.

72. Marzuk PM, Tardiff K, Hirsch CS, et. al. Increase in Suicide by Asphyxiation in New York City After the Publication of Final Exit. N Engl J Med 1993; 329:1508-1510.

Curriculum Vitae

James L. Luke, M.D.

Address/ Telephone	4218 Silverwood Lane Bethesda, Maryland 20816 (301) 229-1010
Date of Birth	August 29, 1932
Married	Marcia Gene Alley, October 5, 1957

1. Education and Professional Training

College	Yale University New Haven, Connecticut	1950-1952
	Columbia University New York City, New York	1956 (B.S.)
Medical School	School of Medicine Case-Western Reserve University Cleveland, Ohio	1960 (M.D.)
Internship	Laboratory of Pathology Yale University School of Medicine Yale-New Haven Hospital New Haven, Connecticut	1960-1961
Residency	Institute of Pathology University Hospitals and Case-Western Reserve University Cleveland, Ohio	1961-1963
Military Service	Staff Researcher Laboratory of Experimental Pathology National Institute of Arthritis and Metabolic Diseases National Institutes of Health Bethesda, Maryland (Surgeon, U.S. Public Health Service)	1963-1965

II. Employment

1965-1967	Associate Medical Examiner, City of New York, Office of the Chief Medical Examiner 520 First Avenue New York City, New York
	Assistant Professor Department of Legal Medicine New York University School of Medicine
1967-1971	Chief Medical Examiner*, State of Oklahoma
	Professor of Forensic Pathology Department of Pathology University of Oklahoma School of Medicine Oklahoma City, Oklahoma
	Director, Forensic Pathology Residency Training Program
1971-1983	Chief Medical Examiner*, District of Columbia Office of the Chief Medical Examiner 19th Street and Massachusetts Avenue, S.E. Washington, D.C. 20003
	Director, Forensic Pathology Residency Training Program
1971-1986	Clinical Professor of Pathology Medical Schools of Georgetown, George Washington and Howard Universities Washington, D.C.
1983-1986	Distinguished Scientist Armed Forces Institute of Pathology Washington, D.C. 20306
1987-1989	Chief Medical Examiner, State of Connecticut Office of the Chief Medical Examiner 11 Shuttle Road Farmington, Connecticut 06032
	Professor of Pathology, Professor of Laboratory Medicine School of Medicine University of Connecticut Health Center Farmington, Connecticut 06032

* As the first Chief Medical Examiner, planned and implemented medical examiner system

Present — Director, AFIP Breast Implant Project
Department of Environmental and Toxicologic Pathology
Armed Forces Institute of Pathology
Washington, D.C. 20306

Forensic Pathologist
Investigative Support Unit
Federal Bureau of Investigation
FBI Academy
Quantico, Virginia 22135

Security Clearance: Top Secret

Clinical Professor of Pathology
George Washington University School of Medicine

Clinical Professor of Pathology
Georgetown University School of Medicine

III. Certification/Associations

Specialty Boards: Diplomat, National Board of Medical Examiners (1961)

Certified by the American Board of Pathology in Anatomic (1965) and Forensic (1967) Pathology

State Medical Licenses: Ohio, New York, California, Oklahoma, District of Columbia*, Connecticut

*Active

Societies, Associations and Honors:
(In Chronological Order)

*Chamberlain Greek Prize, Yale University (1950)

*American Academy of Forensic Sciences, Fellow (1965-Present)

*Physicians for Automotive Safety, Consultant (1965-1971)

*Law-Science Academy of America, Fellow (1966-1968)

*National Association of Medical Examiners, Member (1966-Present)

*Oklahoma County Medical Society, Member (1967-1971)

*Oklahoma State Association of Pathologists, Member (1967-1971)

*American Society for Investigative Pathology (formerly American Association of Pathologists, American Association of Pathologists and Bacteriologists), Member (1967-Present)

*Chairman, Ad Hoc Committee on Forensic Pathology, Committee on Pathology of the Division of Medical Sciences, National Research Council (1968)

*Distinguished Faculty Award - by the University of Oklahoma School of Medicine Student Council (1968)

*Medicolegal Committee, Oklahoma County Medical Society and Oklahoma State Medical Association (1967-1971)

*Committee on Training in Forensic Pathology, National Institute of General Medical Sciences, National Institutes of Health (1969)

*Policy Committee, American Academy of Forensic Sciences (1969-1973)

*Executive Committee, National Association of Medical Examiners (1970-1972)

*Medical Advisory Board, National Sudden Infant Death Syndrome Foundation (1972-1983)

*Visiting Faculty, National Naval Medical Center, Naval Medical Command, Bethesda, Maryland (1973-1987)

*Criminal Justice Consultant, National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice (1974-1981)

*Editorial Board, Journal of Forensic Sciences (1979-1993)

*Board of Directors, National Association of Medical Examiners (1982-1985)

*Consultant on Forensic Pathology, National Cancer Institute, National Institutes of Health, Bethesda, Maryland (1985-1986)

*Forensic Pathology Consultant to the Special Counsel Appointed by the Mayor to Investigate the Office of the Chief Medical Examiner of the City of New York (1985)

*Consultant, National Coroner/Medical Examiner Data Surveillance System, Centers for Disease Control, U.S. Public Health Service (1987-Present)

*Member, Forensic Sciences Operation and Planning Committee, FBI Academy (1987-Present)

*Member, Program Committee, International Symposium on the Forensic Aspects of Mass Disasters and Crime Scene Reconstruction, FBI Academy (1989-1990)

*Chairman, Task Group on the Office of the Chief Medical Examiner, Transition Committee on Human Services, Mayoral Transition Committee, District of Columbia (1990)

*Board of Editors, American Journal of Forensic Medicine and Pathology (1992-Present)

*Forensic Pathology Consultant to the United States General Accounting Office Review of the Human Remains Identification Process at the U.S. Army's Central Identification Laboratory in Hawaii (CILHI) (1992)

*Associate Editor, Journal of Forensic Sciences (1992-Present)

IV. Major Presentations

1. Training and Education in Forensic Pathology.
   Presented to the Committee on Pathology of the Division of Medical Sciences, National Research Council, National Academy of Sciences.
   J. L. Luke, Chairman, Ad Hoc Committee on Forensic Pathology, Chicago, Illinois, November, 1968.

2. J. L. Luke. The Status of Forensic Pathology in the United States Today.
   Submitted to the Pathology Training Committee of the National Institute of General Medical Sciences, National Institutes of Health, Bethesda, Maryland, March, 1969.

3. J. L. Luke. The State of the Art: Forensic Pathology.
   Presented to the First Plenary Session of the American Academy of Forensic Sciences, Chicago, Illinois, February, 1970.

4. J. L. Luke. Some Considerations Regarding the Establishment of a Forensic Sciences Center for the State of Connecticut.
   Presented to the Commission on Medicolegal Investigations of the State of Connecticut, Hartford, Connecticut, March, 1970.

5. J. L. Luke and Kurt M. Dubowski. Some Considerations Regarding the Establishment of an Institute of Forensic Medicine at the University of Oklahoma Medical Center. Presented to the Vice President for Medical Center Affairs, University of Oklahoma Medical Center, Oklahoma City, Oklahoma, September, 1970.

6. J. L. Luke. Some Considerations Relative to the Enhancement of Certain Aspects of the Criminal Justice System of the District of Columbia: A Proposal. Presented to the Mayor's Criminal Justice Coordinating Board and the Metropolitan Washington Council of Governments, Washington, D. C., January, 1972.

7. J. L. Luke. The Medical Examiners Office of the District of Columbia: Current Status and Goals. Presented to the Mayor's Criminal Justice Coordinating Board, Washington, D. C., January, 1972.

8. J. L. Luke. Introductory Remarks Relative to the Creation of an Institute/Center of Forensic Sciences for the District of Columbia. Presented at the Metropolitan Washington Council of Governments to the First Planning Session of the Institute, Washington, D. C., March, 1972.

9. J. L. Luke. Milton Helpern, M. D. Presented to the Testimonial Dinner on the occasion of Dr. Milton Helpern's 70th birthday. The Waldorf Astoria, New York City, New York, April, 1972.

10. J. L. Luke. The Role of Forensic Pathology in the Criminal Justice System. Presented to the National Institute of Law Enforcement and Criminal Justice, Washington, D. C., March, 1973.

11. J. L. Luke. Academic and Forensic Medicine: Strange Bedfellows with Unconsummated Potential. The Smith-Reed-Russell Medical Honor Society Lecture, The George Washington University School of Medicine, Washington, D. C., March, 1973.

12. J. L. Luke. Alcohol Abuse as Seen from the Medical Examiner's Perspective. Presented to the American Medical Association Conference on Medical Complications of Alcohol Abuse. Washington, D. C., October, 1973.

13. J. L. Luke. Alcohol Abuse from the Medical Examiners Office Perspective.
Presented at the Superior Court of the District of Columbia Judicial Seminar on Alcohol and Drugs, Hershey, Pennsylvania, October, 1980.

14. J. L. Luke. Contemporary Problems and Needs in the Forensic Science Field: Forensic Pathology.
Presented at the Forensic Science Seminar, FBI Academy, Quantico, Virginia, March, 1982.

15. J. L. Luke. Some Considerations Regarding the Establishment of an Armed Forces Medical Examiners System.
Presented to the Director, Armed Forces Institute of Pathology (AFIP), Washington, D. C., March, 1984.

16. J. L. Luke. The Role of the Forensic Pathologist in Homicide Investigation.
National Teleconference on Practical Aspects of Homicide Investigation. The Law Enforcement Satellite Training Network. Co-sponsored by the Federal Bureau of Investigation and the Kansas City, Missouri, Police Department, Kansas City, Missouri, October, 1986.

17. J. L. Luke. Investigation of the Crash of Air Florida Flight 90.
International Symposium on the Forensic Aspects of Mass Disasters and Crime Scene Reconstruction, Forensic Science Research and Training Center, FBI Academy, Quantico, Virginia, June, 1990.
(Moderator, Plenary Session IV and Special Session on the Lockerbee, Scotland, Air Disaster).

18. J. L. Luke. Pathological and Biophysical Effects of Implanted Breast Prostheses.
Presented to the Board of Trustees, American Registry of Pathology, Armed Forces Institute of Pathology, Washington, D.C., June, 1993.

V. Publications

1. J. L. Luke and A. L. Hopkins. Effect of Calcium Deprivation on Skeletal Muscle Contractility. Anat. Rec., 1960. (Abstr.).

2. J. L. Luke, R. P. Bolande and S. Gross. Generalized Aspergillosis and Aspergillus Endocarditis in Infancy. Pediatrics, 31: 115-122, 1963.

3. J. L. Luke and S. S. Spicer. Histochemistry of Surface Epithelial and Pleural Mucins in Mammalian Lung. Lab. Investigation, 14: 2101-2109, 1965.

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17. J. L. Luke. The Oklahoma State Medical Examiner System, Semi-Urban, Semi-Rural Legal Medicine in a University Setting. J. Forensic Sciences, 14: 147-156, 1969.

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23. J. L. Luke, C. S. Petty and W. Q. Sturner. The Status of Forensic Pathology in the United States Today. Forensic Science Gazette, Vol. I, No. 3, 3-8, 1970.

24. J. L. Luke. Non-ischemic Necrosis of the Heart? Letter to the Editor, New Eng. J. Med., 283: 660-661, 1970.

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55. J. L. Luke. The Role of Forensic Pathology in Criminal Profiling. Sexual Homicide, Patterns and Motives, by R. K. Ressler, A. W. Burgess and J. E. Douglas, Lexington Books, D. C. Heath & Co., Lexington, Massachusetts/Toronto, Chapter 10, pp 153-162, 1988.

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58. J. L. Luke. The Shortage of Organs for Transplantation. Letter to the Editor. New Eng. J. Med., 326: 1025, 1992.

59. J. L. Luke and D. T. Reay. The Perils of Investigating and Certifying Deaths in Police Custody. Am. J. Forensic Med. Pathol., 13(2): 98-100, 1992

60. J. L. Luke. The Medical-Legal Investigation of the Crash of Air Florida Flight 90, Washington, D.C., January 13, 1982. Proceedings of the International Symposium on the Forensic Aspects of Mass Disasters and Crime Scene Reconstruction, pages 53-57, U.S. Government Printing Office, 1993, ISBN # 0-932115-11-X.

61. J. L. Luke. "Disadvantaged' Medical Examiner Systems. Some Thoughts on Maintaining Standards Worthy of the Public We Serve. Editorial, Am. J. Forensic Med, Pathol. In Press

CURRICULUM VITAE

PERSONAL:

Donald T. Reay	Date of Birth:	14 May 1937
10800 12th N.W.	Place of Birth:	Rock Springs, WY
Seattle, WA	Married: Judith	Children: 4

EDUCATION:

Undergraduate:	University of Notre Dame South Bend, Indiana	Bachelor of Science 1955-1959
Medical Education:	University of Utah Salt Lake City, Utah	Doctor of Medicine 1959-1963
Internship:	University of Utah Salt Lake City, Utah	Med-Path Intern 1963-1964
Residency:	University of Utah & Holy Cross Hospital Salt Lake City, Utah	AP-CP Resident 1964-1967
Fellowship:	Cleveland Clinic Cleveland, Ohio	Forensic Pathology 1967-1968
Graduate:	Seattle University Seattle, Washington	Masters in Public Administration 1978

BOARD CERTIFICATION:

Anatomic and Clinical Pathology:	May 1969
Forensic Pathology:	May 1970

LICENSE TO PRACTICE:

Washington 1973

Previous Licensure: Utah, Wyoming

MILITARY SERVICE:

Active Duty USAF	Lt. Col.	1968 to 1973
USA Reserve	Colonel	Commander 6250 Hospital Aug 1989 to Present
Active Duty USA 11 Jan 91 to 12 Apr 91 Operation Desert Storm		Madigan Army Medical Center

MEMBERSHIP IN MEDICAL AND SCIENTIFIC SOCIETIES:

American Society of Clinical Pathology (Fellow)
American Academy of Forensic Science (Fellow)
Washington Society of Pathologists
National Association of Medical Examiners
Pacific Northwest Society of Pathologists
King County Medical Society
Washington State Medical Association
American Medical Association
Canadian Society of Forensic Sciences
College of American Pathology (Fellow)
American Association of Military Surgeons
International Wound Ballistics Association

OFFICES IN MEDICAL/SCIENTIFIC SOCIETIES:

Association of Military Surgeons of the United States:	
Editorial Board	Appointed 1991
Journal of Forensic Sciences: Editorial Board	Appointed 1990
National Association of Medical Examiners:	
a) President	(1987-1988)
b) Chairman, Board of Directors	(1988-1989)
c) Board of Directors & Executive Committee	(1981-1989)
d) Pro-Tem Secretary Treasurer	(1988-1989)
Washington State Society of Pathologists:	Past President (1981-1983)

American Board of Pathology:
Forensic Test Committee (1981-1986)

Washington State Medical Association: Interspecialty Committee
Past Member

American Journal of Forensic Medicine & Pathology:
Editorial Board (1980-1989)

American Society of Clinical Pathologists:
Forensic Council - Continuing Medical Education Committee
(1984 to 1990)

American Society of Clinical Pathologists:
Committee - In-service Examination for AP Residents
(1984)

COMMITTEE AND PUBLIC POLICY BOARDS:

DNA Fingerprinting Technical Advisory Committee Chairman, King County, 1988

DNA Identification Oversight Committee, (Appointed by Governor), 1989

Governor's Death Investigation Council, January 1984, Chairman - 1986 to present

Forensic Committee, College of American Pathologists 1989 - Present

King County Executive's Committee to study use of force in detention facilities December 1983

Mayor's Committee on drunk drivers - August 1983 - 1984

Corrections Standard Board Advisor, Olympia, Washington - 1981

Washington State Medical Association Committee on drunk driving - 1983

Executive Committee, King County Medical Society - Anti-Drinking and Driving Committee - 1985

Recombinant DNA Committee, University of Washington - 1985 - 1986

Serial Murder Multi-Agency Investigation Team Project - Texas Criminal Justice Center - Sam Houston State University 1986

Executive Committee, Harborview Injury Prevention Center June 1986 to present

MAJOR POSITIONS:

Chief Medical Examiner King County, Seattle, Washington		1 Nov 1975 to present
Deputy Chief Medical Examiner King County, Seattle, Washington		17 Dec 1973 to 1 Nov 1975
Chief, Department of Pathology USAF Academy USAF Academy Hospital		15 Jul 1972 to 15 Dec 1973
Senior Specialist in Histopathology RAF Institute of Pathology and Tropical Medicine	RAF Halton Bucks, Eng.	15 Jul 1970 to 1 Jul 1972
Chief, Accident Pathology Branch Armed Forces Institute of Pathology, Wash, DC and Registrar, Registry of Accident Pathology		Aug 1968 to 15 Jul 1970

ACADEMIC - RESEARCH - OTHER POSITIONS:

Professor of Pathology, University of Washington, Seattle, Washington	1 Jul 1991 to present
Associate Professor of Pathology, University of Washington, Seattle, Washington	1 Jul 1983 to present
Assistant Professor of Pathology, University of Washington, Seattle, Washington	1 Mar 1974 to 1 Jan 1983
Clinical Faculty, School of Health Sciences of Seattle Pacific University, Seattle, Washington	1 Jun 1979 to 1 Jun 1980
Course Director, Annual Death Investigation Seminar University of Washington, Seattle, Washington	Biennial
Police Instructor, Police Standards Council, Sitka, Alaska	May 1978 to May 1982

FOIA # none (URTS 16305) DocId: 70105094 Page 56

Instructor, Criminal Justice Training Commission, State of Washington	1978 to present
Instructor, Washington State Patrol Academy, Shelton, Washington	1980 to present
Lecturer in Forensic Medicine, USAF Academy Colorado	Jul 1972 to Dec 1973
AFIP Consultant, National Highway Safety Bureau Dept. of Transportation, Washington, DC	Oct 1970 to 15 Jul 1973
Universities Associated for Research and Education in Pathology, AFIP	Scientist Associate 1 Jan 1969 to 15 Jul 1970
Skylab Medical Recovery Team, Missions III & IV, NASA-USAF	1972 - 1973
Member, NATO Committee on Traffic Safety Wolfsberg, Germany	Sep 1968

PUBLICATIONS:

Reay, D.T., Weissman, N., and Carnes, W.H.: Effects of elastase digestion and formic acid extraction on aortas from copper-deficient pigs, Fed. Proc. 22:161, 1963

Weisman, N., Reay, D.T., Coulson, W.F. and Carnes, W.H.: Elastin content of aorta determined by elastase digestion and formic acid extraction, Lab. Invest. 14:372, 1965

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Eisele, J.W., O'Halloran, R.L., Reay, D.T., Lindholm, G.R., Lewman, L.V., and Brady, W.J.: Deaths from acute volcanism, NEJM. 305:931-936, October 1981

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Luke, J.L. & Reay, D.T.: The Perils of Investigating and Certifying Deaths in Police Custody. Am. J. For. Med. & Path., 13(2):98-100, 1992.

Kellermann, M.D., Rivara, F.P., Somes, G, Reay, D.T., Francisco, J., Banton, J.G., Prodzinski, Fligner, C.L., & Hackman, B.B.: Suicide in the Home in Relation to Gun Ownership. NEJM, 327(7):467-472, 1992.

Michaud, M.D., Rivara, F.P., Grady, M.S., & Reay, D.T.: Predictors of Survival and Severity of Disability after Severe Brain Injury in Children. Neurosurgery, Vol 31, No 2. August, 1992

Haglund, W.D. & Reay, D.T.: Problems of Recovering Partial Human Remains at Different Times and Locations: Concerns for Death Investigators. J. For. Sci., Vol 38, No 1. January, 1993

Kellermann, A.L., Rivara, F.P., Rushforth, N.B., Banton, J.G., Reay, D.T., et al: Gun Ownership as a Risk Factor for Homicide in the Home. NEJM, Vol 329, No 15. October, 1993

Reay, D.T., Cohen, W., & Ames, S.: Injuries Produced by Judicial Hanging: A Case Report. Am. J. For. Med. & Path., Accepted for publication.

CURRICULUM VITAE

CHARLES J. STAHL, III, M.D.

PERSONAL INFORMATION

Date of Birth:	5 August 1930
Place of Birth:	Philadelphia, Pennsylvania
Marital Status:	Married - 20 November 1954 Ellen Baran Stahl
Children:	Charles - Marcia - Kim - FOIA(b)(6) FOIA(b)(7) - (C)
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EDUCATION

1944 - 1948	Souderton High School Souderton, Pennsylvania
1948 - 1952	Ursinus College Collegeville, Pennsylvania
1952 - 1956	The Jefferson Medical College Philadelphia, Pennsylvania Doctor of Medicine - 1956
1956 - 1957	U.S. Naval Hospital Philadelphia, Pennsylvania Rotating General Intership

1957 - 1961	U.S. Naval Hospital Philadelphia, Pennsylvania
	Residency in Anatomic and Clinical Pathology
1962 - 1963	Armed Forces Institute of Pathology Washington, D.C.
	Residency in Forensic Pathology

MEDICAL LICENSURE

Commonwealth of Pennsylvania, Certificate No. MD-025879-L, 9 September 1957

State of New Jersey, Certificate No. 16837, 14 January 1959

State of Maryland, Certificate No. D10468, 16 November 1962

State of Tennessee, Certificate No. MD 12723, 10 July 1980

SPECIALTY CERTIFICATION, THE AMERICAN BOARD OF PATHOLOGY:

Anatomic and Clinical Pathology, 9 October 1961

Forensic Pathology, 2 April 1964

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CONTINUING PROFESSIONAL EDUCATION:

1957 - 1962	Five day courses in continuing education for pathologists at the Armed Forces Institute of Pathology, Washington, D.C., as follows: Forensic Pathology — Oral Pathology Research Pathology — Histochemistry Ophthalmic Pathology — Forensic Sciences Symposium
1961	Radiation Control Course Disaster Recovery Training Division Naval Air Material Center Philadelphia, Pennsylvania
1966	Federal Bureau of Narcotics Training School Department of the Treasury Washington, D.C.
1968	American Society of Clinical Pathologists Miami, Florida: Forensic Pathology Seminar Clinical, Epidemiological and Forensic Aspects of Pesticide Poisonings
1970	Advanced Ballistics Workshop for Medical Examiners, University of Texas Southwestern Medical School and Dallas County Medical Examiner's Office, Dallas, Texas
1971	Command and Staff Seminar conducted for Bureau of Medicine and Surgery, Department of the Navy, by Naval Medical School and Naval School of Health Care Administration, Warrenton, Virginia
1971	Professional Administration Development Seminar, Phase I, Part A, conducted for College of American Pathologists by the Management Education and Research Division of BRET, Inc. at Boston, Massachusetts
1971	Applied Management Conference - Eight Steps Towards Excellence, conducted at Armed Forces Institute of Pathology, Washington, D.C. in conjunction with Applied Management Science, Inc.
1972	Forensic Sciences Symposium, Armed Forces Institute of Pathology, Washington, D.C.
1974	Ballistic Workshop conducted at the Southwestern Institute of Forensic Sciences, Dallas, Texas
1974	Personnel Management for Executives, conducted by Army Regional Training Center, DC-VA-MD Region at Pikesville, Maryland, 13-22 March 1974

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1975	Neuropathology, Postgraduate Course in Continuing Education, Armed Forces Institute of Pathology, Washington, D.C., 27-31 January 1975
1975	The Senior Line Manager Institute, Office of Civilian Manpower Management, Washington, D.C. 8-12 December 1975
1977	USAF Clinical Laboratory Symposium, Course Number 50Z0-9300-2, Williamsburg, Virginia, 4-6 October 1977
1977	Gynecologic Pathology, Postgraduate Course in Continuing Education, Armed Forces Institute of Pathology, Washington, D.C., 1-4 November 1977
1978	Army Medical Department Pathology Symposium, Fitzsimons Army Medical Center, Denver, Colorado, 18-19 April 1978
1978	College of American Pathologists, Laboratory Improvement Seminar, Denver, Colorado, 20 April 1978
1978	Perspectives in Management Seminar, National Naval Medical Center, Bethesda, Maryland, 14 June 1978
1978	USAF Clinical Laboratory Symposium, Course Number J50Z0-9300-2, Seattle, Washington, 9-11 October 1978
1978	Pediatric Pathology, Armed Forces Institute of Pathology, Washington, D.C., 30 October - 2 November 1978
1979	Forensic Sciences Foundation Continuing Medical Education Program in Forensic Pathology, Annual Meeting of the American Academy of Forensic Sciences, Atlanta, Georgia, 14-16 February 1979
1979	Gynecologic Pathology, Joint Annual Meeting of the Maryland and Washington Societies of Pathologists, 29 September 1979
1979	USAF Clinical Laboratory Symposium, Course Number 50Z09300-2, San Antonio, Texas, 16-18 October 1979
1980	Forensic Sciences Foundation Continuing Medical Education Program in Forensic Pathology, Annual Meeting of the American Academy of Forensic Sciences, New Orleans, Louisiana, 21-23 February 1980
1980	Continuing Medical Education Program, National Association of Medical Examiners, New Orleans, Louisiana, 20 February 1980
1980	20th Annual AFIP Lectures, Armed Forces Institute of Pathology, Washington, D.C., 27-29 May 1980

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1980	Seminar in Surgical Pathology Problems of the ENT Area, Armed Forces Institute of Pathology, Washington D.C., 30 May 1980
1980	Seminar in the Histopathologic Diagnosis of Infectious Diseases, Armed Forces Institute of Pathology, Washington, D.C., 30 May 1980
1981	Continuing Medical Education Program, National Association of Medical Examiners, Los Angeles, California, 17 February 1981
1981	Forensic Sciences Foundation Continuing Medical Education Program, Annual Meeting of the American Academy of Forensic Sciences, Los Angeles, California, 18-20 February 1981
1982	Continuing Medical Education Program, National Association of Medical Examiners, Kissimmee, Florida, 8 February 1982
1982	Forensic Sciences Foundation Continuing Medical Education Program, Annual Meeting of the American Academy of Forensic Sciences, Kissimmee, Florida, 9-12 February 1982
1982	Laboratory Information: Managing for Productivity, Southeastern Regional Medical Education Center, Birmingham, Alabama, 5-6 May 1982
1982	Seminar in Laboratory Medicine, Veterans Administration Medical Center, Mountain Home, Tennessee, 16 July 1982
1983	Seminar on Forensic Medicine, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, Tennessee, 21 January 1983
1983	Continuing Medical Education Program, National Association of Medical Examiners, Cincinnati, Ohio, 15 February 1983
1983	Forensic Sciences Foundation Continuing Medical Education Program, Annual Meeting of the American Academy of Forensic Sciences, Cincinnati, Ohio, 16-19 February 1983
1983	Armed Forces Institute of Pathology Advanced Forensic Pathology Course, FBI Academy, Quantico, Virginia, 25-29 April 1983
1983	50th Annual Anatomic Pathology Slide Seminar, American Society of Clinical Pathologists, St. Louis, MO, 20-21 October 1983
1983	Continuing Medical Education Program, Annual Meeting of National Association of Medical Examiners, Williamsburg, Virginia, 14-17 November 1983

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1984	Continuing Medical Education Program, Interim Meeting of National Association of Medical Examiners, Anaheim, CA, 21 February 1984
1984	Continuing Medical Education Program, Annual Meeting of the American Academy of Forensic Sciences, Anaheim, CA 22-25 February 1984
1984	24th International Conference on Legal Medicine, American College of Legal Medicine, Scottsdale, AZ, 10-13 May 1984
1984	Seminar on the Investigation of Sex Crimes, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, TN, 18 May 1984
1984	Workshop: Conducting Research in Medical Education, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, TN, 23 May 1984
1984	Spring Meeting, Southeastern Chapter, Society of Toxicology, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, TN, 1 June 1984
1984	First Tennessee Regional Sudden Infant Death Syndrome Community Conference, East Tennessee State University, Johnson City, TN, 7 June 1984
1984	Loss Prevention Seminar, State Volunteer Mutual Insurance Company, East Tennessee State University, Johnson City, TN, 17 October 1984
1984	The Growing Role of Law in the Practice of Medicine, American College of Legal Medicine Seminar at Annual Meeting of the Association of American Medical Colleges, Chicago, IL, 31 October - 1 November 1984
1985	Continuing Medical Education Program, 37th Annual Meeting of the American Academy of Forensic Sciences, Las Vegas, NV, 13-16 February 1985
1985	Legal Medicine, Quillen-Dishner Collegeof Medicine, East TennesseeState University, Johnson City, TN, 5 December 1985
1986	Continuing Medical Education Program, Trauma in the Living, Interim Meeting, National Association of Medical Examiners, New Orleans, LA, 11 February 1986
1986	Continuing Medical Education Program, Annual Meeting of the American Academy of Forensic Sciences, New Orleans, LA, 12-15 February 1986

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1986	The Role of the Chief of Staff in a Changing VA Health Care Environment, North Central Regional Medical Education Center, Ann Arbor, MI, 9-11 September 1986
1986	Strategic Planning: Developing Interdependent Relationships, Veterans Administration Medical Center, Dayton, OH, 23-24 September 1986
1986	Continuing Medical Education Program, Annual Meeting, National Association of Medical Examiners, Tuscon, AZ, 18-22 November 1986
1987	Ethical Standards, Liability, and Informed Consent, USAF Medical Center, Wright-Patterson Air Force Base, OH, 30 January 1987 .
1987	Continuing Medical Education Program, Interim Meeting, National Association of Medical Examiners, San Diego, CA, 17 February 1987
1987	Continuing Medical Education Program, Annual Meeting, American Academy of Forensic Sciences, San Diego, CA, 18-21 February 1987
1987	Maximizing Facility Operations through Use of Planning, Resource Allocation Methodology, and Staffing, South Central Regional Medical Education Center, Norfolk, VA, 17-19 March 1987
1987	Liaison Conference, Mid-Atlantic Regional Medical Education Center, Williamsburg, VA, 16-19 June 1987
1987	Annual Meeting, National Association of Medical Examiners, San Francisco, CA, 18-23 September 1987
1987	Dynamic Partnership for the Future, National Conference of Directors and Chiefs of Staff, Washington, DC, 5-8 November 1987
1988	Interim Meeting, National Association of Medical Examiners, Philadelphia, PA, 16 February 1988
1988	Annual Meeting, American Academy of Forensic Sciences, Philadelphia, PA, 17-20 February 1988
1988	Hospital/Medical Staff Credentialling and Privileging, Mid-Atlantic Regional Medical Education Center, Columbus, OH, 15 March 1988

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1988	Quality Health Care Management, Seventh Annual Executive Forum, Veterans Administration Medical Center Chillicothe, OH, 13 April 1988
1988	Multidisciplinary Research in Health Care Fields, Second Annual Research Seminar, Veterans Administration Medical Center, Dayton, OH 13 May 1988
1988	The Impact of DRG's on Health Care Delivery, Mid-Atlantic Regional Medical Education Center, Columbus, OH, 19 May 1988
1988	Mentor Training Seminar, Mid-Level Management Training Center, Williamsburg VA, 23-26 August 1988
1988	Executive Information Through DHCP Mid-Atlantic Regional Medical Education Center Brecksville, OH 30 August - 1 September 1988
1988	Strategic Planning Retreat Veterans Administration Medical Center Dayton, OH 45428 20-21 September 1988
1988	Continuing Medical Education Program, Annual Meeting, National Association of Medical Examiners Boston, MA 4-9 November 1988
1988	VA Senior Management Conference Chicago, IL 15-17 November 1988
1988	Human Relations Training Veterans Administration Medical Center Dayton, OH 30 November 1988
1989	Interim Meeting, National Association of Medical Examiners, Las Vegas, NV 14 February 1989
1989	Annual Meeting, American Academy of Forensic Sciences, Las Vegas, NV 15-18 February 1989

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1989	Monitoring and Evaluating Clinical Practice, VA Region 4 and Cleveland Regional Medical Education Center, Indianapolis, IN 5 April 1989
1989	Interagency Institute for Federal Health Care Executives, The George Washington University, Washington, D.C. 30 May 1989 - 9 June 1989
1989	Executive Liaison Conference, Cleveland Regional Medical Education Center, Brecksville, OH 20-23 June 1989
1989	Physician Executive Leadership Program I, Cleveland Regional Medical Education Center Cleveland, OH 25-28 September 1989
1989	Continuing Medical Education Program, Annual Meeting National Association of Medical Examiners Sanibel Island, FL 13-18 October 1989
1989	Strategic Planning Retreat, Total Quality Management VA Medical Center, Dayton, OH 19-20 October 1989
1989	VA Senior Management Conference Washington, D.C. 31 October 1989 - 2 November 1989
1990	Interim Meeting, National Association of Medical Examiners Cincinnati, OH 20 February 1990
1990	Continuing Medical Education Program American Academy of Forensic Sciences Cincinnati, OH 21-23 February 1990
1990	Managing for Quality: Integration and Motivation Cleveland Regional Medical Education Center Chicago, IL 3-4 April 1990
1990	Physician Executive Leadership Program II Cleveland Regional Medical Education Center Cleveland, OH 9-12 July 1990

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1990	Continuing Medical Education Program National Association of Medical Examiners Denver CO 14-16 September 1990
1991	Interim Meeting, National Association of Medical Examiners Anaheim , CA 19 February 1991
1991	Continuing Medical Education Program American Academy of Forensic Sciences Anaheim, CA 20-22 February 1991
1991	Fourth Annual Conference on Federal Quality Improvement Washington, D.C. 29-31 May 1991
1991	Continuing Medical Education Program National Association of Medical Examiners Honolulu, Hawaii 22-27 September 1991
1991	VA Senior Management Conference Washington, D.C. 12-13 November 1991
1992	Continuing Medical Education Program American Academy of Forensic Sciences New Orleans, LA 19-21 February 1992
1992	Interim Meeting, National Association of Medical Examiners New Orleans, LA 18 February 1992
1992	**Joint Commission on Accreditation of Healthcare Organizations Update** **Reno, NV** **14-16 April 1992**

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1992	First Annual DNA Course Armed Forces Institute of Pathology Bethesda, MD 15-16 May 1992
1992	Continuing Medical Education Program National Association of Medical Examiners Milwaukee, WI 19-23 September 1992

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PROFESSIONAL AWARDS:

The C.V. Mosby Award for Scholastic Excellence, 15 June 1956.

Certificate of Recognition for Outstanding Contribution to Medicolegal Investigation, Department of Medical Examiner-Coroner, County of Los Angeles, California, 10 October 1968.

Certificate of Appreciation for Outstanding Contributions to the Programs of the International Police Academy, Office of Public Safety, Agency for International Development, Department of State, 24 November 1971.

Physician's Recognition Award, American Medical Association, 1972.

Certificate of Appreciation, National Association of Underwater Instructors, 8 April 1972.

Honorary Fellow, American College of Legal Medicine, 10 May 1974.

Honorary Membership, Hollywood Academy of Medicine, 13 June 1974.

Certificate of Appreciation in Recognition of Outstanding Service, Commission on Continuing Education, American Society of Clinical Pathologists, 1968-1969.

Certificate of Recognition of Achievement as Member, Council on Forensic Pathology, Commission on Continuing Education, American Society of Clinical Pathologists, 1969-1974.

Award by the American Academy of Forensic Sciences for professional and literary contributions as Editor of the Journal of Forensic Sciences, 1972-1974, and for continuing efforts in advancing the cause of the Forensic Sciences, 20 February 1975.

Physician's Recognition Award, American Medical Association, 1974-1977 (Valid to June 30, 1977).

1974 American Society of Clinical Pathologists - College of American Pathologists Pathology Continuing Medical Education Certificate (Valid to June 30, 1977).

Certificate of Distinguished Service, Armed Forces Institute of Pathology, 15 April 1975.

Certificate of Appreciation for Extraordinary Service, Office of Special Investigations, United States Air Force, 14 April 1975.

Certificate of Appreciation from The American Board of Pathology for Service on the Test Committee for Forensic Pathology, 31 December 1975.

Physician's Recognition Award, American Medical Association, 1978-1981 (Valid to 1 October 1981).

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The Pathology Continuing Medical Education Award of the American Society of Clinical Pathologists, College of American Pathologists, International Academy of Pathology and the Intersociety Pathology Council, 1978-1981 (Valid to 1 October 1981).

Certificate of Merit from the Surgeon General of the Navy, 1 October 1980.

Physician's Recognition Award, American Medical Association, 1982-1985 (Valid to 1 January 1985).

The Pathology Continuing Medical Education Award of the American Society of Clinical Pathologists, College of American Pathologists, International Academy of Pathology, and Intersociety Pathology Council, 1982-1985 (Valid to 1 January 1985).

Medical Center Director's Commendation, Veterans Administration Medical Center, Mountain Home, Tennessee, October 1982.

Medical Center Director's Commendation, Veterans Administration Medical Center, Mountain Home, Tennessee, June 1983.

Physician's Recognition Award, American Medical Association (Valid until 1 March 1988).

The Pathology Continuing Medical Education Award of the American Society of Clinical Pathologists, College of American Pathologists, International Academy of Pathology, and Intersociety Pathology Council, 1 March 1984 to 1 March 1988.

Commendation for Outstanding Contributions to the City of Johnson City by Resolution of the Mayor on behalf of the Board of Commissioners and the City of Johnson City, Tennessee, 18 July 1985.

Honorary Captain, Johnson City Police Department, Johnson City, Tennessee, 18 July 1985.

The Pathology Continuing Medical Education Award of the American Society of Clinical Pathologists, College of American Pathologists, International Academy of Pathology, and Intersociety Pathology Council, 1 July 1988 - 1 July 1991.

Physician's Recognition Award, American Medical Association, Valid 1 August 1988 - 1 July 1991.

The Commission on Continuing Education Commissioners' Medal, American Society of Clinical Pathologists, Chicago, Illinois, August, 1989.

Resolution by Executive Committee, Wright State University School of Medicine, Dayton, Ohio, for Exceptional Service to the School of Medicine, 14 March 1991.

Department of Veterans Affairs Distinguished Career Award, Washington, DC, August 1992.

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COMMISSIONS AS NAVAL OFFICER:

Ensign, U.S. Naval Reserve, 1135 and 1995, effective 15 September 1953.

Ensign, U.S. Naval Reserve, 1995, called to active duty in Senior Medical Student Program, effective 17 November 1955.

Lieutenant Junior Grade, Medical Corps, U.S. Naval Reserve, 2105, effective 15 December 1954.

Lieutenant, Medical Corps, U.S. Naval Reserve, 2105, effective 1 September 1956.

Lieutenant, Medical Corps, U.S. Navy, 2100, effective 15 February 1957.

Lieutenant Commander, Medical Corps, U.S. Navy, 2100, effective 1 July 1962.

Commander, Medical Corps, U.S. Navy, 2100, effective 1 October 1966.

Captain, Medical Corps, U.S. Navy, 2100, effective 15 June 1971, to rank from 1 July 1970.

Captain, Medical Corps, U.S. Navy, Retired, effective 1 October 1980.

MILITARY DECORATIONS AND AWARDS:

Legion of Merit

Joint Service Commendation Medal

Navy Unit Commendation

Air Force Outstanding Unit Award

National Defense Service Medal with Star

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MILITARY STAFF ASSIGNMENTS:

Assistant Pathologist, U.S. Naval Hospital, Philadelphia, Pennsylvania, 1961 - 1962.

Chief of Laboratory Service, U.S. Naval Hospital, Guam, 1963 - 1965.

Chief, Forensic Pathology Branch, Military Environmental Pathology Division, Armed Forces Institute of Pathology, Washington, D.C., 1965 - 1970.

Assistant Chief, Military Environmental Pathology Division, Armed Forces Institute of Pathology, Washington, D.C., 1967 - 1970.

Chief, Marine Biopathology Branch, Armed Forces Institute of Pathology, Washington, D.C., 1967 - 1972.

Registrar, Registry of Forensic Pathology, American Registry of Pathology, Armed Forces Institute of Pathology, Washington, D.C., 1965 - 1975.

Acting Chief, Military Environmental Pathology Division and Acting Chief, Wound Ballistics Pathology Branch, Armed Forces Institute of Pathology, Washington, D.C., 4 May 1966 - 20 July 1966; 15 July 1968 - 23 August 1968; 7 July 1969 - 8 August 1969.

Acting Chief, Accident Pathology Branch, Armed Forces Institute of Pathology, Washington, D.C., 2 July 1968 - 31 December 1968; 14 July 1970 - 14 October 1970.

Acting Registrar, Registry of Accident Pathology, American Registry of Pathology, Armed Forces Institute of Pathology, Washington, D.C., 10 July 1970 - 4 January 1971.

Acting Transportation Officer, Walter Reed Army Medical Center, Washington, D.C., 5 May 1970 - 15 April 1975.

Acting Chief, Military Environmental Pathology Division, Armed Forces Institute of Pathology, Washington, D.C., 31 July 1970 - 1 September 1970.

Chief, Military Environmental Pathology Division, Armed Forces Institute of Pathology, Washington, D.C., 1 August 1972 - 31 August 1974.

Chairman, Department of Forensic Sciences, Armed Forces Institute of Pathology, Washington, D.C., 1 September 1974 - 15 April 1975.

Chairman, Department of Laboratory Medicine, National Naval Medical Center, 28 April 1975 - 31 July 1980.

Acting Director of Clinical Services, National Naval Medical Center, Bethesda, MD, 23-28 January 1978; 24-29 July 1978.

Acting Commanding Officer, National Naval Medical Center, Bethesda, MD, 12-15 July 1978.

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Acting Director of Clinical Services, National Naval Medical Center, Bethesda, MD, 27 February - 9 March 1979; 25 June - 8 July 1979; 27 August - 6 September 1979; 15-21 September 1979.

Acting Commanding Officer, National Naval Medical Center, Bethesda, MD, 29 February - 1 March 1980.

Acting Director of Clinical Services, National Naval Medical Center, Bethesda, MD, 24 December 1979 - 4 January 1980; 2-8 March 1980.

VETERANS ADMINISTRATION STAFF ASSIGNMENTS:

Chief, Laboratory Service, Veterans Administration Medical Center, Mountain Home, Tennessee, 1 October 1980 - 30 June 1983.

Acting Chief of Staff, Veterans Administration Medical Center, Mountain Home, Tennessee, 21-25 September 1981; 3-5 November 1981; 14-17 May 1982, 11 June 1982; 12-16 July 1982; 23-24 September 1982; 13-15 April 1983.

DEPARTMENT OF HEALTH AND ENVIRONMENT, STATE OF TENNESSEE

Assistant Chief Medical Examiner, Office of the Chief Medical Examiner, Department of Health and Environment, State of Tennessee, 2 September 1983 - 29 June 1986.

Member, Ad Hoc Committee for Inspection and Accreditation, Office of the Chief Medical Examiner, Department of Health and Environment, State of Tennessee, 2 September 1983 - 29 June, 1986.

VETERANS ADMINISTRATION MEDICAL CENTER, DAYTON, OHIO

Chief of Staff, Veterans Administration Medical Center, Dayton, Ohio, 29 June 1986 - 6 April 1991.

Acting Director, Veterans Administration Medical Center, Dayton, OH, 19-23 December 1986; 3 August 1987; 26-27 August 1987; 24-25 September 1987; 1 October 1987; 14 October 1987; 24 October - 2 November 1987; 19 November 1987; 16-24 January 1988; 24 April 1989; 16-17 May 1989; 19 May 1989; 19-21 July 1989; 30-31 August 1989; 20-23 September 1989; 7-8 November 1989; 25 and 29 June 1990.

DEPARTMENT OF VETERANS AFFAIRS, WASHINGTON, D.C.

Deputy Medical Inspector, Veterans Health Administration, Department of Veterans Affairs, Washington, D.C., 7April 1991 - 31 August 1992

Retired from Department of Veterans Affairs, Washington, DC, 31 August 1992.

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ARMED FORCES INSTITUTE OF PATHOLOGY, WASHINGTON, D.C.

Distinguished Scientist, American Registry of Pathology and the Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C., 1 October 1992 -

Member, Graduate Medical Education Committee, Armed Forces Institute of Pathology, 1 November 1992 -

Co-Director, Residency Program in Forensic Pathology, Office of the Armed Forces Medical Examiner, Armed Forces Institute of Pathology, 1 October 1992 -

Member, Department of Defense Forensic Science Advisory Committee, 1 October 1992 -

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SPECIAL DUTIES AND COMMITTEES RELATED TO MILITARY ASSIGNMENTS:

Alternate Medical Officer, Radiation Control Team, Fourth Naval District, Philadelphia, Pennsylvania, 1961-1962.

Associate Pathologist, Office of the Chief Medical Examiner, State of Maryland, 1962-1963.

Approved Pathologist, Office of the Chief Medical Examiner, State of Maryland, Montgomery County, 1962-1963.

Deputy Medical Examiner, Government of Guam, 1963-1965.

Project Officer, A Pilot Study of Drug Excretion in the Urines of Military Separatees, for Assistant Secretary of Defense (Health and Environment), 18 January 1971 - 5 April 1971.

Chairman, Ad Hoc Committee, to coordinate development of Master of Science degree program between George Washington University and Armed Forces Institute of Pathology, 15 September 1971 - 3 May 1972.

Member, Faculty Advisory Committee, to provide continuous liaison with representatives from the Department of Forensic Sciences, The George Washington University for the Master of Science in Forensic Science and/or Forensic Pathology Degree Programs, 15 May 1972 - 15 April 1975.

Member, Long Range Planning Council, Armed Forces Institute of Pathology, Washington, D.C., effective 9 January 1974.

Chairman, Medical Library Committee, National Naval Medical Center, Bethesda, MD, 13 May 1975 - 31 July 1980.

Chairman, Blood Transfusion Review Committee, National Naval Medical Center, Bethesda, MD, 3 June 1975 - 31 July 1980.

Member, Medical Isotopes Committee, National Naval Medical Center, Bethesda, MD, 27 May 1975 - 1976.

Member, Interagency Committee on Laboratory Medicine, 1975-1980.

Member, Graduate Education Committee, National Naval Medical Center, Bethesda, MD, 27 May 1975 - 31 July 1980.

Member, Executive Council of the Graduate Education Committee, National Naval Medical Center, Bethesda, MD, 1 August 1975 - 31 July 1978.

Member, Ad Hoc Search Committee for Chairperson, Department of Pathology, Uniformed Services University of the Health Sciences, 1975-1976.

Chairman, Laboratory Equipment Replacement Program, Bureau of Medicine and Surgery, Washington, D.C., 4 September 1975 - 31 July 1980.

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Functional Representative of Bureau of Medicine and Surgery for Clinical Laboratory Matters, Tri-Service Medical Information System (TRIMIS) Program, 17 December 1975 - 31 July 1980.

Chairman, Specialty Advisory Committee on Pathology, 1976.

Member, Tumor Board, National Naval Medical Center, Bethesda, MD, 1976-1977.

Member, Credentials Committee, National Naval Medical Center, Bethesda, MD, 1976-1980.

Chairman, Medical Laboratory Sciences Training Programs Task Group for Medical-Dental Training Committee, Interservice Training Review Organization, 1977-1978.

Chairman, Ad Hoc Committee on Throat Culture Contact Reporting, National Naval Medical Center, Bethesda, MD, 1978.

Chairman, Command Redevelopment Advisory Council, National Naval Medical Center, Bethesda, MD, 1978-1979.

Chairman, Ad Hoc Committee on Preadmission Testing, National Naval Medical Center, Bethesda, MD, 1979-1980.

Member, Medical Corps Selection Board, Department of the Navy, 11-22 June 1979.

Member, Executive Council of the Graduate Education Committee, National Naval Medical Center, Bethesda, MD, 1 September 1979 - 31 August 1980.

Representative of the Bureau of Medicine and Surgery to the Subcommittee of Pathology and Laboratory Medicine, Federal Health Resources Sharing Committee, 15 August 1979 - 31 July 1980.

Chairman, Specialty Advisory Committee on Pathology, 1979.

Chairman, Ad Hoc Committee for Ward Medical Officer, National Naval Medical Center, Bethesda, MD, 1979-1980.

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SPECIAL DUTIES AND COMMITTEES RELATED TO VETERANS ADMINISTRATION ASSIGNMENTS:

Member, Clinical Executive Board, Veterans Administration Medical Center, Mountain Home, TN, 1 October 1980 - 30 June 1983.

Member, Quality Assurance Subcommittee, Veterans Administration Medical Center, Mountain Home, TN, 1 October 1980 - 30 June 1983.

Member (Non-voting), Dean's Committee, Veterans Administration Medical Center, Mountain Home, TN, 1 October 1980 - 30 June 1983.

Member, Therapeutic Agents and Pharmacy Reviews Committee, Veterans Administration Medical Center, Mountain Home, TN, 1 October 1980 - 30 June 1983.

Member, Professional Education Committee, Veterans Administration Medical Center, Mountain Home, TN, 1 February 1981 - 30 June 1983.

Chairman, Laboratory Management Committee, Laboratory Service, Veterans Administration Medical Center, Mountain Home, TN, 12 February 1981 - 30 June 1983.

Member, Research and Development Committee, Veterans Administration Medical Center, Mountain Home, TN, 1 July 1981 - 31 October 1981.

Chairman, Human Subjects Subcommittee, Veterans Administration Medical Center, Mountain Home, TN, 1 July 1981 - 30 June 1983.

Member, District Planning Board, Medical District 8, 29 October 1981 - 30 June 1983.

Chairman, Medical Center Medical District Initiated Planning Program (MEDIPP) Planning Board, 5 February 1982 - 30 June 1983.

Member, Nutrition Committee, Veterans Administration Medical Center, Mountain Home, TN 1 July 1981 - 30 June 1983.

Member, VACO Disciplinary Board, Veterans Administration Medical Center, Martinsburg, WV, 7-9 July 1982.

Chairman, House Staff Advisory Subcommittee, Veterans Administration Medical Center, Mountain Home, TN, 5 August 1982 - 8 March 1983.

Member, Resources Committee, Veterans Administration Medical Center, Mountain Home, TN, 5 November 1981 - 30 September 1982.

Member, House Staff Review Committee, Veterans Administration Medical Center, Mountain Home, TN, 10 February 1983 - 30 June 1983.

Chairman, Clinical Executive Board, Veterans Administration Medical Center, Dayton, OH, 29 June 1986 - 6 April 1991.

Chairman, Professional Standards Board for Physicians, Veterans Administration Medical Center, Dayton, OH, 29 June 1986 - 6 April 1991.

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Chairman, Professional Standards Board for Physician Assistants, Veterans Administration Medical Center, Dayton, OH, 29 June 1986 - 6 April 1991.

Chairman, Professional Council, Veterans Administration Medical Center, Dayton, OH, 5 August 1987 - 1990.

Member, Administrative Executive Board; Postgraduate and Inservice Training Committee; Resources Committee; Dean's Committee; Space Committee; Research and Development Committee; Position Management Committee; House Staff Review Committee; and Tuition Support Committee. Veterans Administration Medical Center, Dayton, OH, 29 June 1986 - 6 April 1991.

Member, Medical Inspector's Team for Special Purpose Site Visit to Veterans Administration Medical Center, Bay Pines, FL, 18-20 May 1987.

Member, Medical District 13 Chiefs of Staff Council, 29 June 1986 - 20 July 1987.

Chairman, Medical District 13 Chiefs of Staff Council, 20 July 1987 - 20 July 1989

Member, Planning Committees for 1987 Liaison Conference and 1989 Chiefs of Staff Training Program, Mid-Atlantic Regional Medical Education Center, Brecksville, OH, 1987-1988.

Member, Medical District 13 Planning Board, 20 July 1987 - 20 July 1989

Member (ex-officio), Medical District 13 Executive Council, 20 July 1987 - 20 July 1989

Member, Planning Committee, Executive Liaison Conference, Cleveland Regional Medical Education Center, Brecksville, OH 1989.

Consultant to Planning Committee, National Chiefs of Staff Training Program, Cleveland Regional Medical Education Center, Brecksville, OH 1989.

Acting Assistant Associate Deputy Chief Medical Director, Department of Veterans Affairs, Washington, D.C., 13 July 1989 - 18 August 1989.

Acting Associate Deputy Chief Medical Director, Department of Veterans Affairs, Washington, D.C., 17-18 July 1989; 15-17 August 1989.

Member, Executive Oversight Team for Contract Service Centers, Department of Veterans Affairs, Washington, D.C., 1989 - 1990.

Member, Technical Advisory Group for RegionalSite Review Protocol, 2 March 1992 - 31 August 1992.

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SPECIAL DUTIES AND COMMITTEES RELATED TO UNIVERSITY ASSIGNMENTS:

Member, Planning Committee, Introduction to Clinical Medicine IV: Cognitive and Conceptual Introduction to Medicine, East Tennessee State University, Johnson City, TN, 23 August 1982 - 30 April 1986.

Member, College of Medicine Screening Committee for Distinguished Faculty Award, July 1983.

Faculty Advisor for Medical Student Ruth E. Ventrice, Class of 1987, 8 August 1983 - 30 June 1985.

Member, Standing Committee on Administration and Budget, University Physician's Practice Group, Medical Education Assistance Corporation, 23 August 1983 -30 April 1986.

Member, Planning Committee, Introduction to Clinical Medicine IV: Clinical Laboratory Medicine, 30 November 1983 - 30 April 1986.

Chairman, Residency Planning and Review Committee, Department of Pathology, Quillen-Dishner College of Medicine, 1 December 1983 - 30 April 1986.

Faculty Advisor for Medical Student Charles W. Fleisher, Class of 1986, 26 March 1984 - 30 April 1986.

Member, Graduate Faculty Committee for E. Jayne Moffat, Candidate for Master's Degree in Biomedical Sciences (Pharmacology).

Faculty Advisor for Medical Student Michael H. West, Class of 1988, 2 August 1984 - 30 April 1986.

Member, Executive Committee, Wright State University School of Medicine, Dayton, OH, 1 July 1986 - 29 March 1991.

Member, Committee on Diagnostic Technology of the Task Force on Medical Student Education, Wright State University School of Medicine, Dayton, OH, 1986 - 1987.

Member, Residency Policy Committee, Wright State University School of Medicine, Dayton, OH, 17 August 1987 - 29 March 1991.

Member, Dean's Council, Wright State University School of Medicine, Dayton, OH, 27 March 1989 - 29 March 1991.

Member, Continuing Medical Education Committee, Wright State University School of Medicine, Dayton, OH, 30 August 1989 - 29 March 1991.

Member, VA Medical Center Management Advisory Committee, Wright State University School of Medicine, Dayton, OH, 1 September 1989 - 29March 1991.

APPOINTMENTS AS CONSULTANT:

Consultant in Pathology, Guam Memorial Hospital, Agana, Guam, 1965

Consultant in Forensic Pathology (BUMED Code 316S-31), Professional Division, Bureau of Medicine and Surgery, Department of the Navy, 1970-1975

Consultant in Forensic Pathology, The American Board of Pathology, 1972 and 1973

Member, Test Committee for Special Examination in Forensic Pathology, The American Board of Pathology, 1973-1975

Guest Examiner, Special Field of Forensic Pathology, The American Board of Pathology, 1972-1975

Consultant in Laboratory Medicine (BUMED Code 21S), Medical Corps Division, Bureau of Medicine and Surgery, Department of the Navy, 9 June 1975 - 31 July 1980

Navy Representative, Scientific Advisory Board of Consultants, Armed Forces Institute of Pathology, Washington, D.C., 1976-1980

Representative of Bureau of Medicine and Surgery to Committee on Pathology, Society of Medical Consultants to the Armed Forces, November 1977

Consultant for the Development of Staffing Standards for the Specialty of Pathology, Bureau of Medicine and Surgery, Department of the Navy, 1978-1980

Member, Survey Team, Inspection of Medical Technology Program at Sacred Heart Hospital, Allentown, PA, for National Accrediting Agency for Clinical Laboratory Sciences, 29 November 1979

Inspector, Commission on Inspection and Accreditation, College of American Pathologists, for O.B. Hunter Memorial Laboratory, Bethesda, MD, 14 December 1979

Member, Panel on Irritant and Vesicant Chemicals, Committee on Toxicology, Commission on Life Sciences, National Research Council, National Academy of Sciences, Washington, D.C., 29 December 1982 - 17 June 1985

Physician Consultant to Laboratory Service, Veterans Administration Medical Center, Mountain Home, Tennessee, 1 October 1983 - 30 September 1985

Specialist Survey Respondent (Forensic Medicine) to American College of Physicians for A Library for Internists IV, Annals of Internal Medicine 96:385-401, 1982, and A Library for Internists V, Annals of Internal Medicine 102:423-437, 1985

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APPOINTMENTS AS EDITOR:

Associate Editor, Journal of Forensic Sciences, 1971-1972

Editor, Journal of Forensic Sciences, 1972-1974

Associate Editor, Journal of Forensic Sciences, 1979 -1992

TEACHING APPOINTMENTS:

Assistant Instructor in Pathology and Fellow in Pepper Laboratory of Clinical Medicine, University of Pennsylvania, Philadelphia, Pennsylvania, February 1960 - May 1960

Guest Lecturer, Sophomore Class in Forensic Medicine, Jefferson Medical College, Philadelphia, Pennsylvania, 1961 and 1962

Guest Lecturer, U.S. Naval Medical School, National Naval Medical Center, Bethesda, Maryland, 1963 and 1965

Lecturer in Homicide Investigation, Police Division, Department of Public Safety, Government of Guam, 1965

Guest Lecturer, Seminar in Homicide Investigation, Department of Legal Medicine, Harvard Medical School, Boston, Massachusetts, May 1966, November 1966, and May 1967

Guest Lecturer, Seminar in Homicide Investigation, Maryland Medical-Legal Foundation, Baltimore, Maryland, 1968 - 1974

Course Director, Postgraduate Course in Forensic Pathology, Armed Forces Institute of Pathology, Washington, D.C., 1966-1970

Program Director, Residency in Special Field of Forensic Pathology, Armed Forces Institute of Pathology, Washington, D.C., 1966-1974

Instructor, Basic and Advanced Courses for Special Agents, Headquarters, Naval Investigative Service, Naval Intelligence Command, Arlington, Virginia, 1966-1969

Instructor, Basic Course for Special Agents, Headquarters, Naval Investigative Service, Naval Intelligence Command, Alexandria, Virginia, 1970-1971, 1973-1974

Faculty, Postgraduate Course in Forensic Dentistry, Armed Forces Institute of Pathology, Washington, D.C., 1966-1970

Faculty, Postgraduate Course in Aerospace Pathology, Armed Forces Institute of Pathology, Washington, D.C., 1966-1970; 1974

Faculty, Inservice Training Program in Homicide Investigation, Criminal Investigations Division, Metropolitan Police Department, District of Columbia, May 1969; October 1969; May 1970; April 1971; September 1972; March 1973; September 1973

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Faculty, Forensic Sciences Symposium, Armed Forces Institute of Pathology, Washington, D.C., 1969, 1973

Faculty, Postgraduate Course in Accident Pathology, Armed Forces Institute of Pathology, Washington, D.C., 1970

Faculty, Workshop for Public Defenders, Government of the District of Columbia, Washington, D.C., September 1971

Course Director, Postgraduate Course in Pathology of the Aquatic Environment, Armed Forces Institute of Pathology, Washington, D.C., 1972

Professorial Lecturer in Forensic Science, The George Washington University, Washington, D.C., 1972-1976

Faculty, Seminar in Forensic Pathology, College of American Pathologists, Oakland, California, May 1972; Atlanta, Georgia, March 1973; Kansas City, Missouri, April 1974

Faculty, Postgraduate Course in Forensic Pathology, Armed Forces Institute of Pathology, Washington, D.C., November 1972; November 1973; November 1974

Faculty, State of New Jersey Seminars in Homicide Investigation, Linden, New Jersey, May 1972, November 1972, April 1973

Guest Lecturer in Forensic Pathology, Laboratory Service, Naval Hospital, Bethesda, Maryland, December 1972; February 1973

Guest Lecturer, Howard University Medical School, February 1973

Course Director, Seminar in Forensic Pathology, College of American Pathologists, Saddle Brook, New Jersey, June 1973

Faculty, Seminar on Medicolegal Investigations in Criminal Cases, County of Allegheny, Pittsburgh, Pennsylvania, October 1973; January 1974; April 1974

Moderator, Annual Slide Seminar, "Cancer or Pseudocancer", Annual AFIP Lectures, 27 March 1974

Guest Speaker, Hollywood Academy of Medicine, Hollywood, California, 13 June 1974

Faculty, Death Investigation Seminar, Corning Community College, Corning, New York, 9 July 1974

Course Director, Seminar on Aquatic Pathology, Armed Forces Institute of Pathology, Washington, D.C., 24 September 1974

Faculty, Postgraduate Course in Forensic Dentistry, Armed Forces Institute of Pathology, Washington, D.C., 30 September 1974

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Faculty, Symposium on the Medical-Ethical-Legal Aspects of Organ Transplantation, D.C. Medical Society Auditorium, Washington, D.C., 12 October 1974

Faculty, Bucks County Homicide Seminar, Trevose, Pennsylvania, 15 October 1974

Faculty, Postgraduate Course in Forensic Pathology, Armed Forces Institute of Pathology, Washington, D.C., 12 November 1974; 13 November 1975

Guest Lecturer, Staff Medical Conference, Naval Regional Medical Center, Camp Lejeune, North Carolina, 13 February 1975

Medical Director, Medical Technology and Medical Laboratory Technician Schools, Naval Health Sciences Education and Training Command, Bethesda, MD, 1975-1980

Resource Staff Member, Personnel Management for Executives Program, Department of the Army Regional Training Center, Baltimore, MD, 12-23 January 1976

Professor of Pathology, The George Washington University School of Medicine and Health Sciences, 1 July 1975 - 30 June 1980

Professor of Pathology, Georgetown University School of Medicine, 1 July 1976 - 30 June 1980

Professor of Pathology, Uniformed Services University for the Health Sciences, 1 October 1976 - 30 September 1979

Program Director, Residency in Anatomic and Clinical Pathology, National Naval Medical Center, Bethesda, MD, 1975-1980

Resource Staff Member, Personnel Management for Executives Program, Central Atlantic Regional Training Center, Department of the Army, Williamsburg, VA, 27 February - 9 March 1979

Guest Lecturer on Laboratory Management, Health Care Administration Course, Naval School of Health Sciences, Bethesda, MD, 30 January 1979

Faculty, Forensic Science Seminar, Office of the Medical Investigator, University of New Mexico School of Medicine, Albuquerque, NM, 8-9 August 1979

Faculty, Workshop on Medicolegal Problems in the Clinical Laboratory, Fifth Annual Meeting of The Society of Armed Forces Medical Laboratory Scientists, San Antonio, Texasm 18-19 October 1979

Professor of Pathology, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, Tennessee, 1 September 1980 - 30 April 1986.

Faculty, Continuing Medical Education Seminar in Laboratory Medicine, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, Tennessee, 23 September 1981

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Faculty, Medico-Legal Seminar, Office of the Chief Medical Examiner, Commonwealth of Virginia, and Department of Legal Medicine, Medical College of Virginia, Abingdon, Virginia, 8 October 1981

Resource Staff Member, Personnel Management for Executives Program, Central Atlantic Regional Training Center, Department of the Army, Williamsburg, VA, 2-12 March 1982

Faculty, Seminar in Laboratory Medicine, Veterans Administration Medical Center, Mountain Home, TN, 16 July 1982

Professor of Pathology, East Tennessee State University School of Graduate Studies, Johnson City, TN, 3 August 1982 -

Faculty, Medico-Legal Seminar, Office of the Chief Medical Examiner, Commonwealth of Virginia, and Department of Legal Medicine, Medical College of Virginia, Roanoke, Virginia, 21 October 1982

Faculty, Forensic Pathology, Upper East Tennessee Law Enforcement Training Commission, East Tennessee State University, Johnson City, Tennessee, 16 December 1982

Course Director and Faculty, Seminar on Forensic Medicine, Quillen-Dishner Collage of Medicine, East Tennessee State University, Johnson City, Tennessee, 21 January 1983

Faculty, Seminar on Forensic Pathology, Department of Pathology, Vanderbilt University School of Medicine, Nashville, Tennessee, 28-29 January 1983

Faculty, Tennessee Medical Examiner Seminar, Sweetwater, Tennessee, 12 March 1983

Guest Speaker, The Kiwanis Club of Bristol, Tennessee, 21 April 1983

Faculty, Seminar on Sudden Infant Death Syndrome, First Tennessee Regional Public Health Center, Johnson City, Tennessee, 16 September 1983

Faculty, Aerospace Pathology Course, Armed Forces Institute of Pathology, Washington, D.C., 8 November 1983

Faculty, Advanced Forensic Pathology Course, Armed Forces Institute of Pathology, FBI Academy, Quantico, VA, 12 April 1984

Faculty, 24th International Conference on Legal Medicine, American College of Legal Medicine, Scottsdale, AZ, 11 May 1984

Course Director and Faculty, Seminar on the Investigation of Sex Crimes, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, TN, 18 May 1984

Guest Speaker, Tri-Cities Chapter, Tennessee Society for Clinical Microbiology, Veterans Administration Medical Center, Mountain Home, TN, 5 June 1984

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Faculty, Death Investigation Seminar, Upper East Tennessee Law Enforcement Training Commission, East Tennessee State University, Johnson City, TN, 15 August 1984

Resource Staff Member, Personnel Management for Executives Program, Department of the Army Regional Training Center, U.S. Army Forces Command, Charleston, SC, 9-21 September 1984

Faculty, American College of Legal Medicine Seminar, "The Growing Role of Law in the Practice of Medicine", Annual Meeting of the Association of American Medical Colleges, Chicago, IL, 31 October - 1 November 1984

Moderator, Scientific Session, Pathology and Biology Section, 37th Annual Meeting, American Academy of Forensic Sciences, Las Vegas, NV, 14 February 1985

Faculty, (Forensic Pathology, Forensic Medicine), Veterans Administration Physician and Dentists In-Residence Program, South Central Regional Medical Education Center, Jefferson Barracks Division, St. Louis, MO, 1981-1985

Faculty, Special Topics (Forensic Pathology), Criminal Justice Course No. 321-4967-001, Department of Criminal Justice, East Tennessee State University, Spring Semester (25 February, 4 March and 25 March), 1985

Faculty, Advanced Forensic Pathology Course, Armed Forces Institute of Pathology, FBI Academy, Quantico, VA, 18 April 1985

Course Director and Faculty, Legal Medicine Seminar, Quillen-Dishner College of Medicine, East Tennessee State University, Johnson City, TN, 5 December 1985.

Assistant Dean for Veterans Affairs and Professor of Pathology, Wright State University School of Medicine, Dayton, OH, 1 July 1986 - 29 March 1991.

Faculty, Basic Forensic Pathology Course, Armed Forces Institute of Pathology, Washington, DC, 3 November 1986.

Guest faculty, Annual Death Investigation Seminar of the Indiana Forensic Science Commission, Indiana Coroner's Association, and Department of Pathology, Indiana University School of Medicine, Indianapolis, IN, 21-22 April 1988.

Guest Faculty, Annual Death Investigation Seminar of the Indiana Forensic Science Commission, Indiana Coroner's Association, and Department of Pathology, Indiana University School of Medicine, Indianapolis, IN, 28 April 1989.

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PROFESSIONAL SOCIETIES:

Fellow, College of American Pathologists
Fellow, American Society of Clinical Pathologists
Fellow, American Academy of Forensic Sciences
Honorary Fellow, American College of Legal Medicine
Life Member, Association of Military Surgeons of the United States
Southern Medical Association
The Society of Medical Consultants to the Armed Forces
The Society of Armed Forces Medical Laboratory Scientists
American Association of Blood Banks
Academy of Clinical Laboratory Physicians and Scientists
National Association of Medical Examiners
The New York Academy of Sciences
United States Naval Institute (Life Member)
The Retired Officers Association (Life Member)
Life Member, Federal Health Care Executives Institute Alumni Association

OFFICES AND APPOINTMENTS IN NATIONAL PROFESSIONAL SOCIETIES:

American Academy of Forensic Sciences

1966-1967	Member of Reference Committee, Program Committee, and Geographic Forensic Pathology Committee, Pathology and Biology Section
1969-1970	Secretary, Pathology and Biology Section
1970-1971	Council Chairman Chairman, Pathology and Biology Section Chairman, Membership Committee
1972-1974	Chairman, Publications Committee
1973	Member, Nominating Committee
1975-1976	Member, Ad Hoc Committee on a National Institute for Forensic Sciences
1979-	Member, Publications Committee
1984-1985	Member, Best Resident Paper Committee, Pathology and Biology Section
1988-1989	Member, Strategic Planning Committee
1989-1990	Member, Strategic Planning Committee
1990-1992	Member, Strategic Planning Committee
1992-	Member, Strategic Planning Committee

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College of American Pathologists

1966-1975	Member, Committee on Forensic Pathology
1988-	Member, Forensic Pathology Committee

American Society of Clinical Pathologists

1969-1974	Member, Council on Forensic Pathology

National Association of Medical Examiners

1971-1977	Member, Board of Directors
1975-1976	Member, Executive Committee, Board of Directors
1978	Member, Nominating Committee
1986-1992	Member, Board of Directors
1991-	Member, Executive Committee
1992-	Vice President

American College of Legal Medicine

1974-1975	Member, Honorary Fellowship Committee

Washington Society of Pathologists

1978-1979	Secretary-Treasurer
1979-1980	Vice President

The Society of Armed Forces Medical Laboratory Scientists

1978-1980	Member, Board of Directors

Miscellaneous Appointments to Committees

Member, Steering Committee for an Institute of Forensic Medicine and Law, Metropolitan Washington Council of Governments, 1972

Co-Chairman, Publications Committee, Department of Forensic Science, Graduate School of Arts and Sciences, The George Washington University, Washington, D.C., 1974; and Chairman, Curriculum Committee, 1974-1975

Dayton Clinical Oncology Program

1989-1990	Member, Board of Trustees

Mid-Atlantic Forensic Pathology Association

1992-	Member, Board of Directors

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SPECIAL MILITARY MISSIONS:

February 1963	Temporary duty at U.S. Air Force Hospital, Harman Air Force Base (SAC), Newfoundland, to conduct medicolegal autopsies on two servicemen who died unexpectedly at Thule, Greenland, and one serviceman who died at Keflavik, Iceland
September 1963 to October 1965	Served as Director of the Military Blood Procurement Program for Naval Forces, Marianas, Territory of Guam
April 1964	Served as military member of special fact-finding committee selected for Board of Trustees, Guam Memorial Hospital, Government of Guam, to investigate allegation of malpractice involving physician employed by Guam Memorial Hospital
January 1967	Served as forensic pathologist on team assigned to Air Force Station, Eastern Test Range, Cape Kennedy, Florida, to conduct medicolegal investigation and autopsies on Astronauts Grissom, White and Chaffee following Apollo disaster
June 1968	Served as forensic pathologist on team assigned as consultants to Chief Medical Examiner-Coroner, County of Los Angeles, during medicolegal investigation and autopsy following assassination of Senator Robert Kennedy
December 1969 to January 1970	Served as consultant in forensic pathology to the Office of the Chief of Support Services, Department of the Army, in the case of John Albert Warren (deceased)
June 1970	Served as consultant in forensic pathology to Headquarters, U.S. Army Training Center, Fort Ord, California and participated in exhumation and medicolegal postmortem examination of the remains of Kenneth Michael Woodruff, Staff Sergeant, U.S. Army, at San Diego, California, as authorized by Order No. 318142 of 20 May 1970 by the Superior Court of the State of California for the County of San Diego
28 October 1974 to 1 November 1974	Served as consultant in forensic pathology to Civil Rights Division, United States Department of Justice, at San Juan, Puerto Rico, to conduct exhumation and medicolegal postmortem examination on the remains of Ramon Rodriquez-Marrero, as authorized on 1 October 1974 by Chief Judge, United States District Court, District of Puerto Rico

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15 November 1977 to 18 November 1977	Served as consultant in forensic pathology to Naval Investigative Service - Pacific, Pearl Harbor, Hawaii, to participate in the investigation of the death of Timothy E. Schlag, a Navy dependent

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MEDICOLEGAL EXPERIENCE AS EXPERT WITNESS:

1964	Expert witness during court-martial of airman accused of negligent homicide at Andersen Air Force Base, Guam
	Expert witness during court-martial of sailor accused of murder at Headquarters, Commander Naval Forces, Marianas, Guam
	Expert witness at Naval Board of Inquiry for investigation of explosion aboard USS AFDM-8 in Apra Harbor, U.S. Naval Station, Guam
	Expert witness in the case of the Government of Guam v. Mesa, following murder of F.M. Izezaki, Government of Guam Fish and Wildlife Conservation Officer
March 1968	Expert witness during court-martial of marine accused of homicide, United States v. Evans, at Headquarters, Marine Corps Base, Camp Lejeune, North Carolina
February 1968	Expert witness during court-martial of three military policemen accused of maltreatment, United States v. Krews, Elwood and Linsey, at Fort Hayes, Ohio
May 1968	Expert witness during court-martial, United States v. Paul at Headquarters, Military District of Washington
January 1969	Expert witness during court-martial of sailor accused of murder, United States v. Hise, at District Legal Office, Sixth Naval District, Charleston, South Carolina
May 1970	Expert witness for the plaintiff, in conjunction with a third party claim by the Veterans Administration, and provided a deposition in the case of White v. City of Darrington, Washington, et. al., at Snohomish County, Washington, Number 90170, at Armed Forces Institute of Pathology, Washington, D.C.
January 1971	Expert witness during court-martial, United States v. Foppiano at Headquarters, Sixth United States Army, The Presidio, San Francisco, California
November 1973	Expert witness during Article 32 Investigation at Third Coast Guard District, Governors Island, New York

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April 1976	Expert witness during trial at United States District Court, San Juan, Puerto Rico, in the case of United States v. Perez et. al.
25 March 1982	Expert witness during trial at Criminal Court of Washington County, State of Tennessee, Jonesborough, TN in the case of the State of Tennessee v. Kenneth W. Campbell
4 November 1983	Expert witness during trial at Criminal Court of Washington County, Jonesborough, TN, in case of the State of Tennessee v. Vesper Denton Hicks
9 February 1984	Expert witness for the plaintiff and provided deposition at Fairfax, VA, in the case of Abosbitan v. Kirk et. al., United States District Court for the Eastern District of Virginia, Civil Action No. 83-758-A
7 April 1984	Expert witness during trial at Criminal Court of Washington County, Jonesborough, TN, in case of the State of Tennessee v. Vesper Denton Hicks
10 December 1984	Expert witness during judicial hearing at Juvenile Court of Sullivan County, Kingsport, TN, in case of the State of Tennessee v. Danny Hicks
1 March 1985	Expert witness during preliminary hearing at Criminal Court of Johnson County, Mountain City, TN, in case of the State of Tennessee v. Lois Guy
12 March 1985	Expert witness during deposition in the case of Tony B. Treadway at Law Offices of Herndon, Coleman, and McKee, Johnson City, TN
30 April 1985	Expert witness during trial at Criminal Court of Washington County, Jonesborough, TN, in case of the State of Tennessee v. Ronald Whitaker
8 July 1985	Expert witness during trial at Criminal Court of Sullivan County, Blountville, TN, in case of the State of Tennessee v. Danny Ray Hicks
8 July 1986	Expert witness during trial of Criminal Court at Sullivan County, Blountville, TN, in case of the State of Tennessee v. Jimmy W. Long.

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PROFESSIONAL PUBLICATIONS:

1. Stahl, C.J.: Neurologic Diseases on Guam, United States Navy Medical Laboratory Quarterly 3:14-17, 1965.

2. Stahl, C.J.: The Medical Examiner System in the Territory of Guam. Journal of Forensic Sciences 11:179-185, 1966.

3. Young, B.C. and Stahl, C.J.: Gunshot Wounds. American Registry of Pathology, Washington, D.C., 1966.

4. Stahl, C.J. and Johnson, F.B.: Armed Forces Institute of Pathology Clinical Pathologic Conference Number 19-16 (Ethylene Glycol - Antifreeze-Poisoning). American Registry of Pathology, Washington, D.C., 1966.

5. Stahl, C.J.: Book Review of Forensic Odontology by Gosta Gustafson. American Elsevier Publishing Company, Inc., New York, 1966. In Military Medicine 131:1656, 1966.

6. Stahl, C.J.: Case for Diagnosis (On marijuana). Military Medicine 132:400, 414, 1967.

7. Mueller, W.F. and Stahl, C.J.: Armed Forces Institute of Pathology Clinical Pathologic Conference Number 9-67 (Rupture of Posttraumatic Aneurysm of Thoracic Aorta). American Registry of Pathology, Washington, D.C., 1967.

8. Stahl, C.J.: The Registry of Forensic Pathology. Journal of Forensic Sciences 13:151-162, 1968.

9. Levine, R.A. and Stahl, C.J.: Eye Injury Caused by Tear-Gas Weapons. American Journal of Ophthalmology 65:497-508, 1968.

10. Stahl, C.J., Young, B.C., Brown, R.J., and Ainsworth, C.A.: Forensic Aspects of Tear-Gas Pen Guns. Journal of Forensic Sciences 13:442-469, 1968.

11. Stahl, C.J., Fatteh, A.V., and Dominquez, A.M.: Trichloroethane Poisoning: Observations on the Pathology and Toxicology in Six Fatal Cases. Journal of Forensic Sciences 14:393-397, 1969.

12. Stahl, C.J. and Davis, J.H.: Missile Wounds Caused by Tear-Gas Pen Guns. The American Journal of Clinical Pathology 52:270-276, 1969.

13. Stahl, C.J.: "A Trip With No Return". Forensic Pathology Check Sample No. FP-44, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, May 1969.

14. Stahl, C.J.: "A Tonic Without Gin". Forensic Pathology Check Sample No. FP-46, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, September, 1969.

15. Reference 11 reprinted in U.S. Navy Medical Newsletter 55:9-11, 1970.

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16. Reference 9 reprinted in U.S. Navy Medical Newsletter 55:15-24, 1970.

17. Froede, R.C. and Stahl, C.J.: "The Case of the Misplaced Roach". Forensic Pathology Check Sample No. FP-48, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, January 1970.

18. McCarty, J.E. and Stahl, C.J.: Armed Forces Institute of Pathology Clinical Pathologic Conference No. 4-69 (Amanita Mushroom Intoxication). American Registry of Pathology, Washington, D.C. 1969.

19. Stahl, C.J. (Moderator): "Timing of Injuries". A Seminar of the Pathology and Biology Section for the Twenty-Second Annual Meeting, American Academy of Forensic Sciences, Chicago, Illinois, 28 February 1970.

20. Stahl, C.J.: Drowning. In Cecil-Loeb Textbook of Medicine 13th Edition, edited by Beeson, P.B. and McDermott, W., Philadelphia, W.B. Saunders Company, 1971, pp. 45-47.

21. Stahl, C.J.: Timing of Injuries (Microscopic Slide Study Set No. M18971). American Registry of Pathology, Washington, D.C., 1971.

22. Froede, R.C. and Stahl, C.J.: Fatal Narcotism in Military Personnel. Journal of Forensic Sciences 16:199-218, 1971.

23. Stahl, C.J.: Meprobamate. Forensic Pathology Check Sample No. FP-58, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, 1971.

24. Ayers, K.M. and Stahl, C.J.: Ballistic Characteristics and Wounding Effects of a Tear-Gas Pen Gun Loaded with Ortho-Chlorobenzalmalononitrile. Journal of Forensic Sciences 17:292-297, 1972.

25. Stahl, C.J. and Johnson, F.B.: Methamphetamine and Granulomatous Pulmonary Arteritis. Forensic Pathology Check Sample No. FP-62, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, 1972.

26. Ayers, K.M. and Stahl, C.J.: Experimental Injuries of the Eye Caused by a Tear-Gas Pen Gun Loaded with Ortho-Chlorobenzalmalononitrile. Journal of Forensic Sciences 17:547-554, 1972.

27. Stahl, C.J., Froede, R.C. and Zimmerly, J.G.: Forensic Sciences at the Armed Forces Institute of Pathology: Its Role in Military Medicine. United States Navy Medicine 61:20-27, 1973.

28. Stahl, C.J.: Identification of Human Remains. In Medicolegal Investigation of Death. Guidelines for the Application of Pathology to Crime Investigation, edited by W.U. Spitz and R.S. Fisher. Charles C. Thomas, Springfield, Illinois, 1973.

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29. Buddington, R.S., Stahl, C.J., McAllister, H.A., and Schwartz, R.A.: Exercise and Sudden Death. (Abstract No. 368). Supplement IV to Circulation, Volumes VII and VIII, October 1973, p. IV-93.

30. Buddington, R.S., Stahl, C.J., McAllister, H.A., and Schwartz, R.A.: Sports, Death, and Unusual Heart Disease. (Abstract). The American Journal of Cardiology 33:129, January 1974.

31. Stahl, C.J.: Editorial. Journal of Forensic Sciences 19:1-2, 1974.

32. Winter, P.E., Stahl, C.J., Goldbaum, L.R., and Dominguez, A.M.: Drug Excretion in the Urine of Military Separatees: A Pilot Study. Journal of Forensic Sciences 19:317-324, 1974.

33. Stahl, C.J. (Moderator): "Cancer or Pseudocancer". A Seminar for the 14th Annual AFIP Lectures, 27 March 1974 (Microscopic Slide Study Set No. M21574). American Registry of Pathology, Washington, D.C., 1974.

34. Jones, S.R., Bessant-Matthews, P.E., Williams, F.J., and Stahl, C.J.: Injury Potential of a Reloaded Tear-Gas Pen Gun. Journal of Forensic Sciences 19:812-819, 1974.

35. Raasch, F.O., Hirvonen, J.I., and Stahl, C.J.: Timing of Injury in Human Thermal Burns. Journal of Forensic Sciences 19:723-729, 1974.

36. Stahl, C.J. and Dollinger, A.L.: The Case of the Battered Button. Forensic Pathology Check Sample No. FP-76, Commission on Continuing Education Check Sample Program, American Society of Clinical Pathologists, Chicago, Illinois, 1974.

37. Jones, S.R., Stahl, C.J., and Harriman, J.J.: Ballistic Studies and Lethal Potential of Tear-Gas Pen Guns Firing Fixed Metallic Ammunition. Journal of Forensic Sciences 20:261-273, 1975.

38. Stahl, C.J.: Drowning. In Textbook of Medicine, 14th Edition, edited by P.B. Beeson and W. McDermott. W.B. Saunders Company, Philadelphia, 1975, pp. 80-82.

39. Knight, D.R. and Stahl, C.J.: Naval Diving Accidents: A Challenge for Thorough Investigation. U.S. Navy Medicine 67:30-31, 1976.

40. Walsh, F.M., Stahl, C.J., Unger, H.T., Lilienstern, O.C., and Stephens, R.G.: Autoerotic Asphyxial Deaths: A Medicolegal Analysis of Forth-Three Cases. In Legal Medicine Annual: Nineteen Seventy-Seven, edited by C.H. Wecht. Appleton-Century-Crofts, New York, 1977, pp. 157-182.

41. Stahl, C.J.: Identification. In Forensic Pathology: A Handbook for Pathologists, edited by R.S. Fisher and C.S. Petty. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 1977, pp. 64-71.

42. Stahl, C.J.: Cutting and Stabbing Wounds. In Forensic Pathology: A Handbook for Pathologists, edited by R.S. Fisher and C.S. Petty. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 1977, pp. 151-159.

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43. Stahl, C.J., Jones, S.R., Johnson, F.B., and Luke, J.L.: The Effect of Glass as an Intermediate Target on Bullets: Experimental Studies and Report of a Case. Journal of Forensic Sciences 24:6-17, 1979.

44. Stahl, C.J.: Drowning. In Textbook of Medicine, 15th Edition, edited by P.B. Beeson, W. McDermott, and J.B. Wyngaarden. W.B. Saunders Company, Philadelphia, 1979.

45. James, L.P. and Stahl, C.J.: Unidentified Corpse. (Letter to the Editor). Journal of the American Medical Association. 242:240, July 20, 1979.

46. Stahl, C.J.: Identification of Human Remains. In Medicolegal Investigation of Death. Guidelines for the Application of Pathology to Crime Investigation, 2nd Edition, edited by W.U. Spitz and R.S. Fisher. Charles C. Thomas, Springfield, Illinois, 1980, pp. 39-70.

47. Woodruff, C.M. and Stahl, C.J.: A Review of 1979 Year Book of Pathology and Clinical Pathology. Journal of Forensic Sciences 25:932, 1980.

48. Stahl, C.J.: Drowning. In Medical Examiner's Handbook. Office of the Chief Medical Examiner, Commonwealth of Virginia, Richmond, VA, 1982, pp. 108-111.

49. Farnum, J.B. and Stahl, C.J.: The Role of Fine Needle Aspiration Biopsy in the Management of Pulmonary Neoplasms: Comparative Diagnostic Methods and Cost Containment. (Abstract). Proceedings of the Society of Armed Forces Medical Laboratory Scientists 12(1):20, March 1983.

50. Maibach, H.I., Blot, W.J., Hoffman, G., Dehme, F., Stahl, C.J., Thornburn, K., Weisburger, J.H., Willoughby, W., and Zapp, J. (Panel on Irritants and Vesicants, Committee on Toxicology, National Research Council): Irritants and Vesicants. In Possible Long-Term Health Effects of Short-Term Exposure to Chemical Agents. Volume 2. Cholinesterase Reactivators, Psychochemicals, and Irritants and Vesicants. National Academy Press, Washington, D.C., 1984, pp. 101-253.

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FORENSIC PATHOLOGY AND MEDICAL EXAMINER-RELATED FINDINGS AND CONCLUSIONS PERTAINING TO THE INVESTIGATION OF THE DEATH OF VINCENT W. FOSTER, JR.

We were provided unrestricted access to all available investigative and scientific information and materials regarding the death of Vincent W. Foster, Jr., including information developed by the Unites States Park Police, the Federal Bureau of Investigation and the FBI Laboratory, the Office of the Chief Medical Examiner, Commonwealth of Virginia, and its Northern Virginia District Office, and the Office of the Independent Counsel. We examined photographs taken at the scene of death and during the course of the postmortem examination, and microscopic slides prepared from tissues obtained at autopsy. We discussed the investigative and scientific findings of the case with the investigative and laboratory personnel responsible for each aspect of the investigation.

The analysis and conclusions of our review, as discussed below, were arrived at separately and independently by each of us.

ISSUES AND CONCLUSIONS

1. CAUSE AND CIRCUMSTANCES OF DEATH

The bullet wound of Mr. Foster's head and brain, with its vital reaction, represents the definitive cause of his death.

The postmortem findings demonstrated in this case are typical and characteristic of such findings in deaths due to intentional self-inflicted intraoral gunshot wounds. Following complete postmortem examination, there was no other trauma identified that would suggest a circumstance other than suicide. In addition, it is exceedingly unlikely that an individual of Mr. Foster's physical stature (6 feet 4 1/2 inches in height, 197 pounds in weight) could have been overcome by an assailant inflicting an intraoral gunshot wound without a struggle and there not to have been some other injury sustained at the time.

2. BULLET PATH

The large quantity of gunpowder residue present on microscopic sections of the soft palate indicates that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger. Recovery of Foster's DNA type from the muzzle of the revolver by the FBI Laboratory is strong supportive evidence that associates the weapon with the deceased. The absence of visible blood on the revolver is not inconsistent with the self-inflicted

bullet wound he sustained. Visual or chemical identification of blood on the weapon in gunshot wound suicides is a common but by no means universal finding. There were no flame burns from the muzzle blast identified within the mouth, nor would injury of such type necessarily be expected.

The bullet perforated the soft palate, entered the cranial cavity directly to the left of the foramen magnum, contused the left side of the brainstem, grazed the medial aspect of the left cerebral hemisphere and exited through the occipital skull and scalp. This wound caused instantaneous, complete incapacitation, followed by clinical death within a matter of minutes. There was a secondary, ring-like fracture of the skull, a common associated finding in such cases, that extended symmetrically from the base of the skull across the calvarium.

3. LOCATION OF FATAL EVENT

It is our opinion that the death occurred where the body was found at Fort Marcy Park, Virginia. The relatively pristine nature of the exposed skin surfaces of the deceased and of his clothing precludes any other scenario. Substantially greater contamination of skin surfaces and clothing by spilled and/or smeared blood would have been unavoidable, had the body been transported postmortem to the place where it was found. Precisely such contamination was, in fact, documented following actual transport of the body from the scene of death to Fairfax Hospital, and from there to the medical examiner's office. There was no such contamination when the body was examined and photographed at the scene.

4. TIME OF DEATH

Given the limitations of available information, it is not possible further to define the postmortem interval than within the broad range of when the deceased was last seen alive to the time the body was discovered.

5. TOXICOLOGY

Toxicological examination by the FBI Laboratory of blood obtained at autopsy revealed trace amounts of trazodone and small quantities of diazepam (Valium) and its metabolite, nordiazepam. The finding of trazodone, an antidepressant, confirms the history of Foster's taking a single tablet the evening prior to his death from a prescription ordered by his doctor earlier that day. There was no alcohol or any other toxic substance in Foster's body.

6. POSITION OF THE BODY

The deceased was found supine, with his arms and legs extended. Given the steep (approximately 45 degree) slope on which his body was resting, we believe that he was seated when the weapon was discharged. After firing the weapon, because of the sloped terrain, he would have fallen backward, with his arms falling to their respective sides by gravity, aided on the right by the weight of the revolver affixed to his thumb (see below, number 8). Had he been standing, he would not have ended up in the orderly position in which he was found. Had he been lying down, it is likely that the bullet would have been recovered from the ground beneath his head. It was not. Bullet-generated trauma to the brainstem would have rendered Mr. Foster instantly unconscious and unresponsive.

Although the amount of extravasated blood at the scene of death was characterized by some observers as being less than the expected quantity, a pool of blood was, in fact, found under the head of the deceased when the body was turned, and the upper back of his shirt was noted to be blood soaked. These observations notwithstanding, any relative lack of extravasated blood can be readily explained by the position of the body on the steeply inclined slope, with blood settling postmortem to the dependent portions of the body, i.e., below the level of the head wounds, and by the prompt cessation of cardiovascular activity incident to the bullet wound injury of the brainstem.

7. POSITION OF THE HEAD

According to multiple observers at the scene, the head was facing forward when Foster's body was found, an observation confirmed in scene photographs. There were linear blood stains coursing across the right side of the face, emanating from the nose and mouth. A broad transfer-type blood smear was present at the right side of the chin and neck, precisely corresponding to a similar blood stain of the right collar area of the shirt. For obvious reasons, the head must have been facing to the right when the body was found or have been turned to the right when the body was being examined at the scene. In either circumstance, blood accumulated in the nose and mouth from the bullet defect of the soft palate and base of the skull would have spilled over the face and soiled the right shoulder and collar of the shirt. The finding of the head facing forward and the right sided blood stains are mutually exclusive. We conclude that a rightward tilt of his face was changed to a forward orientation by one of the early observers before the scene photographs were taken.

8. POSITION OF THE WEAPON

Scene and autopsy photographs demonstrate that Mr. Foster's right thumb was trapped and compressed between the trigger and

the front of the trigger guard. In addition, there was gunpowder residue on the surface of his right index finger facing the thumb, extending from the distal joint to the web area of the thumb and, according to the autopsy report, similar material, but of lesser quantity, at the corresponding aspect of the left index finger. With the barrel of the revolver placed into the decedent's mouth, the only source of such gunpowder would be the gap between the cylinder and the frame of the weapon. Multiple test firings of the revolver in the FBI Laboratory conclusively demonstrated that gunpowder residue escapes from its cylinder gap. The laboratory studies and the anatomic findings indicate that Mr. Foster's index fingers were in the vicinity of the cylinder gap when the weapon was fired. In addition, flecks of scattered stippled material were observed on the skin surfaces of the lower face in scene photographs and in those autopsy photographs taken before these surfaces were washed. Washing markedly reduced their number. The origin of this material, i.e., whether it represents gunpowder residue, blood spatter or some other foreign material, is uncertain.

SUMMARY

We conclude that Mr. Foster died from a self-inflicted bullet wound delivered with suicidal intent and that the death occurred where the body was found, at Fort Marcy Park, Virginia.

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EMPLOYMENT:

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1977-*Present*	Neuropsychiatry Consultant, District of Columbia Medical Examiner's Office, Washington, D.C.
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TRANSCRIPT OF NOTE

I made mistakes from ignorance, inexperience and overwork

I did not knowingly violate any law or standard of conduct

No one in The White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group

The FBI lied in their report to the AG

The press is covering up the illegal benefits they received from the travel staff

The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation

The Ushers Office plotted to have excessive costs incurred, taking advantage of Kaki and HRC

The public will never believe the innocence of the Clintons and their loyal* staff

The WSJ editors lie without consequence

I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.

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* A transcript of the note prepared by the Park Police identifies this word as "legal."

Journal, 6/17/93

REVIEW & OUTLOOK

Who Is Vincent Foster?

In its first few months, the Clinton White House has proved itself to be careless about many things, from Presidential haircuts to appointing a government. But most disturbing is its carelessness about following the law.

While we have our own complaint that we will presently explain, we hasten to point out that our concern is shared by at least two federal judges. Indeed, they're exploring the largely uncharted legal ground of use of the contempt power to get the Clinton Crowd to obey the law.

In a suit over preservation of computer tapes from the Reagan-Bush era, Judge Charles R. Richey has already issued a contempt order because the administration "dillydallied" in following his earlier order, and threatens $50,000-a-day fines against the White House and National Archives. Now Judge Royce Lamberth has threatened contempt unless the Hillary Clinton health task force takes steps to follow his order to preserve materials relating to its activities.

Quite frankly, we have mixed emotions about these developments. We think that in the post-Watergate era, the executive branch has been on the short end of the balance of powers, and that the government would work better if this were redressed. We find Judge Richey's order more than a little presumptuous, and tend to think the law before Judge Lamberth is a legislative intrusion on executive power. But we can understand that both judges reacted to a certain lack of seriousness—contempt in its most basic meaning—toward legal rulings.

Judge Lamberth's case, for example, concerned whether the Hillary task force had to follow the Federal Advisory Committee Act, in which Congress prescribed hoops Presidents have to jump through in appointing outside commissions. Judge Lamberth held much of the law unconstitutional and laid out what might be seen as accommodating requirements, but dismissed the argument that this was not an outside commission because Mrs. Clinton was "the functional equivalent" of a government employee.

The government appealed the latter finding in a still-pending case; in the oral arguments Judge Laurence Silberman asked whether she took an oath of office or could be impeached. Meanwhile, the task force simply ignored the rest of Judge Lamberth's rulings, for example holding meetings without adequate notice.

We've been having a similar problem with Vincent Foster, deputy White House counsel and one of Mrs. Clinton's former partners in the Rose Law Firm in Little Rock. After we succeeded in making Webster Hubbell famous, it occurred to us we might have occasion to repeat the favor for other Rose partners, and requested photographs of Mr. Foster and associate White House counsel William [illegible] in the counsel's office relayed the message, "Mr. Foster sees no reason why he should supply the Journal with a photo."

Given this encouragement, we filed a request for photos of Mr. Foster and Mr. Kennedy under the Freedom of Information Act. The act requires officials to respond within 10 business days, a deadline that expired May 21. Despite repeated inquiries with those officials who return our calls, the White House still owes us either some photographs or an explanation of why our request has been refused.

At one point, we were told it ought to be worked out, and were referred to deputy press spokesperson Ricki Seidman, who seems not to return calls from our editorial page staff. David Gergen was not exactly overjoyed that we held up public complaint until he arrived, noting that our artists have already converted his photograph into a dot-drawing. But he seems to have jolted the matter off dead center; we're now told there's a draft letter somewhere in the bureaucracy saying the FOI Act does not apply to the White House counsel's office, but the press office can give us photos if it chooses. So we're back to the Seidman black hole, but the letter should be interesting reading.

No doubt Mr. Foster and company consider us mischievous (at best). Of course the Clinton administration has little reason to love us. Back when the rest of the press was in its pre-Waco honeymoon, we were already pulling the loose strings of the basic "New Democrat" lie. Still, we remain supportive when Mr. Clinton returns to that campaign theme, as with Nafta. Indeed, when Mr. Hubbell proved man enough to face public hearings on his appointment as associate attorney general, we saw no reason he should be denied confirmation. Even if we were as uniformly hostile as sometimes charged, there are larger points here. How an administration deals with critics is a basic test of its character and mores, and how scrupulously it follows the law is even more directly significant.

Does the law mean one thing for critics and another for friends? Will we in the end have to go to court to get a reply, or will even that work? Does it take a $50,000-a-day fine to get this mule's attention? Will a task force bearing the First Lady's name blithely ignore a district court order even as its appeal is being heard by the D.C. Circuit? Judge Lamberth demanded, "I want a name and address of who's going to be accountable, who's going to be held in contempt if there are documents destroyed."

Who ensures that this administration follows the law, or explains why not? A good question. While Constitutional law may not have been the big [illegible] seems to us that a good man for the job would be deputy counsel Foster.

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REVIEW & OUTLOOK

Vincent Foster's Victory

Meet Vincent Foster, movement conservative.

Vincent Foster is one of the White House lawyers from the Rose Law Firm, whose picture we've been seeking through the alleys and byways of the Freedom of Information Act. The picture arrived in time this week for us to celebrate Mr. Foster's victory yesterday in the battle over Hillary Clinton's status as head of the Clintons' health care task force.

An appeals court ruled Tuesday that, as Mr. Foster had been arguing, Mrs. Clinton is indeed the "functional equivalent" of a federal employee, at least as concerns compliance with the Federal Advisory Committee Act, or FACA (as in "focka").

Vincent Foster

The FACA Fight, initiated by various health and doctors' groups, was over whether the Hillary Clinton Health Task Force had to hold its meetings in public, which is what FACA requires when private citizens are serving on a President's advisory committees. Or whether Hillary, the functional federal equivalent, could hold her meetings in secret, as she desired. The appeals court said, sure, go ahead and meet in secret if you want. That's a win for the White House.

However, the court also said it didn't have a clue as to what exactly the task force's so-called "working groups" were all about, or whether FACA applied to their members. The White House said those are all federal employees, too, so they can hold secret meetings. But the appeals court said the legal status of these people isn't at all clear, and ordered the district court to revisit the FACA netherworld to explore such issues as whether some of Hillary's helpers are "special government employees" or "full time" or "intermittent" or "consultants."

Finally, the court said the plaintiff doctors groups get to look at the almost football-field's worth of paper and documentation that the working groups have piled up by now.

As we say, for achieving these outcomes we think Mr. Foster deserves a salute from conservatives. With one mighty sweep he has struck a blow for separation of powers, executive authority, critics of the litigation explosion, and we dare say, even for the former [illegible] off-the-books Iran-Contra operation.

Conservatives have worried out loud for years about inroads against the President's ability to carry out the functions of his office. In particular, conservatives have noted Congress's instinct to usurp presidential authority, tipping the balance of powers in the legislature's favor. Thus, particular or parochial interests subsume any national interest that a President is elected to represent.

Judge Laurence Silberman, writing for the appeals court (and alluding to Alexander Hamilton along the way), noted: "The ability to discuss matters confidentially is surely an important condition to the exercise of executive power. Without it, the President's performance of any of his duties . . . would be made more difficult. In designing the Constitution, the Framers vested the executive power in one man for the very reason that he might maintain secrecy in executive operations."

Alas, the Clintonites, as is their wont, again allowed hubris to smother mere principle. Instead of a more well-defined operation, they went secret over changing the entire American health care system. Even defenders of executive authority would blanch at such imperial overstretch.

And so now the Clintons will discover the pleasures of the litigation explosion as defined by former Vice President Dan Quayle. Instead of doing productive work, they will spend days bringing forth box after box of documentation, while arguing with a judge about "intermittent" vs. "full-time"—just the way private companies do for the federal prosecutors and agency bureaucrats who enforce the kinds of vague laws that the Clintons' political philosophy favors. Dan Quayle has further details.

As for Iran-Contra, we suspect that Vincent Foster and Ollie North might hit it off. After all, we're supposed to believe that the health task force "officially" disbanded on May 30, and so FACA's requirements are moot. That is, we're supposed to believe that Mrs. Clinton and her associates will never ever hold off-the-books meetings with "non-government" advisers to get the reform plan finished.

Mr. Foster's boss, Bill Clinton, often rails against the gridlock of the "last 12 years." For that reason, we're glad that the case of *Association of American Physicians and Surgeons v. Hillary Rodham Clinton, et al.* has given a Democratic administration the opportunity to explore the questions of presidential authority discussed by Judge Silberman and his colleagues. Now [illegible] White House.

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Journal, 7/19/93

What's the Rush?

So the gang that pulled the great travel office caper is now hell-bent on firing the head of the FBI. The news reports say that William Sessions has already offered to resign pending approval of a successor; we wish someone would explain to us the hurry.

The FBI director, whatever the incumbent's shortcomings, was given a 10-year term to provide some measure of political independence. To be sure, the President has a right to fire the director, as President Truman fired General MacArthur. But that is not to say every incoming president is justified in firing an incumbent and appointing his own director. We do not want law enforcement put at the disposal of this or that political faction.

If Mr. Sessions is fired it will of course be for ostensible cause, as the travel office firings were over expense records. His sin was to take his wife on his government airplane, and to claim for tax purposes that his limousine was a law enforcement vehicle because he carried firearms in the trunk. Even if he did not use the plane for haircuts, this is apparently deemed reason for summary dismissal. In the travel office case, by contrast, Associate White House Counsel William Kennedy III earned a meaningless letter of reprimand for misusing the FBI's investigative powers.

William Sessions

We hope Mr. Sessions pointed this out to White House Counsel Bernard Nussbaum, who sat in with Attorney General Janet Reno and Deputy Attorney General Philip Heymann in the shoot-out with Mr. Sessions on Saturday. Also present was Associate Attorney General Webster Hubbell, the man who brokered a meeting that resulted in the Justice Department reversing its position in the corruption trial of a member of congress. Mr. Hubbell and Mr. Kennedy are alumni of Little Rock's Rose Law Firm, as are Mrs. Clinton and Deputy White House Counsel Vincent Foster, both of whom were also involved in the travel-office affair.

The leaks on Saturday's meeting are that Webb Hubbell et al. told Mr. Sessions to resign or be fired, probably today; on the way out he stumbled on a curb and broke his elbow. Presumably Mr. Sessions is leaving sooner or later; the conventional wisdom within the Washington Beltway has certainly run against him, for whatever that's worth. He has apparently alienated important subordinates, perhaps because he's a poor administrator. Or perhaps, as he claims, because of his efforts to prosecute black and women. The opposition has a bipartisan patina, since the charges against him were originally leveled by Bush Attorney General William Barr on his last day in office.

The original Bush administration investigation, it should be carefully noted, was announced immediately after it became public that the FBI had launched an investigation into the controversial prosecution of the head of the Atlanta branch of the Banca Nazionale del Lavoro over illicit loans to Iraq. Mr. Barr's own investigator, a prominent former judge, exonerated the Justice Department handling of the BNL case, but we're not sure the final word has been heard.

President Clinton met Friday with Federal Judge Louis J. Freeh of New York, reportedly the leading contender as Mr. Sessions' successor. Judge Freeh is fine by us, but his meeting with the President only deepens the mystery over the hurry. If the choice of a successor really is imminent, why not get him nominated? If Mr. Sessions resigns we worry that Judge Freeh, given the record of the Clinton appointments process, may trip over a Kimba problem or somesuch. The agency would be left adrift and the appointment up for grabs.

Our Washington bureau reported in March that the administration was intent on getting rid of Mr. Sessions in order to replace him with Richard Stearns, a judge on the Massachusetts Superior Court. Judge Stearns and President Clinton were war protesters together as Rhodes Scholars at Oxford. Judge Stearns was also a deputy campaign manager in George McGovern's 1972 presidential race, as well as national director of delegates in Sen. Edward Kennedy's 1980 presidential nomination bid.

This kind of appointment would be another matter indeed. We are far enough along toward making the FBI job a political football. Mr. Sessions is leaving under attack from various quarters; his predecessor, William Webster, left to become Director of Central Intelligence, only to resign that job rather abruptly. Strange things are going on in law enforcement, as the BNL and BCCI cases show. The mores on display from the Rose alumni are far from confidence-building. It seems to us Mr. Sessions would do the nation and his agency a favor to stand by his position, leaving when a successor is ready or letting the President take full responsibility for a firing.

Why don't serious people understand this immediately? What kind of a political culture do we have where the big issue is not whether the FBI director fairly enforces the law, but whether he takes his wife on an airplane?

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COMMENCEMENT ADDRESS
BY
VINCENT W. FOSTER, JR.

AT
THE LAW SCHOOL
UNIVERSITY OF ARKANSAS
FAYETTEVILLE, ARKANSAS

MAY 8, 1993

There are rare and wonderful occasions when one of the giants in the legal profession articulates a vision of what lawyers ought to be. Those words should be read, reread, treasured and heeded. Such was the vision Vincent Foster captured for all of us in his commencement address to the graduating class of the University of Arkansas School of Law on May 8, 1993, a school where 22 years before he graduated first in his class.

E. Lamar Pettus
President
Arkansas Bar Association

REPRINTED BY
THE ARKANSAS BAR ASSOCIATION
400 W. MARKHAM
LITTLE ROCK, ARKANSAS 72201

FOIA # none (URTS 16305) DocId: 70105094 Page 133

ROADS WE SHOULD TRAVEL

COMMENCEMENT ADDRESS
BY VINCENT W. FOSTER, JR.

Dean Strickman, Dr. Leflar, honored faculty of the University of Arkansas School of Law, class of 1992, family and friends, I cannot tell you what a thrill it is to return to these beautiful hills and celebrate with you the completion of your law school career.

It is humbling for me to deliver this message from a stage shared by so many outstanding teachers, many of whom taught me well. What a challenge it is for any commencement speaker, let alone this one, to attempt to develop and convey to you an uplifting message with any staying power whatsoever, knowing full well the wide range of emotions which are preoccupying you at this moment: Your senses of achievement, appreciation, satisfaction, relief, survival and perhaps apprehension; and particularly some sense of impatience for this speaker to get on with it, deliver his remarks so that you may receive congratulations from your family and friends.

Governor Cuomo reports that when he was first asked to speak at a graduation he sought advice out from Father Flynn, then the president of St. John's University. Commencement speakers, said Father Flynn, should think of themselves as the body at an old-fashioned Irish wake. They need to have you there in order to have the party but they don't expect you to say much.

When Dean Strickman, in Washington a few weeks ago, conveyed to me the invitation, I protested that I was not only unworthy of the honor but unprepared for the experience.

You see, I skipped my commencement ceremonies some 22 years ago. This is the first law school exercise that I have ever attended.

The law school commencement at that time was a mass joint enterprise with all the other schools on campus, and since I have not been much on ceremony, and since I felt I knew everything there was to know, I rationalized that I should rush to Little Rock to assume my new job and save on the rental gown. My wife, Lisa, who put me through law school with much personal, professional and financial sacrifice, would have been relegated to the balcony and did not object.

Maturity and experience have taught us that we were wrong. We had much to learn and time to spare. We would have benefited from one last celebration with our professors and our friends and families, and we would have profited by pausing one more time to think about where we had come from and where we were going and what roads we should travel.

This invitation has caused me to stop this hectic and challenging adventure I am on in Washington to think about the roads I have traveled to get there and the roads I wish I had traveled. This reflection has focused me on some turmoil on the roads before you -- the choices and opportunities and challenges you will have as lawyers of this time and place in history.

I congratulate you on this achievement. You have sacrificed a considerable amount of your time on earth. You have mastered a strange new language. You have postponed the start of your vocation. You've experienced a full measure of peer competition. You've been swept up in rapid rumors in job opportunities and job conditions. You've changed your daily work ethics, and you have forgone many of life's simple pleasures. Some of you have earned special recognition this afternoon, and we all congratulate you.

But, tomorrow, my friends, the slate is wiped clean again. Prospective clients don't inquire about class rank. The local bar association you will join does not have a special class of membership for law review staffs. Judges and jurors will not ask to see your resume.

You will be evaluated instead by your product, your energy, your temperament and your backbone. The reputation you develop for intellectual and ethical integrity will be your greatest asset or your worst enemy. You will be judged by your judgment.

The practice of law you've already learned does not lend itself to true-and-false analysis. If the problem is black or white, the client does not need a lawyer.

Instead, your challenge will be to use your education and all your life's experiences to exercise good judgment to select from among the shades of gray.

Practice law with excellence, with pride in your product. Treat every pleading, every brief, every contract, every letter, every daily task as if your career will be judged on it.

Each client is entitled to your best effort. Practice law with a heart. The clients you represent will remember you long after you have forgotten their names. While routine for you, what you are doing for them may be the most important thing in their lives.

For most, you'll be the only lawyer they will ever come into contact with, and they form their perception of our justice system and your profession on how you treat them as a person and the quality of your work.

Practice law with consideration and courtesy. No matter how righteous the cause or clear your victory,

assure that your adversary with his or her client leaves with dignity.

As Judge Perry Whitmore in Little Rock used to tell us, you can disagree without being disagreeable. Besides, your adversary today may be your judge tomorrow.

Following the bar exam, your most difficult test will not be of what you know but what is your character. Some of you will fail.

The class of 1971 had many distinguished members who also went on to achieve high public office. But it also had several who forfeited their license to practice law. Blinded by greed, some served time in prison.

I cannot make this point to you too strongly. There is no victory, no advantage, no fee, no favor which is worth even a blemish on your reputation for intellect and integrity.

Nothing travels faster than an accusation that another lawyer's word is no good. A judge who catches you in a disingenuous argument or a mis-characterization of a case will turn hard of hearing when you next show up to argue.

Dents to the reputation in the legal profession are irreparable. Every lawyer I know carries around a mental black book which is recorded in indelible ink the names of his adversaries who breached the presumption of good-faith dealing.

Each of you, I hope, will strive always to set your professional goals and your personal goals out there just barely at the end of your reach. Stretch your talents, grasp beyond the closest branch, take a risk, stick your neck out, speak your mind, challenge the status quo and conventional wisdom. Do not just accept responsibility. Chase it down.

You will have failures and disappointments. Take comfort in knowing that opinions of those who really matter will never be as forgiving of your failures or as admiring of your victories as they are at this stage of your career.

Sometimes doing the right thing will be very unpopular with your other clients and with the pundits at the local coffee shop. When the heat of controversy swarms around you, the conviction that you did the right thing will be the best salve and the best sleeping medicine.

Listen to each other; listen to older lawyers. If I could have one wish for each of you, it would be to find a mentor who will bring you along, and whose values will be the ones you admire and absorb. In my experience, that is the critical key to professional success and happiness.

Even with such a mentor you will go home some nights feeling like you never want to practice again - the way you've done here after an exam or a Moot Court argument went badly.

But you will go home other days anxious to get back again and slay the dragon. In a few short years you will be a mentor to some new lawyer. Start preparing now to be a good one, to be the kind of mentor that you would want for yourself. Strive to be a lawyer whom other lawyers admire.

Along the way you will receive recognition for achievement, a complimentary newspaper article, an award, a plaque, and if the gods are with you, maybe even a commencement address. When you smile for the camera and bask in the applause and take your bow, pause and reflect and recognize who helped you get there. Your spouse, your law partner, your parents, your friends.

Because there will also be failures, and criticisms and bad press and lies, stormy days and cloudy days, and you will not survive them without the support of those same spouses, law partners and friends. So it is.

I pause: Three weeks ago my wife, Lisa, and I celebrated our 25th anniversary, and it was here in Fayetteville in law school where we celebrated our first. Like many in this audience, she began by putting me through law school. For 22 years she has always encouraged me to persevere and aim higher. She has been my editor, my jury consultant and my best friend. I wish for all of you, a Lisa.

A word about family: You have amply demonstrated that you are achievers willing to work hard, long hours, to set aside your personal lives. It reminds me of that observation that no one was ever heard to say on their death bed, I wish I had spent more time at the office.

Balance wisely your professional life and your family life. If you are fortunate to have children, your parents will warn you that your children will grow up and be gone before you know it. I can testify that it is true. God only allows us so many opportunities with our children to read a story, go fishing, play catch, say our prayers together. Try not to miss a one of them. The office can wait. It will still be there when your children are gone.

This ceremony is called a commencement because it's a new journey. Your law school studies are completed, but your education is just under way. Continue to study, but don't limit your studies to the law. If you strive to become a great lawyer, you must be more than a lawyer.

We are defined as persons and lawyers by the depth and variety of our experiences. Continue to broaden your horizons. Read religiously - works other than law.

Travel. By all means travel every chance, everywhere you can. Travel the back roads, not the interstates. Mingle with those of different backgrounds and cultures and ages.

Quietly observe your fellow man. Sit still and listen to those who are different from you. Look and listen for the values that you share, which you have in common.

Tolerance does not come naturally to any of us. You must work at it. We all must work harder at it.

Take time out for yourself. Have some fun, go fishing, every once in a while take a walk in the woods by yourself. Learn to relax, watch more sunsets. Those of you who do not have your life planned out, don't worry. It wouldn't turn out the way you planned it in any event.

I know there is tendency to want a job with the expectation that it will be your sole life's work, but I hope that does not prove to be the case for you.

Having waited 22 years to make my first career change, as satisfying and successful as that first career was, today I would travel a number of different routes instead.

I hope you will consider trying the wide variety of professional opportunities that the practice of law will offer you. Spend some time in public service, whether as an assistant to the prosecutor or a public defender, or a legal service program. Or go to Washington and work for a congressional delegation or one of the federal agencies. Or go to your state capitol and work for a state agency or state commission. Or run for the legislature, school board, city council, or teach at your community college.

But whatever you do, choose a professional life that satisfies you and helps others. If you find yourself getting burned out or unfulfilled, unappreciated or the profits become more important than your work, then have the courage to make a change.

Public service, even volunteer service, presents difficult choices for you, I know. Those of you who have student loans, have deferred buying homes, and deferred other material objects, and you are anxious about the debt, you are anxious about the job market. I understand. But there will be ample time and opportunity for you to make a good living.

But it won't be enough for you to make all the money you can. No matter how successful you are financially, your professional lives will be unhappy if you do not devote some measure of your task to improving your profession and your community. You can do good and still do well.

The First Lady said it best recently. She said service means you get as well as you give. Your life is changed as you change the life of others. It is the way we find meaning in our lives.

Now, I am not under any illusion about why I was invited here today. I know that 48-year-old commercial trial lawyers are not on the short list of graduation speakers. It must have something to do with my recent job change.

That job change has either added credibility to my voice or made me somewhat of a curiosity. And some would ask what motivates one with a comfortable practice in a prominent law firm, to dislodge his family for a new job with longer hours, with half the pay, in a city that costs twice as much to live.

But the reason I am on this new adventure in Washington is because our country is in transition. The people, the citizens, have demanded a change in our government. They are talking back to it in record numbers. The President receives almost a million letters a month. The White House phone lines are jammed.

Middle-aged Americans all over this country are volunteering to join the administration, to leave lucrative practices and businesses, and to participate in changing our government. Washington is teeming with young people just like you, from all over this country, from all walks of life, who have a sense of a common purpose and desire to be involved.

When we leave work at night, we pull up to a large heavy gate that surrounds the White House complex. While the Secret Service guards slowly open that gate, I always look to my right, and inevitably there are dozens of people aligned along that iron fence that runs along Pennsylvania Avenue, holding on the bars, peering through intently at the White House lit in the background.

When I look into their faces, I can tell that each has hope for something from their government. It is a wonderful reminder of why we are there. I am more encouraged than I have ever been that the pendulum has begun to swing back; that there is a renewed spirit of common purpose; that Americans, particularly your generation, are again acknowledging that it is the duty of all of us to use all that we have been given to make this a better world, not just for ourselves or our families, but for everyone on this earth.

In my job I have now found myself surrounded by young people just like you, who have energized me with their vigor, their optimism, their new ideas. I sense that same spirit in this auditorium today, this auditorium made for optimists and doers.

I have the feeling that you are believers and doers who will make something better of what we have handed you. You are the reason for hope because you can be the agents for change - change of your community and change of your legal profession.

The President last week addressed a group just like you. And he said, "Our country needs you. We need your knowledge, your initiative and your energy. We need you because you are still free of the cynicism that has paralyzed too long your parents and your grandparents who led us to spend too much time talking about what we can't do, instead of seizing what we can do."

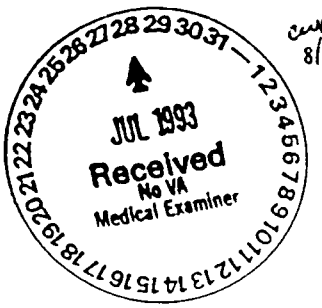
Like those people along the iron fence on Pennsylvania Avenue, I look into your faces and I see your potential to restore responsibility to our profession and to our society. I see your potential to restore a sense of community, to use your talents to help others and to be fulfilled. God bless you and good luck to you.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

OFFICE OF THE CHIEF MEDICAL EXAMINER

NORTHERN VIRGINIA DISTRICT
9797 BRADDOCK ROAD
SUITE 100
FAIRFAX, VA 22032-1700
PHONE (703) 764-4640

Autopsy No. 353/93
Date 7/21/93
Time 10:00 A.M.



cwf 8/4/93

REPORT OF AUTOPSY

DECEDENT VINCENT (First) (Middle) FOSTER (Last)

Autopsy Authorized by: Dr. Donald Haut - Fairfax County

Body Identified by: U.S. Park Police Tag - 7/20/93

Persons Present at Autopsy: James C. Beyer, M.D.; Det. James G. Morrissette, U.S. Park Police

Rigor: complete X jaw _____ neck _____ arms _____ legs _____
Livor: color pale red distribution: posterior
Age 48 Race W Sex M Length 76½" Weight 197 Eyes hazel Pupils: R RRE L RRE
Hair greying black Mustache no Beard no Circumcised yes Body Heat cool

Clothing, Personal Effects, External wounds, scars, tattoos, other identifying features: See attached sheet.

PATHOLOGICAL DIAGNOSIS:

CARDIOVASCULAR SYSTEM: Heart, no evidence of hypertrophy, valvular or congenital abnormalities. Epi and endocardium, no evidence of fibrosis or inflammation. Coronary arteries, normal origin and distribution; no significant alteration all segments. Myocardium, no evidence of fibrosis, inflammation or infarction. Aorta, minimal arteriosclerosis.

RESPIRATORY SYSTEM: Larynx, trachea and bronchi, no evidence of trauma, obstruction or inflammation. Lungs, pulmonary congestion; aspiration or blood. No evidence of inflammation or pulmonary artery emboli. Hemidiaphragms intact.

LIVER: No evidence of trauma or inflammation.

SPLEEN: No evidence of trauma.

PANCREAS, ADRENAL AND THYROID GLANDS: No significant alteration.

G.I. TRACT: No evidence of trauma, hemorrhage or inflammation.

GENITOURINARY TRACT: Kidneys, no evidence of trauma or inflammation. Urinary bladder and genitalia, no significant alteration.

HEAD: Perforating gunshot wound - entrance in mouth in posterior oropharynx with wound track extending backward and upward with exit from back of head.

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CONTENTS NOT TO BE DUPLICATED

Cause of Death:

PERFORATING GUNSHOT WOUND MOUTH - HEAD

Provisional Report _____
Final Report ✓

The facts stated herein are true and correct to the best of my knowledge and belief.

July 28, 1993 (Date Signed) | NO VA ME OFFICE (Place of Autopsy) | J. C. Beyer (Signature of Pathologist) James C. Beyer, M.D.

CME Form No. 10—Revised 6/89

A COPY TESTE: JUL 28 1993
J. C. Beyer

GROSS DESCRIPTION

PLEURA, PERITONEUM & PERICARDIUM:	Intact, smooth and glistening.
HEART:	350 gm. No valvular or congenital abnormalities. Epi and endocardium, thin and transparent. Coronary arteries, normal origin and distribution; right coronary artery predominant; no significant alteration all segments. Right ventricle 3 mm.; left 13 mm. The myocardium is intact and grossly free of any signs of fibrosis, inflammation or infarction. Aorta, minimal arteriosclerosis.
LUNGS:	Right 870 gm.; left 840 gm. Larynx, trachea and bronchi, intact and free of trauma, obstruction or inflammation. Both lungs are intact and on section there is extensive congestion as well as aspiration of blood. No evidence of inflammation or pulmonary artery emboli. Hemidiaphragms intact.
LIVER:	1640 gm. Capsule is intact and smooth and the free edges are sharp. On section there is no evidence of trauma, fibrosis or nodularity.
GALLBLADDER:	No significant alteration.
SPLEEN:	130 gm. Capsule intact.
PANCREAS, ADRENAL & THYROID GLANDS:	No significant alteration.
G.I. TRACT:	Stomach contains a considerable amount of digested food material whose components cannot be identified. No evidence of hemorrhage or inflammation.
KIDNEYS:	140 gm. each. The capsules strip with ease to reveal an intact pale smooth surface. No trauma or inflammation.
URINARY BLADDER:	Wall intact; urine clear.
GENITALIA:	No significant alteration.
BRAIN:	1420 gm. Perforating gunshot wound mouth-head; entrance wound is in the posterior oropharynx at a point approximately 7½" from the top of the head; there is also a defect in the tissues of the soft palate and some of these fragments contain probable powder debris. The wound track in the head continues backward and upward with an entrance wound just left of the foramen magnum with tissue damage to the brain stem and left cerebral hemisphere with an irregular exit scalp and skull defect near the midline in the occipital region. No metallic fragments recovered.
MICROSCOPICS:	Section of lung reveals alveolar filling by red blood cells; in the liver 3 to 4% of liver cells contain fat vacuoles. Sections of soft palate positive for powder debris.

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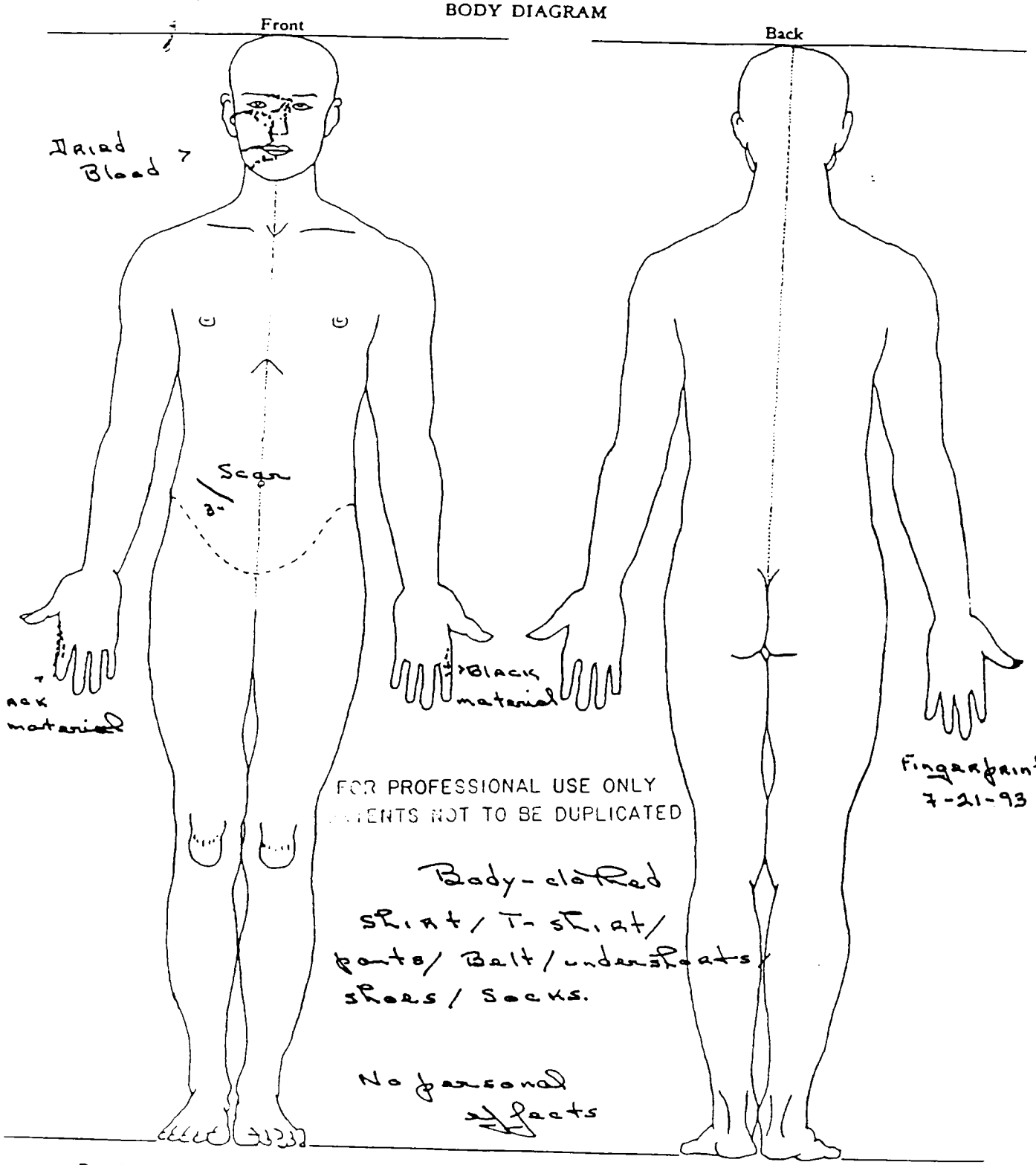
OTHER LABORATORY PROCEDURES: TOXICOLOGY ☒ BACTERIOLOGY ☐ DENTAL CHART ☐ X-RAY ☐ FINGER-PRINT ☐
PHOTOGRAPHY ☐ SEROLOGY ☐ FORENSIC SCIENCE ☐

8/4/9.

BODY DIAGRAM



Decedent's Height 76 1/2 inches

Name Vincent Foster

Examined By R.O. Boyer Date 7-21-93

8/4/94

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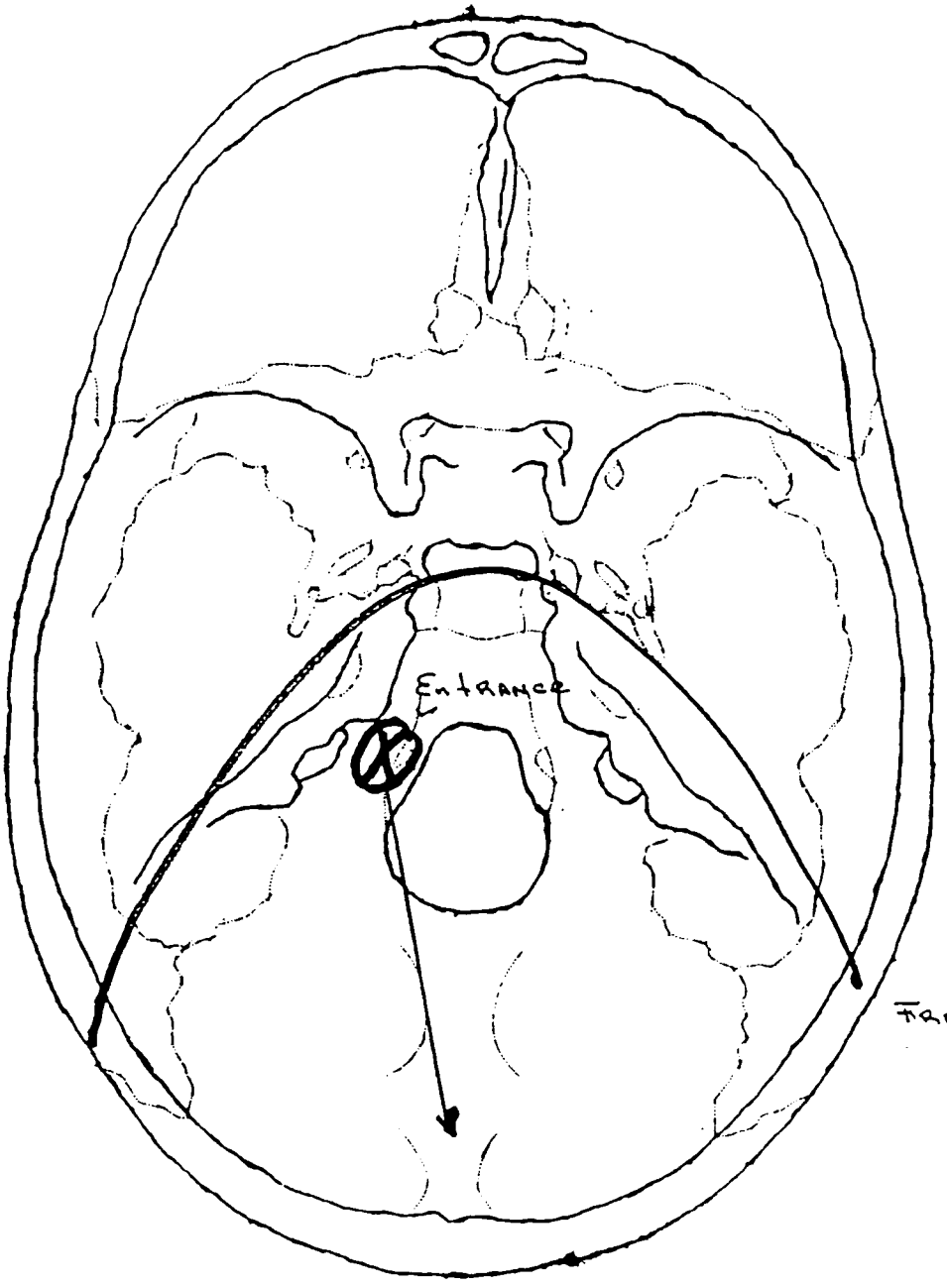
FRONT

LEFT

RIGHT



Fracture Line

BACK

Vincent Foster

D. C. Bayan

7-21-93

CWH 8/4/93

FRONT

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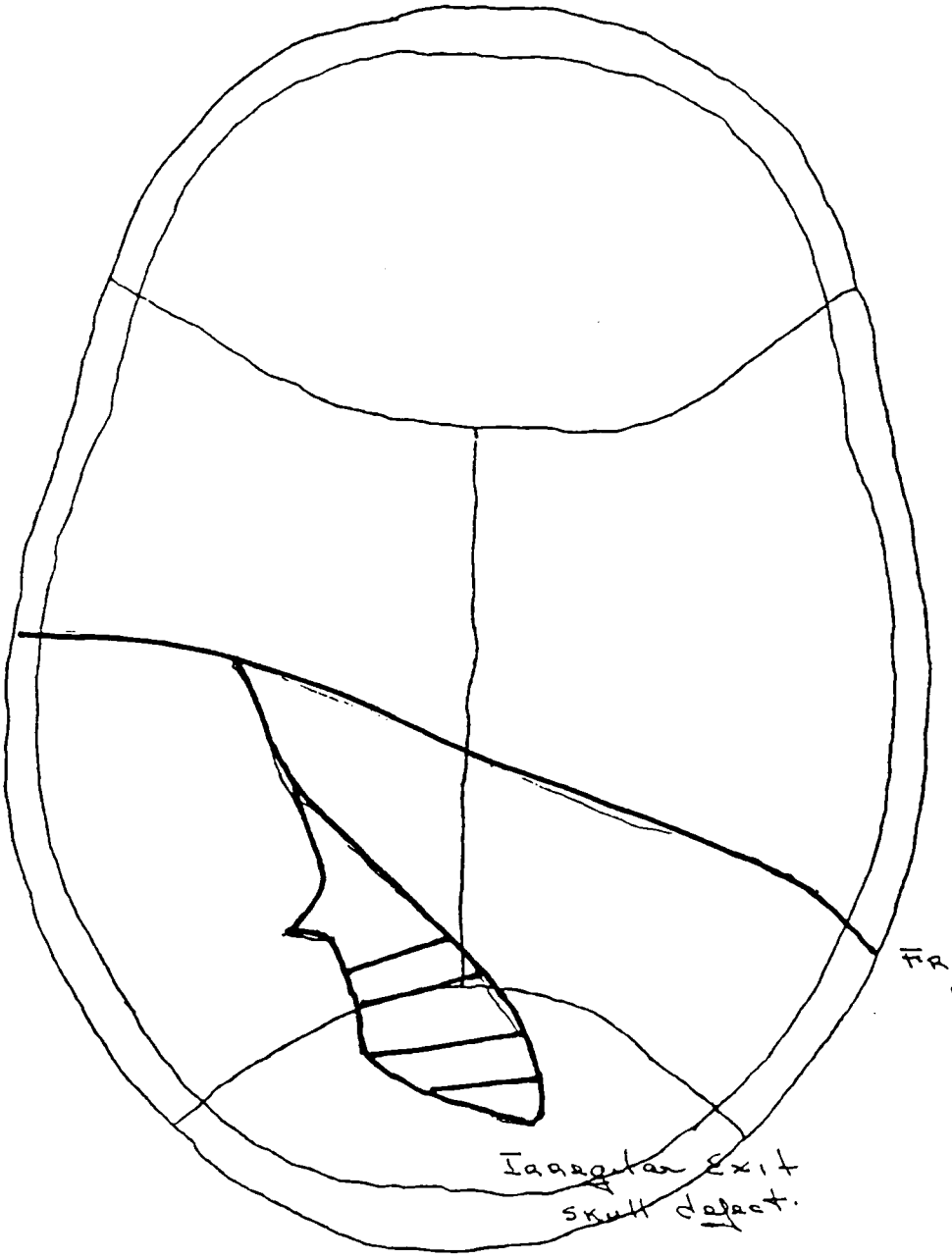


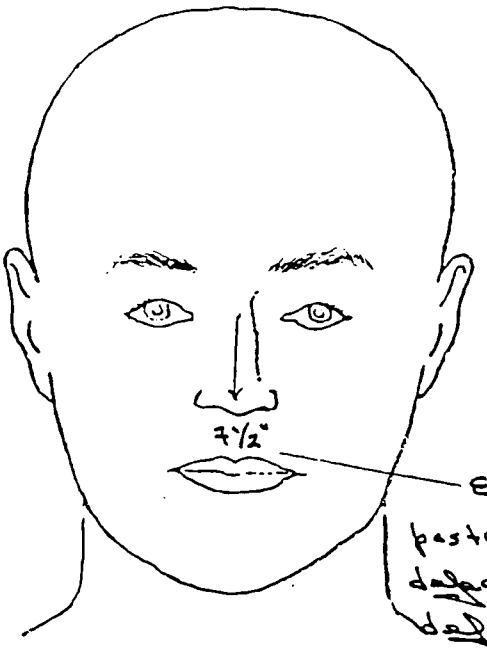
BACK

Vincent Foster

L. O. Bayer 7-21-93

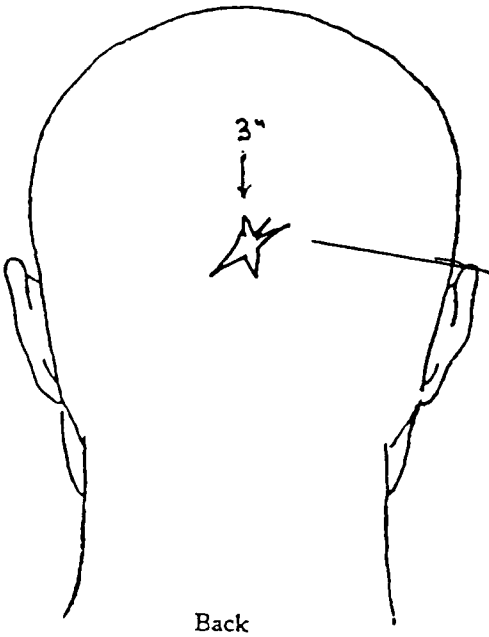
cwH 8/1/93

BODY DIAGRAM—HEAD



Entrance - mouth - posterior oropharynx - large defect - soft palate defect / powder debris identified.

Front



Perforating Gunshot wound

Exit wound - Irregular wound 1¼" x 1"

Back

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DOCUMENTS NOT TO BE DUPLICATED

Decedent's Name Vincent Foster

Examined By D. C. Bayer Date 7-21-93

GUNSHOT WOUND CHART

Name Vincent Foster City or County Fairfax

		WOUND NO. 1 Ent.	1 Ex.	2 Ent.	2 Ex.	3 Ent.	3 Ex.	4 Ent.	4 Ex.	5 Ent.	5 Ex.	6 Ent.	6 Ex.
1. Location of wound:	Head	mouth	Back										
	Neck												
	Chest												
	Abdomen												
	Back												
	Arm < Right												
	Arm < Left												
	Leg < Right												
	Leg < Left												
2. Size of wound:	Diam.												
	Width		1										
	Length		1 1/4										
3. Inches from wound to:	Top of head	7 1/2	3										
	Right of midline												
	Left of midline		Midline										
4. Powder burns:	On skin	Patch - Sagi											
	Clothing												
	Absent												
5. Direction of bullet through body:	Backward	✓											
	Forward												
	Downward												
	Upward	✓											
	To right												
	To left												
6. Bullet found:	Calibre	—	—										
	Shotgun												

Photographs made: Yes ✓ No ____ X-rays made: Yes ✓ No ____

REMARKS:

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Examined by: J. C. Beyer Date: 7-21-93

FOIA # none (URTS 16305) DocId: 70105094 Page 144

Commonwealth of Virginia
Department of General Services
DIVISION OF FORENSIC SCIENCE

ORIGINAL
JUL 1993
Received
Medical Examiner

Northern Laboratory
9797 Braddock Road #200
Fairfax, Virginia 22032
Tel. No. (703) 764-4600
Fax: (703) 764-4633
TDD/Voice: (804) 786-6152

CERTIFICATE OF ANALYSIS

July 26, 1993

TO: DR JAMES C BEYER
OFFICE OF THE CHIEF MEDICAL EXAMINER
NORTHERN VIRGINIA DISTRICT
9797 BRADDOCK ROAD # 100
FAIRFAX VA 22032

cc: Dr. Haut

Your Case # 93-353 **FS Lab #** NL93-4271

Victim(s): FOSTER, Vincent

Suspect(s): - - -

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CONTENTS NOT TO BE DUPLICATED

Evidence Submitted By: Dr. J. C. Beyer **Date Received:** 7/21/93

All evidence had been sealed upon receipt.

1 vial blood, 1 vial vitreous humor, 1 container blood,
1 container urine, 1 container liver.

RESULTS:

BLOOD, VITREOUS HUMOR AND URINE: Negative for alcohols and ketones.

BLOOD: - Phencyclidine, Morphine, Cocaine and Benzoylecgonine: NOT DETECTED.

- Other alkaline extractable drugs (benzodiazepines, synthetic narcotics, tricyclic antidepressants and analgesics): NOT DETECTED.

- Acidic and neutral drugs (salicylates, barbiturates, hydantoins, carbamates and glutethimide): NOT DETECTED.

URINE: - Drug screen (salicylates, phenothiazines and ethchlorvynol): NOT DETECTED.

ATTEST:

I certify that I performed the above analysis or examination as an employee of the Division of Forensic Science and that the above is an accurate record of the results of that analysis or examination.

Anh N. Huynh, Pharm.D.
Toxicologist

ANH/ps

A COPY TESTE: JUL 29 1993
T. C. Beyer
Assistant Chief Medical Examiner

GS-70-005 (Rev 7-1 92)

FOIA # none (URTS 16305) DocId: 70105094 Page 145

GWMP
Fort Marcy Artifact Inventory

N0E0
Harness, Hardware, Horseshoe (1), Ferrous

N0E15
Unidentified, Metal Object, Ferrous

N5E0
Hardware, Screw, Pitcock?, White metal

N5E5
Military, Button, w/ Eagle, Copper alloy

N5E10
Ammunition, Minie Ball, .57 Caliber, Lead
Ammunition, Shot, Lead

N5E15
Coin, Penny, 1969, Copper

N5W5
Hardware, Nail, Common, Ferrous

S5E10
Hardware, Nail, Common, Ferrous
Hardware, Nail, Unidentified, Ferrous

S5E15
Ammunition, Minie Ball, .57 Caliber, Lead
Military, Button, w/ Eagle, copper alloy
Hardware, Nail, Common (4), Ferrous

S5E20
Container, Barrel, Hoop (2), ferrous
Military, canteen Lip, white metal

N10E0
Hardware, Nail, Rosehead, Ferrous
Unidentified, Metal Object (Cog tooth?), Ferrous
Hardware, Clasp, Haversack, Copper alloy
Hardware, Wire, White metal

N10E10
Hardware, Nail, Common (8), Ferrous
Hardware, Nail, Unidentified, Ferrous
Hardware, Wire (3), Ferrous

N10W5
Hardware, Nail, Rosehead (2) , Ferrous
Hardware, Nail, Common, Ferrous
Hardware, Nail, Unidentified, Ferrous

N15E0
Ammunition, Minie Ball, .57 Caliber, lead
Container, Unidentified, Lid, White metal
Fort Marcy Inventory (cont)

N15E5
Ammunition, Minie Ball, .57 Caliber (2), Lead
Ammunition, Minie Ball, .69 Caliber, Lead
Ammunition, Minie Ball, .57 Caliber, Lead

N20E0
Toy, marble, Glass
Ammunition, Minie Ball, .57 Caliber, Lead
Hardware, Nail, Unidentified, Ferrous

PATH BELOW GRID
Ammunition, Minie Ball, .57 Caliber, Lead
Unidentified, Metal Object, Ferrous
Hardware, Rivet, Haversack, Copper Alloy
Ammunition, Cartridge Case, Brass
Container, Can, Pull Tab (2), Aluminum
Machinery, Plate, White metal
Hardware, Nail, Common, Ferrous
Harness, Hardware, Horseshoe, Frag, Ferrous
Hardware, Spike, Ferrous

Screened By: NARA (RD-F) Date: 07-25-2018 DOCID: 70105098

Poster Documents - Misc.

FORENSICS

7-1 (Rev. 2-21-91)

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: July 15, 1996

To: Office of the Independent Counsel
Attention: Inspector in Charge
E. H. Lueckenhoff
Suite 490-North
1001 Pennsylvania Avenue, Northwest
Washington, D. C. 20004

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Communication June 5,

Your No.

Re: MOZARK;
MAJOR CASE 106;
FAG - SBA;
FIF

Hubbell fingerprints

Specimens received: June 21, 1996

Specimens:

366 Miscellaneous items, Q2869 through Q3234 → renovation file

This report confirms and supplements information furnished telephonically on July 9, 1996.

The result(s) of the other requested forensic examination(s) will be furnished in a separate report.

Three hundred nine latent fingerprints, twenty-four latent palm prints and one latent impression, which is either a fingerprint or a palm print, of value were developed on one hundred forty items. No latent prints of value were developed on the remaining specimens.

The latent fingerprints, latent palm prints, and the latent impression were compared with the available fingerprints

(Continued on next page)

This Report Is Furnished For Official Use Only

7-1 (Rev. 2-21-91)

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: July 15, 1996

To: Office of the Independent Counsel
Attention: Inspector in Charge
E. H. Lueckenhoff
Suite 490-North
1001 Pennsylvania Avenue, Northwest
Washington, D. C. 20004

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Communication June 5, 1996

Your No.

Re: MOZARK;
MAJOR CASE 106;
FAG - SBA;
FIF

Specimens received: June 21, 1996

Specimens:

366 Miscellaneous items, Q2869 through Q3234 → renovation file

This report confirms and supplements information furnished telephonically on July 9, 1996.

The result(s) of the other requested forensic examination(s) will be furnished in a separate report.

Three hundred nine latent fingerprints, twenty-four latent palm prints and one latent impression, which is either a fingerprint or a palm print, of value were developed on one hundred forty items. No latent prints of value were developed on the remaining specimens.

The latent fingerprints, latent palm prints, and the latent impression were compared with the available fingerprints

(Continued on next page)

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FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: July 16, 1996

To: Office of the Independent Counsel
Attention: Inspector in Charge
E. H. Lueckenhoff
Suite 490-North
1001 Pennsylvania Avenue, Northwest
Washington, D.C. 20004

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Communication March 11, 1996

Your No.

Re: MOZARK;
MAJOR CASE 106;
FAG - SBA;
FIF

Specimens received: June 9, 1996 and June 15, 1996 in Latent Fingerprint Section

Specimens:

2,159 Miscellaneous items, Q287 through Q2445 — docs in box

The result of the other requested forensic examination will be furnished in a separate report.

This report confirms and supplements information furnished telephonically on June 12, 1996, June 14, 1996, and July 9, 1996.

One thousand three hundred-eighty latent fingerprints, one hundred twenty-six latent palm prints and four latent impressions, which are either fingerprints or palm prints, of value were developed on four hundred thirty-nine items. No latent prints of value were developed on the remaining specimens.

(Continued on next page)

FOIA # none (URTS 16305) DocId: 70105098 Page 5
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Three latent fingerprints developed on two documents, have been identified as fingerprints of Webster Lee Hubbell, FBI #148569TA5, as follows:

Two on Q1503, "PROPOSED PRESIDENTIAL RETREAT PROPERTIES" list (DEK 016182)
One on Q1545, Facsimile page 7, "AUTOMATIC COVER SHEET" (DEK 106223)

FOIA(b)(6)
FOIA(b)(7) - (C)

Seven hundred seventy-two latent fingerprints and fifty-eight latent palm prints developed on two hundred thirty-five documents, have been identified as elimination fingerprints and palm prints of Marc Rolfe, born [redacted]

The remaining unidentified latent fingerprints, latent palm prints and the latent impressions were compared with the available fingerprints and palm prints of the below listed individuals, but no identifications were effected:

Hillary Rodham Clinton
Margaret Williams
Susan Patricia Thomases
Marc Rolfe

The unidentified latent fingerprints and the latent impressions were compared with the available fingerprints of Webster Lee Hubbell and William Jefferson Clinton, for whom no palm prints are available here, but no identifications were effected.

The specimens are being retained until called for by a representative of your office.

FOIA # none (URTS 16305) DocId: 70105098 Page 6

7-1 (Rev. 2-21-91)

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: July 17, 1996

To: Office of the Independent Counsel
Attention: Inspector in Charge
E. H. Lueckenhoff
Suite 490-North
1001 Pennsylvania Avenue, Northwest
Washington, D. C. 20004

FBI File No. 29D-LR-35063

Lab No. E-2700

Reference: Communication March 13, 1996

Your No.

Re: MOZARK;
MAJOR CASE 106;
FAG - SBA;
FIF

Specimens received: June 21, 1996

Specimens:

422 Miscellaneous items, Q2447 through Q2868

WW + Files

The result of the other requested forensic examination will be furnished in a separate report.

This report confirms and supplements information furnished telephonically on July 9, 1996.

One hundred eighty-four latent fingerprints and twenty-seven latent palm prints were developed on eighty-six items. No latent prints of value were developed on the remaining specimens.

One latent fingerprint developed on Q2474, Facsimile page 3, "WILLIAM AND HILLARY CLINTON STATEMENT OF FINANCIAL CONDITION" (DEK 011825), has been identified as a fingerprint of Webster Lee Hubbell, FBI #148569TA5.

(Continued on next page)

FOIA # none (URTS 16305) DocId: 70105098 Page 7

MAIL ROOM ☐ This Report Is Furnished For Official Use Only

The remaining latent fingerprints and palm prints were compared with the available fingerprints and palm prints of the following individuals, but no identification was effected:

Hillary Rodham Clinton
Margaret Williams
Susan Patricia Thomases
Marc Rolfe

The remaining unidentified latent fingerprints were compared with the available fingerprints of Webster Lee Hubble and William Jefferson Clinton, for whom no palm prints are available here, but no identifications were effected.

The specimens are being retained until called for by a representative of your office.

FOIA # none (URTS 16305) DocId: 70105098 Page 8

WILLIAM AND HILLARY CLINTON
STATEMENT OF FINANCIAL CONDITION
December 31, 1991

FOIA(b)(6)
FOIA(b)(7) - (C)

FOIA # none (URTS 16305) DocId: 70105098 Page 9

TEL: Dec 10,92 14:47 No.002 P.02

FOIA(b)(6)
FOIA(b)(7) - (C)

Page Denied

FOIA(b)(6)
FOIA(b)(7) - (C)

Page Denied

FOIA(b)(6)
FOIA(b)(7) - (C)

Page Denied

Thomas, Susan

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 10, 1996

Benito Romano, Esq.
Willkie Farr & Gallagher
153 East 53rd Street
New York, NY 10022-4677

Re: Susan P. Thomases

Dear Mr. Romano:

[redacted]

[redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted]

Thank you for your cooperation.

Sincerely,

KENNETH W. STARR
Independent Counsel

By: Steven M. Colloton

Steven M. Colloton
Associate Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

RETURN OF SERVICE (1)

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RECEIVED BY SERVER	9/10/96	Washington, DC
SERVED	9/10/96	Washington, D.C. VIA FEDERAL EXPRESS

SERVED ON (PRINT NAME)

BENITO ROMANO, ESQ. FOR SUSAN P. THOMASES

SERVED BY (PRINT NAME)	TITLE
NELLE MALLON RUSSELL	STAFF ASSISTANT

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER(2)

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 9/10/96 (Date) — Nelle Mallon Russell (Signature of Server)

Washington, DC (Address of Server)

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(2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay (Rule 17(b), Federal Rules of Criminal Procedure)."

FOIA #none (urs 16205) Docid: 70105098 Page 10

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA # none (URTS 16305) DocId: 70105098 Page 20

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Benito Romano, Esq.

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11 [ ] OTHER PACKAGING
16 [ ] FEDEX LETTER*
12 [ ] FEDEX PAK*
13 [ ] FEDEX BOX
14 [ ] FEDEX TUBE

Standard Overnight (Delivery by next business afternoon. No Saturday delivery†)
51 [ ] OTHER PACKAGING
56 [ ] FEDEX LETTER*
52 [ ] FEDEX PAK*
53 [ ] FEDEX BOX
54 [ ] FEDEX TUBE

Economy Two-Day (Delivery by second business day †)
30 [ ] ECONOMY*
* Economy Letter Rate not available. Minimum charge: One pound Economy rate.

Government Overnight (Restricted for authorized users only)
46 [X] GOV'T LETTER
41 [ ] GOV'T PACKAGE

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6 [ ] DRY ICE Dangerous Goods Shipper's Declaration not required
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[ ] .....
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Heading Off an Indictment

by Andrew J. Levander

"Another opening, another show" would be an appropriate theme song for many criminal defense lawyers. Most defense counsel thrive on trial work; they revel in the art and drama of the courtroom.

No doubt, as far as professional experiences go, there are few things as exhilarating as a crisp cross-examination or a scintillating summation before a packed courtroom in a criminal jury trial. During a break at a recent criminal trial in New Orleans, an experienced practitioner from Chicago told me: "Cross-examination is my life."

The courtroom also seems to furnish defense attorneys with a kind of bonding experience. In my observation, criminal lawyers uniquely appreciate, if not exult in, the successes of their comrades-at-arms (albeit, perhaps, with varying degrees of wistful jealousy). Certainly, the courtroom is the primary source of our war stories and folklore. In fact, if autobiographies like *Gunning for Justice* and *My Life in Court* are any gauge of the defense bar's collective psyche, trials are the only aspect of criminal defense work worth talking about.

I too enjoy the thrill of trial work. Often, though, defense counsel's first duty and primary task is to avoid trial. Particularly in the area of white collar defense work, the indictment of your client is a disaster, even if he is later acquitted. Politicians, executives, licensed professionals, fiduciaries, and others simply cannot withstand the opprobrium of indictment, much less the scrutiny, tension, and stress that they and their families must endure during a public criminal trial.

Ask former automobile magnate John DeLorean, former national security advisor Thomas Reed, or former Arthur Andersen partner Warren Essner whether acquittal at trial restored their careers. I do not denigrate the skill of the trial lawyers who represented them; to the contrary, their results speak for themselves. Nor do I suggest that the lawyers in those cases did not ably attempt to head off the indictment at the pass. But the fact remains that a publicized indictment and trial almost inevitably sully a person's reputation and close off career paths, despite a jury's verdict of not guilty.

So the skillful criminal lawyer's repertoire necessarily includes the art of disposing of criminal matters before indictment and trial. This less publicized role of defense counsel involves a variety of strategies and techniques quite different from courtroom skills. If you are going to represent defendants in criminal cases, you should be familiar with the techniques that have been used to convince prosecutors not to indict.

First, some words of caution: Sometimes the prosecutor will indict regardless of the defense lawyer's skills. And each case is unique, requiring careful evaluation of all the facts and circumstances and difficult judgment calls that are subject to second-guessing. Even the same case may require different approaches at different times.

Equally important, different lawyers would handle the same case in very different ways, and each approach may well be sound. During my days as a federal prosecutor, I was repeatedly impressed by the effectiveness of strikingly dissimilar approaches taken by different defense counsel in the same white collar case. In short, the strategies discussed in this article are neither exhaustive nor fail-safe.

The sooner a lawyer gets started, the better. Unfortunately, the timing is usually beyond his control. Whenever you are retained, though, the first step should be an in-depth investigation of your client's situation.

Ordinarily, the investigation begins with *thorough debriefings* of the client. Although some defense counsel believe that, at least in some cases, it is better not to know the full story from the client, the attorney is usually best prepared to serve his client if he knows all the facts, good and bad.

Despite lawyers' best efforts to explain that to their clients, and despite the attorney-client privilege, clients are often reluctant to confide in their lawyers. Perhaps because of embarrassment, fear, or mistrust, most clients tend initially to sugar-coat or even dissemble the events under investigation. A client may also labor under the misapprehension that the lawyer will not work as hard if he thinks his client is less than angelic.

Through hard work and patience, these barriers can usually be overcome. It is necessary to remind a client often about the attorney-client privilege and to resort to homilies like, "A doctor cannot treat a patient properly if the patient won't tell him the symptoms." Or, as a partner of mine tells his clients, "You can tell me now, when I can help you, or you will tell me later, when I may not be able to help you." With enough encourage-

The author is a partner in Shereff, Friedman, Hoffman & Goodman in New York.

FOIA # none (URTS 16305) Docid: 70105098 Page 21

ment, most clients will tell you most of the facts. Almost always this process takes time and persistence.

At the same time, counsel should consider what other sources of information are available. If a case involves documents, the attorney should review them carefully. That is necessary for trial anyway, and the earlier you digest the "hard" evidence, the better informed your early and often critical decisions will be. You may also need to hire an expert, like an accountant, to help evaluate the documents. To preserve the privilege, it is essential that the lawyer and not the client retain the expert. *See United States v. Kovel*, 296 F.2d 918, 922 (2d Cir. 1961).

In some cases, you may also be able to interview other witnesses. But be careful not to disclose the fact of the government's investigation to witnesses who are not already aware of it. As the municipal corruption investigations in New York have vividly demonstrated, the publicity surrounding an investigation can be as ruinous to your client's reputation (and health) as an indictment or conviction. If the fact of the investigation is not already public, you may decide to skip certain interviews altogether, rather than risk potentially disastrous leaks to the press. In addition, since defense counsel's interviews are discoverable, consider whether an interview would risk tipping your hand for the prosecutor to see.

If you decide to conduct interviews – for example, with your client's key employees or associates who are already aware of the investigation, or with potential alibi or other defense witnesses – bring someone with you, such as a paralegal or a private investigator. In some cases, you may decide not to participate at all, and instead rely entirely on a trusted investigator.

You may wish to avoid a face-to-face interview if the defense of the case rests on demonstrating that the witness is lying or that he despises your client. In still other cases, only the lawyer will be able to interview the witness, such as the chief executive officer of a major company.

Generally, it is better to conduct interviews without your client. Occasionally, though, a witness, such as a spouse, may refuse to talk to you in the absence of your client. If the witness is inclined to help your client, say that, to best serve your client's interests, you need to understand exactly what happened. It is also good practice, if the witness is a corporate officer or employee, to tell him that you represent your particular client and not the witness.

Other lawyers in the same case may also be a source of information. Defense counsel's willingness to share facts depends on their professional relationship as well as their clients' relationship. Generally, the lawyers should communicate, rather than allowing their clients to talk about the case.

Discussions among counsel are ordinarily covered by the joint-defense and work-product privileges, while conversations among clients are not privileged. To avoid any incriminating statements or claims of obstruction, instruct the client not to discuss the investigation with anyone.

Even counsel for witnesses adverse to your client may be willing to talk to you. Sure, a lawyer for a hostile witness is not going to give you devastating impeachment material. But most witnesses are reluctant to testify, and the other lawyer may decide to give you a summary of the witness's testimony to encourage your client to plead guilty. Also, even if a witness's testimony would hurt your client, the witness may still be sympathetic enough to let you interview him or to provide information through his counsel.

The prosecutor, too, may provide important information. Most prosecutors will at least disclose the general nature of the investigation and tell you whether your client is a subject or a target. If the government lawyers are confident of their case, they may tell you much more than that before they indict.

Also, when the government wants a quick guilty plea or your client's cooperation, you can often get the prosecutor to talk. When I was on the other side of the fence, I regularly invited defense counsel to review documentary evidence or to listen to tape recordings early in the investigation. That kind of disclosure depends largely on the chemistry between the lawyers. So, while keeping in mind that the prosecutor is not your client's friend, it may be important to tone down the adversarial nature of your initial dealings with him.

As you seek information from the government, you begin to form impressions of the prosecutor and of where the investigation is likely to go. Is the government intent on making a case, and, if so, against whom? Is your client a major target or a peripheral figure? At what stage is the investigation? Will the prosecutor listen to your presentation fairly and with an open mind? Especially if you have not dealt with the particular government lawyer handling the case, it is certainly worth getting your colleagues' views of the person who will largely determine your client's fate.

Armed with as much information as possible about the prosecutor, the investigation, and the client, you must devise the best strategy for avoiding indictment.

If your client is an important target and the violations are serious and obvious, there may be few alternatives. In some cases, there may be no choice but to wait out the investigation in the hope that the prosecutor will be unable to make a case or that, with a change in government personnel or priorities, the case will slip between the cracks. If, as usual, this tactic

FOIA # none (URTS 16355) DocId: 70105098 Page 22

fails and the client is about to be indicted, the only options are plea bargaining, limited motion practice, or trial.

In most cases, though, defense counsel should not simply await the indictment. Rather, develop a plan of attack to beat the charges before they are brought. Although this is an uphill battle, it is usually worth fighting.

First consider whether your client is a candidate for immunity. If he played only a minor role in the events under investigation, the government will probably grant immunity. Even if the client's role was significant, sympathetic circumstances such as old age or poor health may commend the exercise of prosecutorial discretion.

Timing is critical in the immunity game. It is sound courtroom wisdom that the first one in gets the best deal.

Perhaps even more important to the prosecutor is the impact of your client's potential testimony on the investigation. "Who can your guy give up?" or "Can your guy testify against Mr. X?" are questions frequently heard in the prosecutor's office.

More than once, a prosecutor has granted immunity to a former lover or a longtime subordinate of the main target despite that person's involvement in serious offenses over a long period of time. According to published reports, the key witness against former Undersecretary of Defense and LTV chairman Paul Thayer was his girlfriend, Sandra Ryno. Ms. Ryno was granted immunity despite her participation in an insider trading scheme, her apparent participation in the initial stages of a cover-up before the SEC, and her personal profits from the fraud of more than $150,000. Thayer was sentenced to four years in prison.

Timing is critical in the immunity game. It is sound courthouse wisdom that the first one in gets the best deal.

The recent municipal corruption scandal in New York City vividly illustrates this point. Ordinarily, a federal prosecutor relishes the opportunity to go after a corrupt lawyer. In the early stages of the New York City investigation, though, the U.S. Attorney's Office granted immunity to a lawyer who had paid cash to one or more city officials, but who was in a position to testify against a powerful politician.

When I was a prosecutor, a lawyer who represented a middle-level conspirator in a securities fraud case came to my office to volunteer a "proffer" – a hypothetical recitation of his client's testimony. After he made a detailed proffer (without names) regarding the fraud, I consulted all relevant agencies to confirm that the government was unaware of the scheme.

Satisfied that serious crimes might otherwise go unpunished, I reluctantly recommended immunity in exchange for cooperation and complete restitution. The very day after the immunity agreement was signed, the victims of the scheme came to my office to report the crime. To this day, the defense counsel in that case reminds me of his good timing whenever we see each other.

Although early requests for immunity are usually more successful, sometimes a prosecutor will be compelled to give immunity late in an investigation because of lack of evidence or other problems with the case. If, after exhausting all other leads, a prosecutor needs a critical piece of proof or feels uncomfortable with a largely circumstantial case, he may immunize someone he would otherwise indict. Occasionally, even a murderer or a drug dealer is the beneficiary of this circumstance. Although luck may play a part in who gets immunity, a defense lawyer serves his client well by keeping track of the investigation as it unfolds, so that he can go for immunity, if circumstances warrant it, at the most propitious moment.

Of course, before attempting to arrange immunity, a lawyer must consult with his client. Sometimes a client will not want to cooperate – the price tag may be unacceptable – even if immunity is available. Fear, business realities, or loyalties to family or friends may outweigh immediate self-interest.

The lawyer must carefully explain all the consequences of and alternatives to the decision to go for immunity. In particular, it is the defense attorney's obligation to explore with his client any possibility of violent retaliation; the practical impact on the client's life, including loss of livelihood; and the likelihood that the client will be prosecuted, convicted, and sent to jail if he does not cooperate. Ultimately, of course, it is the client's decision whether to seek immunity and to cooperate if immunity is offered.

It is especially important that the client understand that immunity ordinarily results in the disclosure of all criminal problems, not just the facts of the particular violations under investigation. So, if the client has other skeletons in the closet, cooperation may be out of the question, even though his role in the events being investigated was minor.

The Importance of Candor

Emphasize that in talking with the prosecutor your client must be completely candid and accurate, and that any attempts to cover up can only lead to disaster. Partial cooperation will result in damaging admissions and preclude an effective defense. Prosecutors are understandably hard on "cooperators" who fail to tell the whole truth, and judges are notoriously unsympathetic to defendants who blow their immunity agreement by lying to the prosecutor or the grand jury.

If, after full consultation, the client elects to seek immunity, do everything you can to get it for him. Since timing may be critical, a prompt visit to the prosecutor's office is in order.

In almost all cases, the prosecutor will want at least an oral proffer spelling out the testimony your client will give. You should agree to make a proffer only after the prosecutor agrees to treat it as a hypothetical recitation that he will not use directly against your client if you do not get together on an immunity agreement. In my experience, all prosecutors accept such limited-use proffers. But be sure to make your agreement explicit.

Generally, the fewer details that the proffer divulges, the better. If immunity is not granted, too many details could provide the prosecutor with leads that he can follow up without violating the letter of your limited-use agreement. The resulting turn in the investigation could lead the government right back to your client.

Also, a witness's recollection of events often varies upon retelling, and you do not want to be in the position of having to explain discrepancies between your proffer and your client's actual statements to the prosecutor. For similar reasons, written proffers are to be avoided.

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But it is equally dangerous to say too little. If the grant of immunity is based on a proffer that omits material facts of your client's involvement in the events under investigation or of his other crimes, the immunity agreement may be voided. Or the prosecutor may insist on a guilty plea to the crimes that were not disclosed. In either event, you will lose your credibility with both the prosecutor's office and your client, and your client will lose much more than credibility.

In some cases, the prosecutor will request a proffer that comes right from the client's mouth. That poses tremendous risks.

With your client present to tell his own story and to answer the prosecutor's questions, the prosecutor learns about your defense case and, if you do not get together on an immunity agreement, he can use what he learns to shape the investigation and to avoid surprises at trial. Your client will also undoubtedly make damaging admissions in the course of the proffer.

By getting the prosecutor to agree in writing to the limited use of the proffer, defense counsel can control some of these risks. Nevertheless, a proffer by the client inevitably locks in his story and divulges leads, wrinkles, and avenues for cross-examination that the prosecutor can often use to demolish the defense case and, with it, your client's future if you do not get the immunity you wanted.

So, if the prosecutor insists that the proffer come directly from your client, carefully weigh the risks against the likelihood of obtaining immunity. Particularly if you suspect that the prosecutor is not acting in good faith or is unlikely to be sympathetic to your client, you should usually decline to bring your client in to make his own proffer. Some defense lawyers flatly refuse to submit their clients for in-person proffers under any circumstance, and most prosecutors will not insist on a direct proffer.

If the prosecutor is willing to grant immunity, the next question is what form of immunity best serves your client's interests. Federal and most state prosecutors can provide either transactional or testimonial immunity.

Transactional immunity offers complete protection against any criminal liability relating to the specified transactions. But transactional immunity covers only the events described in the immunity agreement.

Because transactional immunity is generally governed by contract, it binds only the government authority that enters into the agreement. So a transactional immunity agreement with one federal prosecutor does not preclude the local prosecutor or even a federal prosecutor in another district from indicting your client.

Although the prosecutor granting immunity can usually convince the prosecutor in the other jurisdiction to honor the immunity agreement, it is imprudent to rely on their good relations. Turf battles among law enforcement authorities are neither rare nor gentlemanly. To protect your client, arrange for immunity agreements with each authority investigating the case.

Testimonial or statutory immunity, which in the federal system requires both a court order and approval from the Department of Justice, bars any direct or indirect use of the immunized testimony. *See* 18 U.S.C. §§ 6001 *et seq*. Technically, though, a prosecutor remains free to indict so long as he can demonstrate that his proof is wholly independent of the immunized testimony. *See Kastigar v. United States*, 406 U.S. 441 (1972). Because "taint" or *Kastigar* hearings are so burdensome and because they require pretrial disclosure of the government's entire case, as a practical matter testimonial immunity ordinarily precludes prosecution of your client.

Particularly when only one prosecutor's office is investigating or likely to investigate a matter, transactional immunity is generally your best bet. Some clients nonetheless prefer testimonial immunity because they can tell their associates that they did not voluntarily cooperate but did do so only under compulsion of court order. Also, unlike transactional immunity, testimonial immunity is binding on all federal, state, and local prosecutors. But testimonial immunity cannot bind foreign prosecutors. *See Zicarelli v. New Jersey*, 406 U.S. 472 (1972).

Testimonial immunity may also have one other advantage. Experienced defense lawyers know that, despite their repeated admonitions to tell the truth and their client's insistence that they *are* telling the truth, some clients still lie. In the case of transactional immunity, such falsehoods breach the agreement and subject the client to prosecution for all offenses, including the underlying crimes plus perjury.

In contrast, a mendacious witness who testifies pursuant to a grant of testimonial immunity probably cannot be charged with the underlying crimes, although he can be prosecuted for perjury, false statements to a grand jury, and obstruction of justice. This distinction may be small comfort, though, for the client who opts for testimonial immunity and gets caught lying. Under federal law, perjury is punishable by up to five years in jail and a $10,000 fine.

Suppose immunity is not a viable alternative. Say your client is the prime target of the investigation. Or your client is a highly visible figure, a politician, a lawyer, or chairman of the board. What then?

First, you can resort to familiar damage-control measures: Prepare potential witnesses (keeping in mind that, if they are not your clients, your preparation sessions will be discoverable) or advise them to retain counsel and to have their counsel prepare them; make sure that all witnesses are advised by counsel of their rights, including the right to remain silent; review

A proffer by the client inevitably locks in his story and divulges avenues for cross-examination.

all documents before your client produces them and take vigorous good-faith positions on the attorney-client and other applicable privileges; and take steps to limit the scope of any subpoenas served on your client.

A target of an investigation may also go to court to protect his rights. Lawyers have had mixed success recently in challenging grand jury subpoenas *duces tecum* on Fifth Amendment grounds. In rarer circumstances, Fourth Amendment claims of unlawful searches and seizures may be litigated prior to indictment. *See* FED. R. CRIM. P. 41.

Other issues that may be litigated at the pre-indictment stage involve the attorney-client and spousal privileges, grand jury abuses, and violations of the rules governing parallel criminal

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and civil investigations. When the investigation concerns foreign banking records or other documents maintained abroad, potential defendants often succeed in invoking bank secrecy and foreign blocking statutes in litigation both here and in foreign countries to bar, limit, or delay production of incriminating records.

If successful, preindictment litigation may result in suppression of evidence or may even derail an investigation. And, whether or not it is successful, litigation at this stage may compel the government to make helpful disclosures about its activities. The government may also decide to abandon certain aspects of the investigation because of the delay and expense involved in litigating complicated issues. Especially if the statute of limitations is about to expire, the prosecution will be unable to await an appellate ruling on a complicated privilege or treaty question.

Balance the Psychological Impact

Against the possibility of winning usually limited victories through preindictment litigation, balance the psychological impact it is likely to have on the prosecutor. When faced with a series of witnesses invoking the Fifth Amendment and fighting document production, he will inevitably conclude that somebody has something to hide. If he already appears to be dead set on putting your client in the slammer, you have little to lose by throwing up every barrier you can get your hands on. But if you still hope to convince the prosecutor that there has been no crime or that whatever technical violation there has been does not warrant criminal sanctions, you cannot simultaneously engage the government in guerilla warfare.

Before you decide which way to play it, consider the nonconfrontational alternatives.

At some point in the investigation, many defense lawyers make a pitch to get the prosecutor not to indict. Although anyone who regularly throws strikes in this league is an all-star, the game is very often worth a try. If nothing else, in the course of the dialogue, the prosecutor may reveal the government's theories or its evidence. Also, even if your presentation does not convince the prosecutor to abandon the investigation, you may lay the groundwork for a favorable plea bargain. And, in some cases, prosecutors do change their minds.

The presentation should be orderly and low-key. There is no percentage in yelling at the person in charge of the investigation, and a rambling presentation is as ineffective as a rambling opening or summation. Even if histrionics are your style, save them for the courtroom.

Think through in advance what your pitch should be. What issues are really worth discussing with the prosecutor? What are the investigators' concerns? Why shouldn't the government go forward with its case? Keep in mind that, in the prosecutor's office, the target is presumed guilty until proven innocent, no matter what the judge charges a jury.

It is often effective to let the prosecutor know right off that you have considered his position, that you realize that the government has invested considerable time and effort in the investigation, but that you are confident he will fairly consider what you have to say. Most prosecutors are responsible people with a sense of fair play and some degree of rationality. Many are inexperienced. Appeal to the prosecutor's better instincts, but avoid talking down to him, even if you are 20 years his senior. And be careful not to overstate or overplay your hand. Any inaccuracies will undermine your credibility with an already skeptical audience.

What you say will, of course, vary from case to case. The most effective presentations generally focus on two or three major points.

Reasons to sympathize with the client, including poor health and old age, are favorite themes – so much so that, during my years as a prosecutor, I began to wonder why every potential defendant has a dying relative and is either old and decrepit or a young, naive victim of some older Svengali. Aside from reacting to such arguments with a certain degree of cynicism, prosecutors often respond that those considerations are appropriate for the sentencing judge. Nonetheless, personal circumstances that favor your client should not be ignored. Remarkably, most prosecutors are human.

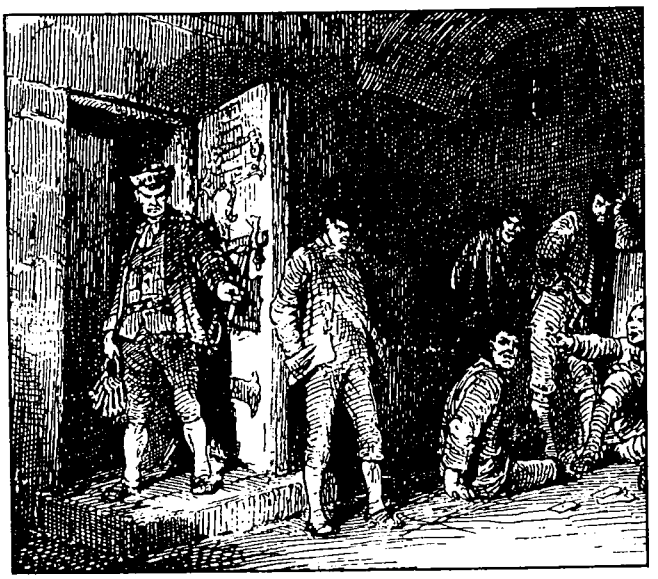
You may also be able to argue that criminal sanctions are unnecessary. Defense counsel often contend that the client has suffered enough – through restitution, loss of license or business, other professional sanctions, public opprobrium, and the like – and will not repeat the mistake. It is sometimes appropriate to suggest that criminal sanctions would be disproportionate to the alleged misconduct.

In a close case, it may be possible to convince a prosecutor that civil sanctions, such as an SEC injunction, are sufficient, and that a criminal prosecution would destroy the career of a generally upstanding citizen. Although these points are worth making, they rarely save the day.

Another common tactic is to emphasize the weaknesses in the government's case. Nobody likes to lose. More than that, with the government's scarce resources, a responsible prosecutor may agree to drop a marginal case, particularly if your client is not a bad guy or a recidivist. But to be persuasive, you must be able to point to major flaws in the government's case. Mere aspersions against the informant, for example, are unlikely to have any impact on the prosecutor unless the case is a one-on-one swearing contest and there is independent evidence to corroborate your client's version.

Also, the prosecutor may be sensitive to claims of serious government misconduct. Depending on the nature of the problem, he may choose to drop the case rather than to expose the government's dirty deeds.

After the recent arrest in New York of an assistant U.S. attor-



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ney on charges of stealing drugs and money from the prosecutor's safe, the government dismissed cases that the same assistant U.S. attorney had been handling. Likewise, prosecutors occasionally abandon cases in which law enforcement agents have committed egregious Fourth or Fifth Amendment violations.

Sometimes, defense counsel try to convince the prosecutor that he lacks jurisdiction or that the incident in question is really "civil" in nature and not a crime. These arguments, bordering on the metaphysical, are most likely to be effective in technical cases involving tax, securities, or similar matters, or in any case where intent is a critical issue. Sometimes it is possible to argue that what is at issue is a controversial technique, such as a tax "straddle," the illegality of which has not been clearly established, and that the target acted on the advice of counsel or other experts.

Besides just making oral presentations, experienced defense counsel often give the prosecutor a brief presenting the applicable law and marshalling the relevant facts. Of course, a written submission has its risks. The prosecutor may go after additional proof, revise his instructions to the grand jury, or restructure the charges to get around the problems that the defendant's lawyer has raised. Still, a good brief submitted to a fair-minded prosecutor sometimes heads off the indictment. So, at least when the indictment would be devastating to the client and the prosecutor has an open mind, submitting a brief is often a good idea.

Sometimes defense lawyers go one step further: They give the prosecutor a preview of their client's case. In essence, the defense tries its case in the prosecutor's office to avoid an indictment and the publicity that comes with it.

The risks of this tactic are great. If the prosecutor is not persuaded to drop the case, the government can redirect or extend its investigation, revise the charges, pursue new leads, and prepare a response to the defense, including a rebuttal case. In short, the defense gives up the element of surprise.

Since the "testimony" of the target is ordinarily the centerpiece of this kind of presentation, this approach also locks in the defense, supplies the prosecutor with damaging admissions, and gives him a unique opportunity to prepare the most devastating cross-examination possible. No wonder many defense counsel *never* take this approach. Certainly in most cases, it is far too risky.

There are special situations, though, in which defense counsel should consider rolling the dice and bringing the client in to talk to the prosecutor. Too often, prosecutors forget that their target is a human being with feelings, hardships, and a reasonable explanation for his behavior. An effective face-to-face interview can restore the human element, which, in some cases, might tip the balance in your client's favor.

Recently, a prosecutor told me that she had decided to drop an investigation because the target turned out to be so much more impressive and credible than her informant. Although hardly commonplace, reactions like these are not unique.

In the difficult calculation of whether to expose the defense case before the indictment, a critical factor is the prosecutor. Is he fair minded? Will he listen, or is an indictment inevitable?

Have a chat with the prosecutor about the possibility of laying your cards on the table. Although few people admit to having closed minds, the nuances you pick up and the impressions you form at a face-to-face meeting are invaluable guides. A prosecutor's general reputation among defense lawyers is another useful barometer. Let's face it: There are some law enforcement officials who probably cannot be trusted to come to a reasoned conclusion under any circumstance. In a particularly important case, you might also consider making a presentation to a panel of prosecutors.

An equally important factor is your best objective evaluation of your client and his story. Does the defense seem probable? Is there any corroboration for your client's version of what happened? Will your client be a credible witness and make a good impression? Unfortunately, some people appear to be lying even when they are telling the truth.

Give your presentation a dry run in front of a colleague who is not closely familiar with the case. If your colleague does not believe the defendant, neither will a cynical, mistrusting prosecutor.

If the government's evidence is unambiguous, not even Abraham Lincoln could talk his way out of an indictment.

Some defense lawyers give their clients a lie detector test before taking them to the prosecutor's office. Although the results of these tests are usually inadmissible as evidence in court, a test administered by a reputable operator is useful for several reasons.

First, a favorable polygraph report increases the likelihood that your client will be credible and that you will have confidence in his presentation. Second, a lie detector examination is a useful form of corroboration in the prosecutor's office, even if it is not admissible in court, and a positive result may be decisive in a close case, particularly if it comes down to your client's word against that of an informant or other witness. Third, when the client has passed a reliable private examination, his lawyer should be eager to allow a government operator to conduct a second polygraph examination – something that prosecutors often request in any event.

Lie detector or no lie detector, in deciding whether to submit your client for an interview with the prosecutor, the fundamental question is whether the presentation is likely to persuade him to stop the investigation. If the government's evidence is unambiguous, not even Abraham Lincoln could talk his way out of an indictment. It makes sense to try your defense in the prosecutor's office only if the case is a close one. Also, the presentation is most likely to be effective if the case turns on your client's knowledge, intent, or some other credibility issue.

Say your client, a licensed stockbroker, is about to be indicted on insider trading charges because of his suspicious pattern of securities transactions and his close relationship with someone who had access to confidential information. If your client can credibly deny receiving confidential information and also offer another believable explanation for his investment pattern – particularly one that someone else can corroborate – the risk of bringing him in to talk to the prosecutor may well be worth taking.

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Once you decide to make a presentation, you need to consider when and how to do it.

It is usually inadvisable to make a full-scale presentation to the prosecutor early in the investigation. He will ordinarily not be in a position to make a final judgment, and he will be able to steer his investigation around any obstacles you present. Later in the investigation, you can get a better read on the prosecutor's strengths, attitude, and goals, and you can better judge whether a presentation might be effective.

By delaying the presentation, you run the risk that the prosecutor will so harden his position over the course of a lengthy investigation that no presentation, however brilliant, will shake his resolve to indict. In my view, though, it is unlikely that a prosecutor would reach a different conclusion following a thorough investigation after a presentation. And you can always approach the prosecutor early on to plant seeds of doubt and to let him know that, later in the investigation, you would be willing to consider bringing your client in to discuss the case.

As usual, though, there are no absolute rules. If you believe that an investigation is really off the mark and the allegations are frivolous, you may wish to put your ace on the table early in the game. But you will rarely have that good a hand.

Before the actual presentation, establish the ground rules, put them in writing, and arrange for both lawyers and the client to sign. The prosecutor ordinarily agrees not to use anything the client says as part of his direct case. Defense counsel in turn should be prepared to let the prosecutor use the presentation for leads. The prosecutor should also be free to take notes at the meeting, but not to tape record it, mainly because recording equipment increases the tension and formality of an already stressful event.

The difficult question is whether to permit the prosecutor to use the client's statements on cross-examination or in the government's rebuttal case if the client is indicted and he testifies at trial. Although this issue is worth negotiating, I would not let it become a sticking point.

If you believe that an investigation is off the mark, put your ace on the table early in the game.

Presumably, you have decided to try your case before the prosecutor only after satisfying yourself that your client is telling the truth and is not likely to change his testimony. The statements your client makes to the prosecutor will only become significant at trial if he changes his story. And, by refusing to allow his statements to be used for cross-examination, you may subliminally communicate a lack of confidence in your client's story.

In preparing the presentation, take the same pains that you would in preparing a client to testify at trial. Several preparation sessions may be required.

Aside from thoroughly going over the facts and any documents, brief your client on the prosecutor's concerns and attitude and take him through all the tough questions that the prosecutor might ask. Make the client understand that he must be completely accurate and forthright in his answers and that, if he does not comprehend what he is being asked, he should get the investigators to repeat or explain their questions. Although repeated conferences between attorney and client during the presentation will make a bad impression, I always instruct my client to consult with me privately if he feels the need.

Get Some Feedback

In the prosecutor's office, I ask for a break whenever my client seems tired or starts to flounder. Try to get some feedback from the investigators early in the meeting. If you sense that the prosecutor and the law enforcement agents utterly disbelieve your client, cut your losses and call it a day. If the conversation has become a one-way street, do not let them exploit the opportunity for discovery they otherwise would not get.

You may want to present other evidence to the prosecutor as well. I would be inclined to bring in any powerful corroborating or exculpatory proof you have. Do not waste the prosecutor's time with character witnesses or other incidental matters. But consider whether to save one or two little surprises for the courtroom in case the presentation fails.

Occasionally, the prosecutor will encourage the target to testify before the grand jury. More often, your client will want to tell the grand jury everything in order to clear his name now.

Resist these tempations. A defendant's testimony before the grand jury is given under oath, subject to the penalties of perjury, and can be used in the government's direct case. Besides, in the federal system, counsel is not allowed into the grand jury room. Even in those states where counsel may be present during a client's testimony, the prosecutor almost always controls the proceedings. So, if the presentation in the prosecutor's office has not convinced him to drop the investigation, an appearance before the grand jury is usually a suicide mission.

If the prosecutor decides to indict despite your presentation, consider a preindictment appeal. In most jurisdictions, counsel can arrange to meet with at least a supervisory-level prosecutor, if not with the chief prosecutor. Beyond that, in certain federal cases, including tax and RICO prosecutions, you can appeal to the Department of Justice. Usually, the national office is more conservative about bringing prosecutions than are the local United States attorneys. To maintain good relations with the prosecutor handling the case, politely ask him to arrange the appeal, rather than just going above his head.

Experienced defense lawyers recognize that a preindictment appeal is rarely productive, and usually not worth pursuing. If you appeal every time a prosecutor decides to indict your client, you will quickly lose all credibility with the senior authorities. But, by picking your shots, your few most-deserving cases will get more serious attention. Investigations involving serious legal problems, circumstantial proof, or government misconduct are usually the best candidates for review. The chief prosecutor is simply too busy to review credibility determinations or other run-of-the-mill prosecutorial decisions of the staff.

And, of course, when all these strategies fail, strap your six-guns back on and get ready for the showdown at your old favorite corral – the courtroom. □

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Sunday, March 28, 1993

NORTHWEST LIVING

KING KONG KIBITZER SPOTTED IN WASHINGTON

LLOYD GROVE - LA Times - Washington Post Service

Summary: **Susan Thomases** has no official title, but she most certainly has clout

"My mouth!" **Susan Thomases** exclaims, stanching one of her verbal torrents as if to marvel at the nerve of this irrepressible body part. "I have a very strong reality principle, and it's one of the things that gets my mouth in trouble and gets me in trouble -- from your perspective, gets me in trouble," she amends. "I think, of course, it's the source of my strength."

Susan Thomases' muscle and the eagerness with which she flexes it are reality principles to be ignored at one's peril in Bill Clinton's White House. Never mind that she has no official role there, no title, no desk, but works as a partner at Wilkie Farr & Gallagher, a blue-chip New York law firm.

Thomases is the Clinton administration's King Kong Kibitzer -- whose advice on everything from personnel to policy resounds like a mighty roar through the halls of the West Wing. That's a reality immediately clear to anyone who talks with Hillary Rodham Clinton.

"Susan is a vital, energetic, loving, enthusiastic person, who works hard at everything she does, cares deeply about all kinds of issues and people, and is a wonderful friend," says the first lady.

Hillary Clinton's view, in the end, may be the only one that matters. But it's far from universal among the president's loyalists who got to know Thomases during the 1992 campaign, in which she began part time as an outside adviser and ended up the full-time scheduling chief.

Indeed, Thomases' many detractors describe her, variously, as tactless, boastful, vindictive and politically inept -- and those are just some of the tamer adjectives.

- Knocking heads

Thomases is important. And in case that fact is overlooked,

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she's happy to point it out. When a recent piece in the New Republic displeased her, she sent Editor Martin Peretz a letter written in her defense by a high White House official. "Dear Marty -- As promised, here's the letter from George Stephanopoulos. Susan," went the cover note.

"She's a woman who has 'made it,' and 'made it' better than almost anyone else, and yet she feels a compulsion to drop names and assert her authority, down to the point of saying, 'If you do this, I will kill you, I will ruin you,' " says an administration staffer who, like many people interviewed for this story, spoke only if promised anonymity.

"If she knocked heads, she didn't knock enough of them," says former top Bill Clinton aide Betsey Wright, one of Thomases' defenders. "If there were bruised feelings, they deserved to be bruised. . . . There was such a sexist strain in that campaign; the men in the campaign were so unbelievably rude and awful the way they treated people. But, my God, if somebody like Susan gets strained and under pressure and knocks heads, (they'll say) it's some kind of 'woman thing' -- some kind of 'temperament problem,' a 'hormones thing.' "

There was, for instance, Thomases' legendary remark to vice presidential nominee Al Gore, who had just made a scheduling suggestion about campaign bus trips during a post-convention conference call. "That's the stupidest idea I ever heard," Thomases is said by several sources to have told the senator (though Gore's chief of staff, Roy Neal, insists that Thomases merely said, "I don't think that would work").

Thomases is that rare operative who has successfully triangulated the power map -- she's known Bill longer than she has Hillary -- but mostly she's Hillary's blunt instrument of enforcement, according to White House staffers, pushing the first lady's agenda and gladly taking the heat. She is the raw expression of what is required to play in the Clintons' league -- but without the patina of folksy good humor.

"When she's determined to get something done, you can make a good living betting on the results," says James Carville, a strategist during the campaign. "For Susan and a lot of women her age" -- which is 48 -- "starting out wasn't as easy for them as it is for women now. She had to kind of fight with both hands, and her tenacity served the campaign well."

- Fast friends

Hillary Clinton says she and the president need **Susan Thomases** as they grapple with the task of running the country. "People in my position generally need good and loyal friends," the first lady

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says. "We're lucky we have friends like Susan -- people we not only enjoy as friends but whose opinions we respect -- even though we don't always agree with them."

The two women met in the fall of 1974, when Thomases spent a weekend in Arkansas volunteering in Bill Clinton's unsuccessful House campaign.

She shared then-Hillary Rodham's passion for liberal politics and women's and children's rights, having helped create several child-care centers for working poor families in New York.

After the higher-ups at Wilkie Farr decided to make the obviously talented Thomases a partner, giving her the job of administering the firm, she always recommended the Rose Law Firm in Little Rock, where Hillary Clinton was a partner, for Arkansas legal work. Meanwhile, Hillary Clinton arranged for Thomases to join her on the board of the Children's Defense Fund.

Thomases broke into politics working for Sen. Eugene McCarthy, sent to the West Coast by her then-boyfriend Harold Ickes -- later an ally on the Clinton campaign -- to help organize McCarthy's Oregon primary win in 1968.
- Too many hats?

Government ethics watchdog groups have begun raising questions about Thomases' special relationship with the White House.

"I think this is pretty bad," says Charles Lewis, executive director of the nonprofit Center for Public Integrity, when asked about Thomases' White House contacts. "Because we don't know who **Susan Thomases** also works for. How many hats is she wearing? Has she recused herself from any clients?"

He suggests that Thomases disclose her client list and possibly submit to new regulations that apply to senior government officials, requiring a five-year ban on lobbying. Thomases says she sees no reason to comply with such rules, because "most of this is not going to be relevant soon. I'm essentially winding down what my responsibilities were during the transition," she goes on, noting that she talks with the president's scheduling department and confers on personnel matters. "They don't need me on most things anymore."

Thomases, whose practice centers on corporate securities law, says she provided the Clinton transition team with a partial list of her clients, based on her own judgment of their relevance, and "told them the issues I cannot deal with," to satisfy ethics requirements.

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Few doubt that Thomases could have had a very senior title in the executive branch if she'd wanted one. She says she turned down an offer from White House Chief of Staff Thomas "Mac" McLarty to be his deputy.

Clinton staffers say she was a voice in the selection of Zoe Baird as attorney general and then, when that nomination went awry, pushed for Kimba Wood (who'd been a classmate of Thomases' at Connecticut College), while helping structure the White House staff, weighing in on hires, and playing a role -- "I'm just a facilitator," she says -- in personnel decisions throughout the administration.

So what does she want?

Thomases, for the moment, intends to remain a private citizen. "I don't want to work 18 hours a day," she says, adding that after a grueling six months in Little Rock, she needs to spend time with her family.

A title and well-defined responsibilities probably would be too limiting. It's better to kibitz -- potentially a bigger, more influential role with a presidential couple who often seem to turn late-night bull sessions into next-day action.

"I've told Bill and Hillary that I will help them in whatever way they want me to help," Thomases says. "Whatever they think is useful I will do. I'm crazy about these people."

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Photo by KEITH JENKINS/LA Times-Washington Post Service

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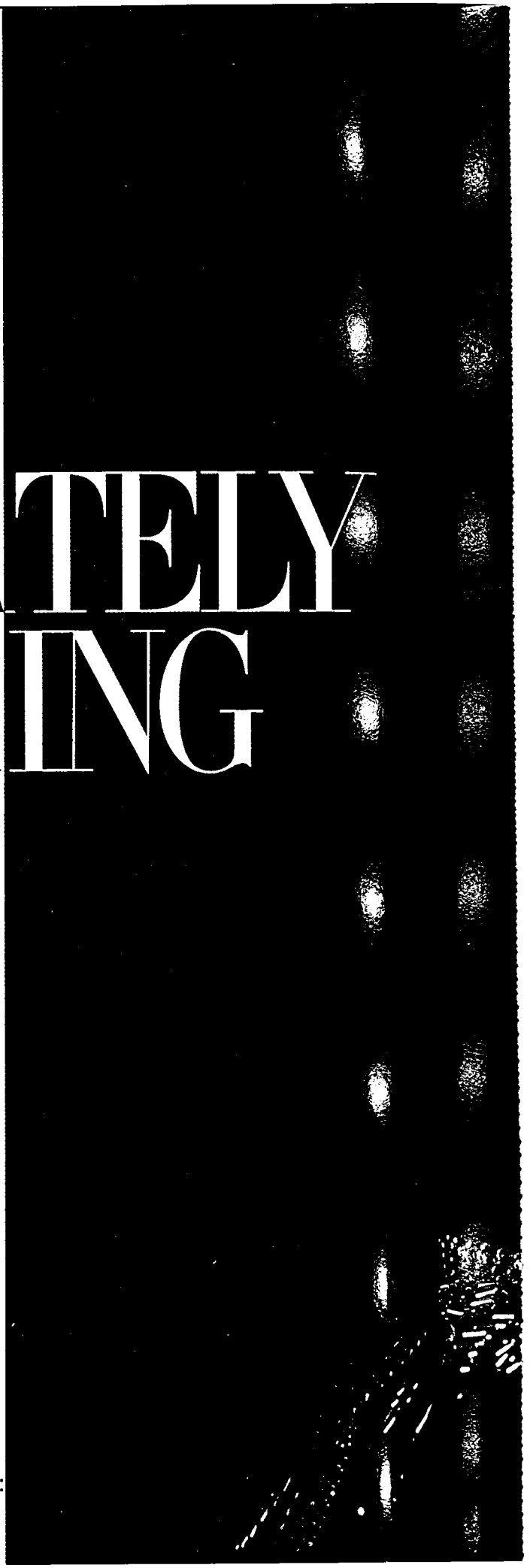
Susan Thomases, feared Friend of Hillary, has had her eye blackened by two No.1 best-sellers. Following up on the clues to her character in *Primary Colors* and to her Whitewater involvement in *Blood Sport*, JACOB WEISBERG figures out why Thomases gets voted "least popular" by Clinton insiders

DESPERATELY LEAKING SUSAN



Clinton haters and Clinton defenders alike spent the first few months of this year in rapt anticipation of James Stewart's two-year investigation into the murky doings collectively known as Whitewater. But when Stewart's book *Blood Sport* finally appeared in late March, the juiciest anecdote didn't take place in Little Rock or Washington, and it wasn't about Bill or Hillary Clinton. It was about New York City lawyer Susan Thomases, better known for being the First Lady's closest friend and most trusted adviser. Stewart related in his prologue that Thomases had telephoned him out of the blue one day to make an appointment to discuss something too sensitive for the phone. "She said a client of hers wanted a story about them," Stewart remembers. "I never dreamed

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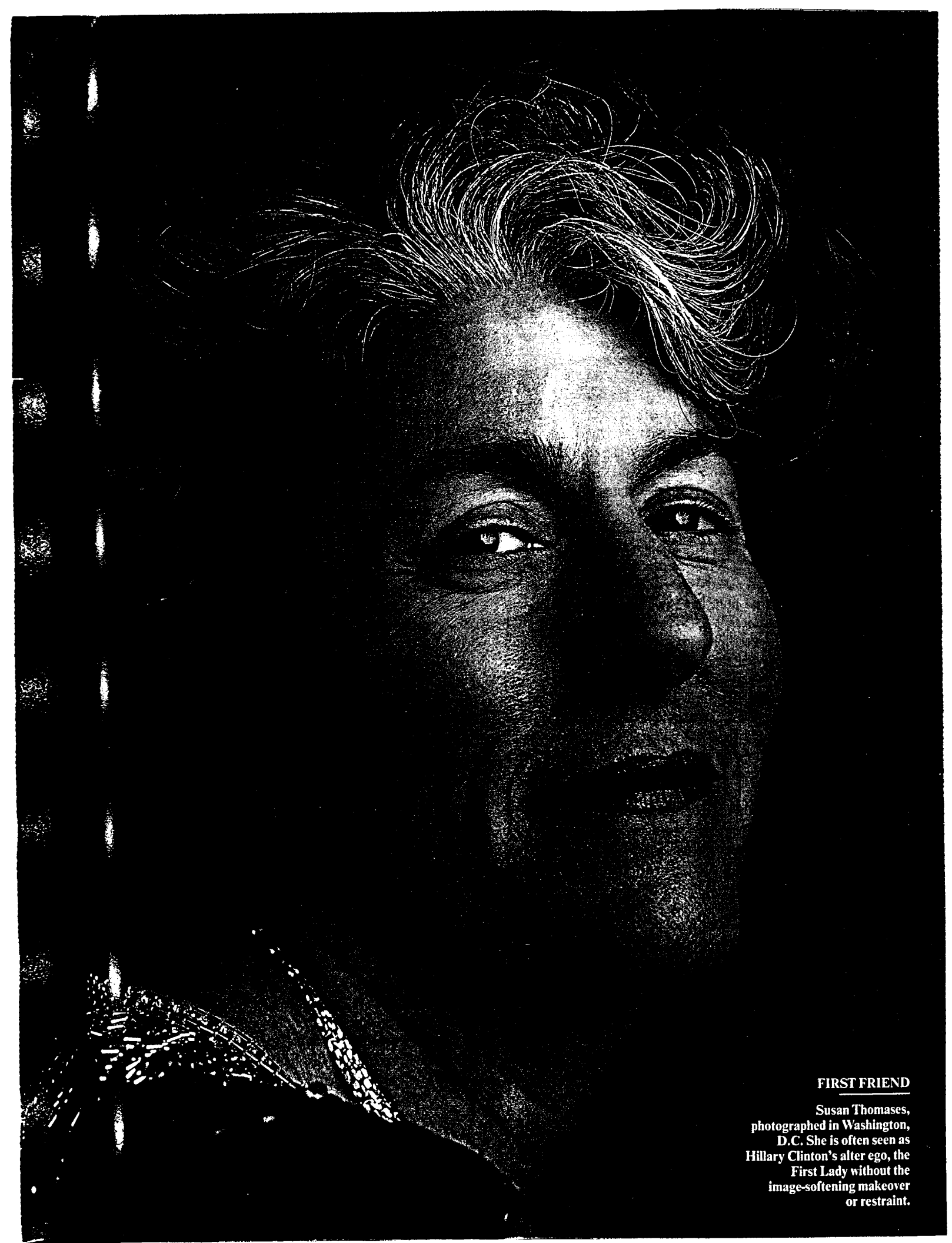
Photograph by ANNIE LEIBOVITZ



FIRST FRIEND

Susan Thomases, photographed in Washington, D.C. She is often seen as Hillary Clinton's alter ego, the First Lady without the image-softening makeover or restraint.

that the client might be the president or the First Lady."

At Thomases' instigation, Stewart began delving into the Whitewater story. But as he got to work, it became clear Thomases was still trying to persuade the principals to cooperate. The First Lady, hostile as ever to inquiring journalists, was disinclined to be open. In the end the administration did not assist him at all. Thus did Thomases single-handedly launch one of America's most diligent investigative reporters on a hostile takeover of the Whitewater story.

Thomases felt contrite enough about her role in the project to issue a kind of apology just before the book was published. "We all make mistakes," she told *Newsweek*. (Characteristically she later told friends that the line had been misquoted.) Thomases also denied serving as a major source for the book. However, it is apparent from context that, along with former White House counsel Bernard Nussbaum and Whitewater partners Jim and Susan McDougal, she was exactly that.

Thomases might ultimately claim vindication for her stratagem. Though it paints the Clintons as ethically lax, and disingenuous in their efforts at spin control, *Blood Sport* does not contain any grand-jury-inspiring revelations. The book's publication may mark the point at which the scandal began finally to recede. Robert L. Bartley, the editor of *The Wall Street Journal,* a paper whose editorial page has approached Whitewater with the measured temper of a rabid pit bull, has suggested Thomases should be "far from distraught."

Thomases, however, has every reason to be distraught, not so much for what the book has done to the Clintons but for the additional havoc it has wrought on her own troubled reputation. In almost every episode in which Thomases figures, Stewart provides additional evidence that her political and personal judgment is lacking. In unattributed comments clearly traceable to her, she manages to alienate the friends of the late White House deputy counsel Vince Foster, implicate the First Lady in a cover-up of the travel-office scandal, and arouse suspicions that her testimony before various investigators was the product of crafty spin control.

Others in Clinton's circle who have been drawn into the Whitewater vortex have tended to elicit sympathy from colleagues over their catastrophic legal bills, public embarrassment, and having to endure the ungrammatical abuse of Alfonse D'Amato (who at one point accused Thomases of raising the scandal's level of "incredulity"). In Thomases' case, however, expressions of sympathy have been few and far between. "Now that she's down, the pent-up hostility is coming out," says one administration official who describes himself as more sympathetic than most. "I've actually heard people say they hope she gets indicted [for perjury before the Senate Whitewater committee]. She doesn't have a big reservoir of goodwill from which to draw."

Thomases is neither the first Clinton friend to be economical with the truth nor the only one to alienate colleagues by the political equivalent of poor table manners. She is hardly alone in her outsize ego or in her lack of a sense of humor. What is unique about Thomases, though, is her relationship with the First Lady. As principal strategist James Carville used to say during the 1992 campaign, "She has the juice," a personal relationship that permits her to phone the private quarters at midnight or show up to see the president without an appointment. This intimacy provokes a combination of jealousy, genuine concern for the Clintons' sake, and hostility, closely related to that which is directed at the First Lady.

As Thomases herself told Lloyd Grove of *The Washington Post,* "Hillary and I are a lot alike in a lot of ways." Thomases is Hillary unsheathed, the First Lady without the image-softening makeover or restraint. And it is this curious quality of being Hillary's doppelgänger that helps to explain both her unpopularity among White House insiders and the outrage she has stirred elsewhere.

Though Rodham was raised Republican and Methodist in Park Ridge, Illinois, and Thomases grew up Jewish under the influence of a Democratic mother in Engelwood, New Jersey, both families were essentially matriarchies in which the only daughters outshone their brothers (Rodham had two, Thomases three) in brains, ambition, and talent. Susan is just like her mother, says one family friend, a "baleboosteh," a Yiddish word which means just about what it sounds like in English. Family instilled in both a strong social conscience, further stimulated by the general mood of the 60s. After attending Connecticut College, Thomases helped Eugene McCarthy win the Oregon primary in 1968; Rodham, meanwhile, was denouncing the Vietnam War at Wellesley. Each also took a turn at proletarian employment: Rodham worked in a fish cannery in Alaska; Thomases reportedly drove a taxi in New York City. Hillary worked for the congressional Watergate committee, while Susan helped set up childcare centers for poor families in New York. Both, however, gravitated eventually toward Establishment careers. Rodham was the first woman partner at Little Rock's Rose Law Firm; Thomases became the administrative partner of the blue-chip New York law firm Willkie Farr & Gallagher.

It was through liberal politics that Thomases made the associations that shaped her subsequent career. During the McCarthy campaign she dated Harold Ickes, son of F.D.R.'s legendary interior secretary. He would become a key ally in the Clinton White House. (In the roman à clef *Primary Colors* the Thomases and Ickes characters are wickedly referred to as "the Progressive Labor Party's Fun Couple of 1971.") It was through Project Pursestrings, an effort to get Congress to cut off funding for the Vietnam War, that Thomases met Bill Clinton in 1970. Not until 1974, when she went to Arkansas to spend a weekend helping with Clinton's unsuccessful congressional campaign, did she meet Hillary. But the two quickly formed a powerful bond.

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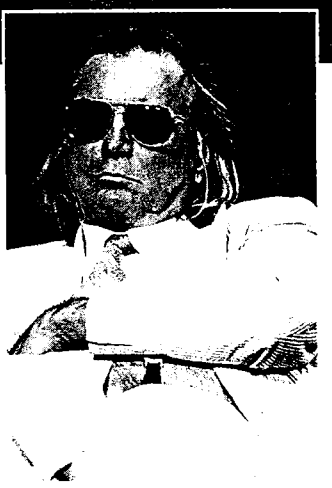

OUR CROWD

Top, the late Vince Foster, his wife, Lisa, and the Clintons, in Arkansas, 1988. *Above,* Thomases and senior adviser Bruce Lindsey, and, *right,* Thomases' husband, artist Bill Bettridge, at the Senate Whitewater hearings, 1995.

Thomases was actually something of a dilettante in comparison with the precocious Clintons. After college, she taught for a while and earned a graduate degree in European history at Columbia. Lacking the academic temperament, she quit and did business consulting, taking breaks to work in politics—as a scheduler for vice-presidential candidate Walter Mondale in 1976 and campaign manager for Bill Bradley's first Senate run, in 1978. She finally made it to Columbia Law School almost 10 years after graduating from college.

At Willkie Farr & Gallagher—whose Willkie was Republican presidential candidate Wendell—Thomases rose quickly, winning responsibility for managing the firm's affairs after only three years. She is said to have made a strongly unfavorable impression on those below her in power and status. "On many occasions she cracked heads," recalls one colleague. "She was not loved by the administrative and professional staff."

In 1988, Thomases married William Bettridge, a building contractor, now an artist. At 46, despite suffering for many years with multiple sclerosis, she had a child, Thomas, who is now 6. In recent years, the Clintons and the Bettridge-Thomases have often socialized together. Thomases' 50th-birthday party was held at the White House, and the Clintons have visited her weekend home in Newport, Rhode Island. Chelsea stayed there when she took sailing lessons two summers ago. Bernie Nussbaum, a friend of Thomases' from the New York legal world, recalls walking into the private quarters one evening when he still worked at the White House and glimpsing a typical domestic scene. The two families were sharing a convivial dinner in the Solarium, Chelsea chatting with Susan, and Tommy asleep on the couch. As Thomases herself explained her close relationship with the Clintons to the Senate Whitewater committee, "We have stayed at each other's homes, shared family joys and sorrows."

As Clinton was contemplating a run for president in 1991, Thomases acted as a key organizer of the Friends of Bill, the overlapping circles from Georgetown, Oxford, and Yale, who encouraged him to run and laid the intellectual infrastructure for his campaign. But during the campaign Thomases failed to mesh with the younger and newer figures around the candidate. "We weren't the original group who encouraged Bill Clinton to run," notes one campaign alumnus. "We weren't part of that generation, or part of the Washington-Yale axis. Susan just viewed us as carpetbaggers." According to another war-room veteran, "It was hard for her to give up this Young Turk thing. She was never comfortable with another generation coming up under her."

A glimpse of her role during the early part of the campaign is provided by "Lucille Kauffman," the Thomases character in *Primary Colors.* The George Stephanopoulos–like narrator describes [illegible] as "power suits and running shoes and Gloria Steinem aviator glasses, radiating "a disconcerting sense of ownership about the campaign. She assumed herself part of the inner circle, and the Stantons [read the Clintons] never said otherwise." "A woman without intuition or antennae," Lucille spends her days trying to "coup" other people.

To a small group who were her allies from before the campaign, or who became part of her coterie, Thomases was "warm, loving, the most incredibly loyal, supportive friend you would ever want to have," according to Kathleen Ambrose, who is now deputy counsel at the Commerce De-

In an incident that became legendary, Thomases tried to keep Al Gore out of the inner circle of the campaign.

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partment. To others, however, Thomases was closer to the description in *Primary Colors:* "an antic conspirer . . . out for blood," or, in the unminced words of a young person who has worked with her, "an evil screaming witch."

In the course of the campaign, her enemies came to vastly outnumber her defenders as she reportedly lobbied to have fired, among others: campaign manager David Wilhelm, pollster Stanley Greenberg, and campaign lawyer David Ifshin. Subsequently she tried to off press secretary Dee Dee Myers and adviser Rahm Emanuel. Thomases fought constantly with James Carville as well. In the midst of a squabble she would humiliate people in front of others, threatening to kill them, bury them, and make sure they never worked again.

In an incident that became legendary, Thomases tried to keep Al Gore out of the inner circle of the campaign. Around the time of the New York City convention, Gore joined a conference call about the upcoming cross-country bus tour. According to one participant, Gore suggested that the trip end in St. Louis. "Susan said, 'That's the stupidest fucking idea I've ever heard,'" the participant recalls. "There was just a total sputter. We were all sitting stunned on various telephones. It was really incredible."

A particular source of consternation was the suspicion that she enhanced her power by bluffing. "She wouldn't say, 'Hillary wants this,' but she implied it by her presence," an official recalls. "One would assume that her authority came from Hillary, but one would be reluctant to ask."

"She was right one out of 10 times," says another campaign worker, "but she'd take credit for anything that went right and run from everything that went wrong." Staffers were particularly incensed by her attempt to grab credit for the Clinton bus tour, which was conceived by David Wilhelm. That she did so while trying to get Wilhelm fired added insult to injury. "Good ideas have many parents," says Wilhelm, with utmost graciousness. Yet when something went wrong, Thomases "would look at you blankly as if this were the first time she'd heard of it," another staffer recalls. "'Whose dumb idea was this?' Four hours earlier she said it was a good idea."

Allies and detractors alike explain these lapses in more or less the same way. "She has to feel critical," says one friend. "She has to feel the Clintons can't function without her." A former campaign aide puts the same point less charitably: "People who learned to deal with Susan started sucking up to her immediately, asking her advice about everything and making her feel important. She wants to be the genius."

Thomases fared somewhat better after the convention, a success which she and Ickes helped orchestrate. Colleagues were impressed that Thomases was willing to commit herself to an actual task—scheduling the candidate's appearances. But she continued to infuriate co-workers, in part by refusing to abide by the usual group processes. "If a decision was made internally, it was never finally made, because she could always check one more time, run it up the flagpole with the Clintons," a campaign official recalls. "Things we thought were killed would come back and have a life of their own." In particular, "it drove Carville nuts." For instance, Carville and Wilhelm thought it had been decided near the end of the campaign not to waste valuable time in Mississippi, a sure-lose state, despite a promise that had been made to then congressman Mike Espy. According to a campaign source, Thomases appealed directly to Bill Clinton, who then went to Mississippi. But according to Kathleen Ambrose, who worked under Thomases as Clinton's personal scheduler, such decisions were often Clinton's own, and Thomases unfairly took the heat.

One campaign hand says he thinks the bond between Hillary and Susan was solidified during the period when the Clintons had, as it is delicately put, trouble in their marriage. "That's when I think they became sisters-in-arms," he says. "Susan was the one Hillary cried with, debated divorce with. I also have a feeling that at some point, when one of these bimbettes threatened to come out and expose him for what he was, Hillary dispatched Susan as the out-of-town mean lawyer to threaten to ruin her life if she even thought about going public." This was a role she continued to play in the campaign. Nussbaum says Thomases called him in New York to discuss what could be done within legal bounds to deal with Gennifer Flowers, as well as other potential accusations in instances he declines to detail.

Hillary also turned to Susan when Whitewater threatened to break. Thomases was appointed to deal with inquiries from Jeff Gerth, the *New York Times* reporter who happened on the story. After the Flowers and draft-evasion incidents, Whitewater might have been a fatal third strike for the candidate, but as Stewart recounts in *Blood Sport,* Thomases handled Gerth effectively. She stalled and gave him just enough information to confuse the issue, while disingenuously telling him it was William Kennedy at the Rose Law Firm who wouldn't give her the information. As Stewart writes, Thomases was delighted with the end result. The Gerth story, when it finally appeared, was in her opinion incomprehensible.

According to Elizabeth Drew's book *On the Edge,* Thomases was interested in two positions after the election, attorney general and White House chief of staff. When it became clear that she would be chosen for neither, she settled for advising the administration on a freelance basis. For would-be appointees, she played gatekeeper. Agreeing with Hillary that the attorney general needed to be female, she pushed the ill-fated Zoe Baird nomination, and after that the equally unsuccessful choice of Kimba Wood, who had been a classmate of Thomases' at Connecticut College. She also played a key role in selecting Nussbaum as White House counsel. But not all her choices were bad. Nussbaum points out that Thomases deserves a share of the credit for the Supreme Court selection of Ruth Bader Ginsburg, with whom she had studied at Columbia Law School.

In addition to her work in personnel, Thomases was generally unhelpful when it came to the administration's early difficulties with media relations. "She reinforces Hillary's worst instincts on all those" *(Continued on page 176)*

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Illustration by RISKO

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THELMA & LOUISE

Many in Washington wonder whether Hillary Clinton will remain loyal to Thomases now that she is a political liability. On the ground, left to right, former White House counsel Bernard Nussbaum, Senator Alfonse D'Amato, and President Clinton.

"They became ns.
Susan was the ried with,
debated divorce

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Thomases

(Continued from page 142) questions," says one Clintonite. According to Bob Woodward's book *The Agenda,* Susan and Hillary decided in the early days of the administration to move the press operation out of the White House and into the Old Executive Office Building, in order to get hated journalists farther away from the First Family. In the end, they settled for denying reporters their traditional access to the office of the communications director (then George Stephanopoulos), where they had previously gone to get the administration's reaction to breaking news. This provoked a calamitous deterioration in Stephanopoulos's relations with the press.

Staying outside the administration left Thomases free to develop her legal business, but that too became a source of grief. A *Newsweek* article by Michael Isikoff that appeared in 1995 offered a peek into Thomases' heavy-handed lobbying style during her weekly Wednesday trips to the capital. She reportedly told one client, "This matter is not going to be reviewed by the president of the United States"—implying that such a review was well within her power, if need be. Later, she had Ickes reach down the chain of command to request a status report on the case. "She's not shy about her access," says one administration official. "You'll never find her playing it down."

In line with the administration's rhetoric about restricting the activities of revolving-door lobbyists, holders of White House passes were required in 1993 to disclose their clients. The so-called "Gang of Four" top campaign advisers—James Carville, Paul Begala, Mandy Grunwald, and Stanley Greenberg—all dutifully did so. Thomases, however, gave up her pass rather than reveal the names of those she worked for. "It's outrageous," says Charles Lewis, director of the lobbying-watchdog group the Center for Public Integrity. "Lots of lobbyists with a 50th of her access are required to disclose. For her not to disclose her clients is contemptuous to say the least."

But the issue of Thomases' lobbying has been overwhelmed by a more immediate ethical question, her role in the handling of documents in the aftermath of Vince Foster's suicide. In the 48 hours following that tragic and stunning event, there was a flurry of phone calls among Thomases, Bernard Nussbaum, Hillary Clinton, and her chief of staff, Maggie Williams. At first, according to Justice Department lawyers, Nussbaum had agreed to let them perform the search, but after the calls, he announced that he would do it himself, with the lawyers and Park Police officers watching from a distance. As a result, documents relating to Whitewater were removed from Foster's office without being seen by investigators. The manner in which the search was conducted fueled suspicions that the White House was trying to hide something, suspicions that have yet to be entirely dispelled.

Phone records obtained by the Senate Whitewater committee provided almost overwhelming circumstantial evidence that Thomases had been a crucial link in restraining the search. At 6:44 A.M. Little Rock time on the second day after the suicide, the First Lady, who was staying with her mother, received a call from Maggie Williams. They talked for seven minutes. At 6:57, Mrs. Clinton phoned Susan Thomases, and they spoke for three minutes. At 7:01, Thomases paged Bernie Nussbaum. At 7:25, she called Mrs. Clinton back. Thomases then placed a series of calls to the White House while Nussbaum and others were meeting about the search. In the midst of this volley, Nussbaum announced to the investigators that they wouldn't be allowed to look at all of Foster's papers. Steve Neuwirth of the White House counsel's office testified that Nussbaum had told him that the First Lady and Thomases didn't want the police to have "unfettered access." (Nussbaum did not recall saying this and has claimed that the decision was entirely his own.)

In a series of hearings before the committee, Thomases said she hadn't instructed anyone about the search or acted as a conduit for instructions. In three appearances, her memory of the calls grew dimmer and dimmer. When she first testified, in August, she had a detailed recollection of her conversation with Hillary Clinton after the suicide; she was certain they had not discussed the documents in Foster's office. She claimed a call to Nussbaum was merely an attempt to "reach out" to him. Nussbaum, however, remembered this conversation differently. "She said people are concerned about whether I was using the correct procedure. . . . Whether it was proper to give people access to the office at all," Nussbaum testified in a deposition. At that point, just after the suicide, the only "people" at the White House Thomases had spoken to were the president, the First Lady, and Maggie Williams.

In November, the D'Amato committee gained access to additional phone records, which showed a total of 17 calls between Thomases and various White House personnel after the suicide. She was summoned again, but her recollection was vague. She did not remember whom she spoke to when she called the White House, or even if she spoke to anyone, or what any of the conversations were about, other than her offering emotional support. "It defies credibility," D'Amato fumed. Lauch Faircloth of North Carolina was even angrier. "Ms. Thomases, I do not believe . . . that this absolute plethora of repeated telephone calls from you to Ms. Williams, to Mrs. Clinton, back and forth, were all touchy-feely, love-in-bloom, sympathetic telephone calls," he scoffed.

In her third and final appearance, in December, committee counsel Michael Chertoff grilled Thomases about another set of eyebrow-raising circumstances. On July 26, a few days after the search, Thomases received a call from Robert Barnett, one of the Clintons' personal attorneys. The next morning Hillary Clinton left a message requesting that she come that day to the White House. On the 27th, both Barnett and Thomases were at the White House—Barnett was there to pick up the box of the Clintons' personal papers that had been removed from Foster's office. Visitor logs show Thomases stayed there for six hours, including an hour and a half in the personal residence. As to what happened, Thomases' mind was an absolute blank.

CHERTOFF: What did the First Lady want to see you about?
THOMASES: I have no idea.
CHERTOFF: Did you see her?
THOMASES: I honestly do not remember seeing her. . . .
CHERTOFF: Do you remember coming to the White House?
THOMASES: No.
CHERTOFF: You come up to the second floor of the residence, remember that?
THOMASES: No. . . .
CHERTOFF: What were you doing up on the second floor for an hour and a half?
THOMASES: I don't remember. . . .
CHERTOFF: Did you see the First Lady?
THOMASES: I don't really remember seeing the First Lady that day.

The performance left D'Amato apoplectic. The senator, however, seems to have missed a crucial inconsistency in Thomases' testimony, which has gone unremarked. In August, Thomases had testified, "I did not discuss my opinion—my appearance here today with Hillary Clinton." In the December hearing, however, when she was being asked again about whether she had ever discussed the handling of documents with Hillary, Thomases acknowledged that they discussed the issue in the context of her upcoming

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testimony "before the first hearing." This contradiction is important because it goes to the heart of whether Thomases and the First Lady straightened out their stories about not attempting to constrain the search of Foster's office.

Thomases has seemed to contradict herself on other points as well. In *Blood Sport,* Jim Stewart describes a hitherto unknown visit Vince Foster paid Thomases shortly before his suicide. Since the only other participant in the conversation is dead, Thomases is obviously the source. According to Stewart, and hence to Thomases, Foster brought up the travel-office affair, "adding that he didn't trust David Watkins, who he feared might fabricate or embellish the facts to cover himself—possibly at the expense of the First Lady." The apparent reference here is to a memo written by Watkins about the travel-office scandal, which surfaced in late 1995, more than two years after the alleged conversation between Foster and Thomases and long after it was originally subpoenaed by congressional investigators. The document damagingly portrayed Hillary Clinton as far more involved in the travel-office firings than she has acknowledged in public statements and in a sworn deposition. As relayed by Stewart, Thomases' spontaneous recollection appears as a stunning effort at spin control: an attempt to cover for the First Lady.

But the rest of the Thomases-supplied passage disturbs those who were Foster's friends much more. "One thing he had not missed about his life in Little Rock was Lisa, his wife," Stewart continues. "The marriage had not been what he'd hoped for, and it hadn't been for years. . . . She was completely dependent on him, and this had become a burden." This was seen as a shocking act of disloyalty and disrespect to Lisa Foster. But Thomases had created an even bigger problem for herself. This story contradicts what Thomases told the F.B.I. about her lack of insight into Foster's suicide. According to F.B.I. notes, when Thomases was asked in 1994 about the Foster suicide she did not even recall such a conversation taking place. (Thomases' lawyer has said that the F.B.I.'s information is incorrect.) Realizing this only after she had spoken to Stewart, Thomases and her lawyer tried, without success, to get him to remove the passage from the book before publication. (Neither Thomases nor her lawyer returned calls for this article.) These issues may be explored if Thomases testifies again. The Whitewater committee tried to recall her earlier this year for a fourth [illegible] time. But having slipped on the ice and broken her leg, she was granted a delay.

Susan Heilbron, a New York lawyer and close friend of Thomases', says there is a good explanation for the memory lapses: M.S., the disease from which they both suffer. "It's like a light switch," Heilbron says, describing her own difficulties remembering certain events. Though not all people with M.S. experience memory loss, Heilbron points out that when Thomases testified most recently she appeared to be suffering from a speech impairment, another symptom of M.S.-related cognitive dysfunction. Why hasn't Thomases raised this issue in her own defense? Like many highly functioning people with M.S., Heilbron says, Thomases "doesn't like to talk about her infirmity."

Dr. Nicholas La Rocca, a Westchester, New York–based M.S. specialist who knows Thomases (but has never treated her), finds this explanation plausible. "M.S. can affect memory," he says. "It is estimated that upwards of perhaps 50 percent of people who have M.S. experience cognitive dysfunction at some point during the course of illness." He says that the small part of Thomases' testimony he saw "did remind me of some of my clinical experience with M.S. in which extremely intelligent, high-functioning people have said they have extreme difficulty at times remembering entire conversations."

But even Thomases' allies don't entirely buy this interpretation. "Everybody thinks Susan lied to Congress, including all of her friends," says one administration insider. "Clearly, it's what happened. She bullied Bernie into this position on the search. He already had the worst political judgment in the last thousand years and was receptive to her bad advice. She clearly was not on the phone to weep." Says another Clinton source, "She has a great memory for details, especially when it has to do with evening up the score." But her M.S. probably means that if Senator D'Amato, or Whitewater special prosecutor Kenneth Starr, tries to bring a perjury charge against Thomases there's little chance it will stick.

There are, however, other repercussions to being viewed as a public liar. Early in the administration, Thomases' connections brought a number of new clients to Willkie Farr. More recently, lawyers at the firm indicate, she has become a liability. The bad publicity also means that her role in the Clinton re-election effort will be more sub-rosa this time. Thomases was set to run the campaign in New York with Victor Kovner, a longtime friend and ally, but Kovner will now have that position to himself.

Thomases' friends and allies argue that she has been punished according to a double standard: as a tough woman, she is a lightning rod for sexist criticism. "I never heard anyone say James Carville was too tough," says David Mixner, who raised money for Clinton and advised the campaign on gay issues. "I did not find her any tougher or any more crude or gross. I often found her more cooperative than others."

Carville, who feuded openly with Thomases in 1992, accepts this notion himself. "When women that age broke in, they had to be a little tough and brash and bitchy," he says. "She can be excessive, but she's a person who had to be aggressive. They didn't have glass ceilings back then, they had steel ceilings." Adds Carville's old partner, Paul Begala, "I think this is a sexist bias. Hillary has to be pigeonholed as a power bitch, Lady Macbeth, or the Martha Stewart mom. She's complicated, but the press doesn't want to give her that. I suspect that Susan suffers from the same problem."

But there's another kind of double standard which does more to explain Thomases. It is her own inconsistency on ethical issues. Given that she has been Hillary Clinton's sidekick in the politics of virtue, her ordinary lapses are compounded by extraordinary hypocrisy. The corollary of Hillary's secret commodities trades is Thomases' lobbying for clients and her apparent disingenuousness under oath.

To some extent the animosity directed at Thomases seems meant for the First Lady. It is probably not a coincidence that in *Primary Colors* the character modeled on Hillary Clinton is named Susan. Thomases is Rodham's proxy, and now her scapegoat, designated to absorb assorted ill will. "Susan is tremendously loyal to Mrs. Clinton," acknowledges one of Thomases' frequent antagonists. "She would walk over hot coals for her. In fact, she's doing that now."

Were Hillary beloved, such a sacrifice might be appreciated. But even inside the administration, Thomases seems to have become an outlet for the frustration that many feel but cannot demonstrate toward the First Lady.

That animosity may ultimately sever what has proved until now an amazingly durable relationship. Washington is rife with rumors that the First Lady has belatedly begun to distance herself from Thomases, who is described as deeply perturbed by the rift. Whatever her other failings, Thomases has surely been loyal to the Clintons. She always assumed her staunch[illegible] would continue to be repaid. □

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THE WALL STREET JOURNAL

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'Hillary's Enforcer'

How Susan Thomases, Top Clinton Adviser, Fell Hard From Grace

Judgment on Whitewater Is Called Into Question; Her Tearful Defense

'Blowing Up' Appointees

By Jill Abramson
And Ellen Joan Pollock
Staff Reporters of The Wall Street Journal

WASHINGTON – No member of the Clinton inner circle has had as strange a rise and fall as New York attorney Susan Thomases.

Known as "Hillary's enforcer" because of her close friendship with Mrs. Clinton and her famously combative personal style, Ms. Thomases has been a feared and influential figure in Washington. In a fitting tribute to the apprehension her name invokes among some White House insiders, her walk to the podium at a 1993 power soiree was accompanied by the theme from the movie "Jaws."

A more-vulnerable Susan Thomases, hobbling on a cane because of a broken leg, answered questions for two hours at her New York law firm recently. Once the administrative partner of her prestigious firm, Willkie, Farr & Gallagher, Ms. Thomases is now its client, trying to fend off legal problems stemming from three rocky appearances before the Senate Whitewater committee. An unprecedented fourth summons is imminent from chairman Alfonse D'Amato, the New York Republican who has blasted her as "not credible."

Susan Thomases

"I don't think that they understand what it means for a lawyer like me to be under oath," says Ms. Thomases, her eyes filling with tears. "I am telling the truth. If they don't believe me, there's nothing more I can do."

The very source of Ms. Thomases' power is also the root of her current travails – a friendship with the first lady that has spawned everything from satire to conspiracy theories. Ms. Thomases is lampooned in the novel "Primary Colors" as a ubiquitous and annoying kibitzer, while counter-feminist Camille Paglia casts her as "Hillary's dark side, her Janus twin or alter ego, a suspicious Medusa. . . ."

She earned her fearsome reputation with stunts like threatening to have aides fired during a 1992 Clinton campaign stop if they didn't drag away a blond supporter who bore a resemblance to Gennifer Flowers. Ms. Thomases won't comment on the incident, and Mrs. Clinton was unavailable to speak about her friend.

'Old Floppy Shoes'

Publication of "Blood Sport," a new book about the Clintons and Whitewater, has stirred yet more controversy. Ms. Thomases herself initiated it and unsuccessfully pressed the Clintons to cooperate with author James B. Stewart, a former Page One editor of this newspaper. The book paints an unflattering portrait of the first couple and may create new complications for Ms. Thomases, too. Whitewater investigators wonder why its detailed account of her last meeting with the late White House deputy counsel Vincent Foster is so at odds with notes of a Federal Bureau of Investigation telephone interview of Ms. Thomases in June 1994.

Certainly, Ms. Thomases, 52 years old, doesn't fit the stereotype of a polished power broker. Her gray hair is untamed, her suits often rumpled, and she cares little for makeup. During the campaign, her casual footwear earned her the nickname "old floppy shoes" among some campaign workers. She keeps a frenetic pace despite battling multiple sclerosis, a condition she didn't tell most friends about for years. Defenders say she is as passionate about her friends and family as she is about work; she and her husband, an artist she met while he was doing construction work on one of her partner's apartments, have a six-year-old son.

Yet if Mrs. Clinton is a Rorschach test for people's feelings about strong-willed women, Ms. Thomases is primal-scream therapy. Many who have worked with her have sharply critical words. She herself joked at a roast for political consultant James Carville that more tickets would have been sold "if they said they were roasting me—at the stake."

Michael Berman, a prominent Democratic lobbyist, says she, as a woman, is unfairly skewered for hardball tactics that "if I did them nobody would give it a thought because that's the way a 300-pound man ought to operate." But more than style arouses critics; it is also her record of giving the Clintons questionable advice.

A Combustible Combination

Indeed, the humbling of this quintessential FOB (Friend of Bill) points up how friendship can cloud independent judgment. Just when the Clintons needed dispassionate advice, they often turned to Ms. Thomases, who may have put loyalty ahead of everything else. Her voyage to the top of Washington's power structure is a reminder that power without accountability can be combustible.

Politics was the original bond between Ms. Thomases and the Clintons. The daughter of a New Jersey textile executive, Ms. Thomases had taught history at her alma mater, Connecticut College, and eventually earned a law degree. She met Bill Clinton in Washington in the summer of 1970, when she was working as a consultant and involved in the antiwar effort, and he was about to start Yale Law School.

Later, she and Hillary Clinton hit it off famously, discovering a shared passion for children's issues and for food. After Mr. Clinton became governor of Arkansas, Mrs. Clinton even had the Rose Law Firm in Little Rock hire Ms. Thomases to help segregate Mrs. Clinton's pay from Rose's earnings from state clients.

In 1978, Ms. Thomases won kudos for becoming one of the nation's few women campaign managers, helping New Jersey's Bill Bradley win a Senate seat. A few years later she became the third woman elected as a partner at Willkie Farr, and was named its administrative partner, a sensitive job she held until 1991.

She was intimately involved in Mr. Clinton's decision to run for president. During the primaries, she was an unofficial trouble-shooter, often clashing with younger staffers who feared that crossing her was to risk crossing Hillary. Invoking her long friendship with the Clintons to get her way helped cement a reputation as an insensitive Bigfoot. "There are times when she can be damn brusque and she's not reluctant to use her leverage to get things done," says her friend Harold Ickes, deputy White House chief of staff, "and there's nothing wrong with that."

Mrs. Clinton turned to her after the 1992 New Hampshire primary. The New York Times was asking questions about a money-losing investment called Whitewater, and Mrs. Clinton wanted someone to track down records and handle the queries. Several aides say they were relieved to learn a lawyer—Ms. Thomases—would review this investment.

Yelling at Aides

Relief turned to anger when the story broke. Ms. Thomases thought she had persuaded the reporter to postpone publication. So when campaign staffers saw the story, they panicked. They talked to Ms. Thomases about how to handle the fallout,

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Cont'd

but she yelled at them, implying that they were overreacting and calling them "children," say three former campaign officials.

Though she had gone through some Whitewater records and talked to the Clintons' accountant, Ms. Thomases hadn't gathered all relevant documents, say the aides, who felt unfairly blamed. Campaign aides dashed to the Rose Law Firm, where partner Webster Hubbell handed them cartons of documents containing everything from Whitewater papers to credit-card receipts. They worked through the night piecing together an estimate of how much the Clintons had invested. That night, Ms. Thomases was replaced as the campaign's Whitewater trouble-shooter.

Ms. Thomases notes she only had 10 days to deal with the situation, and many documents were unavailable. "I tried to get the facts the best I could," she says.

Despite the Whitewater imbroglio, the Clintons tapped Ms. Thomases to become the campaign's full-time scheduler. By all accounts, she had a special talent for planning events, and she took a leave of absence from Willkie Farr in the summer of 1992, moving with her family to Little Rock. She controlled the campaign's most precious commodity – the candidate's time. "She could say no, and that's one of the most important skills as scheduler," says campaign aide Nancy McFadden, now general counsel of the Department of Transportation.

At least one Thomases client benefited from this influence. During the New York primary, she and Mr. Ickes planned Mr. Clinton's tour so that he stopped at Metrotech, a Brooklyn business complex developed by Willkie Farr client Bruce Ratner. Ms. Thomases declines comment.

'Being Susaned'

In the campaign's final hours, as Mr. Clinton concluded a marathon of rallies, he playfully suggested an extra stop to a plane load of sleepless staffers, recalls Clinton friend Jim Lyons, who was there. A chorus went up from the giddy crowd: "You haven't checked with Susan!"

Ms. Thomases was well-positioned to influence the Clinton choices for key posts, especially inside the White House. She strongly backed some candidates who proved ill-suited for their jobs, such as Bernard Nussbaum for White House counsel and Mack McLarty for chief of staff. On the cabinet level, she championed Zoe Baird for attorney general.

While she didn't have actual veto power, people familiar with the events say she was instrumental in "blowing up" – to use a favorite Thomases term – some White House appointments, including that of Thomas Donilon as deputy chief of staff. (Mr. Donilon, now a senior State Department official, says he doesn't think she derailed him, and "I had a good working relationship with her.") Among Clinton aides, losing out to Ms. Thomases was known as "being Susaned."

When the Clintons moved into the White House, Ms. Thomases returned to New York with her husband and son. Still, most Wednesdays found her in Willkie Farr's Washington office. Despite having no official portfolio, she had a special White House pass and helped design the floor plan of the first lady's offices. She roamed freely through the White House, dropping in on Mr. McLarty and Mr. Nussbaum, and offering unsought advice to other aides, who continued to wonder if she was speaking for herself or for Mrs. Clinton.

'Midnight Caller'

Her day and night calls to the White House earned her the sobriquet "the Midnight Caller." But on July 20, 1993, after putting her son to bed, it was Ms. Thomases who received a call – from Mrs. Clinton to say Mr. Foster had killed himself. Ms. Thomases says she was shattered; he had been a close friend since the 1970s. "There has not been enough understanding of how shocking this was," she says.

What happened next is the subject of intense speculation. There came a flurry of phone calls between Mrs. Clinton in Little Rock, Ms. Thomases and Mrs. Clinton's top aide, Maggie Williams. At the same time, Mr. Nussbaum wouldn't let investigators search Mr. Foster's office. Some Republicans believe he may have been acting on the advice of Ms. Thomases, a suggestion both she and Mr. Nussbaum deny. Mr. Nussbaum did testify that Ms. Thomases asked him about the search; she testified that he brought it up. She says her calls to Ms. Williams were attempts to "reach out" to a distraught friend.

Senate Republicans, including North Carolina's Lauch Faircloth, aren't buying that, and believe some calls involved worries about the office contents. Ms. Williams says the panel simply doesn't understand the close friendship between the women. "It was not uncharacteristic of Susan – the time of calls, the number of calls, just to find out how people are doing," she says. "I hear the theory of it, but the truth of it is something very different."

Meanwhile, Sen. D'Amato is furious over Ms. Thomases' claims to remember little of a belatedly disclosed visit to the White House family quarters after Mr. Foster's death. Ms. Thomases has testified she can't even recall whether she saw Mrs. Clinton that day – a day when a Clinton personal lawyer was reviewing papers from Mr. Foster's office. A committee aide says inconsistencies in Ms. Thomases' testimony are being reviewed to see whether she can be prosecuted for lying.

Memory Loss

Cognitive difficulty, including memory loss, is a little-known symptom of MS, afflicting 40% to 60% of sufferers, according to Stephen Reingold of the National Multiple Sclerosis Society. Watching Ms. Thomases testify was "terribly painful," says New York consultant Susan Heilbron, who serves with her on the board of the New York City chapter of the society and who with Ms. Thomases co-founded a group of professional women with MS. "To not understand [Ms. Thomases' memory lapses] could be associated with a neurological disease . . . to see that Sen. D'Amato called her a liar . . . to those of us with memory problems it was particularly upsetting," she says.

Says Ms. Thomases, "I have experienced memory problems, and I have been told it is a common occurrence with MS, but I can't say my not remembering phone calls on that occasion was because of MS."

"I think you have to put this in context," she adds, "I was very, very busy" on law-firm business. "This was not the only thing on my mind. Some of these phone calls had to do with their grief. Some with my grief. I had no other agenda in these calls."

In recent days, Ms. Thomases has been hammered in public for another alleged miscalculation – encouraging Mr. Stewart to write his book. "Let's just say that this is not the book I suggested," she notes. In it, she says Mr. Foster confided marital and other troubles to her during their last visit at a Washington hotel; but she told the FBI she last saw him at a lunch "with some other people in Washington," according to an FBI document, and that she could offer "no reason or speculation as to why he may have taken his life." Her lawyer says the FBI document is incorrect.

Some former campaign colleagues were shocked to see Ms. Thomases at a recent Clinton fund-raiser in New York. Sitting in a wheelchair with her leg in a cast, she seemed anything but a formidable power broker. She no longer has a special White House pass and hasn't been in Washington much, other than for grillings by Sen. D'Amato. She remains friendly with the Clintons, but won't play a role in the re-election campaign. "The Clintons believed that I was needed [in 1992] and I was proud to be included," she says, "but I'd just as soon stay home. I will find other ways to help."

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FOSTER PHONE SUMMARIES

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7/21/93	2:35 PM	16:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	387-DC-00000198	Willkie Farr
7/21/93	5:50 PM	06:30	(202) 328-4836	O'Neill, Lori	(202) 456-1660	First Lady's Office	387-DC-00000218	Willkie Farr
7/21/93	11:03 AM	00:50	(212) 935-6663	Thomases	(202) 456-7194	Williams, Maggie	387-DC-00000176	Willkie Farr
7/22/93	12:17 PM	06:52	(212) 935-6751	Lawrence, Angela	(718) 324-1152	Chisolm, Harrell	387-DC-00000198	Willkie Farr
7/22/93	4:10 PM	12:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	387-DC-00000199	Willkie Farr
7/22/93	10:42 PM	01:00	(207) 775-7608	Thomases	(401) 842-0386		387-DC-00000157	ATT
7/22/93	10:15 PM	18:00	(207) 775-7608	Thomases	(212) 772-6019	Thomases	387-DC-00000157	ATT
7/22/93	3:06 PM	01:00	(703) 683-0146	Thomases	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000157	ATT
7/22/93	12:05 PM	03:16	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A	387-DC-00000198	Willkie Farr
7/22/93	10:33 AM	01: 6	(212) 935-6751	Lawrence, Angela	(212) 496-0735	Fiorito, Barbara	387-DC-00000197	Willkie Farr
7/22/93	5:42 PM	00:30	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A	387-DC-00000198	Willkie Farr
7/22/93		03:12	(212) 935-6751	Lawrence, Angela	(718) 472-2800	Vital Two Way Radio Inc	387-DC-00000198	Willkie Farr
7/22/93	12:12 PM	00:36	(212) 935-6751	Lawrence, Angela	(718) 528-7487	Beckles, Kenneth	387-DC-00000198	Willkie Farr
7/22/93	10:12 AM	01:40	(212) 935-6751	Lawrence, Angela	(718) 739-6767	D'Attoma, John A	387-DC-00000199	Willkie Farr
7/22/93	11:19 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard		SWBT
7/22/93	3:18 PM	21:00	(501) 664-3192	Rodham, H & D	(305) 445-8852	Dowdy, Oscar		SWBT
7/22/93	2:09 PM	15:10	(212) 935-6751	Lawrence, Angela	(212) 368-4968	Lawrence, Chellia	387-DC-00000197	Willkie Farr
7/22/93	12:03 PM	02: 6	(212) 935-6751	Lawrence, Angela	(718) 681-2960	Coburn, Johnny	387-DC-00000199	Willkie Farr
7/22/93	2:25 PM	09:12	(212) 935-6751	Lawrence, Angela	(212) 309-4050	Morgan, Lewis, Bockius	387-DC-00000197	Willkie Farr
7/22/93	11:06 AM	00:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	387-DC-00000198	Willkie Farr
7/22/93	11:27 PM	09:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Audrey		MCI
7/22/93	12:55 PM	01:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D		MCI
7/22/93	7:44 AM	07:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D		MCI
7/22/93	2:35 PM	01:28	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekkai, Beauty Center)	387-DC-00000198	Willkie Farr
7/22/93	12:24 PM	08:30	(212) 935-6751	Lawrence, Angela	(212) 751-5700	Baker & McKenzie	387-DC-00000198	Willkie Farr
7/22/93	10:14 AM	07:54	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	387-DC-00000199	Willkie Farr
7/22/93	2:40 PM	01:42	(212) 935-6751	Lawrence, Angela	(212) 648-7400	JP Morgan SVCS Inc.	387-DC-00000198	Willkie Farr
7/22/93	10:09 AM	04:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	387-DC-00000199	Willkie Farr
7/22/93	3:08 PM	10:00	(917) 539-2633	Thomases	(202) 456-6266	First Lady's Office	387-DC-00000160	CellularOne
7/22/93	3:33 PM	00:38	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekkai, Beauty Center)	387-DC-00000198	Willkie Farr
7/22/93	2:57 PM	19:40	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	387-DC-00000198	Willkie Farr
7/22/93	11:41 AM	06:58	(212) 935-6751	Lawrence, Angela	(718) 542-4540	French, Veronica	387-DC-00000198	Willkie Farr
7/22/93	6:12 PM	15:40	(212) 935-6751	Lawrence, Angela	(718) 549-0423	Beck, L	387-DC-00000198	Willkie Farr
7/22/93	10:06 AM	00:50	(212) 935-6751	Lawrence, Angela	(212) 758-8809	Heilmon, Susan (Lacey & Heilbron)	387-DC-00000198	Willkie Farr
7/22/93	11:34 PM	29:80	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		AT&T
7/22/93	11:37 PM	02:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Audrey		MCI
7/22/93	3:06 PM	01:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000160	CellularOne
7/22/93	11:53 AM	02: 8	(202) 328-6704	Thomases	(202) 395-4852		387-DC-00000208	Willkie Farr
7/22/93	11:46 AM	00:22	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	387-DC-00000219	Willkie Farr
7/22/93	7:14 PM	00:54	(212) 935-6663	Thomases	(212) 772-6019	Thomases	387-DC-00000178	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Bates #	Source
7/22/93	5:26 PM	01:22	(212) 935-6663	Thomases	(212) 772-6019	Thomases	387-DC-00000178	Willkie Farr
7/22/93	7:57 AM	03:00	(501) 664-3192	Rodham, H & D	(202) 659-8787	Thomases (B & B , Leonards)		SWBT
7/22/93	10:56 AM	01:_4	(212) 935-6751	Lawrence, Angela	(914) 698-0880	Davis Studio	387-DC-00000199	Willkie Farr
7/22/93	9:02 AM	07:00	(202) 659-8794	Thomases	(212) 772-6019	Thomases	387-DC-00000151	MCI
7/22/93	8:25 AM	04:00	(202) 659-8787	Thomases (DC)	(501) 664-3192	Rodham, H + D	387-DC-00000151	MCI
7/22/93	7:12 PM	00:54	(212) 935-6663	Thomases	(501) 664-3192	Rodham, H + D	387-DC-00000178	Willkie Farr
7/22/93	3:43 PM	16:52	(212) 935-6759		(516) 678-2621		387-DC-00000201	Willkie Farr
7/22/93	11:18 AM	03:24	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	387-DC-00000219	Willkie Farr
7/22/93	11:04 AM	05:24	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office	387-DC-00000208	Willkie Farr
7/22/93	11:37 AM	10:50	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office	387-DC-00000208	Willkie Farr
7/22/93	11:50 AM	03:52	(202) 328-6704	Thomases	(202) 456-6266	First Lady's office	387-DC-00000208	Willkie Farr
7/22/93	11:11 AM	02:_4	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff	387-DC-00000208	Willkie Farr
7/22/93	11:37 PM	00:60	(212) 935-6663	Thomases	(212) 385-0088	Lotus Ride Inc.	387-DC-00000176	Willkie Farr
7/22/93	5:23 PM	02:56	(212) 935-6663	Thomases	(202) 456-2668	Lindsey, Bruce	387-DC-00000176	Willkie Farr
7/22/93	11:16 AM	00:34	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff	387-DC-00000208	Willkie Farr
7/22/93	11:32 AM	04:30	(202) 328-6704	Thomases	(202) 785-2828	Gardner, Mickey; Law Office	387-DC-00000208	Willkie Farr
7/22/93	10:48 AM	02:_4	(202) 328-4836	O'Neill, Lori	(202) 456-6797	WH Chief of Staff	387-DC-00000218	Willkie Farr
7/22/93	5:13 PM	09:30	(212) 935-6663	Thomases	(202) 456-6266	First Lady's Office	387-DC-00000176	Willkie Farr
7/22/93	7:10 AM	28:00	(202) 659-8787	Thomases (DC)	(201) 930-0116	Kaplan, Richard -- "Sub.to" as of 4/24/96	387-DC-00000151	MCI
7/22/93	10:48 PM	27:00	(501) 664-3192	Rodham, H & D	(501) 227-0915	Bailin, David		SWBT
7/22/93	5:32 PM	00:40	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, English, and Klein	387-DC-00000197	Willkie Farr
7/22/93	5:15 PM	04:46	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, English, and Klein	387-DC-00000197	Willkie Farr
7/22/93	2:43 PM	01:14	(212) 935-6751	Lawrence, Angela	(202) 785-2828	Gardner, Mickey; Law Office	387-DC-00000197	Willkie Farr
7/22/93	10:22 AM	01:30	(212) 935-6751	Lawrence, Angela	(202) 647-5548		387-DC-00000197	Willkie Farr
7/22/93	10:08 AM	00:60	(212) 935-6751	Lawrence, Angela	(202) 647-5548		387-DC-00000197	Willkie Farr
7/22/93	10:49 AM	03:28	(212) 935-6751	Lawrence, Angela	(202) 328-6704	Thomases, Susan	387-DC-00000197	Willkie Farr
7/22/93	11:55 AM	00:34	(212) 935-6751	Lawrence, Angela	(908) 382-6719	Segala, J	387-DC-00000199	Willkie Farr
7/22/93	11:38 AM	00:40	(212) 935-6751	Lawrence, Angela	(718) 822-9429	Jacobi Hospital/Psyco Ward	387-DC-00000199	Willkie Farr
7/22/93	7:21 PM	00:34	(212) 935-6663	Thomases	(201) 568-0395	Neuberg, Hans W & Birgit	387-DC-00000176	Willkie Farr
7/22/93	10:25 AM	01:50	(212) 935-6751	Lawrence, Angela	(804) 827-6000	Avon Fashions	387-DC-00000199	Willkie Farr
7/22/93	12:43 PM	02:44	(212) 935-6751	Lawrence, Angela	(804) 595-0890	Brayboy, Frederick	387-DC-00000199	Willkie Farr
7/23/93	12:26 PM	03:36	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	387-DC-00000219	Willkie Farr
7/23/93	5:24 PM	09:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard		Bell Atlanti
7/23/93	6:25 PM	04:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard		Bell Atlanti
7/23/93	8:25 PM	04:00	(212) 772-6019	Thomases	(401) 849-4177	Jasper, Aaron	387-DC-00000151	MCI
7/23/93	10:15 AM	11:00	(501) 664-3192	Rodham, H & D	(501) 575-5993	U of AR, Att. Ken Leverington (501-575-20		SWBT
7/23/93	5:36 PM	10:38	(212) 935-6663	Thomases	(914) 657-8329	Heilbron, Susan, (William Damron)	387-DC-00000179	Willkie Farr
7/23/93	4:45 PM	13:16	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell	387-DC-00000179	Willkie Farr
7/23/93	10:19 AM	01:22	(202) 328-4836	O'Neill, Lori	(202) 224-2152	US Capital	387-DC-00000218	Willkie Farr
7/23/93	5:53 PM	02:12	(212) 935-6759		(201) 955-1916	Chormanski, M J	387-DC-00000201	Willkie Farr
7/23/93	4:38 PM	02:52	(202) 328-4836	O'Neill, Lori	(800) 451-1435		387-DC-00000220	Willkie Farr
7/23/93	12:41 PM	01:00	(202) 456-6266	Williams, Margaret	(501) 666-8017	Andre's Hillcrest (501-666-9191)		Capital Net
7/23/93	6:58 PM	03:32	(212) 935-6663	Thomases	(301) 652-1926	Filson, Charles	387-DC-00000179	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Bates #	Source
7/24/93	12:14 PM	01:00	(202) 332-0850	Williams, Margaret	(212) 628-1086	Thomases, Susan		MCI
7/24/93	12:32 PM	13:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA		SWBT
7/24/93	7:19 AM	38:00	(202) 332-0850	Williams, Margaret	(816) 523-1544			MCI
7/24/93	12:46 PM	02:00	(202) 332-0850	Williams, Margaret	(401) 253-3084	Magaziner, Suzanne		MCI
7/24/93	10:00 AM	05:00	(401) 849-6524	Thomases	(203) 966-3663	Bettridge, James D.	387-DC-00000167	NYNEX
7/24/93	6:54 PM	02:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	387-DC-00000167	NYNEX
7/24/93	6:59 PM	01:00	(401) 849-6524	Thomases	(202) 785-1521	Solis, Patty	387-DC-00000167	NYNEX
7/24/93	1:34 PM	47:30	(202) 638-1711	White House	(501) 661-9891	Mehlburger, Max		AT&T
7/25/93	1:14 PM	18:30	(202) 638-1711	White House	(501) 663-9707	Morse, John Tucker		AT&T
7/25/93	11:12 AM	33:00	(401) 849-6524	Thomases	(516) 324-2085	Robbins, Liz	387-DC-00000167	NYNEX
7/25/93	12:24 PM	04:00	(401) 849-6524	Thomases	(401) 789-5853	Mercurio, Arthur	387-DC-00000166	NYNEX
7/25/93	6:16 PM	01:20	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		AT&T
7/25/93	11:08 AM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	387-DC-00000167	NYNEX
7/25/93	10:36 PM	64:00	(501) 664-3192	Rodham, H & D	(818) 769-4864	Friedman, C & A		SWBT
7/25/93	2:25 PM	17:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA		SWBT
7/25/93	11:09 AM	01:00	(401) 849-6524	Thomases	(202) 342-9553	Berman, Michael	387-DC-00000167	NYNEX
7/25/93	11:11 AM	01:00	(401) 849-6524	Thomases	(407) 845-1229	Prosperi, A Paul	387-DC-00000167	NYNEX
7/25/93	2:03 PM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	387-DC-00000167	NYNEX
7/25/93	1:37 PM	01:00	(401) 849-6524	Thomases	(207) 596-1083	Rockland Landing Marina	387-DC-00000167	NYNEX
7/26/93	4:06 PM	01:30	(202) 638-0021	White House	(212) 247-0300	Hotel Nikko		AT&T
7/26/93	1:45 PM	02:30	(202) 638-1711	White House	(501) 562-4980	Flammang, Thomas		AT&T
7/26/93	9:36 PM	00:60	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D		AT&T
7/26/93	4:03 PM	02:40	(202) 638-1711	White House	(310) 271-7163	Schatteman, Daniele		AT&T
7/26/93	3:45 PM	03:00	(908) 273-1212	Eiland, M./English, J.	(212) 578-4144	Metropolitan; Life, Home Office	387-DC-00000149	ATT
7/26/93	12:52 PM	00:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000218	Willkie Farr
7/26/93	10:35 PM	14:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA		SWBT
7/26/93	10:21 PM	12:00	(501) 664-3192	Rodham, H & D	(818) 769-4864	Friedman, C & A		SWBT
7/26/93	11:11 AM	12:56	(212) 935-6663	Thomases	(501) 376-6251	Cranford; Johnson Robinson Woods	387-DC-00000179	Willkie Farr
7/26/93	5:38 PM	04:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000218	Willkie Farr
7/26/93	3:58 PM	23:20	(212) 935-6751	Lawrence, Angela	(718) 681-2638	Gilliard, Mrs. L	387-DC-00000201	Willkie Farr
7/26/93	1:47 PM	10:80	(202) 638-1711	White House	(501) 224-0277	Huber, Joe C		AT&T
7/26/93	12:49 PM	02:32	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/26/93	3:49 PM	03:00	(908) 273-1212	Eiland, M./English, J.	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000149	ATT
7/26/93	9:33 AM	00:44	(202) 328-4836	O'Neill, Lori	(301) 608-9542	Durling, James and Linda	387-DC-00000219	Willkie Farr
7/26/93	10:38 AM	06:40	(212) 935-6751	Lawrence, Angela	(202) 328-4741	Hobson, M	387-DC-00000200	Willkie Farr
7/26/93	12:06 PM	02:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755		387-DC-00000200	Willkie Farr
7/26/93	2:53 PM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755		387-DC-00000200	Willkie Farr
7/26/93	6:04 PM	00:30	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000218	Willkie Farr
7/26/93	4:57 PM	16:20	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	387-DC-00000200	Willkie Farr
7/26/93	10:11 PM	10:00	(501) 664-3192	Rodham, H & D	(305) 448-6374	Arias, Maria Victoria		SWBT
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(516) 537-3637	Deter, John (Alter, Johnathan)	387-DC-00000160	CellularOne
7/26/93	1:46 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000160	CellularOne
7/26/93	5:33 PM	03:00	(917) 539-2633	Thomases	(202) 456-2520	Seidman, Ricki	387-DC-00000160	CellularOne

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Bates #	Source
7/26/93	1:48 PM	02:00	(917) 539-2633	Thomases	(908) 273-1212	Eiland, M./English, J.	387-DC-00000160	CellularOne
7/26/93	5:28 PM	05:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	387-DC-00000160	CellularOne
7/26/93	11:55 AM	11:46	(202) 328-4836	O'Neill, Lori	(202) 508-6627		387-DC-00000218	Willkie Farr
7/26/93	3:09 PM	15:44	(202) 328-4836	O'Neill, Lori	(202) 547-4099	Quetsch, W B	387-DC-00000218	Willkie Farr
7/26/93	1:52 PM	03:00	(917) 539-2633	Thomases	(718) 472-2400	Elite Car and Limo	387-DC-00000160	CellularOne
7/26/93	5:37 PM	02:00	(917) 539-2633	Thomases	(908) 462-8200	Hovbilt Inc.	387-DC-00000160	CellularOne
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	387-DC-00000160	CellularOne
7/26/93	5:22 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000160	CellularOne
7/26/93	5:24 PM	03:00	(917) 539-2633	Thomases	(202) 456-2468	Solis, Patty	387-DC-00000160	CellularOne
7/26/93	5:43 PM	07:00	(917) 539-2633	Thomases	(516) 537-2160	Amster, Arnie	387-DC-00000160	CellularOne
7/26/93	5:51 PM	01:00	(917) 539-2633	Thomases	(212) 693-7783	Rinfret, Peter (REFCO: Group LTD.)	387-DC-00000160	CellularOne
7/26/93	9:53 AM	02: 4	(212) 935-6759		(201) 589-0277		387-DC-00000201	Willkie Farr
7/26/93	6:10 PM	02:30	(202) 638-1711	White House	(212) 247-0300	Hotel Nikko		AT&T
7/26/93	5:36 PM	01:00	(917) 539-2633	Thomases	(917) 763-6444	Hovnanian, G.	387-DC-00000160	CellularOne
7/26/93	5:39 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	387-DC-00000160	CellularOne
7/27/93	3:22 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000219	Willkie Farr
7/27/93	4:20 PM	00:34	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/27/93	12:54 PM	00:30	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/27/93	10:36 AM	03:00	(212) 772-6019	Thomases	(203) 966-3663	Bettridge, James D.	387-DC-00000151	MCI
7/27/93	6:43 AM	01:00	(212) 772-6019	Thomases	(203) 972-7332	Bettridge, Jack	387-DC-00000151	MCI
7/27/93	3:37 PM	21:30	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/27/93	11:28 AM	00:26	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000219	Willkie Farr
7/27/93	10:56 AM	01:46	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000219	Willkie Farr
7/27/93	10:40 AM	00:58	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000218	Willkie Farr
7/27/93	9:44 AM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210		387-DC-00000218	Willkie Farr
7/27/93	9:37 AM	21:20	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	387-DC-00000201	Willkie Farr
7/27/93	1:08 PM	00:40	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no info for 7/93	387-DC-00000208	Willkie Farr
7/27/93	8:44 PM	05:00	(703) 684-9747	Thomases	(203) 966-3663	Bettridge, James D.	387-DC-00000149	ATT
7/27/93	5:29 PM	09:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; McLennan Group)	387-DC-00000149	ATT
7/27/93	5:12 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	387-DC-00000219	Willkie Farr
7/27/93	12:24 PM	06:00	(501) 664-3192	Rodham, H & D	(305) 545-1830	Public Defender Office, County of Dade		SWBT
7/27/93	3:42 PM	01: 4	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/27/93	3:57 PM	02:52	(212) 935-6757		(202) 328-4762		387-DC-00000201	Willkie Farr
7/27/93	6:04 PM	12:30	(202) 328-4836	O'Neill, Lori	(202) 331-9664	Marrocco's Italian Restaurant	387-DC-00000218	Willkie Farr
7/27/93	9:53 PM	01:40	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		AT&T
7/27/93	9:59 PM	04:60	(202) 638-0021	White House	(501) 376-6884	State of AR. Governor's Mansion		AT&T
7/27/93	1:00 PM	01:60	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel	387-DC-00000208	Willkie Farr
7/27/93	12:36 PM	09:52	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel	387-DC-00000208	Willkie Farr
7/27/93	10:23 PM	06:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA		SWBT
7/27/93	12:20 PM	02:26	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard	387-DC-00000208	Willkie Farr
7/27/93	1:07 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 291-0244	Boxer, Nicole		SWBT
7/27/93	3:36 PM	00:24	(202) 328-4836	O'Neill, Lori			387-DC-00000218	Willkie Farr
7/27/93	12:09 PM	15:00	(501) 664-3192	Rodham, H & D	(817) 460-5246			SWBT

FOIA # none (URTS 16305) DocId: 70105098 Page 49

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Bates #	Source
7/27/93	11:43 AM	06:30	(202) 328-4836	O'Neill, Lori	(202) 547-4099	Quetsch, W B	387-DC-00000218	Willkie Farr
7/27/93	5:27 PM	01:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; McLennan Group)	387-DC-00000149	ATT
7/27/93	11:30 AM	28:48	(212) 935-6751	Lawrence, Angela	(718) 881-0293	McLean, Corine	387-DC-00000201	Willkie Farr
7/27/93	6:00 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 456-6444	Rubin, Nancy	387-DC-00000218	Willkie Farr
7/27/93	11:37 AM	01:32	(202) 328-6704	Thomases	(212) 345-3020	"Greg" (Marsh; McLennan Group)	387-DC-00000208	Willkie Farr
7/27/93	12:33 PM	01:58	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no info for 7/93	387-DC-00000208	Willkie Farr
7/27/93	2:53 PM	03:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	387-DC-00000160	CellularOne
7/27/93	11:33 AM	01:12	(202) 328-6704	Thomases	(202) 456-2468	Solis, Patty	387-DC-00000208	Willkie Farr
7/27/93	12:35 PM	00:22	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard	387-DC-00000208	Willkie Farr
7/27/93	1:21 PM	35:00	(501) 664-3192	Rodham, H & D	(305) 545-1858	Public Defender Office, County of Dade		SWBT

FOIA # none (URTS 16305) DocId: 70105098 Page 50

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/20/93	12:46 AM	02:00	(501) 664-3192	Rodham, H & D	(202) 291-0244			Rodham Residence		SWBT
7/20/93	9:35 AM	07: 6	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/20/93	9:51 AM	04:40	(212) 935-6751	Lawrence, Angela	(201) 403-8660	Weinburg, Lieberman	5802099985801	NY office, "Sub.to" as of 4/24/	387-DC-00000196	Willkie Farr
7/20/93	9:51 AM	01:30	(202) 328-4836	O'Neill, Lori	(202) 663-6000			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/20/93	9:54 AM	00: 0	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000218	Willkie Farr
7/20/93	9:54 AM	00:30	(202) 328-4836	O'Neill, Lori	(202) 797-6291			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/20/93	9:55 AM	00:28	(202) 328-4836	O'Neill, Lori	(202) 663-6000			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/20/93	9:58 AM	01:18	(212) 935-6663	Thomases	(202) 337-4689	Ludwig, Carol		NY office direct line	387-DC-00000176	Willkie Farr
7/20/93	10:39 AM	00:40	(212) 935-6751	Lawrence, Angela	(202) 224-2447		5802099985801	NY office	387-DC-00000196	Willkie Farr
7/20/93	10:53 AM	00:50	(212) 935-6751	Lawrence, Angela	(718) 472-2800	Vital Two Way Radio		NY office	387-DC-00000198	Willkie Farr
7/20/93	11:15 AM	00:56	(212) 935-6751	Lawrence, Angela	(609) 292-1506	(N J State of --) @ Jo	5802099985801	NY office, "Sub.to" as of 4/24/	387-DC-00000198	Willkie Farr
7/20/93	11:48 AM	14:32	(212) 935-6751	Lawrence, Angela	(212) 366-7052	National Blue Print Di		NY office	387-DC-00000197	Willkie Farr
7/20/93	12:04 PM	03:40	(212) 935-6751	Lawrence, Angela	(212) 580-6420	NY City Police Dept./		NY office	387-DC-00000197	Willkie Farr
7/20/93	1:00 PM	01:60	(212) 935-6751	Lawrence, Angela	(609) 292-1506	(N J State of --) @ Jo	5802099985801	NY office, "Sub.to" as of 4/24/	387-DC-00000198	Willkie Farr
7/20/93	1:36 PM	01:24	(202) 328-4836	O'Neill, Lori			783260801	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/20/93	1:40 PM	01:36	(202) 328-4836	O'Neill, Lori	(714) 761-7700		954810001	DC secretarial ext.	387-DC-00000220	Willkie Farr
7/20/93	1:43 PM	01:12	(202) 328-4836	O'Neill, Lori			999900010	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/20/93	1:46 PM	00:32	(202) 328-4836	O'Neill, Lori	(703) 280-2762	Ceney, Charles. E		DC secretarial ext.	387-DC-00000219	Willkie Farr
7/20/93	2:16 PM	02:36	(212) 935-6751	Lawrence, Angela	(908) 273-1212	Eiland, M./English, J.	5802099985801	NY office	387-DC-00000199	Willkie Farr
7/20/93	2:23 PM	01:20	(212) 935-6751	Lawrence, Angela	(908) 273-1212	Eiland, M./English, J.	5802099985801	NY office	387-DC-00000199	Willkie Farr
7/20/93	2:25 PM	02:18	(212) 935-6751	Lawrence, Angela	(718) 588-9576	Gullatt, Shirley		NY office	387-DC-00000199	Willkie Farr
7/20/93	2:29 PM	00:32	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A		NY office	387-DC-00000198	Willkie Farr
7/20/93	4:27 PM	12:32	(202) 328-4836	O'Neill, Lori	(301) 805-1710	Maneely, Suellen B		DC secretarial ext.	387-DC-00000219	Willkie Farr
7/20/93	4:59 PM	04:40	(212) 935-6751	Lawrence, Angela	(212) 230-2550	Realcom Ofc Comm I		NY office, main number 230-22	387-DC-00000197	Willkie Farr
7/20/93	5:12 PM	00:58	(212) 935-6751	Lawrence, Angela	(202) 224-3254	Socarides, Richard	5802099985801	NY office	387-DC-00000196	Willkie Farr
7/20/93	5:32 PM	03:14	(212) 935-6663	Thomases	(212) 772-0601	no info for 7/93		NY office direct line	387-DC-00000178	Willkie Farr
7/20/93	6:23 PM	02:00	(215) 222-2618	Thomases	(212) 772-6019	Thomases		NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/20/93	7:03 PM	02:46	(212) 935-6759		(201) 955-1916	Chormanski, M J		NY office, "Sub.to" as of 4/24/	387-DC-00000201	Willkie Farr
7/20/93	9:18 PM	26:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Au		Williams Residence		MCI
7/20/93	10:00 PM	01:00	(202) 638-0021	White House	(510) 489-9105			White House		AT&T
7/20/93	10:02 PM	00:50	(202) 638-0021	White House	(415) 386-5425			White House		AT&T
7/20/93	10:06 PM	01:00	(202) 638-0021	White House	(404) 973-0019			White House		AT&T
7/20/93	10:10 PM	03:20	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/20/93	10:12 PM	03:30	(202) 638-1711	White House	(501) 663-9131	Rutherford, Jas L		White House		AT&T
7/20/93	10:13 PM	16:00	(501) 664-3192	Rodham, H & D	(202) 332-0850	Williams, Maggie		Rodham Residence		SWBT
7/20/93	10:37 PM	28:00	(207) 596-1083	Thomases	(401) 842-0386			NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/20/93	11:03 PM	04:00	(501) 664-3192	Rodham, H & D	(805) 684-5228			Rodham Residence		SWBT
7/20/93	11:19 PM	20:00	(501) 664-3192	Rodham, H & D	(212) 628-1086	Thomases, Susan		Rodham Residence		SWBT
7/20/93	11:41 PM	10:00	(501) 664-3192	Rodham, H & D	(202) 628-7087	Burton, Bill		Rodham Residence		SWBT
7/20/93	11:52 PM	04:00	(501) 664-3192	Rodham, H & D	(703) 418-0897	Huber, Carolyn		Rodham Residence		SWBT
7/21/93	12:07 AM	02:00	(212) 772-6019	Thomases	(202) 757-5000	SIGNAL Operator		NY residence	387-DC-00000151	MCI
7/21/93	12:17 AM	00:50	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/21/93	12:18 AM	26:60	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D		White House		AT&T

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/21/93	12:56 AM	11:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D		Williams Residence		MCI
7/21/93	12:56 AM	01:00	(202) 332-0850	Williams, Margaret	(501) 664-3182			Williams Residence		MCI
7/21/93	1:08 AM	02:00	(212) 772-6019	Thomases	(202) 332-0850	Williams, Maggie		NY residence	387-DC-00000151	MCI
7/21/93	1:09 AM	13:00	(501) 664-3192	Rodham, H & D	(202) 638-0021	WH Residence		Rodham Residence		SWBT
7/21/93	1:10 AM	14:00	(202) 332-0850	Williams, Margaret	(212) 772-6019	Thomases		Williams Residence		MCI
7/21/93	7:00 AM	01:00	(212) 772-6019	Thomases	(202) 529-6491			NY residence	387-DC-00000151	MCI
7/21/93	8:56 AM	37:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard		Rodham Residence		SWBT
7/21/93	9:50 AM	01:00	(501) 664-3192	Rodham, H & D	(202) 514-5000			Rodham Residence		SWBT
7/21/93	10:15 AM	01:40	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY office	387-DC-00000197	Willkie Farr
7/21/93	11:03 AM	00:50	(212) 935-6663	Thomases	(202) 456-7194	Williams, Maggie		NY office direct line	387-DC-00000176	Willkie Farr
7/21/93	11:06 AM	03:48	(212) 935-6663	Thomases	(202) 456-6266	First Lady's office		NY office direct line	387-DC-00000176	Willkie Farr
7/21/93	11:09 AM	11:00	(501) 664-3192	Rodham, H & D	(501) 767-4846	Kelley, Richard		Rodham Residence		SWBT
7/21/93	11:30 AM	02:18	(212) 935-6751	Lawrence, Angela	(809) 922-2000		5802099985801	NY office (?)	387-DC-00000199	Willkie Farr
7/21/93	11:44 AM	15:00	(501) 664-3192	Rodham, H & D	(916) 583-7200			Rodham Residence		SWBT
7/21/93	11:57 AM	03:46	(212) 935-6663	Thomases	(212) 758-8809	Heilmon, Susan (Lace		NY office direct line	387-DC-00000178	Willkie Farr
7/21/93	12:04 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 686-6768			Rodham Residence		SWBT
7/21/93	12:38 PM	02:40	(212) 935-6663	Thomases	(202) 328-4898			NY office direct line	387-DC-00000176	Willkie Farr
7/21/93	12:39 PM	01: 2	(212) 935-6663	Thomases	(212) 489-8230	Lankenau Kovner & K		NY office direct line	387-DC-00000178	Willkie Farr
7/21/93	12:41 PM	01:24	(212) 935-6751	Lawrence, Angela	(212) 648-7400	JP Morgan SVCS Inc.		NY office, main number 648-00	387-DC-00000198	Willkie Farr
7/21/93	12:45 PM	05:16	(212) 935-6751	Lawrence, Angela	(212) 580-6420	NY City Polic Dept./P		NY office	387-DC-00000197	Willkie Farr
7/21/93	2:12 PM	02:26	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY office	387-DC-00000196	Willkie Farr
7/21/93	2:12 PM	02:26	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY office	387-DC-00000200	Willkie Farr
7/21/93	2:34 PM	00:54	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/21/93	2:35 PM	16:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B		NY office	387-DC-00000198	Willkie Farr
7/21/93	3:02 PM	00:32	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY office	387-DC-00000197	Willkie Farr
7/21/93	3:09 PM	15:42	(212) 935-6762		(516) 496-9111	Cigna		NY office	387-DC-00000201	Willkie Farr
7/21/93	3:26 PM	00:36	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/21/93	3:33 PM	02:40	(212) 935-6759		(201) 589-0277	Spectraserv Inc.		NY office (?), "Sub.to" as of 4/2	387-DC-00000201	Willkie Farr
7/21/93	4:19 PM	03:26	(212) 935-6751	Lawrence, Angela	(212) 230-7232	(no info. for 7/93)		NY office	387-DC-00000197	Willkie Farr
7/21/93	4:20 PM	08:00	(202) 456-1414	Thomases	(809) 295-1558	Dalidawicz, Ed		NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/21/93	4:30 PM	03:44	(212) 935-6751	Lawrence, Angela	(202) 456-6266	First Lady's office	5802099985801	NY office	387-DC-00000197	Willkie Farr
7/21/93	4:35 PM	09:10	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/21/93	5:05 PM	00:54	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY office	387-DC-00000197	Willkie Farr
7/21/93	5:08 PM	02:52	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY office	387-DC-00000197	Willkie Farr
7/21/93	5:11 PM	02:44	(212) 935-6751	Lawrence, Angela	(212) 772-6019	Thomases		NY office	387-DC-00000198	Willkie Farr
7/21/93	5:14 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 514-5000	DoJ Command Center		Rodham Residence		SWBT
7/21/93	5:15 PM	03:90	(202) 638-4422	White House	(501) 375-9131	Rose Law Firm		White House		AT&T
7/21/93	5:20 PM	05:60	(202) 638-0021	White House	(501) 324-9444	State of AR.-DCS, Tel		White House		AT&T
7/21/93	5:50 PM	06:30	(202) 328-4836	O'Neill, Lori	(202) 456-1660	First Lady's Office		DC secretarial ext.	387-DC-00000218	Willkie Farr
7/21/93	6:40 PM	02:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard		Rodham Residence		SWBT
7/21/93	6:44 PM	02:00	(501) 664-3192	Rodham, H & D	(202) 514-5000	DOJ Command Center		Rodham Residence		SWBT
7/21/93	7:45 PM	12:00	(501) 664-3192	Rodham, H & D	(202) 456-2668	Lindsey, Bruce		Rodham Residence		SWBT
7/21/93	8:53 PM	01:00	(212) 772-6019	Thomases	(407) 845-1129			NY residence	387-DC-00000152	MCI

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/21/93	9:23 PM	02:00	(917) 539-2633	Thomases	(202) 332-0850	Williams, Maggie		Cellular phone	387-DC-00000160	CellularOne
7/21/93	10:02 PM	13:00	(501) 664-3192	Rodham, H & D	(202) 342-7321			Rodham Residence		SWBT
7/21/93	10:12 PM	02:00	(202) 659-8787	Thomases (DC)	(917) 763-6444	Hovnanian, Grant		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/21/93	10:17 PM	40:00	(501) 664-3192	Rodham, H & D	(305) 448-6374			Rodham Residence		SWBT
7/21/93	11:00 PM	01:00	(202) 659-8794	Thomases	(501) 664-3192	Rodham, H + D		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/21/93	11:08 PM	10:00	(202) 659-8794	Thomases	(212) 772-6019	Thomases		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/22/93		03:12	(212) 935-6751	Lawrence, Angela	(718) 472-2800	Vital Two Way Radio		NY office	387-DC-00000198	Willkie Farr
7/22/93	7:10 AM	28:00	(202) 659-8787	Thomases (DC)	(201) 930-0116	Kaplan, Richard -- "		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/22/93	7:44 AM	07:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D		Williams Residence		MCI
7/22/93	7:57 AM	03:00	(501) 664-3192	Rodham, H & D	(202) 659-8787	Thomases, B + B		Rodham Residence		SWBT
7/22/93	8:25 AM	04:00	(202) 659-8787	Thomases (DC)	(501) 664-3192	Rodham, H + D		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/22/93	9:02 AM	07:00	(202) 659-8794	Thomases	(212) 772-6019	Thomases		NY res.--calling card (628-1086)	387-DC-00000151	MCI
7/22/93	10:06 AM	00:50	(212) 935-6751	Lawrence, Angela	(212) 758-8809	Heilmon, Susan (Lace		NY office	387-DC-00000198	Willkie Farr
7/22/93	10:08 AM	00:60	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY office	387-DC-00000197	Willkie Farr
7/22/93	10:09 AM	04:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/22/93	10:12 AM	01:40	(212) 935-6751	Lawrence, Angela	(718) 739-6767	D'Attoma, John A		NY office	387-DC-00000199	Willkie Farr
7/22/93	10:14 AM	07:54	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/22/93	10:22 AM	01:30	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY office	387-DC-00000197	Willkie Farr
7/22/93	10:25 AM	01:50	(212) 935-6751	Lawrence, Angela	(804) 827-6000		5802099985801	NY office	387-DC-00000199	Willkie Farr
7/22/93	10:33 AM	01: 6	(212) 935-6751	Lawrence, Angela	(212) 496-0735	Fiorito, Barbara		NY office (?)	387-DC-00000197	Willkie Farr
7/22/93	10:48 AM	02: 4	(202) 328-4836	O'Neill, Lori	(202) 456-6797	WH Chief of Staff		DC secretarial ext.	387-DC-00000218	Willkie Farr
7/22/93	10:49 AM	03:28	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY office	387-DC-00000197	Willkie Farr
7/22/93	10:56 AM	01: 4	(212) 935-6751	Lawrence, Angela	(914) 698-0880	Davis Studio	5802099985801	NY office (?)	387-DC-00000199	Willkie Farr
7/22/93	11:04 AM	05:24	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:06 AM	00:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B		NY office	387-DC-00000198	Willkie Farr
7/22/93	11:11 AM	02: 4	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:16 AM	00:34	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:18 AM	03:24	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/22/93	11:32 AM	04:30	(202) 328-6704	Thomases	(202) 785-2828	Gardner, Mickey		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:37 AM	10:50	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:38 AM	00:40	(212) 935-6751	Lawrence, Angela	(718) 822-9429	Jacobi Hospital/Psyco		NY office	387-DC-00000199	Willkie Farr
7/22/93	11:41 AM	06:58	(212) 935-6751	Lawrence, Angela	(718) 542-4540	French, Veronica		NY office	387-DC-00000198	Willkie Farr
7/22/93	11:46 AM	00:22	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/22/93	11:50 AM	03:52	(202) 328-6704	Thomases	(202) 456-6266	First Lady's office		DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:53 AM	02: 8	(202) 328-6704	Thomases	(202) 395-4852			DC office direct line	387-DC-00000208	Willkie Farr
7/22/93	11:55 AM	00:34	(212) 935-6751	Lawrence, Angela	(908) 382-6719	Segala, J	5802099985801	NY office, "Sub.to" as of 4/24/	387-DC-00000199	Willkie Farr
7/22/93	12:03 PM	02: 6	(212) 935-6751	Lawrence, Angela	(718) 681-2960	Coburn, Johnny		NY office	387-DC-00000199	Willkie Farr
7/22/93	12:05 PM	03:16	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A		NY office (?)	387-DC-00000198	Willkie Farr
7/22/93	12:12 PM	00:36	(212) 935-6751	Lawrence, Angela	(718) 528-7487	Beckles, Kenneth		NY office	387-DC-00000198	Willkie Farr
7/22/93	12:17 PM	06:52	(212) 935-6751	Lawrence, Angela	(718) 324-1152	Chisolm, Harrell		NY office	387-DC-00000198	Willkie Farr
7/22/93	12:24 PM	08:30	(212) 935-6751	Lawrence, Angela	(212) 751-5700	Baker & McKenzie		NY office	387-DC-00000198	Willkie Farr
7/22/93	12:43 PM	02:44	(212) 935-6751	Lawrence, Angela	(804) 595-0890		5802099985801	NY office (?)	387-DC-00000199	Willkie Farr
7/22/93	12:55 PM	01:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D		Williams Residence		MCI

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/22/93	2:09 PM	15:10	(212) 935-6751	Lawrence, Angela	(212) 368-4968	Lawrence, Chellia		NY office	387-DC-00000197	Willkie Farr
7/22/93	2:25 PM	09:12	(212) 935-6751	Lawrence, Angela	(212) 309-4050	Morgan, Lewis, Bocki		NY office, main number 309-60	387-DC-00000197	Willkie Farr
7/22/93	2:35 PM	01:28	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekk		NY office	387-DC-00000198	Willkie Farr
7/22/93	2:40 PM	01:42	(212) 935-6751	Lawrence, Angela	(212) 648-7400	JP Morgan SVCS Inc.		NY office, main number 648-00	387-DC-00000198	Willkie Farr
7/22/93	2:43 PM	01:14	(212) 935-6751	Lawrence, Angela	(202) 785-2828	Gardner, Mickey	5802099985801	NY office	387-DC-00000197	Willkie Farr
7/22/93	2:57 PM	19:40	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B		NY office	387-DC-00000198	Willkie Farr
7/22/93	3:06 PM	01:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagh		Cellular phone	387-DC-00000160	CellularOne
7/22/93	3:06 PM	01:00	(703) 683-0146	Thomases	(212) 935-8000	Willkie Farr & Gallagh		NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/22/93	3:08 PM	10:00	(917) 539-2633	Thomases	(202) 456-6266	First Lady's Office		Cellular phone	387-DC-00000160	CellularOne
7/22/93	3:18 PM	21:00	(501) 664-3192	Rodham, H & D	(305) 445-8852			Rodham Residence		SWBT
7/22/93	3:33 PM	00:38	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekk		NY office	387-DC-00000198	Willkie Farr
7/22/93	3:43 PM	16:52	(212) 935-6759		(516) 678-2621			NY office	387-DC-00000201	Willkie Farr
7/22/93	4:10 PM	12:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000199	Willkie Farr
7/22/93	5:13 PM	09:30	(212) 935-6663	Thomases	(202) 456-6266	First Lady's Office		NY office direct line	387-DC-00000176	Willkie Farr
7/22/93	5:15 PM	04:46	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, Englis		NY office	387-DC-00000197	Willkie Farr
7/22/93	5:23 PM	02:56	(212) 935-6663	Thomases	(202) 456-2668	Lindsey, Bruce		NY office direct line	387-DC-00000176	Willkie Farr
7/22/93	5:26 PM	01:22	(212) 935-6663	Thomases	(212) 772-6019	Thomases		NY office direct line	387-DC-00000178	Willkie Farr
7/22/93	5:32 PM	00:40	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, Englis		NY office	387-DC-00000197	Willkie Farr
7/22/93	5:42 PM	00:30	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A		NY office	387-DC-00000198	Willkie Farr
7/22/93	6:12 PM	15:40	(212) 935-6751	Lawrence, Angela	(718) 549-0423	Beck, L		NY office (?)	387-DC-00000198	Willkie Farr
7/22/93	7:12 PM	00:54	(212) 935-6663	Thomases	(501) 664-3192	Rodham, H + D		NY office direct line	387-DC-00000178	Willkie Farr
7/22/93	7:14 PM	00:54	(212) 935-6663	Thomases	(212) 772-6019	Thomases		NY office direct line	387-DC-00000178	Willkie Farr
7/22/93	7:21 PM	00:34	(212) 935-6663	Thomases	(201) 568-0395	Neuberg, Hans W & B		NY office direct line (?), "Sub.to	387-DC-00000176	Willkie Farr
7/22/93	10:15 PM	18:00	(207) 775-7608	Thomases	(212) 772-6019	Thomases		NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/22/93	10:42 PM	01:00	(207) 775-7608	Thomases	(401) 842-0386			NY res.--calling card (628-1086)	387-DC-00000157	ATT
7/22/93	10:48 PM	27:00	(501) 664-3192	Rodham, H & D	(501) 227-0915	Bailin, David		Rodham Residence		SWBT
7/22/93	11:19 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard		Rodham Residence		SWBT
7/22/93	11:27 PM	09:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Au		Williams Residence		MCI
7/22/93	11:34 PM	29:80	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/22/93	11:37 PM	02:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Au		Williams Residence		MCI
7/22/93	11:37 PM	00:60	(212) 935-6663	Thomases	(212) 385-0088	Lotus Ride Inc.		NY office direct line (?)	387-DC-00000176	Willkie Farr
7/23/93	10:15 AM	11:00	(501) 664-3192	Rodham, H & D	(501) 575-5993	U of AR, Att. Ken Lev		Rodham Residence		SWBT
7/23/93	10:19 AM	01:22	(202) 328-4836	O'Neill, Lori	(202) 224-2152			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/23/93	12:26 PM	03:36	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/23/93	12:41 PM	01:00	(202) 456-6266	Williams, Margaret	(501) 666-8017	Andre's Hillcrest (501		Operated Assisted Call		Capital Net
7/23/93	4:38 PM	02:52	(202) 328-4836	O'Neill, Lori	(800) 451-1435			DC secretarial ext.	387-DC-00000220	Willkie Farr
7/23/93	4:45 PM	13:16	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000179	Willkie Farr
7/23/93	5:24 PM	09:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard		Bell Atlantic Calling Card Call		Bell Atlanti
7/23/93	5:36 PM	10:38	(212) 935-6663	Thomases	(914) 657-8329	Heilbron, Susan, (Willi		NY office direct line	387-DC-00000179	Willkie Farr
7/23/93	5:53 PM	02:12	(212) 935-6759		(201) 955-1916	Chormanski, M J		NY office, "Sub.to" as of 4/24/	387-DC-00000201	Willkie Farr
7/23/93	6:25 PM	04:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard		Bell Atlantic Calling Card Call		Bell Atlanti
7/23/93	6:58 PM	03:32	(212) 935-6663	Thomases	(301) 652-1926	Filson, Charles		NY office direct line (Felson, Ale	387-DC-00000179	Willkie Farr
7/23/93	8:25 PM	04:00	(212) 772-6019	Thomases	(401) 849-4177			NY residence	387-DC-00000151	MCI

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/24/93	7:19 AM	38:00	(202) 332-0850	Williams, Margaret	(816) 523-1544			Williams Residence		MCI
7/24/93	10:00 AM	05:00	(401) 849-6524	Thomases	(203) 966-3663	Bettridge, James D.		Newport, RI residence	387-DC-00000167	NYNEX
7/24/93	12:14 PM	01:00	(202) 332-0850	Williams, Margaret	(212) 628-1086	Thomases, Susan		Williams Residence		MCI
7/24/93	12:32 PM	13:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator		Rodham Residence		SWBT
7/24/93	12:46 PM	02:00	(202) 332-0850	Williams, Margaret	(401) 253-3084			Williams Residence		MCI
7/24/93	1:34 PM	47:30	(202) 638-1711	White House	(501) 661-9891	Mehlburger, Max		White House		AT&T
7/24/93	6:54 PM	02:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie		Newport, RI residence	387-DC-00000167	NYNEX
7/24/93	6:59 PM	01:00	(401) 849-6524	Thomases	(202) 785-1521	Solis, Patty		Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	11:08 AM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie		Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	11:09 AM	01:00	(401) 849-6524	Thomases	(202) 342-9553			Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	11:11 AM	01:00	(401) 849-6524	Thomases	(407) 845-1229			Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	11:12 AM	33:00	(401) 849-6524	Thomases	(516) 324-2085	Robbins, Liz		Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	12:24 PM	04:00	(401) 849-6524	Thomases	(401) 789-5853	Mercurio, Paul		Newport, RI residence	387-DC-00000166	NYNEX
7/25/93	1:14 PM	18:30	(202) 638-1711	White House	(501) 663-9707	Morse, John Tucker		White House		AT&T
7/25/93	1:37 PM	01:00	(401) 849-6524	Thomases	(207) 596-1083			Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	2:03 PM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie		Newport, RI residence	387-DC-00000167	NYNEX
7/25/93	2:25 PM	17:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator		Rodham Residence		SWBT
7/25/93	6:16 PM	01:20	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/25/93	10:36 PM	64:00	(501) 664-3192	Rodham, H & D	(818) 769-4864			Rodham Residence		SWBT
7/26/93	9:33 AM	00:44	(202) 328-4836	O'Neill, Lori	(301) 608-9542	Durling, James and Li		DC secretarial ext.	387-DC-00000219	Willkie Farr
7/26/93	9:53 AM	02: 4	(212) 935-6759		(201) 589-0277			NY office (?)	387-DC-00000201	Willkie Farr
7/26/93	10:38 AM	06:40	(212) 935-6751	Lawrence, Angela	(202) 328-4741			NY office	387-DC-00000200	Willkie Farr
7/26/93	11:11 AM	12:56	(212) 935-6663	Thomases	(501) 376-6251	Cranford; Johnson Ro		NY office direct line	387-DC-00000179	Willkie Farr
7/26/93	11:55 AM	11:46	(202) 328-4836	O'Neill, Lori	(202) 508-6627			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/26/93	12:06 PM	02:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755			NY office	387-DC-00000200	Willkie Farr
7/26/93	12:49 PM	02:32	(202) 328-4836	O'Neill, Lori			999850016	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/26/93	12:52 PM	00:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/26/93	1:45 PM	02:30	(202) 638-1711	White House	(501) 562-4980	Flammang, Thomas		White House		AT&T
7/26/93	1:46 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagh		Cellular phone	387-DC-00000160	CellularOne
7/26/93	1:47 PM	10:80	(202) 638-1711	White House	(501) 224-0277	Huber, Joe C		White House		AT&T
7/26/93	1:48 PM	02:00	(917) 539-2633	Thomases	(908) 273-1212	Eiland, M./English, J.		Cellular phone	387-DC-00000160	CellularOne
7/26/93	1:52 PM	03:00	(917) 539-2633	Thomases	(718) 472-2400	Elite Car and Limo		Cellular phone	387-DC-00000160	CellularOne
7/26/93	2:53 PM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755			NY office	387-DC-00000200	Willkie Farr
7/26/93	3:09 PM	15:44	(202) 328-4836	O'Neill, Lori	(202) 547-4099			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/26/93	3:45 PM	03:00	(908) 273-1212	Eiland, M./English, J	(212) 578-4144	Metropolitan; Life, Ho		NY res.--calling card (628-1086)	387-DC-00000149	ATT
7/26/93	3:49 PM	03:00	(908) 273-1212	Eiland, M./English, J	(212) 935-8000	Willkie Farr & Gallagh		NY res.--calling card (628-1086)	387-DC-00000149	ATT
7/26/93	3:58 PM	23:20	(212) 935-6751	Lawrence, Angela	(718) 681-2638	Gilliard, Mrs. L		NY office	387-DC-00000201	Willkie Farr
7/26/93	4:03 PM	02:40	(202) 638-1711	White House	(310) 271-7163			White House		AT&T
7/26/93	4:06 PM	01:30	(202) 638-0021	White House	(212) 247-0300	Hotel Nikko		White House		AT&T
7/26/93	4:57 PM	16:20	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B		NY office (?)	387-DC-00000200	Willkie Farr
7/26/93	5:22 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagh		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:24 PM	03:00	(917) 539-2633	Thomases	(202) 456-2468	Solis, Patty		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:28 PM	05:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/26/93	5:33 PM	03:00	(917) 539-2633	Thomases	(202) 456-2520	Seidman, Ricki		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:36 PM	01:00	(917) 539-2633	Thomases	(917) 763-6444	Hovnanian, G.		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:37 PM	02:00	(917) 539-2633	Thomases	(908) 462-8200	Hovbilt Inc.		Cellular phone, "Sub.to" as of 4	387-DC-00000160	CellularOne
7/26/93	5:38 PM	04:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/26/93	5:39 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(516) 537-3637	Deter, John (Alter, Jo		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:43 PM	07:00	(917) 539-2633	Thomases	(516) 537-2160	Amster, Arnie		Cellular phone	387-DC-00000160	CellularOne
7/26/93	5:51 PM	01:00	(917) 539-2633	Thomases	(212) 693-7783	Rinfret, Peter (REFCO:		Cellular phone, main # 693-700	387-DC-00000160	CellularOne
7/26/93	6:04 PM	00:30	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/26/93	6:10 PM	02:30	(202) 638-1711	White House	(212) 247-0300			White House		AT&T
7/26/93	9:36 PM	00:60	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/26/93	10:11 PM	10:00	(501) 664-3192	Rodham, H & D	(305) 448-6374			Rodham Residence		SWBT
7/26/93	10:21 PM	12:00	(501) 664-3192	Rodham, H & D	(818) 769-4864			Rodham Residence		SWBT
7/26/93	10:35 PM	14:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator		Rodham Residence		SWBT
7/27/93	6:43 AM	01:00	(212) 772-6019	Thomases	(203) 972-7332	Bettridge, Jack		NY residence	387-DC-00000151	MCI
7/27/93	9:37 AM	21:20	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D		NY office	387-DC-00000201	Willkie Farr
7/27/93	9:44 AM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	10:36 AM	03:00	(212) 772-6019	Thomases	(203) 966-3663	Bettridge, James D.		NY residence	387-DC-00000151	MCI
7/27/93	10:40 AM	00:58	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	10:56 AM	01:46	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000219	Willkie Farr
7/27/93	11:28 AM	00:26	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000219	Willkie Farr
7/27/93	11:30 AM	28:48	(212) 935-6751	Lawrence, Angela	(718) 881-0293	McLean, Corine		NY office (?)	387-DC-00000201	Willkie Farr
7/27/93	11:33 AM	01:12	(202) 328-6704	Thomases	(202) 456-2468	Solis, Patty		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	11:37 AM	01:32	(202) 328-6704	Thomases	(212) 345-3020	"Greg" (Marsh; McLe		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	11:43 AM	06:30	(202) 328-4836	O'Neill, Lori	(202) 547-4099			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/27/93	12:09 PM	15:00	(501) 664-3192	Rodham, H & D	(817) 460-5246			Rodham Residence		SWBT
7/27/93	12:20 PM	02:26	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	12:24 PM	06:00	(501) 664-3192	Rodham, H & D	(305) 545-1830			Rodham Residence		SWBT
7/27/93	12:33 PM	01:58	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no in		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	12:35 PM	00:22	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	12:36 PM	09:52	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	12:54 PM	00:30	(202) 328-4836	O'Neill, Lori			879090802	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	1:00 PM	01:60	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	1:07 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 291-0244			Rodham Residence		SWBT
7/27/93	1:08 PM	00:40	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no in		DC office direct line	387-DC-00000208	Willkie Farr
7/27/93	1:21 PM	35:00	(501) 664-3192	Rodham, H & D	(305) 545-1858			Rodham Residence		SWBT
7/27/93	2:53 PM	03:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagh		Cellular phone	387-DC-00000160	CellularOne
7/27/93	3:22 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext. (?)	387-DC-00000219	Willkie Farr
7/27/93	3:36 PM	00:24	(202) 328-4836	O'Neill, Lori			406910001	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	3:37 PM	21:30	(202) 328-4836	O'Neill, Lori			406910001	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	3:42 PM	01: 4	(202) 328-4836	O'Neill, Lori			406910001	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	3:57 PM	02:52	(212) 935-6757		(202) 328-4762			NY office	387-DC-00000201	Willkie Farr

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/27/93	4:20 PM	00:34	(202) 328-4836	O'Neill, Lori			999850016	DC secretarial ext. (?)	387-DC-00000218	Willkie Farr
7/27/93	5:12 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000219	Willkie Farr
7/27/93	5:27 PM	01:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; Mc		NY res.--calling card (628-1086)	387-DC-00000149	ATT
7/27/93	5:29 PM	09:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; Mc		NY res.--calling card (628-1086)	387-DC-00000149	ATT
7/27/93	6:00 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 456-6444	Rubin, Nancy		DC secretarial ext.	387-DC-00000218	Willkie Farr
7/27/93	6:04 PM	12:30	(202) 328-4836	O'Neill, Lori	(202) 331-9664			DC secretarial ext.	387-DC-00000218	Willkie Farr
7/27/93	8:44 PM	05:00	(703) 684-9747	Thomases	(203) 966-3663	Bettridge, James D.		NY res.--calling card (628-1086)	387-DC-00000149	ATT
7/27/93	9:53 PM	01:40	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D		White House		AT&T
7/27/93	9:59 PM	04:60	(202) 638-0021	White House	(501) 376-6884	State of AR. Governor		White House		AT&T
7/27/93	10:23 PM	06:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator		Rodham Residence		SWBT

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/20/93	12:46 AM	02:00	(501) 664-3192	Rodham, H & D	(202) 291-0244	Boxer, Nicole	Rodham Residence	SWBT
7/20/93	9:35 AM	07: 6	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/20/93	9:51 AM	04:40	(212) 935-6751	Lawrence, Angela	(201) 403-8660	Weinburg, Lieberman	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/20/93	9:51 AM	01:30	(202) 328-4836	O'Neill, Lori	(202) 663-6000	Cutler, Wilmer	DC secretarial ext.	Willkie Farr
7/20/93	9:54 AM	00: 0	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.	DC secretarial ext.	Willkie Farr
7/20/93	9:54 AM	00:30	(202) 328-4836	O'Neill, Lori	(202) 797-6291	Brookings Institution	DC secretarial ext., 797-6000	Willkie Farr
7/20/93	9:55 AM	00:28	(202) 328-4836	O'Neill, Lori	(202) 663-6000	Cutler, Wilmer	DC secretarial ext.	Willkie Farr
7/20/93	9:58 AM	01:18	(212) 935-6663	Thomases	(202) 337-4689	Ludwig, Carol and Eugene	NY office direct line	Willkie Farr
7/20/93	10:39 AM	00:40	(212) 935-6751	Lawrence, Angela	(202) 224-2447	US Capital	NY office, main # 224-3121	Willkie Farr
7/20/93	10:53 AM	00:50	(212) 935-6751	Lawrence, Angela	(718) 472-2800	Vital Two Way Radio Inc	NY office	Willkie Farr
7/20/93	11:15 AM	00:56	(212) 935-6751	Lawrence, Angela	(609) 292-1506	(N J State of --) @ John Fitch PLZ,	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/20/93	11:48 AM	14:32	(212) 935-6751	Lawrence, Angela	(212) 366-7052	National Blue Print Div of Nat Repro	NY office	Willkie Farr
7/20/93	12:04 PM	03:40	(212) 935-6751	Lawrence, Angela	(212) 580-6420	NY City Police Dept./PCT 20	NY office	Willkie Farr
7/20/93	1:00 PM	01:60	(212) 935-6751	Lawrence, Angela	(609) 292-1506	(N J State of --) @ John Fitch PLZ,	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/20/93	1:36 PM	01:24	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/20/93	1:40 PM	01:36	(202) 328-4836	O'Neill, Lori	(714) 761-7700	Yamaha Motor Corp., USA	DC secretarial ext., #(714) 761-7300	Willkie Farr
7/20/93	1:43 PM	01:12	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/20/93	1:46 PM	00:32	(202) 328-4836	O'Neill, Lori	(703) 280-2762	Ceney, Charles. E	DC secretarial ext.	Willkie Farr
7/20/93	2:16 PM	02:36	(212) 935-6751	Lawrence, Angela	(908) 273-1212	Eiland, M./English, J.	NY office	Willkie Farr
7/20/93	2:23 PM	01:20	(212) 935-6751	Lawrence, Angela	(908) 273-1212	Eiland, M./English, J.	NY office	Willkie Farr
7/20/93	2:25 PM	02:18	(212) 935-6751	Lawrence, Angela	(718) 588-9576	Gullatt, Shirley	NY office	Willkie Farr
7/20/93	2:29 PM	00:32	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A	NY office	Willkie Farr
7/20/93	4:27 PM	12:32	(202) 328-4836	O'Neill, Lori	(301) 805-1710	Maneely, Suellen B	DC secretarial ext.	Willkie Farr
7/20/93	4:59 PM	04:40	(212) 935-6751	Lawrence, Angela	(212) 230-2550	Realcom Ofc Comm Inc	NY office, main number 230-2222	Willkie Farr
7/20/93	5:12 PM	00:58	(212) 935-6751	Lawrence, Angela	(202) 224-3254	Socarides, Richard US Capital	NY office, main # 224-3121	Willkie Farr
7/20/93	5:32 PM	03:14	(212) 935-6663	Thomases	(212) 772-0601	no info for 7/93	NY office direct line	Willkie Farr
7/20/93	6:23 PM	02:00	(215) 222-2618	Thomases	(212) 772-6019	Thomases	NY res.--calling card (628-1086)	ATT
7/20/93	7:03 PM	02:46	(212) 935-6759		(201) 955-1916	Chormanski, M J	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/20/93	9:18 PM	26:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Audrey	Williams Residence	MCI
7/20/93	10:00 PM	01:00	(202) 638-0021	White House	(510) 489-9105	Cragholm, William	White House	AT&T
7/20/93	10:02 PM	00:50	(202) 638-0021	White House	(415) 386-5425	Rosen, E & J	White House	AT&T
7/20/93	10:06 PM	01:00	(202) 638-0021	White House	(404) 973-0019	Dickey, David	White House	AT&T
7/20/93	10:10 PM	03:20	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/20/93	10:12 PM	03:30	(202) 638-1711	White House	(501) 663-9131	Rutherford, Jas L	White House	AT&T
7/20/93	10:13 PM	16:00	(501) 664-3192	Rodham, H & D	(202) 332-0850	Williams, Maggie	Rodham Residence	SWBT
7/20/93	10:37 PM	28:00	(207) 596-1083	Thomases	(401) 842-0386		NY res.--calling card (628-1086)	ATT
7/20/93	11:03 PM	04:00	(501) 664-3192	Rodham, H & D	(805) 684-5228		Rodham Residence	SWBT
7/20/93	11:19 PM	20:00	(501) 664-3192	Rodham, H & D	(212) 628-1086	Thomases, Susan	Rodham Residence	SWBT
7/20/93	11:41 PM	10:00	(501) 664-3192	Rodham, H & D	(202) 628-7087	Burton, Bill	Rodham Residence	SWBT
7/20/93	11:52 PM	04:00	(501) 664-3192	Rodham, H & D	(703) 418-0897	Huber, Carolyn	Rodham Residence	SWBT
7/21/93	12:07 AM	02:00	(212) 772-6019	Thomases	(202) 757-5000	SIGNAL Operator, WHCA	NY residence	MCI
7/21/93	12:17 AM	00:50	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/21/93	12:18 AM	26:60	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D	White House	AT&T

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/21/93	12:56 AM	11:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D	Williams Residence	MCI
7/21/93	12:56 AM	01:00	(202) 332-0850	Williams, Margaret	(501) 664-3182		Williams Residence	MCI
7/21/93	1:08 AM	02:00	(212) 772-6019	Thomases	(202) 332-0850	Williams, Maggie	NY residence	MCI
7/21/93	1:09 AM	13:00	(501) 664-3192	Rodham, H & D	(202) 638-0021	WH Residence	Rodham Residence	SWBT
7/21/93	1:10 AM	14:00	(202) 332-0850	Williams, Margaret	(212) 772-6019	Thomases	Williams Residence	MCI
7/21/93	7:00 AM	01:00	(212) 772-6019	Thomases	(202) 529-6491	Jim Speights & Assoc.	NY residence	MCI
7/21/93	8:56 AM	37:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard	Rodham Residence	SWBT
7/21/93	9:50 AM	01:00	(501) 664-3192	Rodham, H & D	(202) 514-5000		Rodham Residence	SWBT
7/21/93	10:15 AM	01:40	(212) 935-6751	Lawrence, Angela	(202) 647-5548		NY office	Willkie Farr
7/21/93	11:03 AM	00:50	(212) 935-6663	Thomases	(202) 456-7194	Williams, Maggie	NY office direct line	Willkie Farr
7/21/93	11:06 AM	03:48	(212) 935-6663	Thomases	(202) 456-6266	First Lady's office	NY office direct line	Willkie Farr
7/21/93	11:09 AM	11:00	(501) 664-3192	Rodham, H & D	(501) 767-4846	Kelley, Richard	Rodham Residence	SWBT
7/21/93	11:30 AM	02:18	(212) 935-6751	Lawrence, Angela	(809) 922-2000		NY office (?)	Willkie Farr
7/21/93	11:44 AM	15:00	(501) 664-3192	Rodham, H & D	(916) 583-7200	Sunnyside Restaurant and Lounge	Rodham Residence	SWBT
7/21/93	11:57 AM	03:46	(212) 935-6663	Thomases	(212) 758-8809	Heilmon, Susan (Lacey & Heilbron)	NY office direct line	Willkie Farr
7/21/93	12:04 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 686-6768	Anthony, B	Rodham Residence	SWBT
7/21/93	12:38 PM	02:40	(212) 935-6663	Thomases	(202) 328-4898	Calderisi, Robert	NY office direct line	Willkie Farr
7/21/93	12:39 PM	01:_2	(212) 935-6663	Thomases	(212) 489-8230	Lankenau Kovner & Kurtz	NY office direct line	Willkie Farr
7/21/93	12:41 PM	01:24	(212) 935-6751	Lawrence, Angela	(212) 648-7400	JP Morgan SVCS Inc.	NY office, main number 648-0000	Willkie Farr
7/21/93	12:45 PM	05:16	(212) 935-6751	Lawrence, Angela	(212) 580-6420	NY City Polic Dept./PCT 20	NY office	Willkie Farr
7/21/93	2:12 PM	02:26	(212) 935-6751	Lawrence, Angela	(202) 328-6704	Thomases, Susan	NY office	Willkie Farr
7/21/93	2:12 PM	02:26	(212) 935-6751	Lawrence, Angela	(202) 328-6704	Thomases, Susan	NY office	Willkie Farr
7/21/93	2:34 PM	00:54	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/21/93	2:35 PM	16:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	NY office	Willkie Farr
7/21/93	3:02 PM	00:32	(212) 935-6751	Lawrence, Angela	(202) 328-6704	Thomases, Susan	NY office	Willkie Farr
7/21/93	3:09 PM	15:42	(212) 935-6762		(516) 496-9111	Cigna	NY office	Willkie Farr
7/21/93	3:26 PM	00:36	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/21/93	3:33 PM	02:40	(212) 935-6759		(201) 589-0277	Spectraserv Inc.	NY office (?), "Sub.to" as of 4/24/96	Willkie Farr
7/21/93	4:19 PM	03:26	(212) 935-6751	Lawrence, Angela	(212) 230-7232	(no info. for 7/93)	NY office	Willkie Farr
7/21/93	4:20 PM	08:00	(202) 456-1414	Thomases	(809) 295-1558	Dalidawicz, Ed	NY res.--calling card (628-1086)	ATT
7/21/93	4:30 PM	03:44	(212) 935-6751	Lawrence, Angela	(202) 456-6266	First Lady's office	NY office	Willkie Farr
7/21/93	4:35 PM	09:10	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	DC secretarial ext.	Willkie Farr
7/21/93	5:05 PM	00:54	(212) 935-6751	Lawrence, Angela	(202) 647-5548		NY office	Willkie Farr
7/21/93	5:08 PM	02:52	(212) 935-6751	Lawrence, Angela	(202) 647-5548		NY office	Willkie Farr
7/21/93	5:11 PM	02:44	(212) 935-6751	Lawrence, Angela	(212) 772-6019	Thomases	NY office	Willkie Farr
7/21/93	5:14 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 514-5000		Rodham Residence	SWBT
7/21/93	5:15 PM	03:90	(202) 638-4422	White House	(501) 375-9131	Rose Law Firm	White House	AT&T
7/21/93	5:20 PM	05:60	(202) 638-0021	White House	(501) 324-9444	St of AR.-DCS, Telecom Div. (501)	White House	AT&T
7/21/93	5:50 PM	06:30	(202) 328-4836	O'Neill, Lori	(202) 456-1660	First Lady's Office	DC secretarial ext.	Willkie Farr
7/21/93	6:40 PM	02:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard	Rodham Residence	SWBT
7/21/93	6:44 PM	02:00	(501) 664-3192	Rodham, H & D	(202) 514-5000		Rodham Residence	SWBT
7/21/93	7:45 PM	12:00	(501) 664-3192	Rodham, H & D	(202) 456-2668	Lindsey, Bruce	Rodham Residence	SWBT
7/21/93	8:53 PM	01:00	(212) 772-6019	Thomases	(407) 845-1129	Cantrell, Willi	NY residence	MCI

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/21/93	9:23 PM	02:00	(917) 539-2633	Thomases	(202) 332-0850	Williams, Maggie	Cellular phone	CellularOne
7/21/93	10:02 PM	13:00	(501) 664-3192	Rodham, H & D	(202) 342-7321	Jordan, Vernon	Rodham Residence	SWBT
7/21/93	10:12 PM	02:00	(202) 659-8787	Thomases (DC)	(917) 763-6444	Hovnanian, Grant	NY res.--calling card (628-1086)	MCI
7/21/93	10:17 PM	40:00	(501) 664-3192	Rodham, H & D	(305) 448-6374	Arias, Maria Victoria	Rodham Residence	SWBT
7/21/93	11:00 PM	01:00	(202) 659-8794	Thomases	(501) 664-3192	Rodham, H + D	NY res.--calling card (628-1086)	MCI
7/21/93	11:08 PM	10:00	(202) 659-8794	Thomases	(212) 772-6019	Thomases	NY res.--calling card (628-1086)	MCI
7/22/93		03:12	(212) 935-6751	Lawrence, Angela	(718) 472-2800	Vital Two Way Radio Inc	NY office	Willkie Farr
7/22/93	7:10 AM	28:00	(202) 659-8787	Thomases (DC)	(201) 930-0116	Kaplan, Richard -- "Sub.to" as of	NY res.--calling card (628-1086),	MCI
7/22/93	7:44 AM	07:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D	Williams Residence	MCI
7/22/93	7:57 AM	03:00	(501) 664-3192	Rodham, H & D	(202) 659-8787	Thomases (B & B , Leonards)	Rodham Residence	SWBT
7/22/93	8:25 AM	04:00	(202) 659-8787	Thomases (DC)	(501) 664-3192	Rodham, H + D	NY res.--calling card (628-1086)	MCI
7/22/93	9:02 AM	07:00	(202) 659-8794	Thomases	(212) 772-6019	Thomases	NY res.--calling card (628-1086)	MCI
7/22/93	10:06 AM	00:50	(212) 935-6751	Lawrence, Angela	(212) 758-8809	Heilmon, Susan (Lacey & Heilbron)	NY office	Willkie Farr
7/22/93	10:08 AM	00:60	(212) 935-6751	Lawrence, Angela	(202) 647-5548		NY office	Willkie Farr
7/22/93	10:09 AM	04:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/22/93	10:12 AM	01:40	(212) 935-6751	Lawrence, Angela	(718) 739-6767	D'Attoma, John A	NY office	Willkie Farr
7/22/93	10:14 AM	07:54	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/22/93	10:22 AM	01:30	(212) 935-6751	Lawrence, Angela	(202) 647-5548		NY office	Willkie Farr
7/22/93	10:25 AM	01:50	(212) 935-6751	Lawrence, Angela	(804) 827-6000	Avon Fashions	NY office, main line (804) 825-2280	Willkie Farr
7/22/93	10:33 AM	01: 6	(212) 935-6751	Lawrence, Angela	(212) 496-0735	Fiorito, Barbara	NY office (?)	Willkie Farr
7/22/93	10:48 AM	02: 4	(202) 328-4836	O'Neill, Lori	(202) 456-6797	WH Chief of Staff	DC secretarial ext.	Willkie Farr
7/22/93	10:49 AM	03:28	(212) 935-6751	Lawrence, Angela	(202) 328-6704	Thomases, Susan	NY office	Willkie Farr
7/22/93	10:56 AM	01: 4	(212) 935-6751	Lawrence, Angela	(914) 698-0880	Davis Studio	NY office (?)	Willkie Farr
7/22/93	11:04 AM	05:24	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office	DC office direct line	Willkie Farr
7/22/93	11:06 AM	00:38	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	NY office	Willkie Farr
7/22/93	11:11 AM	02: 4	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff	DC office direct line	Willkie Farr
7/22/93	11:16 AM	00:34	(202) 328-6704	Thomases	(202) 456-6797	WH Chief of Staff	DC office direct line	Willkie Farr
7/22/93	11:18 AM	03:24	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	DC secretarial ext.	Willkie Farr
7/22/93	11:32 AM	04:30	(202) 328-6704	Thomases	(202) 785-2828	Gardner, Mickey; Law Office	DC office direct line	Willkie Farr
7/22/93	11:37 AM	10:50	(202) 328-6704	Thomases	(202) 456-6266	First Lady's Office	DC office direct line	Willkie Farr
7/22/93	11:38 AM	00:40	(212) 935-6751	Lawrence, Angela	(718) 822-9429	Jacobi Hospital/Psyco Ward	NY office	Willkie Farr
7/22/93	11:41 AM	06:58	(212) 935-6751	Lawrence, Angela	(718) 542-4540	French, Veronica	NY office	Willkie Farr
7/22/93	11:46 AM	00:22	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	DC secretarial ext.	Willkie Farr
7/22/93	11:50 AM	03:52	(202) 328-6704	Thomases	(202) 456-6266	First Lady's office	DC office direct line	Willkie Farr
7/22/93	11:53 AM	02: 8	(202) 328-6704	Thomases	(202) 395-4852		DC office direct line	Willkie Farr
7/22/93	11:55 AM	00:34	(212) 935-6751	Lawrence, Angela	(908) 382-6719	Segala, J	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/22/93	12:03 PM	02: 6	(212) 935-6751	Lawrence, Angela	(718) 681-2960	Coburn, Johnny	NY office	Willkie Farr
7/22/93	12:05 PM	03:16	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A	NY office (?)	Willkie Farr
7/22/93	12:12 PM	00:36	(212) 935-6751	Lawrence, Angela	(718) 528-7487	Beckles, Kenneth	NY office	Willkie Farr
7/22/93	12:17 PM	06:52	(212) 935-6751	Lawrence, Angela	(718) 324-1152	Chisolm, Harrell	NY office	Willkie Farr
7/22/93	12:24 PM	08:30	(212) 935-6751	Lawrence, Angela	(212) 751-5700	Baker & McKenzie	NY office	Willkie Farr
7/22/93	12:43 PM	02:44	(212) 935-6751	Lawrence, Angela	(804) 595-0890	Brayboy, Frederick	NY office (?)	Willkie Farr
7/22/93	12:55 PM	01:00	(202) 332-0850	Williams, Margaret	(501) 664-3192	Rodham, H + D	Williams Residence	MCI

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/22/93	2:09 PM	15:10	(212) 935-6751	Lawrence, Angela	(212) 368-4968	Lawrence, Chellia	NY office	Willkie Farr
7/22/93	2:25 PM	09:12	(212) 935-6751	Lawrence, Angela	(212) 309-4050	Morgan, Lewis, Bockius	NY office, main number 309-6000	Willkie Farr
7/22/93	2:35 PM	01:28	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekkai, Beauty Ce	NY office	Willkie Farr
7/22/93	2:40 PM	01:42	(212) 935-6751	Lawrence, Angela	(212) 648-7400	JP Morgan SVCS Inc.	NY office, main number 648-0000	Willkie Farr
7/22/93	2:43 PM	01:14	(212) 935-6751	Lawrence, Angela	(202) 785-2828	Gardner, Mickey; Law Office	NY office	Willkie Farr
7/22/93	2:57 PM	19:40	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	NY office	Willkie Farr
7/22/93	3:06 PM	01:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	Cellular phone	CellularOne
7/22/93	3:06 PM	01:00	(703) 683-0146	Thomases	(212) 935-8000	Willkie Farr & Gallagher	NY res.--calling card (628-1086)	ATT
7/22/93	3:08 PM	10:00	(917) 539-2633	Thomases	(202) 456-6266	First Lady's Office	Cellular phone	CellularOne
7/22/93	3:18 PM	21:00	(501) 664-3192	Rodham, H & D	(305) 445-8852	Dowdy, Oscar	Rodham Residence	SWBT
7/22/93	3:33 PM	00:38	(212) 935-6751	Lawrence, Angela	(212) 753-9500	"Judy" (Frederic Fekkai, Beauty Ce	NY office	Willkie Farr
7/22/93	3:43 PM	16:52	(212) 935-6759		(516) 678-2621		NY office	Willkie Farr
7/22/93	4:10 PM	12:40	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/22/93	5:13 PM	09:30	(212) 935-6663	Thomases	(202) 456-6266	First Lady's Office	NY office direct line	Willkie Farr
7/22/93	5:15 PM	04:46	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, English, and Klein	NY office	Willkie Farr
7/22/93	5:23 PM	02:56	(212) 935-6663	Thomases	(202) 456-2668	Lindsey, Bruce	NY office direct line	Willkie Farr
7/22/93	5:26 PM	01:22	(212) 935-6663	Thomases	(212) 772-6019	Thomases	NY office direct line	Willkie Farr
7/22/93	5:32 PM	00:40	(212) 935-6751	Lawrence, Angela	(212) 227-5511	Meyer, Suozzi, English, and Klein	NY office	Willkie Farr
7/22/93	5:42 PM	00:30	(212) 935-6751	Lawrence, Angela	(718) 293-7923	Lawrence, A	NY office	Willkie Farr
7/22/93	6:12 PM	15:40	(212) 935-6751	Lawrence, Angela	(718) 549-0423	Beck, L	NY office (?)	Willkie Farr
7/22/93	7:12 PM	00:54	(212) 935-6663	Thomases	(501) 664-3192	Rodham, H + D	NY office direct line	Willkie Farr
7/22/93	7:14 PM	00:54	(212) 935-6663	Thomases	(212) 772-6019	Thomases	NY office direct line	Willkie Farr
7/22/93	7:21 PM	00:34	(212) 935-6663	Thomases	(201) 568-0395	Neuberg, Hans W & Birgit	NY office direct line (?), "Sub.to" as of 4/2	Willkie Farr
7/22/93	10:15 PM	18:00	(207) 775-7608	Thomases	(212) 772-6019	Thomases	NY res.--calling card (628-1086)	ATT
7/22/93	10:42 PM	01:00	(207) 775-7608	Thomases	(401) 842-0386		NY res.--calling card (628-1086)	ATT
7/22/93	10:48 PM	27:00	(501) 664-3192	Rodham, H & D	(501) 227-0915	Bailin, David	Rodham Residence	SWBT
7/22/93	11:19 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 456-1414	WH Switchboard	Rodham Residence	SWBT
7/22/93	11:27 PM	09:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Audrey	Williams Residence	MCI
7/22/93	11:34 PM	29:80	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/22/93	11:37 PM	02:00	(202) 332-0850	Williams, Margaret	(501) 664-7468	Evans, Donald and Audrey	Williams Residence	MCI
7/22/93	11:37 PM	00:60	(212) 935-6663	Thomases	(212) 385-0088	Lotus Ride Inc.	NY office direct line (?)	Willkie Farr
7/23/93	10:15 AM	11:00	(501) 664-3192	Rodham, H & D	(501) 575-5993	U of AR, Att. Ken Leverington (501	Rodham Residence	SWBT
7/23/93	10:19 AM	01:22	(202) 328-4836	O'Neill, Lori	(202) 224-2152	US Capital	DC secretarial ext., main # 224-3121	Willkie Farr
7/23/93	12:26 PM	03:36	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	DC secretarial ext.	Willkie Farr
7/23/93	12:41 PM	01:00	(202) 456-6266	Williams, Margaret	(501) 666-8017	Andre's Hillcrest (501-666-9191)	Operated Assisted Call	Capital Networ
7/23/93	4:38 PM	02:52	(202) 328-4836	O'Neill, Lori	(800) 451-1435		DC secretarial ext.	Willkie Farr
7/23/93	4:45 PM	13:16	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell	NY office direct line	Willkie Farr
7/23/93	5:24 PM	09:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard	Bell Atlantic Calling Card Call	Bell Atlantic
7/23/93	5:36 PM	10:38	(212) 935-6663	Thomases	(914) 657-8329	Heilbron, Susan, (William Damron)	NY office direct line	Willkie Farr
7/23/93	5:53 PM	02:12	(212) 935-6759		(201) 955-1916	Chormanski, M J	NY office, "Sub.to" as of 4/24/96	Willkie Farr
7/23/93	6:25 PM	04:00	(501) 664-7468	Williams, Margaret	(202) 456-1414	WH Switchboard	Bell Atlantic Calling Card Call	Bell Atlantic
7/23/93	6:58 PM	03:32	(212) 935-6663	Thomases	(301) 652-1926	Filson, Charles	NY office direct line (Felson, Alex)	Willkie Farr
7/23/93	8:25 PM	04:00	(212) 772-6019	Thomases	(401) 849-4177		NY residence	MCI

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/24/93	7:19 AM	38:00	(202) 332-0850	Williams, Margaret	(816) 523-1544		Williams Residence	MCI
7/24/93	10:00 AM	05:00	(401) 849-6524	Thomases	(203) 966-3663	Bettridge, James D.	Newport, RI residence	NYNEX
7/24/93	12:14 PM	01:00	(202) 332-0850	Williams, Margaret	(212) 628-1086	Thomases, Susan	Williams Residence	MCI
7/24/93	12:32 PM	13:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA	Rodham Residence	SWBT
7/24/93	12:46 PM	02:00	(202) 332-0850	Williams, Margaret	(401) 253-3084		Williams Residence	MCI
7/24/93	1:34 PM	47:30	(202) 638-1711	White House	(501) 661-9891	Mehlburger, Max	White House	AT&T
7/24/93	6:54 PM	02:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	Newport, RI residence	NYNEX
7/24/93	6:59 PM	01:00	(401) 849-6524	Thomases	(202) 785-1521	Solis, Patty	Newport, RI residence	NYNEX
7/25/93	11:08 AM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	Newport, RI residence	NYNEX
7/25/93	11:09 AM	01:00	(401) 849-6524	Thomases	(202) 342-9553	Berman, Michael	Newport, RI residence	NYNEX
7/25/93	11:11 AM	01:00	(401) 849-6524	Thomases	(407) 845-1229	Prosperi, A Paul	Newport, RI residence	NYNEX
7/25/93	11:12 AM	33:00	(401) 849-6524	Thomases	(516) 324-2085	Robbins, Liz	Newport, RI residence	NYNEX
7/25/93	12:24 PM	04:00	(401) 849-6524	Thomases	(401) 789-5853	Mercurio, Paul	Newport, RI residence	NYNEX
7/25/93	1:14 PM	18:30	(202) 638-1711	White House	(501) 663-9707	Morse, John Tucker	White House	AT&T
7/25/93	1:37 PM	01:00	(401) 849-6524	Thomases	(207) 596-1083		Newport, RI residence	NYNEX
7/25/93	2:03 PM	01:00	(401) 849-6524	Thomases	(202) 332-0850	Williams, Maggie	Newport, RI residence	NYNEX
7/25/93	2:25 PM	17:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA	Rodham Residence	SWBT
7/25/93	6:16 PM	01:20	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/25/93	10:36 PM	64:00	(501) 664-3192	Rodham, H & D	(818) 769-4864	Friedman, C & A	Rodham Residence	SWBT
7/26/93	9:33 AM	00:44	(202) 328-4836	O'Neill, Lori	(301) 608-9542	Durling, James and Linda	DC secretarial ext.	Willkie Farr
7/26/93	9:53 AM	02: 4	(212) 935-6759		(201) 589-0277		NY office (?)	Willkie Farr
7/26/93	10:38 AM	06:40	(212) 935-6751	Lawrence, Angela	(202) 328-4741	Hobson, M	NY office	Willkie Farr
7/26/93	11:11 AM	12:56	(212) 935-6663	Thomases	(501) 376-6251	Cranford; Johnson Robinson Wood	NY office direct line	Willkie Farr
7/26/93	11:55 AM	11:46	(202) 328-4836	O'Neill, Lori	(202) 508-6627		DC secretarial ext.	Willkie Farr
7/26/93	12:06 PM	02:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755		NY office	Willkie Farr
7/26/93	12:49 PM	02:32	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/26/93	12:52 PM	00:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/26/93	1:45 PM	02:30	(202) 638-1711	White House	(501) 562-4980	Flammang, Thomas	White House	AT&T
7/26/93	1:46 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	Cellular phone	CellularOne
7/26/93	1:47 PM	10:80	(202) 638-1711	White House	(501) 224-0277	Huber, Joe C	White House	AT&T
7/26/93	1:48 PM	02:00	(917) 539-2633	Thomases	(908) 273-1212	Eiland, M./English, J.	Cellular phone	CellularOne
7/26/93	1:52 PM	03:00	(917) 539-2633	Thomases	(718) 472-2400	Elite Car and Limo	Cellular phone	CellularOne
7/26/93	2:53 PM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4755		NY office	Willkie Farr
7/26/93	3:09 PM	15:44	(202) 328-4836	O'Neill, Lori	(202) 547-4099	Quetsch, W B	DC secretarial ext.	Willkie Farr
7/26/93	3:45 PM	03:00	(908) 273-1212	Eiland, M./English, J	(212) 578-4144	Metropolitan; Life, Home Office	NY res.--calling card (628-1086)	ATT
7/26/93	3:49 PM	03:00	(908) 273-1212	Eiland, M./English, J	(212) 935-8000	Willkie Farr & Gallagher	NY res.--calling card (628-1086)	ATT
7/26/93	3:58 PM	23:20	(212) 935-6751	Lawrence, Angela	(718) 681-2638	Gilliard, Mrs. L	NY office	Willkie Farr
7/26/93	4:03 PM	02:40	(202) 638-1711	White House	(310) 271-7163	Schatteman, Daniele	White House	AT&T
7/26/93	4:06 PM	01:30	(202) 638-0021	White House	(212) 247-0300	Hotel Nikko	White House	AT&T
7/26/93	4:57 PM	16:20	(212) 935-6751	Lawrence, Angela	(718) 538-3562	Sanford, J B	NY office (?)	Willkie Farr
7/26/93	5:22 PM	02:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	Cellular phone	CellularOne
7/26/93	5:24 PM	03:00	(917) 539-2633	Thomases	(202) 456-2468	Solis, Patty	Cellular phone	CellularOne
7/26/93	5:28 PM	05:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	Cellular phone	CellularOne

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/26/93	5:33 PM	03:00	(917) 539-2633	Thomases	(202) 456-2520	Seidman, Ricki	Cellular phone	CellularOne
7/26/93	5:36 PM	01:00	(917) 539-2633	Thomases	(917) 763-6444	Hovnanian, G.	Cellular phone	CellularOne
7/26/93	5:37 PM	02:00	(917) 539-2633	Thomases	(908) 462-8200	Hovbilt Inc.	Cellular phone, "Sub.to" as of 4/24/96	CellularOne
7/26/93	5:38 PM	04:32	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/26/93	5:39 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	Cellular phone	CellularOne
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(516) 537-3637	Deter, John (Alter, Johnathan)	Cellular phone	CellularOne
7/26/93	5:41 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases	Cellular phone	CellularOne
7/26/93	5:43 PM	07:00	(917) 539-2633	Thomases	(516) 537-2160	Amster, Arnie	Cellular phone	CellularOne
7/26/93	5:51 PM	01:00	(917) 539-2633	Thomases	(212) 693-7783	Rinfret, Peter (REFCO: Group LTD.)	Cellular phone, main # 693-7000 Att Patric	CellularOne
7/26/93	6:04 PM	00:30	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/26/93	6:10 PM	02:30	(202) 638-1711	White House	(212) 247-0300		White House	AT&T
7/26/93	9:36 PM	00:60	(202) 638-1711	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/26/93	10:11 PM	10:00	(501) 664-3192	Rodham, H & D	(305) 448-6374	Arias, Maria Victoria	Rodham Residence	SWBT
7/26/93	10:21 PM	12:00	(501) 664-3192	Rodham, H & D	(818) 769-4864	Friedman, C & A	Rodham Residence	SWBT
7/26/93	10:35 PM	14:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA	Rodham Residence	SWBT
7/27/93	6:43 AM	01:00	(212) 772-6019	Thomases	(203) 972-7332	Bettridge, Jack	NY residence	MCI
7/27/93	9:37 AM	21:20	(212) 935-6751	Lawrence, Angela	(718) 549-4235	Alford, K D	NY office	Willkie Farr
7/27/93	9:44 AM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/27/93	10:36 AM	03:00	(212) 772-6019	Thomases	(203) 966-3663	Bettridge, James D.	NY residence	MCI
7/27/93	10:40 AM	00:58	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/27/93	10:56 AM	01:46	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/27/93	11:28 AM	00:26	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/27/93	11:30 AM	28:48	(212) 935-6751	Lawrence, Angela	(718) 881-0293	McLean, Corine	NY office (?)	Willkie Farr
7/27/93	11:33 AM	01:12	(202) 328-6704	Thomases	(202) 456-2468	Solis, Patty	DC office direct line	Willkie Farr
7/27/93	11:37 AM	01:32	(202) 328-6704	Thomases	(212) 345-3020	"Greg" (Marsh; McLennan Group)	DC office direct line	Willkie Farr
7/27/93	11:43 AM	06:30	(202) 328-4836	O'Neill, Lori	(202) 547-4099	Quetsch, W B	DC secretarial ext.	Willkie Farr
7/27/93	12:09 PM	15:00	(501) 664-3192	Rodham, H & D	(817) 460-5246		Rodham Residence	SWBT
7/27/93	12:20 PM	02:26	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard	DC office direct line	Willkie Farr
7/27/93	12:24 PM	06:00	(501) 664-3192	Rodham, H & D	(305) 545-1830	Public Defender Office, County of	Rodham Residence, refer to (305) 545-160	SWBT
7/27/93	12:33 PM	01:58	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no info for 7/93	DC office direct line	Willkie Farr
7/27/93	12:35 PM	00:22	(202) 328-6704	Thomases	(202) 456-1414	WH Switchboard	DC office direct line	Willkie Farr
7/27/93	12:36 PM	09:52	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel	DC office direct line	Willkie Farr
7/27/93	12:54 PM	00:30	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/27/93	1:00 PM	01:60	(202) 328-6704	Thomases	(202) 456-2533	Gearan/Neel	DC office direct line	Willkie Farr
7/27/93	1:07 PM	01:00	(501) 664-3192	Rodham, H & D	(202) 291-0244	Boxer, Nicole	Rodham Residence	SWBT
7/27/93	1:08 PM	00:40	(202) 328-6704	Thomases	(212) 935-6663	Thomases (NY), no info for 7/93	DC office direct line	Willkie Farr
7/27/93	1:21 PM	35:00	(501) 664-3192	Rodham, H & D	(305) 545-1858	Public Defender Office, County of	Rodham Residence, refer to (305) 545-160	SWBT
7/27/93	2:53 PM	03:00	(917) 539-2633	Thomases	(212) 935-8000	Willkie Farr & Gallagher	Cellular phone	CellularOne
7/27/93	3:22 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 679-0210		DC secretarial ext. (?)	Willkie Farr
7/27/93	3:36 PM	00:24	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/27/93	3:37 PM	21:30	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/27/93	3:42 PM	01: 4	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/27/93	3:57 PM	02:52	(212) 935-6757		(202) 328-4762		NY office	Willkie Farr

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Remarks	Source
7/27/93	4:20 PM	00:34	(202) 328-4836	O'Neill, Lori			DC secretarial ext. (?)	Willkie Farr
7/27/93	5:12 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 861-3869	Jones, Day, Reavis & Pogue	DC secretarial ext.	Willkie Farr
7/27/93	5:27 PM	01:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; McLennan Group	NY res.--calling card (628-1086)	ATT
7/27/93	5:29 PM	09:00	(202) 638-0021	Thomases	(212) 345-3310	Petronis, (Marsh; McLennan Group	NY res.--calling card (628-1086)	ATT
7/27/93	6:00 PM	00:44	(202) 328-4836	O'Neill, Lori	(202) 456-6444	Rubin, Nancy	DC secretarial ext.	Willkie Farr
7/27/93	6:04 PM	12:30	(202) 328-4836	O'Neill, Lori	(202) 331-9664	Marrocco's Italian Restaurant	DC secretarial ext.	Willkie Farr
7/27/93	8:44 PM	05:00	(703) 684-9747	Thomases	(203) 966-3663	Bettridge, James D.	NY res.--calling card (628-1086)	ATT
7/27/93	9:53 PM	01:40	(202) 638-0021	White House	(501) 664-3192	Rodham, H + D	White House	AT&T
7/27/93	9:59 PM	04:60	(202) 638-0021	White House	(501) 376-6884	State of AR. Governor's Mansion	White House	AT&T
7/27/93	10:23 PM	06:00	(501) 664-3192	Rodham, H & D	(202) 757-5000	SIGNAL Operator, WHCA	Rodham Residence	SWBT

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
		25:34	( ) 000-6682	Thomases				Int'l call.	387-DC-00000178	Willkie Farr
6/1/93	10:04 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 383-5300			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/1/93	10:56 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 628-8787		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/1/93	11:20 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/1/93	12:12 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 659-8320		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/1/93	12:39 PM	04:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
6/1/93	12:56 PM	02:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
6/1/93	12:58 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 898-7680		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/1/93	1:16 PM	01:00	(212) 935-6663	Thomases	(202) 456-6266		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/1/93	2:13 PM	11:00	(212) 935-6663	Thomases	(202) 456-2823		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/1/93	2:24 PM	16:00	(212) 935-6751	Lawrence, Angela	(202) 456-6418		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/1/93	4:26 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/1/93	4:45 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 828-7951			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/1/93	5:41 PM	02:40	(212) 935-6751	Lawrence, Angela	(202) 328-0476			NY Office (?)	387-DC-00000196	Willkie Farr
6/1/93	5:46 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/1/93	5:47 PM	12:00	(212) 935-6751	Lawrence, Angela	(202) 395-4522		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/1/93	5:48 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 659-8787			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/1/93	6:31 PM	23:00	(212) 935-6663	Thomases	(202) 456-1414		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/1/93	7:03 PM	01:00	(212) 935-6663	Thomases	(202) 456-6266		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/1/93	7:04 PM	01:00	(212) 935-6663	Thomases	(202) 296-8622		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/1/93	10:10 PM	01:00	(212) 772-6019	Thomases	(202) 342-9553			NY residence	387-DC-00000146	MCI
6/1/93	10:40 PM	01:00	(212) 772-6019	Thomases	(202) 667-4751			NY residence	387-DC-00000146	MCI
6/2/93	10:28 AM	07:00	(212) 935-6751	Lawrence, Angela	(202) 456-7948		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/2/93	10:30 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 462-2957		5802099985016	NY Office	387-DC-00000181	Willkie Farr
6/2/93	10:37 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-2823		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/2/93	11:56 AM	01:00	(212) 935-6663	Thomases	(202) 456-6676		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	12:02 PM	10:00	(212) 935-6663	Thomases	(202) 347-2200		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	1:16 PM	01:00	(212) 935-6663	Thomases	(202) 456-7194		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	1:19 PM	14:00	(212) 935-6663	Thomases	(202) 628-0878		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	1:33 PM	20:00	(212) 935-6663	Thomases	(202) 456-6676		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	1:54 PM	01:00	(212) 935-6663	Thomases	(202) 456-6266		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	2:12 PM	01:00	(212) 935-6663	Thomases	(202) 973-9400		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/2/93	2:47 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 606-8503		5802063650801	NY Office	387-DC-00000181	Willkie Farr
6/2/93	2:50 PM	05:00	(212) 935-6751	Lawrence, Angela	(202) 456-6418		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/2/93	3:22 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 662-3628		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/2/93	3:42 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 224-3254		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/2/93	4:00 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 606-8503		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/2/93	4:23 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 456-2322		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/2/93	4:48 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/3/93	10:12 AM	03:00	(212) 935-6663	Thomases	(202) 456-0626		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/3/93	10:31 AM	13:00	(212) 935-6751	Lawrence, Angela	(202) 456-7953		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/3/93	10:56 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 205-0669		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/3/93	1:13 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 662-3677		5802099985801	NY Office	387-DC-00000181	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/3/93	3:05 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 659-0920			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/3/93	4:01 PM	01:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell	99985016	NY office direct line	387-DC-00000171	Willkie Farr
6/3/93	4:36 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 628-8787		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/3/93	5:30 PM	02:00	(212) 935-6663	Thomases	(202) 328-4728		99985016	NY office direct line	387-DC-00000171	Willkie Farr
6/3/93	5:49 PM	13: 4	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/4/93	10:20 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-7154		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/4/93	10:21 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/4/93	10:22 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 224-3254		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/4/93	12:11 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704		5802011296801	NY Office	387-DC-00000185	Willkie Farr
6/4/93	12:14 PM	05:00	(212) 935-6751	Lawrence, Angela	(202) 456-2640		5802099985026	NY Office	387-DC-00000180	Willkie Farr
6/4/93	2:03 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 462-0295		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/4/93	4:21 PM	05:00	(202) 328-4836	O'Neill, Lori	(202) 663-6000			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/4/93	5:55 PM	04:22	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/5/93	12:28 PM	07:00	(212) 935-6663	Thomases	(202) 686-7111		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/5/93	12:45 PM	02:00	(212) 935-6663	Thomases	(202) 456-2468		99985016	NY office direct line	387-DC-00000170	Willkie Farr
6/6/93	10:55 AM	03:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000146	MCI
6/6/93	3:37 PM	01:00	(212) 935-6663	Thomases	(202) 555-1212	Dir Asst.		NY office direct line	387-DC-00000171	Willkie Farr
6/7/93	10:12 AM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-0478			NY Office (?)	387-DC-00000196	Willkie Farr
6/7/93	10:23 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 293-7191			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/7/93	10:46 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/7/93	12:58 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 293-7191			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/7/93	3:07 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4741		5802099985801	NY Office	387-DC-00000185	Willkie Farr
6/7/93	3:15 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 482-0406			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/7/93	3:17 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 857-3869			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/7/93	4:21 PM	02:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000171	Willkie Farr
6/7/93	5:13 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 659-8788			Washington office direct line	387-DC-00000203	Willkie Farr
6/7/93	5:21 PM	01:00	(212) 935-6663	Thomases	(202) 328-6704			NY office direct line	387-DC-00000172	Willkie Farr
6/7/93	5:32 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 659-8787			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/7/93	6:20 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 659-8788			Washington office direct line	387-DC-00000203	Willkie Farr
6/8/93	10:04 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/8/93	12:07 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-7560		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/8/93	12:24 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 659-8787		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/8/93	1:41 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/8/93	2:53 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 962-5363		5805099985801	NY Office	387-DC-00000181	Willkie Farr
6/8/93	3:02 PM	11:52	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/8/93	3:15 PM	02:00	(212) 935-6663	Thomases	(202) 328-4721			NY office direct line	387-DC-00000171	Willkie Farr
6/8/93	3:20 PM	05:00	(212) 935-6751	Lawrence, Angela	(202) 328-8000		5802099985016	NY Office	387-DC-00000180	Willkie Farr
6/8/93	3:30 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-1414		5802099985005	NY Office	387-DC-00000180	Willkie Farr
6/8/93	3:56 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 514-2410		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/8/93	4:20 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 898-7680		5802099985016	NY Office	387-DC-00000181	Willkie Farr
6/8/93	4:24 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 454-6626		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	10:49 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-2100		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	10:52 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/9/93	11:02 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 555-1212	Dir. Asst.	5802099985801	NY Office	387-DC-00000182	Willkie Farr
6/9/93	11:04 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	11:20 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 962-5363		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/9/93	11:25 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	11:35 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 659-3727		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	12:18 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/9/93	12:19 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 223-4433			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/9/93	1:18 PM	08:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/9/93	3:01 PM	02:00	(212) 935-6751	Lawrence, Angela	(438) 685-2255		5802011296801	NY Office - Intern Call, UK	387-DC-00000181	Willkie Farr
6/9/93	3:40 PM	02:00	(212) 935-6663	Thomases	(202) 328-4836			NY office direct line	387-DC-00000171	Willkie Farr
6/9/93	5:22 PM	03: 2	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office (?)	387-DC-00000196	Willkie Farr
6/9/93	5:47 PM	10:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
6/9/93	5:54 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 778-8810		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/9/93	6:05 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 728-1100		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/9/93	6:21 PM	04:00	(212) 935-6751	Lawrence, Angela	(202) 456-6229		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/9/93	10:00 PM	01:00	(212) 772-6019	Thomases	(202) 332-0850			NY residence	387-DC-00000146	MCI
6/9/93	10:02 PM	12:00	(212) 772-6019	Thomases	(202) 785-1521			NY residence	387-DC-00000146	MCI
6/10/93	10:14 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 456-6798			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/10/93	12:14 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704		5802099985801	NY Office	387-DC-00000185	Willkie Farr
6/10/93	12:20 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-7560		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/10/93	12:27 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/10/93	12:27 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-0670		5802099985801	NY Office	387-DC-00000185	Willkie Farr
6/10/93	12:28 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 659-1990			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/10/93	1:05 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/10/93	3:11 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/10/93	3:32 PM	02:32	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/10/93	3:36 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-7560		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/10/93	3:59 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-8000		5802099985801	NY Office	387-DC-00000180	Willkie Farr
6/10/93	4:02 PM	02:54	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/10/93	4:08 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-7560		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/10/93	4:23 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 778-8810		5802099985801	NY Office	387-DC-00000181	Willkie Farr
6/10/93	4:36 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000209	Willkie Farr
6/10/93	4:38 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Farr
6/10/93	6:52 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6797			Washington office direct line	387-DC-00000203	Willkie Farr
6/10/93	7:06 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 555-1212	Dir. Asst.		Washington office direct line	387-DC-00000202	Willkie Farr
6/10/93	7:09 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-2668			Washington office direct line	387-DC-00000202	Willkie Farr
6/10/93	7:16 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 659-8787			Washington office direct line	387-DC-00000203	Willkie Farr
6/11/93	10:02 AM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-7560			Washington office direct line	387-DC-00000203	Willkie Farr
6/11/93	10:35 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2668			Washington office direct line	387-DC-00000202	Willkie Farr
6/11/93	3:26 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/12/93	6:16 AM	14:00	(212) 935-6663	Thomases	(202) 456-2468		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/13/93	1:21 PM	06:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/13/93	6:23 PM	01:00	(212) 772-6019	Thomases	(202) 265-8398			NY residence	387-DC-00000147	MCI

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/14/93	7:43 AM	03:00	(212) 772-6019	Thomases	(202) 456-2640			NY residence	387-DC-00000147	MCI
6/14/93	7:47 AM	01:00	(212) 628-1086	Thomases	(202) 332-0850			NY residence	387-DC-00000159	MCI
6/14/93	7:48 AM	11:00	(212) 772-6019	Thomases	(202) 332-3020			NY residence	387-DC-00000159	MCI
6/14/93	7:57 AM	08:00	(212) 772-6019	Thomases	(202) 456-2230			NY residence	387-DC-00000147	MCI
6/14/93	8:18 AM	02:00	(212) 772-6019	Thomases	(202) 863-8122			NY residence	387-DC-00000147	MCI
6/14/93	8:25 AM	02:00	(212) 772-6019	Thomases	(202) 544-6093			NY residence	387-DC-00000147	MCI
6/14/93	8:28 AM	01:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000159	MCI
6/14/93	9:16 AM	09:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000147	MCI
6/14/93	9:36 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Far
6/14/93	9:47 AM	01:00	(212) 772-6019	Thomases	(202) 456-6266			NY residence	387-DC-00000147	MCI
6/14/93	10:18 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-2322		5802099985801	NY Office	387-DC-00000180	Willkie Far
6/14/93	10:30 AM	03:00	(212) 935-6751	Lawrence, Angela	(202) 887-4260		5802099985801	NY Office	387-DC-00000181	Willkie Far
6/14/93	10:46 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-2632		5802099985801	NY Office	387-DC-00000180	Willkie Far
6/14/93	10:47 AM	13:40	(212) 935-6751	Lawrence, Angela	(202) 328-4740			NY Office	387-DC-00000196	Willkie Far
6/14/93	12:50 PM	10:00	(212) 935-6751	Lawrence, Angela	(501) 224-7272		5802099985801	NY Office	387-DC-00000181	Willkie Far
6/14/93	1:05 PM	26:00	(212) 935-6751	Lawrence, Angela	(202) 456-2533		5802099985801	NY Office	387-DC-00000180	Willkie Far
6/14/93	1:32 PM	02:00	(212) 935-6663	Thomases	(202) 328-4741			NY office direct line	387-DC-00000171	Willkie Far
6/14/93	3:29 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6266		5802099985801	NY Office	387-DC-00000180	Willkie Far
6/14/93	3:58 PM	06:00	(212) 935-6751	Lawrence, Angela	(202) 328-8000		5802099985016	NY Office	387-DC-00000180	Willkie Far
6/14/93	6:22 PM	19:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000159	MCI
6/14/93	7:49 PM	05:00	(212) 772-6019	Thomases	(202) 456-2520	Seidman, Richie		NY residence	387-DC-00000159	MCI
6/14/93	7:55 PM	12:00	(212) 772-6019	Thomases	(202) 462-5988			NY residence	387-DC-00000159	MCI
6/14/93	8:00 PM	15:00	(212) 772-6019	Thomases	(202) 456-2230			NY residence	387-DC-00000159	MCI
6/14/93	8:19 PM	01:00	(212) 772-6019	Thomases	(202) 456-7194			NY residence	387-DC-00000159	MCI
6/14/93	8:21 PM	15:00	(212) 772-6019	Thomases	(202) 456-7064			NY residence	387-DC-00000159	MCI
6/14/93	8:38 PM	05:00	(212) 628-1086	Thomases	(202) 456-7560			NY residence	387-DC-00000159	MCI
6/14/93	9:21 PM	04:00	(212) 772-6019	Thomases	(202) 456-2520	Seidman, Richie		NY residence	387-DC-00000159	MCI
6/14/93	11:01 PM	01:00	(212) 628-1086	Thomases	(202) 588-0606			NY residence	387-DC-00000159	MCI
6/14/93	11:02 PM	01:00	(212) 628-1086	Thomases	(202) 667-4751			NY residence	387-DC-00000159	MCI
6/14/93	11:10 PM	01:00	(212) 628-1086	Thomases	(202) 785-1521			NY residence	387-DC-00000159	MCI
6/15/93	8:28 AM	01:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000151	MCI
6/15/93	9:11 AM	02:00	(212) 935-6663	Thomases	(202) 205-6684		99985026	NY office direct line	387-DC-00000173	Willkie Far
6/15/93	9:40 AM	07:00	(212) 935-6663	Thomases	(202) 328-8000		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/15/93	11:34 AM	03:00	(212) 935-6751	Lawrence, Angela	(202) 659-8787		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/15/93	2:00 PM	01:00	(212) 935-6663	Thomases	(202) 456-2823		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/15/93	2:19 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000192	Willkie Farr
6/15/93	2:28 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 456-2632		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/15/93	2:31 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 395-4522		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/15/93	2:49 PM	04:00	(212) 935-6751	Lawrence, Angela	(202) 456-2823		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/15/93	3:06 PM	01:00	(212) 935-6663	Thomases	(202) 456-2533		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/15/93	3:06 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-2174		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/15/93	3:29 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-2174		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/15/93	3:52 PM	16:00	(212) 935-6663	Thomases	(202) 371-0200		99985026	NY office direct line	387-DC-00000173	Willkie Farr

FOIA#none (URTS 16305) Docld: 70105098 Page 68

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/15/93	4:08 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 205-2000			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/15/93	4:47 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/15/93	4:52 PM	12:00	(212) 935-6663	Thomases	(202) 224-3254	Socarides, Richard	99985026	NY office direct line	387-DC-00000173	Willkie Farr
6/15/93	5:04 PM	02:56	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/15/93	5:10 PM	01:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000177	Willkie Farr
6/15/93	5:13 PM	27:00	(212) 935-6663	Thomases	(202) 543-1196		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/15/93	6:05 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 659-8787		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/15/93	6:49 PM	03:00	(212) 935-6663	Thomases	(202) 456-7194		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/15/93	6:54 PM	05:00	(212) 935-6663	Thomases	(202) 456-6455		06330802	NY office direct line	387-DC-00000175	Willkie Farr
6/15/93	7:13 PM	01:00	(212) 935-6663	Thomases	(202) 456-6229		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/15/93	7:16 PM	04:00	(212) 935-6663	Thomases	(202) 456-6455		06330802	NY office direct line	387-DC-00000175	Willkie Farr
6/16/93	10:33 AM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-2520			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	10:36 AM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-2369			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	10:38 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2533			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	10:49 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 659-8787			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	11:29 AM	02:00	(202) 328-6704	Thomases, Susan	(202) 863-8122			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	11:51 AM	03:00	(202) 328-6704	Thomases, Susan	(202) 514-3119			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	11:54 AM	15:00	(202) 328-6704	Thomases, Susan	(202) 456-6676			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	12:14 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2866			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	12:33 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7194			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	12:35 PM	10:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	1:04 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7595			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	1:12 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 863-8000			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	1:15 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 973-9400			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	1:34 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 662-3622			Washington office direct line	387-DC-00000203	Willkie Farr
6/16/93	1:40 PM	09:00	(202) 328-6704	Thomases, Susan	(202) 205-6684			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	2:07 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-6610			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	2:10 PM	03:18	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/16/93	2:14 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 456-7560		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/16/93	3:13 PM	06:00	(202) 328-4836	O'Neill, Lori	(202) 663-6740			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/16/93	3:52 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000192	Willkie Farr
6/16/93	4:44 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000192	Willkie Farr
6/16/93	5:10 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-8726			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/16/93	6:23 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1500			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/16/93	6:31 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Farr
6/16/93	6:33 PM	07:00	(202) 328-6704	Thomases, Susan	(202) 456-2866			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	7:22 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-2533			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	7:23 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/16/93	7:27 PM	10:00	(202) 328-6704	Thomases, Susan	(202) 456-6418			Washington office direct line	387-DC-00000202	Willkie Farr
6/16/93	7:37 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-2100			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	10:20 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/17/93	11:05 AM	05:14	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/17/93	11:35 AM	06:00	(202) 328-4836	O'Neill, Lori	(202) 482-1780			DC secretarial ext.	387-DC-00000210	Willkie Farr

Clinton/URS 1505 Box 170 Folder 8 98 pgs

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/17/93	12:09 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 973-9400			Washington office direct line	387-DC-00000203	Willkie Farr
6/17/93	12:24 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 224-7432			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	12:24 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/17/93	12:26 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 543-1196			Washington office direct line	387-DC-00000203	Willkie Farr
6/17/93	12:52 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/17/93	12:58 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/17/93	2:41 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 224-3254			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	2:55 PM	11:00	(202) 328-6704	Thomases, Susan	(202) 456-2100			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	2:56 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 383-5300			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/17/93	3:06 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	3:10 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 659-8787			Washington office direct line	387-DC-00000203	Willkie Farr
6/17/93	3:46 PM	02:30	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/17/93	3:49 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 745-2780			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/17/93	3:51 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 745-2717			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/17/93	4:20 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000202	Willkie Farr
6/17/93	4:41 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/17/93	4:52 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/17/93	5:21 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 482-2000			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/18/93		07:44	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/18/93	3:54 AM	07:00	(212) 935-6663	Thomases	(202) 395-0619		99985026	NY office direct line	387-DC-00000173	Willkie Farr
6/18/93	4:04 AM	07:44	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000179	Willkie Farr
6/18/93	4:32 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-8000		5802099985016	NY Office	387-DC-00000186	Willkie Farr
6/18/93	5:00 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 628-1700		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/18/93	5:13 AM	03:00	(212) 935-6663	Thomases	(202) 973-9400		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/18/93	5:24 AM	01:00	(212) 935-6663	Thomases	(202) 456-2960		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/18/93	6:09 AM	05:00	(212) 935-6751	Lawrence, Angela	(202) 955-6400		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/18/93	6:45 AM	03:00	(212) 935-6663	Thomases	(202) 456-6810		06330802	NY office direct line	387-DC-00000175	Willkie Farr
6/18/93	6:48 AM	02:00	(212) 935-6663	Thomases	(202) 328-8000		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/18/93	6:58 AM	01:00	(212) 935-6663	Thomases	(202) 456-6266		06330802	NY office direct line	387-DC-00000173	Willkie Farr
6/18/93	6:59 AM	02:00	(212) 935-6663	Thomases	(202) 659-8787	Thomases (DC)	99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/18/93	7:19 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 332-3020		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/18/93	12:12 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/18/93	2:23 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000192	Willkie Farr
6/18/93	5:33 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/18/93	5:39 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Farr
6/18/93	5:40 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 223-8070			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/18/93	6:20 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/18/93	6:22 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/19/93	12:11 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 857-3388			DC secretarial ext.	387-DC-00000211	Willkie Farr
6/19/93	12:12 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Farr
6/19/93	12:22 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000210	Willkie Farr
6/19/93	12:27 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 393-2345			DC secretarial ext.	387-DC-00000210	Willkie Farr
6/19/93	12:32 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 857-3388			DC secretarial ext.	387-DC-00000211	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/20/93	12:10 PM	06:00	(212) 935-6663	Thomases	(202) 690-0700		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/21/93	7:48 AM	11:00	(212) 772-6019	Thomases	(202) 332-3020			NY residence	387-DC-00000151	MCI
6/21/93	9:58 AM	04:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
6/21/93	10:04 AM	03:_6	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/21/93	10:07 AM	04:40	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/21/93	10:21 AM	04:00	(212) 935-6663	Thomases	(202) 944-3304		00585001	NY office direct line	387-DC-00000175	Willkie Farr
6/21/93	10:23 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 659-8787		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	10:25 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/21/93	10:40 AM	08:00	(212) 935-6751	Lawrence, Angela	(202) 728-1100		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	11:27 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/21/93	11:29 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 663-6740			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/21/93	11:34 AM	03:00	(212) 935-6751	Lawrence, Angela	(202) 456-2632		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/21/93	11:40 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 514-3892		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	11:41 AM	08:00	(212) 935-6663	Thomases	(202) 456-6266		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/21/93	2:54 PM	02:00	(212) 935-6663	Thomases	(202) 544-6093		99985026	NY office direct line	387-DC-00000175	Willkie Farr
6/21/93	3:06 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 434-7301		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/21/93	3:10 PM	01:00	(212) 935-6663	Thomases	(202) 456-2668		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/21/93	3:11 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 434-7301		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/21/93	3:21 PM	08:00	(212) 935-6751	Lawrence, Angela	(202) 740-0468		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	3:34 PM	08:00	(212) 935-6663	Thomases	(202) 456-7105	Beckel, Heather	99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/21/93	3:39 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 737-3500		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	3:47 PM	31:00	(212) 935-6751	Lawrence, Angela	(202) 334-7529		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/21/93	4:27 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/21/93	4:44 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 629-8787		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/21/93	4:51 PM	13:00	(212) 935-6663	Thomases	(202) 456-2823		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/21/93	5:11 PM	07:00	(212) 935-6663	Thomases	(202) 944-3304		00585001	NY office direct line	387-DC-00000175	Willkie Farr
6/21/93	6:22 PM	19:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000151	MCI
6/21/93	6:52 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 957-2213			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/21/93	6:54 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/21/93	7:05 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 797-6000			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/22/93	9:44 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-6610		5802099958501	NY Office	387-DC-00000186	Willkie Farr
6/22/93	10:07 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 944-3304		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/22/93	10:14 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-0474			NY Office	387-DC-00000192	Willkie Farr
6/22/93	10:19 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 962-7158		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/22/93	10:52 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6676		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/22/93	11:14 AM	0200	(212) 935-6751	Lawrence, Angela	(501) 372-3000		5802099985005	NY Office	387-DC-00000188	Willkie Farr
6/22/93	11:57 AM	01:00	(212) 935-6663	Thomases	(202) 224-8562		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/22/93	1:45 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/22/93	3:36 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 543-1196		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/22/93	3:43 PM	07:00	(212) 935-6663	Thomases	(202) 647-9793		06330802	NY office direct line	387-DC-00000175	Willkie Farr
6/22/93	4:14 PM	02:00	(212) 935-6663	Thomases	(202) 456-2468		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/22/93	4:40 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 728-0110		5802099985026	NY Office	387-DC-00000187	Willkie Farr
6/22/93	4:41 PM	01:00	(212) 935-6663	Thomases	(202) 456-2668		99985016	NY office direct line	387-DC-00000173	Willkie Farr

FOIA#none(URTS 1630) Date 01/30/08 Page 71

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/22/93	4:42 PM	05:00	(212) 935-6663	Thomases	(202) 863-8000		06330802	NY office direct line	387-DC-00000175	Willkie Farr
6/22/93	4:47 PM	15:00	(212) 935-6663	Thomases	(202) 863-8000		06630802	NY office direct line	387-DC-00000175	Willkie Farr
6/22/93	5:12 PM	01:00	(212) 935-6663	Thomases	(212) 227-5511			NY office direct line	387-DC-00000175	Willkie Farr
6/22/93	5:43 PM	02:52	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/22/93	5:59 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-0474			NY Office	387-DC-00000192	Willkie Farr
6/22/93	6:03 PM	04:40	(212) 935-6751	Lawrence, Angela	(202) 328-4740			NY Office	387-DC-00000196	Willkie Farr
6/22/93	6:24 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-7151		5802099985801	NY Office	387-DC-00000187	Willkie Farr
6/22/93	6:26 PM	12:00	(212) 935-6663	Thomases	(202) 456-0264		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/23/93	9:41 AM	05:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	9:44 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/23/93	9:53 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 555-1212	Dir. Asst.		Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	9:54 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 628-9100			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	9:54 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 555-1212	Dir. Asst.		Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	10:01 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/23/93	10:26 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/23/93	11:12 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/23/93	11:34 AM	14:00	(202) 328-6704	Thomases, Susan	(202) 944-3304			Washington office direct line	387-DC-00000207	Willkie Farr
6/23/93	1:17 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 863-8122			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	1:27 PM	05:00	(202) 328-6704	Thomases, Susan	(202) 456-7105			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	1:29 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/23/93	1:32 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	1:38 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 224-2152			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/23/93	1:43 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 555-1212	Dir. Asst.		Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	1:44 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 659-8320			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	1:55 PM	08:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/23/93	2:00 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 273-0333			Washington office direct line	387-DC-00000205	Willkie Farr
6/23/93	2:07 PM	08:40	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/23/93	2:35 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 659-8787			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/23/93	2:40 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6406			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	2:54 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 659-8787			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/23/93	2:56 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6782			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	2:58 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 874-4900			Washington office direct line	387-DC-00000207	Willkie Farr
6/23/93	3:03 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 887-1500			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/23/93	4:03 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 659-8320			Washington office direct line	387-DC-00000206	Willkie Farr
6/23/93	4:30 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 408-1800			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/23/93	5:01 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/23/93	6:07 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/24/93	10:02 AM	09:00	(212) 935-6663	Thomases	(202) 456-2520	Seidman, Richie	99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/24/93	10:11 AM	11:00	(212) 935-6663	Thomases	(202) 456-6418		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/24/93	10:22 AM	06:00	(212) 935-6663	Thomases	(202) 456-2468		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/24/93	10:49 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/24/93	11:17 AM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4741			NY Office	387-DC-00000196	Willkie Farr
6/24/93	11:46 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 863-7108		5697899960990	NY Office	387-DC-00000187	Willkie Farr

Declaration in URS 1505 Docket 7-10-96 Exhibit 99

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/24/93	12:16 PM	08: 6	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/24/93	5:21 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/24/93	6:35 PM	08:00	(202) 328-6704	Thomases, Susan	(202) 456-6418			Washington office direct line	387-DC-00000206	Willkie Farr
6/24/93	7:18 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
6/24/93	7:22 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-2520			Washington office direct line	387-DC-00000205	Willkie Farr
6/25/93	9:49 AM	11:20	(212) 935-6663	Thomases	(202) 328-4777			NY office direct line	387-DC-00000176	Willkie Farr
6/25/93	10:14 AM	21:60	(212) 935-6663	Thomases	(202) 328-4741			NY office direct line	387-DC-00000176	Willkie Farr
6/25/93	10:36 AM	12:00	(212) 935-6663	Thomases	(202) 456-6611	Foster, Vincent	99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/25/93	10:49 AM	04:00	(212) 935-6663	Thomases	(202) 456-6418		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/25/93	10:53 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 861-3900			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/25/93	11:02 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/25/93	11:50 AM	26:00	(212) 935-6663	Thomases	(202) 456-6266		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/25/93	12:33 PM	01:00	(212) 935-6663	Thomases	(202) 328-4794			NY office direct line	387-DC-00000177	Willkie Farr
6/25/93	4:23 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 797-6000			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/25/93	4:26 PM	18:00	(212) 935-6663	Thomases	(202) 456-2632		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/25/93	4:45 PM	01:00	(212) 935-6663	Thomases	(202) 456-2468		99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/25/93	4:49 PM	21:30	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
6/25/93	5:14 PM	01:00	(212) 935-6663	Thomases	(202) 456-7105	Beckel, Heather	99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/25/93	5:15 PM	03:00	(212) 935-6663	Thomases	(202) 456-2520	Seidman, Richie	99985016	NY office direct line	387-DC-00000173	Willkie Farr
6/25/93	5:24 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 797-6000			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/25/93	5:28 PM	01:00	(212) 935-6663	Thomases	(202) 514-9500		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/25/93	5:33 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 466-7720			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/25/93	7:49 PM	05:00	(212) 772-6019	Thomases	(202) 456-2520	Seidman, Richie		NY residence	387-DC-00000151	MCI
6/25/93	7:55 PM	12:00	(212) 772-6019	Thomases	(202) 462-5988			NY residence	387-DC-00000155	MCI
6/25/93	11:01 PM	01:00	(212) 628-1086	Thomases	(202) 588-0606			NY residence	387-DC-00000151	MCI
6/25/93	11:02 PM	01:00	(212) 628-1086	Thomases	(202) 667-4751			NY residence	387-DC-00000151	MCI
6/27/93	3:53 PM	02:00	(501) 664-3192	Rodham, H & D	(501) 372-2746			Rodham Residence (verify busy)		SWBT
6/27/93	3:55 PM	10:00	(501) 664-3192	Rodham, H & D	(305) 445-8852			Rodham Residence		SWBT
6/28/93	10:05 AM	03:00	(212) 935-6663	Thomases	(202) 456-7151		99985016	NY office direct line	387-DC-00000175	Willkie Farr
6/28/93	10:24 AM	01:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000177	Willkie Farr
6/28/93	10:36 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
6/28/93	10:37 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 371-7000			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/28/93	10:38 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 371-7449			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/28/93	11:23 AM	02:00	(501) 664-3192	Rodham, H & D	(202) 362-9600			Rodham Residence		SWBT
6/28/93	11:27 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-6229		5697899960990	NY Office	387-DC-00000186	Willkie Farr
6/28/93	11:41 AM	01:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000177	Willkie Farr
6/28/93	11:59 AM	04: 2	(212) 935-6663	Thomases	(202) 328-4836			NY office direct line	387-DC-00000176	Willkie Farr
6/28/93	12:34 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 659-8787			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/28/93	12:35 PM	01:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000177	Willkie Farr
6/28/93	1:48 PM	06:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/28/93	3:39 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 205-2000			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/29/93	9:31 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
6/29/93	10:02 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
6/29/93	11:50 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/29/93	12:04 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 456-6418			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	12:08 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2823			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	12:09 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
6/29/93	2:45 PM	05:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
6/29/93	3:03 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7595			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	3:04 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 434-7301		5802099985801	NY Office	387-DC-00000186	Willkie Farr
6/29/93	3:11 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 456-2943			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	3:11 PM	08:00	(501) 664-3192	Rodham, H & D	(202) 456-6635			Rodham Residence		SWBT
6/29/93	3:17 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 728-1100			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	3:18 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7064			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	3:25 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7064			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	3:28 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
6/29/93	3:40 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-6676			Washington office direct line	387-DC-00000206	Willkie Farr
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6/29/93	4:15 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/29/93	4:42 PM	16:40	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
6/29/93	5:04 PM	10:00	(202) 328-6704	Thomases, Susan	(202) 456-2421			Washington office direct line	387-DC-00000205	Willkie Farr
6/29/93	5:54 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 456-6676			Washington office direct line	387-DC-00000206	Willkie Farr
6/29/93	7:00 PM	10:00	(202) 328-6704	Thomases, Susan	(202) 456-2520			Washington office direct line	387-DC-00000205	Willkie Farr
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6/29/93	7:31 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2668			Washington office direct line	387-DC-00000206	Willkie Farr
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6/29/93	8:39 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 244-5528			DC secretarial ext.	387-DC-00000214	Willkie Farr
6/29/93	9:01 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/29/93	9:07 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 342-7321			Washington office direct line	387-DC-00000205	Willkie Farr
6/29/93	9:09 PM	17:00	(202) 328-6704	Thomases, Susan	(202) 265-0230			Washington office direct line	387-DC-00000205	Willkie Farr
6/30/93	10:33 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/30/93	12:34 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
6/30/93	12:37 PM	10:00	(202) 328-6704	Thomases, Susan	(202) 456-1414			Washington office direct line	387-DC-00000205	Willkie Farr
6/30/93	12:48 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 456-6782			Washington office direct line	387-DC-00000206	Willkie Farr
6/30/93	12:55 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 555-1212	Dir. Asst.		Washington office direct line	387-DC-00000205	Willkie Farr
6/30/93	12:57 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 296-5840			Washington office direct line	387-DC-00000205	Willkie Farr
6/30/93	1:00 PM	17:00	(202) 328-6704	Thomases, Susan	(202) 265-0230			Washington office direct line	387-DC-00000205	Willkie Farr
6/30/93	3:09 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
6/30/93	3:27 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/1/93	7:20 AM	03:00	(202) 332-0850	Williams, Margaret	(609) 667-1508			Williams Residence		MCI
7/1/93	10:31 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 628-6410			Washington office direct line	387-DC-00000206	Willkie Farr
7/1/93	10:43 AM	06:00	(202) 328-6704	Thomases, Susan	(202) 624-8550			Washington office direct line	387-DC-00000206	Willkie Farr
7/1/93	10:52 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/1/93	11:23 AM	01:00	(212) 935-6751	Lawrence, Angela	(356) 555-6819		5802099985026	NY Office - Intern Call, Malta	387-DC-00000188	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/1/93	11:39 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/1/93	11:46 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-2640		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/1/93	12:00 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 395-4852		5802099985001	NY Office	387-DC-00000186	Willkie Farr
7/1/93	3:10 PM	05:00	(202) 328-6704	Thomases, Susan	(202) 624-8550			Washington office direct line	387-DC-00000206	Willkie Farr
7/1/93	4:48 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/1/93	5:42 PM	20:00	(212) 935-6751	Lawrence, Angela	(202) 887-1433		5802099985801	NY Office	387-DC-00000187	Willkie Farr
7/1/93	5:44 PM	03:00	(501) 664-3192	Rodham, H & D	(202) 456-6635			Rodham Residence		SWBT
7/1/93	6:03 PM	06:00	(212) 935-6751	Lawrence, Angela	(202) 456-2640		5802099985001	NY Office	387-DC-00000186	Willkie Farr
7/1/93	6:06 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 898-1663			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/1/93	6:11 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4728			NY Office	387-DC-00000192	Willkie Farr
7/1/93	6:56 PM	03:42	(212) 935-6751	Lawrence, Angela	(202) 328-4728			NY Office	387-DC-00000196	Willkie Farr
7/1/93	7:28 PM	01:00	(212) 935-6663	Thomases	(202) 225-3661		99985016	NY office direct line	387-DC-00000173	Willkie Farr
7/1/93	7:40 PM	01:00	(212) 935-6663	Thomases	(202) 456-2823		99985016	NY office direct line	387-DC-00000173	Willkie Farr
7/1/93	8:03 PM	02:00	(212) 935-6663	Thomases	(202) 456-2257		99985016	NY office direct line	387-DC-00000173	Willkie Farr
7/1/93	10:13 PM	02:00	(212) 628-1086	Thomases	(202) 347-2200			NY residence	387-DC-00000145	Willkie Farr
7/1/93	11:22 PM	01:00	(202) 332-0850	Williams, Margaret	(305) 325-2433			Williams Residence		MCI
7/1/93	11:22 PM	11:00	(202) 332-0850	Williams, Margaret	(305) 893-2134			Williams Residence		MCI
7/2/93	12:17 AM	47:00	(202) 332-0850	Williams, Margaret	(816) 523-1544			Williams Residence		MCI
7/2/93	9:33 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/2/93	9:36 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/2/93	10:37 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/2/93	11:28 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/2/93	12:10 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 293-7191			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/2/93	2:52 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/2/93	3:17 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/2/93	3:21 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-8000		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/2/93	6:48 PM	07:00	(202) 328-4836	O'Neill, Lori	(202) 205-3431			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/2/93	6:50 PM	05:00	(202) 328-4836	O'Neill, Lori	(202) 365-5868			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/3/93	6:21 AM	01:00	(202) 332-0850	Williams, Margaret	(305) 893-2134			Williams Residence		MCI
7/3/93	11:38 AM	03:00	(202) 332-0850	Williams, Margaret	(816) 523-1544			Williams Residence		MCI
7/3/93	3:20 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 205-3431			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/4/93	12:41 PM	05:60	(202) 638-4422	White House	(501) 662-4980			White House		AT&T
7/4/93	7:18 PM	01:00	(202) 332-0850	Williams, Margaret	(804) 742-5624			Williams Residence		AT&T
7/5/93	3:25 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/5/93	5:18 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 244-0493			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/6/93	9:41 AM	12:00	(202) 328-6704	Thomases, Susan	(202) 456-6418			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	11:05 AM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	11:08 AM	08:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
7/6/93	11:53 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/6/93	11:59 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 957-2213			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/6/93	12:03 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 659-8787			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	12:12 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-1660			Washington office direct line	387-DC-00000205	Willkie Farr
7/6/93	12:24 PM	14:00	(202) 328-6704	Thomases, Susan	(202) 456-1660			Washington office direct line	387-DC-00000205	Willkie Farr

Exhibit No.: 701059 Date: 7/26/98 Witness: (URS Staff) Bates # Initials

Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/6/93	12:55 PM	03:70	(202) 638-0021	White House	(703) 972-3655			(202) 638-0021		AT&T
7/6/93	1:00 PM	28:00	(202) 638-0021	White House	(212) 227-0430			White House		AT&T
7/6/93	1:14 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 973-9400			Washington office direct line	387-DC-00000207	Willkie Farr
7/6/93	1:42 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
7/6/93	1:46 PM	18:00	(202) 328-6704	Thomases, Susan	(202) 456-7900			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	2:33 PM	15:00	(202) 328-6704	Thomases, Susan	(202) 835-2300			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	2:49 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 387-7783			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/6/93	3:19 PM	09:00	(202) 328-6704	Thomases, Susan	(202) 690-6610			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	3:39 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/6/93	3:56 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 887-1433			Washington office direct line	387-DC-00000207	Willkie Farr
7/6/93	3:58 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/6/93	4:01 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 429-3000			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/6/93	4:15 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/6/93	4:23 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6676			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	4:26 PM	05:90	(202) 638-0021	White House	(703) 972-3655			White House		AT&T
7/6/93	4:35 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/6/93	4:39 PM	04:40	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/6/93	5:05 PM	03:56	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/6/93	5:11 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/6/93	5:16 PM	03:12	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/6/93	5:16 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 863-8122			Washington office direct line	387-DC-00000207	Willkie Farr
7/6/93	5:20 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 223-3642		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/6/93	5:34 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/6/93	5:39 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 456-7900			Washington office direct line	387-DC-00000206	Willkie Farr
7/6/93	5:56 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/6/93	8:09 PM	42:00	(212) 628-1086	Thomases	(202) 332-0850			NY residence	387-DC-00000145	Willkie Farr
7/6/93	9:50 PM	01:00	(202) 659-8794	Thomases	(212) 648-7774			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/6/93	9:52 PM	05:00	(202) 659-8787	Thomases (DC)	(401) 849-6524			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/6/93	10:23 PM	24:00	(202) 332-0850	Williams, Margaret	(612) 942-9053			Williams Residence		MCI
7/6/93	10:37 PM	10:00	(202) 659-8787	Thomases (DC)	(212) 581-8617			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/6/93	11:16 PM	65:00	(202) 332-0850	Williams, Margaret	(508) 627-5686			Williams Residence		MCI
7/7/93	7:10 AM	04:00	(202) 659-8787	Thomases (DC)	(401) 849-6524			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/7/93	9:09 AM	02:00	(202) 328-6704	Thomases, Susan	(202) 225-3661			Washington office direct line	387-DC-00000205	Willkie Farr
7/7/93	9:12 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-7953			Washington office direct line	387-DC-00000206	Willkie Farr
7/7/93	9:34 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	9:47 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 395-0485		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/7/93	9:48 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/7/93	10:26 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	10:29 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 638-6600			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	10:30 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 395-4852			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/7/93	10:32 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/7/93	10:34 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 783-1475			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	12:23 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/7/93	12:26 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	12:29 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/7/93	1:45 PM	07:00	(202) 328-4836	O'Neill, Lori	(202) 508-6627			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/7/93	3:29 PM	05:40	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/7/93	3:36 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
7/7/93	3:54 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/7/93	4:10 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 659-8787			Washington office direct line	387-DC-00000206	Willkie Farr
7/7/93	4:19 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
7/7/93	5:35 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
7/7/93	6:06 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
7/7/93	9:09 PM	05:00	(212) 772-6019	Thomases	(202) 328-8000			NY residence	387-DC-00000156	MCI
7/7/93	11:13 PM	01:00	(212) 628-1086	Thomases	(202) 332-0850			NY residence	387-DC-00000145	Willkie Farr
7/7/93	11:14 PM	17:00	(212) 628-1086	Thomases	(202) 785-1521			NY residence	387-DC-00000145	Willkie Farr
7/8/93	7:47 AM	01:00	(212) 628-1086	Thomases	(202) 332-0850			NY residence	387-DC-00000151	MCI
7/8/93	9:32 AM	03:48	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/8/93	10:05 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/8/93	10:12 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4747			NY Office	387-DC-00000192	Willkie Farr
7/8/93	10:14 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000192	Willkie Farr
7/8/93	10:15 AM	06:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/8/93	10:50 AM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
7/8/93	12:23 PM	02:00	(212) 935-6663	Thomases	(202) 456-6266			NY office direct line	387-DC-00000173	Willkie Farr
7/8/93	12:28 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 647-0554		5802099985801	NY Office	387-DC-00000187	Willkie Farr
7/8/93	12:38 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 647-0554		5802099985801	NY Office	387-DC-00000187	Willkie Farr
7/8/93	12:45 PM	03:16	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
7/8/93	12:53 PM	02:00	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000177	Willkie Farr
7/8/93	1:06 PM	08:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/8/93	1:28 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4728			NY Office	387-DC-00000192	Willkie Farr
7/8/93	1:34 PM	02:00	(212) 935-6663	Thomases	(202) 328-0472			NY office direct line	387-DC-00000177	Willkie Farr
7/8/93	1:40 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 456-0661		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/8/93	1:43 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 205-6684		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/8/93	2:41 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985001	NY Office	387-DC-00000187	Willkie Farr
7/8/93	5:22 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 555-1212		5802099985801	NY Office - Dir Asst	387-DC-00000188	Willkie Farr
7/8/93	5:23 PM	03:00	(212) 935-6751	Lawrence, Angela	(202) 789-1234		5802099985801	NY Office	387-DC-00000187	Willkie Farr
7/8/93	5:50 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/8/93	6:43 PM	05:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/9/93	7:10 AM	01:00	(212) 628-1086	Thomases	(202) 728-1100			NY residence	387-DC-00000145	Willkie Farr
7/9/93	8:43 AM	25:00	(609) 487-0008	Williams, Margaret	(202) 456-1414			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:08 AM	07:00	(609) 487-0008	Williams, Margaret	(202) 456-6266			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:15 AM	14:00	(609) 487-0008	Williams, Margaret	(202) 456-2702			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:32 AM	01:00	(609) 487-0008	Williams, Margaret	(202) 622-0240			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:33 AM	08:00	(609) 487-0008	Williams, Margaret	(202) 456-6266			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:41 AM	02:00	(609) 487-0008	Williams, Margaret	(202) 456-2960			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	9:43 AM	16:00	(609) 487-0008	Williams, Margaret	(202) 456-6611			Bell Atlantic Calling Card Call		Bell Atlanti

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/9/93	9:49 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-4869			NY Office	387-DC-00000192	Willkie Farr
7/9/93	9:52 AM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-4869			NY Office	387-DC-00000192	Willkie Farr
7/9/93	9:59 AM	01:00	(609) 487-0008	Williams, Margaret	(202) 456-2960			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	10:00 AM	25:00	(609) 487-0008	Williams, Margaret	(212) 556-1045			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	10:28 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 789-1234		5802099985016	NY Office	387-DC-00000187	Willkie Farr
7/9/93	10:31 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/9/93	10:34 AM	01:00	(609) 487-0008	Williams, Margaret	(202) 622-1494			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	11:38 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/9/93	12:01 PM	06:00	(202) 328-4836	O'Neill, Lori	(202) 861-3869			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/9/93	12:24 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/9/93	12:45 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-4869			NY Office	387-DC-00000192	Willkie Farr
7/9/93	1:40 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/9/93	3:45 PM	20:00	(609) 487-0008	Williams, Margaret	(202) 456-6797			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	4:02 PM	07:00	(212) 935-6751	Lawrence, Angela	(202) 205-6692		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/9/93	4:09 PM	05:00	(689) 487-0008	Williams, Margaret	(202) 456-6797			Bell Atlantic Calling Card Call		Bell Atlanti
7/9/93	4:09 PM	04:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/9/93	4:38 PM	10:40	(212) 935-6663	Thomases	(202) 328-8000			NY office direct line	387-DC-00000176	Willkie Farr
7/9/93	4:39 PM	01:00	(212) 935-6663	Thomases	(202) 328-4728			NY office direct line	387-DC-00000177	Willkie Farr
7/9/93	7:27 PM	02:00	(609) 487-0008	Williams, Margaret	(202) 456-1414			Bell Atlantic Calling Card Call		Bell Atlanti
7/10/93	9:47 PM	00:60	(202) 638-0021	White House	(501) 561-1622			White House		AT&T
7/10/93	9:48 PM	102:40	(202) 638-0021	White House	(501) 771-1362			White House		AT&T
7/11/93	7:52 PM	03:00	(202) 332-0850	Williams, Margaret	(215) 473-0329			Williams Residence		MCI
7/11/93	7:56 PM	49:00	(202) 332-0850	Williams, Margaret	(215) 473-0329			Williams Residence		MCI
7/12/93	10:03 AM	03:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/12/93	10:57 AM	03:20	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/12/93	12:02 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/12/93	1:17 PM	06:00	(202) 328-4836	O'Neill, Lori	(202) 957-2213			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/12/93	1:24 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 957-2213			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/12/93	5:24 PM	01:00	(212) 935-6663	Thomases	(202) 544-6093			NY office direct line	387-DC-00000175	Willkie Farr
7/12/93	5:42 PM	07:28	(212) 935-6663	Thomases	(202) 225-3661			NY office direct line	387-DC-00000176	Willkie Farr
7/12/93	11:06 PM	03:00	(212) 772-6019	Thomases	(202) 265-0230			NY residence	387-DC-00000156	MCI
7/12/93	11:10 PM	01:00	(212) 628-1086	Thomases	(202) 785-1521			NY residence	387-DC-00000151	MCI
7/13/93	9:50 AM	02:18	(212) 935-6663	Thomases	(202) 328-4869			NY office direct line	387-DC-00000176	Willkie Farr
7/13/93	9:58 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/13/93	11:15 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY Office	387-DC-00000187	Willkie Farr
7/13/93	11:33 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000192	Willkie Farr
7/13/93	11:34 AM	01:00	(212) 935-6663	Thomases	(202) 456-1414			NY office direct line	387-DC-00000173	Willkie Farr
7/13/93	11:35 AM	05:44	(212) 935-6663	Thomases	(202) 456-7052			NY office direct line	387-DC-00000176	Willkie Farr
7/13/93	11:45 AM	05:32	(212) 935-6663	Thomases	(202) 456-2823			NY office direct line	387-DC-00000176	Willkie Farr
7/13/93	11:56 AM	09:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
7/13/93	12:10 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 456-0286		5802099985801	NY Office	387-DC-00000186	Willkie Farr
7/13/93	1:10 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 555-1212	Dir. Asst.		DC secretarial ext.	387-DC-00000214	Willkie Farr
7/13/93	1:11 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 879-6630			DC secretarial ext.	387-DC-00000216	Willkie Farr

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/13/93	5:59 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 456-6611			Washington office direct line	387-DC-00000206	Willkie Farr
7/13/93	6:07 PM	02:36	(212) 935-6663	Thomases	(202) 328-6704			NY office direct line	387-DC-00000176	Willkie Farr
7/13/93	6:12 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 457-9225			Washington office direct line	387-DC-00000206	Willkie Farr
7/13/93	6:21 PM	01:00	(212) 628-1086	Thomases	(202) 456-2632			NY residence	387-DC-00000145	Willkie Farr
7/13/93	6:24 PM	02:00	(212) 628-1086	Thomases	(202) 456-2100			NY residence	387-DC-00000145	Willkie Farr
7/13/93	7:21 PM	02:30	(212) 935-6663	Thomases	(202) 328-6704			NY office direct line	387-DC-00000176	Willkie Farr
7/13/93	7:26 PM	03:00	(202) 328-6704	Thomases, Susan	(202) 337-8103			Washington office direct line	387-DC-00000205	Willkie Farr
7/13/93	8:02 PM	16:60	(202) 638-0021	White House	(201) 678-8150			White House		AT&T
7/13/93	8:43 PM	36:60	(202) 638-0021	White House	(201) 678-8150			White House		AT&T
7/13/93	9:51 PM	01:00	(202) 659-8792	Thomases	(212) 935-8000			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/13/93	9:54 PM	03:00	(202) 659-8792	Thomases	(212) 935-8000			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/13/93	10:25 PM	00:50	(202) 638-0021	White House	(708) 297-6767			White House		AT&T
7/13/93	11:00 PM	09:00	(202) 659-8792	Thomases	(401) 849-6524			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/14/93	7:34 AM	12:00	(202) 659-8792	Thomases	(401) 849-6524			NY res.--calling card (628-1086)	387-DC-00000158	MCI
7/14/93	8:14 AM		(212) 628-1086	Thomases	(202) 986-7309			NY residence (hand-typed?)	387-DC-00000145	Willkie Farr
7/14/93	8:27 AM	14:00	(212) 628-1086	Thomases	(202) 544-6093			NY residence	387-DC-00000145	Willkie Farr
7/14/93	8:49 AM	05:00	(212) 628-1086	Thomases	(202) 462-2002			NY residence	387-DC-00000145	Willkie Farr
7/14/93	9:02 AM	02:00	(212) 628-1086	Thomases	(202) 328-8000			NY residence	387-DC-00000145	Willkie Farr
7/14/93	10:01 AM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/14/93	10:21 AM	01:00	(202) 328-6704	Thomases, Susan	(202) 728-1100			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	12:43 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/14/93	1:52 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 887-1580			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/14/93	2:02 PM	02:00	(202) 328-4836	O'Neill, Lori	(202) 466-7720			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/14/93	2:47 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 466-7720			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/14/93	3:06 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 466-7720			DC secretarial ext.	387-DC-00000214	Willkie Farr
7/14/93	3:29 PM	06:00	(202) 328-6704	Thomases, Susan	(202) 456-6266			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	3:35 PM	11:00	(202) 328-6704	Thomases, Susan	(202) 337-8103			Washington office direct line	387-DC-00000205	Willkie Farr
7/14/93	3:47 PM	01:00	(202) 328-6704	Thomases, Susan	(202) 833-2980			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	3:49 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/14/93	4:02 PM	05:40	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000196	Willkie Farr
7/14/93	4:32 PM	08:00	(202) 328-6704	Thomases, Susan	(202) 544-6093			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	4:40 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-6611			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	5:01 PM	01:00	(212) 935-6751	Lawrence, Angela	(202) 328-6704			NY Office	387-DC-00000195	Willkie Farr
7/14/93	5:18 PM	02:00	(212) 935-6751	Lawrence, Angela	(202) 328-4740			NY Office	387-DC-00000192	Willkie Farr
7/14/93	6:07 PM	02:00	(202) 328-6704	Thomases, Susan	(202) 456-1414			Washington office direct line	387-DC-00000205	Willkie Farr
7/14/93	6:55 PM	07:00	(202) 328-6704	Thomases, Susan	(202) 456-7194			Washington office direct line	387-DC-00000206	Willkie Farr
7/14/93	7:02 PM	04:00	(202) 328-6704	Thomases, Susan	(202) 456-2468			Washington office direct line	387-DC-00000205	Willkie Farr
7/14/93	7:34 PM	02:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne
7/14/93	7:36 PM	01:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne
7/14/93	7:37 PM	02:00	(917) 539-2633	Thomases	(212) 772-6019	Thomases		Cellular phone	387-DC-00000160	CellularOne
7/14/93	8:09 PM	42:60	(202) 638-0021	White House	(415) 332-3704			White House		AT&T
7/14/93	8:57 PM	00:50	(202) 638-0021	White House	(415) 381-3705			White House		AT&T
7/14/93	9:22 PM	00:50	(202) 638-0021	White House	(415) 381-3705			White House		AT&T

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Date	Time	Duration	From	Subscriber From	To	Subscriber To	Auth Code	Remarks	Bates #	Source
7/14/93	9:24 PM	00:50	(202) 638-0021	White House	(415) 985-6153			White House		AT&T
7/14/93	9:30 PM	01:60	(202) 638-0021	White House	(203) 869-1021			White House		AT&T
7/14/93	9:36 PM	28:60	(202) 638-4422	White House	(410) 531-5637			White House		AT&T
7/14/93	11:44 PM	00:50	(202) 638-4422	White House	(415) 665-5037			White House		AT&T
7/14/93	11:44 PM	08:50	(202) 638-4422	White House	(602) 297-7606			White House		AT&T
7/15/93	8:34 AM	00:50	(202) 638-0021	White House	(203) 869-1021			White House		AT&T
7/15/93	8:38 AM	06:00	(212) 772-6019	Thomases	(202) 659-8787	Thomases (DC)		NY residence	387-DC-00000151	MCI
7/15/93	8:53 AM	01:30	(202) 638-0021	White House	(212) 230-2300			White House		AT&T
7/15/93	9:21 AM	12:20	(202) 638-0021	White House	(203) 323-2250			White House		AT&T
7/15/93	10:50 AM	01:24	(212) 935-6751	Lawrence, Angela	(202) 456-6797		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/15/93	11:10 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/15/93	11:43 AM	02:00	(202) 328-4836	O'Neill, Lori	(202) 887-1500			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/15/93	12:20 PM	03:00	(202) 328-4836	O'Neill, Lori	(202) 957-2204			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/15/93	1:03 PM	01:30	(202) 638-0021	White House	(415) 332-2525			White House		AT&T
7/15/93	1:06 PM	02:70	(202) 638-0021	White House	(415) 332-2525			White House		AT&T
7/15/93	1:10 PM	01:10	(202) 638-0021	White House	(415) 332-2525			White House		AT&T
7/15/93	1:11 PM	03:40	(202) 638-0021	White House	(510) 935-8307			White House		AT&T
7/15/93	2:56 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/15/93	2:58 PM	11:40	(212) 935-6751	Lawrence, Angela	(202) 328-4784			NY Office	387-DC-00000196	Willkie Farr
7/15/93	3:09 PM	11:00	(202) 638-0021	White House	(212) 656-5622			White House		AT&T
7/15/93	3:13 PM	01:12	(212) 935-6663	Thomases	(202) 456-7194			NY office direct line	387-DC-00000176	Willkie Farr
7/15/93	3:21 PM	08:70	(202) 638-0021	White House	(415) 332-2525			White House		AT&T
7/15/93	4:31 PM	00:38	(212) 935-6751	Lawrence, Angela	(202) 328-4869			NY Office	387-DC-00000196	Willkie Farr
7/15/93	7:38 PM	16:30	(202) 638-0021	White House	(317) 494-6235			White House		AT&T
7/16/93	9:58 AM	01:00	(202) 328-4836	O'Neill, Lori	(202) 957-2204			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/16/93	10:32 AM	08:40	(212) 935-6751	Lawrence, Angela	(202) 456-6797		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	10:45 AM	00:52	(212) 935-6751	Lawrence, Angela	(202) 456-1414		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	11:29 AM	00:60	(212) 935-6751	Lawrence, Angela	(202) 647-5548		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	11:45 AM	20:26	(212) 935-6663	Thomases	(202) 456-6266			NY office direct line	387-DC-00000176	Willkie Farr
7/16/93	12:06 PM	03:60	(212) 935-6663	Thomases	(202) 456-6611	Foster, Vincent		NY office direct line (*)	387-DC-00000176	Willkie Farr
7/16/93	12:24 PM	00:46	(212) 935-6751	Lawrence, Angela	(202) 544-6093		5802099985002	NY Office	387-DC-00000197	Willkie Farr
7/16/93	12:26 PM	02: 2	(212) 935-6663	Thomases	(202) 728-1100			NY office direct line	387-DC-00000176	Willkie Farr
7/16/93	12:32 PM	00:50	(212) 935-6751	Lawrence, Angela	(202) 647-0554		5802099985801	NY Office (?)	387-DC-00000197	Willkie Farr
7/16/93	12:35 PM	03:40	(212) 935-6751	Lawrence, Angela	(202) 224-5706		5802099985801	NY office	387-DC-00000196	Willkie Farr
7/16/93	12:37 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 957-2204			DC secretarial ext.	387-DC-00000216	Willkie Farr
7/16/93	12:45 PM	00:42	(212) 935-6751	Lawrence, Angela	(202) 638-2121		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	1:03 PM	09:14	(212) 935-6663	Thomases	(202) 544-6093			NY office direct line	387-DC-00000176	Willkie Farr
7/16/93	2:13 PM	16:40	(212) 935-6751	Lawrence, Angela	(202) 662-3709		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	2:33 PM	01:44	(212) 935-6751	Lawrence, Angela	(202) 456-1414		5802099985801	NY Office	387-DC-00000197	Willkie Farr
7/16/93	3:15 PM	01:00	(202) 328-4836	O'Neill, Lori	(202) 679-0210			DC secretarial ext.	387-DC-00000215	Willkie Farr
7/16/93	3:54 PM	14:26	(212) 935-6663	Thomases	(202) 328-4741			NY office direct line	387-DC-00000176	Willkie Farr
7/16/93	5:33 PM	03: 6	(212) 935-6663	Thomases	(202) 328-4784	Smith, Russell		NY office direct line	387-DC-00000176	Willkie Farr
7/16/93	8:51 PM	01:00	(202) 332-0850	Williams, Margaret	(808) 248-8211			Williams Residence		MCI

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Date	To	From	Source	Time	Description
7/20/93	703-418-0897	501-664-3192	Rodham Residence-HRC	4	HRC calling from Rodham residenc
7/20/93 9:16:00 PM	301-464-9256	202-494-4648	Livingstone cellular	1	# belongs to ????
7/20/93 9:18:00 PM	501-664-7468	202-332-0850	Williams' home	26	# belongs to ????
7/20/93 9:25:00 PM	411	202-494-4648	Livingstone cellular	1	# belongs to information
7/20/93 9:27:00 PM	202-494-4648	?	?	1	Incoming call to Livingstone
7/20/93 9:27:00 PM	CL-Incoming call	?	?	1	Incoming call to Livingstone
7/20/93 9:28:00 PM	411	202-494-4648	Livingstone Cellular	1	# belongs to information
7/20/93 9:29:00 PM	411	202-494-4648	Livingstone cellular	1	# belongs to information
7/20/93 9:30:00 PM	411	202-494-4648	Livingstone Cellular	1	# belongs to information
7/20/93 10:00:00 PM	510-489-9105	202-638-0021	WH Exec. Res.	1	calling Union City, CA
7/20/93 10:02:00 PM	415-386-5425	202-638-0021	WH Exec. Res.	0.5	calling San Francisco, CA
7/20/93 10:06:00 PM	404-973-0019	202-638-0021	WH Exec. Res.	1	calling Marietta, GA
7/20/93 10:10:00 PM	501-664-3192	202-638-0021	WH Exec. Res.	3	calling HRC at Rodham's
7/20/93 10:13:00 PM	202-332-0850	501-664-3192	Rodham Residence-HRC	16	HRC calls from Rodham's in AK to
7/20/93 10:54:00 PM	501-868-5609	202-337-8103	Foster Residence	1	# belongs to ????
7/20/93 11:03:00 PM	805-684-5228	501-664-3192	Rodham Residence-HRC	4	# belongs to ???? in Carpintia,CA
7/20/93 11:05:00 PM	501-777-3233	202-337-8103	Foster Residence	1	# belongs to ????
7/20/93 11:08:00 PM	202-456-2640	703-909-0923/4	Kennedy cellular	2	# belongs to ????
7/20/93 11:08:00 PM	501-777-5307	202-337-8103	Foster Residence	12	# belongs to ????
7/20/93 11:10:00 PM	202-456-1414	703-909-0923/4	Kennedy cellular	6	Kennedy calling WH Switchboard
7/20/93 11:18:00 PM	202-727-1000	703-909-0923/4	Kennedy cellular	6	Kennedy calling D.C. Government
7/20/93 11:19:00 PM	212-628-7087	501-664-3192	Rodham Residence-HRC	20	HRC calling from Rodham Residen
7/20/93 11:23:00 PM	703-909-0923/4	?	?	7	Incoming call to Kennedy from ???
7/20/93 11:26:00 PM	501-777-8243	202-337-8103	Foster Residence	7	# belongs to ????
7/20/93 11:32:00 PM	202-456-1414	703-909-0923/4	Kennedy cellular	3	Kennedy calling WH Switchboard
7/20/93 11:34:00 PM	501-868-5609	202-337-8103	Foster Residence	1	# belongs to ????
7/20/93 11:41:00 PM	202-628-7087	501-664-3192	Rodham Residence-HRC	10	# belongs to ????
7/20/93 11:42:00 PM	202-456-1414	703-909-0923/4	Kennedy cellular	5	Kennedy calling WH Switchboard
7/20/93 11:56:00 PM	703-538-8284	703-909-0923/4	Kennedy cellular	2	# belongs to ????
7/20/93 11:58:00 PM	501-868-5609	202-337-8103	Foster Residence	12	# belongs to ????
7/20/93 11:59:00 PM	501-663-8510	703-909-0923/4	Kennedy cellular	1	Kennedy calling Robert Gannaway
7/21/93 12:01:00 AM	501-664-5656	703-909-0923/4	Kennedy cellular	5	# belongs to ????
7/21/93 12:07:00 AM	703-909-0923/4	?	?		Incoming call to Kennedy from ???
7/21/93 12:08:00 AM	202-727-1000	703-909-0923/4	Kennedy cellular	2	Kennedy calling D.C. Government
7/21/93 12:09:00 AM	202-673-7653	703-909-0923/4	Kennedy cellular	5	Kennedy calling the D.C. Police De
7/21/93 12:13:00 AM	202-456-1414	703-909-0923/4	Kennedy cellular	14	Kennedy calling WH Switchboard
7/21/93 12:15:00 AM	501-490-2862	202-337-8103	Foster Residence	3	# belongs to ????
7/21/93 12:21:00 AM	501-663-5369	202-337-8103	Foster Residence	1	# belongs to ????
7/21/93 12:30:00 AM	202-514-5000	703-909-0923/4	Kennedy cellular	5	Kennedy calling DOJ command
7/21/93 12:34:00 AM	202-363-3020	703-909-0923/4	Kennedy cellular	3	Kennedy calling Jim Hamilton
7/21/93 12:37:00 AM	202-514-5000	703-909-0923/4	Kennedy cellular	4	Kennedy calling DOJ command
7/21/93 12:37:00 AM	703-514-5000	703-909-0923/4	Kennedy cellular	1	Wrong Number? Attempt to call D
7/21/93 12:43:00 AM	501-555-1212	703-909-0923/4	Kennedy cellular	1	Kennedy calling Arkansas informati
7/21/93 12:44:00 AM	501-664-4869	703-909-0923/4	Kennedy cellular	1	Kennedy calling Ron and Martha Cl
7/21/93 12:46:00 AM	202-456-2520	703-909-0923/4	Kennedy cellular	5	Kennedy calling Ricki Seidman's of
7/21/93 12:46:00 AM	202-291-0244	501-664-3192	Rodham Residence-HRC	2	# belongs to ????

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Date	To	From	Source	Time	Description
7/21/93 12:56:00 AM	501-664-3182	202-332-0850	Williams' home	1	Wrong number? Attempt to call H
7/21/93 12:56:00 AM	501-664-3192	202-332-0850	Williams' home	11	Williams calling HRC at Rodham's
7/21/93 12:57:00 AM	501-663-6025	202-337-8103	Foster Residence	5	# belongs to ????
7/21/93 12:59:00 AM	301-654-5478	703-909-0923/4	Kennedy cellular	3	Kennedy calling Craig Livingstone'
7/21/93 1:02:00 AM	301-963-3992	703-909-0923/4	Kennedy cellular	3	# belongs to ????
7/21/93 1:02:00 AM	817-921-5010	202-337-8103	Foster Residence	3	# belongs to ????
7/21/93 1:09:00 AM	202-638-0021	501-664-3192	Rodham Residence-HRC	13	HRC calling from Rodham residenc
7/21/93 1:10:00 AM	212-772-6019	202-332-0850	Williams' home	14	Williams calling Susan Thomases
7/21/93 1:19:00 AM	202-456-1414	703-909-0923/4	Kennedy cellular	3	Kennedy calling WH Switchboard
7/21/93 1:20:00 AM	616-843-3649	202-337-8103	Foster Residence	1	# belongs to ????
7/21/93 1:21:00 AM	202-686-9199	703-909-0923/4	Kennedy cellular	2	# belongs to ????
7/21/93 1:21:00 AM	501-661-9891	202-337-8103	Foster Residence	6	# belongs to ????
7/21/93 1:34:00 AM	202-456-1414	703-909-0923/4	Kennedy cellular	3	Kennedy calling WH Switchboard
7/21/93 8:00:00 AM	202-456-1414	202-494-4648	Livingstone Cellular	4	# belongs to WH Switchboard
7/21/93 8:03:00 AM	202-456-1414	202-494-4648	Livingstone Cellular	2	# belongs to WH Switchboard (Call
7/21/93 8:49:00 AM	703-920-3456	703-909-0923/4	Kennedy cellular	1	# belongs to ????
7/21/93 8:56:00 AM	202-456-1414	501-664-3192	Rodham Residence-HRC	37	HRC calling from Rodham Residen
7/21/93 9:50:00 AM	202-514-5000	501-664-3192	Rodham Residence-HRC	1	HRC calling from Rodham residenc
7/21/93 9:59:00 AM	703-920-3456	703-909-0923/4	Kennedy cellular	1	# belongs to ????
7/21/93 10:26:00 AM	703-684-8772	703-909-0923/4	Kennedy cellular	2	Kennedy calling his house
7/21/93 10:27:00 AM	501-535-3826	703-909-0923/4	Kennedy cellular	1	Kennedy calling M.L. Kennedy, Jr.
7/21/93 10:36:00 AM	501-375-5222	703-909-0923/4	Kennedy cellular	1	# belongs to ????
7/21/93 11:10:00 AM	703-684-8772	703-909-0923/4	Kennedy cellular	2	Kennedy calling his house
7/21/93 11:25:00 AM	202-456-6229	703-909-0923/4	Kennedy cellular	1	Kennedy calling his office
7/21/93 11:26:00 AM	202-456-6229	703-909-0923/4	Kennedy cellular	1	Kennedy calling his office
7/21/93 11:44:00 AM	916-583-7000	501-664-3192	Rodham Residence-HRC	15	HRC calling from Rodham Residen
7/21/93 11:44:00 AM	703-684-8772	703-909-0923/4	Kennedy cellular	1	Kennedy calling his house
7/21/93 11:44:00 AM	703-684-8772	703-909-0923/4	Kennedy cellular	1	Kennedy calling his house
7/21/93 11:44:00 AM	703-684-8772	703-909-0923/4	Kennedy cellular	1	Kennedy calling his house.
7/21/93 11:44:00 AM	501-686-2523	703-909-0923/4	Kennedy cellular	2	# belongs to ????
7/21/93 12:04:00 PM	202-686-6768	501-664-3192	Rodham Residence-HRC	1	# belongs to ????
7/21/93 1:00:00 PM	501-686-2523	703-909-0923/4	Kennedy cellular	8	# belongs to ????
7/21/93 1:22:00 PM	202-456-6797	703-909-0923/4	Kennedy cellular	4	Kennedy calling Bill Burton.
7/21/93 2:14:00 PM	703-684-8772	703-909-0923/4	Kennedy cellular	1	Kennedy callng his house
7/21/93 2:41:00 PM	501-375-5222	703-909-0923/4	Kennedy cellular	6	# belongs to ????
7/21/93 5:14:00 PM	202-514-5000	501-664-3192	Rodham Residence-HRC	1	HRC calling from Rodham residenc
7/21/93 5:20:00 PM	501-324-9444	202-638-0021	WH Exec. Res.	5.6	calling Little Rock, AK
7/21/93 5:53:00 PM	202-337-8103	703-909-0923/4	Kennedy cellular	2	Kennedy calling Foster residence.
7/21/93 6:35:00 PM	301-654-5478	202-494-4648	Livingstone cellular	1	# belongs to CL's residence
7/21/93 6:39:00 PM	703-684-8772	703-909-0923/4	Kennedy cellular	1	Kennedy calling his house.
7/21/93 6:40:00 PM	202-456-1414	501-664-3192	Rodham Residence-HRC	2	HRC calling from Rodham residenc
7/21/93 6:44:00 PM	202-514-5000	501-664-3192	Rodham Residence-HRC	2	HRC calling from Rodham Residen
7/21/93 6:47:00 PM	301-654-5478	202-494-4648	Livingstone Cellular	1	# belongs to CL's residence
7/21/93 7:01:00 PM	301-654-5478	202-494-4648	Livingstone Cellular	1	# belongs to CL's residence
7/21/93 7:45:00 PM	202-456-2668	501-664-3192	Rodham Residence-HRC	12	HRC calling from Rodham Residen
7/21/93 10:02:00 PM	202-448-6374	501-664-3192	Rodham Residence-HRC	13	# belongs to ????

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Date	To	From	Source	Time	Description
7/21/93 10:17:00 PM	305-448-6374	501-664-3192	Rodham Residence-HRC	40	HRC calling from Rodham residenc
7/22/93 7:44:00 AM	501-664-3192	202-332-0850	Williams' home	7	Williams calling HRC at Rodham's
7/22/93 7:57:00 AM	202-659-8787	501-664-3192	Rodham Residence-HRC	3	# belongs to ????
7/22/93 12:55:00 PM	501-664-3192	202-332-0850	Williams' home	1	Williams calling HRC at Rodham's
7/22/93 3:18:00 PM	305-445-8852	501-664-3192	Rodham Residence-HRC	21	HRC calling from Rodham Residen
7/22/93 11:19:00 PM	202-456-1414	501-664-3192	Rodham Residence-HRC	1	HRC calling from Rodham Residen
7/22/93 11:27:00 PM	501-664-7468	202-332-0850	Williams' home	9	# belongs to ????
7/22/93 11:34:00 PM	501-664-3192	202-638-0021	WH Exec. Res.	29.8	calling HRC at Rodham's.
7/22/93 11:37:00 PM	501-664-7468	202-332-0850	Williams' home	2	# belongs to ????
7/23/93 10:15:00 AM	501-575-5993	501-664-3192	Rodham Residence-HRC	11	HRC calling from Rodham residenc

FOIA # none (URTS 16305) DocId: 70105098 Page 83

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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THE WHITE HOUSE

WASHINGTON

June 17, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Dear Mr. Stein:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Very truly yours,

W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

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Schuelke, Henry

FOIA # none (URTS 16305) DocId: 70105098 Page 96

Memorandum **Office of the Independent Counsel**

To : File Date 11/23/96

From : SMC

Subject:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, DC 20004
(202) 514-8688
Fax (202) 514-8802

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

DRAFT

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 9/6/96

CAROLYN C. HUBER voluntarily appeared at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, N.W., Suite 490 North, Washington, D.C. 20004. She was accompanied by her attorney HENRY SCHUELKE. HUBER was advised of the identities of STEVE COLLOTON, Associate Independent Counsel, ALEX AZAR, Associate Independent Counsel, and [redacted] Special Agent (SA) of the Federal Bureau of Investigation (FBI). HUBER voluntarily provided, in substance and in part, the following information:

She was the individual in charge of the CLINTON's move from the Arkansas Governor's mansion to the White House in 1992. HUBER took it upon herself to coordinate the move because she had been involved in every move the CLINTON's had made. She contacted Mr. YARBOROUGH at Merchants Moving Company, an affiliate of United Van Lines, for the transfer and storage of the CLINTONs personal items to Washington, D.C..

YARBOROUGH was instructed to move everything that belonged to the CLINTON's in the mansion. Sometime in November 1992, Merchants Moving Company and some volunteers started packing the CLINTON's personal items at the Governor's mansion. This process went on until January 16, 1993.

Boxes and larger items such as furniture were labeled with a color coding system to assist the movers in knowing where to place the boxes once they were at the White House. One color was for boxes and other items that were to be placed on the first or second floor of the White House. Another color was for items that were to go into a government storage facility in Maryland. Most of the CLINTON's file cabinets and personal papers went to the White House.

The attic in the Arkansas Governor's mansion was where the CLINTONs kept their personal documents. These documents were kept in two file cabinets and five boxes. There was a black metal, four drawer file cabinet which kept the CLINTONs' personal records such as Birth Certificates. There was also a short,

brown, two drawer file cabinet which held personal effects such as personal letters. The five boxes contained the CLINTONs' financial records which included tax returns and investment records.

On January 16, 1993, HUBER left Arkansas to go to Washington, D.C. with the CLINTONs. When she left, the two file cabinets along with the five boxes had been loaded upon one of the moving trucks. Merchant Moving Company sent two semi-trucks to the Governor's mansion two or three days prior to January 16. HUBER did not review any items before they were placed in the moving trucks. The movers made a log of every item that was moved. HUBER received this log in the mail after the CLINTONs had moved into the White House. She kept a copy of this log but is unsure where it is currently filed. United States Secret Service Agents (USSS) were with the trucks from when they were filled until they arrived at the White House.

Merchants Moving Company also sent a smaller moving truck to the Rose Law Firm to load several items that belonged to HILLERY CLINTON. Once these items were loaded they were taken to the Governor's mansion and placed on one of the two large semi-trucks for transport to Washington D.C.

Along with the color codes for the items being moved, boxes were individually marked as to which room they were to be placed, e.g. "CHELSEA's room", or "Third Floor".

On January 16, 1993, HUBER flew from Arkansas with the CLINTONs to Charlotsville, Virginia. From there they all took buses to Washington, D.C. The moving trucks arrived in Washington a few days before January 20, 1993. They were temporarily stored in a warehouse because they were not allowed to unpack at the White House until after the swearing in ceremony at the inauguration. The moving trucks were unloaded completely on January 20, 1993.

The five boxes containing the CLINTONs personal financial records were placed on the third floor of the White House by the movers on January 20, 1993. HUBER is not sure where exactly they were placed.

HUBER unpacked and sorted boxes on the third floor from January 20 through Saturday January 26, 1993. There were three assistants that helped her with the sorting and unpacking. They

were JENNIFER SMITH, a volunteer, VIRGINIA PENNINGTON, maid from Little Rock, and ANN McCOY, Arkansas Governor's mansion administrator. Several others assisted in unloading boxes for the next two or three months. Books were unloaded and placed on shelves, and some were sent back to storage in Maryland.

Sometime during the unpacking and sorting of the items on the third floor, the five boxes containing the CLINTON's personal financial records were located and placed in Room 323 on the third floor of the White House. HUBER left for a few days on February 1, 1993, and is not sure if the five boxes were located before she left on February 1, or after she returned. The two file cabinets were placed in Room 319A, the "Book Room".

In February 1993, an office was created for HILLARY CLINTON in Room 323 on the third floor of the White House. This office was maintained by HUBER and was where HUBER organized HILLARY CLINTON's financial documents. This office was remodeled in 1993. All of the furniture and boxes remained in Room 323 during the remodeling process.

Two Federal Express boxes arrived at the White House addressed to HILLARY CLINTON from the Rose Law Firm. They were first delivered to Mrs. ALSTON, who opened and inspected the contents of the boxes. They were then given to HUBER. The boxes contained files that related to work that HILLARY CLINTON had done with volunteer groups. One of the files related to Whitewater and was later turned over to Mrs. CLINTON's personal attorney, DAVID KENDALL.

A thin redwell file containing documents relating to Whitewater was found at one point in a brown credenza drawer located in Room 323. HUBER was shown a White House photograph of Room 323 (Bates number 470-DC-18). HUBER positively identified the brown credenza in the photograph as being the one where she found the Whitewater redwell folder. This redwell folder would have originally come out of one of the five boxes and was then placed in the brown credenza. This redwell folder was turned over to DAVID KENDALL. HUBER decided that the documents contained within the credenza needed more security so they were removed and placed in a brown file cabinet safe which was located in the "Book Room", Room 319A. HUBER had trouble operating the safe combination on the brown file cabinet safe so the documents were placed into another brown file cabinet with a key lock.

The black metal, four drawer cabinet does not currently hold any documents and only has some tools and some vacation maps. HUBER was shown a photograph of Room 319A, the "Book Room" (Bates number 470-DC-26). HUBER positively identified the black file cabinet as being in the "Book Room" on the photo. HUBER identified a large white box labeled "important papers" on the ground in the photo of Room 319A (Bates number 470-DC-26) as being filled with old photos of BILL CLINTON when he was a child. HUBER said that she obtained this box in Arkansas after the funeral for President Clinton's mother. HUBER described Room 319A as looking the same in the photo as it did back in August 1995 (Bates numbers 470-DC-24 and 470-DC-26).

The five boxes which contain the CLINTONs' financial information are currently in Room 309 on the third floor of the White House. Room 308 contains knickknacks, and 310 is a room for the maids.

HUBER has never seen a box with "VINCE FOSTER" written on it in Room 323 or 309.

The brown file cabinet that replaced the safe identified in the photo of Room 319A (Bates number 470-DC-26) currently holds the CLINTON tax returns for 1993, 1994, and 1995. It also holds some miscellaneous financial documents.

When HUBER first found the Rose Law Firm billing records, she was retrieving something out of the brown file cabinet located in Room 319A. She then saw a box of knickknacks on the table that she needed to take to her desk downstairs. She placed the billing records into the box of knickknacks and took them downstairs. Huber was unsure whether the box containing the billing records was brought down by itself or with other boxes. She emphasized that she has not thought about this since January 1996, and has not reviewed her prior statements.

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*NOT ADMITTED IN D.C.

February 12, 1996

BY FACSIMILE

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mr. Bates:

This is to confirm the substance of our telephone conversations this morning concerning the February 9, 1996 grand jury subpoena the Office of the Independent Counsel has issued to my client, Henry F. Schuelke, III.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

If this letter does not accurately reflect the substance of our conversations or the understanding we have reached, please let me know as quickly as possible so that we can make whatever clarifications are appropriate in advance of Mr. Schuelke's scheduled appearance tomorrow.

Sincerely yours,

Randall J. Turk

RJT/dlg

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*NOT ADMITTED IN D.C.

February 12, 1996

BY FACSIMILE

Steve Colloton
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mr. Colloton:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,

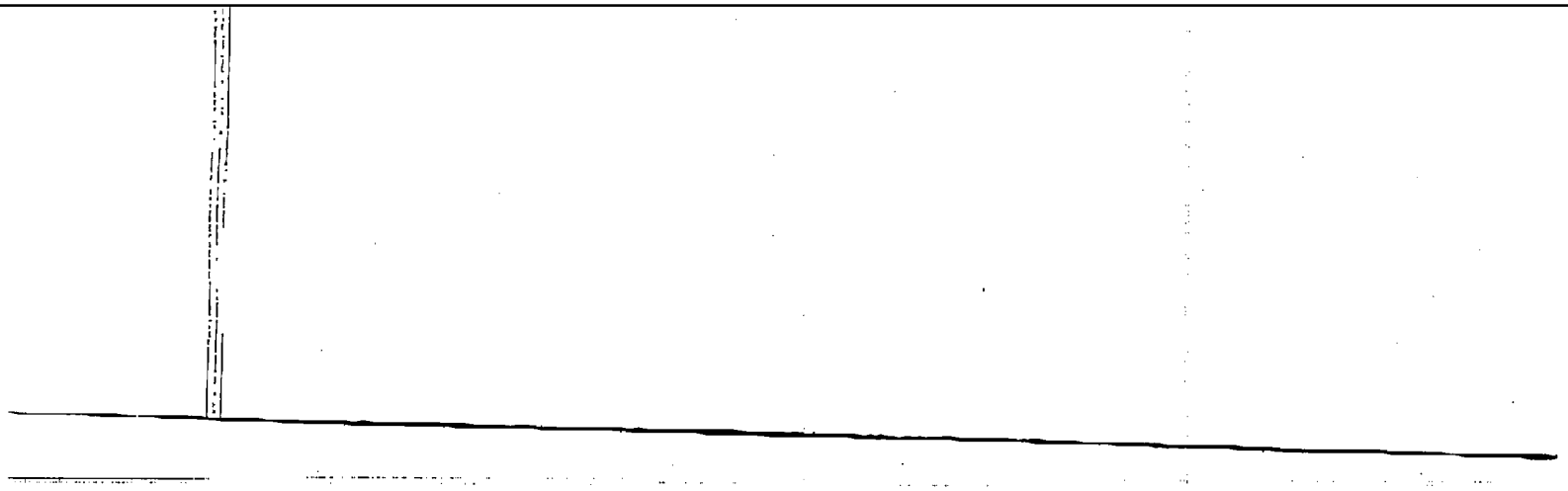
Randall J. Turk

RJT/dlg

Enclosure

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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JOHN P. FLETCHER
GOODLOE M. PARTEE
MARTI S. TOENNIES
MICHAEL N. SHANNON
KALA S. ROGERS

J. GASTON WILLIAMSON
JOHN A. DAVIS, III
OF COUNSEL

January 31, 1995

WRITER'S DIRECT DIAL NO.

Ms. Amy St. Eve
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

VIA HAND-DELIVERY

Dear Ms. St. Eve:

Please find enclosed as RIC-093527 through RIC-093550, a copy of the closed client file list prepared by Vince Foster and his secretary upon his departure in January of 1993. This list as been redacted to eliminate all information other than client names. Also enclosed as RIC-093551 through RIC-093571 is a copy of the list prepared by Vince Foster and his secretary of his personal files. This list is being produced in unredacted format. According to Mr. Foster's secretary, all the files on the personal list were taken by Mr. Foster upon his departure, other than those files contained in boxes 4 and 5 which relate to the administration of his father's estate. These file remained with the firm because the firm was the attorney for that case.

Also enclosed as RIC-093526 is a copy of the piece of paper in the draft file list which indicates the "Clinton" files taken by Mr. Foster upon his departure. This document has been redacted on the instructions of David Kendall.

Finally, we are preparing a list of clients from Mr. Foster's old closed file list. As soon as that is prepared, I will forward that list to you for review.

Very truly yours,

Ronald M. Clark

RMC:km
Enclosures

FOIA # none (URTS 16305) DocId: 70105098 Page 109
105-000914-1A

RTT02C31.WPS

Clinton

* Whitewater Development

105-00009186

RLL02AB0.WP5
010793

FOIA # none (URTS 16305) DocId: 70105098 Page 110

RIC-093526

VINCENT FOSTER, JR.
CLOSED FILES
JANUARY 25, 1993

BOX 1

ACI MANAGEMENT, INC./SPECTRUM

ACXIOM/BSA HEWLETT-PACKARD

ACXIOM CORPORATION,

ACXIOM

ACXIOM.

ARKANSAS LONG RANGE PLANNING

AETNA INSURANCE CO.,

ARKANSAS LEGAL SERVICES

ARTHUR MURRAY INTERNATIONAL, INC.

RL102BF8.WPS
020193

J.W. BALDREDGE/(VOCALS)

BEVERLY ENTERPRISES GENERAL

CARTER V. CARTER

STEVE CLARK/

COUNTRY CLUB OF LITTLE ROCK

DEMOCRATIC PARTY/ENGLISH

RLL023F8.WP5
020193

LOUISE EIFLING

F

FOIA # none (URTS 16305) DocId: 70105098 Page 113

BOX 2

EL DORADO NEWS TIMES

JAMES W. DANIEL V. EMMERSON

ROBERT EUBANKS

ROBERT AND ALICE EUBANKS

ALICE AND ROBERT EUBANKS, JR.

LITA KATHLEEN ENGLAND

PHIL ELKINS

ENSCO

FSLIC/GUARANTY

AUDITORS RESPONSE

AUDIT AND REPORT

ACCOUNT NUMBERS

RL102BF8.WPS
020193

FOIA # none (URTS 16305) DocId: 70105098 Page 114

105-00009144

RIC-093530

ASSIGNMENTS

BANK BOARD RESOLUTIONS

CALENDAR

CONTRACT COUNSEL

SKELTON CORRESPONDENCE

LIST OF FILES

LOAN SCHEDULES

LOCAL COUNSEL SUB-CONTRACTORS

MEMORANDUM

PENDING ISSUE - OGC

APPLICABLE STATUTES AND REGULATIONS

FSLIC/O&D

VF'S NOTES

MISCELLANEOUS

TOLLING AGREEMENT

THIRD PARTY CLAIMS

DIRECTORS AND OFFICERS RESEARCH

CORRESPONDENCE

INVESTIGATION BARRETT TRANSFERS

INVESTIGATION CHRONOLOGY

INVESTIGATION DOCUMENTS

INVESTIGATIVE REPORT

COMMERCIAL LOAN PORTFOLIO

INVESTIGATION

FSLIC/GUARANTY

STATEMENTS ACCRUED

GENERAL CORRESPONDENCE VOL. 4

SUBCONTRACT COUNSEL CERTIFICATE

SOLICITATION LETTER FORMS

BILLING SCHEDULE

SUMMARY

WORK FILE 1990

PENDING PAYMENTS

105-00009146

RLL028F8.WP5
020193

RIC-093532

BOX 3

FSLIC/GUARANTY

CONTRACTS

PROPOSAL

EXTRA WORK COPIES

INFORMATION

INTERIM REPRESENTATION CERTIFICATE

TRANSFER OF FSLIC TO FDIC

MISCELLANEOUS

CONTRACTS

FIRST VARIABLE LIFE INS. CO.

LISA KAY FOSTER

LISA SMITH FOSTER

VINCENT AND ELIZABETH FOSTER/TRESPASS

BACKGROUND INFORMATION

CORRESPONDENCE

DRAFTS

RESEARCH

CORRESPONDENCE

PHOTOGRAPHS

PLEADINGS

SURVEY

105-00009147

RL102BF8.WPS
020193

RIC-093533

A. JOHN GRILLO II/BASHAM

RUBY GRAYSON

ESTATE OF BARRET HAMILTON

DR. TOM HEJNA

HOT SPRINGS BOARD OF REALTORS

M

HUSSMAN,

ESTATE OF WALTER E. HUSSMAN

GALE HUSSMAN ARNOLD V. WALTER E. HUSSMAN, JR., ET AL.

KSSN

LEISURE ARTS/

LEISURE ARTS/VERONIS

105-00009148

RL102BF8.WP5
020193

FOIA # none (URTS 16305) DocId: 70105098 Page 118

LINCOLN HEIRS/

FRANK LYON CO.

FRANK LYON CO./AGRI PRODUCTS CO. V. SEALAND CORP.

FRANK LYON CO.

FRANK LYON CO.

FRANK LYON, JR.,

FRANK LYON/

FRANK LYON REAL ESTATE

105-00009149

RLL023F8.WPS
020193

BOX 4

METROPOLITAN LIFE INSURANCE CO.

MISCELLANEOUS

NATIONAL OLD LINE INSURANCE

NFC MARKETING, INC.

QUICK SERVE VENDING CO., INC.

RPM/

RHEEM MFG. CO.

RHEEM/

RHEEM/SAND SPRINGS SITE

105-00009150

RL102BF8.WP5
020193

RIC-093536

ROCKEFELLER V. ROCKEFELLER

SINGER SEWING CO. FINANCING

SOUTHWEST CAFES, INC

STEPHENS INC.

STEPHENS INC.

SUBARU SOUTH, INC./SUBARU OF AMERICA, INC.

DAN SUDA,

105-00009151

RL102BF8.WP5
020193

RIC 093537

BOX 5

TEXARKANA NEWSPAPERS, INC.

TEXARKANA GAZETTE/

TEXAS OPEN MEETING ACT TEXAS OPEN RECORDS ACT

TYSON FOODS, INC.

TYSON FOODS, INC.

TYSON FOODS, INC.

TYSON

MARGIE VICKERS

WALTHOUR-FLAKE CO., INC.

WALTHOUR-FLAKE CO., INC.

ROXANNE WILSON MEMORIAL SCHOLARSHIP FUND

WORTHEN BANK & TRUST CO.

WORTHEN BANK & TRUST CO. -

WORTHEN/

WORTHEN-

WRIGHT, LINDSEY AND JENNINGS,

105-00009152

RL102BF8.WP5
020193

MARLIN ROBERTSON

105-00009153

RL102BF8.WP5
020193

BOX 6

ATLA - COMMERCIAL LITIGATION DIVISION

AMERICAN BAR ASSOC. - COMMITTEE ON THE LIAISON WITH THE JUDICIARY

AMERICAN BAR ASSOC. - FORUM ON FRANCHISING

AR ASSOC. OF DEFENSE COUNSEL - MISC.

AR ASSOC. OF DEFENSE COUNSEL - LEGISLATIVE COMMITTEE

ABA - CORRESPONDENCE

CLE SEMINAR - 06/23/92

ABA - CHARLES CARPENTER MEMORIAL AWARD

ABA - EXECUTIVE COUNCIL, 1992-1993

ABA - EXECUTIVE COUNCIL, MEETING 10/24/92

ABA - EXECUTIVE COUNCIL, MEETING 08/22/92

ABA - EXECUTIVE COUNCIL, MEETING 05/02/92

ABA - EXECUTIVE COUNCIL, MEETING 01/16/93

ABA - HOUSE OF DELEGATES

ABA - HOUSE OF DELEGATES, MEETING 11/07/92

ABA - HOUSE OF DELEGATES, MEETING 10/02/92

ABA - HOUSE OF DELEGATES, MEETING 01/18/92

ABA - HOUSE OF DELEGATES, MEETING 10/12/91

ABA - HOUSE OF DELEGATES, SPECIAL MEETING 11/03/90

ABA - HOUSE OF DELEGATES, MEETING 06/13/92

ABA - HOUSE OF DELEGATES, MEETING 01/16/93

ABA - JUDICIAL ARTICLE TASK FORCE

ABA - JUDICIAL COUNCIL LIAISON COMMITTEE

ABA - JUDICIAL COUNCIL LIAISON COMMITTEE, 1991-92

ABA - JEFFERSON CO. BAR SPEECH MATERIALS

105-00009154

FOIA # none (URTS 16305) DocId: 70105098 Page 124

RIC-093540

ABA - J&LR, CONFERENCE CALL

ABA - J&LR, CORRESPONDENCE VO. I-VII

105-00009155

RLL02C27.WP5
020193

FOIA # none (URTS 16305) DocId: 70105098 Page 125

RIC-093541

BOX 7

J&LR - UNIFORM CUSTODIAL TRUST ACT

J&LR - UNIFORM STATUTORY RULE AGAINST PERPETUITIES ACT

J&LR - UNIFORM STATUS OF CHILDREN OF ASSISTED CONCEPTION ACT

J&LR - UNIFORM RESIDENTIAL LANDLORD TENANT ACT

J&LR - UNIFORM HEALTH-CARE INFO ACT

J&LR - REPEAL OF THE BULK SALES LAW

J&LR - UNIFORM LTD. PARTNERSHIP ACT W/1985 AMENDMENTS

J&LR - PROPERTY EXEMPTIONS BILL

J&LR - WORKERS' COMPENSATION LAW BILL

J&LR - AMENDMENT TO SEC 28-65-311

J&LR - AMENDMENT TO DISCLAIMER LAW

J&LR - INTERPRETER PRIVILEGE ACT

J&LR - ONE YEAR SEPARATION DIVORCE BILL

J&LR - WRITS OF EXECUTION (ITEM 14)

J&LR - JUDICIAL ARTICLE

J&LR - UCC ARTICLE 4(A)

J&LR - REPORT OF UNIFORM LAW COMMITTEE

ABA - LEGISLATIVE POLICY COMMITTEE, VOL. I-III

ABA - LEGISLATION COMMITTEE

ABA - LEGISLATIVE PROCEDURE REVIEW COMMITTEE

ABA - LEGISLATIVE OVERSIGHT COMMITTEE

ABA - LEGISLATIVE LOBBYIST SEARCH

ABA - LEGISLATION COMMITTEE, 1992 CORRESPONDENCE

105-00009156

RLLQ2C27.WP5
020193

FOIA # none (URTS 16305) DocId: 70105098 Page 126

RIC-093542

ABA - MISCELLANEOUS

ABA - MOOT COURT ANNUAL MANAGEMENT

ABA - NITA

ABA - PRESIDENT-ELECT

AR BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE

ABA - TASK FORCE ON COMMITTEES

ABA - TAX ISSUES

ABA - UNIFORM LAWS COMMITTEE

IOLTA - '92 IOLTA GRANTS APPLICATIONS

IOLTA - MISCELLANEOUS

IOLTA - CORRESPONDENCE, VOL. I

BOX 8

IOLTA - MINUTES

IOLTA - RETREAT, 09/12-13/92

IOLTA - SEARCH COMMITTEE

IOLTA - 1991 GRANTS APPLICATIONS

IOLTA - TRUST ACCOUNT REVENUE SUMMARY

PULASKI CTY BAR ASSOCIATION - 1992 AWARD NOMINEES

PULASKI CTY BAR ASSOCIATION - MISC. CORRESPONDENCE

PULASKI CTY BAR ASSOCIATION - LONG RANGE PLANNING

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1991

ARKANSAS BAR FOUNDATION - BOARD OF DIRECTORS

ARKANSAS BAR FOUNDATION - MISC. CORRESPONDENCE

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1989-1990

ARKANSAS BAR FOUNDATION - SPECIAL PROJECTS COMMITTEE, 1988-1989

ARKANSAS BAR FOUNDATION - TRUST COMMITTEE

NOTEBOOK - "A GUIDE FOR COMMITTEE & SECTION CHAIRS"

J&LR - NOTEBOOK, 1990-1991

LONG DISTANCE PHONE SLIPS

NOTEBOOK - LEGAL SERVICES OF ARKANSAS

NOTEBOOK - 8TH CIRCUIT RICO DECISIONS

NOTEBOOK - GENERAL AMERICAN/COSGROVE

NOTEBOOK - AMI/MARSHALL

NOTEBOOK - MARLOW-MENOR

105-00009158

BOX 9

RLF - THE AMERICAN LAWYER

RLF - ANNOUNCEMENTS, PRESS RELEASES & PICTURES

RLF - ASSOCIATION COMPENSATION

RLF - CAROL ARNOLD'S CASES TO BE ASSIGNED

RLF - ARBITRATION GENERAL

RLF - ALAS CLAIMS MANAGEMENT SURVEY

RLF - CERTIFICATION OF SPECIALISTS IN CIVIL TRIAL LAW & CRIMINAL LAW

RLF - COMMUNICATIONS PROGRAM

RLF - MARKETING COMMITTEE/CRANFORD JOHNSON

RLF - COMPENSATION SYSTEM

RLF - 1989 COMPENSATION

RLF - ATTORNEY BILLING

RLF - COST WRITE-OFF POLICY

RLF - DIRECTORY OF LITIGATIONS ATTYS.

RLF - FEE CREDITS

RLF - INTEROFFICE CORRESPONDENCE

RLF - FIRM HISTORY

RLF - INTERVIEW SCHEDULE

RLF - LEX MUNDI

RLF - LITIGATION SECTION MEMOS

RLF - LITIGATION LABOR SECTION

105-00009159

RLF - MARKETING COMMITTEE/ACTIVITY SURVEY RESULTS

RLF - MARKETING COMMITTEE/ANNOUNCEMENTS

RLF - MARKETING COMMITTEE/ARTS CENTER

RLF - MARKETING COMMITTEE/ARTS ORGANIZATIONS MEMBERSHIPS

RLF - MARKETING COMMITTEE/BROCHURES

RLF - MARKETING COMMITTEE/BUDGET

RLF - MARKETING COMMITTEE/CHRISTMAS CARDS

RLF - MARKETING COMMITTEE/GENERAL

RLF - MARKETING COMMITTEE/MINUTES

RLF - MARKETING COMMITTEE/MARKETING PLAN

RLF - MARKETING COMMITTEE/MISC. ARTICLES

RLF - MARKETING COMMITTEE/MISC. CORRESPONDENCE

RLF - MARKETING COMMITTEE/NEWS LETTERS

RLF - MARKETING COMMITTEE/FIRM OPEN HOUSE

RLF - MARKETING COMMITTEE/OPEN HOUSE

RLF - MARKETING COMMITTEE/TOP 125 CLIENT LIST

RLF - MARKETING

RLF - MARKETING COMMITTEE/"GRIDIRON" '92

RLF - MARTINDALE HUBBELL

RLF - MARS FIRM

RLF - MISCELLANEOUS

RLF - MISC. ARTICLE

105-00009160

FOIA # none (URTS 16305) DocId: 70105098 Page 130

RIC-093546

BOX 10

RLF - NEW CLIENT MASTER FORMS, 1988-1989

RLF - NEW CLIENT MASTER FORMS, 1990-1991

RLF - NEW CLIENT MASTER FORMS

RLF - PARALEGAL

RLF - PRACTICE MANAGEMENT

RLF - PRESS RELEASE

RLF - RECRUITMENT MISCELLANEOUS

STATE CAPITOL LAW FIRM NETWORK - CHICAGO MTG 06/26/89

STATE CAPITOL LAW FIRM GROUP - PROGRAM COMMITTEE

STATE CAPITOL LAW FIRM GROUP - MTG 10/04-06/91

SCLFG - TERM LIMITS

STATE CAPITOL LAW FIRM GROUP - LIST OF MEMBER FIRMS

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1992

STATE CAPITOL LAW FIRM GROUP - MTG DALLAS, 01/26-28/90

STATE CAPITOL LAW FIRM GROUP - MTG 02/01-02/92

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1990

STATE CAPITOL LAW FIRM GROUP - CORRESPONDENCE, 1991

STATE CAPITOL LAW FIRM GROUP - STATE UPDATE REPORTS

MISC. PROFESSIONAL

RLF - WESTLAW

NOTEBOOK - SCLFG/DIRECTORY OF MEMBER FIRMS, '92

NOTEBOOK - SCLFG/GEORGIA MTG, 1991

105-00009161

NOTEBOOK - RHEEM/EPA PHASE I, DRAFT

RLL02C27.WP5
020193

FOIA # none (URTS 16305) DocId: 70105098 Page 131

RIC-093547

REDROPE - RHEEM RESEARCH & DOCUMENTS

REDROPE - GUARANTY LOCAL COUNSEL

MEDIA LAW HANDBOOK (NOTEBOOK IN INDIVIDUAL BOX)

FOIA # none (URTS 16305) DocId: 70105098 Page 132

RIC-093548

BOX 11

MEDIA LAW HANDBOOK (3 NOTEBOOKS IN INDIVIDUAL BOXES)

WANG WORKBOOK

ALLIANCE FS&L ASSOC. - HISTORIES & CURRENT STATUS REPORTS

ATTORNEY FILE LISTS

LORAINE'S WANG MANUAL

VF TIMESHEETS - 08/01/92-09/30/92

VF TIMESHEETS - 05/01/92-07/27/92

VF TIMESHEETS - 03/01/92-04/30/92

VF RESEARCH - FRAUD

VF RESEARCH - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

VF RESEARCH - LEGAL WRITING

VF RESEARCH - LIBEL RESEARCH

VF RESEARCH - AIA DOCUMENTS

VF RESEARCH - AR CORPORATION LAW SYSTEM

VF RESEARCH - ARBITRATION

VF RESEARCH - BUSINESS FRANCHISE GUIDE & JOURNAL

VF RESEARCH - CIVIL PROCEDURES

VF RESEARCH - CONSTRUCTION LITIGATION

VF RESEARCH - DISCOVERY

VF RESEARCH - DEALER TERMINATION

VF RESEARCH - DELAY DAMAGES

VF RESEARCH - DISSENTING STOCKHOLDER

105-00009163

VF RESEARCH - DIVORCE

FOIA # none (URTS 16305) DocId: 70105098 Page 133

RIC-093549

VF RESEARCH - EMPLOYMENT ISSUES

VF RESEARCH - ENVIRONMENTAL ISSUES

VF RESEARCH - FAILURE TO REVEAL PRIOR LITIGATION HISTORY

VF RESEARCH - FRANCHISE LAW

VF RESEARCH - FRANCHISE LEGAL DIGEST

VF RESEARCH - FRANCHISE TERMINATION

VF RESEARCH - INDEMNITY

VF RESEARCH - JURY INSTRUCTIONS

VF RESEARCH - LAWYER'S RESPONSES TO AUDITORS

VF RESEARCH - LIMITATIONS

VF RESEARCH - PUNITIVE DAMAGES

VF RESEARCH - REAL ESTATE

VF RESEARCH - REMOVAL

VF RESEARCH - RICO

VF RESEARCH - RULE 11

VF RESEARCH - SECURITIES LAW

VF RESEARCH - SENIOR CITIZEN HANDBOOK

VF RESEARCH - SERVICE

VF RESEARCH - SETTLEMENT

VF RESEARCH - STOCKHOLDERS SUITS

VF RESEARCH - USURY

VF RESEARCH - WRONGFUL TERMINATIONS

105-00009164

FOIA # none (URTS 16305) DocId: 70105098 Page 134

RIC-093550

VWF PERSONAL ACTIVE FILES

BOX 1

* Foster Children Trusts
* Laura Foster
* Brugh Foster
* Vincent Foster, III
* Grandchildren's Trust

FOIA # none (URTS 16305) DocId: 70105098 Page 135 RIC-093551

BOX 2

* 1991 Business Expenses
* 1992 Business Expenses
* 1992 Income Tax
* 1992 Medical Expenses
* 1993 Income Tax
* 1993 Business Expenses
* 1993 Bills
* 1992 Bills
* Investments/Stephens 1987
* Personal Loans
* Financial Statements
* Personal Investments - Misc.
* Profit Sharing
* Insurance Policy
* Life Insurance

105-00009166

FOIA # none (URTS 16305) DocId: 70105098 Page 136

RIC-093552

BOX 3

* IRA
* Royalty Interests
* 5414 Stonewall
* 1991 Income Tax Return
* Charles Schwab Investments
* Louisiana Investors Ltd. Partnership
* Atchley Family
* Sharon Foster Bowman
* Alice Mae Foster - Estate Planning
* Investments - N.W. National Gas Co.

105-00009167

FOIA # none (URTS 16305) DocId: 70105098 Page 137

RIC-093553

BOX 4

* Estate of Vincent W. Foster, Sr.

105-00009168

FOIA # none (URTS 16305) DocId: 70105098 Page 138

RIC-093554

BOX 5

* Estate of Vincent W. Foster, Sr.

105-00009169

FOIA # none (URTS 16305) DocId: 70105098 Page 139

RIC-093555

BOX 6

* American Board of Trial Advocates
* American College of Trial Lawyers
* American Inns of Court
* Association of Trial Lawyers of America
* Continuing Legal Education
* Correspondence - Miscellaneous
* Diners Club

105-00009170

FOIA # none (URTS 16305) DocId: 70105098 Page 140

RIC-093556

BOX 7

* Highway 4 Property
* Highway 7 Property
* Insurance - Blue Cross/Blue Shield
* Judges
* Medical
* Miscellaneous
* Miscellany
* New Client Credit
* Newspaper Articles
* Private Banking
* Real Estate
* Resume

105-00009171

FOIA # none (URTS 16305) DocId: 70105098 Page 141

RTC-093557

BOX 8

* Services
* John Sloan, Jr.
* Social Security
* 5414 Stonewall
* Budget
* Telephone Bills
* Profitable Investing
* Personal - General
* Associates
* RLF 1991 Y/E Matters
* 1990 Year End
* Firm Business - Bonuses & Salaries
* Firm Meetings & Business - FY 1987

105-00009172

FOIA # none (URTS 16305) DocId: 70105098 Page 142

RIC-093558

VWF PERSONAL INACTIVE FILES

BOX 9

* Awards - Unframed
* Bills
* Booster Addition - Hope
* Business Expenses
* Compensation
* Desk Calendar - '90
* Democratic National Committee
* First Federal S&L
* FYE 01/31/92
* VF, Sr. - General
* Investments - Miscellaneous
* Investments - Phillips
* Investments - Rose & Co.
* Investments - Third Street Corp.
* Investments - Stephens Inc.
* IRS Representative Number

105-00009173

FOIA # none (URTS 16305) DocId: 70105098 Page 143

RIC-093559

BOX 10

* Midlife Investors
* James H. McKenzie
* National Board of Trial Advocacy
* Onebank
* Personal - General
* Rose Bldg. Ltd. Partnership
* INCOME TAX BACKUP
* WESTIN PREMIER

BOX 10 LC'S FILES

* 1992 FOSTER FAMILY MEDICAL FILES
* 1992 TCU PARENTS WEEKEND
* 1993 VANDERBILT PARENTS WEEKEND
* 1993 SEC TOURNAMENT
* MICHIGAN INFORMATION
* TRAVEL - ABA PREFERRED RATES
* ABA PRESIDENCY CAMPAIGN INFORMATION
* WIRE TRANSFER CODES

105-00009174

FOIA # none (URTS 16305) DocId: 70105098 Page 144

RIC-093560

BOX 11

* Arkansas Repertory Theatre
* Estate of Ric Braden
* Democratic National Committee
* Sheffield Nelson
* Estate of Princess W. Wyatt

105-00009175

FOIA # none (URTS 16305) DocId: 70105098 Page 145

RIC-093561

BOX 12 (RIGHT HAND DESK DRAWER)

* UNUSED AIRLINE TICKET FROM MUSKOGEEN TO LITTLE ROCK
* TRAVEL HONORS PROGRAM
* LISA FOSTER FREQUENT FLYER CARDS
* TRAVEL
* MID-WEST FREQUENT FLYER
* AMERICAN EXPRESS MEMBERSHIP MILES
* DINERS CLUB
* CONTINENTAL FREQUENT FLYER
* AMERICAN FREQUENT FLYER
* DELTA FREQUENT FLYER
* HILTON HOTEL HONORS PROGRAM
* MARRIOTT AWARDS
* MID-WEST EXPRESS FREQUENT FLYER
* NORTHWEST AIRLINES FREQUENT FLYER
* SOUTHWEST AIRLINES FREQUENT FLYER
* TWA FREQUENT FLYER
* UNITED MILEAGE PLUS
* USAIR FREQUENT FLYER
* WESTIN PREMIER
* BILLING FORMAT
* SUMMER ASSOCIATE PROGRAM
* STRUCTURED SETTLEMENTS
* RICO RESEARCH
* LEXIS
* RESEARCH EVIDENCE

105-00009176

FOIA # none (URTS 16305) DocId: 70105098 Page 146

RIC-093562

* FIDELITY BOND RESEARCH
* STRICT LIABILITY RESEARCH
* CIVIL PROCEDURE RESEARCH
* BUSINESS TORTS RESEARCH
* ANTI-TRUST RESEARCH

FOIA # none (URTS 16305) DocId: 70105098 Page 147
RIC-093563

BOX 13

* BRIEFS

105-00009178

FOIA # none (URTS 16305) DocId: 70105098 Page 148

RIC-093564

BOX 14

* CREDENZA - BOTTOM RIGHT CABINET

105-00009179

FOIA # none (URTS 16305) DocId: 70105098 Page 149

RIC-093565

BOX 15

* CREDENZA - BOTTOM RIGHT CABINET

105-00009180

FOIA # none (URTS 16305) DocId: 70105098 Page 150 RIC-093566

BOX 16

* CREDENZA - TOP RIGHT AND MIDDLE DRAWER

105-00009181

FOIA # none (URTS 16305) DocId: 70105098 Page 151

RIC-093567

BOX 17

* CREDENZA - SNACK DRAWER

105-00009182

FOIA # none (URTS 16305) DocId: 70105098 Page 152 RIC-093568

BOX 18

* TOP OF CREDENZA

105-00009183

FOIA # none (URTS 16305) DocId: 70105098 Page 153 RIC-093569

BOXES 19-22 - TOP HALL CABINETS

* LAW REVIEWS

LAW JOURNALS

ARKANSAS STATUTES

MISC., NOTEBOOKS

105-00009184

FOIA # none (URTS 16305) DocId: 70105098 Page 154 RIC-093570

BOX 23

* UNDER CREDENZA

FOIA # none (URTS 16305) DocId: 70105098 Page 155

RIC-093571

VINCENT FOSTER CLIENT LIST

Rector Phillip Morse
Arthur
Camden News
Coca-Cola Bottling Co.
FirstCom
GATX
Legal Services of Arkansas
Landfill
Frank Lyon
Harding Taylor & Co.
General American Life Ins. Co.
Cryogenic Association Division of Beatrice Foods
Brown & Deskin
Beverly Enterprises
Brasuel
Beverly Double Springs
Arbitration: Mid-South vs. Township Builders
Arkansas Realtors Assoc.
Atchley & Simonton
Stephanie Atchley
Vida Baker
FABCO
Phil Elkins
Mass Merchandisers
Bankers Trust
Janelle Arnold
Arkansas Poultry Federation
B.R. Leftwich
David Banks
Metropolitan Life Ins.
Heinrich
Charles Hicks
Haynes Construction Co.
First Comm. Construction
Stephens, Inc.
Robert Tindall
Jeremiah Sayre (VOCALS)
WEHCO Media, Inc.
James R. Williamson
Westbrook Corp.
Marigayle Realty Co.
Menyhart
Morris
Pillsbury
John Powell
Public Service Commission
Cliff Jackson
Arkansas Community Organizations
Ratepayers Fight Back
Terry Case

105-00054179

RIC-093572

Arkansas Log Homes
Abbott Laboratories
Arkansas Realty Co.
Bank Realty Co.
First Communications
State of Arkansas
NFC Marketing, Inc.
Mountaire
Louise Eifling
Mid-South Constructors
La Quinta Motor Inns
Jacuzzi
Psychiatric Hospital of America
Moore
Hogan
Arlene Reed
Frank J. Rooney
Nick Rule
Sigma Delta Chi
SOS - Toshiba
Bankers & Shippers Ins. Co.
Marketing Management
Foremost-McKesson, Inc.
North American Life Insurance
Ernest Paxton
WEHCO
Terminix International
Shirley Talley
Francis Morgan (VOCALS)
Gordon Croswell
American Guaranty Life Ins. Co.
American National Ins. Co.
Eula Anderson
ARC
Transportation Properties
Arkansas Gazette
Arnolds, Inc.
Thweatt Constr. Inc.
Topp & Wells
Twin City Motors, Inc.
Union Life
VALMAC
Wayne Daniel Truck, Inc.
Hugh Wells
W.H. Wells, Jr.
Western Auto
Westin Hotels
Victor Zanovitch
Filmways Productions
Filmways Pictures, Inc.
Dr. Tom Hejna
Diaz Refinery, Inc.

105-00054180

FOIA # none (URTS 16305) DocId: 70105098 Page 157

RIC-093573

Mrs. John Buxton
R.W. Butler
Texarkana Gazette
Hubbell v. Beaty
Emena Igbonaguan
D.B. Hill Contractors
RA-RPM
Mrs. John Hampton
Hamlin
Moro, Inc.
Hansen
Pulaski County Bar
Arkansas Bar Foundation
NFC
Quapaw Towers Property Owners Assoc.
Ketcher & Co.
Clinton
Western Union
Wheeling-Pittsburg Steel Co.
Shakey's
Texarkana Newspaper
Combustion Engineering
Marcello Branch
C&D Oil
Crown Oil Co.
Darragh
Grassy Lake Farm
Beverly A. Waschka
First Federal Savings & Loan
First National Bank of Harrison
BEI
Equitable
Worthen Bank & Trust
Dr. Doyne Dodd, Jr.
Jim Cogdell
Dent Doolittle
Fred Gregg
Curtis Bradbury
Ward & Associates
John K. Strange
Sue Wilkerson
Vincent Foster, Sr.
McGraw
Burroughs
Hipps Plus, Inc.
Central Arkansas Multiple Listing Service
PLANCO
Van Wyck
Task Force on Marijuana Laws
Beatrice Foods
Washburn Estate
Alex H. Washburn

105-00054181

FOIA # none (URTS 16305) DocId: 70105098 Page 158

RIC-093574

Mid-Continent Systems, Inc.
First Variable Life Insurance Co.
Gale Hussman Arnold
Independent Air Conditioning
Independent Air Round River Project
Cecil Jones Agency, Inc.
McElroy
AP&L
New Orleans Public Service, Inc.
Louisiana Power & Light Co.
Mark George
Mississippi Power & Light Co.
Linda Chisenhall
Ennia
George O. Jackson
Bank of Kingston
New York Life Ins. Co.
Criterion
Irma Lincoln
GT Manufacturing, Inc.
Atlantic Oil
Bruce Anderson
Cajuns
Triodyne, Inc.
Kemper
Will Darrah & Associates
BEI
Bertha Kinkead
George Matthews
American Indemnity
Nylus Dawson
Gray's Butane Wholesale, Inc.
AMI
Bill Massey
Mayes, Sudderth & Etheredge, Inc.
Amoco
Pickens Estate
Gordon Beasley
Atchley Construction
AmSouth
ENSCO
Paula Dempsey
Boston Mutual Life Insurance Co.
FirstCom Corp.
General Water Works
Forum Insurance Company
Paul Jackson Pickens
Rose Pickens
Rheem Manufacturing Co.
Southern Electric International, Inc.
Barnes, Quinn, Flake & Anderson
Brewer

105-00054182

FOIA # none (URTS 16305) DocId: 70105098 Page 159

Robert C. Werdenkopt
Todd Wells
Clark County Bank
Alcoa
City of Hope
Dobbs
Donrey
Lita Kathleen Young England
FABCO
First National Bank of Mena
First National Bank of Stuttgart
W.F. Fletcher
Vincent W. Foster
Frank J. Rooney
H.G. Gantt
Stanley M. Gates
General Motors Corp.
Mamie T. Hall
Hayes Wholesale & Construction Co.
Hitachi Sales Corp.
William Langston
Law Professors
Elmore Lee
Marzel Lee
Legal Aid Bureau
Legislation
Leisure Lodges, Inc.
Little Rock Planning Commission
Loew's Glidewell
Lorillard
Lumbermens Mutual Casualty Co.
Bill Lusk
Desha McEntire
McLarty Leasing & Transportation
Heidi McMurran
Merrill Lynch
Mid-Continent, Inc.
J.C. Mills
Minute Man
Modern American Mortgage Corp.
F.B. Moore
Hazel P. Morgan
Morgan Portable Building Corp.
Sharon Morris
Jo Morse
Richard Mortan
Charles Mott
Myers
National Canners Assocs.
National Rejecters
New England Mutual Life
Northwestern National Life Ins. Co.

105-00054183

FOIA # none (URTS 16305) DocId: 70105098 Page 160

RIC-093576

Margaret O'Connell
Ogden & Associates, Inc.
Palmer, Fowler & Associates
Pan American
Ben Fred Perkins
Joe Matthew Parkhill
Pennington Seed
Pat Salmon & Sons
People Protective Corp.
David Peterson
Philander Smith College
Elizabeth England Pickens
Pine Garden Apartments
Pioneer Foods
Pizza Hut
Pool Manufacturing
Prine Farms, Inc.
Powell & Satterfield
Progressive Farmer Co.
Frank Ray
Kimberly L. Reeves
Republic National Bank
Jackson Stephens
Harolyn Roberts
James C. Roberts
Responsive Environments Corp.
J.A. Riley
Henry Rodgers
Jon Rogers
Elmer M. Rogoski
Royaliers Club, Inc.
Don G. Salmon
St. Paul
A.M. Screeton
Seaboard Underwriters, Inc.
Burnice Sellers
Arthur Serxner
Moshen Shahegh
Bob Shepard
Eugene Slater
Donald Smith
Elijah Smith
Mose Smith
Whetstone Smith
Southern Company, Inc.
Southern Compress Pine Bluff
Southern LP Gas Co.
Steel Canning Co.
Eleanor G. Steward
Sam Stortz
Ester Strozier
Herman Strozier

105-00054184

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RIC-093577

Suburban Sewer Improvement Dist. 234
Lewis R. Sutton
Robert Sutton
Sweetwater Carpet Corp.
Symphony Designer House
Taylor, Johnson
Texas Eastern
Julia B. Thomas
Martha Thompson
Robert Tindall
Tocom
Horace Tomlinson
The Trane Co.
Twin City Bank
UMC Industries
UM&M Credit Corp.
Universal Nolin
Valley Forge Life Ins. Co.
Valmac
Martha Louise Waddle
Arthur Walker
Beverly Walker
Judy Walker
W.E. Walker Stores, Inc
Leon & Estoria Wayne
Suzanne Webre
WEHCO/CATV
Western Auto Supply
Western Union
Wheeling Pittsburg Steel Corp.
Lucille White
Alberta Wiley
Williams
Billy Loyd Wilson
Dennis Wilson
Mortimer Wolfe
Pamela Ann Wong
Harrigan Wortsmith
Stanley Young
Citation Manufacturing Co.
Richardson Construction
Rooney
AAA Excavating
Vera Adkins
Ben Allen
American Home Assurance Co. 105-00054185
American Income Life Ins. Co.
American Jawa
American Mfg. Mutual Ins.
American Motorists Ins. Co.
American Transfer & Storage
American Universal Ins. Co.

FOIA # none (URTS 16305) DocId: 70105098 Page 162

RIC-093578

Bobby Anderson
David Anderson
Erma Anderson
Arbitration: Ritter vs. Jarvic Construction Co.
Arkansas Advisory Council
Arkansas Building Co.
Arkansas Parts Warehouse
Arkansas Pipe, Inc.
Asbury Park Development & Communiplex
Edward Back
Phillip Back
Lola Baker
Baldwin Piano
Banner News
Murray Barnett
Sandra Lee Miller Barnett
Beverly Properties, Inc.
Black Oak Arkansas
Boston Mutual Life Ins. Co.
Bowman Lee
Dorothy Braggs
Marcella Branch
Randy Brasher
British Leyland Motors
Shelley Brittnum
Ernest Brooks
Thomas L. Brundage & Assocs.
Loise Bryant
Margaret Burkhead
Benyce Burr
John Buscall
Capital Welding Supply Co.
Raymond Cardwell
Margy Kitley & Vernon Carlsen
Carson & Assocs
Jessie Mae Castlio
Winston Chandler
Chaney
H&R Block
Morris Brown & Sons
Sol Alman Company
Colonial Life & Accident Ins. Co.
Commercial Oil Co.
Connecticut General
Continental Cas. Co.
Couch Truck Leasing
Cross
Renee Curton
Genevieve Dickinson Darragh
Lewis L. Dobbs
Donrey Communications Co.
Duncan

105-00054186

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RIC-093579

Eastman Kodak Co.
Floyd Ellis
James Ellis
Employers Insurance
Alphonse Enderlin
Lita Kathleen England
Evans Laboratories
Pat Fagan
Firemen's Ins. Co. of Newark
Firestone
William M. Foster
Robert & Mable Fountain
Wilbourn Fountain
General Motors Corp./Balch Oldsmobile Co.
General Tire
Clyde Glasscock
Gordon's Jewelry
Griffin/Nive
Odell Grooms
Vernon Hagen
Leroy Harris
Hugh Holloway
Terry Horton
A.F. House
House of Delegates
Willis Hubener
Walter Hudslow
Walter Hussman
Independent Air
Mark & Linda Jordan
Myrtis Jones
Kemper Ins.
Kenworth Truck Co
Kinkead
Levi Strauss
George Mathews
Art Maus
Roger Mears
Metropolitan
Joslyn Manufacturing Co.
Kathy Lynch
Miami Oil Producers, Inc.
Rose Law Firm
First Variable Life Ins. Co.
Fullerton Trust
Jewell Engineering
Nancy Delamar
Delmonte Corp.
Eugene Desmuke
Patricia Ann Desmuke
Scheduled Skyways
Tyson Foods, Inc.

105-00054187

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RIC-093580

Marlin Robertson
Willard E. Robertson Corp.
NLC Rehabilitation
National Food Processors Assoc.
Arkansas Bar Assoc.
Aronov Realty
Little Rock Airport Commission
Atcheley/Cantrell Road
Attorney Diary Report
Brantley Campaign
Beverly Paul Brewer
Budget Rent-a-Car of Arkansas
Central Arkansas Legal Services
Datamatic Services, Inc.
Lephiew Dennington
Robyn Dickey
Alice Lincoln Eubanks
Fairfield Communities, Inc.
Kenneth Graves
KSSN Broadcasting, Inc.
Lephiew Gin & Seed Companies
Lincoln Sisters
McArthur
McCuen
Mountaire of Delmarva, Inc.
National Trial Competition
Pace Industries
John Plegge
M.B. Purvis
Bennie F. Ryburn
Susan Sherman
Anne Sims
Russell Yarbrough
Texas American Bank
Eugene Broome
Brooks Jackson
Jurisprudence and Law Reform Comm.
City of Benton Housing Authority
Arkansas Best Corporation
Amfac Electric
Ellen Brantley
Freedom Financial Corp.
Intermedics
Fizzell & Mag Stinson
VSL Corp. Dumas Motor Co.
Gemini Partners
Razorback Acquisition Corp.
Donaldson, Lufkin & Jenrett
Elizabeth B. Foster
Anthony Wills
ACI, Inc.
Aetna Insurance

105-00054188

FOIA # none (URTS 16305) DocId: 70105098 Page 165

RIC-093581

Raymond Booles
Sidney M. Brooks
Metrocentre Street Project
Moro, Inc.
Supreme Court Special Justice
National Old Line Insurance Co.
First American Savings & Loan
Ellicott Machine Corp.
First American Savings & Loan
FSLIC/Guaranty Savings & Loan
Benny Clemmons
Coastal Contract Carrier Corp.
First National Bank of Oklahoma City
Rocky Ford Moving Vans
Harvest Foods, Inc.
Faysound
Margaret Moore (VOCALS)
Dale Bumpers Fundraiser
E.V. Allen Co., Inc.
Lowell Merchant
Kendall Telephone Contracting
Keck
FSC Securities Corp.
AXIOM Corp.
H.V. Allen Company
Allied Marine Company
Acxiom
Browning Ferris, Inc.
Columbia Insurance Group
Computer Science Corp.
Patty Dougherty
Dow Chemical Co.
El Ark Industries, Inc.
El Dorado News Times
Mrs. Paul Finkbiner, Jr.
First South Production Credit
Floral Accounting Systems, Inc.
International Paper
ITT Insurance Corp.
Marbella-Denton
Pennzoil Corp.
Pioneer
Arkansas Repertory Theatre
American Empire Surplus Ins. Co.
American Electronics Products, Inc.
ALH
Design Professional Self-Insurance Pool 105-00054189
Curtis Dann
R.P. Carter
County Club of Little Rock
Command Control, Inc.
Larry Baity

FOIA # none (URTS 16305) DocId: 70105098 Page 166

RIC-093582

BASS PLC
Bombardier Corp.
Hortense Back
Keller Industries, Inc.
MNTECS Corp.
Dr. Alice Laule
Iron Oak Supply
Homecorp.
J.H. Hamlen
John Hampton
Brenda Foster (VOCALS)
Terry L. Flora
Fisco
Petroleane Gas Service
Ozark Egg Corp.
Pinney
SICO
State Claims Commission
Ruby Sturgis
Thomason
Charlene Settles (VOCALS)
Van Bebber
"Buddy" Williamson
Willkie, Farr & Gallagher
Weingarter Realty, Inc.
State Capitol Law Firm Network
Hot Springs Sentinel Record
WLJ
Peat, Marwick, Mitchell
Monzingo
Trammell Crow
Stonewall Insurance
Standard Motor
Soap Opera, Inc.
Harps Food Store
SEI
Dennis Seagraves
Russell
Rollings Protective Services
Howe
Home Federal Saving & Loan of Centralia
Heifer Project International
Billy Wayne Henry
Lillian Buchman
Great Lakes
Gemini Partners
First Tennessee Bank
First Nationwide
Luxor
Gatz
IMI
Brewer

105-00054190

FOIA # none (URTS 16305) DocId: 70105098 Page 167

RIC-093583

Arnor
Video Palace
Viskase
Waverly
Tarvan
Unidynamics
United Insurance
Valley Federal
Ruger Sturm
Central Texas Iron Works, Inc.
Renaissance Properties
Billy Robinson
Raymond Gooles
Freedom Financial Corp.
Stinson, May & Fizzell
Clift & Dorothy Lane
Hurtzel Construction Co.
Arthur Murray International
FULIC
Pleasant Valley Place Apts.
Lassiter
Ben Johnson
Robert Tindle
Jeremiah Sayre (Vocals)
John Poniell
Dirstrom
QATX
Liz Burks
Chicopee
Cliff Peck
Crow
Culpepper
Hemco
Haygood
Interfirst Bank
Kaiser Steel Corp.
Kimsey
John Land
LRAP
McDowell Manufacturing Co.
Optimum Resource Utilization
Puritan Bennett
Prudential Insurance Co.
Sheila Reinold
William E. Taggert
Travelers Insurance
P.A.M. Transportation Services, Inc.
Cannon Express, Inc.
Freddie Lee Martin
Bill Painton
Brookwood Business Center
Leed Petroleum

105-00054191

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RIC-093584

Powers
Hutzel Construction Co.
Prestige Fashions, Inc.
Brown Foreman
Claremont
Morgan Olmstead, Kennedy & Gardner
Faysound Ltd.
J.W. Baldredge (Vocals)
Steve Clark
James W. Daniel
Robert Eubanks
Lisa Kay Foster
Lisa Smith Foster
A. John Grillo II
Ruby Grayson
Barret Hamilton
Quick Serve Vending Co.
Rockefeller
Singer Sewing Co.
Southwest Cafes, Inc.
Subaru South, Inc.
Dan Suda
Margie Vickers
Walthour-Flake Co., Inc.
Roxanne Wilson Memorial Scholarship Fund
Wright, Lindsey & Jennings
ATLA
Iolta

105-00054192

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RIC-093585

ROSE LAW FIRM
A PROFESSIONAL ASSOCIATION
ATTORNEYS
120 EAST FOURTH STREET
LITTLE ROCK, ARKANSAS 72201-2893
TELEPHONE (501) 375-9131
FACSIMILE (501) 375-1309
U. M. ROSE
1834-1913

PHILLIP CARROLL
W. DANE CLAY
GEORGE E. CAMPBELL
HERBERT C. RULE III
W. WILSON JONES
ALLEN W. BIRD II
WILLIAM E. BISHOP
C. BRANTLY BUCK
TIM BOE
M. JANE DICKEY
KENNETH R. SHEMIN
RONALD M. CLARK
GARLAND J. GARRETT
JERRY C. JONES
THOMAS P. THRASH
CHARLES W. BAKER
DAVID L. WILLIAMS
JACKSON FARROW JR.
LES R. BALEDGE
JIM HUNTER BIRCH
KEVIN R. BURNS
RICHARD T. DONOVAN
RICHARD N. MASSEY
GARY N. SPEED
JOHN T. HARDIN
STEPHEN N. JOINER
JAMES M. GARY

JAMES H. DRUFF
GORDON M. WILBOURN
AMY LEE STEWART
DAVID A. SMITH
BRIAN ROSENTHAL
J. SCOTT SCHALLHORN
STEVEN D. DURAND
JEFFREY J. GEARHART
JAMES L. HARRIS
MARK ALAN PEOPLES
CLAY H. DAVIS
FRANKLIN M. FAUST
BRYANT K. CRANFORD
GRANT E. FORTSON
DAVID P. MARTIN
KATHRYN BENNETT PERKINS
RANDALL L. BYNUM
JOHN P. FLETCHER
GOODLOE M. PARTEE
MARTI S. TOENNIES
MICHAEL N. SHANNON
KALA S. ROGERS

J. GASTON WILLIAMSON
JOHN A. DAVIS, III
OF COUNSEL

February 10, 1995

WRITER'S DIRECT DIAL NO.

VIA HAND-DELIVERY

Amy St. Eve
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Ms. St. Eve:

Please find enclosed a list of the clients contained on Vince Foster's closed file list which has been bate stamped RIC-093572 through RIC-093585. Following your review of this list, if you need additional information, please let me know.

Very truly yours,

Ronald M. Clark

RMC:km
Enclosures

105-00054178

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PRIVILEGED & UNFILED
Atty-Client/Wrk Prod

VWF- WORKING FILES - DESK - RIGHT MIDDLE DRAWER

1. ARMSTRONG
2. MICHAEL BEATTY
3. CABINET MEMBERSHIPS
   - Cabinet Secretary
   Walkenhorst
4. CALENDARS
5. CLEARANCE PROCEDURES
   - Clearance Procedures
6. ENERGY, DEP'T OF
7. DEP'T OF JUSTICE
8. ETHICS - ONE YR RECUSAL RULE (Empty)
   - ETHICS - ONE YR RECUSAL RULE
   - ETHICS PLEDGE
   - EXEC ACTION PROCEDURE/GEN. RSRCH.
   - ETHICS SUMMARY
9. EXEC ORDERS/ACTIONS - MISC.
10. EXEC CLERK
    - EXEC CLERK
11. FERC COMM.
12. DEBORAH GORHAM
13. HAITIAN OPTIONS
14. WEBSTER HUBBELL
15. JUDICIAL NOMINATIONS
16. TOP SECRET SECURITY CLEARANCE
17. LEAVE - WHITE HOUSE STAFF
18. MCCLARTY - GENERAL
    MCCLARTY - GENERAL

033-DC-00000013

WAVE #Home (URTSC16305) Docld: 70105098 Page 171

19. ALEXIS HERMAN
20. OFFICE PROCEDURE
    - WHITE HOUSE POLICIES
    - OFFICE PROCEDURE
21. PARDONS.
22. PRESIDENT - COMMERCIAL APPROPRIATION (empty)
23. PRESIDENTIAL DISABILITY (empty)
    - PRES. DISABILITY (empty)
24. PRES. GIFT RESEARCH
    - PRES. GIFT RESEARCH
    - PRES. PAPERS ADVICE/FOIA INCOMING
25. PRESIDENTIAL PERSONNEL - GENERAL
26. READING FILE
27. RUFF
    - RUFF
28. RESUMES
29. RUBIN
30. STAFF - BUDGET
31. STAFF - DETAILEES
32. STAFF - PERSONNEL
33. STAFF SECRETARY
    - STAFF SECRETARY
    - STAFF STRUCTURAL OPERATIONS
34. STANDARDS OF CONDUCT - FICA (empty)
35. PERSONAL FILE LIST
36. TRANSITION/PERSONNEL FORMS (empty)
37. TRANSITION - general personal & confid
    PERSONNEL MISC and CONFIDENTIAL

033-DC-00000014

WWF - Cabinet - upper rt drawer

1 notebook re Sean Hadden

1. Residence security
2. Exec. Residence
   EEO - Sean Hadden
3. Renovation/Oval Office and Exec. Residence

lower rt. drawer

1. Bush file index
2. Stephen Breyer docs (Credwell)
3. AG Candidates notebook
4. Bruce Babbitt

upper left drawer

1. White House materials for new staff
2. State Justice Institute notebook
3. D.C. Superior Court Vacancy Notebook

033-DC-00000015

Computer Cabinet - upper

1. Personal - WJC Financial Disclosure form 27 5/14/93
2. Clinton RG. Financial Disclosure Report 1992
3. WJC Passports
4. Clinton - Manoiun
5. Personal - Clinton Campaign '92 - Correspond
6. Personal - Clinton - Board Confirmation
7. Personal - Clinton papers
8. Personal - Clinton - DOJ
9. Clinton - Health Issue
   - 1 CKES - Personal and Confident
10. Personal - Clinton Ark. Office
11. Clinton Manoiun (Empty)
12. Personal - NEPOTISM - Vol. I
13. Personal - NEPOTISM - Vol. II

033-DC-00000016

FOIA # none (URTS 16305) DocId: 70105098 Page 174

14. Personal - TRANSITION NOTES
15. Personal - Clinton - LEGAL
16. Personal - Transition Vetting Notes
17. AG Candidates
18. Personal - Miscellaneous

Lower right drawer

1. Materials on Heber Springs (w/ letter to President).
2. Washington relocation guide
3. ~~Upper left~~

Upper left

1. Pres. " Appointments
2. "
3. "
4. RENO
5. Hubbell Confirmation

033-DC-00000017

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Body Case –
Med Malpractice Materials

033-DC-00000018

Memorandum **Office of the Independent Counsel**

To : DIC John Bates Date 4/3/96

From : CI Coy Copeland

Subject: UPS Shipping Number
NY 134-658

On 4/3/96, ANTHONY ADKINSON, Manager, Loss Prevention Department, United Parcel Service (UPS), Louisville, Kentucky, telephone 404-828-6938, telephonically advised UPS Shipping Number NY 134-658 is assigned to the National Counsel for Jewish Women, 53 West 23RD Street, Sixth Floor, New York City, NY 10010.

ADKINSON further advised there is no way UPS can look at one of the company's billing labels and determine to whom a particular package was shipped. This label is printed by the shipper to provide UPS with the billing identity of the shipper and to identify this particular package in the shippers records.

ADKINSON explained the third line of this particular label " G ID# HC" was printed by the shipper and only has meaning to the shipper for internal control.

ADKINSON further explained that the National Counsel for Jewish Women is what UPS classifies as a "Manifest Shipper" due to the large volume of packages shipped daily.

A "Manifest Shipper" provides UPS a computer generated manifest each day listing all of the packages shipped on that day. This manifest lists the shippers control number (in this case HC), the first three digits of the addressees zip code and the total weight of the package. This is all of the information that UPS needs to bill the shipper on a weekly basis. The package being shipped will have a complete address for delivery but there is no record of any kind maintained by UPS showing this delivery address.

ADKINSON assumed the shipper would have records to identify the person or company the shipper has designated "HC" plus a complete address.

MEMORANDUM

TO: John Bates
Steve Colloton

FROM: Brett Kavanaugh

RE: Renovation File

DATE: January 21, 1996

Given the discovery of the Rose billing records in the residence in August 1995 by Carolyn Huber, we have new reason to suspect that not all "Clinton personal" documents that were in Vince Foster's office on July 20, 1993, made it to Williams & Connolly on July 27, 1993.

There are two basic issues: (1) were any documents (including Clinton personal documents) removed from Foster's office prior to the Nussbaum search on July 22, 1993; and (2) were any of the Clinton personal documents that were in Foster's office during the search on July 22, 1993, not provided to Williams & Connolly on July 27, 1993.

On the latter issue, we have testimony from Tom Castleton suggesting that the First Lady may have planned to review those documents. One obvious possibility, therefore, is that the First Lady or someone else did review the Foster documents while they were in the residence from July 22, 1993, to July 27, 1993, and removed some of the documents. (That itself would not have been a crime.) Another possibility is that Maggie Williams examined and removed some of the documents in her office or the First Lady's office on July 22, 1993, after she had taken them from Foster's office and before she and Castleton had taken them to the residence.

A relevant mystery that has not really been answered satisfactorily in either the grand jury or the Senate hearings is whether Foster's "renovation" file was "returned" to Bernie Nussbaum and/or Steve Neuwirth after it apparently was taken from Foster's office by Maggie Williams on July 22, 1993. If so, that would seem to prove that someone reviewed the documents again after they had been taken from Foster's office. The testimony on the renovation file issue is confusing and/or incomplete, however. Maggie Williams has no recollection at all about it; Nussbaum is very confused and does not appear to be certain of his answers; and [redacted] appears not to have been pressed on the issue in the grand jury or the Senate. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

The renovation file has become much more interesting to me in recent days for three reasons: (1) Steve C. correctly pointed out some troubling inconsistencies in Nussbaum's Senate testimony on the issue; (2) the discovery of the billing records with Foster's handwriting on them lends new credence to the theory that someone reviewed the Foster documents in the residence in July 1993; and (3) the interview notes provided to me by Sheila Cheston on January 19, 1996,

reveal a fair degree of interest in that file on the part of the Counsel's office. Indeed, Sheila volunteered to me that she "never really figured out the renovation file issue."

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA # none (URTS 16305) DocId: 70105098 Page 179

Screened By: NARA (RD-F) Date: 07-25-2018 DOCID: 70105100

THE DEATH OF VINCENT FOSTER. WHAT REALLY HAPPENED?

--Jeremiah Films

This video was produced by the same people who produced "The Clinton Chronicles." It begins with a statement to the effect, "The following information is documented and true." Some of the highlights of this video are as follows:

INTRODUCTION

Excerpts from Vince Foster's May 8, 1993, commencement address at the University of Arkansas Law School.

Shot of the cannon at Fort Marcy Park on July 20, 1993.

Picture of Vince Foster, and then Fort Marcy Park.

Confirmation by the media that it was a suicide.

It was six months until the mainstream media questioned this. [Shows copy of Chris Ruddy's article in the new York Post.]

Vince Foster excelled in high school as a student and an athlete. He did well at the University of Arkansas Law School and joined the prestigious Rose Law Firm. [It shows a picture of Vince Foster, a video of Hillary Clinton at a much younger age, and a video of Webb Hubbell.]

The Citizens for Honest Government presents: "The Death of Vince Foster. What really happened?"

I. PART ONE - THE INCONSISTENCIES

At Bill Clinton's and Janet Reno's insistence, the matter was investigated by the U.S. Park Police. It was not until seven months later that the FBI was allowed in. The Fiske Report issued on June 30, 1994, confirmed that it was a suicide. However, there are alarming contradictions.

1 - Very little blood at scene.

Sergeant George Gonzalez, who was the first on the scene, said he was shocked at the lack of blood at the scene.

Chris Ruddy - Most people on the scene that night had never been interviewed. In January 1994, I met with some of the EMT's and the police. Many confirmed that there was very little blood on the scene. One said, "This one

was different."

Gene Wheaton (GW) - former homicide investigator and special agent with the U.S. Army CID - I was hired to go to Washington and look into this. The events surrounding the investigation indicate that it had to be a cover-up. Never in my career had I seen a case like this. In most gunshot wounds to the mouth, there is a "blow back." A .38 caliber stuck into the back of the mouth, would produce a large amount of gases.

Citation to the Fiske Report.

Richard Mason disagrees, giving his opinion about heart activity.

Citation to Fiske Report, page 52. This is contradicted on page 36 by Dr. Haut. It is reported in the Fiske Report that Haut says that there was a large pool of blood. Haut disputes this. Cory Ashford, one of the people who moved the body, said he could not even seen an exit wound.

Ruddy - quoting Ashford.

2 - <u>Foster's head assumes four different positions after death</u>.

Ruddy - There were four different blood tracks.

Reed Irvine Accuracy in Media - U.S. Park Police realized this was a problem. There was an analysis of blood staining patterns. In the Fiske Report, they talk about the position of the head. It is stated, with no evidence, we conclude that someone at the scene must have moved the head. George Gonzalez denies this.

3 - <u>No skull fragments found at the scene</u>.

Copy of the autopsy report shown, indicating the size of the exit wound. The autopsy report shows a one inch hole. It was stated in some report that the surrounding ground was excavated to a depth of eighteen inches.

GW - There is an oddity that no skull fragments were found at the scene. Where are they? They should have been around the body. Therefore, it is most logical: (1) that they were picked up and destroyed; or (2) the body was moved.

The Fiske Report rejected this.

4 - Gun found in Foster's hand.

GW - I have investigated hundreds of deaths. There is a recoil from a .38 caliber weapon. I can't recall ever finding a pistol in a victim's hand after a death with a large caliber weapon like a .38.

Ruddy - Normally, the gun is not in the hand, and it is thrown away from the body. In this case, it was almost neatly at his side.

GW - I have seen cases of suicide where the weapon is sometimes thirty to forty feet away. It is never in the hand.

5 - Gun found in wrong hand.

The Fiske Report states that the gun was reportedly in the right hand. Foster was left-handed. This was not mentioned in the report.

GW - It is illogical to think Foster shot himself with his right hand. I have even been told he was almost non-functional with his right hand, because he was such a seriously left-handed person. If someone staged the suicide scene, it would be a normal assumption that he was right-handed, since most people are right-handed.

6 - Foster's fingerprints not on gun.

According to the FBI, there were no prints of Vince Foster developed on the gun.

The Fiske Report, page 46, tries to explain this, by stating latent prints can be destroyed by certain things such as heat.

There was one latent print on the underside of the grip that did not belong to Vince Foster. There was no attempt made to determine whose it was.

7 - Powder residue suggests Foster did not fire gun.

Ruddy - There was powder residue reported on the right index finger, in the web of the hand, and on the left index finger. This would indicate that his hands were around the front cylinder gap. The fact that he had powder burns on both hands means he would have had both hands over the cylinder, with no grip on the butt of the gun. It would be very, very difficult to fire the weapon in that manner.

Now, despite the Fiske Report, most forensic experts doubt that Foster pulled the trigger himself.

8 Powder on Foster's clothing did not match gun.

The gun powder on Foster's clothing did not match the powder on Foster's hands.

According to the Fiske Report, this possibly occurred because that powder possibly blew on there from the exhaust fan at the Park Police lab. Fiske was not able to support this with any evidence.

9 - Gun not positively identified as Foster's.

The Colt .38 has yet to be positively identified. Foster's three children all said it was not the one they had seen at home. Lisa Foster said that they kept only one gun at home, and it was found that night.

Irvine - The gun was a 1913 Colt Army special made from parts of two guns. It is almost untraceable.

GW - This is the classic type weapon used by pro political assassins or organized crime hit men.

There were only two bullets. There was no ammunition for this gun in Foster's house.

Irvine - They apparently were the only two bullets he had.

GW - If the gun was at home, he would have had a box of rounds there. This is a classic assassination type scenario.

10 - Fatal bullet never located.

The bullet has yet to be found. Later, the FBI did a search of the area and found seventy pieces of metal, some going back to the Civil War. There were twelve modern-day bullets found, but no bullet that matched the gun.

11 - No gunshot heard.

The Fiske Report, page 56, states that one of the reasons something might not have been heard was because of traffic in the area.

GW - This is illogical. There would be a most explosive-type noise in and around the cylinder.

Contrary to usual police procedures, not one resident nearby was contacted to see if a gunshot was heard.

12 - No dust found on Foster's shoes.

Page 12 of the FBI lab report states there were mica particles. It also says it did not contain any coherent soil samples.

Ruddy - This is impossible. If you walked in the park, there would be soil on your shoes.

GW - Nothing at that crime scene makes sense. Nobody has questioned this officially, and I can't understand why.

Why has there not been a stronger reaction to this phony, flawed investigation and final report.

Despite Fiske Report's conclusion that there is "overwhelming evidence" of suicide, there is not overwhelming evidence.

Six pieces of evidence which indicate it is likely Foster did not die in the park.

1. Very little blood
2. Four different head positions
3. No skull fragments
4. No bullet
5. No gunshot reported
6. No dust on shoes

Three pieces of evidence which indicate it is more than likely Foster did not fire gun himself.

1. Gun still in hand
2. Gun in wrong hand
3. Untraceable weapon used

GW - Based on the entire scenario of Vince Foster's death, the preponderance of the evidence indicates he did not commit suicide.

In addition, the FBI found in or on his clothing other items including: (1) multi-colored carpet fibers; (2) seaman; (3) long blonde hairs.

Ruddy - The FBI did suction analysis on the clothing. Fort

Marcy Park is not carpeted. Was he on a carpet before he died? Or was the carpet involved in the movement of the body?

Ruddy - The FBI investigators who appeared before the Senate Banking Committee said something interesting, "Well, these things were there, but it could have been anything, and we dismissed it out of hand."

[Video shows agents Monroe and Colombell, and Dr. Hirsch.]

Irvine - The Fiske Report indicates no effort was made to find out what carpet might have been in contact with Foster, what hairs, seaman, etc. This evidence could have provided clues as to where Foster was between 1:00 and 6:00 p.m. Yet, this evidence was never investigated!

II. PART II THE COVER-UPS

A. Cover-ups

There were a number of cover-ups related to the Foster death.

1. Falsified position of the body - a second crime scene created that night

Initial interviews of some of the people on the scene by Chris Ruddy indicated that the body was closer to cannon #1, rather than cannon #2, as indicated in the official reports.

Ruddy - The official report says the body was some 600 feet from the parking lot. There were two cannons at Fort Marcy Park that day, and two sites. One of the paramedics drew me a map (Gonzalez). This map sketch by Gonzalez was similar to a sketch drawn for Reed Irvine by Dr. Haut. It indicates that the body was 20-50 feet from the first cannon.

Concerning photographs of the crime scene, originally, the official position was that there were no photographs. They later said that they took photographs, but they were overexposed.

Ruddy - In a normal homicide investigation, one of the things that should not be in dispute is where the body was found. It was originally reported there were no photographs taken. Then they released thirteen close-up polaroids, which is against all procedures of taking crime scene photographs. They then said they took some others, but they were not exposed properly.

GW This makes no sense.

ABC News released one of the polaroid pictures. It depicted certain foliage around Foster's body. The foliage contradicts the official report that the body was near cannon #2. The path below cannon #2 is all dirt. There is a lot of foliage in the spot where the people reported that the body was near cannon #1.

A second crime scene was created that night.

As to the bullet, it was originally said that no metal detectors were used. Later, they said they did use metal detectors. The Fiske people and FBI found seventy pieces of metal near the cannon 2 site, including twelve modern-day bullets; yet, the bullet matching the gun in Foster's hand was not found.

The Fiske Report, page 56, stated that in all likelihood, further searches would be "unproductive."

2. <u>White House demanded key evidence, and Park Police gave it to them. This included papers, etc., given back</u>.

[Video of John Rolla testifying before the Senate Banking Committee]

Ruddy - Park Police gave crime scene evidence away within hours of finding the body, including the White House beeper, which possibly could have had latent prints, etc. [Video of Senate Banking Committee hearing]

The next day, papers, etc., were given back.

[Video of Senate Banking Committee. Senator Domenici asks special agent Monroe about the job of the Park Police in the investigation. Monroe stated words to the effect, "I think they did an adequate job. I feel inadequate to evaluate another agency's work."

The FBI was kept out of the investigation. [News clip regarding Judge Sessions and his firing]

Bill Clinton fired the head of the FBI.

Ruddy - Sessions charged that this "lead to a compromised investigation."

Fiske recommended to Bill Clinton that he fire Sessions and hire Freeh.

[Video showing Senator Faircloth asking a question as to why the Park Police were in charge]

[Video of Senate Banking Committee showing Dr. Beyer, and investigators Cheryl Braun and John Rolla, at the table]

The national news media fell in line with Bill Clinton's explanation.

Ruddy - The Park Police tested the gun on August 12, yet they ruled it was a suicide on August 10, before they tested the gun.

GW - You always approach a death from the standpoint of a homicide, until you prove that it is not.

[Scene showing pallbearers carrying the casket at the funeral. Webb Hubbell and Bill Kennedy appear to be the pallbearers in the back.]

At the time of death, no one called it from a depression.

Irvine - Lisa Foster won't talk. I asked Mrs. Foster on the phone whether Vince Foster was right handed or left-handed. She said, "No comment."

GW - All the Park Police were ordered to keep their mouths shut.

Debra Gorham, White House employee, was interviewed by Reed Irvine. He asked if she was pressured not to talk, and she replied, "No comment."

GW - The investigators did not think it was a suicide. Their superiors ordered them to write it up that way.

B. <u>Was Foster suicidal?</u>

Initially, the answer was, "Absolutely not." The secretary said there was nothing unusual. Bill Clinton said there was nothing unusual.

But the Fiske Report said that he was depressed, he organized his desk, he paid bills, he was apparently stiff that morning, and he was apparently distracted.

Apparently, Foster had a Trazadone prescription from the family doctor.

Everyone fell in line that he was depressed.

[Video] Hillary Clinton said on April 22, 1994, "No one had a clue. Neither did the people who spent the weekend with him."

Day of death - no suicide indications

1. Drove children to work
2. No final words
3. No final preparations
4. Arrived on time
5. Worked conscientiously
6. Set up future appointments
7. Ate lunch
8. Read the newspaper
9. Checked out a pager
10. Said he would return later
11. Wrote no suicide note

[Representative Dan Burton - video - They said they found a note on July 26, 1993. They said they missed the note in the first search.]

Irvine - There was not anything in this "note" about suicide.

GW - How they could claim that they missed 27 pieces of a note is ludicrous. They were not searching a warehouse. They were searching a briefcase.

There were no prints on the note.

GW - Prints are easily obtained from a piece of paper. How can you not tear a piece of paper into 27 without leaving prints, unless you use gloves?

Burton - [shown holding up a copy of the Fiskē Report] - This is not worth the paper it is written on.

Faircloth - Referring to the Fiske Report as superficial.

Ruddy - [holding up Fiske Report] The report looks very thick, when in actuality it is only 58 pages long. Most of it is indexes containing the various biographies of those experts used by Fiske.

Dr. Beyer, who did the autopsy, has had two of his prior

suicide rulings reversed, due to flawed autopsies.

Ruddy - [goes in to the claimed x-rays and the later claim that there were no x-rays] - X-rays would have shown the exit wound, and the trajectory of the bullet. The autopsy report checked that x-rays were done. Also, in the narrative of the report, it indicates that x-rays were done. Yet, later, no x-rays turned up.

GW - This 76 year old pathologist has given very inconsistent statements.

Irvine - The technical man said that the x-ray machine was new equipment. The first service call concerning this machine was in October '93. Thus, it was in good working condition on July 20, 1993.

GW - If Fiske is serious about the investigation, he would have gotten an order exhuming the body, and had the autopsy redone.

Ruddy - Fiske did not use subpoena power.

GW - There was a failure to use the federal grand jury and to put the various witnesses under oath.

Bill Clinton gave conflicting versions of Foster's state of mind.

He at first said there was no depression. He said he had contact with him on July 18 and July 19. He said he was unaware of Foster's depression. He later said that he called on the night of the 19th to cheer up Foster.

III. PART III - THE RAID ON FOSTER'S OFFICE

[Viewed, but no detailed notes made]

[Shows pictures of Bernie Nussbaum, Maggie Williams, Patsy Thomasson, etc.]

Ending quote:

"Don't believe a word you hear; it was not a suicide."

- Webb Hubbell, July 20, 1993

At the conclusion of this video, it says you can call 1 800 828-2290, for additional copies or information.

****
*** ACTIVITY REPORT ***
****

RECEPTION OK

TX/RX NO.	6234
CONNECTION TEL	
CONNECTION ID	
START TIME	05/15 12:00
USAGE TIME	06'41
PAGES	11
RESULT	OK

Memorandum

To : ASSOCIATE INDEPENDENT COUNSEL BRETT KAVANAUGH Date 6/22/95

From : SA C.L. REGINI

Subject: FOSTER DEATH SCENE
SEQUENCE OF EVENTS

Due to the numerous inconsistent witness statements, vague recollections, and inaccurate allegations in the media, I have prepared the following outline of the sequence of events during the initial death scene investigation by the U.S. Park Police. The outline was compiled from information in the Death Investigation Timeline, Foster Corpse Timeline, and FD-302s of individuals who responded to the scene. The outline is not all-inclusive, but simply identifies particular significant events that have been problematic.

1730-1745: C.W. finds the decedent.

1750: C.W. reports finding the decedent to National Park Service (NPS) workers (Swann) at Turkey Run.

1759: Swann calls 911 (Fairfax County Public Safety Center).

1803: Fairfax County Public Safety Center notifies the U.S. PARK POLICE (USPP).
Swann calls USPP.
Medic 1 (Gonzales, Hall, and Arthur) dispatched.
Engine 1 (Pisani, Iacone, Wacha) dispatched.

1805: Ferstl dispatched by USPP. Spetz responds with him.
Investigators (Braun, Rolla, Apt) notified.

Fornshill (USPP) responds to death scene from his post at FOIA(b)(7) - (E)

1-Tuohey
1-Ewing
1-Lueckenhoff
1-Kavanaugh
1-Gillis
1-McCarrick
1-Greene
1-29D-LR-35063

Approx. 1810: Engine and Medic Crews, and Fornshill (USPP) arrive at park and split up to search for body.
Fornshill, Gonzales, and Hall locate body.

1811: Ferstl and Spetz arrive at park.

Approx. 1815: Hodakievic arrives at park.
Sgt. Edwards (USPP) arrives at park.

Approx. 1830: Gavin arrives at park.
Officer Simonello (USPP Evidence Technician) arrives at park.

1835: Investigators arrive at park.

1837: Fairfax County Emergency Personnel depart park.

1845: Dr. Haut notified.

Approx. 1900-1915: Gavin departs park, prior to identification of body.

Approx. 1900-1930: Watson and McGaughey arrive at park.

1930-1945: Braun searches car and locates White House Identification. Braun requests Watson to notify Gavin (which he never does).

1945: USPP requests Fairfax County EMS to transport body.
Ambulance 01 (Ashford and Harrison) dispatched.

2016: Ambulance 01 arrives at park.
Foster's body is placed in a body bag, and is transported to Fairfax Hospital.

Approx. 2015-2045: Hodakievic notifies Gavin of Foster's identity.

Approx. 2030: Braun notifies USPP dispatcher of Foster's identity.
Gavin notifies USSS White House Control Center of Foster's death.

2030: Ambulance 01 arrives at Fairfax Hospital.

2045: Investigators depart scene.

2030-2230: Notifications are made to White House and USSS personnel by the USSS Agents and USSS Uniformed Division Officers. Watkins appears to be the first White House representative notified. Watkins notifies Bill Burton.

Approx. 2130: McLarty is notified during the Larry King Show by Bill Burton of Foster's death. He contacts the First Lady while the President is being interviewed on the show.

Approx. 2200: The President is notified of Foster's death at the conclusion of the Larry King Show by McLarty.

Mrs. Foster is notified by Rolla and Braun, also present are Watkins and Hubbell.

Memorandum **Office of the Independent Counsel**

To : ASSOCIATE I.C. BRETT KAVANAUGH Date 7/18/95

From : SA C.L.REGINI

Subject: DEATH INVESTIGATION STATUS

Per your request, the following comments/suggestions are in response to your memo of 7/15/95.

In my personal opinion, we have established beyond a reasonable doubt that the death was caused by a self-inflicted gunshot wound at Ft. Marcy Park by the weapon that was found in the decedent's hand. We have not proved certain aspects of the investigation beyond all doubt. We have not proved beyond all doubt the ownership of the gun. The weight of the evidence indicates that the gun was owned by the Foster family. We have not proved beyond all doubt that the decedent died at the park, although I believe the evidence approaches that level. Locating the bullet in the park would establish beyond all doubt that the decedent was shot at the park. If the bullet is positively matched to the gun found in the decedent's hand, then we have established beyond all doubt that the decedent was shot at the park with the gun that was found in his hand. I do not believe that finding the bullet or conclusively determining the ownership of the gun proves beyond all doubt that the decedent died of a self-inflicted gunshot wound at the park. In the absence of an eyewitness, we are forced to rely upon the physical and circumstantial evidence in the case. The physical evidence and circumstances surrounding the death clearly indicates a specific act of suicide.

1-Kavanaugh
1-Lueckenhoff
1-Gillis
1-Bransford
1-Clemente
1-Greene
CLR:clr

In my opinion, additional work in the physical evidence phase of the investigation is unnecessary. The main weaknesses in the previous investigations were 1) the presentation of the physical evidence, and 2) inadequately addressing the decedent's intent. A forensic expert/criminalist (such as Dr. Lee) would be of significant help in demonstrating what the physical evidence shows. The following items remaining pending in the physical evidence phase of the investigation: 1) the search of the park, 2) fingerprinting of the Foster home in Hope, AK., 3) continued coordination/liaison with Dr. Lee pending his final report, 4) locate and interview James Burgess, 5) interview Jeff McGaughey, 6) interview Helen Dickey regarding her conversation with Roger Perry.

I agree with the items delineated in the referenced memo that we have learned were the decedent's primary concerns. Additionally, we have learned a great deal about the decedent's personality in general that reflects how these concerns could result in suicide. Particularly the decedent's emphasis on his personal reputation, and his obsession with criticism in the media.

I basically agree with all the points in the memo pertaining to the decedent's state of mind. However, I think that your scenario was a little overstated. I don't know of any direct evidence that indicates the decedent was planning to resign on 7/21. We certainly have evidence that indicates he was considering resigning. I do agree that he was overwhelmed by a "sense of failure", but I don't think he "snapped." My personal opinion is that the decedent felt trapped. Resignation would mean failure, and to stay in his current situation would simply continue his sense of the previous failures, and the resulting perceived damage to his reputation. In any event, our personal opinions are little more than speculation. I still advocate consulting with a behavioral science- type expert for these type of opinions.

Several aspects of the intent phase of the death investigation remain incomplete; 1) the intent binders need to be finished, 2) the FBI National Center for the Analysis of Violent Crime (NCAVC) report is not completed, 3) Walter Pincus needs to be interviewed, 4) resolution of the issues related to the decedent's foreign travel and foreign bank accounts, 5) a review of the decedent's financial situation, and 6) a final decision needs to be made regarding a behavioral science/suicide expert. The expert would be used to address the following state of mind discrepancies: 1) the decedent committed suicide at a location that was unfamiliar to him, 2) the decedent ate lunch prior to leaving to commit suicide, 3) he did not leave a suicide note, 4) he did not indicate any type of "goodbye" to family or friends, 5) the decedent did not previously mention suicide, 6) there was no precipitating event, and 7) the decedent had dealt with stress before.

Memorandum

To : DEPUTY INDEPENDENT COUNSEL MARK TUOHEY Date 6/11/95

From : SA C.L. REGINI

Subject: VINCENT FOSTER DEATH INVESTIGATION
PHYSICAL EVIDENCE EXAMINATIONS
DR. HENRY LEE,
CONNECTICUT STATE POLICE FORENSIC LABORATORY

On 6/9/95, I travelled to the Connecticut State Laboratory to deliver items of physical evidence previously requested by Dr. Lee, and to meet with Dr. Lee regarding anticipated examinations of this evidence. The following are the results of our meeting:

Dr. Lee provided me with a tour of the facilities at the Connecticut State Laboratory. The laboratory is nearly brand new, and appears to be well-equipped with modern instruments.

I provided Dr. Lee with the decedent's clothing, gun, and trace evidence identified by the FBI Laboratory.

Additionally, I provided Dr. Lee with the U.S. PARK POLICE latent lifts from the decedent's glasses and frame/cylinder of the gun. While I was cataloging the physical evidence that I was going to deliver, I realized that the USPP latent lifts were obtained prior to any other forensic examinations, and have never been examined for trace evidence. I decided to bring the lifts to discuss with Dr. Lee the possibility of any trace evidence being present on the lifts. I informed Dr. Lee of these circumstances. He immediately examined the latent lifts under a microscope. There appeared to be blood or tissue on the latent lifts from the glasses, and possibly on the latent lifts from the gun. Dr. Lee will attempt to identify other trace evidence on the lifts; especially gunpowder residues. Gunpowder residues could be compared to the tissue samples from the decedent's soft palate obtained during the autopsy. These tissue samples have been examined, but have never been compared to any other items of evidence, due to the lack of gunpowder residue samples from the decedent.

1-Tuohey
1-Ewing
1-Lueckenhoff
1-Gillis
1-29D-LR-35063
CL Kavanaugh

Dr. Lee and I discussed the main issues and allegations that we are continuing to attempt to resolve through examinations of the physical evidence:

1) The body was moved. The decedent did not die at the location where he was found. Supporting this theory are the following ostensible issues:

a) Unidentified fibers on the decedent's clothing.
b) No coherent soil on the decedent's shoes.
c) The bullet has not been located.
d) The position of the decedent's head and the transfer stain on the right shoulder.
e) The position of the body is not consistent with suicide from a self-inflicted GSW to the head.
f) The amount of blood at the scene is not consistent with the facts, and no bone fragments were located.
g) The death scene photographs appear to depict movement.

2) The gun was placed in the decedent's hand. The following statements have been asserted in support of this allegation:

a) The gun should have "flown" out of the decedent's hand.
b) There were no latent prints on the gun.
c) There was no blood on the gun.
d) The difficult position of the decedent's hand on the gun.

Dr. Lee and I discussed conducting the following examinations:

1) Hairs and fibers.

a) Determine if they are from the same source.
b) Is the quantity of fibers consistent with being rolled up in a carpet?
c) Formulate an expert opinion regarding the possible origin of the hairs and fibers.

2) Determine the origin of the stain on the lower right breast area of the shirt.

3) Attempt to identify trace evidence on the decedent's clothing and gun, and compare to the known samples from the decedent. Specifically, compare any gunpowder residues to the tissue samples.

4) Formulate an expert opinion regarding the physical evidence in relation to a suicide/homicide conclusion.

Dr. Lee is of the opinion that we should search for the bullet. We did not discuss this issue, but Dr. Lee seems to want to limit any possible search to the trees in the path of the

bullet's possible trajectories, and within the maximum range of the ammuniton. The earliest that Dr. Lee can conduct this search is the first weekend in July; the 4th of July holiday weekend. Dr. Lee will be unavailable in July due to other commitments, and is likely to be unavailable during most of August due to the O.J. Simpson trial.

Dr. Lee requested the following additional items and information, which I will provide to him:

1) The USPP latent lifts from the grip of the suicide weapon.

2) Determine how the USPP handled and processed the suicide weapon, from the death scene to the examinations conducted at the USPP laboratory.

3) Identify the location of trees at the death scene which would be in the path of the fired bullet.

4) Determine the maximum range and velocity of the ammunition in the suicide weapon.

Additionally, I advised Dr. Lee to contact me directly if he needed any additional items of information or evidence.

Dr. Lee and I agreed that the requested examinations and evaluations are extensive, and will require considerable time for a professional and thorough job, especially given the considerable workload and priorities of his laboratory.

Memorandum

To : BRETT KAVANAUGH Date 3/10/95

From : SA C.L.REGINI

Subject: FOSTER CORPSE CHAIN OF CUSTODY

The following chronology denotes relevant times and observations regarding the locations of Vincent Foster's body:

7/20/93

(13:10) Foster is observed leaving the White House. According to Dr. Hirsch, from strictly a forensic pathology viewpoint, the time of death can not be narrowed any further than this time; it is possible that Foster drove directly to the park from here and immediately killed himself.

(14:45- 15:05) Jim Ferris observes a vehicle similar in description to Foster's abruptly turn into Ft. Marcy Park. Ferris can not positively identify this vehicle as Foster's, due to the license plate on Foster's vehicle.

(16:15- 16:30) Patrick Knowlton describes a small brown foreign car with Arkansas license plates in the Ft. Marcy parking lot. Knowlton also described a suitjacket and briefcase inside of the car.

(17:00 +/-) Judy Doody identifies Foster's vehicle parked in the Ft. Marcy parking lot.

(1730- 1745) Doody identifies a vehicle believed to be the CWs in the Ft. Marcy parking lot. The driver gets out of the vehicle, walks around, returns to the vehicle and drives away. This vehicle is in the parking lot for approximately 10- 15 minutes.

(1750 +/-) CW talks with Swann and Stough.

(17:59:59) Swann calls 911 (Fairfax County Public Safety Center).

(18:02:26) Fairfax County Public Safety Center calls Fairfax Fire Department for ambulance.

1-Tuohey
1-Kavanaugh
1-Gillis
1-29D-LR-35063

(18:03:28) Fairfax Fire Department notifies U.S. Park Police.

(18:03:30) Swann calls U.S. Park Police.

(18:05:30) Officer Ferstl, USPP, dispatched to scene. Officer Fornshill hears radio broadcast, drives to Ft. Marcy FOIA(b)(7) - (E)

(18:10) Fairfax County Fire Units arrive at Ft. Marcy and divide up with Fornshill to search for body. Gonzales, Hall, and Fornshill locate Foster's body.

(18:37) Fairfax County Fire Units depart Ft. Marcy.

(1815- 1835) The following U.S. Park Police Officers arrive at Ft. Marcy:
Ferstl, Spetz, Hodakievic, Sgt. Edwards, Lt. Gavin, Braun, Apt, Rolla, Simonello, Officer Watson with an intern, and Lt. Schmidt.

(1845) Fairfax County Coroner, Dr Haut, notified.

(1940) Haut arrives at scene.

(19:45:17) USPP requests transportation for body.

(19:45:37) Fairfax Fire Unit A01 (Ashford and Harrison) is dispatched to transport the body.

(20:16) Unit A01 arrives at Ft. Marcy. Foster's body is placed in a body bag. Rolla had previously removed Foster's pager, rings, and watch; but does not locate keys.

(20:17) Unit A01 transports Foster's body.

(20:30) Unit A01 arrives at Fairfax County Hospital Emergency Room. Dr. Orenstein views body and pronounces Foster dead. Officer Tipton present. Unit A01 transports Foster's body to the hospital morgue. Security Officer R. Browning opens morgue for Ashford and Harrison.

(20:59) Unit A01 departs hospital.

(2112) R. Browning opens morgue for Rolla and Braun to check body for car keys, which are located in Foster's pocket.

(2230) Security Officer S.P., Administrative Director Charlotte Ewing, and Officer Tipton accompany Livingstone and Kennedy to view the body, which is displayed behind a glass partition by Laboratory Technicians Keith Gorney and Julius Fernandez.

(2310) Security Officer S.P. opens morgue for Orenstein and Tipton to examine body.

7/21/93

(0100) Security Officers S.P. and R. Rector open morgue and place Cheryl Braun's card with the body.

(0615) Dr. Haut telephones Dr. Beyer regarding Foster's death and the need for an autopsy.

(0735) Charles Powell of the Hospital Morgue releases the body to James Burgess of the Medical Examiner's Office.

(0800) Foster's body arrives at the Northern Virginia Medical Examiner's Office in Fairfax, Virginia.

(1000) Dr. Beyer begins autopsy, also present are James Burgess, Officer Wayne Johnson, Officer Shelly Hill, Investigator Morrissette, and Sgt. Rule.

(1105) Autopsy is concluded.

(1300) Foster's body is released to Carl Barnekow of Murphy's Funeral Home. The body is transported to Murphy's Funeral Home in Falls Church. The body is embalmed and prepared for shipment by Carl Barnekow, also present in the embalming room was Bob Gallagher, Ken Garvey, and Maripat Putnam. No relatives, friends, or associates viewed Foster's body at this location.

7/22/93

(AM) Foster's body is transported to Andrews Air Force Base by Ken Garvey and Will Halyek of Murphy's Funeral Home. The body is immediately loaded onto an aircraft.

(approx. 11:30) Foster's body is transported from Little Rock Airport to Reubel Funeral Home in Little Rock.

7/23/95

Funeral and internment at Memory Gardens in Hope, Arkansas.

7-1 (Rev. 2-21-91)

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Date: July 9, 1996

To: ADIC, Washington Metropolitan
Field Office

FBI File No. 29D-LR-35063

Lab No. 40324038 S/D QV ZG WK UD
WP AL QW ZT VY ZZ AR
40330007 S/D QV ZG WK UD
WP AL VY ZZ AR

Reference:

Q4 - Suit Jacket
Q5 - Tie (Q5/Shirt)
Q8 - White Dress shirt
Q9 - White T-Shirt
Q10 - White Boxer shorts
Q11 - Pants + Belt (Q11a)
Q12 - Black sock (red & green stitching on toe)
Q13 - Black sock (gold toe)
Q14 - Left shoe
Q15 - Right shoe
Q31 - 2 sheets of brown paper wrapping

Your No. 29D-LR-35063

Re: MOZART
MAJOR CASE #106
OO: Little Rock

Specimens received:

Specimens:

This report supplements and supports the Laboratory report dated May 9, 1994. For a complete specimen listing please refer to that report.

The trace amount of loose, unconsolidated soil associated with specimens Q8 through Q15 and Q31 limits the meaningfulness regarding a comparison with other soils. Ideally, coherent soil, that is, soil that is held together as part of the same mass, reasonably represents soil from a single source or location. Conversely, unconsolidated soil, to include discrete mineral grains, introduces uncertainty regarding a single source origin. And when the amount of this soil is such that it impairs the analysis, the meaningfulness of similarity and dissimilarity is called into question. The aforementioned specimens did not contain coherent soil. The few, small particles of mica and any other apparent soil associated with specimens Q8 through Q15 and Q31 sensibly could have originated from the micaceous soil found at Fort Marcy, but the nature of this soil precludes an unambiguous association.

(over)

This Report Is Furnished For Official Use Only

As previously indicated in FBI Laboratory report dated May 9, 1994, a number of various carpet type fibers were found in the debris from the submitted clothing items. A more detailed reporting of these findings is as follows: Present in the debris from Q4/Q5 was a pale gray delustered trilobal carpet type fiber. The Q8 debris contained a gray delustered trilobal and a blue delustered trilobal carpet type fiber. A white lustrous trilobal carpet type fiber was found in the Q10 debris. Several tan delustered trilobal, a gray/green delustered trilobal and a greenish round delustered carpet type fiber were present in the Q11 debris. White trilobal carpet type fibers were also found, one each, in the debris from Q12/Q15 and Q31B. A red delustered trilobal carpet type fiber was found in the Q31C debris. As reflected by these findings, no forensically significant number of one type of carpet fiber was found.

9 diff types of carpet fibers

10 plus several total carpet fibers found

Chuck

40324038 S/D QV ZG WK UD
WP AL QW ZT VY ZZ AR
40330007 S/D QV ZG WK UD
WP AL VY ZZ AR

The official record contradicts Foster suicide conclusion

Editor's Note: This publication has reported to you about many of the anomalies, inconsistencies, and defects of various official reports concluding that the late Deputy White House Counsel committed suicide. Yet, many in the news media and elsewhere have challenged the authenticity of the information we have shared with you. It is for this reason that we present the following article by Hugh Sprunt. Sprunt has carefully studied all 2,726 pages of testimony and documents collected in the official Foster investigation and released by the U.S. Senate in early 1995. His analysis, based entirely upon the official documentary record, compiled by the United States Senate, confirms that the verdict of suicide is remote from the facts.

Strategic Investment *has invited Hugh Sprunt to prepare a longer report that includes his informed speculation about what may have happened at Ft. Marcy Park. This report is available through* Strategic Investment *by mailing or faxing the order form provided on page 10 of this issue.*

by Hugh Sprunt

I write about the death of Vince Foster from a unique perspective. When my elderly grandfather, terminal with cancer and in horrible pain, decided to take his own life some 25 years ago, I was "first-on-the-scene" and could do nothing to help him. He shot himself in the head using an Army Colt .38 Special Revolver with a four-inch barrel, the very same type of weapon that Mr. Foster allegedly used to kill himself in Fort Marcy Park on July 20, 1993.

Since I had direct personal experience both with suicide-by-gunshot and with the tremendous damage a high-velocity .38 round from this particular weapon does to the human head when fired point blank, I was intrigued by the relatively modest head wound Mr. Foster was said to have suffered from the identical revolver and ammunition.

There are other personal associations that inspired my initial interest in his death. Vince Foster and my father graduated from the same college in North Carolina (Davidson). Mr. Foster's wife, Lisa, and my mother are alumnae of the same college in Virginia (Sweet Briar). Vince Foster was President of SAE fraternity at Davidson, as I was at MIT. We were both mid-year law school graduates who elected to skip graduation (he from the University of Arkansas and I from Stanford Law School). I eventually learned that both of us even drove trashed-out Honda Accords.

There is one other link. Two acquaintances of mine ran the 1992 Clinton campaign in my part of the country, and I was sufficiently interested in the 1992 Clinton Campaign to have made suggestions to the Campaign through these two individuals. One of these individuals, whom I particularly respect, left her position as a Special Assistant to the President the month after Mr. Foster's death.

As I pursued the blatant anomaly concerning his head wound, I discovered many equally amazing facts within the official records of Mr. Foster's death. I obtained copies of the Fiske Report and the U.S. Park Police Case File on the death of Vince Foster. When the Senate released two Hearings Volumes and a Report Volume on the Foster death in 1995, I obtained these volumes (a total of 2,726 pages of documents, testimony, depositions, and FBI interview reports, including Fiske and U.S. Park Police Reports). I studied all the documents and reached two fundamental conclusions: 1) The raw evidence in the official record was amazing in light of the conclusions reached by the official reports and 2) With minor exceptions, no one in the media was at all familiar with the raw evidence compiled in the Senate documents.

As 1995 progressed and only a very few publications appeared to be covering the Foster case seriously, I decided to write my own report, based on the 2,726 pages of Senate documents. Although I had no intention of producing so lengthy a report, it grew to 165 single-spaced pages, tightly cross-referenced, with maps (including one traced from aerial imagery of Fort Marcy Park flown a few weeks before Foster's death) and tabular data in eight appendices.

Relatively few individuals will have the time or the inclination to study my 165-page "Citizen's Independent Report," written as it was for the primary use of the members and staff of the special Senate Whitewater Committee. Shortly thereafter, *Strategic Investment* approached me to prepare another report including personal commentary about what may have happened at Fort Marcy Park. Much of this analysis was intentionally omitted from my 165-page compilation.

This piece highlights what I consider some of the most damaging evidence that was ignored in the Fiske and the U.S. Park Police reports on Foster's death. I hope this article and my report increase significantly the number of people who are aware of the amazing *facts* buried in the 2,726 pages of official documents. I may be naive, but I believe a sufficiently widespread knowledge of these facts will compel officials to undertake the sort of investigation that should have begun the evening of July 20, 1993, when Mr. Foster's body was found in Fort Marcy Park. First comes truth. Then comes justice. That's the American way.

The U.S. Park Police Report, The Fiske Report, and the 1994 Senate Report (the "Official Reports") selectively included data that supported the officially-sanctioned "suicide verdict" and ignored, gave little weight to, or contradicted the evidence that pointed to murder. Many of the most interesting de-

tails in the points summarized below have been omitted due to the consideration of space. Nonetheless, I believe that many readers will be surprised by even this brief summary. I emphasize that every detail you read below has been taken from official *public* documents. It is amazing that these facts have not been *publicized* by those charged with doing so in a free society.

Facts such as the ones below have caused people who are at least somewhat familiar with the raw data justifiably to question the processes that controlled the prior investigations of Mr. Foster's death. It is my hope that the information in this article and in my separate *Strategic Investment Report on the Death of Vince Foster* will permit everyone to understand why there is more to Mr. Foster's death than official Washington wishes you to believe.

Here are some of the items that challenge, and in my opinion overwhelm, the conclusions reached by the Official Reports:

- The first *official* to discover Vince Foster's body, a U.S. Park Police officer, was quite clear he *never saw the gun* that, according to the Official Reports was in Mr. Foster's right hand at the time he located the body. His deposition and FBI interview on this point are repetitive and quite clear. He was 4-5 feet from the body for several minutes, but never saw the gun. The confidential witness, CW, who discovered the body was emphatic in his FBI interviews and deposition that he, too, had not seen a gun.
- The first official to discover Mr. Foster's body called in his discovery on his radio 2 minutes 42 seconds after radioing his arrival in the Fort Marcy parking lot. The official location of the body placed it out of plain view on the back slope of a berm some 775 feet over-the-ground from the parking lot near the so-called second cannon. The searchers knew the body was near a cannon, but the only cannon in view was the so-called first cannon around which they initially searched. The cannons are some 200 feet apart and cannot be seen from each other. Assuming the officer left the parking lot *immediately* upon calling in his arrival, walked directly to the body (*no* searching) at three miles an hour, and called in his discovery *immediately* upon reaching the body (taking *no* time to check the body before radioing in), the time required to reach the body is 2 minutes 56 seconds.
- Two civilian witnesses described a vehicle in the Fort Marcy parking lot that could only have been Mr. Foster's Honda. *They saw two individuals around his car:* the hood was up, one individual was standing by the Honda, and the other was sitting in it some 30 minutes before Mr. Foster's body was first found by CW. Who were these people? No attempt was made to find out.
- One civilian witness in the park told the FBI that, for reasons unknown, *information which she provided to U.S. Park Police investigators had been incorrectly recorded in her U.S. Park Police interview report.*
- Six of the seven U.S. Park Police and Fairfax County Fire and Rescue Department (FCFRD) personnel who responded to the 911 calls told the FBI (with varying degrees of certainty and specificity) that *there was at least one "extra" civilian vehicle in the parking lot when they arrived at Fort Marcy, a vehicle that the Official Reports concluded was not present.* Whose car was this? None of the FCFRD personnel was interviewed by the Park Police and the FCFRD reports are not in the record even though a supervisor requested that night that detailed reports be written.
- The U.S. Park Police officer who found Foster's body described *the presence of "volunteers" who were in the park when the body was found.* He stated these volunteers were working on the park trails. *None of these "volunteers" was ever named, interviewed, or mentioned in the U.S. Park Police or Fiske Official Reports.* Who were they? FBI had been repeatedly informed by CW that the area below Foster's feet had clearly been recently disturbed (his statement was not considered by Official Reports). There is evidence in the record of unexplained and unidentified people and vehicles entering and leaving Fort Marcy. Some of these individuals were allowed official access to the park after the body was officially located by the U.S. Park Police Officer.
- The lead U.S. Park Police Investigator at Fort Marcy stated: "It seems to me that we [the U.S. Park Police Investigators] made that determination [that the death was a suicide] *prior to going up and looking at the body.*"
- *The report of the only Medical Doctor to examine the body in place at Fort Marcy is, for reasons unknown, not a part of the Official Record available to the public.* This doctor told the FBI he arrived and departed Fort Marcy an hour before the U.S. Park Police or Fiske reports say he did. He also stated that the body was located some 450 feet from the parking lot although the official body site is over 750 feet from the parking lot.
- The doctor told the FBI he *"believed the wound was consistent with a 'low-velocity weapon."* The revolver, especially with the high-velocity ammunition the Fiske Report said Mr. Foster used, is *not a "low velocity weapon."* How does the Fiske Report reconcile the doctor's statement to the FBI? The doctor's statement is not mentioned at all in the Official Report.
- The Fiske Report: "Those present observed a large pool [sic] of blood located on the ground where Foster's head had been." The Fiske Report: [the doctor who examined the body in place at Fort Marcy] "Observed a large exit wound in the back of the skull." However, the doctor told the FBI that the blood volume was "small" and what blood there was had "matted and clotted."
- The lead Investigator at the body site had this

Continued on next page

Foster, *from page 7*

to say: "I still can't believe the [exit] hole — it's a small hole. . . I probed his head; there was no big hole there. . . I initially thought the bullet might still be in his head." *The Fiske Report statements are thus directly contradicted by the MD and the Investigator on scene.*

- *The doctor who performed the autopsy stated that he took no X-rays.* The U.S. Park Police report, produced because it sent four observers the autopsy, stated *however, that the doctor conducting the autopsy told the U.S. Park Police Detective in attendance that "X-rays indicated that there was no evidence of bullet fragments in the head."* Although *this* contradiction *has* achieved a certain notoriety, none of the Official Reports reconcile it.
- Almost all sources within the record indicate that the autopsy was moved up from Thursday, July 22 to Wednesday morning, July 21. One consequence of the move was to make it infeasible for any official who had been present at Fort Marcy Park the night before to attend the autopsy. Thus no one who had 1st-hand knowledge was there to see what happened.
- *Mr. Foster's glasses were found 19 feet downslope from his head.* The Fiske Report stated that they must have "bounced" there (through heavy vegetation) due to the gun shot to the mouth— a conclusion which is contrary to physics. The only recognizable picture (a lab photo) of the glasses in the Senate documents shows one of the stems broken off from the frame. The Official Reports have no explanation for the breakage.
- The second U.S. Park Police officer at the scene took seven Polaroids of the body. *The Polaroids he took are not among the thirteen of the body site that are inventoried in the record.* The record contains no explanation why these photos vanished.
- The lead U.S. Park Police Investigator at the body site had this to say about some of the Polaroids *he* took: "I know I took Polaroids of that. I am not sure how many I took, but *I don't recall seeing those Polaroids again. I mean I had them at the office that night, I did reports.* . . I don't have those photos. I put them in a [U.S. Park Police case] jacket. . . and I don't know what happened." *The Polaroids he is speaking of are not inventoried in the record.* The record contains no explanation why they vanished.
- The lead U.S. Park Police Investigator at the body site searched for a suicide note, identification documents, or other items in the victim's pockets. The investigator found no car keys on the body. No car keys were found in Mr. Foster's Honda either. *Why wasn't the death immediately treated as a homicide as soon as the investigators realized their suicide theory required the decedent to have driven himself to the park without using his car keys?*
- Some time after the investigators realized there were no car keys to be found, rather than search the Honda again or research the area where the body had been found (his glasses had, after all been found 19 feet from his head), *the investigators drove to the morgue and searched the body's pockets one more time.* There, the investigators stated they not only discovered that they had originally missed Mr. Foster's personal key ring in the right front pants pocket (with his car keys), but also found his White House keys on a separate key ring that held a high-security type key.
- At least two White House staffers visited the body at the morgue the night of July 20th to "confirm" the deceased was Vince Foster although the U.S. Park Police had already matched the face to Vince Foster's White House ID and to his Arkansas driver's license. One of the individuals to visit the body at the morgue was the White House Security Coordinator, even though he had previously confirmed the victim's identity to his boss, an Associate White House Counsel who also visited the body in the morgue that evening. *Why was this trip necessary?*
- *The only paper in Mr. Foster's wallet at Fort Marcy that the lead investigator at the body site considered "unusual" was never explained in the Official Reports.* It contains groups of initials that correspond to those of the President, the First Lady, and to their daughter. It lists a variety of dates and numerical amounts along with several Arkansas city names. Mr. Foster was known to be involved with the formation of blind trusts for all the Clinton family. The private attorneys involved talked with him the day before Mr. Foster died and tried to reach him the next day a few minutes after Mr. Foster left the White House for the last time.
- Five civilian and government witnesses at Fort Marcy stated (with varying degrees of certainty and specificity) that *there was a briefcase in Mr. Foster's Honda.* This briefcase is not mentioned in the Reports (other than to indicate Mr. Foster had no briefcase with him when he left the White House).
- Several Fairfax County Fire and Rescue Department personnel state that Mr. Foster's Honda was *locked* when they examined its exterior (and viewed the interior through the windows) sometime before 6:35 p.m. The Official Reports indicate that the Honda was *not locked* well over an hour later when it was "officially" searched for the first time. *Officially no one on the investigation knew where the Honda keys were during this interval, so these keys could not have been used to unlock the car during this period of time.*
- *A Fairfax County Fire and Rescue Department worker observed the U.S. Park Police "gaining access" to Mr. Foster's Honda (his White House ID was on the front seat) before 6:37 p.m. The White House position is that it was not informed of Mr. Foster's death until 8:30 p.m.* Another Fairfax County emergency worker said it was known within his group (that left the park at 6:37 p.m.) that Mr.

Foster was employed at the White House.

• *The lead U.S. Park Police Investigator at the body site somehow knew to write the name of a U.S. Secret Service uniformed officer and his White House Phone number (in Room 058 in the White House basement) in his investigator's notebook,* apparently around 6:40 p.m. The official position (in a Secret Service memo) is that the White House did not learn about the Mr. Foster's death until 8:30 p.m.

• The U.S. Park Police Lieutenant who officially notified the White House of Vince Foster's death had his call returned in 5-10 minutes by an Assistant White House Chief of Staff. The *first* question to the Lieutenant (in the words of his FBI interview) was "whether the U.S. Park Police had checked the registration on the gun and knew whose gun it was." The Lieutenant received another call at almost the same time from the White House Director of Personnel. He also asked about the weapon and was told the U.S. Park Police did not have that information. *Why were the first two White House callers interested in the weapon above all else?*

• The Fiske Report refers to the lack of damage done to Mr. Foster's teeth and the soft tissues of his mouth by the barrel of the gun in support of the official suicide theory (Mr. Foster presumably must have put the gun into his mouth voluntarily since there were no signs of a struggle). *However, the Fiske Report does not mention the damage that should have been done to the soft tissues and teeth from the powerful recoil of the Army Special Colt .38 Revolver and its unusually high front sight.*

• The Fiske Report states that the body was bagged back by the second cannon at Fort Marcy Park at about 8:45 p.m. before being transported the 750 feet to the parking lot and then taken on a 15-minute trip to the Fairfax County Hospital. The ambulance log indicates the body arrived at the hospital 15 minutes before the Fiske Report says the body was put in a body bag up by the second cannon at Fort Marcy. *Times given by the doctor who pronounced Mr. Foster dead at the hospital corroborate the ambulance log, not the Fiske Report.* The Medical Examiner told the FBI he arrived at Fort Marcy at about 6:45 p.m., an hour before the Fiske Report says he did.

• To support its conclusion that Vince Foster was under great stress, The Fiske Report states that "*It was obvious to many that he had lost weight*" in the months before his death. *Medical reports in the record show that he actually gained weight in the six months prior to his death.*

• Despite the official conclusion that financial concerns had no role in Mr. Foster's death, the *family checking account had been overdrawn for some one or two weeks prior to his death.* The credit union had shifted from "working with" the Fosters on a "bi-weekly" to a "weekly" basis the week before he died. Mr. Foster visited the credit union the day before he died.

• On July 21, President Clinton spoke to White House staffers who knew Vince Foster well. Were his words a warning not to discuss Foster's death outside of the White House "family?" This is what the president said: "In the first place, no one can ever know why this happened. Even if you had a whole set of objective reasons, that wouldn't be why it happened, because you could get a different, bigger, more burdensome set of objective reasons that are on someone else in this room. . . . I hope when we remember him and this we'll be a little more anxious to talk to each other and a little less anxious to talk outside our family."

"In the first place, no one can ever know why this happened. Even if you had a whole set of objective reasons, that wouldn't be why it happened, because you could get a different, bigger, more burdensome set of objective reasons that are on someone else in this room. . . . I hope when we remember him and this we'll be a little more anxious to talk to each other and a little less anxious to talk outside our family."

—Bill Clinton speaking to the White House staff the day after Foster died.

• There are unusual memory lapses on the part of various White House officials when it comes to the subject of their last conversations with Mr. Foster. For example, a Deputy Assistant to the President who had known Mr. Foster since 1967 had what Chief Counsel Bernard Nussbaum's Executive Assistant described as a "highly unusual" 1-2 hour closed door meeting with Vince Foster on July 19. In the words of this individual's FBI interview, "She does not remember what topics they talked about." *Bear in mind that this was her last conversation (1 to 2 hours long) with a friend she had known for over 25 years who officially committed suicide the next day. She couldn't remember the topics they discussed?*

• An excellent memory was, however, demonstrated by a female witness in her late teens who voluntarily came forward and was interviewed by the FBI on May 17, 1994, about events she had witnessed at Fort Marcy Park nearly a year earlier on July 19, 1993, the day before Vince Foster died. She told the FBI she remembered seeing at a distance of 10-15 feet a lone white male in his early 40s who, despite the intense heat, was wearing a dark suit and red necktie. This individual was walking in Fort Marcy Park from the George Washington Park-

Continued on next page

Foster, *from page 9*

way entrance toward the northern side of the park. When he noticed her looking at him, he immediately turned away. It was clear from her description that the individual in question could not have been Vince Foster. Who was he? No attempt was ever made to find out, even though he was viewing the park at 3 p.m. the day before Mr. Foster's death and at the approximate mid-point of the hours Mr. Foster went missing the next day (1 p.m. to 6 p.m.).

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REMARKS: From Chris Ruddy

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Questions on the murder of Vincent W. Foster, Jr. Page 1

The Park Police versus the FBI

1. Why was William Sessions, former head of the FBI, fired the day before Vincent Foster was found dead? This action placed the Park Police in charge of the investigation at Fort Marcy Park rather than the FBI. Sessions stated three weeks before he would resign from the FBI as soon as a suitable replacement was found.

2. Why did Clinton call a second time that same day and tell Sessions to clear out his desk and be out of the office by the end of the day?

3. Was Sessions fired because he was about to subpoena Judge David Hale's documents linking Clinton to fraudulent SBA bank loans and Clinton found this out?

Photographs

1. Why does the only officially released photo (showing Foster holding the gun) indicate flora typical only in another portion of the park from where the body was officially found?

2. Where are the seven crime scene Polaroid photos taken by Franz Ferstl? What do they show?

3. Has the previously reported underexposed roll of 35mm film been enhanced? Does it show evidence of a bullet wound, puncture or other trauma in the right side of Foster's neck? NO

Robert Fiske's report

1. Why does the initial account of the body's location by Sgt. George Gonzales differ from the Fiske report? Was the body moved from the Northeast to the Northwest corner of the cannon mound in the Park?

2. Why was the body found neatly laid out as if ready for the coffin rather than in a contorted state as would be expected?

3. Why did the first two officials on the scene swear that they saw no gun in Foster's hand? Why does the report ignore this?

4. Why hasn't anyone analyzed and questioned the impossibility of being able to pull the trigger on the gun and shoot ones-self in the mouth as dictated by the official photograph?

5. Why did five months pass before a ballistics test performed on the gun? What were the results?

6. Why did the Park Police claim the gun was sent to BATF instead of the FBI for ballistics testing, when BATF has no records of such a test?

7. Why didn't the gun recoil out of Foster's hand as is typical of self-inflicted gun shot wounds of this type?

8. How could his eyeglasses bounce 19 feet through high grass away

from the shooting?

9. Why weren't any pieces of head bone or brain tissue typical of the bullet wound ever found?

10. Why hasn't the bullet been discovered?

11. Why weren't there any powder burns or broken teeth found in Foster's mouth typical of this type of gunshot wound?

12. Why are there no fingerprints on the exterior surfaces of the gun? Was the gun wiped clean? It can't be due to heat or other causes, because there is a fingerprint inside the gun behind the pistol grip. To whom does this fingerprint belong? Were the pistol grips on the gun replaced?

13. Why were only two bullets found in the gun? Why weren't any other bullets found in Foster's residence where the gun supposedly came from?

14. What was the origin of the wound observed on the side of Foster's neck by the two Fairfax County EMT's? EMT Arthur Miller stated to the FBI that it appeared like a 'small caliber bullet hole'. Why isn't this mentioned in the report?

15. Seven of America's top forensic experts including Massad Ayoob, Dr. Vincent DiMaio, Dr. Martin Fachler, and Vincent Scalice, have collectively agreed that the powder burns on Foster's left and right index fingers is not consistent with suicide? Why did Fiske disagree?

16. Why are there no signs of dirt or grass on Foster's shoes after he supposedly walked 700 feet through unpaved areas?

17. Why was there such little blood found at the scene? With the type of wound inflicted the heart continues to pump blood for at least one half to two minutes.

18. If Foster was found on a slope with his head above the rest of his body, why are the blood stains on his face running uphill? Why is there evidence of the blood running off into three other directions? This would account for the body being in two Park locations as previous testimony indicates, and somewhere else.

19. Why does the report state that x-rays weren't taken because the x-ray machine was broken, while the coroner's report in the appendix indicates that x-rays were taken?

20. Why does the report go to length to explain that Foster routinely took a tranquilizer once a day, the FBI report found traces of an anti-depressant and Valium, but the coroner's report in the appendix found no traces of any drugs?

21. Why was Foster's clothing covered with carpet fibers? Is this evidence still available for analysis, or is it missing? Do the fibers match any of the surroundings where Foster worked or lived?

22. To whom do the blond hairs found on Foster's clothes belong? Is this evidence still available, or is it missing? Do the hairs match anyone close to Foster?

23. What is the significance of the semen stains found on Foster's shorts? we'll explain

24. Why is there such a disparity in the number of witnesses claimed to have been interviewed in the report's summary letter and in the body of the report?

25. Why did Fiske completely ignore the FBI interview statements of two eyewitnesses? → we will

26. Why weren't the observations of the EMT's on the scene included in the report? we'll include

27. Why weren't any neighbors or passersby questioned? DONE

28. Why did Fiske choose not to include Confidential Witness's testimony that a wine cooler bottle was found near the body and a wine cooler pack was found in Foster's car? we'll include

29. Why have witnesses suspected of perjury been allowed to review evidence before testifying?

30. Why has testimony of four witnesses and photographic evidence been ignored regarding a briefcase in Foster's car? Where is the briefcase? What was in it? we'll include

31. Why have two Park Police been untruthful in previous testimony and in transcribing the statements of the only two witnesses questioned? → we'll check

32. Why weren't Foster's car keys found on him at the Park? How could he drive to the Park without them? we'll explain

33. Why does the report incorrectly conclude that Foster lost weight due to the stress he was under, when in fact records show he gained weight in the six months prior to his death? we'll [illegible]

34. Standard investigative procedure is to assume homicide until evidence to the contrary can be established, not the other way around. Why was the conclusion of suicide reached before all evidence and analysis was completed as leaked to the media? presumption on [illegible]

35. Why didn't the empaneled grand juries in Washington and Little Rock hear any testimony? DONE

36. Starr promised to probe the previous investigation by Fiske. Why has Starr put the same FBI agents that Fiske used in charge of reviewing their own previous work? Isn't this a conflict of interest?

37. Why is the resume of the lead pathologist missing from all the other resumes which makeup much of this report?

38. Was this poorly analyzed, contradictory, fluff piece, having more appendices than body, with 58 double-spaced single-sided pages, the reason a three judge panel replaced Fiske with Starr?

For a free copy of the Independent Counsel's Report on the death of Vincent Foster write to: Office of the Independent Counsel, 1001 Pennsylvania NW, Washington DC 20004.

Obstruction of Justice

1. Contray to standard police procedure, why wasn't Foster's office immediately sealed? Why did it remain unsealed for two days after the death?

2. What were Nussbaum, Thommason and Williams doing rummaging around Foster's office just after his death? It couldn't have been matters of national security as Nussbaum purported. Foster had nothing to do with national security - or did he? According to testimony of Foster's secretary Deborah Gorham, she placed two 1-inch binders from the NSA in Foster's safe. Is this what Nussbaum was looking for? Where are the binders?

3. Why did the documents collected by Nussbaum wind up in Hillary's safe for five days? Did any of the documents get lost on the way to the special prosecutor?

4. Why did Miguel Rodriquez, Associate Independent Counsel to Mr. Starr, resign?

5. Why did Bill Duffy, top Arkansas prosecutor to Mr. Starr resign?

6. Why did Russell Hardin, Texas prosecutor to Mr. Starr resign? Was he disgusted with the soft-ball plea agreement signed by Starr with Web Hubbell?

7. Is Mr. Starr's obstructionist democratic assistant Mr. Touhey a possible reason for any of these resignations?

8. Why was Philip Heymann, a 33 year career professional and #2 man in the Justice Department, abruptly terminated by Clinton thru Janet Reno? Why did he take exception to the investigation into Foster's death?

More Questions

1. Why would Foster sign out for a White House beeper just hours before committing suicide? Why does one report place the beeper on Foster's person and another report places it in his car? Why is the beeper missing from the evidence collected? What messages were on it? From who? Were the messages transcribed?

2. Why are Foster's fingerprints missing? How could the fingerprints of a person with security clearance on file with the FBI be missing? What would be the advantage to anyone living if Foster's fingerprints were misplaced?

3. Why are there more than two dozen documented acounts of Foster flying to Switzerland while a lawyer in Arkansas and as White House Counsel? Why did he cancel a scheduled flight just 12 days before his death? Was he delivering funds to a Swiss Bank? Why would Clinton's personal Counsel have need to frequently visit Switzerland?

4. Where is the followup to the frantic telephone call reported by the London Sunday Telegraph from a White House aide to the Arkansas State Police that Foster shot himself in the White House parking lot?

5. Why did Foster hire two lawyers the day before his death? Why would the White House Counsel need lawyers?

6. When will it be acknowledged that the 27 piece note found in Foster's briefcase was not a suicide note, but a draft of items to be discussed with his defense lawyers?

7. After Foster's body was found and the White House was notified, two phone calls came back almost immediately. The first was from an Assistant White House Chief of Staff who asked 'whether the Park Police had checked the registration on the gun and knew whose gun it was'. The second was from the White House Director of Personnel asking about the weapon. Why wasn't the White House's first concerns about Foster or his surviving wife? Why was the White House worried above all else about the gun?

8. Why hasn't there been any review of Michael Kellet's book <u>The Murder of Vincent Foster</u> (CLS Publishers, 7188 Cradlerock Way, Suite 162, Columbia MD 21045)? This book concludes, based solely on the report of the independent counsel, that Bill and Hillary Clinton are responsible for the initiation and orchestration of the murder.

Why was Foster Murdered?

1. Was it his failure to adequately cover up all the loose ends of Madison Marketing, Castle Grande and Whitewater, which were quickly unraveling?

2. Was he too moral for the White House and was showing less cooperation at burying the Whitewater mess?

3. Did he run afoul with someone in the CIA for which he was an intelligence operative?

4. Jim Norman, senior editor of Forbes magazine, has alleged that Foster was working on a top-secret NSA project to infiltrate and monitor bank transactions worldwide. Foster's secretary has alleged that one of the two envelopes received from Web Hubbell filled with papers relating to a customized software program utilized by the NSA to infiltrate bank computers was missing after Foster's death. Who besides Deborah Gorham and William Kennedy had keys for the file cabinet from which this information is now missing?

5. Was Vince Foster murdered because he successfully stashed tens of millions of Mena Arkansas drug laundering commission dollars into Bill Clinton's foreign bank accounts, slammed closed the backdoor to the computer software program Promis that will permanently hide these transactions, and was now a potential liability that might crack under cross-examination?

Epilogue

1. Mr. Hugh Sprunt has reviewed the 2,726 pages of documents including testimony, depositions, and reports by Fiske, FBI and Park Police on this subject. His 165 single-spaced page report "Strategic Investment's Citizen Report on the Death of Vincent Foster" has been published by Agora Inc., 824 East Baltimore Street, Baltimore MD 21202.

CONGRESSMAN BURTON CRITICIZES "60 MINUTES" FOSTER SEGMENT

Cong. Dan Burton(R-Indiana) took to the House floor last Thursday, and in a speech broadcast on C-Span, criticized Mike Wallace's recent feature on Vince Foster. Burton's speech follows.

□ 2001

"60 MINUTES" REPORT ON THE DEATH OF VINCE FOSTER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 15 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I have been watching the television show on CBS, "60 Minutes," for a long, long time, and I have always respected that program because it was very informative, and I always thought it was factual. And then, just after the last presidential election, I think Mr. Hewlett, the producer of "60 Minutes," said in a national interview that had he exposed all of the information that was available to him at "60 Minutes" during the campaign, that the then candidate for President, who was later elected, would be walking around in the snows of New Hampshire. So it became apparent to me that the "60 Minutes" producers and the people who ran that show had a very strong bias, and that bias was reflected in much of their reporting.

This became apparent to me again about 2 weeks ago on a Saturday night, when I watched Mike Wallace start doing a 20 minute segment on the death of Vince Foster. I have never seen so much misinformation and so much bias in reporting as I saw during that 20 minute segment.

Let me just tell you some of the things that happened, some of the things that "60 Minutes" ignored. Mike Wallace said that every government body that has investigated the death of Vince Foster reached the same conclusion, than he killed himself at Fort Marcy Park.

He did not mention that the independent counsel, Kenneth Starr, has reopened the investigation. Mr. Starr's attorney spent this summer questioning witnesses before a grand jury. The FBI is back in Fort Marcy Park, or was a couple of weeks ago, more than 2 years after Vince Foster's death, looking for the bullet that killed him. Would the independent counsel go through all of this work were there not unanswered questions about the case?

So I believe that Mr. Wallace was incorrect when he said that the conclusion has been reached by every government agency. In addition, many of us in Congress have come to different conclusions as well.

Another thing that he forgot to mention was that the police were not the first people to encounter Foster's body. He mentioned a national park policeman who found the body. The fact of the matter is that the park policeman did not find the body. The body was found by a man called C.W., the confidential witness, who was the first person on the scene.

I have a sworn statement, where I went out to his home with a court reported and two other Congressmen, from the confidential witness. The FBI questioned him extensively and considers him honest and credible.

"60 Minutes" never talked about him or even mentioned on that program that there was a confidential witness that found the body. "60 Minutes" never read his statement.

The gentleman from Pennsylvania [Mr. CLINGER], who is the chairman of the Committee on Government Reform and Oversight in the House, told "60 Minutes" that he knows more about this subject than any Member of Congress, and, although I have high regard for Representative CLINGER, he never interviewed the confidential witness, although he had an opportunity to do so, and he never read his sworn deposition, which was verified.

Mike Wallace went into great detail during this interview about how the gun was found in Foster's right hand. He said critics of the investigation incorrectly stated that Foster was left-handed. Well, that misses the point entirely. When the confidential witness discovered the body, he looked very carefully. He was within 18 inches of Mr. Foster's face. He looked very carefully and saw no gun in either hand. He was very clear in his statement, in the sworn statement before me and the FBI, that when he found Foster, both hands were palm up with the thumbs pointed out away from the body. When the police arrived on the scene, they found his right hand palm down with the thumb pointed in, the gun on the trigger finger, and the gun was partially obscured by his hand and his leg.

When the confidential witness found the body, the head was looking straight up, and there were no bloodstains on his cheek. When the police arrived, the head was still pointing up, but there was a contact bloodstain on the cheek and the trails of blood running from his mouth and nostrils down the side of his face.

Now, how did Foster's hand get moved and why was there no gun in it when the man found it, and later there was a gun in it? How did Foster's head get moved? It is obvious to me that somebody was there and moved the body.

Now, the Park Police officer, Officer Fornshill, was not, as I said before, the first to discover the body. It was a confidential witness. Park Police Officer Kevin Fornshill told Mike Wallace that Foster's body could not have been moved to the park because the vegetation around him was not trampled.

But the fact of the matter is the confidential witness said in a sworn statement that the vegetation below the body, from the feet all the way down to a path that went all the way around the park, it was trampled flat. There was a narrow path at the bottom of the berm that winds around the perimeter of the park. "60 Minutes" would have known this if they had read his statement, or even decided to look into it and asked.

The confidential witness told the FBI that he saw a half-empty wine cooler body near Foster's body. The Park Police did not find it. What happened to the wine cooler bottle and were there any fingerprints on it? As the confidential witness was leaving the park, he looked inside the white Nissan parked in the lot and saw a half-full package of wine cooler bottles, very similar to the one beside the body, a briefcase, and a suit jacket that looked similar to Foster's suit pants. This was not Foster's car. Foster's car was a gray Honda and it was parked further away, and C.W., the confidential witness, did not walk near it.

Mike Wallace made a big issue out of the amount of blood around the body. He interviewed the medical examiner, who said there was sufficient blood underneath the head and shoulders to conclude that he died at that spot.

This misses the key point. There would have been blood underneath Foster's head, whether he shot himself at the spot or was moved there. The key point is there was no blood spattered on anything behind where Foster was sitting. Anytime someone shoots himself through the mouth, there would be blood splattered all over above him, and there was nothing above him that had any blood on it whatsoever. The vegetation on the path behind Foster was clean.

The first emergency medical services person who arrived at the park, George Gonzalez, commented that it was very unusual for a suicide victim's body to be laid out so neatly, with the feet together and the hands neatly at his side. He told this to the staff of the Committee on Government Operations, and he said: "I find it odd to have the body laid out like it was. I wouldn't expect the hand or body in the position found, the hands perfectly at the side." "60 Minutes," incidentally, did not interview Mr. Gonzalez.

Mike Wallace noted that it was not unusual for Foster's clothes to have carpet fibers on them. Foster's attorney said that Mrs. Foster had just had new carpeting installed in their home. Well, if that is the case, why did the FBI not take carpet samples and match them with the fibers on his clothes? They did not do that.

There were blood hairs on Mr. Foster's body and all over his clothes. Why did the FBI not compare these hairs to the hair of the people Foster knew and was close to?

Here are some other keys points that "60 Minutes" left out in their biased reporting.

First, the Park Police investigation was incomplete and unprofessional. The photos of the crime scene were underexposed and did not turn out. The only photos were of very poor quality and they were made with instamatic cameras.

No search was conducted for any skull fragments. When you blow the top of your head out with a .38 caliber bullet, there are skull fragments and bone fragments all about where the head was. There was none of this, no blood and no brain particles.

No search was conducted for skull fragments, as I said. Only a very cursory search was conducted for the bullet. White House Counsel Bernie Nussbaum refused to allow Park Police officers or the FBI to search Foster's office. In fact, the night of Foster's death, Bernie Nussbaum, the chief counsel of the President, and two other high level White House aides, Patsy Thomason, who was the chief personnel officer, and Mrs. Williams, Hillary Clinton's chief of staff, searched Foster's office and removed files having to do with Whitewater. This was after the Park Police asked that the office be sealed, and it was not sealed for at least 12 hours while they went through and rifled through those papers. Justice Department officials accused Nussbaum of violating an agreement they had reached regarding the search of Foster's office.

Second, the coroner that conducted the autopsy on Foster has made glaring errors in the past. This was not revealed by the "60 Minutes" show. Dr. James Beyer was the coroner who reviewed and did the autopsy on Vince Foster.

Let me tell you about Mr. Beyer. In 1988 there was an autopsy on establishing the death of a man named Tim Easley. Mr. Beyer, the coroner, ruled that Easley killed himself by stabbing himself in the chest. He failed to notice a defensive wound on the man's hand. The case was reopened, and, after an outside expert reviewed the case, Easley's girlfriend confessed to murdering him, after he had been judged a suicide by the coroner. That is one mistake.

In 1991, regarding a Mr. Tommy Burkett, Mr. Beyer did an autopsy on him and ruled that Burkett had killed himself with a gunshot wound to the mouth very similar to Vince Foster's. He said it was a suicide. Mr. Burkett's family had the body exhumed and reexamined by an outside expert. The second coroner reported that Dr. Beyer had failed to notice a disfigured and bloody ear, indicating a struggle, and a broken jaw, indicating he had been hit in the face and his jaw was broken during a struggle. The FBI is now investigating this case. It obviously was a murder or homicide, and not a suicide.

The first special counsel, Robert Fiske, appointed a board of forensic experts to review the Vince Foster case. They concurred in Fiske's opinion that Foster killed himself at Fort Marcy Park. However, they were not appointed until a year after Foster died, and the only way that they could come to the conclusions they did was to read the coroner's report and use that as a guide to come to their conclusions. So they never saw the body, and they veri-

fied he was killed at the park. But the fact of the matter is, they could not possibly have known that, because they only used the coroner's report to come to the conclusions they did.

So, in conclusion, last summer, when the Senate Committee on Banking and Financial Services held a hearing on Foster's death, the FBI testified there was absolutely no doubt that Foster killed himself, and that he killed himself at Fort Marcy Park.

Now, let us review the problems and glaring inconsistencies with this investigation.

First, the eyewitness who found the body testified that he is sure there was no gun in Foster's hand and the hands were in a different position than when the police arrived. That was not mentioned on "60 Minutes."

Second, the confidential witness said there were no bloodstains on the face when he found the body. There were bloodstains on the cheek when the police arrived, indicating it had been moved. When they moved his body, his head went over to the side and blood drained out on the face.

Third, the confidential witness testified he saw a wine cooler bottle close to Foster's body in the park, and a package of similar wine cooler bottles in a car in the parking lot that did not belong to Foster. Where did they come from? Where did that bottle go?

Fourth, despite extensive searchers of the park, the FBI has been unable to find the bullet that killed Vince Foster, and they are still looking for it. Evidently the independent counsel sent them back out there 2 or 3 weeks ago to look for it again.

Fifth, no skull fragments were ever found at the site where Foster's body was found, even though there definitely would have been skull fragments from that kind of a wound.

Sixth, there were no fingerprints on the gun. Get this: The gun was in his hand, and there were no fingerprints on the gun. The FBI said they probably, get this, "melted off in the heat." And yet when they took the gun apart, they found fingerprints there from the time the gun was made at the factory.

Seventh, there were no fingerprints on the suicide note found in Foster's briefcase in his White House office. It was torn up into 28 pieces, and the first few times the briefcase was searched, they could not find the note at all, even though they turned it upside down, and there were no fingerprints on it.

Eighth, the coroner who conducted the autopsy of Foster's body has made glaring errors of high profile cases in the past. In one case, a body had to be exhumed and reexamined in order to change the ruling from suicide to murder.

Ninth, security guards working at the Saudi Arabian Ambassador's residence across the street from the park, within 100 yards, 300 feet, with guards outside all day and night, heard no gunshot.

10/31/95 17:49

Tenth, Foster's shoes were completely clean, with no grass or dirt stains, even though he was supposed to have walked 700 yards through the park to the second cannon.

No. 11, the FBI never made any attempt to identify the carpet fibers or the blond hair on Foster's clothing.

No. 12, the police photos at the death scene did not turn out, leaving a serious lack of documentation of the death scene.

With all of the glaring problems, can you imagine the FBI telling the Senate Banking Committee there could be no doubt about where and how Foster died? With all of these glaring problems, can you imagine what Johnny Cochran, F. Lee Bailey, and O.J. Simpson's other lawyers would have done in a case like this?

Independent Counsel Starr is still investigating this death. "60 Minutes" should not jump to conclusions until Mr. Starr has completed his investigation, and Members of Congress should not jump to conclusions until Mr. Starr completes his investigation as well.

So I just would like to say to my friends at "60 Minutes," Mr. Wallace, Mr. Hewlitt, and everybody else, before you make the kind of determination that you did and do the kind of reporting that you did 2 weeks ago, please talk to all the people involved, especially eyewitnesses. The man who found the body, who gave a sworn statement under oath to me and to two other Congressmen, was never contacted, never interviewed, and nobody has seen that report, even Mr. CLINGER, who is the chairman of the Committee on Government Reform and Oversight here in the House.

So I just say that I think it was a bad piece of reporting, and I would urge them to be more thorough in the future.

TO: BRETT KAVANAUGH Revised 7/25/95

FROM: SA C.L. REGINI

SUBJECT: DISCREPANCY LIST

The following list is my last comprehensive outline of all of the noted discrepancies, inconsistencies, and problems that have been identified in the Vincent W. Foster death investigation to date. The outline is broken down into the following areas: U.S. Park Police, Emergency Medical Technicians (EMTs), the White House, Northern Virginia Medical Examiner, Miscellaneous, and Forensic Examinations. Although mostly the same as the previous list of 6/21/95, there are a few additions, particularly under USPP and Medical Examiner:

I. U.S. Park Police

A. No gunshot residue samples of the decedent's hands.

B. Lack of complete documentation of the gunshot residues on the left hand.

C. Poorly diagrammed death scene; lack of measurements.

D. No photo log; no documentation regarding who took what photographs, and the total number of photos.

1. Edwards initialed Ferstl's photographs.

2. Ferstl is unsure of the exact number of photographs he took with Edwards camera.

E. Death scene 35mm photos did not develop.

F. No documentation regarding the initial search of the decedent's vehicle at the death scene- no inventory.

G. Photo of an unidentified briefcase next to a U.S.P.P. vehicle.

H. Decedent's pager returned too soon; no records obtained regarding previous pages.

I. Suicide weapon processed with dust prior to other laboratory exams.

1. No latent prints of any kind; value/no-value.

J. Inconsistent statements regarding moving and searching the body. (Rolla, Braun, Simonello, Hodakaviec)

K. Inconsistent and poorly documented autopsy.

1. Morrissette's report.

2. No gunshot residue samples from hands.

3. No fingernail clippings/scrapings.

1-Tuohey
1-Ewing
1-Lueckenhoff
1-Kavanaugh
1-Gillis
1-McCarrick
1-Clemente
1-29D-LR-35063

4. No major case prints of decedent.
5. No photo of left hand.
6. Possible contamination of evidence subsequent to autopsy at M.E.'s Office.
7. Inconsistent statements regarding what was done to the body prior to autopsy.
8. No description of body and clothing prior to autopsy.

L. Possible contamination of evidence at U.S. Park Police facility.
M. Poor interview and documentation of witnesses at death scene (Doody and Feist).
N. Photo of an unidentified white male wearing plainclothes at death scene.
O. Inconsistent statements regarding vehicle doors being locked/unlocked. (Braun, Rolla, Hodakievic, Simonello, Gavin)
P. All photographs not produced pursuant to initial subpoena.
Q. Inadequate and incomplete metal detector search by the USPP. (Operators had no prior experience or training)
R. Eyeglasses and revolver lifts contain trace evidence.
S. Case was closed prior to completion of laboratory exams.
T. Inconsistent statements of Officer Watson, Jeff McGaughey, and Braun regarding Watson's and McGaughey's actions/observations at the scene.
1. Watson is the Special Forces officer that responded to the scene.
U. Watson did not notify Gavin, as requested by Braun at approximately 7:30 p.m.
V. No neighborhood investigation.
1. Did not obtain video from Saudi residence of second entrance.
W. Incorrect number of torn pieces of note in Simonello's report.
X. No documentation of the latent prints of value that were obtained from the decedent's vehicle.
1. The prints were identified by the FBI Lab.
Y. Incomplete search of the decedent's vehicle.
1. Numerous items were not taken as evidence; they were later obtained by OIC FBI agents.

II. Inconsistent statements and observations of Fairfax County Fire and Rescue personnel.
A. Wound on neck (Arthur: .45 cal. bullet hole.)
B. Gun under thigh.
C. Wound on upper right front of skull (Gonzales).
D. Briefcase in vehicle.
E. Unidentified person in woods (Hall).
F. Vehicle doors locked.
G. Death scene photos do not accurately depict scene.
H. Two unidentified white males walking from death scene.
I. Color of gun was silver.
J. Type of gun was semiautomatic pistol (Arthur).
K. Statements of initial paramedics at scene regarding their actions are inconsistent with Fairfax County paramedic protocols.

L. Report coded as a homicide (Ashford).

III. Medical Examiner

A. X-rays

1. Autopsy report indicates x-rays were taken.

2. Morrissette's report indicates Beyer told him x-rays were taken.

B. All individuals present at autopsy not indicated on autopsy report.

C. No photographs of decedent's left hand.

D. Inconsistent statements regarding removal of decedent's tongue and palate.

E. Inconsistent "on-scene" times reported for Dr. Haut; 7:40 pm and 7:15.

F. Stomach contents; no definitive digestion time, or positive identification.

G. "Cross-hatched" lines in autopsy diagram- discrepancy between Dr. Luke's autopsy review and 7/13/95 conversation with Dr. Beyer.

IV. White House

A. Foster's office unsecured until 7/21/93, approximately 10:10 a.m.

1. Patsy Thomasson, Maggie Williams, Bernie Nussbaum search Foster's office.

B. Confidential trash bag removed and replaced.

C. Nussbaum enters office; removes small photo.

D. Pond rearranges papers on Foster's coffee table.

E. Exclusive initial review of documents by Nussbaum.

F.Torn note found one week later in briefcase previously searched by Nussbaum.

G. Note not released to investigators until the following week; a day after it was discovered.

V. Miscellaneous

A. CW's inconsistencies.

1. positioning of decedent's hands.

2. no gun.

3. winecoolers and briefcase in vehicle.

4. trampled area around death scene.

5. does not see white car occupied.

B. Inconsistencies between Doody and Feist's statements.

1. Inconsistencies between USPP interviews and FBI interviews of Doody and Feist.

2. Their statements re- other people at the park were "completely ignored" by Fiske investigators.

C. No initial investigation of the park's "second entrance".

D. No one heard a gunshot.

E. The gun exemplifies a "drop gun".

F. No matching ammo at the decedent's residence.

G. The decedent's grip on the gun was not the simplest nor the easiest to shoot himself in the mouth.

H. The decedent never previously spoke of suicide.

I. The decedent had no particular obsession, "dire

predicament", or one thing that would have put him over the edge.

J. The decedent had dealt with stress before.

K. The suicide weapon has never been positively identified as belonging to the decedent, or the decedent's father.

1. Family members have been unable to reliably and conclusively identify the gun.

L. Lisa Foster's initial spontaneous question "was the gun in his mouth?".

M. Five unaccounted for hours between the time the decedent left work and was discovered dead.

N. Lack of blood at death scene.

O. No bullet.

P. No cadaveric spasm causing decedent to clench gun.

Q. The gun did not fly out of the decedent's hand.

R. No chipped teeth noted by M.E.

S. No flashburns inside mouth noted by M.E.

T. The mortician lost the original embalming report and diagram.

U. The decedent's glasses were discovered 13' downslope from his body.

V: The positioning of the body is inconsistent with suicide; body neatly laid out; "as if it was in a coffin".

W. Fairfax Hospital Laboratory Supervisor statement re-gunshot wound to middle of head.

X. Helen Dickey telephone call to Roger Perry.

Y. Committed suicide at an unfamiliar location.

Z. No suicide note.

A1. No previous mention of suicide.

B1. Ate lunch prior to committing suicide.

C1. Jeff McGaughey's statements are inconsistent with Officer Watson's.

D1. USSS memo of SA Scott Marble, dated 7/20/93, re-decedent's body discovered in his car, and revolver recovered in car.

E1. Other witnesses were in the park (Ruddy article of 6/14/95).

1. Several men wearing orange vests.

2. Several people who entered the park through the rear entrance and encountered police.

F1. Enhanced photographed depicts a wound on neck.

G1. Not an independent investigation (Ruddy article of 6/19/95).

1. Tuohey conflicts.

2. Colombell oppositon/resistance.

H1. Eyeglasses found 13' from body.

VI. Forensic Examinations

A. Unidentified latent print inside grip of suicide weapon.

B. Unidentified blonde head hairs.

C. Unidentified carpet fibers.

D. Unidentified stain on shirt. (Dr. Lee).

E. Unidentified gunpowder in scrapings.

F. The decedent's head was moved.

G. No blood on suicide weapon.

H. No soil on shoes. (mica flakes)

I. Large semen stain in the decedent's underwear.

J. Blood flowed uphill (video).

K. Excavation of site disputed.

L. Possible blood on handkerchief (Item 4a)

M. Inconsistent vegetation at death scene.

N. Polaroid photos depict decedent's hand in different positions.

O. FBI Lab relied on third generation photographs for their examinations; copies of copies.

2ND STORY of Level 2 printed in FULL format.

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October 18, 1996, Friday

SECTION: NEWS; Ed. 1,2,3,4,5,6,7,8; Pg. A-1

LENGTH: 1312 words

HEADLINE: Transcript bares warring emotions of SDSU gunman

BYLINE: Bill Callahan
STAFF WRITER

BODY:

"Kill" was the password on Frederick Davidson's home computer. And killing was exactly what the graduate student had on his mind when he systematically gunned down three professors in an SDSU engineering classroom in August.

But as Davidson was mulling murder, he also was feverishly putting the final preparations on a thesis he was to present to the men he would kill.

As he concealed in his backpack the semiautomatic handgun he chose for his deadly mission, Davidson simultaneously packed the suit he intended to wear to impress the professors.

This portrait of contradictions emerged in a grand jury transcript made public yesterday.

It is undisputed that Davidson fired th
tragedy and its first campus slaying in 22
premeditated and cold-blooded or prompted h
will be hotly debated in what could be a ca

Hundreds of pages of grand jury transcri
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Finally, they provide Davidson's explanat
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The testimony to the grand jury was the ba
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There was also an underlying worry about be
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during two days of hearings.

"He (Davidson) told me he felt Dr. Liang was [illegible] busywork that had nothing to do with his thesis project and . . . Dr. Lyrintzis was preventing him from gaining employment," Joseph Cristinziana, a San Diego homicide detective, testified.

Brett

The police/pathology evidence research you requested. This was a rough cut for only the last 5 months in Lexis/Nexis.

TR.

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It is undisputed that Davidson fired the shots in San Diego State's worst tragedy and its first campus slaying in 22 years. But whether the acts were premeditated and cold-blooded or prompted by a long-lingering mental illness will be hotly debated in what could be a capital case.

Hundreds of pages of grand jury transcripts contain the first eyewitness accounts of the Aug. 15 shooting. They also disclose that Davidson wrote a murder-suicide note and a card to his mother the night before.

Finally, they provide Davidson's explanation to police of his motive: that his instructors were torpedoing his attempts to land a job.

The testimony to the grand jury was the basis for an indictment of Davidson on charges of murdering Chen Liang, Preston Lowrey III and Constantinos Lyrintzis. It indicates that Davidson's frustrations were not centered -- as was first believed by friends and classmates -- on concerns over his master's thesis, but rather on his treatment by his professors and on not finding work.

There was also an underlying worry about being discovered cheating by using "old notes," or other students' work, according to witnesses who testified during two days of hearings.

"He (Davidson) told me he felt Dr. Liang was giving him busywork that had nothing to do with his thesis project and . . . Dr. Lyrintzis was preventing him from gaining employment," Joseph Cristinziana, a San Diego homicide detective, testified.

"He believed that Dr. Lowrey had seen him with old notes . . . (which) he said a student was not supposed to have. . . . He indicated that this was considered cheating."

Bloody chaos ing."

Bloody police headquarters for nearly four hours shortly after the professors were shot and killed in the classroom complex.

Seconds before he pulled out the handgun, Davidson handed Liang an e-mail message he said was from a prospective employer interested in him, Cristinziana testified.

"However, the company told him that his hiring depended upon his thesis defense and depended upon positive feedback from the professor," the detective said.

Davidson told Cristinziana that before Liang could respond, "I felt this was another ambush."

He quickly moved to a first-aid kit on a wall where he had hidden a 9 mm semiautomatic handgun that morning. Without a word, Davidson opened fire, the detective said.

Bloody chaos ensued, according to versions provided by Davidson, two of three students who saw the shooting and a deputy medical examiner who conducted autopsies on the professors:

Liang fell, mortally wounded, from his seat at a table where he sat with his two colleagues. Three students, attending to support Davidson and experience first-hand the review process, scattered in fear.

Lowrey and Lyrintzis tried to run after being hit by spraying bullets. Lowrey collapsed and died near a door.

Lyrintzis fled to an adjoining room and ducked under a table. Davidson followed him, slamming another clip of ammunition into the gun. He fired again after he noticed that Lyrintzis was still moving.

Lyrintzis pleaded, "Fred, no!" before Davidson shot him again.

Davidson fired 23 rounds from the Taurus PT-92 he had purchased 10 months earlier, and 16 of them hit the professors, some in their backs.

Investigators found teeth, hair, blood and body fragments splattered on the walls and floor of the laboratory. A computerized picture of a nuclear bomb explosion that Davidson had downloaded from the Internet was tacked to the wall.

Davidson surrendered to campus police minutes after the shooting and investigators found his wallet and a note on the floor of the hallway outside the classroom.

The note read: Dorothy Drive, San Diego California, 92115. You will find all you are looking for on the bottom shelf of my bookcase. Also find M.S.N. (murder-suicide note) and M.S.N. Two files on computer and removeable drives

in cabinet, password, Kill.' "

A voluminous amount of material was seized from Davidson's home, but it has not been made public. Prosecutor Rick Clabby said investigators are still reviewing it.

Fighting delusions? Kate Coyne, said the materials include detailed logs that confirm Davidson was slowly losing touch with reality because of a long-standing mental illness.

"He was constantly equivocating between his delusion and his value system, and as time went by, it is clear that the delusional system was gaining control," Coyne said in an interview yesterday.

"At the same time that he headed off to school and mailed a suicide note to his mom with $240 in it, he's trying to finalize a thesis that he has no intention of presenting," she said. "That's psychotic behavior."

Coyne said it was obvious to at least one of the grand jurors that Davidson was suffering from mental illness because the juror raised a question about psychiatry and psychology.

"But this case has been presented by the District Attorney's Office from day one as one of revenge over his thesis, and the jury was presented only one-sided testimony that excluded any evidence of mental illness," she said.

Prosecutor Clabby replied that the grand jury did not hear testimony about Davidson's mental status because none of the witnesses knew about it or had expertise in that area.

"The police contacted Mr. Davidson's mother in an attempt to find out anything about that, but she refused to talk to them," he said.

Clabby has argued in court that the killings were carefully planned and cold-bloodedly carried out by an educated man.

A senior panel of prosecutors has recommended that the death penalty be sought in the slayings, but District Attorney Paul Pfingst has delayed making a final decision to allow the defense to give him more information.

Coyne maintains Davidson should not be executed for killing the professors because he was delusional at the time.

"This is not going to be a whodunit," she said. "We acknowledge that he pulled the trigger, but he should not be punished by death for his mental problems."

Coyne said she will show that Davidson's mental problems are genetic. She said Davidson's grandmother was committed to a state mental hospital and his father has suffered psychological problems that surfaced when he was in college.

Two students who witnessed the shootings told the grand jury that Davidson struck up friendships with them and complained about his professors. He talked about movies with "bombs, guns and explosions," they said.

One of the students, Frans De Graaf, said he cowered in a corner with his eyes closed and his hands over his ears when the gunfire started.

"I tried to hide somewhere but there was no place to hide," he said. "I expected a bullet in a moment."

Davidson, however, told police he had no intention of killing the students.

"He told me he wasn't angry with them," Detective Cristinziana testified. "He had nothing against them."

Davidson left suicide notes and begged campus police to kill him when they arrested him outside the classroom.

Cristinziana told the grand jury that he asked Davidson, "Why didn't you shoot yourself?"

"He told me the tension was gone and it was pure cowardice," the detective said.

GRAPHIC: 1 PHOTO; Frederick Davidson: Transcript shows two sides.

LANGUAGE: ENGLISH

LOAD-DATE: October 19, 1996

4TH STORY of Level 2 printed in FULL format.

Copyright 1996 Arkansas Democrat-Gazette
Arkansas Democrat-Gazette

October 06, 1996, Sunday

SECTION: NEWS; Pg. 1B

LENGTH: 571 words

HEADLINE: TV hour about Foster's death draws no startling conclusions

BYLINE: FRANK WOLFE, Democrat-Gazette Staff Writer

BODY:

The Arts & Entertainment cable channel spent an hour Saturday night delving into the mystery of Deputy White House Counsel Vincent Foster's death. Its conclusion was hardly surprising.

Host Bill Curtiss pronounced that "no hard evidence has yet surfaced to prove that Vince Foster's death was anything other than a depressed and troubled man's determination to kill himself."

A&E "Investigative Reports" talked to Foster friends, journalists and Park Police officials and with "conspiracy theorists" who believe that Foster was murdered or the White House is covering up something about his death.

Park Police found Foster's body in Fort Marcy Park in northern Virginia on July 20, 1993. The park is near McLean, a suburb of Washington, D.C.

At the time, Foster and the White House were reeling from the Whitewater and Travelgate affairs.

The show featured on-camera interviews with three Park Police officers who were on the scene after the Foster suicide: Detective John Rolla, officer Peter Simonello and Sgt. Cheryl Braun.

"Anybody who could have seen the scene the way it was that day could never have any doubt in their mind that this was a self-inflicted gunshot wound," Braun said.

But the program did lay out mistakes made in the investigation that have spawned a "cottage industry" of conspiracy theories.

Simonello took 24 crime scene photographs. They were too dark to be of any value. Rolla took Polaroids as a backup but lost several of them, according to A&E. The show said that the Foster case was Rolla's first death investigation and he had previously worked as a narcotics officer.

James Beyer, the Fairfax County, Va., medical examiner who conducted the autopsy on Foster's body, filled out his report to read that X-rays had been performed. But under congressional questioning, he testified that he had filled out the report ahead of time affirming that he X-rayed the body but had not X-rayed Foster's body because he had not been getting the X-ray equipment to

work.

White House aides also removed Foster's files from his office after his death.

The show also pointed out some curiosities about the Foster death -- a missing bullet, the small amount of blood at the scene, the .38 Army Colt Special that was stuck in Foster's hand.

Those interviewed who believe Foster's death was more than a suicide were Watergate co-conspirator and radio talk show host G. Gordon Liddy, conservative media watchdog Reed Irvine, British journalist Ambrose Evans-Pritchard and Dallas lawyer Hugh Sprunt.

The show also interviewed New York Times columnist Frank Rich and former U.S. Attorney Joseph DiGenova, both of whom discount the theories circulating that Foster's death was other than a suicide. "The whole thing is just goofy," DiGenova said.

James Stewart, a former Wall Street Journal writer and the author of the best seller "Blood Sport," told the show that Foster's death remains a mystery and people are mystery fans. The show also talked with several of Foster's and Clinton's Arkansas friends --advertising executive Skip Rutherford, Little Rock lawyer Joe Purvis and David Porterfield, who grew up with Clinton and Foster in Hope.

"The last time I talked to him I never heard anybody sound as tired and worn-out, literally as if he had the weight of the world on his shoulders," Purvis said of Foster.

GRAPHIC: Photo by CHRIS JOHNSON, Arkansas Democrat-Gazette

Vincent Foster's death is the focus of an A&E "Investigative Reports" Saturday.

LANGUAGE: ENGLISH

LOAD-DATE: October 22, 1996

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The Times Union (Albany, NY)

September 12, 1996, Thursday, THREE STAR EDITION

SECTION: MAIN, Pg. A1

LENGTH: 1298 words

HEADLINE: Autopsies challenge mission of Kevorkian

BYLINE: THOMAS MAIER Newsday

HIGHLIGHT:
Reports reveal that few of his suicide patients were terminally ill

BODY:
For the past six years, Dr. Jack Kevorkian has provided a lethal alternative to those he says are dying and in pain. In the process, he has almost single-handedly ignited a national debate on doctor-assisted suicide now heading to the Supreme Court.

Kevorkian's solution -- death by carbon monoxide poisoning or through an injection of potassium chloride -- has overcome several legal tests. He has won acquittal in three criminal trials in his quest to allow people the right to decide when they should die. And polls show many Americans now favor doctor-assisted suicide in some legalized form.

But a Newsday examination of autopsy reports shows as few as nine of the 40 known suicide victims were terminal when they ended their life, meaning the diseases or conditions they had would have killed them within six months. And in three cases, autopsies found no discernible evidence of disease.

Additionally, the autopsies overseen by Oakland County Medical Examiner L.J. Dragovic in suburban Detroit showed evidence that several individuals were heavily drugged before undergoing the procedure that ended their life, or were physically unable to do the things they needed to do in order to commit suicide.

Kevorkian and his attorney, Geoffrey Fieger, have argued that ''quality of life'' is the essential determining factor in seeking assisted suicide, whether or not they are terminally ill. But critics say the autopsy results raise serious concerns about Kevorkian's rationale, his guidelines and a methodology that remains largely shrouded in mystery.

Those concerns include whether the individuals who committed suicide with Kevorkian's help were adequately informed about their own medical conditions and about such suicide alternatives as improved pain-management programs and psychological support networks.

Fieger contends that Kevorkian, a 68-year-old retired pathologist, enjoys widespread public support and says such distinctions about the terminal condition of suicide victims are ridiculous. He called Dragovic's autopsies biased and said they've been refuted by the juries that acquitted his client.

In the past, Fieger said that before Kevorkian would take action each person ''must be suffering from a fatal or irremediable condition from which they'll never recover, and that the patient's family entirely agree.''

Each person's desire for suicide, Fieger said then, ''must never waver.'' All are asked for signed and videotaped statements to that effect.

In a recent interview, however, Fieger said, ''People have an absolute right to make decisions about their life and suffering without anybody else telling them what to do. It's so obvious that the opponents' beliefs are based upon religion and nothing else.''

Kevorkian's approach runs strongly counter to the goals of two federal appeals court cases that earlier this year affirmed a dying patient's right to doctor-assisted suicide. Lawyers in those cases, which the Supreme Court is being asked to consider, argue that only terminal patients in the final stages of illness should be eligible for assisted suicide.

''We've suggested guidelines from the very beginning that at least two different physicians are needed to verify the terminal stage of illness,'' said Barbara Coombs Lee of Compassion in Dying, the Seattle-based group that has sponsored both federal lawsuits. ''If you don't have a fair and compassionate law, then you have a degree of lawlessness with people like Kevorkian, who is beyond the law.''

In examining the available Kevorkian files, Newsday gained access to 32 complete autopsies at the Oakland County medical examiner's office. Authorities in Detroit also provided details on three cases handled there. Autopsies on four other cases, ruled as suicides in neighboring counties, were incomplete or unavailable. Records were also unavailable in a suicide last Saturday.

The results:

Many who committed suicide with Kevorkian's aid either did not know -- or chose to ignore -- medical evidence that their conditions were not fatal. Although nine were judged to be in the final stages of terminal illness, autopsies showed that 17 suicide victims did not have diseases considered, by definition, to be life-threatening. This includes several with debilitating, but not fatal, forms of multiple sclerosis and other diseases like Alzheimer's.

Toxicology reports show that eight suicide victims in the past year received powerful doses of barbiturates and other mood-altering drugs several minutes before the suicide procedure. Outside experts told Newsday that the level of drugs found in the blood and urine of those assisted by Kevorkian raises concerns about their state of mind in the final minutes before the assisted-suicide procedure.

In determining that 27 cases were ''homicides'' rather than ''suicides,'' Dragovic has questioned whether some of those assisted by Kevorkian were physically capable of putting on a gas mask or injecting a needle. In at least five cases, the medical examiner said those who died with Kevorkian's help were sleeping or unconscious when the fatal dose of potassium chloride entered their bloodstream.

Kevorkian's screening process and his ability to advise anyone considering suicide has been sharply criticized. In revoking his license in 1994, the California Medical Board found Kevorkian lacked the qualifications and skill to determine whether the suicide victims ''understood, appreciated and possessed the requisite competence to make the decision to commit suicide.''

It cited the case of one woman who committed suicide in 1991, who had a longstanding ''obsession with pelvic pain'' that other doctors could not detect, records show. Recently, similar concerns were voiced about Kevorkian's part last month in the suicide of a Massachusetts woman who allegedly had been a victim of domestic abuse. In both instances, autopsies later showed no discernible illness.

Evidence of depression or other past emotional problems existed with several of those whom Kevorkian assisted, autopsy records show.

And despite Kevorkian's claim of family unity in his assisted suicide cases, medical records and interviews indicate deep misgivings or outright refusal to cooperate among some relatives and previous physicians who objected.

Fieger rejects any contention that suicide victims were too drugged or emotionally impaired to make well-considered decisions.

Family members told Newsday that they are told not to discuss who put the needle into their loved one's arm, or how the gas started to seep into the mask.

Yale Kamisar, a law professor at the University of Michigan, said, ''He makes sure the patients are videotaped, and all the family agrees with him and have an investment in the case because they sided with him. In a sense, if he was convicted, they become accomplices. They have a stake in Kevorkian's acquittal.'' FACTS:How Kevorkian's patients die Dr. Jack Kevorkian has alternated between two different methods to help people commit suicide -- intravenous chemicals and carbon monoxide. Here is how the methods work: SUICIDE MACHINE: Used: 1990-91, 1995-96 How it works: Kevorkian's machine, crafted from rummaged parts, helps a patient administer a deadly intravenous mixture of chemicals. The Oakland County, Mich., medical examiner said autopsies indicate Kevorkian's patients appear to have been given a dose of barbiturates, followed by a lethal dose of potassium chloride. CARBON MONOXIDE: Used: 1991-96 How it works: Patient inhales carbon monoxide from a tank, triggering the gas flow by pulling a makeshift handle attached to its on-off valve. SOURCE: Oakland County Medical Examiner; Detroit News AL6 0018 960913 N S 0912960017 00006552

LOAD-DATE: September 13, 1996

21ST STORY of Level 2 printed in FULL format.

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Newsday

September 8, 1996, Sunday, ALL EDITIONS

SECTION: NEWS; Page A05

LENGTH: 4391 words

HEADLINE: WAITING AT DEATH'S DOOR / AS KEVORKIAN-AIDED SUICIDES MOUNT, AUTOPSY FILES RAISE SERIOUS QUESTIONS OVER PRACTICES, SCREENING

BYLINE: By Thomas Maier. STAFF WRITER

BODY:

Janet Adkins was the first.

She recognized the early signs of Alzheimer's disease and didn't want to linger, to witness her own demise. So in June, 1990, stretched out in the back of a Volkswagen van parked at a Michigan campground, Adkins acted on her long-held belief - that anyone suffering should have the right to end their own life.

As a deadly poison flowed into her veins from a "suicide machine" concocted by Dr. Jack Kevorkian, the 54-year-old Oregon woman became the first person to commit suicide with his help.

Her last words, Kevorkian has said, were, "You just make my case known."

Rebecca Badger sought Kevorkian's help this summer. The 39-year-old California woman agonized about multiple sclerosis and feared she was dying. She, too, committed suicide with Kevorkian's assistance. After she died, he wheeled her still-warm body into the local emergency room.

When his time came in 1993, Hugh Gale, 70, who had emphysema and heart disease, put on a gas mark in his house as his wife and Kevorkian watched. As the poisonous gas seeped into the mask, Gale reacted suddenly. "Take it off, take it off," he shouted through the mask, momentarily stopping the procedure.

Twenty minutes later, though, Gale put the mask back on, and died.

For the past six years, Jack Kevorkian has provided a final solution to those he says are dying and in pain. In the process, he has almost single-handedly ignited a national debate on doctor-assisted suicide now heading directly to the U.S. Supreme Court.

Kevorkian's solution - death by carbon monoxide poisoning or through an injection of potassium chloride - has overcome several legal tests. He has won acquittal in three criminal trials, while comparing himself to Thoreau and Gandhi in his quest to allow people the right to decide when they should die. And polls show many Americans now favor doctor-assisted suicide in some legalized form.

As he vowed after his most recent acquittal in May, "The only thing that would stop me in this was being burned at the stake."

But a Newsday examination of autopsy reports show as few as nine of the 40 known suicide victims were terminal when they ended their life, meaning the diseases or conditions they had would have killed them within six months. And in three cases - including the death of Rebecca Badger who complained of multiple sclerosis - autopsies found no discernible evidence of disease.

(Yesterday, Kevorkian's lawyer announced the death of the 40th suicide, Isabel Correa, 60, of Fresno, Calif. It was also reported yesterday that Kevorkian said he had assisted others in secret.)

Additionally, the autopsies overseen by Oakland County Medical Examiner L.J. Dragovic in suburban Detroit showed evidence that several individuals were heavily drugged before undergoing the procedure that ended their life, or were physically unable to do the things they needed to do in order to commit suicide.

Kevorkian and his attorney, Geoffrey Fieger, have argued that "quality of life" is the essential determining factor in seeking assisted suicide, whether or not they are terminally ill. But critics say the autopsy results raise serious concerns about Kevorkian's rationale, his guidelines and a methodology that remains largely shrouded in mystery.

Those concerns - voiced by a wide range of experts, including the American Medical Association - include whether the individuals who committed suicide with Kevorkian's help were adequately informed about their own medical conditions and about such suicide alternatives as improved pain management programs and psychological support networks.

"It's important for people to know whether they are in the terminal stage and to be adequately informed in making their judgments," said Dragovic, whose office has overseen all but seven of the autopsies. "In most of these cases, you're looking at people who are sick but are not terribly ill. The common denominator for all these people is a loss of hope."

Although Kevorkian has avoided criminal conviction, his medical license was suspended in Michigan and revoked in California.

Kevorkian declined to be interviewed. But Fieger contends the 68-year-old retired pathologist enjoys widespread public support and says such distinctions about the terminal condition of suicide victims are ridiculous. He called Dragovic's autopsies biased and said they've been refuted by the juries that acquitted his client.

"Don't talk to me about anything written on those certificates of death because everything written there is a lie," Fieger said. "So I mean if you want to talk to me about reality you can. But let's not talk about Dr. Dragovic because we know he writes down homicide when we know it's a suicide. You know, he writes down these people aren't terminal when we know they are. Stuff like that."

In the past - during a 1993 interview with television's Barbara Walters, for instance - Fieger said that before Kevorkian would take action each person "must be suffering from a fatal or irremediable condition from which they'll never recover, and that the patient's family entirely agree."

Each person's desire for suicide, Fieger said then, "must never waver." All are asked for signed and videotaped statements to that effect.

In a recent Newsday interview, however, Fieger said, "People have an absolute right to make decisions about their life and suffering without anybody else telling them what to do. It's so obvious that the opponents' beliefs are based upon religion and nothing else."

Kevorkian's approach runs strongly counter to the goals of two federal appeals court cases that earlier this year affirmed a dying patient's right to doctor-assisted suicide. Lawyers in those cases, which the U.S. Supreme Court is being asked to consider, argue that only terminal patients in the final stages of illness should be eligible for assisted suicide and sharply disavow Kevorkian's open-ended practices.

"We've suggested guidelines from the very beginning that at least two different physicians are needed to verify the terminal stage of illness," says Barbara Coombs Lee of Compassion in Dying, the Seattle-based group that has sponsored both federal lawsuits. "If you don't have a fair and compassionate law, then you have a degree of lawlessness with people like Kevorkian, who is beyond the law."

In examining the available Kevorkian files, Newsday gained access to 32 complete autopsies at the Oakland County, Mich., medical examiner's office. Authorities in Detroit also provided details on three cases handled there. Autopsies on four other cases, ruled as suicides in neighboring counties, were incomplete or unavailable for review. Records were also unavailable in yesterday's suicide.

The results:

- Many who committed suicide with Kevorkian's aid either didn't know - or chose to ignore - medical evidence that their conditions were not fatal. Although nine were judged to be in the final stages of terminal illness, autopsies showed that 17 suicide victims did not have diseases considered, by definition, to be life-threatening. This includes several with debilitating, but not fatal, forms of multiple sclerosis and other diseases like Alzheimer's.

- Toxicology reports show that eight suicide victims in the past year received powerful doses of barbiturates and other mood-altering drugs several minutes before the suicide procedure. Outside experts told Newsday that the level of drugs found in the blood and urine of those assisted by Kevorkian raise concerns about their state of mind in the final minutes before the assisted-suicide procedure. "The numbers are high by any standard," said Dr. Kurt Dubowski of Oklahoma, one of the nation's top toxicologists. "Judgment and decision-making are typically adversely affected by the presence of these drugs."

- In determining that 27 cases were "homicides" rather than "suicides," Dragovic has questioned whether some of those assisted by Kevorkian were physically capable of putting on a gas mask or injecting a needle. In at least five cases, the medical examiner said those who died with Kevorkian's help were sleeping or unconscious when the fatal dose of potassium chloride entered their bloodstream, making them unable to deliver fatal doses to themselves.

In order to convict a person of homicide under Michigan law, officials must show that the death occurred as a direct result of that person's actions. However, because Kevorkian's methodology has been shrouded in secrecy, experts say it's unlikely anyone can be charged in these deaths.

- Kevorkian's screening process and his ability to advise anyone considering suicide has been sharply criticized. In revoking his license in 1994, the California Medical Board found Kevorkian lacked the qualifications and skill to determine whether the suicide victims "understood, appreciated and possessed the requisite competence to make the decision to commit suicide." It cited the case of one woman who committed suicide in 1991, who had a longstanding "obsession with pelvic pain" that other doctors could not detect, records show. Recently, similar concerns were voiced after Rebecca Badger's death in July, and with Kevorkian's part last month in the suicide of a Massachusetts woman who allegedly had been a victim of domestic abuse.

In all three of these cases, autopsies later showed no discernible illness.

- Evidence of depression or other past emotional problems existed with several of those whom Kevorkian assisted, autopsy records show. In taking away Kevorkian's license, the California medical board pointed to the case of Marjorie Wantz, a 58-year-old woman who, it said, was depressed and had a "delusional disorder." Kevorkian ignored the recommendations of her psychiatrist and assisted in her suicide. This month, a study by suicide researchers at Columbia-Michael Reese Hospital in Chicago found that "rather than dissuade his patients in their attempts at suicide, Kevorkian helps them carry out plans about which they may be initially ambivalent."

- And despite Kevorkian's claim of family unity in his assisted suicide cases, medical records and interviews indicate deep misgivings or outright refusal to cooperate among some relatives and previous physicians who objected. "I don't necessarily believe in it," said Nancy McDonald, who accompanied her sister, Patricia Cashman, when she committed suicide last November. "But it was her choice."

Fieger rejects any contention that suicide victims were too drugged or emotionally impaired to make well-considered decisions, explaining, "If they're being prescribed medications to help their mental condition, they're more lucid."

Together, the autopsies - seen as a whole - offer a compelling, sometimes even chilling, view of Kevorkian's crusade.

About two-thirds who sought Kevorkian's help were women, many divorced or widowed. Sixteen of the women were younger than 50 when they died, with the youngest being 39.

The youngest man who died was a 27-year-old, seeking relief from the fatal Lou Gehrig's disease, the oldest a 78-year-old minister who long advocated doctor-assisted suicide. Nearly all were white.

Those who sought Kevorkian's help said they suffered from a number of painful and potentially life-threatening diseases. Among the 40, eight people had multiple sclerosis, six had Lou Gehrig's disease, and 12 had cancer. Other conditions include Alzheimer's disease and chronic fatigue syndrome.

Most heard of Kevorkian through the media and wrote to him weeks before he agreed to assist in their suicides. Their bodies have been found in motel rooms, a rustic cabin, the home of a Kevorkian associate, and left abandoned in parked cars.

Inside the Kevorkian files, the color snapshots taken by autopsy investigators show several suicide victims with gas masks over their faces, their flesh turned cherry red from carbon monoxide poisoning. At other death scenes, lifeless bodies appear tethered to an intravenous tube from Kevorkian's "suicide machine," dripping lethal liquid into their veins.

Since the first, highly publicized suicide of Adkins in 1990, Kevorkian's devotion to his cause has attracted many followers, both in Michigan, where he is based, and increasingly from around the nation. Last month, his 38th case came from East Northport - Pat DiGangi, a 66-year-old former history teacher who had multiple sclerosis.

Kevorkian is described as friendly and charismatic by those who have witnessed the suicides.

"Dr. Kevorkian is a very nice, benevolent and caring man who will sacrifice everything for what he believes in, and not many people in this world will do that," said John Garcellano, whose mother used a gas mask filled with carbon monoxide to end her life in June, 1995. Garcellano said he watched as "she put it on herself - badly."

Despite his own initial doubts, Garcellano said his mother, a nurse who had Lou Gehrig's disease, was determined to end her life. When it was over, Garcellano said, "the feeling was of relief for her - no more suffering, no more pain."

The medical examiner's investigation into the 1992 death of Susan Joyce Williams, a 52-year-old homemaker, underscored the powerful allure of Kevorkian's message for those in pain. Before she died, Kevorkian told Williams of the "historic nature" of her case and that she would become the first in his proposed "obitiatric" practice, his invented phrase for doctor-assisted suicide.

In a videotaped consultation with Kevorkian, Williams readily agreed. "I want to die, really," she said. "I'm tired of watching the days go in and out." Her body was so infirmed that she could sign only an "X" as her signature on Kevorkian's permission slip.

Like several assisted by Kevorkian Williams had multiple sclerosis - a painful and sometimes crippling illness that experts say isn't considered terminal and increasingly can be treated with new medications.

"Multiple sclerosis is not a fatal disease," said Arney Rosenblat, a spokeswoman for the National Multiple Sclerosis Society. "It is, however, a very unpredictable disease with people often paralyzed one day and walking the next. We believe it is the ignorance of available options which makes individuals vulnerable to physicians like Dr. Kevorkian."

After Williams' death, Kevorkian said her family completely agreed with her suicide decision, though investigative records indicate deep division. Three

of Williams' four sisters were against suicide, autopsy records said, while her husband and son agreed with her wishes.

Williams' previous doctor refused Kevorkian's request for treatment records. "I don't want to have anything to do with you," he told Kevorkian. Her family priest also expressed his concerns.

"In my opinion, Dr. Kevorkian is taking advantage of Sue Williams, who is being asked to go through with something that she has always been taught is wrong," wrote the Rev. Robert B. McGrath in a letter contained in the autopsy file. "The nature of her debilitating disease makes her vulnerable to any bizarre idea that comes along."

Nonetheless, many family members of people who had multiple sclerosis and decided to end their lives remain strongly supportive of Kevorkian, and criticized Dragovic's decision to label these deaths as homicides.

"MS is not considered a terminal disease, but the medical examiner didn't know my mother," said Sherry Lynn Johanson, the daughter of Linda Henslee, 48, who died in January. "My mother didn't consider herself to be living anymore. She was bedridden and in a great deal of pain. There was nothing left of her except her mind. Her body didn't work anymore."

One of Kevorkian's first cases involved Marjorie Wantz, 58, who committed suicide with a fatal injection in October, 1991. Dragovic declared her case a homicide, but Kevorkian later was acquitted of criminal charges.

Nevertheless, medical records - and the findings of the California Medical Board - raised serious questions about the physical evaluation of Wantz and her mental condition leading up to the suicide.

Before her death, Wantz complained of a "constant burning" in the vaginal area, records say, which was not relieved in 1988 after a complete hysterectomy. In his autopsy, Dragovic found no signs of disease or any anatomical cause for her abdominal pain - an evaluation later disputed by Kevorkian's attorney in court.

But in its 1994 report removing Kevorkian's medical license, the California Medical Board determined that Wantz suffered from a "delusional disorder" and depression and that her pain "was not life-threatening."

In the autopsy file, another document, prepared by Wantz' previous physician six months before her suicide, suggested signs of "psychiatric illness" and that she was on a "cocktail of medications" for a variety of symptoms, including insomnia, loss of energy and "feelings of worthlessness/helplessness."

In the 1995 Patricia Cashman case, Kevorkian claimed that cancer doomed the 58-year-old former travel agent, and Cashman herself was convinced the end was near.

"I realize no doctor can tell me exactly how long I have to live but it makes you feel very uncertain about how much time you have so you can make final arrangements and deal with the final demise as best you can," Cashman wrote to Kevorkian in July, 1995, three months before her suicide.

After her death, an autopsy showed Cashman previously had cancer, with her right breast having been removed. But a review by Oakland County deputy medical examiner, Dr. Hanu Virani, found microscopic evidence of cancer in her spine that wouldn't have been life-threatening for years. There were no signs of cancer in her internal organ or lymph nodes, with no residual cancer found in her right chest or in her remaining left breast, the report says.

In ruling her death as a homicide, Virani's report concluded: "There was no natural disease contributing to her death."

Similarly, in June, Bette Lou Hamilton, a 67-year-old artist, drove with a friend from her Ohio home to a Michigan motel room to commit suicide in Kevorkian's presence. She had syringomyelia - a degenerative neurological disease afflicting the spinal chord - which her previous doctor labeled as "chronic pain, not a terminal illness," her autopsy file indicates.

But as Jeanne Bogen, the Ohio friend who accompanied her, later told police, the issue of whether Hamilton's illness was terminal was irrelevant. Hamilton had read "Final Exit," the best-seller describing suicide methods, and decided to use a mixture of alcohol and barbiturates herself if Kevorkian didn't assist.

"So she wasn't terminally ill?" asked one detective, according to a police transcript.

"No," Bogen replied.

"She could've lived how much longer?" inquired police.

"I don't know," replied Bogen. "Her heart was strong. I don't know the answer to that."

"As far as you knew," the detective asked, "the only reason she wanted to do this was because her quality of life was slipping or because what?"

"She was in a lot of pain and she was losing her independence and her quality of life," Bogen said. "She wasn't a person that had a lot of friends and, ah, you know, she had no family."

This summer, new controversies erupted over whether two who committed suicide had their physical and emotional conditions properly evaluated. The renewed scrutiny occurred just as Kevorkian stepped up the pace of assisted suicides.

Last month, Kevorkian said Judith Curren, 42, of Plymouth, Mass., had chronic fatigue syndrome and a severe immune deficiency syndrome. Autopsy results showed no physical evidence of a discernible illness. (The national group for chronic fatigue sufferers say the syndrome's tell-tale signs often go undiagnosed, however.)

Massachusetts police later said they had been called repeatedly to the Currens' home. Three weeks before her death, her husband was charged with assaulting her. Franklin Curren has denied any abuse. He said the couple argued only because of his doubts about her desire to die with Kevorkian's help.

Asked in a television interview if he had erred in the Curren suicide, Kevorkian said: "No, no. If I'd made a mistake, I'd admit it." As he later added, "It had nothing do with lethality. It's quality of life . . . Quality of life."

In the second controversial case, Rebecca Badger, the 39-year-old California woman who committed suicide July 9, complained about excruciating pain from what she believed to be multiple sclerosis. Autopsy results discovered no signs of the disease.

But Dragovic said he remains particularly concerned about test results that found high levels of drugs in Badger's system.

Recently, as suicide victims assisted by Kevorkian have relied on intravenous injections rather than gas masks, autopsy results have shown similar amounts of drugs used in several other cases. Cashman, for instance, had a high amount of secobarbital in her system. Dragovic and other medical experts wondered how these drugs were obtained, since Kevorkian cannot prescribe these drugs without currently holding a medical license.

"Secobarbital is very unusual these days," said Dubowski, an expert recommended to Newsday by the American College of Forensic Examiners. "If these drugs like secobarbital are showing up in a number of Kevorkian patients, I'd say it's more than a coincidence."

On Friday, Newsday contacted Fieger's office seeking a response to Dubowski's concern, but he could not be reached for comment.

Dragovic said the use of these drugs in recent cases raises doubts about the decision-making ability of suicide victims in the final moments. "Tranquilizers and mood-altering drugs make you not give a damn and releases anxiety," said the medical examiner. He said the initial injection of barbiturates would make a last-minute change of heart almost impossible.

A sudden change in plans happened in February, 1993, in neighboring Macomb County, Mich., during the assisted death of a 70-year-old man, Hugh Gale, who committed suicide in his Michigan home with a gas mask. As carbon monoxide started to flow from a tank into Gale's mask, he suddenly became very agitated, records show.

"Take it off, take it off," Gale said. The gas was shut off, and Gale given oxygen.

Kevorkian never had such an experience before. Indeed, in previous statements, Kevorkian said he would stop an assisted suicide when any degree of ambivalence appeared by the intended person. He went into the kitchen with Gale's sister and one of his followers.

"Maybe we ought to, you know, stop," Kevorkian said at one point.

But after 20 minutes of talking, Gale's wife came into the kitchen and told the group that her husband didn't want Kevorkian to leave. He agreed to stay. Gale put the gas mask back on and soon was dead.

Allegations were later made that Gale protested a second time before his death, prompting an inquest by the county prosecutor. No charges ever resulted, though the case was later cited by California authorities in revoking Kevorkian's medical license.

Even those in favor of doctor-assisted suicide say the serious questions surrounding Kevorkian's cases underscore the lack of any independent oversight to avoid possible abuse. "If we've learned anything from Kevorkian, it's that there's a need for these services and that we need to regulate it," says Lee of Compassion in Dying.

But Dr. Nancy Dickey, who heads the American Medical Association's board of trustees, says Kevorkian's actions provide compelling reasons why physicians should never get involved in assisted suicide. She said many dying patients do not receive appropriate counseling and "pain management" techniques to ease their pain and suffering. "There are a lot of people who believe their life is not worth living and are not terminal," she said. "But do we want the medical community to execute these wishes?"

In recent months, Kevorkian's charismatic aura has grown into an air of invincibility with an acquittal in his most recent trial, and as the Oakland County prosecutor who handled it lost a primary election seen widely as a referendum on doctor-assisted suicide. The victor of that race has promised not to prosecute Kevorkian unless the Michigan state legislature passes stronger laws criminalizing assisted suicide. This means, everyone agrees, Kevorkian can oversee more suicides with virtual impunity, at least for the time being.

Legal experts say Kevorkian also remains hard to convict because of the unknown circumstances of exactly how the deaths occurred. Family members told Newsday in several recent interviews that they are told not to discuss who put the needle into their loved one's arm, or how the gas started to seep into the mask.

"He's too skillful at what he does," says Yale Kamisar, professor of constitutional law at the University of Michigan. "He makes sure the patients are videotaped, and all the family agrees with him and have an investment in the case because they sided with him. In a sense, if he was convicted, they become accomplices. They have a stake in Kevorkian's acquittal."

Fieger dismisses these failed legal pursuits and those who still criticize Kevorkian.

"Read my lips carefully: We won. You lost," he wrote to the Detroit Free Press, after the paper recently editorialized against assisted suicide. "Every poll shows that the vast majority of people support us." Methods of Death Dr. Jack Kevorkian has alternated between two different methods to help people commit suicide -- intravenous chemicals and carbon monoxide. Here is how the methods work: SOURCE: Oakland County (Mich.) Medical Examiner; Detroit News "Suicide machine" Used: 1990-1991, 1995-1996 How it works: Kevorkian's machine, crafted from rummaged parts, helps a patient administer a deadly intravenous mixture of chemicals. The Oakland County, Mich., medical examiner said autopsies indicate Kevorkian's patients appear to have been given a dose of barbituates, followed by a lethal dose of potassium chloride. Lethal chemical Intravenous tubing Carbon Monoxide Used: 1991-1996 How it works: Patient inhales carbon monoxide from a tank, triggering the gas flow by pulling a makeshift

handle attached to its on-off valve. Tank Tubing makeshift handle mask

GRAPHIC: Newsday Chart by Linda McKenney- Two Suicide Machines. Jack Kevorkian has alternated between two different methods to help people commit suicide - intravenous chemicals and carbon monoxide. Here is how the methods work. SOURCE: Oakland County (Mich.) medical examiner; Detroit Press (see end of text). AP Cover Photos 1) Rebecca Badger. 2) Stanley Ball. 3) Janet Adkins. 4) Judith Curren. 5) Pat DiGangi. 6) Merien Frederick. 7) Ali Khalili. 8) Marcella Lawrence. 9) Martha Ruwart. 10) AP Color Cover Photo- Jack Kevorkian. 11) AP Photo for Newsday- Oakland County medical examiner's files on those whom Kevorkian has assisted in suicide. AP Photos- 12) Dressed in a Colonial costume April 1, Kevorkian displays a common-law scroll as jury selection began in his trial. 13) Kevorkian is shown, left, on videotape interviewing Thomas Hyde, who committed suicide in 1993, and at right, with reporters after being found innocent of violating Michigan law in that case. 14) Kevorkian listens to a grand jury indictment on two counts of murder in 1992. He was later acquitted of the charges. 15) Photo by Oakland Press / Amy Powers- Kevorkian displays his suicide machine in October, 1989.

LANGUAGE: English

LOAD-DATE: September 9, 1996

23RD STORY of Level 2 printed in FULL format.

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The Vancouver Sun

August 31, 1996, Saturday, FINAL EDITION

SECTION: EDITORIAL; Pg. A19

LENGTH: 1717 words

HEADLINE: In Memorium: On Thursday, the provincial government released its report on 19 chidren who died in 1993, '94 and '95 and who, while they lived, had either been in the direct care of the social services ministry or had received government assistance. T

BYLINE: VANCOUVER SUN

BODY:
. . . and were found strangled .

to the murdered children, was visiting at the time.

died as a result of a ... shotgun blast to the head. . . . has been charged with second degree murder. Alcohol and drug use were not issues in this situation. was not a regular visitor at this household as reportedly did not like the young who shot .

. . . A meeting to discuss [care] options had been set for two days after death. . . .

was found stabbed to death . It was suspected that was murdered.

years, was killed by [who then committed suicide]. Both deaths werecaused b y multiple stabbing in the areas of major organs. . . .

-year-old died while re-enacting a hanging incident had seen portrayed on the popular CTV/NBC program, Unsolved Mysteries. . . . .

-year-old died as a result of acute alcohol poisoning. The coroners report classified the death as accidental. According to the coroner's report, consumed 12 - 15 ounces of vodka within a 15-minute period. was then dropped off at a friends house, where more alcohol was consumed. passed outand could not be revived.

Over a nine-year period there were approximately 16 intakes regarding this family. The intakes were primarily focused on ability to maintain adequate parental control of children, including alcohol-related problems with the older children and younger children being out late unsupervised.

, 1994, , -old was found by on a bedroom mattress in full cardiac arrest. fire department was called and was transferred to the hospital. Despite emergency revival attempts, was pronounced dead on arrival at the hospital.

The coroner's report classified this death as natural. However, the medical cause of death was not determined and this was an unexplained sudden death. No evidence of foul play was discovered.

On and , 1994, child abuse reports were received regarding a leg fracture of . The medical opinion was that this was a minor fracture and that it did not indicate abuse. The parents speculated that injured leg between the crib bars; otherwise it was not known how the break occurred. acted very promptly and demonstrated appropriate concern.

The report was investigated and was found not to be in need of protection. No file was opened.

-old was found dead in bed. The coroner's written report indicated the child died due to Sudden Infant Death Syndrome. A verbal report form the coroner's office stated the autopsy confirmed a finding of SIDS and found no evidence of abuse. The police stated that in their opinion, lack of parenting knowledge contributed to the child's death. had no crib or baby bedding for .

was in the care of at the time of death. At 1:30 p.m. gave bottle and laid down back on bed for a nap, covered with a heavy comforter. Around 3 p.m. discovered completely under the comforter with eyes open, looking white and lifeless. administered CPR, 911 was called.

was declared dead at 4:07 p.m.

old died in home of apparent Sudden Death Syndrome.

. . . During the year prior to death, ministry staff were reassessing the protection issues regarding the child in the home and were considering taking into care by short-term care agreement. . . .

was diagnosed with acute . . . leukemia in , 1994. was declareddead upon arrival at Hospital , 1994. parents did not pursue chemotherapy as recommended by Dr. of Hospital. Dr. believed probable cause of death was . . . cardiac failure secondary to severe anemia.

About 2 p.m. on , 1994, Dr. spoke to regarding blood test results . . . . Dr. requested be brought in for an exam and that next therapy be chemotherapy to commence as soon as possible. Dr. then reported to staff at his concerns about deteriorating medical conditionand the parent's refusal to accept chemotherapy. The family was planning to return to to continue alternative treatment begun there in , 1994. Dr. planned to communicate with the attending physician in , and a pediatric oncologist in and to alert the child protection services in the event that a protection intervention was required.

Between 6:30 and 7 p.m. , Dr. received further blood count results form tests taken earlier that day. He contacted father and reached an agreement with him to bring to the hospital for an immediate transfusion. Dr. later learned that was given a herbal medication at home, had an arrest, and was declared dead on arrival at the hospital at 8:30 p.m. . . .

died in home. was diagnosed with spinal muscular dystrophy in 1990. The week prior to death, had been admitted to hospital and placed on a respirator in the intensive care unit. The family was told that woul d not have the strength to breath on own. The family chose to bring home as a quality-of-life issue. There were no protection concerns in this case.

old, died as a result of severe septicemia caused by the perforation of a congenital left diaphragmatic hernia. The corner classified this as a natural death.

On 1993, was taken to the hospital with cold/like symptoms. was examined and released with a prescription for antibiotics. condition appeared to improve. On awoke at 1 a.m., was fed and returned to sleep. was found dead at 7:40 a.m. Resuscitation attempts by Emergency Health Services were unsuccessful.

was born with Fetal Alcohol Syndrome and had significant neurological deficits. . . .

The coroner wrote to the minister to request a review of our policy and regulations in transferring care of children to their guardians. . . .

It is not clear why the corner was bringing this to the attention of the minister since details of the ministerial inquiry indicates that was not a child in care at any time.

died of natural causes due to complications surrounding condition. It was expected would have a shortened life span and during the [l]ast year con dition deteriorated. was years old.

did not attend school after 1993 and mother remained at home to care for .

. . . While was a child in care on an intermittent special care agreement to provide support to the family, at the time of death was not incare . Homemaker services were also provided. . . .

years, was was pronounced dead upon arrival at Emergency. The autopsy reveled the cause of death as respiratory failure due to bronchial inflammation caused by an adverse reaction to an antibiotic. A written coroner's report was not obtained as was not in care at the time of death.

On Friday evening, routine and behavior appeared normal. On Saturday morning when had not woken at usual time and was found to be lethargic and slow to respond, respite caregiver, transported to hospital. During the journey began to have difficulty breathing, and shortly after arrival at the hospital, died.

had major surgery in 1993 to correct scoliosis of spine. Following the surgery , there were complications with the anaesthetic and other drugs; went into cardiac arrest and remained in intensive care for three weeks. never fully recovered from this experience, although was makingslow pro gress. continued to have bronchial symptoms since surgery. was discharged from Hospital to the care of mother with

antibiotics. . . .

died in family home of natural causes due to respiratory problems. There were no unusual circumstances. There had been contact with pediatrician in the few days prior to death.

year old suffered from a neuromuscular disorder, was prone to recurrent respiratory problems and had frequent hospitalizations. was developmentallydela yed, both physically and mentally. was non-verbal and dependent on parents for all aspects of care.

was pronounced dead on arrival at Hospital. According to the autopsy report, died as

a result of a blunt force to the abdomen. There were three large bruises under the scalp indicating multiple blunt force injuries to the head.

At the time of the death, there was an active investigation under way that had been initiated in the district office that a afternoon and had been passed to the after-hours office that evening. . . .

The autopsy report states that -old died as a result of a major head injuries which caused brain damage. The finding was non-accidental injury causing death, likely due to shaking, There were also multiple rib fractures of varying ages; one episode occurring approximately two weeks prior to admission. The hemorrhages were consistent with a severe-shaking type of injury and a blunt-force type of injury to the head occurring shortly before admission to hospital.

The father stated that on , 1994 while he was changing diaper, turned blue and was having difficulty breathing. He shook and gave mouth tomout h resuscitation in an unsuccessful attempt to revive. He then called 911 and was brought to emergency where was placed on life supports. [was] found to be brain dead and died following the removal of the life supports. . . . .

Infant died as a result of asphyxia. The corner's report classified the death as accidental. The available evidence indicated that the infant likely fell off a bed had been placed on and head became wedged between the bed and adjacent dresser. head was pressed against a plastic bag on the floor and, unable to move head, smothered. The post mortem examination revealed that had superficial bruising. The bruising was unlikely self-inflicted and could have resulted from a pinch. The child's body was described as "slightly unkempt."

. . . Documented ministry involvement with this family spans four generations.

R-I-P

LANGUAGE: ENGLISH

The Vancouver Sun, August 31, 1996

LOAD-DATE: September 3, 1996

24TH STORY of Level 2 printed in FULL format.

Copyright 1996 The Patriot Ledger
The Patriot Ledger

August 29, 1996 Thursday City Edition

SECTION: NEWS; Pg. 01

LENGTH: 1134 words

HEADLINE: Question of suicide or homicide ;
Husband and medical examiner disagree over toxicology finding

BYLINE: Linda Shepherd and Robert Lee, The Patriot Ledger

SOURCE: The Patriot Ledger

BODY:

PEMBROKE -- Her husband maintains it was suicide. But a Michigan medical examiner has ruled that Judith Curren was the victim of physician-assisted homicide.

Those are the contrasting positions in the Curren case after the release late yesterday of a toxicology report on her death.

The case is now in the hands of Michigan prosecutors, who must decide whether to charge Dr. Jack Kevorkian with murder.

They've tried to convict Kevorkian three times before and failed. But Oakland County Medical Examiner L.J. Dragovic says the Curren case is different.

Dragovic said the toxicology tests showed a lethal level of a sedative in Curren's system that was injected just moments before her death.

But the long-time Kevorkian foe said that drug didn't kill the 42-year-old nurse. He said the sedative, secobarbital, knocked her out as it entered her blood stream, making it impossible for her to administer a second drug he thinks was actually used to stop her heart.

In the past, Kevorkian's patients have died after taking a sedative and then a deadly dose of potassium chloride. Potassium chloride leaves no trace in an autopsy, but Dragovic said he suspects it was used in Curren's case.

"You cannot fall asleep and inject yourself with potassium chloride, that's naturally, physically, impossible," Dragovic said. "It's not assisted suicide, it's really a homicide because someone else aids in the death. It's a homicide by definition."

Pontiac Police Detective Susan Brown said she will consider the medical examiner's ruling in her investigation. But she said it's "not a determining factor" in deciding whether to charge Kevorkian.

"He's ruled the other ones homicides, too," Brown said of Dragovic's rulings in several other Kevorkian-assisted deaths.

Brown said that to bring a murder charge, police and prosecutors would have to prove a crime was committed, and Dragovic's ruling alone doesn't do that.

Kevorkian and Curren's husband, Franklin, a psychiatrist, were both present when Curren died in a Pontiac, Mich., hotel room Aug. 15, but neither will discuss details. In previous cases, Kevorkian has provided a suicide machine that he maintains is controlled by the person committing suicide.

Oakland County prosecutor Richard Thompson declined yesterday to discuss the

Curren case and whether he'll try once again to convict Kevorkian.

He lost his re-election bid, in part because voters were upset that he was spending millions of dollars unsuccessfully persuing Kevorkian, who has acknowledged helping 38 people kill themselves.

Aside from political concerns, Thompson's decision will rest heavily on interpretations of the toxicology report and on whether police can produce evidence showing that it was someone other than Curren who administered the lethal injection.

Geoffrey Fieger, Kevorkian's lawyer, dismissed Dragovic's homicide ruling.

"This guy says this every time," Fieger said. "He has said this for the last six years. Who cares?"

The toxicology report showed that Judith Curren was taking a combination of six or more tranquilizers, stimulants and painkillers.

She had low levels of the tranquilizer drugs oxazepam and alprazolam, anxiety-reducing drugs commonly known by the brand names Serax and Xanax. She was also taking amphetamines and another drug commonly found in appetite suppressants.

The test found small amounts of oxycodone, the narcotic painkiller known as Percodan.

Psychiatrists said the results were typical of someone being treated for the numerous medical conditions Judith Curren complained about and and suggest she was rational when she died.

At 269 pounds, she was severely overweight for her 5-foot 1-inch height. She suffered from depression, chronic fatigue syndrome and fibromyalgia, a debilitating and painful condition that affects the muscles and joints, as well as other ailments.

Franklin Curren, whose drug prescribing practices are under investigation by authorities in Massachusetts, said the toxicology report confirms what he's been saying all along: that his wife was suffering terribly.

He said his wife needed the drugs to get through the day. He said she was also taking another drug, in the Prozac family, which did not show up in the toxicology report.

Asked about two other drugs detected by the medical examiner, Curren said methamphetamine "is just a longer lasting amphetamine and the phantermine is a milder stimulant that sort of took the edge off."

He said all of the drugs were initially prescribed by his wife's regular physician. But he said he had written prescriptions for refills of all the drugs at different times over the past five years.

During an interview at his home last night, Curren consulted his physician's desk reference book several times to compare recommended doses with the amounts found in his wife's blood. He said all appeared to be in therapeutic amounts.

Morris Weiss, a Michigan psychiatrist who reviewed the test for the Oakland Press newspaper, said the low level of the drugs found in Curren's system suggest she was not mentally impaired when she died.

"In fact, one could argue that if these drugs were" taken in proper doses "they would have reduced her anxiety, and she might have made an even better judgment," he said.

Judith Curren was Kevorkian's 35th assisted-suicide patient. She wrote to Kevorkian several times in the months before her death, begging him to help her die.

But two weeks after her death, the case continues to generate controversy because of questions about the seriousness of Curren's illnesses and reports of marital and financial problems in the Curren family.

Franklin Curren was arrested for domestic assault three weeks before his wife died. He has denied that charge and earlier abuse allegations, saying his wife was angry at him for not supporting her suicide plan.

Curren said he wouldn't be surprised if Dragovic or other critics of Kevorkian claim his wife was taking addictive painkillers and tranquilizers that would have rendered her unable to make decisions for herself.

"I have no doubt, no matter what was in her system, the critics are going to say she was taking drugs and she wasn't able to make a decision," Curren said.

He said his wife of 10 years could only think clearly with the help of the drugs.

"Without the amphetamines it was like she had narcolepsy," he said. "It would take her two hours to go into another room. She'd stop for a two-hour break on her way from the bedroom into the bathroom."

Curren said his wife took Xanax every night to get to sleep. Occasionally, when the Xanax didn't work, she took Serax, he said.

He said she took the narcotic painkiller Percodan every six hours.

(Reporter Carol Gerwin contributed to this story.)

[A version of this story ran SS.]

LANGUAGE: ENGLISH

LOAD-DATE: October 21, 1996

26TH STORY of Level 2 printed in FULL format.

Copyright 1996 The Patriot Ledger
The Patriot Ledger

August 21, 1996 Wednesday All Editions

SECTION: NEWS; Pg. 12

LENGTH: 527 words

HEADLINE: Pembroke woman not drug addict, husband says

BYLINE: Matt Kelly, The Patriot Ledger

SOURCE: The Patriot Ledger

BODY:

PEMBROKE -- The 42-year-old nurse who killed herself with Dr. Jack Kevorkian's help was never addicted to drugs, her husband said.

Dr. Franklin Curren, whose drug prescribing practices are under investigation by the state, said his wife took numerous medications as part of a plan to help her cope with chronic fatigue syndrome and other medical problems.

Curren said Judith Curren was on "a medical regime worked out over four or five years" by leading psycho-pharmacology doctors. Curren would not identify the doctors, and he declined to discuss what drugs his wife took, or specify how frequently she took them.

"They were in prescribed amounts, in proper schedules," he said. "It was worked out with thought over a great deal of time."

Curren, who has said he gave his wife drugs in emergency situations, is being investigated by the state Board of Registration in Medicine. Authorities in Michigan, where Judith Curren died Thursday from a lethal injection, have asked the Plymouth County District Attorney's office for help in their investigation.

Police are awaiting the results of blood tests that will show whether Judith Curren was under the influence of drugs when she committed suicide as Kevorkian, her husband and others watched.

Investigators from the state medical board questioned Curren yesterday at his home at 140 Sunset Way.

Curren, 57, did not say what they discussed. But sources have said two complaints pending against him at the board accuse Curren of improperly prescribing narcotics.

An autopsy report released Monday by the Oakland County, Mich., medical examiner found no sign of chronic fatigue syndrome or any other illness Judith Curren reportedly suffered from.

Police in Pontiac, Mich., where Kevorkian has helped 34 other people end their lives, are still trying to piece together the details of how Judy Curren died.

At a press conference in Michigan, Kevorkian's attorney, Geoffrey Fieger, said doctors who treated her found her mentally competent, but had no cure for her problems. One suggested she be sent to a nursing home.

Kevorkian insisted that Judy Curren continue seeking conventional medical treatment even after they began a correspondence that began early this year, Fieger said. But in the end, he said, her decision to commit suicide "was solid, immutable and based on incontrovertible medical evidence."

Fieger also dismissed reports of domestic abuse in the Curren household as "irrelevant" to Judith Curren's decision. Police in Pembroke and Winchester have responded numerous times to the Currens' homes for domestic disturbances.

Curren has been arrested twice, for assault and for violating a restraining order. Charges were dropped in the first case and are still pending in the one in Pembroke.

Curren has explained those incidents as frustrated, irrational outbursts by his wife, who believed he had "betrayed" her by not helping her meet with Kevorkian at a previous appointment.

A psychiatrist at Pembroke Hospital, Curren was placed on administrative leave by hospital officials. He described the action as "a mutual agreement, under circumstances that are self-evident."

LANGUAGE: ENGLISH

LOAD-DATE: October 21, 1996

28TH STORY of Level 2 printed in FULL format.

Copyright 1996 The Austin American-Statesman
Austin American-Statesman

August 17, 1996

SECTION: News; Pg. A1

LENGTH: 2172 words

HEADLINE: New report revives old questions in killings; State review reaches same conclusion, murder-suicide, but skeptics remain

BYLINE: Debbie Hiott, Mike Ward, Carol Flake American-Statesman Staff And Carol Flake

BODY:

BUDA -- In six years, little has changed.

Like the afternoon wind rustling through the live oak trees, questions still linger in the air around 108 Kildeer Drive, the ranch-style home where the David Joost family was found slain on a March morning. Questions about what happened, and why.

Even with the Texas Department of Public Safety, which is completing an unprecedented review of its own investigation -- with the same conclusion: Joost shot his wife, son and daughter with a .38-caliber revolver in some fit of unexplained rage. And then shot himself.

The only new question, it seems, may be whether the new report resolves any of the old questions for Joost's family and friends, who insist he could not have done it.

Nonetheless, the DPS official who spearheaded the review -- while declining to discuss details -- says he hopes his soon-to-be-released report could put to rest the controversy over whether the Texas Rangers mishandled the investigation.

''It will be startling that so much was so simply explainable,'' says Capt. Marshall Caskey, who oversaw the 10-month review. ''There was such an obvious explanation for things that were two-inch headlines.''

The answers, Caskey says, came after months of review not just bythe DPS, but outside experts -- eight to 10 homicide investigators,psychologists and others.

''What we had before was just, 'I'm a Ranger. I have integrity. Therefore, we shouldn't be questioned,' '' says Caskey, who worked on the original investigation. ''But we're questioning our own integrity. It's very unusual for us to be doing this.''

Still, for surviving family members and some of the numerous others to whom the case and its many unexplained twists have become almost an obsession, the DPS report will offer little consolation. (It will go to the family before becoming public.)

The skeptics tend to believe that the Joost (pronounced YOAST) family was murdered -- in a Mafia-style execution, maybe -- because David had uncovered wrongdoing at theTexas Racing Commission where he was chief financial officer.

For these doubters, what happened in the Joost home in the pre-dawn darkness of March 4, 1990, will always be a mystery. Joost's brother Daniel and his father-in-law, Clarence Besetzny, say they have spent more than $80,000 trying to find out.

''They can't find out (anything),'' says Schulenberg resident Evelyn Besetzny, Susan Joost's mother. ''It's going to stay with us, and we'restill wondering what happened.''

'Intruder' or 'troubled soul'

For a file that was closed 17 months ago, the investigation quietly came back to life last October, when DPS director James Wilson ordered allegations of discrepancies and the evidence reviewed again -- top to bottom -- to try and resolve the family's lingering questions.

And the controversy.

For Caskey, the case came down to two theories: Was the Joost family killed by an intruder from the outside, or a troubled soul from within their midst?

''Intruder or troubled soul is easier to say than triple murder, suicide or quadruple murder,'' Caskey said.

Caskey said his review found this bottom line: ''That answer is in the house. ... The only thing left is physical evidence.''

Physical evidence, officials said, bolsters DPS's initial conclusion: Joost, 41, shot his wife Susan, 35; his daughter Lauren, 5, and his son Eric, 10. Then Joost shot himself through the heart.

''We just kind of went down the line and made a list of -- we'll call them accusations, or whatever, of error -- and then just started going down there,'' Caskey said.

Caskey began his review last November. By May, as the report neared completion, DPS officials asked him.

The result will explain some unanswered questions but not others. ''I don't think it's gray, but that's subject to interpretation,'' Caskey says.

To the skeptics, though, the gray has always been the issue.

Quiet to questions

On March 4, 1990, a cool darkness, broken not even by moonlight, enveloped the Leisurewoods subdivision, a quiet rural neighborhood where the Joosts had lived for nearly 10 years.

That stillness was broken about 2 a.m. when, as a neighbor explained to an investigator, all the neighborhood dogs ''went to barking and raising Cain.''

The murder scene wasn't discovered until the following daywhen a co-worker of Joost, concerned that he had not shown up for an important Racing Commission meeting, drove to the home. He saw the family's dog running loose and both cars at the house.

The co-worker summoned police.

Hays County Constable Billy Reeves stumbled, almost literally, on the first sign of trouble after he forced open a side door: -- a revolver lying in the hallway.

''Mr. Joost's body was lying on its back in a spread-eagle fashion, with the feet nearest the door and the head farthest from the door,'' Reeves wrote in his report. ''The body was clad in a white T-shirt and white jockey shorts, and I could see a burnt hole in the center of the chest area of the shirt, and a blood stain surrounding the hole.''

Further inside the bedroom where Joost lay was Eric, curled in an almost fetal position on the bunk bed, three bullet holes in his body.

Down the hall, in bed in the master bedroom, lay Susan, shot in the back. Next to her, partly covered by a quilt like her mother, was Lauren, dead from a shot to the chest.

Autopsies later showed the family probably died early the previous day -- about the time, between 2 and 3 a.m., when the dogs were creating a commotion.

Within hours, the Joost home became a magnet for dozens of investigators, whose cars clogged the nearby streets and whose yellow crime-scene tape bisected the yards like the crime sliced through neighbors' tranquill ity.

Within 24 hours, Hays County deputies handed the investigation over to the Texas Rangers, a storied 173-year-old police force. With that transfer of authority went deputies' initial conclusion: murder-suicide.

It would be March 1995 before the Rangers reached the same conclusion in their first public report on the case. Critics would contend that the Rangers never seriously probed the possibility that an armed attacker had murdered Joost and his family.

Ron Stewart, the lead Ranger on the case, did not return calls for comment. Now retired, he lives in West Texas.

Stewart focused much of his investigation on an alleged affair between Susan Joost and a former co-worker, according to the Rangers' case files.

The co-worker, whose wife was a close friend of Susan's, asked for a polygraph test in 1992 to prove he was not involved with Susan. TheDPS did not give him one until November 1995.

He passed. DPS director Wilson apologized in a letter for any distress the allegations might have caused him.

''The first group just botched it,'' the Austin man said of the investigation. ''I catch myself laughing, because it beats the alternative. It

would have been funny if it hadn't been so sad.''

Puzzling evidence

In clearing the co-worker, investigators lost a primary motive they had presented for a murder-suicide. That left Caskey facing other questions, some that had lingered since the crime occurred, and including a puzzling array of evidence:

*Although David Joost would have had to fire the revolver six times, no full fingerprints, blood or human tissue were on the gun.

Autopsy reports show that most of the six gunshot wounds that killed the family were contact wounds, in which the gun is pressed against the body. Under those circumstances, blood and tissue probably would be present on the gun, some forensics experts have said.

Jim Coley, an investigator for the Hays County district attorney's office, said the wounds and the lack of prints or blood on the gun mean it could have been wiped clean. During a 1993 insurance hearing relating to the case, Coley testified he believed the homicides were ''professional'' -- done by a hired gunman.

''A number of things added up to make me think that someone came in and killed the family,'' Coley said recently.

*Gunpowder burns were found on David Joost's left and right palms and the back of his left hand. Joost was right-handed.

Had he fired the revolver six times, there likely would have been powder burns on the back of his right hand, contends Randy Cunningham, a Houston private investigator and former federal firearms agent who helped the Joost family in their investigation.

Cunningham believes the other burns indicate Joost raised hishands in a defensive gesture, to grasp the barrel of the gun and twist it away from his body.

*Lauren's pajama top appeared to have been pulled down after she was shot.

Speculation by some investigators: A stranger would not have paused to adjust the jostled pajamas on a just-shot victim, but a father might have. Or, others suggest, maybe a deputy checking the bodies pulled it down.

While declining to discuss details, Caskey suggested in response to that conjecture: ''This hitman is going to go around and straighten the little girl's jersey and pull it back because her tummy was exposed?''

David Rains, a former criminal investigator for the Louisiana state police who investigated the case for the Joost family, says he hopes the DPS will look at those questions and more.

''The only thing that the family has requested -- that I have requested -- from day one is to have an agency with proper authority investigate this completely,'' Rains said. ''From A to Z.''

Amid the questions, many neighbors, family members and acquaintances say they have yet to be interviewed by investigators.

The week before

According to Caskey, part of his recent investigation has focused on a possible motive for the killings: job stress.

Caskey said that some of Joost's co-workers at the Racing Commission observed signs of stress or anxiety.

Yet other co-workers, friends and family have said that they saw nothing unusual in his behavior in the weeks before the deaths. In fact, they said, Joost was making plans for the future -- going camping, repairing a leaky faucet for his father, getting started in Amway.

''He didn't seem anxious or worried,'' said Larry Janacek, a longtime friend who worked at the state comptroller's office. He spoke with David the Thursday before he died.

Acquaintances also say that he was disturbed by something he found at the Racing Commission.

''He told me that some of the stuff that had been going on there at the commission was questionable,'' said T.C. Mallett, another friend who spoke with David that week.

On Feb. 5, commission members had directed Joost -- then only two months at the job -- to look into details of a multimillion-dollar contract with the accounting firm of Deloitte & Touche.

Some commission members and legislators had criticized the high cost of the contract. The 2-year-old commission was under a microscope, with controversies over dog- and horse-racing licenses in the Houston area; a state auditor's office report the previous December had found problems with its accounting practices.

Bill Baran, a family friend, said Joost told him he was worried about an unspecified contract. ''He was going to terminate the contract because they weren't producing.''

Susan Joost also was worried about something, said Andrea Estrada, a receptionist at the Railroad Commission. Estrada, in a 1993 insurance case involving the Joost estate, testified that Susan had asked her two days before she died ''if she would tell something on somebody, would anybody get after her.''

Estrada said she referred Susan to the state whistle-blower act, a law designed to protect state employees who reveal official wrongdoing. A copy of the act was found among Joost's papers after he died.

But it remains unclear what, if anything, Joost was concerned about at the commission.

The report given to the Racing Commission on Monday, the one Joost was to have authored concerning the contract, contained no references to any irregularities. It was not initialed by Joost, as was his custom, and family investigators have questioned its authenticity.

Searching for answers

Caskey insists his review has been thorough.

''We're responding to every issue we've heard of ... even some we knew the answer to,'' he says. ''We did know things, we just didn't tell it all.''

Whether that will happen in Caskey's upcoming report remains to be seen. As does an answer to the question: Will the case ever be put to rest?

Daniel Joost, David's brother, doubts it will -- despite six years of official investigations, despite the family's independent probe, despite Caskey's new review.

''I wish we could have solved it,'' Daniel Joost said. ''But at least we raised some questions. We can let people make up their own minds.''

Absent a clear solution to who killed the Joost family, a solution that may never be 100 percent certain, Caskey said he understands why doubts remain.

''If you don't give people an answer, they'll make one,'' he said.

GRAPHIC: Since their shooting deaths in 1990, the Joost family - wife Susan, hus band David, daughter Lauren, son Eric in this dated photograph re leased at the time - has remained the subject of speculation and investigation.; Caskey; Hays County deputies pore over the Joost home near Buda the day four family members were found shot to death in this photo taken March 5, 1990, and released by the district attorney's office. Texas Rangers took over the investigation soon after, but questions surrounding the murder- suicide findings have lingered, even after an unprecedented review by the Department of Public Safety, release of which is pending.

Continued from A1

LOAD-DATE: August 17, 1996

29TH STORY of Level 2 printed in FULL format.

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THE DALLAS MORNING NEWS

August 17, 1996, Saturday, HOME FINAL EDITION

SECTION: NEWS; Pg. 1A

LENGTH: 1751 words

HEADLINE: Assault victim seeks to have attacker tried in '85 death;
She believes man nearing possible parole killed wife

BYLINE: Robert Ingrassia, Staff Writer of The Dallas Morning News

BODY:
On a summer evening 11 years ago, a single shot from a .357 Magnum rang out inside a modest Far North Dallas apartment. Police found a young woman dead on a bedroom floor and her husband crying on a living room couch.

A distraught Donald Hug told officers that he had accidentally shot his wife, Karla, in the back of her head as they struggled over a gun she had picked up because she was depressed.

Detectives prepared a murder case against him, but a Denton County grand jury declined to indict.

Police and prosecutors closed the case. It has remained that way for more than a decade.

But a determined effort to reopen the matter has arisen from an unlikely source. Janice Shoemaker - who survived an attack by Mr. Hug in Georgia four years after his wife's death - said she is convinced that he deliberately killed Mrs. Hug, and she wants him tried for murder.

Prosecutors say that's unlikely unless someone turns up new evidence.

Ms. Shoemaker, a 37-year-old computer programmer, never met Mrs. Hug. She has never spoken with Mrs. Hug's relatives nor set foot in Dallas. But she said she feels forever linked to Mrs. Hug by one degree of separation: Donald Frank Hug Jr.

"I think about her; I still do," Ms. Shoemaker said. "I think about what she must have gone through. He must have felt empowered to get away with her murder and thought he could get away with it again."

Ms. Shoemaker's desire to see Mr. Hug tried has taken on a new urgency. Mr. Hug, sentenced to prison in Georgia for attacking Ms. Shoemaker, is eligible for parole in December.

Fearing that he may get out, Ms. Shoemaker has asked that details about her life, such as where she lives and works, be withheld.

Mr. Hug, 35, who is serving time in Valdosta State Prison, did not respond to a request for an interview. His parents, reached in Roseville, Calif., declined to talk about him.

Woman's resilience

Except for numbness in one hand, Ms. Shoemaker has recovered fully from the attack of Dec. 4, 1989. She was beaten on the head with a hammer and shot in the chest in her house in Smyrna, Ga., an Atlanta suburb.

Mr. Hug, arrested a short time later, was found guilty of aggravated assault and sentenced to 20 years in prison.

The assault was not random. Ms. Shoemaker, then 31, had met Mr. Hug at the Coca-Cola Co. in Atlanta, where they worked. She was an accountant, and he was a systems analyst.

They began dating in the fall of 1988, Ms. Shoemaker said. The following summer, she said, she broke up with him because he was controlling and possessive. Then, according to Ms. Shoemaker and Smyrna police, Mr. Hug began stalking her.

The harassment culminated in a brutal attack detailed in police records and court testimony. It happened one morning as Ms. Shoemaker was letting her dogs out a back door. Mr. Hug was waiting with a gun.

He forced her to the lie face down on the floor of her house. He climbed on top of her and pounded the back of her head with a hard object, as she tried to block the blows with her hands.

At the time, she thought she was being hit with a brick.

Ms. Shoemaker managed to struggle free and get to a phone. But as she dialed for help, Mr. Hug shot her in the chest.

Police found a bullet fired from a .357 Magnum or .38-caliber handgun. The weapon was never recovered. He was arrested the next day.

At a trial nearly two years later, Mr. Hug pleaded not guilty by reason of insanity to two counts of aggravated assault. The jury found him guilty but mentally ill, which entitles an inmate to treatment but not a lighter prison sentence.

Nagging question

While Ms. Shoemaker was dating Mr. Hug, she asked about his former wife.

"He told me she committed suicide, and that's all," she said. "I didn't want to pry and ask a lot of nosy questions. Although I was curious, I didn't ask about it."

But once the harassment started, her curiosity turned to fear.

She mentioned the death of Mr. Hug's wife to Smyrna police Detective M.A. Moore, who called Dallas police for more information. A copy of the case file on his wife's death was on its way to Smyrna when Ms. Shoemaker was attacked, Detective Moore said.

Studying the file gave him an eerie feeling, he said. Mrs. Hug and Ms. Shoemaker bore an amazing resemblance, he said. Both were slim and pretty, with shoulder-length hair.

The way Mrs. Hug died also struck the detective. The autopsy report showed she had a bruise on her forehead and broken fingernails on one hand and that she'd been shot in the back of the head. Had Mr. Hug knocked her out and then shot her? When he straddled the back of a face-down Ms. Shoemaker, was he planning to do the same to her?

"In my mind, Hug had murdered Karla," Detective Moore said.

"There was just no getting around it."

Karla Hug, whose maiden name was Kellogg, grew up as the oldest of three children on a farm near Potwin, Kan., about 40 miles northeast of Wichita. Her brother, Terry Kellogg, described her as an excellent student in high school who went to Washburn University in Topeka, Kan., with plans to become a psychiatrist.

She met Mr. Hug at college, Mr. Kellogg said. She brought him home for Christmas one year, an experience that turned unpleasant when Mr. Hug started an argument with her parents.

Because the Kellogg family disliked Mr. Hug so much, the young couple married secretly and didn't invite her family, the woman's brother said. The Hugs moved a short time later to Texas, and the Kelloggs heard little from Karla about her life in Dallas.

They also heard little about her death, Mr. Kellogg said. Mrs. Hug died Aug. 31, 1985. It was a Saturday evening, the first day of the Labor Day weekend. Shortly before 8 p.m., police were summoned to an apartment on Frankford Road in what was then a largely undeveloped part of Far North Dallas.

Officer Barbara Smith, then 25 years old and barely two years on the force, arrived just as paramedics decided there was nothing they could do to help Mrs. Hug. She said Mr. Hug wept as he described the shooting.

"If he killed her in cold blood and made it look like an accident, then he did an Academy Award acting performance," said the officer, who is now a sergeant at the police training academy.

Homicide Detective Donald Ortega studied the scene and questioned Mr. Hug that night at police headquarters. He was not arrested.

The Dallas County medical examiner's office ruled Mrs. Hug's death a homicide, with the autopsy report noting that Mr. Hug had control of the gun, for the most part, when it fired. Police referred the matter to the Denton County district attorney's office because the shooting happened in a section of Dallas that extends into that county.

A grand jury declined to indict Mr. Hug. The panel's reasoning will never be known because grand jury deliberations are secret.

Detective Ortega, now a sergeant in the department's auto pound unit, said a former co-worker of Mrs. Hug's told him that Mrs. Hug had been depressed but never mentioned suicide.

"I did file a murder case with the Denton County grand jury, and it was the Denton County grand jury that made the decision tono-bill," he said.

A second look

Lt. Ron Waldrop, head of the police homicide unit, said Denton County prosecutors are the ones to decide whether to resubmit the case. There is no statute of limitations on murder, which means someone could be indicted and brought to trial for Mrs. Hug's death at any time. Double jeopardy does not apply to Mr. Hug in this case because he was never brought to trial.

"We're certainly looking at the case again," Lt. Waldrop said.

"But we don't have any additional information at this time."

Denton County prosecutors said the original case may have been hampered by the autopsy report. The medical examiner ruled the death a homicide but stated that the ruling "does not reflect a determination of intent."

The autopsy's conclusion states that "the scene investigation also supports the husband's statement that the injury occurred while he was wrestling with his wife for possession of the gun which she intended to use to shoot herself. There is independent corroboration of her unhappy mood."

Dr. Jeffrey Barnard, Dallas County's chief medical examiner, did not conduct the Hug autopsy. He said the report's discussion of intent was inappropriate. If he had done the autopsy, Dr. Barnard said, he would not have included such comments.

"I do think the original prosecution was handcuffed by putting in all that extra stuff in the conclusion," he said. "I never put that in."

Dr. Mary Gilliland, the medical examiner who wrote Mrs. Hug's autopsy report, did not return telephone calls seeking comment. She now works at the East Carolina University School of Medicine in Greenville, N.C.

Dr. Barnard recently wrote to prosecutors, stating that "a gunshot wound to the head can be either intentional or unintentional; however, I have always felt that such a determination should be left to a jury."

Prosecutor's view

Kevin Henry, an assistant Denton County district attorney, said there are no plans to resubmit the case to a grand jury.

"In a case where it's already been no-billed by the grand jury, we would really need something solid to resubmit," he said.

Even if Mr. Hug were indicted, Mr. Henry said, a defense lawyer could have a field day with the autopsy report. And prosecutors would have a hard time bringing up the Georgia crime because it happened after Mrs. Hug's death, he

said.

"We have the burden to prove guilt beyond a reasonable doubt," he said. "If the evidence leaves reasonable doubt, we're just spinning our wheels."

Mrs. Hug's relatives in Kansas knew nothing about the effort to reopen the case but firmly believe that Mr. Hug murdered Karla, said Mr. Kellogg, Mrs. Hug's brother. He said family members wonder why the case stalled, especially after her death was ruled a homicide.

"He needs to be tried because I'm sure he murdered her," said Mr. Kellogg, a forklift operator in Wichita. "That's one thing I'll never understand. If they thought she was murdered, why wasn't he ever tried in front of a jury?"

That question also haunts Ms. Shoemaker. She said she remembers the day Detective Moore visited her in the hospital shortly after Mr. Hug attacked her and told her the details of Mrs. Hug's death.

"I immediately got that picture of him on my back," she said. "I could've been shot in the back of the head, just like she was."

GRAPHIC: PHOTO(S): 1. Donald Hug. 2. Karla Hug.

LANGUAGE: ENGLISH

LOAD-DATE: August 21, 1996

32ND STORY of Level 2 printed in FULL format.

Copyright 1996 The Dallas Morning News
THE DALLAS MORNING NEWS

August 8, 1996, Thursday, HOME FINAL EDITION

SECTION: NEWS; Pg. 28A

LENGTH: 685 words

HEADLINE: Evidence emerges in murder case;
Parents of woman found dead in bed push to convict her ex-officer husband

BYLINE: Jacquielynn Floyd, Fort Worth Bureau of The Dallas Morning News

DATELINE: FORT WORTH

BODY:

FORT WORTH - In a case written off by Tarrant County prosecutors as too shaky to prove, evidence emerged Tuesday against a former Fort Worth police officer on trial in the 1995 shooting death of his wife.

The district attorney's office maintained that there wasn't enough evidence to determine whether Bonnie Horinek, a labor lawyer described as a "rising star" in her profession, committed suicide or was killed the night she was found in her bed with a bullet hole in her chest.

But special prosecutors, recruited through a long crusade by the dead woman's parents, have labored to convince jurors that Warren Horinek shot his wife to death in a drunken rage.

Defense lawyers, who opened their case Tuesday, acknowledged that there is ample evidence of Mr. Horinek's drinking and domestic troubles but insisted that there isn't enough evidence to convict him of murder.

Bob and Barbara Arnett, steadfast in their belief that their daughter had no reason to kill herself, hired a lawyer to petition a grand jury to hear evidence against Mr. Horinek, 33. Their indictment in March led to the murder trial that opened this week in state District Judge Bob Gill's court.

Special prosecutors rested their case Tuesday after eliciting a portrait of a glaringly mismatched marriage between a bright, capable career woman and a violent alcoholic enraged by his own failure.

Witnesses against Mr. Horinek testified that the victim was far from suicidal and that the only shadow over her life was fear of her husband.

One friend recounted that two years before her death, Mrs. Horinek confided that her husband had fired a gunshot into the wall above her head as she lay sleeping.

"I told her, I don't want to have to testify at your murder trial,' " lawyer Jay Rutherford recalled. "I thought if he shot at her once, he was liable to do it again."

And at a law firm bowling party in 1994, Mr. Rutherford said, Mr. Horinek got drunk and boasted that "he could get away with something like murder because he was a cop and he knew how to get away with things like that."

According to testimony, the couple's domestic problems worsened in early 1993, after Mr. Horinek lost his job with the Fort Worth Police Department for refusing to accept counseling and suspension for being drunk in public while off-duty.

Police were called to their home later that year when Mr. Horinek, during an argument with his wife, threatened to kill himself.

"He said he had ruined his life, that he had a drinking problem," said patrol Officer Holly Murtagh, a mutual friend summoned by Mrs. Horinek that night to reason with her husband. "He was extremely intoxicated. . . . I couldn't get anywhere with him."

Leadoff defense witness James Varnon, a Fort Worth crime scene investigator, said he strongly believes Mrs. Horinek shot herself the night of March 15, 1995, after an evening of drinking and fighting with her husband.

Police, who were summoned by Mr. Horinek, found the victim on her bed in a blood-soaked nightgown with a point-blank bullet wound in the center of her chest. A .38-caliber revolver was found nearby with no identifiable fingerprints on its surface.

Detective Varnon said his opinion, based in part on Mr. Horinek's statements that night, led him to conclude the death was a suicide.

But a prosecution witness hired to conduct a "psychological autopsy" of the dead woman testified that Mrs. Horinek did not fit the profile of a likely suicide risk.

Dr. Cathal Grant, after interviewing Mrs. Horinek's friends and family and reviewing her work and bank records, described the victim as an intelligent, stable woman with a promising career and an optimistic outlook.

"She had little fortune cookie things in her purse, little positive statements that she carried around with her," Dr. Grant said. "She had an excellent sense of humor, a strong circle of friends, a very supportive nuclear family. Her only stress was in her marriage."

The defense is expected to resume its case Tuesday. If convicted by the three-woman, nine-man jury, Mr. Horinek could face life in prison.

LANGUAGE: ENGLISH

LOAD-DATE: August 9, 1996

35TH STORY of Level 2 printed in FULL format.

Copyright 1996 Charleston Newspapers
Charleston Daily Mail

August 02, 1996, Friday

SECTION: News; Pg. P1A

LENGTH: 983 words

HEADLINE: DEATHS END ROCKY RELATIONSHIP: POLICE INVESTIGATE POSSIBLE MURDER-SUICIDE IN CLAY COUNTY

BYLINE: DAN LeROY

BODY:

WALKER - The tempestuous relationship between Franklin Duane Conley and Angela Jo Watkins finally reached a deadly - perhaps inevitable - conclusion.

But what happened Tuesday evening inside the couple's Clay County home, in the tiny community of Walker, remains a mystery.

The evidence at the crime scene seemed to suggest that Duane Conley, 35, had killed Watkins, 28, and the couple's 8-year-old daughter, Felicia, before taking his own life.

Police initially believed that theory, but now say they want to do laboratory tests and investigate further before making an official determination.

A relative who spoke with Conley shortly before he died doesn't believe Conley killed his daughter.

Duane Conley's uncle, Shirley Conley, spoke to his nephew shortly before Duane Conley turned a 30-06 rifle on himself. Conley said his nephew telephoned him and told him that Watkins had shot Felicia, and he killed her to retaliate.

"He said, 'I'm gonna lay down beside of Felicia. When they come, there'll be three bodies,' " Shirley Conley said.

"He shot (Watkins), there's no doubt in my mind. But he didn't shoot

that little girl," he said. "That's about all he lived for."

Conley said his nephew called him at 8 p.m. Tuesday. The call wasn't unusual. Shirley Conley, a school bus driver and the brother of Duane's father, Franklin, said Duane "was probably like a second son."

However, Duane Conley's request shocked his uncle.

"He asked me to get hold of his mother, and tell her that Angie and Felicia were dead, and he would be soon," Shirley Conley said.

Duane Conley told his uncle that he and Watkins had been arguing, and she had grabbed a 22-caliber rifle that belonged to his mother.

Conley said Felicia got between the two adults, and was shot by Watkins, perhaps accidentally. But Conley told his uncle he then turned the gun on Watkins.

At some point, Duane Conley called a neighbor, Dale "Tinker" Metheny. Metheny came to the house, and Conley showed him the bodies of his girlfriend and daughter, according to Shirley Conley.

Duane Conley tried to reach his parents, Franklin and Dorna Conley, who were grocery shopping in Spencer. He left a message on their answering machine which said, "By the time you hear this, I'll be dead," Shirley Conley said.

Shirley Conley begged his nephew to wait until the authorities arrived, but was told, "Uncle, you know they'd never believe me."

Duane Conley also said he would not go to jail, his uncle said.

He then asked Duane Conley to wait until he arrived, and his nephew agreed to give him 30 minutes to make the 10-mile trip. Shirley Conley arrived in less than 20 minutes, but was too late.

"I didn't think he'd wait. He didn't want to be stopped," Shirley Conley said.

Duane Conley's parents, who had returned from Spencer and heard their son's message, found the grisly scene first. Duane Conley had used a second rifle, a 30-06, to take his own life, Shirley Conley said.

Duane Conley and Watkins had lived together between 10 and 12 years, Shirley Conley said. The relationship was troubled from the outset, he said.

"It was one of those on-again, off-again things. She left him a time or two, then came back," Conley said. "They loved each other, they just couldn't get along."

State police and members of the Clay County Sheriff's Department had visited the couple's residence in the past to investigate domestic complaints, according to spokesmen for both agencies.

One of the problems was Duane Conley's drinking, his uncle said.

"He got up in the morning with a can of beer in his hand, and went to bed with a can of beer in his hand," Shirley Conley said.

Although Shirley Conley believed his nephew was sober the night of the shootings, an autopsy showed Conley's blood-alcohol level was 0.37, almost four times the legal limit for intoxication, state police said.

Watkins worked at a nursing home near Flatwoods, but Duane Conley, alt hough "a good welder," couldn't keep a steady job, his uncle said.

"Eight to 5 just didn't suit him," he said.

The couple's troubles sometimes erupted into violence. Conley pleaded guilty in March 1990 to a misdemeanor battery charge against Watkins and paid a $ 91 fine, according to Clay County Magistrate Court records.

And on March 14, 1995, Watkins filed for a 90-day protective order against Conley. But court records show she withdrew the request for

the protective order a little over two weeks later, on March 31.

Watkins also was capable of violence, according to Shirley Conley.

About five years ago, when the couple was living across the county line in Chloe, Calhoun County, Watkins shot Duane Conley in the leg with a shotgun. The blast severely damaged Conley's calf, and he was flown to Charleston for treatment, his uncle said.

But amid the troubles, Felicia Conley was the apple of her father's eye, Shirley Conley said.

"She was always sitting on his lap when they'd come up here," he said.

On evenings and weekends, Felicia usually accompanied her mother to work, Conley added.

Trooper T.D. Corbett of the state police's Clay detachment said police probably won't know what happened until sometime next week.

Blood stains are being examined to determine who was shot first, and the rifles are being checked for fingerprints - specifically, for Watkins' fingerprints, Corbett said.

"We're not in the business of just taking what (Duane Conley) told a neighbor to be the truth," Corbett said.

Corbett said the question he continues to be asked is one "that we'll probably never be able to answer: why it happened."

"The three people who might be able to tell us were all lying on the floor when we got there," he said.

LOAD-DATE: August 06, 1996

42ND STORY of Level 2 printed in FULL format.

Copyright 1996 Sarasota Herald-Tribune Co.
Sarasota Herald-Tribune

July 10, 1996, Wednesday, MANATEE EDITION

SECTION: LOCAL/STATE, Pg. 2B

LENGTH: 789 words

HEADLINE: GILES WAS GETTING AWAY WITH MURDER?

BODY:

Melvin F. Giles died at age 45 on Feb. 23, 1979. Whether it was homicide or suicide still has not been proved.

According to the autopsy report, the immediate cause of death was ''multiple gunshot wounds to chest with perforation of lung and heart.''

Medical examiner Dr. Charles Foley conducted the autopsy. He removed four bullets from Giles. Part of Giles' left hand, between the thumb and index finger, was shot away. Foley issued a two-page report that concluded that Giles had committed suicide by shooting himself repeatedly with a Smith & Wesson .357 magnum revolver.

A police report stated that, at the Giles' home in the 4000 block of 59th Street West, there was blood in the kitchen, across the living room floor and at the base of the stereo where Giles' body was found, lying face up. Giles apparently moved about 15 feet after the shots entered his body. Two chairs were knocked over.

He still had the gun in his hand, but it was upside down when a medical rescue unit from Cedar Hammock Fire District got to the house.

A former airline pilot for Southern Airways, Giles had retired early because of medical problems. He had high blood pressure.

Faith Giles was in the shower when her husband died, she reported to police. She said she heard three faint noises. ''Thumps, they sounded like to me . . . I just ignored them.''

Later, according to a Manatee County Sheriff's Office report, she put on a robe and came down the hall. That's when she discovered her husband's body, she told authorities.

She made the call to Cedar Hammock; it was 10:41 p.m.

Nearly a year and a half later, on July 9, 1980, State Attorney Jim Gardner presented a case against Faith Giles for first-degree murder, and a grand jury indicted her on the charge. Faith Giles had married again by that time, and was living in East Lansing, Mich. She was arrested by the East Lansing police and later taken to Bradenton where she was jailed.

Though Foley had ruled the death a suicide, others were not so certain. One of them, Joseph H. Davis, was an M.D. and professor of pathology at the Division of Legal Medicine, Department of Pathology, University of Miami.

Sarasota Herald-Tribune, July 10, 1996

He wrote to Manatee sheriff's Detective Sgt. Al Gooding and said that he'd determined that the wound patterns did not support an accidental shooting or suicide. A report on which he worked concluded that the death scene had been altered and that the gun was placed in the victim's hand after the shooting.

Faith Giles took a lie detector test, the results of which were inconclusive.

Almost two years after her husband had been killed, Faith Giles was tried for murder in January 1981. George Allen of Fort Lauderdale represented her, and Judge Gilbert Smith presided.

The defense attorney said recently that he believes the investigation of the murder was badly handled by the sheriff's office. ''They ran roughshod over the case, and the State Attorney (Jim Gardner) didn't have a good case, either,'' Allen said.

On Jan. 15, 1981, the jury found Faith Giles not guilty of murder in her husband's death.

''The sheriff's department screwed it up because they didn't give her her Miranda rights,'' Judge Smith said recently. ''She had made some incriminating statements, but we couldn't let a lot of the evidence in.

''Based on the evidence they were given, I think the jury returned the right verdict,'' Smith said. Faith Giles also found herself in civil court over the death. She was the beneficiary on her husband's policies, but his children sued to keep her from getting any benefits.

So later in the same year, the civil case went to trial.

The lawsuit, filed by lawyers Turner Matthews and John Blue, charged that Faith Giles feloniously caused the death of her husband, so was not entitled to the benefits. One policy already had been paid off, but two others were on hold.

The case was tried in front of Frank Schaub. Among the evidence considered by the jury was one of the insurance policies, in the amount of $ 120,000. Its beneficiary form had been changed covertly, experts determined. Melvin Giles' signature was forged, the experts testified, and so was the signature of the witness, Linda Keels, a nurse at Blake Hospital. The jury believed that Faith Giles had done the forging.

The jury found for the plaintiffs - Melissa L. Giles, Glenn M. Giles and Michael P. Giles - on Dec. 4, 1981. It assessed damages in the amount of $ 120,000. In February 1982, Judge Harry Parham also awarded $ 15,268 to the plaintiffs as interest on the recovery of the $ 120,000 award in final judgment, and an additional $ 7,721 in costs.

Technically, the investigation is still on the books at the Sheriff's Office.

Morgan Stinemetz

NOTES:
A LOOK BACK

Sarasota Herald-Tribune, July 10, 1996

GRAPHIC: PHOTO 2, 1979 Faith Giles was tried for the murder of her husband, Melvin. (Police line-up photos)

LANGUAGE: ENGLISH

LOAD-DATE: September 9, 1996

44TH STORY of Level 2 printed in FULL format.

Copyright 1996 Asbury Park Press, Inc.
Asbury Park Press

July 4, 1996, Thursday

SECTION: A, Pg. 1

LENGTH: 689 words

HEADLINE: Store owner dead; foul play feared

BYLINE: RANDY BRAMEIER and CHANTA JACKSON; STAFF WRITERS

DATELINE: RED BANK

BODY:
A mysterious death being treated as a murder rocked the downtown business district yesterday morning.

A store employee found Hae Sook "Sue" Lee, the co-owner of A&J Sneaker, 45 Broad St., lying in a pool of blood in the stockroom at 11:10 a.m., Monmouth County Prosecutor John Kaye said.

As of just before 4 p.m., investigators had not moved the body and had no information on the location of the wound or what kind of weapon had caused it, Kaye said.

The body was moved a little later, Assistant Prosecutor Peter E. Warshaw Jr. said last night. He still had no details to report on the cause of death. An autopsy will be performed today or tomorrow, he added.

Kaye called Mrs. Lee's death "a violent and suspicious death, an apparent homicide, (but that's) subject to change." Kaye said his office had not ruled out suicide.

Mrs. Lee, 36, was found a few feet from the cash register in the rear of the store near the stockroom door. An electric alarm, triggered to go off if someone unauthorized tried open the register, was sounding when the employee found her body, the prosecutor said. It had not been opened, however.

The store's back door was unlocked, he added. The back door leads to a municipal parking lot.

Kaye did not identify the employee who found the body.

The victim's husband, whose name Kaye didn't know, last saw Mrs. Lee alive about 10:30 a.m. when he left to do errands, the prosecutor said. Neighbors identified the husband as Kyu Song Lee.

Investigators delayed removing the body because they wanted to take extra precautions to safeguard any clues at the scene, Kaye said. Police secured the area quickly, but Kaye said he feared that evidence could be compromised by the crowd of more than 100,000 expected last night to watch the fireworks show.

"We're worried about the destruction of potential evidence," Kaye said, citing, for example, the possible discarding of a weapon in a public garbage can. "We want to round up whatever we can find before (the fireworks), or it'll be gone."

At least 10 plainclothes officers were working in the store and immediate area as of late afternoon.

Passersby gathered in front of the store and across Broad Street at White Street discussing the case. Separate rumors swirled that the woman had been beaten by a club, stabbed or shot.

No one was home at the Lees' two-bedroom condominium at 55 Players Circle, Society Hills, Tinton Falls, later yesterday. Outside were a pair of boy's sneakers, a girl's pair of black sandals and a girl's pink bicycle.

"The shoes are always outside because they take them off before going in the house," the Lees' next-door neighbor, Debra Hutchinson, said.

"She was a very nice lady and never bothered anybody, so I was sad to hear that she had been killed."

Hutchinson described Mrs. Lee as being "very pretty" and "very pleasant." She said she last saw Mrs. Lee Monday evening when she was leaving home to go to work.

"I'm concerned that something like this could happen to my neighbor," she said. "They were very quiet people and pretty much kept to themselves, because around here we all know each other but aren't in each other's faces."

Another neighbor, John Lane, president of the Society Hill of Tinton Falls Association, said Mrs. Lee was quiet but dedicated.

"I know she was hard-working, because I always saw her getting in the car to go to work and coming from work," Lane said outside his condominium, which is upstairs from the Lees'. "She was always friendly and saying hello."

James Gill, a family friend, said the Lees have two children, a boy about 10 and a 4-year-old girl. Their names were not known yesterday.

Gill said the Lees moved to Tinton Falls from Old Bridge Township in February 1994 to open a business. The couple opened a second store in Long Branch about two weeks ago, he said.

"She was a very, very nice person," Gill said.

Mrs. Lee's presumed murder marks the second of an owner in her shop in Monmouth County in five months. Authorities said they do not know if the incidents are related.

Staff writer Gilda Rogers contributed to this story.

GRAPHIC: PHOTO: DARYL STONE; Staff Photographer
PHOTO: Scene of the crime: Red Bank Patrolman Frank Bitsko guards outside of the shoe store where an owner was found dead.

Asbury Park Press, July 4, 1996

LOAD-DATE: July 8, 1996

49TH STORY of Level 2 printed in FULL format.

Copyright 1996 Landmark Communications, Inc.
The Virginian-Pilot (Norfolk, VA)

June 20, 1996, Thursday, FINAL EDITION

SECTION: LOCAL, Pg. B1

LENGTH: 745 words

HEADLINE: SUSPECT, FAMILY IN GRIM STRUGGLE;
JONES SAID HE WANTS MORE TIME TO RAISE MONEY TO PAY FOR AN AUTOPSY.

BYLINE: BY LYNN WALTZ, STAFF WRITER

DATELINE: NORFOLK

BODY:
Megan Jones wanted her body cremated and her ashes sprinkled from a boat onto the Atlantic Ocean. Instead, her body is caught in a legal snarl between her husband, who refuses to release her remains, and her parents, who want to grant their daughter's wishes and give her final rest.

Jones, a local performer and costumer, was found dead May 18, wrapped in a rug in an upstairs bedroom of her Delaware Avenue home. She had been there about a week, police said. Her estranged husband, psychiatrist Tobin Jones, has been charged with murder.

Because he is next of kin, Jones must sign off on the release of his wife's body. But Jones said Wednesday through his attorney that the medical examiner's autopsy is inconclusive and does not provide evidence that his wife was murdered rather than a victim of suicide. Jones said he wants more time to raise money to pay for an independent autopsy.

Meanwhile, Megan Jones' parents are asking a Norfolk judge to step in and settle the matter. A hearing is scheduled for Friday.

''This is upsetting and ridiculous,'' said Megan Jones' stepfather, Ken Pope, in a telephone interview Wednesday from Oklahoma. ''It's ridiculous and stupid and very disturbing that Tobin is taking this attitude. I don't care how he felt to Meg - which apparently must have been very bad - you just can't fathom this kind of thinking of keeping us from getting the body. What's the point? Dead is dead. Murder is murder.''

A preliminary medical examiner's report indicates three crescent-shaped cuts in the top of Megan Jones' head. The front of her pink nightshirt was splattered with blood, the report said.

Two of the cuts went through the scalp, the report said, in concluding they were caused by ''blunt force head injuries.'' There were no fractures to the skull, and the cause of death is pending until drug and alcohol testing is completed, the report indicated.

Tobin Jones' attorney, Stanley Sacks, said Wednesday that the report is inconclusive and does not describe any wounds that would cause death. He has asked prosecutors to turn over information they have about Megan Jones'

medical history, including possible treatment for depression or possible abuse of drugs or alcohol.

Police have ruled the death a homicide and suggested in search warrant affidavits that they believe the cause of death is blunt-force trauma to the head. They apparently have not recovered a murder weapon, according to court records.

The medical examiner's report is but one piece of an ''exhaustive investigation'' that led to Tobin Jones' arrest, Commonwealth's Attorney Chuck Griffith said Wednesday.

''There is no information in this report which indicates in any way that Megan Jones died of natural causes. There is only information that she died of violent causes.''

Griffith said he has found no legal authority for Tobin Jones to order an independent autopsy, and no motions have been filed by his attorneys requesting one. Meanwhile, Griffith said, ''Megan Jones' family sits grieving, unable to properly lay their daughter to rest.''

Sacks said Wednesday that there has been unexplained and unprecedented secrecy in the case, especially regarding the medical examiner's report.

''The man's been in jail for weeks with no cause of death. Do you know of any cases where a man's been held in jail where they can't prove she's been murdered? There are some lacerations on her head. I'm not a doctor, but they didn't look like they could be fatal.''

Sacks also said his client will not agree to a cremation until an independent forensic autopsy is done.

And that's where things get complicated.

Sacks said Megan Jones' family has frozen the couple's joint accounts. His client cannot come up with the money - probably around $ 3,500 - to pay for the autopsy.

Megan Jones' stepfather said Wednesday he has no intention of letting Jones pay for his defense with his dead wife's money, including a recent loan from her parents.

''It's all due to Virginia law,'' Pope said. ''Until he is found guilty of murder, her estate goes to him.''

Pope said he simply could not put into words the emotional turmoil he and Megan's mother have been through, first with the murder itself and now with Megan Jones' body. It has made the grieving process harder, he said - making it difficult to resolve the painful emotions.

''Her mother's in a hell of a shape. I'm just her stepdad, and I'm torn up and disgusted.''

GRAPHIC: Color photos Megan Jones Tobin Jones

The Virginian-Pilot (Norfolk, VA), June 20, 1996

LOAD-DATE: June 21, 1996

52ND STORY of Level 2 printed in FULL format.

Copyright 1996 The Washington Post
The Washington Post

June 06, 1996, Thursday, Final Edition

SECTION: METRO; Pg. B06

LENGTH: 811 words

HEADLINE: Teen's Hanging May Have Been Accident; Boy Possibly Was Inhaling From Spray Cans Found Nearby, Police Say

BYLINE: Brian Mooar, Washington Post Staff Writer

BODY:

Fifteen-year-old George Alexander LeMaistre II appeared overjoyed to his family when he returned to his Bethesda home Saturday on a short break from his private boarding school, and that's what made his hanging death hours later on a park playground all the more puzzling.

Police officers who found Alexander hanging from a dog leash strapped to playground equipment at Woodacres Park after dawn Sunday initially believed he took his own life. Then they found four aerosol spray cans, evidence that the boy may have died while trying to get high by inhaling aerosol chemicals, according to a police source.

Homicide detectives are awaiting the results of toxicology tests before classifying the death, but relatives said yesterday that they are convinced Alexander was the victim of youthful experimentation.

"There's no suspicion or belief in the family that this was anything other than an accident, and we understand from the police there was no indication any other person was present when it occurred," said George LeMaistre Jr., Alexander's uncle.

Montgomery police know that such classifications are sometimes difficult for families to accept. The controversy continues over the 1986 death of Keith Warren, a 19-year-old Silver Spring man found hanging from a small tree near his home.

Warren's family accused Montgomery police of conducting a cursory investigation on the scene and skipping an autopsy, leaving many unanswered questions. Although police and the state medical examiner's office stand by the suicide ruling, a family-financed autopsy raised the possibility that Warren may have inhaled a fatal dose of a chemical solvent that would have made hanging himself impossible.

George LeMaistre said that his sister, Alice LeMaistre, a Foreign Service officer, adopted Alexander and his younger sister and brother, now ages 14 and 13, from a broken home in Poland nine years ago while she was working with the U.S. Information Agency in Warsaw.

As a child, Alexander was so protective of his siblings that he refused to eat his own food until they were finished, his uncle said. His continuing devotion to them was what prompted family members to discount suicide.

"We do not accept that as a possibility," George LeMaistre said. "About the last thing he said to his mother was something to the effect of, 'I'm so happy to be home.' That was when he went to bed Saturday night with a big grin on his face.

"I think there are questions," he said, "and there is a general feeling that it's likely we'll never really know exactly what happened. It's very much a tragedy."

The use of chemical inhalants has been a problem for decades among school-aged children. A less popular and more dangerous thrill often associated with teenage experimentation is the restriction of a person's air supply to get a dizzying high that purportedly intensifies sexual pleasure. Federal health statisticians said yesterday that they have no reliable numbers on deaths associated with either practice.

"If teens could only realize how dangerous it is, they might be less prone to try that kind of experimentation," said Michael Baden, a forensic pathologist who has investigated dozens of inhalant deaths and a few hundred teenage hangings during 35 years as a New York medical examiner.

Baden said Alexander's death fits the typical pattern of death caused by inhalants or accidental asphyxiation. Victims of the latter often try to ensure that they can free themselves but lose consciousness too quickly and die, he said.

"The loss of oxygen to the brain can be so quick they can pass out within three or four seconds," Baden said. "There are only 10 seconds of oxygen in the brain. If . . . blood can't get to your brain, you're out within a couple of seconds. Within another 20 or 30 seconds, you are brain-dead."

However, Baden said, it is rare to see a victim experimenting at the same time with inhalants and self-asphyxiation.

"It is not customary to hang one's self and use aerosols," Baden said. "Usually, they are two different kinds of teenage expression. One's autoerotic, one's to get high. It's possible this was just experimentation, and he just misinterpreted what to do."

A Bethesda woman found Alexander hanging from the family dog's green leash, according to a police source familiar with the case. The boy's left hand was gripped underneath the leash near his neck, indicating that he had tried to free himself in the moments before he passed out.

On the ground, police found a capped can of aerosol spray cleaner. They also found Alexander's school bag, which contained three aerosol spray cans.

Relatives said that they were unaware that Alexander might be experimenting with inhalants and that his only statements about drugs indicated that he thought people who used them were "foolish and stupid."

LANGUAGE: ENGLISH

LOAD-DATE: June 06, 1996June 06, 1996

52ND STORY of Level 2 printed in FULL format.

Copyright 1996 The Washington Post
The Washington Post

June 06, 1996, Thursday, Final Edition

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LENGTH: 811 words

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LANGUAGE: ENGLISH

LOAD-DATE: June 06, 1996June 06, 1996

54TH STORY of Level 2 printed in FULL format.

Copyright 1996 Times Mirror Company
Los Angeles Times

June 5, 1996, Wednesday, Home Edition

SECTION: Part A; Page 1; Metro Desk

LENGTH: 1093 words

HEADLINE: CHARGES DROPPED AGAINST MAN IN LOVER'S SUICIDE

BYLINE: BETTINA BOXALL, TIMES STAFF WRITER

BODY:

Citing evidence problems that once again call into question the quality of work by the Los Angeles County coroner's office, prosecutors Tuesday dropped charges against a man accused of helping his AIDS-stricken lover commit suicide.

The complex ethical and legal questions raised by the case were left unanswered during a brief Municipal Court hearing that brought an end to the six-month-old prosecution of Keith Green. Instead, the focus was on the coroner's change of mind as to the cause of death of Green's partner, noted interior designer James Northcutt. That revision led the district attorney's office to conclude that Northcutt had died by his own hand from a drug overdose--rather than from carbon monoxide poisoning with Green's help.

Smiling broadly after a judge dismissed an assisted suicide charge that could have sent Green to prison for up to three years, his attorneys blasted the coroner's office and said they are considering filing a lawsuit alleging misconduct.

"The coroner's office was not only inept and incompetent, but seemed to act with deliberate recklessness in terms of our client and his civil rights," said attorney John Duran.

Lydia Bodin, the deputy district attorney who took over the Green case several months ago, brushed aside suggestions of misconduct, but conceded that the coroner's office "should have gone further" in its initial round of autopsy testing.

"I think everybody acted in good faith," Bodin said. "Obviously, I wish we had these drug results five months ago."

Northcutt died Dec. 4 in his carbon-monoxide filled BMW in the garage of the Los Angeles home he shared with Green. According to police reports, Green told authorities that his partner--who was in the later stages of AIDS and previously had attempted suicide--had taken a large quantity of sedatives and then, with Green's help, run a pool hose from the car's exhaust pipe to the car window.

Due to inherit a substantial sum from Northcutt's approximately $ 2-million estate, Green was arrested on murder charges. In mid-January, prosecutors dropped the murder count, but left in place a felony charge of aiding and

abetting a suicide, filed under a rarely used state statute that is more than a century old.

The coroner's office initially listed Northcutt's cause of death as carbon monoxide poisoning. But after additional testing, the office amended its findings May 16 to state that Northcutt, 54, had died of the "combined effects" of carbon monoxide and drug intoxication.

The change undercut the prosecution case because Green, 36, had admitted to helping his partner with the exhaust hose but had said Northcutt on his own swallowed 100 sedatives shortly beforehand.

Although the initial police report included that account and investigators found 22 bottles of medication in the home, the coroner's office did not test for such drugs. Instead, it ran a standard test for the presence of carbon monoxide, alcohol, methamphetamine, cocaine and PCP and found levels of carbon monoxide, according to Craig Harvey, chief of coroner's investigation for the Los Angeles County Department of Coroner.

Questioning the autopsy, Green's attorneys had their own tests performed and in April filed court papers stating that high levels of sedatives had been found in Northcutt's blood samples.

Not only did further testing by the coroner's office confirm the presence of the sedatives but a May 13 lab memo pointed out that the amount of carbon monoxide in Northcutt's blood was not enough to be lethal. "Death probably due to the drugs," states the memo, which Green's attorneys found in files they subpoenaed from the coroner.

Green's attorneys met with Dist. Atty. Gil Garcetti on Friday and showed him the note, Duran said.

Bodin said she would have requested additional drug tests even if Green's attorneys had not pursued the issue. She added that she recommended the charges be dropped and that Garcetti concurred.

Harvey defended the actions of his department, which came under intense criticism in the O.J. Simpson case. Drug testing in the Northcutt case initially was limited, he said, because it appeared Northcutt had died of carbon monoxide poisoning and because there was no indication he had ingested his medication in excess.

The 22 bottles had pills left in them, Harvey said. Moreover, investigators found only a small, partially full bottle of chloral hydrate, the drug Green said Northcutt had taken.

"There's not really anything that screams at you that there is chloral hydrate in this person," Harvey said. "We test for what we believe is there."

Harvey could not explain why carbon monoxide poisoning was initially listed as the cause of death, even though the 45% level found was far below the 80% amount considered lethal, according to the lab note.

As Municipal Judge T. K. Herman noted, Tuesday's dismissal sidestepped discussion of the thorny issues that underlie assisted suicide.

"It is unfortunate. . . ," Herman said in granting the prosecution's motion for dismissal "that the issues presented in this case cannot be determined.

"Suicide assisted by a nonmedical person is a matter that needs to be decided in this state," Herman continued. "It . . . opens a Pandora's box of problems that do not appear in situations where a medical doctor assists in suicide--among those are the matter of motive."

Two recent federal appeals opinions that are likely to thrust the legal debate over assisted suicide before the U.S. Supreme Court recently concluded that mentally competent, terminally ill adults have a constitutional right to hasten their death with the help of a physician. But the rulings' implications for assisted suicides involving nonphysicians remain hazy.

Bodin said that were it not for the evidence problems, her office would not have dropped the charges. "We cannot selectively prosecute, and until the Legislature makes a change in that statute or the courts do something, that statute is on the books."

Obviously relieved at Tuesday's court action, Green said that he finally could start grieving for his companion of eight years. "If anything was ever wrong, Jim would just pick up the phone and fix it," Green said, adding that he has been extremely lonely since Northcutt's December death.

"A couple of times I kind of lost it," he said. "It seemed to not have any end. . . . When everybody is trying to say you did something awful and you know you didn't."

Asked if he would take the same action again, Green declined to answer.

GRAPHIC: PHOTO: Keith Green; charges dropped. PHOTOGRAPHER: LUIS SINCO / For The Times

LANGUAGE: English

LOAD-DATE: June 5, 1996

PARK POLICE "REPORT"

Memorandum

To : ADIC, WMFO 29D-LR-35063 Date 4/21/94

From : SA William T. Guyton

Subject: Text of Press Conference of 8/10/93 Received from David Margolis, U.S. Department of Justice, 4/14/94

On April 14, 1994, David Margolis, U.S. Department of Justice, provided the attached text of a press conference held on August 10, 1993. The press conference was held by Phillip B. Heyman, Deputy Attorney General; Robert Langston, Chief, U.S. Park Police; and Robert Bryant, Special Agent in Charge of the Washington Metropolitan Field Office of the FBI. The subject of the press conference was a report on the death of Vincent Foster, former Deputy Assistant to the President.

Margolis provided this press conference text as a follow-up to his interview by the FBI concerning his involvement in the death investigation of Vincent Foster.

1 - SUB 17 (NVMRA) (Attachment)
1 - SUB 17 (OIC) (Attachment)
1 - Jim Bell (Attachment)

29D-LR-35063 SUB 17

PRESS CONFERENCE WITH: PHILIP B. HEYMANN, DEPUTY ATTORNEY GENERAL; ROBERT LANGSTON, CHIEF, US PARK POLICE; ROBERT BRYANT, SPECIAL AGENT IN CHARGE OF THE WASHINGTON METROPOLITAN FIELD OFFICE, FBI; SUBJECT: REPORT ON DEATH OF VINCENT FOSTER, FORMER DEP. ASST. TO THE PRESIDENT, US JUSTICE DEPARTMENT
F-10-01 page# 1 TUESDAY, AUGUST 10, 1993

dest=mwh,doj,fbi,park,crime
data

TRANSCRIPT BY: FEDERAL NEWS SERVICE
620 NATIONAL PRESS BUILDING
WASHINGTON, DC 20045

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MR. HEYMANN: Ladies and gentlemen, we are here today to announce the results of the inquiry into Vince Foster's death. I received an FBI report this morning, a Park Police report last Friday just got into my hands or Monday. As you all know, Park Police have been taking the lead in investigating the cause of death. The FBI has been assisting in that investigation and separately investigating the circumstances surrounding the finding of the note.

The chief of the Park Police, Chief Langston, and the special agent in charge of the Washington field office of the FBI, Mr. Bryant, are here today. They're here to describe their findings to you and to answer any questions you have.

I have directed that the full text of the note that was found be made public now. At the very strong urging of the family of Vince Foster, we are not making available photocopies of the note itself, but knowing that some of you may want to see it so that you can describe what it looks like, Carl Stern will have a copy available and anyone who wants to see it is welcome to see it. We just don't want to distribute it.

There are in the note some statements, which to be sure that no stone was left unturned, we have referred to the units which the attorney general asked some weeks ago to review any questions about the travel office -- the Office of Professional Responsibility, and

the public integrity section. As to these assertions in the note, the Office of Professional Responsibility is looking at the sentence dealing with the FBI as part of its broader inquiry into the FBI contacts with the White House in accordance with the attorney general's letter to Chairman Brooks promising that we would look into the FBI's contacts.

As to the remaining assertions, the Public Integrity Section of the Criminal Division is looking at them as part of its mandate -- also from the attorney general, also in response to Chairman Brooks -- to review all travel office matters. Now, there's one that is not a travel office matter, and as to that one, which I don't even have it in front of me to describe it, involves the ushers. While the inquiry into these assertions is not totally complete, I am told that based on its interviews to date, nothing has led the Public Integrity Section to suspect any criminal conduct that would then have to be investigated.

I will also hand out or make available to you my instructions last week to the Public Integrity Section and to the Office of Professional Responsibility asking them to look into these matters.

The FBI joined the Park Police in the initial stages of the inquiry into Vince Foster's death because of his status as a federal official and assassination statutes. As it became apparent that this was a suicide, the FBI gradually assumed a secondary role to the Park Police. The bureau reentered the inquiry at our request to examine the handling of the note.

And with this, I think I should turn you over to Chief Langston.

Chief?

CHIEF LANGSTON: Good afternoon, ladies and gentlemen. The United States Park Police has completed its inquiry into the death of Vincent Foster and, as you are aware, that occurred on the 20th of July at Fort Marcy National Park. It's a component of the George Washington Memorial Parkway in Fairfax County, Virginia.

dest=mwh,doj,fbi,park,crime
data

The condition of the scene, the medical examiner's findings and the information gathered clearly indicate that Mr. Foster committed suicide. Without an eye witness, the conclusion of suicide is deducted after a review of the injury, the presence of the weapon, the existence of some indicators of a reason, and the elimination of murder. Our investigation has found no evidence of foul play. The information gathered from associates, relatives and friends provide us with enough evidence to conclude that Mr. Foster's -- that Mr. Foster was anxious about his work and he was distressed to the degree that he took his own life.

That's the end of a brief official statement. I'd like to say to the press and to the media that we're not really equipped in the Park Police to answer the numbers of phone calls that came into Park Police headquarters, and let me apologize if we were a little short or there was a delay getting back to you. We had probably over a thousand phone calls over my three lines at my office, and it was kind of hard to conduct business.

I'll be pleased to answer any questions at this time regarding this death investigation.

Q Chief, have you ever found the person who reported it to the park maintenance man? And do you -- were you able to trace the source of the gun?

CHIEF LANGSTON: We can only identify that a white male in a white van may have been the person that notified a park maintenance employee at the Turkey Run maintenance center, and that white van was also placed in the parking lot near the time of the incident.

MR. HEYMANN (?): Chief, let's bring special agent in charge -- (inaudible).

CHIEF LANGSTON: Thank you. Bob?

Q Was the -- the Fairfax police, were they notified at all?

CHIEF LANGSTON: The emergency 911 was notified, and the Fairfax County Police notified the US Park Police of the incident.

Q Were (any ?) people there when you got there or anything like that?

CHIEF LANGSTON: There was no one there, to my knowledge.

Bob, you want to make a statement first.

MR. BRYANT: Ladies and gentlemen, I'm Bob Bryant, and I'm special agent in charge of the Washington metropolitan field office of the FBI, and I want to make a few brief comments to you.

First, what we have here is a great sad tragedy in our community, and it's -- initially when there is a death of a high government official that's covered by the assault or the assassination statutes, the FBI as a matter of course establishes liaison with the police agency that has the primary lead, in this case the United States Park Police. We followed this case from the time we were notified until we were basically of the opinion, along with Chief Langston's staff, that this was a suicide.

Subsequently, there was an issue raised about a note and the question of what the note -- the handling of the note and the processing of the note and its turnover to the United States Park Police or law enforcement.

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We were ordered then by the Department of Justice to look into the handling of this note and to bring that investigation to the forefront, and we did that in recent times. And that's the time when we re-entered the investigation.

I would just like to say that during this time the cooperation between our two agencies has been outstanding, and I'm sure there are a lot of questions around this, but I'll turn it back over to Bobby or --

(Cross talk)

Q (Inaudible due to cross talk) -- could you tell us what you found out about the handling of the note?

MR. BRYANT: The note was initially discovered on July the 26th, 1993 at 4:00 p.m. by an aide who was inventorying Mr. Foster's office. The note was reviewed. It was torn up into several small pieces. It was put back together. And then there was concern by White House staff about executive privilege and about family interests. The note was subsequently reviewed by the wife and her attorney -- Mrs. Foster -- and was then reviewed by the president for executive privilege issues. And then after these 30 hours had passed, the note was turned over to Chief Langston's people on July the 27th at 9:15 p.m.

(Cross talk)

Q Mr. Bryant, why -- what about what the delay?

Q (Inaudible due to cross talk) -- whether that was appropriate handling of the note, because that's -- (off mike)?

MR. BRYANT: The handling of the note by the White House staff, certainly, they had interests there as far as executive privilege and certainly sensitivities to the family, and they were reasonable.

Q They were --

Q They were reasonable, you said, Mr. Bryant?

Q What did you say --

MR. BRYANT: I said they were reasonable.

Q Well, what's the relationship between what he says and he has a family? This is all the government business.

MR. BRYANT: I'm sorry, you -- what are speaking from?

Q I'm reading from the note.

MR. BRYANT: So --

Q Reading from what --

MR. BRYANT: -- the -- the content of the note was not examined by us. The handling of the note by the White House staff and its subsequent turn-over to the Park Police was what we looked at.

Q Who first told you this was a suicide?

MR. BRYANT: Well, I think while we were with the United States Park Police, it became reasonably apparent that it was a suicide.

Q Sir, do you have any concerns about the delay in the time that the White House did turn the note over to you?

MR. BRYANT: I think that the -- the concerns that they were working from were reasonable. We would probably have liked it to have been a little sooner, but we understand what was going on. I'd leave that to Bobby to answer, too.

Q How much sooner would you have liked to have seen --

MR. BRYANT: I can't answer that question because there are executive privileges and family interests here that are certainly very strong interests.

Q Reading these -- these things in this note --

Q There's no question that this note, that this --

Q -- I don't see any family interests.

Q Let me finish my question. There's no question that this is his note, his handwriting, that you took it. Did you do forensic on it? Are there fingerprints?

MR. LANGSTON: Yes. It's -- it's been identified by an expert in handwriting. Also, it was identified by the wife, Mrs. Foster, as being his handwriting.

Q How many people handled it? Are there -- a sense of how -- was it passed back and forth, or just his fingerprints on it?

MR. LANGSTON: It was handled by a number of people at the White House. And it was processed there were no real discernment of prints that could be identified.

Q Mr. Bryant, what precisely were the executive privilege

concerns that the White House staff cited to you from the note?

MR. BRYANT: I think that when you have at the highest levels of government, I think any document, they would want to examine it as to whether there is information in there that might be privileged, and I think that's what, in fact, occurred.

Q Was there any -- is there anything in --

MR. BRYANT: I think --

(To staff ?) Had the note been turned over?

MR. LANGSTON: I'm sorry.

MR. BRYANT: Has the note been turned over?

I think it has, so I think that answers your question.

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Q Yeah, but --

Q So there were no privileged --

MR. BRYANT: No.

Q Let me ask --

Q Mr. Bryant?

Q Let me ask you this: Were you able to determine what took the bulk of the 30 hours? Was it giving it to the family first?

MR. BRYANT: I think they had -- if you will remember -- go back to the time here, we had a death, a family traveling back and forth from Little Rock, an attorney involved, and also the president's schedule. And there were issues there that they thought were paramount to have a review done, and they were, in fact, done. And that's what accounts for most of the 30 hours.

Q Mr. Bryant?

Q Who's to blame, Mr. Bryant? Who at the White House was exerting this thought of executive privilege in the family? Is there a name of a person you can give us who was your contact there?

MR. BRYANT: Well, I think we working through Mr. Nussbaum..

Q Who was the aide that was examining the --

MR. BRYANT: I'm really not going to get into that. I don't think I want to --

Q You already --

Q Mr. Bryant?

Q Why wouldn't you get into that?

MR. BRYANT: Because I would just prefer not.

Q Mr. Bryant --

MR. BRYANT: Gary?

Q Mr. Bryant?

Cross talk.)

Q How do you know that the circumstance is that the note was left in the briefcase torn up? Who discovered the note? How certain are you that the note was torn up by Mr. Foster and left in the briefcase? And, if so, how do you reconcile the fact that he tore up a suicide note?

MR. BRYANT: Okay, Gary, first, the note -- the -- I don't -- whether it's a suicide note or not, I don't know. It certainly comments about what's going on, first. The note was torn up into 27 pieces. It was in a briefcase that was discovered on the 26th.

Q Sir, this sounds like all this material that he might have been going to discuss -- he had an appointment, I understand, to talk to the president on Wednesday after he died Tuesday. He made this appointment Monday night. This sounds like this all the stuff that they were going to chat about.

MR. BRYANT: Well, I don't know --

Q Do you know for sure --

Q Could you give us a sense of what you think he was talking about when he seems to allege in this note that the FBI lied to the Justice Department? Have you got --

MR. BRYANT: I'm not really going to get into what his state of mind was or this type of thing. The facts are -- what was written down, you have. And it'd just be sheer speculation on my part or Chief Langston's.

Q Sir?

Q Are you saying the FBI hasn't discussed this with the White House counsel's office at all, that you have not had a conversation about this particular line in the note, that no one at the counsel's office --

MR. BRYANT: I think Deputy Attorney General Heymann suggested that certain aspects of this note are under inquiry by professional responsibility, and I think that's what he's referring to.

Q Do you know why --

Q (Inaudible.)

Q Do you know for sure that there was no other note left by Mr. Foster anywhere? Do you know that he did not leave any note for any member of his family?

MR. BRYANT: We've conducted over 30 interviews to determine what

happened to this note, the time schedule, and we've run down numerous comments and suggestions of other notes, and we've found them all to be without fact.

(Cross talk.)

Q Do you have any indications that --

Q You haven't really answered the question about the gun, where the gun came from, how he got the gun.

CHIEF LANGSTON: We probably ought to -- we ought to probably clean up any other comments about the note before we move on to the gun.

Q Well, can I ask you just about --

Q Mr. Bryant?

Q On that Thursday, two days after, you have this going through his materials by Bernie Nussbaum with people here sort of looking on, the FBI looking on, the Park Police looking on. Do you have any concerns that Bernie Nussbaum was the guy who was basically searching the office and you guys were sort of standing around?

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CHIEF LANGSTON: Let me comment on that. We certainly weren't pleased at the way that was conducted. Our investigators would like to have seen that briefcase and would like to have examined the content of files. It was -- executive privilege was invoked. And we raised those concerns with the Justice Department, and those concerns from the Justice Department were raised with the White House. And the White House staff became very compliant, and everything that we had asked for, they provided to us fully.

Q Do you have any sense, Chief, of why this note wasn't found in the first office search?

CHIEF LANGSTON: It was ripped up into 28 small pieces and evidently was --

Q Twenty-five.

CHIEF LANGSTON: Well, there is some controversy over that. (Laughter.)

Q The FBI can't count?

Q What fingerprints were found?

Q I'm sorry. I'm sorry, you were answering the question about why you think it wasn't found.

CHIEF LANGSTON: Well, obviously, the search of the briefcase was done out of the sight of our investigators and the agents. Papers were being pulled out. And it was overlooked is what was --

Q (You are in the ?) executive department. Why in the world was anybody conducting executive privilege against you?

CHIEF LANGSTON: I can't answer that, ma'am.

Q Sir, what fingerprints did you find on the note?

CHIEF LANGSTON: I don't believe anything discernible.

MR. : There was one smudged palm print.

CHIEF LANGSTON: One smudged palm print.

Q Chief Langston, the fact remains you don't know, do you, who tore the note up and put it in the briefcase?

CHIEF LANGSTON: No, we don't, Gary, but we have -- in interviews

with the wife, she encouraged her husband to write down a list of what was bothering him. And she believes that that may have occurred a week to a week and a half prior to when he was found at Ft. Marcy. So, it could have been anytime between a week and a half and the time that --

Q There's no question that he wrote it, I understand that.

CHIEF LANGSTON: Yes.

Q But there is a question that somebody on the White House staff might have discovered the note elsewhere and torn it up and put it there?

CHIEF LANGSTON: That would be speculation. I could not comment on that.

Q Gentlemen, the note refers to both the president and Mrs. Clinton. Did anybody interview the president or Mrs. Clinton as part of this investigation?

CHIEF LANGSTON: Not from the Park police, no.

MR. BRYANT: We did not.

Q Why not? The president was one of the last to talk to him, had a meeting with him the day following the suicide --

MR. BRYANT: I think what we were trying to do here first was trying to find out if there was a violation, if he'd been harmed, you know, assaulted or assassinated or whatever. We concluded no. The second part of our inquiry was the note, and we didn't consider the president or Mrs. Clinton to be relevant witnesses to that.

Q Why?

MR. BRYANT: Because in our investigative view, they were not.

Q Did anyone on the White House staff talk to you about that? Did they -- did you approach anyone at the White House staff about interviewing the president or the first lady? Did they attempt to discourage you in any way?

MR. BRYANT: No.

Q So, you never talked to anyone on the White House staff at all --

MR. BRYANT: We talked to many members of the White House staff first about the note and the handling of the note. As far as the interviewing the president, no, we did not because we did not consider

them to be relevant.

Q Why was a loose end not tied up? I mean, if you want to make sure it's thorough and you know this question is going to come --

MR. BRYANT: I suggest to you that it's a very thorough investigation.

Q Is there any indication that Mr. Foster had in the past been treated for depression or had ever talked about taking his own life?

CHIEF LANGSTON: No. He had been encouraged to see several doctors, and I think he had a doctor in Arkansas who was prescribing to him some medication. That doctor was, I think, just a regular general practitioner who had prescribed some medication.

Q What kind of medication?

CHIEF LANGSTON: He may have taken one dose of that prior -- maybe a day or two prior to, but the medical examiner found no traces of any drugs in his system.

Q What medication was that?

CHIEF LANGSTON: I'd have to -- I don't have that on the tip of my tongue. I'd have to provide that.

Q Was it an anti-depressant?

CHIEF LANGSTON: I believe that it was, yes.

Q Are we going to get the autopsy report?

Q Was that the first time he had been prescribed an anti-depressant? Was that the first time in his life he had been prescribed an anti-depressant?

CHIEF LANGSTON: I have not -- I don't have that information.

Q Was the doctor interviewed?

CHIEF LANGSTON: I believe so.

Q Did the doctor say why he would mail an anti-depressant to somebody when most people would provide a full psychiatric workup before you take them?

CHIEF LANGSTON: I believe that Mr. Foster had gone through a recent medical from that doctor and had been under his care.

Q A recent psychiatric workup?

CHIEF LANGSTON: No. I think just a recent medical examination.

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Q Was it Prozac or was it --

CHIEF LANGSTON: It was not Prozac, but I can't recall the name of the drug. It started with a "T," is the only thing I can recall.

Q Chief, you said that Mr. Foster's wife had urged him to write down what was on his mind. I know there are sensitive family concerns here, but what can you tell us about what she suggested to him that he do with this after he write it down?

CHIEF LANGSTON: Oh, I think she just wanted him to vent. I can't speculate on why she asked him to write it down, but --

Q She didn't tell you that she said write it down and take it to the president or write it down and bring it home and talk to me about it?

CHIEF LANGSTON: No. I was not the investigator, so I wasn't interviewing her, and I didn't see that in the investigation.

Q (Off mike) -- sure that this was definitely a suicide, why did the FBI begin to work around and see if this was something else?

CHIEF LANGSTON: The FBI was in it because of the public official aspect of it, the possible homicide --

Q I know that, but why was the FBI looking at this to see if he had been assaulted if you were so sure it was a suicide?

CHIEF LANGSTON: Every indication led to that point on the scene.

Q (Off mike) -- FBI man answer that, will you?

CHIEF LANGSTON: Yes, ma'am.

MR. BRYANT: I'd be delighted to answer that question. Any time there is an assault or a death under suspicious circumstances of an official covered by the assassination or assault of a federal officer statute, we immediately put agents with the primary or lead agency, in this case United States Park Police, to determine the circumstances. As we became convinced that it was, in fact, a suicide, we subsequently started to withdraw, and then the issue with the note and the 30-hour issue, and then when we were ordered back in by the Department of Justice to examine the circumstances of the turnover of the note. And that's the chronology --

Q What does the autopsy show?

CHIEF LANGSTON: The autopsy showed that he was free of any disease, that he had no drugs in his system, and that he died from a single gunshot wound that entered through the mouth and upward into the brain.

Q Can you tell us anything about the origin of the gun, or have you traced the gun?

CHIEF LANGSTON: The gun has a serial number on it, and if you're familiar with a Colt weapon, there are normally two numbers on each Colt weapon. One is called the serial number and one is called the butt number. There was some confusion that there may be two guns on the scene. I'd like to put that to rest. There is one gun on the scene. There's not a matched pair that we know of. A photograph of that gun was sent to the family in Arkansas to see if that was part of the father's collection. Evidently the father had died and had a gun collection. It was a 1912 Army Colt special. It was not traceable. It was not registered. It was not registered here in the District of Columbia, nor was it registered in Arkansas. The gun was similar to that in his father's collection. It was identified by a sister who looked at the photograph and said that is similar to the weapon that was in her father's collection. There were some ornate swirls on the handle of the Colt. She identified that that was the same. And -- but nowhere does that serial number come back to any one that we can recognize.

Q Can you tell us, did he have the gun in the White House or did he go someplace else to pick up the gun?

CHIEF LANGSTON: We cannot trace that.

Q Can you tell us about the time period --

Q Can you tell us about -- can we finish with the gun?

Q Okay.

Q Can you tell us whether or not -- in other words, was it believed that he had that gun? Does the family think that that gun had been in Vince Foster's possession?

CHIEF LANGSTON: Yes.

Q And what can you tell us about the time period -- there was a period of four or five hours when he left the White House and when he was believed to have committed suicide. What do you know about that time period?

CHIEF LANGSTON: We know that he had a full meal, and we cannot identify where that was, and that's strictly because the medical examiner said that he had a full meal. We cannot, from the time he

left the White House, cannot account for the time. The body was discovered at 1800 hours, which is 6:00 p.m. It may have been there for an hour to two hours.

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Q Chief, you've not been able to recover the bullet?

CHIEF LANGSTON: The bullet has not been recovered.

(Cross talk.)

CHIEF LANGSTON: I'm sorry?

Q Who was the last person to see him alive that you interviewed?

CHIEF LANGSTON: I cannot tell you that. It is in the interview statements. I'm not sure who that is.

Q Was it a White House official or his family?

Q Was there anything remarkable about the last known conversation with Mr. Foster that stands out in terms of his suicide?

CHIEF LANGSTON: I can't answer that.

Q Why?

CHIEF LANGSTON: I don't know. That's -- no knowledge of it.

Q Was he receiving anti-depressant drugs? And what's the name of the doctor who sent them to him?

CHIEF LANGSTON: I will provide that to you later, but I don't have it with me right now.

Q Chief, can you shed -- or Mr. Bryant -- any light at all on this line about the usher's office and the name Cocky (sp) and HRC?

CHIEF LANGSTON: No, I can't.

Q Can you give us any idea what that means? The line is: "The usher's office plotted to have excessive costs incurred taking advantage of Cocky (sp) and HRC."

MR. BRYANT: I don't know.

CHIEF LANGSTON: I believe Cocky (sp) is somebody in the White House and HRC is Hillary Rodham Clinton, I believe. That's what they speculate.

Q I'm sorry, that's what who speculates?

CHIEF LANGSTON: That was just -- that was given to me by one of my investigators that they thought that's what that meant.

Q Sir, in the collection of all the interviews, was there a general sense that he was very depressed?

CHIEF LANGSTON: Oh, yes, very much so -- from the family, from friends, from his writing, from the doctor -- that he had been going through some tough times accepting some of the problems that had occurred there. And I think you can see in the note that certain situations had occurred that he was directly responsible for.

Q Well did he say to friends that he was having a difficult time?

CHIEF LANGSTON: I don't know if he did or not. I think his wife acknowledged the fact that he was really down. As a matter of fact, they had called the office to see how he was doing. And I think the friends pretty well acknowledged that he had been acting a little down.

Q Any indication when the note was written?

Q Did they indicate how long --

CHIEF LANGSTON: Yes, ma'am? I'm sorry?

Q Did they indicate how long he had been down, how long they'd been noticing this?

CHIEF LANGSTON: I think probably it had to extend back over a week or two.

Q Did you figure out when this note was written, other than Mrs. Foster's suggestion that she told him to write down what was bothering him?

CHIEF LANGSTON: No. She said that he had suggested that about a week and a half prior to the death. It could have been written any time in there.

Q When he leaves the White House, does he log his car out? Did you find the logging? Is that the person who might have last seen him? How did he get his car out of the parking because they usually log them in very carefully.

CHIEF LANGSTON: I'm sure that's part of the investigation, but I cannot tell you.

Q Well let's come back to this last person for a minute, if we could, because that is strange. In this kind of investigation I

would think you would want to know somebody who saw this man directly before death. Do you have any witnesses who saw him outside of the White House after 1:55?

CHIEF LANGSTON: No.

Q Where does the investigation go from here?

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Q Let me just finish. Could I -- I have one more thought on that, ma'am?

Have you interviewed his secretary? Did she see him?

CHIEF LANGSTON: Yes.

Q Have you -- you don't know that, for example, Mr. Nussbaum was the last person? Do your investigators know, Chief --

CHIEF LANGSTON: Yes, they do. No, I don't know. My investigators do know.

Q (Inaudible) -- very quickly so we can find that out? That seems a little bit crucial, because there are suggestions that a very senior person saw him right before he left. And so naturally we want to lay that to rest.

CHIEF LANGSTON: Sure.

Q Did you examine his phone --

CHIEF LANGSTON: We'll get back on that.

Q Did you examine his phone logs?

CHIEF LANGSTON: I'm sorry. Go ahead.

Q What does the investigation go from here?

CHIEF LANGSTON: The Park Police has concluded its investigation into the death inquiry of Mr. Foster.

Q What about the FBI?

MR. BRYANT: And we've concluded our investigation as to the handling of the note.

Q Gentlemen, there's a lot of serious statements here. Aside from the -- you said you would follow up on the FBI line in the Justice Department. Will the rest of this be looked into? A man did, apparently, give his life because of these concerns. You're saying it's over. Does that mean all these things about the travel office and so on will not be looked into?

MR. BRYANT: I think some of those inquiries are ongoing. Certainly the travel office and the issues about the FBI -- some of those are ongoing.

Q What about his telephone logs?

Q Did you -- have you kept a copy of Heymann's letter?

Q Did you all examine his telephone calls?

MR. BRYANT: Yes, we did.

Q You did? And did that lead you -- did that tell you what officials in government he had been talking with that might have contributed to his distress?

MR. BRYANT: Well, we asked for 2-1/2 weeks prior to his death of telephone logs. We did receive that.

Q What were the main offices he dealt with during that time?

MR. BRYANT: I don't have that information with me. I'm sorry.

Q Are you going to make that public, those offices, that phone log?

MR. BRYANT: It's part of our investigation. I doubt it will be made public, ma'am.

Q Chief --

MR. STERN: Let's just take a couple more questions, and they've got to get back to work.

Q Is there any indication of why he chose the place --

Q What about the phone logs? Will you --

Q -- he chose to shoot himself?

CHIEF LANGSTON: No, ma'am.

Q Was there anything that happened on that date that indicates -- that may have sparked this? Is there --

CHIEF LANGSTON: Not to our knowledge, no.

Q Chief, is there --

MR. STERN: Safire?

Q Mr. Bryant, the line that says the usher's office plotted to have excessive costs incurred, might that have been a federal crime? And would the FBI look into that?

MR. STERN: Bill, you came in late. We did distribute a letter from the deputy attorney general that indicates how those matters will be pursued.

(Cross talk.)

Q You didn't distribute it over here.

MR. STERN: Okay.

Q Well, what are these --

MR. STERN: I'll make -- Sarah, will you please?

Q (Inaudible.)

MR. STERN: We'll make sure that he -- I thought it was passed out on your side. If it wasn't, we'll get you copies. Let me just say one last thing. There are some of you who obviously would like to see a photocopy of the original -- of the note in its original form. If you want to come to my office after this session, I'll be happy to show it to you, but we did want to respect the family's wishes. But if you wish to see it in terms of where there are scratch-outs, interlineations, scribbles, anything like that, I do have one photocopy. And if you want to come to my office --

Q So we can't get a copy?

MR. STERN: No. But if you'd care to come to office to look at it --

Q Sure.

MR. STERN: I understand your journalistic need to describe the note to your readers or to your viewers.

Q For those of us who don't usually cover Justice, could you tell us where your office is? (Laughter.)

MR. STERN: Just passed the men's room.

(Cross talk.)

MR. STERN: Thank you. Thanks a lot.

Q Wait a minute, sir!

Q From which office are we getting the report?

MR. STERN: The report --

Q When is it being released?

MR. STERN: As soon as the FOIA section processes the report, it'll be available to you. That has already started before this meeting even took place.

Q Do you have to file a request or is it going to be released to everybody at once?

MR. STERN: The normal practice of the FOIA section is to call the people who have requested it and let them know that it's available and to ask them whether they would like it mailed or would they like to pick it up. (Laughter.)

Q Who do we tell --

MR. STERN: If you'll send an FOIA to Philip Heymann, the deputy attorney general, or to me, we'll make sure that it gets up to that section.

Q This question is to both of these gentlemen here. You say this man was in great depression and he'd been dissatisfied with the government.

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Therefore we certainly need to know what departments and what agencies of government he talked with recently, and that would be in the telephone log, and you're not going to make that public?

MR. STERN: Sarah, if you put in a Freedom of Information Act request, we'll make sure that it's handled.

Q (Off mike) -- Freedom of Information Act -- (off mike). I want to know what --

MR. STERN: Okay, Sarah.

Q -- (off mike) -- of things we should know now. Are you going to give it to us or are you not?

MR. STERN: Sarah, I don't think we have that available at this -- at this point.

Q Well, why don't you?

MR. STERN: You want some special servicing? Is that it? You're not content to wait and do it the normal way, through a Freedom of Information Act request?

Q No. Hell, no. I'm not --

MR. STERN: Okay.

Q -- going to wait on that.

MR. STERN: Thank you very much.

END

Memorandum

To : ASSOC. INDEPENDENT COUNSEL BRETT KAVANAUGH 6/22/95

From : SA C.L. REGINI

Subject: FOSTER DEATH INVESTIGATION
SUMMARY OF PHYSICAL EVIDENCE

The following is a comprehensive summary of the physical evidence in this case. This summary does not include the items obtained during the search of Ft. Marcy Park on 4/4/94, since none of the items were determined to be relevant to this investigation. Preliminary examination by Dr. Lee indicates the possibility of the presence of blood on the USPP latent lifts from the glasses and revolver, as noted in my memo documenting my meeting with him on 6/9/95. My memo of 6/12/95 identifies the particular locations and amounts of hairs, fibers, and latent prints. Additionally, my memo of 3/2/95, which documents our meeting with the laboratory examiners, contains information regarding the nature of the forensic examinations and the conclusions that can be drawn from the results.

I) Death Scene Observations.
A) The decedent was lying face-up on an approximate 45 degree sloped embankment, with his head toward the top of the slope. The location was consistently described to be near the "second cannon".
B) The decedent was wearing a white shirt. Blood stains are only observed on the right shoulder and neck area, and around the right rib cage area.
C) Blood trails are observed on the decedent's face.
D) The decedent's arms were at his sides. The right hand was around the cylinder of a black revolver.
1) right thumb trapped between trigger and inside edge of trigger guard.
2) one blood droplet on right index finger above second joint.
3) apparent gunshot residues along the outside edge of the right index finger in close proximity to the cylinder gap of the weapon.
4) The hammer of the revolver had to be cocked to remove the weapon from the hand (indicates that the revolver was cocked when the thumb was inserted).
5) The decedent's hand was flexible (gun was not tightly gripped).
E) Prescription glasses were collected approximately 13' downslope from the decedent's feet.
F) When the body was rolled, a large pool of blood was observed where the head had been resting.

1) Additionally, a larger area of blood was observed where the decedent's back was in contact with the ground, which coincided with blood stains observed on the back of the decedent's shirt.
2) A gunshot wound was observed at the back of the decedent's head.

G) The area was not searched for blood, other than by sight.
1) No blood was visually seen on surrounding vegetation.

H) The decedent was still wearing his jewelry and pager.
1) The pager was manually turned off.
2) The decedent's wallet and identification were located in his unlocked vehicle.
a) The wallet contained $292 and various credit cards.

I) The weapon was unloaded at the USPP office.
1) The hammer was down on a fired .38 caliber casing.
2) An unfired .38 cal. bullet was in the next chamber.
a) Colt revolvers rotate clockwise. The unfired bullet was in the next chamber to be rotated into firing position.
3) The serial number from the crane of the revolver cylinder (356555) was traced to the Seattle Hardware Co., Seattle, WA., 9/14/13.
4) The serial number on the frame of the revolver (355055) was traced to the Gus Habich Co., Indianapolis, IN., 12/29/13.

J. The following items were taken as evidence at the location of the body on 7/20/93:
a) eyeglasses- 13' downslope from the decedent's feet. (Simonello).
b) revolver- from the decedent's right hand (Simonello).
c) Seiko wrist watch- from decedent's left wrist (Rolla). Returned to Cliff Sloan on 7/21/93.
d) Pager- from decedent's right waist area (Rolla). Returned to Cliff Sloan on 7/21/93.
e) Silver ring with large white stone- from decedent's right ring finger (Rolla). Returned to Cliff Sloan on 7/21/93.
f) Gold colored ring with inscription "E.B.B. to V.W.F. 4-20-68" - from decedent's left ring finger (Rolla). Returned to Cliff Sloan on 7/21/93.

K. The following items were taken as evidence from the decedent's vehicle in the Ft. Marcy parking lot:
a) Brown leather wallet containing identification, credit cards, miscellaneous papers, and photos- from decedent's suit jacket pocket (Braun- Rolla). Returned to Cliff Sloan on 7/21/93.
b) Black suit jacket- from front passenger seat of decedent's vehicle (Braun).
c) Blue silk tie with swans- on top of coat on front passenger seat (Braun).
d) White House Identification- under coat on front passenger seat (Braun).
e) Miscellaneous papers- from glove box, trunk, door, and trunk (Braun).

L. Photos.
1. 35mm photos taken by Simonello were under-exposed, and did not develop.

2. 5 Polaroid photos of the death scene initialed by Edwards, probably taken by Ferstl.
3. 8 Polaroid photos of the death scene taken by Rolla.
4. 5 Polaroid photos of the decedent's car at the Ft. Marcy parking lot taken by Braun.

M. The following items were taken as evidence from the decedent's right front pants pockets at the Fairfax Hospital Morgue on 7/20/93:

a) one key ring marked "Cook Jeep Sales" (Braun).
b) one key ring marked "Vince's Keys" (Braun). Returned with vehicle on 7/27/93.

II. Autopsy

A. Observations

1. Cause of death: perforating gunshot wound mouth - head, no other trauma noted.
a. No evidence of abrasions, lacerations, contusions, or bone fractures (other than that associated with the head wound).
b. No evidence of teeth fractures or chipping.
2. Apparent gunpowder residues on both index fingers; more pronounced on right hand.
3. Abundant gunpowder residues on the soft palate of the mouth.
4. Toxicology was negative for alcohol and drugs.

B. The following items were taken as evidence subsequent to the autopsy at the Northern Virginia Medical Examiner's Office on 7/21/93. The items of clothing were placed into one bag and transported to the US Park Police Anacostia Office:

a) white colored, long-sleeved, button-down shirt (Johnson).
b) white colored, short-sleeved t-shirt (Johnson).
c) white colored boxer shorts (Johnson).
d) blue-gray colored pants with black colored belt (Johnson).
e) a pair of black colored socks (Johnson).
f) a pair of black colored dress shoes, size 11M (Johnson).
g) known hairs of Vincent Foster, Jr. (Johnson).
h) known blood of Vincent Foster, Jr. (Johnson).
i) known fingerprints of Vincent Foster, Jr. (Johnson).

The clothing was set out to dry on three pieces of brown wrapping paper, which were layed out on the floor of the USPP photo developing room. On 7/26/93, the items were packaged in separate containers and placed in the USPP evidence locker.

C. Autopsy documentation.

1. Diagrams (Beyer).
2. 5 microscopic slides containing sections of the soft palate, brain, heart, lung, and liver (Beyer).
3. 5 paraffin blocks, 3 of soft palate (Beyer).
4. 13 Polaroid photographs (Beyer).
5. 14 35mm photographs (Beyer).
6. 35 mm photos (Hill).

III. Vehicle search.

A. The following items were obtained from a search of Foster's grey Honda Accord at the USPP impound lot on 7/21/93 by Officer

E.J. Smith, and stored at the USPP evidence room:

1. Rand McNally Washington, D.C. map.
2. sunglasses.
3. "Happy Birthday card to Tom".
4. piece of white paper with red writing.
5. box of "The DeLuxe Check Printers, with four checkbooks in the name of Laura Foster.
6. clear plastic envelope with Insurance Identification Card listed to Vincent or Elizabeth Foster, Policy number 10094177-01, exp. 8/6/90.
7. one Sierra Nevada beer bottle (from inside white and green bag).
8. one Miller Lite beer can.
9. empty container of Marlboro Lites cigarettes.
10. one Kaopectate bottle.
11. one Clos Du Bois corkscrew.
12. Contents of front ashtray:
    a. 35 pennies, two quarters, one nickel, a Compton's Foodland disk, a $100 Estados Unidos Mexicanos coin dated 1985.
    b. Chevron credit card.
    c. Texaco credit card.
    d. a guitar pick.

B. 35 mm photos were taken of the vehicle during the search (Smith).

C. The vehicle was processed for latent prints with negative results (Smith).

1. Four of these latent prints were later identified by the FBI Laboratory as being of comparison value.

D. The following items were obtained from the law firm of Sharp & Lankford by SA Russell Bransford on 6/16/94. The items were in the decedent's grey Honda Accord at the time it was released by the USPP. The items were removed from the car by William Kennedy. The items were subsequently stored at the OIC-DC Office:

1. coffee mug
2. container of jellybeans
3. black eyeglass pouch with Rayban sunglasses
4. green kitchen mitt
5. one pair of brown moccasins
6. one blue audiocassette carryincase with 12 music tapes
7. two hardcover books:
   a. <u>Speak Up With Confidence,</u> by Jack Valenti
   b. <u>2,000 Famous Legal Quotations,</u> by M. Frances McNamara
8. Tysons Center directory
9. Potomac Mills directory
10. Eastern U.S. area map
11. one yellow envelope containing papers pertaining to the Honda Accord.
12. one White House envelope, hand addressed in pencil to William Kennedy, containing an Arkansas vehicle registration for a 1992 Lexus 300, with an attached post-it note.

IV) The note.

A. On 7/27/93 at 9:30 pm, numerous pieces of small yellow lined paper were obtained from Bernard Nussbaum by Det. Megby of the USPP.
B. On 7/28/93, the note was reconstructed and photographed (Simonello).
C. On 7/30/93, the note was released to SA Scott Salter, FBI.
D. On 8/5/93, the note was returned to the USPP.

V) On 3/21/94, all of the above items from the death scene, vehicle search, autopsy, and the note were released to the Office of the Independent Counsel (Colombell 302 of 3/21/94). The items were subsequently provided to the FBI Laboratory on 3/24/94.

VI) FORENSIC EXAMINATIONS
A. The note.
1. One latent palm print of value was developed, and subsequently positively compared to the known prints of Bernie Nussbaum.
2. The handwriting was positively compared to the known writing of Vincent W. Foster, Jr. by the U.S. Capitol Police and the FBI.
3. One unidentified blue wool fiber.
4. No indented writing.
5. Insufficient DNA for exam.

B. The vehicle.
1. Four latent prints of value (as identified by the FBI Lab).
2. Two latent prints of value from a business card which was part of the miscellaneous papers removed from the car.
a. one of the prints was positively compared to the known prints of Simonello (USPP).
3. one latent fingerprint on a white envelope.
4. four latent fingerprints from a pink envelope.
5. one latent palm print from a greeting card.

C. Revolver.
1. no latent prints.
2. no blood. (USPP latent lifts)
3. Decedent's DNA on muzzle.

D. White, long-sleeved shirt.
1. Positive reaction for gunpowder gunshot residue (ATF and FBI).
2. ball shaped gunpowder
3. decedent's blood.
4. no semen.
5. no hairs dissimilar to the decedent/suitable for comparison.

E. Trousers.
1. Negative for gunpowder gunshot residues (ATF).

F. Fired cartridge case.
1. fired from revolver.
2. several pieces of ball smokeless powder.

G. Unfired cartridge.
1. similar to fired cartridge in caliber, manufacturer, and headstamps.
2. contained ball smokeless powder.

H. Eyeglasses.
1. one piece of ball smokeless powder.
2. no blood. (USPP latent lifts).
3. insufficient DNA for exam.

I. Paper that decedent's clothes were set out on to dry at USPP.
1. ball shaped gunpowder.
2. one dissimilar gunpowder particle (perforated disk shaped, from a fired cartridge)
3. no hairs dissimilar to decedent's/suitable for comparison.

J. Known blood of the decedent.
1. Trace amounts of trazodone, diazapam/nordiazapam.

K. Known hair of the decedent.
1. No drugs.

L. T-shirt.
1. ball shaped gunpowder
2. decedent's blood.
3. no semen.
4. unidentified head hairs.

M. Socks and shoes.
1. one dissimilar gunpowder particle (flattened ball shaped from an unfired cartridge).
2. blood of unknown origin on one shoe.
3. no blood on the socks and the other shoe.
4. unidentified head hairs.

N. Known tissue samples from decedent's soft palate.
1. no unconsumed gunpowder particles- no ball shaped gunpowder.

O. Belt and pants
1. human blood, too limited for grouping, on belt.
2. unconfirmed blood on pants.
3. no semen on pants.
4. unidentified head hairs.

P. Shorts.
1. unconfirmed human blood.
2. semen (DNA matched to decedent).
3. no hairs dissimilar to decedent's/suitable for comparison.

Q. Jacket.
1. No blood.
2. no semen.
3. no hairs dissimilar to decedent/suitable for comparison.
4. unidentified fibers

R. Handkerchief.
1. unconfirmed blood.
2. no semen.

S. Tie.
1. No blood.
2. no semen.
3. no hairs dissimilar to decedent/suitable for comparison.

T. Brown wrapping paper, white filter paper, and white wrapping paper from around revolver.
1. No blood.
2. No DNA exam conducted (decedent's DNA on muzzle of revolver).

U. Miscellaneous papers from decedent's car.
1. Unidentified DNA on an envelope (flap and stamp).
2. Insufficient DNA for exam on other paper items.

V. Miller Lite beer can.
1. Insufficient DNA for exam.

W. Sierra Nevada beer bottle.
1. Insufficient DNA for exam.

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D.C. LIC. NO. 789000007

Personal and Confidential

TO: Brett Kavanaugh
John Bates
FROM: Lanny Berman
RE: Draft Report on Foster Death
DATE: 19 March, 1997

I. In general, I think the report is excellent. The only editorializing I have to offer regarding what is written is the following:

1. No need to hyphenate the word antidepressant (p.1, line 15: change to "doctor for antidepressant medication..."). See p. 106 also. On other pages, e.g., p. 60, you use the word (appropriately) unhyphenated.

2. There is a hanging word "[strong]" on p. 55 that appears to be an in-house opinion.

3. Footnote #164 (p. 58) appears to be redundant of #160.

4. The third paragraph on p.85: the forensic evidence more strongly supports the hypothesis that Foster *carried* the gun...and, therefore, possessed it.

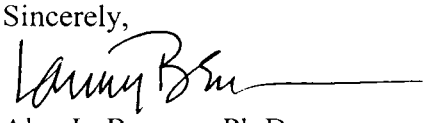
5. Footnote #323, p. 103 is misleading--see p. 15 of my report. Notes are not left in the great majority of suicides.

II. With regard to what is not written, I am concerned that the State of Mind section (X, p. 96ff) overemphasizes his depression out of the context of his feelings of being assailed from without coupled with his characterologic inability (1) to accept anything less than extremely high standards of performance, (2) to tolerate a blemished reputation and (3) to allow himself to seek appropriate help (see Death Before Dishonour, p. 14 of my report). This section (I'm trying hard not to be narcissistically invested here) is only 10 pages long and could be bolstered.

On the other hand, you do have the essence of this on pp. 98-99 and I can live with it.

As noted previously, I am out of the country from March 16-30 and will be back in the office on the 31st. I look forward to reviewing the next iteration.

Sincerely,



Alan L. Berman, Ph.D.

Questions/Discrepancies/Comments

Chuck's Comprehensive List of July 25, 1995

Burton speech Oct. 1995:

CW saw no gun and no blood stains on cheek, vegetation trampled, half-empty wine cooler bottle
CW saw wine cooler package in car other than Foster's car
no blood spattered on anything behind where Foster was sitting
says blood on ground irrelevant
FBI has not matched up carpet samples
FBI has not compared blond hairs
USPP investigation incomplete and unprofessional: photos underexposed, no search for skull fragments, cursory search for bullet
no skull fragments found
no fingerprints on gun
no fingerprints on note (wrong, but true that no Foster prints)
no Saudi guards heard gunshot
shoes were clean
Fiske pathologists never saw the body
medical examiner made glaring errors in past

Sprunt summary report

Fornshill did not see gun, nor did CW
took police only 2 minutes 42 secons to arrive at body
couple described people around Foster's car
Doody's statement incorrectly recorded in USPP report
extra car in Fort Marcy?
volunteers in park?
Haut's report not part of official record?
Haut said wound consistent with low-velocity weapon
Haut did not see much blood
Rolla said small hole in head
x-ray issue not reconciled
autopsy moved up
glasses found 19 feet down the slope
where are Ferstl's Polaroids?
Rolla says he has not seen some of the Polaroids he took
car keys issue
why did Kennedy and Livingstone go to morgue
what is deal with paper in Foster's wallet
5 witnesses state that there was a briefcase in Honda

car was locked, according to some
what time was White House informed?
Rolla has Secret Service name in his notebook
Gavin was asked about gun registration by Watkins and Burton
ambulance log states that the body arrived at the hospital at 8:30 p.m.
Foster had not lost weight
family checking account had been overdrawn
Clinton essentially told people not to talk about Foster on July 21 speech
Marsha Scott cannot remember
who was man seen in Fort Marcy on July 19 by ___

Summary List sent to office (edited by me)

flora different in picture that at second cannon
where are Ferstl's pictures
wound in neck
was body moved within park
why body neatly laid out
first two people did not see gun
how did he grip weapon given powder on both hands
why did not gun recoil out of hand?
glasses?
skull fragments?
bullet discovered?
no powder burns in Foster's mouth or broken teeth?
fingerprints on gun? had it been wiped?
why only 2 bullets in gun?
Arthur observed wound in neck
lack of grass and dirt on shoes
little blood at scene
blood stains on face running uphill
x-rays
why no traces of drugs in Beyer's test?
carpet fibers on clothes
blond hairs
semen stains
interview neighbors
briefcase
car keys
weight loss
office not sealed
beeper -- any messages?
flights to Switzerland?
Perry/Dickey call

anonymous Internet (only new)

no ownership on gun established
there was no blood on the gun?
USPP concluded investigation before testing gun
pager returned early

was car fingerprinted?
NSA binders in safe?
how many pieces to note?
ambulance log shows that Foster's body left the park at 8:16 p.m.
7 homes are closer than Saudi ambassador's residence
towing company?

Strategic Investment

keys
CW: vegetation trampled
high-velocity bullet would create greater wound
size of exit wound
3 kinds of gunpowder residue on foster's clothing? why?
Arthur neck wound
missing Polaroids
underexposed 35 millimeter photos
vegetation discrepancy?
no bullet found
CW did not see gun
no fingerprints on gun
inconsistent blood tracks on face
glasses 19 feet below body
no trace of grass or dirt
Doody and Feist's statements described inaccurately
C2 claims statement falsified
carpet fibers
note forged
note w/ psychiatrist list a forgery
staged phone calls to psychiatrists

the glasses
blood
GSR

(1)

6 (E)

REVIEW 11/22/95 WHC

green (1) WH Project

Vince Foster confidential
(For your eyes only)
From: Watkins
→ envelope dated 5-7-93

green (2) Executive Residence Security
notes re: ushers, chefs, etc.

mostly (3) Clinton, Hilary Rodham
Personal and Confidential

- 8-26-92 letter to Dan Hollingsworth referring to article in American Spectator
- memo on 4-23-92 re: cases HRC tried or hearings
- similar memo to Mildred Alston

(2)

manila (4) Clinton Financial Statements
Personal and Confidential

* memo from Clay Davis to Bront Buck
10-10-92
how to pay for various matters between election + office

* To Value Partners from Bill Smith of Smith Capital Management

* notes
4.75m + PS

127,560 PS as of 1/31/92

* note w/ "get out of White Water" and other notes incl. Air Force One, LRCC

* notes
* 1 page note w/ office of Special Counsel written
* notes 482, 483, 11822
Tues. 11/24 continues w/

(3)

11823
11824

⊛ Foster typewritten notes 12-9-92
"settlement w/ firm"
"blind trust / cash management"
"other firm-related issues"
incl. "segregation and storage of personal, 1st lady, and campaign-related files"

"Whitewater
A. release and indemnity agreement
B. tax effect"

⊛ Smith Capital Management portfolio appraisal for HRC
note w "1/31 exit date for Value Partners"

⊛ 12-17-92 LEXIS/NEXIS printout re: blind trust

(4)

* Wertheim Investments retirement accounts Stephens Inc held "HRC Profit Sharing Plan"

* note to C. Huber on VWF 2x4" paper
"Did Hillary ever contribute toward the improvement to the condo so as to increase her basis beyond $80,000?
"Vince" - "In Dec. she contributed 6250 for a room added"

* 12-31-92 Bill Smith letter discussing Value Partners
→ notes that uses shorting

* 12-30-92 letter re:
Rose Building Partnerships

* 11825 - 11832

(5)

- Charles Schwab statement

- 11833
  5-21-90
  Perry County Bank

11837 - 11858

220770 - 220772

* 12/22 VF Jr. note

1) Office of Govt Ethics informally believes you & Bill are entitled to a certificate of divestiture on stocks you must sell

2) OGE is independent federal agency. The director is a "PAS" whose term expires 8/95

⊛ 1-2-93 Ark. Dem Gaz.
Business Page

(6)

(*) 12-29-92
e-mail to Brant Buck
from K Magee cc: to Foster
+ Huber

Manila (5) (**) Whitewater Development
Personal and Confidential

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* First Family – 1993
Income Tax Returns

TCW Yaly 6/2/93
moving expenses?

handwriting Z 2 0 7 5 7

* 5-17-93 FAX to VWF
from Barbara Yates re:
expenditures from transition

(7)

* 5-11-93 Tisdale memo re: deductibility of moving expenses Jim Lyons

* note - gowns delivery 1/15/93

* notes of telephone call w/ Brant Buck on 3/5 re: expenses of campaign and office

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(7*) Blue Folder - unlabeled

(*) 6-24-93 memo ~~from~~ Mike Berman ~~from~~ to VWF re: residence entertainment submitted to D Kabbsky

(*) 5-18-93 memo from Berman to VWF + DK re: funds provided by private sources

(8)

VWF fax from Dan Koffsky of OLC re: payment of expenses re: travel of Pres.

* 5-23-93 memo fr. Berman to VWF & DW

* CFW Berman 6/1/93

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(8) HRC Financial:

monila

12/17 FAX from Jane Ley
1/5/93 letter to Bill Smith

- copy of portfolio to Carolyn Huber

(9)

(*) Clinton Blind Trust

6-30-93 letter to Norman Smith from Brant Buck re: blind trust

* 7/2/93 letter from Beth + VWF to Pres ~~Bush~~ noting that savings bonds + AT&T stock had not been previously disclosed

* 6/28/93 note from Vince to Carolyn Huber re: don't call "Welcome back"

* 7/11/93 memo to Brant
"Brant
Here are 4 original blind trusts. Please correct typo in ¶ 11 ~~bifurcate~~ re: schedules + Revise Schedules A-1 & A-2 to eliminate #3 & #26 - the cash contribution
- Please hold until Thursday

(10)

when I get final clearance on amendment of financial disclosures".

* 7-2-93 letter from Stephen Potts to Bruce

* 7-2-93 handwritten letter from VWF to Hillary on WH stationary

"there is an original blind trust agreement adding an account for Chelsea. It has been approved by OGE.

Richi is getting increased calls re: status of blind trust. It would be nice if it were signed before you and the President leave so we don't lose another 2-3 weeks.

OGE will not allow such specific investment instructions to the trustee as K% income and X% equity hedged fund, etc. the instruction will be more in the nature of

(11)

a preference for income, a preference for long-term appreciation or a balance between these objectives. This can be resolved while the agreement is circulated for signatures and investments are being transferred. I believe the investment mgr. has a pretty good understanding of your aversion to risk + the objectives can be changed by written directive

There is a typo on p. 14 which Brant will fix upon receipt. You can also sign investment transfer documents with him while you are in LR. He has been a great help.

(12)

* 6/15 handwritten note to Hillary:

"Rubin agrees this is too aggressive.

* 6-5-93 memo to Vince from Beth re: 278 & trust agreement

note
7/6 per Brant - prob a movement by PSmith
220777

* note from Clarissa re: talking point re: blind trust

* 6/3/93 note to Beth

* 1-15-93 memo to UWF from Brant re: bank accounts

(13)

5/27 handwritten note from VF to "Hillary" re: will

5/22/93 formal memo to HRC from VWF re: blind trust

BK: check how ValuePartners + Wal-Mart were handled on blind trust → question of basis

VF recommends not using certificate of divestiture

* 6/3 note to Beth

* 6/9 letter to VWF from Brant ⇒ investment objectives

(14)

handwritten notes
Blind Trust

(*) note pad 6/2 Dayton Layman 366-9342
14 CFR 121

⇓

3:12 told Watkins - suggested he put B. Overton in touch w/ Layman

(*) 5-21-93 memo from Bill Smith to UWT- re. WSJ Ed. on Value Partnes + health care"

(*) 5/10 call from Bill Flaherty of Ethics Investment

(15)

⊛ 5-19-93 story re: HRC stocks
⇓
says WH attorneys should have advised her to divest health care stocks
↘ Foster underlinings
FAXED from "7805" to "6279"

5-13 letters re: blind trust

5-18 note to C. Huber re: blind trust

⊛ 5-21-93 WSJ article

⊛ 4-29-93 letter to James McDonald mtg w/ VWF

⊛ handwritten notes re: Boston Harbor Trust
Ropes & Gray

(16)

- memo from Brant Buck re: blind trust on 1-8-93

- 4/19/93 article re: conservative investments of 1st Lady

- yellow pad handwritten notes "Perry Co Bank" in top left corner

  Jone ley
  Norm Smith

→ appears to be transcription

(17)

(10) WJC - Arkansas CLE
Fri 7/9 note from VWF
to Nancy Hernreich re:
Ark CLE

(11) Clinton Exploratory Campaign

memo to partners from
VWF soliciting $

(12) Clinton Fund Raiser Dream Team

8-12-92 memo to all attys
Friday, Mitchell, + Wright
have given more

(13) Clinton Physician

(14) 1992 + 1993 Projected
Income Taxes

(18)

(19) July Amendent to 1993 SF-278

green

6/30-93
Chelsea's AT&T stocks

(7) 7-9-93 memo for the President ORIGINAL
→ in preparing blind trust...

green (8) WJC + HRC Blind Trust
7-19-93 FAX from Brant Buck to VWF
revised objectives for trust

(9) 6-18-93 letter from Bill Smith re: Dan Porterman article
→ handwritten note from VF that assets not yet in blind trust

(19)

- - - doc has been approved but not signed yet pending some details

formal 5-27-93 memo to Seidman + Caputo from VWF re: Value Partners
cc: HRC

⊛ 4-21-93 Newsweek to Seidman

file Essex Investment Management

⊛ HRC Arkansas Law License CLE status

green folder 6/1/ to Hillary re: CLE ~~draft~~ letter handwritten w/ hers response

(20)

green folder - Arkansas Home

6-30-93 letter from VWF re: home

⊛ Presidential Retreat

monika

property files

12-17-92 memo to BC + HC from VF re: properties in Heights

- Suzy Hubbell helping w/ houses
  → gift for Webb

(21)

manila Chenal Property Fact Sheets

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manila 220765
Green File
Schwab statements

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page right before
#22 envelope

Chelsea's Investments

1000
100
50
50
500
500

Savings Bonds

2/80
2/80
3/80
3/80
12/83
12/84
"
"
"
"
91

(22)

several letters w/
"sign here" stickers
dated 7/16/93
Smith Capital
Natl Securities clearings
1st Chicago Trust

7-1-93 letter to BC + HRC
from Buck ⇒ blind trust
agreements

7-15-93 letter to Pres.
from Buck
w/ "sign here"
stickers

(23)

7-1-93 memo to VF from Carolyn Hubers re: Twin City Bank accounts

Stocks - Chelsea

BC for CC	1	AT&T	5/80
HRC for CCC	10	AT&T	7/80
High for CC	100	AT&T	5/83
HRC for CC	7	AT&T	1/87
BC for CC	1	AT&T	

(24)

green "WJC - 1993 Chron Files"
"all related FF personal"

- 7/11 handwritten letter to Brant ⇒ here are 4 original blind trusts - correct typo etc.
- 7/9 Beth + VWF to Pres
- 6-30-93 to IRS re: BC domicile in Ark
- 6-8-93 re: HRC's CLE status
- 6-8-93 memo to Cheryl Mills from VWF
- 6/2 handwritten to Clarissa re: trustee company

(25)

5-27-93 formal memo to Ricki + Lisa cc: HRC re: Value Partners + Blind Trust

---

5-19-93 memo to Carolyn Huber - Pres not going to focus on retreat - not mentioned since December

---

4-22-93 letter to Yaly from VWF ⇒ original replacement for first 7 pages of 1992 Ark tax return

handwritten to Barnett ⇒ "she made a presentation error on line 15 . . . "

(26)

* 4-15-93 letter to Barnett from VWF w/ 1992 tax returns

* 4/14/93 — same

* 4/5/93 memo to Lindsey from VWF

cc: BN, Mack

"With the permission of the First Lady, I am having a local accountant, acting under the direction of Bob Barnett, review the draft 1992 income tax returns . . . want local acct to review SF-278 submitted to the campaign . . . new SF-278 on May 15

* 4/5 note to Capricia — "I need copies of the 1989-1991 federal income tax return ASAP"

(27)

* 6-28-93 letter from BRC re: Jay Kim

* 4-26-93 from Barnett to UWF re: Morris Hawkins + Bob Jones

* note
TCW Beth 6/2/93
Valuepartners
7249 3464 short
175 3785 long
433 div.
int

* 4-12-93 from IRS to Nussbaum re: Rules automatic audit"

* 4-15-93 Yoly to UWF
11860

(28)

220799
800 –

4/13/93 note w/ "sign here" stickers 4/13/93
Per C Tubes
"In 1991 restoration
GET WJC threw some std
records, away including
checks"

* 4-5-93 memo to VWF+DW
from Barbara Yates
→ campaign + transition
items that could be
income tax related

(29)

TYPED

"Bob Barnett spoke to Peggy Richardson who had done ab her people send a letter to Bernie explaining the process. It is apparently as Fred Fielding stated. If you want Bob to follow up w/ Peggy, please let him know so he can keep the dialog outside of the White House. Call him tonight at 212-371-4000 Rm. 3801. 5:15-6:30 at 212-799-1371

4-5-93 letter from Burch to VF re: Limited Partnership

4519 ⇒ Handwriting

38

4/2/93 handwritten FAX
from Peggy Richardson
to UF

"For your information.
Let me know if
you need additionals".

Please give HRC our love"

3-31-93
letter Barnett to UF
re: Horton + Jones

Memorandum

To : DIC JOHN BATES Date 12/1/95

From : CI COY COPELAND

Subject: UNITED STATES SECRET SERVICE LOGS

On 11/27/95, Assistant Special Agent in Charge (ASAIC) PAUL IMBORDINO, U.S. Secret Service (USSS), Washington, C.C., advised the incoming telephone calls to the USSS Operations Duty Desk are not recorded, either now or back on 7/20/93. The only official notation made of the receipt of the notification call from the U.S. Park Police would have been Lt. DAVID WOLTZ's entry on the Watch Commander's Journal.

ASAIC IMBORDINO advised a search of his organizations records revealed a copy to the Watch Commander's Journal for 7/20/93 was previously furnished to OIC pursuant to a subpoena.

2 - 29D-LR-35063, Sub 17
1 - DIC John Bates
1 - AIC Brett Kavanaugh

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

TO: BRETT KAVANAUGH Revised 4/14/95

FROM: SA C.L. REGINI

SUBJECT: DISCREPANCY LIST

The following list is offered as a comprehensive and itemized outline of all of the noted discrepancies, inconsistencies, and problems that have been identified in the Vincent W. Foster death investigation to date. The outline is broken down into the following areas: U.S. Park Police, Emergency Medical Technicians (EMTs), the White House, Northern Virginia Medical Examiner, Miscellaneous, and Forensic Examinations.

I. U.S. Park Police

A. No gunshot residue samples of the decedent's hands.

B. Lack of complete documentation of the gunshot residues on the left hand.

C. Poorly diagrammed death scene; lack of measurements.

D. No photo log; no documentation regarding who took what photographs, and the total number of photos.

E. Death scene 35mm photos did not develop.

F. No documentation regarding the initial search of the decedent's vehicle at the death scene- no inventory.

G. Photo of an unidentified briefcase next to a U.S.P.P. vehicle.

H. Decedent's pager returned too soon; no records obtained regarding previous pages.

I. Suicide weapon processed with dust prior to other laboratory exams.

J. Inconsistent statements regarding moving and searching the body. (Rolla, Braun, Simonello, Hodakaviec)

K. Inconsistent and poorly documented autopsy.

1. Morrissette's report.
2. No gunshot residue samples from hands.
3. No fingernail clippings/scrapings.
4. No major case prints of decedent (palms, sides and tops of fingers).
5. No photo of left hand.
6. Possible contamination of evidence subsequent to autopsy at M.E. Office.
7. Inconsistent statements regarding what was done to the body prior to autopsy.
8. No description of body and clothing prior to autopsy.

1-Starr
1- Tuohey
1- Kavanaugh
1- Gillis
1-29D-LR-35063

L. Possible contamination of evidence at U.S. Park Police facility.

M. Poor interview and documentation of witnesses at death scene (Doody and Feist).

N. Photo of an unidentified white male wearing plainclothes at death scene.

O. Inconsistent statements regarding vehicle doors being locked/unlocked. (Braun, Rolla, Hodakievic, Simonello, Gavin)

P. All photographs not produced pursuant to initial subpoena.

Q. Inadequate and incomplete metal detector search by the USPP. (Operators had no prior experience or training)

II. Inconsistent statements and observations of Fairfax County Fire and Rescue personnel.

A. Wound on neck (Arthur: .45 cal. bullet hole.)

B. Gun under thigh.

C. Wound on upper right front of skull (Gonzales)>

D. Briefcase in vehicle.

E. Unidentified person in woods (Hall).

F. Vehicle doors locked.

G Death scene photos do not accurately depict scene.

H. Two unidentified white males walking from death scene.

I. Color of gun was silver.

J. Type of gun was semiautomatic pistol (Arthur).

K. Statements of initial paramedics at scene regarding their actions are inconsistent with Fairfax County paramedic protocols.

L. Report coded as a homicide (Ashford).

III. Medical Examiner

A. X-rays

1. Autopsy report indicates x-rays were taken.

2. Morrissette's report indicates Beyer told him x-rays were taken.

B. All individuals present at autopsy not indicated on autopsy report.

C. No photographs of decedent's left hand.

D. Inconsistent statements regarding removal of decedent's tongue and palate. (see I.7)

E. Inconsistent "on-scene" times reported for Dr. Haut; 7:40 pm and 7:15.

F. Stomach contents; no definitive digestion time, or positive identification.

IV. White House

A. Foster's office unsecured until 7/21/93, approximately 10:10 a.m.

B. Confidential trash bag removed and replaced.

C. Nussbaum enters office; removes small photo.

D. Pond rearranges papers on Foster's coffee table.

E. Exclusive initial review of documents by Nussbaum.

F.Torn note found one week later in briefcase previously searched by Nussbaum.

G. Note not released to investigators until the following week; a day after it was discovered.

V. Miscellaneous

A. CW's inconsistencies.

1. positioning of decedent's hands.
2. no gun.
3. winecoolers and briefcase in vehicle.
4. trampled area around death scene.
5. does not see white car occupied.

B. Inconsistencies between Doody and Feist's statements.

C. No initial investigation of the park's "second entrance".

D. No one heard a gunshot.

E. The gun exemplifies a "drop gun".

F. No matching ammo at the decedent's residence.

G. The decedent's grip on the gun was not the simplest nor the easiest to shoot himself in the mouth.

H. The decedent never previously spoke of suicide.

I. The decedent had no particular obsession, "dire predicament", or one thing that would have put him over the edge.

J. The decedent had dealt with stress before.

K. The suicide weapon has never been positively identified as belonging to the decedent.

L. Lisa Foster's initial spontaneous question "was the gun in his mouth?".

M. Five unaccounted for hours between the time the decedent left work and was discovered dead.

N. Lack of blood at death scene.

O. No bullet.

P. No cadaveric spasm causing decedent to clench gun.

Q. The gun did not fly out of the decedent's hand.

R. No chipped teeth noted by M.E.

S. No flashburns inside mouth noted by M.E.

T. The mortician lost the original embalming report and diagram.

U. The decedent's glasses were discovered 13' downslope from his body.

V. Body neatly laid out; "as if it was in a coffin".

VI. Forensic Examinations

A. Unidentified latent print on note.

B. Unidentified latent print inside grip of suicide weapon.

C. Unidentified blonde head hairs.

D. Unidentified carpet fibers.

E. Unidentified stain on shirt. (shirt being resubmitted to lab)

F. Unidentified gunpowder in scrapings from decedent's shoes and socks, and the paper that they were dried on.

G. The decedent's head was moved.

H. No blood on suicide weapon.

I. No soil on shoes. (mica flakes)

J. Large semen stain in the decedent's underwear.

K. Blood flowed uphill (video).

L. Excavation of site disputed.

The Trial of Vincent W. Foster, Jr.

(A summary based on a new AIM Report)

As the attention of the media is riveted on the efforts of O.J. Simpson's high-priced lawyers to punch holes in the prosecution's powerful case against their client, no comparable effort is being made to defend Vincent W. Foster, Jr., close friend and aide to President Clinton and the First Lady, against the charge that he killed himself.

Not a single lawyer or investigator was hired to expose the serious flaws in the investigations by the Park Police and independent counsel Robert Fiske that found Vince Foster guilty of taking his own life. Even his family and close friends meekly accepted the guilty verdict without challenging the flimsy evidence behind it.

Vince Foster deserves a defense. He would not want to be remembered as a weakling and a coward who, for no good reason, would inflict hurt and hardship on his wife and children, deserting them without a parting word, leaving them tortured with the question of whether they were somehow responsible for his tragic death.

Seeing a gun in Foster's lifeless hand, the Park Police concluded that he had killed himself with that gun and based their investigation on that assumption without first learning the answers to these questions. Robert Fiske's investigation was geared to vindicating the police, not Foster, and he did so by disregarding evidence that the answers to these questions were negative.

	Answer Now Known
1. Did the gun belong to him?	No
2. Were his fingerprints on the gun?	No
3. Was his blood found on the gun?	No
4. Could the bullet that killed him be found nearby?	No
5. Could skull fragments and brain tissue be found nearby?	No
6. Could any splatter or mist from the head wound be found on the vegetation near the body?	No
7. Were the blood stains on his face and clothing consistent with suicide?	No
8. Was there any proof that the fatal wound was caused by a bullet fired from the gun found in his hand?	No
9. Had anyone nearby heard a gun shot?	No
10. Had anyone ever seen him alive in the park?	No
11. Was there any evidence that he had walked 200 yards through the park to the spot where his body was found?	No
12. Was the position of his body consistent with suicide?	No
13. Had he given any indications to family, friends or co-workers that he was contemplating suicide?	No
14. Had he put his affairs in order, preparing for death?	No
15. Did he have a plausible motive for suicide?	No
16. Was he visibly depressed or behaving in an unusual manner when last seen alive?	No
17. Did he leave a suicide note?	No
18. Was there evidence that he spent his last hours alone?	No
19. Could the possibility that the body was moved be ruled out?	No
20. Could the possibility of foul play be ruled out?	No

Vincent Foster has been convicted by the authorities acting as police, judge and jury without a trial or any exposure by our Big Media of the gaping holes in the case. Believing that Foster deserves better, Accuracy in Media has published "The Trial of Vincent Foster," showing how a good lawyer, a composite of O.J. Simpson's legal "dream team," might use the evidence now available to exonerate Vince Foster of the charge that he killed himself.

This report documents many serious charges against the Park Police and independent counsel Robert Fiske, including these:

- How the police and Fiske concealed evidence that Foster didn't own the gun in his hand.
- How they brushed aside the evidence that this gun was not used to kill Foster.
- How they disregarded the proof that supposed powder burns on Foster's index fingers actually show that he did not fire the gun.
- How they ignored the evidence that Foster was not shot where his body was found.
- Why their claim that the body could not have been moved is false.
- How they foisted off on us a motive for suicide that had been ridiculed by the White House press corps and repudiated by Dee Dee Myers, the President's press secretary, because they could find nothing better.

For a free copy of the "The Trial of Vincent Foster," call 202-364-4401.

PRESS CONFERENCE

11:00 A.M.
Thursday, April 27, 1995

International Club
1800 K Street, N.W.
Room C, Level B-1

Sponsored by
Western Journalism Center
Accuracy in Media, Inc.
Strategic Investment Newsletter

Columns 2&3

SOURCE	CONSPIRACY THEORY	EXPLANATION
1. (04/05/94 Washington Times, pg. 8, "No Smoking Gun.")	Witness interviewed by G. Gordon Liddy stated that he did not see a gun in Foster's hand when he discovered the body.	
2. (04/03/94 Los Angeles Times Magazine, pg. 22, "Little Rock Law.")	Why would Foster commit suicide at the pinnacle of his career? Job pressure, undisclosed secret, or undiscovered medical event?	
3. (03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")	Skolnick claims that he learned from a Secret Service agent that Foster was murdered by a three-man hit squad from Germany	
4. (03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")	Rumor that Foster was driven to suicide because of a planned FBI raid in Little Rock to investigate the Whitewater affair.	
5. (03/13/94 Washington Post, pg A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")	Rumor that there is a connection between Foster's death and the murder in September of 1993 of a former Clinton campaign security official in Little Rock.	
6. (03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")	Rumor that Foster died in a Northern Virginia "safe House."	

7. (The Post notes, however, that some of these claims are contradicted by police photographs and Rolla's statement.) (03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")

George Gonzalez said the scene was unlike any other suicides he had observed:

a) Foster's body was lying neatly on a gentle incline with a revolver in one hadn when a suicide by gunshot is generally a mess.

b) There was only a thin trickle of blood in the corner of Foster's mouth and it looked as if the body was ready to be laid in a coffin.

8. (03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")

Concerns about the Park Police investigation:

a) The suicide note was not turned over to the police until a week after his death and no finger or palm prints were identifiec

9.

b) The Park Police never reviewed Foster's computer.

10.

c) The Park Police did not interview Buck who called Foster or Clinton who spoke with Foster on the day he

died

11. (No date or paper listed on copy, "Photo of Foster Death Scene on TV.")

Witness reported that he saw a car with Arkansas plates with a light blue Honda sedan beside it. The man in the Honda "gave him a menacing look."

12. (03/14/94 The Daily News, pg. C-6, "The Unfostered D.C. Suspicions.")

The suicide note:

a) There was a piece of the note missing (Not a part of the text but it could have been a date).

13.

b) The Park Police and the FBI are cited as questioning the authenticity of the note. Question of why someone would write a note then tear it up into 28 pieces and put in it in their briefcase.

14.

c) White House assistant claimed that they found the note in Foster's briefcase on July 26th when the briefcase had been searched by Markland on July 21st.

15.

d) The note doesn't sound

	suicidal. Is it the suicide note?
16. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")	An expert told Mr. Ruddy that he had never "seen someone shoot themselves in the mouth and still hold the gun perfectly at his side.
17. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")	Gonzalez and a law enforcement official said that the gun showed no traces of blood.
18. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")	Why was the Park Police report not made public to clear up the speculation?
19. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")	Mr. Nussbaum's actions on the day the FBI and Park Police investigated Foster's office. Cover-up of documents suspected.
20. (07/28/93 The Washington Post, pg. A-8, "Foster had List of Psychiatrists, Search Discloses.")	Do we have Foster's note containing the list of Washington psychiatrists? Did Foster contact any of the psychiatrists on the list?
21. (07/28/93 The Washington Post, pg. A-8, "Foster had List of Psychiatrists, Search Discloses.")	What did Foster do for the five hours between leaving the White House and when the body was found. Did he meet someone?

22. (07/29/93 The Washington Post, pg. A-10, "Note Supports Idea that Foster Committed Suicide.")

Why was the note not found on Thursday, when Nussbaum, the FBI and the Park Police searched Foster's office?

23. (07/29/93 The Washington Post, pg. A-10, "Note Supports Idea that Foster Committed Suicide.")

Where did Foster get the 80-year old revolver he used?

24. (01/29/94 The Washington Post, pg. B-2, "Doubts on Clinton's Aide's Death Silenced.")

Gonzalez and/or Ashford have stated that:

a) The suicide site was "unusually tidy."

25.

b) The force of the gunshot usually causes the victim to drop the gun.

26.

c) The body was "stretched out neatly on his back."

27. Same questions as above contained in 01/28/94 The Houston Chronicle, pg. 14, "Suicide Questioned." 01/27/94 The Associated Press, "Newspaper Report Raises Questions About Foster Death."

28. (03/19/94 The Washington Post, pg. A-21, "The Press in Pursuit.")

Is there a connection between The Washington Times revelation that papers were removed from Foster's office relating to

	Whitewater and the appointment of a special counsel?
29. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	The New York Post claimed that after Foster's death, White House officials "frantically scrambled" to remove previously unreported documents from a safe in Foster's office.
30. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	William Safire suggested that Foster's death had to do with "intelligence matters."
31. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	The New York Post claimed that a "crucial crime-scene photo of Foster's body" was never taken before the body was moved.
32. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	The New York Post and a financial newsletter also claimed that Foster had a secret hideaway in Virginia.
33. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	Why did Foster kill himself? (It is not clear that the note left behind was a suicide note.)
34. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")	If Foster's death was a suicide, why did the White House "urgently" remove documents from his office - and then "accept the

scrutiny of an independent counsel?"

35. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

What personal business was Foster doing for the Clinton's at the time of his death?

36. "AIM Report:"

Questions about Foster's death contained in the

a) The position of the body

37.

b) Little amount of blood

38.

c) No visible powder burns on Foster's face

39.

d) Gun usually flies out of victim's hand in a suicide

40.

e) Photo shows that there was no cadaveric spasm which would have caused the hand to clench the gun

41.

f) No photograph of the entire body in this case

42.

g) Search for footprints or signed of a struggle?

43.

h) Analysis of victim's clothes?

i) Car searched and photographed?

j) Shoes were very clean and unmarked. Ruddy noted that he always came away with reddish dirt on his shoes when he visited the crime scene.

k) Shoes have never been tested to make sure that Foster actually walked to the place where he died.

l) No "hands and knees" inspection of site

m) Residents of homes nearby were not interviewed

n) Conflicting stories by Park Police regarding the search for the bullet that killed Foster

o) Deep insertion of the gun into Foster's mouth would have caused the inside of his mouth to be burned (not just powder residue on the soft tissues of the mouth) and the gun would have

been bloodied by the blast (no reports of blood on the gun)

51. p) Major Hines contradicted the report of Simonello - no burns to the face

52. q) According to experts, the gun should have have a silencer

53. r) The gun used is the perfect example of a "drop gun" that is difficult to trace

54. s) The five hours of Foster's activity before he died are unaccounted for.

55. t) No diary or calendar was found in Foster's office and no pocket diary was found with Foster. Strange that no one has turned these items over to the police. Is there a possibility that someone is hiding them?

56. u) Foster's telephone logs were not turned over until a week after his death

57. v) Investigation of Foster's office did not take place until two days after his death

58. w) No interview of Foster's wife until a week after the death - were turned away by Foster's lawyer

59. x) Comments from people do not match up with the story that Foster was depressed:

i) Beryl Anthony - "bunch of crap"
ii) Dee Dee Myers - "no reason to believe"
iii) Mark Gearan - nothing "out of the ordinary"

60. y) Was Foster on anti-depressant medicine?

61. z) No fingerprints on Foster's note?

62. aa) Note makes no mention of suicide

63. bb) Lisa Foster and her children did not identify the gun

64.	cc) No matching ammunition for the gun was found in the Foster home
65.	dd) Did Foster have any calls or appointments with Jerry Parks?
66.	ee) No Interview with Foster's secretary?
67. (Undated The Washington Times, "Rock of Gibraltar")	What did Foster do for the five hours between 1:00 p.m. and 6:00 p.m.?
68. (07/30/93 The Washington Post, "Foster Depression Called Job Related")	Why did the White House wait 30 hours before producing the suicide note to the Park Police?
69. (07/30/93 The Washington Post, "Foster Depression Called Job Related")	Had Foster started taking the anti-depressant medicine prescribed by an Arkansas physician?
70. (07/30/93 The Washington Post, "Foster Depression Called Job Related")	Why was Foster's office not sealed despite orders by McLarty?
71. (07/30/93 The Washington Post, "Foster Depression Called Job Related")	Article reports that during the time that Foster's office was not sealed, "one or two or three" people went into the office.
72. (12/22/93 The Washington Post, "White House Keeps a Lock on Files	Gearan said that the records removed from Foster's office included

from Foster's Office")

the Clintons' tax returns. The Post questioned why the White House would be reluctant to release these documents because they had already been released to the public.

73. The 12/22/93 Washington Post article, "White House Keeps a Lock on Files from Foster's Office" lists the following "unanswered questions:"

a) Why did two Clinton political operatives, along with Nussbaum, secretly search Foster's office three hours after his body was found in a Virginia Park? What did they find?

74.

b) Why were orders by McLarty to seal the office ignored by the three searchers? The order was issued shortly after the discovery of Foster's body, but the office was open until the next morning.

75.

c) Why did the White House mislead the media into believing no such search had taken place or that any documents had been removed from Foster's office prior to its inspection by U.S. Park Police and the

FBI?

76.

d) What happened to the business records of Whitewater that were delivered personally to HRC at the Arkansas governor's mansion in December 1987? White House officials say they have disappeared.

77. (01/27/93 The New York Post, Christopher Ruddy)

Why was the bullet not lodged in the ground behind Foster's head?

78. (01/27/93 The New York Post, Christopher Ruddy)

Why didn't anyone hear the gunshot?

79. (02/04/94 The Washington Times, Martin Anderson)

Why was Foster's clothing so neat?

80. (04/11/94 The Bond Buyer Inc., Kathie O'Donnell)

Moynihan denies Ruddy's claim that he substantiated claims about knowledge of alleged Virginia apartment "safe house" kept by Clinton insiders where Foster's body could have been moved from after he died.

81. (08/06/93 The Wall Street Journal)

Rumor that Foster was murdered by drug-dealing cabal of military officers.

82. (03/11/94 The Los Angeles Times, John Broden)

Why did Foster have the only complete set of

	Whitewater documents? Is there a connection?
83. (02/03/94 The New York Post, Christopher Ruddy)	Was there a problem between the FBI and the White House and was this related to Foster's death?
84. (08/05/93 The New York Daily News, George Rush)	Conspiracy of hunches that Foster was killed by drug smuggling Navy officials.
85. (01/27/94 The New York Post, Christopher Ruddy, "Doubts raised over Foster's Suicide")	Why was the death so quickly deemed a suicide?
86. (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")	If Foster used his thumb to pull the trigger, why then did the gun end up clutched in his hand?
87. (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")	Why would Foster choose to die in Fort Marcy Park?
88. (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")	Was Swan's call the only call made to 911 that reported Foster's body?
89. (03/07/94 The New York Post, Christopher Ruddy, "Cops made Photo Blunder at Foster Death Sight")	Why didn't the Park Police take impressions of footprints around Foster's body?
90. (02/17/94 The New York Post, Christopher Ruddy,	Di Maio said it was virtually impossible to

"Top Docs Cast Doubt on Foster Suicide")	have an indentation on a thumb from a singe depression of a trigger.
91. (02/17/94 The New York Post, Christopher Ruddy, "Top Docs Cast Doubt on Foster Suicide")	Experts maintained that there is no test that proves that the powder burns on Foster's hands match the powder that was found in his mouth.
92. (04/18/94 The New York Post, Christopher Ruddy, "No Foster Gun?")	Was there a man in a white van that reported Foster's body to Swan? The man that Liddy interviewed fits Swan's description.

Foster Questions in Newspaper Articles

1) Witness interviewed by G. Gordon Liddy stated that he did not see a gun in Foster's hand when he discovered the body. (04/05/94 Washington Times, pg. 8, "No Smoking Gun.")

2) Why would Foster commit suicide at the pinnacle of his career? Job pressure, undisclosed secret, or undiscovered medical event? (04/03/94 Los Angeles Times Magazine, pg. 22, "Little Rock Law.")

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   a) The suicide note was not turned over to the police until a week after his death and no finger or palm prints were identified.

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(03/13/94 Washington Post, pg. A-10, "Conspiracy Theorists Find Foster Case Hard to Resist.")

9) Witness reported that he saw a car with Arkansas plates with a light blue Honda sedan beside it. The man in the Honda "gave him a menacing look." (No date or paper listed on copy, "Photo of Foster Death Scene on TV.")

10) The suicide note:

a) There was a piece of the note missing (Not a part of the text but it could have been a date).

b) The Park Police and the FBI are cited as questioning the authenticity of the note. Question of why someone would write a note then tear it up into 28 pieces and put it in their briefcase.

c) White House assistant claimed that they found the note in Foster's briefcase on July 26th when the briefcase had been searched by Markland on July 21st.

d) The note doesn't sound suicidal. Is it the suicide note?

(03/14/94 The Daily News, pg. C-6, "The Unfostered D.C. Suspicions.")

11) An expert told Mr. Ruddy that he had never "seen someone shoot themselves in the mouth and still hold the gun perfectly at his side. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")

12) Gonzalez and a law enforcement official said that the gun showed no traces of blood. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")

13) Why was the Park Police report not made public to clear up the speculation? (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")

14) Mr. Nussbaum's actions on the day the FBI and Park Police investigated Foster's office. Cover-up of documents suspected. (03/21/94 The Wall Street Journal, pg. A-12, "Tabs Tangle Over Foster Death.")

15) Do we have Foster's note containing the list of Washington psychiatrists? Did Foster contact any of the psychiatrists on the list? (07/28/93 The Washington Post, pg. A-8, "Foster had List of Psychiatrists, Search Discloses.")

16) What did Foster do for the five hours between leaving the White House and when the body was found. Did he meet someone? (07/28/93 The Washington Post, pg. A-8, "Foster had List of Psychiatrists, Search Discloses.")

17) Why was the note not found on Thursday, when Nussbaum, the FBI and the Park Police searched Foster's office? (07/29/93 The Washington Post, pg. A-10, "Note Supports Idea that Foster Committed Suicide.")

18) Where did Foster get the 80-year old revolver he used? (07/29/93 The Washington Post, pg. A-10, "Note Supports Idea that Foster Committed Suicide.")

19) Gonzalez and/or Ashford have stated that:

    a) The suicide site was "unusually tidy."

    b) The force of the gunshot usually causes the victim to drop the gun.

    c) The body was "stretched out neatly on his back."

(01/29/94 The Washington Post, pg. B-2, "Doubts on Clinton's Aide's Death Silenced.")

20) Same questions as above contained in 01/28/94 The Houston Chronicle, pg. 14, "Suicide Questioned." 01/27/94 The Associated Press, "Newspaper Report Raises Questions About Foster Death."

21) Is there a connection between The Washington Times revelation that papers were removed from Foster's office relating to Whitewater and the appointment of a special counsel? (03/19/94 The Washington Post, pg. A-21, "The Press in Pursuit.")

22) The New York Post claimed that after Foster's death, White House officials "frantically scrambled" to remove previously unreported documents from a safe in Foster's office. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

23) William Safire suggested that Foster's death had to do with "intelligence matters." (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

24) The New York Post claimed that a "crucial crime-scene photo of Foster's body" was never taken before the body was moved. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

25) The New York Post and a financial newsletter also claimed that Foster had a secret hideaway in Virginia. (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

26) Why did Foster kill himself? (It is not clear that the note left behind was a suicide note.) (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

27) If Foster's death was a suicide, why did the White House "urgently" remove documents from his office - and then "accept the scrutiny of an independent counsel?" (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

28) What personal business was Foster doing for the Clinton's at the time of his death? (03/21/94 Newsweek, pg. 32, "Vince Foster's Suicide: The Rumor Mill Churns.")

29) Questions about Foster's death contained in the "AIM Report:"

    a) The position of the body

    b) Little amount of blood

    c) No visible powder burns on Foster's face

    d) Gun usually flies out of victim's hand in a suicide

    e) Photo shows that there was no cadaveric spasm which would have caused the hand to clench the gun

    f) No photograph of the entire body in this case

    g) Search for footprints or signed of a struggle?

    h) Analysis of victim's clothes?

    i) Car searched and photographed?

j) Shoes were very clean and unmarked. Ruddy noted that he always came away with reddish dirt on his shoes when he visited the crime scene.

k) Shoes have never been tested to make sure that Foster actually walked to the place where he died.

l) No "hands and knees" inspection of site

m) Residents of homes nearby were not interviewed

n) Conflicting stories by Park Police regarding the search for the bullet that killed Foster

o) Deep insertion of the gun into Foster's mouth would have caused the inside of his mouth to be burned (not just powder residue on the soft tissues of the mouth) and the gun would have been bloodied by the blast (no reports of blood on the gun)

p) Major Hines contradicted the report of Simonello - no burns to the face

q) According to experts, the gun should have have a silencer

r) The gun used is the perfect example of a "drop gun" that is difficult to trace

s) The five hours of Foster's activity before he died are unaccounted for.

t) No diary or calendar was found in Foster's office and no pocket diary was found with Foster. Strange that no one has turned these items over to the police. Is there a possibility that someone is hiding them?

u) Foster's telephone logs were not turned over until a week after his death

v) Investigation of Foster's office did not take place until two days after his death

w) No interview of Foster's wife until a week after the death - were turned away by Foster's lawyer

x) Comments from people do not match up with the story that Foster was depressed:

i) Beryl Anthony - "bunch of crap"
ii) Dee Dee Myers - "no reason to believe"
iii) Mark Gearan - nothing "out of the ordinary"

y) Was Foster on anti-depressant medicine?

z) No fingerprints on Foster's note?

aa) Note makes no mention of suicide

bb) Lisa Foster and her children did not identify the gun

cc) No matching ammunition for the gun was found in the Foster home

dd) Did Foster have any calls or appointments with Jerry Parks?

ee) No Interview with Foster's secretary?

30) What did Foster do for the five hours between 1:00 p.m. and 6:00 p.m.? (Undated The Washington Times, "Rock of Gibraltar")

31) Why did the White House wait 30 hours before producing the suicide note to the Park Police? (07/30/93 The Washington Post, "Foster Depression Called Job Related")

32) Had Foster started taking the anti-depressant medicine prescribed by an Arkansas physician? (07/30/93 The Washington Post, "Foster Depression Called Job Related")

33) Why was Foster's office not sealed despite orders by McLarty? (07/30/93 The Washington Post, "Foster Depression Called Job Related")

34) Article reports that during the time that Foster's office was not sealed, "one or two or three" people went into the office. (07/30/93 The Washington Post, "Foster Depression Called Job Related")

35) Gearan said that the records removed from Foster's office included the Clintons' tax returns. The Post questioned why the White House would be reluctant to release these documents because they had already been released to the public. (12/22/93 The Washington Post, "White House Keeps a Lock on Files from Foster's Office")

36) The 12/22/93 Washington Post article, "White House Keeps a Lock on Files from Foster's Office" lists the following "unanswered questions:"

a) Why did two Clinton political operatives, along with Nussbaum, secretly search Foster's office three hours after his body was found in a Virginia Park? What did they find?

b) Why were orders by McLarty to seal the office ignored by the three searchers? The order was issued shortly after the discovery of Foster's body, but the office was open until the next morning.

c) Why did the White House mislead the media into believing no such search had taken place or that any documents had been removed from Foster's office prior to its inspection by U.S. Park Police and the FBI?

d) What happened to the business records of Whitewater that were delivered personally to HRC at the Arkansas governor's mansion in December 1987? White House officials say they have disappeared.

37) Why was the bullet not lodged in the ground behind Foster's head? (01/27/94 The New York Post, Christopher Ruddy)

38) Why didn't anyone hear the gunshot? (01/27/94 The New York Post, Christopher Ruddy)

39) Why was Foster's clothing so neat? (02/04/94 The Washington Times, Martin Anderson)

40) Moynihan denies Ruddy's claim that he substantiated claims about knowledge of alleged Virginia apartment "safe house" kept by Clinton insiders where Foster's body could have been moved from after he died. (04/11/94 The Bond Buyer Inc., Kathie O'Donnell)

41) Rumor that Foster was murdered by drug-dealing cabal of military officers. (08/06/93 The Wall Street Journal)

42) Why did Foster have the only complete set of Whitewater documents? Is there a connection? (03/11/94 The Los Angeles Times, John Broden)

43) Was there a problem between the FBI and the White House and was this related to Foster's death? (02/03/94 The New York Post, Christopher Ruddy)

44) Conspiracy of hunches that Foster was killed by drug smuggling Navy officials. (08/05/93 The New York Daily News, George Rush)

Additional Questions from The New York Post

45) Why was the death so quickly deemed a suicide? (01/27/94 The New York Post, Christopher Ruddy, "Doubts raised over Foster's Suicide")

46) If Foster used his thumb to pull the trigger, why then did the gun end up clutched in his hand? (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")

47) Why would Foster choose to die in Fort Marcy Park? (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")

48) Was Swan's call the only call made to 911 that reported Foster's body? (01/31/94 The New York Post, Christopher Ruddy, "More Questions about Foster's Suicide")

49) Why didn't the Park Police take impressions of footprints around Foster's body? (03/07/94 The New York Post, Christopher Ruddy, "Cops made Photo Blunder at Foster Death Sight")

50) Di Maio said it was virtually impossible to have an indentation on a thumb from a singe depression of a trigger. (02/17/94 The New York Post, Christopher Ruddy, "Top Docs Cast Doubt on Foster Suicide")

51) Experts maintained that there is no test that proves that the powder burns on Foster's hands match the powder that was found in his mouth. (02/17/94 The New York Post, Christopher Ruddy, "Top Docs Cast Doubt on Foster Suicide")

52) Was there a man in a white van that reported Foster's body to Swan? The man that Liddy interviewed fits Swan's description. (04/18/94 The New York Post, Christopher Ruddy, "No Foster Gun?")

TO: BRETT KAVANAUGH Revised 5/30/95

FROM: SA C.L. REGINI

SUBJECT: DISCREPANCY LIST

The following list is offered as a comprehensive and itemized outline of all of the noted discrepancies, inconsistencies, and problems that have been identified in the Vincent W. Foster death investigation to date. The outline is broken down into the following areas: U.S. Park Police, Emergency Medical Technicians (EMTs), the White House, Northern Virginia Medical Examiner, Miscellaneous, and Forensic Examinations.

I. U.S. Park Police

A. No gunshot residue samples of the decedent's hands.

B. Lack of complete documentation of the gunshot residues on the left hand.

C. Poorly diagrammed death scene; lack of measurements.

D. No photo log; no documentation regarding who took what photographs, and the total number of photos.

E. Death scene 35mm photos did not develop.

F. No documentation regarding the initial search of the decedent's vehicle at the death scene- no inventory.

G. Photo of an unidentified briefcase next to a U.S.P.P. vehicle.

H. Decedent's pager returned too soon; no records obtained regarding previous pages.

I. Suicide weapon processed with dust prior to other laboratory exams.

J. Inconsistent statements regarding moving and searching the body. (Rolla, Braun, Simonello, Hodakaviec)

K. Inconsistent and poorly documented autopsy.

1. Morrissette's report.

2. No gunshot residue samples from hands.

3. No fingernail clippings/scrapings.

4. No major case prints of decedent (palms, sides and tops of fingers).

5. No photo of left hand.

6. Possible contamination of evidence subsequent to autopsy at M.E. Office.

7. Inconsistent statements regarding what was done to the body prior to autopsy.

8. No description of body and clothing prior to autopsy.

1- Tuohey
1- Kavanaugh
1- Gillis
1-Greene
1-McCarrick
1-29D-LR-35063

29D-LR-OIC-35063-SUB

L. Possible contamination of evidence at U.S. Park Police facility.

M. Poor interview and documentation of witnesses at death scene (Doody and Feist).

N. Photo of an unidentified white male wearing plainclothes at death scene.

O. Inconsistent statements regarding vehicle doors being locked/unlocked. (Braun, Rolla, Hodakievic, Simonello, Gavin)

P. All photographs not produced pursuant to initial subpoena.

Q. Inadequate and incomplete metal detector search by the USPP. (Operators had no prior experience or training)

II. Inconsistent statements and observations of Fairfax County Fire and Rescue personnel.

A. Wound on neck (Arthur: .45 cal. bullet hole.)

B. Gun under thigh.

C. Wound on upper right front of skull (Gonzales)>

D. Briefcase in vehicle.

E. Unidentified person in woods (Hall).

F. Vehicle doors locked.

G Death scene photos do not accurately depict scene.

H. Two unidentified white males walking from death scene.

I. Color of gun was silver.

J. Type of gun was semiautomatic pistol (Arthur).

K. Statements of initial paramedics at scene regarding their actions are inconsistent with Fairfax County paramedic protocols.

L. Report coded as a homicide (Ashford).

III. Medical Examiner

A. X-rays

1. Autopsy report indicates x-rays were taken.

2. Morrissette's report indicates Beyer told him x-rays were taken.

B. All individuals present at autopsy not indicated on autopsy report.

C. No photographs of decedent's left hand.

D. Inconsistent statements regarding removal of decedent's tongue and palate. (see I.7)

E. Inconsistent "on-scene" times reported for Dr. Haut; 7:40 pm and 7:15.

F. Stomach contents; no definitive digestion time, or positive identification.

IV. White House

A. Foster's office unsecured until 7/21/93, approximately 10:10 a.m.

1. Patsy Thomasson, Maggie Williams, Bernie Nussbaum search Foster's office.

B. Confidential trash bag removed and replaced.

C. Nussbaum enters office; removes small photo.

D. Pond rearranges papers on Foster's coffee table.

E. Exclusive initial review of documents by Nussbaum.

F.Torn note found one week later in briefcase previously searched by Nussbaum.

G. Note not released to investigators until the following week; a day after it was discovered.

V. Miscellaneous

A. CW's inconsistencies.

1. positioning of decedent's hands.
2. no gun.
3. winecoolers and briefcase in vehicle.
4. trampled area around death scene.
5. does not see white car occupied.

B. Inconsistencies between Doody and Feist's statements.

C. No initial investigation of the park's "second entrance".

D. No one heard a gunshot.

E. The gun exemplifies a "drop gun".

F. No matching ammo at the decedent's residence.

G. The decedent's grip on the gun was not the simplest nor the easiest to shoot himself in the mouth.

H. The decedent never previously spoke of suicide.

I. The decedent had no particular obsession, "dire predicament", or one thing that would have put him over the edge.

J. The decedent had dealt with stress before.

K. The suicide weapon has never been positively identified as belonging to the decedent.

L. Lisa Foster's initial spontaneous question "was the gun in his mouth?".

M. Five unaccounted for hours between the time the decedent left work and was discovered dead.

N. Lack of blood at death scene.

O. No bullet.

P. No cadaveric spasm causing decedent to clench gun.

Q. The gun did not fly out of the decedent's hand.

R. No chipped teeth noted by M.E.

S. No flashburns inside mouth noted by M.E.

T. The mortician lost the original embalming report and diagram.

U. The decedent's glasses were discovered 13' downslope from his body.

V. Body neatly laid out; "as if it was in a coffin".

W. Fairfax Hospital Laboratory Supervisor statement re-gunshot wound to middle of head.

VI. Forensic Examinations

A. Unidentified latent print on note.

B. Unidentified latent print inside grip of suicide weapon.

C. Unidentified blonde head hairs.

D. Unidentified carpet fibers.

E. Unidentified stain on shirt. (shirt being resubmitted to lab)

F. Unidentified gunpowder in scrapings from decedent's shoes and socks, and the paper that they were dried on.

G. The decedent's head was moved.

H. No blood on suicide weapon.
I. No soil on shoes. (mica flakes)
J. Large semen stain in the decedent's underwear.
K. Blood flowed uphill (video).
L. Excavation of site disputed.
M. Helen Dickey telephone call to Roger Perry.
N. Inconsistent vegetation at death scene.
O. Committed suicide at an unfamiliar location.
P. No suicide note.
Q. No previous mention of suicidal intent.
R. Ate lunch prior to committing suicide.
S. Jeff McGaughey's (intern) statements are inconsistent with Officer Watson's (they were together at death scene).

FARCE AND FRAUD IN FOSTER FINDINGS

By

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FARCE AND FRAUD IN FOSTER FINDINGS
by
Reed Irvine

The U. S. Park Police officers who investigated the death of White House Deputy Counsel Vincent W. Foster, Jr. at Fort Marcy Park on July 20, 1993 did not have their suspicions aroused by the remarkable neatness of the scene--Foster laid out as if ready for a coffin, very little visible blood, and literally no brains blown out by the .38 high velocity bullet that had presumably drilled a hole in his skull. The bloodstain on the side of Foster's face bothered them a little. They realized that there was only one explanation for it. After he shot himself in the mouth, his head must have flopped over, pressing the right side of his face against his shoulder. He bled on the shoulder of his shirt, and some of that blood was transferred to his face. The problem was that his head was face-up when they found the body. How did that happen?

Park Police detective John Rolla told an FBI agent working for special prosecutor Robert Fiske that Foster's head must have twisted or jerked at the time of his death before assuming the face-up position.[1] Rolla had an equally outlandish explanation for the small branch he said he saw lying across Foster's body. He believed it had fallen there after being severed by the bullet that killed Foster.[2] That would have required the bullet to take a 90 degree turn upward after exiting from the back of Foster's head. The Park Police disposed of these two problems by simply not mentioning them in their report.

The FBI agent didn't mention the branch when he wrote up his Rolla interview, but Fiske couldn't ignore the bloodstain. He had report from the FBI lab that it proved the head had been moved. Fiske's solution was to assert that someone at the scene had moved the head, even though everyone that his investigators questioned said the head was always face up and none said they had moved it or seen anyone move it.

The police found Foster's eyeglasses 13 feet downhill from his feet. Since they didn't thoroughly check Foster's clothes and personal effects for clues, they didn't realize that this posed a major problem for their theory that Foster killed himself on that hill in the park. The FBI crime lab found a speck of gunpowder on the glasses, indicating they had been on or near Foster's face when the fatal shot was fired. If he was wearing the glasses or had them in his shirt pocket when he shot himself, how did they get to the bottom of the hill? Fiske had the answer: bouncing eyeglasses. His report said, "One obvious scenario is that the eyeglasses were dislodged by the sudden backward movement of Foster's head when the gun was fired, after which the glasses bounced down the hill."[3] That scenario is not "obvious" to anyone who has tried dropping or tossing a pair of glasses down that hill. They don't bounce. They may slide a few feet if they

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[1]Senate Banking Committee Hearings on the Death of Vincent W. Foster, Jr., p. 1602

[2] FBI handwritten notes, pp. 192-3

[3] SBCH, p. 217

don't get stopped by vegetation

The police weren't bothered by the fact that Foster's blood and fingerprints were not found on the gun. When detective Peter Markland recommended on August 5 that the investigation be closed and the death be ruled a suicide, they didn't even know if the 80-year-old gun would fire. They took Markland's advice and announced that case was closed on August 10. Six days later they sent the gun to the Alcohol, Tobacco and Firearms (ATF) lab for testing.[4] The ATF found the gun was in working order, but they were faced with another problem with the gun. According to Markland's notes, when he showed it to Mrs. Foster, she said it was not the gun she supposed it to be, "a silver six-gun with a large barrel."[5] The gun she was shown was a blue/black revolver with a 4-inch barrel. It was composed of parts of two different guns, and the last recorded transaction for it was in 1913, the year it was manufactured. Lisa Foster had never seen it before, and neither had her three grown children. It was not one of the two handguns kept in their Washington home.

Desperate to get someone to say that it belonged to Vince Foster, the police sent a photo of the gun to a family friend in Little Rock and asked him to show it to Foster's sister, Sharon Bowman. They received a note from him on August 9. It said, "Mrs. Bowman said it looked like a gun she had seen in her father's collection. She particularly pointed out the wavelike detailing at the base of the grip. I asked if she remembered any other features. She did not."[6]

That satisfied the police even though Foster's wife and children had never seen the gun or any ammunition for it in their Little Rock or Washington homes. The "silver six-gun" Lisa Foster mentioned was a nickel-plated revolver that Foster had inherited from his father. According to Mrs. Foster, it was one of two handguns he kept in his Georgetown home. She had packed and shipped it to Washington in June.[7]

Roderick Lankler, Fiske's chief investigator, interviewed Mrs. Foster on May 9, 1994. His report said that she found one handgun still in its usual location on the night of July 20, 1993, but it was not the silver gun. He said, "Lisa Foster believes that the gun found at Fort Marcy Park may be the silver gun which she brought up with her other belongings...."[8]

This absurdity found its way into the Fiske report, which said that Lisa Foster had said that the gun found in Foster's hand was similar to one that she had brought up from Arkansas.[9] The report also included Sharon Bowman's statement that it was "very similar" to a gun her father had kept at his bedside, "specifically recalling the pattern on the grip." Sharon Bowman's son, L.

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[4] *Ibid.*, p. 2072 and 2115

[5] *Ibid.*, p. 2227

[6] *Ibid.*, p. 2436

[7] *Ibid., pp. 1648-9*

[8] *Ibid., pp. 1648-9*

[9] *Ibid*, p. 213

Foster Bowman, had told the FBI the gun they showed him was the wrong color.[10] He says that his grandfather's revolver was a "store-bought" nickel-plated gun, not the 80-year-old blue/black Colt army special that the FBI agents showed him. He believes his mother told them the same thing. Vincent Foster's two grown sons and his daughter told Fiske's investigators they had never seen the gun before. Fiske put that important statement in a footnote in his report, saying that "the children" (whose ages were not mentioned) "did not recognize the gun as one they had seen in their home."[11]

This was a dishonest attempt on Fiske's part to make it appear that the gun had been identified as one that belonged to Foster. Regardless of what Lisa Foster may have believed, Fiske and Lankler knew that the silver revolver she brought to Washington was not the gun found in Foster's hand. They also knew that she and her children had never seen the gun before. If Foster Bowman is right, they also knew that Sharon Bowman had not identified the gun as one that belonged to her father. That may explain why Fiske didn't release the report of her interview (the FD-302) to the Senate Banking Committee.

This shows that Fiske was willing to adjust and arrange the facts to support the suicide theory. On April 4, 1994, The Wall Street Journal ran a story saying Fiske would soon release a report supporting the Park Police findings, according to sources close to the investigation. At that time his investigation had barely gotten underway. No lab work had been done and only a dozen interview reports had been completed.

Fiske and his agents seem not to have been troubled by the disappearance of the X-rays of Foster's skull that the medical examiner, Dr. James Beyer, said he had taken. Beyer checked off "X-rays made" on the autopsy form and told an attending Park Police officer that they showed no bullet fragments in the skull. When Fiske's agents asked for the X-rays, Beyer denied that he had taken any, claiming that his machine was broken. The agents didn't challenge that explanation. Had they shown some skepticism and called the company that installed and serviced the equipment they would have learned that the machine was installed new in June and that there were no service calls for it until October. Knowing that, they might have been able to find the missing X-rays, or at least learn the real reason they were missing.

They also accepted the disappearance several of the Polaroid crime scene photos taken by the Park police. These too are vital, since all the 35 mm photos taken at the scene were underexposed. Franz Ferstl, the second officer to arrive on the scene, said he took 7 or 8 Polaroids and turned them over to Sgt. Edwards or to Park Police detectives. These would be especially valuable because they were the first photos taken, but all of them have vanished. Sgt. Edwards also took Polaroids. The inventory lists only five taken by him, of which only three focus on the body. The only photo of the gun in Foster's hand was taken later by Sgt. Rolla.[12]

Since Ferstl and Edwards were the first two police officers to see the gun, it seems highly unlikely that they failed to take pictures of this key piece of evidence. Paramedic Richard Arthur, who saw the gun before Ferstl and Edwards arrived, told an FBI agent that he was "100 percent sure" it was an automatic pistol. In writing up the interview, the agent softened that, saying, "He

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[10] *Ibid.*, p. 1807

[11] *Ibid.*, p. 213

[12] FBI notes, p. 258 for Ferstl photos, SBCH, p.2112 for list of photos

remembers the gun as being an automatic weapon."[13] The Fiske investigators were so concerned about this that they reinterviewed Arthur, asking him about the gun, but there is no record that they ever asked Ferstl and Edwards to describe the gun they saw or if they photographed it. Could it be that Ferstl's (and perhaps some of Edwards') Polaroids disappeared because they confirmed Arthur's description of the gun?

Such questions have to be asked because neither the Park Police nor Fiske's investigators were completely honest in their treatment of evidence that did not support the conclusions they favored. That is an important reason why their findings don't deserve the unquestioning acceptance they have received from the mainstream media. Neither investigation found any evidence that Foster died in the park. That was why Starr conducted a third search for the bullet that lasted seven weeks in the fall of 1995. It was an expensive but fruitless effort to find something to prove the fatal shot was fired where the body was found.

The failure of that search enhances the credibility of the evidence that Foster's body was moved--the movement of the head, the absence of skull fragments, brain tissue, blood spatter on the vegetation and dirt on Foster's shoes and those eyeglasses that supposedly bounced some 19 feet down the berm.

In addition to this physical evidence, there are the statements of witnesses who said they saw three men behaving suspiciously in the Fort Marcy parking lot within 75 minutes before the discovery of the body. Patrick Knowlton told the police and FBI he encountered a man in the parking lot behaving suspiciously at 4:30 p.m. In addition, Knowlton told them he saw a briefcase in Foster's car, as did two paramedics, and that Foster's suit jacket was draped over the back of the driver's seat, not folded on the passenger seat as it was when the police arrived. He also said that the driver's seat was in the forward position, which suggests that the 6'4" Foster was not the last person to sit in it. The Park Police do not acknowledge having seen, much less recovered a brief case. Knowlton's description of the man's behavior suggests he may have been a lookout. A couple who parked in the parking lot at around 5:15 p.m., say they saw a man sitting in Foster's car and another standing beside it with the hood up.[14]

The man and woman were still in the park when the police arrived and were questioned on the spot. The police report did not associate the two men with Foster's car, but the FBI FD-302 did. Nevertheless, the Fiske's report said that they had not "observed anything unusual."[15]

The White House Connection

Arthur Ochs Sulzberger, the chairman of The New York Times Co. won't publish undisputed facts about the evidence in the Foster case because they don't want to accuse the President of involvement in a heinous crime without some substantial information. The evidence that Foster did not die in Fort Marcy Park does not necessarily implicate the White House in his

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[13] FBI Notes, p. 52 and SBCH., p. 1383

[14] SBCH, p. 1470 and 1474

[15] *Ibid.*, p. 210

death.

However, questions have been raised about why the investigation was left in the hands of the Park Police, an organization not known for its expertise in handling possible homicides, which is how any death of this type should be treated until there is enough evidence to rule it out. The stated reason for leaving the investigation to the Park Police was that the body was found in a Federal park, but a Bureau of Alcohol, Firearms and Tobacco memo dated Aug. 11, 1993, about a Park Police request for lab support says, "Due to the sensitivity of this case, the US Park Police is conducting the investigation into this matter."[16]

This suggests that the sensitivity of the case precluded it being turned over to the FBI, which would have been the most logical course. The FBI is said to have the best crime lab in the world, but the Park Police conspicuously refrained from asking for its help. As a result, lab work that should have been done before the case was closed was not done for nearly a year.

Since the White House could have ordered the FBI to take over the investigation, the failure to do so and the failure of the Park Police to seek any help from the FBI leads to the suspicion that perhaps the White House did not want the best investigation possible.

The evidence that the White House has lied about the time that it learned of Foster's death makes a strong case that it is hiding something. The White House claims it was not notified until 8:30 p.m., that some senior officials were not told until after 9:00 p.m. and that the President was kept in the dark until after he finished doing the *Larry King Live* show at 10:00 p.m. Evidence from Park Police notes and statements to the FBI and the testimony of David Watkins, the former Assistant to the President for Management and Administration, indicates that the Secret Service was notified as early as 6:40 p.m.

. Why would the White House lie about the time it learned of Foster's death? Such a lie could be discovered and exposed very quickly if there were a thorough investigation. What would justify taking such a risk, especially when it includes the pretense that President Clinton was the last to know? One possibility is that the president didn't want to cancel the King interview, and so he had to pretend that he knew nothing about the death, even to the point of offering to extend the interview an extra half hour. But that seems too frivolous a reason to justify a deception that could backfire and cause a lot of damage.

A more plausible reason is found in the report that Rose Precupio, a CNN employee who applied President Clinton's make-up for his appearance on *Larry King Live*, told the FBI that a man entered the White House map room while she was applying the President's make-up and said that a note had been found in Foster's office.

This makes the lie about when the White House learned of Foster's death understandable. Keeping the death secret for one or two hours gave them time to conduct a secret search of Foster's office. If, by chance, word of the search leaked out, all the senior officials, including the president, could deny knowing anything about it, claiming they didn't even know Foster was dead.

It may be relevant that Patsy Thomasson appears to have met with Secret Service MIG personnel who logged in to go to David Watkins' office at 19:10 on July 20 and logged out

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[16] SBCH, p. 2057

at 19:44. The log shows "Thomison" entering at 19:05 and "Tomlinson" leaving at 19:44.[17] The Secret Service says that MIG stands for Maintenance and Installation Group and that they service the alarms. Thomasson and members of the MIG team have not been questioned about the purpose of this meeting. It is possible that the group's assistance was needed to facilitate the search of the office.

Perhaps the most intriguing mystery in this case is the fate of the two manila envelopes that Foster's secretary, Deborah Gorham, says she saw in the safe used by both Nussbaum and Foster. One was addressed to Bill Kennedy, "For Eyes Only," and the other to Attorney General Reno. People don't normally send mail to their close friends and law enforcement officers by putting it in an office safe. They may do so if they think their life is in danger as a form of insurance. Kennedy told the committee no such envelope was ever delivered to him. There is no record of Janet Reno being asked if she got the one addressed to her. The contents of those envelopes might have cast light on Foster's death. Everyone who had access to that safe should have been questioned about when they last saw those envelopes and what became of them.

Unless an investigation confirms that there was an early search, that will forever remain in the realm of speculation, but the evidence that senior officials at the White House have lied about when they were informed of Foster's death is well documented. The table below makes this clear.

One of the first thing the Park Police officers did at Fort Marcy Park was get a check on the license tags of Foster's car. This gave them Foster's name and Little Rock address, which was written in Sgt. John Rolla's notes along with a description of the car. Immediately below that Sgt. Rolla scrawled, "Lt. Walter, 395-4366," and below that Foster's Washington phone number and street address.[18]

When Rolla was interviewed by Senate Banking Committee investigators he was asked who Lt. Walter was. This dialogue that ensued.

A It could be Lt. Danny Walters.
Q Who is that person?
A He is a lieutenant on the Park Police. I don't know. Call this number and find out.
Q You don't recall who it is?
A I don't know. Maybe this is a Secret Service guy. Maybe I called him. I don't remember, but I don't remember. I don't remember. I say, let's call the number and find out now, and then we'll know. 395-4366. I don't know if that's a car phone or what it is....It ain't a personal number anyway.
Q Do you recognize the exchange?
A No, but I know there would be no personal numbers with "lieutenant" in my notes.[19]

When we called the number, we got the U.S. Secret Service Presidential Protection Division, and we found that Lt. Danny Walter worked there. We see no evidence that any official investigators made that discovery. Sgt. Rolla's agitated response suggests that he was under

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[17] *Ibid.*, p. 4214

[18] *Ibid.* p. 488

[19] *Ibid.*, pp. 474-475

instructions not to disclose that one of the first things he did at Fort Marcy was to call Lt. Walter, inform him of Foster's death and obtain Foster's phone number and home address. It would not have taken a Sherlock Holmes to learn that Foster worked at the White House. His White House photo ID was lying on the front passenger seat of his car beneath his suit jacket. All the police had to do was open the unlocked door and pick up the jacket.

Paramedic Richard Arthur told the FBI he observed the police entering Foster's car and looking for his ID before he and the other rescue workers left the parking lot at 6:37 p.m.[20] He told a reporter that they knew that Foster worked at the White House before returning to the firehouse. Their superior officer, Lt. William Bianchi, told the FBI that he heard from the returning crew that the victim had been a White House employee and that he had therefore instructed them to make their reports more detailed than usual.[21]

Sgts. Braun and Rolla say they arrived at the park at about 6:35 p.m. The FBI notes of their interview with Rolla say that Franz Ferstl, the second officer to reach the park, briefed Rolla, giving him the information from the license tag check. If Richard Arthur is right, Ferstl or another officer presumably informed Rolla that Foster was with the White House, but Ferstl's FD-302 does not show that he gave Rolla the license tag return or the the White House connection. In any case, it is clear that someone gave Rolla Lt. Walter's name and number, and he apparently called him immediately and obtained Foster's Washington address. The precise time of the call should be obtainable by getting the phone records and by questioning Lt. Danny Walter and obtaining any written record that he may have made concerning the call and what he did with the information. There is nothing in the record that indicates this has been done.

The Secret Service undoubtedly promptly notified an administration official. Lt. Patrick Gavin, who told the FBI that he notified the Secret Service (but at 7:40, not 6:40 p.m.) said he promptly got a call back from Bill Burton, the assistant to Chief of Staff Mack McLarty. David Watkins, Assistant to the President for Management and Administration, has acknowledged that he learned of Foster's death long before 8:30 p.m. He told the Senate Whitewater Committee that at 10:30 p.m., he knew the Secret Service had known of Foster's death "for some five hours." He has said that was a rough estimate. Four hours would be closer to the truth, since the police didn't find the body until 6:14 p.m.

Watkins has said that the Secret Service beeped him shortly after he went to a theater to see a movie which records show began at 6:25 p.m. He was informed of Foster's death, and he testified that he immediately called Bill Burton, assistant to the chief of staff, and asked him to inform Mac McLarty. We must presume that others who were notified promptly would include Bernard Nussbaum, Bruce Lindsey and Patsy Thomasson. No FD-302s that include questions about the Foster death have been released for McLarty, Thomasson, Nussbaum, Livingstone and Butler. It is hard to believe that these individuals were not interviewed by the FBI and asked when they heard about Foster's death. Bruce Lindsey was. The agent's handwritten notes show that Lindsey claimed that he didn't learn of Foster's death until after 9:00 p.m. That is blacked out in the FD-302.

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[20] *Ibid.*, p. 1383

[21] *Ibid.*, p. 1365

TABLE 1
TIME LINE CHART

TIME (p.m.)	POLICE, MEDICS	WHITE HOUSE	TIME (p.m.)	WHITE HOUSE
6:14	Foster's body found, car in pkg lot with White House photo ID on seat		**8:15 to 8:30**	Wm. Kennedy told of death by Craig Livingstone. Both go to morgue.
6:30	License tag check returns Vincent W. Foster, Jr's. (VWF) name and Little Rock (LR) address	Movie David Watkins went to see begins. He was beeped shortly after and informed of Foster's death	**8:30**	USSS memo says Lt. Wolz told of VWF death by Gavin. Says Watkins and Livingstone notified.
6:37	Medics leave, some say knew Foster was White House employee		**8:50 (approx.)**	CNN make-up girl hears man tell Clinton note found in Foster office.
6:40 (est.)	Det. Rolla calls Lt. Danny Walter, Pres. Prot. Div. USSS.Gets VWF's DC address		**9:00**	Livingstone says USSS tells him VWF dead. Clinton begins Larry King Live interview.
6:45 (est.)		Watkins beeped. Told Foster dead, calls Bill Burton.	**After 9**	McLarty, Bruce Lindsey learn of VWF's death
7:00	Sgt. Braun says she finds WH ID. Asks Bill Watson to notify Lt. Gavin.	Trooper Perry says Helen Dickey, Chelsea's nanny, calls gov. Mansion	**9:50 (approx.)**	Clinton offers to do King show for extra 30 minutes
7:20 - 7:30	Braun says she learns Watson did not call Gavin. She does	in LR about Foster's death sometime between 5:30 and 8:00	**9:55**	McLarty tells Clinton he can't stay on show longer.
7:30 -7:40	Gavin says he calls Secret Service		**10:00**	Clinton told of VWF's death
7:40 - 7:50	Bill Burton calls Gavin, asks if gun was traced.		**10:30**	Helen Dickey says she called gov mansion in LR

The Confused and Conflicting Stories of the Park Police Officers

Three Park Police officers who were questioned about when they discovered that Foster was a White House employee and when they notified the White House told inconsistent and contradictory stories. Lt. Gavin, the senior officer at the scene, told the FBI that he arrived at 6:30-6:45 and remained there for 40 to 45 minutes. That means he left at 7:10 at the earliest and at 7:30 at the latest.[22] He also said he left before Foster's White House ID was found. That presented a problem, because Sgt. Cheryl Braun told the FBI she found the ID at around 7:00 p.m., and since Gavin had left, she asked another officer, William Watson, to call Gavin and inform him. She said she learned 20 or 30 minutes later that Watson had not called Gavin, and so she did so herself at around 7:30 p.m.[23] If Gavin was still on the scene at 7:10 p.m., Braun's story is exposed as a fabrication, and it becomes impossible to stretch out the time the White House was notified of Foster's death much beyond 7:00 p.m.

TABLE 2
GAVIN, BRAUN AND ROLLA STORIES COMPARED

Lt. Patrick Gavin	Sgt. Cheryl Braun	Sgt. John Rolla
6:30 - 6:45 Arrived on scene. Notes say he remained 40 or 45 minutes	**7:00 Found Foster's ID under jacket on front seat**	**6:40 (est.) May have called Lt. Danny Walter, USSS re VWF death**
7:10 to 7:30 Left scene. Says it was before VWF's WH ID was found.	**7:01 (est.) Told officer Bill Watson to call Gavin about White House connection**	**8:00 He searched Foster's car. Says jacket folded over back of seat. Found his ID**
7:30 to 7:40 Called Secret Service within 10 minutes of getting Braun's call	**7:20 to 7:30 20 or 30 min. later learned Watson hadn't called Gavin. She did.**	**8:05 (est.): Someone called Communications. Doesn't know who. FBI notes say he said it was Braun.**
7:40 - 7:50 Bill Burton called him within 10 min. after he called Secret. Svc.		

Sgt. Rolla made matters worse by telling the FBI and the Senate Banking Committee investigators that he personally found Foster's ID after he finished helping bag the body at 8:00 p.m. and

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[22] FBI Notes, p. 130. FD-302 says 30 to 45 minutes, SBCH, p. 1555

[23] FBI Notes, p. 251

suggested that the Secret Service be notified.[24]

Since Foster's ID was one of the easiest piece of evidence to find at the scene and since the FBI knew there was reason to believe that the police had found it by 6:40 p.m., why would they alter Gavin's time line to make it conform to Sgt. Braun's story? I suggest that it is for the same reason that they gratuitously added 15 minutes to the time Sgt. Braun told the agent she called Gavin. The agent's notes show her saying that she learned of officer Watson's failure to call Gavin "20 or 30 minutes later," but that is crossed out and "30 minutes" is substituted. In writing up the FD-302, the agent added an extra 15 minutes, saying Braun called Gavin "at approximately 7:30 - 7:45 p.m."[25] It appears that both the Park Police and the FBI agents working for Fiske were trying to narrow the gap between the time the White House says it learned of Foster's death and the time the Park Police notified the Secret Service. John Rolla made the most heroic effort, claiming that they didn't know who Foster was until after they had put him in a body bag at 8:00 p.m.

That was a bit too much for Cheryl Braun, who had taken responsibility for the investigation at the parking lot. She couldn't justify not opening the car door until nearly two hours after the body was found. Even 7 o'clock would be a stretch. Nothing about this story rings true, including the claim that the task of calling Gavin at 7:00 p.m. was given to an officer who was apparently there as a spectator. William Watson was never interviewed by the FBI to see if he really fumbled the one assignment he was allegedly given that night..

Sgt. Rolla really gave the game away when he admitted to the Senate Banking Committee investigators that he may have called Secret Service Lt. Danny Walter after having denied talking to them at all. Asked if he knew who called the Secret Service, Rolla replied, "No, Lt. Pat Gavin was on--he may also have been on the scene when we got there or he came later, I am not sure. We talked to him. Someone called communications. I don't know who it was." Asked if he had ever heard anything from the Secret Service, he said, "No, I didn't talk to them at all."[26]

It appears that he started to say that Gavin "was on the scene," before catching himself and grasping for some reason to have mentioned his name. Instead of Braun calling Gavin, he has some unknown person calling communications. But he told the FBI that Sgt. Braun called the White House communications center and asked them to notify the Secret Service.[27]

The Park Police would have us believe that it took them 45 minutes to find Foster's White House ID on the front seat of his car and another 30 to 40 minutes to notify the Secret Service of Foster's death. But even this incredible delay still leaves a 50-minute gap between the time Gavin says he called the Secret Service and the time the White House says it was first notified. That's better than an hour and 50 minutes, but one has to wonder why neither the media nor the opposition party has shown any interest in investigating a gap six times as long as the gap in the Nixon tapes and ten times as significant because it involves the collusion of the White House and three law enforcement agencies in trying to conceal or minimize it.

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[24] *Ibid.*, p. 393

[25] *Ibid.*, p. 1625

[26] *Ibid.*, p. 395

[27] FBI Notes, p. 197

Records That May Show When White House Was Notified

The FD 302's for Lt. Gavin and Sgt. Braun show clearly that the Secret Service was notified before 8:00 p.m., perhaps as early as 7:30. That should be enough to make the case that the White House claim that it was not notified until 8:30 p.m. is false.

But there is evidence that the notification could have been made closer to 6:30 p.m. This should be easily verifiable by ascertaining the time of apparent phone call to Lt. Danny Walter, USSS, from Sgt. Rolla and the time of phone calls from Sgt. Braun and Sgt. Rolla to Gavin and/or the White House Communications Center. The phone call that has received the most attention, the one from Helen Dickey at the White House to Governor's mansion in Little Rock, is less important because it would not pinpoint the precise time of the notification to the Secret Service. It would, however, indicate how early word of the death reached this low level member of the staff, perhaps exposing the absurdity of claims by the President and senior officials that they were the last to be informed. The Senate Special Whitewater Committee's Final Report says that it tried to get the phone records that would show the time of Dickey's call. It was unable to do so, having been told by Sprint, the long distance carrier, that records are kept for only the first six digits of the numbers called from the White House. It apparently made no effort to get any other phone records bearing on the time the Secret service was informed of Foster's death, including the time of Gov. Tucker's return call to the White House after getting Dickey's message.

Lies About the "Suicide" Note

One thing that is clear about the so-called Foster "suicide" note is that it was not discovered the way Associate Counsel Stephen Neuwirth described and demonstrated to the Senate Whitewater Committee. Neuwirth said he found the 27 torn pieces of paper in Foster's briefcase as he was putting it into a box for shipment to Mrs. Foster. When asked to demonstrate this with the briefcase, he picked it up and turned it on its side, as if he was putting it in carton

It was obvious that not a single scrap of paper would fall out of the briefcase when held in that position, but no one on the staff or the committee pointed that out. Neuwirth must have been trembling for fear they would ask him to put some scraps of paper in the briefcase and see how many floated out when it was turned on its side..

That casts doubt on the authenticity of the note and augments the importance of having it carefully examined to determine if it was written by Vincent Foster. That was not done. In fact, the White House went to great lengths to insure that no such examination would be made. Sgt. Larry Lockhart of the Capitol Police was asked to determine the authenticity of the note. He was shown one known sample of Foster's handwriting with which to compare it. The Capitol Police is highly vulnerable to political pressure, and Sgt. Lockhart no doubt knew what was expected of him. He said Foster wrote the note.. No outside experts were permitted to examine it. Photocopies were not made available to the press and public.

In May 1994, Robert Fiske tried to get the FBI to authenticate the note using 17 canceled checks as exemplars. Instead of saying, "You shouldn't ask us to make a judgment that would clearly be unprofessional," the FBI wrote, "Significant handwriting characteristics in common were observed which indicates the questioned writing...was prepared by Vincent Foster. A

qualified opinion is rendered in this case as the known writings of Foster are limited in quantity and not sufficiently comparable in word and letter combinations to the questioned writing. It is suggested additional normal course of business writings prepared by Foster be obtained for comparison to the questioned writings."[28] The message is clear: "We will give you what you want, but give us an exemplar that won't make us look unprofessional." One more canceled check and the one-page letter used by the Capitol Police sufficed to get the desired opinion.

When photocopies of the note were leaked to the press from Capitol Hill in July 1995, the Capitol Police sergeant, now retired, was engaged to judge its authenticity without being told what the document was. He was shown the words common to the note and to the exemplar he had used in 1993, all considerably enlarged, and he was asked to determine if they were all written by the same hand. He was able to correctly distinguish between those that came from the note and those from the exemplar. He was then shown the words in context, again enlarged, but without revealing the documents. He gave the opinion that the note was probably a forgery. The same results were obtained with another handwriting professional who was given the same test but declined to go public because a family member was employed by the federal government.

Subsequently, three certified handwriting experts were hired by James Dale Davidson of Strategic Investment newsletter to determine if the note was written by Foster. Working independently with twelve samples of Foster's known handwriting, they all found the note to be a forgery, and not a very good one.

The Senate Whitewater Committee noted in its Final Report that the FBI determined that the note was "written in Mr. Foster's hand." It did not describe the obvious impact of command influence on the FBI's opinion. It relegated the finding of the three independent experts to a footnote which said, "Because the White House and the Foster family's attorney did not provide the Special Committee with obtain (sic) original samples of Mr. Foster's handwriting, the Special Committee was not able to conduct an investigation into this matter." [29]

The evidence that the note was forged is stronger than the evidence that it was penned by Foster. More experts using more exemplars have ruled that it was a forgery than have ruled it authentic. The two who ruled it authentic were both vulnerable to command influence, and one of them unknowingly reversed his finding when he judged the handwriting "blind," i.e., without knowing whose writing it was supposed to be. We don't know who wrote the note, but it is clear that White House officials lied about its provenance. It was assembled on the conference table of the White House Counsel and the First Lady was invited to examine it before it was shown to anyone else.

Those who say Whitewater cannot be compared to Watergate may be right, but Fostergate is far worse. Its centerpiece is a mysterious death, whose investigation has been a mixture of farce and fraud on the part of the White House, the Justice Department, the U. S. Park Police, the FBI, the Secret Service, the Office of the Independent Counsel and the Senate Special Whitewater Committee, with the cooperation of virtually all of the media, both print and electronic.

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[28] SBCH, p. 2047

[29] Final Report of the Special Committee to Investigate Whitewater Development Corporations and Related Matters, June 17, 1996, p. 145

APPENDIX

1. Summary of evidence pro and con suicide-in-the-park/body-moved/foul-play theories.

2. Samples of Foster's known handwriting and words from so-called "suicide" note.

3. Footnotes.

APPENDIX 1

VINCENT FOSTER: SUICIDE OR FOUL PLAY?

Evidence Supporting Foster Death Theories

A. Supporting Suicide-in-the-Park Theory

1. Gun found in hand
2. Apparent gun soot on both index fingers
3. No sign of struggle
4. DNA DQ alpha 2,4, Foster's type found on muzzle of gun. (This type DNA is shared by 6% of Caucasian and 8% of blacks and Hispanics.) (Hearings, p. 1897)
5. Vegetation not trampled (according to police, trampled according toCW, the man who first found the body).
6. Evidence that he was in some kind of bind and was troubled.

B. Supporting Body-moved/Possible Foul Play Theory

1. Less than expected volume of blood on ground
2. No blood or tissue spattered on vegetation
3. No bone fragments found
4. No brain tissue observed
5. No bullet found
6. Eyeglasses found 19 feet from head with trace of gunpowder on them.
7. Unusual attitude of body (arms at sides, legs straight, face straight up)
8. Evidence that head had been in different position before photos taken
   a. blood on right shoulder (FBI lab report)
   b. blood transfer stain on right cheek and jaw, indicating contact with shoulder (FBI lab report)
   c. Blood stain on shirt in area of right rib cage (FBI lab)
   d. Blood on belt and one shoe (FBI lab)
9. No dirt or grass stains on shoes after 250-yard walk through the park
10. Gun found in hand, barrel partially under right thigh
11. Would have been very difficult to pull the trigger if thumb had been inserted beyond the first joint, where it was trapped between the trigger and the trigger guard.
12. Gun soot on both index fingers indicates gun had to be held with both hands over the cylinder--an extremely unusual, awkward and unlikely way in which to hold it.
13. Foster's fingerprints not found on gun.
14. No blowback found in gun barrel
15. No blood on gun
16. Gun not owned by Foster
17. Old gun (1913), untraceable with two different serial numbers
18. No ammo for gun in Foster homes, only 2 rounds in cylinder
19. No gunshot heard

20. Foster never seen alive in park
21. Ft. Marcy unknown to long-time residents, unlikely to be known to Foster
22. Foster's jacket, wallet with $292 left in unlocked car.
23. Would he have walked 250 yds. on hot, humid day, openly carrying 4" barrel revolver and not rolling up his shirt sleeves?
24. Would he have climbed over berm to sit on a dirt slope where his body might not be found for many hours?
25. Two men seen in and beside Foster car 30 minutes before his body was found who left his wallet intact may have been involved in moving his body or driving his car.
26. Suspicious behaving man seen in parking lot 75 minutes before body found may have been a lookout.
27. Foster's car, house and office keys could not be found in his pockets at scene, but were found in his pocket later at morgue after visit from White House staffers.
28. Semen in shorts, blond hair and fibers on much of his clothing may indicate activities inconsistent with depression-induced suicide.
29. Wound on neck observed by EMT Richard Arthur and on enhanced photos according to prosecutor Miquel Rodriguez.
30. Witness who saw possible lookout says driver's seat of Foster's car was in forward position. If true, the 6'4" Foster did not drive the car.

C. Evidence of Coverup

1. Investigation left in hands of ill-equipped, inexperienced Park Police
2. Formally declared suicide before forensic investigation completed
3. Most crime scene photos spoiled or lost
4. Medical examiner lied about reason he had no X-rays
5. Eyewitness testimony about suspicious persons in parking lot was seriously misreported and not acted upon.
6. "Suicide" note authenticated by U. S. Capitol policeman on basis of a single exemplar. He reversed his opinion two years later when asked to judge the writing in the two documents without knowing the source.
7. Fiske tried to get the FBI to judge the note based on inadequate exemplars--17 canceled checks. Response was a signal that they would give him the opinion he wanted if they were provided with more exemplars. On receipt of one more check and a single handwritten sheet of paper, the FBI declared the note authentic.
8. Three outside experts say note was forged.
10. Story about how note was found is patently untrue
11. No evidence of any effort to determine nature of the "bind" Foster's sister told Dr. Hedaya he was in 5 days before his death.
12. Collusion by Park Police, FBI, Secret Service, OIC and Senate Special Whitewater Committee in concealing correct time the White House learned of Foster's death.
    a. Park Police Lt. Patrick Gavin, who told the FBI he arrived at Fort Marcy at 6:30 - 6:45 and remained for 40 or 45 minutes, claims he didn't learn of Foster White

House connection until after he left even though paramedics on the scene said they knew by 6:37 and there is evidence that Sgt. Rolla called Lt. Danny Walter of the Secret Service at about that time. All the investigations have failed to examine this evidence or expose the holes in the stories told by the Park Police, the White House and the Secret Service.

b. Gavin claims he notified Secret Service by 7:40 and talked to Bill Burton of the Chief of Staff's office by 7:50 p.m., but Chief of Staff McLarty claims he didn't learned of Foster's death until after 9 o'clock and didn't tell the President until 10 o'clock.

13. Report of early search of Foster's office and discovery of note kept secret.
14. Foster's office searched and files removed the night of his death.
15. Police, FBI and Justice Dept. lawyers barred from searching Foster's office.
16. Index of files in drawer containing Clinton financial records missing.
17. Park Police report, autopsy report kept secret for nearly a year; "suicide" note withheld from public for over two years; crime scene photos, several FBI FD-302s and handwritten notes and backup memos all still secret; phone records still being withheld.
18. Three witnesses, including two EMTs, said they saw a briefcase in Foster's car. Police insist none was there.
19. Prosecutor Miquel Rodriguez, hired by Starr to investigate this case, resigned when Starr's deputy, Mark Tuohey III, began interfering with his conduct of the investigation. He told Starr that witnesses who had no incentive to lie were subjected to harsh questioning and requestioning, but he was told to back off when he was tough in his questioning of the Park Police.
20. A strong rumor that Foster and other senior administration officials rented or had the use of a house or apartment where Foster may have gone on the afternoon he died was blamed for a drop in the stock market when it was reported in the Johnson-Smick newsletter and aired by Rush Limbaugh. Fiske's FBI agents must have checked this out. One would expect it to have been discussed and dismissed--if it was found that there was no basis for the rumor. There is no mention of what they found in the Fiske report.

APPENDIX 2

Samples of Foster's Known Writing

So-called "Suicide Note" Samples

APPENDIX 3

FOOTNOTE SOURCES

29D-LR-35063

maintained that this search of the decedent's pockets took place after both he and Identification Technician Peter Simonello (USPP) took photographs of the decedent's body and the death scene area. In this regard, Investigator Rolla reviewed a series of polaroid photographs supplied by the USPP and advised that these polaroid photographs were a true and accurate representation of his observations of the decedent's body and the death scene at Fort Marcy Park on July 20, 1993.

In regards to the above noted polaroid photographs, which Rolla stated were a combination of the photographs he and Sergeant Edwards took at the scene, his attention was drawn to a transfer-like pattern of blood forming a straight lower margin at the right side of the decedent's neck and chin. Investigator Rolla advised that this blood pattern did give him some concern but believed that this blood pattern could possibly have occurred as a result of the decedent's head twisting or jerking at the time of death or for that matter could have resulted from activities performed by EMT personnel when they were checking for vital signs. Investigator Rolla reiterated that during the period he was at the death scene, he did not touch the body or observe anybody else touch the body prior to the completion of all death scene photography.

In addition to the above functions performed by Investigator Rolla, he advised that he physically checked the surrounding area of the death scene, which failed to reflect any footprints, tire tracks, or any trampled vegetation. He did advise however, that approximately 15 feet to the right of the 2nd cannon in an open area, he did observe an empty bottle of what he thought was wine cooler, with the bottle shaped similar to a Mistic shaped soft drink. To the best of his recollection, the label on the bottle was faded, was empty of any contents and appeared to have been at the location for a extensive period of time.

According to Investigator Rolla, at approximately 7:45 pm, Fairfax County Coroner, Dr. Donald Haut, arrived at the death scene and examined the decedent. Rolla recalls rolling the decedent's body over at which time he observed an extensive amount of blood on the back of the decedent's shirt and on the back side of his head.

no one had touched the body

. Chalk death scene which had been traced

. Body as was photographed

. blood on floor was starting to dry

. Pool of blood under head just starting to congeal.

. relative marks did see a foot tracks on a brush that had been traced out

. No other evidence of struggle

Body of head was straight with the eyes slightly open; arms at side & legs straight.

. External injuries — bruise across the body

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[L. in open was seen by
shot with black [illegible]
over him

. Clothes were strewn
neat with no sign of
struggle

. Found gun was in
right hand, & walked
to left shoulder of
body and closed over
body. Also saw gun
in [illegible] hand in
his right thumb held in
right hand with
thumb still in trigger
guard.

. Started toke [illegible] and
— and went to bottom of
hill & took photographs
of [illegible] with
some [illegible]
[illegible] partially covered

Foster's gun when "this portion of the right thumb is wedged between the front of the trigger and the inside of the front of the trigger guard of [Foster's gun] when the trigger rebounds (moves forward)." This mark is also consistent with the position of Foster's thumb in the trigger guard as depicted in the Park Police photographs. Lab Report, at 7.

B. **Chemical Analysis**

Ball shaped gunpowder was found in scrapings from Foster's shirt and undershirt. The FBI Lab found this gunpowder to be physically and chemically similar to the powder found in the empty cartridge case in the gun. In addition, chemical testing of Foster's shirt resulted in a positive reaction for the presence of lead residue. The presence of the residues found on Foster's shirt is consistent with the blast from the cylinder of Foster's gun when fired using ammunition of the kind found within that gun.

The FBI Lab further found one piece of ball powder on the eyeglasses recovered from the bottom of the berm, approximately thirteen feet below where Foster was found. This powder is physically and chemically similar to the gunpowder found in the cartridge case removed from Foster's gun. These facts are consistent with the eyeglasses being positioned near the gun when fired (such as on Foster's face or in his shirt pocket). One obvious scenario is that the eyeglasses were dislodged by the sudden backward movement of Foster's head when the gun was fired, after which the glasses bounced down the hill.

FEB - 7 1994

~~CONFIDENTIAL~~

MEMORANDUM TO: Director

FROM: Assistant Director
(Congressional and Media Affairs)

SUBJECT: Vincent Foster Suicide

Toward the end of the week of January 28, both the Chief, Public Affairs Branch and I received media calls concerning ATF's participation in the Vincent Foster investigation. We conferred with the Special Agent in Charge of the Washington Field Division and there was no knowledge on any of our parts that ATF had done more than attempt to trace the Foster firearm. This information had been made public at the time of the incident in 1993 and we confirmed that we had attempted to trace the firearm.

Inquiries on Monday, January 31, were based on U.S. Park Police statements that ATF had done further forensic work in this case. Attempts to contact our laboratory were unsuccessful on January 31 due to its evacuation because of a gas main leak. Contact was made with Lab personnel after close of business on January 31 and the Associate Director (Law Enforcement) made contact with the special agent in charge at the same time. At this time we did learn that the ATF laboratory in Rockville had done additional forensic examinations on the Foster firearms.

The request had been made directly to the Laboratory and not through the Washington Field Division.

The chronology that occurred with the Foster gun examination, according to the reports we have, is that the Park Police requested to use our laboratory during the week of the Foster suicide which occurred on July 20, 1993. The actual transmittal letter to the lab was prepared on August 12 and on August 16, a Park Police officer brought the evidence to the lab for examination. The ATF lab prepared a report of its findings which were sent to the Park Police on August 17

OIC 000813

00018

CODE	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
SUR. NAME	[redacted]						
DATE	2/4/94					(16)	

ATF F 1325.6A (1-80) CORRESPONDENCE APPROVAL AND CLEARANCE
REPLACES 1040 EDITION WHICH IS OBSOLETE

-2-

Director

On February 1, both the Office of Public Affairs and the Office of Enforcement were notified of this information. Also on that date, a draft statement was submitted to Treasury Public Affairs outlining our recommended statement. That statement confirms that we conducted additional forensic tests, that the tests confirm the findings of the Park Police as to cause of death and that release of any documents would be determined by the Justice Department, which is processing a Freedom of Information Act request from the media.

James O. Pasco

~~CONFIDENTIAL~~

OIC 000814

00019

BATF Memo re Gun Examination

Footnote 4 - A

NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE ☐

2 SYSTEM AREA	3 DATE DID IT OCCUR: MO	DAY	YR	4 YEAR	CASE INCIDENT NUMBER
United States Park Police	0 7	2 0	9 3	9 3	3 0 6 0 2

5 NATURE OF INCIDENT	6 RECLASSIFICATION OF INCIDENT
Death Investigation	Suicide

ITEM | 7 RESULTS OF INVESTIGATION

his father's death. A family member stated that it "looked like a gun that (they) had seen in (his) father's collection". According to the executor of Mr. Foster's estate there would be no record of weapons by serial number to document the collection. There was no record of a firearms registration current or pending for the weapon in the District of Columbia by Mr. Foster on the date of his death. An ATF trace revealed that the weapon, which bore two serial numbers, was last documented in legal transactions in 1913.

A handwritten note that the White House Counsel's Office reported they found on 7/26/93 and was turned over to this Department on 7/27/93 documents the observations of a very disturbed and overworked individual who sees himself as having failed the Clinton Administration. The note was examined by Mr. Foster's wife who declared that it was her husband's handwriting. The questioned document was compared, by an expert, to documents known to be handwritten by Vincent Foster. The expert's findings concluded: "Both the Known and Questioned Documents were completed by the same writer/author and that writer/author is known as Vincent W. Foster."

The delays presented by White House Counsel's Office and the circumstances surrounding the production of the "note" are being investigated by the Federal Bureau of Investigation and are not a consideration in the instant "Death" investigation.

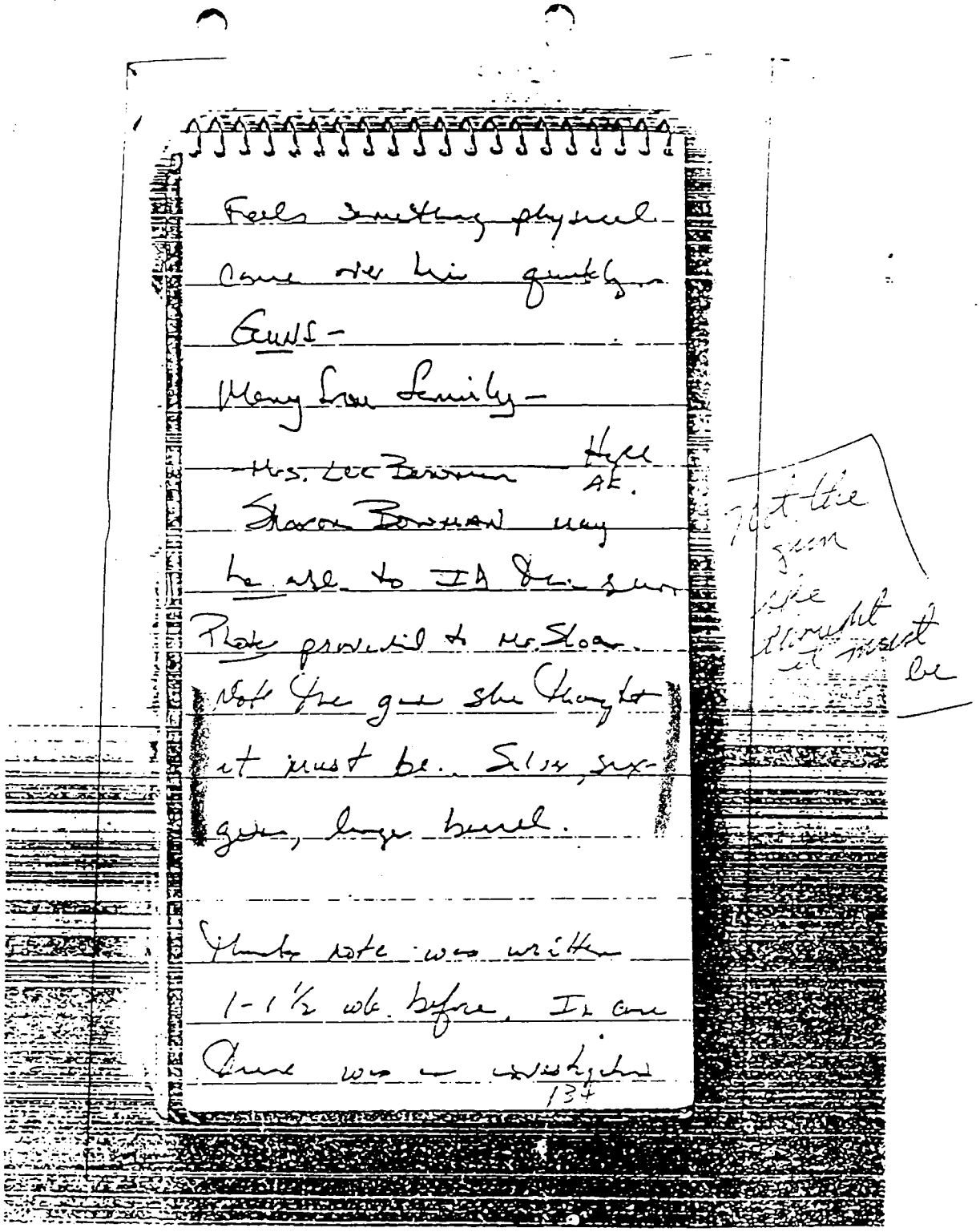
Based on the aforementioned synopsis of the facts and circumstances presented, the writer requests that the investigation be "Closed" and that the Manner of Death ruled as "Suicide".

8 WARRANT(S)	9	10 TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
☐ YES ☐ NO	☐ LATENTS ☐ PHOTOS			PAGE 2 OF 2 PAGES

13 STATUS: ☐ OPEN ☐ SUSPENDED | CLOSED BY ☐ ARREST ☐ EXCEPTION ☐ UNFOUNDED | 13

14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID	DATE	16 SUPERVISOR	BADGE/ID	DATE
			[signature]			[signature]		8/5/93

Detective Markland's Memo of 8/5/93 Recommending Case Be Closed Footnote 4 - B

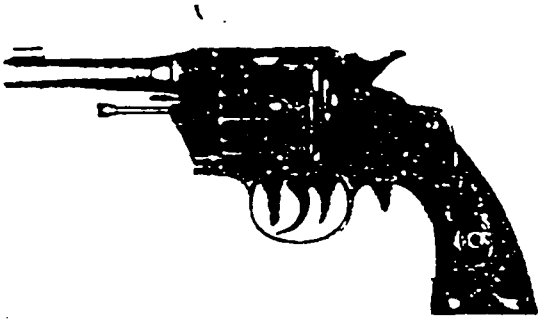


Feels something physical
Come on his guilty
Guilt -
Mary Lou Lucky -
Mrs. Lee Bowman Hyll AL.
Sharon Bowman may
be able to ID Gun
Rob provided to Mr. Sloan
Not the gun she thought
it must be. Slim, six-
gun, huge barrel.

Shoe note was written
1-1½ wk before. Is one
Size was a Washington
13

Detective Markland's Notes of Interview of Lisa Foster

Footnote 5



[illegible]

Last night I visited with [Mrs. Sharon Foster Bowman] and asked [her] if she could identify the pistol in the photograph you had given me last week.

[Mrs. Bowman] said it looked like a gun [she] had seen in [her father's] collection. [She] particularly pointed out the "wavelike" detailing at the base of the grip.

I asked if [she] remembered any other features. She did not.

I am returning the photograph along with this letter. I will provide copies of this letter to [Mrs. Bowman and Jim Hamilton.]

Yours Truly

[John C. Sloan]

840 Savers Federal Building Capitol & Spring Sts. Little Rock, Arkansas 72201. Telephone 501-376-6681

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Sharon Bowman's Statement on Gun Based on Photo, John Sloan Note. Footnote 6

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29D-LR-35063

CONFIDENTIAL

Washington, FOSTER saw the gun and commented on it. LISA FOSTER had not had a prior conversation with FOSTER about bringing a gun to Washington, D.C., but she argued with FOSTER when the gun was unpacked. LISA FOSTER told FOSTER that she did not want any guns in her house in Washington.

LISA FOSTER is not aware of any photographs which may be kept in Arkansas which would depict the guns owned by FOSTER's late father. She is only aware of snapshots of family members going hunting.

LISA FOSTER is not aware of any records from the elder MR. FOSTER's estate which might describe the firearms he had owned. She is aware of a handwritten note from the elder MR. FOSTER regarding the disposition of his property after he passed away. According to this note, all of the elder MR. FOSTER's guns were left to FOSTER and a diamond was left to LISA FOSTER. After the funeral for FOSTER's father, FOSTER went down to his father's house and retrieved the guns. LISA FOSTER believes that there were approximately three to five handguns included in the guns retrieved by her husband. She believes that her husband obtained all of the guns which were left by FOSTER's father.

LISA FOSTER does not know where her husband kept the guns left to him by his father while the FOSTERS were still living in Little Rock.

LISA FOSTER believes that the shotguns from the estate of the elder MR. FOSTER are currently in the possession of her brother-in-law, who is the husband of her sister. SHARON BOWMAN, FOSTER's sister, has one handgun. LISA FOSTER believes that BERYL ANTHONY has one of the handguns from the estate here in Washington, D.C., but she has not asked ANTHONY that specific question.

FOSTER himself did not like guns. FOSTER's father had given guns to LISA FOSTER's sons, which displeased LISA FOSTER. LISA FOSTER also knows that FOSTER kept a gun in a closet in their home in Washington, D.C. LISA FOSTER was aware of the location of one gun inside her residence in Washington and she found that gun still in its usual location on the night of July 20, 1993. The gun which she found on that date was not the silver gun which she had earlier found in the trunk in Little Rock. LISA FOSTER believes that the gun found at Fort Marcy Park

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may be the silver gun which she brought up with her other belongings when she permanently moved to Washington. LISA FOSTER does not know with certainty, but she suspects that there were some bullets at the house in Washington, D.C.

Sometime within the last two weeks prior to July 20, 1993, LISA FOSTER told FOSTER to remove the guns from their house in Washington. FOSTER told LISA FOSTER not to remark about the guns in front of the boys. LISA FOSTER believes that she may have told her husband twice during that time to remove the guns, but she never checked to see if the guns had actually been removed.

LISA FOSTER assumes that ammunition was given to her husband in conjunction with his receipt of the guns from his father's gun collection, but she does not know for certain. She never knew FOSTER to buy any ammunition except for shotgun shells when he went hunting.

To the best of LISA FOSTER's knowledge, FOSTER never carried a handgun in his automobile. She never knew FOSTER to carry a gun with him to work. FOSTER parked his automobile in slot 16 on Executive Boulevard West whenever he was at the White House. LISA FOSTER knows that the trunks of vehicles are checked when the vehicles are driven onto the White House grounds. When not in use, the Honda was typically parked on the street adjacent to the FOSTER residence while the FOSTER family's Lexus was parked in a space behind their house.

LISA FOSTER believes that the guns which were brought by her family from Little Rock to Washington were transported on the moving van with their other belongings.

LISA FOSTER does not know where her husband might have obtained the two loose bullets which were discovered in the handgun found at Fort Marcy Park.

LISA FOSTER is not aware of any background information regarding her husband's possession of guns which could assist in tracing the gun found in his hand at Fort Marcy Park. SHARON BOWMAN told LISA FOSTER that FOSTER's father kept a gun by his bed while he was still living, and LISA FOSTER believes that that gun may be the same revolver she was shown by the interviewing agents.

I. **The Gun**

The Park Police submitted the gun found in Foster's hand to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for testing. ATF identified the gun as a .38 caliber Colt revolver. The gun contained two different serial numbers, indicating that it was assembled with parts from two different guns. The only available records indicate that guns bearing those serial numbers were purchased in 1913.

When shown the gun, Foster's sister, Sharon Bowman, identified it as appearing very similar to the one their father had kept in his bedside table, specifically recalling the pattern on the grip. When her father fell ill with cancer in 1991, Bowman moved this gun and others in her father's collection into a closet within her father's house. In 1991, shortly after her father's death, Bowman showed Foster where she had put the guns and Foster removed them from the house.

Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington. Foster had packed a trunk prior to going to Washington but did not take the trunk with him. When Lisa Foster "repacked" the trunk for her own move to Washington in June, she saw the gun and brought it with the rest of her belongings.* Lisa Foster felt uncomfortable having a gun in their house, and twice asked Foster to remove it. On the night of Foster's death, she found a gun,

* Foster's children did not recognize the gun as one they had seen in their home.

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- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/5/94

LEE FOSTER BOWMAN, nephew of VINCENT FOSTER, JR. was interviewed at his place of employment, Barclay's Bank, 222 Broadway, New York City, New York 10038. He was advised of the identity of the interviewing agent and of the purpose of the interview. BOWMAN provided the following information:

He is the grandson of VINCENT FOSTER Senior who died in 1992, and nephew of VINCENT FOSTER, JR. who died July 20, 1993. When he was 10 to 16 years old (approximately), he used to go with his grandfather to a fishing club located in Millwood, Arkansas and a hunting cabin in Yellowcreek, Arkansas. On these occasions, which numbered about two or three per year, he would shoot some of his grandfather's firearms. His grandfather collected weapons and was a "big sportsman". BOWMAN recalled seeing that his grandfather possessed about 3 pistols/revolvers; about 4 shotguns; and two or three rifles. BOWMAN mostly shot a .22 automatic pistol that looked something like a luger. It had a dark barrel and wooden handle. He also shot a larger caliber revolver that his grandfather kept in a holster. He also shot a rifle and shotgun. BOWMAN said he knew the difference between a pistol and a revolver.

BOWMAN was asked if his uncle, VINCENT FOSTER, JR., ever accompanied him on these trips and he answered, "Maybe once". He could not recall any additional details regarding this.

BOWMAN went duck hunting with his grandfather at the Yellowcreek hunting cabin which was located between Hope, Arkansas and Texarkana. His grandfather taught him safety of the weapons. He remembered his grandfather keeping one of the handguns in a bedside table, one in his truck and one at the hunting lodge. He said when his grandfather died, his uncle inherited the weapons. This included at least a "couple of pistols" and a shotgun.

BOWMAN had no knowledge of his uncle VINCENT FOSTER, JR. bringing any of these weapons to Washington, D.C. from Little

Investigation on 6/28/94 at New York, New York File # 29D-LR-35063

OIC 000446

by _____ Date dictated 6/29/94

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FD-302a (Rev. 11-15-83)

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29D-LR-35063

Continuation of FD-302 of LEE FOSTER BOWMAN, On 6/28/94, Page 2

Rock, Arkansas with him when he joined the CLINTON administration.

BOWMAN was shown the .38 caliber colt revolver believed to have been used by VINCENT FOSTER, JR. on July 20, 1993 to kill himself. BOWMAN was asked if he recognized this weapon. BOWMAN said, "The gun does not ring a bell particularly". BOWMAN said the ".38 caliber" nature of the weapon was familiar, but that he didn't remember the black handle and the dark color of the metal. He indicated that he was familiar with the cylinder and barrel portion of this size or caliber of a weapon except for the color of the metal.

BOWMAN was asked if he could think of anyone else who could possibly identify his grandfather's firearms. He answered that probably other members of the hunting and fishing club and friends of his grandfather could do this. When asked to identify these individuals, BOWMAN said that there was a Dr. SYKES who was a dentist in Hope, Arkansas (his son is also a dentist). BOWMAN said he did not know if SYKES was still alive or not but that SHEILA or BERYL ANTHONY or his mother could probably help identify Dr. SYKES whereabouts. BOWMAN also said that his great uncle CHARLIE (last name not recalled) who lives in Yellowcreek, Arkansas may also be helpful. He further identified CHARLIE as being married to his grandfather's sister. BOWMAN also suggested that BERYL ANTHONY could possibly be of additional assistance.

The following description of BOWMAN was obtained through observation and interview:

OIC 000447

Lee Foster Bowman Statement on Gun - FBI Interview

Footnote 10

I. **The Gun**

The Park Police submitted the gun found in Foster's hand to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for testing. ATF identified the gun as a .38 caliber Colt revolver. The gun contained two different serial numbers, indicating that it was assembled with parts from two different guns. The only available records indicate that guns bearing those serial numbers were purchased in 1913.

When shown the gun, Foster's sister, Sharon Bowman, identified it as appearing very similar to the one their father had kept in his bedside table, specifically recalling the pattern on the grip. When her father fell ill with cancer in 1991, Bowman moved this gun and others in her father's collection into a closet within her father's house. In 1991, shortly after her father's death, Bowman showed Foster where she had put the guns and Foster removed them from the house.

Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington. Foster had packed a trunk prior to going to Washington but did not take the trunk with him. When Lisa Foster "repacked" the trunk for her own move to Washington in June, she saw the gun and brought it with the rest of her belongings.* Lisa Foster felt uncomfortable having a gun in their house, and twice asked Foster to remove it. On the night of Foster's death, she found a gun,

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* Foster's children did not recognize the gun as one they had seen in their home.

Y)

Took 2 or 3 photos; can't recall if he emptied & reloaded them; don't believe he did. Estimates he took approx 8 photos may have been less. At some point Sgt Edwards assumed control of both scenes. He thinks it was after he had figured out where photos were taken. Not sure who he gave polaroid photos to, could have been Sgt Edwards. By this time USPP CIB personnel had arrived on scene. Batt Nicholson CB & JR. Believes Sgt E told him to go back to Plant & help out. CB asked him to get names of any witnesses and try & find out what they were doing. Next went back to death scene a 3rd time. He recalls talking to a couple (W M+LF) who had been located in the park. They informed him there had been a truck in Pkng lot and that driver (no further description) had gotten out, walked into wooded area, came back out of it. He remained in the Pkng lot area til the ambulance arrived & removed the body. Remembers CB went thru area and found WH Identification. Remembers CB showing him a photo showing VA with the trunk open.

He was not present at Death scene when any official photos were taken

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FD-597 (Rev. 3-28-84)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 1 of 1

On (date) 5/2/94

Item(s) listed below were:
☒ Received From
☐ Returned To
☐ Released To
☐ Seized

(Name) Capt. Charles Hume
(Street Address) U.S. Park Police
(City) CITB - Aviation Op. Facility
Wash. DC

Description of Item(s):

5 Polaroids marked 1-2-3-4-5 depicting
1- Rear of Cannon
2- Heavily foliaged area
3- VF's body looking down from Top of berm
4- VF's body focusing on face
5- VF's body focusing on Rt. side shoulder/arm
(notation on back of 1→5 = from clear St. Elmo's Fire 7/20/93

5 Polaroids (Marked on back 7/20/93 1430 = 39502)
1- Driver Seat
2- Rear seat - driver side
3- Rear seat passenger side
4- Ft seat passenger side
5- Rear of Vehicle

8 Polaroids (Marked on back JCR 7/20/93 e3-39502)
1- Right hand showing gun + thumb in guard
2- glasses on ground
3- VF's body Taken from below + OUT
4- VF's body focusing on right side + arm
5- VF's body - focus on Top of head Trauma Area
6- VF's body - focus on head + upper torso
7- VF's face - looking directly down into face
8- VF's face - Taken from right side focusing

List of Polaroid Photos in Possession of Park Police — Footnote 12 - B

on his right
straight. Gun lying under his hand. Fingers not curled around. ~~Stock~~ Barrel and tucked under right leg. 100% sure automatic weapon (was in Army took at magazines, knows diff. btw automatic & revolver) appeared like 45 automatic. Right side glass like small caliber ~~bullet~~ hole (in between ear & top of chin). Didn't see any other bullet holes. Obvious DOA (Color, flies,) Didn't touch, nobody touch) 2-4 feet approach.

Didn't look like a suicide — straight laying out, gun bigger than hole, gun underneath leg. About 2 1/2 barrel under leg. Nobody there to claim as body. Call made from pay phone outside 5th Park HQ.) —

Gonzales called as suicide, Cory called as homicide. Detectives to first expedition.

— Wife not reported it directly into bldg. Maybe 1/2 mile north & west.

Police officers (Park Police) armed when called. Roping Shaved & officer where couple were. Don't know if couple was questioned.

Police took our names. Asian colored car & suit jacket & tie — police looking for id. On scene 30-40 minutes

Todd Hall - dying
Gonzales -
Somebody for surgical wings

Nobody called, (don't recall) Earth disturbed, clothes

FD-302a (Rev. 11-15-83)

CONFIDENTIAL

29D-LR-35063

Continuation of FD-302 of Richard M. Arthur, On 3/16/94, Page 3

ARTHUR estimated that from where the couple was they could have heard a shot, but would not have been able to observe anything in or heard voices from the vicinity of where FOSTER was found.

As ARTHUR returned to the parking area, GONZALES and HALL were running back also from the lefthand path and yelled that they had found the body. ARTHUR went down the path to take a look. He located FOSTER's body somewhat off the path, located such that if you were just walking the path you could miss it. Police were following ARTHUR to the scene. In ARTHUR's judgement, FOSTER was obviously dead and so he did not check for a pulse. He noted that the body was lying perfectly straight--like it was "ready for a coffin". A gun was lying on the ground under his right hand, with the barrel partially under FOSTER's thigh. He remembers the gun as being an automatic weapon of approximately .45 caliber. He noted what appeared to be a small caliber bullet hole in FOSTER's neck on the right side just under the jaw line about half way between the ear and the tip of the chin. He did not note anything else he thought might be a bullet hole. He did not touch the body and remained at a distance of two to four feet from it. He did not observe anybody touch the body. He did not observe anybody move the gun. As he left to return to the parking area, the U.S. Park Police were roping off the scene.

Once back in the parking area, the U.S. Park Police took all the EMT's names. He observed them gaining access to a cream colored car with a suit jacket and tie in it, looking for identification of some sort. ARTHUR was on the scene approximately 30-40 minutes.

ARTHUR does not recall seeing any footprints or disturbed earth around FOSTER's body. The deceased's clothes were not disheveled, the hill area was clean and there was nothing that struck him as unusual, except for the following things, which make him doubt that it was a suicide: the straight attitude of the body, the apparent caliber of the gun appeared bigger that the hole he thought he had observed just under the jawline, and that he remembered the barrel of the gun as being under FOSTER's thigh (possibly half-way). It also struck him as odd that the person who called authorities did not remain there

OIC 000038

FD-302 (Rev. 3-10-82)

~~CONFIDENTIAL~~

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/11/94

Judith DOODY was interviewed at her place of employment, was advised as to the identity of the interviewing agents and informed of the nature of the interview. She then provided the following information.

advised that she is presently employed as a and presently resides at In regards to her recollection of her activities on July 20, 1993, she furnished the following information.

stated that she left work late afternoon and in the company of a close friend, , drove to Fort Marcy Park in her white Nissan , arriving at Fort Marcy Park sometime between 5:15 and 5:30 p.m. To the best of her recollection, she maintained that upon entering the parking lot at Fort Marcy Park, she noted that the only vehicle in the parking area was a relatively old (mid-1980's) Honda, possibly a Honda Accord, either tan or dark in color, parked close to the entry of the parking lot, adjacent to a path leading to the Northern section of the park. believed that this particular Honda was parked with the front of the vehicle facing the park area and to the best of her recollection, believes a white male was seated in the driver's seat of this particular vehicle. Although she was extremely vague on the description of this individual, she believed the occupant had dark hair and could have been bare-chested. After passing this particular vehicle, she drove approximately mid-way into the parking area, backing her Nissan into a parking space.

further related that shortly thereafter she noticed a white van or truck enter the Fort Marcy parking area backing into a parking space located between the aforementioned Honda and her vehicle. She stated she then observed the driver of this van or truck exit the vehicle and proceed to the rear of the vehicle where the driver opened the

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Investigation on 4/7/94 at Washington, D.C. File # 29D-LR-35063

OIC 000116

by Date dictated 4/7/94

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/11/94

MARK FEIST was interviewed at his place of employment,

Mr. was advised of the identities of FBI Agents and and informed that the agents wished to speak to him concerning an ongoing investigation into the death of Vincent Foster. Mr. provided the following information.

He stated that on July 20, 1993, a friend of his, picked him up at his place of employment at approximately 4:30 p.m. was driving her car, a white late model 4-door Nissan with Maryland license tags and a blue interior. He and drove directly to Fort Marcy Park where they planned to spend some time and enjoy a late picnic lunch.

They arrived at Fort Marcy Park at approximately 5:00 p.m. As they drove into the parking lot, he observed a vehicle, possibly a small station wagon or "hatchback" model, brownish in color, parked to his left. The vehicle was parked close to the path leading up to Fort Marcy, with the front of the car pulled into the parking space. The hood of the vehicle was up and a white male was standing in the vicinity of the vehicle. He described the white male as in his mid- to late 40's, approximately six feet in height, medium build, long blonde hair and beard, appeared unclean and unkept.

He and parked toward the end of the parking lot and remained in their car for approximately ten to fifteen minutes talking. While still in their car, a white van pulled into the lot and parked a few spots from them (front end first), between their vehicle and the brown vehicle.

Investigation on 4/5/94 at Washington, D.C. File # 29D-LR-35063

OIC 000120

by Date dictated 4/11/94

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revolver, was found to contain one unexpended cartridge and one cartridge case from which a bullet had been fired.

While one group of Park Police officials continued to examine Foster's body, others conducted an inspection of the cars in or near the parking lot. When the Park Police and EMS personnel first arrived, they observed three cars within the Park. The first was a blue Mercedes flashing its hazard lights, located just inside the entrance to the Park. This car belonged to a woman who had pulled into the Park late in the afternoon when her car had begun to malfunction. She immediately left the Park on foot and a tow truck arrived to pick up the car at approximately 7:00 p.m.

The second car, a white Nissan Stanza parked near the rear of the parking lot, belonged to another woman who drove to the Park with a friend at approximately 5:00 p.m.* They were still in the Park when located by the Park Police a short way down a path leading south from the parking lot. Neither individual heard a gunshot while in the Park or observed anything unusual.

The third car, a grey 1989 Honda Accord with Arkansas license plates, was parked in one of the first spaces on the left near the entrance of the parking lot. The car was registered to Vincent Foster. Park Police Investigators observed a suit jacket that matched the pants worn by Foster, neatly folded over the passenger seat of the car. In the jacket was Foster's White House identification. The keys to the car were located in Foster's pants

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* CW accurately described the location and description of this car.

RCS ATF R 3270.1

DEPARTMENT OF THE TREASURY- BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

REPORT OF INVESTIGATION (Law Enforcement)

1. INVESTIGATION IS: ☐ ROUTINE ☒ SENSITIVE ☐ SIGNIFICANT

Page 1 of 1 pages

2. TO:
Special Agent in Charge
Washington Field Division

3. MONITORED INVESTIGATION INFORMATION (Number and Branch)
CIP: WASHINGTON FY-93
NON CIP
REPORT 001 F-63593-24

4. TITLE OF INVESTIGATION
Foster, Vincent W.

5. INVESTIGATION No. (Include Suspect No.)
63541-93-2032-A

6. TYPE OF REPORT (Check applicable boxes)

X	PRELIMINARY		COLLATERAL (Request)		
	STATUS		COLLATERAL (Reply)		
	FINAL		INTELLIGENCE		
	SUPPLEMENTAL		REFERRAL (Internal)		

7. BUREAU PROGRAM

X	TITLE I	FIREARMS	
	TITLE II		
	TITLE VII		
	TITLE II	EXPLOSIVES	
	TITLE XI		
	TOBACCO		
	ALCOHOL		

8. PROJECT(S)

	TARGETED OFFENDER
	TERRORIST/EXTREMIST
	OCD
	ITAR
	SEAR
	OMO
X	OTHER (Specify) ACHILLES

9. DETAILS:

SYNOPSIS

This report relates to the investigation of Foster, Vincent W., White House Legal Counsel concerning his suicide on July 20, 1993 at Fort Marcy, McLean, Virginia.

DETAILS

On July 20, 1993 Foster, a high level official of the Clinton Administration, committed suicide. Due to the sensitivity of this case the US Park Police is conducting the investigation into this matter. During the week of July 19, 1993 US Park Police requested ATF's laboratory assistance in conjunction with their investigation of the Foster suicide.

PROPOSED ACTIVITIES

Request and obtain ATF Lab support for the US Park Police.

This investigation will continue and a status report submitted as appropriate.

ATTACHMENTS

ATF F 3100.7 - Case Summary
ATF F 3270.1 - Personal History/TECS Input

CONFIDENTIAL

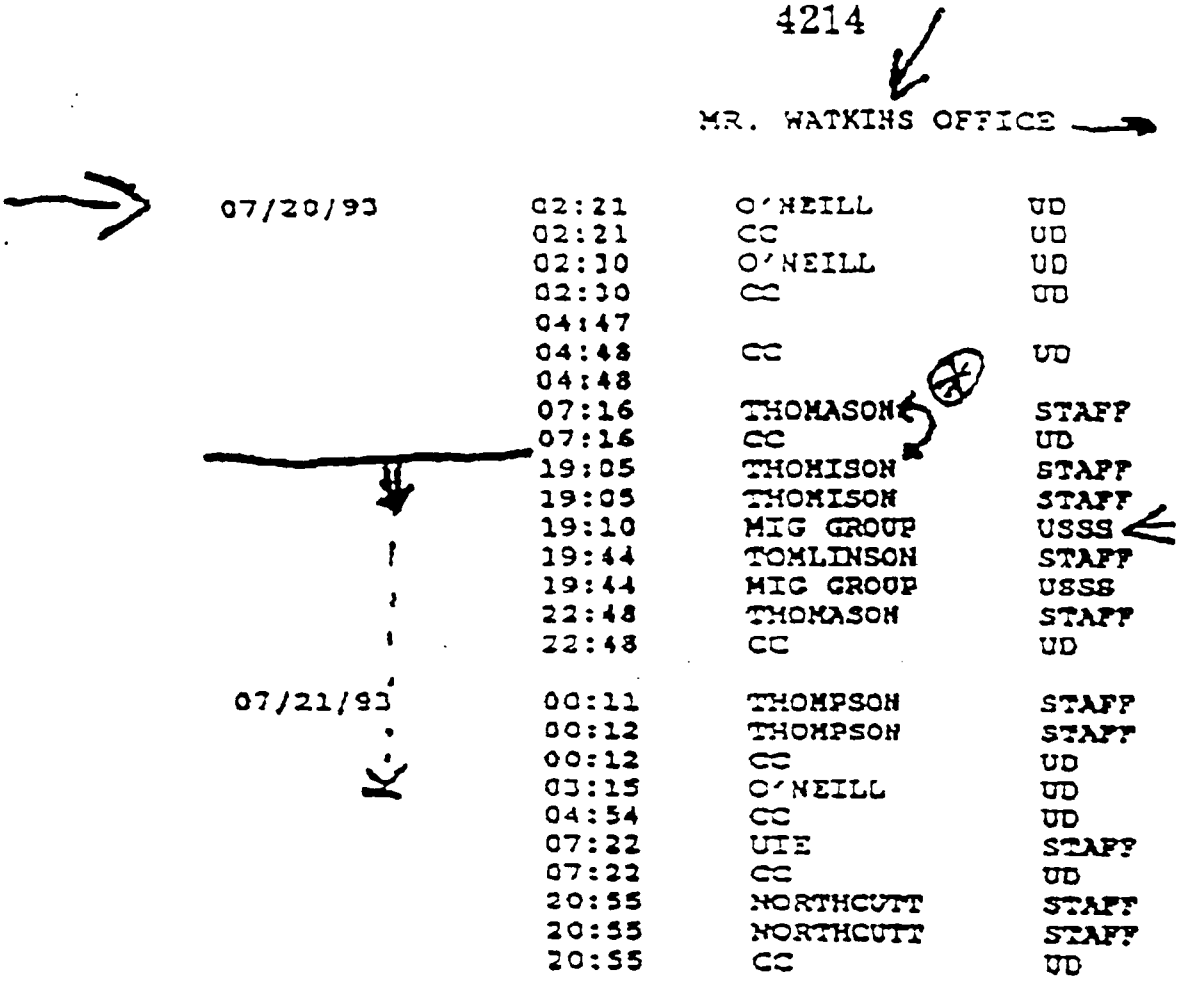
OIC 000799 00001

10. SUBMITTED BY (Name)	11. TITLE AND OFFICE	12. DATE
Elvis Acosta	S/A FC I, WFD	08/11/93
13. REVIEWED BY (Name)	14. TITLE AND OFFICE	15. DATE
Mark W. Potter	G/S FC I, WFD	/ /
16. APPROVED BY (Name)	17. TITLE AND OFFICE	18. DATE
Patrick D. Hynes	Special Agent in Charge	8/18/93

ATF O 3120.1 (5-93)

(2)

BATF Memo on Why Park Police Entrusted with Foster Investigation Footnote 16



Secret Service Log Showing MIG Group in Watkins' Office on Night of 7/20/93

Footnote 17

Exhibit 3

Vincent Foster, Jr.
5414 Stonewall Rd.
Little Rock, Ark
72207
87 Honda. 4dr
Grey
Lt metallic
375-4366

202-337-8103
5027 Cathedral Ave.
NW.

for

Sgt. John Rolla's Notes re Lt. Walter

Footnote 18

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coming out of the woodwork. We still get faxes from this guy in North Carolina who is just, from what we have pretty much confirmed, a nut.

Q We have talked about SOPs all day. I want to just understand, when you say "SOP," what are you referring to?

A Standard operating procedure.

Q Are they written out, or do you mean the way that you guys typically conduct investigations or whatever it is the question referred to?

A No. There's no written guideline manual for CIB or criminal investigations. There's certain things that refer back to our general orders, such as press releases and that kind of thing, but as far as a written guideline to do this, don't do that, coming out with guidelines in different cases, basic guidelines, which is really basic for new investigators that come in, having never worked an investigation, and what they do on the scene. But as far as the investigation goes, you have to kind of go with the flow and there are certain things that are standard that are office policy, but we don't have a written policy on a lot of office policies.

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Q The general orders you referred to, how detailed do they get with respect to conducting investigations?

A They don't get detailed. The general order investigations lists the type of crimes, when to call CIB and that the CIB detective investigator on the scene is in charge of the crime scene. That's as detailed as it gets.

Q Have you said anything or done anything or not said or done anything in an effort to protect the White House or Bill Clinton or anything like that?

A No, no.

MR. IVEY: Okay. That's it for me.

MR. DARMER: I just have one or question, two more questions.

(Rolla Exhibit 3 identified.)

EXAMINATION

BY MR. DARMER:

Q Officer, this is a copy of some of your notes that we were provided. Could you just take a look at one of the phone numbers in the middle of the page, I think it's just a seven-digit number.

A Yes. Lieutenant Walter?

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A It could be Lieutenant Danny Walters.

Q Who is that person?

A He is a lieutenant on the Park Police. I don't know, call this number and find out.

Q You don't recall who it is?

A I don't know, maybe this is a Secret Service guy. Maybe I called him. I don't remember, but I don't remember. I don't remember. I say, let's call the number and find out now, then we will know. 395-4366, I don't know if that's a car phone or what that is.

Q That person is going to be happy.

MR. IVEY: Yes, really.

THE WITNESS: It ain't a personal number anyway.

BY MR. DARMER:

Q Do you recognize the exchange?

A No, but I know there would be no personal numbers with "lieutenant" in my notes.

Q Finally, do you recall or do you know what the Park Police did to investigate the unidentified individual that supposedly saw the body and notified, started the sequence of calls that got the Park Police there?

A What we did was this: We have a white van, no

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tag number or state, I think it was a white van -- and the Park Service maintenance man took this description -- and we have got a white male, white van, possibly something on the side. I believe it was a white van.

Around evening time after work, he goes to that park. It's July, 90-some-degree day, he walks 2/10 to 3/4 of a mile to take a leak in the thick foliage. But with no one around, my guess is the man is out there, a homosexual, he is trolling, and he was going to pick somebody up. He thought he was lucky for a second, he saw a guy laying on the ground, but, unfortunately for him, Mr. Foster was already dead. This guy then observes what he observes, probably what he said he observed, he is married -- I would say he is probably married, maybe some type of construction guy in his 50s.

We went up in the park for a week or more every day during that time frame to try to see, and Turkey Run, other parks in the area that are known homosexual hangouts and tried to locate any kind of a van or vehicle that would fit that kind of a description and interview somebody. Again, we have no tag, nothing specific but a white-colored

Banking Committee Investigators Question Rolla About Lt. Walter Footnote 19

FD-302a (Rev. 11-15-83)

~~CONFIDENTIAL~~

29D-LR-35063

Continuation of FD-302 of Richard M. Arthur, On 3/16/94, Page 3

ARTHUR estimated that from where the couple was they could have heard a shot, but would not have been able to observe anything in or heard voices from the vicinity of where FOSTER was found.

As ARTHUR returned to the parking area, GONZALES and HALL were running back also from the lefthand path and yelled that they had found the body. ARTHUR went down the path to take a look. He located FOSTER's body somewhat off the path, located such that if you were just walking the path you could miss it. Police were following ARTHUR to the scene. In ARTHUR's judgement, FOSTER was obviously dead and so he did not check for a pulse. He noted that the body was lying perfectly straight--like it was "ready for a coffin". A gun was lying on the ground under his right hand, with the barrel partially under FOSTER's thigh. He remembers the gun as being an automatic weapon of approximately .45 caliber. He noted what appeared to be a small caliber bullet hole in FOSTER's neck on the right side just under the jaw line about half way between the ear and the tip of the chin. He did not note anything else he thought might be a bullet hole. He did not touch the body and remained at a distance of two to four feet from it. He did not observe anybody touch the body. He did not observe anybody move the gun. As he left to return to the parking area, the U.S. Park Police were roping off the scene.

Once back in the parking area, the U.S. Park Police took all the EMT's names. He observed them gaining access to a cream colored car with a suit jacket and tie in it, looking for identification of some sort. ARTHUR was on the scene approximately 30-40 minutes.

ARTHUR does not recall seeing any footprints or disturbed earth around FOSTER's body. The deceased's clothes were not disheveled, the hill area was clean and there was nothing that struck him as unusual, except for the following things, which make him doubt that it was a suicide: the straight attitude of the body, the apparent caliber of the gun appeared bigger that the hole he thought he had observed just under the jawline, and that he remembered the barrel of the gun as being under FOSTER's thigh (possibly half-way). It also struck him as odd that the person who called authorities did not remain there

OIC 000038

FBI Report of Interview of Paramedic Richard Arthur re Police Entering Foster's Car

Footnote 20

FD-302a (Rev. 11-15-83)

~~CONFIDENTIAL~~

29D-LR-35063

Continuation of FD-302 of WILLIAM JOSEPH BIANCHI, On 3/17/94, Page 2

with FCFRD personnel who had been on the scene of the FOSTER incident, but BIANCHI referred RUDDY to the FCFRD Public Information Officer (PIO). BIANCHI is not aware of RUDDY speaking with anyone from FCFRD other than two individuals, GEORGE GONZALES and COREY ASHFORD, who were quoted in a subsequent article. Approximately three days after RUDDY appeared at Station 1, an article under RUDDY's byline appeared in the NEW YORK POST and included quotes from GONZALES and ASHFORD of FCFRD.

BIANCHI's understanding of the FCFRD press policy is that any reporters contacting BIANCHI should be referred to the FCFRD PIO, who will contact BIANCHI and provide approval, as appropriate, for BIANCHI to speak with the media.

On the day of the FOSTER incident, BIANCHI was riding on Truck 1 as the officer-in-charge. BIANCHI normally rode on Engine 1, but on that day he allowed Sergeant JAY IACONE to ride on the engine in his place since IACONE was on the promotion list to become a lieutenant and needed experience on the engine. Therefore, when a call was dispatched for a person shot at Fort Marcy Park, BIANCHI was not among the personnel who responded immediately since Truck 1 was not dispatched on the call. BIANCHI was at Station 1 when the FCFRD personnel who responded to the initial call later returned to the station. BIANCHI heard two people who had been on the call, possibly TODD HALL and RICK ARTHUR, say that it had been a strange incident. BIANCHI also heard from the returning FCFRD personnel that the victim was deceased and had been employed at the White House. In particular, IACONE already knew that the victim had been employed at the White House when he returned to Station 1. When BIANCHI learned that the victim was a White House employee, he instructed HALL and IACONE to make their reports on the incident very detailed.

On the day of the FOSTER incident, JIM SUTTON was scheduled to be the driver on Truck 1. However, SUTTON was injured earlier in the day and was replaced as the driver by VICTORIA JACOBS. ANDY MAKUCH and BIANCHI were the other personnel on Truck 1. Engine 1 was staffed by RALPH PISANI, IACONE, and one other individual, name not recalled, on the bucket of the engine. Medic 1 was staffed by TODD HALL as the driver, Sergeant GEORGE GONZALES as the officer-in-charge, and RICK ARTHUR in the back of the unit. Ambulance 1 was staffed by COREY ASHFORD as the Emergency Medical Technician and ROGER

FBI Interview of Lt. Bianchi of Fairfax Fire Dept.
re EMT's Knowing Foster Was With White House

Footnote 21

FD-302a (Rev. 11-15-83)

~~CONFIDENTIAL~~

29D-LR-35063

Continuation of FD-302 of WILLIAM JOSEPH BIANCHI , On 3/17/94 , Page 2

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OIC 000020

FBI Interview of Lt. Bianchi of Fairfax Fire Dept.
re EMT's Knowing Foster Was With White House

Footnote 21

(2)

Called Steele's security at Dlay - they could offer no help

Took a look at body + scene
body was lying right on path that went down the berm
~~d~~ ~~th~~ ~~n~~ ~~t~~ ~~r~~ ~~i~~ ~~n~~ ~~t~~ ~~o~~ ~~f~~ ~~t~~ ~~h~~ ~~e~~ ~~c~~ ~~o~~ ~~m~~ ~~m~~ ~~o~~ ~~n~~. ~~H~~ ~~o~~ ~~d~~ ~~w~~ ~~a~~ ~~s~~ ~~n~~ ~~o~~ ~~n~~ ~~t~~ ~~h~~ ~~e~~ ~~d~~ ~~o~~ ~~o~~ ~~r~~ ~~s~~ ~~i~~ ~~d~~ ~~e~~
~~of the~~ Head was pointing up toward slope
There clearly was a path (not well worn) going down side of berm

Reviewed 13 photos polaroid death scene photos Only blood he recalls is trickle coming out mouth - don't recall blood coming from nose - nor does he recall blood on shirt. Only means a ~~cursory look~~ doesn't mean blood wasn't there. Could have been looked only from top of body - didn't get down from the top of berm approximately to the close look. Photos were taken later

Pointed out on photos that neck of Foster is hyper extended ~~outward~~ that EXIT

Could there have been body/head there out of common. would have to be out into trench? Common to see body
Saw no one move or touch Wolfday

Stayed in area approx 40 45 minutes observed people in area
Parking lot interviewed, car checked.

By time he left, civil. officer had arrived. (PS)

ID found after he left

Has WH ID discovered after he left scene. thought he might be a

stayed 40-45 minutes

13

FBI Notes on Interview of Lt. Gavin re Time He Arrived and Left

Footnote 22 - B

FD-302a (Rev. 11-15-83)

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CONFIDENTIAL

Continuation of FD-302 of LT. PATRICK STEVEN GAVIN , On 4/28/94 , Page 3

administering such an emergency procedure. LT. GAVIN stated that his investigative officers did take a series of 35mm and polaroid shots of the death scene. He stated that he was not sure if they took the 35mm or polaroid shots first, nor was he able to comment at what point in time these photos were taken.

LT. GAVIN stated that he stayed in the area for approximately 30-45 minutes, insuring that witnesses in the parking lot were interviewed and the vehicles in the parking lot were checked. By the time he left, the evidence officer, PETER SIMINELLO, had arrived on the scene. LT. GAVIN stated that he thought that the victim might possibly have been a government appointee because of the Arkansas tags. He noted, however, that the White House identification was discovered in the vehicle after he left the scene. To the best of his recollection, one of the detectives at the scene called him later in the evening, informing him that they had found White House identification for FOSTER. He stated that within ten minutes of receiving that call, he called the U.S. Secret Service, notifying them. LT. GAVIN stated shortly thereafter (within 5 to 10 minutes), MR. BILL BURTON, who identified himself as the Assistant White House Chief of Staff, contacted him by phone. LT. GAVIN stated that he asked for a callback number and was provided two numbers by BURTON; (202) 456-1414 and (202) 456-6797.

notes: 30-40 min.

LT. GAVIN states that to the best of his recollection, MR. BURTON first inquired about whether the U.S. Park Police had checked the registration on the gun that was used, asking if they knew whose gun it was. LT. GAVIN stated that he informed BURTON that the Park Police did not have such information. LT. GAVIN recalls that at about the same time he received a call from another White House staffer identified as DAVID WATKINS. As best he recalls, WATKINS also inquired about the weapon and to the best of LT. GAVIN's recollection, informed GAVIN that he was a personal friend of FOSTER's and wanted to be with the police officers when they made notification to the family.

LT. GAVIN stated that he kept notes of conversations and calls he handled that night and provided interviewing agents with a typed copy of his notes. Review of his notes by himself and interviewing agents confirms that on the night of July 20, 1993, either he or the other U.S. Park Police officers either spoke by phone or in person with the following individuals:

OIC 000177

FBI Report on Interview of Lt. Gavin

Footnote 22 - C

(4)

Pretty sure 35mm pictures were taken before he was touched and pulled scarf. Did roll body to side probably between scalp, to check for ID in neck + pockets. Dolores she believes were taken before they moved body but could have fairly certain both sets of photos taken before body was disturbed in any way ~~been taken after body had been moved since they were back to~~

Pair of gloves were found below body she believes by Rolla

To left of his knee/hip, telling she could see. was a round

body (no recollection of any bottle near body - if there they would have been st. Valentine note found near - no ~~Ed~~ on box

Then went to car to check it out. She + Pete went back to

Riley Lot. Search of the pistol Pete took 35. She took

photographs. Discovered ~~left pocket of jacket~~ She started on front passenger part and ~~vest~~ inside jacket. ~~Took~~ and WH ident on front pass. seat (Off Watson SWAT officer + Witness) and a wallet on floor board + she looked at it + found ID + no police

Gave another officer ~~instructions~~ instructions to call S Commander Gain one WH ident. Given ~~soon~~ 30 minutes to be sent ... to be sent then entire car. Leased officer had

251

25

there. And then, of course, again, I probed that, we rolled the body and observed on the side of his arms, through his shirt, you know, the -- where the cuffs are, the opening, there appeared to be lividity there on his legs. Lifted his pant legs, there was lividity on the lower part of his legs. It increased as it got to the lower portion of his body, which was consistent with his position.

The medical examiner, Dr. Haut -- I was a little surprised -- he asked us what time did we get the call, what time did we come out there. We arrived at around 1800 hours. He said, well, make that the time of death.

I looked at Simonello, and I was like, he is the medical examiner, but obviously that's not the time of death. So that seemed very odd to me, why he would say that. I don't know if it was --

Q Okay..

A I have no idea why he would -- unless he just meant the time he was pronounced. Perhaps that's what he meant, I am pronouncing him. He said, well, make that the time of death. I knew it wasn't the time of death, officers were there before 1800 hours. So if he decide at

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1800 hours, somebody is in trouble.

Anyway, I removed his personal effects, which included the White House beeper which I wasn't sure was White House. It said WHCC, I think, or CS, White House Communications Center, White House Communications something. Again, that was turned off. He had a watch on his left wrist, I removed. He had a ring. I think he had a wedding ring and another ring on. That was all of his personal effects.

Q Did you get any keys?

A I searched his pants pockets. I couldn't find a wallet or nothing in his pants pockets. Later on, Investigator Braun and myself searched the car. I retrieved the jacket, retrieved the wallet, there was identification, under the jacket on the seat was a White House identification chain thing with a photo ID on it. It wasn't really until then I knew that this was a White House guy. We better call Secret Service. Again, not knowing who he was, a million people work at the White House, so, you know, obviously it was -- White House Communications was what the ID said, so we weren't sure.

We searched the car and we were puzzled why we

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~~CONFIDENTIAL~~

29D-LR-35063

Continuation of FD-302 of CHERYL ANN BRAUN, On 4/28/94, Page 3

note. She stated that ROLLA, in doing this, did move the body slightly, possibly rolling it to its right and left. Sergeant BRAUN pointed out that Officer ROLLA, in checking the pockets, did not discover the car keys, adding that she and he later had to go to Fairfax Morgue where she recovered the car keys in the right pants pocket.

Sergeant BRAUN advised that at some point, she and Officer SIMINELLO went back to the parking lot to check the car, adding that she took several polaroid pictures and Officer SIMINELLO took 35mm photos of the car. She stated that she began a search of the car and found a suit jacket with a wallet inside and White House identification on the front passenger seat. BRAUN stated that she advised another officer to call the Shift Commander and inform him of this new development while she continued to search the car. She advised that approximately thirty minutes passed whereupon she learned that the Shift Commander had never been notified and she then, herself, called, advising him of the White House identification at approximately 7:30-7:45 p.m. Sergeant BRAUN stated that at about the time she was completing the search of the car, the coroner and ambulance arrived to remove the body and take it to Fairfax County Hospital (morgue). She advised that she did not learn until later that MR. FOSTER was a Deputy White House Counsel.

Sergeant BRAUN advised that while she and Officer ROLLA were in route to the hospital in an attempt to retrieve the keys from the body, she was contacted by the Shift Commander with instructions to call a White House Official named DAVID WATKINS, a friend of the FOSTER family who wanted to accompany the police officers to the FOSTER home when the family was notified of his death. Sergeant BRAUN stated that she and Officer ROLLA did telephonically contact WATKINS, agreeing to pick him up at his home prior to going to the FOSTER residence. Sergeant BRAUN advised that she and ROLLA were again contacted by the Shift Commander by car phone with follow-up instructions to call a White House Official named KENNEDY. She stated that upon calling KENNEDY, he requested that he and a MR. LIVINGSTONE of the White House be permitted to view the body at Fairfax Hospital. To the best of her recollection, either she or JOHN ROLLA called the hospital, identifying themselves as Park Police and instructing the hospital officials to let a MR. KENNEDY and LIVINGSTONE view the body but not to disturb or remove any objects.

See Kennedy p. 1616
Rolla 1603

OIC 000263

FBI Report of Interview of Sgt. Cheryl Braun re Time She Called Gavin

Footnote 25

29

Q So at least three?
A At least three of us. Again, he was a large man.
Q Do you know who contacted the Secret Service?
A No. Lieutenant Pat Gavin was on -- he may also have been on the scene when we got there or he came later, I am not sure. We talked to him. Someone called communications, I don't know who it was.
Q Did you ever hear anything from Secret Service?
A No. I didn't talk to them at all.
Q Did there ever come a time at any point, you know, after July 20 up until today, when you were contacted by the White House or Secret Service or someone with the federal government that asked you about your report or your findings, other than the FBI here for the Fiske investigation?
A No. The only person that I ever spoke to -- the only people I ever spoke to, one being Beryl Anthony, his brother-in-law and the other being, James Hamilton, the family's attorney.
Q Why did you speak to Beryl Anthony?
A We interviewed, myself and Captain Hume, H-u-m-e, interviewed Beryl Anthony, and Mr. Anthony stated that

30

Vincent Foster had been depressed. He left Arkansas -- left his family in Arkansas when he initially moved to Washington, so he was there for some months before his family got there.

Of late, he had been acting depressed, and he noticed it because there had been depression in his wife's family. He said his wife had, I think he said she had had a nervous breakdown, which was on record, because she was an attorney at the Justice Department.

Q This is --
A Beryl Anthony.
Q But he is talking about who?
A His wife, which was --
Q Lisa Foster?
A No, Lisa Foster is Foster's wife.
Q Cheryl, Sue Anne?
MR. PAULL: Sheila?
THE WITNESS: Sheila Anthony.
BY MR. IVEY:
Q Did he say anything else about Mr. Foster?
A Yes. He stated the week before -- I have a report written on this that says pretty much exactly what

Sgt. Rolla Tells Banking Committee Investigators He Never Spoke to Secret Service

Footnote 26

- looked thru wallet & noted [illegible] inside jacket breast pocket - Secret Service card

- noted name chain of command - White House Communications Center - Unsatisfactory
- Brown noted Communications to Secret Service
- No change in personnel
- Specific piece of paper - 3 names & addresses - called Secret Service - & denied of having provided a statement

- Went to Parkland Hospital - located in right rear pocket - Subject's

FBI Notes of Interview of Sgt. Rolla re Finding WH ID and Call to Communications Center

Footnote 27

CONFIDENTIAL

DOCUMENT:

Significant handwriting characteristics in common were observed which indicates the questioned writing on previously submitted Q1 (Laboratory Number 30730011 D/S UD UJ) was prepared by VINCENT FOSTER, whose known writing is designated K4.

A qualified opinion is rendered in this case as the known writings of FOSTER are limited in quantity and not sufficiently comparable in word and letter combinations to the questioned writing on previously submitted Q1.

It is suggested additional normal course of business writings prepared by FOSTER be obtained for comparison to the questioned writings.

K4 has been photographed.

OPTICAL EXAMINATIONS:

The vision prescription Q129 appears to be a duplicate prescription to specimen Q130 or vice versa. Specimen Q129, however, contains a prescription for contact lenses which is absent on specimen Q130.

The vision prescription represented by specimens Q129 and Q130 is consistent with the determined prescription of specimens Q3 and Q18 (Laboratory Number 40324038 S/D QV ZG WK UD WP AL QW ZT VY ZZ AR).

DISPOSITION:

The submitted specimens are being returned herewith.

FBI Lab Qualified Opinion on Note

Footnote 28

> I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.(797)

Although the note was not signed, the FBI determined that it was written in Mr. Foster's hand.(798)[24]

Mr. Nussbaum then went to White House Chief of Staff Mack McLarty's office to tell him about the note, but realized that Mr. McLarty was not there; he was in Chicago with the President. "So I saw Burton, who was a logical person to talk to in any event because he was the one who had been dealing with me, and I said look, Steve Neuwirth found something, and you should see it and let's go up and see it. And we walked up, and he went over to read it."(799) According to Mr. B: "Mr. Nussbaum came into the chief of staff's reception area asking for Mr. McLarty. We informed him that he was out of town. Mr. Nussbaum asked me to accompany him to his office, and I did that."(800) Mr. Burton went to Mr. Nussbaum's office and read the note in front of Mr. Nussbaum and Mr. Neuwirth.(801)

Deborah Gorham and Linda Tripp were at their desks in the secretarial area of the White House Counsel's suite, right outside Mr. Nussbaum's office, on the afternoon of July 26. Ms. Gorham testified that Mr. Neuwirth came out of Mr. Foster's office with Mr. Foster's briefcase and went into Mr. Nussbaum's office. After Mr. Nussbaum returned with Mr. Burton, according to Ms. Gorham, others came into Mr. Nussbaum's office. "And then I believe Mr.

---

[24]It has been reported, however, that a panel of experts--including a forensics authority from Oxford University--concluded that the note was not in Mr. Foster's hand. See, e.g., Christopher Ruddy, "Experts Say Foster 'Suicide' Note Forged," Pittsburgh Tribune-Review, Oct. 25, 1995. Because the White House and the Foster family's attorney did not provide the Special Committee with obtain original samples of Mr. Foster's handwriting, the Special Committee was not able to conduct an investigation into this matter.

From: Chuck

5/25/95

To: Brett
Hick
Dana

re: Shirt stain

I spoke with Roger Martz from the lab today. They have identified the stain on the left front of the shirt as blood. There are no other substances on the shirt other than blood and sodium rhodizonate, which was applied to the shirt to detect lead residues. They think the stain resulted from transporting the body.

Additionally, unrelated to the shirt, I tracked down the alleged telephone call from Foster to Capital Management Services on 7/13/93. THe telephone number to CMS was (501) 664-8613. There is no record of any calls to that number from any of the telephone lines in the White House Counsel's Office during the month of July 1993.

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 11/21/95

The investigating agent traveled to the Forensic Science Laboratory of the State of Connecticut Department of Public Safety, Division of State Police, in Meriden, Connecticut, and received from ELAINE PAGLIARO a Colt .38 caliber revolver with serial number 355055 on its frame and serial number 356555 on the crane of its cylinder. This revolver was received from PAGLIARO at approximately 10:30 a.m., and the investigating agent acknowledged receipt of the revolver by his signature on a State of Connecticut evidence receipt form, form number DPS-239C, receipt number 53067. This revolver is reflected on the State of Connecticut evidence receipt form as Item number 35, the "K1" weapon. The original of this receipt form was retained at the Forensic Science Laboratory, and the investigating agent received a photocopy of the form.

The investigating agent transported the revolver to the Federal Bureau of Investigation (FBI) Laboratory at FBI Headquarters, 10th Street and Pennsylvania Avenue, N.W., where the revolver was turned over to Special Agent JAMES J. CADIGAN at approximately 4:50 p.m. An FBI evidence acknowledgement form, form number 7-125, was completed and the investigating agent received the original of this form.

The photocopy of the State of Connecticut evidence receipt form and the original of the FBI evidence acknowledgement form are retained in an FD-340 (1A) envelope.

Brett Mem

MEMORANDUM

TO: Brett Kanvanaugh

FR: Steve Parker

DATE: June 26, 1996

RE: Forensic Evidence.

I still do not have all the lab reports. Jim is in the process of gathering the reports. This memorandum is to highlight what I think are the most important pieces of forensic and some testimonial evidence.

I. BLOOD EVIDENCE

Pages 14,15,17, and 89 of Dr. Lee's Report discuss the blood spatter on the face. The enlargement of the autopsy photo clearly shows blood spatter all around Foster's mouth and nose. This is caused by small blood droplets spraying out of the mouth and nose when the shot was fired. The fact that these blood spatters are intact is evidence which tends to show the body was not moved and Fort Marcy Park is where Foster died.

If the body had been moved, blood would have poured out of the wounds in the back of his head, mouth, and nose. There would have been large transfer stains all over his clothing. The death scene photos show these types of stains were not present.

Hypothetically, if the body had been moved the head would have to be wrapped to prevent the spillage of blood. If this had happened there would be transfer stains around the nose and mouth. These transfer stains would have obliterated the blood spatter stains. Someone could have presumably wiped the transfer stains off but that would have wiped away the blood spatter.

Additionally, Dr. Lee noted what appeared to be blood spatter on the surrounding vegetation(p.17). This appears to corroborate this as the location Foster fatally shot himself.

Also important are the larger blood stains on the face. There is the large contact stain on the face together with lividity lines in his neck indicating that his face was in contact with the right shoulder for an extended period of time. Dr. Lee notes that a portion of the blood trail from the mouth are on top of the contact stain therefore it must have occurred after the contact stain was made. This indicates the likelihood that one or more of the scene witnesses did move the head. EMT Todd Hall stated that he could have moved the head after seeing the gun because he was startled causing him to jump back.

As noted in the Fiske report, the lack of a large amount of blood on the ground is additional evidence that Foster's death occurred on the berm where ~~it~~ he was found in Fort Marcy Park. Once he shot himself he was instantly incapacitated because the bullet travelled through the medulla. However, his heart would beat, pumping blood for ~~several minutes~~ a minute or two. Bleeding would occur in the nasal cavity and mouth, filling them. The exit wound would only bleed as long as the heart was beating. This explains the small pool of blood behind his head. Once the heart stopped beating all the remaining blood would flow to the lowest point due to gravity. In this case most of the blood would have therefore remained in the ~~body~~ lower extremities of the body.

The presence of a pool of blood underneath the body was corroborated by two reporters from Gannett News. Mr. Hachett and his associate confirmed the pool of blood and it's location on the berm in front of the appropriate cannon.

Additionally, Dr. Lee noted blood spatter on Foster's hands (p. 455-456). This fact indicates that Foster was holding the gun in his hands near his mouth at the time the shot was fired.

Dr. Lee also found blood spatter on Foster's eyeglasses. This indicates that the glasses were being worn at the time the shot was fired. One would think that if a violent struggle had occurred he would have lost his glasses. (Also, the fact that undischarged gunpowder was found on the eyeglasses indicates that Foster was wearing the eyeglasses).

Therefore, the blood spatter evidence taken as a whole shows that Foster died by his own hand at this location. Blood spatter on Foster's face, hands, glasses, the gun, and the surrounding vegetation indicates this is the location of death.

II. THE PISTOL, GUNPOWDER RESIDUE, AND THE OVEN MITT

The problem of identifying the pistol is very common. Unless you have the record where the individual purchased the weapon and the serial number was recorded then no one can ever positively say that is the same weapon I saw earlier. Moreover, most witnesses do not see the weapon for any length of time to remember any specific identifying marks or scratches. Therefore the situation with the Foster Family is probably the norm, rather than the exception. Lisa and Vincent Foster III are the only living members of the family that have ever handled the revolver. However, they only handled it long enough ~~to place it in the trunk~~ to remove it from the trunk and pack it in a box to come to Washington. Compound this with the fact that Lisa Foster has never been around firearms and doesn't like them, it is only reasonable to assume she did not look closely at the pistol. The problem with the first time she was questioned concerning the gun was she was shown a photograph, not the actual gun. She could not be sure at the time. However, when she was shown the actual gun she said she thought it was the revolver she remembered. Additionally, Vincent Foster III gave a tentative I.D. of the gun along with Sharon Bowman.

One of the most important facts is the Fosters have never found the "cowboy" gun that has been missing from the house since Foster died. Hubble's statement corroborates it was missing the night of the death. This is strong circumstantial evidence that the revolver belonged to Foster.

All the above circumstantial evidence is corroborated by the forensic evidence. First, this revolver is unique. It has a defect in the cylinder gap that causes the gun to spray an abnormal amount of undischarged or partially burned gunpowder upon firing. In a test firing by Dr. Lee ~~of~~ the ~~pistol it~~ sprayed 1,000 particles of undischarged or partially burned gunpowder(p. 453). This is significant since the bullet found in the ~~pistol~~ typically only contains 13,000 particles of gunpowder (p.406). Even more significant is the fact that gunshot residue was observed on both of Foster's hands.

The Cylinder gap is approximately 30% larger than that of a normal ~~pistol~~ of a similar model (p. 453) and has a worn spot on the yoke.

With the above fact in mind, an investigator should look to see if undischarged gunpowder is found in the area where the firearm was believed to have been discharged. Foster had a very large amount of gunshot residue on web of his right hand indicating he was holding the gun in his right hand. He had a smaller amount on his left hand indicating that he was probably supporting the gun with the left hand(p. 454).

at this location

Undischarged gunpowder was also located on his eyeglasses indicating that this is the weapon used to take his life.

When Dr. Lee went to the scene in July, 1994 he found gunshot residue on the ground. Assuming that no other weapons had been fired since July 20, 1993, this helps corroborate that the revolver ~~that was~~ found in Foster's hand is the weapon that killed Foster (p. 397).

The oven mitt and the evidence from Foster pants pockets is the most compelling evidence to link the firearm to Foster. You are familiar with all that evidence so I won't belabor it. However, the lead residue in the both pants pockets and the small amount of sunflower seed husk in the left pocket is strong circumstantial evidence that Foster had a Firearm in his pocket that had earlier been placed in the oven mitt. The fact that the weapon was so filthy that it had to be cleaned by electrolysis at the lab, explains the antimony and barium in the pocket. Obviously, if the weapon had an ~~abnormal~~ large amount of residue, it could easily either fall or be rubbed off if it was in someone's pants pocket while they were walking over 200 yards.

III. FIBERS

I still don't have the new 302 from the lab, but at our meeting in May I was told that they had counted the carpet fibers and there were only approximately 12 carpet fibers of various colors and composition. Thus, Foster was not wrapped in a carpet and dumped in the park. This does not eliminate the possibility that he was wrapped in a sheet, blanket, quilt, saran wrap, or something similar.

IV. SOIL

As you know there was soil on Foster's shoes. However, the conservative media misconstrued the lab report saying no "coherent soil" ~~to~~ meant absolutely no soil. The lab did observe small amounts of micaceous soil adhered to the shoe. Dr. Lee also found soil and plant material on the heel and in the hole in the shoe. According to National Weather Service records it had not rained appreciably in 30 days. The path was well travelled. Thus, one would not expect to find a large amount of ~~soil~~ coherent soil on the shoes.

V. WHY THE BULLET WAS NOT FOUND

The bullet in question was a Remington Peters .38 special HP round. Remington discontinued manufacturing these bullets in 1974. Thus, like the gun the ammunition was very old and consistent with coming from Foster's Father.

The actual projectile was a solid lead bullet which is rather uncommon. Most modern pistol ammunition is usually either jacketed or semi-jacketed in copper to improve accuracy. The lead used to make these bullets is very soft and usually made from the scrap metal recycled from automobile radiators. The effect of this is that almost anything will deform the soft lead, causing the bullet to start tumbling or wobbling instead of flying straight. Because of this it is reasonable to assume that the bullet deformed significantly when it traveled through various bones and tissues of Mr. Foster's head. As a result it is probably safer to say that the bullet **did not** travel straight once it exited Mr. Foster's head. The tests in Aberdeen proved this theory correct.

The first test shot made from Foster's pistol was fired directly at a block of gelatin. Thin paper screens were set up to measure the velocity of the bullet as it passed through the screens. Despite the fact that there was nothing between the end of the barrel and the first screen, the bullet was already tumbling end over end as it passed through the first screen. The bullet entered the gelatin block travelling backwards. This means that the bullet would not have had a straight trajectory as it travelled. The wind resistance when the bullet was tumbling in such an erratic manner would cause the trajectory to bend rather than travel in a straight line.

The remaining test shots were fired through the skulls filled with gelatin and wrapped in pig skin. None of bullet trajectories were straight lines after they exited the skull. In fact, few of the remaining test shots went through the trap. Some flew left, some right, some went up or down. Most the shots bounced off the walls, ceiling, floor and other obstructions in different locations. This was because each bullet deformed differently as it went through the skull and tumbled in an irregular manner. The wind resistance would then cause the bullet to take an unpredictable path. Probably the one certain thing you can say about the bullet trajectory after it left Foster's skull is that it did not travel straight.

The actual distance the bullet would travel^ed cannot be calculated because of the numerous unknown variables. Since we do not know the angle of Foster's head when the fatal shot was fired it is very difficult to ~~calculate~~ evaluate the distance. When the bullet deformed from impacting with Foster's pallet, brain, and skull the distance would likely be shortened, but it is impossible to say to what degree. Based on the test at Aberdeen the potential distance the bullet could have travelled after exiting Mr. Foster's skull is between 20 meters and 660 meters. Thus, there is a definite possibility that the bullet travelled outside the boundaries of the park. Also, since there were numerous trees and other foliage in any possible direction, the bullet could have easily ricocheted.

The searches were extensive, however, due to the great deal of metal buried in Fort Marcy Park and variations in the ground ionization, it is possible that the bullet was missed. On the other hand it is much more likely that the bullet came to rest outside the search area.

VII. CONCLUSION

This memo is not intended to be a comprehensive review of all the Forensic Evidence. I have picked out what I think are the most important pieces of evidence or matters that were controversial and appear to have been resolved. I will still have my pager while I am in trial in Memphis. Call me anytime.

Memorandum

To : MARK TUOHEY Date 3/2/95

From : SA C.L. REGINI

Subject: FBI LABORATORY CONFERENCE

The subject meeting took place on Friday, February 24, 1995, with the following participants:

SA Chuck Regini, Office of the Independent Counsel
Associate Independent Counsel Hickman Ewing
Associate Independent Counsel Brett Kavanaugh
SSA Jim Corby, Materials Analysis, Unit Chief
SSA Rick Crum, Firearms
SSA Bob Spalding, Blood Pattern Analysis
SSA Henry Mathis, Documents
SSA Jennifer Lindsey, DNA
SSA Joe Errera, Serology
SSA Bruce Hall, Materials Analysis (soil)
SSA Roger Martz, Chemistry
SSA Kenneth Whitler, key examination
SSA Wayne Oakes, Hairs and Fibers
Lou Hupp, latent prints

The members of the Independent Counsel asked questions of each examiner to clarify the results of their respective examinations. Prior to the start of the conference, all of the participants viewed the video "UNANSWERED: The Death of Vincent Foster". The following is an outline of the examiner's responses to questions by members of the Independent Counsel, and their comments regarding questions raised in the video:

Blood pattern analysis (Spalding):

The positions of the decedent's head as depicted in the computer drawing on the video is wrong. The video depicts a small stain on the right side of the decedent's face, and three blood drain tracts. In reality, the facial stain is much larger, and there are only two drainage tracts.

1- Tuohey
1-Gillis
1-Ea. Participant
1-29D-LR-35063

The head assumed two positions, not four as suggested in the video. The decedent's head is tilted back at the death scene; the death scene was sloped and terrraced. There was little blood surrounding the body, but there was a consistent amount of blood on the ground in the back of the decedent's head and on the back of the body, as noted on the decedent's shirt. The video ignored most of the blood pattern analysis findings. The transfer stain on the decedent's face and shirt is a saturating type of stain; a blotting type pattern- indicating that the head was in contact with the shirt for an undetermined period of time. The head could have been in contact with the shirt during the staining. The pre-autopsy photos indicate a number of post-event stain creations due to the transportation of the body; much more blood is noted on the decedent's white shirt.

Latent prints (Hupp):

It is common not to obtain latent prints off of a weapon; more likely not to get latents. The weapon was initially processed by the Park Police with only powder; even less likely to obtain latents using only this method. The locations of the developed latent prints in this case are as follows:

one latent finger print on the backside of the gun's grips.

the side of a palm on one torn section of the note.

two latent fingerprints on the Trippett business card; one of which was identified to Pete Simonello. The unidentified latent is on the back of the card.

two palm prints were located on the right rear side of the trunk of the decedent's vehicle by the Park Police.

two fingerprints were located on the right front door of the vehicle, above the window.

three fingerprints and a palm print were located on specimen Q6 (miscellaneous papers from the vehicle).

one fingerprint was located on an envelope.

Chemistry (Martz):

Trace amounts of two prescription drugs were found in the decedent's blood. These trace amounts would not show up in a routine analysis. The blood was not tested for alcohol; it is a very routine standard test that is very reliable- alcohol would have shown up in the post-autopsy toxicology test. It seems obvious that the decedent was experiencing emotional stress; first he tried the diazapam, when that did'nt work he tried the trazodone. A "normal" person would not be taking these drugs. There are countless chemicals that could have killed the decedent that were not tested for; there is no one battery of tests for all poisons- need to know the poison. The same type of gunpowder in the ammunition found in the gun is the same type of gunpowder found on the glasses, consistent with the glasses being on the decedent's face when he was shot, and indicates that the gunpowder in the ammunition was the gunpowder used to kill him.

Serology (Errera):

Three genetic analysis comparisons were conducted on the decedent's blood and the blood located on the shirt and t-shirt. The t-shirt was positive on three of three, the shirt was positive on two of three; only one positive comparison is necessary for conclusive results; the blood on the shirt and t-shirt is the decedent's. The gun was negative for blood; a very limited test was conducted on the gun due to the other tests that were to be conducted on the weapon. A negative finding does not preclude blood or saliva being on the gun, this would be detected in the DNA testing. The previous dusting of the weapon for latents by the Park Police may have destroyed some or all of the blood on the weapon. Unconfirmed blood was located on the shorts. No blood was located on the glasses; also a very limited and conservative test due to other testing. The tie and the jacket had no blood on them; indicates that he took these items off prior to being shot. The video reported that it was suspicious that no bone fragments were found at the death scene, however, the Park Police did not conduct a search for bone fragments that night; the area was not tested for blood residues. The elements would have quickly washed away any small fragments. Additionally, rodents would have carried away small bone fragments.

DNA (Lindsey):

The decedent's DNA was located approximately 4 in. to the rear of the muzzle of the gun on the barrel. This seems to indicate that the DNA is from saliva, as from the mouth of the decedent. The location of the DNA would be consistent with the approximate position of the revolver to create an entrance wound in the soft pallate. The semen that was located is from the decedent; it is not a mixed stain- no nonsperm.

Materials analysis (Hall):

Prior to the FBI search, the positioning of the decedent's body was precisely located on the slope. No soil was found on the decedent's coat, which indicates that it was not on the ground at the death scene. Micaceous soil in very small amounts was found on the scrapings from the decedent's shoes and socks (combined). Micaceous soil is flaky and glittery. This finding is consistent with the conditions and weather at the time of death. There would be no expectation of finding soil on the decedent's shoes because of the conditions and weather.

Firearms (Crum):

There was no indication that a silencer had been attached to the revolver found in the decedent's hand. Silencers are usually not attached to revolvers since sound would still escape from the cylinder area of the weapon. A gunshot sound would be muffled by the trees and the victim's mouth. Lead, in the form of smoke, can be detected up to two feet from the discharge of a firearm. Lead residues found on the decedent's shirt is consistent with the cylinder blast of the revolver.

Additionally, lead was detected at the 6th button on the shirt. The ammunition found in the revolver was Remington .38 special, with an HV headstamp. It is old ammunition and very common. Unable to say why the gun was not knocked out of the decedent's hand; very difficult to say whether it should have been knocked out of his hand, extremely speculative. The hand hold used by the decedent on the revolver is not the simplest or easiest, but is definitely plausible.

Hairs and Fibers (Oakes):

Two unidentified blonde hairs, along with a large and varied number of carpet fibers, were located in the debris from the scrapings of the decedent's clothing. One of the blonde hairs was 12 ft. long. Neither of the hairs appear to have been forcibly removed. Unknown debris is common in any investigation. The decedent could have come into contact with the hairs and fibers at any point, but more likely within the past day. In a common hosehold, it is possible that the hairs and fibers could have come from the laundry. The number and type of carpet fibers does not indicate that the decedent was rolled up in a carpet.

Corby:

The FBI search of Ft. Marcy Park for the bullet was logical and methodical; parameters needed to be set. Three different metal detectors were used, all set for a "bullet standard". Everything was not dug up, only items that could be bullets. Many bullets were found, none capable of having been fired from the revolver. The bullet was definitely not in the slope where the decedent was found.

There was no prior meeting of all the examiners to collectively discuss their findings in this case.

The conclusions by all of the examiners, when viewed comprehensively, strongly indicates suicide.

Memorandum

To : BRETT KAVANAUGH Date 3/8/95

From : SA C.L. REGINI

Subject: VINCENT FOSTER INVESTIGATION

Per our meeting on 3/7/95, the following investigation is to be conducted in the captioned matter:

1. Complete chain of custody for body.

2. Contact Dr Kumpuris in Little Rock regarding the decedent's 9/12/90 stress test results.

3. Complete personality profile.

4. FOIA(b)(7) - (E)

5. Determine the identity of the intern who was riding with Officer Watson.

6. Identify any individuals who had access to the decedent's vehicle at the USPP impound lot. Determine who the vehicle was released to, and what it contained when it was released; specifically, determine if a briefcase was in the car.

7. Contact NASA/JPL re- photo enhancement.

8. Locate Vincent Foster, Sr.'s will, determine if it mentions the suicide weapon.

9. Coordinate with lab the following additional forensic tests:
   a. Identify stain on decedent's shirt.
   b. Compare photos of shirt at death scene to photos of shirt at autopsy.
   c. Determine the age of the ammunition in suicide weapon.
   d. Compare the known prints of Ed Owen (ATF firearms examiner) to the latent print on the grip of suicide weapon.

1- Tuohey
1-Kavanaugh
1-Gillis
1- 29D-LR-35063

10. Conduct neighborhood investigation.

11. Recontact Saudi Arabian embassy security personnel re- video camera.

12. SUBPOENAS

a.
b.
c.
d.
e.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

13. INTERVIEWS

a. Officer Watson's intern.
b. James Burgess, former M.E. assistant.
c. Keith Gorney, Fairfax Hospital lab technician.
d. Julius Fernandez, Fairfax Hospital lab tech.
e. Charlotte Ewing, Fairfax Hospital Nurse Supv.
f. Three Fairfax Hospital Security Guards.

KAVANAUGH

TO: BRETT KAVANAUGH

3/22/95

FROM: SA C.L. REGINI

SUBJECT: DISCREPANCY LIST

83

The following list is offered as a comprehensive and itemized outline of all of the noted discrepancies, inconsistencies, and problems that have been identified in the Vincent W. Foster death investigation to date. The outline is broken down into the following areas: U.S. Park Police, Emergency Medical Technicians (EMTs), the White House, Northern Virginia Medical Examiner, Miscellaneous, and Forensic Examinations.

I. U.S. Park Police

A. No gunshot residue samples of the decedent's hands.

B. Lack of complete documentation of the gunshot residues on the left hand.

C. Poorly diagrammed death scene; lack of measurements.

D. No photo log; no documentation regarding who took what photographs, and the total number of photos.

E. Death scene 35mm photos did not develop.

F. No documentation regarding the initial search of the decedent's vehicle at the death scene- no inventory.

G. Photo of an unidentified briefcase next to a U.S.P.P. vehicle.

H. Decedent's pager returned too soon; no records obtained regarding previous pages.

I. Suicide weapon processed with dust prior to other laboratory exams.

J. Inconsistent statements regarding moving and searching the body. (Rolla, Braun, Simonello, Hodakaviec)

K. Inconsistent and poorly documented autopsy.

1. Morrissette's ~~report~~.
2. No gunshot residue samples from hands
3. No fingernail clippings/scrapings.
4. No major case prints of decedent (palms, sides and tops of fingers).
5. No photo of left hand.
6. Possible contamination of evidence subsequent to autopsy at M.E. Office. clothing

1- Tuohey
1- Kavanaugh
1- Gillis
1-29D-LR-35063

dispute on + blood on face / whether pictures accurate

L. Possible contamination of evidence at U.S. Park Police facility. socks + shoes // paper

M. Poor interview and documentation of witnesses at death scene (Doody and Feist).

N. Photo of an unidentified white male wearing plainclothes at death scene. Braun // Rolla

O. Inconsistent statements regarding vehicle doors being locked/unlocked. (Braun, Rolla, Hodakievic, Simonello, Gavin)

P. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

II. Inconsistent statements and observations of Fairfax County Fire and Rescue personnel.

A. Wound on neck.

B. Gun under thigh.

C. Wound on upper right front of skull.

D. Briefcase in vehicle.

E. Unidentified person in woods. - Hall

F. Vehicle doors locked.

USPP — G. Death scene photos do not accurately depict scene.

H. Two unidentified white males walking from death scene. — USPP EMTs

I. Color of gun was silver.

J. Type of gun was semiautomatic pistol.

K. Statements of initial paramedics at scene regarding their actions are inconsistent with Fairfax County paramedic protocols.

Ashford coded report unit as homicide

III. Medical Examiner

A. X-rays

1. Autopsy report indicates x-rays were taken.

2. Morrissette's report indicates Beyer told him x-rays were taken.

B. All individuals present at autopsy not indicated on autopsy report.

C. No photographs of decedent's left hand.

D. Inconsistent statements regarding removal of decedent's tongue and palate.

times regarding Hunt at scene

IV. White House

A. Foster's office unsecured until 7/21/93, approximately 10:10 a.m.

B. Confidential trash bag removed and replaced.

C. Nussbaum enters office; removes small photo.

D. Pond rearranges papers on Foster's coffee table.

E. Exclusive initial review of documents by Nussbaum.

F.Torn note found one week later in briefcase previously searched by Nussbaum.

G. Note not released to investigators until the following day.

V. Miscellaneous

A. CW's inconsistencies.

1. positioning of decedent's hands.

2. no gun.

3. winecoolers and briefcase in vehicle.

4. trampled area around death scene.
5. does not see white car occupied.

B. Inconsistencies between Doody and Feist's statements.

C. No initial investigation of the park's "second entrance".

D. No one heard a gunshot.

E. The gun exemplifies a "drop gun". → Ruddy [showdown]

F. No matching ammo at the decedent's residence.

G. The decedent's grip on the gun was not the simplest nor the easiest to shoot himself in the mouth. — chuck's biggest problem

H. The decedent never previously spoke of suicide.

I. The decedent had no particular obsession, "dire predicament", or one thing that would have put him over the edge.

J. The decedent had dealt with stress before.

K. The suicide weapon has never been positively identified as belonging to the decedent.

L. Lisa Foster's initial spontaneous question "was the gun in his mouth?".

M. Five unaccounted for hours between the time the decedent left work and was discovered dead. — Hirsh

N. Lack of blood at death scene.

O. No bullet.

P. No cadaveric spasm causing decedent to clench gun.

Q. The gun did not fly out of the decedent's hand.

R. No chipped teeth noted by M.E.

S. No flashburns inside mouth noted by M.E.

T. The mortician lost the original embalming report and diagram.

U. The decedent's glasses were discovered 13' downslope from his body.

NO NOTE → NO GUN ID → NO EVENT

WHERE THAT DAY?

VI. Forensic Examinations

A. Unidentified latent print on note.

B. Unidentified latent print inside grip of suicide weapon.

C. Unidentified blonde head hairs.

D. Unidentified carpet fibers → FBI thought unusual

E. Unidentified stain on shirt. (shirt being resubmitted to lab)

F. Unidentified gunpowder in scrapings from decedent's shoes and socks, and the paper that they were dried on.

G. The decedent's head was moved.

H. No blood on suicide weapon.

I. No soil on shoes. (mica flakes)

J. Large semen stain in the decedent's underwear.

- independent panel of pathologists
- psychiatrists
- murder prosecutor

Memorandum **Office of the Independent Counsel**

To : Date April 25, 1997

FILE 29D-LR-228253

From : SA JAMES T. CLEMENTE JTC

Subject: FORENSIC EVIDENCE [REVOLVER AND OVEN MITT]

On March 20, 1997, MARK TUOHEY, III was interviewed by Special Agent JAMES T. CLEMENTE, Federal Bureau of Investigation and Criminal Investigator COY A. COPELAND, Office of the Independent Counsel (OIC). TUOHEY provided, in part and in substance, the following information:

TUOHEY recalls that at some time after TUOHEY was appointed Deputy Independent Counsel he became aware that WILLIAM KENNEDY had delivered to OIC a box which contained various items recovered by MR. KENNEDY from the passenger area, glove compartment and trunk of the Honda Accord which had been owned by VINCENT FOSTER, JR. and was found in Fort Marcy Park on July 20, 1993. These items were not recovered by the United States Park Police (USPP) but were left in the car when it was returned to the FOSTER family. TUOHEY does not have a recollection of when these items were delivered to the OIC.

TUOHEY recalls that discussions arose at OIC as to the significance of the green oven mitt which was photographed in the glove compartment of FOSTER'S Honda by the USPP (this oven mitt was contained in the box delivered to OIC by MR. KENNEDY). It was theorized that FOSTER may have placed the revolver inside the oven mitt in order to conceal it and remove it from his home, later leaving the mitt in the glove compartment of his car and walking into Fort Marcy with the gun in his pants pocket.

In order to test the validity of this theory TUOHEY requested that SA CHARLES REGINI retrieve the revolver and the mitt from the evidence locker and bring it to TUOHEY'S office so that a determination could be made as to whether the gun could in fact fit into the mitt. SA REGINI explained to TUOHEY that since these were two separate items of evidence, he could not place the revolver into the mitt but would instead only be able to place it over the mitt to judge whether it would fit. TUOHEY agreed and SA REGINI conducted this demonstration. It was obvious from this demonstration that the gun could in fact fit in the mitt. TUOHEY stated he is virtually certain that the gun was not placed inside the mitt at this time and he does not recall the gun and mitt ever being placed together after this demonstration.

STRESS FACTORS AND COMMENTS

DEPRESSION, MOODINESS AND PARANOIA

1. Berl Anthony (Brother-in-Law)

   A. U.S. Park Police interview, 7/27/93
   - "... had noticed a gradual decline in Mr. Fosters general disposition to the point of depression."
   - "... noticed that Mr. Foster's depression had become increasingly worse and became worried about Mr. Foster's well being."
   - " Mr. Foster made a comment to the effect, I have spent a lifetime building my reputation and now I am in the process of having it tarnished."

   B. Judith Wish interview, 11/16/93
   - "Foster's family knew that he was depressed and had been working with him for a long time before his death."
   - "... his wife (Sheila) first mentioned to him that Foster was depressed about 90 days before his death. ... time passed and she (Sheila) mentioned to Anthony again that Foster was really depressed."
   - "Foster was a troubled individual who was struggling with a tough adjustment to a new job and new life."
   - "He (Foster) saw no light at the end of the tunnel."

2. Sheila Foster Anthony (Sister)

   A. FD-302, 4/28/94
   - "From the time that Foster first came to Washington until his death, Anthony observed several noticeable behavioral and emotional changes ...." "... he was tired and seemed to feel a great deal of pressure."
   - "Foster told Anthony that he was unable to sleep."
   - "During her last telephone conversation with Foster (7/16/93) she noticed 'Foster's voice was different in its tenor, and his voice sounded strained."
   - "Foster exhibited many characteristics of a depressed person, most noticeable of which was the fact that he had no sense of humor left."
   - "He was very distraught over his father's death."
   - "Foster confided to her that he was considering resigning ... 'the job in the White House Counsel's Office was not right for him."
   - "Foster told her he was battling depression ..."
   - "Anthony ... furnished him the names of the three psychiatrists."

   B. FD-302, 4/11/95
   - (Approximately 7/10/93) "Foster expressed to her his desire to resign."
   - "She knew her brother was in terrible shape."

3. Jerome Hodges Atchley (Friend)

   A. FD-302, 2/8/95
      - "Foster looked stressed and tired, as though he wasn't enjoying life."
      - "Foster looked like he was totally out of his element."
      - "Foster seemed to be preoccupied throughout the course of the visit."
      - "Foster may not have been prepared for political life, especially as a participant in such a highly scrutinized environment."
      - "Foster was trapped by his own 'rigidity'. He probably felt consumed and trapped."

4. Allison Anthony-Bethune (Niece)

   A. FD-302, 5/18/95
      - "She knew he would 'be in over his head.'"
      - "... did not think Foster was happy with his life."
      - "... noticed Foster's unhappiness during the summer of 1992. ... was of the opinion that Foster had started to exhibit signs of depression during this time."
      - "... described Foster's demeanor as a 'dichotomy.'"
      - "Foster was very moody."
      - "... did not seem like himself."
      - (In April or May, 1993) "Bethune recalled thinking that Foster looked tired. She told him that if the stress of his job got too much, he was welcome to stay with her for a while in Maryland. Foster told her thanks, and that he may come to stay with her 'sooner than later.'"
      - "Last saw Foster on Father's Day, 1993. Foster was distant and stoic."

5. Robert Barnett (Legal associate)

   A. FD-302, 12/12/95
      - "... it was his opinion that it was 'this city' that killed Foster."
      - "He described Foster as just not being tough enough."

6. C. Brantley Buck (Former law partner)

   A. FD-302, 5/18/94
      - "Buck opined that from a laymen's standpoint and with hindsight, Foster appeared to have suffered from classic depression."

7. Harriet Eason Bynum (Friend and insurance agent)

   A. FD-302, 2/7/95
      - "Bynum recalls that Foster used to have severe mood swings even while he was still living in Little Rock and working at the Rose Law Firm."
      - (Commencement Address) "Bynum believes that Foster's spirit was clearly absent as he delivered the address. Foster's personality was not inside his body as he gave the speech."

8. George C. Campbell (Former law partner)

   A. FD-302, 5/1/95
      - "Campbell characterized Foster as normally introverted; Foster was not an outgoing person."
      - "Campbell described Foster as taciturn."

9. Harolyn Cardozo (Friend)

   A. FD-302, 6/6/95
      - "... recalls Foster telling her 'I've got to get away for a few days.'"
      - "Vince's mood seemed to shift, he became anxious and more withdrawn."
      - "Vince did not seem to be responding to questions."

10. Rebecca E. Carroll (Family friend and psychotherapist)

    A. FD-302, 3/29/95
       - "Lisa Foster mentioned ... how tired and overworked Foster had been."
       - "These observations led Carroll to speculate that Foster may have been suffering from depression for a period of years before his death. Foster's behavior during that period may have been consistent with that of someone suffering from depression because such people have highs and lows which can be affected by events in the normal courses of their lives. Exceptionally high achievers such as Foster who suffer from depression can sometimes continue to function for extended periods of time in they can make it through the lowest emotional points. Suicide is the final resort such people turn to as a way to get away from their pain."
       - "Based on Lisa Foster's description of Foster as well as information Carroll has read in the press, she believes Foster suffered from depression."

11. Thomas Castleton (Co-worker)

A. U.S. Park Police interview, 7/22/93
- (on 7/20/93) "Mr. Foster did not respond and seemed to Mr. Castleton to be 'in his own world', focused, disturbed."

B. FD-302, 5/3/94
- "... he did notice a gradual change in his demeanor. ... he seemed more quiet, more withdrawn, less sociable, and generally tired."

12. Kyle E. Chadwick (Intern)

A. FD-302, 6/29/95
- (7/20/93) "... Foster seemed 'distracted.'"

13. Hillary R. Clinton (Friend and former law partner)

A. O.I.C. Deposition, 7/22/95
- (During Rose Law Firm days) "I can see that he was from time to time quite moody."
- "He would be very unwilling to talk with anyone. He would keep the door to his office closed. It would be difficult to get his attention on matters that were not within his immediate concern. He might not, even walking by you in the hallway, acknowledge you or say hello to you, and things like that."

14. Barry H. Deutschman (Pharmacist)

A. FD-302, 4/26/94
- Filled Desyrel, generic name Trazodine, prescription for Foster on 7/18/93.

15. Richard T. Donovon (Attorney, RLF)

A. FD-302, 5/5/95
- (His father had been treated for depression) "In hindsight, Donovon realizes that many of the signs were present in Foster's interaction with others around him."

16. Leo J. Farrow, Jr. (Attorney, RLF)

A. FD-302, 5/5/95
- "... Farrow had numerous conversations with his wife, who is a psychologist, regarding indicators of depression. Farrow stated that he learned of numerous signs of depression which seemed to apply to Foster."

17. Alice M. Foster (Mother)

A. FD-302, 5/2/95
- (7/19 or 20/93) "Mrs Foster recalled asking him why he sounded unhappy. Vincent Foster told her that it was because of his job; he said ' It's such a grind.'"

18. Elizabeth B."Lisa" Foster (Wife)

A. U.S. Park Police interview, 7/29/93
- "Pressures associated with his role at the White House were physically affecting Mr. Foster adversely. Specifically citing not being able to sleep well and telling his sister, Sheila Anthony, that he was not feeling well and was experiencing high blood pressure."
- "The criticism of the President in the news media, the Travel Office investigation, the scrutiny by the press of people from Arkansas, and even the stress of the family move to Washington in June all seemed to Lisa Foster to have a cumulative effect on Vincent Foster. He 'took it all personally' and once stated to her 'How did I get myself into this?'"
- "He felt he had personally failed and talked to Lisa about quitting; however, would not return to Arkansas because of the personal humiliation he felt."

B. FD-302, 5/9/94
- "On June 8, 1993, Lisa Foster noticed that Foster was emotionally down and was slumped in his chair just as his father had been when his father was ill. Lisa Foster recalls that Foster always was worried and stressed. Foster told Lisa Foster that nothing at the White House was going right...."
- "Foster complained to Lisa Foster that he was suffering from insomnia, but he did not want to take sleeping pills because he was afraid that he would become addicted to them."
- "Vincent Foster was very quiet, and Lisa Foster may have called his secretary just to get a better feel for his condition and state of mind."
- "Foster felt that everyone was criticizing him, even at home."
- "Foster did not enjoy being in the public eye."
- "Lisa Foster recalls that he began to start more of his sentences with the phrase 'I just can't handle.'"
- "Foster has had panic attacks in the past...."
- "Foster was greatly affected by the death of his father."
- "... he mentioned his depression to her on approximately July 16, 1993."
- "Toward the end of his life, Foster had no sense of joy or elation at work."

- (7/20/93) "Lisa Foster recalls one unusual event that morning which was that Foster asked her what she was going to be doing that day."

- "Lisa Foster believes that her husband took his own life because he was so terribly depressed."
- "Lisa Foster believes that Foster was suffering from a major depression which was brought about by working too hard for such a long period of time away from his family."

C. FD-302, 4/7/95
- "Lisa Foster stated that she is convinced that her husband committed suicide."
- "During the weekend prior to his death, Foster talked of quitting his job. However, he could not return to Little Rock because of the embarrassment it would cause him."
- "Foster was prescribed an anti-depressant, Restoril, by Dr. Watkins."
- "... when she looks back at all of the events during that time, it makes sense that Foster was suffering from depression."
- "Foster was somewhat paranoid about telephone conversations; he was often concerned that the phone might be tapped or others were listening to his conversations."
- (Weekend prior to his death) "... the first night in the hotel he became upset, and was very emotional. He simply was unable to place his concerns in a proper perspective. He remained upset throughout the weekend. He complained of indigestion."
- (7/20/93) "... he did not kiss Lisa goodbye when he left for work. Lisa recalled Foster standing very stiffly with his briefcase just before leaving. Foster didn't turn around to say goodbye, he simply walked out."
- "... Lisa Foster stated that she has no doubt that her husband took his own life at Ft. Marcy Park as a result of the enormous pressure that he put on himself. Foster blamed himself for all of the Clinton Administration's problems."

D. <u>The New Yorker</u> article, 9/11/95
- "Almost from the beginning, Vince realized he should have stayed in Little Rock."
- "But the physical discomfort was secondary to the psychic discomfort, especially when things went wrong, and everything, it seemed, was going wrong."
- (Weekend before his death) "His mood didn't improve much when they got to the shore. Again, he seemed single-mindedly focussed on getting out of the White House."

- "Lisa recalls, 'I asked him if he felt trapped, and tears came to his eyes, and he cried."
- "He probably thought we'd be well off financially, if he were dead, because if he went to a psychiatrist he'd never have another job."

19. John Brugh Foster (Son)

A. FD-302, 4/7/95
- "... his father seemed overworked at his new job."

20. Laura Foster (Daughter)

A. FD-302, 4/7/95
- (6/93) " During this time period, Laura stated that it seemed to be an effort for her father to have fun. Laura noticed that her father seemed more withdrawn."
- "Laura believes that her father may have been suffering from some type of chemical imbalance that had caused him to become temporarily insane."
- (1992) "... her father was concerned that their home telephone was being tapped. He subsequently changed their home telephone number."

21. Vincent W. Foster, III (Son)

A. FD-302, 4/7/95
- "... he noticed some changes in his father's personality in Washington, D.C. His father seemed more cynical toward life, and in particular towards the news media."

22. Dr. Robert J. Hedaya (Psychiatrist)

A. FD-302, 5/17/94
- " ... thereafter received a telephone call from Mrs. Sheila Anthony who called to his attention that her brother was extremely depressed and in need of psychological counseling. Mrs. Anthony also informed him at this time that her brother occupied a very sensitive position at the White House and was dealing on a daily basis with Top Secret matters and that his depression was directly related to highly sensitive and confidential matters. It was Dr. Heydaya's distinct impression that Mrs. Anthony's brother was in a bind, needed desperately to talk to someone but had grave concerns about discussing these issues with a doctor, believing he could not speak freely since his depression was a direct result of sensitive and confidential issues."

23. Katherine "Kaki" Hockersmith (Friend)

A. FD-302, 8/31/95
- (Approximately 7/6/93) " During a telephone conversation with Lisa regarding placement to a rug or something in the Foster's Washington home, she spoke to Foster and inquired where he thought it should go. He replied something to the effect of 'That is the last thing on my mind right now.' She recalled later making the comment to her husband that Vince was really not behaving like himself."

24. Webster L. "Webb" Hubbell (Friend and former law partner)

A. FD-302, 4/13/94
- "Hubbell believed that Foster thought that the option of going back to Little Rock or the Rose Law Firm would have been an acknowledgement of failure."

25. William H. Kennedy (Friend, former law partner and co-worker)

A. FD-302, 5/6/94
- "He became more fretful and was not quite as calm and measured as in Rose Law Firm. Foster seemed to be under stress and pressure."
- "Kennedy believed the increase in stress for Foster was a cumulative thing."
- "... Foster coped with problems in his life by internalizing them."

B. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

26. Dr. Robbie Thomas-Knight (Friend and Psychologist)

A. FD-302,, 5/4/95
- "... Knight noted that in hindsight, Foster exhibited many indications of depression. Knight noted that Vincent Foster probably did not know that he was suffering from depression until it was already in an advanced stage."
- "Knight definitely recalls suggesting to Lisa that Vince see a psychologist."

- "Based upon Knight's knowledge of Foster's personality, she was of the opinion that he committed suicide as a result of suffering from clinical depression. Foster was hopelessly depressed, which resulted in distorted thinking; concluding that suicide was the best answer for his situation."
- "... she could think of many indicators of depression."

27. Thomas F. "Mack" McLarty (Friend and co-worker)

A. FD-302, 5/10/94
- "At some point, Mclarty observed a personality change within Foster. ... Foster was more reserved than previously remembered."

28. Bernard W. Nussbaum (Co-worker)

A. FD-302, 5/13/94
- "Nussbaum said that especially the last two weeks before he died, Foster's tone of voice changed and he was just not functioning the was he normally did."
- "Foster wasn't participating."
- "I needed him and he just wasn't there."
- "At the end of June, Nussbaum needed Foster to be functioning in top form and he appeared to be failing."
- "Foster was withdrawing and not taking the initiative with topics and work responsibilities."
- "Foster appeared afraid that outside influences were going to try to hurt the First Lady and the President."
- "Foster kept blaming himself for things that were going wrong."
- "... he was not just concerned for his own reputation for integrity, but he also had begun to question his ability to protect the First Lady and the President."

- "Nussbaum believes Foster went out and an overwhelming depression, chemical in nature, took over and he killed himself."

B. FD-302, 7/12/94
- "He recalls that Foster was very depressed during the last weeks of his life and was not functioning well during that time period."

C. FD-302. 6/8/95
- "Foster was simply 'not functioning' during the process of firing FBI Director William Sessions and naming a new FBI director."
- "Foster was not interested in such matters and seemed to be withdrawing."
- "Foster was a self-starter, but his initiative declined in the weeks before his death."

- "Foster appeared preoccupied and he was not engaged."

29. James L. "Skip" Rutherford, III (Friend)

A. FD-302, 5/3/95
- "Rutherford stated that Foster looked very tired."
- "Rutherford realized that Foster was under enormous pressure; real or perceived, and that Foster was a very intense individual."
- "... Foster appeared nervous; he constantly paced up and down in his office."
- "... Rutherford recalled that Lisa Foster told him that Vince seemed to be shutting himself off, that he couldn't sleep, and he had lost weight, and that he often seemed distracted."

30. Marsha Scott (Friend)

A. FD-302, 5/12/94
- "She saw some signs that he was depressed but did not know that he was in such a serious crisis."
- (7/19/93) "In retrospect she realizes that he acted different, but at the time she did not sense it."
- (7/19/93) "... on this occasion he seemed preoccupied and a little quieter."
- "... she believed Foster had painted himself into a box with no windows."
- "But she got the sense during the July 19th meeting that he had come to some sort of a decision and was, if anything, somehow relaxed as a result."
- "He talked about wanting out."
- "He talked about wanting rest."
- "He commented that he was 'eternally tired.'"
- "It is Scott's theory that he had come to some sort of acceptance of something ... and expected that he was going to feel better soon."

B. FD-302, 6/9/94
- "... she has the sense that Foster had reached a personal dead end."
- "She opined that Foster lacked the ability to see options and on July 20, he felt that he had no other option but to commit suicide."

31. Ricki L. Seidman (Co-worker)

A. FD-302, 6/23/94
- "... Foster was 'a very sophisticated thinker' and he became like a 'guppy plopped into a goldfish bowl.'"

32. Clifford M. Sloan (Co-worker)

A. FD-302, 5/11/94
- (In a conversation he had with Marsha Scott on Air Force One returning to Washington, D.C. after Foster's funeral) "Foster told her that he was going to get some rest."

33. Dr. Larry S. Watkins (Friend and family physician)

A. FD-302, 5/16/94
- (7/19/93) "Foster insisted on speaking with Watkins. He complained of loss of appetite and insomnia; he wasn't eating well and when Watkins asked him if he was depressed, he said yes."
- "They discussed depression."

CRITICISM IN THE PRESS

1. Berl Anthony (Brother-in-law)

A. U.S. Park Police interview, 7/27/93
- "Foster was also very upset over some unfavorable articles printed by The Wall Street Journal in the last several weeks and seemed to take them personally."

B. FD-302, 6/6/94
- "Foster was troubled by a series of editorials that were written about him in The Wall Street Journal."
- "... bugged him more than did the Travel Office affair."
- "Foster would frequently discuss The Wall Street Journal article."
- "Foster was of the opinion that The Wall Street Journal articles were written with the intent to ruin the Clinton Administration and furthermore that they were written with a sense of willful maliciousness."
- "Foster viewed The Wall Street Journal articles as tearing his reputation down in almost 'smirky way.'"
- "Foster was ... unable to cope with the criticism of the Washington press corp."
- "Foster carried too much of the burden for criticism received by the Administration on his shoulders."
- "Anthony is convinced that press reports and the viciousness of the Washington,D.C. political establishment was what contributed to Foster's death."

C. FD-302, 4/19/95
- "The Wall Street Journal articles and editorials bothered Foster; he felt that they demolished his reputation. This was a 'tremendous impact' on Foster."

- "Foster could not develop the necessary 'hard outer shell' to deal with the Washington, D.C. media and politics. Foster was a target because of his history with the Clinton's."

2. Sheila Foster Anthony (Sister)

   A. FD-302, 4/28/94
      - "Foster was very distraught over a series of articles which has appeared in The Wall Street Journal newspaper regarding Foster."
      - "Foster was also upset that The Wall Street Journal article denigrated the Rose Law Firm."

   B. FD-302, 4/11/95
      - "... Travel Office matter, Foster was constantly concerned about criticism that the White House Counsel's Office and the Administration was receiving ... 'we can't stop the bleeding.'"

3. C. Brantley Buck (Former law partner)

   A. FD-302, 5/1/95
      - "Foster was sensitive to attacks on his reputation."
      - "Foster would be deeply offended by any slanderous remarks."

4. George E. Campbell (Friend)

   A. FD-302, 5/1/95
      - "The editorials created a constant tension in Foster that eventually manifested itself."

5. Alice M. Foster (Mother)

   A. FD-302, 5/2/95
      - "Mrs. Foster is sure that her son was deeply disturbed about the publicity he received in The Wall Street Journal articles."

6. Elizabeth B. "Lisa" Foster (Wife)

   A. FD-302, 4/7/95
      - "Foster was very serious about the criticism he was receiving in the newspaper. At one point, Lisa recalled Foster taking a newspaper out of her hands and throwing it away."

   B. The Wall Street Journal article, 9/11/95
      - "The intense scrutiny that they were getting made you feel like no matter what you do you're going to get criticized."

7. Katherine "Kaki" Hockersmith (Friend and Interior Decorator)

   A. FD-302, 8/31/95
      - (Fathers Day weekend, 1993) "They visited with Foster in his office on a Friday. During the visit Foster appeared to be very 'stressed out.' He showed them the The Wall Street Journal article and talked to them about it. Foster was not accustomed to criticism and took the article very hard."

8. William H. Kennedy (Friend and former law partner)

   A. FD-302, 5/6/94
      - "Kennedy said this was during the time period of the Travel Office matter and that the 'Who is Vince Foster?' article in The Wall Street Journal was upsetting to Foster. ... Foster realized that Arkansas people read The Wall Street Journal and being trashed in The Wall Street Journal , meant being trashed in Arkansas. Foster lived his life to maintain his reputation."

9. Bruce R. Lindsey (Friend and co-worker)

   A. FD-302, 6/22/94
      - (WSJ article) "The criticism that appeared in that article painted a shady, if not unethical, image of Foster and Foster found it extremely irritating."
      - "The article implied that Foster and the White House was willing to play 'fast and loose' with the rules."

10. James M. Lyons (Friend and attorney)

   A. FD-302, 5/12/94
      - (Re WSJ articles accusing Foster of 'sharp tactics') "Lyons advised that that allegation really bothered Foster."

   B. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

11. Marsha Scott (Friend)

   A. FD-302, 6/9/94
      - (Re WSJ articles) "... she said that Vince was shocked when the article appeared in the paper."

- "She felt that Foster thought that the press was being absolutely ruthless. It seemed to him a personal, mean and vicious attack at a time when he was working extremely hard."
- "In saying that Foster was upset, Scott does not know if he was angry upset (because she never saw him angry) but she knew that it weighed heavily on him and he was very offended."

12. Linda Tripp (Co-worker)

A. FD-302, 3/27-28/95
- "Foster was very distressed over the newspaper articles criticizing him and his abilities."

TRAVEL OFFICE

1. Berl Anthony (Brother-in-Law)

A. U.S. Park Police interview, 7/27/93
- "Foster was also concerned about his legal advice and his role in the firings of seven White House travel office aids."
- "He was worried that there might be a Congressional inquiry into the above mentioned firings of seven White House aids."
- "Foster became increasingly alarmed at the threats made by Republican lawmakers ... regarding holding hearings on the Travel Office matter."

B. FD-302, 4/11/95
- "Foster was concerned that the report would portray him and his decisions in a negative light."
- "Foster felt that his reputation had been tarnished."

2. Sheila Foster Anthony (Sister)

A. FD-302, 4/28/94
- "Foster responded he had not shown good judgement."
- "Foster's distress at that time was severe."

B. FD-302, 4/11/95
- "For some reason, Foster felt responsible for the matter."
- "... her brother thought that the worse was yet to come in regard to the Usher's Office and Travel Office matters."

3. Alice M. Foster (Mother)

   A. FD-302, 5/2/95
      - "Mrs. Foster reiterated that her son was worried about his name being in the media and specifically on television in connection with the Travel Office matter. Vince Foster was concerned that he would be publicly reprimanded for his involvement in the Travel Office matter."

4. Elizabeth B. "Lisa" Foster (Wife)

   A. FD-302, 5/9/94
      - "Lisa Foster knows that Foster was upset about the FBI being called in regarding the Travel Office matter ...."
      - "On Tuesday night, July 13, 1993, Foster spoke with Lisa Foster about resigning."
      - "Lisa Foster understood clearly that Foster was speaking about the Travel Office when he was speaking of his depression and his concerns."
      - (On Saturday, two weeks before his death) "Foster was brooding about his problems. He was consumed by the possibility of Senate Hearings concerning the Travel Office matter."

   B. FD-302, 4/7/95
      - "Lisa Foster stated she is convinced that Foster's biggest concern was the Travel Office matter."

   C. <u>The New Yorker</u> article, 9/11/95
      - "Foster was angered both by the reprimand to Kennedy and by the threat to him, and felt deeply wronged by the White House."
      - (6/93) " Vince told her that he had made a mistake and had decided that he should resign."

5. Laura Foster (Daughter)

   A. FD-302, 4/7/95
      - "Vincent Foster told Laura that he might have to resign from his position at the White House. Additionally, he told her that there may be a congressional investigation of the Travel Office matter, and that it might be 'rough on the family.'"

6. Webster L. "Webb" Hubbell (Friend and former law partner)

   A. FD-302, 6/7/94
      - "Foster told him that the Travel Office situation looks like a mess."
      - "Foster's concern over the Travel Office matter 'got worse.'"

- "Foster was very upset about this. Foster felt that Kennedy was being made a 'scapegoat'. Foster had asked Kennedy to handle the matter and felt personal responsibility."
- "... Foster continued to be upset, focused on the matter and concerned that Congress was talking about holding hearings on the issue."
- "Foster was 'upset' that the Travel Office matter couldn't be put to bed or die and be over with."
- "... he thought that Foster was overreacting to this."

B. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

C. U.S. Senate Deposition, 7/13/95
- "He was concerned about the Travel Office matter. At the time, it seemed, overly concerned."

7. Bruce R. Lindsey (Friend and co-worker)

A. FD-302, 6/22/94
- "... Vince Foster was most defensive about William Kennedy's participation in the matter. Foster was very unhappy that Kennedy was reprimanded with regard to the Travel Office matter."

8. James M. Lyons (Friend and attorney)

A. FD-302, 5/12/94
- "Foster was clearly distressed about the 'Travelgate' matter."

9. Bernard W. Nussbaum (Co-worker)

A. FD-302, 5/13/94
- "The last few weeks before his death; however Foster was noticeably down and blue about the Travel Office situation."
- "The press proceeded to be highly critical."
- "Vince Foster himself was depressed at the unfairness, at the press and at the White House in general."

10. Marsha Scott (Friend)

    A. FD-302, 6/9/94
       - "She recalled knowing that Foster was particularly upset about the reprimand of Bill Kennedy."

11. Ricki L Seidman (Co-worker)

    A. FD-302, 6/23/94
       - "She said Foster had been 'agitated' by the Travel Office matter."

12. Clifford M. Sloan (Co-worker)

    A. FD-302, 5/11/94
       - "Sloan said he had noticed increased stress in Foster as a result of the Travel Office report."

<u>WEIGHT LOSS, ETC.</u>

1. Sheila Foster Anthony (Sister)

    A. FD-302, 4/28/94
       - "Anthony noted that Foster's face had become gray and drawn."
       - "Foster began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in January, 1993."

2. Harolyn Cardozo (Friend)

    A. FD-302, 6/6/95
       - "Lisa told Harolyn that Vince had been losing weight, not sleeping, and not getting any exercise."

3. Rebecca E. Carroll (Family friend and psychotherapist)

    A. FD-302, 3/29/95
       - "Lisa told her that 'Foster had recently lost weight and had experienced difficulty sleeping.'"

4. Loraine W. Cline (Former secretary, Rose Law Firm)

    A. FD-302, 5/18/94
       - "... Cline observed no personality changes in Foster but noticed that he had lost some weight."

5. Elizabeth B. Foster (Wife)

   A. FD-302, 5/9/94
      - "When Lisa Foster saw Foster after she arrived in Washington, D.C., she believed that he appeared awful. She believed that most of the weight which Foster had lost by that time had been lost prior to her arrival in Washington, D.C."

   B. The New Yorker article, 9/11/95
      - "Looking back on their tense, brief time together in Washington, Lisa is filled with images of a desperately troubled man. He lost his appetite, and some nights he didn't sleep at all."
      - "He was losing weight, and Lisa remembers that he began absently wringing his hands, incessantly rubbing the thumb and forefinger of one hand into the palm of the other."
      - (Early 7/93) "Vince told Lisa that he meant to resign. He was still unable to sleep. Worried, perhaps even a bit exasperated, she told him she was tired of hearing about how miserably he was failing in his job...."

6. Webster L. "Webb" Hubbell (Friend and former law partner)

   A. FD-302, 4/13/94
      - "Hubbell said that Foster had lost approximately 10-15 pounds prior to his death."

7. William H. Kennedy (Friend and former law partner)

   A. FD-302, 5/6/94
      - "... he had noticed immediately upon arrival in Washington, D.C. that Foster had lost weight and seemed exhausted."

8. Bruce R. Lindsey (Friend and co-worker)

   A. FD-302, 6/22/94
      - "... he knew Foster had lost some weight, but that he did not attribute it to anything of significance."

9. James M. Lyons (Friend and attorney)

   A. FD-302, 5/12/94
      - "He had noticed that Foster had had a weight loss after he came to Washington. He characterized Foster as a very hard worker and Lyons Believed that it was stress induced weight loss."

10. Bernard W. Nussbaum (Co-worker)

A. FD-302, 6/8/95
- "Foster was tired during that period, and he was thinner and withdrawn in his appearance."

FAMILY PROBLEMS

1. Sheila Foster Anthony (Sister)

A. FD-302, 4/28/94
- "The only problems which Foster experienced in his personal life were in regard to his teenage children."

B. FD-302, 4/11/95
- "Foster's family and marital stresses were severe ...."

2. Sharon Bowman (Sister)

A. FD-302, 4/11/95
- "He was concerned about Laura Foster's [FOIA(b)(6) FOIA(b)(7) - (C)] and the stress that it caused her."
- "Bowman felt that her brother was 'overwhelmed', and had been trying to cope with his stress and depression."

3. Harolyn Cardozo (Friend)

A. FD-302, 6/6/95
- "The Fosters were late in arriving. Suzy (Hubbell) was teasing Lisa and insinuating that they were late because of Lisa and Vince being intimate together. Lisa indicated to Suzy that she was wrong, and that the problem was still continuing. Harolyn understood the conversation to mean that Vince and Lisa had not had sex for a long period of time due to the stress Vince was feeling."

4. Elizabeth B. "Lisa" Foster (Wife)

A. The New Yorker article, 9/11/95
- "Vince had insisted that she stay behind in Little Rock."
- "Lisa was unhappy with this arrangement and unreserved about voicing her feelings."
- "I was angry at Vince about ninety percent of the time."
- (Inauguration Day) "... after the swearing-in Vince went straight to the White House to work, leaving his wife and children at the curb, uncertain how they would get back to Sheila's house. Lisa was irritated by this, and didn't even go to the ball."

- "We had a lot of conversations over the phone that were sort of short, curt conversations, and we realized that we were both so tense about what we had to do that it was not easy for us to console each other."

5. Deborah L. Gorman (Secretary)

A. U.S. Park Police interview, 8/5/93
- "On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly basis."

6. Webster L. "Webb" Hubbell (Friend and former law partner)

A. FD-302, 1/13/95
- "Lisa Foster was very jealous about Foster's time, and she would grow angry when Foster could not be home with his family."

B. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

7. Leslie Gail Kennedy (Social acquaintance)

FD-302, 1/23/95
- "Kennedy believes that Foster and Lisa Foster had marital problems before Foster went to Washington, D.C. Lisa Foster is a very controlling person, and her demands on Foster appear to have been part of the reason he worked so much."

8. William H. Kennedy (Friend and former law partner)

A. FD-302, 5/6/94
- "... Foster's wife, Lisa, was a 'burden' to Foster. She was a demanding, insecure woman and during the move to Washington, D.C., she wore Vince out."
- "She needed a lot ;of 'reassurance and stroking.'"
- "He remembers Foster's comments that Lisa was 'chewing on him' and Foster's saying 'you can imagine what I'm going through.'"
- "He further described Lisa Foster as 'high maintenance.'"

9. Dr. Robbie Thomas-Knight (Friend and Psychologist)

A. FD-302, 5/4/95
- "Lisa Foster wanted more of Vince Foster's time. Lisa felt as though she was competing for Vince's attentions from his work."
- "... Lisa was sometime jealous of Vince's close relationship to Hillary Clinton."
- "Lisa and Vince Foster were concerned about how the move would affect their daughter, Laura. [redacted]" FOIA(b)(6) FOIA(b)(7) - (C)

FAILED NOMINATIONS

1. Berl Anthony (Brother-in-law)

A. U.S. Park Police interview, 7/27/93
- "Foster was not handling the politics in Washington, D.C. very well and blamed himself personally for the failed nominations for Attorney General and some of the sub-Cabinet posts."

B. FD-302, 6/6/94
- "Foster rationalized these problems to be his fault."

2. Sheila Foster Anthony (Sister)

A. FD-302, 4/11/95
- "Foster was troubled by the Lani Guinere nomination problems."

3. Elizabeth B. "Lisa" Foster (Wife)

A. FD-302, 5/9/94
-"When Lisa Foster was asked whether Foster ever experienced anxiety as a component of his depression, she responded by recalling the night that Zoe Baird withdrew from consideration to become Attorney General of the United States. Lisa recalls that Foster came to bed at approximately 2:30 AM and he was sweating profusely and just sick."

B. The New Yorker article, 9/11/95
- "The aborted attempts, involving Zoe Baird and Kimba Wood, to fill the Attorney General job and the ungraceful retreat from Lani Guinier as head of the Justice Department's civil-rights division, were more than just political embarrassments ...."

4. Marsha Scott (Friend)

   A. FD-302, 6/9/94
      - "Foster did not feel as though the White House got credit for anything, but that the White House took a lot of criticism no matter what."

5. Clifford M. Sloan (Co-worker)

   A. FD-302, 5/11/94
      - "..., other items appearing in the press such as those concerning Supreme Court nominees were also stress provoking for Foster."

   B. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

REMODELING OF THE WHITE HOUSE

1. Elizabeth B. "Lisa" Foster (Wife)_

   A. FD-302, 5/9/94
      - "Lisa Foster believes that Foster was concerned about excessive costs being incurred by the Usher's Office, but Foster never discussed these matters with her."

2. Katherine "Kaki" Hockersmith (Friend and interior decorator)

   A. FD-302, 8/31/95
      - "She did not recall either of the Clintons' being unhappy about the cost overruns but Foster was 'very angry' about it."

3. Bernard W. Nussbaum (Co-worker)

   A. FD-302, 6/8/95
      - "Foster believed the Ushers could not be trusted and they were taking advantage of the White House."

WACO

1. Sheila Foster Anthony (Sister)

   A. FD-302, 4/11/95
      _ "Foster was upset by the Waco matter."

2. Alice M. Foster (Mother)

A. FD-302, 5/2/95
- "Mrs Foster was of the opinion that her son was deeply affected by the Waco incident. The whole situation appeared to be very upsetting to him."

3. Elizabeth B. "Lisa" Foster (Wife)

A. FD-302, 5/9/94
- "The Branch Davidian incident near Waco, Texas was also causing him a great deal of stress. Lisa Foster believes that Foster was horrified when the Branch Davidian complex burned. Foster believed that everything was his fault."

B. The New Yorker article, 9/11/95
- "He even assumed blame for Waco, somehow believing that the disastrous F.B.I. raid on the Branch Davidian's compound was his fault. Vince and the rest of the Clinton team 'weren't up there to do bad things, and everything - just like Waco - just blew up in their faces, and it absolutely destroyed him.'"

FAMILY HISTORY

1. Sheila Foster Anthony (Sister)

A. FD-302, 4/28/94
- [redacted] FOIA(b)(6) FOIA(b)(7) - (C)
- "Anthony is not certain but she believes that both her parents possibly suffered from depression."
- "One of the male first cousins of Anthony's mother committed suicide."

2. Allison Anthony-Bethune (Niece)

A. FD-302, 5/18/95
- [redacted]
- " Bethune was of the opinion that her mother has suffered from depression in the past, but did not tell anyone."

3. Dr. Robbie Thomas-Knight (Friend and Psychologist)

A. FD-302, 5/4/95
- [redacted]

MEMORANDUM

TO: File

FROM: Brett Kavanaugh

RE: Conversation with Dr. Blackbourne

DATE: May 1, 1997

I talked today with Dr. Blackbourne, and asked him whether he agreed with a statement in our report that urination and secretion of seminal fluid can occur upon death. He said he agreed with that statement.

Memorandum

Office of the Independent Counsel

To : IIC E.H. LI

From : SA JAMES T

Subject: 2/29/96 ME

3/1/96

On the ab entatives of
the FBI LABORATORY

DONALD W. THOMPSON, , 324-4413
WAYNE W. OAKES, Sup 1 (5042)
ROGER MARTZ, Unit (
ROBERT FRAM, Super
CHRISTOPHER FIEDLE

Also pre esentative of
the Governmental F

Brian Buckley, Sup 8.

The pur duct a tele-
conference with I recently raised
by DR. HENRY LEE ociated with the
FOSTER Death Investigation. sented these
issues as follows:

A) FIBER EVIDENCE: Numerous fibers have been collected from various pieces of clothing recovered from FOSTER'S body. These fibers have not been classified or identified.

Questions:
1. Would it be practicable for the FBI LAB to do a population study and classification of these fibers in order to: a.) Weed out those fibers which can be attributed to the clothing FOSTER was wearing at the time of his death? b.) Determine the total number of carpet fibers and determine if they are of similar or different type so that known samples could be collected and positive identifications made?

JTC/jtc
1-DAD Donald W. Thompson 1- 29D-LR-35063
1-SSA Wayne W. Oakes
1-SSA Roger Martz
1-SSA Robert Fram
1-Christopher Fiedler
1-SSA Brian Buckley

Memorandum

Office of the Independent Counsel

To : IIC E.H. LUECKENHOFF

Date 3/1/96

From : SA JAMES T. CLEMENTE

Subject: 2/29/96 MEETING WITH FBI LAB

On the above date writer met with representatives of the FBI LABORATORY as follows:

DONALD W. THOMPSON, Jr., Deputy Assistant Director, 324-4413
WAYNE W. OAKES, Supervisory Special Agent, 324-8571 (5042)
ROGER MARTZ, Unit Chief, 324-4318
ROBERT FRAM, Supervisory Special Agent, 324-4350
CHRISTOPHER FIEDLER, Support/Geologist, 324-4403

Also present for this meeting as a representative of the Governmental Fraud Unit was:

Brian Buckley, Supervisory Special Agent, 324-3768.

The purpose of this meeting was to conduct a teleconference with IIC LUECKENHOFF regarding issues recently raised by DR. HENRY LEE regarding physical evidence associated with the FOSTER Death Investigation. IIC LUECKENHOFF presented these issues as follows:

A) FIBER EVIDENCE: Numerous fibers have been collected from various pieces of clothing recovered from FOSTER'S body. These fibers have not been classified or identified.

Questions:
1. Would it be practicable for the FBI LAB to do a population study and classification of these fibers in order to: a.) Weed out those fibers which can be attributed to the clothing FOSTER was wearing at the time of his death? b.) Determine the total number of carpet fibers and determine if they are of similar or different type so that known samples could be collected and positive identifications made?

JTC/jtc
1-DAD Donald W. Thompson 1- 29D-LR-35063
1-SSA Wayne W. Oakes
1-SSA Roger Martz
1-SSA Robert Fram
1-Christopher Fiedler
1-SSA Brian Buckley

Answers: WAYNE OAKES
1. a.) The FBI LAB could and would perform these studies despite the fact that they would be very time consuming. However, it is expected that a high percentage of the fibers recovered would be attributable to his own clothing, therefore a finding of this nature would not be significant. Additionally, since there were thousands of fibers recovered, hundreds of these fibers would remain from other unidentified sources so little would be gained by this exercise. b.) It is likely that the carpet fibers which were recovered could be identified and matched to known samples.

Question:
2. If FOSTER had killed himself, or had been killed, at another location and was subsequently rolled up in a rug and transported to Fort Marcy Park, would there be a high percentage of fibers found on his clothing from that rug?

Answer: WAYNE OAKES
2. Assuming these facts, one would expect a large number of carpet fibers from a single source. OAKES recalls there being only about a dozen fibers that could be identified as carpet fibers in the FOSTER case. Although this is not the result he would expect under the above facts, he would not be comfortable drawing any conclusions and would therefore simply report the facts. Also, although it may not be significant in this case, OAKES would like clarification about how FOSTER'S clothes were processed by the US Park Police. Specifically, was there any cross-contamination between the different items of clothing? Could some trace materials have been lost due to the handling of the clothing before it was packaged and sent to the FBI LAB?

B. <u>HAIR FRAGMENTS:</u> Three hair fragments were recovered and we are not aware if analysis of these fragments would have any investigative relevance.

Questions:
1. With respect to the three (3) hair fragments recovered from FOSTER'S body: a.) Were they ever compared to each other? b.) Can a determination be made as to whether the hair color in the fragments is natural or dyed? c.) Can a determination be made as to whether the hair fragments came from a person or persons who had short or long hair at the time? d.)Can a determination be made as to whether the hairs originated from one, two, or three people?

Answers: WAYNE OAKES and ROBERT FRAM
1. a.) The hair fragments were not cross-compared with each other. This can be done, however, this comparison may not be determinative. b.) It is possible to determine whether the hair color was natural or died. Although this test has not yet been conducted on the fragments, they were all light brown to blonde in color. c.) The only determination that can be made regarding the hair length of the source is that the person from whom each fragment came must have had hair as long as or longer than that

fragment at the time the hair was removed from the head. However, the hair may have been removed long before it was transferred to FOSTER'S clothing. d.) Since an individual's hair characteristics may vary, it is not possible to determine whether the hair fragments originated from the same source. If a hair sample is taken, it should be a large enough sample to ensure that each of that person's hair characterics are represented in the sample.

C. MINERAL AND VEGETABLE PARTICLES: DR. LEE found trace mineral and vegetable particles consistent with soil and grass on the soles of FOSTER'S shoes.

Questions:
1. a.) Who performed the FBI examination of FOSTER'S shoes? b.) What did he mean by "No coherent soil" ? c.) What soil if any was found? d.) Would the FBI LAB be able to conduct soil comparison test between soil particles recovered from the shoes by DR. LEE and soil samples recovered from Fort Marcy Park last year?

Answers: CHRISTOPHER FIEDLER
1. a.) BRUCE HALL did the original mineral analysis on FOSTER'S shoes. His unit of the FBI LAB does not examine vegetable matter. b.) "Coherent soil" is soil that is clumped together in a sufficient quantity to perform a soil comparison. c.) HALL found only loose mineral grains containing mica. (This is apparently consistent with DR. LEE'S findings.) d.) There is insufficient soil for the FBI LAB to do a soil match. Also, soil composition changes over time so no valid comparison can be made unless contemporaneous samples were taken.

Note: FIEDLER did not know whether HALL photographed the soles of the shoes when he originally examined them.

Addendum:
On 3/28/96, I spoke again to FIEDLER and asked if it was theoretically possible to: 1. Identify minerals other than mica which were present on VWF's shoe soles, and 2. Compare these minerals to those found in the soil samples taken from Ft. Marcy Park, in order to make a determination as to whether or not at least some of the minerals found on his shoes are also found in Ft. Marcy Park.

FIEDLER said yes, it is possible to do this, however, he added the following: 1. Of the minerals that are likely to be found, Mica is the one that is most indicative of originating from a smaller area. 2. Whereas quartz and other particles that are likely to be found are so prevalent that they could have originated from almost anywhere. 3. The results could be misleading because, judging by the hole in VWF's shoe sole he has had these shoes for a long time and some of the mineral particles stuck to his shoes could have been picked up in Arkansas or any other area he has visited with those shoes on.

D. BALL PARTICLES: The FBI LAB identified one smokeless ball powder particle from FOSTER'S eyeglasses. DR. LEE tested 10 other ball particles from these glasses and found them to be composed of silicon.

Questions:
1. What tests were conducted in making the determination that the particles found on the glasses were ball powder?

Answers: ROGER MARTZ
1. Many ball particles were observed on the eyeglasses, however, the electron scanning microscope was used to test two types of ball particles of which, upon microscopic examination, only one resembled smokeless ball powder. One of these particles was determined to have been smokeless ball powder and the other was determined to have been composed of silicon, possibly fingerprint powder (This also appears to be consistent with DR. LEE'S findings). The one particle of smokeless powder was removed. The remaining particles of powder are not smokeless powder. Further examination of these particles by the FBI LAB or DR. LEE appears to be unnecessary.

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: _____

TO: Jim Clemente

Company Name: _____

Fax Number: 324-6427 Telephone Number: _____

FROM: BK

Number of Pages: _____ (including this cover sheet)

Message: _____

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#1

JW Marriott 10-12; 0730 - 1015
St. James 10-13; 0815 - 1015

Deep background - both ways.

He was meeting for lunch with a Sentate staffer.

Lisa Foster did New Yorker interview. Reporter Boyer is a charmer. Lisa wants to make money out of this.

Congress still looking. Shiff. We are interested in talking to Scalice. Report was prepared for Western Journalism Center. According to Ruddy, "Scalice has to clear it with us" before he would talk to OIC. When asked who "us" is, Ruddy said that he is part of the WJC. Told him that I didn't differ strongly with most of what Scalice said. Told him I knew Scalice had been on MLK panel...

Sprunt report is good and worth reading. He will send me a copy.

How did you like the article on my boss [Scaife], in WSJ? Scaife liked the way the article came out. WSJ reporter was trying to do a number on him; inquiring about his drinking, new wife's use of pills, etc...

Scaife, according to WSJ article, spends $400,000 per week on various causes.

Meeting on Monday (10-9); will run full page ads in NY Times, etc. Cost $27,000 per day. Scaife: is that all? I thought it was $44,000 a day. Need to run more.

60 Minutes attempt to do hatchet job on Chris. Everyone feels it will backfire. Wallace talked with Chris for abt 5 hours. Chose selected items. Knows that Chris is the one that first reported that Boston Globe was wrong.
Wallace does not like Scaife, who bankrolled Westmoreland suit against Wallace and others. Wallace admitted that he had been depressed during that suit, and thought of suicide.

Need to hit the weak link and break the Park Police coverup.

Officer Ferstl is the weak link. He supposedly is very religious, a Christian. Ferstl was suspended for 30 days at one point because he had talked to the press. In his 302, there is no mention of where the body was found. He has wanted to be a cop all his life, and is loyal to law enforcement, per the normal code of silence.

FOIA(b)(7) - (C)

W3,W4; lied about briefcase....

Gonzalez did a hand drawn sketch for Ruddy. Showed the location of the body near cannon #1.

Dr. Haut did a hand drawn sketch for Irvine. Showed the body in that same place, near cannon #1; not cannon #2.
Ruddy also has tape recording of his conversation with Haut about the body's location near #1. Wallace was told this, and Wallace decided to use Haut on program saying something contrary to that.
Haut's map/tape is consistent with Gonzalez.

Arthur is interesting.

Pat Knowlton (W2) says that he saw Hispanic guy in parking lot around 4:30 pm. #1 believes that this guy was "covering the parking lot" while others were moving the body...

There is a lot of mica in the park. It is all over the vegetation. Mica on Foster, but no soil. Consistent with 1st cannon location.

Mr. Reaves, male black who stays around the park, was not there during the week Foster's body was found - he was sick. No one from the OIC has ever talked to him. [Advised #1 on second day that someone had talked to Reaves. BK advised me that Luekenhoff had].
Park Supervisor Tyrone (Ty) Brown told Reaves that the body was by the 1st cannon. Ruddy has Ty on tape.

Park historian - clear dirt paths to cannon #2.

When asked if he thought the body was ever at cannon #2, he stated that not ever at cannon #2.
When asked why everyone said it was by cannon #2, he said that all lied about it. If they don't continue lying, the truth might be uncovered.

When will Henry Lee do a report? Lee is a hired gun. Will say "could be_____".

Theory:

When asked what his best theory was, he said off the record, deep background:

Foster was poisoned. The gun shot was a "cover shot" after the heart stopped:
Little blood.
Vernon Gebhart.
No exotic tests were run.
No blood on the vegetation.

Foster had severe anxiety the last few days of his life. When you kill someone like this, you want to do it in a familiar setting.

Foster didn't have lunch as the secretary said. Pond was told to say that.

He did have a big meal at the White House, but not in his office. Beyer found meat and potatoes in stomach.

Probably died between 4 and 5 of poison.

Was on a carpet on the floor in the White House; possibly an oriental carpet, because of the different type of fibers. Do not believe he was ever rolled up in a carpet as some speculate.

Helen Dickey was told that he died in the parking lot; probably the parking lot at Fort Marcy. → NOT WHITE HOUSE

A military source in the White House says that there was a stranger in the halls of the White House between 2 and 3 pm that day.

The White House security apparatus is geared toward checking people coming in. Little attention is paid to those leaving. Officer Skiles is the only one who might have seen something that day.

When asked who might have done this, he said, "the Arkansas B-team". Why call it the "B-team": because it is an Arkansas version of the noted "A-team" of TV fame.

Who is this "B-team"? Dixie Mafia thugs, who also do things for Tyson, Stephens. → NOT [illegible]

Patsy Thomasson spilled the beans that Vince Foster was going to talk. Patsy is the enforcer. Notified appropriate people.

The body was moved out of the White House through a tunnel; perhaps through the Treasury Department. No one cares about people going out of the grounds.

The body was transported in a van to the Park.

Probably the cover shot was in the van. Wouldn't it penetrate the van? Not if shot into a mattress. Dr. Haut said the back of the wound was covered. ground

The van pulled into the 2nd parking lot on Chain Bridge Road, across from the Saudi ambassador's residence.

The body was then carried directly from the gate by the 2nd parking lot directly to the position near cannon #1. It is a

straight path to there.

The gun allegedly found in Foster's hand was "staged".

He was probably shot with a .22 pistol. This is the type weapon often used to hit people. Silencers can be used on same. This is consistent with Haut statement about a low velocity weapon.

When asked about the CW, he said that he is probably in on it. Possibly even his van used. CW will not talk to Ruddy.

Told him that we will consider all reasonable theories. Told him I will talk to Irvine, Pritchard also.

He said Scaife, Irvine down on Ken.

With Irvine make it clear that it is off the record. Irvine tapes all telephone conversations, even those with Ruddy. He will print anything you say.

"I'm not saying I talked with Miguel, but...."

Miguel believed the CW; Ruddy does not believe him.

CW supposedly made the 911 call from the other park; but an anonymous female called 911 first, even though the official record does not reflect this.

Need to check Rolla's rough notes. He indicates arrival at 6:35 pm. Next entry or so is "Walker, Secret Service at the White House." Which indicates he had that before he got to the park.

Believes strongly that White House notified earlier that everyone has said.

Beyer told him that there was an FBI man and a Secret Service man at the autopsy.

STUN GUN

Oct. 13:

Discussed Miguel, Touhey. Advised him of unprofessional conduct by Miguel. Lucia witness.

Miguel raised a number of inconsistencies in lengthy memo. We have checked these out.

Miguel's insistence on "maintenance road" below 2nd cannon area. Ruddy agreed there was none.

Miguel statement about body under cannon #2 "in the line of fire" ludicrous.

Thinks Ken needs to hire an experienced murder prosecutor.

He gave me copy of Dr. Haut's map. Showed me where 1st cannon was; and where body was in relation to 1st cannon.

#2

Thanks for all the cards about Miguel. How many did you get? Got 938 in the first 10 days. Don't know how many in all.

They did a 1-hour TV program the night before with Ruddy, rebutting the 60 Minutes report. They furnished me a copy of this video, and also several stories they have done on it.

Discussed the Touhey-Miguel situation.

Touhey has told a number of people that Starr investigation merely confirming what Fiske did. Told Stinson, attorney for Fornshill this.

find out where she is ⇒

We really need to obtain all telephone records and analyze them.

Officer Gavin of the Park Police is very suspect.

AIM is the only one that picked up on a significant statement made by David Watkins in his Congressional testimony. He said that he saw no problem with going into Foster's office at 10:30 pm because the White House had known about the death for 5 hours at that point. This would mean that the White House would have known at 5:30 pm, which is before body allegedly found and way before the White House and Park Police say the notification was made. I was provided a copy of the AIM report on this.

Officer Rolla had in his rough notes the name and number of White House Secret Service supervisor Dan Walters.

There is a wall of indifference about the truth getting out.

No one will even say when the Grand Jury in Washington expires. Told him I did not know, and would not tell him unless it was o.k. under the local practice. It varies in different districts.

<u>Irvine: "I talk to Miguel; in fact, I had a long conversation with him yesterday."</u>

Why weren't the prints on the cars in the Fiske Report? Whose prints were they. There are witnesses who said they saw 2 guys around Foster's car. What efforts have been made to identify these people?

Told him that we want to talk to Scalice.

Sprunt Report is very good. He has gone over and corrlated the conflicting stories. Sprunt is an accountant who has a 900 number for questions of a tax and accounting nature.

Fiske sent over the 302's to the Banking Committee, but said

he was not sending over the back up handwritten notes "for want of time". It would be helpful to release these backup notes; there has been time to turn these over.

Explained to them about the often inaccuracy of 302's, giving examples from other years. It is not a statement of the interviewee, within the meaning of the Jencks Act, in most districts; but is a statement of the interviewor about what he says the interviewee said.

He gave as an example the interview of Judy Dudy and Mark Frist (W3 and W4), the 2 people on the "picnic". Officer Julie Spetz was the first to talk with them. Her notes should be examined. Who made the mistake? Was it the wrong car? Carol Braun, on instruction, cleaned their statements up. Need to see Braun's notes.

The FBI reinterviewed Judy; as she related what happened to them, they said, "that isn't what you told the Park Police". When told what she supposedly told the Park Police, she said, "I didn't tell them that."

The Fiske Report says, "the couple (W3,W4) saw nothing unusual", leaving out any reference to the other people seen in and around Foster's car.

THERE IS NO FORENSIC EVIDENCE TO SHOW THAT FOSTER DIED IN THE PARK!!!!!
[Irvine said this at least 5 times.]

They do not think anyone moved Foster's head at the scene in Fort Marcy Park. The Fiske FBI agents tried hard to get someone to say that.

FOIA(b)(7) - (C)

Everyone says that the head was straight on, even [redacted] [They brought up the CW's real name, as well as W2,W3, and W4's real names. Prior to this trip to Washington, I knew only the real name of the CW, not W2-W4].

As to the blood drainage tracks, they said Chris was wrong about the different head positions.

They went to Fort Marcy with [redacted] (the CW) at some point. They do not believe he is credible on everything. They do not believe his version of what he was doing in the park. He was probably "cruising". He is confused. He couldn't see what he said he saw in the car.

The witness who came at 4:30 (W2), Knowlton, is very credible. He saw a Hispanic looking, possibly even middle eastern man in a car. This man glared at him and was nervous. It was suggested that this man was a lookout. ~~This man~~ Knowlton says he saw a briefcase in the car.

[I told them I had serious questions about the briefcase].

Officer Arthur is very interesting. 911 call; why didn't he stay. Traced the public telephone call to Turkey Run park. Park Police use brown and black guns, automatics, with square handles, about .45 ~~caliber~~ or 9mm. The wound in the neck was a small caliber. (Arthur and another EMT). Gonzalez said initially a bullet wound ~~to the temple;~~ understand he changed and now agrees with Arthur.

Henry Lee told some people at a pathologists meeting that he thought they ought to exhume the body.

AIM thinks the body should be exhumed.

Miguel says that they removed the brains during the autopsy so you can't establish the bullet track now.

Purvis, a lawyer in Little Rock, talked to the mortician. The bullet wound was at the hairline at the back of the neck, and was the size of a dime. The undertaker will not talk to AIM.

X-RAYS: Should have been taken! ~~Beyer's statement to~~ Morrissette/form indicated that ~~they~~ were taken. Then says ~~there are none, that~~ machine was broken. But AIM determined otherwise. Checked repair company records. Machine was new on June 15; 1st service call was about Oct. 27, when a minor adjustment was made.

Before the Senate Banking Committee, Beyer said carefully, "I don't ~~have any x-rays in my file.~~" Did not say, "I didn't take any." Thus, he avoided perjury.

The x-rays disappeared.

Just like the crime scene photos disappeared. At least 1/3 of them have vanished, leaving only 13. This is more than sloppiness.

"That's why I agree with Rodriguez that the police are dirty on this."

Why was the body taken to Fort Marcy Park? So the Park Police would have jurisdiction, and would cover it up.

Rodriguez trying to break the weakest one.

Rodriguez was very suspicious of Gavin. Don't know if there was any followup on Gavin after Rodriguez left.

Hillary was supposed to be flying into Andrews AFB. Diverted to Little Rock. Need to check Airplane phone records.

The Helen Dickey call to the Governor's Mansion (Perry). What do the phone records show as to the time? Why won't they release the records?

The U.S.Secret Service Memo was supposedly written at 10:02 pm. Notified at 8:30. Foster's body found in parking lot dead. They think this memo "is a plant" to later justify the Helen Dickey statement about Vince in the parking lot.

Maggie Williams commited perjury. The Secret Service officer had no reason to lie.

Gorham was called in by Nussbaum, Williams to read the files and the titles on the folders. Wanted her to see the index was missing. Two other indexes created later. See the AIM report on this subject. The WWDC folder was not listed. Check the hard drive....

The 302 of the psychiatrist: Sheila told him on 7-15-93 that the person who was a prospective patient was "in a bind." Sheila knows that Vince was in a bind. Was she ever asked about this?

Did it involve NSA? Did it involve the personal finances of the Clintons?

Gorham put two NSA binders in the office safe for Foster. Why did Foster have these? What happened to it?

2 fat manila envelopes were also found in the safe:
1) "eyes only - Bill Kennedy";
2) "Janet Reno"
What is this?

2 guns in the house. No positive i.d. on the gun. [Told them we had made a lot of effort on this....] silver plated revolver mentioned. Lisa 302. Lee Bowman Jr. unable to i.d.

Gun in hand. Arthur says it was a brown and black automatic. [The Park Police have guns like that]. The revolver reported as found in Foster's hand was blue and black.

Why did Fornshill dash over on his scooter...so quick and without permission? Sprunt says it was too quick. Could it be that Fornshill's mission was to put gun down - his own - then another cop comes up with the "drop gun" later.

A number of people not satisfied with Ken's investigation.

People very dubious of Washington office, especially Touhey.

When I told them of review and oversight of professionalism, etc., by Sam Dash, they questioned his motives. I stated strongly that Dash has served us very well....

They told me that Chris Ruddy had appeared on the AIM 1-hr. TV show the night before. They gave me a copy of the tape.

#3

Feb. 84 - Lasater, Patsy T. to Belize. Roy Carver ranch owner. Dope grown or shipped from there. Interest in buying the ranch. On the way back they were stopped in New Orleans. Threats. Memphis OCDTF interest...

5 Park Police are suspect: Gavin, Braun, Rolla, Fornshill, Edwards.

Braun misrepresented what Dudy/Frist said.

Patrick Knowlton (w2) saw a briefcase in Foster's car. He also saw a blue sedan (not with VA tags) and Foster's car. Patrick now out of a job.

Anonymous call 7 times - person said he was in Fort Marcy Park and saw 2 men walking with 1 man who appeared to be drugged, near a blue sedan.

David Edwards told girlfriend, "I was the last person to see Vince Foster alive." Would not imply who girlfriend was.

Rex Armisted has a lot of information about this. He is getting information for someone else and doesn't know how much he would tell me. He said he understood I knew Armisted.

Ray Mabus, former MS governor, is now U.S. ambassador to Saudi Arabia. He and David Edwards are close. Edwards had an apartment in Paris. Mabus flies there a lot.

Turku, head of Saudi Arabian intelligence, attended Georgetown at the same time Bill Clinton did.

Atlantic Research - Contra - POM weapons contracts. KW/NSA. Big contributors in 1982.

Mark Swaney - Fayetteville - knows a lot about ADFA. Sued ADFA.

Col. Simmons - head of White House communications agency - run by Defense Dept. - 45 man unit - phone system, etc. Check all phone records.

His information is that there is a 7 minute call beginning at 5:48 pm EDT from Dickey to the Governor's Mansion in Little Rock.

Told him I had just reviewed the Nichols video with Perry, Patterson.

HRC landed in Little Rock at 7:26 pm, not at 7:40 pm as the official record shows.

In addition to the later calls, we need to check the quadralation of calls between: HRC (airborne), Williams, Thomases, and H.Dickey.

Maggie Williams paged Foster at 6:20.

If Henry Lee concludes that Foster committed suicide, the conspiracy theorists will go wild. Danny Castellara was found dead in a West Virgina motel in 1991. Henry Lee was called in as an expert. Henry Lee found that Castellara commited suicide; many believe he was murdered. Castellara was involved with the INSLAW matter, etc. His was an intelligence-related death; so was Foster's.

#4

Her understanding that Foster death investigation reached same conclusion as Fiske - her piece on conspiracy theories. Should they pursue anew?

Clinton, Hubbell, Lindsey invite to Foster....

ADFA, AR prison construction. She has heard about. Has requested ADFA file. Heard that Tucker connected to it. Brickeys, and Calico Rock.

Travelgate. There will be hearings. Worth pursuing. Watkins, et al. Foster concerned about it.

Phone calls to Hubbell interest them. As do all of Hubbell's calls.

Heard of an Antitrust allegation involving bankruptcy.

Perry County's Hill and Branscum...

Judge Woods; they are looking at him....

He went to Little Rock during the Campaign. Talked at length with McDougal. Believes McDougal told truth in 1992.

He started asking questions about Whitewater, Rose Law Firm, Securities Department, etc.

Thomases and Lynch, on behalf of campaign, rebuttal/defense on alot of issues. Told him that they, or others had examined the files....

Gave Webb Hubbell to him to explain things. Webb first told him Massey story about the RLF going on retainer from Madison.

Believes Webb hosed the files. i.e. RLF file copy of 4-30-85 letter to Bassett missing; file copy may have had HRC, etc on it. Believes WLH sanitized RLF file of indicia showing HRC was originator or approver of any Madison business, documents, etc.

WLH said he had reviewed stmts, etc. Yet now missing. But he forgot about internal documents that set forth fee allocations.

He submitted written questions to the campaign and got answers back.

Met with Thomases and Lynch before article (on Friday, March 6). They were trying "to buy time". Super Tuesday was on March 10, and was very important to the campaign. They wanted to get past Super Tuesday without him running an article. After he met with them, Thomases supposedly told someone, "I think I bought us 2 or 3 more weeks."

He ran the story on Sunday, March 8.

He believes that the Clinton-Jerry Brown debate was on that Sunday night. Brown went after Clinton about steering business to his wife's law firm. Clinton went back at Brown. The her "not staying home and baking cookies" statement came out.

RLF sources told him that Webb stole a bunch of the RLF files.

On 3-9-92 there was a Washington Post article on the Rose Law Firm.

3-10-92 Super Tuesday.

Jim McDougal called him and told him he had met with Blair. He said that Blair wanted McDougal to sue the New York Times over the Gerth article.

McDougal called him and read to him the letter from Blair to Heuer. McDougal took it as a threat.

There was a memo from Lynch to Bill, Hillary, Lindsey and Lyons. He does not think we got it from both the campaign and Kendall. Thinks one or the other did not produce it.

One thing he inquired into was the Clinton Ethics Committee. Webb drafted a ballot initiative (a couple of weeks after the Whitewater/Rose Law Firm questions to Hubbell). Webb took out language so the new ethics law would not apply to the Executive Branch of state government.

This would have hurt the Rose firm, because under the act, as originally drafted, the Rose firm clients would have had to be reported. Since they had many that did business with the state, it would have hurt....

Bassett had some AR Securities Dept. records destroyed according to a source. He said we have not talked to this source before. [based on other parts of the conversation, I had the impression that the source might be the sister of Rae Ann Moles, who worked at the Securities Dept.]

On the retainer, he finds Rae Ann Moles to be credible.

He remains interested in the Lindsey matter.

#6

Mena; are we doing anything with it?

Alot coming out in depositions in Reed case, especially through troopers.

ADFA; are we doing anything with it?

ADOC: Calico Rock, Lee County.

Trooper info.

Explained our jurisdiction to him.

Lasater; are we doing anything with him?

Tucker, McDougals.

Timing.

Cattle Futures of HRC.

Gave me copy of latest Insight magazine bearing date of 10-30-95. Story: "North Carolina Senator expects to call Hillary."; Story: "A State of Corruption", that has pictures of Tyson, Pryor, L.D. Brown.

Summary of Foster Death Scene

22 official people at Park (10 Park Police, 11 EMT's, and 1 Deputy Medical Examiner)

4 unofficial people at Park (the couple, the woman in Mercedes, and CW)

Observers of cars/people entering park that afternoon

Fred Ferris (W1)

saw car swerving into park around 2:45-3:00 p.m.
gray metallic vehicle; did not think Foster's car was the right car after observing pictures of it

Urinator (W2)

Miguel's report: saw Foster's car parkef' coat and leather briefcase; specifically recalls presence of briefcase

Jackie Arends

saw man in blue Mercedes opening park gate around 5:30-6:30

Notification of Authorities re: body in park

CW FOIA(b)(7) - (C) (W5)

Park Employee Swann

Other Park Employee

Dispatcher

James Charron

302

Fairfax County Police Dept.
911 calls; one at 5:59 p.m. (tape given to FBI)

Unofficial People in Park

Judith Doody (W3) [did not see body]

Park Police report

302
left work with Mark Feist and arrived at Fort Marcy around 5:15 to 5:30 on July 20 in here White Nissan
saw Honda Accord when entered parking lot
thinks she saw a white male in the driver's seat possibly bare-chested; backed her Nissan into parking space
soon thereafter saw a white van come into park; man was wearing blue shirt
after the van departed an old dirty 4-door sedan pulled into the lot and made a u-turn and exited park
shortly before 6:00 she and Feist departed vehicle
they saw a white male walking towards the parking lot at Fort Marcy; in late 20's or 30's dark brown hair
she heard emergency vehicles entering park
she was found by a Park Police officer
in her car was a can of beer and 1 or 2 wine coolers

New 302 on 2/2/95

Mark Feist (W4) [did not see body]

Park Police report

302 #1
saw small car parked to his left when they arrived; brown Honda perhaps
the hood of the Honda was up abd a white male was standing in the vicinity of the car; long blond hair and beard
while they were in car, a white van pulled into the lot
thinks that van had left as they started walking
they saw a jogger run by; older man with red shorts
recalls hearing a car accident while in the woods; no gunshots
heard sirens and then saw paramedics
female officer ordered them to come to the park for questioning

302 #2

wearing a blue blazer that he might have left on the car seat
he also believed that a briefcase would have been on seat

New 302 on 2/2/95

Confidential Witness

been to Fort Marcy 50 times over past 20 years
on 7/20 working on construction site in Alexandria
heavy coffee drinker so pulled off
noticed two cars
vague on first car (Foster's); possibly light blue or tan
second car was backed in and was white Honda
he backed his white van and took shirt off and hung it on side mirror

Jeanne Lynne Slade [did not see body; in broken-down Mercedes]

at least two cars parked in lot
sure no one was present in cars and sure that no one was in the parking lot area
one was dark blue and was gray or silver
did not see a white van
she walked north on GW parkway to go to the Chain Bridge exit
as she did so, she saw several emgency vehicles heading south on GW parkway
did not hear any loud noises such as gunshots

Death Scene

Park Police (10)

Fornshill, Apt, Edwards, Simonello, Rolla, Braun, Gavin, Ferstl, Hodakievic, Spetz [maybe **Watson** and **Schmidt**]

recordings
Fornshill said his call went out over recorded channel 2; he said it was apparent suicide

pictures
Fornshill deposition said Edwards
Simonello says himself and Rolla

reports
Fornshill said Ferstl did report
Simonello did report

sketches
Simonello did rough sketch of scene

Renee Apt

302
arrived with Rolla and Braun
Simonello arrived soon thereafter
she saw Spetz interviewing the couple in parking lot
went to death scene with Rolla, Braun, and Simonello
she saw Edwards, Ferstl, and Hodakievic there
she saw Edwards taking Polaroids
she saw Rolla taking Polaroids
she saw Simonello taking 35 mm's
Foster's head was straight up; transfer pattern on cheek
she saw Simonello check the fingers for rigor mortis
she saw gun in hand; difficult to see

Cheryl Braun [investigator]

302
investigative officer along with Rolla and Apt
estimates arrival between 6:30 and 6:45
saw dark Mercedes with hazard lights flashing
saw two cars in lot
Spetz was questioning couple
thinks she saw Gavin, Park Police Shift Commander at the scene
she, Rolla, and Apt remained in parking lot for 5 or 10 minutes while waiting for Simonello to arrive
thick foliage around body
recalls seeing revolver in right hand

heavy flies
Rolla took Polaroids
Simonello took 35 mm's
Rolla discovered eyeglasses
Braun looked for note but found none
checked pants pockets for id and note
Rolla in doing this moved body from side to side
did not find keys and she and Rolla later had to go to hospital to get them
she took Polaroids of car and Simonello took 35 mm's of car
searched car and found suit jacket with wallet inside
advised another officer to call shift commander
she eventually called him around 7:30-7:45
around this time the coroner and ambulance arrived to remove the body
while en route to hospital she was instructed by shift commander to call Watkins who wanted to accompany police to house
then she was advised to call Kennedy and he requested that he and Livingstone be allowed to view the body
she instructed the hospital to allow Kennedy and Livingstone to view the body but not to remove anything from it

<u>Senate Deposition</u>

plainclothes investigator with criminal investigations branch assigned to Anacostia
got on the air with Fornshill after recieving notification
he said suspicious not natural
notified Simonello; went with Rolla and Apt
saw Mercedes when pulled in
Edwards, Spetz, Fornshill, Gavin were there
no medical personnel there
Simonello got there a couple of minutes later
Rolla and Simonello were takingh pcitures
stayed with body about 15-20 minutes
blood on shirt on right shoulder
wanted Rolla to get experience handling a crime scene; his first murder
Braun was in charge
car was not locked; had Ark tags on it
Simonello did not print the car
fairly obvious that it was a suicide
if somebody else had put gun in hand it wouldn't have stuck onto his thumb the way it did
found normal stuff in car, glasses, photos, registration [**check registration**]
notified Gavin after found White House identification
did a 100-page, which means all high Park Police officials are informed of serious matter
Gavin called the Secret Service
a Lieutenant Schmidt came by the scene [**who is Schmidt**]
saw canvas bag with two beer bottles in it
remembers map on floor on passenger side of car [**get the map; was Foster looking at the map??**]

once body was gone they realized that they did not have keys, so they drove to Fairfax Hospital and got the keys; they were in right front pants pocket

on way to hospital, Gavin advised them to contact Watkins

crane was coming for the car; taken to Anacostia

car was photographed

talked to Kennedy and he asked that he and Livingstone be allowed to view the body

Webb Hubbell shoved her out of the way at the Foster residence

first suicide notification

finished her report before leaving that night

tried to page David Watkins after leaving that night, but he did not return the call

car keys went into bag for safekeeping [**where did car keys go?]**

Simonello and Apt returned to station before Rolla and Braun

if could have done anything differently, it would have been to go to the White House to secure the office

the next morning the case was assigned to Detective Markland

left at 7:00 the next morning

Morrissette went to autopsy

at scene Edwards had taken a few pictures and gave those to Rolla and Braun

Edwards indicated death by suicide

couple [Doody and Feist] described the van that had come in and emptied trash; another car came in and put the hood up like it was overheating; one other vehicle with a man sitting in it with no shirt on and he had left

Foster's car had been there and had not moved

hands were not totally flat; were cupped at sides

saw gun in right hand

not actually aware that EMT's had ever been there

briefed Hume the next morning and Hume briefed Markland

was wearing gloves at scene

believes she might have taken notes

was using flash on her pictures

believes that Officer Watson and intern stopped by [**who are these people?**]

did not remove anything from the car that night

was looking for a briefcase in car but did not find it

doesn't remember any marks on map

had no doubts it was a suicide when she left Fort Marcy Park

autopsy was pushed up because family wanted to take body back to Arkansas ASAP

Lisa Foster's comments struck her as unusual as if suicide were not a complete surprise

all of the other people seemed very surprised by all of this

Rolla was plainclothes

does not know if he had office in the home [**check on this with family**]

asked Watkins to seal the office while at the notification; Watkins said he would have that done [**what time**]

if could do it again would have Secret Service seal the office

report was turned over to Hume the next morning

had made arrangements so that the autopsy would be on the 22d
Morrisette and Johnson went to autopsy
briefed Major Homes on phone the night of the 20th

Senate Testimony Rolla and Braun

Rolla: spoek with Ferstl when arrived in park; body of white male up at second cannon, with gun in hand
car was in foruth spot from entrance to parking lot
suit jacket on front passenger seat
Braun handled the parking lot scene while Rolla handled body
both went to body at first
the crime scene was taped off
to Rolla's knowledge the body had not been moved but someone may have checked the carotoid
saw dark-colored revolver in right hand
Rolla was too tired to come back in for the autopsy
everybody said depression later but no one said depression that night
Braun tells Hubbell story re: pushed out of the way
Rolla says pager was turned off when he found it
Braun instructed Watkins to search the office before she left the death notification

Seargent Robert Edwards [investigator]

heard report around 6:00 and drove to scene
saw Fornshill when he arrived
when arrived at scene Fornshill and Ferstl were present
flies around mouth
blood running down right side of face
Foster's head was directly face-up
recalls Ferstl taking Ploaroid pictures
Rolla and Braun arrived at scene as senior investigators on scene
Simonello took 35 mm pictures

Officer Franz Ferstl

instructed by dispatcher to proceed to park around 6:30 p.m.
when he arrived Fornshill was only other USPP officer
remembers disabled Mercedes at entrance to park
second car at back of lot
Ferstl arrived at body when Fornshill and a couple of EMT's were there

did not see them move the body
head was pointed straight up
saw gun in right hand and had already been told by Fornshill that there was a gun there
shirt was clean
primary responsibility was to secure crime scene
taped off the area
did not see wine bottles or other debris
he took several Polaroids of scene
took about 7 pictures; cannot recall if he initialed or dated them
gave Polaroids to Edwards or another investigator Rolla or Braun
asisted Spetz in interviewing couple
couple said there had been a van in park that driver had gotten out and opened hood and walked into wooded area and then come back and left
recalls Braun finding White House identification
did not return to death scene a third time
not present when other officers took pictures
he accompanied the car to the USPP Anacostia lot

Officer Kevin Fornshill

302 #1

around 6:00 heard a code dead body at Fort Marcy Park
instructed by Seargent Edwards to join Fairfax County personnel at scene
met two EMT's at scene, one black male and one white male
the three of them proceeded to the location of the first cannon
Fornshill headed north and the two EMT's headed south
noticed body in front of second cannon
called out to two EMT's
initially saw body for less than 15 seconds
saw flies
shirt was clean
head was slightly tiled to right
he did not see gun
saw EMT's hands moving back and forth over body but could not visually oberve EMT touching the body
thought EMT was checking for a pulse
black EMT informed the other EMT that the person was dead
black EMT said "we've got a gun here"
recalls several other EMT's arriving at scene
was at death scene for about 5-10 minutes
departed when Edwards and Ferstl arrived
noticed jacket in Foster's car folded over front passenger seat

Deposition

was uniformed patrol officer on 7/20/93 assigned to [redacted] FOIA(b)(7) - (E)
Edwards was the seargent on 7/20
call went over the iar as a DB
he was at parkway entrance [redacted]
requested permission from Edwards to respond
thinks there were some people doing repair work on trail [couple?]
when arrived, some EMT's were there; they said they had not yet gone into the park
lot of growth; saw top of head
did not touch body
position of head was tilted to right; resting on the shoulder
the EMT's went through an assessment to determine whether the body was alive; they were working around the head area of the body
not sure if they checked for a pulse
black paramedic [Hall] said there's a gun in right hand
slight trail of blood coming out of right side of mouth
Ferstl did initial report on 10343
Rolla had not arrived before Fornshill left
saw Hodakievic back in lot; she was plain clothes
his job while there was to preserve integrity of scene
Ferstl was beat person in charge
ordered by Edwards to return to beat [redacted] beat important
"it didn't strike me as being really important at the time"
Major Hines is media relations guy
haven't reviewed case file
he's been to Fort Marcy before
foliage did not obstruct face
was at the body only 15-20 seconds before joined by EMT's
relieved by Ferstl
Hodakievic told her later that night that a supplemental report was not necessary
trail of dried blood
could not see change in position of head after EMT's worked on it
saw suit jacket in Arkansas car
did not recall anything else in vehicle
"possibly saw a briefcase"

Lieutenant Patrick Gavin

arrived at Park at around 6:30-6:45 p.m.
saw Officers Fornshill and Ferstl and Seargent Edwards and Investigator Hodakievic
Hodakievic directed him to body
Fornshill and Edwards were at body
saw disabled Mercedes when he first pulled into the lot
saw Foster's car and a white Nissan
blood running down right side of the face
face pointing up to the sky

saw gun in right hand with thumb in trigger guard
reviewd 13 Polaroids
extensive experience as an EMT
stayed for 30-45 minutes
Simonello had arrived when he left
one of detectives called him later and said that White House identification had been found
within ten minutes of receiving call, he called Secret Service
Bill Burton then called him and asked about gun registration
David Watkins called him and inquired about weapon
on night of 20th Park Police spoke to:
Christina Tea at Fairfax County Hospital and said that WH people wanted to see body
Officer Tipton of Fairfax County Police to let WHY staffers see body but make sure they don't tkae anything
Craig Livingstone or Bill Kennedy when they were at hospital
Dee Dee Myers
Tom Canvit and John Keeney of Secret Service concerning White House passes and/or classified documents in car
his notes say "engine warm on vehicle"

Officer Christine Hodakievic

off-duty on July 20, 1993 [so dressed in civilian clothes]
heard on her police radio that a dead body was located in Fort Marcy Park
saw abandoned car in exit ramp
saw 3-4 EMT's in lot
Edwards was in charge of death scene when she arrived there
thinks Ferstl was also present
Edwards told her that decedent had revolver in right hand and showed her a Polaroid
difficult to actually see the gun
Rolla, Bruan, and Apt arrived after 5-10 minutes
Rolla checked body for identification
Simonello took 35 mm pictures of scene
recalls medical examiner arriving and escorted him to death scene
Rolla, Braun, and Apt were at death scene when she went up there with medical examiner
medical examiner inquired about exit wound and Rolla stated that he observed exit wound on back of head
Rolla lifted head to show exit wound to medical examiner
Rolla rolled the body
body started sliding down the hill
the Polaroids she viewed from Monroe were not identical to the Polaroids Edwards showed her when she first arrived at scene
no blood on Foster's face nor on his shirt
cannot recall Rolla taking any pictures

Officer John Rolla

302

Rolla, Braun, and Apt arrived at around 6:30 p.m.
Rolla was designated as the primary investigator
Ferstl briefed them when they arrived
went to body scene with Apt, Ferstl, and possibly Hodakievic where they joined Edwards and possibly Spetz
Edwards showed Rolla a number of photographs
he was informed that the body had not been touched; it was roped off
blood on righ side of face was still wet but starting to dry
pool of blood under head
blood on righ side of shirt
no signs of struggle
saw gun in right hand with thumb in it
after about 15 minutes there, he took pictures Polaroids
lifted left hand and body still relatively warm with no signs of rigor mortis
he thought the body was dead 2-3 hours
searched pockets for keys
reviewd pictures and said they were a true and accurate representation of area
Edwards took Polaroids at scene, he believes
blood transfer pattern on face could have resulted from EMT personnel at scene
he saw w wine cooler approximately 15 feet to the right of the second cannone
at approximately 7:45 p.m., Haut arrived at the scene
saw extensive amount of blood on back of head; he physically felt the exit wound
saw what he thought was urine on trousers
removed watch, ring, and pager which was off from body
Braun was coordinating investigation of parking lot
Simonello took pictures of lot
jacket was in car; about $300 in cash
W.H. identification badge
piece of paper with three physicians
departed around 8:45 p.m. with Braun and went to hospital where they located keys in front trouser pocket [**why were they not discovered the first time**]
Gavin called to say they should contact David Watkins
Gavin called to say they should contact Kennedy
picked up Watkins
[Foster residence description]
called three physicians who all denied having any contact with Foster

Senate Deposition

senior investigator
was monitoring radio
25 minutes to scene
EMT's were pulling out when he arrived with Braun and Apt
Ferstl met them there
nobody had been in car; ran registration

Simonello was taking pictures at body scene
Rolla took Polaroids
thinks Edwards took some Polaroids
Simonello measured body from cannon
observed pool of blood under head
noticed blood on right side of head
saw blood on his shoulder, possibly a transfer stain
head was straight up
someone is not saying what happened here because clear that head was moved
no signs of struggle; big man
pager was turned off
lifted left hand to feel him
some lividity
powder burns on webbing of hand
about an hour before medical examiner arrived
head was mushy
surprised when Haut said to make 6:00 the time of death because that had been the time that the body was discovered
removed his personal effects; searched for keys but couldn't find them
$280 in cash; Braun and Rolla went to morgue to retrieve the keys [**why weren't keys discovered first time?**]
he was not touched until after the pictures were taken
was there when Foster was placed into body bag
extra blood came out of head
his post-July 20 involvement was to interview Berly Anthony and to talk (w/ Kass) to Jim Hamilton re: diary
Beryl Anthony said [redacted] he talked to Gavin and Gavin said to call Kennedy & Livongstone; they wanted to see the body; called security guards at hospital; Gavin also told him to call Watkins
apparently Lisa Foster had played tennis earlier that day with Eileen Watkins
when notified Lisa Foster she said, did he put it in his mouth
someone went to scene the next day with metal detectors
not uncommon not to find the bullet
no sign of struggle, lividity consistent with body, a gun in his hand, two bullets in gun
no evidence to the contrary that it was not suicide
FBI called and reviewed the reports **Who from the FBI reviewed the reports?**
Park Police now videotapes all death scenes
Fornshill was already gone when Rolla arrived; they requested him to come back but he did not; says Fornshill filed a report [**in fact no report filed by Fornshill**]
Gavin was superior officer on scene
Hodakievic was there before Rolla, Apt, and Braun
Kass is lieutenant in Criminal Investigations Division
this was first death investigation that Rolla controlled
Markland and Hume took over case because of Rolla's inexperience
stayed until 6:30 the next morning; had filed his report before his shift ended

FOIA(b)(6)
FOIA(b)(7) - (C)

autopsy was supposed to be the 22d; had been confirmed with Beyer

Rule called and said that the autopsy had been moved up because White House wanted it done sooner **[who at White House??]**

SOP for detective to be at autopsy

Morrisette and Shelly Lindsey attended autopsy along with another ID Tech (Wayne Johnson)

initial reports and scene reports were FAXed to medical examiner by Rolla before shift ended

there was nothing contrary to the evidence of suicide

knows from autopsy that powder burns on soft palate

X-rays not usually taken in autopsies he's attended

Haut's notes and/or report should be with medical examiner

rolled body back and took pictures of back of body; Foster began sliding down the hill; doesn't remember seeing those Polaroids again **?????**

doesn't think he took more than one packet of film

doesn't recall taking specific picture of pooled blood under head

when first saw the body the palms were up **????**

right hand was right along right thigh

two different ways Foster could have gripped gun (p. 102)

car was unlocked

green canvas bag in back of car

Rolla looked under the seats, looked in trunk

pager was off

took an overall picture from behind cannon

when notified Lisa Foster asked if Foster put the gun in his mouth

Lisa Foster was asked about gun and she said she did not know anything about guns

Watkins was cordial and gave business card

don't know if Foster had office in home

thinks it would be impossible to set up a scene so perfectly even if you are CIA

everyone denied signs of depression that night at Fosters

got different answers from Sheila Anthony that night and from Beryl Anthony later on about whether Foster had suffered depression

Markland said in a normal case the Foster files would have been in Markland's trunk

FBI independently said it was a suicide; Rolla was told that FBI made copy of reports and basically said it was a straight suicide

Margolis was FAXed the information

thinks CW was a homsexual trolling in park

Peter Simonello

identification technician
arrived at around 6:30 p.m.
at the scene were Edwards, Rolla, Apt, Ferstl, Braun, and Hodakievic
saw blood staining on right cheek area
saw blood from right side of mouth
saw blood transfer pattern on right cheek
38 caliber revolver was in right hand
took a series of 35 mm pictures
extricated the 38 revolver from the right hand and needed to half cock the weapon to remove it
observed a deep impression on right thumb
little or no sign of rigor
secured eyeglasses
no indication of struggle
took pictures about 15 minutes after arriving at scene
took pictures of Honda Accord
all pictures were before he touched body
medical examiner arrived shortly before 8:00
believes Foster was dead for 2-3 hours
large pool of blood where head had been situated
he photographed this area
he knows that E.J. Smith processed the weapon for fingerprints with negative results

302 #2
handwriting sample

302 #3
nothing

Senate Deposition

he's in identification unit; investigate crimes, collect evidence, preserve evidence, and submit it to court
supervisors in order: Lawson; Kass; Hume; Holmes; Champ; Jordan
wrote a report
arrived right after detectives around 7:00 p.m.
no EMT's when he arrived; later an ambulance
Rolla directed him to body
flies, several flies around nostrils; blood running from nose; some blood on lower part of the cheek; some blood on the right shoulder and some blood near the right rib cage; and revolver in right hand

Rolla said there was gun in right hand and he approached and there was a gun in his right hand
photographed area and gun
found eyeglasses
removed gun from right hand
had to ease the hammer of the gun to take some of the tension off of the trigger in order to remove the thumb
when body was turned over there was a wound on back portion of the skull
med examiner turned body over after pictures taken
told that body was not moved
pools of blood underneath head and some blood on back of shirt
saw powder residue along edge of index finger and right thumb
thinks he took a whole roll of 24 pictures
Rolla was taking Polaroids
Rolla took backup Polaroids
FBI undercovered fingerprint from underneath the grip
Simonello put initials on the gun
no latents of value on the glasses
used a mechanical dusting method for the glasses
took gun back to lab and then wrapped brown craft paper around barrel adn secured it with rubber bands; put into evidence locker
sent the gun to ATF for ballistics tests; gunpowder, residue, paterrning
E.J. Smith attempted to lift fingerprints
lifts were of no value
on Sunday, he returned to work and was informed that gun had been dusted for prints
probably wrote evidence report on Sunday the 25th
ATF concluded that spent cartridge was fired from gun and the two rounds were of similar manufacture
ATF fired gun to see if patterning would be consistent with what was seen on Foster's hand and it was
shirt and pants were sent to ATF for powder analysis
Wayne Johnson recovered the clothing from the autopsy
clothes were laid out in photo darkroom to dry; chances for contaminaton are high
Park Police did not have a specific facility for drying evidence
FBI has separate rooms for that but FBI likes materials dried before sent over
several authopsy photos that show a probe inserted through the mouth which comes out of the back of the head
saw no defensive wounds on Foster's body
contract company towed the car; seal was put on it and the seal was initialed and officer would have followed vehicle
car was dusted by E.J. Smith but no prints recovered
Simonello did rough sketch of scene; had distances noted on it
head was at top of hill
probably 2-3 hours dead
hands were very flexible
recived note from Hume; Megby had gone to White House to get it
Seargent Lockhart of Capitol Police did handwriting analysis

Hume sent it to FBI for fingerprint analysis
palm print
it was Simonello's opinion that FBI should not be used to do fingerprint analysis because of conflict of interest given contents of note; for that reason gun was sent to ATF
recalls seeing one speck of blood on barrel when recovered
all evidence is stored in paper bags
prior to processing evidence, he seals everything with red tape
gun was in evidence bag when he arrived on Sunday
there were chain of custody sheets for all of the evidence
discussed questions such as how did transfer pattern occur on the cheek
Carlo Rosati was person at ATF who did analysis of gun
Rolla may have referred case to him on 7/20 for need for him to go to scene
two investigations at scene: body and car
trash cans 25-30 feet from body [wine cooler?]
thumb was trapped in revolver but hand was on top of it
thinks first EMT would have touched the body just to determine whether body was alive
had a flash with him for pictures
does not know how many pictures Rolla took
filled out film envelope and gave it to Technician Larry Romans
had a note that pictures were underdeveloped; does not believe that pictures were ever developed
he turned over evidence to Fiske team
copies of Polaroids are expensive so often make Polaroids of Polaroids
sometimes take 35 mm of Polaroids when feasible
thinks only way gun could have been fired is if right thumb inserted into trigger guard and rest of hand wrapped around cylinder
left hand would be holding handle of the gun
thinks he drew diagram on the back of an evidence bag
first impression was suicide but there were questions to answer: transfer blood stain, check gunpowder stain, check blood, not a lot of blood on shirt
took pictures of gun and noted double serial numbers
thinks those were black and white Polaroids
sent pants and shirt to ATF fr gunpowder residue; Rosati was doing ballistics evidence not other kinds of trace evidence
Wayne Johnson picked up clothes from autopsy
Johnson took photos at authopsy
evidence sheet when got back from autopsy
thinks that face must have rested against shirt and shoulder at one point
when Simonello saw body head was straight
lividity is something observed not felt; did not observe much evidence of it
medical examiner [Haut] was taking notes
med examiner said there was a wound on the back of the head
thought it was strange that one piece missing on note; thinsk

it may have been date or signature or initial
did not read like a suicide note b/c no mention of family
reports were made when note sent to Capitol Police
investigation should be kept open until all foresnic evidence completed
shirt and pants were not sent to ATF for blood analysis; sent only for blast pattern analysis [was blood analysis done on shirt and pants??]
remembers seeing droplet of blood on hand or shirt
unhappy that gun was fingerprinted without being notified
Rule told Smith to process gun
he had placed a note on gun that said do not touch
complained to Hume about it
has his own mobile crime jacket as well as main filed jacket kept by Park Police
thinks Markland had looked into briefcase
felt that fingerprint testing on gun destroyed any chance for trace evidence to be found

Officer Julie Spetz [did not see the body]

was at the Glen Echo station and overheard the dispatcher calling Officer Ferstl in Car 211
Ferstl was also at Glen Echo station
Ferstl and Spetz went to Fort Marcy in separate cars
they were second and third USPP officers on scene after Fornshill
saw disabled vehicle in entrance ramp to Fort Marcy
saw two cars in parking lot as well as emergency vehicles
Ferstl was in a marked car
one of the firemen remarked to her that he did not think it was a suicide because the body was too clean
she noticed the couple in the woods; one of them said he/she had seen a white van in the parking lot
she took handwritten notes
never went up to see the body

Fairfax County Emergency Medical Service (11)

Victoria Jacobs, Andy Makuch, and Bianchi on Truck 1
Ralph Pisani, James Iacone, and Jennifer Wacha on Engine 1
Todd Hall, George Gonzales, and Richard Arthur on Medic 1
Corey Ashford and Roger Harrison on Ambulance 1

[Bianchi says Iacone and Gonzalez would have filled out incident reports]
[Bianchi says there was FCFRD narrative report]
[Bianchi says Ashford must have done a report]
[Bobzien 302 states that there is electronic traffic]
[Iacone says he prepared one-page narrative report]
[Makuch says there is a mobile data terminal]
[Pisani says Bianchi and Iacone prepared incident reports]

Richard Arthur

302
Arthur and Gonzales arrived together at the scene
saw car with lights flashing as entered the park
Hall arrived around same time
Gonzales and Hall found body
saw .45 caliber gun on ground under right hand
saw wound on right side of neck
did not touch body
did not observe anyone touch body
he doubted it was suicide because of:
stright body, barrel under thigh, person who called did not remain there
Cory Ashford and Roger Harrison placed body in bag
Ashford later said he had not seen exit wound
Todd Hall also questioned whether suicide

302 #2
search team with Pisani and Wacha
Foster's car had suit jacket, tie
another car in lot and car at gate broken down
saw couple in woods
saw flies around Foster's mouth
gun in right hand partially tucked under leg
did not check for pulse
not a revolver
head was stright
saw a wound on right side of Foster's neck
Gonzales had said that Foster committed suicide
Arthur did not trust Gonzales

Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Corey Ashford

302 #1
paramedic
assigned to take Foster's body to morgue
saw Foster's right hand somewhat under right leg
no gun in hands when he arrived
physician at hospital officially pronounced Foster dead
saw very little blood

302 #2
thought Foster's car was red Accord
Ashford went to scene with Roger Harrison
does not recall seeing blood on ground

William Bianchi [did not see body]

302 #1
went with Jacobs and Makuch and arrived at 8:00 p.m.
body already in body bag when arrived
Corey Ashford was there along with three detectives
thinks Harrison must have been there as well
saw pool of blood next to body bag
rolled stretcher into ambulance
later asked Ashford why he had classified death as homicide on his report; Ashford had not seen a gun at scene

302 #2
saw no one in parking lot when they arrived
assumed that pool of blood was from head

Seargent George Gonzalez

302 #1
trained as paramedic
responsible for assessing the status of a patient at an emergency scene and is to be assisted by technician while lieutenant gathers additional victim information
responded to scene with Hall and Arthur
saw car parked one mile from entrance to park with diplomatic tags
saw Mercedes in entrance area
saw Honda with Arkansas plates
as entering the park, a USPP vehicle arrived
Hall and Fornshill arrived at body first
saw gun in hands
wound in upper right front portion of the skull **???**
pooling of blood within body at extremities
did not touch Foster during inspection

saw blood in Foster's mouth
Hall might have touched body
Honda contained a necktie, suit coat, and black briefcase/attache case
thought Foster's hand was different from the position revealed in the photograph
not much blood at scene

302 #2
in Medic 1
saw black Lincoln on right roadside and hood was raised
Engine 1 accompanied Medic 1
saw silver-blue Mercedes parked on right side of entrance road
saw white Nissan in lot backed into space on north sideof lot
did not see contents of white Nissan
saw second car parked toward the curb and car was dark-colored
USPP officer arrived seconds after he arrived
there was a sense of urgency
cannon had been mentioned in phone call
Hall and USPP officer shouted that they had found the body
told radio that person was dead
Gonzalez and Hall found other EMT's and directed them to body
saw flies around Foster's body
mouth open and eyes partially open
streak of blood out of right of mouth
neck was intact and no puncture wounds or trauma were evident
does not recall whether he saw Hall check pulse
knelt by Foster to examine scene
saw gun in right hand
saw blood on right shoulder
saw lividity in fingertips
estimated dead two to four hours
Gonzalez and Hall left together
both cars in lot were locked, he learned from others
prepared a narrative report on FCFRD reporting system

Senate Deposition

on 7/20/93 received dispatch for possible DOA in park next to a cannon
driver was Hall and ALS (advanced life support) was Arthur
Engine 1 responded at same time -- Pisani, Bianchi, and Wacha
dispatch time is 6:03 p.m.
entered park at 6:10 p.m.
saw blue Mercedes on way into park
team was Hall, Gonzales, and USPP [Fornshill]
Fornshill and Hall found the body at the second cannon
eyes slightly open, flies around mouth, some blood stains on shirt
believes that Hall checked pulse
made call via portable radio to say obvious 1061; 1061 is dead on arrival; time was 6:36; it says suicide with gun
preliminary thought was that it was a suicide

saw gun right away
gun in right hand
Hall might have pulled pants up
another USPP officer came up and the EMT's excused themselves
they went back to parking lot and attempted to determine which car was his
EMS incident report is an emergency medical services incident report
GG's report said dead 2-4 hours; weapon in right hand; self-inflicted/apparent suicide by firearm or explosive
his crew left before USPP started taking pictures and searching the area
never saw body moved
can only assume entrance wound from mouth because there was a lot of blood in it
had a later conversation with Ashford (after meeting with FBI) where he tried to remember whether there was gunshot wound on the side of the head
recalls gun being in different position than photographed; thought it was closer to body than pictures depicted
it was difficult to see the gun initially
was surprised to see so little blood at the scene
not sure if Ruddy knew that it was coded as a 77
"my specialty is not a forensic or a coroner's specialty"
saw the revolver
said to Ruddy that fingers were pooling blood
never said it was a snap judgment by the cops
feels that USPP were there long enough to make an accurate assessment
left while Police were still there
does not know if woman made the call to the dispatcher
no conversations with Ruddy between time articles appeared and depositions
scene assessment and then patient assessment
airway was determined; breathing was determined; not sure if circulation was determined
had a radio with him
remembers trying to communicate with PSCC re: the scene
cannot determine rigor mortis without touching body
thought it was peculiar that Foster was laid out straight
didn't see any picture that included gun
not there when gun was removed from body
there was foliage around body
some blood on the face and the right side of the body, the shirt area
blood stain on right shoulder of shirt
did not see anyone taking pictures while he was at scene
by the time pictures were taken, it was dark
ambulance asked for at 7:45 p.m.
USPP never asked if he thought it was a suicide
his on-scene mini-report is not standard procedure
standard practice that they provide a narrative to the best of their ability that describes the scene and situation
had an instinct that something was funny when he arrived

"I can't say if I saw a briefcase or papers. I can't correctly say whether I saw it or not. . . . I think the tie was in there and the jacket wa in there. That's what I remember."
some people were joking about Arkansas plates
think someone tried to open the car, but doesn't know whether it was locked or unlocked
guesses that it was locked
one face-to-face meeting with Ruddy and one followup
never told Ruddy that the "gun was clean"
the second cannon was closer to the body
does not have any concerns that this case was not a suicide case
way he saw the position of the body was unusual
somewhat surprised that Park Police never talked to him about what he saw

Todd Hall

302 #1

USPP officers on site when he arrived with Arthur and Gonzalez
saw unoccupied brown car with engine running
saw second car with suit jacket matching Foster's pants
saw briefcase in Foster's car
split up into teams when arrived
USPP officer located body and told Hall
checked Foster's body for pulse
saw gun in hand
saw blood on shirt
flies in mouth
right hand was under right thigh
saw something red moving in the woods but unable to determine if it was a person
thinks Pisani saw two males getting dressed in area adjacent to site
heard Iacone say the victim may be one of Clinton's buddies

302 #2

head was pointed straight ahead
did not move Foster's head
checked for a pulse on left side of neck
body was cold to the touch
saw blood on right collar area
shown a series of pictures of Foster at scene
believes that it was possible that movement in woods was car

Senate Deposition

we had a call come in that said there was a body in front of the cannon
met there by the Aprk Police
was about to check the pulse when he noticed a gun in hand; said mayeb we have a suicide here to Fornshill
gun was in right hand
George decided he was dead
normally check cartoid pulse to determine if someone is dead
probably touched the body
did not pull up the pants legs
does not remember seeing any blood on the face
remembers head being straight
nothing unusual about scene in his view
assumes that Gonzales and Arthur touched body because that was their job
1-15 minutes after arrived they took equipment back to parking lot
we were looking into car
we saw his suit coat and "I think his briefcase, something like that"
"Yes, I seen something. It was woody and I see something go past, like a car . . . it was probably a car or truck that drove past the bushes"
pictures were consistent with how he saw the hands, pretty much down
recalls attempting to check the caretoid pulse
recalls seeing a couple of drops of blood on the collar
"saw the car go past"
"All I know for sure I saw was his suit coat. And I thought I may have seen, he may have had a briefcase or something in there"
not sure whether car was locked

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Roger Harrison

302 #1

driver on ambulance
a USPP officer escorted him to body with Ashford
a USPP officer helped put Foster in body bag
does not recall much blood at the scene
thought the call and the scene were routine

302 #2

after body put in body bag, Ashford, Harrison, and Bianchi lifted it onto gurney
some stiffness in body but not stiff as a board
did not see gun at scene

James Iacone

302 #1

officer on Engine 1 on 7/20/93
crew of Engine 1 was Pisani, Wacha, and Iacone
while in the woods Gonzalez radioed that the body had been found
does not recall observing any blood
saw gun in right hand but did not look to see if exit or entrance wound
saw three of four cars when first arrived at park
Honda Accord with Arkansas plates
Iacone believes he and Hall tried to open door of Foster's car and found doors locked
Hall said suit coat in car matched Foster's trousers
no evidence of suicide note
made comment in park that person was probably friened of Clinton's

302 #2

Engine 1 and Medic 1 arrived at Park together

Iacone's group included Pisani, Wacha, and [Arthur?]
saw people in woods and one on top of other
on way back up the hill, he was notified by Gonzalez by radio that body had been found
when he arrived at body scene, USPP officers were there
may have checked Foster for a pulse but does not have an exact recollecton of doing so
does not know if lividity was present
saw silver or chrome-colored revolver in right hand
after looking at photograph, he still thinks that the gun was silver-colored
does not recall seeing blood on Foster's face
Hall saw suit coat in Foster's car
Iacone prepared one-page narrative report on incident

Victoria Jacobs [did not see body]

302 #1
Truck 1 driver with Bianchi and Makuch
assisted ambulance 1 at scene after getting a Code 4 (victim is dead)
Medic 1 and Engine 1 had departed when she arrived
Foster's body had been placed in body bag
assisted in placing bag on top of transport stretcher
assisted in placing stretcher into ambulance
female Park Police officer in plain clothes [Hodakievic? Braun?] who was in charge; that officer made a derogatory comment
heard back at the firehouse that the gun hand was under the leg

302 #2

Ashford and Harrison were already at body when she arrived at it

Andrew Makuch [did not see body]

302

Truck 1; driver was Jacobs and officer was Bianchi
Truck 1 drove in non-emergency status since other untis were there to handle emergency
body was in body bag when he arrived
helped roll stretcher out of woods
says that there is a mobile data terminal that would have provided information about incident when call was received
saw silver or gray car which was Foster's
did not look inside the car

302 #2

Foster's car was front end first
USPP car parked to side of Foster's car
never went to actual loocation where body was

Ralph Pisani

302 #1

driving Engine 1 on 7/20/93
Iacone was in engine as well
drove to parking lot and met Medic 1 personnel
split into two groups: (1) Arthur, Wacha, Iacone, and Pisania; and (2) Gonzalez, amybe Hall, and Ashford [incorrect?]
Pisani's group saw male and female in woods
thought he saw Arthur checking pulse at scene
Arthur pointed out a gun but he did not see it
saw a jacket in Foster's car
Pisani, Iacone, and Wacha all looked into car [**not asked about briefcase??]**
Bianchi and Iacone filled out incident reports

302 #2

saw blood on Foster's right shoulder
did not recall any blood on Foster's face
photos show yellow tape

Jennifer Wacha

302 #1
upon arrival at Fort Marcy her unit and another unit split up
her search team included Pisania, Arthur, and Iacone
other search team was Gonzalez and Hall
saw one car with hazard lights on as entered parking lot
suit jacket in a second car closest to entrance
third car but no details about it
search for the body lasted about 10 minutes
after hearing radio message, the search team headed over to Foster's body
there was one USPP officer there at the time of her arrival
flies on body
thought there might have been blood on victim's mouth as well as on his shirt
several jokes re: Clinton Administration after seeing license plate
recalls gun in Foster's right hand
the thinking among EMS personnel on the scene was that the death was a suicide
did not recall hear USPP personnel make any assessment regarding death of Foster

302 #2
did not observe any blood on the ground

does not recall with certainty whether there was blood on face
thinks gun was a silver-colored revolver
did not observe gunshot wound on body
she had observed tumb inside trigger guard
she had observed blood just insire mouth

Medical Examiner on Scene

Dr. Donald Haut

302 #1

Fairfax County Deputy Medical Examiner
when he arrived, he raised Foster's head to look at the back
saw blood around back of head
flies all around
pronounced Foster dead at scene
did not see gun
USPP officers were dusting the car for fingerprints
stayed for 30 minutes
no note found at scene
signed Foster's death certificate on July 27, 1993
Murphy's Funeral Home made arrangements for shipment to Arkansas
did not see evidence of lividity on Foster's body

302 #2

shown photographs from scene
did not recall seeing blood on shirt or face
lifted right shoulder of body to check for exit wound
arrived at approximately 6:45 p.m.

Issue: Was there a briefcase in Foster's car?

Gonzalez and Hall believe they saw briefcase in car
Gonzalez backs off of this at the Senate deposition

Issue: How many photographs were taken at scene and by whom?

Fornshill saw Edwards with Polaroid camera
Simonello took 35 mm and saw Rolla taking Polaroids

Issue: what happened to Foster's car after being in lot?

Ferstl (USPP) accompanied the car to the USPP Anacostia lot

Kennedy inventory of items in car:
canvas tote bag

Events at Hospital Night of 7/20/93

Dr. Julian Orenstein

asked by a nurse to pronounce an individual dead on 7/20/93
body was in ambulance when Orenstein examined it
he was told that gun had been in his hand
saw blood on face
at the morgue Orenstein and Fairfax County Police Officer Dave Tipton lifted the body
the body was seen at the morgue by himself, Dave Tipton, and the morgue guard

Autopsy on morning of 7/21/93

present: Dr. Beyer; ME Burgess (Richmond); USPP Seargent Rule; USPP Hill; USPP Johnson; USPP Morrisette

Wayne Johnson

302
Id Technician
Park Police officer present at autopsy at 10:00 a.m. on 7/21/93
took custody of all items of clothing on Foster's body
clothing mixed up for transport back to USPP station

New 302 on 2/2/95

Robert Rule

Senate Deposition

arrived at 6:00 on morning of 21st; talked to Rolla and Braun
they said that it was an apparent suicide
Captain Hume was making the assignments; assigned Markland to the case
we decided re: authopsy; looked at their basic reports
four USPP went to the autopsy at 10:00
did not see any x-rays taken
ID techs dealt with the clothing; they put them in paper bags
no specifi drying area back at USPP; laid out on paper on the floor
later did a search of area for bullet
there was blood at the scene
some crime scene tape laying off to the side
no search done for fragments from head
nobody was securing scene any longer
went to interview park maintenance employee who had called the operator
Friday there was a request to get the gun processed; Simonello was on leave
EJ Smith printed the gun
Simonello was upset as was Seargent Lawson

New 302 on 2/3/95

Dr. Beyer

Interview with Luke et al. on March 31, 1994

no stains or defects on underclothes [**that is not true**]
no evidence of trauma on neck
took 13 Polaroids and 14 35 mm pictures at time

Senate Deposition

deputy chief medical examiner
don't rule on manner of death in suicides
certificate of analysis done by someone else
saw no other wounds to body [**not asked specifically about stun gun**]
x-ray macine was not operating properly
debris on both right and left hand that he interpreted as being gunpowder
most people do not allow a muzzle of a weapon to be placed in their mouth without some signs of struggle
Haut notified him on morning of 21st
have Haut's report of investigation
he took pictures at the autopsy
used both Polaroids and 35 mm pictures
police have to be present when gunshot wound
did not attempt a time of deat analysis
Haut reports to Beyer's office
received Haut's report on July 30
observed no contusions
does observation of body for 15-20 minutes
usual standard procedure w/clothing; it was given to Morrisette
samples taken from the body for further testing were one vial of blood, one vial of vitreous humor, one container of blood, one container of urine and one container of liver
might have taken hair samples
normally submits samples for analysis and that's reflected on the certificate of analysis
sees semen in almost every case; really has no significance

Senate Testimony

made out the report form prior to actually performing the autopsy and x-ray box was checked
it was perforating wound so no x-ray ordered at hospital
no x-rays in files from July 6 to July 26
don't take x-rays on many cases
made error in not removing yes when finalized the autopsy

Gun -- talk to ATF and FBI

Beryl Anthony from Rolla's 302 on 4/27/94]

VWF's father had cancer aproximately two years ago and talked about committing suicide; thinks Foster and Bowman retrieved guns from residence

-- ATF did tests on gun for Park Police (Simonello)

E.J. Smith

Senate Deposition

fingerprinted gun
Hume ordered him to fingerprint it
gun said do not touch, but Hume wanted it done anyway
Simonello was upset because affected ability to do DNA tests, etc.

Handwriting Sample

talk to Capitol Police person

Rolla

recalls obtaining from Hamilton a handwriting sample of a letter to a bank and an envelope

Memorandum

To : BRETT KAVANAUGH Date 5/23/95

From : SA C.L. REGINI

Subject: FOSTER DEATH INVESTIGATION

The following is the latest update of my "To-Do" list in the captioned investigation:

1. Complete all 302s, provide to Behavioral Science.
   a. follow-up with Larry Ankrom re- report

2. locate and interview James Burgess

3. interview Robert Reeves

4. interview the Cardozos

5. interview Walter Pincus(?)

6. taxonomist to Ft. Marcy re- identification of plants at 1st and 2d cannons

7. final interviews at Little Rock with Brett
   a. Rose Law Firm
   b. Mark Grobmyer

8. assist Billy in compiling information binders
   a. assist with coordination and preparation for review with experts/consultants

9. follow-up with Military Records Center re- fingerprint records

10. follow-up with FBI Lab

1-Kavanaugh
1- Tuohey
1- Gillis
1- Greene
1-29D-LR-35063

Memorandum **Office of the Independent Counsel**

To : IC JUDGE KENNETH STARR Date 7/12/95

From : IIC E. H. LUECKENHOFF

Subject: POSSIBLE CONNECTION BETWEEN VINCE FOSTER AND ADFA

On July 6, 1995, SAs BETSY FRIES and WALLY DRUECK interviewed ROY DREW, a Little Rock investment advisor, as part of the Lockhart/DOC inquiry. Among other things, DREW told the agents about a possible financial link between VINCE FOSTER and the Arkansas Development Finance Authority (ADFA).

DREW apparently makes it his business to learn details of political and financial developments in Arkansas. He has publicly objected to certain development projects and has also spoken with national media representatives about perceived irregularities in these projects.

DREW has obtained numerous records on various topics through Freedom of Information requests. DREW obtained minutes of an ADFA Board meeting in February 1987 which was attended by a representative of the NATIONAL BANK of AUSTRALIAN (copy attached). The minutes report that ADFA President WOOTEN EPES asked approval for "the letter of credit with the NATIONAL AUSTRALIAN BANK which provides the insurance fund for the Single Family Issue."

Later, DREW obtained a copy of VINCE FOSTER's financial disclosure form through a FOIA request. DREW finds it interesting that the form shows VINCE FOSTER held stock in the NATIONAL AUSTRALIAN BANK, particularly because the bank was doing business with ADFA.

I note that, at approximately that same point in time, VINCE FOSTER was involved with HILLARY CLINTON and WEBB HUBBELL in Midlife Investors.

1 - MARK TUOHEY
(1) - BRETT KAVANAUGH
1 - HICK EWING
1 - CHUCK REGINI
1 - JIM CLEMENTE
1 - STEVE IRONS
1 - CLAYTON COOPER
1 - BETSY FRIES
1 - WALLY DRUECK
1 - E.H. LUECKENHOFF
EHL/bhr (10)

MINUTES
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
BOARD OF DIRECTORS MEETING
February 19, 1987
11:00 a.m.

The Board of Directors of the Arkansas Development Finance Authority held its Regular Board Meeting on February 19, 1987, at 11:00 a.m., in the Authority's conference room, in the Madison Guaranty Bank Building at the corner of 16th and Main Streets, Little Rock, Arkansas.

Board Members present were Chairman Margaret Davenport, Vice Chairman James Branyan, Mr. Don Fuller, Mr. Merle Peterson, Mr. Don Spears, Mr. Bill Pierce, and Mr. George Wright.

ADFA Staff present were Wooten Epes, President; C.E. Anderson, Vice President for Housing; Bill Wilson, Vice President for Finance; Ursula Blackard, Single Family Housing Officer; Bernard Henry, Multi-Family Housing Officer; Charles Brandt, Fiscal Officer; Ruth Glover, Assistant to the President; Gene Eagle, Vice President for Development Finance; Kay Bell, Development Finance Officer; Tom Geis, Planning Specialist; Cotter Cunningham, Planning Specialist; Debbie Gentry, Accounting Supervisor; Valerie Petty, Administrative Assistant.

Others present were Mr. Bob Snider and Mr. Jim Fowler of T. J. Raney & Sons, Inc.; Mr. Walter May and Mr. Walter McSpadden of Wright Lindsey & Jennings Law Firm; Mr. Byron Schriver and Ms. Susan Flemming of Stephens, Inc.; Mr. Rich Livdahl of Ark. DCS; Sean McCarthy of Paine Webber; Mr. John Selig of Mitchell Law Firm; Mr. Michael Drake of Arkansas Gov. Adv. Services, Inc.; Mr. Barry Kellerman of Public Leasing Corp.; Mr. Harvey Horowitz of National Australia Bank; Mr. Herbert Ziegenhorn and Mr. Charles Givens of the Bank of Weiner; and Ms. Sheila Yount of the Arkansas Democrat.

Chairman Davenport called the meeting to order at 11:10 a.m. and asked for approval and adoption of the Minutes of the Regular Meeting of the ADFA Board of Directors on January 15, 1987 the Minutes of the Special Meeting of the ADFA Board of Directors on January 22, 1987. There being no corrections or additions, Mr. Peterson made a motion for approval, Mr. Pierce seconded and the Board unanimously approved the Minutes as written.

Mr. C.E. Anderson reported that updated figures show that the amount purchased to date on the 1985 Series A Single Family Program is $99,199,600. Amount purchased to date on the 1985 Series B Program is $800,258. Amount purchased to date on the 1984 Series A1 Program is $10,443,069. Amount Purchased to date on the Home Energy Improvement Program is $245,603.14.

Mr. Bernard Henry reported that the Authority met with representatives from non-profit organizations and the Home Builders Association as well as interested developers and mortgage bankers to discuss the Authority's plans for implementating the tax credit program for low income family housing. Also, the first draft of the new multi-family development buy-down program has been completed and distributed to underwriters and bond counsel. A 332 unit rehabilitation project in Southwest Little Rock has

...t Epes asked for Board approval of a resolution authorizing the ...ce of $3,000,000 in economic development revenue bonds to finance ...rehouse project in Sebastian County for Zero Mountain, Incorporated. ...e project is a multi-purpose cold storage facility of approximately 100,000 square feet which would employ approximately twenty full-time employees. The project will take advantage of the Authority's transition rule allowing us to continue to issue tax-exempt bonds for non-manufacturing projects. The Authority will act as issuer with the Bank of Bentonville providing a letter of credit and McIlroy Bank & Trust acting as trustee. A draft of the Resolution was presented to the Board, which authorizes the trust indenture, loan agreement, and a contract to purchase all under the loan arrangement. The Board voted to approve the Resolution for Zero Mountain, Inc. in the amount of $3 million. Mr. Peterson made such a motion, Mr. Fuller seconded and the Board unanimously approved.

President Epes reported that the Authority has been working with the state Department of Computer Services to complete a financing arrangement for the State Telecommunication System under the State Government Asset Financing Program, Series 1986 A. Interim financing of approximately $775,000 will be needed to purchase equipment for the engineering technology building at UALR. Mr. Epes asked for approval to advance Authority funds in that amount until the bonds are converted to fixed-rate on June 18, 1987 at which time the Authority would be reimbursed. The Development Finance Committee recommended that bridge financing be provided by the Authority until a conversion to fixed-rate is made in June. The Board voted to approve the lease transaction with the Department of Computer Services with bridge financing in the amount of $775,000. Mr. Branyan made such a motion, Mr. Peterson seconded and the Board unanimously approved.

President Epes asked for finalization of the documentation of amendments to the HECAP program. Amendments had previously been approved and are now in written form. A conversion of bonds will be made on March 2 for approximately $3.4 million. There are four borrowers, Westark Community College, University of Central Arkansas, University of Arkansas at Pine Bluff and University of Arkansas at Monticello and bonds are being converted for those colleges and universities for loans under this program. President Epes asked for Board approval of a supplemental indenture of trust and a supplemental reoffering memorandum in connection with the conversion of bonds for these transactions. Mr. Branyan made such a motion, Mr. Peterson seconded and the Board unanimously approved.

President Epes asked for Board Approval for the letter of credit with the National Australian Bank which provides the insurance fund for the Single Family issue. Preliminary approval was received at the last Board meeting. The reason for this procedure is that the loans are FHA insured and there is no pool insurance so a letter of credit for this fund is necessary to make up for coverages normally received under pool insurance and special hazard insurance. Mr. Wright made such a motion, Mr. Fuller seconded and the Board unanimously approved.

President Epes said at the last Board meeting he would be circulating Requests for Proposals among investment banking firms for proposals to market taxable transactions to generate arbitrage profits. Bankers were interviewed last Thursday and Friday with some of the Executive Committee present. A summary of these proposals were distributed to the Board and

Executive Branch PUBLIC FINANCIAL DISCLOSURE

U.S. Office of Government Ethics

Reporting Status (Check Appropriate Box)	Calendar Year Covered by Report	Nominee, New Entrant, or Candidate	Date of Appointment, Candidacy, Election, or Nomination (Month, Day, Year)	Termination Filer	Termination Date (If Applicable) (Month, Day, Year)	Agency Use Only
☐ Incumbent		☑ TE	JANUARY 20, 1993	☐		

			OGE Use Only
Reporting Individual's Name	Last Name: FOSTER	First Name and Middle Initial: VINCENT W.	NOV 12 1993
Position for Which Filing	Title of Position: DEPUTY COUNSEL TO THE PRESIDENT	Department or Agency (If Applicable): WHITE HOUSE OFFICE	
Location of Present Office (or forwarding address)	Address (Number, Street, City, State, and ZIP Code): WHITE HOUSE, WASHINTON, D.C. 20500	Telephone No. (Include Area Code): (202) 456-6611	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Same as Above)	Title of Position(s) and Date(s) Held		
Provisional or Nominee Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No	

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Vincent W Foster	2-19-93
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year): 5-21-93
As to Office of Government Ethics Use Only	Signature: By ITE	Date (Month, Day, Year): DEC -6 1993

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

(Check box if comments are continued on the reverse side) ☐

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

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SF 278 (Rev. 6/91)
5 CFR Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: VINCENT FOSTER

SCHEDULE A

Page Number: 14

Assets and Income (BLOCK A)	Valuation of Assets at close of reporting period (BLOCK B)							Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. (BLOCK C)														
								Type							Amount									
Identify each asset held for the production of income which had a fair market value exceeding $1,000 at the close of the reporting period. Identify each asset or source of income which generated over $200 in income during the reporting period. None ☐	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000	Actual Amount Only if "Other" specified	Date (Mo., Day, Yr.) Only if Honoraria
S DC or J Ex-amples: General Airlines Common																Low Performing Investment										
Doe Jones & Smith, Hometown, USA																									$130,000	
Kennebunk Equity Fund																										
Doe Jones & Smith pension plan																										
1 U.S. TREAS. BOND, 5000 FACE @ 7.25% DUE 5-15-16		X									X							X								
2 TYSON FOODS, INC. - COMMON			X					X									X									
3 WORTHEN BANKING CORPORATION-COMMON				X			X	X										X								
4 CASH HELD IN STEPHENS, INC. BROKERAGE ACCOUNT				X							X								X							
5 MERCK & CO., INC. - COMMON		X						X										X								
6 SUMMIT TECHNOLOGY, INC. - COMMON		X						X										X								

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SF 278 (Rev. 1/91)
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U.S. Office of Government Ethics

Reporting Individual's Name: VINCENT FOSTER

SCHEDULE A

Page Number: 15

Assets and Income (BLOCK A)	Valuation of Assets at close of reporting period (BLOCK B)							Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed Block C for that item. (BLOCK C)												
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S. DC or J — Ex empha — Central Airlines Common																										
Dow Jones & Smith, Horsham, USA																										
Kemp Income Equity Fund																										
Dow Jones & Smith pension plan																										
1 NATIONAL AUSTRALIAN BANK - COMMON STOCK		X							X								X									
2																										
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Outline of Foster Death Investigation: Suicide or Homicide?

A. Scene -- Body

1. Blood

a. most see blood on right side of face and on right shoulder

b. a few comment that they did not see that much blood; some comment that the scene seemed too clean for suicide

c. everyone who saw body lifted off ground comments on the blood under the head and on the blood on the ground [check Harrison, Haut, and Ashford]

d. unanimity that not much blood on front of shirt

2. Gun

a. most who look see the gun; they say that it was difficult to see, however

b. some such as CW do not see the gun when they look

3. Position of Hands

a. dispute over exact position of hands: palms up, palms sideways, palms down

4. Other Wounds

a. some EMT's question whether there was a wound on neck

5. Position of Head

a. everyone says that head was straight up or virtually straight up, but blood transfer pattern indicates that it must have tilted right either (i) after shot was fired, or (ii) as a result of some manipulation before the pictures were taken

b. EMT's touched the body but say they did not move it

c. Rolla moved head and body, but says that occurred after pictures were taken (his credibility is questionable, in opinion of Chuck and me)

6. Gunpowder

a. some see gunpowder on right hand; no one says "no gunpowder" on right hand

7. Glasses

a. Simonello recovers them down the hill about 13 feet

b. seems odd that they could have flown that far

B. Scene -- Car

1. Briefcase in car

a. seen by CW; conflicting statements by two EMT's as to whether they saw it

b. Braun is asbolute on lack of briefcase; pictures

back her up

c. either Braun is lying or the breifcase was removed by someone else

2. Briefcase depicted in Braun's picture

a. Braun states it is her evidence bag

b. in any event, it in no way resembles a lawyer's briefcase

3. Suit jacket and tie

a. seen by almost everyone who looked in car; jacket matches Foster's pants

b. why and where did he take his tie off? would not have taken it off simply to leave White House.

4. Oven mitt

a. is it possible that the gun was in the mitt; ask family if mitt was usually in car

5. Note with phone number

a. why was Nancy Hernreich's phone number on the passenger seat? she was expected to have the Tuesday night dinner that evening; ask kids if they remember the note that morning

6. Map

a. there is a possibility that Foster had used map to find his way to Fort Marcy or to some other detination that day (ask Foster kids if they remember the map in that position on the morning of July 20 when their dad dropped them off)

C. Post-Mortem

1. Exit Wound? Yes, through back of head.
2. X-rays? No. (but yet another oddball story)
3. Other wounds found? No.
4. Gunpowder? Yes.
5. Thumb marks? Yes.

D. Evidentiary Issues relevant to suicide/homicide

1. Car

a. towed to lot

b. photographed next day

c. released to ___

2. Clothes

a. taken off at autopsy

b. Wayne Johnson stores on floor on photo lab to dry

3. Gun

a. Simonello leaves in locker with sign "Do not touch"

b. E.J. Smith processes the gun for prints the next day because Hume orders it done

c. ATF tests the gun; the bullet was fired from this gun

d. Did the gun belong to Vince Foster (If that were established to some degree of certainty, that would make it virtually certain that it was suicide.)

4. Keys

a. Rolla searches pockets at scene but does not find them

b. Rolla and Braun go to hospital to get keys out of Foster's pockets (Their presence is reflected on morgue log)

5. Pager

a. pager is off when found, according to Rolla

b. pager it turned over the next day to White House

6. Office

a. steamrolled by Nussbaum; they get very little **but they were after very little**; not clear that documents re: Whitewater, Travel Office would have attracted attention unless true smoking guns (e.g., "we have acted illegally")

7. House

a. never go back to house after July 20

8. Where was Vince Foster from 1:10 p.m. until he was killed?

E. Foster's State of Mind

1. Travel Office

a. How real was his fear that congressional hearings might be held on the Travel Office (there in fact was a very real threat judging from newspaper articles)

b. Was he frightened of telling the truth, the whole truth, and nothing but the truth? What exactly was the truth about Travelgate? Hillary Clinton's involvement?

c. Foster reportedly was reading a newspaper while eating lunch on July 20; during that lunch, did he read the July 19 Wall Street Journal editorial, which contained mention of Foster and Hillary Clinton as players in the Travel Office affair? Did he read the July 19 USA Today, which argued for appointment of a special counsel? Did he read both?

c. Was the Travel Office a topic that might have arisen during the meeting with the President on July 21 had Foster gone through with the plans to meet them?

d. Was the Travel Office a subject for discussion

with Jim Lyons in their planned meeting on July 21?

e. Did he discuss the Travel Office with Marcia Scott on July 21?

2.

My assessment at this point: The evidence points to suicide, but it will be impossible ever to definitively rule out the possibility of a staged suicide absent a suicide note or evidence of ownership of the gun.

MEMORANDUM

TO: Jim Clemente

FROM: Brett Kavanaugh

CC: Judge Starr
Mark Tuohey
Hickman Ewing
John Bates

Ed Lueckenhoff
Dana Gillis
Russ Bransford
Chuck Regini

RE: Vince Foster

DATE: July 15, 1995

Welcome aboard. In preparation for your start in Washington as part of the Foster team, you have been given the Park Police Report, the Fiske Report, the Clinger Report, and the Senate Report on the death of Vince Foster. To give you an even more detailed overview, I suggest that, before you start reading witness statements or doing any investigative work, you read the major newspaper articles about Vince Foster's death and the aftermath of his death. (We have binders collecting the articles. In addition, we have the Ruddy articles.) The numerous newspaper articles paint a full and interesting picture of the questions that surround Mr Foster's death and the aftermath of his death.

I also thought a brief summary of the investigation (and my thoughts[1] about where we stand) might be helpful in orienting you. The Foster-related investigations break down into three main categories:

(1) Foster death -- physical evidence

The question is deceptively simple: Was the fatal shot to Mr. Foster fired by Mr. Foster at the second cannon at Fort Marcy Park? This aspect of the investigation involves examination and analysis of items such as blood, the wound, the gun, powder, hairs, fibers, and mica. In

[1] These represent my thoughts, not the Office's position.

recent weeks, we have been concentrating on two issues that, in my view, would establish beyond a reasonable doubt to any reasonable person that the death was caused by a self-inflicted gunshot at Fort Marcy Park: (a) locating the bullet in the park, which if accomplished should establish the place the shot was fired; and (2) determining ownership of the gun, which to my mind would go a long way towards establishing who fired the shot. (All murder speculation of which I am aware is premised on the assumption that the gun was not a Foster gun.)

Chuck Regini has been working on this aspect of the investigation along with Mark Tuohey, Hickman Ewing, and me. We also have received assistance from Dr. Henry Lee. As of now, I do not envision you playing a major role in this aspect of the investigation, although your ideas and suggestions are obviously welcome.

(2) Foster death -- state of mind

This aspect of the investigation involves an examination of Vince Foster's state of mind in an attempt to determine whether he could have committed suicide and why he might have done so. These are amorphous subjects, but nonetheless quite important.

To my mind, the evidence clearly establishes that Mr. Foster was sufficiently depressed or discouraged to have committed suicide. For example, he had consulted with his sister about seeing a psychiatrist for depression; he was found with a list of psychiatrists in his wallet; he had obtained a prescription for an anti-depressant on July 19; he took that anti-depressant on July 19 even though that drug apparently should not be taken by people contemplating suicide; he wrote a note that is a mixture of fury and despair and concludes that he was "not meant for the job or the public spotlight" of Washington where "ruining people is considered sport"; he broke down crying at dinner with his wife on July 16; he had attempted to obtain counsel to represent him in the Travel Office affair. (As relevant statistical background, note that suicide is most common in older white men, that there are more suicides than homicides each year, that a large percentage of suicides are committed with handguns, and that persons often commit suicide in places where their family will not be the persons to find them.) We also have evidence suggesting that Mr. Foster was an "odd" man back in Arkansas, although some of this testimony probably has to be viewed as 20-20 hindsight.

The evidence suggests that the primary source of Mr. Foster's despair (other than the fact that he may simply have been mentally ill[2]) was the Travel Office affair, which simply would not go away and was (and indeed still is) a continuing black-eye for the Clinton Administration. Mr. Foster appeared to have a backward-looking despair over both his failure to prevent the

[2] In reading the newspapers, you will come across articles from health professionals who claim that a search for a particular triggering event for a suicide is fruitless in the large percentage of cases where the suicide victim was clinically depressed. These people criticize the "uninformed" who insist that there always must be a specific triggering event for suicide.

FOIA(b)(6)
FOIA(b)(7) - (C)

debacle and his participation in it and a forward-looking dread over the possibility of congressional hearings or other independent review of the matter. Much of his note was focused on the Travel Office affair.

From his note and from interviews, we also know other sources of concern to Mr. Foster, such as: (1) he was completely overworked, and there was no relief in sight because of the promised staff reductions; (2) the high cost and alleged sandbagging by the Usher's office in connection with the White House renovation; (3) the continual inability of the White House Counsel's office to get its act together on issues as varied as gays in the military, Waco, and the Guinier nomination; (4) his daughter's health (she apparently suffered from [redacted] at the time); (5) his marriage (they had apparently undergone marriage counseling in Arkansas in 1992); and (6) his family's move to Washington (note Wilson Bynum's 302, which is quite informative).

We also know of other issues on which Mr. Foster was working, although we have no evidence that these issues caused him any particularly severe stress other than the fact that they were yet another item on his already overloaded agenda. Examples include: (1) preparation of the Whitewater tax returns; (2) health care reform (in examining the documents from his office, I was startled at the amount of material he possessed and clearly had read on this issue); (3) the Federal Advisory Committee Act suit, which raised an important question regarding the First Lady's legal status; (4) the Clintons' blind trust; (5) the Ginsburg nomination and hearings; and (6) Presidential seal and likeness issues.

Based on the evidence we now possess, if you forced me to provide a suicide scenario, it would go as follows (although I cannot really prove this): Mr. Foster felt deeply responsible for the Travel Office affair and for many other missteps in the Counsel's office; Mr. Foster was planning to resign in his meeting with the President on July 21 or soon thereafter; he wrote the "note" as an outline of his points for that meeting; he was overwhelmed by the sense of failure occasioned by his planned resignation; and he snapped and took his life.

Chuck Regini has been working on this aspect of the investigation along with Mark Tuohey, Hickman Ewing, and me. (Dana Gillis and Russ Bransford assisted the Fiske team on this aspect of the investigation, and have provided support to us on it as well).

I anticipate that you will concentrate on Foster "state of mind" issues during your work on the Foster team. And as I see it now, there are a couple of issues that can and should be pursued further and for which you may be well suited: (a) foreign travel (Chuck Regini has begun this process); (b) foreign bank accounts (Dana Gillis and I have begun this process); (c) a complete review of Mr. Foster's financial situation (in consultation with Clayton Cooper of the IRS); (4) a thorough history of Mr. Foster's involvement in and knowledge of anything to do with Whitewater, Madison Guaranty, CMS, David Hale, and Jim McDougal. (While that has been pursued to some degree, there is more to do, in my view. Note that Foster communicated with McDougal in June 1993 and that Hale was listed in his phone directory. Also, Brad Lerman plans to raise Foster in his next meeting with McDougal.)

(3) Foster documents

The questions here are as follows: (a) Did any individual or organization obstruct justice in connection with the Park Police/DOJ/FBI investigation of Mr. Foster's death in July and August 1993; and (b) Has any individual made a false material statement to any investigators or to Congress about his or her activities in the aftermath of Mr. Foster's death.

This investigation has focused on three primary points:

(a) Were any documents other than trash removed from Mr. Foster's office from July 20 through the time of the official search on July 22? (We have a Secret Service officer's statement that the answer is yes, but that appears to be insufficient evidence on which to base a criminal charge.)

(b) Did Mr. Nussbaum or anyone else obstruct justice in negotiating for or in conducting the official search of Mr. Foster's office? This is primarily a legal question, and the answer, as a matter of law as opposed to common parlance, appears to be no.

(c) Was the note that was found by Mr. Neuwirth on July 26 in fact found earlier by him or anyone else? We have no evidence that it was seen earlier than July 26 by anyone other than Mr. Foster.

At this point, I do not believe there is evidence warranting criminal prosecution of any individual in the Foster documents investigation. If no new evidence is uncovered before August 21, I plan to have a memorandum summarizing the evidence and recommending no charges circulated on that date.

Dana Gillis and Russ Bransford have been working on this investigation with Mark Tuohey and me. Because the investigation is near completion, I do not anticipate that you will do much work on it, although your ideas and suggestions are certainly welcome.

MEMORANDUM

TO: Judge Starr
Mark Tuohey
Hickman Ewing
John Bates

FROM: Brett Kavanaugh

RE: Foster Issues

DATE: June 6, 1995

As Dr. Lee prepares to give us advice, this seemed an appropriate time to outline my thoughts about the major steps we can and should take to complete our factfinding on the Foster death investigation. Dr. Lee will no doubt have further thoughts and may tell us that some of my proposed major steps are unnecessary or wasteful, but I thought it nonetheless might be useful to outline my ideas.

As I have stated before, the Foster death investigation can be divided into two related but distinct issues: (1) state of mind; and (2) physical evidence (which includes death scene observations, blood, forensic evidence, ballistics, etc.).

As I said in my last memo, we have made progress from the Fiske investigation on Foster's state of mind -- although we have not entirely solved that issue. Indeed, assuming arguendo a suicide, we still have not discovered a single triggering event that led to the death. Nor do we have a true suicide note.

With respect to the physical evidence, we have employed investigatory tools and procedural steps that were not utilized by the Fiske team.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

In any event, the two most important issues to resolve in this case are rather obvious: (1) where was the fatal shot fired; and (2) who fired it.

It seems that the best way to determine where the shot was fired would be to find the bullet. If the bullet is in the park, then it seems to me that we would have established beyond a reasonable doubt that the shot was fired in the park. The Fiske team and the FBI conducted a rather elaborate search of the park for the bullet. Nonetheless, they did not go as far as they

could have gone. As is stated on page 56 of the Fiske report, "[t]he FBI Lab's search for the bullet focused on the most likely area for the bullet to have come to rest . . . It would have been enormously time-consuming, costly, and in all likelihood unproductive, to have searched the entire Park for the bullet" (emphasis added). Dr. Lee in our initial meeting suggested a broader search of the park, including of the trees in the park. I strongly recommend (subject to his continued agreement) that we pursue this tack. I also recommend that we get Ed Lueckenhoff intimately involved in implementing it because there is substantial resistance from the Washington FBI on this subject.[1]

As to who fired the gun, we should try to establish an individual's link to the gun. The best way to do that would be to determine ownership/possession of the gun as of July 20, 1993. Because no Foster family members can positively identify the gun and the gun cannot be traced, I believe the best remaining way to establish ownership of the gun would be to identify the person whose fingerprint is on the underside of the grip handle. We know that it is not Foster's fingerprint. We are currently attempting to determine whether it is Foster's father's fingerprint by having the military records center perform a search. If that does not turn up a match, we will have to go back to the drawing board on this issue.

Two other areas that are matters of some controversy -- although probably of lesser relevance -- are the identity of the person whose hairs were found on Foster's clothes and the identity of the carpets and/or furniture that were the source of the carpet fibers on Foster's clothes. Until Dr. Lee informed me otherwise, I believed that we could not match the hairs to any particular person because we do not have the roots from the hairs. That turns out to be incorrect. I therefore recommend (subject to Dr. Lee's concurrence) that we consider obtaining hair samples from Laura Foster; it we do not obtain a match with her hair, we can discuss how to proceed further. As to the carpet fibers, I recommend (subject to Dr. Lee's concurrence) that we implement a plan of obtaining carpet fibers from the various places that Foster was located on July 20: his house, his car, and the White House.

Finally, while not necessarily relevant to the Foster death as opposed to the Foster documents investigation, we can do more to determine the identity of the partial palm print on the Foster note. I recommend that we obtain palm prints from various people who we know touched the note. If we do not obtain a match from any of them, I recommend that we obtain palm prints from persons who we suspect touched the note. (We do not have Foster's palm prints, but we may also want to think of ways to determine whether we can lift a palm print of Foster's from any documents or items in Lisa Foster's possession.)

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[1] Dr. Lee also noted that there may be other ways to establish that the shot was fired in the park; for example, by blowing up the scene pictures to determine whether there was any blood spatter on the surrounding leaves.

Conclusion

As Dr. Lee pointed out, we are likely to make progress over past investigations not by interviewing people who have already been interviewed but by reexamining the physical evidence to see what else can be learned from it. With that in mind and subject to change based on Dr. Lee's advice, the above listed items are the remaining major steps I propose we take with respect to the death investigation.

MEMORANDUM

TO: Judge Starr
Mark Tuohey
Bill Duffey
Hickman Ewing
John Bates

FROM: Brett Kavanaugh

RE: Foster Investigations

DATE: March 4, 1995

At Friday's meeting in Washington, decisions were made regarding certain aspects of the Foster death investigation. I will summarize those decisions and then list other points for discussion at our next team meeting.

Decisions

1. The Foster state of mind investigation necessarily must be a balance of thoroughness against reasonableness. Striking that balance, Ken concluded that it would be inappropriate at this juncture to issue a subpoena to the White House for "all documents to, from, or referring or relating to Vincent W. Foster, Jr." Such a subpoena remains a future option, however.

2. The goal of the Foster death investigation is to attempt to determine to as high a degree of certainty as is reasonably possible whether Foster's death was a homicide or a suicide. One factor to consider in making that determination is Foster's state of mind prior to his death. A troubled state of mind would be probative of suicide; a healthy state of mind would be probative of homicide. Of course, a particular state of mind is not definitive proof of suicide or homicide, but it nonetheless is a standard factor to weigh in death investigations.

With that in mind, the Travel Office is an important issue. It is well documented that the Travel Office concerned Foster a great deal. The episode seems to have bothered him in two different ways. First, he was angry and upset at the press, the FBI, and the White House for the manner in which they portrayed the events surrounding the firing of the Travel Office employees and the subsequent reprimands of various White House officials. Second, he appears to have been concerned about the possibility of congressional hearings on the Travel Office.

With respect to Foster's concern about potential congressional hearings, it is incumbent upon us to determine the precise nature of his concern about the potential hearings. Foster's

brother-in-law Beryl Anthony has speculated that there might have been facts about the Travel Office that were not publicly known and that Foster did not want to reveal to Congress and the public. For that reason, it is necessary that we carefully examine all of the facts surrounding the firings of the Travel Office employees.

At this point, however, it is important to note that we are not investigating the Travel Office for the purpose of determining whether any individual inside or outside the White House violated any federal criminal law in connection with the firing of Travel Office employees. Of course, if we discover credible evidence of criminal wrongdoing with respect to the Travel Office firings during the course of the Foster investigation, we might initiate such an investigation. If so, we would immediately inform the Public Integrity Section because of their pending case against Billy Dale, which might have to be suspended under 28 U.S.C. § 597. We also would apply for an expansion of jurisdiction.

In light of the above, it would be appropriate at this juncture to issue a subpoena to the White House for (1) all documents to or from Foster referring or relating to the Travel Office; (2) all documents that both were within Foster's office on July 20, 1993, and refer or relate to the Travel Office; and (3) all documents referring or relating both to Vincent W. Foster and to the Travel Office.

For next team meeting

1. (Foster death) Given the above discussion, we should discuss whether it would be appropriate to issue a subpoena to the White House for all documents referring or relating to the Travel Office affair. Alternatively, we perhaps could issue a subpoena for all H. Clinton, Kennedy, Watkins, Thomasson, Livingstone, and McLarty documents referring or relating to the Travel Office.

2. (Foster death) Because Vince Foster apparently consulted Jim Hamilton, Jim Lyons, and Susan Thomases about the Travel Office in the week prior to his death, we should discuss whether to request a waiver of attorney-client privilege from the executor of Foster's estate (John Sloan).

3. (Foster documents and Foster death) We should discuss whether to subpoena the White House for all documents that were within Vince Foster's office, on his computer, within his secretary's office space, on his secretary's computer, or in the Counsel's safe on July 20, 1993. If we do not issue such a subpoena, we implicitly will have accepted the Nussbaum view of privilege and relevance as to Foster's office. If the White House objects to such a subpoena -- as I am sure it will -- we may want to offer a compromise whereby they would collect all such documents and I would review them. But we need to review them all -- regardless of the sensitivity of such documents.

4. (Foster documents and Foster death) We should discuss whether to issue a

subpoena or request to Jim Hamilton and Lisa Foster for all documents that were within Vince Foster's office, on his computer, within his secretary's office space, on his secretary's computer, or in the Counsel's safe on July 20, 1993.

5. (Foster documents) We should discuss whether to subpoena from the White House all e-mail, calendars, diaries, and message logs for the following people for the period July 15-July 30, 1993: Kennedy, Lindsey, McLarty, Burton, Williams, Gergen, Thomasson, Livingstone, Scott, Neuwirth, Sloan, Nussbaum, Watkins, Quinn, Kennedy, Mills, Cerda, Nolan, Gearan, Klain.

6. (Foster death) We should obtain or review Foster's diary and any and all of Foster's calendars. We should also inquire about whether he used e-mail. Some of these documents have previously been reviewed by the FBI, but I would like to examine them. (White House, Lisa Foster, or Hamilton in possession).

7. (Foster death) We should discuss whether to issue subpoenas to Foster's mother, Lisa Foster, Foster's children, Foster's siblings, and Foster's friends for documents that might shed light on Foster's state of mind or their perceptions of Foster's state of mind (e.g., letters from Foster, letters to each other before or after Foster's death, notes, personal diaries, etc.). I would be uneasy issuing such subpoenas, but I would be more uneasy making definitive conclusions about Foster's state of mind without reviewing these relevant documents.

MEMORANDUM

TO: Judge Starr
Mark Tuohey
Hickman Ewing
John Bates
Ed Lueckenhoff
Chuck Regini

FROM: Brett Kavanaugh

RE: Summary of Foster Meeting on 6-15-95

DATE: June 16, 1995

We discussed the following at our meeting on Thursday, June 15.

1. We will search the park. Ed and Chuck will coordinate this plan with the FBI lab people and Henry Lee. There is a very high chance that the bullet now is in the same place that it landed on July 20, 1993. That being the case, our attitude should be to do whatever is feasible to find the bullet -- whether that includes searching beyond the park or searching trees. If we find the bullet, that would help to prove place of death, which is an important issue.

2. We will attempt to determine whether a Foster family fingerprint is on the inside of the gun. We may perform a fingerprint search of the Foster home in Hope to obtain prints. In addition, Ed and Chuck agreed to think and consult FBI fingerprint experts about other ways to obtain prints of Foster's father. I encourage Ed and Chuck to consult with the very best fingerprint people in the Bureau to resolve this crucial issue. (We have been using an FBI agent named [redacted] the lack of clarity of his fingerprint reports frankly gives me less than full confidence that he is one of the best Bureau fingerprint examiners.)

FOIA(b)(7) - (C)

3. We agreed to have the IRS perform a full financial analysis of Foster. Ed will take the lead in coordinating this with the IRS. Chuck and I will ensure that we gather all existing financial information about Foster for the IRS.

4. We agreed to track down all of Foster's foreign travel. It should not be difficult to obtain immediate information regarding all of Foster's foreign travel. Ed and Chuck will coordinate this step.

5. We will investigate an alleged Swiss bank account that was in Foster's name. Ed and Chuck will consult with Mark in coordinating this investigatory step.

6. We discussed the possibility of Foster's extramarital affairs, a standard question

in an investigation of this sort. At our meeting, however, this was more theory and speculation than a proposed investigatory step. Indeed, no one suggested any concrete steps to pursue in this regard. I note that we have asked numerous people about Foster's alleged affair with Mrs. Clinton, but have received no confirmation of it. If we want to pursue this line of investigation further, however, we should ask Mrs. Clinton about the alleged affair at her next interview. For obvious reasons, that is a delicate issue, one we should discuss in detail before that interview occurs.

Summary of My Views at this Stage

At this point, I am satisfied that Foster was sufficiently discouraged or depressed to commit suicide. (Of course, that does not establish that he did in fact commit suicide.) I base my conclusion on the fact that Foster was found with a list of three psychiatrists in his wallet, the fact that Foster obtained a prescription on July 19 for an anti-depressant, and the many witness interviews describing his state of mind in the days and weeks preceding his death.

As to exactly what fact or facts were causing Foster to be discouraged or depressed, we have some answers, but there may well be more than we have learned at this point. I would be very interested to hear suggestions from any of you about concrete investigatory steps that we could pursue to discover other possible sources of Foster's discouragement or depression. (A full financial analysis was one such good idea; as noted above, we will pursue that suggestion.)

As to the physical evidence, there are several steps that we and Dr. Lee are currently pursuing -- some of which are discussed above. If we establish (1) that the gun was a Foster gun and (2) that the shot was fired in the park, then I think we can be satisfied beyond a reasonable doubt that Foster committed suicide in Fort Marcy Park. These two issues are therefore crucial to the bottom line, and I think we should devote extraordinary efforts to resolving them.

Memorandum **Office of the Independent Counsel**

To : File Date 2/6/96

From : Debbie Gershman

Subject: Call from Chris Ruddy

I received a call from Chris Ruddy on Tuesday, February 6, 1996 at about 10:50 a.m. Chris said he had called Special Agent James Clemente in the DC office, but Clemente said he couldn't comment and referred Chris to me. Chris didn't know if we could comment, but wanted to know if we could tell him anything about the following:

Chris said that State Trooper Larry Patterson met with SA Coy Copeland before Christmas. Patterson says that Copeland spent 45 minutes trying to get Patterson to change his mind about what time Roger Perry called informing Patterson of Vincent Foster, Jr.'s death. According to Patterson, Copeland told him that we couldn't get Tucker's phone records because Tucker is under indictment.

Chris also said that SAs Clemente and Copeland and a Mr. Green accompanied Patrick Knowlton to Fort Marcy Park in December. At the park, the group met a Mr. Reeves, described to be a black man. Knowlton believes that Mr. Reeves was told to be at the park to see if he could ID Knowlton as a Fort Marcy Park frequenter. Knowlton asked Clemente if this meeting was set up for Reeves to ID Knowlton and said Clemente denied any false pretense and said it was just a coincidence that Reeves was at the park. Chris wants to know if Clemente called Reeves and told him to be at the park to ID Knowlton.

I told Chris that we couldn't comment on the ongoing investigation. Chris said he didn't think we could but had to ask anyway.

02/07/96 10:41 ☎501 221 8707 INDEP COUNSEL →→ OIC DC 001/001

8. Any and all videotapes, video recordings, or visual depictions of any interior or exterior portion of the White House, the Old Executive Office Building, or surrounding areas for July 20, 1993, and July 21, 1993.

[redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[redacted]

Sincerely,

Robert M. McNamara, Jr.
Assistant General Counsel
(Enforcement)

8.

MEMORANDUM

TO: Judge Starr
Mark Tuohey
Hickman Ewing
John Bates

CC: Ed Lueckenhoff
Dana Gillis
Chuck Regini
Jeff Greene

FROM: Brett Kavanaugh

RE: Foster Death Investigation

DATE: May 15, 1995

The following are the steps that Mark, Hickman, John, and I discussed today as possibilities for our continuing investigation of the physical evidence (as contrasted to state of mind).

1. Fingerprint on Gun

We are currently attempting to obtain Mr. Foster Sr.'s fingerprints from the military records center. If that proves fruitless, we may attempt to find his fingerprints from the Foster home in Hope. (If the fingerprint on the underside of the grip matched Mr. Foster Sr., that obviously would be a very significant step in our investigation.)

2. Carpet Fibers

We may obtain carpet fibers from various sources and attempt to match them to the fibers found on Foster. The possible sources are (a) his car; (b) the White House; and (c) his house in Georgetown.

3. Search of Park for Bullet

We may search the entire park for the bullet.

4. Stains on Shirt

The FBI lab is currently testing Foster's shirt to determine what if any material other than blood was present on the shirt.

5. Palm Print on Note (more relevant to Foster documents investigation)

We may try to match the palm print on the note to Foster's palm print. To do so, we would need to find a palm print from Foster. That would not be easy, but we can consult the lab and/or experts on the possibilities in this regard.

If we could not obtain a Foster palm print or if the prints did not match, we might obtain palm prints from various other persons in logical order: (1) the Park Police officers who handled the note; (2) Neuwirth, Gorham, Pond, Tripp, and Nussbaum; and (3) Williams, Castleton, and Thomasson.

Memorandum **Office of the Independent Counsel**

To : IC JUDGE KENNETH STARR Date 7/12/95

From : IIC E. H. LUECKENHOFF

Subject: POSSIBLE CONNECTION BETWEEN VINCE FOSTER AND ADFA

On July 6, 1995, SAs BETSY FRIES and WALLY DRUECK interviewed ROY DREW, a Little Rock investment advisor, as part of the Lockhart/DOC inquiry. Among other things, DREW told the agents about a possible financial link between VINCE FOSTER and the Arkansas Development Finance Authority (ADFA).

DREW apparently makes it his business to learn details of political and financial developments in Arkansas. He has publicly objected to certain development projects and has also spoken with national media representatives about perceived irregularities in these projects.

DREW has obtained numerous records on various topics through Freedom of Information requests. DREW obtained minutes of an ADFA Board meeting in February 1987 which was attended by a representative of the NATIONAL BANK of AUSTRALIAN (copy attached). The minutes report that ADFA President WOOTEN EPES asked approval for "the letter of credit with the NATIONAL AUSTRALIAN BANK which provides the insurance fund for the Single Family Issue."

Later, DREW obtained a copy of VINCE FOSTER's financial disclosure form through a FOIA request. DREW finds it interesting that the form shows VINCE FOSTER held stock in the NATIONAL AUSTRALIAN BANK, particularly because the bank was doing business with ADFA.

I note that, at approximately that same point in time, VINCE FOSTER was involved with HILLARY CLINTON and WEBB HUBBELL in Midlife Investors.

(1) - MARK TUOHEY
1 - BRETT KAVANAUGH
1 - HICK EWING
1 - CHUCK REGINI
1 - JIM CLEMENTE
1 - STEVE IRONS
1 - CLAYTON COOPER
1 - BETSY FRIES
1 - WALLY DRUECK
1 - E.H. LUECKENHOFF
EHL/bhr (10)

MINUTES
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
BOARD OF DIRECTORS MEETING
February 19, 1987
11:00 a.m.

The Board of Directors of the Arkansas Development Finance Authority held its Regular Board Meeting on February 19, 1987, at 11:00 a.m., in the Authority's conference room, in the Madison Guaranty Bank Building at the corner of 16th and Main Streets, Little Rock, Arkansas.

Board Members present were Chairman Margaret Davenport, Vice Chairman James Branyan, Mr. Don Fuller, Mr. Merle Peterson, Mr. Don Spears, Mr. Bill Pierce, and Mr. George Wright.

ADFA Staff present were Wooten Epes, President; C.E. Anderson, Vice President for Housing; Bill Wilson, Vice President for Finance; Ursula Blackard, Single Family Housing Officer; Bernard Henry, Multi-Family Housing Officer; Charles Brandt, Fiscal Officer; Ruth Glover, Assistant to the President; Gene Eagle, Vice President for Development Finance; Kay Bell, Development Finance Officer; Tom Geis, Planning Specialist; Cotter Cunningham, Planning Specialist; Debbie Gentry, Accounting Supervisor; Valerie Petty, Administrative Assistant.

Others present were Mr. Bob Snider and Mr. Jim Fowler of T. J. Raney & Sons, Inc.; Mr. Walter May and Mr. Walter McSpadden of Wright Lindsey & Jennings Law Firm; Mr. Byron Schriver and Ms. Susan Flemming of Stephens, Inc.; Mr. Rich Livdahl of Ark. DCS; Sean McCarthy of Paine Webber; Mr. John Selig of Mitchell Law Firm; Mr. Michael Drake of Arkansas Gov. Adv. Services, Inc.; Mr. Barry Kellerman of Public Leasing Corp.; Mr. Harvey Horowitz of National Australia Bank; Mr. Herbert Ziegenhorn and Mr. Charles Givens of the Bank of Weiner; and Ms. Sheila Yount of the Arkansas Democrat.

Chairman Davenport called the meeting to order at 11:10 a.m. and asked for approval and adoption of the Minutes of the Regular Meeting of the ADFA Board of Directors on January 15, 1987 the Minutes of the Special Meeting of the ADFA Board of Directors on January 22, 1987. There being no corrections or additions, Mr. Peterson made a motion for approval, Mr. Pierce seconded and the Board unanimously approved the Minutes as written.

Mr. C.E. Anderson reported that updated figures show that the amount purchased to date on the 1985 Series A Single Family Program is $99,199,600. Amount purchased to date on the 1985 Series B Program is $800,258. Amount purchased to date on the 1984 Series A1 Program is $10,443,069. Amount Purchased to date on the Home Energy Improvement Program is $245,603.14.

Mr. Bernard Henry reported that the Authority met with representatives from non-profit organizations and the Home Builders Association as well as interested developers and mortgage bankers to discuss the Authority's plans for implementating the tax credit program for low income family housing. Also, the first draft of the new multi-family development buy-down program has been completed and distributed to underwriters and bond counsel. A 332 unit rehabilitation project in Southwest Little Rock has

...t Epes asked for Board approval of a resolution authorizing the ...ce of $3,000,000 in economic development revenue bonds to finance ...rehouse project in Sebastian County for Zero Mountain, Incorporated. ...e project is a multi-purpose cold storage facility of approximately 100,000 square feet which would employ approximately twenty full-time employees. The project will take advantage of the Authority's transition rule allowing us to continue to issue tax-exempt bonds for non-manufacturing projects. The Authority will act as issuer with the Bank of Bentonville providing a letter of credit and McIlroy Bank & Trust acting as trustee. A draft of the Resolution was presented to the Board, which authorizes the trust indenture, loan agreement, and a contract to purchase all under the loan arrangement. The Board voted to approve the Resolution for Zero Mountain, Inc. in the amount of $3 million. Mr. Peterson made such a motion, Mr. Fuller seconded and the Board unanimously approved.

President Epes reported that the Authority has been working with the state Department of Computer Services to complete a financing arrangement for the State Telecommunication System under the State Government Asset Financing Program, Series 1986 A. Interim financing of approximately $775,000 will be needed to purchase equipment for the engineering technology building at UALR. Mr. Epes asked for approval to advance Authority funds in that amount until the bonds are converted to fixed-rate on June 18, 1987 at which time the Authority would be reimbursed. The Development Finance Committee recommended that bridge financing be provided by the Authority until a conversion to fixed-rate is made in June. The Board voted to approve the lease transaction with the Department of Computer Services with bridge financing in the amount of $775,000. Mr. Branyan made such a motion, Mr. Peterson seconded and the Board unanimously approved.

President Epes asked for finalization of the documentation of amendments to the HECAP program. Amendments had previously been approved and are now in written form. A conversion of bonds will be made on March 2 for approximately $3.4 million. There are four borrowers, Westark Community College, University of Central Arkansas, University of Arkansas at Pine Bluff and University of Arkansas at Monticello and bonds are being converted for those colleges and universities for loans under this program. President Epes asked for Board approval of a supplemental indenture of trust and a supplemental reoffering memorandum in connection with the conversion of bonds for these transactions. Mr. Branyan made such a motion, Mr. Peterson seconded and the Board unanimously approved.

President Epes asked for Board Approval for the letter of credit with the National Australian Bank which provides the insurance fund for the Single Family issue. Preliminary approval was received at the last Board meeting. The reason for this procedure is that the loans are FHA insured and there is no pool insurance so a letter of credit for this fund is necessary to make up for coverages normally received under pool insurance and special hazard insurance. Mr. Wright made such a motion, Mr. Fuller seconded and the Board unanimously approved.

President Epes said at the last Board meeting he would be circulating Requests for Proposals among investment banking firms for proposals to market taxable transactions to generate arbitrage profits. Bankers were interviewed last Thursday and Friday with some of the Executive Committee present. A summary of these proposals were distributed to the Board and

Executive Branch PUBLIC FINANCIAL DISCLOSURE REPORT

U.S. Office of Government Ethics

Reporting Status (Check Appropriate Block)	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate	Date of Appointment, Candidacy, Election, or Nomination (Month, Day, Year)	Termination Filer	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent		☑ TE	JANUARY 20, 1993	☐	

Reporting Individual's Name	Last Name	First Name and Middle Initial
	FOSTER	VINCENT W.

Position for Which Filing	Title of Position	Department or Agency (If Applicable)
	DEPUTY COUNSEL TO THE PRESIDENT	WHITE HOUSE OFFICE

Location of Present Office (or forwarding address)	Address (Number, Street, City, State, and ZIP Code)	Telephone No. (Include Area Code)
	WHITE HOUSE, WASHINTON, D.C. 20500	(202) 456-6611

Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)

Title of Position(s) and Date(s) Held

Presidential Nominees Subject to Senate Confirmation

Name of Congressional Committee Considering Nomination

Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Certification

I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief

Signature of Reporting Individual — Date (Month, Day, Year): 2-19-93

Other Review (If desired by agency)

Signature of Other Reviewer — Date (Month, Day, Year):

Agency Ethics Official's Opinion

The information contained in this report discloses no conflict of interest under applicable laws and regulations.

Signature of Designated Agency Ethics Official/Reviewing Official — Date (Month, Day, Year): 5-21-93

For Office of Government Ethics Use Only

Signature: BY TFZ — Date (Month, Day, Year): DEC -6 1993

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

(Check box if comments are continued on the reverse side) ☐

278 111

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NOV 12 1993

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

NSN 7540-01-070-0644

SF 278 (Rev. 6/91)
6 CFR Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: VINCENT FOSTER

SCHEDULE A

Page Number: 14

Assets and Income (BLOCK A)	Valuation of Asses at close of reporting period (BLOCK B)							Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. (BLOCK C)														
								Type							Amount								
Identify each asset held for the production of income which had a fair market value exceeding $1,000 at the close of the reporting period. Identify each asset or source of income which generated over $200 in income during the reporting period. None ☐	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000	Actual Amount Only if "Other" specified	Date (Mo., Day, Yr.) Only if Honoraria
S DC or J — Example: General Airlines Common																Low Performing Income										$130,000	
S DC or J — Example: Doe Jones & Smith, Hometown, USA																											
S DC or J — Example: Kompetone Equity Fund																											
S DC or J — Example: Doe Jones & Smith pension plan																											
1 U.S. TREAS. BOND, 5000 FACE @ 7.25% DUE 5-15-16		X									X							X									
2 TYSON FOODS, INC. - COMMON			X						X								X										
3 WORTHEN BANKING CORPORATION-COMMON				X					X									X									
4 CASH HELD IN STEPHENS, INC. BROKERAGE ACCOUNT				X							X								X								
5 MERCK & CO., INC. - COMMON		X							X									X									
6 SUMMIT TECHNOLOGY, INC. - COMMON		X							X									X									

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5 CFR Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name	SCHEDULE A	Page Number
VINCENT FOSTER		15

Assets and Income BLOCK A	Valuation of Assets at close of reporting period BLOCK B								Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. BLOCK C											
									Type							Amount						
Identify each asset held for the production of income which had a fair market value exceeding $1,000 at the close of the reporting period. Identify each asset or source of income which generated over $200 in income during the reporting period None ☐	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $600,000	$600,001 - $1,000,000	Over $1,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000	Actual Amount Only if "Other" specified	Date (Mo., Day, Yr.) Only if Honoraria
S. Central Airlines Common DC Ex. Dow Jones & Smith, Horsham, USA Kemptcare Equity Fund J Dow Jones & Smith pension plan																• Partnership Income										$138,800	
1 NATIONAL AUSTRALIAN BANK - COMMON STOCK		X							X								X										
2																											
3																											
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5																											
6																											

LEVEL 1 - 1 OF 4 STORIES

The Associated Press

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Jocelyn Elders

July 10-31, 1993

Lexis

SECTION: Washing

LENGTH: 435 word

HEADLINE: Congr

BYLINE: By LAWR

BODY:

PUBLIC OCCU

Gift-Giving: Common Cause Presiden... ...me members of Congress "pay their own way." His organization a... ...rehensive, statutory ban on gifts to members of Congress and their staffs. If Congress won't go that far, Common Cause said, it should at least require that all gifts be reported.

Smoking and Children: Carol Browner, head of the Environmental Protection Agency, is scheduled to tell Congress Thursday what her agency plans to do about children's exposure to the dangers of smoking. The EPA has said that between 200,000 and a million children suffer asthmatic episodes as a result of the effects of environmental tobacco smoke.

LOOKING FORWARD:

The Senate Labor and Human Resources Committee holds a confirmation hearing Friday for Jocelyn Elders, President Clinton's choice to be surgeon general. Her hearing initially was scheduled for last Friday, but was postponed amid questions about why, as an paid interim federal consultant, she was still drawing her salary as head of the Arkansas Health Department. Ms. Elders subsequently resigned the state post and has been given fresh assurances of support by the president.

QUOTABLE:

"The conclusion of the Senate Armed Services Committee hearings was that homosexuality is incompatible with military service. The president's approach fails to address this principle." Sen. Dan Coats, R-Ind., commenting on President Clinton's compromise on homosexuals in the armed services.

"Those who defend discrimination against gay men and lesbians today will stand in that great accounting with those who once defended slavery, segregation and discrimination against women ... President Clinton has hoisted the sail and begun the next stage of our great national journey on civil rights." - Sen. Edward M. Kennedy, D-Mass., saying he thinks the ban on homosexuals in the

LEVEL 1 - 1 OF 4 STORIES

The Associated Press

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July 20, 1993, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 435 words

HEADLINE: Congressional Diary - Tuesday, July 20, 1993

BYLINE: By LAWRENCE L. KNUTSON, Associated Press Writer

BODY:

PUBLIC OCCURRENCES:

Gift-Giving: Common Cause President Fred Wertheimer said it's time members of Congress "pay their own way." His organization advocated a comprehensive, statutory ban on gifts to members of Congress and their staffs. If Congress won't go that far, Common Cause said, it should at least require that all gifts be reported.

Smoking and Children: Carol Browner, head of the Environmental Protection Agency, is scheduled to tell Congress Thursday what her agency plans to do about children's exposure to the dangers of smoking. The EPA has said that between 200,000 and a million children suffer asthmatic episodes as a result of the effects of environmental tobacco smoke.

LOOKING FORWARD:

The Senate Labor and Human Resources Committee holds a confirmation hearing Friday for Jocelyn Elders, President Clinton's choice to be surgeon general. Her hearing initially was scheduled for last Friday, but was postponed amid questions about why, as an paid interim federal consultant, she was still drawing her salary as head of the Arkansas Health Department. Ms. Elders subsequently resigned the state post and has been given fresh assurances of support by the president.

QUOTABLE:

"The conclusion of the Senate Armed Services Committee hearings was that homosexuality is incompatible with military service. The president's approach fails to address this principle." Sen. Dan Coats, R-Ind., commenting on President Clinton's compromise on homosexuals in the armed services.

"Those who defend discrimination against gay men and lesbians today will stand in that great accounting with those who once defended slavery, segregation and discrimination against women ... President Clinton has hoisted the sail and begun the next stage of our great national journey on civil rights." - Sen. Edward M. Kennedy, D-Mass., saying he thinks the ban on homosexuals in the

military services should be lifted altogether.

IT'S A FACT:

Retreat: in the early morning hours of July 21, 1861, dozens of members of Congress and their wives packed picnic lunches and bottles of wine and rode into the Virginia countryside to witness Union troops thrash the Confederate Army at Bull Run. But by mid-afternoon their side had taken a thrashing and the senators and House members joined the troops in headlong retreat. Sen. James Grimes, an Iowa Republican, vowed that Bull Run was the last battlefield he would "visit voluntarily."

DAYS IN SESSION:

The House and Senate met on Tuesday. The House has met 86 days this year, and the Senate 92 days.

LANGUAGE: ENGLISH

LEVEL 1 - 2 OF 4 STORIES

Copyright 1993 News World Communications, Inc.
The Washington Times

July 15, 1993, Thursday, Final Edition

SECTION: Part G; COMMENTARY; Pg. G1

LENGTH: 722 words

HEADLINE: Listening to Elders and saying no ;
Cultural warrior

BYLINE: Suzanne Fields; THE WASHINGTON TIMES

BODY:

Joycelyn Elders is her own worst enemy. She shoots from the lip. She's likely to hit just about anyone.

When the pediatrician nominated to be surgeon general testifies at her confirmation hearings this week, she'd be wise to drop her pistol-packin' sound bites.

When appointed director of the Arkansas Department of Public Health in 1987, she was asked if she planned to distribute condoms in public school.

"Well," she replied, "we're not going to put them on their lunch trays, but yes."

Her defenders admire her tough medicine. Her critics want a different prescription.

When she was asked about public school sex education for youngsters, she said: "Give me the choice of trying to educate a 3 year old or trying to educate an 18 year old, and I'll take the 3 year old every time."

Even those who appreciate her concern for teen-age pregnancy are troubled by her zealousness. Her heart may be in the right place, but what about her head?

"We taught them what to do in the front seat [of a car]," says Dr. Elders with a touch of over-the-back-fence sarcasm. "Now it's time to teach them what to do in the back seat." Oh?

She can hardly win the affection of blacks, nor can she persuade many whites, with cliched metaphors of slavery. (That was then and this is now.) She accuses the religious right of having "slavemaster mentalities." She says a poor teenager with a baby is "captive to a slavery the 13th Amendment did not anticipate." (If Dan Quayle said that. . . .)

At a recent protest against her nomination, black women joined a coalition of pro-family groups on the Capitol steps to speak out against her nomination. They compared her pro-abortion stance to "black genocide," her condom giveaways to preaching promiscuity.

Despite her verbal sallies, Dr. Elders is likely to prove a much more attractive nominee than Lani Guinier. She speaks with a passionate voice, with more emotion than intellect, tutored by experience. She's a self-made woman who graduated from the University of Arkansas Medical School but couldn't attend her graduation dinner at the infamous all-white Country Club of Little Rock, favored by many in Mr. Clinton's administration. She was the only black in her class.

The White House is not likely to walk away from this fight. After his first meeting with Dr. Elders, the president said he felt like Abraham Lincoln on being introduced to Harriet Beecher Stowe: "This is the little lady who started the war."

Her civil war is really a cultural one. Neither friend nor foe question her determination to cut into the epidemic of teen-age pregnancy. They don't all agree on how to do it.

Conservatives want values to come from parents. Dr. Elders puts her faith in public-school clinics. Most Americans, as reckoned by all the polls, favor requiring parental consent for a pregnant daughter to get an abortion. Dr. Elders, putting her trust in the bureaucracy, wants to leave the parent out of it.

Defenders call her an "unflinching realist." Critics call her a "resolute cynic" who reduces sex education to the lowest common denominator. By focusing only on the children who have no parents or church to teach them, she undermines the moral message for the majority who do.

Ultimately, teen-agers aren't as malleable as she seems to think they are. Kids who have trouble obeying their elders aren't likely to listen to Dr. Elders, either. Is a teen-age girl who can't say "no" going to insist that her companion of the night put on a condom? Will teen-age boys who can't handle authority follow the advice of sex-ed teachers?

Dr. Elders didn't accomplish in Arkansas what she wants to try out on the rest of the country. Arkansas' teen pregancy rate is still the second-highest in the nation despite her use of the bully pulpit. During her tenure as Arkansas health director, teen pregnancy rose from 68.3 live births per 1,000 women ages 15 to 19 in 1987 to 80.1 per 1,000 in 1991.

When the president nominated Dr. Elders, he said she would "really be able to effect change."

That's exactly what some of us are afraid of.

Suzanne Fields, a columnist for The Washington Times, is nationally syndicated.

GRAPHIC: Photo, Jocelyn Elders

LANGUAGE: ENGLISH

LEVEL 1 - 3 OF 4 STORIES

Copyright 1993 News World Communications, Inc.
The Washington Times

July 14, 1993, Wednesday, Final Edition

SECTION: Part G; COMMENTARY; Pg. G3

LENGTH: 878 words

HEADLINE: Clinton's 'condom CEO' nomination

BYLINE: Kay Coles James

BODY:

Surgeon general nominee, Jocelyn Elders says she will do whatever it takes to reduce teen pregnancy. This statement is intended to reassure us, but one need only look at Arkansas' record to understand that her promise seems more like a national threat. The president who told us he wants to reinvent government must surely be interested in looking at the bottom line - the results of Dr. Elders' efforts in Arkansas. Just what return have the "state stockholders" in Dr. Elders' taxpayer-funded programs been getting for their investment?

Since Dr. Elders became Arkansas' health director in 1987, the teen pregnancy rate in Arkansas has risen 15 percent, according to American Medical News. The incidence of sexually transmitted disease also rose dramatically. From 1989 to 1992, syphilis cases among Arkansas teens rose 130 percent and HIV infection escalated 160 percent.

A variety of programs were implemented in Arkansas to attain these results - all contributing to Dr. Elders' overall performance.

Dr. Elders is known for her advocacy of School Based Clinics (SBCs), which she has euphemistically renamed "Student Service Centers." These clinics have been very controversial, both because they usurp authority from parents, and because of the services and referrals they provide to teens. In 1992-93 there were 24 clinics operating in Arkansas schools even though there are 96 health department clinics throughout the state that offer the same services. While these clinics supposedly provide basic health care to students, their primary goal is intended to be, as Dr. Elders has admitted, to dispense condoms for high school students. Free condoms, however, are already available at every health department clinic in Arkansas.

Dr. Elders has promoted taxpayer-funded condom distribution programs, promising the kids "safe sex," despite the evidence. Studies done by the National Survey of Family Growth show the failure of condoms is 1 in 6 in preventing pregnancy. And even less "safe" is a condom's ability to prevent STDs and AIDS - a study by Fische found a 17 percent failure rate among married couples that are "condom educated." Research shows teens tend to be less effective contraceptors than adults, causing the condom failure rate to increase.

In addition, these school-based clinics sometimes refer students for abortion - without parental knowledge. Dr. Richard Glasgow notes in his book, "School Based Clinics, The Abortion Connection," "the small number of SBCs which receive federal funding under Title X (the largest federal family planning program) will refer a girl directly to an abortion clinic without her parents' knowledge or consent because clinic proponents argue that Title X guidelines require that recipient agencies provide services to minors without parental knowledge or consent - the majority of clinics currently operating fall into this category."

Given the research, just how effective are these clinics? To date, the Arkansas Department of Health has failed to provide any research of its own or others that indicates that dispensing contraceptives reduces teen pregnancy. Apparently in Arkansas, reinventing government to look more like business does not include an annual report.

According to Douglas Kirby, consultant for the National Center for Population Options, an organization that promotes SBCs, the clinics reportedly "had no measurable impact on teen pregnancy rates." In fact, with the introduction of contraceptive education in the schools nationwide, research has shown a national increase in teen pregnancy over the past two decades.

With the threat of condom distribution through the public schools, the Arkansas legislature passed a law that prohibits the use of state funds for the distribution of concoms. That of course didn't stop Dr. Elders and then Gov. Bill Clinton. When questioned about the funding for the condoms in public schools, Dr. Elders and Mr. Clinton reported that the condoms had been bought with U.S. dollars.

Still, having had the reins of the health department in her hands since 1987, and having implemented her policies and programs, Dr. Elders attributes the rise in teen pregnancy in Arkansas to "poverty and ignorance and the Bible Belt mentality." Even now, after her dubious performance in Arkansas, Dr. Elders says she is ready to go national, bringing with her the programs from Arkansas and adding a few, such as Medicaid funding for abortions and Norplant. She was recently quoted on CNBC as saying that the United States should "provide [prostitutes] with Norplant, so they could still use sex if they must to buy their drugs."

How public officials approach a crisis on a local level is usually indicative of how they will deal with challenges on a larger scale. The U.S. surgeon general is supposed to be the No. 1 advocate for public health. President Clinton said he wanted an administration that looks like Arkansas. Will Dr. Elders do for America what she has done for Arkansas? We can only hope not.

Kay Coles James is vice president of the Family Research Council based in Washington.

GRAPHIC: Cartoon, I DON'T CARE WHAT THE SUPREME COURT SAYS! THERE ARE SOME THINGS SCHOOLS SHOULD NOT BE INVOLVED IN!... / ...NOW HURRY ALONG OR YOU'LL BE LATE FOR THE CONDOM DISTRIBUTION..., By Stantis/The Grand Rapids Press (1993)

LANGUAGE: ENGLISH

LEVEL 1 - 4 OF 4 STORIES

Copyright 1993 News World Communications, Inc.
The Washington Times

July 12, 1993, Monday, Final Edition

SECTION: Part A; NATION; POLITICS, POLICY AND ANALYSIS; Pg. A4

LENGTH: 689 words

HEADLINE: NAACP wants proof Clinton is on its side

BYLINE: Ronald A. Taylor; THE WASHINGTON TIMES

DATELINE: INDIANAPOLIS

BODY:

INDIANAPOLIS - A year after getting a strong black embrace on his way to the White House, President Clinton is facing mixed reviews and skepticism among blacks.

"We won't miss him here this year," said Raymond McAllister, president of the Greensboro, N.C., chapter of the NAACP.

The ghost of the Lani Guinier nomination, the coming battle over Surgeon General-designate Jocelyn Elders and the still-precarious shape of the economy fuel the assessment of blacks gathered here for the annual convention of the National Association for the Advancement of Colored People.

"Last year I thought he was the greatest thing since I don't know what. I had such high hopes, and I'm very disappointed in him now," said Alaice Walker, an NAACP convention delegate from the Great Falls, S.C., chapter.

That view is endorsed by other civil rights activists here.

"We've seen one African-American woman lynched politically. We're going to see now whether Mr. Clinton has learned a lesson from the Guinier crisis," said the Rev. Joseph Lowry, president of the Southern Christian Leadership Conference.

Speaking after Texas billionaire Ross Perot, who said all the wrong things to the gathering of blacks, Mr. Clinton and then-Sen. Al Gore said all the right things when they dropped in on last year's NAACP convention in Nashville.

Today Vice President Gore will stand in for the president, who is vacationing in Hawaii after the Tokyo economic summit.

Administration initiatives on minority business and energy policies are to be addressed by Commerce Secretary Ronald Brown and Energy Secretary Hazel O'Leary.

Economic development and financial aid dominate the corridor chatter here as the NAACP enjoys a revival of popular support among blacks.

Executive Director Benjamin Chavis said yesterday that a spontaneous collection last night for African National Congress President Nelson Mandela

netted $49,000 in checks and pledges.

Last night Mr. Chavis announced the award of a $2 million endowment by the family of the late multimillionaire financier Reginald Lewis. The money is to seed an endowment fund for the NAACP that, Mr. Chavis said, he hopes will total $100 million through other corporate contributions.

Mr. Chavis also announced plans for an Aug. 28 march on Washington to mark the 30th anniversary of the 1963 Civil Rights march that is known as the site of Dr. Martin Luther King Jr.'s "I Have a Dream" speech.

In a press conference yesterday, Mr. Chavis, who served on an environmental issues team for the Clinton transition organization, noted that the NAACP's relationship with the administration is frosty and will continue to "be based on civil rights."

He echoed the prevailing sentiment about the Clinton administration among the delegates interviewed: The administration must aid blacks to merit further black support.

"Now they have to produce. Actions speak louder than words. I don't want him to speak just to placate us," said Mary Kay Penn, an administrative staff member of the Girl Scouts of America from New York City.

"He has a lot of work to do," she said. "He's a baby boomer, and the people around him are baby boomers, so there's always going to be something coming up in somebody's past that he's going to have to defend," she said.

Her assessment, along with Mrs. Walker's, were framed by Mr. Clinton's performance in the battle over Lani Guinier, a black law professor and family friend he tapped to be assistant attorney general for civil rights. Mr. Clinton scuttled the nomination under pressure.

The action rang hollow among delegates here who cheered wildly last year as Mr. Clinton displayed a sensitive touch. He talked about black economic progress, alluded to the death of the widow of a key civil rights operative and even lead the crowd in the first verse of "Lift Every Voice and Sing," a song known of as the "Negro National Anthem."

"Last year he did what he had to do. Politicians say what they have to," Mrs. Walker said.

GRAPHIC: Photo, Commerce Secretary Ronald Brown will address the NAACP convention., By AP

LANGUAGE: ENGLISH

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: _____

TO: Hick Ewing

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: BK

Number of Pages: 2 (including this cover sheet)

Message: Note from Chuck re: AmEx card.

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There was no charge on Testers.
American Express card for an
airline ticket to Switzerland
(or anywhere else) in July '93.

700 CLUB - Vince Foster - April 18, 95

This 10-minute Video received in OIC LR office on 4-25-95.
Is on CBN News Watch, hosted that day by Ben Kinchelow.
Viewed by H. Ewing on 4-26-95, who took following notes:

Kinchelow: Death of V. Foster was in the news alot, but now it has all but faded. Paul Strand reports that a few critics are still asking questions.

Strand:

[Video of Bob Fiske is shown making announcement, flags in background]
Fiske declared it was a suicide.

But a group calling itself the Western Center for Journalism has produced a video - Unanswered: The Death of Vince Foster.

Excerpts from this video:

[introduced by James Davidson of Strategic Investments, who is usually advising clients about what intelligence sources say]

Davidson: The day after Foster's death, one of our intelligence sources called and said there was foul play in Foster's death.

Jack Wheeler: over 40 inconsistencies, such as:

. the police dusted the gun found in Foster's hand, yet no fingerprints were found on the gun.

. the gun was reportedly held in a very awkward position.

. he saw the body with no gun in his hand.

. Chris Ruddy, an investigative reporter:

[dummy with 3 blood streaks on cheek shown]

. Foster was supposedly found on a steep hill, face up; blood does not run uphill.

Wheeler (continuing):

. Lefthanded men usually don't shoot themselves with the right hand.

. Blood doesn't run uphill.

. A person could hardly be expected to walk 600 feet through a park and not have chemical traces of soil on their shoes.

. White House lawyers in suits should not be covered from head to foot in carpet fibers.

[film footage of Ken Starr entering Courthouse in Little Rock, followed by Debbie Gershman]

. A new Independent Counsel Kenneth Starr was named.

[film footage of Starr getting on the elevator; others in background are Steve Irons, Bob Klimas, Bob Lashock]

. He put 11 witnesses before the federal grand jury.

Interview of James Davidson

Ben K.: With there being extensive coverage of the OJ Simpson trial, why has the death of a top White House lawyer dropped off the media coverage?

Davidson:

It is a very puzzling question. This crime is clearly a murder.

Prominent people in the press know of the coverup. For example, on April 4 of last year [1994], there was a Wall Street Journal article by Ellen Pollock, which claimed that the Fiske investigation would conclude and say it was a suicide. The article quoted Lankler, a deputy to Fiske.

This is very incriminating, because the Senate Banking Committee reported months later a detailed chronology; which set out when the evidence was gathered and people interviewed. It showed that the evidence was gathered after they told the WSJ that it would be determined that it was a suicide.

This is just as if Lance Ito granted an interview a month before the Simpson trial and announced what the verdict would be before the trial started.

This is indicative of the very substantial perversion of the investigation.

Question by Female co-host: It this was not a suicide, what are the other potential scenarios?

Davidson:

I'm not in a position to explain why he was murdered, or by whom.

But the evidence gathered does not make any sense. You saw parts of the tape that has been produced...

We invite anybody to look at the video,

because we need to bring pressure right now on the current investigation,

because Mark Touhey, who is the Assistant Special Prosecutor under Mr. Starr, has been compromising this investigation.

. 3 of the top investigators who were working on this case have resigned recently because they were frustrated and refused permission to call witnesses before the Grand Jury and collect evidence.

. I think we're in the process of yet another coverup of this man's murder.

. And the evidence that he was murdered is really overwhelming.

The forensic evidence...

. 7 or 8 of the top forensic experts in the country have testified that the pattern of powder burns on Vince Foster's fingers is not consistent with a suicide:

. Massad Ayud - Legal Force Institute
. Dr. Richard Mason - Santa Cruz, CA
. Martin Fackler - Army Ballistics Wound Lab
. Robert Tolbert - firearms expert w/ FBI swat - said he has never heard of anyone gripping a gun like that.

. There is very powerful evidence that he could not have fired the gun.

. There is an AR State trooper, Roger Perry, who has given an affidavit to the English press. At 5:30 pm, Central time, he got a call from a woman who was Chelsea Clinton's nanny, who was hysterical, and saying, "Vince Foster is dead in the parking lot of the White House."

. These things need to be investigated.

. A photo was released on ABC News. It showed the trigger guard, and Foster's hand in the gun. The photo showed <u>thick</u> vegetation around Foster's body. Yet the positioning of the body according to the Police report and the Fiske report put his body in a place where there was <u>no</u> vegetation.

. Experts have gone to the park. They have examined the vegetation, and the vegetation shown in the photo. They testify that no vegetation like that shown in the photo grows anywhere near where the police said his body was found in the park.

. You go down the list of anomalies...

. Why is his body covered from head to toe in carpet fibers? There was no carpet on that Park.

. I think that the evidence is very clear that he was murdered; and his murder is being covered up for reasons of political convenience;

. and this makes the O.J. Simpson trial pale down to the size of a pimple compared to a cancer.

. This is a very, very important issue.

. And every American listening to this broadcast should write to your Congressman and insist that the truth be told regardless of what the consequences are in terms of political fallout.

Final Question by Ben K:

Mr. Davidson, let me ask you this final question. There are those who say this is simply more conspiracy theories, and you ought to let the man rest in peace. Critics say you are inventing conspiracy theories about Foster. How do you respond to that?

Davidson:

I will be glad to debate anybody who claims that they have evidence that Foster is a suicide; and look specifically point by point at the evidence.

If Fiske in his report or

Touhey in his current coverup

were to come forward with explicit, rational answers for the amazing anomalies and evidence that show that he was murdered,

then I would say, well, fine; he was a suicide, and that's it.

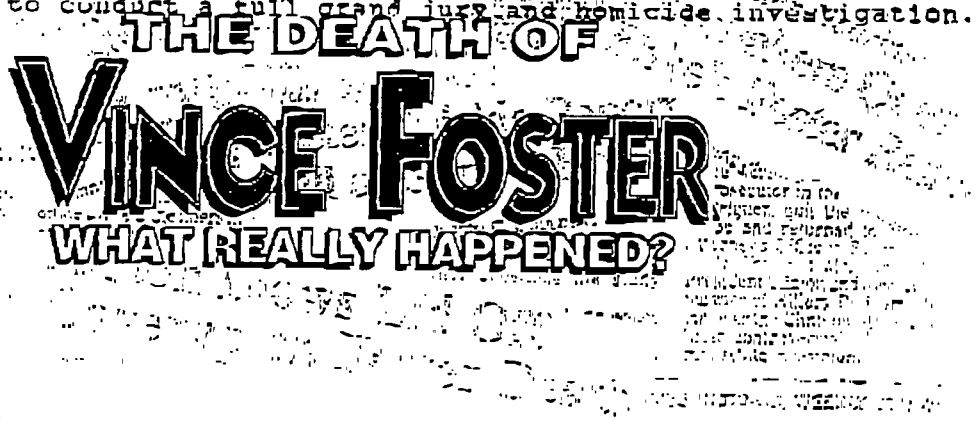
The reason I'm upset is I believe we are seeing what happened in Mexico. Prominent people are murdered if they now something that compromises somebody in power. It is then covered up and forgotten about....

END

Female co-host: "very interesting"

More to come on News Watch.

FYI--The following is a nationwide direct mail letter from the Rev. Jerry Falwell. Falwell is calling for Congressional hearings into Foster's death. The letter implies that after 11 months in office, Independent Counsel Kenneth Starr has yet to conduct a full grand jury and homicide investigation.



Dear Friend,

If you were shocked, as I was, by last year's explosive video exposés, "The Clinton Chronicles," and "Bill and Hillary Clinton's Circle of Power," you will be horrified when you view the brand new video --

THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?

This hot new one hour video exposé raises blistering questions about the events surrounding the death of Mr. Foster.

Was Foster's death suicide ... or something much more sinister?

Why did Foster's death at Fort Marcy Park appear to have been "staged" according to many experts?

Was there a White House "cover up?"

Enough doubts exist ... and many, many questions remain unanswered. The American people deserve to know the truth.

Did you know these facts about Foster's death?

Evidence suggests Foster's body was found in a different location from the official report.

The alleged suicide gun, found in Foster's hand, did not have his fingerprints on it.

Crime scene photographs were taken -- but "accidentally" destroyed.

Foster had supposedly walked 200 yards down a dirt path, but had not a trace of soil on his shoes.

This new video brings these and many other facts to light, exposing what has been suspected by many ...

... THE EVIDENCE JUST DOESN'T ADD UP!

Vince Foster was the highest ranking public official to die under mysterious circumstances ... since President John Kennedy.

I believe it is high time for Congress to launch a probe into the strange events surrounding the death of Mr. Foster.

The U.S. Senate recently voted 96-3 to begin hearings on Bill and Hillary Clinton's Whitewater affair in July.

Any comprehensive hearings on Whitewater should also include an investigation into the death of Vince Foster.

Once you see this video you will certainly agree!

That is why I have enclosed an official CITIZEN INQUIRY directed to Senate Majority Leader Robert Dole.

I am asking you to sign and return this CITIZEN INQUIRY as soon as possible. I want to present thousands of these CITIZEN INQUIRY petitions to Sen. Dole before the hearings get underway.

Open Congressional hearings may be the only key to America knowing the truth behind Foster's death -- which many say could have been related to Whitewater.

Last year's Democratically-controlled hearings only broke the surface on Whitewater.

At about the same time, "THE CLINTON CHRONICLES" was receiving both acclaim and criticism nationwide. We helped to distribute literally tens of thousands of these videos across the nation -- informing and activating citizens.

It literally shook the nation and the White House.

I was roundly criticized by the media -- and even the President himself -- for distributing this video exposé detailing the questionable events surrounding Mr. Clinton's swift rise to political power.

But I sincerely believed it was the right thing to do.

It was a useful tool in getting the attention of the American public. I believe "THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?" will do the same now.

It is time for tough questions to be asked about the death of Bill Clinton's childhood friend and Hillary Clinton's former law partner, Vincent Foster.

I believe once you see this hard-hitting video you will agree -- and join me in demanding Congress launch a no-holds barred investigation.

Because doubts exist ... and questions remain unanswered!

If you saw THE CLINTON CHRONICLES, you will want to have this video immediately -- I promise it will have you on the edge of your seat for the full 60 minutes.

You will learn the astounding facts surrounding Foster's untimely and mysterious death. For example, did you realize:

> **Just 24 hours BEFORE Foster's body was found in a lonely Civil War park, Bill Clinton FIRED FBI director William Sessions -- an act that Sessions would later say seriously "compromised" the investigation.**
>
> **High-ranking members of the White House, including Hillary Clinton's chief of staff and the top White House counsel RANSACKED Foster's office only hours after his death.**
>
> **The Administration turned over the investigation to the U.S. Park Police -- INSTEAD of the more experienced and much better equipped FBI.**

Apparently an incredible series of unprofessional... unethical ... inefficient and plain sloppy events took place -- beginning literally minutes and hours after Foster's death.

Vince Foster was the life-long friend of Bill Clinton. He held the prestigious position of Deputy White House Counselor, and was a former partner with Hillary Clinton in the Little Rock, Arkansas Rose Law Firm.

Reportedly, many who knew Foster thought he would be the last person to attempt suicide. His family and staff reported no indication of severe depression that would lead to suicide.

Yet, that was the quick "official" explanation given by the White House and eagerly lapped up by the liberal national media.

BUT IT DOES NOT ANSWER THESE UNANSWERED QUESTIONS?

** **Why do independent criminal investigative experts say very few facts suggest any possibility of suicide?**

** **Why was evidence taken before routine forensic tests could be conducted?**

** Why was the bullet that killed Foster never found?

** Was a second crime scene "fraudulently created," complete with "phony blood stains" the night of Foster's death?

** Why did Vince Foster have to die? Did he possibly know something so volatile that it resulted in his death?

IT IS TIME THE AMERICAN PEOPLE KNEW THE TRUTH!

Will you help me demand a Congressional accounting by signing and returning your enclosed CITIZEN INQUIRY?

I want to present your INQUIRY along with tens of thousands of others to Senator Dole -- demanding a thorough investigation.

And when you return your signed CITIZEN INQUIRY, please send a generous gift to help the vital work of Liberty Alliance.

If you can send a gift of $38 or more, I will send you your own copy of "THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?"

Then you can see the evidence for yourself.

Your contributions are the only way for us to continue to alert and educate Americans on critical issues like this one.

Your signed CITIZEN INQUIRY and gift of $38 is desperately needed to get the Congress moving on this issue.

Please let me hear from you.

Sincerely,

Jerry Falwell

Jerry Falwell

P.S. THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?

To receive your copy of this powerful, revealing VHS videotape, please return your signed CITIZEN INQUIRY and a gift of $38 or more today. (If you cannot afford to send $38 for the video, please try to send at least $15 or $25 to help us with this vital truth campaign.)

We must make sure Congress does not shirk its duty to fully investigate this tragedy. Your petition will help.

P.P.S. If you see just ONE video this year, you MUST see "THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?" Order your copy now by enclosing a gift of $38 to Liberty Alliance today.

CITIZEN INQUIRY REPLY FORM

❑ *YES, JERRY!* I agree. It is high time questions about the death of Vince Foster were answered. Enclosed is my completed **CITIZEN INQUIRY FORM** below for delivery to Senator Bob Dole.

I have enclosed a gift of $38 or more to Liberty Alliance. Send me the explosive one hour video expose: **THE DEATH OF VINCE FOSTER: WHAT REALLY HAPPENED?** H5EDA

Enclosed is my gift

❑ $38 ❑ $_____ Other

If you prefer to charge $38 to your credit card, please provide the following information:

❑ VISA ❑ MasterCard ❑ Discover

Credit Card #:_____

Exp date:_____

DO NOT DETACH - Return this entire sheet of paper to Liberty Alliance. P.O. Box 190, Forest, VA 24551

CITIZEN INQUIRY

To: Senate Majority Leader Robert Dole

Dear Senator Dole,

In light of the the Senate's decision to open new hearings this summer on the Clinton Whitewater affair, I respectfully request that a full-fledged investigation also be conducted on the mysterious death of White House Counsel Vincent Foster.

MANY UNANSWERED AND BAFFLING QUESTIONS SURROUND MR. FOSTER'S DEATH INCLUDING:

- WHY DID MR. FOSTER SUPPOSEDLY WALK 200 YARDS DOWN A DIRT PATH, YET HAVE NO TRACE OF SOIL ON HIS SHOES?
- WHY WAS THE FBI KEPT OUT OF THE INVESTIGATION UNTIL CRUCIAL EVIDENCE HAD BEEN RECOVERED BY THE CLINTON ADMINISTRATION?
- WHY WERE CRIME SCENE PHOTOGRAPHS ACCIDENTLY DESTROYED?
- WHY WERE MR. FOSTER'S FINGERPRINTS NOT ON THE GUN HE ALLEGEDLY KILLED HIMSELF WITH?
- WAS THE SCENE OF MR. FOSTER'S DEATH STAGED? IF SO, BY WHOM?

Vince Foster was the highest ranking federal official to die under mysterious circumstances since President John F. Kennedy. It is high time the truth be known!

Signed *City/State*

THE DEATH OF VINCENT FOSTER. WHAT REALLY HAPPENED?

--Jeremiah Films

This video was produced by the same people who produced "The Clinton Chronicles." It begins with a statement to the effect, "The following information is documented and true." Some of the highlights of this video are as follows:

INTRODUCTION

Excerpts from Vince Foster's May 8, 1993, commencement address at the University of Arkansas Law School.

Shot of the cannon at Fort Marcy Park on July 20, 1993.

Picture of Vince Foster, and then Fort Marcy Park.

Confirmation by the media that it was a suicide.

It was six months until the mainstream media questioned this. [Shows copy of Chris Ruddy's article in the new York Post.]

Vince Foster excelled in high school as a student and an athlete. He did well at the University of Arkansas Law School and joined the prestigious Rose Law Firm. [It shows a picture of Vince Foster, a video of Hillary Clinton at a much younger age, and a video of Webb Hubbell.]

The Citizens for Honest Government presents: "The Death of Vince Foster. What really happened?"

I. PART ONE - THE INCONSISTENCIES

At Bill Clinton's and Janet Reno's insistence, the matter was investigated by the U.S. Park Police. It was not until seven months later that the FBI was allowed in. The Fiske Report issued on June 30, 1994, confirmed that it was a suicide. However, there are alarming contradictions.

1 - Very little blood at scene.

Sergeant George Gonzalez, who was the first on the scene, said he was shocked at the lack of blood at the scene.

Chris Ruddy - Most people on the scene that night had never been interviewed. In January 1994, I met with some of the EMT's and the police. Many confirmed that there was very little blood on the scene. One said, "This one

was different."

Gene Wheaton (GW) - former homicide investigator and special agent with the U.S. Army CID - I was hired to go to Washington and look into this. The events surrounding the investigation indicate that it had to be a cover-up. Never in my career had I seen a case like this. In most gunshot wounds to the mouth, there is a "blow back." A .38 caliber stuck into the back of the mouth, would produce a large amount of gases.

Citation to the Fiske Report.

Richard Mason disagrees, giving his opinion about heart activity.

Citation to Fiske Report, page 52. This is contradicted on page 36 by Dr. Haut. It is reported in the Fiske Report that Haut says that there was a large pool of blood. Haut disputes this. Cory Ashford, one of the people who moved the body, said he could not even seen an exit wound.

Ruddy - quoting Ashford.

2 - <u>Foster's head assumes four different positions after death</u>.

Ruddy - There were four different blood tracks.

Reed Irvine Accuracy in Media - U.S. Park Police realized this was a problem. There was an analysis of blood staining patterns. In the Fiske Report, they talk about the position of the head. It is stated, with no evidence, we conclude that someone at the scene must have moved the head. George Gonzalez denies this.

3 - <u>No skull fragments found at the scene</u>.

Copy of the autopsy report shown, indicating the size of the exit wound. The autopsy report shows a one inch hole. It was stated in some report that the surrounding ground was excavated to a depth of eighteen inches.

CW - There is an oddity that no skull fragments were found at the scene. Where are they? They should have been around the body. Therefore, it is most logical: (1) that they were picked up and destroyed; or (2) the body was moved.

The Fiske Report rejected this.

4 - Gun found in Foster's hand.

GW - I have investigated hundreds of deaths. There is a recoil from a .38 caliber weapon. I can't recall ever finding a pistol in a victim's hand after a death with a large caliber weapon like a .38.

Ruddy - Normally, the gun is not in the hand, and it is thrown away from the body. In this case, it was almost neatly at his side.

GW - I have seen cases of suicide where the weapon is sometimes thirty to forty feet away. It is never in the hand.

5 - Gun found in wrong hand.

The Fiske Report states that the gun was reportedly in the right hand. Foster was left-handed. This was not mentioned in the report.

GW - It is illogical to think Foster shot himself with his right hand. I have even been told he was almost non-functional with his right hand, because he was such a seriously left-handed person. If someone staged the suicide scene, it would be a normal assumption that he was right-handed, since most people are right-handed.

6 - Foster's fingerprints not on gun.

According to the FBI, there were no prints of Vince Foster developed on the gun.

The Fiske Report, page 46, tries to explain this, by stating latent prints can be destroyed by certain things such as heat.

There was one latent print on the underside of the grip that did not belong to Vince Foster. There was no attempt made to determine whose it was.

7 - Powder residue suggests Foster did not fire gun.

Ruddy - There was powder residue reported on the right index finger, in the web of the hand, and on the left index finger. This would indicate that his hands were around the front cylinder gap. The fact that he had powder burns on both hands means he would have had both hands over the cylinder, with no grip on the butt of the gun. It would be very, very difficult to fire the weapon in that manner.

Now, despite the Fiske Report, most forensic experts doubt that Foster pulled the trigger himself.

8 Powder on Foster's clothing did not match gun.

The gun powder on Foster's clothing did not match the powder on Foster's hands.

According to the Fiske Report, this possibly occurred because that powder possibly blew on there from the exhaust fan at the Park Police lab. Fiske was not able to support this with any evidence.

9 - Gun not positively identified as Foster's.

The Colt .38 has yet to be positively identified. Foster's three children all said it was not the one they had seen at home. Lisa Foster said that they kept only one gun at home, and it was found that night.

Irvine - The gun was a 1913 Colt Army special made from parts of two guns. It is almost untraceable.

GW - This is the classic type weapon used by pro political assassins or organized crime hit men.

There were only two bullets. There was no ammunition for this gun in Foster's house.

Irvine - They apparently were the only two bullets he had.

GW - If the gun was at home, he would have had a box of rounds there. This is a classic assassination type scenario.

10 - Fatal bullet never located.

The bullet has yet to be found. Later, the FBI did a search of the area and found seventy pieces of metal, some going back to the Civil War. There were twelve modern-day bullets found, but no bullet that matched the gun.

11 - No gunshot heard.

The Fiske Report, page 56, states that one of the reasons something might not have been heard was because of traffic in the area.

GW - This is illogical. There would be a most explosive-type noise in and around the cylinder.

Contrary to usual police procedures, not one resident nearby was contacted to see if a gunshot was heard.

12 - No dust found on Foster's shoes.

Page 12 of the FBI lab report states there were mica particles. It also says it did not contain any coherent soil samples.

Ruddy - This is impossible. If you walked in the park, there would be soil on your shoes.

GW - Nothing at that crime scene makes sense. Nobody has questioned this officially, and I can't understand why.

Why has there not been a stronger reaction to this phony, flawed investigation and final report.

Despite Fiske Report's conclusion that there is "overwhelming evidence" of suicide, there is not overwhelming evidence.

Six pieces of evidence which indicate it is likely Foster did not die in the park.

1. Very little blood
2. Four different head positions
3. No skull fragments
4. No bullet
5. No gunshot reported
6. No dust on shoes

Three pieces of evidence which indicate it is more than likely Foster did not fire gun himself.

1. Gun still in hand
2. Gun in wrong hand
3. Untraceable weapon used

GW - Based on the entire scenario of Vince Foster's death, the preponderance of the evidence indicates he did not commit suicide.

In addition, the FBI found in or on his clothing other items including: (1) multi-colored carpet fibers; (2) seaman; (3) long blonde hairs.

Ruddy - The FBI did suction analysis on the clothing. Fort

Marcy Park is not carpeted. Was he on a carpet before he died? Or was the carpet involved in the movement of the body?

Ruddy - The FBI investigators who appeared before the Senate Banking Committee said something interesting, "Well, these things were there, but it could have been anything, and we dismissed it out of hand."

[Video shows agents Monroe and Colombell, and Dr. Hirsch.]

Irvine - The Fiske Report indicates no effort was made to find out what carpet might have been in contact with Foster, what hairs, seaman, etc. This evidence could have provided clues as to where Foster was between 1:00 and 6:00 p.m. Yet, this evidence was never investigated!

II. PART II THE COVER-UPS

A. Cover-ups

There were a number of cover-ups related to the Foster death.

1. Falsified position of the body - a second crime scene created that night

Initial interviews of some of the people on the scene by Chris Ruddy indicated that the body was closer to cannon #1, rather than cannon #2, as indicated in the official reports.

Ruddy - The official report says the body was some 600 feet from the parking lot. There were two cannons at Fort Marcy Park that day, and two sites. One of the paramedics drew me a map (Gonzalez). This map sketch by Gonzalez was similar to a sketch drawn for Reed Irvine by Dr. Haut. It indicates that the body was 20-50 feet from the first cannon.

Concerning photographs of the crime scene, originally, the official position was that there were no photographs. They later said that they took photographs, but they were overexposed.

Ruddy - In a normal homicide investigation, one of the things that should not be in dispute is where the body was found. It was originally reported there were no photographs taken. Then they released thirteen close-up polaroids, which is against all procedures of taking crime scene photographs. They then said they took some others, but they were not exposed properly.

GW This makes no sense.

ABC News released one of the polaroid pictures. It depicted certain foliage around Foster's body. The foliage contradicts the official report that the body was near cannon #2. The path below cannon #2 is all dirt. There is a lot of foliage in the spot where the people reported that the body was near cannon #1.

A second crime scene was created that night.

As to the bullet, it was originally said that no metal detectors were used. Later, they said they did use metal detectors. The Fiske people and FBI found seventy pieces of metal near the cannon 2 site, including twelve modern-day bullets; yet, the bullet matching the gun in Foster's hand was not found.

The Fiske Report, page 56, stated that in all likelihood, further searches would be "unproductive."

2. <u>White House demanded key evidence, and Park Police gave it to them. This included papers, etc., given back</u>.

[Video of John Rolla testifying before the Senate Banking Committee]

Ruddy - Park Police gave crime scene evidence away within hours of finding the body, including the White House beeper, which possibly could have had latent prints, etc. [Video of Senate Banking Committee hearing]

The next day, papers, etc., were given back.

[Video of Senate Banking Committee. Senator Domenici asks special agent Monroe about the job of the Park Police in the investigation. Monroe stated words to the effect, "I think they did an adequate job. I feel inadequate to evaluate another agency's work."

The FBI was kept out of the investigation. [News clip regarding Judge Sessions and his firing]

Bill Clinton fired the head of the FBI.

Ruddy - Sessions charged that this "lead to a compromised investigation."

Fiske recommended to Bill Clinton that he fire Sessions and hire Freeh.

[Video showing Senator Faircloth asking a question as to why the Park Police were in charge]

[Video of Senate Banking Committee showing Dr. Beyer, and investigators Cheryl Braun and John Rolla, at the table]

The national news media fell in line with Bill Clinton's explanation.

Ruddy - The Park Police tested the gun on August 12, yet they ruled it was a suicide on August 10, before they tested the gun.

GW - You always approach a death from the standpoint of a homicide, until you prove that it is not.

[Scene showing pallbearers carrying the casket at the funeral. Webb Hubbell and Bill Kennedy appear to be the pallbearers in the back.]

At the time of death, no one called it from a depression.

Irvine - Lisa Foster won't talk. I asked Mrs. Foster on the phone whether Vince Foster was right handed or left-handed. She said, "No comment."

GW - All the Park Police were ordered to keep their mouths shut.

Debra Gorham, White House employee, was interviewed by Reed Irvine. He asked if she was pressured not to talk, and she replied, "No comment."

GW - The investigators did not think it was a suicide. Their superiors ordered them to write it up that way.

B. <u>Was Foster suicidal?</u>

Initially, the answer was, "Absolutely not." The secretary said there was nothing unusual. Bill Clinton said there was nothing unusual.

But the Fiske Report said that he was depressed, he organized his desk, he paid bills, he was apparently stiff that morning, and he was apparently distracted.

Apparently, Foster had a Trazadone prescription from the family doctor.

Everyone fell in line that he was depressed.

[Video] Hillary Clinton said on April 22, 1994, "No one had a clue. Neither did the people who spent the weekend with him."

Day of death - no suicide indications

1. Drove children to work
2. No final words
3. No final preparations
4. Arrived on time
5. Worked conscientiously
6. Set up future appointments
7. Ate lunch
8. Read the newspaper
9. Checked out a pager
10. Said he would return later
11. Wrote no suicide note

[Representative Dan Burton - video - They said they found a note on July 26, 1993. They said they missed the note in the first search.]

Irvine - There was not anything in this "note" about suicide.

GW - How they could claim that they missed 27 pieces of a note is ludicrous. They were not searching a warehouse. They were searching a briefcase.

There were no prints on the note.

GW - Prints are easily obtained from a piece of paper. How can you not tear a piece of paper into 27 without leaving prints, unless you use gloves?

Burton - [shown holding up a copy of the Fiske Report] - This is not worth the paper it is written on.

Faircloth - Referring to the Fiske Report as superficial.

Ruddy - [holding up Fiske Report] The report looks very thick, when in actuality it is only 58 pages long. Most of it is indexes containing the various biographies of those experts used by Fiske.

Dr. Beyer, who did the autopsy, has had two of his prior

suicide rulings reversed, due to flawed autopsies.

Ruddy - [goes in to the claimed x-rays and the later claim that there were no x-rays] - X-rays would have shown the exit wound, and the trajectory of the bullet. The autopsy report checked that x-rays were done. Also, in the narrative of the report, it indicates that x-rays were done. Yet, later, no x-rays turned up.

GW - This 76 year old pathologist has given very inconsistent statements.

Irvine - The technical man said that the x-ray machine was new equipment. The first service call concerning this machine was in October '93. Thus, it was in good working condition on July 20, 1993.

GW - If Fiske is serious about the investigation, he would have gotten an order exhuming the body, and had the autopsy redone.

Ruddy - Fiske did not use subpoena power.

GW - There was a failure to use the federal grand jury and to put the various witnesses under oath.

Bill Clinton gave conflicting versions of Foster's state of mind.

He at first said there was no depression. He said he had contact with him on July 18 and July 19. He said he was unaware of Foster's depression. He later said that he called on the night of the 19th to cheer up Foster.

III. <u>PART III - THE RAID ON FOSTER'S OFFICE</u>

[Viewed, but no detailed notes made]

[Shows pictures of Bernie Nussbaum, Maggie Williams, Patsy Thomasson, etc.]

Ending quote:

"Don't believe a word you hear; it was not a suicide."

- Webb Hubbell, July 20, 1993

At the conclusion of this video, it says you can call 1 800 828-2290, for additional copies or information.

3RD STORY of Level 1 printed in FULL format.

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Los Angeles Times

May 20, 1993, Thursday, Home Edition

SECTION: Part A; Page 1; Column 4; National Desk

LENGTH: 686 words

HEADLINE: CLINTONS PUTTING FINANCIAL ASSETS INTO BLIND TRUST

BYLINE: By DAVID LAUTER, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

After questions Wednesday about money Hillary Rodham Clinton holds in a mutual fund that has invested in health-related stocks, the White House announced that the President and his wife had decided weeks ago to put their assets into a blind trust and have nearly finished the process.

"The paperwork has been completed and is at the Office of Government Ethics" for review, White House Deputy Communications Director Ricki Seidman said.

Seidman said she did not know precisely when the Clintons began preparations for the trust, only that the move has been in the works for weeks.

The Clintons have assets of roughly $1 million -- government financial disclosure forms do not show the precise amount but only a range of values -- much of which was tied up in Mrs. Clinton's law firm partnership until she left the firm after the election.

Between $50,001 and $100,000 of their money is in a mutual fund run by Smith Capital Management, Inc., a Little Rock, Ark., investment company in which Mrs. Clinton has held shares since 1986. As of Dec. 31, the fund had about 13% of its $8.9-million holdings in health-related companies -- ranging from a hospital to a medical equipment manufacturing company. The fund invests in small- and medium-sized companies that appear to be good prospects for rapid growth, according to its prospectus.

Mrs. Clinton's investment and a list of the stocks were disclosed on financial forms released by the White House this week. News organizations questioned the White House Wednesday about Mrs. Clinton's holdings.

As head of the Administration's health care task force, Mrs. Clinton's decisions clearly would have some potential impact on the stock of virtually any health care-related firm. Indeed, given the importance of health care to the economy, decisions on that issue would almost certainly affect the stock value of practically any firm in any industry.

But no law required Mrs. Clinton to sell her holdings or place them into a trust because she is not a government employee. Nor is it clear whether Mrs. Clinton would have had to sell her holdings even if she were a government employee.

Government ethics laws generally relate to stocks that a person can directly buy or sell, rather than those held by a third party whose actions the officeholder does not control. Mrs. Clinton's stake in the mutual fund amounts to 0.9% of its total shares, an amount that gives her no control over its decisions on which stocks to buy or sell, White House officials noted.

Mrs. Clinton "has no control over the investments" and "the fund does not own a significant proportion of any health care concern," Seidman said.

"If she were a government employee, we probably would have advised her to get a waiver," she added. Federal ethics laws provide for waivers that allow an official to continue to work on policy matters that might affect their financial holdings as long as the potential conflict is disclosed to their superior officers. Several senior Administration officials have received such waivers both under Clinton and in the George Bush Administration.

Bush kept his assets in a blind trust throughout his tenure, but other senior officials in the past have resisted doing so because of the costs involved and concerns about lack of control over their money. Four years ago, for example, then-Secretary of State James A. Baker III resisted placing his holdings into a blind trust until he was forced to do so by controversy generated in part by his bureaucratic rival, White House counsel C. Boyden Gray, surrounding his investments in bank stocks.

Typically, setting up a blind trust that meets government regulations takes considerable time, involving both accounting and legal reviews and the selection of a trustee.

The Clintons did not disclose their decision to seek a blind trust to many White House aides, leading some senior White House officials to deny that a blind trust was contemplated up until only minutes before Seidman revealed that a trust was in the works.

* TRAVEL STAFF FIRED: White House officials tell of "gross mismanagement." A14

LANGUAGE: ENGLISH

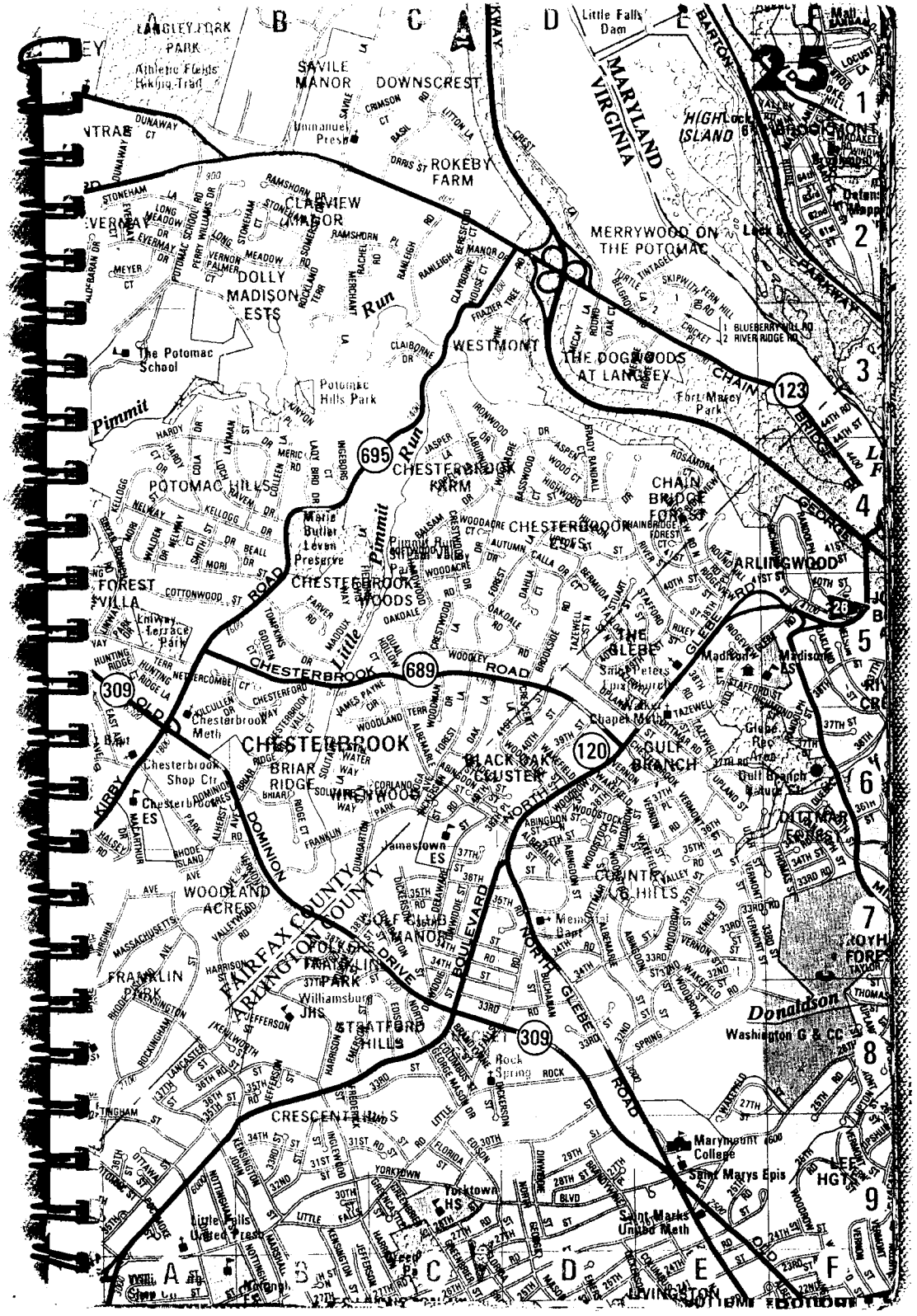
5/12/95

From: Chuck

To: Brett
Hick
Dana

re: "Safe House"

Per Hick's memo of 5/3/95, Merrywood-On-The-Potomac is a subdivision of townhouses located to the north of Ft. Marcy Park, across Chain Bridge Rd. There are approximately 50 or more residences in the subdivision. Attached is a map depicting the location.


LANGLEY FORK PARK
Athletic Fields
Walking Trail
SAVILE MANOR
DOWNSCREST
ROKEBY FARM
CLAYVIEW MANOR
DOLLY MADISON ESTS
Run
The Potomac School
Potomac Hills Park
WESTMONT
MERRYWOOD ON THE POTOMAC
THE DOGWOODS AT LANGLEY
Fort Marcy Park
CHESTERBROOK FARM
POTOMAC HILLS
Marie Butler Leven Preserve
Pimmit Run Stream Valley Park
CHESTERWOOD
CHAIN BRIDGE FOREST
ARLINGTOWN
FOREST VILLA
Kniwey Terrace Park
CHESTERBROOK WOODS
THE GLEBE
Madison HS
Chesterbrook Meth
Chapel Meth
CHESTERBROOK
BRIAR RIDGE
BLACK OAK CLUSTER
GULF BRANCH
Chesterbrook Shop Ctr
WOODLAND ACRES
Jamestown ES
COUNTY HILLS
Gulf Branch Nature Ctr
FAIRFAX COUNTY
ARLINGTON COUNTY
FAIRFAX DRIVE
NORTH GLEBE BOULEVARD
FRANKLIN PARK
Williamsburg JHS
STRATFORD HILLS
Rock Spring
Donaldson Washington G & C
CRESCENT HILLS
Marymount College
Saint Marys Epis
Yorktown HS
Saint Marks United Meth
Little Falls United Presb
Little Falls Dam
Mall
BARTON
MARYLAND
VIRGINIA
HIGH ISLAND
CHAIN BRIDGE
GEORGE
WASHINGTON
MEMORIAL
PARKWAY
KIRBY
DOMINION
ROAD
CHESTERBROOK
WOODLEY ROAD
695
689
309
120
123
26
1
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3
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A
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F

Chuck:

Hick said there was a person's name associated with Merriwood Farms that was listed in his memo and that we should do a cross-search to see if that person lives there.

Brett

Brett -

This would require a title search of every residence in the subdivision; approx 40-50 townhouses.

Chuck

May 3, 1995
2:50 pm

From: H. Ewing

To: B. Kavanaugh

re: "Safe House"

FOIA(b)(6)
FOIA(b)(7) - (C)

1. I was advised on the afternoon of May 2 by ..... that the alleged "safe house" was located in Merrywood on the Potomac, a development located 100-200 yards from the back entrance to Fort Marcy Park.

The house was in the name of FNU [redacted] an attorney close to Bill Clinton. Or, the house was jointly in [redacted] and Foster's names.

The caller told me he did not know how good this information was, but wanted to pass it on.

2. I asked the caller where it was physically in relation to Fort Marcy. I told him there was a subdivision west of the Park. He simply repeated that it was 100-200 yards from the back entrance.

I got the impression that the caller was not familiar with the layout of the Park or the surrounding area.

3. The caller called me back at 8:33 am on Wed., May 3, leaving a voice mail: I have some more specifics on the safe house. I called this person back at 12:02 pm and left my name and number.

4. At 2:45 pm this person advised:

The house is on Dogwood Street. It leads to a deadend in a cul-de-sac. It is in Fairfax County.

On the left in the back of the cul-de-sac is a big white two story house. It abuts Fort Marcy Park. This development is about 300 yards from the park.

There is a [redacted] who is a big shot attorney.

Again, this information may not be accurate.

Nominee lied, says NAACP

Effort to recruit blacks disputed

By Jerry Seper
THE WASHINGTON TIMES

A1

Two officials of the Little Rock chapter of the NAACP yesterday sharply disputed Associate Attorney General-designate Webster L. Hubbell's assurances to a Senate committee that he tried to find black members for his fashionable Arkansas country club and could not.

They urged President Clinton to withdraw the nomination.

"He's lying," Daniel Bowman, manager and chaplain of the Little Rock chapter, said of Mr. Hubbell's claims. "I've known Hubbell a long time, long enough to know that he's now saying whatever it takes to win Senate confirmation."

The White House, responding to calls by conservative organizations to pull back the Hubbell nomination, noted that the club had accepted its first black member.

Clinton administration officials said the president would continue to support Mr. Hubbell, 45, a longtime friend of the president.

Concern over the Hubbell comments also spread yesterday to other black officials, including Joe Johnson, campaign manager for Virginia Gov. L. Douglas Wilder's 1992 presidential bid. Mr. Johnson said no one in the black community would accept from anyone the kind of statements made by Mr. Hubbell "and still believe that person to be credible."

Mr. Hubbell's membership in the Country Club of Little Rock is thought to imperil his confirmation in the Senate. His situation parallels that of U.S. District Judge Kenneth Ryskamp two years ago. The Republican judge was rejected by Senate Judiciary Committee Democrats for the appeals court after it was learned he had been a member of a Florida golf club that excludes Jews and blacks.

"I would have been the first to know had he made any effort to bring blacks into that club. It just didn't happen," Mr. Bowman said of Mr. Hubbell.

Dale Charles, president of the Little Rock chapter of the National Association for the Advancement of Colored People, said he, too, was unaware Mr. Hubbell had tried to recruit black members. He said the

see **NOMINEE**, *page A8*

NOMINEE

From page A1

club admitted one black member last year only after The Washington Times disclosed that Mr. Clinton, then a candidate for president, played golf there.

Mr. Clinton had an honorary club membership awarded to him as governor of Arkansas.

Mr. Charles said many blacks believe the Little Rock club excluded them by setting fees so high they could not afford to join and by creating a nominating process "that automatically guaranteed that blacks would not get in."

He challenged the sincerity of Mr. Hubbell's comments and the club's commitment to admit more than one black member.

Mr. Hubbell, a former law partner of first lady Hillary Rodham Clinton who has served as White House liaison at the Justice Department since the inauguration, has declined requests by The Times for interviews.

Senate Judiciary Committee hearings for the Hubbell nomination are scheduled to begin next Tuesday. Several Republican members of the committee are expected to challenge the nomination based on his membership in the Little Rock club.

Mr. Hubbell, a golfing partner of Mr. Clinton's, was nominated last month. In Judiciary Committee questionnaires, he acknowledged his membership in the club and insisted that it has no policy against admitting nonwhites.

A former mayor of Little Rock who was briefly the chief justice of the Arkansas Supreme Court, Mr. Hubbell said in the questionnaire the club had tried since 1986 to recruit black members but could not find any. He said he personally led that effort.

But Mr. Bowman said he knew of no blacks in the Little Rock area who were asked between 1986 and mid-1992 to apply for membership, or of any black organizations, including the NAACP, that was asked to assist in the search.

"We were aware, of course, that the Little Rock club excluded blacks, and it was something we discussed often," he said. "But we knew our talks were a waste of time because blacks were never going to be accepted.

"So I would have known if there was any effort by the club to recruit blacks or if anyone, Webb Hubbell included, had been in contact with anybody about the issue," Mr. Bowman said. "If he was making efforts to recruit blacks, it was a secret he was keeping to himself."

Mr. Johnson, who ran the Wilder campaign, said Mr. Hubbell's comment in the Judiciary questionnaire was "not a statement I would have expected from a person nominated to the Justice Department's No. 3 position."

If Mr. Hubbell was concerned about discrimination at the club, he had the option to resign, Mr. Johnson said.

"The bell has to have rung for Mr. Hubbell at some point," he said. "I'm not sure your continued presence in that situation is the best way to register your dissatisfaction."

Curt "Howard" Reed, a Little Rock economist, was accepted for consideration by the country club's admissions committee shortly after news reports about its racially exclusive policy. Later confirmed as a member, Mr. Reed's sponsors included William Bowen, Mr. Clinton's chief of staff when he was Arkansas governor.

Mr. Bowman said country club members admitted Mr. Reed only as a response to negative criticism, saying it was "solely a political decision." He described Mr. Reed as the club's token black and charged that the Hubbell recruitment effort "began and ended" with Mr. Reed.

"They got themselves a black member now, and they can point to him all they want," Mr. Bowman said. "But let me tell you, one of us blacks at a time is all they can tolerate over there."

Mr. Reed did not return telephone calls to his office yesterday for comment.

It was the Little Rock club, considered the most fashionable in Arkansas, that embarrassed Mr. Clinton during the 1992 campaign. He apologized for playing golf at the facility, saying he had made a "mistake," and vowed never to play there again unless it were desegregated.

I wish I had done more
to see Bowman earlier —

F 001576

64

F 006076

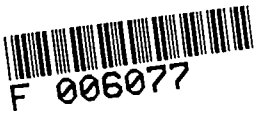
April 22, 1993

PENDING

1. ~~Correct Arkansas tax return~~
2. Arkansas financial disclosure
3. ~~Post FOIA request for divestiture~~
4. Brother
5. First Family 278/blind trust
6. Kaki bills
7. Van Wych
8. Intern programs
   - A. Woodyard
   - B. W. Howard
9. Dellinger replacement
10. Cabinet Secy. spouse ethics course
11. Redecoration expenditures
12. Supreme Court nominee process
13. DOJ positions

VF/SN 14. Health Care Task Force
   - A. Applicability of Standards of Ethical Conduct to HRC as task force chair

15. LSC funding
16. Timing of 278 release (Ken Brody 566-8988)
17. Arkansas office entity
   - A. Augmentation issue



	18.	Scheduling: A. 8th Circuit Judicial Conference
	19.	Arkansas district court judgeships
VF/CM	20.	WH ability to receive gifts to technology
	21.	Presidential Library/foreign donor
	22.	Gowns gift/income issue
	23.	Moving expense
SN	24.	Memo to Staff re compliance with Presidential Records Act A. First Lady applicability
	25.	Memo to Staff on Commercialization of President
	26.	Bowling alley improvements
	27.	Coordination of ethics legislation
	28.	First Family diaries
SN	29.	Memo to staff re contacts w/DOJ, rulemaking, etc. A. Coordination w/Correspondence Section
CM	30.	Coastal Corp. aircraft reimbursement
	31.	FOIA applicability to DOT recommendation
BN	32.	CFTC chair eligibility
	33.	Virginia Kelly - "income" exposure
WK/BN	34.	WH 278 filing status
	35.	WH Policy re: A. Board membership

F 006078

B. Honoree of charitable fund-raisers
   1. President
   2. Staff
   3. Spouse

C. Gifts to charitable auctions
D. Policy re de facto discriminatory clubs

SN 36. Presidential disability procedures

CM 37. Policy re Travel -- payment by 3rd parties

SN 38. First Lady -- lobbyist registration?

Personal

1. FICA - personal
2. commencement air reservations-change of existing
3. Renter's insurance on contents
4. Northwest Airlines Frequent Flyer
5. Lisa's Delta Frequent Flyer
6. JBF's courses
7. JBF summer school
8. Laura second semester
9. Lorraine lock box
10. personal income tax

F 006079

April 14, 1993

PENDING

Correct Arkansas tax return

1. ~~First Family tax returns~~

FOIA request for

3. Post request for

2. Arkansas financial disclosure

3. First Family 278/blind trust

4 Brother

4. Van Wych

5. ~~Federal judge procedure~~

6. Kaki bills

7. Intern programs
   - A. Woodyard
   - B. W. Howard

8. Cabinet Secy. spouse ethics course

9. Dellinger replacement

10. Redecoration expenditures

11. Supreme Court nominee process

12. DOJ positions

VF/SN 13. Health Care Task Force
   - A. Applicability of Standards of Ethical Conduct to HRC as task force chair

14. LSC funding

15. Timing of 278 release (Ken Brody 566-8988)

16. Arkansas office entity
   - A. Augmentation issue

17. Scheduling:
   - ~~A. Judges Association reception~~

F 006080

B. 8th Circuit Judicial Conference

18. Arkansas district court judgeships

VF/CM 19. WH ability to receive gifts to technology

20. Presidential Library/foreign donor

21. Gowns gift/income issue

22. Moving expense

SN 23. Memo to Staff re compliance with Presidential Records Act
A. First Lady applicability

24. Memo to Staff on Commercialization of President

25. Bowling alley improvements

26. Coordination of ethics legislation

27. First Family diaries

SN 28. Memo to staff re contacts w/DOJ, rulemaking, etc.
A. Coordination w/Correspondence Section

CM 29. Coastal Corp. aircraft reimbursement

30. FOIA applicability to DOT recommendation

BN 31. CFTC chair eligibility

32. Virginia Kelly - "income" exposure

WK/BN 33. WH 278 filing status

34. WH Policy re:
A. Board membership
B. Honoree of charitable fund-raisers
1. President

F 006081

2. Staff
3. Spouse

C. Gifts to charitable auctions
D. Policy re de facto discriminatory clubs

SN 35. Presidential disability procedures

CM 36. Policy re Travel -- payment by 3rd parties

SN 37. First Lady -- lobbyist registration?

38. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

Personal

1. FICA - personal
2. ~~Fayetteville air/hotel reservations~~
3. Renter's insurance on contents
4. ~~Estimated payments for kids~~
5. Northwest Airlines Frequent Flyer
6. ~~Auto rental on Saturday~~
7. Lisa's Delta Frequent Flyer
8. JBF's courses
9. JBF summer school
10. Laura second semester
11. Lorraine lock box
12. personal income tax
13. ~~Rodham contribution~~
14. commencement air reservations - change of existing
15. ~~live and learn~~
16. ~~insurance coverage of personal~~

F 006082

April 14, 1993

PENDING

1. Van Wyche
2. Income Tax
   - A. 1978 returns
   - B. personal property assessment
3. ~~Kennedy book~~
4. Federal judge procedure
5. Kaki bills
6. Intern programs
   - A. Woodyard
   - B. W. Howard
7. Cabinet Secy. spouse ethics course
8. ~~D.C. personal property tax assessment~~
9. ~~Woodyard lunch on Wednesday~~
10. Dellums replacement ~~Chris Schroeder~~
11. ~~FACA amendment to complaint~~
12. ~~Airline~~
13. Redecoration expenditures
14. ~~Response to question re D.C. appointment of U.S. Attorneys, etc.~~
15. (1) First Family tax returns
16. ~~Meeting - regular~~
17. Supreme Court nominee process
18. ~~VF~~ (2) First Family 278/blind trust
19. DOJ positions
20. VF/SN Health Care Task Force

F 006083

~~A. FOIA/FAA Request~~
B. Applicability of Standards of Ethical Conduct to HRC as task force chair

21. LSC funding

22. Timing of 278 release (Ken Brody 566-8988)

23. Arkansas office entity
A. Augmentation issue

24. Scheduling:
A. Judges Association reception
B. 8th Circuit Judicial Conference

25. Arkansas district court judgeships

VF/CM 26. WH ability to receive gifts to technology

27. Presidential Library/foreign donor

28. Gowns gift/income issue

29. Moving expense

SN 30. Memo to Staff re compliance with Presidential Records Act
A. First Lady applicability

31. Memo to Staff on Commercialization of President

(2) ~~32.~~ Arkansas Financial disclosure

33. Bowling alley improvements

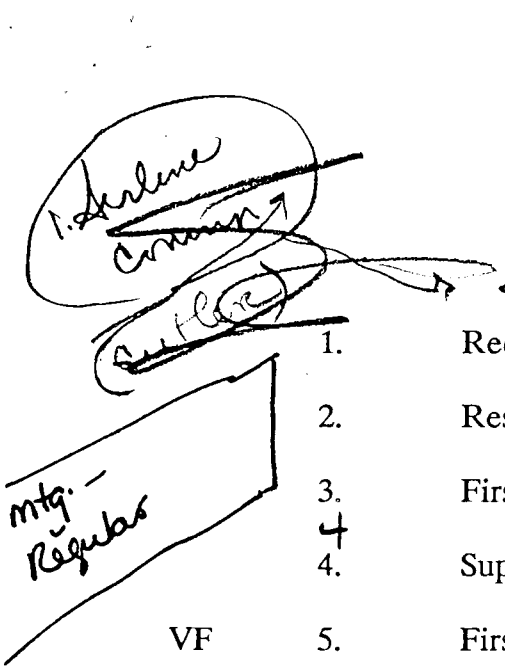
34. Coordination of ethics legislation

35. First Family diaries

SN 36. Memo to staff re contacts w/DOJ, rulemaking, etc.
A. Coordination w/Correspondence Section

F 006084

CM	37.	Coastal Corp. aircraft reimbursement
	38.	FOIA applicability to DOT recommendation
BN	39.	CFTC chair eligibility
	40.	Virginia Kelly - "income" exposure
	~~41.~~	~~WACA assumption of wire service~~
~~BWN~~	~~42.~~	~~NSC attorney~~
WK/BN	43.	WH 278 filing status
	44.	WH Policy re: A. Board membership B. Honoree of charitable fund-raisers 1. President 2. Staff 3. Spouse C. Gifts to charitable auctions D. Policy re de facto discriminatory clubs
SN	45.	Presidential disability procedures
CM	46.	Policy re Travel -- payment by 3rd parties
SN	47.	First Lady -- lobbyist registration?
	48.	Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process



F 006085

April 1, 1993

PENDING

	1.	Redecoration expenditures
	2.	Response to question re D.C. appointment of U.S. Attorneys, etc.
	3.	First Family tax returns
	4.	Supreme Court nominee process
VF	5.	First Family 278/blind trust
	6.	DOJ positions
VF/SN	7.	Health Care Task Force
		A. FOIA/FAA Request B. Applicability of Standards of Ethical Conduct to HRC as task force chair
	8.	LSC funding
	9.	Timing of 278 release (Ken Brody 566-8988)
	10.	Arkansas office entity
		A. Augmentation issue
	11.	Scheduling:
		A. Judges Association reception B. 8th Circuit Judicial Conference
	12.	Arkansas district court judgeships
VF/CM	13.	WH ability to receive gifts to technology
	14.	Presidential Library/foreign donor
	15.	Gowns gift/income issue
	16.	Moving expense

F 006086

Arkansas financial disclosure

SN	17.	Memo to Staff re compliance with Presidential Records Act
		A. First Lady applicability
	18.	Memo to Staff on Commercialization of President
	19.	Bowling alley improvements
	20.	Coordination of ethics legislation
	21.	First Family diaries
SN	22.	Memo to staff re contacts w/DOJ, rulemaking, etc.
		A. Coordination w/Correspondence Section
CM	23.	Coastal Corp. aircraft reimbursement
	24.	FOIA applicability to DOT recommendation
BN	25.	CFTC chair eligibility
	26.	Virginia Kelly - "income" exposure
	27.	WACA assumption of wire service
BWN	28.	NSC attorney
WK/BN	29.	WH 278 filing status
	30.	WH Policy re:
		A. Board membership
		B. Honoree of charitable fund-raisers
		1. President
		2. Staff
		3. Spouse
		C. Gifts to charitable auctions

F 006087

D. Policy re de facto discriminatory clubs

SN 31. Presidential disability procedures

CM 32. Policy re Travel -- payment by 3rd parties

SN 33. First Lady -- lobbyist registration?

34. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

Personal

1. FICA - personal
2. ~~Children's tax returns~~
3. Fayetteville air/hotel reservations
4. Renter's insurance on contents

insert B

F 006088

insert A

Tuesday

Van Wyke
income tax
Kennedy book
fed judge procedure
Kake bills
Intern program
Woodyard
Cabinet Secy spouse ethics course
DC personal prop tax assessment
Woodyard lunch Wed.
Chris Schroeder
FACA amendment to complaint

1. '78 return
2. pers prop assessment

insert B

Estimated payments for kids
NW Air Freq Flyer
auto rent Sat.
Lisa Delta Freq Flyer?
IBF's courses
Laura 2d semester
IBF summer school
Lorraine lock box
personal income tax
~~Peter~~ Rodham centre
Commencement air reservations
- chg of seating
Liz and Lara
insur coverage of personals

F 006089

March 29, 1993

PENDING

	1.	Redecoration expenditures
	2.	Supreme Court nominee process
	3.	~~3.~~ 14 Moving expense
VF	4.	First Family 278/blind trust
	5.	DOJ positions
VF/SN	6.	Health Care Task Force
		A. FOIA/FAA Request
		~~B. Response to GAO~~
		C. Applicability of Standards of Ethical Conduct to HRC as task force chair
	~~7.~~	
	7.	LSC funding
	8.	Timing of 278 release (Ken Brody 566-8988)
	9.	Arkansas office entity
		A. Augmentation issue
	10.	Scheduling ~~of~~ Federal
	11.	Arkansas district court judgeships
VF/CM	12.	WH ability to receive gifts to technology
	13.	Gowns gift/income issue
SN	14.	Memo to Staff re compliance with Presidential Records Act
		A. First Lady applicability
	15.	Memo to Staff on Commercialization of President
	16.	Bowling alley improvements

F 006090

	17.	Coordination of ethics legislation
	18.	First Family diaries
SN	19.	Memo to staff re contacts w/DOJ, rulemaking, etc.
		A. Coordination w/Correspondence Section
CM	20.	Coastal Corp. aircraft reimbursement
	21.	FOIA applicability to DOT recommendation
BN	22.	CFTC chair eligibility
	23.	Virginia Kelly - "income" exposure
	24.	WACA assumption of wire service
BWN	25.	NSC attorney
WK/BN	26.	WH 278 filing status
	27.	WH Policy re:
		A. Board membership B. Honoree of charitable fund-raisers
		1. President 2. Staff 3. Spouse
		C. Gifts to charitable auctions D. Policy re <u>de facto</u> discriminatory clubs
SN	28.	Presidential disability procedures
CM	29.	Policy re Travel -- payment by 3rd parties
SN	30.	First Lady -- lobbyist registration?

F 006091

~~VF 31. Jogging track~~

32. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

Personal

1. FICA - personal
2. Children's tax returns
3. Fayetteville air/hotel reservations
~~4. D.C. license tags~~

F 006092

9

March 25, 1993

PENDING

1. Redecoration expenditures
2. Supreme Court nominee process
3. Moving expense

VF 4. First Family 278/blind trust

~~VF/SN 5. Amb. Pickering~~

VF/SN 6. DOJ positions

7. Health Care Task Force

A. FOIA/FAA Request
B. Response to GAO

LSC funding

8. Timing of 278 release (Ken Brody 566-8988)
9. Arkansas office entity

A. Augmentation issue

9. Scheduling of Federal

~~10. U.S. Attys~~

11. Arkansas district court judgeships

VF/CM 12. WH ability to receive gifts to technology

13. Gowns gift/income issue

~~14.~~ C. Applicability of Standards of Ethical Conduct to HRC as task force chair

SN 15. Memo to Staff re compliance with Presidential Records Act

A. First Lady applicability

16. Coordination of ethics legislation

17. First Family diaries

to Staff

16 B Memo on Commercialization of Presidential ... ? ... other improvements

F 006093

SN	18.	Memo to staff re contacts w/DOJ, rulemaking, etc.
		A. Coordination w/Correspondence Section
CM	19.	Coastal Corp. aircraft reimbursement
	20.	FOIA applicability to DOT recommendation
BN	21.	CFTC chair eligibility
	22.	Virginia Kelly - "income" exposure
	23.	WACA assumption of wire service
BWN	24.	NSC attorney
WK/BN	25.	WH 278 filing status
	26.	WH Policy re:
		A. Board membership B. Honoree of charitable fund-raisers
		1. President 2. Staff 3. Spouse
		C. Gifts to charitable auctions D. Policy re de facto discriminatory clubs
SN	27.	Presidential disability procedures
CM	28	Policy re Travel -- payment by 3rd parties
SN	29.	First Lady -- lobbyist registration?
VF	30.	Jogging track
	31.	Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

F 006094

Personal

1. FICA - personal
2. ~~Insurance refund~~
3. ~~Washington Post subscription~~
4. Children's tax returns
5. Fayetteville air/hotel reservations
6. D.C. tags

F 006095

March 22, 1993

PENDING

1. Redecoration expenditures

~~A. Paper Trail for donated goods~~

2. Supreme Court nominee process

3. Moving expense

VF 4. First Family 278/blind trust

VF/SN 5. Amb. Pickering ~~vet~~

VF/SN 6. Health Care Task Force

7. DOJ positions

~~A. Appeal~~
~~B.~~ FOIA/FAA Request
~~C.~~ Response to GAO

~~8.~~ 8. Timing of 278 Release (Ken Brody 566-8988)
~~Liz Fume role~~

9. Arkansas office entity

A. Augmentation issue

10. U.S. Attys

~~A. South Carolina~~

11. Arkansas district court

VF/CM 12. WH ability to receive gifts to technology

13. Gowns gift/income issue

14. Applicability of Standards of Ethical Conduct to HRC as task force chair

SN 15. Memo to Staff re compliance with Presidential Records Act

F 006096

A. First Lady applicability

16. Coordination of ethics legislation

17. First Family diaries

SN 18. Memo to staff re contacts w/DOJ, rulemaking, etc.

A. Coordination w/Correspondence Section

CM 19. Coastal Corp. aircraft reimbursement

20. FOIA applicability to DOT recommendation

BN 21. CFTC chair eligibility

22. Virginia Kelly - "income" exposure

23. WACA assumption of wire service

BWN 24. NSC attorney

WK/BN 25. WH 278 filing status

26. WH Policy re:

A. Board membership
B. Honoree of charitable fund-raisers

1. President
2. Staff
3. Spouse

C. Gifts to charitable auctions
D. Policy re de facto discriminatory clubs

SN 27. Presidential disability procedures

CM 28 Policy re Travel -- payment by 3rd parties

F 006097

SN 29. First Lady -- lobbyist registration?

VF 30. Jogging track

31. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

Personal

FICA - personal

~~1. B'ball ticket refund~~
2. Insurance refund
3. Washington Post subscription
4. Children's tax returns
5. Fayetteville air/hotel reservations
6. DC tags

F 006098

March 17, 1993

PENDING

	1.	Redecoration expenditures
		A. Paper Trail for donated goods
	2.	WACA assumption of wire service
	3.	Moving expense
VF	4.	First Family 278/blind trust
VF/SN	5.	Amb. Pickering vet
	6.	Health Care Task Force
	~~7.~~	~~FOIA/FACA Request~~
		~~A. Charter~~
	7.	Legal Fund role
	8	Arkansas office entity
		A. Augmentation issue
	8.	Policy re de facto discriminatory clubs
	9.	FOIA applicability to DOT recommendation
VF/CM	10.	WH ability to receive gifts to technology
	11.	Gowns gift/income issue
	12.	Applicability of Standards of Ethical Conduct to HRC as task force chair
	13.	Coordination of ethics legislation
SN	14.	Memo to Staff re compliance with Presidential Records Act
		A. First Lady applicability
	15.	First Family diaries

F 006099

SN	16.	Memo to staff re contacts w/DOJ, rulemaking, etc.
		A. Coordination w/Correspondence Section
CM	17.	Coastal Corp. aircraft reimbursement
BN	18.	CFTC chair eligibility
	19.	Va Kelly - "income" exposure
BWN	20.	NSC attorney
	~~21.~~	~~DOE conflicts~~
WK/BN	22.	WH 278 filing status
	23.	WH Policy re:
		A. Board membership
		B. Honoree of charitable fund-raisers
		1. President
		2. Staff
		3. Spouse
		C. Gifts to charitable auctions
SN	24.	Presidential disability procedures
CM	25.	Policy re Travel -- payment by 3rd parties
SN	26.	First Lady -- lobbyist registration?
VF	27.	Jogging track
	28.	Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

Personal

1. Kstall fix refund
2. Insurance refund
3. W. Post subscription
4. Children's tax returns
5. Fayetteville air/hotel reservations

F 006100

March 9, 1993

PENDING

	1.	Redecoration expenditures
		A. Paper Trail for donated goods
	2.	WACA assumption of wire service
	3.	Moving expense
VF/SN	4.	Amb. Pickering vet
	5.	Arkansas office entity
		A. augmentation issue
	6.	Policy re de facto discriminatory clubs
VF/CM	6.	WH ability to receive gifts to technology
	7.	Gowns gift/income issue
	8.	Applicability of Standards of Ethical Conduct to HRC as task force chair
SN	9.	Memo to Staff re compliance with Presidential Records Act
		A. First Lady applicability
VF	~~10~~ 4.	First Family 278/blind trust
	11.	First Family diaries
SN	12.	Memo to staff re contacts w/DOJ, rulemaking, etc.
		A. Coordination w/Correspondence Section
	13.	Coastal Corp. aircraft reimbursement
BN	14.	CFTC chair eligibility
	15.	Va Kelly - "income" exposure
BWN	16.	NSC attorney
	17.	DOE conflicts
WK/BN	18.	WH 278 filing status
	19.	WH Policy re:
		A. Board membership

F 006101

B. Honoree of charitable fund-raisers

1. President

2. Staff

3. Spouse

C. Gifts to charitable auctions

SN 20. Presidential disability procedures

CM 21. Policy re Travel -- payment by 3rd parties

SN 22. First Lady -- lobbyist registration?

VF 23. Jogging track

24. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

F 006102

9
3/4/93

PENDING

1. Redecoration expenditures
2. WACA assumption of wire service
3. Moving expense
4. Arkansas office entity
   A. augmentation issue
5. Gowns gift/income issue

~~VF/SN 6. Health Care Task Force suit~~ 7. Applicability of Standards of Ethical Conduct to ITRC on task force chair

SN 7. Memo to Staff re compliance with Presidential Records Act
   A. First Lady applicability

VF 8. First Family 278/blind trust
9. First Family diaries

SN 10. Memo to staff re contacts w/DOJ, rulemaking, etc.
   A. Coordination w/Correspondence Section

11. Coastal Corp. aircraft reimbursement

VF 12. Reno
   A. Reno team Presidential records issues
   ~~B. Temporary clearance~~
   C. Recusal

VF/CM 5 ~~13.~~ WH ability to receive gifts to technology

BN 14. CFTC chair eligibility

VF/SN 4 ~~15.~~ Amb. Pickering vet

30 ~~16.~~ Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

17. Va Kelly - "income" exposure

BWN 18. NSC attorney/~~relationship~~

F 006103

WK/BN 19. ~~Procedures for vet of Deputy Secys, SES~~

20. DOE conflicts

VF ~~21. OIRA candidate~~

WK/BN 22. WH 278 filing status

23. WH Policy re:

A. Board membership

B. Honoree of charitable fund-raisers

1. President

2. Staff

3. Spouse

C. Gifts to charitable auctions

SN 24. Presidential disability procedures

CM 25. Policy re Travel -- payment by 3d parties

SN 26. First Lady -- lobbyist registration?

SN ~~27. Legislation re FACA applicability~~

VF 28. Jogging track

~~29. Counsel Staff budget~~

F 006104

3/2/93

PENDING

1. Redecoration expenditures

2. WACA assumption of wire service

3. Arkansas office entity

   A. augmentation issue

4. Gowns issues

VF/SN 5. Health Care Task Force suit

20 ~~6.~~ DOE conflicts

SN 7. Memo to Staff re compliance with Presidential Records Act

   A. First Lady applicability

VF 8. First Family 278/blind trust

9. First Family diaries

3 ~~10.~~ Moving expense

SN 11. Memo to staff re contacts w/DOJ, rulemaking, etc.

   A. Coordination w/Correspondence Section

33 ~~12.~~ Counsel Staff budget

13. Coastal Corp. aircraft reimbursement

VF 14. Reno

   A. Reno team Presidential records issues

   B. Temporary clearance

   C. Recusal

VF/CM 15. WH ability to receive gifts to technology

BN 16. CFTC chair eligibility

VF/SN 17. Amb. Pickering vet

F 006105

~~18. Wirth vet~~

19. Policy re WH Counsel's offices support of Assistant Secretaries in confirmation process

20. VA Kelly - "income" exposure

BWN 21. NSC attorney/relationship

VF 22. Jogging track

~~CM 23. "Bumping" career employees in cut back~~

WK/BN 24. Procedures for vet of Deputy Secys, SES

VF 25. OIRA candidate

WK/BN 26. WH 278 filing status

27. WH Policy re:

A. Board membership

B. Honoree of charitable fund-raisers

1. President

2. Staff

3. Spouse

C. Gifts to charitable auctions

SN 28. Presidential disability procedures

CM 29. Policy re Travel -- payment by 3d parties

SN 30. Legislation re FACA applicability

SN 31. First Lady -- lobbyist registration?

GJ - Foster Death

Photos

GJ - Edwards Photos

85 C6 - C10

Blowups

85 D6 - D10

Rollo Photos

85 C-11 -

85 C-18

85 D-11 -

85 D-18

Siminello Photos

86 ~~B~~-1

~~B~~-22

Brown Photos

85-C-1

85 C-5

85 D-1 -

D-5

Kpt - arrival of C Braun / Rolla — 6:30

- Parking Lot
- Vehicle Id - MERC
- Saw Spotg — FEIST
  Dooley
- Death scene of Rolla
  Braun
  Simonello

* Saw Edwards - Camera
  Ferstl - taking photos
  Hodakievic

Saw Rolla - taking photos Pol

Simonello - " " 35 mm

No one touched

Notes of death scene

looked at photos

body - blood - dry
\ wet

\ lower right cheek - transfer

- position

- white shirt pearl

blood in photos - body

pants - hitched

- SUV.
  - in thumb; right hand cupped over window
  - powder burns
  - tough to see

- Rolla - check dec fingers for presence of r/in
  - touch body - not before Dr Haupt

- Vegetation not trampled
- no scene of struggle

- remained at scene until Dr. Hunt arrived & body examined in detail

- [rolling body
  put in body bag

Personal witness w/ keys — Security Guard

Rolla

- location of camera
- sequence of #s
- concern over foul play
- investigative

2 sets

W/H/D

trunk

2/13/95 Meeting w/ FBI re: Foster Death

① Mortician - LR

- Embalmer - Removed + inspected body
  - no trauma observed
  - Embalming done in DC so only cursory inspection
- Mortician - cursory inspection
- 2 other funeral home admin personnel - present but no inspection of body

② Foster Associates

- Philip Carroll - Rose LF
  - no evid of depression
  - no probs at prior
  - no knowl of Foster's knowl of Hale (Hubbell)

wife - nothing

- Ashleys
  - nothing heard at home

Stephanie Ashley - PhD - behavioral issues

- no prior notice except May luncheon where he appeared attached & distracted
- classic signs of depression

- concerned about Lisa Foster drinking
  Vince Foster drinking

- gave name of Robbie Thomas-Knight
  - psychologist in LR
  - may have insight

- thought Desyrel was poor choice of drug prescribed by Dr. Watkins on Monday July 19

NB — FOIA(b)(6) FOIA(b)(7) - (C)

- Funeral Director

  - 1 yr. earlier, body moved to larger family plot

- Rosemary Pruitt

  - distracted
  - shy in demeanor
  - June '94 dinner w VF: LF: BN
    - seemed too involved & focused - intense

- Not worth analysis — to be done

- Harriet Byrum

  - Type A — reacted to criticism (character)
  - depressed

Many speeds

- Ifelars
- no spirit

- Laura → HB — not her father

- VF - moody
  - strange

- Sundays — moody
  - lower

- not hostile, brusque - totally withdrawn

Foster Documents

- Ste. alarmed - need to go into Foster's office where switch

- Castleton - alarmed the suite at 8:14 ~~PM~~ - not alarmed until 5:15

~~Patsy Thomason tatoo~~
Officer O'Neill re-opened

- Set again around midnight by last person in

- ~~Betty~~ Pond - 8:00 am re-opened

- USS installed lock on 7/21

- NB lead on ast. called to open safe — to practical basis

- Livingston - box - polygraph

- [redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

2/14/95

Simonello

7/20/93

- Bkgd
- Reports
- Time to scene
- Physical
- Found victim
- Emotional
- Who 1st see
  - Jones
  - Examiner
  - Describe scene
  - Who else
- Photographs
  - Notes
- Body
  - Describe
  - Decomposition
- What did

- GUN
  - how first seen
  - what is
  - describe in detail what you did
    - use exhibit
    - distance thumb
      area between thumb & forefinger
    - how removed
    - control of
    - position
  - what Police did
    Bruce
    Agt
    Hart
  - Removal & bagging
  - Parking lot
  - Next did w/ evidence

2/14 Officer [illegible] Hoffelmire

7/20/93

- [illegible]
- At [illegible]
  - Saw B/M?
  - Met w/ EMT personnel
    - 2 EMT [illegible] Energalyte
      - 1 bag
      - Checked breath for [illegible] signs
  - Saw Freestyle Syntz
  - Conversation w/ officers
  - Saw other vehicles
    - VF car
      - Black/gray female with [illegible]
      - visual inspection
    - [illegible] Civilians on scene
      - M brown curly [illegible]
      - walking west [illegible]

✓ (Arrested)

✓ Escort

- went to see a body,
  - spoke w/ spt clinician
  - how pt was walk

✓ Exam check

- Spt Clinician
  - pt's spt tips
  - should have "Glasses blurry"
- Examination
  - glanced over from 10'
  - didn't see
    - seen
    - Can't see - inattn - not
    - thinks saw a car after other cars passed
    - Brain pasted out seen by eye not brain
    - difficult to see from 10' but seen if
  - see wounds on body - not with
    - could see [redacted] wound at back of head
      - blurred eyesight / Reflex / Cortex / to / visual
      - light vision - loud
      - found exit wound
      - blood on wound / hand

✓ what did you do?

✓ - [redacted] blood [illegible] Dave [illegible]
to [illegible]

* - Sgt. Edwards - say body touched?
- only right [illegible] touched body

- Kelly - search of pockets - [illegible]
- reached behind to touch pockets
- slight movement

Why - flee -

- Samantha
- what do
- platonic [illegible]
- only [redacted], like
drink

- saw Stacey lying on ground just below

Precise ← - do you recall

- other words - no

- Mrs. [illegible]

Good follow up

- come on back + [illegible]
- asked if [illegible] talked
- [illegible] Rolla

— Party Lot Investigation

- Spoke w/ [illegible] Comm
told them VI will [illegible] with employees [illegible] IDs

- Take into custody

- Sat [illegible] on front seat
- Inside - [illegible]

✓ Person

Not significance

NOT ⟶ [illegible]

- Signed — agreed to back, to [illegible]

Why can't I be left Kicked out

- See [illegible] outside

- [illegible] Smoke
Seized w/ [illegible]

Town

→ Red on table of your choice
to visit to be

Lancaster
— Blue Hamlet Herald. on parking

2/14/85

Julie Foote - 5 yrs. CSP

7/20/53 — training — Academy

— Prior positions

→ FBI via Tulsa

— 1st Ulare, Park

- West of Tweedie
- Park Service Employee DB
- Green granite
- arrived 6:10 — left at 6:30
- Tweedie Mine
- Exit Mine
- [illegible] to avoid [illegible] & park, left and suggested there might be other people
- walked from trail to [illegible]

— as leaving the Park - saw
Beaver Indian, Mrs. [illegible]
+ Apol

Prof of Dr. Hussain

Reviewed

1 - Autopsy Report

2 - Slides of Autopsy

3 - rest of Lab

- blood staining
- clothes
- Dead sun

4 - Previous Reports & Investigations

Autopsy

Examination of the body

Causing Death

- fracture of
- Evidence of hemorrhage of the pelvis
- " shock by autopsy

Photos

A
- Understrap shielded the interior of thumb
- trigger guard impacted the thumb
- Bruise on exterior [illegible] finger

B Hemorrhaging

C Blood Clot

D Angle.

E Blood Spatter on Shirt 1.12 No movement after movement

Position

Seated

- no belief
- if standing - arguments, stuff
  - knees bent
  - lots of sweat, feet pound
- only logical way - seated
  - gun in mouth
  - head shot
    - real
    - evil way
  - ...
- position of head defies laws of gravity
  - head on ~~table~~ ground
  - blood pattern
- transfer pattern - hole would be developed
  - ...
  - how many on wall
  - ...

→ no blood on scene

- need to repeat before bullet holes

→ look for:

would not expect to see

- dense perspiration on rug (normal)
- moist
- Questionable flash

- many gunshot wounds w/o

- bone fragments w/in / expected travel

- blood on scene
  - terrain
  - laws of gravity
  - not much seepage

R/M

Explain

- ~~explain~~
- muscles build other down motion
- metabolism by-product
- accumulation of muscle causes stiffness
- happens in knee
  - tendon
  - short range of motion
- restoration of larger joints of greater range of motion
- Rolfing finds consistency w/ R/M
- weather influences
  - hot accelerates

Semen stain

- explain autonomic nervous system
  - 2 components
    - stim
    - depressant
  - digestive nervous system
    - urinate
    - defecate
    - regurgitate
    - ejaculate

Hairs & Fibers

- Contamination

Heart stops Beating

- look at autopsy photos

CW - Dale ~~Kyle~~ Kyle

Journal can
push out
law enforcement / victim
→ Push on brand
→ Validated

2/16/95

Dr. Donald Hunt

1. Bkgrd

✓ where — M/E Office — Virginia

— good narrative

— Academic Experience

— Prof. Experience

— ~~Internist~~ Internal Medicine

— D M/E
since '81

— D/M/E

— reporting info re: deaths from info rec'd (+ at times Exam of body)

— does not do autopsies

— on call on certain days/night

— ~~Prior Exp~~ policy of USPP to have D or E come to scene

— done 3 death scenes

— authorized to pronounce death

- suicide scenes experience — 10 or so

* - gunshot wound to head — all 10

— July 20, 1993

- call from USPP 6:45 p.m.

65 160 — official report to VA re: death

- arrived 7:15 Ft Marcy Park
- car
- clothing

- what prior knowl.
  USPP → "suicide"

- scene - yellow tape

- 1 USPP in parking lot not known

~~- not by U.F.~~

- several USPP in lot
- some in civilian clothes
- discussion re: scene (body) in lot — NO led to scene

- observed VF car — Examining Car — female detective

- when know WH offered — Sometime

— Proceed to Body — Escorted by USP

— how far from lot — 100 – 200 yds.

— who there? d/n/r whether anyone already there

— body — resting on Embankment of foot path with foliage on both sides

Embankment 4'-5' high
6-10' wide

Lump at top

— head near top of embankment
feet near bottom of "

— Cannon 90° to left — approx 20 to 60 yds
— could be way off

— body at scene

— blood on right side of face
" " of shirt
on ground under head
Pool of congealed blood

Id'l photo of body - consistent w/ what he saw

told gun — Removed from

✓✓ Good follow-up

- examined body from head and toe

- slippery terrain on foot path - corr

- examined head
- rolled body R → L
  - examined exit wound area - mess & congealed blood
  - saw Rilla examine + touched skull

  - no other wounds seen
  - no defensive wounds

- obvious VF dead
- did not determine time of death

- body still warm - hot weather (over 90°)
  - takes time to cool off

- did not examine body for r/
- arms [somewhat / stiff] - did not take note

- matted congealed blood of he

~~stiff~~

- left scene before transfer

15-20 min total

- role - look at body + determine from circumstance that is was a suicide

- concluded suicide

[- on what basis]

- position of wound
- no obvious wound of entrance
- wound at exit
- revolver in hand

Looked in mouth

absence of any other obvious wound on exterior

good follow up

- back to parking lot
  - brief discussion of USAP
  - left at 7:45 - 8:00
  - report done
  - spoke w Dr. Beyer on 7/21 to describe findings at scene

appearance of self-inflicted gunshot wound — mouth → skull

- signed death certificate

— learned of evid inconsistent w/ suicide

— Spoke w/ Newspeople

— newspapers - several
— Pittsburg

— when — most recent — several months ago

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

— Major contact

— Accuracy in Media - Reed Irvine

— spent 1 hr w/ Hunt

Q: Disposition of body
where found

topography

"learn from Cir/Circumstances"

— never told not a suicide

— may not have been asked about opinion

Never changed Opinion

Dr. Beyer

Background

- Academic
- Professional

— M|E — 20,000 autopsies

≠ — apparent suicide

20% @ 700-1000/yr

50% of them — furthest to head

— determine cause & death

- homicide
- suicide
- natural
- undetermined
- natural

≠ manner of death

— VF death — pretrial

— Seattle hearings

— Fiske

7/21/93 - Autopsy

- timing - July 22 sched but chg to July 21

- no desc. [redacted] of Foster family

- Exh 161 - Report of Autopsy

162 - Certif of Analysis submitted for Toxicology Study

158 a-n - Photos Taken at Autopsy

a, b, c } clothed

d, e, f } exit wound / closeup same

g, h } - probe ent + exit

i exit wound

j, k } interior of skull

l-n index fingers & right hand

- Exh. 163 - NOE from Dr. Hunt

Hunt ~~to~~ Beyer

- Perforating s/s wound
- name of decedent
- USPP investigating

Normally do not review report of others prior to autopsy

NO statement Re: Suicide
N see Hunt's Report

- Autopsy
  - d/n dictate to recorder
  - no notes
  - who Present: USPP
    Autopsy Technician
    - Requirement of M/E office to have USPP present
    - info re scene — no not before autopsy

- Autopsy
  - opened body bag
    - main blood on right side of face / shirt

- all done in presence of USPP
- Removal of clothing
  - Autopsy Tech
  - M/L

Put in bag for transport to USPP
- together? _ d(u)r

- Protocol at
  - Exam body
  - Extend exam of photo
  - Exam for Id marks - wounds
    - Id
    - Register
    - Photo
  - Internal Exam
    - Examine
    - collect specs
    - " fluids | for studies
  - Prepare

Wounds - Externd — Body & Head

- Neck — NONE

- HANDS — NONE

- Contusions — NONE

SAMPLES

- Blood
- Urine
- Hair Samples
- Eyeball

} Sent to lab for analysis

~~SPT~~

- fingernails - no - usually if some indic of physical act. with

- Semen — d/(a) observe
  - no sgnf — common to have ejaculation at death

Exh. 156 SSS — photo

— blood

— ~~at~~ no trauma ~~or bruises~~
no wounds

Explain washing of face from what 1st appeared based ~~on~~ when both arrives

158 / m / n > index finger of right hand

— powder debree

— report — right and left hands — powder debrie

— right thumb — indentation across back of thumb

- bullet fragments - none

- X-Ray machine - not functioning

- ref. only if non perforating wound

i.e., Entrance but no exit wound
- not the case here
- Examined tissue thru thick muscle padded

- routine

- Can/or Examine head for fragments w/o X-Ray

I/S - Organ in place can be sectioned and Examined

Diagrams in Exh. 161

viz Wounds in head

— 2 diagrams show wounds
in skull / entrance
\ Exit
+ fracture lines

— soft pallet
— entrance wound
- gunpowder debris in mouth
in gross (mouth)

— Exit 3" from top
1 1/4 x 1"

— Wound ent + exit
consistent
— no other
trauma

— review report of Panel of pathologists

Exh 164

Findings About Time of Death - N

" " Toxicology — lab reported back + found in cost of analysis

~~Presence~~

" " Position of weapon

— in VF mouth close to back

— presence of powder debree

Publicity of 1969 Suicide

CAUSE OF DEATH —

Self inflicted G/S wound

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Documents

Clinton Personal

- Nussbaum
- Williams
- Carolyn Huber
- WTC

Jan. '94 -

FBI
Kendall > at WTC

- inventory
- possession

(walk)
- Kendall

Subpoenas - WHCO

→ Travel Office Files — to, from, by VF

→ VF Computer Dump —

- phone records

- to be determined

Scheduling

March 6 - Gorham

- Tripp

March 7 - Pond

- tech guy - Witt

Polygraph of Livingston

2/23 Marcia Scott

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

- Very close to WH ; also POTUS

- VF - knew since college

- D[redacted] - knew since campaign

- knows BK well
  GK well

- know PT well - offic next door

- knows BL well - since high school

✓ - CL - officious
  - wants to please
  - "gofer"

- VF family

- VF
  - not many close friends — WH
    — BK
    — HRC

- m/o consumate good lawyer
  wise counselor
  few words

- strong feelings - kept inside

- bothered up
- External demeanor didn't change much

- Rel w VF
  - saw him regularly at Dyke's meeting
  - try to see him every day
    - particularly "it went on"
    - try to see VF, BL, NH > tried to stay in touch re demands of work
    - call WH

- VF never talked about his work
  - but she [NOW] knows he was working on:
    - TRAVEL episode
    - private Clinton matters

- been to VF residence - yes
  - picked up
  - drove home

- briefcase
  type - ?

- TRAVEL Office

Firms - May 19

hesitated ✓ didn't know ____ talk about Employees - d/w/t
" " Bill Kennedy - y

Desk w BK about WHTO

- unfamiliar w scapegoating BK
- allegs of FBI motive — note

- Kennedy, Watkins > reprimand initially

who made decision to fire
— assume McClatchy
— heard FLOTUS — paper

Concern about hearings re WHTO
VF concern for BK
— very concerned

how affect this role

- weight loss - d/n/notice
- marriage —
CISA F hotel DC

- d/n knowingly see digression

July 19
meeting w VF
— nothing unusual

- VF didn't get up - unusual

— Weekend (Rose)
VF learned - needed more rest
- needed to get away more
— seemed more relaxed at peace

General reflections

- VF troubled by insistence on photo

✓ VF - Wanted to leave

— Not ~~don't~~ self esteem

✓ — Can issue

— pop tricks — should — not always
— show badge

✓ — note

— ever see

* — NB unusual — cruel / outgoing — not to leave a note

— notify of death

— At Foster home

— order of entry — wrong (not material)
— [redacted] arrivals

Potus
Pryor
[redacted] McCarthy
Kennedy
W. Pincus

— USPO

— dix. vei.

Hubbell
- need to have DOJ seal of pic
- no other desc heard vs checking to see if any papers embossing to Pres.
- where was she standing at VF home
- Webb Hubbell at DOJ
- [redacted]
- Sheila Anthony desc of VF
- Livingstone
- recalls something about
- Gail Kennedy -
- gun
- surprise by anyone
- Vince's father's gun

(rel)

Q: ~~Lisa~~ Did he hear L. tell Foster comment ✓

see Laura go up stairs –

Q: What was rel

See WH shoot USP ✓

– know who paged WH ✓

– men talking on phones ✓

– Why go to WH ✓

– 2d Floor ✓

– VF – Ft. Myers

– Drive in –

– get out

– Any other theories went at VF house

– WHTD –

2/28 – Star Meeting

– Travel Office
  – staff meeting prior to 3/19 – issue
    of staff of WHTO – auditors
    coming in

–

– Attorney interviews – yes

– Cong. Hearings
  – VF spoke of possibility
    – could consume attn/time of WH
    – people would be attacked
    – considered outside counsel

– BC – views
  – scapegoat? impression (VF BC) felt he was singled out

– July 19
  – saw VF at staff meeting
  – went to WH staff meeting
    – privilege issue viz regular / ongoing work of WH

Foster

Level of stress

- WHTO
- WH

- final ——— follow up dissertation

July 20

- saw VF in a.m.
- had some disc re: Judy Greenstone

Describe ——— follow up

resignation - consideration

- Death Notification

BW → SW 10:00

- July 21

7-8- WHCO

Marlene McDonald part time

- B. Pond in STE
  - in VF office
  - "straightening things out"

- SW locked in - left

- SN recognized [redacted] privilege and necessity need for accomodation - "maximize possibility for both interests can be accomodated"

when decision

July 21 cont'd — other people's position

CS — same as SN
— what is proper thing to do, accomodate both [redacted] interests

BL — none on 21 July
MM — " " " " or at all
SB — July 22
J Dean — July 22
HRC — none

FBI 302 — told by BN — yes but

BN had phone conv w/ S. Thomases
ST told BN — more concerned about access

BK — d/n/r

— Briefcase

— BN lifted up "sense"

— go back to

Computer

- SN searched computer
  - 2-4 docs relating to work done

Travel Office Matters
- files in VF office — d/n/k
- C. Sloan then N. Eggleston

Safe
- BN office
  - searched? d/n/k
  - combinations - BN

Docs
- remained in office after search
- ~~transferred~~ - some
- some m6/BN in VF office
- " CS/BN in VF office

} after review of DOS

- locked from 7/22 - 7/26 - understood
- 7/22 - BN assigned task to SN to inventory VF office
  - what working files in VF office to re-assign

Exh. 171 - copy of inventory by SN on 7/26
NO WHTD file

What happened to office files Id by BN

- Inventory on 7/26
  - D. Gorham present
    - no observation of len of briefcase

- Briefcase
  - box of pers. items
  - putting briefcase in box ; tried to fit it in
    - yellow torn pieces fell out
  - took into BN office - pieced together

Exh. 169 - Transcript of note

- Bill Burton & HRL - desc about note
- desc re: obligations
- SN did research
- meetings on 7/26 + 7/27 if HH people

Note - contents

briefcase - contain note

touch - how

Screened By: NARA (RD-F) Date: 07-27-2018 DOCID: 70105128

Impeac hmen t

Memorandum **Office of the Independent Counsel**

To: All Attorneys Date: 8/31/98

From: Brett M. Kavanaugh

Subject: "Possible Grounds for an Impeachment" Section
(aka Charging Section; aka Specifications Section)

Attached is a new draft of the "grounds" section -- a name hatched by a small group at John Harvards last night. Those on the reading/editing teams should read it and give me comments as soon as possible **(by Monday night, if possible!!)**.

Based on the obvious need for it as well as some comments, I have done a front-to-back review to tighten it substantially, make it as internally consistent and coherent as possible, and (hopefully) make it persuasive and usable as a stand-alone document. (The one section left as before is the Willey count, so it is not attached to this memo.) The draft clearly is still a little rough in places. In addition, we just finished putting in changes right before circulating, so pardon any obvious typos. Finally, there are still a number of footnote and cite-checking-type things and formatting that need to be cleaned up. But we'll make it if everyone on the team moves quickly.

1. RR is working on the abuse of power count, and I plan to turn substantial attention to that today (Monday) as well. I would hope we could have something to everyone by Tuesday morning, but I need to consult with RR about that. Continued ideas about that are welcome.

2. This draft contains more analysis and argumentation than earlier iterations. That has been necessitated by, inter alia, Clinton's grand jury testimony. I want to avoid adverbs in the draft, but I am not there yet. If we could make this entire referral free of words ending in -ly, that would be a good thing. Please feel free to strike such words.

3. I separated what was count 3 into two separate counts. It simply was not logical as a single count, as some have pointed out to me.

4. Should the narrative section go before the "grounds"? Does that decision depend on what the executive summary looks like?

5. Willey. I still vote it out, especially (and I know I am a broken record) if Arkansas/825/Susan/WH Counsel abuse is not included, as seems likely. David Hale has convicted a sitting Governor, the Governor's two partners in a bankruptcy scheme, and the two former business partners of the President. Kathleen Willey hasn't convicted squat, nor could she.

Looting an S&L in the 1980's versus a he-said/she-said. An issue (Whitewater) that has nearly felled the President several times in the last six and ½ years versus an issue (Willey) that the President savaged and destroyed in 24 hours, never to be heard from again. Bottom line: We look unhinged to include Willey and include nothing from Madison/Arkansas/825/Susan/WH obstruction.

6. On the order of counts, a lot of tinkering could be done. Let me know.

7. Carefully consider the retrieval of gifts section. How best to do that? We cannot really say that Clinton encouraged the return because ML does not say. It is not quite there yet.

8. Does the use of the term conspiracy work? I like it because it is correct and it is a weighty term. I tried to capture it, while taking Jay's suggestion into account.

9. IS IT TOO GRAPHIC?

10. SHOULD IT BE MORE GRAPHIC (kidding)?

11. How's the tone, particularly in analysis sections?

12. Are we missing "grounds" that we should be including?

Monday
8/31/98 8:00AM

There is Substantial and Credible Information that President Clinton Committed Acts that May Constitute Grounds for an Impeachment

Introduction

President Clinton's actions in connection with Monica S. Lewinsky may constitute grounds for an impeachment. Substantial and credible information obtained by the Office of Independent Counsel (OIC) reveals a systematic effort by President Clinton to conceal evidence about Ms. Lewinsky in a sexual harassment lawsuit, Jones v. Clinton, in which the President was a defendant. The OIC's investigation has revealed the following:

1. There is substantial and credible information that President Clinton lied under oath in his civil case when he denied a sexual affair, a sexual relationship, or sexual relations with Monica Lewinsky.

2. There is substantial and credible information that President Clinton lied under oath to the grand jury about his sexual relationship with Ms. Lewinsky.

3. There is substantial and credible information that President Clinton lied and provided misleading testimony during in his civil deposition about the nature of his relationship with Ms. Lewinsky.

4. There is substantial and credible information that the President and Monica Lewinsky had a mutual understanding -- a conspiracy to obstruct justice, in criminal law terms -- that each would lie under oath in the Jones case and that Ms. Lewinsky would conceal gifts from the President that had been subpoenaed by Ms. Jones' attorneys. Ms. Lewinsky transferred some of those gifts to President Clinton's secretary, Betty Currie, who stored them in her home under her bed.

5. There is substantial and credible information that the President obstructed justice and tampered with a potential witness by attempting to influence the

FOIA # none (URTS 16305) DocId: 70105128 Page 4

testimony of Betty Currie in the days after his civil deposition.

6. There is substantial and credible information that President Clinton endeavored to obstruct justice during the grand jury investigation. He refused to testify for seven months and simultaneously lied to senior White House aides with knowledge that they would relay the President's false statements to the grand jury and thereby deceive the grand jury.

7. There is substantial and credible information that the President abused his constitutional authority by having a secret sexual relationship with a White House intern, misleading the American people about that relationship, and then refusing to testify for seven months.

[8. Willey]

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I. There is substantial and credible information that President Clinton lied under oath in six sworn statements he made as a defendant in Jones v. Clinton in denying sexual activity with Monica Lewinsky.

(1) He denied that he had a "sexual relationship" with Monica Lewinsky.
(2) He denied that he had a "sexual affair" with Monica Lewinsky.
(3) He denied that he had "sexual relations" with Monica Lewinsky.
(4) He denied that he engaged in or caused contact with the genitalia of "any person" with an intent to arouse or gratify (in particular, oral sex performed on him by Monica Lewinsky).
(5) He denied that he had contact with the breasts of Monica Lewinsky with an intent to arouse or gratify.
(6) He denied that he made contact with the genitalia of Monica Lewinsky with an intent to arouse or gratify.

There also is substantial and credible information that the President allowed his private attorney, while in the President's presence and acting as the President's agent, to make a false statement to the United States District Judge presiding at his deposition. In particular, the President's attorney stated to Judge Susan Webber Wright that "there is absolutely no sex of any kind in any manner, shape or form" between the President and Ms. Lewinsky.

Introduction

On May 6, 1994, Paula Corbin Jones filed a federal civil rights lawsuit against President Clinton claiming, among other things, that the President had sexually harassed her. The lawsuit was based on an incident that, according to Ms. Jones, occurred on May 8, 1991, in a suite at the Excelsior Hotel in Little Rock. According to Ms. Jones, who was then an Arkansas state employee, Governor Clinton made an unwelcome sexual advance

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on her by asking her to perform oral sex on him.

Throughout the discovery process, Judge Susan Webber Wright ruled, over the President's objections, that Ms. Jones' lawyers could seek information about women with whom President Clinton had worked and allegedly had sexual activity. Judge Wright's rulings followed the prevailing law in sexual harassment cases: The defendant's sexual relationships with others in the workplace, including consensual relationships, are a standard subject of inquiry during the discovery process. Moreover, Judge Wright stated that she was following a "meticulous standard of materiality" in her rulings allowing such questioning.

At a hearing on January 12, 1998, Judge Wright required Ms. Jones to list potential trial witnesses. Ms. Jones' list included a "Jane Doe" named Monica Lewinsky, as well as other "Jane Does" (the "Jane Does" were primarily certain women who had worked with or had some other employment connection to President Clinton). Ms. Jones intended to call Monica Lewinsky as a "similar act" witness in support of her claim.[1]

On January 17, 1998, Ms. Jones' lawyers deposed President Clinton. United States District Judge Susan Webber Wright presided over the deposition. At the time of the President's deposition, the President and his attorneys knew, based on the witness list and the January 12 hearing, that the President was likely to receive questions about Ms. Lewinsky and the other

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[1] For a discussion of the procedural background to the Jones case, see Appendix, Tab __.

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"Jane Does." And the attorneys for Ms. Jones did in fact ask the President numerous questions about several "Jane Does," including Ms. Lewinsky.

At the outset of the deposition, the President swore an oath to tell the truth. Federal criminal law requires a witness testifying under oath to provide truthful answers. The failure to do so is a crime punishable by imprisonment and fine.[2] Ms. Jones' attorneys emphasized this point to the President at the outset of his deposition, stating to the President: "And your testimony is subject to the penalty of perjury; do you understand that, sir?" The President responded, "I do."[3]

A. Evidence that President Clinton Lied Under Oath During the Civil Case

1. President Clinton's Statements Under Oath About Monica Lewinsky

During pretrial discovery, Paula Jones' attorneys served the President with written interrogatories. One stated in relevant part as follows:

> Please state the name, address, and telephone number of each and every [federal employee] with whom you had sexual relations when you

---

[2] Section 1621 of Title 18 (perjury) imposes a penalty of imprisonment of not more than five years and a maximum fine of $250,000 for lying under oath in a court proceeding.

[3] Clinton 1/17/98 Depo. at 19. Under the federal perjury statutes, it is a crime to knowingly make a false, material statement under oath, including in any ancillary court proceeding. An "ancillary proceeding" includes a deposition in a civil case. United States v. McAfee, 8 F.3d 1010 (5th Cir. 1993); United States v. Scott, 682 F.2d 695, 698 (8th Cir. 1982).

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[were . . . President of the United States.[4]

For purposes of this interrogatory, the term "sexual relations" was undefined. On December 23, 1997, under penalty of perjury, President Clinton, through his attorneys, answered this interrogatory: "None."[5]

At the January 17, 1998, deposition of the President, Ms. Jones' attorneys asked the President specific questions about his possible sexual activity with Monica Lewinsky. The attorneys used various terms in their questions, including "sexual affair," "sexual relationship," and "sexual relations." The terms "sexual affair" and "sexual relationship" were not further defined. The term "sexual relations" was further defined for purposes of the deposition:

> For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes . . . contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person. . . . "Contact" means intentional touching, either directly or through clothing.[6]

When asked about his possible sexual activity with Ms. Lewinsky, President Clinton testified:

Q: Did you have an extramarital sexual affair

---

[4] See Plaintiff's Second Set of Interrogatories, No. 10. Judge Wright limited the scope of this question so that it covered only women who were state or federal employees at the relevant times.

[5] See President Clinton's Supplemental Responses to Plaintiff's Second Set of Interrogatories (Dec. 23, 1997).

[6] Clinton 1/17/98 Depo., Exh. 1.

with Monica Lewinsky?

WJC: No.

Q: If she told someone that she had a sexual affair with you beginning in November of 1995, would that be a lie?

WJC: It's certainly not the truth. It would not be the truth.

Q: I think I used the term "sexual affair." And so the record is completely clear, have you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit 1, as modified by the Court?

Mr. Bennett:[7] I object because I don't know that he can remember --

Judge Wright: Well, it's real short. He can -- I will permit the question and you may show the witness definition number one.

WJC: I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.[8]

President Clinton reiterated his denial of a sexual relationship with Ms. Lewinsky under questioning from his own attorney:

Q: In paragraph eight of [Ms. Lewinsky's] affidavit, she says this, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual

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[7] Robert S. Bennett, counsel for President Clinton.

[8] Clinton 1/17/98 Depo. at 78.

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relationship, he did not deny me employment or other benefits for rejecting a sexual relationship." Is that a true and accurate statement as far as you know it?

WJC: That is absolutely true.[9]

2. Monica Lewinsky's Testimony

Monica Lewinsky testified under oath before the grand jury that beginning in November 1995, when she was a White House intern, she had a lengthy and involved relationship with the President. The relationship included substantial sexual activity. She testified in detail about 10 sexual encounters that involved genital contact and about two others that involved kissing but no direct genital contact. As explained in the narrative section of this referral, White House records corroborate Ms. Lewinsky's story to the extent that she was in the White House during each of these encounters, [one not?] and the President's movement logs confirm that he was in the Oval Office area during each of the encounters.

We describe the ten encounters here because they are necessary in assessing whether the President lied under oath -- both in his civil deposition (where he denied any sexual relationship at all) and in his grand jury testimony (where he denied <u>any</u> sexual contact with Ms. Lewinsky's breasts or genitalia). In reading the following descriptions, the President's denials under oath in his deposition and to the grand

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[9] Clinton 1/17/98 Depo. at 204. The full text of Ms. Lewinsky's affidavit is set forth in the Appendix, Exhibit __.

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jury should be kept firmly in mind. Unfortunately, the nature of the President's denials requires that the contrary evidence be set forth in graphic, even disconcerting, detail.

(i) Ms. Lewinsky testified that her first sexual contact with the President occurred on the evening of Wednesday, November 15, 1995, while she was still an intern at the White House. Two times that evening, the President invited Ms. Lewinsky to meet him in the Oval Office.[10] On the first occasion, the President and Ms. Lewinsky had their first romantic kiss. On the second, she performed oral sex on the President in the Oval Office study.[11] During this encounter, the President touched Ms. Lewinsky's naked breasts with his hands and his mouth.[12] In addition, the President put his hand down Ms. Lewinsky's pants and stimulated her genital area causing her to have an orgasm.[13]

(ii) Ms. Lewinsky testified that she met with the President again two days later on Friday, November 17, 1995. During that encounter, Ms. Lewinsky stated, she performed oral sex on the President in the private bathroom outside the Oval Office study. The President initiated the oral sex by unzipping his pants and exposing his genitals. Ms. Lewinsky understood the President's

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[10] Lewinsky 8/26/98 Depo. at 7.

[11] Ms. Lewinsky stated that the hallway outside the Oval Office study was more suitable because it had no windows. **Lewinsky ___ GJ at ___.**

[12] Lewinsky 8/26/98 Depo. at 8.

[13] Lewinsky 8/26/98 Depo. at 8, 21.

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actions to be a signal that he wanted oral sex performed on him.[14] The President also fondled Ms. Lewinsky's naked breasts with his hands and mouth.[15]

(iii) Ms. Lewinsky testified that she met with the President on New Year's Eve, Sunday, December 31, 1995, when the President invited her to the Oval Office.[16] Once there, the President lifted Ms. Lewinsky's sweater and fondled her naked breasts with his hands and with his mouth. She stated that she performed oral sex on the President in the hallway outside the Oval Office study.[17] After the sexual encounter, she saw the President masturbating into the bathroom sink.[18]

(iv) Monica Lewinsky testified that she performed oral sex on the President in the bathroom outside the Oval Office study during the late afternoon on Sunday, January 7, 1996. This President arranged this encounter by calling Ms. Lewinsky at home and invited her to visit that day in the White House.[19] On that occasion, the President and Ms. Lewinsky went into the bathroom adjacent to the hallway to the back study, and the President fondled her naked breasts with his hands and mouth. Although the President stated that he wanted to touch her genitals, she

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[14] Lewinsky 8/26/98 Depo. at 14.

[15] Id. at 20.

[16] Lewinsky 8/26/98 Depo. at 16.

[17] Id. at 17.

[18] Id. at 18.

[19] Id. at 18.

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stopped him.[20] Ms. Lewinsky orally stimulated the President's anus with her mouth and also performed oral sex on the President.[21]

(v) Ms. Lewinsky testified that she and the President had a sexual encounter on the afternoon of Sunday, January 21, 1996, after the President invited her to the Oval Office.[22] This was shortly after their first phone sex encounter, which occurred on January 16, 1996. A couple engages in phone sex when one or both parties masturbate while one or both parties talk in a sexually explicit manner) The President lifted Ms. Lewinsky's top and fondled her naked breasts.[23] When the President unzipped his pants and exposed his genitals, she performed oral sex on the President in the hallway outside the Oval Office study.[24]

(vi) Ms. Lewinsky testified that she and the President had sexual contact in the Oval Office study and in the hallway outside the study on the afternoon of Sunday, February 4, 1996. This encounter was initiated by the President calling Ms. Lewinsky and then agreeing to allow Ms. Lewinsky to visit him. At this encounter, the President removed Ms. Lewinsky's dress and bra and touched her naked breasts with his mouth and hands. He also stimulated her genitals, causing her to have an orgasm. The

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[20] Id. at 19.

[21] Id. at 20.

[22] Id. at 22.

[23] Id. at 25.

[24] Id. at 26.

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President also indicated through his actions that he wanted Ms. Lewinsky to orally stimulate his anus, which she did. Ms. Lewinsky also performed oral sex on the President.[25]

(vii) Ms. Lewinsky testified that she and the President had sexual contact in the hallway outside the Oval Office study during the late afternoon on Sunday, March 31, 1996. The President arranged this encounter by calling Ms. Lewinsky and inviting her to the Oval Office. This encounter did not include oral sex. Instead, the President fondled Ms. Lewinsky's naked breasts with his hands and mouth and fondled her genitals directly by pulling her underwear out of the way. The President also inserted a cigar into Ms. Lewinsky's vagina, and then put the cigar in his mouth and said "Tastes good."[26]

(viii) Ms. Lewinsky testified that she and the President had sexual contact on Easter Sunday, April 7, 1996, in the hallway outside the Oval Office study and in the study itself.[27] This encounter was initiated when the President called Ms. Lewinsky at home, and she asked to come see him. On that occasion, the President touched Ms. Lewinsky's breasts, both through clothing and directly on her skin. After the President unzipped his own pants, Ms. Lewinsky performed oral sex on him.[28]

(ix) Ms. Lewinsky testified that the next time she engaged

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[25] Id. at 30-31.

[26] Id. at 37-38.

[27] Lewinsky 8/6/98 GJ at 94-95.

[28] Id. at 40-41.

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in oral sex with the President was nearly a year later, on Friday, February 28, 1997, in the early evening. (They had engaged in "phone sex" a number of times in the interim, according to Ms. Lewinsky, a situation where the President would masturbate while Ms. Lewinsky would talk in a sexual manner on the phone.) The president initiated this encounter by having Betty Currie call Ms. Lewinsky, and invite her to the White House to attend a radio address. After the address, Ms. Lewinsky and the President started kissing by the bathroom when the President unbuttoned her dress and fondled her breasts, first with her bra on, and then directly. He touched her genitals only through her tights on this occasion. Ms. Lewinsky performed oral sex on the President.[29]

(x) Ms. Lewinsky testified that she and the President had sexual contact again on the afternoon of March 29, 1997, in the Oval Office study. Ms. Lewinsky arranged that encounter by initiating conversations with Ms. Currie who in turn checked with the President.[30] On that occasion, the President unbuttoned Ms. Lewinsky's blouse and touched her breasts but not directly on the skin. The President also put his hands down Ms. Lewinsky's pants and stimulated her genitals causing her to have several orgasms. Ms. Lewinsky performed oral sex on the President. In addition, this encounter included brief, direct genital contact.[31]

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[29] Id. at 47.

[30] Id. at 49.

[31] Lewinsky 8/6/98 GJ at 21.

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(xi) Ms. Lewinsky testified that she met with President Clinton on the morning of Saturday, August 16, 1997. They kissed. Although Ms. Lewinsky touched the President's genitals through his clothing, he rebuffed her efforts to perform oral sex. No other sexual acts occurred during that encounter.[32] Ms. Lewinsky testified that the encounter took place in the Oval Office study.

(xii) On December 28, 1997, the President and Ms. Lewinsky met in the Oval Office, where they engaged in "passionate" kissing but no other sexual contact.[33]

3. **Phone Sex**

Ms. Lewinsky testified that she and the President often communicated by telephone.[34] The President left messages on Ms. Lewinsky's home answering machine on at least four occasions, and Ms. Lewinsky provided tapes of those messages to the OIC.[35] Ms. Lewinsky testified that in some of her phone conversations with the President, they engaged in phone sex.[36] She stated that she and the President engaged in phone sex at least 15 times.[37]

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[32] Id. at 52.

[33] Id. at 53.

[34] **cite**

[35] **cite**

[36] **cite**

[37] Lewinsky 8/6/98 GJ at 24. The summary chart of contacts between the President and Ms. Lewinsky, which is based on information provided by Ms. Lewinsky, lists 17 separate phone sex calls. Id. at 27-28.

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4. Physical Evidence on Monica Lewinsky's Dress

Ms. Lewinsky produced to OIC investigators a dress that she believed might contain the President's semen from the encounter on February 28, 1997.[38] At the request of the OIC, the FBI Laboratory examined the dress and found semen stains. At that point, the OIC requested a DNA sample from the President. The OIC and FBI technicians took blood from the President on August __, 1998. The FBI Laboratory then determined that the semen on Ms. Lewinsky's dress was, in fact, the President's semen.[39]

5. Testimony of Ms. Lewinsky's Friends about Her Relationship with the President

While the relationship with the President was ongoing, Monica Lewinsky told several friends, family members, and acquaintances some contemporaneous details about the relationship.

1. Catherine Allday Davis

Catherine Allday Davis, a college friend of Monica Lewinsky,[40] testified that Ms. Lewinsky told her in late 1995 or

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[38] Ms. Lewinsky stated that she did not save the dress as a memento. Rather, as she explained, she does not clean dresses until she is ready to wear them again, and she outgrew the blue dress by the time she planned to wear it again. The upshot was that, at the time this criminal investigation began, Ms. Lewinsky possessed the uncleaned dress. And at that point, the dress was probative evidence of a crime -- namely, that both Ms. Lewinsky and the President had lied under oath in denying a sexual relationship with each other.

[39] Report.

[40] Davis 3/17/98 GJ at 9-10. Ms. Davis talked to Ms. Lewinsky by telephone an average of once a week until April 1997,

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early 1996 about Monica's sexual relationship with the President.[41] According to Ms. Davis, Monica told her that the relationship included mutual kissing and hugging, as well as oral sex performed by Monica on the President. She also stated that the President touched Monica "on her breasts and on her vagina."[42] Ms. Davis also described an incident in which the President inserted a cigar into Ms. Lewinsky's vagina.[43] Ms. Davis further stated that Monica informed her that she had "phone sex" with the President five to ten times in 1996 or 1997.[44]

2. Neysa Erbland

Neysa Erbland, a high school friend of Monica Lewinsky,[45] testified that Ms. Lewinsky told her at some point in 1995 that she was having an affair with President Clinton.[46] Ms. Erbland said that she was told that the sexual relationship began when Monica was an intern.[47] Ms. Lewinsky stated to Ms. Erbland that the sexual contact included oral sex, kissing, and fondling one

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when Ms. Davis moved to Tokyo; thereafter she and Ms. Lewinsky remained in touch through e-mail. Id. at 14, 27.

[41] Davis 3/17/98 GJ at 19.

[42] Davis 3/17/98 GJ at 20.

[43] Davis 3/17/98 GJ at 169.

[44] Davis 3/17/98 GJ at 37.

[45] Erbland GJ, Feb. 12, 1998, at 9. Ms. Erbland testified that she spoke on the phone with Ms. Lewinsky at least once a month. Id. at 18-19.

[46] Erbland 2/12/98 GJ at 31.

[47] Erbland 2/12/98 GJ at 27.

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another.[48] On occasion, as Ms. Erbland described it, the President put his face in Ms. Lewinsky's naked chest.[49] Ms. Erbland also described a particular incident that Ms. Lewinsky had recounted: "He did manual stimulation on her and there was one time that she did tell me of -- he took a cigar from his desk -- and inserted [it] inside of her in a sexual way."[50] Ms. Erbland also understood from Ms. Lewinsky that she and the President engaged in phone sex, normally after midnight.[51][52]

3. Natalie Rose Ungvari

Monica Lewinsky told another high school friend, Natalie Rose Ungvari,[53] of her sexual relationship with the President. Ms. Ungvari recalled that Ms. Lewinsky said she performed oral sex on the President and that he fondled her breasts.[54] Ms.

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[48] Erbland GJ, Feb. 12, 1998, at 26 ("She told me that she had given him a blow job and that she had had all of her clothes off, but that he only had his shirt off and that she had given him oral sex and they kissed and fondled each other and that they didn't have sex. That was kind of a little bit of a letdown for her."); id. at 29 ("He put his face in her chest. And, you know, just oral sex on her part, you know, to him.").

[49] Erbland 2/12/98 GJ at 29.

[50] Id. at 45.

[51] Erbland GJ, Feb. 12, 1998, at 39 ("They were like phone sex conversations. They would, you know, talk about what they wanted to do to each other sexually.").

[52] Erbland GJ, Feb. 12, 1998, at 39.

[53] Ms. Ungvari spoke with Monica Lewinsky on the telephone an average of once a week, and visited her in Washington in October 1995 and March 1996. Ungvari GJ at 9-11, 14-15.

[54] Ungvari 3/19/98 GJ at 23-24.

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Lewinsky first informed Ms. Ungvari of the sexual relationship on November 23, 1995, while Ms. Lewinsky was still an intern. Ms. Ungvari specifically remembers the date because it was her birthday. Ms. Lewinsky told Ms. Ungvari that the President sometimes telephoned Ms. Lewinsky late at night and would ask her to talk while he masturbated.[55]

4. Ashley Raines

Ashley Raines, a friend of Ms. Lewinsky who worked in the White House Office and Policy Development Operations and Special Liaison,[56] testified that Ms. Lewinsky told her of the sexual relationship she had with the President. Ms. Raines testified that Ms. Lewinsky told her that the sexual relationship with the President began around the time of the government furlough in late 1995.[57] Ms. Raines understood that the President and Ms. Lewinsky engaged in kissing and oral sex, usually in the President's study.[58] Ms. Lewinsky also told Ms. Raines that she and the President had engaged in phone sex on several occasions.[59]

5. Andrew Bleiler

In late 1995, Monica Lewinsky first told Andrew Bleiler, a

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[55] Ungvari 3/19/98 GJ at 81.

[56] Raines 1/29/98 GJ at 11. Ms. Raines considers Monica Lewinsky a "close friend." Id. at 19.

[57] Raines 1/29/98 GJ at 35-36, 38.

[58] Raines 1/29/98 GJ at 30, 43, 48.

[59] Raines 1/29/98 GJ at 51.

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former boyfriend, about an affair she was having with a White House official who he later learned [when?] was the President.[60] Bleiler stated that Ms. Lewinsky told her that the relationship did not include sexual intercourse, but did include oral sex. She also described an incident where a cigar was inserted into Ms. Lewinsky's vagina, and sexual activity in which the President touched Ms. Lewinsky's genitals and caused her to have an orgasm.[61]

6. Linda Tripp

Linda Tripp worked with Monica Lewinsky at the Pentagon. Ms. Lewinsky told Ms. Tripp that she had a sexual relationship with President Clinton.[62] Ms. Tripp stated that Ms. Lewinsky first told her about the relationship in September or October 1996. At that time, Ms. Lewinsky told Ms. Tripp that the first sexual encounter with the President had occurred on November 15, 1995, when Ms. Lewinsky performed oral sex on the President. Ms. Lewinsky told Ms. Tripp that the sexual relationship generally included oral sex performed on the President, the President's fondling of Ms. Lewinsky's breasts, the President's manual touching and manipulation of Ms. Lewinsky's vagina, and phone sex in which the President masturbated.[63]

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[60] Andrew Bleiler 302 at 3.

[61] Bleiler 1/28/98 302 at 3.

[62] Tripp 7/2/98 GJ at 104.

[63] Tripp 7/2/98 GJ at 100-105.

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7. **Deborah Finerman**

Monica Lewinsky's aunt, Deborah Finerman, testified that Monica told her about her sexual relationship with President Clinton.[64] Ms. Finerman testified that one point Ms. Lewinsky described a particular sexual encounter with the President that concluded with his masturbating into a sink.[65] Ms. Finerman knew that kissing was involved, but otherwise she did not ask and was not told other specifics of the sexual activity between the President and Monica.[66] Ms. Finerman also said that Ms. Lewinsky would sometimes get "phone calls in the middle of the night" from the President.[67]

8. Dale Young

Dale Young, a family friend of Monica Lewinsky and Marcia Lewis (Monica's mother), testified that Ms. Lewinsky told her that she had engaged in oral sex with President Clinton.[68] Ms. Young understood that these encounters took place in a private room off of the Oval Office.[69]

9. Kathleen Estep

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[64] Finerman 3/18/98 Depo. at 30-33.

[65] Finerman 3/18/98 Depo. at 31. Ms. Finerman indicated that "it was something I didn't want to talk about," and Ms. Lewinsky "sort of clammed up" thereafter. Id. at 35.

[66] Finerman 3/18/98 Depo. at 33.

[67] Finerman 3/18/98 Depo. at 26-27.

[68] Young 6/23/98 GJ at 37-38.

[69] Young 6/23/98 GJ at 50.

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Kathleen Estep, a licensed certified Social Worker,[70] had three counseling sessions with Ms. Lewinsky in November 1996.[71] Based on her limited interaction with Ms. Lewinsky, Ms. Estep stated that she considered Ms. Lewinsky to be credible.[72] During their second session, Ms. Lewinsky told Ms. Estep about her sexual relationship with President Clinton.[73] Ms. Lewinsky told Ms. Estep that the physical part of the relationship involved kissing, Ms. Lewinsky performing oral sex on the President, and the President fondling her breasts.[74]

6. Analysis of President Clinton's Sworn Testimony During Civil Deposition

To summarize: The detailed testimony of Ms. Lewinsky, the corroborating testimony of the many persons to whom she made prior consistent statements in describing her sexual affair with the President, and the evidence of the President's semen on Ms. Lewinsky's dress establish that the following sexual activity occurred between Ms. Lewinsky and the President. They had 10 sexual encounters that included direct genital contact, as well as two others that included kissing, over a period from November

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[70] Estep 8/23/98 Statement at 1. In order to be considered a licensed certified social worker, Ms. Estep had to obtain a Master's degree, conduct 3,000 hours of supervised therapy, and pass a licensing exam.

[71] Estep 8/23/98 Statement at 1, 4.

[72] Estep 8/23/98 Statement at 3. Ms. Estep also thought that Ms. Lewinsky had her "feet in reality." Id.

[73] Estep 8/23/98 Statement at 2.

[74] Estep 8/23/98 Statement at 2.

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15, 1995, through December 28, 1997. On nine occasions, Ms. Lewinsky performed oral sex on the President. On two of those nine occasions, Ms. Lewinsky also made oral contact with the President's anus (one of those two times at his behest). On all nine occasions, the President touched and kissed Ms. Lewinsky's naked breasts. On three occasions, the President also touched her genitalia to the extent that Ms. Lewinsky had orgasm. On one occasion, the President inserted a cigar into her vagina to stimulate her. The President and Ms. Lewinsky also had phone sex on at least 15 occasions.

The President, however, testified under oath in the civil case -- both in the deposition and in a written answer to an interrogatory -- that he did not have a "sexual relationship" or "sexual affair" or "sexual relations" with Ms. Lewinsky and that he did not touch Ms. Lewinsky's breasts or genitalia.

Notwithstanding the overwhelming evidence to the contrary, the President does not now concede that he lied under oath in the civil case. For four of the six false statements that the President made during the civil case, the President's defense is semantic -- that the terms used in the Jones deposition to cover sexual activity did not cover, he claims, the sexual activity in which he engaged with Ms. Lewinsky. For his other two false statements, the President's defense is factual -- namely, he disputes Ms. Lewinsky's account that he ever touched her breasts

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or genitalia during sexual activity.[75]

First, in his sworn civil deposition, the President denied a "sexual affair" with Ms. Lewinsky (the term was not further defined). The President's apparent defense to lying under oath on this point rests on his definition of "sexual affair" -- namely, that it requires sexual intercourse. Under the President's apparent semantic defense, a man could regularly engage in oral sex and kissing with a woman, yet not have a sexual affair with her.

Second, in his civil deposition, the President also denied a "sexual relationship" with Ms. Lewinsky (the term was not further defined). The President's defense to lying under oath on this point similarly rests on his definition of "sexual relationship" --- namely, that it requires sexual intercourse. Once again, under the President's theory, a man could regularly engage in oral sex and kissing with a woman, yet not have a "sexual relationship" with her.

The President's defense on this point is further undercut by the fact that the President's own lawyer at the same deposition, addressing Judge Wright, equated the term "sexual relationship" to "sex of any kind in any manner, shape or form" in discussing Ms. Lewinsky's affidavit (in which she had denied a sexual relationship). The President's lawyer used that interpretation when asking Judge Wright to terminate the questioning to prevent

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[75] He provided his defenses during his August 1998 grand jury appearance, which will be analyzed in a separate section.

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any questions regarding Monica Lewinsky. As revealed by the videotape of the deposition, the President was present and looking at his attorney when he offered that statement. The President nonetheless gave no indication whatsoever that he disagreed with his attorney's straightforward interpretation of the term "sexual relationship" to mean "sex of any kind in any manner, shape, or form."

Third, in an answer to an interrogatory submitted before his deposition, the President denied having "sexual relations" with Ms. Lewinsky (the term was not further defined). Yet again, the President's apparent defense to lying under oath on this point rests on his definition of "sexual relations" -- that it, too, requires sexual intercourse. According to President Clinton, he believed that oral sex -- even repeated oral sex over a period of months or years -- does not constitute sexual relations.

Fourth, in his civil deposition, the President falsely denied committing any acts that fell within the specific definition of "sexual relations" in effect for purposes of that questioning. Under that definition, sexual relations occur "when the person knowingly engages in or causes contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person."[76] Thus, the President denied either knowingly engaging in contact or knowingly causing contact with the

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[76] Clinton 1/17/98 Depo., Exh. 1.

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genitalia or anus of "any person" with an intent to arouse or gratify the sexual desire of "any person."

Ms. Lewinsky testified, however, that she performed oral sex on the President on nine occasions. The President has never denied receiving oral sex from Ms. Lewinsky. Rather, with respect to oral sex performed on him by Ms. Lewinsky, the President's sole apparent defense to the allegation of lying under oath at the deposition focuses on his interpretation of "any person" in the definition. The President said that by receiving oral sex, he would not "engage in" contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of "any person" because "any person" really means "any other person." And the President further stated before the grand jury: "[I]f the deponent is the person who has oral sex performed on him, then the contact is with -- not with anything on that list, but with the lips of another person."[77]

Thus, under the President's theory of the definition that he purports to have followed at his deposition, when two people are engaged in oral sex, one person would be having sexual relations, but the other person would not be having sexual relations.[78]

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[77] Clinton 8/17/98 GJ, at 151 (emphasis added).

[78] The definition used at his deposition also covers acts in which the deponent "cause[d] contact" with the genitalia or anus of "any person." The President said that this aspect of the definition still does not cover his receiving oral sex although he may have caused contact with his genitalia by having sexual activity with Ms. Lewinsky in which she performed oral sex on him. The President said that the word "cause" "implies forcing to me" and "forcible abusive behavior." And thus the President says that because his activity with Ms. Lewinsky did not include

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Fifth, by denying any acts that might fall within the specific definition of sexual relations at his civil deposition, the President denied engaging in or causing contact with the breasts of Ms. Lewinsky with an intent to arouse or gratify anyone's sexual desire. In contrast to his defenses to the four preceding specifications of lying under oath, the President's defense to lying under oath in this instance is purely factual.

As discussed above in great detail, Ms. Lewinsky testified that on each of the nine occasions that she had oral sex with the President, he touched and kissed her bare breasts. Her testimony on this point is quite credible. She had little motive to lie or exaggerate on this issue, as the nature of the sexual activity only became relevant due to the President's August 17, 1998 semantic defense regarding oral sex. Ms. Lewinsky stated repeatedly that she does not want to hurt the President. Her testimony on the nature of the President's touching of her body is also corroborated by prior consistent statements to various friends.

By contrast, the scenario that the President's testimony envisions casts substantial doubt on the President's statement that he did not touch Ms. Lewinsky's breasts. The President's apparent "hands-off" scenario -- in which he received oral sex on nine occasions from Ms. Lewinsky but never made direct contact with Ms. Lewinsky's breasts -- is not altogether plausible.

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any nonconsensual behavior, he did not lie under oath in denying that he "caused" contact with the genitalia of any person.

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Moreover, the President had extraordinary moral, personal, political, and legal motives to lie in the Jones deposition: He did not want to admit that he committed extramarital sex acts with a young intern in the Oval Office area of the White House.

Also, the President presumably believed that he could lie under oath without risk because Ms. Lewinsky had already filed a false affidavit denying a sexual relationship with the President. Indeed, that was the whole point of their mutual understanding that each would lie (explained more fully below). So the President could have expected that, without any consequences, a lie at his civil deposition about his sexual relationship with Monica Lewinsky would never be successfully challenged.

Sixth, in his civil deposition, the President also denied knowingly engaging in or causing contact with the genitalia of Ms. Lewinsky with an intent to arouse or gratify anyone's sexual desire. The President's defense to lying under oath on this point is also factual, that he did not engage in direct contact with Ms. Lewinsky's genitalia with an intent to arouse or gratify anyone's sexual desire.

Ms. Lewinsky testified in detail contradicting the President, stating that he touched her genitals on three occasions and used his hand to stimulate her, causing her to have orgasms. She also testified that, on one occasion, he inserted a cigar into her vagina to stimulate her. Her near-contemporaneous statements to her friends and confidants corroborate that testimony. [detail]

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B. Evidence that President Knowingly Allowed His Attorney to Make a False Statement at the Deposition

1. Evidence

At President Clinton's deposition, his attorney made a false statement to Judge Wright that had the possible effect of deceiving Judge Wright and Ms. Jones' attorneys in an important way. In President Clinton's presence, President Clinton's counsel objected to questions about Ms. Lewinsky. As a basis, the President's attorney pointed to Ms. Lewinsky's affidavit, which denied a "sexual relationship" with the President. The President's attorney stated that Ms. Lewinsky's affidavit thus showed that "there is absolutely no sex of any kind in any manner, shape, or form, with President Clinton" -- equating the term "sexual relationship" with "sex of any kind in any manner, shape, or form."

2. Analysis

At his grand jury appearance, the President was asked why he would allow his attorney -- in the President's presence and on his behalf -- to make a false statement to a United States District Judge. The President offered several responses.

First, the President argued that he was not paying attention when Mr. Bennett said that there is "absolutely no sex of any kind in any manner, shape or form." The President further stated: "That moment, that whole argument just passed me by. I was a witness." That suggestion is difficult to square with the videotape of the deposition, however, which shows that the

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President was looking at his private counsel when his counsel made this statement.

Alternatively, the President contended that when Mr. Bennett said that "there is absolutely no sex of any kind," Mr. Bennett was speaking only in the present tense and thus was making a literally true statement. The President further stated: "It depends on what the meaning of the word 'is' is,"[79] and that "actually, in the present tense that is an accurate statement."[80] Before the grand jury, counsel for the OIC then asked the President: "Do you mean today that because you were not engaging in sexual activity with Ms. Lewinsky during the deposition that the statement of Mr. Bennett might be literally true?"[81] The President responded: "No, sir. I mean that at the time of the deposition, it had been -- that was well beyond any point of improper contact between me and Ms. Lewinsky. So that anyone speaking in the present tense, saying there is not an improper relationship, would be telling the truth if that person said there was not, in the present tense; the present tense encompassing many months. That's what I meant by that."[82] Of course, such a detailed parsing of the words is entirely at odds with the President's assertion that the "whole argument passed me by."

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[79] Clinton 8/17/98 GJ at 59.

[80] Clinton 8/17/98 GJ at 20.

[81] Id. at 61.

[82] Id. at 61-62.

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The statement of the President's counsel was flatly erroneous and was intended to prevent questioning of any kind about Ms. Lewinsky. In other words, it was an improper endeavor to obstruct justice.[83] The President's defense of his own failure to correct his lawyer's statement is unpersuasive. Indeed, when asked several times whether the President has any reasonable duty to prevent his attorney from making a false statement to the federal judge, the President stated only: "Mr. Bennett was representing me. I wasn't representing him."[84] That is a truism, and a witness may not always be responsible for all false statements made by his attorney. But it is hard to fathom that the President of the United States, consistent with his constitutional duty to faithfully execute the laws, can be complicit in a blatant lie to a federal judge. A question asked of the President during his August 1998 grand jury appearance well captures that sentiment: "You are the President of the United States and your attorney tells a United States District Judge that there is no sex of any kind in any manner, shape, or form, whatsoever. And you feel no obligation to do anything about that at that deposition, Mr. President?"

Conclusion

There is substantial and credible information that the

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[83] We assume that the President's counsel, unlike the President, was not aware of the true nature of the sexual relationship between his client and Monica Lewinsky when he made this statement.

[84] Clinton 8/17/98 GJ at 30.

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President lied under oath in six separate statements as a defendant in a sexual harassment suit and that the President allowed his attorney, in his presence, to make a false statement to the United States District Judge presiding over the deposition.

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II. There is substantial and credible information that President Clinton lied under oath to the grand jury about his sexual relationship with Monica Lewinsky.

A. Background

In January 1998, upon application of the Attorney General, the United States Court of Appeals expanded the OIC's jurisdiction to investigate, among other matters, the President's possible obstruction of justice in the Jones case. The investigation was triggered by an allegation that Monica Lewinsky had a sexual relationship with the President, that she had filed a false affidavit to the contrary in the Jones case, and that she had been influenced to do so by the President's assistance, through Vernon Jordan and others, in finding her a job. After the President denied any sexual relationship with Monica Lewinsky in his January 17 deposition and otherwise minimized his relationship with her, those statements became additional subjects of the OIC investigation.

A threshold factual question was whether the President and Monica Lewinsky in fact had a sexual relationship. If they did, the President would have committed perjury in his civil deposition and interrogatory answer and Monica Lewinsky would have committed perjury in her civil affidavit. The answer to that preliminary factual question also could alter the interpretation of several possibly obstructionist acts by the President -- the employment assistance for Ms. Lewinsky, the concealment of gifts belonging to Ms. Lewinsky, the discussion

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between the President and Ms. Lewinsky of her testimony or affidavit, the President's post-deposition communications with Betty Currie, and the President's emphatic denials to his aides who were to be called before the grand jury.

During the investigation, the OIC gathered an enormous body of information that established that the President and Monica Lewinsky did, in fact, have a sexual relationship. That information is outlined in the first section above. In particular, the President's semen stain on Ms. Lewinsky's dress, the detailed and credible testimony of Ms. Lewinsky regarding the 10 sexual encounters, the tape recordings in 1997 where she described that relationship, and the testimony of friends to whom she made near-contemporaneous statements about the relationship all pointed to a single conclusion -- that she and the President did have a sexual relationship.

B. The President's Grand Jury Testimony

The President was largely aware of that extensive body of evidence before he testified to the grand jury on August 17, 1998. Of particular importance, the President knew that his semen might be on Ms. Lewinsky's dress because the OIC had asked him for a blood sample and had assured his counsel that there was a substantial predicate for the request.

The President had three choices in his testimony to the grand jury. First, the President could stick to his previous testimony in his civil case and deny any sexual relationship. But he knew that the contrary evidence was overwhelming,

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particularly if his semen were in fact on Ms. Lewinsky's dress. Second, the President could admit a sexual relationship. But he then would be simultaneously admitting that he lied under oath in the Jones case. Third, the President could assert the Fifth Amendment privilege against self-incrimination.

Confronting those three options, the President attempted to avoid the choice altogether. In the end, however, he simply compounded his false statements in the civil case by lying again under oath to the grand jury. When testifying to the grand jury, the President admitted to an undefined inappropriate "intimate" relationship with Monica Lewinsky. He maintained, however, that he had not committed perjury in the Jones case when he denied having a sexual relationship, sexual affair, and sexual relations with her.[85] The President stated that he believed (and believes) that his various statements in the Jones case denying a sexual relationship, sexual affair, and sexual relations were accurate.[86]

The President was asked whether Monica Lewinsky performed oral sex on him and, if she had, whether he had committed perjury in his civil deposition by denying a sexual relationship, sexual affair, or sexual relations with her. As to the undefined terms "sexual affair" and "sexual relationship" and the undefined term "sexual relations," the President responded that those terms necessarily include intercourse, that he had not committed

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[85] Clinton 8/17/98 GJ at 9-10.

[86] Clinton 8/17/98 GJ at 9-10.

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intercourse with Ms. Lewinsky, and that he thus had not committed perjury in denying a sexual relationship, sexual affair, or sexual relations.[87]

As to the more specific definition of "sexual relations," the President answered that he did not believe oral sex was covered by the definition of "sexual relations" used in the Jones deposition. He thus contended that he had not committed perjury on that question in the Jones deposition -- even assuming that Monica Lewinsky performed oral sex on him.

> Q: [I]s oral sex performed on you within that definition as you understood it, the definition in the Jones --
>
> A: As I understood it, it was not.[88]

Of course, it was not enough in the grand jury for the President simply to advance his purported definitional defense as to oral sex. There was also the question of his contact with her breasts or genitalia, which the President conceded was covered by the Jones definition. Because the President used that definitional defense with oral sex, the OIC also had to ask him whether he had touched Ms. Lewinsky's bare breasts or her genitalia -- because if he did, then he still committed perjury during the Jones case, regardless of the validity of his oral-sex definitional defense.

The President denied to the grand jury that he had engaged in such activity and said, in effect, that Monica Lewinsky was

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[87] Clinton 8/17/98 GJ at 23-24.

[88] Clinton 8/17/98 GJ at 93.

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lying.

Q: The question is, if Monica Lewinsky says that while you were in the Oval Office area, you touched her breasts, would she by lying?

A: That is not my recollection. My recollection is that I did not have sexual relations with Ms. Lewinsky and I'm staying on my former statement about that. . . . My, my statement is that I did not have sexual relations as defined by that.

Q: If she says that you kissed her breasts, would she by lying?

A: I'm going to revert to my former statement on that.

Q: Okay. If Monica Lewinsky says that while you were in the Oval Office area you touched her genitalia, would she be lying? And that calls for a yes, no, or reverting to your former statement.

A: I will revert to my former statement.[89]

The President elaborated that he considered kissing or touching breasts or genitalia during sexual activity to be covered by the Jones definition, and that he was specifically denying that he had ever engaged in such conduct.

Q: So touching, in your view then and now -- the person being deposed touching or kissing the breast of another person would fall within the definition.

A: That's correct, sir.

Q: And you testified that you didn't have sexual relations with Monica Lewinsky in the Jones deposition, under that definition, correct?

A: That's correct, sir.

Q: If the person being deposed touched the genitalia of another person, would that be -- and with the intent to arouse the sexual desire, arouse or gratify, as defined in definition (1), would that be, under your understanding then and now --

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[89] Clinton 8/17/98 GJ at 109-110.

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A: Yes, sir.

Q: Sexual relations.

A: Yes, sir.

Q: Yes it would?

A: Yes it would. If you had a direct contact with any of these places in the body, if you had direct contact with intent to arouse or gratify, that would fall within the definition.

Q: So you didn't do any of those three things --

A: You --

Q: -- with Monica Lewinsky.

A: You are free to infer that my testimony is that I did not have sexual relations, as I understood this term to be defined.

Q: Including touching her breast, kissing her breast, touching her genitalia?

A: That's correct.[90]

C. Analysis

President Clinton's testimony to the grand jury raises two problems of false statements. First, the President testified to the grand jury that, at the Jones deposition, he truly believed that he was telling the truth and nothing but the truth -- in particular, that he truly believed repeated oral sex was not covered by any of the terms and definitions for sexual activity used at the Jones deposition. The President's testimony to the grand jury is simply not credible: At the Jones deposition, it is our judgment that the President could not truly have believed

[90] Clinton 8/17/98 GJ at 94-96.

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that he was telling the truth and nothing but the truth in denying a sexual relationship, sexual relations, or a sexual affair with Monica Lewinsky.

Second, and even putting aside that definitional defense as to oral sex, the President still lied under oath to the grand jury about his relationship with Ms. Lewinsky. The President's grand jury testimony directly contradicts Ms. Lewinsky's grand jury testimony on the question whether the President touched Ms. Lewinsky's breasts or genitalia during their sexual activity.

Given the nature of the issue, there can be no plausible contention that one or the other has a lack of memory or is mistaken. In this case, on this issue, either Monica Lewinsky lied to the grand jury, or President Clinton lied to the grand jury. It is our judgment that, under any rational view of the evidence, the President lied to the grand jury.

First, Ms. Lewinsky's testimony on these encounters is detailed and specific. She describes nine incidents of sexual activity in which the President touched and kissed her breasts. She testified that in three of those encounters, the President touched her genitalia, causing her to have orgasm on two occasions. She testified to one incident involving a cigar.

Second, Ms. Lewinsky has stated repeatedly that she does not want to hurt the President by her testimony, so she has little motive to exaggerate these facts. Moreover, it clearly was painful for her to testify to the details of her relationship with the President.

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Third, she is corroborated in important detail by the testimony of many of her friends and confidants. Many testified that Monica had said nearly contemporaneously that the President had touched her breasts and genitalia during sexual activity.

Fourth, the factual scenario that the President's testimony describes is simply not plausible. The President's apparent "hands-off" defense -- in which he received oral sex on nine occasions from Ms. Lewinsky but never made direct contact with Ms. Lewinsky's breasts -- is incredulous. As Ms. Lewinsky herself stated, it suggests that they had some kind of "sexual contract -- that all I did was perform oral sex on him and that that's all this relationship was."[91] But as the narrative explains, the nature of the relationship, including the sexual relationship, was far more than that.

Fifth, in the grand jury, the President had an extraordinary motive to lie about this fact. The President clearly sought to deny any acts that would show that he committed perjury in his civil case, including touching Ms. Lewinsky's breasts or genitalia.

Sixth, the President refused to answer specific questions at the grand jury about what activity he did engage in (as opposed to what activity he did not engage in). Even though he stated at the Jones deposition that he was quite willing to answer specific questions, he refused to do so to the grand jury. Ms. Lewinsky answered specific questions to the grand jury. The President

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[91] Lewinsky 8/20/98 GJ at 54.

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himself had offered to answer specific questions at his Jones deposition. His failure in the grand jury to answer specific follow-up questions strongly implies that he could not do so in a credible manner.

For all these reasons, there is substantial and credible information that the President lied to the grand jury about his sexual relationship with Monica Lewinsky.

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III. There is substantial and credible information that President Clinton lied and provided misleading testimony during his civil deposition when answering additional questions about his relationship with Monica Lewinsky.

During President Clinton's deposition in the Jones case, Ms. Jones' attorneys asked the President many other detailed questions about the nature of his relationship with Ms. Lewinsky, apart from whether the relationship was sexual.[92] These questions included (i) whether and how many times the President had been alone with Ms. Lewinsky in the White House, and (ii) whether he and Ms. Lewinsky exchanged gifts.[93]

There is substantial and credible information that the President lied under oath about all of these subjects. The President's false statement about the central fact of his relationship with Ms. Lewinsky -- that it was sexual -- led him to make all sorts of other false statements at the deposition, including about these issues.

A. There is substantial and credible information that President Clinton lied under oath in his

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[92] Throughout the Jones case, Ms. Jones's attorneys attempted to obtain information about the true nature of any relationship that President Clinton had with any woman other than his wife. The district court judge overseeing the Jones case, Judge Susan Webber Wright, ruled that Ms. Jones was entitled to discover this information with regards to women who were current or former federal employees, and that such information might be admissible at trial. These rulings entitled Ms. Jones to obtain truthful information regarding the nature of President Clinton's relationship with the Monica Lewinsky, a federal employee at the time.

[93] Ms. Jones's attorneys also served President Clinton with a document request that sought "any communications, meetings or visits involving" President Clinton and Ms. Lewinsky.

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civil deposition when he testified that he could not specifically recall instances in which he was alone with Monica Lewinsky.

1. The President's testimony

President Clinton was asked at his deposition whether he had ever been alone with Ms. Lewinsky, at any time, in the White House. He testified as follows:

> Q: . . . At any time were you and Monica Lewinsky together alone in the Oval Office?
>
> WJC: I don't recall, but as I said, when she worked at the legislative affairs office, they always had somebody there on the weekends. I typically worked some on the weekends. Sometimes they'd bring me things on the weekends. She -- it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on one of the days of the weekends in the afternoon.
>
> Q: So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?
>
> WJC: Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.[94]

The President also was asked whether he had ever been alone with Ms. Lewinsky in the hallway that runs from the Oval Office,

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[94] Clinton 1/17/98 Depo. at 52-53 (emphasis added).

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past the study, to the dining room and kitchen area.[95]

> Q: At any time were you and Monica Lewinsky alone in the hallway between the Oval Office and this kitchen area?
>
> WJC: I don't believe so, unless we were walking back to the dining room with the pizza.[96] I just, I don't remember. I don't believe we were alone in the hallway, no.[97]

The President was then asked about any times he may have been alone in any room with Ms. Lewinsky:

> Q: At any time have you and Monica Lewinsky ever been alone together in any room of the White House?
>
> WJC: I think I testified to that earlier. I think that there is a, it is -- I have no specific recollection, but it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend. That's -- I have a general memory of that."[98]

2. Evidence That Contradicts the President's Testimony in the Jones Deposition.

In the seven months of this investigation preceding the President's testimony to the grand jury on August 17, the OIC gathered substantial and credible information that the President

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[95] Ms. Lewinsky testified that many of her sexual encounters with the President occurred in this hallway. Lewinsky 8/20/96 GJ at16-17.

[96] The President had earlier testified that during the government shutdown in November 1995, Ms. Lewinsky was working as an intern in the Chief of Staff's Office, and had brought the President and some others some pizza. Id. at 58.

[97] Id. at 58-59.

[98] Clinton 1/17/98 Depo. at 59.

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lied under oath in his statements under oath about being alone with Monica Lewinsky.

First, Monica Lewinsky testified before the grand jury that she was alone with the President on numerous occasions[99] and in numerous areas, including the Oval Office,[100] Nancy Hernreich's office,[101] the President's private study,[102] the private bathroom across from the study,[103] and the hallway that leads from the Oval Office to the private dining room.[104] Ms. Lewinsky confirmed that she and the President were alone when they engaged in sexual contacts.[105] [add fact that Clinton used cover story in depo]

Second, Betty Currie testified that President Clinton and Ms. Lewinsky were alone together in the Oval Office area a number of times.[106] She specifically remembered three of the occasions when the President and Ms. Lewinsky were alone together - February 28, 1997,[107] early December 1997,[108] and December 28,

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[99] Lewinsky 8/6/98 GJ at 20, 52.

[100] Lewinsky 8/26/98 Depo. at 21-22.

[101] Lewinsky 8/6/98 GJ at 76.

[102] Lewinsky 8/26/98 Depo. at 27-31.

[103] Lewinsky 8/6/98 GJ at 35.

[104] Lewinsky 8/26/98 Depo. at 6-7, 26, 35.

[105] Lewinsky 8/6/98 GJ at 20.

[106] Currie 2/17/98 GJ 32-33. See also Currie 5/6/98 GJ at 98. The Oval Office area includes the study, dining room, kitchen, bathroom, and hallway connecting the area. See Appendix, Exhibit __ (diagram of Oval Office area).

[107] Currie 2/17/98 GJ at 34-35 (recalling that after the President's radio address, the President told Ms. Lewinsky he

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1997.[109]

Third, six current or former members of the Secret Service testified that the President and Ms. Lewinsky were alone in the Oval Office — Robert Ferguson,[110] Lou Fox,[111] William Bordley,[112] Nelson Garabito,[113] Gary Byrne,[114] and John Muskett.[115]

Fourth, White House steward Glen Maes testified that on some

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wanted to show her his collection of political buttons. The President and Ms. Lewinsky went into the Oval Office study for 15 to 20 minutes while Ms. Currie waited nearby, in the pantry or the dining room).

[108] Currie 2/17/98 GJ 37-38 (testifying that Ms. Lewinsky came to the White House and met with the President alone for approximately 15 or 20 minutes). See also Currie 5/14/98 GJ at 116.

[109] Currie 2/17/98 GJ at 35-38 (testifying that Ms. Lewinsky and the President were in the Oval Office for "[p]erhaps 30 minutes."). Again, Ms. Currie testified that she believes no one else was present. See also Currie 5/6/98 GJ at 103-105.

[110] Ferguson 7/17/98 GJ, at 14-16, 20-21, 27-29, 35, 43 (alone for at least 10 to 15 minutes); Ferguson 7/23/98 GJ at 20-21.

[111] Fox GJ 34-37 (alone for at least forty minutes).

[112] Bordley 8/13/98 GJ at 9, 11-13, 15-16, 20-29 (alone for approximately 30 to 35 minutes).

[113] Garabito 7/30/98 GJ at 17, 19-20, 23, 25-26, 30-32 (alone for at least five to ten minutes).

[114] Byrne 7/30/98 GJ at 7-12, 29-32 (alone for at least 15 to 25 minutes).

[115] Muskett 7/21/98 GJ at 9-13, 25-28, 83, 91-92 (alone on Easter Sunday 1996); GJ Exhibit JFM-3 (Uniformed Division roster dated April 7, 1996, showing Muskett on duty outside the Oval Office from 2:30 p.m. to 11:00 p.m.).

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weekend day after Christmas 1997,[116] the President came out of the Oval office, saw Ms. Lewinsky with a gift, and escorted her into the Oval Office. Mr. Maes testified that the President and Ms. Lewinsky were alone together for approximately eight minutes, and then Ms. Lewinsky left.[117]

3. The President's Admissions Before the Grand Jury

On August 17, 1998, the President testified to the grand jury and began his testimony before the grand jury by reading a statement that explicitly admitted that he had been alone with Ms. Lewinsky:

> When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong.[118]

The President admitted being alone with her on multiple occasions, although he could not pinpoint the precise number.[119] Perhaps most important, the President admitted that he was alone with Ms. Lewinsky on December 28, 1997, fewer than three weeks before his deposition in the Jones case.[120]

4. Analysis

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[116] According to White House records, Monica Lewinsky's last visit to the White House occurred on Sunday, December 28, 1997.

[117] [cite] (Q. . . . As far as you know, was anybody in the Oval Office, other than the President and Monica Lewinsky? A. No. Q. And how can you be sure of that? A. Because I had just came out of there not too long ago.)

[118] Clinton 8/17/98 GJ at 10 (emphasis added).

[119] Clinton 8/17/98 GJ at 93, 94.

[120] Clinton 8/17/98 GJ at 34.

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The President's testimony in his civil deposition about whether he was alone with ms. Lewinsky was knowingly false. Indeed, the President admitted to the grand jury that he had been alone with Ms. Lewinsky. As a result, even apart from the question whether he committed perjury during the Jones case about his sexual relationship with Ms. Lewinsky, the President clearly lied under oath in his deposition when he said that he did not recall being alone with Ms. Lewinsky.

The President had a clear motive to lie on this point. He no doubt knew that it would look unusual for a President to have been alone with a female intern or low-level staffer on so many occasions. Such an admission also might prompt Ms. Jones' attorneys to depose Ms. Lewinsky and ask specific questions of her about being alone with the President. It also might raise questions publicly if and when the President's deposition became public.

So merely lying about their sexual relationship at the civil deposition was insufficient to avoid raising further questions. The President also had to lie about being alone with Ms. Lewinsky -- or at least feign lack of memory as to any specific occurrences. And the President thus did lie under oath in his deposition in answering questions about being alone with Ms. Lewinsky.

B. Evidence that the President Provided False and Misleading Testimony at his Deposition in the Jones Case About Gifts and Messages Exchanged with Monica Lewinsky

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1. President's Testimony about Gifts from the President to Monica Lewinsky

During his deposition in the Jones case, Ms. Jones's attorneys asked President Clinton several questions about whether he had given gifts to Monica Lewinsky.

> Q: Well, have you ever given any gifts to Monica Lewinsky?
>
> WJC: I don't recall. Do you know what they were?
>
> Q: A hat pin?
>
> WJC: I don't, I don't remember. But I certainly, I could have.
>
> Q: A book about Walt Whitman?
>
> WJC: I give -- let me just say, I give people a lot of gifts, and when people are around I give a lot of things I have at the White House away, so I could have given her a gift, but I don't remember a specific gift.
>
> Q: Do you remember giving her a gold broach?
>
> WJC: No.[121]

2. Evidence that Contradicts the President's Testimony

(i) Three weeks before the President's deposion, on December 28, 1997, President Clinton gave Ms. Lewinsky a number of gifts. They included a large Rockettes blanket from New York, a pin of the New York skyline, a "marble-like" bear's head from Vancouver, a pair of joke sunglasses, a small bag of cherry chocolates, a canvas bag from The Black Dog, and a stuffed animal wearing a t-

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[121] Clinton 1/17/98 Depo. at 75-76.

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shirt from The Black Dog.[122] When he testified to the grand jury, President Clinton admitted to giving Monica Lewinsky all of those gifts except for the stuffed animal and the box of chocolates.[123] Ms. Lewinsky produced the Rockettes blanket, the marble bear head, the Black Dog canvas bag, the Black Dog stuffed animal, and the joke sunglasses to this Office on July 29, 1998.[124]

(ii) The evidence also demonstrates that the President gave Ms. Lewinsky a hat pin as a belated Christmas gift on February 28, 1997.[125] The President and Ms. Lewinsky discussed the hatpin on December 28, 1997, after Ms. Lewinsky received a subpoena calling for her to produce all gifts that the President had given her, including, any hat pins.[126] According to Ms. Lewinsky, in her meeting with the President on December 28, "I mentioned that I had been concerned about the hat pin being on the subpoena and he said that that had sort of concerned him also and asked me if I had told anyone that he had given me this hat pin and I said no."[127]

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[122] Lewinsky 8/6/98 GJ at 150-51. Lewinsky GJ Exhibit 7.

[123] Clinton 8/17/98 GJ at 34-35.

[124] FBI Receipt for Property received, 7/29/98

[125] Lewinsky 8/6/98 GJ at 26-27; GJ Exhibit 7.

[126] Lewinsky 8/6/98 GJ at 151-52. "Please produce each and every gift including, but not limited to, any and all dresses, accessories, and jewelry, and/or hat pins given to you by, or on behalf of, Defendant Clinton." 92--DC-00000018.

[127] Lewinsky 8/6/98 GJ at 151-52. See also Lewinsky 2/__/98 Statement at 6-7; Currie 5/6/98 GJ at 142 (relating incident where the President shows the hat pin to Ms. Currie in front of Ms. Lewinsky). After the criminal investigation started, Ms.

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(iii) Ms. Lewinsky testified that the President gave her some additional gifts, such as a broach,[128] the book Leaves of Grass by Walt Whitman,[129] an Annie Lennox compact disk,[130] and a cigar with the Presidential seal.[131]

3. President's testimony about gifts from Monica Lewinsky to the President

When asked whether Monica Lewinsky had ever given him gifts, President Clinton testified as follows:

Q: Has Monica Lewinsky ever given you any gifts?

WJC: Once or twice. I think she's given me a book or two.

Q: Did she give you a cigar box?

Currie turned over a box of gifts that had been given to her by Monica Lewinsky. Ms. Currie understood from Ms. Lewinsky that the box contained gifts from the President. See Currie 5/6/98 GJ at 105-115. Ms. Lewinsky testified that the box contained gifts from the President, including the hat pin. Lewinsky 8/6/98 GJ at 151-162.

[128] Ms. Lewinsky testified that the President had given her a gold broach and she made near-contemporaneous statements to Ms. Erbland, Ms. Raines, Ms. Ungvari, and Ms. Tripp regarding the gift. Lewinsky 8/6/98 GJ at 26-28; Lewinsky GJ Exh. 6;: Erbland GJ 41; Raines GJ 53-55; Ungvari GJ 24; Tripp GJ, July 29, 1998, at 105.

[129] Ms. Lewinsky testified that Leaves of Grass, was "the most sentimental gift he had given me." Lewinsky 8/ 6/98 GJ at 156. Ms. Lewinsky made near-contemporaneous statements to her mother, her aunt, and her friends Ms. Davis, Ms. Erbland, and Ms. Raines that the President had given her Leaves of Grass. Davis GJ 30-31; Erbland GJ 40-41; Finerman depo 15-16; Marcia Lewis 2/10/98 GJ at 51-52; Lewis 2/11/98 GJ at 10 ("[S]he liked the book of poetry very much."). Raines GJ 53-55.

[130] Lewinsky __ GJ at __; LT2 at 8 (Lewinsky describing conversation with President where he gave her CD).

[131] Lewinsky 8/26/98 Depo. at 15; Ungvari GJ 41-44 (noting Ms. Lewinsky "occasionally" smoked cigars); and Finerman deposition 13-17.

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WJC: No.

Q: Did she give you a tie?

WJC: Yes, she has given me a tie before. I believe that's right. Now, as I said, let me remind you, normally when I get these ties, you know, together, and they're given to me later, but I believe that she has given me a tie.[132]

4. Evidence that Contradicts the President's Testimony

a. Monica Lewinsky's testimony

The evidence reveals that Ms. Lewinsky gave the President a number of gifts of many different kinds over a lengthy period of time.

(i) Ms. Lewinsky testified before the grand jury that she gave the President six neckties, on the following occasions -- November 20, 1995, March 31, 1996, shortly before August 16, 1996, sometime between March 3 and March 9, 1997, either October 21 or October 22, 1997, and December 6, 1997, six weeks before the deposition in the Jones case.[133] White House records confirm at least two of the ties Ms. Lewinsky gave the President, a tie given on November 22, 1995,[134] and another in August 1996 for the

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[132] Clinton 1/17/98 Depo. at 76-77.

[133] Lewinsky 8/6/98 GJ at 235-36.

[134] V006-DC-00000157. See also Footlik 302, March 19, 1998, at 2. According to Ms. Lewinsky, her sexual relationship with President Clinton had begun a week earlier, on November 15, 1995. Lewinsky 8/6/98 GJ at 10. The President chose to keep this tie (as he is permitted to do), rather than send it to the White House gift unit. See Currie 5/14/98 GJ at 76 ("Normal procedure is that gifts usually go to the gift unit.").

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President's birthday.[135] On a thank-you note dated September 4, 1996, the President wrote regarding the birthday tie: "The tie is really beautiful."[136]

(ii) Ms. Lewinsky gave the President a pair of sunglasses on approximately October 22, 1997.[137] The President's attorney, David E. Kendall, stated in a letter on March 16, 1998: "We believe that Ms. Lewinsky might have given the President a few additional items, such as ties and a pair of sunglasses, but we have not been able to locate these items."[138]

(iii) On November 13, 1997, Ms. Lewinsky gave the President an antique paperweight that depicted the White House circa 1800.[139] Ms. Lewinsky testified that she saw the paperweight in the Dining Room of the White House, where the President keeps many political memorabilia items, on December 6, 1997, and possibly also on December 28, 1997.[140] The President recently turned over the paperweight in response to a subpoena.[141]

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[135] V006-DC-00000162, V006-DC-00000180, V006-DC-00003714, V006-DC-00003715. Again, records indicate that the President planned to keep the items. V006-DC-00000180. Ms. Lewinsky also gave the President a t-shirt that she had brought back from Bosnia.

[136] V006-DC-00000159.

[137] Lewinsky 8/6/98 GJ at 28.

[138] Letter to OIC, 3/16/98.

[139] Lewinsky 8/6/98 GJ at 28. See also Lewinsky GJ Exhibit 6; Lewinsky 302, 7/28/98 at 13; LT16 at 14.

[140] Lewinsky 302.

[141] Letter to OIC, **cite**

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(iv) Ms. Lewinsky gave the President at least seven books - one as recently as January 4, 1998: 1) The Presidents of the United States, on January 4, 1998[142]; 2) Our Patriotic President: His Life in Pictures, Anecdotes, Sayings, Principles and Biography[143] on December 6, 1997;[144] 3) The Notebook, given on ___, 1997[145]; 4) Oy Vey, in early 1997;[146] 5) a small golf book in early 1997,[147] 6) her personal copy of Vox, a novel about phone sex, on

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[142] V002-DC-00000471. Ms. Lewinsky testified that she bought and gave the President that book in early January 1998, and that when she talked to him on January 5, 1998, he acknowledged that he received the book. Lewinsky 8/6/98 GJ at 189-192. When testifying before the grand jury, the President acknowledged receiving "a particularly nice book for Christmas, an antique book on Presidents. She knew that I collected old books and it was a very nice thing." Clinton 8/17/98 GJ at 36. The President believes that he received the book earlier. Clinton 8/17/98 GJ at __.

[143] V002-DC-0000003.

[144] Lewinsky 8/6/98 GJ at 109. She also testified that a chart used in the Grand Jury as an exhibit accurately listed that she gave the President that biography on December 6, 1997. Lewinsky 8/6/98 GJ at __. See also Lewinsky GJ Exhibit 7.

[145] Lewinsky 8/6/98 GJ at 26-17; Lewinsky GJ Exh. 5. The President did not produce The Notebook in response to a subpoena.

[146] Lewinsky 8/6/98 GJ at 182-183. Ms. Lewinsky further testified and told a friend that she had seen a copy of the book in the President's study the evening she waited alone for him in November 1997. Lewinsky 8/6/98 GJ at 183, LT16 at 30. White House records name Oy Vey on an October 10, 1997 catalog of books in the West Wing. 1361-DC-00000002 (Catalog of Books in the West Wing Presidential Study as of 10 October 1997). The President did not produce Oy Vey in response to a subpoena.

[147] Lewinsky 8/6/98 GJ at 183-84; Lewinsky 302, 7/28/98 at 13. Ms. Lewinsky testified that she had seen a copy of the book in the President's study during the evening that she waited alone for him in November 1997. Lewinsky 8/6/98 GJ at 183-84. The President did not turn this book over in response to a subpoena.

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March 29,1997;[148] and 7) an antique book on Peter the Great on August 16, 1997.[149]

(v) Ms. Lewinsky testified that she gave the President the following additional gifts: a Sherlock Holmes game and a glow in the dark frog sometime after Christmas 1996;[150] a golf ball and tees and a plastic pocket frog on February 28, 1997;[151] after the President injured his leg in March 1997, a care package filled with whimsical gifts, such as metal magnet with Presidential seal for his crutches, license plate with "Bill" for his wheelchair, and knee pads with the Presidential seal;[152] a Banana Republic long sleeve casual shirt and a puzzle on golf mysteries on May

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[148] Lewinsky 8/6/98 GJ at 183-84; Lewinsky 302, 7/28/98 at 13. Ms. Lewinsky further testified and previously told one of her friends that while for the President on November 13, 1997, she saw a copy of Vox on the desk in the study. LT16 at 30. Ms. Lewinsky related that she found it "funny. . . that he has Vox there" in the study, but it made her happy because she felt like "there are like little reminders of me there." LT16 at 36-37. See also LT19 at 26-27. The President did not produce Vox in response to a subpoena.

[149] Lewinsky 8/6/98 GJ at 27-28; Lewinsky 302, 7/28/98 at 13. The President did not turn over the antique book in response to a subpoena.

[150] Lewinsky GJ, Aug. 6, 1998, at 26-27; Lewinsky GJ Exhibit 6; Lewinsky 302, 7/28/98 at 13. Ms. Lewinsky testified that she dropped these gifts off with Betty Currie and that the President acknowledged the gifts during a phone conversation shortly thereafter. Lewinsky 302.

[151] Lewinsky 8/6/98 GJ at 26-27; Lewinsky GJ Exhibit 6; Lewinsky 302, 7/28/98 at 12-13. Ms. Lewinsky told federal investigators that she may have seen the plastic pocket frog on the desk in the Oval Office. **date**. Lewinsky 302.

[152] Lewinsky 8/6/98 at 26-27; Lewinsky GJ Exhibit 7; Lewinsky 302, 7/28/98 at 13.

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produced a number of gifts that Ms. Lewinsky gave him,[158] and he testified to the grand jury regarding these items: "the items you asked for from Monica Lewinsky that I produced to you, you know that there was a tie, a coffee cup, a number of other things I had. Then I told you there were some things that had been in my possession that I no longer had, I believe. I don't remember if I did that. There was one book, I remember that I left on vacation last summer."[159] The President further acknowledged to the grand jury that "she continued to give [him] gifts" even after their physical relationship had ended.[160] that

Betty Currie also testified that Ms. Lewinsky sent over a number of packages for the President -- six or eight, she estimated.[161] Ms. Lewinsky also sometimes dropped parcels off or had family members do so.[162] Ms. Currie testified that to her knowledge, no one "tried to call or delivered packages or

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[158] The President testified that "to his knowledge" he has turned over all the gifts that Ms. Lewinsky gave him. Clinton 8/17/98 GJ at 154. The President has since produced at least one additional gift that Ms. Lewinsky gave him.

[159] Clinton 8/17/98 GJ at 172-173.

[160] Clinton 8/17/98 GJ at 47.

[161] Currie 5/6/98 GJ at 88-89; see also id. at 184; Currie 5/14/98 GJ at 78. Courier receipts show that Ms. Lewinsky sent nine packages to Ms. Currie. See 0837-DC-00000001 to 0837-DC-00000027. When the packages came to the White House, Ms. Currie would leave the packages from Ms. Lewinsky in the President's box outside the Oval Office, and "[h]e would pick it up." Currie 5/6/98 GJ at 88-89; see also Currie 5/14/98 GJ at 78. To the best of her knowledge, such parcels always reached the President. "The President got everything anyone sent him." Currie 5/6/98 GJ at 129.

[162] LT1 at 63-64.

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something as many times as [Ms. Lewinsky] did."[163]

c. Analysis

Contrary to the President's statement in his civil deposition that he could not recall whether he had ever given any gifts to Ms. Lewinsky and that he had received a gift from Ms. Lewinsky only "once or twice," they exchanged numerous gifts of all kinds over a lengthy period of time.

A truthful answer to the questions about gifts by the President at the Jones deposition would have raised questions about their relationship, however, including whether their relationship was more than platonic and whether he had lied in denying that their relationship was sexual. Again, the President's central lie at the deposition -- about his sexual relationship with Ms. Lewinsky -- required subsidiary and related lies, including lies about the gifts.

IV. There is substantial and credible information that the President lied under oath during his deposition in the Jones case about his conversations with Monica Lewinsky and Vernon Jordan about her involvement in the Jones case.

President Clinton was questioned during his deposition whether he had discussed with Ms. Lewinsky the possibility of her testifying in the Jones case. He also was asked whether he was aware that Vernon Jordan had met with Monica Lewinsky to discuss the Jones case. There is substantial and credible information that the President lied under oath in answering these questions.

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[163] Currie 5/5/98 GJ at 145.

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A. Conversations with Ms. Lewinsky regarding the possibility of her testifying in the Jones Case.

1. President Clinton's testimony in his deposition

In the President's civil deposition, the Jones attorneys explored any discussions the President might have had with Monica Lewinsky about the Jones case. Ms. Jones's attorneys sought to determine whether the President had made any efforts to influence her testimony, as they believed had occurred with a number of possible witnesses:

> Q: Have you ever talked to Monica Lewinsky about the possibility that she might be asked to testify in this lawsuit?
>
> WJC: I'm not sure, and let me tell you why I'm not sure. It seems to me the, the, the — I want to be as accurate as I can here. Seems to me the last time she was there to see Betty before Christmas we were joking about how you-all [the Jones attorneys], with the help of the Rutherford Institute, were going to call every woman I'd ever talked to . . . . and ask them that, and so I said you [Ms. Lewinsky] would qualify, or something like that. I don't, I don't think we ever had more of a conversation than that about it, but I might have mentioned something to her about it, because when I saw how long the witness list was, or I heard about it, before I saw, but actually by the time I saw it her name was on it, but I think that was after all this had happened. I might have said something like that, so I don't want to say for sure I didn't, because I might have said something like that.
>
> * * * *
>
> Q: What, if anything, did Monica Lewinsky say in response?
>
> WJC: Nothing that I remember. Whatever she said, I don't remember. Probably just some predictable thing.[164]

2. Evidence that Contradicts the President's Testimony

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[164] Clinton 1/17/98 Depo. at 70-71 (emphasis added).

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a. Ms. Lewinsky's Testimony

Ms. Lewinsky testified that she spoke twice to President Clinton on the phone about the possibility that she might be asked to testify in the lawsuit, and also met in person with him about it.

(i) December 17, 1997 Call. Ms. Lewinsky testified that President Clinton called her at about 2:00 a.m. on December 17, 1997, and told her that Ms. Currie's brother had died, and that Monica was on the witness list in the Jones case. According to Ms. Lewinsky, "He told me that it didn't necessarily mean that I would be subpoenaed, but that that was a possibility, and if I were to be subpoenaed, that I should contact Betty and let Betty know that I had received the subpoena."[165] Ms. Lewinsky asked him how she should handle it if she were subpoenaed, and the President told her that she might be able to sign an affidavit.[166] The President also told her, "You know, you can always say you were coming to see Betty or that you were bringing me letters."[167] Ms. Lewinsky took that statement to be a reminder of the general pattern of concealment that they had discussed earlier in their relationship.

(ii) December 28, 1997 Visit. Ms. Lewinsky was subpoenaed on December 19. Ms. Lewinsky met with President Clinton on

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[165] Lewinsky 8/6/98 GJ at 123.

[166] Lewinsky 8/6/98 GJ at 123. **check other ML testimony**

[167] Lewinsky 8/6/98 GJ at 123. **check other ML testimony**

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December 28, 1997, nine days after she had been subpoenaed and less than three weeks before the President was deposed.

According to Ms. Lewinsky, she and the President discussed how she came to be placed on the witness list. Ms. Lewinsky said they also discussed the fact that her subpoena required the production of gifts to her from the President, and noted that both she and the President were concerned about the specific request for a "hat pin" because the had given her a hat pin.[168]

Because of their mutual concern about the subpoena, Ms. Lewinsky testified that she asked the President if she should put the gifts away somewhere.[169] The President responded "I don't know" or "Hmm" or "Let me think about it."[170] Later that day, Ms. Lewinsky transferred the gifts to Ms. Currie who stored them under her bed.[171][172][173]

(iii) January 5, 1998 Call. Ms. Lewinsky also testified that she spoke to the President by telephone on January 5, 1998, where they continued to discuss her role in the Jones case. Ms. Lewinsky stated that she expressed concern that if she were deposed and asked about her transfer to the Pentagon, she would

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[168] Lewinsky 8/6/98 GJ at 151-52.

[169] Lewinsky 8/6/98 GJ at 152. **check other ML testimony**

[170] Lewinsky 8/6/98 GJ at 152. **check other ML testimony**

[171] Lewinsky 8/6/98 GJ at 154. **check other ML testimony**

[172] Lewinsky 8/6/98 GJ at 154-56 **check other ML testimony**

[173] Lewinsky 8/6/98 GJ at 156. **check other ML testimony**

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have a difficult time explaining how she had obtained the job. According to Ms. Lewinsky, the President suggested that she answer by explaining that the people in the White House Legislative Affairs office helped her get the job.[174]

b. The President's Grand Jury testimony

When the President testified to the grand jury, the President admitted -- in direct contradiction to his civil deposition testimony -- that Ms. Lewinsky visited him on December 28, 1997,[175] and that during that visit, they discussed her involvement in the Jones case:

> WJC: . . . I remember a conversation about the possibility of her testifying. I believe it must have occurred on the 28th.
>
> She mentioned to me that she did not want to testify. So, that's how it came up. Not in the context of, I heard you have a subpoena, let's talk about it.
>
> She raised the issue with me in the context of her desire to avoid testifying, which I certainly understood; not only because there were some embarrassing facts about our relationship that were inappropriate, but also because a whole lot of innocent people were being traumatized and dragged through the mud by these Jones lawyers with their dragnet strategy. . .[176]
>
> * * * *
>
> Q: . . . Do you agree that she was upset about being subpoenaed?
>
> WJC: Oh, yes, sir, she was upset. She -- well, she-- we --

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[174] Lewinsky 8/6/98 GJ at 197.

[175] **cite**

[176] Clinton 8/17/98 GJ at 36-37 (emphasis added).

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she didn't -- we didn't talk about a subpoena. But she was upset. She said, I don't want to testify; I know nothing about this; I certainly know nothing about sexual harassment; why do they want me to testify. And I explained to her why they were doing this, and why all these women were on these lists, people that they knew good and well had nothing to do with any sexual harassment.[177]

c. Analysis

There is substantial and credible information that President lied under oath in his civil deposition in answering "I'm not sure" when asked whether he had ever talked to Ms. Lewinsky about the possibility of her testifying. In fact, he had talked to Ms. Lewinsky about it on three occasions, as Ms. Lewinsky's testimony and the President's subsequent grand jury testimony makes clear. Those conversations all occurred in the month before the President's civil deposition, where he said "I'm not sure."

The President's motive to lie in his civil deposition on this point is evident. Had he admitted that he talked to Ms. Lewinsky about the possibility that she might be asked to testify or her testimony, that would raise the prospect that he had tampered with a prospective witness. Such an admission almost certainly would lead Ms. Jones' attorneys to inquire further into that subject with both the President and Ms. Lewinsky. Furthermore, had the President admitted talking to Ms. Lewinsky about her testifying, that conversation almost certainly would have attracted substantial public scrutiny if and when the President's deposition became public.

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[177] Clinton 8/17/98 GJ at 39-40 (emphasis added).

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B. The President's Conversations With Vernon Jordan Regarding Ms. Lewinsky

1. The President's testimony in the Jones Case

The President also was questioned in his deposition regarding the conversations that he had with other individuals, including Vernon Jordan, regarding Ms. Lewinsky and her role in the Jones case:

> Q: Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?
>
> WJC: I don't think so.[178]

The President later testified in more detail about conversations with others, specifically including Mr. Jordan, about Ms. Lewinsky's role in the case.

> Q: Excluding conversations that you may have had with Mr. Bennett or any of your attorneys in this case, within the past two weeks has anyone reported to you that they had had a conversation with Monica Lewinsky concerning this lawsuit?
>
> WJC: I don't believe so. I'm sorry, I just don't believe so.
>
> Q. Has it ever been reported to you that [Vernon Jordan] met with Monica Lewinsky and talked about this case?
>
> WJC: I knew that he met with her. I think Betty suggested that he meet with her. Anyway, he met with her. I, I thought that he talked to her about something else. I didn't know that -- I thought he had given her some advice about her move to New York. Seems like that's what Betty said.[179]

b. Evidence That Contradicts the President's Deposition in

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[178] Clinton 1/17/98 Depo. at 68-69.

[179] Clinton 1/17/98 Depo. at 72 (emphasis added).

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the Jones Case

(i) Vernon Jordan's Testimony

Vernon Jordan testified that his conversations with the President about Ms. Lewinsky's subpoena were "a continuing dialogue."[180] When asked if he had kept the President informed about both Ms. Lewinsky's status in the Jones case and her job search, Mr. Jordan responded: "The two -- absolutely."[181]

On December 19, Ms. Lewinsky phoned Mr. Jordan and told him that she had been subpoenaed in the Jones case.[182] Following that call, Mr. Jordan then tried to reach the President "to inform the President what I'd learned"[183] — namely, "that Monica Lewinsky was coming to see me, and that she had a subpoena"[184] — but the President was unavailable.[185] Later that day, at 5:01 p.m., Mr. Jordan had a seven-minute telephone conversation with the President:[186]

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[180] Jordan 3/5/98 GJ at 26.

[181] Jordan 3/5/98 GJ at 29.

[182] 1051-DC-00000003 (Pentagon phone records). See also Jordan 3/3/98 GJ at 92-93, 101 (testifying that Ms. Lewinsky called him up and she was "very upset" about "being served with a subpoena in the Paula Jones case").

[183] Jordan 5/5/98 GJ at 141.

[184] Jordan 5/5/98 GJ at 142-43.

[185] Jordan 5/5/98 at 133-34. Mr. Jordan had told Ms. Lewinsky to come see him at 5:00 PM. **cite** See also Jordan 5/5/98 at 144 (relating why he wanted to tell the President about Ms. Lewinsky's subpoena).

[186] 1178-DC-00000014 (White House phone records); Jordan 5/5/98 GJ at 145.

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> I said to the President, "Monica Lewinsky called me up. She's upset. She's gotten a subpoena. She is coming to see me about this subpoena. I'm confident that she needs a lawyer, and I will try to get her a lawyer."[187]

Mr. Jordan testified that "the purpose of my call" was to inform the President of Ms. Lewinsky's subpoena.[188]

Later in the day on December 19, after meeting with Ms. Lewinsky, Vernon Jordan went to the White House and met with the President alone in the Residence.[189] Mr. Jordan told the grand jury: "I told him that Monica Lewinsky had been subpoenaed, came to me with a subpoena."[190] According to Mr. Jordan, the President "thanked me for my efforts to get her a job and thanked me for getting her a lawyer ...."[191]

According to Mr. Jordan, on January 7, 1998, Ms. Lewinsky showed him a copy of her signed affidavit denying any sexual relationship with the President.[192] He testified that he told the President about the affidavit, probably in one of his two logged

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[187] Jordan 5/5/98 GJ at 145. See also id. at 147.

[188] Jordan 5/5/98 GJ at 147.

[189] Jordan 3/3/98 GJ at 167-69. White House records indicate that Mr. Jordan was scheduled to arrive at 8:00 p.m., and actually arrived at 8:15 p.m. See 1178-DC-00000026 (WAVES record). Mr. Jordan testified, however, that he is certain that he did not arrive at the White House until after 10 p.m. Jordan 5/5/98 GJ at 164.

[190] Jordan 3/3/98 GJ at 169.

[191] Jordan 3/3/98 GJ at 172.

[192] Jordan 5/5/98 GJ at 221-22 (emphasis added); see also Jordan 5/5/98 GJ at 20.

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calls to the White House that day:[193]

Q: [W]alk us through what exactly you would have said on the portion of the conversation that related to Ms. Lewinsky and the affidavit.

VJ: Monica Lewinsky signed the affidavit.

* * * *

Q: [L]et's say if it was January 7th, or whenever it was that you informed him that she signed the affidavit,[194] is it accurate that based on the conversations you had with him already, you didn't have to explain to him what the affidavit was?

VJ: I think that's a reasonable assumption.

Q: So that it would have made sense that you would have just said, "She signed the affidavit," because both you and he knew what the affidavit was?

VJ: I think that's a reasonable assumption.

Q: All right. When you indicated to the President that she had signed the affidavit, what, if anything, did he tell you?

VJ: I think he -- his judgment was consistent with mine that that was -- the signing of the affidavit was consistent with the truth.[195]

Mr. Jordan testified that "I knew that the President was concerned about the affidavit and whether or not it was signed. He was, obviously."[196] When asked why he believed the President

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[193] V004-DC-00000159 (Akin, Gump phone records); Jordan 3/5/988 GJ at 24-25, 33; Jordan 5/5/98 GJ at 223-26.

[194] The affidavit is dated January 7, 1998, so the conversation informing the President that it had been signed could not have occurred on any earlier than this date. See Doc. Supp. A, Tab [].

[195] Jordan 5/5/98 GJ at 224-26.

[196] Jordan 3/5/98 GJ at 25. Cf. Jordan 5/5/98 GJ at 226 (When President was told Ms. Lewinsky signed affidavit, "[t]here was no elation. There was no celebration.").

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was concerned, Mr. Jordan testified:

> Here is a friend of his who is being called as a witness in another case and with whom I had gotten a lawyer, I told him about that, and told him I was looking for a job for her. He knew about all of that. And it was just a matter of course that he would be concerned as to whether or not she had signed an affidavit foreswearing what I told you the other day, that there was no sexual relationship.[197]

Mr. Jordan summarized his contacts with the President about Monica Lewinsky and her involvement in the Jones litigation as follows:

> I made arrangements for a lawyer and I told the President that. When she signed the affidavit, I told the President that the affidavit had been signed and when Frank Carter told me that he had filed a motion to quash, as I did in the course of everything else, I said to the President that I saw Frank Carter and he had informed me that he was filing a motion to quash. It was as a simple information flow, absent a substantive discussion about her defense, about which I was not involved.[198]

C. Analysis

In his civil deposition testimony, the President stated that he had talked to Vernon Jordan about Ms. Lewinsky's job, but he did not admit that he had talked to him about anything to do with Ms. Lewinsky's involvement in the Jones case. As the testimony of Vernon Jordan reveals, and as the President conceded in his subsequent grand jury appearance,[199] the President did talk to Mr. Jordan about Ms. Lewinsky's involvement in the Jones case --

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[197] Jordan 3/5/98 GJ at 26. Mr. Jordan did not explain why President Clinton would be "concerned" if Ms. Lewinsky's affidavit were true.

[198] Jordan 3/5/98 GJ at 125.

[199] Clinton 8/17/98 GJ at 75-77.

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including that she had been subpoenaed, that Jordan had helped her obtain a lawyer, and that she had signed an affidavit denying a sexual relationship with the President.

The President's motive for making false statements on this subject was straightforward. Admitting that he had talked with Vernon Jordan about Monica Lewinsky's involvement in the Jones case, as well as about her job, would surely raise questions whether Ms. Lewinsky's testimony and future job were connected. Such an admission by the President in his civil deposition thus would have prompted Ms. Jones' attorneys to inquire further into the subject. And such an admission in his deposition also would trigger public scrutiny if and when the deposition became public.

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V. There is substantial and credible information that President Clinton endeavored to obstruct justice by engaging in a pattern of activity to conceal the truth of his relationship with Monica Lewinsky from the judicial process in the Jones case.

From the beginning of their relationship, President Clinton and Monica Lewinsky hoped and expected that it would remain secret from the public and others in the White House. The desire for secrecy would include taking active steps, if necessary, to conceal the relationship. Ms. Lewinsky testified:

> "[T]here was never a question in my mind and I -- from everything he said to me, I never questioned him, that we were ever going to do anything but keep this private, so that meant deny it and that meant do -- take whatever appropriate steps needed to be taken, you know, for that to happen . . . ."[200]

The President similarly testified that "I hoped that this relationship would never become public."[201]

Once it became apparent that Monica Lewinsky might be a witness in the Jones case, action to continue to conceal the relationship assumed legal significance. An effort to obstruct justice by concealing the truth from the legal process, whether by lying under oath or concealing documents or corruptly influencing a witness' testimony, is a federal crime.[202] There is substantial and credible information that President Clinton

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[200] Lewinsky GJ, Aug. 6, 1998, at 166-67.

[201] Clinton 8/17/98 GJ at 107.

[202] For a discussion of the legal requirements and scope of the federal obstruction of justice and witness tampering statutes, see Appendix Tab H (Legal Standards), Parts I(B), (C).

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engaged in such efforts to ensure that the truth of his relationship with Monica Lewinsky was not revealed in the Jones case.

In particular, there is substantial and credible information that

- the President and Monica Lewinsky discussed the fact that she had been subpoenaed for the gifts she had received from the President and reached an understanding that she would not produce them;
- the President and Monica Lewinsky had an understanding that they would both lie under oath about their relationship in the Jones case;
- the President encouraged Monica Lewinsky to file an affidavit to avoid a deposition;
- the President used Ms. Lewinsky's false affidavit in an endeavor to avoid questioning about Ms. Lewinsky at his own deposition; and
- that the President used his influence to assist Ms. Lewinsky in obtaining a job in New York at a time when she was a prospective adverse witness in the Jones case.

A. There is substantial and credible information that the President and Monica Lewinsky reached a mutual understanding -- a conspiracy to obstruct justice, in criminal law terms -- that Ms. Lewinsky, in response to a subpoena she received in the Jones case, would not produce all of the gifts that she had received from the President, which she did not. [CAN WE SAY THAT?]

1. Evidence

On December 19, 1997, Monica Lewinsky was served with a subpoena in connection with the Jones v. Clinton litigation. The subpoena required Ms. Lewinsky to testify at a deposition on

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January 23, 1998.[203]

The subpoena also required Ms. Lewinsky to produce "each and every gift including, but not limited to, any and all dresses, accessories, and jewelry, and/or hat pins given to you by, or on behalf of, Defendant Clinton."[204]

After being served with the subpoena, Monica Lewinsky became concerned because the list of gifts included the "hat pin, which screamed out at me because that was the first gift that the President had given me and it had some significance."[205] Ms. Lewinsky also expressed concern to her mother, Marcia Lewis, about the dress and book.[206]

Later in the day on December 19, 1997, the same day that she received the subpoena, Ms. Lewinsky met with Vernon Jordan, where she shared her concern about the gifts.[207] During that meeting, Ms. Lewinsky asked Mr. Jordan to inform the President that she had been subpoenaed.[208]

Vernon Jordan acknowledged that he and Ms. Lewinsky met on December 19, 1997, to discuss Ms. Lewinsky's subpoena.[209] He said

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[203] 920-DC-00000013-18. A copy of the subpoena is set forth in the Document Supplement, Exhibit __.

[204] Id. at Exhibit A p. 3.

[205] Lewinsky GJ, Aug. 6, 1998, at 132.

[206] Marcia Lewis GJ, Feb. 11, 1998, at 97-111.

[207] Lewinsky GJ, Aug. 6, 1998, at 132.

[208] Lewinsky GJ, Aug. 6, 1998, at 133.

[209] Jordan GJ, March 3, 1998, at 121, 138, 150.

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that Ms. Lewinsky "was concerned about the subpoena and I think for her the subpoena ipso facto meant trouble."[210] Mr. Jordan stated that said that while Ms. Lewinsky told him that the President had given her gifts, he does not remember if she mentioned any particular gift.[211]

On the evening of December 19, 1997, Vernon Jordan met with President Clinton at the White House. Mr. Jordan testified that they discussed Monica Lewinsky and the subpoena she had received.[212]

On December 22, 1997, Vernon Jordan took Monica Lewinsky to meet with attorney Frank Carter, who had agreed to represent Ms. Lewinsky at the request of Mr. Jordan. Ms. Lewinsky testified that before that meeting, she gathered together some of the "innocuous" gifts from the President that were called for by the subpoena (not including the hat pin), and brought them with her to turn over to Mr. Carter.[213] She testified that she showed these items to Mr. Jordan before turning them over to Frank Carter.[214] Mr. Jordan testified that he has no recollection of

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[210] Jordan GJ testimony, March 3, 1998, at 159. Mr. Jordan stated that Ms. Lewinsky was crying both on the telephone earlier that day and then again in his office. Id. at 149-150.

[211] Jordan GJ, March 3, 1998, at 138, 152, 153.

[212] Jordan GJ testimony, March 3, 1998, at 167-72. See also Part II(B) (discussing President's knowledge of Vernon Jordan's aid to Monica Lewinsky).

[213] Lewinsky GJ, Aug. 6, 1998, at 139-40.

[214] Lewinsky GJ, Aug. 6, 1998, at 139-40, 145. Ms. Lewinsky is unclear about the extent to which she told Mr. Jordan that she was not turning over all the gifts that were responsive to the

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Ms. Lewinsky saying anything to him about the subpoena or the gifts on this date.[215]

On December 28, 1998, Monica Lewinsky and the President met at the White House. During that meeting, Ms. Lewinsky "mentioned that I had been concerned about the hat pin being on the subpoena and he said that that had sort of concerned him also and asked me if I had told anyone that he had given me this hat pin and I said no."[216] They then discussed the possibility of moving some of the gifts called for by the subpoena out of her possession:

> Let's see. And then at some point, I said to him, "Well, you know, should I — maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty." And he sort of said — I think he responded, "I don't know" or "let me think about that." And [we] left

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subpoena. She testified to the grand jury that she "might" have "impliedly" told Mr. Jordan that there were other gifts that she was not producing to Frank Carter. Id. at 139-40. She also said that the items she showed Vernon Jordan on that day did not include the hat pin, even though she had indicated to him three days earlier that the President had given her one as a gift. Id. at 145. She testified that Mr. Jordan's reaction to being shown the gifts was non-committal. Id. at 142.

[215] Jordan 3/3/98 GJ at 190.

[216] Lewinsky 8/6/98 GJ at 152.

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that topic.[217]

Ms. Lewinsky testified that a few hours after their meeting on December 28, 1997, she received a call from Betty Currie.[218] Ms. Lewinsky testified was not surprised to receive the call, given her earlier discussion with the President.[219] According to Ms. Lewinsky, Betty Currie said to her: "'I understand you have something to give me.' Or, 'The President said you have something to give me.' [Something] [a]long those lines."[220] Ms. Lewinsky understood that Ms. Currie was referring to the gifts from the President.[221]

Ms. Currie testified, by contrast, that it was Monica Lewinsky who initiated the call about transferring the box of gifts. Ms. Currie also stated that she did not remember the President telling her that Ms. Lewinsky had some items for Ms.

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[217] Lewinsky 8/6/98 GJ at 152. In a later grand jury appearance, Ms. Lewinsky again described the conversation, and said "I don't remember his response. I think it was something like, 'I don't know,' or 'Hmm' or — there really was no response." Lewinsky GJ, Aug. 20, 1998, at 66; id. at 73 ("I think he said something like 'That concerned me too.'").

Ms. Lewinsky also told Linda Tripp that she had discussed the gifts and subpoena with the President. Ms. Tripp testified that Ms. Lewinsky told her of a conversation with the President in which he told her to "get rid of" the brooch, the hat pin, the book "Leaves of Grass," and the Martha's Vineyard (Black Dog) souvenirs. Tripp GJ, July 29, 1998, at 104-05.

[218] Lewinsky GJ, Aug. 6, 1998, at 154.

[219] Lewinsky GJ, Aug. 6, 1998, at 154.

[220] Lewinsky GJ, Aug. 6, 1998, at 154-55.

[221] Lewinsky GJ, Aug. 6, 1998, at 155.

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Currie to hold. She further testified that she did not remember telling the President that she was holding the gifts for Ms. Lewinsky, nor did she know if the President was aware that she was holding these gifts for Ms. Lewinsky.[222] When asked if the contrary statement by Ms. Lewinsky -- indicating that Ms. Currie had in fact spoken to the President about the gift transfer -- would be false, Ms. Currie replied: "Then she may remember better than I. I don't remember."[223]

Later that same day, it is undisputed that Ms. Currie drove to Monica Lewinsky's apartment. Ms. Lewinsky gave Ms. Currie a sealed box that contained several gifts she had received from the President, including the hat pin.[224] Ms. Lewinsky wrote "Please do not throw away" on the box.[225] Betty Currie then took the box and placed it in her home under her bed.

Betty Currie confirmed that she took possession of the box of gifts.[226] She testified that Monica Lewinsky told her that she (Lewinsky) was uncomfortable retaining the gifts herself because, Ms. Currie said, "people were asking questions about the stuff she had gotten."[227] Ms. Currie remembers that the transfer took

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[222] Currie 5/6/98 GJ at 105-06.

[223] Currie GJ, May 6, 1998 at 126.

[224] Lewinsky GJ, Aug. 6, 1998, at 158.

[225] Lewinsky 8/6/98 GJ at 158.

[226] Photographs of the box of gifts and its contents are set forth in the Appendix at Exhibit __.

[227] Currie GJ testimony, Jan. 27, 1998 at 58. In her first grand jury appearance in January 1998, Ms. Currie was asked

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place sometime in early January 1998,[228] when she drove to Ms. Lewinsky's residence after work, took the box from her, brought it home, and put it under her bed.[229] Ms. Currie knew (from Ms. Lewinsky) that the box contained gifts the President had given to Ms. Lewinsky.[230]

When the box was later obtained from Ms. Currie by a subpoena issued by the OIC, it contained (a) a hat pin; (b) a brooch; (c) an official copy of the 1996 State of the Union Address inscribed "To Monica Lewinsky with best wishes, Bill Clinton;" (d) a photograph of the President in the Oval Office

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whether she knew who had been asking the questions about the gifts; she testified, "No sir, I don't." Id. In her May grand jury appearance, Ms. Currie responded to a similar question by saying that she understood that a Newsweek reporter, Michael Isikoff, was asking questions about the gifts. Currie GJ testimony, May 6, 1998 at 107, 114, 120. She testified: "And Monica had told me that Isikoff had called her. So that's how I knew the name Isikoff. And I think that's when she mentioned that he had called about the gifts." Id. at 120. Ms. Isikoff had not, in fact, contacted Ms. Lewinsky that week.

In contrast to Ms. Currie's later testimony, Mr. Isikoff was working on an article about Ms. Lewinsky in mid-January, and in the course of his reporting he called Ms. Currie to find out about packages that Ms. Lewinsky had sent by courier (as Ms. Currie testified, 5/6/98 at 123, 130).

[228] In her original FBI interview, Ms. Currie stated that the transfer of the gift box occurred in December 1997. Currie FBI Interview, Jan. 24, 1998, at 3. Later before the grand jury, she testified that she could not remember exactly when the transfer took place. Currie GJ, Jan. 27, 1998, at 56-57. She stated, however, that it took place after a December 28, 1997 meeting between Ms. Lewinsky and the President; she estimated it was a couple of weeks after that meeting. Currie GJ, May 6, 1998, at 103-05.

[229] Currie GJ, May 6, 1998, at 107-08.

[230] Currie GJ, May 6, 1998, at 106-07.

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with a handwritten note, "To Monica -- Thanks for the tie Bill Clinton;" (e) a photograph of the President and Ms. Lewinsky inscribed "To Monica -- Happy Birthday! Bill Clinton 7-23-97;" (f) a sun dress, two tee shirts, and a baseball cap with a "Black Dog" logo on them.[231]

Monica Lewinsky stated that she and the President both understood from their conversation on December 28 that she would not produce the gifts. She realized that, had she disclosed the gifts, it would

> at least prompt [the Jones attorneys] to want to question me about what kind of friendship I had with the President and they would want to speculate and they'd leak it and my name would be trashed and he [the President] would be in trouble.[232]

When Ms. Lewinsky was asked why the President would have given her more gifts on December 28, when he knew she was under a current obligation to disclose the gifts in response to the subpoena, she stated:

> You know, I can't answer what [the President] was thinking, but to me, it was — there was never a question in my mind and I — from everything he said to me, I never questioned him, that we were never going to do anything but keep this private, so that meant deny it, and that meant do — take whatever appropriate steps needed to be taken, you know, for that to happen . . . .[233]

2. The President's Grand Jury Testimony

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[231] 302 of Production by Janis, Schuelke and Wechsler in response to subpoena of Betty Currie, Feb. 8, 1998 at 1-2. **[need better cite here]**

[232] Lewinsky GJ, Aug. 6, 1998, at 167.

[233] Lewinsky 8/6/98 GJ at 166-67.

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President Clinton testified that he had spoken to Monica Lewinsky about the gifts he had given her, but said he believed the conversation may have occurred before she received the subpoena on December 19. He testified:

> I did have a conversation with Ms. Lewinsky at some time about gifts, the gifts I'd given her. I do not know whether it occurred on the 28th, or whether it occurred earlier. I do not know whether it occurred in person or whether it occurred on the telephone. I have searched my memory for this, because I know it's an important issue. . . . The reason I'm not sure it happened on the 28th is that my recollection is that Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me. That's the memory I have. That's why I question whether it happened on the 28th, because she had a subpoena with her, request for production. "And I told her that if they asked her for gifts, she'd have to give them whatever she had, that that's what the law was."[234]

The President also denied that he had asked Betty Currie to pick up a box of gifts from Monica Lewinsky. He stated:

> Q: After you gave her the gifts on December 28 [1997], did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have —
>
> WJC: No, sir, I didn't do that.
>
> Q: To give to Ms. Currie?
>
> WJC: I did not do that.[235]
>
> * * * *
>
> Q: [D]id you ever have a conversations with Betty Currie about gifts, or picking something up from Monica Lewinsky?
>
> WJC: I don't believe I did, sir, no.

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[234] Clinton GJ, Aug. 17, 1998, at 43-45.

[235] Clinton GJ, Aug. 17, 1998, at 51.

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Q: You never told her anything to this effect, that Monica has something to give you?

WJC: No, sir.[236]

3. Analysis

The uncontroverted evidence demonstrates that the President gave gifts to Monica Lewinsky; that Ms. Lewinsky was concerned about having possession of these gifts; that after she was served with a subpoena in the Jones litigation, Ms. Lewinsky met with Vernon Jordan and discussed the gifts; that Vernon Jordan met with the President that night and discussed the Lewinsky subpoena with him; that Ms. Lewinsky later met with the President at the White House; and that after that meeting, Ms. Lewinsky did not produce any gifts to Ms. Jones' attorneys and indeed transferred some gifts to the President's personal secretary who stored them under her bed.

Ms. Lewinsky testified that she spoke to the President about the gifts called for by the subpoena, in particular the hat pin. The President testified that there was some conversation about gifts. The President suggested that the conversation might have taken place before Ms. Lewinsky was subpoenaed, but the President acknowledged that his memory is unclear on the timing.

The testimony conflicts, however, as to what happened when Ms. Lewinsky raised the subject of gifts. The President says

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[236] Clinton GJ, Aug. 17, 1998, at 114-15. Ms. Lewinsky has stated that the President never told her to turn over all the gifts he had given her to Frank Carter. Lewinsky FBI Interview, Aug. 19, 1998, at 4.

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that he told Ms. Lewinsky to produce any subpoenaed gifts. Ms. Lewinsky testified to the contrary -- that the President did not tell her to produce the gifts.

Ms. Lewinsky's testimony is more credible. First, if Ms. Currie called Ms. Lewinsky, as Ms. Lewinsky testified, then there can be no doubt about the President's role. But even if Ms. Lewinsky called Ms. Currie, it is unlikely that either the President or Ms. Lewinsky would have involved Ms. Currie in this scheme to conceal subpoenaed evidence unless the President had indicated his assent when Ms. Lewinsky said she might not produce the gifts.

For that reason, there is substantial and credible evidence that President Clinton and Monica Lewinsky discussed the subpoenaed gifts and reached a mutual understanding that she would not produce the gifts to Ms. Jones' attorneys, which she did not.

B. There is substantial and credible information that (i) President Clinton endeavored to obstruct justice by encouraging Ms. Lewinsky to file a false affidavit to avoid her deposition and then making improper use of that affidavit at his deposition and (ii) the President and Ms. Lewinsky had a mutual understanding -- a conspiracy, in criminal law terms -- that they would both lie under oath about their relationship in the Jones case, including by the use of cover stories.

When Monica Lewinsky was subpoenaed in the Jones case, she filed an affidavit swearing, among other things, that she had not had a sexual relationship with President Clinton. Ms. Lewinsky

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filed the affidavit as part of her motion to quash the subpoena, hoping that she would not have to testify at a deposition. Ms. Lewinsky has since acknowledged under oath that her affidavit was false.

The evidence shows that President Clinton and Ms. Lewinsky had an understanding that each would testify falsely under oath in the Jones case about the sexual aspects of their relationship. Moreover, the President encouraged her to file an affidavit so that she would not have to testify at a deposition. The President then allowed his lawyer to use that false affidavit at the President's deposition in an effort to limit the questions he could be asked about Ms. Lewinsky. Such acts constitute both an obstruction of justice and a conspiracy to obstruct justice.

1. Evidence regarding affidavit

Monica Lewinsky testified that after her name appeared on the witness list in the Jones litigation, President Clinton suggested that she file an affidavit if she were subpoenaed to testify. Ms. Lewinsky stated that President Clinton called her at around 2:00 or 2:30 in the morning on December 17, 1997.[237] The President told her that her name had appeared on the Paula Jones case witness list.[238] According to Ms. Lewinsky, when she asked the President what she should do if she were subpoenaed, he said she should call Betty Currie and that "maybe you can sign an

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[237] Lewinsky GJ, Aug. 6, 1998, at 121-22.

[238] Lewinsky GJ, Aug. 6, 1998, at 122-23.

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affidavit."[239] On later questioning, Ms. Lewinsky said that she was "100% sure" that the President suggested that she might want to sign an affidavit to avoid testifying.[240]

Ms. Lewinsky understood the President's advice to mean that she might be able to execute an affidavit that would either be false on its face or might otherwise be deceptive so as to avoid disclosing the true nature of their relationship: "I thought that signing an affidavit could range from anywhere -- the point of it would be to deter or to prevent me from being deposed and so that could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going so far as maybe having to deny any kind of relationship.[241]

Ms. Jones' lawyers served Ms. Lewinsky with a subpoena for a deposition on December 19, 1997. Ms. Lewinsky contacted Vernon Jordan, who in turn put her in contact with attorney Frank Carter.[242] Based on the information Ms. Lewinsky provided, Mr. Carter prepared an affidavit in which she stated: "I have never had a sexual relationship with the President."[243]

After Mr. Carter drafted the affidavit, Ms. Lewinsky spoke

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[239] Lewinsky GJ, Aug. 6, 1998, at 123.

[240] Lewinsky FBI Interview, Aug. 19, 1998, at 4.

[241] Lewinsky GJ, Aug. 6, 1998, at 124.

[242] Ms. Lewinsky said that she did not contact Betty Currie, as the President had previously suggested, because Ms. Currie's brother had been killed a few days before. Lewinsky GJ, Aug. 6, 1998, at 128-29.

[243] Lewinsky Affidavit, Jan. 7, 1998, ¶ 8.

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to the President by phone, and asked the President if he wanted to see the draft affidavit. According to Ms. Lewinsky, the President replied that he did not need to see it because he had already "seen about fifteen of them."[244]

Vernon Jordan confirms that President Clinton knew that Ms. Lewinsky planned to execute an affidavit that denied a sexual relationship.[245] Mr. Jordan further testified that he told President Clinton when the affidavit was signed and that, by that point, the President was already aware of the affidavit and its general contents.[246] Ms. Lewinsky's affidavit was filed with the federal court in Arkansas on January [20?], 1998, as part of her motion to quash the deposition subpoena.

Before the President's deposition, his lawyer, Robert Bennett, obtained a copy of Ms. Lewinsky's affidavit from Frank Carter.[247] At the President's deposition, Ms. Jones's counsel asked a series of questions about the President's relationship with Ms. Lewinsky, including questions about whether he had been alone with Ms. Lewinsky in and around the Oval Office. Mr. Bennett objected to the "innuendo" of the questions, noting that

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[244] Lewinsky GJ, Aug. 6, 1998, at [check cite; I have 199-200, but this is wrong]; See also Lewinsky FBI Interview, Aug. 18, 1998, at 3-4.

[245] Jordan GJ, May 5, 1998, at 138. The call was placed at 5:01 p.m. and lasted about 5 minutes. **[check phone records]**

[246] Jordan GJ, May 5, 1998, at 224-26. The quoted passage is also set forth in Part III(C).

[247] Carter GJ June 18, 1998, at 113.

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Ms. Lewinsky had signed an affidavit denying a "sexual relationship," which Mr. Bennett interpreted as saying that "there is absolutely no sex of any kind in any way, shape, manner, or form, with President Clinton."[248] Mr. Bennett further said: "Counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind of any manner, shape or form, with President Clinton."[249] Judge Wright allowed the questioning to continue.

2. The President's grand jury testimony

The President told the grand jury: "did I hope [Ms. Lewinsky would] be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not."[250]

When questioned about his phone conversation with Ms. Lewinsky on December 17, 1997 — the one during which Ms. Lewinsky testified that the President suggested filing an affidavit — the President testified that he did not remember exactly what he had said to Ms. Lewinsky that night.[251]

The President disputed the notion that Ms. Lewinsky's

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[248] Clinton Deposition, Jan. 17, 1998, at 54.

[249] Clinton Deposition, Jan. 17, 1998, at 53-55.

[250] Clinton GJ, Aug. 17, 1998, at 120. See also id. at 82 ("I was glad she saw a lawyer. I was glad she was doing an affidavit.").

[251] Clinton GJ, Aug. 17, 1998, at 117.

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affidavit was necessarily inaccurate. He testified that, depending on Ms. Lewinsky's state of mind, her statement denying a sexual relationship could have been true.

> I believe at the time she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate. And I believe that is the definition that most ordinary Americans would give it.[252]

1. Evidence regarding cover stories

Ms. Lewinsky testified that one of the ways that she and President Clinton agreed to conceal their relationship was to formulate "cover" stories to explain Ms. Lewinsky's presence in the West Wing and Oval Office. For example, they agreed that Ms. Lewinsky would tell people that she was coming to the Oval Office to deliver papers or to have papers signed when in fact she was really going to have a sexual encounter with the President.[253]

While employed at the White House, Ms. Lewinsky used this cover story and told several people in and around the Oval Office that she was there to deliver papers or obtain the President's signature.[254] Several Secret Service employees testified that they understood or were told that the purpose of Lewinsky's visits was to deliver to or pick up official papers from

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[252] Clinton 8/17/98 GJ at __.

[253] Lewinsky GJ, Aug. 6, 1998, at 53-54; Id. at 54 (Q: "When you say that you planned to bring papers, did you ever discuss with the President the fact that you would try to use that as a cover?" ML: "Yes.").

[254] Muskett GJ, July 21, 1998, at 25-26, 83, 89-90; July 17, 1998, at 5; Fox GJ, Feb. 17, 1998, at 34-35.

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President Clinton.[255] In fact, Ms. Lewinsky stated that she never had occasion as part of her White House job to deliver papers or obtain the President's signature.[256]

After she was transferred to the Pentagon, Ms. Lewinsky testified that she and the President formulated a second cover story: that Ms. Lewinsky went to the Oval Office to visit Betty Currie rather than the President. Ms. Lewinsky testified that she and the President discussed how, for additional corroboration, "Betty always needed to be the one to clear me in so that, you know, I could always say I was coming to see Betty."[257]

The cover story provided the intended corroboration. White House records indicate that from June 1996 until the end of 1997, Ms. Lewinsky made 12 visits to the White House for unspecified reasons, and one for a radio address, at times that the President was in the Oval Office.[258] Ms. Lewinsky testified that she met

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[255] Householder GJ, Aug. 13, 1998, at 11; Byrne GJ, July 30, 1998, at 9, 16, 30, 37; Garabito GJ, July 30, 1998, at 17. Other Secret Service Officers testified that they saw Ms. Lewinsky in the West Wing carrying paperwork. Moore GJ, July 30, 1998, at 25-26; J. Overstreet GJ, Aug. 11, 1998, at 7; Wilson GJ, July 23, 1998, at 32.

[256] Lewinsky GJ, Aug. 6, 1998, at 54-55.

[257] Lewinsky GJ, Aug. 6, 1998, at 55.

[258] See Appendix, Tab D (Table of Lewinsky Visits to White House). Ms. Lewinsky made a 13th visit to attend the taping of the President's weekly radio address on February 28, 1997. Id., at 3. Ms. Lewinsky testified that she met with the President after the radio address, and engaged in sexual activity with him. Lewinsky GJ, Aug. 6, 1998, at 30-31. Betty Currie signed Ms. Lewinsky in on that occasion as well. Appendix, Tab D at 3.

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with the President privately on 10 occasions after she left her job at the White House.[259] Betty Currie signed her in for each of those private visits.[260]

Ms. Lewinsky has stated that her real purpose in visiting the White House on these occasions was to visit President Clinton, rather than Ms. Currie.[261] Ms. Lewinsky, on some occasions, saw Ms. Currie when the President was not in the Oval Office, but if the President was in the Office, her reason for going to the White House was to see him.[262]

Betty Currie has acknowledged that Ms. Lewinsky "probably" saw President Clinton during each of her visits when he was in the Oval Office.[263] President Clinton agreed that "just about every time" that Ms. Lewinsky came to the Oval Office to see Ms. Currie when the President was there, Ms. Lewinsky was there to see the President as well.[264]

Monica Lewinsky testified that President Clinton encouraged her to continue to use the cover stories to conceal their

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[259] See Appendix, Tab E (table of Lewinsky contacts with President). Ms. Lewinsky testified that she met with the President in private after she left her position at the White House on eleven dates in 1997: February 28 (following the radio address), March 29, May 24, July 4, July 14, July 24, August 16, October 11, November 13, December 6, and December 28.

[260] See Appendix, Tab D.

[261] cite.

[262] Lewinsky GJ, Aug. 6, 1998, at 55.

[263] Currie GJ, May 6, 1998, at 57-58.

[264] Clinton GJ, Aug. 17, 1998, at 117.

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relationship after her name appeared on the witness list in the Jones case.

In her early morning phone conversation with President Clinton on December 17, 1997 — the same conversation in which the President told her that her name was on the witness list and suggested that she file an affidavit if subpoenaed [265] — Ms. Lewinsky said she had the following discussion with the President:

> ML: At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, "You know, you can always say you were coming to see Betty or that you were bringing me letters." Which I understood was really a reminder of things that we had discussed before.
>
> Q: So when you say things you had discussed, sort of ruses that you had developed.
>
> ML: Right. I mean, this was -- this was something that -- that was instantly familiar to me.
>
> Q: Right.
>
> ML: And I knew exactly what he meant.
>
> Q: Had you talked with him earlier about these false explanations about what you were doing visiting him on several occasions?
>
> ML: Several occasions throughout the entire relationship. Yes. It was the pattern of the relationship, to sort of conceal it.[266]

Ms. Lewinsky testified that she was relieved after this call,

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[265] Lewinsky GJ, Aug. 6, 1998, at 121-22.

[266] Lewinsky GJ, Aug. 6, 1998, at 123-24 (emphasis added). See also Lewinsky FBI Interview, Aug. 5, 1998, at 3 (during December 17, 1998 telephone call, "LEWINSKY is 99.99% sure CLINTON said LEWINSKY can always say she was there to see CURRIE" (capitalization in original)).

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because the President "was assured she was comfortable with the situation."[267]

President Clinton repeated parts of the cover stories in his deposition in the Jones case. When asked if he had met with Ms. Lewinsky "several times" while she worked at the White House, the President responded that he had seen her on two or three occasions during the government shutdown, "and then when she worked at the White House, I think there were one or two other times when she brought some documents to me."[268] When asked if he was ever alone with Ms. Lewinsky in the Oval Office, the President stated:

> When she worked at Legislative Affairs they always had somebody there on the weekends. . . . Sometimes they would bring me things on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there....It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there, That's possible.[269]

Ms. Lewinsky understood that the President planned to continue to conceal the relationship by relying on the previously discussed cover stories, and understood that he wanted her to continue to advance those stories as well, even under oath. She testified:

> [I]t wasn't as if the President called me and said, "You know Monica, you're on the witness list, this is going to be really hard for us, we're going to have to tell the truth

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[267] Lewinsky 302, **[cite]**

[268] Clinton Deposition, Jan. 17, 1998, at 50-51.

[269] Clinton Deposition, Jan. 17, 1998, at 52-53.

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and be humiliated in front of the entire world about what we've done," which I would have fought him on probably. That was different. And by him not calling me and saying that, you know, I knew what that meant.[270]

The pattern of devising cover stories in an effort to forestall an inquiry into the relationship continued after Ms. Lewinsky was subpoenaed to testify. On January 5, 1998, she met with her attorney, Frank Carter, to discuss possible questions that Ms. Lewinsky could be asked at a deposition. One of the questions that concerned her was a question about how she had obtained her job at the Pentagon; she was worried that if the Jones lawyers checked with the White House about the transfer, some at the White House would say unflattering things about how she had been terminated.[271] Ms. Lewinsky spoke to President Clinton on the phone that evening, and asked for advice on how to answer the question. Ms. Lewinsky testified that President responded, "you could always say the people in Legislative Affairs got it for you or helped you get it."[272]

2. The President's Grand Jury Testimony

The President testified that before he knew that Ms. Lewinsky was a witness in the Jones case, he "might well" have told Ms. Lewinsky that she could offer the cover stories if questioned about her presence in the West Wing and Oval Office:

Q: Did you ever say anything like that, you can always say

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[270] Lewinsky GJ, Aug. 6, 1998, at 234 (emphasis added).

[271] Id. at 192-93.

[272] Id. at 197.

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that you were coming to see Betty or bringing me letters? Was that part of any kind of a, anything you said to her or a cover story, before you had any idea she was going to be part of Paula Jones?

WJC: I might well have said that.

Q: Okay.

WJC: Because I certainly didn't want this to come out, if I could help it. And I was concerned about that. I was embarrassed about it. I knew it was wrong.[273]

The President testified that he did not remember whether he had discussed the cover stories with Ms. Lewinsky during the December 17, 1997 conversation,[274] or at any time after Ms. Lewinsky's name appeared on the Jones witness list:

Q: Did you tell [Ms. Lewinsky] anytime in December something to that effect: You know, you can always say that you were coming to see Betty or you were bring me letters? Did you say that, or anything like that, in December '97 or January '98 to Monica Lewinsky?

WJC: Well, that's a very broad question. I do not recall saying anything like that in connection with her testimony. I could tell you what I do remember saying if you want to know. But I don't — we might have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of

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[273] Clinton GJ, Aug. 17, 1998, at 119. Earlier in his testimony the President appeared to acknowledge that the cover stories had been used while the relationship was ongoing. When asked about instances that he had been alone with Ms. Lewinsky, the President testified: "I don't remember when [the meetings] were, but I remember twice when, on Sunday afternoon, she brought papers down to me, stayed, and we were alone." Id. at 32.

[274] According to Ms. Lewinsky, this was the conversation in which the President told her that her name was on the Jones witness list, and she and the President discussed her filing an affidavit and the continued use of cover stories. See paragraphs __ - __, above. The President testified that he remembers having a phone conversation sometime during this period, and although he does not remember telling Ms. Lewinsky about her name being on the witness list, said "I certainly won't dispute that I might have said that." Clinton GJ, Aug. 17, 1998, at 116.

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that conversation.

I do remember what I said to her about the possible testimony.

* * * *

Q: . . . . Did you say anything like [the cover stories] once you knew or thought she might be a witness in the Jones case? Did you repeat the statement, or something like it to her?

WJC: Well, again, I don't recall, and I don't recall whether I might have done something like that, for example, if somebody says, what if the reporters ask me this, that or the other thing. I can tell you this: In the context of whether she could be a witness, I have a recollection that she asked me, well, what do I do if I get called as a witness, and I said, you have to get a lawyer. And that's all I said. And I never asked her to lie.

Q: Did you tell her to tell the truth?

WJC: Well, I think the implication was she would tell the truth.[275]

3. Analysis

There is substantial and credible information that the President and Ms. Lewinsky reached an understanding that each of them would lie under oath when asked whether they had a sexual relationship -- which is a conspiracy to obstruct justice, in criminal law terms. Indeed, a conspiracy to lie obviously was an essential part of their December and January discussions, lest

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[275] Clinton 8/17/98 GJ at 118, 119-20 (emphasis added). The President repeated at several other points in his testimony that he did not remember what he said to Ms. Lewinsky in the phone conversation on December 17. See id. at 117 ("I don't remember exactly what I told her that night."); id. at 118-19 ("you are trying to get me to characterize something [the cover stories] that I'm — that I don't know if I said or not"). Nevertheless, the President also testified on several other occasions that he had never told Ms. Lewinsky to lie. See id. at 117, 119.

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one of the two testify truthfully in the Jones case and thereby incriminate the other as a perjurer.

There also is substantial and credible information that President Clinton endeavored to obstruct justice by encouraging Ms. Lewinsky to file a false affidavit to avoid a deposition and by making improper use of that affidavit at his deposition -- each step to prevent the gathering of truthful evidence in the Jones v. Clinton litigation.[276]

During the course of their relationship, the President and Ms. Lewinsky discussed and used cover stories to falsely explain Ms. Lewinsky's presence in and around the Oval Office area. Ms. Lewinsky and the President discussed the continued use of the cover stories even after Ms. Lewinsky was named as a potential witness in the Jones litigation. At no time did the President tell Ms. Lewinsky not to use these stories and to tell the truth about the reasons for her visits. Ms. Lewinsky testified directly on this issue, and while the President testified that he does not remember having any such conversation, he had actually repeated the substance of these cover stories in his Jones deposition.

As a result, there is substantial and credible evidence that President Clinton endeavored to obstruct justice by encouraging Monica Lewinsky to lie about the reasons for visiting the Oval Office after it became clear that she was a potential witness in

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[276] The OIC is aware of no evidence that Mr. Bennett knew that Ms. Lewinsky's affidavit was false at the time of the President's deposition.

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the Jones v. Clinton litigation.

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C. There is substantial and credible information that President Clinton endeavored to obstruct justice by helping Ms. Lewinsky obtain a job in New York at a time when she was potentially an adverse witness against him if she were to tell the truth during the Jones case.

The President always had a strong incentive to ensure that Ms. Lewinsky did not become so unhappy that she would jeopardize the secrecy of the relationship. Common sense suggests, in addition, that the President's incentive to keep Ms. Lewinsky happy grew once the Jones litigation began, and various women with whom the President had worked began to be subpoenaed.

The evidence developed during this criminal investigation reveals that at various times during the Jones discovery process, the President devoted substantial time and attention to help Ms. Lewinsky obtain a job in the private sector. This section outlines those efforts and then discusses their possible significance.

1. Evidence

Ms. Lewinsky testified that she first mentioned her desire to move to New York in a letter to the President on July 3, 1997. The letter recounted her frustration at not receiving an offer to return to the White House.[277] Ms. Lewinsky then met with the President on July 4, on July 14, and August 16, 1997.[278] After the meeting on August 16, Ms. Lewinsky says that she did not hear

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[277] Lewinsky GJ, Aug. 6, 1998, at 68.

[278] See Appendix Tab D (Table of Lewinsky White House visits); Tab E (Table of Lewinsky contacts with President).

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from or see the President for the next six weeks.

President Clinton received Plaintiff's First Set of Interrogatories in the Jones case on September 22, 1997, and filed his answers on September 30, 1997. The interrogatories asked, among other things, whether the President had engaged in sexual relations with women other than Mrs. Clinton. President Clinton's objected to those questions rather than providing answers immediately.[279] According to Ms. Lewinsky, President Clinton called her around midnight on September 30; during that conversation, he promised to call her more often.

By October 1997, Ms. Lewinsky was increasingly frustrated because the President had not obtained a position for her at the White House. On October 7, 1997, Ms. Lewinsky sent a letter, which she said had an angry tone, to the President by courier.[280] In response to her letter, Ms. Lewinsky said she received a late-night call from President Clinton on October 9, 1997. She said that the President told her he would start working on a job in New York for her.[281]

The following Saturday, October 11, 1997, Ms. Lewinsky met

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[279] The Federal Rules of Civil Procedure permit a party to object to interrogatories rather than answer them. See Fed. R. Crim. P. ___.

[280] Ms. Lewinsky said that on October 6, 1997, she had been told by Linda Tripp that a friend of Tripp's at the National Security Council had reported that Lewinsky would not be getting a White House job. Ms. Lewinsky said that at that point she finally decided to move to New York. Lewinsky FBI Interview, July 31, 1998, at 9.

[281] Id.

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with President Clinton alone in the Oval Office dining room from 9:36 a.m. until about 10:54 a.m. Ms. Lewinsky testified that during that meeting she gave the President a list of New York jobs in which she was interested.[282] Ms. Lewinsky mentioned to the President that she would need a good reference from someone in the White House; the President said he would take care of it.[283] Ms. Lewinsky also said she suggested that Vernon Jordan might be able to help her, and President Clinton agreed.[284] Immediately after the meeting, President Clinton telephoned Vernon Jordan.[285]

Sometime during this period, according to White House Chief of Staff Erskine Bowles, President Clinton raised the subject of Monica Lewinsky and stated that "she was unhappy where she was working and wanted to come back and work at the OEOB [Old Executive Office Building]; and could we take a look."[286] Mr. Bowles responded to President Clinton's request by referring the matter to Deputy Chief of Staff John Podesta.

Mr. Podesta said he spoke to Betty Currie, and asked her to have Ms. Lewinsky call him. Mr. Podesta said that he heard nothing until about October, when he was approached by Betty Currie and told that Ms. Lewinsky was planning to move to New

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[282] Lewinsky FBI Interview, July 31, 1998, at 11.

[283] Lewinsky FBI Interview, Aug. 13, 1998, at 2.

[284] Lewinsky GJ, Aug. 6, 1998, at 104-04.

[285] [phone records; do they show call at 10:57 a.m. to VJ?]

[286] Bowles GJ, April 2, 1998, at 67.

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York and was looking for opportunities there. Mr. Podesta later happened to be riding with UN Ambassador William Richardson on Air Force One; Mr. Podesta said that he mentioned to Ambassador Richardson that Ms. Currie had a friend looking for an entry-level position in New York. He asked Mr. Richardson if there were any public affairs positions open at the UN in New York.

According to Ms. Lewinsky, Ambassador Richardson called Ms. Lewinsky on October 21, 1997.[287] Ambassador Richardson's office subsequently offered her a position at the UN.[288] Ms. Lewinsky testified that she was unenthusiastic about working for the United Nations.[289] President Clinton indicated to her that he would ask Ms. Currie to set up a meeting with Vernon Jordan to discuss other possibilities.

On November 5, 1997, Ms. Lewinsky met with Vernon Jordan in his law office. Mr. Jordan indicated that he had spoken with President Clinton, and that Ms. Lewinsky "came highly

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[287] Lewinsky FBI Interview, July 31, 1998, at 12. Ms. Lewinsky said that she spoke to President Clinton about the phone call on October 23, during which she suggested to the President that she was interested in some job other than at the United Nations. Id. According to Lewinsky, the President replied that he just wanted her to have some options. Id.

Ms. Lewinsky said that she spoke to the President again on October 30 about the interview, in which she expressed anxiety about meeting with the Ambassador. Ms. Lewinsky said that the President told her to call Betty Currie after the interview so he would know how the interview went. Id. at 13.

[288] [Richardson disputes that he called personally; what does he say, assistant say about this?]

[289] Lewinsky FBI Interview, July 31, 1998, at 13.

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recommended."[290] Ms. Lewinsky and Mr. Jordan discussed her desire to move to New York and work in public relations for a private company. Mr. Jordan telephoned President Clinton immediately after the meeting. Ms. Lewinsky had no contact with the President or Mr. Jordan for another month.[291]

On December 5, 1997, the parties in the Jones case exchanged witness lists. Ms. Jones's attorneys listed Ms. Lewinsky as a potential witness. The President testified that he did not learn that Ms. Lewinsky was on the list until late in the day on December 6, 1997.[292]

The activity devoted to obtaining a job for Ms. Lewinsky then increased substantially. On December 7, 1997, President Clinton met with Mr. Jordan at the White House.[293] The next day, Ms. Lewinsky sent packages both to the White House and to Mr. Jordan's office.[294] Ms. Lewinsky testified that these packages contained job information.

Ms. Lewinsky met with Mr. Jordan on December 11 to discuss

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[290] Lewinsky FBI Interview, July 31, 1998, at 14. (confirmed in e-mail to CAD)

[291] See Appendix, Tab E (table of Lewinsky contacts with President). Ms. Lewinsky stated that just before Thanksgiving, 1997, she called Betty Currie and asked her to contact Vernon Jordan and prod him along in the job search. Lewinsky FBI Interview, Aug. 4, 1998, at 8. It was Ms. Lewinsky's understanding that Jordan was helping her at the request of the President and Ms. Currie. Id.

[292] See Clinton GJ, Aug. 17, 1998, at ___.

[293] 1178-DC-00000026.

[294] 837-DC-00000017, 837-DC-00000020.

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specific job contacts in New York. Mr. Jordan gave Ms. Lewinsky the names of some of his business contacts,[295] and followed up that meeting by making calls to contacts at MacAndrews & Forbes (Revlon), American Express, and Young & Rubicam.

Mr. Jordan also telephoned President Clinton to keep him informed of the efforts to help Ms. Lewinsky. Mr. Jordan testified that President Clinton was aware that "people were trying to get jobs for her; that Podesta was trying to help her, that Bill Richardson was trying to help her, but that she really wanted to work in the private sector."[296]

On that same day, December 11, Judge Wright ordered President Clinton, over his objection, to answer certain written interrogatories as part of the discovery process in Jones. Those interrogatories required, among other things, the President to identify any women other than his wife with whom he had both worked and engaged in sexual relations while President (a term undefined for purposes of the interrogatory). The President answered the interrogatory on December __, 1997, by declaring under oath: "None."

On December 17, 1997, according to Ms. Lewinsky, President Clinton called her in the early morning and told her that she was on the witness list. On December 18 and December 23, 1997, Monica Lewinsky interviewed for jobs in New York, with companies that had been contacted by Vernon Jordan. On December 19, Ms.

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[295] Lewinsky FBI Interview, Aug. 4, 1998, at 2.

[296] Jordan GJ (what day?) at 153.

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Lewinsky was served with a deposition subpoena by Paula Jones's lawyers.

On December 22, 1997, Mr. Jordan took her to meet with Frank Carter, her potential attorney. En route, Ms. Lewinsky and Mr. Jordan discussed the subpoena, the Jones suit, and her job search.

On December 28, 1997, Monica Lewinsky and the President met in the Oval Office.[297] During that meeting, the President and Ms. Lewinsky discussed her move to New York and her involvement in the Jones suit.[298]

On January 5, 1998, Ms. Lewinsky declined the United Nations job. On that same day, she met with Frank Carter and discussed her affidavit, in which she planned to deny the existence of a sexual relationship with the President. During that meeting, Mr. Carter posed questions to Ms. Lewinsky that she might face in a deposition, including questions regarding how she had obtained her Pentagon job. Concerned about how to answer this question, Ms. Lewinsky called Betty Currie and said she wanted to speak with the President about an important matter. She says that she told Ms. Currie that she needed to speak to the President "before [she] signed something."[299]

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[297] Lewinsky GJ, Aug. 6, 1998, at 151-52.

[298] Lewinsky FBI Interview, July 28, 1998, at 7. This was the same meeting where the President and Ms. Lewinsky discussed their concerns over the Lewinsky subpoena and its demand for the production of gifts. Lewinsky GJ, Aug. 6, 1998, at 151-52. See Part III(A), above.

[299] Lewinsky GJ, Aug. 6, 1998, at 195-96.

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A few hours later, the President called Ms. Lewinsky back. According to Ms. Lewinsky, the President suggested to Ms. Lewinsky a misleading answer to the proposed deposition question -- namely, that the Office of Legislative Affairs had helped her get the job.

Ms. Lewinsky signed the affidavit denying the relationship with President Clinton on January 7, 1998. The next day, on January 8, 1998, Monica Lewinsky interviewed in New York with MacAndrews & Forbes, a company recommended by Vernon Jordan, but the interview went poorly. Mr. Jordan then called Ron Perelman, the Chairman of the Board at MacAndrews & Forbes. Mr. Jordan had never before called Mr. Perelman directly with a job candidate recommendation. Mr. Perelman said Lewinsky should not worry, and that someone would call her back for another interview. Mr. Jordan relayed this message to Ms. Lewinsky.

Ms. Lewinsky interviewed the next morning [?]. A few hours late, Ms. Lewinsky received an informal offer for a position. Ms. Lewinsky told Mr. Jordan of the offer. Mr. Jordan then telephoned President Clinton and informed him. As Mr. Jordan put it to the President: "Mission accomplished."

On January 12, 1998, Ms. Jones' attorneys informed Judge Wright that they might call Monica Lewinsky, among other women with whom the President had worked, as a trial witness.[300] Judge

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[300] Ms. Jones' attorney named the "other women" he planned to call at trial:

> Mr. Fisher: They would include Kathleen Willey...Beth Coulson, Monica Lewinsky

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Wright stated that she would allow those witnesses, including Ms. Lewinsky, to be a trial witness.[301]

On January 13, 1998, a Revlon employee telephoned Ms. Lewinsky and formalized the offer, and requested that Ms. Lewinsky provide references. Either that day or the next, President Clinton told Erskine Bowles that Ms. Lewinsky "had found a job in the. . .private sector, and she had listed John Hilley as a reference, and could we see if he could recommend her, if asked." Mr. Bowles responded that he was sure that Hilley would give Ms. Lewinsky a recommendation commensurate with her job performance.[302] Thereafter, Mr. Bowles took the President's request to Deputy Chief of Staff John Podesta, who in

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Judge Wright: Can you tell me who she is?

Mr. Fisher: Yes, your Honor.

Judge Wright: I never heard of her.

Mr. Fisher: She's the young woman who worked in the White House for a period of time and was later transferred to a job in the Pentagon.

1414-DC-00001327-32.

[301] As the Court stated:

Well, you've got -- you've got these [witnesses]. You've got the ones I have listed, or you have listed...And I do think you have enough -- I mean, right now, my inclination is to say that this conduct that Ms. Jones had alleged is so egregious. But it's not going to take just a whole lot to show the pattern and practice. . . . . And I am inclined just to make you stick with the witnesses you've got.

1414-DC-00001334-46.

[302] Bowles GJ, April 2, 1998, at 78.

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turn spoke to Mr. Hilley about writing a letter of recommendation. After speaking with Mr. Podesta, Mr. Hilley agreed to write such a letter, but cautioned it would be a "generic" one.[303] The next day, January 14, 1997 at approximately 11:17 a.m., Lewinsky faxed her letter of acceptance to Revlon.

3. Analysis

Direct evidence of conversations is critical to prove beyond a reasonable doubt that someone received job assistance in order to influence her testimony in a judicial proceeding. But powerful inferences can be drawn from circumstantial evidence.

In this case, the President of the United States initiated an extraordinary series of efforts to obtain Monica Lewinsky a job, involving the Ambassador to the United Nations and two of the most powerful persons in the country, Ronald Perelman and Vernon Jordan. Whether such assistance was to influence Ms. Lewinsky's testimony by keeping her "in line"[304] or to reward an ex-paramour (or both) -- or perhaps just to remove an ex-paramour to another city -- is something that only President Clinton can know for sure. But there is substantial and credible information that he initiated job assistance for Ms. Lewinsky, at least in part, to keep her in line in the Jones case, which is an obstruction of justice.

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[303] **[cite]**

[304] FILL IN CITE TO TRIPP TAPES re HUBBELL

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VI. There is substantial and credible information that President Clinton endeavored to obstruct justice by attempting to influence the testimony of Betty Currie.

Under the federal witness tampering statute, it is a crime to engage in "misleading conduct toward another person," if done with the intent to influence the testimony of that other person in an official proceeding.[305]

In a meeting with Betty Currie on the day after his deposition and in a separate conversation a few days later, President Clinton made several statements to her that he knew were false. The contents of the statements and the context in which they were made indicate that President Clinton was attempting to influence the testimony that Ms. Currie might at some point be required or requested to give in the Jones case.

A. Evidence

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[305] The statute provides that whoever

> corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to -- (1) influence, delay, or prevent the testimony of any person in an official proceeding; [or] (2) cause or induce any person to -- (A) withhold testimony, or withhold a record, document, or other object, from an official proceeding; . . . . shall be fined under this title or imprisoned not more than ten years, or both.

18 U.S.C. § 1512(b). Just a few years ago, the Governor of Guam was convicted of witness tampering for lying to a potential witness "intending that [the witness] would offer [the Governor's] explanation concerning the funds to the FBI." United States v. Bordallo, 879 F.2d 519 (9th Cir. 1988). It is no defense to a charge of witness tampering that the official proceeding had not yet begun, nor is it a defense that the testimony sought to be influenced turned out to be inadmissible or subject to a claim of privilege. 18 U.S.C. § 1512(e).

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1. Saturday, January 17 Deposition

President Clinton's deposition in Jones v. Clinton occurred on January 17, 1998. In that deposition, he testified that he could not recall being alone with Monica Lewinsky and that he had not had sexual relations with her. During his testimony, the President referred several times to his secretary Betty Currie and to her relationship with Ms. Lewinsky. He stated, for example, that the last time he had seen Ms. Lewinsky was when she had come to the White House to see Ms. Currie[306] and that Ms. Currie was present when the President had made a joking reference about the Jones case to Ms. Lewinsky.[307] President Clinton also indicated that Ms. Currie was his source of information about Vernon Jordan's assistance to Ms. Lewinsky[308] and that Ms. Currie had helped set up the meetings between Ms. Lewinsky and Mr. Jordan regarding her move to New York.[309]

Because the President referred so often to Ms. Currie, it was foreseeable, even likely, that she might become a witness in the Jones matter, at least during the discovery process, which was scheduled to terminate January 30.[310] Betty Currie has stated that at some point, President Clinton may have mentioned that she

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[306] Clinton Deposition, Jan. 17, 1988, at 68.

[307] Clinton Deposition, Jan. 17, 1988, at 71.

[308] Clinton Deposition, Jan. 17, 1988, at 72-73, 79.

[309] Clinton Deposition, Jan. 17, 1988, at 81.

[310] cite for discovery deadline

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might be asked about Monica Lewinsky.[311]

2. Sunday, January 18 Meeting with Ms. Currie

Shortly after 7:00 p.m. on Saturday, January 17, 1998, following his deposition, President Clinton called Ms. Currie at her home.[312] The President told Ms. Currie that he wanted to speak to her, and asked her to come to the White House the next day.[313] Ms. Currie testified that "It's rare for [President Clinton] to ask [her] to come in on Sunday" because it is "church day."[314]

At about 5:00 p.m. on Sunday, January 18, 1998, Betty Currie went to the White House and met with President Clinton. Ms.

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[311] Currie FBI Interview, Jan. 24, 1998, at 8 ("CURRIE advised CLINTON may have mentioned that CURRIE might be asked about LEWINSKY"); Currie GJ, May 6, 1998, at 118 (Q: "Didn't the President talk to you about Monica's name coming up in those cases [Whitewater or Jones v. Clinton]?" BC: "I have a vague recollection of him saying that her name may come up. Either he told me, somebody told me, but I don't know how it would come up.").

[312] Currie May 7, 1998 GJ testimony at 80-81; GJ Exhibit BC 3-10 (Presidential Call Log, Jan. 17, 1998).

[313] Currie Jan. 27, 1998 GJ at 65-66. The President confirmed that he called Betty Currie shortly after his deposition, and that he asked her to come in on Sunday, her day off. Clinton GJ, Aug. 17, 1998, at 149.

The next day at around 1:00 p.m., the President again called Ms. Currie at home. Currie May 7, 1998 GJ at 85. **[phone record]** Ms. Currie could not recall the content of the second call, stating: "He may have called me on Sunday at 1:00 after church to see what time I can actually come in. I don't know. That's the best I can recollect." Id. at 88.

[314] Currie GJ, May 7, 1998, at 91. See also Clinton GJ, Aug. 17, 1998, at 149 (acknowledging that Ms. Currie normally would not be in the White House on Sunday).

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concerned that her name was mentioned in a Washington Post article that would appear that morning.[333] Ms. Currie testified that the conversation was primarily about the *Post* article; she further testified that she believed the President "just wanted to vent or whatever."[334]

On either Tuesday or Wednesday of that week, the President again met with Ms. Currie and discussed the Monica Lewinsky matter. Ms. Currie testified as follows:

> BC: It was Tuesday or Wednesday. I don't remember which one this was, either.. But the best I remember, when he called me in the Oval Office, it was sort of a recapulation [sic] of what we had talked about on Sunday -- you know, "I was never alone with her" -- that sort of the thing.
>
> Q: Did he pretty much list the same --
>
> BC: To my recollection, sir, yes.
>
> Q: And did he say it in sort of the same tone and demeanor that he used the first time he told you on Sunday?
>
> BC: The best I remember, sir, yes.
>
> * * * *
>
> Q: And the President called you into the Oval Office specifically to list these things?

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[333] Currie GJ, May 7, 1998, at 112-14. Betty Currie's name appears once in the Washington Post on January 21, 1998. In an article about the Monica Lewinsky matter, the sentence mentioning Ms. Currie states in full: "At times, according to the source, [Ms. Lewinsky] would be responsible for delivering correspondence to the Oval Office, usually leaving it with the president's confidential assistants, Nancy Hernreich or Betty Currie, and she sometimes ran into Clinton during these duties." Susan Schmidt, et al., *Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones's Lawyers,* The Washington Post at A1 (Jan. 21, 1998).

[334] Currie GJ, May 7, 1998, at 111-14.

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BC: I don't know if that's specifically what he called me in for, but once I got inside, that's what he --

Q: That's what he told you?

BC: Uh-huh.[335]

B. The President's Grand Jury Testimony

The President was questioned about why he might have said to Ms. Currie in their meeting, "we were never alone together, right?" and "you could see and hear everything." The President testified:

> what I was trying to determine was whether my recollection was right and that she was always in the office complex when Monica was there, and whether she thought she could hear any conversations we had, or did she hear any.
>
> * * * *
>
> I was trying to — I knew, Mr. Bittman, to a reasonable certainty that I was going to be asked more questions about this. I didn't really expect you to be in the Jones case at the time. I thought what would happen is that it would break in the press, and I was trying to get the facts down. I was trying to understand what the facts were.[336]

The President was asked about the nature of his comments to Ms. Currie and his reasons for asking them:

Q: If Ms. Currie testified that that these were not really questions to her, that they were more like statements, is that not true?

WJC: Well, I can't testify as to what her perception was. I can tell you this. I was trying to get information in a hurry. I was downloading what I remembered. I think

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[335] Currie GJ, Jan. 27, 1998, at 80-82 (emphasis added).

[336] Clinton GJ, Aug. 17, 1998, at 56-57 (emphasis added). See also id. at 131-32 (Q: "You said that you spoke to her in an attempt to refresh your own recollection about the events involving Monica Lewinsky, is that right?" WJC: "Yes.").

Ms. Currie would also testify that I explicitly told her, once I realized that you were involved in the Jones case — you, the Office of Independent Counsel — and that she might have to be called as a witness, that she should just go in there and tell the truth, tell what she knew, and be perfectly truthful.

So, I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could.

Q: What information were you trying to get from her when you said, I was never alone with her, right?

WJC: I don't remember exactly what I did say with her. That's what you say I said.

Q: If Ms. Currie testified to that, if she says you told her, I was never alone with her, right?

WJC: Well, I was never alone with her —

Q: Did you not say that, Mr. President?

WJC: Mr. Bittman, just a minute. I was never alone with her, right, might be a question. And what I might have meant by that is, in the Oval Office complex.[337]

Later in the grand jury appearance, when asked again about the comments to Betty Currie about never being alone with Ms. Lewinsky, the President reiterated that he was referring to a larger area that simply the room where he and Ms. Lewinsky were located. He also testified that his statements to Ms. Currie were only intended to cover a limited range of dates:

WJC: . . . . [W]hen I said, we were never alone, right, I think I also asked her a number of other questions, because there were several times, as I'm sure she would acknowledge, when I either asked her to be around. I remember once in particular when I was talking with Ms. Lewinsky when I asked Betty to be in the, actually, in the next room in the dining room, and, as I testified earlier, once in her own office.

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[337] Clinton GJ, Aug. 17, 1998, at 57-58.

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But I meant that she was always in the Oval Office complex, in that complex, while Monica was there. And I believe that this was part of a series of questions I asked her to try to quickly refresh my memory. So, I wasn't trying to get her to say something that wasn't so. And, in fact, I think she would recall that I told her to just relax, go in the grand jury and tell the truth when she had been called as a witness.

Q: So, when you said to Mrs. Currie that, I was never alone with her, right, you just meant that you and Ms. Lewinsky would be somewhere, perhaps in the Oval Office or many times in your back study, is that correct?

WJC: That's right, we were in the back study.

Q: And then —

WJC: Keep in mind, sir, I just want to make it — I was talking about 1997. I was never, ever trying to get Betty Currie to claim that on the occasions when Monica Lewinsky was there when she wasn't anywhere around, that she was. I would never have done that to her, and I don't think she thought about that. I don't think she thought I was referring to that.

Q: Did you put a date restriction? Did you make it clear to Mrs. Currie that you were only asking her whether you were never alone with her after 1997?

WJC: Well, I don't recall whether I did or not, but I assumed — if I didn't, I assumed she knew what I was talking about, because it was the point at which Ms. Lewinsky was out of the White House and had to have someone WAVE her in, in order to get into the White House. And I do not believe to this day that I was — in 1997, that she was ever there and that I ever saw her unless Betty Currie was there. I don't believe she was.[338]

The President was also asked about his statement to Betty Currie that "you could see and hear everything." He testified that he was uncertain what he intended by that comment:

Q: When you said to Mrs. Currie, you could see and hear everything, that wasn't true either, was it, as far as you knew. You've already —

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[338] Clinton GJ, Aug. 17, 1998, at 133-34 (emphasis added).

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WJC: My memory of that —

Q: My memory of that was that, that she had the ability to hear what was going on if she came in the Oval Office from her office. And a lot of times, you know, when I was in the Oval Office, she just had the door open to her office. Then there was — the door was never completely closed to the hall. So I think there was — I'm not entirely sure what I meant by that, but I could have meant that she generally would be able to hear conversations, even if she couldn't see them. And I think that's what I meant.[339]

The President then testified that when he made the comment to Ms. Currie about her being able to hear everything, he again was referring only to a limited period of time:

Q: . . . .you would not have engaged in those physically intimate acts if you knew that Mrs. Currie could see or hear that, is that correct?

WJC: That's correct. But keep in mind, sir, I was talking about 1997. That occurred, to the — and I believe that occurred only once in February of 1997. I stopped it. I never should have started it, and I certainly shouldn't have started it back after I resolved not to in 1996. And I was referring to 1997.

And I — what — as I say, I do not know — her memory and mine may be somewhat different. I do not know whether I was asking her about a particular time when Monica was upset and I asked her to stand, stay back in the dining area. Or whether I was, had reference to the fact that if she kept the door open to the Oval Office, because it was always — the door to the hallway was always somewhat open, that she would always be able to hear something if anything went on that was, you know, too loud, or whatever.

I do not know what I meant. I'm just trying to reconcile the two statements as best I can, without being sure.[340]

The President was also asked about his comment to Ms. Currie

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[339] Clinton GJ, Aug. 17, 1998, at 134-35 (emphasis added).

[340] Clinton GJ, Aug. 17, 1998, at 136-37.

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that Ms. Lewinsky had "come on" to him, but that he had "never touched her:"

> Q: . . . . [If Ms. Currie] testified that you told her, Monica came on to me and I never touched her, you did, in fact, of course, touch Ms. Lewinsky, isn't that right, in a physically intimate way?
>
> WJC: Now, I've testified about that. And that's one of those questions that I believe is answered by the statement that I made.[341]
>
> Q: What was your purpose in making these statements to Ms. Currie, if it weren't for the purpose to try to suggest to her what she should say if ever asked?
>
> WJC: Now, Mr. Bittman, I told you, the only thing I remember is when all this stuff blew up, I was trying to figure out what the facts were. I was trying to remember. I was trying to remember every time I had seen Ms. Lewinsky.
>
> * * * *
>
> . . . I knew that all this stuff was going to come out. . . . I did not know [at the time] that the Office of the Independent Counsel was involved. And I was trying to get the facts and try to think of the best defense we could construct in the face of what I thought was going to be a media onslaught.
>
> Once you became involved, I told Betty Currie not to worry . . . . I said Betty, just don't worry about me. Just relax, go in there and tell the truth. You'll be fine. Now, that's all there was in this context.[342]

Finally, the President was asked why he would have called Betty Currie into his office a few days after the Sunday meeting, and repeated the same series of statements about Ms. Lewinsky to her. The President testified that although he would not dispute

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[341] The President is referring to the statement he read at the beginning of his grand jury appearance. See [Count I]. For the full text of the statement, see Doc. Supp. Tab [].

[342] Clinton GJ, Aug. 17, 1998, at 139-40 (emphasis added).

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Ms. Currie's testimony to the contrary, he did not remember having a second conversation with her on this topic.[343]

C. Analysis

The President referenced Ms. Currie on multiple occasions in his civil deposition when describing his relationship with Ms. Lewinsky. In the wake of the President's deposition, it was foreseeable that Ms. Currie either might be called upon to prepare an affidavit or might be deposed.

The President met with Ms. Currie the next day. And as the President's own grand jury testimony reveals, the statements he made to Betty Currie on January 18 and again on January 20 or 21, 1998 — that he was never alone with Ms. Lewinsky, that Ms. Currie could always hear or see them, and that he never touched Ms. Lewinsky — were false. And the President knew they were false at the time he made them. Therefore, the President's defense that he was simply trying to refresh his memory is at war with the commonsense notion that Ms. Currie's confirmation of false statements would do little to remind the President of the facts.

The content of the President's statements and the context in which those statements were made provide substantial and credible information that President Clinton made these false statements to influence Ms. Currie's testimony in any proceeding in which she might be called upon to provide it.

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[343] Clinton GJ, Aug. 17, 1998, at 141-42.

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VII. There is substantial and credible information that President Clinton endeavored to obstruct justice during the federal grand jury investigation: He refused to testify for seven months and simultaneously lied to potential grand jury witnesses knowing that they would relay the President's statements to the grand jury and thereby deceive the grand jury.

After the media started reporting the allegations regarding the President and Ms. Lewinsky and the existence of a criminal investigation into those allegations,[344] the President lied about his relationship with Ms. Lewinsky to senior aides, friends, and ultimately, to the American public. The President made false, evasive, and misleading statements about the relationship to at least three current senior aides -- John Podesta, Erskine Bowles, and Sidney Blumenthal, and one former senior aide -- Harold Ickes.[345] While the President did not explicitly tell his aides to repeat his false statements to the grand jury, he was well aware that repetition of the statements was a reasonably

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[344] On January 18, 1998, an Internet news magazine "The Drudge Report," posted an article about Ms. Lewinsky and her conversations with Ms. Tripp. **cite** Two days later, on January 20, 1998, individuals at the White House learned about an upcoming Washington Post story that planned to report that the President was having an affair with an intern. Bowles 4/2/98 GJ at 119. See also Podesta 6/16/98 GJ at 81. The next day, January 21, 1998, the Post printed a story entitled, "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones's Lawyers." Washingon Post, at A1.

[345] In addition to the false statements discussed in detail here, the President made false statements to many other potential witnesses. On January 21, 1998, he told Vernon Jordan, the lawyer who assisted Ms. Lewinsky in her job search, that "a false story has come out about this relationship." Jordan 6/9/98 GJ at 79-80. The President told Ms. Hernreich ___. **cite other examples.**

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foreseeable -- even likely -- consequence.

The false, evasive, and misleading statements that the President made to his aides include his denial of any kind of sexual relationship with Monica Lewinsky; his statement that Ms. Lewinsky made a sexual demand on him; his denial of visits by Monica Lewinsky to him; and his denial of multiply telephone conversations with Monica Lewinsky.

The President's aides took the President at his word when he made these statements. They believed him. The President made those misleading statements knowing that the aides would likely be called before the grand jury that was investigating the allegations of perjury, subornation of perjury, and obstruction of justice against him.[346] Moreover, even after the aides were subpoenaed to testify before the grand jury, the President never corrected the false statements he made to them. Each aide testified to the nature of the relationship between Monica Lewinsky and William Jefferson Clinton based on those statements without knowing that they were at best misleading -- and at worst calculated falsehoods designed to perpetuate the lies that the President told during his deposition in the Jones case. The President's willful failure to correct these statements resulted

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[346] The President knew from prior experience as Arkansas Attorney General and as the target of a four-year, multi-faceted investigation that a grand jury commonly questions people to whom a person under investigation has spoken about pertinent matters.

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in the dissemination of misleading, evasive, and false statements to the grand jury regarding the nature of the President's relationship with Monica Lewinsky. Indeed, the aides' testimony left the grand jury with an entirely false impression of the relationship between the President and Ms. Lewinsky and thus had the grave potential to affect the investigation.

There is substantial and credible evidence that the President made misleading statements to four aides -- Mr. Podesta, Mr. Bowles, Mr. Blumenthal, and Mr. Ickes, all of whom were potential grand jury witnesses -- in an attempt to influence their testimony before the grand jury.

1. Evidence

(a) The President's grand jury admissions

The President admitted to the grand jury that after the scandal broke, he made "misleading" statements to particular aides knowing that those aides would likely be called to testify before the grand jury. The President testified as follows:

> Q: Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to those individuals?
>
> WJC: I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe, sir, that -- you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.
>
> Q: If they testified that you denied sexual relationship or relationship with Monica Lewinsky, or if they told

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us that you denied that, do you have any reason to doubt them, in the days after the story broke; do you have any reason to doubt them?

WJC: No. The -- let me say this. It's no secret to anybody that I hoped that this relationship would never become public. It's a matter of fact that it had been many, many months since there had been anything improper about it, in terms of improper contact. I -- * * * I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I -- and sure enough they all became witnesses. * * * And so I said to them things that were true about this relationship. That I used -- in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter. further. So, I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

Q: It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?

WJC: That's right. I think I was quite careful what I said after that. I may have said something to all these people to that effect, but I'll also -- whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about this.

Q: If all of these people -- let's leave out Mrs. Currie for a minute. Vernon Jordan, Sid Blumenthal, John Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after the story broke, after Judge Starr's involvement was known on January 21st, have said that you denied a sexual relationship with them. Are you denying that?

WJC: No.

Q: And you've told us that you --

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WJC: I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition.

Q: You've told us now that you were being careful, but that it might have been misleading. Is that correct?

WJC: It might have been. Since we have seen this four-year, $40-million-investigation come down to parsing the definition of sex, I think it might have been. I don't think at the time that I thought that's what this was going to be about.

In fact, if you remember the headlines at the time, even you mentioned the Post story. All the headlines were -- and all the talking, people who talked about this, including a lot who have been quite sympathetic to your operation, said, well, this is not really a story about sex, or this is a story about subornation of perjury and these talking points, and all this other stuff.

So, what I was trying to do was to give them something they could -- that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal -- and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words. [347]

(b) The Testimony of Current and Former Aides

1. John Podesta. John Podesta, Deputy Chief of Staff,[348] testified that on several occasions shortly after the media first began reporting the Lewinsky allegations, the President either denied having a relationship with Ms. Lewinsky or otherwise minimized his involvement with her.

Mr. Podesta described a meeting with the President, the

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[347] Clinton 8/17/98 GJ at 105-109 (emphasis added).

[348] Podesta 2/5/98 GJ at 13. Mr. Podesta has served as Deputy Chief of Staff since early 1997, and previously served as Staff Secretary for the Clinton Administration from 1993 through 1995. Podesta 2/5/98 GJ at 10, 13.

Chief of Staff, Erskine Bowles, and Deputy Chief of Staff, Sylvia Matthews, in the early morning of January 21, 1998.[349] During that meeting, the President specifically stated: "Erskine, I want you to know that this story is not true."[350] Mr. Podesta further recalled that the President said "that he had not had a sexual relationship with her, and that he never asked anybody to lie."[351]

Several days later, on January 23, 1998, the President more adamantly told Mr. Podesta that he had not engaged in sex of any "kind, shape or manner" with Ms. Lewinsky. Mr. Podesta recalled:

> JP: See, we were getting ready to do the State of the Union prep, and he was working on the State of the Union draft, back in his study.
>
> I went back there just to kind of get him going - this is first thing in the morning -- and he said -- you know, we sort of get engaged. I asked him how he was doing and he said he was working on the State of the Union draft, back in his study. I went back there just to kind of get him going -- this is first thing in the morning -- and he said -- you know, we sort of get engaged. I asked him how he was doing, and he said he was working on this draft, and he said to me that he had never had sex with her, and that -- and that he never asked -- you know, he repeated the denial, <u>but he was extremely explicit in saying he never had sex with her.</u>
>
> Q: How do you mean?
>
> JP: Just what I said.
>
> Q: Okay. Not explicit, in the sense that he got more specific than sex, than the word "sex."
>
> JP: Yes, he was more specific than that.

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[349] Podesta 6/16/98 GJ at 85.

[350] Podesta 6/16/98 GJ at 85.

[351] Podesta 6/16/98 GJ at 85.

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Q: Okay. Share that with us.

JP: Well, I think he said - he said that - there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever --

Q: Okay.

JP: --that they had not had oral sex.[352]

Later, possibly that same day,[353] the President made a further false and misleading statement to Mr. Podesta regarding his relationship with Ms. Lewinsky. Mr. Podesta testified that the President "said to me that after [Monica] left [her job at the White House], that when she had come by, she came by to see Betty, and that he -- when she was there, either Betty was with them -- either that she was with Betty when he saw her or that he saw her in the Oval Office with the door open and Betty was around -- and Betty was out at her desk."[354]

Both the President and Mr. Podesta knew that Mr. Podesta was

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[352] Podesta 6/16/98 GJ at 92-94 (emphasis added). During further questioning, Mr. Podesta reiterated the scope of the President's denials during that conversation:

Q: Okay. Let's go back to the first one. No question in your mind he's denying any kind of sex in any way, shape or form, correct?
JP: That's correct.
Q: All right. What else did he say at that particular session?
JP: He said to me, "I don't know how I could put that, but that's the truth."

Podesta 6/16/98 GJ at 92-94.

[353] Podesta 6/16/98 GJ at 88. Mr. Podesta dated this conversation as perhaps taking place on January 23, 1998.

[354] Podesta 6/16/98 GJ at 88 (emphasis added). "So that they weren't alone in -- you know, in the sense that the door was open . . .and somebody was standing outside the door." Id.

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likely to be a witness in the ongoing grand jury criminal investigation.[355] Nonetheless, Mr. Podesta recalled that the President "volunteered" to provide information about Ms. Lewinsky to him[356] even though Mr. Podesta had not asked for these details.[357]

Mr. Podesta "believe[d]" the President, and testified that it was important to him that the President denied the affair.[358] Mr. Podesta repeated to the grand jury the false and misleading statements that the President told him.

2. Erskine Bowles. Mr. Bowles, the White House Chief of Staff,[359] confirmed Mr. Podesta's account of the President's January 21, 1998, statement in which the President denied having a sexual relationship with Ms. Lewinsky. Mr. Bowles testified:

> EB: . . . And this was the day this huge story breaks. And the three of us walked in together -- Sylvia Matthews, John Podesta, and me -- into the Oval Office, and the President was standing behind his desk.
>
> Q: About what time of day is this?
>
> EB: This is approximately 9:00 in the morning, or something -- you know, in that area. And he looked up at us and he said the same thing he said to the American people.

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[355] Mr. Podesta testified that he was "sensitive about not exchanging information because I knew I was a potential witness." Podesta 6/23/98 GJ at 79. See also Podesta 6/23/98 GJ at 9 ("given this investigation, I think anybody in the White House is potentially a witness").

[356] Podesta 6/16/98 GJ at 94.

[357] Podesta 6/23/98 GJ at 79.

[358] Podesta 6/23/98 GJ at 77-78.

[359] Bowles 4/2/98 GJ at 12. Mr. Bowles has been the Chief of Staff for President Clinton since January 20, 1997. Id.

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> He said, "I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."[360]

Mr. Bowles testified that he took the President's statements seriously: "All I can tell you is: This guy who I've worked for looked me in the eye and said he did not have sexual relationships with her. And if I didn't believe him, I couldn't stay. So I believe him."[361] Mr. Bowles repeated the false and misleading statement that the President made to him to the grand jury without knowledge of the statement's inaccuracy.

3. Sidney Blumenthal. Sidney Blumenthal,[362] an Assistant to the President,[363] similarly testified that the President made statements to him denying the Lewinsky allegations shortly after the media first began reporting the allegations.

Mr. Blumenthal stated that he spoke to Mrs. Clinton on the afternoon of January 21, 1998, and to the President early that evening. During those conversations, both Clintons offered an explanation for the President's meetings with Ms. Lewinsky, and President Clinton offered an explanation for Ms. Lewinsky's purportedly false allegations of a sexual relationship.[364]

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[360] Bowles 4/2/98 GJ at 84 (emphasis added).

[361] Bowles 4/2/98 GJ at 91.

[362] Mr. Blumenthal was one of numerous individuals whose testimony the White House tried, unsuccessfully, to forestall by an invocation of Executive privilege.

[363] Blumenthal 2/26/98 GJ at 4-5.

[364] Blumenthal 6/4/98 GJ at 46-53. Mrs. Clinton told Mr. Blumenthal that "that she was distressed that the President was

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Testifying before the grand jury, Mr. Blumenthal related his discussion with President Clinton:

> I recall that it was January 21st, the day that the story broke. . . . It was in the early evening. It was a week before the State of the Union address. . . . I was in my office and the President asked me to come to the Oval Office. . .[365]
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> * * * *
>
> And I said to the President, "What have you done wrong?" And he said, "Nothing. I haven't done anything wrong." I said, "Well, then, [confessing is] one of the stupidest ideas I've ever heard. Why would you do that if you've done nothing wrong?"[366]
>
> * * * *
>
> And it was at that point that he gave his account of what had happened to me and he said that Monica -- and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again."
>
> She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be

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being attacked, in her view, for political motives, for his ministry of a troubled person." Mr. Blumenthal also testified that Mrs. Clinton did not indicate how she knew about the President's ministry to troubled people, and that the President said nothing to deny Mrs. Clinton's characterization of his ministry. Blumenthal 6/4/98 GJ at 52-53. Mr. Podesta, however, testified that the President never mentioned that he had ministered to Ms. Lewinsky when the President was denying any sexual relationship with her. Podesta 6/16/98 GJ at 95..

[365] Blumenthal 6/4/98 GJ at __.

[366] The idea of a confession became open for discussion because, according to Mr. Blumenthal, the President had just told him of receiving a call from the political consultant Dick Morris earlier that day. Mr. Morris told him that President Nixon could have survived Watergate if he had gone on television and confessed at the outset of the scandal, and Mr. Morris thought that the President should also consider confessing.

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the stalker any more.[367]

Mr. Blumenthal testified that the President appeared "upset" during this conversation.[368]

Finally, Mr. Blumenthal asked the President to explain a detail mentioned in the press reports.

> I said, you know, there are press reports that you made phone calls to her and that there's voice mail. Did you make phone calls to her?
>
> He said that he remembered calling her when Betty Currie's brother died and that he left a message on her voice machine that Betty's brother had died and he said she was close to Betty and had been very kind to Betty. And that's what he recalled.[369]

According to Mr. Blumenthal, the President said that the call he made to Ms. Lewinsky relating to Betty's brother was the "only one he could remember."[370]

A grand juror asked Mr. Blumenthal a follow-up question whether the President had said that his ministry to Ms. Lewinsky included any kind of sexual activity. Mr. Blumenthal testified that the President's response was "the opposite. He told me that she came on to him and that he had told her he couldn't have sexual relations with her and that she threatened him. That is what he told me."[371]

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[367] Blumenthal 6/4/98 GJ at 46-51 (emphasis added).

[368] Blumenthal 6/25/98 GJ at 41.

[369] Blumenthal 6/4/98 GJ at 50. Thereafter, Mr. Blumenthal testified, the conversation turned to the upcoming State of the Union address. Id.

[370] Blumenthal 6/25/98 GJ at 27.

[371] Blumenthal 6/4/98 GJ at 52-53 (emphasis added).

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Mr. Blumenthal testified that after the President relayed this information to him, he felt "generally sympathetic" to the President. Mr. Blumenthal testified: "And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him."[372] Mr. Blumenthal repeated to the grand jury the misleading, evasive and false statements that the President made to him.

Harold Ickes. Mr. Ickes, a former Deputy Chief of Staff,[373] also related a conversation that he had with the President on the morning of January 21, 1998, during which the President denied the Lewinsky allegations.

Regarding that conversation, Mr. Ickes testified: "The two things that I recall, the two things that he again repeated in public -- had already said publicly and repeated in public that same Monday morning was that he had not had -- he did not have a -- or he had not had a sexual relationship with Ms. Lewinsky and that he had done nothing -- now I'm paraphrasing -- had done nothing to ask anybody to change their story or suborn perjury or obstruct justice."[374]

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[372] Blumenthal 6/25/98 GJ at 17. See also Blumenthal 6/25/98 GJ at 26 ("My understanding was that the accusations against him which appeared in the press that day were false, that he had not done anything wrong").

[373] Ickes 7/23/98 GJ at 8. Mr. Ickes worked as Deputy Chief of Staff for President Clinton from early 1994 through January 1997. Id.

[374] Ickes 6/10/98 GJ at 73. See also Ickes 8/5/98 GJ at 88 ("[H]e denied to me that he had had a sexual relationship. I don't know the exact phrase, but the word `sexual' was there. And he denied any obstruction of justice").

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Mr. Ickes recalled that the President probably "volunteered" this information.[375] Mr. Ickes repeated the misleading, evasive and false statements to the grand jury.

3. Analysis

The President made the following misleading statements to his aides:

- The President told Mr. Podesta that he "had not engaged in sex of any kind, shape, or manner with Ms. Lewinsky," including oral sex.
- The President told Mr. Podesta, Mr. Bowles, and Mr. Ickes that he did not have a "sexual relationship" with Ms. Lewinsky.
- The President told Mr. Blumenthal that Ms. Lewinsky "came on to him and that he had told her he couldn't have sexual relations with her and that she threatened him."
- The President told Mr. Blumenthal that he couldn't remember making any calls to Ms. Lewinsky other than once when he left a message on her answering machine.
- The President told Mr. Podesta that "when [Ms. Lewinsky] came by, she came by to see Betty [Currie]."

During the President's grand jury testimony, the President explicitly admitted that his statements to aides denying a sexual relationship with Ms. Lewinsky "may have been misleading."[376] In addition, the President conceded that he had been alone with Ms. Lewinsky on numerous occasions[377] and that he "had occasional telephone conversations with Ms. Lewinsky that included

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[375] Ickes 6/10/98 GJ at 73.

[376] **cite**

[377] Clinton 8/17/98 Deposition at 9-10, **add other alone cites.**

FOIA # none (URTS 16305) DocId: 70105128 Page 129

inappropriate sexual banter"[378] -- thereby implicitly conceding that the factual predicates for other statements to aides were misleading.

The President's motive for deceiving his advisors is clear. The President knew that they would be called to testify regarding any communications with him and Ms. Lewinsky, and he presumably wanted his aides to disseminate his false but near-contemporaneous statements regarding Ms. Lewinsky to anyone and everyone, including the grand jury.

Moreover, the President's near-contemporaneous statements to his aides were of heightened importance because for many months, the President refused this Office's invitation to testify before the grand jury. Thus, it was not apparent that the President's voice would ever be heard by the grand jury. In the President's view, the next best thing to his own denials were heartfelt denials by his aides. The President may also have intended for his aides to use his blanket denials to implicitly color their view of particular facts, or he may have viewed the denials as a simple method to keep the aides on the his team.

The President's denials were "not pro forma."[379] The aides to whom he made the false statements trusted the President, and believed his statements. The denials may have affected the cooperation of those potential witnesses, and gravely affected the ability of the grand jury to gather accurate information in a

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[378] Clinton 8/17/98 Deposition at 9-10.

[379] Podesta GJ cite.

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timely manner.

The President's only defense to the charge of making false, evasive and misleading statements to the potential grand jury witnesses is a linguistic one. The President argues that at the time he made the statements to his aides he carefully parsed them and crafted each word so that the statements would not be literally false. The President's defense is undermined by his own admissions before the grand jury that his statements denying the relationship "may have been misleading," and the contradictory grand jury testimony of some of the President's most trusted, and most loyal aides.

For all of these reasons, there is substantial and credible information that the President obstructed justice during the grand jury investigation. He refused to testify for seven months and simultaneously lied to potential grand jury witnesses knowing that they would relay the President's statements to the grand jury and thereby deceive the grand jury.

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MEMORANDUM

TO: OIC Attorneys

FROM: Brett Kavanaugh

RE: Indictment/Impeachment

DATE: December 3, 1996

John asked me simply to circulate relevant materials on the question whether a sitting President may be indicted, a question that is obviously intertwined with the research Stephen and Craig have been doing on Section 595(c). I attach the following illustrative materials:

(1) The relevant portion of the brief of President Nixon in the Supreme Court in United States v. Nixon. (The Special Prosecutor did not address the issue squarely in his brief.)

(2) The relevant portion of the reply brief of President Nixon in the Supreme Court in United States v. Nixon.

(3) The brief submitted by Solicitor General Bork in the District Court of Maryland, arguing that a sitting Vice President could be indicted but a sitting President could not.

(4) The relevant portion of the brief of Solicitor General Dellinger in Clinton v. Jones, to be argued in the Supreme Court in January.

(5) The relevant portion of Professor Tribe's treatise.

(6) An article by Byron York in the American Spectator that summarizes the impeachment/indictment issues.

1

FILE
JUN 21 19
MICHAEL RODAK, JR

Nos. 73-1766 and 73-1834

In the Supreme Court of the United States

OCTOBER TERM, 1973

UNITED STATES OF AMERICA, PETITIONER

v.

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES ET AL., RESPONDENTS

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES, CROSS-PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

ON WRITS OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE RESPONDENT, CROSS-PETITIONER RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES

JAMES D. ST. CLAIR,
MICHAEL A. STERLACCI,
JEROME J. MURPHY,
LOREN A. SMITH,
JAMES R. PROCHNOW,
EUGENE R. SULLIVAN,
JEAN A. STAUDT,
THEODORE J. GARRISH,
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Attorneys for the President,
The White House,
Washington, D.C. 20500,
Telephone Number: 456-1414.

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> President might receive a letter which it would be improper to exhibit in public * * *. The occasion for *demanding* it ought, in such a case, to be very strong and to be fully shown to the court before its production could be *insisted* on. 25 F. Cas. at 190–192. (emphasis in original) (487 F. 2d at 710).

Other cases also clearly demonstrate that in order for a court to balance countervailing public interest, the party seeking disclosure must make a threshold showing of compelling need or "uniquely powerful" need. In *United States* v. *Reynolds*, 345 U.S. 1 (1953), a case relied upon in *Nixon* v. *Sirica*, this Court stated:

> In each case, the showing of necessity which is made will determine how far the court should probe in satisfying itself that the occasion for invoking the privilege is appropriate. Where there is a strong showing of necessity, the claim of privilege should not be lightly accepted, but even the most compelling necessity cannot overcome the claim of privilege if the court is ultimately satisfied that military secrets are at stake. *A fortiori*, where necessity is dubious, a formal claim of privilege . . . will have to prevail. (345 U.S. at 11).

At another point in *Reynolds* this Court stated:

> [W]e will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case. *Id.*

This point is further illustrated by *Committee for Nuclear Responsibility, Inc.* v. *Seaborg*, 463 F. 2d 788, 792 (D.C. Cir. 1971). There the court held:

> Of course, the party seeking discovery must make a preliminary showing of necessity to warrant even *in camera* disclosure, . . .

Certainly, this well-documented principle supports the proposition that, before a court can even engage in balancing, the party seeking disclosure must show a compelling need to overcome a presumption of privilege. *Senate Select Committee on Presidential Campaign Activities* v. *Richard M. Nixon*, Slip Op. No. 74–1258 (D.C. Cir. May 23, 1974). Since that showing has not been made in this case, it was incumbent upon the district court to grant the President's motion to quash.

It is clear that the Special Prosecutor has failed to make the requisite showing of compelling need necessary to activate the balancing test. Nor has he made a sufficient showing to establish that each of the requested materials is relevant and admissible and that it is not an attempt to discover additional evidence already known. Therefore under well-established case law, the subpoena should have been quashed in all respects by the court below.

VI. AN INCUMBENT PRESIDENT CANNOT LAWFULLY BE CHARGED WITH A CRIME BY A GRAND JURY

A. THE PRESIDENT CANNOT BE INDICTED WHILE HE IS SERVING AS PRESIDENT

It has never been seriously disputed by legal scholars, jurists, or constitutional authorities that a President may not be indicted while he is an incumbent. The reasons for the President's non-indictability bear

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directly on the question of whether he may be named as an unindicted co-conspirator by a grand jury. The reasons are obvious and compelling. They are particularly relevant in light of the ongoing proceedings in the House of Representatives.

The Presidency is the only branch of government that is vested exclusively in one person by the Constitution. Art. II, section 1, clause 1 states:

> The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years * * *

Article II then details the powers and functions that the President shall personally have and perform. The functioning of the executive branch ultimately depends on the President's personal capacity: legal, mental and physical. If the President cannot function freely, there is a critical gap in the whole constitutional system established by the Framers.

The President, personally, as no other individual, is necessary to the proper maintenance of orderly government. Thus, in order to control the dangerous possibility of any incapacity affecting the President, and hence the executive branch, the Constitution specifically limits and provides for all those events that could incapacitate a President.[65]

The necessary reason for the great concern and specificity of the Constitution in providing for a President at all times capable of fulfilling his duties,

[65] U.S. Const., Amend. 25, ratified on February 23, 1967. See Congressional Research Service, United States Congress, *The Constitution of the United States* at 42–43.

is the fact that all three branches of government must have the capacity to function if the system is to work. While the capacity to function is assured to the legislative and judicial branches by the numbers of individuals who comprise them, the executive branch must depend on the personal capacity of a single individual, the President. Since the executive's responsibilities include the day-to-day administration of the government, including all emergency functions, his capacity to function at any hour is highly critical. Needless to say, if the President were indictable while in office, any prosecutor and grand jury would have within their power the ability to cripple an entire branch of the national government and hence the whole system.

Further analysis makes it even more clear that a President may not be indicted while in office. The President is vested under Art. II, section 3, clause 1, with the power "that the Laws be faithfully executed" and he has under Art. II, section 2, clause 1, the power of granting "Pardons for Offenses against the United States, except in Cases of Impeachment." Under that same clause, he shall appoint the "Judges of the Supreme Court" with "the Advice and Consent of the Senate." The President has also been granted by Congress the same power to appoint all Article III judges. 28 U.S.C. 44 and 28 U.S.C. 133. Since the President's powers include control over all federal prosecutions, it is hardly reasonable or sensible to consider the President subject to such prosecution. This is consistent with the concept of prosecutorial discre-

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tion, the integrity of the criminal justice system or a rational administrative order. This is particularly true in light of the impeachment clause which makes a President amenable to post-impeachment indictment. Art. I, section 3, clause 7. This clause takes account of the fact that the President is not indictable and recognizes that impeachment and conviction must occur before the judicial process is applicable to the person holding office as President. This section reads: "But the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law." While out of necessity an incumbent President must not be subject to indictment in order for our consitutional system to operate, he is not removed from the sanction of the law. He can be indicted after he leaves office at the end of his term or after being "convicted" by the Senate in an impeachment proceeding.

The history surrounding the Constitution's adoption further makes it clear that impeachment is the exclusive remedy for presidential criminal misconduct. A very revealing interchange took place on September 15, 1787, only two days before the final adoption of the Constitution. Gouverneur Randolph moved to except cases of treason from the power of the President to pardon offenses against the United States, a power granted by Art. II, section 2, clause 7.

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

There are several relevant considerations that should be noted about the Convention and the provision that resulted from them. First, it is clear that an incumbent President is not subject to criminal prosecution. He is amenable to the criminal laws, but only after he has been impeached and convicted, and thus stripped of his critical constitutional functions.

The text of Art. I, section 3, clause 7, points so explicitly in that direction that it hardly requires exposition, and the legislative history is wholly in accord. James Wilson noted that if the President himself be a "party to the guilt he can be impeached and prosecuted." 2 *Farrand* 626. And on September 4, 1787, in the recurring debate on whether impeachments should be tried by the Senate or by the Supreme Court, Gouverneur Morris said:

> A conclusive reason for making the Senate instead of the Supreme Court the Judge of Impeachments, was that the latter was to try the President after the trial of the impeachment. 2 *Farrand* 500.

The decision to make the Senate, and not the Supreme Court,[66] the ultimate body to decide upon the Presi-

[66] In this respect Gouverneur Morris noted:

> [N]o other tribunal than the Senate could be trusted [to try the President]. The Supreme Court were too few in number and might be warped or corrupted. He was agst. [sic] a dependence of the Executive on the Legislature, considering the Legislative tyranny the great danger to be apprehended; but there could be no danger that the Senate

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dent's removal, further argues for limiting any court or grand jury from removing a President by way of indictment or other judicial process.

There is literally nothing in all of the records of the Convention to suggest that any delegate had any contrary view. This reading of the language in question was put forward twice by Hamilton when he wrote:

> The punishment which may be the consequence of conviction upon impeachment, is not to terminate the chastisement of the offender. After having been sentenced to a perpetual ostracism from the esteem and confidence, and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of law. *The Federalist,* No. 65, at 426 (Modern Library ed. 1937).

He returns to the point in the 69th *Federalist,* and uses it there to illustrate an important distinction between a President and a king.

> The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law. The person of the King of Great Britain is sacred and inviolable; there is no constitutional tribunal to which he is amenable; no punishment to which he can be subjected without involving the crisis of a national revolution.

would say untruly on their oaths that the President was guilty of crimes or facts, especially as in four years he can be turned out. *2 Farrand 551.*

So far as we are aware, that an incumbent President is not indictable is a proposition that has never been challenged by the Special Prosecutor. The proposition is relevant here because of the suggestion that an otherwise valid claim of privilege by the President should be overridden if there is in some manner an alleged showing of a *prima facie* criminal case or a *prima facie* finding of criminal involvement, such as the authorizing of the naming, or the naming of the President as an unindicted co-conspirator. If, however, such facts were true, which they are not, they go not to the evidentiary needs of the grand jury, but to those of the Committee on the Judiciary in the House.

Whatever the grand jury may claim about a President, its only possible proper recourse is to refer such facts, with the consent of the court, to the House and leave the conclusions of criminality to that body which is constitutionally empowered to make them. The grand jury may not indict the President or allege that there is probable cause to find criminal liability on the part of a President. Thus, such a claimed "finding" by the grand jury has no force in overcoming any presidential claim of privilege, as it is a legal nullity, being constitutionally impermissible.

A second important theme that runs through the debates of the Constitutional Convention of 1787 is whether the President should be answerable, in an impeachment proceeding, to the courts or to the Senate. On June 13, 1787, the Committee of the Whole adopted a resolution offered by Messrs. Randolph and Madison to give the national Judiciary jurisdic-

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tion of "Impeachments of any national officers." 1 *Farrand* 224. On July 18th, however, the Convention voted unanimously to remove the language giving the courts jurisdiction of impeachments. 2 *Farrand* 39. This did not end the matter. The report of the Committee on Detail, on August 6th, would have given the Supreme Court original jurisdiction "in cases of impeachment." 2 *Farrand* 186. As noted above a subsequent committee, however, recommended on September 4th that the trial of impeachments be by the Senate, 2 *Farrand* 493. This was approved on September 8th by a vote of nine states to two. 2 *Farrand* 547. See the report of the debate on this issue at 2 *Farrand* 551–553.

The significance of the foregoing history is that it is not mere chance or inadvertence that the President is made answerable to the Senate, sitting as a Court of Impeachment. The Framers repeatedly considered making him answerable to the Judiciary, and they twice rejected proposals to this effect, thus further reinforcing the conclusion that it would be wholly inconsistent with the Framer's intent to hold a President indictable.

Finally, it should also be observed that there was no sentiment in the Convention for providing restraints other than impeachment against a President. The argument went quite the other way. There was sentiment in the Convention that a President would not be subject even to impeachment and that it would be enough that he served for a limited term and would answer to the people if he chose to stand for reelection. This point was extensively debated on July 20,

1787, with the motion to strike out the impeachment provision offered by Charles Pinckney and Gouverneur Morris, 2 *Farrand* 64–69. The arguments in favor of the Pinckney motion seem unpersuasive, and in fact during the course of the debate on it, Morris admitted that the discussion had changed his mind. But the debate is interesting because those who opposed the Pinckney motion, and supported retention of impeachment, made it clear that this was the only means by which they considered that the President was subject to law. Thus, Colonel George Mason said:

> No point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice? When great crimes were committed he was for punishing the principal as well as the Coadjutors. (2 *Farrand* 65).

And again Eldridge Gerry—

> urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. He hoped that maxim would never be adopted here that the Chief Magistrate could do no wrong. (2 *Farrand* 66).

By a vote of eight states to two, the Pinckney motion was defeated and the Convention agreed that the Executive should be removable on impeachment. 2 *Farrand* 69. But it is only conviction in the Senate that leads to this result. On September 14th, the Convention rejected, by a vote of eight states to three, a proposal that an officer impeached by the House be suspended from office until tried and acquitted by the Senate. 2 *Farrand* 612–613.

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This examination of the proceedings of the Constitutional Convention of 1787 establishes that the Framers deliberately chose one particular means of guarding against the abuse of the powers they entrusted to a President. He may not be indicted unless and until he has been impeached and convicted by the Senate. Impeachment is the device that ensures that he is not above justice during the term in office, and the trial of impeachment is left to the Senate and not to the courts.

Those principles have been recognized by this Court. In the early and leading case of *Marbury* v. *Madison* 1 Cranch (5 U.S.) 137, 165 (1803), the Court said:

> By the Constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience.

Thirty-five years later, in *Kendall* v. *United States ex. rel. Stokes,* 12 Pet. (37 U.S.) 524, 610 (1838) the Court said:

> The executive power is vested in a President and as far as his powers are derived from the Constitution, he is beyond the reach of any other department, except in the mode prescribed by the Constitution through the impeaching power.[67]

[67] See also the observations in 1 Bryce, *The American Commonwealth* 89 (1889):

> The President is personally responsible for his acts, not indeed to Congress, but to the people, by whom he is chosen. No means exist of enforcing this responsibility, except by impeachment, but as his power lasts for four years only, and is much restricted, this is no serious evil.

We are wholly mindful of weighty warnings against the view that "the great clauses of the Constitution must be confined to the interpretation which the Framers, with the conditions and outlook of their time, would have placed upon them. . . ." *Home Building & Loan Assn.* v. *Blaisdell,* 290 U.S. 398, 443 (1934). But if the provisions of the Constitution that we have been discussing can fairly be said to have taken on new meaning with the passage of years, and with the emergence of new problems, surely any change must be in the direction of strengthening the independence of the Presidency, rather than creating new hobbles on it.

Powell v. *McCormick,* 395 U.S. 486 (1969), reaffirms the extraordinary nature and strictly limited character of the power to remove political officials, particularly those directly elected by the people. That decision held that the Congress could not expand the constitutional limits mandated for expelling or alternatively excluding a Congressman from his seat. U.S. Const., Article I, section 5, clause 2; Article I, section 2, clause 2. The constitutional sanctity of the people's electoral choice, therefore, was considered so important that it required judicial intervention and protection. While judicial action was required in *Powell* to protect the electorate's rights under the Constitution, the reverse is certainly not true. This same power cannot be used to nullify the electorate's decision. This is particularly true in the case of the Presidency when the Constitution explicitly delegates the power to remove the President under strict conditions to the representatives of the voters who elected him. It seems improbable, at best, to suggest that the Framers

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felt that any court and grand jury could also remove or even legally incapacitate the Chief Executive. The specificity and grave nature of the impeachment process and the total absence of any discussion of any other method, is an extremely powerful argument for the exclusivity of impeachment as the only method of removing a President.

The *Powell* case emphasizes that while another branch cannot control the Congress in the execution of their peculiar constitutional responsibilities, neither can the Congress, as a whole, control the execution of a particular Congressman's duties via exclusion. Exclusion is an action that the Congress may take solely within the limits of Article I, section 2, clause 2. It is not a political tool. Obviously this also applies to the executive branch. If Congressman Powell could not be excluded from his congressional seat by a majority of Congress except by adhering to the requirements of the Constitution, then surely the Chief Executive may not be deprived of his ability to control decisions in the executive branch by a member of the executive department, unless the President has specifically delegated this authority to him. Nor can such an employee control the President through judicial or criminal process.

The decision in *Powell* is also harmonious with the long established principle that the Judiciary may prevent other branches from overstepping their constitutional bounds of responsibility. *Marbury* v. *Madison,* 1 Cranch (5 U.S.) 137 (1803). In *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952), this Court

made a similar determination that certain actions taken by the executive branch were beyond the scope of the constitutional duties mandated to the branch. If the Judiciary had determined that seizing the steel mills had been within the powers the Constitution and the laws had entrusted to the President, clearly it could not have forced the President to exercise his discretion and seize the mills. Although the Supreme Court has ruled innumerable laws unconstitutional over the last 187 years it has never once mandated that either Congress exercise its descretion to pass a law or the Executive prosecute an individual. The reasons are self-evident.

Today, in our nuclear age, far more than in George Washington's time, the nature of our country and of the world insistently requires a President who is free to act as the public interest requires, within the framework created by the Constitution. The whole Watergate problem has illustrated how truly complex the right decision can be. It is thus all the more necessary that a President have the ability to freely discuss issues, think out loud, play the devil's advocate, and consider alternatives, free from the threat that a probing statement will one day form the basis for an allegation of criminal liability.

B. THE GRAND JURY ACTION OF NAMING THE PRESIDENT AS AN UNINDICTED CO-CONSPIRATOR IS A NULLITY

The constitutional policy that mandates that the President is not subject to judicial process or criminal indictment while President, clearly shows that the grand jury action naming or authorizing the name of

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the President as an unindicted co-conspirator contravenes the constitutional power of the grand jury or any court of this country.

The implication by a grand jury on the basis of certain alleged facts, that the President may have violated the law can have only one proper result. As stated above, the grand jury may with the district court's consent, forward the factual material creating the implications, minus any conclusions, to the House of Representatives.[68] That result was fulfilled when the grand jury filed with the court below its factual report and recommended that it be forwarded to the House Judiciary Committee, in March of 1974. The President made no objection to this move because the House of Representatives is the proper body, the only proper body, to impeach a President, as part of the process of removing a President from office. The grand jury's constitutionally impermissible authorization to the Special Prosecutor, permitting the President to be named or naming the President as an unindicted co-conspirator, however, attempts to subvert and prejudice the legitimate constitutional procedure of impeachment.

[68] This is the necessary implication of the grand jury's role, as a body with a limited mandate, as opposed to the House of Representatives whose political and constitutional mandate entitles them to consider whether in light of the President's complex responsibilities and political concerns a particular action or statement of his constitutes a crime. While any citizen may clearly express an opinion to his Congressman on the President's guilt, innocence or character, a grand jury, as an official part of our system of justice, with all that implies for its credibility and impact, may not.

In its opinion in *In Re Report and Recommendation of the June 5, 1972 Grand Jury Concerning Transmission of Evidence to the House of Representatives*, 370 F. Supp. 1219 (D.D.C. 1974), the district court convincingly demonstrated why the June 5, 1972, Grand Jury could not authorize the naming of the President as an unindicted co-conspirator. The very reasons why it was proper to refer the *Report and Recommendation to the House of Representatives* are those that argue against referring the naming or the authorization to name the President as an unindicted co-conspirator to that same body. In fact, these same considerations today require its expungement, because it is a legal nullity that continues to prejudice the President by its purported legal significance and apparent authority. The court below noted of the Report:

> The Report here at issue suffers from none of the objectionable qualities noted in *Hammond* and *United Electrical*. It draws no accusatory conclusions. It deprives no one of an official forum in which to respond. It is not a substitute for indictments where indictments might properly issue. *It contains no recommendations, advice or statements that infringe on the prerogatives of other branches of government.* Indeed, its only recommendation is to the Court, and rather than injuring separation of powers principles, the Jury sustains them by lending its aid to the House in the exercise of that body's constitutional jurisdiction. It renders no moral or social judgments. The Report is a simple and straightforward compilation of information gathered by the Grand Jury, and

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no more. (370 F. Supp at 1226) (emphasis added).

As noted by the district court nothing could be more important to America's future than that the ongoing impeachment be "unswervingly fair." 370 F. Supp at 1230. And nothing could be more clear than that the naming of the President of the United States as an unindicted co-conspirator by a secret grand jury proceeding, which was subsequently leaked to the press, is a direct and damaging assault on the fairness of the House impeachment proceeding. It is the kind of prejudice that a court would certainly be required to remedy or compensate for if it affected the rights of a criminal defendant to a trial, free from the probability of prejudicial pre-trial publicity. *In Re Murchison,* 349 U.S. 133 (1955); *Estes* v. *Texas,* 381 U.S. 532 (1965); *Sheppard* v. *Maxwell,* 384 U.S. 333 (1966).

This unauthorized action of the grand jury that has the appearance of official status, and presently the implicit approval of the lower court may well directly affect the outcome of the House procedure. Yet, the President has no legal recourse against the grand jury's action except with this Court. No petit jury, whose obligation is to find guilt "beyond a reasonable doubt" is empowered to adjudicate this charge against the President.[69]

The rigorous adversary format, with that most powerful tool for determining the truth, cross-examination, is not available in the secret grand jury

[69] While the President, as an individual, might some day vindicate himself before a petit jury, as long as he holds the office of President he could not be vindicated in a court of law.

setting. It is now well established that the right of cross-examination is an essential element of due process in any proceeding where an individual's "property" or "reputation" may be adversely affected.[70] The fundamental right to present evidence and to cross-examine witnesses in an impeachment proceeding is manifest. As the experience of our judicial system has demonstrated, the most effective method of establishing the truth of an accusation is to permit the respondent the right to personally cross-examine those presenting adverse testimony. The Supreme Court flatly states in *Greene* v. *McElroy,* 360 U.S. 474 (1959) that:

> Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice or jealousy. We have formalized these protections in the requirements of confrontation and cross-

[70] *Goldberg* v. *Kelly,* 397 U.S. 254 (1970); *Sniadach* v. *Family Finance Corp.,* 395 U.S. 337 (1969); *Fuentes* v. *Shevin,* 407 U.S. 67 (1972); *Bell* v. *Benson,* 402 U.S. 535 (1971); Cf. *Board of Regents* v. *Roth,* 408 U.S. 564, 573 (1972) and *Wisconsin* v. *Constaintineau,* 400 U.S. 433, 437 (1971).

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> examination. They have ancient roots. They find expression in the Sixth Amendment. . . . This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, . . . but also in all types of cases where administrative . . . action was under scrutiny. (360 U.S. at 496–497).

Justice Douglas in the concurring opinion in *Peters* v. *Hobby*, 349 U.S. 331 (1955), emphasized the necessity of permitting a respondent to cross-examine all adverse witnesses.

> Under cross-examination [witnesses] stories might disappear like bubbles. Their whispered confidences might turn out to be yarns conceived by twisted minds or by people who, though sincere, have poor faculties of observation and memory.
>
> Confrontation and cross-examination under oath are essential, if the American ideal of due process is to remain a vital force in our public life. We deal here with the reputation of men and their right to work—things more precious than property itself. We have here a system where government with all its power and authority condemns a man to a suspect class and outer darkness, without the rudiments of a fair trial. (349 U.S. at 351).

There is no way within our judicial system to disprove allegations made against a President. It is because of this and because of the vast impact of this purportedly official criminal implication and charge against a President, on the whole body politic, that the Constitution requires no less a body than the whole House of Representatives to find the President likely enough

to be guilty of criminal misconduct that he should be tried by the Senate.

The characterization of the President of the United States as an unindicted co-conspirator, is nothing less than an attempt to nullify the presumption of innocence by a secret, non-adversary proceeding. The presumption of innocence is a fundamental of American justice; the grand jury's procedure is an implication of guilt which corrupts this ideal. To thus allow the Special Prosecutor to use such a constitutionally impermissible device, as an incident to an evidentiary desire, for the purpose of overcoming executive privilege, is wholly intolerable. The American legal system has never allowed the desire for evidence to go beyond the bounds of law. *Boyd* v. *United States*, 116 U.S. 616 (1886); *Weeks* v. *United States*, 232 U.S. 383 (1914); *Silverthorne Lumber Company* v. *United States*, 251 U.S. 385 (1920); *Mapp* v. *Ohio*, 367 U.S. 643 (1961). The President should not be made a hostage of the unwarranted pressure inherent in the grand jury's improper action.

The former Special Prosecutor, Mr. Archibald Cox, was quoted in the *New York Times* on January 5, 1974, as dealing with this exact issue. In response to rumors that he would name the President as an unindicted co-conspirator the newspaper printed this:

> Mr. Cox, in the telephone interview from his vacation home in Maine, described such a technique as 'just a backhanded way of sticking the knife in.' *New York Times*, January 6, 1974, p. 1, col. 6; p. 40, col. 1.

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A later issue of the *New York Times* dealt with the same basic questions when it stated:

> Leon Jaworski, the Watergate special prosecutor, advised the Federal Grand Jury investigating the Watergate break-in and cover-up that it would not be 'responsible conduct' to move to indict President Nixon, according to a spokesman for the office.
>
> Although Mr. Jaworski's advice to the Grand Jury did not refer to President Nixon by name—the matter was discussed in terms of a factual situation such as exists—it did include the suggestion that the House Judiciary Committee's impeachment inquiry was the proper forum to consider matters of evidence relating to a President.
>
> Although there had been speculation that Mr. Jaworski had tentatively concluded that legal complications militated against a move to indict the President, today's statement was the first direct confirmation of the fact. *New York Times*, March 12, 1974, p. 1.

It is only by impeachment and conviction and then subsequent criminal action that the President may be found to be a member of any criminal conspiracy. To base a desire for evidence on a stratagem which attempts to cripple the Presidency, and thus nullify the President's claim of executive privilege, is unprecedented, but more significantly a grotesque attempt to abuse the process of the judicial branch of government. Under our system of government only the House of Representatives may determine that evidence of sufficient quantity and quality exists to try the President. And, that trial must take place in the Senate with the Chief Justice presiding.

C. EVEN IF IT WERE PERMISSIBLE, THE NAMING OF AN INCUMBENT PRESIDENT AS AN UNINDICTED CO-CONSPIRATOR DOES NOT CONSTITUTE A PRIMA FACIE SHOWING OF CRIMINAL ACTIVITY

In the preceding section we have conclusively demonstrated why it is not constitutionally permissible to name an incumbent President as an unindicted co-conspirator. However, if such an act had been constitutionally permissible, it would nevertheless not have the effect of constituting a *prima facie* showing of criminality sufficient to overcome the President's constitutional claim of executive privilege.

There is a basic distinction between a finding of "probable cause" and the showing of a "*prima facie*" case which makes the Special Prosecutor's use of these two terms in the instant case both inaccurate and improper.

Probable cause is a legal concept based on the proposition that a crime "might" have been committed. As such it justifies an inquiry into an individual's guilt. It does not justify any legal effect that would operate to overcome either a presumption of innocence or executive privilege attaching to an otherwise valid claim. On the other hand, *prima facie* evidence is evidence sufficient to have a legal effect, which if unrebutted, is sufficient to go to a jury in a trial setting and sufficient to convict an individual of a crime before a petit jury. The finding of the grand jury at issue here has none of this sufficiency. It has never been tested in

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Nos. 73-1766 and 73-1834

JUL 1 1974

MICHAEL RODAK, JR., C

In the Supreme Court of the United States

OCTOBER TERM, 1973

UNITED STATES OF AMERICA, PETITIONER

v.

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES ET AL., RESPONDENTS

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES, CROSS-PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

ON WRITS OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE RESPONDENT, CROSS-PETITIONER RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES

JAMES D. ST. CLAIR,
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345 U.S. at 11. Similarly, the court of appeals in *Senate Select Committee on Presidential Campaign Activities* v. *Nixon*, No. 74–1258 (D.C. Cir., May 23, 1974), regarded an identical waiver argument, offered by the plaintiffs in that case, as so lacking in substance that it did not merit discussion in the opinion.

Finally, there is much weight in a point made by Judge MacKinnon in his dissent in *Nixon* v. *Sirica*, 487 F. 2d 700, 758–759 (D.C. Cir. 1973). He wrote:

> There has been no waiver. This conclusion rests upon three factors: the strict standards applied to privileges of this nature to determine waiver; the distinction between oral testimony and tape recordings; and, most important, considerations of public policy that argue persuasively for a privilege that permits the Chief Executive to disclose information on topics of national concern without that which properly ought to be withheld in the public interest.

Like Judge MacKinnon, we think that the most important of these points is the one last stated. Plainly the country is best served when there is the maximum disclosure possible from the Executive, consistent with the requirements of the public interest. This President, like his predecessors, has always acted on that principle. Disclosure has been the rule and claim of privilege the rare exception. But if this Court were to accept the Special Prosecutor's beguiling suggestion that this case can be decided on a narrow ground of waiver, the inevitable long-term consequence must be less disclosure, not more, since Presidents will be reluctant to make public even those things that can be released without harm to the public interest, if by doing so they may be held to have waived their constitutional privilege to withhold related information that the nation's interests require be kept confidential.

IV. THE SPECIAL NATURE OF THE PRESIDENCY

The Special Prosecutor states an obvious and important truth when he reminds us that "in our system *even the President* is under the law." (S.P. Br. 68) (emphasis in original). A fundamental error that permeates his brief, however, is his failure to recognize the extraordinary nature of the Presidency in our system and that the Framers, who fully understood this, provided an extraordinary mechanism for making a President subject to the law.

The President is not merely an individual, to be treated in the same way as any other person who has information that may be relevant in a criminal prosecution. He is not, as the Special Prosecutor erroneously suggests, merely "the *head* of the Executive Branch." (S.P. Br. 79) (emphasis in original). Instead, as we pointed out at the beginning of this brief, it was announced by this Court more than a century ago, and since reiterated, that "the President is the Executive Department." *Mississippi* v. *Johnson*, 4 Wall. (71 U.S.) 475, 500 (1867). So much is apparent from the Constitution itself. Article II begins with the simple but sweeping declaration: "The executive Power shall be vested in *a* President of the United Statese of America" (emphasis added). In addition, the President, as this Court has recognized, is, more than any other officer of government the represent-

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ative of all of the people. *Myers* v. *United States*, 272 U.S. 52, 123 (1926). Chief Justice Taft went on to say that

> as the President is elected for four years, with the mandate of the people to exercise his executive power under the Constitution, there would seem to be no reason for construing that instrument in such a way as to limit and hamper that power beyond the limitations of it, expressed or fairly implied.

It was no mere happenstance that all executive power was vested in a single person, the President. This was a subject of recurring debate at the Constitutional Convention. Suggestions of a multi-member Executive were repeatedly pressed and as repeatedly rejected. It was seen, as Dr. Franklin said, as "a point of great importance." 1 *Farrand* 65.

In this respect the Executive differs from the other two great branches of government. The legislative power is vested by Article I in "a Congress of the United States," divided into two bodies and composed now of 535 members. The judicial power is, by Article III, spread among the nine Justices of this Court and the hundreds of judges of the inferior courts that Congress has seen fit to ordain and establish. But one person, and one person alone, is entrusted by Article II with the awesome task of exercising the executive power of the United States. "The President is the Executive Department." This difference, as we shall develop below, has important consequences. It serves to distinguish many of the cases relied on by the Special Prosecutor, involving as they do individual

members of the legislative and judicial branches. Specifically, the particular position the President occupies in our constitutional scheme means that the courts cannot issue compulsory process to compel him to exercise powers entrusted to him in a certain way, that, so long as he is President, he is not subject to criminal process, and that, as a logical corollary, he may not, while President, be named as an unindicted co-conspirator.

Of course, as we have already pointed out (Pres. Br. 52 n. 45), the Framers did not want a king, and Hamilton devoted all of the 69th *Federalist* to demonstrating that the Presidency, as created in the Constitution, bore no resemblance to the monarchy from which the colonists had successfully rebelled. The term of the President is limited to four years. The legislative branch controls the national purse strings, the war power, and the general policy direction of government. The President is given only a limited veto, subject to being overridden, over legislative acts. He is given no role whatever in the process of constitutional amendment. Finally, and most important for present purposes, the President may be removed from office by conviction on impeachment, and after he has left office, either through expiration of his term or by conviction on impeachment, he is subject to prosecution for crimes that he may have committed.

We have already developed in detail the process by which the impeachment provisions of the Constitution took form. (Pres. Br. 95–104). The language of Article I, section 3, clause 4, can hardly be read in any other

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way than that indictment of a President can only follow his conviction on impeachment. This was certainly the understanding of the delegates at Philadelphia, of the contemporary expositors of the Constitution, and of students of constitutional law from 1787 until today.

There is nothing in *United States* v. *Isaacs*, 493 F. 2d 1124 (7th Cir. 1974), *cert. denied* —— U.S. ——, (June 17, 1974), that is contrary to what we have just said. A judge of a court of appeals is not the judicial branch. He is a part of that branch, but the Judiciary can function uninterrupted during those rare occasions when a single judge is forced to stand trial on a criminal charge. The Presidency cannot function if the President is preoccupied with the defense of a criminal case, and the thought of a President exercising his great powers from a jail cell boggles the mind.[26]

The President, as we have noted, *is* the Executive Department. If he could be enjoined, restrained, indicted, arrested, or ordered by judges, grand juries, or marshals, these individuals would have the power to control the executive branch. This would nullify the separation of powers and the co-equality of the Executive.

The conclusion that the President is not subject to indictment while in office is consistent also with a proper ordering of government. When this principal national leader, elected by all of the people, is to be

[26] It is also worthwhile noting that at the Convention the discussion of impeachment was wholly in terms of a remedy against the President. Berger, *Impeachment: The Constitutional Problems* 100 (1973). The inclusion in Article II, section 4, of the "Vice President, and all Civil Officers of the United States" was made without discussion in the closing hours of the Convention. 2 *Farrand* 575.

removed, it is proper that the removal be considered and accomplished only by a body that, like the President, is politically representative of the whole Nation. Impeachment is a process designed to deal with the problem of criminal conduct by the President and yet still preserve the majoritarian character of the Republic. Criminal indictments or judicial orders cannot provide the tools to remove or limit a whole branch of government, and were not contemplated by the Founders for such a purpose. Only the branch of government that represents the people who elected the President, the legislative branch, can take actions that will in any way remove or tend to remove a President from office. This is the function of Congress, not of a grand jury.

For reasons that we have already fully developed (Pres. Br. 107–115), it follows *a fortiori* from the non-indictability of an incumbent President that he cannot be named as an unindicted co-conspirator, and that the action of the grand jury in this case must be ordered expunged. The ability of a President to function is severely crippled if a grand jury, an official part of the judicial branch, can make a finding that a President has been party to a criminal conspiracy and make this in a form that does not allow that finding to be reviewed or contested and disproved.[27] To allow this would be a mockery of due process and would deny to Presidents of the United States even those minimal protections that the Constitution extends to

[27] And to suggest that the naming of a President as a criminal co-conspirator, even if unindicted, is not an "impeachment" of the President is, we submit, to play games with common words and common sense.

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prison inmates subject to disciplinary proceedings. *Wolff* v. *McDonnell*, —— U.S. ——, No. 73-679 (June 26, 1974).

If the grand jury had before it evidence, competent or otherwise, *United States* v. *Calandra*, 414 U.S. 338 (1974), that led it to think that the President had been party to a crime, its only permissible course of action was to transmit that evidence to the House Judiciary Committee, rather than to make a gratuitous, defamatory, and legally impermissible accusation against the President.

Presumably the Special Prosecutor advised the grand jury to make this finding, and did so with the thought that it would strengthen his hand in litigation such as the present case (P.S.A. 8). If the President could be considered a co-conspirator, then all of his statements would arguably come within the exception to the hearsay rule and would meet the requirement of Rule 17(c) that subpoenaed material must be evidentiary in nature. In addition, this impermissible finding is relied on by the Special Prosecutor for his argument (S.P. Br. 90–102) that executive privilege vanishes if there is a *prima facie* showing of criminality. But even if the grand jury were empowered to make this finding—and as a matter of law it cannot—we have already shown that an allegation of criminal activity does not overcome the assertion of presidential privilege (Pres. Br. 82–86), and that a grand jury finding, based as it is only on a showing of probable cause, falls far short of the *prima facie* showing of

criminality that is required to defeat even the usual evidentiary privileges. (Pres. Br. 115–122.)[28]

The Special Prosecutor makes the surprising suggestion that the President enjoys no privileges or immunities.

> One might infer quite plausibly from the specific grant of official privileges to Congress that no other constitutional immunity from normal legal obligations was intended for government officials or papers. (S.P. Br. 77).

But it is quite clear that the privileges given to individual members of the legislative branch by Article I,

[28] The cases relied on by the Special Prosecutor (S.P. Br. 98) are not to the contrary. Such cases as *Ex parte United States*, 287 U.S. 241, 250 (1932), *Ewing* v. *Mytinger & Casselberry*, 339 U.S. 594, 599 (1950), and the others cited stand only for the proposition that a grand jury indictment conclusively establishes that there is probable cause to hold the person named for trial. They do not hold that the grand jury's action is an evidentiary showing of a *prima facie* case.

Again the Special Prosecutor is not helped by *United States* v. *Aldridge*, 484 F. 2d 655, 658 (7th Cir. 1973); *United States* v. *Bob*, 106 F. 2d 37 (2d Cir. 1939), *cert. denied*, 308 U.S. 589 (1940); or the other cases he cites with regard to attorney-client privilege. In those cases the privilege was held to vanish only after the government by proof at trial, had made a *prima facie* showing of criminal involvement.

Finally, the Special Prosecutor's heavy reliance on *Clark* v. *United States*, 289 U.S. 1 (1933) (S.P. Br. 95–97, 100–101, 108–109), is misplaced. Quite aside from the very different nature of the "privilege," or, more properly, rule of competency, there in issue, Justice Cardozo was quick to point out that "[i]t would be absurd to say that the privilege could be got rid of merely by making a charge of fraud," 289 U.S. at 15, and that "there must be a showing of a *prima facie* case sufficient to satisfy the judge that the light should be let in." 289 U.S. at 14.

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section 6, were given them for a specific and well-understood purpose. This was to protect the legislators "against possible prosecution by an unfriendly executive and conviction by a hostile judiciary . . ." *United States* v. *Johnson,* 383 U.S. 169, 179 (1966). It was "designed to assure a co-equal branch of government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch." *Gravel* v. *United States,* 408 U.S. 606, 616 (1972).

The Executive needed no protection from himself. As chief of state, chief executive, commander-in-chief, and chief prosecutor, he had no need to fear intimidation by a hostile executive or prosecution by an unfriendly executive. In addition, he was protected further by the elaborate procedure for impeachment, and by his immunity from criminal process until he had been convicted on impeachment. Thus the Constitution says nothing about immunities of the Executive comparable to what it says about members of the legislative branch because to have done so would have been to guard against an evil that could never come to pass.

Even members of the executive branch do have to fear damage actions brought by private citizens, and this Court has not been slow to read into the Constitution an implied immunity to protect the Executive in this situation. The leading case is *Spalding* v. *Vilas,* 161 U.S. 583 (1896), frequently relied on in this Court and always with approval. E.g., *Barr* v. *Matteo,* 360

U.S. 564, 570 (1959);[29] *Scheuer* v. *Rhodes,* 413 U.S. 919, 927 n. 8 (1974).

The Special Prosecutor would have the Court believe that the discretion about production of documents, which it has always been recognized that Presidents have, shrinks to a mere ministerial duty to produce what is demanded whenever a court disagrees with the Chief Executive's assessment of what the public interest requires. The argument seems little more than a play on words, intended to avoid the decisions, from *Marbury* on, that the courts may compel ministerial

[29] In the *Barr* case this Court relied heavily, in discussing immunity for executive officers, on the well-known opinion of Judge Learned Hand in *Gregoire* v. *Biddle*, 177 F. 2d 579 (2d Cir. 1949), where judicial immunity was at issue. Several of Judge Hand's insights in that case are applicable here. Thus he says:

> it can be argued that official powers, since they exist only for the public good, never cover occasions where the public good is not their aim, and hence that to exercise a power dishonestly is necessarily to overstep its bounds. A moment's reflection shows, however, that that cannot be the meaning of the limitation without defeating the whole doctrine. What is meant by saying that the officer must be acting within his power cannot be more than that the occasion must be such as would have justified the act, if he had been using his power for any of the purposes on whose account it was vested in him . . . (177 F. 2d at 581).

Again Judge Hand observed that "[t]here must indeed be means of punishing public officers who have been truant to their duties . . ." 177 F. 2d at 581. But the Constitution provides three sanctions against a truant President. He is subject to the political sanction of being defeated for reelection and to the legal sanctions of conviction on impeachment and of criminal punishment after he has been removed from office.

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acts but that they cannot interfere with discretionary decisions of high executive officers.

Nothing could be clearer than that the decision to disclose or to withhold the most intimate conversations of the President with his chief advisers involves the gravest and most far-reaching possible considerations of public policy. Who can say what the long term, or even short term, public effects of the President's decision to make public transcripts of tapes of his conversations about Watergate will be? It was a difficult and monumental decision, and no man living can predict with assurance how ultimately the history of this country, and indeed of the world, may be influenced by it. It was a discretionary decision in the most important sense, and it is nonsense to call such a disclosure "ministerial" merely because the final action of disclosure can be accomplished by a messenger.

A presidential decision to release the confidential tapes or written memoranda of his meetings with his advisers involves the same basic discretion as his initial decision to make such records. Surely neither the courts nor Congress could require Presidents to make such recordings on the ground that they would then be available should there be charges of misconduct against aides to some future President.

This case must be viewed in the light that the President is the executive branch, co-equal to the multi-membered legislative and judicial branches. If that co-equality is to be preserved, the President cannot be subject to the vagaries of a grand jury nor deprived of his power to control disclosure of his most confi-

dential communications. If he misuses his great powers, he must be proceeded against by the remedy that the Constitution has provided.

V. THE SPECIAL PROSECUTOR HAS NOT DEMONSTRATED A UNIQUE AND COMPELLING NEED FOR THIS MATERIAL

The Special Prosecutor makes the casual suggestion that "[t]here is a compelling public interest in trying the conspiracy charged in *United States* v. *Mitchell*, et al., upon all relevant and material evidence." (S.P. Br. 107). Doubtless every prosecutor in history has thought the same thing. The genius of the law, happily, has rejected that course, and in this case the Special Prosecutor's suggestion begs every important question before the Court. A prosecutor has the right to every man's evidence "except for those persons protected by a constitutional, common-law, or statutory privilege." *Branzburg* v. *Hayes*, 408 U.S. 665, 688 (1972). If, as we have argued, the materials at issue are subject to a valid privilege, based both on the Constitution and on the common law, the Special Prosecutor may not have them, no matter how relevant or material he thinks they may be, any more than he could require the defendants in this case to produce relevant and material evidence based on what they told their attorneys or based on confidential communications with their wives.

Our argument, of course, has been that the great question is, as Judge Wilkey put it, "Who Decides?", and that the answer to that question is that the President decides. But even if we are wrong on that, and

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Draft

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Agnew File

In Re Proceedings of The Grand Jury Impaneled December 5, 1972:	
Application of Spiro T. Agnew Vice President of the United States	Misc. No. 73-

MEMORANDUM FOR THE UNITED STATES CONCERNING THE VICE PRESIDENT'S CLAIM OF CONSTITUTIONAL IMMUNITY

The motion by the Vice President poses a grave and unresolved constitutional issue: whether the Vice President of the United States is subject to federal grand jury investigation and possible indictment and trial while still in office. Due to the historic independence and vital function of the Grand Jury, motions to interfere with or restrict its investigations have traditionally met with disfavor. See, e.g., United States v. Dionisio, 410 U.S. 1 (1973); Branzburg v. Hayes, 408 U.S. 665 (1972); United States v. Ryan, 402 U.S. 530 (1971). Thus in ordinary circumstances we would oppose litigious interference with grand jury proceedings ~~notwithstanding~~ without regard to the underlying merits of any asserted claim of immunity. But in the special circumstances of this case, which involves a constitutional issue of utmost importance, we believe it appropriate, in the interest of (both) the Vice President and ~~in the interest of~~ the nation, that the Court resolve the issue at this stage of the proceedings.

Counsel for the Vice President have ably advanced arguments that the Constitution prohibits the investigation and indictment of an incumbent Vice President. We acknowledge the weight of their contentions. In order that judicial resolution of the issues may be fully informed,

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however, we wish to submit considerations that suggest a different conclusion: that the Congress and the judiciary possess concurrent jurisdiction over allegations made concerning a Vice President.

This makes it appropriate that the Department of Justice state now its intended procedure should the Court conclude that an incumbent Vice President is amenable to federal jurisdiction prior to removal from office. The United States Attorney will, in that event, complete the presentation of evidence to the grand jury and await that body's determination of whether an indictment is proper. Should an indictment issue, the Department will hold the proceedings in abeyance for a reasonable time, if the Vice President consents to a delay, in order to offer the House of Representatives an opportunity to consider the desirability of impeachment proceedings.*/

The Department believes that this deference to the House of Representatives at the indictment stage, though not constitutionally required, is an appropriate accommodation of the respective interests involved. It reflects a proper comity between the different branches of government, especially in view of the significance of this matter for our national polity. We also appreciate the fact that the Vice President has expressed a desire to have this matter considered in the forum provided by the Congress. The issuance of an indictment, if any, would in the meantime toll the statute of limitations and preserve the matter for subsequent resolution.

We will first state the posture of this matter and then offer for the Court's consideration arguments based upon the Constitution's text, its rationale, and

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*/ We note that the Speaker of the House, Representative Carl Albert, though declining to take action at this stage, has not foreclosed the possibility that he might recommend House action at a subsequent stage.

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historic practice which indicate that all civil officers of the United States other than the President are amenable to the federal criminal process either before or after the conclusion of impeachment proceedings.

STATEMENT

A Grand Jury in this District, impaneled December 5, 1972, is currently conducting an investigation of possible violations by Spiro T. Agnew, Vice President of the United States, and others of certain provisions of the United States Criminal Code, including 18 U.S.C. 1951, 1952 and 371, and certain criminal provisions of the Internal Revenue Code of 1954. This investigation is now well advanced and the Grand Jury is in the process of receiving evidence.

The Vice President has moved to enjoin "the Grand Jury from conducting any investigation looking to possible indictment of [Mr. Agnew] and from issuing any indictment, presentment or other charge or statement pertaining to [him]" (Motion, p. 1). Mr. Agnew has further moved "to enjoin the Attorney General of the United States, the United States Attorney for the District of Maryland and all officials of the United States Department of Justice from presenting to the Grand Jury any testimony, documents, or other materials looking to possible indictment of [him] and from discussing with or disclosing to any person any such testimony document or materials" (Motion, p. 1-2).

The Vice President's motion is based on two contentions: (1) that "[t]he Constitution forbids that the Vice President be indicted or tried in any criminal court," and (2) that "officials of the prosecutorial arm have engaged in a steady campaign of statements to the press which could have no purpose and effect other than to prejudice any grand or petit jury hearing evidence relating to the Vice Presidnet * * *" (Motion, p. 2).

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On September 28, 1973, this court directed that the Department of Justice submit its brief on the constitutional issue on October 5, ~~1973,~~ and its brief on the remaining issue on October 8, ~~1973,~~ that the Vice President's counsel file a reply brief on October 11, and that oral argument be had on October 12. This Memorandum is submitted, on behalf of the United States, the Grand Jury, and the individual respondents named in the motion, in opposition to the claim that the Grand Jury should be enjoined because the Vice President cannot "be indicted or tried in any criminal court" (Motion, p. 1).

I

THE TEXT OF THE CONSTITUTION AND HISTORIC PRACTICE UNDER IT DO NOT SUPPORT A BROAD IMMUNITY FOR CIVIL OFFICERS PRIOR TO REMOVAL

Analysis of the Constitution's text demonstrates that no general immunity from the criminal process exists for civil officers who are subject to impeachment.

1. The Constitution provides no explicit immunity from criminal sanctions for any civil officer. The only express immunity in the entire document is found in Article I, Section 6, which provides ~~that~~

> The Senators and Representatives * * * shall in all Cases except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same * * *.

Since the Framers knew how to, and did, spell out an immunity, the natural inference is that no immunity exists where none is mentioned. Indeed, any other reading would turn the constitutional text on its head: the construction advanced by counsel for the Vice President requires that the explicit grant of immunity to legislators be read as in fact a partial withdrawal of a complete

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immunity legislators would otherwise have possessed in common with other government officers. The intent of the Framers was of course precisely to the contrary. Cf. United States v. Johnson, 383 U.S. 169, 177-185 (1966).

In the face of this strong textual showing it would require a compelling constitutional argument to erect such an immunity for a Vice President. Counsel for the Vice President contend that such an argument is provided by Article I, Section 3, Clause 7, by Article II, Section 4, and by the Twelfth Amendment. We will examine each of these contentions in turn.

2. Article I, Section 3, Clause 7 provides:

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law.

There is in this language no suggestion that criminal punishment for civil officers of the United States must be deferred until the Senate had convicted in an impeachment proceeding. It is merely a statement that such a conviction does not bar further punishment. The clause merely precludes a plea of double jeopardy; it does not affect the sequence of the two processes.*/

Counsel for the Vice President read this language as containing the negative pregnant that a civil officer cannot be liable and subject to indictment and other criminal

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*/ A student of the subject, after showing that impeachment is a civil proceeding, explains the saving provision: "If impeachment is not criminal, it may be asked, why was it deemed necessary to have a saving clause for subsequent indictment and punishment. Possibly the saving clause was designed to preclude an inference from the unmistakable criminal nature of English impeachment that an impeachment could be pleaded in bar to a subsequent criminal prosecution,

(footnote con'd on next page)

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process prior to conviction on impeachment, and they cite the remarks of Alexander Hamilton and Gouverneur Morris as supporting this position (Memo., p. 9)*/ Those remarks, however, do not appear to be addressed directly to the issue of the necessary sequence of indictment and impeachment; they merely paraphrase the constitutional language for explanatory purposes.**/

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*/ (footnote con't from preceeding page)

an excess of caution." Berger, Impeachment: The Constitutional Problems 80 (Cambridge, Mass., 1973). Just as an individual may be both criminally prosecuted and deported for the same offense (see Fong YueTind v. United States, 149 U.S. 698, (1893)), a civil officer could be both criminally punished and impeached even absent the Article I, Section 3 proviso.

*/ Gouverneur Morris' explanation for making the Senate rather than the Supreme Court the judge of impeachment -- that trial in the Court on separate criminal issues would follow -- is historically unsupported. The principal reason for that choice of forum apparently was the fact that the Supreme ourt would have been appointed by the President and therefore could not be trusted to deal independently with his impeachment. See 2 Farrand, Records of the Federal Convention 550-552 (New Haven, 1911).

**/ It is true, as is stated in the memorandum submitted on behalf of the Vice President (Memo., p. 10), that in the debates in North Carolina on ratification, Governor Johnson expressed his view that indictment could only follow impeachment. However, James Iredell, who was the "Mastermind" of the North Carolina Ratification Convention (2 Bancroft, History of the Formation of the Constitution of the United States of America 348 (New York, 1882)), and later became a Justice of the Supreme Court, argued forcefully that impeachable officers are subject to indictment while in office. See 4 Elliot, Debates of the Federal Constitution 37, 109 (Philadelphia, 1876).

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The Framers did not in fact debate the question whether impeachment must precede indictment. When their attention was directed specifically to the Office of the Presidency, their remarks strongly suggested an understanding that the President, as the Chief Executive, would not be subject to ordinary criminal process. See 2 Farrand, Records of the Federal Convention 64-69 (New Haven, 1911). But nothing in the debates suggests that such immunity would extend to any lesser officer and, as we show below (see pp. , infra), there are substantial reasons, embedded not only in the constitutional framework but in the practical exigencies of government, for distinguishing between the President, on the one hand, and all lesser officers including the Vice President, on the other, in this regard.

Notwithstanding the paucity of debate or contemporaneous commentary on the issue, it is clear that the Framers and their contemporaries understood that impeachable officers are subject to criminal process. The first Congress, many of whose members had been delegates to the Constitutional Convention, promptly enacted Section 21 of the Act of April 30, 1790, 1 Stat. 117, recognizing that sitting federal judges were criminally punishable for bribery and providing for their disqualification from office upon conviction. And in 1796, Attorney General Lee informed Congress that a judge of a territorial court, a civil officer subject to impeachment, was indictable for criminal offenses while in office. 3 Hinds, Precedents of the House of Representatives 982-983 (Washington, 1907). These considerations, together with those rooted in the constitutional text and practicalities of government that we shall next discuss, have led subsequent commentators

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to conclude, with virtual unanimity, that the Framers did not intend civil officers other than the President to be immune from criminal process. See, e.g., Rawle, A View on the Constitution of the United States of America 169, 215 (Philadelphia, 1829); Simpson, supra, 52-53; eerick, Impeaching Federal Judges: A Study of the Constitutional Provisions, 39 Fordham L. Rev. 1, 55 (1970).

The sole purpose of the caveat in Article I, Section 3, that the party convicted upon impeachment may nevertheless be punished criminally, is to preclude the argument that the doctrine of double jeopardy saves the offender from the second trial. This was the interpretation of the clause offered by Luther Martin, a member of the Constitutional Convention and Judge Chase's counsel, during Chase's impeachment. 14 Annals of Congress, 8th Cong., 2d Sess., p. 423. In truth, impeachment and the criminal process serve different ends so that the outcome of one has no legal effect upon the outcome of the other. James Wilson, an important participant in the Constitutional Convention,__/ put the matter succinctly:

> Impeachments * * * come not * * * within the sphere of ordinary jurisprudence. They are founded on different principles; are governed by different maxims, and are directed to different objects; for this reason, the trial and punishment of an offense in the impeachment, is no bar to a trial of the same offense at common law. [I Wilson, Works 324 (Cambridge, Mass., 1967).]

__/ "James Wilson was the strongest member of this [the Pennsylvania] delegation and Washington considered him to be one of the strongest men in the convention. * * * He had served several times in congress, and had been one of the signers of the Declaration of Independence. At forty-five he was regarded as one of the ablest lawyers in America." Farrand, The Framing of the Constitution 21 (New Haven, 1913).

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Because the two processes have different objects, the considerations relevant to one may not be relevant to the other. For that reason, neither conviction nor acquittal in one trial, though it may be persuasive, need automatically determine the result in the other trial. To take an obvious example, a civil officer found not guilty by reason of insanity in a criminal trial could certainly be impeached nonetheless.

The argument advanced by counsel for the Vice President, which insists that only a party actually convicted upon impeachment may be tried criminally, would tie the two processes together in an impermissible manner. Impeachment trials, as that of President Andrew Johnson reminds us, may sometimes be influenced by political passions and interests that would be rigorously excluded from a criminal trial. These may produce unwarranted acquittal. Or somewhat more than one-third of the Senate might conclude that a particular offense, though properly punishable in the courts, did not warrant conviction on impeachment. Hence, if Article I, Section 3, Clause 7, were read to mean that no one not convicted upon impeachment could be tried criminally, the failure of the House to vote an impeachment, or the failure of the impeachment in the Senate, would confer upon the civil officer accused complete and -- were the statute of limitations permitted to run -- permanent immunity from criminal Prosecution however plain his guilt. There is no such requirement in the Constitution or in reason. To adopt that view would give Congress the power to pardon by acquittal or even by mere inaction, since the officer would never be a "Party convicted" upon impeachment,

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even though the Constitution lodges the power to grant clemency exclusively in the President. The Framers certainly never supposed that failure to obtain conviction upon impeachment conferred permanent criminal immunity.

The conclusion seems required, therefore, that the Constitution provides that the "Party convicted" is nonetheless subject to criminal punishment, not to establish the sequence of the two processes, but solely to establish that conviction upon impeachment does not raise a double jeopardy defense in a criminal trial.—/

2. The argument made by counsel for the Vice President concerning Article II, Section 4 seems no more persuasive. That section of the Constitution provides:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high crimes and Misdemeanors.

The Vice President's contention that he is immune from criminal process while in office rests heavily on the assumption that even initiation of the process of indictment, trial, and punishment upon conviction, would effect his practical removal from office in a manner violative of the exclusivity of the impeachment power (See, e.g., Memo., pp. 2, 5-6). This assumption is without foundation in history or logic.

We agree that conviction upon impeachment is the exclusive means for removing a Vice President from office. Although non-elective civil officers in the executive branch may be dismissed from office by the President, and Senators and Representatives may be expelled by their respective Houses, historically the President, Vice President, and federal judges have been removable from office only by impeachment. But it is clear from history

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that a criminal indictment, or even trial and conviction, does not, standing alone, effect the removal of an impeachable officer.

As counsel for the Vice President point out (Memo., pp. 14-15), one of his predecessors, Aaron Burr, was subject to simultaneous indictment in two states while in office, yet he continued to exercise his constitutional responsibilities until the expiration of his term.—/ Judge John Warren Davis of the United States Court of Appeals for the Third Circuit, and Judge Albert W. Johnson of the United States District Court for the Middle District of Pennsylvania, were both indicted and tried while in office; neither was convicted, and each continued to hold office during trial. See Borkin, The Corrupt Judge 95-186 (New York, 1962). Judge Kerner of the Seventh Circuit, whose conviction for bribery is currently pending on appeal, has not yet been removed from office. Similarly, the criminal conviction of Congressmen does not act to remove them from office: "the final judgment of conviction [does] not operate, ipso facto, to vacate the seat of the convicted Senator, nor compel the Senate to expel him or to regard him as expelled by force alone of the judgment." Burton v. United States, 202 U.S. 344, 369.

This is not to say that trial and punishment would not interfere in some degree with an officer's exercise of his public duties, although, as the case of Aaron Burr illustrates, mere indictment standing alone

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—/ Apparently neither Burr nor his contemporaries considered him constitutionally immune from indictment. Although counsel for the Vice President assert that Burr's indictments were "allowed to die" (Memo., p. 15), that was merely because "Burr thought it best not to visit either New York or New Jersey." Parmet & Hecht, Aaron Burr: Portrait of an Ambitious Man, 231 (New York, 1967).

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qualify a replacement. This is recognition that the President is the only officer whose disability while in office incapacitates a branch of government. The Constitution makes no provision, because none is needed, for the disability of a Vice President, a judge, a legislator, or any subordinate executive branch officer.

Counsel for the Vice President suggest (Memo., pp. 7-8, 18) that adoption of the Twelfth Amendment, providing for separate elections of the President and Vice President, in some way supports immunity for a Vice President. In fact, the implication of the Amendment is the contrary. The original constitutional plan was that each elector should vote for two persons for President. The man receiving the greatest vote was to be President and the runnerup was to be Vice President. The Vice President was thus the next most powerful contender for the Presidency. The Framers, however, did not foresee the development of political parties which ran "tickets," one man standing for President and the other for Vice President. An elector would then cast one ballot for each of these candidates which had the embarrassing result that Thomas Jefferson and Aaron Burr, though regarded by their party as condidates for, respectively, President and Vice President, received an equal number of votes. There being no constitutionally elected President, the election was thrown into the House of Representatives. The Twelfth Amendment, adopted in response, provided separate elections so that a man wanted only as Vice President should not thus block the election of the man wanted as President. The adoption of the

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Twelfth Amendment, therefore, was recognition that the Vice President, under a party system, is not the second most desired man for President but rather an understudy chosen by the presidential candidate. That recognition does not magnify the constitutional position of a Vice President. 1/

1/ The related argument that the Framers could not have intended the President, through his Attorney General, to harass political rivals and therefore the Vice President must be immune from criminal process (see Memo., p. 18), is unsound. Not only is the Vice President rarely, if ever, an important political rival of the President once he accepts the secondary office, but the logical implication of that argument is that all major politicians--Senators, Governors, and many persons not even holding office--must be freed of responsibility for criminal acts.

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Thus we conclude that considerations derived from the structure of the Constitution itself indicate that only a President possesses immunity from the criminal process prior to impeachment. The position of a Vice President would appear to be similar to that of judges, Congressmen, and other civil officers. There are also, however, practical considerations that point in the same direction. Such considerations are entitled to weight in the absense of compelling constitutional reasons for an immunity of the sort we have shown exist only for the Presidency. In many cases, for instance, problems will be posed by the presence of co-conspirators and the running of the statute of limitations. An official accused of taking bribes has obviously had co-conspirators, if the charges are true. Even if the officer were immune, the co-conspirators would not be. The result would be that the grand and petit juries would receive evidence about the illegal transactions and that evidence would inevitably name the officer as the recipient of the bribes the defendants gave. The trial might end in the conviction of the co-conspirators for bribing the officer, yet the officer would not be on trial, would not have the opportunity to cross-examine and present testimony on his own behalf. The man and his office would be slandered and demeaned without a trial in which he was heard. The man might prefer that to the risk of punishment, but the courts should not adopt a rule that opens the office to such a demeaning procedure.

This practical problem is raised by the motion here which asks this Court to prohibit "the Grand Jury from conducting any investigation looking to the [Vice

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President's] possible indictment" and to enjoin the prosecutors from presenting any evidence to the grand jury "looking to [his] possible indictment" (Motion, p. 1).

The criminal investigation being conducted by the grand jury is wide-ranging, and the Vice President is not its sole subject. The evidence being presented, while it touches on the Vice President, involves others also. It would be virtually impossible to exclude all evidence relating to the Vice President and at the same time present evidence relating to possible co-conspirators in a meaningful manner. Thus enjoining the investigation and presentation of evidence "looking to the possible indictment of [the Vice President]" would require the investigations of other persons also to be suspended. The relief therefore would plainly "frustrate the public's interest in the fair and expeditious administration of the criminal laws" (United States v. Dionisio, supra, 410 U.S. at 17).

The statute of limitations with respect to some of the possible illegal activities being investigated will run in December 1973. A suspension of the grand jury's investigation of the Vice President and others could therefore jeopardize the possibility of a timely indictment. "The possible expiration of a period of limitations if, of course, highly relevant to the exercise of the court's discretion" determining whether to stay the presentation of evidence to the grand jury. Grant v. United States, 282 F.2d 165, 170 (C.A. 2) (Friendly, C.J.).—/

Should this Court suspend the grand jury investigation the result would likely be to accord the Vice President and other persons permanent immunity from prosecution through the running of the statute of limitations

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even though it is unlikely he is entitled to the temporary immunity, pending conviction upon impeachment, that his counsel claim for him.

CONCLUSION

For the reasons stated, applicant's motion should be denied.

Respectfully submitted.

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II

THE STRUCTURE OF THE CONSTUTION AND THE WORKINGS OF THE CONSTITUTIONAL SYSTEM DO NOT IMPLY AN IMMUNITY FOR A VICE PRESIDENT

The Constitution is an intensely practical document and judicial derivation of powers and immunities is necessarily based upon consideration of the documents structure and of the practical results of alternative interpretations. McCulloch v. Maryland, 4 Wheat. 316 (1819); Stuart v. Laird, 1 Cranch 299, 308 (1803); Field v. Clark, 143 U.S. 649, 691 (1892); United States v. Midwest Oil Co., 236 U.S. 459, 472-473 (1915); United States v. Curtis-Wright Corp., 299 U.S. 304, 328-329 (1936). We turn, therefore, to a structural and functional analysis of the Constitution in relation to the immunity claimed for Vice Presidents.

The real question underlying the issue of whether indictment of any particular civil officer can precede conviction upon impeachment--and it is constitutional in every sense because it goes to the heart of the operation of government--is whether a governmental function would be seriously impaired if a particular civil officer were liable to indictment before being tried on impeachment. The answer to that question must necessarily vary with the nature and functions of the office involved.

We may begin with a category of civil officers subject to impeachment whom we think may clearly be tried and convicted prior to removal from office through the impeachment process:

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federal judges. [1] A judge may be hampered in the performance of his duty when he is on trial for a felony but his personal incapacity in no way threatens the ability of the judicial branch to continue to function effectively. There have been frequent occasions where death, illness, or disqualification has removed all of the available judges from a district or a circuit and even this extreme circumstance has been met effectively by the assignment of judges from other districts and circuits.

Similar considerations apply to Congressmen and these practical judgments are reflected in the Constitution. As already noted, Article I, Section 6 provides a very limited immunity for Senators and Representatives and explicitly permits them to be tried for felonies and breaches of the peace. This limited grant of immunity demonstrates a recognition that, although the functions of the legislature are not lightly to be interfered with, the public interest in the expeditious and even-handed administration of the criminal law outweighs the cost imposed by the incapacity of a single legislator. Such incapacity does not seriously impair the functioning of Congress. [2]

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[1] The Department of Justice is now contending that a United States court of appeals judge is subject to indictment, conviction, and sentencing prior to removal through the impeachment process. See United States v. Kerner, now pending in the Court of Appeals for the Seventh Circuit, No. 73-000. This, of course, is the historic position of the Department. See pp. , supra.

[2] It seems too clear for argument that other civil officers, such as heads of executive departments, are fully subject to criminal sanctions whether or not first removed from office.

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Almost all legal commentators agree, on the other hand, that an incumbent President must be removed from office through conviction upon an impeachment before being subject to the criminal process. Indeed, counsel for the Vice President takes this position (Memo, pp.). It will be instructive to examine the basis for that immunity in order to see whether its rationale also fits an incumbent Vice President, for that is the crux of the question before the Court.

As we have noted, p. , supra, the Framers' discussions assumed that impeachment would precede criminal trial because their attention was focussed upon the Presidency. (See also, 2 Farrand, supra, p. 500, and Hamilton, The Federalist, Nos. 65 and 69) They assumed that the nation's Chief Executive, responsible as no other single officer is for the affairs of the United States, would not be taken from duties that only he can perform unless and until it is determined that he is to be shorn of those duties by the Senate.

The scope of the powers lodged in the single man occupying the Presidency is shown by the briefest review of Artide II of the Constitution. The whole "executive Power" is vested in him and that includes the powers of the "Commander in Chief of the Army and the Navy," the power to command the executive departments, the power shared with the Senate to make treaties and to appoint ambassadors, the power shared with the Senate to appoint Justice of the Supreme Court and other civil officers, the power and responsibility to execute the laws, and the power to grant reprieves and pardons. The constitutional outline of

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the powers and duties of the Presidency, though more complete than noted here, does not flesh out the full importance of the office, but this is so universally recognized that we do not pause to emphasize it.

Without in any way denigrating the constitutional functions of a Vice President, or those of any individual Supreme Court Justice or Senator, for that matter, they are clearly less crucial to the operations of government than those of a President. A Vice President has, in fact, only three constitutional functions: to replace the President in the event of the President's removal from office, death, resignation, or inability to discharge the powers and duties of his office (25th Amendment, Section 1, 3, and 4); to make, together with a majority of either the principal officers of the executive departments or such other body as Congress may by law provide, a written declaration of the President's inability (25th Amendment, Section 3); and to preside over the Senate, which Vice Presidents rarely do, [1] and cast the deciding vote in case of a tie (Article I, Section 3).

None of a Vice President's constitutional functions is substantially impaired by his liability to the criminal process. The only problem that might arise would be the death of a President at the time a Vice President was the defendant in a criminal trial. That would pose no practical difficulty, however. The criminal proceedings would have to be suspended or terminated and the impeachment process begun. This would leave the nation in the same practical situation as would the institution of

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[1] The Framers assumed that Vice Presidents would not regularly preside over the Senate for they expressly provided in Article I, Section 3, Clause 5, for the election of a President pro tempore to act to the Vice President's absence.

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impeachment proceedings against an incumbent President, the sole legal difference being that the successor to office would be the Speaker of the House of Representatives rather than the Vice President. It is worth observing that though the country has never been without a President it has frequently lacked a Vice President.

The inference that only the President is immune from indictment and trial prior to removal from office also arises from an examination of other structural features of the Constitution. The Framers could not have contemplated prosecution of an incumbent President because they vested in him complete power over the execution of the laws, which includes, of course, the power to control prosecutions. (Article I, Section 3.) And they gave him "Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment" (Article I, Section 2, Clause 1), a power that is consistent only with the conclusion that the President must be removed by impeachment, and so deprived of the power to pardon, before criminal process can be instituted against him. A Vice President, of course, has no power either to control prosecutions or to grant pardons. These structural features are thus consistent with the conclusion that he may be prosecuted and convicted while still in office.

This conclusion is reinforced by the Twenty-Fifth Amendment, Sections 3 and 4. The problem, as we have noted, is one of the functioning of a branch of government, and it is noteworthy that the President is the only officer of government for whose temporary disability the Constitution provides procedures to

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apparently does not seriously hinder full exercise of the powers of the Vice Presidency. But the relationship between trial and punishment, on the one hand, and actual removal from office, on the other, is far from automatic. As perhaps the leading American commentator on impeachment has observed (Simpson, A Treatise on Federal Impeachment 52 (Philadelphia, 1916)):

> A public officer may be criminally convicted of trespass, though acting under a claim of right, or for excessively speeding his automobile, yet neither would justify impeachment. If, however, the conviction was followed by imprisonment, impeachment might be well maintained, for the office would be brought into contempt if a convict were allowed to administer it. It may be said that, in that event, impeachment would depend on the severity or lenity of a trial judge, and this would be so, but for the office's sake, a man may be said to be guilty of a "high misdemeanor" if he so acts as to be imprisoned.

Whether conviction of and imprisonment for minor offenses must lead to removal on conviction of impeachment therefore depends, in any given case, on the sound judgment of the Congress and the President's exercise of his pardoning power. Certainly it is pellucidly clear that criminal indictment, trial, and even conviction of a Vice President would not, ipso facto, cause his removal; subjection of a Vice President to the criminal process therefore does not violate the exclusivity of the impeachment power as the means of his removal from office.

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William Jefferson **CLINTON**, PETITIONER,
v.
Paula Corbin **JONES**.
No. 95-1853.
United States Supreme Court Amicus Brief.
October Term, 1995.
August 8, 1996.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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*I QUESTION PRESENTED

Whether a private civil action for damages against the President of the Unite States, based on events occurring before the President took office, should be permitted to go forward during the President's term of office.

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lawsuits," id. at 751; and that the public interest in the President's unimpaired attention to his official responsibilities must take precedence over a private litigant's desire to obtain redress for legal wrongs, id. at 754 n.37. As explained above, the President would be faced with a "diversion of his energies by concern with private lawsuits," id. at 751, if he were compelled to defend himself against a private suit for damages during his term in office. That diversion would "raise unique risks to the effective functioning of government." Ibid. The teaching of Fitzgerald is that the judicial system should not lend itself to such risks. [FN8]

FN8. A similar lesson can be drawn from the evident immunity of a sitting President from criminal prosecution. The available evidence strongly indicates that the Framers did not contemplate the possibility that criminal prosecutions could be brought against a sitting President. See, e.g., 2 Max Farrand, Records of the Federal Convention of 1787, at 64-69, 500 (New Haven 1911); The Federalist No. 69, at 416 (Hamilton) (C. Rossiter ed. 1961) (the President "would be liable to be impeached, tried, and, upon conviction * * * removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law") (emphasis added). As the Court noted in Fitzgerald, "there is a lesser public interest in actions for civil damages than * * *in criminal prosecutions." 457 U.S. at 754 n.37. In In Re Proceedings of the Grand Jury Impaneled December 5, 1972, Civil 73-965 (D. Md.) (mem. filed Oct. 5, 1973), the United States took the position that while a sitting Vice President is subject to criminal prosecution, a sitting President is not.

*16 C. The court of appeals read Fitzgerald to mark the outer limit of Presidential immunity. Pet. App. 8-9. In the court's view, "[t]he [Supreme] Court's struggle in Fitzgerald to establish presidential immunity for acts within the outer perimeter of official responsibility belies the notion * * * that beyond this outer perimeter there is still more immunity waiting to be discovered." Id. at 9. Because the instant case involves claims that are (with one possible exception, see note 3, supra) beyond "the 'outer perimeter' of [the President's] official responsibility," Fitzgerald, 457 U.S. at 756, the court of appeals concluded that Fitzgerald precluded the recognition of any constitutionally grounded immunity here. Pet. App. 9. And because the court of appeals believed that the President "is entitled to immunity, if at all, only because the Constitution ordains it," id. at 16, the court regarded Fitzgerald as dispositive of the question whether a sitting President may be compelled to defend against a private lawsuit during his service in office.

The court of appeals erred in asserting that deferral of litigation until the President leaves office would "extend[] presidential immunity beyond the outer perimeter delineated in Fitzgerald." Pet. App. 9. The plaintiff in Fitzgerald *17 did not name former President Nixon as a defendant until nearly four years after the conclusion of his Presidency. See 457 U.S. at 740. The case therefore did not implicate--and the Court accordingly did not discuss--the potential conflicts between a sitting President's performance of his constitutional responsibilities and the demands placed upon the defendant in a civil lawsuit. Rather, the Court focused on the danger that the

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be said of the Senate's power to try impeachments.[21] Indeed, assertions of executive privilege which thwart impeachment investigations or trials can themselves quite properly become the basis for an article of impeachment.

For example, prior to President Nixon's resignation in August 1974, the Judiciary Committee of the House of Representatives recommended to the full House an Article of Impeachment (Article III) charging that President Nixon's repeated refusal to comply with Judiciary Committee subpoenas issued in the course of the impeachment investigation was "subversive of constitutional government," since such refusal involved a presidential usurpation of "functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives."

Although the House Judiciary Committee voted not to seek judicial enforcement of its subpoenas to the President but sought instead to submit the validity of those subpoenas to the House and Senate, it has been suggested in plausible dictum that, if and when judicial enforcement is properly requested, federal courts possess constitutional power to review the validity of congressional impeachment subpoenas answered by claims of executive privilege, and further that the congressional interest in judicially enforcing such subpoenas (if otherwise valid) is substantial enough to outweigh any danger that the prejudicial publicity associated with the impeachment investigation might frustrate the impaneling of unbiased juries in ancillary criminal trials.[22]

§ 4–17. The Ultimate Remedy: Impeachment for High Crimes and Misdemeanors

Although the impeachment process has been used periodically since 1789,[1] there has been no judicial attempt to define its limits. This is attributable, in part, to the constitutional language ostensibly confining the issue of impeachment to the legislative branch of government, and thus arguably barring judicial review of impeachments under the political question doctrine.[2] What follows, therefore, is not a discussion

jury matters should be lawfully available to disbarment committees and police disciplinary investigations and yet be unavailable to the House of Representatives in a proceeding of so great import as an impeachment investigation."); 40 Op.Atty. Gen. 45 (1941) (executive privilege would not be invoked in impeachment proceedings).

21. See § 4–17, infra.

22. See Senate Select Committee v. Nixon (II), 370 F.Supp. 521, 522–23 (D.D.C. 1974), aff'd, 998 F.2d 725 (D.C.Cir. 1974).

§ 4–17

1. For a survey of impeachments in the United States, see "Impeachment and the U.S. Congress," Cong.Q. (March 1974).

2. See Ritter v. United States, 84 Ct.Cl. 293 (1936), cert. denied 300 U.S. 668 (1937) (dismissing suit of a judge who contended that the Senate had tried him for non-impeachable offenses: "the Senate was the sole tribunal that could take jurisdiction of the articles of impeachment presented to that body against the plaintiff and its decision is final"). See generally C. Black, Impeachment: A Handbook 53–55 (1974) (urging that it would be absurd to reinstate a President whose legitimacy had been stripped through impeachment by the House of Representatives and conviction by the Senate, legislative bodies presumably reflecting the sense of polity); Broderick, "A Citizen's Guide to Impeachment of a President: Problem Areas", 23 Catholic U.L.Rev. 205 (1973). See also H. Black, Constitutional Law 121–22 (1897); 1 J. Story, Commentaries § 805, at 587; 3 W. Willoughby, The Constitutional Law of the United States 1451 (2d ed. 1929). That impeachments are entirely beyond the pur-

of a judicially articulated law of impeachment, but is instead an independent analysis, buttressed as appropriate by conclusions that can be drawn from the attempt to impeach President Nixon,[3] as well as from earlier impeachment proceedings.[4]

Article II, § 4, provides that "[t]he President, Vice-President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Members of Congress are not "civil officers" for purposes of impeachment. But although Senators and Representatives thus cannot be impeached, they can be removed from office. Article I, § 5 provides: "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members. . . . Each House may . . . punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.[5]

Although of course private citizens are not subject to impeachment, the resignation of a "civil officer" does not give immunity from impeachment for acts committed while in office.[6] Congress might wish to continue an impeachment proceeding after its target has resigned from office in order to deprive the resigned officer of any retirement benefits affected by the fact of impeachment or conviction; to solidify the lesson of the officer's misconduct in the form of clear precedent; or simply to make plain to the public and for the future that the resigned officer's withdrawal from office was the result not of unjust persecution but rather of the way in which the officer had abused an official position.

Under the provisions of article II, § 4, the President, Vice President, or any other civil officer may be impeached for, and convicted of, "Treason, Bribery, or other high Crimes and Misdemeanors." Of these impeachable offences, only treason is expressly defined by the Constitution. Article III, § 3 states that "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort." Despite then-Congressman Gerald Ford's well-known assertion that "an impeachable offence is whatever a majority of the House of Representatives considers [it] to be",[7] there is now wide agreement that the phrase "high Crimes and

view of the courts is not always conceded, however. See R. Berger, Impeachment 108 (1973); I. Bryant, Impeachment, Trials and Errors 182–97 (1972); Goldberg, "Question of Impeachment," 1 Hastings Con.L.Q. 5, 8 (1974); Rezneck, "Is Judicial Review of Impeachment Coming?", 60 A.B.A.J. 681 (1974); Cf. Powell v. McCormack, 395 U.S. 486 (1969), discussed in § 3–6, supra. Given the decision of the Constitutional Convention to transfer impeachment trials from the Supreme Court, where they were initially to have been conducted, to the Senate, the more defensible view appears to be the traditional one of non-reviewability.

3. The impeachment effort was terminated after the President's resignation on August 9, 1974.

4. Although impeachment has been used primarily as a way of removing federal judges, the special characteristics of judicial impeachments are not discussed here, but rather in Chapter 3, supra.

5. See Powell v. McCormack, 395 U.S. 486 (1969).

6. See Firmage and Mangrum, "Removal of the President: Resignation and the Procedural Law of Impeachment," 1974 Duke L.J. 1023, 1089–95.

7. 116 Cong.Rec. 11913 (1970). The falsity of that position is evident from an examination of the debates on impeachment at the Constitutional Convention. In response to a suggestion by Colonel Mason that impeachments not be limited to cases of bribery and treason, but include as well instances of "maladministration," Madison

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Misdemeanors" was intended by the Framers to connote a relatively limited category closely analagous to the "great offences" impeachable in common law England.[8] In addition to treason and bribery, the "great offences" included misapplication of funds, abuse of official power, neglect of duty, encroachment on or contempt of legislative prerogatives, and corruption.[9]

There have been only two serious attempts to impeach American Presidents. In both instances, the offenses charged reflected the impact of the common law tradition discussed here: offenses have been regarded as impeachable if and only if they involve serious abuse of official power.

President Andrew Johnson was impeached by the House of Representatives in 1867 on the ground that he had attempted to dismiss Secretary of War Stanton in apparent defiance of the Tenure of Office Act of 1867.[10] Johnson escaped conviction in the Senate by one vote.

Representative John Bingham, leader of the House Managers of Impeachment, defined an impeachable offence in the traditional manner: "An impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose." [11]

History has not dealt kindly with the impeachment of Andrew Johnson. The procedural arbitrariness of the Johnson trial, and the fact that the law Johnson ignored was widely regarded as unconstitutional even before the Supreme Court so declared in *Myers v. United States*,[12] have together contributed to a fairly broad agreement that the congressional attempt to oust Johnson was itself an abuse of power.[13]

admonished that "so vague a term [would] be equivalent to tenure during the pleasure of the Senate." Mason then substituted the current constitutional language—"other high crimes and misdemeanors"—for "maladministration," apparently to ensure that mere congressional disapproval of the policies of a President could not serve as a basis for impeachment. See M. Farrand, The Records of the Constitutional Convention of 1787 (1911).

8. See, e.g., R. Berger, Impeachment 53–102 (1973); C. Black, Impeachment: A Handbook 39–40 (1974); Broderick, "A Citizen's Guide to Impeachment of a President: Problem Areas," 23 Catholic U.L. Rev. 205 (1973). Our law of impeachment has also been said to derive from the Roman law of infamy. See Franklin, "Romanist Infamy and the American Constitutional Concept of Impeachment," 23 Buff.L. Rev. 313 (1974). See generally "The Legal Aspects of Impeachment: An Overview," prepared by the Office of Legal Counsel of the Department of Justice (February 1974). For an unusual argument that the impeachment clause makes impeachment and conviction *mandatory* in cases of "high crimes and misdemeanors" but *optional* in other cases, see Note, "The Scope of the Power to Impeach," 84 Yale L.J. 1316 (1975).

9. See R. Berger, Impeachment 70–71 (1973).

10. The act was ultimately declared unconstitutional. See Myers v. United States, 272 U.S. 52 (1926), discussed in § 4–10, supra.

11. 1 Trial of Andrew Johnson 157 (1868).

12. See note 10, supra.

13. There appears, however, to be a growing revisionist view that the "real" reason for Johnson's impeachment—his systematic subversion of congressional reconstruction efforts—was a proper basis for conviction and removal from office. See

Richard Nixon was the second President to become the subject of serious impeachment proceedings. Mr. Nixon resigned from office as the thirty-seventh President on August 9, 1974, after his compliance with the Supreme Court's decision in *United States v. Nixon* [14] disclosed information which, when added to evidence already accumulated by the House Judiciary Committee, made virtually inevitable the President's impeachment, conviction, and removal from office. The invocation of the impeachment process in the Nixon case has led to a widespread re-evaluation of the thesis, embraced by many after the Johnson acquittal, that impeachment is of little practical significance as a check on the Chief Executive.[15]

Even before the final revelations, the House Judiciary Committee had found that three proposed articles of impeachment were supported by "clear and convincing" evidence. The Committee had accordingly voted to recommend impeachment by the House and trial by the Senate. These three proposed impeachment articles, voted by the Committee on July 27, 29 and 30, 1974, provide specific illustrations of the contemporary understanding of what constitutes "high crimes and misdemeanors." The Judiciary Committee first found that President Nixon warranted "impeachment and trial, and removal from office" because he had "prevented, obstructed, and impeded the administration of justice" by engaging "personally and through his subordinates and agents in a course of conduct or plan to delay, impede, and obstruct the investigation of [the Watergate break-in]; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities." [16] Under a second Article of Impeachment, the Judiciary Committee determined that President Nixon, "in violation of his constitutional oath . . . and in disregard of his constitutional duty to take care that the laws be faithfully executed," "endeavored to obtain from the Internal Revenue Service in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law. . . .;" "misused" the FBI, Secret Service, and "other executive personnel in violation or disregard of the constitutional rights of citizens. . . .;" "authorized . . . a secret investigative unit . . . within the office of the President, financed in part with money derived from campaign contributions, which . . . engaged in covert and unlawful activities, and attempted to prejudice the constitutional right of an accused . . . to a fair trial;" "failed. . . . to act when he knew or had reason to know that his close subordinates endeavored to impede and frustrate lawful inquiries by duly constituted executive, judicial and legislative

M. Benedict, The Impeachment and Trial of Andrew Johnson (1973).

14. 418 U.S. 683 (1974) discussed in § 4–15, supra.

15. See, e.g., Firmage and Mangrum, supra note 6, at 1025–26. But the critical thesis has not been abandoned, and proposals of a more parliamentary or quasi-parliamentary substitute for impeachment continue to be advanced. See, e.g., H. Joint Res. No. 903, 93d Cong., 2d Sess. 1111 (1974); Linde, "Replacing a President: Rx for 21st Century Watergate," 43 Geo.Wash. L.Rev. 384 (1975); Havighurst, "Doing Away With Presidential Impeachment: The Advantages of Parliamentary Government," 1974 Ariz.L.Rev. 223.

16. Article I specified nine "means used to implement this course of conduct or plan".

entities . . .;" "knowingly misused the executive power by interfering with agencies of the executive branch . . . in violation of his duty to take care that the laws be faithfully executed."

In a third Article of Impeachment, the Judiciary Committee found that President Nixon "failed without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the [Judiciary] Committee . . . and wilfully disobeyed such subpoenas," contrary to "his oath faithfully to execute the office of the President." The Committee stated that the subpoenaed information was needed "to resolve by direct evidence fundamental, factual questions relating to Presidential direction, knowledge, or approval of actions demonstrated by other evidence to be substantial grounds for impeachment of the President [who] thereby assum[ed] to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives." [17]

A number of independently plausible conclusions about the character of impeachable offences are reinforced by the proposed Nixon impeachment articles. The first of these is the limited usefulness of "criminality" as a measure of "high crimes and misdemeanors". Only the first of the three Nixon impeachment articles voted by the House Judiciary Committee (and limited portions of the second) dealt with alleged presidential violations of federal criminal law.[18] At the same time, the Committee rejected an additional proposed article of impeachment based on evidence of possible criminal irregularities in presidential tax returns and in expenditures of public funds to enhance the value of President Nixon's personal property.[19]

The House Judiciary Committee's proposal of the Nixon Impeachment Articles therefore appears to confirm the view of most commentators: [20] *A showing of criminality is neither necessary nor sufficient for*

17. Article III was adopted by a smaller majority (21–17) than Article I (27–11) or Article II (28–10), in part because of doubts as to the propriety of congressional, rather than judicial, resolution of the Committee's right to subpoena the information from the President. See Final Report on the Impeachment of Richard M. Nixon, President of the United States, H.R. Rep. No. 1035, 93d Cong., 2d Sess., in 120 Cong.Rec. H9103 (daily ed. Aug. 22, 1974). Those doubts were perhaps understandable in light of some of the Supreme Court's needlessly extravagant if stirring language, claiming for itself the role of "ultimate interpreter of the Constitution," in United States v. Nixon, 418 U.S. 683, 704 (1974). It has never been the law, however, that only the Supreme Court can authoritatively resolve constitutional disputes. The whole thrust of the political question doctrine is in fact to the contrary. For an argument that the Judiciary would nonetheless have provided a better forum for deciding whether the President was obliged to submit the requested information to the House, see Pollak, "The Constitution as an Experiment," 123 U.Penn.L.Rev. 1318, 1323–28 (1975).

18. See 18 U.S.C. § 1510 (1970) (making it a felony "willfully [to endeavor] . . . to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator").

19. Also rejected was an article based on the administration's secret-bombing of Cambodia in 1969 and 1970. A useful discussion of the issue posed by that article and its rejection appears in Pollak, supra note 17, at 1329–39.

20. Among the most thoughtful studies, one that reaches this conclusion is particularly worth consulting: Committee on Federal Legislation, Association of the Bar of the City of New York, The Law of Presidential Impeachment (released Jan. 21, 1974).

the specification of an impeachable offense.[21] That non-criminal activities may constitute impeachable offenses is hardly surprising. A deliberate presidential decision to emasculate our national defenses, or to conduct a private war in circumvention of the Constitution, would probably violate no criminal code, but it should surely be deemed a ground of impeachment. And there is little doubt that, despite the want of criminality, such an action would fall within the compass of the common law's "great offenses." [22] In contrast, a President's technical violation of a law making jay-walking a crime obviously would not be an adequate basis for presidential removal.[23] With respect to the question of criminality, then, Edmund Burke's opening statement at the impeachment trial of Warren Hastings remains definitive: "It is by this tribunal that statesmen who abuse their power . . . are tried . . . not upon the niceties of a narrow [criminal] jurisprudence, but upon the enlarged and solid principles of morality." [24] Nor could the desire to insure that impeachment not be turned into a partisan political weapon be satisfied by a mechanical rule tying impeachable offenses to enumerated crimes, and it does not in fact require such a rule. A commitment to principle can better be secured, insofar as any verbal formula can help secure it, by accepting and acting on the proposition that "Congress may properly impeach and remove a President only for conduct amounting to a gross breach of trust or serious abuse of power, and only if it would be prepared to take the same action against any President who engaged in comparable conduct in similar circumstances." [25]

A second conclusion to which the Nixon affair points is that an inductive approach to defining impeachable offenses makes substantial sense. The House Judiciary Committee notably refrained from stating any precise definition of "high crimes and misdemeanors" against which particular proposed impeachment articles could be measured. This approach minimized the possibility of serious partisan division prior to consideration of the actual evidence. In many cases, it may not

21. See R. Berger, Impeachment 56–57 (1973); C. Black, Impeachment: A Handbook 33–35 (1974); C. Hughes, The Supreme Court of the United States 19 (1928); Goldberg, "Question of Impeachment", 1 Hastings Const.L.Q. 5 (1974); S. Boutwell, The Constitution of the United States at the End of the First Century (1895); Fenton, "The Scope of the Impeachment Power," 65 Nw.U.L.Rev. 719 (1970). But see Thompson & Pollit, "Impeachment of Federal Judges: An Historical Overview," 49 N.C.L.Rev. 87, 106 (1970); C. Warren, The Supreme Court in United States History 293 (1922); I, Brait, Impeachment: Trial and Errors (1972).

22. See generally Staff Report, House Judiciary Committee, "Constitutional Grounds for Presidential Impeachment" (released Feb. 22, 1974).

23. Some crimes that do not relate directly to the President's official duties may nevertheless be impeachable offenses if their character is such as to taint the office of the presidency. For example, a President's murder of a personal enemy, while not bearing directly upon official presidential duties, would so malign the holder of the office that the President, stripped of legitimacy, would be unable effectively to discharge presidential duties. See C. Black, Impeachment: A Handbook 39 (1974). "At the heart of the matter is the determination [that] the officeholder has demonstrated by his actions that he is unfit to continue in the office in question." Committee on Federal Legislation, supra note 20.

24. 7 E. Burke, Works 11, 14 (1839).

25. Committee on Federal Legislation, supra note 20.

be until such evidence is known that legislators will perceive the need to abandon their ordinary partisan or personal loyalties. In this special context, the usual equation between ignorance and impartiality plainly makes little sense. Moreover, deciding whether impeachable conduct has occurred primarily on the basis of the conduct's factual context, rather than in terms of the application of some general rule, is more in keeping with the necessarily political—but *not* necessarily partisan—character of the impeachment process.

We turn finally to a brief consideration of the *process* of impeachment and trial. Article I, § 2, cl. 5, declares that "[t]he House of Representatives . . . shall have the sole Power of Impeachment." [26] But what *is* impeachment? In many senses, it is analogous to a grand jury indictment in the criminal justice system.[27] The House of Representatives decides by majority vote whether charges raised against "civil officers" are sufficiently serious, and are supported by sufficient evidence, to warrant holding a Senate trial.

With respect to federal grand jury proceedings, the Supreme Court has refused to establish a rule permitting defendants to challenge indictments as supported by inadequate or incompetent evidence: in the subsequent "trial on the merits, defendants are entitled to a strict observance of all the rules designed to bring about a fair verdict." [28] However this may be in the grand jury setting, in the context of impeachment the institutional costs of a Senate trial, as well as the extraordinary damage done to a civil officer's reputation by the "mere" fact of impeachment, have caused the House of Representatives to impose restraints on its impeachment decisions that the Supreme Court has not imposed on federal grand juries. For example, in 1974 the House Judiciary Committee, charged by the full House with responsibility for making a preliminary (and probably definitive) decision as to whether articles of impeachment should be voted against President Nixon, imposed upon itself the requirement that any impeachment article must be supported by "clear and convincing evidence" before it could be favorably reported out of committee. It seems likely that the House of Representatives itself would have applied the same standard in voting on the articles of impeachment if President Nixon had not resigned before such a vote could be taken.

Article I, § 3, cl. 6, governs the conduct of a trial of impeachment: "The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried the Chief Justice shall preside: and no person shall be convicted without the concurrence of

26. For an analysis of impeachment procedure in the House, see Firmage and Mangrum, supra note 6, at 1032–50. The place (if any) of executive privilege in House impeachment investigations is discussed in § 4–16, supra.

27. See C. Black, Impeachment: A Handbook (1974).

28. Costello v. United States, 350 U.S. 359 (1956) (holding that a defendant in a federal criminal case may be required to stand trial, and that his conviction may be sustained, where only hearsay evidence was presented to the grand jury which indicted him).

two thirds of the members present." [29] Although the Chief Justice presides when the President is on trial, the Senate, possessor of "the sole Power to try all Impeachments," decides the procedural and evidentiary rules which govern such trials. Under the prevailing rules, the Senate can overrule decisions of the Chief Justice concerning the admissibility of evidence, and, by passing questions to the Chief Justice, individual Senators may interrogate witnesses.[30]

Article I, § 3, cl. 7, limits the effect of impeachment and conviction by providing that "Judgement in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Honor, Trust or Profit under the United States: but the party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgement and Punishment, according to Law". Such criminal liability is absolute; Congress cannot eliminate it by a grant of immunity, nor the President by an exercise of the pardon power.[31]

It is widely thought that article I, § 9, cl. 3,[32] evidences the intention of the Framers that the English practice of directing criminal punishments against specific offenders as part of the legislative process should not be adopted in the United States. At the same time, those who drafted article I, § 3, cl. 7, did not wish to immunize office-holders from criminal prosecution; the clause was designed in part to make clear that criminal prosecutions subsequent to removal from office would not constitute double jeopardy of the sort explicitly prohibited by the fifth amendment.[33]

29. For an analysis of impeachment procedure in the Senate, see Firmage and Mangrum, supra note 6, at 1050–62, 1073–78. The place (if any) of executive privilege in Senate impeachment trials is discussed in § 4–16, supra.

30. See "Impeachment and the U.S. Congress." Cong.Q. 12–13 (March, 1974).

31. U.S. Const., art. II, § 2, cl. 1, gives the President the "power to grant . . . pardons . . . except in cases of impeachment." See § 4–11, supra.

32. "No Bill of Attainder . . . shall be passed." See §§ 10–4, 10–5, infra.

33. This interpretation gives the impeachment judgment clause significance as something other than a specification of time sequence. Indictment of "civil officers" prior to impeachment and removal is not necessarily prohibited. See Firmage & Mangrum, supra note 6, at 1094–1102; Berger, "The President, Congress, and the Courts," 83 Yale L.J. 1111, 1133, 1136 (1974). See § 4–14, supra. This construction of the impeachment judgment clause also reinforces the proposition that, since impeachment is an ultimately political process, impeachable offenses must be defined politically, and are not limited to indictable crimes.

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Impeach or Indict?

IF YOU THINK KENNETH STARR IS GOING TO INDICT BILL CLINTON, YOU'LL BE SORELY DISAPPOINTED. STARR CAN INVESTIGATE, BUT IT WILL BE UP TO CONGRESS TO ACT.

BY BYRON YORK

All across Capitol Hill, a sense of frustration and resignation has set in among those who have spent the past three years investigating Clinton administration scandals. What do they have to show for their work? The Travelgate investigation uncovered wrongdoing and stonewalling throughout the White House, but the administration seems to have suffered no lasting political damage. The Whitewater hearings destroyed the credibility of several top White House aides, but most remain in their jobs, and several have been generously reimbursed—with taxpayer dollars—for their legal expenses. Filegate, so promising last summer, bogged down by fall, when Republicans were unable to discover which higher-ups were behind the administration's widespread abuse of the FBI.

In short, political oversight didn't work. Bill Clinton and his staff proved sharper, slicker, and more determined to obstruct Congress than even some of their opponents had imagined. Now the energy that once drove the congressional investigations has been replaced by a quiet—and perhaps desperate—faith in Kenneth Starr, the independent counsel who is investigating Whitewater, Travelgate, and Filegate.

Clinton's adversaries hope Starr will indict the president. But they are likely to be disappointed, because a look at the law and history shows that it is a virtual certainty that Starr will *not* indict Bill Clinton—at least not while he is in the White House. And if the independent counsel does find presidential crimes, the issue will go not to the courts but back to Capitol Hill, where members of Congress from both parties will be forced to abandon the easy soundbites of oversight hearings and instead face a difficult vote on the question of impeachment.

THE UNINDICTABLE MAN

Can Clinton be indicted while he is president? For those who believe that no man is above the law, the answer would seem an easy yes. But it is not as simple as that.

The Constitution does not specifically address the question. Article II, Section 4 says only that "The President...shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Article I, Section 3 says that "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law." Taken together, the clauses mean the president can be both impeached and prosecuted. But which comes first? There is good reason to argue that prosecution is possible only after impeachment.

The issue was at the heart of Watergate when Richard Nixon contended that he could not be indicted as long as he was president. At the same time, Spiro Agnew, facing problems of his own, claimed that *he* couldn't be indicted as long as he was vice president. Agnew argued that the Constitution required that he be impeached before he could be indicted, gambling on the possibility that Congress wouldn't go forward with impeachment and he could thus escape punishment. Nixon hoped for much the same thing.

Agnew's strategy was a failure. Solicitor General Robert Bork, representing the Justice Department, argued that the vice president, like other public officials, could indeed be indicted while in office. Bork's reasoning was that the vice president's job just wasn't important enough for him to be immune from prosecution. But Bork also addressed the Nixon question by declaring that the president *was* so important that he could not be indicted while in office. He based his argument on three points:

- The Constitution gives the president exclusive control of the executive branch; it is the only branch of government headed by a single person. Therefore, Bork wrote, "if the president were indictable while in office, any prosecutor and grand jury would have within their power the ability to cripple an entire branch of the national government..."

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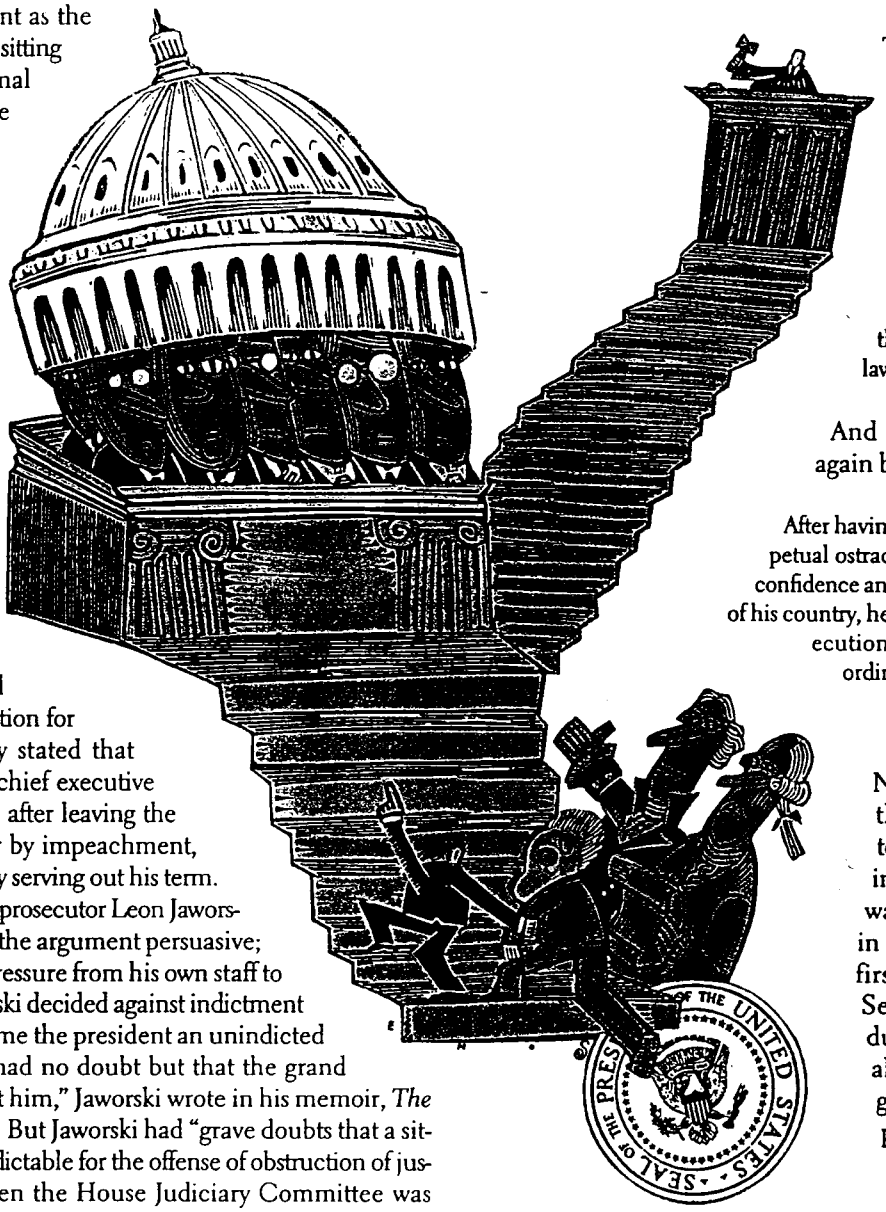
• The Constitution gives the president the power to enforce the law, to grant pardons, and to appoint judges. Bork argued that it would create a massive conflict for the president to face his own law enforcement institutions. "Since the president's powers include control over all federal prosecutions," Bork explained, "it is hardly reasonable or sensible to consider the president subject to such prosecution."

• The Constitution prescribes impeachment as the only way to punish a sitting president for criminal misconduct. "He is amenable to the criminal laws," Bork wrote, "but only after he has been impeached and convicted, and thus stripped of his critical constitutional functions."



Bork's argument had the convenient effect of protecting Nixon while cutting Agnew loose. But his brief offered little ultimate protection for Nixon; Bork clearly stated that Nixon or any other chief executive could be prosecuted after leaving the presidency, whether by impeachment, resignation, or simply serving out his term.

Watergate special prosecutor Leon Jaworski apparently found the argument persuasive; despite enormous pressure from his own staff to charge Nixon, Jaworski decided against indictment (although he did name the president an unindicted co-conspirator). "I had no doubt but that the grand jury wanted to indict him," Jaworski wrote in his memoir, *The Right and the Power*. But Jaworski had "grave doubts that a sitting president was indictable for the offense of obstruction of justice," especially when the House Judiciary Committee was considering the same issue. He concluded that "the proper constitutional process...would be for the Committee to proceed first with its impeachment inquiry."

But Jaworski did not stop there. After reaching his decision not to indict, he went one crucial step further: he sent the evidence he had gathered—organized into what his staff called the "road map"—to the House committee. At that point, the matter was in the domain of the political system.

There are indications the framers of the Constitution would have agreed with Jaworski's decision not to indict. Even though they chose not to specifically enumerate it in the Constitution, the founders apparently believed that a president would have to face political judgment before facing criminal justice. In *Federalist No. 69*, Alexander Hamilton wrote:

> The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of the law.

And in *Federalist No. 65*, again by Hamilton:

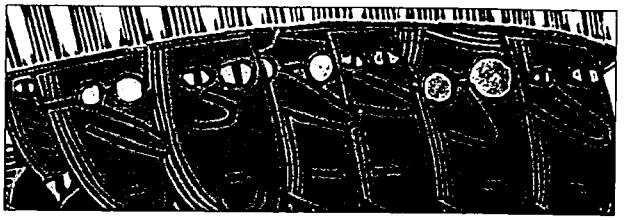
> After having been sentenced to a perpetual ostracism from the esteem and confidence and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of the law.

Clearly Richard Nixon was very lucky that Alexander Hamilton did not succeed him in office. But Hamilton was not the only framer in favor of impeachment first, prosecution later. Several months earlier, during the constitutional convention, the delegates argued over which part of government would be best suited to try impeachments. Gouverneur Morris of Pennsylvania urged that the Senate, rather than the Supreme Court, should sit in judgment of the president, because the high court would likely "try the President after the trial of the impeachment." His argument carried the day.

STARR'S BIG MOVE

What does this mean for Kenneth Starr? First of all, it means he won't indict Bill Clinton while Clinton is president. In several public statements, Starr has made clear that he has great respect for precedent and the accepted practices of the judicial system. It is very unlikely that he would jump outside of both to indict Clinton. And if he did, it is a sure thing that Clinton would mount a ferocious defense along Nixon/Bork lines. Just look at how energetically—and so far successfully—he has argued that he should not be the target of the Paula Jones *civil* suit as long as he remains in office.

But if Starr has strong evidence that Clinton has committed crimes, what does he do with it? We know from the McDougal trial, for example, that $50,000 that was obtained by defrauding the United States government was channeled into Clinton's company; the money was part of the illegal $300,000 Small Business Administration loan that went to Susan McDougal. The president testified under oath and on videotape that he knew nothing about the fraudulent loan. If Starr were to discover clear and convincing evidence that the president committed perjury, he would face the question of how to advance the case against a sitting president without resorting to a possibly unconstitutional indictment.



If Kenneth Starr tries to indict the president, it's a sure thing that Bill Clinton would mount a ferocious defense along Nixon/Bork lines from 1974.

Jaworski's "road map" provides the answer. By refusing to indict the president and instead giving his evidence to the House Judiciary Committee, Jaworski limited his role as prosecutor to that of evidence-gatherer. Starr would do the same thing: by handing the issue to Congress, where it could be properly dealt with by elected representatives. And there's one more reason Starr will go to Congress: unlike Jaworski in 1974, Starr is required by law to do so. Section 595 (c) of the independent counsel law instructs the independent counsel to "advise the House of Representatives of any substantial and credible information which such independent counsel receives...that may constitute grounds for an impeachment."

IMPEACH: YES OR NO?

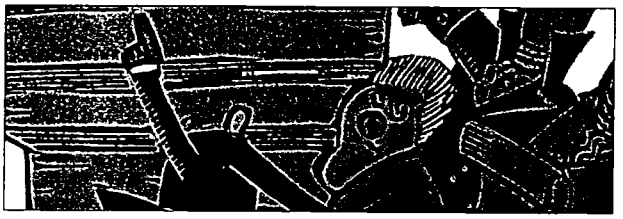
Once it has possession of Starr's evidence, how would members of Congress decide whether or not to impeach? They would likely return to what the founders had to say about the issue. The framers of the Constitution believed that the citizenry should have the right to remove the chief executive not only in the normal course of elections but also in cases of wrongdoing. And they clearly foresaw that the question would arise from time to time. Consider the following excerpt from the *Records of the Federal Convention of 1787*, in which several delegates attempted to convince two holdouts that an impeachment clause should be included in the new Constitution:

> **Mr. Pinckney** [Charles Pinckney of South Carolina] & **Mr. Morris** [Gouverneur Morris of Pennsylvania] moved to strike out this part of the Resolution. **Mr. P.** observed [the president ought not] be impeacheable whilst in office.
> **Mr. Davie** [William Richardson Davie of North Carolina] said if he not be impeacheable whilst in office, he will spare no efforts or means whatever to get himself re-elected. He considered this as an essential security for the good behaviour of the Executive.
> **Mr. Morris** [said]...In case he should be re-elected, that will be sufficient proof of his innocence. Besides, who is to impeach? Is the impeachment to suspend his functions? If it is not, the mischief will go on. If it is, the impeachment will be nearly equivalent to displacement, and will render the Executive dependent on those who are to impeach.
> **Col. Mason** [George Mason of Virginia] said no point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all, shall that man be above it, who can commit the most extensive injustice?...
> **Docr. Franklin** [Benjamin Franklin] said...it would be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused.
> **Mr. Madison** [James Madison of Virginia] thought it indispensable that some provision should be made for defending the Community against the incapacity, negligence or perfidy of the chief Magistrate. The limitation of the period of his service was not a sufficient security....
> **Mr. Gerry** [Elbridge Gerry of Massachusetts] urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them....

The discussion changed Morris's mind, and he later voted in favor of an impeachment clause. (The measure carried, ten to two.) But more serious disagreements arose concerning the seriousness of wrongdoing that would be necessary to trig-

ger an impeachment proceeding. Some of the framers believed Congress should be empowered to get rid of the president for almost any reason. For example, according to the *Records*, Roger Sherman of Connecticut contended "that the National Legislature should have power to remove the Executive at pleasure." It was a fairly popular position; an early draft of the Constitution stipulated that the president could be removed for "malpractices or neglect of duty," which would have given Congress enormous leeway in choosing to get rid of a president.

A later draft added the word "corruption" to the list of impeachable offenses. But by late August 1787, those in favor of limiting impeachments had changed the draft to specify that the president could be removed for just two reasons: treason and bribery. That set off an impassioned debate. "Why is the provision restrained to treason and bribery only?" George Mason asked the convention. "Treason as defined in the Constitution will not reach many great and dangerous offences..." Mason moved that "maladministration" be added to the list of impeachable offenses. That provoked a protest from Madison, who argued that "maladministration" was so vague that it would mean that the president served "a tenure during pleasure of the Senate." Mason eventually surrendered, abandoning "maladministration" and proposing "high crimes and misdemeanors" instead. The phrase was approved by a vote of eight to three and became the final wording of the Constitution.



This is not an abstract scenario; it could happen, and rather quickly. But so far, almost no one in Congress will even admit to thinking about it.

In the more than 200 years since the document was ratified, no one has come up with a specific definition of "high crimes and misdemeanors." But clear and convincing evidence from Starr that the president is guilty of perjury, obstruction of justice, or a variety of other offenses would certainly fit the bill. In fact, it might result in articles of impeachment similar to those drawn up by the House Judiciary Committee against Richard Nixon in 1974. Some of the committee's charges against Nixon included:

- [M]aking false or misleading statements to lawfully authorized investigative employees of the United States.
- [W]ithholding relevant and material evidence or information from lawfully authorized investigative officers and employees of the United States.
- [M]aking or causing to be made false or misleading public statements for the purpose of deceiving the people of the United States into believing that a thorough and complete investigation had been conducted with respect to allegations of misconduct on the part of personnel of the executive branch of the United States...and that there was no involvement of such personnel in such misconduct.
- [Failing] without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary of the House of Representatives...

All but the most zealous defenders of Bill Clinton would be hard-pressed to deny that the list is strikingly similar to present-day accusations against the president.

THE FIGHT AHEAD

If Starr forwards evidence of possible Clinton crimes to Congress, the beginning of an impeachment inquiry would put enormous demands on the leadership of the House of Representatives. No longer would the president's critics be able simply to accuse the White House of corruption. In an impeachment they would have to go on record with a vote that might ultimately come back to haunt them should the impeachment attempt fail. And should it succeed, of course, the burden would then shift to the Senate for trial.

This is not an abstract scenario; it could happen, and could happen rather quickly. But so far, almost no one in Congress will even admit to thinking about the issue. "We deal with facts rather than speculation," says one Judiciary Committee staffer, adding that there have been no discussions on the issue. "I haven't heard of anything yet," says another committee official. "The sad thing around here is that no one really has prepared," says a Republican who is not on Judiciary. "No one here has talked about it."

They should, and soon, because Starr's years of investigation might result in action against the president at any time. When the independent counsel follows the intentions of the framers—plus his own statutory mandate—and passes the evidence on to Congress, it will be time for lawmakers to put up or shut up. Starr can point the way, but the 105th Congress will have to decide.

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ORDER APPOINTING STARR

FOIA # none (URTS 16305) DocId: 70105132 Page 1

United States Court of Appeals
For the District of Columbia Circuit

FILED AUG 05 1994

RON GARVIN
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty Savings & Loan Association

Division No. 94-1

Order Appointing Independent Counsel

Before: SENTELLE, *Presiding*, and BUTZNER and SNEED, *Senior Circuit Judges*.

Upon consideration of the application of the Attorney General pursuant to 28 U.S.C. § 592(c)(1)(A) for the appointment of an independent counsel with authority to exercise all the power, authority and obligations set forth in 28 U.S.C. § 594, to investigate whether any individuals or entities have committed a violation of federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.; it is

ORDERED by the Court in accordance with the authority vested in it by 28 U.S.C. § 593(b) that Kenneth W. Starr, Esquire, of the District of Columbia bar, with offices at Kirkland and Ellis, 655-15th Street, NW, Washington, DC, 20005, be and he is hereby appointed Independent Counsel with full power, independent authority, and jurisdiction to investigate to the

FOIA # none (URTS 16305) DocId: 70105132 Page 2

maximum extent authorized by the Independent Counsel Reauthorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

The Independent Counsel shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation.

The Independent Counsel shall have jurisdiction and authority to investigate any violation of 28 U.S.C. § 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal criminal law, in connection with any investigation of the matters described above.

The Independent Counsel shall have jurisdiction and authority to seek indictments and to prosecute any persons or entities involved in any of the matters described above, who are reasonably believed to have committed a violation of any federal criminal law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any

FOIA # none (URTS 16305) DocId: 70105132 Page 3

federal offense.

The Independent Counsel shall have all the powers and authority provided by the Independent Counsel Reauthorization Act of 1994. It is

FURTHER ORDERED by the Court that the Independent Counsel, as authorized by 28 U.S.C. § 594, shall have prosecutorial jurisdiction to fully investigate and prosecute the subject matter with respect to which the Attorney General requested the appointment of independent counsel, as hereinbefore set forth, and all matters and individuals whose acts may be related to that subject matter, inclusive of authority to investigate and prosecute federal crimes (other than those classified as Class B or C misdemeanors or infractions) that may arise out of the above described matter, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses. The Court, having reviewed the motion of the Attorney General that Robert B. Fiske, Jr., be appointed as Independent Counsel, has determined that this would not be consistent with the purposes of the Act. This reflects no conclusion on the part of the Court that Fiske lacks either the actual independence or any other attribute necessary to the conclusion of the investigation. Rather, the Court reaches this conclusion because the Act contemplates an apparent as well as an actual independence on the part of the Counsel. As the Senate Report accompanying the 1982 enactments reflected, "[t]he intent of the special prosecutor provisions is not to impugn the integrity of the Attorney General or the

FOIA # none (URTS-16305) DocId: 70105132 Page 4

Department of Justice. Throughout our system of justice, safeguards exist against actual or *perceived* conflicts of interest without reflecting adversely on the parties who are subject to conflicts." S. Rep. No. 496, 97th Cong., 2d Sess. at 6 (1982) (emphasis added). Just so here. It is not our intent to impugn the integrity of the Attorney General's appointee, but rather to reflect the intent of the Act that the actor be protected against perceptions of conflict. As Fiske was appointed by the incumbent administration, the Court therefore deems it in the best interest of the appearance of independence contemplated by the Act that a person not affiliated with the incumbent administration be appointed.

It further appearing to the Court in light of the Attorney General's motion heretofore made for the authorization of the disclosure of her application for this appointment pursuant to 28 U.S.C. § 592(e) and of the ongoing public proceedings and interest in this matter, that it is in the best interests of justice for the identity and prosecutorial jurisdiction of the Independent Counsel to be disclosed,

IT IS SO ORDERED.

Per Curiam
For the Court:

Ron Garvin

Ron Garvin, Clerk

FOIA # none (URTS 16305) DocId: 70105132 Page 5

GOVERNMENT
EXHIBIT
1

United States Court of Appeals
For the District of Columbia Circuit

FILED AUG 05 1994

RON GARVIN
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In re: Madison Guaranty
Savings & Loan Association

Division No. 94-1

Order Appointing
Independent Counsel

Before: SENTELLE, *Presiding*, and BUTZNER and SNEED, *Senior Circuit Judges*.

Upon consideration of the application of the Attorney General pursuant to 28 U.S.C. § 592(c)(1)(A) for the appointment of an independent counsel with authority to exercise all the power, authority and obligations set forth in 28 U.S.C. § 594, to investigate whether any individuals or entities have committed a violation of federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.; it is

ORDERED by the Court in accordance with the authority vested in it by 28 U.S.C. § 593(b) that Kenneth W. Starr, Esquire, of the District of Columbia bar, with offices at Kirkland and Ellis, 655-15th Street, NW, Washington, DC, 20005, be and he is hereby appointed Independent Counsel with full power, independent authority, and jurisdiction to investigate to the

FOIA # none (URTS 16305) DocId: 70105132 Page 6

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The Independent Counsel shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above and connected with or arising out of that investigation.

The Independent Counsel shall have jurisdiction and authority to investigate any violation of 28 U.S.C. § 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal criminal law, in connection with any investigation of the matters described above.

The Independent Counsel shall have jurisdiction and authority to seek indictments and to prosecute any persons or entities involved in any of the matters described above, who are reasonably believed to have committed a violation of any federal criminal law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any

FOIA # none (URTS 16305) DocId: 70105132 Page 7

federal offense.

The Independent Counsel shall have all the powers and authority provided by the Independent Counsel Reauthorization Act of 1994. It is

FURTHER ORDERED by the Court that the Independent Counsel, as authorized by 28 U.S.C. § 594, shall have prosecutorial jurisdiction to fully investigate and prosecute the subject matter with respect to which the Attorney General requested the appointment of independent counsel, as hereinbefore set forth, and all matters and individuals whose acts may be related to that subject matter, inclusive of authority to investigate and prosecute federal crimes (other than those classified as Class B or C misdemeanors or infractions) that may arise out of the above described matter, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses. The Court, having reviewed the motion of the Attorney General that Robert B. Fiske, Jr., be appointed as Independent Counsel, has determined that this would not be consistent with the purposes of the Act. This reflects no conclusion on the part of the Court that Fiske lacks either the actual independence or any other attribute necessary to the conclusion of the investigation. Rather, the Court reaches this conclusion because the Act contemplates an apparent as well as an actual independence on the part of the Counsel. As the Senate Report accompanying the 1982 enactments reflected, "[t]he intent of the special prosecutor provisions is not to impugn the integrity of the Attorney General or the

FOIA# none (URTS 16305) DocId: 70105132 Page 8

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It further appearing to the Court in light of the Attorney General's motion heretofore made for the authorization of the disclosure of her application for this appointment pursuant to 28 U.S.C. § 592(e) and of the ongoing public proceedings and interest in this matter, that it is in the best interests of justice for the identity and prosecutorial jurisdiction of the Independent Counsel to be disclosed,

IT IS SO ORDERED.

Per Curiam
For the Court:

Ron Garvin, Clerk

United States Court of Appeals
For the District of Columbia Circuit

FILED JUL 0 1 1994

RON GARVIN
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
INDEPENDENT COUNSEL DIVISION

RECEIVED
JUL 0 1 1994
CLERK OF THE UNITED
STATES COURT OF APPEALS

APPLICATION TO THE COURT PURSUANT TO 28 U.S.C. § 592(c)(1) FOR THE APPOINTMENT OF AN INDEPENDENT COUNSEL IN RE MADISON GUARANTY SAVINGS & LOAN ASSOCIATION)

No. PN-94-1

In accordance with the Independent Counsel Reauthorization Act of 1994 (the "Act"), I hereby apply to the Special Division of the Court for the appointment of an Independent Counsel to investigate whether any violations of federal criminal law were committed by James B. McDougal or any other individual or entity relating to Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

Background. In October 1993, the Resolution Trust Corporation (RTC) referred a number of allegations to the Office of the United States Attorney for the Eastern District of Arkansas arising out of an inquiry into the administration of Madison Guaranty Savings & Loan Association, a defunct Arkansas savings and loan association that was owned by James B. McDougal, who had been a partner with William and Hillary Clinton in Whitewater Development Corporation.

During the same time period, the Office of the United States Attorney for the Eastern District of Arkansas was prosecuting David Hale, an Arkansas municipal court judge who had ties both to the Clintons and to McDougal, for fraud against the Small Business Administration relating to the operation of Hale's investment company, Capital Management Services, Inc. While plea

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negotiations were underway, Hale made a number of allegations against former associates, including McDougal and the Clintons, concerning the misuse of funds of Capital Management Services.

In November 1993, the Fraud Section of the Criminal Division of the Department of Justice took over the prosecution of Hale and the inquiry into the RTC allegations of misapplication of funds from Madison Guaranty, several of which it determined to be sufficiently specific and credible to provide grounds for preliminary investigation.

On January 20, 1994, I appointed Robert B. Fiske, Jr., as regulatory independent counsel to take over all investigations relating to Madison Guaranty Savings & Loan Association. Mr. Fiske received the following authority:

> (a) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate to the maximum extent authorized by part 600 of this chapter whether any individuals or entities have committed a violation of federal criminal or civil law relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with (1) Madison Guaranty Savings & Loan Association, (2) Whitewater Development Corporation, or (3) Capital Management Services.
>
> (b) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal or civil law by any person or entity developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation.
>
> (c) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate any violation of section 1826 of title 28 of the U.S. Code, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal law, in connection with any investigation or prosecution of matters described in paragraph (a) or (b) of this section.

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(d) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to seek indictments and to prosecute, or bring civil actions against, any persons or entities involved in any of the matters referred to in part (a), (b), or (c) who are reasonably believed to have committed a violation of any federal criminal or civil law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any federal offense.

28 C.F.R. § 603.1.

Independent Counsel Fiske has not reported to the Department of Justice concerning his investigative results or the direction of his investigation. [1] However, he has reviewed this Application and has affirmed that with respect to the matters referred to him, there exists reasonable grounds to believe that further investigation is warranted pursuant to 28 U.S.C. § 592(c)(1)(A).

Basis for Appointment of Statutory Independent Counsel.

On June 30, 1994, the Independent Counsel Act was reauthorized. I have concluded that the circumstances of this matter call for the appointment of an independent counsel pursuant to 28 U.S.C. § 592(c)(1)(A), because investigation by the Department of Justice of the allegations of violations of criminal law by McDougal and other individuals associated with President and Mrs. Clinton in connection with Madison Guaranty Savings & Loan, Whitewater Development Corporation, and Capital Management Services, Inc., would present a political conflict of

---

[1] A copy of a public report dated June 30, 1994, concerning the results of his investigation into the death of Vincent W. Foster, Jr., was provided by Mr. Fiske to the press upon its public release on June 30, 1994.

interest. See Independent Reauthorization Act of 1994, § 4(a) (amending 28 U.S.C. § 591(c)). Accordingly, I hereby request that the Court appoint a statutory independent counsel as soon as possible, and that the Court appoint Robert B. Fiske, Jr. so that he may continue his ongoing investigation without disruption and with the full independence provided by the Act.[2]

Recommended Jurisdiction. Pursuant to 28 U.S.C. § 593(b)(3), I recommend and request that the Special Division of the Court grant the statutory independent counsel the same prosecutorial jurisdiction as that granted to regulatory Independent Counsel Fiske, so that the investigation may continue without interruption. In this connection, I have appended hereto a proposed statement of the scope of prosecutorial jurisdiction for the statutory independent counsel. [3]

---

[2] The reauthorizing legislation allows the Court to appoint Mr. Fiske as statutory independent counsel. Independent Counsel Reauthorization Act of 1994, § 7(h). I appointed Mr. Fiske on the basis of his record of independence and his outstanding qualifications, and he has been investigating this matter as an independent prosecutor for five months. His staff, selected by him, is established and is fully engaged in the investigation. Appointment of a different independent counsel would seriously disrupt the investigation.

[3] The intent of the proposed statement of independent counsel's prosecutorial jurisdiction is to give him exactly the same jurisdiction as that given to regulatory Independent Counsel Fiske, except that as regulatory Independent Counsel, Mr. Fiske was also given civil jurisdiction. To ensure that the full scope of Mr. Fiske's independent civil investigation continues uninterrupted and without limitation, it is my intention to continue Mr. Fiske's regulatory appointment for this purpose, or, to name whomever the Court may select as statutory independent counsel as an independent special attorney to handle all civil aspects of the investigation as she or he deems appropriate.

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Request for Authorization for Public Disclosure. I request that the Court authorize the disclosure of this Application to the public pursuant to 28 U.S.C. § 592(e). The allegations underlying this Application, and Mr. Fiske's mandate as regulatory Independent Counsel, are known to the public. I believe that the public interest will be served by the disclosure of the Application. I have submitted a separate motion and proposed order to this effect.

Respectfully submitted,

Janet Reno
Attorney General of the United States

DATED: June 30, 1994

STATEMENT OF JURISDICTION OF INDEPENDENT COUNSEL

The Independent Counsel shall have jurisdiction and authority to investigate to the maximum extent thorized by the Independent Counsel Reauthorization Act of 1994 whether any individuals or entities have committed a violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

The Independent Counsel shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law, other than a Class B or C misdemeanor or infraction, by any person or entity developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation.

The Independent Counsel shall have jurisdiction and authority to investigate any violation of 18 U.S.C. § 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal criminal law, in connection with any investigation of the matters described above.

The Independent Counsel shall have jurisdiction and authority to seek indictments and to prosecute any persons or entities involved in any of the matters described above, who are reasonably believed to have committed a violation of any federal criminal law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any federal offense.

The Independent Counsel shall have all the powers and authority provided by the Independent Counsel Reauthorization Act of 1994.

[redacted]

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SORT BY DATE

RTC Production Index

16-Feb-95

Bates #	Source	Date	Description
663			
24252429	"	03/04/94	memo from Binkley and Collishaw to Kulka re: Disclosure of Madison Guaranty Inventories of Records (N/A)
36293631	WDC RTC	1/1/05	Same document as 2568 - 2570 described above (N/A)
49664967		10/10/83	letter from Giroir to McDougal re: invoice for the Rose law firms services in connection with First National Bank of Huntsville v. Madison Bank & Trust (N/A)
29873070	WDC RTC	3/4/86	FHLBB Report of Examination for Madison Guaranty Saving and Loan Association (N/A)
180019	KC PLS	4/3/86	Copy of check #0458 dated 04/03/86 from Capital Management Services to Susan McDougal signed by David and Linda Hale (N/A)
260027	KC PLS	4/7/86	Cashier Check # 4878 for $111.524.21 payable to Stephens Security Bank (N/A)
320033	KC PLS	4/9/86	Check # 1256 for $7.837.64 from James MDougal to Charles James (N/A)
400041	KC PLS	4/21/86	Check # 1280 from James McDougal to International Paper Corp. for $25.000 (N/A)
34	KC PLS	4/30/86	Madison Guaranty Bank Statement dated 04/30/86 for James and Susan McDougal for Checking Account # 424 (continuation of 0030 - 0031 above) (N/A)
300031	KC PLS	4/30/86	Madison Guaranty Bank Statement dated 04/30/86 for James and Susan McDougal for Checking Account # 424 (N/A)

FOIA # none (URTS 16305) DocId: 70105134 Page 2

Bates #	Source	Date	Description
420043	KC PLS	5/1/86	Check # 1319 for $18.908.62 from James McDougal to Eva Park Riley Interiors (signed by Susan McDougal) (handwritten notes for P.O.M. Ward "find for Fletcher (Jackson) 02/28/86 $150.000 - verify") (N/A)
280029	KC PLS	5/8/86	Check # 1329 for $20.000 from James B. McDougal to Larry Kurn (?) (N/A)
380039	KC PLS	5/13/86	Check # 1330 for $24.897.26 from James McDougal to Union National Bank for loan payment (N/A)
350037	KC PLS	5/30/86	Madison Guaranty Bank Statement dated 05/30/86 for James and Susan McDougal for Checking Account # 424 (N/A)
1380148	KC PLS	3/19/87	Federal Home Loan Bank Board ("FHLBB") Criminal Referral Form with attached proposed 366 filings (N/A)
20232031	WDC PLS	3/7/88	memo from Hawkins to Jeddeloh re: Madison Guaranty Criminal Referral re: Robert Palmer (with handwritten notes) (N/A)
29022910	WDC RTC	3/7/88	memo from Hawkins to Jeddeloh re: Madison Guaranty Criminal Referral re: Robert Palmer (with handwritten notes) (N/A)
19611969	WDC PLS	4/10/89	memo from Hamerly to Underwood; Thomas; Ahrens; Breslaw and Drago re: Madison Guaranty Survey Summary Report (N/A)
23262329	WDC RTC	5/30/89	letter from Breslaw to Carroll re: attached Rose law firm's bill for services rendered from 03/89 to 05/89 (N/A)
23302332	WDC RTC	7/17/89	letter from Hubbell to Breslaw re: attached Rose law firm bill for 05/89 to 06/89 (N/A)
37973798	WDC RTC	10/18/89	memo from Asbacher to Thomas and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood and Martinelli) re: Madison D&O Claim Close-out (N/A)
1250137	KC PLS	11/20/89	letter from Banks and Stoll to Trantham (cc: Strayhorn) re: Indictments against McDougal; D. Henley and J. Henley (Indictment attached) (N/A)
196	KC PLS	12/27/89	Failed Bank and Thrift Litigation Reporter article; "Former Madison Chief Officer is Indicted for Bank Fraud" (N/A)

FOIA # none (URTS 16305) DocId: 70105134 Page 3

Bates #	Source	Date	Description
37993800	WDC RTC	1/18/90	memo from Asbacher prepared by Sorenson to Underwood and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood; Martinelli and Asbacher) re: Madison Bond Claim Close-out (N/A)
1970199	KC PLS	2/16/90	Information and Waiver of Indictment by John Latham (N/A)
2000212	KC PLS	5/14/90	fax from Seliga to Breslaw (with handwritten notes to cc: Beaty and Schultz and advice (by Breslaw?)) re: Contents of anticipated testimony of attorney
2130214	KC PLS	6/8/90	letter from Donovan to Breslaw re: attached 06/0890 article from the Arkansas Democrat: "Jury finds McDougal
32593260	WDC RTC	6/18/90	FBI memo re: opening of investigation of McDougal (N/A)
3408	WDC RTC	8/22/90	unsigned memo from Beaty to Dudine (cc: Thomas) re: Investigation Close-out (N/A)
3834	WDC RTC	8/22/90	memo from Beaty to Dudine (cc: Thomas) re: Investigation Close-outs (N/A)
3801	WDC RTC	9/11/90	memo from Asbacher to Eisenstein (cc: Thomas
38023803	WDC RTC	9/12/90	memo from Asbacher to Eisenstein (cc: Thomas; Rosen; Dudine; McClellan; Beatty; Bartley; Keys; Martinelli and Asbacher) re: Closeout of Blanket Bond Liability Claims (N/A)
34103420	WDC RTC	10/17/90	memo from Dudine to Beaty (cc: Thomas) re: investigation close-outs (with attached list of close-outs) (N/A)
3409	WDC RTC	11/1/90	memo from Garrett to Regional Sass re: Investigation Close-outs (N/A)
38063807	WDC RTC	11/1/90	memo from Garrett to Regional Sass re: Investigations Close-outs (incomplete attachment) (N/A)
38353846	WDC RTC	11/1/90	memo from Garret to Regional Sass re: attached 10/17/90 memo from Dudine to Beaty (cc: Thomas) re: attached list of Investigations Close-outs (N/A)
38043805	WDC RTC	11/1/90	memo from Garrett to Regional Sass re: Investigations Close-outs (incomplete attachment) (N/A)
34013407	WDC RTC	2/26/91	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Roelle; Dudine and Martinelli) re: Request for Authorization to Accept Settlement Offer (N/A)

Bates #	Source	Date	Description
38083815	WDC RTC	3/5/91	memo from Beaty to Thompson (cc: Curtis and Asbacher) re: attached 02/26/91 memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine; and Martinelli) re: request for Authorization to Accept Settl
33883389	WDC RTC	4/15/91	handwritten letter from Breslaw to Clifton Ind re: attached check for Frost settlement (N/A)
3816	WDC RTC	4/17/91	letter from Sorenson to Iorio re: Frost settlement (handwritten note by Iorio to cc: Vanvalkenburg) (N/A)
3387	WDC RTC	4/17/91	letter from Sorenson to Iorio (cc: Hyde) re: settlement with Frost & Co. - Matter will be transferred from Minneapolis to Tulsa (with handwritten notes to cc: Vanvalkenburg (N/A)
4589	WDC RTC	8/27/91	memo from Walton to VanValkenburg re: Priority Listing of Institutions having suspected criminal activity and Criminal Investigation start and completion times (N/A)
45944595	WDC RTC	12/11/91	memo from Brennan to Walton re: referral schedule in order of priority (N/A)
45964598	WDC RTC	12/11/91	memo from Walton to VanValkenburg re: Priority Listing of Institutions having suspected criminal activity and Criminal Investigation start and completion times (schedule attached) (N/A)
4948		1/7/92	(01/07/93?) memo from Lewis to Criminal Admin File (cc: Iorio and Ausen) re: conversation with Didson re: FOIA request for Madison records from Martin with Arkansas Time (N/A)
4962		3/9/92	memo from Walton to Foust re: newspaper articles on Clinton and McDougal (N/A)
45874588	WDC RTC	5/27/92	memo from Walton to Vanvalkenburg and Iorio (cc: Denton) re: Tulsa Office Priority Listing of Institutions having suspected criminal activity and Criminal Investigation start and completion times (N/A)
43134317	WDC RTC	8/14/92	Routing and Transmittal Slip from Iorio to "JT" re: attached 08/13/92 memo from Lewis to Iorio (cc: Ausen) re: summary of the current status of Madison investigation (N/A)
26952700	Begin File No. 19	8/28/92	Lists of Flow of Funds - McDougal related entities sorted by payee and payor (N/A)
1760194	KC PLS	8/31/92	RTC Criminal Referral #C0004 re: Madison (Handwritten note to Julie "Per our phone conversation" - Iorio - 09/01/92 (N/A)
4960		9/1/92	letter from Iorio to Banks re: #C0004 transmittal letter (N/A)

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Bates #	Source	Date	Description
4961		9/1/92	letter from Iorio to Irons (FBI) re: #C0004 transmittal letter (N/A)
1620175	KC PLS	9/3/92	fax from Yanda to Iorio of Indictment (See 0125 - 0137 above) (NOC)
3396	WDC RTC	9/8/92	letter from Breslaw to Thompson (cc: Yanda and Eisenstein) re: Madison closed files and close-out materials (N/A)
4959		9/10/92	memo from Lewis to Iorio re: referral #C0004 and effect of 3/92 New York Times article (N/A)
49524956		10/1/92	memo from Iorio to Bonewitz (cc: McCann; Foust and Lewis) re: small balance delinquent loan sale review of MDS report dated 08/25/92 (with attached SBDL Loan listing) (N/A)
4951		10/9/92	e-mail from Lewis to Bonewitz re: clarification on files requested (N/A)
4957		12/15/92	letter from Pettus (FBI) to Lewis re: acknowledgement of #C0004 (N/A)
4950		12/18/92	memo from Bonewitz to Thacker (cc: Lynn and Richardson) re: request from investigations re: SBDL Sale (N/A)
4949		1/4/93	e-mail from Lewis to Ryan re: no litigation on Madison or Castle Grands - Lewis can respond to FOIA request (N/A)
2200	WDC PLS	1/28/93	Legi-Slate print out of 01/28/93 article re: D'Amato Will Try to Force Banking Committee Hearing on Whitewater (N/A)
4473	WDC RTC	1/31/93	e-mail from Lewis to Iorio re: attached copy of the initial chronological white paper re: investigations trips to the Little Rock warehouse (NOC)
1872	WDC PLS	3/14/93	(**NOTE - Documents 1872 - 1940 are probably from Breslaw**) FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4947		5/3/93	memo from Lewis to Criminal Admin File (cc: Iorio and Ausen) re: conversation with Roddey re: #C0004 being sent directly to WDC and Roddey thought that "we'd probly (sic) never hear about it again" (NOC)
4945		5/4/93	e-mail from Jankowski to Winsett and Cavinaw - forwarded by Iorio to Ausen and Lewis re: call from Arkansas Democrat-Gazette re: Tucker and Madison (NOC)

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Bates #	Source	Date	Description
4946		5/4/93	letter from Lewis to Pence re: request for response re: referral #C0004 (NOC)
4944		5/10/93	e-mail from Iorio to Lewis and Jankowski re: meeting re: referral (NOC)
4943		5/10/93	letter from Pence to Lewis re: response to 05/04/93 letter - conflict of interest in prosecuting #C0004 (NOC)
4942		5/11/93	e-mail from Dedmon to Ryan; Ausen and Lewis re: inventory box for Madison (NOC)
4941		5/13/93	e-mail from Lewis to Iorio and Ausen re: Per Pence's suggestion
49394940		5/14/93	letter from Lewis to Houston (cc: Schwartz; Iorio and Ausen) re: request for copies of FDIC exam reports for Madison Bank & Trust (with attached Certification) (NOC)
4935		5/19/93	e-mail from Lewis to Iorio and Ausen re: call with Mitchell re: #C0004 had been forwarded to Henneman - conversation with Henneman - knew referral but thought it had been declined (NOC)
4936		5/19/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4938		5/19/93	memo from Lewis to Criminal Admin File (cc: Iorio and Ausen) re: conversation with Mitchell who has no record of #C0004 and decision to resubmit the referral to Koffsky (NOC)
4937		5/19/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4934		5/20/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman - couldn't talk because of another "crisis" they were dealing with (NOC)
4933		5/21/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: Westbrook believes #C0004 went to Rich (NOC)
4975		5/24/93	Equifax DTEC Report for Sue Strayhorn (N/A)
4977		5/24/93	TRW Social Search Report for Strayhorn (N/A)
4976		5/24/93	Trans Union Trace Report for Strayhorn (N/A)
4932		5/24/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: Rich; "presumed holder" of #C0004 is out of the office (NOC)

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Bates #	Source	Date	Description
4971		5/24/93	TRW Social Search Report for Gregory Young (N/A)
4972		5/24/93	Equifax DTEC Report for Felisa McEntire (N/A)
4970		5/24/93	Trans Union Trace Report for Gregory Young (N/A)
4969		5/24/93	Equifax DTEC Report for Gregory Young (N/A)
4973		5/24/93	Trans Union RTrac Report for Felisa McEntire (N/A)
4974		5/24/93	TRW Social Search Report for Felisa McEntire (N/A)
4931		5/26/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: referral had been sent to Ira Raphelson (NOC)
4929		5/27/93	letter from Houston to Lewis re: request for FDIC exam reports for Madison Bank & Trust (NOC)
4930		5/27/93	e-mail from Lewis to Iorio and Ausen re: call from Word re: assisting Henneman locate referral (NOC)
5004	End File No. 31	6/1/93	memo from Cashin to Lewis re: copy of cashiers check (noted by Hovey) (NOC)
4928		6/8/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: Word found #C0004 in the Fraud Section to the Criminal Division and the individual assigned to the referral "didn't want to deal with it" - memo to Frazier re: no basis for Little Rock to rec
4030409	KC PLS	6/17/93	memo from Dudine
4926		6/23/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: return of #C0004 to USA/Little Rock because there was "no basis for the recusal of the U.S. Attorney" (NOC)
49244925		6/23/93	letter from Lewis to Houston (cc: Flechas; Iorio and Ausen) re: UNB FDIC exam reports (attached Certification re: agreement re: confidential information (NOC)
4927		6/23/93	e-mail from Lewis to Iorio and Ausen re: conversation with Henneman re: #C0004 - Henneman will contact Frazier to see what he decided re: referral before he left (NOC)

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Bates #	Source	Date	Description
4923		6/29/93	e-mail from Lewis to Iorio and Ausen re: call from source re: return of #C0004 to USA/Little Rock and Pence and Casey's plan (NOC)
4922		7/1/93	letter from Flechas to Lewis re: 06/23/93 letter to Houston re: request for UNB reports and work papers - need to contact the OCC (NOC)
4100420	KC PLS	7/19/93	(start date) memo from Foust through VanValkenburg to Iorio re: Madison Civil review - note at top of page to "'please destroy when reviewed' per K.F. 'unprofessional work product' per L.R.I." (Page 0417 has interesting handwritten notes) (120)
5023		7/20/93	e-mail from Yanda to Breslaw re: "JT has directed me to make sure we're ready when and if the criminal referrals generate additional inquiries on the civil side" (5)
5022		7/20/93	e-mail from Breslaw to Eisenstein and Yanda re: Yanda's e-mail and Madison files' location (7)
49	KC PLS	7/21/93	e-mail from Yanda to Orr and Adams re: "asap" request for 09/08/92 Breslaw memo to "JT" re: Madison Guaranty (see 3396 described below) (4)
5021		7/21/93	e-mail from Yanda to Iorio; Vanvalkenburg; Foust and Adams re: Breslaw trying to track down files in permanent storage (6)
4921		7/21/93	memo from Lewis through Parks to Iorio re: request for approval for out of Region Travel re: trip to Memphis to visit Gerrish (NOC)
5018		7/21/93	e-mail from Breslaw to Yanda re: Madison - Breslaw understands that "JT's the one driving this ship" and Breslaw is "way past getting upset about anything in the RTC" - her secretary is "on the file finding mission" (**6**)
5019		7/21/93	e-mail from Yanda to Breslaw re: thanks for understanding (NOC)
5020		7/21/93	e-mail from Yanda to Orr (cc: Adams) re: "asap" request for 09/08/92 memo from Breslaw to JT re: Madison (see 3396 described above) (4)
49194920		7/29/93	fax from Lewis to Gerrish re: attached 07/29/93 letter from Lewis to Gerrish re: trip to Memphis with Caron to review Madison documents (NOC)

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Bates #	Source	Date	Description
4600463	KC PLS	8/4/93	fax from Breslaw to Yanda re: attached documents: (1) 08/03/93 memo from Stone to Yanda (cc: Breslaw) re: Madison Guaranty documents; (2) 08/03/93 memo from Vaden (FDIC) to Breslaw (cc: Stone) re: Madison Guaranty files and attached list (Undated memo fro
4918		8/4/93	letter from Lewis to Scoll (cc: Iorio and Ausen) re: request for copies of the OCC exam reports for Union National Bank (NOC)
26092618	WDC RTC	8/13/93	Directive to all Washington and Field Offices from Geer re: "The Privacy Act of 1974: Rights and Responsibilities" (NOC)
4917		8/16/93	e-mail from Lewis-Richardson to Owens; Chakhtoura; Corbet and Horning re: request to pull box 0036 - Dixie Continental Leasing (NOC)
4913		8/24/93	letter from Koss to Lewis re: attached copies of UNB Exam reports (copy not attached) (NOC)
4914		8/24/93	letter from Serino to Lewis re: Koss will sen UNB Exam reports (NOC)
239	KC PLS	9/1/93	subpoena from Jackson to Cavinaw (9)
2280231	KC PLS	9/9/93	memo from Anderson to Richardson (cc: Barbieri
50	KC PLS	9/14/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
50006	KC PLS	9/15/93	Subpoena for the Eastern District of Arkansas for documents (from Fletcher Jackson) to Dennis Cavinaw (VP - RTC; KCO) (14)
53	KC PLS	9/15/93	
51	KC PLS	9/15/93	
52	KC PLS	9/15/93	e-mail from Carmichael to Brock (see 0051) forwarded to Philip Adams (11)

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Bates #	Source	Date	Description
54	KC PLS	9/16/93	e-mail from Carmichael to Adams re: "Roles and Responsibilities" between Legal and Investigations Criminal Coordinators - "They [Investigations] think they have maneuvered around me." (15)
396	KC PLS	9/16/93	Handwritten notes re: 09/16/93 telephone call with Jackson re: documents - "9/21 is 'not magic'" (NOC)
2320234	KC PLS	9/20/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
55	KC PLS	9/20/93	
56	KC PLS	9/22/93	
252	KC PLS	9/22/93	
58	KC PLS	9/23/93	
57	KC PLS	9/23/93	
32793283	WDC RTC	9/23/93	Indictment in U.S.A. v. Hale Matthews and Fitzhugh (N/A)
4916		9/23/93	e-mail from Lewis to Iorio and Ausen re: conversation with Henneman re: upcoming referrals and #C0004 - she "assured me that; if necessary; the 'higher-ups' at Justice would make sure something got done with these referrals; including the first one; which
4915		9/23/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
32713272	WDC RTC	9/23/93	e-mail from Lewis to Iorio and Ausen re: Conversation with Henneman re: new referrals - forwarded by Iorio to Cavinaw
4312	WDC RTC	9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw; Thompson and Dudine - civil review materials will be available later (NOC)

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Bates #	Source	Date	Description
4912		9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw
4911		9/24/93	memo from Ausen to Dudine re: enclosed documents (referrals?) Iorio referred to in his 09/24/93 e-mail (copy not attached) (NOC)
59	KC PLS	9/28/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4910		9/29/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: request for copies of the criminal referrals (NOC)
4909		9/29/93	confirmation of Ausen' receipt of Lewis' e-mail (N/A)
4908		9/29/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4906		9/29/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4905		9/29/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4902		9/29/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4904		9/29/93	e-mail from Lewis to Iorio and Ausen re: call from Kyle with the Associated Press (NOC)
32743275	WDC RTC	9/29/93	e-mail from Lewis to Iorio and Ausen - forwarded by Iorio to Cavinaw; Thompson and Dudine - forwarded by Dudine to Gamble re: call from Henneman re: plan for new referrals (NOC)
4903		9/29/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4907		9/29/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: conversation with Westbrook re: will get copies of whole referral directly from the USA - would like only copies of the transmittal letters and summaries from Lewis (NOC)
60	KC PLS	9/29/93	e-mail from Breslaw to McClain
4311	WDC RTC	9/30/93	e-mail from Yanda to Iorio re: call with Glion re: legal review of referrals (Iorio's copy of the e-mail - see also 0062) (21)

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Bates #	Source	Date	Description
4899		9/30/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4900		9/30/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4901		9/30/93	e-mail from Lewis to Iorio and Ausen re: call from Schmidt (22)
42324240	WDC RTC	9/30/93	update of 05/29/92 memo from Ryan through Robison to Iorio (cc: Ausen; Denton; Ramakrishnan; Lee; Yanda and Curtis re: Plan of Investigation for Madison (42)
62	KC PLS	9/30/93	e-mail from Yanda to Iorio (bcc: Carmichael) re: Plan for legal to review the referrals (21)
61	KC PLS	9/30/93	e-mail from Lewis to Iorio and Ausen - Forwarded by Iorio to Cavinaw; Thompson and Dudine - Forwarded by Cavinaw to Curtis re: Phone call from Schmidt with the Washington Post - comment by Schmidt that people in the "legal and investigative community of R
4898		10/1/93	e-mail from Lewis to Strahl re: need 6 - 8 boxes to box and store Madison records in the basement (NOC)
64	KC PLS	10/1/93	e-mail from Breslaw to Yanda - forwarded by Yanda to Adams and Carmichael re: Madison Documents will arrive by next Tuesday (October 5th) - Reminder to Investigations that all calls from the press on Madison are to be referred to Katsanos in DC (24/NOC)
63	KC PLS	10/1/93	e-mail from Yanda to Carmichael and Adams re: confirmation (with Dudine's blessing) of two week period to review referrals (23)
65	KC PLS	10/4/93	e-mail from Brock to Adams re: Carmichael can not attend meeting on Wednesday and Stull (Stoll?) from USA returned call - Thursday would be fine for a meeting (25)
67	KC PLS	10/5/93	e-mail from Yanda to Iorio et al (See 0066 above) - Forwarded e-mail from Foust to Yanda - forwarded by Yanda to Adams and Carmichael re: arrival at PLS tomorrow morning (26)
68	KC PLS	10/5/93	e-mail from Lewis to Carmichael; Day and Ausen re: Conversation with AUSA Harris in Little Rock re: Collier sentencing date (27)
4310	WDC RTC	10/5/93	e-mail from Donohue to Dudine; Baker; Gamble; Ambrose and Iorio re: call from Dick (FBI/HQ) re: status of referrals (NOC)

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Bates #	Source	Date	Description
66	KC PLS	10/5/93	e-mail from Yanda to Iorio; Vanvalkenburg; Foust; Adams and Carmichael re: Arrival of DC Madison files (26)
690070	KC PLS	10/6/93	e-mail from Lewis to Iorio; Ausen; Jankowski - forwarded to Cavinaw; Thompson; Dudine; and Yanda by Iorio re: planning to send referrals on Friday October 8th - FYI - Lewis e-mail re: Visit at her home by Schmidt and Schmidt's informative comments (28)
48964897		10/6/93	e-mail from Lewis to Iorio; Ausen; and Jankowski re: Visit from Schmidt at Lewis' home (28)
4894		10/6/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4895		10/6/93	confirmation of Jankowski's receipt of Lewis' e-mail (N/A)
17121724	WDC PLS	10/7/93	memo from Carmichael and Adams to Yanda re: legal review of Madison Criminal Referrals (33)
73	KC PLS	10/7/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
3970399	KC PLS	10/7/93	Handwritten notes re: files needed and 10/07/93 telephone call with Jackson and Carmichael re: documents (NDOC)
75	KC PLS	10/7/93	e-mail from Foust to Yanda and Iorio - forwarded by Yanda to Breslaw
76	KC PLS	10/7/93	e-mail from Foust to Yanda and Iorio - forwarded by Yanda to Adams and Carmichael re: More information (? - same e-mail as 0075 above) re: Request for Bassett depo and Ward litigation documents (29)
2580271	KC PLS	10/7/93	letter from Carmichael and Adams to Yanda re: Legal review of KCO's Investigations Criminal Referrals (33)
43184330	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Criminal Referrals (33)
77	KC PLS	10/7/93	e-mail from Yanda to Adams and Carmichael re: Foust request for documents (31)
4892		10/7/93	e-mail from Foust to Yanda and Iorio - forwarded by Foust to Lewis re: request for deposition of Bassett and Ward litigation documents (NOC)
4890		10/7/93	confirmation of Foust's receipt of Lewis' e-mail (See 4893) (N/A)

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Bates #	Source	Date	Description
4889		10/7/93	confirmation of Ausen's receipt of Lewis' e-mail (See 4893) (N/A)
49915003		10/7/93	memo from Adams and Carmichael to Yanda re: Legal Review of Referrals (33)
19811993	WDC PLS	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Madison Criminal Referrals (33)
27552767	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Criminal Referrals (33)
71	KC PLS	10/7/93	e-mail from Brock to Adams and Carmichael re: Call by Julie (Yanda) - Iorio is requesting a status report on the referrals - would like to meet with them when she gets in (30)
72	KC PLS	10/7/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4893		10/7/93	e-mail from Lewis to Iorio; Ausen and Foust re: call to Gerrish re: Ward lawsuit - Mitchell represented Ward - suggestion that Lewis call Strayhorn - Schmidt called Gerrish (NOC)
4888		10/7/93	e-mail from Foust to Iorio; Lewis and Ausen re: search and review of Madison close-out memos (NOC)
32403252	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Madison Criminal Referrals (33)
4891		10/7/93	confirmation of Iorio's receipt of Lewis' e-mail (See 4893) (N/A)
4890502	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: attached report on the 9 criminal referrals (See also 0079 and 0403 - 0409 above (33)
4887		10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "pursuant to RTC internal policy memorandum dated June 17; 1993" attached in the legal review of the criminal referrals (
78	KC PLS	10/8/93	e-mail from Breslaw to Foust
8170884	KC PLS	10/8/93	Madison Guaranty Savings & Loan Criminal Referral 730CR0190 with exhibits (N/A)
80	KC PLS	10/8/93	e-mail from Gascoigne to Carmichael; Carver and Hodes re: request by "terminations" for an initial review of Madison (NOC)

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Bates #	Source	Date	Description
79	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "Pursuant to RTC internal memorandum dated 06/17/93" attached is the report on the 9 criminal referrals (no attachment) (
291	KC PLS	10/12/93	memo from Ausen to Carmichael re: Legal Review of the KCO Criminal Referrals (34)
2720290	KC PLS	10/12/93	letter from Hinton through Ausen to Carmichael re: 10/08/93 cover letters for the Criminal Referrals from Ausen to Irons and Casey (cc: Henneman) (NOC)
81	KC PLS	10/12/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
89	KC PLS	10/13/93	e-mail from Golden to Carmichael and Gamble re: draft letter to AUSA re: rolling production (45)
85	KC PLS	10/13/93	
83	KC PLS	10/13/93	e-mail from Carmichael to Yanda and Adams (See 0082 above) - forwarded to Gamble by Yanda with comment: "Carl; I want to make sure you're aware of this." (37)
84	KC PLS	10/13/93	e-mail from Halbleib to Carmichael re: cover letter for Dean Paul (43)
4882	WDC RTC	10/13/93	e-mail from Carmichael to Ausen; Halbleib and Murphy re: letter to Jackson re: attached Dean Paul documents (34/39)
48834885	WDC RTC	10/13/93	
88	KC PLS	10/13/93	
4886		10/13/93	letter from Lewis to Henneman (cc: Iorio and Ausen) re: attached copies of transmittal letters for and summaries of the nine criminal referrals submitted 10/08/93 (NOC)
86	KC PLS	10/13/93	

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Bates #	Source	Date	Description
505	KC PLS	10/13/93	e-mail from Golden to Gamble and Carmichael (Same document as 0088 described above) - forwarded by Carmichael to Yanda and Adams ("FYI - Comments from WDC") (34/41)
70009	KC PLS	10/13/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
82	KC PLS	10/13/93	e-mail from Carmichael to Adams and Yanda re: transmittal letters for the Madison referrals with copies to Irons and Henneman (Ethics Program Director - "EPD") EPD "is the subject of the phone call we received from Washington two weeks ago that began our
87	KC PLS	10/13/93	e-mail from Golden to Carmichael and Gamble re: production plans (41)
91	KC PLS	10/14/93	e-mail from Yanda to Carmichael re: "why is he doing this?" (NOC)
90	KC PLS	10/14/93	e-mail from Carmichael to Golden re: letter and document production (46)
92	KC PLS	10/14/93	e-mail from Carmichael to Yanda re: Ausen's response to Adams and Carmichael's report
3	KC PLS	10/14/93	
93	KC PLS	10/15/93	e-mail from Yanda to Carmichael re: Richard [Iorio's] agreement to allow Carmichael two weeks to review referral (48)
4881	WDC RTC	10/18/93	e-mail from Foust to Lewis and Iorio re: Madison files on Ward?; Breslaw said that there is no Bassett deposition (NOC)
4880	WDC RTC	10/20/93	letter from Carmichael to Jackson re: attached documents requested re: 04/08/86 $300M deposit by the McDougals (51)
15	KC PLS	10/20/93	letter from Carmichael to Jackson re: documents relevant to a $300M deposit to the McDougal checking account on 04/08/86 (51)
440045	KC PLS	10/20/93	fax from Jackson to Carmichael of 10/20/93 memo re: request for items to "trace out" 04/08/86 $300.000 deposit to McDougal (50)
2350236	KC PLS	10/20/93	

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Bates #	Source	Date	Description
160017	KC PLS	10/21/93	memo from Amparan to Richardson
528	KC PLS	10/22/93	e-mail from Foust to Yanda; Iorio and Lewis re: attempt to obtain Ward documents - forwarded by Yanda to Adams and Foust re: Adams to assist Foust (52)
529	KC PLS	10/22/93	e-mail from Foust to Yanda; Iorio and Lewis - forwarded by Yanda to Adams and Foust - forwarded by Foust to Adams and Iorio re: Assistance in obtaining the Ward documents (52)
5300531	KC PLS	10/22/93	e-mail from Ausen to Iorio
48784879		10/22/93	fax cover sheet from Lewis to Koss re: attached copy of information on Union National Bank of Little Rock and original copy of request (copy of request not attached) (NOC)
4877		10/22/93	fax transmittal confirmation (N/A)
4876		10/22/93	e-mail from Lewis to Ausen re: Call with Koss re: OCC UNB Exam reports (NOC)
4875		10/22/93	e-mail from Ausen to Iorio; Jankowski and Lewis re: call from Schmidt and alleged dispute between investigations and legal (53)
216	KC PLS	10/25/93	handwritten notes re: Jackson; Schlup and Victim Impact Statements of Tyler; Clapp and Collier (N/A)
4874		10/25/93	e-mail from Foust to Iorio and Lewis re: assets of potential Madison targets (NOC)
95	KC PLS	10/26/93	e-mail from Yanda to Hindes; Eisenstein; Kaufman; Iorio; Carmichael; Adams and Jankowski re: phone call from Schmidt re: alleged "dispute between Investigations and Legal that led to a delay in the recent criminal referrals out of Madison Guaranty." (55)
4873		10/26/93	e-mail from Yanda to Hindes; Eisenstein; Kaufman; Iorio; Carmichael; Adams; and Jankowski - forwarded by Iorio to Dudine; Cavinaw and Ausen re: call from Schmidt last night at home (55)
510	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio - forwarded by Jankowski to Yanda - forwarded by Yanda to Adams; Carmichael; Foust and Iorio re: Jankowski's call from Schmidt re: Ward litigation (NOC)

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Bates #	Source	Date	Description
511	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio re: Jankowski's call from Schmidt re: Ward litigation - forwarded by Jankowski to Yanda - forwarded by Yanda to Adams and Carmichael with comments to Adams re: Response from Ken (Foust?) re: Ward files (56)
515	KC PLS	10/26/93	e-mail from Marcusen to Yanda re: file retrieval - just call Marjorie - forwarded by Yanda to Adams re: "get on this asap" (58)
512	KC PLS	10/26/93	Same document as 0096 - 10/26/93 e- mail from Jankowski to Cavinaw and Iorio - forwarded to Yanda by Jankowski - forwarded to Marcusen
513	KC PLS	10/26/93	e-mail from Marcusen to Adams and Yanda re: Ward documents at off-site storage (handwritten phone number for Foust) (NOC)
514	KC PLS	10/26/93	e-mail from Marcusen to Adams and Yanda - forwarded by Yanda to Marcusen and Adams re: "does it take an act of congress to get files back from off site storage?" (58)
97	KC PLS	10/26/93	e-mail from Yanda to Adams and Carmichael re: "need to discuss what you find in the files before we deal with Ken's request." (59/NOC)
96	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio - forwarded to Yanda by Jankowski - forwarded to Marcusen; Kaufman; Adams and Carmichael by Yanda re: (1) Jankowski's call from Schmidt re: Ward litigation; and (2) Assistance in finding Ward files (NOC)
4867		10/26/93	e-mail from Lewis to Iorio and Ausen re: Conversation with Nichols (FDIC) re: UNB exam reports (NOC)
4868		10/26/93	fax cover sheet from Lewis to Nichols re: attached copy of 06/23/93 letter To Houston with attached certification to keep confidential (no attachment) (NOC)
4870		10/26/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4871		10/26/93	e-mail from Lewis to Iorio and Ausen re: conversation with Nichols re: UNB exam reports (NOC)
4872		10/26/93	e-mail from Jankowski to Cavinaw and Iorio (bcc: Lewis) re: call from Sue Schmidt (NOC)
4866		10/26/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)

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Bates #	Source	Date	Description
4864		10/27/93	e-mail from Lewis to Iorio and Ausen re: call from Jackson - Lewis asked Jackson to direct future calls to her through the FBI (NOC)
4869		10/27/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4862		10/27/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4865		10/27/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4863		10/27/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4861		10/27/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: Casey will be declining to prosecute #C0004 (NOC)
4860		10/27/93	letter from Casey to Lewis (cc: Westbrook) re: declination to prosecute Criminal Referral #C0004 (NOC)
4859		10/27/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4858		10/27/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4856		10/29/93	e-mail from Lewis to Iorio and Ausen re: call from Koss re: search for OCC UNB Exam reports (NOC)
4857		10/29/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
2370238	KC PLS	10/29/93	
4851		10/29/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4855		10/29/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4854		10/29/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4853		10/29/93	

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Bates #	Source	Date	Description
4852		10/29/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4850		10/29/93	confirmation of Carmichael's receipt of Lewis' e-mail (N/A)
2530255	KC PLS	11/1/93	letter from Iorio to Dudine (cc: Cavinaw; Yanda; Ausen; Carmichael and Lewis) re: attached documents: (1) 10/27/93 letter from Casey to Lewis (cc: Westbrook) re: declination to act of referral (#C0004?); and (2) 11/01/93 letter from Lewis to Casey (cc: We
4306	WDC RTC	11/1/93	e-mail from Mathews to all investigations re: response to questions from media to be "no comment" and should be referred to Jankowski (NOC)
99	KC PLS	11/2/93	e-mail from Breslaw to Yanda and Eisenstein - forwarded by Yanda to Adams and Carmichael re: phone call from Schmidt - has talked to Smith (FDIC) - Knew that Breslaw was not working on criminal matters "(from interviews with investigators
98	KC PLS	11/2/93	e-mail from Carmichael to Corbet re: coordination of rolling document production; docs to be stored in PLS section; "Justice from WDC is calling about the production." (60)
520	KC PLS	11/2/93	e-mail from Carmichael to Adams re: "something from your friend Jean Lewis that I just know will please you" (NOC)
517	KC PLS	11/2/93	e-mail from Lowe to Park re: Madison Guaranty files - with list of files Carmichael took for doc production search (NOC)
100	KC PLS	11/2/93	e-mail from Lewis to Iorio; Ausen and Jankowski - forwarded by Iorio to Dudine; Cavinaw; Thompson and Yanda re: phone call from Kyle (AP) (62)
256	KC PLS	11/2/93	fax cover page from Golden to Carmichael (no attachment?) (NOC)
4843		11/2/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4844		11/2/93	confirmation of Jankowski's receipt of Lewis' e-mail (N/A)
4845		11/2/93	e-mail from Lewis to Ausen; Jankowski and Iorio re: call from Kyle of the AP (62)
103	KC PLS	11/3/93	e-mail from Foust to Adams and Iorio - forwarded by Adams to Carmichael re: request to ship docs to Dallas (64)

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Bates #	Source	Date	Description
101	KC PLS	11/3/93	e-mail from Adams to Foust and Carmichael re: Requested documents are available for review (63)
524	KC PLS	11/3/93	e-mail from Foust to Adams
4837	WDC RTC	11/3/93	e-mail from Lewis to Iorio and Ausen re: Call from Koss re: found the missing OCC exams for Union National Bank (NOC)
4842		11/3/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4841		11/3/93	e-mail from Lewis to Ausen; Jankowski and Iorio re: call from Matt from CNN (NOC)
4840		11/3/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4839		11/3/93	confirmation of Jankowski's receipt of Lewis' e-mail (N/A)
102	KC PLS	11/3/93	e-mail from Adams to Foust; Iorio and Carmichael re: Amount of docs - docs must stay in KCO (response to 0103 below) (64/NIB)
4838		11/3/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4836	WDC RTC	11/3/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)
4835	WDC RTC	11/3/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4834	WDC RTC	11/3/93	letter from Koss to Lewis re: enclosed requested OCC exams (NOC)
525	KC PLS	11/4/93	e-mail from Adams to Foust and Carmichael re: 8th is fine (NOC)
4832	WDC RTC	11/4/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
4833	WDC RTC	11/4/93	e-mail from Lewis to Iorio and Ausen re: receipt of the UNB exams (NOC)
675	KC PLS	11/5/93	Inventory for #7236 Madison Guaranty S&L Cashier checks - Acct. #7001312 dated 11/05/93 (with handwritten notes including - "Jean's Office") (NOC)
4831	WDC RTC	11/5/93	confirmation of Ausen's receipt of Lewis' e-mail (N/A)

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Bates #	Source	Date	Description
1040105	KC PLS	11/5/93	e-mail from Carmichael to Gamble; Yanda; Hickert; and Adams re: attached chronology of Madison document production (no attachment) response to DOJ's accusations of being uncooperative and non-responsive (66)
113	KC PLS	11/6/93	e-mail from Gamble to Hindes; Dudine; Donohue; Carmichael; and Yanda re: conversations with Carmichael re: document production (68)
112	KC PLS	11/6/93	e-mail from Gamble to Carmichael re: will send [chronology] to Dudine; Hindes and Donohue (67)
4305	WDC RTC	11/6/93	e-mail from Gamble to Hindes; Dudine; Donohue; Carmichael; and Yanda - forwarded by Yanda to Iorio re: conversations with Carmichael re: document production - Comment by Yanda that we need to talk - "our offices are made out to look bad and I think it is
5430544	KC PLS	11/8/93	e-mail from Carmichael to Yanda re: her removal from Madison case - forwarded from Carmichael to Adams for review before sending to Yanda (71)
32673268	WDC RTC	11/8/93	e-mail from Ausen to Iorio - forwarded by Iorio to Yanda; Hindes; Dudine; Gamble and Donohue re: attached plan of action for coordination of document production (69)
3264	WDC RTC	11/8/93	e-mail from Yanda to Gamble and Hindes re: suggestions to deal with "miscommunications" problem which "just doesn't seem to be getting any better" (**NOC**)
114	KC PLS	11/8/93	e-mail from Hickert to Carmichael; Yanda and Adams re: chronology (NOC)
1150116	KC PLS	11/8/93	e-mail from Ausen to Iorio - forwarded by Iorio to Yanda; Hindes; Dudine; Gamble and Donohue - forwarded by Yanda to Carmichael and Adams re: attached document describing background information and plan of action re: document production (69)
1170118	KC PLS	11/8/93	e-mail from Ausen to Iorio - forwarded by Iorio to Yanda; Hindes; Dudine; Gamble and Donohue - forwarded by Yanda to Hindes; Gamble; Carmichael and Adams re: Ausen's e-mail and the "far murkier water underlying the gloss (spin) in Lee's e-mail." (Also see
4279	WDC RTC	11/8/93	e-mail from Ausen to Iorio re: response to this morning's e-mail re: lack of communication and actions investigations will take (69)
4827	WDC RTC	11/9/93	confirmation of Lewis-Richardson's receipt of Lewis' e-mail (N/A)

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Bates #	Source	Date	Description
6700673	KC PLS	11/9/93	fax from Carmichael to Gamble re: attached 11/08/93 letter from Carmichael to Johnson; Jackson; Irons and Reign (cc: Adams
4826	WDC RTC	11/9/93	confirmation of Iorio's receipt of Lewis' e-mail (N/A)
545	KC PLS	11/9/93	e-mail from Yanda to Adams and Carmichael re: chronology of the progress of the referrals - "Please make this a top priority" (72)
546	KC PLS	11/9/93	letter from Ausen to Irons (cc: Jackson; Iorio; Yanda; Adams; Lewis and Caron) re: RTC criminal investigation responsibility for Madison is now assigned to Caron (Adams' copy of letter) (73)
4825	WDC RTC	11/9/93	Confirmation of Corbet's receipt of Lewis' e-mail (N/A)
4828	WDC RTC	11/9/93	confirmation of Blakley's receipt of Lewis' e-mail (N/A)
4829	WDC RTC	11/9/93	confirmation of Ausen' receipt of Lewis' e-mail (N/A)
4824	WDC RTC	11/9/93	Confirmation of Cashin's receipt of Lewis' e-mail (N/A)
4830	WDC RTC	11/9/93	e-mail from Lewis to Blakley
45204522	WDC RTC	11/10/93	fax from Lewis to Jankowski (cc: Hinton) re: attached memo to file re: review of Seth Ward litigation files on 11/15 with Caron (??) (NOC)
4519	WDC RTC	11/10/93	e-mail from Jankowski to Cavinaw and Iorio (bcc: Ausen) re: phone call from Taylor of the Kansas City Star and NBC News (75)
4518	WDC RTC	11/10/93	e-mail from Caron to Blakley and Corbet re: response to FOIA request # 93-0776 (NOC)
4515	WDC RTC	11/10/93	e-mail from Lewis to Jankowski; Iorio; Ausen and Caron re: Caron will replace Lewis as the lead investigator on Madison ("The Powers That Be have decided that I'm better off out of the line of fire") (NOC)
548	KC PLS	11/10/93	e-mail from Jankowski to Iorio and Cavinaw - forwarded by Iorio to Dudine; Yanda; Thompson and Ausen re: phone call from Taylor of the Kansas City Star and NBC News (75)
5329		11/10/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Bates #	Source	Date	Description
4278	WDC RTC	11/10/93	e-mail from Brunner to Cashin and Lewis - forwarded by Lewis to Caron re: Film Carmichael promised the USA is copied (NOC)
547	KC PLS	11/10/93	e-mail from Sweeter to Iorio - forwarded by Iorio to Cavinaw; Thompson; Dudine; Yanda and Ausen re: phone call from ABC News for Iorio (74)
4517	WDC RTC	11/10/93	e-mail from Brunner to Cashin and Lewis re: Film (NOC)
4513	WDC RTC	11/12/93	letter from Ausen to Carlson (OTS) re: copies of the Madison criminal referrals (NOC)
4512	WDC RTC	11/12/93	e-mail from Mathews to Ausen; Cavinaw; Thompson; Yanda; Dudine and Hinton re: call from Frank of ABC News for Iorio (77)
4509	WDC RTC	11/15/93	Confirmation of Iorio's receipt of Lewis' e-mail (See ??) (N/A)
4510	WDC RTC	11/15/93	Confirmation of Ausen's receipt of Lewis' e-mail (See ??) (N/A)
4511	WDC RTC	11/15/93	Confirmation of Caron's receipt of Lewis' e-mail (See ??) (N/A)
4514	WDC RTC	11/15/93	memo from Caron to file (cc: Ausen
4551	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Lewis) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document(no attachment) (NOC)
5012		11/15/93	e-mail from Donohue to Iorio; Dudine; Bake and Gamble re: scheduled 11/22/93 meeting (NOC)
119	KC PLS	11/15/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4537	WDC RTC	11/15/93	
4274	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Caron) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document (no attachment) (NOC)
42754277	WDC RTC	11/15/93	e-mail from Lewis to Iorio; Ausen and Caron re: attached white paper re: chronology of events re: referral #C0004 and subsequent referrals (NOC)
4530	WDC RTC	11/15/93	e-mail from Adams to Caron and Ausen re: Conversation with Jackson re: Dean Paul files (82)

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Bates #	Source	Date	Description
4536	WDC RTC	11/15/93	e-mail from Adams to Caron and Ausen re: Foust's review of Ward files in PLS' custody (80)
4535	WDC RTC	11/15/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4534	WDC RTC	11/15/93	
4533	WDC RTC	11/15/93	e-mail from Donohue to Iorio; Dudine; Baker and Gamble - forwarded by Iorio to Cavinaw
4532	WDC RTC	11/15/93	
4531	WDC RTC	11/15/93	e-mail from Lewis to Ausen re: upcoming meeting with McKay on 11/22/93 re: validity of referrals (NOC)
5317		11/16/93	
4529	WDC RTC	11/16/93	e-mail from Lewis to Caron and Ausen re: follow-up to Adams' e-mail and clarification re: Lewis' conversation with Jackson (NOC)
5315		11/16/93	e-mail from Adams to Caron and Ausen re: request to review documents on Friday and make two copies of documents (87)
552	KC PLS	11/16/93	e-mail from Yanda to Ausen
551	KC PLS	11/16/93	e-mail from Ausen to Yanda and Adams re: 11/22/93 meeting at 1:00 p.m. with McKay and others (91)
550	KC PLS	11/16/93	e-mail from Yanda to Ausen
5318		11/16/93	
4170	WDC RTC	11/16/93	e-mail from Caron to Blakley and Ausen re: response to FOIA requests # 93-0776 and 93-0810 (NOC)
4528	WDC RTC	11/16/93	Confirmation of Caron's receipt of Lewis' e-mail (See 4529) (N/A)

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Bates #	Source	Date	Description
4525	WDC RTC	11/16/93	e-mail from Adams to Caron and Ausen re: message left for Jackson re: document and film production (84)
4524	WDC RTC	11/16/93	e-mail from Caron to Adams and Ausen re: search for files (85)
5314		11/16/93	e-mail from Caron to Adams and Ausen re: estimation of when copies will be ready (88)
4523	WDC RTC	11/16/93	e-mail from Caron to Adams and Ausen re: location of original files for Castle Sewer and Water; Tucker and Fulbright (86)
4527	WDC RTC	11/16/93	e-mail from Lewis to Caron re: spoke with Jackson re: search for REO and loan files (NOC)
5316		11/16/93	e-mail from Caron to Adams and Ausen re: location of Castle Sewer and Water
4493	WDC RTC	11/17/93	memo to file by Lewis re: Donohue and desire to remove PLS from the Investigation (NOC)
45074508	WDC RTC	11/17/93	memo from Caron to File (cc: Ausen) (#730CR0199) re: Stafford assumption of Chris Wade loan (NOC)
556	KC PLS	11/18/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
555	KC PLS	11/18/93	e-mail from Foust to Carmichael; Iorio and Yanda - forwarded by Yanda to Adams re: copies of Madison documents (95)
554	KC PLS	11/18/93	e-mail from Foust to Carmichael; Iorio; and Yanda - forwarded by Carmichael to Adams re: copies of Madison documents (95)
5313		11/18/93	memo from Caron to File re: Conversation with Reign re: fiche and film and documents (NOC)
1876	WDC PLS	11/18/93	e-mail from Adams to Breslaw and Yanda re: copy of the indictment re: McDougal and the recent referrals (98)
553	KC PLS	11/18/93	e-mail from Breslaw to Carmichael and Yanda - forwarded by Yanda to Breslaw; Carmichael and Adams re: Rose law firm controversy with note that Adams is taking over for Carmichael (94)
121	KC PLS	11/18/93	e-mail from Foust to Carmichael; Iorio and Yanda re: documents (95)

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Bates #	Source	Date	Description
557	KC PLS	11/18/93	e-mail from Yanda to Breslaw and Adams re: Jack does not have referrals (97)
4169	WDC RTC	11/18/93	e-mail from Caron to Blakley and Ausen re: response to FOIA # 93-0810 (NOC)
120	KC PLS	11/18/93	e-mail from Breslaw to Carmichael and Yanda re: DC newspapers reporting on controversy re: Rose law firm and Schultz (FDIC) requesting files (94)
4492	WDC RTC	11/18/93	memo from Caron to file re: conversation with Reign re: documents (NOC)
562	KC PLS	11/19/93	e-mail from Adams to Breslaw re: sending copies of nine 1993 and one 1992 referrals (98)
17251859	WDC PLS	11/19/93	memo from Adams to Breslaw re: attached Criminal referrals (attached is a copy of: (1) "Madison Guaranty Referral Summaries" (1726 - 1730); (2) Summaries of three "other" criminal referrals relating to Madison (1731 - 1732); and (3) copies of Madison Crim
558	KC PLS	11/19/93	memo from Adams to Breslaw re: attached copies of the original criminal referral (C#0004) and the nine new referrals (98)
566	KC PLS	11/19/93	e-mail from Ausen to Yanda and Adams re: 11/22/93 meeting with DOJ scheduled for 11:00 a.m. (103)
559	KC PLS	11/19/93	e-mail from Caron to Adams re: confirmation of time for document review (99)
561	KC PLS	11/19/93	e-mail from Breslaw to Adams re: "Thanks" (See 0562 below) (98)
563	KC PLS	11/19/93	e-mail from Adams to Foust (bcc: Yanda) re: All documents copied or just those he (Foust) reviewed? (100)
3307	WDC RTC	11/19/93	memo from Adams to Breslaw re: attached copies of the Madison criminal referrals (no attachment) (98)
564	KC PLS	11/19/93	e-mail from Foust to Adams re: All documents (response to 0563 above) (101)
1980	WDC PLS	11/19/93	memo from Breslaw to Downing (cc: Hindes) re: Possible conflict of interest of Rose law firm (NOC)
565	KC PLS	11/19/93	e-mail from Yanda to Adams re: copy all documents for Foust - "it ain't worth fighting over" (102)
560	KC PLS	11/19/93	e-mail from Adams to Caron re: response to Caron's e-mail (See 0559 above) (99)

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Bates #	Source	Date	Description
43524381	WDC RTC	11/22/93	memo from Ausen to Winsett re: Summaries of Madison Referrals - Points out Altman was interested in the Campobello referral (#730CR0199) (summaries attached) (NOC)
4488	WDC RTC	11/22/93	Confirmation of Ausen's receipt of Lewis' e-mail (See 4490) (N/A)
5312		11/22/93	memo from Caron to Madison Guaranty File re: Meeting with Reign; Hall; McKay and Ausen re: investigation of Madison (NOC)
4490	WDC RTC	11/22/93	e-mail from Lewis to Ausen; Iorio and Caron re: Call from Nichols (FDIC) re: delay in receiving copies of exam reports (NOC)
18871889	WDC PLS	11/22/93	memo from Kauper to Middlebrook re: attached FOIA 93-0919 request from Taylor of the KC Star (NOC)
567	KC PLS	11/22/93	e-mail from Yanda to Hindes
4489	WDC RTC	11/22/93	Confirmation of Iorio's receipt of Lewis' e-mail (See 4490) (N/A)
5311		11/23/93	e-mail from Caron to Donohue and Ausen re: attached letter to Reign (NOC)
53095310		11/23/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
5308		11/23/93	memo from Caron to Madison Guaranty File re: FBI SA Reign and FA Hall to visit next week and list of documents Reign and Hall would like to review (NOC)
5011		11/23/93	
32693270	WDC RTC	11/23/93	e-mail from Yanda to Iorio; Ausen; Donohue; Hindes; Eisenstein; Kaufman; Adams; Swiss - forwarded by Yanda to Hindes; Eisenstein and Adams - forwarded by Eisenstein to Gamble and Hindes re: Kaufman approved the following procedure to streamline responses
42724273	WDC RTC	11/23/93	e-mail from Yanda to Iorio; Ausen; Donohue; Hindes; Eisenstein; Kaufman; Adams; Swiss - forwarded by Ausen to ? re: Kaufman approved the following procedure to streamline responses to Madison subpoenas (105)

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Bates #	Source	Date	Description
568	KC PLS	11/24/93	e-mail from Denavs to Yanda and Wilcox - forwarded by Yanda to Adams and Kaufman re: form files (no attachments) (107)
5116	End File No. 35	11/29/93	memo from Dudine to Schulz re: attached criminal referrals (with 12/16/93 handwritten note from Downing to Dudine re: thanks) (NOC)
1882	WDC PLS	11/29/93	e-mail from Hindes to Breslaw re: hold on to referral if they were not requested by the FDIC (See also 1873) (NOC)
570	KC PLS	11/29/93	e-mail from Yanda to Hindes
1873	WDC PLS	11/29/93	e-mail from Eisenstein to Breslaw and "tlh" (Hindes) re: FDIC knowledge of the referrals (NOC)
569	KC PLS	11/29/93	e-mail from Breslaw to Hindes
4168	WDC RTC	12/1/93	e-mail from Caron to Blakley; Ausen and Corbet re: response to FOIA requests (NOC)
1884	WDC PLS	12/2/93	e-mail from Eisenstein to [Breslaw] and Yanda re: Questions from OTS: OTS exams ever (1) introduced as evidence in a trial or (2) produced to the DOJ? (111)
35523553	WDC RTC	12/2/93	handwritten notes re: meeting with FDIC (Spitler and Downing) re: document production issues (N/A)
576	KC PLS	12/2/93	e-mail from Eisenstein to Breslaw and Yanda - forwarded by Yanda to Eisenstein and Adams re: Question from OTS re: production of exams to DOJ (See 0573 above) (111)
577	KC PLS	12/3/93	e-mail from Adams to Yanda and Eisenstein re: Does not know if OTS exams were produced to DOJ - Asked "Marcinson" (Marcusen?) (112)
581	KC PLS	12/3/93	e-mail from Ausen to Adams
579	KC PLS	12/3/93	e-mail from Adams to Yanda re: called Ausen (114)
4167	WDC RTC	12/3/93	e-mail from Caron to Blakley re: response to FOIA request # 93-0919 (NOC)
578	KC PLS	12/3/93	e-mail from Yanda to Adams - "call Ausen and find out what he knows" (113)
580	KC PLS	12/3/93	e-mail from Adams to Yanda and Eisenstein re: "Marcusen" and Seliga do not believe OTS exam exams were "knowingly" produced - Ausen reviewing referrals (see 0573 above) (115)

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Bates #	Source	Date	Description
4166	WDC RTC	12/3/93	e-mail from Caron to Blakley; Ausen and Corbet re: response to FOIA request # 93-0582 (NOC)
4165	WDC RTC	12/3/93	e-mail from Caron to Blakley; Ausen; Iorio and Corbet re: response to FOIA request # 93-0969 (NOC)
4164	WDC RTC	12/3/93	e-mail from Caron to Blakley; Ausen
573	KC PLS	12/3/93	e-mail from Ausen to Adams
582	KC PLS	12/6/93	e-mail from Breslaw to Eisenstein and Yanda re: Madison exams produced in the Frost malpractice case under protective order but Breslaw does not believe exams were provided to DOJ (118)
571	KC PLS	12/6/93	e-mail to all RTC employees re: AETNA enrollment? (N/A)
1886	WDC PLS	12/6/93	e-mail from Breslaw to Kauper and Middlebrook re: FOIA request from KC Star re: Madison (NOC)
572	KC PLS	12/6/93	e-mail to all RTC employees re: AETNA clarification? (N/A)
26742694	End File No. 18	12/7/93	memo from Lindenmuth to Williams re: attached copies of eight FOIA requests for information re: Madison and DOJ review (NOC)
35203541	WDC RTC	12/7/93	memo from Lindenmuth to Williams re: Madison FOIA requests (with attached FOIA requests) (with handwritten notes) (NOC)
36993722	WDC RTC	12/7/93	memo from Lindenmuth to Williams re: attached copies of eight FOIA requests for information re: Madison and DOJ review (NOC)
2608	WDC RTC	12/9/93	letter from Leach to Altman re: request for production of Madison documents (NOC)
27352740	WDC RTC	12/9/93	letter from Leach to Gonzalez re: request for Madison hearings (NOC)
4163	WDC RTC	12/9/93	e-mail from Caron to Blakley; Ausen and Corbet re: response to FOIA request # 0982 (NOC)
3324	WDC RTC	12/9/93	letter from Leach to Altman re: request for production of documents (NOC)
592	KC PLS	12/9/93	letter from Rep. Leach to Altman re: request for Madison documents (faxed from RTC North Central on 12/20/93) (131)

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Bates #	Source	Date	Description
2657	WDC RTC	12/9/93	letter from Leach to Altman re: request for production of Madison documents (NOC)
583	KC PLS	12/10/93	e-mail from Marcusen to Lee and Adams re: Ward litigation - files in custody of Adams at PLS - Seliga (RTC Tulsa office) assigned to Madison from 1989 - 1991 (122)
4210453	KC PLS	12/10/93	memo from Iorio to Yanda re: attached Madison civil review memo for review and comment - Handwritten notes from Adams to Yanda at bottom of page (119)
1894	WDC PLS	12/13/93	e-mail from Spitler to Stone; Poling; Smith and Goodman re: request for documents from Leach(?) (NOC)
584	KC PLS	12/13/93	file from Hambleton to Adams and Lee re: Ward documents - referred to Adams from Marcusen (123)
587	KC PLS	12/14/93	e-mail from Adams to Foust re: believe documents will be ready next week (124)
586	KC PLS	12/14/93	e-mail from Foust to Adams re: progress on copying of Ward files (124)
585	KC PLS	12/14/93	e-mail from Adams to Hambleton re: Ward documents - referral not responsive under FOIA (125)
18921893	WDC PLS	12/14/93	memo from Smith to Schulz (Schultz?) (cc: Jones; Curtis; Graham; Downey; Thomas; Breslaw; and Hindes) re: Schultz will be point person for Leach's request (copy of 12/09/93 letter from Rep. Leach to Altman attached) (Breslaw's copy) (NOC)
588	KC PLS	12/14/93	e-mail from Hambleton to Adams re: please send Ward docs via office mail (126)
589	KC PLS	12/15/93	e-mail from Binkley to Kaufman - forwarded by Kaufman to Yanda - forwarded by Yanda to Kaufman and Adams re: request from Rep. Leach - check if there is any active commercial litigation - Yanda conferred with Breslaw and acct. claim is closed - KCO PLS wo
26712672	WDC RTC	12/15/93	memo from Breslaw to Smith (cc: Curtis; Jones; Hindes; Thomas; Schultz; Collishaw; Dudine; Graham; Gamble; Downey; Binkley and Spitler) re: Rep. Leach's request for documents (NOC)
4269	WDC RTC	12/15/93	e-mail from Caron to Iorio and Ausen re: Inventory of documents from which documents were obtained as backup to the referrals (NOC)
18901891	WDC PLS	12/15/93	memo from Breslaw to Smith (cc: Curtis; Jones; Hindes; Thomas; Schultz; Collishaw; Dudine; Graham; Gamble; Downey; Binkley and Spitler) re: Rep. Leach's request for documents (NOC)

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Bates #	Source	Date	Description
593	KC PLS	12/17/93	memo from Dudine to Iorio (cc: Knight; Carter; Collishaw and Binkley) re: Rep. Leach request for documents (faxed from RTC North Central on 12/20/93) (131)
5900591	KC PLS	12/17/93	memo from Dudine to Iorio (cc: Knight; Carter; Collishaw and Binkley) re: Rep. Leach request for documents - please forward inventories of Madison documents to WDC (12/09/93 letter from Rep. Leach to Altman re: request for Madison documents attached) (han
42674268	WDC RTC	12/17/93	note from Garner re: Tucker file on attached inventory (NOC)
3313	WDC RTC	12/17/93	letter from Williams to Binkley and Lindenmuth re: conversations re: FOIA requests (NOC)
25142515	WDC RTC	12/17/93	memo from Dudine to Iorio (cc: Knight; Carter; Collishaw and Binkley re: attached 12/09/93 letter from Leach to Altman re: production of documents (131)
2655	WDC RTC	12/17/93	letter from Williams to Binkley and Lindenmuth re: Conversations re: RTC's responses to FOIA requests and criminal referrals (NOC)
3486	WDC RTC	12/17/93	letter from Williams to Binkley and Lindenmuth re: conversations re: FOIA requests (NOC)
5960597	KC PLS	12/20/93	e-mail from Kauper to Curtis; Barker; Breslaw; Smith; Gamble; Kaufman; Collishaw; Binkley; Lunsford and Carter re: Plan for response to Rep. Leach's request for Madison documents - forwarded by Breslaw to Yanda re: Breslaw will take count PLS civil files
4266	WDC RTC	12/20/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
2639	WDC RTC	12/20/93	e-mail from Kauper to Curtis; Barker; Breslaw; Smith; Gamble; Kaufman; Collishaw; Binkley; Lunsford and Carter re: Leach request for production of Madison documents (132)
3519	WDC RTC	12/20/93	e-mail from Gamble to Kauper - forwarded from Kauper to Carter re: materials on Madison (NOC)
35503551	WDC RTC	12/20/93	handwritten notes re: Leach's document request (N/A)
3277	WDC RTC	12/20/93	e-mail from Gamble to Kauper re: Madison materials (NOC)
4486	WDC RTC	12/21/93	letter from Caron to Houston (cc: Iorio and Ausen) re: request for production of the FDIC's exams for the Bank of Cherry Valley and The Bank of Yellville for 1983 - most recent (NOC)

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Bates #	Source	Date	Description
598	KC PLS	12/21/93	e-mail from Kaufman to Marcusen; Swiss; Lane; Griffee; Cofran; Bennett; Fenton; Garlow; Ostrom; Evans; Carver; Yanda; Hood; Gaw and Stokely re: Marcusen will coordinate response to DC - forwarded by Yanda to Adams and Marcusen (133)
4485	WDC RTC	12/21/93	letter from Caron to Serino (OCC) (cc: Koss; Iorio and Ausen) re: request for production of the OCC's exam reports for First Ozark National Bank for 1984 - 1988 (NOC)
4487	WDC RTC	12/21/93	Certification for the Agreement Regarding Confidential Information signed by Caron (NOC)
6010602	KC PLS	12/22/93	memo from Marcusen to Iorio (cc: Adams) re: ongoing Madison investigations (with attached list of matters involving Madison for reference) (136)
3693	WDC RTC	12/22/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
2656	WDC RTC	12/22/93	letter from Altman to Leach re: response to 12/09/93 letter re: production of Madison documents (NOC)
600	KC PLS	12/22/93	e-mail from Adams to Marcusen and Yanda re: telephone conference - referrals not responsive to Rep. Leach's request (135)
46424674	End File No. 29	12/22/93	memo from Iorio to Hindes; Kaufman and Yanda re: attached 12/10/93 Civil Review (137)
6040636	KC PLS	12/22/93	memo from Iorio to Hindes; Kaufman and Yanda re: attached 12/10/93 civil review (Yanda's copy of memo) (137)
3518	WDC RTC	12/22/93	e-mail from Garrett to Carter re: list of all employees who have worked on Madison and list of all documents (NOC)
20522084	WDC PLS	12/22/93	memo from Iorio to Hindes; Kaufman and Yanda re: attached Civil Review of Madison dated 12/10/93 (137)
42614262	WDC RTC	12/22/93	memo from Marcusen to Iorio and Ausen (cc: Adams) re: congressional inquiry into Madison (NOC)
3581	WDC RTC	12/22/93	letter from Altman to Leach re: 12/09/93 request for production of Madison documents (NOC)
3582	WDC RTC	12/22/93	memo from Knight to Geer; Collishaw; Barker; Binkley and Carter (cc: Nye) re: attached response to Leach's 12/09/93 request for production of documents (NOC)

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Bates #	Source	Date	Description
35833585	WDC RTC	12/22/93	letter from Fischter (OTS) to Leach re: response to 12/09/93 request for production of documents (NOC)
53065307		12/22/93	letter from Caron to Hall (cc: Iorio) re: documents to support investigation (NOC)
599	KC PLS	12/22/93	e-mail from Adams to Marcusen re: attached list of files that KCO PLS has in its possession (134)
3517	WDC RTC	12/23/93	e-mail from Morgan to Knight; Collishaw and Carter re: questions from Sen. Riegle's staff re: Madison (NOC)
4265	WDC RTC	12/23/93	e-mail from Caron to Iorio re: cases on RLIS list which are subject to investigation (NOC)
5007		12/27/93	handwritten notes re: meeting re: Leach request (NOC)
5006		12/28/93	(12/28/92?) Message for Jim from Iorio with handwritten notes (N/A)
2658	WDC RTC	12/28/93	e-mail from Knight to Collishaw; Binkley; and Lindenmuth re: questions to examine concerning the Leach request (NOC)
2634	WDC RTC	12/28/93	e-mail from Gamble to Iorio - forwarded by Iorio to Cavinaw; Hinton; Jankowski; Garrett and Swiss - forwarded by Garrett to Binkley re: DOJ's position re: response to Madison FOIA requests (NOC)
4162	WDC RTC	12/28/93	e-mail from Gamble to Iorio - forwarded by Iorio to Noyes and Ausen re: DOJ's position re: disclosure of Madison documents and information (NOC)
19571958	WDC PLS	12/28/93	e-mail from Gamble to Iorio - forwarded by Iorio to Cavinaw; Jankowski; Garrett and Swiss - forwarded by Hinton to Knight
2978	WDC RTC	12/28/93	e-mail from Gamble to Iorio re: DOJ's position re: response to Madison FOIA requests (noc)
3276	WDC RTC	12/28/93	e-mail from Hindes to Gamble re: DOJ and Leach's production request - Knight does not feel he is being kept informed (NOC)
26492650	WDC RTC	12/28/93	memo from Knight to Altman re: Status Report on Leach Investigation and requests for documents (NOC)

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Bates #	Source	Date	Description
4295	WDC RTC	12/29/93	letter from Steiner (GAO) to Cunninghame (cc: Stinchcum) re: House Committee on Small Business request for GAO investigation of Capital Management Services and request for documents (with handwritten notes) (NOC)
2627	WDC RTC	12/29/93	letter from Steiner (GAO) to Cunninghame (cc: Stinchcum) re: House Committee on Small Business request for GAO investigation of Capital Management Services and request for documents (NOC)
4263	WDC RTC	12/29/93	e-mail from Noyes to Hinton and Iorio re: BOD minutes available for review (NOC)
35553558	WDC RTC	12/29/93	handwritten notes from meeting with Iorio; Turner; Binkley; Hinton and Jankowski re: documents (NOC)
3554	WDC RTC	12/29/93	handwritten notes from meeting in KCO with Marcusen; Swiss; Kaufman; Hinton; Jankowski; Binkley; Cavinaw; Carter re: assignments (NOC)
33093311	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (Gambles's address written in the top right corner) (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re: L
4300	WDC RTC	12/30/93	e-mail from Jankowski to Iorio re: media request - "your friend Singer" wanted to know... (NOC)
19551956	WDC PLS	12/30/93	e-mail from Gamble to Hindes re: Information about the DOJ investigation contained in e-mail may not be complete because Gamble was only involved early when Legal and Investigations "were not seeing eye to eye about the filing of the referrals" but any pr
26352637	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (Collishaw's address written in the top right corner) (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re:
35143516	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re: Leach Inquiry - 12/29/93 visit to the KCO - Discussio
35093511	WDC RTC	12/30/93	memo from Knight to Altman (cc: Hanson; Geer and Barker) re: status report on Leach Investigation (NOC)

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Bates #	Source	Date	Description
36943696	WDC RTC	12/30/93	(Draft of?) 12/30/93 letter from Binkley and Carter to Knight (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth and Weatherly) re: Leach Inquiry and 12/29/93 visit to the KCO (
43414351	WDC RTC	12/31/93	Update of 05/29/92 memo from Ryan through Robinson to Iorio (cc: Ausen; Denton; Ramakrishnan; Lee; Yanda; and Curtis) re: Plan of Investigation (NOC)
19431944	WDC PLS	1/3/94	letter from Gamble to Carver (DOJ - Fraud) re: conversation of 12/28/93 re: FOIA requests (NOC)
33163317	WDC RTC	1/3/94	letter from Gamble to Carver re: Madison FOIA requests and confirmation of DOJ's position (NOC)
33283329	WDC RTC	1/3/94	fax from Knight to Gamble re: attached list of meeting attendants?? (Jakel (?); Burrell; Collishaw; Binkley; Dudine; Gamble and Knight) (NOC)
45054506	WDC RTC	1/4/94	letter from Caron to Parham (FDIC) (cc: Iorio and Ausen) re: copies of the FDIC's exam reports for Citizen's Bank and Trust and Union National Bank (NOC)
32843295	WDC RTC	1/4/94	fax from Caron to Dudine re: attached subpoenas (6 page fax?) to Swiss; Swift? and Cavinaw (NOC)
3598	WDC RTC	1/4/94	e-mail from Lindenmuth to Binkley and Primrose re: review of the Madison board meeting minutes (NOC)
5305		1/4/94	letter from Caron to Reign (cc: Ausen) re: Inventory and Copy Project (NOC)
33183319	WDC RTC	1/4/94	letter from Carver to Gamble re: acceptance of information in 01/03/94 letter (see above) and attached 12/17/93 letter from Williams to Binkley and Lindenmuth re: conversations re: FOIA requests (NOC)
5304		1/5/94	e-mail from Caron to Turner re: microfilm other than that transferred from Investigations (NOC)
5305		1/5/94	e-mail from Turner to Caron re: microfilm on Madison (NOC)
640	KC PLS	1/5/94	e-mail from Yanda to many people (all initials) re: inquiries relating to Madison Guaranty are to be directed to Yanda (142)
639	KC PLS	1/5/94	e-mail from Liston to Yanda re: "rat report" - Phone call from Lana re: Madison - forwarded from Yanda to Adams (141)

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Bates #	Source	Date	Description
4496	WDC RTC	1/5/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4497) (N/A)
4497	WDC RTC	1/5/94	e-mail from Lewis to Iorio - re: correction - the Clintons were named as witnesses in referral # 192 and 196 (NOC)
4498	WDC RTC	1/5/94	Confirmation of Ausen's receipt of Lewis' e-mail (See 4501) (N/A)
4499	WDC RTC	1/5/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4501) (N/A)
4500	WDC RTC	1/5/94	Confirmation of Caron's receipt of Lewis' e-mail (See 4501) (N/A)
638	KC PLS	1/5/94	e-mail from Yanda to Liston re: "rat report" - "did you give her any information" forwarded back by Liston to Yanda with response - forwarded by Yanda to Adams re: copy of e-mail for his file - Yanda curious about why an "OCS paralegal is asking substanti
45014502	WDC RTC	1/5/94	e-mail from Lewis to Iorio (bcc: Caron and Ausen) re: review of 01/05/94 Washington Post article by Schmidt and Isikoff (NNOC)
45034504	WDC RTC	1/5/94	e-mail from Blakley to Caron and Corbet - forwarded by Caron to Iorio; Ausen and Lewis re: response to FOIA request 93-1031 from Smith and Wanner of SNL Securities (See also 4160 - 4161) (NOC)
637	KC PLS	1/5/94	e-mail from Yanda to Hindes; Dudine; Iorio; Penrose; Breslaw; Eisenstein; Kaufman and Adams re: Visit with OCOS - sent by supervisor in order to be "proactive" about the "issues this case would raise" re: referrals and Rose law firm (140)
641	KC PLS	1/5/94	e-mail from Mayberry to Liston re: Call from Bounds in RLIS re: PRAF or PAV re: Madison out of PLS - forwarded from Liston to Bounds with comment that she referred person asking about a two-year old invoice to Washington - forwarded from Liston to Yanda (
4160	WDC RTC	1/5/94	e-mail from Caron to Blakley; and Corbet re: response to FOIA request # 93-1031 (NOC)
4161	WDC RTC	1/5/94	e-mail from Blakley to Caron and Corbet re: response to FOIA request # 93-1031 (NOC)
26412648	WDC RTC	1/5/94	Legi-Slate printout re: 01/01/94 transcript of Leach's comments on CNN's "Evans & Novak" (N/A)

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Bates #	Source	Date	Description
42564257	WDC RTC	1/5/94	e-mail from Yanda to Hindes; Dudine; Iorio; Penrose; Breslaw; Eisenstein; Kaufman and Adams - forwarded by Iorio to Ausen; Lewis; Caron and Jankowski re: Visit with OCOS - sent by supervisor in order to be "proactive" about the "issues this case would rai
4258	WDC RTC	1/5/94	e-mail from Lewis to Iorio - forwarded by Lewis to Caron and Ausen re: correction - the Clintons were named as witnesses in referral # 192 and 196 (NOC)
4159	WDC RTC	1/5/94	e-mail from Caron to Blakley; and Corbet re: response to FOIA request # 94-0006 (NOC)
42594260	WDC RTC	1/5/94	e-mail from Lewis to Iorio (bcc: Caron) re: review of 01/05/94 Washington Post article by Schmidt and Isikoff (NOC)
26192620	WDC RTC	1/5/94	memo from Primrose to Knight (cc: Binkley; Lindenmuth; Collishaw and Hinton) re: Follow up Documents for Leach's Staff (NOC)
3599	WDC RTC	1/6/94	e-mail from Binkley to Primrose re: draft of memo re: procedures for determining access to RTC records and Gerrish report (NOC)
643	KC PLS	1/6/94	e-mail from Adams to Caron re: Asked if request was from Reign? Deadline? (144)
644	KC PLS	1/6/94	e-mail from Caron to Adams re: Iorio request that Caron ask Kaufman re: list requested by Reign (144)
44784480	WDC RTC	1/6/94	notes re: Lewis phone call from Shannon (N/A)
5302		1/6/94	memo from Caron to Madison Guaranty File re: Conversation with FBI Financial Analyst Hall re: records at Central Bank & Trust and other requests (NOC)
4477	WDC RTC	1/6/94	e-mail from Lewis to Jankowski; Iorio; Ausen and Caron re: call from Shannon ("I've been lied to by the Justice Department") (NOC)
5010		1/6/94	e-mail from Donohue to Dudine re: 11/22/93 meeting with McKay; Reign; Hall and KCO people - establishment of a procedure to handle investigative materials on a "need to know basis" - only people involved would be Iorio; Ausen; Caron and in DC - Donohue an
642	KC PLS	1/6/94	e-mail from Caron to Adams; Ausen; Iorio re: Voice mail request - FBI would like list of litigation matters at the time of the conservatorship of Madison (144)

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Bates #	Source	Date	Description
3600	WDC RTC	1/7/94	e-mail from Hinton to Primrose and Knight re: meeting with Kaufman re: ARLIS Inventoried documents (NOC)
5298		1/7/94	memo from Caron to Madison Guaranty File re: Conversation with FBI SA Reign re: confirmation of the copying of Madison records (NOC)
5009		1/7/94	e-mail from Donohue to File
52905291		1/7/94	letter from Irons to Donohue (cc: Caron and Iorio) re: confirmation of conversation between Reign; Caron and Iorio (with copy of envelope) (NOC)
646	KC PLS	1/10/94	e-mail from Breslaw to Yanda; Hindes; Eisenstein; Dudine; Kaufman; Adams; Iorio; Penrose; Newmark; and Kohn re: Visit from OCOS and Breslaw's response (145)
3322	WDC RTC	1/10/94	letter from Dole et al to Altman re: letter sent to Reno (see above) (NOC)
52965297		1/10/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
34803481	WDC RTC	1/10/94	letter from Dudine to Steiner re: response to attached 12/29/93 request for production of documents re: Capital Management Services (NOC)
4253	WDC RTC	1/10/94	memo from Cashin to Caron (noted: Hornbuckle) re: Castle Sewer and Water (NOC)
52945295		1/11/94	
18951896	WDC PLS	1/11/94	letter from Dole et al to Reno (cc: Altman and RTC) re: statute of limitations (NOC)
651	KC PLS	1/11/94	e-mail from Yanda to Breslaw and Adams re: Foust's "reinvestigation" (150)
5286		1/11/94	e-mail from Adams to Ausen re: Madison subpoena dated 12/17/93 - questions re: "LJL" files (130)
6470648	KC PLS	1/11/94	e-mail from Newmark to Breslaw re: thanks for the info - at this time there is no investigation - forwarded by Yanda? (148)
650	KC PLS	1/11/94	e-mail from Iorio to Kaufman; Yanda; Swiss; McNaul; Kohn; Dudine and Cavinaw re: Concern re: releasing documents to OCOS inquiry - Dudine will contact Cox at OCOS (149)

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Bates #	Source	Date	Description
25162517	WDC RTC	1/11/94	Routing List from Dudine to Ryan; Barker; Knight; Cunningham; Collishaw; Binkley and Gamble re: attached 01/10/94 letter from Dudine to Richard Steiner (GAO) re: response to request for access to RTC reports on Madison (NOC)
649	KC PLS	1/11/94	e-mail from Newmark to Breslaw re: thanks for the info - at this time there is no investigation - forwarded by Breslaw to Yanda and Adams with comments re: Breslaw question re: investigative report and thanks for forwarding Iorio's e-mail (148)
33203321	WDC RTC	1/11/94	letter from Dole et al to Reno (cc: Altman) re: appointment of a special counsel and statute of limitations issues (NOC)
5287		1/11/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4255	WDC RTC	1/12/94	
660	KC PLS	1/12/94	e-mail from Breslaw to Yanda and Eisenstein re: SOL - not "appropriate ... to reopen the Madison D&O" case - spoke with Coffren re: McDougal's bankruptcy - thanks for input from "JT" (Thompson?) (159)
659	KC PLS	1/12/94	
658	KC PLS	1/12/94	
657	KC PLS	1/12/94	e-mail from Yanda to Breslaw; Adams and Eisenstein re: Breslaw's response to Gary (Davidson) - may be more complicated than simply sending him the new statute (156)
656	KC PLS	1/12/94	e-mail from Adams to Yanda re: will send report out today (NOC)
5292		1/12/94	e-mail from Caron to Adams and Iorio re: Conversation with Stoll - believes he did produce the Borod & Higgins report (158)
653	KC PLS	1/12/94	e-mail from Booz to Yanda and "bjh" (Hickert) - forwarded by Yanda to Breslaw; Eisenstein and Adams re: Call from Davidson re: statute of limitations issue (needs response in two hours) (154)

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Bates #	Source	Date	Description
5289		1/12/94	e-mail from Caron to Adams and Iorio re: release of Borod & Higgins report pursuant to 12 U.S.C. 1821(t) and written authorization to release documents (NOC?)
4254	WDC RTC	1/12/94	e-mail from Davidson to Iorio - forwarded by Iorio to Caron and Lewis re: Civil Fraud Review unable to find any additional claims not already addressed in the criminal referrals (NOC)
652	KC PLS	1/12/94	e-mail from Iorio to Kaufman; Yanda; Swiss; McNaul; Kohn; Dudine and Cavinaw re: Response from Cavinaw re: release of documents to OCOS - only certification and billing information re: Rose law firm can be released - forwarded by Yanda to Hindes
654	KC PLS	1/12/94	e-mail from Breslaw to Yanda and Adams re: faxing Davidson new SOL language passed on 12/17/93 (155)
661	KC PLS	1/12/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
655	KC PLS	1/12/94	e-mail from Yanda to Adams re: request to send Ken's (Foust?) report on Madison to "JT" (Thompson?) asap (NOC)
664	KC PLS	1/12/94	e-mail from Breslaw to Thompson; Kaufman; Iorio; Hindes; Yanda; and Dudine re: Hiring of Rose law firm - FDIC is conducting investigation - "suggest that Investigations discontinue its inquiry into this matter" (153)
5293		1/12/94	e-mail from Caron to Adams and Iorio re: Invitation to review the 34 boxes the FBI will be taking tomorrow (NOC)
662	KC PLS	1/12/94	e-mail from Iorio to Breslaw
5258		1/13/94	FBI Receipt for Property received from Caron (NOC)
52525254		1/13/94	
41904199	WDC RTC	1/13/94	Civil Fraud Investigation Worksheet prepared by Davidson

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Bates #	Source	Date	Description
46134615	WDC RTC	1/13/94	e-mail from Iorio to Dudine and Caron re: attached memos re: (1) difference between MGS&L and MB&T; and (2) information re: records at Madison since being taken over by acquiring institution (with attachments) (NOC)
41804189	WDC RTC	1/13/94	Civil Fraud Investigation Worksheet prepared by Gorski (review of Borod & Higgins report) (NOC)
5285		1/14/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
3686	WDC RTC	1/14/94	e-mail from Hinton to Carter re: Investigation did not call the MA; Cypert until yesterday which is "remarkable" ... "[Cypert] MAY be resourceful to DC for whatever purpose" (NOC)
26242625	WDC RTC	1/14/94	draft memo from Ryan to all VPs and AVPs re: production of documents to Leach (attached 12/22/93 letter from Altman to Leach re: response to 12/09/93 letter re: request for production of Madison documents (NOC)
5109		1/14/94	notes re: conversation with Crocheron - conversation with Farrell re: McCrory branch records (NOC)
41774179	WDC RTC	1/14/94	Civil Fraud Investigation Worksheet prepared by Denton (NOC)
5288		1/14/94	
2600	WDC RTC	1/14/94	memo from Ryan to all VPs and AVPs re: working group of Dudine; Collishaw and Knight for response to Madison materials (NOC)
5106	Begin File No. 35	1/14/94	memo re: closing documents (NOC)
3687	WDC RTC	1/14/94	e-mail from Hinton to Carter; Knight and Binkley re: opinion from House counsel? - Copied closing book (NOC)
5284		1/14/94	
4250	WDC RTC	1/14/94	memo from Halbleib re: Caron re: Check #137 - Ozark Realty / Whitewater (NOC)
4251	WDC RTC	1/14/94	e-mail from Caron to Dudine

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Bates #	Source	Date	Description
4252	WDC RTC	1/14/94	e-mail from Dudine to Iorio re: short summary of each referral in preparation for a briefing of Altman (NOC)
24502464	WDC RTC	1/14/94	memo from Minority Staff to Leach re: Rights of a Ranking Minority Member for Access to Agency Records (NOC)
4612	WDC RTC	1/14/94	typed notes from a call with Crocheron re: documents from Central Bank & Trust (NOC)
23502364	WDC RTC	1/14/94	memo from Minority Staff to Leach re: Rights of a Ranking Minority Member for Access to Agency Records (NOC)
23342349	WDC RTC	1/14/94	memo from Seidel to Knight re: Leach document request and attached memo on the rights of Ranking Minority Members' access to agency records (NOC)
42854293	WDC RTC	1/17/94	memo from Breslaw to Hindes; Collishaw; Knight and Dudine (cc: Gabrellian; Binkley and Carter) re: attached New Yorker article; "The Bridges of Madison Guaranty" - "good overview of the whole 'Whitewater' story" (Dudine's copy) - Copy of 01/14/94 letter f
4475	WDC RTC	1/18/94	e-mail from Stewart to Iorio; Priolo; Prasifka and Haver - forwarded by Iorio to Ausen; Lewis; Caron Jankowski; and Hinton re: land sales that are part of Campobello (NOC)
665	KC PLS	1/18/94	e-mail from Carmichael to Yanda (bcc: Adams) re: 01/15/94 phone calls from Rostan of ABC World News Tonight (168)
666	KC PLS	1/18/94	e-mail from Carmichael to Yanda - forwarded by Yanda to Adams re: Yanda also received call from Rostan (168)
5278		1/18/94	
4231	WDC RTC	1/18/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
52705275		1/19/94	
4224	WDC RTC	1/19/94	

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Bates #	Source	Date	Description
4156	WDC RTC	1/19/94	e-mail from Caron to Blakley; Corbet and Ausen re: response to FOIA request # 94-0045 (NOC)
4158	WDC RTC	1/19/94	e-mail from Caron to Blakley; Corbet and Ausen re: response to FOIA request # 94-0024 (NOC)
667	KC PLS	1/19/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4157	WDC RTC	1/19/94	e-mail from Caron to Blakley; Corbet and Ausen re: response to FOIA request # 94-0026 (NOC)
52765277		1/19/94	
5257		1/20/94	FBI Receipt for Property received from Caron (NOC)
5268		1/20/94	memo from Caron to Madison Guaranty File re: Discussions with the FBI (Conley and Reign) (NOC)
32533258	WDC RTC	1/21/94	memo from Davidson through Denton to Breslaw (cc: Iorio
2741	WDC RTC	1/21/94	handwritten notes re: chronology of government custody of Madison (N/A)
1897	WDC PLS	1/21/94	e-mail from Donohue to Dudine; Watts; Lyons; Iorio; Ausen; Baker and Gamble - forwarded by Gamble to Hindes; Gabrellian and Breslaw re: Conversation with Irons and McKay re: RTC WDC PLS review of possible civil claims re: Madison (referred to 01/11/94 let
3559	WDC RTC	1/21/94	handwritten notes re: meeting with Kulka; Collishaw; Gabrellian; Knight and Binkley re: Madison (NOC)
16941698	WDC PLS	1/21/94	memo from Davidson through Denton to Breslaw re: Madison Guaranty Civil Fraud Review/Active Institution (NOC)
3507	WDC RTC	1/21/94	e-mail from Hinton to Iorio - forwarded by Iorio to Hinton - forwarded by Hinton to Carter re: RTC General Counsel would like a copy of original referral on McDougal (NOC)
5256		1/21/94	FBI Receipt for Property Returned to Caron (NOC)
5008		1/21/94	e-mail from Donohue re: Dudine; Watts; Lyons; Iorio; Ausen; Baker and Gamble re: 01/11/94 letter to Reno re: statute of limitations - conversation with Irons and McKay re: review of potential Madison civil claims (NOC)

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Bates #	Source	Date	Description
44714472	WDC RTC	1/21/94	memo from Sherry to Iorio re: Request for documents (handwritten note to cc: Ausen; Foust; and Caron) (handwritten notes re: document location) (NOC)
4284	WDC RTC	1/21/94	e-mail from Iorio to Dudine and Ausen re: Breslaw's 01/17/94 memo - Concerns re: review of investigations work (NOC)
41714176	WDC RTC	1/21/94	memo from Davidson through Denton to Breslaw and Barbieri (cc: Iorio; Foust and Caron) re: Madison Civil Fraud Review (NOC)
3506	WDC RTC	1/24/94	e-mail from Iorio to Hinton - forwarded by Hinton to Carter re: "refer them to Jim Dudine. He has a copy" (NOC)
27432744	WDC RTC	1/24/94	Chronological Listing of Events - Civil Investigation re: Madison (N/A)
5264		1/24/94	e-mail from Caron to Iorio and Ausen re: conversation with Irons re: need to inventory records for Congressional inquiries - Irons said that he had to speak with Fiske first (See also 4611) (NOC)
37673768	WDC RTC	1/24/94	draft of Chronological Listing of Events - Civil Investigation of Madison (with handwritten notes) (N/A)
5267		1/24/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
52655266		1/24/94	
4611	WDC RTC	1/24/94	e-mail from Caron to Iorio and Ausen - forwarded by Iorio to Dudine and Ausen re: conversation with Irons re: need to inventory records - Comment by Iorio - "I find it particularly annoying that matters of an internal nature are being discussed [with the
36153616	WDC RTC	1/24/94	Chronological Listing of Events Civil Investigation (N/A)
2222	WDC PLS	1/24/94	Handwritten notes from the 01/24/94 meeting (taken by McCoy? - See 1952 - 1953) (NOC)
5255		1/24/94	FBI Receipt for Property Returned to Caron (NOC)

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Bates #	Source	Date	Description
6680669	KC PLS	1/24/94	memo from Kaufman to all KCO Legal re: attached 01/14/94 memo from Ryan to all VPs and AVPs re: working group of Dudine; Collishaw and Knight for response to Madison materials - Kaufman will still coordinate for KCO office (Handwritten note to cc: DMC; G
38193820	WDC RTC	1/24/94	Chronological Listing of Events - Civil Investigation for Madison (N/A)
19521953	WDC PLS	1/24/94	memo from McCoy to Gabrellian (cc: Hindes) re: 01/24/94 meeting of Gabrellian; Stone; Breslaw; Berry; Igo; Arbit and McCoy and assignments - next meeting scheduled for 01/26/94 (NOC)
3390	WDC RTC	1/24/94	Document Inventory for Madison Civil Review (N/A)
33763377	WDC RTC	1/24/94	Chronological Listing of Events Civil Investigation - Madison (N/A)
20392040	WDC PLS	1/24/94	e-mail from Breslaw to Watts; Dudine; Hindes and Gabrellian re: 03/02/94 deadline and special investigation re: potential claims (NOC)
33853386	WDC RTC	1/24/94	Chronological Listing of Events Civil Investigation - Madison (N/A)
21862198	WDC PLS	1/24/94	Legi-Slate print out of Congressional Record of 01/28/94 pages S-359 - S-361 (N/A)
4247	WDC RTC	1/25/94	e-mail from Dudine to Iorio and Cavinaw - forwarded by Iorio to Ausen; Caron; Lewis; Foust; Davidson and Denton re: Per Kulka's and Ryan's request; Watts and Murray will examine if there are any liability claims that are still viable (Team from WDC will b
25662567	WDC RTC	1/25/94	letter from Bachus et al to Gonzalez re: RTC Oversight hearing (NOC)
18601871	WDC PLS	1/25/94	memo from Dudine to Kulka re: attached copies of: (1) ten criminal referrals (copies not attached); (2) Madison Guaranty Criminal Referral Summaries (1861 - 1866); (3) Chronological Listing of Events; Civil Investigation (1867 - 1868); and (4) Criminal In
20322038	WDC PLS	1/25/94	memo from Dudine to Kulka re: enclosed copies of Madison criminal referrals (only copy of "Criminal Referral Summaries" attached) (NOC)
4155	WDC RTC	1/25/94	e-mail from Caron to Blakley
2201	WDC PLS	1/25/94	letter from Bachus et al to Gonzalez re: RTC Oversight hearing (NOC)

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Bates #	Source	Date	Description
21282130	WDC PLS	1/25/94	fax from Knight to Hindes re: attached 01/25/94 letter from D'Amato to Altman re: statute of limitations deadline (NOC)
28952901	WDC RTC	1/25/94	memo from Dudine to Kulka re: attached copies of criminal referrals
34973505	WDC RTC	1/25/94	e-mail from Stroman to Carter re: copies of Criminal Investigative Chronology of Events from Investigations attached per Dudine's request (NOC)
3674	WDC RTC	1/25/94	e-mail from Stroman to Carter - forwarded by Carter to Binkley re: Two chronologies sent per Dudine's request - "here are investigations chronologies - pick and choose..." (no attachment) (NOC)
34923496	WDC RTC	1/26/94	e-mail from Stroman to Carter re: copy of Addendum to Criminal Investigative Chronology attached per Dudine's request (NOC)
22202221	WDC PLS	1/26/94	Handwritten notes from the 01/26/94 meeting (taken by McCoy? - See 1952 - 1953) (NOC)
34473450	WDC RTC	1/26/94	Court Docket Sheet for U.S.A. v. McDougal as of 01/26/94 (N/A)
4550	WDC RTC	1/26/94	draft of list of "Outgoing Loan Payments from McDougal Entities 02/24/84 - 04/24/85 (N/A)
3677	WDC RTC	1/26/94	e-mail from Stroman to Carter re: copy of Addendum to Criminal Investigative Chronology attached per Dudine's request (no attachment) (NOC)
3673	WDC RTC	1/26/94	e-mail from Breslaw to Binkley re: suggested change to Madison Chronology re: 12/84 Frost entry (NOC)
2742	WDC RTC	1/26/94	memo from Breslaw to Kulka (cc: Hindes and Gabrellian) re: Madison Chronology of Significant Events with Exhibits (Chronology and exhibits not attached) (NOC)
18981903	WDC PLS	1/26/94	memo from Breslaw to Kulka (cc: Hindes and Gabrellian) re: attached "Chronology of Significant Events with Exhibits" (copy without exhibits) (NOC)
20852086	WDC PLS	1/26/94	memo from McCoy to Gabrellian (cc: Hindes) re: 01/26/94 meeting (Breslaw; Igo; Arbit; Gamble; Soffer; Berry; Walsh; Stone and McCoy) re: Madison assignments and progress reports (NOC)
3308	WDC RTC	1/27/94	e-mail from Gamble to Gabrellian re: Items for Investigations (NOC)
33033306	WDC RTC	1/27/94	memo from Arbit to Breslaw; Igo; Gamble and Gabrellian re: review of 08/31/88 report (NOC)

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Bates #	Source	Date	Description
25682570	WDC RTC	1/28/94	letter from Gramm et al to Riegle re: request for a special meeting to consider committee action re: Madison (NOC)
2942	WDC RTC	1/28/94	handwritten notes re: meeting with Hindes and Gabrellian re: Madison Guaranty reinvestigation? (NOC)
2199	WDC PLS	1/28/94	D'Amato News Release re: "all Eight Banking Republicans Ask for Special Meeting on Whitewater; D'Amato Blasts RTC for 'Shocking Delays' in Response to Queries" (N/A)
32213224	WDC RTC	1/28/94	memo from Arbit to Gabrellian; Breslaw; Igo and Gamble (cc: Watts) re: Castle Grande transaction (NOC)
21832185	WDC PLS	1/28/94	letter from Sen. Gramm et al to Riegle re: hearings on Madison (NOC)
45554562	WDC RTC	1/28/94	fax from Dudine to Iorio re: attached: 01/28/94 memo from Gabrellian to Dudine (cc: Hindes) re: attached memoranda re: various tasks: (1) 01/28/94 memo from Arbit to Gabrellian re: Assignments for Investigations; (2) 01/27/94 e-mail from Gamble to Gabrell
36623665	End File No. 22	1/30/94	Handwritten notes from 01/30/94; 01/25/94 and 01/21/94 meetings re: requests for Madison production of documents and information re: referrals (NOC)
45674578	WDC RTC	1/31/94	e-mail from Iorio to Dudine; Watts and Murray (bcc: Lewis) re: attached answers to PLS questions received 01/28/94 (NOC)
2203	WDC PLS	1/31/94	list of documents reviewed by Sen. D'Amato's staff (NOC)
4470	WDC RTC	1/31/94	e-mail from Iorio to Dudine (bcc: Foust) re: IG request for information (See 4471 below) (NOC)
4241	WDC RTC	1/31/94	e-mail from Ausen to Iorio and Caron re: conversation with Irons re: inventory of warehouse records (NOC)
42424243	WDC RTC	1/31/94	e-mail from Lewis to Ausen and Caron re: Madison Fire Drill #3 re: attached information as requested by Gamble re: loss figure for each criminal referral (NOC)
4244	WDC RTC	1/31/94	e-mail from Lewis to Ausen and Caron re: additional information re: loss figures (See 4242 - 4243 above) (NOC)
2224	WDC PLS	1/31/94	Handwritten notes from the 01/31/94 meeting (taken by McCoy? - See 1952 - 1953) (NOC)

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Bates #	Source	Date	Description
4579	WDC RTC	1/31/94	e-mail from Lewis to Ausen and Caron re: 01/28/94 memo from Arbit to Gabrellian response to items G 2 & 3 on the appraisers Palmer and Betts (NOC)
29402941	WDC RTC	1/31/94	fax from Fiechter (OTS) to Ryan re: attached 01/19/94 letter from Gonzalez and Schenk re: questions about HomeFed Bank (NOC)
42454246	WDC RTC	1/31/94	e-mail from Lewis to Ausen and Caron re: Madison Fire Drill re: attached information as requested by Arbit re: "significant transactions not yet reviewed in detail" (NOC)
20872088	WDC PLS	1/31/94	memo from McCoy to Gabrellian re: 01/31/94 meeting (Arbit; Igo; Walsh; Breslaw; Gamble; Stone; Berry; Hindes and McCoy) re: progress reports and assignments (NOC)
2961	WDC RTC	2/1/94	e-mail from Gabrellian to Curtis and Gamble re: privileged status of Borod & Higgins report (N/A)
2127	WDC PLS	2/1/94	letter from Altman to Dole re: response to 01/11/94 letter from Dole et al to Reno re: statute of limitations (N/A)
44684469	WDC RTC	2/1/94	memo from Gabrellian to Dudine (cc: Hindes) re: reopening of Madison investigation (N/A)
4616	WDC RTC	2/1/94	letter from Altman to D'Amato re: response to 01/11/94 and 01/25/94 letters re: statute of limitations (N/A)
17051711	WDC PLS	2/1/94	memo from Breslaw to Gabrellian to Arbit; Igo and Gamble re: attached "Civil Fraud Review" (N/A)
3676	WDC RTC	2/1/94	e-mail from Carter to Knight; Collishaw; Dudine; Gabrellian; Binkley; Breslaw; Garrett and Primrose re: receipt of FDIC documents that Leach's staff reviewed (N/A)
3672	WDC RTC	2/1/94	e-mail from Prasifka to Kaufman and Hood - forwarded by Kaufman to Binkley re: review of five recently discovered Madison files re: filings re: Campobello property (N/A)
3230	WDC RTC	2/1/94	memo from Breslaw to Gabrellian; Arbit; Igo and Gamble re: attached "Civil Fraud Review" (copy not attached) (N/A)
4226	WDC RTC	2/1/94	e-mail from Caron to Iorio and Ausen re: response to question re: Whitewater account balance (N/A)
22452251	WDC PLS	2/1/94	memo from Breslaw to Gabrellian; Arbit; Igo and Gamble Re: attached Civil Fraud Review prepared by KCO Office of Investigations (N/A)

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Bates #	Source	Date	Description
22252237	WDC PLS	2/1/94	e-mail from Murray to Dudine and Arbit re: attached summary of findings to date re: Madison (N/A)
3632	WDC RTC	2/1/94	letter from Altman to D'Amato re: response to 01/11/94 and 01/25/94 letters re: statute of limitations (N/A)
4200	WDC RTC	2/1/94	e-mail from Davidson to Lewis re: Source of information re: Lion Oil Co.? (N/A)
3675	WDC RTC	2/1/94	e-mail from Kaufman to Collishaw; Gabrellian and Swiss - forwarded by Collishaw to ? re: call from Smith re: request to review documents re: Castle Grande and Hubbell involvement as an attorney (N/A)
36793685	WDC RTC	2/2/94	fax from Carter to Binkley re: attached Index of FDIC documents concerning Rose Law Firm Representation of Madison (N/A)
23932398	WDC RTC	2/2/94	Undated index of FDIC documents concerning Rose Law Firm Representation of Madison (incomplete copy - possible copying error) (Copy of list faxed 02/02/94 from RTC Governmental Relations to RTC Legal) (N/A)
44424448	WDC RTC	2/2/94	Criminal Investigations Response to Internal Review Questions (N/A)
4467	WDC RTC	2/2/94	e-mail from Iorio to Ausen
4201	WDC RTC	2/2/94	e-mail from Lewis to Davidson re: Source of information re: Lion Oil (N/A)
19041917	WDC PLS	2/3/94	letter from Rep. Leach to Altman re: recusal (with exhibits) (N/A)
3485	WDC RTC	2/3/94	letter from Fiske to Ryan (cc: Kulka) re: Special Counsel's investigation (N/A)
36333634	WDC RTC	2/3/94	article in Roll Call; "Leach Suit Over Whitewater Documents Would Test Power of Ranking Members." (N/A)
36353648	WDC RTC	2/3/94	letter from Leach to Altman re: recusal (with complete attachments) (N/A)
23662373	WDC RTC	2/3/94	letter from Leach to Altman re: request for production of documents (attached memo is incomplete) (N/A)

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Bates #	Source	Date	Description
25852599	WDC RTC	2/4/94	RTC Office of Governmental Relations Correspondence Referral re: attached 02/03/94 letter from Leach to Altman re: recusal (with complete attachments) (distribution of final response to Knight; Morgan; Primrose; Carter; Lindsey; Martin and Kauper) (N/A)
45654566	WDC RTC	2/4/94	e-mail from Murray to Iorio; Dudine and Arbit - forwarded by Iorio to Lewis; Caron; Ausen; Noyes; Foust; Denton and Davidson re: Questions as a result of the Gerrish & McCreary file review in Memphis (N/A)
22432244	WDC PLS	2/4/94	e-mail from Murray to Iorio
23212325	WDC RTC	2/4/94	(03/04/94?) memo from Smith to Collishaw re: attached 03/03/94 letter from Faircloth to the FDIC re: production of Rose law firm invoices - Downing will provide (copies of 03/03/94 letters attached) (N/A)
25582564	WDC RTC	2/4/94	memo from Schulz to Conflicts Committee (cc: Jones Smith) re: attached 02/04/94 Report on Retention of Rose Law Firm for Madison Guaranty Litigation (N/A)
4154	WDC RTC	2/4/94	e-mail from Caron to Blakley
4463	WDC RTC	2/7/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4466) (N/A)
4462	WDC RTC	2/7/94	memo from Murray to Ausen; Denton; Lewis; Caron; Noyes; Foust; Davidson and Lexvold (cc: Iorio) re: all correspondence re: Madison should be routed through Murray (N/A)
23792380	WDC RTC	2/7/94	e-mail from Binkley to Collishaw; Knight; Dudine; Gabrellian; Kulka and Lindenmuth re: attached draft of response letter to FOIA requests (copy of draft letter not attached) (N/A)
25562557	WDC RTC	2/7/94	letter from Ryan to Leach (cc: Ryan; Kulka; Binkley; Svevar; Collishaw; Kuiper and O'Brien) re: response to 12/09/93 request for production of documents (N/A)
45634564	WDC RTC	2/7/94	Criminal Investigations Response to Internal Review Questions Re; Gerrish & McCreary Files (N/A)
4464	WDC RTC	2/7/94	Confirmation of Caron's receipt of Lewis' e-mail (See 4466) (N/A)
4465	WDC RTC	2/7/94	Confirmation of Ausen's receipt of Lewis' e-mail (See 4466) (N/A)
4466	WDC RTC	2/7/94	e-mail from Lewis to Iorio

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Bates #	Source	Date	Description
21312175	WDC PLS	2/8/94	RTC Office of Governmental Relations Correspondence Referrals for letters to various Congressmen re: response to 02/08/94 letter from Faircloth et al to Altman re: statute of limitations (N/A)
4153	WDC RTC	2/8/94	e-mail from Caron to Blakley
1920	WDC PLS	2/8/94	e-mail from Murray to Breslaw re: Conversation with Lewis re: Arkansas Secretary of State shows Whitewater Corporation names are Clintons and McDougals - Lewis never found Signature Authorization for Whitewater checking account (N/A)
44404441	WDC RTC	2/8/94	e-mail from Murray to Dudine; Gabrellian and Iorio - forwarded by Murray to Ausen; Caron; Davidson; Denton; Foust; Gorski; Halbleib; Lewis; Lexvold and Napoli re: Madison Investigations task force projects and members (N/A)
21222126	WDC PLS	2/9/94	draft memo from Altman to Sen. Faircloth (sent by Knight to Ryan
51245125		2/9/94	memo from Gamble to Gabrellian re: meetings in KCO with Civil and Criminal Frau Units (N/A)
4439	WDC RTC	2/9/94	e-mail from Iorio to all investigations staff
22532268	WDC PLS	2/14/94	memo from Stone to Gabrellian; Igo; Arbit; [Breslaw]; Walsh and Berry re: attached updated RTC - Professional Liability Section - Master Document Index - Madison Guaranty Savings (N/A)
0	RA	2/15/94	draft (4:25 p.m.) of the questions and answers on Whitewater/Madison (N/A)
4152	WDC RTC	2/16/94	e-mail from Caron to Blakley
37383739	WDC RTC	2/16/94	fax from RTC - Legal re: Background on Questions Coming from Committee Members re: Madison (N/A)
24062408	WDC RTC	2/16/94	fax from Knight to Collishaw re: attached 02/15/94 memo from Knight to Kulka (cc: Collishaw; Hindes and Binkley) re: McClain working on the request from Sen. Bond's office in attached 02/15/94 memo from Fisher to Knight re: Rose Law Firm representation of
3671	WDC RTC	2/17/94	e-mail from Binkley to Garrett re: attached unified chronology of criminal events (no attachment) (N/A)
0	RA	2/17/94	draft (6:49 p.m.) of the question and answers on all issues (N/A)

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Bates #	Source	Date	Description
3668	WDC RTC	2/17/94	e-mail from Binkley to Carter re: attached draft chronology re: request to review the civil/PLS/Congressional activity (no attachment) (N/A)
3669	WDC RTC	2/17/94	e-mail from Garrett to Binkley re: attached criminal chronology with Dudine's changes (no attachment) (N/A)
3670	WDC RTC	2/17/94	e-mail from Binkley to Garrett; Dudine and Breslaw re: questions that arose from a comparison of attached Garrett's chron and Breslaw's chron (no attachment) (N/A)
37403741	WDC RTC	2/18/94	Answers to questions re: close out file (N/A)
3667	WDC RTC	2/18/94	e-mail from Iorio to Binkley; Dudine; Garrett and Breslaw re: attached answers to 02/17/94 e- mail (no attachment) (N/A)
3666	Begin File No. 23	2/18/94	e-mail from Carter to Binkley and Breslaw re: source of the 07/89 close out memo unknown (N/A)
3653	WDC RTC	2/18/94	letter from D'Amato to Altman re: request for documents re: Rose law Firm and recusal letters and ethics agreements (N/A)
3652	WDC RTC	2/18/94	letter from D'Amato to Altman re: request for production of Madison documents (N/A)
4438	WDC RTC	2/18/94	memo from Davidson to Iorio re: Discussion with Breslaw re: civil fraud claims - Breslaw stated that there would be people who would take a "dim view" of investigating Madison (N/A)
23892391	WDC RTC	2/18/94	memo from Binkley and Jones to Kulka (cc: Collishaw and Barker) re: Congressional Subpoena Powers (N/A)
22692271	WDC PLS	2/18/94	Printout of 02/18/94 article by the Associated Press: Regulators Scramble to Conduct New Review of Madison Guaranty (N/A)
24302449	WDC RTC	2/18/94	memo from Binkley and Svevar to Collishaw (cc: Kulka and Knight) re: Disclosure of Information in Response to Request from Congress (N/A)
0	RA	2/22/94	List of 36 questions faxed from Altman on 02/22/94 with notes from April to Terry (N/A)
0	RA	2/22/94	List of 36 questions faxed from Altman on 02/22/94 (with handwritten notes (not Altman's handwriting) (different from writing on Unbates (9))) (N/A)

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Bates #	Source	Date	Description
0	RA	2/22/94	List of 36 questions faxed from Altman on 02/22/94 (with handwritten notes (not Altman's handwriting) (different from writing on Unbates (9) and (10))) (N/A)
0	RA	2/22/94	E-mail from Breslaw to Kulka; Hindes; Gabrellian; Igo; and Arbit re: Altman's testimony and answers to questions in Unbates (8) - (11) (N/A)
0	RA	2/22/94	draft of questions and answers re: Whitewater/Madison (White House contact questions left blank) (N/A)
4151	WDC RTC	2/22/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
0	RA	2/22/94	draft of questions and answers re: Whitewater/Madison (with handwritten notes) (two versions) (N/A)
4437	WDC RTC	2/22/94	letter from Caron to Serino (OCC) (cc: Iorio and Ausen) re: request for copies of the OCC's exams for Union National Bank for 1988 - 1993 and Worthern National Bank of Arkansas for 1984 - 1993 (N/A)
44354436	WDC RTC	2/22/94	e-mail from Murray to Dudine; Gabrellian; Arbit and Iorio - forwarded by Iorio to Corbet; Ausen; Denton and Foust re: comments re: ongoing projects list (N/A)
23162318	WDC PLS	2/22/94	fax from Altman? re: Questions for Altman's testimony before the Senate Banking Committee (with post-its to Terry; Tom [Hindes?] and Jim [Igo?] from Breslaw re: question assignments) (N/A)
0	RA	2/23/94	draft of questions and answers re: Whitewater/Madison (N/A)
4433	WDC RTC	2/23/94	e-mail from Caron to Foust and Ausen re: response to list of projects attached to Murray's e- mail (N/A)
34673469	WDC RTC	2/23/94	fax from Critic to Knight re: attached memo from Critic to Knight re: request for documents re: meeting minutes; stock records and list of directors (N/A)
4434	WDC RTC	2/23/94	e-mail from Foust to Murray; Corbet; Caron; Davidson; Denton; Gorski and Iorio re: Collection of responses to Murray's 02/22/94 e-mail re: ongoing projects (N/A)
0	RA	2/23/94	draft of the "OB Q & A" Materials on all issues (N/A)

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Bates #	Source	Date	Description
0	RA	2/23/94	E-mail from Hume to Knight re: Whitewater/Madison question index attached (N/A)
2365	WDC RTC	2/23/94	letter from Ryan to D'Amato (cc: Ryan; Adair; Kulka and Kauper) re: response to 02/08/94 letter (Kauper's copy) (N/A)
0	RA	2/24/94	Final version of questions and answers re: Madison/Whitewater provided to Altman for his 02/24/94 testimony before the Senate Banking Committee (N/A)
52625263		2/24/94	letter from Caron to Hall (cc: Iorio and Ausen) re: Arkansas Federal - First American Documents on Chris Wade (N/A)
46324641	WDC RTC	2/24/94	memo from Breslaw to Iorio (cc: Hindes) re: attached copy of the FDIC's 02/17/94 memo from Jones to Hove re: Report on the Retention of the Rose Law Firm (Handwritten notes to cc: Ausen; Lewis; Caron and Foust (?)) (N/A)
0	RA	2/24/94	draft of questions and answers re: Whitewater/Madison (N/A)
44184428	WDC RTC	2/24/94	memo from Caron to Iorio and Ausen re: attached draft letter for FOIA responses and list of documents reviewed by Leach's staff (with attachments) (N/A)
44294432	WDC RTC	2/24/94	List of Madison Ongoing Projects (N/A)
22722289	WDC PLS	2/24/94	memo from Stone to Gabrellian; Igo; Arbit; [Breslaw]; Walsh and Berry re: attached revision of RTC - PLS - Master Document Index (N/A)
0	RA	2/25/94	03/04/94; and 03/08/94 RTC Early Bird's re: emerging Treasury/White House meetings stories (N/A)
22902294	WDC PLS	2/25/94	e-mail from Iorio to Dudine
3748	WDC RTC	2/25/94	e-mail from Farrish to Binkley re: status of list of pending cases? (N/A)
20452051	WDC PLS	2/26/94	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine and Martinelli) re: Request for authorization to Accept Settlement Offer from Frost for $1.025.000 (signed copy) (N/A)
0	RA	2/28/94	Dole News Release re: Treasury/White House meetings (N/A)

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Bates #	Source	Date	Description
0	RA	3/1/94	letter from Rep. Leach to Altman re: resignation from RTC also attached are: (1) 03/01/94 letter from Rep. Leach to Nussbaum et al re: ethics issues involved in Treasury/White House meetings; (2) 02/23/94 letter from Hanson to Rep. Leach re: Altman's need
0	RA	3/1/94	and 02/25/94 D'Amato News Releases re: Treasury/White House meetings
3678	WDC RTC	3/1/94	e-mail from Carter to Neville; Hinton; Lindenmuth; Knight; Hindes; Dudine; Collishaw and Binkley re: attached list of document (no attachment) (N/A)
4417	WDC RTC	3/1/94	e-mail from Sweeter to Langston
4413	WDC RTC	3/2/94	e-mail from Hindes to Gabrellian; Dudine; Igo; Breslaw; Arbit and Berry - forwarded by Dudine to Iorio and Murray - forwarded by Iorio to Foust; Lewis; Caron; Ausen; Cavinaw; Thompson; Dudine and Murray re: IG inquiry - Foust will maintain log of document
3659	WDC RTC	3/2/94	letter from ? to Mitchell re: Tigert nomination consent agreement held until hearing re: RTC's handling of Madison are held
19181919	WDC PLS	3/2/94	e-mail from Murray to Dudine and Hindes - forwarded by Murray to Breslaw re: Discussion of Madison records (N/A)
39753976	WDC RTC	3/2/94	e-mail from Murray to Dudine and Hindes re: Summary of discussion of Madison documents held today (N/A)
4412	WDC RTC	3/2/94	e-mail from Lewis to Foust re: IG's request for documents and documents produced (N/A)
4414	WDC RTC	3/2/94	Confirmation of Ausen's receipt of Lewis' e-mail (see 4416) (N/A)
4415	WDC RTC	3/2/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4416) (N/A)
4416	WDC RTC	3/2/94	e-mail from Lewis to Iorio and Ausen re: suspicion that someone has "once again" been in my office after hours (N/A)
4411	WDC RTC	3/2/94	Confirmation of Foust's receipt of Lewis' e-mail (see 4412) (N/A)
4407	WDC RTC	3/3/94	e-mail from Hindes to Iorio - forwarded by Iorio to Ausen

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Bates #	Source	Date	Description
23992405	WDC RTC	3/3/94	RTC Office of Governmental Relations Correspondence Referral re: attached 03/01/94 fax from Leach to Kusinski of 03/01/94 letter from Leach to Nussbaum et al re: Altman's recusal (copies sent to Kulka; Collishaw; Cooper and Binkley?) (Distribution of fin
0	RA	3/3/94	memo from Knight to Nye (never sent) re: (1) list of meetings between RTC staff and Congressional staff re: Madison attached; (2) 03/03/94 letter from Hanson to Altman re: 01/24/94 meeting between RTC staff and D'Amato's staff (attached) (N/A)
44024406	WDC RTC	3/3/94	e-mail from Iorio to Dudine; Yanda; Foust and Murray (bcc: Lewis) re: attached "IG Requests/Investigative Support" log (copy attached) (N/A)
4408	WDC RTC	3/3/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4409) (N/A)
36543657	WDC RTC	3/3/94	Opening Statement of D'Amato Hearing on Regulatory Consolidation (N/A)
3658	WDC RTC	3/3/94	News Release from D'Amato re: "Republicans Demand Hearing on Secret White House Briefing" (N/A)
44094410	WDC RTC	3/3/94	e-mail from Lewis to Iorio and Ausen re: call from O'Sullivan and no response from PLS yet (Interesting comments from Lewis on whole situation) (N/A)
39773978	WDC RTC	3/3/94	e-mail from Murray to Dudine re: Update of 3975 - 3976 described above re: document production (N/A)
4401	WDC RTC	3/4/94	e-mail from Lewis to Davidson re: addition to the Lasater list (N/A)
0	RA	3/4/94	RTC News in Brief re: weekly summary of stories on Treasury/White House meetings (N/A)
4150	WDC RTC	3/4/94	e-mail from Caron to Blakley; Corbet and Ausen re: response to FOIA request # 94-0158 - Gerrish report should not be produced (N/A)
4400	WDC RTC	3/4/94	Confirmation of Davidson's receipt of Lewis' e-mail (N/A)
29432947	End File No. 20	3/7/94	fax of questions for the record from Senator Bond from the RTC Oversight Hearing of 02/24/94 (with handwritten notes re: person responsible for answer to question) (N/A)
4385	End File No. 28	3/7/94	e-mail from Caron to Murray

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Bates #	Source	Date	Description
43834384	WDC RTC	3/7/94	handwritten memo from Murray to Caron and Iorio re: 03/07/94 letter re: microfilm (N/A)
4280	WDC RTC	3/7/94	memo from Caron to file (cc: Iorio and Ausen) re: FBI letter re: 90 rolls of RTC generated film and "meeting" with Murray (N/A)
3981	WDC RTC	3/7/94	letter from Caron to Iron (cc: Iorio and Ausen) re: RTC Generated Microfilm (N/A)
2333	WDC RTC	3/7/94	fax cover sheet for 13 pages from Collishaw to Carter (may have been for documents 2321 - 2332 described above?) (N/A)
3484	WDC RTC	3/7/94	letter from Gonzalez to Fiske re: response to 03/07/94 letter re: concerns re: hearings (N/A)
34823483	WDC RTC	3/7/94	letter from Fisk to Gonzalez re: strong concerns re: Whitewater hearings (N/A)
4382	WDC RTC	3/7/94	letter from Caron to Irons (cc: Iorio and Ausen re: microfilm (N/A)
23822388	WDC RTC	3/8/94	letter from Leach et al to Gonzalez re: request for attached list of witnesses to appear before the RTC Oversight Board hearing (N/A)
52605261		3/8/94	draft letter from Caron to Fiske (cc: Irons
4399	WDC RTC	3/8/94	e-mail from Lewis to Iorio and Ausen re: no response from PLS re: Lewis speaking with OIC (O'Sullivan) (Lewis' response to "random contact" e-mail) (N/A)
4398	WDC RTC	3/8/94	Confirmation of Ausen's receipt of Lewis' e-mail (See 4399) (N/A)
4397	WDC RTC	3/8/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4399) (N/A)
4396	WDC RTC	3/8/94	e-mail from Iorio to Dudine; Hindes; Yanda and Murray (bcc: Lewis) re: rumors that Fiske moved records under FBI control (N/A)
4393	WDC RTC	3/8/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4394) (N/A)
4281	WDC RTC	3/8/94	memo from Caron to files re: call from FBI from Gandolfo (sp?) re: the Garner loan (N/A)
39823985	WDCRTC	3/8/94	fax from Murray to Gabrellian re: attached two draft letters: (1) 03/07/94 letter from Ausen to Richardson (IRS) (cc: Iorio and Murray) re: investigation of Shoemaker; and (2) 03/08/94 letter from Caron to Fiske (cc: Irons

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Bates #	Source	Date	Description
2960	WDC RTC	3/8/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
43944395	WDC RTC	3/8/94	e-mail from Lewis to Iorio and Ausen re: call from Gabrellian re: call from O'Sullivan and meeting with OIC (N/A)
2295	WDC PLS	3/9/94	memo from Gabrellian to file re: Agenda for 03/09/94 Kulka Briefing re: Madison (N/A)
0	RA	3/9/94	E-mail from Katsanos to Barker re: Contacts with Treasury re: Madison (N/A)
0	RA	3/9/94	E-mail from Kulka to Katsanos re: ABC request for a quote on the Altman White House briefing (N/A)
4392	WDC RTC	3/9/94	Confirmation of Ausen's receipt of Lewis' e-mail (See 4394) (N/A)
4391	WDC RTC	3/9/94	e-mail from Foust to Iorio; Murray; Ausen; Lewis; Davidson and Caron re: phone call from Newsweek re: Rose Law Firm (N/A)
4390	WDC RTC	3/9/94	e-mail from Ausen to Iorio; Jankowski; Caron; Lewis and Foust re: calls from the Associated Press and Newsweek - asked to confirm the spelling of Foust's name (N/A)
4389	WDC RTC	3/9/94	e-mail from Lewis to Iorio and Ausen re: suspicion that someone was tampering with purse (N/A)
4388	WDC RTC	3/9/94	Confirmation of Iorio's receipt of Lewis' e-mail (See 4389) (N/A)
4387	WDC RTC	3/9/94	Confirmation of Ausen's receipt of Lewis' e-mail (See 4389) (N/A)
3944	End File No. 26	3/9/94	letter from Carmichael to Gabrellian (cc: Yanda
2315	WDC PLS	3/10/94	memo from Stone to Gabrellian; Igo; Arbit; [Breslaw]; Walsh and Berry re: attached revision of RTC - PLS - Master Document Index (N/A)
39864149	WDC RTC	3/11/94	
2392	WDC RTC	3/11/94	e-mail from Birkes to lots of people re: Executive Committee meeting (N/A)
42024206	WDC RTC	3/11/94	Printout of KCO - INV Criminal Referrals by Institution # (N/A)

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Bates #	Source	Date	Description
3886	WDC RTC	3/11/94	e-mail from Carmichael to all KCO PLS staff - forwarded by Yanda to "rfk" re: Carmichael will coordinate production of the KCO PLS documents to the OIC (N/A)
38843885	WDC RTC	3/11/94	e-mail from Gabrellian to Iorio; Yanda; Dudine; Murray and Hindes re: RTC production to the OIC (N/A)
36603661	WDC RTC	3/11/94	
5771	End File No. 39	3/11/94	
2320	RTC WDC	3/11/94	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
2219	WDC PLS	3/11/94	
3883	Begin file No. 26	3/14/94	letter from Carmichael to Gabrellian (cc: Yanda and Hindes) re: attached copies of [Carmichael's] e-mail and executed verifications from each PLS staff member re: documents (N/A)
3278	WDC RTC	3/14/94	e-mail from Ausen to Iorio; Caron and Lewis - forwarded by Iorio to Dudine - forwarded by Dudine to Gabrellian and Gamble re: meeting between Smith and Lewis on 03/14/94 (N/A)
1941	WDC PLS	3/14/94	e-mail from Stewart to Hindes re: article re: Investigations and Whitewater - believe Investigations leaked to Leach's staff Legal's attempt to get Investigations to "play down" the role of the Clintons (N/A)
39453962	Begin and End File No. 27	3/14/94	letter from Kulka to Fiske (cc: Gabrellian) re: Confirmation of recent conversations re: request for production of documents (with attached copy of Memorandum of Law re: the RTC's Right of Access to the Books and Records of Madison (N/A)
3491	WDC RTC	3/15/94	(** NOTE - Documents 3491 - are probably from Carter **) 03/15/94 memo from Carter to Knight re: copies of documents re: Madison (N/A)
5005	Begin File No. 32	3/21/94	

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Bates #	Source	Date	Description
5017	Begin File No. 33	3/21/94	memo from Carmichael to Gabrellian re: additional responsive e-mail (N/A)
34643466	Begin File No. 22	11/15/94	(** NOTE - Documents 3464 - 3490 are probably from Knight **) 11/15/94 e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton - forwarded by Hinton to Knight re: 11/11/93 Washington Post article re: declination of prosecution on first Madison referral
35603561	WDC RTC	12/27/94	handwritten notes re: meetings with Knight; Garrett and Carter re: document productions (NOC)
2440246	KC PLS	1/1/95	Same as 0232 - 0234 above (N/A)
45474549	WDC RTC	1/1/95	Undated handwritten notes (Lewis' writing) re: "to do" items (with handwritten notes) (N/A)
387	KC PLS	1/1/95	Handwritten list of names (that attended a meeting?) (?)
218	KC PLS	1/1/95	Handwritten notes from 10/01/93 conference call with Dudine; Iorio; Lewis and Ausen (NOC)
2190226	KC PLS	1/1/95	Handwritten notes re: various 1992 referrals #C0001 - #C0005? (N/A)
227	KC PLS	1/1/95	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4546	WDC RTC	1/1/95	Same document as 4541 described above (N/A)
45424545	WDC RTC	1/1/95	Madison Criminal Referral Summaries (handwritten notes at top - "prepared by AMK RTC/DC forwarded to LJL 01/19/94" (N/A)
4541	WDC RTC	1/1/95	Handwritten list of credit bureau inquiries and addresses for the McDougals (N/A)
45394540	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 12/08/93 (N/A)
3880389	KC PLS	1/1/95	Handwritten notes of ? regarding meeting re: criminal referrals delivery and concerns (?)
2400243	KC PLS	1/1/95	Same as 0228 - 0231 above (N/A)
215	KC PLS	1/1/95	File folder labeled "Madison Attorney Notes" (N/A)
2470248	KC PLS	1/1/95	Same as 0235 - 0236 above (N/A)
2490250	KC PLS	1/1/95	Same as 0237 - 0238 above (N/A)

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Bates #	Source	Date	Description
251	KC PLS	1/1/95	File folder labeled "Madison Correspondence" (N/A)
4526	WDC RTC	1/1/95	Same document as 4170 described above (N/A)
4516	WDC RTC	1/1/95	Same document as 4278 described above (N/A)
44944495	WDC RTC	1/1/95	cument as 4256 - 4257 described above (N/A)
257	KC PLS	1/1/95	File folder labeled "Madison Criminal Referral Review" (N/A)
4491	WDC RTC	1/1/95	cument as 4169 described above (N/A)
4476	WDC RTC	1/1/95	Same document as 4294 described above (N/A)
4474	WDC RTC	1/1/95	Same document as 4247 described above (N/A)
47424762	WDC RTC	1/1/95	Criminal Referral #730CR0199 (N/A)
4538	WDC RTC	1/1/95	Undated typed notes re: Dardanelle Development Corp. lawsuit (N/A)
122	KC PLS	1/1/95	File folder labeled "Madison Guaranty
38813882	End File No. 25	1/1/95	Undated draft of response to attached 12/09/93 letter from Leach to Altman re: request for production of documents (with handwritten notes) (N/A)
47124728	WDC RTC	1/1/95	Criminal Referral #730CR0196 (N/A)
1060111	KC PLS	1/1/95	Undated Chronology Madison Guaranty Subpoenas (Receipt/Clarification/Production) (N/A)
46954711	WDC RTC	1/1/95	Criminal Referral #730CR0195 (N/A)
46874694	WDC RTC	1/1/95	Criminal Referral #730CR0192 (N/A)
46764686	WDC RTC	1/1/95	Criminal Referral #730CR0190 (N/A)
4675	Begin File No. 30	1/1/95	File folder labeled "Criminal Referrals" (N/A)
46174631	WDC RTC	1/1/95	Copy of Madison Criminal Referral # 730CR0196 (with handwritten 08/23/93 note from Iorio re: changes) (N/A)

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Bates #	Source	Date	Description
46094610	WDC RTC	1/1/95	Summaries of three existing criminal referrals (01/21/94 per [Iorio]) (N/A)
217	KC PLS	1/1/95	Handwritten Chronology re: McDougal 03/19/87 criminal referral (N/A)
46064607	WDC RTC	1/1/95	Chronology of Review of Madison documents (01/18/94 per LRI [Iorio]) (N/A)
45524554	WDC RTC	1/1/95	Same document as 4275 - 4277 described above (N/A)
123	KC PLS	1/1/95	File folder labeled "McDougal; James D.; Henley; David; Henley; Jim / Latham; John - Madison Guaranty" (with handwritten notes) (N/A)
124	KC PLS	1/1/95	Information regarding Log # C0003 (N/A)
46034605	WDC RTC	1/1/95	Lewis' copy of the Criminal Investigative Chronology of Events (01/24/94 per LRI [Iorio]) (N/A)
46014602	WDC RTC	1/1/95	Addendum to Criminal Investigative Chronology ("01/25/94 per LRI [Iorio]) (N/A)
149	KC PLS	1/1/95	Draft of answer to Question #6 of the FHLBB Criminal Referral Form (N/A)
1500161	KC PLS	1/1/95	Handwritten first draft of FHLBB Criminal Referral Form and answer to Question #6 (copies to go to Director of Examinations at FHLBB
45994600	WDC RTC	1/1/95	Certified mail receipt (N/A)
45904593	WDC RTC	1/1/95	Two draft copies of Estimated Criminal Investigation Referral Schedules (with handwritten notes) (N/A)
195	KC PLS	1/1/95	File folder labeled "CRIMINAL INFO.; RTC v. Frost
45854586	WDC RTC	1/1/95	Addendum to Criminal Investigative Chronology (N/A)
45824584	WDC RTC	1/1/95	Same documents as 4242 - 4244 described above (N/A)
45804581	WDC RTC	1/1/95	Same document as 4245 - 4246 described above (N/A)
4608	WDC RTC	1/1/95	Information re: Civil Fraud Investigation (01/21/94 per [Iorio]) (N/A)
42134215	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 02/15/94 (N/A)

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Bates #	Source	Date	Description
516	KC PLS	1/1/95	Same document as 0097 described above (N/A)
2920386	KC PLS	1/1/95	Handwritten notes re: legal review of criminal referrals (N/A)
5180519	KC PLS	1/1/95	Same documents as 0099 - 0100 described above (N/A)
42274230	WDC RTC	1/1/95	Undated Criminal Investigative Chronology of Events (N/A)
521	KC PLS	1/1/95	Same document as 0101 described above (N/A)
522	KC PLS	1/1/95	Same document as 0103 described above (N/A)
523	KC PLS	1/1/95	Same document as 0102 described above (N/A)
4225	WDC RTC	1/1/95	Undated chronology re: Criminal Referrals (N/A)
42204223	WDC RTC	1/1/95	Same document as 2659 - 2662 described above (N/A)
47634771	WDC RTC	1/1/95	Criminal Referral #730CR0203 (N/A)
42164217	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 02/04/94 (N/A)
4270	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 12/02/93 (N/A)
5320537	KC PLS	1/1/95	Same document as 0106 - 0111 described above (N/A)
538	KC PLS	1/1/95	Same document as 0113 described above (N/A)
5390542	KC PLS	1/1/95	Same document as 0115 - 0118 described above (N/A)
42104212	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 02/22/94 (N/A)
42074209	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 03/11/94 (N/A)
39633974	Begin File No. 28	1/1/95	(**NOTE - Documents 3963 - 3985 (?) are probably from Murray's files **)01/94 Summary Report and Questions from Tom Murray (NOC)
39183943	WDC RTC	1/1/95	Confirmation of receipt of e-mail for 03/11/94 e-mail from Carmichael to all KCO PLS Staff (See 3886 above) (N/A)

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Bates #	Source	Date	Description
3917	WDC RTC	1/1/95	KCO PLS Certification Form for LK Mayberry (N/A)
3916	WDC RTC	1/1/95	MISSING??? (N/A)
39133915	WDC RTC	1/1/95	KCO PLS Certification Form for JR Sheldon with attached: (1) 09/29/93 e-mail from Breslaw to McClain; Sheldon and Yanda re: Rose Law Firm questions (See also 0060 described above); and (2) 09/29/93 e-mail from McClain to Davis; Sheldon and Breslaw re: ans
39103912	WDC RTC	1/1/95	KCO PLS Certification Form for J. Booz with attached: (1) 01/12/94 e-mail from Booz to Yanda and Hickert re: call from Davidson re: Civil Fraud Investigation and Statute of Limitations questions (see also 0653 described above); and (2) 01/12/94 e-mail fr
3562	WDC RTC	1/1/95	Note from Steve Primrose
42184219	WDC RTC	1/1/95	List of Madison Guaranty FOIA Requests as of 01/05/94 (N/A)
4640474	KC PLS	1/1/95	Same documents as 0050 - 0060 described above (N/A)
3900395	KC PLS	1/1/95	Handwritten notes re: meeting with Jean Lewis re: criminal referrals - "can't leave this office
44494461	WDC RTC	1/1/95	Handwritten note to Ausen; Foust; Lewis; Caron; Denton and Davidson to review attached review and answer question - route answers through Iorio (Lewis' copy) (with handwritten notes) (N/A)
4386	Begin File No. 29	1/1/95	File folder labeled "LJL/MGSL Follow-up File" (N/A)
400	KC PLS	1/1/95	Handwritten notes re: Conference between McKay; Reign; Gretchen; Donohue; Iorio; Ausen; Yanda and Adams re: document production - "Donohue suggests PLS steps aside." - "Why PLS out?" (?)
4010402	KC PLS	1/1/95	Handwritten notes re: Wall Street Journal article (of 07/09) re: Madison Guaranty and the Rose law firm - "Reexamine April Breslaw in DC Authority to Settle" (NOC)
43314340	WDC RTC	1/1/95	Criminal Referral Timeline and Flowcharts (N/A)
43074309	WDC RTC	1/1/95	Same documents as 0253 - 0255 described above (N/A)
43034304	WDC RTC	1/1/95	Same document as 3267 - 3268 described above (N/A)
454	KC PLS	1/1/95	Handwritten note - "Jean Lewis - " (N/A)

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Bates #	Source	Date	Description
42484249	WDC RTC	1/1/95	Undated summaries of three existing criminal referrals (7236CR0003; 7236CR0002 and 7236CR0001) (N/A)
43014302	WDC RTC	1/1/95	Undated Campobello Chronology (N/A)
4271	WDC RTC	1/1/95	Same document as 0573 described above (N/A)
4750484	KC PLS	1/1/95	Same documents as 0062 - 0071 described above (N/A)
4850488	KC PLS	1/1/95	Same documents as 0075 - 0078 described above (N/A)
42984299	WDC RTC	1/1/95	Same document as 4256 - 4257 described above (N/A)
503	KC PLS	1/1/95	Same document as 0082 described above (N/A)
504	KC PLS	1/1/95	Same document as 0085 described above (N/A)
4297	WDC RTC	1/1/95	Same document as 0662 described above (N/A)
5060508	KC PLS	1/1/95	Same document as 0007 - 0009 described above (Adams' copy?) (N/A)
509	KC PLS	1/1/95	Same document as 0095 described above (N/A)
4296	WDC RTC	1/1/95	Inventory of Madison documents (with handwritten notes re: GAO contact) (N/A)
4294	WDC RTC	1/1/95	Same document as 2600 described above with 01/19/94 handwritten note from Iorio to cc: Ausen; Lewis and Caron (Cavinaw's copy) (Additional handwritten notes at bottom of memo to cc: DMC; GAP; DW; JN; K. Orf; LK; JW; RI [Iorio]
4283	WDC RTC	1/1/95	Same document as 0658 described above (N/A)
4282	WDC RTC	1/1/95	Same document as 0661 described above (N/A)
4550459	KC PLS	1/1/95	Handwritten notes re: criminal referral #C0004 (N/A)
53305413		1/1/95	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Bates #	Source	Date	Description
1	RTC KCO PLS	1/1/95	File folder labeled "Madison Subpoenas Responded" (N/A)
5319		1/1/95	Same document as 4525 described above (N/A)
54945520		1/1/95	Same documents as 4150 - 4176 described above (N/A)
4	KC PLS	1/1/95	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
54585493		1/1/95	Box Inventory Control Sheets for Boxes S-1 - S-27 and S-29 - S-32 (N/A)
5457		1/1/95	RTC Northern Consolidated Office Record Inventory (N/A)
10	KC PLS	1/1/95	File folder labeled "McDougal" (N/A)
11	KC PLS	1/1/95	Handwritten note "Lee Ausen 7243" (N/A)
14	KC PLS	1/1/95	Handwritten chart showing flow of funds from McDougal to Flowerwood to Madison to Stephens Security Bank to International Paper Realty (N/A)
460047	KC PLS	1/1/95	Same as 0044 - 0045 above (N/A)
54145440		1/1/95	Records Inventory Worksheets for Madison Guaranty Files (N/A)
55215530		1/1/95	Same document as 4180 - 4189 described above (N/A)
200021	KC PLS	1/1/95	Same document as 0018 - 0019 above (N/A)
220023	KC PLS	1/1/95	Notices of Action Taken - Account # 424 (1) Cashier Checks #4878 for $111
240025	KC PLS	1/1/95	Notice of Action Taken - Account # 2-301-361 charged for cc #4878 for $111.524.21 that was taken out of Account # 424 (see 0022-0023 above) (N/A)
5328		1/1/95	Same document as 4537 described above (N/A)
5327		1/1/95	Same document as 4535 described above (N/A)
5326		1/1/95	Same document as 4534 described above (N/A)

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Bates #	Source	Date	Description
5325		1/1/95	Same document as 4536 described above (N/A)
5324		1/1/95	Same document as 4532 described above (N/A)
5323		1/1/95	Same document as 4533 described above (N/A)
5322		1/1/95	Same document as 4530 described above (N/A)
5321		1/1/95	Same document as 4529 described above (N/A)
47294741	WDC RTC	1/1/95	Criminal Referral #730CR0198 (N/A)
54415456		1/1/95	Criminal Investigations Inventory (N/A)
5749		1/1/95	MISSING? (N/A)
0	RA	1/1/95	Undated draft of questions and answers re: Contact with White House; recusal (N/A)
0	RA	1/1/95	Undated document titled "Possible Answers by Mr. Altman on Whitewater/Madison Questions Posed by the Oversight Board" (N/A)
0	RA	1/1/95	Undated Page 3 from questions and answers entitled "Whitewater/Madison: Conversations with the White House" (N/A)
0	RA	1/1/95	Undated draft copy of the questions and answers on the Madison/Whitewater matter (N/A)
57695770		1/1/95	Same document as 3975 - 3976 described above (N/A)
57675768		1/1/95	Same document as 2243 - 2244 described above (N/A)
57555766	Begin File No. 39	1/1/95	Same document as 3963 - 3974 described above (N/A)
0	RA	1/1/95	List of 36 questions from Altman (with handwritten notes (not Altman's handwriting)) (N/A)
5754	End File No. 38	1/1/95	Same document as 5278 described above (N/A)
2	KC PLS	1/1/95	File folder labeled "Dean Paul
5752		1/1/95	Same document as 4311 described above (N/A)

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Bates #	Source	Date	Description
55315533		1/1/95	Same document as 4177 - 4179 described above (N/A)
5748		1/1/95	IG Requests/Investigative Support - Madison (N/A)
57445747		1/1/95	Undated Inventory List re: productions to the IG (N/A)
57345743	Begin File No. 38	1/1/95	Same document as 4284 - 4293 described above (N/A)
56795733	End File No. 37	1/1/95	Same documents as 4331 - 4385 described above (N/A)
56645678		1/1/95	Same documents as 4295 - 4309 described above (N/A)
56435663		1/1/95	Same documents as 4310 - 4330 described above (N/A)
56025642		1/1/95	Same documents as 4253 - 4294 described above (4286 missing) (N/A)
55995601		1/1/95	Same document as 4613 - 4615 described above (N/A)
5598		1/1/95	Same document as 5109 described above (N/A)
55955597		1/1/95	Same documents as 4250 - 4252 described above (N/A)
5594		1/1/95	Same document as 4611 described above (N/A)
55345593		1/1/95	Same document as 4190 - 4249 described above (N/A)
5753		1/1/95	Same document as 4438 described above (N/A)
4979		1/1/95	File folder labeled "Restitution Information" (N/A)
5320		1/1/95	Same document as 4527 described above (N/A)
50305031		1/1/95	Same document as 4471 - 4472 described above (N/A)
50275029		1/1/95	Inventory of Madison documents (with handwritten notes re: GAO contact) (N/A)
5026		1/1/95	Same document as 4295 described above (N/A)
5025		1/1/95	Same document as 4438 described above (N/A)

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Bates #	Source	Date	Description
5024		1/1/95	Same document as 4311 described above (see also 0062) (N/A)
5016	End File No. 32	1/1/95	Page 2 of an incomplete unknown e-mail (N/A)
5015		1/1/95	Same document as 0113 described above (N/A)
50135014		1/1/95	Same document as 3267 - 3268 described above (N/A)
50425056	Begin File No. 34	1/1/95	RTC News in Brief Newsletters from 03/04/94 through 11/05/93 (N/A)
49804989		1/1/95	Madison Guaranty Criminal Referral Timelines and Flowcharts (N/A)
74	KC PLS	1/1/95	Same as 0073 above (N/A)
4978		1/1/95	Undated handwritten notes re: Lisa Anspaugh Thompson (Lewis' handwriting) (N/A)
4968		1/1/95	Handwritten notes re: "Girair"? - contains name of Corbet and Berg in notes (N/A)
4965		1/1/95	"National Name Search" - with handwritten phone number for Giroiv of Security Federal Savings and Loan (N/A)
4964		1/1/95	Inventory of boxes for Madison Guaranty with handwritten notes (N/A)
4963		1/1/95	File folder labeled "Indictments" (N/A)
48464849		1/1/95	Same document as 0253 - 0255 described above (N/A)
4823	Begin File No. 31	1/1/95	File folder labeled "Madison Guaranty Savings & Loan Criminal Administrative File - Pre-Sentencing Report" (N/A)
48184822	End File No. 30	1/1/95	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4817	WDC RTC	1/1/95	File Folder labeled " Related News Articles" (N/A)
47944816	WDC RTC	1/1/95	Criminal Referral #C0004 (with exhibit index) (N/A)
47834793	WDC RTC	1/1/95	Criminal Referral #730CR0211 (N/A)

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Bates #	Source	Date	Description
47724782	WDC RTC	1/1/95	Criminal Referral #730CR0210 (N/A)
4990		1/1/95	File folder labeled "Madison Guaranty Savings & Loan Criminal Administrative File" - "Pre-Sentencing Report" (N/A)
52405241	End File No. 36	1/1/95	Undated typed notes from a 02/02/94 conversation between Lewis and Breslaw (N/A)
48	KC PLS	1/1/95	File folder labeled "Madison E-mail File" (N/A)
5301		1/1/95	Same document as 0642 described above (N/A)
5300		1/1/95	Same document as 0643 described above (N/A)
5299		1/1/95	Same document as 0644 described above (N/A)
52795283		1/1/95	Memoranda of Authorization for Subpoena Nos. 69
5269		1/1/95	Same document as 0667 described above (N/A)
5259		1/1/95	Undated handwritten notes re: requests for documents to Caron (?) (N/A)
52485251		1/1/95	Same documents as 4882 - 4885 described above (N/A)
5247		1/1/95	Same document as 4880 described above (N/A)
5246		1/1/95	Same document as 4853 described above (N/A)
50325041	End File No. 33	1/1/95	Same documents as 4284 - 4293 described above (N/A)
52435244		1/1/95	Inventory of documents produced 03/10/94 (N/A)
38683880	Begin File No. 25	1/1/95	Undated draft of Questions and Answers re: Madison Criminal Referrals (with handwritten notes) (N/A)
52375239		1/1/95	Gabrellian's 01/10/94 (?) and 01/30/94 handwritten notes re: meeting with Dudine (?) and Gamble re: criminal referrals (NOC)
52025236		1/1/95	Box Inventory Control Sheet for Box Nos. S-1 - S-17 and S-19 - S-32 (N/A)

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Bates #	Source	Date	Description
51435201		1/1/95	Records Inventory Worksheets for boxes 297FSC - 309FSC
51265142		1/1/95	Criminal Investigations Inventory of Boxes CI1 through CI10 and Account Liability Boxes 1 - 5 for Madison Guaranty (N/A)
51185123		1/1/95	Random pages of information gathered by Lewis (?) for various people (N/A)
5117	Begin File No. 36	1/1/95	Same document as 3308 described above (N/A)
5115		1/1/95	Nancy Gorski - Chronological Listing of Research Activity (N/A)
5114		1/1/95	Undated Civil Fraud Investigations Chronological of Events (N/A)
51115113		1/1/95	Same documents as 3388 - 3390 described above (N/A)
5110		1/1/95	Same document as 3816 described above (N/A)
5107		1/1/95	Notes re: Whitewater Development and news articles (N/A)
50575105	End File No. 34	1/1/95	RTC Early Bird Newsletters from 09/29/93 through 03/09/94 (N/A)
5245		1/1/95	Same document as 4857 described above (See also 4853) (N/A)
28852894	WDC RTC	1/1/95	Criminal Referral #730CR0211 (without exhibits) (N/A)
29662977	WDC RTC	1/1/95	Undated handwritten notes re: Madison criminal referrals (N/A)
2096	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0203 (prepared by ?) (N/A)
29642965	WDC RTC	1/1/95	Same document as 0104 - 0105 described above (N/A)
19701977	WDC PLS	1/1/95	Incomplete copy of indictment in U.S.A. v. McDougal
19781979	WDC PLS	1/1/95	Undated draft from Breslaw to Roelle and Eisenstein re: Madison Bond Claim Close-Out (N/A)
29622963	WDC RTC	1/1/95	Same document as 1955 - 1956 described above (N/A)
29482959	Begin File No. 21	1/1/95	Undated Whitewater Current Events; Whitewater Chronology; Questions/Allegations; and Grand Jury Testimony (N/A)

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Bates #	Source	Date	Description
19942008	WDC PLS	1/1/95	Madison Guaranty Criminal Referral #7236CR0003 (with handwritten notes) (N/A)
20092022	WDC PLS	1/1/95	Madison Guaranty Criminal Referral #7236CR0002 (with handwritten notes) (N/A)
2097	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0190 (prepared by ?) (with handwritten notes) (N/A)
29112925	WDC RTC	1/1/95	Criminal Referral #7236CR0003 (without exhibits) (with handwritten notes) (N/A)
29792986	WDC RTC	1/1/95	Undated handwritten notes re: Madison criminal referrals (N/A)
2041	WDC PLS	1/1/95	Missing??? (N/A)
20422043	WDC PLS	1/1/95	Same as document 1895 - 1896 described above (N/A)
2044	WDC PLS	1/1/95	List of Madison related files (with handwritten notes re: location of files) (N/A)
28662884	WDC RTC	1/1/95	Criminal Referral #C0004 (without exhibits) (N/A)
28562865	WDC RTC	1/1/95	Criminal Referral #730CR0210 (without exhibits) (N/A)
28492855	WDC RTC	1/1/95	Criminal Referral #730CR0203 (without exhibits) (N/A)
28292848	WDC RTC	1/1/95	Criminal Referral #730CR0199 (without exhibits) (N/A)
2089	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0199 (prepared by ?) (N/A)
2090	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0198 (prepared by ?) (N/A)
2091	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0195 (prepared by ?) (N/A)
20922093	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0192 (prepared by ?) (N/A)
24092424	WDC RTC	1/1/95	RTC Legal Division Congressional Inquiry Abstract & Routing Form sent to Kulka; Collishaw; Cooper and Binkley re: attached 03/01/94 letter from Leach to Altman re: attached copies of: (1) 03/01/94 letter from Leach to Nussbaum
29262939	WDC RTC	1/1/95	Criminal Referral #7236CR0002 (without exhibits) (with handwritten notes) (N/A)

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Bates #	Source	Date	Description
31573176	WDC RTC	1/1/95	Criminal Referral 730CR0199 (with handwritten notes) (without exhibits) (N/A)
18781879	WDC PLS	1/1/95	Same documents as 0556 - 0557 described above (N/A)
38873909	WDC RTC	1/1/95	KCO PLS Certification Form re: OIC request for production of documents from CD Curtis; DA Vorbeck; SA Williams; BJ Hickert; JS Torkelson; WJ Kirk; KK Claxton; JF Yanda; KS Gensler; S Pedigo; DM Lowe; JL Liston; A Palazola; RM Shepard; RK Kantack; LK Swerc
1881	WDC PLS	1/1/95	Same document as 0569 described above (N/A)
32083215	WDC RTC	1/1/95	Undated Summaries of Institution- Generated Criminal Referrals (N/A)
1883	WDC PLS	1/1/95	Same document as 1873 described above (N/A)
32063207	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0??? (with handwritten notes) (N/A)
1885	WDC PLS	1/1/95	Same document as 0582 described below (N/A)
32043205	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0192 (with handwritten notes) (N/A)
31943203	WDC RTC	1/1/95	Criminal Referral 730CR0211 (with handwritten notes) (without exhibits) (N/A)
19591960	WDC PLS	1/1/95	Same as document 1890 - 1891 described above (N/A)
31773183	WDC RTC	1/1/95	Criminal Referral 730CR0203 (with handwritten notes) (without exhibits) (N/A)
1954	WDC PLS	1/1/95	Same as document 0637 described above (N/A)
31453156	WDC RTC	1/1/95	Criminal Referral 730CR0198 (with handwritten notes) (without exhibits) (N/A)
31293144	WDC RTC	1/1/95	Criminal Referral 730CR0196 (with handwritten notes) (without exhibits) (N/A)
31133128	WDC RTC	1/1/95	Criminal Referral 730CR0195 (with handwritten notes) (without exhibits) (N/A)
31063112	WDC RTC	1/1/95	Criminal Referral 730CR0192 (with handwritten notes) (without exhibits) (N/A)
30963105	WDC RTC	1/1/95	Criminal Referral 730CR0190 (with handwritten notes) (without exhibits) (N/A)

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Bates #	Source	Date	Description
30913095	WDC RTC	1/1/95	Undated copy of the Madison Guaranty Criminal Referral Summaries (N/A)
19211940	WDC PLS	1/1/95	Undated Two copies of pages 3 - 12 of notes prepared by Murray (per handwritten note at bottom of page 3) (N/A)
30813090	WDC RTC	1/1/95	Criminal Referral Timelines and Flowcharts (N/A)
1942	WDC PLS	1/1/95	Handwritten notes re: chronology of referral info - reference to Carmichael memo and "Bernie" (N/A)
30753080	WDC RTC	1/1/95	Undated copy of the Madison Guaranty Criminal Referral Summaries (N/A)
19471951	WDC PLS	1/1/95	Copy of Undated Chronology of Significant Events (with handwritten marks) (N/A)
30713074	WDC RTC	1/1/95	Copy of legislation to extend the statute of limitations (N/A)
31843193	WDC RTC	1/1/95	Criminal Referral 730CR0210 (with handwritten notes) (without exhibits) (N/A)
25712583	WDC RTC	1/1/95	Same document as 2186 - 2198 described above (N/A)
20942095	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CRC0004 (prepared by ?) (N/A)
2651	WDC RTC	1/1/95	Leach Inquiry on Madison - "To do list week of Jan. 3 - 8" (different from list on 2638 described above) (N/A)
2640	WDC RTC	1/1/95	Same as document 2627 described above (N/A)
2638	WDC RTC	1/1/95	Leach Inquiry on Madison - "To do list week of Jan. 3 - 8" (N/A)
26282633	WDC RTC	1/1/95	Not produced - Non-Responsive (N/A)
2626	WDC RTC	1/1/95	Madison File Inventory with handwritten notes re: availability of files (N/A)
2623	WDC RTC	1/1/95	Same as document 2600 described above (faxed on 01/14/94 from RTC OGR to RTC Legal) (N/A)
26212622	WDC RTC	1/1/95	Undated draft of memo from Knight to Altman re: response to Leach request for information relating to Madison (with handwritten notes) (N/A)

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Bates #	Source	Date	Description
26012607	WDC RTC	1/1/95	Undated draft of letter from Altman to Leach re: response to 01/14/94 request for production of documents with attached "RTC Staff Memorandum Responding to House Banking Minority Staff Memorandum" (N/A)
22382242	WDC PLS	1/1/95	Undated Madison Chronology of Significant Events (N/A)
2584	WDC RTC	1/1/95	Same document as 2199 described above (N/A)
26592662	WDC RTC	1/1/95	Undated typed notes for Phil (Lindenmuth?) re: Madison FOIA requests (N/A)
2565	WDC RTC	1/1/95	Same document as 2200 described above (N/A)
25502555	WDC RTC	1/1/95	Undated Binkley draft of response to Leach 01/14/94 production of documents request (N/A)
25182549	WDC RTC	1/1/95	Not produced - Non-Responsive (N/A)
25122513	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions and list of Madison documents maintained by the government (with handwritten notes form Casey (Carter) to Peter (Knight)) (N/A)
25102511	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions and list of Madison documents maintained by the government (N/A)
2509	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions (N/A)
24942508	WDC RTC	1/1/95	Same document as 2465 - 2479 described above without the RTC Legal Division Abstract & Routing Form attached (N/A)
23742378	WDC RTC	1/1/95	List of Madison Guaranty and Rose Law Firm FOIA requests (attached lists of Institutions that the Rose Law Firm has represented on the RTC's behalf and Legal Matters assigned to the Rose Law Firm (N/A)
24842493	WDC RTC	1/1/95	RTC Legal Division Congressional Inquiry Abstract & Routing Form sent to Collishaw; Binkley and Hindes re: attached 03/07/94 letter from Leach to Ryan (cc: General Counsel of FOIA and Gonzalez) re: request for documents with attached: (1) 12/22/93 letter
2381	WDC RTC	1/1/95	Undated copy of answers to questions related to providing for the hearing record documents related to Madison (N/A)

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Bates #	Source	Date	Description
24802483	WDC RTC	1/1/95	RTC Legal Division Congressional Inquiry Abstract & Routing Form sent to Collishaw; Binkley and Hindes re: attached 03/08/94 letter from Leach to Ryan (cc: Gonzalez) re: RTC Oversight hearings (distribution of final response to: Ryan; OGR Staff; Hinton an
24652479	WDC RTC	1/1/95	RTC Legal Division Congressional Inquiry Abstract & Routing Form (PLS) sent to Hindes (cc: Collishaw and Binkley) re: attached 03/04/94 memo from Smith to Collishaw re: attached 03/03/94 letters from Faircloth to Hove (Chair of FDIC) re: FDIC investigatio
2319	RTC WDC	1/1/95	(** NOTE Documents 2319 - 2694 (File No. 18?) are probably from Collishaw **)03/14/94 e-mail from Collishaw to Gabrellian and Binkley re: copied all materials from his files re: Madison (N/A)
27452749	WDC RTC	1/1/95	Undated Madison Chronology of Significant Events (N/A)
20982099	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0196 (prepared by ?) (with handwritten notes) (N/A)
2100	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0211 (prepared by ?) (with handwritten notes) (N/A)
2101	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0210 (prepared by ?) (N/A)
21022108	WDC PLS	1/1/95	Summaries or Institution- Generated Criminal Referrals (7236CR0003
21092118	WDC PLS	1/1/95	Criminal Referral Timelines Institution 7236 - Madison and Referral Flowcharts (N/A)
28172828	WDC RTC	1/1/95	Criminal Referral #730CR0198 (without exhibits) (N/A)
28012816	WDC RTC	1/1/95	Criminal Referral #730CR0196 (without exhibits) (N/A)
27942800	WDC RTC	1/1/95	Criminal Referral #730CR0192 (without exhibits) (N/A)
27782793	WDC RTC	1/1/95	Criminal Referral #730CR0195 (without exhibits) (N/A)
21762182	WDC PLS	1/1/95	RTC Office of Governmental Relations Correspondence Referral to various Congressmen (Cohen and Chafee) re: response to 02/08/94 letter from Faircloth et al to Altman re: statute of limitations (attached 02/09/94 e-mail from O'Brien to Washington re: two a
26522654	WDC RTC	1/1/95	Same document as 2635 - 2637 described above (N/A)
27502754	WDC RTC	1/1/95	Undated Addendum to Criminal Investigative Chronology (with handwritten notes) (N/A)

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Bates #	Source	Date	Description
1877	WDC PLS	1/1/95	Same document as 1876 described above (N/A)
2734	WDC RTC	1/1/95	Index of Documents Relating to Criminal Referrals made by the RTC (N/A)
2733	Begin File No. 20	1/1/95	(** NOTE Documents 2733 - 2894 are probably from Kulka's files and her office's files **) 03/14/94 memo from Kulka to Gabrellian re: Search for Documents Responsive to Areas Covered by Subpoena to Roger Altman (N/A)
2202	WDC PLS	1/1/95	Missing??? (N/A)
2732	End File No. 19	1/1/95	Spread Sheet of Maple Creek Farms Reserve for Development (N/A)
22042206	WDC PLS	1/1/95	Question and answer re: Madison criminal referrals (N/A)
2207	WDC PLS	1/1/95	Question and answer re: Madison criminal referrals (page 9 of a briefing book?) (N/A)
22082218	WDC PLS	1/1/95	Removed for privilege - Case Plan and Budget for the RTC's civil investigation (N/A)
27012731	WDC RTC	1/1/95	Madison Guaranty S&L Checking Account Statements for Whitewater Development Corp. (Acct. # 2301515) for various months (N/A)
2673	WDC RTC	1/1/95	Undated (12/22/93 fax line) letter from Hove (FDIC) to Leach re: response to request for production of documents (N/A)
2670	WDC RTC	1/1/95	Page 2 of Schmidt's request for Madison documents (See 3804 - 3805 of Treasury production for complete document) (N/A)
2223	WDC PLS	1/1/95	Same document as 2039 - 2040 described above (N/A)
26632669	WDC RTC	1/1/95	Index of documents reviewed by Leach's staff as of 01/12/94 (N/A)
27682777	WDC RTC	1/1/95	Criminal Referral #730CR0190 (without exhibits) (N/A)
35863588	WDC RTC	1/1/95	Same document as 3514 - 3516 described above (N/A)
36493651	WDC RTC	1/1/95	RTC OGR Correspondence Referral re: 02/08/94 letter from D'Amato to Knight re: questions from Nappi (distribution to Kulka; Kauper and OGR) - 02/08/94 e-mail from O'Brien to Knight and Carter re: referral should go to Kusinski (not Lynn) (N/A)

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Bates #	Source	Date	Description
32163220	WDC RTC	1/1/95	Undated Madison Guaranty Criminal Referral Summaries (N/A)
36173627	WDC RTC	1/1/95	Same document as 3421 - 3433 described above (N/A)
36113614	WDC RTC	1/1/95	Undated Criminal Investigation Chronology of Events (N/A)
3610	WDC RTC	1/1/95	Same document as 2600 described above (N/A)
36043609	WDC RTC	1/1/95	Notes from Carol O'Brien (OGR) to Gorman re: return of materials per conversation with Primrose (materials attached - 01/11/94 letter from Dudley to Mack (cc: Cavinaw) (NOC)
36013603	WDC RTC	1/1/95	Same documents as 3320 - 3322 described above (N/A)
35943597	WDC RTC	1/1/95	Same document as 3316 - 3319 described above (N/A)
3593	WDC RTC	1/1/95	Leach Inquiry on Madison - "To do list week of Jan. 3 - 8" (with handwritten notes) (N/A)
34873490	WDC RTC	1/1/95	Same documents as 3316 - 3319 described above (N/A)
5940595	KC PLS	1/1/95	Same documents as 0590 - 0591 described above (N/A)
3688	WDC RTC	1/1/95	Not produced - Non-responsive (N/A)
3580	WDC RTC	1/1/95	Notes from Steve Primrose - "Information from my own files re: Madison Criminal Referrals" (N/A)
35783579	WDC RTC	1/1/95	Same document as 2619 - 2620 described above (N/A)
35643577	WDC RTC	1/1/95	Undated copy of questions and answers re: Whitewater/Madison for Altman (N/A)
3563	WDC RTC	1/1/95	See description of document above (N/A)
603	KC PLS	1/1/95	Same as document 0592 described above (N/A)
0	Roger Altman	1/1/95	Undated draft of Questions and Answers re: Madison; Recusal; etc. (with handwritten notes (N/A)
3549	WDC RTC	1/1/95	Handwritten notes re: people involved in Madison and their positions and phone numbers (N/A)
35473548	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions and list of Madison documents maintained by the government (N/A)

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Bates #	Source	Date	Description
3546	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions (N/A)
35423545	WDC RTC	1/1/95	Same document as 2659 - 2662 described above (N/A)
1880	WDC PLS	1/1/95	Same document as 0562 described above (N/A)
3508	WDC RTC	1/1/95	Same document as 3486 described above (N/A)
35893592	WDC RTC	1/1/95	Missing? (N/A)
37753780	WDC RTC	1/1/95	Undated draft of Criminal Investigative Chronology of Events (with handwritten notes) (N/A)
38663867	End File No. 24	1/1/95	Undated list of Criminal Referral Files (N/A)
38543860	Begin File No. 24	1/1/95	Same document as 2245 - 2251 described above (N/A)
38473853	End File No. 23	1/1/95	Same document as 3401 - 3407 described above (N/A)
38263828	WDC RTC	1/1/95	Undated Criminal Investigative Chronology of Events (N/A)
38243825	WDC RTC	1/1/95	Undated Addendum to Criminal Investigative Chronology (N/A)
38213823	WDC RTC	1/1/95	Undated Addendum to Criminal Investigative Chronology (N/A)
38173818	WDC RTC	1/1/95	Same document as 3740 - 3741 described above (N/A)
3796	WDC RTC	1/1/95	KCO Document Distribution Cover Sheet to Binkley re: Madison closeout information "per your earlier conversation with Richard Iorio" (unsure of complete set of attachments - see documents described below) (NA/)
3795	WDC RTC	1/1/95	Undated note re: date of global close- out (N/A)
3628	WDC RTC	1/1/95	Same document as 2199 described above (N/A)
3781	WDC RTC	1/1/95	Undated Chronology of government action on Madison ("Casey" written at top) (N/A)
36893692	WDC RTC	1/1/95	Same document as 2659 - 2662 described above (N/A)

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Bates #	Source	Date	Description
37693774	WDC RTC	1/1/95	Undated draft of Madison: Chronology of Significant Events (with handwritten notes) (N/A)
37593766	WDC RTC	1/1/95	Undated Madison: Chronology of Significant Events (N/A)
3758	WDC RTC	1/1/95	Same document as 3670 described above (N/A)
3757	WDC RTC	1/1/95	Undated draft of government action on Madison (with handwritten notes) (N/A)
37493756	WDC RTC	1/1/95	Undated Madison: Chronology of Significant Events (N/A)
37423747	WDC RTC	1/1/95	Undated Criminal Investigative Chronology of Events (N/A)
5740575	KC PLS	1/1/95	Same document as 0115 - 0116 described above (N/A)
3737	WDC RTC	1/1/95	Same document as 3675 described above (N/A)
3736	WDC RTC	1/1/95	Background on Questions Coming from Committee Members Relating to Madison (N/A)
3727	WDC RTC	1/1/95	Same document as 3486 described above (N/A)
37233726	WDC RTC	1/1/95	Same document as 3316 - 3319 described above (N/A)
36973698	WDC RTC	1/1/95	Undated draft of memo from Knight to Altman re: response to Leach request for information relating to Madison (with handwritten notes) (N/A)
37893794	WDC RTC	1/1/95	Undated draft of Criminal Investigative Chronology of Events (with handwritten notes) (N/A)
15721691	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0211 with exhibits (N/A)
7620788	KC PLS	1/1/95	"Records Inventory Worksheet" (NOC)
35123513	WDC RTC	1/1/95	Same document as 1957 - 1958 described above (N/A)
816	KC PLS	1/1/95	File folder labeled "Madison Criminal Referrals" (N/A)
3237	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0198 (with handwritten notes) (N/A)
8850924	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0192 with exhibits (N/A)

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Bates #	Source	Date	Description
9251029	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0195 with exhibits (N/A)
10301146	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0196 with exhibits (N/A)
11471258	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0198 with exhibits (N/A)
12591464	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0199 with exhibits (N/A)
645	KC PLS	1/1/95	Same document as 0644 described above (N/A)
15441571	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0210 with exhibits (N/A)
6910761	KC PLS	1/1/95	Madison Guaranty Paid Off/REO Loans List and Bank Records Inventory (NOC)
1692	WDC PLS	1/1/95	Undated "Civil Fraud Investigations Chronological of Events" prepared by Davidson (N/A)
1693	WDC PLS	1/1/95	Undated "Chronological Listing of Research Activity" prepared by Gorski? (N/A)
3236	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0199 (with handwritten notes) (N/A)
16991704	WDC PLS	1/1/95	Undated "Criminal Investigative Chronology of Events" (N/A)
3235	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0203 (N/A)
3234	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0210 (with handwritten notes) (N/A)
3233	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0211 (with handwritten notes) (N/A)
3232	WDC RTC	1/1/95	Undated handwritten notes re: Criminal Referral 730CR0195 (N/A)
3231	WDC RTC	1/1/95	Undated summary of Criminal Referral 730CR0190 (with handwritten notes) (N/A)
32253229	WDC RTC	1/1/95	Not produced - Non-responsive (N/A)
1874	WDC PLS	1/1/95	Same document as 0120 described above (N/A)
1875	WDC PLS	1/1/95	Same document as 0553 described above (N/A)
14651543	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0203 with exhibits (N/A)

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Bates #	Source	Date	Description
33323346	WDC RTC	1/1/95	Madison Guaranty Criminal Referral 7236CR0003 (with handwritten notes) (N/A)
34723479	WDC RTC	1/1/95	Undated Criminal Investigative Chronology of Events (N/A)
34703471	WDC RTC	1/1/95	Undated Madison Sequence of Events re: government actions and list of Madison documents maintained by the government (N/A)
34513463	End File No. 21	1/1/95	Same document as 3434 - 3446 described above (N/A)
34343446	WDC RTC	1/1/95	Indictment in U.S.A. v. McDougal
33993400	WDC RTC	1/1/95	Undated unsigned memo from Breslaw to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Bond Claim Close-Out (N/A)
33973398	WDC RTC	1/1/95	Undated unsigned memo from Breslaw and Scott to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Termination of D&O Liability Investigation (N/A)
33913395	WDC RTC	1/1/95	Undated Madison Chronology of Significant Events (N/A)
33783384	WDC RTC	1/1/95	Undated Civil Fraud Investigations Chronological of Events (N/A)
33733375	WDC RTC	1/1/95	Undated CrIminal Investigative Chronology of Events (N/A)
33703372	WDC RTC	1/1/95	Undated Criminal Investigative Chronology of Events (N/A)
7890815	KC PLS	1/1/95	"Records Inventory Worksheet" (NOC)
33473360	WDC RTC	1/1/95	Madison Guaranty Criminal Referral 7236CR0002 (with handwritten notes) (N/A)
32383239	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0196 (with handwritten notes) (N/A)
33303331	WDC RTC	1/1/95	Same document as 2516 - 2517 described above (N/A)
3327	WDC RTC	1/1/95	Same document as 2627 described above (N/A)
33253326	WDC RTC	1/1/95	Undated copy of list of Madison Professional Liability Files: Civil Matters (N/A)

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Bates #	Source	Date	Description
3323	WDC RTC	1/1/95	Undated copy of Section 603.1 - Jurisdiction of the Independent Counsel (N/A)
33143315	WDC RTC	1/1/95	Missing? (N/A)
3312	WDC RTC	1/1/95	Leach Inquiry on Madison - "To do list week of Jan. 3 - 8" (N/A)
32963302	WDC RTC	1/1/95	Docket Sheet for Case # 93-CR- 147-ALL as of 01/26/94 in U.S.A. v. Hale
3273	WDC RTC	1/1/95	Same as document 0083 described above (N/A)
32653266	WDC RTC	1/1/95	Same document as 0117 - 0118 described above (N/A)
3263	WDC RTC	1/1/95	Same document as 0113 described above (N/A)
674	KC PLS	1/1/95	Inventory for #7236 Madison Guaranty S&L (with handwritten notes) (NOC)
33613369	WDC RTC	1/1/95	Same document as 2902 - 2910 described above (with handwritten notes) (N/A)
5260527	KC PLS	1/11/95	Same document as 0104 - 0105 described above (N/A)

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SORT BY DATE

OIG Production -- Hanson

16-Feb-95

Bates	Source	Type	Date	To / cc	From	Subject
DOT06267	Jean Hanson	Notes				Handwritten notes re: RTC, press inquiries, Altman, etc.
DOT06281	Jean Hanson	Q & A				Q & As re: criminal referrals, Altman, etc.
DOT11130	Asst. GC (Law and Ethics) -- Central Files	Memo		Jean Hanson	Robert Cesca	Provision of legal advice and services to IG with hand written notes on page
DOT06264	Jean Hanson	Calendar	9/27/93			Calendar for week of 9/27/93
DOT06266	Jean Hanson	Calendar	1/31/94			Calendar for week of 10/31/94
TOIG234	Francine Kerner	Letter	3/28/94	John Adair	Robert Fiske	Response to Adair's 3/25 letter, Prefer that OIG not investigate until OIC investigation is finished
TOIG052	Robert Cesca	Letter	6/22/94	Jean Hanson	Alfonse D'Amato, Donald Riegle	Request for information according to Resolution 229
DOT10804	Asst. GC (Law and Ethics) -- Central Files	Memo	6/27/94	Jean Hanson, cc: Dennis Foreman, Francine Kerner	Robert Cesca	Provision of legal advice and services to IG
DOT10780	Asst. GC (Law and Ethics) -- Central Files	Memo	6/27/94	Jean Hanson, cc: Dennis Foreman, Francine Kerner	Robert Cesca	Provision of legal advice and service to IG
ROIG3313	Office of Investigation Master Files	Memo	6/27/94	Jean Hanson	Robert Cesca	Provision of Legal Advice and Services to OIG

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG170	Francine Kerner Secretary	Phone Message	6/30/94	Robert Cesca	Jack Adair	Phone messages from Jack Adair dated 6/30/94 and 7/27/94
TOIG175	Office of Investigation, OIG	Notes	7/5/94			Meeting at MT- Adair, Switzer, Black, Blight, Cesca, & Kerner
DOT08275	Asst. GC (Law and Ethics) -- Central Files	Affidavit	7/20/94	Francine Kerner	Harvey Pitt, Jean Hanson	Affidavit of Hanson re: WHS / Treasury contacts re: MGSL
ROIG3290	Office of Investigation Master Files	Letter	7/22/94	Robert Cesca	Alfonse D'Amato, Donald Riegle	7/22/94 Letter stating the DOT had not completely complied with SBC document production request, copy of this letter is faxed from Bob Cesca to Jack Adair
OGE1783	OGE	Submission	7/22/94	Jane Ley	Matt Murley, Jean Hanson	Submission on behalf of Hanson in connection with Treasury IG and RTC IG Case No. 94-1-031-1
OGE1817	OGE	Submission	7/24/94	Jane Ley	Matt Murley. Jean Hanson	Submission on behalf of Hanson in connection with Treasury IG and RTC IG Case re: WHS / Treasury contacts (Original)
ROIG3539	John Adair	E-Mail	7/26/94	John Adair	Stephen Katsanos	Questions that may come up on the propriety of this sharing will be directed to Treasury, then a handwritten note saying Adair called Katsanos to say he did not know in advance that questions on this matter should be refered to Treasury

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11124	Asst. GC (Law and Ethics) -- Central Files	Memo	7/28/94	Ed Knight	Kenneth Schmalzbach	Ryan and Adair telephone calls
OGE2231	OGE	Memo	9/30/94	Roger Altman	Jean Hanson	Memo regarding the Rose Law Firm in the "Early Bird"
DOT06265	Jean Hanson	Calendar	10/14/94			Calendar for week 10/14/93
FROIG0001	Patricia Black	Chronology	2/2/95			Chronology of events prepared by Black from calendars of Black, Switzer, and Adair in preparation for FBI interview

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SENT BY DATE

OIG -- Index of Documents

16-Feb-95

Bates	Source	Type	Date	To / cc	From	Subject
ROIG0562	RTC OIG	Deposition				Transcript of Neil Eggleston
DOT11393	Asst. GC (Law and Ethics) -- Central Files	Options Paper				Document with points and handwritten notes with heading "Options Paper", and sub-headings Interviews, Documents, and Investigations
ROIG1329	RTC OIG	Deposition				Transcript of Eugene Ludwig
ROIG1281	RTC OIG	Deposition				Transcript of Ellen Kulka
ROIG1249	RTC OIG	Deposition				Transcript of Stephen Katsanos
ROIG1175	RTC OIG	Deposition				Transcript of Stephen Katsanos
ROIG1105	RTC OIG	Deposition				Transcript of Harold Ickes
ROIG1031	RTC OIG	Deposition				Transcript of Jean Hanson
ROIG0839	RTC OIG	Deposition				Transcript of Jean Hanson
ROIG1430	RTC OIG	Deposition				Transcript of Beth Nolan
ROIG0630	RTC OIG	Deposition				Transcript of Dennis Foreman
ROIG1474	RTC OIG	Deposition				Transcript of Bernard Nussbaum
ROIG0446	RTC OIG	Deposition				Transcript of Jack DeVore
ROIG378	RTC OIG	Deposition				Transcript of Glion Curtis
ROIG337	ROIG	Deposition				Transcript of Bowman

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG279	RTC OIG	Deposition				Transcript of Altman
ROIG197	RTC OIG	Deposition				Transcript of Altman
ROIG0163	RTC OIG	Deposition				Transcript of Aboussie
DOT11438	Peter Rittling	Notes		Shanon Conaway		Stephen McHale DOT stationary with handwritten message "Provide Redacted Transcripts to Private Counsel & WHS"
DOT11437	Robert McNamara	Notes				Stephen McHale DOT stationary with handwritten message "Why did you order the IG to give transcripts to WHS"
DOT11400	Stephen McHale	Q & A				Answers to Senator Grassley's follow-up questions in connection with nomination of Ed Knight
DOT11398	Stephen McHale	Q & A				Q & A's about whether or not the "Treasury" documents were provided to WHS prior to the SBC hearings
TOIG120	Francine Kerner	Memo		James Cottos cc: Robert Cesca	Francine Kerner	Written questions from Senator Bond re: MGSL
ROIG0811	RTC OIG	Deposition				Transcript of Mark Gearan
ROIG3288	Blight -- Office of Investigation Master Files	Notes				Handwritten notes of meeting, "Katsanos" and "Early Bird" -- written on top of notes
TOIG091	Francine Kerner	Timeline				Timeline on access to transcripts

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG087	Francine Kerner	Letter				Part of letter addressing the issue of sharing transcripts with the WHS
TOIG086	Francine Kerner	Notes				Various names and numbers handwritten
TOIG037	Robert Cesca	Notes				List of six names with last point saying -- next 10 days
TOIG025	Robert Cesca	Timeline				Timeline on Access to Transcripts
TOIG0003	Robert Cesca	Timeline				Timeline on Access to Transcripts
ROIG3834	John Adair	Outline				Outline of certain matters in July and August of 1994
ROIG3828	Steve Switzer	Chronology				7/22 - 7/29 chronology handwritten re: OGE Report
ROIG3712	RTC OIG	Letter				Corrections to Hanson interview
ROIG1369	RTC OIG	Deposition				Transcript of Thomas McLarty
ROIG3423	Sara Herlihy	Notes				Handwritten notes of various meetings
DOT11382	Asst. GC (Law and Ethics) -- Central Files	Fax Cover Sheet		Ed Knight, cc: Dennis Foreman, Robert McNamara	Joel Klein	
ROIG3282	Office of Investigation Master File	Questions		Treasury, RTC	OGE	Questions from OGE
ROIG3270	Blight --Office of Investigation Master File	Notes			Clark Blight	Blight handwritten notes refering to transcripts, Fiske and WHS access

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG2198	RTC OIG	Deposition				Transcripts as Marked for Redaction by RTC Legal
ROIG1961	RTC OIG	Report				Draft Report of Investigation with Appendices
ROIG1960A	RTC OIG	Deposition				Additional pages of McLarty transcript
ROIG1938	RTC OIG	Deposition				Transcript of Margaret Williams
ROIG1916	RTC OIG	Deposition				Transcript of George Stephanopoulos
ROIG1762	RTC OIG	Deposition				Transcript of Joshua Steiner
ROIG1702	RTC OIG	Deposition				Transcript of Cliff Sloan
ROIG1640	RTC OIG	Deposition				Transcript of William Roelle
ROIG1574	RTC OIG	Deposition				Transcript of Benjamin Nye
ROIG3480	Patricia Black	Notes				Handwritten notes -- "Jane Sherburne 4:30 Treasury" in top left hand corner, meeting notes with reference to access to documents
DOT10753	Asst. GC (Law and Ethics) -- Central Files	Letter		Donald Riegle	Michael Levy	Response to Riegle's 10/28/94 letter, answers to Bond questions on attachments
DOT10971	Kenneth Schmalzbach	Chronology				Chronology re: sharing IG transcripts with Cutler
DOT11396	Stephen McHale	Notes				Handwritten Notes with reference to OIC , documents and the Treasury

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10955	Stephen McHale	Letter		William Codinha	Robert McNamara	Letter in response to 10/19/94 letter from Codinha which requested additional information from Bentsen
DOT10938	Asst. GC (Law and Ethics) -- Central Files	Timeline				Timeline on access to transcripts
DOT10934	Asst. GC (Law and Ethics) -- Central Files	Timeline				Timeline on depositions
DOT10933	Asst. GC (Law and Ethics) -- Central Files	Notes				Handwritten notes with heading "Shelby" on top
DOT10874	Asst. GC (Law and Ethics) -- Central Files	Deposition				Part of Hanson deposition
DOT10863	Asst. GC (Law and Ethics) -- Central Files	Deposition				Part of Nussbaum depositon
DOT10859	Asst. GC (Law and Ethics) -- Central Files	Deposition				Part of Katsanos deposition
ROIG0502	RTC OIG	Deposition				Transcript of James Dudine
DOT10843	Asst. GC (Law and Ethics) -- Central Files	Deposition				Part of Dudine deposition
DOT10984	David Dougherty	Questions				Follow up items from 8/3/94 Bentsen testimony before SBC

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10737	Asst. GC (Law and Ethics) -- Central Files	Deposition				Page 67 of Bentsen testimony with handwritten notes at end re: rules governing Treasury officials
DOT10714	Asst. GC (Law and Ethics) -- Central Files	Chronology				Draft chronology of WHS / Treasury contacts
DOT10713	Asst. GC (Law and Ethics) -- Central Files	Notes				IG fact-finding
DOT10711	Asst. GC (Law and Ethics) -- Central Files	Notes				Typed notes re: IG deposition transcripts to counsel for Treasury witnesses
DOT10705	Asst. GC (Law and Ethics) -- Central Files	Notes				Typed noted re: IG deposition transcripts to counsel for Treasury witnesses
DOT06995	Asst. GC (Law and Ethics) -- Central Files	Report		Central Files	Asst. GC (Law and Ethics)	Office of IG, US DOT Report on investigation of # 94-1-031-I, WHS / Treasury contacts
DOT06281	Jean Hanson	Q & A				Q & As re: criminal referrals, Altman, etc.
DOT06267	Jean Hanson	Notes				Handwritten notes re: RTC, press inquiries, Altman, etc.
OGE2253	OGE	Chronology				Clean chronology starting with 9/27/93
OGE1952	OGE	List				Name List
OGE1950	OGE	List				List of dates of contacts with participants and type of contact

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10848	Asst. GC (Law and Ethics) -- Central Files	Deposition				Part of Curtis deposition
DOT11151	Stephen McHale	Q & A				Q & A re: Why did Treasury give Transcripts to WHS
DOT11361	Peter Rittling	Q & A				Q & A re: were the "Treasury" documents provided to The WHS prior to the SBC Whitewater hearings.
DOT11359	Peter Rittling	Notes				Handwritten Notes with mention of a 5/24 3:30 meeting, Jackson & Lewis in D.C.
DOT11351	Bernetta Smith	Letter		Ellen Kulka	Dennis Foreman	Letter in response to 6/14/94 Kulka letter
DOT11346	Bernetta Smith	Letter		Ellen Kulka	Dennis Foreman	Response to 6/6/94 Kulka letter
DOT11340	Bernetta Smith	Q & A				Q & A beginning with question: "When did you decide to give the White House the documents Treasury had produced to Independent Counsel Fiske? Why?"
DOT11339	David Dougherty	Letter		Ed Knight	Joel Klein	Follow up to discussion where Klein requested the information the DOT provided to the OIC pertaining to certain meetings with WHS Staff
DOT11336	David Dougherty	Q & A				Anwers to follow-up to Ed Knight Q & A's

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11326	David Dougherty	Notes				Handwritten Notes with numbers 1-3 circled, "White House will not see" underlined
DOT11320	Robert McNamara	Notes				Handwritten Notes with 1 - 23 circled at beginning of each new sentence
DOT10967	Kenneth Schmalzbach	Timeline				Timeline on access to transcripts
DOT11308	Robert McNamara	Q & A				Questions about whether or not IG gave WHS and witnesses cpoies of of interviews before the investigation was complete
DOT11074	David Hamill	Talking Points				Talking points about questions relating to WHS / Treasury contacts investigation, WHS, etc.
DOT11148	Stephen McHale	Notes				Handwritten notes from note book mentioning "history of doc'nt production" and that "IG decided to send transcripts" at request of Bentsen
DOT11144	Asst. GC (Law and Ethics) -- Central Files	Talking Points				Talking Points responding to the accusations in press re: Cutler sharing transcripts
DOT11131	Asst. GC (Law and Ethics) -- Central Files	Questions				Questions about the OGE report
DOT11130	Asst. GC (Law and Ethics) -- Central Files	Memo		Jean Hanson	Robert Cesca	Provision of legal advice and services to IG with hand written notes on page

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11114	Asst. GC (Law and Ethics) -- Central Files	Q & A				Q & A's for Senate Banking Interview
DOT11110	Kenneth Schmalzbach	Statement				Statement on access to depositions by WHS counsel
DOT11082	June Gayle Turner	Talking Points				Concern over Kit Bond's accusations in the press about Cutler's access to transcripts
DOT11080	Veronica Dawson	Talking Points				Concern over Kit Bond's accusations in the press about Cutler's access to transcripts
DOT11086	Peter Rittling	Typed Answers			Peter Rittling	Answers to Bond questions
DOT11078	Ed Knight	Talking Points				Concern over Kit Bond's accusations in press about Cutler's use of Depositions
DOT11076	David Hamill	Article				Draft of article -- "Treasury Secretary Sought Interview Documents from Ongoing Ethics Review" By John Solomon and Pete Yost Associated Press Writers
DOT11311	Robert McNamara	Notes				Handwritten Notes, heading "from the beginning we have bent over backwards to cooperate w/ OIC"
DOT11128	Asst. GC (Law and Ethics) -- Central Files	Statement			DOT	Statement on Access to IG transcripts by witnesses

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG218	James Cottos	Notes				Handwritten notes from staff meeting on either 6/24/94 or 7/24/94. Interviews next week for DAIG position.
ROIG1961	RTC OIG	Report				Draft Report with Appendices (Bates Nos. 1961- 2197)
TOIG0003	Robert Cesca	Timeline				Timeline on access to transcripts
DOT11129	Asst. GC (Law and Ethics) -- Central Files	Statement				Statement on access to depositions by WHS counsel
TOIG221	Francine Kerner	Timeline				Timeline on access to transcripts. From 7/1-7/30.
DOT11111	Kenneth Schmalzbach	Letter				Letter re: propriety of combining investigations
ROIG0426	RTC OIG	Deposition				Transcript of Gary Davis
DOT10956	Stephen McHale	Timeline				Timeline on access to transcripts
DOT10936	Asst. GC (Law and Ethics) -- Central Files	Chronology				Chronology re: sharing IG transcripts with Cutler
ROIG2536	RTC OIG	Transcripts				Transcripts as marked for Redaction by RTC Legal -- Part II (Bates Nos. 2536-2975)
ROIG2198	RTC OIG	Transcripts				Transcripts as marked for Redaction by RTC Legal -- Part I (Bates Nos. 2198-2535)
DOT06264	Jean Hanson	Calendar	9/27/93			Calendar for week of 9/27/93

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11318	Robert McNamara	Memo	5/5/94	Stephen McHale	Robert McNamara	Inter-office memo asking if McHale had any comments or suggestions re: letter to Cutler
DOT11349	Bernetta Smith	Letter	5/5/94	Mark Stein	Stephen McHale	[redacted]
DOT11319	Robert McNamara	Memo	5/5/94	Robert McNamara	Stephen McHale	5/5/94 Stein Letter, any comments?
DOT11304	Robert McNamara	Cover Sheet	5/10/94	Robert McNamara		Cover sheet with heading "For your correspondence file on Madison/Whitewater"
DOT11363	Asst. GC (Law and Ethics) -- Central Files	Memo	5/12/94	Dennis Foreman, Kenneth Schmalzbach	Robert McNamara	Talking points/ letter
DOT11382	Asst. GC (Law and Ethics) -- Central Files	Letter	5/12/94	Lloyd Bentsen	Lloyd Cutler	[redacted]
DOT11384	Asst. GC (Law and Ethics) -- Central Files	Letter	5/12/94	Ed Knight	Joel Klein	
TOIG064	Robert Cesca	Memo	5/13/94	James Cottos, Raisa Cesario, cc: Robert Cesca	Francine Kerner	Discussion on Whitewater
TOIG095	Francine Kerner	Memo	5/13/94	James Cottos, Raisa Cesario, cc: Robert Cesca	Francine Kerner	Discussion on Whitewater

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11383	Asst. GC (Law and Ethics) -- Central Files	Letter	5/13/94	Robert McNamara	Harvey Pitt	Letter stating previous conversation about the decision of the Treasury to provide the documents to the Counsel to the President
DOT11312	Robert McNamara	Letter	5/16/94	Ellen Kulka	Dennis Foreman	Re: 6/14/94 letter
TOIG068	Robert Cesca	Article	5/19/94			"Whitewater Counsel: Delay Staff Interviews"
DOT11373	Asst. GC (Law and Ethics) -- Central Files	Letter	5/23/94	Robert Fiske	Alfonse D'Amato	Letter questioning whether or not WHS had access to Treasury documents
DOT11378	Asst. GC (Law and Ethics) -- Central Files	Fax Cover Sheet	5/24/94	Stephen McHale	Andrew Tomback	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
DOT11374	Asst. GC (Law and Ethics) -- Central Files	Letter	5/25/94	Lloyd Bentsen	James Leach	Request for documents
DOT11375	Asst. GC (Law and Ethics) -- Central Files	Memo	5/25/94	Ed Knight		Request for materials related to WHS / Treasury / RTC contacts, due date 6/2/94. Distribution: Under Secretary / Domestic Finance Legislative Affairs
DOT11372	Asst. GC (Law and Ethics) -- Central Files	Letter	5/26/94	Alfonse D'Amato	Robert Fiske	Fiske responding to 5/23/94 letter

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11375	Asst. GC (Law and Ethics) -- Central Files	Letter	5/26/94	Lloyd Bentsen	James Leach	Request for materials re: Whitewater / MGSL circumstances
DOT11400	Stephen McHale	Memo	6/1/94	The Record	Stephen McHale	
DOT11402	Stephen McHale	Memo	6/2/94	the Record	Stephen McHale	
DOT11371	Asst. GC (Law and Ethics) -- Central Files	Fax Cover Sheet	6/3/94	Stephen McHale	Sheila Cheston	
OGE2121	RTC	Memo	6/6/94	David Kuhnsman	Susan Tibola	Memo re: the need for RTC employees to maintain confidentiality of records
DOT10952	Stephen McHale	Calendar	6/13/94			Calendar page for week of 6/13/94
DOT11366	Asst. GC (Law and Ethics) -- Central Files	Fax	6/14/94	Dennis Foreman, cc: Newman	Ellen Kulka	Fax and letter about certain documents in Treasury posession relating to RTC
DOT11385	Asst. GC (Law and Ethics) -- Central Files	Letter	6/22/94	Ellen Kulka	Dennis Foreman	Response to her 6/14/94 letter
TOIG039	Robert Cesca	Letter	6/22/94	Ed Knight	Michael Davidson	Thank you for being able to deliver the listed Treasury officials
TOIG040	Robert Cesca	Letter	6/22/94	Lloyd Bentsen	Alfonse D'Amato, Donald Riegle	Request for information acccording to Resolution 229

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG048	Robert Cesca	Letter	6/22/94	Joan Logue-Kinder	Alfonse D'Amato, Donald Riegle	Letter requesting information according to Resolution 229
TOIG050	Robert Cesca	Letter	6/22/94	Roger Altman	Alfonse D'Amato, Donald Riegle	Request for information according to Resolution 229
TOIG054	Robert Cesca	Letter	6/22/94	Dennis Foreman	Alfonse D'Amato, Donald Riegle	Request for information according to Resolution 229
DOT10778	Asst. GC (Law and Ethics) -- Central Files	Letter	6/22/94	Lloyd Bentsen	Donald Riegle, Alfonse D'Amato	Request for records according to Resolution # 229
DOT11416	Fran Davis	Letter	6/22/94	Lloyd Bentsen	Alfonse D'Amato, Donald Riegle	Request for records under the Senate Resolution 229
TOIG215	James Cottos	Notes	6/22/94			Notes from staff meeting on Whitewater
TOIG052	Robert Cesca	Letter	6/22/94	Jean Hanson	Alfonse D'Amato, Donald Riegle	Request for information according to Resolution 229
ROIG3276	Kerner -- Office of Investigation Master File	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE
ROIG3382	Office of Investigation Master File	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE
TOIG194	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE
TOIG056	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10954	Stephen McHale	Letter	6/23/94	Jane Sherburne	Stephen McHale	Letter stating that enclosed are transcripts of all interviews, except McLarty's, conducted by IG
TOIG182	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara
TOIG204	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara
TOIG198	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara.
TOIG056	Robert Cesca	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE
TOIG060	Robert Cesca	Memo	6/23/94	James Cottos, Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara
TOIG100	Francine Kerner	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara
TOIG200	Office of Investigation, OIG	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with OGE
TOIG085	Francine Kerner	Memo	6/23/94	Francine Kerner, cc: Kenneth Schmalzbach	Robert McNamara	Attorney names and addresses
TOIG062	Robert Cesca	Memo	6/23/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Meeting with Schmalzbach and McNamara

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG038	Robert Cesca	Memo	6/23/94	Francine Kerner, cc: Kenneth Schmalzbach	Robert McNamara	Attorney names and addresses for interviewees
ROIG3302	Blight -- Office of Investigation Master Files	Notes	6/24/94			Handwritten note of meeting, 1201 NY Ave 5th floor underlined in upper left hand corner
ROIG3267	Office of Investigation Master File	E-Mail	6/26/94	Stephen Katsanos, cc: Steve Switzer, fwd: Blight	John Adair	States that his office only gave the people who were interviewed copies of their testimony in order to make any corrections
ROIG3266	Office of Investigation Master File	E-Mail	6/26/94	John Adair	Stephen Katsanos	Message about Cutler testimony at SBC Hearings
ROIG3313	Office of Investigation Master Files	Memo	6/27/94	Jean Hanson	Robert Cesca	Provision of Legal Advice and Services to OIG
DOT10982	Kenneth Schmalzbach	Calendar	6/27/94			Calendar pages for week of 6/27/94
ROIG3472	Patricia Black	Fax, Letter	6/27/94		Patricia Black, Clark Blight	Fax with outline of Contacts report
DOT10780	Asst. GC (Law and Ethics) -- Central Files	Memo	6/27/94	Jean Hanson, cc: Dennis Foreman, Francine Kerner	Robert Cesca	Provision of legal advice and service to IG
DOT10804	Asst. GC (Law and Ethics) -- Central Files	Memo	6/27/94	Jean Hanson, cc: Dennis Foreman, Francine Kerner	Robert Cesca	Provision of legal advice and services to IG

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3314	Herlihy -- Office of Investigation Master Files	Notes	6/28/94			Miscellaneous meeting notes
ROIG3511	Steve Switzer	Notes	6/28/94			Various handwritten notes from staff meeting
TOIG187	Office of Investigation, OIG	Memo	6/29/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Updates on Whitewater
TOIG207	Office of Investigation, OIG	Memo	6/29/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Update on Whitewater
DOT11012	Departmental Executive Secretariat	Letter	6/30/94	John Ryan	Lloyd Bentsen	Request that RTC cooperate with the IG and OGE
DOT11010	Deptatmental Executive Secretariat	Memo	6/30/94	Robert Cesca	Lloyd Bentsen	Investigation of WHS / Treasury contacts concerning MGSL
DOT10773	Asst. GC (Law and Ethics) -- Central Files	Memo	6/30/94	Robert Cesca	Lloyd Bentsen	Investigation of WHS / Treasury contacts re: MGSL
TOIG029	Robert Cesca	Statement	6/30/94	Ed Knight	Mark Stein	Statement from OIC on Washington Investigation
DOT11011	Departmental Executive Secretariat	Letter	6/30/94	Stephen Potts	Lloyd Bentsen	Asking OGE to begin investigation since Fiske done

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Bates	Source	Type	Date	To / cc	From	Subject
OGE2180	Treasury	Letter	6/30/94	Stephen Potts	Lloyd Bentsen	Letter from Bentsen to Potts stating OIC investigation into WHS / Treasury contacts has been completed and requesting OGE to begin an investigation
ROIG3436	Lew Sherman	Calendar	6/30/94			Handwritten notes from calendar
TOIG235	Francine Kerner	Letter	6/30/94	Lloyd Bentsen	Robert Fiske	Completion of WHS / Treasury contacts investigation
TOIG189	Office of Investigation, OIG	Notes	6/30/94			Voice mail to Kerner from Sherburne
ROIG3413	Office of Investigation Master File	E-Mail	6/30/94	Clark Blight	Frederick Gibson	Two "contacts" reported in press not relating to the MGSL / criminal referral issues
TOIG170	Francine Kerner Secretary	Phone Message	6/30/94	Robert Cesca	Jack Adair	Phone messages from Jack Adair dated 6/30/94 and 7/27/94
TOIG223	Francine Kerner	Fax, Letter	6/30/94	James Cottos	Francine Kerner	Letter si from Bentsen to Cesca re: investigation of WHS / Treasury contacts concerning MGSL. Letter faxed from Kerner to Cottos.
OGE2269	OGE	Statement	6/30/94		OIC	Statement that OIC has completed two separate investigations
TOIG102	Francine Kerner	Memo	7/1/94	James Cottos, cc: Raisa Cesario	Francine Kerner	Attempt to contact Nussbaum

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG208	Office of Investigation, OIG	Letter	7/1/94	Lloyd Cutler	John Adair, Robert Cesca	Investigation on ethics provisions relating to briefings or discussions concering MGSL
ROIG100001	Dianne Rodgers	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of Rodgers (station 87804) sorted chronologically (with annotations) -- telephone used by Kerner
ROIG3462	Patricia Black	Letter	7/1/94	Lloyd Cutler	John Adair, Robert Cesca	Request for interviews with WHS personnel who were involved in briefings or discussions
ROIG100011	Jo Ann King	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of King (station 87800) sorted by number dialed (without annotations) -- telephone used by Kerner
TOIG224	Francine Kerner	Letter	7/1/94	Lloyd Cutler	John Adair, Robert Cesca	Investigation of ethics provisions relating to briefings or discussions concerning MGSL
TOIG214	Office of Investigation, OIG	Letter	7/1/94	Bernard Nussbaum	Robert Cesca	Inquiry into propriety of communications between Treasury employees and WHS staff, Requesting interview
ROIG100002	Dianne Rodgers	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of Rodgers (station 87804) sorted chronologically (with annotations) -- telephone used by Kerner

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG100007	Jo Ann King	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of King (station 87800) sorted by number dialed (with annotations) -- telephone used by Kerner
ROIG100009	Jo Ann King	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of King (station 87800) sorted chronologically (without annotations) -- telephone used by Kerner
DOT10839	Asst. GC (Law and Ethics) -- Central Files	Letter	7/1/94	Lloyd Cutler	John Adair and Robert Cesca	Request for files
TOIG212	Office of Investigation, OIG	Letter	7/1/94	Lloyd Cutler	John Adair, Robert Cesca	Investigation of ethics violations relating to briefings or discussions concerning MGSL
ROIG3478	Patricia Black	Letter	7/1/94	Lloyd Cutler	John Adair, Robert Cesca	Request to have interviews with all WHS personnel who were involved in any discussions or briefings
ROIG100004	Dianne Rodgers	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of Rodgers (station 87804) sorted by number dialed (without annotations) -- telephone used by Kerner
DOT10781	Asst. GC (Law and Ethics) -- Central Files	Letter	7/1/94	Alfonse D'Amato	Ed Knight	Response to D'Amato's 6/22/94 letter requesting information and documents

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG100003	Dianne Rodgers	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of Rodgers (station 87804) sorted chronologically (without annotations) -- telephone used by Kerner
DOT11428	Kenneth Schmalzbach	Notes	7/1/94			Handwritten notes from notebook, "To Do" in top left corner, with reference to documents and WHS sensitive documents
ROIG100005	Jo Ann King	Phone Log	7/1/94			Phone logs for period 7/1/94 to 7/31/94 from telephone of King (station 87800) sorted chronologically (with annotations) -- telephone used by Kerner
TOIG111	Francine Kerner	Memo	7/5/94	James Cottos cc: Robert Cesca	Francine Kerner	Update on IG Inquiry
DOT10736	Asst. GC (Law and Ethics) -- Central Files	Notes	7/5/94			MGSL hearing preparation, check list
TOIG010	Robert Cesca	Letter	7/5/94	Lloyd Bentsen	Steven Potts	Response to 6/30/94 letter
TOIG036	Robert Cesca	Memo	7/5/94	Francine Kerner, cc: Robert Cesca, Raisa Cesario	James Cottos	Update on the IG Inquiry
TOIG175	Office of Investigation, OIG	Notes	7/5/94			Meeting at MT- Adair, Switzer, Black, Blight, Cesca, & Kerner

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3299	Blight -- Office of Investigation Master Files	Notes	7/5/94			Handwritten notes of 7/5/94 meeting with "Contact" underlined in top left corner
TOIG206	Office of Investigation, OIG	Memo	7/5/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Update on IG Inquiry.
TOIG035	Robert Cesca	Memo	7/5/94	James Cottos, cc: Robert Cesca, Raisa Cesario	Francine Kerner	Update on the IG Inquiry
DOT10989	Robert McNamara	To Do List	7/5/94			Handwritten notes of "to do" list mentioning transcripts
OGE2238	OGE	Telephone Log	7/5/94		Jane Ley	Ley Telephone log from 7/5/94 - 8/3/94
TOIG225	Francine Kerner	Letter	7/5/94	Lloyd Bentsen, cc: Robert Cesca, John Adair	Stephen Potts	Reponse to Bentsen's 6/30 letter concerning investigation
DOT10840	Asst. GC (Law and Ethics) -- Central Files	Letter	7/6/94	John Adair, Robert Cesca	Lloyd Cutler	Letter indicating that documents produced in response to Riegle and D'Amato's request for WHS / Treasury contacts information were sent over per request
TOIG209	Office of Investigations	Memo	7/6/94	Kenneth Schmalzbach, cc: Jim Cottos	Francine Kerner	Legal questions relating to IG inquiry
DOT10351	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			Interview of Stephen Katsanos
DOT07509	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			IG Interview of Roger Altman

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG192	Office of Investigation, OIG	Letter	7/6/94	Robert Cesca, John Adair	Lloyd Cutler	Copies of documents produced by WHS to SBC
ROIG3296	Blight -- Office of Investigation Master Files	Notes	7/6/94			Handwritten notes of meeting: "Patricia Black" on top of page
ROIG3414	Office of Investigation Master File	Fax, Letter	7/6/94	Patricia Black	Francine Kerner	Handwritten on fax " I've taken possession of WHS documents. Do we have the RTC documents". Attached is 7/6/94 memo from Kerner to Schmalzbach re: Legal questions relating to IG inquiry
DOT09932	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			Interview of William Roelle
DOT10991	Robert McNamara	To Do List	7/6/94			Mentions decision re: RTC documents
DOT10284	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			Interview of Stephen Katsanos
ROIG3150	RTC OIG	Deposition	7/6/94			Interview of William Roelle, with addendum to Interview
OGE0829	OGE	Deposition	7/6/94			IG Interview of Stephen Katsanos
DOT08459	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			IG Interview of Ellen Kulka, Ex # 40

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10238	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			Interview of Ellen Kulka
TOIG089	Francine Kerner	Letter	7/6/94	Robert Cesca, John Adair	Lloyd Cutler	Letter providing them with a copy of documents provided by the WHS to the SBC on 7/1/94
DOT08802	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			IG Interview of William Roelle, Ex # 47
OGE2181	Treasury	Letter	7/6/94	Kenneth Schmalzbach	Francine Kerner	Legal questions relating to IG inquiry
ROIG3460	Patricia Black	Letter	7/6/94	Robert Cesca, John Adair	Lloyd Cutler	Letter indicates that Cutler sent a copy of the documents produced by the WHS to SBC on 7/1/94 in response to 6/22/94 request from Riegle and D'Amato
DOT09120	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			Interview of Roger Altman
OGE1230	OGE	Deposition	7/6/94			IG Interview of William Roelle
DOT08355	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/6/94			IG Interview of Stephen Katsanos, Ex # 38
OGE0931	OGE	Deposition	7/6/94			IG Interview of Ellen Kulka
OGE1004	OGE	Deposition	7/6/94			IG Interview of Ellen Kulka

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG103	Francine Kerner	Memo	7/6/94	Francine Kerner, cc: Robert Cesca, Raisa Cesario	James Cottos	Update on IG Inquiry
TOIG104	Francine Kerner	Memo	7/6/94	Francine Kerner, cc: Robert Cesca, Raisa Cesario	James Cottos	Update on IG Inquiry
TOIG227	Francine Kerner	Letter	7/6/94	Robert Cesca, John Adair	Lloyd Cutler	Cover letter to copy of documents produced by WHS to SBC
ROIG3463	Patricia Black	Fax, Letter	7/6/94	John Adair, Patricia Black	Jane Ley	Fax with 7/5/94 letter to Bentsen from Potts, response to 6/6/94 Bentsen letter
DOT09088	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/7/94			Interview of Richard Aboussie
OGE0005	OGE	Deposition	7/7/94			IG Interview of Richard Aboussie
DOT10799	Asst. GC (Law and Ethics) -- Central Files	Memo	7/7/94	Robert Cesca	Ed Knight	Congressional requests for witness interview transcripts
DOT09329	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/7/94			Interview of James Dudine
DOT07722	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/7/94			IG Interview of James Dudine, Ex # 31
DOT07396	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/7/94			IG Interview of Richard Aboussie, Ex # 24

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Bates	Source	Type	Date	To / cc	From	Subject
OGE0290	OGE	Deposition	7/7/94			IG Interview of James Dudine
DOT09988	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			Interview of Benjamin Nye
DOT10994	Robert McNamara	To Do List	7/8/94			Says "WHS wants to turn over Altman letter to Clinton" -- "Cutler wants to produce ?"
OGE2207	OGE	Letter	7/8/94	Robert Fiske	Stephen Potts	Letter requesting a meeting between Potts and Fiske
ROIG3004	RTC OIG	Deposition	7/8/94			Interview of Bernard Nussbaum
OGE1182	OGE	Deposition	7/8/94			IG Interview of Benjamin Nye
OGE1100	OGE	Deposition	7/8/94			IG Interview of Bernard Nussbaum
ROIG3086	RTC OIG	Deposition	7/8/94			Interview of Benjamin Nye
TOIG097	Francine Kerner	Memo	7/8/94	Raisa Cesario, cc: James Cottos	Francine Kerner	Update on witness interviews
TOIG110	Francine Kerner	Memo	7/8/94	James Cottos cc: Raisa Cesario	Francine Kerner	Sloan Interview
DOT09449	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			Interview of Dennis Foreman
DOT09269	CentralFiles	Deposition	7/8/94			Interview of Glion Curtis
DOT07602	Asst. GC (Law and Ethics) -- Central Files	Depositon	7/8/94			IG Interview of E. Glion Curtis, Ex #28

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Bates	Source	Type	Date	To / cc	From	Subject
OGE0403	OGE	Deposition	7/8/94			IG Interview of Dennis Foreman
DOT07848	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			IG Interview of Dennis Foreman, Ex # 33
DOT08643	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			IG Interview of Bernard Nussbaum, Ex # 45
DOT08741	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			IG Interview of Benjamin Nye, Ex # 46
OGE0180	OGE	Deposition	7/8/94			IG Interview of E. Glion Curtis
DOT10035	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/8/94			Interview of Bernard Nussbaum
DOT10980	Kenneth Schmalzbach	To Do List	7/9/94			Typed "to do" list mentioning sharing transcripts with WHS
TOIG188	Office of Investigation, OIG	Memo	7/11/94	James Cottos, cc: Raisa Cesario	Francine Kerner	Steiner Questions
OGE0541	OGE	Deposition	7/11/94			IG Interview of Jean Hanson
DOT10995	Robert McNamara	To Do List	7/11/94			Mentions redaction of documents
DOT09655	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/11/94			Corrections to testimony of Jean Hanson from 7/11 & 7/15 transcripts
OGE0030	OGE	Deposition	7/11/94			IG Interview of Roger Altman

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG106	Francine Kerner	Memo	7/11/94	Francine Kerner, cc: Raisa Cesario	James Cottos	WHS Interviews
TOIG105	Francine Kerner	Memo	7/11/94	Francine Kerner, cc: Raisa Cesario	James Cottos	Whitewater Interviews
	Steve Switzer	Notes	7/11/94			
TOIG072	Robert Cesca	Calendar	7/11/94			Date book for July 11, 12, 13, 18, 19, 20, 28, 29, 30, 31, and August 18, 19, 20 and 21
DOT09174	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/11/94			Interview of Roger Altman
DOT08024	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/11/94			IG Interview of Jean Hanson, Ex # 35
DOT07429	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/11/94			IG Interview of Roger Altman, Ex # 25
DOT10484	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/11/94			Interview of Jean Hanson
DOT09314	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/12/94			Interview of Gary Davis
OGE224	OGE	Deposition	7/12/94			IG Interview of F. Gary Davis
DOT09752	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/12/94			Interview of Joshua Steiner

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Bates	Source	Type	Date	To / cc	From	Subject
OGE1342	OGE	Deposition	7/12/94			IG Interview of Joshua Steiner
DOT07650	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/12/94			IG Interview of F. Gary Davis, Ex # 29
DOT08920	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/12/94			IG Interview of Joshua Steiner, Ex # 50
DOT08601	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			IG Interview of Beth Nolan, Ex # 44
DOT08862	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			IG Interview of Clifford Sloan, Ex # 48
OGE1286	OGE	Deposition	7/13/94			IG Interview of Clifford Sloan
DOT07565	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			IG Interview of John Bowman, Ex # 27
OGE1068	OGE	Deposition	7/13/94			IG Interview of Beth Nolan
OGE0901	OGE	Deposition	7/13/94			IG Interview of Stephen Katsanos
TOIG107	Francine Kerner	Memo	7/13/94	James Cottos cc: Raisa Cesario	Francine Kerner	Fred Coco conversation with Sherburne
DOT08427	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			IG Interview of Stephen Katsanos, Ex # 39

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Bates	Source	Type	Date	To / cc	From	Subject
DOT09247	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			Interview of John Bowman
TOIG113	Francine Kerner	Memo	7/13/94	Robert Cesca	Francine Kerner	Phone call from WHS
ROIG3829	Steve Switzer	E-Mail	7/13/94	John Adair, Steve Switzer, Lew Sherman	Particia Black	Spoke with Ley re: looking at transcripts
ROIG3412	Office of Investigation Master Files	E-Mail	7/13/94	John Adair, Steve Switzer, Lew Sherman	Patricia Black	Transcript - Jane Ley would like you to look at them
ROIG3411	Office of Investigation Master File	E-Mail	7/13/94	Patricia Black	Lew Sherman	Transcript distribution -- copies to Jane Ley
DOT10423	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			Corrections to Stephen Katsanos' 7/13 testimony
DOT10321	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			Interview of Stephen Katsanos
ROIG3209	RTC OIG	Deposition	7/13/94			Interview of Clifford Sloan
DOT10146	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			Interview of Beth Nolan
DOT09876	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/13/94			Interview of Clifford Sloan
OGE0158	OGE	Deposition	7/13/94			IG Interview of John Bowman

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG114	Francine Kerner	Memo	7/14/94	James Cottos cc: Raisa Cesario	Francine Kerner	Fred Coco conversation with Sherburne
TOIG117	Francine Kerner	Memo	7/14/94	Francine Kerner	James Cottos	Read receipt for Fred Coco conversation with Sherburne
OGE0977	OGE	Deposition	7/14/94			IG Interview of Bruce Lindsey
OGE1851	OGE	Letter	7/14/94	Stephen Potts	John Kenney	Restating conversation that would allow for Altman to make a written or oral presentation re: OGE's WHS / Treasury contacts investigation
TOIG109	Francine Kerner	Memo	7/14/94	James Cottos cc: Raisa Cesario	Francine Kerner	Ickes Interview
DOT08506	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/14/94			IG Interview of Bruce Lindsey, Ex # 41
DOT10210	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/14/94			Interview of Bruce Lindsey
ROIG3830	Steve Switzer	Fax	7/14/94	Steve Switzer	Jane Ley	Typed letter with underlined Hanson and Altman sections
DOT09712	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			Interview of Maggie Williams
DOT09731	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			Interview of George Stephanopoulos
OGE0239	OGE	Deposition	7/15/94			IG Interview of Jack DeVore

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Bates	Source	Type	Date	To / cc	From	Subject
OGE0345	OGE	Deposition	7/15/94			IG Interview of Neil Eggleston
DOT10437	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			Interview of Harold Ickes
OGE0730	OGE	Deposition	7/15/94			IG Interview of Jean Hanson
OGE2120	RTC	Letter	7/15/94	Jane Ley	Steve Switzer	Materials re: RTC employees maintaining confidentiality of RTC records
DOT09387	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			Interview of Neil Eggleston
DOT08286	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			IG Interview of Harold Ickes, Ex # 37
OGE0792	OGE	Deposition	7/15/94			IG Interview of Harold Ickes
DOT08213	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			IG Interview of Jean Hanson, Ex # 36
DOT07782	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			IG Interview of Neil Eggleston, Ex # 32
DOT07668	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			IG Interview of Jack DeVore, Ex # 30

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Bates	Source	Type	Date	To / cc	From	Subject
OGE2205	OGE	Letter	7/15/94	Lloyd Bentsen	Stephen Potts	Letter in response to a 6/30/94 Treasury letter stating that the administrative investigation may not be completed by the time Congress begins its hearings
DOT09660	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			Interview of Jack DeVore
OGE1440	OGE	Deposition	7/15/94			IG Interview of George Stephanopoulos
OGE1459	OGE	Deposition	7/15/94			IG Interview of Maggie Williams
DOT09067	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/15/94			IG Interview of Maggie Williams, Ex # 51
ROIG3482	Steve Switzer	Fax, Letter	7/15/94	Jane Ley	Steve Switzer	"Material concerning RTC employees maintaining the confidentiality of records" -- handwriten on fax & attached is memo from Tibola to Kuhnsman re: need for employees to maintain confidentiality of RTC business, attached various memos, etc. re: confidentiality
ROIG3320	Office of Investigation Master Files	Chronology	7/15/94			Draft of chronological list of WHS / Treasury contacts
OGE0523	OGE	Deposition	7/16/94			IG Interview of Mark Gearan

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Bates	Source	Type	Date	To / cc	From	Subject
DOT08000	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/16/94			IG Interview of Mark Gearan, Ex # 34
DOT09567	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/16/94			Interview of Mark Gearan
TOIG115	Francine Kerner	Memo	7/18/94	James Cottos cc: Raisa Cesario, Robert Cesca	Francine Kerner	McLarty Interview / WHS
OGE2234	OGE	Calendar	7/18/94		Leslie Wilcox	Pages from Wilcox calendar from 7/18/94 - 8/5/94
TOIG093	Francine Kerner	Memo	7/18/94	James Cottos, cc: Raisa Cesario, Robert Cesca	Francine Kerner	Delivery of Transcripts
OGE0103	OGE	Deposition	7/18/94			IG Interview of Roger Altman
DOT11035	Annabella Mejia	Calendar	7/18/94			Daily calander beginning on 7/18/94
OGE1882	OGE	Letter	7/18/94	Stephen Potts	Reid Weingarten	Letter from Steiner's lawyer stating that he has fully cooperated with the investigation and will continue to do so if necessary
DOT10187	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/19/94			Interview of Thomas McLarty
ROIG3268	Office of Investigation Master File	Memo	7/19/94	Stephen Katsanos	Lew Sherman	Deposition Transcript

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3422	Office of Investigation Master File	Memo	7/19/94	William Roelle	Lew Sherman	Deposition Transcription
DOT11033	Annabella Mejia	Daily Activity Report	7/19/94			Activity report for Bentsen -- time, telephone, and activity headings
OGE1045	OGE	Deposition	7/19/94			IG Interview of Thomas McLarty
TOIG185	Office of Investigation, OIG	Memo	7/19/94	Francine Kerner, cc: Raisa Cesario	James Cottos	WHS Transcripts
OGE1954	Kenneth Schmalzbach	Memo	7/19/94	Francine Kerner	Francine Kerner	Draft legal questions re: OIG inquiry with attachments
OGE2186	Treasury	Memo	7/19/94	Francine Kerner	Kenneth Schmalzbach	Legal questions relating to IG Inquiry
TOIG094	Francine Kerner	Memo	7/19/94	Francine Kerner, cc: Raisa Cesario	James Cottos	WHS Transcripts
TOIG116	Francine Kerner	Memo	7/19/94	Francine Kerner cc: Raisa Cesario	James Cottos	WHS Transcripts
DOT08570	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/19/94			IG Interview of Thomas McLarty, Ex # 43
DOT08275	Asst. GC (Law and Ethics) -- Central Files	Affidavit	7/20/94	Francine Kerner	Harvey Pitt, Jean Hanson	Affidavit of Hanson re: WHS / Treasury contacts re: MGSL
OGE1757	OGE	Deposition Corrections	7/20/94	Tina Bak-Brevik	Stanley Brand	Corrections made to Stephanopoulos Deposition

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Bates	Source	Type	Date	To / cc	From	Subject
OGE1677	OGE	Deposition Corrections	7/20/94	Francine Kerner	Lawrence Pedowitz	Corrections made to Nussbaum Deposition
OGE1667	OGE	Deposition Corrections	7/20/94	Jane Ley	Francine Kerner	Corrections made to 7/13/94 Nolan Deposition
ROIG3613	RTC OIG	Letter	7/20/94	Francine Kerner	Lawrence Pedowitz	Corrections to Nussbaum interview
OGE2184	Treasury	Memo of Interview	7/20/94			Memo of 7/19/94 Bentsen interview
DOT10178	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/20/94	Tina Bak-Brevik	Randall Turk	Corrections to Beth Nolan's testimony
ROIG3659	RTC OIG	Fax	7/20/94	Patricia Black	Francine Kerner	Corrections to Bowman interview
ROIG3557	RTC OIG	Letter	7/20/94	Francine Kerner	Justin Simon	Corrections to Gearan Interview
ROIG3648	RTC OIG	Letter	7/20/94	Tina Bak-Brevik	Stanley Brand	Corrections to Stephanopoulos interview
OGE1492	OGE	Deposition Corrections	7/20/94	Jane Ley	Francine Kerner	Corrections made to 7/13/94 Bowman Deposition
OGE1483	OGE	Fax Cover Sheet	7/20/94	Francine Kerner	Paul Curnin	Note that in Altman's tesimony the reference to July 6, 1994 refers to Altman's diary
DOT09650	Asst. GC (Law and Ethics) -- Central Files	Letter, Affidavit	7/20/94	Francine Kerner	Harvey Pitt	Affidavit of Jean Hanson re: IG inquiry
DOT10117	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/20/94	Francine Kerner	Bernard Nussbaum	Nussbaum's corrections of his testimony

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3769	RTC OIG	Letter	7/21/94	File		Changes to the Steiner interview
ROIG3752	RTC OIG	Letter	7/21/94	File		Changes to the Nye interview
ROIG3575	RTC OIG	Letter	7/21/94	Francine Kerner	Bruce Lindsey	Corrections to Lindsey Interview
ROIG3603	RTC OIG	Fax, Letter	7/21/94	Francine Kerner	Particia Black	Fax with letter to Tina Bak-Brevik from Randall Turk with changes to Beth Nolan interview
OGE2250	OGE	Notes	7/21/94		Stephen Potts	Note from a telephone conversation between Potts and Cutler
ROIG3646	RTC OIG	Letter	7/21/94	Francine Kerner	Peter Romatowski	Corrections to Sloan interview
ROIG3555	RTC OIG	Letter	7/21/94	Francine Kerner	William Murphy	Corrections to Eggleston Interview
ROIG3681	RTC OIG	Letter	7/21/94	Francine Kerner	Robert Bauer	Changes to DeVore interview
ROIG3682	RTC OIG	Letter	7/21/94		Dennis Foreman	Declaration of Dennis Foreman, and corrections to the Foreman interview
DOT11034	Annabella Mejia	Daily Activity Report	7/21/94			Daily activity report for Bentsen
OGE1564	OGE	Affidavit	7/21/94	Jane Ley	Francine Kerner	Affidavit of Jean Hanson and Corrections to her 7/11/94 and 7/15/94 Depositions
TOIG082	Robert Cesca Secretary	Calendar	7/21/94			Appointment book for 6/21/94 - 6/30/94
ROIG2976	RTC OIG	Deposition	7/21/94	Francine Kerner	Bruce Lindsey	Letter to Kerner from Lindsey and a copy of Lindsey's interview (Bates Nos. 2976-3003)

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Bates	Source	Type	Date	To / cc	From	Subject
OGE1532	OGE	Deposition to File	7/21/94	File	Francine Kerner	Corrections made to 7/8/94 Foreman Deposition
OGE1639	OGE	Deposition Corrections	7/21/94	Francine Kerner	Bruce Lindsey	Corrections made to 7/14/94 Lindsey Deposition
OGE1708	OGE	Deposition Corrections	7/21/94	File	Francine Kerner	Corrections made to 7/8/94 Nye Deposition
OGE1728	OGE	Depositon Corrections	7/21/94	Jane Ley	Francine Kerner	Corrections to 7/13/94 Sloan Deposition
OGE1730	OGE	Deposition Corrections	7/21/94	File	Francine Kerner	Corrections made to 7/12/94 Steiner Deposition
OGE1761	OGE	Draft Statement	7/21/94	Francine Kerner, Jane Ley	Lawrence Pedowitz	Draft of statement being prepared by Nussbaum in connection with the Congressional hearings
DOT09849	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/21/94			Corrections to Joshua Steiner testimony
OGE2285	OGE	Calendar	7/22/94		Lloyd Bentsen	Redacted calendar for February
DOT10960	Bernetta Smith	Phone Message	7/22/94		Jane Sherburne	Phone message indicating Sherburne called 7/22 at 5:36 pm
ROIG3290	Office of Investigation Master Files	Letter	7/22/94	Robert Cesca	Alfonse D'Amato, Donald Riegle	7/22/94 Letter stating the DOT had not completely complied with SBC document production request, copy of this letter is faxed from Bob Cesca to Jack Adair

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3323	Office of Investigation Master Files	Memo	7/22/94	Francine Kerner	Kenneth Schmalzbach	Legal Questions Relating to OIG Inquiry
DOT10961	Bernetta Smith	Phone Message	7/22/94		Jane Sherburne	Phone message most likely to Bernetta Smith -- produced by her office.
OGE1515	OGE	Memo with Deposition Corrections	7/22/94	Lew Sherman	E. Glion Curtis	Corrections made to 7/8/94 Curtis Deposition
ROIG3652	RTC OIG	Fax, Letter	7/22/94	Patricia Black	Francine Kerner	Fax with letter Francine Kerner from Paul Curnin with corrections for Altman interview
DOT10943	Asst. GC (Law and Ethics) -- Central Files	Memo	7/22/94	Lew Sherman	E. Glion Curtis	Changes to Curtis statement
OGE1783	OGE	Submission	7/22/94	Jane Ley	Matt Murley, Jean Hanson	Submission on behalf of Hanson in connection with Treasury IG and RTC IG Case No. 94-1-031-1
OGE2303	OGE	Letter	7/22/94	Robert Cesca	Alfonse D'Amato	Asks for assistance from IG regarding obtaining certain Treasury documents
OGE2145	RTC	Memo	7/22/94	Patricia Black	Ellen Kulka	Legal questions relating to OIG inquiry
OGE1883	OGE	Letter with Draft Report	7/22/94	Stephen Potts	John Adair, Robert Cesca	Draft Investigation Report requested by Bentsen re: RTC / WHS / Treasury contacts
DOT10962	Kenneth Schmalzbach	Notes	7/23/94			Handwritten notes relating to transcripts

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG092	Francine Kerner	Letter	7/23/94	Jane Sherburne	Stephen McHale	Enclosed copies of transcripts of interviews but McLarty made by Treasury IG
ROIG3559	RTC OIG	Letter	7/23/94	Jane Ley	Amy Sabrin	Corrections to Ickes Interview
ROIG3410	Office of Investigation Master File	Letter	7/23/94	Jane Sherburne	Stephen McHale	Response to request for transcripts
OGE1852	OGE	Statement	7/23/94	OGE	Simpson Thacher & Bartlet for Altman	Altman statement to OGE re: WHS / Treasury contacts concerning MGSL
DOT10842	Asst. GC (Law and Ethics) -- Central Files	Letter	7/23/94	Jane Sherburne	Stephen McHale	Letter indicating that all IG interview transcripts, except McLarty's, were sent to WHS
DOT10798	Asst. GC (Law and Ethics) -- Central Files	Letter	7/23/94	Jane Sherburne	Stephen McHale	Letter indicating all transcripts of interviews conducted by IG sent to WHS, except for McLarty
OGE1577	OGE	Deposition Corrections	7/23/94	Jane Ley	Amy Sabrin	Corrections made to Ickes Deposition
ROIG3552	John Adair	Letter	7/23/94	Jane Sherburne	Stephen McHale	Letter stating that enclosed are all the transcripts except McLarty's of interviews conducted by the Treasury IG
ROIG3471	Patricia Black	Letter	7/23/94	Jane Sherburne	Stephen McHale	Letter stating that enclosed with letter are the transcripts of all but McLarty's interview that the Treasury IG conducted
TOIG229	Francine Kerner	Letter	7/23/94	Jane Sherburne	Stephen McHale	Copies of transcripts

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10767	Asst. GC (Law and Ethics) -- Central Files	Letter	7/23/94	Jane Sherburne	Stephen McHale	Letter indicating that enclosed copies of all transcripts, but McLarty's, conducted by Treasury IG as part of WHS / Treasury contacts investigation
DOT10958	Stephen McHale	Computer Printout	7/23/94			File list - c:\data\wp\madison\summaries*.*, list of names with lines and checkmarks next to each
DOT10474	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/23/94	Jane Ley	Amy Sabrin	Corrections to Harold Ickes' testimony
TOIG186	Office of Investigation, OIG	Letter	7/23/94	Jane Sherburne	Stephen McHale	Copies of transcripts
OGE1817	OGE	Submission	7/24/94	Jane Ley	Matt Murley. Jean Hanson	Submission on behalf of Hanson in connection with Treasury IG and RTC IG Case re: WHS / Treasury contacts (Original)
ROIG3418	Office of Investigation Master File	Fax	7/25/94	Clark Blight	James Cottos	Handwritten on fax, "Questions and suggested changes to our report by the Bentsen "review team" - to be discussed tomorrow," attached are changes to chronology (?)
TOIG171	Office of Investigation, OIG	Notes	7/25/94			Copies of transcript given to Cutler
DOT11027	Annabella Mejia	Calendar	7/25/94			Daily calendar starting on 7/25/94

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3322	Office of Investigation Master Files	Fax Cover Sheet	7/25/94	Patricia Black	Francine Kerner	Fax cover sheet indicating that Kerner sent Black a copy of the 7/22/94 Memo from Schmalzbach to Kerner
TOIG077	Robert Cesca Secretary	Phone Messages	7/25/94	Francine Kerner	Various	Phone Messages for 7/25/94 - 8/30/94
DOT11021	Annabella Mejia	Notes	7/25/94			Handwritten notes with time, telephone, and activity heading for Bentsen
DOT11029	Annabella Mejia	Calendar	7/25/94			Revision for 9:30 am meeting with Knight
DOT10959	Stephen McHale	Calendar	7/25/94			Calendar pages for week of 7/25/94
OGE2200	Treasury	Letter	7/26/94	Jane Ley	Dennis Foreman	Foreman provides a brief legal analysis re: WHS / Treasury contacts re: MGSL
ROIG3459	Patricia Black	E-Mail	7/26/94	Stephen Katsanos, cc: Steve Switzer	John Adair	Transcripts of each interview were given only to the witness for correction
TOIG012	Robert Cesca	Testimony	7/26/94			Attachment to testimony of Lloyd Cutler before HBC, Chronology of Contacts
OGE1527	OGE	Memo with Deposition Corrections	7/26/94	Joan Dwyer	James Dudine	Corrections made to 7/7/94 Dudine Deposition
DOT09385	Asst. GC (Law and Ethics) -- Central Files	Memo	7/26/94	Joan Dwyer	James Dudine	Corrections to Interview transcript

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3292	Blight -- Office of Investigation Master File	Notes	7/26/94			Notes from 7/25/94 meeting, Treasury meeting at RTC
OGE2208	OGE	Letter	7/26/94	Francine Kerner, Patricia Black	Jane Ley	Comments on the draft chronology
DOT11030	Annabella Mejia	Calendar	7/26/94			Revision for 11:30 am meeting with Knight and 1:30 pm meeting with Knight
ROIG3508	Steve Switzer	E-Mail	7/26/94	Stephen Katsanos cc: Steve Switzer	John Adair	Only the persons interviewed were given copies of their transcripts in order to corect them
ROIG3541	John Adair	E-Mail	7/26/94	John Adair, Steve Switzer	Stephen Katsanos	Katsanos makes comment about Cutler at the hearing, which he is watching at the time he writes the E-mail, stating that the WHS had an opportunity to review the transcripts
ROIG3518	Steve Switzer	Chronology	7/26/94	Francine Kerner, Patricia Black	Jane Ley	Comment on the chronology from reading the transcripts
ROIG3540	John Adair	E-Mail	7/26/94	Stephen Katsanos, Steve Switzer	John Adair	Stating that his office only gave copies of transcripts to the witnesses interviewed to correct them

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3539	John Adair	E-Mail	7/26/94	John Adair	Stephen Katsanos	Questions that may come up on the propriety of this sharing will be directed to Treasury, then a handwritten note saying Adair called Katsanos to say he did not know in advance that questions on this matter should be refered to Treasury
OGE1484	OGE	Depoition Corrections	7/27/94	Francine Kerner	Paul Curnin	Corrections made to 7/11/94 Altman Deposition
OGE2278	OGE	Notes	7/27/94	Jane Ley	Patricia Black	Handwritten notes
ROIG3458	Patricia Black	E-Mail	7/27/94	Steve Switzer	Patricia Black	7/26/94 meeting recap, report deadline, and learn that OGC had released Cutler transcripts of witness interviews
OGE2274	OGE	Fax	7/27/94	Jane Ley	Patricia Black	Excerpt re: Litigation Delegations of Authority
OGE1003	OGE	Fax Cover Sheet	7/27/94	Jane Ley	Francine Kerner	Fax cover sheet indicating Kerner sent Ley the 7/06/94 Kulka deposition
OGE1529	OGE	Memo with Deposition Corrections	7/27/94	Jane Ley	Francine Kerner	Corrections made to Eggleston Deposition
ROIG3553	John Adair	Memo	7/27/94	Robert Cesca	Ed Knight	Congressional Staff Request for Witness Interview Transcripts
DOT08548	Asst. GC (Law and Ethics) -- Central Files	Deposition	7/27/94			IG Interview of Eugene Ludwig, Ex # 42

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Bates	Source	Type	Date	To / cc	From	Subject
OGE2212	OGE	Chronology	7/27/94			Draft chronology of WHS / Treasury contacts
ROIG3509	Steve Switzer	E-Mail	7/27/94	Steve Switzer	Patricia Black	Recap of 7/26/94 meeting, learned at meeting that Treasury OGE had released transcripts of witnesses to Cutler
ROIG3481	Steve Switzer	E-Mail	7/27/94	Clark Blight	Steve Switzer	Comments on the report
OGE1725	OGE	Memo with Deposition Corrections	7/27/94	File	Joan Dwyer	Corrections made to 7/6/94 Roelle Deposition
OGE1777	OGE	Letter	7/27/94	Jane Ley	Robert Bauer	Letter statement regarding DeVore's cooperation efforts with regard to OGE inquiry
OGE2231	OGE	Summary	7/27/94	Patricia Black	Jane Ley, Leslie Wilcox	Draft executive summary with OGE suggested changes and comments from Ley and Wilcox
OGE1026	OGE	Deposition	7/27/94			IG Interview of Eugene Ludwig
DOT10939	Asst. GC (Law and Ethics) -- Central Files	Memo	7/27/94	File	Joan Dwyer	Addendum to Roelle testimony
DOT10987	Robert McNamara	Tasking List	7/27/94			Tasking list with who, what, and status headings - mentions IG and RTC transcripts
DOT10988	Robert McNamara	To Do List	7/27/94			Mentions Transcripts
DOT11031	Annabella Mejia	Calendar	7/27/94			Revision for 10:00 am meeting with Pat Griffin

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Bates	Source	Type	Date	To / cc	From	Subject
OGE1759	OGE	Deposition Corrections	7/28/94	Sharon Separ	Ed Dennis	Corrections made to 7/15/94 Williams Deposition
ROIG3649	RTC OIG	Fax	7/28/94	Francine Kerner	Bob Serino	Corrections to Ludwig interview
ROIG3650	RTC OIG	Letter	7/28/94	Sharon Separ	Ed Dennis	Corrections to Williams interview
OGE2252	OGE	Notes	7/28/94		Stephen Potts	Notes from a telephone conversation between Potts and Knight
OGE2151	RTC	Chronology	7/28/94	Jane Ley		Draft chronology of WHS/Treasury contacts
RTC260	Kevyn Orr	Notes	7/28/94			Handwritten notes with information about transcripts
DOT11124	Asst. GC (Law and Ethics) -- Central Files	Memo	7/28/94	Ed Knight	Kenneth Schmalzbach	Ryan and Adair telephone calls
OGE1588	OGE	Deposition Corrections	7/28/94			Corrections made to 7/6/94 Katsanos Deposition
OGE1478	OGE	Deposition Corrections	7/28/94			Corrections made to 7/7/94 Richard Aboussie Deposition
OGE1025	OGE	Fax Cover Sheet	7/28/94	Jane Ley	Dan O'Rourke, Francine Kerner	Fax cover sheet indicating O'Rourke and Kerner sent Ley the Ludwig 7/27/94 deposition
ROIG0001	RTC OIG	Report	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Final Report of Investigation with Depositions -- Volume 1 (Bates Nos. 0001-0160)

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG0161	RTC OIG	Report	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Final Report of Investigation with Depositions -- Volume 2 (Bates Nos. 0161-0808)
ROIG0809	RTC OIG	Report	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Final Report of Investigation with Depositions -- Volume 3 (Bates Nos. 0809-1393)
DOT10902	Asst. GC (Law and Ethics) -- Central Files	Letter	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Letter with attached OGE report in response to 3/3/94 Bentsen request for investigation into WHS / Treasury contacts
DOT11089	Peter Rittling	Memo	7/29/94	Kenneth Schmalzbach	Peter Rittling	Review of the IG's final chronology of WHS / Treasury contacts
DOT11032	Annabella Mejia	Calendar	7/29/94			Revision for 12:30 Lunch with Leon Panetta
ROIG1394	RTC OIG	Report	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Final Report of Investigation with Depositions -- Volume 4 (Bates Nos. 1394-1960)
OGE2280	OGE	Notes	7/29/94	Jane Ley	James Cottos	Handwritten note with Altman's name and info re: referrals in it
TOIG026	Robert Cesca	Letter	7/29/94	Robert Cesca	Frank Wolf	Letter addressing issue that they gave transcripts over to Cutler at Bentsen's request
ROIG0001	RTC OIG	Report	7/29/94			Final Report of Investigation, Vol. 1

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Bates	Source	Type	Date	To / cc	From	Subject
TOIG078	Robert Cesca Secretary	Phone Message	7/29/94	Francine Kerner	Jane Sherburne	Message "We object to the release of any deposition transcripts, & before they're released we request an opportunity to be heard."
TOIG170	Francine Kerner Secretary	Phone Message	7/29/94	Francine Kerner	Patricia Black	Phone message: "right away!"
DOT10805	Asst. GC (Law and Ethics) -- Central Files	Letter	7/29/94	Lloyd Bentsen	John Adair, Robert Cesca	Response to 3/3/94 letter with enclosed report re: WHS / Treasury contacts investigation
TOIG0009	Robert Cesca	Letter	7/31/94	Henry Gonzalez	Lloyd Bentsen	Letter had OGE report attached and addressed issue of request for unredacted copies of transcripts
DOT10999	David Hamill	Letter	7/31/94	Donald Riegle	Lloyd Bentsen	Letter stating Bentsen received and read OGE report
TOIG0006	Robert Cesca	Letter	7/31/94	Alfonse D'Amato	Lloyd Bentsen	Letter had OGE report attached and also addressed issue of giving out the unredacted copies of transcritps
DOT11014	Departmental Executive Secretariat	Letter	7/31/94	Henry Gonzalez	Lloyd Bentsen	Letter saying Bentsen read OGE report and is including a copy
TOIG0008	Robert Cesca	Letter	7/31/94	James Leach	Lloyd Bentsen	Letter had the OGE report attached to it and addressed the issue of the request for unredacted copies of transcripts
TOIG006	Robert Cesca	Letter	7/31/94	Alfonse D'Amato	Lloyd Bentsen	Re: copy of OGE Report

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11018	Departmental Executive Secretariat	Statement	7/31/94		Lloyd Bentsen	Bentsen Statement
ROIG3443	Patricia Black	Letter	7/31/94	Robert Cesca	Donald Riegle	Request for SBC to receive a copy of the unredacted copy of documents from the OGE Report
DOT11017	Departmental Executive Secretariat	Letter	7/31/94	Alfonse D'Amato	Lloyd Bentsen	Letter saying Bentsen read OGE report and is including a copy
DOT11016	Departmental Executive Secreratiat	Letter	7/31/94	Donald Riegle	Lloyd Bentsen	Letter saying Bentsen read OGE report and is including a copy
DOT11015	Departmental Executive Secretariat	Letter	7/31/94	James Leach	Lloyd Bentsen	Letter saying Bentsen read OGE report and is including a copy
TOIG0007	Robert Cesca	Letter	7/31/94	Donald Riegle	Lloyd Bentsen	Letter had copy of OGE report attached and addressed the issue of request for unredacted copies of transcripts
ROIG3444	Patricia Black	Letter	8/1/94	Jack Adair	Henry Gonzalez	Request for unredacted copies of the depositions from OGE report
TOIG028	Robert Cesca	Letter	8/1/94	Robert Cesca	Henry Gonzalez	Request for assistance with the Committee's contacts investigation
ROIG3796	Adair Secretary	Letter	8/1/94	John Adair	Henry Gonzalez	Requests assistance with the Banking investigation, would like copies of unredacted depositions

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Bates	Source	Type	Date	To / cc	From	Subject
OGE1779	OGE	Letter	8/1/94	Stephen Potts, Jane Ley	Robert Bauer	Request for clarification of discussion regarding DeVore in report to Benson relating to WHS/Treasury contacts
ROIG	John Adair	Letter	8/1/94	John Adair	Stephen Potts	Letter stating that enclosed is a copy of the analysis they provided to Bentsen on 7/30/94
ROIG3797	Adair Secretary	Letter	8/1/94	John Adair, Robert Cesca	Harvey Pitt	IG WHS / Treasury contacts, on behalf of Jean Hanson
ROIG3798	Adair Secretary	Letter	8/1/94	John Adair	Stephen Potts	Letter enclosing a copy of the OGE report sent to Bentsen on 7/30/94
ROIG3400	Office of Investigation Master Files	Letter	8/1/94	Robert Cesca, John Adair	Harvey Pitt	IG WHS / Treasury Contacts Inquiry
ROIG3826	Steve Switzer	E-Mail	8/2/94	Ellen Kulka, cc: Tomback, Adair, Switzer	Patricia Black	Congressonal Requests
RTC259	Patricia Black	E-Mail	8/2/94	Ellen Kulka, cc: Andrew Tomback, John Adair	Patricia Black	Congressional Requests
TOIG079	Robert Cesca Secretary	Phone Message	8/2/94	Francine Kerner	Jane Sherburne	Message re: sending a letter to Riegle re: the IG inquiry
DOT11120	Asst. GC (Law and Ethics) -- Central Files	Questions	8/2/94	Ed Knight	Kenneth Schmalzbach	Tough Questions, Transcript Questions
DOT10768	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Donald Riegle	Lloyd Cutler	Letter stating Cutler proceeded properly when making request for the transcripts on 7/23/94

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10708	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Donald Riegle	Lloyd Bentsen	Letter asking for additional cooperation with requests for information
TOIG079	Robert Cesca Secretary	Phone Message	8/3/94	Francine Kerner	Jane Sherburne	Re: McHale instead. (parts not legible due to copy)
ROIG3441	Patricia Black	Letter	8/3/94	Donald Riegle	John Adair	Response to 7/31/94 letter
TOIG023	Robert Cesca	Letter	8/3/94	Donald Riegle	Lloyd Cutler	Hearings on WHS / Treasury contacts
TOIG239	Francine Kerner	Letter	8/3/94	Donald Riegle	Lloyd Cutler	WHS / Treasury Contacts
ROIG3466	Patricia Black	Fax, Letter	8/3/94	Jane Sherburne	Patricia Black	Fax with 8/3/94 letter to Riegle from Bentsen with handwritten corrections on it
TOIG230	Francine Kerner	Letter	8/3/94	Frank Wolf	John Adair, Robert Cesca	Letter re: Wolf concern for need to interview Jean Lewis and April Breslaw
TOIG0004	Robert Cesca	Letter	8/3/94	Henry Gonzalez	John Adair	Response to the 8/1/94 letter requesting unredacted copied of transcripts
ROIG3457	Patricia Black	E-Mail	8/3/94	John Adair, cc: Clark Blight	Patricia Black	Patricia Black received a phone call from Kerner to tell Black Cutler was about to send letter regarding transcripts
DOT11125	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Donald Riegle	Lloyd Cutler	Letter re: IG interview transcripts

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11127	Asst. GC (Law and Ethics) -- Central Files	Fax, Statement	8/3/94	Stephen McHale	Jane Sherburne	Fax with attached Statement on access to IG transcripts by witnesses, and Statement on access to depositions by WHS counsel
ROIG3827	Steve Switzer	E-Mail	8/3/94	John Adair, Steve Switzer, Clark Blight	Patricia Black	Transcripts / WHS letter revision
ROIG3833	Steve Switzer	E-Mail	8/3/94	John Adair, Steve Switzer, Clark Blight	Patricia Black	Transcripts / WHS letter
ROIG3439	Patricia Black	Letter	8/3/94	Henry Gonzalez	John Adair	Response to 8/8/94 Gonzalez letter
ROIG3469	Patricia Black	Letter	8/3/94	Donald Riegle	Lloyd Bentsen	Letter addressing issues brought up at hearings on 8/2/94 about access to information
ROIG3308	Office of Investigation Master Files	Fax, Letter	8/3/94	Jane Sherburne	Patricia Black	Fax with 8/3/94 letter to Donald Riegle with handwritten comments
DOT10985	David Dougherty	Chronology	8/3/94			Chronology re: sharing IG transcripts with WHS
DOT10834	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Donald Riegle	John Adair	Reponse to 8/3/94 letter requesting unredacted copies of transcripts
DOT10832	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Henry Gonzalez	John Adair	Response to 8/1/94 letter requesting unredacted copies of transcripts
ROIG3545	John Adair	Fax, Letter	8/3/94	Jane Sherburne	Patricia Black	Fax with 8/3/94 letter to Riegle with handwritten comments on it

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3543	John Adair	Leter	8/3/94	Donald Riegle	Lloyd Cutler	Questions about propriety and access to transcripts raised by Senator Bond at the hearings on 8/2/93
ROIG3548	John Adair	Fax, Letter	8/3/94	Patricia Black	Francine Kerner	Fax cover sheet with another fax cover sheet from Sherburne to Kerner with attached 8/3/94 letter to Riegle with additional handwritten comments
ROIG3396	Office of Investigation Master Files	Fax	8/3/94	Jane Sherburne	Patricia Black	Fax with attached 8/3/94 letter (with handwritten changes) to Riegle from Cutler
ROIG3399	Office of Investigation Master File	E-Mail	8/3/94	John Adair, Clark Blight	Patricia Black	Transcripts / WHS letter
ROIG3510	Steve Switzer	E-Mail	8/3/94	John Adair cc: Steve Switzer, Clark Blight	Patricia Black	Transcripts / WHS letter
ROIG3405	Office of Investigation Master File	Letter	8/3/94	Donald Riegle	John Adair	Response to 7/31/94 letter requesting unredacted copies of transcripts
DOT10706	Asst. GC (Law and Ethics) -- Central Files	Letter	8/3/94	Donald Riegle	Lloyd Cutler	Letter asking for additional cooperation with request of information
ROIG3407	Office of Investigation Master File	Letter	8/3/94	Henry Gonzalez	John Adair	Response to 8/1/94 letter requesting unredacted copies of transcripts

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3401	Office of Investigation Master File	Fax	8/4/94	Patricia Black	Francine Kerner	"for your info", attached is 8/4/94 fax cover sheet to Francine Kerner from Jane Sherburne with attached 8/3/94 letter to Riegle from Cutler
TOIG191	Office of Investigation, OIG	Timeline	8/4/94			Timeline on access to transcripts from 7/1-7/30.
TOIG079	Robert Cesca Secretary	Phone Message	8/8/94	Francine Kerner	Jane Sherburne	Re: review of Friday's transcripts before responding to her
ROIG3354	Office of Investigation Master Files	Letter	8/11/94	Robert Cesca, John Adair	Matt Murley	Re: IG WHS / Treasury Contacts Inquiry, corrections from Murley to the chronology
ROIG3393	Office of Investigation Master Files	Letter	8/15/94	Robert Cesca, John Adair	Matt Murley	IG WHS / Treasury Contacts Inquiry, Additional changes to chronology for Jean Hanson
DOT10947	Peter Rittling	Work Log	8/15/94			Handwritten notes mentioning transcript requests
ROIG3393	Office of Investigation Master Files	Letter	8/15/94	Robert Cesca, John Adair	Matt Murley	OIG WHS / Treasury Contacts Inquiry
ROIG3353	Office of Investigation Master File	Memo	8/16/94	Clark Blight	Patricia Black	OIG WHS / Treasury Contacts Inquiry, with attachments
ROIG3438	Patricia Black	Memo	8/16/94	Clark Blight	Patricia Black	IG WHS / Treasury Contacts Investigation, mentions an attached letter from Matt Murley

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Bates	Source	Type	Date	To / cc	From	Subject
DOT10836	Asst. GC (Law and Ethics) -- Central Files	Letter	8/17/94	Frank Wolf	Robert Cesca	Response to 7/29/94 letter where there was expresed concern about the IG's contacts investigation
ROIG3388	Office of Investigation Master File	Letter	8/17/94	Frank Wolf	Lloyd Cutler	Response to 8/17/94 Wolf letter
TOIG236	Francine Kerner	Letter	8/17/94	Frank Wolf	Robert Cesca	Response to 7/29 letter concerning WHS / Treasury contacts on MGSL
ROIG3514	Steve Switzer	E-Mail	8/17/94	John Adair, cc: Patricia Black, Clark Blight	Steve Switzer	Update, 4th point mentions that Bond and two other staffers met with Jane Ley
ROIG3455	Particia Black	E-Mail	8/18/94	John Adair, cc: Steve Switzer, Clark Blight	Patricia Black	Met with Senator Bond's staff and spoke of their concerns
ROIG3517	Steve Switzer	Notes	8/18/94			Handwritten notes from meeting with Senator Bond's staff
ROIG3515	Steve Switzer	E-Mail	8/18/94	John Adair, cc: Steve Switzer, Clark Blight	Patricia Black	Meeting with Bond's staff
ROIG3311	Office of Investigation Master Files	E-Mail	8/18/94	John Adair, cc: Steve Switzer, Clark Blight	Patricia Black	Meeting with Senator Bond's staff to discuss their concerns
ROIG3352	Office of Investigation Master File	Letter	8/22/94	Mark Stein	Clark Blight	Letter in reference to discussion Stein and Blight had about OIC getting investigative transcripts and a copy of the report -- they were enclosed with this letter

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Bates	Source	Type	Date	To / cc	From	Subject
ROIG3351	Office of Investigation Master File	E-Mail	8/22/94	Ellen Kulka, Andrew Tomback, cc: Switzer, Blight	Patricia Black	Request for information from Jim Wilson, Senator Bond's staff
ROIG3507	Steve Switzer	E-Mail	8/22/94	Kulka, cc: Tomback, Switzer, Blight, Adair	Patricia Black	Information request from Jim Wilson to review transcripts
ROIG3350	Office of Investigation Master File	E-Mail	8/22/94	Ellen Kulka, Andrew Tomback, cc: Switzer, Blight	Patricia Black	Information request from Jim Wilson, Senator Bond's staff
ROIG3506	Steve Switzer	E-Mail	8/23/94	Joan Dwyer, cc: Clark Blight, Steve Switzer	Patricia Black	Whitewater document request, Jim Wilson will be in the next day to review documents
DOT11409	Fran Davis	Letter	9/20/94	Grassley	Michael Levy	Letter in respose to questions the Grassley had about Ed Knight nomination, with enclosed answers
ROIG3448	Patricia Black	Fax, Letter	9/22/94	Patricia Black	James Wilson	Pursuant to request for Treasury / RTC depositions, Letter attached from Howard Menell stating Wilson has access to all materials designated "Committee Confidential"
DOT10791	Asst. GC (Law and Ethics) -- Central Files	Deposition	9/25/94			Discovery ZX: 8/3/94 SBC Hearings
DOT11338	David Dougherty	Letter	9/26/94	Grassley	Michael Levy	Letter indicating answers to second set of questions submitted in connection to the nomination of Ed Knight were sent

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11418	Kenneth Schmalzbach	Letter	9/26/94	Grassley	Michael Levy	Letter in response to the Senator's questions about the nomination of Ed Knight, with enclosed answers
DOT10784	Asst. GC (Law and Ethics) -- Central Files	Letter	9/28/94	Lloyd Bentsen	Donald Riegle	Post hearing questions
DOT10787	Asst. GC (Law and Ethics) -- Central Files	Letter	9/28/94	Ed Knight	Donald Riegle	Post hearing questions
DOT11071	Fran Davis	Letter	9/28/94	Ed Knight	Donald Riegle	Post hearing questions
DOT10795	Asst. GC (Law and Ethics) -- Central Files	Letter	9/28/94	Lloyd Bentsen	Donald Riegle	Post hearing questions
OGE2231	OGE	Memo	9/30/94	Roger Altman	Jean Hanson	Memo regarding the Rose Law Firm in the "Early Bird"
TOIG071	Robert Cesca	Memo	10/3/94	James Cottos, Chester White, Robert Cesca	Francine Kerner	Whitewater Reports
TOIG158	Francine Kerner	Memo	10/3/94	James Cottos cc: Robert Cesca	Francine Kerner	Written questions from Senator Bond re: MGSL
DOT11283	Dennis Foreman	Memo	10/4/94	Dennis Foreman, cc: Yarbrough, Kenneth Schmalzbach	Stephen McHale	Questions for Ed, Questions received from Bond
DOT11007	David Hamill	Letter	10/4/94	Donald Riegle	Michael Levy	Response to 9/28/94 letter stating that Bentsen and Knight will be out of country and will not be able to respond to questions until later date

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11155	Stephen McHale	Memo	10/4/94	Dennis Foreman, cc: Yarbrough, Kenneth Schmalzbach	Stephen McHale	Questions for Ed from Senator Bond
TOIG159	Francine Kerner	Memo	10/4/94	Francine Kerner cc: Robert Cesca	James Cottos	Writen questions from Senator Bond re: MGSL
DOT11086	Peter Rittling	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11000	David Hamill	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11029	Annabella Mejia	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11037	Fran Davis	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11074	David Hamill	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11078	Ed Knight	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11082	June Gayle Turner	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11090	Kenneth Schmalzbach	Questions	10/6/94			Draft - Questions from Senator Bond
DOT11240	Stephen McHale	Questions	10/6/94			Draft - Questions, (with answers), from Senator Bond
DOT11080	Veronica Dawson	Questions	10/6/94			
DOT11284	Dennis Foreman	Questions	10/13/94			Questions from Senator Bond

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11228	Stephen McHale	Questions	10/13/94			Draft 10/13/94 Q&A
DOT11263	Stephen McHale	Questions	10/13/94			Draft - Questions (with answers), from Senator Bond
DOT06265	Jean Hanson	Calendar	10/14/94			Calendar for week 10/14/93
DOT10790	Asst. GC (Law and Ethics) -- Central Files	Fax	10/19/94	Robert McNamara	William Codinha	Request for submissions from Bentsen
DOT11000	David Hamill	Letter	10/19/94	Robert McNamara	William Codinha	Request for additional information from Bentsen
DOT11112	Kenneth Schmalzbach	To Do List	10/19/94			"To Do" List, handwritten notes in notebook
DOT11154	Stephen McHale	Fax	10/20/94	Jane Sherburne	Stephen McHale	Fax Transmittal Cover Sheet
DOT10751	Asst. GC (Law and Ethics) -- Central Files	Memo	10/20/94	Ed Knight	Stephen McHale	Response to Bond questions
DOT10752	Asst. GC (Law and Ethics) -- Central Files	Memo	10/21/94	Michael Levy	Ed Knight	Reponse to Bond questions
DOT11073	Fran Davis	Memo	10/21/94	Michael Levy	Ed Knight	Responses to Bond questions
TOIG121	Francine Kerner	Memo	10/21/94	Michael Levy	Ed Knight	Reponses to Senator Bond's Questions
DOT11037	Fran Davis	Letter	10/21/94	Donald Riegle	Michael Levy	Response to 9/28/94 letter, with attached answers to Bond questions and Tabs 1-7

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Bates	Source	Type	Date	To / cc	From	Subject
DOT11005	David Hamill	Letter	10/26/94	William Codinha	Robert McNamara	Repsonse to 10/19/94 Codinha letter requesting additional information from Bentsen
DOT10737	Asst. GC (Law and Ethics) -- Central Files	Letter	10/26/94	William Codinha	Robert McNamara	In response to his 10/19/94 letter
DOT11008	David Hamill	Letter	10/28/94	Lloyd Bentsen	Donald Riegle	Post hearing questions
DOT11068	Fran Davis	Letter	10/28/94	Lloyd Bentsen	Donald Riegle	Post hearing questions
DOT10731	Asst. GC (Law and Ethics) -- Central Files	Fax	11/1/94	Stephen McHale	Jane Sherburne	Fax of 11/1/94 letter from Bond to Riegle and D'Amato expressing concern about OGE's access to transcripts before report is out
DOT10732	Asst. GC (Law and Ethics) -- Central Files	Letter	11/1/94	Donald Riegle, Alfonse D'Amato	Christopher Bond	Letter expressing concern re: WHS access to transcripts requested by Cutler prior to OGE report being made public
TOIG0002	Robert Cesca	Memo	11/7/94	James Cottos, Francine Kerner	Valerie Lau	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
TOIG0001	Robert Cesca	Memo	11/7/94	Robert Cesca	Francine Kerner	
DOT11206	Stephen McHale	Questions	11/9/94			Draft - Questions, (with answers), from Senator Bond
FROIG0001	Patricia Black	Chronology	2/2/95			Chronology of events prepared by Black from calendars of Black, Switzer, and Adair in preparation for FBI interview

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SORT BY DATE

RTC Production -- Referrals

16-Feb-95

Bates #	Source	Date	Description
1380148	KC PLS	3/19/87	Federal Home Loan Bank Board ("FHLBB") Criminal Referral Form with attached proposed 366 filings (N/A)
20232031	WDC PLS	3/7/88	memo from Hawkins to Jeddeloh re: Madison Guaranty Criminal Referral re: Robert Palmer (with handwritten notes) (N/A)
29022910	WDC RTC	3/7/88	memo from Hawkins to Jeddeloh re: Madison Guaranty Criminal Referral re: Robert Palmer (with handwritten notes) (N/A)
45944595	WDC RTC	12/11/91	memo from Brennan to Walton re: referral schedule in order of priority (N/A)
1760194	KC PLS	8/31/92	RTC Criminal Referral #C0004 re: Madison (Handwritten note to Julie "Per our phone conversation" - Iorio - 09/01/92 (N/A)
4959		9/10/92	memo from Lewis to Iorio re: referral #C0004 and effect of 3/92 New York Times article (N/A)
1872	WDC PLS	3/14/93	FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
4946		5/4/93	letter from Lewis to Pence re: request for response re: referral #C0004 (NOC)
4944		5/10/93	e-mail from Iorio to Lewis and Jankowski re: meeting re: referral (NOC)
4938		5/19/93	memo from Lewis to Criminal Admin File (cc: Iorio and Ausen) re: conversation with Mitchell who has no record of #C0004 and decision to resubmit the referral to Koffsky (NOC)
4935		5/19/93	e-mail from Lewis to Iorio and Ausen re: call with Mitchell re: #C0004 had been forwarded to Henneman - conversation with Henneman - knew referral but thought it had been declined (NOC)
4931		5/26/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: referral had been sent to Ira Raphelson (NOC)

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Bates #	Source	Date	Description
4930		5/27/93	e-mail from Lewis to Iorio and Ausen re: call from Word re: assisting Henneman locate referral (NOC)
4928		6/8/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: Word found #C0004 in the Fraud Section to the Criminal Division and the individual assigned to the referral "didn't want to deal with it" - memo to Frazier re: no basis for Little Rock to rec
4927		6/23/93	e-mail from Lewis to Iorio and Ausen re: conversation with Henneman re: #C0004 - Henneman will contact Frazier to see what he decided re: referral before he left (NOC)
5023		7/20/93	e-mail from Yanda to Breslaw re: "JT has directed me to make sure we're ready when and if the criminal referrals generate additional inquiries on the civil side" (5)
4916		9/23/93	e-mail from Lewis to Iorio and Ausen re: conversation with Henneman re: upcoming referrals and #C0004 - she "assured me that; if necessary; the 'higher-ups' at Justice would make sure something got done with these referrals; including the first one; which
32713272	WDC RTC	9/23/93	e-mail from Lewis to Iorio and Ausen re: Conversation with Henneman re: new referrals - forwarded by Iorio to Cavinaw
4312	WDC RTC	9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw; Thompson and Dudine - civil review materials will be available later (NOC)
4911		9/24/93	memo from Ausen to Dudine re: enclosed documents (referrals?) Iorio referred to in his 09/24/93 e-mail (copy not attached) (NOC)
4912		9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw
4910		9/29/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: request for copies of the criminal referrals (NOC)
32743275	WDC RTC	9/29/93	e-mail from Lewis to Iorio and Ausen - forwarded by Iorio to Cavinaw; Thompson and Dudine - forwarded by Dudine to Gamble re: call from Henneman re: plan for new referrals (NOC)

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Bates #	Source	Date	Description
4907		9/29/93	e-mail from Lewis to Iorio and Ausen re: call from Henneman re: conversation with Westbrook re: will get copies of whole referral directly from the USA - would like only copies of the transmittal letters and summaries from Lewis (NOC)
4311	WDC RTC	9/30/93	e-mail from Yanda to Iorio re: call with Glion re: legal review of referrals (Iorio's copy of the e-mail - see also 0062) (21)
62	KC PLS	9/30/93	e-mail from Yanda to Iorio (bcc: Carmichael) re: Plan for legal to review the referrals (21)
63	KC PLS	10/1/93	e-mail from Yanda to Carmichael and Adams re: confirmation (with Dudine's blessing) of two week period to review referrals (23)
4310	WDC RTC	10/5/93	e-mail from Donohue to Dudine; Baker; Gamble; Ambrose and Iorio re: call from Dick (FBI/HQ) re: status of referrals (NOC)
690070	KC PLS	10/6/93	e-mail from Lewis to Iorio; Ausen; Jankowski - forwarded to Cavinaw; Thompson; Dudine; and Yanda by Iorio re: planning to send referrals on Friday October 8th - FYI - Lewis e-mail re: Visit at her home by Schmidt and Schmidt's informative comments (28)
19811993	WDC PLS	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Madison Criminal Referrals (33)
43184330	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Criminal Referrals (33)
17121724	WDC PLS	10/7/93	memo from Carmichael and Adams to Yanda re: legal review of Madison Criminal Referrals (33)
2580271	KC PLS	10/7/93	letter from Carmichael and Adams to Yanda re: Legal review of KCO's Investigations Criminal Referrals (33)
32403252	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Madison Criminal Referrals (33)
27552767	WDC RTC	10/7/93	memo from Carmichael and Adams to Yanda re: Legal Review of Criminal Referrals (33)
71	KC PLS	10/7/93	e-mail from Brock to Adams and Carmichael re: Call by Julie (Yanda) - Iorio is requesting a status report on the referrals - would like to meet with them when she gets in (30)
49915003		10/7/93	memo from Adams and Carmichael to Yanda re: Legal Review of Referrals (33)

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Bates #	Source	Date	Description
4890502	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: attached report on the 9 criminal referrals (See also 0079 and 0403 - 0409 above (33)
79	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "Pursuant to RTC internal memorandum dated 06/17/93" attached is the report on the 9 criminal referrals (no attachment) (
4887		10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "pursuant to RTC internal policy memorandum dated June 17; 1993" attached in the legal review of the criminal referrals (
8170884	KC PLS	10/8/93	Madison Guaranty Savings & Loan Criminal Referral 730CR0190 with exhibits (N/A)
2720290	KC PLS	10/12/93	letter from Hinton through Ausen to Carmichael re: 10/08/93 cover letters for the Criminal Referrals from Ausen to Irons and Casey (cc: Henneman) (NOC)
291	KC PLS	10/12/93	memo from Ausen to Carmichael re: Legal Review of the KCO Criminal Referrals (34)
4886		10/13/93	letter from Lewis to Henneman (cc: Iorio and Ausen) re: attached copies of transmittal letters for and summaries of the nine criminal referrals submitted 10/08/93 (NOC)
82	KC PLS	10/13/93	e-mail from Carmichael to Adams and Yanda re: transmittal letters for the Madison referrals with copies to Irons and Henneman (Ethics Program Director - "EPD") EPD "is the subject of the phone call we received from Washington two weeks ago that began our
93	KC PLS	10/15/93	e-mail from Yanda to Carmichael re: Richard [Iorio's] agreement to allow Carmichael two weeks to review referral (48)
95	KC PLS	10/26/93	e-mail from Yanda to Hindes; Eisenstein; Kaufman; Iorio; Carmichael; Adams and Jankowski re: phone call from Schmidt re: alleged "dispute between Investigations and Legal that led to a delay in the recent criminal referrals out of Madison Guaranty." (55)
4860		10/27/93	letter from Casey to Lewis (cc: Westbrook) re: declination to prosecute Criminal Referral #C0004 (NOC)

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Bates #	Source	Date	Description
2530255	KC PLS	11/1/93	letter from Iorio to Dudine (cc: Cavinaw; Yanda; Ausen; Carmichael and Lewis) re: attached documents: (1) 10/27/93 letter from Casey to Lewis (cc: Westbrook) re: declination to act of referral (#C0004?); and (2) 11/01/93 letter from Lewis to Casey (cc: We
545	KC PLS	11/9/93	e-mail from Yanda to Adams and Carmichael re: chronology of the progress of the referrals - "Please make this a top priority" (72)
4513	WDC RTC	11/12/93	letter from Ausen to Carlson (OTS) re: copies of the Madison criminal referrals (NOC)
4274	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Caron) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document (no attachment) (NOC)
42754277	WDC RTC	11/15/93	e-mail from Lewis to Iorio; Ausen and Caron re: attached white paper re: chronology of events re: referral #C0004 and subsequent referrals (NOC)
4531	WDC RTC	11/15/93	e-mail from Lewis to Ausen re: upcoming meeting with McKay on 11/22/93 re: validity of referrals (NOC)
4551	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Lewis) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document(no attachment) (NOC)
556	KC PLS	11/18/93	e-mail from Breslaw to Adams and Yanda re: copy of the indictment and the referrals (if a copy has not been sent to Jack Smith) (See also response at 1876 below) (96)
1876	WDC PLS	11/18/93	e-mail from Adams to Breslaw and Yanda re: copy of the indictment re: McDougal and the recent referrals (98)
557	KC PLS	11/18/93	e-mail from Yanda to Breslaw and Adams re: Jack does not have referrals (97)
3307	WDC RTC	11/19/93	memo from Adams to Breslaw re: attached copies of the Madison criminal referrals (no attachment) (98)
558	KC PLS	11/19/93	memo from Adams to Breslaw re: attached copies of the original criminal referral (C#0004) and the nine new referrals (98)
562	KC PLS	11/19/93	e-mail from Adams to Breslaw re: sending copies of nine 1993 and one 1992 referrals (98)

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Bates #	Source	Date	Description
17251859	WDC PLS	11/19/93	memo from Adams to Breslaw re: attached Criminal referrals (attached is a copy of: (1) "Madison Guaranty Referral Summaries" (1726 - 1730); (2) Summaries of three "other" criminal referrals relating to Madison (1731 - 1732); and (3) copies of Madison Crim
43524381	WDC RTC	11/22/93	memo from Ausen to Winsett re: Summaries of Madison Referrals - Points out Altman was interested in the Campobello referral (#730CR0199) (summaries attached) (NOC)
1873	WDC PLS	11/29/93	e-mail from Eisenstein to Breslaw and "tlh" (Hindes) re: FDIC knowledge of the referrals (NOC)
5116	End File No. 35	11/29/93	memo from Dudine to Schulz re: attached criminal referrals (with 12/16/93 handwritten note from Downing to Dudine re: thanks) (NOC)
1882	WDC PLS	11/29/93	e-mail from Hindes to Breslaw re: hold on to referral if they were not requested by the FDIC (See also 1873) (NOC)
580	KC PLS	12/3/93	e-mail from Adams to Yanda and Eisenstein re: "Marcusen" and Seliga do not believe OTS exam exams were "knowingly" produced - Ausen reviewing referrals (see 0573 above) (115)
585	KC PLS	12/14/93	e-mail from Adams to Hambleton re: Ward documents - referral not responsive under FOIA (125)
4269	WDC RTC	12/15/93	e-mail from Caron to Iorio and Ausen re: Inventory of documents from which documents were obtained as backup to the referrals (NOC)
2655	WDC RTC	12/17/93	letter from Williams to Binkley and Lindenmuth re: Conversations re: RTC's responses to FOIA requests and criminal referrals (NOC)
600	KC PLS	12/22/93	e-mail from Adams to Marcusen and Yanda re: telephone conference - referrals not responsive to Rep. Leach's request (135)
19551956	WDC PLS	12/30/93	e-mail from Gamble to Hindes re: Information about the DOJ investigation contained in e-mail may not be complete because Gamble was only involved early when Legal and Investigations "were not seeing eye to eye about the filing of the referrals" but any pr
4258	WDC RTC	1/5/94	e-mail from Lewis to Iorio - forwarded by Lewis to Caron and Ausen re: correction - the Clintons were named as witnesses in referral # 192 and 196 (NOC)

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Bates #	Source	Date	Description
637	KC PLS	1/5/94	e-mail from Yanda to Hindes; Dudine; Iorio; Penrose; Breslaw; Eisenstein; Kaufman and Adams re: Visit with OCOS - sent by supervisor in order to be "proactive" about the "issues this case would raise" re: referrals and Rose law firm (140)
4497	WDC RTC	1/5/94	e-mail from Lewis to Iorio - re: correction - the Clintons were named as witnesses in referral # 192 and 196 (NOC)
4254	WDC RTC	1/12/94	e-mail from Davidson to Iorio - forwarded by Iorio to Caron and Lewis re: Civil Fraud Review unable to find any additional claims not already addressed in the criminal referrals (NOC)
4252	WDC RTC	1/14/94	e-mail from Dudine to Iorio re: short summary of each referral in preparation for a briefing of Altman (NOC)
3507	WDC RTC	1/21/94	e-mail from Hinton to Iorio - forwarded by Iorio to Hinton - forwarded by Hinton to Carter re: RTC General Counsel would like a copy of original referral on McDougal (NOC)
28952901	WDC RTC	1/25/94	memo from Dudine to Kulka re: attached copies of criminal referrals
18601871	WDC PLS	1/25/94	memo from Dudine to Kulka re: attached copies of: (1) ten criminal referrals (copies not attached); (2) Madison Guaranty Criminal Referral Summaries (1861 - 1866); (3) Chronological Listing of Events; Civil Investigation (1867 - 1868); and (4) Criminal In
20322038	WDC PLS	1/25/94	memo from Dudine to Kulka re: enclosed copies of Madison criminal referrals (only copy of "Criminal Referral Summaries" attached) (NOC)
36623665	End File No. 22	1/30/94	Handwritten notes from 01/30/94; 01/25/94 and 01/21/94 meetings re: requests for Madison production of documents and information re: referrals (NOC)
42424243	WDC RTC	1/31/94	e-mail from Lewis to Ausen and Caron re: Madison Fire Drill #3 re: attached information as requested by Gamble re: loss figure for each criminal referral (NOC)
25852599	WDC RTC	2/4/94	RTC Office of Governmental Relations Correspondence Referral re: attached 02/03/94 letter from Leach to Altman re: recusal (with complete attachments) (distribution of final response to Knight; Morgan; Primrose; Carter; Lindsey; Martin and Kauper) (N/A)
21312175	WDC PLS	2/8/94	RTC Office of Governmental Relations Correspondence Referrals for letters to various Congressmen re: response to 02/08/94 letter from Faircloth et al to Altman re: statute of limitations (N/A)

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Bates #	Source	Date	Description
23992405	WDC RTC	3/3/94	RTC Office of Governmental Relations Correspondence Referral re: attached 03/01/94 fax from Leach to Kusinski of 03/01/94 letter from Leach to Nussbaum et al re: Altman's recusal (copies sent to Kulka; Collishaw; Cooper and Binkley?) (Distribution of fin
42024206	WDC RTC	3/11/94	Printout of KCO - INV Criminal Referrals by Institution # (N/A)
34643466	Begin File No. 22	11/15/94	(** NOTE - Documents 3464 - 3490 are probably from Knight **) 11/15/94 e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton - forwarded by Hinton to Knight re: 11/11/93 Washington Post article re: declination of prosecution on first Madison referral
217	KC PLS	1/1/95	Handwritten Chronology re: McDougal 03/19/87 criminal referral (N/A)
2089	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0199 (prepared by ?) (N/A)
2090	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0198 (prepared by ?) (N/A)
2091	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0195 (prepared by ?) (N/A)
20922093	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0192 (prepared by ?) (N/A)
4550459	KC PLS	1/1/95	Handwritten notes re: criminal referral #C0004 (N/A)
2096	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0203 (prepared by ?) (N/A)
19942008	WDC PLS	1/1/95	Madison Guaranty Criminal Referral #7236CR0003 (with handwritten notes) (N/A)
1500161	KC PLS	1/1/95	Handwritten first draft of FHLBB Criminal Referral Form and answer to Question #6 (copies to go to Director of Examinations at FHLBB
2097	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0190 (prepared by ?) (with handwritten notes) (N/A)
149	KC PLS	1/1/95	Draft of answer to Question #6 of the FHLBB Criminal Referral Form (N/A)
20982099	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0196 (prepared by ?) (with handwritten notes) (N/A)
2100	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0211 (prepared by ?) (with handwritten notes) (N/A)
2101	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CR0210 (prepared by ?) (N/A)

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Bates #	Source	Date	Description
20942095	WDC PLS	1/1/95	Notes and questions re: Criminal Referral 730CRC0004 (prepared by ?) (N/A)
816	KC PLS	1/1/95	File folder labeled "Madison Criminal Referrals" (N/A)
10301146	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0196 with exhibits (N/A)
11471258	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0198 with exhibits (N/A)
12591464	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0199 with exhibits (N/A)
14651543	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0203 with exhibits (N/A)
15441571	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0210 with exhibits (N/A)
2190226	KC PLS	1/1/95	Handwritten notes re: various 1992 referrals #C0001 - #C0005? (N/A)
8850924	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0192 with exhibits (N/A)
20092022	WDC PLS	1/1/95	Madison Guaranty Criminal Referral #7236CR0002 (with handwritten notes) (N/A)
21022108	WDC PLS	1/1/95	Summaries or Institution- Generated Criminal Referrals (7236CR0003
30753080	WDC RTC	1/1/95	Undated copy of the Madison Guaranty Criminal Referral Summaries (N/A)
3900395	KC PLS	1/1/95	Handwritten notes re: meeting with Jean Lewis re: criminal referrals - "can't leave this office
1942	WDC PLS	1/1/95	Handwritten notes re: chronology of referral info - reference to Carmichael memo and "Bernie" (N/A)
3880389	KC PLS	1/1/95	Handwritten notes of ? regarding meeting re: criminal referrals delivery and concerns (?)
2920386	KC PLS	1/1/95	Handwritten notes re: legal review of criminal referrals (N/A)
257	KC PLS	1/1/95	File folder labeled "Madison Criminal Referral Review" (N/A)
9251029	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0195 with exhibits (N/A)
15721691	KC PLS	1/1/95	Madison Guaranty Savings & Loan Criminal Referral 730CR0211 with exhibits (N/A)

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Bates #	Source	Date	Description
33323346	WDC RTC	1/1/95	Madison Guaranty Criminal Referral 7236CR0003 (with handwritten notes) (N/A)
42484249	WDC RTC	1/1/95	Undated summaries of three existing criminal referrals (7236CR0003; 7236CR0002 and 7236CR0001) (N/A)
21092118	WDC PLS	1/1/95	Criminal Referral Timelines Institution 7236 - Madison and Referral Flowcharts (N/A)
38683880	Begin File No. 25	1/1/95	Undated draft of Questions and Answers re: Madison Criminal Referrals (with handwritten notes) (N/A)
38663867	End File No. 24	1/1/95	Undated list of Criminal Referral Files (N/A)
36493651	WDC RTC	1/1/95	RTC OGR Correspondence Referral re: 02/08/94 letter from D'Amato to Knight re: questions from Nappi (distribution to Kulka; Kauper and OGR) - 02/08/94 e-mail from O'Brien to Knight and Carter re: referral should go to Kusinski (not Lynn) (N/A)
3231	WDC RTC	1/1/95	Undated summary of Criminal Referral 730CR0190 (with handwritten notes) (N/A)
33473360	WDC RTC	1/1/95	Madison Guaranty Criminal Referral 7236CR0002 (with handwritten notes) (N/A)
43314340	WDC RTC	1/1/95	Criminal Referral Timeline and Flowcharts (N/A)
32383239	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0196 (with handwritten notes) (N/A)
3237	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0198 (with handwritten notes) (N/A)
3236	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0199 (with handwritten notes) (N/A)
3235	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0203 (N/A)
3234	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0210 (with handwritten notes) (N/A)
29662977	WDC RTC	1/1/95	Undated handwritten notes re: Madison criminal referrals (N/A)
3232	WDC RTC	1/1/95	Undated handwritten notes re: Criminal Referral 730CR0195 (N/A)
3580	WDC RTC	1/1/95	Notes from Steve Primrose - "Information from my own files re: Madison Criminal Referrals" (N/A)

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Bates #	Source	Date	Description
47124728	WDC RTC	1/1/95	Criminal Referral #730CR0196 (N/A)
49804989		1/1/95	Madison Guaranty Criminal Referral Timelines and Flowcharts (N/A)
47944816	WDC RTC	1/1/95	Criminal Referral #C0004 (with exhibit index) (N/A)
47834793	WDC RTC	1/1/95	Criminal Referral #730CR0211 (N/A)
47724782	WDC RTC	1/1/95	Criminal Referral #730CR0210 (N/A)
47634771	WDC RTC	1/1/95	Criminal Referral #730CR0203 (N/A)
4225	WDC RTC	1/1/95	Undated chronology re: Criminal Referrals (N/A)
47294741	WDC RTC	1/1/95	Criminal Referral #730CR0198 (N/A)
45424545	WDC RTC	1/1/95	Madison Criminal Referral Summaries (handwritten notes at top - "prepared by AMK RTC/DC forwarded to LJL 01/19/94" (N/A)
46954711	WDC RTC	1/1/95	Criminal Referral #730CR0195 (N/A)
46874694	WDC RTC	1/1/95	Criminal Referral #730CR0192 (N/A)
46764686	WDC RTC	1/1/95	Criminal Referral #730CR0190 (N/A)
4675	Begin File No. 30	1/1/95	File folder labeled "Criminal Referrals" (N/A)
46174631	WDC RTC	1/1/95	Copy of Madison Criminal Referral # 730CR0196 (with handwritten 08/23/93 note from Iorio re: changes) (N/A)
46094610	WDC RTC	1/1/95	Summaries of three existing criminal referrals (01/21/94 per [Iorio]) (N/A)
45904593	WDC RTC	1/1/95	Two draft copies of Estimated Criminal Investigation Referral Schedules (with handwritten notes) (N/A)
47424762	WDC RTC	1/1/95	Criminal Referral #730CR0199 (N/A)
28012816	WDC RTC	1/1/95	Criminal Referral #730CR0196 (without exhibits) (N/A)

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Bates #	Source	Date	Description
29112925	WDC RTC	1/1/95	Criminal Referral #7236CR0003 (without exhibits) (with handwritten notes) (N/A)
3233	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0211 (with handwritten notes) (N/A)
28662884	WDC RTC	1/1/95	Criminal Referral #C0004 (without exhibits) (N/A)
28562865	WDC RTC	1/1/95	Criminal Referral #730CR0210 (without exhibits) (N/A)
28492855	WDC RTC	1/1/95	Criminal Referral #730CR0203 (without exhibits) (N/A)
32163220	WDC RTC	1/1/95	Undated Madison Guaranty Criminal Referral Summaries (N/A)
28172828	WDC RTC	1/1/95	Criminal Referral #730CR0198 (without exhibits) (N/A)
29262939	WDC RTC	1/1/95	Criminal Referral #7236CR0002 (without exhibits) (with handwritten notes) (N/A)
27942800	WDC RTC	1/1/95	Criminal Referral #730CR0192 (without exhibits) (N/A)
27782793	WDC RTC	1/1/95	Criminal Referral #730CR0195 (without exhibits) (N/A)
27682777	WDC RTC	1/1/95	Criminal Referral #730CR0190 (without exhibits) (N/A)
2734	WDC RTC	1/1/95	Index of Documents Relating to Criminal Referrals made by the RTC (N/A)
2207	WDC PLS	1/1/95	Question and answer re: Madison criminal referrals (page 9 of a briefing book?) (N/A)
22042206	WDC PLS	1/1/95	Question and answer re: Madison criminal referrals (N/A)
21762182	WDC PLS	1/1/95	RTC Office of Governmental Relations Correspondence Referral to various Congressmen (Cohen and Chafee) re: response to 02/08/94 letter from Faircloth et al to Altman re: statute of limitations (attached 02/09/94 e-mail from O'Brien to Washington re: two a
28292848	WDC RTC	1/1/95	Criminal Referral #730CR0199 (without exhibits) (N/A)
31453156	WDC RTC	1/1/95	Criminal Referral 730CR0198 (with handwritten notes) (without exhibits) (N/A)
32083215	WDC RTC	1/1/95	Undated Summaries of Institution- Generated Criminal Referrals (N/A)

FOIA # none (URTS 16305) DocId: 70105134 Page 160

Bates #	Source	Date	Description
32063207	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0??? (with handwritten notes) (N/A)
32043205	WDC RTC	1/1/95	Undated Summary of Criminal Referral 730CR0192 (with handwritten notes) (N/A)
31943203	WDC RTC	1/1/95	Criminal Referral 730CR0211 (with handwritten notes) (without exhibits) (N/A)
31843193	WDC RTC	1/1/95	Criminal Referral 730CR0210 (with handwritten notes) (without exhibits) (N/A)
28852894	WDC RTC	1/1/95	Criminal Referral #730CR0211 (without exhibits) (N/A)
31573176	WDC RTC	1/1/95	Criminal Referral 730CR0199 (with handwritten notes) (without exhibits) (N/A)
29792986	WDC RTC	1/1/95	Undated handwritten notes re: Madison criminal referrals (N/A)
31293144	WDC RTC	1/1/95	Criminal Referral 730CR0196 (with handwritten notes) (without exhibits) (N/A)
31133128	WDC RTC	1/1/95	Criminal Referral 730CR0195 (with handwritten notes) (without exhibits) (N/A)
31063112	WDC RTC	1/1/95	Criminal Referral 730CR0192 (with handwritten notes) (without exhibits) (N/A)
30963105	WDC RTC	1/1/95	Criminal Referral 730CR0190 (with handwritten notes) (without exhibits) (N/A)
30913095	WDC RTC	1/1/95	Undated copy of the Madison Guaranty Criminal Referral Summaries (N/A)
30813090	WDC RTC	1/1/95	Criminal Referral Timelines and Flowcharts (N/A)
52375239		1/1/95	Gabrellian's 01/10/94 (?) and 01/30/94 handwritten notes re: meeting with Dudine (?) and Gamble re: criminal referrals (NOC)
31773183	WDC RTC	1/1/95	Criminal Referral 730CR0203 (with handwritten notes) (without exhibits) (N/A)

FOIA # none (URTS 16305) DocId: 70105134 Page 161

SORT BY DATE

RTC Production -- Cavinaw

16-Feb-95

Bates #	Source	Date	Description
4945		5/4/93	e-mail from Jankowski to Winsett and Cavinaw - forwarded by Iorio to Ausen and Lewis re: call from Arkansas Democrat-Gazette re: Tucker and Madison (NOC)
239	KC PLS	9/1/93	subpoena from Jackson to Cavinaw (9)
50006	KC PLS	9/15/93	Subpoena for the Eastern District of Arkansas for documents (from Fletcher Jackson) to Dennis Cavinaw (VP - RTC; KCO) (14)
32713272	WDC RTC	9/23/93	e-mail from Lewis to Iorio and Ausen re: Conversation with Henneman re: new referrals - forwarded by Iorio to Cavinaw
4912		9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw
4312	WDC RTC	9/24/93	e-mail from Iorio to Cavinaw; Thompson and Dudine (bcc: Ausen) re: delivery of "documents" re: Madison (referrals?) to Cavinaw; Thompson and Dudine - civil review materials will be available later (NOC)
32743275	WDC RTC	9/29/93	e-mail from Lewis to Iorio and Ausen - forwarded by Iorio to Cavinaw; Thompson and Dudine - forwarded by Dudine to Gamble re: call from Henneman re: plan for new referrals (NOC)
61	KC PLS	9/30/93	e-mail from Lewis to Iorio and Ausen - Forwarded by Iorio to Cavinaw; Thompson and Dudine - Forwarded by Cavinaw to Curtis re: Phone call from Schmidt with the Washington Post - comment by Schmidt that people in the "legal and investigative community of R
690070	KC PLS	10/6/93	e-mail from Lewis to Iorio; Ausen; Jankowski - forwarded to Cavinaw; Thompson; Dudine; and Yanda by Iorio re: planning to send referrals on Friday October 8th - FYI - Lewis e-mail re: Visit at her home by Schmidt and Schmidt's informative comments (28)
4890502	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: attached report on the 9 criminal referrals (See also 0079 and 0403 - 0409 above (33)

FOIA # none (URTS 16305) DocId: 70105134 Page 162

Bates #	Source	Date	Description
79	KC PLS	10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "Pursuant to RTC internal memorandum dated 06/17/93" attached is the report on the 9 criminal referrals (no attachment) (
4887		10/8/93	e-mail from Yanda to Dudine; Hindes; Curtis; Cavinaw; Thompson; Iorio; Swiss; Kaufman; Ausen; Lewis; Gamble; Carmichael and Adams re: "pursuant to RTC internal policy memorandum dated June 17; 1993" attached in the legal review of the criminal referrals (
512	KC PLS	10/26/93	Same document as 0096 - 10/26/93 e- mail from Jankowski to Cavinaw and Iorio - forwarded to Yanda by Jankowski - forwarded to Marcusen
4873		10/26/93	e-mail from Yanda to Hindes; Eisenstein; Kaufman; Iorio; Carmichael; Adams; and Jankowski - forwarded by Iorio to Dudine; Cavinaw and Ausen re: call from Schmidt last night at home (55)
4872		10/26/93	e-mail from Jankowski to Cavinaw and Iorio (bcc: Lewis) re: call from Sue Schmidt (NOC)
511	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio re: Jankowski's call from Schmidt re: Ward litigation - forwarded by Jankowski to Yanda - forwarded by Yanda to Adams and Carmichael with comments to Adams re: Response from Ken (Foust?) re: Ward files (56)
510	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio - forwarded by Jankowski to Yanda - forwarded by Yanda to Adams; Carmichael; Foust and Iorio re: Jankowski's call from Schmidt re: Ward litigation (NOC)
96	KC PLS	10/26/93	e-mail from Jankowski to Cavinaw and Iorio - forwarded to Yanda by Jankowski - forwarded to Marcusen; Kaufman; Adams and Carmichael by Yanda re: (1) Jankowski's call from Schmidt re: Ward litigation; and (2) Assistance in finding Ward files (NOC)
2530255	KC PLS	11/1/93	letter from Iorio to Dudine (cc: Cavinaw; Yanda; Ausen; Carmichael and Lewis) re: attached documents: (1) 10/27/93 letter from Casey to Lewis (cc: Westbrook) re: declination to act of referral (#C0004?); and (2) 11/01/93 letter from Lewis to Casey (cc: We
100	KC PLS	11/2/93	e-mail from Lewis to Iorio; Ausen and Jankowski - forwarded by Iorio to Dudine; Cavinaw; Thompson and Yanda re: phone call from Kyle (AP) (62)
548	KC PLS	11/10/93	e-mail from Jankowski to Iorio and Cavinaw - forwarded by Iorio to Dudine; Yanda; Thompson and Ausen re: phone call from Taylor of the Kansas City Star and NBC News (75)

FOIA # none (URTS 16305) DocId: 70105134 Page 163

Bates #	Source	Date	Description
4519	WDC RTC	11/10/93	e-mail from Jankowski to Cavinaw and Iorio (bcc: Ausen) re: phone call from Taylor of the Kansas City Star and NBC News (75)
547	KC PLS	11/10/93	e-mail from Sweeter to Iorio - forwarded by Iorio to Cavinaw; Thompson; Dudine; Yanda and Ausen re: phone call from ABC News for Iorio (74)
4512	WDC RTC	11/12/93	e-mail from Mathews to Ausen; Cavinaw; Thompson; Yanda; Dudine and Hinton re: call from Frank of ABC News for Iorio (77)
4551	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Lewis) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document(no attachment) (NOC)
4274	WDC RTC	11/15/93	e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton (bcc: Caron) re: 11/11/93 Washington Post article reporting on review of referral refuted by attached document (no attachment) (NOC)
4533	WDC RTC	11/15/93	e-mail from Donohue to Iorio; Dudine; Baker and Gamble - forwarded by Iorio to Cavinaw
2634	WDC RTC	12/28/93	e-mail from Gamble to Iorio - forwarded by Iorio to Cavinaw; Hinton; Jankowski; Garrett and Swiss - forwarded by Garrett to Binkley re: DOJ's position re: response to Madison FOIA requests (NOC)
19571958	WDC PLS	12/28/93	e-mail from Gamble to Iorio - forwarded by Iorio to Cavinaw; Jankowski; Garrett and Swiss - forwarded by Hinton to Knight
3554	WDC RTC	12/29/93	handwritten notes from meeting in KCO with Marcusen; Swiss; Kaufman; Hinton; Jankowski; Binkley; Cavinaw; Carter re: assignments (NOC)
26352637	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (Collishaw's address written in the top right corner) (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re:
33093311	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (Gambles's address written in the top right corner) (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re: L
35143516	WDC RTC	12/30/93	memo from Binkley and Carter to Knight (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth; Dudine; Garrett and Primrose re: Leach Inquiry - 12/29/93 visit to the KCO - Discussio

FOIA # none (URTS 16305) DocId: 70105134 Page 164

Bates #	Source	Date	Description
36943696	WDC RTC	12/30/93	(Draft of?) 12/30/93 letter from Binkley and Carter to Knight (cc: Cavinaw; Swiss; Kaufman; Marcusen; Hinton; Jankowski; Iorio; Turner; Collishaw; Kauper; Gamble; Breslaw; Hindes; Lindenmuth and Weatherly) re: Leach Inquiry and 12/29/93 visit to the KCO (
32843295	WDC RTC	1/4/94	fax from Caron to Dudine re: attached subpoenas (6 page fax?) to Swiss; Swift? and Cavinaw (NOC)
650	KC PLS	1/11/94	e-mail from Iorio to Kaufman; Yanda; Swiss; McNaul; Kohn; Dudine and Cavinaw re: Concern re: releasing documents to OCOS inquiry - Dudine will contact Cox at OCOS (149)
652	KC PLS	1/12/94	e-mail from Iorio to Kaufman; Yanda; Swiss; McNaul; Kohn; Dudine and Cavinaw re: Response from Cavinaw re: release of documents to OCOS - only certification and billing information re: Rose law firm can be released - forwarded by Yanda to Hindes
4247	WDC RTC	1/25/94	e-mail from Dudine to Iorio and Cavinaw - forwarded by Iorio to Ausen; Caron; Lewis; Foust; Davidson and Denton re: Per Kulka's and Ryan's request; Watts and Murray will examine if there are any liability claims that are still viable (Team from WDC will b
4413	WDC RTC	3/2/94	e-mail from Hindes to Gabrellian; Dudine; Igo; Breslaw; Arbit and Berry - forwarded by Dudine to Iorio and Murray - forwarded by Iorio to Foust; Lewis; Caron; Ausen; Cavinaw; Thompson; Dudine and Murray re: IG inquiry - Foust will maintain log of document
34643466	Begin File No. 22	11/15/94	(** NOTE - Documents 3464 - 3490 are probably from Knight **) 11/15/94 e-mail from Iorio to Dudine; Cavinaw; Thompson and Hinton - forwarded by Hinton to Knight re: 11/11/93 Washington Post article re: declination of prosecution on first Madison referral
36043609	WDC RTC	1/1/95	Notes from Carol O'Brien (OGR) to Gorman re: return of materials per conversation with Primrose (materials attached - 01/11/94 letter from Dudley to Mack (cc: Cavinaw) (NOC)
4294	WDC RTC	1/1/95	Same document as 2600 described above with 01/19/94 handwritten note from Iorio to cc: Ausen; Lewis and Caron (Cavinaw's copy) (Additional handwritten notes at bottom of memo to cc: DMC; GAP; DW; JN; K. Orf; LK; JW; RI [Iorio]

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RTC Production -- Hanson

16-Feb-95

Bates #	Source	Date	Description
0	RA	3/1/94	letter from Rep. Leach to Altman re: resignation from RTC also attached are: (1) 03/01/94 letter from Rep. Leach to Nussbaum et al re: ethics issues involved in Treasury/White House meetings; (2) 02/23/94 letter from Hanson to Rep. Leach re: Altman's need
0	RA	3/3/94	memo from Knight to Nye (never sent) re: (1) list of meetings between RTC staff and Congressional staff re: Madison attached; (2) 03/03/94 letter from Hanson to Altman re: 01/24/94 meeting between RTC staff and D'Amato's staff (attached) (N/A)
35093511	WDC RTC	12/30/93	memo from Knight to Altman (cc: Hanson; Geer and Barker) re: status report on Leach Investigation (NOC)

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Interview of
William Roelle
Deputy Director
FDIC

1:00 p.m., February 24, 1995

1. Boyden Gray contact to RTC re C0004:

   a. Describe the events?

   b. Your reaction?

2. Telling Altman about C0004:

   a. When?

      (1) First Altman staff meeting?

      (2) Staff meetings were on Tuesdays?

      (3) This was March 23?

   b. Circumstances of conversation:

      (1) After big staff meeting?

      (2) What room were they in?

      (3) Others present?

         (a) Newman?

      (4) Where was everyone standing?

      (5) Did Newman participate in the conversation?

      (6) Would he have heard what you said and what Altman said?

   c. Any indication that Altman intended to pass this information on to anyone else at DOT or WHS?

      (1) Any warning issued about use of this information?

   d. Did C0004 ever come up again with Altman or anyone else at DOT?

3. Telling Hanson about the 9 referrals:

a. Lead up to calling Altman:

(1) How did you learn of the referrals?

(2) Before calling Altman what information did you have about the referrals?

(a) Know Tucker was named?

(b) Clintons named?

(c) Clinton campaign named?

(d) Other details?

(3) FRTC8: 9/27 fax from Cavinaw to Roelle; What form did you have that information in?

(a) Handwritten notes from conversation with Cavinaw?

(b) Had you received the fax from Cavinaw by the time you called Altman?

(c) Do you think Cavinaw was basically reading from the fax when he gave you the details about the referrals?

(d) Thus, your handwritten notes would have paralleled the fax even if you had not yet received the fax?

b. Altman call:

(1) Approximate time of Altman call?

(2) What did you tell him?

(3) Were you using your handwritten notes as talking points with him?

(4) Did you mention that Tucker was named?

c. Hanson call:

(1) Approximate time of Hanson call?

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(2) Between Altman and Hanson call, did you speak with anyone about the referrals?

(3) Between the calls, did you learn any more information about the referrals?

(4) Between the calls, did you receive the fax from Cavinaw?

(5) What did you tell her?

(6) Were you using your handwritten notes as talking points with her?

(7) Did you mention that Tucker was named?

d. Any conversations with Hanson re referrals on/about 9/28?

(1) DOT367: Hanson's call sheet from 9/28 listing "1. Bill Roelle/Dennis Cavanagh, etc."

(a) Any understanding of what this might reflect?

(b) Would Hanson have been speaking with you and Cavinaw about anything other than the referrals?

4. Warns Altman and/or Hanson about press inquiries:

a. Events that may have caused Roelle to contact Altman or Hanson?

(1) RTC61: Lewis e-mail on 9/30 describing Schmidt trying to reach her and trying to get unlisted numbers:

(a) Ever see this?

(b) Ever have the substance of this e-mail relayed to you?

(c) Take any action, speak to Altman or Hanson about this?

(d) Whose handwriting is that? (mentions Jim Guy Tucker on it)

(2) RTC69: Lewis e-mail on 10/6 detailing Schmidt arriving at her house to ask questions:

(a) Is this the e-mail that you say Katsanos showed you?

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(b) Could you have called Hanson about this on 10/6?

(i) DOT142: Hanson chronology of 12/21 listing 10/6 "Hanson discussion with Roelle re Schmidt KC attempted interviews."

(ii) DOT369: Hanson 10/6 call sheet "*20. Bill Roelle - Sue Schmidt Kansas City" 9 criminal referrals

(3) Conversation with Altman on 10/7:

(a) When?

(i) First staff meeting after 10/6 e-mail?

(ii) Next one would be Thursday 10/7?

(b) Circumstances of meeting?

(i) After staff meeting at Main DOT?

(ii) Altman not at meeting?

(iii) Go to Altman's office?

(iv) What time of day?

(v) Anyone else in room for this conversation?

(c) What do you tell Altman?

(i) Seeking unlisted numbers?

(ii) Showed up at Lewis' house?

(iii) Additional details about contents of referrals?

(iv) Other?

(d) What does Altman say or do?

(i) Call to Hanson?

(ii) What do you hear Altman say to her?

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(iii) Why don't you intervene to prevent her informing "Bernie" and others?

b. Any subsequent conversations with Altman re referrals or press inquiries?

5. Discussion with Hanson re handling of criminal referrals:

a. Were you aware of press inquiries (Gerth) that the referrals were being held up in DC and that it was unusual for referrals to do to DC?

b. Did you have a conversation with Hanson where she asked how referrals are handled, i.e., is it normal for them to go to RTC-DC first?

(1) DOT6192: Hanson's call sheet with notes about how referrals are handled

c. When might this conversation have taken place?

d. What was said?

6. Discussion with Hanson where she asks to see the referrals:

a. Did Hanson ever ask you whether she could see the referrals?

(1) DOT6188: Hanson's call sheet listing "Bill Roelle -- Deloittes, 9 referrals -- request after sent to Justice"

b. When might this conversation have taken place?

c. What was said?

7. Any other conversations with Altman or Hanson re referrals or press inquiries that we haven't covered?

8. Anything you learned in the course of this investigation that you find surprising/interesting that you would like to tell us about?

9. Any recollection that is clearer now having heard the summer testimony?

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FAX COVER SHEET

RESOLUTION TRUST CORPORATION
KANSAS CITY OFFICE
P.O. BOX 419570, 4900 MAIN, KANSAS CITY, MO 64141

TELEPHONE (816) 531-2212 OR TOLL FREE (800) 365-3342

FAX (816) 531-8934

DATE: 9/27/93 TIME: 2:47 PM

TO: Bill Roelle

LOCATION:

SUBJECT:

NUMBER OF PAGES: 4 INCLUDING COVER SHEET

FROM: Dennis Cavnaw

Please contact Lisa Passantino at (816) 531-2212 or (800) 365-3342, Ext. 7028 if transmission is not complete.

RTC
Resolution Trust Corporation

730 - Kansas City Office

CRIMINAL REFERRAL FORM

CRIMINAL REFERRAL # 730CR0211

1. NAME AND LOCATION OF FINANCIAL INSTITUTION

Name/#: MADISON GUARANTY SAVINGS AND LOAN
Location: 16TH AND MAIN, P.O. BOX 1583
LITTLE ROCK, ARKANSAS

CERTIFICATE NUMBER:

If activity occurred at branch office(s), please identify:

2. ASSET SIZE OF FINANCIAL INSTITUTION: $118,855,000.

3. APPROXIMATE DATE AND DOLLAR AMOUNT (PRIOR TO ANY ALLOWANCE FOR RESTITUTION OR RECOVERY) OF SUSPECTED VIOLATION:

Date: APRIL 4, 1985 THROUGH OCTOBER 4, 1986
Amount: $950,000. APPROXIMATELY

4. SUMMARY CHARACTERIZATION OF THE SUSPECTED VIOLATION. Check appropriate box(es)

	Defalcation/Embezzlement		Bribery/Gratuity		Check Fraud		Other
X	False Statement	X	Misuse of Position or Self Dealing		Credit Card Fraud		
	Check Kiting		Mysterious Disappearance		Money Laundering		

Applicable Section(s) of the U.S. Code:

	18 USC 2	Aiding & Abetting		18 USC 1030	Computer Fraud
	18 USC 152	Concealment of Assets		18 USC 1341	Mail Fraud
	18 USC 215	Bribery/Gratuity		18 USC 1343	Wire Fraud
X	18 USC 371	Conspiracy	X	18 USC 1344	Bank Fraud
X	18 USC 657	Defalcation/Embezzlement/Misuse of Position		18 USC 1621	Perjury
X	18 USC 1001	False Statement to Federal Agency		18 USC 1951	Racketeering
	18 USC 1006	False Entry		18 USC 1956/1957	Money Laundering
X	18 USC 1007	False Statement/Document		18 USC 2113	Entering Financial Inst. w/Intent to Commit Felony
X	18 USC 1014	False Statement to Financial Institution		18 USC 2314	Transportation of Stolen Goods, Securities, Money
	18 USC 1029	Credit Card Fraud			

5. THIS MATTER IS BEING REFERRED TO:

FBI, LITTLE ROCK, ARKANSAS
AND THE U.S. ATTORNEY IN EASTERN DISTRICT, LITTLE ROCK, ARKANSAS

FOIA # none (URTS 16305) DocId: 70105134 Page 173

PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs (a) through (e) on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: (First/MI/Last) McDougal, James B.

ADDRESS: (Street/City/State/Zip) Current Address Unknown

DATE OF BIRTH: (Month/Day/Year) 8/25/40

SOCIAL SECURITY NO: 431-74-5041

b. Relationship to the financial institution: (Check all applicable blocks)

X	Officer		Employee		Broker	X	Shareholder		Appraiser
X	Director		Agent	X	Borrower	X	Account Holder	x	Owner/COB

c. Is person still affiliated with the financial institution:
_____ Yes __X__ No

If No, terminated ____, resigned __X__. Date (Month/Day/Year):

Describe circumstances: (If necessary, use continuation sheet)

McDougal resigned from the Board of Directors in December 1985; however he remained active in the Association's day to day business via his involvement in it's wholly owned subsidiary, Madison Financial Corporation. He was removed from any further affiliation with the Association by the Federal Home Loan Bank in July 1986.

d. Prior or related referrals:
__X__ Yes _____ No

If Yes, please identify.

McDougal was indicted, tried and acquitted in 1989 on bank fraud charges stemming from the Castle Grande loan transaction funded by Madison Guaranty Savings & Loan. In addition, RTC Investigations has submitted the following criminal referrals naming McDougal as a suspect:

1) #C0004, submitted 9/1/92, alleging McDougal's involvement in an elaborate check kiting scheme perpetrated through various accounts at MGS&L.
2) #730CR0190 alleging McDougal's involvement in a scheme to divert loan proceeds for the benefit of Jim Guy Tucker.
3) #730CR0192 alleging McDougal's participation with J.W. Fulbright in an alleged scheme to embezzle and/or kite funds through MGS&L accounts.
4) #730CR0195 alleging McDougal's abuse of position and conspiracy to defraud MGS&L of over $8 million in funds channeled into and through it's subsidiary, Madison Financial Corporation
5) #730CR0196 alleging McDougal's involvement in a conspiracy to divert loan proceeds for use as campaign contributions
6) #730CR0198 alleging McDougal's misuse of position and conspiracy by participation in a land flip
7) #730CR0199 alleging McDougal's conspiring to deceive regulators and to contrive fees and income.
8) #730CR0203 alleging McDougal's aiding and abetting another Madison Guaranty loan officer in making a fraudulent loan, misusing his position.
9) #730CR0210 alleging McDougal's participation in diverting funds from an MGS&L loan made to straw borrowers

e. Is person affiliated with any other financial institution;
__X__ Yes _____ No

or business enterprise:
__X__ Yes _____ No

If yes to either or both, please identify.

McDougal was the principal shareholder and Board Member of Madison Bank & Trust, formerly the Bank of Kingston.

McDougal is a principal in the following business enterprises:

Madison Marketing	Designers Construction
McDougal & Associates	Madison Financial Corporation
Flowerwood Farms, Inc.	White Water Development Corp., Inc.
Pembrook Manor, Inc.	Rolling Manor, Inc.
Great Southern Land Co.	Tucker-Smith-McDougal
Smith-Tucker-McDougal	Smith-McDougal
Kings River Land Company	Lion Oil Company

FACSIMILE TRANSMITTAL MEMO

OFFICE OF THE DIRECTOR
FEDERAL DEPOSIT INSURANCE CORPORATION
550 17TH STREET, N. W., ROOM 6098
WASHINGTON, D. C. 20429

TEL: 202-898-6956
FAX: 202-898-8881

DATE: May 31, 1994

TO: Tom Marsh

FAX NUMBER: 514-8802

PHONE NUMBER: _____

FROM: Bill Roelle

NUMBER OF PAGES 5 (INCLUDING TRANSMITTAL SHEET)

PLEASE CONFIRM RECEIPT @ 202-898-6956

(PLEASE DELIVER IMMEDIATELY)

*M&D - Anniversary

Tom Hinders - NY Times

M$D
Barney
Ilsa Pollow
244-5632
10/4 or 10/5
upholsterer

9/28/93

1. Bill Roelle / Dennis Cavanagh — Dennis - Bill Fillers
2. Roger
3. Stanley Tate 736-9662 — Bernie Nussbaum
4. Tom McGivern
5. Bill Bowden — Dan - McDougal - Madison Savings
6. Leslie Strauss
* 7. ~~Peter~~ Bernie Nussbaum
8. Skip ~~Hove~~
9. Mike Levy
10. Chris Edley — Dennis - S. Tate's letter
11. Steve Glover 212-820-8736 — CC meeting - 6th agenda
12. Valerie Jacob 212 820 8158 — Bryan Gruley
13. Rick Carro — Swiss Co.
14. Ken Austin / Ed Cummings — keyholder
15. ~~Ken Austin~~ Rick Saunders — Tax Ct procedures
16. Frank Newman — McCandless
17. Dicta Ford 786-9662 — Serbian sanctions
18. Rick Carro - Superfund — FOIA - pers. notes
19. Ellen Seidman 416-2807 — Meeting issue
20. Jeff Powell 514-2069 — Schwartzkopf
* 21. Tom McGivern 22317 — Comp time
22. Bill Roelle / Skip — Landmark Land

Rick will take next — Vacancies Act

couple of days off → will transfer at end of pay period (Fri. or next Fri.) — Allied Signal L Hart

* 16 Report to Bill Roelle

FOIA # none (URTS 16305) DocId: 70105134 Page 177

3/9/94

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Thursday, September 30, 1993 13:58:47 CDT
Attach:
Certify: N
Forwarded by: Dennis M. Cavinaw@EXEC@RTCKC

Comments by: Dennis M. Cavinaw@EXEC@RTCKC
Forwarded to: E. Glion Curtis@Legal-Exec@RTCKC
Comments:

FYI-please call after reading

==========

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Comments:

FYI. Public affairs Kansas City has been advised.

---------- [Original Message] ----------

Just to let you know; I've received a call from Sue Schmidt with the Washington Post. She stated that there were certain people within the legal and investigative community of RTC that were afraid certain stories were being deep-sixed that needed to be broken, and she had been given my name as someone to whom she needed to speak about such potential stories. She further stated that she had tried to contact me at home, but had not been able to reach me as my number is unlisted. She then asked me if I was the Laura Jean Lewis in Shawnee Mission, Kansas, whose number was unlisted.

I advised Ms. Schmidt that regardless of whatever story she was looking for, I had no comment, advised her to contact Jane Jankowski, gave her the number, thanked her for understanding and appreciating my position, and discontinued the call.

8-9 referrals ready to go
Madison Guaranty Savings
Roelé
Clinton witnesses
Jim Guy
suicide day story Rose Law firm

000061

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Jane M. Jankowski@OLA@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Wednesday, October 6, 1993 10:01:54 CDT
Attach:
Certify: N
Forwarded by: Julie F. Yanda@LEGAL-PLS@RTCKC

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Julie F. Yanda@LEGAL-PLS@RTCKC
Comments:

FYI. We are planning to mail the criminal referrals on Friday 10-8-93. PLS review is proceeding on schedule. Thanks

---------- [Original Message] ----------

Based on our conversation of yesterday evening, the following is a recap of what transpired when Washington Post report Sue Schmidt showed up at my front door.

She arrived around 7:15, I allowed her to step inside my door, I listened to what she had to say, and then escorted her out the door at approximately 7:30. When I showed her out the door, my parting comment was "when you contacted me last Thursday, I told you that I had no comment, and made every effort to be polite in doing so. What you have done this evening is the most unprecedented breach of professional courtesy that I've ever witnessed, so I will say this one more time, and one more time only. Do not contact me again at my office, or at my home. I have no comment on your investigation and will not answer any of your questions. Do not waste anymore of my time or yours."

She asked a number of questions, and made a number of comments, to all of which I responded with "no comment" or said nothing. I did, however, listen to what she had to say, and it was significant. I believe that she has the crux of the referral sent last year, and that she intends to pursue the story.

She wanted to know:

1) if I was aware of the transaction between Whitewater Development and International Paper Realty (this is not the topic of one of the referrals, but is something that I looked at writing a referral on...she had significantly more information than I did, which I believe was provided by Jim McDougal, whom she said she interviewed yesterday)
2) if she should continue looking at all of McDougal's other companies, specifically naming Madison Marketing, Great Southern Land Company, and a number of other companies identified in referral C0004.
3) if I was aware that Seth Ward was Webb Hubbel's father in law
4) if I was aware that three senior partners at the Rose firm (that I would prefer not to identify thru e-mail but will provide verbally if asked) "ran

off" senior partner Joe Giroir due to the fact that he was grossing more firm profits than they were (she cited a bonus amount of $500,000)
5) if I was frustrated that my "work product was stymied and road blocked at certain federal levels", which seems to indicate that she knows that referral C0004 was held up in Washington for 9 months before it went sent back to Little Rock.
6) if the late "Vince Foster was tied to any of this".
7) if I was aware that Jeff Gerth of the New York Times was reopening his investigation of the Whitewater story he wrote last year. She then added that he would probably be the next reporter to appear on my doorstep. I thanked her for the heads up.
8) she requsted my unlisted home phone, and I declined.

All of this is just an encapsulated version of her comments, which were more informative than what I've outlined here. I'll be glad to discuss this further at your request. Please let me know if you have any questions.

12/21/93
Privileged and Confidential
Attorney Work Product

MADISON GUARANTY
Chronology

September 27, 1993	Call from B. Roelle to J. Hanson
September 29, 1993	Meeting with B. Nussbaum, J. Hanson and Cliff Sloan in B. Nussbaum's office following Waco pre-brief
October 6, 1993	J. Hanson discussion with B. Roelle regarding S. Schmidt Kansas City attempted interviews
October 14, 1993	Meeting in B. Nussbaum's office with Cliff Sloan, {Mack} Gearan, Bruce Lindsey, Jack DeVon, Josh Steiner and Jean Hanson
December 9, 1993	Letter from Congressman Jim Leach to Roger Altman requesting information on Madison Guaranty.

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Carol Anderson

PCI Communications Charles Bennett 10/27 Jay

10/6/93

1. ~~HBH~~
2. Celeste Moy
3. Steve Katsanos
4. ~~Stanley~~ Tate 786 9608
   Deloitte / Celeste
5. Coors - Memo for Secretary
   ~~Bob~~ McNamara
6. McCandless - Sec's response
7. Al Byrne
   310 / 327 / 330
   345 / ~~paper~~ for 45 at our cost of funds
   #320 - 330
8. Rick Aboassie 736-3022
9. Susan levine
10. Mark Hinegton
11. Bill Bowden
14. Robin Gross
15. Chris Peacock
16. Josh Steiner - Ken Schmalzbach
    - health care funding
17. John Bowman
18. Jan Piercey
19. Tom McGivern

20. Bill Roelle - Sue Schmidt
    Kansas City
21. Liliane Martino
22. Alan Raul - 789-6031 Lawyers Have Heart

Steve Katsanos
Rick Carro -
EPA
Iraq Claims

Mark Hinegton - Tammy Hawley

GAO - list of volumes of CFR

→ 9 Clin. referrals

369

FOIA # none (URTS 16305) DocId: 70105134 Page 182

hw 3/9/94

Call Sam Sessions
OPM; Disclosure

FDIC - Atlanta - liquidations -> new office
- Tom Rose - talked about end of November
- Head of legal
Keith Seebolt - head of client size

* Timing - Bill Roelle

Union
AFGE Am Fed. Govt Emps
NTEU - FDIC union - Natl. Treas. Emp Union

* Transition plan issue
-

Crm referrals
- by Agent, crm coordinator reviews before it goes -> Kansas City - KC office - pls
- Anything with publicity / prominent officials / open banks - goes to Washington

6192

Glion Curtis ✕ Roger/Frank

Bill Roelle
301-977-1738 (H)

→ IG → Jonathan Fiechter

Jamie Couch

Johnnie Booker 416-6925 Bryan Jupiter
Christine Varney 456-6280
* Celeste May 703-761-8492 - Art Kusinski 416-7469
Stanley - pls/Skip/Oversight 786-9662
board / Stay out of Contract
Frank - John Bowman/staffing/Skip Hove
Bernie - RTC GC/pledge
Bill Roelle - Deloittes 416-7579
9 referrals - Request after sent to Justice
Roger - Celeste
Bill Bowden 874-5200
- Donna Cunningham
- Rick Abruzzese Contingent fees
- Conflicts committee - suggested procedures
12 CFR 1606.3

Special Assistant
Chief Counsel
RTC Gen Counsel

→ Vetting process
Leslie

Liliane Martino

* Personnel actions

Interagency meetings
New executive order

Marubeni appeal - brief filed by 10/18
Iraq claims act

6188

FOIA # none (URTS 16305) DocId: 70105134 Page 184

RTC Production -- Roelle

16-Feb-95

Bates #	Source	Date	Description
19781979	WDC PLS	1/1/95	Undated draft from Breslaw to Roelle and Eisenstein re: Madison Bond Claim Close-Out (N/A)
20452051	WDC PLS	2/26/94	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine and Martinelli) re: Request for authorization to Accept Settlement Offer from Frost for $1.025.000 (signed copy) (N/A)
33973398	WDC RTC	1/1/95	Undated unsigned memo from Breslaw and Scott to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Termination of D&O Liability Investigation (N/A)
33993400	WDC RTC	1/1/95	Undated unsigned memo from Breslaw to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Bond Claim Close-Out (N/A)
34013407	WDC RTC	2/26/91	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Roelle; Dudine and Martinelli) re: Request for Authorization to Accept Settlement Offer (N/A)
37973798	WDC RTC	10/18/89	memo from Asbacher to Thomas and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood and Martinelli) re: Madison D&O Claim Close-out (N/A)
37993800	WDC RTC	1/18/90	memo from Asbacher prepared by Sorenson to Underwood and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood; Martinelli and Asbacher) re: Madison Bond Claim Close-out (N/A)
38083815	WDC RTC	3/5/91	memo from Beaty to Thompson (cc: Curtis and Asbacher) re: attached 02/26/91 memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine; and Martinelli) re: request for Authorization to Accept Settl

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Privileged and Confidential

Mr. Rosen
Mr. Thomas
Mr. Beaty

Mr. Roelle
Mr. Dudine
Mr. Eisenstein

Ms. Bartley
Ms. Keyes
Mr. Martinelli, R/D
Mr. Asbacher, SIS

TO: William Roelle
Director, Operations and Resolutions

and

David Eisenstein
Senior Attorney

FROM: April Breslaw AB
Senior Attorney

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was largely the result of the influence of James B. McDougal. McDougal purchased the association and served as its president until late 1984. It is believed that he continued to affect the operations of the association through his role in its holding company after he resigned from his management positions. This period of indirect influence seems to have occurred between late 1984 and July 1986. In any event, McDougal was the subject of a criminal referral filed by the association on March 19, 1987. There is an ongoing criminal investigation into his activities.

The association's last blanket bond expired on April 30, 1987. Renewal or replacement coverage could not be secured. Insider loans and losses caused by acts of James McDougal, his wife Susan, and John Latham were excluded from coverage. No notice or claims were ever submitted to the bond carrier.

Fidelity bonds generally provide coverage for losses caused by officers on employees. If it can be shown that a director is functioning as an officer, e.g., making specific operational decisions, it is possible to obtain bond coverage for losses caused by such a director's dishonesty. In this case, McDougal left management in 1984. While the criminal referral submitted in 1987 indicates that potentially dishonest activity was discovered during the life of the bond, such activity appears to have occurred after McDougal had lost status as an officer directly covered by the

bond. His role at the time dishonesty may have occurred would likely not be considered operational enough to merit coverage. The cost of pursuing such an approach with the bond carrier outweighs its benefit.

Based on the foregoing information a close-out of the Bond Claim is recommend.

Concurred:

David Eisenstein Senior Counsel	William Roelle, Director Operations and Resolutions

Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley

Mr. Jacobs
~~Mr. Beaty~~
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

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[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

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Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

Madison subsequently retained Peat, Marwick, Main and Company to re-audit the statements first evaluated by Frost. Peat, Marwick reached two conclusions: first, that Madison's internal controls were so poor that the S&L's financial statements were virtually incapable of audit and second, that there was serious question about Madison's ability to continue as a going concern. Because these were very different conclusions that those reached in the initial audits, Madison sued Frost for malpractice.

We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

---

[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

It is, however, worth noting that the relevant accounting standards do not require that an auditor use any specific method of evaluating risk of loan loss. Instead, they require only that a method be used which considers the overall circumstances surrounding the tested transactions. In its re-audit of Madison, Peat Marwick used a different method than the one recommended by our expert, but reached the same conclusions. Because Frost did not employ any such method, we should be able to prove that its audits are flawed - regardless of the problems with our expert's testimony. Overall, our chance of prevailing on this element of the case is approximately 70 per cent.

2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

---

[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

[4] McDougal was tried for bank fraud last Spring. Mainly through prosecutorial error, he was acquitted.

FOIA # none (URTS 16305) DocId: 70105134 Page 190

director is willing to testify that he would have voted against additional risky real estate development lending if Madison's outside auditor had generated critical audits.

Much of the loss which underlies our case is attributable to abusive insider transactions. Consequently, if Frost is able to introduce evidence of the contributory negligence of the individuals who initiated and approved these transactions, i.e., the reckless insiders and passive outsiders, we probably have only a 40% chance of proving that auditors are more than half responsible for the loss which ensued.

In response to this problem, we have asked the court to issue an order which prevents the introduction of evidence at trial of the inappropriate manner in which the Madison directors and officers managed the institution. We've based our request on a line of cases which have held that the only evidence of audit client mismanagement admissible in an accountant liability suit is evidence that the audit client provided the accountant with false financial information to audit.

This is the first time that this argument has been made in Arkansas. Last year, it was rejected in Minnesota, another state within the 8th Circuit. It's been accepted in a scattered mix of jurisdictions across the country, including a recent 10th Circuit decision which interpreted the law of Oklahoma, Arkansas' neighbor. We estimate that we have a 50% chance of winning the motion which raises this issue.

If our evidentiary motion succeeds, our chance of proving that Frost is more than half responsible for the relevant loss improves. However, Frost will do everything possible to convince the jury that the loss occurred because of events outside its control. We believe that Frost will argue that the downturn in the Arkansas economy contributed to the loss. We also believe that Frost will claim that the FHLBB contributed to the loss by accepting Madison business plans which tolerated continued real estate development lending. Finally, Frost will attack the Arkansas regulators for failing to close Madison when it became insolvent.

We have asked the court to issue an order which prevents the introduction of evidence of regulatory contributory negligence at trial. This request is based a very strong line of cases which holds that bank and thrift regulators' duty to perform responsibly runs only to the public. It does not run to the directors, officers and other professionals affiliated with a failed institution. We are almost certain to obtain the evidentiary order which we seek on this point.

However, it was the contrast between the Frost audits and the

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results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument.

Mr Roelle is from Arkansas

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory con officially eliminated from the case, we ha chance of proving that auditors are more t for the loss which underlies this action.

Roelle wrote first on original.

3. Loss

Frost cannot be held responsible for loss involvement with Madison. Further, Frost for loss recklessly incurred by Madison a that the audits were flawed. Keeping thes believe that our damage window runs from 11, 1986. The first of these dates reflec Madison's board reviewed and began to rel The second reflects the point at which th potential flaws in Frost's conclusions th FHLBB 1986 examination and proposed Ceas During this period, principal advances w generated approximately $7,000,000 in loss.

Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
= .28

.28 x $3,000,000 (insurance policy) = $840,000

Second scenario:

.70 (chance of proving audit failure)
x.60 (chance of proving causation if evidence of director & officer contributory negligence is not admissible)
= .42

.42 x $3,000,000 (insurance policy) = $1,260,000

The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
= $210,000

Improving $840,000, our causation worst case scenario, by $210,000 to reflect our chance of winning the pending evidentiary motion leaves us with a settlement figure of $1,050,000.

However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

The present value of our $1,050,000 settlement figure received in six months is $1,014,500. The present value of our $1,050,000 settlement figure received in one year is $981,308. The current $1,025,000 offer exceeds both.

To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add about $75,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

FOIA # none (URTS 16305) Doc Id: 70105134 Page 193

therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

Privileged and Confidential

Mr. Rosen
Mr. Thomas
Mr. Beaty

Mr. Roelle
Mr. Dudine
Mr. Eisenstein

Mr. Bracely
Ms. Bartley
Mr. Martinelli, R/D
Mr. Asbacher, SIS

TO: David Eisenstein
Senior Counsel
and
William Roelle
Director
Operations and Resolutions

FROM: April Breslaw
Senior Attorney
and
John Scott
Investigator

aab
aab for JohnScott

SUBJECT: 8313 Madison Guaranty Savings and Loan Association
Little Rock, Arkansas - In Conservatorship
Termination of Directors' and Officers' Liability
Investigation

This memorandum requests your authority to terminate the Directors' and Officers' liability investigation for Madison Guaranty Savings and Loan Association ("Association") based on the following investigative findings.

The Association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the Association was a result of the administration of president and owner James B. McDougal. McDougal purchased the association February 1982. He maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. The Justice Department prosecuted McDougal for bank fraud. He was acquitted in May, 1990.

The Association did not maintain directors and officers insurance. There were nine individuals who may be held culpable for the failure of the association. The Association's files contained financial statements for these individuals (see attached). The total net worth of these individuals is $2,995,536.00 with an expected potential recovery of $904,220.

Name	Statement Date	Reported Net Worth	Estimated Recovery
Cuffman, Stephen	8/16/88	FOIA(b)(7) - (C)	
Denton, Don	10/15/87		
Edwards, Rev. C. D.	8/15/88		
Hawkins, Sarah	8/16/88		
Latham, John	10/31/87		
McDougal, James B. & Susan H.	1/27/86		
Owen, Jack	12/10/87		
Peacock, Charles III			
	Total:		

1) Adjusted for homestead and personal property.
2) All net worth is homestead and personal property.
3) Adjusted value of Madison Guaranty Stock to zero.
4) Currently in Chapter 11 bankruptcy.

003397

FOIA# none (URTS 16305) DocId: 70105134 Page 195

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

The potential recovery is insufficient to make a Directors' and Officers' liability claim economically justifiable. Based on the foregoing information a close-out of the Directors' and Officers' liability investigation is recommended.

CONCUR:

David Eisenstein
Senior Counsel

William Roelle
Director

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Privileged and Confidential

Mr. Rosen
Mr. Thomas
Mr. Beaty

Mr. Roelle
Mr. Dudine
Mr. Eisenstein

Ms. Bartley
Ms. Keyes
Mr. Martinelli, R/D
Mr. Asbacher, SIS

TO: William Roelle
Director, Operations and Resolutions

and

David Eisenstein
Senior Attorney

FROM: April Breslaw
Senior Attorney

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was largely the result of the influence of James B. McDougal. McDougal purchased the association and served as its president until late 1984. It is believed that he continued to affect the operations of the association through his role in its holding company after he resigned from his management positions. This period of indirect influence seems to have occurred between late 1984 and July 1986. In any event, McDougal was the subject of a criminal referral filed by the association on March 19, 1987. There is an ongoing criminal investigation into his activities.

The association's last blanket bond expired on April 30, 1987. Renewal or replacement coverage could not be secured. Insider loans and losses caused by acts of James McDougal, his wife Susan, and John Latham were excluded from coverage. No notice or claims were ever submitted to the bond carrier.

Fidelity bonds generally provide coverage for losses caused by officers on employees. If it can be shown that a director is functioning as an officer, e.g., making specific operational decisions, it is possible to obtain bond coverage for losses caused by such a director's dishonesty. In this case, McDougal left management in 1984. While the criminal referral submitted in 1987 indicates that potentially dishonest activity was discovered during the life of the bond, such activity appears to have occurred after McDougal had lost status as an officer directly covered by the

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bond. His role at the time dishonesty may have occurred would likely not be considered operational enough to merit coverage. The cost of pursuing such an approach with the bond carrier outweighs its benefit.

Based on the foregoing information a close-out of the Bond Claim is recommend.

Concurred:

David Eisenstein
Senior Counsel

William Roelle, Director
Operations and Resolutions

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ATTORNEY-CLIENT CONFIDENTIAL

Privileged and Confidential

Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley

Mr. Jacobs
~~Mr. Beaty~~
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

FOIA # none (URTS 16305) DocId: 70105134 Page 199

CONFIDENTIAL

Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

Madison subsequently retained Peat, Marwick, Main and Company to re-audit the statements first evaluated by Frost. Peat, Marwick reached two conclusions: first, that Madison's internal controls were so poor that the S&L's financial statements were virtually incapable of audit and second, that there was serious question about Madison's ability to continue as a going concern. Because these were very different conclusions that those reached in the initial audits, Madison sued Frost for malpractice.

We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

---

[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

It is, however, worth noting that the relevant accounting standards do not require that an auditor use any specific method of evaluating risk of loan loss. Instead, they require only that a method be used which considers the overall circumstances surrounding the tested transactions. In its re-audit of Madison, Peat Marwick used a different method than the one recommended by our expert, but reached the same conclusions. Because Frost did not employ any such method, we should be able to prove that its audits are flawed - regardless of the problems with our expert's testimony. Overall, our chance of prevailing on this element of the case is approximately 70 per cent.

2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

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[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

[4] McDougal was tried for bank fraud last Spring. Mainly through prosecutorial error, he was acquitted.

FOIA # none (URTS 16305) DocId: 70105134 Page 201

director is willing to testify that he would have voted against additional risky real estate development lending if Madison's outside auditor had generated critical audits.

Much of the loss which underlies our case is attributable to abusive insider transactions. Consequently, if Frost is able to introduce evidence of the contributory negligence of the individuals who initiated and approved these transactions, i.e., the reckless insiders and passive outsiders, we probably have only a 40% chance of proving that auditors are more than half responsible for the loss which ensued.

In response to this problem, we have asked the court to issue an order which prevents the introduction of evidence at trial of the inappropriate manner in which the Madison directors and officers managed the institution. We've based our request on a line of cases which have held that the only evidence of audit client mismanagement admissible in an accountant liability suit is evidence that the audit client provided the accountant with false financial information to audit.

This is the first time that this argument has been made in Arkansas. Last year, it was rejected in Minnesota, another state within the 8th Circuit. It's been accepted in a scattered mix of jurisdictions across the country, including a recent 10th Circuit decision which interpreted the law of Oklahoma, Arkansas' neighbor. We estimate that we have a 50% chance of winning the motion which raises this issue.

If our evidentiary motion succeeds, our chance of proving that Frost is more than half responsible for the relevant loss improves. However, Frost will do everything possible to convince the jury that the loss occurred because of events outside its control. We believe that Frost will argue that the downturn in the Arkansas economy contributed to the loss. We also believe that Frost will claim that the FHLBB contributed to the loss by accepting Madison business plans which tolerated continued real estate development lending. Finally, Frost will attack the Arkansas regulators for failing to close Madison when it became insolvent.

We have asked the court to issue an order which prevents the introduction of evidence of regulatory contributory negligence at trial. This request is based a very strong line of cases which holds that bank and thrift regulators' duty to perform responsibly runs only to the public. It does not run to the directors, officers and other professionals affiliated with a failed institution. We are almost certain to obtain the evidentiary order which we seek on this point.

However, it was the contrast between the Frost audits and the

FOIA # none (URTS 16305) DocId: 70105134 Page 202

results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument.

Mr. Roelle is from Arkansas

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory contributory negligence is officially eliminated from the case, we have approximately a 60% chance of proving that auditors are more than half responsible for the loss which underlies this action.

3. Loss

Frost cannot be held responsible for loss incurred prior to its involvement with Madison. Further, Frost cannot be held liable for loss recklessly incurred by Madison after it was notified that the audits were flawed. Keeping these parameters in mind, we believe that our damage window runs from July 18, 1985 to July 11, 1986. The first of these dates reflects the point at which Madison's board reviewed and began to rely on the 1984 audit. The second reflects the point at which the board was notified of potential flaws in Frost's conclusions through receipt of the FHLBB 1986 examination and proposed Cease and Desist Order. During this period, principal advances were made which have generated approximately $7,000,000 in loss.

Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
= .28

.28 x $3,000,000 (insurance policy) = $840,000

Second scenario:

.70 (chance of proving audit failure)
x.60 (chance of proving causation if evidence of director & officer contributory negligence is not admissible)
= .42

.42 x $3,000,000 (insurance policy) = $1,260,000

The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
= $210,000

Improving $840,000, our causation worst case scenario, by $210,000 to reflect our chance of winning the pending evidentiary motion leaves us with a settlement figure of $1,050,000.

However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

The present value of our $1,050,000 settlement figure received in six months is $1,014,500. The present value of our $1,050,000 settlement figure received in one year is $981,308. The current $1,025,000 offer exceeds both.

To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add another $150,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

FOIA Image (JPTS 16305) Doc 0070105341 Page 204

therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

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Resolution Trust Corporation

P.O. Box 1336, Burnsville, MN 55337 · (612) 894-0800

Mr. Byrne
Mr. Douglas
Mr. Rosen

Ms. Bartley
Ms. Wood
Mr. Martinelli, Regional Director
Mr. Asbacher, SLS/Investigations

DATE: January 18, 1990

TO: Cecil Underwood, Assistant General Counsel
and
William Roelle, Director/Resolutions and Operations
Federal Deposit Insurance Corporation
550 - 17th Street N.W.
Washington, D.C. 20429

FROM: Robert H. Asbacher
SLS/Kansas City Regional Office

PREPARED BY: Lee B. Sorenson
Investigator
North Central Consolidated Office

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was a result of the administration of President and Owner James B. McDougal. McDougal purchased the association February 1982 and maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. McDougal was the subject of a criminal referral filed by the association on March 19, 1987, there is an ongoing criminal investigation into his action.

The association's last blanket bond expired on April 30, 1987. It was a Financial Institution's Special Bond. Renewal or replacement coverage could not be secured. Insider loans; as well as acts of James McDougal, his wife Susan, and John Latham; were excluded from coverage. No notice or claims were ever filed on the bond.

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Based on the foregoing information a close-out of the Bond Claim is recommended.

Approved:

Cecil Underwood — Date
Assistant General Counsel

William Roelle — Date
Director, Resolutions and
Operations Division

2-1-90
James G. Thompson, Jr. — Date
Deputy Regional Director
Resolutions/Operations
Central Region

1620I

FDIC
Federal Deposit Insurance Corporation
P.O. Box 1336 • Burnsville, MN 55337 • (612) 894-0800

Privileged and Confidential

Mr. Byrne
Mr. Douglas
Mr. Rosen

Ms. Bartley
Ms. Wood
Mr. Martinelli, Regional Director

DATE: October 18, 1989

TO: John Thomas, Associate General Counsel
and
William Roelle, Director/Resolutions and Operations
Federal Deposit Insurance Corporation
550 - 17th Street N.W.
Washington, D.C. 20429

FROM: Robert Asbacher
SLS/Investigations
Kansas City Regional Office

PREPARED BY:
Liquidation Assistant/Investigations
Burnsville RTC Consolidated Office
Burnsville, Minnesota

SUBJECT: Madison Guaranty Savings and Loan Association
Little Rock, Arkansas
In Conservatorship 8313
Directors' and Officers' Claim Close-Out

This memorandum requests your authority to terminate the Directors' and Officers' Claim investigation for Madison Guaranty Savings and Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was a result of the administration of president and owner James B. McDougal. McDougal purchased the association February 1982, he maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. McDougal was the subject of a criminal referral filed by the association on March 19, 1987, there is an ongoing criminal investigation into his actions.

The association did not maintain any directors' and officers' insurance. There were nine individuals who may be held culpable for the failure of the association. The association's files contained financial statements for these individuals (see attached). The total net worth of these individuals is $2,995,536.00 with an expected potential recovery of $904,220.

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John Thomas, Associate General Counsel
William Roelle, Director/Resolutions and Operations
Madison Guaranty S&L Association, Little Rock, AR - #8313
Directors' and Officers' Claim Close-Out

Name	Statement Date	Reported Net Worth	Estimated Recovery
Cuffman, Stephen	8/16/88	FOIA(b)(7) - (C)	
Denton, Don	10/15/87		
Edwards, Rev. C. D.	8/15/88		
Hawkins, Sarah	8/16/88		
Latham, John	10/31/87		
McDougal, James B. & Susan H.	1/27/86		
Owen, Jack	12/10/87		
Peacock, Charles III			
	TOTAL:		

1) Adjusted for homestead and personal property.
2) All net worth is homestead and personal property.
3) Adjusted value of Madison Guaranty stock to zero.
4) Currently in Chapter 11 bankruptcy.

The potential recovery is insufficient to make a Directors' and Officers' claim economically justifiable. Based on the foregoing information a close-out of the Directors' and Officers' claim is recommended.

Concurred:

April A. Breslaw, Attorney

Approved:

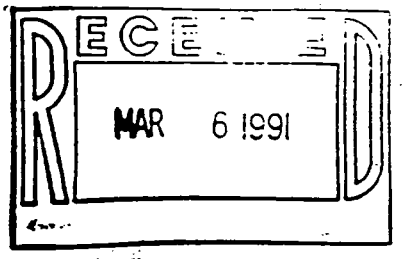
John Thomas
Associate General Counsel

William Roelle, Director,
Resolutions and Operations

15371

Privileged and Confidential FILE COPY

March 5, 1991



TO: James Thompson
Assistant Regional Director

FROM: John B. Beaty
Assistant General counsel

RE: 7236 Madison Guaranty Savings
Augusta Arkansas - In receivership

Request for Authorization to Settle

The enclosed memorandum seeks authority to settle an accounting malpractice claim against Frost and Company, the former auditors of Madison Guaranty Savings, Augusta Arkansas. It has been forwarded to you for signature because Regional Director Martinelli is out of town.

The request has been reviewed for legal merit and is being submitted to you for review as a business decision. Of particular interest may be the last pages of the memorandum which contain a financial analysis of the proposed settlement. The investigator in Eagan Minnesota and his supervisors have reviewed the accuracy of the factual underpinnings of the memorandum, and they agree that the settlement is advantageous. The Regional Counsel has been provided opportunity to review the memo for impact on other legal work in the region.

If you concur in the recommendation, please sign and return the original of the memorandum to me at 1775 K Street, NW, 6th Floor, Washington, D.C. 20006 by overnight mail. If you have questions or concerns, please feel free to contact the Kansas City PLS Counsel Julie Yanda, who is familiar with this matter.

cc: E. Glion Curtis, Regional Counsel (w/encl.)
Robert Asbacher, SIS (w/enclosure)

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Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley
Mr. Jacobs
Mr. Beaty
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

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We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

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2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

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[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

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results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument.

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory contributory negligence is officially eliminated from the case, we have approximately a 60% chance of proving that auditors are more than half responsible for the loss which underlies this action.

3. Loss

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Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

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[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
= .28

.28 x $3,000,000 (insurance policy) = $840,000

Second scenario:

.70 (chance of proving audit failure)
x.60 (chance of proving causation if evidence of director & officer contributory negligence is not admissible)
= .42

.42 x $3,000,000 (insurance policy) = $1,260,000

The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
= $210,000

Improving $840,000, our causation worst case scenario, by $210,000 to reflect our chance of winning the pending evidentiary motion leaves us with a settlement figure of $1,050,000.

However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

The present value of our $1,050,000 settlement figure received in six months is $1,014,500. The present value of our $1,050,000 settlement figure received in one year is $981,308. The current $1,025,000 offer exceeds both.

To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add about $75,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

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RTC Production -- Roelle

16-Feb-95

Bates #	Source	Date	Description
19781979	WDC PLS	1/1/95	Undated draft from Breslaw to Roelle and Eisenstein re: Madison Bond Claim Close-Out (N/A)
20452051	WDC PLS	2/26/94	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine and Martinelli) re: Request for authorization to Accept Settlement Offer from Frost for $1.025.000 (signed copy) (N/A)
33973398	WDC RTC	1/1/95	Undated unsigned memo from Breslaw and Scott to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Termination of D&O Liability Investigation (N/A)
33993400	WDC RTC	1/1/95	Undated unsigned memo from Breslaw to Eisenstein and Roelle (cc: Rosen; Thomas; Beaty; Roelle; Dudine; Eisenstein; Braceley; Bartley; Martinelli; and Asbacher) re: Bond Claim Close-Out (N/A)
34013407	WDC RTC	2/26/91	memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Roelle; Dudine and Martinelli) re: Request for Authorization to Accept Settlement Offer (N/A)
37973798	WDC RTC	10/18/89	memo from Asbacher to Thomas and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood and Martinelli) re: Madison D&O Claim Close-out (N/A)
37993800	WDC RTC	1/18/90	memo from Asbacher prepared by Sorenson to Underwood and Roelle (cc: Byrne; Douglas; Rosen; Bartley; Wood; Martinelli and Asbacher) re: Madison Bond Claim Close-out (N/A)
38083815	WDC RTC	3/5/91	memo from Beaty to Thompson (cc: Curtis and Asbacher) re: attached 02/26/91 memo from Breslaw to Jacobs and Roelle (cc: Seidman; Rosen; Thomas; Monahan; Braceley; Jacobs; Beaty; Roelle; Dudine; and Martinelli) re: request for Authorization to Accept Settl

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Privileged and Confidential

Mr. Rosen	Mr. Roelle	Ms. Bartley
Mr. Thomas	Mr. Dudine	Ms. Keyes
Mr. Beaty	Mr. Eisenstein	Mr. Martinelli, R/D
		Mr. Asbacher, SIS

TO: William Roelle
Director, Operations and Resolutions

and

David Eisenstein
Senior Attorney

FROM: April Breslaw AGB
Senior Attorney

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was largely the result of the influence of James B. McDougal. McDougal purchased the association and served as its president until late 1984. It is believed that he continued to affect the operations of the association through his role in its holding company after he resigned from his management positions. This period of indirect influence seems to have occurred between late 1984 and July 1986. In any event, McDougal was the subject of a criminal referral filed by the association on March 19, 1987. There is an ongoing criminal investigation into his activities.

The association's last blanket bond expired on April 30, 1987. Renewal or replacement coverage could not be secured. Insider loans and losses caused by acts of James McDougal, his wife Susan, and John Latham were excluded from coverage. No notice or claims were ever submitted to the bond carrier.

Fidelity bonds generally provide coverage for losses caused by officers on employees. If it can be shown that a director is functioning as an officer, e.g., making specific operational decisions, it is possible to obtain bond coverage for losses caused by such a director's dishonesty. In this case, McDougal left management in 1984. While the criminal referral submitted in 1987 indicates that potentially dishonest activity was discovered during the life of the bond, such activity appears to have occurred after McDougal had lost status as an officer directly covered by the

bond. His role at the time dishonesty may have occurred would likely not be considered operational enough to merit coverage. The cost of pursuing such an approach with the bond carrier outweighs its benefit.

Based on the foregoing information a close-out of the Bond Claim is recommend.

Concurred:

David Eisenstein
Senior Counsel

William Roelle, Director
Operations and Resolutions

Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley

Mr. Jacobs
~~Mr. Beaty~~
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

---

[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

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Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

Madison subsequently retained Peat, Marwick, Main and Company to re-audit the statements first evaluated by Frost. Peat, Marwick reached two conclusions: first, that Madison's internal controls were so poor that the S&L's financial statements were virtually incapable of audit and second, that there was serious question about Madison's ability to continue as a going concern. Because these were very different conclusions that those reached in the initial audits, Madison sued Frost for malpractice.

We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

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[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

It is, however, worth noting that the relevant accounting standards do not require that an auditor use any specific method of evaluating risk of loan loss. Instead, they require only that a method be used which considers the overall circumstances surrounding the tested transactions. In its re-audit of Madison, Peat Marwick used a different method than the one recommended by our expert, but reached the same conclusions. Because Frost did not employ any such method, we should be able to prove that its audits are flawed - regardless of the problems with our expert's testimony. Overall, our chance of prevailing on this element of the case is approximately 70 per cent.

2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

---

[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

[4] McDougal was tried for bank fraud last Spring. Mainly through prosecutorial error, he was acquitted.

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director is willing to testify that he would have voted against additional risky real estate development lending if Madison's outside auditor had generated critical audits.

Much of the loss which underlies our case is attributable to abusive insider transactions. Consequently, if Frost is able to introduce evidence of the contributory negligence of the individuals who initiated and approved these transactions, i.e., the reckless insiders and passive outsiders, we probably have only a 40% chance of proving that auditors are more than half responsible for the loss which ensued.

In response to this problem, we have asked the court to issue an order which prevents the introduction of evidence at trial of the inappropriate manner in which the Madison directors and officers managed the institution. We've based our request on a line of cases which have held that the only evidence of audit client mismanagement admissible in an accountant liability suit is evidence that the audit client provided the accountant with false financial information to audit.

This is the first time that this argument has been made in Arkansas. Last year, it was rejected in Minnesota, another state within the 8th Circuit. It's been accepted in a scattered mix of jurisdictions across the country, including a recent 10th Circuit decision which interpreted the law of Oklahoma, Arkansas' neighbor. We estimate that we have a 50% chance of winning the motion which raises this issue.

If our evidentiary motion succeeds, our chance of proving that Frost is more than half responsible for the relevant loss improves. However, Frost will do everything possible to convince the jury that the loss occurred because of events outside its control. We believe that Frost will argue that the downturn in the Arkansas economy contributed to the loss. We also believe that Frost will claim that the FHLBB contributed to the loss by accepting Madison business plans which tolerated continued real estate development lending. Finally, Frost will attack the Arkansas regulators for failing to close Madison when it became insolvent.

We have asked the court to issue an order which prevents the introduction of evidence of regulatory contributory negligence at trial. This request is based a very strong line of cases which holds that bank and thrift regulators' duty to perform responsibly runs only to the public. It does not run to the directors, officers and other professionals affiliated with a failed institution. We are almost certain to obtain the evidentiary order which we seek on this point.

However, it was the contrast between the Frost audits and the

FOIA # none (URTS 16305) DocId: 70105134 Page 224

results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument.

Mr Roelle is from Arkansas

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory con officially eliminated from the case, we ha chance of proving that auditors are more t for the loss which underlies this action.

Roelle wrote first on original.

3. Loss

Frost cannot be held responsible for loss involvement with Madison. Further, Frost for loss recklessly incurred by Madison a that the audits were flawed. Keeping thes believe that our damage window runs from 11, 1986. The first of these dates reflec Madison's board reviewed and began to rel The second reflects the point at which th potential flaws in Frost's conclusions th FHLBB 1986 examination and proposed Ceas During this period, principal advances we generated approximately $7,000,000 in loss.

Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
= .28

.28 x $3,000,000 (insurance policy) = $840,000

Second scenario:

.70 (chance of proving audit failure)
x.60 (chance of proving causation if evidence of director & officer contributory negligence is not admissible)
= .42

.42 x $3,000,000 (insurance policy) = $1,260,000

The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
= $210,000

Improving $840,000, our causation worst case scenario, by $210,000 to reflect our chance of winning the pending evidentiary motion leaves us with a settlement figure of $1,050,000.

However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

The present value of our $1,050,000 settlement figure received in six months is $1,014,500. The present value of our $1,050,000 settlement figure received in one year is $981,308. The current $1,025,000 offer exceeds both.

To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add about $75,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

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therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

Privileged and Confidential

Mr. Rosen
Mr. Thomas
Mr. Beaty

Mr. Roelle
Mr. Dudine
Mr. Eisenstein

Mr. Bracely
Ms. Bartley
Mr. Martinelli, R/D
Mr. Asbacher, SIS

TO: David Eisenstein
Senior Counsel
and
William Roelle
Director
Operations and Resolutions

FROM: April Breslaw
Senior Attorney
and
John Scott
Investigator

aab
aab for JohnScott

SUBJECT: 8313 Madison Guaranty Savings and Loan Association
Little Rock, Arkansas - In Conservatorship
Termination of Directors' and Officers' Liability
Investigation

This memorandum requests your authority to terminate the Directors' and Officers' liability investigation for Madison Guaranty Savings and Loan Association ("Association") based on the following investigative findings.

The Association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the Association was a result of the administration of president and owner James B. McDougal. McDougal purchased the association February 1982. He maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. The Justice Department prosecuted McDougal for bank fraud. He was acquitted in May, 1990.

The Association did not maintain directors and officers insurance. There were nine individuals who may be held culpable for the failure of the association. The Association's files contained financial statements for these individuals (see attached). The total net worth of these individuals is $2,995,536.00 with an expected potential recovery of $904,220.

Name	Statement Date	Reported Net Worth	Estimated Recovery
Cuffman, Stephen	8/16/88		
Denton, Don	10/15/87		
Edwards, Rev. C. D.	8/15/88		
Hawkins, Sarah	8/16/88		
Latham, John	10/31/87		
McDougal, James B. & Susan H.	1/27/86	FOIA(b)(7) - (C)	
Owen, Jack	12/10/87		
Peacock, Charles III			
	Total:		

1) Adjusted for homestead and personal property.
2) All net worth is homestead and personal property.
3) Adjusted value of Madison Guaranty Stock to zero.
4) Currently in Chapter 11 bankruptcy.

003397

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PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

The potential recovery is insufficient to make a Directors' and Officers' liability claim economically justifiable. Based on the foregoing information a close-out of the Directors' and Officers' liability investigation is recommended.

CONCUR:

David Eisenstein
Senior Counsel

William Roelle
Director

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Privileged and Confidential

Mr. Rosen
Mr. Thomas
Mr. Beaty

Mr. Roelle
Mr. Dudine
Mr. Eisenstein

Ms. Bartley
Ms. Keyes
Mr. Martinelli, R/D
Mr. Asbacher, SIS

TO: William Roelle
Director, Operations and Resolutions

and

David Eisenstein
Senior Attorney

FROM: April Breslaw
Senior Attorney

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was largely the result of the influence of James B. McDougal. McDougal purchased the association and served as its president until late 1984. It is believed that he continued to affect the operations of the association through his role in its holding company after he resigned from his management positions. This period of indirect influence seems to have occurred between late 1984 and July 1986. In any event, McDougal was the subject of a criminal referral filed by the association on March 19, 1987. There is an ongoing criminal investigation into his activities.

The association's last blanket bond expired on April 30, 1987. Renewal or replacement coverage could not be secured. Insider loans and losses caused by acts of James McDougal, his wife Susan, and John Latham were excluded from coverage. No notice or claims were ever submitted to the bond carrier.

Fidelity bonds generally provide coverage for losses caused by officers on employees. If it can be shown that a director is functioning as an officer, e.g., making specific operational decisions, it is possible to obtain bond coverage for losses caused by such a director's dishonesty. In this case, McDougal left management in 1984. While the criminal referral submitted in 1987 indicates that potentially dishonest activity was discovered during the life of the bond, such activity appears to have occurred after McDougal had lost status as an officer directly covered by the

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bond. His role at the time dishonesty may have occurred would likely not be considered operational enough to merit coverage. The cost of pursuing such an approach with the bond carrier outweighs its benefit.

Based on the foregoing information a close-out of the Bond Claim is recommend.

Concurred:

David Eisenstein
Senior Counsel

William Roelle, Director
Operations and Resolutions

ATTORNEY-CLIENT CONFIDENTIAL

Privileged and Confidential

Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley

Mr. Jacobs
~~Mr. Beaty~~
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

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003401

Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

Madison subsequently retained Peat, Marwick, Main and Company to re-audit the statements first evaluated by Frost. Peat, Marwick reached two conclusions: first, that Madison's internal controls were so poor that the S&L's financial statements were virtually incapable of audit and second, that there was serious question about Madison's ability to continue as a going concern. Because these were very different conclusions that those reached in the initial audits, Madison sued Frost for malpractice.

We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

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bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

It is, however, worth noting that the relevant accounting standards do not require that an auditor use any specific method of evaluating risk of loan loss. Instead, they require only that a method be used which considers the overall circumstances surrounding the tested transactions. In its re-audit of Madison, Peat Marwick used a different method than the one recommended by our expert, but reached the same conclusions. Because Frost did not employ any such method, we should be able to prove that its audits are flawed - regardless of the problems with our expert's testimony. Overall, our chance of prevailing on this element of the case is approximately 70 per cent.

2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

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[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

[4] McDougal was tried for bank fraud last Spring. Mainly through prosecutorial error, he was acquitted.

director is willing to testify that he would have voted against additional risky real estate development lending if Madison's outside auditor had generated critical audits.

Much of the loss which underlies our case is attributable to abusive insider transactions. Consequently, if Frost is able to introduce evidence of the contributory negligence of the individuals who initiated and approved these transactions, i.e., the reckless insiders and passive outsiders, we probably have only a 40% chance of proving that auditors are more than half responsible for the loss which ensued.

In response to this problem, we have asked the court to issue an order which prevents the introduction of evidence at trial of the inappropriate manner in which the Madison directors and officers managed the institution. We've based our request on a line of cases which have held that the only evidence of audit client mismanagement admissible in an accountant liability suit is evidence that the audit client provided the accountant with false financial information to audit.

This is the first time that this argument has been made in Arkansas. Last year, it was rejected in Minnesota, another state within the 8th Circuit. It's been accepted in a scattered mix of jurisdictions across the country, including a recent 10th Circuit decision which interpreted the law of Oklahoma, Arkansas' neighbor. We estimate that we have a 50% chance of winning the motion which raises this issue.

If our evidentiary motion succeeds, our chance of proving that Frost is more than half responsible for the relevant loss improves. However, Frost will do everything possible to convince the jury that the loss occurred because of events outside its control. We believe that Frost will argue that the downturn in the Arkansas economy contributed to the loss. We also believe that Frost will claim that the FHLBB contributed to the loss by accepting Madison business plans which tolerated continued real estate development lending. Finally, Frost will attack the Arkansas regulators for failing to close Madison when it became insolvent.

We have asked the court to issue an order which prevents the introduction of evidence of regulatory contributory negligence at trial. This request is based a very strong line of cases which holds that bank and thrift regulators' duty to perform responsibly runs only to the public. It does not run to the directors, officers and other professionals affiliated with a failed institution. We are almost certain to obtain the evidentiary order which we seek on this point.

However, it was the contrast between the Frost audits and the

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results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument. Mr Roelle is from Arkansas

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory contributory negligence is officially eliminated from the case, we have approximately a 60% chance of proving that auditors are more than half responsible for the loss which underlies this action.

3. Loss

Frost cannot be held responsible for loss incurred prior to its involvement with Madison. Further, Frost cannot be held liable for loss recklessly incurred by Madison after it was notified that the audits were flawed. Keeping these parameters in mind, we believe that our damage window runs from July 18, 1985 to July 11, 1986. The first of these dates reflects the point at which Madison's board reviewed and began to rely on the 1984 audit. The second reflects the point at which the board was notified of potential flaws in Frost's conclusions through receipt of the FHLBB 1986 examination and proposed Cease and Desist Order. During this period, principal advances were made which have generated approximately $7,000,000 in loss.

Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
= .28

.28 x $3,000,000 (insurance policy) = $840,000

Second scenario:

.70 (chance of proving audit failure)
x.60 (chance of proving causation if evidence of director & officer contributory negligence is not admissible)
= .42

.42 x $3,000,000 (insurance policy) = $1,260,000

The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
= $210,000

Improving $840,000, our causation worst case scenario, by $210,000 to reflect our chance of winning the pending evidentiary motion leaves us with a settlement figure of $1,050,000.

However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

The present value of our $1,050,000 settlement figure received in six months is $1,014,500. The present value of our $1,050,000 settlement figure received in one year is $981,308. The current $1,025,000 offer exceeds both.

To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add $150,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

FOIA Request (ART 216305) Doc. 07010531 Page 23

therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

Resolution Trust Corporation
P.O. Box 1336, Burnsville, MN 55337 · (612) 894-0800

Mr. Byrne
Mr. Douglas
Mr. Rosen

Ms. Bartley
Ms. Wood
Mr. Martinelli, Regional Director
Mr. Asbacher, SLS/Investigations

DATE: January 18, 1990

TO: Cecil Underwood, Assistant General Counsel
and
William Roelle, Director/Resolutions and Operations
Federal Deposit Insurance Corporation
550 - 17th Street N.W.
Washington, D.C. 20429

FROM: Robert H. Asbacher
SLS/Kansas City Regional Office

PREPARED BY: Lee B. Sorenson
Investigator
North Central Consolidated Office

SUBJECT: Madison Guaranty Savings & Loan Association
Little Rock, Arkansas
In Conservatorship #8313
Bond Claim Close-Out

This memorandum requests your authority to terminate the Bond Claim investigations for Madison Guaranty Savings & Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was a result of the administration of President and Owner James B. McDougal. McDougal purchased the association February 1982 and maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. McDougal was the subject of a criminal referral filed by the association on March 19, 1987, there is an ongoing criminal investigation into his action.

The association's last blanket bond expired on April 30, 1987. It was a Financial Institution's Special Bond. Renewal or replacement coverage could not be secured. Insider loans; as well as acts of James McDougal, his wife Susan, and John Latham; were excluded from coverage. No notice or claims were ever filed on the bond.

Privileged and Confidential

Based on the foregoing information a close-out of the Bond Claim is recommended.

Approved:

Cecil Underwood — Date
Assistant General Counsel

William Roelle — Date
Director, Resolutions and
Operations Division

2-1-90
James G. Thompson, Jr. — Date
Deputy Regional Director
Resolutions/Operations
Central Region

1620I

FDIC
Federal Deposit Insurance Corporation

Privileged and Confidential

P.O. Box 1336 • Burnsville, MN 55337 • (612) 894-0800

Mr. Byrne
Mr. Douglas
Mr. Rosen

Ms. Bartley
Ms. Wood
Mr. Martinelli, Regional Director

DATE: October 18, 1989

TO: John Thomas, Associate General Counsel
and
William Roelle, Director/Resolutions and Operations
Federal Deposit Insurance Corporation
550 - 17th Street N.W.
Washington, D.C. 20429

FROM: Robert Asbacher
SLS/Investigations
Kansas City Regional Office

PREPARED BY:
Liquidation Assistant/Investigations
Burnsville RTC Consolidated Office
Burnsville, Minnesota

SUBJECT: Madison Guaranty Savings and Loan Association
Little Rock, Arkansas
In Conservatorship 8313
Directors' and Officers' Claim Close-Out

This memorandum requests your authority to terminate the Directors' and Officers' Claim investigation for Madison Guaranty Savings and Loan Association (the association) based on the following investigative findings.

The association was placed in conservatorship by the Federal Home Loan Bank Board on March 2, 1989. The failure of the association was a result of the administration of president and owner James B. McDougal. McDougal purchased the association February 1982, he maintained control of the association until July 1986. During the McDougal administration the association grew from $6 million to $123 million. McDougal was the subject of a criminal referral filed by the association on March 19, 1987, there is an ongoing criminal investigation into his actions.

The association did not maintain any directors' and officers' insurance. There were nine individuals who may be held culpable for the failure of the association. The association's files contained financial statements for these individuals (see attached). The total net worth of these individuals is $2,995,536.00 with an expected potential recovery of $904,220.

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Privileged and Confidential

John Thomas, Associate General Counsel
William Roelle, Director/Resolutions and Operations
Madison Guaranty S&L Association, Little Rock, AR - #8313
Directors' and Officers' Claim Close-Out

Name	Statement Date	Reported Net Worth	Estimated Recovery
Cuffman, Stephen	8/16/88	FOIA(b)(7) - (C)	
Denton, Don	10/15/87		
Edwards, Rev. C. D.	8/15/88		
Hawkins, Sarah	8/16/88		
Latham, John	10/31/87		
McDougal, James B. & Susan H.	1/27/86		
Owen, Jack	12/10/87		
Peacock, Charles III			
	TOTAL:		

1) Adjusted for homestead and personal property.
2) All net worth is homestead and personal property.
3) Adjusted value of Madison Guaranty stock to zero.
4) Currently in Chapter 11 bankruptcy.

The potential recovery is insufficient to make a Directors' and Officers' claim economically justifiable. Based on the foregoing information a close-out of the Directors' and Officers' claim is recommended.

Concurred:

April A. Breslaw, Attorney

Approved:

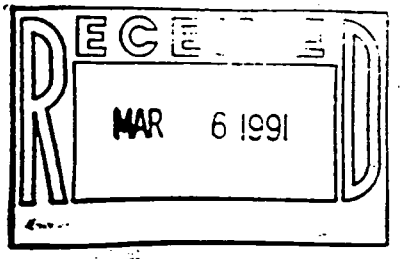
John Thomas
Associate General Counsel

William Roelle, Director,
Resolutions and Operations

15371

Privileged and Confidential
FILE COPY

March 5, 1991



TO: James Thompson
Assistant Regional Director

FROM: John B. Beaty
Assistant General counsel

RE: 7236 Madison Guaranty Savings
Augusta Arkansas - In receivership

Request for Authorization to Settle

The enclosed memorandum seeks authority to settle an accounting malpractice claim against Frost and Company, the former auditors of Madison Guaranty Savings, Augusta Arkansas. It has been forwarded to you for signature because Regional Director Martinelli is out of town.

The request has been reviewed for legal merit and is being submitted to you for review as a business decision. Of particular interest may be the last pages of the memorandum which contain a financial analysis of the proposed settlement. The investigator in Eagan Minnesota and his supervisors have reviewed the accuracy of the factual underpinnings of the memorandum, and they agree that the settlement is advantageous. The Regional Counsel has been provided opportunity to review the memo for impact on other legal work in the region.

If you concur in the recommendation, please sign and return the original of the memorandum to me at 1775 K Street, NW, 6th Floor, Washington, D.C. 20006 by overnight mail. If you have questions or concerns, please feel free to contact the Kansas City PLS Counsel Julie Yanda, who is familiar with this matter.

cc: E. Glion Curtis, Regional Counsel (w/encl.)
Robert Asbacher, SIS (w/enclosure)

Privileged and Confidential

Chairman Seidman
Mr. Rosen
Mr. Thomas
Mr. Monahan
Mr. Braceley
Mr. Jacobs
Mr. Beaty
Mr. Roelle
Mr. Dudine
Mr. Martinelli, R/D

February 26, 1991

Memorandum To: Gerald Jacobs
Special Counsel to the RTC

and

William Roelle
Deputy Executive Director

From: April Breslaw
Senior Attorney

Re: 7236 Madison Guaranty Savings and Loan
Augusta, Ark. - In Receivership

Request for Authorization to Accept
Settlement Offer

RECOMMENDATION

This memorandum requests authority to settle a pending accounting malpractice case by accepting the $1,025,000 offered by Crum and Forster ("C&F"), the carrier which provided defendant Frost and Company ("Frost") with liability coverage.

C&F has not given a specific date on which its offer expires. However, our case is scheduled for trial on March 25, 1991. If authorization to accept the carrier's offer is granted by March 11, 1991, we will save the expense of the final two weeks of trial preparation. We estimate this amount to be approximately $50,000.[1]

[1] Past experience indicates that C&F displays more serious interest in settlement as a trial date approaches. In this case, we do not believe that C&F is aware that there is a real chance that our trial will be rescheduled for next Fall. If C&F becomes aware of this possibility, it may rescind the offer, invest the settlement funds, and resume bargaining with us in eight to ten months. Avoiding this contingency is another reason to evaluate the outstanding offer quickly.

Elements of the Claim

In order to prevail, we must prove the existence of:

(1) an audit failure
(2) which caused
(3) loss.

1. Audit Failure

Frost audited the Madison Guaranty Savings and Loan ("Madison") financial statements for 1984 and 1985. In each instance, an unqualified opinion, i.e., one which concluded that the statements fairly reflected the S&L's financial condition, was issued. However, the FHLBB's 1986 examination found significant deficiencies in Madison's accounting treatment of real estate development projects, subsidiary investment, and reserve for loan losses. The adjustments imposed as a result of this examination rendered Madison insolvent.

Madison subsequently retained Peat, Marwick, Main and Company to re-audit the statements first evaluated by Frost. Peat, Marwick reached two conclusions: first, that Madison's internal controls were so poor that the S&L's financial statements were virtually incapable of audit and second, that there was serious question about Madison's ability to continue as a going concern. Because these were very different conclusions that those reached in the initial audits, Madison sued Frost for malpractice.

We inherited the case when Madison was placed in conservatorship in 1989.[2] Investigation by in-house CPA Lee Sorenson of NCCO supports the conclusion that audit failures occurred. Most significant, Frost did not calculate Madison's loan loss reserve by performing detailed review of specific loans. Instead, Frost simply allotted one per cent of the outstanding balance of each relevant category of loans to the reserve. Further, Frost failed to test the adequacy of any of the appraisals in Madison's files and entirely based its past-due loan testwork on information provided by Madison's management. No attempt to verify this information through appraisal or financial statement data was made.

Our independent expert has testified that Frost should have evaluated the risk of loss in Madison's portfolio by classifying loans as bank examiners do. He's further testified that Laventhol and Horwath ("L&H"), the firm with which he was a partner until its recent bankruptcy, employed this approach to

[2] Since "final resolution" in October of 1990, we have pursued the matter on behalf of RTC Corporate.

bank and S&L audits as a standard practice.

Unfortunately, our expert has only been able to produce documentation which shows that L&H routinely handled bank audits in this manner. He has not been able to document standard practice for S&L audits.[3] Further, Frost's attorneys have discovered an S&L audit performed by another L&H partner at about the same time as those at stake in this case in which a different method of evaluating risk of loss was employed. If the case is tried, Frost's attorneys will certainly use these inconsistencies to attack the credibility of our expert.

It is, however, worth noting that the relevant accounting standards do not require that an auditor use any specific method of evaluating risk of loan loss. Instead, they require only that a method be used which considers the overall circumstances surrounding the tested transactions. In its re-audit of Madison, Peat Marwick used a different method than the one recommended by our expert, but reached the same conclusions. Because Frost did not employ any such method, we should be able to prove that its audits are flawed - regardless of the problems with our expert's testimony. Overall, our chance of prevailing on this element of the case is approximately 70 per cent.

2. Causation

In any accounting malpractice case, we must show that the relevant S&L relied on the flawed audits to make subsequent business decisions. Put another way, we must show that but for its reliance on flawed audits, the S&L would have stopped or slowed investment in the speculative projects which ultimately caused loss. In an Arkansas malpractice case, we must show that in comparison with other possible causes, the defendant auditor was more than 50% responsible for the loss which resulted from its flawed audits.

In this case, we will have a series of problems demonstrating that Madison relied on the audits to make decisions. First, Madison CEO John Latham plead guilty to bank fraud charges last Spring. It is highly unlikely that different audits would have influenced his decision making. Second, Madison's board of directors was passive. For the most part, it did what Latham and primary shareholder McDougal told it to do.[4] Even today, only one

---

[3] Contrary to our expert's initial testimony, it appears that L&H did not have a standard approach to S&L audits.

[4] McDougal was tried for bank fraud last Spring. Mainly through prosecutorial error, he was acquitted.

director is willing to testify that he would have voted against additional risky real estate development lending if Madison's outside auditor had generated critical audits.

Much of the loss which underlies our case is attributable to abusive insider transactions. Consequently, if Frost is able to introduce evidence of the contributory negligence of the individuals who initiated and approved these transactions, i.e., the reckless insiders and passive outsiders, we probably have only a 40% chance of proving that auditors are more than half responsible for the loss which ensued.

In response to this problem, we have asked the court to issue an order which prevents the introduction of evidence at trial of the inappropriate manner in which the Madison directors and officers managed the institution. We've based our request on a line of cases which have held that the only evidence of audit client mismanagement admissible in an accountant liability suit is evidence that the audit client provided the accountant with false financial information to audit.

This is the first time that this argument has been made in Arkansas. Last year, it was rejected in Minnesota, another state within the 8th Circuit. It's been accepted in a scattered mix of jurisdictions across the country, including a recent 10th Circuit decision which interpreted the law of Oklahoma, Arkansas' neighbor. We estimate that we have a 50% chance of winning the motion which raises this issue.

If our evidentiary motion succeeds, our chance of proving that Frost is more than half responsible for the relevant loss improves. However, Frost will do everything possible to convince the jury that the loss occurred because of events outside its control. We believe that Frost will argue that the downturn in the Arkansas economy contributed to the loss. We also believe that Frost will claim that the FHLBB contributed to the loss by accepting Madison business plans which tolerated continued real estate development lending. Finally, Frost will attack the Arkansas regulators for failing to close Madison when it became insolvent.

We have asked the court to issue an order which prevents the introduction of evidence of regulatory contributory negligence at trial. This request is based a very strong line of cases which holds that bank and thrift regulators' duty to perform responsibly runs only to the public. It does not run to the directors, officers and other professionals affiliated with a failed institution. We are almost certain to obtain the evidentiary order which we seek on this point.

However, it was the contrast between the Frost audits and the

results of the FHLBB 1986 examination which prompted Madison to investigate audit failure. (See above.) Consequently, Frost has subpoenaed the relevant examiner and supervisory agent. Its' attorneys will certainly try to steer these individuals' testimony away from its proper purpose - confirmation that an audit failure occurred - and toward evidence of regulatory mistake. Assuming that we obtain the order which eliminates evidence of regulatory negligence from the case, we will object to this tactic. However, the jury may find the process confusing.

In this regard, it is worth mentioning that our case is pending in a fairly widespread federal district. As a result, our jury will be drawn from both Little Rock and outlying rural areas. Consequently, there is some risk that the jury will not have the sophistication to understand the more complicated aspects of our argument.

To summarize: Assuming that we win both of our evidentiary motions, i.e., that evidence of both director/officer contributory negligence and regulatory contributory negligence is officially eliminated from the case, we have approximately a 60% chance of proving that auditors are more than half responsible for the loss which underlies this action.

3. Loss

Frost cannot be held responsible for loss incurred prior to its involvement with Madison. Further, Frost cannot be held liable for loss recklessly incurred by Madison after it was notified that the audits were flawed. Keeping these parameters in mind, we believe that our damage window runs from July 18, 1985 to July 11, 1986. The first of these dates reflects the point at which Madison's board reviewed and began to rely on the 1984 audit. The second reflects the point at which the board was notified of potential flaws in Frost's conclusions through receipt of the FHLBB 1986 examination and proposed Cease and Desist Order. During this period, principal advances were made which have generated approximately $7,000,000 in loss.

Financial Analysis of Proposed Settlement

The $3,000,000 policy issued by C&F is our recovery source.[5] The following calculations translate the above discussion into numerical terms.

---

[5] Frost is a small firm with almost insignificant resources. Absorbing the insurance policy's $50,000 deductible will be its contribution to the settlement.

First scenario:

.70 (chance of proving audit failure)
x.40 (chance of proving causation if evidence of director/officer contributory negligence is admissible)
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The difference between calculations for the two scenarios ($1,260,000 - 840,000) = $420,000.

$420,000
x .50 (chance of excluding evidence of direcotr/officer contributory negligence by winning pending motion)
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However, because the judge is behind schedule, he may postpone our trial. The trial of a case of this complexity will take approximately a month. A month block of court time is not likely to become available until the Fall of 1991. If time is allotted for the trial itself, jury deliberation, post judgement motions, and the court's final ruling, it becomes apparent that if the trial is not held in March of 1990, we will not received the proceeds of a judgement for six months to a year.

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To date, we have incurred approximately $150,000 in legal fees and $40,000 in expert fees. Final preparation and trial of this matter is likely to add about $75,000 in legal fees and $10,000 in expert fees to our cost. Accepting the carrier's offer would

therefore enable us to save $85,000.

Conclusion

For the foregoing reasons, I recommend that we settle this matter by accepting the carrier's $1,025,000 offer.

CONCUR:

John Beaty
Assistant General Counsel
Legal Division

Michael Martinelli
Regional Director, RTC-Central

Gerald Jacobs
Special Counsel to the RTC
Legal Division

William Roelle
Deputy Executive Director
RTC

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Thursday, September 23, 1993 16:03:56 EDT
Attach:
Certify: N
Forwarded by: James R. Dudine@Oper-inv@RTCDC

Comments by: James R. Dudine@Oper-inv@RTCDC
Forwarded to: Carl F. Gamble@Legal-pls@RTCDC
Comments:

Carl, these referrals may have some connection to the one naming B&h as witnesses. We need to discuss this.

==========

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Comments:

FYI. We are still about two weeks away.

---------- [Original Message] ----------

I've just had a conversation with Donna Henneman, Ethics Program Manager, Executive Office for U. S. Attorneys. I called Donna to make a final determination as to whether or not she wants formal notification of the existence of the subsequent referrals being submitted to the U. S. Attorney, Eastern District of Little Rock, on Madison.

In discussing the standard RTC procedure of the submission of referrals, she has requested that she be copied on the transmittal letters that go to the U. S. Attorney and FBI. At the time she receives the copies of those letters, she will then request the referrals and exhibits from the U. S. Attorney's office for any necessary follow up. So, at her request, I'll ask Donna Minton to cc: Ms. Henneman in her official capacity. She felt that a letter requesting copies at this point was unnecessary, and if it becomes necessary, she will go through her channels at Justice to obtain the documentation from U. S. Attorney Paula Casey. Donna has also requested that I provide a brief one paragraph summary of the content of the referrals with the transmittal letters, so that she will be aware of those with "sensitivity issues." I will be glad to provide the requested summary as an addendum paragraph to the bottom of each transmittal letter.

She then asked me about the final disposition of MGS&L referral C0004. I told her that I had been advised that it was received back in the U. S. Attorney's office, but that I had received no formal notification that a case had been opened, nor a declination letter. I expressed my concerns that the same situation could befall the next referrals to be submitted, and she assured me

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that she and her supervisor, Deb Westbrook, would stay closely in touch with the situation, due it's potentially political ramifications, some of which I explained for her edification.

She asked me to stay in touch as to the responses that I get from the U.S. Attorney's office, and assured me that, if necessary, the "higher-ups" at Justice would make sure something got done with these referrals, including the first one, which in her words "should have been handled by now, one way or the other."

I'll keep you posted.

To: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC

Privileged and Confidential

Cc:
Bcc: Lee O. Ausen@INVEST-1@RTCKC
From: L. Richard Iorio@INVEST-1@RTCKC
Subject: Madison Guaranty #7236, Little Rock, Arkansas
Date: Friday, September 24, 1993 12:12:21 CDT
Attach:
Certify: N
Forwarded by:

Documents concerning captioned matter will be hand delivered to Messers Cavinaw and Thompson this date. Documents for Dudine will be overnighted today with a separate copy being sent by US Mail, registered, return receipt requested. The second copy to Dudine is being sent to comply with transmittal procedures.

Early next week, review sessions will be held with Phil Adams, PLS Attorney and Jane Jankowski, Public Affairs. They will be provided copies of the documents.

Actual transmission of the documents to Little Rock, Arkansas, will not occur until Friday, 10/1/93. Transmission is being delayed one week to provide for review and appropriate notification.

Separate civil review concerning the institution in question is still in progress. Delay has occurred because of the unavailability of certain review documents. Efforts are still underway to secure and review these documents. It is anticipated that civil review and report will be available within the next 30-45 days. Following preparation and review of the report, it will be forwarded to Julie Yanda for appropriate action.

If questions, please contact me.

To: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC

Privileged and Confidential

Cc:
Bcc: Lee O. Ausen@INVEST-1@RTCKC
From: L. Richard Iorio@INVEST-1@RTCKC
Subject: Madison Guaranty #7236, Little Rock, Arkansas
Date: Friday, September 24, 1993 12:12:21 CDT
Attach:
Certify: N
Forwarded by:

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If questions, please contact me.

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: **#7236** Madison Guaranty Savings
Date: Wednesday, September 29, 1993 12:16:43 EDT
Attach:
Certify: N
Forwarded by: James R. Dudine@Oper-inv@RTCDC

Comments by: James R. Dudine@Oper-inv@RTCDC
Forwarded to: Carl F. Gamble@Legal-pls@RTCDC
Comments:

FYI

==========

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Comments:

FYI.

---------- [Original Message] ----------

I've just received a call from Donna Henneman, Ethics Program Manager, Executive Office for U. S. Attorney's, Washington, D. C. She advised that she had spoken to her supervisor, Deb Westbrook, and Ms. Westbrook's supervisor, Doug Frazier, regarding whether or not the Executive Office wanted copies of the madison referrals slated for submission this week. Ms. Westbrook and Mr. Frazier have determined that the Executive office should receive copies of the referrals and exhibits. Upon receipt, they will review them and determine whether to instruct the U.S. Attorney's office to act on them accordingly, or if they should be forwarded to the Public Integrity Section of DOJ for further review. I inquired as to the nature of the Public Integrity Section and was advised that it is the section of DOJ responsible for the prosecution of public officials. Ms. Henneman also advised that they have made the decision to get the Deputy Attorney General's office involved in this situation, and bring them up to speed.

I asked her to submit this request in writing, in order to document the Investigations file and she responded that she would do so, faxing me a letter this afternoon. I've provided her with the fax number and will copy you upon receipt of her letter.

To briefly summarize the situation to date, I contacted the Executive Office for U. S. Attorney's on May 13, 1993, at the written suggestion of U.S. Attorney Richard Pence, pursuant to his letter of May 10, 1993 regarding my written inquiry as to the final disposition of Madison referral #C0004, submitted on 9/1/92. Mr. Pence advised that the referral had been forwarded to the Executive Office by former U.S. Attorney Charles Banks due to what he deemed was a "conflict of interest". This information was relayed to Ms.

FOIA #none(URTS 16305) DocId:70105134 Page 255

Henneman during my first conversation with her. During subsequent calls I received from Ms. Henneman, she advised me as to her progress in tracking the whereabouts of referral #C0004, which she finally located and had forwarded back to her office on June 8, 1993. At that time, Ms. Henneman advised me that the decision had been made by personnel in the Criminal Division of DOJ that there was "no identifiable basis for recusal of the U.S. Attorney in the Eastern District of Arkansas", and that the referral would be forwarded back to the U. S. Attorney's office in Little Rock. Since that time, Ms. Henneman has contacted me to follow up on the final disposition of the referral. I have advised her that this office has not yet received notification of an opened case, or a letter declining prosecution. During these aforementioned conversations, the issue was raised as to further referrals, and whether the Executive Office should be copied on any further referrals to avoid a recurrence of circumstances. I received notification of that decision today when Ms. Henneman contacted me, as previously outlined.

Please let me know if you have any questions.

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Thursday, September 30, 1993 13:58:47 CDT
Attach:
Certify: Y
Forwarded by:

Just to let you know; I've received a call from Sue Schmidt with the Washington Post. She stated that there were certain people within the legal and investigative community of RTC that were afraid certain stories were being deep-sixed that needed to be broken, and she had been given my name as someone to whom she needed to speak about such potential stories. She further stated that she had tried to contact me at home, but had not been able to reach me as my number is unlisted. She then asked me if I was the Laura Jean Lewis in Shawnee Mission, Kansas, whose number was unlisted.

I advised Ms. Schmidt that regardless of whatever story she was looking for, I had no comment, advised her to contact Jane Jankowski, gave her the number, thanked her for understanding and appreciating my position, and discontinued the call.

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Thursday, September 30, 1993 13:58:47 CDT
Attach:
Certify: N
Forwarded by: Dennis M. Cavinaw@EXEC@RTCKC

Comments by: Dennis M. Cavinaw@EXEC@RTCKC
Forwarded to: E. Glion Curtis@Legal-Exec@RTCKC
Comments:

FYI-please call after reading

==========

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Comments:

FYI. Public affairs Kansas City has been advised.

---------- [Original Message] ----------

Just to let you know; I've received a call from Sue Schmidt with the Washington Post. She stated that there were certain people within the legal and investigative community of RTC that were afraid certain stories were being deep-sixed that needed to be broken, and she had been given my name as someone to whom she needed to speak about such potential stories. She further stated that she had tried to contact me at home, but had not been able to reach me as my number is unlisted. She then asked me if I was the Laura Jean Lewis in Shawnee Mission, Kansas, whose number was unlisted.

I advised Ms. Schmidt that regardless of whatever story she was looking for, I had no comment, advised her to contact Jane Jankowski, gave her the number, thanked her for understanding and appreciating my position, and discontinued the call.

8-9 referrals ready to go
Madison Guaranty Savings
Roclé
Clinton witnesses
Jim Guy
Suicide doc story Rose Law firm

FOIA # none (URTS 16305) DocId: 70105134 Page 258

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Jane M. Jankowski@OLA@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty Savings
Date: Wednesday, October 6, 1993 10:01:54 CDT
Attach:
Certify: N
Forwarded by: Julie F. Yanda@LEGAL-PLS@RTCKC

Comments by: L. Richard Iorio@INVEST-1@RTCKC
Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
James R. Dudine@Oper-inv@RTCDC
Julie F. Yanda@LEGAL-PLS@RTCKC
Comments:

FYI. We are planning to mail the criminal referrals on Friday 10-8-93. PLS review is proceeding on schedule. Thanks

---------- [Original Message] ----------

Based on our conversation of yesterday evening, the following is a recap of what transpired when Washington Post report Sue Schmidt showed up at my front door.

She arrived around 7:15, I allowed her to step inside my door, I listened to what she had to say, and then escorted her out the door at approximately 7:30. When I showed her out the door, my parting comment was "when you contacted me last Thursday, I told you that I had no comment, and made every effort to be polite in doing so. What you have done this evening is the most unprecedented breach of professional courtesy that I've ever witnessed, so I will say this one more time, and one more time only. Do not contact me again at my office, or at my home. I have no comment on your investigation and will not answer any of your questions. Do not waste anymore of my time or yours."

She asked a number of questions, and made a number of comments, to all of which I responded with "no comment" or said nothing. I did, however, listen to what she had to say, and it was significant. I believe that she has the crux of the referral sent last year, and that she intends to pursue the story.

She wanted to know:

1) if I was aware of the transaction between Whitewater Development and International Paper Realty (this is not the topic of one of the referrals, but is something that I looked at writing a referral on...she had significantly more information than I did, which I believe was provided by Jim McDougal, whom she said she interviewed yesterday)
2) if she should continue looking at all of McDougal's other companies, specifically naming Madison Marketing, Great Southern Land Company, and a number of other companies identified in referral C0004.
3) if I was aware that Seth Ward was Webb Hubbel's father in law
4) if I was aware that three senior partners at the Rose firm (that I would prefer not to identify thru e-mail but will provide verbally if asked) "ran

FOIA# none (URTS 16305) DocId: 70105134 Page 259

off" senior partner Joe Giroir due to the fact that he was grossing more firm profits than they were (she cited a bonus amount of $500,000)
5) if I was frustrated that my "work product was stymied and road blocked at certain federal levels", which seems to indicate that she knows that referral C0004 was held up in Washington for 9 months before it went sent back to Little Rock.
6) if the late "Vince Foster was tied to any of this".
7) if I was aware that Jeff Gerth of the New York Times was reopening his investigation of the Whitewater story he wrote last year. She then added that he would probably be the next reporter to appear on my doorstep. I thanked her for the heads up.
8) she requsted my unlisted home phone, and I declined.

All of this is just an encapsulated version of her comments, which were more informative than what I've outlined here. I'll be glad to discuss this further at your request. Please let me know if you have any questions.

o: L. Richard Iorio@INVEST-1@RTCKC
c: Lee O. Ausen@INVEST-1@RTCKC
Jane M. Jankowski@OLA@RTCKC
cc:
rom: L. Jean Lewis@INVEST-1@RTCKC
ubject: #7236 Madison Guaranty Savings
ate: Wednesday, October 6, 1993 10.01:54 CDT
ttach:
ertify: Y
orwarded by:

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) she requsted my unlisted home phone, and I declined.

004836

All of this is just an encapsulated version of her comments, which were more informative than what I've outlined here. I'll be glad to discuss this further at your request. Please let me know if you have any questions.

 694897

To: L. Richard Iorio@INVEST-1@RTCKC
Cc: Lee O. Ausen@INVEST-1@RTCKC
Kenneth W. Foust@INVEST-1@RTCKC
Bcc:
From: L. Jean Lewis@INVEST-1@RTCKC
Subject: #7236 Madison Guaranty
Date: Thursday, October 7, 1993 10:35:27 CDT
Attach:
Certify: Y
Forwarded by:

Pursuant to your request during our meeting yesterday, I contacted Jeff Gerrish of the Memphis firm Gerrish & McCreary, to ascertain whether his firm represented Madison as defense counsel in the lawsuit filed by Seth Ward.

Mr. Gerrish called me this morning, and advised that his firm had not served as counsel on that litigation, but that it had been handled by two female attorneys with the Mitchell firm of Little Rock. He also recalled that Mr. Ward won the lawsuit. Mr. Gerrish suggested that I contact former Madison employee Sue Strayhorn, as she would be knowledgable about that lawsuit, and probably remember the names of the attorneys involved. I've spoken to Sue Strayhorn on previous occasions, and have her permission to contact her again with any additional questions that may arise. I placed a call to Sue about 30 minutes ago, and left a message for her to return my call, as she was not in.

During my conversation with Mr. Gerrish, he brought up the fact that he had been contacted by a reporter with the Washington Post, Sue Schmidt, but that he had not returned her calls. He indicated that his partner, Frank McCreary, had spoken with Ms. Schmidt, and was under the impression that she was questioning why the Gerrish & McCreary firm turned the Madison lawsuit against Frost & Company over to the Rose Law Firm. He said he "found it interesting" and just thought we "ought to know."

I'll let you and Ken know what I am able to find out from Sue Strayhorn when she calls back.

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To: James R. Dudine@Oper-inv@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
E. Glion Curtis@Legal-sc@RTCDC
Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
L. Richard Iorio@INVEST-1@RTCKC
David M. Swiss@Legal-Exec@RTCKC
Russell F. Kaufman@Legal-Exec@RTCKC
Lee O. Ausen@INVEST-1@RTCKC
L. Jean Lewis@INVEST-1@RTCKC
Carl F. Gamble@Legal-pls@RTCDC
Cc: Karen L. Carmichael@LEGAL-PLS@RTCKC
Philip J. Adams@LEGAL-PLS@RTCKC
Bcc:
From: Julie F. Yanda@LEGAL-PLS@RTCKC
Subject: Madison Criminal Referrals
Date: Friday, October 8, 1993 12:56:51 CDT
Attach: MADISON
Certify: N
Forwarded by:

Pursuant to RTC internal policy memorandum dated June 17, 1993 from James Dudine, Thomas Hindes, et. al, attached please find a report that outlines the results of our review of the nine (9) pending criminal referrals out of Madison Guaranty Savings and Loan. Please contact me if you have any questions.

000489

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RTC

RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

Karen L. Carmichael
Senior Attorney
Legal Division - PLS
7400 W. 110th., Suite 400
Overland Park, Kansas 66210
(913) 344-8100
Fax No.: (913) 344-8185
Direct Line: (913) 344-8438

INTEROFFICE MEMORANDUM

DATE: October 7, 1993

TO: Julie Fry Yanda, Counsel
Section Chief, PLS
Kansas City Office

FROM: Karen L. Carmichael, Senior Attorney, PLS
Legal Criminal Coordinator
Kansas City Office

Philip J. Adams, Senior Attorney, PLS
Kansas City Office

RE: Legal Review of KCO Investigation's Criminal Referrals: CR0190, CR0192, CR0195, CR0196, CR0198, CR0199, CR0203, CR0210, CR0211.

I. PURPOSE:

Pursuant to Resolution Trust Corporation ("RTC") internal policy as stated in Memoranda dated June 17, 1993 from James Dudine, Thomas Hindes, James Barker, and Jerry Patchan to All RTC Investigations Department Heads, Staff, Assistant General Counsel, Litigation Section Chiefs and Attorneys referencing Criminal Referrals, we have prepared the following review of the above criminal referrals prior to RTC forwarding same to the Department of Justice.

II. SCOPE:

In preparing this report, we have reviewed each criminal referral along with its respective accompanying exhibits as originally prepared by the KCO Investigations Department. Additionally, we have reviewed all documents within the professional liability files as well as Madison Guaranty Savings & Loan Association's Special Counsel Investigative Report prepared March 3, 1987 by the law firm of Borod & Huggins, Memphis, Tennessee. We base our conclusions solely on our review of these documents.

FOIA # none (URTS 16305) DocId: 70105134 Page 26

III. SPECIFIC REVIEW:

A. Analysis of Individual Referrals

1) CR0190:

Estimated Loss:	$135,000
Date of Violation:	10/25/85
Individuals Suspected of violation:	James McDougal Jim Guy Tucker John Latham Don Denton
Corporations/Partnerships (unnamed as violators but cited as relevant to the crime):	Madison Financial Corporation ("MFC") Mid-South Title Quapaw Title

Our concerns stem from the following issues:

1. Does this referral violate any plea bargain or immunity relating to Latham's guilty plea?

2. Why isn't George Betts named as a suspect if the appraisal is alleged to be fraudulently made?

3. Why isn't Quapaw Title or Andrew Clark named in the referral if the multiple October 29, 1985 title commitments are allegedly fraudulent?

4. Where are the loan documents for subject LN#7001347; LN 3004-70?

5. Is "LN7001347" as stated in memo (Exh.E-1) the same as "LN3004-70" stated on the remitter line of $125,000 cashier's check #LN3211? Which is the correct loan Jim Guy Tucker agreed to repay?

6. What was(were) the stated purpose(s) for which Jim Guy Tucker officially agreed to use the $260,000 proceeds?

7. Was the loan ever in default?

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8. Is Jim Guy Tucker a silent partner on MFC's Castle Grande transaction? Was MFC Tucker's nominee?

9. Who actually received the $93,620 "profit from sale"? MFC, McDougal or Tucker?

10. Did Jim Guy Tucker and Betty Tucker list the $93,620 "profit from sale" on their 1985 income tax return?

11. Did MFC/MGS&L consider the $125,000/$93,620 transaction a capital contribution?

12. Why are the alleged #3004 loan proceeds ($260,000) divided into 2 cashier's checks (#LN3211 and #LN4731) that were disbursed on two separate days, four days apart?

13. Who is Irene Garner? Was the ARM Saver's loan adjustment on 10/1/85 significant or a motivating factor for the above (Q;#12) discrepancy?

2) CR0192:

Estimated Loss:	$50,000
Date of Violation:	April/May 1985
Individuals suspected of violation:	James McDougal J.W. Fulbright
Corporations/Partnerships (unnamed as violators but cited as relevant to the crime):	White Water Development, Inc. ("WWD") Madison Financial Corporation ("MFC") Earth Mover's Inc. Rigg's National Bank

Our concerns stem from the following questions:

1. What do the White Water Development partnership documents provide regarding loans to the partnership by a partner?

2. Was McDougal entitled to the pre-paid "bonus" he received and which he then directly paid into the White Water Development account?

3. Did McDougal report this bonus on his 1985 tax return?

4. Did the bank suffer any loss as a result of the $20,000 payment made to Fulbright from McDougal?

5. Into whose account at Rigg's National Bank was the Fulbright cashier's check #Q2704 deposited? Whose name? Ownership?

6. Regarding MGS&L cashier's check #LN2644:
   a) Who was the signatory?
   b) Who was the payee?
   c) Who was the remitter?
   d) Who asked the cashier check Teller for the Check?
   e) On whose authority did the Teller cut the cashier's check?
   f) From what proceeds did the check originate?

In addition, we would recommend that this referral include a copy of White Water Development partnership documents.

3) CR0195:

Estimated Loss:	$8,932,900
Date of Violation:	1/20/84 and 3/4/86
Individuals suspected of violation:	James McDougal Susan McDougal John Latham Greg Young Bill Henley
Corporations/Partnerships (unnamed as violators but cited as relevant to the crime):	Madison Financial Corporation ("MFC") Campobello Maple Creek Whitener/Whitener Construction/Whitener & Assoc. Madison Marketing Madison Real Estate Designer's Construction

FOIA # none (URTS 16305) DocId: 70105134 Page 268

Our concerns stem from the following questions:

1. Has the Statute of Limitations expired?

Absent any evidence of an ongoing conspiracy, whose object had not been accomplished until the final date of suspected activity, this referral is void due to the statute of limitations' expiration. In order for the statute of limitations to be valid under 18 U.S.C. § 3293, pursuant to FIRREA, the suspected activity could not have occurred prior August 9, 1984.

2. Does potential double-jeopardy exist regarding John Latham, James McDougal?

If the same funds or property involved in Latham's plea agreement and McDougal's acquittal are involved, potential double-jeopardy exists.

This referral's primary exhibit (Exhibit A-1-7) appears to have created the exhibit from various bank statements of MFC's checking account. This exhibit, however, does not appear to include all debits and credits of the entire account. Additionally, the re-created bank statement Exhibit A-1-7 is, itself, is missing a significant number of pages. Exhibit A-1-7 only reflects pages 7, 15, 22, 36, 47, and 95. he underlying documents upon which the created exhibit is based.

4. When was the alleged $8,932,900 "investment" made in MFC?

The referral references the "3/4/86 violation of 7.7%". Presumably, the $8,932,900 figure represents this 7.7% investment.

Federal banking regulations allow the parent institution (MGS&L) to invest 6% in its subsidiary (MFC) without being in violation of the regulation.

According to this referral, MGS&L's 7.7% investment in to MFC is $8,932,900. If we reduce this 7.7% figure to 1.7% (6% is allowable by federal regulation), the remaining 1.7% investment figure is $1,972,198.50. As a result, only $1,972,198.50 can be at issue and the subject of possible criminal violation.

The referral states on page 9 "... there is no evidence that the 7/11/86 overdraft ever occurred." This alleged "overdraft" may, in fact, represent MGS&L's 1.7% investment overage, not an overdraft.

5. Was the alleged deficiency actually charged off by either the institution or the FDIC/RTC?

6. Is the $1.9 million overdraft/investment-overage the subject matter of the civil settlement with Frost & Co.?

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7. What does the phrase "causing the institution to be AT RISK for $8,932,900" mean with regard to criminal conduct? Is this an attempt to bring criminal charges against Frost & Co. for civil settlement as set forth in the FDIC v. Frost & Co. accountant liability civil case; as well as Bill Henley with regard to his civil settlement?

   It is important to note that all the issues in this referral are identical to the fact allegations within Madison's accountant's liability civil suit that the RTC settled in April, 1993. The central issue in the RTC's suit against former Madison accountants, Frost & Company was what the RTC claimed was audit failure in connection with Frost's audit of MFC, a Madison subsidiary. Frost's audit indicates a profit of $830,000, calculated as follows:

12/85	MGS&L investment in MFC	$5,031,000
	Shareholder Equity	$ 975,000
	Profit	$ 830,000

   When Peat Marwick was retained to review Frost's audit workpapers, Peat determined that, contrary to Frost's audit report, the institution had actually sustained a multi million dollar loss on this transaction, calculated as follows:

12/85	MGS&L investment in MFC	$2,621,000
	Shareholder Equity	<$5,635,000>
	Loss	<$5,789,000>

8. If so, does this referral subject Frost & Co, and Bill Henley to any Halpier considerations?

9. What releases did Frost & Co. and Bill Henley obtain from the institution and/or its successors (RTC) as set forth in the respective Settlement Agreements?

4) CR0196:

Estimated Loss: $50,000

Date of Violation: 4/4/85

Individuals suspected of violation: James McDougal
Charles Peacock, III
Bill Clinton Political Committee Fund

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Corporations/Partnerships (unnamed as violators but cited as relevant to the crime):	Madison Financial Corporation ("MFC") Dixie Continental Leasing Flowerwood Farms, Inc. Bank of Cherry Valley White Water Development Corporation Quapaw Title

Our concerns stem from the following questions:

1. Is this transaction related to CR0211?

2. Does this referral involve funds for the same transaction on which McDougal was indicted/acquitted (ie, 145th Street Property / Castle Grande?)

3. Where is the proof of ownership of White Water Development Corporation? Have we examined the partnership documents or bank signature cards?

4. What facts do we possess that indicate the Political Campaign Fund knowingly received "misappropriated" bank funds as alleged in the referral?

5. How did Peacock divert cashier's check #Q2497 and #Q2598 on April 4, 1985 when the loan proceeds (#LN2354) of which they allegedly were a part were not disbursed until April 5, 1985?

6. Could the four $3,000 checks be relevant to a fund raiser event for couples (ie, banquet, gala, etc.) for which the tickets cost $1,500 a person (in 1985, the legal limit was not $1,000 but was $1,500)?

   All the checks in question are for the amount $3,000.

Check no.:	#Q2497 (cashier's ck)	(remitter) Ken Peacock
	#Q2498	Dean Lundrum
	#Q2496	J.W. Fulbright
	#688 (personal ck)*	Susan McDougal

[*joint account for either Susan or James McDougal]

All the checks in question were drafted on April 4, 1985.

7. Is the name of the spouse/escort also required by law to appear on the face of the campaign contribution (check) before the Campaign Fund may deposit the check if obtained in the course of a fund raiser event?

8. Has the statute of limitations expired on the Arkansas state campaign contribution statute? (Arkansas campaign contribution statute is a misdemeanor.)

9. What is the purpose of the reference to the Bassett memorandum?

   References to the Bassett memo appear to be inconsistent with the information contained in criminal referral data (CR0199). This is particularly true in light of the fact that the HUD laws were complied with, resulting in no violations of that statute.

12. Why does the referral reference Hillary Rodham Clinton and the Arkansas Security Department. There is no explanation of their alleged involvement in the actions that are the basis for this referral.

5) CR0198:

Estimated Loss:	$116,200
Date of Violation:	2/29/84 through 1/15/86
Individuals suspected of violations:	James McDougal Jim Guy Tucker Bill Henley Lisa Auspaugh

Our concerns stem from the following:

1. Does potential double-jeopardy exist regarding James McDougal?

2. Has the Statute of Limitations expired?

Absent any evidence of an ongoing conspiracy, whose object had not been accomplished until the final date of suspected activity, this referral is void due to the statute of limitations' expiration. In order for the statute of limitations to be valid under 18 U.S.C. § 3293, pursuant to FIRREA, the suspected activity could not have occurred prior August 9, 1984.

3. Why isn't Chris Wade named in the referral as a suspect?

4. Why is Tucker a suspect? Where is Tucker's liability? How did Tucker benefit? There's no indication he received any benefit, nor is there any indication Madison was harmed. Madison was paid back the entire $45,000 plus principal, interest and late penalties.

5. Was Tucker Chris Wade's nominee pursuant to the original purchase contract?

6. Why is James McDougal named in the referral?

7. Where is the evidence that Design Construction made a kickback of funds to Wade or Tucker?

8. Is this an attempt to bring criminal charges against Bill Henley for the same transaction as Madison earlier civilly settled with Henley?

9. What was the actual value of the property when Archie Hearn purchased it? Did he pay any cash on top of the $73,800?

10. What was the appraised value of the property when Tucker became owner?

6) CR0199:

Estimated Loss:	$390,000
Date of Violation:	1984 through 1985
Individuals suspected of violation:	James McDougal Chris Wade Sheffield Nelson Jerry Jones Larry C. Wallace John J. Flake
Corporations/Partnerships	Ozark Realty Ozark Air Service, Inc. Head Harbor Holding, Co. Campobello Properties Venture

000498

Our concerns stem from the following questions:

1. Has the Statute of Limitations expired?

Absent any evidence of an ongoing conspiracy, whose object had not been accomplished until the final date of suspected activity, this referral is void due to the statute of limitations' expiration. In order for the statute of limitations to be valid under 18 U.S.C. § 3293, pursuant to FIRREA, the suspected activity could not have occurred prior August 9, 1984.

2. The exhibits tell a different story than the referral: in particular a) chronological order of events; b) ownership; c) partnership interests; and d) exchange of funds.

3. To what account was the $373,250 deposited?

4. What is illegal about Union National Bank issuing a line a credit of which was drawn down over an 8 month period?

5. How was Jerry Jones benefitted? Larry Wallace? John Flake?

Based on referral exhibits, Jones, Wallace and Flake have a basis for a civil claim because they were injured.

6. Why does the referral claim the Interstate Land Sales Act was violated?

Exhibits and deposition testimony indicate the sales were withheld over a year so that no violation actually occurred.

7) CR0293:

Estimated Loss:	$313,000
Date of Violation:	1/1/84 through 6/18/89
Individuals suspected of violation:	E. Patrick Harris James McDougal

Our concerns stem from the following questions:

1. Has the Statute of Limitations expired?

Absent any evidence of an ongoing conspiracy, whose object had not been accomplished until the final date of suspected activity, this referral is void due to the statute of limitations' expiration. In order for the statute of limitations to be valid under 18 U.S.C. § 3293, pursuant to FIRREA, the suspected activity could not have occurred prior August 9, 1984.

2. What is the appraised value of property on 1/1/84?

3. Why not a referral on George Betts if subsequent appraisal is suspicious?

4. Why not a referral on Abernathy Development?

5. Where is the extra $174,000? Are we not interested in where it went?

6. Why does the referral say "Harris netted more than $50,000" from this transaction? Pursuant to Exhibit E-4 Harris did not net $50,000.

7. Did Bill Henley purchase this building with Harris (as Harris stated)?

8. If Henley did purchase the building with Harris, did Henley take this transaction as a tax deduction for 1983, 1984 or 1985? He stated this was his purpose for the transaction in the Borod & Huggins interview.

8) CR0210:

Estimated Loss:	$50,000
Date of Violation:	1/10/85 and 2/22/85
Individuals suspected of violation:	James McDougal Lorene McDougal Andrew Clark

Questions:

1. Are Mr. and Mrs. Hall ficticious?

2. Is Mrs. Lorene McDougal alive?

3. Where are the loan records for #2187?

4. Where are the bank statements for Lorene McDougal's personal account? (in order to verify what funds went in and out of her account).

5. How do we know the two transactions are related? What proof do we have to verify the relationship?

6. Did Mrs. McDougal have knowledge the transaction went on in her name?

7. Is the signature on the back of Quapaw check #461 Mrs. McDougal's?

9) CR0211:

Estimated Loss:	$950,000
Date of Violation:	4/4/85 through 10/4/86
Individuals suspected of violation:	James McDougal Susan McDougal Charles Peacock, III

Our concerns stem from the following questions:

1. Is there any significance that the beginning date of this referral is the same as CR0196?

2. Why isn't Latham named in the referral? Is it because this transaction was part of the original plea agreement regarding his prior indictment?

3. Why isn't Andrew Clark named in the referral?

4. Which county is the property located? Saline or Pulaski? Are we discussing the same piece of real estate?

5. How do we know both Dixie Leasing and K&D Construction are owned by Peacock? Who else has ownership interest in the corporations?

6. Does this referral have anything to do with RTC CR0001?

7. The referral says "...the sale proceeds were used to make down payment of the 145th Street track." Is this the same property

FOIA # none (URTS 16305) DocId: 70105134 Page 276

/ funds that were the subject of the criminal indictment of McDougal? If so, potential double jeopardy exists with regard to James McDougal.

8. Is the $434,000 RTC charge off actually the balance of the $513,273.77 figure paid to K&D by MFC? Or is the $434,000 an additional amount to the funds paid by MFC?

9. How did we arrive at this $950,000 loss figure?

10. Why is the "Chart of Nepotism" attached when most of the names are not part of the referral?

11. How do we know, and what evidence supports, the $513,000 payments went into this project?

12. Were these MFC payments for work K&D performed on this property (Castle Grande) or some other property?

To: James R. Dudine@Oper-inv@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
E. Glion Curtis@Legal-sc@RTCDC
Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
L. Richard Iorio@INVEST-1@RTCKC
David M. Swiss@Legal-Exec@RTCKC
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L. Jean Lewis@INVEST-1@RTCKC
Carl F. Gamble@Legal-pls@RTCDC
Cc: Karen L. Carmichael@LEGAL-PLS@RTCKC
Philip J. Adams@LEGAL-PLS@RTCKC
Bcc:
From: Julie F. Yanda@LEGAL-PLS@RTCKC
Subject: Madison Criminal Referrals
Date: Friday, October 8, 1993 12:56:51 CDT
Attach: MADISON
Certify: N
Forwarded by:

Pursuant to RTC internal policy memorandum dated June 17, 1993 from James Dudine, Thomas Hindes, et. al, attached please find a report that outlines the results of our review of the nine (9) pending criminal referrals out of Madison Guaranty Savings and Loan. Please contact me if you have any questions.

000079

o: James R. Dudine@Oper-inv@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
E. Glion Curtis@Legal-sc@RTCDC
Dennis M. Cavinaw@EXEC@RTCKC
James G. Thompson@EXECFSC@RTCKC
L. Richard Iorio@INVEST-1@RTCKC
David M. Swiss@Legal-Exec@RTCKC
Russell F. Kaufman@Legal-Exec@RTCKC
Lee O. Ausen@INVEST-1@RTCKC
L. Jean Lewis@INVEST-1@RTCKC
Carl F. Gamble@Legal-pls@RTCDC
c: Karen L. Carmichael@LEGAL-PLS@RTCKC
Philip J. Adams@LEGAL-PLS@RTCKC
cc:
rom: Julie F. Yanda@LEGAL-PLS@RTCKC
ubject: Madison Criminal Referrals
ate: Friday, October 8, 1993 12:56:51 CDT
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094887

HANSON TREASURY P. 3/9/94 fm 3 of 10

12/21/93
Privileged and Confidential
Attorney Work Product

MADISON GUARANTY
Chronology

September 27, 1993	Call from B. Roelle to J. Hanson
September 29, 1993	Meeting with B. Nussbaum, J. Hanson and Cliff Sloan in B. Nussbaum's office following Waco pre-brief
October 6, 1993	J. Hanson discussion with B. Roelle regarding S. Schmidt Kansas City attempted interviews
October 14, 1993	Meeting in B. Nussbaum's office with Cliff Sloan, {Mack} Gearan, Bruce Lindsey, Jack DeVon, Josh Steiner and Jean Hanson
December 9, 1993	Letter from Congressman Jim Leach to Roger Altman requesting information on Madison Guaranty.

142

FOIA # none (URTS 16305) DocId: 70105134 Page 280

HANSON TREASURY 4:1

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

September 30, 1993

MEMORANDUM FOR ROGER C. ALTMAN
DEPUTY SECRETARY

FROM: JEAN E. HANSON

SUBJECT: The Rose Law Firm

Steve Katsanos has talked with Sue Schmidt (See attached RTC Early Bird).

I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan.

I have asked Bill Roelle to keep me informed. Is there anything else you think we should be doing?

Attachment

149

FOIA # none (URTS 16305) DocId: 70105134 Page 281

HANSON
TREASURY

11/7 ?

10/15/93

1. Celeste Moy 703-761-8492 -
2. Liliane Martino
3. Charles Bennett 662-7150
4. Monique Leaman
5. Ken Schmalzbach
   Georg Munoz memo re early outs
   Peter Rilling / Steve
6. Tom McGivern 22317
7. Doris Washington 416-6911
   meeting this afternoon
8. Ben Rye 22735
9. Chuck Kuzer
10. Bill Roelle 416-7579
11. Peter Cobb 225-3780
12. Stanley Tate 786-9662
13. Chuck Kuzer 857-1516
14. Jack DeVore 22920
15. Dixon → Hall Steve Katsanos re policy
16. Jan Logue Kuzer
17. John Bowman
    Sheila Cahill - Bear Stearns
    Pat Nobbs 16 report completed
    Joseph Jaroloff 514-1418
    head of public integrity

* ~~Liliane Martino~~
~~Jack DeVore~~

Bacchus letter ??

George - Adm issues
Mike Levy - Serbia

→ Dick Farina 11/1 -
Ken Schmalzbach

- Jack DeVore - Law
→ Referrals did go out

* GAO spent a week in Dallas ~~at Burnside~~ last Ag. because of Burnside's complaint
- Concluded: internal fighting
Tom Hindes
Didn't write up

12/9/94

372

Hechingers

HANSON
TREASURY

9/27/93

1. Bill Bowden 874-5200 / Dan Cooke — Mark Hingston
   Jeff Gillespie
2. Ben Nye 22735
   0200
3. Dan Cooke - Call Ben Nye - Vacancies Act — { * Bill Roelle / Madison
4. Jim Cen - L. Brush / Steve Kroll / Hope
5. Ken Schmalzbach - Undersecretary / Enforcement
6. Josh Steiner / Mike Leary
   Mary Abreet
7. Vic Rojas 21980
8. Steve Glover — 202 820 8726
9. Valerie 202 820 8158
10. Celeste Moy 703 701 8458
11. Jim Allison
12. Rick Carro
13. Bill Roelle 416-7577
14. Rick Sanders 395-4224 — draft + cover memo
    Asst. Leon Fuerth NSC — - to Leon (VP) ->
15. Ron Noble — to NSC staff system to Pres.
16. Tom McGivern — for signature

fw
3/9/94

366

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TMCV [illegible]

Tom Hinders - NY Times

HANSON TREASURY

Barney
Ilsa Pollow
244-5632
10/4 or 10/5
upholstere

9/28/93

1. Bill Roelle / Dennis Cavanagh
2. Roger
3. Stanley Tate 736-9662
4. Tom McGivern
5. Bill Bowden
6. Leslie Strauss
7. Bernie Nussbaum
8. Skip Hove
9. Mike Levy
10. Chris Edley
11. Steve Glover 212-820-8736
12. Valerie Jacob 212 820 8158
13. Rick Carro
14. Ken Austin / Ed Cummings
15. Rick Saunders
16. Frank Newman
17. Dicta Ford 786-9662
18. Rick Cairo - Superfund
19. Ellen Seidman 416-2802
20. Jeff Powell 514-2069
21. Tom McGivern 22317
22. Bill Roelle / Skip

Rick will take next couple of days off → will transfer at end of pay period (Fri. or next Fri.)

* Report to Bill Roelle

Dennis - Bill Fuller

Bernie Nussbaum

Dan - McDougal - Madison Savings

Dennis - S. Tate's letter
CC meeting - GM/Sage
Bryan Jupiter
Swiss Co.
keyholder
Tax Ct procedure
McCandless
Subpoena sanctions
FOIA - pers. notes
Meeting issue
Schwartzlaw
Comp. time
Landmark Land

Vacancies Act
Allied Signal
Hart

FOIA (HRTS 16305) DocId: 70105134 Page 284

3/9/94

HANSON
TREASURY

10/1/93

1. Celeste May 703-761-8493
2. Stanley Tate
3. Christine Varney 456-6280
4. Bill Roelle 416-7579
5. Bill Bowden 874-5200
6. Rick Carro 21146
7. Ed Knight 20027
8. Ben Nye
9. John Bowman

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3/9/94

Carol Anderson

Charles Bennett

HANSON
TREASURY

10/6/93

1. ~~HBH~~
2. Celeste Moy
3. Steve Katsanos
4. ~~Hahaley~~ Tate 786 9608
   Deloitte / Celeste
5. Coors - Memo for Secretary
   Bob McNamara
6. McCandless - Sec's response
7. Al Byrne
   310 / 327 / 330
   345 / paper for 45 at our cost of funds
   #320 - 330
8. Rick Aboussie 736-3082
9. Susan levine
10. Mark Hingston
11. Bill Bowden
14. Robin Gross
15. Chris Peacock
16. Josh Steiner - Ken Schmalzbach
    - health care funding
17. John Bowman
18. Jan Piercey
19. Tom McGibbon
20. Bill Roelle - Sue Schmidt
    Kansas City
21. Liliane Martino
22. Alan Raul - 789-6021 (lawyer to Dave Heart

Steve Katsanos
Rick Carro -
EPA
Drag Claims

Mark Hingston - Tammy Fawley

GAO - list of volumes of CFR

-> 9 Claw. referrals

369

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3/9/94

NARSAD

Justice letter - Jeff Powell 514-2069
Chris Edley / Mikva
Charges - Illington
Waco - ~~opening statement~~
~~Ops/Ats - Ken / Bob~~
FOIA - Ron / Ken / Bob
Personnel papers
Berne - ~~Tucker~~ / McDougal / pledge
Sanctions - Ken Austin
Shirley Tate - 736-9662
Rick Carro - Superfund / Clean Air Act / Ex. Order
* IG - Bill Roelle
R. Abourezk - Contingent fees

Secure phone
Cordless / Movephone / file cabin
Leslie Strauss
J. Booker 416-6926
Bacchus letter
~~Friday - Date~~
~~D. Gordon~~
Dennis - Stanley letter
Leslie Maddin
Mary
SAs ?
~~Jeff Hunker~~

~~Steve Horn 212 820 8726~~
Valerie Jacob 212 820 8158

Laurie 456 6280
- Christine's Assistant
Radio

SCt Arg - 10/4 Central Bk of Denver vs.
1st Interstate of Denver - ardorg & abetting
Ellen Curtis / R Abourezk

Tom McGivern - McDougal / Madison Savings
- Bill Roelle / Ellen Curtis

Celeste Mary
Ethics pledge
Sp. Asst.

6193

Call Sam Sessions
OPM; Disclosure

NARA

FDIC - Atlanta - liquidations → new office
- Tom Rose - talked about end of November
Head of legal
Keith Seebolt - head of client size →

* Timing - Bill Roelle

Union
AFGE Am Fed. Govt Emps
NTEU - FDIC union - Natl. Treas. Emp's Union

* Transition plan issue
—

Crm referrals
- by Agent, Crm coordinator reviews before it goes →
Kansas City - KC office - pls
- Another one of high publicity / prominent referrals / open banks - goes to Washington

6192

Glen Curtis ~~Roger/Frank~~ NA?87? Pilkerelle 301-977-1738(H)

→ IG → Jonathan Fiechter

Johnnie Booker 416-6925 Bryan Jupiter
Christine Varney 456-6280 James Couch
* Celeste May 703-761-8492 - Art Kusinski 416-7469
organizational Chart
Stanley - pls/Skip/Oversight 786-9662
board / Stay out of Contract Special Assistant
Frank - John Bowman/staffing/Skip Hove Chief Counsel
Bernie - RTC GC/pledge RTC Gen Counsel
Bill Roelle - Deloittes 416-7579
9 referrals - Request after sent to Justice → Vetting process Leslie
Roger - Celeste
Bill Bowden 874-5200
- Donna Cunningham
- Rick Haussie Contingent fees Liliane Martino
- Conflicts committee - suggested procedures
12 CFR 1606.3

* Personnel actions

Interagency meetings
New executive order

Marubeni appeal - brief filed by 10/18
Iraq claims act

6188

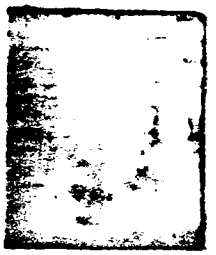
FOIA # none (URTS 16305) DocId: 70105134 Page 289

Robin

Lawyers Have Heart –

– Klaab – coordinating committee

– Honorary cochairs –



H000008

9/27

Not an RC official - have never functioned as such. Because there has been no general counsel

Briefed by Bill Roelle - He called called me from time to time on things that might relate to press inquiries but not for substantive ~~of~~ advice.

Very first notice - knew nothing of Madison
- Had not asked to be told

Talked to Roger - recalled names. both recalled NY Times Article

H000009

Only thing I was doing was to alert the White House that there might be press inquiries.

I assumed that Roelle boy giving me this info and telling me to tell Roger, and giving me this information.

H0000010

=> Senior institutional
administrator lawyer

Invited along because
legal matter

Respond to stories about the
President

H000012

Why did ~~She~~ the attend the meeting with Jack DeVore?

The meeting was arranged by the press people to ~~to~~ discuss press inquiries. She was asked to ~~come~~ attend by the Treasury people who wanted their lawyer to ~~attend~~ present.

HH000013

Screened By: NARA (RD-F) Date: 07-30-2018 DOCID: 70105146

[redacted]

False Statements Research (Misc Stmts)

CITE REPORT OF THE IC, In re THEODORE B. OLSON AND ROBERT M. PERRY, AT 155-56 (DEC. 27 1989)

§1001

X Brodson v US 409 US 352 (1973) — § 1621 CASE — CTS APPLY TEST IN § 1001

[?ER MUST FINDS OUT TRUTH → Brodson HOLD US § 352, 359]

① FAILURE OF ?ER TO BE PRESSURE/FOLLOW-UP → PRESUME IN FAVOR OF WITNESS

X US v LICHTE 782 F2D 367, 373-76 (2D CIR 1986)

X US v EDDY 737 F2D 564, 567-72 (6TH CIR 1984)

US v COWLEY 720 F2D 1037, 1042-44 (9TH CIR 1983)

② IF ? IS UNCLEAR, FOCUS ON HOW WITNESS UNDERSTOOD ? ≠ FOCUS IS ON IF WITNESS HAD KNOWLEDGE THAT WAS UNTRUE.

X US v EDDY 737 F2D 564, 569 (6TH CIR 1984)

US v WAHL 371 F2D 398, 400 (6TH CIR 1967)

③ Brodson, § 1621 CASE, ~~TEST~~ STD USED TO PROSECUTE PER § 1001

US v FEAR 696 F2D 1269, 1275-76 (11TH CIR 1983)

US v POUPART 646 F2D 685, 687-88 (1ST CIR 1980)

US v VESAAS 586 F2D 101, 104 (8TH CIR 1978)

US v MANDANICI 729 F2D 914, 921 (2D CIR 1984) (DICTUM)

④ BE CAREFUL IN APPLYING Brodson STD ≠ SPECIAL SENSITIVITY

IE. → CONG HEARING IS NOT IDEAL FORUM FOR INTERVIEW ? INC MEMORIES NOT AT ISS

X US v EHRLICHMAN 379 F SUPP 291, 292 (DDC 1974)

⑤ UNDER § 1623, RECANTING FALSEHOOD ~~NOT A~~ DEFENSE. — COMPLETE.

US v NORRIS 300 US 564, 574 (CRIME DONE AFTER MAKE STMT)

US v GLOVER 154 F SUPP 727, 738 (RECANTING RELEVANT ONLY TO SHOW LACK OF MATERIALITY INTENT) &

⑥ MUST READ Q + A IN CONTEXT OF WHOLE TESTIMONY

VAN LIEW v US 321 F2D 674, 678 (5TH CIR 1963)

FOTE v US 137 F2D 831, 842 (8TH CIR 1943)

⑦ MUST BE PROOF BEYOND REASONABLE DOUBT, KNOWINGLY & WILLFULLY, MADE FALSE [illegible] STATEMENT TO MISLEAD

X US v LAMBE 528 F2D 1280, 1288 (5TH CIR 1976)

X FRIEDS v US 223 F2D 598, 601 (DC CIR 1955)

FOIA # none (UNIS 16305) Docid: 70109246 Page 24

(1) 5 1001 ELEMENTS → ① STMT, ② [illegible] OF AGENCY TO WHOM MADE, ③ FALSE OR FRAUDULENT STMT, ④ MADE KNOWINGLY & WILLFULLY, ⑤ MATERIAL STMT

US v JOHNSON 937 F2D 392, 396 (8TH CIR 1991)
US v NOTARANTONIO 758 F2D 777, 785 (1ST CIR 1985)
US v WEINBERGER 1992 WL 294877, *4 (DDC 1992)

(2) LOOK TO D'S UNDERSTANDING OF ?, EVEN IF P'S ARE REASONABLE
X US v D1060 320 F2D 898, 905 (2D CIR 1963)
US v LAMMOREE 215 F2D 847, 957-59 (DC CIR 1955)
US v MILTON 8 F3D 39, 45-46 (DC CIR 1993)
CHAPIN v US 515 F2D 1274, 1280 (DC CIR 1985)
US v WINTER 782 F2D 367, 372 (2D CIR 1986)

(3) P HAS BOP TO NEGATIVE THE REASONABLE INTERP'S MEANING D'S STMT CORRECT
~~320 F2D, 907~~
X US v D1060 320 F2D 898, 907 (2D CIR 1963)

(4) MUST BE ACTUAL UNDERSTANDING D'S ? or ? ASSENTED TO FOR 1001
US v LAMMOREE ~~215 F2D 847~~,
127 FSUPP AT 710
US v PAPA 828 F2D 1010, 1015 (3D CIR 1987)

(5) CAN'T USE 1001 IF STMT IS LITERALLY TRUE
BRODSON 409 US 352 (1973)
MILTON 8 F3D AT 45 (TEST APPLIES TO 1001)
CHAPIN 515 F2D AT 1280 (SAME)

(6) IF ? IS VAGUE/AMBIGUOUS, AS MAY 1001 N/A
US v PAPA 828 F2D AT 1010, 1015 (3D CIR 1987)
US v JOHNSON 937 F2D AT 392, 399 (8TH CIR 1991)
US v VESAAS 586 F2D 101, 104 (8TH CIR 1978)
US v UTAY 371 F2D 398, 400 (4TH CIR 1967)

(7) MUST BE MADE W/ KNOWLEDGE OF FALSITY — NOT MISTAKE OR ACCIDENT
US v WEST 666 F2D 16, 20 n.2 (2D CIR 1981)
US v [illegible] 626 F2d 501, 505 (5th Cir. 1980)
US v LEO 941 F2D 181, 200 (3D CIR 1991) — CONSIDER EVIDENCE TO SUPPLEMENT TESTIMONY

FOIA Request (URTS 16305) Document 5 Filed 07/10/15 Page 3

(9) 1001 DOES NOT REQUIRE NONDISCLOSURE

X US v Lenhart 555 F2D 206, 212 (5TH CIR 1977)

~~US v [illegible]~~

MUST BE AFFIRMATIVE ACT BY WHICH INFORMATION FACT IS CONCEALED.

US v WOODWARD 469 US 105, 108 (1985)

X US v SHANNON 836 F2D 1125 (8TH CIR 1988)

(10) PROSECUTION OF CRIMES

US v Norris 910 F2D 843, 882 (DC CIR 1990)

US v Pentagen 725 F SUPP 13, 26 (DDC 1989)

PERFECT MEMORY, THE UNDERLYING CAUSE OF CRIME TO CONGRESS: ETHICAL REFORM & THE RULE OF LAW, 66 NW U L. REV 177 (1992)

9934518XDZ

① COPY 18 USC 1001

② DEWITT § 37.10 — KEY > F ONLY
FED JURY PRACTICE & INSTR
X 31 ACLR 539 — FAYE STMTS 1994

③ ON ISSUED X300 FED 67 (9M CIR 1962)
X BRUTON > US 926 F2D 1285

✓ DEWITT § 24.08

X US > IRWIN 654 F2D 671,676 (10M CIR 1981)
X US > MCCARTHY 422 F2D 160, 162 (2d CIR)

X US > AARONS 718 F2D 188
X US > MATTOX 689 F2D 531

-- DRAFT 2/29/95 --

MEMORANDUM

TO: Alex Azar

FROM: Rajeev Duggal

DATE: ~~February 29, 1995~~ 3/1

RE: Research Regarding 18 U.S.C. § 1001

KS: SEEMS TO BE ALL WISE THAT BROADLY IS N/A TO CONGRESS CONTEXT ~~ERROR~~ (NORMAL MATTERS).

Summary

You have requested preliminary research regarding the issue of whether or not an official of the Executive Branch who has made false statements and has concealed information in a Congressional oversight hearing is prosecutable under 18 U.S.C. § 1001. What follows are the preliminary results of that research. As you will see, substantial additional research will be required before charging decisions are made.

Discussion

Section 1001, the false statements statute, states:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

18 U.S.C. § 1001. There are three distinct offenses that fall within Section 1001: 1) concealing a material fact; 2) making a false statement; and 3) making or using a false writing or document. See id.; Edward J. Devitt et al., Federal Jury Practice and Instructions, Criminal § 37.00, at 411 (4th ed. 1990); Jennifer L. Kraft & David A. Sadoff, Ninth Survey of White Collar Crime, False Statements, 31 Am. Crim. L. Rev. 539, 540 (1994).

In order to convict a defendant under Section 1001 for making a false statement or writing or concealing a material fact, it must be proven that 1) the defendant knowingly and willfully; 2) made a false statementor writing or by trick, scheme, or device concealed a fact, ; 3) that was material; 4) in any matter within the jurisdiction of a department of the United States. United States v. Swaim, 757 F.2d 1530, 1533 (5th Cir.), cert. denied, 474 U.S. 825

FOIA # none (URTS 16305) DocId: 70105146 Page 6

(1985) (concealing fact case); Freidus v. United States, 223 F.2d 598, 601 (D.C. Cir. 1955) (false statement case); United States v. Weinberger, Crim. A. No. 92-235, 1992 WL 294877, at *4 (D.D.C. Sept. 29, 1992) (false statement case); United States v. Dale, 782 F. Supp. 615, 626 (D.D.C. 1991) (concealing fact case).

a. Knowing and Willful False Statement

In a false statement or writing case, it must be shown that the defendant "had the specific intent to make a false or fraudulent statement." United States v. Lange, 528 F.2d 1280, 1288 (5th Cir. 1976). This is established if the statement or writing is "untrue when made, and known at the time to be untrue by the person making it." United States v. Milton, 8 F.3d 39, 46 (D.C. Cir. 1993) (quoting jury instruction). The jury makes this determination of falsity by "considering the [statement] in context and taking into account the setting in which it appeared and the purpose for which it was used." Id. at 45. The jury must "determine how the defendant construed the question or answer and . . . decide, in that light, whether the defendant knowingly gave a false answer." Id. at 46.

b. Knowing and Willful Concealment of Fact

In a concealment case, it must be shown that the defendant 1) had a duty to disclose the fact and 2) used a "trick, scheme, or device" in concealing the fact.[1]

"It [is] incumbent on the Government to prove that the defendant had a duty to disclose the material facts at the time he was alleged to have concealed them." United States v. Irwin, 654 F.2d 671, 678 (10th Cir. 1981); United States v. Mattox, 689 F.2d 531, 533 (5th Cir. 1982) ("Silence may be falsity when it misleads, particularly if there is a duty to speak."). Under 2 U.S.C. § 192, it is clear that a summoned witness has a duty to disclose facts inquired of in a Congressional hearing.

In the absence of a Congressional summons, it may nevertheless be possible to establish that a duty to disclose exists as to an Executive Branch official testifying in a Congressional oversight hearing by virtue of the official's requirement to report to Congress. For example, the Thrift Depositor Oversight Protection Board, which includes the CEO of the RTC, is required to appear before the House and Senate Banking Committees. 12 U.S.C. § 1441a(k)(6)(A) (requiring semiannual appearance). As such, it may be possible that such a requirement to appear implies a duty to disclose. Additional research is required as to this issue.

---

[1] One who makes a knowing failure to disclose a material fact is as culpable as one who makes a false statement. See United States v. McCarthy, 422 F.2d 160, 162 (2d Cir. 1970) ("Leaving a blank is equivalent to an answer of 'none' or a statement that there are no facts required to be reported.")

FOIA # none (URTS 16305) DocId: 70105146 Page 7

In order to satisfy the "trick, scheme, or device" requirement, it must be shown that there was an "affirmative act" by which means a material fact was concealed. United States v. London, 550 F.2d 206, 212-13 (5th Cir. 1977). "The mere omission of failing truthfully to disclose a material fact, which is simply the negative aspect of the affirmative act of falsely stating the same material fact, does not make out an offense under the conceal or cover up clause of section 1001." Id. at 213-14. "Rather the latter clause of section 1001 requires the government to prove something more [--] that the material fact was affirmatively concealed by ruse or artifice, by scheme or device." Id. at 214.

However, "a person's deliberate failure to disclose to the government material facts, in the face of a duty to disclose such facts, constitutes an 'affirmative act' within the contemplation of the statute." United States v. Dale, 782 F. Supp. 615, 626 (D.D.C. 1991) (Penn, J., citing no authority). Thus, this situation is distinguishable from "passive failure to disclose" or "mere silence in the face of an unasked question." Id. "The case law is clear that the deliberate failure to disclose material facts in the face of a specific duty to disclose such information constitutes a violation of the concealment provision of section 1001." Id.

c. Applicability of Brontson: Whether or Not Nonresponsive Answers Can Constitute Concealment of Material Facts Under Section 1001

The issue here relates to the difference between questioning in a congressional setting versus an adversarial trial setting. In Brontson, a perjury case, the Court held that the perjury statute was to be strictly construed such that if a witness 1) speaks the literal truth or 2) is nonresponsive to a question and thereby succeeds in concealing certain facts, the witness is not culpable for perjury. Brontson v. United States, 409 U.S. 352, 360 (1973). "The burden is on the questioner to pin the witness down to the specific object to the questioner's inquiry." Id. "Unresponsive answers are to be remedied through the 'questioner's acuity' and not by a federal perjury prosecution." Id. at 362.

The Court reasoned that "[i]t is the responsibility of the lawyer to probe; testimonial interrogation, and cross-examination in particular, is a probing, prying, pressing form of inquiry. If a witness evades, it is the lawyer's responsibility to recognize the evasion and bring the witness back to the mark, to flush out the whole truth with the tools of adversary examination." Id. at 358-59. That is so because "[i]t should come as no surprise that a participant in a bankruptcy proceeding may have something to conceal and consciously tries to do so; or that a debtor may be embarrassed at his plight and yield information reluctantly." Id. at 358.

This Brontson line of thought -- that the questioner has a high burden that inures to the benefit of the witness -- has been extended by some courts to section 1001 cases. The issue is whether or not this extension is proper or whether Brontson should be limited to perjury or false statements cases occurring in an adversarial trial context or whether it should

FOIA # none (URTS 16305) DocId: 70105146 Page 8

be extended to all cases falling within those statutes, including concealment cases[2]

If Brontson applies not only to the false statements prong of section 1001 but also to the concealment aspect, little would be left of concealment as a separate and distinct offense under section 1001. Substantial additional research must be conducted on this issue.

d. Materiality

The materiality determination is a matter of law to be determined by the courts. United States v. Hansen, 772 F.2d 940, 950 (D.C. Cir. 1985) (Scalia, J.) (concealment case).[3] The test for materiality is whether the statement "has a natural tendency to influence or was capable of influencing, the decision of the tribunal in making a particular determination." Id. at 948. Proof of actual reliance on the statement is not necessary. Id. As such, "a lie influencing the possibility that an investigation might commence" stands in the same posture under section 1001 as "a lie distorting an investigation already in progress." Id.[4]

From the language of the statute, it is clear that the "materiality" element is not repeated in the second and third prongs. However, it is clear that the courts have read the materiality element in to each clause. See United States v. Notarantonio, 758 F.2d 777, 785 (1st Cir. 1985).

---

[2] The D.C. Circuit accepted the Brontson defense that a literally true response is non-prosecutable in a false statements case. United States v. Milton, 8 F.3d 39, 45 (D.C. Cir. 1993).

[3] Some Circuits hold that materiality is an issue for the jury.

[4] In Swaim, the court couched its language in terms of concealment as well as false statements:

> The charge of materiality requires only that the fraud in question have a natural tendency to influence, or be capable of affecting or influencing, a government function. The alleged concealment or misrepresentation need not have influenced the actions of the government agency, and the government agents need not have been actually deceived.
>
> The Government does not have to show actual reliance on false statements or documentation. A statement is material even if it is ignored or never read by the agency receiving the misstatement. The concealment must simply have the capacity to impair or pervert the functioning of a government agency.

United States v. Swaim, 757 F.2d 1530, 1533 (5th Cir. 1985).

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e. Statements to Congress

The false statement or concealed fact must relate to a matter within the jurisdiction of a department of the United States. Although "Congress" does not come squarely within the definition of an "agency" or "department," the Supreme Court has held that the term "department" was meant to describe the executive, legislative, and judicial branches of government. United States v. Bramblett, 348 U.S. 503, 509 (1955). As such a congressional committee is a department for section 1001 purposes. United States v. Poindexter, 951 F.2d 369, 387 (D.C. Cir. 1991) (section 1001 applied to false statements made by Poindexter to members of House Intelligence Committee); United States v. Hansen, 772 F.2d 940, 943-44 (D.C. Cir. 1985) (forms submitted by congressman to House Committee as required by Ethics in Government Act involve "matter within the jurisdiction of a department.") In addition, section 1001 is applicable to "statements that were not under oath and were not stenographically transcribed." Poindexter, 951 F.2d at 387-88 (section 1001 applies to private discussions between Poindexter and Congressmen; problems of proof in such situations (one person's word against another) are issues for sufficiency of evidence not substantive law).

In Hubbard, the Supreme Court is currently being asked to limit the reach of section 1001 solely to executive agencies. The outcome of Hubbard would significantly limit the applicability of section 1001 in the context of unsworn Executive testimony before Congressional oversight committees.

Conclusion

If you have any questions, please let me know.

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Document production to the Committee was not completed until 1985.

420/ Parker, Mar. 10, 1986, memo at 1; [illegible] ul. 24, 1986, [illegible] Department was aware of the Committee's his [illegible] ealings with the Executive Branch. A March 1[illegible] Connell to Attorney General Smith stated

> We must remember t[illegible]airman Rodino will be professional, [illegible]e will be looking to the larger issues and will have concerns about the institutions involved. . . . [W]e must remember this is our best House forum. This Committee is the appropriate forum to discuss all issues.

McConnell memo reprinted in HJC Rept. at 2387-88.

Similarly, Olson recognized in a May 25, 1984, memorandum to Associate Attorney General Lowell Jensen that, "The Committee has, indeed, avoided conducting its inquiry in the public limelight and we have been and are grateful for its sense of responsibility." HJC Rept. at 2541.

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[421/] Parker, Mar. 10, 1986, memo at 3.

IV. ANALYSIS

A. INTRODUCTION

We have determined that there is insufficient credible evidence on which to conclude that Mr. Olson knowingly and intentionally testified falsely on March 10, 1983, or in his editing of the transcript, or that his testimony obstructed the Judiciary Committee's inquiry. In addition, a prosecution of Mr. Olson based on his testimony would confront certain legal obstacles which would, at a minimum, cloud the prospects for success. We have further concluded that there is no evidence that Mr. Olson was engaged in a conspiracy to obstruct the Committee's inquiry.

We have also determined that there is insufficient credible and admissible evidence on which to prosecute Mr. Perry for perjury in connection with his December 3, 1982, testimony before the Dingell Subcommittee and that some at least of the questions to which he is claimed to have given false answers were of questionable materiality to the legislative and oversight exercise in which the Subcommittee was engaged.

We begin with a discussion of some of the preliminary legal issues concerning a possible prosecution under § 1001 or § 1505, then turn to factual and legal issues raised under those sections by Mr. Olson's testimony and to a brief consideration of whether there is any evidence of his participation in a conspiracy.

Finally, we examine Mr. Perry's conduct.

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B. PRELIMINARY ISSUES

Mr. Olson raised a number of questions regarding the nature of the Judiciary Committee's proceeding. Principally these questions involved the relatively informal procedural context in which Mr. Olson's testimony was given. He was not subpoenaed; he was not placed under oath; and there was no formal Committee vote to commence an investigation or inquiry. Mr. Olson contended that this lack of procedural formality was fatal in various ways to the application of either 18 U.S.C. § 1001[422/] or 18 U.S.C. § 1505.[423/]

422/ Section 1001 provides in relevant part:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully . . . conceals . . . a material fact, or . . . makes any false . . . statements shall be fined not more than $10,000 or imprisoned not more than five years, or both.

423/ Section 1505 provides, inter alia:

> Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by . . . any committee of either House . . . shall be fined not more than $5,000 or imprisoned not more than five years, or both.

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1. The Jurisdiction Of The Subcommittee

Mr. Olson urged that the Monopolies Subcommittee lacked subject matter jurisdiction to conduct the inquiry into the role of the Department of Justice in the EPA documents controversy and hence that § 1001 was inapplicable. While the full Judiciary Committee undoubtedly had oversight jurisdiction of the Department of Justice,424/ Mr. Olson argued that the EPA matter could not be, or at any rate was not, properly delegated to the Subcommittee.

Section 1001 punishes only those false statements made "in any matter within the jurisdiction of any department or agency of the United States."425/ It is true that under the rules of the Judiciary Committee, the Monopolies Subcommittee's enumerated jurisdictional spheres were limited to "Antitrust, Judgeships, Bankruptcy, [and] Economic Regulation generally." Rule VI(a), House Committee on the Judiciary, 98th Cong. (1983). But the Subcommittee was also empowered to deal with "other appropriate matters as referred by the Chairman, and relevant oversight."

424/ The Judiciary Committee had general oversight responsibility for the Department of Justice. House Rule X, cl. 2(m) and note, 98th Cong. In the exercise of this responsibility, the Committee was empowered to conduct such investigations and studies as it considered necessary or appropriate. House Rule XI (1)(b), 98th Cong.

425/ It is clear that legislative bodies such as the Judiciary Committee are "department[s] or agenc[ies] of the United States" for purposes of § 1001. See United States v. Bramblett, 348 U.S. 503, 509 (1955); United States v. Hansen, 772 F.2d 940, 943 (D.C. Cir. 1985), cert. denied, 475 U.S. 1045 (1986); United States v. Diggs, 613 F.2d 988, 999 n.64 (D.C. Cir. 1979), cert. denied, 446 U.S. 982 (1980).

Id.[426/] Moreover, Rule VII authorized the Subcommittee to "hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction." (Emphasis added.)

Read together, these rules gave the Chairman broad and flexible authority to refer particular legislative and oversight matters to the Subcommittee, and there is no reason to conclude that the delegation of the aspect of Department of Justice oversight at issue was beyond the scope of the Chairman's power. Nor do the rules of the House or of the Committee specify any particular mechanism by which a referral to a subcommittee is to be accomplished. Oral referral of legislative or oversight matters to subcommittees is both permissible and common.

Cases cited by Mr. Olson requiring legislative bodies to adhere to their own rules where applicable are thus inapposite. In Gojack v. United States, 384 U.S. 702 (1966), for example, the Supreme Court overturned a contempt conviction where the House Un-American Activities Committee had ignored its own rule requiring a majority vote for the initiation of a "major investigation." See also, e.g., Yellin v. United States, 374

426/ House Rule X, cl. 2, 98th Cong., required the Judiciary Committee, as a standing committee of more than 20 members, either to establish an oversight subcommittee or to require its standing subcommittees to assist in carrying out its oversight responsibilities. The Judiciary Committee had no oversight subcommittee and hence made use of the standing subcommittees for this purpose. Much of the Committee's oversight of the Department took place during the annual budget reauthorization process, which provided the setting in which Mr. Olson testified. House Rule XI, cl. 1(a)(1), 98th Cong., empowered the Committee to confer on its subcommittees, with exceptions not here relevant, the powers which the Committee itself could exercise.

U.S. 109, 114 (1963); Christoffel v. United States, 338 U.S. 84, 89-90 (1949). There is no comparable suggestion here that the Judiciary Committee or the Subcommittee failed to follow any internal rule in the delegation of the subject matter of the inquiry to the Subcommittee for purposes of the hearing in which Mr. Olson testified.

The Supreme Court has said that "the term 'jurisdiction' should not be given a narrow or technical meaning for purposes of § 1001." Bryson v. United States, 396 U.S. 64, 70 (1969). See also United States v. Rodgers, 466 U.S. 475, 480 (1984). We conclude that the matter was properly delegated to the Subcommittee.

2. The Existence Of "An Inquiry Or Investigation" And The Problem Of Materiality

There are, however, other more troublesome questions raised by the lack of formality with which the Committee initiated and conducted the EPA inquiry.

At the outset, we note that while some dissenting minority Members of the Committee claimed that the procedure was designed to exclude minority party participation,427/ the Committee's preference for relative informality was in the circumstances entirely understandable. The inquiry was undertaken on the heels of an abrasive confrontation between the legislative and executive branches, which had major partisan overtones and which

427/ Minority dissent in HJC Rept. at 731-33, 754-55.

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resulted in the resignation of the Administrator of EPA. Chairman Rodino acted at the behest of the leadership of the House and of the Chairmen of the two Committees which had been denied access to the controversial documents. According to the Committee's General Counsel, Alan Parker, the point of the exercise was not to fuel the flames of controversy or to assess blame, but to find out what had gone wrong and perhaps to offer suggestions as to how such constitutional contretemps could be avoided in the future. Department of Justice officials acknowledged that the Judiciary Committee had a well-deserved reputation for non-partisan professionalism and fairness in the conduct of investigations and agreed with Committee staffers that it had developed a good working relationship with the Department based upon mutual respect and appreciation of the institutional interests of both branches.428/ In this context, Mr. Parker said, Chairman Rodino deliberately avoided formal Committee votes and the use of the term "investigation" as likely to be counterproductive and to exacerbate existing political tensions.429/

Nonetheless, the fact that there was never a formal resolution of either the full Committee or the Subcommittee authorizing and defining the scope of the EPA inquiry is potentially significant in at least two ways: (1) the existence

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428/ It was considered important by many, for example, that Mr. Parker himself had served both as General Counsel to the Committee and as Assistant Attorney General for Legislative Affairs. Olson, Aug. 17, 1988, memo at 26.

429/ Parker, Jul. 24, 1986, memo at 2.

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of an "inquiry or investigation" is a predicate for the application of § 1505's prohibition of obstruction; and (2) the materiality of an allegedly false statement is an essential element of an offense under § 1001, which is often tested in congressional cases by reference to the terms of the resolution authorizing or directing the investigation or inquiry.

a. "Inquiry Or Investigation"

Section 1505 makes it a crime to obstruct or endeavor to obstruct "the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by . . . any committee of either House." Mr. Olson questioned whether the hearing at which he testified was part of an "inquiry or investigation" by the Committee or the Subcommittee. He proffered a sharp distinction between oversight proceedings and inquiries or investigations and urged that the latter required a higher degree of formality in their initiation.

Neither the statute nor the case law affords any definition of either "inquiry" or "investigation." Section 1505, however, also prohibits obstruction of "the due and proper administration of the law under which any proceeding is being had before any department or agency of the United States," and judicial decisions afford the term "proceeding" a broad common-sense definition. See United States v. Browning, 572 F.2d 720, 724 (10th Cir. 1978); United States v. Fruchtman, 421 F.2d 1019, 1021 (6th Cir.), cert. denied, 400 U.S. 849 (1970); Rice v.

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United States, 356 F.2d 709, 712-15 (8th Cir. 1966); United States v. Batten, 226 F. Supp. 492, 493-94 (D.D.C. 1964), cert. denied, 380 U.S. 912 (1965). As the Eighth Circuit put it:

> "Proceeding" is a comprehensive term meaning . . . a particular step or series of steps adopted for accomplishing something. This is the dictionary definition as well as the meaning of the term in common parlance. . . . [I]t would be absurd to hold that Congress meant to proscribe interference with the administrative process only after a . . . proceeding had reached a certain formal stage. . . . Congress clearly intended to punish any obstruction . . . at any stage of the proceeding, be it adjudicative or investigative. Congress did not limit the term "proceeding" as used in § 1505 to only those acts committed after a formal stage was reached, and we cannot so limit the term.

Rice, 356 F.2d at 712 (footnote omitted).430/

Adoption of this approach leads to the conclusion that the Subcommittee hearing was part of an "inquiry" by the Committee into the Department's role in the EPA documents controversy. No rule of the House or of the Judiciary Committee required any particular level of formality for the initiation of an "inquiry."431/ Nor does common practice support the sharp

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430/ The courts have taken a similar view with respect to the pendency of grand jury proceedings for the purpose of applying 18 U.S.C. § 1503. See United States v. Vesich, 724 F.2d 451, 454-55 (5th Cir. 1984); United States v. Walasek, 527 F.2d 676, 678 (3d Cir. 1975); United States v. Fineman, 434 F. Supp. 197, 202 (E.D. Pa. 1977), aff'd mem., 571 F.2d 572 (3d Cir.), cert. denied, 436 U.S. 945 (1978); cf. Shimon v. United States, 352 F.2d 449, 450-51 (D.C. Cir. 1965).

431/ House Rule XI, cl. 2(k), 98th Cong., specified certain procedural rules for formal investigative committee hearings, and these rules governed subcommittee hearings "insofar as applicable," House Rule XI, cl. 1(a)(1), 98th Cong. These rules were not observed in connection with the March 10 hearing, and we consider the implications of this fact at pp. 151-54, infra. The failure to apply these rules goes in our view to the question whether the Subcommittee was engaged in the "due and proper

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cleavage between oversight and "inquiry" suggested by Mr. Olson. Mr. Parker stated that if such a line exists, it is often blurred and that "inquiries" or "investigations" frequently arise out of or partake of the oversight function.432/ Certainly the Committee staff understood that they were engaged in an "inquiry" prior to March 10, 1983, and that the hearing on that date was a part of that "inquiry."433/ From the Department's perspective, Chairman Rodino's letters of February 24, 1983, and March 2, 1983, to the Attorney General certainly constituted notice as a practical matter that the Committee was inquiring into the Department's performance with respect to the executive privilege claim. Mr. Olson did not dispute that he knew in advance of the Subcommittee hearing both that the Committee was looking into the EPA matter and that he would be questioned at the hearing about the activities of the Office of Legal Counsel in connection with it.434/ The Chairman's searching document request had been received well in advance of the hearing, and Mr. Olson had been instructed after high-level internal discussions to avoid making any binding commitments regarding the scope of the Department's response to that request.

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exercise" of the power of inquiry, and not to the question whether an "investigation or inquiry" had been initiated at all.

432/ Parker, Jul. 24, 1986, memo at 2.

433/ Id. at 1-2.

434/ Indeed, Mr. McConnell's letter of March 8, 1988, to Chairman Rodino, which Mr. Olson helped to draft, expressly acknowledged that "the March 10 hearing will provide you an opportunity to seek additional information" regarding the Department's role in the EPA documents controversy. HJC Rept. at 2951.

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In our view the Committee clearly had before March 10, 1983, undertaken an "inquiry" into the Department's role in the EPA documents controversy -- albeit at that stage an informal one -- and the Department and Mr. Olson were on fair and adequate notice of that fact. It would thwart the plain purpose of the statute to conclude that the relatively preliminary and informal stage of the proceedings constituted a license to engage in knowing and willful acts of obstruction.

b. Materiality

A "material falsification" is an essential element of a crime under § 1001. E.g., Freidus v. United States, 223 F.2d 598, 601 (D.C. Cir. 1955). In cases involving convictions for contempt of Congress under 2 U.S.C. § 192 for refusing to answer questions posed by congressional committees, the Supreme Court has enforced the materiality requirement with meticulous care, see, e.g., Russell v. United States, 369 U.S. 749, 755-56 (1962), and has tested materiality by reference to the resolutions authorizing the committees' investigations, see, e.g., Watkins v. United States, 354 U.S. 178, 201-04 (1957); United States v. Rumely, 345 U.S. 41, 44-45 (1953). Indeed, in one case the Court found the lack of an authorizing resolution fatal to the committee's effort to hold a recalcitrant witness in contempt. See Gojack v. United States, 384 U.S. 702 (1966). Relying on these cases, Mr. Olson contended that the Committee's failure to take a formal vote to initiate the EPA inquiry and to establish

the bounds of that inquiry rendered it impossible to determine whether the questions posed to him by the Subcommittee Members were material to the investigation which had been authorized and hence barred prosecution under § 1001.

Mr. Olson's argument is not a frivolous one. There are, however, countervailing arguments of considerable weight. To begin with, the contempt of Congress cases are distinguishable. They charged not the giving of false testimony, but the refusal to testify at all, based upon challenges to the committees' power to inquire -- challenges which inevitably thrust the question of materiality to the fore. Under § 1001, by contrast, the witness has by hypothesis bypassed his materiality challenge and chosen instead to testify falsely. While the materiality issue technically is not waived thereby, the posture of such a witness with respect to the materiality issue is far less appealing than that of the witness who preserves his integrity and raises his challenge to the power of inquiry directly.435/ Perhaps for this

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435/ Cf. Bryson v. United States, 396 U.S. 64, 68-72 (1969), and Dennis v. United States, 384 U.S. 855, 867 (1966), where the Supreme Court held that a defendant charged with violating § 1001 could not challenge the constitutionality of the statute which required him to file the statement which was alleged to be false. The Court stated:

> it cannot be thought that as a general principle of our law a citizen has a privilege to answer fraudulently a question that the Government should not have asked. Our legal system provides methods for challenging the Government's right to ask questions -- lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a

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reason, the decisions dealing with questions of "materiality" under § 1001 plainly apply a more relaxed standard than those arising under § 192. The test for materiality under § 1001

> involves only the capability of influencing an agency's governmental functions, i.e., does the statement have a "natural tendency to influence or is it capable of influencing agency decision?"

United States v. Popow, 821 F.2d 483, 488 (8th Cir. 1987) (emphasis in original). Accord, e.g., United States v. Corsino, 812 F.2d 26, 30-31 (1st Cir. 1987); Weinstock v. United States, 231 F.2d 699, 701-02 (D.C. Cir. 1956).

> The alleged concealment or misrepresentation need not have influenced the actions of the Government agency, and the Government agents need not have been actually deceived.

Corsino, 812 F.2d at 30, quoting United States v. Markham, 537 F.2d 187, 196 (5th Cir. 1976).

Moreover, in most if not all of the Supreme Court's major § 192 cases, the intensified scrutiny of the questions of materiality and authorization took place in the context of an effort to avoid the much more difficult and politically charged question whether the Constitution -- specifically the First Amendment -- imposed any limitations on the congressional power of inquiry. This consideration is absent in § 1001 cases generally, and there certainly has been no claim here that the investigation or any question posed by the Subcommittee Members invaded any constitutional right of Mr. Olson.

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falsehood.

Bryson, 396 U.S. at 72.

Furthermore, authorizing resolutions have been treated as important by the courts because they provide notice of the inquiry and serve to define its scope. In effect, they afford due process to the target of the inquiry. However, Chairman Rodino's letters of February 24, 1983, and March 2, 1983, arguably fulfilled these functions. If, as we have concluded above, no formal vote was necessary to authorize or initiate the inquiry, the Chairman's letters would seem adequate for these purposes, unless they were unclear or ambiguous in some way which affected the Department's or Mr. Olson's ability to respond. But Mr. Olson has never claimed -- as, in our view, he could not -- that he was uncertain as to the existence of the Committee's inquiry or that, on any possible view of the scope of the inquiry, any of the subject matters about which Members of the Subcommittee inquired at the hearing was immaterial.

We think that the better view is that the Chairman's letters adequately established the scope of the inquiry and that the questions posed at the hearing were material on any reading of those letters.

3. "Due And Proper Exercise Of The Power Of Inquiry"

Finally, Mr. Olson questioned whether the Subcommittee's informal hearing procedures constituted the "due and proper exercise of the power of inquiry"--an essential prerequisite to a finding of obstruction under § 1505. Specifically, he contended

that House Rule XI, cl. 2(k), 98th Cong., required (a) that he be supplied with a copy of the Committee's rules and of the clause itself; (b) that the Chairman deliver an opening statement delineating the subject matter of the investigation; and (c) that he be informed of his right to appear with counsel.

While the matter is again not entirely free from doubt, we are of the view that Mr. Olson's arguments are not well taken. Clause 2(k) was adopted in 1955 in response to criticisms about the treatment of citizens in congressional hearings. It applies by its terms to formal investigative hearings, which usually involve subpoenas and the administration of oaths. The Subcommittee, we have concluded, was conducting a less formal inquiry, one which grew out of the Committee's oversight function. In the exercise of this function, Mr. Parker said, the Committee had traditionally avoided such formalities, which the Chairman considered unseemly in the case of high Justice Department officials, who were expected to cooperate with Committee oversight inquiries without being subpoenaed and to be truthful without being placed under oath.436/

Nor does it seem likely that the Committee's failure to proceed under clause 2(k) had any practical impact on Mr. Olson. While the Chairman made no opening statement, Mr. Olson was aware of his letters to the Attorney General, which had detailed the nature and scope of the Committee's inquiry.437/ Mr. Olson knew

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436/ Parker, Jul. 24, 1986, memo at 2.

437/ The Department anticipated questioning at the hearing on the EPA documents controversy. See pp. 104-05, supra.

that he would be questioned about document production in response to the Committee's request and about the role of the Office of Legal Counsel in the EPA executive privilege controversy. Mr. Olson, it is true, was not tendered a copy of the rules of the Judiciary Committee when he was invited to testify, but the Department dealt with the Committee and its subcommittees on a regular basis -- including frequent testimony by high ranking Department officials --and Mr. Olson discussed the Committee's inquiry with Robert McConnell, the Assistant Attorney General for Legislative Affairs, who was intimately familiar with the Committee and its rules and procedures. Similarly, Mr. Olson was not explicitly advised of his right to appear with counsel, and he was not represented at the hearing by private counsel. Mr. Olson, however, was both a high law enforcement official and an experienced lawyer, and he was accompanied at the hearing by several other highly-placed Justice Department lawyers. In any event, Mr. Olson has not suggested that the hearing procedure or any of the questions posed invaded any of his constitutional or other rights.

We think a court is unlikely to hold on these facts that § 1505 is inapplicable simply because the Committee was not proceeding under Rule XI, cl. 2(k), especially where the necessary implication of such a holding would be that a high government official could engage in willful acts of obstruction with impunity any time a congressional committee chose to proceed in an inquiry without the confrontational trappings of a formal investigation.

We have thus concluded that the Committee's lack of formality in procedure would not preclude a prosecution of Mr. Olson for either making a false statement or obstruction of the Committee's inquiry, if the evidence justifying such a prosecution existed. However, the informality of the proceedings raised a number of legal questions, and the cumulative impact of the various issues could well prove troubling to a court reviewing a conviction. The Committee's effort to dampen the fires of partisan controversy and to avoid further unnecessary confrontation was commendable. That effort was obviously undertaken without any thought of possible future criminal prosecution. Nonetheless, it did give rise to procedural ambiguities which could have created some problems if a prosecution had been attempted.

C. ANALYSIS OF ISSUES UNDER 18 U.S.C. § 1001

Any prosecution under § 1001, as interpreted by the courts, would require proof beyond a reasonable doubt that Mr. Olson knowingly and willfully made a material false statement on a matter properly within the jurisdiction of the Subcommittee with the specific intent to mislead the Subcommittee. See, e.g., United States v. Lange, 528 F.2d 1280, 1288 (5th Cir. 1976) (specific intent to deceive required); Freidus v. United States, 223 F.2d 598, 601 (D.C. Cir. 1955) (false statement must be material to the matter within the agency's jurisdiction). In addition, at least where the allegedly false statements are made in the context of interrogation, the law arguably requires considerable precision in the questioning and a demonstration that under no circumstances could the answer, however potentially misleading, be deemed literally true.

1. The Standard For Determining Falsity

The seminal case in this area is Bronston v. United States, 409 U.S. 352 (1973). In that case a witness in a corporate bankruptcy proceeding -- the president of the bankrupt corporation -- testified under examination by counsel for a creditor as follows:

> Q. Do you have any bank accounts in Swiss banks, Mr. Bronston?

A. No, sir.

Q. Have you ever?

A. The company had an account there for about six months, in Zurich.

409 U.S. at 354. The government claimed that the answer to the second question constituted perjury, since the witness had had a personal bank account in Geneva for a period of five years. The lower courts had found falsity by implying from the unresponsive answer a denial that he had any personal Swiss bank account. The Supreme Court, however, unanimously reversed the perjury conviction, holding that an answer to a question, no matter how potentially misleading, is not perjury if it is merely unresponsive and is on its face literally true. The witness in Bronston had told the truth about the company's account in Zurich and had thereby merely avoided answering the question about his own account. The Court placed a heavy responsibility upon the interrogator "to flush out the whole truth with the tools of adversary examination." Id. at 359.

> Under the pressures and tensions of interrogation, it is not uncommon for the most earnest witnesses to give answers that are not entirely responsive. Sometimes the witness does not understand the question, or may in an excess of caution or apprehension read too much or too little into it. . . . It is the responsibility of the lawyer to probe; testimonial interrogation, and cross-examination in particular, is a probing, prying, pressing form of inquiry. If a witness evades, it is the lawyer's responsibility to recognize the evasion and to bring the witness back to the mark . . . .

Id. at 358-59. The Court expressly held irrelevant any supposed intention by the witness to mislead his interrogator. Id. at 359-61. And while the Court stated that it was not relying on any arguable ambiguity in the question, id. at 356-57, its emphasis on the responsibility of the interrogator and the defense of literal truth leads ineluctably to close analysis of the "fit" between question and answer in any perjury case.

The teaching of Bronston seems to be that all doubts, especially those created by the failure of the interrogator to be precise or to ask the right follow-up question, are to be resolved in favor of the witness. See, e.g., United States v. Lighte, 782 F.2d 367, 373-76 (2d Cir. 1986); United States v. Eddy, 737 F.2d 564, 567-72 (6th Cir. 1984); United States v. Cowley, 720 F.2d 1037, 1042-44 (9th Cir. 1983). Moreover, where the question is claimed to be unclear, what is important is how the witness, not the interrogator, reasonably understood the question, for the essence of the offense is the witness' knowledge that his answer is false. See, e.g., Eddy, 737 F.2d at 569; Cowley, 720 F.2d at 1043; United States v. Wall, 371 F.2d 398, 400 (6th Cir. 1967).

Bronston, of course, was a prosecution for perjury under 18 U.S.C. § 1621. However, though the Supreme Court has not considered the question, courts of appeals have applied the Bronston standard to prosecutions for the making of false statements under § 1001. See, e.g., United States v. Fern, 696 F.2d 1269, 1275-76 (11th Cir. 1983); United States v. Poutre, 646 F.2d 685, 687-88 (1st Cir. 1980); United States v. Vesaas, 586

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F.2d 101, 104 (8th Cir. 1978); United States v. Mandanici, 729 F.2d 914, 921 (2d Cir. 1984) (dictum). Application of that standard in the present case in our view effectively precludes the prospect of a successful prosecution under § 1001.

Before analyzing the critical questions and answers in light of the Bronston standard, we pause to take notice of the setting in which the testimony was given. Generally speaking, a congressional committee hearing provides a less than ideal forum for in-depth exploration of particular historical facts or tight follow-up questions of the sort envisioned by the Court in Bronston. Time is normally at a premium, and consideration of more than one broad topic with more than one witness must often be accomplished in a single morning session, which may be interrupted for floor votes or other legislative demands. Each congressional questioner is typically limited to a brief time for the interrogation of each witness, making careful pursuit of ambiguity and evasion yet more difficult. Nor can busy legislators focusing for perhaps the first time on a particular topic realistically be expected to frame questions with the precision which courts demand of well-prepared cross-examiners. And the broadly political concerns of both interrogators and witnesses frequently color the dialogue and render the attainment of precision even less likely. Finally, such hearings unquestionably at times become heated and partisan in a way which makes it difficult for witnesses either to keep their composure or to consider the questions posed in a reflective way.

Mr. Olson contended in this regard that he was faced with a hostile and partisan panel of interrogators who hurled loaded questions at him and interrupted his efforts to respond, and hence that it would be unfair to apply § 1001 to his testimony at all.

There can be no doubt that the exchanges at the March 10 hearing were sometimes heated and acrimonious. It is difficult to apportion blame for that situation, however. Admittedly, some Members were at best skeptical and at worst overtly hostile in their treatment of Mr. Olson. One cannot, on the other hand, fairly characterize Mr. Olson as a helpful or cooperative witness. Moreover, as an experienced litigator with a fairly clear view of the positions he had to protect, Mr. Olson often gave as good as he got. He does not seem to have been intimidated or overwhelmed by his interrogators. The less than ideal conditions under which Mr. Olson was questioned, however, plainly call for the resolution of any doubt in favor of applying the Bronston standard and for special sensitivity in the application of that standard. Cf. United States v. Ehrlichman, 379 F. Supp. 291, 292 (D.D.C. 1974).

2. Issues Posed By Mr. Olson's Transcript Revisions

We had to determine what importance to place on the corrections Olson made to his transcript during his review. The Committee's cover letter to Olson, accompanying the transcript

sent to him for review, directed that only typographical and grammatical changes be made, consistent with the congressional practice of allowing witnesses and Members to edit transcripts of verbatim exchanges to make them more readable or intelligible. Olson, of course, went beyond typographical and grammatical editing and changed substance. Were we to ignore those changes, since they were not contemplated by the process? Or should the amended answers be the focus of our inquiry since, to the extent they changed substance, they could be argued to represent a good-faith effort to provide additional information and clarity?

Changes aimed at clarity and completeness are clearly unobjectionable. But revisions which alter substance acknowledge failures in the original answers and impede the Subcommittee's ability to explore substantive additions through follow-up questions. While a good case can be made both practically and legally for rejecting attempts to rectify known falsehoods in the editing process,438/ reasonable jurors, confronted with an attempt to clear up a misunderstanding through transcript revisions, would in all likelihood be disinclined to convict if the attempted clarification was adequate to redress the original misstatement.

438/ For example, while 18 U.S.C. § 1623, dealing with grand jury and court testimony, permits a witness to recant falsehoods in the course of the same proceeding, the closest perjury analog to § 1001, 18 U.S.C. § 1621, contains no provision for avoiding prosecution by recantation. Under § 1621, the crime is complete when the false statement is made, United States v. Norris, 300 U.S. 564, 574 (1937), and recantation is relevant, if at all, only to show inferentially a lack of perjurious intent, United States v. Giller, 154 F. Supp. 727, 730 (S.D.N.Y. 1957).

We determined that, with a single arguable exception, Olson's statements were literally true -- both in the original testimony and as edited. We therefore analyzed the editing solely to ensure that it was not designed to mislead.

3. Mr. Olson's Testimony And § 1001

The two major areas of controversy in Mr. Olson's testimony involved (1) the asserted willingness of EPA to turn over the documents without invoking executive privilege, and (2) the completeness of the Department's document production to the Judiciary Committee prior to the March 10 hearing. Indeed, the Attorney General's application to the Special Division for the appointment of an independent counsel was limited to these two areas of testimony. The Committee in its Report, however, complained of a total of six answers by Mr. Olson. The other four were (a) Mr. Olson's assertion of unanimity within the Executive Branch in support of the executive privilege claim; (2) his denial of personal knowledge of whether the President personally reviewed the withheld EPA documents; (3) his statement that he was unsure whether OLC had furnished written advice to the Civil Division in connection with the lawsuit against the House; and (4) his denial that OLC had prepared options papers respecting the executive privilege claim.

We concluded that the answer concerning Executive Branch unanimity was so closely connected to that on EPA willingness that it was fairly encompassed within the scope of the Attorney

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General's application and the appointing order. Similarly, the answers concerning written advice to the Civil Division and the preparation of options papers are part and parcel of an assessment of Mr. Olson's testimony respecting document production to the Judiciary Committee. Accordingly, we have reviewed the evidence with respect to the truthfulness of those answers.

However, Mr. Olson's testimony concerning presidential review of the withheld documents falls outside either rubric of the Attorney General's application, and we have accordingly determined that it is beyond our mandate to examine its truthfulness standing alone.439/

a. EPA Willingness

Congressman Seiberling asked Mr. Olson the following question and received the ensuing answer.440/

> Q: Mr. Olson, the question of whether EPA wanted to turn over the documents at some point before the decision was actually made to do so, and who advised them not to, is a very important one. And I'd like to ask you whether, to your knowledge, at any time EPA did indicate its

439/ Arguably, we could look to any portion of Mr. Olson's testimony to help determine whether he acted in concert with others to obstruct the Committee's inquiry. As explained below, we have determined that there is no evidence that Mr. Olson took part in such a conspiracy. And we cannot see how the answer on presidential review could in any way have furthered the aims of such a conspiracy.

440/ In each citation from the transcript, Olson's editing is reflected by bracketing those portions of his original testimony which he deleted during his review of the transcript and underscoring material he added.

willingness to turn over the documents during the course of your consideration of the Subcommittee's request.

A: [I don't] They may have, but I do not expressly recall having been told that by anybody associated with EPA. I did read the newspapers, and it seemed to be that [through that] that sentiment seemed to be being expressed, especially in the last week or two. But that's all [I know] that I can expressly recall relative, particularly, to the final decision which was made to claim a privilege relative to these documents.441/

There is no doubt that individuals at EPA, including the Administrator, could be described as "willing" -- under certain circumstances -- to turn over the Superfund documents. There is also substantial evidence that Olson had some knowledge of these views at some point. That begins, rather than ends, the analysis, however.

(i.) The Question

Congressman Seiberling was plainly correct in characterizing the issue of EPA willingness as a "very important one," and his question on the surface seems straightforward enough. It is thus no criticism of Mr. Seiberling -- who after all had not been intimately involved in the events surrounding the claim of executive privilege -- to note that, in light of the complex events which actually transpired, the question was open to several possible interpretations.

441/ OIC doc. # 801405, at 97.

The first, and probably most significant, problem with the question is what is meant by "EPA . . . indicat[ing] its willingness to turn over the documents." Does the reference to "EPA," for example, focus upon the formally expressed view of the agency, or the privately held views of the Administrator, or the political and tactical concerns of some members of her staff? Does "willingness to turn over the documents" mean (a) a readiness to deliver the documents without any form of protection -- confidentiality agreements or limitations on distribution or dissemination, for example -- for any "enforcement sensitive" information they contained, (b) a readiness to permit limited access to some or all of the documents under conditions adequate to secure their continued confidentiality, or (c) a desire to avoid the political controversy inevitably associated with an invocation of executive privilege?

The narrowest interpretation of Mr. Seiberling's question is that "willingness" meant a readiness on the part of the agency to produce the documents without any protections to safeguard their "enforcement sensitivity," such as confidentiality agreements or limitations on the copying or circulation of documents -- in effect, an abandonment of the view that there was any need to protect any of the information in the documents. This appears to be the interpretation adopted by Mr. Olson.442/ Under Bronston

442/ See Letter from Olson's counsel to Alexia Morrison (Jun. 20, 1986), at 43-44, 79-84; Letter from Olson's counsel to John C. Keeney (Mar. 31, 1986), at 12-17.

we must respect this reading of the question unless it is patently unreasonable. In our view it is not, and accordingly, it has been the focus of our factual analysis of EPA willingness.

Another area of difficulty with the question is the uncertainty of its time frame. What did the phrase "during the course of your consideration of the Subcommittee's request" mean? Did it refer solely to the period prior to the initial October 25 recommendation of executive privilege to the President and his unused October 26 directive that the privilege be asserted? Or was the claim under "consideration" until the President's final directive on November 30? Or did the Department's "consideration of the Subcommittee's request" continue up to the time that the privilege claim collapsed?443/

Mr. Olson stated that he interpreted Mr. Seiberling's question to encompass the period up to the "ultimate" authorization of a claim of privilege on November 30, 1982.444/ Again, we are unable to conclude that this was an unreasonable reading of the question.

Finally, the question inquired whether, to Mr. Olson's knowledge, willingness to turn over the documents was indicated by "EPA." Mr. Olson's answer was explicitly couched, however, in

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443/ In his first sentence, Mr. Seiberling referred to any "point before the decision was actually made to [turn over the documents]." This could be viewed as intending to encompass the entire period from the first request until the days immediately before Olson's testimony, when it was decided that the documents would be produced. That first sentence, however, is a prefatory statement by the Congressman, and his actual question, contained in his second sentence, suggests a narrower time focus.

444/ Olson, Aug. 17, 1988, memo at 16.

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terms of what he was "told . . . by anybody associated with EPA." In the absence of a follow-up question, we must, under Bronston, accept Mr. Olson's narrowing of the question and assess the truthfulness of his answer on its own terms.

In sum, in evaluating whether Olson's answer to Mr. Seiberling's question was false, we viewed him as required to state truthfully whether:

(1) during the period between mid-September and November 30, 1982,

(2) anyone at EPA personally told him

(3) that EPA was willing to produce the documents in question

(4) without any agreement to or provision for protecting their contents.

(ii.) The Answer

Especially in light of the ambiguities lurking in the question, Mr. Olson's answer would seem to be literally true within the Bronston standard. In the first place, the answer is closely pegged to Mr. Olson's recollection in the Spring of 1983, and there is no basis for concluding that his recollection was anything other than what he said it was. See United States v. Clizer, 464 F.2d 121,125 (9th Cir.), cert. denied, 409 U.S. 1086 (1972). Indeed, Mr. Olson's recollection as expressed in his answer seems to be in accord with the evidence.

The earliest evidence that Olson was aware of some willingness on EPA's part comes from Sherrie Cooksey's notes of the October 1, 1982, meeting at the Department in preparation for that afternoon's meeting between EPA and the Levitas Subcommittee. Her notes contain the statement, "agency is much more inclined to transmit all docs." There is some question whether Olson was present at this meeting.445/ Even if Olson was present, neither the notes nor any of the participants in the meeting suggest that EPA expressed a willingness at this point to deliver all documents unconditionally.

Critical to the EPA willingness question were the October 7 and 8, 1982, discussions between Perry and Simms, Perry and Barrett, and Barrett and Olson. Barrett said Perry told him that EPA saw no reason not to produce the documents. Simms said that Perry told him the same thing and that he told Olson about it. The subject came up again between Simms and Olson several times, when Simms alerted and subsequently reminded Olson of his concern that Perry had perjured himself on December 3, 1982, on this very issue.

More persuasive evidence of Olson's knowledge that Perry told Barrett EPA was willing to produce the documents is contained in Dinkins' notes of October 12, 1982. She believed,

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445/ Olson had some recollection of the meeting, Olson, Aug. 17, 1988, memo at 21-22, and Regnery, another attendee, prepared a memorandum of the meeting listing Olson as present, HJC Rept. at 922. Cooksey, however, believed based on her notes of the meeting that, if Olson was there at all, he arrived after the discussion concerning EPA's inclination to transmit the documents to Congress. Cooksey, Aug. 4, 1988, memo at 2.

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as did Olson,446/ that these notes were taken by her during a briefing he gave her that day, upon her return from a weekend at home in Houston. Her notes, referring to Perry, state "He said willing at EPA and DOJ wouldn't." The next entry, "Is irresp. because is the whole Exec. Br." apparently reflects Olson's comment that EPA's position on the document question was not controlling of the Executive Branch's position.447/ While these notes clearly evidence knowledge by Olson of some level of willingness on the part of some at EPA -- and even of Olson's readiness to overrule EPA's willingness, if necessary -- they do not establish that the willingness was unconditional, and they do not indicate where Olson obtained his knowledge.

We were unable to establish that Olson obtained his understanding of Perry's expression of willingness from "anybody associated with EPA." Perry's phone log for October 8, 1982, reflects a 2:15 p.m. call to Olson which is checked as "completed." Neither Perry nor Olson, however, had any recollection that Perry told Olson during that telephone call of any EPA willingness to produce the documents.448/

Thus we are without evidence that Olson was told by "anybody associated with EPA" of that agency's willingness to produce the documents.

446/ Olson, Aug. 17, 1988, memo at 19. Olson, however, had no recollection of the conversation with Dinkins. Id.

447/ See p. 50, supra.

448/ Olson, Aug. 17, 1988, memo at 20; Perry, Nov. 20, 1986, memo at 7, 16.

Notes of the October 15, 1982, meeting at the Department suggest both that Olson was present (Dinkins' notes list "Ted" as a participant) and that concern was expressed about EPA's cooperation on the documents issue (Ramsey's notes state "EPA must be on board at all levels = not go behind our back to staff etc."). Exploration of these entries with meeting participants, however, revealed that the "behind our backs" reference grew out of a discussion of Rita Lavelle's transmission of documents to Dingell the day before and reflected a concern with lack of coordination, not willingness, at EPA.449/

On October 21, 1982, Olson conducted a meeting respecting the Dingell subpoena. Certain participants recalled that Olson commissioned either Brown or Yamada at the meeting to check with the Administrator and Perry -- who was out of town -- to ensure their concurrence in the executive privilege claim. Yamada did not recall being asked to ensure Burford's and/or Perry's concurrence. No one, however, recalled any followup on the issue. Olson was thus not certain of the Administrator's and/or Perry's support on October 21.450/ Such uncertainty would not

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449/

HJC Rept. at 983-84.

450/ There is some evidence to suggest that the Department may later have received some additional information concerning the Administrator's position. Ramsey's notes of a meeting with EPA representatives on the following day, October 22, 1982, contain (footnote continued)

render his March 10 testimony on the topic false, given our interpretation of the issues involved in his answer.451/

Administrator Burford and Olson met face-to-face for the first time on November 1, 1982. Ms. Burford expressed considerable discomfort about the invocation of executive privilege at that meeting, but no one in attendance at the meeting told us that Ms. Burford said she was willing to produce the documents unconditionally. Ultimately she turned to Deputy White House Counsel Hauser, who was also in attendance, and asked if the President wanted to claim the privilege. Hauser replied that the President did. Administrator Burford thereupon abandoned her reservations and agreed to assert the privilege.452/

(footnote continued from previous page)
the entry: "if executive makes a decision, EPA will go along." HJC Rept. at 1002. Indeed, when Olson and Burford finally spoke on November 1, 1982, the Administrator said that she would do what the President wished. Thus, it appears at least possible that the entry in Ramsey's October 22 notes reflects that someone had spoken to Burford and told Ramsey her views. Burford was, however, out of town at the time and could not explicitly recall telephone discussions with her staff. Burford, Aug. 26, 1988, memo at 3, 5-7.

451/ Uncertainty could, however, be very troublesome in the context of the last line of his October 25 memorandum to the President, which stated, "The Administrator concurs . . . ." We considered whether that sentence was, itself, a falsehood, but concluded it was not. Olson's reliance on the totality of the circumstances does not appear unreasonable. Certainly no one told him that the Administrator did not concur, and a draft of the memorandum containing the statement was circulated to officials at EPA, who never raised any question about it.

452/ See p. 65, supra. The Judiciary Committee expressed concern that the initial decision to invoke executive privilege might have been the result of a desire on the part of those in the
(footnote continued)

Moreover, Ms. Burford did not suggest in her interviews with us that her reservations on the subject of executive privilege betokened an unconditional willingness to turn over the documents. She readily acknowledged that her desire to produce the documents was predicated on the assumption that the Subcommittee would agree to protections for the contents of the documents. Thus, her statements at the November 1 meeting support Olson's testimony that no one at EPA told him the agency was willing to produce the documents prior to the time that executive privilege was invoked.453/

There is some evidence of EPA expressions of willingness to produce the documents rather than claim executive privilege after November 1. The Administrator, after her November 6 or 7 conversation with Interior Secretary Watt, tried to avoid personally invoking executive privilege and to place the burden

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(footnote continued from previous page)
Department devoted to an expansive view of executive power to create a "test case" on executive privilege without real regard to the need to protect any specific information in the documents at issue. There is little question that the atmosphere at the Department in the early 1980s was generally more receptive to claims of executive privilege than at other times in recent history.

Ultimately, in our view, the "test case" question was irrelevant to our inquiry. Only if Olson had acted from a motive to conceal Executive Branch wrongdoing or had sought to invoke the privilege in the absence of a good faith belief that it was applicable -- of which we found no evidence -- would it have cast his later actions in a suspicious light.

453/ We looked for -- but failed to find -- evidence that would support an inference that the failure on November 1 to disclose the five-day-old presidential directive to Ms. Burford was a result of Olson's recognition that his statement about Burford's concurrence was without support in fact.

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on the Department or the White House. She expressed her concerns to Perry, who in turn told Simms. Simms informed Hauser and Olson.454/ These protestations, however, do not undermine the truthfulness of Olson's willingness testimony. Olson did not receive word of the Administrator's position from "anybody associated with EPA"; even Ms. Burford agreed that her position did not contemplate unconditional production; and in light of her statement on November 1 that she was willing to go along with the privilege claim, Olson, Simms and others viewed her subsequent expressions of discomfort simply as signs of unwillingness to take the political heat resulting from the claim.455/

Indeed, Simms stated that no one at EPA or the Department ever told him that there was not substantial justification for the assertion of executive privilege to protect the Superfund documents.456/

Mr. Olson told us that in preparing to testify on March 10 he anticipated difficulty because of press reports in the preceding two weeks of statements by Mrs. Burford that she was opposed to the privilege claim.457/ That focus was understandable. By all accounts, those statements expressed considerably stronger opposition to the claim than any previously

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454/ Perry, Mar. 20, 1986, memo at 3-4, and Nov. 20, 1986, memo at 16-17; HJC Report at 180-1, 1195-6, 1206-8; Simms Mar. 11, 1986, memo at 3.

455/ See Letter from Olson's counsel to Alexia Morrison (Jun. 20, 1986), at 83-84; Letter from Olson's counsel to John C. Keeney (Mar. 31, 1986), at 18; pp. 67-68, supra.

456/ Simms, Jul. 15, 1986, memo at 14.

457/ Olson, Aug. 17, 1988, memo at 15-16.

heard by or reported to Olson. Accordingly, his attempt to distinguish in his answer between what he had been told previously and what he "read in the newspapers . . . in the last week or two" was legitimate. During his August 17, 1988, interview, Olson acknowledged he was responding to the recent press reports in his answer, when he concluded with "that's all I know."458/ He also told us that, looking back to the 1982 authorizations of privilege, he never thought Ms. Burford would say in 1983 that executive privilege had been all the Department's idea.459/

In sum, there was evidence that a number of individuals within EPA, including the Administrator and high-ranking members of her staff, were unenthusiastic from the beginning about the prospect of an executive privilege fight. We have found no one, however, who advocated simply turning over to the requesting subcommittees raw investigative or enforcement files without adequate safeguards of confidentiality -- safeguards which were never agreed upon and thus were certainly not in place before the invocation of the privilege. And the agency's formal position, as expressed by the Administrator in her November 1, 1982, meeting with Mr. Olson and Deputy White House Counsel Richard Hauser, was that it agreed with the invocation of the privilege. Arguably that statement alone, which was never retracted by Ms. Burford before she asserted the privilege, is enough to render Olson's testimony on willingness truthful. Moreover, Mr. Olson's

458/ Id. at 16.

459/ Id. at 15.

edited answer, by its reference to "the final decision which was made to claim a privilege relative to these documents," clarified the time frame to which the answer applied.460/ EPA did not change its position -- nor did the Administrator express a different view to Mr. Olson in private -- prior to the time that the final decision to invoke the privilege was made.

Thus we are unable to conclude that Olson's answer was false with respect to the period prior to November 30, 1982, the time frame which he said he understood the question to encompass.461/

460/ Olson said he did not insert "final decision" in his answer during editing to change its meaning. He was not sure why he inserted that language, but did not believe it was intended to distinguish between the October 26 and November 30 decisions. Olson, Aug. 17, 1988, memo at 16.

461/ According to information in the Committee's report, Ms. Burford spoke just before she testified on December 2, 1982 with several members of the Levitas Subcommittee in the Public Works Committee's minority lounge. She is reported to have said that, had it been her decision, the documents would have been turned over but that the Department prevented her. HJC Rept. at 224. It is unclear whether Olson was even present when these remarks were made. Both he and Burford told the Committee they did not believe he was present. Id.

But even if we could establish that Olson heard Ms. Burford make on this occasion the remarks attributed to her by the Committee's report, that would not contradict Olson's testimony regarding EPA's willingness to turn over the documents, in light of his interpretation of Congressman Seiberling's question, since Burford did not on that occasion express unconditional willingness to turn over the documents and since the event took place after the November 30 presidential decision to invoke executive privilege.

Moreover, even if Congressman Seiberling's question were deemed to encompass "consideration" of the claim up to and including the actual assertions of privilege by Ms. Burford during her testimony on December 2 and 14, 1982, there is no evidence that Ms. Burford expressed unconditional willingness during this period to Olson or anyone else. Indeed, Simms recalled that in one meeting in December, Burford and Olson engaged in a heated exchange, at the conclusion of which,

(footnote continued)

We take no position on the question whether Mr. Olson, in order to avoid misleading the Subcommittee, ought to have volunteered additional information about the private views of individuals, including the Administrator. His answer is, however, in our view not subject to criminal prosecution under § 1001.

b. Unanimity

During his testimony, Olson had the following colloquy with Congressman Brooks:

> Mr. Brooks. Fine.
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> Now the press accounts have said that the Department of Justice, not the EPA, really demanded that the documents be withheld. Now The New York Times, on the fourth day of March, quotes Mrs. Burford and said she told aides, quoted by Phil Shavacoff [sic], who is not a poor writer, he's a good one -- He said Mrs. Burford told the aides that the President failed to follow her advice because he was getting poor guidance from his White House staff and the Justice Department.
>
> They go on in that article to point out that she told her aides she had counseled the President the only way to handle it was to give Congress the information that they wanted, not to withhold anything.
>
> A Republic [sic] member of Congress, Guy V. Molinari of Staten Island, the ranking Republican on the House Public Works Investigation Subcommittee, said in a telephone interview that he knew -- quote -- "for a fact" -- unquote -- that Mrs. Burford was ready to turn over requested documents to the Subcommittee about two months ago but had

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(footnote continued from previous page)
according to Simms, Olson asked Burford whether, in her capacity as Administrator of EPA, she thought the claim was the right thing to do, and he recalled Burford answering affirmatively. Simms, Jul. 15, 1986, memo at 14.

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been overruled by -- quote -- "a combination of Justice folks and somebody in the White House."

Now in another article, the same continuation. You're quoting somebody in The Washington Post of the 5th, by two authors, the story on her fighting to save her job, if you recall that story.

They are quoting one of the people down in the EPA, and they said that they thought it was deplorable, the fact situation about the Justice backing around. They said the Justice Department instigated this whole matter, and they quote these folks as saying they're the ones that came up with the idea of claiming executive privilege, they talked the President into it, they suckered Burford into it. I think it's incredible that they're suddenly worried about wearing two hats.

I might add that perhaps they have two heads and need two hats. [Laughter.]

And I notice that that's what they say. Now what do you say about that?

Did the Justice Department encourage, demand that the EPA withhold those documents, allegedly for some Presidential reasons?

Mr. Olson. Let me answer it this way if I may, Mr. Brooks.

I [haven't] have not read all of those accounts, and [frequently those accounts, and I think] some of the ones that you're referring to [are] involve people [that] who did not speak for attribution. [on the record with respect to those accounts.]

The New York Times story that you referred to first -- and I'm not questioning the integrity of the reporter in any way -- talks in terms of what the Administrator had said to her aides. I'm not sure whether she said that to the reporter, or whether the aides were quoting or characterizing what she had said, or what. And so I'd rather not respond necessarily in terms of what might be hearsay published in the newspaper.

I will respond to your question though.

Mr. Brooks. Let me give you one additional thought. Her testimony in the Senate -- and I don't have it in front of me now, but my impression of that testimony was that she offered to give the information to the Congress.

Mr. Olson. I [don't] do not believe -- and I may be wrong, and I [don't] do not have the testimony, and I [didn't] did not see it and I [haven't] have not read it[.] , but I am not personally aware
[I don't believe] that at that time she offered to give the information to the Congress. Let me go back to the beginning, though, because I think that's what your question is about.

Mr. Brooks. Right.

Mr. Olson. It is my understanding, based upon everything that I was involved in -- and I [don't] do not have any information that would lead me to a contrary conclusion, and I believe this to be absolutely correct -- that the people that --

Mr. Brooks. I wouldn't think you would speak otherwise. Surely you don't --

Mr. Olson. I know that. I'm simply adding that because I believe that --

Mr. Brooks. We didn't swear you in, but we do believe that you--

Mr. Olson. I['m] am simply adding that [unnecessary] perhaps unnecessary emphasis because there have been so many conflicting reports on so many different subjects relative to this entire matter.
-- that the people that were involved in the enforcement process at EPA from the enforcement level through the policy level through the Administrator, and at the Land and Natural Resources Division at the Department of Justice, and in my office, and the other people at the Department of Justice that were involved in the matter, and the Office of the Counsel to the President, and the President, all agreed that this was a proper occasion for the invocation of the

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> executive privilege, that it was [in the best interests of the] something necessitated by Constitution and the manner in which the Constitution assigns the enforcement of law to the Executive Branch, and it was in the best interest of the enforcement process at that time.
>
> Whether other people or some people in that process may have changed their mind later because of developments or allegations or because it became uncomfortable, I [don't] do not know. But--462/

We conclude that prosecution of Olson on the basis of his testimony in response to Congressman Brooks' questions is not warranted because, at the least, the testimony is literally true under Bronston and is not misleading.463/

The subcommittee subpoenas obviously posed a serious and complex question with legal and political ramifications for EPA's enforcement program and for the Department's future dealings with Capitol Hill. Not surprisingly, given the magnitude of the issue, EPA and Department officials had exhaustive and sometimes spirited discussions during the decisionmaking process that led to Olson's advice to the President. In these internal and interagency discussions, Olson heard different points of view as the Executive Branch developed its response to the Subcommittee subpoenas. There was, however, no suggestion from anyone involved in the process that the documents did not contain

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462/ OIC doc. # 801405, at 83-87.

463/ Obviously, Olson's testimony about EPA's willingness to turn over the documents raises many of the same questions as his testimony about unanimity in the Executive Branch, since there is evidence that not everyone at EPA was at all times in agreement with every aspect of the claim. There is, however, no need to repeat what has already been said about Olson's testimony concerning EPA's willingness.

information which was legitimately sensitive in that, if released, it could compromise EPA's ongoing Superfund enforcement program, particularly litigation initiated by EPA pursuant to the Superfund law.

In substance, Congressman Brooks asked Olson whether it was true, as recent press accounts had suggested, that Ms. Burford had been an unwilling participant in the executive privilege claim who, but for the Department, would have given the Superfund documents to the Subcommittees. Olson answered, in substance, that it was not true and that, while some of the people involved in the claim might have since changed their minds, they had at one time all agreed on the necessity for it.

The question was not specific as to time, and we cannot say that it was unreasonable for Olson to interpret the question, as he apparently did, to refer to the time at which the Administrator asserted executive privilege before the Subcommittees in December 1982. See Bronston, 403 U.S. at 359. With the question read in that way, Olson's testimony comports with the facts.

Whatever questions may have been raised and whatever disagreements of varying degrees of significance may have been aired as the Executive Branch considered how to respond to the subpoenas, by the time the Executive Branch deliberative process was complete, a consensus had been reached. EPA and the Lands Division had determined that the subpoenaed documents were indeed enforcement sensitive; the Department had determined that the claim was legally viable; and the White House had made the

necessary political decision. Ultimately, of course, the decision was the President's. But by late November 1982, there was, as Olson testified, agreement that the claim was necessary among the components of the Executive Branch making recommendations to the President. The discussions which led to that agreement were normal, healthy parts of the deliberative process, which do not contradict Olson's testimony that by the end of that process, there was agreement on the need for the claim.

c. Document Production

At the outset of the March 10 hearing, Chairman Rodino posed the following question to Olson and received the indicated answer.

> Q: Mr. Olson, I wrote to the Attorney General on March 2nd concerning some documents that related to the on-going question to EPA on the withholding of certain documents. At that time the letter requested any documents related to the advice OLC furnished on the withholding of subpoenaed documents, the Department's civil action against the House of Representatives, and the possible conflicts of interest.
>
> I am going to assume from the letter that I received in response that all of the relevant documents have been provided, and the Department is not withholding any documents from the Committee.
>
> Is that correct?
>
> A: Well, Mr. Chairman, we tried to provide everything that we have finalized that pertains to the advice that we have given. Most of those documents [are published] have been made available publicly.
>
> I [didn't] did not include handwritten notes of my own. [I make xerox] Nor did I include copies of cases and [make] marginal notes. [in the margin.] There are scraps

> of paper probably everywhere. [I'm] I am not sure that [we've] we have included everything. [We've] We have included everything that we think is relevant to the questions that [you've] you have asked and to the formal advice that we've given.
>
> I might also add --464/

At this point, Olson's response was interrupted by a question concerning relevance from Chairman Rodino.

(i.) The Question

Mr. Rodino's letters of February 24 and March 2 had presented the Department with an extensive and comprehensive document request. The Department responded with a partial document production, accompanied by a letter from Robert McConnell, on March 8. The McConnell letter indicated that the Department was at that point providing only publicly available documents. The apparent premise of the Chairman's question -- that "all of the relevant documents have been provided" -- is thus arguably inconsistent with the McConnell letter of March 8, and had certainly been dispelled before Mr. Olson's testimony was finished.

Moreover, the question made reference to "relevant" documents. While the inclusion of a general term such as "relevant" does not by itself import a fatal ambiguity in a question, see, e.g., United States v. Chapin, 515 F.2d 1274, 1279-80 (D.C. Cir.), cert. denied, 423 U.S. 1015 (1975) ("express an interest"); United States v. Ceccerelli, 350 F. Supp. 475, 478

464/ OIC doc. # 801405, at 63.

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(W.D. Pa. 1972) ("regular"), it creates both a legitimate basis for disagreement between interrogator and respondent over the meaning of the question and the danger that the nature of that disagreement may be hidden by the use of the same general term in the answer.

Chairman Rodino's question also made reference to "documents related to the advice OLC furnished" with respect to three topics. While the term "advice" may appear on the surface to be clear enough, it takes on a range of possible meanings when applied to an office such as OLC, which is in the business of giving legal advice to various governmental entities. Does it refer only to the kind of formal, written advice which is issued by OLC as binding within the Executive Branch on questions of the powers, duties and interrelations of different bodies? Or does it encompass any informal cautionary or tactical advice which may be offered within or without the Department by the head of the office or members of its staff?

(ii.) The Answer

Mr. Olson's answer to the Chairman's question was by far the most troubling aspect of his testimony. It is indisputable that there was no attempt by the Department "to provide everything that we have that pertains to the advice that we have given." While we heard claims from certain witnesses that congressional requests for documents are frequently answered in the first instance by providing only publicly available data, no witness

claimed that the Department had evaluated all responsive material and attempted to deliver "everything [the Department had] that pertain[ed] to the advice . . . given." To the contrary, all available evidence shows that no decision had been reached at the Department concerning the types of nonpublic documents that would be made available to the Committee and that there was considerable reluctance at the Department to supply some of that material. Olson was specifically directed the previous day by the Department's highest officials not to commit himself -- one way or the other -- about what the Department would or would not produce. To describe the Department's conduct to that point as an attempt "to provide everything" was disingenuous and misleading, especially in light of the references to "scraps of paper" and "copies of cases," which suggested that the remaining material was of limited significance.

On the other hand, it was evident both from the totality of Mr. Olson's immediate response to the Chairman's question and from the remainder of his testimony -- as well as Mr. McConnell's letter of March 8 -- that the Committee had not received all the documents sought by the February 24 and March 2 letters. The quoted question and Mr. Olson's answer must both be read in the context of the prior exchange of correspondence between the Chairman and the Department and of the totality of Mr. Olson's testimony before the Subcommittee. See, e.g., Van Liew v. United States, 321 F.2d 674, 678 (5th Cir. 1963); Fotie v. United States, 137 F.2d 831, 842 (8th Cir. 1943). Indeed, it was agreed

during the hearing that the Committee staff and responsible Department officials would negotiate further about the scope of document production.465/

Thus, while the first sentence of the answer is troubling for the reasons outlined above, Olson qualified his initial statement by saying, "I am not sure that we have included everything." No doubt this statement was, under Bronston, literally true, though a more candid statement would have been, "I am sure we have not included everything." Nevertheless, this caveat goes some distance toward remedying Olson's initial misstatement. Again, his reference to "scraps of paper probably everywhere" provided some notice that there were many documents that had not been produced, although characterizing the volume of unproduced material as "scraps" -- which Olson did repeatedly -- was less than forthcoming.

Olson told us that he was trying to convey to the Committee that the documents produced prior to his testimony were simply the beginning of the production process and that no one could "assume" from the transmittal letters that they were receiving everything.466/ There undoubtedly were more direct, effective means of accomplishing that end; however, no one has -- or reasonably could have -- alleged that the Committee thought it had full production as a result of Olson's testimony. Indeed, the Committee continued to pursue document production issues through other channels with the Department. Accordingly, we have

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465/ OIC doc. # 801405, at 70, 112-14.

466/ Olson, Aug. 17, 1988, memo at 8-9.

concluded that the assertion that the Department had tried to produce everything relevant to its advice did not constitute a prosecutable misstatement.

There is, however, a second respect in which Mr. Olson's answer to Chairman Rodino's initial question was arguably false. It omitted reference to his October 25, 1982, memorandum to the President containing the original recommendation to assert executive privilege. That memorandum was the definitive document "that pertain[ed] to the advice" the Department gave with respect to executive privilege. No new memorandum was prepared for the President in connection with the November 30, 1982, recommendation. Failure either to produce that memorandum before March 10, or to disclose its existence in response to Chairman Rodino's question, gave us great concern.

Analysis of the impact of this omission involves reference to Mr. Olson's editorial changes to the transcript. Olson made two substantive changes to his answer during the editing process. He modified his answer to encompass only "finalized" documents, and he changed his reference to advice to encompass only "formal" advice.

The addition of the word "finalized" materially limited the response to exclude most documents about which the Department might be expected to have been concerned -- internal deliberative notes and drafts. Olson told us that he believed he added the

term for precision, and he defined it to encompass all documents as to which the deliberative process had been completed and an official's name appeared at the bottom.467/

"Formal" in common parlance may seem to mean the same thing as Olson's definition of "finalized." In OLC parlance, however, it was said by him to mean more. According to Olson, that office's "formal" legal opinions have a certain format which includes the signature of the OLC head or the Deputy Attorney General.468/ By that definition, any intra-departmental documents not containing "formal" OLC advice would be excluded from Olson's revised answer.

However, as he himself acknowledged,469/ neither addition to Olson's testimony would exclude the October 25 memorandum from the compass of the question.

Olson, moreover, had a substantial apparent motive to conceal that document in March 1983. His memorandum contained at least two statements called into question by subsequent events. First, Olson advised the President that the documents subject to the executive privilege claim Olson was recommending contained no "evidence of unlawful conduct by a government agency or government officials," and it strongly implied that the documents did "not reflect misconduct of any sort by any administration

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467/ Olson, Aug. 17, 1988, memo at 9.

468/ Id. at 9-10. Malson recalled that several months after Olson's testimony she, Simms and Peterson discussed "abstractly" if advice is advice before it is encompassed in a formal opinion. Peterson thought not. Malson, Feb. 29, 1988, memo at 16.

469/ Olson, Aug. 17, 1988, memo at 10.

officials." Second, he stated that the Administrator of EPA concurred in the recommendation that executive privilege be asserted. While it is impossible to prove that Olson knew either statement was false on October 25, 1982 -- indeed, we find to the contrary -- both had been substantially undermined by March 10, 1983.

On the "misconduct" question, a number of the documents covered by Olson's October 25 recommendation had been produced to the requesting Subcommittees in the interim because they contained evidence of possible political manipulation of Superfund enforcement actions. Rita Lavelle, who had exercised supervisory authority over the Superfund program, had been fired from her position, and a criminal investigation of her activities was underway at the Department.

And on the concurrence issue, the Administrator had been widely quoted in the press during the weeks that preceded Olson's testimony as saying she disagreed with the assertion of executive privilege over the Superfund documents. Indeed, Olson's answer to Congressman Seiberling's question demonstrated that he had "read the newspapers . . . in the last week or two" and that "that sentiment [that EPA wanted to turn over the documents] seemed to be being expressed."

Obviously, Olson had reason to attempt to conceal the October 25 memorandum from congressional -- or other public -- scrutiny. He had -- albeit innocently -- misled the President about a privilege claim that had proved embarrassing to the administration.

Olson's response to the charge that he concealed the memorandum by his answer to Rodino's question was simple. He said he forgot about it.[470/] As unappealing as this explanation may appear in the harsh glare and isolation of issues that the matter received in retrospect, we have been unable to develop evidence to support a contrary conclusion, and we are somewhat sympathetic to the defense of his position Olson presented on August 17, 1988.

Olson told us he was less than comfortable at having to testify without a decision on what position the Department would take on document production. He knew the session would be difficult, focusing in this regard particularly on the press reports of the previous weeks concerning Ms. Burford's disagreement with the executive privilege claim. He told us that he feared that equivocation or ambiguity in his answers on document production would anger the Committee further, and he would have preferred that the Department arrive at a conclusion on production and allow him to articulate it.[471/] Olson believed that he may have urged the latter approach within the Department, but that the Attorney General, guided by his Deputy Schmults, decided on the non-committal approach.[472/] In this context, Olson discounted the importance of his October 25 memo on the grounds (a) that it was hurriedly prepared, (b) that it was never reviewed by the Attorney General, and (c) that it was never

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470/ Olson, Aug. 17, 1988, memo at 8, 10.

471/ Id. at 6.

472/ Id.

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actually implemented and was overtaken by the subsequent claim authorized on November 30.[473] Moreover, Olson did not recall being told at the time that the President signed the directive that accompanied his October 25 memo.[474]

While the issue is not entirely clear, Olson's asserted failure to recall the memorandum on March 10 takes on credibility in light of the memorandum's swift disappearance from the process and his understandable discomfort with -- and hence intense focus on -- the large outlines of the Department's position on document production. It is also bolstered by the fact that the October 25 memorandum was produced to the Committee in the first round of document production. We therefore conclude that there is not sufficient evidence that Mr. Olson knew that his answer might be false on this ground.[475]

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[473] Id. at 13. Olson's minimization of the importance of the October 25 memorandum received inferential support from Attorney General Smith, who told us (a) that he was out of the country when it was prepared and sent to the President and had no recollection of being contacted about it at the time, and (b) that the memorandum was not used or discussed in connection with the November 30, 1982, executive privilege claim. Smith, Jul. 21, 1988, memo at 3-4, 23.

[474] Olson, Aug. 17, 1988, memo at 14.

[475] The Committee was also greatly concerned by Olson's failure in his answer to disclose the four memoranda he wrote to the Civil Division concerning the lawsuit against the House. Again, Olson said he did not have these memos in mind when he testified on March 10, id. at 8, but he took the position that they were excluded by his edited answers, id. at 10. These memoranda, even if deemed "final," were clearly not "formal" advice, as Olson used that term. They dealt with matters technically outside OLC's purview and were not binding upon anyone. They were an informal expression of Olson's views on the pending litigation. As such they were excluded from the scope of the question by the terms of Olson's answer, as amended. See Olson, Aug. 17, 1988, memo at 10-11.

d. Written Advice To The Civil Division

During his testimony, Olson was asked the following questions and gave the following answers:

> Mr. Seiberling: All right. Now, what advice did your office provide with respect to the civil action by the Administration against the House of Representatives? Did you advise that that civil action be initiated?
>
> Mr. Olson: I agreed with the decision to initiate a civil action. I gave a great deal of advice--As I say, it's very difficult to separate it out on a line-by-line basis. But we consulted with the people that were involved in the filing of that litigation and the points and authorities that were filed in connection with motions involved in the litigation.
>
> Mr. Seiberling: Was that advice in writing?
>
> Mr. Olson: I'm not sure[.] ,I believe that some of it was.476/

Between December 20, 1982, and January 7, 1983, OLC sent four memoranda, signed by Olson, to the Civil Division concerning the lawsuit. All four memoranda discussed the conduct of various aspects of the case.477/

In December 1984 Olson told the Committee staff that "at the time he answered the question, he was not sure if OLC had provided advice to the Criminal [sic] Division in writing."478/ Olson stated that "he did not remember the memoranda at the time

476/ OIC doc. # 801405, at 98.

477/ Four Olson memos to the Civil Division, reprinted in HJC Rept. at 1444-5, 1537-8, 1547-56, 1573-5.

478/ HJC Rept. at 619.

of the hearing",[479] and later wrote to the staff:

> Understandably, I would hope, my powers of recall during the hearing were not perfect. For example, as we discussed, I did not recall one way or the other whether I had provided written or just oral advice to the Civil Division of the Department about the litigation over the privilege issue.[480]

In interviews with the FBI during Public Integrity's preliminary inquiry and with us, Olson gave substantially the same explanation.[481]

We conclude that Olson's statement in the revised transcript that he believed some of OLC's advice to the Civil Division was in writing was literally true.[482] Reasonably interpreted, Congressman Seiberling's question was simply whether OLC put its advice to the Civil Division in writing. Olson's corrected

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[479] Id.

[480] HJC Rept. at 2631.

[481] Olson, Mar. 18, 1986, memo at 12; Olson, Aug. 17, 1988, memo at 10-11. Olson told us during his August 17, 1988, interview, that he could not recall whether his insertion of the word "formal" in his initial response to Chairman Rodino was intended to exclude the four memoranda to the Civil Division. Id. at 11.

[482] The Committee noted that there was circumstantial evidence suggesting that Olson's uncorrected testimony "was not an accurate rendition of his state of mind at the time of the hearing." HJC Rept. at 618. The last memo was dated just two months before Olson's testimony; Olson himself wrote at least one of the four memos; Olson was involved in the civil litigation; and Olson recalled other events without difficulty. But none of this circumstantial evidence, we think, rises to the required level of proof beyond a reasonable doubt that Olson actually recalled the memoranda when he testified. And Malson told us that Olson talked "ad nauseam" to McGrath about issues in the lawsuit and that the four memos in question here were a mere "drop in the bucket" compared to the total number of communications between Olson and McGrath entailing advice or opinion. Malson, Feb. 29, 1988, memo at 12. Thus we conclude that even Olson's uncorrected answer was not demonstrably false beyond a reasonable doubt.

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testimony responded, albeit with some qualification,[483] in the affirmative, and this corrected testimony comported with the facts. There is therefore no basis for a prosecution for a false statement with regard to this aspect of Olson's testimony.[484]

e. Options Papers

During Olson's testimony, the following colloquy occurred between him and Congressman Hughes.

> Mr. Hughes: Let me be more specific so you can answer it perhaps.
> With regard to some of the documents you turned over bearing on executive privilege, there obviously were alternatives, discussions reduced to writing on the various options. Now, have they been turned over as well as the document that represents the final recommendation or decision?
>
> Mr. Olson: We did not prepare option papers, if that's what your question is. Every draft, in a sense, presents options,

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[483] We are puzzled by Olson's qualification in his editing correction: "I'm not sure. I believe some of it was." OIC doc. # 801405, at 98 (emphasis added). By the time he made his correction, Olson was in a position to check Department files and obtain definitive information if he had not by then been reminded of or remembered the four memoranda. But under Bronston, it was the Subcommittee's responsibility to pursue the issue, perhaps by recalling him or requesting written clarification. See 409 U.S. at 360. Moreover, even if the correction was intentionally misleading, it would not be prosecutable under Bronston. 409 U.S. at 359.

[484] It is important also to note that the four memoranda were made available to the Committee staff by the Department shortly after Olson testified. While this would not, as a technical matter, affect the falsity of the testimony, it does in our view bear on the question of intent. It seems highly unlikely that Olson would lie to protect the four memoranda and then acquiesce quietly in their production a few weeks later.

> every discussion presents options. That's why I have difficulty with the basic question[s].
>
> But I don't know of any option papers or anything of that nature.[485/]

At no time during the interbranch controversy over the Superfund documents did OLC produce any options papers.[486/] In January 1983, however, the Department formed a working group composed of representatives from its components which were involved in the matter. In February, that group drafted a number of options papers dealing with various avenues open to the Department in the wake of the dismissal of the lawsuit against the House. Olson was not a member of the working group[487/] but at least one of its options papers included Olson's name on its routing list.[488/]

Olson told the Committee that he had understood Congressman Hughes' question to refer to options papers regarding OLC's legal advice on executive privilege because it had been preceded by several other questions concerning that advice.[489/] That was, in fact, the precise focus of Congressman Hughes' question. The options papers about which he inquired were those "with regard to

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485/ OIC doc. # 801405, at 106.

486/ We understand "options papers" to mean documents prepared for discussion purposes and listing alternative courses of action with regard to an issue. No one has suggested that there is any confusion over the term.

487/ Larry Simms, Olson's deputy, was OLC's representative to the working group.

488/ See p. 92, supra.

489/ HJC Rept. at 635.

. . . documents . . . bearing on executive privilege." There were no such option papers, and Olson's answer was thus entirely truthful and not in any respect misleading.

D. ANALYSIS OF ISSUES UNDER 18 U.S.C. § 1505

The question remains whether Mr. Olson might be subject to prosecution for his testimony under 18 U.S.C. § 1505, even if the testimony survived the Bronston test for falsity.490/

1. The Law

18 U.S.C. § 1505 provides in relevant part:

> Whoever corruptly . . . influences, obstructs, or impedes or endeavors to influence, obstruct or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress --
>
> Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

There is no doubt that the rendering of false or evasive testimony is punishable under § 1505. This is true whether the testimony is oral, United States v. Alo, 439 F.2d 751, 754 (2d Cir.), cert. denied, 404 U.S. 850 (1971), or contained in

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490/ The Bronston literal truth defense is not available to a defendant in a prosecution under 18 U.S.C. § 1505 for false or evasive testimony. United States v. Browning, 630 F.2d 694, 699-700 (10th Cir. 1980), cert. denied, 451 U.S. 988 (1981).

submitted false documents, United States v. Lavelle, 751 F.2d 1266, 1270 n.3 (D.C. Cir.), cert. denied, 474 U.S. 817 (1985); United States v. Vixie, 532 F.2d 1277 (9th Cir. 1976).

The courts have perceived, however, a difference between the gravamen of the perjury-false statement crimes punished by §§ 1001, 1621 and 1623, on the one hand, and that of the obstruction offenses punished by §§ 1503 and 1505, on the other. See, e.g., United States v. Langella, 776 F.2d 1078, 1081-82 (2d Cir. 1985). For example, in rejecting an argument that prosecution under § 1505 undermined the traditional "two-witness rule" for perjury, the Second Circuit stated:

> It is true, that to convict [the defendant] the jury had to conclude that he was lying when he professed loss of memory, but the gist of his offense was not the falsehood of his statements, but the deliberate concealment of his knowledge. . . . [His] profession of forgetfulness was not so much false testimony as a refusal to testify at all.

United States v. Alo, 439 F.2d at 754. The courts have thus said that obstruction as defined in §§ 1503 and 1505 encompasses both false testimony and testimony which is merely evasive but is given for the purpose of concealing the witness's actual knowledge. See United States v. Langella, 776 F.2d at 1081; United States v. Perkins, 748 F.2d 1519, 1527-28 (11th Cir. 1984); United States v. Griffin, 589 F.2d 200, 204 (5th Cir.) cert. denied, 444 U.S. 825 (1979); United States v. Cohn, 452 F.2d 881, 884 (2d Cir. 1971), cert. denied, 405 U.S. 975 (1972);

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United States v. Caron, 551 F. Supp. 662, 667 n.6 (E.D. Va. 1982), aff'd mem., 722 F.2d 739 (4th Cir. 1983), cert. denied, 465 U.S. 1103 (1984).

The courts have, however, recognized the awkward fit between these two groups of statutes. The elements of perjury can become meaningless if the obstruction statutes punish testimony which is not demonstrably false but merely evasive. Accordingly, the courts have required -- in obstruction cases predicated upon testimony, whether false or evasive -- a showing that the proceeding was actually obstructed, as opposed to a mere "endeavor" to obstruct. See Perkins, 748 F.2d at 1528; Griffin, 589 F.2d at 205; Caron, 551 F. Supp. at 668-69.491/

In addition, § 1505 requires proof beyond a reasonable doubt that Mr. Olson had the requisite criminal intent to obstruct the Committee's inquiry. "Under § 1503 and § 1505 the word 'corruptly' has been given a broad and all-inclusive meaning: both sections have been held to encompass obstruction in the absence of force or threats." United States v. Browning, 630 F.2d at 701 (citation omitted). "Corruptly" has been held to

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491/ Actually, the historical basis for this additional requirement was that § 1503 was originally a contempt statute, and it had been held by the Supreme Court that contempt cannot be invoked to avoid proof of all the elements of perjury or to deny someone properly accused of perjury his right to jury trial. See In re Michael, 326 U.S. 224 (1945); Griffin, 589 F.2d at 205. Perkins, Griffin and Caron, cited in text, are cases involving § 1503. Alo, a § 1505 case, did not discuss whether the statute required that the obstruction be successful, though the opinion seems to assume actual obstruction occurred in that case. 439 F.2d at 753-54. We view the three cases in the text -- each of which was subsequent to Alo -- to have established success as a requirement for § 1505 as well as § 1503, there being no reason to distinguish between the two statutes on this issue.

require intent to frustrate the investigation, United States v. Alo, 439 F.2d at 753. Another court has said that "corruptly" requires proof of an "improper motive, a bad and evil purpose." United States v. Abrams, 427 F.2d at 90. Consequently, obstruction of a congressional inquiry under § 1505 is a specific intent crime requiring the government to prove that Mr. Olson knowingly did an act which the law forbids or knowingly failed to do an act which the law requires, purposely intending to violate the law. United States v. Haldeman, 559 F.2d 31, 114 n. 226 (D.C. Cir. 1976).

2. Mr. Olson's Testimony

Based on our analysis of the questions and answers, we are of the view that the testimony, while not overly helpful, was not, in most instances at least, designed to conceal Mr. Olson's actual knowledge on critical points. In any event, it clearly cannot be said in our view that the testimony actually obstructed the Committee's inquiry.492/

The most troubling of Mr. Olson's answers in this regard was his response to Chairman Rodino's initial inquiry about the completeness of the Department's document production to the Judiciary Committee. As noted above, we found that answer disingenuous and misleading, even accepting Mr. Olson's

492/ Actual obstruction would not have to be shown, of course, in a prosecution for obstruction based on acts other than Mr. Olson's testimony. But there is little if any evidence that Mr. Olson was involved significantly in the dealings between the Department and the Committee after his testimony.

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explanation that he forgot about his October 25 memorandum to the President. The impression conveyed by Olson's claim that the Department tried to provide a complete response to the Committee's request, save for "scraps of paper" and "copies of cases," was woefully inaccurate, as later events proved.

In Mr. Olson's defense, it can be said that he was acting under frustrating constraints imposed by his superiors at the Department. He was under orders from the Attorney General and the Deputy Attorney General to avoid making any commitments with respect to the production of any category of documents and to refrain from disclosing his draft memoranda on the constitutionality of the congressional contempt statute. And he evidently felt unable to disclose the nature of his marching orders to the Committee, though it is not clear whether he was ordered not to or decided on his own that a candid statement of the Department's position on document production would be badly received by the Committee.

The fact that Mr. Olson was acting under the orders of his superiors would not, in our view, negate the existence of the "corrupt" intent required by the statute.493/ But we need not resolve that question, since it is clear that the Committee's inquiry was not obstructed by Mr. Olson's answer to the Chairman's document production question. It was obvious from this answer and others that the Committee did not have all the documents, even if the use of phrases such as "scraps of paper"

493/ Olson told us he never intended to mislead the Committee, albeit, he said, looking back he might have done things differently. Olson, Aug. 17, 1988, memo at 31.

unfairly minimized the nature and quantity of the withheld material. Mr. Olson agreed that discussions at the staff level about further document production should take place. And the Attorney General, appearing before the full Committee only five days later, promised full cooperation on the document question. As Committee General Counsel Parker acknowledged, Mr. Olson's testimony on this issue was of no importance after the commitment made by Attorney General Smith. And, of course, much-expanded document production in fact ensued, in the course of which both the October 25 memorandum to the President and the four OLC memoranda to the Civil Division were promptly disclosed.

Our conclusion that Mr. Olson's answer resulted in no actual obstruction of the Committee's inquiry might well be different if we were of the view that the answer was designed to conceal the handwritten notes which were later withheld from the Department's production. The withholding of those notes without notice to the Committee at least arguably did obstruct the Committee's inquiry. At a minimum, it delayed a satisfactory resolution of that inquiry for well over a year.

It seems clear, however, that Mr. Olson's testimony was not given for the purpose of concealing those documents. There is no evidence that the decision to withhold the handwritten notes was made before Mr. Olson testified; indeed, the evidence seems to show that that decision was not made until later.494/ And even if Mr. Schmults had already decided to withhold the notes and that decision formed the basis of his instruction to Mr. Olson to

494/ See pp. 117-25, supra.

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make no commitments on document production, Mr. Olson is simply not chargeable with intentionally concealing the existence of such documents. He volunteered in response to the Chairman's question that he had not produced his own handwritten notes.

Thus we are unable to conclude that Mr. Olson's response to the Chairman's initial question obstructed the Judiciary Committee's inquiry.

The case is even weaker with respect to the remainder of Mr. Olson's testimony about document production by the Department. He did not deny that OLC had provided written advice to the Civil Division with respect to the suit against the House; indeed, Congressman Seiberling, after hearing Mr. Olson's answer to his question, requested that if there were any written advice, the Department provide it to the Committee.[495/] While Mr. Olson made no commitment on the spot,[496/] the four memoranda were provided shortly thereafter. And, as we have noted earlier, there was nothing even arguably false, misleading or evasive about Mr. Olson's answer to Congressman Hughes' question about option papers.

On the question of EPA willingness, we have concluded above that Mr. Olson's answer to Mr. Seiberling's question, while not volunteering a lot of information, was truthful and not misleading. We thus do not believe it could be shown to be evasive within the meaning of the cases construing § 1505, or that Mr. Olson possessed any "corrupt" intent in answering as he

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[495/] OIC doc. # 801405, at 98.

[496/] Id. at 99.

did. And the answer certainly did not obstruct the Committee's inquiry. It neither concealed any potential sources of contrary information nor prevented the Committee from turning to the obvious additional witnesses on the question of willingness at EPA, the Department and the White House.

Thus we conclude that no prosecution of Mr. Olson under § 1505 can be justified.

E. CONSPIRACY

It remains to consider whether Mr. Olson was part of a conspiracy involving senior Department of Justice officials to obstruct the Judiciary Committee's inquiry into the Department's role in the EPA documents controversy. The question of conspiracy arises naturally from the unhappy course of the Department's dealings with the Committee from the outset of the inquiry. The letters of March 8 and 9 to Chairman Rodino over Mr. McConnell's signature plainly sought to fend off the Committee's searching document request. Mr. Olson's testimony on the subject of document production shed no additional light on the subject. Moreover, while the Attorney General apparently promised unfettered access to the Department's documents, and Alan Parker was assured that the Committee would see everything, decisions were made to withhold the handwritten notes which held the key to understanding the Department's course of conduct in the EPA dispute and a draft chronology of the dispute prepared in the Lands Division, which might well have saved the Committee

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time and effort and helped to focus its inquiry. A further decision was made not to disclose the existence and withholding of the notes and chronology, thus pretermitting any effort by the Committee to gain access to those documents. The concealment of the notes and the chronology arguably obstructed, and certainly substantially delayed, the successful completion of the Committee's inquiry. And there were enough people involved in this course of conduct to give rise to the question whether they acted in concert to obstruct the Committee's inquiry.

For this reason, among others, we sought referral of related matters which would have permitted us, inter alia, to attempt to resolve the conspiracy question. Attorney General Meese refused our request for those referrals and opposed it when we subsequently presented it to the Special Division. The Division ruled that the Attorney General's refusal was not subject to review and thus denied our request, but held that the original grant of jurisdiction was broad enough to permit us to investigate whether Mr. Olson participated in a conspiracy to obstruct the Committee's inquiry. We have undertaken that more limited inquiry and have concluded that there is no evidence that he took part in such a conspiracy.

1. The Law

The federal conspiracy statute, 18 U.S.C. § 371, provides:

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any

> purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

The essence of the offense of conspiracy is an agreement between two or more persons to commit an offense, accompanied by an overt act by one or more of the conspirators to effect the object of the conspiracy. United States v. Falcone, 311 U.S. 205, 210 (1940). The courts have also required a showing of specific intent both to enter the agreement and to commit the substantive offense. E.g., United States v. Drougas, 748 F.2d 8, 15 (1st Cir. 1984); United States v. Haldeman, 559 F.2d 31, 112 n. 223 (D.C. Cir. 1976). Thus there are three essential elements to the crime, each of which must be proved beyond a reasonable doubt: (1) the agreement, (2) the overt act in furtherance of its object, and (3) specific intent.

While the agreement must be proved beyond a reasonable doubt, it need not be a formal affair whose details are specifically worked out among the conspirators. Indeed, it need not even be explicit. A tacit agreement will suffice if the conspirators knew of and intended to achieve the illegal object. Direct Sales Co. v. United States, 319 U.S. 703, 709-14 (1943). Moreover, it is not essential that each conspirator specifically agree with, or even be aware of, each other conspirator or know the part to be played by each. Blumenthal v. United States, 332 U.S. 539, 557-59 (1947). A single agreement may encompass two or more illegal objects. Braverman v. United States, 317 U.S. 49, 54 (1942).

In the present context, it would have to be proved beyond a reasonable doubt that Mr. Olson entered into an agreement with one or more other persons with the intent either to make false statements to the Committee in violation of 18 U.S.C. § 1001 or to obstruct the Committee's inquiry in violation of 18 U.S.C. § 1505, or both, and that one of the persons committed an overt act in furtherance of the agreement's aims.497/ The giving of testimony which was deliberately evasive, though not actually false, could constitute an overt act in furtherance of a conspiracy to violate § 1505. Cf. United States v. Langella, 776 F.2d 1078, 1081 (2d Cir.), cert. denied, 475 U.S. 1019 (1985); United States v. Perkins, 748 F.2d 1519, 1527-28 (11th Cir. 1984). Unlike the offense of obstruction, it is not necessary to a conspiracy charge that the Committee have actually been misled by Olson's testimony, or, for that matter, that the object of the conspiracy have been achieved. United States v. Bayer, 331 U.S. 532 (1947).

2. The Evidence

The focal point of any inquiry into the existence of a conspiracy to obstruct the Committee's inquiry must be the undisclosed withholding of the handwritten notes and the chronology. The withheld materials were plainly within the

497/ Courts have sustained conspiracy charges where the objects were the making of false statements under § 1001, e.g., United States v. Richmond, 700 F.2d 1183 (8th Cir. 1983), and obstruction of justice, e.g., United States v. Minkoff, 137 F.2d 402 (2d Cir. 1943) (prosecuted under former 18 U.S.C. § 241, the predecessor statute to the current 18 U.S.C. §§ 1503, 1505).

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compass of Chairman Rodino's document request, and they contained information critical to any assessment of the Department's role in the EPA documents controversy. Regardless whether their withholding could be justified on some ground, such as the attorney-client privilege, the work-product doctrine or some deliberative process privilege, there could not be in our view any justification for the failure to inform the Committee of the existence of the withheld documents. Only if fair disclosure is made of claims of privilege can the party seeking information be in a position to challenge the legal validity of the decision to withhold.

We have found no evidence, however, that Mr. Olson took part in any concerted effort to conceal the notes and chronology from the Committee. To the contrary, while Mr. Olson plainly supported the decision to withhold these materials, he also appears to have advocated immediate disclosure to the Committee of their existence. He told us that he believed Mr. Schmults had told the Committee staff of the withholding of the notes, an impression which he shared with virtually all other senior Department officials. His behavior was also inconsistent in other respects with the notion that he was part of a conspiracy to obstruct the Committee's inquiry by secretly withholding documents. As noted above, he more than once volunteered references in his March 10 testimony to handwritten notes of his own which had not been produced. And the documents which he arguably had a personal motive to conceal -- the October 25 memorandum and the four memoranda to the Civil Division -- were produced to the Committee

by OLC in the first round of the post-March 10 document review. Finally, Mr. Olson's participation in the Department's activities vis-a-vis the Committee was extremely limited after March 10. He did attend one meeting with Alan Parker to discuss document production in April 1983. Parker described him in that meeting as an open advocate of limited disclosure to the Committee.[498/] After that Mr. Olson largely faded from the scene of the Committee's inquiry.

We thus conclude that there is no evidence that Mr. Olson was part of a conspiracy to obstruct the Committee's inquiry.

F. THE PERRY TESTIMONY

1. The Referral Under § 594(e)

As EPA's general counsel, chief enforcement officer, and principal liaison with the Department during the executive privilege controversy, Perry was at a minimum a significant potential witness in our investigation of Olson. Perry, however, was already under investigation by the Department for possible perjury during his December 1982 testimony before the Dingell Subcommittee. We asked the Department in June 1986 whether our planned contact with Perry would be harmful to its investigation. The Department advised us that it had investigated and closed all aspects of its investigation but one: whether Perry had

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498/ Parker, Sep. 9, 1986, memo at 4.

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testified falsely before the Subcommittee concerning the conversations he had on October 7 and 8, 1982 with the Department and the Dingell Subcommittee staff.

Perry's testimony, particularly that concerning EPA's willingness to turn over the Superfund documents to Congress, was of interest to us because of its obvious overlap with issues raised by Olson's testimony on that same issue. We therefore believed it necessary to explore, from the unique perspective of this investigation, Perry's December 1982 testimony, with particular emphasis on any discussions which Perry, or his staff, may have had with Olson, or his staff, concerning EPA's willingness to turn over the Superfund documents to Congress. Perry's status as a potential defendant in the Department's investigation, however, complicated his status as a witness in this matter. Unification of dealings with Perry under one prosecutor would eliminate the obvious problems inherent in having related investigations conducted by different prosecutors. On November 14, 1986, therefore, we wrote to the Attorney General requesting, among other things, that he refer the Department's criminal investigation of Perry's testimony to us as a "related matter" to the Olson investigation, pursuant to 28 U.S.C. § 594(e). On December 17, 1986, the Attorney General made the requested referral.

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2. The Law

a. Elements Of Perjury Under 18 U.S.C. § 1621

The federal perjury statute applicable in the circumstances under which Perry testified before the Dingell Subcommittee, 18 U.S.C. § 1621,[499/] provides, in pertinent part:

> Whoever
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> (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition or certificate by him subscribed, is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . is guilty of perjury . . . .

In United States v. Debrow, 346 U.S. 374, 376 (1953), the Supreme Court set out the elements of the crime of perjury under § 1621.

> The essential elements of the crime of perjury as defined in 18 U.S.C.A. § 1621 are: (1) an oath authorized by a law of the U.S., (2) taken before

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499/ There is another federal perjury statute: 18 U.S.C. § 1623. While its "substantive elements . . . are the same" as those of § 1621, United States v. Kahn, 472 F.2d 272, 283 (2d Cir.), cert. denied, 411 U.S. 982 (1973), § 1623 applies only to testimony taken in, or ancillary to, court or grand jury proceedings. There is no corroboration requirement in prosecutions for perjury brought under § 1623. United States v. Diggs, 560 F.2d 266, 269 (7th Cir.), cert. denied, 434 U.S. 925 (1977); United States v. Patrick, 542 F.2d 381, 384 n.3 (7th Cir. 1976), cert. denied, 430 U.S. 931 (1977).

> a competent tribunal, officer or person, and (3) a false statement wilfully made as to facts material to the hearing.500/

Under § 1621, perjury occurs when a person lawfully under oath before a competent tribunal "willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true." United States v. Lattimore, 127 F. Supp. 405, 408 (D.D.C. 1955), aff'd, 232 F.2d 334 (1955). Since there is no question as to either the competency of the Dingell

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500/ In order to obtain a conviction, we would be required to prove each of these elements beyond a reasonable doubt. See Curley v. United States, 160 F.2d 229 (D.C. Cir.), cert. denied, 331 U.S. 837 (1947).

Some corroboration would also be required under the so-called "two witness" rule which, despite its misleading sobriquet, actually requires the testimony of only one witness, plus corroboration.

> In proving the crime of perjury [under § 1621], the uncorroborated testimony of a single witness is not sufficient to establish the falsity of the statement of a defendant under oath.

United States v. Haldeman, 559 F.2d 31, 97 n. 185 (D.C. Cir. 1976), citing Hammer v. United States, 271 U.S. 620, 626 (1926); see Weiler v. United States, 323 U.S. 606, 609 (1945). But there is no requirement that a second witness actually testify to the falsity of a defendant's statement. Weiler, 323 U.S. at 610; see also United States v. Weiner, 479 F.2d 923, 926 (2d Cir. 1973); Young v. United States, 212 F.2d 236, 241 (D.C. Cir. 1954). The testimony of a single witness is sufficient to establish falsity provided that there is independent evidence to corroborate it. See United States v. Haldeman, 559 F.2d at 97 n. 185. "'Independent' evidence in this context means evidence coming from a source other than that of the direct testimony." United States v. Diggs, 560 F.2d at 270 (citations omitted). The independent corroborating evidence may take any form, such as admissions by the defendant or documentary evidence. There is no specific quantum of corroboration required, but it may not consist of a single witness' affirmation of his own testimony. United States v. Haldeman, 559 F.2d at 98. As always, the credibility of the corroboration is a jury matter. Weiler v. United States, 323 U.S. at 610.

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Subcommittee[501/] or its authority to administer oaths,[502/] we discuss only the elements of falsity, willfulness, and materiality.

b. False Testimony And Willfulness

False testimony is, of course, essential to proof of perjury under § 1621.[503/] But it is not enough that the testimony in question be objectively at odds with the facts. The crime of perjury also has a "subjective" element in that the defendant must also believe, when he gives it, that his testimony is

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501/ Conviction under § 1621 requires an oath taken "before a competent tribunal." A congressional committee or subcommittee is competent within the meaning of § 1621 if it is (1) duly constituted and (2) engaged in a legislative function. See United States v. Reinecke, 524 F.2d 435, 437, (D.C. Cir. 1975); Young v. United States, 212 F.2d at 239-40; United States v. Icardi, 140 F. Supp. 383, 388, (D.D.C. 1956). For purposes of § 1621, a congressional committee is duly constituted if a quorum is present, United States v. Reinecke, 524 F.2d at 437, citing Christoffel v. United States, 338 U.S. 84 (1949), and it is performing a proper legislative function. See United States v. Cross, 170 F. Supp. 303, 305 (D.D.C. 1956). All congressional committees are legally presumed to be both duly constituted and engaged in a proper legislative function. See United States v. Icardi, 140 F. Supp. at 386. When Perry testified, the Subcommittee was duly constituted, a quorum was present, and the Subcommittee was engaged in proper legislative fact-finding with regard to the Superfund law. The Subcommittee was therefore a "competent tribunal" within the meaning of § 1621.

502/ 2 U.S.C. § 191 authorizes chairmen of congressional committees to administer oaths at hearings.

503/ In Bronston v. United States, 409 U.S. 352 (1973), which we have already discussed at some length, see pp. 155-59, supra, the Supreme Court held that only factually inaccurate testimony, knowingly and wilfully given, will support a perjury conviction under § 1621. The section does not reach literally true answers, even if they are unresponsive or intentionally misleading. 409 U.S. at 359-60.

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untrue. See United States v. Winter, 348 F.2d 204, 210 (2d Cir. 1965), cert. denied, 382 U.S. 955 (1965); United States v. Lattimore, 127 F. Supp. at 409.504/ Thus, even factually inaccurate testimony does not constitute perjury under § 1621, if the witness believed, when he gave it, that his testimony was true. See United States v. Haldeman, 559 F.2d at 102; United States v. Chapin, 515 F.2d at 1280.505/ Of course, whether or not the witness believed his testimony to be true, at the time he gave it, is a jury question. See Young v. United States, 212 F.2d at 241.506/

504/ The text of the statute refers to "any material matter which [the defendant] does not believe to be true."

505/ Among the circumstances which may give rise to factually inaccurate testimony, which the witness nonetheless believes to be true, are "surprise, confusion, inadvertence, honest mistake of facts, carelessness, or negligence." United States v. Haldeman, 559 F.2d at 102.

506/ Inferences from circumstantial evidence are properly drawn in a perjury case. United States v. Davis, 562 F.2d 681, 688 (D.C. Cir. 1977). As this Circuit has noted,

> perjury cases, like all criminal cases, are susceptible to proof by circumstantial evidence, and in fact are peculiarly likely to be proven in this manner because one of the elements of the crime is that the defendant knew his statement was false when he made it.

United States v. Chapin, 515 F.2d at 1280.

c. Materiality Under § 1621 In A Congressional Investigation

Even a knowingly and willfully made false statement cannot, however, constitute perjury under § 1621 unless it is also material. Id. at 240 n. 15. This Circuit has said that the test for materiality under § 1621 is

> whether the false statement has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a determination required to be made.

United States v. Moore, 613 F.2d 1029, 1038 (D.C. Cir. 1979), cert. denied, 446 U.S. 954 (1980), quoting Weinstock v. United States, 231 F.2d 699, 701-02 (D.C. Cir. 1956) (emphasis added).507/ Under this test, not every statement made before a congressional committee or subcommittee is necessarily material for purposes of a criminal prosecution under § 1621. Only those

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507/ In Weinstock, a case involving perjury before Congress, this Circuit noted that materiality and relevance are often confused and offered some guidance.

> 'Material' when used in respect to evidence is often confused with 'relevant', but the two terms have wholly different meanings. To be 'relevant' means to relate to the issue. To be 'material' means to have probative weight, i.e. reasonably likely to influence the tribunal in making a determination required to be made. A statement may be relevant but not material.

Weinstock v. United States, 231 F.2d at 701.

which could influence a committee's or subcommittee's conclusion "on subjects which might be legitimately under investigation," Icardi v. United States, 140 F. Supp. at 389, are material.508/

Clearly, Congress has broad investigative authority in connection with its legislative function. Quinn v. United States, 349 U.S. 155, 160-61 (1955).

> There are, however, limitations upon the investigative power of the legislature which must be considered in any determination of materiality.

Icardi v. United States, 140 F. Supp. at 388. In general, Congress may seek only facts which "aid in legislation." Id. Its investigative power

> cannot be used to inquire into private affairs unrelated to a valid legislative purpose. Nor does it extend to an area in which Congress is forbidden to legislate. Similarly, the power to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our constitution to the Executive and the Judiciary. Still further limitations on the power to investigate are found in the specific individual guarantees of the Bill of Rights . . . .

Quinn v. United States, 349 U.S. at 161. Thus congressional testimony is material within the meaning of § 1621 if it is given in response to questions which are legitimately part of the legislative fact-finding process and which do not otherwise exceed Congress' legislative fact-finding authority. But

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508/. Although as we noted earlier, congressional investigations are presumptively legitimate, "any presumption in a criminal case may be controverted by adequate evidence to the contrary." United States v. Cross, 170 F. Supp. at 306. And, of course, even if an investigation is in furtherance of a proper legislative function, every question asked during its course may not be.

> answers responsive to questions which are not asked for the purpose of eliciting facts in aid of legislation, even though pertinent, are not 'material' to the authorized investigation . . . .

United States v. Cross, 170 F. Supp. at 306 (emphasis in original). And, since such testimony is not material, it will not support a perjury indictment under § 1621. As this Circuit has held,

> [a] perjury indictment may not be found on false testimony in response to questions which are not asked for the purpose of eliciting facts material to the committee's investigation, that is, facts sought in aid of the legislative purpose.

Id. at 310.

3. Analysis Of Perry's Testimony

We turn now to an analysis of whether the facts and circumstances of Perry's December 1982 testimony before the Dingell Subcommittee warrant prosecution for perjury under § 1621 or for any other violation of federal criminal law.509/ We conclude that prosecution of Perry for any part of his December 1982 testimony before the Subcommittee is unwarranted because the

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509/ Section 1621 would be the appropriate vehicle for a prosecution of Perry based on his testimony before the Subcommittee, if the evidence warranted. We have considered the possibilities that Perry's testimony obstructed the investigation in violation of 18 U.S.C. § 1505 or that it was part of a conspiracy to do so in violation of 18 U.S.C. § 371, but have rejected both. There is no evidence that the testimony either obstructed the investigation in any significant way or was given in furtherance of some criminal agreement with others.

evidence is not sufficient to obtain and sustain a conviction. Since our reasoning is not identical with regard to each of Perry's three testimonial statements, we discuss them separately.

a. EPA Willingness To Turn Over The Documents

During his testimony, Perry stated repeatedly that he did not recall telling Barrett during their October 8, 1982 conversation that nothing in the subpoenaed documents warranted EPA's withholding them from the Subcommittee. The direct evidence that Perry did make such a statement to Barrett consists exclusively of Barrett's prospective testimony to that effect.510/ In addition, there is some corroborative evidence consisting of a contemporaneous letter signed by Chairman Dingell to Perry, Simms' prospective testimony that Perry had, at about the same time, made a similar statement to him, and Simms'

510/ Assuming that Perry said the words reported by Barrett, their real meaning is open to some interpretation in the context of the interbranch dispute over the Superfund documents. A number of EPA witnesses have told us that statements of EPA's willingness to turn over the documents reflected the view, prevalent at EPA at the time, that they could be safely turned over with adequate confidentiality safeguards, but did not mean that the documents could be turned over to Congress willy-nilly. Burford, Jul. 11, 1986, memo at 2; Aug. 24, 1988, memo at 4 and 11. Thus, Perry's alleged statement to Barrett may have been meant to convey nothing more than a willingness to reach a negotiated disposition of the issue.

Indeed, Perry said that this is precisely what he communicated to Barrett on more than one occasion. Perry, Nov. 20, 1986, memo at 8-9. While we have generally accorded Perry's account little weight, we note it in this context in light of the unanimous agreement among EPA witnesses that no one expressed a willingness to produce the documents unconditionally.

memorandum to that effect, made some two months later. The available corroborating evidence is, however, either probably inadmissible or of little probative value.

Chairman Dingell's contemporaneous letter to Perry is inadmissible as corroboration, since it consists plainly of hearsay repetition of Barrett's version of his conversation with Perry.[511/] Simms' prospective testimony and memorandum -- since they bear on what Perry said to Simms, not to Barrett -- offer such weak and attenuated corroboration that they might not be admissible.[512/] But even if Simms' testimony were admitted, a jury could reasonably conclude that Simms' testimony and memorandum about what Perry told him are insufficient as corroboration of what Perry told Barrett.

511/ We have considered the possibility that Barrett himself was the actual author of the Chairman's October 8 letter, but it would still be inadmissible in that case, since Barrett cannot provide corroboration for himself. See note 500, supra. Moreover, even if the letter were admissible, the unexplained omission from it of any reference to Perry's second conversation with Barrett on October 8, 1982 casts doubt on its reliability as a complete and accurate record of what transpired between Barrett and Perry on that day. In turn, Barrett's testimony itself would be impeachable through this unexplained omission in the otherwise purportedly accurate memorialization.

512/ The ultimate determination of the credibility of the corroborating evidence is "an exclusive function of the jury." United States v. Diggs, 560 F.2d at 270. But the

> corroboration must be by proof of independent and material facts and circumstances tending directly to corroborate the testimony of the witness for the prosecution, and must be of a strong character, and not merely corroboration in slight particulars.

Cook v. United States, 26 App. D.C. 427, 430 (1906) (emphasis added).

The case against Perry therefore comes down in all probability to Barrett's uncorroborated testimony which is not legally sufficient.513/

Moreover, Perry's alleged statement is of questionable materiality. The Dingell Subcommittee was holding legislative and oversight hearings on the Superfund law. Perry's testimony was therefore material only insofar as it provided the Subcommittee with information which could influence its decision on the need for amended or additional Superfund legislation.514/ How Perry's testimony -- about exactly what he said or did not say to Barrett -- could have done that is not apparent.

In his opening statement, Chairman Dingell said that the Subcommittee's inquiry had focused "on the administration and implementation of the Superfund Act," and cited Rules X and XI of the House of Representatives as jurisdictional authority.515/ Rule X gives the Committee 516/ jurisdiction over public health,

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513/ It is also worth noting that Kim Pearson was in Perry's office during both his conversations with Barrett on October 8 and overheard Perry's end of those conversations. Pearson corroborated Perry's denial that he told Barrett EPA saw no reason to withhold the documents. See note 97, supra.

514/ Materiality is not a jury question. United States v. Howard, 560 F.2d 281, 284 (7th Cir. 1981).

515/ Perry tr., p. 2. In assessing materiality within the context of a prosecution under § 1621 for perjury before Congress, some courts have looked to the resolution, pursuant to which a committee or subcommittee was proceeding, to define the scope and limits of its inquiry. See, e.g., United States v. Icardi, 140 F. Supp. at 385. In the absence of such a resolution in this case, we have turned to the Chairman's opening statement.

516/ We conclude that the Committee on Energy and Commerce validly delegated this function to the Subcommittee. See pp. 141-43, supra.

among other things, and charges the Committee with legislative and oversight responsibilities in those substantive areas within its jurisdiction. See Rule X, cl. 1(h), cl. 2(b), Rules of the House of Representatives, 98th Cong. Thus, the two questions properly before the Dingell Subcommittee were whether the Superfund legislation needed amendment and whether EPA was implementing it as Congress wished. Perry was asked whether he told Barrett that nobody at EPA saw good reason to withhold from the Subcommittee certain Superfund documents which might be relevant on those two questions. Perry answered that he could not recall.517/

Even assuming that his answer was false and that Perry could, when he testified, recall making such a statement, his testimony concerning the statement, as distinguished from the statement itself, is of questionable materiality. We may agree

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517/ In order to facilitate this analysis, we have proceeded as though Perry had simply denied making the statement to Barrett rather than testifying, as he did, that he could not recall making it. Perry's claim of failed recollection further complicates any prospective prosecution by raising the question of the reasonableness, under the circumstances, of his claim. See United States v. Letchos, 316 F.2d 481, 484 (7th Cir. 1963) (perjury statute provides safeguards for too-ready punishment for mere lapse of memory). Perry, who by then had already compiled a history of troubled interactions with the Subcommittee staff, Barrett, Sept. 17, 1986, memo at 6-8; Frandsen, Sept. 29, 1986, memo at 14, testified under circumstances which could quite easily have caused "surprise, confusion, inadvertence, honest mistake of facts, carelessness, or negligence," United States v. Haldeman, 559 F.2d at 102. The questioning was aggressive, repetitive, at times hostile, and took place in the supercharged atmosphere of the executive privilege claim and potential contempt proceedings against the Administrator. While the credibility of Perry's claimed failure of recollection is a jury matter, see, e.g., Sigman v. United States, 320 F.2d 176, 178 (9th Cir. 1963), cert. denied, 375 U.S. 967 (1964), a jury could conclude from the circumstances of his testimony that Perry's claimed failure of recollection was reasonable.

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that EPA's attitude toward turning over the documents -- and hence Perry's October 8 statement to Barrett that EPA was willing to do so -- might well have been material at the time the statement was made to the legislative and oversight issues before the Subcommittee. But the same cannot be said, in our view, of Perry's testimony two months later about exactly what he said or did not say to Barrett on that particular occasion.

By the time Perry testified, intervening events had rendered whatever view he expressed on October 8 inoperative, and the resolution of Perry's dispute with Barrett over what was said on October 8 could not have affected the Subcommittee's exercise of its legislative or oversight function in December. Perry and Barrett talked relatively early in the process which led up to the President's decision to assert executive privilege. The Department, for instance, had just received the documents from EPA; no subpoenas had yet been issued; and it would appear that Perry had not placed the matter before the Administrator, despite the contrast between her history of open-handedness in dealing with congressional requests for information and the more conservative views recently expressed by the Department. Thus, Perry's October 8 statement to Barrett represented nothing more than Perry's preliminary thought expressed before the issues had been clearly framed and without the benefit of the Department's considered views or the Administrator's informed determination of

the agency position. As such its materiality as of December 3 is not readily apparent, and the materiality of testimony concerning whether such a statement was made is even more attenuated.518/

We therefore conclude that a prosecution of Perry for perjury in violation of § 1621 on the basis of his testimony is unwarranted.

518/ In United States v. Icardi, 140 F. Supp. 383 (D.D.C. 1956), the Court employed similar reasoning in concluding that certain testimony was not material under § 1621. There, the murder of an army officer in Italy had given rise to a congressional inquiry into "whether existing law adequately covered crimes against persons or property committed overseas by members of [U.S.] armed forces." Id. at 385. Icardi, suspected of the offense, appeared as a witness. He denied any knowledge of, or involvement in, the murder but was contradicted by other witnesses and later indicted for perjury under § 1621 on the basis of his denials. The Court found that Icardi's testimony was not material and granted a motion for judgment of acquittal.

> Whether Icardi denied or confessed guilt by his answers, his testimony could not have influenced the subcommittee's conclusion on subjects which might be legitimately under investigation, namely, whether existing law adequately covered the prosecution of crimes committed under the circumstances of the specific charge under investigation, and whether the Defense Department had functioned adequately in its investigation . . . . Therefore . . . the Court holds as a matter of law that the alleged false answers by Icardi were not material to the subcommittee's authorized investigation.

Id. at 389.

b. The Department's Alleged Request For All The Superfund Documents

On at least three occasions during his testimony, Perry denied that the Department had ever instructed him to send to the Department all of the requested Superfund documents without retaining copies at EPA. Perry also denied telling Barrett that the Department had so instructed him. We conclude that neither statement warrants prosecution.

(i.) Perry's Denial That The Department Ever Asked For All Of The Documents

Applying the Bronston standard we conclude that a prosecution of Perry under § 1621 based on his testimony concerning his conversations with the Department about a possible transfer of the documents is unwarranted because the testimony is literally true. Even if false, the testimony is, for the reasons already discussed, of questionable materiality in a prosecution under § 1621.

There is no evidence that anyone at the Department ever did instruct or ask Perry to send to the Department all of the Superfund documents, originals as well as copies.519/ Indeed,

519/ Of course, Perry may have misunderstood Simms to have made that request. But Perry's answer that he received no such instruction from the Department is, regardless of whatever misimpression he may have held for a few hours, nevertheless literally true and therefore not prosecutable under Bronston. What Perry believed Simms told him, as distinguished from what Simms actually said, was never brought out during Perry's testimony. But Bronston makes clear that the responsibility to do so rested with the Subcommittee and not with Perry.

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all the evidence from Department witnesses is to the contrary. Simms was unequivocal that he never said anything like that to Perry. On the contrary, Simms told Perry that such action would be illegal, unethical, and futile. And in a conversation late on the afternoon of October 8, 1982, Olson assured Barrett that no one at the Department had counseled, or ever would counsel, Perry to do such a thing. Barrett apparently accepted those assurances when they were offered, but maintained that, irrespective of what the Department may have told Perry, Perry nevertheless told him that the Department had instructed Perry to send it all copies of the documents.

Given Simms' account, which we have no reason to question, Perry's testimony that the Department never ordered him to send it all the documents appears, at the very least, to be literally true. It is therefore not prosecutable under Bronston.

Moreover, Perry's testimony concerning his conversations with the Department about the documents is of questionable materiality for purposes of a prosecution under § 1621. As noted, Perry's testimony was material only insofar as it could have influenced the Subcommittee's determinations whether the Superfund legislation needed amendment and whether EPA was implementing the legislation as Congress intended.

But it is not at all apparent just how a precise understanding of Perry's conversations with the Department about a possible transfer of the documents, even if they did occur, could have influenced the Subcommittee's decisions on the Superfund legislative and oversight issues before it. Even if the

Department had initially instructed Perry to transfer all copies of the documents to the Department in order for EPA to avoid compliance with the subpoena, Perry's truthful testimony would have informed the Subcommittee only that, for a period of a few hours on October 8, 1982, the Department and EPA had considered an inappropriate way for EPA to avoid compliance with a subpoena for the Superfund documents, which was abandoned as soon as Subcommittee staff questioned it. That information cannot fairly be said, particularly under the standards which apply in a criminal prosecution, to have been seriously capable of influencing the Subcommittee on the Superfund legislative and oversight issues before it.

(ii.) Perry's Denial That He Ever Told Barrett That The Department Had Asked For The Documents

We conclude that Perry's denial that he ever told Barrett that the Department had asked for all of the requested documents does not warrant prosecution because there is insufficient independently corroborated and uncontradicted evidence that Perry ever made the statement. In addition, Perry's denial is, for reasons already discussed, probably not material within the meaning of § 1621.

The evidence that Perry did tell Barrett that the Department had asked for all of the documents consists of Barrett's prospective testimony and two letters to Perry, one from Chairman Dingell written contemporaneously with the October 8, 1982

conversation, and the other from Barrett some three weeks later.520/ For reasons earlier discussed in detail, the letters are inadmissible as corroboration because they do not come from an "independent" source, see United States v. Diggs, 560 F.2d at 270, and because to the extent that Dingell and not Barrett wrote the October 8 letter, it is hearsay. Barrett's testimony is therefore the only admissible evidence that Perry testified falsely when he denied telling Barrett that the Department had asked for all of the documents. But, as we have also noted, the uncorroborated testimony of a single witness is insufficient to make out the element of falsity required in a perjury prosecution under § 1621. United States v. Haldeman, 559 F.2d at 97 n.185.

Perry's denial that he ever told Barrett that the Department suggested a transfer of all the documents from EPA to the Department is also of questionable materiality under § 1621. We have already explained why a precise understanding of Perry's conversations with the Department about a possible transfer of the requested documents could not have significantly influenced the Subcommittee's decisions on the Superfund issues properly before it. A precise understanding of what Perry did or did not

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520/ The only witness to any part of the conversation between Perry and Barrett, other than the participants, was Kim Pearson, Perry's Special Assistant. As noted earlier, see n. 513, supra, Pearson was present in Perry's office during two conversations which Perry had with Barrett on October 8, 1982 and could hear Perry's, but not Barrett's, part of the dialogue. To some extent, Pearson contradicted Barrett. As Pearson recalled Perry's remarks, Perry discussed the transfer of documents only in hypothetical terms, asking questions such as: "What if we give the Department the documents? Then EPA can't respond to a subpoena and is off the hook." Pearson did not recall Perry ever saying to Barrett that the Department was asking or had told EPA to transfer the requested documents to the Department.

tell Barrett about those same immaterial conversations is, in our view, even more remote from those issues than the conversations themselves and therefore of even less materiality.

White House - Treasury Contacts

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Memorandum **Office of the Independent Counsel**

TO: Judge Starr
Mark Tuohey
John Bates

FROM: Alex Azar

DATE: December 27, 1994 (Revision date: January 21, 1995)

SUBJECT: Preliminary investigative plan for White House-Treasury contacts case

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In anticipation of our meeting to discuss the status of the White House-Treasury contacts investigation, I have prepared the following preliminary investigative plan. The plan details in chronological order the events that -- broadly speaking -- may merit further inquiry and lists (in all capital letters) the witnesses that we may want to speak with about each event and the avenues of questioning that might be pursued. Please note that this outline does not purport to be a complete chronology of the case; rather, it lists only those events that may warrant additional investigation (certain events have been so fully explored before the grand jury or in interviews that no further investigation would likely prove fruitful). In addition, this plan is obviously extremely over-inclusive; I doubt that after what I assume will be our several meetings on this subject, we will decide to pursue all of these avenues of inquiry or speak with all of the suggested witnesses.

This plan is based upon my review of all relevant 302's and grand jury transcripts, the complete sworn depositions taken this summer during the Inspectors General investigation, Mr. Fiske's final report, and my partially completed review of the House and Senate Banking Committee hearings from this summer. Not yet reviewed in any detail are the rest of the summer hearings, the sworn depositions taken by Senate Banking Committee investigators this summer (these depositions have not yet been made available to us despite our repeated requests), and the voluminous agency and witness document productions. Thus, this plan is necessarily tentative in nature; additional investigative avenues may arise as the review continues, and conversely others may be closed with the discovery of additional information in the remaining materials.

I have not at this stage attempted to make recommendations as to the form that any witness questioning should take (FBI interviews, grand jury testimony, or sworn depositions). That is a matter that we will have to discuss as this investigative plan is refined. As a general matter, though, I have found the actual transcripts (either from depositions or the grand jury) to be most helpful in getting a complete picture of the complex events spanning this one year period. In addition, in a case such as this -- where all witness statements are

being reviewed for falsity and possible criminal charges and where it is critical to lock in witness statements before a possible second round of congressional hearings -- it will probably be necessary to question most of these witnesses either in sworn depositions or before the grand jury, whether or not those appearances are preceded by initial FBI interviews.

Please excuse the length, but given that it is in outline form, I think you will find it a quick read:

1. March 23, 1993: Altman's first staff meeting at RTC; Roelle tells Altman that 0004 will mention Clintons; Altman does not remember; 9:04 p.m. Altman sends fax to Nussbaum of New York Times article on Whitewater; fax resent March 24, 1993 at 8:58 a.m.

   a. ALTMAN; NUSSBAUM; ALTMAN'S SECRETARY:

      i. Any discussions between the two of them along with this urgent fax or just pure coincidence?

2. September 27, 1993: Roelle tells Hanson about referrals

   a. HANSON; ROELLE:

      i. What detail on referrals was she given; in particular did she learn of Tucker at this point?

      ii. If so, did she tell WHS about Tucker?

      iii. Confront Hanson with Roelle's warning that she tell no one but Altman

3. September 28, 1993: Hanson's call sheet lists Roelle, Cavanaugh, and Altman

   a. Hanson doesn't remember anything about this and says her call sheet is also a to do list

   b. CAVANAUGH:

      i. Did Hanson call? Even if not, why would that name be on her call list?

      ii. If we get phone records, we can check if she called Cavanaugh

4. September 29, 1993: Hanson briefs Nussbaum and Sloan at WHS

   a. NUSSBAUM; SLOAN; HANSON:

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i. Was Tucker mentioned?

b. FOREMAN:

i. Was he briefed on this contact or on 10/14 contact (his notes from September/October 1993 refer to Nussbaum, sensitive RTC matters, investigative stories and reporters)

5. September 30, 1993: Hanson memo to Altman with Early Bird

a. ALTMAN:

i. He admitted to IG that he saw Early Bird at some point about the referrals; did we know this?

b. BENTSEN:

i. Hanson's memo says he was briefed, although her testimony is that she's not sure if she briefed him on the WHS meeting or just the fact of the referrals; either way the memo contradicts Bentsen's testimony

6. October 4, 1993: Lyons, Caputo, and Lindsey are in contact re Gerth and Isikoff inquiries re referrals

a. Lyons calls Caputo and recounts Gerth and Isikoff's questions about referrals; Caputo speaks with Lindsey; Lyons calls Lindsey to tell him about press inquiries re referrals

b. ~~CAPUTO; LINDSEY~~; LYONS:

i. Need to clarify just what happened in these discussions

ii. Was Tucker mentioned?

7. October 6, 1993: Meeting at WHS with Clinton, Tucker, McLarty, and Hubbell

a. Issue of whether Clinton may have tipped Tucker off to his target status in the criminal referral arose for the first time before SBC and HBC

b. HUBBELL; ~~MCLARTY; CLINTO~~N; KEITH MASON

i. Any mention of Tucker being subject of referral;

ii. Keith Mason was at the entire meeting and confirmed that Whitewater

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and the referrals never came up; we will want to talk to Mason to confirm this

iii. Cutler letter to Gonzalez on 7/27/94 stating that he reviewed Mason's notes of the meeting and Whitewater was not mentioned

8. October 7, 1993: At RTC staff meeting, Roelle tells Altman and Hanson about Schmidt appearing at Lewis' home with questions about referrals

a. Roelle clarifies this for IG: Had never mentioned Madison at staff meetings; finds out there is going to be article next day about referrals; tells Altman of imminent story by Schmidt with Schmidt's questions and the detailed information that she has on the 9 referrals; Altman calls Hanson and tells her what Roelle just told him

b. Roelle says Altman told Hanson to let "Jack, Bernie, and the Secretary" know about these inquiries

c. ~~HANSON; ALTMAN~~; ROELLE; NEWMAN:

i. Hanson and Altman deny it, but confront them in grand jury

ii. Where did this meeting take place?

iii. Why such a meeting never mentioned at all by Altman or Hanson?

iv. Given Roelle's protestations about the confidentiality of this information, why didn't he interrupt and tell Altman not to have Hanson brief others?

v. Anyone else present for this discussion?

(1) Roelle told Katsanos that he had briefed Altman, Hanson, and Newman, so maybe Newman was also at this meeting

9. October _, 1993: After Gerth's October 11, 1993 call to him, DeVore calls Katsanos asking if these referrals have been handled any differently than others; tells him he is going to meet with Gearan

a. DEVORE; KATSANOS:

i. Confront DeVore with these details so we can resolve whether Lindsey was the source of information at 10/14 that the referrals had been sent

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ii. What information did DeVore give Katsanos and what information did Katsanos confirm re the referrals thus giving DeVore non-public information?

10. October _, 1993: RTC staff meetings where procedures for handling criminal referrals are discussed

a. Bowman says Altman and Hanson were present for these discussions and may have even initiated them

b. ALTMAN; HANSON; BOWMAN

i. Madison mentioned in particular?

ii. Reason for these discussions?

11. October 13, 1993: DeVore meets with Altman and Steiner re press inquiries about referrals

a. DeVore doesn't remember this meeting, but his calendar shows meeting re RTC story

b. DeVore also doesn't remember but it's possible he or Steiner told Altman of planned 10/14 meeting

c. This may have been the meeting where DeVore suggested Altman or Hanson read the referrals

d. ALTMAN; STEINER; HANSON; DEVORE:

i. Was 10/14 WHS meeting mentioned?

ii. Hanson may have been at this meeting; recalls being called to meeting in Altman's office with DeVore and others with DeVore briefing on inquiries he's getting about criminal referrals

iii. If this is all one meeting with Altman, Steiner, Hanson, and DeVore present, Steiner recalls a meeting with Hanson and DeVore on 10/13 where they discussed the 10/14 meeting at the WHS; is this the same meeting and was Altman present

iv. Was Bentsen also briefed?

e. BENTSEN:

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i. Briefed on impending press stories?

12. October 14, 1993: Hanson, Steiner, and DeVore meet in Hanson's office before going over to WHS

a. HANSON; STEINER; DEVORE:

i. What was discussed?

13. October 14, 1993: Meeting at WHS with Hanson, Steiner, DeVore, Nussbaum, Sloan, Eggleston, Gearan, and Lindsey

a. Who reported that the referrals had already been sent?

i. Steiner claims it was Lindsey

ii. Lindsey claims he learned it at the meeting

iii. DeVore denies he reported it, but Katsanos does say that DeVore was the one who inquired whether they had been sent

iv. ~~LINDSEY~~; CASEY:

(1) Did they talk?

(2) Could Lindsey have learned of referrals having been sent from information given to him by Casey?

b. STEINER:

i. Why did he stress at end of meeting that all of the information given at meeting came from press inquiries?

ii. Were there WHS contacts immediately after 10/14? (Starts to talk about them in IG, but is interrupted)

c. BENTSEN:

i. Steiner indicates it is possible he briefed Bentsen about 10/14 after the fact

14. October 14, 1993: RTC staff meeting in Hanson's office with Hanson, Bowman, and Curtis

a. Curtis claims he gave Hanson the PLS analysis and Bowman took it and copied it

b. ~~CURTIS~~; ~~HANSON~~; ~~BOWMAN~~:

i. We know that Hanson and Bowman deny this, but they should do so before grand jury

ii. Did Hanson mention she had just come from WHS meeting?

iii. Anyone else present at this meeting? Hanson's special assistant?

15. October _, 1993: Iorio claims Yanda sent Hanson the referrals and the PLS analysis by Federal Express (this could just be wild surmise) (Note: Iorio just made this claim in a recent interview):

a. ~~HANSON~~; YANDA; ~~IORIO~~:

i. Ask about this claim

16. October _, 1994: Lindsey calls custodian of campaign records in Little Rock to check on Gerth's information re $3,000 checks made out to Clinton and campaign at 1985 fundraiser

a. ~~LINDSEY~~:

i. Who did he talk to?

ii. What did he learn?

iii. What instructions did he give to that person?

b. WHITEACRE:

i. Suspected to be the custodian of records he called

ii. Substance of discussions with Lindsey?

iii. Faxed some documents to Lindsey (Duffey has them)

17. October _, 1994: Logue-Kinder orders Katsanos not to mention HRC in Early Bird items dealing with Rose Law Firm and keep Rose Law Firm name out of Early Bird

a. LOGUE-KINDER:

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i. Why and at whose direction?

18. Fall 1994: Roelle summarily dismissed as CFO and transferee to FDIC

a. ROELLE; ALTMAN; HANSON; RYAN:

i. Roelle claims to IG that it was in retaliation for not having sat on the referrals

ii. What basis for this belief?

iii. More properly handled as part of the RTC investigation?

19. December 21, 1993: Hanson prepares chronology detailing fall contacts on 9/27 and 10/14 (DOT 142)

a. HANSON; ALTMAN; BENTSEN: - DID ALTMAN OR BENTSEN SEE IT? STEINER: ROB. & GROSS

i. Why prepared? ↳ DID SHE OVERDRAFT IT?

ii. Distributed to?

20. New Years, 1994: Clinton approach to Ludwig at Renaissance Weekend

a. Ludwig calls Hanson at home seeking information about Madison

b. Ludwig calls WHS Counsel office asking for Nussbaum or Sloan; call fielded by intern Tom Castleton

c. Ludwig and Sloan talk by telephone

d. Sloan and Klein speak and Klein decides to advise Clinton to cease communications re Madison with Ludwig

e. LUDWIG; ~~KLEIN; SLOAN; CASTLETON~~: (CLOSE OUT)

i. What information did Ludwig give Sloan and Castleton re Clinton's inquiry?

21. January 3, 1994: Altman's diary indicates Bentsen met with Stephanopoulos to urge "lancing the boil" of Whitewater

a. ~~ALTMAN~~:

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i. Why was this contact not disclosed?

b. BENTSEN; STEPMOTHER-

i. Describe this contact

22. January 4, 1994: Altman's diary indicates conversation with Williams about IC appointment at a health care meeting

a. ~~ALTMAN~~; ~~WILLIAMS~~:

i. Why was this contact not disclosed?

ii. What about HRC being paralyzed by Whitewater; was this a request for Altman to do something?

iii. What about WHS negotiating to control scope of IC jurisdiction?

23. January 1994: Ludwig calls Williams and tells her WHS should disclose everything about Whitewater and should be sure to have a lawyer involved in WHS response team

a. LUDWIG; ~~WILLIAMS~~:

i. Describe this contact

ii. Why did Ludwig call her?

~~24.~~ January _, 1994: Altman decides to reopen Madison civil at RTC staff meeting

a. Ryan told us about this decision

b. ~~ALTMAN~~:

i. Why was this not disclosed?

ii. Conflicts with his repeated assertion that he has never made any decisions re Madison

25. January 12, 1994: RTC staff meeting at Treasury with Hanson, Bowman, Barker, and Hindes discussing response to Republican letter re need for tolling agreements

a. Note: This is the same day that Clinton agreed to ask Reno to appoint an IC

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b. Hindes repeats the briefing he had just given earlier that day to Ryan re Madison civil investigation

c. Hindes tasked with writing memo to Barker re Madison civil investigation and tolling agreements

d. Barker claims Hanson asked him if she could see the referrals (Note: we were the first to learn of this claim); Hindes and Bowman do not remember this discussion

i. HANSON; ALTMAN; ~~BOWMAN;~~ ~~HINDES~~:

(1) Hanson has consistently denied ever asking to see the referrals, but does not know of this new evidence

(2) Was Altman aware of this request?

e. Hindes claims Hanson asks him to get ready for a possible briefing for Altman on the criminal referrals (Note: we were the first to learn of this claim)

i. HANSON; BOWMAN; ALTMAN:

(1) Where did idea originate? Altman?

(2) Was Altman aware of these preparations?

ii. DUDINE; KATSANOS:

(1) E-mail to Iorio (attached to Iorio 302) refers to preparation for briefing

(2) Dudine tells IG that Katsanos originally suggested getting ready for a briefing

(3) How do these communications relate to Hindes' claim?

f. Hindes claims he, Bowman, and Barker huddle after this meeting in Bowman's office to discuss Hanson's request for a criminal referral briefing for Altman and agree that the less Altman knows the better

i. ~~BOWMAN; BARKER~~:

(1) Why want to keep Altman in the dark?

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g. Anyone else present at this meeting (or follow up huddle)? Hanson's special assistant?

26. January 1994: Barker, Bowman, and Kulka discuss civil jurisdiction of IC

a. Barker claims Bowman asked whether Fiske could take over Madison civil and Barker said not without RTC's consent; Bowman does not remember this

b. Barker claims that the issue of Fiske taking over Madison civil arose again in Kulka's presence after his initial discussion with Bowman; Bowman does not remember this

c. KULKA:

i. Timing of these discussions and RTC's consideration of this issue

ii. Any pressure from DOT or WHS for RTC to hand over Madison civil to Fiske?

d. HUBBELL:

i. Any effort by WHS to control scope of IC charter?

~~27.~~ January 25, 1994: Bowman faxes Hindes' January 13, 1994 memo re tolling agreements and Madison civil to Hanson

a. HANSON; ALTMAN:

i. Was this memo shared with Altman?

28. January _, 1994: Hanson asks Kulka whether Fiske could take civil jurisdiction

a. Kulka tells her only if RTC consents; plus her discussions with Fiske indicate he probably isn't interested

b. HANSON; ~~ALTMAN:~~

i. Why did she ask this question? Altman's prodding?

ii. Was Altman aware of these discussions?

~~29.~~ February 1, 1994: Meeting with Altman, Hanson, Levy, Newman, Nye, Kulka, and Steiner re Altman's recusal; Kulka provides briefing on statute of limitations and tolling agreements

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a. ALTMAN; HANSON; LEVY; NEWMAN; NYE; KULKA; STEINER:

i. Nature of discussion

ii. Were others present?

iii. Steiner tells IG that Steiner, Levy, Newman, Affleck-Smith (?), Nye, and Kulka knew about 2/2 meeting in advance; how? Was it discussed at this meeting?

(1) Was the purpose of the 2/2 meeting at the WHS discussed, in particular was one purpose to discuss/announce recusal?

(2) AFFLECK-SMITH(?)

(a) Who is she? How did she know about 2/2 in advance? What information does she have for us?

(b) Was she at this meeting?

30. February 1, 1994: Meeting with Altman, Bentsen, and Hanson

a. Hanson claims Altman was decided on recusing; Bentsen said that was a smart decision; Altman tells Bentsen that they will meet with WHS to inform them of recusal decision

b. Altman denies having decided on recusal

c. BENTSEN:

i. Nature of recusal discussion; was Altman decided already?

ii. Statute of limitations briefing

iii. Informed of WHS meeting planned for 2/2 and its purpose?

iv. Purpose of 2/2 to discuss/announce recusal?

d. ~~ALTMAN~~:

i. Was the 2/2 meeting discussed in Bentsen's presence?

~~31.~~ February 2, 1994: Possible Hanson meeting with Williams at 1:20 p.m.

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a. Not sure about this one; mentioned in HBC hearings; Williams denies meeting with Hanson before the big meeting; reference in Hanson's notes of this meeting; do we have them?

b. HANSON; WILLIAMS:

i. Raise this issue with them

32. February 2, 1994: Meeting at WHS with Altman, Hanson, Ickes, Williams, Eggleston, and Nussbaum

a. WILLIAMS' SECRETARY:

i. Who invited Williams to this meeting and why was it put on her schedule?

b. ICKES; CLINTON; HRC:

i. Ickes admitted to IG and Senate that he briefed HRC and Clinton about the meeting FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(1)

(2) Why not disclosed by the Clinton's?

(3) This is critical because Ickes is the only one at the meeting who believes Altman said RTC would have trouble completing its investigation in time for the 2/28 statute of limitations deadline (others say Altman assured them that RTC would be able to make a recommendation in time)

(4) Did Ickes repeat this information to the Clinton's?

33. February 3, 1994: Meeting in Williams' office with Altman, Ickes, and Eggleston re Altman's non-recusal decision; Altman leaves and Hanson appears and continues discussion

a. ~~WILLIAMS; ALTMAN; ICKES; STEPHANOPOULOS; EGGLESTON; HANSON~~:

i. Was Williams present (sitting at her desk?) while others were in sitting area talking during Altman discussion? After Hanson arrived?

ii. Nail down the timing of this meeting; if a prelude to the evening health

care meeting as Altman claims, it looks more incidental; if separately scheduled event around lunch time, it is a much more significant event

(1) Check Secret Service logs for Altman and Hanson entry to WHS

iii. Was Stephanopoulos present?

34. February 3, 1994: Hanson calls Nussbaum re Leach letter advising recusal

a. Nussbaum tells Hanson to have Foreman call Nolan re ethics and recusal

b. Nussbaum suggests giving Fiske Madison civil claims

c. Nussbaum asks how Kulka hired

d. HANSON:

i. Did she disclose this conversation to us?

35. February 3, 1994: Meeting with Bentsen, Altman, and Hanson re Altman's recusal decision

a. Hanson says Altman recounts WHS 2/2 meeting

b. BENTSEN; [redacted]:

i. Describe this meeting

ii. Was WHS 2/2 meeting discussed?

36. February _, 1994: Kulka claims Hanson and Kulka have conversation about Altman's decision not to recuse where Hanson by silence implies WHS caused Altman to not recuse

a. HANSON; KULKA:

i. What did Hanson mean by her silence?

ii. Nail down when this discussion occurred; before or after 2/2 meeting?

b. [redacted]

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37. February _, 1994: ABC News makes inquiry re 2/2 WHS meeting leading to conversations between Altman, Schloss, Terzano, and Lindsey to handle response

a. Altman describes 2/2 meeting to Lindsey and Hanson's follow up with Kulka about briefing the private attorneys; also says he will not recuse because he will just let his appointment lapse

b. ~~ALTMAN~~; SCHLOSS; TERZANO; LINDSEY:

i. Clarify the sequence of contacts re the ABC News inquiry

ii. What did Altman say about 2/2 in any of these conversations?

iii. Why not disclosed by Altman?

38. February _, 1994: Meeting with Bentsen, Knight, Altman, and Hanson "for the record" re Altman's recusal decision-making process

a. According to Hanson, Altman tells them he met with Bentsen and Hanson on 2/1 and stated that he had reserved judgment on recusal; they met again on 2/3 and Altman told them that he had decided not to recuse

b. Hanson tells IG and SBC that WHS 2/2 meeting is mentioned; [redacted] - - - - - - - - - FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

c. In post-meeting huddle, Bentsen tells Hanson that's not how he remembers it (i.e., Altman had said he had decided to recuse at the first meeting)

d. BENTSEN; ~~HANSON~~; KNIGHT; ~~ALTMAN~~:

i. Purpose of meeting

ii. Huddle with Hanson

iii. 2/2 WHS meeting discussed?

iv. Why was Knight there?

v. [redacted]

vi. Does Knight have any kind of diary or daytimer that would record this meeting?

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vii. Why does Hanson think Knight was there and what does she think was the purpose for the "for the record" meeting with him present?

39. February 4, 1994: Nussbaum calls Hanson and tells her to look at Fiske's charter to see whether Fiske should take civil. February 5, 1994: Hanson speaks with Kulka about Fiske and RTC civil jurisdiction. Kulka says that Fiske had previously expressed relief at not having civil with a statute of limitations of 2/28. February 8, 1994: Hanson calls Nussbaum and thanks him for information on Fiske's charter

a. HANSON; NUSSBAUM:

i. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

ii. Purpose of these inquiries?

40. February 1994: Preparation of ethics opinion on recusal for Altman

a. KOSINSKI; FOREMAN; NOLAN; NUSSBAUM; SLOAN:

i. Nolan warned Foreman that whatever their conclusions were would set precedent

ii. Did Nussbaum give Nolan his views on Altman not recusing?

iii. Did Nolan say anything to Foreman to communicate WHS preference on recusal?

iv. Sloan knew Nolan was having discussions with DOT re recusal; what information does he have about these discussions?

b. Big meeting with Altman, Hanson, Foreman, Kulka, and Kosinski to discuss Altman's recusal

i. Foreman told IG about this; not revealed to Fiske

ii. ALTMAN; HANSON; FOREMAN; KULKA; KOSINSKI

(1) Were WHS' views mentioned during this meeting?

41. February 1994: Schloss calls Katsanos and orders him not to mention Altman in Early Birds re Rose Law firm and Madison

a. SCHLOSS; ALTMAN:

i. Was Altman the source of this request?

ii. Why now?

42. February 16, 1994: Steiner meets with Stephanopoulos at WHS re Altman's recusal decision, and Stephanopoulos advises in favor of recusal

a. Steiner claims he told Altman about this meeting; Steiner IG says he thinks Altman directed him to talk to Stephanopoulos

i. ALTMAN; STEINER:

(1) Confront Altman with Steiner's statement

(2) Get Steiner before grand jury with this claim

(3) Did Steiner mention this contact to Altman during the preparation sessions and urge its inclusion in the Q&A's? Why not?

43. February 1994: Podesta and Stern call Steiner some time after 2/16 re Altman's preparation for the 2/24 hearings and re Stephens' appointment

a. Steiner says they called asking to see the Q&A's prepared for Altman's testimony

i. STEINER; PODESTA; STERN:

(1) Were they sent the Q&A's? Who saw them?

b. Steiner says they thought it was extraordinary that Stephens had been hired and asked how he had been hired

i. PODESTA; STERN:

(1) Did anyone at the WHS suggest they ask about Stephens?

c. Steiner claims he told Altman about this call

i. STEINER:

(1) Nail him down; which conversations with Podesta did he tell Altman about

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ii. ALTMAN:

(1) Confront him with Steiner's statement

44. February 1994: Steiner checks with Hanson's office to see how RTC hired Stephens

a. Steiner thinks it was Hanson or Robin Gross that he checked with

b. ~~HANSON~~; ROBIN GROSS:

- STEINER FIXES OUT IT DOES THRU I SUPER. BOARD.

i. Who did they check with at RTC?

45. February 1994: Steiner calls Podesta to let him know of RTC hiring decision process

a. PODESTA; STEINER; STEPHANOPOULOS; ICKES; EGGLESTON:

i. Any request for further action?

ii. Did Podesta report these findings to Stephanopoulos, Ickes, or Eggleston, who later made similar inquiries?

46. February 1994: Preparation sessions for Altman's 2/24 testimony

a. STEINER:

i. Did he tell Altman of the contacts he had had with WHS in February 1994?

b. Everyone who participated: LEVY; STEINER; HANSON; KULKA; ALTMAN; NEWMAN; NYE; RYAN; BOWMAN: KP'S GUT

i. Fall meetings mentioned?

ii. Criminal referrals mentioned?

iii. Kulka's advice to Altman that he shouldn't use word "substantive" since it could be misinterpreted

(1) How did Altman respond?

iv. Who raised the contacts issue (Ryan) and why did he raise it?

v. Recusal as subject of 2/2 meeting and other contacts discussed?

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vi. Why did Altman draft the response himself? Very strange for Altman to do so?

vii. What was the one "incidental" contact referred to in Q&A's?

(1) Any other "incidental" contacts mentioned?

47. February _, 1994: Stern reviews Altman's testimony for Podesta

a. Stern's 302 says he didn't learn of 2/2 meeting until 2/25 press reports
- BUT AS IN 43-44, HE HAVE SEEN DRAFT Q&A.

b. Stern told Podesta testimony was straightforward

c. STERN:

i. Was he given Q&A's or just the opening statement? (If he was given Q&A's then he learned about 2/2 before 2/25)

ii. How can he have learned only as of 2/25 when Podesta says Podesta knew about 2/2 from the preparations for the hearings?

48. February 23, 1994: Meeting with Bentsen and Altman re recusal
- BENTSEN PROBLEM CONFUSED
AS THIS IS 2/3 MTG

a. Bentsen says he told him it's a personal decision

b. BENTSEN; ~~ALTMAN~~:

i. Why did we not hear of this meeting before?

ii. Why is issue being discussed again?

iii. Anyone else present?

49. February 23, 1994: Altman tells Hanson to inform Nussbaum that he will let appointment lapse so he won't be involved in Madison; Hanson does so
(de facto recusal)

a. Nussbaum says that means DOT is leaving WHS with Kulka
upset

b. ALTMAN; HANSON; NUSSBAUM:

i. Why didn't we learn of this?

ii. Why contact Nussbaum?

ii. Did Hanson report back to Altman re content w/ Nussb.

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50. February 23, 1994: Meeting at WHS with Griffin, Williams, Nussbaum, Ickes, Eggleston, and Lindsey re Altman's testimony

a. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

b. GRIFFIN; WILLIAMS; NUSSBAUM; ICKES; EGGLESTON; LINDSEY:

i. Purpose of meeting?

ii. What discussed?

iii. Any communications with Altman or staff re this meeting?

51. February 23, 1994: Eggleston calls Hanson to ensure Altman will disclose 2/2 meeting if asked

a. EGGLESTON:

i.

ii. Did Eggleston mention fall contacts or other 2/94 contacts?

b. ICKES:

i. Why was Ickes so concerned?

52. February 23, 1994: Steiner calls Podesta to get reaction on Altman letting appointment as RTC CEO lapse

a. Podesta will check around WHS and get back to Steiner but he doesn't

b. Podesta says he told Steiner that they needed to be ready to disclose 2/2 (Eggleston had told Podesta of the meeting a couple days before)

c. STEINER:

i. Was this the conversation with Podesta that he told Altman about?

d. PODESTA:

i. Why did he mention need to disclose 2/2 meeting? Anyone else suggest that he do this?

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53. February 23, 1994: Steiner calls Griffin to get reaction on Altman letting appointment at RTC CEO lapse

a. STEINER; ALTMAN:

i. Did Steiner tell Altman about this contact?

54. February 23, 1994: Steiner calls Stephanopoulos to get reaction on Altman letting appointment at RTC CEO lapse

a. STEINER; ALTMAN:

i. Did Steiner tell Altman about this contact?

55. February 23, 1994: Griffin returns Steiner's call

a. Steiner tells him not to worry because Stephanopoulos is checking for WHS reaction

b. STEINER; ALTMAN:

i. Did Steiner tell Altman about this contact?

56. February 23, 1994: Altman calls Ickes

a. Dispute over subject of call:

i. Ickes says Altman told him he was thinking of recusing himself at hearing and wanted reaction; Ickes asks what has changed?

ii. Steiner and Altman say call was about Altman announcing he would step down as CEO

b. ALTMAN: STEINER; ICKES

i. Why make this call?

ii. Why was it not disclosed to Congress?

57. February 23, 1994: Ickes calls for Altman but in his absence speaks with Steiner

a. Steiner 302 says Ickes reported WHS would rather Altman not announce he was stepping down and that he could announce his recusal if the heat turns up;

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b. STEINER; ALTMAN; ICKES

i. Steiner told Altman about this call; what did he say?

ii. Was Stephens discussed?

iii. Why not disclosed to Congress?

c. STEPHANOPOULOS:

i. Ickes says Stephanopoulos may have been in office when this call was made; was he on this call and did he hear anything?

58. February 23, 1994: Telephone call with Altman and D'Amato

a. Altman initiated the call to let him know that WHS considering letting a nominee take over RTC

b. D'Amato warns Altman that he will be asked about contacts and recusal at the hearing; Altman does not recall contacts being mentioned

c. ALTMAN:

i. Why did we first hear of this before the SBC?

ii. Discuss this call with anyone else?

59. February 24, 1994: Altman testifies before Senate Banking Committee

a. NUSSBAUM:

i. Seemed to have real concerns re Altman's failure to disclose recusal and saying only one question asked; explore

ii. Did he discuss concerns re testimony with Altman or others at DOT?

b. HANSON:

i. She says she knew immediately that certain statements would need to be supplemented; which ones?

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ii. Have her watch the tape with us and explain what she is thinking at each point, in particular what is happening when Altman leans back to her and she shakes her head after the Bond question

(1) Senate investigators were commissioned with asking her about this

c. STEINER:

i. Told SBC that he saw problem right away with failure to mention recusal and failure to mention other meetings

(1) Which other meetings?

(2) What did he say to Altman and when did he say it?

60. February 24, 1994: Altman tries to reach Nussbaum by telephone but Nussbaum is in Mexico

a. ALTMAN:

i. Why?

61. February-March _, 1994: Hanson and Foreman review the tape of Altman's testimony

a. Never asked about this by Fiske; inquired of by SBC

b. Dispute when Hanson looked at tape (Foreman says 2/25; Hanson says 3/1)

c. Hanson claims this was after Podesta called on 3/1 and since she didn't have transcript she had to transcribe Bond's questions

d. Hanson says she went home on night of 3/1 and attempted to recall information following Podesta's call to Altman; types out draft Q&A's saying Altman didn't ask her to brief Nussbaum about referrals; after this night, she later recalls that Altman asked her to go over on 9/27. These Q&A's appear at DOT 4466; 4467

e. HANSON; FOREMAN:

i. What was discussed?

ii. Was anyone else involved?

- when did this transcription take place on 25th or 1st
- if 25th, knew of probs w/ testimony very before correction they say they knew there was need to correct.

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iii. Information/thoughts conveyed to Altman?

iv. Have Hanson explain her draft Q&A stating that Altman did not tell her to brief Nussbaum about the referrals

62. February _, 1994: Clinton meets with Lindsey and McLarty re Stephens appointment

a. Clinton is amused, concerned, and frustrated

b. MCLARTY; LINDSEY:

i. What did they hear from Clinton?

ii. Did they talk to Ickes or Stephanopoulos and characterize Clinton's anger?

63. February 25, 1994: Bentsen learns that Altman testified about the 2/2 meeting

a. BENTSEN:

i. Who told him?

ii. How was it characterized in terms of veracity?

iii. Did he speak with anyone about this testimony?

iv. What was his view of its veracity?

64. February 25, 1994: Meeting with Altman, Steiner, Levy, Schloss, Nye, and Hanson re whether Altman should recuse

a. ~~ALTMAN; STEINER;~~ LEVY; SCHLOSS; NYE; ~~HANSON.~~

i. Any mention of concern about accuracy of his testimony during these discussions?

65. February 25, 1994: Eggleston calls Hanson and asks her if Stephens had been hired

a. HANSON:

i. Why didn't she tell us about this contact but told IG?

66. February 25, 1994: At WHS staff meeting, Eggleston provides summary of Altman's testimony

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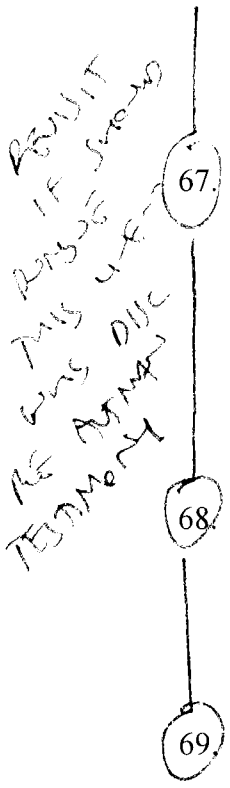

a. EGGLESTON:

i. Any concerns noted?

67. February 25, 1994: Sloan tells Klein he is concerned about statement saying only one meeting; tells Klein about fall meetings

a. KLEIN:

i. What was he told?

ii. Did he communicate this information with DOT?

68. February 25, 1994: Eggleston calls Nussbaum in Mexico

a. EGGLESTON; NUSSBAUM:

i. Subject of discussion?

69. February _, 1994: Klein asks Sloan to review Altman's testimony to consider whether Altman should have disclosed fall meetings in response to Bond

a. KLEIN:

i. Why did he do this?

70. February 24 or 25, 1994: Discussion with Hanson, Steiner, and Levy where Steiner says Kulka should be fired for hiring Stephens

a. Steiner also asked whether Fiske could take over civil so they could get rid of Stephens

b. Steiner says can you believe these guys want to see if they can get rid of Stephens, ridiculous to think they could (confirms diary)

c. Hanson remembers either Altman or Steiner asking her how Stephens was hired; she said normal process; they asked her to double check

i. ALTMAN; STEINER:

(1) When did this happen?

(2) Was Altman present at this meeting?

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d. LEVY:

i. What did he hear at this meeting?

e. BENTSEN:

i. Aware of any of these communications re Stephens?

71. February 25, 1994: DOT receives transcript of Altman's 2/24 testimony

a. According to Sarbanes, Fran Davis received it

b. FRAN DAVIS:

i. Did she give transcript to anyone else at DOT? When?

72. February 25, 1994: McLarty and Ickes meet re Altman's testimony

a. Washington Post 8/3 has story detailing many WHS meetings in response to concerns about Altman's testimony

b. MCLARTY; ICKES:

i. Subject of discussion?

ii. Why meet?

iii. Passed on concerns to DOT?

c. BENTSEN:

i. Aware of any of these concerns re falsity of Altman's testimony?

73. February 25, 1994: Telephone call with Stephanopoulos and Steiner

a. Stephanopoulos says unfortunate how Altman recused; asks how Stephens hired; Steiner tells him

b. Stephanopoulos thinks conflict of interest; thinks DOT should fix situation; told nothing can be done

c. Altman is in room for call

i. STEPHANOPOULOS:

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(1) Given that he is told this information and that it is final why would he repeat his queries with Altman and Ickes?

(2) Did he tell Ickes about his Stephens and recusal discussions with Steiner?

(3) Had Podesta or Stern already reported to him how Stephens was hired?

ii. ALTMAN:

(1) Why didn't he ever tell us he was there

(2) What did he hear; what did Steiner tell him Stephanopoulos said?

74. February 25, 1994: Ickes and Stephanopoulos call Altman re his recusal & Stephens

a. Discuss recusal process and Stephens and Clinton being upset; Stephanopoulos doesn't remember Stephens coming up

b. ICKES:

i. Did Stephanopoulos tell him about his earlier conversation with Steiner about Stephens?

ii. If so, then Ickes' claim that this call was to confirm their information about Altman recusing is totally false

iii. This reeks of going over Steiner's head after he already said nothing could be done; no longer in the realm of blowing off steam

75. February 25, 1994: Altman tells Steiner about the call from Ickes and Stephanopoulos

a. Altman says they were very upset about Stephens; it was a stupid call to make; crazy to try to fire Stephens (confirms diary)

b. STEINER:

i. Given Altman's testimony, why does he distance himself from his own diary with similar thoughts (pressure from Stephanopoulos?)

72

76. February 28, 1994: Klein and Sloan discuss Altman's testimony over lunch; decide to have Eggleston review transcript for inaccuracies and inform Altman

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a. Sloan says Klein is particularly concerned about failure to mention recusal

i. KLEIN:

(1) Why concerned?

(2) Other concerns?

(3) Klein's concerns passed on to DOT?

(4) What did Eggleston report?

(5) Did Eggleston pass on his analysis to DOT?

77. February 28, 1994: Steiner's diary entry says amazingly recusal did not come up at 2/24 - OK ALTMAN DIDN'T GET ASKED RE RECUSAL AT HEARING.

a. STEINER:

i. Were there discussions at DOT about recusal already?

ii. Was Altman involved in those discussions?

iii. Who else was involved?

78. February 28, 1994: Memo from Eggleston to Ickes that discusses 2/2 meeting

a. Ickes then passed this memo on to HRC on 3/1 - GET UNREDACTED COPY FROM KLEIN.

b. ICKES; HRC; ~~EGGLESTON~~:

i. Contents?

ii. Why written?

iii. Why weren't we told of this earlier?

iv. Did Clinton see this memo?

16 → 79. March 1, 1994: Meeting at WHS with Podesta, Nussbaum, Eggleston, Sloan, Klein, Myers, and Lindsey to discuss Altman's testimony

a. Lindsey says everyone thought Altman needed to correct on fall meetings and recusal discussion

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b. Podesta tasked to call Altman

c. Eggleston says Klein was very concerned about recusal issue

d. Eggleston says he thought recusal subsumed within procedures

e. PODESTA; NUSSBAUM; EGGLESTON; SLOAN; KLEIN; LINDSEY; MYERS:

i. How did meeting come about?

ii. Everyone share these concerns about his testimony?

iii. Sloan says some think procedures encompasses recusal; who suggested this and was this theory passed on to Altman (ex post rationale by Altman?)?

iv. What information communicated to Altman?

80. March 1, 1994: Podesta calls Altman with WHS concerns re his testimony

a. Altman thinks his response is accurate but will debate with staff whether to correct on recusal

b. Podesta says he didn't mention the fall meetings, just that Altman needed to talk to his staff about whether his response to Bond was accurate; in particular sit down with Hanson and review the transcript; Altman says he's not sure he wants to know of any other meetings that may have taken place

c. Podesta HBC testimony is a little different: Altman told him the recusal issue had already been raised at DOT; Altman said he forgot to mention recusal

d. Hanson may have been present in room while this call was taking place; says the fall meetings weren't mentioned explicitly

e. PODESTA; ALTMAN; HANSON; STEINER:

i. Who first suggested that recusal was subsumed within procedures? Altman or WHS?

ii. How did Altman first learn of fall meetings?

iii. Did Altman say he forgot to mention recusal?

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iv. When did Steiner get involved?

(1) Steiner was involved in these discussions at some point where Hanson lets Altman know of 9/29 and 10/14: this may have taken place as a separate meeting after Hanson talks to Podesta and gets her memory straight because Steiner recalls remembering 10/14 meeting and learning of 9/29 for first time; Steiner places this meeting possibly on 2/25

81. March 1, 1994: Possible follow up call with Podesta and Altman with Hanson in room

a. Hanson says after Podesta expressed concerns about response to Bond; she looked at videotape, transcribed the 2 questions; went to Altman's office where he was on the phone with Podesta; Podesta says he understands there was meeting at WHS with Nussbaum about this; Hanson says it was by phone; Podesta then says Nussbaum said it was after Waco; Hanson remembers then that it was an in person meeting

b. HANSON; ALTMAN; PODESTA:

i. Get the sequence of these conversations cleared up

82. March _, 1994: Altman asks Hanson to call Podesta, which she does:

a. Podesta passes on what Nussbaum remembers of fall contacts and that refreshes her recollection of events

b. This may be same as 3/1 call with Podesta, Altman, and Hanson

83. March 2, 1994: Hanson calls DeVore to ask about 10/14 meeting

a. HANSON; DEVORE:

i. What was discussed?

84. March 2, 1994: Telephone call with Riegle and Altman

a. Riegle offers to reopen hearings so Altman can clarify his testimony but Altman refused

b. ALTMAN:

i. Why refused?

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85. March 2, 1994: Altman's first correction letter to Riegle

a. No non-public information; no knowledge of communications between RTC and WHS; just learned of 2 conversations between DOT and WHS staff related to handling of press inquiries

b. Steiner says he told Altman as this letter was being prepared of his 2/16 discussion with Stephanopoulos re recusal

i. STEINER; ALTMAN; HANSON:

(1) Why did Altman not include this information?

(2) Part of continuing plot deliberately to hide recusal discussions

(3) Who told Steiner not to fill Altman in on any other information that Altman didn't remember by himself (Altman's private lawyer or Hanson?)?

86. March 3, 1994: Bentsen calls DeVore after seeing 3/3 Post story revealing 10/14 meeting

a. Bentsen asks whether DeVore briefed him on fall meetings; DeVore says no

b. BENTSEN:

i. Why so worried?

ii. Did he also ask Hanson, Steiner, or Altman?

c. HANSON; STEINER; ALTMAN:

i. Was Bentsen involved in any of the discussions re Altman's testimony?

87. March 3, 1994: Altman's second correction letter to Riegle

a. I was asked about any contacts I have had; Hanson got approval of Foreman before we went over; no discussion on the substance of the case

88. March 11, 1994: Altman's third correction letter to Riegle

a. I told you about one meeting I had which addressed only generic RTC procedures involving statute of limitations; one or two days after this meeting, there was a very brief discussion on the issue of recusal for 5 minutes with

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Ickes and maybe one or two others. The purpose was to provide notification; at neither meeting did I seek advice, nor was it given.

i. ALTMAN:

(1) How can he possibly fail to mention recusal discussion at the 2/2 meeting?

(2) How can he state that he did not get advice at 2/2?

(3) Was the 2/3 meeting with Ickes et al. the incidental contact he had in his Q&A?

(4) What about the other 2/24 contacts, including his discussion re recusal with Ickes on 2/23?

89. March 21, 1994: Altman's fourth correction letter to Riegle

a. Says he is disclosing every contact regardless of significance; before the end of 2/2 I announced that I was weighing recusal; after this meeting I spoke with McLarty with the same message; 2/23 I told Ickes on telephone that I would announce I was stepping down from RTC; around same time I bumped into Nussbaum at WHS and he told me that WHS would submit RTC nominee soon.

b. ALTMAN:

i. Who assisted him with the preparation of each of these letters?

ii. Who else saw any of these letters or contributed to their substance?

iii. Get him to admit that these responses were responsive to the committee's questions; then find out why he didn't provide these fuller responses during his 2/24 testimony

90. Miscellaneous

a. FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

i. NUSSBAUM:

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3/8 BENTSEN TESTIMONY

(1) [redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

ii. ALTMAN:

(1) [redacted]

b. ROELLE:

i. [redacted]

c. MCLARTY:

i. In his 302 he said he would have to check his notes to determine whether he was at any meetings with the Clintons where the referrals were discussed in fall 1993; did we ask him to do so?

d. Secretaries to all key players:

i. VERONICA DAWSON (Hanson)

ii. Altman

91. Summary list of potential witnesses to be questioned:

a. Affleck-Smith
b. Altman
c. Altman's secretary
d. Barker
e. Bentsen
f. Bowman
g. Caputo
h. Casey
i. Castleton
j. Cavanaugh
k. President Clinton
l. Mrs. Clinton
m. Curtis
n. Fran Davis
o. Veronica Dawson (Hanson's secretary who kept her daytimer)

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p. DeVore
q. Dudine
r. Eggleston
s. Foreman
t. Griffin
u. Robin Gross
v. Hanson
w. Hindes
x. Hubbell
y. Ickes
z. Iorio
aa. Katsanos
ab. Klein
ac. Knight
ad. Kosinski
ae. Kulka
af. Levy
ag. Lindsey
ah. Logue-Kinder
ai. Ludwig
aj. Lyons
ak. McLarty
al. Keith Mason
am. Myers
an. Newman
ao. Nolan
ap. Nussbaum
aq. Nye
ar. Podesta
as. Roelle
at. Ryan
au. Schloss
av. Sloan
aw. Steiner
ax. Stephanopoulos
ay. Stern
az. Terzano
ba. Whiteacre
bb. Williams
bc. Williams' Secretary
bd. Yanda

92. Documentary evidence possibly needed:

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a. WHS entry records to prove when the 2/3 meeting in Williams' office took place

b. Paula Casey phone records to/from Lindsey around 10/14 (Bittman is getting this information)

c. Roelle: the dates are very unclear from his 302 (but may be improved in his IG interview); if we grand jury him, let's ask for any logs that will help with dates

d. RTC Early Birds for all relevant periods since they reflect what was driving the substance of many of these contacts. We have 9/30 and 10/13 (DOT 2-3)

e. DOT evidently bates stamped some additional production between their Fiske production and their OIG subpoena production; some of these documents are referred to in OIG interviews (such as Hanson's notes of conversations with Curtis 6190); where did they go? Let's get them

f. March 1, 1994 memo from Ickes to HRC passing on Eggleston's 2/28 memo to Ickes re WHS contacts. We have it, Ickes 10.

g. Whiteacre's documents and possibly the entire Arkansas Democratic office's records on contacts

h. Cutler's 7/27/94 letter to Gonzalez about whether Whitewater was mentioned in Clinton's meeting with Tucker on 10/6/94

i. At least for Altman and Hanson, we don't have their complete daytimers for all relevant periods, i.e., after 2/2 and before 10/14, Altman March 23, 1993; make sure we get these for all key players. Also need calendar for Bentsen especially around 9/29 (did he meet with Hanson re criminal referrals as stated in Early Bird memo) and during 2/94 (2/1; 2/3; Knight meeting). We have Altman's computerized calendar for all months but still need 3/93. Get Hanson's "To Do" cards for all other relevant dates (we only have 4 of them at DOT 134-37); Get Hanson's call sheets for all relevant dates (the ones we have appear at DOT 366-82). Get DeVore's daytimers (kept by him and his sec'y) for 9/30-10/6/93; need his from 10/14 also (we have his sec'ys copy) (Others appear at DOT 2963)

j. RTC provided additional written responses to 2/24 hearings; we should get them

k. The March 11, 1994 letter to Riegle. We need to be sure that we have the version that Riegle received. The 3/8 version doesn't have the assertion that he did not receive advice on recusal. Check with Riegle's office? Critical

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because this may be the most likely basis for a 1001 prosecution.

l. Secret Service entry records for any RTC people going over to DOT (confirm Roelle was at 10/6 meeting with Altman)

m. Telephone records of calls between DOT, RTC, and WHS on key days to further lock in times/dates/and fact of contacts

n. Secret Service entry records for 2/3 for Altman and Hanson to get time of entry for meeting

o. Need to ask every witness whether they have a diary or daytimer that they have not yet provided to us

p. Dee Dee Myers took notes at the 3/1 WHS meeting reviewing Altman's testimony; do we have these? Yes, E00914.

q. Get all documents provided by witnesses, DOT, WHS, and RTC to House and Senate this summer

r. Consider getting all documents re preparation for summer hearings and follow up to hearings

s. Senator Bond states that a search of Bentsen's office by IG revealed additional scheduling documents showing 2/1 and 2/3 meetings with Altman and Hanson; do we have these? Yes, DOT 6506-22.

t. Hanson has a handwritten note used to prepare Bentsen for House Appropriations hearings where she wrote that Hanson and Altman consulted with Bentsen in advance of 2/2 meeting; do we have this note? Yes, DOT 198

u. Senate investigators' report on post-hearing follow up with Hanson re her shaking her head after Bond's question

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Kavanaugh

BOX 1

Kavk 12/6/2005

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Kavanaugh Presentation - Prix

Bett Presentation

Lambeth's opinion, Smaltz, p 15, presumption that govt is incompetent prosecutor.

Turnover in WHCO.

who? Toney, Ken Bates, also Ann, Collatin; Brett Rosengard.

Goldberg has frustrations too.

Smaltz – 10/94 experience.

Smaltz told "all docs."

Haven't gotten them still.

Judge Penn is slow.

6/97 opinion ordered immediate production of some docs, remand to DC. for others.

Abominable relationship, great difficulty

Mitera + Cutler

↳ Faulty performance (Ray's handwriting)

↓ close to Cutler, more political.

Hash on Quinn + Ruff

Barnett has complaint of relationship w/ D.O.J.

Matt Rosengard has complained too. Trouble getting the witnesses in restigation.

Burton + Chris Cox (on staff, was in WHCO).

wants criminal referals re WHCO.

before videotape depositions.

Bates started staff, became radicalized.

Bett → Starr (OIC)

Nixon ← DC Circ (Smaltz)

WH responses: (themes)

1) slow production generally
   - multiple subpoenas
   - understaffing
   - overbreadth
   - hard to find
   - not bad faith, but no sense of urgency either. Not taking seriously.
2) important docs come late.
   - killing records
   - Watkins memo
   - videotapes
   - [illegible] Macintosh
3) privileges asserted as general cover. - dilatory, accommodate, request.
   - [illegible] Nussbaum asserts priv re Foster docs when DOJ asks.
   - selectively invoked, so compromised.
   - why + how?
     - embarrassment politically
     - chilling effect on WH discussions.
     - FBI staff - re-she "WH staff"?

What kinds of priv
- Boost PK priv
- Dixon executive priv.

What policy args.
- should counsel
- will spoil ongoing investigation

WH the produced docs re Foster & contacts
- Shelburne - Hemitz - Kreisberg notes were the most important.

- would produce if WHCO was suspected of wrong-doing.
- still, a HRC exception asserted; litigation related. Int's of HRC not produced.

(express)
Joint defense agreement.
notes by WHCO are not detailed, but can discuss.
WHCO took action side in WH side of investigation
- obtaining info is their job. (Kendall Hodge was doing the IR/Clark 1998's stuff).

WH good about ID'ing locations of docs + what is privilege is being asserted.

☆ atty notes privilege - are we being set up?
- Comm's of Kendall provided.
no notes.
- did they take atty-atty notes.

Sensitive stuff hasn't been produced yet.
Pending a President. "Criminal defense stop."
JDA view. Want to see, no notes.
(10:00 Mtg) tomorrow.

Privilege issues; the law

Nixon 1974.

17(c) subp for tapes
Privy asserted → absolute
→ qualified (need unavailability).

Ct: qualified; natural security exception.
demonstrably relevant - specific + central to case.
→ relevance + admissibility (on trial subj) to test.
~~that~~ (the need)
Unger: bald assertion yields to "demonstrate"
specific need for evidence in a trial.

Marshall Papers: support denial (or rest adverse inference) all that is needed.

Rule 17 test -
- Trial - relevance + admiss.
- GJ - easier, mere "R Enf.'s" relevance.

Notes -
Exec + A/C asserted
Exec - dropped.
A/C (Court A/C) remains.
5th Cir: - Nixon says DC's needs demonstr.
- Why should Court keep info from Court?
- gross misuse of public assets
- bur of showing out exception is on govt interest.
28/535(b) = requires exec. branch 'cus to report end of wrongdoing to AG.
This would trump A/C privy (common law).

fn 9.: OLC hasn't shown "dem. spec. need" ?
"We doubt this is then right test, even in that case." It is general language; "classic dicta". Marshall papers show that language was dicta; there is no test of "dem. spec need."

There's a dissent from a Neb. D.Ct. judge. He also rejects WH position. He finds a retroactivity position re HRC. This is wrong on law (it can be retroactively applied) and maybe on facts (who knows what she assumed). good language in one sentence of dissent.

DC Cir Smalty litigation -
WH original review re Espy.
Smalty sub's it.
Free privy denied re Atty docs.

[Silberman question re Nixon supports Bivens view of Nixon: it rej's only 1st Cir approach]
Harv. CA disagrees w Silberman: if there no practical benefit." Then balancing test:
2 things: ① each group contains material evidence, ② not available elsewhere.
#2 is most important. CA says this is satisfied if WH people are being investigated — as in DCs

So it's not so problematic for us.
Application here: patterns of crimes + D's + charts of report. (Tell back up material).
Also notes of M/Js + phone conv's. So not
wit int's; more WH strategizing. (re, statement
has Smaltz shown need?
WH offices aren't under investigation.
as to "work product," WH conceded there is
info there that isn't public. So don't
release the deliberative stuff; only the
facts & stuff.

[redacted]

Larry Stabile

Barrett - deputy; Matt Rosengard.
" AIC

Larry replaced Sherburne.
Shelly replaced Hemsley.

[redacted]

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Memorandum **Office of the Independent Counsel**

To: All Attorneys Date: 10/16/98

From: Brett M. Kavanaugh

Subject: Status

As we prepare for Ken's possible appearance before the Judiciary Committee as well as further indictment/referral decisions, it seems to me that we need to take bold but reasoned steps to bring things to a close. Our critics and even supporters of our mission complain, with at least some justification, that we have not proceeded with sufficient expedition and/or that we have not adequately informed the public of where things stand. In my view, we cannot responsibly enter 1999 without fishing or cutting bait on most matters within our jurisdiction.

In order to seize the offensive and to satisfy our statutory obligations, I would do all of the following **ON THE SAME DAY** -- presumably in early November. These are simply my thoughts; I recognize that some may disagree with one or more of these.

1. Ken holds a press conference (without answering questions) to outline and explain all of the following steps.

2. Refer the Willey matter to Congress.

3. Tell Congress we do not anticipate any other referrals on the President -- at least, unless Susan McDougal provides us with new information or information corroborative of David Hale and Jim McDougal. Explain the Susan indictment and background to it, Clinton's public statements about Susan, and information she refused to provide.

4. [redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

5. Announce that our criminal investigations of the President's statements in the 825 trial will remain open pending the Susan trial, that our investigation of Mrs. Clinton's statements and actions regarding her Madison representation will remain open pending the Hubbell trial(s), and that our investigation of Willey-related matters is open. In so doing, however, try to make clear to the extent allowable that Susan and Hubbell warranted indictment for their crimes regardless whether they have other relevant information to provide.

6. Announce that everything else is closed, including Travel Office, FBI files, Foster documents, and Treasury contacts. Explain briefly the background and history of those matters.

7. Announce that our final report to the Court will not follow the Walsh model (full description of the facts), but will follow the Watergate model. Explain why we are doing that -- fairness to unindicted persons, restraint, etc.

Memorandum **Office of the Independent Counsel**

To: All Attorneys Date: 12/24/98

From: Brett Kavanaugh

Subject: Overall Plan

I am on the way out and will not be able to participate in most future meetings. I have some thoughts on a broad range of issues.

1. I am opposed to any indictments before the Senate proceedings are concluded. I gather that is not a controversial observation.

2. At some point, this Office has to close. There needs to be a plan for how to get from here to there. With that in mind:

a. The case is almost certainly leading to no one else, so at this point in our 4.33-year-old investigation, I would either let it go or give it to DOJ, as the statute seems to direct.

b. Therefore, I would neither bring this case nor send it back to DOJ. That should not be viewed as a failure. We did a thorough and professional investigation. The fact that there have been no indictments is irrelevant.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

c. If the D.C. Circuit reverses in the Hubbell tax case, as we hope, I would explore alternative dispositions with Hubbell on both cases. I would think that misdemeanors (?) for the other three defendants in the tax case, combined with some prison time for Hubbell, would be adequate and in the interests of the United States. I would not necessarily rest a deal on a proffer, although that is a close question. The balance is of several issues: (i) whether we truly believe he has information that he would provide after trial convictions; (ii) the cost of pursuing both cases to trial; and (iii) the risk of acquittal, which seems high in both cases and would be a huge stain on this Office, particularly if acquittal occurred in both cases.

d. As to Susan, I fear nullification and acquittal, so I would not stop thinking

about alternatives. The bottom line: If she would agree to testify -- even to prosecutors not now affiliated with our Office -- then I would drop the case. If she does not, then we have to go forward, however unpleasant it might be.

e. We have to get the FBI files matter closed soon. It is simply not wise to keep it sitting out there as long as it has.

f. On the final report, I have long been a proponent of a short-form, non-Walsh final report for reasons explained in many lengthy memos that by now are deep in the archives. The bottom line: I do not think a final report under Section 594(h) can (or at least should) describe the evidence gathered during the investigation. If we choose to go this course, which at one time virtually everyone then in the Office agreed with, we must prepare the public well in advance. We cannot simply drop a short-form final report without explaining well in advance how and why we are doing so.

3. The biggest issue: WJC. I would do nothing until the Senate proceedings have concluded, although that may be a trickier issue than I think. In any event, after the Senate has concluded, I would send a letter to the Attorney General explaining that we believe an indictment should not be pursued while the President is in Office (and that we also do not believe that we should keep our Office open while we wait). Rather, I would explain that we believe that the next President (and Attorney General) should make the decision whether to indict Mr. Clinton. Therefore, I would refer the Clinton perjury/obstruction case to the Attorney General for her to hold in abeyance until the President leaves office and the next President can decide what to do. I also would publicly announce our letter at the time it is sent.

4. I believe that Ken's future needs to be openly discussed as it relates to closure, indictments, trials, and final reports. I do not relish raising this, but there is enough scuttlebutt and speculation within the Office that I would encourage an open discussion -- lest a repeat of Feb. 1997 occur. For my part, I do not believe that trials of Hubbell or Susan should be pursued if Ken would no longer be here at the time of verdict. But I may be wrong. In any event, I encourage those who have talked about this in hushed voices to raise it openly at some point.

MEMORANDUM

TO: All Present and Former Attorneys and Consultants Involved in Lewinsky Investigation

FROM: Brett Kavanaugh

DATE: February 5, 1999

RE: Public Statements re: Referral

This memo is prompted by statements Tom Bienert apparently made at a symposium on the independent counsel statute (Tom's statements were reported on the Internet today). Tom made some statements about the referral that continue our Office's self-defeating pattern of failing to put the best face -- which also happens to be the truth -- on the referral's inclusion of detail.

I believe that our point should be this: We submitted the referral to the House of Representatives -- not to the public -- and we did not intend or have reason to know that Congress would simply dump the referral onto the Internet without even reviewing it (I did not intend as much, as I unsuccessfully tried to have Ken send an emergency warning letter to Congress on September 11, after our Office learned of Congress' absurd plan and a few hours before the referral was publicly released by Congress). Thus, if people from this Office are going to talk about the referral publicly, they need to explain that it was a report to Congress, and that we expected Congress to treat the referral like it ultimately treated all of the backup material -- namely, to review it and then release whatever it thought was appropriate. This is important for Ken's reputation, for that of the Office, and for all of us individually.

On the other hand, we definitely can and should express public regret over how Congress handled the referral, for it would have been far better for Congress to review it and release only appropriate sections. I personally anticipated (and hoped, notwithstanding the brilliant work done on the narrative) that Congress would release only the introduction and grounds sections with redactions to grounds one and two and never release anything else (transcripts or otherwise) until it became part of a Schippers' presentation. I also anticipated that the House would conduct its own depositions and fact-gathering, which would have gradually lessened the central importance of the work we had done. In any event, as I recall, everyone had different predictions about how Congress would handle the referral. But I recall no one thinking or saying on or before September 9 that Congress was likely to simply dump the whole thing into the public domain without even reviewing it beforehand.

For these reasons, I believe we should never express any regret over the contents of the referral itself, as the referral simply summarized, organized, and analyzed the relevant evidence.

We instead should emphasize the critical distinction between (i) the contents of the referral and (ii) Congress' handling of the referral. Ken made this point well in his testimony on November 19 (although not as well in the Time article or the Diane Sawyer interview). As an Office, in general, I believe we have done a very poor job of communicating to the public on this issue.

For those who do not know, Ken testified as follows on November 19: "public disclosure or non-disclosure of the referral and the backup materials was a decision our Office did not make -- and lawfully could not make. We had no way of knowing in advance of submitting the referral, and we did not know, whether the House would publicly release both the report and the backup materials; would release portions of one or both; would release redacted versions of the report and backup documents; would prepare and release a summary akin to Mr. Schipper's oral presentation; or would simply keep the referral and backup materials under seal just as Special Prosecutor Jaworski's submission in 1974 remained under seal. As a result, we respectfully but firmly reject the notion that our Office was trying to inflame the public. We are professionals, and we were trying to get the relevant facts, the full story, to the House of Representatives. That was our task. And that is what we did."

Also, for those who do not know, it is perhaps relevant that the Report of the House Judiciary Committee explains that both Chairman Hyde and Representative Conyers were opposed to immediate public release of the referral without reviewing the referral beforehand. They sought to have the Committee review the referral and backup materials before any materials were publicly released. H.R. Rep. 105-830, at 124-25. However, during a bipartisan House leadership meeting held on September 9 or 10, "Rep. Conyers and Minority Leader Gephardt argued about the advisability of releasing the material to the public for several minutes," with Leader Gephardt favoring immediate and unreviewed release of the referral while Representative Conyers opposed such a procedure. Id. at 125. Ultimately, on September 11, the full House adopted the position that, according to the Judiciary Committee report, had been advocated in the leadership meeting by Leader Gephardt. The House decided on September 11 to publicly release the referral that same day.

In sum, I personally believe it unfortunate (for Ken, the Office, all of us individually, the case, the Presidency, and the public) that the entire body of the referral was publicly released before it had been reviewed and redacted by the House of Representatives. Therefore, while I believe we should stand by the referral itself as a wholly appropriate submission to the House of Representatives, we can and should express regret over how Congress handled the referral. We can safely also express regret that we did not do more at the time to jump in front of the train and to try to prevent the House from immediately and publicly releasing all of the details of the referral before first reviewing it and then making appropriate decisions. (Ken said as much on the Diane Sawyer interview.)

QUERY WHETHER KEN OR CHARLES SHOULD DO AN OP-ED MAKING THESE PRECISE POINTS ONCE AND FOR ALL FOR THE HISTORICAL RECORD AND FOR THE BOOKS AND ARTICLES THAT NO DOUBT WILL BE WRITTEN.

Collotan - Kavanaugh 8-7-96 Memorandum (Foster)

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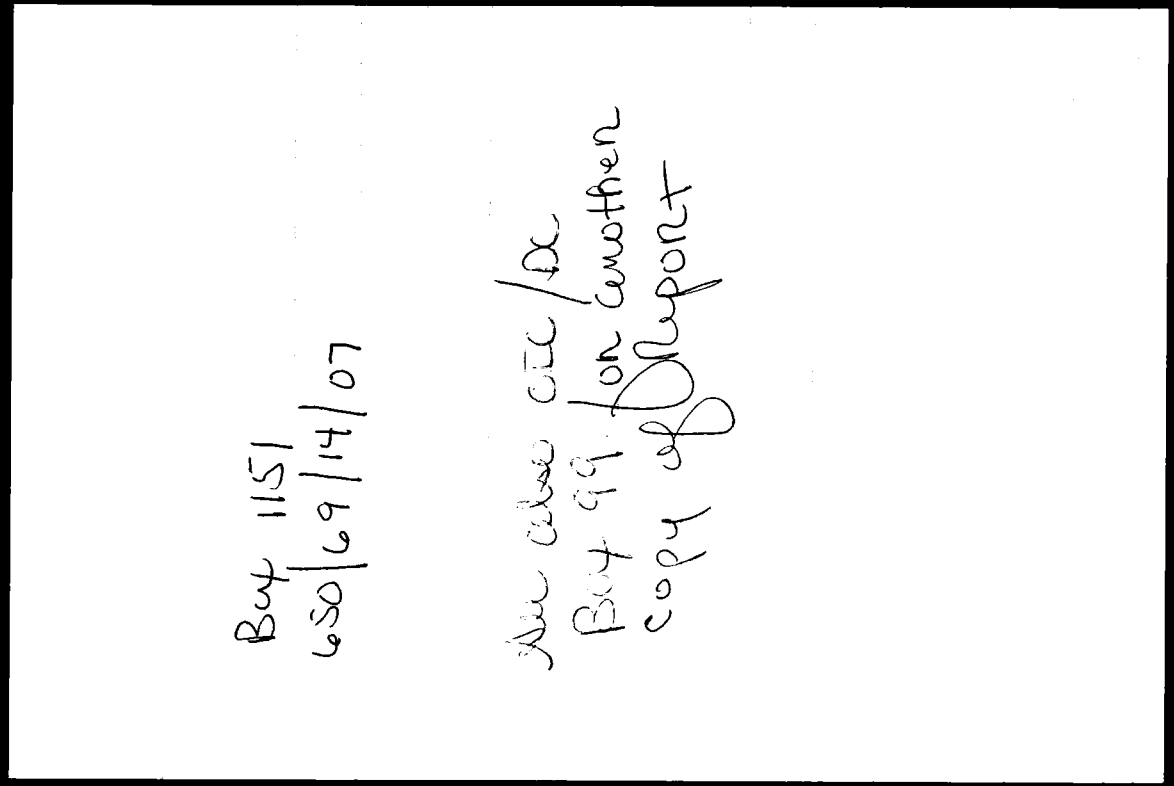

Note for the file:

See also box 99 (OIC/DC) for a duplicate copy of this document.

See Braun case file NW 28484.

MFM

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By: Martha Murphy Date: 01-20-2005

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

MEMORANDUM

TO: Independent Counsel Kenneth W. Starr
OIC Attorneys

FROM: Steven M. Colloton
Brett M. Kavanaugh

DATE: August 7, 1996

Attached are two memoranda. The memorandum at Tab 1 sets forth the most important evidence gathered during this Office's investigation into whether any individual or entity obstructed justice, made false statements, or committed any other federal crime with respect to activities occurring in the aftermath of the July 20, 1993, death of former Deputy Counsel to the President Vincent W. Foster, Jr. The memorandum at Tab 2 describes the criminal statutes potentially applicable to this evidence, and identifies particular factual circumstances for consideration under these statutes. As we have discussed with Ken and John, these memoranda are designed to facilitate consideration and discussion of whether any indictments should be sought.

Under no circumstances should these memoranda be taken by anyone when leaving employment with the Office. It should go without saying, moreover, that the contents of these memoranda should never be disclosed to or discussed with anyone outside this Office.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOSTER DOCUMENTS MEMORANDUM

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List of Main Witnesses -- Positions as of July 1993

The White House and Affiliated Persons (alphabetical)

Bob Barnett, attorney for the Clintons
Bill Burton, Staff Director to the Chief of Staff
Lisa Caputo, Press Secretary to the First Lady
Tom Castleton, intern in the Counsel's Office
William Jefferson Clinton, President
Hillary Rodham Clinton, First Lady
Helen Dickey, babysitter to the Clintons
David Drever, Deputy Director of Communications

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Vince Foster, Deputy Counsel to the President
Mark Gearan, Director of Communications
David Gergen, Counselor to the President
Deborah Gorham, secretary to Vince Foster
Webb Hubbell, Associate Attorney General
Carolyn Huber, Special Assistant to the President
Vernon Jordan, attorney at Akin Gump
David Kendall, attorney for the Clintons
Gail Kennedy, wife of William Kennedy
William Kennedy, Associate Counsel to the President
David Leavy, employee in Office of Communications
Evelyn Lieberman, Assistant to the Chief of Staff to the First Lady
Bruce Lindsey, Senior Advisor to the President
Craig Livingstone, Director of Personnel Security
Sylvia Mathews, Special Assistant to Robert Rubin
Cheryl Mills, Associate Counsel to the President
Dee Dee Myers, Press Secretary
Kelli McClure, employee in Office of Management and Administration
Mack McLarty, Chief of Staff to the President
Roy Neel, Deputy Chief of Staff to the President
Miriam Nemetz, now an Associate Counsel (not in White House in 7-93)
Steve Neuwirth, Associate Counsel to the President
Bernie Nussbaum, Counsel to the President
Howard Paster, Director of Legislative Affairs
Betsy Pond, secretary in the Counsel's suite
Jack Quinn, Chief of Staff to the Vice President
Marsha Scott, Director of Correspondence
Cliff Sloan, Associate Counsel
Patti Solis, scheduler for the First Lady
Gene Sperling, Deputy Assistant to the President
George Stephanopoulos, Senior Advisor
Susan Thomases, attorney at Willkie Farr & Gallagher
Harry Thomason, friend of the Clintons

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Patsy Thomasson, Director of the Office of Administration
Linda Tripp, secretary in the Counsel's suite
David Watkins, Director of Management and Administration
Margaret Williams, Chief of Staff to the First Lady

Foster Family Attorneys at Swidler & Berlin

Jim Hamilton
Michael Spafford

GSA Cleaning Personnel

Terri Cobey
Diann Walters

Park Police

Cheryl Braun
Patrick Gavin
Robert Hines
Charles Hume
Robert Langston, Chief
Peter Markland
Leonard Megby
John Rolla
E.J. Smith

FBI

Dennis Condon
John Danna
Scott Salter

DOJ

Roger Adams, Deputy Assistant Attorney General
Phil Heymann, Deputy Attorney General
David Margolis, Associate Deputy Attorney General
Cynthia Monaco, Special Assistant to the Deputy Attorney General
Janet Reno, Attorney General

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Secret Service

Bruce Abbott
Tom Canavit
Donald Flynn
Paul Imbordino
Scott Marble
Dennis Martin
Henry O'Neill
David Woltz

Emergency Medical Service

Todd Hall

Miscellaneous

Judith Doody and Mark Feist, couple at Fort Marcy Park
Audrey Evans, friend of Margaret Williams
Patrick Knowlton, civilian at Fort Marcy Park
Larry Patterson and Roger Perry, Arkansas troopers
Lyda Holt Samuel, friend of Patsy Thomasson
Officer David Tipton, Fairfax County Police
CNN-CW
CW, civilian at Fort Marcy Park

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MEMORANDUM

TO: Independent Counsel Kenneth W. Starr
OIC Attorneys

FROM: Steven M. Colloton
Brett M. Kavanaugh

DATE: August 7, 1996

This memorandum sets forth the most important evidence gathered during this Office's investigation into whether any individual or entity obstructed justice, made false statements, or committed any other federal crime with respect to activities occurring in the aftermath of the July 20, 1993, death of former Deputy Counsel to the President Vincent W. Foster, Jr. We have referred to this investigation as the "Foster documents" investigation. It has examined three overlapping issues: (1) whether any person criminally obstructed any of the various investigations of Foster's death -- in particular, possible obstruction of those aspects of the death investigations that focused on Foster's state of mind and activities before his death; and (2) whether any person obstructed justice in connection with the handling and disposition of documents (including "the note") from Foster's office; and (3) whether any

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person made false statements or committed perjury during investigation of these matters.[1]

BACKGROUND

I. The 1993 Park Police and FBI Investigations

Foster died on Tuesday, July 20, 1993. Because his body was found in Fort Marcy Park in suburban Virginia, on land operated by the National Park Service, the United States Park Police investigated his death. The Park Police was assisted in some aspects of its investigation by the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ).[2]

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[1] In the text, the memo indicates the source for factual information where appropriate. The footnotes provide citations to the relevant testimony and documents. Unless otherwise indicated, the citations for documents refer to the DC Bates-stamp number.

Steve Colloton has taken primary responsibility for drafting the portions of the memorandum that address the search on the 22nd (and discussions leading up to it) and the subsequent disposition of documents from Foster's office. Brett Kavanaugh has taken primary responsibility for drafting the portions of the memorandum that address the night of the 20th, the morning of the 21st, and the various issues related to the discovery of the note.

The factual information contained in this memorandum is derivative of information contained in reports, transcripts, and documents produced to the OIC and does not itself constitute the statement of any witness.

[2] At the press conference concluding the investigation on August 10, 1993, Deputy Attorney General Phil Heymann stated:

> The FBI joined the Park Police in the initial stages of the inquiry into Vince Foster's death because of his status as a federal official and assassination statutes. As it became apparent that this was a suicide, the FBI gradually assumed a secondary role to

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A review of documents and other items in Foster's office was conducted by White House Counsel Bernard Nussbaum in the presence of Park Police, FBI, and DOJ personnel on Thursday, July 22, 1993. That "search" was conducted because investigators sought to determine whether a suicide note or similar document was in Foster's office. No such document was found during the search. On Monday, July 26, 1993, (four days later), however, Associate Counsel to the President Stephen Neuwirth discovered a torn "note," which appeared to have been written by Foster, in a briefcase in Foster's office. The White House produced the torn note to the Park Police on July 27, 1993.

Following the note's discovery, the DOJ directed the FBI to conduct an obstruction of justice investigation. That FBI investigation focused primarily on two issues: (a) whether the note was seen or found by any individual other than Foster before

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the Park Police.

8/10/93 Press Conference, Federal News Service. As it turns out, Mr. Foster apparently was not covered by the federal assassination statute because, according to information provided by the White House, Foster was not a "person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President." See 18 U.S.C. § 1751 (provision entitled "Presidential and presidential staff assassination, assault, and kidnapping" and defining persons covered by the statute). Rather, he was appointed under Section 105(a)(2)(B). In substance, that meant that he did not hold as high a rank or make as much money as those persons, such as Mr. Nussbaum, appointed under Section 105(a)(2)(A). See August 25, 1995, Letter from Miriam Nemetz to Brett M. Kavanaugh. 210-5151.

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July 26, 1993; and (b) why the note was not produced to investigators for approximately 27 hours after its discovery.[3]

The Park Police investigation into Foster's death and the DOJ/FBI obstruction investigation concluded on August 10, 1993, with a joint press conference held by representatives of each agency. The Park Police determined that Foster's death was caused by a self-inflicted gunshot wound in Fort Marcy Park. Chief Langston of the Park Police explained:

> The condition of the scene, the medical examiner's findings and the information gathered clearly indicate that Mr. Foster committed suicide. Without an eyewitness, the conclusion of suicide is deducted after a review of the injury, the presence of the weapon, the existence of some indicators of a reason, and the elimination of murder. Our investigation has found no evidence of foul play. The information gathered from associates, relatives and friends provide us with enough evidence to conclude that Mr. Foster's -- that Mr. Foster was anxious about his work and he was distressed to the degree that he took his own life.[4]

Meanwhile, the DOJ and FBI concluded that there was insufficient evidence to prosecute any individual or entity for obstruction of justice.

In large part because of the December 1993 disclosure that Whitewater-related documents were in Foster's office at the time of his death, we have investigated whether the Park Police investigation or any later investigation into Foster's activities and state of mind were obstructed by White House officials or

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[3] 8/10/93 Press Conference, Federal News Service.

[4] 8/10/93 Press Conference, Federal News Service.

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others. Separate but overlapping questions have been raised about whether Foster's documents (in his office, his car, or his house) were destroyed or otherwise have been concealed from investigators.

II. Jurisdiction

Two other potentially relevant federal investigations were ongoing as of July 1993. First, the Resolution Trust Corporation (RTC) was investigating Madison Guaranty Savings & Loan, which had been operated by James McDougal, a partner of the Clintons in the Whitewater Development Corporation. Indeed, the RTC had sent one criminal referral on Madison to the U.S. Attorney's Office in Little Rock in the fall of 1992. (Several more criminal referrals were sent in the fall of 1993.) Second, the FBI was investigating the activities of Capital Management Services, Inc. ("CMS"), which was owned and operated by David Hale. A magistrate judge signed a search warrant for CMS's offices on July 20, 1993; the FBI executed the search warrant on July 21, 1993. Hale was indicted on September 23, 1993.

The CMS/Hale prosecution and the Madison investigation were transferred in November 1993 from the U.S. Attorney's Office in Little Rock to the Fraud Section of the Department of Justice. As those investigations were proceeding, on December 20, 1993, an article in the Washington Times reported that Whitewater documents were in Foster's office at the time of his death and suggested that White House officials had removed those Whitewater

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documents from Foster's office on the night of his death.[5] The Times article did not provide a source for the suggestion that documents were removed from Foster's office on the night of the 20th rather than at a later time. In any event, the disclosure that Whitewater documents had been in Foster's office at the time of his death, but had not been shown to investigators during the Nussbaum search on July 22, prompted a bevy of Foster/Whitewater stories over the ensuing few weeks.[6] Some news stories even repeated as fact the suggestion made by the Times story regarding

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[5] Seper, Clinton Papers Lifted After Aide's Suicide; Foster's Office Was Secretly Searched Hours After His Body Was Found, The Washington Times, Dec. 20, 1993, at A1 ("White House officials removed records of business deals between President Clinton, his wife and an Arkansas partnership known as Whitewater Development Corp. from the office of Vincent W. Foster Jr. during two searches after the deputy presidential counsel's suicide, the Washington Times has learned.").

[6] Safire, Foster's Ghost, The New York Times, Jan. 6, 1994, at A21 ("What terrible secret drove Vincent Foster . . . to put a bullet through his head? . . . From the moment Foster's body was found, White House Counsel Bernard Nussbaum acted to keep those Whitewater files away from prying eyes."); Clymer, G.O.P. in a Bind in Seeking an Inquiry on Clinton Deals, The New York Times, Dec. 28, 1993, at A9 ("The Whitewater issue first arose during last year's Presidential campaign, then arose again last week after White House officials said that a file with material about the Clintons' investment had been removed from the office of [Foster] without being shown to agents investigating his death."); Johnston, Investigator to Seek Ex-White House Aide's Files on Clinton Land Dealings, The New York Times, Dec. 21, 1993, at A20 ("Mr. Gearan's statement of Monday night . . . has revived lingering questions about the way the White House responded to Mr. Foster's death and handled papers left in his office.").

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the removal of the documents on the night of the 20th.[7] The Foster link to Whitewater substantially escalated the entire Whitewater controversy,[8] culminating in the President's January 12, 1994, request to Attorney General Reno for a regulatory independent counsel. On January 20, 1994, Attorney General Reno appointed Robert B. Fiske, Jr., as regulatory independent counsel.

Mr. Fiske's jurisdictional statement gave him authority to investigate whether any individuals or entities committed federal crimes "relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with (1) Madison Guaranty Savings & Loan Association, (2) Whitewater Development Corporation, or (3) Capital Management Services."

After his appointment, Mr. Fiske assumed both the Hale prosecution and the continuing Madison investigations. In

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[7] See Rosenbaum, The Whitewater Inquiry, Questions That Are Lingering, The New York Times, Jan. 13, 1994, at A18 ("On the day last July when Mr. Foster committed suicide, a file on Whitewater was removed from his office before Federal investigators could see it.").

[8] See Kurtz, After Slow Start, Network TV Grabs Whitewater, The Washington Post, Jan. 14, 1994, at A18 ("The story was not ready for prime time until just before Christmas, when White House aides acknowledged they had removed Whitewater files from deputy counsel Vincent Foster's office after he committed suicide last summer."); O'Neil, White House Took Clinton Files After a Top Aide Killed Himself, The New York Times, Dec. 21, 1993, at A1 ("Mr. Gearan's statement provided a solid link between Mr. Foster . . . and Whitewater. . . . The disclosure raised as many questions as it answered -- notably, why the White House waited so long to acknowledge the existence and removal of the Whitewater files.").

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addition, Mr. Fiske opened a new investigation of Foster's death, and of whether any individual or entity obstructed justice (or committed any other federal crime) in connection with the handling of papers and documents from Foster's office. On June 28, 1994, Mr. Fiske issued a report concluding that Foster's death was caused by a self-inflicted gunshot wound in Fort Marcy Park. He found "no evidence that any issues related to Whitewater, Madison Guaranty or CMS played any part in his suicide."[9] Mr. Fiske had not concluded his Foster documents investigation at the time this Office was created on August 5, 1994.

This Office ("the OIC") was given essentially the same jurisdiction over criminal matters as that granted to Mr. Fiske (except that James McDougal's name was added to the order). The OIC opened a new investigation of Foster's death and continued the investigation of the handling of papers and documents from Foster's office.

Mr. Fiske's office and the OIC have investigated Foster-related matters because Foster would have been a key witness on various Whitewater and Madison matters that have been investigated by the OIC and that had been investigated by Mr. Fiske's office and the DOJ Fraud Section. Foster performed work for Madison Bank and Trust (owned by Jim McDougal) in 1981 and

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[9] Fiske Report, 6/30/94, at 58.

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1982.[10] According to Mrs. Clinton, Foster had involvement in the retention of Madison Guaranty as a client of the Rose Law Firm in 1985. Foster was blind-copied on a July 14, 1986, letter from Mrs. Clinton to McDougal regarding the Rose Firm's work for Madison.[11] He gathered documents, including Rose billing records of Mrs. Clinton's work for Madison, and analyzed Madison-related issues to assist Mrs. Clinton during the 1992 campaign. He provided legal service to the Clintons when they sold their interest in Whitewater to Jim McDougal in December 1992. He performed work with respect to the treatment of Whitewater on the Clintons' personal taxes in April 1993. He had Whitewater-related documents in his White House office at the time of his death. For these reasons, and more, Foster would have been a key witness in our investigation of Whitewater- and Madison-related matters.

In light of Foster's work on the above-listed issues, the OIC sought to obtain all information Foster might have possessed about Whitewater and Madison to aid investigation into those

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[10] See Madison Bank & Trust v. First Nat. Bank of Huntsville, 635 S.W.2d 268 (Ark. 1982).

[11] See Pillsbury Report, Dec. 28, 1995, at 42.

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matters. To obtain and account for all information that Foster possessed concerning Madison and Whitewater, and to determine whether the investigations of Foster's death were criminally obstructed, we have focused on the distribution of documents from his office in the days and weeks following his death. The investigation has included an intensive examination of: activities in the White House on the night of July 20; circumstances surrounding the review of documents in Foster's office on July 22; the subsequent transfer of Clinton personal documents to Williams & Connolly by way of the residence of the White House; and the discovery of a note in Foster's office on July 26.

DISCUSSION

I. The Foster Briefcase

On the morning of July 20, 1993, Foster drove to work and arrived as usual at his office in the Counsel's suite on the second floor of the West Wing of the White House. Counsel Bernard Nussbaum and Deputy Counsel Foster had offices in that suite. In addition, three secretaries (Betsy Pond, Linda Tripp, and Foster's secretary Deborah Gorham) and an intern (Tom Castleton) had desks in the outer office of the suite.

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Foster attended the Rose Garden ceremony announcing the nomination of Louis J. Freeh to be Director of the FBI.[12] At about noon, Foster asked secretaries Tripp and Pond to get lunch for him from the White House cafeteria. Tripp and Pond went downstairs and obtained lunch for Foster.[13]

A 911 call at 5:59 p.m. reported a dead body in Fort Marcy Park. When the Park Police and emergency personnel arrived at Fort Marcy Park shortly after 6:00 p.m., they found Foster dead with a gun in his hand. Because Foster was found with a gun in his hand and with an apparent gunshot wound through the head, and because there were no signs of a struggle or of a robbery, the Park Police quickly came to the preliminary conclusion that

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[12] See, e.g., Pond USPP Report, 7/22/93, at 1.

[13] Pond USPP Report, 7/22/93, at 1; Tripp USPP Report, 7/22/93, at 1.

[14]

Foster had committed suicide in Fort Marcy Park.[15] That conclusion has been the subject of separate investigative work by the OIC.

We have investigated the whereabouts of Foster's briefcase in the aftermath of his death. The evidence suggests that the two Foster brief bags produced to the OIC (a large brown litigation bag and the now-famous black briefcase that was displayed in a Senate hearing) were in Foster's White House office on July 22, two days after his death. Testimony of numerous persons and contemporaneous notes taken by Michael Spafford, a Foster family attorney from the firm of Swidler & Berlin, indicate that the black briefcase was searched by Nussbaum on the 22nd.[16] In addition, various witnesses have testified that a separate litigation bag was in Foster's office during the search on the 22nd.[17]

Testimony about the events of July 20, the day of the death, has raised two briefcase-related questions: (1) whether Foster's black briefcase was found in his car at Fort Marcy Park but was returned to his office before it was handled by Nussbaum during the search on July 22, 1993; and (2) whether Foster possessed another briefcase that was in his car but has not been produced

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[15] Langston & Hines 302, 5/17/94, at 2.

[16] 296-16.

[17] [redacted] Spafford 302, 5/24/94, at 2.

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to the OIC.

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Linda Tripp, Betsy Pond, and Tom Castleton said they saw Foster leave the Counsel's suite on July 20. They were interviewed separately by the Park Police on July 22, 1993.

The Park Police report of the interview with Tripp states:

> Ms. Tripp makes it a habit to notice what the staff members are taking with them when they leave the office in order to determine for herself how long she may expect them to be away from the office. Ms. Tripp was absolutely certain that Mr. Foster did not carry anything in the way of a briefcase, bag, umbrella, etc. out of the office.[18]

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The relevant portion of the Park Police report of Pond's interview of July 22, 1993, does not address what Foster carried when he left the office:

> At around 1300 hours he came out of the office and stated "I'll be back, there are M&M's left in my office." Ms. Pond recalled she and Linda were in the office when he left. She wasn't sure if Tom was in the office or not. . . . There was nothing unusual about his emotional state.[20]

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[18] Tripp USPP Report, 7/22/93, at 1 (emphasis added).

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[20] Pond USPP Report, 7/22/93, at 1.

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The Park Police report of Castleton's interview of July 22, 1993, does not address what Foster carried when he left the office:

> Mr. Castleton stated that he worked on 7/20/93 and remembers that Mr. Foster ate lunch in his office, although he could not place the time. Mr. Castleton was present when Mr. Foster left the office after eating lunch and said "So long." Mr. Foster did not respond and seemed to Mr. Castleton to be "in his own world," focused, disturbed.[22]

However, a report of Castleton's May 3, 1994, interview with Mr. Fiske's office summarizes Castleton's statement as follows:

> He [Foster] then sat at the coffee table in his office, ate his sandwich, then took his briefcase and his suit jacket and left the office saying "I'll be back later." . . . Foster seemed to be in good spirits when he left the office.[23]

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[22] Castleton USPP Report, 7/22/93, at 1.

[23] Castleton 302, 5/3/94, at 2 (emphasis added). Note that the report of Castleton's 5/3/94 statement appears to differ in several respects from the report of his 7/22/93 statement.

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Rolla and Braun were the only two people known to have been in Foster's car at Fort Marcy Park.[26] The photographs of the interior of Foster's car taken at Fort Marcy Park do not show a briefcase. Most of the other witnesses at the scene do not recall a briefcase in Foster's car. One emergency technician (EMT) and two civilian witnesses, however, say they have some recollection of a briefcase in a car at the park.

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[24] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[25] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[26] E.J. Smith of the Park Police searched the car at the Park Police impoundment lot after it was towed there from Fort Marcy Park. He says he found no briefcase. E.J. Smith 302, 2/17/95, at 2.

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EMT Todd Hall stated, according to a report of his March 18, 1994, interview[27] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure that he recalled seeing a briefcase in Foster's car, although he was uncertain of the color. However, in a July 20, 1994, Senate deposition, he stated: "We saw a suit coat and I think his briefcase, something like that . . . All I know for sure was his suit coat. And I thought I may have seen, he may have had a briefcase or something in there."[29]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure It is apparent from his testimony and a reenactment conducted with CW at the scene by FBI personnel, however, that CW was describing the car of Judith Doody and Mark Feist, a couple who were at the park on July 20, when he referred to the briefcase.[31]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[27] Hall 302, 3/18/94, at 3.

[28] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[29] Hall Deposition, 7/20/94, at 27 (emphasis added).

[30] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[31] See Clemente, Copeland & Greene, Foster Death Memo, 3/1/96, at 44; see also Feist 302, 2/7/95, at 1 ("[I] may have had a briefcase" in Doody's car).

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(The report of Knowlton's initial call to the Park Police on July 22, 1993, does not mention the contents of the car with Arkansas plates.[33])

In addition to the evidence regarding Foster's departure from the Counsel's suite and the observations regarding the contents of his car at Fort Marcy, two other pieces of evidence are relevant to the briefcase issue.

First, an official Secret Service report prepared at 10:01 p.m. on July 20 states in relevant part:

> SA Tom Canavit, WFO PI squad, advised that he has been in contact with US Park Police and was assured that if any materials of a sensitive nature (schedules of the POTUS, etc.) were recovered, they would immediately be turned over to the USSS. (At the time of this writing, no such materials were located).[34]

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[33] Knowlton USPP Report, 7/22/93, at 1.

[34] 211-147 (emphasis added); see also Canavit 302, 8/3/95, at 2.

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II. Notification to the White House of Foster's Death

Officers from the Park Police notified the United States Secret Service of Foster's death at approximately 8:30 p.m. on July 20, according to the Secret Service memorandum prepared by SA Scott Marble at the Secret Service Duty Desk at 10:01 p.m. In relevant part, that report states:

> On 7/20/93, at 2130 hrs, Lt Woltz, USSS/UD -- WHB, contacted the ID/DD and advised that at 2030 hrs, this date, he was contacted by Lt Gavin, US Park Police, who provided the following information:
>
> > On the evening of 7/20/93, unknown time, US Park Police discovered the body of Vincent Foster in his car. The car was parked in the Ft. Marcy area of VA near the GW Parkway. Mr. Foster apparently died of a self-inflicted gunshot wound to the head. A .38 cal. revolver was found in the car.
> >
> > * * *
> >
> > The following notifications were made by the USSS/UD -- WHB:
>
> Dave Watkins Dir. of Personnel, WH

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Insp. Dennis Martin	USSS/UD
Craig Livingstone	WH Security Coordinator
* *	*
Director Magaw	Dir
* *	*[38]

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Lieutenant Woltz confirmed that he was notified by Gavin of the apparent suicide. Woltz recalls that Gavin told him it was Park Police standard policy to notify the Secret Service of the death of a White House pass holder.[41]

Woltz stated that he then attempted to telephone David Watkins because Watkins was in charge of White House personnel. Watkins was not at home but was paged by a White House operator

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[38] 211-147. "Marble is aware that the information in his report about Foster's body being found in his car differs from other accounts of the circumstances of Foster's death. Marble believes that the inaccuracy of the information reflected in his report can be attributed to the fact that the information he recorded was, at best, fourth hand information [USPP at scene to USPP Communications Center to Gavin to Woltz to Marble]." Marble 302, 6/27/95, at 1-2.

[39] [40] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[41] Woltz 302, 7/5/95, at 2. The Park Police had found Foster's White House pass in his car. Braun 302, 4/28/94, at 3.

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and called Woltz back. Woltz stated that he told Watkins that Foster had apparently committed suicide in Fort Marcy Park.[42] Watkins, then the Director of Management and Administration for the White House, testified that he was informed of the death in a call by the Secret Service while attending a movie with his wife.[43]

Woltz stated that he also notified his supervisor, Inspector Dennis Martin, as well as personnel at the Secret Service Duty Desk.[44] Martin confirmed that he was notified of Foster's death by a call from Woltz. Martin indicated that Woltz said that he had been notified by the Park Police of the death of a White House employee.

Martin stated that he then called Craig Livingstone, then the Director of Personnel Security at the White House (an administrative position related to background checks) and informed him of Foster's death. Martin stated that he asked Livingstone to identify the body because, according to Martin, a staff member needed to identify the body and Livingstone was the

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[42] Woltz 302, 7/5/95, at 2.

[43] Watkins 302, 6/22/94, at 3; Watkins Deposition, 7/11/95, at 31. Records reflect that Watkins called the Secret Service from his mobile phone at 9:05 p.m. for 2 minutes. 210-2348. This may not have been the initial contact between the Secret Service and Watkins. See Woltz 302, 7/5/95, at 2-3 (indicating that Watkins called back twice after initial notification).

[44] Woltz 302, 7/5/95, at 1-2.

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security officer. Martin recalled that Livingstone was quite shocked and upset, but said that he would take care of it.[45]

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(Records indicate that Livingstone exited the White House at 8:31 p.m.[47]) On July 21, Livingstone prepared a chronology of his activities, which states that he was notified by Martin at 9:00 p.m. on the night of the 20th as he arrived home.[48]

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Various other officials at the White House such as Bruce Lindsey, George Stephanopoulos (then Senior Advisor),

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45 Martin 302, 5/2/94, at 1.

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47 211-1103.

48 33-1772.

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50 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[redacted] also recall learning of Foster's death from Burton.[51]

Webster Hubbell recalls being called by Stephanopoulos while at a restaurant in Washington.[52] [redacted]

Mrs. Clinton recalls McLarty informing her by phone at her mother's house in Arkansas[54] where, according to Secret Service records, she had arrived that night at 9:09 p.m. Eastern time.[55] Maggie Williams, Chief of Staff to the First Lady, recalls Mrs. Clinton calling her at Williams' home in Washington.[56]

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[51] See Lindsey 302, 6/22/94, at 3 (unsure of time; by Burton); Stephanopoulos Interview, 5/24/94, at 5 (after show started; by Burton); [redacted]

[52] Hubbell 302, 1/13/95, at 5; see Stephanopoulos Interview, 5/24/94, at 6.

[53] [redacted]

[54] H. Clinton Interview, 6/12/94, at 15; [redacted]

[55] 337-141.

[56] Williams 302, 8/3/93, at 1; see H. Clinton Interview, 6/12/94, at 16. Records show that Williams received a page at 9:46 p.m. indicating that Mrs. Clinton wanted to talk to her. 210-2660. Records show a 16-minute call from the Rodham house to Williams' house at 10:13 p.m. 65-9.

Williams originally had been uncertain of the time of notification by Mrs. Clinton: She placed the time at 9:30 p.m. in her first interview on August 3, 1993; [redacted] However, phone records of which Williams testified she was unaware before the summer of 1995 show that Williams had a 26-minute call with personal friend Audrey Evans

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to President Clinton [redacted] McLarty informed the President at the conclusion of the Larry King show at 10:00 p.m.[57]

This initial flurry of communication with respect to the death would not be particularly noteworthy except that Arkansas Trooper Roger Perry has stated that the White House learned of Foster's death some time earlier than 8:30 p.m. Eastern time. Perry stated that he was notified of Foster's death before 8:30 p.m. Eastern time by Helen Dickey, at that time a 24-year-old nanny who lived on the third floor of the White House.[58] Dickey, Perry explained, had been a babysitter for the Clintons for years and thus knew Perry.[59] According to the report of interview, "Perry conceded he could possibly be mistaken about the time the call from Dickey was received. The call could have been as late as 8:30 PM, Arkansas time. However, he still felt

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in Little Rock at 9:18 p.m. Eastern time. Williams testified that she had not learned of Foster's death at the time of that conversation. Senate Hearing, 11/2/95, at 77. Evans similarly does not recall knowing of the death at the time of the call or learning of the death from Williams during the call. Evans 302, 11/17/95, at 1.

[57] B. Clinton Interview, 6/12/94, at 23; [redacted]

[redacted]

[58] Perry 302, 11/9/95, at 2.

[59] Id.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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his best recollection was that the call was received sometime between 4:30 PM and 7:30 PM [Arkansas time]."[60]

Another Arkansas trooper, Larry Patterson, stated that Perry called him soon after the Dickey call. Patterson "placed the time of this telephone call at approximately 6:00 PM."[61]

Helen Dickey denies that she knew of the death before approximately 10:00 p.m. Eastern time. She testified that she was notified of Foster's death by John Fanning, a doorman in the White House, at about 10:00 p.m.[62] She then contacted her mother in Virginia and her father in Georgia from a phone in the second floor of the residence of the White House.[63] White House residence phone records indicate that a call was placed to the number of Dickey's father at 10:06 p.m.[64] Dickey stated that, shortly thereafter, she called the Arkansas Governor's Mansion and talked to Roger Perry, she believes, at approximately 10:30 p.m. Eastern time.[65] Dickey explained that she was friendly

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[60] Id. at 3.

[61] Patterson 302, 11/17/95, at 1.

[62] H. Dickey 302, 2/9/96, at 1.

[63] Id. at 2.

[64] 95-7.

[65] H. Dickey 302, 2/9/96, at 3. That call is not reflected on the White House residence phone records. The call may have been made from a phone in the White House not part of the White House residence. (Fanning recalls Dickey making a call from the Usher's Office soon after he had notified her. Fanning 302, 5/21/96, at 1.) No long-distance phone records are available

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with members of the security staff in the Governor's mansion, including Perry, from her time babysitting Chelsea Clinton in Arkansas.[66]

Ms. Dickey's diary entry for July 20 (which she says were written within a few days) states in relevant part:

> I went up and ate dessert with Bill [the President]. He was supposed to do Larry King Live and I told him to do well. I watched LKL and about 10:30 John [Fanning] came up and told me they had found Vince Foster's body and that he'd killed himself. I waited for the punchline and lost it. I called Mom and Dad and went in to see Bill . . . . He told me to wait for Mom and come over to Lisa's. We went to Lisa's and everyone was there. Vincent's angry. Brugh's confused. Laura & Lisa were crying. Webb's not accepting it, and Sharon & Sheila are being really strong. There was no way this could have been real. . . . I can't imagine that it could ever get that bad. I love you, Vince.[67]

John Fanning confirmed that he notified Dickey of Foster's death shortly after 10:00 p.m. and said that she immediately became hysterical, started crying, and ran downstairs.[68] The report of interview states that "Fanning firmly believes he was the first to inform Dickey of the news of Foster's death because of her extreme reaction to the news."[69]

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from non-residence White House phones.

[66] H. Dickey 302, 2/9/96, at 3.

[67] 348-8.

[68] Fanning 302, 5/21/96, at 2. The Dickeys had lived next door to the Fosters in Little Rock when Helen was young. Dickey 302, 10/31/94, at 1.

[69] Fanning 302, 5/21/96, at 2.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

III. Were documents removed or was a note found and/or removed from Foster's office before the search on July 22?

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

At 6:34 p.m. that day, Cliff Sloan entered the office to replace trash that had been removed on the

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA # none (URTS 16315) DocId: 70105248 Page 36

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

night of the 20th by the cleaning crew.[74] According to records and testimony, the office remained locked from 10:32 p.m. on July 21, when the new lock was installed, until 1:15 p.m. on July 22, when the Secret Service unlocked the office for the search to begin.[75]

We have investigated, first, why Foster's office was not sealed or secured on the night of the 20th and, second, whether documents or other items were removed from Foster's office on the night of the 20th or morning of the 21st.

A. Sealing the Office

There are two aspects to the story regarding the failure of White House officials to seal Foster's office on the night of the 20th. The first -- and more important for our purposes -- concerns a reported request by Officer Cheryl Braun of the Park Police to David Watkins. The second relates to discussions in the White House among David Gergen, Mack McLarty, Vernon Jordan, Mark Gearan, and perhaps Bill Burton and/or Bernard Nussbaum.

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[74] 211-151; Sloan Deposition 7/7/95, at 119. The trash was retrieved from the cleaning crew later on the night of the 20th by Sylvia Mathews, then a Special Assistant to Assistant to the President for Economic Policy Robert Rubin. The trash was then stored overnight in the office of Roy Neel, then Deputy Chief of Staff. The handling of the trash on the night of the 20th is discussed in more detail below.

[75] 211-150 and 211-151. Secret Service ASAC Flynn stated that he had the only keys to the lock. Flynn 302, 4/5/94, at 3.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

1. **Braun-Watkins**

Braun and Watkins were both present at the Foster house in Georgetown when the Foster family was notified of Foster's death at around 10:00 p.m. Braun testified that as she was leaving the Foster house around 11:00 p.m., she asked David Watkins to ensure that Foster's office was sealed. In her Senate deposition on July 23, 1994, she stated that she had asked Watkins to "seal off the White House office" and "he said that he would have that done."[76] According to a report of an interview with Mr. Fiske's office on August 3, 1994, Braun stated that she "asked Watkins if he would insure that Foster's office at the White House be secured and sealed off until the police had time to look for a suicide note. Sergeant Braun stated that she could not recall Watkins' response but it was in the affirmative, with words to the effect he would insure that it was taken care of."[77]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure [78] although she stated that she intended only that Foster's office be locked, not that it be guarded or sealed with evidence tape.[79]

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[76] Braun Deposition, 7/23/94, at 107-108. Braun further stated that "[i]f I was to do it again, I would have tried to get ahold of an official from the Secret Service to insure that it was done." Id. at 109.

[77] Braun 302, 8/2/94, at 1.

[78] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[79] Senate Hearing, 7/20/95, at 54-56. She has further stated that she did not say anything to Watkins to the effect of "please ensure that no one enter the office." Id. at 54.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

He has gone further and stated that "I think that had I been asked that, I would have recalled it."[81]

There is additional evidence that may be relevant in assessing the Braun-Watkins difference in testimony.

* Braun and Rolla prepared reports on the night of the 20th when they returned to headquarters. Their reports make no mention of the request to Watkins.[82] Nor is there any other Park Police report or note that mentions the request to Watkins.[83]

* The report of Braun's first interview, which was conducted by Mr. Fiske's office, does not indicate that she asked Watkins to seal the office. The report simply states: "[A]t some point, President Clinton and his Secret Service escort

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80 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

81 Watkins Deposition, 7/11/95, at 42.

82 105-77 to 105-81; 105-107 to 105-111.

83 See 105-1 to 105-390 (Park Police production).

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arrived at the residence, [and] there were so many people present, attempting to console and help, that she and Officer Rolla decided that they could accomplish nothing further that night regarding their investigation and left."[84]

* Officer Rolla said he did not hear Braun's request to Watkins, although he has stated (in more recent interviews) that Braun mentioned the request to him later in the evening.[85] Braun, on the other hand, does not recall discussing it with Rolla.[86]

[redacted]

* Detective Markland, in his initial statement to Mr. Fiske's office, stated that "he determined that the

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[84] Braun 302, 4/28/94, at 4.

[85] Rolla 302, 2/7/95, at 6.

[86] Braun Deposition, 6/19/95, at 88.

[87] [redacted]

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

investigators working the night before hadn't made this request" to seal the office.[88]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

2. White House Discussions

There were discussions that evening among certain White House officials and advisers about securing Foster's office. In particular, several persons recall a discussion in the kitchen in the White House residence. President Clinton, Mack McLarty, Counselor David Gergen, and private attorney Vernon Jordan returned there from the Fosters at 12:05 a.m., according to Secret Service records.[90] (The Counsel's suite was re-locked and re-alarmed for the night by Officer O'Neill of the Secret Service at 11:41 p.m.[91])

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[88] Markland 302, 4/14/94, at 1.

[89] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[90] 337-155.

[91] 211-48.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

A report of David Gergen's statement to the OIC states:

Gergen recalls discussing with McLarty the necessity for the sealing of Foster's office. Gergen understood McLarty felt the sealing was necessary in order to preserve the office for appropriate law enforcement authorities. Gergen called Gearan that night and told Gearan that McLarty wanted Foster's office sealed. Gergen remained on the line while Gearan checked with someone else and then reported back to Gergen that the office had already been sealed. . . . Gergen did not know that night that Foster's office had already been entered and searched. Gergen learned [that] a few days later.[93]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Gearan believes he checked with Bill Burton to determine whether the office was locked.[95] (Again, the Counsel's suite was locked and alarmed at that point, although nothing had been done to secure or seal Foster's office within that suite.)

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[92] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[93] Gergen 302, 10/21/94, at 4. Vernon Jordan recalls that, while they were at the kitchen in the White House, Gergen called someone to ensure that the office was sealed. Jordan 302, 1/5/95, at 3.

[94] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[95] Id. at 19; see also Gearan Deposition, 7/6/95, at 51.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

> At that point, Bill [Burton] said we should get Bernie and lock the office. I am uncertain what time that was, but probably after 10 pm. I don't remember who told Bernie, but he went up and locked the office. . . .[98]

Major Hines of the Park Police stated that he had talked to Burton the night of the 20th and mentioned to him that the Park Police would need to go into the office and that the office should be secured. Hines does not recall whether or how Burton acknowledged his statement.[99]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[96] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[97] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[98] 33-620.

[99] Hines Deposition, 6/21/95, at 28. In his first interview with Mr. Fiske's office, where Hines described his conversations with the White House on the 20th and 21st, he mentioned the conversation with Burton, but did not mention that he had made any request to secure the office. Rather, according to the interview report, Hines said that he simply told Burton on the 20th that the Park Police would be available to brief White House officials on the morning of the 21st. Hines 302, 5/17/94, at 2.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[redacted][100] Nussbaum further stated, according to a report of interview, that "nobody considered Foster's office a crime scene and they never gave any thought to securing Foster's office" on the night of the 20th. He also stated that he believes he locked up the Counsel's suite when he left the Counsel's suite that evening.[101]

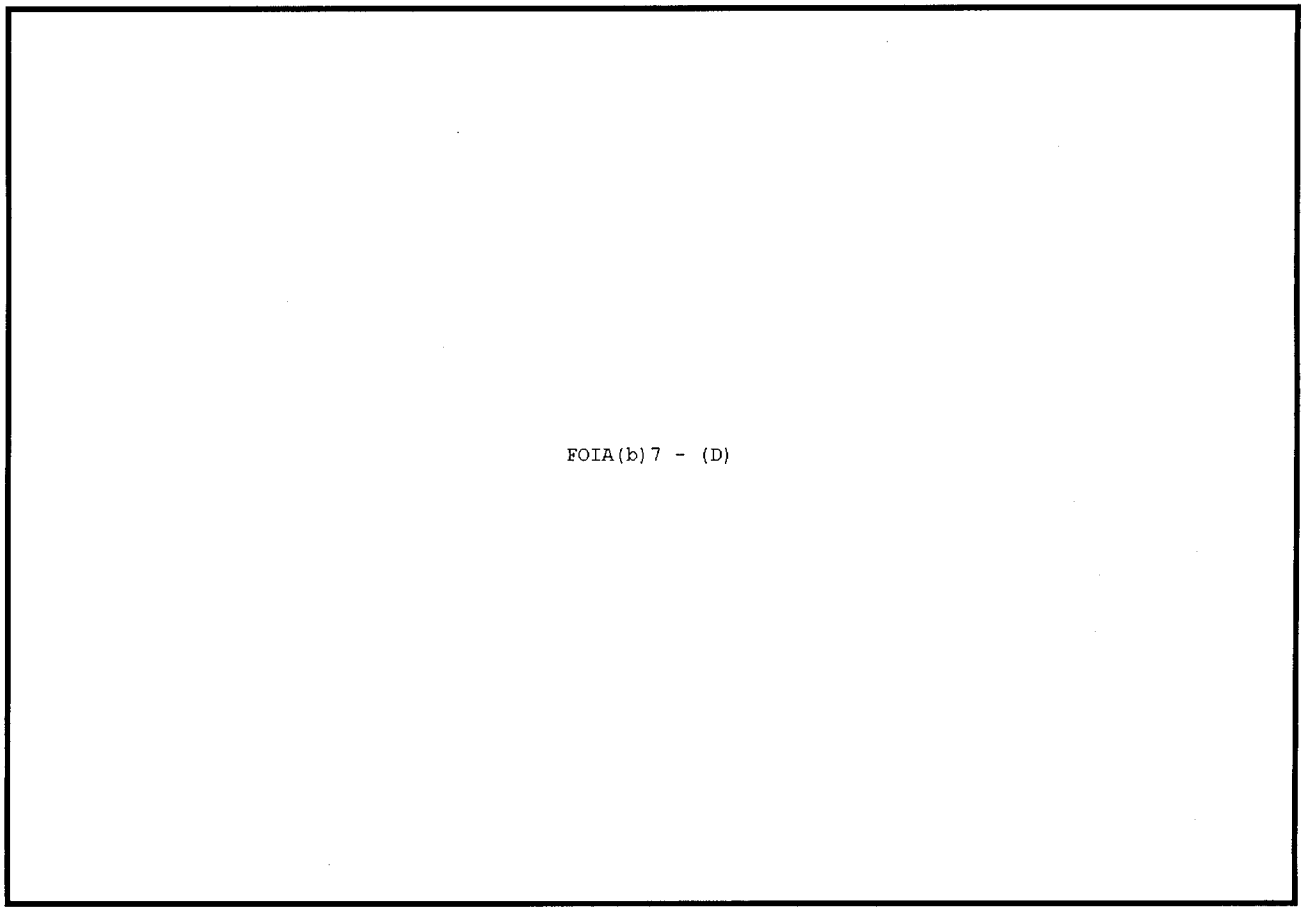
FOIA(b)7 - (D)

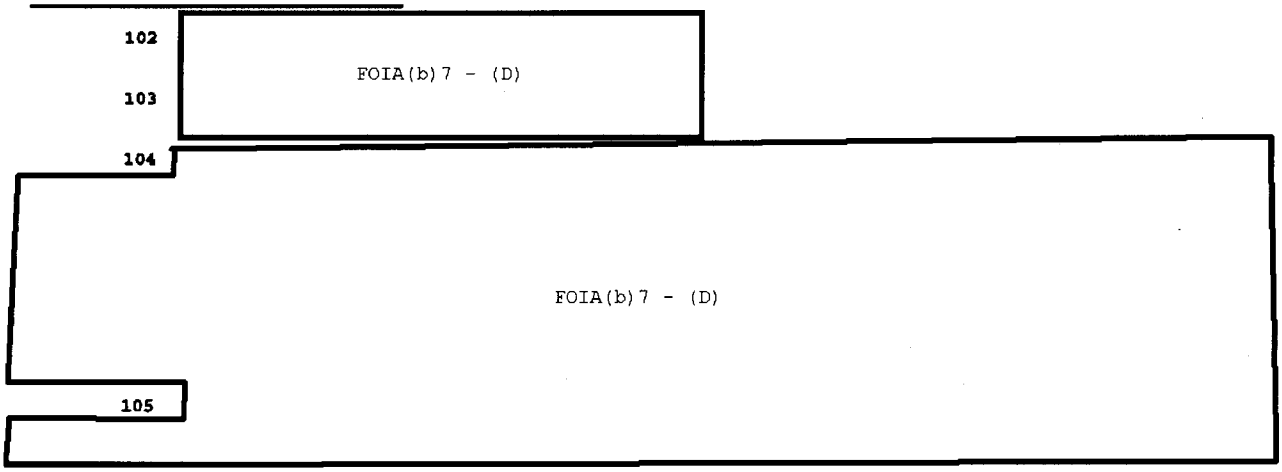
[100] [redacted]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[101] Nussbaum 302, 6/8/95, at 10. Records reflect that Officer O'Neill, not Nussbaum, re-alarmed the suite at 11:41 p.m. 211-48.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure





FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)7 - (D)

C. Thomasson/Nussbaum/Williams in Foster's Office

1. Discussion at Foster House

At the conclusion of the Larry King Show, President Clinton was notified of Foster's death by Mack McLarty.[107] The President then called Mrs. Clinton, who was in Little Rock. (White House residence phone records reflect a call at 10:10 p.m. for 3.2 minutes to the Rodham house in Little Rock.[108]) The President departed for the Foster residence in Georgetown at 10:40 p.m., arrived there at 10:51 p.m., and left the Fosters at 11:55 p.m., according to Secret Service movement logs.[109] (Phone records show another 26.6 minute call from the White House residence to the Rodham house at 12:18 a.m.[110])

The responsibility for notifying the Foster family of the death had fallen to officers Cheryl Braun and John Rolla of the

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[106] FOIA(b)7 - (D)

[107] The Ushers' Logs reflect that the President went to the second floor with Mr. McLarty and two unidentified staff at 10:00 p.m. 336-857. The Secret Service movement log shows the time as 10:02 p.m. 337-154.

[108] 95-7.

[109] 337-155.

[110] 95-8.

FOIA # none (URTS 16315) DocId: 70105248 Page 46

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Park Police. David Watkins managed to contact Rolla and Braun before they went to the Fosters; Rolla and Braun then drove to Watkins' house and took him to the Foster house.[111] According to a report Rolla prepared later that night, they arrived at the Foster house at approximately 10:00 p.m.[112]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to pager records, a short while later, at 10:34 p.m., David Watkins paged Patsy Thomasson.[114] Thomasson was at Sequoia Restaurant in Washington. Watkins and Thomasson stated that when Thomasson returned the call, he informed her of the death and asked her to go to the White House to look into Foster's White House office for a note. The phone call and Thomasson's activities in response to the call will be described in detail below.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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111 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure Officer Rolla's report of the notification simply states: "Mrs. Foster nor other relatives or friends were able to provide any insight as to why Vincent Foster would take his life." USPP Report by Rolla, 8/5/93, at 2.

112 USPP Report by Rolla, 7/21/93, at 2.

113 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

114 210-2654.

FOIA # none (URTS 16315) DocId: 70105248 Page 47

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

William Kennedy and Livingstone went to Fairfax Hospital to confirm the identity of Foster's body.[120]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

The President had arrived at the Fosters at 10:51 p.m. Most witnesses state that the President was at the Fosters when the Kennedys and Livingstone arrived.[122] If so, then the Kennedys

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[119] See 211-38, 211-1098.

[120] Kennedy and Livingstone viewed the body through a window in the basement of the hospital but were not allowed into the same room as the body, according to the Fairfax Police Officer who accompanied them. Tipton 302, 2/15/95, at 2. Hospital security logs reflect that Kennedy and Livingstone completed viewing the body at 10:30 p.m. at Fairfax Hospital. 108-13. (Livingstone's typewritten chronology, which he prepared on July 21, reflects that they viewed the body at 9:45 p.m. 33-1772.) Officer Tipton provided evidence potentially relevant to Kennedy's state of mind that night. Tipton recalls that Kennedy became "extremely upset" and started cursing; Tipton also recalls that Kennedy was crying and that he [Tipton] provided Kennedy with tissues. Tipton 302, 2/15/95, at 2. Tipton said that as they were leaving the area of the body, Kennedy punched a locker in the area around the morgue. Id.

[121] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[122] B. Kennedy 302, 5/6/94, at 7; G. Kennedy 302, 12/7/94, at 3; Livingstone 302, 5/12/94, at 3; Livingstone Deposition, 7/10/95, at 57 ("The President had just arrived.").

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

and Livingstone must have arrived after 10:51 p.m.[123] Moreover, the first call reflected on records of Gail Kennedy's car phone occurred at 11:08 p.m. (a call to the White House).[124] Assuming the phone was used on the way to the Fosters, which Gail Kennedy specifically recalls,[125] the phone records suggest that they arrived at the Fosters after 11:08 p.m.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

2. The White House

The offices of the Counsel and the Deputy Counsel are located in a suite of offices on the second floor of the West Wing. There is a reception area in the Counsel's suite; as of July 1993, three secretarial assistants (Tripp, Pond, and Gorham) and an intern (Castleton) sat in that area. The only way to enter or exit any of the offices in the Counsel's suite is through a door that connects the reception area of the Counsel's suite with the hallway on the second floor of the West Wing. Therefore, in 1993, to gain access to the office of the Counsel (Bernard Nussbaum) or the Deputy Counsel (Vincent Foster), the

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[123] 337-155.

[124] 66-19.

[125] G. Kennedy 302, 12/1/94, at 2.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

entrant had to walk through the outer reception area of the Counsel's suite.

Next to the Counsel's suite is the First Lady's suite of offices. The next door down the hall after the First Lady's suite is an office used by Maggie Williams.

The door to the Counsel's suite has a lock. In addition, an alarm system protects the Counsel's suite of offices. The alarm is located in the office of the Deputy Counsel. As of July 20, 1993, the alarm generally was activated each night as the last person left and deactivated the following morning as the first person arrived. In addition, during the course of the evening, the alarm generally would be deactivated and then reactivated by a Secret Service uniformed officer, accompanied by cleaning personnel.[126]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[126] To activate the alarm, a number of steps are followed. First, the individual leaving the Counsel's suite flips a switch located in the Deputy Counsel's office. Second, this individual calls the Secret Service White House Control Center to inform them that he or she has activated the alarm and is leaving the Counsel's suite. Third, the Secret Service officer in the Control Center enters the individual's name in a computer system that monitors the White House alarms. Fourth, when the departing individual opens the door to leave the Counsel's suite, the alarm is sounded in the Control Center. Fifth, the Secret Service officer in the Control Center resets the alarm so that if anyone opens the door to the Counsel's suite the alarm will go off and the Control Center will be alerted. See generally Cheatham 302, 3/8/95, at 1-4; Martin 302, 4/29/94, at 4-5.

[127] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Alarm records indicate that Tom Castleton was the last member of the Counsel's staff to leave the suite on July 20, 1993. At 8:04 p.m., he flipped the switch in Foster's office and called the Control Center.[128]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

After the alarm to the Counsel's suite was activated in the Secret Service Control Center at 9:14 p.m., there is no record of an entry to the suite until 10:42 p.m. when Henry O'Neill, a uniformed officer with the Secret Service, opened the door and deactivated the alarm. According to the alarm records, the suite was open until 11:41 p.m. when O'Neill reactivated the alarm.[130]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[128] 211-34. No one in the Control Center actually reset the alarm until 9:14 p.m. The Counsel's suite was therefore unalarmed for an hour and 10 minutes.

[129] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[130] 211-37.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

a. **Thomasson**

According to Secret Service gate records, Thomasson left the White House on July 20 at 7:49 p.m.[131]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to pager records, she received a page from David Watkins at 10:34 p.m. The page said "Please page David Watkins with your location number."[133] Thomasson stated that, during her subsequent conversation with Watkins, who was at the Foster house, Watkins asked Thomasson to go to the White House and to look in Foster's office for a suicide note.[134]

Watkins confirms this account. The report of his initial interview of August 5, 1993, states:

> Watkins was in the company of some United States Park Police investigators and he learned from them that there was not a suicide note recovered at the scene when Foster's body was found. Watkins stated that during discussions with individuals at the Foster home, it was brought up that there could possibly be a suicide note located within Foster's office at the West Wing of the White House. In order to determine if in fact there was such a note at Foster's office, Watkins called Patsy Thomasson (a White House employee) and

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[131] 211-1106.

[132] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[133] 210-2654.

[134] Thomasson 302, 8/3/93, at 1. Thomasson has consistently described her conversation with Watkins since her first interview with the FBI on August 3, 1993.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

requested that she return to the White House and determine if there was a note found in Foster's office.[135]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure According to Secret Service gate records, Thomasson entered the White House compound at 10:49 p.m.[137]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[135] Watkins 302, 8/5/93, at 1.

[136] Lyda Holt Samuel was with Thomasson at dinner. According to a report of interview, Samuel stated:

> Thomasson was paged, and she went to make a telephone call in response. . . . When Thomasson returned to the group after making the call, she was sobbing. . . . Thomasson advised the group that Vincent Foster had apparently committed suicide. . . . [T]hey flagged down a cab for a trip to the White House.

Samuel 302, 12/7/94, at 2.

[137] 211-1098. According to alarm records, Thomasson opened Watkins' office in the West Wing at 10:48 p.m., 211-106, but the gate records reflect that she entered the compound at 10:49 p.m. One of the records appears to be slightly inaccurate by a few minutes.

[138]

[139]

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

(Thomasson also stated that Nussbaum and Williams were never in Foster's office at the same time.[143])

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[140]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[142]

[143] Thomasson Deposition, 7/11/95, at 59.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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Pager records reveal that Thomasson paged Watkins twice, once at 11:36 p.m. and again at 11:59 p.m. The first page said "456-7052 call patsy"; the second page said "456-7052 please call re Vince's office Patsy Lee."[146] When they talked, according to Watkins Thomasson told him that she had not found a note in Foster's office.[147]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

144 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[146] 210-2687; 210-2693. The number 456-7052 was Patsy Thomasson's direct number in the White House, according to the 1993 White House directory.

[147] See Watkins 302, 8/5/93, at 1;

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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In her August 31, 1994, OIC interview, she stated that she

> pulled it out from under the desk, and I opened it -- no note. Put it back. . . . I opened the briefcase, but there wasn't anything sticking in the top of the briefcase that would be easy to recognize as a note. There were a lot of folders, file folders, in there, but I didn't look through all those file folders, because it you're going to leave a note, in my mind, he would have left it in a place that would be easy to find.[150]

[151] In her Senate deposition, Thomasson stated that "I would not say that I even really thumbed through the papers that were there in the briefcase."[152]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

148 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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150 Thomasson Interview, 8/31/94, at 32.

151 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

152 Thomasson Deposition, 7/11/95, at 94.

153 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 57

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

b. Nussbaum

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Nussbaum was interviewed the next day -- July 21, 1993 -- by Park Police Captain Hume and Detective Markland. The USPP report states that Nussbaum indicated that, the night before, "he went through Foster's office with Patsy Thomasson and Maggie Williams. Nussbaum stated that they conducted a brief, quick search to see if Foster may have left a suicide note on his desk. This search

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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lasted from 2200 to 2400 hours. Nussbaum stated that no documents were removed from the office."[158]

Nussbaum was next interviewed about the night of the 20th on May 13, 1994, by Mr. Fiske's office. The report of the interview states as follows:

> It occurred to him that it would be a good idea to look for a note. At approximately 10:00 p.m., he went up to his office, entered Foster's office and saw Patsy Thomasson sitting at Foster's desk. Maggie Williams was sitting on the couch crying. Nussbaum stood by Foster's desk and looked at the top of the desk. Thomasson opened a few drawers. They were looking at surfaces. They were looking for something noticeable; not a briefcase and not into anything very deeply. Maggie Williams was "a basketcase." She was not looking for anything.
>
> Nussbaum estimates that he was there approximately ten minutes and all three individuals left at the same time. They did not take anything with them. They had not found anything which, on its face, helped to explain Foster's death.[159]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[158] Nussbaum USPP Report, 7/21/93, at 1 (emphasis added). The 2200-2400 appears to have been a mistake in recording by Markland; records show that the office was open for only an hour. Moreover, the report itself indicates that Nussbaum referred to a "brief, quick search," which appears inconsistent with a two-hour period.

[159] Nussbaum 302, 5/13/94, at 7 (emphasis added).

[160] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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c. **Williams**

Maggie Williams stated that she learned of Foster's death from Mrs. Clinton who at the time was in Arkansas. (Phone records show a call from the Rodham residence in Little Rock to Maggie Williams' home in Washington at 10:13 p.m. for 16 minutes.[166]) According to Mrs. Clinton and Williams, in their conversation, Mrs. Clinton did not ask Williams to go to the White House or to perform any task.[167]

According to Williams and her Staff Director Evelyn Lieberman, Williams then called Lieberman. Williams informed Lieberman of Foster's death and said she wanted to go to the White House. Lieberman picked Williams up, and they drove together to the White House. When they arrived, they went to the

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[166] 65-9.

[167] H. Clinton Interview, 6/12/94, at 17; Williams 302, 5/25/94, at 3.

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second floor of the West Wing to the First Lady's office. (As explained above, the entrance to the First Lady's office is located next to the entrance to the Counsel's suite of offices.) Lieberman stated that she sat at the reception desk in the First Lady's office during the evening.[168]

Williams was first interviewed about events of the 20th on August 3, 1993, by the FBI. (She did not bring an attorney to the interview.) The report states:

> Williams' primary purpose for traveling to the White House was that she did not have the First Lady's schedule for July 21, 1993 and she did not know if any of the scheduled events would need to be cancelled. Williams arrived at the White House at approximately 11:00 p.m. at which time she went to the Press Office and spoke to several individuals there. She then went to the second floor where she observed that several of the cleaning people were standing in a hall. Williams then went to Vincent Foster's office where she observed that Patsy Thomasson was in the office and was sitting at Foster's desk. Thomasson conducted a cursory search of the items on Foster's desk which included picking up and looking through some papers which were located on the desk. Thomasson stated that she had hoped to find a note or something which would give comfort to Lisa Foster, Vincent Foster's widow. Williams remained in Foster's office for approximately ten minutes and then Williams departed Foster's office. During the time that Williams was there she did not see Thomasson find a note on Foster's desk. Thomasson remained in Foster's office after Williams left.[169]

[168] [redacted] Lieberman Interview, 7/26/94, at 8-20.

[169] Williams 302, 8/3/93, at 1.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Williams took an FBI polygraph examination on September 16, 1994, and answered the following two questions:

Q. Did you remove any documents from the office of Vince Foster during the evening after his death?

A. No.

Q. Did you remove any documents from the Chief Counsel's suite during the night or early morning hours after Vince Foster's death?

A. No.

The report states: "It is the opinion of this examiner that Ms. Williams was truthful when responding to the above listed questions. These results were confirmed during an independent review by the FBI Laboratory."[172]

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[170] Thomasson said Nussbaum and Williams were never in Foster's office at the same time. Thomasson Deposition, 7/11/95, at 59.

[171]

[172] FBI Polygraph Report of Margaret Williams, 9/16/94, at 3-4.

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In responding to questions on this subject, Williams has attempted to recall whether she may have carried something into Foster's office that she was still carrying when she left. Williams stated that at some point that night she went to Mark Gearan's office on the first floor of the West Wing to obtain a copy of the press release about Foster's death.[174] Williams also says she also may have gone to her own office on the second floor of the West Wing at some point to obtain a copy of the First Lady's schedule for the following day.[175] But she does not believe she was carrying either of these items, or anything

[173] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[174] Williams 302, 5/25/94, at 4.

[175] Id. at 19; Williams Deposition, 7/7/95, at 194.

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else, when she went into Foster's office.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

d. O'Neill

Officer Henry O'Neill has been employed as a uniformed Secret Service officer since 1977. At the time of Foster's death, he had been assigned since 1991 as an escort officer on the 10:30 p.m. through 7:00 a.m. shift. His primary responsibility as an escort officer was to accompany General Services Administration cleaning crews to offices in the White House West Wing when the crews cleaned the offices and removed trash. O'Neill collected burn bags, which contained sensitive or classified waste.[177]

According to alarm records, on July 20, Officer O'Neill entered the Counsel's suite of offices at 10:42 p.m. and re-set the alarm at 11:41 p.m.[178] He was performing his regular duties in the West Wing, accompanying two cleaning women as they picked up trash in the West Wing offices.

The most important element of Officer O'Neill's testimony is that he observed Margaret Williams leaving the Counsel's suite of

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[177] O'Neill 302, 4/28/94, at 1.

[178] 211-37.

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offices carrying what appeared to be documents.[179] Because of the obvious significance of O'Neill's statements on this issue, we will describe them in some detail.

At the outset, it is important to understand the thrust of the O'Neill testimony. In sum, O'Neill has said that, while initially in Counsel's suite to collect the burn bags, he saw two women enter the Counsel's suite with Nussbaum. He left the suite and later returned. When he returned and entered the suite, he saw a woman sitting behind Foster's desk. He left again and later, while in the hallway outside the suite, saw Maggie Williams and another woman. Maggie Williams was leaving the Counsel's office with folders or files of some sort and took them into her office.

In certain interviews, O'Neill has revealed confusion about the identities of the women other than Maggie Williams who were in and around the Counsel's suite at various points. In his Senate deposition in 1995, he also revealed some confusion about whether Williams might have been carrying something in addition to what appeared to be folders or documents.

i. <u>April 28, 1994, Interview</u>

The report of O'Neill's first interview states:

> [after entering the suite], he turned to see a man whom he did not recognize, Margaret "Maggie" Williams, of Hillary Clinton's staff, and another woman whom he thinks was Patsy Thomasson. . . . He and the cleaning

[179] 211-37, 211-48.

FOIA # none (URTS 16315) DocId: 70105248 Page 66

> crew stepped out of the suite into the hall and he asked the man who was a part of this group "what seems to be the problem?" He said that this man introduced himself as a White House staffer in charge of legislative affairs . . . and now knows that this man was Howard Paster. This man then advised Officer O'Neill "something terrible has happened -- Vince Foster has taken his own life." This man, Nussbaum, and the two women went into Nussbaum's office. Shortly after this encounter, the second woman (not Maggie Williams) introduced herself to him. He said that, while he is not entirely certain, he believes that she said her name was Patsy Thomasson. She also told him Maggie Williams' name and that Williams was a staffer for Hillary Clinton.[180]

A few minutes later, according to the report, O'Neill re-entered the suite and

> he saw a third woman sitting behind Vincent Foster's desk in a chair going through papers on his desk looking for something. He said that this woman was alone in Vincent Foster's office when he saw her. He advised that he did not recognize this woman and added that it was not Maggie Williams nor was it the woman he met and thought to be Patsy Thomasson.[181]

In this interview, O'Neill described this third woman as a white female, approximately 5'6" to 5'8", slender to medium build, dark brown or black hair, light complexion in her mid-40's. He separately described Patsy Thomasson in that interview as a white female, 5'5"-5'6", slender to medium build, brown with some gray hair, medium complexion with blemished appearance 40-45 years old.

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[180] O'Neill 302, 4/28/94, at 2.

[181] Id. at 3.

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According to the report, O'Neill further stated that:

> At one point, about 30 minutes after he saw the woman behind Foster's desk, while he was standing in the hallway outside the entrance to the suite, he observed Patsy Thomasson and Maggie Williams walking out of the suite and turn toward the office of the First Lady next door to the suite. He said that while Patsy Thomasson's hands were empty, Maggie Williams was carrying a significant quantity of "office stuff." Officer O'Neill said that she had her arms full of papers, folders, and perhaps accordion files, and other office related paper products. He advised that he watched Maggie Williams walk into her (Williams) office with these items. He then saw her exit her office almost immediately with nothing in her hands and re-enter the Counsel suite. Patsy Thomasson did not go into Williams' office with her but went elsewhere down the hall. Officer O'Neill advised that after perhaps forty to forty-five minutes, but less than one hour, he observed Bernard Nussbaum, Maggie Williams, and the woman he thought to be Patsy Thomasson exit the suite. Bernard Nussbaum went down the staircase. He said that at that point the woman he thinks to have been Patsy Thomasson asked him to lock up the suite which he did. He then rode down the elevator with her and Maggie Williams to the ground level and watched them exit the West Wing.[182]

According to the report of that first interview, O'Neill also stated that when continuing his security rounds later that night on the ground floor of the West Wing,

> he again saw the woman that he had previously seen sitting behind Vince Foster's desk in his office. He said that he saw this woman standing in the doorway of an office suite that is now occupied by Harold Ickes but was then occupied by David Watkins and another staffer. He said that he remembers this because he had not seen this woman when she entered the Nussbaum/Foster suite but had first seen her seated behind Foster's desk and that she was now standing in the doorway to an office two levels below Foster's office. . . . He said that this woman was crying and

[182] Id. at 4 (emphasis added).

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appeared to be looking for someone up and down the hallway . . . .

ii. June 8, 1994, Interview

According to the report of a June 8, 1994, interview, O'Neill stated with respect to the woman behind Foster's desk that he was "100 percent sure this woman was not Patsy Thomasson."[183] He further said that he did not see Patsy Thomasson in Foster's office on the night of the 20th.[184]

iii. June 9, 1994, Interview

On June 9, 1994, a day after that interview, O'Neill called Mr. Fiske's office and said that he had obtained and reviewed photographs after the interview on June 8. According to a report of that call, O'Neill stated that he "now believes it was possible that Patsy Thomasson was the woman sitting behind the desk."[185] He also stated that after reviewing photographs of Susan Thomases, he believes she may have been the woman who introduced herself to him in the 2nd floor west wing hallway during the late evening hours of July 20, 1993. Travel, phone, and pager records (as well as testimony), however, reveal that Thomases was in New York that night.[186]

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[183] O'Neill 302, 6/8/94, at 2 (emphasis added).

[184] Id. at 3.

[185] O'Neill 302, 6/9/94, at 1.

[186] For example, Williams received a page at 12:15 a.m. saying "pls call Susan Thomases at 212-772-6019." 210-2660.

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iv. June 15, 1994 Interview

On this date, O'Neill was shown photographs by the investigating agents. He identified photographs of Bernard Nussbaum, Howard Paster, and Margaret Williams. He was unable to identify Patsy Thomasson. The report indicates that "while he is still not certain as to the identity of the woman he saw sitting in a chair behind Vincent Foster's desk, he believes it is possible that Patsy Thomasson was that woman."[187]

The report also states:

> O'Neill further volunteered that he saw a woman in the White House [on June 15, 1994], who was identified to him as being Susan Thomases. O'Neill said, as he had in a previous conversation with SA McElhaney, that he believes it is possible that Susan Thomases is the woman he saw in the second floor hallway of the west wing on July 20, 1993, who introduced herself to him.[188]

v. July 20, 1994, Interview

O'Neill was interviewed on July 20, 1994, by Mr. Fiske's office "to clarify, resolve and finalize questions and issues that have arisen as a result of the information he provided during prior interviews."[189] The report of the interview contains the following summary of information.

After walking into Counsel's suite initially, O'Neill saw Nussbaum enter with two other people, he believes women.

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[187] O'Neill 302, 6/15/94, at 2.

[188] Id.

[189] O'Neill 302, 7/20/94, at 1.

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(O'Neill was unsure of the identities of the two women with Nussbaum.[190]) O'Neill exited the suite and walked down the hall and then walked back into the Counsel's suite. At this time, he saw Howard Paster (then Director of Legislative Affairs) in the hall, and Paster told him of Foster's death. O'Neill was unable to state whether Paster actually entered the suite.[191]

O'Neill then saw a woman in the hall, whom he now believed was Susan Thomases. O'Neill went downstairs and then returned to the Counsel's suite to see if he could secure the office. He walked into the suite and noticed a woman behind Foster's desk.

> O'Neill stated that initially he was unable to identify this woman [behind Foster's desk] but now feels fairly certain that she is identical to Patsy Thomasson, a White House staff person. He stated that back in July of 1993, he did not make any effort to identify these people. After having been interviewed by the Independent Counsel's office, he did review photographs available to him of all White House staffers and now feels fairly certain that it was Patsy Thomasson who he observed behind Foster's desk that evening.
>
> O'Neill stated that after leaving the Chief Counsel's suite of offices, he can't recall where he went but he did not remain close to or in view of the entrance to the Chief Counsel's suite of offices. He returned to that area approximately 10 or 15 minutes later (approximately 11:30 p.m.) and was standing in the hall near the entrance when he observed Mr. Nussbaum exit the Chief Counsel suite and leave the second floor. He can't say for sure but he believes Mr. Nussbaum took the stairway down. As Mr. Nussbaum was leaving, the same woman that he saw earlier in the

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[190] O'Neill 302, 7/20/94, at 2.

[191] Id. at 3. Paster stated that he does not recall actually entering the Counsel's suite that evening. Paster 302, 5/13/94, at 3.

FOIA # none (URTS 16315) DocId: 70105248 Page 71

> evening, who he now believes may be Susan Thomases, was standing in the area, either in the hallway or by the entrance way to the Chief Counsel's office.[192]
>
> * * *
>
> At this point in time, a woman who he recognized as Maggie Williams . . . walked out of the Chief Counsel's office space into the hall. . . . Ms. Williams was carrying some files and folders in her arms. He estimated that the files and folders in her arms were three to five inches in height. As best he recalls, Maggie Williams remarked to the other woman words to the effect that she was just going to put these in her office and then walked past him and the doorway to the First Lady's office, stopping at the doorway to her own office.[193]

O'Neill recalls that Williams put the materials in her office and then exited empty-handed, at which time she and the other woman went to the elevator.[194]

Later that night, O'Neill saw Patsy Thomasson standing in the doorway to David Watkins' office. O'Neill recalls that she was visibly upset and distraught.[195]

During this interview, O'Neill was shown a photospread that included Evelyn Lieberman and Patsy Thomasson. He stated that Lieberman "looked similar" to the woman he saw that night in the hallway (previously the "Susan Thomases" woman) and he identified Thomasson as the woman behind the desk.

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[192] O'Neill 302, 7/20/94, at 4-5.

[193] Id.

[194] Id. at 5.

[195] Id.

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O'Neill was asked why he never reported the information about Williams to his superiors or to law enforcement before April 1994. According to the report of interview, he stated that "until he was approached by investigators from the Independent Counsel's office in late April 1994, he had never been asked any questions or discussed his observations and conversations on the night of July 20-21, 1993 with anyone. He stated that he wasn't quite sure of the significance of these observations and was not about to volunteer it to anyone."[196]

vi. August 9, 1994, Interview

In an interview on August 9, 1994, O'Neill was shown a photospread that included a photograph of Susan Thomases. He picked out her photograph and, according to the report, stated that "he is fairly certain that Thomases is the woman who was with and left with Maggie Williams from the second floor" on July 20, 1993.[197]

According to the report, O'Neill further stated, when asked whether he might be confused about dates and nights, that he specifically recalls the Paster conversation regarding Foster's death occurring the same night that he saw Williams carrying items out of the Counsel's suite.

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[196] Id. O'Neill's delay in providing information could be used to attempt to undermine his credibility and/or memory. Cf., e.g., Summary of Conclusions, Minority Views of the Special Committee 11-12, 14 (June 17, 1996).

[197] O'Neill 302, 8/9/94, at 2.

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viii. Senate Deposition June 23, 1995

In the Senate deposition, O'Neill testified consistently with the thrust of his earlier testimony, except that he did not reveal any of his earlier confusion regarding the identity of

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various persons he saw on the night of the 20th. (For example, the name of Susan Thomases did not arise at all in his Senate deposition.) However, near the conclusion of his examination by Democratic Counsel Neal Kravitz, O'Neill equivocated on what Maggie Williams was carrying from the Counsel's suite:

Q: You just glanced at what she was carrying?

A: Exactly. In fact, she may have even been carrying a box. I can't remember. She had her hands down in front of her. I remember that, and she was carrying something in front of her. I think I remember folders as I saw her approach in my direction, and it was like folders. But I can't remember if there was a box on top of them, like a cardboard box that is used for files also. I can't remember that.

Q: Do you have some picture in your mind of a box?

A: Kind of like, yeah.

Q: How big is that box in the picture in your mind?

A: Like a hat box, a small hat box. I don't know.

Q: Was the box open?

A: No. I said files originally. I said 3 to 5 inches, and it seemed -- I mean, I know that it was a bundle. I told you that. It was something that was of some weight. That's basically how I would like to continue to state it. I don't want to dream up a box. This is getting confusing now because I can't remember if I saw her -- I know I remember seeing her carrying something in her arms.

Q: That looked heavy?

A: Yeah.

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Q: You're not sure whether it was folders or a box or maybe both?

A: Right.

Q: Is it possible that there were folders inside of a box?

A: I can't remember.

Q: Do you want to take a break?

A: Yeah.

* * *

Q: . . . [D]o you know whether it was that you saw her carrying out of the White House counsel's office suite, whether it was a folder or a box or both, do you know where that stuff came from?

A: No, sir.

Q: For all you know, Maggie Williams took into the White House counsel's office suite exactly what she brought out?

A: No, I don't know.

* * *

Q: You don't know where those things came from?

A: That's true.[200]

ix. Senate Hearing July 26, 1995

In the Senate hearing, Mr. Ben-Veniste first raised questions -- apparently based on the number of interviews O'Neill

[200] O'Neill Deposition, 6/23/95, at 175-177.

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said he had undergone with Mr. Fiske's office -- whether O'Neill had been entirely consistent in his previous statements:

> Q: There was nothing different between the first time you told it, the second time you told it and the third time you told it?
>
> A: Only that I didn't realize the names of the people.
>
> Q: You didn't know the names of the people?
>
> A: I didn't know -- originally Patsy Thomasson or Evelyn Lieberman. I did know Maggie Williams and I knew Mr. Nussbaum.[201]

Later, Senator Kerry focused on the answer O'Neill provided at his Senate deposition regarding the box:

> A: That's true, I said there may have been a box on top.
>
> Q: Did you say I can't remember?
>
> A: Well, it was 4-1/2 hours after I had been sitting there testifying, sir. I was a little bit weary.
>
> Q: Well, if you couldn't remember then, how can you remember today, two years later?
>
> A: Well, I know I can remember. I said I saw her carrying these things in her arms.
>
> Q: Didn't you say I can't remember?
>
> A: Can't remember whether or not she had a box on top.

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[201] Senate Hearing, 7/26/95, at 33.

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Q: Well, isn't that pretty important, whether it was a box or folders?

A: Sure it is.[202]

e. **Other Evidence re: Williams-O'Neill**

Several other pieces of evidence are relevant to the O'Neill-Williams discrepancy.

First, Nussbaum and Thomasson testified that they did not see Williams take anything out of the office.

Second, Evelyn Lieberman stated that she sat at a desk in the First Lady's office next to the Counsel's suite on the night of the 20th after arriving at the White House with Maggie Williams.[203] Lieberman says she did not see Williams carrying a box or pile of papers or folders that evening. She also did not see Williams going into her [Williams'] office that evening.[204]

Third, Terri Cobey is a cleaning lady who was on duty that night. She recalls a black female and a white female walking on at least two occasions between the Counsel's office and the First Lady's office. According to the report of interview, "[s]he was unable to state whether either of these women were carrying any type of paper or documents or files while they were walking

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[202] Id. at 87-88.

[203] Lieberman believes it is "possible" that she went into the Counsel's suite at some point that evening. However, she stated, "I don't think I did." Lieberman Interview, 7/26/94, at 29.

[204] Lieberman 302, 6/13/94, at 3-4.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

between the two offices."[205]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Fourth, O'Neill stated in the Senate hearing that Williams "smiled at" him when introduced to him in the hall.[207] This statement could be used in attempt to discredit O'Neill's recollection: Others describe Williams as sobbing.[208]

Finally, phone records could be used to suggest a reason for Williams' trip to the White House that night. Records show a call from the Rodham residence in Arkansas to Williams' home at 10:13 p.m. for 16 minutes and a call from Williams' house to the Rodham residence at 12:56 a.m. for 11 minutes.[209] Records show a call from Williams' home to Susan Thomases' residence in New York at 1:10 a.m. for 14 minutes.[210] In addition, records show a call from the Rodham residence to Thomases' residence at 11:19

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[205] Cobey 302, 8/5/94, at 2.

[206]

[207] Senate Hearing, 7/26/95, at 118.

[208] See, e.g.,

Nussbaum 302, 5/13/94, at 7 ("Maggie Williams was a basketcase. She was not looking for anything."); Cobey Deposition, 7/14/94, at 37 (believes the black lady was crying when she saw her).

[209] 65-9.

[210] 55-8.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 79

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

p.m. for 20 minutes.[211] Furthermore, Williams received a page at 12:15 a.m. asking her to "pls call Susan Thomases at 212-772-6019."[212] Ms. Williams, Ms. Thomases, and Mrs. Clinton testified, however, that they recall no conversations about documents or Foster's office that evening.

Mrs. Clinton testified about the evening of the 20th: "I was not thinking about documents at all. I mean, that is something that I don't think crossed my mind at all. Having heard that my friend was dead, I don't think that's what I was thinking about."[213] She further stated that she does not recall talking to Williams or Thomases about Foster's documents or office on the 20th.[214]

In addition to calling Williams and Thomases on the night of the 20th, Mrs. Clinton placed a call to the home of Harry Thomason in California at 10:03 p.m.[215]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[211] 65-9.

[212] 210-2660.

[213] H. Clinton Interview, 7/22/95, at 22.

[214] Id. at 19-20.

[215] 65-9.

FOIA # none (URTS 16315) DocId: 70105248 Page 80

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Telephone records also show a 10-minute call from the Rodham residence to telephone number (202) 628-7087 at 10:41 p.m. on the 20th. After much publicity concerning the inability of the telephone company to identify this telephone number, Mrs. Clinton submitted, in December 1995, a sworn affidavit to the Senate Committee stating that she did not remember calling that number on the 20th.[217] The White House advised that the telephone number was "an unlisted trunk line that rang on the White House switchboard. . . . The number was installed as a bypass to the main White House switch, so that calls could be made from the White House in the event the main switch failed. The number was also used as a means to get through to the White House when the switchboard was overloaded, and may have been provided to certain individuals for that purpose."[218] The White House reported that Bill Burton remembered receiving a call from Mrs. Clinton on the night of July 20.[219]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[216]

[217] Affidavit of Hillary Rodham Clinton, 12/7/95.

[218] Letter from Jane Sherburne to Michael Chertoff and Richard Ben-Veniste, December 7, 1995.

[219] Id.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 81

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Burton gave similar testimony in the Senate after the revelation about the White House telephone number.[221] Burton said that he and Mrs. Clinton talked about (1) notification of people in Arkansas about Foster's death, (2) details that the Park Police had provided about the death, and (3) the topic of depression as a disease.[222]

Ms. Thomases stated that in her conversation with Mrs. Clinton, "[t]here was no discussion of documents and was not that kind of conversation. . . . [i]n spite of what you may think."[223] Thomases did not recall any conversation with Williams that night.[224]

Williams says the subject of Foster's office and Foster's documents simply did not arise that night in conversations with Thomases or Mrs. Clinton. Williams has recalled both the fact and the general substance of her calls with Mrs. Clinton that

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221 Senate Hearing, 12/13/95, at 42.

222 Id. at 50-57.

223 Thomases Interview, 9/9/94, at 32.

224 Thomases Deposition, 7/17/95, at 60; Senate Hearing, 11/2/95, at 71-72.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 82

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

evening and, according to Williams, the subject of Foster's office or documents did not arise.[225] Williams has not been able to recall any conversation with Thomases that evening.[226]

D. The Trash from Foster's Office

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

> I then asked the three of them [Bill, Dee Dee, and David] if anyone had made sure that the trash had not been dumped in Vince's office. At that point, Bill [Burton] said we should get Bernie and lock the office. I am uncertain what time that was, but probably after 10pm. I don't remember who told Bernie, but he went up and locked the office.
>
> * * *
>
> I said, I guess we should make sure that the trash had not been dumped, and Bill agreed. I asked the cleaning ladies on the first floor and they said they had already dumped the trash. So I asked them where it

225 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure Senate Hearing, 11/2/95, at 76-80.

226 See Senate Hearing 11/2/95, at 16.

227 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

228

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 83

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

was and they took me up to the second floor.[229]

Mathews then retrieved Foster's trash and stored the trash in Deputy Chief of Staff Roy Neel's office that night.[230]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure According to Secret Service records, Sloan placed the bag in Foster's office at 6:34 p.m.[232] According to notes of Michael Spafford, the Foster family attorney who attended the search on the 22nd, the trash was reviewed during the search.[233]

Later on the evening of the 20th, Mathews also made efforts to determine whether Foster's burn bag had been emptied. She retrieved the commingled burn bag for all West Wing burn bag material from Officer O'Neill before Gene Sperling (then Deputy Assistant to the President for Economic Policy) advised her that she probably should not be examining sensitive and confidential burn bag material.[234]

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229 33-620.

230 Neel 302, 5/25/94, at 3 ("When Neel arrived at his office the following morning . . . he found an opaque plastic bag of trash which had been tied up in the middle of his desk.").

231

232 211-151.

233 296-21.

234 Sperling 302, 12/20/94, at 7.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 84

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

By contrast, Nussbaum does not recall any conversations about the burn bag with Mathews; he recalls discussing only the trash with her.[236]

As it turns out, although Foster apparently did have a burn bag in his office,[237] The burn bag from Foster's office thus remained in his office and, indeed, was reviewed by Nussbaum on the 22nd during the search, as is reflected by Spafford's notes of the search.[239]

E. Betsy Pond enters Foster's office on the morning of July 21

On the morning of July 21, alarm records show that Nussbaum's secretary Betsy Pond opened the Counsel's suite at 7:01 a.m.[240] As noted above, Foster's office was not yet posted or secured at that time.

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236 Nussbaum Deposition, 7/12/95, at 54.

237 See Gorham 302, 3/16/95, at 7.

238

239 296-21;

240 211-42.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 85

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Pond testified that, before anyone else arrived in the suite, she entered Foster's office to look around and straighten up.[241]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Pond has denied saying this to Tripp.[243]

the OIC requested Pond to submit to a polygraph examination. Pond was asked the following questions and gave the following answers during the examination:

Q: Did anyone direct you to search Vince Foster's office the morning after his death?

A: No.

Q: Did you remove anything from Vince Foster's office on July 21, 1993?

A: No.

Q: Do you know if any documents were removed from Vince Foster's office before the official search?

A: No.

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[241] See Pond USPP Report, 7/22/93, at 2 ("She went into his office and squashed the papers together that were on his desk."); Nussbaum informed the Park Police on July 21, 1993, that "he learned that from 0700-0715 hours one of the secretaries had entered Foster's office and 'piled papers' on his desk top 'to make it neat.'" Nussbaum USPP Report, 7/21/93, at 1.

[242]

[243] Pond 302, 4/13/95, at 2-3.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure
FOIA # none (URTS 16315) DocId: 70105248 Page 86

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Q: To your knowledge was that note first found on July 26?

A: Yes.

Q: Do you have any knowledge of any other suicide note being found?

A: No.

Q: Did you tell anyone you searched Vince Foster's office for a suicide note?

A: No.[244]

Pond was found "not deceptive" by the examiner.[245]

F. Craig Livingstone's Activities on July 21

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[244] FBI Polygraph Report of Betsy Pond, 5/31/94, at 7-8.

[245] Id. at 8.

[246] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 87

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Abbott stated that after he assumed his post,[247] he heard the elevator door near his post. The elevator in question stops on three floors: the ground floor where Abbott was located, the first floor, and the second floor. Abbott saw two men getting off the elevator: Craig Livingstone and another man unknown to Abbott.[248]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[247] Abbott initially identified the time as 6:45-7:00 a.m. Abbott 302, 4/18/94, at 2.

Abbott 302, 10/12/94, at 2.

[248] Abbott was shown 212 photographs of male White House employees and identified Livingstone as the man with the briefcase. He could not identify the other man. Abbott 302, 6/22/94, at 4.

[249]

[250] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 88

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure According to a report of his interview, Martin stated that

> as he was escorting USPP officers either in or out of the west wing, Officer Abbott approached. . . . Abbott spoke to him in a low confidential voice relating to him that earlier that morning (approximately 6:30-7:00 a.m.) he had seen Craig Livingstone and another man (identity unknown) on the ground floor of the White House west wing having just got off the elevator . . . . Abbott said that he saw these two men carrying a briefcase and some boxes."[252]

Martin believes that Abbott provided this information in the presence of Park Police investigators.[253]

Park Police Detective Markland stated that he was escorted by Martin that morning when he arrived at the White House[254] to obtain access to Foster's office.[255] Markland recalls Abbott telling him that he had seen Livingstone with a box of documents earlier that morning.[256]

Later that day, Markland questioned Livingstone. According to Markland, Livingstone stated that he had not been in Foster's

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[251] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[252] Martin 302, 4/29/94, at 3;

[253] Martin 302, 4/29/94, at 3.

[254] Markland arrived at the White House at 11:05 a.m., according to Secret Service records. 211-149 to 211-150.

[255] Markland 302, 4/15/94, at 1.

[256] Markland 302, 7/11/94, at 1.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 89

[redacted]

office or carrying documents from Foster's office although he could have been carrying documents.[257] Markland said that Livingstone did not appear surprised or concerned by the questioning.[258]

Gate records show that Livingstone entered the White House at 8:06 a.m. on July 21.[259] Livingstone stated that he was not in the White House before 8:06 a.m.; rather, he went early that morning to the Foster house. According to the report of his interview, Livingstone stated that "[b]y coming there [the Foster house] early he hoped to assure that any members of the media who were present gave appropriate understanding and consideration to the Foster family."[260] Livingstone then left the Fosters and went to the White House.[261] Livingstone caused a typewritten

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[257] [redacted] Markland 302, 7/11/94, at 2. Markland wrote the statement "Livingstone said he was not in office today" in his notes. 105-347; see Markland 302, 7/11/94, at 1; Markland 302, 4/21/95, at 4. Markland did not produce a report recounting the information provided by Abbott.

[258] Markland 302, 7/11/94, at 3; [redacted]

[259] 211-1076.

[260] Livingstone 302, 5/12/94, at 4. Livingstone initially stated that there were a few press types at the Foster house that morning, id., [redacted]

[261] David Leavy of the White House press office recalls Livingstone calling him from the Fosters that morning. Leavy 302, 8/3/94, at 2. Webb Hubbell recalls a conversation on the night of the 20th to the effect that Livingstone should go to the Foster house on the morning of the 21st for press control. Hubbell 302, 7/18/94, at 2. Bruce Lindsey vaguely recalls

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

report of his activities on July 20-21, 1993, to be created on July 21 by Kelli McClure, an employee in the Office of Management and Administration. According to Livingstone, the document was created to assist press personnel in compiling a chronology of activities in the aftermath of the Foster death.[262] The report is consistent with Livingstone's statement that he went to the Fosters that morning: "I drove by the house at 6:30 a.m. and stayed until 8:00 a.m. There was no press activity."[263]

Livingstone denied removing or carrying documents from the Counsel's suite (or transporting any documents that had been in Foster's office) out of the West Wing on the morning of July 21.[264] Soon after he arrived at the White House, he went to the Counsel's suite.[265]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Livingstone mentioning on the 21st that he had been at the Fosters that morning. Lindsey 302, 6/22/94, at 4.

[262] An FBI review of computer backup records confirmed that the document was created by Kelli McClure on the 21st; moreover, McClure recalls typing the document that day. McClure 302, 7/13/94, at 2. The report was found in the files of various White House press personnel, including Director of Communications Mark Gearan. Gearan 302, 7/11/94, at 1.

[263] 33-1773.

[264] Livingstone has stated that he was quite upset by Foster's death; that statement is supported by a message he received from a friend Mike Jones at 12:35 p.m. on the 21st saying "he got your call at 2 a.m. he was calling to make sure you're ok." 210-3187.

[265] Livingstone 302, 5/12/94, at 4; Gorham 302, 4/19/94, at 9 ("Bill Kennedy and Craig Livingstone dropped by. . . . [Livingstone] looked emotionally upset.").

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[266] He stated:

> I'm the person that stores personnel files, and the only kind of document retrieval or storage that I would be doing would be regarding those types of documents. And I don't believe that morning anybody was working on personnel stuff; therefore, I don't believe that I moved any kind of personnel files, and I have no specific recollection of moving anything else, either.[267]

With respect to the Abbott-Livingstone incident, note that Abbott's testimony alone does not establish conclusively: where Livingstone had been in the West Wing before Abbott saw him exiting the elevator; where Livingstone went after he subsequently exited the West Wing onto West Executive Drive; the identity of the other man with whom Abbott saw Livingstone; whether Livingstone was engaged in a joint task with the other man (as opposed to the possibility that the other man simply happened to be on the elevator with Livingstone); the contents of any documents in Livingstone's briefcase or in the box or boxes the other man was carrying; or whether any such documents had been in Foster's office at the time of his death.

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[266] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[267] Livingstone Deposition, 7/10/95, at 82.

IV. The Procedure for Searching Foster's Office

On the morning of July 21, the Park Police activities with respect to the White House proceeded on two tracks. First, two high-level officials (Chief Robert Langston and Major Robert Hines) informed the White House of the Park Police's findings regarding Foster's death and its investigative needs. The briefing occurred in a meeting in David Watkins' office in the West Wing of the White House at about 11:00 a.m.[268] Present in addition to Chief Langston and Major Hines were Nussbaum, Kennedy, Livingstone, Stephanopoulos, Watkins, Burton, Hubbell, and Jim Hamilton, an attorney at Swidler & Berlin representing the Foster family. The Park Police said that all indications were that the death was a suicide. The Park Police also indicated, however, that they would need access to Foster's office.[269] Nussbaum said that the Justice Department should coordinate this step.[270]

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[268] Livingstone's chronology reflects that the meeting occurred at 11:00 a.m. 33-1773. Hines and Langston had been scheduled to arrive at 10:35 a.m. 318-30; 336-431; 336-505. It is unclear what time they actually arrived at the White House.

[269] Langston & Hines 302, 5/17/94, at 2.

[270] Id.; [redacted] Jim Hamilton's notes of the meeting say "Bernie to call Phil Heymann." Hamilton 302, 10/23/96, at 5.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure Two DOJ attorneys -- David Margolis and Roger Adams -- went to the White House that afternoon to meet with Nussbaum. They arrived at 4:40 p.m., according to a Secret Service record.[272]

Meanwhile, two investigators from the Park Police -- Captain Hume and Detective Markland -- had taken over the investigation of the death from Officers Rolla and Braun.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure They arrived at the White House at 11:05 a.m. and waited in a Secret Service office.[274]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure At some point, Hume contacted the FBI, and Agents Danna, Condon, and Salter met

271 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

272 211-150.

273 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

274 211-149 to 211-150.

275 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Hume and Markland at the White House and waited with them for the DOJ attorneys to arrive.[276]

A. White House Meeting on July 21: An Agreement Reached?

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

At some point that afternoon, the other investigators (Danna, Condon, and Salter from the FBI; Hume and Markland from the Park Police; and Flynn from the Secret Service) were present at a meeting among the White House and Justice Department lawyers concerning interviews of White House employees.[278] It is unclear from the testimony whether all of the FBI and Park Police investigators were present for discussions among White House and Justice Department lawyers concerning the search of Foster's office.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[276] See Salter 302, 4/20/94, at 1; Condon 302, 4/20/94, at 1.

[277]

[278] Salter 302, 4/20/94, at 1; Salter 302, 5/11/95, at 2;

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 95

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Nussbaum acknowledged that the meeting included discussion of a procedure in which investigators would view the first page of each document in Foster's office.[283] Nussbaum maintained, however, that he did not agree to that procedure: "I said to them I would consider it. It was a serious option. I had to think about it. I said I would consider it and seriously

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280 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure
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282
283 Senate Hearing, 8/9/95, at 40.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

consider it, but I never agreed to it."[284]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Margolis and Adams contradict the accounts of Nussbaum and Neuwirth. They maintain that Nussbaum agreed on the 21st to a

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284 **Senate Hearing, 8/9/95, at 40.**

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287 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA # none (URTS 16315) DocId: 70105248 Page 97

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

procedure for reviewing materials in Foster's office that would allow investigators to review at least a portion of each document.

Margolis says that when he was dispatched to the White House, Heymann told him that "he had reached a tentative agreement with Mr. Nussbaum that [Adams and Margolis] were to go through at least the first page or two of each document in order to determine whether they were relevant to our investigation."[290] Margolis says Heymann told him that "he believed he'd had an agreement in principle with Bernie Nussbaum to do it that way, so I should go finalize it and then begin the search process."[291] Margolis says investigators planned to look for "either a suicide note or something that could be characterized as a suicide note, or some other bright-line item which would indicate a reason for Mr. Foster to take his life, such as an extortion letter or anything like that, or anything else that jumped out at us that would indicate a reason for taking his life."[292]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[290] Senate Hearing, 8/10/95, at 178.

[291] Id. at 179.

[292] Id.

FOIA # none (URTS 16315) DocId: 70105248 Page 98

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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294 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA # none (URTS 16315) DocId: 70105248 Page 99

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Adams testified that the review would be "very, very summary."[297] In the Senate, he said that investigators would review only the title page and possibly the first page of every document.[298] In his own notes concerning the meeting, which were written after the Foster note was discovered on July 26th, Adams wrote that the Justice Department attorneys "would look at each document or at least each file to determine if it contained privileged material, in which case it would not be examined by the Park Police or the FBI."[299] He testified, however, that "it was our understanding that there would be a joint review."[300] Adams said that he, like Margolis, recalled the anecdote about Neuwirth's unsuccessful attempt to summarize the understanding.[301]

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296 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

297 Senate Hearing, 7/27/95, at 96.

298 Id.

299 70-132.

300 Senate Hearing, 7/27/95, at 96.

301 Id.

FOIA # none (URTS 16315) DocId: 70105248 Page 100

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to a report of interview, Supervisory Special Agent John Danna of the FBI said that "[t]he procedure agreed to was that Margolis and Adams would review the documents in Foster's office with Nussbaum."[302] Danna testified in a Senate deposition that he prepared a teletype on July 22 for the Director of the FBI concerning the meeting.[303] A final version of the teletype, dated July 23, 1993, includes this account:

> An initial meeting was held with White House Counsel Bernard Nussbaum at which time it was agreed that the victim's office, which is located adjacent to Mr. Nussbaum's, would continue to be sealed by the U.S. Secret Service (USSS) until 10:00 a.m. on 7/22/93, at which time Margolis and Adams would conduct a preliminary examination of documents located within the office. The purpose of this examination is to identify and segregate any privileged documents between the President and the White House Counsel's office. Subsequent, to this examination, the USPP and WFMO investigative team will review all pertinent documents in an effort to gather evidence in this matter.[304]

Special Agent Salter of the FBI testified that after the meeting on the 21st, he did not expect the Justice Department lawyers to review the documents in Foster's office. When asked about the role of the lawyers, Salter said, "my impression was that they would not have a role in actually conducting the review

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[302] Danna 302, 4/25/94, at 2.

[303] Danna Deposition, 6/28/95, at 50-55.

[304] FBI teletype, 175B-WF-187743-1 (July 23, 1993).

FOIA # none (URTS 16315) DocId: 70105248 Page 101

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

of the items in the office."[305] When he learned of Adams' testimony about an agreement with Nussbaum, Salter said, "I wasn't aware of the role that had been agreed on for the Department of Justice lawyers."[306]

B. Morning Meeting on July 22: A Broken Promise?

Margolis and Adams arrived at the White House at 9:56 a.m. on the 22nd to proceed with interviews of White House employees and the search of Foster's office.[307] When they met with Nussbaum, however, Margolis and Adams say that Nussbaum changed the search procedure that was agreed to on the 21st.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Margolis also says that Nussbaum told him and Adams on the morning of the 22nd that "there's been a change of plans." Under

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[305] Adams Deposition, 6/30/95, at 54.

[306] Senate Hearing, 7/27/95, at 132.

[307] 366-165; 366-542.

[308]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[309]

FOIA # none (URTS 16315) DocId: 70105248 Page 102

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

the new plan, Nussbaum would look at the materials in Foster's office "because of their sensitivity, executive privilege, attorney/client privilege issues, national security issues, sensitivity issues."[310] If the materials met Nussbaum's standards, and the investigators wanted to see them, then Nussbaum would make them available.[311]

Margolis testified that he then called Heymann, who also opposed the new Nussbaum plan. According to Margolis, Heymann then spoke with Nussbaum on the telephone.[312] After the conversation, according to Margolis, Nussbaum said that he would think about the arguments and make a final decision. Margolis and Adams went downstairs to wait.[313]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[310] Senate, 8/10/95, at 182-83.

[311] Id.

[312] Id.

[313] Id. at 186.

[314] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 103

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure "[315] Heymann says that Nussbaum said he would talk to some other people and call Heymann back.[316]

Heymann testified that he did not believe law enforcement officials could have obtained a search warrant or even issued grand jury subpoenas for materials in Foster's office.[317] But he says he was worried about the "credibility of the institutions of the Department of Justice and the White House."[318] He testified that he wanted a procedure that respected both "the investigators' need to satisfy themselves that they were getting whatever information they ought to have, and the White House's need for protection of confidentiality of documents."[319]

Cynthia Monaco, a special assistant to Heymann, recorded her observations of the telephone call between Heymann and Nussbaum

[315] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[316] Senate Hearing, 8/2/95, at 47.

[317] Senate Hearing, 8/2/95, at 65. Heymann's conclusion on this issue, of course, is debatable. The OIC has issued grand jury subpoenas for all documents in Foster's office at the time of his death, and has gained access to virtually all of those documents.

[318] Senate Hearing, 8/2/95, at 68.

[319] Id.

FOIA # none (URTS 16315) DocId: 70105248 Page 104

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure. The notes, which Monaco said were dictated in July 1993,[320] stated:

> Phil was on the phone with Bernie Nussbaum and he said: "You are messing this up very badly. I think you are making a terrible mistake." And what I took it to mean, in the context of the general conversation was that Bernie had refused to let David and Roger take a look at the documents.[321]

Nussbaum testified that when he met with Margolis and Adams on the morning of the 21st, he informed them of the procedure he planned to use for the search of Foster's office:

> We'll walk in together, and I will go through the files. You'll all come in with me. You will see what I'm looking at. I will describe to you what I'm looking at. I will describe to you what I'm looking at in some general terms, but I will do the looking. I may show you the first page of something or the title of something, but we'll see as it goes along and obviously if I find a suicide note or extortion note, I'll give it to you.[322]

Nussbaum said that Margolis and Adams "weren't happy."[323] He testified to "a vague recollection" that somebody mentioned the procedure in which investigators would review the first page of each document.[324] Nussbaum says that he has no recollection

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[320] Monaco Deposition, 7/6/95, at 26-27.

[321] 70-149.

[322] Nussbaum Deposition, 7/12/95 at 171.

[323] Id.

[324] Id.

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of a telephone conversation with Heymann that morning.[325] He has consistently maintained that there was no agreement to a particular procedure on the 21st, and that he did not break an agreement on the morning of the 22nd.

V. Events between the Meeting on the 21st and the Search on the 22nd

Nussbaum's adoption of a procedure whereby investigators did not examine documents in Foster's office, and the possibility that Nussbaum reneged on an agreement reached with investigators on the 21st, led to questions about why Nussbaum limited access of investigators to materials in the office. We have examined two principal areas: (1) telephone conversations among Nussbaum, Hillary Clinton, Susan Thomases, and Margaret Williams prior to the search of Foster's office, and (2) conversations among Nussbaum, McLarty, Jack Quinn (then Chief of Staff to the Vice President), Burton, Lindsey and Neuwirth on the morning of July 22.

A. Telephone Conversations before the July 22nd Morning Meeting of Nussbaum, Margolis, and Adams

Analyses of telephone conversations has been aided by telephone records, which were produced periodically to the OIC (and to the Senate) during the course of the investigation. Home telephone records for Williams and the Rodham residence in Arkansas were produced in late 1994. White House pager records

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[325] Id. at 171-74.

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were produced to the OIC in June 1995. Thomases produced phone records in July 1995 and December 1995. As a result, all of the records were not available when some witnesses were questioned at earlier stages of the investigation. Some witnesses were recalled by the Senate and/or the grand jury to answer questions about phone tolls that were produced at later stages.

Records show the following pertinent telephone calls and events between 5:00 p.m. on July 21 and 10:00 a.m. on July 22:

July 21

5:00 p.m. (approximate)	Meeting among Nussbaum, Neuwirth, Sloan, Margolis, Adams, and perhaps others
7:45 p.m.	12-minute call from Rodham residence in Little Rock to Bruce Lindsey's office[326]
9:11 p.m.	Thomases exits White House compound (entry at 2:51 p.m.)[327]
9:23 p.m.	2-minute call from Thomases' cellular phone to Maggie Williams' home residence[328]
11:00 p.m.	1-minute call charged to Thomases' calling card from Thomases' guest house in Washington to Rodham residence[329]

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[326] 65-009.

[327] 211-926.

[328] 387-160.

[329] 387-151.

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July 22

7:43 a.m.	Nussbaum arrives White House compound[330]
7:44 a.m.	7-minute call from Maggie Williams' residence to Rodham residence[331]
7:57 a.m.	3-minute call from Rodham residence to Thomases' guest house in Washington[332]
8:01 a.m.	Page for Nussbaum: "pls call Susan Thomases at 202-659-8787"[333]
8:25 a.m.	4-minute call, charged to Thomases' calling card, from Thomases' guest house in Washington to Rodham residence[334]
9:00 a.m.	message for Maggie Williams at White House from Thomases: "call when you get in the office"[335]

The sequence of telephone calls -- particularly those on the morning of the 22nd -- prompted inquiry by the Senate [redacted] into whether Williams, Hillary Clinton, and Thomases attempted to persuade Nussbaum to keep investigators from viewing materials in Foster's office, and, if so, why.

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330 211-908.

331 55-008.

332 65-010.

333 210-2648.

334 387-151.

335 210-3437.

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1. **July 21: Evening Discussions**

We start with Susan Thomases. She was in the White House on the afternoon of the 21st during the time when Margolis and Adams say they met with Nussbaum and reached an agreement to review the materials in Foster's office on the 22nd. White House records show that she entered the compound at 2:51 p.m. and exited at 9:11 p.m.[336] We are advised by the Secret Service that the records do not necessarily reflect all entries and exits, so it is possible that Thomases exited and reentered the White House between 2:51 p.m. and 9:11 p.m.

Thomases says that she was at the White House on the afternoon and evening of the 21st to visit with friends concerning Foster's death. She talked with the President and "some of the young people" who worked for Mrs. Clinton.[337]

Thomases first testified that she did not know for sure whether she saw Maggie Williams on the 21st; she later said that she did see Williams that day.[339]

Thomases said that she recalled a conversation with Williams on the 21st: "[T]he conversation on the 21st was about emotions,

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[336] 211-984; 211-926.

[337] Thomases Interview, 9/9/94, at 40-43.

[338] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[339] Thomases Interview, 9/9/94, at 43;

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but she did mention in that initial conversation I had with her, as I recollect it, that she had gone into Vince's office and had found -- had seen, not found but seen Patsy Thomasson there, and Patsy was there to look for a note."[340]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

She testified that the possibility of an investigation "just wasn't on my radar screen" on the 21st.[343]

Thomases says she has "no specific recollection" of speaking with Mrs. Clinton on the 21st.[344] In light of the toll record showing a 1-minute call to the Rodham residence at 11:00 p.m., Thomases testified, "I have reason to believe that sometime late in the day before I went to bed, I tried to reach her. I don't know whether I was successful."[345] In a Senate deposition, Thomases was asked whether she could be "certain under oath" that she did not discuss with Mrs. Clinton concerns relating to the

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340 Senate Hearing, 8/8/95, at 111.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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343 Thomases Interview, 9/9/94, at 42.

344 Thomases Deposition, 7/17/95, at 69.

345 Id.

FOIA # none (URTS 16315) DocId: 70105248 Page 110

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

examination of the contents of Foster's office on the 21st. Thomases replied, "I can't swear unequivocally because I don't have any memory about any -- about the fact that I did have a conversation or what the conversation was about."[346]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

346 Id. at 101.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 112

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

350 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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2. July 22: Telephone Traffic

The pattern of telephone traffic on Thursday morning raised questions about whether there was a relationship between the calls and the search of Foster's office. These questions were

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351 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 114

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

352 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

in the Senate, Neuwirth said that Thomases and Mrs. Clinton "may have" been concerned;

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Second, in the Senate, Neuwirth said simply that he understood that Thomases and Mrs. Clinton may have been concerned without specifying where Nussbaum gained the information;

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[redacted] In addition, Neuwirth testified in the Senate that he was "not sure" whether the conversation took place before the search of Foster's office: "I think it may have been, but I'm not positive."[355]

Each of the participants has been questioned extensively about the telephone calls.

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[redacted]

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355 Neuwirth Deposition, 7/10/95, at 111.

356 [redacted]

357 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[redacted]

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In a deposition conducted by the Senate Whitewater Committee, Thomases again said, "I have no recollection of talking to Mrs. Clinton about the contents of Vince Foster's office."[360] In the public hearing on August 8, 1995, Thomases said that she firmly believed that she had no such conversation with Mrs. Clinton:

Mr. Chertoff. Did you talk to Hillary Clinton about the documents in Mr. Foster's office?

Ms. Thomases. I don't remember ever having a conversation with Hillary Clinton during the period after Vince Foster's death about the documents in Vince Foster's office.[361]

* * *

Mr. Chertoff. Is it not correct that you had a conversation with Mrs. Clinton during the period of July 21 to July 22nd in which she expressed

358 [redacted]

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360 Thomases Deposition, 7/17/95, at 83.

361 Senate Hearing, 8/8/95, at 69.

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concerns about the way in which the documents in Mr. Foster's office was being handled?

Ms. Thomases. She never talked about documents in any of the conversations with her that I had during that period.

Mr. Chertoff. Did she talk about the office?

Ms. Thomases. She did not discuss the office.

Mr. Chertoff. And you are absolutely firm that that didn't happen.

Ms. Thomases. I'm absolutely firm that had she discussed documents with me at this time, I would have noticed it. It would have been a memorable thing for her to have mentioned because we were talking about emotions, children, religion, feelings, friendship; and had she brought up documents, it would have been so distinct I believe I would have remembered it.[362]

Thomases consistently has testified that she did have a conversation with Nussbaum on the 22nd in which Nussbaum described the procedure he planned to use for the review of Foster's office. Thomases says that Nussbaum, not she, raised the topic of conversation. She first testified about this conversation in an interview with the OIC on September 9, 1994:

Q Did you have a discussion with [Nussbaum] at any time about what documents or categories of documents were in Vince Foster's office at the time of his death?

A Yes.

Q When did you have that conversation with Bernie Nussbaum?

[362] Id. at 179-80.

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A I don't know specifically but within two days of Vincent's death.

Q And was this conversation on the telephone or in person?

A On the telephone.

Q And can you tell us with as much precision as possible what took place during that conversation?

A Bernie told me that -- he's the one who told me about the investigation. He told me that there was going to be this investigation; that they, you know, were going to come and go through the papers; that he was going to do it, so that he was going to organize the papers so that they would know all the files there.

And then he was going to distribute the files after he told them, each file and category of file; that he was going to give some of the files to Jim Hamilton, Vince's family's personal files, and he was going to give some of the files to -- I don't know that he gave a person -- some of the files with the intention of maybe giving them to Bob Barnett and other files that were files that he was going to retain in his office because it was ongoing business of the counsel's office, and he told me about this scheme and how he was going to handle the search of Vince's office.

Q Did he ask for your advice?

A Not really. I mean, he mostly just talked about what his intention was.

Q Did he call you?

A Yes.

Q Do you know the purpose for his call?

A Bernie and I talked to each other almost every day for a while.

Q Was he looking for a reaction from you, do you know, as to whether this was a good idea? Did you get that sense?

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A That's a little extreme. He was bouncing it off -- he was bouncing it off me, knowing that if I thought it was a terrible idea, I would have screamed, "Bernie, that just is a bad idea."

Q Do you know if this conversation took place before the meeting in Vince Foster's office, when the Park Police and Justice Department and the FBI were present?

A It was before. I know that.

Q Did he tell you during that conversation that he was not going to allow the investigators to see the documents but that he was just generally going to describe the documents to them?

A It was not that -- with specificity, but he implied that he was not going to let them see all the documents, because he was going to give some of them to Jim Hamilton and set some of them aside for Bob Barnett.

Q Did you have any response when he said that?

A No.

Q Did you tell him that that was either a good idea or a bad idea?

A I don't remember.

Q Did he tell you why he was not going to let the investigators see the documents?

A No, not that I recollect.

Q During that conversation, did he express any concern about any specific document or category of documents that were in Vince Foster's office?

A Restate your question, because I want to make sure that I answer it properly.

Q What are you confused about?

A I'm confused about -- I mean, he was very sensitive to the fact that there were certain personal papers that Vince Foster might have had and that those papers properly should go to Lisa and possibly the children,

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and he was sensitive about that. He also was sensitive about the fact that Hillary's attorney should probably have some papers that were Hillary's.

Q Did he mention any of the papers with specificity, other than just discussing a general category of Hillary's personal papers?

A He just talked about a general category of Hillary's personal papers.

Q At any time did he mention the Whitewater documents -

A No.

Q - during this telephone conversation?

A No, there was nothing so specific.

Q Did you speak to Bernie Nussbaum once or more that once on this day that the search took place?

A I don't recollect.

Q Do you recall any -

A And I'm not sure -- you say on the day that the search took place. To this day, to this day I am not absolutely certain of the date on which this search took place.

Q I see.

A I was trying to recreate it. I mean, when we were talking, I was trying to recreate it. I'm not sure I can say with specificity which day the search took place.

Q But you know that you spoke to Bernie Nussbaum before the search took place?

A Yes. I know I talked to him before the search took place.

Q Okay. And do you also know that -

A He talked to me about it as a prospective system that he was going to use.

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Q And you also know that this conversation occurred two days after Vince Foster's death?

A Within two days.[363]

Thomases gave similar testimony in a Senate deposition about a conversation with Bernie Nussbaum before the search of Foster's office on the 22nd:

Q What do you recall about that conversation?

A With respect to documents?

Q With respect to Mr. Foster's office.

A Well, Bernie talked about how he was going to make sure that the privileged documents of the presidency were treated appropriately, that he was going to give all of Vince's personal papers to Lisa's lawyer and to the Foster estate lawyer, and that he was going to have David Kendall come take control of the personal papers of the President and Hillary Clinton.

Q Do you recall anything else?

A Essentially, no.

* * *

Q You described how Mr. Nussbaum had stated to you that he would treat the documents in Mr. Foster's office.

A How he planned to.

Q It's your clear impression that it had not occurred yet, that he was describing a future event?

A Yes.

Q Do you recall whether or not he stated that anyone else would be present in Mr. Foster's office during his review of the contents?

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[363] Thomases Interview, 9/9/94, at 54-59.

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A Well, he said to me that there were some law enforcement people, the Park people would be there and some of the law enforcement people would be there, that Lisa Foster's lawyer was going to be there, that the Clinton's personal lawyer was going to be there and I don't know who else he said.

Q By "the Clintons' personal lawyer," who did you understand Mr. Nussbaum to be referring to?

A David Kendall.[364]

* * *

Q Did you express any view about how Mr. Nussbaum or others should review the contents of Mr. Foster's office, the documents and other things?

A Excuse me, could you just repeat the question?

Q Sure. Referring now to the conversation with Mr. Nussbaum that we've been describing, did you express any view about how the contents of Mr. Foster's office should be reviewed?

A I think that what I -- recollection is that I just said that it sounded like he had thought it through pretty carefully and I wished him good luck.

Q Why did you wish him good luck?

A This is a very stressful event, and it was so close on the heels of it, and they had been working so closely together, that I just felt it would be very emotionally charged for him.

Q Did Mr. Nussbaum state in this telephone conversation whether or not anyone had disagreed with his approach to this?

A He gave no indication that anyone had disagreed with his approach.

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[364] Thomases later corrected her testimony to say that as of July 1993, Bob Barnett of Williams & Connolly represented the Clintons. Kendall assumed the representation later in 1993. Senate Hearing, 8/8/95, at 96.

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Q Did he indicate one way or another whether anyone had disagreed with this approach? For example, did he say this is the way everyone thinks we should do it?

A He gave me no other comments from any other person that I can recollect.

Q Do you recall anything else about this conversation you've been describing with Mr. Nussbaum?

A No.[365]

Thomases again testified about the Nussbaum conversation in the public Senate hearing on August 8, 1995:

Mr. Chertoff. Did you have conversations with Mr. Nussbaum on July 21st or July 22nd, 1993 after Mr. Foster's death?

Ms. Thomases. Yes. I had a conversation with Bernie Nussbaum.

Mr. Chertoff. One? Or more than one?

Ms. Thomases. Only one I specifically recollect.

Mr. Chertoff. Were you trying to reach him that day?

Ms. Thomases. Apparently.

Mr. Chertoff. Did you page him in the morning at around 8:00 o'clock?

Ms. Thomases. There is a record that I paged him. While I do not recollect paging him. I know I wanted to talk to him.

Mr. Chertoff. Where were you at the time?

Ms. Thomases. Where was I?

Mr. Chertoff. Yes.

Ms. Thomases. When I paged him?

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[365] Thomases Deposition, 7/17/95, at 72-79.

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Mr. Chertoff. Yes.

Ms. Thomases. I was at the place that I usually stay when I come to Washington and stay overnight.

Mr. Chertoff. Where were you when you talked to him?

Ms. Thomases. I think I must have been in my office.

Mr. Chertoff. In Washington?

Ms. Thomases. In Washington.

Mr. Chertoff. Did you use a cell phone to talk to him?

Ms. Thomases. I don't believe I used the cell phone.

Mr. Chertoff. You used the regular land-line office phone?

Ms. Thomases. I think I -- I used the land-line office phone.

Mr. Chertoff. Tell us what the conversation was concerning the handling of a review of records in Mr. Foster's office.

Ms. Thomases. I was not looking for Bernie to talk -- Bernie Nussbaum to talk about the review of documents in Vince Foster's office. I was really trying to reach him to talk about how he was feeling and how he was doing. I had known that he and Vince had grown to be very good friends and that it was a very difficult thing for him to have lost his trusted deputy at this particular time. I was really calling to check in with my friend to see how he was doing.

Mr. Chertoff. And what did he say about the documents?

Ms. Thomases. He obviously was very focused on the documents at that time, where I was not, and he proceeded to tell me not to worry, that he had a plan, that he was going to take care of him. He was kind of, as I said in my deposition, he was sort of venting. He seemed to have a very clear sense that he was on top of it; he was going to handle it; he was going to give Vince's documents to Lisa's

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lawyer, and that he was going to give the Clintons' documents to the Clinton's lawyers, and that he was going to protect all the Presidential papers.

Mr. Chertoff. Well what did you say?

Ms. Thomases. I said, sounds good to me.

Mr. Chertoff. That's it?

Ms. Thomases. Essentially. I mean, I told him, I said I felt bad that he was under so much pressure; that I hoped to be able to talk to him when he got back from the funeral. We talked a little bit about why I didn't think that it would be wise for me to go to the funeral and I asked him to convey my condolences to Lisa.

Mr. Chertoff. I want to get back to the documents, though. He brought up the subject of the documents?

Ms. Thomases. Yes, he did.

Mr. Chertoff. Just spontaneously?

Ms. Thomases. Yeah.

Mr. Chertoff. Did you know there were documents that were in the office that were personal to the Clintons?

Ms. Thomases. I think I did.

Mr. Chertoff. And is that what he focused on?

Ms. Thomases. I didn't focus on anything.

Mr. Chertoff. No. Is that what "he" focused on?

Ms. Thomases. No. He was describing that he was going to give Vince's personal papers to Lisa's lawyers and the lawyers for the Foster estate; that he was going to take the Clintons' papers and transfer them to the Clintons' personal lawyer; but that the bulk of the papers were going to be about work in the White House and that he was going to have to reassign them.

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Mr. Chertoff. Did he say he was going to take documents up to the residence?

Ms. Thomases. He did not.

Mr. Chertoff. Now when he brought up the subject of the documents, you have testified you were calling basically just to express personal sympathy; right?

Ms. Thomases. That's right.

Mr. Chertoff. And when he brought up the documents, did you say to him, in substance, Bernie, why don't you just put the documents aside; I don't want to talk about the documents?

Ms. Thomases. That was not the nature of my relationship with Bernie.

Mr. Chertoff. So he got into the subject of the documents and you listened, right?

Ms. Thomases. That's right.

Mr. Chertoff. And did you indicate in any way whatsoever any view about the course that he was preparing to take?

Ms. Thomases. I indicated that it made sense to me. He had clearly thought long and hard about it and he seemed to feel very sure of the course that he was taking. And I was not predisposed to disagree with him. I don't know that -- if I thought he was doing something terrible I might have raised an objection, but it all sounded very well thought out to me.

* * *

Mr. Chertoff. Did you express in any way a view that in any way there should be a limitation placed upon the ability of law enforcement people to look at documents in the office?

Ms. Thomases. No.

Mr. Chertoff. You expressed no such opinion?

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Ms. Thomases. No, I did not.

Mr. Chertoff. Well, we have evidence in the record that Mr. Nussbaum expressed to Mr. Neuwirth that you had the view in substance -- I am not saying it is a quote -- that the police should not have unfettered access to the papers in Mr. Foster's office. Is it your testimony that you never expressed any view like that to Mr. Nussbaum?

Ms. Thomases. Yes, it is.[366]

In light of testimony from Nussbaum that Thomases told him that "people [were] concerned" about the procedure that Nussbaum planned to use for the search of Foster's office, Thomases was asked in her Senate deposition about conversations with people other than Nussbaum about the search:

Q If I'm understanding Mr. Nussbaum's testimony correctly, it was at least his impression that you had heard from someone other than himself concerns about the search. Had you ever discussed the search with anyone or the review of the contents in Mr. Nussbaum's office with anyone prior to discussing it with Mr. Nussbaum, and I said Mr. Nussbaum's office and I meant Mr. Foster's office.

A I have no recollection of discussing a procedure for reviewing the documents in Vince Foster's office. I don't remember discussing it with anyone.

Q Let's not focus generally on the procedure because that may be too limiting in my question. Had you discussed in any way with anyone prior to discussing it with Mr. Nussbaum any concerns at all about the contents or documents in Mr. Foster's office, including without limitation, any concerns about privacy for the Foster family or anything like that?

A I don't really have a sense of that. I think there was a certain -- I don't remember having that discussion.

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[366] Senate Hearing, 8/8/95, at 62-68.

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I really was not talking to a lot of different people, so I don't know -- I don't know whether -- I don't believe that these concerns were really in my head. I mean, I think I was pleased to hear that Bernie was being so sensitive to the privacy of the Foster family, but I don't recall --

Q You don't recall expressing any concerns?

A I don't recall expressing any concerns.

Q And you don't recall anyone expressing any concerns to you?

A No.[367]

At the time of Thomases' Senate deposition and her first public appearance before the Senate in August 1995, the Committee did not have the records showing the 7:57 a.m. call from the Rodham residence to Thomases. In that appearance, Thomases [redacted] testified that she thought she had spoken to Mrs. Clinton on July 22 earlier than 7:12 p.m. (which was the time of a telephone toll record then available to the Committee):

The Chairman. Thereafter [after July 20], when was the next time that you recall having called Mrs. Clinton or having gotten a call from her?

Ms. Thomases. I think I spoke to her briefly on the 22nd.

The Chairman. On the 22nd?

Ms. Thomases. On the 22nd.

The Chairman. Do you have any idea what time that was? Would that be the call of 7:12 or 7:13, the call to the Rodham Arkansas residence? Would that refresh your recollection?

[367] Thomases Deposition, 7/17/95, at 96-97.

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Ms. Thomases. No, I don't think that was the call, Senator. I think I spoke to her earlier in the day that day, but I can't tell you exactly when I spoke to her, and if you want, I can tell you what I recollect speaking to her about.

The Chairman. Yeah, I'd appreciate that.

Ms. Thomases. I spoke to her about, as I had spoke [sic] to Maggie and I was looking for Bruce to talk to him, about the likelihood that I would not end up coming to a funeral, and I think I -- she and I talked about it.

The Chairman. One last question, do you recall any other, subsequent phone calls that you initiated to her or that the First Lady initiated to you after that call on the 22nd?

Ms. Thomases. No, I don't think I spoke to her -

The Chairman. Obviously, I'm talking about that period.

Ms. Thomases. After that call, I really don't think I spoke to her until the following week.[368]

The Senate Committee subsequently obtained the telephone records showing the 7:44 a.m. call from the Williams residence to the Rodham residence and the 7:57 a.m. call from the Rodham residence to Thomases' bed and breakfast in Washington. When asked about those records by the Senate in November 1995, Thomases adhered to her prior testimony that she did not pass along anything to Nussbaum about the standard that he should apply in connection with the Park Police request to review

[368] Senate Hearing, 8/8/95, at 205-06.

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information in Foster' office. She referred the Committee to her earlier testimony on August 8:

> Ms. Thomases. Chairman D'Amato, I originally brought up the fact that Mrs. Clinton had called me the morning of the 22nd in an interchange with you during my testimony. It is on page 205 of my testimony. Because I brought up the fact of that call to you before you got the records from -- I didn't know the exact time, but I brought that fact up when I testified before you in August starting on page 205. I made it clear to you at the time that nothing in that conversation, even though I didn't remember all the details, the tone of that conversation had nothing to do with documents.[369]
>
> * * *
>
> Mr. Chertoff. Are you telling us that your reference to a conversation on the 22nd where you talked to Mrs. Clinton about the likelihood you were not going to come to the funeral, are you telling us that's the call that occurred before 7:00 in the morning Arkansas time when Mrs. Clinton called you?
>
> Ms. Thomases. I said that I think would be [sic] -- because I had made up my mind over the night that I wasn't going to go and that it was likely that I told her in the morning.
>
> Mr. Chertoff. Didn't you testify at the hearings over the summer that you didn't make up your mind until the next day?
>
> Mr. Thomases. No. That was the 22nd.
>
> Mr. Chertoff. Didn't you testify at the hearings that it wasn't until the day of the 22nd that you made up your mind you weren't going to go to the funeral?

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[369] Id. at 42-43.

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Ms. Thomases. I don't remember. I probably discussed the problem with her because I was very sensitive to it.

Mr. Chertoff. Did you discuss it with her in a call that took less than three minutes?

Ms. Thomases. I might have.

Mr. Chertoff. Did you then immediately hang up the phone and pick up the phone to call Bernie Nussbaum?

Ms. Thomases. I know you think there is a relationship between those two calls.

Mr. Chertoff. It is pretty obvious.

Ms. Thomases. I know you think so. I wanted to get in touch with Bernie because I was going into my office and going into a meeting. I hadn't talked to Bernie yet. You have to put it into this context. I don't remember making that call, but I want to put it in a context where I think it was. I had not yet talked to Bernie who was my very close friend. His deputy, Vince Foster, had shot himself. I wanted to know how Bernie was doing because he had been working with Vince day in and day out and he had been feeling very good about how things were going and then his deputy goes out and kills himself. I was worried about my friend Bernie, and I was just about to go into a very, very busy day in my work, and I wanted to make sure that I got to talk to Bernie that day since I had not been lucky enough to speak to him the day before.

* * *

Senator Bennett. If I may, because the time is gone, could you focus in the response on that three-minute conversation and tell us exactly what your memory is of that conversation? Did she, in fact, call you and then you took that three minutes solely to tell her you weren't coming to the funeral?

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Ms. Thomases. No. She called me. I don't remember the details of the conversation. But since I had seen her husband the day before and I have to speculate that she asked me how I found him, what I talked to him about and asked if I were coming with him to the funeral, which was his intent that I fly with them to Little Rock the following day. And it was at that point that I believed that I first raised with her the possibility that I didn't feel well enough to go to Little Rock, and I told her that I would get back to someone before the end of the day and confirm that decision.

Senator Bennett. So I'm absolutely sure, and I apologize, Mr. Chairman, but I thought I heard from your comment you are speculating that that's what the conversation was?

Ms. Thomases. That's exactly what I am saying. I have no recollection of the specifics of the conversation, except that I think, that it was about my decision making process. Because I had -

Senator Bennett. You have no recollection as to why you immediately paged Bernie Nussbaum after the hanging up from that?

Ms. Thomases. No. I think I told you already, I told Mr. Chertoff that I think I reached out to him because I hadn't spoken to him. I was about to leave where I was staying to go to my office, and I knew that I was going to have a long morning of conference calls so that I would not be available to have a conversation with Bernie. And I went to -- I also know that I had an important luncheon meeting that day. I also knew that I had to be back in New York for a 5:30 meeting that afternoon.[370]

[370] Senate Hearing, 11/2/95, at 56-58.

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After the hearing on November 2, 1995, the Senate Committee and the OIC received the telephone record for the 4-minute call at 8:25 a.m. on July 22 from Thomases' bed and breakfast in Washington to the Rodham residence in Little Rock. That record prompted the Committee and the OIC to call Thomases for additional testimony. Thomases again testified that she did not believe she talked to Mrs. Clinton about the search of Foster's office before it occurred:

Mr. Chertoff. Did you have a discussion with the First Lady about that subject [the handling of Vincent Foster's documents, that is to say, the documents that were in Vincent Foster's office at the time of his death]?

Ms. Thomases. I do not ever remember discussing the documents with the First Lady.

Mr. Chertoff. When you say you don't remember, are you unprepared to simply tell us you never had a discussion like that?

Ms. Thomases. I'm saying that at the time proximate to Vince Foster's death I do not believe I had a conversation with Hillary Clinton about any documents.[371]

* * *

Mr. Chertoff. Now, let me take you back even a few days earlier, to the 22nd. We have previously established that you received a call from the First Lady shortly before 8:00 o'clock your time, our time in Washington, on that day, which was the day in which Bernie Nussbaum told the Department of Justice they would not be allowed to look at the documents. That was about a four-minute telephone call. Since your last testimony, we have received

[371] Senate Hearing, 12/18/95, at 45-46.

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additional phone records, which indicated that you put a return call back to the First Lady at approximately 8:25 a.m., after you had made at least an effort to reach Mr. Nussbaum at 8:01. Now, does that refresh your memory about your conversations with the First Lady that morning?

Ms. Thomases. I told you originally that I remember having a conversation with the First Lady. I only remember having one contact with her that morning, and I don't know that -- the record shows that I called her, and I may have called her in response to a call that she put in to me that I did not specifically receive.

Mr. Chertoff. Well, the first call, the one that went in to you, we've established previously was a three or four-minute telephone call, and this was into your hotel. Do you have any doubt in your mind now that you actually talked to her at that period of time?

Ms. Thomases. I don't doubt that I talked to her that morning. But I have a doubt about responding to her call to me. I believe I called her, probably called her back.

Mr. Chertoff. She calls you. You have a three-minute conversation.

Ms. Thomases. She has a three-minute conversation with the hotel. It's not a hotel. It's a bed and breakfast.

Mr. Chertoff. And it's got maybe less than a dozen rooms, would you agree?

Ms. Thomases. Yes.

Mr. Chertoff. And you believe that she spent three minutes on the phone with the hotel clerk?

Ms. Thomases. I don't know who she spent time, or whether she talked to them, or whether it took the hotel clerk that long to find out that I wasn't perhaps available.

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The Chairman. Let me ask you, Mrs. Thomases. Where were you when you called Bernie Nussbaum?

Ms. Thomases. In my room.

The Chairman. Well, one minute after Mrs. Clinton calls your room, one minute after that three minute conversation is called, is recorded, it's recorded that you called Bernie Nussbaum. Are you saying now that you were in your room, you didn't receive the call, the hotel operator did, and exactly a minute later, you reached out and called Mr. Nussbaum?

Ms. Thomases. I'm telling you that I remember one call with Mrs. Clinton.

The Chairman. No, you were going further. You were saying -- you were suggesting to this committee that the telephone call was received by the hotel. You just said just now that you were in your room. You said that you called Mr. Nussbaum. Let me suggest to you that any reasonable interpretation -- any reasonable interpretation, when you look at the records -- 7:55, 7:57 to 8:00 a.m., the Rodham residence, call from the Rodham residence to Susan Thomases' hotel. One minute thereafter, Susan Thomases' call to Bernie Nussbaum on his pager.

Now let me ask you something. If you said that you were in your hotel room, and you called Bernie Nussbaum from there, are you suggesting that the minute before, or three minutes before, that the hotel had received the call, you didn't get the call, but you just -- right after you hung up, or right after someone hung up on Mrs. Clinton -- called Bernie Nussbaum? That's not believable. It's not credible. And for a distinguished person like yourself, an attorney, to come here and suggest it, it even adds more to the increduality of it. It's just not right. You don't want to really say that, do you? Do you want to stick to that?

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Ms. Thomases. Yes.[372]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[372] **Senate Hearing, 12/18/95, at 84-87.**

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 139

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 140

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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b. Bernard Nussbaum

Nussbaum testified that Thomases raised the topic of the search of Foster's office in a conversation they had on or about July 22. Nussbaum said that Thomases told him that other people were concerned about the procedure used to search Foster's office.

The following excerpts of testimony show that Nussbaum has been unclear whether he discussed the search of Foster's office with Thomases before the search, after the search, or at both times. As noted, Thomases testified that Nussbaum told her about the search before it took place. Sloan told the OIC that he recalls Nussbaum speaking with Thomases on the telephone about the search shortly after it concluded.[374]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

373 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

374 Sloan 302, 7/7/94, at 2.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Nuss FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure e deposition:

Q What was the conversation on the 22nd with Susan Thomases?

A The conversation on the 22nd was that she asked me what was going on with respect to -- what was going on with respect to the investigation or the examination -- the examination of Mr. Foster's office. She had heard there were discussions in the White House with respect to this issue, which there were on the 22nd, which you'll get to, I presume. Was everything okay, what was going on, and I said I am having discussions with people.

See, I remember this conversation before the search, but it could have been after the search. That's one of my problems.

But I remember saying Susan, I've been talking to people in the White House, how the search would be conducted. I will determine what the right procedure is or I have determined what the right procedure is and I followed it, depending on if that conversation took place before or after the search. We're going to follow the procedure that I think is right, and that's the way -- that's what I'm going to do, and that's the

375 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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kind -- I think -- what I'm determining is the proper way to act with respect to this matter.

Q How long was the conversation?

A A few minutes, not very long.

Q Did she tell you how she had heard there were discussions concerning the manner in which the review would occur?

A The search would occur.

Q The search would occur.

A No -- she didn't say how. She just said she had heard.

Q And what else did she say in the conversation?

A That's all I remember, that she heard there were discussions or that there were -- she might have even said disagreements, that she'd heard that and what was going on.

Q Did you ask her where she heard that?

A No, I didn't ask her where she heard that. (Pause)

Q Did you feel comfortable talking about this issue with her?

A Yes.

Q Did you feel it was her business?

A Yes. She's a friend. She's a friend of mine. She's a friend of a lot of people in the White House, including the President and the First Lady. She's an advisor. This was a decision that had to be made as to how the search was going to be conducted, and I felt comfortable discussing it with her.

Q Do you know whether anybody had asked her to give advice regarding how the search would be conducted?

A I don't know anybody who gave her advice.

Q Did you hear whether anybody had asked her to give that kind of advice?

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A No.

Q Did she mention the First Lady in the telephone call?

A I don't recall her mentioning the First Lady in the telephone call.

Q Did she say that the First Lady was concerned about giving the law enforcement people unfettered access to the documents?

A No.

Q Did she say that anybody was concerned about giving law enforcement people unfettered access to the documents?

A She said people are concerned about whether I was using the correct procedure or whether the procedure was -- people were concerned or disagreeing, something like that, whether a correct procedure was being followed, whether I was using the correct procedure, whether it was proper to give people access to the office at all, something like that. But I said Susan -- she wasn't in the White House -- at least I didn't know she was in the White House -- I said I'm having discussion with various people. As far as the White House is concerned, I will make a decision as to how this is going to be conducted. It's going to be done the right way. It will balance out the various interests. It's going to be done that way I think it should be done.

Q Did she say people were concerned about giving unfettered access to the law enforcement people to the documents?

Mr. Pedowitz: Those words?

Mr. Chertoff: In substance, that they had that particular concern.

The Witness: No, no. What I remember -- it was not a concern about giving people access to documents. There was a sense of -- this notion of people's privacy shouldn't be invaded, that kind of sense, that people were concerned that any procedure that's followed is done with appropriate regard for people's privacy interest. There was no fear of documents or people looking at any particular

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document, but there was that sense -- but in any event, I would deal with the issue and I told her I would deal with the issue, and I would make a decision as to what to do.

Mr. Chertoff: Who did you understand the people were that she was referring to when she said people were concerned?

A I didn't have any understanding.

Q You had no impression?

A No, I had no impression because she has contact with various people in the White House.

Q Was it your impression that when she made this -- when you had this discussion with her, that the people she was talking about that had expressed some kind of concern were the President or the First Lady?

A She didn't say that the President or the First Lady had that kind of concern.

Q Was it your impression she was referring to the President or the First Lady?

A No, it wasn't my impression that she was referring to the President or the First Lady specifically. It wouldn't surprise me. I mean, Susan talks to a lot of people. She has access to the President and the First Lady. The President and First Lady were removed from this thing. They weren't involved -- I had no discussions with the President or the First Lady about this, and it wouldn't surprise me that the President or the First Lady would have had a discussion with her with respect to this issue.

And indeed, I think the President or the First Lady, who are able people, would also wish a proper procedure to be followed with appropriate protection of institutional -- of the interests that I talked about and the privileges that I talked about and the privacy interest that I talked about. So it's not as if I thought it's impossible she talked to the President or First Lady, she was expressing a concern that people in the White House were expressing on that day, July 22nd.

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Q Wasn't it your impression that when she talked to you about people having a concern, that she was talking about, and conveying to you, that it was the First Lady who had a concern about it?

A No, that was not my specific impression, although it's quite possible that the First Lady did have a concern about it. I don't know. I didn't talk to the First Lady. It was not my specific impression that she was conveying a concern of the First Lady.[376]

* * *

Q In that call you had with Susan Thomases on that day, did you have a similar discussion about whether the law enforcement people should be allowed into the room?

A She just -- as I testified earlier -- I testified to that conversation -- she didn't -- I don't remember her specifically saying that. She might have. I don't know. I just remember her expressing the sort of same kind of thing as McLarty, what are you doing? What's going on? What are you doing and why are you doing it that way? Now, that's what I remember her saying, and I responded to her in the same way I responded, as I just did, to McLarty and ultimately to Quinn and to the others. This is what I'm doing, and this is the reason I'm doing it. I'm trying to balance out different, conflicting interests, and this is the right way to do it, to go in with these people and to do it that way.[377]

* * *

Q And did it surprise you that Susan Thomases would give you the benefit of her views on this issue?

A It would not surprise me, but she really didn't give me the benefit of her views. All she asked me was what's going on? What was I planning to do? What were my reasons? And she didn't suggest I should do anything else, but if she did -- it wouldn't surprise me, to answer your specific question, that she would give me the benefit of any views she had.

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376 Nussbaum Deposition, 7/12/95, at 139-46.

377 Id. at 186-87.

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Q It did not surprise you that she knew about the fact that these issues were being considered?

A No, it would not surprise me. She was in close touch with the White House on a frequent basis and indeed was in the west wing a fair amount of time. If you were in the west wing, you would know what's going on.[378]

When he was shown a record that he was paged to call Susan Thomases at 8:01 a.m. on the July 22, Nussbaum said he was still not positive that he talked to Thomases before the search of Foster's office:

Q . . . Does that refresh your recollection that Susan Thomases was in Washington on the 22nd and tried to have you call her in Washington at 8:01 a.m.?

A No.

Q Does it help you recall whether you called her later that day or whether she called you?

A No, it doesn't. It was often the case that I would be paged by someone and not get back to them for a while, but I don't remember that particular page.

Q Does it help you to remember whether your conversation with Ms. Thomases occurred earlier in the day on the 22nd?

A You see, as I testified earlier, I'm not 100 percent sure whether I talked to her prior to the search of the office on that day or after the search of the office on that day. It sort of leads me to believe, if that's accurate -- and I have no reason to believe it's not accurate -- that I ended up talking to her prior to the search. I just have no memory. I'm not positive.

Q Could it be that you talked to her in the morning of 22nd before you met again with Mr. Margolis and Mr. Adams?

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[378] Nussbaum Deposition, 7/13/95, at 92.

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A It's possible I did. I don't remember when I talked to her. I know I talked to her that day either before or after the search. It could have been before the meeting with Margolis and Adams on that day or after meeting with them on that day.[379]

In a Senate deposition, Nussbaum was confronted with Neuwirth's Senate testimony that he understood from Nussbaum that "Ms. Thomases and the First Lady may have been concerned about anyone having unfettered access to Mr. Foster's office." Nussbaum testified:

> I remember what -- I don't remember what I said to Mr. Neuwirth, if I said anything to Mr. Neuwirth. I don't remember a conversation with Mr. Neuwirth after this conversation that I had with Susan Thomases. I'm telling you that she did not mention in this conversation -- I don't have any memory of Susan Thomases mentioning the First Lady to me in this conversation. I do remember her saying what I said, that people were concerned.
>
> Now, is it possible that I extrapolated after that conversation and said something to Neuwirth along those lines? I guess it's possible that I did that. I'm not saying -- if Neuwirth has testified or says that, I have no memory of that.[380]

In his public testimony, Nussbaum said that he assumed what the First Lady's view would be about the search of Foster's office, but that he did not learn her view from Thomases:

> I talked to a number of people about this issue as to how to search for a suicide note should be conducted. But I did not speak to the President or the First Lady about this matter, nor did Susan Thomases or anyone else convey a message to me from either of them. Susan

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[379] Nussbaum Deposition, 7/12/95, at 155-56 (emphasis added).

[380] Nussbaum Deposition, 7/12/95, at 146.

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Thomases did not discuss the First Lady's view with me, but I should say I assumed from the outset of this tragedy that the First Lady, who's a very good lawyer, like every other good lawyer in or out of the White House, would believe that permitting unfettered access to a lawyer's office is not proper. That was my assumption. It was not the result of any conversation with her.[381]

c. **Maggie Williams**

Maggie Williams has not testified to any conversation with Mrs. Clinton about the search of Foster's office before July 22. In an interview with the OIC on October 28, 1994, however, Williams allowed for the possibility that such a conversation may have occurred:

Q. Did you speak to the First Lady about any issue regarding the search prior to the time that the search took place?

A. I don't remember speaking to her about it, although, like in the aftermath and since people have been discussing it, I may have discussed it with her, but I don't remember. I know that I was on the phone with her, back and forth, for any number of issues. One, she had an event on Thursday at the Children's Hospital. And so, I mean, I can't say specifically if we did, but I can't say specifically that we did not.

Q. Do you recall any discussion with the First Lady about documents that may have been in Vince Foster's office?

A. No. Uh-uh. Uh-uh.

Q. And you don't recall specifically one way or another whether you discussed with the First Lady the process that would or could be followed in the search?

A. Yeah. I don't remember a specific conversation. I'm hesitant to say there was no discussion, because it seems to me everybody was kind of discussing it. So I,

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[381] Senate Hearing, 8/9/95, at 17.

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you know, I don't remember specifically, but I know that I had talked to her back and forth on any number of issues, and we may have. I just don't think of it as uppermost on my mind.[382]

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In a Senate deposition on July 7, 1995, Williams again allowed for the possibility that she might have discussed the subject with Mrs. Clinton:

Q. Did you talk to Mrs. Clinton about the fact that there were investigators who were going to be looking into Mr. Foster's office?

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[382] Williams Interview, 10/28/94, at 6-7.

[383] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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A. No, I don't remember talking to her about it.

Q. On either of the conversations that day?

A. No. Those were -- on Wednesday, those were the main topics I discussed. I don't remember talking -- it was peripheral to me. They were coming; they weren't coming. It was peripheral to me. I mean, you know, at this point looking in his office, all of that stuff was so irrelevant to me. And did I hear it -- I do remember -- I do remember hearing something about privilege, and only because this is a White House that takes on every philosophical discussion, and I mean philosophical discussion.

I mean, you know how has this affected over time, da, da, da, da, that's just how it is. So it was not majorly relevant to me, and I heard it, but it was like peripheral to me. And I'm sure people were discussing it because people were always discussing it.

Q. In your conversations with Mrs. Clinton, did this subject of privilege or the subject of Mr. Foster's office come up on Wednesday, July 21st?

A. I don't remember it coming up. But I don't -- I don't remember it coming up. If it came up, it wouldn't surprise me. But I don't remember it coming up.

Q. So you just don't remember one way or the other?

A. Yeah, I just don't.[384]

After Williams' testimony in July 1995, the Senate Committee obtained telephone records showing the 7:44 a.m. call from the Williams residence to the Rodham residence on July 22. Williams testified that she did not remember whether she made the call, with whom she spoke, or the substance of the conversation:

Sen. Mack. The new records that we have indicated that you placed a call to Mrs. Clinton on -

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[384] Williams Deposition, 7/7/95, at 72-73.

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Ms. Williams. I called the Rodham residence at 7:44 a.m. on the 21st.

Sen. Mack. Which is 6:44 a.m. Arkansas time?

Ms. Williams. Yes.

Senator Mack. Is it kind of common for you to call the residence that early in the morning?

Ms. Williams. Well, when she's not in Arkansas, I do speak to her very early in the morning before she starts her day. She had an event that day at 10:00 so it would not be unusual for me to call early. I don't even know if I spoke to her. In fact, at 7:44 a.m., since it was the Rodham residence, there were other people there so I don't know if I spoke, in fact, to her, but I did call.

Senator Mack. Which is a call at the time of the hearing you did not remember making?

Ms. Williams. No, I didn't remember it.

Senator Mack. . . . Now what we have are two phone calls, one that goes from you to the Rodham residence, and I will say from my perspective, I believe that that was a call that you had with the First Lady, who after your call, then called Ms. Thomases. And when Ms. Thomases hung up the phone one minute later, she paged Bernie Nussbaum. But you don't recall anything about the conversation that you had with the residence that morning? You don't know who it was to, you don't know what it was about?

Ms. Williams. If I was calling the residence, it is likely that I was trying to reach Mrs. Clinton. If it was 6:44 in Arkansas, there's a possibility that she was not up. I don't remember who I talked to, but I don't find it unusual that the Chief of Staff to the First Lady might want to call her early in the morning for a number of reasons. One she had an event that day; two, one of her good friends had just died and I was concerned

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about her. I knew I only had so much time to catch her before she started her day.

Senator Mack. Yeah, but it seems to me -

Ms. Williams. I don't find it unusual -

Senator Mack. It seems to me that was a very unusual situation. It's not something that happens every day, that a dear friend has died. It would seem to me that you would remember that call to the First Lady, at least as to whether you got it or whether you didn't.

Ms. Williams. What I thought were the significant calls, the calls that I remember, I told you about, and actually for the most part, the calls that I remember are pretty much consistent with the phone record. Did I remember every single call? No, I did not. Do I believe that the record is accurate in reflecting other calls that I made? I do. But I would challenge each of you to remember every single call you make every single day.

Senator Mack. I think that's a valid point, I mean I really do. But let me suggest, the difference about what is going on here is that -- this is not me saying to you off the top of my head, what about some phone calls July 22. You have spent, I would assume, a considerable amount of time on going though records to determine in fact what calls were made and what calls weren't made, so this is --

Ms. Williams. Well, the amount of time that I spent, I got the records at the same time that you got the records of my personal phone calls. The record, as I said, is fairly consistent with most of all the calls I made, save two or three that the record adds to. I don't dispute for a moment that I made those calls.

Senator Mack. But you don't remember anything about that phone call?

Ms. Williams. No, I don't. I make quite a few phone calls during the day, and I talk to the First Lady

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quite a bit. I don't remember every phone call I have with her.[385]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[385] Senate Hearing, 11/2/95, at 19-23.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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d. Hillary Rodham Clinton

Mrs. Clinton has testified that she does not recall discussing the search of Foster's office with Thomases or Williams on the morning of the 22nd. The interview of Mrs. Clinton by Mr. Fiske addressed the subject without reference to telephone records:

> Q. Did you ever express any concern to anyone about the Park Police having direct access to documents in Mr. Foster's office?
>
> A. You know, I don't remember what I expressed concern about, but I'm sure I expressed a lot of concerns to a lot of people about what was to me an overwhelmingly awful experience. And I don't remember what I said about anything. But I don't remember saying anything about the Park Police to anybody that I remember now.
>
> Q. But the specific question was whether you ever expressed any concern about the Park Police seeing the documents that were in Mr. Foster's office.
>
> A. No, not that I remember, no.[387]

On July 22, 1995, Mrs. Clinton was questioned regarding records from the morning of July 22, 1993, which showed the 7:44 a.m. call from Williams' home to the Rodham residence, the 7:57 a.m. call from the Rodham residence to Thomases' bed and breakfast, and the 8:01 a.m. page from Thomases to Nussbaum:

> Q The phone records also show that there was a 7-minute conversation with Maggie Williams the following morning on July 22nd, early in the morning, at 7:44 a.m., eastern time. Do you know what that was about?
>
> A I do not recall.

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[387] H. Clinton Interview, 6/12/94, at 21-22.

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Q Do you recall that conversation at all?

A I do not recall the conversation.

Q And how about a phone conversation on that morning also? It would have been at 7:57 eastern time, 6:57 in Little Rock, or in Arkansas. The phone records show a conversation with Susan Thomases at her phone number in Washington. She was in Washington on that occasion. This was on the morning of July 22nd. And the record also shows that three minutes after the conclusion of that phone conversation, Ms. Thomases paged Bernie Nussbaum. Do you know what that conversation with Ms. Thomases was about?

A I do not recall.

Q Do you remember talking to Ms. Thomases on the morning of July 22nd?

A You know. I've tried to think who I talked with and when I talked to people, because I know that that's of some interest. But I just don't recall who I talked with. I don't think I slept for many nights. And I just don't recall. I was very, very upset and very distraught, and I don't recall who I talked with or what I talked about.

Q Does my focusing on either of these conversations, the one with Ms. Williams and the one with Ms. Thomases on the morning of the 22nd of July, change in any way your answer to the general question I asked you earlier about discussing documents in Mr. Foster's office with anyone?

A I don't recall any such conversations.

Q And do you recall any conversations with Ms. Williams or Ms. Thomases, prior to it occurring, about the July 22nd search and the procedures for that search of Mr. Foster's office?

A I don't have any recollection of that.[388]

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[388] H. Clinton Interview, 7/22/95, at 26-28.

FOIA # none (URTS 16315) DocId: 70105248 Page 159

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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B. More Discussions at the White House

Nussbaum says that on the morning of the 22nd, he discussed the upcoming search of Foster's office with Neuwirth, Burton, McLarty, Quinn, and Lindsey.[390] Nussbaum's testimony is not clear about when or how many times he spoke with these people about the search procedure. Some witnesses testified about a meeting among Nussbaum, Burton, Quinn, Neuwirth, and Lindsey in the late morning. There is testimony that discussions among these people took place in the late morning or early afternoon on the 22nd. There is no testimony that Nussbaum spoke about the search of Foster's office with anyone at the White House before 10 a.m., when Margolis and Adams arrived at the White House. There are some conversations between Nussbaum and others, however, for which the evidence does not establish a time.

Nussbaum testified that Burton, in particular, raised questions about the procedure that Nussbaum proposed. Nussbaum also said that Quinn "thought it was a mistake for me to let any law enforcement people go into Foster's office."[391] Nussbaum says, however, that he was going to make the decision, and "I told them we're going to do it my way."[392]

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[390] Nussbaum 302, 5/13/94 at 10; [redacted]

[391] Nussbaum Deposition, 7/12/95, at 179-83.

[392] Id. at 183.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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Neuwirth, Burton, McLarty, Quinn, and Lindsey all have said that they had some involvement in discussions about Foster's office.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Burton testified in a Senate deposition that on the morning of the 22nd, he discussed with Nussbaum the procedure for searching Foster's office. According to Burton, "[t]he discussion was about how the search would be conducted and how the White House would assert and protect the various privileges that might be unveiled by such a process."[394] Burton testified that "at some point during the morning," he had a conversation with McLarty, and that "Jack Quinn of the Vice President's staff was also brought in at some point to offer his input."[395] Burton said he was "fairly confident" that Neuwirth and Sloan

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[393] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[394] Burton Deposition, 7/5/95, at 81.

[395] Id. at 82.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

also were involved in discussions about the search.[396] In response to the question when these discussions took place, Burton said, "Morning, approaching the noon hour and possibly going into the early afternoon."[397]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

A telephone message slip from McLarty to Burton on July 22 at 9:45 a.m. says, "talk to him re: Jack Quinn (they met)."[401]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

396 Id.

397 Id.

398 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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401 442F-661.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Although Nussbaum did not list Maggie Williams as a participant in these discussions, she told Mr. Fiske's office that she may have attended a meeting where a conversation took place between McLarty and Nussbaum about the search of Foster's office.[406] Williams later testified that "I don't remember a specific conversation, but I have a feeling that either I was standing around in the conversation or sitting around in a

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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406 Williams 302, 5/25/94, at 6.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

conversation about it, but I remember executive privilege as being part of that discussion."[407]

A report of interview of Nussbaum from July 1994 says that Nussbaum "speculated that perhaps Bill Burton had spoken with [Mrs. Clinton]."[408]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

C. Who was Susan Thomases Calling?

Telephone records show that on the morning of the 22nd, while Nussbaum likely was discussing the search of Foster's office with others at the White House, several calls were placed

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407 Williams Interview, 10/28/94, at 5.

408 Nussbaum 302, 7/8/94, at 5.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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from Thomases' telephone and her secretary's phone to the White House. Those calls are as follows:

10:48 a.m.	3-minute call from Thomases' secretary's extension at Willkie Farr in Washington to Chief of Staff's office. (456-6797)[411]
11:04 a.m.	6-minute call from Thomases' extension at Willkie Farr to First Lady's office. (456-6266)
11:11 a.m.	3-minute call from Thomases' extension at Willkie Farr to Chief of Staff's office. (456-6797)
11:16 a.m.	1-minute call from Thomases' extension at Willkie Farr to Chief of Staff's office. (456-6797)
11:37 a.m.	11-minute call from Thomases' extension at Willkie Farr to First Lady's office. (456-6266)
11:50 a.m.	4-minute call from Thomases' extension at Willkie Farr to First Lady's office. (456-6266)[412]

Thomases testified that none of these calls related to the search of Foster's office. She testified that in the calls to the Chief of Staff's office, she intended to reach McLarty, but was unsuccessful.[413] She explained that "I was reaching out for Mack and I was anxious to speak to him because he had a very special relationship with Vince, and I wanted to talk to him.

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[411] 303-004.

[412] 303-011.

[413] Senate Hearing, 8/8/95, at 113, 201; Senate Hearing 11/2/95, at 88, 95, 103, 127-28.

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And unfortunately I do not believe that I was able, nor can I remember, that I was able to reach him that day.[414] Thomases testified that she had "no idea" that Nussbaum was meeting with others in McLarty's office about the search of Foster's office, and "I did not call to interrupt or reach anybody in a meeting that I didn't even know existed."[415]

She testified that she does not recall who she was trying to reach at the First Lady's office or who she spoke with during the calls. She said that the telephone number 456-6266 is a central number that she used to reach a variety of persons at the White House complex, particularly in the First Lady's office.[416] Thomases testified that if she were trying to reach Maggie Williams, she usually would call a direct line assigned to Williams rather than the general number for the First Lady's office.[417]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[414] Senate Hearing, 11/2/95, at 95.

[415] Senate Hearing, 8/8/95, at 107.

[416] Senate Hearing, 11/2/95, at 128.

[417] Id. at 90, 128.

[418] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 168

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

When pressed for a specific answer as to whom she spoke with after calling the First Lady's office on July 22, Thomases said that she could not remember:

> Ms. Thomases. With respect to Maggie, I do remember having two substantial conversations with Maggie on the 21st and the 22nd, but I also -- but I used to call her, or usually called her on her direct line. The 6266 is not her direct line. I might have been trying to reach some of the other people, whether successfully or unsuccessfully, at that 6266 -- through that 6266 number.[420]
>
> * * *
>
> Ms. Thomases. I can imagine myself talking to Maggie at length. Maggie was very upset by Vince's death, and I thought of her often on the 22nd. I could have called and talked to her. I could have called and talked to Evelyn [Lieberman] to find out how she was doing. Any of those things could have caused me to call that 6266 number. But I wasn't calling Maggie Williams about any papers.[421]
>
> * * *
>
> Ms. Thomases. I testified before that I talked to Maggie Williams's office, and I said at that time while I remember talking to Maggie, while I thought I remembered talking to Maggie that day, I didn't necessarily talk to her because usually

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[419] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[420] Senate Hearing, 8/8/95, at 102.

[421] Id. at 108.

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I don't call Maggie at that number. That is the First Lady's central number, and when I used to call Maggie, I would call her on her direct line. It is not her direct line.

Senator Bennett. So you think this six-minute conversation was with a member of her staff?

Ms. Thomases. Yes, or I may have asked them to transfer me to someone else in that office.[422]

* * *

Ms. Thomases. I had a very tight schedule that day, and I had approximately, and I say approximately, an hour to make the calls I wanted to make in between meetings. I had meetings in the morning and I had a luncheon meeting that I had to go to. And then I had to fly directly back to New York so that I could be there for a late afternoon meeting. So if I made a lot of calls in that hour, it was because that was the hour I had to make calls. And I can't tell you exactly who I reached. I was just trying to touch base with all of the people who worked for the First Lady who I had known, some of whom -

Chairman D'Amato. I ask who all the people are, and when that was done at the previous hearing, you weren't able to tell us.

Ms. Thomases. Well, some of whom I subsequently learned were not in Washington that day and I probably learned that on that day. That doesn't mean I didn't try to reach them.[423]

* * *

Sen. Kerry. Do you recall the purpose of the use of that time? Do you know what you were setting out to do at that point in time when you said

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[422] Senate Hearing, 11/2/95, at 90.

[423] Id. at 98.

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I've got try to fit these calls into that period? Do you know what was on your mind then?

Ms. Thomases. These were people who I felt I wanted to touch base with before I went back to New York, and it was the only block of time I had to do that. And they were people who I had not spoken to since they had learned that Vince Foster had died, who I thought wanted to know how they were doing.

Sen. Kerry. So this was a series of different people?

Ms. Thomases. Yes.

Sen. Kerry. You remember that specifically?

Ms. Thomases. No, I don't remember that specifically. I just know what my style is in terms of reaching out, and most of them, I am sure, were the various younger people who worked with us in Little Rock, who I wanted to make sure that they were okay.

Sen. Kerry. Well, were these younger people working in the Chief of Staff's office and the First Lady's office?

Ms. Thomases. No, many of them were working, if not directly in the First Lady's office, in that area there, in the Old Executive Office Building, where the easiest way to reach them has often been by calling the First Lady's office and getting your call transferred.

Sen. Kerry. So those calls would have been the calls to the First Lady's office, that's the number used, the generic number; correct, to the First Lady's office?

Ms. Thomases. Yes. That is sort of the kind of central number of the First Lady's office. That office is not where the First Lady sits.

Sen. Kerry. Those were the calls then you're saying that took place for six minutes at 11:04 and for - excuse me, for 11 minutes at 11:47 and four minutes at 11:50; is that correct?

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Ms. Thomases. I said I have no specific recollection of who I spoke to. I could have spoken to some of the young people and I also could have been on hold. I just know that that was the time I spent making calls before I had to go to a lunch meeting.

Sen. Kerry. And you have no memory at all of who you might have spoken to for 11 minutes that morning?

Ms. Thomases. No, I don't.

Sen. Kerry. Now, within the span of, I guess, about 12 minutes you had another four-minute call. You have no memory of what prompted you to call back 12 minutes later?

Ms. Thomases. No. As I said, I don't know that I was calling to speak to anyone. I wasn't calling necessarily to speak to any particular person. I may have called back in attempt to reach some other person, because, as I said, that was a convenient number to use. And I'm not saying that I didn't speak to Maggie Williams. I could have spoken to her, but I have -- my first recollection is that I had a conversation with her, I -

Sen. Kerry. I think your testimony was previously that you believe you did speak to her.

Ms. Thomases. Yeah, but I think that the conversation that I thought I had with her may in fact have taken place, you know, at 1:00 in the morning and not, you know, at some other time. But I don't know exactly when I spoke to her on the 22nd, although I do remember having a conversation with her that day.[424]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[424] Id. at 102-03.

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Maggie Williams testified before the Senate Committee that she remembered only one conversation with Thomases on the 22nd -- an instance where Thomases came by her office and discussed whether Foster's family would receive insurance money in the case of a suicide.[427] In a colloquy with Senator Mack, she resisted the notion that the series of telephone calls from Thomases to the First Lady's office on the morning of the 22nd were part of "something sinister":

> Ms. Williams. First of all, as I look at Mrs. Thomases's record, I see that she's called 456-6266, which is the First Lady's office, which is the general office number. Do you have -- because I have not seen them; we turned over everything that I had -- do you have message slips for each of these calls asking for me? Or are we simply going by the Susan Thomases records? My direct number -- if Susan -- excuse me. Pardon me. Could I continue? Excuse me.
>
> If Susan Thomases wanted to call me on any -- and reach me, and I'm just going to look through here. I do see that she called 456-7194, which is my direct line, which is also Evelyn Lieberman's phone and also additionally on another phone in my office

426 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

427 Senate Hearing, 7/26/95, at 185-87.

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which is my direct line, so if she wanted to reach me, that would be the most direct way to do it. . . .

So while, you know, I submit to you that the call 7194, which is my direct line, either I picked it up or Evelyn picked it up; I'll bite. I picked it up if it was 7194 and I was at my desk. But unless you can show me the message pads that say 6266 and have my name on every one of them or if these were just tries or other people in the office that she might know that she was trying to talk to -- I mean, it is very possible in looking for me, Susan talked to everybody in that entire office.

And while I cannot speak to how her calls to Mack McLarty or Bernie Nussbaum fit in, I would encourage you not to be so certain that there is something sinister going on here. I would encourage you. You don't believe it; you weren't there. I'm sorry you don't believe it. It would make life a lot easier if you did, but everything that happened was not some big plot. As I look back on it, now I wish there really was, because then it would be worth being here, but his is -- I mean these calls, this list, does not -- I mean does not suggest to me what it apparently suggests to you.

Sen. Mack. Ms. Williams, let me tell you why there is the focus on this. It's because you have told us that there was no contact with Susan Thomases, other than that meeting.

Ms. Williams. That is not what I told you. I said to my recollection, what I remember, that is what -- what I said in my deposition and today, the only thing I remember was Susan Thomases coming to my office, and I believe that your counsel asked me that question three or four times, and each time I said what I remember.

Now, if Susan called me, if I talked to her that day -- do I say it is impossible? Do I say it is unlikely, given that Susan and I speak on the phone a lot, even prior to this

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thing? Well, it's possible, but I am saying that I am still not convinced that there is a plot going on here simply because you have all these calls to me from her, and also the fact that I don't even know if these calls were even directed toward me.[428]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[428] Senate Hearing, 7/26/95, at 233-34.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Evelyn Lieberman, mentioned by Thomases as a possible recipient of calls to 456-6266, was asked whether she had any

429 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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conversations with Thomases on the 22nd. She answered, "I don't remember. I wouldn't remember."[430] Lieberman testified that she did not recall Thomases reaching her in the First Lady's office that day, but she hypothesized that she and Thomases "could have had phone conversations, and [Thomases] could have had phone conversations with other people in the office."[431] Lieberman said that Thomases had regular contact with three or four people in the First Lady's office: Williams, Lieberman, Melanne Verveer, and Lisa Caputo.[432]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

VI. The Search

After his discussions with others at the White House, Nussbaum implemented his decision to conduct the search of Foster's office in the presence of investigators and Justice Department lawyers, but without showing each document to the others in the office. Neither Nussbaum nor Margolis called back

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[430] Senate Hearing, 7/26/95, at 187.

[431] Id. at 250-51.

[432] Id. at 254-55.

[433] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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Heymann. Margolis and Adams decided to stay for the search. The search began at approximately 1:15 p.m.[434]

According to Secret Service logs, the following persons were present in Foster's office during the search: Nussbaum, Neuwirth, Sloan, Burton, Spafford, Margolis, Adams, Hume, Markland, Salter, Condon, Imbordino, and Flynn.[435] During the review of Foster's office, Nussbaum sat behind Foster's desk and reviewed the files. Neuwirth, Sloan, and Burton stood behind Nussbaum. The investigators, Justice Department lawyers, and Spafford, an attorney for the Foster family, were located elsewhere in the room, facing the desk.[436]

Nussbaum described generally the files for the investigators. The descriptions were neither precise nor complete. He then made three groups or "piles" of files. According to Nussbaum, Neuwirth, and Sloan, the three groups were these: (1) files that investigators wanted to see; (2) documents that were personal papers of Foster, which Nussbaum intended to turn over to Spafford; and (3) "miscellaneous documents" that Nussbaum placed in another pile or left in the file cabinets.[437]

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[434] 211-150; 211-151.

[435] Flynn 302, 4/5/94, at 4; 211-151.

[436] Flynn 302, 4/5/94, at 4.

[437] For a description of the search process,

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Senate Hearing (Adams), 7/27/95, at 103; Senate Hearing (Margolis), 8/10/95, at 190-91, 194-95.

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Margolis and Adams remember a fourth pile: Clinton family documents.[438]

Margolis testified that he agreed with Nussbaum that the Foster personal papers should go to Spafford. He says that he suggested to Nussbaum that he keep the official files and the Clintons' personal files segregated temporarily to answer questions. Margolis said Nussbaum replied that he would think about it, but that he probably would not keep custody of the personal files.[439] The search concluded at approximately 2:49 p.m., at which time the Secret Service discontinued security on the door to Foster's office.[440] Flynn left the keys to the office with Nussbaum.[441]

Heymann testified that when he learned about how the search of Foster's office had been conducted, he was furious. He said that he called Nussbaum on the evening of the 22nd and complained. Heymann said that he asked, "Bernie, are you hiding something? Is there some terrible secret here that you're hiding?" Heymann testified that Nussbaum replied, "No, there's nothing like that. I give you my word on that, Phil. There's

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[438] Margolis 302, 6/8/94, at 3; [redacted] Senate Hearing, 8/10/95, at 194-95.

[439] Senate Hearing, 8/10/95, at 190-98.

[440] 211-150; 211-151.

[441] Flynn 302, 4/5/94, at 4.

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nothing like that."[442] Nussbaum testified that he does not recall this conversation.[443]

VII. Handling of Foster's Documents After Search

A. Overview

No one created a complete index of the documents that were in Foster's office at the time of the search on July 22.[444] During the search, Sloan and Spafford took handwritten notes, and Markland wrote a couple of minor notations in his notebook.[445] These notes include some information about the materials and documents in the office, but they are not complete indices of the documents.

Nussbaum did not preserve or copy the documents that were in the office on July 22. Rather, as best can be reconstructed from the evidence known to the OIC (assuming truthful testimony), documents from Foster's office were handled in one of five ways in the hours and days after the search.

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[442] Heymann Deposition, 7/21/95, at 92.

[443] Nussbaum Deposition, 7/13/95, at 473.

[444] Deborah Gorham, Foster's secretary, stated that she maintained indices of subject matter files kept in the outer office of the Counsel's suite. She also maintained an index (which she did not update as regularly) of some, but not all, of the files in Foster's office. (That index was used after Foster's death by Tom Castleton when he created his index. Castleton 302, 6/9/94, at 2.) Gorham also stated that she kept a duplicate index in the drawers in Foster's office, but she did not see those duplicates after Foster's death. Gorham 302, 3/17/95, at 3-11.

[445] 33-1225; 296-014; 105-265.

FOIA # none (URTS 16315) DocId: 70105248 Page 183

First, Associate Counsel Cliff Sloan took possession of all documents, such as phone messages, that investigators said during the search they wanted to review.[446] Those documents were reviewed by the Park Police on July 30.[447]

Second, [redacted].[448]

Third, many of Foster's White House work files remained in the office. On Monday, July 26, Steve Neuwirth indexed the files that were in Foster's office.[449] This Neuwirth index lists files, but not the documents in the files.[450] These files remained in the office until November 1993, when they were boxed and moved to the Old Executive Office Building by Thomas Castleton.[451]

Fourth, [redacted] Spafford, at the conclusion of the July 22 search, a stack of Foster personal documents was placed into a box,[452] and Spafford took the box

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446 [redacted] Sloan 302, 5/11/94, at 12.

447 105-203.

448 [redacted]

449 See, e.g., Nussbaum Deposition, 7/12/95, at 232-33, 275.

450 33-13.

451 [redacted] Castleton Deposition, 6/27/95, at 153-54.

452 [redacted] Spafford 302, 5/24/94, at 3; [redacted].

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

from the White House when he left that day.[453] Spafford created an index of the files he took on July 22 from Foster's office.[454] According to Spafford and a letter produced to the OIC, Spafford's law firm, Swidler & Berlin, received on July 26 a second box of personal items that had been in Foster's office.[455] (On July 27, Spafford returned to Nussbaum a file entitled "Clinton Memos" along with a cover letter saying that the file was "placed inadvertently in a box of personal items that I removed from Mr. Foster's office at your request last week."[456])

Fifth, Clinton personal documents were taken to the White House residence on July 22 and later taken to Williams & Connolly on July 27.[457] An index of those documents was prepared by Williams & Connolly after July 27.[458] According to Barnett, the index is complete, and after the documents came to Williams &

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[453] Spafford 302, 5/24/94, at 3; Spafford Deposition, 7/11/95, at 107.

[454] 296-007.

[455] Spafford 302, 5/24/94, at 3; 210-2618.

[456] AK-002.

[457] One of the files that was in the box is entitled "Whitewater Development." None of the other files that was in the box refers or relates to Madison Guaranty Savings & Loan.

[458] 325-21.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Connolly, no documents were destroyed, removed, or returned to the White House before or after the completion of the index.[459]

In short, three indices of Foster's office files were prepared shortly after his death. The indices do not reflect all files that were in Foster's office at the time of his death -- for example, the travel office file is not listed on any of the indices. Moreover, the Neuwirth index does not list each document; it merely lists files.

The White House's failure to catalogue, preserve, or copy Foster's documents, combined with the manner in which the documents were distributed after the July 22 search, has made it difficult, if not impossible, to establish what documents were or were not in Foster's office during the July 22 search, or at the time the office was sealed on July 21 -- much less at the time of Foster's death on July 20.[460] That uncertainty has raised questions about the manner in which the documents were handled in the hours and days following the search. The most serious questions concern the handling of the Clinton personal documents that were stored in the White House residence for five days before they were taken to Williams & Connolly.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[459] Barnett 302, 5/6/94, at 1-2;

[460] Because the office was not sealed on the night of the 20th and people entered the office that night, it was impossible even as of July 21, 1993, to create a definitive index of documents that were in Foster's office at the time of his death.

FOIA # none (URTS 16315) DocId: 70105248 Page 186

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

B. Collecting Clinton Personal Documents

After the conclusion of the search on the 22nd, Maggie Williams came to Foster's office to collect what she and Nussbaum identified as personal files of the Clintons. With the assistance of Tom Castleton, an intern in the Counsel's suite, Williams brought these files to the third floor of the residence and placed them in a closet in an office used by Mrs. Clinton. Secretaries Gorham and Tripp have testified that they remember this occurrence.

The search concluded at about 2:49 p.m.[461] The penultimate entry in Sloan's notes from the search says "get Maggie -- go thru office -- get HRC, WJC stuff."[462] Sloan said that he has no personal knowledge whether Williams was contacted or retrieved documents from the office.[463]

At 3:05 p.m., Williams received a telephone message from Burton asking her to "please call" telephone number 456-6797, the Chief of Staff's office.[464] Burton, who was present at the search of Foster's office, testified that he does not remember

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[461] 211-150; 211-151.

[462] 33-1239.

[463] Senate Hearing, 7/26/95, at 86.

[464] 210-3428.

FOIA # none (URTS 16315) DocId: 70105248 Page 187

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

why he called Williams.[465] Williams testified that she does not recall receiving a message from Burton at that time.[466]

Sloan told Mr. Fiske's office in July 1994 that he remembered a telephone conversation between Nussbaum and Thomases after the completion of the search. According to the report of interview, Sloan said that at one point while Sloan and Nussbaum were in Foster's office, Nussbaum was on the telephone with Thomases relating the procedure that had been followed during the search of the office.[467]

At 3:08 p.m., there was a ten-minute call from Thomases' cellular telephone to the central number for the First Lady's Office (456-6266).

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

At 3:25 p.m., Williams received a message from Neuwirth asking her to call him at extension 2632, which is the number for the Counsel's suite.[470] Williams testified that she does not

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[465] Senate Hearing, 12/13/95, at 76.

[466] Senate Hearing, 7/26/95, at 165-66.

[467] Sloan 302, 7/7/94, at 2.

[468]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[469]

[470] 210-3427

FOIA # none (URTS 16315) DocId: 70105248 Page 188

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

remember talking to Neuwirth that afternoon.[471] Neuwirth testified that he does not have a recollection of calling Williams that afternoon, but said that Williams was "one of the people I spoke to a lot."[472] When asked whether it is possible that he called Williams that afternoon about documents in Foster's office, Neuwirth said, "I really don't think so."[473]

Williams testified that in the afternoon, she received a call from Nussbaum about the personal files of the Clintons that were in Foster's office:

> Q. Can you tell us approximately when on July 22nd, Thursday, that took place and what Bernie Nussbaum asked you to do?
>
> A. I was in my office, the Old Executive Office Building, and I got a call from Bernie saying that he was dispersing the files in Vince's office to lawyers. He was dividing up Vince's work or something, and that he had personal files and he wanted me to get them to Bob Barnett, the personal lawyer at Williams and Connolly.
>
> Q. Do you recall approximately what time that was that he called you?
>
> A. I want to say that it was late afternoon, 3:00 or 4:00. It seems that it was late afternoon.[474]

Williams testified that after Nussbaum called her at the OEOB, but before she went to the West Wing to collect the Clinton personal files, she told Barnett that she would have some files

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[471] Williams Deposition, 7/7/95, at 111.

[472] Neuwirth Deposition, 7/10/95, at 159.

[473] Id.

[474] Williams Interview, 10/24/94, at 9-10.

FOIA # none (URTS 16315) DocId: 70105248 Page 189

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

for Williams & Connolly to pick up that day.[475] At that time, Williams says, she had a sense that Barnett already knew the files would be coming, because he did not question her about the files.[476]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[475] [redacted] Senate Hearing, 7/26/95, at 180.

[476] Williams Interview, 10/24/94, at 22.

FOIA # none (URTS 16315) DocId: 70105248 Page 190

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 191

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Williams says that Nussbaum told her that she should arrange for the Clinton personal files to be sent to Barnett. Nussbaum, on the other hand, testified that he told Williams to check with the Clintons to see what they wanted to do with the personal files (although Nussbaum claims that he was "99 percent sure" that the Clintons would want the files to go to Barnett).[479]

Telephone records show a 10-minute call at 5:13 p.m. on July 22 from Thomases' law office in New York to the central number at the First Lady's office.[480] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[478] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[479] Nussbaum Deposition, 7/12/95, at 260.

[480] 387-002.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 193

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

481 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

C. The Clinton Personal Files Go to the Residence

Williams testified that after the Clinton personal files were identified in Foster's office, they were placed in a box. She said she cannot recall where the box came from or who put the files in the box. As noted, Williams says that she called Barnett at Williams & Connolly after Nussbaum notified her of the documents. Williams testified that after she gathered the documents in Foster's office with Nussbaum, she decided not to send the files to Williams and Connolly on the 22nd:

> Vince's funeral was the following day, the Friday, I guess, and I was going to have to -- I was deciding whether or not to go to Vince's funeral. I didn't know if I could deal or take it. But I kind of in my mind made up that I was going to take it.
>
> I also was kind of worn out by the day, and a couple of calls, and I thought, it's getting to be around 5 o'clock or so. I haven't called Williams and Connolly to say, "Come pick it up," but at the point that I call them to say pick it up, it'll be another 10 or 15 minutes before they come, and I just really want to go home.
>
> So I called Williams and Connolly. Either I talked to Bob or I talked to Sylvia, his person. I don't remember which. . . . And I said, "It's getting late. I have these files, you know. I'm

482 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 195

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

just going to put them up here. Don't come and get them. I'll send them -- I'll call you to come and get them later."[483]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[483] **Williams Interview 10/28/94, at 20-21.**

[484] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 196

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Barnett produced to the OIC his telephone logs for July 20 to 27, 1993.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

485 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

486 Barnett's telephone logs show that he had two contacts with Williams on July 21 (the day before the search of Foster's office). 325-150, 151, 153. In addition, Williams' message slips show that Barnett attempted to reach her by telephone at 8:18 a.m. and 9:05 a.m. on July 21. 210-3451; 210-3450.

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In addition, notes taken by an attorney at the White House Counsel's office of an interview with Barnett in the summer of 1994 state: "no incoming messages > [after] 3:30 on 7/22."[487]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to a report of interview, Barnett told the OIC that on the 21st he had general conversations with Williams about the death of Foster and about Barnett assuming the Clintons' personal legal work. Barnett 302, 12/12/95, at 5. Williams testified that on the 21st, she did not speak to Barnett about documents in Foster's office. Williams Deposition, 7/7/95, at 75, 81.

[487] 543-229.

FOIA # none (URTS 16315) DocId: 70105248 Page 198

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In light of Williams' testimony that she may have talked to Barnett's secretary, Sylvia Faison, about the documents from Foster's office,

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Williams testified that after she talked to Barnett's office for the second time on the 22nd, "I pretty much decided I was going to take them over the residence. So then I thought I should call Hillary and find out where she would like them put in the residence."[490] Williams explained that because the files

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488 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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490 Williams Interview, 10/24/94, at 22.

FOIA # none (URTS 16315) DocId: 70105248 Page 199

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

were personal and Nussbaum was moving the files out of Foster's office, she thought they should go to the residence.[491]

Williams gave this explanation for why she called Mrs. Clinton:

> Well, because, one I knew the President was going to be going to the funeral the next day, right. So there would be no one really kind of in the house, so, you know, I didn't know if I should just bring them up and put them in their small kitchen. Sometimes they leave things out in the dining area.
>
> I mean, so -- and once again, in my head, I'm thinking personal files, I'm thinking their tax stuff, their -- you know, it's not just the kind of stuff like you would leave on the coffee table. So I said, you know, my mind was, "I'm going to take these to the residence, let me call Hillary and ask her where."[492]

In her interview with the OIC, Williams gave this summary of her telephone call with Mrs. Clinton:

> A Well, it was pretty quick. For some reason I just remember it being pretty quick and me saying something like, "I'm not going to get these over to Williams and Connolly" or "I have the personal files. Bernie gave me the personal files and I was supposed to get them over to Barnett. I'm probably not going to do that today. I'm going to take them to the residence. Where do you want them?" You know.
>
> Q And what did she say?
>
> A She said, "I think Carolyn has a closet up on the third floor that you could use to store them. You should call Carolyn."[493]

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[491] Id. at 22-23.

[492] Id. at 24-25.

[493] Id. at 25.

FOIA # none (URTS 16315) DocId: 70105248 Page 200

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Williams said she then called Carolyn Huber, and Huber said that Williams should put the documents on the third floor of the residence in a closet where Huber "stored stuff." Williams arranged to meet Huber and gain entry to the closet.[494] (According to subsequent testimony, this closet is located in Room 323 of the White House residence, which has been referred to by several witnesses as "Mrs. Clinton's office" or "the computer room").

Mrs. Clinton testified that she told Williams to talk to Huber:

> [O]n Thursday, in the early evening, Maggie Williams called me and said she had documents that had been given to her that were personal and legal documents of the President's and mine that had been in Vince's office. And she, I believe by the time she called me, had spoken with our attorney and he had said something like, you know, you should transfer those documents to us to keep safe, but I can't pick them up because he couldn't pick them up. So, Maggie was asking me if I knew of any safe place to keep the documents, and I told her to talk to Carolyn Huber.[495]

Huber testified that Williams contacted her between 4:00 and 6:00 p.m. on the 22nd. Huber said Williams told her that Mrs. Clinton had asked Williams to call Huber and arrange for a box to be stored in a closet on the third floor of the residence. Huber testified that she asked Williams to call her when she was ready

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[494] Id. at 25-26.

[495] H. Clinton Interview, 7/22/95, at 24.

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to move the box, and Huber agreed to meet Williams at the elevator that goes to the residence of the White House.[496]

Williams testified that after she spoke with Huber, she arranged for an intern, Tom Castleton, to carry a box of Clinton personal documents to the residence.[497] Williams said that she and Castleton met Huber on the ground floor of the residence, "[a]nd we went up on the elevator to the third floor. Either I had the key or Carolyn came and undid the -- unlocked the door [to the closet]."[498] Williams testified that the box was placed in the closet, and then Williams locked the closet.[499] Williams said that Huber gave her the key to the closet: "I know that I had the key and I remember I used to have a plastic key chain that I would keep on my wrist, and I remember putting that key on my key chain."[500]

Huber testified that she met Williams and Castleton at the elevator and escorted them to the closet. White House logs show that they entered the residence at 7:25 p.m. and remained until 7:32 p.m.[501] She said that Castleton carried a "banker's box."

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[496] Senate Hearing, 8/3/95, at 14-15.

[497] Williams Interview, 10/28/94, at 29.

[498] Id. at 30-31.

[499] Id. at 32-33.

[500] Id. at 33.

[501] 336-849.

FOIA # none (URTS 16315) DocId: 70105248 Page 202

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Huber said she retrieved the key to the closet from a desk drawer where it was stored. When the threesome arrived on the third floor, Huber said that the box was placed in the closet along with other similar boxes that already were in the closet. Contrary to Williams' testimony, Huber did not say that Williams kept the key to the closet: "I locked the door, put the key back in the drawer and we went downstairs."[502]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Gorham testified that Nussbaum and Williams asked her to describe for them files in Foster's office that related to personal and financial matters of the Clintons. Gorham testified that she did not see Williams and Nussbaum packing documents.

Gorham said that Williams and Nussbaum later asked for assistance in moving boxes from Foster's office. Gorham says she asked Castleton to assist. She testified that she saw Castleton carry out two boxes, accompanied by Williams.[504]

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[502] Senate Hearing, 8/3/95, at 16-17.

[503] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[504] Gorham Deposition, 6/23/95, at 140-42.

FOIA # none (URTS 16315) DocId: 70105248 Page 203

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Castleton was interviewed by Mr. Fiske's office about his role in carrying documents from Foster's office to the residence, FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure in a Senate deposition, and in a public Senate hearing. Castleton has testified consistently that he carried a box or boxes of documents to the residence with Maggie Williams on July 22, 1993.

In his most recent testimony, Castleton said that he does not have a clear recollection as to who asked him to help carry a box, and he does not remember whether he picked up the box in Williams' office or the First Lady's office. He said it is "possible" that he picked up the box in Foster's office or the White House counsel's suite, but his best recollection is that he picked it up outside the suite.[505]

Castleton has given several statements regarding what he was told about the documents that he carried to the residence and who told him about the reason for the movement of the documents. These are significant, because Castleton's last statement is that Williams told him the documents were transferred to the residence so that Mrs. Clinton or President Clinton could review them.

A report of interview from June 9, 1994, contains the following discussion:

> Mr. CASTLETON said that MAGGIE WILLIAMS or someone else told him later that same day that the box contained personal documents belonging to the CLINTON's that had been held in VINCENT FOSTER's office. CASTLETON does

[505] Senate Hearing, 8/3/95, at 7-9.

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not know exactly what was in the box nor does he recall MAGGIE WILLIAMS or anyone else advising him as to how, by whom, or when the material in the box was moved from FOSTER's office to HILLARY CLINTON's office. CASTLETON advised that he cannot even be certain who told him that the documents belonged to the CLINTON's and had previously been in FOSTER's office.[506]

A report of interview from September 15, 1994, reflects that Castleton recalled that someone told him that the Clintons would review the documents that he carried to the residence. He limited the possibility to three persons, including Williams:

> One person, whose identity CASTLETON cannot recall, told CASTLETON that the box contained files which involved personal issues pertaining to the CLINTONs. This person did not say to CASTLETON, as has been reported in a Newsweek magazine article, that the files would be reviewed by the CLINTONs' personal attorney. CASTLETON was told by this person that HILLARY RODHAM CLINTON, and possibly President BILL CLINTON, would review the materials and make a determination what had to be done with them. CASTLETON cannot recall the identity of this person, but he is able to eliminate a number of people as having been the person who made this remark to him. The person was not BERNARD NUSSBAUM because he was not present. The person could have been BETSY POND, LINDA TRIPP or possibly MAGGIE WILLIAMS but was probably not DEBORAH GORHAM.[507]

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[506] Castleton 302, 6/9/94, at 2 (emphasis added).

[507] Castleton 302, 9/15/94, at 6 (emphasis added).

[508] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 205

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

509 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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In his Senate deposition on June 27, 1995, Castleton stated that Williams was either the person, or one of multiple persons, who told him about the purpose of taking the documents to the residence:

Q Up to this point, had you been told by Ms. Williams what you were going to do?

A I believe yes.

Q What did she tell you?

A If I can back up one second.

Q Uh-huh.

A I don't know if Ms. Williams was the individual who told me what I was supposed to do, but at that point we had spoken. So, if she had -- I don't know whether she was the person who originally told me about moving the boxes or whether she just further clarified once we picked them up.

Q And what did she tell you?

A She told me that we were taking the boxes into the residence.

Q And did she say where in the residence?

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A No.

Q Did she say why you were taking them?

A Yes.

Q What was her statement?

A She said that the President or the First Lady had to review the contents of the boxes to determine what was in them.

Q Did she say the President or the First Lady or did she say the President and the First Lady?

A I don't recall.

Q But she clearly referred to both the President and the First Lady in that phrase?

A I don't remember specifically how she referred to the first family, but my sense was that they were both included in that universe.

Q What did she tell you about what in particular needed to be reviewed?

A I think -- my understanding at that point was that they did not know what was in these files and needed to determine whether there was something of a personal nature or not.

Q Where did you get that understanding from?

A From the conversation that I had with Ms. Williams. I don't know specifically what the phrasing was or the specifics of what she said. But that was my understanding.

Q Did she tell you where the boxes came from, box or boxes came from?

A Prior to being in the office where we picked them up? No.

Q After you were in the office where you picked them up, did she tell you where the boxes had originated?

A Where the -

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Q Where the contents of the boxes had originated.

A She said that they had been in Vince Foster's office.

Q She said this to you when you were in this conversation on your way up to the residence?

A Right.[511]

Finally, Castleton testified in the Senate hearing on August 3, 1995, that he was told by Williams that the box was going to the residence because the contents needed to be reviewed by the First Lady.[512]

Mr. Chertoff. Let me ask you, Mr. Castleton, on the way up to the residence, after you had picked up the box -- you're walking up with Maggie Williams, you're on your way up to the residence. During this period of time, what were you told by Maggie Williams about why the box was being taken up to the residence?

Mr. Castleton. I was told that the contents of the box needed to be reviewed.

Mr. Chertoff. Reviewed by whom?

Mr. Castleton. By the First Lady.

Mr. Chertoff. And this is something that Margaret Williams told you as you were walking up?

Mr. Castleton. As we were walking from the place where I originally picked up the boxes to the residence.[513]

In response to further questioning, Castleton stated that "my understanding was that they contained documents of a personal and

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[511] Castleton Deposition, 6/27/95, at 139-41.

[512] Id. at 13-14.

[513] Senate Hearing, 8/3/95, at 13-14.

FOIA # none (URTS 16315) DocId: 70105248 Page 209

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financial nature that pertained to the First Family and they needed to be reviewed because there was unfamiliarity with what exactly was in those files."[514]

Williams said she does not remember telling Castleton that the documents were taken to the residence for review by Mrs. Clinton:

Q Did you tell him [Castleton] that the President or the First Lady had to review the contents of the boxes to determine what was in them?

A Why would I tell an intern that?

Q That's not an answer.

A I'm sorry; no, I don't recall. I'm sorry, I do not recall that.

Q I want to be clear. When you say you don't recall, you mean you don't recall one way or the other?

A It's -- I don't remember. I don't remember having a conversation with Tom Castleton other than, you know, we're going to the residence. He had to know where we were going. That was the amount of that conversation as far as I -

Q As far as you can remember?

A Yeah. As far as I can remember.

Q Did you -- in your conversation with Mrs. Clinton, did Mrs. Clinton indicate to you that she or the President wanted to review the contents of the files?

A No.

Q No?

A The conversation that I had with her was about putting the files some place.

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[514] Id. at 25-26.

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Q My question, though, to be clear, is did the First Lady tell you that she or the President wanted to personally review the contents of the files?

A No, she did not.

Q And that's a definite no. That's not an I don't remember?

A I don't recall her saying that to me.[515]

Williams testified in a public Senate hearing about her conversation with Castleton:

Mr. Chertoff. Did you tell him that the reason the documents had to go to the residence was so the President or the First Lady could review their contents?

Ms. Williams. No, I do not recall saying that to Tom Castleton.

Mr. Chertoff. When you say you don't recall it, are you telling us affirmatively that you did not say it, or are you just saying you don't have a recollection one way or the other?

Ms. Williams. Well, I would like to say affirmatively I did not say it because I can't imagine why I would have that discussion with an intern about the files going to the President and the First Lady. I know that I told him we were going to the residence because I figured he needed to know where he was going, but I can't imagine that I said more than that. So I do not recall having that discussion with him.

[515] Williams Deposition, 7/7/95, at 141-42.

FOIA # none (URTS 16315) DocId: 70105248 Page 211

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

There is a discrepancy in the testimony of various witnesses on the question whether Castleton carried one or two boxes to the White House residence on July 22. The number of boxes is important because representatives of Williams and Connolly say they picked up only one box from the White House on July 27.

516 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 212

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

1. **Castleton**

In the interview of June 9, 1994, Castleton said that he carried one box and two nightgowns to the residence.

In the interview of September 15, 1994, Castleton said that he carried one box with two nightgowns draped over it.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In a Senate deposition on June 27, 1995, Castleton said that when he walked into the office, he "picked up a box or possibly two boxes. I don't recall exactly how many."[518]

In the Senate public hearing on August 3, 1995, Castleton said that "my best recollection is there was one. It may have been two."[519]

2. **Nussbaum**

A report of interview of Nussbaum dated May 13, 1994, says that Nussbaum "boxed" the Clinton personal files; Castleton helped carry the "items" to the residence portion of the White House; and no other documents were put into "that box" thereafter.

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517 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

518 Castleton Deposition, 6/27/95, at 132.

519 Senate Hearing, 8/3/95, at 25.

FOIA # none (URTS 16315) DocId: 70105248 Page 213

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

A report of interview of Nussbaum dated July 8, 1994, says, "Either he himself or he asked CLIFF SLOAN to call MAGGIE WILLIAMS into the office to take files pertaining to the First Family matters. Both WILLIAMS and NUSSBAUM looked at the files and packed them up in a box."[521]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

520 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

521 **Nussbaum 302, 7/8/94, at 5.**

522 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 214

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In a Senate deposition on July 12, 1995, Nussbaum said:

> I don't think we looked in very many other places, if we looked in any other place at all. We looked in the credenza primarily. We identified together files which appeared to be, and which were, Clinton personal files, investments, taxes and the like, and they were put into a box -- I don't remember who put them into the box -- and they were taken out of the office.

In the Senate public hearing on August 9, 1995, Nussbaum testified:

> I don't recall any particular file that she picked up. I recall her looking to see if there were any additional personal files. I don't remember if she spotted any additional personal files. In any case, this was fairly brief. I don't remember how long it was, but she was there a little while, and then we collected the files that I had pointed out, and they were put in a box, and ultimately taken to the residence.[523]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

3. Gorham

A report of interview of Gorham dated April 19 and 26, 1994, says that Williams took files from a drawer in Foster's office, and "[i]t was packed up in two boxes with the help of TOM

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[523] Senate Hearing, 8/9/95, at 146.

[524] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 215

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

CASTLETON."[525] (As noted, Gorham believed this incident occurred the week of July 26.)

A report of interview of Gorham dated March 17, 1995, says that Gorham was present in Foster's office with Williams and Nussbaum when they reviewed Clinton personal files. According to the report, Nussbaum called Gorham into the office and said that the box or boxes there needed to be taken out. The report says that "GORHAM does not now recall if there were one or two such boxes."[526]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In a Senate deposition on June 23, 1995, Gorham continued to say that there were two boxes removed from Foster's office:

> Q Now, you said that you asked Mr. Castleton to help Ms. Williams. Why were you helping Ms. Williams? Were they going to her office?
>
> A I don't know where they were going, but she was taking them.

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[525] Gorham 302, 4/19 & 26/94, at 15.

[526] Gorham 302, 3/17/95, at 3.

[527] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 216

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Q They were going with her?

A They were going with her, yes.

Q Did Mr. Castleton literally get right up and go help at that time?

A When I asked him to, yes.

Q So I take it he had to go into Mr. Foster's office to do that?

A That's correct.

Q And when he came back out, was he carrying one or two boxes?

A Two.

Q Stacked one on top of the other?

A That's correct.[528]

In a public Senate hearing on August 1, 1995, Gorham was asked about the movement of a box or boxes from the White House counsel's suite by Castleton.

Sen. Bennett. Was the box bigger than this or smaller than this or do you have any recollection?

Ms. Gorham. I don't recall the exact size, but I believe that any normal man could carry two boxes of that size. And it's certainly similar to the type of boxes that we -- at the present time in the White House that we kept reams of paper in.

Sen. Bennett. So we're now -- there were two boxes?

Ms. Gorham. Yes, sir, I recall two boxes.[529]

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[528] Gorham Deposition, 6/23/95, at 140-42.

[529] Senate Hearing, 8/1/95, at 136.

FOIA # none (URTS 16315) DocId: 70105248 Page 217

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

4. Tripp

Tripp was asked in the Senate hearing on August 1, 1995, what she recalled about Castleton carrying a box or boxes from Foster's office:

Mr. Chertoff. Were you around the day that Maggie Williams, the chief of staff to the First Lady, and Mr. Castleton took a box or boxes out of Mr. Foster's office?

Ms. Tripp. I recall Tom Castleton removing a box.

Mr. Chertoff. And what do you recall about the circumstances of that?

Ms. Tripp. My recollection is that the box or boxes were placed in front of Deb Gorham's desk. My next recollection is that Tom Castleton was physically carrying a box out of the suite.[530]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[530] Senate Hearing, 8/1/95, at 21.

FOIA # none (URTS 16315) DocId: 70105248 Page 218

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

E. The Boxes Taken to the Foster Family Attorneys at Swidler & Berlin

As reflected by Tripp's testimony, the question of how many boxes is complicated by the fact that boxes of documents were also taken to Swidler & Berlin, the Foster family attorneys. First, Michael Spafford took a box of documents from Foster's office on July 22. Spafford says that after investigators left Foster's office, with the assistance of Sloan, he placed personal documents of Foster's into a box. Spafford says that when he finished that process, he took the box and left the White

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 219

House.[532] Moreover, the following week, more personal items of Foster were sent to Swidler & Berlin in a box.[533]

F. **The Box Seen by the Plumber**

On February 23, 1996, the OIC interviewed Gary Williams, who is the Plumbing Foreman at The White House. According to the report, Williams said that on August 25, 1993, he entered the closet in Room 323 (Mrs. Clinton's office). This is the closet where the box or boxes of documents from Foster's office was taken on July 22, 1993.

According to the report, Williams said that the closet was locked, and Carolyn Huber opened it for him, so that he could work on a shower in Room 324B. Williams saw two or three boxes with lids in the closet. He said that the boxes were the size and type that hold Xerox paper; they were faded white in color.

According to the report, Williams said that one of the boxes had the name "VINCENT FOSTER" printed in black magic marker ink approximately two inches high across the lid. Williams said that the letters "JR" (for "Junior") may also have been written on the lid. Williams stated that he moved the boxes out of the closet to do his work. He said that the boxes were not very heavy, and that he did not see the contents. Williams says that he put the boxes back in the closet when he was finished.

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[532] Spafford Deposition, 7/11/95, at 92-95; [redacted]

[533] 210-2618.

FOIA # none (URTS 16315) DocId: 70105248 Page 220

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to the report, Williams said that he entered the closet again on November 2, 1993. He said that he moved boxes out of the closet again to do his work. According to the report, Williams said he believes that the boxes were the same boxes that he moved out on August 25, 1993. The report reflects that Williams said he remembers seeing Foster's name on a lid at least once, and he may have seen it on both occasions.[534]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

G. **A Returned Renovation File?**

We have investigated whether the documents in the box or boxes taken to the White House residence on July 22 were reviewed by anyone before they were delivered to Williams & Connolly on July 27 and, if so, whether any documents were removed.

As discussed, Tom Castleton testified that he was told that the documents were going to be reviewed by the Clintons or Mrs. Clinton. Moreover, in testimony now partially retracted,

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[534] G. Williams 302, 2/23/96.

[535] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Nussbaum testified about the return to Foster's office of a file that was removed from the office by Nussbaum and Williams on July 22. Nussbaum said that this file concerned the renovation of the White House residence. If a file were returned to Foster's office from the personal residence, that would imply that the Clinton personal files were reviewed by someone after they left Foster's office. Mrs. Clinton and Williams have testified that they did not review the personal files before they were sent to Williams & Connolly and therefore did not remove any such documents.

1. **Nussbaum's Testimony**

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In his Senate deposition testimony concerning the movement of Clinton personal files to the residence, Nussbaum again suggested that a file concerning the White House residence was

536 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 222

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

returned to the counsel's office after it was packed up with the Clinton personal papers and moved out of Foster's office. After his attorney interrupted the deposition, however, Nussbaum said that he was not certain whether the returned file had originated in Foster's office:

Q In the files, did you check to see whether commingled in particular files were official documents?

A We sent over -- we did check to see whether we were sending over personal records as opposed to White House counsel records. And we made an effort to send over solely personal records. And actually, one record was sent over and returned.

Q Which record was that?

A A record with respect to the residence, a residence file.

Q Who returned it?

A I think Ms. Williams returned it.

Q When did she return it?

A Sometime thereafter.

Q When thereafter?

A Within a matter of days.

Q Before the documents went to Williams & Connolly?

A I don't know. I don't remember at this point.

Q But you're quite sure that Ms. Williams returned the document?

A No, I'm not quite sure Ms. Williams returned the document. I believe Ms. Williams returned the document. A residence file was returned. There was a file that was returned because we were making an effort to send over solely personal documents which had been

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

used -- yes -- which were in the White House counsel's office because there was an official purpose.

That purpose was now over. Vince Foster was dead. We weren't going to be using those files now so we sent over the personal records to the Clintons and their personal attorneys.

Q Did Ms. Williams tell you who had made the decision to return that document?

A No.

Q Did she say anything about how she came to return it?

A It's just some statement, merely that this concerns the residence. It's not really a private file, although the Clintons live in the residence -

MR. PEDOWITZ: Can we take a break for a minute?

MR. CHERTOFF: Can I hear the answer to the question?

THE WITNESS: And consequently the documents should remain in the White House counsel's office.

BY MR. CHERTOFF:

Q Can you remember any other discussion with Ms. Williams concerning this occasion when she returned the document?

MR. PEDOWITZ: I really would like to talk to my client for a moment and he'll answer the question.

(Witness conferred with counsel.)

BY MR. CHERTOFF:

Q You've had an opportunity to consult with counsel?

A Yes.

MR. CHERTOFF: Can I get the last question read back?

(The reporter read the record as requested.)

THE WITNESS: As I indicated in my testimony, look back at the record, I'm not certain I even had this

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. FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

discussion with Ms. Williams. I'm not positive. It's either Ms. Williams or Mr. Neuwirth I had a discussion with.

I remember a discussion with regard that a residence file, a file concerning the residence should remain in our office rather than be sent over as part of the Clinton personal files to the Clintons and their new personal attorneys. And I had the discussion either with Ms. Williams or with Mr. Neuwirth. It was one of them. That's what I remember.

BY MR. CHERTOFF:

Q This conversation occurred after the documents had been taken out on the 22nd; correct?

A Yes.

Q And it's very hard to confuse Mr. Neuwirth and Ms. Williams physically, isn't it?

A Of course, but they're both -- they're both involved in the subject matter. The reason Mr. Neuwirth is involved in the subject matter is because Mr. Neuwirth was working on matters concerning the residence. He had been working with Mr. Foster concerning matters of the residence and he was working with Ms. Williams who was involved in matters concerning the residence. And one of them said that file should remain in the White House counsel's office.

Q Who brought the file -

A So why is that so strange, that it's hard to confuse Mr. Neuwirth and -- Ms. Williams and Mr. Neuwirth?

Q Who brought the file back?

A That I don't remember. Either Ms. Williams or Mr. Neuwirth, even though they're quite distinct, one of them brought the file back.

Q Where did they bring it back from?

A I don't know because I wasn't there when the file was brought back, and I'm not sure it was brought back from the residence or from Ms. Williams's office where this

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file was. It was a residence file, and we made a determination that it was not a personal file that we should send to the Clintons' personal lawyers.

That's all that happened here. We came across a residence file which was returned to Mr. Foster's office for Mr. Neuwirth to work on in the future, just like Mr. Foster had worked on residence matters with Ms. Williams and Mr. Neuwirth.

Q It was originally a Foster file; right?

A I'm not positive it was in his office. It was either in his office or Ms. Williams's office but it was a matter he worked on.

Q But it originated in Mr. Foster's office?

A I'm not 100 percent positive of that. It may have originated in Mr. Foster's office and gone out and was returned or it may have been in Ms. Williams' office and was put into Mr. Foster's office, but it was a residence file. There was a discussion as to whether this is a personal file that should go to the Clintons and their new personal attorneys and it was determined that it was not a personal file. It was a file that should stay in the White House counsel's office so we could continue to work on that matter.[537]

When Nussbaum testified in the Senate hearing, he said that the returned file may not have come from Foster's office:

Sen. Bond. And, in fact, after those files did go over to the residence, they must have been reviewed because one file was returned, was it not?

Mr. Nussbaum. What I remember about that Senator, is that at some point a file was returned, but not necessarily from the residence. I am not positive at this point where the file was returned from. It could have been from the residence, or it could have been from Maggie's office, perhaps.

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[537] Nussbaum Deposition, 7/13/95, at 406-412.

FOIA # none (URTS 16315) DocId: 70105248 Page 226

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Sen. Bond. But you think Ms. Williams returned it?

Mr. Nussbaum. I think Ms. Williams returned it or was involved in the return in some fashion. It was a file that had to do with the decorators or the ushers or something, something to do with decorating the White House, which was sort of an official thing. And that file came back. I am not positive if it was one of the files that we sent out. I just don't know. I just don't remember at this point.

Sen. Bond. So the file just came back to you out of thin air?

Mr. Nussbaum. Well, somebody -- my best memory is Steve [Neuwirth], who was working on these issues with Foster -- somebody at that point told me that a file had been returned or a file had come back with respect to this issue. That's what I remember about it.

Sen. Bond. Was it your understanding that that file had been in Mr. Foster's office, had left, and was coming back?

Mr. Nussbaum. My memory today is vague on that, on that subject. I just -- I just don't remember. I remember a file came back, and it could have been a file from Mr. Foster's office. I don't say it couldn't have been. It was a file with respect to the residence, with respect to the decoration of the residence.

Sen. Bond. But you do know that the files did go to the Clinton residence?

Mr. Nussbaum. That's correct.

Sen. Bond. If that file had been one of those that had gone up there, obviously somebody had to take some action to send it back.

Mr. Nussbaum. Well, somebody made a judgment, yes, Senator.

Sen. Bond. Somebody made a judgment to send it back.

Mr. Nussbaum. Absolutely. And somebody must have looked at it, made a judgment. If it was that -- I

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don't know if it was that -- but if it was that, somebody looked at it and made a judgment that this is not a personal file and sent it back.

Now, you know, Senator, there has been a lot of talk about this. You know, I understand that no one, at least the President and the First Lady, did not review files at the residence. Let me say to you, Senator, as far as I am concerned, it would have been totally proper for the President or the First Lady, if they wished, to review their personal files. I find nothing wrong or suspicious about that.[538]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[538] Senate Hearing, 8/9/95, at 185-87.

[539] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA # none (URTS 16315) DocId: 70105248 Page 232

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

2. Williams' Testimony

Williams testified in an OIC interview that she remembered discussing with Nussbaum whether a renovation file was an office file or a Clinton personal file, but she said she did not remember returning it to Nussbaum:

A . . . I asked about the renovation file. I asked Bernie about it, the house, the private quarters renovation file.

Q What did you ask him?

A I said, either, "Is that file in here with the personal ones?" or whatever.

Q And what did he say?

A He said, "That belongs to the office, the counsel's office. That's something we're working on." But I thought since it was, you know, in their house, but, you know -- so I was just trying to think of stuff that was happening.

* * *

Q Was there a time that you returned a document or documents to the counsel's office or to Bernie Nussbaum, indicating that they didn't belong with the personal papers?

A I don't remember that, but I wouldn't have done that on my own, I think.

Q Do you remember somebody telling you to do that?

A No. I'm just trying to think how I would decide that it wasn't -- shouldn't have been in -- I don't remember returning anything to Bernie. I do remember the discussion about a renovation file.

540 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 233

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Q Now, you indicated that occurred on July 22nd?

A Yeah. Right.

Q Was that renovation file already in the pile to be transferred or did you see the renovation file?

A No. I remember asking about it. I don't remember necessarily seeing it in the pile. I didn't look through the pile that was there. I mean, the only thing that I can remember, in terms of specifically, you know, a file that was marked, you know, that I would remember it, would be the one I picked up, the tax related file. I remember that they said "President," whatever. Everything else I didn't even pay any attention to.

Q You don't recall anything else about a document being returned to the counsel's office by you?

A I don't recall. A document?

Q Or a file.

A I don't recall.[541]

In a subsequent Senate deposition, Williams again mentioned a discussion with Nussbaum about renovation files that she says occurred while she and Nussbaum were sorting out the Clinton personal files (including a personal file on taxes) in Foster's office. Williams suggested that the renovation file was sorted out from the Clinton personal papers before the personal papers were removed from Foster's office:

Q And did you say, Bernie, I found something marked "taxes"; what should I do with it?

A I put it on the stack of files. I put it on the stack of files.

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[541] Williams Interview, 10/28/94, at 16-17, 37-38.

FOIA # none (URTS 16315) DocId: 70105248 Page 234

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Q And then what happened?

A I may -- I remember having a discussion with him about the renovation files. And I said should I take the renovation files, and he said no, that has to do with the White House counsel's office. So I remember that was the only discussion, and then I remember either leaving to get a box or leaving because I took a few more calls. . . .[542]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[542] Senate Deposition, 7/7/95, at 95-96.

[543] Id. at 18.

[544]

[545] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[546]

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[redacted][548] During the OIC investigation, the White House counsel produced a redwell that contained materials relating to the renovation of the residence. The redwell was marked with a note saying that the materials came from Neuwirth.[549] [redacted] Thus, the White House production suggests that the yellow envelope described by Neuwirth contained both the file and the binder.

A file labeled "Renovation/Oval Office and Executive Residence" was among those listed on the index prepared by Neuwirth on July 26 of files located in Foster's office on that date.[550] [redacted] the index are credited, therefore, the index suggests that the renovation file was not removed on July 22 and returned after July 26. The evidence does allow for at least two other possibilities: (a) the file

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547 [redacted]

548 [redacted]

549 210-3552.

550 33-15.

FOIA# none (URTS 16315) Docid: 70105248 Page 236

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

remained in Foster's office until Neuwirth created the index or (b) the file was removed from Foster's office on July 22 and returned before Neuwirth created the index.

The renovation binder, on the other hand, was not listed on Neuwirth's index of July 26.[551]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

The last page of Neuwirth's index contains one entry for the bookcase in Foster's office: "MedMalpractice materials." There are several books and binders that have been identified by the White House as having been in the bookcase in Foster's office but that were not listed on Neuwirth's index.[553]

Because there is no inventory of materials in Foster's office at the time of the July 22 search by Nussbaum, it is also uncertain whether the binder was in Foster's office on July 22. One entry in Sloan's notes reads: "residence" "renovations."[554] Sloan says he does not know whether his notes refer to a binder

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[551] 33-13 to 33-18.

[552] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[553] When Foster's office was finally cleaned out in late 1993, Tom Castleton prepared an index identifying the location of particular binders and files. 33-31 to 33-35. These include binders labelled "National Performance Review," "Supreme Court Candidates," "Court of Appeals Profiles," and "District Court Profiles" and books such as "President Clinton's Economic Plan" and "NARA Act Book." See Castleton Index, 33-34 and 33-35.

[554] 200024 (quotations in original).

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

labeled "VWF Residence Renovation 1993."[555] We have not located any other file folder or binder that corresponds to Sloan's notes. The evidence thus leaves open the possibility that the renovation binder was moved from Foster's office to the residence on July 22 and then returned to Foster's office -- perhaps in the yellow envelope -- after July 26.

4. **The Yellow Envelope**

After Neuwirth's testimony, the OIC obtained from the White House a photocopy of the yellow envelope. Miriam Nemetz of the White House Counsel's Office advised that she discarded the original envelope in March 1995 in the course of assembling material that had been in Foster's office at the time of his death for the OIC to review. Nemetz explained that she did not know that Neuwirth had received the renovation file and binder in the yellow envelope or that the envelope had independent evidentiary significance.[556]

The photocopy of the yellow envelope bears two labels. The standard address label is torn off, and neither the addressee nor the sender is legible.[557] The second label reads as follows:

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[555] Sloan 302, 4/15/96, at 2-3.

[556] Nemetz 302, 6/11/96, at 2-4. According to notes produced by the White House, Steve Neuwirth told Jane Sherburne and Sheila Cheston of the White House Counsel's Office in July 1994 that he received these files in the yellow envelope. Nemetz said she was unaware of that entry in the notes when she discarded the envelope in 1995.

[557] AA-6.

FOIA # none (URTS 16315) DocId: 70105248 Page 238

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

UPS SHIPPER NO.
NY 134-658
G ID# HC

According to Anthony Adkinson, Manager, Loss Prevention Department, United Parcel Service, UPS shipping number 134-658 is assigned to the National Council of Jewish Women, an organization located in New York.[558] Stephanie Steinberg of the National Council of Jewish Women was interviewed by telephone on May 9, 1996, about the meaning of the phrase "G ID# HC" on the shipping label. Ms. Steinberg advised that the label appears to be incomplete, because the third line of the label should begin with the abbreviation for package, i.e., "PKG." She said that the initials at the end of the line, i.e., "HC" generally are those of the person to whom the package is addressed.[559]

The NCJW confirmed that it had corresponded with Hillary Clinton during 1992 and 1993, but could not locate a record of a UPS shipment to Mrs. Clinton that would correspond to the label produced by the White House. Ms. Steinberg advised, however, that certain months in 1992 and 1993 were missing from the UPS invoice files maintained by NCJW.[560]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[558] Memorandum from Coy Copeland to John D. Bates, 4/3/96.

[559] Steinberg 302, 5/9/96, at 1.

[560] Steinberg 302, 5/9/96.

FOIA # none (URTS 16315) DocId: 70105248 Page 239

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

5. **Fingerprint Analysis**

The original renovation files were analyzed for fingerprints by the FBI laboratory. The laboratory examined 366 items and found 334 fingerprints or palm prints. None of the prints matched those of President Clinton, Mrs. Clinton, Margaret Williams, or Susan Thomases.[563]

6. **The File Returned by Swidler & Berlin**

With respect to the question of a "returned" file -- as distinct to the question of the handling of the renovation file -- Barnett testified that his firm did not return any documents to the White House after his firm received a box of Foster documents.[564] However, Swidler & Berlin, the firm representing the Foster family, did return a file to Nussbaum. On July 27, Michael Spafford returned to Nussbaum a file entitled "Clinton Memos" along with a cover letter saying that the file was "placed

561 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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563 FBI report, File No. 29-D-LR-35063, Lab No. E-2700 (July 15, 1996). The FBI laboratory does not have President Clinton's palm prints for comparison.

564 Barnett 302, 5/6/94, at 1-2.

FOIA # none (URTS 16315) DocId: 70105248 Page 240

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inadvertently in a box of personal items that I removed from Mr. Foster's office at your request last week."[565]

VIII. The Foster Funeral: Discussions of Documents

Foster's funeral was held in Arkansas on Friday, July 23, 1993. The President and the First Lady, along with many members of the White House staff, attended the funeral. The President flew to Arkansas from Washington on the morning of the 23rd.[566] Mrs. Clinton already was in Little Rock.[567] The Clintons flew from Little Rock to Washington late in the evening on the 23rd and arrived at the White House at 12:11 a.m. on the 24th.[568]

Nussbaum, Williams, Barnett, and Neuwirth also attended the funeral. Nussbaum testified that he talked to Barnett about the Clinton personal documents in Foster's office during the trip to Arkansas:

> Q When you saw Mr. Barnett, did you have a conversation with him about the documents?
>
> A Yes.
>
> Q What was the conversation?
>
> A I said to Bob on Air Force 1 that we're transferring the Clinton personal files out of Foster's office in view of Foster's death, that I believed the personal files should go to the Clintons and their personal lawyers. I assumed that the Clintons would probably be

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[565] AK-002.

[566] 337-161.

[567] 337-144.

[568] 337-161.

FOIA # none (URTS 16315) DocId: 70105248 Page 241

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sending it to him, and I wanted him to be aware of that fact.

I didn't know for sure, but I was like 99 percent sure, and also, what did he think of the idea of him getting the files, and he said he thought it was a good idea for him to get the personal files, and that's what the Clintons decided.

Q So he indicated to you he didn't know what the Clintons' decision would be?

A That's my memory. My memory is that there was no decision at that point that they would go to him, although we were all acting on the assumption that they would go to him, and they did go to him.

Q He didn't tell you on this flight on the 23rd that he had any conversations with anybody about anybody taking possession of the files?

A That's correct. I don't remember him telling me about any such conversations.[569]

Williams testified in an interview with the OIC that she, too, had a conversation with Barnett on the 23rd about the documents that Williams had moved from Foster's office to the residence:

Q Did there come a time when you spoke to Bob Barnett about the documents?

A I'm sure I did, I mean, because we -- we were waiting after the funeral in this airport coffee shop.

Q Bob Barnett was there, too?

A Mm-hmm.

Q He went to the funeral?

A Yeah. Mm-hmm.

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[569] Nussbaum Deposition, 7/12/95, at 270-71.

FOIA # none (URTS 16315) DocId: 70105248 Page 242

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Q And do you remember a discussion that you had with him about the documents?

A Something about, you know, getting the files when he got back or I -- I mean I don't exactly know the conversation, it was -- whatever it was, it was probably offhand, because we weren't really having a huge conversation, but my feeling was, you know, I had talked to him the other day about delivering the files to him, didn't get them there, because, you know, I kind of sloughed off a little bit.

And he was there and I probably just said, you know, "I'll get those files to you." And I'm sure Bob said, "Well, whenever you get them to us will be fine," or something.

Q Was this a short conversation on Friday, July 23rd?

A The day of the funeral, yeah.

Q Did you have any conversations with anybody else that you can recall on Friday, July 23rd, about these documents.

A No.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

In a Senate deposition on July 10, 1995, Neuwirth recounted his conversation with Barnett. When asked whether Barnett said that he had spoken with anyone with regard to the movement of documents to Williams & Connolly, Neuwirth added, "I think he had indicated that he had spoken to Maggie Williams."[571]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

IX. The Weekend

Over the weekend of July 24 and 25, 1993, the Clintons were in Washington. On the morning of Saturday the 24th, the President spent some time in the Oval Office and attended a Boys Nation ceremony. Mrs. Clinton was in the residence.[573] The

570 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

571 Neuwirth Deposition, 7/10/95, at 163.

572 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

573 337-164; 337-145.

FOIA # none (URTS 16315) DocId: 70105248 Page 244

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

President returned to the residence at 2:15 p.m.[574] At 4:09 p.m., the Clintons moved to the family theatre. At 5:56 p.m., they returned to the residence.[575] At 8:22 p.m., they left the White House for the Hotel Washington, where they remained until 10:37 p.m.[576]

On the morning of Sunday, July 25, the President went to the Robert Trent Jones golf club, returning to the residence at 3:40 p.m.[577] Mrs. Clinton remained in the residence for the entire day.[578]

At 2:06 p.m. on Sunday, July 25, Williams entered the White House compound.[579] Records show that she turned off the alarm in the First Lady's West Wing office at 2:27 p.m., and turned it on at 2:32 p.m.[580] At 2:36 p.m., according to Secret Service logs, Williams entered the residence of the White House and went to the second floor. Once on the second floor, a visitor has access to both the second and third floors, and no further record is kept of the visitor's location. The logs reflect that

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[574] 337-163.

[575] Id.

[576] Id.

[577] 337-167.

[578] 337-146.

[579] 211-517.

[580] 211-098.

FOIA # none (URTS 16315) DocId: 70105248 Page 245

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Williams exited the residence at 2:50 p.m. and exited the White House compound at 3:30 p.m.[581]

Williams was questioned about this visit to the residence in a Senate hearing on December 11, 1995, and she said that she recalled no contact with Mrs. Clinton on July 25th:

Mr. Chertoff. According to the entry log, you were in the residence at the White House between 2:36 in the afternoon, leaving at 2:50 in the afternoon. What were you doing in the residence for 14 minutes on that Sunday?

Ms. Williams. I don't recall what I was doing, but because I am often at the residence and often on the White House complex during the weekend, Saturday and Sunday, I don't recall, but it doesn't strike me as highly unusual. As I said in my deposition, I did not recall being there. I don't think that I was there, but it doesn't strike me as extraordinary that I was there.

Mr. Chertoff. Well, it's the only period of time that weekend that you were in the residence. Can you tell us what errand you had that took 14 minutes to complete?

Ms. Williams. I do not know what I was doing. I could have been picking something up. I could have been dropping something off. I don't know what I was doing.

Mr. Chertoff. Well, that's the question. Is there something you recall picking up or dropping off during that 14 minutes?

Ms. Williams. No. As I said, it would not be extraordinary for me to come into the White House or into the residence during the weekend, something I had forgotten, I don't know, but it would not be extraordinary. I'm in and out of there quite a bit.

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[581] 336-853; 211-516.

FOIA # none (URTS 16315) DocId: 70105248 Page 246

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Mr. Chertoff. Did you see Mrs. Clinton?

Ms. Williams. I don't recall seeing her, but it wouldn't have been extraordinary for me to have seen her.

Mr. Chertoff. It wouldn't have been extraordinary for you to have seen her on that Sunday. Is that your testimony?

Ms. Williams. My testimony is that I don't recall seeing her, but it would not have been extraordinary.

Mr. Chertoff. Well, your testimony over the summer, and I'm reading from page 144 of your deposition, was, at line 7, "did you have contact with the President or the First Lady on Saturday or Sunday?"

Answer: No, I don't think so.

Question: No?

Answer: No, I don't think so.

Question: No communication of any sort?

Answer: Not that I can recall. I don't recall.

Are you now altering that to tell us that it's possible that you had contact with her during that 14-minute period on that Sunday?

Ms. Williams. I don't believe that there's any alteration in my testimony. I don't recall. What I said is that it would not have been extraordinary for me to see her.[582]

Williams testified in an interview with the OIC that after July 22, when she placed the box of documents in the closet in Room 323, she did not go into the closet until July 27, when the

[582] Senate Hearing, 12/11/95, at 7.

FOIA # none (URTS 16315) DocId: 70105248 Page 247

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

box was transferred to Williams & Connolly. She also said that she had no knowledge of anyone going into the closet between July 22nd and July 27th.[583]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[583] Williams Interview, 10/28/94, at 36.

FOIA # none (URTS 16315) DocId: 70105248 Page 248

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

584 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 249

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Mrs. Clinton previously testified in July 1995 that she did not see or review the documents from Foster's office that were stored in the residence before they were turned over to Williams & Connolly on the 27th.[586]

The FBI laboratory conducted fingerprint analysis on all of the documents that were identified by Williams & Connolly as the those obtained from the White House on July 27. The laboratory

[585] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[586] H. Clinton Interview, 7/22/95, at 28.

FOIA # none (URTS 16315) DocId: 70105248 Page 250

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

tested 2,581 items and found 1,721 fingerprints or palm prints. None of the prints matched those of President Clinton, Mrs. Clinton, Margaret Williams, or Susan Thomases.[587] Four fingerprints of Webster Hubbell were found on three documents. Those documents were (1) a page headed "Proposed Presidential Retreat Properties" dated December 7, 1992,[588] (2) a facsimile cover sheet from Ron Maxwell to Hubbell dated November 13, 1992,[589] and (3) a page headed "WILLIAM AND HILLARY CLINTON STATEMENT OF FINANCIAL CONDITION," which was dated December 31, 1991, and which bore a facsimile transmission line dated December 10, 1992.[590]

Telephone records show that three calls were placed from Thomases' weekend residence in Rhode Island to Williams' home telephone number on July 24 and 25, 1993.[591] Each call lasted one or two minutes.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Telephone records also show one

[587] FBI report, File No. 29D-LR-35063, Lab No. E-2700 (July 16 & 17, 1996).

[588] DEK016182.

[589] DEK016217.

[590] DEK011825.

[591] 387-167.

[592] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 251

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

call from Thomases' residence to the home number of the First Lady's scheduler, Patty Solis, on the weekend of July 24-25.[593] Thomases testified that she does not recall talking to Solis that weekend.[594]

X. The Transfer of Documents to Williams & Connolly

A. Monday, July 26, 1993

On Monday, July 26, the Clinton personal documents remained in the residence. Also on the 26th, Steve Neuwirth inventoried Foster's office and discovered a torn-up writing or note in Foster's briefcase. Telephone records show communication among several of the persons discussed above on the 26th.

Barnett's telephone logs show that he communicated with Thomases and Williams (at her home) on the 26th.[595] Barnett told the OIC and the grand jury that he talked about Foster's death with Thomases on the 26th, and that he recalls no discussion of the files in Foster's office.[596]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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[593] 387-167.

[594] Id. at 71.

[595] 325-156.

[596] Barnett 302, 12/12/95, at 5;

[597] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 252

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Thomases produced a message slip reflecting that she received a telephone call from Barnett at her New York office on the 26th.[598] A telephone log for Thomases also shows an incoming call from Barnett. That log does not reflect that the call was returned.[599] Thomases testified in a Senate hearing that she did not remember this call from Barnett.[600] Thomases said that she does not believe that she returned Barnett's call or spoke to him on the 26th.[601]

Thomases produced telephone records showing that a 3-minute call was placed at 5:24 p.m. on the 26th from Thomases' cellular telephone to the White House number of the scheduler for Mrs. Clinton, Patty Solis (456-2468). Thomases testified in a Senate hearing that she could not remember that call. She said that she did not remember calling Ms. Solis on the 26th to set up an appointment to see Mrs. Clinton on the 27th:

Ms. Thomases. I called, yes, there's a call that I made to Patty Solis' office.

Mr. Chertoff. Patty Solis is the scheduler for the First Lady?

Ms. Thomases. Yes.

Mr. Chertoff. You made that call at 5:24?

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[598] 387-126.

[599] 387-226.

[600] Senate Hearing, 12/18/95, at 23.

[601] Id. at 24.

FOIA # none (URTS 16315) DocId: 70105248 Page 253

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Ms. Thomases. Apparently.

Mr. Chertoff. What was the purpose of the call?

Ms. Thomases. I don't remember.

Mr. Chertoff. Is that the person you call when you want to make an appointment to see the First Lady?

Ms. Thomases. I call her about scheduling matters, and sometimes about when I want to see the First Lady.

Mr. Chertoff. Well, what scheduling matters do you call Ms. Solis about other than the First Lady's?

Ms. Thomases. I call her about the First Lady's scheduling matters, but not always just about seeing the First Lady.

Mr. Chertoff. Well, what other kinds of things do you call her about?

Ms. Thomases. Just to talk about general scheduling issues for the First Lady.

* * *

Mr. Chertoff. Now did you call her on this Monday in order to set up an appointment to see the First Lady?

Ms. Thomases. Not that I remember.

Mr. Chertoff. It's your testimony then that this call, as of this call, you did not have a plan to see the First Lady the next day, Tuesday, when you were in Washington?

Ms. Thomases. As of this call, I did not have such a plan, or I don't remember having such a plan.

Mr. Chertoff. You don't remember having such a plan?

Ms. Thomases. I don't remember having such a plan.

Mr. Chertoff. Do you remember having some other reason to call Ms. Solis?

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Ms. Thomases. I call Ms. Solis regularly.

Mr. Chertoff. On this day, did you have some other reason? This is again the week after Vincent Foster's death. Did you have some other reason to call Ms. Solis apart from trying to set up an appointment to see the First Lady?

Ms. Thomases. As I told you, I don't remember why I called Ms. Solis that day.[602]

Solis testified that she did not recall any conversation with Thomases on the 26th.[603]

B. Tuesday, July 27, 1993

On Tuesday, July 27, Barnett arranged for an employee of Williams & Connolly, I.P. Barlow, to pick up a box of documents from the closet in the residence of the White House. The 27th also is the day when the White House disclosed to the Attorney General and the Park Police the note discovered in Foster's briefcase on the 26th.

Nussbaum showed Mrs. Clinton the note on the 26th,[604] and Thomases now acknowledges that she learned about the Foster note on July 26 from Nussbaum. (Nussbaum does not recall telling Thomases of the note that day.[605]) In her first sworn testimony on that question, however, she said that she learned of the note

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[602] Senate Hearing, 12/18/95, at 27-29.

[603] Solis Deposition, 2/9/96, at 34-35.

[604] See Nussbaum Deposition, 7/12/95, at 295.

[605] Senate Hearing, 8/9/95, at 19.

FOIA # none (URTS 16315) DocId: 70105248 Page 255

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from the media, and did not discuss it with Nussbaum until long after it was found:

Q How did you find out that that torn-up note was found?

A I probably found out from CNN.

Q Did you ever talk to Bernie Nussbaum about the discovery of the note?

A Only in the context of his raising whether his decision to hold it had been a wise decision.

Q And when you say "decision to hold it," what do you mean?

A To show to the President and the First Lady.

Q Prior to showing it to the Park Police?

A Yeah, but that's after, long after the fact, not at the time. I didn't have a discussion with him anywhere approximate to that.[606]

In her Senate deposition, Thomases changed her testimony:

Q Let me ask you about the discovery of Mr. Foster's handwritten note on the 26th of July. When did you learn about that?

A Sometime around that time.

Q Do you know how you learned about it?

A The first person who told me about it was Bernie Nussbaum.

Q At the time that Mr. Nussbaum told you about that, do you know whether or not he had turned over the note to law enforcement authorities?

A I don't know specifically whether he had turned it over to law enforcement authorities yet.

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[606] Thomases Interview, 9/9/94, at 74.

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Q What do you recollect about your conversation with Mr. Nussbaum concerning the note?

A He told me that the note had been found. He told me that there was no factual surprises in the note. There's no information that gave any special clue to Vince Foster's emotional state, and he said that he wanted to show it to the President. I thought it was before turning it over to the press, to tell you the truth, not law enforcement people.

Q Was it your impression, in your conversation with Mr. Nussbaum, that he had not yet shown the note to the President?

A That was my distinct impression.[607]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[607] Thomases Deposition, 7/17/95, at 119-21.

FOIA # none (URTS 16315) DocId: 70105248 Page 257

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

One lingering question is whether Thomases visited Mrs. Clinton at the White House on the 27th, and if so, what was

608 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 258

discussed by them. As noted, Thomases testified that as of the 26th, she planned to travel to Washington on the 27th. Phone records show that a call was placed from Thomases' cellular phone to Mrs. Clinton's scheduler, Solis, on the 26th. But Thomases testified that as of the 26th, she had no plans to see the First Lady.

Telephone logs from Thomases' New York office reflect that she received a call on the 27th from Solis with the following message: "HRC wants to see you today."[609] The record reflects that the call was returned. Telephone records show that a call was placed from Thomases' extension at her Washington law office to Solis' number at 11:33 a.m.[610] Another telephone message produced by Thomases' Washington law office shows that "Evelyn" left a message for Thomases at 1:30 p.m., saying "Please call Hillary."[611] Solis testified in a Senate hearing that she believes Evelyn Lieberman placed that call to Thomases.[612] Solis testified in a Senate deposition [redacted] that she does not recall placing a call to, or receiving a call from, Thomases on the 27th.[613]

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[609] 387-227.

[610] 387-208.

[611] 387-230.

[612] Senate Hearing, 5/14/96, at 63.

[613] Solis Deposition, 2/9/96, at 36, 103-04; [redacted]

FOIA # none (URTS 16315) DocId: 70105248 Page 259

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White House records show that Thomases, Williams, Barnett, Hubbell and Mrs. Clinton all were in the White House residence on the 27th. The following is a summary of their times in the residence:

	Enter	Exit
Mrs. Clinton	All day	
Williams	10:31 a.m. 1:35 p.m. 3:20 p.m.	12:05 p.m. 2:25 p.m. 4:43 p.m.
Thomases	3:08 p.m. (5:27 p.m.)	4:31 p.m. 8:19 p.m.[614]
Barnett	3:03 p.m.	4:30 p.m.
Hubbell	6:29 p.m.	8:19 p.m.[615]

Ushers logs show that Barnett and Thomases left the residence together at 4:30 p.m.[616] Secret Service records show that

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[614] Secret Service logs show that Thomases entered the residence a second time at 8:19 p.m. No exit time is listed for that visit. Other evidence indicates that the log is inaccurate, and that 8:19 p.m. is actually the exit time. First, Secret Service gate records show that Thomases exited the entire White House compound at 8:20 p.m. The same records show that Hubbell left the compound with Thomases at 8:20 p.m. 211-160. The F-1 Secret Service logs show that Hubbell left the residence at 8:19 p.m. These records suggest that Thomases, too, left the residence at 8:19 p.m. with Hubbell. In addition, telephone toll records show that calls placed from the White House residence at 5:27 p.m. and 5:29 p.m. on the 27th were charged to Thomases' personal calling card. 387-149. Those records suggest that Thomases was in the residence at 5:27 p.m.

[615] 336-855.

[616] 336-864.

FOIA # none (URTS 16315) DocId: 70105248 Page 260

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Hubbell and Thomases left the White House compound together at 8:20 p.m.[617]

In light of the discovery of the Foster note on the July 26 and the transfer to Williams & Connolly of Foster's documents on July 27, Thomases was questioned extensively in the Senate [redacted] about her visit to the White House on the 27th. One part of the Senate hearing began with questions about the message to Thomases from Solis that "HRC wants to see you today":

Mr. Chertoff. You spoke to Mrs. Clinton?

Ms. Thomases. I don't remember speaking to Mrs. Clinton at any time on the 27th. It's, I just don't remember.

Mr. Chertoff. Did you return the call?

Ms. Thomases. I don't remember. I returned the call. Obviously the call was returned to Patty Solis. It could have been returned by me, or it could have been returned by my assistant.

* * *

Mr. Chertoff. My question to you is, bearing that in mind and bearing in mind that the call was returned, what did the First Lady want to see you about?

Ms. Thomases. I have no idea.

Mr. Chertoff. Did you see her?

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[617] 211-160.

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Ms. Thomases. I honestly do not remember seeing her.

* * *

Mr. Chertoff. Now then you came to the White House and according to the records we have, you arrived there at around 3:00 o'clock.
Do you remember coming to the White House?

Ms. Thomases. No.

Mr. Chertoff. You come up to the second floor of the residence, remember that?

Ms. Thomases. No.

Mr. Chertoff. I'm going to put this up here. It's the next one, the next document. Right up there it says -- you have a copy in front of you -- it says July 27, 1993, up to the second floor 3:08 p.m., down at 4:31 p.m. And then up to the second floor at 8:19 p.m. and we've previously established that you leave the White House at approximately 8:20 p.m. What were you doing up on the second floor for an hour and a half?

Ms. Thomases. I don't remember.

Mr. Chertoff. So this is within a week after Vincent Foster dies. You get a call from the First Lady that morning saying, a call to you in New York, not to your Washington office, to your New York office, that says the First Lady wants to see you today.

You get on a plane, you come down. Maybe you were on a plane on your way down, and in fact you show up at the White House and you spend an hour and a half at the residence.

Did you see the First Lady?

Ms. Thomases. I don't really remember seeing the First Lady that day.

Mr. Chertoff. Did you see her that week?

Ms. Thomases. I don't remember seeing her that week.

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Mr. Chertoff. Did you -- I'm sorry, I don't mean to cut you off.

Ms. Thomases. I would have liked to have seen her, but I don't have any recollection of having seen her.

Mr. Chertoff. Did you have a discussion with her about insurance matters concerning the Foster family?

Ms. Thomases. I know at some point I did. I just don't remember specifically having a conversation with her that day.

* * *

Mr. Chertoff. You had not seen, you had been down at the White House the week before, correct?

Ms. Thomases. Correct.

Mr. Chertoff. You had not seen Mrs. Clinton there because she was in Little Rock, right?

Ms. Thomases. Correct.

Mr. Chertoff. You did not go to the funeral, correct?

Ms. Thomases. Yes.

Mr. Chertoff. So that this would have been the first occasion you saw Mrs. Clinton since her friend passed away. Is it your testimony you don't recall that?

Ms. Thomases. I don't recall it. I know it's not credible to you, but I truly don't -[618]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[618] Senate Hearing, 12/18/95, at 39-43.

FOIA # none (URTS 16315) DocId: 70105248 Page 263

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 264

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 265

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Thomases

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 266

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

subsequently testified in a Senate hearing that she recalls a meeting with Hubbell and Mrs. Clinton shortly after Foster's death, although she cannot recall the exact date. She testified that "[w]e just talked about the tragedy of Vince's death and we talked about how sad it was, and I remember the first time that the three of us were together, we talked a little bit about some good times that we had had together in old times before Bill Clinton was elected President, and in the days in which I used to see them."[623] She testified that does not remember discussing the subject of Foster's note.[624]

Hubbell received a message from Mrs. Clinton at 2:30 p.m. on the 27th before he went to the White House.[625]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

According to a report of an interview of David Margolis, Margolis showed the note to Hubbell on the morning of July 28, and Hubbell

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[623] Senate Hearing, 5/14/96, at 30-31.

[624] Id. at 31.

[625] 50-9633.

[626]

[627] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

"gasped when he saw it."[628] The report recounts that Margolis said Hubbell was very "shaken," and that "it was apparent to Margolis that Hubbell was previously unaware of the contents of the note."[629]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[628] Margolis 302, 2/8/95, at 5.

[629] Id.

FOIA # none (URTS 16315) DocId: 70105248 Page 268

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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Barnett, Williams and Thomases were all in the residence between about 3:20 p.m. and 4:30 p.m. During that time, Barnett arranged for an assistant from Williams & Connolly to pick up a box of documents from the closet in Room 323. Barnett and Williams have testified to different versions of how that occurred.

Williams testified that Barnett was in the White House to visit Mrs. Clinton, and Williams just happened to see him. According to Williams, Barnett suggested that he take the documents to Williams & Connolly. Williams says that she unlocked the closet for Barnett, and Barnett summoned an assistant from the law firm to move a box of documents to the firm:

A Bob Barnett was in the residence, seeing Hillary about something. I don't know what it was. And I came up to the residence, and Bob said, you know, "We ought to get those files over to Williams and Connolly," and so he said, "I'll call somebody right now." And then he called somebody from his office to come over and get them.

Q Why did you go to the residence at that time?

A Oh. I don't know.

Q An unrelated reason?

A Yeah. I don't know. I'm in and out of there. Yeah.

630 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 270

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Q Up until the time that you, I guess, bumped into Bob Barnett in the residence, had you given any thought to the transfer of the documents that week?

A I think I had completely forgotten about them, quite frankly.

* * *

Q Can you tell us how the transfer took place on July 27th?

A Bob Barnett called someone from his office, and I think that I probably called someone in my office to get his information so that he could get in, the security information, you know, all that kind of stuff. And the guy came over -- it seems like maybe 15 minutes or whatever later -- and I was still in the residence, on the second -- you know, I just, I guess, continued to visit with Bob Barnett.

And he came or I went to get him, took him up to the third floor. I still had the key on my wrist. I opened the door, said, "This is my box." He -- either he brought some tape with him -- maybe he must have brought some tape with him, because he taped the box shut.[631]

In her Senate deposition, Williams testified that Barnett and Mrs. Clinton were together while they waited for Barnett's assistant to arrive from Williams & Connolly:

Q How long did it take this person to get cleared through?

A Maybe a half hour or so.

Q Did you wait there with Mr. Barnett while that happened?

A Yeah. I may have -- well, probably in and out. I may have gone to do something and come back in. They were having a conversation, Mrs. Clinton and Mr. Barnett. But I had the key.

[631] Williams Interview, 10/28/94, at 37-39.

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Q The key to the closet?

A Right.

Q So Mrs. Clinton and Mr. Barnett were waiting in the residence for about a half an hour while this person came from Williams & Connolly; right?

A Yeah. I'd say it was about half an hour.

Q And then this person came in; right?

A Uh-huh.

Q And then what happened?

A I got on the elevator with him. I had them -- I called somebody to get him cleared. He came to the usher's office, which is where guests go. The ushers called up to the residence. I picked up the phone; they said the guy was there. I went and got him, took him up to the third floor, opened the closet and told them that was the box.

Q And where was Mr. Barnett and the First Lady at this time?

A They were still down on the second floor.[632]

In a Senate hearing on December 11, 1995, Barnett said that he went to the residence on the 27th for the specific purpose of picking up the Clinton personal documents. He said that he arranged to pick up the documents when he spoke with Ms. Williams "at some point during that time of days."[633]

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[632] Williams Deposition, 7/7/95, at 144-47.

[633] Senate Hearing, 12/11/95, at 10-11.

FOIA # none (URTS 16315) DocId: 70105248 Page 272

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Barnett and Williams testified together in the hearing on December 11, 1995, and Barnett disagreed about the circumstances of their meeting on the 27th:

Mr. Chertoff. Now, when you came -- Mr. Barnett, when you came into the White House and whoever let you in, whoever admitted you, where did you go?

Mr. Barnett. I first went up to, I believe, Mr. Chertoff, the second floor, and I waited for a period of time, and then I went to the third floor, and we carried out the transfer of documents.

Mr. Chertoff. Let's take it step by step, Mr. Barnett. Why did you go to the second floor?

Mr. Barnett. That's where I was escorted and told to wait is my best recollection.

Mr. Chertoff. Who were you waiting for?

Mr. Barnett. I was waiting for Maggie Williams.

Mr. Chertoff. In fact, you met -- Ms. Williams came up and met you there?

Mr. Barnett. That's my best recollection.

Mr. Chertoff. Did you speak to the First Lady during the period of time you were waiting?

Mr. Barnett. I have absolutely no recollection of seeing the First Lady or speaking with the First Lady on that day. I cannot rule it out. It's 2-1/2 years later, but I have no recollection of seeing her on that day, Mr. Chertoff.

Mr. Chertoff. Ms. Williams, do you remember specifically seeing Mr. Barnett with the First Lady when you bumped into them?

Ms. Williams. "Bumped" is not my word, but I remember seeing Mr. Barnett with the First Lady. That's my recollection.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Mr. Chertoff. And the First Lady was there when Mr. Barnett said let's go get the documents.

Ms. Williams. I believe so.

Mr. Chertoff. And Mr. Barnett, your recollection is you don't have any such recollection.

Ms. Williams. That's my best recollection, Mr. Chertoff.[634]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[634] Id. at 12-13.

[635] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 274

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

I.P. Barlow of Williams & Connolly testified in a Senate hearing that he went to the White House to pick up a box on the 27th. The records show that he was in the residence from 4:38 p.m. to 4:42 p.m.[637] Barlow said that he was escorted to the third floor, where he met Williams. Barlow said that Williams opened a locked closet and showed him the box. Barlow then taped the box and brought it to Williams & Connolly.[638]

C. **The Thomases Memory Problem**

In light of the testimony given by Thomases, the quality of her memory has become an issue. On April 8, 1996, the Wall Street Journal reported that Thomases suffers from multiple sclerosis (MS), and that memory loss is a symptom of MS that afflicts 40% to 60% of sufferers. The article quoted Thomases as

636 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

637 336-855.

638 Senate Hearing, 12/11/95, at 27-28.

FOIA # none (URTS 16315) DocId: 70105248 Page 275

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

saying, "I have experienced memory problems, and I have been told it is a common occurrence with MS, but I can't say my not remembering phone calls on that occasion was because of MS."[639]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

639 Wall Street Journal, April 8, 1996, at A1.

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641 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA # none (URTS 16315) DocId: 70105248 Page 276

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

643 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 277

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Thomases' attorneys, Benito Romano and Andy Levander, left a message at the OIC. On the next day, they related to the OIC that [redacted] Thomases wanted to make sure that "one small thing" was not misunderstood by the OIC.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Romano and Levander said Thomases wants no misapprehension about one thing: In the past few months, she has been winding down her legal practice because of her medical condition. She has ceased actively practicing law.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Romano said it is very difficult for a professional to come to grips with the disease and its effect on her ability to practice law.

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644 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Romano said that key people at Willkie Farr know that Thomases is winding up her practice. He said it will become public at some point. He said she is a proud person and does not want this to be generally known at this time. [redacted] But there are close friends who still do not know, and she is considering how to tell people about this decision.

Romano said that Thomases has had physical examinations, including MRIs, which confirm deterioration of her condition. He explained that sometimes the cognitive effect of MS is minor, and sometimes it is greater, as with Thomases. Romano said that he would produce medical reports to the OIC if requested, although he would like them treated as grand jury information.

Romano said Thomases' memory problem is with retrieval. He said there is "a hole" on July 27, 1993. He said that is consistent with memory problems associated with MS. [redacted]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Romano was asked when Thomases made her decision. He said within the last month. When asked if this is a temporary decision, pending completion of the Whitewater investigation, Romano said, no, it is permanent. Romano said he could be more specific on her status with the firm if necessary. He said she is a partner at the firm and will be a partner for the immediate future. How this will play out is not clear. Time is required to wind down her practice. She is not actively practicing law. Stress does exacerbate the illness, but this is not a temporary leave of absence due to the investigation.

XI. The Foster Note

A. Discovery

On Monday, July 26, in what was aptly described in The Washington Post as a "chapter out of John Le Carre,"[645] Associate Counsel Steve Neuwirth discovered a torn note in Foster's briefcase. Neuwirth discovered the note as he concluded his inventory of the remaining documents in Foster's office.[646]

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[645] Devroy & Isikoff, Handling of Foster Case Is Defended, The Washington Post, July 30, 1993, at A1.

[646] The note stated:

> I made mistakes from ignorance, inexperience and overwork
> I did not knowingly violate any law or standard of conduct
> No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group
> The FBI lied in their report to the AG
> The press is covering up the illegal benefits they received from the travel staff

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

The White House gave the note to the Park Police on Tuesday, July 27. The White House confirmed the existence of the note to the press on July 28. The contents of the note were not disclosed, however, until the August 10 joint press conference conducted by the Park Police and DOJ.[647]

On July 29, Neuwirth was first interviewed by the Park Police about the discovery of the note. He stated that

> he was in the process of gathering and packing Mr. Foster's personal effects for delivery to the family when he turned the briefcase sideways in order to fit it into a box without causing damage to a photograph of the President with Mr. Foster's daughter, Laura. When

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> The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation
> The Ushers Office plotted to have excessive costs incurred, taking advantage of Kaki and HRC
> The public will never believe the innocence of the Clintons and their loyal [*] staff
> The WSJ editors lie without consequence
> I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport

Fiske Report, 6/30/94, at Tab 5. Note that the word "loyal" may be "legal."

[647] Fingerprint and handwriting examinations have been performed on the note. The FBI lab identified one palm print of value on the note and identified it as Nussbaum's print. See Nussbaum Deposition, 7/12/95, at 284. (Nussbaum handled the note at various points, including when Neuwirth first showed it to him, when he stored it that night, and when he showed it to Lieutenant Megby.)

Three separate handwriting analyses have been performed -- one by the Capitol Police and two by the FBI lab -- comparing the note to three different sets of samples of known handwriting of Vince Foster. Each of the three analyses concluded that the handwriting was Foster's handwriting. See, e.g. Fiske Report at Tab 1 (Lab Report of June 17, 1994); United States Capitol Police Report, USPP 30502-93, 7/29/93, at 2.

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he did this some torn yellow paper scraps fell out of the briefcase and he noticed handwriting on them. He then retrieved a number of other scraps from the bottom of the case and took them to the table in Mr. Nussbaum's office where he assembled the document.[648]

On July 30, Neuwirth again was interviewed, this time by the FBI. He explained that Nussbaum had asked him on Friday while in Arkansas to conduct a review of the work files in Foster's office and to take any remaining personal items to Foster's attorney. Neuwirth stated that he began the review at about 10:00 a.m. on July 26. He then essentially repeated what he had told the Park Police about discovery of the note.[649]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

When Nussbaum turned the note over to the Lieutenant Megby of the Park Police at 9:15 p.m. on July 27, Nussbaum stated, according to Lieutenant Megby's report, that he had directed Neuwirth to "take a detailed inventory of the files and materials" in Foster's office. "In a briefcase, known to be in the office and thought to be empty, he [Neuwirth] found the torn pieces of a handwritten page. The scraps were dumped and taken

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[648] Neuwirth USPP Report, 7/29/93, at 2.

[649] Neuwirth 302, 7/30/93, at 1.

[650] FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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to Mr. Nussbaum's office where they were assembled and Mr. Nussbaum was notified."[651]

According to the report of Nussbaum's interview with the FBI on July 30, Neuwirth told Nussbaum "that as he was packing items of Foster's personal property in a box, he discovered the scraps of paper in the bottom of Foster's briefcase. Neuwirth had been in the process of placing the briefcase in a box when he tipped the briefcase over on its side and several of the scraps of paper fell out. Neuwirth then discovered the rest of the scraps of paper located at the bottom of the briefcase."[652]

As a result of Neuwirth's discovery of the note in a briefcase that had been in Foster's office on July 22 and had been reviewed by Nussbaum during the search that day, various questions have been raised: Was the note in the briefcase on July 22? Did Nussbaum or anyone other than Foster see the note before Neuwirth discovered it?[653] Separate questions have been

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[651] Nussbaum USPP Report, 7/27/93, at 1.

[652] Nussbaum 302, 7/30/93, at 2.

[653] There is a small, missing piece towards the bottom of the note. It is unclear when or how the piece came to be missing. Neuwirth does not recall a missing piece. Neuwirth Deposition, 7/10/95, at 191. On the other hand, Nussbaum does. Nussbaum Deposition 7/12/95, at 282. A number of possibilities exist. The piece may have been lost when the note was torn and/or put into the briefcase. It may have been lost when Neuwirth was picking the pieces out of the briefcase. It may have been lost on the various occasions on the 26th and 27th when Nussbaum was showing the note to persons, such as Lisa Foster.

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raised about why it took White House officials until approximately 6:30 p.m. on July 27 to inform law enforcement of the note's existence.

These very questions, of course, were the focus of the July-August 1993 FBI investigation conducted at the direction of the Department of Justice. The FBI and DOJ concluded that there was insufficient evidence to prosecute any person for obstruction of justice. Our investigation has discovered some new evidence on the note issue -- the most important being Michael Spafford's testimony -- although the thrust of the testimony provided to the OIC [redacted] has been consistent with that provided to the FBI in 1993.

B. Handling of Briefcase before Discovery of Note

Because Neuwirth found the note in Foster's briefcase, and the note was not found during the search on July 22, we have investigated whether the note was in the briefcase on July 22. We therefore will describe in some detail the statements of those who observed the briefcase in Foster's office between July 20 and July 26.

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[redacted] There is even a possibility that the piece may have been lost after the note was turned over to law enforcement. Megby's report, for example, does not mention a missing piece. It states simply that "Mr. Nussbaum had before him on the table small pieces of yellow lined paper which he was assembling into a whole page. The assembled pieces revealed a note." The whereabouts of the missing piece, and when and how it came to be missing, are unsolved questions.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

As described in detail above, Patsy Thomasson testified that she saw the briefcase on the night of July 20 and that it appeared to be filled with documents. No other witness has acknowledged seeing or handling Foster's briefcase before the search on the 22nd.

Many of the 13 persons present at the search on the 22nd (including Nussbaum) recall Nussbaum removing documents from Foster's briefcase and describing their contents to the assembled group. Two persons -- Markland and Hume of the Park Police -- specifically recall Nussbaum looking into the briefcase after he had removed the documents from the briefcase.

Nussbaum was interviewed by the Park Police on Thursday, July 29, 1993, and again by the FBI on Friday, July 30, 1993. In the Park Police interview, Nussbaum described his recollection of the search of the briefcase on July 22. The report states:

> Mr. Nussbaum stated it was his recollection that he removed materials from the briefcase, which remained on the floor, and placed them on the desk in front of them. He then went through the materials. He inferred that because of this he had missed the small scraps of paper that obviously remained in the bottom of the briefcase.[654]

Nussbaum also recalled that he later moved the briefcase back to the wall behind him.[655]

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[654] Nussbaum USPP Report, 7/29/93, at 1.

[655] Id.

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A report of Nussbaum's interview with the FBI on July 30 states:

> During the inventory, Nussbaum removed the files and papers from Vincent Foster's briefcase and reviewed those items. After the contents of the briefcase were removed he picked up the briefcase and placed it against the wall behind Foster's desk.[656]

Neuwirth, according to the report of his 1993 FBI interview,

> speculated that the pieces of paper may have been stuck down in a corner of the briefcase and therefore not seen during the July 22, 1993, inventory of Foster's office . . . . [He] confirmed that the briefcase from which the scraps were recovered was the same briefcase which Bernard Nussbaum reviewed during the inventory of Vincent Foster's office on July 22, 1993.[657]

The report of Neuwirth's 1994 statement to Mr. Fiske's office states:

> he [Neuwirth] is not sure if he was in Foster's office on July 22 when the contents of Foster's briefcase were removed and described. It is his "understanding" that "something" was taken out of the briefcase during the search. He said that it was sitting on the floor behind Foster's desk but that he has no recollection of the briefcase or specifically its interior, being shown to those present.[658]

The FBI report of Cliff Sloan's July 30, 1993, interview states: "Sloan believed that all the items were taken out of the

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[656] Nussbaum 302, 7/30/93, at 1; [redacted] Sparrord's notes also reflect that Travel Office documents were in the briefcase. 296-16.

[657] Neuwirth 302, 7/30/93, at 1.

[658] Neuwirth 302, 5/13/94, at 7; [redacted]

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briefcase however he did not examine the empty briefcase at that time."[659] Sloan wrote notes to himself after that FBI interview. His notes state:

> They questioned me extensively about the briefcase. I explained that Bernie had taken some files out. I was not sure whether they were in file folders or not. The briefcase was relatively thin and was not bulging. I cannot remember whether I looked into the briefcase or not, but I think I recall thinking it was empty, because I thought it was a personal effect which could have been sent to Jim Hamilton.[660]

Burton, according to the report of his July 30, 1993, interview with the FBI,

> recalled that Foster's briefcase was emptied by Bernard Nussbaum and the contents, which consisted of files and papers, were reviewed by Nussbaum. Burton stated that after Nussbaum removed the papers and files, he observed the briefcase to be empty with the exception of several paperclips and a single post-it paper located in the bottom of the briefcase.[661]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[659] Sloan 302, 7/30/93, at 1.

[660] AE-3; FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[661] Burton 302, 7/30/93, at 1.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

The two FBI agents at the search, Agents Salter and Condon, prepared a report after the discovery of the note that included their recollections of the search. This report, dated August 5, 1993, states:

> During the inventory, Bernard Nussbaum removed the contents of a leather, satchel type briefcase which had been on the floor adjacent to the desk. The briefcase was identified as belonging to Vincent Foster. The items which were in the briefcase (papers and files) were removed and reviewed by Nussbaum. After those items were reviewed they were not placed back in the briefcase but they remained on top of the desk. Nussbaum then picked up the briefcase and placed the briefcase against the back wall of the office. At the time Nussbaum placed the briefcase against the back wall of the office it appeared as though the briefcase was empty. At no time did the undersigned agents [Salter and Condon] observe the inside of the briefcase.[663]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Captain Hume of the Park Police also wrote a report on the search:

> At one point, Nussbaum pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. He put them on the desk and went through them. He then looked in the valise/briefcase again, but did not take anything out of it. A little

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[663] FBI Report by Salter and Condon, File # WMFO 175B-WF-187743, 8/5/93, at 1-2.

[664]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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> later he moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind him and the desk.[665]

In addition, the FBI interviewed Hume on August 2, 1993. The report of the interview states:

> Hume advised that during the inventory Bernard Nussbaum removed documents from a briefcase which was in the office and identified as belonging to Foster. Hume believed that when these items which consisted of files and papers had been taken out of the briefcase it was believed that the briefcase was empty. After Bernard Nussbaum reviewed the items which were in the briefcase, Hume recalled that Nussbaum picked up the briefcase looked in it and indicated that the briefcase was empty. Hume recalled that a short while later during the inventory, Nussbaum picked up the briefcase again and at that time moved it against the back wall of Foster's office. Hume advised the interviewing agent that at no time was he able to see the bottom portion inside the briefcase.[666]

Detective Markland of the Park Police, in his report of the interview of Nussbaum that occurred on July 29, 1993, wrote:

> I informed Mr. Nussbaum that I was seated on the small couch directly across him and facing him and that I had a clear view of the briefcase when he removed its contents, also that after the contents were removed I could see that he spread open the briefcase and visually inspected it as if to confirm that it was, indeed, empty. Mr. Nussbaum did not recall doing what I described.[667]

The FBI report of an interview with Markland on August 2, 1993, states: "After those items had been removed, Markland observed

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[665] USPP Report by Hume, "Review of Documents from Vincent Foster's Office," 8/4/93, at 2 (emphasis added). 105-143.

[666] Hume 302, 8/2/93, at 1 (emphasis added).

[667] Nussbaum USPP Report, 7/29/93, at 2 (emphasis added).

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Nussbaum pick up the briefcase, open the top of the briefcase, look inside it and declared that it was empty."[668]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

David Margolis, according to a report of his 1993 interview with the FBI,

> recalled that at one point during the inventory, items were removed from a briefcase in Foster's office and that the items were reviewed by Bernard Nussbaum. Margolis believed the items to be papers and files. After reviewing these items, Nussbaum picked up the briefcase which was apparently empty at that time and placed it against the back wall of Foster's office. Margolis was not able to observe if there were any other items remaining in the bottom of the briefcase.[671]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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668 Markland 302, 8/2/93, at 1 (emphasis added).

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670 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

671 Margolis 302, 8/3/93, at 1;

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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According to a report of his 1993 statement to the FBI, Roger Adams:

> recalled that at one point during the inventory Nussbaum located a briefcase somewhere behind Vincent Foster's desk. Adams recalled that there was some conversation concerning whether or not Foster carried that briefcase with him to and from work on a daily basis. Nussbaum removed those items from the briefcase, those items consisting primarily of papers and files and reviewed those items. Adams stated that from his vantage point he was not able to observe whether there were any items remaining in the bottom of the briefcase after the papers and files had been removed by Nussbaum.[673]

Adams stated that he could not recall whether Nussbaum looked into the briefcase after removing items from it.[674]

The two Secret Service agents at the search added little. The report of Secret Service Agent Flynn's 1993 interview states: "Flynn could not recall any details of this portion of the inventory but was aware that items were removed from the briefcase and he did not recall any items being put back into the briefcase. Flynn could not recall any other details regarding that portion of the inventory."[675] Secret Service Agent Imbordino, according to the report of his FBI interview, "advised that he could not provide specific information regarding the

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[673] Adams 302, 8/3/93, at 1.

[674] Adams 302, 6/8/94, at 3;

[675] Flynn 302, 8/3/93, at 1.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

portion of the inventory during which Vincent Foster's briefcase was handled."[676]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

There are two relevant pieces of testimony regarding the handling of the briefcase <u>after</u> the conclusion of the search on the 22nd.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

[676] Imbordino 302, 8/2/93, at 1.

[677] [redacted] Spafford's notes also reflect that the briefcase was searched and that its contents included Travel Office documents. 296-16.

[678] [redacted]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 293

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Spafford was not interviewed by the FBI as part of its 1993 investigation, but his partner Jim Hamilton was interviewed by the FBI by phone on August 3, 1993. At that time, Hamilton knew of Spafford's recollection of the Sloan-Nussbaum conversation,[681] but he did not tell the FBI about it. When Spafford was interviewed by Mr. Fiske's office by phone on May 24, 1994, he did not provide this information to the FBI agent interviewing him.[682]

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

Nussbaum and Sloan have been questioned about the incident. Nussbaum stated that he does not recall any conversation with anyone on July 22, 1993, regarding scraps of paper in Foster's

679 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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681 See Spafford Deposition, 7/11/95, at 115.

682 See Spafford 302, 5/24/94, at 2-3.

683 FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

briefcase. He says he neither engaged in nor overheard such a conversation. Nussbaum believes he would definitely recall such a conversation had it occurred. Nussbaum further believes that Sloan would recall because Sloan has a very good memory.[684]

Sloan similarly stated:

> As I understand Mr. Spafford's account he says that I picked up Mr. Foster's briefcase, held it open by the handles and remarked to Mr. Nussbaum that there appeared to be scraps of paper in the bottom of the briefcase. All I can say about that . . . is that to my recollection that did not happen. By that I mean I have no recollection of anything remotely like that incident, and I think that I would recall if it had happened. Mr. Spafford and I have an honest difference in recollection on this point, and I think he is mistaken. My consistent recollection on this subject has been, and continues to be, that I learned of the scraps of paper for the first time the night of Tuesday, July 27th, 1993.[685]

The second piece of relevant testimony regarding the post-search handling of the briefcase comes from Deborah Gorham, Foster's secretary. On August 3, 1993, she was interviewed by the FBI. The report of interview states:

> Gorham advised that on July 26, 1993, she was assigned to assist Stephen Neuwirth in the review of items in Foster's office. Gorham recalled that at one point, Foster's briefcase was "in the way" so she picked it up and placed it with a group of personal items which were to be returned to the Foster family. Gorham stated that it [sic] her practice never to look in another's individuals [sic] briefcase but that as she picked it up she was aware that it was empty with the exception of what she believed to be some yellow "post-it" notes. Gorham was not certain that these were "post-it" notes

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[684] Nussbaum 302, 7/14/95, at 1.

[685] Senate Hearing, 8/3/95, at 67 (emphasis added).

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but she stated that whatever it was in the bottom of the briefcase was generally of the size and color of a "post-it" note. Gorham stated that the items she saw in the bottom of the briefcase may have been yellow post-it notes or it may have been pieces from a sheet of yellow paper.[686]

Gorham also stated in later interviews that she saw a single gold folder and a single white sheet of paper in the briefcase in addition to the yellow item.[687]

C. Disclosure of Note to Law Enforcement

The note was not disclosed to law enforcement until the evening of July 27 when Nussbaum informed Attorney General Janet Reno. The Attorney General told Nussbaum to turn it over to the Park Police, and Nussbaum complied.[688] We have investigated the reason for the approximately 27-hour delay before the Attorney General, and then the Park Police, were notified of the note.

The testimony of five White House officials who were involved in discussions on the night of the 26th and the morning of the 27th about the note -- Nussbaum, Neuwirth, McLarty, Burton, and Gergen -- has been essentially consistent about the reasons for the delay. First, they say they wanted to research whether any privileges applied to the note or portions thereof. (According to Jim Hamilton, who had a conversation with some of

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[686] Gorham 302, 8/3/93, at 1-2 (emphasis added).

[687] Gorham 302, 4/19/94, at 13;

[688] Nussbaum 302, 7/30/93, at 2-3.

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the White House officials on the 27th, there was discussion of possible redaction of the note.[689]) Second, they wanted to show the note to Mrs. Foster, who at the time was in Arkansas. Third, they wanted to notify the President, who was in Chicago on the 26th, of the note before it was disclosed to law enforcement.[690]

Nussbaum testified that Burton raised questions whether there were attorney-client privileges applicable to the note, whether there were "privacy issues," and whether there would be an obstruction of justice issue if the note were not turned over to law enforcement.[691] Neuwirth conducted research on the night of the 26th, but concluded that no privileges applied.[692] Lisa Foster was shown the note at about 6:00 p.m. on the 27th.[693] Nussbaum discussed the note with President Clinton at around the

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[689] Hamilton 302, 10/23/95, at 12.

[690] See Nussbaum 302, 7/30/93, at 2; Nussbaum 302, 5/13/94, at 14; Neuwirth 302, 7/30/93, at 2; [redacted] Gergen 302, 7/30/93, at 1-2; Gergen 302, 10/21/94, at 6-8; McLarty 302, 7/30/93, at 1; [redacted] Burton 302, 7/30/93, at 1-2; [redacted]

[691] Nussbaum Deposition, 7/12/95, at 303.

[692] The note does not record any attorney-client communications. Parts of the note (e.g., "the FBI lied in their report to the AG") arguably constitute Foster's mental impressions, conclusions, or opinions. See Fed. R. Civ. P. 26(b)(3). They almost certainly were not written in anticipation of litigation, although they may have been written in anticipation of congressional hearings. In other contexts, the White House has claimed to the OIC that such material is protected work product.

[693] She entered the White House at 5:56 p.m., according to entry records. 336-351.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

same time. According to Nussbaum, the President appeared already to be aware of the note's contents.[694]

Nussbaum showed Mrs. Clinton the note on the 26th, in Nussbaum's office and in the presence of Burton and Neuwirth, shortly after Neuwirth showed it to Nussbaum.[695] In their initial interviews with the FBI in 1993, neither Nussbaum, Burton, nor Neuwirth mentioned this incident. The reports of their interviews do not indicate whether they were asked to list all persons who had seen the note after its discovery. According to an official, albeit incomplete, log of Presidential calls maintained at the White House, the President and Mrs. Clinton had a 10-minute phone conversation at 5:57 p.m. on the 26th -- shortly after Mrs. Clinton was shown the note and shortly before she departed the West Wing for the residence.[696]

After Nussbaum disclosed the note to the Attorney General, the Park Police was contacted, and Lieutenant Megby came to the White House and took custody of the note.[697]

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[694] Nussbaum Deposition, 7/12/95, at 317.

[695] See Nussbaum Deposition, 7/12/95, at 295.

[696] 442F-2514.

[697] Megby 302, 8/2/93, at 1.

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

MEMORANDUM

TO: Independent Counsel Kenneth W. Starr
OIC Attorneys

FROM: Steven M. Colloton
Brett M. Kavanaugh

DATE: August 7, 1996

This memorandum sets forth the elements of the criminal statutes potentially applicable to the evidence gathered during this Office's investigation into whether any individual or entity obstructed justice, made false statements, or committed any other federal crime with respect to activities occurring in the aftermath of the July 20, 1993, death of former Deputy Counsel to the President Vincent W. Foster, Jr. In particular, the memorandum describes the elements of those statutes applicable to destruction or concealment of documents and to false statements.

Beginning at page 9, this memorandum also identifies certain factual circumstances for consideration under these statutes.

I. The Law

A. Destruction or concealment of documents

The statutes most directly relevant to destruction or concealment of documents are two obstruction statutes in Title 18: Section 1503 and 1505.

1. Section 1503

Section 1503 applies, in relevant part, to

> [w]hoever . . . corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice.

As interpreted by the courts, the elements of a Section 1503 prosecution under this clause are as follows:

(1) there was a pending judicial proceeding, which may include a grand jury proceeding;

(2) the defendant knew of the pending proceeding;

(3) the defendant committed an act that obstructed the pending proceeding or had the natural and probable consequence of obstructing the pending proceeding (e.g., document destruction, false statements); and

(4) the defendant intended to obstruct the pending proceeding.[1]

The DOJ Grand Jury Manual lists examples of conduct that has been held to fall within Section 1503's ambit. The examples include destroying, altering, or concealing subpoenaed documents; false testimony; false denials of knowledge or memory or evasive answers; and submitting false or misleading information to the grand jury. DOJ, Federal Grand Jury Practice 509-511 (1993).

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[1] See DOJ, Federal Grand Jury Practice 511-514 (1993); Devitt & Blackmar, Federal Jury Practice and Instructions § 41.03 (1990).

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

2. Section 1505

Section 1505 applies, in relevant part, to:

> [w]hoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.

Despite the similarities in language, Section 1505 differs from Section 1503 in two respects.

First, Section 1505 applies to pending congressional and agency proceedings, not to pending judicial or grand jury proceedings. But "for an investigation to be considered a proceeding, it must be more than a mere police investigation." United States v. Kelley, 36 F.3d 1118, 1127 (D.C. Cir. 1994). Therefore, FBI and police investigations are not proceedings. Id.

Second, under the D.C. Circuit's decision in United States v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991), Section 1505 requires that the defendant corrupt another person, that is, use efforts to influence another person to knowingly violate a legal duty -- as opposed to violating some legal duty of one's own. See also United States v. Weinberger, 1992 WL 294877, at *2 (D.D.C. 1992). Therefore, as interpreted in Poindexter, Section 1505 is dramatically narrower in scope than Section 1503 and

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applies here only if a defendant caused another person to conceal or destroy documents or to provide false testimony to investigators.

B. False Statements

There are several statutes potentially applicable to false statements. Common and central to all of the applicable statutes are the two main requirements of proof for imposing criminal liability for false statements: (a) the defendant's statement was false; and (b) the defendant knew or believed the statement was false when he or she made it.

As noted above, Section 1503, the general obstruction statute, applies to false testimony in a judicial or grand jury proceeding. In addition, Sections 1001, 1621, and 1623 of Title 18 apply under varying circumstances to false statements or testimony.

1. Section 1001

Section 1001 applies, in relevant part, to

> [w]hoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations . . . .

The relevant elements of a Section 1001 prosecution are:

(1) the person made a false statement or concealed a fact which he had a legal duty to disclose;

(2) the false statement or act of concealing was within the jurisdiction of a department or

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agency of the United States;

(3) the statement or concealed fact was material; and

(4) the statement or act of concealing was made with knowledge that the statement was false or that a fact was being concealed.[2]

Section 1001 applies to statements made to executive branch agencies or departments. Therefore, statements to this Office, Mr. Fiske's Office, the FBI, or the Park Police -- all of which are executive agencies or departments -- should be covered by Section 1001. Section 1001 does not apply, however, to false statements to Congress, the courts, or the grand jury. See Hubbard v. United States, 115 S. Ct. 1754, 1765 (1995).

The D.C. Circuit has not decided whether the "exculpatory no" doctrine applies under Section 1001. United States v. White, 887 F.2d 267, 273 (1989). Under that judicially created doctrine, a person cannot be prosecuted under Section 1001 for answering "no" in response to a question from an investigative agency where a yes answer would have been incriminating. Id.

2. Section 1621

Section 1621, the general perjury statute, states in relevant part that:

> [w]hoever . . . having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States

[2] See Devitt & Blackmar, Federal Grand Jury Practice and Instructions § 37.03 (1990).

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> authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . is guilty of perjury . . . .

The relevant elements of a prosecution under Section 1621 are as follows:

(1) the person testified under oath in a competent tribunal in which a law of the United States authorizes an oath to be administered;

(2) the person made a false statement, and either two witnesses or one witness and independent corroborating evidence attest to its falsity;

(3) the false statement was material; and

(4) the statement was made willfully with knowledge of its falsity.[3]

Section 1621 thus covers sworn statements to Congress and the grand jury.

The two-witness rule is an important limitation on prosecutions under Section 1621. That rule states that "the uncorroborated oath of one witness is not sufficient to establish the falsity of the testimony of the accused as set forth in the indictment as perjury." Hammer v. United States, 271 U.S. 620,

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[3] See Devitt & Blackmar, Federal Jury Practice and Instructions 575 (1990); United States v. Debrow, 346 U.S. 374, 376 (1953); United States v. Haldeman, 559 F.2d 31, 97-98 (D.C. Cir. 1976).

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626 (1926). As the Supreme Court later explained: "Since equally honest witnesses may well have differing recollections of the same event, we cannot reject as wholly unreasonable the notion that a conviction for perjury ought not to rest entirely upon an oath against an oath." United States v. Weiler, 323 U.S. 606, 608 (1945). Section 1621 does not apply, therefore, to a one-on-one discrepancy in testimony -- at least in the absence of independent corroborating evidence.

3. Section 1623

Section 1623(a) applies, in relevant part, to:

> [w]hoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration . . . .

The relevant elements of a Section 1623 prosecution are as follows:

(1) the person was under oath before a court or grand jury or ancillary to such a proceeding;

(2) the person made a false statement;

(3) the false statement was material; and

(4) the statement was made with knowledge of its falsity.[4]

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[4] Devitt & Blackmar, Federal Jury Practice and Instructions § 43.05 (1990); United States v. Sampol, 636 F.2d 621, 652-53 (D.C. Cir. 1980).

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Section 1623 thus governs sworn statements to the grand jury, but not to Congress. Unlike Section 1621, Section 1623(e) specifically states that "[i]t shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence." Therefore, the two-witness rule does not apply, and one-on-one discrepancies in testimony can be prosecuted under Section 1623.

4. False Statements Summary

The following chart summarizes the statutes potentially applicable to various statements.

	Statute				
Statement	1001	1621	1623	1503	1505
Unsworn to USPP	Yes	No	No	No	No
Unsworn to FBI	Yes	No	No	No	No
Unsworn to Fiske/Starr	Yes	No	No	Yes(?)	No
Unsworn to Congress	No	No	No	No	No
Sworn to Fiske/Starr	Yes	Yes(?)	No(?)	Yes(?)	No
Sworn to Congress	No	Yes	No	No	No
Sworn before Grand Jury	No	Yes	Yes	Yes	No

There are no unsworn statements to Congress at issue in this investigation. Therefore, as the chart shows, all possible false

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

statements in this investigation are covered under at least one of the statutes listed. And, as noted above, common and central to all of the applicable statutes are the two main requirements of proof for imposing criminal liability for false statements: (a) the defendant's statement was false and (b) the defendant knew or believed the statement was false when he or she made it.

II. The Facts

We have identified the following areas for consideration as to whether any of them is a basis for charging criminal false statements, perjury, or obstruction of justice. Where testimony is at issue, the precise wording of statements is critical. The statements are not reproduced in this memorandum, but the relevant pages from the separate memorandum are referenced. This memorandum provides only a list of areas for consideration; it assumes that you have read the separate memorandum for context.

As you can see from the separate memorandum, there are numerous areas in which witnesses have given inconsistent testimony. The areas of testimony identified in this memorandum are those in which we believe the evidence warrants serious consideration, or those that have received such public attention that we believe consideration is appropriate. If, upon reading the memorandum, you believe that other areas warrant serious consideration, this list may be supplemented.

Under each heading, we have listed first the most important statements or evidence. Thereafter, we have listed other

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noteworthy evidence; the bullets usually are organized to present potentially inculpatory evidence, followed by potentially exculpatory evidence.

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 308

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 310

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA # none (URTS 16315) DocId: 70105248 Page 313

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)6
FOIA(b)7 - (C)
FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

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KAVANAUGH, BRETT

SOI 1785

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U.S. Department of Justice
Washington, DC 20530

Travel Voucher TVL CLM #01
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	TV023

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett M. FOIA(b)(6)		9/7/94	9/9/94
c. MAILING ADDRESS (Include ZIP Code)	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688	#01	
e. PRESENT DUTY STATION	f. RESIDENCE (City and State)	9. CHECK NO.	
Washington, DC	Washington, DC		

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE FOIA(b)(4)	
c. Amount due Government (Attached: ☐ Check ☐ Cash)				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☒ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials BMK

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	TO (f)
(g) DINERS GTS OTHER	$ CTA				Washington DC	Little Rock
	$					
(h) CASH	$				and	return.
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:	(m) TRANS. TICKETS (from reverse)	(21-1)	$
(k) DC NUMBER: 94TSTR0023	(n) MILEAGE (from reverse)	(21-2)	$
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse)	(21-4)	$ 164.00
	(p) VEHICLE RENTAL (from reverse)	(21-6)	$
	(q) OTHER (from reverse)	(21-7)	$ 28.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 9-12-94 **AMOUNT CLAIMED** ▶ $ 192 00

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ Judith R. Harris DATE 9/13/94

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. **NET TO TRAVELER** ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-834
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE

OF PAGES

TRAVELER'S AUTHORIZATION NO. 94TSTR0023

TRAVELER'S LAST NAME Kavanaugh

DATE 19 94	TIME	DESCRIPTION	ITEMIZED SUBSISTENCE EXPENSES							MILEAGE RATE: ¢	TRANS-PORTATION TICKETS	AMOUNT CLAIMED			
			MEALS				MISCEL-LANEOUS SUBSIS-TENCE	LODGING	TOTAL SUBSISTENCE EXPENSES	NO. OF MILES		MILEAGE	SUBSIS-TENCE	VEHICLE RENTAL	OTHER
			BREAK-FAST	LUNCH	DINNER	TOTAL									
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
September 7	2:00pm	Taxi from downtown to airport (National) airfare paid via CTA													10 00
7-8		Lodging - Amerisuites Little Rock						104 00					104 00		
9	5:00pm	Taxi from National Airport to home DC													18 00
7-9		Temporary Duty in Little Rock, Arkansas from Sept. 7 2:00pm to Sept. 9 5:00 pm ($30/day)							60 00				60 00		
		If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.							SUBTOTALS ►				164 00		28 00
									TOTALS ►						

(21-1) (21-2) (21-4) (21-6) (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► 192.00

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105250 Page 3

*U.S. GPO:-1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number [illegible]

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 9/7/94

Return Date 9/9/94

Estimated Cost

Transportation $ 262.00

Actual subsistence or per diem $ 246.00

Other $ 150.00

Total $ 658.00

☐ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☐ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ _____

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Meeting in Office of the Independent Counsel, Little Rock

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ **Title** Administrative Officer **Date** _____

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 4

FORM DOJ-501
JAN. 92

5. COPY FOR **ADMINISTRATIVE USE (2)**

ROOM NO.	RATE	NAME (LAST)	(FIRST)	DEPARTURE
227	52	Kavanaugh,	Brett	9/9

FOLIO NO.
47911

AmeriSuites

10920 FINANCIAL CENTER PARKWAY
LITTLE ROCK, ARKANSAS 72211
(501) 225-1075

ADVANCE DEPOSIT
OR BALANCE FUND

FOIA(b)(6)

227 1 0052 9 KAVA

SEP 07	PREV BAL		.00
217539	ROOM 227-1		.00
			.00
SEP 07	PREV BAL		
SEP 07	ROOM CHG	52.00	
			52.00
317593	ROOM 227-1		52.00
SEP 08	PREV BAL		
SEP 08	ROOM CHG	52.00	
317811	ROOM 227-1		104.00

TAX EXEMPT

ROOM NO.	RATE NO.	NO. IN PARTY A	C

47911

TAXICAB RECEIPT

Date: 9/9/04

Time _____ I.D.# _____

Cab # _____ Company _____

Origin of trip _____

Destination _____

Fare _____ Sign _____

Hope you had a pleasant ride
Thank you for your business

Taxi Cab Receipts

Date_____ Time:_____

Trip Origin: N AIR PORT

Destination FOIA(b)(6)

Fare: $ 15 20 Signature

2 80

12 ai

R

CHECK DATE: 09/21/94

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS
WASHINGTON, D.C.

CHECK AMOUNT: $192.00

VOUCHER	INVOICE	AMOUNT
94TSTR0023		192.00
TRAVEL REIMBURSEMENT	94TSTR0023	

FOIA(b)(4)

Check No.

United States Treasury 15-51/000

09 21 94

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS
WASHINGTON, D.C.

Pay to
the order of KAVANAUGH,BRETT M.

FOIA(b)(6)

$********192*00

VOID AFTER ONE YEAR

REF. NO. 579946962

Maria C. Brown
DISBURSING OFFICER

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	KAV 02

FOIA(b)(6)

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett M.		9/22/94	9/23/94
	d. OFFICE TELEPHONE NO. 202-514-8688	6. TRAVEL AUTHORIZATION DATE(S) #02	
e. PRESENT DUTY STATION: Washington, DC	f. RESIDENCE (City and State): Washington, DC	9. CHECK NO.	

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☒ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials BMK

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS (OTHER) AMEX	$ 265.00				Washington, DC	Little Rock
	$				and	return
(h) CASH	$					
(i) TOTAL	$ 265.00					

(j) COST CENTER/ ACCT CLASS	FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$ 265.00
(k) DC NUMBER:	94 T STR 0048	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:		(o) SUBSISTENCE (from reverse) (21-4)	$ 102.50
		(p) VEHICLE RENTAL (from reverse) (21-6)	$
		(q) OTHER (from reverse) (21-7)	$ 10.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 9-30-94 **AMOUNT CLAIMED** ▶ $ ~~377~~ 377 ~~50~~ 50

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 10/6/94

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. **NET TO TRAVELER** ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-634
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE ____ OF ____ PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME: Kavanaugh

DATE 19 94 September (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
22	2:10pm	Taxi from downtown to airport (National)													10 00
22		Lodging - Marriott Courtyard Little Rock	($52 + tax)					59 50	[illegible]				57 50	Govt	
22-23		Temporary duty in Little Rock, Arkansas from September 22 2:10 pm to September 23 at 11:50 pm (when arrived home) M&IE (1½ days $30)				45 00			45 00				45 00	Govt.	
22-23		Airfare from Washington to Little Rock and return									265 00				
													10 250		
									SUBTOTALS ►				[illegible]		
									TOTALS ►		265 00		[illegible]		10 00
											(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► 377.50 Govt [illegible]

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105250 Page 9

*U.S. GPO: 1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name
Brett Kavanaugh

Social Security Account Number
FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return ☒
Dep. Date 9/22/94
Return Date 9/23/94

Estimated Cost

Transportation
$ 265
Actual subsistence or per diem
$ 150
Other
$ 100
Total
$ 515

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☐ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 52+tax/night 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Meeting in Office of the Independent Counsel, Little Rock

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 9/6/94

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 10

FORM DOJ-501
JAN. 92

5. COPY FOR ADMINISTRATIVE USE (2)

USAir *Boarding Pass*

BOARDING PASS 01 OF 02

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM X/O WASHINGTON/NATL

TO X/O CHARLOTTE NC

CARRIER
USAIR

CODE FLIGHT CLASS DATE TIME
US0891 K 22SEP250P

GATE H3 BOARDING TIME SEAT 10E SMOKING

USAir *Boarding Pass*

BOARDING PASS 02 OF 02

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM X/O CHARLOTTE NC

TO X/O LITTLE ROCK AR

CARRIER
USAIR

CODE FLIGHT CLASS DATE TIME
US0875 K 22SEP440P

GATE A6 BOARDING TIME SEAT 9D SMOKING
CONNECTION

ISSUED BY AmericanAirlines

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

X/O FROM
LITTLE ROCK

X/O TO
NASHVILLE

CARRIER FLIGHT CLASS DATE DEPARTURE TIME
AMERICAN 58C K 23SEP 510P

GATE 1 SEAT 13F SMOKING NO

PCS OKD WT CKD WT UNCKD A/L CODE BAGGAGE NUMBER
CPN AIRLINE CODE FORM AND SERIAL NUMBER CK
IDENT ISS CARRIER/AGENT
001/42A

ISSUED BY AmericanAirlines

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

X/O FROM
NASHVILLE

X/O TO
WASHINGTON NATL

CARRIER FLIGHT CLASS DATE DEPARTURE TIME
AMERICAN AA 1188 Y 23SEP 812P

GATE C10 SEAT 8D SMOKING NO

AMERICAN AIRLINES, INC DATE AGENT NASHVILLE

PCS OKD WT CKD WT UNCKD A/L CODE BAGGAGE NUMBER
CPN AIRLINE CODE FORM AND SERIAL NUMBER CK
IDENT ISS CARRIER/AGENT
001/45W

Carlson Travel Network

SALES PERSON: 55 ITINERARY/INVOICE NO. 0245482 DATE: 21 SEP 94
CUSTOMER NBR: 317901 RBHRUT PAGE: 01

TO: CONSOLIDATED ADMIN OFC
1001 PENN AVE#490NORTH
202-514-8688
DELIVER 21SEP PM

CARLSON TRAVEL NETWORK
10TH AND CONSTITUTION AVE
ROOM 1409
WASHINGTON DC 20530
703-836-9585

FOR: KAVANAUGH/BRETT REF: A02770101

---

22 SEP 94 - THURSDAY

AIR	USAIR	FLT:831	ECONOMY		
	LV WASHINGTON NATL		250P	EQP: 737-300	
	AR CHARLOTTE		408P	NON-STOP	
OTHER	WASHINGTON NATL				
	ADVANCE SEATING NOT AVAILABLE AIRPORT CHECKIN REQUIRED				
AIR	USAIR	FLT:875	ECONOMY		
	LV CHARLOTTE		440P	EQP: FOKKER F28	
	AR LITTLE ROCK		535P	NON-STOP	
OTHER	CHARLOTTE				
	ADVANCE SEATING NOT AVAILABLE AIRPORT CHECKIN REQUIRED				

23 SEP 94 - FRIDAY

AIR	AMERICAN AIRLINES	FLT:580	ECONOMY		
	LV LITTLE ROCK		510P	EQP: FOKKER 100	
	AR NASHVILLE		616P	NON-STOP	
	KAVANAUGH/BRETT SEAT-10E				
	NO AISLE/WINDOW SEAT AVAILABLE				
	PLEASE CHECK AT AIRPORT FOR FURTHER AVAILABILITY				
AIR	AMERICAN AIRLINES	FLT:1022	ECONOMY		SNACK
	LV NASHVILLE		650P	EQP: SUPER 80	
	AR WASHINGTON NATL		921P	NON-STOP	
	KAVANAUGH/BRETT SEAT-14E				
	NO AISLE/WINDOW SEAT AVAILABLE				
	PLEASE CHECK AT AIRPORT FOR FURTHER AVAILABILITY				

22 DEC 94 - THURSDAY

OTHER	WASHINGTON
	THANK YOU FROM CARLSON TRAVEL NETWORK

AIR TICKET US1128631924 KAVANAUGH BRETT

BILLED TO FOIA(b)(6)	265.00*
TOTAL BASE	235.45
TOTAL TAX	29.55
NET CC BILLING	265.00*
TOTAL AMOUNT DUE	0.00

CONTINUED ON PAGE 2

94
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

A02770101

317901 0245482 A55

PASSENGER RECEIPT

X BOARDING PASS

ARC X FLIGHT COUPON

ISSUED BY
USAIR

NAME OF ISSUING AGENT
CARLSON TRAVEL

NAME OF PASSENGER
KAVANAUGH/BRETT

X/O FROM
NOT VALID FOR

X/O TO
**TRANSPORTATION*

ENDORSEMENTS/RESTRICTIONS

TOUR CODE
XXXXX

AGENT CODE
A09864326

PLACE OF ISSUE
WASHINGTON

ISO CODE
DC

DATE OF ISSUE
US21SEP94

PNR/CARRIER CODE
RBHRUT/AA

FARE BASIS/TICKET DESIGNATOR
MULTI

FCI
6

SERV CARR ID
0011/

CARRIER FLIGHT CLASS DATE TIME STATUS
THIS IS YOUR RECEIPT

NOT VALID BEFORE
NOT VALID AFTER

ISSUING AGENT ID
RR00*03

FP FOIA(b)(6) 000030 /FCWAS US X/CLT
US 1.1T1.1.7.27KDG9D AA X/BNA AA WAS1.1A.1ARDGDCA 235.
45 END XFDCA3BNA3

NAME OF PASSENGER
KAVANAUGH/BRETT

DCA
FROM
XCLT US831 K 22SEPKDG9D
OLIT US875 K 22SEPKDG9D
TO
XBNA AA580 K 23SEPKDGDCA
DCA AA1022 K 23SEPKDGDCA
CARRIER
****
CARRIER FLIGHT CLASS DATE TIME
****
****
GATE SEAT SMOKE
****
****
****
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 037 1128631924 1
AA09864326

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET PROMOTO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

FARE
USD 235.45
TAX US 23.55
TAX XF 6.00
TOTAL
USD 265.00

EQUIV. FARE PD.

STOCK CONTROL NO. TX 889 CK
30169231890

CPN
DOCUMENT NUMBER
CK
ALLOW PCS WT UNCKD
****
0 037 1128631924 1

COURTYARD
Marriott

LITTLE ROCK (LITCH)
10900 FINANCIAL CTR PKY
LITTLE ROCK, AR, 72211
(501)227-6000

Toll Free Reservations (800) 321- 2211

THANK YOU FOR SELECTING COURTYARD BY MARRIOTT FOR YOUR TRIP. WE TRUST THAT YOUR EXPERIENCE WITH US HAS INCLUDED WARM AND GRACIOUS SERVICE, AND THE TYPE OF ACCOMMODATIONS EXPECTED.

WE LOOK FORWARD TO SERVING YOU AGAIN ON FUTURE TRIPS. FOR ADDITIONAL RESERVATIONS, CALL OUR TOLL FREE RESERVATION NUMBER, (800) 321-2211.

WE LOOK FORWARD TO YOUR NEXT VISIT.

BRETT KAVANAUGH
NO ADDRESS GIVEN
NO ADDRESS GIV XX 00000

GOVERNMENT EMP

ROOM	309	GOVA
ROOM TYPE	GENR	
NO. OF GUESTS	1	
RATE	52.00	
CLERK	52.00	

ARRIVE 09/22/94 TIME 06:26PM DEPART 09-23-94 TIME 01:23A FOLIO # P8-68227

DATE	REFERENCE NUMBER	DESCRIPTION	CHARGES	CREDITS
09/22/94	RB309	ROOM CHARGE	52.00	
09/22/94	RT309	ROOM TAX	5.20	
09/22/94	AX309	AMERICAN EXPRESS		57.20-

****
* CARD #: FOIA(b)(6) *
* AMOUNT: 57.20 AUTH: 25 *
* ** SIGNATURE ON FILE ** *
****

** BALANCE ** .00

The undersigned agrees to make immediate payment upon receipt of statement. In the event such payment is not made within 30 days after receipt of the original statement, it is agreed that the hotel may impose a late payment charge at a rate of 1 1/2% per month (annual rate of 18%), or the maximum allowed by law, on the unpaid balance, and the reasonable cost of collection, including attorney's fees.

SIGNATURE Brett M. Kavanaugh

FOIA # none (URTS 16315) DocId: 70105250 Page 14

FORM # 6-887

*U.S.GPO:1993-0-356-018/80640

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett Kavanaugh

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95 T 5716 0379

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 7/1/95

Return Date 9/30/95

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 5,000.00

Other $ 1,000.00

Total $ 6,000.00

☒ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☒ Actual subsistence up to $ 60 +tax per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 30/M&IE

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Bi-weekly trips for meetings in Office of INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date _____

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 15

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

379

REQUEST

Traveler's Name Brett Kavanaugh

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSTR0379

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 7/1/95

Return Date 9/30/95

Estimated Cost

Transportation
$ _____

Actual subsistence or per diem
$ 5,000.00

Other
$ 1,000.00

Total
$ 6,000.00

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☒ Actual subsistence up to $ 60 +tax per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$ 30/M&IE

☐ Per diem of
$ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Bi-weekly trips for meetings in Office of INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Juanita R. Harris Title Administrative Officer Date 7/5/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 16

Date	Num	Description	Memo	Category	Clr	Amount
9/30/94	TV023S	Kavanaugh, Brett Tvl Claim #01	940023 Kavanaugh 01	--SPLIT--	X	-192.00
9/30/94	KAV02S	Kavanaugh, Brett Tvl Claim #02	940048 Kavanaugh 02	--SPLIT--		-377.50
12/30/94	5080AS	Kavanaugh, Brett Tvl Claim #03	950080 Kavanaugh 03	--SPLIT--	X	-518.82
4/13/95	KAV04S	Kavanaugh, Brett Tvl Claim #04	950293 Kavanaugh 04	--SPLIT--		-300.50
5/ 9/95	5566	Kavanaugh, Brett	taxi receipt, 4/11/95	2120 TVL Exp:212004 Tvl Othe		-5.00
5/18/95	5647 S	Kavanaugh, Brett Tvl Claim #05	950307 Kavanaugh 05	--SPLIT--		-775.51
		TOTAL 1/ 1/94 - 6/16/95				-2,169.33
		TOTAL INFLOWS				0.00
		TOTAL OUTFLOWS				-2,169.33
		NET TOTAL				-2,169.33

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Bret Kavanaugh

Social Security Account Number

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95 1 STR CC 022

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 10/1/94

Return Date 12/31/94

Estimated Cost

Transportation $ 1590

Actual subsistence or per diem $ 1476

Other $ 1000

Total $ 4066

☒ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☐ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $52 +tax/night 30/M&IE

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Bi-weekly trips for meetings in Office of Independent Counsel, Little Rock, AR for about 2 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 10/5/94

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 18

FORM DOJ-501
JAN. 92

1. ORIGINAL (FOR SUBMISSION WITH TRAVEL VOUCHER)

Greg,

Here are the reimbursement forms for my trip to Little Rock on 9/22 - 9/23. Remind me to ask you re: (1) reimbursement for the Dashes' dinner; and (2) advance travel authorization form, which I never received.

Thanks,

Bret

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSIR0080

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC area
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return ☒
Dep. Date 11/30/94
Return Date 12/2/94

Estimated Cost

Transportation
$ _____

Actual subsistence or per diem
$ 400.00

Other
$ 150.00

Total
$ 550.00

☒ ATM Advance Authorized
$ 100

Mode of Transportation Authorized
(Check applicable box(es))

☐ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BO4C)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$ ~~52 + tax/night lodging~~ 30/day M&IE

☐ Per diem of
$ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Investigative services

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date _____

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 20

FORM DOJ-501
JAN. 92

3. EMPLOYEE COPY

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95 STRL 0293

Accounting Classification FOIA(b)(4)

Organization Office of Indep. Counsel-Starr

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return ☒
Dep. Date 1/25/95
Return Date 1/25/95

Estimated Cost

Transportation
$ _____
Actual subsistence or per diem
$ 265.00
Other
$ 50.00
Total
$ 315.00

☐ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☐ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 30/day M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Investigative services.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 1/3/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

3. EMPLOYEE COPY

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSTR0307

Accounting Classification FOIA(b)(4)

Organization Office of Indep. Counsel-Starr

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 5/1/95

Return Date ~~5/4/95~~ 5/5/95

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 500.00

Other $ 100.00

Total $ 600.00

☐ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $30/day M&IE $52 + tax/night

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Investigative Services

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 4/28/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105250 Page 22

FORM DOJ-501
JAN. 92

3. EMPLOYEE COPY

SALES PERSON: 90 ITINERARY DATE: 25 APR 95
CUSTOMER NBR: 030177 RZXZOH PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVENUE, N.W.
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

04 MAY 95 - THURSDAY

AIR	NORTHWEST AIRLINES	FLT:1049	COACH	
	LV LITTLE ROCK		615P	EQP: DC-9 STRETCH
	AR MEMPHIS		700P	NON-STOP
	KAVANAUGH/BRETT	SEAT- 8D		
AIR	NORTHWEST AIRLINES	FLT:1030	COACH	
	LV MEMPHIS		800P	EQP: AIRBUS A320
	AR WASHINGTON NATL		1059P	NON-STOP
	KAVANAUGH/BRETT	SEAT- 8D		

SALES PERSON: 90 ITINERARY DATE: 25 APR 95
CUSTOMER NBR: 030177 SCKERS PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVENUE, N.W.
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

01 MAY 95 - MONDAY

AIR	AMERICAN AIRLINES FLT:1027	ECONOMY	
	LV WASHINGTON NATL	755A	EQP: SUPER 80
	AR LITTLE ROCK	1031A	1-STOP
	KAVANAUGH/BRETT SEAT-20A		
CAR	LITTLE ROCK	NATIONAL CAR RENTAL	CORP ID-5000300
	PICK UP-1031A	1-COMPACT CAR AUTO AC	
	RETURN-04MAY/6P		
	RATE IS SUBJECT TO CHANGE		
	DAILY RATE-USD27.00	UNLIMITED MILEAGE	
	CONFIRMATION NUMBER	1057410373COUNT	

Alamo 301-225-1075

Rental/
Sabrina —
Please prepare travel ~~travel~~ authorizations for each of these. cost = sub system.

Starr

CLAIM FOR REIMBURSEMENT FOR EXPENDITURES ON OFFICIAL BUSINESS

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE
Office of the Independent Counsel
1001 Pennsylvania Ave.,N.W., #490N
Washington, D.C. 20004

2. VOUCHER NUMBER
95STR0890

3. SCHEDULE NUMBER

Read the Privacy Act Statement on the back of this form.

4. CLAIMANT

a. NAME *(Last, first, middle intial)*
KAVANAUGH, Brett

b. SOCIAL SECURITY NO.
FOIA(b)(6)

c. MAILING ADDRESS *(Include ZIP Code)*
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004

d. OFFICE TELEPHONE NUMBER
202-514-8688

5. PAID BY
TVL Clm # 05

6. EXPENDITURES *(If fare claimed in col. (g) exceeds charge for one person, show in col. (h) the number of additional persons which accompanied the claimant.)*

DATE 19 95 (a)	CODE (b)	(c) FROM	(d) TO	MILEAGE RATE ¢ / NO. OF MILES (e)	AMOUNT CLAIMED: MILEAGE (f)	FARE OR TOLL (g)	ADD. PERSONS (h)	TIPS AND MISCELLANEOUS (i)
		Show appropriate code in col. (b): A—Local travel; B—Telephone or telegraph, or; C—Other Expenses (itemized)	*(Explain expenditures in specific detail.)*					
5/26	A	Taxi from OIC-WDC (cost is for three passengers)	New EOB			6.00	+2	
5/30	A	Taxi from OIC-WDC (cost is for two passengers)	15th & Pennsylvania Ave.			4.45	+1	.55
6/7	A	Taxi from OIC-WDC	New EOB			4.00		
6/7	A	Taxi from New EOB	to OIC-WDC			4.00		
6/12	A	Taxi from OIC-WDC (cost is for two people)	New EOB			6.00	+1	
6/12	A	Taxi from New EOB	to OIC-WDC			5.00		
6/14	A	Taxi from D.C Courthouse	to OIC-WDC			4.00		
6/21	A	Taxi from OIC-WDC	to D.C. Courthouse			3.00		
	A	Taxi from D.C. Courthouse	to OIC-WDC			3.00		
	A	Taxi from OIC-WDC	to D.C. Courthouse			3.00		
	A	Taxi from D.C. Courthouse	to OIC-WDC			3.00		
If additional space is required continue on the back.			SUBTOTALS CARRIED FORWARD FROM THE BACK					
			TOTALS			45.45		.55

7. AMOUNT CLAIMED *(Total of cols. (f), (g) and (i).)* $ 46.00

8. This claim is approved. Long distance telephone calls, if shown, are certified as necessary in the interest of the Government. *(Note: If long distance calls are included, the approving official must have been authorized, in writing, by the head of the department or agency to so certify (31 U.S.C. 680a).)*

Sign Original Only

APPROVING OFFICIAL SIGN HERE: Veraguy Kagen — DATE: 6/27/95

9. This claim is certified correct and proper for payment.

Sign Original Only

AUTHORIZED CERTIFYING OFFICER SIGN HERE: Judith R. Harris — DATE: 6/28/95

10. I certify that this claim is true and correct to the best of my knowledge and belief and that payment or credit has not been received by me.

Sign Original Only

CLAIMANT SIGN HERE: Brett M. Kavanaugh — DATE: 6-22-95

11. CASH PAYMENT RECEIPT

a. PAYEE *(Signature)*

b. DATE RECEIVED

c. AMOUNT
$

12. PAYMENT MADE BY CHECK NO.

ACCOUNTING CLASSIFICATION
FOIA(b)(4)

OC : 2120-04 FOIA # none (URTS 16315) DocId: 70105250 Page 25

95STR0890

6. EXPENDITURES—*Continued*

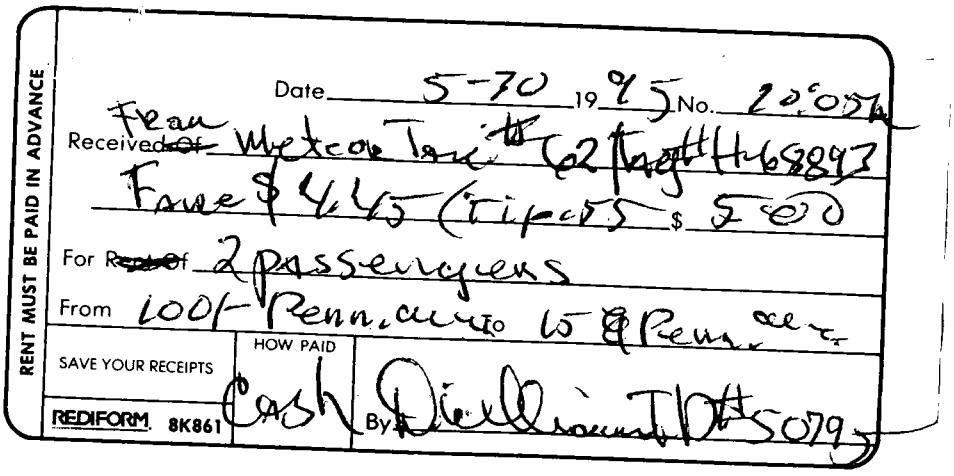
DATE 19___ (a)	CODE (b)	*Show appropriate code in col. (b):* **A**—Local travel **B**—Telephone or telegraph, or **C**—Other Expenses *(itemized)* *(Explain expenditures in specific detail.)* (c) FROM	(d) TO	MILEAGE RATE ¢ NO. OF MILES (e)	AMOUNT CLAIMED MILEAGE (f)	FARE OR TOLL (g)	ADD. PER-SONS (h)	TIPS AND MISCEL-LANEOUS (i)

TAXI CAB RECEIPT

DATE: 5-26-95

CAB FARE FROM _____ TO _____

No. OF PASSENGERS 3 **TOTAL FARE $** 6.00



RENT MUST BE PAID IN ADVANCE

Date 5-70 19 95 No. 20.074

Received from Metcom Inc. 62 Taxi #H68893

Fare $4.45 Tips $ 5.00

For Rental of 2 passengers

From 100 Penn. Plaza to 15 Penn Plaza

SAVE YOUR RECEIPTS

HOW PAID

REDIFORM 8K861

Cash By D. Williams ID# 5079

—TAXICAB RECEIPT—

Wed. 6/7 $4 incl. tip
10:00 am office to NEOB

TIME _____ DATE _____ 19____

REC'D FROM _____

FARE AMOUNT $ _____

TRIP FROM _____

TRIP TO _____

ASSN. _____ CAB NO. _____

I.D. NO. _____ TAG NO. _____

SIGNATURE _____

37

Taxi Cab Receipts

Date 06/07/95 Time: _____

Trip Origin: _____

Destination _____

Fare: $ 4.00 Signature _____

GENERAL OFFICE: 546 - 7900

YELLOW CAB COMPANY OF D.C., INC.

$5 from NEOB 6-12-95

1636 BLADENSBURG ROAD, N.E. WASHINGTON, D.C. 20002

TAXICAB SERVICE: 544 - 1212

_____
DRIVER

$8 to NEOB 6-12-95

Taxi Cab Receipts

Date _____ Time: _____

Trip Origin: _____

Destination _____

Fare: $ _____ Signature _____

TIME _____ DATE _____

FROM _____

TO _____

FARE $ _____ _____

FOIA # none (URTS 16319) DocId: 70105250 Page 28

6-14 $4

TAXI CAB RECEIPT

Date: _____ Time: from courthouse

Trip Origin: _____

Destination: _____

Fare: _____ D river's Signature _____

Holiday Inn on The Hill
415 New Jersey Avenue, NW, Washington D.C. 20001
202-638-1616 or 1-800-HOLIDAY

Taxi Cab Receipts

Date 6/21/95 Time: to Court from office BL

Trip Origin: _____

Destination _____

Fare: $ 3.00 Signature Jesfay

—TAXICAB RECEIPT—

6-21 Courthouse to Office 11:45 A.M.

TIME _____ DATE _____ 19____

REC'D FROM $3 incl. tip

FARE AMOUNT $_____

TRIP FROM _____

TRIP TO _____

ASSN. _____ CAB NO. _____

I.D. NO. _____ TAG NO. _____

SIGNATURE _____

17

TAXI DRIVER'S CUSTOMER RECEIPT

6-21 Courthouse to office P.M.

Company / Ass'n. _____

Time _____ Date _____ 19 $3

Cab# _____ ID# _____

Origin of Trip _____

Destination _____ Fare $ _____

Signature _____

— TAXICAB RECEIPT —

office to Courthouse 6/21 P.M.

TIME _____ DATE _____ 19____

REC'D FROM $3

FARE AMOUNT $ _____

TRIP FROM _____

TRIP TO _____

ASSN. Yellow CAB NO. 1122

I.D. NO. 5814 TAG NO. 1122

SIGNATURE _____

4

U.S. Department of Justice
Washington, DC 20530

Travel Voucher TVL CLM # 03
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	5080A

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett M. FOIA(b)(6)		11/30	12/2/94
	d. OFFICE TELEPHONE NO. 202-514-8688	6. TRAVEL AUTHORIZATION DATE(S) #3	

e. PRESENT DUTY STATION	f. RESIDENCE (City and State)	9. CHECK NO.
Washington, DC	Washington, DC	

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☒ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials BMK

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER AMEX	$ 258.00				Washington, DC	Little Rock
	$				and	return
(h) CASH	$					
(i) TOTAL	$ 258.00					

(m) TRANS. TICKETS (from reverse)	(21-1)	$	258.00
(n) MILEAGE (from reverse)	(21-2)	$	
(o) SUBSISTENCE (from reverse)	(21-4)	$	165.60
(p) VEHICLE RENTAL (from reverse)	(21-6)	$	70.72
(q) OTHER (from reverse)	(21-7)	$	~~210.00~~ 24.50
			518.82
		$	~~515.32~~ Corr

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)

(k) DC NUMBER: (94) T STR 0080

(l) CALL NUMBER: 7. (95)

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 12-5-94 **AMOUNT CLAIMED** ▶

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ Courtney Elwood 12/7/94 DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)		$
	(21-1)	
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. **NET TO TRAVELER** ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.) Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE ____ OF ____ PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME

DATE 19 94	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAKFAST	LUNCH	DINNER	TOTAL	MISCELLANEOUS SUBSISTENCE	LODGING	TOTAL SUBSISTENCE EXPENSES	MILEAGE RATE: ¢ NO. OF MILES	TRANSPORTATION TICKETS	AMOUNT CLAIMED: MILEAGE	SUBSISTENCE	VEHICLE RENTAL	OTHER
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
November 30	2:00pm	Taxi from													10 00
		downtown to Washington National													
November 30 - Dec 2		Lodging - Hilton (2 nights)						105 60					105 60		
		Little Rock													
November 30 - Dec 2		Temporary Duty in Little	(2 full days)			60 00			60 00				60 00		
		Rock from November 30													
		2:00 pm to December 2 5:30pm, Official phone													3 50
November 30 - Dec 2		Airfare from Washington to Little Rock + return									258 00				
November 30 - Dec 2		Rental Car in Little Rock												70 72	
Dec 2		Taxi from National to downtown DC													11 00
									SUBTOTALS ►		258 00		165 60	70 72	24 50
									TOTALS ►						~~24 50~~

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

(21-1) (21-2) (21-4) (21-6) (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► ~~515.32~~ 518.82

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105250 Page 31

*U.S. GPO: 1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSTR0080

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC area

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 11/30/94

Return Date 12/2/94

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 400.00

Other $ 150.00

Total $ 550.00

☒ ATM Advance Authorized $ 100

Mode of Transportation Authorized

(Check applicable box(es))

☐ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized

(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ ~~52 + tax~~/night lodging; 30/day M&IE

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Investigative services

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Administrative Officer Date 12/1/94

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 30 workdays after the travel is completed, or not later than the 30th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-56
JAN. 92

1. ORIGINAL (FOR PUBLICATION OF TRAVEL VOUCHER)

94 REV.
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

311001 0253585 A20

X BOARDING PASS

ISSUED BY: USAIR
NAME OF ISSUING AGENT: CARLSON TRAVEL
NAME OF PASSENGER: KAVANAUGH/BRETT
X/O FROM: **NOT VALID FOR**
X/O TO: **TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS

ARC X FLIGHT COUPON: XXXX
TOUR CODE:
AGENT CODE: A09864326
PLACE OF ISSUE: WASHINGTON
ISO CODE: DC
DATE OF ISSUE: 26NOV94
PNR/CARRIER CODE: QHGBZ07AA
FARE BASIS/TICKET DESIGNATOR: MULTI
FCI:
SERV CARR ID: 6 00117
CARRIER | FLIGHT | CLASS | DATE | TIME | STATUS | NOT VALID BEFORE | NOT VALID AFTER
THIS IS YOUR RECEIPT
ISSUING AGENT ID: RR00903

FP [FOIA(b)(6)] 000035 /FCWAS US X/CLT
US LIT115.45RDG9D NW X/MEM NW WAS113.63YCADCA 229.
08 END XFDCA3MEM3

FARE USD	229.08
TAX US	22.92
TAX XF	6.00
TOTAL USD	258.00

EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK: 30822745671
CPN: 0
DOCUMENT NUMBER CK: 037 1140139449 2
ALLOW PCS WT UNCKD: **********

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: DCA
XCLT US811 K 29NOVKDG9D
OLIT US875 K 29NOVKDG9D
TO: XMEM NW1035 Y 02DECYCADCA
DCA NW879 Y 02DECYCADCA
CARRIER
****
CARRIER FLIGHT CLASS DATE TIME
****
****
GATE SEAT SMOKE
****
****
****
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 037 1140139449 2
AA09864326

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

94 USAir *Passenger Ticket and Baggage Check*

ISSUED BY USAIR NOT TRANSFERABLE
SUBJECT TO CONDITIONS OF CONTRACT

PASSENGER NAME: KAVANAUGH/BRETT
X/O FROM: CHARLOTTE NC
X/O TO: LITTLE ROCK AR
ENDORSEMENTS/RESTRICTIONS

FLIGHT COUPON OF
TOUR CODE
AIRLINE CODE FCI
PLACE OF ISSUE
ISO CODE
DATE OF ISSUE
PNR CODE
CARRIER
FARE BASIS/TICKET DESIGNATOR

CARRIER	FLIGHT	CLASS	DATE	TIME	STATUS	NOT VALID BEFORE	NOT VALID AFTER
US	0875	K	30NOV	450P			13C

****
** COACH CLASS **
** BOARDING PASS **
****

FARE
EQUIVALENT FARE PAID
TAX
TAX
TOTAL
ALLOW PCS WT UNCKD: **********
CPN: 0
DOCUMENT NUMBER CK: 03451266512
STOCK CONTROL NUMBER TX037

REV. 11-93
PRINTED IN U.S.A. BY RAND McNALLY

USAir *Boarding Pass*
BOARDING PASS 02 OF 02

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM X/O: CHARLOTTE NC
TO X/O: LITTLE ROCK AR
CARRIER: USAIR
COACH CLASS
CODE FLIGHT CLASS DATE TIME: US0875 K 30NOV450P

GATE	BOARDING TIME	SEAT	SMOKING
A6A CONNECTION		13C	

94 **USAir** *Passenger Ticket and Baggage Check*

ISSUED BY USAIR NOT TRANSFERABLE
SUBJECT TO CONDITIONS OF CONTRACT

FLIGHT COUPON OF | TOUR CODE | AIRLINE CODE FCI

PLACE OF ISSUE | ISO CODE | DATE OF ISSUE

PASSENGER NAME
KAVANAUGH/BRETT

X/O FROM
WASHINGTON/NATL

X/O TO
CHARLOTTE NC

ENDORSEMENTS/RESTRICTIONS

PNR CODE | CARRIER | FARE BASIS/TICKET DESIGNATOR

CARRIER	FLIGHT	CLASS	DATE	TIME	STATUS	NOT VALID BEFORE	NOT VALID AFTER
US	0811	K	30NOV	245P			

220

COACH CLASS

BOARDING PASS

EQUIVALENT FARE PAID

FARE
TAX
TAX
TOTAL

ALLOW PCS WT UNCKD

CPN | DOCUMENT NUMBER | CK

03451266501

STOCK CONTROL NUMBER TX037

REV. 11-93

PRINTED IN U.S.A. BY RAND McNALLY

USAir *Boarding Pass*
BOARDING PASS 01 OF 02

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM X/O
WASHINGTON/NATL

TO X/O
CHARLOTTE NC

CARRIER USAIR
COACH CLASS

CODE	FLIGHT	CLASS	DATE	TIME
US	0811	K	30NOV	245P

GATE	BOARDING TIME	SEAT	SMOKING
S		220	

NORTHWEST AIRLINES

WORLDWIDE KLM NORTHWEST RELIABILITY℠

SMOKING

FIRST CLASS | WORLD BUSINESS CLASS | ECONOMY CLASS | DEPARTURE GATE | SEAT NUMBER | DESTINATION

FLIGHT/DATE | DESTINATION | POINT OF ISSUE | SPECIAL SERVICE

Boarding Pass

NORTHWEST AIRLINES

PASSENGER'S NAME | PASSENGER'S NAME

See reverse side for important check-in information.

National® Intra rent®

LITTLE ROCK LICENSEE 501-376-7221
RENTAL: 11/30/94 1812 8040300
RETURN: 12/02/94 1148 LITTLE ROCK 8040300
U S GOVERNMENT - OFF 5000300

RETURN RA LR11298-6

FINAL CHARGES

RATE	CHG	$	64.00
*TOTAL	T&M	$	64.00
NET	DUE	$	64.00
TAX@6.500%		$	6.72
AMT	DUE	$	70.72

OWN 60403 VEH LR38690 BRETT KAVANAUGH
LIC MI FXB721T
MILES IN: 3656 OUT: 3617 DRIVEN: 39

RATE SIMS RATE CLASS M MIN RENTAL DAYS 1

$32.00/DLY $170.00/WK $10.50/HR $695.00/SPCL
$64.00/ 2

FOIA(b)(6)

$ 2.640/GAL NT REFUEL SC $.120/MI

PAID BY AUTH:#000031 $ 64 11/30/94

YOUR SATISFACTION IS IMPORTANT TO ALL OF US AT NATIONAL

THANK YOU FOR CHOOSING NATIONAL

COPY ONE
* TAXABLE CHARGES

Little Rock Hilton INN

925 S. University Avenue
Little Rock, Arkansas 72204

FOIA(b)(6)

In Out Folio

Name:

Address:

Rate

Room

TRAVEL AGENCY

Date	Description	ID	Ref. No.	Charges	Credits	Balance
					✓	
					✓	
					✓	
					✓	
					✓	
					✓	
					✓	
					✓	
					✓	

Guest

Firm Address

City State Zip

Rates do not include applicable sales, occupancy or other taxes.

Transfer to credit ledger

I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges.

Guest Signature

Little Rock Hilton INN

925 S. University Avenue
Little Rock, Arkansas 72204

FOIA(b)(6)

In Out Folio

Name:

Rate

Room

Address:

TRAVEL AGENCY

Date	Description	ID	Ref. No.	Charges	Credits	Balance

Guest

Firm Address

City State Zip

Rates do not include applicable sales, occupancy or other taxes.

Transfer to credit ledger

I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges.

Guest Signature

U.S. Department of Justice
Washington, DC 20530

Travel Voucher #4
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel - Starr	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	KAV 04

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett		1/25/95	1/25/95
c. MAILING ADDRESS *(Include ZIP Code)* FOIA(b)(6)	d. OFFICE TELEPHONE NO. (202) 514-8688	6. TRAVEL AUTHORIZATION DATE(S) 1/25/95-1/26/95	
e. PRESENT DUTY STATION Washington, D.C.	f. RESIDENCE *(City and State)* Washington, D.C.	9. CHECK NO. 1	

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)	(m) TRANS. TICKETS (from reverse)	(21-1)	$ 265.00
(k) DC NUMBER: 95TSTR0293	(n) MILEAGE (from reverse)	(21-2)	$
	(o) SUBSISTENCE (from reverse)	(21-4)	$ 22.50
(l) CALL NUMBER:	(p) VEHICLE RENTAL (from reverse)	(21-6)	$
	(q) OTHER (from reverse)	(21-7)	$ 13.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ X Brett M. Kavanaugh DATE **AMOUNT CLAIMED** ▶ $ 300 50

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 4/13/95

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*		
	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. **NET TO TRAVELER** ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is showm on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 1 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME Kavanaugh

DATE 19 95	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST	LUNCH	DINNER	TOTAL	MISCEL-LANEOUS SUBSIS-TENCE	LODGING	TOTAL SUBSISTENCE EXPENSES	MILEAGE RATE: ¢ NO. OF MILES	TRANS-PORTATION TICKETS	AMOUNT CLAIMED: MILEAGE	SUBSIS-TENCE	VEHICLE RENTAL	OTHER
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
1/25	6:00 a.m.	taxi to National airport													13 00
	6:45 a.m.	roundtrip airfare WDC - Little Rock - WDC									265 00				
	9:00 p.m.	3/4 day per diem					22 50		22 50				22 50		
►															
►											265 00		22 50		13 00
											(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $300.50

94 REV.
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

317901 0259587 A10

ARC FREQUENT FLYER COUPON

ISSUED BY DELTA AIR LINES INC XXXXX TOUR CODE AGENT CODE A09864326
NAME OF ISSUING AGENT CARLSON TRAVEL PLACE OF ISSUE WASHINGTON ISO CODE DC DATE OF ISSUE US24JAN95
NAME OF PASSENGER KAVANAUGH/BRETT PNR/CARRIER CODE SCVTCX/AA FARE BASIS/TICKET DESIGNATOR KDGDCA TY 6 FCI 0011/ SERV CARR. ID
X/O FROM **NOT VALID FOR** CARRIER THIS IS YOUR RECEIPT FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
X/O TO **TRANSPORTATION* ISSUING AGENT ID RR00*03
ENDORSEMENTS/RESTRICTIONS

FP [FOIA(b)(6)] 000022 /FCWAS DL X/CVG DL LIT116.36 DL X/CVG DL WAS116.36KDGDCA 232.72 END XFDCA3CVG3CVG3

NAME OF PASSENGER KAVANAUGH/BRETT
DCA
FROM XCVG DL925 K 25JANKDGDCA
OLIT DL253 K 25JANKDGDCA
TO XCVG DL1214 K 26JANKDGDCA
DCA DL1022 K 26JANKDGDCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

FARE USD 232.72
TAX US 23.28
TAX XF 9.00
TOTAL USD 265.00

EQUIV. FARE PD.
STOCK CONTROL NO. TX 989 CK 37215006463
CPN
DOCUMENT NUMBER CK 0 006 1148787857 3

ALLOW PCS WT UNCKD **********
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 006 1148787857 3
AA09864326

duties. The information may be disclosed to appropriate Federal, State, local, foreign or international agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions.

FOIA # none (URTS 16315) DocId: 70105250 Page 39

*U.S. GPO: 1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSTR0293

Accounting Classification FOIA(b)(4)

Organization Office of Indep. Counsel-Starr

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 1/25/95

Return Date 1/25/95

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 265.00

Other $ 50.00

Total $ 315.00

☐ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☐ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
  ☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
  ☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
  ☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
  ☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 30/day M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Investigative services.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Juliette R. Harris Title Administrative Officer Date 1/13/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

FOIA # none (URTS 16315) DocId: 70105250 Page 40

1. ORIGINAL (FOR SUBMISSION WITH TRAVEL VOUCHER)

U.S. Department of Justice
Washington, DC 20530

Travel Voucher TVL CLM #05
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel - Starr.	XX TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	95STR0647

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett	FOIA(b)(6)	5/1/95	5/5/95
c. MAILING ADDRESS (Include ZIP Code) Suite 490 North 1001 Pennsylvania Avenue, N.W. Washington, D.C. 20004	d. OFFICE TELEPHONE NO. (202) 514-8778	6. TRAVEL AUTHORIZATION DATE(S) #05	
e. PRESENT DUTY STATION Washington, D.C.	f. RESIDENCE (City and State) 2727 29th St NW # 134, WDC 20008	9. CHECK NO.	

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:	FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$ 236.00
(k) DC NUMBER:	95TSTR 0307	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:		(o) SUBSISTENCE (from reverse) (21-4)	$ 377.00
		(p) VEHICLE RENTAL (from reverse) (21-6)	$ 120.96
		(q) OTHER (from reverse) (21-7)	$ 41.55

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ K Brett M. Kavanaugh DATE 5-15-95 **AMOUNT CLAIMED** ▶ $ 775.51

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 5/18/95

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)		$
	(21-1)	
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's Initials:	$
c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)	$
d. NET TO TRAVELER ▶	$

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-634
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru
(d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 1 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME

DATE 19 95 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
5/1/95	7:40 a.m.	R/T flight DC-LR-DC									236 00				
5/1/95	6:00 a.m.	taxi to airport													15 00
5/1/95	3/4 day per diem								22 50				22 50		
5/2,3,4/95		3 days per diem							90 00				90 00		
5/5/95	7:23 a.m.	hotel						242 00					242 00		
	8:00 a.m.	rental car												120 96	
		gas for rental													10 55
5/5/95	3/4 day per diem								22 50				22 50		
		SUBTOTALS ►													
		TOTALS ►									236 00		377 00	120 96	41 55
											(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $775.51

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105250 Page 42

*U.S. GPO: 1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSTR0307

Accounting Classification FOIA(b)(4)

Organization Office of Indep. Counsel-Starr

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ~~XX~~

Dep. Date 5/1/95

Return Date ~~5/4/95~~ 5/5/95

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 500.00

Other $ 100.00

Total $ 600.00

☐ ATM Advance Authorized $ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$30/day M&IE
$55 + tax/night

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Investigative Services

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Administrative Officer Date 4/28/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

1. ORIGINAL (FOR SUBMISSION WITH TRAVEL VOUCHER)

95 PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ISSUED BY
AMERICAN AIRLINES
NAME OF ISSUING AGENT
RESEARCH TRAVEL
NAME OF PASSENGER
KAVANAUGH/BRETT
XO FROM
X/O TO
NOT VALID FOR
**TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS

ARC FLIGHT/COUPON
XX/XXX
TOUR CODE
AGENT CODE A21841293
PLACE OF ISSUE ROCKVILLE
ISO CODE MD
DATE OF ISSUE US27APR95
PNR/CARRIER CODE SCKERS/AA
FARE BASIS/TICKET DESIGNATOR WDGDCA
CARRIER FLIGHT CLASS DATE TIME STATUS
FCI SERV CARR ID 7 0011/
NOT VALID BEFORE NOT VALID AFTER
THIS IS YOUR RECEIPT
ISSUING AGENT ID L9Y0*90

FP [redacted]
000025 /FCWAS AA LIT10
5.45WDGDCA 105.45 END XFDCA3

FARE USD 105.45
TAX US 10.55
TOTAL XF 3.00
USD 119.00

EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK 37450099691

CPN
ALLOW PCS WT UNCKD
DOCUMENT NUMBER ********** CK
0 001 1168168896 3

WELCOME TO PHILLIPS 66.
WE APPRECIATE YOUR
BUSINESS. PLEASE DRIVE
SAFELY AND COME AGAIN.

SALES RECEIPT

CHENAL 66 #27860
LITTLE ROCK, ARK
LITTLE ROCK, ARK
PH.#228-9275
9868080012

INVOICE # 1387
DATE 5/4/95
TIME 10:32 AM
AUTH # 004460

ACCOUNT NUMBER [redacted]

PUMP	PRODUCT	PPU
03	UNL	1.129

QTY
9.343 GAL

Fuel Sale $ 10.55
TOTAL $ 10.55

THANK YOU COME AGAI
N !!!

FOIA(b)(6)

95 PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ISSUED BY
NORTHWEST AIRLINES
NAME OF ISSUING AGENT
RESEARCH TRAVEL
NAME OF PASSENGER
KAVANAUGH/BRETT
XO FROM
X/O TO
NOT VALID FOR
**TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS

ARC FLIGHT/COUPON
XX/XXX
TOUR CODE
AGENT CODE A21841293
PLACE OF ISSUE ROCKVILLE
ISO CODE MD
DATE OF ISSUE US27APR95
PNR/CARRIER CODE RZXZOH/AA
FARE BASIS/TICKET DESIGNATOR YCADCA
CARRIER FLIGHT CLASS DATE TIME STATUS
FCI SERV CARR ID 7 0011/
NOT VALID BEFORE NOT VALID AFTER
THIS IS YOUR RECEIPT
ISSUING AGENT ID L9Y0*90

FP [redacted]
000025 /FCLIT NW X/MEM
NW WAS103.63YCADCA 103.63 END XFMEM3

FARE USD 103.63
TAX US 10.37
TOTAL XF 3.00
USD 117.00

EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK 37450099750

CPN
ALLOW PCS WT UNCKD
DOCUMENT NUMBER ********** CK
0 012 1168168897 6

72

Taxi Cab Receipts

—TAXICAB RECEIPT—
$ 15.50
5-1-95

Yellow Cab

Date 5-5-95 Time:
Trip Origin:
Destination
Fare: $ 17.00 Signature

SIGNATURE
I.D. NO.
TAG NO.
ASSN.
CAB NO.
TRIP TO
TRIP FROM
FARE AMOUNT $
REC'D FROM
TIME
DATE 19

National Interrent

LITTLE ROCK LICENSEE 501-376-7221
RENTAL: 5/01/95 1055 8040300
RETURN: 5/05/95 1013 LITTLE ROCK 8040300
U S GOVERNMENT - OFF 5000300

RETURN RA LR25953-3

FINAL CHARGES
RATE CHG $ 108.00
*TOTAL T&M $ 108.00
NET DUE $ 108.00
TAX12.000% $ 12.96
AMT DUE $ 120.96

OWN 80403 VEH LR04563 BRETT KAVANAUGH
LIC AR TEMP02
MILES IN: 872 OUT: 548 DRIVEN: 324

RATE SIMS RATE CLASS E MIN RENTAL DAYS 1

$27.00/DLY $138.00/WK $9.00/HR $635.00/SPCL
$108.00/ 4

$ 2.940/GAL NT REFUEL SC $.140/MI

PAID BY [redacted] AUTH:#000027 $ 117 5/01/95

YOUR SATISFACTION IS IMPORTANT TO ALL OF US AT NATIONAL

THANK YOU FOR CHOOSING NATIONAL

FOIA(b)(6)

COPY ONE
* TAXABLE CHARGES

LA QUINTA LITTLE ROCK WEST 0806
200 SHACKLEFORD ROAD
LITTLE ROCK , AR 72211-
501-224-0900 tax # 74-1891306

For Toll Free Reservations - - - Call 800-531-5900

ROOM 244 is KPN arrive 5/01/95 (MON) depart 5/05/95 (FRI
rate based on KPN #persons 1+ & rlwy 0 crib 0
club # special accounts GSA cml N

guest name KAVANAUGH BRETT M
firm name
address [redacted]

spec info
home ph (___) ___-____ firm ph (___) ___-____ tax status _

type	reference	amount	id	date	time	trans	special info
ROOM	SPECIAL ACCOUNT RATE	55.00		5/01	2:19	76131	acct is GSA
TAX		5.50		5/01	2:19	76132	
ROOM	SPECIAL ACCOUNT RATE	55.00		5/02	1:55	76429	acct is GSA
TAX		5.50		5/02	1:55	76430	
ROOM	SPECIAL ACCOUNT RATE	55.00		5/03	1:30	76745	acct is GSA
TAX		5.50		5/03	1:30	76746	
ROOM	SPECIAL ACCOUNT RATE	55.00		5/04	1:37	77052	acct is GSA
TAX		5.50		5/04	1:37	77053	
		242.00-	TB	5/05	7:33	77115	

charged to [redacted]

credits = 242.00 debits = 242.00 CURRENT BALANCE = 0.00

This property is privately owned and operated. The management reserves the right to refuse service to anyone for lawful and legitimate reasons. Safety deposit boxes are available at the front desk and money, jewelry and documents or other articles of value and small size should be deposited for safekeeping. Unless deposited, the motel assumes no responsibility for any loss or injury to such articles. Recovery for loss or injury to any such articles may be limited or precluded by state law.

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel - Starr	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	96STR0012

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)		9/25/95	9/26/95
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION - DATE(S)	
	202-514-8688	T/L CLM #7	
e. PRESENT DUTY STATION	f. RESIDENCE *(City and State)*	9. CHECK NO.	
Washington, D. C.	Washington, D. C.		

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$				Washington, D.C.	Little Rock, Arkansas
	$				and return	
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$	242.00
(k) DC NUMBER: 95TSTR0379	(n) MILEAGE (from reverse) (21-2)	$	
	(o) SUBSISTENCE (from reverse) (21-4)	$	105.50
(l) CALL NUMBER:	(p) VEHICLE RENTAL (from reverse) (21-6)	$	41.44
	(q) OTHER (from reverse) (21-7)	$	30.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 10-4-95 **AMOUNT CLAIMED** ▶ $ $418.94

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 10/6/95

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*		$
	(21-1)	
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. **NET TO TRAVELER** ▶ $

96 STR0012

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 1 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME: KAVANAUGH

DATE 19 95 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
9/25	5:00p	Depart OIC-DC Office via taxi for National Airport ($13.50 + $1.50 tip)													15.00
	6:07p 6:58p	Depart National Airport American #835 Arrive Nashville Airport													
	7:55p 9:35p	Depart Nashville Airport American #4569 Arrive Little Rock Airport													
	OVER-	Pick up National Rental Car LaQuinta Little Rock West												41.44	
	NIGHT	($55 + $5.50 tax)						60.50					60.50		
9/26		OIC Meetings in Little Rock													
	4:05p 5:15p	Depart Little Rock TWA#290 Arrive St. Louis Airport													
	6:20p 9:24p	Depart St. Louis Airport TWA#10 Arrive Washington National Airport													
	9:35p	Taxi from Washington National Airport to home ($13.50 + $1.50 tip)													15.00
9/25		½ day per diem @ $30 per day =$15							15.00				15.00		
9/26		1 day per diem @ $30 per day=$30							30.00				30.00		
		Cost of roundtrip airfare from Washington, D.C. to Little Rock, AR and return									242.00				
									SUBTOTALS ►		242.00		105.50	41.44	30.00
									TOTALS ►		242.00		105.50	41.44	30.00
											(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $418.94

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105250 Page 47

*U.S. GPO: 1993-342-487/82448

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett Kavanaugh

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 95TSIR0379

Accounting Classification FOIA(b)(4)

Organization Office of Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return ☒
Dep. Date 7/1/95
Return Date 9/30/95

Estimated Cost

Transportation
$ _____

Actual subsistence or per diem
$ 5,000.00

Other
$ 1,000.00

Total
$ 6,000.00

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized *(Check applicable box(es))*

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized *(Check type)*

☒ Actual subsistence up to $ 60 +tax per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Bi-weekly trips for meetings in Office of INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris **Title** Administrative Officer **Date** 7/5/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

1. ORIGINAL (FOR SUBMISSION WITH TRAVEL VOUCHER)

BRETT KAVANAUGH

Monday, September 25, 1995

6:07	~~5:59~~ p.m.	Depart Washington National Airport ~~Northwest #555~~ AAL #835
6:58	~~7:17~~ p.m.	Arrive Memphis Airport
7:55	~~8:00~~ p.m.	Depart Memphis Airport ~~Northwest #1030~~ AAL # 4569
9:35	~~8:44~~ p.m.	Arrive Little Rock Airport

You may pick up your mid-sized rental car from the National Car Rental Counter

OVERNIGHT — LaQuinta Motor Inn West
200 South Shackleford Road
Little Rock, Arkansas 72211
501-224-0900

Tuesday, September 26, 1995

4:05 p.m.	Depart Little Rock Airport TWA #290
5:15 p.m.	Arrive St. Louis Airport
6:20 p.m.	Depart St. Louis Airport TWA #10
9:24 p.m.	Arrive Washington National Airport

EASYLINK 3568508M001 20SEP95 17:17/17:17 EST
FROM: 4955438
4955438 4955438 DEPP UD
RESEARCH TRAVEL INC
TO: 2025148802

SALES PERSON: 90 ITINERARY DATE: 20 SEP 95
CUSTOMER NBR: 030177 QLUQZF PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVENUE, N.W.
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

25 SEP 95 - MONDAY AAL 835

AIR	~~NORTHWEST AIRLINES~~ FLT:~~555~~	COACH	DINNER
	LV WASHINGTON NATL	~~559P~~ 6:07	EQP:AIRBUS A320
	AR ~~MEMPHIS~~ Nashville	~~717P~~ 6:58	NON-STOP
	KAVANAUGH/BRETT SEAT- 9C		
AIR	NORTHWEST AIRLINES · FLT:~~1030~~	COACH	
	LV ~~MEMPHIS~~ Nashville 4569	~~800P~~ 7:55	EQP:DC-9 STRETCH
	AR LITTLE ROCK	~~844P~~ 9:35	NON-STOP
	KAVANAUGH/BRETT SEAT-16D		
CAR	LITTLE ROCK	NATIONAL CAR RENTAL	CORP ID-5000300
	PICK UP-2044	1-INTER CAR AUTO A/C	
	RETURN-26SEP/4P		
	RATE IS GUARANTEED		
	DAILY RATE-USD37.00	UNLIMITED MILEAGE	
	CONFIRMATION NUMBER	1118669132COUNT	
HOTEL	LITTLE ROCK	OUT-26SEP	
	LA QUINTA MTR INNS	1 NIGHT	
	LQ LITTLE ROCK WEST	1 ROOM ACCOMMODATIONS	
	200 SHACKLEFORD RD	RATE-48.00USD PER NIGHT	
	LITTLE ROCK AR 72211	CANCEL BY 06P DAY OF ARRIVAL	
	FONE 501-224-0900	GOVERNMENT RATE	
	FAX 501-221-7126		
	GUARANTEED LATE ARRIVAL		

26 SEP 95 - TUESDAY

AIR	TRANS WORLD AIRLINES FLT:290	ECONOMY	
	LV LITTLE ROCK	405P	EQP:DC-9 STRETCH
	AR ST LOUIS INTL	515P	NON-STOP
	KAVANAUGH/BRETT SEAT-18F		
AIR	TRANS WORLD AIRLINES FLT:10	ECONOMY	DINNER
	LV ST LOUIS INTL	620P	EQP:727 STRETCH
	AR WASHINGTON NATL	924P	NON-STOP
	KAVANAUGH/BRETT SEAT-24C		

THE ROUNDTRIP RATE IS 242.00

9/25 – $15 to Airport from Office (one-trip)

TAXICAB RECEIPT

Date: _____

Time _____ I.D.# _____

Cab # _____ Company _____

Origin of trip _____

Destination _____

Fare _____ Sign. _____

Hope you had a pleasant ride
Thank you for your business

9/26 – $15 from Natl Airport to home

TAXI DRIVER'S CUSTOMER RECEIPT

Company / Ass'n. _____

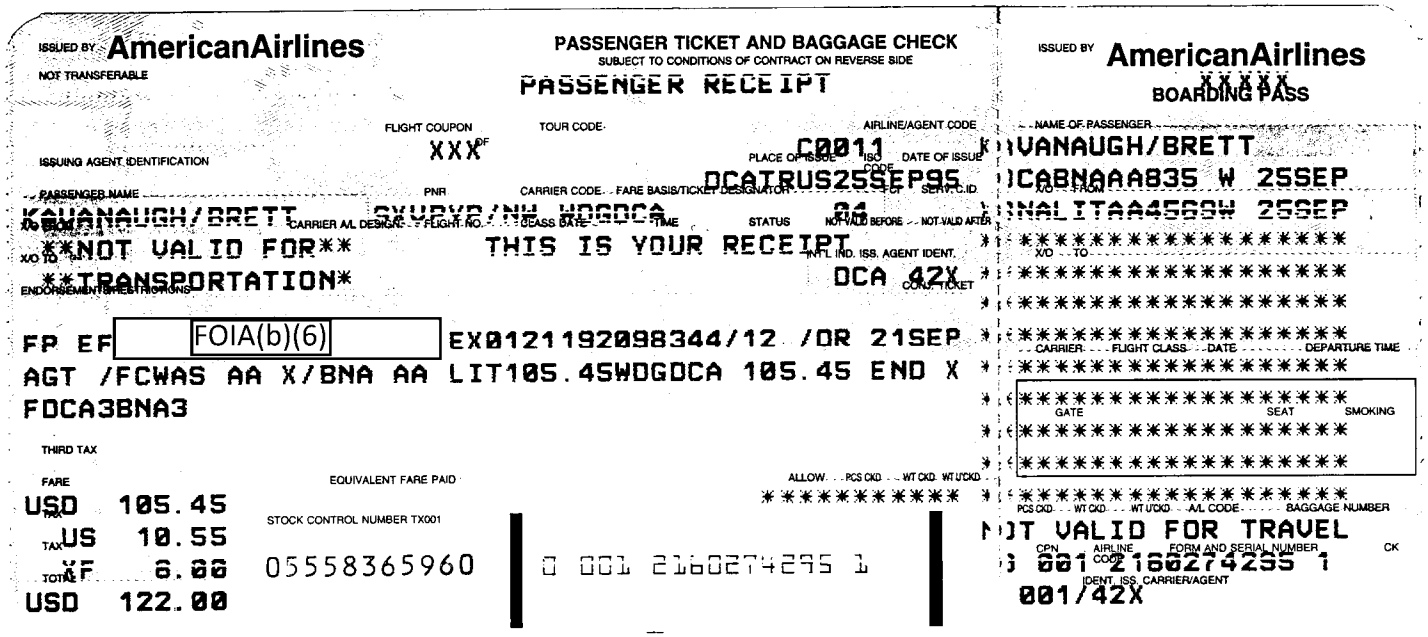
Time _____ Date _____ 19 _____

Cab# _____ ID# _____

Origin of Trip _____

Destination _____ Fare $ _____

Signature _____



ISSUED BY AmericanAirlines
NOT TRANSFERABLE

PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT ON REVERSE SIDE
PASSENGER RECEIPT

FLIGHT COUPON XXX OF
TOUR CODE
AIRLINE/AGENT CODE C0011
ISSUING AGENT IDENTIFICATION
PLACE OF ISSUE ISO CODE DATE OF ISSUE DCATRUS25SEP95
PASSENGER NAME KAUANAUGH/BRETT
PNR SXUPVB
CARRIER CODE FARE BASIS/TICKET DESIGNATION SERV. CLASS SERV. C.ID
TO FROM CARRIER A/L DESIGN. FLIGHT NO. CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
XO TO AA WDGDCA 04
NOT VALID FOR
**TRANSPORTATION*
THIS IS YOUR RECEIPT
INT'L IND. ISS. AGENT IDENT. DCA 42X
ENDORSEMENTS/RESTRICTIONS CONJ. TICKET

FP EF FOIA(b)(6) EX0121192098344/12 /OR 21SEP
AGT /FCWAS AA X/BNA AA LIT105.45WDGDCA 105.45 END X
FDCA3BNA3

THIRD TAX
FARE USD 105.45
TAX US 10.55
TAX YF 6.00
TOTAL USD 122.00

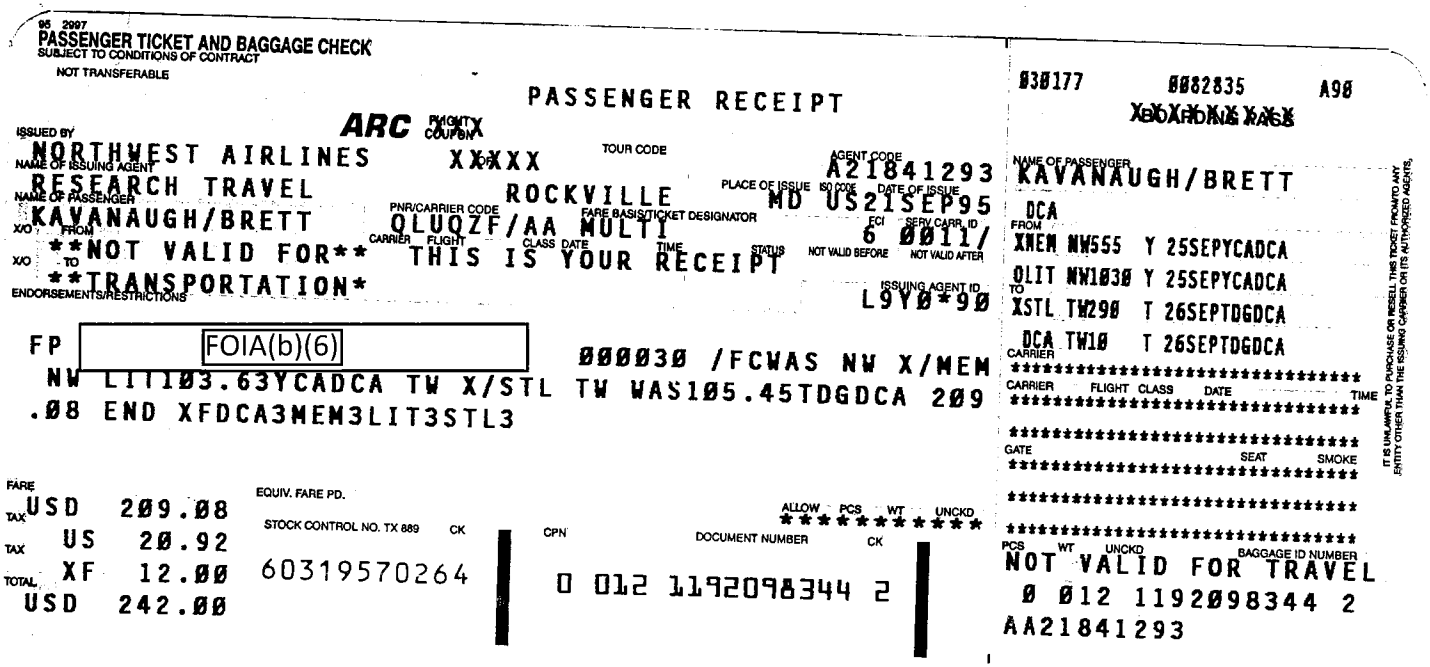
EQUIVALENT FARE PAID
STOCK CONTROL NUMBER TX001
05558365960

ALLOW. PCS CKD WT CKD WT U'CKD
****

0 001 2160274295 1

ISSUED BY AmericanAirlines
XXXXX
BOARDING PASS

NAME OF PASSENGER
VANAUGH/BRETT
X/O FROM
CABNAAA835 W 25SEP
NALITAA458SW 25SEP
X/O TO
CARRIER FLIGHT CLASS DATE DEPARTURE TIME
GATE SEAT SMOKING
PCS CKD WT CKD WT U'CKD A/L CODE BAGGAGE NUMBER
T VALID FOR TRAVEL
CPN AIRLINE CODE FORM AND SERIAL NUMBER CK
001 2160274295 1
IDENT. ISS. CARRIER/AGENT
001/42X



95 2997
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ARC PKG/CTX COUPON

ISSUED BY
NAME OF ISSUING AGENT: NORTHWEST AIRLINES XXXXXX
TOUR CODE
AGENT CODE: A21841293
NAME OF PASSENGER: RESEARCH TRAVEL ROCKVILLE
PLACE OF ISSUE ISO CODE: MD US
DATE OF ISSUE: 21SEP95
PNR/CARRIER CODE: QLUQZF/AA
FARE BASIS/TICKET DESIGNATOR: MULTI
ECI: 6
SERV CARR ID: ØØ11/
NAME OF PASSENGER: KAVANAUGH/BRETT
XXO FROM
CARRIER FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
XXO TO **NOT VALID FOR** THIS IS YOUR RECEIPT
ENDORSEMENTS/RESTRICTIONS **TRANSPORTATION*
ISSUING AGENT ID: L9YØ*9Ø

FP FOIA(b)(6) ØØØØ3Ø /FCWAS NW X/MEM
NW L111Ø3.63YCADCA TW X/STL TW WAS1Ø5.45TDGDCA 2Ø9
.Ø8 END XFDCA3MEM3LIT3STL3

FARE USD 2Ø9.Ø8
TAX US 2Ø.92
TAX XF 12.ØØ
TOTAL USD 242.ØØ

EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK: 60319570264

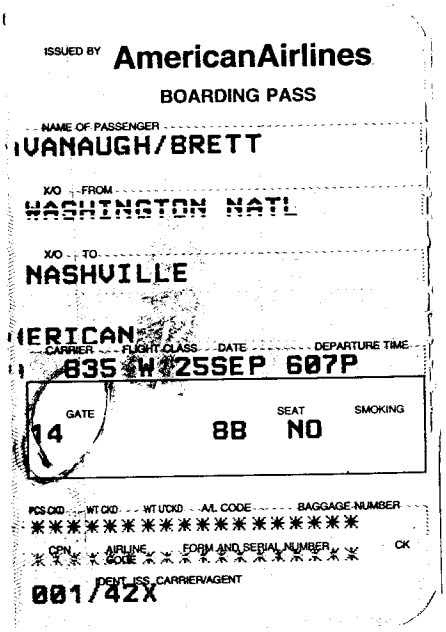
CPN
DOCUMENT NUMBER CK: Ø 012 1192Ø98344 2

ALLOW PCS WT UNCKD: **********

Ø3Ø177 ØØ82835 A9Ø
XXXXXXXXXX

NAME OF PASSENGER: KAVANAUGH/BRETT
DCA
FROM
XMEM NW555 Y 25SEPYCADCA
LIT NW1Ø3Ø Y 25SEPYCADCA
TO
XSTL TW29Ø T 26SEPTDGDCA
DCA TW1Ø T 26SEPTDGDCA
CARRIER
****
CARRIER FLIGHT CLASS DATE TIME
****
****
GATE SEAT SMOKE
****
****
****
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
Ø Ø12 1192Ø98344 2
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.



ISSUED BY AmericanAirlines

BOARDING PASS

NAME OF PASSENGER
VANAUGH/BRETT

X/O FROM
WASHINGTON NATL

X/O TO
NASHVILLE

ERICAN

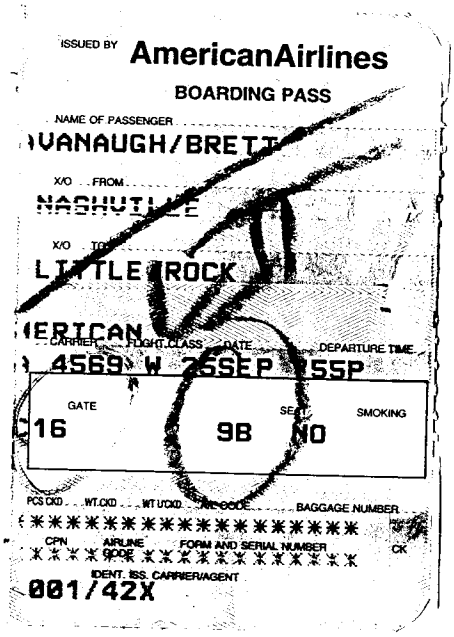
CARRIER | FLIGHT | CLASS | DATE | DEPARTURE TIME
835 W 25SEP 607P

GATE | SEAT | SMOKING
14 | 8B | NO

PCS CKD | WT CKD | WT UCKD | A/L CODE | BAGGAGE NUMBER
****

CPN | AIRLINE CODE | FORM AND SERIAL NUMBER | CK
* * | * * * | * * * * * * * * * * | *

IDENT. ISS. CARRIER/AGENT
001/42X



ISSUED BY AmericanAirlines

BOARDING PASS

NAME OF PASSENGER
VANAUGH/BRETT

X/O FROM
NASHVILLE

X/O TO
LITTLE ROCK

ERICAN

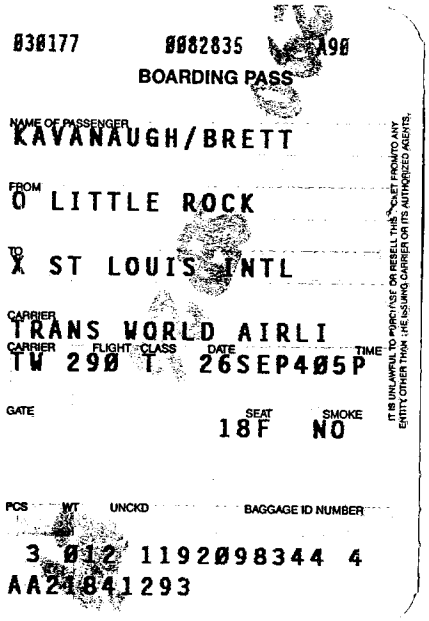
CARRIER | FLIGHT | CLASS | DATE | DEPARTURE TIME
4569 W 26SEP 55P

GATE | SEAT | SMOKING
16 | 9B | NO

PCS CKD | WT CKD | WT UCKD | A/L CODE | BAGGAGE NUMBER
****

CPN | AIRLINE CODE | FORM AND SERIAL NUMBER | CK
* * | * * * | * * * * * * * * * * | *

IDENT. ISS. CARRIER/AGENT
001/42X



030177 0002835 A90

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM
O LITTLE ROCK

TO
X ST LOUIS INTL

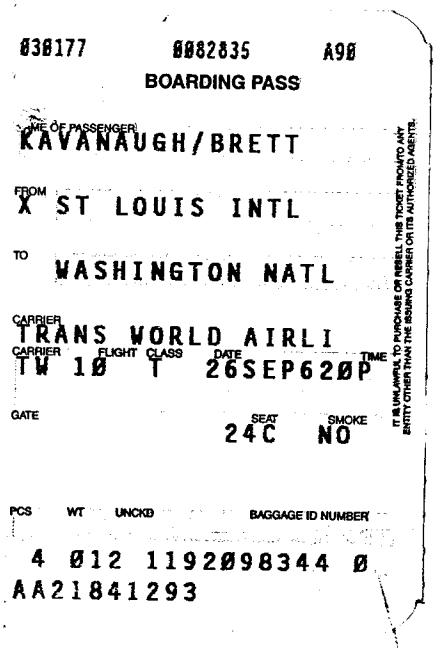
CARRIER
TRANS WORLD AIRLI

CARRIER | FLIGHT | CLASS | DATE | TIME
TW 290 T 26SEP405P

GATE | SEAT | SMOKE
18F | NO

PCS | WT | UNCKD | BAGGAGE ID NUMBER
3 012 1192098344 4
AA21841293

IT IS UNLAWFUL TO PURCHASE OR REBELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.



030177 0002835 A90

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM
X ST LOUIS INTL

TO
WASHINGTON NATL

CARRIER
TRANS WORLD AIRLI

CARRIER | FLIGHT | CLASS | DATE | TIME
TW 10 T 26SEP620P

GATE | SEAT | SMOKE
24C | NO

PCS | WT | UNCKD | BAGGAGE ID NUMBER
4 012 1192098344 0
AA21841293

IT IS UNLAWFUL TO PURCHASE OR REBELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

This property is privately owned and operated. The management reserves the right to refuse service to anyone for lawful and legitimate reasons. Safety deposit boxes are available at the front desk and money, jewelry and documents or other articles of value and small size should be deposited for safekeeping. Unless deposited, the motel assumes no responsibility for any loss or injury to such articles. Recovery for loss or injury to any such articles may be limited or precluded by state law.

LA QUINTA LITTLE ROCK WEST 0806
200 SHACKLEFORD ROAD
LITTLE ROCK , AR 72211-
501-224-0900 tax # 74-1891306

For Toll Free Reservations - - - Call 800-531-5900

ROOM 252 is KPN arrive 9/25/95 (MON) depart 9/26/95 (TUE)
rate based on KPN #persons 1+ rlwy 0 crib 0
club # special accounts GSA & cml N

guest name KAVANAUGH , BRETT M
firm name A O U S C--O I C--M G S L

home ph (___) ___-____ firm ph (___) ___-____ tax status _

type	reference	amount	id	date	time	trans	special info
ROOM	SPECIAL ACCOUNT RATE	55.00		9/25	1:42	19989	acct is GSA
TAX		5.50		9/25	1:42	19990	
charged to		60.50-	FM	9/26	8:57	20031	

FOIA(b)(6)

credits = 60.50 debits = 60.50 CURRENT BALANCE = 0.00

NATIONAL CAR RENTAL

R11607 0 VEH 80403-LR39692
RENTAL 09/25/95 2140 LIT 80403-00
RETURN 09/26/95 1545 LIT 80403-00
M OUT 29743 MI IN 29778 MI DRV 35

BRETT KAVANAUGH

1 DAYS @ 0 WEEKS @ 0 HOURS @
$37.00 $222.00 $18.50
SPEC 0 MILES @
$777.00 $.00

RATE CHG	$ 37.00
TOTAL T&M	$ 37.00
NET DUE	$ 4.44
TAX12.000%	$ 41.44
AMT DUE	

TAXABLE CHARGES

YOUR SATISFACTION IS IMPORTANT TO US

THANK YOU FOR CHOOSING NATIONAL

RESEARCH TRAVEL

1600 Research Blvd.
Rockville, MD. 20850
(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day the ticket is issued. Reconfirm all flights with the appropriate carrier 24 hours prior to domestic and 72 hours prior to international flights. Failure to use any continuing reservations can result in automatic cancellation.
IMPORTANT: Unused tickets may have value. Please return for possible credit or refund.

SALES PERSON: 90 ITINERARY/INVOICE NO. 0082835 DATE: 21 SEP 95
CUSTOMER NBR: 030177 QLUQZF PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVENUE, N.W.
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

25 SEP 95 - MONDAY

AIR	NORTHWEST AIRLINES	FLT:555	COACH	DINNER
	LV WASHINGTON NATL		359P	EQP:AIRBUS A320
	AR MEMPHIS		717P	NON-STOP
	KAVANAUGH/BRETT SEAT- 9C			
AIR	NORTHWEST AIRLINES	FLT:1030	COACH	
	LV MEMPHIS		800P	EQP:DC-9 STRETCH
	AR LITTLE ROCK		844P	NON-STOP
	KAVANAUGH/BRETT SEAT-16D			
CAR	LITTLE ROCK	NATIONAL CAR RENTAL		CONF ID-5000300
	PICK UP-2044	1-INTER CAR AUTO A/C		
	RETURN-26SEP/4P			
	RATE IS GUARANTEED			
	DAILY RATE-USD37.00	UNLIMITED MILEAGE		
	CONFIRMATION NUMBER	111866913 2COUNT		
HOTEL	LITTLE ROCK		OUT-26SEP	
	LA QUINTA MTR INNS		1 NIGHT	
	I 0 LITTLE ROCK WEST		1 ROOM	ACCOMMODATIONS
	200 SHACKLEFORD RD		RATE-48.00USD PER NIGHT	
	LITTLE ROCK AR 72211		CANCEL BY 06P DAY OF ARRIVAL	
	PONE 501-224-0900		GOVERNMENT RATE	
	FAX 501-221-7126			
	GUARANTEED LATE ARRIVAL			
	CONFIRMATION LQ0080683363			

26 SEP 95 - TUESDAY

AIR	TRANS WORLD AIRLINES	FLT:290	ECONOMY	
	LV LITTLE ROCK		405P	EQP:DC-9 STRETCH
	AR ST LOUIS INTL		515P	NON-STOP
	KAVANAUGH/BRETT SEAT-18F			
AIR	TRANS WORLD AIRLINES	FLT:10	ECONOMY	DINNER
	LV ST LOUIS INTL		620P	EQP:727 STRETCH
	AR WASHINGTON NATL		724P	NON-STOP
	KAVANAUGH/BRETT SEAT-24C			

AIR TICKET NW1192078344 KAVANAUGH BRETT
BILLED TO FOIA(b)(6) 242.00

FOIA # none (URTS 16315) DocId: 70105250 Page 56

Screened by NARA (RD-F) 07-30-2018 FOIA # none (URTS 16315) DOCID: 70105252

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

3/68

REQUEST

Traveler's Name Kavanaugh, Brett

Document Number 96TSTR3/68 FOIA(b)(4)

Social Security Account Number

Accounting Classification

Organization Office of the Independent Counsel

Requested By
Signature FOIA(b)(6)

Official Duty Station

Title _____ **Date** _____

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, D.C.
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return X
Dep. Date 7/1/96
Return Date 9/30/96

Estimated Cost

Transportation
$ _____
Actual subsistence or per diem
$ $4,000
Other
$ $1,000
Total $5,000
$ _____

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☒ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $ ___ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$ ~~61~~/night + tax
30/M&IE

☐ Per diem of
$ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the Independent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Administrative Officer Date 6/28/96

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105252 Page 2

FORM DOJ-591

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name: Kavanaugh, Brett

Document Number: 96TSTR3 102 FOIA(b)(4)

Social Security Account Number:

Accounting Classification:

Organization: Office of the Independent Counsel

Requested By FOIA(b)(6)

Signature

Official Duty Station: Washington, D.C.

Title Date

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, D.C.

VIA:

VIA:

VIA:

VIA:

To: Little Rock, AR

And return ☒ 4/1/96

Dep. Date

Return Date 6/30/96

Estimated Cost

Transportation $

Actual subsistence or per diem $ 4,000

Other $ 1,000

Total $ 5,000

☒ ATM Advance Authorized

$

Mode of Transportation Authorized

(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized

(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 52/night +tax 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the Independent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date _____

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105252 Page 3

3065

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brettt Kavanaugh

Document Number 96TSTR 3065 FOIA(b)(4)

Social Security Account Number

Accounting Classification

Organization office of the Independent Counsel

Requested By
Signature FOIA(b)(6)

Official Duty Station Washington, DC

Title _____ **Date** _____

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return ☒
Dep. Date 1/1/96
Return Date 3/31/96

Estimated Cost

Transportation
$ _____

Actual subsistence or per diem
$ 4,000

Other
$ 1,000

Total
$ 5,000

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to
$ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$ 52/night + tax
30/M&IE

☐ Per diem of
$ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Juanita C. Harris Title Administrative Officer Date 12/21/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

FOIA # none (URTS 16315) DocId: 70105252 Page 4

1. ORIGINAL *(FOR SUBMISSION WITH TRAVEL VOUCHER)*

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett Kavanaugh

Document Number 96TSTR 3013 FOIA(b)(4)

Social Security Account Number

Accounting Classification

Organization Office of the Independent Counsel

Requested By
Signature FOIA(b)(6)

Official Duty Station Washington, DC

Title _____ **Date** _____

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA: _____
VIA: _____
VIA: _____
VIA: _____
To: Little Rock, AR
And return X
Dep. Date 10/1/95
Return Date 12/31/95

Estimated Cost

Transportation
$ _____
Actual subsistence or per diem
$ 5,000.00
Other
$ 1,000.00
Total
$ 6,000.00

☒ ATM Advance Authorized
$ _____

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $____ MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 52/night + tax 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☒ e. Other Travel

Justification *(if appropriate)*

Bi-weekly trips for meeting in Office of the Independent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Administrative Officer Date 9/27/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105252 Page 5

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel — Starr	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	96STAR1233

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)		5/13/96	5/16/96

c. MAILING ADDRESS (Include ZIP Code)	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)
	202-514-8688	#09

e. PRESENT DUTY STATION	f. RESIDENCE (City and State)	9. CHECK NO.
Washington, D. C.	Chevy Chase, Maryland	

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT		10. PAID BY
a. Outstanding			a. DATE RECEIVED	b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE		
c. Amount due Government (Attached: ☐ Check ☐ Cash)					
d. Balance outstanding					

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	TO (f)
(g) DINERS GTS OTHER	$				Washington, DC	Little Rock, Arkansas
	$				and	return
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:	(m) TRANS. TICKETS (from reverse) (21-1)	$ 189.00
(k) DC NUMBER: FOIA(b)(4) 96TSTR3102	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse) (21-4)	$ 219.60
	(p) VEHICLE RENTAL (from reverse) (21-6)	$ 98.40
	(q) OTHER (from reverse) (21-7)	$ 48.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 5-16-96 **AMOUNT CLAIMED** ▶ $ 555.00

NOTE: *Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).*

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 5/20/96

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's initials:	$
c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)	$
d. NET TO TRAVELER ▶	$

96STAR1233
2129-23 $219.60
2120-24 $335.40

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FOIA # none (URTS 16315) DocId: 70105252 Page 8

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME: KAVANAUGH

DATE 19 96	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
5/13	5:40a	Taxi from home in Chevy Chase to National													25.00
		Airport ($25, including tip)													
	6:45a	Depart Washington National Airport Delta #253													
	8:15a	Arrive Cincinnati Airport													
	9:05a	Depart Cincinnati Airport													
		Delta #253'													
	9:39a	Arrive Little Rock Airport									93.00				
		Pick up National Rental Car													
	All Day	Attend meetings at OIC/Little Rock and OIC/Trial Office and													
		Court													
	OVER-NIGHT	LaQuinta Little Rock West ($55 per night + $6.05 tax= $61.05)						61.05	61.05				61.05		
		Per diem for 5/13/96 (1 day @ $30 per day)					30.00		30.00				30.00		
5/14	All Day	OIC/Little Rock													
									SUBTOTALS ►		93.00		91.05		25.00
									TOTALS ►		(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ►

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105252 Page 7

*U.S. Government Printing Office: 1991 — 212-332/50906

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 2 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME
KAVANAUGH

DATE 19 96	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
/14	OVER-NIGHT	LaQuinta Little Rock West ($55 + $6.05 tax= $61.05)						61.05	61.05				61.05		
		Per Diem for 5/14 (1 day @ $30 per day)					30.00		30.00				30.00		
5/15	All Day	OIC/Little Rock													
	5:34p	Turn in National Rental Car ($81+ $6.06 refuel charge+												98.40	
		$11.34 tax= $98.40)													
	5:48p	Depart Little Rock American $3564													
	7:25p	Arrive Dallas/Ft. Worth Airport													
	8:17p	Depart Dallas/Ft. Worth American #834													
5/16	12:02a	Arrive Washington National Airport									96.00				
5/15		Per diem for 5/15 (1 day @ $30 per day)							30.00				30.00		
5/16	12:10a	Taxi from Washington National Airport													
	12:40a	to home in Chevy Chase ($23. including													23.00
		tip)													
5/16		Per diem for 5/16 (¼ day x $30=$7.50)							7.50				7.50		
									SUBTOTALS ►		96.00		128.55	98.40	23.00
									TOTALS ►		189.00		219.60	98.40	48.00

f additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

(21-1) (21-2) (21-4) (21-6) (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $555.00

n compliance with the Privacy Act of 1974, the following information is provided: olicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as nplemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) nd 6109. The primary purpose of the requested information is to determine payment r reimbursement to eligible individuals for allowable travel and/or relocation expenses ncurred under appropriate administrative authorization and to record and maintain costs f such reimbursements to the Government. The information will be used by officers nd employees who have a need for the information in the performances of their official uties. The information may be disclosed to appropriate Federal, State, local, or foreign gencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105252 Page 8

*U.S. Government Printing Office: 1991 — 212-332/50906

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)			
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688		
e. PRESENT DUTY STATION: Washington, D. C.	f. RESIDENCE *(City and State)*: Chevy Chase, Maryland	9. CHECK NO.	

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:	(m) TRANS. TICKETS (from reverse) (21-1)	$
(k) DC NUMBER: FOIA(b)(4)	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse) (21-4)	$
	(p) VEHICLE RENTAL (from reverse) (21-6)	$
	(q) OTHER (from reverse) (21-7)	$

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ | DATE | **AMOUNT CLAIMED** ▶ $

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ | DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's initials:* $

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ | DATE

d. NET TO TRAVELER ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Kavanaugh, Brett

Social Security Account Number

Requested By
Signature FOIA(b)(6)

Title **Date**

Document Number 96TSTR3 102 FOIA(b)(4)

Accounting Classification

Organization Office of the Independent Counsel

Official Duty Station Washington, D.C.

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, D.C.
VIA:
VIA:
VIA:
VIA:
To: Little Rock, AR
And return ☒
Dep. Date 4/1/96
Return Date 6/30/96

Estimated Cost

Transportation
$

Actual subsistence or per diem
$4,000

Other
$1,000

Total
$5,000

☒ ATM Advance Authorized
$

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE
$~~52/night~~ +tax 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the Independent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

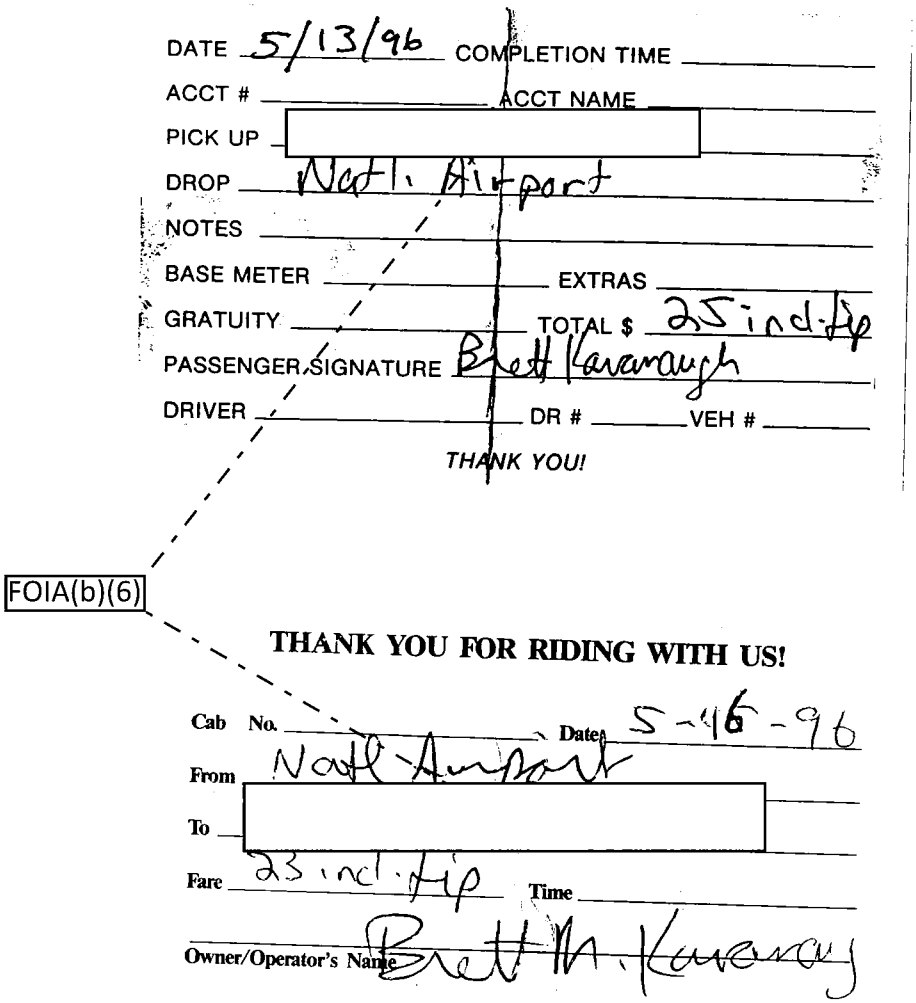
Signature Judith R. Harris Title Administrative Officer Date 3/22/96

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-50
JAN. 92

1. ORIGINAL *(FOR SUBMISSION WITH TRAVEL VOUCHER)*



DATE 5/13/96 COMPLETION TIME

ACCT # ACCT NAME

PICK UP

DROP Natl. Airport

NOTES

BASE METER EXTRAS

GRATUITY TOTAL $ 25 incl. tip

PASSENGER SIGNATURE Brett Kavanaugh

DRIVER DR # VEH #

THANK YOU!

FOIA(b)(6)

THANK YOU FOR RIDING WITH US!

Cab No. Date 5-16-96

From Natl Airport

To

Fare 25 incl. tip Time

Owner/Operator's Name Brett M. Kavanaugh

National Interrent

No problem.

LITTLE ROCK LICENSEE 501-376-7221
RENTAL: 5/13/96 0959 8040300
RETURN: 5/15/96 1734 LITTLE ROCK 8040300
U S GOVERNMENT - OFF 3000300

RETURN RA LR04825-1

FINAL CHARGES

RATE CHG	$	81.00
*TOTAL T&M	$	81.00
REFUEL SC	$	6.06
NET DUE	$	87.06
TAX14.000%	$	11.34
AMT DUE	$	98.40

OWN 80403 VEH LR18810 BRETT KAVANAUGH
LIC AR XDF335
MILES IN:25364 OUT:25309 DRIVEN: 55

[redacted]

FOIA(b)(6)

RATE SIMS RATE CLASS M MIN RENTAL DAYS 1

$27.00/DLY $170.00/WK $9.00/HR $777.00/SPCL
$81.00/ 3

$ 2.940/GAL NT REFUEL SC $.123/MI

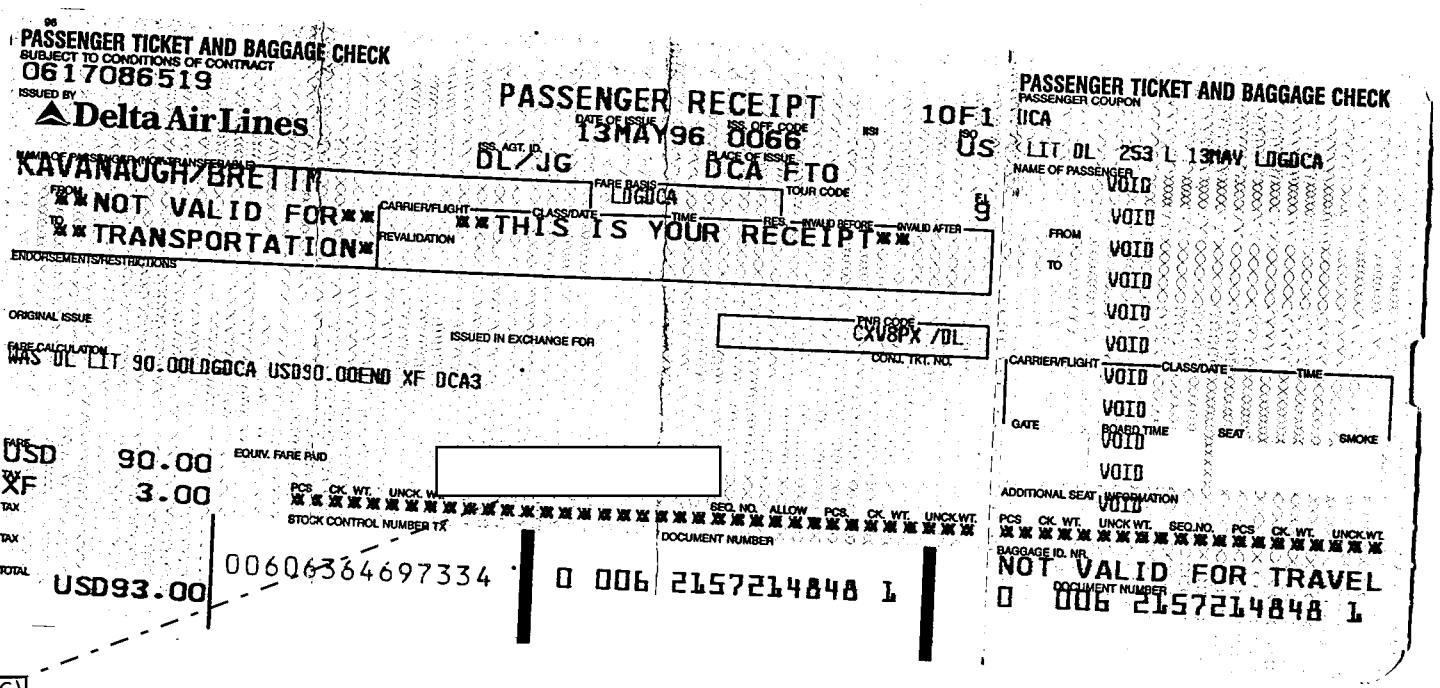
PAID BY [redacted]

09/96 AUTH:#624133 $ 61 5/13/96
ADDL AUTH:#784362 $ 37 5/15/96

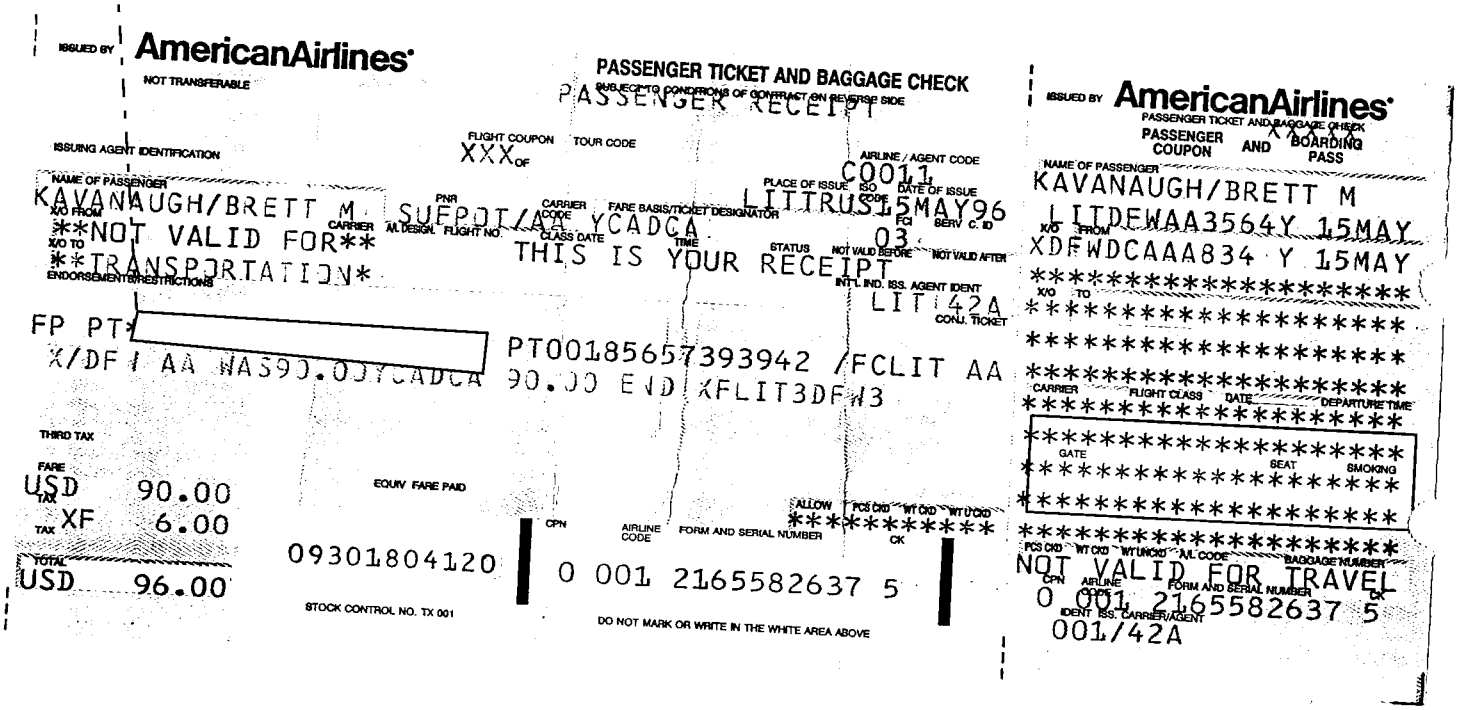
YOUR SATISFACTION IS IMPORTANT TO ALL OF US AT NATIONAL

THANK YOU FOR CHOOSING NATIONAL

* TAXABLE CHARGES


PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
0617086519
ISSUED BY
Delta Air Lines
PASSENGER RECEIPT
13MAY96 0066
KAVANAUGH/BRETT M
NOT VALID FOR
TRANSPORTATION
THIS IS YOUR RECEIPT
ORIGINAL ISSUE
WAS DL LIT 90.00LOGDCA USD90.00END XF DCA3
USD 90.00
XF 3.00
TOTAL USD93.00
0060636469733 4
0 006 2157214848 1
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON
LIT DL 253 L 13MAY LOGDCA
NOT VALID FOR TRAVEL
0 006 2157214848 1

FOIA(b)(6)


ISSUED BY AmericanAirlines
NOT TRANSFERABLE
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER RECEIPT
KAVANAUGH/BRETT M
NOT VALID FOR
**TRANSPORTATION*
THIS IS YOUR RECEIPT
FP PT
X/DFW AA WAS90.00YCADCA 90.00 END XFLIT3DFW3
PT0018565739394 2 /FCLIT AA
USD 90.00
XF 6.00
USD 96.00
09301804120
0 001 2165582637 5
ISSUED BY AmericanAirlines
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON AND BOARDING PASS
KAVANAUGH/BRETT M
LITDFWAA3564Y 15MAY
XDFWDCAAA834 Y 15MAY
NOT VALID FOR TRAVEL
0 001 2165582637 5
001/42A

This property is privately owned and operated. The management reserves the right to refuse service to anyone for lawful and legitimate reasons. Safety deposit boxes are available at the front desk and money, jewelry and documents or other articles of value and small size should be deposited for safekeeping. Unless deposited, the motel assumes no responsibility for any loss or injury to such articles. Recovery for loss or injury to any such articles may be limited or precluded by state law.

LA QUINTA LITTLE ROCK WEST 0806
200 SHACKLEFORD ROAD
LITTLE ROCK , AR 72211-
501-224-0900 tax # 74-1891306

For Toll Free Reservations - - - Call 800-531-5900

ROOM 220 is KPN arrive 5/13/96 (MON) depart 5/15/96 (WED)
rate based on KPN #persons 1+ rlwy 0 crib 0
club # special accounts GSA & cml N

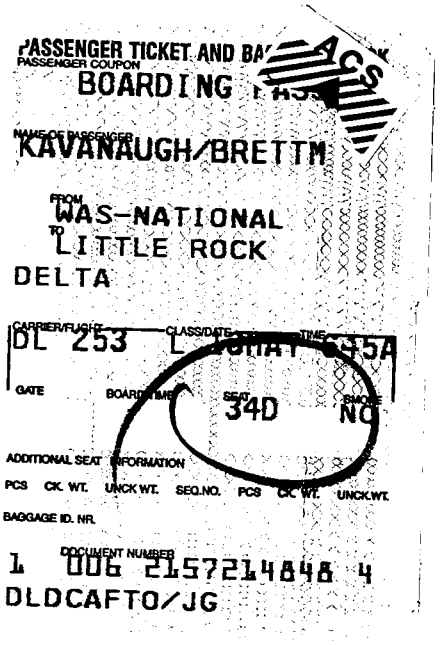
guest name KAVANAUGH , BRETT M
firm name U S DEPT OF JUSTICE
address

FOIA(b)(6)

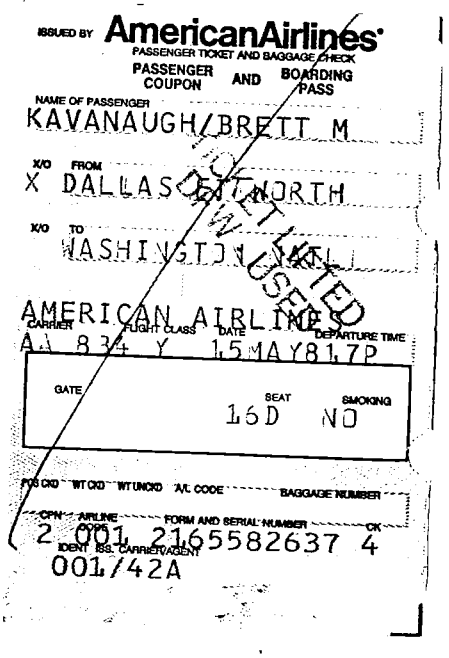
spec info
home ph (___) ___-____ firm ph (414) 747-1150 tax status _

type	reference	amount	id	date	time	trans	special info
ROOM	SPECIAL ACCOUNT RATE	55.00		5/13	2:56	77158	acct is GSA
TAX		6.05		5/13	2:56	77159	
ROOM	SPECIAL ACCOUNT RATE	55.00		5/14	2:06	77493	acct is GSA
TAX		6.05		5/14	2:06	77494	
charged to		122.10-	TZ	5/15	8:40	77623	

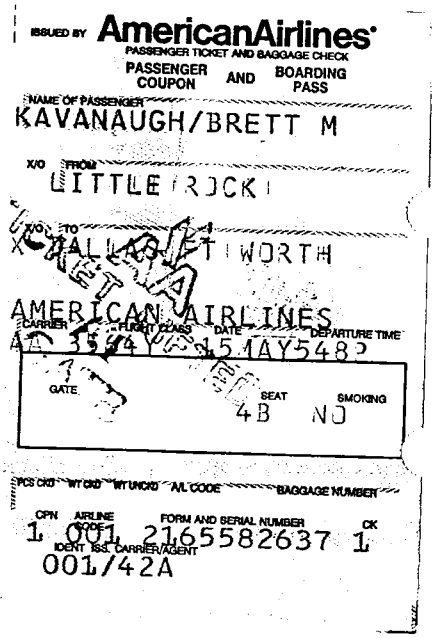
credits = 122.10 debits = 122.10 CURRENT BALANCE = 0.00



PASSENGER TICKET AND BA[illegible]
PASSENGER COUPON
BOARDING [illegible]
NAME OF PASSENGER
KAVANAUGH/BRETTM
FROM
WAS-NATIONAL
TO
LITTLE ROCK
DELTA
CARRIER/FLIGHT
DL 253
CLASS/DATE
[illegible]
TIME
[illegible]A
GATE
BOARDING TIME
SEAT
34D
SMOKING
NO
ADDITIONAL SEAT INFORMATION
PCS CK. WT. UNCK WT. SEQ.NO. PCS CK. WT. UNCK.WT.
BAGGAGE ID. NR.
DOCUMENT NUMBER
1 006 2157214848 4
DLDCAFTO/JG



ISSUED BY AmericanAirlines
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON AND BOARDING PASS
NAME OF PASSENGER
KAVANAUGH/BRETT M
X/O FROM
X DALLAS FT WORTH
X/O TO
WASHINGTON NATL
AMERICAN AIRLINES
CARRIER FLIGHT CLASS DATE DEPARTURE TIME
AA 834 Y 15MAY817P
GATE
SEAT
16D
SMOKING
NO
PCS CKD WT CKD WT UNCKD A/L CODE BAGGAGE NUMBER
CPN AIRLINE CODE FORM AND SERIAL NUMBER CK
2 001 2165582637 4
IDENT ISS. CARRIER/AGENT
001/42A



ISSUED BY AmericanAirlines
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON AND BOARDING PASS
NAME OF PASSENGER
KAVANAUGH/BRETT M
X/O FROM
LITTLE ROCK
X/O TO
DALLAS FT WORTH
AMERICAN AIRLINES
CARRIER FLIGHT CLASS DATE DEPARTURE TIME
AA 354 Y 15MAY548?
GATE
SEAT
4B
SMOKING
NO
PCS CKD WT CKD WT UNCKD A/L CODE BAGGAGE NUMBER
CPN AIRLINE CODE FORM AND SERIAL NUMBER CK
1 001 2165582637 1
IDENT ISS. CARRIER/AGENT
001/42A

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel JAN 23 2 2 PM 96	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	96STAR0514

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M.		1/15/96	1/16/96

c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)
	202-514-8688	TVL CLM 08

e. PRESENT DUTY STATION	f. RESIDENCE *(City and State)*	9. CHECK NO.
Washington, D. C.	FOIA(b)(6) Chevy Chase, Maryland	

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $
b. Amount to be applied			c. PAYEE'S SIGNATURE
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*			
d. Balance outstanding			

CERTIFIED CORRECT FOR PAYMENT BY JAN - - 1996 PITMO ADMIN. OFF. U.S. COURTS

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$				Washington, D.C.	Little Rock, Arkansas
	$				and return	
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:	FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$ 189.00
(k) DC NUMBER:	96TSTR3065	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:		(o) SUBSISTENCE (from reverse) (21-4)	$ 102.72
		(p) VEHICLE RENTAL (from reverse) (21-6)	$ 33.06
		(q) OTHER (from reverse) (21-7)	$ 27.20

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 1-18-96 **AMOUNT CLAIMED** ▶ $ 351.98

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ Carolyn Kuhl DATE 1/19/96

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)	(21-1) Airline	-189.00	
	(21-2) ticket		
	(21-4) charged to		
	(21-6) DIC office		
	(21-7) acct.		
b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION (Certifier's initials: BMK 1/26/96)		$ 162.98	
c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)		$ 0	00
d. NET TO TRAVELER ▶		$ 162.98	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

96STAR0514

2120-03 - $102.72
2120-04 - ~~$344.20~~ 60.26

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

FOIA # none (URTS 16315) Doc#: 70103252 Page 16

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME: KAVANAUGH

DATE 19 96	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
1/15	4:15p	Depart OIC-DC via taxi for Washington National Airport													11.00
		($10 + $1 tip)													
	5:10p	Depart National Airport American #1469													
	7:42p	Arrive Dallas/Ft. Worth Airport													
	8:21p	Depart Dallas/Ft. Worth Airport American #1868													
	9:33p	Arrive Little Rock Airport													
		Pick up National Rental Car												33.06	
		Office-related phone call on hotel bill													1.20
	OVER-NIGHT	The Amerisuites Hotel ($52 + $5.72 tax)						57.72	57.72				57.72		
1/16		Spend day in Little Rock on OIC business matters													
	6:15p	Depart Little Rock Airport Northwest #462													
	6:59p	Arrive Memphis Airport													
	8:15p	Depart Memphis Airport Northwest #1030													
	11:11p	Arrive Washington National Airport													
		(Cost of roundtrip airfare from Washington National Airport to Little Rock and return)									0.00 189.00				
	11:25p	Taxi from National Airport to home ($13 + $2 tip)													15.00
	11:50p	Arrive home													
									SUBTOTALS ►		189.00		57.72	33.06	27.20
									TOTALS ►						

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

(21-1) (21-2) (21-4) (21-6) (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ►

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105252 Page 17

*U.S. Government Printing Office: 1991 — 212-332/50906

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)			
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688		
e. PRESENT DUTY STATION: Washington, D. C.	f. RESIDENCE *(City and State)*: Chevy Chase, Maryland	9. CHECK NO.	

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)	(m) TRANS. TICKETS (from reverse)	(21-1)	$
(k) DC NUMBER:	(n) MILEAGE (from reverse)	(21-2)	$
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse)	(21-4)	$
	(p) VEHICLE RENTAL (from reverse)	(21-6)	$
	(q) OTHER (from reverse)	(21-7)	$

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ DATE **AMOUNT CLAIMED** ▶ $

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*	(21-1)	$	
	(21-2)		
	(21-4)		
	(21-6)		
	(21-7)		

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. NET TO TRAVELER ▶ $

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 2 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME
KAVANAUGH

DATE 19 96 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
1/15		Per diem (½ of $30= $15)											15.00		
1/16		Per diem ($30)											30.00		

U.S. Department of Justice

Official Travel Request and Authorization

(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brettt Kavanaugh

Social Security Account Number

Requested By

Signature FOIA(b)(6)

Title _____ **Date** _____

Document Number 96TSTR 3065

Accounting Classification FOIA(b)(4)

Organization office of the Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC

VIA: _____

VIA: _____

VIA: _____

VIA: _____

To: Little Rock, AR

And return ☒

Dep. Date 1/1/96

Return Date 3/31/96

Estimated Cost

Transportation $ _____

Actual subsistence or per diem $ 4,000

Other $ 1,000

Total $ 5,000

☒ ATM Advance Authorized $ _____

Mode of Transportation Authorized

(Check applicable box(es))

☒ BY COMMON CARRIER

☐ BY GOVERNMENT-FURNISHED AUTO

☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE

☐ BY PRIVATELY OWNED VEHICLE

☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT

☐ COST NOT TO EXCEED THAT OF COMMON CARRIER

☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO

☐ $_____ MILEAGE RATE AUTHORIZED

☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized

(Check type)

☐ Actual subsistence up to $ _____ per day

Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 52/night + tax 30/M&IE

☐ Per diem of $ _____ per day

☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).

☐ Upgrade to premium class at no extra cost.

☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.

☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*

☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial

☐ b. Training

☐ c. Meetings, Conferences and Speeches

☐ d. Relocation Travel *(attach Form DOJ-502)*

☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Jacquelin R. Harris **Title** Administrative Officer **Date** 10/21/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

1. ORIGINAL ***(FOR SUBMISSION WITH TRAVEL VOUCHER)***

FOIA # none (URTS 16315) Docid: 70105252 Page 20

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel – Starr	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	96STAR0514

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)		1/15/96	1/16/96
c. MAILING ADDRESS (Include ZIP Code)	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688	TVL CCM# 08	
e. PRESENT DUTY STATION: Washington, D. C.	f. RESIDENCE (City and State): Chevy Chase, Maryland	9. CHECK NO.	

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ► Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$				Washington, D.C.	Little Rock, Arkansas
	$				and	return
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$	189.00
(k) DC NUMBER: 96TSTR3065	(n) MILEAGE (from reverse) (21-2)	$	
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse) (21-4)	$	102.72
	(p) VEHICLE RENTAL (from reverse) (21-6)	$	33.06
	(q) OTHER (from reverse) (21-7)	$	27.20

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ► Brett M. Kavanaugh DATE 1-18-96 **AMOUNT CLAIMED** ► $ 351.98

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ► [signature] DATE 1/19/96

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ► DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY (Explain and show amount)	(21-1)	$	
	(21-2)		
	(21-4)		
	(21-6)		
	(21-7)		
b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's initials:		$	
c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)		$	
d. NET TO TRAVELER ►		$	

96STAR0514

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FOIA # none (URTS 16315) Doc ID: 2010252 Page 2

2120-04 - $249.26

FORM DOJ-534
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME
KAVANAUGH

DATE 19 96	TIME (Hour and am/pm)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
1/15	4:15p	Depart OIC-DC via taxi for Washington National Airport													11.00
		($10 + $1 tip)													
	5:10p	Depart National Airport American #1469													
	7:42p	Arrive Dallas/Ft. Worth Airport													
	8:21p	Depart Dallas/Ft. Worth Airport American #1868													
	9:33p	Arrive Little Rock Airport													
		Pick up National Rental Car												33.06	
		Office-related phone call on hotel bill													1.20
	OVER-NIGHT	The Amerisuites Hotel ($52 + $5.72 tax)						57.72	57.72				57.72		
1/16		Spend day in Little Rock on OIC business matters													
	6:15p	Depart Little Rock Airport Northwest #462													
	6:59p	Arrive Memphis Airport													
	8:15p	Depart Memphis Airport Northwest #1030													
	11:11p	Arrive Washington National Airport													
		(Cost of roundtrip airfare from Washington National Airport to Little Rock and return)									189.00				
	11:25p	Taxi from National Airport to home ($13 + $2 tip)													15.00
	11:50p	Arrive home													
									SUBTOTALS ►		189.00		57.72	33.06	27.20
									TOTALS ►						

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

(21-1) (21-2) (21-4) (21-6) (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ►

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105252 Page 22

*U.S. Government Printing Office: 1991 — 212-332/50906

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 2 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME
KAVANAUGH

DATE 19 96 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
1/15		Per diem (½ of $30= $15)											15.00		
1/16		Per diem ($30)											30.00		
If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.									SUBTOTALS ►				45.00		
									TOTALS ►		189.00 (21-1)	(21-2)	102.72 (21-4)	33.06 (21-6)	27.20 (21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $351.98

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105252 Page 23

*U.S. Government Printing Office: 1991 — 212-332/50906

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M. FOIA(b)(6)			
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688		
e. PRESENT DUTY STATION: Washington, D. C.	f. RESIDENCE *(City and State)*: Chevy Chase, Maryland	9. CHECK NO.	

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT		10. PAID BY
a. Outstanding			a. DATE RECEIVED	b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE		
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*					
d. Balance outstanding					

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS: FOIA(b)(4)	(m) TRANS. TICKETS (from reverse) (21-1)	$
(k) DC NUMBER:	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:	(o) SUBSISTENCE (from reverse) (21-4)	$
	(p) VEHICLE RENTAL (from reverse) (21-6)	$
	(q) OTHER (from reverse) (21-7)	$

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ DATE **AMOUNT CLAIMED** ▶ $

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	
b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's initials:*		$
c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)*		$
d. NET TO TRAVELER ▶		$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FOIA # none (URTS 16315) DocId: 70105252 Page 24

FORM DOJ-534
SEP. 91

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett Kavanaugh

Social Security Account Number

Requested By
Signature FOIA(b)(6)

Title **Date**

Document Number 96TSTR 3065

Accounting Classification FOIA(b)(4)

Organization office of the Independent Counsel

Official Duty Station Washington, DC

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, AR
And return ☒
Dep. Date 1/1/96
Return Date 3/31/96

Estimated Cost

Transportation
$

Actual subsistence or per diem
$ 4,000

Other
$ 1,000

Total
$ 5,000

☒ ATM Advance Authorized
$

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☐ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☐ $_____MILEAGE RATE AUTHORIZED
☐ OTHER

GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☒ Per diem based on lodging plus meals and incidental expenses NTE $ 52/night + tax 30/M&IE

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)*

Bimonthly trips for meetings in the Office of the INdependent Counsel, Little Rock, AR are authorized for about 2-3 nights each trip.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Jessica R. Harris Title Administrative Officer Date 10/21/95

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FORM DOJ-501
JAN. 92

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1. ORIGINAL *(FOR SUBMISSION WITH TRAVEL VOUCHER)*

BRETT KAVANAUGH

Monday, January 15, 1996

5:10 p.m.	Depart Washington National Airport American #1469
7:42 p.m.	Arrive Dallas/Ft. Worth International Airport
8:21 p.m.	Depart Dallas/Ft. Worth International Airport American #1868
9:33 p.m.	Arrive Little Rock Airport
	You may pick up your National Rental Car at the National Counter (Confirmation Number 1162352759COUNT) (Mid-sized car guaranteed at $29 per day, with unlimited mileage)
OVERNIGHT	Amerisuites Hotel 10920 Financial Center Parkway Little Rock, Arkansas 1-800-833-1516; 501-225-1075 (Confirmation # 2401196) (Guaranteed for late arrival @ $52 per night)

Tuesday, January 16, 1996

6:15 p.m.	Depart Little Rock Airport Northwest #462
6:59 p.m.	Arrive Memphis Airport
8:15 p.m.	Depart Memphis Airport Northwest #1030
11:11 p.m.	Arrive Washington National Airport

$189.00

MAJOR OMEGA OFFICES		GA Atlanta 404-235-6180	MA Boston 617-227-0006	PA Harrisburg 717-234-2136	VA Falls Church 703-998-7330
CORPORATE HQ 703-359-0200		IL Chicago Dntn. 312-715-0717	MI Troy 810-362-0900	Philadelphia 215-864-1694	Norfolk 540-629-2500
CA Los Angeles	310-557-2080	IN Indianapolis 317-844-0507	MN Minneapolis 612-673-0119	Pittsburg 412-765-3636	Richmond 804-649-9110
San Francisco	415-956-0680	LA New Orleans 504-525-8900	NY Buffalo 716-626-1731	York 717-846-8189	Tysons Corner 703-827-8243
CT Stamford	203-324-6600	MD Baltimore 410-837-3439	New York City 212-753-4900	TN Memphis 901-683-4300	WI Madison Airport 608-246-8600
DC Northwest	202-466-5160	Greenbelt 301-345-3297	NC Jacksonville, NC 910-455-9077	TX Houston Dntn. 713-228-9000	Milwaukee Airport 414-747-1150
Nat'l Press	202-347-1650	Rockville 301-984-3888	OH Cleveland 216-771-7900	Dallas/Irving 214-869-9863	Milwaukee HQ 414-423-2400

SALES PERSON: D4 ITINERARY/INVOICE NO. Ø106897 DATE: 11 JAN 96
CUSTOMER NBR: 3W86ØØ RCLEST PAGE: Ø1

TO: 1ØØ1 PENN AVE
SUITE 49Ø NORTH

OMEGA WORLD TRAVEL

Mail payments to: Dept 0876, McLean, VA 22109-0876

AMERICAN	800-433-7300	SOUTHWEST	800-435-9792
AMERICA WEST	800-235-9292	TWA	800-221-2000
CONTINENTAL	800-525-0280	UNITED	800-241-6522
DELTA	800-221-1212	USAIR	800-428-4322
NORTHWEST	800-225-2525	OMEGA 24 HOUR	800-685-6342

FOR: KAVANAUGH/BRETT

15 JAN 96 - MONDAY

AIR AMERICAN AIRLINES FLT:1469 COACH SNACK/BRUNCH
LV WASHINGTON NATL 51ØP EQP:SUPER 8Ø
AR DALLAS FT WORTH 742P NON-STOP

AIR AMERICAN AIRLINES FLT:1868 COACH
LV DALLAS FT WORTH 821P EQP:SUPER 8Ø
AR LITTLE ROCK 933P NON-STOP

CAR LITTLE ROCK NATIONAL CAR RENTAL CORP ID-5999979
PICK UP-1840 1-INTER CAR AUTO A/C
RETURN-16JAN/1645
RATE IS GUARANTEED
DAILY RATE-USD29.ØØ UNLIMITED MILEAGE
CONFIRMATION NUMBER 116235275 9COUNT

HOTEL LITTLE ROCK
XX AMERISUITES 1 NIGHT OUT-16JAN
1Ø92Ø FINANCIAL CENTER PKWY 1 ROOM SINGLE WITH BATH
LITTLEROCK AR RATE-52.ØØ PER NIGHT
FONE 8ØØ-833-1516 GUARANTEED LATE ARRIVAL
CONFIRMATION 24Ø1196

16 JAN 96 - TUESDAY

AIR NORTHWEST AIRLINES FLT:462 ECONOMY
LV LITTLE ROCK 615P EQP:DC-9
AR MEMPHIS 659P NON-STOP

AIR NORTHWEST AIRLINES FLT:1Ø3Ø ECONOMY
LV MEMPHIS 815P EQP:AIRBUS A32Ø
AR WASHINGTON NATL 1111P NON-STOP

3Ø APR 96 - TUESDAY

OTHER WASHINGTON
THANK YOU FOR USING OMEGA TRAVEL

AIR TICKET AA1214271924 KAVANAUGH BRETT
BILLED TO FOIA(b)(6) 189.ØØ*

SUB TOTAL 189.ØØ
NET CC BILLING 189.ØØ*

TOTAL AMOUNT DUE Ø.ØØ

CONTINUED ON PAGE 2

"To avoid inconvenience - Please verify departure times directly with carrier on day of travel"

Terms and conditions plus important travel information on reverse side

FOIA # none (URTS 16315) Doc Id: 70105252 Page 27

AIRLINE TICKETS ARE NEGOTIABLE DOCUMENTS - RETURN TICKETS NOT USED

BUSINESS TRAVELER/RETAIL BRANCH OFFICE COPY

MAJOR OMEGA OFFICES												
CORPORATE HQ 703-359-0200			GA	Atlanta	404-235-6180	MA	Boston	617-227-0006	PA	Harrisburg	717-234-2136	VA	Falls Church	703-998-7330
CA	Los Angeles	310-557-2080	IL	Chicago Dntn.	312-715-0717	MI	Troy	810-362-0900		Philadelphia	215-864-1694		Norfolk	540-629-2500
	San Francisco	415-956-0680	IN	Indianapolis	317-844-0507	MN	Minneapolis	612-673-0119		Pittsburg	412-765-3636		Richmond	804-649-9110
CT	Stamford	203-324-6600	LA	New Orleans	504-525-8900	NY	Buffalo	716-626-1731		York	717-846-8189		Tysons Corner	703-827-8243
DC	Northwest	202-466-5160	MD	Baltimore	410-837-3439		New York City	212-753-4900	TN	Memphis	901-683-4300	WI	Madison Airport	608-246-8600
	Nat'l Press	202-347-1650		Greenbelt	301-345-3297	NC	Jacksonville, NC	910-455-9077	TX	Houston Dntn.	713-228-9000		Milwaukee Airport	414-747-1150
				Rockville	301-984-3888	OH	Cleveland	216-771-7900		Dallas/Irving	214-869-9863		Milwaukee HQ	414-423-2400

SALES PERSON: D4 ITINERARY/INVOICE NO. Ø1Ø6897 DATE: 11 JAN 96
CUSTOMER NBR: 3W86ØØ RCLEST PAGE: Ø2

TO: 1ØØ1 PENN AVE
SUITE 49Ø NORTH

OMEGA WORLD TRAVEL

Mail payments to: Dept 0876, McLean, VA 22109-0876

AMERICAN	800-433-7300	SOUTHWEST	800-435-9792
AMERICA WEST	800-235-9292	TWA	800-221-2000
CONTINENTAL	800-525-0280	UNITED	800-241-6522
DELTA	800-221-1212	USAIR	800-428-4322
NORTHWEST	800-225-2525	OMEGA 24 HOUR	800-685-6342

FOR: KAVANAUGH/BRETT

~~TRAVEL OFFICE HOURS 73ØAM TO 63ØPM MON - FRI~~
LOCAL NUMBER 2Ø2-393-8249Ø
LONG DISTANCE 1-8ØØ-366-3493
FREQUENT FLYER BENEFITS ACCRUED WHILE ON GOVERNMENT
TRAVEL ARE THE PROPERTY OF THE U.S. GOVERNMENT.
24 HOUR EMERGENCY SERVICE CENTER 1-8ØØ-685-6342
PLEASE GIVE YOUR ID CODE.....S-R143-OIC
FCS 8Ø2

U1-16ØØ-OIC
AG-D4
U2-OFFICE OF THE INDEPENDENT COUNSEL
U3-86ØØ
U6-E3

"To avoid inconvenience - Please verify departure times directly with carrier on day of travel"
Terms and conditions plus important travel information on reverse side.

FOIA # none (URTS 16315) Docid: 70105252 Page 28

AIRLINE TICKETS ARE NEGOTIABLE DOCUMENTS - RETURN TICKETS NOT USED

BUSINESS TRAVELER/RETAIL BRANCH OFFICE COPY

SA • Nov. '95
4pt

95 7780
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ARC FLIGHT COUPON X

ISSUED BY
AMERICAN AIRLINES XXXXX
NAME OF ISSUING AGENT
OMEGA WORLD TRAVEL WASHINGTON DC US 11JAN96
NAME OF PASSENGER
KAVANAUGH/BRETT RCLEST/AA MULTI
XO FROM CARRIER FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
NOT VALID FOR THIS IS YOUR RECEIPT
XO TO
TRANSPORTATION
ENDORSEMENTS/RESTRICTIONS

TOUR CODE
AGENT CODE A09545130
PLACE OF ISSUE ISO CODE DATE OF ISSUE
FC 6 SERV.CARR.ID 0011V
ISSUING AGENT ID R143*E3

FP [redacted] / 000023 /FCWAS AA X/DFW
AA LIT90.00YCADCA-NW X/MEM NW WAS87.00KDGDCA 177.0
0 END XFDCA3DFW3LIT3MEM3

FOIA(b)(6)

FARE USD 177.00
TAX XF 12.00
TOTAL USD 189.0

EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK
64956804312
CPN
DOCUMENT NUMBER CK
ALLOW PCS WT UNCKD
****

3R8680 0166897 AD4
MCXRCONGXPA9SX

NAME OF PASSENGER
KAVANAUGH/BRETT
FROM DCA
XDFW AA1469 J 15JANYCADCA
TO OLIT AA1868 Y 15JANYCADCA
XMEM NW462 K 16JANKDGDCA
DCA NW1030 K 16JANKDGDCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 0S1 1214271924 2
AA09545130

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

Cardmember Account Number
09/94 THRU 09/96
BRETT M KAVANAUGH
TOUSC-OIC-MGSL
Cardmember
Service Establishment
ANLRISUITES
LITTLE ROCK AR
Date of Charge 01159
1030102461
Cardmember Signature
X Brett M Kavanaugh
Merchandise and/or service purchased on this card shall not be resold or returned for cash refund. Establishment agrees to transmit to American Express Travel Related Services Co., Inc. or authorized representative for payment.
AMERICAN EXPRESS Cards
194300
Invoice Number

EXPIRATION DATE
APPROVAL CODE
CHECKED
DESCRIPTION
MERCHANDISE/SERVICES
TAXES
TIPS/MISC
TOTAL 58.92
Dollars Cents
Cardmember Copy
CD 20249 ©AMEX Ptd. in U.S.A. 595

NORTHWEST AIRLINES

WORLDWIDE KLM NORTHWEST RELIABILITY

NO SMOKING

FIRST CLASS	WORLD BUSINESS CLASS	ECONOMY CLASS	DEPARTURE GATE
		05-F	12

0462 K 16JAN96 MEMPHIS LIT/LI1/1868

FLIGHT/DATE DESTINATION POINT OF ISSUE

Boarding Pass

PASSENGER'S NAME

KAVANAUGH/BRETT

05-F MEM

SEAT NUMBER DESTINATION

SPECIAL SERVICE

NORTHWEST AIRLINES

PASSENGER'S NAME

KAVANAUGH/BRET

NORTHWEST AIRLINES

WORLDWIDE KLM NORTHWEST RELIABILITY

NO SMOKING

FIRST CLASS	WORLD BUSINESS CLASS	ECONOMY CLASS	DEPARTURE GATE
		22-D	B31

1030 K 16JAN96 WAS-NATIONAL MEM/LI1/0462

FLIGHT/DATE DESTINATION POINT OF ISSUE

Boarding Pass

PASSENGER'S NAME

KAVANAUGH/BRETT

PASSENGER'S NAME

KAVANAUGH/BRET

NORTHWEST AIRLINES

SPECIAL SERVICE

CONNECTION

SEAT NUMBER

22-D

DESTINATION

DCA

FOIA # none (URTS 16315) DocId: 70105252 Page 30

ISSUED BY AmericanAirlines
PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON AND BOARDING PASS
KAVANAUGH/BRETT
X/O WASHINGTON NATL
X/O DALLAS FT WORTH-2E
AMERICAN
AA 1460 Y 15JAN 510P
GATE 11 SEAT 27A NO SMOKING
ISSUED BY AmericanAirlines
BOARDING PASS
NAME OF PASSENGER
KAVANAUGH/BRETT
X/O FROM
DALLAS FT WORTH-2E
AMERICAN
AA 1868 Y 15JAN 821P
GATE 6 SEAT 22E NO SMOKING
X I T
001/SYS

—TAXICAB RECEIPT—

TIME 4:30 p.m. DATE 1/15 19 96 Mon.

REC'D FROM Brett Kavanaugh

FARE AMOUNT $ 11 including tip

TRIP FROM 1001 Pa. Ave

TRIP TO Natl Airport

ASSN. _____ CAB NO. _____

I.D. NO. _____ TAG NO. _____

SIGNATURE pulled out by Brett Kavanaugh

10

DATE 1-16 AMOUNT $ 15 incl. tip

RECEIVED FROM Natl Airport

FOIA(b)(6)

DRIVER I.D. #

DRIVER'S NAME Brett Kavanaugh

National Interrent

No problem.

LITTLE ROCK LIDENSEL 501-376-7221
RENTAL: 1/10/96 2149 / 80.00500
RETURN: 1/16/96 1751 LITTLE ROCK 80.00500
L / A-OFFICIAL 5999

RETURN RA LR22277-2

FINAL CHARGES
RATE CHG $ 29.00
+TOTAL TAX $ 29.00
RNT DUE $ 29.00
X14.000% $ 4.02
RNT DUE $ 33.02

Own 80401 VEH LR7291 DAILY MILEAGE
LIC TX RV247T
MILES IN:26118 OUT:26136 DRIVEN: 30

RATE SIMS RATE CLASS A MIN RENTAL DAYS 1

$29.00/DLY $184.00/WK $7.30/HR $777.10/SPCL
$29.00/ 1

$ 2.940/GAL NT MILEAGE SC .104/MI

PAID BY [redacted] AUTH:4000021 $ 33 1/16/96

FOIA(b)(6)

YOUR SATISFACTION IS IMPORTANT TO ALL OF US AT NATIONAL

THANK YOU FOR CHOOSING NATIONAL

COPY ONE

AMERISUITES®

Time 09:26
Page 1

AMERISUITES FINANCIAL CENTER
10920 FINANCIAL CENTER PKWY
LITTLE ROCK, AR 72211
PHONE:(501)225-1075
FAX:(501)225-2209

Acct# [redacted]
Room# 210
Rate Code GV
Group
Room Type KSUN
Room Rate 52.00

KAVANAUGH, BRETT FOIA(b)(6)

Arrive JAN 15 96 22:39
Depart JAN 16 96 09:26

OMEGA WORLD TRAVEL

600 E ST NW 1ST FL
WASHINGTON DC 20530

[redacted]

Payment AX [redacted]

Exp: [redacted]

Date	Description	Reference	Room	Charges	Credits
JAN 15	LONG DISTANCE	(501)5551212		1.20	
JAN 15	ROOM			52.00	
JAN 15	STATE TAX			5.72	
JAN 16	AMERICAN EXPRESS	CHECKED-OUT			58.92

Balance Due: .00

I agree that my liability for this bill is not waived.

Authorized Signature: _____

Thank You for staying at AmeriSuites Little Rock

GUEST

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 24, 1997

Gloria C. Brown
Accounting and Financial Systems Division
Office of Finance and Budget
Administrative Office of the U.S. Courts
Room 5-213
One Columbus Circle, N.W.
Washington, DC 20544

Dear Ms. Brown:

I was notified by the Relocation and Travel Management Office that a check that had been issued to Brett M. Kavanaugh in the amount of $418.94 for travel voucher 96STAR0012 (see attached copy) had been returned to your office.

Please reissue a check to Mr. Kavanaugh and send it to him at the above office address. Thank you for your assistance.

Sincerely,

Sandra A. Oldham

Sandra A. Oldham
Operations Officer

Attachment

cc: Brett M. Kavanaugh

H

TZ

PP0135098

Administrative Office
United States Courts
Washington, DC 20544

V/U NO (TREASP)
96STR0012A

10/7/97

John R. Breslin

CERTIFIED CORRECT FOR PAYMENT BY
OCT 8 1997
RTMO
ADMIN. OFF. U.C. COURTS

FY95 Fund [redacted] Budget Org: [redacted]

Cost Org: [redacted]

FOIA(b)(4)

$418.94 FOIA(b)(6)

Brett M. Kavanaugh

[redacted]

1001 Pennsylvania Ave., NW
Suite 490-North
Washington, DC 20004

$418.94

Check reissued due to previous check for V#96STR0012 dated 10/16/95 was undeliverable and check cancelled by Disbursing due to limitation date of the expiration date. Automatic Cancellation required by Treasury.

10/07/97

KAVANAUGH, Brett
FY 97 Travel

Screened by NARA (RD-F) 07-30-2018 FOIA # none (URTS 16315) DOCID: 70105254

Nontaxable TDY

Office of the Independent Counsel - Starr
Washington, DC 20004

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
OIC - Starr	☒ TEMPORARY DUTY ☐ EXTENDED TDY ☐ TAXABLE	98STAR0023

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL
Kavanaugh, Brett FOIA(b)(6)	-	a. FROM 9/21/97 b. TO 9/24/97
c. MAILING ADDRESS (Include ZIP Code) 1001 Pennsylvania Avenue, NW Suite 490 North Washington, DC 20004	d. OFFICE TELEPHONE 202-514-8688	6. TRAVEL AUTHORIZATION NUMBER AND DATES
e. PRESENT DUTY STATION Washington, DC	f. RESIDENCE (City and State) Chevy Chase, MD	9. CHECK NO.

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)		8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding		a. DATE RECEIVED b. AMOUNT RECEIVED $	15
b. Amount to be applied	$ -	c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)			
d. Balance outstanding	$ -	11 - 2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)	

11 - 1 FOREIGN TRAVEL ☐

12. TRANSPORATION TICKETS

(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one)).

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE CLASS SERVICE AND ACCOMMODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	TO (f)
(g) AMEX VISA MC					Washington, DC	Little Rock, AR
OTHER					Little Rock, AR	Washington, DC
(h) CASH	FOIA(b)(4)					
(i) TOTAL						

SEP 1997 RECEIVED

(j) COST CENTER/ACCT CLASS: 97TSTR 3249A	(m) TRANS. TICKETS (from reverse) (21-1)	$ 204.00
	(n) MILEAGE (from reverse) (21-2)	$ 3.10
	(o) SUBSISTENCE (from reverse) (21-4)	$ 250.20
(k) DC NUMBER:	(p) VEHICLE RENTAL (from reverse) (21-6)	$ 86.10
(l) CALL NUMBER:	(q) OTHER (from reverse) (21-7)	$ 36.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett Kavanaugh DATE 9-25-97 **AMOUNT CLAIMED** ▶ $ 579.40

NOTE: *Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).*

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. (NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 9-30-97

17. FOR FINANCE OFFICE USE ONLY COMPUTATION

DIFFERENCES IF ANY	(21-1)	$
	(21-2)	$
	(21-4)	$
(Explain and show amount)	(21-6)	$
	(21-7)	$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATON

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH/YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's Initials: $ ---

18. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ [signature] DATE 10/1/97

c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)

d. NET TO TRAVELER ▶ $

98STAR0023

BOC: 2120-02 = $ 3.10 2120-03 = $ 250.20 2120-04 = $ 326.10 1222 = 1227 = 1228 =

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
OIC ELECTRONIC VERSION Apr. 97

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

TRAVELER'S LAST NAME: Kavanaugh

			SUBSISTENCE EXPENSES				MILEAGE	AMOUNT CLAIMED				
DATE	TIME	DESCRIPTION	DAYS	RATE	M&IE	LODGING	MILES	TICKETS	MILEAGE	SUBSIS.	VEH RENT	OTHER
					$ -				$ -	$ -		
9/21/97	4:45p	Drive to Washington National airport			$ -		10	102.00	$ 3.10	$ -		
	5:30p	Depart Washington National via TWA #439			$ -				$ -	$ -		
	6:44p	Arrive St. Louis			$ -				$ -	$ -		
	8:08p	Depart St. Louis via TWA #207			$ -				$ -	$ -		
	9:23p	Arrive Little Rock			$ -				$ -	$ -		
		Pick up rental car			$ -				$ -	$ -		
	OVRNGT	Courtyard ($66 + $6.60 = $72.60)	0.75	$ 30.00	$ 22.50	$ 72.60			$ -	$ 95.10		
		Per diem (3/4 day at $30/day = $22.50)			$ -				$ -	$ -		
					$ -				$ -	$ -		
9/22/97		In Little Rock on OIC business			$ -				$ -	$ -		
	OVRNGT	Courtyard ($66 + $6.60 = $72.60)	1.00	$ 30.00	$ 30.00	$ 72.60			$ -	$ 102.60		
		Per diem (1 day at $30/day = $30)			$ -				$ -	$ -		
					$ -				$ -	$ -		
9/23/97		In Little Rock on OIC business			$ -			102.00	$ -	$ -		
	6:30p	Return National rental car			$ -				$ -	$ -		
		(2 days at $35/day + $5.70 gas + $10.40 tax = $86.10)			$ -				$ -	$ -	$ 86.10	
	7:30p	Depart Little Rock via TWA #320			$ -				$ -	$ -		
	8:42p	Arrive St. Louis			$ -				$ -	$ -		
		Depart St. Louis via TWA # (changed flights)			$ -				$ -	$ -		
		Per diem (1 day at $30/day = $30)	1.00	$ 30.00	$ 30.00				$ -	$ 30.00		
					$ -				$ -	$ -		
9/24/97	1:30a	Arrive Washington Dulles *			$ -			$ ~~204.00~~	$ -	$ -		
		Get ride in taxi home			$ -				$ -	$ -		
		Pick up car at Washington National ($36 parking)			$ -				$ -	$ -		$ 36.00
		Per diem (3/4 day at $30/day = $22.50)	0.75	$ 30.00	$ 22.50				$ -	$ 22.50		
		* Flight was changed from National to Dulles			$ -				$ -	$ -		
		Note: Hotel rate was lowest available; checked the			$ -				$ -	$ -		
		Hilton, Governor's Inn & Holiday Inn West before			$ -				$ -	$ -		
		using the Courtyard.			$ -				$ -	$ -		
							SUBTOTAL	$ 204.00	$ 3.10	$ 250.20	$ 86.10	$ 36.00
							TOTALS	$ 204.00	$ 3.10	$ 250.20	$ 86.10	$ 36.00

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 USC Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 USC 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Number (SSN) is solicited under the authority of the Internal Revenue Code (26 USC 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105254 Page 3

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3249A

Social Security Number: [ ] - - - - FOIA(b)(6)

Accounting Classification: [ ] - FOIA(b)(4)

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: July 1, 1997

Return Date: September 30, 1997

Estimated Cost:

Transportation
$ 1,500.00

Actual subsistence or per diem
$ 1,000.00

Other
$ 1,000.00

Total
$ 3,500.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
- ☐ POV Determined to be Most Advantageous to Government
- ☐ Cost Not to Exceed that of Common Carrier
- ☐ Based on Cost of Government Furnished Auto
- ☐ $____ Mileage Rate Authorized

☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☒ Actual subsistence up to $95.00/night for lodging and $30.00/day M&IE. Actual subsistence above $65/night for lodging requires supplemental justification on the travel voucher.

☐ Per diem based on lodging plus meals and incidental expenses not to exceed

☐ Per diem of $ per day.
☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
- ☐ Upgrade to premium class at no extra cost.

☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.

☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)

☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is not to exceed $95.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). When lodging expense exceeds $65.00/night, supplemental justification is required on the travel voucher. One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Meggy Hafer Title Administrative Officer Date 7/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

COURTYARD
Marriott

LITTLE ROCK
10900 FINANCIAL CENTRE
LITTLE ROCK, AR 72211
(501) 221-2000

GUEST CHARGES SUMMARY

Toll Free Reservations (800) 321- 2211

THANK YOU FOR SELECTING COURTYARD BY MARRIOTT FOR YOUR TRIP. WE TRUST THAT YOUR EXPERIENCE WITH US HAS INCLUDED WARM AND GRACIOUS SERVICE, AND THE TYPE OF ACCOMMODATIONS EXPECTED.

WE LOOK FORWARD TO SERVING YOU AGAIN ON FUTURE TRIPS. FOR ADDITIONAL RESERVATIONS, CALL OUR TOLL FREE RESERVATION NUMBER, (800) 321-2211.

WE LOOK FORWARD TO YOUR NEXT VISIT.

BRETT KAVANAUGH
1600 RESEARCH BLVD
ROCKVILLE MD 208503172

PLAZA 270

ROOM	143	GOVB
ROOM TYPE	DBDB	2184129
NO. OF GUESTS	1	
RATE	66	
CLERK	66	

ARRIVE 09/21/97 TIME 09:54PM DEPART 09-23-97 TIME 00:39A FOLIO # P8-62822

DATE	REFERENCE NUMBER	DESCRIPTION	CHARGES	CREDITS
09/21/97	RB143	ROOM CHARGE	66.00	
09/21/97	RT143	ROOM TAX	6.60	
09/22/97	RB143	ROOM CHARGE	66.00	
09/22/97	RT143	ROOM TAX	6.60	
09/22/97	AX143	AMERICAN EXPRESS		145.20-
		**********		
		* Your AMERICAN EXPRESS card on file *		
		* will be charged $ 145.20 *		
		**********		
		** BALANCE **		.00

The undersigned agrees to make immediate payment upon receipt of statement. In the event such payment is not made within 30 days after receipt of the original statement, it is agreed that the hotel may impose a late payment charge at a rate of 1 1/2% per month (annual rate of 18%), or the maximum allowed by law, on the unpaid balance, and the reasonable cost of collection, including attorney's fees.

SIGNATURE _____

FORM # 6-88

97 3426 6893
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE
ETKT

PASSENGER RECEIPT

030177 0099870 A46
XBOARDINGPASS

ISSUED BY
ARC FLIGHT/COUPON X X
NAME OF ISSUING AGENT TRANS WORLD AIRLINES XXXXXX TOUR CODE
AGENT CODE A21841293
RESEARCH TRAVEL ROCKVILLE MD US 19SEP97
NAME OF PASSENGER PNR/CARRIER CODE FARE BASIS/TICKET DESIGNATOR PLACE OF ISSUE ISO CODE DATE OF ISSUE
KAVANAUGH/BRETT SXAJCY/AA YCADCA 6 0011/
X/O FROM CARRIER FLIGHT CLASS DATE TIME STATUS FCI SERV CARR ID NOT VALID BEFORE NOT VALID AFTER
NOT VALID FOR
X/O TO **TRANSPORTATION*
THIS IS YOUR RECEIPT
ENDORSEMENTS/RESTRICTIONS
ISSUING AGENT ID L9Y0*46

FP [redacted]
TW LIT87.27YCADCA 87.27 END XFDCA3STL3
667862 /FCWAS TW X/STL

FARE USD 87.27 EQUIV. FARE PD.
TAX US 8.73
TAX XF 6.00 STOCK CONTROL NO. TX889 CK 41059362492
TOTAL USD 102.00

CPN DOCUMENT NUMBER CK ALLOW PCS WT UNCKD **********
0 015 1105567774 0

NAME OF PASSENGER
KAVANAUGH/BRETT
FROM DCA
XSTL TW439 Y 21SEPYCADCA
TO LIT TW207 Y 21SEPYCADCA
****
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 015 1105567774 0
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

97 3426 6893
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE
ETKT

PASSENGER RECEIPT

030177 0099847 A46
XBOARDINGPASS

ISSUED BY
ARC FLIGHT/COUPON X X
NAME OF ISSUING AGENT TRANS WORLD AIRLINES XXXXXX TOUR CODE
AGENT CODE A21841293
RESEARCH TRAVEL ROCKVILLE MD US 19SEP97
NAME OF PASSENGER PNR/CARRIER CODE FARE BASIS/TICKET DESIGNATOR PLACE OF ISSUE ISO CODE DATE OF ISSUE
KAVANAUGH/BRETT RGVTHZ/AA YCADCA 7 0011/
X/O FROM CARRIER FLIGHT CLASS DATE TIME STATUS FCI SERV CARR ID NOT VALID BEFORE NOT VALID AFTER
NOT VALID FOR
X/O TO **TRANSPORTATION*
THIS IS YOUR RECEIPT
ENDORSEMENTS/RESTRICTIONS
ISSUING AGENT ID L9Y0*46

FOIA(b)(6)

FP [redacted]
TW WAS87.27YCADCA 87.27 END XFLIT3STL3
871869 /FCLIT TW X/STL

FARE USD 87.27 EQUIV. FARE PD.
TAX US 8.73
TAX XF 6.00 STOCK CONTROL NO. TX 889 CK 41059361140
TOTAL USD 102.00

CPN DOCUMENT NUMBER CK ALLOW PCS WT UNCKD **********
0 015 1105567752 6

NAME OF PASSENGER
KAVANAUGH/BRETT
FROM LIT
XSTL TW320 Y 23SEPYCADCA
TO DCA TW240 Y 23SEPYCADCA
****
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 015 1105567752 6
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

TWA

FLIGHT • CLASS • ORIGIN • DEST
TW0644 Y STL IAD

SEAT 37-C

SMOKING NO

KAVANAUGH/B ETKT

DATE 23SEP97

ST1 [illegible]

TWA

FLIGHT • CLASS • ORIGIN • DEST
TW0320 Y LIT STL

SEAT 18-C EXIT

SMOKING NO

KAVANAUGH/B*ETKT

DATE 23SEP97

ST1 VM

NATIONAL
CAR RENTAL

RA: LR28141-0 VEH: 80403-LR48302
RENTAL: 09/21/97 2136 LIT 80403-00
RETURN: 09/23/97 1838 LIT 80403-00
MI OUT:29571 MI IN:29609 MI DRV: 38

BRETT KAVANAUGH
[redacted] - - - - FOIA(b)(6)

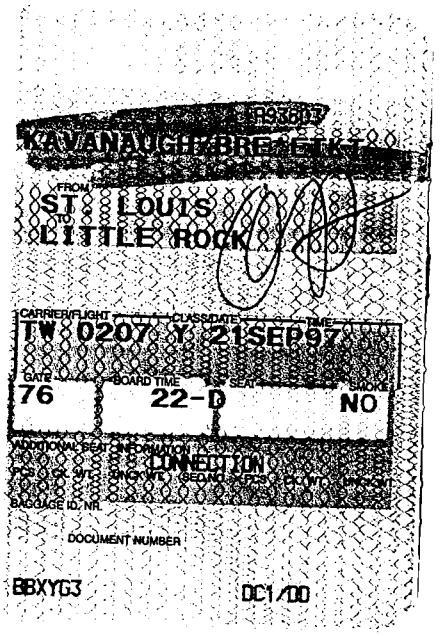
2 DAYS @ $35.00 0 WEEKS @ $190.00 0 HOURS @ $11.50
SPEC $600.00 0 MILES @ $.00

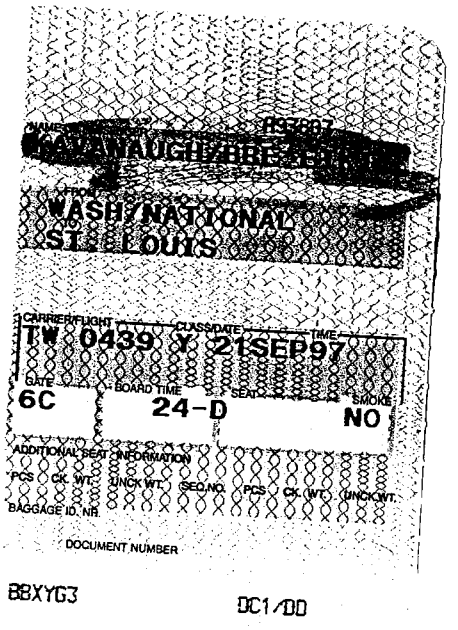
RATE CHG	$	70.00
* TOTAL T&M	$	70.00
REFUEL SC	$	5.70
NET DUE	$	75.70
TAX RECOVERY	$	2.00
TAX12.000%	$	8.40
AMT DUE	$	86.10

*TAXABLE CHARGES

YOUR SATISFACTION IS IMPORTANT TO US

THANK YOU FOR CHOOSING NATIONAL





WASHINGTON NATIONAL
AIRPORT

For Questions or Comments: (703)417-4300
Entrance: 17:13 09/21/97 Lane # 12
Exit : 13:11 09/24/97 Lane # 48
License Plate MD MBK512
Cashier : 137 Seq. # 4573
Length of stay 0/002 19h. 58mn.
Amount Paid $ 36.00 Cash
*** Thank You for Playing ***
*** Washington National Airport ***

A Took cab from Dulles home. Had to pick up car from National Airport.

Nontaxable TDY

Office of the Independent Counsel - Starr
Washington, DC 20004

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
OIC - Starr	☒ TEMPORARY DUTY ☐ EXTENDED TDY ☐ TAXABLE	97STAR 1605

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL
Kavanaugh, Brett FOIA(b)(6)		a. FROM 7/23/97 b. TO 7/25/97
c. MAILING ADDRESS (Include ZIP Code) 1001 Pennsylvania Ave., NW Suite 490 North Washington, DC	d. OFFICE TELEPHONE 202-514-8688	6. TRAVEL AUTHORIZATION NUMBER AND DATES
e. PRESENT DUTY STATION Washington, DC	f. RESIDENCE (City and State) Chevy Chase, MD	9. CHECK NO.

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)		8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding		a. DATE RECEIVED b. AMOUNT RECEIVED $	14
b. Amount to be applied	$ -	c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)			
d. Balance outstanding	$ -		

11 - 1 FOREIGN TRAVEL ☐

11 - 2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORATION TICKETS

(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one)).

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE CLASS OF SERVICE AND ACCOMMO-DATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) AMEX VISA MC					Washington, DC	Little Rock, AR
OTHER					Little Rock, AR	Washington, DC
(h) CASH	FOIA(b)(4)					
(i) TOTAL						

(j) COST CENTER/ACCT CLASS: 97T3TR 3249A	(m) TRANS. TICKETS (from reverse)	(21-1)	$ 204.00
	(n) MILEAGE (from reverse)	(21-2)	$ -
	(o) SUBSISTENCE (from reverse)	(21-4)	$ 156.49
(k) DC NUMBER:	(p) VEHICLE RENTAL (from reverse)	(21-6)	$ -
(l) CALL NUMBER:	(q) OTHER (from reverse)	(21-7)	$ 46.50

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett Kavanaugh DATE 7/29/97 **AMOUNT CLAIMED** ▶ $ 406.99

NOTE: *Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).*

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. (NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 7/30/97

17. FOR FINANCE OFFICE USE ONLY COMPUTATION

DIFFERENCES IF ANY	(21-1)	$
	(21-2)	$
	(21-4)	$
(Explain and show amount)	(21-6)	$
	(21-7)	$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATON

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH/YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's Initials: $

18. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ [signature] DATE 7/30/97

c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)

d. NET TO TRAVELER ▶ $

97STAR 1605

BOC: 2120-02 = $ - 2120-03 = $ 156.49 2120-04 = $ 250.50 1222 = 1227 = 1228 =

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
OIC ELECTRONIC VERSION Apr. 97

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

TRAVELER'S LAST NAME: Kavanaugh

			SUBSISTENCE EXPENSES				MILEAGE	AMOUNT CLAIMED				
DATE	TIME	DESCRIPTION	DAYS	RATE	M&IE	LODGING	MILES	TICKETS	MILEAGE	SUBSIS.	VEH RENT	OTHER
					$ -				$ -	$ -		
7/23/97	5:45a	Take taxi to airport ($24.00 incl. tip)			$ -				$ -	$ -		$ 24.00
	6:45a	Depart Washington National Airport via Deta #347			$ -				$ -	$ -		
	8:20a	Arrive Cincinnati			$ -				$ -	$ -		
	8:55a	Depart Cincinnati via Delta #253			$ -				$ -	$ -		
	9:25a	Arrive Little Rock			$ -			$ 102.00	$ -	$ -		
	OVRNGT	Governor's Inn ($74.00 + $7.49 tax = $81.49)	0.75	$ 30.00	$ 22.50	$ 81.49			$ -	$ 103.99		
		Per diem (3/4 day at $30.00/day = $22.50)			$ -				$ -	$ -		
					$ -				$ -	$ -		
7/24/97	12:01a-				$ -				$ -	$ -		
	7:30p	In Little Rock on OIC business			$ -				$ -	$ -		
	7:30p	Depart Little Rock via TWA #116			$ -				$ -	$ -		
	8:42p	Arrive St. Louis			$ -				$ -	$ -		
	9:40p	Depart St. Louis via TWA #240			$ -				$ -	$ -		
		Per diem (1 day at $30.00/day = $30.00)	1.00	$ 30.00	$ 30.00				$ -	$ 30.00		
					$ -				$ -	$ -		
7/25/97	12:38a	Arrive Washington National			$ -			$ 102.00	$ -	$ -		
	1:30a	Arrive home via taxi ($22.50 incl. tip)			$ -				$ -	$ -		$ 22.50
		Per diem (3/4 day at $30.00/day = $22.50)	0.75	$ 30.00	$ 22.50				$ -	$ 22.50		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -		SUBTOTAL	$ 204.00	$ -	$ 156.49	$ -	$ 46.50
							TOTALS	$ 204.00	$ -	$ 156.49	$ -	$ 46.50

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 USC Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 USC 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Number (SSN) is solicited under the authority of the Internal Revenue Code (26 USC 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105254 Page 9

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett	**Document Number:** 97TSTR3249A
Social Security Number: [ ] - - - FOIA(b)(6)	**Accounting Classification:** [ ] - FOIA(b)(4)
Requested By: W. Hickman Ewing, Jr. **Signature** _____	**Organization:** Office of the Independent Counsel
Title: _____ **Date:** _____	**Official Duty Station:** Washington, DC

Planned Itinerary:	**Estimated Cost:**	**Mode of Transportation Authorized:**	**Mode of Subsistence Authorized:**
☐ Foreign travel. Must be approved as required by DOJ travel regulations. From: Washington, DC VIA: VIA: VIA: VIA: To: Little Rock, Arkansas And return ☒ Dep. Date: July 1, 1997 Return Date: September 30, 1997	Transportation $ 1,500.00 Actual subsistence or per diem $ 1,000.00 Other $ 1,000.00 Total $ 3,500.00 ☐ ATM Advance Authorized $	☒ By Common Carrier ☒ By Government-Furnished Auto ☒ By Rental Vehicle or Special Conveyance ☐ By Privately-Owned Vehicle ☐ POV Determined to be Most Advantageous to Government ☐ Cost Not to Exceed that of Common Carrier ☐ Based on Cost of Government Furnished Auto ☐ $____ Mileage Rate Authorized ☐ Other **GSA (BOAC):** 10349E	☒ Actual subsistence up to $95.00/night for lodging and $30.00/day M&IE. Actual subsistence above $65/night for lodging requires supplemental justification on the travel voucher. ☐ Per diem based on lodging plus meals and incidental expenses not to exceed ☐ Per diem of $ per day. ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is not to exceed $95.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). When lodging expense exceeds $65.00/night, supplemental justification is required on the travel voucher. One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Peggy Hughes Title Administrative Officer Date 7/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

97 3426 1412

PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ISSUED BY: DELTA AIR LINES INC
NAME OF ISSUING AGENT: RESEARCH TRAVEL
NAME OF PASSENGER: KAVANAUGH/BRETT
X/O FROM: **NOT VALID FOR**
X/O TO: **TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS:

ARC FLIGHT COUPON: X X
TOUR CODE: XXXXX
PNR/CARRIER CODE: SNATSF/AA
CARRIER FLIGHT CLASS DATE TIME STATUS: ROCKVILLE LDGDCA THIS IS YOUR RECEIPT
AGENT CODE: A21841293
PLACE OF ISSUE ISO CODE: MD
DATE OF ISSUE: US21JUL97
FARE BASIS/TICKET DESIGNATOR
FCI: 7
SERV CARR. ID: ØØ11/
NOT VALID BEFORE / NOT VALID AFTER
ISSUING AGENT ID: L9YØ*46

FOIA(b)(6)

FP [redacted] C 791546 /FCWAS DL X/CVG
DL LIT87.27LDGDCA 87.27 END XFDCA3CVG3

FARE USD 87.27
TAX US 8.73
TAX XF 6.00
TOTAL USD 102.00
EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK 41565021724
CPN
ALLOW PCS WT UNCKD **********
DOCUMENT NUMBER CK
0 006 1388720588 6

Ø30177 ØØ98376 A46
XBDARDINGPASS

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: DCA
XCVG DL347 L 23JULLDGDCA
TO: LIT DL253 L 23JULLDGDCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
Ø ØØ6 1388720588 6
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

97 3426 1412

PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ISSUED BY: TRANS WORLD AIRLINES
NAME OF ISSUING AGENT: RESEARCH TRAVEL
NAME OF PASSENGER: KAVANAUGH/BRETT
X/O FROM: **NOT VALID FOR**
X/O TO: **TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS:

ARC FLIGHT COUPON: X X
TOUR CODE: XXXXX
PNR/CARRIER CODE: SNATSF/AA
CARRIER FLIGHT CLASS DATE TIME STATUS: ROCKVILLE YCADCA THIS IS YOUR RECEIPT
AGENT CODE: A21841293
PLACE OF ISSUE ISO CODE: MD
DATE OF ISSUE: US21JUL97
FARE BASIS/TICKET DESIGNATOR
FCI: 7
SERV CARR. ID: ØØ11/
NOT VALID BEFORE / NOT VALID AFTER
ISSUING AGENT ID: L9YØ*46

FP [redacted] C 551837 /FCLIT TW X/STL
TW WAS87.27YCADCA 87.27 END XFLIT3STL3

FARE USD 87.27
TAX US 8.73
TAX XF 6.00
TOTAL USD 102.00
EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK 41565021783
CPN
ALLOW PCS WT UNCKD **********
DOCUMENT NUMBER CK
0 015 1388720589 1

Ø30177 ØØ98376 A46
XBDARDINGPASS

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: LIT
XSTL TW116 Y 24JULYCADCA
TO: DCA TW240 Y 24JULYCADCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
Ø Ø15 1388720589 1
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

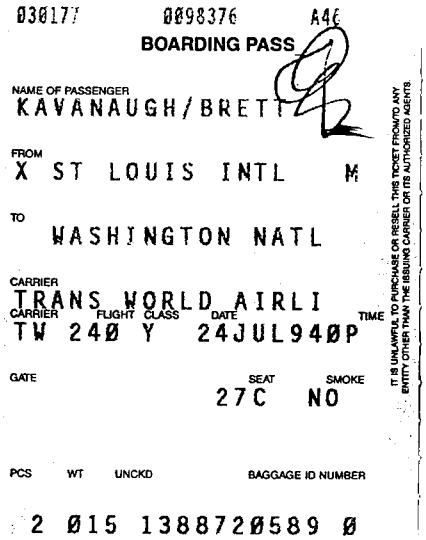
Ø30177 ØØ98376 A46
BOARDING PASS

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: X CINCINNATI
TO: LITTLE ROCK
CARRIER: DELTA AIR LINES I
CARRIER FLIGHT CLASS DATE TIME: DL 253 L 23JUL855A
GATE SEAT SMOKE: 24C NO
PCS BAGGAGE ID NUMBER: 2 1388720588 5
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON
BOARDING PASS 7

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: WAS-NATIONAL
TO: CINCINNATI
DELTA
CARRIER/FLIGHT: DL 347
CLASS/DATE: L23JUL
TIME: 645A
GATE
BOARD TIME
SEAT: 26D
SMOKE: NO
ADDITIONAL SEAT INFORMATION
PCS CK WT UNCK WT SEQ NO PCS CK WT UNCK WT
BAGGAGE ID NR
DOCUMENT NUMBER
DLDCAFTO /AM



030177 0098376 A46

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM
X ST LOUIS INTL M

TO
WASHINGTON NATL

CARRIER
TRANS WORLD AIRLI

CARRIER	FLIGHT	CLASS	DATE	TIME
TW	240	Y	24JUL	940P

GATE

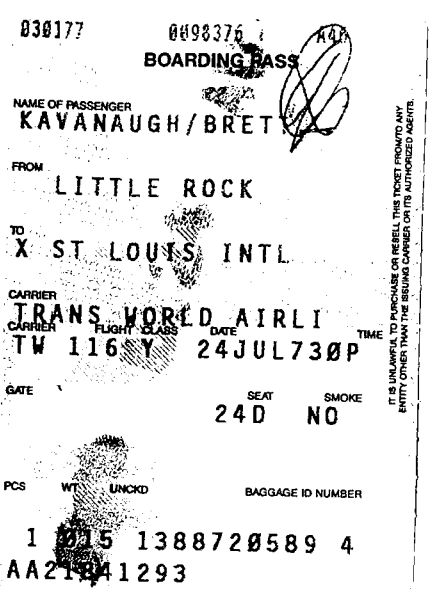
SEAT 27C

SMOKE NO

PCS WT UNCKD BAGGAGE ID NUMBER

2 015 1388720589 0
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS



030177 0098376 A47

BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT

FROM
LITTLE ROCK

TO
X ST LOUIS INTL

CARRIER
TRANS WORLD AIRLI

CARRIER	FLIGHT	CLASS	DATE	TIME
TW	116	Y	24JUL	730P

GATE

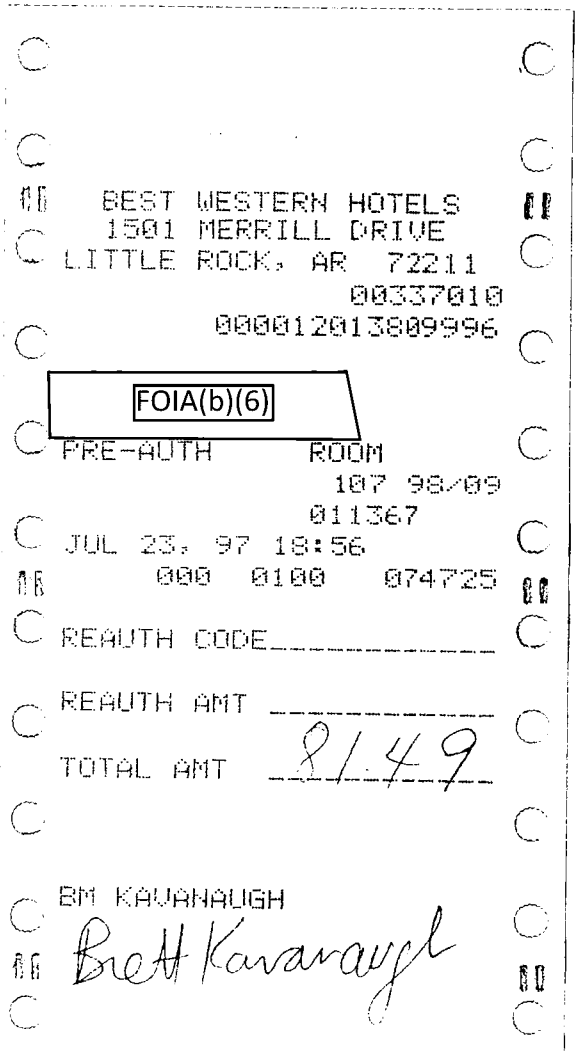
SEAT 24D

SMOKE NO

PCS WT UNCKD BAGGAGE ID NUMBER

1 015 1388720589 4
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS



BEST WESTERN HOTELS
1501 MERRILL DRIVE
LITTLE ROCK, AR 72211
00337010
000012013809996

FOIA(b)(6)

PRE-AUTH ROOM
107 98/09
011367
JUL 23, 97 18:56
000 0100 074725

REAUTH CODE_____

REAUTH AMT _____

TOTAL AMT 81.49

BM KAVANAUGH
Brett Kavanaugh

BEST WESTERN GOVERNORS INN SUITES
1501 Merrill Drive
Little Rock, Arkansas 72211

(501) 224-8051
RESERVATIONS HOTLINE 1-800-422-8051

07/24/97 - 08:04 am
Room: 107-000 - 130268

BRETT KAVANAUGH

date	clerk	transaction	description	db	cr
07/23	CO-DEP C	guest room	Corporate	74.00	
07/23	CO-DEP C	room tax	room 10.125%	7.49	
07/24	CO-PAT B	amex			81.49
			balance	0.00	

guest room	74.00
room tax	7.49
amex	-81.49

~~97STAR~~ Nontaxable TDY

Office of the Independent Counsel - Starr
Washington, DC 20004

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
OIC - Starr	☒ TEMPORARY DUTY ☐ EXTENDED TDY ☐ TAXABLE	97STAR 1525

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL
Kavanaugh, Brett FOIA(b)(6)	— —	a. FROM 7/7/97 b. TO 7/9/97
c. MAILING ADDRESS (Include ZIP Code) 1001 Pennsylvania Avenue, NW Suite 490 North Washington, DC	d. OFFICE TELEPHONE 202-514-8688	6. TRAVEL AUTHORIZATION NUMBER AND DATES
e. PRESENT DUTY STATION Washington, DC	f. RESIDENCE (City and State) Chevy Chase, MD	9. CHECK NO.

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)		8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding		a. DATE RECEIVED b. AMOUNT RECEIVED $	13
b. Amount to be applied	$ -	c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)			
d. Balance outstanding	$ -		

11 - 1 FOREIGN TRAVEL ☐

11 - 2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORATION TICKETS

(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one)).

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE CLASS OF SERVICE AND ACCOMMO-DATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) AMEX VISA MC					Washington, DC	Little Rock, AR
OTHER					Little Rock, AR	Washington, DC
(h) CASH						
(i) TOTAL						

(j) COST CENTER/ACCT CLASS: 97T35R3249A - FOIA(b)(4)	(m) TRANS. TICKETS (from reverse)	(21-1)	$ 198.00
	(n) MILEAGE (from reverse)	(21-2)	$ -
	(o) SUBSISTENCE (from reverse)	(21-4)	$ 226.98
(k) DC NUMBER:	(p) VEHICLE RENTAL (from reverse)	(21-6)	$ 97.19
(l) CALL NUMBER:	(q) OTHER (from reverse)	(21-7)	$ 23.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE **AMOUNT CLAIMED** ▶ $ 545.17

NOTE: *Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).*

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. (NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)

APPROVING OFFICIAL SIGN HERE ▶ DATE 7/16/97

17. FOR FINANCE OFFICE USE ONLY COMPUTATION

DIFFERENCES IF ANY	(21-1)	$
	(21-2)	$
	(21-4)	$
(Explain and show amount)	(21-6)	$
	(21-7)	$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATON

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH/YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's Initials: $

18. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE 7/17/97

c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol)

d. NET TO TRAVELER ▶ $

97STAR 1525

BOC: 2120-02 = $ - 2120-04 = $ 318.19 1227 =
2120-03 = $ 226.98 1222 = 1228 =

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
OIC ELECTRONIC VERSION Apr. 97

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

TRAVELER'S LAST NAME: Kavanaugh

			SUBSISTENCE EXPENSES				MILEAGE	AMOUNT CLAIMED				
DATE	TIME	DESCRIPTION	DAYS	RATE	M&IE	LODGING	MILES	TICKETS	MILEAGE	SUBSIS.	VEH RENT	OTHER
					$ -				$ -	$ -		
7/7/97	5:00p	Depart office via taxi ($13 including tip)			$ -				$ -	$ -		$ 13.00
	5:55p	Depart Washington National Airport NW #979			$ -				$ -	$ -		
	7:07p	Arrive Memphis Airport			$ -				$ -	$ -		
	8:00p	Depart Memphis Airport NW #461			$ -				$ -	$ -		
	8:47p	Arrive Little Rock			$ -			$ 99.00	$ -	$ -		
		Pick up rental car			$ -				$ -	$ -		
		(2 days at $40.00/day = $80.00)			$ -				$ -	$ -		
		($80.00 + $11.60 taxes + $5.59 gas = $97.19)			$ -				$ -	$ -	$ 97.19	
	OVRNGT	Holiday Inn West			$ -				$ -	$ -		
		($69.00/night + $6.99 tax = $75.99)			$ -	$ 75.99			$ -	$ 75.99		
		Per diem (3/4 day at $30.00/day = $22.50)	0.75	$ 30.00	$ 22.50				$ -	$ 22.50		
					$ -				$ -	$ -		
7/8/97	12:01a-				$ -				$ -	$ -		
	11:59p	In Little Rock on OIC business			$ -				$ -	$ -		
	OVRNGT	Holiday Inn West			$ -				$ -	$ -		
		($69.00/night + $6.99 tax = $75.99)			$ -	$ 75.99			$ -	$ 75.99		
		Per diem (1 day at $30.00/day = $30.00)	1.00	$ 30.00	$ 30.00				$ -	$ 30.00		
					$ -				$ -	$ -		
7/9/97	12:01a-				$ -				$ -	$ -		
	5:20p	In Little Rock on OIC business			$ -				$ -	$ -		
	4:45p	Return rental car			$ -				$ -	$ -		
	5:20p	Depart Little Rock Delta #254			$ -				$ -	$ -		
	10:51p	Arrive Washington National Airport			$ -			$ 99.00	$ -	$ -		
	11:30p	Arrive at OIC offices via taxi ($10.00 including tip)			$ -				$ -	$ -		$ 10.00
					$ -				$ -	$ -		
		Per diem (3/4 day at $30.00/day = $22.50)	0.75	$ 30.00	$ 22.50				$ -	$ 22.50		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
					$ -				$ -	$ -		
							SUBTOTAL	$ 198.00	$ -	$ 226.98	$ 97.19	$ 23.00
							TOTALS	$ 198.00	$ -	$ 226.98	$ 97.19	$ 23.00

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 USC Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 USC 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Number (SSN) is solicited under the authority of the Internal Revenue Code (26 USC 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105254 Page 15

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3249A

Social Security Number: [ ] - - - - FOIA(b)(6)

Accounting Classification: [ ] - - - - FOIA(b)(4)

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: July 1, 1997

Return Date: September 30, 1997

Estimated Cost:

Transportation
$ 1,500.00

Actual subsistence or per diem
$ 1,000.00

Other
$ 1,000.00

Total
$ 3,500.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
  ☐ POV Determined to be Most Advantageous to Government
  ☐ Cost Not to Exceed that of Common Carrier
  ☐ Based on Cost of Government Furnished Auto
  ☐ $____ Mileage Rate Authorized
☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☒ Actual subsistence up to $95.00/night for lodging and $30.00/day M&IE. Actual subsistence above $65/night for lodging requires supplemental justification on the travel voucher.

☐ Per diem based on lodging plus meals and incidental expenses not to exceed

☐ Per diem of $ per day.
  ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification *(if appropriate)*

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is not to exceed $95.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). When lodging expense exceeds $65.00/night, supplemental justification is required on the travel voucher. One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Meggy Hughes Title Administrative Officer Date 7/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

RECEIPT _____

DATE 7/7/97 AMOUNT 13-00

RECEIVED FROM _____

DESTINATION _____

CAB # _____ DRIVER I.D.# _____

PASSENGER _____ THANK YOU!

VERIFY CAB NUMBER BEFORE SIGNING RECEIPT

NW0974 Ø7JUL97

25-A MEM

SEAT NUMBER DESTINATION

SPECIAL SERVICE

NORTHWEST AIRLINES

PASSENGER'S NAME

KAVANAUGH/BRETT

PASSENGER TICKET AND BAGGAGE CHECK

PASSENGER COUPON

BOARDING PASS 7

NAME OF PASSENGER

KAVANAUGH/BRETT

FROM LITTLE ROCK

TO ATLANTA

DELTA

CARRIER/FLIGHT DL 254 CLASS/DATE 09JUL TIME 520P

GATE BOARD TIME SEAT 10C SMOKE NO

ADDITIONAL SEAT INFORMATION

PCS CK. WT. UNCK.WT. SEQ.NO. PCS CK. WT. UNCK.WT.

BAGGAGE ID. NR.

DOCUMENT NUMBER

DLLITFTO /MA

PASSENGER TICKET AND BAGGAGE CHECK

REBOARDING PASS 7

NAME OF PASSENGER

KAVANAUGH/BRETT

FROM ATLANTA

TO WAS-NATIONAL

DELTA

CARRIER/FLIGHT DL 254 CLASS/DATE 09JUL TIME 915P

GATE BOARD TIME SEAT 13C SMOKE NO

ADDITIONAL SEAT INFORMATION

PCS CK. WT. UNCK.WT. SEQ.NO. PCS CK. WT. UNCK.WT.

BAGGAGE ID. NR.

DOCUMENT NUMBER

DLATLFTO /3N

NW0461 Ø7JUL97

16-A*EXIT LAT

SEAT NUMBER DESTINATION

CONNECTION

SPECIAL SERVICE

NORTHWEST AIRLINES

PASSENGER'S NAME

KAVANAUGH/BRETT

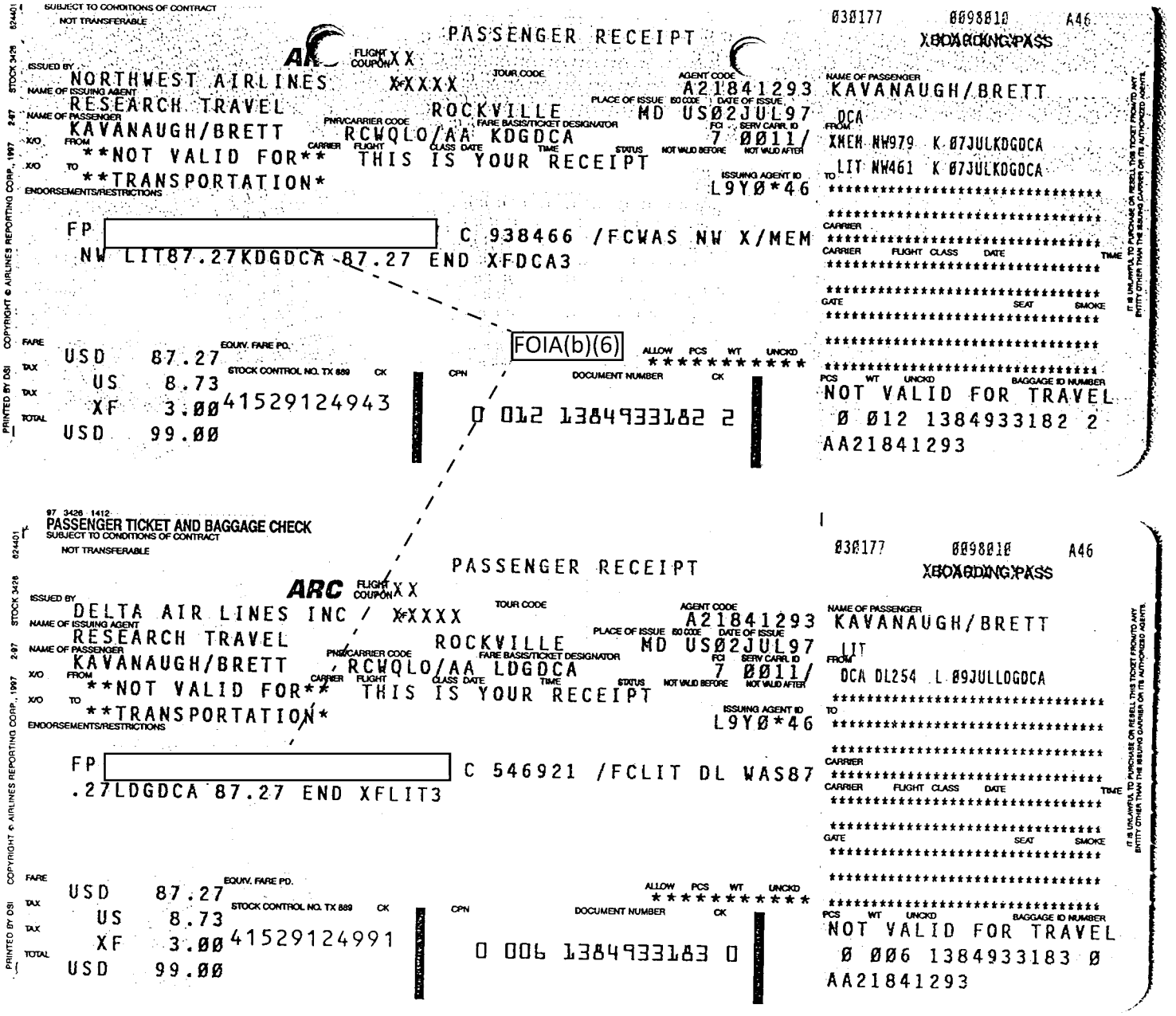
TAXICAB RECEIPT

Date: _____

Origin of trip: _____

Destination: _____

Fare: 10.00 Sign: _____



SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

030177 0098010 A46
BOARDING PASS

ISSUED BY
NORTHWEST AIRLINES
NAME OF ISSUING AGENT
RESEARCH TRAVEL
NAME OF PASSENGER
KAVANAUGH/BRETT
X/O FROM
X/O TO
ENDORSEMENTS/RESTRICTIONS

FLIGHT COUPON XX
TOUR CODE XXXXX
PNR/CARRIER CODE RCWQLO/AA
FARE BASIS/TICKET DESIGNATOR KDGDCA
CARRIER FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
NOT VALID FOR THIS IS YOUR RECEIPT
**TRANSPORTATION*

AGENT CODE A21841293
PLACE OF ISSUE ISO CODE MD DATE OF ISSUE US02JUL97
FCI SERV CARR. ID 7 0011/
ISSUING AGENT ID L9Y0*46

FP
C 938466 /FCWAS NW X/MEM
NW LIT87.27KDGDCA 87.27 END XFDCA3

NAME OF PASSENGER KAVANAUGH/BRETT
FROM DCA
XMEM NW979 K 07JULKDGDCA
TO LIT NW461 K 07JULKDGDCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE

FARE USD 87.27
TAX US 8.73
TAX XF 3.00
TOTAL USD 99.00
EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK
41529124943

FOIA(b)(6)

CPN
ALLOW PCS WT UNCKD **********
DOCUMENT NUMBER CK
0 012 1384933182 2

PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 012 1384933182 2
AA21841293

DOCUMENT IS HEAT SENSITIVE - Do not expose to prolonged periods of excessive heat or light
COPYRIGHT © AIRLINES REPORTING CORP., 1997
PRINTED BY DSI
IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

97 3426 1412
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

030177 0098010 A46
BOARDING PASS

ISSUED BY
DELTA AIR LINES INC /
NAME OF ISSUING AGENT
RESEARCH TRAVEL
NAME OF PASSENGER
KAVANAUGH/BRETT
X/O FROM
X/O TO
ENDORSEMENTS/RESTRICTIONS

FLIGHT COUPON XX
TOUR CODE XXXXX
PNR/CARRIER CODE RCWQLO/AA
FARE BASIS/TICKET DESIGNATOR LDGDCA
CARRIER FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
NOT VALID FOR THIS IS YOUR RECEIPT
**TRANSPORTATION*

AGENT CODE A21841293
PLACE OF ISSUE ISO CODE MD DATE OF ISSUE US02JUL97
FCI SERV CARR. ID 7 0011/
ISSUING AGENT ID L9Y0*46

FP
C 546921 /FCLIT DL WAS87
.27LDGDCA 87.27 END XFLIT3

NAME OF PASSENGER KAVANAUGH/BRETT
FROM LIT
DCA DL254 L 09JULLDGDCA
TO
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE

FARE USD 87.27
TAX US 8.73
TAX XF 3.00
TOTAL USD 99.00
EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK
41529124991

CPN
ALLOW PCS WT UNCKD **********
DOCUMENT NUMBER CK
0 006 1384933183 0

PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 006 1384933183 0
AA21841293

DOCUMENT IS HEAT SENSITIVE - Do not expose to prolonged periods of excessive heat or light
COPYRIGHT © AIRLINES REPORTING CORP., 1997
PRINTED BY DSI
IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

STAPLE HERE

REV. 1-94 GENERAL CREDIT FORMS ST. LOUIS 63045 (87) 1293 ATB 5986

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers on a journey involving an ultimate destination or a stop in a country other than the country of origin are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to the entire journey, including any portion entirely within the country of origin or destination. For such passengers on a journey to, from, or with an agreed stopping place in the United States of America, the Convention and special contracts of carriage embodied in applicable tariffs provide that the liability of certain carriers, parties to such special contracts, for death of or personal injury to passengers is limited in most cases to proven damages not to exceed U.S. $75,000 per passenger, and that this liability up to such limit shall not depend on negligence on the part of the carrier. The limit of liability of U.S. $75,000 above is inclusive of legal fees and costs except that in case of a claim brought in a state where provision is made for separate award of legal fees and costs, the limit shall be the sum of U.S. $58,000 exclusive of legal fees and costs. For such passengers traveling by a carrier not a party to such special contracts or on a journey not to, from, or having an agreed stopping place in the United States of America, liability of the carrier for death or personal injury to passengers is limited in most cases to approximately U.S. $10,000 or U.S. $20,000.

The names of carriers, parties to such special contracts, are available at all ticket offices of such carriers and may be examined on request. Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention or such special contracts of carriage. For further information please consult your airline or insurance company representative.

NOTICE OF BAGGAGE LIABILITY LIMITATIONS

Liability for loss, delay, or damage to baggage is limited unless a higher value is declared in advance and additional charges are paid. For most international travel (including domestic portions of international journeys) the liability limit is approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage. For travel wholly between U.S. points federal rules require any limit on an airline's baggage liability to be at least $1250 per passenger. Excess valuation may be declared on certain types of articles. Some carriers assume no liability for fragile, valuable or perishable articles. Further information may be obtained from the carrier.

CARRIER RESERVES THE RIGHT TO REFUSE CARRIAGE TO ANY PERSON WHO HAS ACQUIRED A TICKET IN VIOLATION OF APPLICABLE LAW OR CARRIER'S TARIFFS, RULES OR REGULATIONS
SUBJECT TO TARIFF REGULATIONS

RESEARCH TRAVEL

1600 Research Blvd.
Rockville, MD. 20850
(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day th ticket is issued. Reconfirm all flights with the appropriate carrier 2 hours prior to domestic and 72 hours prior to international flight: Failure to use any continuing reservations can result in automati cancellation.
IMPORTANT: Unused tickets may have value. Please return fc possible credit or refund.

SALES PERSON: 46 ITINERARY/INVOICE NO. 0098010 DATE: 02 JUL 9
CUSTOMER NBR: 030177 RCWQLO PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE. NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

DELIVER

FOR: KAVANAUGH/BRETT

07 JUL 97 - MONDAY

OTHER WASHINGTON NATL
NO ADVANCE SEATING FOR THESE FLIGHTS

AIR	NORTHWEST AIRLINES	FLT:979	ECONOMY	DINNER
	LV WASHINGTON NATL		555P	EQP: AIRBUS A320
	DEPART: MAIN TERMINAL			
	AR MEMPHIS		707P	NON-STOP
AIR	NORTHWEST AIRLINES	FLT:461	ECONOMY	
	LV MEMPHIS		800P	EQP: DC-9 STRETCH
	AR LITTLE ROCK		847P	NON-STOP
CAR	LITTLE ROCK	NATIONAL CAR RENTAL		CORP ID-5000300
	PICK UP-2120	1-INTER CAR AUTO A/C		
	RETURN-09JUL/1340			
	RATE IS GUARANTEED			
	DAILY RATE-USD40.00	UNLIMITED MILEAGE		
	CONFIRMATION NUMBER	139685020COUNT		
HOTEL	LITTLE ROCK		OUT-09JUL	
	HOLIDAY INN		2 NIGHTS	
	HI SELECT LITTLE ROCK WEST		1 ROOM	1 KING LEISURE NON SMKG
	201 S SHACKLEFORD		RATE-69.00USD PER NIGHT	
	LITTLE ROCK AR 72211		CANCEL BY 06P DAY OF ARRIVAL	
	FONE 501-223-3000			
	FAX 501-223-2833			
	GUARANTEED LATE ARRIVAL			
	CONFIRMATION 64158595			

09 JUL 97 - WEDNESDAY

AIR	DELTA AIR LINES INC	FLT:254	COACH	
	LV LITTLE ROCK		520P	EQP: MD-80
	AR WASHINGTON NATL		1051P	1-STOP
	ARRIVE: INTERIM TERMINAL			

FOIA(b)(6)

AIR TICKET NW1384933182 KAVANAUGH BRETT
BILLED TO [redacted] 99.0(

AIR TICKET DL1384933183 KAVANAUGH BRETT
BILLED TO [redacted] 99.0(

CONTINUED ON PAGE 2

THIS INVOICE REPRESENTS AMOUNTS TO BE TRANSFERRED FROM YOUR AGENCY TO THIS AGENCY AND CARRIERS UPON ISSUANCE OF TICKETS.
YOUR PROMPT REMITTANCE WILL BE APPRECIATED.
Returned checks will result in a $25 fee.

FOIA # none (URTS 16315) Docid: 70105254 Page 19

RESEARCH TRAVEL

1600 Research Blvd.
Rockville, MD. 20850

(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day th ticket is issued. Reconfirm all flights with the appropriate carrier 2 hours prior to domestic and 72 hours prior to international flight Failure to use any continuing reservations can result in automat cancellation.
IMPORTANT: Unused tickets may have value. Please return fo possible credit or refund.

SALES PERSON: 46 ITINERARY/INVOICE NO. 0098010 DATE: 02 JUL 9
CUSTOMER NBR: 030177 RCWQLO PAGE: 02

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE. NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

DELIVER

FOR: KAVANAUGH/BRETT

09 JUL 97 - WEDNESDAY

SUB TOTAL	198.0(
NET CC BILLING	198.0(
TOTAL AMOUNT DUE	0.0(

RESEARCH TRAVEL 800-446-4200
AFTER HOURS 800-237-7980, USE CODE SL9Y0

AG-46

THIS INVOICE REPRESENTS AN IMMEDIATE TRANSFER OF FUNDS FROM OUR AGENCY TO THE AIRLINES/CARRIERS UPON ISSUANCE OF TICKETS.
YOUR PROMPT REMITTANCE WILL BE APPRECIATED.
Returned checks will result in a $25 fee.

FOIA # none (URS 18315) Doc ID: 7010254 Page 20

202-514-8802

National car rental

No problem!

TITLE ROLE LICENSEE
RENTAL: 7/07/97 2051 501 376 3321
RETURN: 7/09/97 1708 LITTLE ROCK 6040300
U S GOVERNMENT - OFF 5000300

RETURN RA [illegible]

USA 60402 Unl [illegible] BRETT KAVANAUGH
Lic In [illegible]
MILES In [illegible] Out [illegible] DRIVER JG

FOIA(b)(6)

RATE [illegible] RATE CLASS D MIN RENTAL DAYS 1

$40.00/DLY $240.00/WK $13.20/HR $200.00/DAILY
+80.00¢ I

$ 2.540/GAL AT FUEL LV $.134/MI

OUT AT [illegible] 07/98 AUTH:8082117 # 91 7/07/ /

YOUR SATISFACTION IS IMPORTANT TO ALL OF US AT NATIONAL.

THANK YOU FOR CHOOSING NATIONAL.

80.00	TIME CHARGES
	DAILY CHG $ 80.00
5.59	STATE TAX $ 80.00
	RECOVERY SUR $ 5.59
	NET DUE $ 85.59
2.00	TAX RECOVERY $ 2.00
9.60	FAX $ 9.60
97.19	AMT DUE $ 97.19

* TAXABLE CHARGES

COPY ONE

Holiday Inn
SELECT
201 South Shackleford
Little Rock, Ar. 72211 501-223-3000

Name & Address

BRETT KAVANAUGH

Room	460-11
Arrive Date	07/07/97
Dept. Date	07/09/97
Folio #	0
Room Rate	69.00
Account	2-CAMEX
MktSeg	4-GRT

Page 1

FOIA(b)(6)

I authorize you to bill the full balance of my account to my credit card which was presented upon registration.

SIGNATURE

EXPRESS CHECK – OUT

The management is not responsible for any valuables not secured in safety deposit boxes provided at the front office. I agree that my liability for the charges is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of such charges.

X
SIGNATURE

DATE	CODE	REFERENCE	ID	DESCRIPTION	CHARGE	PAYMENT	BALANCE
0707	114	0707000	GWW	DISCOUNT ROOM	69.00$	.00$	69.00$
0707	812	0707001	GWW	OCCUPANCY TAX	6.99$	.00$	75.99$
0708	215	69	ZZI	FLAVORS	9.60$	.00$	85.59$
0708	114	0708000	GWW	DISCOUNT ROOM	69.00$	.00$	154.59$
0708	812	0708001	GWW	OCCUPANCY TAX	6.99$	.00$	161.58$
0709	914	0709000	FRR	AMER EXPRESS	.00$	-161.58$	.00$
				TOTAL			.00$

DO NOT WRITE

10/96 THRU 09/98
BRETT M KAVANAUGH
AOUSC-OIC-MGSL

6703235OC19
1030501308
HOLIDAY INN SLT, 070797 5096248
LITTLE ROCK AR

ABOVE THIS LINE
AX DATE 7/2 CLERK

EXPIRATION DATE CHECKED

VISA

CARDHOLDER SIGN HERE
X BRETT KAVANAUGH

AUTHORIZATION DATE	APPROVAL CODE	AMOUNT
7/7	438246	150

PURCHASES & SERVICES
TAXES
TIPS-MISC.
TOTAL 161 58

ANY CHARGES THAT DID NOT APPEAR ON YOUR BILL AT CHECKOUT TIME WILL BE ADDED IN THE SHADED AREA ABOVE.

PRESS HARD!

MERCHANT COPY

ACC AX
CARD MEMBER NAME
KAVANAUGH/BM

ESTABLISHMENT NO. & LOCATION

Holiday Inn West
201 South Shackleford
Little Rock, Ar 72211

Holiday Inn SELECT

CARD MEMBER'S SIGNATURE

CHECK NO. 11
ID FRR

.00$
.00$
.00$

PURCHASES & SERVICES 161.58$

TOTAL AMOUNT

TOTAL P.01

Nontaxable TDY

Office of the Independent Counsel - Starr
Washington, DC 20004

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
OIC - Starr	☒ TEMPORARY DUTY ☐ EXTENDED TDY ☐ TAXABLE	97STAR1466

4. a. NAME (Last, first, middle initial)	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL
Kavanaugh, Brett FOIA(b)(6)	- -	a. FROM 6/23/97 b. TO 6/25/97
c. MAILING ADDRESS (Include ZIP Code) 1001 Pennsylvania Avenue Suite 490 North Washington, DC 20004	d. OFFICE TELEPHONE 202-514-8688	6. TRAVEL AUTHORIZATION NUMBER AND DATES
e. PRESENT DUTY STATION Washington, DC	f. RESIDENCE (City and State) Chevy Chase, MD	9. CHECK NO. 12

7. TRAVEL ADVANCE (From Imprest Fund or Treasury Check)		8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding		a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied	$ -	c. PAYEE'S SIGNATURE	
c. Amount due Government (Attached: ☐ Check ☐ Cash)			
d. Balance outstanding	$ -		

11 - 1 FOREIGN TRAVEL ☐

11 - 2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORATION TICKETS

(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one)).

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE CLASS OF SERVICE AND ACCOMMO-DATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) AMEX VISA MC		Delta		6/23/97	Washington, DC	Little Rock, AR
OTHER		TWA		6/24/97	Little Rock, AR	Washington, DC
(h) CASH						
(i) TOTAL			FOIA(b)(4)			

(j) COST CENTER/ACCT CLASS: 97BOR3324

(k) DC NUMBER:

(l) CALL NUMBER:

(m) TRANS. TICKETS (from reverse)	(21-1)	$ 204.00
(n) MILEAGE (from reverse)	(21-2)	$ -
(o) SUBSISTENCE (from reverse)	(21-4)	$ 161.90
(p) VEHICLE RENTAL (from reverse)	(21-6)	$ 97.19
(q) OTHER (from reverse)	(21-7)	$ 56.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett Kavanaugh DATE 7/1/97

AMOUNT CLAIMED ▶ $ 519.09

NOTE: *Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).*

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. (NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 7-7-97

17. FOR FINANCE OFFICE USE ONLY COMPUTATION

DIFFERENCES IF ANY	(21-1)	$
	(21-2)	$
	(21-4)	$
(Explain and show amount)	(21-6)	$
	(21-7)	$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATON

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH/YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: Certifier's Initials: $

18. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ [signature] DATE 7/8/97

c. APPLIED TO TRAVEL ADVANCE (Appropriation symbol) $

d. NET TO TRAVELER ▶ $

97STAR1466

BOC: 2120-02 = $ - 2120-04 = $ 357.19 1227 =
2120-03 = $ 161.90 1228 = 1228 =

FOIA # none (URTS 16315) DocId: 70105254 Page 23

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

TRAVELER'S LAST NAME: Kavanaugh

			SUBSISTENCE EXPENSES				MILEAGE	AMOUNT CLAIMED				
DATE	TIME	DESCRIPTION	DAYS	RATE	M&IE	LODGING	MILES	TICKETS	MILEAGE	SUBSIS.	VEH RENT	OTHER
					$ -				$ -	$ -		
6/23/97	5:45a	Drive to National Airport			$ -				$ -	$ -		
	6:45a	Leave National Airport via Delta #347			$ -				$ -	$ -		
	8:20a	Arrive in Cincinnati			$ -				$ -	$ -		
	8:55a	Leave Cincinnati via Delta # 253			$ -				$ -	$ -		
	9:25a	Arrive Little Rock			$ -			$102.00	$ -	$ -		
		Pick up National Rental car ($40/day + $1 recovery			$ -				$ -	$ -		
		tax/day + $4.80 tax/day = $45.80			$ -				$ -	$ -		
		2 days rental car at 45.80/day + $5.59 gas = $97.19)			$ -				$ -	$ -	$97.19	
					$ -				$ -	$ -		
	OVRNGT	Holiday Inn ($79.00/night + $7.90 tax = $86.90)			$ -	$86.90			$ -	$ 86.90		
					$ -				$ -	$ -		
		Per diem (3/4 day at $30.00 = $22.50)	0.75	$30.00	$ 22.50				$ -	$ 22.50		
					$ -				$ -	$ -		
6/24/97	12:01a-				$ -				$ -	$ -		
	7:15p	In Little Rock on OIC business			$ -				$ -	$ -		
	6:30p	Turn in National Rental car			$ -				$ -	$ -		
	7:15p	Depart Little Rock via TWA #54			$ -				$ -	$ -		
	8:27p	Arrive St. Louis International Airport			$ -				$ -	$ -		
	9:15p	Depart St. Louis International Airport via TWA #240			$ -				$ -	$ -		
					$ -				$ -	$ -		
		Per diem (1 day at $30.00 = $30.00)	1.00	$30.00	$ 30.00				$ -	$ 30.00		
					$ -				$ -	$ -		
6/25/97	12:11a	Arrive Washington National Airport			$ -			$102.00	$ -	$ -		
	1:00a	Arrive home via personal car ($56 total for parking)			$ -				$ -	$ -		$56.00
					$ -				$ -	$ -		
		Per diem (3/4 day at $30.00 = $22.50)	0.75	$30.00	$ 22.50				$ -	$ 22.50		
					$ -				$ -	$ -		
		Note: The return flight was changed during travel.			$ -				$ -	$ -		
		Original ticket returned for refund.			$ -				$ -	$ -		
							SUBTOTAL	$ 204.00	$ -	$ 161.90	$ 97.19	$ 56.00
							TOTALS	$ 204.00	$ -	$ 161.90	$ 97.19	$ 56.00

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 USC Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 USC 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Number (SSN) is solicited under the authority of the Internal Revenue Code (26 USC 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

FOIA # none (URTS 16315) DocId: 70105254 Page 24

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3324

Social Security Number: [redacted] - - - FOIA(b)(6)

Accounting Classification: [redacted] FOIA(b)(4)

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: June 23, 1997

Return Date: June 25, 1997

Estimated Cost:

Transportation
$ 250.00

Actual subsistence or per diem
$ 200.00

Other
$ 150.00

Total
$ 600.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
  ☐ POV Determined to be Most Advantageous to Government
  ☐ Cost Not to Exceed that of Common Carrier
  ☐ Based on Cost of Government Furnished Auto
  ☐ $____ Mileage Rate Authorized
☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☐ Actual subsistence up to $ per day. Actual subsistence requires approval by appropriate authorizing official.

☒ Per diem based on lodging plus meals and incidental expenses not to exceed $87.00/night for lodging and $30.00 per day for M&IE

☐ Per diem of $ per day.
  ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is $87.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ **Title** Administrative Officer **Date** 7/8/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

Holiday Inn
SELECT
201 South Shackleford
Little Rock, Ar. 72211 501-223-3000

Name & Address

Room	
Arrive Date	
Dept. Date	
Folio #	
Room Rate	
Account	
Mkt/Seg	

I authorize you to bill the full balance of my account to my credit card which was presented upon registration.

SIGNATURE EXPRESS CHECK – OUT

The management is not responsible for any valuables not secured in safety deposit boxes provided at the front office. I agree that my liability for the charges is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of such charges.

X
SIGNATURE

DATE	CODE	REFERENCE	ID	DESCRIPTION	CHARGE	PAYMENT	BALANCE

FOIA(b)(6)

203

ACCT. NO.	DATE OF CHARGE	FOLIO NO./CHECK NO.
CARD MEMBER NAME	AUTHORIZATION	ID
ESTABLISHMENT NO. & LOCATION — ESTABLISHMENT AGREES TO TRANSMIT TO CARD ISSUER FOR PAYMENT	PURCHASES & SERVICES	
CARD MEMBER'S SIGNATURE	TOTAL AMOUNT	

X

MERCHANDISE AND OR SERVICES PURCHASED ON THIS CARD SHALL NOT BE RESOLD OR RETURNED FOR A CASH REFUND

FOIA # none (URTS 16315) DocId: 70105254 Page 26

NATIONAL CAR RENTAL

RA: LR18686-2 VEH: 80403-LR61355
RENTAL: 06/23/97 0934 LIT 80403-00
RETURN: 06/24/97 1845 LIT 80403-00
MI OUT:26459 MI IN:26491 MI DRV: 32

BRETT KAVANAUGH

2 DAYS @ 0 WEEKS @ 0 HOURS @
$40.00 $240.00 $13.25
SPEC 0 MILES @
$800.00 $.00

RATE CHG	$	80.00
* TOTAL T&M	$	80.00
REFUEL SC	$	5.59
NET DUE	$	85.59
TAX RECOVERY	$	2.00
TAX12.000%	$	9.60
AMT DUE	$	97.19

*TAXABLE CHARGES

YOUR SATISFACTION IS IMPORTANT TO US

THANK YOU FOR CHOOSING NATIONAL

PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON
BOARDING PASS 7

NAME OF PASSENGER
AVANAUGH/BRETT

FROM
CINCINN
LITTLE
ACS
DELTA

CARRIER/FLIGHT CLASS/DATE TIME
L 253 L 23JUN 855A

GATE BOARD TIME SEAT SMOKE
18D NO

ADDITIONAL SEAT INFORMATION
PCS CK. WT. UNCK WT. SEQ.NO. PCS CK. WT. UNCK.WT.
BAGGAGE ID. NR.
DOCUMENT NUMBER
LCVGFTO /TD

PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON
BOARDING PASS 7

NAME OF PASSENGER
AVANAUGH/BRETT

FROM
WAS-NATIONAL
TO
CINCINNATI
DELTA

CARRIER/FLIGHT CLASS/DATE TIME
L 347 L 23JUN 645A

GATE BOARD TIME SEAT SMOKE
42D NO

ADDITIONAL SEAT INFORMATION
PCS CK. WT. UNCK WT. SEQ.NO. PCS CK. WT. UNCK.WT.
BAGGAGE ID
SJV
LDCar

FOIA(b)(6)

TWA

FLIGHT • CLASS • ORIGIN • DEST
TW0054 Y LIT STL

SEAT
21-C EXIT

SMOKING
NO

KAVANAUGH/BRETT

DATE
24JUN97

LT1 ZL

10/96 THRU 09/98
BRETT M KAVANAUGH
AOUSC-OIC-MGSL

670323[illegible]
1[illegible]
HOLIDAY INN SLT.
LITTLE ROCK AR

EXPIRATION DATE CHECKED

DATE 6/23 CLERK JC
ROOM / FOLIO NO.
CHECK IN DATE 458
CHECK OUT DATE

062397 5395964

VISA
MasterCard

CARDHOLDER SIGN HERE
X Brett Kavanaugh

AUTHORIZATION DATE	APPROVAL CODE	AMOUNT
6/23	454849	80.00

PURCHASES & SERVICES	TYPE OF DELAYED CHG.
TAXES	AMT. OF DELAYED CHG.
TIPS-MISC.	
TOTAL 80.00	REVISED TOTAL

ANY CHARGES THAT DID NOT APPEAR ON YOUR BILL AT CHECKOUT TIME WILL BE ADDED IN THE SHADED AREA ABOVE.

PRESS HARD!

CUSTOMER COPY - RETAIN FOR YOUR RECORDS

87 3426 4126
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ARC

ISSUED BY
DELTA AIR LINES INC
NAME OF ISSUING AGENT
RESEARCH TRAVEL
NAME OF PASSENGER
KAVANAUGH/BRETT
X/O FROM
NOT VALID FOR
X/O TO
**TRANSPORTATION*
ENDORSEMENTS/RESTRICTIONS

FLIGHT COUPONS XX
XXXXX
TOUR CODE
ROCKVILLE
PLACE OF ISSUE
AGENT CODE
A21841293
ISO CODE
MD US
DATE OF ISSUE
18JUN97
PNR/CARRIER CODE
QDPACU/AA
FARE BASIS/TICKET DESIGNATOR
LDGDCA
FCI
7
SERV CARR ID
0011/
CARRIER FLIGHT CLASS DATE TIME STATUS NOT VALID BEFORE NOT VALID AFTER
THIS IS YOUR RECEIPT
ISSUING AGENT ID
L9Y0*46

FOIA(b)(6)

FP [redacted] C 643743 /FCVAS DL X/CVG
DL LIT87.27LDGDCA 87.27 END XFDCA3CVG3

FARE USD 87.27
TAX US 8.73
TAX XF 6.00
TOTAL USD 102.00
EQUIV. FARE PD.
STOCK CONTROL NO. TX 889 CK
25525400364
CPN
DOCUMENT NUMBER CK
0 00L 1384932788 4
ALLOW PCS WT UNCKD
****

030177 0097670 A46
BOARDING PASS

NAME OF PASSENGER
KAVANAUGH/BRETT
FROM
DCA
XCVG DL347 L 23JUNLDGDCA
TO
LIT DL253 L 23JUNLDGDCA
****
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 006 1384932788 4
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET PRIOR TO ANY ENTITY, OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS.

RESEARCH TRAVEL

1600 Research Blvd.
Rockville, MD. 20850
(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day the ticket is issued. Reconfirm all flights with the appropriate carrier 24 hours prior to domestic and 72 hours prior to international flights. Failure to use any continuing reservations can result in automatic cancellation.
IMPORTANT: Unused tickets may have value. Please return for possible credit or refund.

SALES PERSON: 46 ITINERARY/INVOICE NO. 0097670 DATE: 18 JUN 9
CUSTOMER NBR: 0A0177 QDPACU PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE. NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

19 JUN 9- - MONDAY

AIR DELTA AIR LINES INC FLT:547 COACH
LV WASHINGTON NATL 645A EQP: BOEING 757
DEPART: INTERIM TERMINAL
AR CINCINNATI 820A NON-STOP
KAVANAUGH/BRETT SEAT-39A

AIR DELTA AIR LINES INC FLT:20.. COACH
LV CINCINNATI 955A EQP: MD-80
AR LITTLE ROCK 1125A NON-STOP
KAVANAUGH/BRETT SEAT-34E

CAR LITTLE ROCK NATIONAL CAR RENTAL CONF# 5000300
PICK UP-0925 I-INTER CAR AUTO A/C
RETURN-21JUN1115
RATE IS GUARANTEED
DAILY RATE USD60.00 UNLIMITED MILEAGE
CONFIRMATION NUMBER 1992627836COUNT

HOTEL LITTLE ROCK OUT-21JUN CONF #-100205089
HOLIDAY INN 1 NIGHT
@ SELECT LITTLE ROCK WEST 1 ROOM 1 KING LEISURE NON SMKG
201 S SHACKLEFORD RATE-79.00USD PER NIGHT
LITTLE ROCK AR 72211 CANCEL BY 6:00 DAY OF ARRIVAL
PHONE 501-223-3000
FAX 501-223-2800
GUARANTEED LATE ARRIVAL
CONFIRMATION SPECIFIC

20 JUN 9- TUESDAY

AIR NORTHWEST AIRLINES FLT:479 COACH
LV LITTLE ROCK 615P EQP: DC-9 SIRETCH
AR MEMPHIS 656P NON-STOP
KAVANAUGH/BRETT SEAT- 2D

AIR NORTHWEST AIRLINES FLT:329 COACH
LV MEMPHIS 900P EQP: AIRBUS A320
AR WASHINGTON NATL 1106P NON-STOP
ARRIVE: MAIN TERMINAL
KAVANAUGH-BRETT SEAT-19J

CONTINUED ON PAGE 2

THIS INVOICE REPRESENTS AMOUNTS DUE FOR TRANSPORTATION ISSUED BY OUR AGENCY TO THE PARTICIPATING CARRIERS UPON ISSUANCE OF TICKETS.
YOUR PROMPT REMITTANCE WILL BE APPRECIATED.
Returned checks will result in a $25 fee

FOIA# none (URTS 16315) DocId: 70105254 Page 29

EASYLINK 7420392L001 24JUN97 16:00/16:00 EST
FROM: 4955438
4955438 4955438 DEPP UD
RESEARCH TRAVEL INC
TO: 2025148802

SALES PERSON: 46 ITINERARY DATE: 24 JUN 97
CUSTOMER NBR: 030177 QDPACU PAGE: 01

TO: OFFICE OF THE INDEPENDENT DELIVER
COUNSEL
1001 PENNSYLVANIA AVE. NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

FOR: KAVANAUGH/BRETT

24 JUN 97 - TUESDAY

AIR	TRANS WORLD AIRLINES FLT:54	COACH	
	LV LITTLE ROCK	715P	EQP: MD-80
	AR ST LOUIS INTL	827P	NON-STOP
	ARRIVE: MAIN TERMINAL		
AIR	TRANS WORLD AIRLINES FLT:240	COACH	
	LV ST LOUIS INTL	915P	EQP: MD-80
	DEPART: MAIN TERMINAL		

25 JUN 97 - WEDNESDAY

	AR WASHINGTON NATL	1211A	NON-STOP
	ARRIVE: MAIN TERMINAL		
	KAVANAUGH/BRETT SEAT-28D		

RESEARCH TRAVEL 800-446-4200
AFTER HOURS 800-237-7980, USE CODE SL9Y0

FOIA(b)(6)

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel Starr	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	97STAR0643

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M.		2-11-97	2-13-97
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688		11
e. PRESENT DUTY STATION	f. RESIDENCE *(City and State)*	9. CHECK NO.	
Washington, D. C.	Chevy Chase, Maryland		

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*		8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding		a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied		c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*			
d. Balance outstanding			

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$				Washington, DC	St. Louis, Missouri
	$				and	return
(h) CASH	$		FOIA(b)(4)			
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:		(m) TRANS. TICKETS (from reverse) (21-1)	$ 494.00
(k) DC NUMBER:	97TSTR3113	(n) MILEAGE (from reverse) (21-2)	$
(l) CALL NUMBER:		(o) SUBSISTENCE (from reverse) (21-4)	$ 253.00
		(p) VEHICLE RENTAL (from reverse) (21-6)	$
		(q) OTHER (from reverse) (21-7)	$ 67.94

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE

AMOUNT CLAIMED ▶ $ 814 94

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 2/8/97

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*		$
	(21-1)	
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ [signature] DATE 2/18/97

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's initials:* $

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. NET TO TRAVELER ▶ $

BOC: 2120-03 = 253.00
2120-04 = 561.94

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

97STAR0643

FOIA # none (URTS 16315) DocId: 70105254 Page 31

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 1 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME KAVANAUGH

DATE 1997 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAKFAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCELLANEOUS SUBSISTENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANSPORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSISTENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
2-11	5:10P	Taxi from OIC/DC to Washington National Airport													
	5:55P 7:21P	Depart National Airport TWA #91 Arrive St. Louis Airport													
		Taxi from St. Louis Airport to Marriott Pavilion Hotel with John Bates													26.00
	OVER-NIGHT	Marriott Pavilion Hotel ($64.86 + 9.14 tax)						74.00					74.00		
		Per Diem (3/4 day @ $42 per day = $31.50)					31.50		31.50				31.50		
2-12		Per Diem in St. Louis					42.00		42.00				42.00		
	OVER-NIGHT	Marriott Pavilion Hotel						74.00					74.00		
		Telephone calls to office & (on hotel bill $5.88 + .06 + 9.94)													9.94
2-13		Taxi from Marriott Hotel to St. Louis Airport (with Bates & Starr)													33.50
	1:30P 4:32P	Depart St. Louis Airport TWA #440 Arrive Washington National Airport									494.00				
									SUBTOTALS ►		494.00		221.50		67.94
									TOTALS ►		(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ►

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

*U.S. Government Printing Office: 1991 — 212-332/50906

FOIA # none (URTS 16315) DocId: 70105254 Page 32

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. (d) thru (g) Show amount incurred for each meal including tax and tips and daily total meal cost.

(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).

(i) Complete for per diem and actual expense travel.

(j) Show total subsistence expense incurred for actual expense travel.

(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.

(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE 2 OF 2 PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME KAVANAUGH

DATE 1997 (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
2-13		Taxi from National Airport to OIC/DC.													
		Per Diem (3/4 day x $42 per day = $31.50)					31.50		31.50				31.50		

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

	TRANS-PORTATION TICKETS (l)	MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
SUBTOTALS ►			31.50		
TOTALS ►	494.00		253.00		67.94
	(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► $ 814.94

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

*U.S. Government Printing Office: 1991 — 212-332/50906

FOIA # none (URTS 16315) DocId: 70105254 Page 33

FOIA(b)(6)

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
Office of the Independent Counsel	☒ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
KAVANAUGH, Brett M.			
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	202-514-8688		
e. PRESENT DUTY STATION	f. RESIDENCE *(City and State)*	9. CHECK NO.	
Washington, D. C.	Chevy Chase, Maryland		

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*			8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding			a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied			c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*				
d. Balance outstanding				

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER *(Initials)* (b)	MODE, CLASS OF SERVICE AND ACCOM-MODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$					
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:		(m) TRANS. TICKETS (from reverse)	(21-1) $
(k) DC NUMBER:		(n) MILEAGE (from reverse)	(21-2) $
(l) CALL NUMBER: FOIA(b)(4)		(o) SUBSISTENCE (from reverse)	(21-4) $
		(p) VEHICLE RENTAL (from reverse)	(21-6) $
		(q) OTHER (from reverse)	(21-7) $

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ DATE **AMOUNT CLAIMED** ▶ $

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; i.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest if the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ DATE

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*		
	(21-1)	$
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	
b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's initials:*		$
c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)*		$
d. NET TO TRAVELER ▶		$

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-534
SEP. 91

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3113 FOIA(b)(4)

Social Security Number: [ ] - - - FOIA(b)(6)

Accounting Classification: [ ]

Requested By: Kenneth W. Starr
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:	**Estimated Cost:**	**Mode of Transportation Authorized:**	**Mode of Subsistence Authorized:**
☐ Foreign travel. Must be approved as required by DOJ travel regulations. From: Washington, DC VIA: VIA: VIA: VIA: To: St. Louis, MO And return ☒ Dep. Date: February 11, 1997 Return Date: February 13, 1997	Transportation $ 500.00 Actual subsistence or per diem $ 250.00 Other $ 100.00 Total $ 850.00 ☐ ATM Advance Authorized $	☒ By Common Carrier ☐ By Government-Furnished Auto ☐ By Rental Vehicle or Special Conveyance ☐ By Privately-Owned Vehicle ☐ POV Determined to be Most Advantageous to Government ☐ Cost Not to Exceed that of Common Carrier ☐ Based on Cost of Government Furnished Auto ☐ $____ Mileage Rate Authorized ☐ Other **GSA (BOAC):**	☐ Actual subsistence up to $ per day. Actual subsistence requires approval by appropriate authorizing official. ☒ Per diem based on lodging plus meals and incidental expenses not to exceed $74.00/night + tax lodging and $42.00/day M&IE ☐ Per diem of $ per day. ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Travel authorized from Washington, DC, to St. Louis, MO, for oral argument before the 8th Circuit. Allowances are $74.00 + tax for lodging, $42.00 for M&IE, and $5.00 telephone.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judicia R. Harris Title Administrative Officer Date 2/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

TAXI RECEIPT

✈Lambert St. Louis Airport ✈

From: Airport Date: 2/11/97

To Marriott

To _____

Amount $ 26 Driver _____

Cab Co. _____ Cab # _____

Thank You. Have a pleasant stay in St. Louis

including tip for
Kavanaugh + Bates

AUTO LIVERY CAB CO.
722 N. 17th. St.
St. Louis, MO 63103
(314) 241-7722

CAB CREDIT AUTHORIZATION

DATE 2/11/97 TIME _____ A.M. P.M.

CAB NO. 211 DRIVER Cobler

FROM Marriott

TO Airport

TO _____

TO _____

Meter Fare	32	00
Total	32	00

Account No. [ ]

SIGNATURE _____

FIRM NAME _____

ADDRESS _____

for Kavanaugh, Starr, + Bates

ST. LOUIS Marriott PAVILION DOWNTOWN

One Broadway, St. Louis, Missouri 63102 (314) 421-1776

GUEST FOLIO

632	KAVANAUGH/BRETT	64.86	02/13/97	13:00	ACCT# 5451
ROOM	NAME	RATE	DEPART	TIME	
DDB	RESEARCH TRAVEL INC		02/11/97	19:59	
TYPE			ARRIVE	TIME	

80 PLAZA 270
ROCKVILLE MD
ROOM CLERK 208503172 ADDRESS

PAYMENT HG#:

DATE	REFERENCE		CHARGES	CREDITS	BALANCE DUE
02/11	ROOM.	632, 1	64.86		
02/11	RM TX	632, 1	4.44		
02/11	CITY TAX	632, 1	2.43		
02/11	OCCUPTAX	632, 1	2.27		
02/12	LNG DIST	9040-202	5.88		
02/12	LNG DIST	9060-202	4.06		
02/12	ROOM.	632, 1	64.86		
02/12	RM TX	632, 1	4.44		
02/12	CITY TAX	632, 1	2.43		
02/12	OCCUPTAX	632, 1	2.27		
02/13	AX CARD			$157.94	

202 202 → both to office

SETTLED TO: AMERICAN EXPRESS CURRENT BALANCE .00

96 3426 1938
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

ARC

ISSUED BY: TRANS WORLD AIRLINES XXXXX | TOUR CODE | AGENT CODE: A21841293
NAME OF ISSUING AGENT: RESEARCH TRAVEL | PLACE OF ISSUE: ROCKVILLE | ISO CODE: MD | DATE OF ISSUE: US04FEB97
NAME OF PASSENGER: KAVANAUGH/BRETT | PNR/CARRIER CODE: RVMEJE/AA | FARE BASIS/TICKET DESIGNATOR: YCADCA | FCI: 7 | SERV.CABR. ID: 00117
X/O FROM: **NOT VALID FOR** | CARRIER | FLIGHT | CLASS | DATE | TIME | STATUS | NOT VALID BEFORE | NOT VALID AFTER: THIS IS YOUR RECEIPT
X/O TO: **TRANSPORTATION* | FOIA(b)(6) | ISSUING AGENT ID: L9Y0*46
ENDORSEMENTS/RESTRICTIONS

FP [redacted] / 497808 /FCWAS TW STL24
4.00 TW WAS244.00YCADCA 488.00 END XFDCA3STL3

FARE	EQUIV. FARE PD.	ALLOW	PCS	WT	UNCKD
USD 488.00		**********			
TAX XF 6.00					
TAX					
TOTAL USD 494.00	STOCK CONTROL NO. TX 889 CK: 28743820243	CPN: 0	DOCUMENT NUMBER CK: 015 1351387548 4		

030177 0094100 A46
BOARDING PASS

NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: WASHINGTON NATL
TO: ST LOUIS INTL
CARRIER: TRANS WORLD AIRLI
CARRIER: TW | FLIGHT: 91 | CLASS: Y | DATE: 11FEB | TIME: 555P
GATE
SEAT: 20D | SMOKE: NO

PCS | WT | UNCKD | BAGGAGE ID NUMBER
1 015 1351387548 0
AA21841293

IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM/TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS

PASSENGER TICKET AND BAGGAGE CHECK
PASSENGER COUPON

6E0935
NAME OF PASSENGER: KAVANAUGH/BRETT
FROM: ST LOUIS
TO: WASH/NATIONAL

CARRIER/FLIGHT	CLASS/DATE	TIME
TW 0440	Y 13FEB97	

GATE	BOARD TIME	SEAT	SMOKE
32	09-C		NO

ADDITIONAL SEAT INFORMATION
PCS | CK. WT. | UNCK WT. | SEQ.NO. | PCS | CK. WT. | UNCK.WT.
BAGGAGE ID. NR.
DOCUMENT NUMBER

/SFSZG ST1/XR

FOIA(b)(6)

U.S. Department of Justice
Washington, DC 20530

Travel Voucher
(Read the Privacy Act Statement on the back)

1. DEPARTMENT OR ESTABLISHMENT, BUREAU, DIVISION OR OFFICE	2. TYPE OF TRAVEL	3. VOUCHER NO.
OIC-Staff	☐ TEMPORARY DUTY ☐ PERMANENT CHANGE OF STATION	97STAR0195

4. a. NAME *(Last, first, middle initial)*	b. SOCIAL SECURITY NO.	5. PERIOD OF TRAVEL a. FROM	b. TO
Kavanaugh, Brett M.		10/27/96	10/29/96
c. MAILING ADDRESS *(Include ZIP Code)*	d. OFFICE TELEPHONE NO.	6. TRAVEL AUTHORIZATION DATE(S)	
	(202) 514-8778	10	
e. PRESENT DUTY STATION	f. RESIDENCE *(City and State)*	9. CHECK NO.	
Washington, DC	Chevy Chase, MD		

7. TRAVEL ADVANCE *(From Imprest Fund or Treasury Check)*	8. CASH PAYMENT RECEIPT	10. PAID BY
a. Outstanding	a. DATE RECEIVED b. AMOUNT RECEIVED $	
b. Amount to be applied	c. PAYEE'S SIGNATURE	
c. Amount due Government *(Attached: ☐ Check ☐ Cash)*		
d. Balance outstanding		

11-1 FOREIGN TRAVEL ☐

11-2 PURPOSE OF TRAVEL: ☐ OPERATIONAL (1) ☐ TRAINING (3) ☐ MEETING/CONFERENCE (4) ☐ RELOCATION (6) ☐ OTHER (9)

12. TRANSPORTATION TICKETS, IF PURCHASED WITH CASH OR CREDIT CARD *(List below and attach passenger coupon; if credit card is used, show type of credit card (circle one.)*

I hereby assign to the United States any right I may have against any parties in connection with reimbursable transportation charges described below, purchased under cash payment procedures (FPMR 101-7) ▶ Traveler's Initials

	AGENT'S VALUATION OF TICKET (a)	ISSUING CARRIER (Initials) (b)	MODE, CLASS OF SERVICE AND ACCOMMODATIONS (c)	DATE ISSUED (d)	POINTS OF TRAVEL FROM (e)	POINTS OF TRAVEL TO (f)
(g) DINERS GTS OTHER	$					
	$					
(h) CASH	$		FOIA(b)(4)			
(i) TOTAL	$					

(j) COST CENTER/ ACCT CLASS:		
(k) DC NUMBER:	97TSTR3033	
(l) CALL NUMBER:		
(m) TRANS. TICKETS (from reverse)	(21-1)	$ 299.00
(n) MILEAGE (from reverse)	(21-2)	$ 18.60
(o) SUBSISTENCE (from reverse)	(21-4)	$ 227.70
(p) VEHICLE RENTAL (from reverse)	(21-6)	$ 69.20
(q) OTHER (from reverse)	(21-7)	$ 60.00

13. I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me. When applicable, per diem claimed is based on the average cost of lodging incurred during the period covered by this voucher.

TRAVELER SIGN HERE ▶ Brett M. Kavanaugh DATE 10/31/96 **AMOUNT CLAIMED** ▶ $ 674.50 ~~665.20~~

NOTE: Falsification of an item in an expense account works a forfeiture of claim (28 U.S.C. 2514) and may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; I.d. 1001).

14. This voucher is approved. Long distance telephone calls, if any, are certified as necessary in the interest of the Government. *(NOTE: If long distance telephone calls are included, the approving official must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).)*

APPROVING OFFICIAL SIGN HERE ▶ [signature] DATE 11/4/96

17. FOR FINANCE OFFICE USE ONLY COMPUTATUION

DIFFERENCES IF ANY *(Explain and show amount)*		$
	(21-1)	
	(21-2)	
	(21-4)	
	(21-6)	
	(21-7)	

15. LAST PRECEDING VOUCHER PAID UNDER SAME TRAVEL AUTHORIZATION

a. VOUCHER NO.	b. D.O. SYMBOL	c. MONTH & YEAR

b. TOTAL VERIFIED CORRECT FOR CHARGE TO APPROPRIATION: *Certifier's Initials:* $

16. THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT

AUTHORIZED CERTIFYING OFFICIAL SIGN HERE ▶ DATE

c. APPLIED TO TRAVEL ADVANCE *(Appropriation symbol)* $

d. NET TO TRAVELER ▶ $

BOC: 2120-02 = 18.60
2120-03 = 227.70
2120-04 = 428.20

EXCEPTION TO SF 1012
APPROVED BY GSA/IRMS 7-89

FORM DOJ-634
SEP. 91

SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED

INSTRUCTIONS TO TRAVELER *(Unlisted items are self-explanatory)*

Col. (c) If the voucher includes per diem allowances for members of employee's immediate family, show members' names, ages, and relationship to employee and marital status of children (unless information is shown on the travel authorization.)

Complete only for actual expense travel

Col. thru (d) Show amount incurred for each meal including tax and tips and daily total meal cost.
(g)
(h) Show expenses, such as: laundry, cleaning and pressing of clothes, tips to bellboys, porters, etc. (other than for meals).
(i) Complete for per diem and actual expense travel.
(j) Show total subsistence expense incurred for actual expense travel.
(n) Show per diem amount, limited to maximum rate, or if travel on actual expense, show the lesser of the amount from col. (j) or maximum rate.
(p) Show expenses, such as: taxi/limousine fares, local or long distance telephone calls for Government business, relocati on other than subsistence, etc.

Complete this information if this is a continuation sheet.

PAGE ____ OF ____ PAGES

TRAVELER'S AUTHORIZATION NO.

TRAVELER'S LAST NAME

DATE 19____ (a)	TIME (Hour and am/pm) (b)	DESCRIPTION (Departure/arrival city, per diem computation, or other explanations of expense.) (c)	ITEMIZED SUBSISTENCE EXPENSES: MEALS BREAK-FAST (d)	LUNCH (e)	DINNER (f)	TOTAL (g)	MISCEL-LANEOUS SUBSIS-TENCE (h)	LODGING (i)	TOTAL SUBSISTENCE EXPENSES (j)	MILEAGE RATE: 31 ¢ NO. OF MILES (k)	TRANS-PORTATION TICKETS (l)	AMOUNT CLAIMED: MILEAGE (m)	SUBSIS-TENCE (n)	VEHICLE RENTAL (o)	OTHER (p)
10/27	9:10a	Depart Birmingham Airport ~~personnel~~ via POV								30		9 30	um		
	12:32p	Arrive Little Rock Airport													
		Rental Car												69 20	
10/29	12:15p	Depart Little Rock Airport													
	4:59p	Arrive National Airport													
		Free Shuttle to BWI POV Parking BWI													60 00
	9:00p	Arrive Residence													
		POV 30 miles to residence @ .31¢/mile										9 30			
		Hotel											145 20		
		Airfare									299 00				
		M&IE 2 3/4 days @ $30										um	75 00		
									SUBTOTALS ►			18 60			
									TOTALS ►		299 00	~~9 30~~	227 70	69 20	60 00
											(21-1)	(21-2)	(21-4)	(21-6)	(21-7)

If additional space is required, continue on another Form DOJ-534 BACK, leaving the front blank.

Enter grand total of columns (l), (m), (n), (o) and (p) below and in item 13 on the front of this form.

TOTAL AMOUNT CLAIMED ► ~~$665.20~~ $674.50

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 5 U.S.C. Chap. 57 as implemented by the Federal Travel Regulations (FPMR 101-7), E.O. 11609 of July 22, 1971, E.O. 11012 of March 27, 1962, E.O. 9397 of November 22, 1943, and 26 U.S.C. 6011(b) and 6109. The primary purpose of the requested information is to determine payment or reimbursement to eligible individuals for allowable travel and/or relocation expenses incurred under appropriate administrative authorization and to record and maintain costs of such reimbursements to the Government. The information will be used by officers and employees who have a need for the information in the performances of their official duties. The information may be disclosed to appropriate Federal, State, local, or foreign agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by this agency in connection with the hiring or firing of an employee, the issuance of a security clearance, or investigations of the performance of official duty while in Government service. Your Social Security Account Number (SSN) is solicited under the authority of the Internal Revenue Code (26 U.S.C. 6011(b) and 6109) and E.O. 9397, November 22, 1943, for use as a tax payer and/or employee identification number; disclosure is MANDATORY on vouchers claiming travel and/or relocation allowance expense reimbursement which is, or may be, taxable income. Disclosure of your SSN and other requested information is voluntary in all other instances; however, failure to provide the information (other than SSN) required to support the claim may result in delay or loss of reimbursement.

*U.S. GPO: 1993-342-487/82448

FOIA # none (URTS 16315) DocId: 70105254 Page 40

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett M. Kavanaugh FOIA(b)(6)

Social Security Account Number

Requested By

Signature

Title **Date**

Document Number 97 TSTR 3033

Accounting Classification

Organization OLC

Official Duty Station Wash DC. FOIA(b)(4)

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: ~~Birmingham, Alabama~~
VIA:
VIA:
VIA:
VIA: Little Rock, Arkansas
To: Washington, D.C.
And return ☐
Dep. Date 10/27/96
Return Date 10/29/96

Estimated Cost

Transportation $ 299.00
Actual subsistence or per diem $ 182.00
Other $ 150.00
Total $ 631.00

☐ ATM Advance Authorized $

Mode of Transportation Authorized
(Check applicable box(es))

☒ BY COMMON CARRIER
☐ BY GOVERNMENT-FURNISHED AUTO
☒ BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
☒ BY PRIVATELY OWNED VEHICLE
☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
☒ $.31 MILEAGE RATE AUTHORIZED
☒ OTHER
☒ Taxi
GSA *(BOAC)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☐ Per diem based on lodging plus meals and incidental expenses NTE $ _____

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)* Because Mr. Kavanaugh has personal business in Birmingham, Alabama during the weekend of 10/25-10/27, payment is authorized for air fare from Birmingham, Alabama to Little Rock, Arkansas, and return to Baltimore/Washington International Airport so that Mr. Kavanaugh may conduct official business in Little Rock, Arkansas

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Judith R. Harris Administrative Officer Date 10/24/96

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

96 3426 2982
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

130177 0091947 A46

ISSUED BY: TRANS WORLD AIRLINES XXXXX — ARC XLNUM COUPON — TOUR CODE — AGENT CODE A21841293
NAME OF ISSUING AGENT: RESEARCH TRAVEL — ROCKVILLE — PLACE OF ISSUE — ISO CODE MD — DATE OF ISSUE US25OCT96
NAME OF PASSENGER: KAVANAUGH/BRETT — END/CARRIER CODE SUVBAF/AA — FARE BASIS/TICKET DESIGNATOR YCA
X/O FROM **NOT VALID FOR** — CARRIER FLIGHT CLASS DATE THIS IS YOUR RECEIPT — TIME — STATUS — FCI — SERV.CABR. ID 7 0011
X/O TO **TRANSPORTATION* — NOT VALID BEFORE — NOT VALID AFTER
ENDORSEMENTS/RESTRICTIONS — ISSUING AGENT ID L9Y0*46

FP
TW BWI107.27YCA 107.27 END 865676 /FCLIT TW X/STL XFLIT3STL3

FARE USD 107.27 — EQUIV. FARE PD.
TAX US 10.73 — STOCK CONTROL NO. TX 889 — CK
TAX XF 6.00 — 34886316441
TOTAL USD 124.00

CPN — ALLOW PCS WT UNCKD ***** — DOCUMENT NUMBER — CK
0 015 1334521119 5

NAME OF PASSENGER KAVANAUGH/BRETT
FROM LIT
TO STL TW50 Y 29OCTYCA
BWI TW170 Y 29OCTYCA
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 015 1334521119 5
A21841293

IT IS UNLAWFUL TO PURCHASE OR REBELL THIS TICKET FROM ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS

FOIA(b)(6)

96 3426 2982
PASSENGER TICKET AND BAGGAGE CHECK
SUBJECT TO CONDITIONS OF CONTRACT
NOT TRANSFERABLE

PASSENGER RECEIPT

130177 0091904 A46

ISSUED BY: DELTA AIR LINES INC XXXXX — ARC XLNUM COUPON — TOUR CODE — AGENT CODE A21841293
NAME OF ISSUING AGENT: RESEARCH TRAVEL — ROCKVILLE — PLACE OF ISSUE — ISO CODE MD — DATE OF ISSUE US23OCT96
NAME OF PASSENGER: KAVANAUGH/BRETT — END/CARRIER CODE SUVBAH/AA — FARE BASIS/TICKET DESIGNATOR YCA
X/O FROM **NOT VALID FOR** — CARRIER FLIGHT CLASS DATE THIS IS YOUR RECEIPT — TIME — STATUS — FCI — SERV.CABR. ID 7 0011
X/O TO **TRANSPORTATION* — NOT VALID BEFORE — NOT VALID AFTER
ENDORSEMENTS/RESTRICTIONS — ISSUING AGENT ID L9Y0*46

FP
DL LIT159.09YCA 159.09 END 576239 /FCBHM DL X/ATL

FARE USD 159.09 — EQUIV. FARE PD.
TAX 15.91 — STOCK CONTROL NO. TX 889 — CK
TOTAL USD 175.00 — 34886313372

CPN — ALLOW PCS WT UNCKD ***** — DOCUMENT NUMBER — CK
0 006 1334521075 2

NAME OF PASSENGER KAVANAUGH/BRETT
BHM
FROM ATL DL322 Y 27OCTYCA
LIT DL928 Y 27OCTYCA
TO
CARRIER
CARRIER FLIGHT CLASS DATE TIME
GATE SEAT SMOKE
PCS WT UNCKD BAGGAGE ID NUMBER
NOT VALID FOR TRAVEL
0 006 1334521075 2
A21841293

IT IS UNLAWFUL TO PURCHASE OR REBELL THIS TICKET FROM ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS

COURTYARD Marriott

LITTLE ROCK (LITTLE
10900 FINANCIAL CTR PKY
LITTLE ROCK, AR 72211
(501)227-6000

GUEST CHARGES SUMMARY

Toll Free Reservations (800) 321- 2211

THANK YOU FOR SELECTING COURTYARD BY MARRIOTT FOR YOUR TRIP. WE TRUST THAT YOUR EXPERIENCE WITH US HAS INCLUDED WARM AND GRACIOUS SERVICE, AND THE TYPE OF ACCOMMODATIONS EXPECTED.

WE LOOK FORWARD TO SERVING YOU AGAIN ON FUTURE TRIPS. FOR ADDITIONAL RESERVATIONS, CALL OUR TOLL FREE RESERVATION NUMBER, (800) 321-2211.

WE LOOK FORWARD TO YOUR NEXT VISIT.

BRETT KAVANAUGH
2300 RESEARCH BLVD
ROCKVILLE MD 208503172

PLAZA 370

ROOM	131	COVA
ROOM TYPE	GENR	2184L29C
NO. OF GUESTS	1	
RATE	66.00	
CLERK	LEW	

ARRIVE	TIME	DEPART	TIME	FOLIO #
10/27/96	2:53PM	10/29/96	08:13AM	08-55751

DATE	REFERENCE NUMBER	DESCRIPTION	CHARGES	CREDITS
10/27/96	RBS11	ROOM CHARGE	66.00	
10/27/96	RT111	ROOM TAX	5.60	
10/28/96	FDC/8	RESTAURANT ROOM - MARC	7.50	
10/28/96	MV1718	MOVIE	9.95	
10/28/96	RS111	ROOM CHARGE	66.00	
10/28/96	RT111	ROOM TAX	5.60	
10/29/96	AXC8135	AMERICAN EXPRESS		162.20-

CARD # FOIA(b)(6)
Amount: 162.20 Auth: 02
** Signature on File **

** BALANCE **

.00

The undersigned agrees to make immediate payment upon receipt of statement. In the event such payment is not made within 30 days after receipt of the original statement, it is agreed that the hotel may impose a late payment charge at a rate of 1 1/2% per month (annual rate of 18%), or the maximum allowed by law, on the unpaid balance, and the reasonable cost of collection, including attorney's fees.

SIGNATURE _____

FORM # 6-887

Parking

BWI
AIRPORT
THANK YOU

PAID
234
05···289No.
96-10·•20T
@29-20:17EX
96-10·•60T
@26-06:21E
C···80.00$

···80.00$

·····20T

$60 to Govt.

NATIONAL
CAR RENTAL

RA: LR23423-0 VEH: 80403-LR19753
RENTAL: 10/27/96 1301 LIT 80403-00
RETURN: 10/29/96 1210 LIT 80403-00
MI OUT:26161 MI IN:26213 MI DRV: 52

BRETT KAVANAUGH
[redacted] - - - FOIA(b)(6)

2 DAYS @ 0 WEEKS @ 0 HOURS @
$30.00 $180.00 $10.00
SPEC 0 MILES @
$500.00 $.00

RATE CHG	$	60.00
* TOTAL T&M	$	60.00
NET DUE	$	60.00
TAX RECOVERY	$	2.00
TAX12.000%	$	7.20
AMT DUE	$	69.20

*TAXABLE CHARGES

YOUR SATISFACTION IS IMPORTANT TO US

THANK YOU FOR CHOOSING NATIONAL

RESEARCH TRAVEL
1600 Research Blvd.
Rockville, MD. 20850
(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day the ticket is issued. Reconfirm all flights with the appropriate carrier 24 hours prior to domestic and 72 hours prior to international flights. Failure to use any continuing reservations can result in automatic cancellation.
IMPORTANT: Unused tickets may have value. Please return for possible credit or refund.

SALES PERSON: 46 ITINERARY/INVOICE NO. 0091947 DATE: 25 OCT 96
CUSTOMER NBR: 030177 SUVBAF PAGE: 01

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE, NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

DELIVER ON FRIDAY 10/25

FOR: KAVANAUGH/BRETT

27 OCT 96 - SUNDAY

AIR DELTA AIR LINES INC FLT:322 COACH
LV BIRMINGHAM AL 910A EQP: BOEING 757
AR ATLANTA 1103A NON-STOP
KAVANAUGH/BRETT SEAT-24D

AIR DELTA AIR LINES INC FLT:928 COACH
LV ATLANTA 1205P EQP: MD-80
AR LITTLE ROCK 1232P NON-STOP
KAVANAUGH/BRETT SEAT-15B

OTHER MEMPHIS
NO ADVANCE SEATING FOR THIS FLIGHT

CAR LITTLE ROCK NATIONAL CAR RENTAL CORP ID-5000300
PICK UP-1232P 1-COMPACT CAR AUTO AC
RETURN-28OCT/715P
RATE IS GUARANTEED
DAILY RATE-USD30.00 UNLIMITED MILEAGE
CONFIRMATION NUMBER 128891180ICOUNT

HOTEL LITTLE ROCK OUT-28OCT
COURTYARD BY MARRIOTT 1 NIGHT
COURTYARD LITTLE ROCK 1 ROOM GOVT
10900 FINANCIAL CTR PKWY RATE-66.00USD PER NIGHT
LITTLE ROCK AR 72211 CANCEL BY 06P DAY OF ARRIVAL
FONE 501-227-6000
FAX 501-227-6912
GUARANTEED LATE ARRIVAL
CONFIRMATION 80540892

28 OCT 96 - MONDAY

HOTEL LITTLE ROCK OUT-29OCT
COURTYARD BY MARRIOTT 1 NIGHT
COURTYARD LITTLE ROCK 1 ROOM GOVT
10900 FINANCIAL CTR PKWY RATE-66.00USD PER NIGHT
LITTLE ROCK AR 72211 CANCEL BY 06P DAY OF ARRIVAL
FONE 501-227-6000
FAX 501-227-6912
GUARANTEED LATE ARRIVAL
CONFIRMATION 81799077

CONTINUED ON PAGE 2

FOIA # none (URTS 16315) DocId: 70105254 Page 45

THIS INVOICE REPRESENTS AN IMMEDIATE TRANSFER OF FUNDS FROM OUR AGENCY TO THE PARTICIPATING CARRIERS UPON ISSUANCE OF TICKETS.
YOUR PROMPT REMITTANCE WILL BE APPRECIATED

RESEARCH TRAVEL

1600 Research Blvd.
Rockville, MD. 20850

(301) 251-0370
(800) 446-4200
FAX (301) 294-6208

This itinerary is based on schedules and fares in effect the day the ticket is issued. Reconfirm all flights with the appropriate carrier 24 hours prior to domestic and 72 hours prior to international flights. Failure to use any continuing reservations can result in automatic cancellation.
IMPORTANT: Unused tickets may have value. Please return for possible credit or refund.

SALES PERSON: 46 ITINERARY/INVOICE NO. 0091947 DATE: 25 OCT 96
CUSTOMER NBR: 030177 SUVBAF PAGE: 02

TO: OFFICE OF THE INDEPENDENT COUNSEL
1001 PENNSYLVANIA AVE. NW
SUITE 490-NORTH
WASHINGTON, D.C. 20004

DELIVER ON FRIDAY 10/25

FOR: KAVANAUGH/BRETT

29 OCT 96 - TUESDAY

AIR	TRANS WORLD AIRLINES FLT:50	COACH	
	LV LITTLE ROCK	123P	EQP: 727 STRETCH
	AR ST LOUIS INTL	235P	NON-STOP
	KAVANAUGH/BRETT SEAT-11C		
AIR	TRANS WORLD AIRLINES FLT:170	COACH	-
	LV ST LOUIS INTL	410P	EQP: MD-80
	AR BALTIMORE WASHNTN	712P	NON-STOP

AIR TICKET TW1334521119

KAVANAUGH BRETT
BILLED TO FOIA(b)(6) 124.00*

SUB TOTAL 124.00
NET CC BILLING 124.00*

TOTAL AMOUNT DUE 0.00

FARE TO LITTLE ROCK 175.00 - GOVT RATE
FARE TO BWI 124.00 - GOVT RATE

AG-46

THIS INVOICE REPRESENTS AN IMMEDIATE TRANSFER OF FUNDS FROM YOUR AGENCY TO THE TICKETING CARRIER UPON ISSUANCE OF TICKETS.
YOUR PROMPT REMITTANCE WILL BE APPRECIATED.
Returned checks will result in a $25 fee.

FOIA # none (URTS 16315) Doc Id: 70105254 Page 46

U.S. Department of Justice

Official Travel Request and Authorization
(Privacy Act Statement on Reverse of Last Part)

REQUEST

Traveler's Name Brett M. Kavanaugh

Social Security Account Number FOIA(b)(6)

Requested By

Signature _____

Title _____ **Date** _____

Document Number 17 Form 30 02

Accounting Classification FOIA(b)(4)

Organization [illegible]

Official Duty Station [illegible]

Planned Itinerary

☐ Foreign travel. Must be approved as required by DOJ travel regulations

From: Birmingham, Alabama
VIA: _____
VIA: _____
VIA: _____
VIA: Little Rock, Arkansas
To: Washington, D.C.

And return
Dep. Date 10/27/96
Return Date 10/29/96

Estimated Cost

Transportation $ 299.00
Actual subsistence or per diem $ 182.00
Other $ 150.00
Total $ 631.00

☐ ATM Advance Authorized $ _____

Mode of Transportation Authorized
(Check applicable box(es))

- X BY COMMON CARRIER
- ☐ BY GOVERNMENT-FURNISHED AUTO
- X BY RENTAL VEHICLE OR SPECIAL CONVEYANCE
- ☐ BY PRIVATELY OWNED VEHICLE
  - ☐ POV DETERMINED TO BE MOST ADVANTAGEOUS TO GOVERNMENT
  - ☐ COST NOT TO EXCEED THAT OF COMMON CARRIER
  - ☐ BASED ON COST OF GOVERNMENT FURNISHED AUTO
  - ☐ $ .31 MILEAGE RATE AUTHORIZED
- X OTHER Taxi

GSA *(BO4C)*

Mode of Subsistence Authorized
(Check type)

☐ Actual subsistence up to $ _____ per day
Actual subsistence requires approval by appropriate authorizing official

☐ Per diem based on lodging plus meals and incidental expenses NTE $ _____

☐ Per diem of $ _____ per day
☐ Extended TDY (Reduced Rate)

Other Authorization *(When the following type(s) of expense(s) can be anticipated, check the appropriate box(es))*

☐ 1. Use of premium class. If premium class air is to be authorized forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag air carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters *(hire of room, quarters for conference, etc.)*
☐ 4. Other. Specify below.

Purpose of Travel

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel *(attach Form DOJ-502)*
☐ e. Other Travel

Justification *(if appropriate)* Because Mr. Kavanaugh has personal business in Birmingham, Alabama during the weekend of 10/25-10/27, payment is authorized for air fare from Birmingham, Alabama to Little Rock, Arkansas, and return to Baltimore/Washington International Airport so that Mr. Kavanaugh may conduct official business in Little Rock, Arkansas

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization.
You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Judith K. Harris, Administrative Officer Date _____

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

Printed on Recycled Paper

FORM DOJ-501
JAN. 92

FOIA # none (URTS 16315) DocId: 70105254 Page 47

4. COPY FOR ADMINISTRATIVE USE (1)

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3113 FOIA(b)(4)

Social Security Number: [redacted] - - - FOIA(b)(6)

Accounting Classification:

Requested By: Kenneth W. Starr
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: St. Louis, MO

And return ☒

Dep. Date: February 11, 1997

Return Date: February 13, 1997

Estimated Cost:

Transportation
$ 500.00

Actual subsistence or per diem
$ 250.00

Other
$ 100.00

Total
$ 850.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☐ By Government-Furnished Auto
☐ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
  ☐ POV Determined to be Most Advantageous to Government
  ☐ Cost Not to Exceed that of Common Carrier
  ☐ Based on Cost of Government Furnished Auto
  ☐ $____ Mileage Rate Authorized
☐ Other

GSA (BOAC):

Mode of Subsistence Authorized:

☐ Actual subsistence up to $ per day. Actual subsistence requires approval by appropriate authorizing official.

☒ Per diem based on lodging plus meals and incidental expenses not to exceed $74.00/night + tax lodging and $42.00/day M&IE

☐ Per diem of $ per day.
  ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Travel authorized from Washington, DC, to St. Louis, MO, for oral argument before the 8th Circuit. Allowances are $74.00 + tax for lodging, $42.00 for M&IE, and $5.00 telephone.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Judith R. Harris Title Administrative Officer Date 2/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3249 FOIA(b)(4)

Social Security Number: [ ] - - FOIA(b)(6)

Accounting Classification:

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: July 1, 1997

Return Date: September 30, 1997

Estimated Cost:

Transportation
$ 1,500.00

Actual subsistence or per diem
$ 1,000.00

Other
$ 1,000.00

Total
$ 3,500.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
  ☐ POV Determined to be Most Advantageous to Government
  ☐ Cost Not to Exceed that of Common Carrier
  ☐ Based on Cost of Government Furnished Auto
  ☐ $____ Mileage Rate Authorized
☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☐ Actual subsistence up to $ per day. Actual subsistence requires approval by appropriate authorizing official.

☒ Per diem based on lodging plus meals and incidental expenses not to exceed $65.00/night for lodging and $30.00 per day for M&IE

☐ Per diem of $ per day.
  ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is $65.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 7/1/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.
A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3324

Social Security Number: [ ] - - - - FOIA(b)(6)

Accounting Classification: [ ] - - FOIA(b)(4)

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: June 23, 1997

Return Date: June 25, 1997

Estimated Cost:

Transportation
$ 250.00

Actual subsistence or per diem
$ 200.00

Other
$ 150.00

Total
$ 600.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
- ☐ POV Determined to be Most Advantageous to Government
- ☐ Cost Not to Exceed that of Common Carrier
- ☐ Based on Cost of Government Furnished Auto
- ☐ $____ Mileage Rate Authorized

☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☐ Actual subsistence up to $ per day. Actual subsistence requires approval by appropriate authorizing official.

☒ Per diem based on lodging plus meals and incidental expenses not to exceed $87.00/night for lodging and $30.00 per day for M&IE

☐ Per diem of $ per day.
- ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
- ☐ Upgrade to premium class at no extra cost.

☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.

☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)

☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is $87.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 7/8/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

FOIA # none (URTS 16315) DocId: 70105254 Page 50

Office of the Independent Counsel Official Travel Request and Authorization

REQUEST

Traveler's Name: KAVANAUGH, Brett

Document Number: 97TSTR3249A

Social Security Number: [redacted] - - - - FOIA(b)(6)

Accounting Classification: [redacted] - - - FOIA(b)(4)

Requested By: W. Hickman Ewing, Jr.
Signature _____

Organization: Office of the Independent Counsel

Title: _____ **Date:** _____

Official Duty Station: Washington, DC

Planned Itinerary:

☐ Foreign travel. Must be approved as required by DOJ travel regulations.

From: Washington, DC
VIA:
VIA:
VIA:
VIA:
To: Little Rock, Arkansas

And return ☒

Dep. Date: July 1, 1997

Return Date: September 30, 1997

Estimated Cost:

Transportation
$ 1,500.00

Actual subsistence or per diem
$ 1,000.00

Other
$ 1,000.00

Total
$ 3,500.00

☐ ATM Advance Authorized
$

Mode of Transportation Authorized:

☒ By Common Carrier
☒ By Government-Furnished Auto
☒ By Rental Vehicle or Special Conveyance
☐ By Privately-Owned Vehicle
  ☐ POV Determined to be Most Advantageous to Government
  ☐ Cost Not to Exceed that of Common Carrier
  ☐ Based on Cost of Government Furnished Auto
  ☐ $____ Mileage Rate Authorized
☐ Other

GSA (BOAC): 10349E

Mode of Subsistence Authorized:

☒ Actual subsistence up to $95.00/night for lodging and $30.00/day M&IE. Actual subsistence above $65/night for lodging requires supplemental justification on the travel voucher.

☐ Per diem based on lodging plus meals and incidental expenses not to exceed

☐ Per diem of $ per day.
  ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
  ☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification (*if appropriate*)

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is not to exceed $95.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). When lodging expense exceeds $65.00/night, supplemental justification is required on the travel voucher. One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

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AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature Meggy Hughes Title Administrative Officer Date 7/11/97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous travel status who file monthly vouchers.

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FOIA(b)(6)

Office of the Independent Counsel

Official Travel Request and Authorization

FOIA(b)(4)

REQUEST

Traveler's Name: KAVANAUGH, Brett	**Document Number:** 98TSTR3036
Social Security Number:	**Accounting Classification:**
Requested By: Kenneth W. Starr **Signature** _____	**Organization:** Office of the Independent Counsel
Title: _____ **Date:** September 25, 1997	**Official Duty Station:** Washington, DC

Planned Itinerary:	**Estimated Cost:**	**Mode of Transportation Authorized:**	**Mode of Subsistence Authorized:**
☐ Foreign travel. Must be approved as required by DOJ travel regulations. From: Washington, DC VIA: VIA: VIA: VIA: To: Little Rock, Arkansas And return ☒ Dep. Date: October 1, 1997 Return Date: December 31, 1997	Transportation $ 1,500.00 Actual subsistence or per diem $ 1,000.00 Other $ 1,000.00 Total $ 3,500.00 ☐ ATM Advance Authorized $	☒ By Common Carrier ☒ By Government-Furnished Auto ☒ By Rental Vehicle or Special Conveyance ☐ By Privately-Owned Vehicle ☐ POV Determined to be Most Advantageous to Government ☐ Cost Not to Exceed that of Common Carrier ☐ Based on Cost of Government Furnished Auto ☐ $____ Mileage Rate Authorized ☐ Other **GSA (BOAC):** 10349E	☒ Actual subsistence up to $85.00/night for lodging and $30.00/day M&IE. Actual subsistence above $65/night for lodging requires supplemental justification on the travel voucher. ☐ Per diem based on lodging plus meals and incidental expenses not to exceed ☐ Per diem of $ per day. ☐ Extended TDY (Reduced Rate)

Other Authorization (*When the following type(s) of expense(s) can be anticipated, check the appropriate box(es)*):

☐ 1. Use of premium class. If premium class air is to be authorized, forward to appropriate authorizing official. (Justify below or attach separate sheet).
☐ Upgrade to premium class at no extra cost.
☐ 2. Use of foreign flag carrier(s) as shown in justification statement below.
☐ 3. Rental of business quarters (*hire of room, quarters for conference, etc.*)
☒ 4. Other. Specify below.

Purpose of Travel:

☐ a. Operational/Managerial
☐ b. Training
☐ c. Meetings, Conferences and Speeches
☐ d. Relocation Travel
☒ e. Other Travel

Justification *(if appropriate)*

Authorization is granted for TDY travel to Little Rock, Arkansas, on a biweekly basis for 2-3 night stays for investigative purposes. OIC corporate apartment must be used for lodging; if unavailable, local lodging is authorized. Per diem allowance is not to exceed $85.00 (including tax) per night for lodging and $30.00 per day for M&IE ($22.50 for travel days). When lodging expense exceeds $65.00/night, supplemental justification is required on the travel voucher. One phone call home per day is allowed up to a maximum of $5.00 during stays in Little Rock of two or more consecutive nights. GSA fleet vehicle is authorized for TDY official use; official use shall include daily travel to/from/between lodging and work sites and incidental local and personal use. Fuel reimbursement not applicable to non-business mileage. Claims resulting from accidents shall be asserted against the Government in accordance with 41 CFR 101-39-4. If GSA vehicle unavailable, rental car is authorized.

Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. See paragraphs 301-3.5, 301-10.2(a), and 301-11.5 of the DOJ Travel Supplement, for administrative procedures on the control of and accountability for passenger transportation documents.

AUTHORIZATION

You are authorized to travel at government expense in accordance with DOJ travel regulations, under the conditions outlined in this authorization. You are also authorized to make long distance telephone calls when they are necessary and in the interest of the government.

Signature _____ Title Administrative Officer Date 9-29-97

Authorization of actual subsistence and foreign travel is limited by DOJ travel regulations.

A travel voucher must be submitted within 10 workdays after the travel is completed, or not later than the 10th workday of the following month for persons in a continuous trav status who file monthly vouchers.

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[redacted]

MEMORANDUM

Date: August 28, 1995

From: Dana M. Gillis

To: Brett M. Kavanaugh

Subject: HANK O'NEILL DUTY SHIFT

On instant date, ASAC Paul Imbordino, USSS, contacted me and advised that the pay record faxed to this office on 8/24/95, represents O'Neill's work schedule for the period 7/13/93 - 8/7/93. A roster depicting O'Neill's actual working hours is unavailable. Based on O'Neill receiving 1.0 hrs of pay at the regular rate and 7.0 hrs of premium pay for each evening, Imbordino represented to me that O'Neill was assigned to the midnight shift for the period 7/13 - 8/7/93. Imbordino was unable to discern whether or not O'Neill started his shift at 11:00 P.M. each evening or at 12 Midnight.

Name: ONEILL, HENRY

Date	Reg 01	Rgnt 11	FARC 17	Ann 61	OTNE 25	Sick 62						Comp 32
0711												
0712												
0713				8.0								
0714	1.0	7.0	0.2									
0715	1.0	7.0	0.2									
0716	1.0	7.0	0.2									
0717	1.0	7.0	0.2									
Wk 1	4.0	28.0	2.0	8.0								
0718			0.2		4.0							4.0
0719			0.2		4.0							4.0
0720	1.0	7.0	0.2									
0721	1.0	7.0	0.2		4.0							
0722	1.0	7.0	0.2									
0723	1.0	7.0	0.2									
0724						8.0						
Wk 2	4.0	28.0	3.0		12.0	8.0						8.0
Tot	8.0	56.0	5.0	8.0	12.0	8.0						8.0

FOIA(b)(6)

LEAVE BALANCES	BEGINNING	ACCRUED	USED	ENDING
Annual Leave	27.0	8.0	8.0	27.0
Part-Time Carry Over Ann				
Restored Annual Leave				
Sick Leave	62.0	4.0	8.0	58.0
Part-time Carry Over Sick				
Compensatory Time		8.0		8.0
Leave-With-Out-Pay				
Absent-With-Out-Leave				
Suspended				

REMARKS:

Part 1 of 1.

No advanced leave approved.

Reg. scheduled hrs wk1: 40 wk2: 40
Original Timecard.

COMMENTS: ORG: 07000020

OTAH

Certified correct time worked and leave taken per law and regulation:

RAYMOND SNYDER: Employee: Supervisor:

[redacted]

FOIA(b)(6)

Date	Reg 01	RgNt 11	F-RC 17	Rgsn 04	RSNt 08	OtNt 25	CmNt 84 2	Ot40 21				Comw 32
0725			0.2	1.0	7.0							
0726			0.2			4.0						4.0
0727												
0728	1.0	7.0	0.2									
0729	1.0	7.0	0.2									
0730	1.0	7.0	0.2									
0731	1.0	7.0	0.2									
Wk 1	4.0	28.0	3.0	1.0	7.0	4.0						4.0
0801			0.2	1.0	6.0		1.0					
0802			0.2			7.0		1.0				
0803												
0804	1.0	7.0	0.2									
0805	1.0	7.0	0.2									
0806	1.0	7.0	0.2									
0807	1.0	7.0	0.2									
Wk 2	4.0	28.0	3.0	1.0	6.0	7.0	1.0	1.0				
Tot	8.0	56.0	6.0	2.0	13.0	11.0	1.0	1.0				4.0

LEAVE BALANCES	BEGINNING	ACCRUED	USED	ENDING
Annual Leave	27.0	8.0		35.0
Part-Time Carry Over Ann				
Restored Annual Leave				
Sick Leave	58.0	4.0		62.0
Part-time Carry Over Sick				
Compensatory Time	8.0	4.0	1.0	11.0
Leave-With-Out-Pay				
Absent-With-Out-Leave				
Suspended				

REMARKS:

Part 1 of 1.

No advanced leave approved.

Reg. scheduled hrs wk1: 40 wk2: 40
Original Timecard.

COMMENTS: ORG: 07990020

OTA#

Certified correct time worked and leave taken in accordance with law and regulations

RAYMOND SNYDER: _____ Employee: _____ Supervisor: _____

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Page Denied

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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INDICTMENT / IMPEACHMENT
KAVANAUGH RESEARCH
ERIC JASO (COPY)
ATTORNEY WORK PRODUCT

MEMORANDUM

TO: OIC Attorneys

FROM: Brett Kavanaugh

RE: Indictment/Impeachment

DATE: December 3, 1996

John asked me simply to circulate relevant materials on the question whether a sitting President may be indicted, a question that is obviously intertwined with the research Stephen and Craig have been doing on Section 595(c). I attach the following illustrative materials:

(1) The relevant portion of the brief of President Nixon in the Supreme Court in United States v. Nixon. (The Special Prosecutor did not address the issue squarely in his brief.)

(2) The relevant portion of the reply brief of President Nixon in the Supreme Court in United States v. Nixon.

(3) The brief submitted by Solicitor General Bork in the District Court of Maryland, arguing that a sitting Vice President could be indicted but a sitting President could not.

(4) The relevant portion of the brief of Solicitor General Dellinger in Clinton v. Jones, to be argued in the Supreme Court in January.

(5) The relevant portion of Professor Tribe's treatise.

(6) An article by Byron York in the American Spectator that summarizes the impeachment/indictment issues.

FILE
JUN 21 19
MICHAEL RODAK, JR

Nos. 73-1766 and 73-1834

In the Supreme Court of the United States

OCTOBER TERM, 1973

UNITED STATES OF AMERICA, PETITIONER
v.
RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES ET AL., RESPONDENTS

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES, CROSS-PETITIONER
v.
UNITED STATES OF AMERICA, RESPONDENT

ON WRITS OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE RESPONDENT, CROSS-PETITIONER RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES

JAMES D. ST. CLAIR,
MICHAEL A. STERLACCI,
JEROME J. MURPHY,
LOREN A. SMITH,
JAMES R. PROCHNOW,
EUGENE R. SULLIVAN,
JEAN A. STAUDT,
THEODORE J. GARRISH,
JAMES J. TANSEY,
LARRY G. GUTTERRIDGE,
Attorneys for the President.
The White House,
Washington, D.C. 20500,
Telephone Number: 456-1414.

FOIA # none (URTS 16315) DocId: 70105302 Page 3

> President might receive a letter which it would be improper to exhibit in public * * *. The occasion for *demanding* it ought, in such a case, to be very strong and to be fully shown to the court before its production could be *insisted* on. 25 F. Cas. at 190–192. (emphasis in original) (487 F. 2d at 710).

Other cases also clearly demonstrate that in order for a court to balance countervailing public interest, the party seeking disclosure must make a threshold showing of compelling need or "uniquely powerful" need. In *United States* v. *Reynolds,* 345 U.S. 1 (1953), a case relied upon in *Nixon* v. *Sirica,* this Court stated:

> In each case, the showing of necessity which is made will determine how far the court should probe in satisfying itself that the occasion for invoking the privilege is appropriate. Where there is a strong showing of necessity, the claim of privilege should not be lightly accepted, but even the most compelling necessity cannot overcome the claim of privilege if the court is ultimately satisfied that military secrets are at stake. *A fortiori,* where necessity is dubious, a formal claim of privilege . . . will have to prevail. (345 U.S. at 11).

At another point in *Reynolds* this Court stated:

> [W]e will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case. *Id.*

This point is further illustrated by *Committee for Nuclear Responsibility, Inc.* v. *Seaborg,* 463 F. 2d 788, 792 (D.C. Cir. 1971). There the court held:

> Of course, the party seeking discovery must make a preliminary showing of necessity to warrant even *in camera* disclosure, . . .

Certainly, this well-documented principle supports the proposition that, before a court can even engage in balancing, the party seeking disclosure must show a compelling need to overcome a presumption of privilege. *Senate Select Committee on Presidential Campaign Activities* v. *Richard M. Nixon,* Slip Op. No. 74–1258 (D.C. Cir. May 23, 1974). Since that showing has not been made in this case, it was incumbent upon the district court to grant the President's motion to quash.

It is clear that the Special Prosecutor has failed to make the requisite showing of compelling need necessary to activate the balancing test. Nor has he made a sufficient showing to establish that each of the requested materials is relevant and admissible and that it is not an attempt to discover additional evidence already known. Therefore under well-established case law, the subpoena should have been quashed in all respects by the court below.

VI. AN INCUMBENT PRESIDENT CANNOT LAWFULLY BE CHARGED WITH A CRIME BY A GRAND JURY

A. THE PRESIDENT CANNOT BE INDICTED WHILE HE IS SERVING AS PRESIDENT

It has never been seriously disputed by legal scholars, jurists, or constitutional authorities that a President may not be indicted while he is an incumbent. The reasons for the President's non-indictability bear

FOIA # none (URTS 16315) DocId: 70105302 Page 4

directly on the question of whether he may be named as an unindicted co-conspirator by a grand jury. The reasons are obvious and compelling. They are particularly relevant in light of the ongoing proceedings in the House of Representatives.

The Presidency is the only branch of government that is vested exclusively in one person by the Constitution. Art. II, section 1, clause 1 states:

> The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years
> * * *

Article II then details the powers and functions that the President shall personally have and perform. The functioning of the executive branch ultimately depends on the President's personal capacity: legal, mental and physical. If the President cannot function freely, there is a critical gap in the whole constitutional system established by the Framers.

The President, personally, as no other individual, is necessary to the proper maintenance of orderly government. Thus, in order to control the dangerous possibility of any incapacity affecting the President, and hence the executive branch, the Constitution specifically limits and provides for all those events that could incapacitate a President.[65]

The necessary reason for the great concern and specificity of the Constitution in providing for a President at all times capable of fulfilling his duties,

[65] U.S. Const., Amend. 25, ratified on February 23, 1967. See Congressional Research Service, United States Congress, *The Constitution of the United States* at 42–43.

is the fact that all three branches of government must have the capacity to function if the system is to work. While the capacity to function is assured to the legislative and judicial branches by the numbers of individuals who comprise them, the executive branch must depend on the personal capacity of a single individual, the President. Since the executive's responsibilities include the day-to-day administration of the government, including all emergency functions, his capacity to function at any hour is highly critical. Needless to say, if the President were indictable while in office, any prosecutor and grand jury would have within their power the ability to cripple an entire branch of the national government and hence the whole system.

Further analysis makes it even more clear that a President may not be indicted while in office. The President is vested under Art. II, section 3, clause 1, with the power "that the Laws be faithfully executed" and he has under Art. II, section 2, clause 1, the power of granting "Pardons for Offenses against the United States, except in Cases of Impeachment." Under that same clause, he shall appoint the "Judges of the Supreme Court" with "the Advice and Consent of the Senate." The President has also been granted by Congress the same power to appoint all Article III judges. 28 U.S.C. 44 and 28 U.S.C. 133. Since the President's powers include control over all federal prosecutions, it is hardly reasonable or sensible to consider the President subject to such prosecution. This is consistent with the concept of prosecutorial discre-

FOIA # none (URTS 16315) DocId: 70105302 Page 5

tion, the integrity of the criminal justice system or a rational administrative order. This is particularly true in light of the impeachment clause which makes a President amenable to post-impeachment indictment. Art. I, section 3, clause 7. This clause takes account of the fact that the President is not indictable and recognizes that impeachment and conviction must occur before the judicial process is applicable to the person holding office as President. This section reads: "But the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law." While out of necessity an incumbent President must not be subject to indictment in order for our consitutional system to operate, he is not removed from the sanction of the law. He can be indicted after he leaves office at the end of his term or after being "convicted" by the Senate in an impeachment proceeding.

The history surrounding the Constitution's adoption further makes it clear that impeachment is the exclusive remedy for presidential criminal misconduct. A very revealing interchange took place on September 15, 1787, only two days before the final adoption of the Constitution. Gouverneur Randolph moved to except cases of treason from the power of the President to pardon offenses against the United States, a power granted by Art. II, section 2, clause 7.

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be

> liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

There are several relevant considerations that should be noted about the Convention and the provision that resulted from them. First, it is clear that an incumbent President is not subject to criminal prosecution. He is amenable to the criminal laws, but only after he has been impeached and convicted, and thus stripped of his critical constitutional functions.

The text of Art. I, section 3, clause 7, points so explicitly in that direction that it hardly requires exposition, and the legislative history is wholly in accord. James Wilson noted that if the President himself be a "party to the guilt he can be impeached and prosecuted." 2 *Farrand* 626. And on September 4, 1787, in the recurring debate on whether impeachments should be tried by the Senate or by the Supreme Court, Gouverneur Morris said:

> A conclusive reason for making the Senate instead of the Supreme Court the Judge of Impeachments, was that the latter was to try the President after the trial of the impeachment. 2 *Farrand* 500.

The decision to make the Senate, and not the Supreme Court,[66] the ultimate body to decide upon the Presi-

[66] In this respect Gouverneur Morris noted:

> [N]o other tribunal than the Senate could be trusted [to try the President]. The Supreme Court were too few in number and might be warped or corrupted. He was agst. [sic] a dependence of the Executive on the Legislature, considering the Legislative tyranny the great danger to be apprehended; but there could be no danger that the Senate

551-585—74——8

FOIA # none (URTS 16315) DocId: 70105302 Page 6

dent's removal, further argues for limiting any court or grand jury from removing a President by way of indictment or other judicial process.

There is literally nothing in all of the records of the Convention to suggest that any delegate had any contrary view. This reading of the language in question was put forward twice by Hamilton when he wrote:

> The punishment which may be the consequence of conviction upon impeachment, is not to terminate the chastisement of the offender. After having been sentenced to a perpetual ostracism from the esteem and confidence, and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of law. *The Federalist,* No. 65, at 426 (Modern Library ed. 1937).

He returns to the point in the 69th *Federalist,* and uses it there to illustrate an important distinction between a President and a king.

> The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law. The person of the King of Great Britain is sacred and inviolable; there is no constitutional tribunal to which he is amenable; no punishment to which he can be subjected without involving the crisis of a national revolution.

would say untruly on their oaths that the President was guilty of crimes or facts, especially as in four years he can be turned out. *2 Farrand 551.*

So far as we are aware, that an incumbent President is not indictable is a proposition that has never been challenged by the Special Prosecutor. The proposition is relevant here because of the suggestion that an otherwise valid claim of privilege by the President should be overridden if there is in some manner an alleged showing of a *prima facie* criminal case or a *prima facie* finding of criminal involvement, such as the authorizing of the naming, or the naming of the President as an unindicted co-conspirator. If, however, such facts were true, which they are not, they go not to the evidentiary needs of the grand jury, but to those of the Committee on the Judiciary in the House.

Whatever the grand jury may claim about a President, its only possible proper recourse is to refer such facts, with the consent of the court, to the House and leave the conclusions of criminality to that body which is constitutionally empowered to make them. The grand jury may not indict the President or allege that there is probable cause to find criminal liability on the part of a President. Thus, such a claimed "finding" by the grand jury has no force in overcoming any presidential claim of privilege, as it is a legal nullity, being constitutionally impermissible.

A second important theme that runs through the debates of the Constitutional Convention of 1787 is whether the President should be answerable, in an impeachment proceeding, to the courts or to the Senate. On June 13, 1787, the Committee of the Whole adopted a resolution offered by Messrs. Randolph and Madison to give the national Judiciary jurisdic-

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tion of "Impeachments of any national officers." 1 *Farrand* 224. On July 18th, however, the Convention voted unanimously to remove the language giving the courts jurisdiction of impeachments. 2 *Farrand* 39. This did not end the matter. The report of the Committee on Detail, on August 6th, would have given the Supreme Court original jurisdiction "in cases of impeachment." 2 *Farrand* 186. As noted above a subsequent committee, however, recommended on September 4th that the trial of impeachments be by the Senate, 2 *Farrand* 493. This was approved on September 8th by a vote of nine states to two. 2 *Farrand* 547. See the report of the debate on this issue at 2 *Farrand* 551–553.

The significance of the foregoing history is that it is not mere chance or inadvertence that the President is made answerable to the Senate, sitting as a Court of Impeachment. The Framers repeatedly considered making him answerable to the Judiciary, and they twice rejected proposals to this effect, thus further reinforcing the conclusion that it would be wholly inconsistent with the Framer's intent to hold a President indictable.

Finally, it should also be observed that there was no sentiment in the Convention for providing restraints other than impeachment against a President. The argument went quite the other way. There was sentiment in the Convention that a President would not be subject even to impeachment and that it would be enough that he served for a limited term and would answer to the people if he chose to stand for reelection. This point was extensively debated on July 20,

1787, with the motion to strike out the impeachment provision offered by Charles Pinckney and Gouverneur Morris, 2 *Farrand* 64–69. The arguments in favor of the Pinckney motion seem unpersuasive, and in fact during the course of the debate on it, Morris admitted that the discussion had changed his mind. But the debate is interesting because those who opposed the Pinckney motion, and supported retention of impeachment, made it clear that this was the only means by which they considered that the President was subject to law. Thus, Colonel George Mason said:

> No point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice? When great crimes were committed he was for punishing the principal as well as the Coadjutors. (2 *Farrand* 65).

And again Eldridge Gerry—

> urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. He hoped that maxim would never be adopted here that the Chief Magistrate could do no wrong. (2 *Farrand* 66).

By a vote of eight states to two, the Pinckney motion was defeated and the Convention agreed that the Executive should be removable on impeachment. 2 *Farrand* 69. But it is only conviction in the Senate that leads to this result. On September 14th, the Convention rejected, by a vote of eight states to three, a proposal that an officer impeached by the House be suspended from office until tried and acquitted by the Senate. 2 *Farrand* 612–613.

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This examination of the proceedings of the Constitutional Convention of 1787 establishes that the Framers deliberately chose one particular means of guarding against the abuse of the powers they entrusted to a President. He may not be indicted unless and until he has been impeached and convicted by the Senate. Impeachment is the device that ensures that he is not above justice during the term in office, and the trial of impeachment is left to the Senate and not to the courts.

Those principles have been recognized by this Court. In the early and leading case of *Marbury* v. *Madison* 1 Cranch (5 U.S.) 137, 165 (1803), the Court said:

> By the Constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience.

Thirty-five years later, in *Kendall* v. *United States ex. rel. Stokes,* 12 Pet. (37 U.S.) 524, 610 (1838) the Court said:

> The executive power is vested in a President and as far as his powers are derived from the Constitution, he is beyond the reach of any other department, except in the mode prescribed by the Constitution through the impeaching power.[cr]

[cr] See also the observations in 1 Bryce, *The American Commonwealth* 89 (1889):

> The President is personally responsible for his acts, not indeed to Congress, but to the people, by whom he is chosen. No means exist of enforcing this responsibility, except by impeachment, but as his power lasts for four years only, and is much restricted, this is no serious evil.

We are wholly mindful of weighty warnings against the view that "the great clauses of the Constitution must be confined to the interpretation which the Framers, with the conditions and outlook of their time, would have placed upon them. . . ." *Home Building & Loan Assn.* v. *Blaisdell.* 290 U.S. 398, 443 (1934). But if the provisions of the Constitution that we have been discussing can fairly be said to have taken on new meaning with the passage of years, and with the emergence of new problems, surely any change must be in the direction of strengthening the independence of the Presidency, rather than creating new hobbles on it.

Powell v. *McCormick,* 395 U.S. 486 (1969), reaffirms the extraordinary nature and strictly limited character of the power to remove political officials, particularly those directly elected by the people. That decision held that the Congress could not expand the constitutional limits mandated for expelling or alternatively excluding a Congressman from his seat. U.S. Const., Article I, section 5, clause 2; Article I, section 2, clause 2. The constitutional sanctity of the people's electoral choice, therefore, was considered so important that it required judicial intervention and protection. While judicial action was required in *Powell* to protect the electorate's rights under the Constitution, the reverse is certainly not true. This same power cannot be used to nullify the electorate's decision. This is particularly true in the case of the Presidency when the Constitution explicitly delegates the power to remove the President under strict conditions to the representatives of the voters who elected him. It seems improbable, at best, to suggest that the Framers

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felt that any court and grand jury could also remove or even legally incapacitate the Chief Executive. The specificity and grave nature of the impeachment process and the total absence of any discussion of any other method, is an extremely powerful argument for the exclusivity of impeachment as the only method of removing a President.

The *Powell* case emphasizes that while another branch cannot control the Congress in the execution of their peculiar constitutional responsibilities, neither can the Congress, as a whole, control the execution of a particular Congressman's duties via exclusion. Exclusion is an action that the Congress may take solely within the limits of Article I, section 2, clause 2. It is not a political tool. Obviously this also applies to the executive branch. If Congressman Powell could not be excluded from his congressional seat by a majority of Congress except by adhering to the requirements of the Constitution, then surely the Chief Executive may not be deprived of his ability to control decisions in the executive branch by a member of the executive department, unless the President has specifically delegated this authority to him. Nor can such an employee control the President through judicial or criminal process.

The decision in *Powell* is also harmonious with the long established principle that the Judiciary may prevent other branches from overstepping their constitutional bounds of responsibility. *Marbury* v. *Madison,* 1 Cranch (5 U.S.) 137 (1803). In *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952), this Court

made a similar determination that certain actions taken by the executive branch were beyond the scope of the constitutional duties mandated to the branch. If the Judiciary had determined that seizing the steel mills had been within the powers the Constitution and the laws had entrusted to the President, clearly it could not have forced the President to exercise his discretion and seize the mills. Although the Supreme Court has ruled innumerable laws unconstitutional over the last 187 years it has never once mandated that either Congress exercise its descretion to pass a law or the Executive prosecute an individual. The reasons are self-evident.

Today, in our nuclear age, far more than in George Washington's time, the nature of our country and of the world insistently requires a President who is free to act as the public interest requires, within the framework created by the Constitution. The whole Watergate problem has illustrated how truly complex the right decision can be. It is thus all the more necessary that a President have the ability to freely discuss issues, think out loud, play the devil's advocate, and consider alternatives, free from the threat that a probing statement will one day form the basis for an allegation of criminal liability.

B. THE GRAND JURY ACTION OF NAMING THE PRESIDENT AS AN UNINDICTED CO-CONSPIRATOR IS A NULLITY

The constitutional policy that mandates that the President is not subject to judicial process or criminal indictment while President, clearly shows that the grand jury action naming or authorizing the name of

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the President as an unindicted co-conspirator contravenes the constitutional power of the grand jury or any court of this country.

The implication by a grand jury on the basis of certain alleged facts, that the President may have violated the law can have only one proper result. As stated above, the grand jury may with the district court's consent, forward the factual material creating the implications, minus any conclusions, to the House of Representatives.[68] That result was fulfilled when the grand jury filed with the court below its factual report and recommended that it be forwarded to the House Judiciary Committee, in March of 1974. The President made no objection to this move because the House of Representatives is the proper body, the only proper body, to impeach a President, as part of the process of removing a President from office. The grand jury's constitutionally impermissible authorization to the Special Prosecutor, permitting the President to be named or naming the President as an unindicted co-conspirator, however, attempts to subvert and prejudice the legitimate constitutional procedure of impeachment.

[68] This is the necessary implication of the grand jury's role, as a body with a limited mandate, as opposed to the House of Representatives whose political and constitutional mandate entitles them to consider whether in light of the President's complex responsibilities and political concerns a particular action or statement of his constitutes a crime. While any citizen may clearly express an opinion to his Congressman on the President's guilt, innocence or character, a grand jury, as an official part of our system of justice, with all that implies for its credibility and impact, may not.

In its opinion in *In Re Report and Recommendation of the June 5, 1972 Grand Jury Concerning Transmission of Evidence to the House of Representatives,* 370 F. Supp. 1219 (D.D.C. 1974), the district court convincingly demonstrated why the June 5, 1972, Grand Jury could not authorize the naming of the President as an unindicted co-conspirator. The very reasons why it was proper to refer the *Report and Recommendation to the House of Representatives* are those that argue against referring the naming or the authorization to name the President as an unindicted co-conspirator to that same body. In fact, these same considerations today require its expungement, because it is a legal nullity that continues to prejudice the President by its purported legal significance and apparent authority. The court below noted of the Report:

> The Report here at issue suffers from none of the objectionable qualities noted in *Hammond* and *United Electrical.* It draws no accusatory conclusions. It deprives no one of an official forum in which to respond. It is not a substitute for indictments where indictments might properly issue. *It contains no recommendations, advice or statements that infringe on the prerogatives of other branches of government.* Indeed, its only recommendation is to the Court, and rather than injuring separation of powers principles, the Jury sustains them by lending its aid to the House in the exercise of that body's constitutional jurisdiction. It renders no moral or social judgments. The Report is a simple and straightforward compilation of information gathered by the Grand Jury, and

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no more. (370 F. Supp at 1226) (emphasis added).

As noted by the district court nothing could be more important to America's future than that the ongoing impeachment be "unswervingly fair." 370 F. Supp at 1230. And nothing could be more clear than that the naming of the President of the United States as an unindicted co-conspirator by a secret grand jury proceeding, which was subsequently leaked to the press, is a direct and damaging assault on the fairness of the House impeachment proceeding. It is the kind of prejudice that a court would certainly be required to remedy or compensate for if it affected the rights of a criminal defendant to a trial, free from the probability of prejudicial pre-trial publicity. *In Re Murchison*, 349 U.S. 133 (1955); *Estes* v. *Texas*, 381 U.S. 532 (1965); *Sheppard* v. *Maxwell*, 384 U.S. 333 (1966).

This unauthorized action of the grand jury that has the appearance of official status, and presently the implicit approval of the lower court may well directly affect the outcome of the House procedure. Yet, the President has no legal recourse against the grand jury's action except with this Court. No petit jury, whose obligation is to find guilt "beyond a reasonable doubt" is empowered to adjudicate this charge against the President.[69]

The rigorous adversary format, with that most powerful tool for determining the truth, cross-examination, is not available in the secret grand jury

[69] While the President, as an individual, might some day vindicate himself before a petit jury, as long as he holds the office of President he could not be vindicated in a court of law.

setting. It is now well established that the right of cross-examination is an essential element of due process in any proceeding where an individual's "property" or "reputation" may be adversely affected.[70] The fundamental right to present evidence and to cross-examine witnesses in an impeachment proceeding is manifest. As the experience of our judicial system has demonstrated, the most effective method of establishing the truth of an accusation is to permit the respondent the right to personally cross-examine those presenting adverse testimony. The Supreme Court flatly states in *Greene* v. *McElroy*, 360 U.S. 474 (1959) that:

> Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice or jealousy. We have formalized these protections in the requirements of confrontation and cross-

[70] *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Sniadach* v. *Family Finance Corp.*, 395 U.S. 337 (1969); *Fuentes* v. *Shevin*, 407 U.S. 67 (1972); *Bell* v. *Benson*, 402 U.S. 535 (1971); Cf. *Board of Regents* v. *Roth*, 408 U.S. 564, 573 (1972) and *Wisconsin* v. *Constaintineau*, 400 U.S. 433, 437 (1971).

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> examination. They have ancient roots. They find expression in the Sixth Amendment. . . . This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, . . . but also in all types of cases where administrative . . . action was under scrutiny. (360 U.S. at 496–497).

Justice Douglas in the concurring opinion in *Peters* v. *Hobby*, 349 U.S. 331 (1955), emphasized the necessity of permitting a respondent to cross-examine all adverse witnesses.

> Under cross-examination [witnesses] stories might disappear like bubbles. Their whispered confidences might turn out to be yarns conceived by twisted minds or by people who, though sincere, have poor faculties of observation and memory.
>
> Confrontation and cross-examination under oath are essential, if the American ideal of due process is to remain a vital force in our public life. We deal here with the reputation of men and their right to work—things more precious than property itself. We have here a system where government with all its power and authority condemns a man to a suspect class and outer darkness, without the rudiments of a fair trial. (349 U.S. at 351).

There is no way within our judicial system to disprove allegations made against a President. It is because of this and because of the vast impact of this purportedly official criminal implication and charge against a President, on the whole body politic, that the Constitution requires no less a body than the whole House of Representatives to find the President likely enough

to be guilty of criminal misconduct that he should be tried by the Senate.

The characterization of the President of the United States as an unindicted co-conspirator, is nothing less than an attempt to nullify the presumption of innocence by a secret, non-adversary proceeding. The presumption of innocence is a fundamental of American justice; the grand jury's procedure is an implication of guilt which corrupts this ideal. To thus allow the Special Prosecutor to use such a constitutionally impermissible device, as an incident to an evidentiary desire, for the purpose of overcoming executive privilege, is wholly intolerable. The American legal system has never allowed the desire for evidence to go beyond the bounds of law. *Boyd* v. *United States*, 116 U.S. 616 (1886); *Weeks* v. *United States*, 232 U.S. 383 (1914); *Silverthorne Lumber Company* v. *United States*, 251 U.S. 385 (1920); *Mapp* v. *Ohio*, 367 U.S. 643 (1961). The President should not be made a hostage of the unwarranted pressure inherent in the grand jury's improper action.

The former Special Prosecutor, Mr. Archibald Cox, was quoted in the *New York Times* on January 5, 1974, as dealing with this exact issue. In response to rumors that he would name the President as an unindicted co-conspirator the newspaper printed this:

> Mr. Cox, in the telephone interview from his vacation home in Maine, described such a technique as 'just a backhanded way of sticking the knife in.' *New York Times*, January 6, 1974, p. 1, col. 6; p. 40, col. 1.

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A later issue of the *New York Times* dealt with the same basic questions when it stated:

> Leon Jaworski, the Watergate special prosecutor, advised the Federal Grand Jury investigating the Watergate break-in and cover-up that it would not be 'responsible conduct' to move to indict President Nixon, according to a spokesman for the office.
>
> Although Mr. Jaworski's advice to the Grand Jury did not refer to President Nixon by name—the matter was discussed in terms of a factual situation such as exists—it did include the suggestion that the House Judiciary Committee's impeachment inquiry was the proper forum to consider matters of evidence relating to a President.
>
> Although there had been speculation that Mr. Jaworski had tentatively concluded that legal complications militated against a move to indict the President, today's statement was the first direct confirmation of the fact. *New York Times*, March 12, 1974, p. 1.

It is only by impeachment and conviction and then subsequent criminal action that the President may be found to be a member of any criminal conspiracy. To base a desire for evidence on a stratagem which attempts to cripple the Presidency, and thus nullify the President's claim of executive privilege, is unprecedented, but more significantly a grotesque attempt to abuse the process of the judicial branch of government. Under our system of government only the House of Representatives may determine that evidence of sufficient quantity and quality exists to try the President. And, that trial must take place in the Senate with the Chief Justice presiding.

C. EVEN IF IT WERE PERMISSIBLE, THE NAMING OF AN INCUMBENT PRESIDENT AS AN UNINDICTED CO-CONSPIRATOR DOES NOT CONSTITUTE A PRIMA FACIE SHOWING OF CRIMINAL ACTIVITY

In the preceding section we have conclusively demonstrated why it is not constitutionally permissible to name an incumbent President as an unindicted co-conspirator. However, if such an act had been constitutionally permissible, it would nevertheless not have the effect of constituting a *prima facie* showing of criminality sufficient to overcome the President's constitutional claim of executive privilege.

There is a basic distinction between a finding of "probable cause" and the showing of a "*prima facie*" case which makes the Special Prosecutor's use of these two terms in the instant case both inaccurate and improper.

Probable cause is a legal concept based on the proposition that a crime "might" have been committed. As such it justifies an inquiry into an individual's guilt. It does not justify any legal effect that would operate to overcome either a presumption of innocence or executive privilege attaching to an otherwise valid claim. On the other hand, *prima facie* evidence is evidence sufficient to have a legal effect, which if unrebutted, is sufficient to go to a jury in a trial setting and sufficient to convict an individual of a crime before a petit jury. The finding of the grand jury at issue here has none of this sufficiency. It has never been tested in

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Nos. 73-1766 and 73-1834

JUL 1 1974
MICHAEL RODAK, JR., C

In the Supreme Court of the United States

OCTOBER TERM, 1973

UNITED STATES OF AMERICA, PETITIONER

v.

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES ET AL., RESPONDENTS

RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES, CROSS-PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

ON WRITS OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE RESPONDENT, CROSS-PETITIONER RICHARD M. NIXON, PRESIDENT OF THE UNITED STATES

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345 U.S. at 11. Similarly, the court of appeals in *Senate Select Committee on Presidential Campaign Activities* v. *Nixon*, No. 74–1258 (D.C. Cir., May 23, 1974), regarded an identical waiver argument, offered by the plaintiffs in that case, as so lacking in substance that it did not merit discussion in the opinion.

Finally, there is much weight in a point made by Judge MacKinnon in his dissent in *Nixon* v. *Sirica*, 487 F. 2d 700, 758–759 (D.C. Cir. 1973). He wrote:

> There has been no waiver. This conclusion rests upon three factors: the strict standards applied to privileges of this nature to determine waiver; the distinction between oral testimony and tape recordings; and, most important, considerations of public policy that argue persuasively for a privilege that permits the Chief Executive to disclose information on topics of national concern without that which properly ought to be withheld in the public interest.

Like Judge MacKinnon, we think that the most important of these points is the one last stated. Plainly the country is best served when there is the maximum disclosure possible from the Executive, consistent with the requirements of the public interest. This President, like his predecessors, has always acted on that principle. Disclosure has been the rule and claim of privilege the rare exception. But if this Court were to accept the Special Prosecutor's beguiling suggestion that this case can be decided on a narrow ground of waiver, the inevitable long-term consequence must be less disclosure, not more, since Presidents will be reluctant to make public even those things that can be released without harm to the public interest, if by doing so they may be held to have waived their constitutional privilege to withhold related information that the nation's interests require be kept confidential.

IV. THE SPECIAL NATURE OF THE PRESIDENCY

The Special Prosecutor states an obvious and important truth when he reminds us that "in our system *even the President* is under the law." (S.P. Br. 68) (emphasis in original). A fundamental error that permeates his brief, however, is his failure to recognize the extraordinary nature of the Presidency in our system and that the Framers, who fully understood this, provided an extraordinary mechanism for making a President subject to the law.

The President is not merely an individual, to be treated in the same way as any other person who has information that may be relevant in a criminal prosecution. He is not, as the Special Prosecutor erroneously suggests, merely "the *head* of the Executive Branch." (S.P. Br. 79) (emphasis in original). Instead, as we pointed out at the beginning of this brief, it was announced by this Court more than a century ago, and since reiterated, that "the President is the Executive Department." *Mississippi* v. *Johnson*, 4 Wall. (71 U.S.) 475, 500 (1867). So much is apparent from the Constitution itself. Article II begins with the simple but sweeping declaration: "The executive Power shall be vested in *a* President of the United Statese of America" (emphasis added). In addition, the President, as this Court has recognized, is, more than any other officer of government the represent-

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ative of all of the people. *Myers* v. *United States*, 272 U.S. 52, 123 (1926). Chief Justice Taft went on to say that

> as the President is elected for four years, with the mandate of the people to exercise his executive power under the Constitution, there would seem to be no reason for construing that instrument in such a way as to limit and hamper that power beyond the limitations of it, expressed or fairly implied.

It was no mere happenstance that all executive power was vested in a single person, the President. This was a subject of recurring debate at the Constitutional Convention. Suggestions of a multi-member Executive were repeatedly pressed and as repeatedly rejected. It was seen, as Dr. Franklin said, as "a point of great importance." 1 *Farrand* 65.

In this respect the Executive differs from the other two great branches of government. The legislative power is vested by Article I in "a Congress of the United States," divided into two bodies and composed now of 535 members. The judicial power is, by Article III, spread among the nine Justices of this Court and the hundreds of judges of the inferior courts that Congress has seen fit to ordain and establish. But one person, and one person alone, is entrusted by Article II with the awesome task of exercising the executive power of the United States. "The President is the Executive Department." This difference, as we shall develop below, has important consequences. It serves to distinguish many of the cases relied on by the Special Prosecutor, involving as they do individual

members of the legislative and judicial branches. Specifically, the particular position the President occupies in our constitutional scheme means that the courts cannot issue compulsory process to compel him to exercise powers entrusted to him in a certain way, that, so long as he is President, he is not subject to criminal process, and that, as a logical corollary, he may not, while President, be named as an unindicted co-conspirator.

Of course, as we have already pointed out (Pres. Br. 52 n. 45), the Framers did not want a king, and Hamilton devoted all of the 69th *Federalist* to demonstrating that the Presidency, as created in the Constitution, bore no resemblance to the monarchy from which the colonists had successfully rebelled. The term of the President is limited to four years. The legislative branch controls the national purse strings, the war power, and the general policy direction of government. The President is given only a limited veto, subject to being overridden, over legislative acts. He is given no role whatever in the process of constitutional amendment. Finally, and most important for present purposes, the President may be removed from office by conviction on impeachment, and after he has left office, either through expiration of his term or by conviction on impeachment, he is subject to prosecution for crimes that he may have committed.

We have already developed in detail the process by which the impeachment provisions of the Constitution took form. (Pres. Br. 95–104). The language of Article I, section 3, clause 4, can hardly be read in any other

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way than that indictment of a President can only follow his conviction on impeachment. This was certainly the understanding of the delegates at Philadelphia, of the contemporary expositors of the Constitution, and of students of constitutional law from 1787 until today.

There is nothing in *United States* v. *Isaacs*, 493 F. 2d 1124 (7th Cir. 1974), *cert. denied* —— U.S. ——, (June 17, 1974), that is contrary to what we have just said. A judge of a court of appeals is not the judicial branch. He is a part of that branch, but the Judiciary can function uninterrupted during those rare occasions when a single judge is forced to stand trial on a criminal charge. The Presidency cannot function if the President is preoccupied with the defense of a criminal case, and the thought of a President exercising his great powers from a jail cell boggles the mind.[26]

The President, as we have noted, *is* the Executive Department. If he could be enjoined, restrained, indicted, arrested, or ordered by judges, grand juries, or marshals, these individuals would have the power to control the executive branch. This would nullify the separation of powers and the co-equality of the Executive.

The conclusion that the President is not subject to indictment while in office is consistent also with a proper ordering of government. When this principal national leader, elected by all of the people, is to be

[26] It is also worthwhile noting that at the Convention the discussion of impeachment was wholly in terms of a remedy against the President. Berger, *Impeachment: The Constitutional Problems* 100 (1973). The inclusion in Article II, section 4, of the "Vice President, and all Civil Officers of the United States" was made without discussion in the closing hours of the Convention. 2 *Farrand* 575.

removed, it is proper that the removal be considered and accomplished only by a body that, like the President, is politically representative of the whole Nation. Impeachment is a process designed to deal with the problem of criminal conduct by the President and yet still preserve the majoritarian character of the Republic. Criminal indictments or judicial orders cannot provide the tools to remove or limit a whole branch of government, and were not contemplated by the Founders for such a purpose. Only the branch of government that represents the people who elected the President, the legislative branch, can take actions that will in any way remove or tend to remove a President from office. This is the function of Congress, not of a grand jury.

For reasons that we have already fully developed (Pres. Br. 107–115), it follows *a fortiori* from the non-indictability of an incumbent President that he cannot be named as an unindicted co-conspirator, and that the action of the grand jury in this case must be ordered expunged. The ability of a President to function is severely crippled if a grand jury, an official part of the judicial branch, can make a finding that a President has been party to a criminal conspiracy and make this in a form that does not allow that finding to be reviewed or contested and disproved.[27] To allow this would be a mockery of due process and would deny to Presidents of the United States even those minimal protections that the Constitution extends to

[27] And to suggest that the naming of a President as a criminal co-conspirator, even if unindicted, is not an "impeachment" of the President is, we submit, to play games with common words and common sense.

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prison inmates subject to disciplinary proceedings. *Wolff* v. *McDonnell*, —— U.S. ——, No. 73-679 (June 26, 1974).

If the grand jury had before it evidence, competent or otherwise, *United States* v. *Calandra*, 414 U.S. 338 (1974), that led it to think that the President had been party to a crime, its only permissible course of action was to transmit that evidence to the House Judiciary Committee, rather than to make a gratuitous, defamatory, and legally impermissible accusation against the President.

Presumably the Special Prosecutor advised the grand jury to make this finding, and did so with the thought that it would strengthen his hand in litigation such as the present case (P.S.A. 8). If the President could be considered a co-conspirator, then all of his statements would arguably come within the exception to the hearsay rule and would meet the requirement of Rule 17(c) that subpoenaed material must be evidentiary in nature. In addition, this impermissible finding is relied on by the Special Prosecutor for his argument (S.P. Br. 90–102) that executive privilege vanishes if there is a *prima facie* showing of criminality. But even if the grand jury were empowered to make this finding—and as a matter of law it cannot—we have already shown that an allegation of criminal activity does not overcome the assertion of presidential privilege (Pres. Br. 82–86), and that a grand jury finding, based as it is only on a showing of probable cause, falls far short of the *prima facie* showing of

criminality that is required to defeat even the usual evidentiary privileges. (Pres. Br. 115–122.)[28]

The Special Prosecutor makes the surprising suggestion that the President enjoys no privileges or immunities.

> One might infer quite plausibly from the specific grant of official privileges to Congress that no other constitutional immunity from normal legal obligations was intended for government officials or papers. (S.P. Br. 77).

But it is quite clear that the privileges given to individual members of the legislative branch by Article I,

[28] The cases relied on by the Special Prosecutor (S.P. Br. 98) are not to the contrary. Such cases as *Ex parte United States*, 287 U.S. 241, 250 (1932), *Ewing* v. *Mytinger & Casselberry*, 339 U.S. 594, 599 (1950), and the others cited stand only for the proposition that a grand jury indictment conclusively establishes that there is probable cause to hold the person named for trial. They do not hold that the grand jury's action is an evidentiary showing of a *prima facie* case.

Again the Special Prosecutor is not helped by *United States* v. *Aldridge*, 484 F. 2d 655, 658 (7th Cir. 1973); *United States* v. *Bob*, 106 F. 2d 37 (2d Cir. 1939), *cert. denied*, 308 U.S. 589 (1940); or the other cases he cites with regard to attorney-client privilege. In those cases the privilege was held to vanish only after the government by proof at trial, had made a *prima facie* showing of criminal involvement.

Finally, the Special Prosecutor's heavy reliance on *Clark* v. *United States*, 289 U.S. 1 (1933) (S.P. Br. 95–97, 100–101, 108–109), is misplaced. Quite aside from the very different nature of the "privilege," or, more properly, rule of competency, there in issue, Justice Cardozo was quick to point out that "[i]t would be absurd to say that the privilege could be got rid of merely by making a charge of fraud," 289 U.S. at 15, and that "there must be a showing of a *prima facie* case sufficient to satisfy the judge that the light should be let in." 289 U.S. at 14.

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section 6, were given them for a specific and well-understood purpose. This was to protect the legislators "against possible prosecution by an unfriendly executive and conviction by a hostile judiciary . . ." *United States* v. *Johnson,* 383 U.S. 169, 179 (1966). It was "designed to assure a co-equal branch of government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch." *Gravel* v. *United States,* 408 U.S. 606, 616 (1972).

The Executive needed no protection from himself. As chief of state, chief executive, commander-in-chief, and chief prosecutor, he had no need to fear intimidation by a hostile executive or prosecution by an unfriendly executive. In addition, he was protected further by the elaborate procedure for impeachment, and by his immunity from criminal process until he had been convicted on impeachment. Thus the Constitution says nothing about immunities of the Executive comparable to what it says about members of the legislative branch because to have done so would have been to guard against an evil that could never come to pass.

Even members of the executive branch do have to fear damage actions brought by private citizens, and this Court has not been slow to read into the Constitution an implied immunity to protect the Executive in this situation. The leading case is *Spalding* v. *Vilas,* 161 U.S. 583 (1896), frequently relied on in this Court and always with approval. E.g., *Barr* v. *Matteo,* 360

U.S. 564, 570 (1959);[29] *Scheuer* v. *Rhodes,* 413 U.S. 919, 927 n. 8 (1974).

The Special Prosecutor would have the Court believe that the discretion about production of documents, which it has always been recognized that Presidents have, shrinks to a mere ministerial duty to produce what is demanded whenever a court disagrees with the Chief Executive's assessment of what the public interest requires. The argument seems little more than a play on words, intended to avoid the decisions, from *Marbury* on, that the courts may compel ministerial

[29] In the *Barr* case this Court relied heavily, in discussing immunity for executive officers, on the well-known opinion of Judge Learned Hand in *Gregoire* v. *Biddle,* 177 F. 2d 579 (2d Cir. 1949), where judicial immunity was at issue. Several of Judge Hand's insights in that case are applicable here. Thus he says:

> it can be argued that official powers, since they exist only for the public good, never cover occasions where the public good is not their aim, and hence that to exercise a power dishonestly is necessarily to overstep its bounds. A moment's reflection shows, however, that that cannot be the meaning of the limitation without defeating the whole doctrine. What is meant by saying that the officer must be acting within his power cannot be more than that the occasion must be such as would have justified the act, if he had been using his power for any of the purposes on whose account it was vested in him . . . (177 F. 2d at 581).

Again Judge Hand observed that "[t]here must indeed be means of punishing public officers who have been truant to their duties . . ." 177 F. 2d at 581. But the Constitution provides three sanctions against a truant President. He is subject to the political sanction of being defeated for reelection and to the legal sanctions of conviction on impeachment and of criminal punishment after he has been removed from office.

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acts but that they cannot interfere with discretionary decisions of high executive officers.

Nothing could be clearer than that the decision to disclose or to withhold the most intimate conversations of the President with his chief advisers involves the gravest and most far-reaching possible considerations of public policy. Who can say what the long term, or even short term, public effects of the President's decision to make public transcripts of tapes of his conversations about Watergate will be? It was a difficult and monumental decision, and no man living can predict with assurance how ultimately the history of this country, and indeed of the world, may be influenced by it. It was a discretionary decision in the most important sense, and it is nonsense to call such a disclosure "ministerial" merely because the final action of disclosure can be accomplished by a messenger.

A presidential decision to release the confidential tapes or written memoranda of his meetings with his advisers involves the same basic discretion as his initial decision to make such records. Surely neither the courts nor Congress could require Presidents to make such recordings on the ground that they would then be available should there be charges of misconduct against aides to some future President.

This case must be viewed in the light that the President is the executive branch, co-equal to the multi-membered legislative and judicial branches. If that co-equality is to be preserved, the President cannot be subject to the vagaries of a grand jury nor deprived of his power to control disclosure of his most confi-

dential communications. If he misuses his great powers, he must be proceeded against by the remedy that the Constitution has provided.

V. THE SPECIAL PROSECUTOR HAS NOT DEMONSTRATED A UNIQUE AND COMPELLING NEED FOR THIS MATERIAL

The Special Prosecutor makes the casual suggestion that "[t]here is a compelling public interest in trying the conspiracy charged in *United States* v. *Mitchell*, et al., upon all relevant and material evidence." (S.P. Br. 107). Doubtless every prosecutor in history has thought the same thing. The genius of the law, happily, has rejected that course, and in this case the Special Prosecutor's suggestion begs every important question before the Court. A prosecutor has the right to every man's evidence "except for those persons protected by a constitutional, common-law, or statutory privilege." *Branzburg* v. *Hayes*, 408 U.S. 665, 688 (1972). If, as we have argued, the materials at issue are subject to a valid privilege, based both on the Constitution and on the common law, the Special Prosecutor may not have them, no matter how relevant or material he thinks they may be, any more than he could require the defendants in this case to produce relevant and material evidence based on what they told their attorneys or based on confidential communications with their wives.

Our argument, of course, has been that the great question is, as Judge Wilkey put it, "Who Decides?", and that the answer to that question is that the President decides. But even if we are wrong on that, and

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Draft

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Agnew File

In Re Proceedings of The Grand Jury Impaneled December 5, 1972: Application of Spiro T. Agnew Vice President of the United States	Misc. No. 73-

MEMORANDUM FOR THE UNITED STATES CONCERNING THE VICE PRESIDENT'S CLAIM OF CONSTITUTIONAL IMMUNITY

The motion by the Vice President poses a grave and unresolved constitutional issue: whether the Vice President of the United States is subject to federal grand jury investigation and possible indictment and trial while still in office. Due to the historic independence and vital function of the Grand Jury, motions to interfere with or restrict its investigations have traditionally met with disfavor. See, e.g., United States v. Dionisio, 410 U.S. 1 (1973); Branzburg v. Hayes, 408 U.S. 665 (1972); United States v. Ryan, 402 U.S. 530 (1971). Thus in ordinary circumstances we would oppose litigious interference with grand jury proceedings ~~notwithstanding~~ without regard to the underlying merits of any asserted claim of immunity. But in the special circumstances of this case, which involves a constitutional issue of utmost importance, we believe it appropriate, in the interest of (both) the Vice President and ~~in the interest of~~ the nation, that the Court resolve the issue at this stage of the proceedings.

Counsel for the Vice President have ably advanced arguments that the Constitution prohibits the investigation and indictment of an incumbent Vice President. We acknowledge the weight of their contentions. In order that judicial resolution of the issues may be fully informed,

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however, we wish to submit considerations that suggest a different conclusion: that the Congress and the judiciary possess concurrent jurisdiction over allegations made concerning a Vice President.

This makes it appropriate that the Department of Justice state now its intended procedure should the Court conclude that an incumbent Vice President is amenable to federal jurisdiction prior to removal from office. The United States Attorney will, in that event, complete the presentation of evidence to the grand jury and await that body's determination of whether an indictment is proper. Should an indictment issue, the Department will hold the proceedings in abeyance for a reasonable time, if the Vice President consents to a delay, in order to offer the House of Representatives an opportunity to consider the desirability of impeachment proceedings. */

The Department believes that this deference to the House of Representatives at the indictment stage, though not constitutionally required, is an appropriate accommodation of the respective interests involved. It reflects a proper comity between the different branches of government, especially in view of the significance of this matter for our national polity. We also appreciate the fact that the Vice President has expressed a desire to have this matter considered in the forum provided by the Congress. The issuance of an indictment, if any, would in the meantime toll the statute of limitations and preserve the matter for subsequent resolution.

We will first state the posture of this matter and then offer for the Court's consideration arguments based upon the Constitution's text, its rationale, and

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*/ We note that the Speaker of the House, Representative Carl Albert, though declining to take action at this stage, has not foreclosed the possibility that he might recommend House action at a subsequent stage.

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historic practice which indicate that all civil officers of the United States other than the President are amenable to the federal criminal process either before or after the conclusion of impeachment proceedings.

STATEMENT

A Grand Jury in this District, impaneled December 5, 1972, is currently conducting an investigation of possible violations by Spiro T. Agnew, Vice President of the United States, and others of certain provisions of the United States Criminal Code, including 18 U.S.C. 1951, 1952 and 371, and certain criminal provisions of the Internal Revenue Code of 1954. This investigation is now well advanced and the Grand Jury is in the process of receiving evidence.

The Vice President has moved to enjoin "the Grand Jury from conducting any investigation looking to possible indictment of [Mr. Agnew] and from issuing any indictment, presentment or other charge or statement pertaining to [him]" (Motion, p. 1). Mr. Agnew has further moved "to enjoin the Attorney General of the United States, the United States Attorney for the District of Maryland and all officials of the United States Department of Justice from presenting to the Grand Jury any testimony, documents, or other materials looking to possible indictment of [him] and from discussing with or disclosing to any person any such testimony document or materials" (Motion, p. 1-2).

The Vice President's motion is based on two contentions: (1) that "[t]he Constitution forbids that the Vice President be indicted or tried in any criminal court," and (2) that "officials of the prosecutorial arm have engaged in a steady campaign of statements to the press which could have no purpose and effect other than to prejudice any grand or petit jury hearing evidence relating to the Vice Presidnet * * *" (Motion, p. 2).

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On September 28, 1973, this court directed that the Department of Justice submit its brief on the constitutional issue on October 5, ~~1973,~~ and its brief on the remaining issue on October 8, ~~1973,~~ that the Vice President's counsel file a reply brief on October 11, and that oral argument be had on October 12. This Memorandum is submitted, on behalf of the United States, the Grand Jury, and the individual respondents named in the motion, in opposition to the claim that the Grand Jury should be enjoined because the Vice President cannot "be indicted or tried in any criminal court" (Motion, p. 1).

I

THE TEXT OF THE CONSTITUTION AND HISTORIC PRACTICE UNDER IT DO NOT SUPPORT A BROAD IMMUNITY FOR CIVIL OFFICERS PRIOR TO REMOVAL

Analysis of the Constitution's text demonstrates that no general immunity from the criminal process exists for civil officers who are subject to impeachment.

1. The Constitution provides no explicit immunity from criminal sanctions for any civil officer. The only express immunity in the entire document is found in Article I, Section 6, which provides:

> The Senators and Representatives * * * shall in all Cases except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same * * *.

Since the Framers knew how to, and did, spell out an immunity, the natural inference is that no immunity exists where none is mentioned. Indeed, any other reading would turn the constitutional text on its head: the construction advanced by counsel for the Vice President requires that the explicit grant of immunity to legislators be read as in fact a partial withdrawal of a complete

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immunity legislators would otherwise have possessed in common with other government officers. The intent of the Framers was of course precisely to the contrary. Cf. United States v. Johnson, 383 U.S. 169, 177-185 (1966).

In the face of this strong textual showing it would require a compelling constitutional argument to erect such an immunity for a Vice President. Counsel for the Vice President contend that such an argument is provided by Article I, Section 3, Clause 7, by Article II, Section 4, and by the Twelfth Amendment. We will examine each of these contentions in turn.

2. Article I, Section 3, Clause 7 provides:

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law.

There is in this language no suggestion that criminal punishment for civil officers of the United States must be deferred until the Senate had convicted in an impeachment proceeding. It is merely a statement that such a conviction does not bar further punishment. The clause merely precludes a plea of double jeopardy; it does not affect the sequence of the two processes.*/

Counsel for the Vice President read this language as containing the negative pregnant that a civil officer cannot be liable and subject to indictment and other criminal

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*/ A student of the subject, after showing that impeachment is a civil proceeding, explains the saving provision: "If impeachment is not criminal, it may be asked, why was it deemed necessary to have a saving clause for subsequent indictment and punishment. Possibly the saving clause was designed to preclude an inference from the unmistakable criminal nature of English impeachment that an impeachment could be pleaded in bar to a subsequent criminal prosecution,

(footnote con'd on next page)

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process prior to conviction on impeachment, and they cite the remarks of Alexander Hamilton and Gouverneur Morris as supporting this position (Memo., p. 9)*/ Those remarks, however, do not appear to be addressed directly to the issue of the necessary sequence of indictment and impeachment; they merely paraphrase the constitutional language for explanatory purposes.**/

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*/ (footnote con't from preceeding page)

an excess of caution." Berger, Impeachment: The Constitutional Problems 80 (Cambridge, Mass., 1973). Just as an individual may be both criminally prosecuted and deported for the same offense (see Fong YueTind v. United States, 149 U.S. 698, (1893)), a civil officer could be both criminally punished and impeached even absent the Article I, Section 3 proviso.

*/ Gouverneur Morris' explanation for making the Senate rather than the Supreme Court the judge of impeachment -- that trial in the Court on separate criminal issues would follow -- is historically unsupported. The principal reason for that choice of forum apparently was the fact that the Supreme ourt would have been appointed by the President and therefore could not be trusted to deal independently with his impeachment. See 2 Farrand, Records of the Federal Convention 550-552 (New Haven, 1911).

**/ It is true, as is stated in the memorandum submitted on behalf of the Vice President (Memo., p. 10), that in the debates in North Carolina on ratification, Governor Johnson expressed his view that indictment could only follow impeachment. However, James Iredell, who was the "Mastermind" of the North Carolina Ratification Convention (2 Bancroft, History of the Formation of the Constitution of the United States of America 348 (New York, 1882)), and later became a Justice of the Supreme Court, argued forcefully that impeachable officers are subject to indictment while in office. See 4 Elliot, Debates of the Federal Constitution 37, 109 (Philadelphia, 1876).

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The Framers did not in fact debate the question whether impeachment must precede indictment. When their attention was directed specifically to the Office of the Presidency, their remarks strongly suggested an understanding that the President, as the Chief Executive, would not be subject to ordinary criminal process. See 2 Farrand, Records of the Federal Convention 64-69 (New Haven, 1911). But nothing in the debates suggests that such immunity would extend to any lesser officer and, as we show below (see pp. , infra), there are substantial reasons, embedded not only in the constitutional framework but in the practical exigencies of government, for distinguishing between the President, on the one hand, and all lesser officers including the Vice President, on the other, in this regard.

Notwithstanding the paucity of debate or contemporaneous commentary on the issue, it is clear that the Framers and their contemporaries understood that impeachable officers are subject to criminal process. The first Congress, many of whose members had been delegates to the Constitutional Convention, promptly enacted Section 21 of the Act of April 30, 1790, 1 Stat. 117, recognizing that sitting federal judges were criminally punishable for bribery and providing for their disqualification from office upon conviction. And in 1796, Attorney General Lee informed Congress that a judge of a territorial court, a civil officer subject to impeachment, was indictable for criminal offenses while in office. 3 Hinds, Precedents of the House of Representatives 982-983 (Washington, 1907). These considerations, together with those rooted in the constitutional text and practicalities of government that we shall next discuss, have led subsequent commentators

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to conclude, with virtual unanimity, that the Framers did not intend civil officers other than the President to be immune from criminal process. See, e.g., Rawle, A View on the Constitution of the United States of America 169, 215 (Philadelphia, 1829); Simpson, supra, 52-53; eerick, Impeaching Federal Judges: A Study of the Constitutional Provisions, 39 Fordham L. Rev. 1, 55 (1970).

The sole purpose of the caveat in Article I, Section 3, that the party convicted upon impeachment may nevertheless be punished criminally, is to preclude the argument that the doctrine of double jeopardy saves the offender from the second trial. This was the interpretation of the clause offered by Luther Martin, a member of the Constitutional Convention and Judge Chase's counsel, during Chase's impeachment. 14 Annals of Congress, 8th Cong., 2d Sess., p. 423. In truth, impeachment and the criminal process serve different ends so that the outcome of one has no legal effect upon the outcome of the other. James Wilson, an important participant in the Constitutional Convention,__/ put the matter succinctly:

> Impeachments * * * come not * * * within the sphere of ordinary jurisprudence. They are founded on different principles; are governed by different maxims, and are directed to different objects; for this reason, the trial and punishment of an offense in the impeachment, is no bar to a trial of the same offense at common law. [I Wilson, Works 324 (Cambridge, Mass., 1967).]

__/ "James Wilson was the strongest member of this [the Pennsylvania] delegation and Washington considered him to be one of the strongest men in the convention. * * * He had served several times in congress, and had been one of the signers of the Declaration of Independence. At forty-five he was regarded as one of the ablest lawyers in America." Farrand, The Framing of the Constitution 21 (New Haven, 1913).

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Because the two processes have different objects, the considerations relevant to one may not be relevant to the other. For that reason, neither conviction nor acquittal in one trial, though it may be persuasive, need automatically determine the result in the other trial. To take an obvious example, a civil officer found not guilty by reason of insanity in a criminal trial could certainly be impeached nonetheless.

The argument advanced by counsel for the Vice President, which insists that only a party actually convicted upon impeachment may be tried criminally, would tie the two processes together in an impermissible manner. Impeachment trials, as that of President Andrew Johnson reminds us, may sometimes be influenced by political passions and interests that would be rigorously excluded from a criminal trial. These may produce unwarranted acquittal. Or somewhat more than one-third of the Senate might conclude that a particular offense, though properly punishable in the courts, did not warrant conviction on impeachment. Hence, if Article I, Section 3, Clause 7, were read to mean that no one not convicted upon impeachment could be tried criminally, the failure of the House to vote an impeachment, or the failure of the impeachment in the Senate, would confer upon the civil officer accused complete and -- were the statute of limitations permitted to run -- permanent immunity from criminal Prosecution however plain his guilt. There is no such requirement in the Constitution or in reason. To adopt that view would give Congress the power to pardon by acquittal or even by mere inaction, since the officer would never be a "Party convicted" upon impeachment,

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even though the Constitution lodges the power to grant clemency exclusively in the President. The Framers certainly never supposed that failure to obtain conviction upon impeachment conferred permanent criminal immunity.

The conclusion seems required, therefore, that the Constitution provides that the "Party convicted" is nonetheless subject to criminal punishment, not to establish the sequence of the two processes, but solely to establish that conviction upon impeachment does not raise a double jeopardy defense in a criminal trial.—/

2. The argument made by counsel for the Vice President concerning Article II, Section 4 seems no more persuasive. That section of the Constitution provides:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high crimes and Misdemeanors.

The Vice President's contention that he is immune from criminal process while in office rests heavily on the assumption that even initiation of the process of indictment, trial, and punishment upon conviction, would effect his practical removal from office in a manner violative of the exclusivity of the impeachment power (See, e.g., Memo., pp. 2, 5-6). This assumption is without foundation in history or logic.

We agree that conviction upon impeachment is the exclusive means for removing a Vice President from office. Although non-elective civil officers in the executive branch may be dismissed from office by the President, and Senators and Representatives may be expelled by their respective Houses, historically the President, Vice President, and federal judges have been removable from office only by impeachment. But it is clear from history

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that a criminal indictment, or even trial and conviction, does not, standing alone, effect the removal of an impeachable officer.

As counsel for the Vice President point out (Memo., pp. 14-15), one of his predecessors, Aaron Burr, was subject to simultaneous indictment in two states while in office, yet he continued to exercise his constitutional responsibilities until the expiration of his term.—/ Judge John Warren Davis of the United States Court of Appeals for the Third Circuit, and Judge Albert W. Johnson of the United States District Court for the Middle District of Pennsylvania, were both indicted and tried while in office; neither was convicted, and each continued to hold office during trial. See Borkin, The Corrupt Judge 95-186 (New York, 1962). Judge Kerner of the Seventh Circuit, whose conviction for bribery is currently pending on appeal, has not yet been removed from office. Similarly, the criminal conviction of Congressmen does not act to remove them from office: "the final judgment of conviction [does] not operate, ipso facto, to vacate the seat of the convicted Senator, nor compel the Senate to expel him or to regard him as expelled by force alone of the judgment." Burton v. United States, 202 U.S. 344, 369.

This is not to say that trial and punishment would not interfere in some degree with an officer's exercise of his public duties, although, as the case of Aaron Burr illustrates, mere indictment standing alone

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—/ Apparently neither Burr nor his contemporaries considered him constitutionally immune from indictment. Although counsel for the Vice President assert that Burr's indictments were "allowed to die" (Memo., p. 15), that was merely because "Burr thought it best not to visit either New York or New Jersey." Parmet & Hecht, Aaron Burr: Portrait of an Ambitious Man, 231 (New York, 1967).

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apparently does not seriously hinder full exercise of the powers of the Vice Presidency. But the relationship between trial and punishment, on the one hand, and actual removal from office, on the other, is far from automatic. As perhaps the leading American commentator on impeachment has observed (Simpson, A Treatise on Federal Impeachment 52 (Philadelphia, 1916)):

> A public officer may be criminally convicted of trespass, though acting under a claim of right, or for excessively speeding his automobile, yet neither would justify impeachment. If, however, the conviction was followed by imprisonment, impeachment might be well maintained, for the office would be brought into contempt if a convict were allowed to administer it. It may be said that, in that event, impeachment would depend on the severity or lenity of a trial judge, and this would be so, but for the office's sake, a man may be said to be guilty of a "high misdemeanor" if he so acts as to be imprisoned.

Whether conviction of and imprisonment for minor offenses must lead to removal on conviction of impeachment therefore depends, in any given case, on the sound judgment of the Congress and the President's exercise of his pardoning power. Certainly it is pellucidly clear that criminal indictment, trial, and even conviction of a Vice President would not, ipso facto, cause his removal; subjection of a Vice President to the criminal process therefore does not violate the exclusivity of the impeachment power as the means of his removal from office.

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II

THE STRUCTURE OF THE CONSTUTION AND THE WORKINGS OF THE CONSTITUTIONAL SYSTEM DO NOT IMPLY AN IMMUNITY FOR A VICE PRESIDENT

The Constitution is an intensely practical document and judicial derivation of powers and immunities is necessarily based upon consideration of the documents structure and of the practical results of alternative interpretations. McCulloch v. Maryland, 4 Wheat. 316 (1819); Stuart v. Laird, 1 Cranch 299, 308 (1803); Field v. Clark, 143 U.S. 649, 691 (1892); United States v. Midwest Oil Co., 236 U.S. 459, 472-473 (1915); United States v. Curtis-Wright Corp., 299 U.S. 304, 328-329 (1936). We turn, therefore, to a structural and functional analysis of the Constitution in relation to the immunity claimed for Vice Presidents.

The real question underlying the issue of whether indictment of any particular civil officer can precede conviction upon impeachment--and it is constitutional in every sense because it goes to the heart of the operation of government--is whether a governmental function would be seriously impaired if a particular civil officer were liable to indictment before being tried on impeachment. The answer to that question must necessarily vary with the nature and functions of the office involved.

We may begin with a category of civil officers subject to impeachment whom we think may clearly be tried and convicted prior to removal from office through the impeachment process:

federal judges. [1] A judge may be hampered in the performance of his duty when he is on trial for a felony but his personal incapacity in no way threatens the ability of the judicial branch to continue to function effectively. There have been frequent occasions where death, illness, or disqualification has removed all of the available judges from a district or a circuit and even this extreme circumstance has been met effectively by the assignment of judges from other districts and circuits.

Similar considerations apply to Congressmen and these practical judgments are reflected in the Constitution. As already noted, Article I, Section 6 provides a very limited immunity for Senators and Representatives and explicitly permits them to be tried for felonies and breaches of the peace. This limited grant of immunity demonstrates a recognition that, although the functions of the legislature are not lightly to be interfered with, the public interest in the expeditious and even-handed administration of the criminal law outweighs the cost imposed by the incapacity of a single legislator. Such incapacity does not seriously impair the functioning of Congress. [2]

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[1] The Department of Justice is now contending that a United States court of appeals judge is subject to indictment, conviction, and sentencing prior to removal through the impeachment process. See United States v. Kerner, now pending in the Court of Appeals for the Seventh Circuit, No. 73-000. This, of course, is the historic position of the Department. See pp. , supra.

[2] It seems too clear for argument that other civil officers, such as heads of executive departments, are fully subject to criminal sanctions whether or not first removed from office.

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Almost all legal commentators agree, on the other hand, that an incumbent President must be removed from office through conviction upon an impeachment before being subject to the criminal process. Indeed, counsel for the Vice President takes this position (Memo, pp.). It will be instructive to examine the basis for that immunity in order to see whether its rationale also fits an incumbent Vice President, for that is the crux of the question before the Court.

As we have noted, p. , supra, the Framers' discussions assumed that impeachment would precede criminal trial because their attention was focussed upon the Presidency. (See also, 2 Farrand, supra, p. 500, and Hamilton, The Federalist, Nos. 65 and 69.) They assumed that the nation's Chief Executive, responsible as no other single officer is for the affairs of the United States, would not be taken from duties that only he can perform unless and until it is determined that he is to be shorn of those duties by the Senate.

The scope of the powers lodged in the single man occupying the Presidency is shown by the briefest review of Artide II of the Constitution. The whole "executive Power" is vested in him and that includes the powers of the "Commander in Chief of the Army and the Navy," the power to command the executive departments, the power shared with the Senate to make treaties and to appoint ambassadors, the power shared with the Senate to appoint Justice of the Supreme Court and other civil officers, the power and responsibility to execute the laws, and the power to grant reprieves and pardons. The constitutional outline of

the powers and duties of the Presidency, though more complete than noted here, does not flesh out the full importance of the office, but this is so universally recognized that we do not pause to emphasize it.

Without in any way denigrating the constitutional functions of a Vice President, or those of any individual Supreme Court Justice or Senator, for that matter, they are clearly less crucial to the operations of government than those of a President. A Vice President has, in fact, only three constitutional functions: to replace the President in the event of the President's removal from office, death, resignation, or inability to discharge the powers and duties of his office (25th Amendment, Section 1, 3, and 4); to make, together with a majority of either the principal officers of the executive departments or such other body as Congress may by law provide, a written declaration of the President's inability (25th Amendment, Section 3); and to preside over the Senate, which Vice Presidents rarely do, [1] and cast the deciding vote in case of a tie (Article I, Section 3).

None of a Vice President's constitutional functions is substantially impaired by his liability to the criminal process. The only problem that might arise would be the death of a President at the time a Vice President was the defendant in a criminal trial. That would pose no practical difficulty; however. The criminal proceedings would have to be suspended or terminated and the impeachment process begun. This would leave the nation in the same practical situation as would the institution of

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[1] The Framers assumed that Vice Presidents would not regularly preside over the Senate for they expressly provided in Artide I, Section 3, Clause 5, for the election of a President pro tempore to act to the Vice President's absence.

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impeachment proceedings against an incumbent President, the sole legal difference being that the successor to office would be the Speaker of the House of Representatives rather than the Vice President. It is worth observing that though the country has never been without a President it has frequently lacked a Vice President.

The inference that only the President is immune from indictment and trial prior to removal from office also arises from an examination of other structural features of the Constitution. The Framers could not have contemplated prosecution of an incumbent President because they vested in him complete power over the execution of the laws, which includes, of course, the power to control prosecutions. (Article I, Section 3.) And they gave him "Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment" (Article I, Section 2, Clause 1), a power that is consistent only with the conclusion that the President must be removed by impeachment, and so deprived of the power to pardon, before criminal process can be instituted against him. A Vice President, of course, has no power either to control prosecutions or to grant pardons. These structural features are thus consistent with the conclusion that he may be prosecuted and convicted while still in office.

This conclusion is reinforced by the Twenty-Fifth Amendment, Sections 3 and 4. The problem, as we have noted, is one of the functioning of a branch of government, and it is noteworthy that the President is the only officer of government for whose temporary disability the Constitution provides procedures to

qualify a replacement. This is recognition that the President is the only officer whose disability while in office incapacitates a branch of government. The Constitution makes no provision, because none is needed, for the disability of a Vice President, a judge, a legislator, or any subordinate executive branch officer.

Counsel for the Vice President suggest (Memo., pp. 7-8, 18) that adoption of the Twelfth Amendment, providing for separate elections of the President and Vice President, in some way supports immunity for a Vice President. In fact, the implication of the Amendment is the contrary. The original constitutional plan was that each elector should vote for two persons for President. The man receiving the greatest vote was to be President and the runnerup was to be Vice President. The Vice President was thus the next most powerful contender for the Presidency. The Framers, however, did not foresee the development of political parties which ran "tickets," one man standing for President and the other for Vice President. An elector would then cast one ballot for each of these candidates which had the embarrassing result that Thomas Jefferson and Aaron Burr, though regarded by their party as condidates for, respectively, President and Vice President, received an equal number of votes. There being no constitutionally elected President, the election was thrown into the House of Representatives. The Twelfth Amendment, adopted in response, provided separate elections so that a man wanted only as Vice President should not thus block the election of the man wanted as President. The adoption of the

Twelfth Amendment, therefore, was recognition that the Vice President, under a party system, is not the second most desired man for President but rather an understudy chosen by the presidential candidate. That recognition does not magnify the constitutional position of a Vice President. _/

_/ The related argument that the Framers could not have intended the President, through his Attorney General, to harass political rivals and therefore the Vice President must be immune from criminal process (see Memo., p. 18), is unsound. Not only is the Vice President rarely, if ever, an important political rival of the President once he accepts the secondary office, but the logical implication of that argument is that all major politicians--Senators, Governors, and many persons not even holding office--must be freed of responsibility for criminal acts.

Thus we conclude that considerations derived from the structure of the Constitution itself indicate that only a President possesses immunity from the criminal process prior to impeachment. The position of a Vice President would appear to be similar to that of judges, Congressmen, and other civil officers. There are also, however, practical considerations that point in the same direction. Such considerations are entitled to weight in the absense of compelling constitutional reasons for an immunity of the sort we have shown exist only for the Presidency. In many cases, for instance, problems will be posed by the presence of co-conspirators and the running of the statute of limitations. An official accused of taking bribes has obviously had co-conspirators, if the charges are true. Even if the officer were immune, the co-conspirators would not be. The result would be that the grand and petit juries would receive evidence about the illegal transactions and that evidence would inevitably name the officer as the recipient of the bribes the defendants gave. The trial might end in the conviction of the co-conspirators for bribing the officer, yet the officer would not be on trial, would not have the opportunity to cross-examine and present testimony on his own behalf. The man and his office would be slandered and demeaned without a trial in which he was heard. The man might prefer that to the risk of punishment, but the courts should not adopt a rule that opens the office to such a demeaning procedure.

This practical problem is raised by the motion here which asks this Court to prohibit "the Grand Jury from conducting any investigation looking to the [Vice

President's] possible indictment" and to enjoin the prosecutors from presenting any evidence to the grand jury "looking to [his] possible indictment" (Motion, p. 1).

The criminal investigation being conducted by the grand jury is wide-ranging, and the Vice President is not its sole subject. The evidence being presented, while it touches on the Vice President, involves others also. It would be virtually impossible to exclude all evidence relating to the Vice President and at the same time present evidence relating to possible co-conspirators in a meaningful manner. Thus enjoining the investigation and presentation of evidence "looking to the possible indictment of [the Vice President]" would require the investigations of other persons also to be suspended. The relief therefore would plainly "frustrate the public's interest in the fair and expeditious administration of the criminal laws" (United States v. Dionisio, supra, 410 U.S. at 17).

The statute of limitations with respect to some of the possible illegal activities being investigated will run in December 1973. A suspension of the grand jury's investigation of the Vice President and others could therefore jeopardize the possibility of a timely indictment. "The possible expiration of a period of limitations if, of course, highly relevant to the exercise of the court's discretion" determining whether to stay the presentation of evidence to the grand jury. Grant v. United States, 282 F.2d 165, 170 (C.A. 2) (Friendly, C.J.).—/

Should this Court suspend the grand jury investigation the result would likely be to accord the Vice President and other persons permanent immunity from prosecution through the running of the statute of limitations

even though it is unlikely he is entitled to the temporary immunity, pending conviction upon impeachment, that his counsel claim for him.

CONCLUSION

For the reasons stated, applicant's motion should be denied.

Respectfully submitted.

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William Jefferson **CLINTON**, PETITIONER,
v.
Paula Corbin **JONES**.
No. 95-1853.
United States Supreme Court Amicus Brief.
October Term, 1995.
August 8, 1996.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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*I QUESTION PRESENTED

Whether a private civil action for damages against the President of the Unite States, based on events occurring before the President took office, should be permitted to go forward during the President's term of office.

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lawsuits," id. at 751; and that the public interest in the President's unimpaired attention to his official responsibilities must take precedence over a private litigant's desire to obtain redress for legal wrongs, id. at 754 n.37. As explained above, the President would be faced with a "diversion of his energies by concern with private lawsuits," id. at 751, if he were compelled to defend himself against a private suit for damages during his term in office. That diversion would "raise unique risks to the effective functioning of government." Ibid. The teaching of Fitzgerald is that the judicial system should not lend itself to such risks. [FN8]

FN8. A similar lesson can be drawn from the evident immunity of a sitting President from criminal prosecution. The available evidence strongly indicates that the Framers did not contemplate the possibility that criminal prosecutions could be brought against a sitting President. See, e.g., 2 Max Farrand, Records of the Federal Convention of 1787, at 64-69, 500 (New Haven 1911); The Federalist No. 69, at 416 (Hamilton) (C. Rossiter ed. 1961) (the President "would be liable to be impeached, tried, and, upon conviction * * * removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law") (emphasis added). As the Court noted in Fitzgerald, "there is a lesser public interest in actions for civil damages than * * *in criminal prosecutions." 457 U.S. at 754 n.37. In In Re Proceedings of the Grand Jury Impaneled December 5, 1972, Civil 73-965 (D. Md.) (mem. filed Oct. 5, 1973), the United States took the position that while a sitting Vice President is subject to criminal prosecution, a sitting President is not.

*16 C. The court of appeals read Fitzgerald to mark the outer limit of Presidential immunity. Pet. App. 8-9. In the court's view, "[t]he [Supreme] Court's struggle in Fitzgerald to establish presidential immunity for acts within the outer perimeter of official responsibility belies the notion * * * that beyond this outer perimeter there is still more immunity waiting to be discovered." Id. at 9. Because the instant case involves claims that are (with one possible exception, see note 3, supra) beyond "the 'outer perimeter' of [the President's] official responsibility," Fitzgerald, 457 U.S. at 756, the court of appeals concluded that Fitzgerald precluded the recognition of any constitutionally grounded immunity here. Pet. App. 9. And because the court of appeals believed that the President "is entitled to immunity, if at all, only because the Constitution ordains it," id. at 16, the court regarded Fitzgerald as dispositive of the question whether a sitting President may be compelled to defend against a private lawsuit during his service in office.

The court of appeals erred in asserting that deferral of litigation until the President leaves office would "extend[] presidential immunity beyond the outer perimeter delineated in Fitzgerald." Pet. App. 9. The plaintiff in Fitzgerald *17 did not name former President Nixon as a defendant until nearly four years after the conclusion of his Presidency. See 457 U.S. at 740. The case therefore did not implicate--and the Court accordingly did not discuss--the potential conflicts between a sitting President's performance of his constitutional responsibilities and the demands placed upon the defendant in a civil lawsuit. Rather, the Court focused on the danger that the

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be said of the Senate's power to try impeachments.[21] Indeed, assertions of executive privilege which thwart impeachment investigations or trials can themselves quite properly become the basis for an article of impeachment.

For example, prior to President Nixon's resignation in August 1974, the Judiciary Committee of the House of Representatives recommended to the full House an Article of Impeachment (Article III) charging that President Nixon's repeated refusal to comply with Judiciary Committee subpoenas issued in the course of the impeachment investigation was "subversive of constitutional government," since such refusal involved a presidential usurpation of "functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives."

Although the House Judiciary Committee voted not to seek judicial enforcement of its subpoenas to the President but sought instead to submit the validity of those subpoenas to the House and Senate, it has been suggested in plausible dictum that, if and when judicial enforcement is properly requested, federal courts possess constitutional power to review the validity of congressional impeachment subpoenas answered by claims of executive privilege, and further that the congressional interest in judicially enforcing such subpoenas (if otherwise valid) is substantial enough to outweigh any danger that the prejudicial publicity associated with the impeachment investigation might frustrate the impaneling of unbiased juries in ancillary criminal trials.[22]

§ 4–17. The Ultimate Remedy: Impeachment for High Crimes and Misdemeanors

Although the impeachment process has been used periodically since 1789,[1] there has been no judicial attempt to define its limits. This is attributable, in part, to the constitutional language ostensibly confining the issue of impeachment to the legislative branch of government, and thus arguably barring judicial review of impeachments under the political question doctrine.[2] What follows, therefore, is not a discussion

jury matters should be lawfully available to disbarment committees and police disciplinary investigations and yet be unavailable to the House of Representatives in a proceeding of so great import as an impeachment investigation."); 40 Op.Atty. Gen. 45 (1941) (executive privilege would not be invoked in impeachment proceedings).

21. See § 4–17, infra.

22. See Senate Select Committee v. Nixon (II), 370 F.Supp. 521, 522–23 (D.D.C. 1974), aff'd, 998 F.2d 725 (D.C.Cir. 1974).

§ 4–17

1. For a survey of impeachments in the United States, see "Impeachment and the U.S. Congress," Cong.Q. (March 1974).

2. See Ritter v. United States, 84 Ct.Cl. 293 (1936), cert. denied 300 U.S. 668 (1937) (dismissing suit of a judge who contended that the Senate had tried him for non-impeachable offenses: "the Senate was the sole tribunal that could take jurisdiction of the articles of impeachment presented to that body against the plaintiff and its decision is final"). See generally C. Black, Impeachment: A Handbook 53–55 (1974) (urging that it would be absurd to reinstate a President whose legitimacy had been stripped through impeachment by the House of Representatives and conviction by the Senate, legislative bodies presumably reflecting the sense of polity); Broderick, "A Citizen's Guide to Impeachment of a President: Problem Areas", 23 Catholic U.L.Rev. 205 (1973). See also H. Black, Constitutional Law 121–22 (1897); 1 J. Story, Commentaries § 805, at 587; 3 W. Willoughby, The Constitutional Law of the United States 1451 (2d ed. 1929). That impeachments are entirely beyond the pur-

of a judicially articulated law of impeachment, but is instead an independent analysis, buttressed as appropriate by conclusions that can be drawn from the attempt to impeach President Nixon,[3] as well as from earlier impeachment proceedings.[4]

Article II, § 4, provides that "[t]he President, Vice-President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Members of Congress are not "civil officers" for purposes of impeachment. But although Senators and Representatives thus cannot be impeached, they can be removed from office. Article I, § 5 provides: "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members. . . . Each House may . . . punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.[5]

Although of course private citizens are not subject to impeachment, the resignation of a "civil officer" does not give immunity from impeachment for acts committed while in office.[6] Congress might wish to continue an impeachment proceeding after its target has resigned from office in order to deprive the resigned officer of any retirement benefits affected by the fact of impeachment or conviction; to solidify the lesson of the officer's misconduct in the form of clear precedent; or simply to make plain to the public and for the future that the resigned officer's withdrawal from office was the result not of unjust persecution but rather of the way in which the officer had abused an official position.

Under the provisions of article II, § 4, the President, Vice President, or any other civil officer may be impeached for, and convicted of, "Treason, Bribery, or other high Crimes and Misdemeanors." Of these impeachable offences, only treason is expressly defined by the Constitution. Article III, § 3 states that "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort." Despite then-Congressman Gerald Ford's well-known assertion that "an impeachable offence is whatever a majority of the House of Representatives considers [it] to be",[7] there is now wide agreement that the phrase "high Crimes and

view of the courts is not always conceded, however. See R. Berger, Impeachment 108 (1973); I. Bryant, Impeachment, Trials and Errors 182–97 (1972); Goldberg, "Question of Impeachment," 1 Hastings Con.L.Q. 5, 8 (1974); Rezneck, "Is Judicial Review of Impeachment Coming?", 60 A.B.A.J. 681 (1974); Cf. Powell v. McCormack, 395 U.S. 486 (1969), discussed in § 3–6, supra. Given the decision of the Constitutional Convention to transfer impeachment trials from the Supreme Court, where they were initially to have been conducted, to the Senate, the more defensible view appears to be the traditional one of non-reviewability.

3. The impeachment effort was terminated after the President's resignation on August 9, 1974.

4. Although impeachment has been used primarily as a way of removing federal judges, the special characteristics of judicial impeachments are not discussed here, but rather in Chapter 3, supra.

5. See Powell v. McCormack, 395 U.S. 486 (1969).

6. See Firmage and Mangrum, "Removal of the President: Resignation and the Procedural Law of Impeachment," 1974 Duke L.J. 1023, 1089–95.

7. 116 Cong.Rec. 11913 (1970). The falsity of that position is evident from an examination of the debates on impeachment at the Constitutional Convention. In response to a suggestion by Colonel Mason that impeachments not be limited to cases of bribery and treason, but include as well instances of "maladministration," Madison

Misdemeanors" was intended by the Framers to connote a relatively limited category closely analagous to the "great offences" impeachable in common law England.[8] In addition to treason and bribery, the "great offences" included misapplication of funds, abuse of official power, neglect of duty, encroachment on or contempt of legislative prerogatives, and corruption.[9]

There have been only two serious attempts to impeach American Presidents. In both instances, the offenses charged reflected the impact of the common law tradition discussed here: offenses have been regarded as impeachable if and only if they involve serious abuse of official power.

President Andrew Johnson was impeached by the House of Representatives in 1867 on the ground that he had attempted to dismiss Secretary of War Stanton in apparent defiance of the Tenure of Office Act of 1867.[10] Johnson escaped conviction in the Senate by one vote.

Representative John Bingham, leader of the House Managers of Impeachment, defined an impeachable offence in the traditional manner: "An impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose." [11]

History has not dealt kindly with the impeachment of Andrew Johnson. The procedural arbitrariness of the Johnson trial, and the fact that the law Johnson ignored was widely regarded as unconstitutional even before the Supreme Court so declared in *Myers v. United States*,[12] have together contributed to a fairly broad agreement that the congressional attempt to oust Johnson was itself an abuse of power.[13]

admonished that "so vague a term [would] be equivalent to tenure during the pleasure of the Senate." Mason then substituted the current constitutional language—"other high crimes and misdemeanors"—for "maladministration," apparently to ensure that mere congressional disapproval of the policies of a President could not serve as a basis for impeachment. See M. Farrand, The Records of the Constitutional Convention of 1787 (1911).

8. See, e.g., R. Berger, Impeachment 53–102 (1973); C. Black, Impeachment: A Handbook 39–40 (1974); Broderick, "A Citizen's Guide to Impeachment of a President: Problem Areas," 23 Catholic U.L. Rev. 205 (1973). Our law of impeachment has also been said to derive from the Roman law of infamy. See Franklin, "Romanist Infamy and the American Constitutional Concept of Impeachment," 23 Buff.L. Rev. 313 (1974). See generally "The Legal Aspects of Impeachment: An Overview," prepared by the Office of Legal Counsel of the Department of Justice (February 1974). For an unusual argument that the impeachment clause makes impeachment and conviction *mandatory* in cases of "high crimes and misdemeanors" but *optional* in other cases, see Note, "The Scope of the Power to Impeach," 84 Yale L.J. 1316 (1975).

9. See R. Berger, Impeachment 70–71 (1973).

10. The act was ultimately declared unconstitutional. See Myers v. United States, 272 U.S. 52 (1926), discussed in § 4–10, supra.

11. 1 Trial of Andrew Johnson 157 (1868).

12. See note 10, supra.

13. There appears, however, to be a growing revisionist view that the "real" reason for Johnson's impeachment—his systematic subversion of congressional reconstruction efforts—was a proper basis for conviction and removal from office. See

Richard Nixon was the second President to become the subject of serious impeachment proceedings. Mr. Nixon resigned from office as the thirty-seventh President on August 9, 1974, after his compliance with the Supreme Court's decision in *United States v. Nixon* [14] disclosed information which, when added to evidence already accumulated by the House Judiciary Committee, made virtually inevitable the President's impeachment, conviction, and removal from office. The invocation of the impeachment process in the Nixon case has led to a widespread re-evaluation of the thesis, embraced by many after the Johnson acquittal, that impeachment is of little practical significance as a check on the Chief Executive.[15]

Even before the final revelations, the House Judiciary Committee had found that three proposed articles of impeachment were supported by "clear and convincing" evidence. The Committee had accordingly voted to recommend impeachment by the House and trial by the Senate. These three proposed impeachment articles, voted by the Committee on July 27, 29 and 30, 1974, provide specific illustrations of the contemporary understanding of what constitutes "high crimes and misdemeanors." The Judiciary Committee first found that President Nixon warranted "impeachment and trial, and removal from office" because he had "prevented, obstructed, and impeded the administration of justice" by engaging "personally and through his subordinates and agents in a course of conduct or plan to delay, impede, and obstruct the investigation of [the Watergate break-in]; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities." [16] Under a second Article of Impeachment, the Judiciary Committee determined that President Nixon, "in violation of his constitutional oath . . . and in disregard of his constitutional duty to take care that the laws be faithfully executed," "endeavored to obtain from the Internal Revenue Service in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law. . . .;" "misused" the FBI, Secret Service, and "other executive personnel in violation or disregard of the constitutional rights of citizens. . . .;" "authorized . . . a secret investigative unit . . . within the office of the President, financed in part with money derived from campaign contributions, which . . . engaged in covert and unlawful activities, and attempted to prejudice the constitutional right of an accused . . . to a fair trial;" "failed. . . . to act when he knew or had reason to know that his close subordinates endeavored to impede and frustrate lawful inquiries by duly constituted executive, judicial and legislative

M. Benedict, The Impeachment and Trial of Andrew Johnson (1973).

14. 418 U.S. 683 (1974) discussed in § 4–15, supra.

15. See, e.g., Firmage and Mangrum, supra note 6, at 1025–26. But the critical thesis has not been abandoned, and proposals of a more parliamentary or quasi-parliamentary substitute for impeachment continue to be advanced. See, e.g., H. Joint Res. No. 903, 93d Cong., 2d Sess. 1111 (1974); Linde, "Replacing a President: Rx for 21st Century Watergate," 43 Geo.Wash. L.Rev. 384 (1975); Havighurst, "Doing Away With Presidential Impeachment: The Advantages of Parliamentary Government," 1974 Ariz.L.Rev. 223.

16. Article I specified nine "means used to implement this course of conduct or plan".

entities . . .;" "knowingly misused the executive power by interfering with agencies of the executive branch . . . in violation of his duty to take care that the laws be faithfully executed."

In a third Article of Impeachment, the Judiciary Committee found that President Nixon "failed without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the [Judiciary] Committee . . . and wilfully disobeyed such subpoenas," contrary to "his oath faithfully to execute the office of the President." The Committee stated that the subpoenaed information was needed "to resolve by direct evidence fundamental, factual questions relating to Presidential direction, knowledge, or approval of actions demonstrated by other evidence to be substantial grounds for impeachment of the President [who] thereby assum[ed] to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives." [17]

A number of independently plausible conclusions about the character of impeachable offences are reinforced by the proposed Nixon impeachment articles. The first of these is the limited usefulness of "criminality" as a measure of "high crimes and misdemeanors". Only the first of the three Nixon impeachment articles voted by the House Judiciary Committee (and limited portions of the second) dealt with alleged presidential violations of federal criminal law.[18] At the same time, the Committee rejected an additional proposed article of impeachment based on evidence of possible criminal irregularities in presidential tax returns and in expenditures of public funds to enhance the value of President Nixon's personal property.[19]

The House Judiciary Committee's proposal of the Nixon Impeachment Articles therefore appears to confirm the view of most commentators: [20] *A showing of criminality is neither necessary nor sufficient for*

17. Article III was adopted by a smaller majority (21–17) than Article I (27–11) or Article II (28–10), in part because of doubts as to the propriety of congressional, rather than judicial, resolution of the Committee's right to subpoena the information from the President. See Final Report on the Impeachment of Richard M. Nixon, President of the United States, H.R. Rep. No. 1035, 93d Cong., 2d Sess., in 120 Cong.Rec. H9103 (daily ed. Aug. 22, 1974). Those doubts were perhaps understandable in light of some of the Supreme Court's needlessly extravagant if stirring language, claiming for itself the role of "ultimate interpreter of the Constitution," in United States v. Nixon, 418 U.S. 683, 704 (1974). It has never been the law, however, that only the Supreme Court can authoritatively resolve constitutional disputes. The whole thrust of the political question doctrine is in fact to the contrary. For an argument that the Judiciary would nonetheless have provided a better forum for deciding whether the President was obliged to submit the requested information to the House, see Pollak, "The Constitution as an Experiment," 123 U.Penn.L.Rev. 1318, 1323–28 (1975).

18. See 18 U.S.C. § 1510 (1970) (making it a felony "willfully [to endeavor] . . . to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator").

19. Also rejected was an article based on the administration's secret-bombing of Cambodia in 1969 and 1970. A useful discussion of the issue posed by that article and its rejection appears in Pollak, supra note 17, at 1329–39.

20. Among the most thoughtful studies, one that reaches this conclusion is particularly worth consulting: Committee on Federal Legislation, Association of the Bar of the City of New York, The Law of Presidential Impeachment (released Jan. 21, 1974).

the specification of an impeachable offense.[21] That non-criminal activities may constitute impeachable offenses is hardly surprising. A deliberate presidential decision to emasculate our national defenses, or to conduct a private war in circumvention of the Constitution, would probably violate no criminal code, but it should surely be deemed a ground of impeachment. And there is little doubt that, despite the want of criminality, such an action would fall within the compass of the common law's "great offenses." [22] In contrast, a President's technical violation of a law making jay-walking a crime obviously would not be an adequate basis for presidential removal.[23] With respect to the question of criminality, then, Edmund Burke's opening statement at the impeachment trial of Warren Hastings remains definitive: "It is by this tribunal that statesmen who abuse their power . . . are tried . . . not upon the niceties of a narrow [criminal] jurisprudence, but upon the enlarged and solid principles of morality." [24] Nor could the desire to insure that impeachment not be turned into a partisan political weapon be satisfied by a mechanical rule tying impeachable offenses to enumerated crimes, and it does not in fact require such a rule. A commitment to principle can better be secured, insofar as any verbal formula can help secure it, by accepting and acting on the proposition that "Congress may properly impeach and remove a President only for conduct amounting to a gross breach of trust or serious abuse of power, and only if it would be prepared to take the same action against any President who engaged in comparable conduct in similar circumstances." [25]

A second conclusion to which the Nixon affair points is that an inductive approach to defining impeachable offenses makes substantial sense. The House Judiciary Committee notably refrained from stating any precise definition of "high crimes and misdemeanors" against which particular proposed impeachment articles could be measured. This approach minimized the possibility of serious partisan division prior to consideration of the actual evidence. In many cases, it may not

21. See R. Berger, Impeachment 56–57 (1973); C. Black, Impeachment: A Handbook 33–35 (1974); C. Hughes, The Supreme Court of the United States 19 (1928); Goldberg, "Question of Impeachment", 1 Hastings Const.L.Q. 5 (1974); S. Boutwell, The Constitution of the United States at the End of the First Century (1895); Fenton, "The Scope of the Impeachment Power," 65 Nw.U.L.Rev. 719 (1970). But see Thompson & Pollit, "Impeachment of Federal Judges: An Historical Overview," 49 N.C.L.Rev. 87, 106 (1970); C. Warren, The Supreme Court in United States History 293 (1922); I, Brait, Impeachment: Trial and Errors (1972).

22. See generally Staff Report, House Judiciary Committee, "Constitutional Grounds for Presidential Impeachment" (released Feb. 22, 1974).

23. Some crimes that do not relate directly to the President's official duties may nevertheless be impeachable offenses if their character is such as to taint the office of the presidency. For example, a President's murder of a personal enemy, while not bearing directly upon official presidential duties, would so malign the holder of the office that the President, stripped of legitimacy, would be unable effectively to discharge presidential duties. See C. Black, Impeachment: A Handbook 39 (1974). "At the heart of the matter is the determination [that] the officeholder has demonstrated by his actions that he is unfit to continue in the office in question." Committee on Federal Legislation, supra note 20.

24. 7 E. Burke, Works 11, 14 (1839).

25. Committee on Federal Legislation, supra note 20.

be until such evidence is known that legislators will perceive the need to abandon their ordinary partisan or personal loyalties. In this special context, the usual equation between ignorance and impartiality plainly makes little sense. Moreover, deciding whether impeachable conduct has occurred primarily on the basis of the conduct's factual context, rather than in terms of the application of some general rule, is more in keeping with the necessarily political—but *not* necessarily partisan—character of the impeachment process.

We turn finally to a brief consideration of the *process* of impeachment and trial. Article I, § 2, cl. 5, declares that "[t]he House of Representatives . . . shall have the sole Power of Impeachment." [26] But what *is* impeachment? In many senses, it is analogous to a grand jury indictment in the criminal justice system.[27] The House of Representatives decides by majority vote whether charges raised against "civil officers" are sufficiently serious, and are supported by sufficient evidence, to warrant holding a Senate trial.

With respect to federal grand jury proceedings, the Supreme Court has refused to establish a rule permitting defendants to challenge indictments as supported by inadequate or incompetent evidence: in the subsequent "trial on the merits, defendants are entitled to a strict observance of all the rules designed to bring about a fair verdict." [28] However this may be in the grand jury setting, in the context of impeachment the institutional costs of a Senate trial, as well as the extraordinary damage done to a civil officer's reputation by the "mere" fact of impeachment, have caused the House of Representatives to impose restraints on its impeachment decisions that the Supreme Court has not imposed on federal grand juries. For example, in 1974 the House Judiciary Committee, charged by the full House with responsibility for making a preliminary (and probably definitive) decision as to whether articles of impeachment should be voted against President Nixon, imposed upon itself the requirement that any impeachment article must be supported by "clear and convincing evidence" before it could be favorably reported out of committee. It seems likely that the House of Representatives itself would have applied the same standard in voting on the articles of impeachment if President Nixon had not resigned before such a vote could be taken.

Article I, § 3, cl. 6, governs the conduct of a trial of impeachment: "The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried the Chief Justice shall preside: and no person shall be convicted without the concurrence of

26. For an analysis of impeachment procedure in the House, see Firmage and Mangrum, supra note 6, at 1032–50. The place (if any) of executive privilege in House impeachment investigations is discussed in § 4–16, supra.

27. See C. Black, Impeachment: A Handbook (1974).

28. Costello v. United States, 350 U.S. 359 (1956) (holding that a defendant in a federal criminal case may be required to stand trial, and that his conviction may be sustained, where only hearsay evidence was presented to the grand jury which indicted him).

two thirds of the members present." [29] Although the Chief Justice presides when the President is on trial, the Senate, possessor of "the sole Power to try all Impeachments," decides the procedural and evidentiary rules which govern such trials. Under the prevailing rules, the Senate can overrule decisions of the Chief Justice concerning the admissibility of evidence, and, by passing questions to the Chief Justice, individual Senators may interrogate witnesses.[30]

Article I, § 3, cl. 7, limits the effect of impeachment and conviction by providing that "Judgement in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Honor, Trust or Profit under the United States: but the party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgement and Punishment, according to Law". Such criminal liability is absolute; Congress cannot eliminate it by a grant of immunity, nor the President by an exercise of the pardon power.[31]

It is widely thought that article I, § 9, cl. 3,[32] evidences the intention of the Framers that the English practice of directing criminal punishments against specific offenders as part of the legislative process should not be adopted in the United States. At the same time, those who drafted article I, § 3, cl. 7, did not wish to immunize office-holders from criminal prosecution; the clause was designed in part to make clear that criminal prosecutions subsequent to removal from office would not constitute double jeopardy of the sort explicitly prohibited by the fifth amendment.[33]

29. For an analysis of impeachment procedure in the Senate, see Firmage and Mangrum, supra note 6, at 1050–62, 1073–78. The place (if any) of executive privilege in Senate impeachment trials is discussed in § 4–16, supra.

30. See "Impeachment and the U.S. Congress." Cong.Q. 12–13 (March, 1974).

31. U.S. Const., art. II, § 2, cl. 1, gives the President the "power to grant . . . pardons . . . except in cases of impeachment." See § 4–11, supra.

32. "No Bill of Attainder . . . shall be passed." See §§ 10–4, 10–5, infra.

33. This interpretation gives the impeachment judgment clause significance as something other than a specification of time sequence. Indictment of "civil officers" prior to impeachment and removal is not necessarily prohibited. See Firmage & Mangrum, supra note 6, at 1094–1102; Berger, "The President, Congress, and the Courts," 83 Yale L.J. 1111, 1133, 1136 (1974). See § 4–14, supra. This construction of the impeachment judgment clause also reinforces the proposition that, since impeachment is an ultimately political process, impeachable offenses must be defined politically, and are not limited to indictable crimes.

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Impeach or Indict?

IF YOU THINK KENNETH STARR IS GOING TO INDICT BILL CLINTON, YOU'LL BE SORELY DISAPPOINTED. STARR CAN INVESTIGATE, BUT IT WILL BE UP TO CONGRESS TO ACT.

BY BYRON YORK

All across Capitol Hill, a sense of frustration and resignation has set in among those who have spent the past three years investigating Clinton administration scandals. What do they have to show for their work? The Travelgate investigation uncovered wrongdoing and stonewalling throughout the White House, but the administration seems to have suffered no lasting political damage. The Whitewater hearings destroyed the credibility of several top White House aides, but most remain in their jobs, and several have been generously reimbursed—with taxpayer dollars—for their legal expenses. Filegate, so promising last summer, bogged down by fall, when Republicans were unable to discover which higher-ups were behind the administration's widespread abuse of the FBI.

In short, political oversight didn't work. Bill Clinton and his staff proved sharper, slicker, and more determined to obstruct Congress than even some of their opponents had imagined. Now the energy that once drove the congressional investigations has been replaced by a quiet—and perhaps desperate—faith in Kenneth Starr, the independent counsel who is investigating Whitewater, Travelgate, and Filegate.

Clinton's adversaries hope Starr will indict the president. But they are likely to be disappointed, because a look at the law and history shows that it is a virtual certainty that Starr will *not* indict Bill Clinton—at least not while he is in the White House. And if the independent counsel does find presidential crimes, the issue will go not to the courts but back to Capitol Hill, where members of Congress from both parties will be forced to abandon the easy soundbites of oversight hearings and instead face a difficult vote on the question of impeachment.

THE UNINDICTABLE MAN

Can Clinton be indicted while he is president? For those who believe that no man is above the law, the answer would seem an easy yes. But it is not as simple as that.

The Constitution does not specifically address the question. Article II, Section 4 says only that "The President...shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Article I, Section 3 says that "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law." Taken together, the clauses mean the president can be both impeached and prosecuted. But which comes first? There is good reason to argue that prosecution is possible only after impeachment.

The issue was at the heart of Watergate when Richard Nixon contended that he could not be indicted as long as he was president. At the same time, Spiro Agnew, facing problems of his own, claimed that *he* couldn't be indicted as long as he was vice president. Agnew argued that the Constitution required that he be impeached before he could be indicted, gambling on the possibility that Congress wouldn't go forward with impeachment and he could thus escape punishment. Nixon hoped for much the same thing.

Agnew's strategy was a failure. Solicitor General Robert Bork, representing the Justice Department, argued that the vice president, like other public officials, could indeed be indicted while in office. Bork's reasoning was that the vice president's job just wasn't important enough for him to be immune from prosecution. But Bork also addressed the Nixon question by declaring that the president *was* so important that he could not be indicted while in office. He based his argument on three points:

- The Constitution gives the president exclusive control of the executive branch; it is the only branch of government headed by a single person. Therefore, Bork wrote, "if the president were indictable while in office, any prosecutor and grand jury would have within their power the ability to cripple an entire branch of the national government..."

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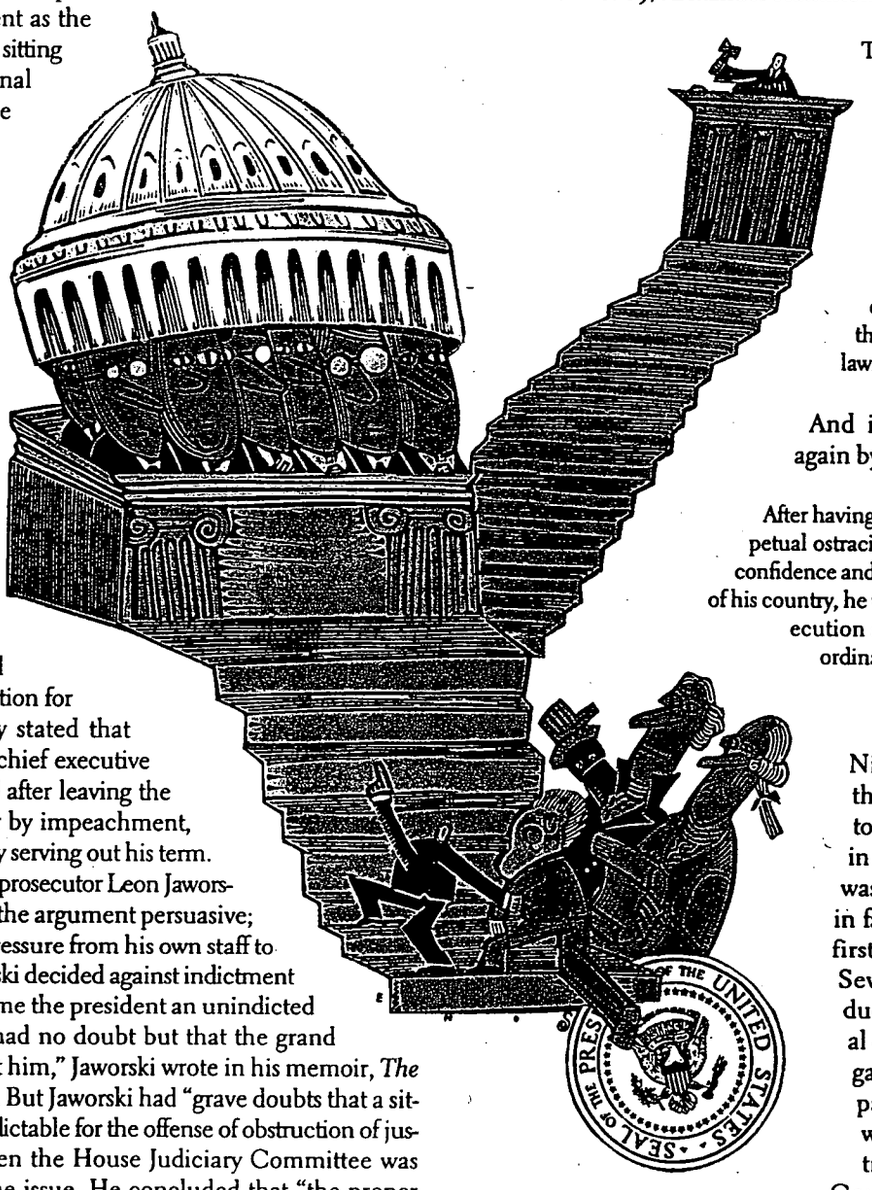
MANUAL ENOS

• The Constitution gives the president the power to enforce the law, to grant pardons, and to appoint judges. Bork argued that it would create a massive conflict for the president to face his own law enforcement institutions. "Since the president's powers include control over all federal prosecutions," Bork explained, "it is hardly reasonable or sensible to consider the president subject to such prosecution."

• The Constitution prescribes impeachment as the only way to punish a sitting president for criminal misconduct. "He is amenable to the criminal laws," Bork wrote, "but only after he has been impeached and convicted, and thus stripped of his critical constitutional functions."



Bork's argument had the convenient effect of protecting Nixon while cutting Agnew loose. But his brief offered little ultimate protection for Nixon; Bork clearly stated that Nixon or any other chief executive could be prosecuted after leaving the presidency, whether by impeachment, resignation, or simply serving out his term.

Watergate special prosecutor Leon Jaworski apparently found the argument persuasive; despite enormous pressure from his own staff to charge Nixon, Jaworski decided against indictment (although he did name the president an unindicted co-conspirator). "I had no doubt but that the grand jury wanted to indict him," Jaworski wrote in his memoir, *The Right and the Power*. But Jaworski had "grave doubts that a sitting president was indictable for the offense of obstruction of justice," especially when the House Judiciary Committee was considering the same issue. He concluded that "the proper constitutional process...would be for the Committee to proceed first with its impeachment inquiry."

But Jaworski did not stop there. After reaching his decision not to indict, he went one crucial step further: he sent the evidence he had gathered—organized into what his staff called the "road map"—to the House committee. At that point, the matter was in the domain of the political system.

There are indications the framers of the Constitution would have agreed with Jaworski's decision not to indict. Even though they chose not to specifically enumerate it in the Constitution, the founders apparently believed that a president would have to face political judgment before facing criminal justice. In *Federalist No. 69*, Alexander Hamilton wrote:

> The President of the United States would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes or misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of the law.

And in *Federalist No. 65*, again by Hamilton:

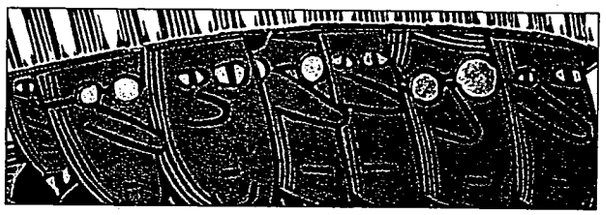
> After having been sentenced to a perpetual ostracism from the esteem and confidence and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of the law.

Clearly Richard Nixon was very lucky that Alexander Hamilton did not succeed him in office. But Hamilton was not the only framer in favor of impeachment first, prosecution later. Several months earlier, during the constitutional convention, the delegates argued over which part of government would be best suited to try impeachments. Gouverneur Morris of Pennsylvania urged that the Senate, rather than the Supreme Court, should sit in judgment of the president, because the high court would likely "try the President after the trial of the impeachment." His argument carried the day.

STARR'S BIG MOVE

What does this mean for Kenneth Starr? First of all, it means he won't indict Bill Clinton while Clinton is president. In several public statements, Starr has made clear that he has great respect for precedent and the accepted practices of the judicial system. It is very unlikely that he would jump outside of both to indict Clinton. And if he did, it is a sure thing that Clinton would mount a ferocious defense along Nixon/Bork lines. Just look at how energetically—and so far successfully—he has argued that he should not be the target of the Paula Jones *civil* suit as long as he remains in office.

But if Starr has strong evidence that Clinton has committed crimes, what does he do with it? We know from the McDougal trial, for example, that $50,000 that was obtained by defrauding the United States government was channeled into Clinton's company; the money was part of the illegal $300,000 Small Business Administration loan that went to Susan McDougal. The president testified under oath and on videotape that he knew nothing about the fraudulent loan. If Starr were to discover clear and convincing evidence that the president committed perjury, he would face the question of how to advance the case against a sitting president without resorting to a possibly unconstitutional indictment.



If Kenneth Starr tries to indict the president, it's a sure thing that Bill Clinton would mount a ferocious defense along Nixon/Bork lines from 1974.

Jaworski's "road map" provides the answer. By refusing to indict the president and instead giving his evidence to the House Judiciary Committee, Jaworski limited his role as prosecutor to that of evidence-gatherer. Starr would do the same thing: by handing the issue to Congress, where it could be properly dealt with by elected representatives. And there's one more reason Starr will go to Congress: unlike Jaworski in 1974, Starr is required by law to do so. Section 595 (c) of the independent counsel law instructs the independent counsel to "advise the House of Representatives of any substantial and credible information which such independent counsel receives...that may constitute grounds for an impeachment."

IMPEACH: YES OR NO?

Once it has possession of Starr's evidence, how would members of Congress decide whether or not to impeach? They would likely return to what the founders had to say about the issue. The framers of the Constitution believed that the citizenry should have the right to remove the chief executive not only in the normal course of elections but also in cases of wrongdoing. And they clearly foresaw that the question would arise from time to time. Consider the following excerpt from the *Records of the Federal Convention of 1787*, in which several delegates attempted to convince two holdouts that an impeachment clause should be included in the new Constitution:

> **Mr. Pinckney** [Charles Pinckney of South Carolina] & **Mr. Morris** [Gouverneur Morris of Pennsylvania] moved to strike out this part of the Resolution. **Mr. P.** observed [the president ought not] be impeacheable whilst in office.
> **Mr. Davie** [William Richardson Davie of North Carolina] said if he not be impeacheable whilst in office, he will spare no efforts or means whatever to get himself re-elected. He considered this as an essential security for the good behaviour of the Executive.
> **Mr. Morris** [said]...In case he should be re-elected, that will be sufficient proof of his innocence. Besides, who is to impeach? Is the impeachment to suspend his functions? If it is not, the mischief will go on. If it is, the impeachment will be nearly equivalent to displacement, and will render the Executive dependent on those who are to impeach.
> **Col. Mason** [George Mason of Virginia] said no point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all, shall that man be above it, who can commit the most extensive injustice?...
> **Docr. Franklin** [Benjamin Franklin] said...it would be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused.
> **Mr. Madison** [James Madison of Virginia] thought it indispensable that some provision should be made for defending the Community against the incapacity, negligence or perfidy of the chief Magistrate. The limitation of the period of his service was not a sufficient security....
> **Mr. Gerry** [Elbridge Gerry of Massachusetts] urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them....

The discussion changed Morris's mind, and he later voted in favor of an impeachment clause. (The measure carried, ten to two.) But more serious disagreements arose concerning the seriousness of wrongdoing that would be necessary to trig-

ger an impeachment proceeding. Some of the framers believed Congress should be empowered to get rid of the president for almost any reason. For example, according to the *Records*, Roger Sherman of Connecticut contended "that the National Legislature should have power to remove the Executive at pleasure." It was a fairly popular position; an early draft of the Constitution stipulated that the president could be removed for "malpractices or neglect of duty," which would have given Congress enormous leeway in choosing to get rid of a president.

A later draft added the word "corruption" to the list of impeachable offenses. But by late August 1787, those in favor of limiting impeachments had changed the draft to specify that the president could be removed for just two reasons: treason and bribery. That set off an impassioned debate. "Why is the provision restrained to treason and bribery only?" George Mason asked the convention. "Treason as defined in the Constitution will not reach many great and dangerous offences..." Mason moved that "maladministration" be added to the list of impeachable offenses. That provoked a protest from Madison, who argued that "maladministration" was so vague that it would mean that the president served "a tenure during pleasure of the Senate." Mason eventually surrendered, abandoning "maladministration" and proposing "high crimes and misdemeanors" instead. The phrase was approved by a vote of eight to three and became the final wording of the Constitution.

This is not an abstract scenario; it could happen, and rather quickly. But so far, almost no one in Congress will even admit to thinking about it.

In the more than 200 years since the document was ratified, no one has come up with a specific definition of "high crimes and misdemeanors." But clear and convincing evidence from Starr that the president is guilty of perjury, obstruction of justice, or a variety of other offenses would certainly fit the bill. In fact, it might result in articles of impeachment similar to those drawn up by the House Judiciary Committee against Richard Nixon in 1974. Some of the committee's charges against Nixon included:

- [M]aking false or misleading statements to lawfully authorized investigative employees of the United States.
- [W]ithholding relevant and material evidence or information from lawfully authorized investigative officers and employees of the United States.
- [M]aking or causing to be made false or misleading public statements for the purpose of deceiving the people of the United States into believing that a thorough and complete investigation had been conducted with respect to allegations of misconduct on the part of personnel of the executive branch of the United States...and that there was no involvement of such personnel in such misconduct.
- [Failing] without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary of the House of Representatives...

All but the most zealous defenders of Bill Clinton would be hard-pressed to deny that the list is strikingly similar to present-day accusations against the president.

THE FIGHT AHEAD

If Starr forwards evidence of possible Clinton crimes to Congress, the beginning of an impeachment inquiry would put enormous demands on the leadership of the House of Representatives. No longer would the president's critics be able simply to accuse the White House of corruption. In an impeachment they would have to go on record with a vote that might ultimately come back to haunt them should the impeachment attempt fail. And should it succeed, of course, the burden would then shift to the Senate for trial.

This is not an abstract scenario; it could happen, and could happen rather quickly. But so far, almost no one in Congress will even admit to thinking about the issue. "We deal with facts rather than speculation," says one Judiciary Committee staffer, adding that there have been no discussions on the issue. "I haven't heard of anything yet," says another committee official. "The sad thing around here is that no one really has prepared," says a Republican who is not on Judiciary. "No one here has talked about it."

They should, and soon, because Starr's years of investigation might result in action against the president at any time. When the independent counsel follows the intentions of the framers—plus his own statutory mandate—and passes the evidence on to Congress, it will be time for lawmakers to put up or shut up. Starr can point the way, but the 105th Congress will have to decide. ✵

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